



maaitland

city council

Planning Proposal

AMENDMENT TO THE MAITLAND LEP 2011

To rezone land from RU1 Primary Production to R1 General Residential and E2 Environmental Conservation at
30 Swan Street, Morpeth (Lot 3 DP237264)

Version 2.0
22/09/2015





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Version 2.0 – 22.09.2014 (Council Report - Request for Gateway)

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INTRODUCTION

This planning proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979. It explains the intended effect of, and justification for the proposed amendment to Maitland Local Environmental Plan 2011 to rezone land at 30 Swan Street, Morpeth described as Lot 3 DP237264 from RU1 Primary Production to R1 General Residential and E2 Environmental Conservation. The minimum lot size will also be reduced from 40ha to 450m² for the area of R1 General Residential.

A location plan is included at APPENDIX One.

This planning proposal is the result of an application made by Pulver, Cooper & Blackley Pty Ltd on behalf of the landowner to seek the rezoning of the land.

The land is an identified Urban Extension Site in the Maitland Urban Settlement Strategy 2012 (MUSS 2012).

PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objectives of the proposal are:

1. To rezone the subject site to permit residential development.
2. To protect the public views to the rural land.
3. To respond to the heritage, contamination and flooding constraints affecting the site.

PART 2: EXPLANATION OF PROVISIONS

The planning proposal seeks to amend the Maitland LEP 2011 to rezone the subject land from RU1 Primary Production to R1 General Residential and E2 Environmental Conservation and to amend the minimum lot size map so that a minimum lot size of 450m² applies to the R1 General Residential area of the site.

PART 3: JUSTIFICATION FOR PROPOSED REZONING

In accordance with the Department of Planning's 'Guide to Preparing Planning Proposals', this section provides a response to the following issues:

- Section A: Need for the planning proposal;
- Section B: Relationship to strategic planning framework;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

SECTION A – NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

During the review of the Maitland Urban Settlement Strategy in 2012 Council received a submission from the land owners of 30 Swan Street, Morpeth requesting Council consider the site as an urban extension site in the Maitland Urban Settlement Strategy. The site met the definition for an urban extension site being:

“Sites adjoining urban areas of less than 15 hectares or have potential for less than 50 residential lots. Only development proposals matching these size criteria will be considered by Council on their merits for rezoning, where the broad planning objectives of this strategy in relation to character, environment, infrastructure and design are clearly demonstrated and justified in the development proposal.”

The site was assessed against the assessment criteria specified in table 11 of the MUSS. It was determined that the proposal met those criteria and the site was included in the Maitland Urban Settlement Strategy 2012.

Council received an application to rezone the subject site in May 2014.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is no other way to permit residential development on the land other than to amend the Maitland Local Environmental Plan to rezone the land for general residential purposes.

3. Is there a net community benefit?

No net community benefit test has been undertaken as part of this application. It is unlikely that the development will result in significant community benefit. It will provide a small amount of employment for a limited period of time and provide some additional housing.

The loss of views across the rural land may be considered a negative impact on the community. However, the proposal is supported by a visual impact assessment (VIA) and an Independent Peer Review of the VIA. Both of these conclude the maintenance of a view corridor at the intersection of Edward Street and Swan Street is adequate to preserve the public view to the rural land.

It is considered that the net community benefit is neutral.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Lower Hunter Regional Strategy (NSW Department of Planning and Infrastructure) 2006

The LHRS seeks to provide for up to 117,200 new dwellings across the region by 2031, with 16,000 of these new dwellings to be accommodated as urban infill. Morpeth is an existing urban area identified in the LHRS. Therefore, this planning proposal is consistent with this objective of the LHRS.

The LHRS recognises the importance of the historic cultural landscapes of the region and their contribution to the Lower Hunter's unique sense of place. It acknowledges that all places, precincts and landscapes of cultural heritage significance in the region are identified and protected in planning instruments.

The LHRS requires that all development opportunities created by land use zonings and densities are compatible with the underlying heritage values of the place.

The planning proposal is supported by a Statement of Heritage Significance and a Visual Impact Assessment. These have also been peer reviewed. A copy of the documents and the peer review are attached to this planning proposal.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Maitland +10 (Community Strategic Plan)

The proposal supports the following objectives of the Council's community strategic plan (Maitland +10);

Our Built Space

- Our infrastructure is well-planned, integrated and timely, meeting community needs now and into the future.
- Our unique built heritage is maintained and enhanced, coupled with sustainable new developments to meet the needs of our growing community.

Our natural environment

- The potential impacts of our growing community on the environment and our natural resources are actively managed.

Maitland Urban Settlement Strategy (MUSS)

The site is identified in Table 12: Urban Infill & Extension Sites of the MUSS. The site's inclusion occurred as a result of a comprehensive, city wide review of suitable sites for investigation for urban extension. The site's inclusion does not infer a development outcome.

6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

An assessment of the planning proposal against the relevant SEPPs is provided in the table below.

Table 1: Relevant State Environmental Planning Policies.

RELEVANCE	CONSISTENCY AND IMPLICATIONS
SEPP (INFRASTRUCTURE) 2007	NOT APPLICABLE
Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	Nothing in this planning proposal affects the aims and provisions of this SEPP. The rezoning and development of the subject land for residential purposes will result in the efficient use of existing services and infrastructure available in the locality.
SEPP (RURAL LANDS) 2008	CONSISTENT
Provides state-wide planning controls to facilitate the orderly and economic use and development of rural lands for rural and related purposes. In addition it identifies the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purposes of promoting the social, economic and environmental welfare of the State.	This SEPP is relevant since the site is currently zoned RU1 Primary Production under the Maitland LEP 2011. The site is currently incapable of meeting the objectives of the RU1 Primary Production zone, given the size and dimensions of the existing allotment, and the location of the existing dwelling and ancillary structures present on the land. Nothing in this plan is inconsistent with the objectives of this SEPP.
SEPP NO. 55 REMEDIATION OF LAND	CONSISTENT

RELEVANCE

Provides state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.

CONSISTENCY AND IMPLICATIONS

The site was formerly used as a train terminal and uncontrolled fill was, historically, placed across the site in conjunction with levelling of the site to accommodate the rail line. The proponent has provided a Detailed Contamination Assessment (DCA). The DCA identified contamination on the site associated with previous uses. Contaminants identified on site included arsenic and lead. The proponent has also submitted a Remediation Action Plan (RAP) which demonstrates that the site can be adequately remediated. Remediation would occur prior to any development consent for future residential development on the site. The remediation is likely to comprise a combination of excavation and capping of hotspots/aesthetic impacts.

7. Is the planning proposal consistent with applicable Ministerial Directions for Local Plan making?

Table 2: s117 Directions.

s117 DIRECTIONS**CONSISTENCY AND IMPLICATIONS****1. EMPLOYMENT AND RESOURCES****1.1 Business and Industrial zones**

Not applicable

1.2 Rural Zones

Inconsistent

The objective of this direction is to protect the agricultural production value of rural land.

The subject land is zoned RU1 Primary Production land. However, it cannot meet the objectives of the RU1 zone. The land is adjoining predominately residential land. The lot itself is unlikely to support a viable agricultural enterprise without causing some significant impact on the adjoining residences. It is considered appropriate that this inconsistency is justified in these circumstances.

1.5 Rural Lands

Inconsistent

The objectives of this direction are to protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.

See 1.2 above.

2. ENVIRONMENT AND HERITAGE

2.3 Heritage Protection

Consistent

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The subject land is located within the Morpeth Heritage Conservation Area, as identified in the Maitland LEP 2011 and in the Maitland Citywide DCP Chapter: Special Precincts – Heritage Conservation Areas. There are no items of heritage significance located within or directly adjoining the subject site.

The proposed rezoning does not directly impact upon heritage items within the Morpeth Heritage Conservation Area.

The proposal satisfies the provisions of this direction, given that the land will continue to be identified as part of the Morpeth Heritage Conservation Area under the Maitland LEP 2011, and the Maitland Citywide DCP chapter: Special Precincts – Heritage Conservation Areas will be amended to remove the site from the “Rural Outskirts Precinct” and instead insert the site in the “Residential Precinct”.

A Statement of Heritage Significance and Visual Impact Assessment have been prepared in support of the proposal. These documents have been independently reviewed. The independent review also supports the proposal to rezone land from rural to residential (and environmental conservation). Despite, the heritage reports supporting the change of use to residential, it is expected that further consideration will have to be given to the subdivision proposal and also for each building erected on the lots.

3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT

3.1 Residential Zones

Consistent

Encourage a variety and choice of housing, minimise the impact of residential development on the environmental and resource lands and make efficient use of infrastructure and services

It is unlikely that the proposal will contribute significantly to the variety or choice of housing as heritage considerations will restrict the type of housing that is appropriate in the location. However, the use of the site for residential purposes makes efficient use of existing infrastructure and services in the location.

3.3 Home Occupations

Consistent

s117 DIRECTIONS

CONSISTENCY AND IMPLICATIONS

The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.

The proposal is consistent with this direction, given that the land is proposed to be developed in the future for residential purposes. The rezoning will form an amendment to the MLEP 2011. Currently, 'Home Occupation' is permitted without consent in the R1 General Residential zone.

3.4 Integrating Land Use and Transport

Consistent

The objectives relate to the location of urban land and its proximity to public transport infrastructure and road networks, and improving access to housing, jobs and services by methods other than private vehicles.

The land is well located to support the surrounding residential development and to provide high levels of accessibility to existing road and public transport networks. The proposal is consistent with this direction.

HAZARD and RISK

4.1 Acid Sulfate Soils

Consistent

To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.

The Maitland LEP 2011 identifies Class 5 Acid Sulphate Soils over the site. The Preliminary Contamination Assessment report found that as the disturbance of the soil 2m below the surface is unlikely, further assessment of acid sulfate soils is not considered necessary. The proposal is therefore consistent with this direction.

4.3 Flood Prone Land

Consistent

The objectives of this direction are:
(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

A small portion to the rear of the subject land is positioned below the 1 in 100 year flood level. The majority of the site is above the 1:100 year flood level, with future buildings able to be constructed with a 500m freeboard to the flood level with no significant filling of the site necessary. The site is capable of supporting residential development. The proposal is considered to be consistent with this direction.

REGIONAL PLANNING

5.1 Implementation of Regional Strategies

Consistent

This direction requires a draft amendment to be consistent with relevant state strategies that apply to the LGA.

The planning proposal is considered to be consistent with the Lower Hunter Regional Strategy as it provides for new housing in accordance with the adopted MUSS 2012.

LOCAL PLAN MAKING

6.1 Approval and Referral**Consistent**

The direction aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

No additional LEP provisions will be required.

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The land to which this planning proposal applies is totally cleared, apart from some cultural plantings adjoining Swan Street. The land has historically been used for railway purposes, grazing and residential occupation. It is therefore unlikely that any threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposed rezoning.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Contamination is a key issue for the site. The site was formerly used as a train terminal and uncontrolled fill was, historically, placed across the site in conjunction with levelling of the site to accommodate the rail line.

The proponent has provided a Detailed Contamination Assessment (DCA). The DCA identified contamination on the site associated with previous uses. The proponent has also submitted a Remediation Action Plan (RAP) which demonstrates that the site can be adequately remediated. Remediation would occur prior to any development consent for future residential development on the site.

Stormwater will need to be addressed at the subdivision stage in accordance with an approved stormwater management plan.

10. How has the planning proposal adequately addressed any social and economic effects?

The proponent has undertaken preliminary studies in relation to Aboriginal archaeology and potential land contamination, the results of which are discussed above in the context of potential environmental issues for the identified land.

There will be some loss of existing, private views by residents opposite the site. However, a public view (from the Edward Street intersection) will be protected.

The proposal is unlikely to have any significant positive or adverse social or economic impacts.

SECTION D – STATE AND COMMONWEALTH INTERESTS

11. Is there adequate public infrastructure for the planning proposal?

The precinct is adequately serviced by existing infrastructure.

Traffic generation

The future yield is anticipated at approximately 9 - 10 residential lots. The planning proposal would result in only a marginal increase in traffic in the immediate locality.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No state or Commonwealth public authorities have been consulted at this stage. It is expected that the gateway determination will specify those agencies to be consulted.

Given that the site is within the Morpeth Heritage Conservation Area it is expected that the Office of Environment and Heritage – Heritage Branch will be consulted. It is also anticipated that the Environment Protection Authority will be consulted as the site is currently contaminated.

PART 4: MAPS

The proposal seeks to amend the land use map (LZN) and the minimum lot size map (LSZ). A copy of the existing maps and the proposed maps are at Appendix Two and Three.

PART 5: COMMUNITY CONSULTATION

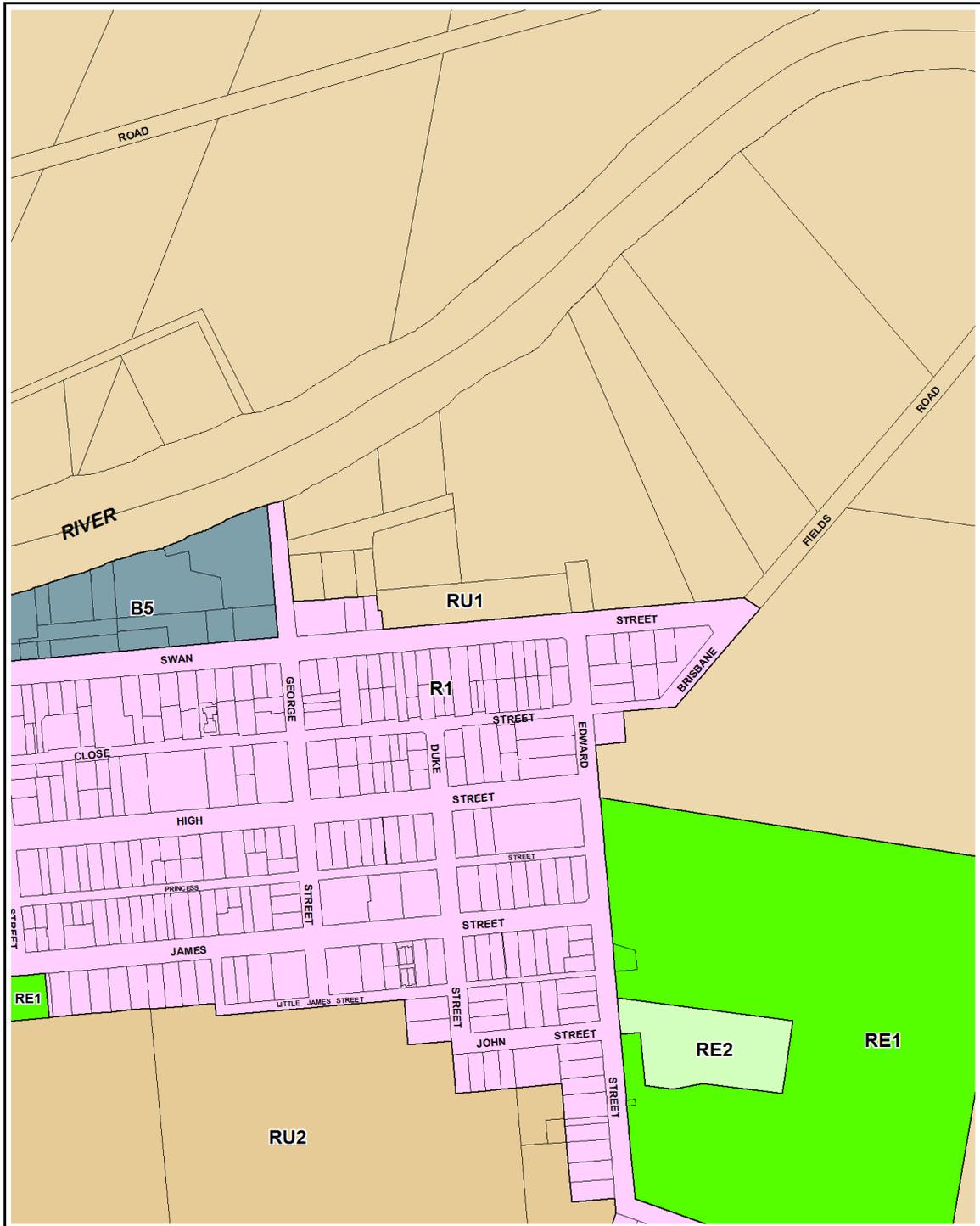
Community consultation will be undertaken in accordance with the gateway determination. It is anticipated that the consultation period will be 28 days.

APPENDIX ONE. LOCATION PLAN



 <p>MAITLAND CITY COUNCIL</p>	<p>Scale : NTS Printing Date: June 2014</p>		<p>© Maitland City Council 2014 © NSW LPMA 03/03/1997</p>	<p>Lot 30 DP237264 Morpeth Extension Site</p>
<p>This map has been prepared on the basis of information available to Council at the date of issue. However, that information may be subject to change over a limited time and should therefore be verified with Maitland City Council</p>				

EXISTING LEP PLANS



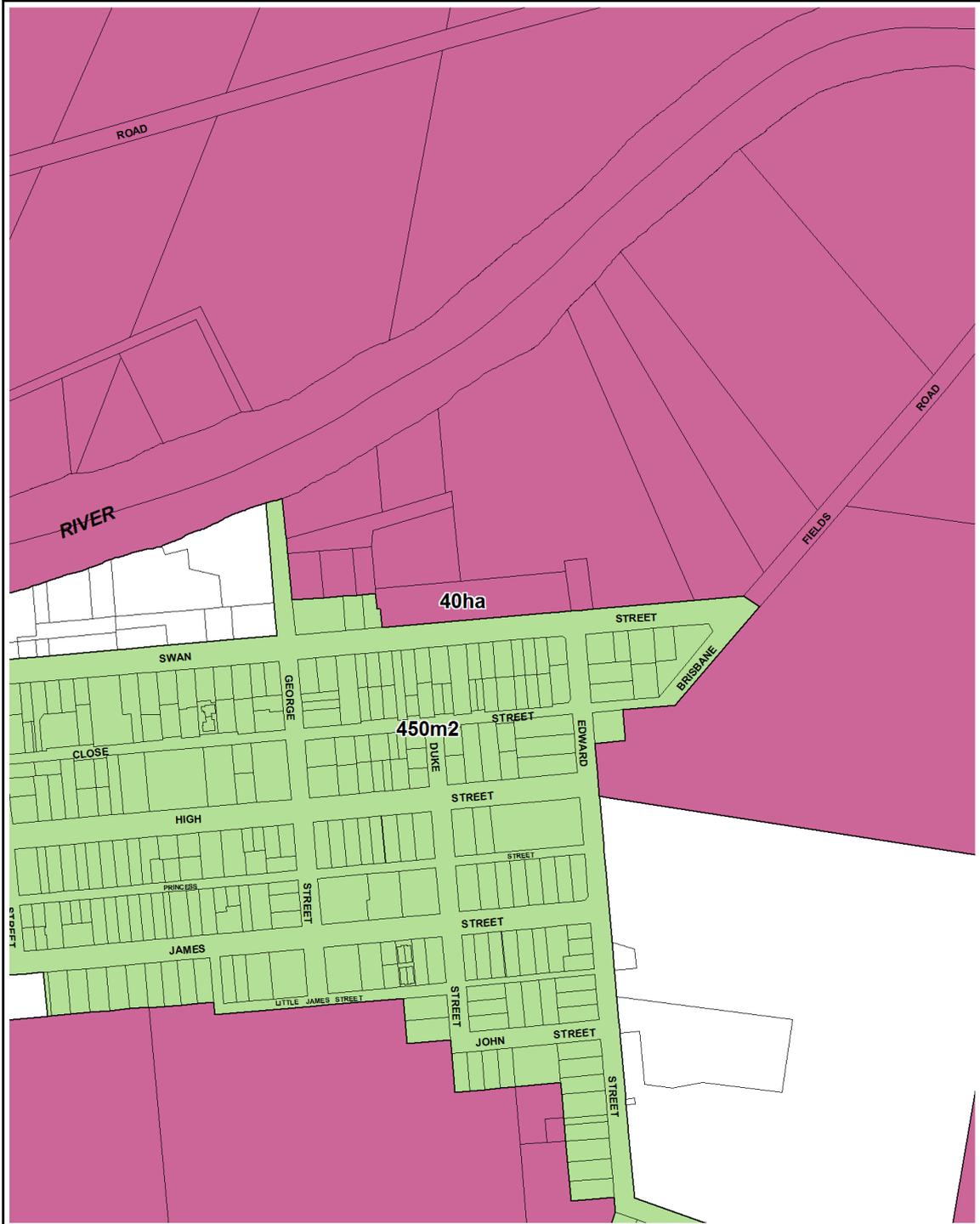
Scale NTS
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Existing lot zoning
 Morpeth

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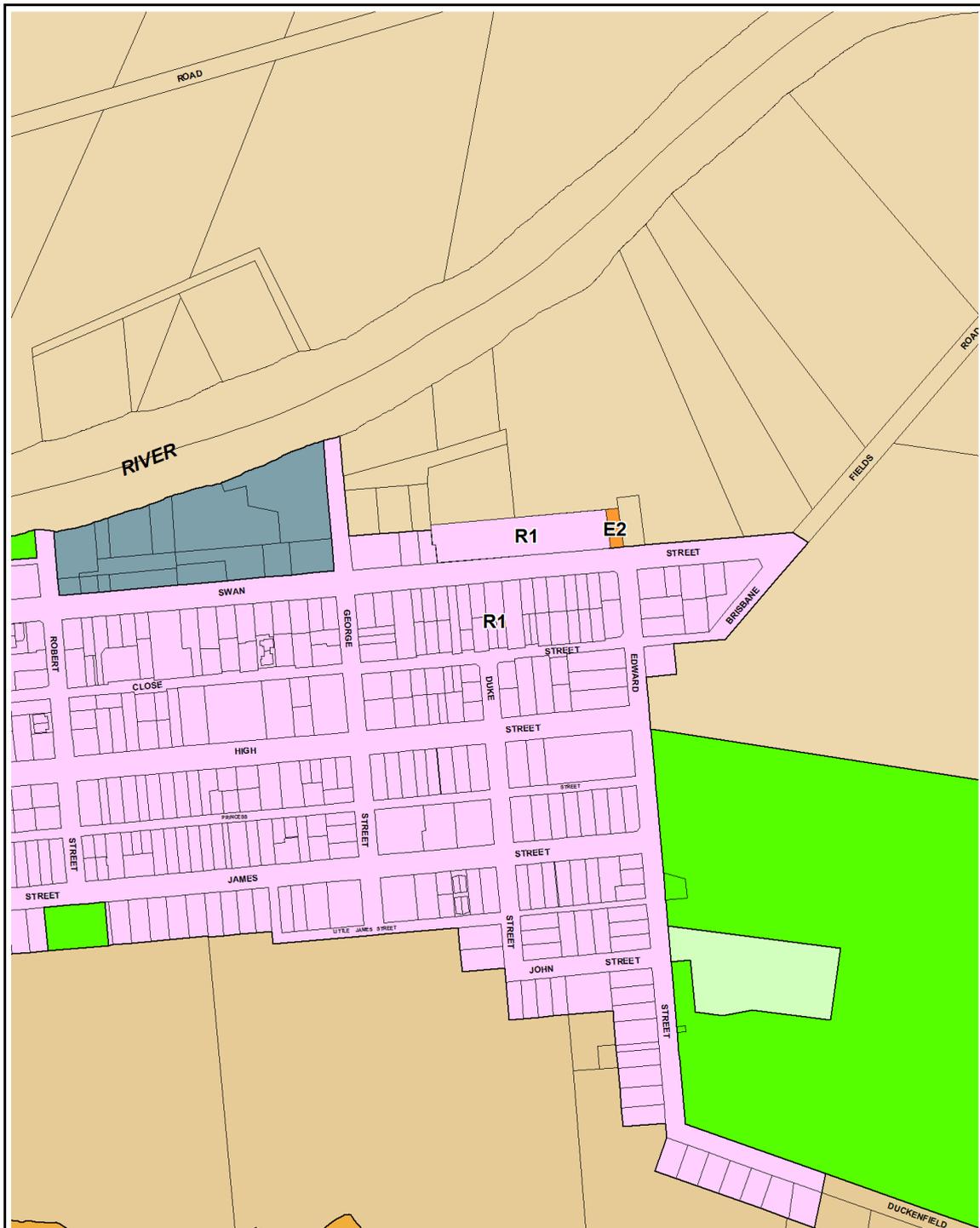
NORTH

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Existing lot size
 Morpeth

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PROPOSED LEP PLANS



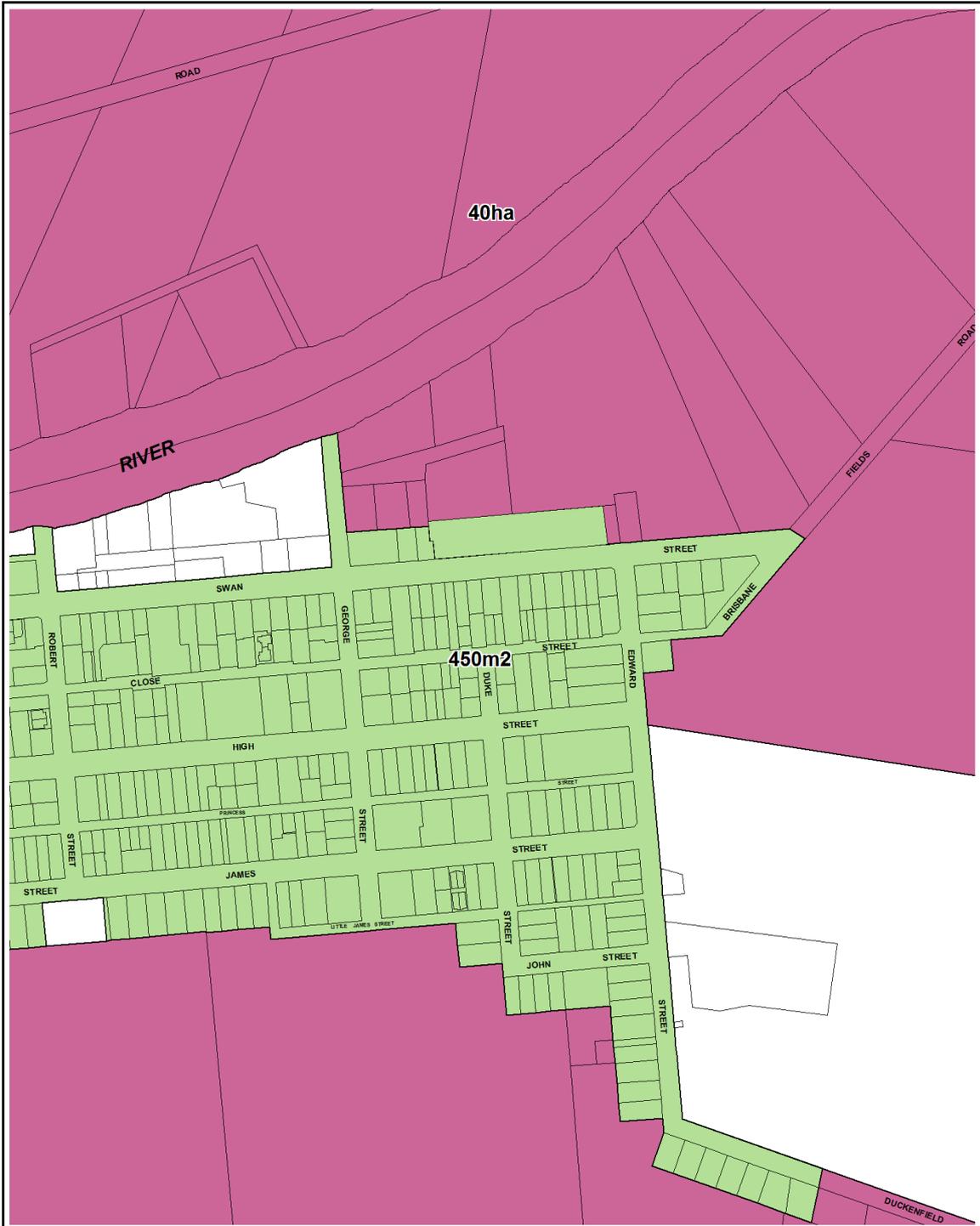
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Proposed land use zone
 Morpeth

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Proposed lot size
 Morpeth

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APPENDIX FOUR. STATEMENT OF HERITAGE IMPACT

APPENDIX FIVE. VISUAL IMPACT STATEMENT PEER REVIEW

**APPENDIX SIX. ABORIGINAL HERITAGE DUE DILIGENCE
ASSESSMENT**

**APPENDIX SEVEN. PRELIMINARY CONTAMINATION
ASSESSMENT**

APPENDIX EIGHT. DETAILED CONTAMINATION ASSESSMENT

APPENDIX NINE. REMEDIATION ACTION PLAN

APPENDIX TEN. INDICATIVE TIMEFRAME OF PROPOSAL

Project Timeline	Date
Anticipated commencement date (date of Gateway determination)	November 2015
Anticipated timeframe for the completion of required studies	NIL
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	February 2016
Commencement and completion dates for public exhibition period	February 2016
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	April 2016
Timeframe for the consideration of a proposal post exhibition	May 2016
Anticipated date RPA will forward the plan to the department to be made (if not delegated)	June 2016
Anticipated date RPA will make the plan (if delegated)	N/a
Anticipated date RPA will forward to the department for notification (if delegated)	N/a