

PUBLIC AND AGENCY CONSULTATION

19 October - 18 November 2022

Planning Proposal under section 3.33 of the EP&A Act

Port Macquarie-Hastings LEP 2011 (Map Amendment No #)

**REZONING OF LAND IN MUMFORD STREET,
PORT MACQUARIE -**

**Lot 2 DP 601094 & Lot 4 DP 825704,
No. s 11 & 33 Mumford Street, Port Macquarie
For Business Development and Environmental
Conservation purposes.**

Ccl ref: PP032.00000010.001
DP&E ref: PP-2022-981
Date: 2022



Planning Proposal status (for this copy)

Stage	Version Date
Draft	June 2019
Reported to Council (section 3.33)	17/03/22
Adopted by Council & referred to DP&E (sec 3.34 (1))	11/04/2022
Gateway Panel determination (sec 3.34 (2))	16/05/2022
Revisions required: Yes / No . Completed	Yes/completed
Public Exhibition (where applicable) (Sch 1 cl 4)	October - November 2022
For Council review (sec 3.35 (1))	
Adopted by Council for submission to Minister's delegate (sec 3.36 (2))	

Council reference: DD032.2014.00000010.001

(Amendment No will initially be blank) Port Macquarie-Hastings LEP 2011 (Map Amendment No #)

Department of Planning & PP-2022-981

Environment reference:

Council Address

Port Macquarie-Hastings Council
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PORT MACQUARIE NSW 2444

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Adoption of the Planning Proposal**1. For initial Gateway determination**

Port Macquarie-Hastings Council resolved to progress a Planning Proposal for Lot 2 DP 601094 & Lot 4 DP 825704, at No's 11 and 33 Mumford Street, Port Macquarie on 17 March 2022. (A copy of the council Agenda Report and Minute is included as Appendix A).

2. For section 3.35 finalisation

This Planning Proposal was endorsed on by Port Macquarie-Hastings Council, or the undersigned Council delegate (delete one):

Signed

Name

Position

Exhibition information

Planning Proposal

This is a Planning Proposal to facilitate business development and environmental conservation at No's 11 and 33 Mumford Street, Port Macquarie. The Planning Proposal is landowner initiated. The proposal relates to a request to Council from Alan Taylor Civil on behalf of Grantons Pty Ltd (Miedecke Auto Group) and Hastings Assoc. for Christian Education (Heritage Christian School) to prepare a Planning Proposal for rezoning Lot 4 DP0825704 and Lot 2 DP0601094 at Mumford Street, Port Macquarie.

What is a planning proposal?

A Planning Proposal is a document that is prepared by a Council when it is intended to make changes to a local environmental plan (LEP). It sets out the intended effect and justification for the proposed changes to the zoning of the land referenced in the Planning Proposal document. Under the Environmental Planning and Assessment Act 1979. Council must prepare and submit a Planning Proposal to the NSW Department of Planning and Environment for consideration of an amendment to the Port Macquarie-Hastings LEP 2011.

This Planning Proposal is set out in the manner required by the State Government and it contains information required by the State Government when Council's prepare changes to their local environmental plans.

What is the intent of this planning proposal?

The intent of this Planning Proposal is to update the Port Macquarie-Hastings Local Environmental Plan (LEP) 2011 to rezone Lot 4 DP0825704 and Lot 2 DP0601094 at Mumford Street, Port Macquarie to reconfigure the existing residential zone for Business Development and consolidate environmental areas across the two sites. The Planning Proposal will change the zoning of the land and the related development standards for height of building, floor space ratio, and minimum lot size for subdivision if finalised.

The land included in the Planning Proposal is currently zoned part R1 General Residential and part C2 Environmental Conservation. It comprises high environmental value land under the North Coast Regional Plan, legislated Coastal Wetlands and Proximity Areas to Coastal Wetlands, and existing school and commercial infrastructure.

Port Macquarie-Hastings Local Environmental Plan (LEP) 2011 is the principle plan for our Local Government Area (LGA).

Process for amending the Port Macquarie-Hastings LEP 2011.

The normal mechanism for making changes to all Local Environmental Plans (LEPs) is to prepare a 'Planning Proposal' and an "amending LEP" that will replace the relevant sections of text and or maps in the principle LEP for an area. Preparation of a Planning Proposal initiates a process established by the NSW government known as the 'Gateway Process'. A Planning Proposal must be endorsed by the local council before it can proceed to the NSW Government Gateway for a decision on whether the proposal should proceed or not. The decision and terms of approval, or not, is referred to as a Gateway Determination.

The Stages in the LEP-making process are:

1. **Planning Proposal** - preparing the Planning Proposal.
2. **Gateway** - Department review of the planning proposal and decision to proceed or not, to the next step.
3. **Post Gateway** - Actioning Gateway Determination conditions.
4. **Public Exhibition and Assessment** - Engaging with the community.

5. Finalisation - Making the LEP

Maps

This Planning Proposal is for map only amendments. This means that the only change to LEP 2011 will be in relation to the map sheets covering the area described in the Planning Proposal. The Map series to be amended are Land Zoning (LZN), Minimum Lot Size (LSZ), Height of Buildings (HOB), and Floor Space Ratio (FSR).

The affected Map sheet series are:

LZN Series 013C and 013F

LSZ Series 013C and 013F

HOB Series 013C and 013F

FSR Series 013C and 013F

These sheets will be updated to reflect the changes at Mumford Street on finalisation of the Planning Proposal.

For any enquiries relating to the planning proposal, please contact Leanne Fuller on 6581 8111 or via email: leanne.fuller@pmhc.nsw.gov.au

Public Exhibition

The exhibition period is from 19 October 2022 for 20 working days, with the Planning Proposal available on the NSW Government Planning Portal. A link to the Portal is available via Port Macquarie-Hastings Council haveyoursay.pmhc.nsw.gov.au Hard copies of the Planning Proposal will also be available for inspection by any person at Council's offices at Port Macquarie throughout the engagement period.

Submissions

Any person may make a written submission via the Planning Portal up until the end of the exhibition period. The submission should quote the Planning Portal Reference No PP-2022-981, or posted to:

The Chief Executive Officer
Port Macquarie-Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444.

Note that any submission may be made public.

Section 10.4 (5) of the *Environmental Planning and Assessment Act 1979* states in part:

"A person who makes a relevant public submission to a council in relation to a relevant planning application made to the council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing 2 years before the submission 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."

If further information or forms are required, ask Council's Customer Service staff.

Further information

For further information please contact Strategy, Land Use Planning at Port Macquarie-Hastings Council on phone 02 6581 8111, or Ms Kate Campbell at Dept. Planning and Environment on 02 5778 1401..

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Executive Summary

This is a Planning Proposal prepared under section 3.33 of the *Environmental Planning and Assessment Act 1979*. The proposal outlines the intended effect and justification for an amendment to *Port Macquarie-Hastings Local Environmental Plan (LEP) 2011* to rezone part Lot 2 DP 601094 and part Lot 4 DP 825704, 11 and 33 Mumford Street, Port Macquarie for business development and environmental conservation purposes and amend the related development standards.

Port Macquarie-Hastings Council is the Planning Proposal Authority responsible for the governance of the planning proposal, including its preparation and submission to the Department for a Gateway determination, satisfying the conditions of a Gateway determination, public exhibition and its finalisation.

A conditional Gateway Determination under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) was issued by the Director, Northern Region at the Department of Planning and Environment on 16 May 2022, as delegate of the Minister for Planning.

The Planning Proposal is categorised as standard under the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 working days; and

The Council must comply with the notice requirements for public exhibition of planning proposals as described in the Gateway Determination, and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

There are no donations or gifts disclosed in the landowner political donation disclosures.

There have been meetings with landowners and their representatives with respect to the proposal, and there have been communications between the proponent, landowners and Councillors in respect of reports to Ordinary Council Meetings in relation to consideration of the planning proposal.

The Planning Proposal is affected by the NSW Government planning reforms for Employment Zones. The reform will deliver a simplified framework for the application of land use zones by introducing five new (replacement) employment zones and three supporting zones. The intended zone conversion for existing B5 Business Development referenced in the Planning Proposal is proposed zone E3 Productivity Support.

For the purpose of the Planning Proposal, references to zone B5 Business Development should be interpreted to mean the new employment zone E3 Productivity Support.

Background

Proposal	Rezone land at Mumford Street, Port Macquarie
Property Details	Lot 2 DP601094 and Lot 4 DP805704 11 and 33 Mumford Street, Port Macquarie, and that part of Mumford Street to the extent that it applies to the planning area of the planning proposal;
Applicant Details	Alan Taylor Pty Ltd
Land owner	Hastings Association for Christian Education and Gantons Pty Ltd. Mumford Street is Council owned road infrastructure.
Brief history	The Planning Proposal seeks to amend the Port Macquarie-Hastings LEP 2011 (LEP), to modify land zoning, and associated development standards in relation to the subject property. <i>For the purposes of this report, the land described above is referred to as the subject site.</i> The intended effect of the Planning Proposal request is to facilitate a change in land use from part residential and environmental conservation to part business development and environmental conservation. This change is intended to enable the continuation of existing and envisaged land uses which are not permissible uses within the current zoning, and conserve areas of high environmental value within the subject site.
Location	A location map is included in Part 4 - Mapping.

The Planning Proposal is supported by the following additional studies to justify the suitability of the sites for the proposed development, noting that a final decision in relation to the capability of the land for the envisaged development is subject to agency and community consultation:

- Aboriginal Cultural Heritage Assessment, Birpai Aboriginal Land Council, February 2018;
- Acid Sulfate 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;
- Noise Impact Report (desktop), 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 February 2018;
- Traffic Impact Assessment, Alan Taylor & Associates, received February 2018;
- Ecological constraints Assessment, JBEnviro, December 2018;
- Streamline Biodiversity Development Assessment Report, AEP, March 2021.

A planning Proposal is the appropriate mechanism for amending the zoning and related planning controls currently applying to the land.

Planning Proposal

Part 1 - Objectives or Intended Outcomes

This Planning Proposal seeks to amend Port Macquarie-Hastings LEP 2011 to rezone the subject site from R1 General Residential and C2 Environmental Conservation to B5 Business Development (E3 Productivity Support when implemented) and C2 Environmental Conservation and amend the associated development standards for minimum lot size, floor space ratio and height of buildings provisions including for the subject site and commensurate section of Mumford Street.

The intended effect of the Planning Proposal is to conserve environmental values and facilitate continuation of existing education land uses, with expanded business and employment land uses, which are not permissible within the current conservation zoning.

Part 2 - Explanation of Provisions

The proposed mechanism to achieve the intended outcomes are:

- Amend the Land Zoning (LZN) map to rezone part Lot 2 DP601094, part Lot 4 DP825704 and the commensurate section of Mumford Street Port Macquarie from part R1 General Residential to part B5 Business Development;
- Amend the Land Zoning (LZN) map to rezone part Lot 2 DP601094, part Lot 4 DP825704 and the commensurate section of Mumford Street Port Macquarie from part C2 Environmental Conservation to part B5 Business Development;
- Amend the Lot Size (LSZ) Map to introduce a minimum lot size of 1000m² for land to be zoned B5 Business Development;
- Amend the Floor Space Ratio (FSR) Map to remove the existing FSR of 0.65:1 for land to be zoned B5 Business Development;
- Amend the Height of Building (HOB) Map to introduce a maximum HOB of 11.5 metres for land to be zoned B5 Business Development.

A comparison of provisions between the existing LEP and the proposed LEP in terms of objectives and intended outcomes is provided within Tables 1-3 below.

Table 1 - Explanation of Provisions (Land Use Zones)

Land Use Zone	Objectives	Intended Outcomes
General Residential (R1)	<ul style="list-style-type: none"> To provide for the housing needs of the community. To provide for a variety of housing types and densities. To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	<p>For land proposed to be converted from R1 General Residential to B5 Business Development:</p> <ul style="list-style-type: none"> To remove the existing inappropriate residential zoning in relation to the subject land and replace it with zone B5 Business Development having regard for existing and surrounding land uses. To enable a mix of business and employment uses in locations that are close to, and that support centre viability. To minimise land use conflict, and ensure that new development positively contributes to streetscape.
Environmental Conservation (C2)	<ul style="list-style-type: none"> To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values. To prevent development that could destroy, damage or otherwise have an adverse effect on those values. To protect coastal wetlands and littoral rainforests. To protect land affected by coastal processes and environmentally sensitive land. To prevent development that adversely affects, or would be adversely affected by, coastal processes. To enable development of public works and environmental facilities where such development would not have an overall detrimental impact on ecological, 	<p>For land proposed to be retained as C2 Environmental Conservation:</p> <ul style="list-style-type: none"> To preserve existing and important environmental values where inappropriate or currently built upon. <p>For land proposed to be converted from C2 Environmental Conservation to zone B5 Business Development:</p> <ul style="list-style-type: none"> To realign the existing conservation zoning to reflect existing and proposed building platforms having regard for existing conservation values and current and proposed land uses. To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are

	scientific, cultural or aesthetic values.	<p>close to, and that support the viability of, centres.</p> <ul style="list-style-type: none"> - To minimise conflict between land uses within the zone and with adjoining zones. - To ensure that new developments make a positive contribution to the public domain and streetscape.
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Table 2 - Explanation of Provisions (Minimum Subdivision Lot Size)

Minimum subdivision lot size (LSZ Map Series)			
Objectives	Current Provision	Proposed Provisions	Intended Outcomes
As per objectives for zone R1 General Residential (refer above).	450m ²	1000m ² (U1)	<p>To provide a minimum lot size across areas zoned B5 Business Development.</p> <p>To facilitate larger lot sizes and a variety of business land uses within areas identified for 'business' and or 'productivity support'.</p>
As per objectives for zone C2 Environmental Conservation (refer above)	40 hectares (AB3)	40 hectares (AB3)	Retention of a large minimum lot size within areas of high environmental value, to prevent land fragmentation through subdivision, and to ensure protection of environmental values.

Table 3 - Explanation of Provisions (Height of Buildings)

Height of Buildings (HOB Map Series)			
Objectives	Current Provision	Proposed Provisions	Intended Outcomes
(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,	8.5m	Blank - no maximum	To retain no height of buildings provisions accounting for the likely limited potential for land use

<p>(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,</p> <p>(c) to minimise the adverse impact of development on heritage conservation areas and heritage items,</p> <p>(d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan.</p>			intensification within areas identified as having environmental value - Zone C2 Environmental Conservation.
		11.5m (L)	To facilitate a transition to business areas that are suited to such development due to proximity to existing supporting services to the subject site - Zone B5 Business Development.



Figure 1: Site image showing onsite attributes, including built infrastructure.

Part 3 – Justification

A - Need for the planning proposal.

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

The Planning Proposal is land owner initiated. It is not a result of any strategic study or report.

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

This Planning Proposal is the only means of amending the LEP to permit the objectives and intended outcomes as outlined within this document, as the current LEP provisions applying to the land (including LZN, LSZ, FSR and HOB) do not adequately permit and or accommodate the proposed urban and environmental land use objectives and outcomes sought through this proposal.

B - Relationship to strategic planning framework.

3. Is the planning proposal consistent with the objectives and actions of the North Coast Regional Plan 2036?

The Planning Proposal is consistent with the goals, directions and actions of the regional plan. Specific merit attainments are:

- Proposed development is focused to areas of least biodiversity sensitivity, with consideration of the 'avoid, minimise, offset' principles.
- In relation to natural hazards, the flooding and bush fire constraints have been considered to ensure compliance with Council's flood planning controls and the NSW Rural Fire Service's Planning for Bush Fire Protection 2019.
- The proposal will reverse current land use prohibitions and facilitate expansion of an existing business centre.
- The proposal considers the surrounding employment context and areas of high environmental value.
- The subject site is in proximity to existing road transport and air freight networks.
- The proposal will provide additional commercial development opportunities and conservation of areas of environmental value.

The site is suitable for the proposed uses as follows:

- The site adjoins an established business precinct;
- Areas of high environmental value within the site have been sought for conservation through the application of the 'avoid, minimise, offset' principals;
- Areas of high environmental value have been broadly excluded from areas proposed for land use intensification;
- Delivery of business development outcomes to cater for future population growth;
- Future development will address flood related impacts through design and construction, and minor filling;
- The site is able to be serviced by extension and upgrading of existing infrastructure as required for any future development.

A draft North Coast Regional Plan 2041 was publically exhibited from 11 July 2021 to 24 August 2022. The draft plan proposes new priorities to plan for a sustainable future, protect the regions assets, capitalise on major infrastructure investment, and strong emphasis on settlement planning. The Planning Proposal is broadly consistent with the draft plan.

The proposal is also consistent with the Principles identified in the North Coast Settlement Planning Guidelines 2019 (NCSPG) in respect of appropriate employment land location in proximity to centres. There is no change to the location of employment lands resulting from the Planning Proposal, and a consistency is assumed.

The Planning Proposal involves land outside of the Urban Growth Area boundary identified in the regional plan. An analysis of the consistency of the proposal with the Urban Growth Area Variation Principles is detailed in Table 4 below.



Figure 2 Street View - Google

Table 4 - Consistency with Urban Growth Area Variation Principles

Urban Growth Area Variation Principles		Comment
Policy	The variation needs to be consistent with the objectives and outcomes in the North Coast Regional Plan 2036 and any relevant Section 117 Directions and State Environmental Planning Policies, and should consider the intent of any applicable local growth management strategy.	The subject proposal is consistent with the objectives and outcomes in the North Coast Regional Plan 2036, relevant Section 117 Directions, applicable State Environmental Planning Policies and Council's Urban Growth Management Strategy.
Infrastructure	The variation needs to consider the use of committed and planned major transport, water and sewerage infrastructure, and have no cost to government. The variation should only be permitted if adequate and cost-effective infrastructure can be provided to match the expected population.	The road network, transport and servicing of the site and the wider area has been considered. Any upgrades required for future development can be considered and managed through the development application process.
Environmental and farmland protection	<p>The variation should avoid areas:</p> <ul style="list-style-type: none"> • of high environmental or heritage value; and • mapped as important farmland, unless consistent with the interim variation criteria prior to finalising the farmland mapping review. 	<p>The subject site comprises high environmental values including potential Koala habitat.</p> <p>The draft Koala Plan of Management recommends measures to protect and enhance the Koala Habitat.</p> <p>An Ecological Constraints Assessment of the subject site has informed the proposed LEP provisions and has considered the 'avoid, minimise and offset' hierarchy. In doing so, the areas of high environmental value will be protected and maintained to provide good connection to areas of environmental significance on adjoining land.</p> <p>The maps accompanying the current LEP do not identify the site as being affected by heritage. An Aboriginal Cultural Heritage Assessment has also been undertaken. The assessment advised that there is no reason that the rezoning cannot proceed in respect to Aboriginal Cultural Heritage issues.</p> <p>The site does not contain mapped important farmland.</p>

Urban Growth Area Variation Principles		Comment
Land use conflict	The variation must be appropriately separated from incompatible land uses, including agricultural activities, sewage treatment plants, waste facilities and productive resource lands.	There are no active intensive commercial and or agricultural activities, sewerage treatment plants or waste facilities within the vicinity of the proposal.
Avoiding risk	<p>The variation must avoid physically constrained land identified as:</p> <ul style="list-style-type: none"> • flood prone; • bushfire-prone; • highly erodible; • having a severe slope; and • having acid sulphate soils. 	<p>The site is bush fire prone land and bush fire constraints, along with associated mitigation measures, have been identified through a Bushfire Planning Report to comply with Planning for Bushfire Protection 2019 (PBP 2019) in relation to any expansion of the educational facility.</p> <p>The subject site is located within the floodplain of the Hastings River and subject to inundation by a probable maximum flood and 1% annual exceedance probability flood event. Future development on the subject land will need to be compliant with Council's planning controls and new builds or additions if proposed, must meet required flood planning level and associated freeboard controls.</p> <p>Minor site contamination has been identified in a Phase 1 Site Contamination Report prepared by RGS Pty Ltd. The Report is consistent the Contaminated Land Planning Guidelines Draft and relevant Ministerial Directions under Section 9.1 of The Act. The Report is ratified by a suitably qualified practitioner, and the land is certified as suitable for education land uses and employment land uses.</p>
Heritage	The variation must protect and manage Aboriginal and non-Aboriginal heritage.	<p>The Planning Proposal is supported by an Aboriginal Cultural Heritage Assessment prepared by the Birpai Local Aboriginal Land Council. The assessment advised that there is no reason that the rezoning cannot proceed in respect to Aboriginal Cultural Heritage issues. The recommendations of the report state:</p> <p><i>'Based on the Site Inspection and other investigation, there is no reason from an Aboriginal Cultural and Heritage perspective that this rezoning cannot proceed. However, during any earthworks, in the event of any items of Aboriginal significance being found on the site, work is to cease and Sites</i></p>

Urban Growth Area Variation Principles		Comment
		<p><i>Officer from Birpai Local Aboriginal Land Council is to be engaged to determine how best to proceed.'</i></p> <p>As such, it has been determined that the rezoning can continue, subject to monitoring of any earthworks during development of the site.</p> <p>In addition to the above, the maps accompanying the current LEP do not identify the site or surrounding land as being affected by heritage. Hamilton House and The Manor House, State listed items, on Hastings River Drive, are sufficiently distanced from the subject sites to ensure no adverse impact.</p>
Coastal area	Only minor and contiguous variations to urban growth areas in the coastal area will be considered due to its environmental sensitivity and the range of land uses competing for this limited area.	The subject site is located within the coastal strip, with wetland and other areas comprising high environmental values, Koala habitat, bushfire prone and flood affected areas. The Planning Proposal if finalised, will result in a modified environmental conservation zone reflecting filled building platforms and retained high environmental values in the southern sections of the subject site.

The Planning Proposal is assessed as having planning merit for the following reasons:

- It gives effect to the North Coast Regional Plan 2036.
- It gives effect to the local Urban Growth Management Strategy.
- It gives effect to the Local Strategic Planning Statement.
- It has site-specific merit, having regard to:
 - The current education land uses and proposed expanded employment land use;
 - The proximity to an existing business zoned area;
 - The implementation of the ‘avoid, minimise, offset’ principals in relation to the environmental values that are present on the site.
 - The ability to connect the site to existing services and infrastructure, subject to extension and upgrading as applicable.

4. Is the planning proposal consistent with Council’s Community Strategic Plan and endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Community Strategic Plan - Imagine 2050

The Imagine 2050 Community Strategic Plan (CPS) is an overarching 10-year plan prepared by Council and the community. The plan outlines the community’s objectives for each of the themes identified in the plan:

- Environmentally sustainable
- Resilient
- Liveable
- Connected
- Thriving
- Authentic and High Performing

Proceeding with a rezoning to reconfigure existing C2 Environmental Conservation zoning in keeping with the pre-existing built and environmental conditions on the site, and apply a corresponding business zone (B5 Business Development) is not inconsistent with the objectives of the Community Strategic Plan.

Port Macquarie-Hastings Council Urban Growth Management Strategy (UGMS)

The Port Macquarie-Hastings Council Urban Growth Management Strategy (UGMS) 2036 was endorsed by Council at its Ordinary Meeting of 20 June 2018 and conditionally approved by the NSW Department of Planning on 2 November 2018. Consistent with the UGMS, this Planning Proposal seeks to:

- Support the strategy vision to implement social, economic and ecological outcomes in a balanced way;
- provide opportunities for new economic development, and deliver growth and change;
- maximise efficient use of infrastructure;
- avoid environmental impacts; and
- protect and manage native vegetation, plan for climate change; and avoid land use conflict.
- facilitate employment zone and land use opportunity to address the changing demands of business and industry.

Local Strategic Planning Statement - Shaping Our Future 2040

Port Macquarie-Hastings Council adopted its first Local Strategic Planning Statement (LSPS) ‘Shaping Our Future 2040’ on 30 September 2020. ‘Shaping Our Future 2040’ is the core strategic land-use planning document for the whole of Port Macquarie-Hastings Local Government Area

(LGA). It outlines the 20-Year vision for land-use planning in the local area and sets the direction for the community's environmental, social, and economic land-use needs.

Shaping Our Future is a guide for land-use planning decisions. The Role of *Shaping Our Future* is to:

- Set the 20-year land-use vision for the Port Macquarie - Hastings region;
- Identify the special characteristics that contribute to local identity and make the area special;
- Recognise shared community values and how they will be maintained or enhanced;
- Direct how future change is managed;
- Identify and give effect to relevant directions located within the North Coast Regional Plan 2036;
- 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; and
- Shape planning controls to facilitate the external environment over its 20-year life.

This Planning Proposal, with demonstrated consistency with the North Coast Regional Plan 2036, seeks to ensure that appropriate land use planning is undertaken in order to achieve the above goals.

Relevant aspects of this LSPS that have been considered as part of the development of this planning proposal include:

- Assessing this planning proposal within a strategic framework as part of the strategic merit test (as outlined in NSW Department of Planning, Industry & Environment guidelines for preparing planning proposals and local environmental plans), as detailed within Part 3 of this document; and
- Using LSPS principals within Part 3 of this document to inform proposed planning controls as outlined within Part 4 of this document.

Given the above, this proposal is considered to give effect to Council's endorsed CSP, LSPS and UGMS.

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

The proposal is broadly consistent with applicable State Environmental Planning Policies.

Detailed assessment of consistency is contained in Appendix D.

SEPP (Biodiversity and Conservation) 2021

No Koala were found on the study sites notwithstanding previous sightings from 2005. Scats were however located in the southern section of Lot 4 indicating low level flow on activity associated with a nearby Core Koala Habitat Management area. The southern site areas will be retained for environmental conservation. A detailed assessment under the SEPP is included in the Gateway Determination Report included as Appendix C.

Council is required under the Gateway Determination to address the requirements of Chapter 4 of the SEPP.

Consistent with the Gateway Determination, Council has undertaken an assessment against the requirements of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 4. This Chapter 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.

Port Macquarie-Hastings Local Government Area is in the koala management area specified in Schedule 2 of the SEPP. There is no comprehensive Koala Plan of Management (KPOM) for the Port Macquarie-Hastings Local Government Area (LGA). Chapter 4, Koala Habitat Protection 2021 applies in respect of the subject sites. Section 4.9 will apply to the development assessment process post rezoning.

The proponent confirms the need for preparation of a Koala Plan of Management consistent with the SEPP to support future Development applications, and as part of the longer term management of the land. A draft KPOM included in the proponent's application is outdated, and yet be adopted by Port Macquarie-Hastings Council or approved by the Department.

Revisions to the draft plan and approval of a final KPOM (or a *Koala assessment report*) is required to inform and support future development applications for the site post rezoning, and consistent with the relevant legislative requirements and government guidelines.

Preliminary consultation with the Biodiversity and Conservation Division of the Department of Planning, has occurred and indicates support for reconfiguration of environmental protection zone boundaries based on built infrastructure, consistency with the principles of the North Coast Regional Plan, and the support of the Department of Planning and Council.

The draft LEP maps represent Council's balanced position, achieving minor reconfiguration of the former environmental zone boundary to account for pre-existing infrastructure, retention and conservation of Koala habitat and important environmental values, and allowance for new building and stormwater infrastructure.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Delegate of the Secretary, on behalf of the Minister for Planning, has determined that the planning proposal should proceed, and agreed to minor inconsistency of the planning proposal with the following applicable Ministerial Directions under section 9.1 of the *Environmental Planning and Assessment Act 1979*:

1.1 Implementation of Regional Plans,

3.1 Conservation Zones,

4.2 Coastal Management,

4.5 Acid Sulfate Soils,

5.1 Integrating Land Use and Transport and

6.2 Caravan Parks and Manufactured Home Estates is justified in accordance with the terms of the Direction.

No further approval is required in relation to these Directions.

An assessment against other relevant Directions, including 4.1 Flooding, 4.3 Planning for Bushfire Protection and 4.4 Remediation of Contaminated Land is contained in Appendix E.

C - Environmental, social and economic impact.

7. 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?

Ecological assessments have been undertaken in relation to this proposal and are included within Appendix F of this report. This assessment has found that the site contains threatened species and their habitats along with a confirmed and a mapped endangered ecological community (EEC). In order to avoid impacts to these species and these areas, the principles of 'avoid, minimise, offset'

as detailed within the *Biodiversity Conservation Act 2016* have been implemented in relation to the proposal through:

- Modification of the environmental conservation zone to reflect site conditions and high environmental values land; and
- Minimising vegetation removal and subsequent requirements for offsets.

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

Other environmental effects of the Planning Proposal are discussed under the headings below.

Bush Fire

The site is identified as being bush fire prone land. As such, a bushfire planning report has been prepared to ensure consideration of potential bush fire impacts and the implementation of appropriate mitigation measures in accordance with the NSW Governments guideline '*Planning for Bushfire Protection 2019*'. This study is included within Appendix F to this report.

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

Wetland

The subject land is affected by coastal wetlands and proximity to coastal wetlands. The C2 Environmental Conservation zone will incorporate wetland vegetation and significant vegetation and account for coastal wetland proximity areas.

Potential Noise Impacts

An acoustic review has been undertaken to assess potential noise impacts associated with the proposal. This review is included within Appendix F of this report. This report concluded that the any new educational establishment and business uses are to be undertaken so as not to result in noise related land use conflicts.

Contamination

A preliminary Stage 1 Site Contamination Assessment report has been undertaken to ensure the site is suitable for the proposed land use. A copy of the report and associated certification is included at Appendix G. The report findings and associated certification confirm the sites suitability for the proposed rezoning to C2 Environmental Conservation and B5 Business Development provided the report recommendations and advice are adopted.

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

Social and economic impact assessments have not been undertaken for the Planning Proposal due to the relatively small scale/size of the area affected by the Planning Proposal.

The Planning Proposal will enable continuation and limited expansion of the existing educational establishment, and enable employment and business centre expansion.

D - State and Commonwealth interests.

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

Essential infrastructure currently available to the site includes water, sewer, electricity and telecommunications. Infrastructure is available and adequate for any potential expansion of the existing educational facility and any new businesses, including access to water and sewer and road

upgrades. Upgrade to existing services to meet the needs of any new development on site will be at full cost to the developer.

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

Consultation in relation to this proposal is required with the following statutory agencies and authorities as part of the planning process, post-Gateway determination:

- NSW Department of Planning and Environment – Biodiversity Conservation Division (BCD)
- NSW Rural Fire Service
- NSW State Emergency Service

To reduce the timeframe for completion of the planning proposal and meet departmental milestones in line with state government requirements, consultation in relation to the planning proposal with state and commonwealth public authorities and community engagement will be undertaken as commensurate processes.

Notwithstanding the above, proactive consultation in relation to this proposal has been undertaken with representatives of the former Department of Planning, Industry and Environment's (now Department of Planning and Environment) Biodiversity and Conservation Division in relation to changes to existing conservation zones on the subject land under the *Biodiversity and Conservation Act 2016*. Below is a summary of the BCD recommendations for all planning proposals:

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 C2 Environmental Conservation or C3 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.*

Biodiversity Certification is not sought for this Planning Proposal - Item 1.

Referencing Item 2, the planning proposal is supported by site investigations (Ecological Constraints Assessment, JB Enviro December 2018); seeks to maximise avoidance and containment of HEV in an environmental conservation zone; justifies inconsistencies on land proposed to be zoned for business development; and includes a preliminary Streamline Biodiversity Development Assessment Report (AEP March 2021). A detailed assessment is provided in the Gateway Determination Report - PP-2022-981 included in the Planning Proposal as Appendix C.

The subject sites are identified as comprising Coastal Wetlands, Core Koala Habitat and High Environmental Values (HEV) on the Biodiversity Values Map (Source: Biodiversity Values Maps and Threshold Tool).

The supporting 2018 Ecological Constraints Assessment by JBEEnviro confirms four threatened species occurring in the study site including the Koala, Grey-Headed Flying fox, Squirrel Glider and Little Bent Wing Bat. The area also falls within important habitat for the Swift parrot, a serious and irreversible impact (SAIL) species. An assessment determined in relation to the Swift Parrot found that no SAIL are likely to occur as a result of the proposal based on application of the avoid and minimise principals - specifically the retention and management of habitat under a Vegetation Management Plan at development application stage. The Assessment concludes that the study area has a history of disturbance which has seen much of the original vegetation cleared, drainage infrastructure installed, and a substantial area filled to mitigate flooding. However, the remnant and regrowth vegetation has value for threatened fauna, mostly for the squirrel glider and koala, and part of this vegetation qualify as EEC - *Swamp Sclerophyll Vegetation on Coastal Floodplains*. The final Development concept will be subject to the Biodiversity Conservation Act 2016 which may require dedication of offsets at development application stage. Additionally, the site contains core koala habitat, with a Koala Plan of Management required to be submitted and approved over the site with future development application/s.

Part 4 – Mapping

A - Affected land

The land directly affected by the planning proposal is formally shown in Figure 1 below.



Figure 2: The 'Site' and surrounding context.

B - Comparison of before and after

Below are map extracts showing the current zone mapping and proposed changes.



Figure 3: Current zoning - indicates the existing development and extent of the R1 General Residential (pink) and C2 Environmental Conservation zoned land on the subject land.

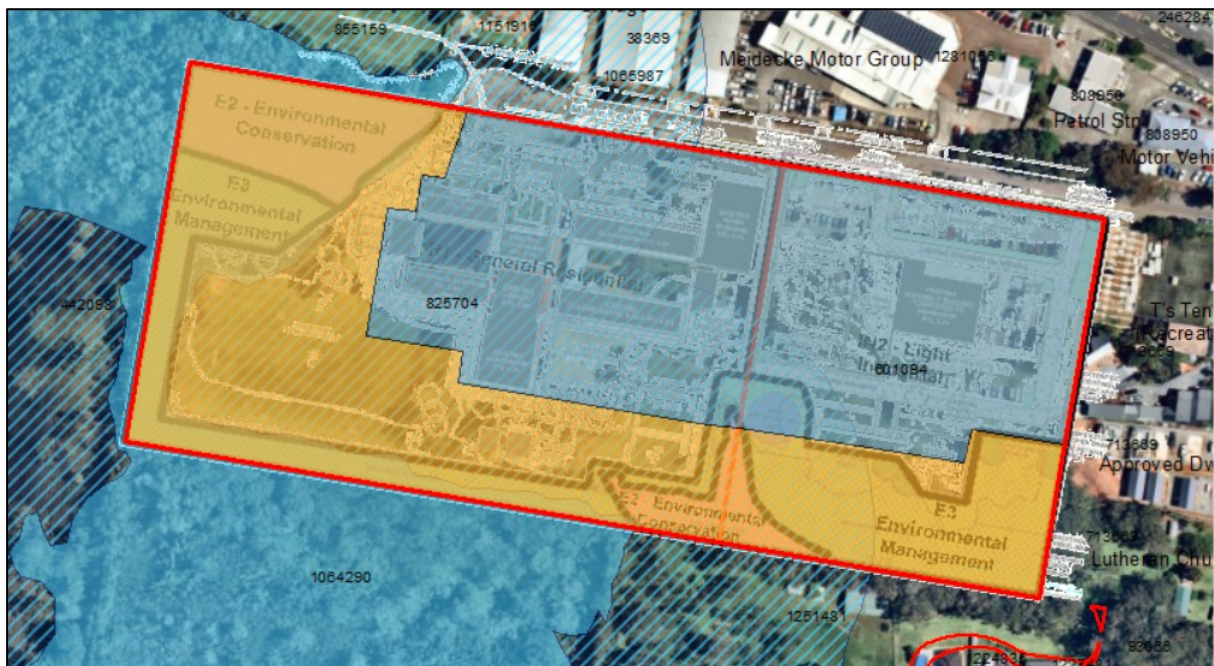
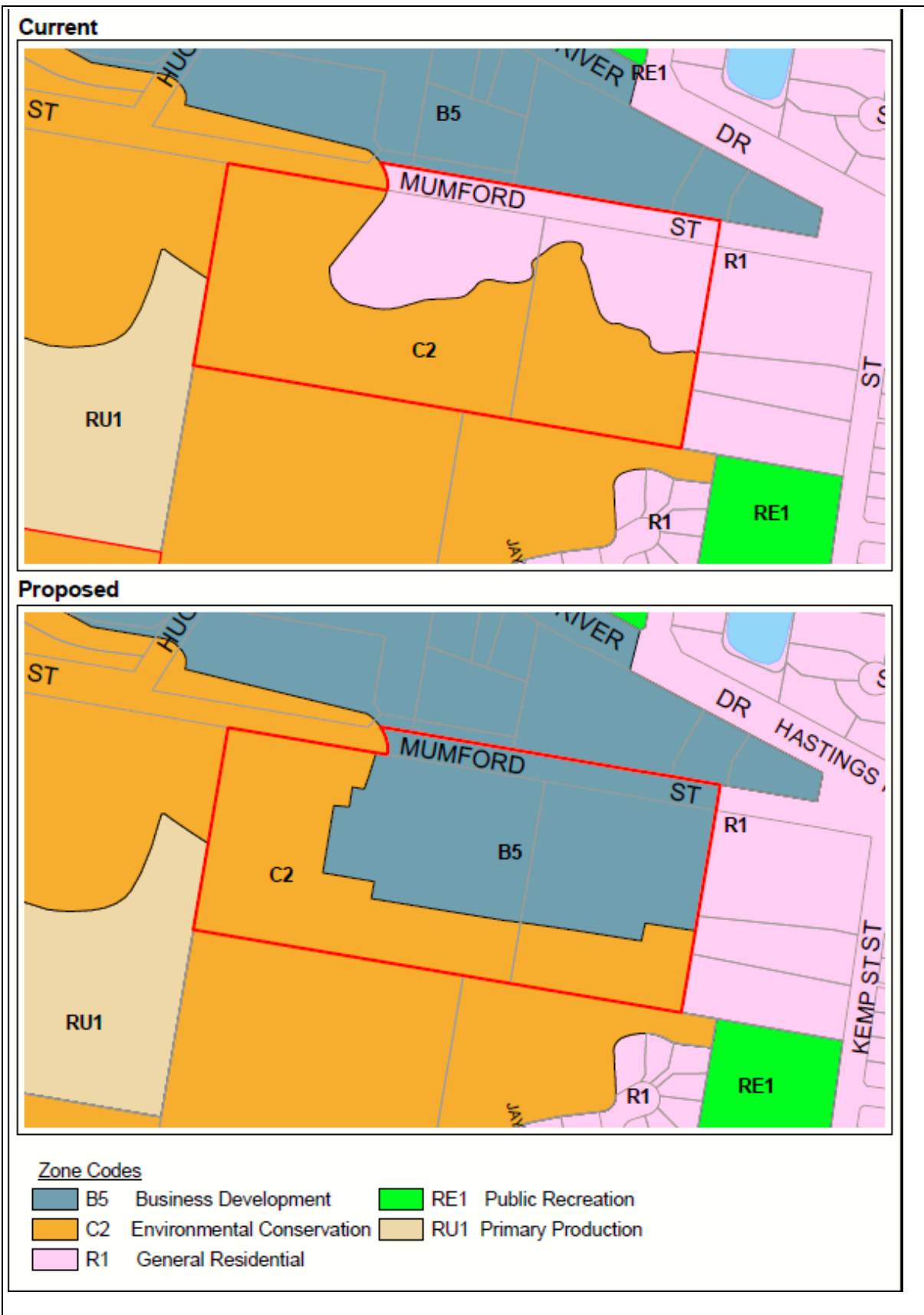
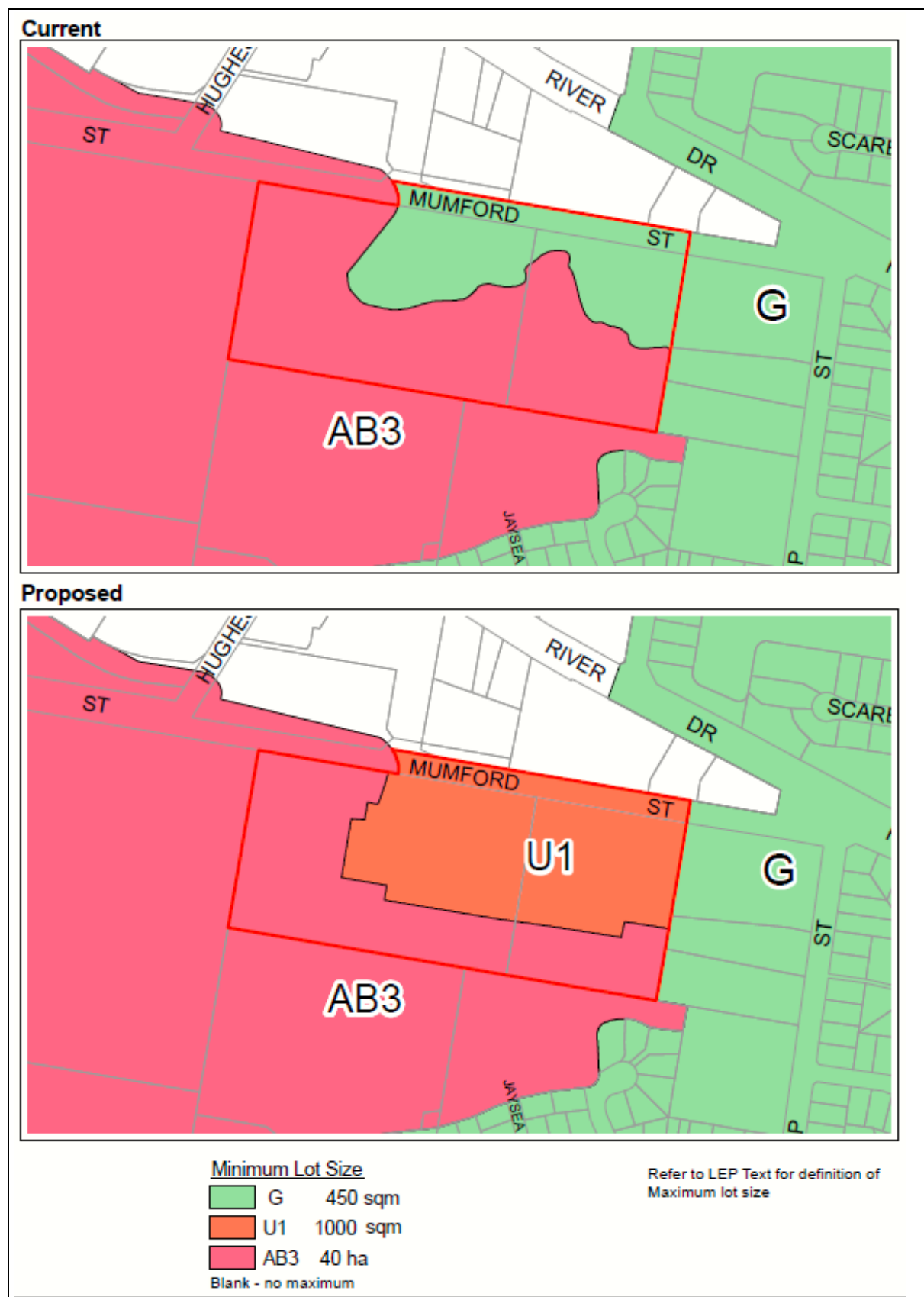


Figure 4: Proposed Zone concept - indicates the proposed supportable zoning layout shown in yellow & blue over the proponents initial proposed concept (dark underlying outline).

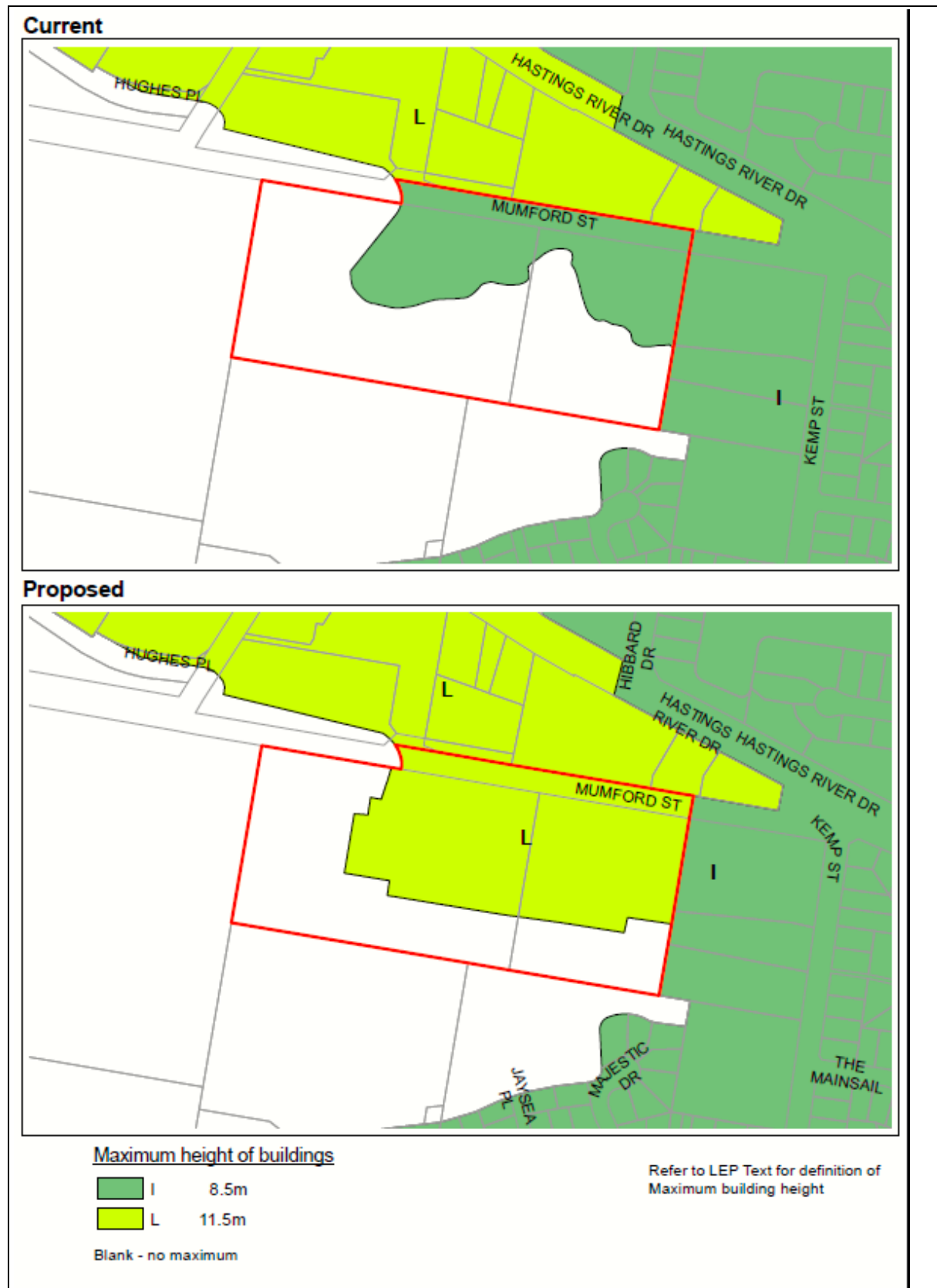
Land Zoning Map



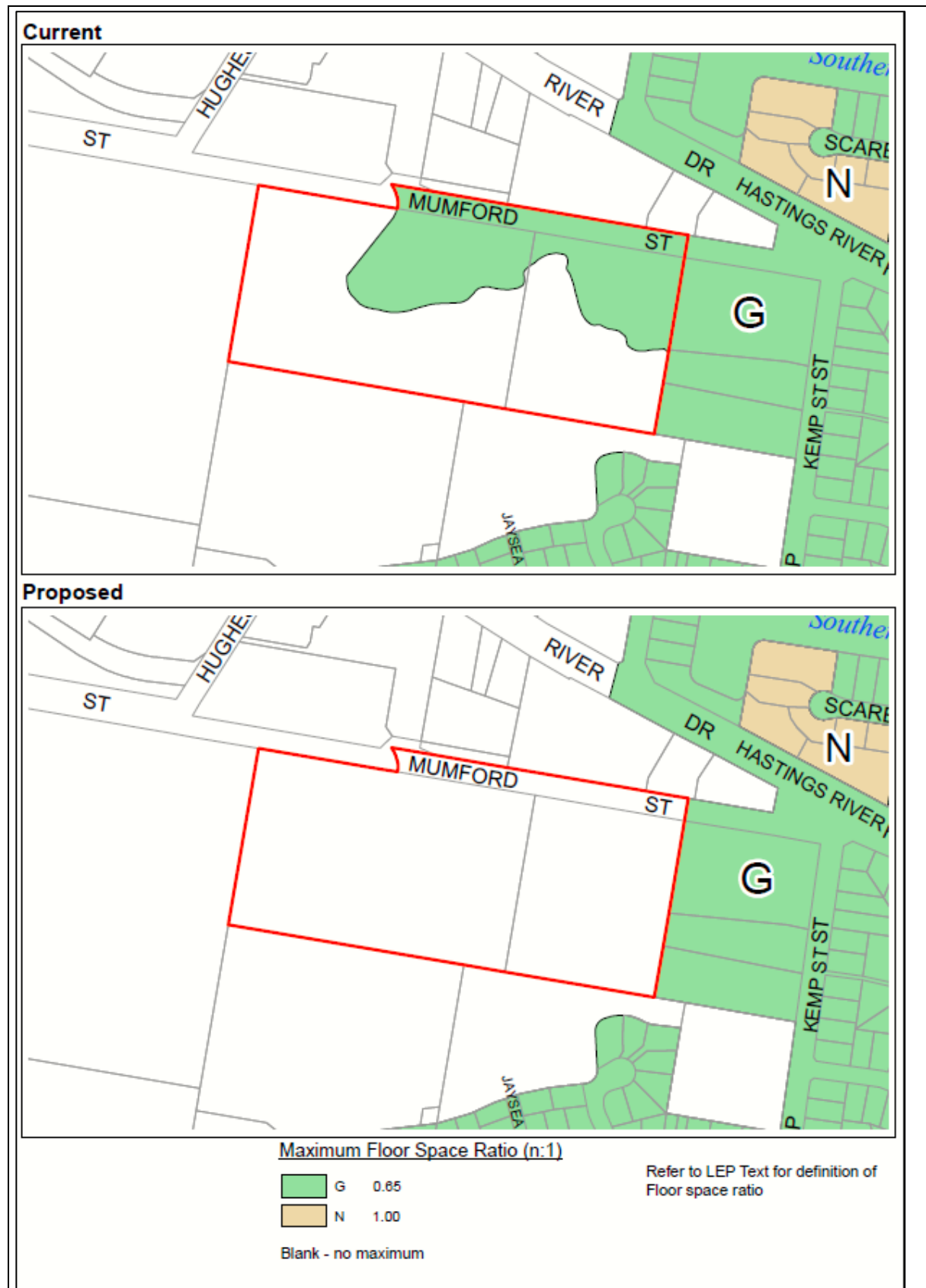
Lot Size Map



Height of Buildings Map



Floor Space Ratio Map



C - Draft LEP maps

If the Planning Proposal is approved, then the current relevant LEP map sheets will be replaced by the map sheets indicated in Part 4 of this report.

Note that while these maps may appear like the legal LEP maps, the only LEP maps that have any legal status are those listed and viewable on the NSW Legislation website. The map name (at the bottom of the map legend), including the date (“YYYYMMDD”) at the end, is important. The date represents the date that version of the map was prepared, and not the date that it took effect (if at all).

If the Planning Proposal is approved, then the final maps may be updated from the maps forming part of this Planning Proposal to include:

- any changes made by Council,
- formatting changes, and
- any applicable updates arising from other concurrent LEP amendments.

Part 5 – Community Consultation

Community consultation associated with this proposal would be undertaken in accordance with relevant statutory requirements as part of the planning process, which occurs post-Gateway determination.

Consultation in accordance with the Council’s Public Consultation Policy is proposed for the site. The proposed consultation strategy in conjunction with the public exhibition for this proposal will be:

- via the NSW Planning Portal.
- Notification and a link to the Planning Portal on Council’s website.
- Written notification to affected and adjoining landowners.

Part 6 – Project Timeline

This project timeline is based on anticipated dates and timeframes, though there can be unexpected delays. It is assumed that Council does have delegation to carry out certain plan-making functions. Delegation would be exercised by Council’s Chief Executive Officer or the Director of Community Planning Environment.

Anticipated dates	2022												2023											
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Commencement (date of Gateway determination)																								
Timeframe for the completion of required technical information																								

Anticipated dates	2022												2023											
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)																								
Commencement and completion dates for public exhibition period																								
Timeframe for consideration of submissions																								
Timeframe for the consideration of a proposal post exhibition																								
Date of submission to the department to finalise the LEP																								
Date Council will make the plan (if delegated)																								
Date Council will forward to the department for notification.																								

Appendix A – Report to Council and meeting Minutes 17 March 2022

Appendix B – Gateway Determination & Letter to Council

Appendix C –Gateway Determination Report (Dept. Planning & Environment)

Appendix D – Consistency with applicable State Environmental Planning Policies

Listed below are the SEPPs that are relevant to the subject proposal.

State Environmental Planning Policies	Consistency
SEPP (Biodiversity and Conservation) 2021	<p>Chapter 4 - Koala Habitat Protection 2021</p> <p>The aim of this is SEPP <i>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 -</i></p> <ol style="list-style-type: none"> <i>by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and</i> <i>by encouraging the identification of areas of core koala habitat, and</i> <i>by encouraging the inclusion of areas of core koala habitat in environment protection zones.</i> <p>The site is classified as containing attributes of High Environmental Values and Core Kola Habitat. Chapter 4 clause 4.9 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. A new Koala Plan of Management, (or a Koala Assessment Report) will be required to inform and support future development applications on the subject land.</p>
SEPP (Resilience and Hazards) 2021	<p>Chapter 2 - Coastal Management</p> <p>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.</p> <p>The subject land is affected by coastal wetlands, proximity to coastal wetlands and coastal environment and use areas.</p> <p>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.</p> <p>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'.</p> <p>Clause 2.13 - Development on land within the coastal environment area. The subject site is located within the mapped coastal environment area.</p> <p>Clause 2.14 - Development on land within the coastal use area. The subject site is located within the coastal use areas.</p> <p>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.</p> <p>Future development must avoid impacts on the</p>

State Environmental Planning Policies	Consistency
	<p>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.</p> <p>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.</p>
SEPP (Transport and Infrastructure) 2017	<p>Chapter 3 - Educational Establishments and Child Care Facilities Part 4 of this Chapter provides the development provisions for schools. The proposed B5 Business Development (E3 Productivity Support) 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.</p>

Appendix E – Consistency with applicable Section 9.1 Ministerial Directions

Listed below are the Section 9.1 (2) Directions (including Objectives) that apply to land within the Port Macquarie-Hastings Local Government Area.

Copies of the full Directions are available on the Department of Planning & Environment website.

Section 9.1 (2) Directions and Objectives	Consistency
Focus Area	
1 Planning Systems	
1.1 Implementation of Regional Plans The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	<p>Justifiably inconsistent, and agreed by DPE - Gateway Letter to PMHC.</p> <p>The current zone boundaries reflect the urban growth area boundary identified in the plan.</p> <p>The Planning Proposal seeks to alter these zone boundaries to account for existing filled and elevated building platforms; provide for moderate expansion of a light industry; allow continued education uses; minimise risk due to hazards such as flooding and bushfire; and protect and retain wetland vegetation communities intact.</p> <p>The relevant Directions and Actions of the North Coast Regional Plan 2036 have been considered (<i>Direction 1 Deliver environmentally sustainable growth; Direction 2 Enhance biodiversity, coastal and aquatic habitats, and water catchments; Direction 3 Manage natural hazards and climate change; Direction 6 Develop successful centres of employment; and Direction 18 Respect and protect the North Coast's Aboriginal Heritage</i>), and the proposed zone alteration is assessed as acceptable.</p> <p>An assessment against the Urban Growth Area (UGA) variation principles identified in the plan (Appendix A) concludes that the variation to the UGA is minor, and broadly consistent with the policy, servicing, coastal, environmental, cultural, land use conflict, heritage and risk avoidance consideration factors identified under the plan. Hazards such as flooding, acid sulfate soils, and bushfire are capable of being addressed in detail, and or managed through the development assessment process.</p>
1.2 Development of Aboriginal Land Council land The objective of this direction is to provide for the consideration of development delivery plans prepared under chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021 when planning proposals are prepared by a planning proposal authority.	Not relevant

Section 9.1 (2) Directions and Objectives	
Focus Area	
1.3 Approval and Referral Requirements The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent. This Planning Proposal will not introduce any additional requirements for concurrence with other Government agencies. The proposal is considered consistent with the Direction.
1.4 Site Specific Provisions The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent. The implementation of the subject Planning Proposal will improve alignment between appropriate standard instrument zones and the existing and proposed land uses for the sites. The proposal will utilise existing land use zones as detailed within the current Standard Instrument LEP for Port Macquarie-Hastings Council and will not introduce new planning provisions to this instrument. The proposal is considered consistent with the Direction.
1: Planning Systems - Place Based	
1.5 - 1.18	Metropolitan - Not Relevant to regional NSW.
2 Design and Place	
Non as at 30 September 2022	Not relevant
3 Biodiversity and Conservation	
3.1 Conservation Zones The objective of this direction is to protect and conserve environmentally sensitive areas. The direction applies to all relevant planning authorities when preparing a planning proposal, which must: <ul style="list-style-type: none"> • Include provisions that facilitate the protection and conservation of environmentally sensitive areas; • If applying to land in a conservation zone, not reduce the conservation standards that apply to the land A planning proposal may inconsistent with the terms of direction only if the provisions of the planning proposal are justified by a State approved strategy, a supporting study to the planning proposal, or consistent with the relevant regional plan, or is of minor significance.	Justifiably inconsistent, and agreed by DPE - Gateway Letter to PMHC. The planning proposal is inconsistent with the Direction as it involves land mapped in the North Coast Regional Plan as environmentally sensitive (High Environmental Value) and of Biodiversity Value (Biodiversity Values Map). The inconsistency is considered acceptable. The proposal is supported by several ecological studies and a recent Biodiversity Assessment (BAM) under the <i>Biodiversity Conservation Act 2016</i> seeks Biodiversity Certification in accordance with the Act. Consultation with the Biodiversity Conservation Division of the Department of Planning and Environment is required.
3.2 Heritage Conservation The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent. The Planning Proposal is supported by an Aboriginal Cultural Heritage Assessment prepared by the Birpai Local Aboriginal Land Council. The assessment advised that there is no reason that the rezoning cannot proceed in

Section 9.1 (2) Directions and Objectives	Consistency
Focus Area	
	<p>respect to Aboriginal Cultural Heritage issues. The recommendations of the report are:</p> <p><i>'Based on the Site Inspection and other investigations, there is no reason for an Aboriginal Cultural and Heritage perspective that this rezoning cannot proceed, subject to the following:</i></p> <ol style="list-style-type: none"> <i>1. An Aboriginal Sites office be present when excavation or clearing commences.</i> <i>2. At such time as development site works start, should any artefacts be turned up or located, Birpai LALC Aboriginal Site Officers are to be contacted immediately and work on site stopped pending further assessment.'</i> <p>As such, it has been determined that the rezoning can continue, subject to monitoring of any future clearing or earthworks during development of the site.</p> <p>In addition to the above, neither the site or the immediate surrounding are identified in <i>Port Macquarie-Hastings LEP 2011</i> as being affected by heritage. No State listed items are located within the vicinity of the site.</p>
3.3 Sydney Drinking Water Catchments The objective of this direction is to protect water quality in the Sydney drinking water catchment.	Not relevant
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs The objective of this direction is to ensure that a balanced and consistent approach is taken when applying conservation zones and overlays to land on the NSW Far North Coast.	Not relevant
3.5 Recreation Vehicles Areas The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Not relevant
3.6 Strategic Conservation Planning The objective of this direction is to protect, conserve or enhance areas with high biodiversity value. This direction applies to planning proposals relating to 'avoided land' or a 'strategic conservation area' under SEPP (Biodiversity and Conservation) 2021.	Not relevant

Section 9.1 (2) Directions and Objectives	Consistency
Focus Area	
<p>Avoided land under the SEPP means land identified as avoided land on the (SEPP) Strategic conservation Planning Avoided Land Map. There are no Avoided Land Maps relevant to the Port Macquarie-Hastings Council LGA as at 30 September 2022.</p> <p>A strategic conservation area is land identified on the SEPP (Biodiversity and Conservation) Strategic Conservation Area Maps</p>	
4 Resilience and Hazards	
<p>4.1 Flooding</p> <p>The objectives of this direction are:</p> <p>(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 <i>Floodplain Development Manual 2005</i>, and</p> <p>(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.</p>	<p>Unresolved pending consultation with the Biodiversity Conservation Division of the Department of Planning and Environment.</p> <p>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.</p> <p>A Flood Impact Risk Assessment supports the Planning Proposal request. The assessment notes that:</p> <ul style="list-style-type: none"> the majority of the site is categorised as flood storage with the exception of the eastern most part which is flood fringe; the peak 1% AEP flood level in the vicinity of the site is predicted to be 3.13m AHD; the development is not predicted to result in any change to peak 1% AEP flood levels within or outside of the development site, or cause change to 1% AEP flood hazards as required under Council's Flood Policy. <p>The assessment also concludes that the proposed development meets the flood risk requirements of Port Macquarie-Hastings Council and the evacuation protocols outlined in the NSW State Emergency Service Local Flood Plan 2015 with at least 8 hours warning time available for flood evacuation.</p> <p>Additionally, the Planning Proposal will not:</p> <ul style="list-style-type: none"> - permit development in floodway areas; - permit development that will result in significant flood impacts to other properties - permit development for the purposes of residential accommodation in high hazard areas; - permit a significant increase in the development and/or dwelling density of that land; - permit development for the purpose of centre-based childcare facilities, hostels, boarding

Section 9.1 (2) Directions and Objectives	Consistency
Focus Area	
	<p>houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate;</p> <ul style="list-style-type: none"> - permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent; - result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities; or - permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.
<p>4.2 Coastal Management</p> <p>The objective of this direction is to protect and manage coastal areas of NSW.</p> <p>The direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.</p> <p>A planning proposal must give effect to the direction; the <i>Coastal Management Act 2016</i>; and SEPP (Resilience and Hazards) 2021.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • justified by a strategy or a study which gives consideration to the direction; • consistent with the relevant regional plan; • of minor significance. 	<p>Justifiably inconsistent, and agreed by DPE - Gateway Letter to PMHC.</p> <p>The subject land contains nominated coastal wetlands and is within the proximity area to coastal wetlands, and the coastal environment area. A Hydrology Impact Assessment Report prepared by Advisian Worsley Parsons supports the proposal.</p> <p>The report considers hydrological and water quality requirements under State Environmental Planning Policy (Coastal Management) 2018 recommending a concept design solution for the proposed development at Lot 2 DP 601094 and Lot 4 DP 825704 at Mumford Street, to ensure no significant impact on “the quantity and quality of surface and groundwater flows to and from the adjacent wetland”. The design proposes a combined detention / bio retention basin within Lot 2 to both treat and manage the release of stormwater from Lot 2 and the adjacent Lot 4 such that surface and groundwater flows and the downstream wetland are not significantly impacted. In addition, to assist with the removal of oils and grease an oil and water separator, such as UltraSpin units or similar, will be installed within the automotive workshop that is proposed for construction on Lot 2.</p> <p>Treatment of surface and groundwater flows to the wetland and all design and construction issues are capable of being addressed in detail,</p>

Section 9.1 (2) Directions and Objectives	Consistency
Focus Area	
	<p>and or managed through the development assessment process.</p> <p>The inconsistency is of a minor nature due to proposed retention of the majority of the current conservation zone, in addition to managed onsite stormwater treatment and control to ensure minimal or no impact on the downstream wetland areas.</p>
<p>4.3 Planning for Bushfire Protection</p> <p>The objectives of this direction are:</p> <ul style="list-style-type: none"> (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas. <p><i>Further details:</i></p> <p>When this direction applies</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>What a relevant planning authority must do if this direction applies</p> <ul style="list-style-type: none"> (4) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made, (5) A planning proposal must: <ul style="list-style-type: none"> (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. (6) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: <ul style="list-style-type: none"> (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and 	<p>Unresolved pending consultation with the Commissioner of the NSW Rural Fire Service.</p> <p>The site is identified and categorised on the NSW Rural Fire Service bushfire prone land maps as 'Vegetation Category 1' and 'Vegetation buffer'.</p> <p>The Planning Proposal is supported by a Bushfire Risk Assessment Report. Subject to consultation and the requirements of the RFS in relation to the report, Council anticipates the inconsistency to be resolved prior to finalisation of the planning proposal.</p>

Section 9.1 (2) Directions and Objectives	Consistency
<p>Focus Area</p> <ul style="list-style-type: none"> (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for firefighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area. 	
<p>4.4 Remediation of Contaminated Land</p> <p>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.</p> <p>This Direction applies when a relevant planning authority prepares a planning proposal that will result in development on land, in this instance, educational purposes:</p> <ul style="list-style-type: none"> (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). <p>Prior to rezoning, Council is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines. If the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used</p>	<p>Justifiably inconsistent.</p> <p>The Planning Proposal is supported by a Preliminary Site Contamination Assessment prepared by RGS Geotechnical Solutions, and a Letter of Certification from a Certified Environmental Practitioner and Site Contamination Specialist, as required.</p> <p>The assessments found, and the Certifier has endorsed that Lot 2 and Lot 4 are likely to be appropriate for the proposed rezoning to C2 – Environmental Conservation and B5 – Business Development from a site contamination perspective provided the recommendations and advice of the report are adopted.</p> <p>Specifically, and in relation to:</p> <p>Lot 4: Based on the results obtained Lot 4 is considered likely to be suitable for primary school land use with regard to the presence of soil contamination provided the recommendations and advice of this report are adopted. A small fragment of asbestos encountered near the maintenance sheds has been appropriately removed and disposed of, and future site preparation works must be conducted in accordance with appropriate site management protocols and legislative requirements as set out in the reports.</p> <p>Further investigations by a suitably accredited environmental professional is recommended at</p>

Section 9.1 (2) Directions and Objectives	Consistency
Focus Area	
	<p>development application stage to assess the extent (if any) of ACM in the vicinity of the maintenance sheds.</p> <p>Lot 2: Based on the results obtained in this investigation Lot 2 is considered likely to be suitable for commercial land use with regard to the presence of soil contamination provided the recommendations and advice of this report are adopted and site preparation works are conducted in accordance with appropriate site management protocols and legislative requirements.</p> <p>Should potential evidence of site contamination be identified during development activities, such as soil staining, odours or possible asbestos cement sheeting, then a site contamination specialist should be contacted for advice without delay.</p>
<p>4.5 Acid Sulfate Soils</p> <p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>	<p>Justifiably inconsistent, and agreed by DPE - Gateway Letter to PMHC.</p> <p>Any inconsistency is of a minor nature, and application of Clause 7.1 of the Port Macquarie-Hastings LEP 2011 at the time of future development applications will ensure appropriate management of development to ensure no disturbance, exposure, or draining of acid sulfate soils.</p>
<p>4.6 Mine Subsidence and Unstable Land</p> <p>The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</p>	Not relevant
5 Transport and Infrastructure	
<p>5.1 Integrating Land Use and Transport</p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight. 	<p>Justifiably inconsistent, and agreed by DPE - Gateway Letter to PMHC.</p> <p>The direction is relevant as the proposal involves alteration of provision relating to urban land.</p> <p>The inconsistency is of a minor nature, with no significant change to existing educational land use and expanded business and employment land uses.</p>

Section 9.1 (2) Directions and Objectives	Consistency
Focus Area	
5.2 Reserving Land for Public Purposes The objectives of this direction are to: (a) facilitate the provision of public services and facilities by reserving land for public purposes, and (a) (b) facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Not relevant
5.3 Development Near Regulated Airports and Defence Airfields The objectives of this direction are to: (a) ensure the effective and safe operation of regulated airports and defence airfields; (b) ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and (b) (c) ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise	Not relevant
5.4 Shooting Ranges The objectives are to: (a) maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	Not relevant
6 Housing	
6.1 Residential Zones The objectives of this direction are to: (a) encourage a variety and choice of housing types to provide for existing and future housing needs, (b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (a) minimise the impact of residential development on the environment and resource lands.	Not relevant. Notwithstanding the current residential zoning, the sites have no past history of residential use. The former community church is operating as a vehicle repair station (without consent) and the existing school is a continuing use. The proposed change to B5 Business Development will facilitate improved alignment between zoning and long established and continuing land uses on the sites.

Section 9.1 (2) Directions and Objectives	Consistency
Focus Area	
<p>6.2 Caravan Parks and Manufactured Home Estates</p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) provide for a variety of housing types, and (b) provide opportunities for caravan parks and manufactured home estates. 	<p>Justifiably inconsistent, and agreed by DPE - Gateway Letter to PMHC.</p> <p>The Planning Proposal if completed, will prohibit the construction of a caravan park on the subject sites. This inconsistency is of minor significance accounting for business and employment outcomes consistent with the objectives of the Direction.</p>
7 Industry and Employment	
<p>7.1 Business and Industrial Zones</p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres. 	<p>Consistent.</p> <p>The Planning Proposal gives effect to the objectives of the Direction, retains and enhances existing business and employment opportunity in the locality, and is in keeping with Council's employment and centres hierarchy.</p>
<p>7.2 Reduction in Non-Hosted and Short Term Rental Accommodation</p> <p>The objectives of this direction are to: (a) mitigate significant impacts of short-term rental accommodation where non-hosted short-term rental accommodation period are to be reduced, and (b) ensure the impacts of short-term rental accommodation and views of the community are considered.</p>	<p>Not relevant</p>
<p>7.3 Commercial and Retail Development along the Pacific Highway, North Coast</p> <p>The objectives for managing commercial and retail development along the Pacific Highway are to:</p> <ul style="list-style-type: none"> (a) protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route, (b) prevent inappropriate development fronting the highway, (c) protect public expenditure invested in the Pacific Highway, (d) protect and improve highway safety and highway efficiency, (e) provide for the food, vehicle service and rest needs of travellers on the highway, and (f) reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns. 	<p>Not relevant.</p>
8 Resources and Energy	
<p>8.1 Mining, Petroleum Production and Extractive industries</p>	<p>Not relevant.</p>

Section 9.1 (2) Directions and Objectives	Consistency
Focus Area	
<p>The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</p>	
9 Primary Production	
<p>9.1 Rural Zones</p> <p>The objective of this direction is to protect the agricultural production value of rural land. The direction states that a planning proposal must:</p> <ul style="list-style-type: none"> a) not rezone land from a rural zone to a residential, business, industrial, and village or tourist zone. b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village). <p>A Planning Proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning (or his delegate) that:</p> <ul style="list-style-type: none"> - the provisions of the planning proposal that are inconsistent are in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or, in this case, of a minor nature. 	Not relevant.
<p>9.2 Rural Lands</p> <p>The objectives of the direction are to protect and assist in the management of rural lands and the agricultural potential of rural land; facilitate its orderly and economic use and development; and minimise land use conflict and fragmentation; and encourage sustainable land use practices. The direction applies to preparation of a planning proposal that will in this case affect rural land.</p> <p>A Planning Proposal must be consistent with relevant strategic plans; consider the agricultural significance of the land affected by the planning proposal; consider the natural and physical constraints of the rural land in question; and promote and prioritise rural investment opportunities to support farmers; and prevent fragmentation of rural land. It must also demonstrate that it minimises rural land fragmentation and land use conflict.</p>	Not relevant.
<p>9.3 Oyster Aquaculture</p> <p>The objectives of this direction are:</p> <ul style="list-style-type: none"> (a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are 	Not relevant.

Section 9.1 (2) Directions and Objectives	Consistency
Focus Area	
<p>adequately considered when preparing a planning proposal,</p> <p>(b) to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.</p>	
<p>9.4 Farmland of State and Regional Significance on the NSW Far North Coast</p> <p>The objectives of this direction are to:</p> <p>a) ensure that the best agricultural land will be available for current and future generations to grow food and fibre,</p> <p>b) provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and</p> <p>c) reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.</p>	Not relevant.

Appendix F – Applicants Planning Proposal Documentation

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;
- Draft Koala Plan of Management, JBEnviro, March 2019;
- Preliminary BAMC Assessment for Rezoning, JBEnviro, 12 August 2020.

Appendix G – Site Contamination Report & Certification

Appendix H – Draft LEP Map Sheets
