
Item: 14.04

Subject: PP2014 - 10.1 - PLANNING PROPOSAL ASSESSMENT REPORT -
11 AND 33 MUMFORD STREET, PORT MACQUARIE

Presented by: Community, Planning and Environment, Melissa Watkins

Alignment with Delivery Program

4.5.1 Carry out strategic planning to manage population growth and provide for co-ordinated urban development.

RECOMMENDATION

That Council:

1. Note concurrent planning reforms to introduce a new approach to rezoning applications in NSW.
2. Note extended negotiations between Council staff and the Proponent and landowners to achieve a supportable development outcome on Lot 2 DP601094 and Lot 4 DP825704, 11 and 33 Mumford Street Port Macquarie since 2017.
3. Prepare a Planning Proposal pursuant to section 3.33 of the *Environmental Planning and Assessment Act 1979* for a map only amendment to the Port Macquarie-Hastings Local Environmental Plan 2011 for part Lot 2 DP0601094 and part Lot 4 DP0825704, 11 and 33 Mumford Street, Port Macquarie which rezones the subject land from part R1 General Residential and part C2 Environmental Conservation to part B5 Business Development and part C2 Environmental Conservation and apply the following associated development standards to the land:
 - a) Minimum Lot Size of 1000m² for the B5 Business Development zone, and
 - b) Maximum Height of Buildings of 11.5m for the B5 Business Development zone.
4. Advise the proponent that a political disclosure in the format required under legislation, is required to be submitted prior to preparation and forwarding of a Planning Proposal to the NSW Government Gateway, if progressed.
5. Upon receipt of the political disclosure, forward the Planning Proposal to the NSW Department of Planning, Infrastructure and Environment for a Gateway Determination in accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979*, and request that the Gateway Determination authorise Council to be the local plan-making authority.
6. Delegate authority to the Director Community, Planning and Environment to make any required minor or administrative amendments to the Planning Proposal as a result of the issue of the Gateway Determination, prior to public exhibition, should the Planning Proposal proceed through to public exhibition.

7. Receive a further report following the public exhibition period on any submissions received.

Executive Summary

The purpose of this report is for Council to consider a request to prepare a Planning Proposal (PP) to enable rezoning of Lot 2 DP601094 and Lot 4 DP825704, 11 and 33 Mumford Street, Port Macquarie (subject site) from part R1 General Residential and part C2 Environmental Conservation to part B5 Business Development and part C2 Environmental Conservation under the Port Macquarie-Hastings LEP 2011 (LEP).

This rezoning will enable the continuation of existing and envisaged land uses which are not permissible uses within the current R1 General Residential and C2 Environmental Conservation zones.

The application was prepared by Love Project Management and Alan Taylor (now the principal applicant), on behalf of landowners Hastings Association for Christian Education and Gantons Pty Ltd (Miedecke Auto Group).

At its Ordinary Meeting of 3 November 2021, Council noted the update to the subject PP:

- that actions had been undertaken by Council staff in relation to the PP request around key issues,
- that the PP request had remained in the same Status Category due to review of proponent information and ongoing negotiations with the proponents,
- that a development application for earthworks, land filling and vegetation removal was lodged in April 2021, and unable to be progressed on land zoned C2 Environmental Conservation,
- that there are challenges in demonstrating the strategic and site-specific merit of the proponent's proposal in accordance with the DPIE Guidelines for preparing planning proposals, the timing of information from the proponent, and continuing negotiations between proponents, their representatives and Council staff.

The Planning Proposal has strategic merit for the following reasons:

- The subject site is located in proximity to an existing B5 Business Development zone;
- The C2 Environmental Conservation zone is to be reconfigured to reflect site conditions while allowing for reasonable redevelopment for B5 Business Development land uses.

This report recommends that Council prepare and forward a Planning Proposal (PP) to the Department of Planning Industry and Environment (DPIE) Gateway to rezone Lot 2 DP601094 and Lot 4 DP825704 from part R1 General Residential and part C2 Environmental Conservation to part B5 Business Development and part C2 Environmental Conservation.

BackgroundSubject Site

The subject site is commonly known as 11 and 33 Mumford Street, Port Macquarie and legally described as Lot 2 DP601094 and Lot 4 DP805704.

The site subject to this application is located on the southern side of Mumford Street. The site has a frontage of approximately 390m to Mumford Street. The subject site has an overall site area of approximately 6.2ha.

The site subject to this application is currently developed and contains a former place of public worship and ancillary meeting hall and parking on Lot 2 and an educational establishment (K-12) on Lot 4. The buildings are located on filled building platforms. Part of the subject site contains wetland and scrub vegetation. A deep man made drainage channel is located adjacent to the southern and western boundaries of the subject land which provides stormwater drainage control.

Lot 2 DP601094 is owned by Gantons Pty Ltd (Miedecke Auto Group) and is currently zoned part R1 General Residential and part C2 Environmental Conservation. The former place of public worship and ancillary meeting hall has been converted into a vehicle repair station without consent.

Lot 4 DP805704 is owned by Hastings Association for Christian Education (HACE) and is currently zoned part R1 General Residential and part C2 Environmental Conservation.

The subject site is currently zoned part R1 General Residential and part C2 Environmental Conservation under the Port Macquarie-Hastings Local Environmental Plan (LEP) 2011.

The subject site adjoins a tennis centre, a place of public worship, residential development on large allotments and a wetland. Opposite the site on the northern side, are a manufactured home estate, Caltex Service Station, vehicle sales premises and vehicle repair station. Preserved Koala habitat is located to the south and west of the subject site.

SEPP (Coastal Management) 2018 identifies the subject land as containing coastal wetlands, located within the proximity area to coastal wetlands and coastal environment and use areas.

The subject land is located within the floodplain of the Hastings River and subject to inundation by a probable maximum flood and a 1% annual exceedance Probability flood event.

Figure 1 below indicates the existing development and extent of the R1 General Residential (pink) and C2 Environmental Conservation zoned land on the subject land.



Figure 1: The 'Site' and surrounding context

Planning Proposal

Below is a summary of the PP since its lodgement:

Date	Summary
2014	Council was approached in relation to a potential rezoning and sale of No. 11 Mumford Street. Council agreed to include the proposal in its strategic planning program. The proposal remained in draft form and was unable to progress due to gaps in information, concerns with environmental impacts and non-payment of fees.
August 2017	Council resolved that the proposal will be discontinued if the necessary information was not submitted by 16 February 2018.
February 2018	Components of information lodged. Critical information including a zoning plan, environmental assessments, koala plan of management (draft) and payment of Stage 1 rezoning fees were not included.
19 September 2018	Council resolved as part of the bi-annual PP update report, to grant the proponent an additional three months to submit the required information and if not received assessment of the PP would discontinue.
Late December 2018	Stage 1 fees paid. Information package heavily reliant on the presumption that much of the detail for determining the suitability of the site for the intended land use could be deferred until assessment of any future development application once the land is rezoned. Review of information package established the need for preparation of an updated bushfire assessment in accordance with the draft Planning for Bushfire Protection 2018 and

	consequent ecological constraints assessment and koala plan of management.
Late November 2019	A letter was sent to the proponent outlining the findings of the staff review and included an option to withdraw with a partial refund of fees, or proceed to prepare a report for Council consideration at an upcoming Ordinary Meeting. The proponent and landowners declined to withdraw, citing strong belief in the merits of their proposal.
April 2020	Proponent advised to consider significantly amending their proposal to reflect the principle that the vegetation on the site does have an environmental value and that it is currently protected in an environmental zone. Removal of the vegetation will therefore represent a 'back zoning' from an environmental perspective which is not supported and is unlikely to be supported by the NSW Biodiversity Conservation Division (BCD).
2020 and 2021	Following further negotiations during 2020 and into 2021, the proponent and Council staff discussed options, including a possible B5 Business Development zone as a more appropriate alternative to the R1 General Residential zone and with greater preservation of environmental conservation zoning than intended by the proponent.

Development Application

Development Application DA2021/257 was lodged in April 2021 Lot 2 DP601094 and Lot 4 DP825704, 11 and 33 Mumford Street for vegetation removed, drainage and earthworks to facilitate a car park for the existing education facility and expansion of the vehicle sales and repair business. This application reflects the conceptual drawings submitted with the Planning Proposal. This development application is to run concurrently with the Planning Proposal.

DISCUSSION

This Planning Proposal request seeks to amend the LEP to:

- reduce the extent of C2 Environmental Conservation zone across the subject site and rezone the portion of the subject site zoned R1 General Residential that contains the existing building and filled site platforms to B5 Business Development and amend the Land Zoning (LZN) Map;
- introduce a minimum lot size of 1000m² for the portion of the subject site to be zoned B5 Business Development and amend the Lot Size (LSZ) Map;
- remove the floor space ratio (FSR) of 0.65:1, associated with the portion of the subject land zoned R1 General Residential, to be consistent with the adjoining B5 Business Development land to the north and amend the FSR Map;
- introduce a maximum height of building (HOB) of 11.5m for the portion of the subject site to be zoned B5 Business Development and amend the HOB map; and
- introduce its application to Lot 2 DP601094 and Lot 4 DP825704, 11 and 33 Mumford Street, Port Macquarie

Figure 2 indicates the proposed supportable zoning layout shown in yellow over the proponents initial proposed concept (dark outline). The enhanced C2 Environmental Conservation zone recognises the existing buildings, flood platforms and adjustments to the useable proposed B5 Business Development area.

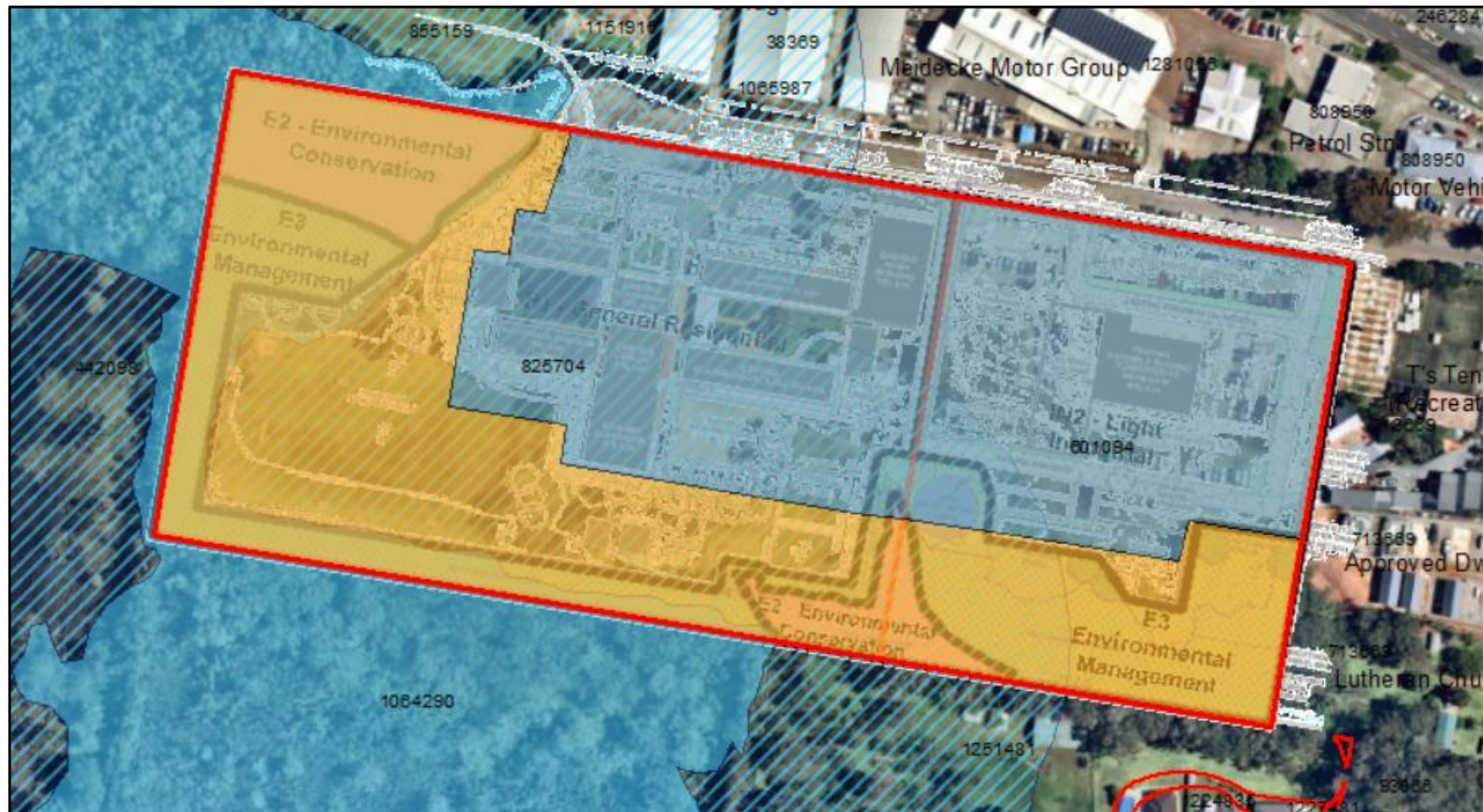


Figure 2: Proposed zone concept

An assessment of the proposal has been undertaken to inform this determination. As the proposal has strategic merit it is recommended that a Planning Proposal be prepared and forwarded to the DPE for a Gateway Determination.

State Agency Consultation

Biodiversity Conservation Division (BCD)

Consideration by BCD of the DPE is relevant for changes to existing conservation zones on the subject land under the *Biodiversity and Conservation Act 2016* (BC Act).

BCD advised as part of government agency comments as part of the development application, the following recommendations:

1. *Proponents of a Planning Proposal should seek biodiversity certification of the development under the BC Act, as part of the Planning Proposal.*
2. *If biodiversity certification is not sought, then the Planning Proposal must:*
 - a. *Include site investigations of the planning area undertaken by a suitably qualified ecological consultant for the presence of high environmental value (HEV) land as per the criteria for HEV land set criteria for the North Coast Regional Plan and suggest verification methods; and*

- b. *Maximise avoiding land use intensification in confirmed areas of HEV land and protect HEV land with a suitable zone (either E2 Environmental Conservation or E3 Environmental management) and other planning controls, such as minimum lot sizes that prevent future subdivision, as part of the Planning Proposal, and*
- c. *Justify why land use intensification in some areas of confirmed HEV land cannot be avoided and design these areas to minimise the impacts of future development on HEV land, and*
- d. *Determine biodiversity credits required to offset future development impacts by applying Stage 1 of the Biodiversity Assessment Method (BAM) to areas of confirmed HEV land proposed for land use intensification, including areas subject to indirect impacts, and enter into the Biodiversity Offsets Scheme (BOS) under the BC Act and the biodiversity credits required by the BOS are greater than those required by the planning agreement.*

The proposed rezoning boundaries were amended, as indicated in Figure 2, to minimise the environmental impacts.

In relation to the latter, Port Macquarie-Hastings Council staff do not support entering into Voluntary Planning Agreement arrangements for securing biodiversity offsets as a mechanism for prevailing over the avoidance principal.

List of Submitted Documents

The following documentation has been submitted in relation to the Planning Proposal:

- Planning Proposal Amendment Report, Love Project Management Pty Ltd, February 2018;
- Aboriginal Cultural Heritage Assessment, Birpai Aboriginal Land Council, February 2018;
- Desktop Acid Sulphate Soils Assessment, David Pensini, 14 December 2017;
- Building Mass Diagram, AB3D Building Design, 13 February 2018;
- Bushfire Planning Report, David Pensini, 14 December 2017 and amended June 2019;
- Flood Impact and Risk Assessment, Advisian, 9 February 2018;
- Desktop Noise Impact Report, David Pensini, 14 December 2017;
- Site Plan, AB3D, 12 February 2018 and amended 28 June 2019;
- Drainage Plan, Alan Taylor & Associates, 6 February 2018;
- Stormwater Management Plan & Report, Alan Taylor & Associates, 19 January 2018;
- Traffic impact Assessment, Alan Taylor & Associates, received February 2018;
- Ecological Constraints Assessment, JBEnviro, December 2018;
- Koala Plan of Management, JBEnviro, March 2019;
- Preliminary BAMC Assessment for Rezoning, JBEnviro, 12 August 2020.

The reports may need to be updated as part of the Gateway process.

Internal Consultation

Internal consultations were undertaken in relation to the following matters:

- Flooding
- Noise
- Acid sulphate soils
- Contamination
- Traffic
- Ecology
- Water and sewer servicing
- Stormwater

Planning and Policy ImplicationsLegislative Requirements

Relevant legislative requirements are:

1. Environmental Planning and Assessment Act 1979

Part 1.3 Objects of the Act. The relevant objectives of the Act are:

- (b) *‘to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment’;*
- (c) *‘to promote the orderly and economic use and development of land’.*

Part 3: Planning Instruments. This part sets out the legal requirements for preparing and making of environmental planning instruments, including amending local environmental plans (LEPs).

2. State Environmental Planning Policies

Of relevance to the Planning Proposal are:

- SEPP (Biodiversity and Conservation) 2021

Chapter 3 - Koala Habitat Protection

The aim of this is SEPP aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline -

- a. *by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and*
- b. *by encouraging the identification of areas of core koala habitat, and*
- c. *by encouraging the inclusion of areas of core koala habitat in environment protection zones.*

Clause 3.9 of this part of the Policy applies to the subject land as it is identified as core habitat and has an area greater than 1ha and does not have an approved Koala Plan of Management.

The Planning Proposal is supported by a draft Koala Plan of Management, dated April 2019.

The subject land contains potential Koala habitat and the proponent's site plan was amended to include additional environmentally sensitive area. However, additional information may be required as part of the Gateway Determination to address the HEV of which the potential Koala habitat is located. Due to the lapse of time and amended legislation.

- [SEPP \(Resilience and Hazards\) 2021](#)

Chapter 2 - Coastal Management

The aim of this part of the Policy is to manage development in the coastal zone and protect the environmental assets of the coast. The subject land is identified as being located within the coastal zone.

The subject land is affected by coastal wetlands, proximity to coastal wetlands and coastal environment and use areas.

Clause 2.10 – Development on certain land within coastal wetlands and littoral rainforests area. The subject site is located within a mapped coastal wetland area.

Clause 2.11 – Development on land in proximity to coastal wetlands or littoral *rainforest*. The site is located within the mapped proximity area to mapped coastal wetlands'.

Clause 2.13 - Development on land within the coastal environment area. The subject site is located within the mapped coastal environment area.

Clause 2.14 - Development on land within the coastal use area. The subject site is located within the coastal use areas.

An assessment of the impact in regard to the provisions of this policy will apply at the time of future development applications for the land.

Future development must avoid impacts on the biophysical, hydrological or ecological integrity of the adjacent wetland, and ensure quantity and quality of surface and ground water flows to and from the adjacent coastal wetland is acceptable. It is considered that any planning proposal should provide adequate buffers to sensitive coastal wetlands.

Chapter 4 - Remediation

Clause 4.7 - Contamination and remediation to be considered in determining development application.

This policy specifies that the consent authority must not consent to the carrying out of any development unless it has considered whether the land on which the development is proposed is contaminated and/or is required to be remediated for its intended use. The site is not mapped as being subject to potential contamination from past land uses. However, an adjoining site has been mapped as having potential contamination.

A Preliminary Phase 1 Geotechnical and Contamination Assessment may be required to be undertaken as part of any future development application.

- SEPP (Transport and Infrastructure) 2017

Chapter 3 - Educational Establishments and Child Care Facilities

Part 4 of this Chapter provides the development provisions for schools.

The proposed B5 Business Development zone, is a prescribed zone that will enable the continuation of and any future expansion of the existing educational establishment.

Any future development application will need to take into consideration the provisions of this Part.

3. Policy Directions for Plan Making - Ministerial Directions under Section 9.1 of the EP&A Act

All Council's must follow certain directions when preparing Planning Proposals for new and amending LEP's. The relevant applicable Directions are as follows:

– 1.1 Business and Industrial Zones

Proceeding with a Planning Proposal on the basis of the proponent request to change part of the site from R1 General Residential to B5 Business Development is consistent with this direction.

– 2.2 Coastal Management

A planning proposal must give effect to the direction; the *Coastal Management Act 2016*; and SEPP (Resilience and Hazards) 2021.

A planning proposal must not rezone land which would enable increased development or more intensive land use on land within a coastal wetlands and littoral rainforests area (in this case, coastal wetlands, proximity area to coastal wetlands, coastal environment and use areas) identified by the SEPP (Resilience and Hazards) 2021.

A planning proposal may be inconsistent with the direction only if the relevant Authority can satisfy the State government that the provisions of the planning proposal are:

- justified by a strategy or a study which gives consideration to the direction;
- consistent with the relevant regional plan;
- of minor significance.

Notwithstanding the above, proceeding with a planning proposal for commercial uses as recommended in the report, is broadly consistent with the North Coast Regional Plan 2036 and Council's adopted LSPS and UGMS.

Approval for any inconsistency with the Direction will be necessary if the proposal proceeds.

– 2.6 Remediation of Contaminated Land

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. This Direction applies when a relevant planning authority prepares a planning proposal that will result in development on land, in this instance, educational purposes:

- (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for the proposed purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
- (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

The land in question is not known to be contaminated, however the subject site adjoins an identified contaminated site. In addition, the subject site has been filled.

– 4.3 Flooding

The subject site has been identified as being located within the floodplain of the Hastings River and subject to inundation by a probable maximum flood and 1% annual exceedance probability flood event.

Any future development on the subject site will need to be comply with Council's planning controls and build to the required flood planning level and associated freeboard.

– 4.4 Planning for Bushfire Protection

According to the Rural Fire Service bushfire prone land maps, the subject site accommodates vegetation category 1 and vegetation buffer.

Consequently, in the preparation of the Planning Proposal, Council must consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway Determination, as the existing educational establishment is classified as special fire protection purpose.

– 5.10 Implementation of Regional Plans

The Planning Proposal is consistent with the relevant actions of the North Coast Regional Plan 2036.

The subject land has been identified in the North Coast Regional Plan 2036 as being partially located within the coastal strip, with wetland and other areas comprising high environmental values, including core Koala habitat, bushfire prone areas and areas inundated by flooding.

The Planning Proposal requests the alterations of the C2 Environment Conservation boundary to protect the natural environment by retaining the wetland vegetation community and accounting for such hazards as flooding and bushfire.

The B5 Business Development zone will provide for an expansion of the existing B5 Business Development zone to the north of the subject site and provide for additional commercial development and employment. Only the defined building and flood platforms are suitable for urban development at present. Additional fill will be necessary to ensure the suitability of additional areas for B5 Business Development.

The Planning Proposal is consistent with the abovementioned Ministerial Directions.

4. Towards 2030 Community Strategic Plan (CPS)

The CPS is an overarching 10-year plan prepared by Council and the community, and based on community priorities. The plan outlines the community's objectives for each of the themes identified in the plan:

- Leadership and Governance
- Your Community Life
- Your Business and Industry
- Your Natural and Built Environment

Proceeding with a rezoning to reconfigure existing C2 Environmental Conservation zoning with the corresponding built conditions on the site, and apply an alternative zone to the balance of the site (zone R1 General Residential to B5 Business Development) is consistent with the objectives of the Community Strategic Plan.

5. Shaping our Future 2040 Local Strategic Planning Statement (LSPS)

The LSPS sets out a 20-year vision for Port Macquarie-Hastings, and its role is to:

- Identify the special characteristics that contribute to local identity and make our area special.
- Recognise our shared community values and how they will be maintained or enhanced.
- Direct how we manage future change.
- Identify and give effect to relevant directions located within the North Coast Regional Plan.
- Identify gaps of knowledge where further strategic planning work is needed.
- Link Council’s strategies and plans to the implementation of the NSW Government’s Strategic Plans.
- Shape planning controls to facilitate future planning directions.

A brief summary assessment of the proposed supportable zone layout as shown in Figure 2 against the following Strategic Planning Principles of the LSPS is as follows:

No.	Planning Principle	Comment
1.	Result in sustainable outcomes for our community now and into the future; considering Environmental, Social, and Economic factors and risks;	The Planning Proposal considers the environmental constraints on the subject land and the economic benefit of changing the R1 General Residential zone to B5 Business Development. However, changes may be required upon receipt of government agency comments during the public consultation period.
2.	Work in an adaptive management framework that allows the review and amendment of Council’s planning policies to ensure that our unique scenic landscape qualities, ecological and biodiversity values are recognised;	The proposal would rectify planning layers in this location in line with existing site conditions and without compromising environmental outcomes.
3.	Positively contribute to our built environment;	The proposed zone configuration is based on known environmental constraints. The proposed B5 Business Development zone is considered to be a better alternative to the R1 General residential zone having regard for surrounding land uses and activities.
4.	Enhance equity, social inclusion and community participation;	The community will be able to participate in the public consultation period. No adverse social and equity issues are identified at this stage.
5.	Be robust, future-focused and evidence based;	The B5 Business Development zone will provide additional commercial land to provide additional employment and commercial enterprise to add to the

No.	Planning Principle	Comment
		local economy.
6.	Facilitate transparent collaboration processes and involve stakeholders and the community early.	The community will be notified of the Planning Proposal during the public consultation period and will have an opportunity to lodge a submission to be considered by Council.

6. Port Macquarie-Hastings Urban Growth Management Strategy 2036 (UGMS)

The UGMS aims to promote housing in the right locations; ensure efficient use of infrastructure; avoid environmental impacts; and enhance the character and natural qualities of the location; and in the public interest.

The environmental aims of the UGMS is to accommodate a growing population while avoiding areas of high environmental value; concentrate growth to within existing centres; protect and manage native vegetation; plan for climate change; and incorporate measures such as buffers to protect environmental values and avoid land use conflict.

The proposed alteration to the existing C2 Environmental Conservation zone aims to conserve high environmental value where possible and enhance the character and natural qualities on the subject land.

The proposed change in zoning from R1 General Residential to B5 Business Development will enable the expansion of a commercial zone to facilitate economic growth within an existing area.

7. Port Macquarie-Hastings Local Environmental Plan 2011

Should the land be rezoned part B5 Business Development and part C2 Environmental Conservation under the LEP, the mapping layer changes as follows:

Map Layer	Existing Controls	Proposal
Land Zone	R1 General Residential and C2 Environmental Conservation	B5 Business Development and C2 Environmental Conservation
Minimum Lot Size	450m ² and 40ha	1,000m ² and 40ha
Height of Building	8.5m for R1 General Residential	11.5m for B5 Business Development
Floor Space Ratio	0.65:1 for R1 General Residential	No floor space ratio

Planning Reforms

The NSW Government has introduced a suite of reforms to deliver a better planning system for NSW. As part of this suite of reforms, a discussion paper has been released proposing to simplify the rezoning applications to cut timeframes. DPE anticipates that these new changes will come into effect in 2022.

Community Engagement and Internal Consultation

Government agency and public consultation requirements will be detailed in the Gateway Determination and conducted accordingly.

Options

Council's options are:

1. Do nothing and refuse the request for a Planning Proposal. The subject land would remain zoned part R1 General Residential and part C2 Environmental Conservation.
2. Resolve to prepare a Planning Proposal to rezone Lot 2 DP601094 and Lot 4 DP825704, 11 and 33 Mumford Street, Port Macquarie from part R1 General Residential and part C2 Environmental Conservation to part B5 Business Development and part C2 Environmental Conservation under the Port Macquarie-Hastings LEP 2011 (LEP), based on the concept zone layout indicated in Figure 1.

In relation to Option 1 and not proceeding with the Planning Proposal, this option would involve discontinuing the preparation of the Planning Proposal.

Option 2 is recommended for the reasons outlined in this assessment report. This would allow for development outcomes which are in keeping with the environmental sensitivity of the location and the regulatory framework, for optimal development and environmental outcomes.

Should Council decide not to prepare a planning proposal, pursuant to the *Environmental Planning and Assessment Regulation 2000*, the proponent is to be notified of Council's decisions and has 42 days from notification to request a review of the Council's decision. The review process is administered by DPE.

A planning proposal request which has been amended after Council has resolved to not support the matter is not eligible for a Rezoning Review. Any subsequent revised planning proposal request would need to be submitted to Council as a new planning proposal request.

This report recommends support of Option 2.

Financial and Economic Implications

A Stage 1 rezoning fee of \$15,290 was paid on 26 October 2018 consistent with Council's Fees and Charges at the time.

The fee is significantly less than the current rezoning fee, and resources expended in further review and re-assessment of the amended application, staff-proponent negotiations, and reporting requirements since 2014 has expended the fee paid by the landowner.

In the event that Council does not support Option 2, and / or requests further revisions of the Planning Proposal (requiring reassessment), full payment of fees by the Proponent is considered appropriate on the basis of resources expended, a

positive uplift in the value of the land if rezoned, and in view of the expense of progressing any subsequent application through a rezoning process. The EP&A Reg contains provisions whereby Council may enter into an agreement for the payment of costs and expenses incurred in undertaking studies and other matters required to progress a planning proposal. This would include for example, addressing the conditions of a Gateway determination requiring further work to be undertake before a PP can proceed to the next stage.

There are no changes proposed to Council's Section 7.11 or Section 7.12 Development Contributions Plans, or Development Servicing Plans for Water and Sewer, in connection with the planning proposal. Development contributions will apply to the future development of the land.

The up-front cost of extension of services to the land including a suitable extension of all roads and utilities to serve future development will be at the expense of the developer.

Costs associated with establishment and management of any C2 Environmental Conservation zoned land will be at the expense of the developer/landowner.

Long-term maintenance and replacement of developer provided assets as a consequence of the rezoning and development of the land for commercial purposes (for example roads, water mains, sewerage, stormwater, footpaths and street lighting, fire trails if acquired) will be an ongoing expense to Council.

Conclusion

The request to rezone the subject land is considered to have strategic merit. It is recommended that a Planning Proposal be prepared and forwarded to DPIE for a Gateway Determination.

Disclosure

Under section 10.4(4) of the *Environmental Planning and Assessment Act 1979* ('the Act') a person who makes a relevant planning application to a council is required to disclose the following reportable political donations and gifts (if any) made by any person with a financial interest in the application within the period commencing 2 years before the application is made and ending when the application is determined:

- a) all reportable political donations made to any local councillor of that council
- b) all gifts made to any local councillor or employee of that council.

An application to amend the local environmental plan is a relevant planning application. A reference in sections 10.4(4) and 10.4(5) of the Act to a reportable political donation made to a 'local councillor' includes a reference to a donation made at the time the person was a candidate for election to the council.

A disclosure has not been made. The report recommends that a political disclosure in the format required under legislation is required to be submitted prior to preparation and forwarding of a Planning Proposal to the NSW Government Gateway, if progressed.

Attachments

1.  Draft Planning Proposal Assessment