



IRF 22/1199

## Gateway determination report – PP-2022-981

---

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

May 22

Published by NSW Department of Planning and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

Title: Gateway determination report – PP-2022-981

Subtitle: 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

---

© State of New South Wales through Department of Planning and Environment 2022. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (May 22) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

## Contents

<b>1</b>	<b>Planning proposal .....</b>	<b>1</b>
1.1	Overview.....	1
1.2	Objectives of planning proposal .....	1
1.3	Explanation of provisions.....	2
1.4	Site description and surrounding area .....	2
1.5	Mapping .....	5
1.6	Background .....	8
<b>2</b>	<b>Need for the planning proposal.....</b>	<b>9</b>
<b>3</b>	<b>Strategic assessment.....</b>	<b>9</b>
3.1	Regional Plan .....	9
3.2	Local .....	13
3.3	Section 9.1 Ministerial Directions .....	14
3.4	State environmental planning policies (SEPPs) .....	17
<b>4</b>	<b>Site-specific assessment .....</b>	<b>18</b>
4.1	Environmental.....	18
4.2	Social and economic .....	29
4.3	Infrastructure .....	29
<b>5</b>	<b>Consultation.....</b>	<b>30</b>
5.1	Community .....	30
5.2	Agencies.....	30
<b>6</b>	<b>Timeframe.....</b>	<b>30</b>
<b>7</b>	<b>Local plan-making authority .....</b>	<b>30</b>
<b>8</b>	<b>Assessment summary .....</b>	<b>31</b>
<b>9</b>	<b>Recommendation.....</b>	<b>31</b>

**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Planning proposal – Rezoning of land in Mumford Street, Port Macquarie – Lot 2 DP 601094 and Lot 4 DP 825704, 11 & 33 Mumford Street, Port Macquarie dated 07/03/2021 and Appendices A - D
Ordinary Council Report 17/03/2022 – Consideration of planning proposal, item 14.04 pp. 168 - 184

Aboriginal Cultural Heritage Assessment, Birpai Aboriginal Land Council, February 2018

---

Desktop Acid Sulphate Soils Assessment, David Pensini, 14 December 2017

---

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

---

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

---

Streamline Biodiversity Development Assessment Report, AEP, March 2021

---

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Port Macquarie-Hastings</b>
<b>PPA</b>	Port Macquarie-Hastings Council
<b>NAME</b>	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
<b>NUMBER</b>	PP-2022-981
<b>LEP TO BE AMENDED</b>	Port Macquarie-Hastings LEP 2011
<b>ADDRESS</b>	11 and 33 Mumford Street, Port Macquarie
<b>DESCRIPTION</b>	Lot 2 DP 601094 and Lot 4 DP 825704
<b>RECEIVED</b>	13/04/2022
<b>FILE NO.</b>	IRF22/1199
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to facilitate continuation of existing education land uses, expand adjoining business and employment land uses and protect important environmental values. The proposed planning mechanisms to achieve the intended outcomes are:

- amend the Land Zoning (LZN) Map to rezone part Lot 2 DP 601094 and part Lot 4 DP 825704 from part R1 General Residential and part C2 Environmental Conservation to part B5 Business Development and part C2 Environmental Conservation;
- amend the Lot Size (LSZ) Map to introduce a minimum lot size of 1,000m<sup>2</sup> 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.

The objectives of this planning proposal are clear and adequate.

The NSW Government renamed the section 9.1 Ministerial Directions on 1 March 2022. References to section 9.1 Ministerial Directions in the planning proposal are to be updated prior to community consultation.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Port Macquarie-Hastings LEP 2011 per the changes below:

**Table 3 Current and proposed controls**

Control	Current	Proposed
Zone	R1 General Residential C2 Environmental Conservation	B5 Business Development C2 Environmental Conservation
Maximum height of the building	R1 General Residential - 8.5m C2 Environmental Conservation - nil	B5 Business Development - 11.5m C2 Environmental Conservation - nil
Floor space ratio	R1 General Residential - 0.65:1	B5 Business Development - nil
Minimum lot size	R1 General Residential - 450m <sup>2</sup> C2 Environmental Conservation - 40ha	B5 Business Development - 1,000m <sup>2</sup> C2 Environmental Conservation - 40ha
Number of dwellings	Although zoned for residential purposes, the subject land currently supports non-residential land uses	0
Number of jobs	Unknown	Unknown

The Department of Planning is currently working on a suite of planning reforms, including the delivery of a simplified employment zones framework. The new employment zones framework came into effect within the Standard Instrument Principal Local Environmental Plan on 1 December 2021, with the exhibition of proposed amendments to individual LEPs planned for early 2022. The subject land will be zoned E3 Productivity Support as part of the reform. Council has considered this matter in the context of the planning proposal and considers the transition appropriate.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 1.4 Site description and surrounding area

The subject land comprises two allotments described as Lot 2 DP 601094 and Lot 4 DP 825704, known as 11 and 33 Mumford Street, Port Macquarie (Figure 1). Combined, the allotments have an area of approximately 6 hectares. Lot 2 contains a community church which is currently being utilised (without consent) as a vehicle repair station while Lot 4 is improved by an existing school. Access is provided by Mumford Street which runs along the northern property boundary. The subject site is situated approximately 2.2 kilometres to the west of the Port Macquarie central business district, within the geographic area known as Hibbard.



A variety of land uses exist in the locality. Land to the west, south-west and south of the subject site contains wetland and low-lying scrub vegetation. A large lot residential development adjoins the subject properties to the south and south-east, while allotments to the east are occupied by a tennis centre, place of public worship and residential development. Land to the north of Mumford Street has been developed to accommodate a manufactured home estate, service station, vehicle sales premises and vehicle repair station. The Port Macquarie Airport is located in proximity, to the south-west of the subject land.

The proposed B5 Business Development zoning will provide for an expansion of the existing B5 zone to the north of the subject site and is expected to create opportunities for additional commercial development and employment.

Part of the site contains wetland and scrub vegetation which is mapped as having high environmental value (HEV) as well as biodiversity value. The land is considered to be core koala habitat and preserved koala habitat is located to the south and west of the site.

State Environmental Planning Policy (Resilience and Hazards) 2021 identifies the allotments as being within the coastal zone and containing coastal wetlands, as well as being in proximity to coastal wetlands and coastal environment and use areas.

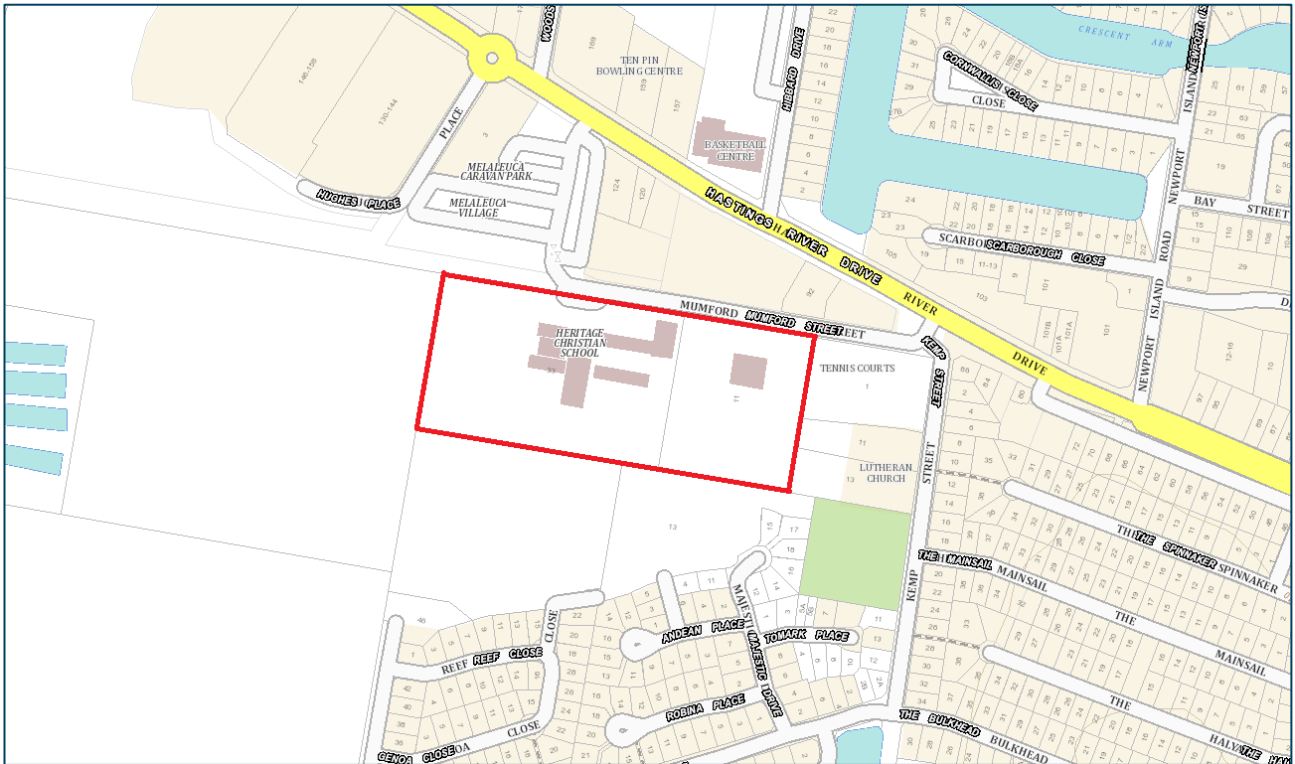
The subject land is mapped as being completely flood affected and as such all improvements have been constructed on filled building platforms. A deep man-made drainage channel is located adjacent to the southern and western property boundaries, providing stormwater drainage control.

The allotment is classified as being subject to acid sulfate soils and is mapped as bushfire prone.

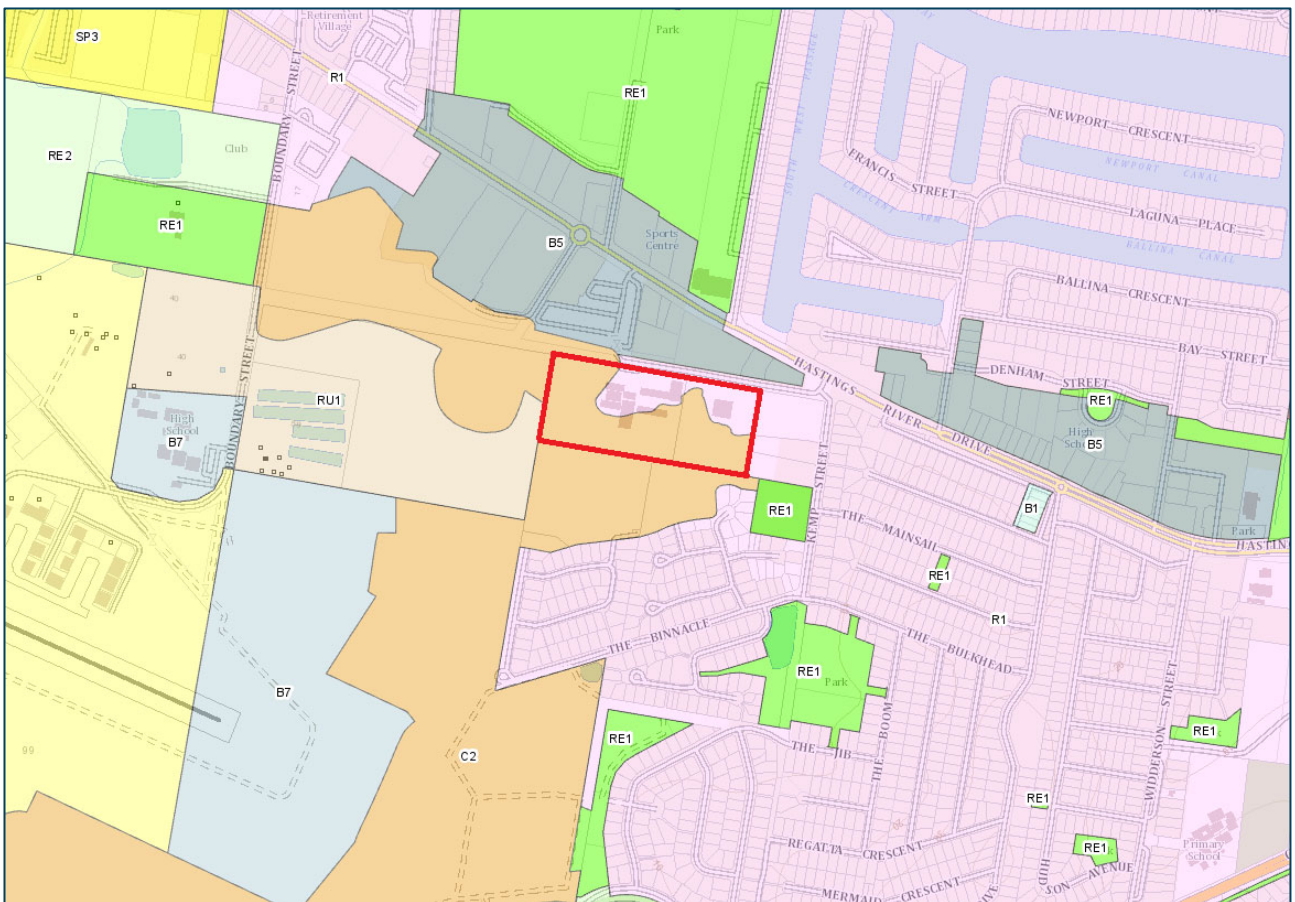


**Figure 1 - Aerial image of the subject land, Lot 2 DP 601094 and Lot 4 DP 825704, 11 and 33 Mumford Street, Port Macquarie (Source: Nearmap)**





**Figure 2 - Cadastral image of the subject land, Lot 2 DP 601094 and Lot 4 DP 825704, 11 and 33 Mumford Street, Port Macquarie (Source: Six Maps)**



**Figure 3 - Zoning of the subject land and surrounds (Source: ePlanning Spatial Viewer)**



## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Port Macquarie-Hastings LEP 2011 maps, which are considered suitable for community consultation. It is however considered appropriate that Mumford Street, which adjoins the planning area to the north, be included as part of the planning area, to the extent that it immediately adjoins the subject site. This is to capture the section of road that adjoins the subject site in the amended controls and ensure consistency and continuity between this proposal and surrounding arrangements.

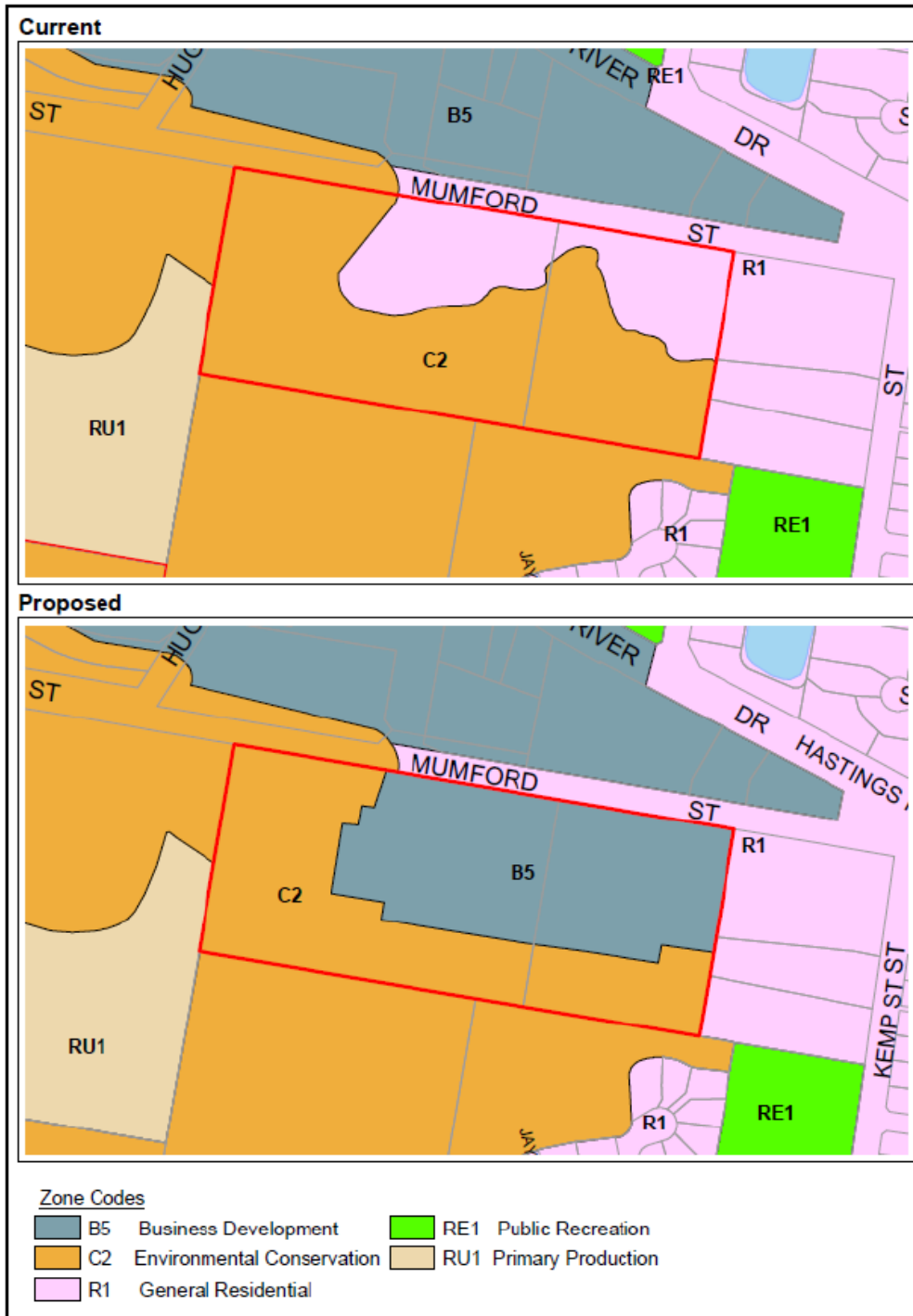


Figure 4 - Current and proposed zoning map (Source: Planning Proposal)

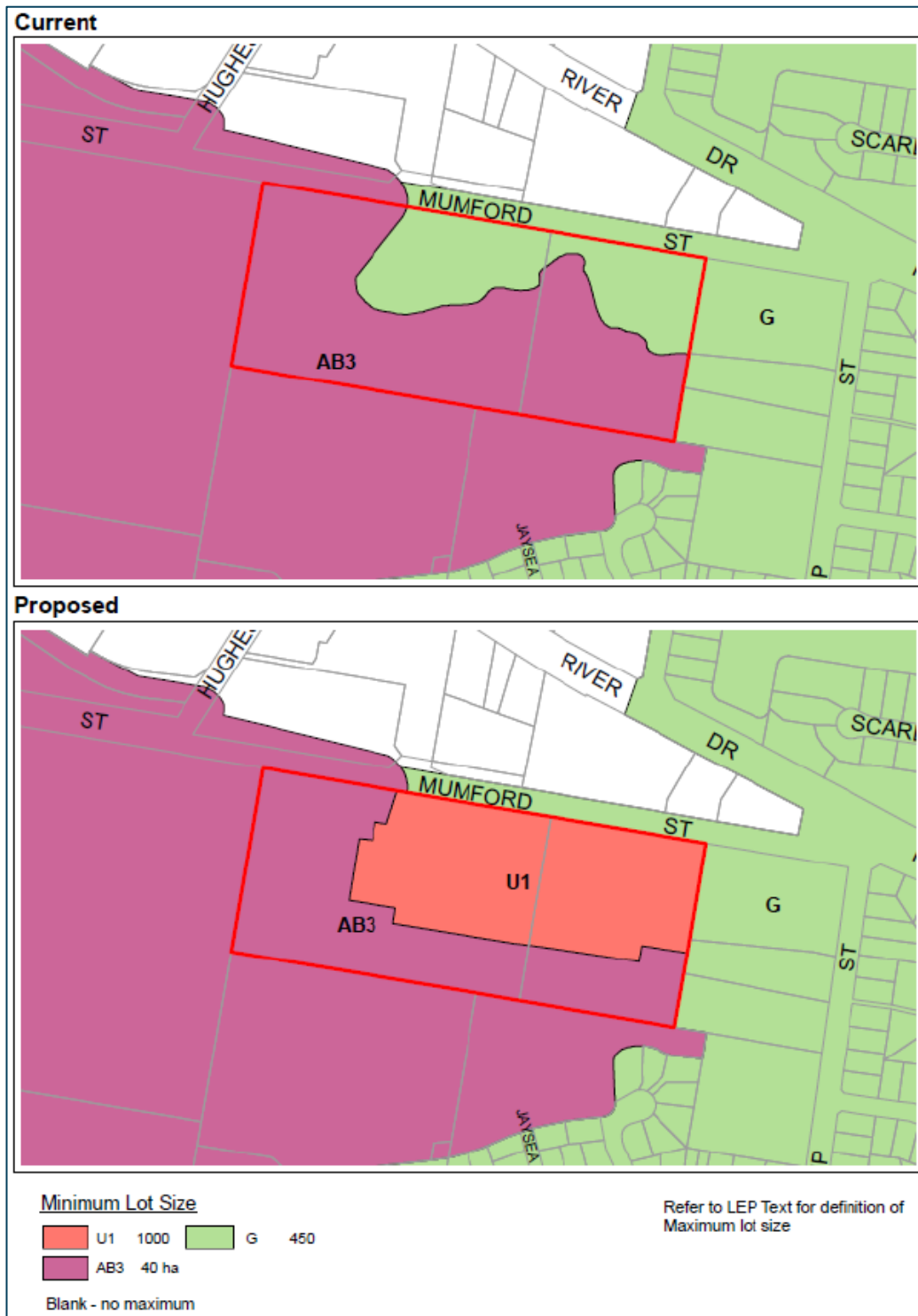


Figure 5 - Current and proposed minimum lot size map (Source: Planning Proposal)

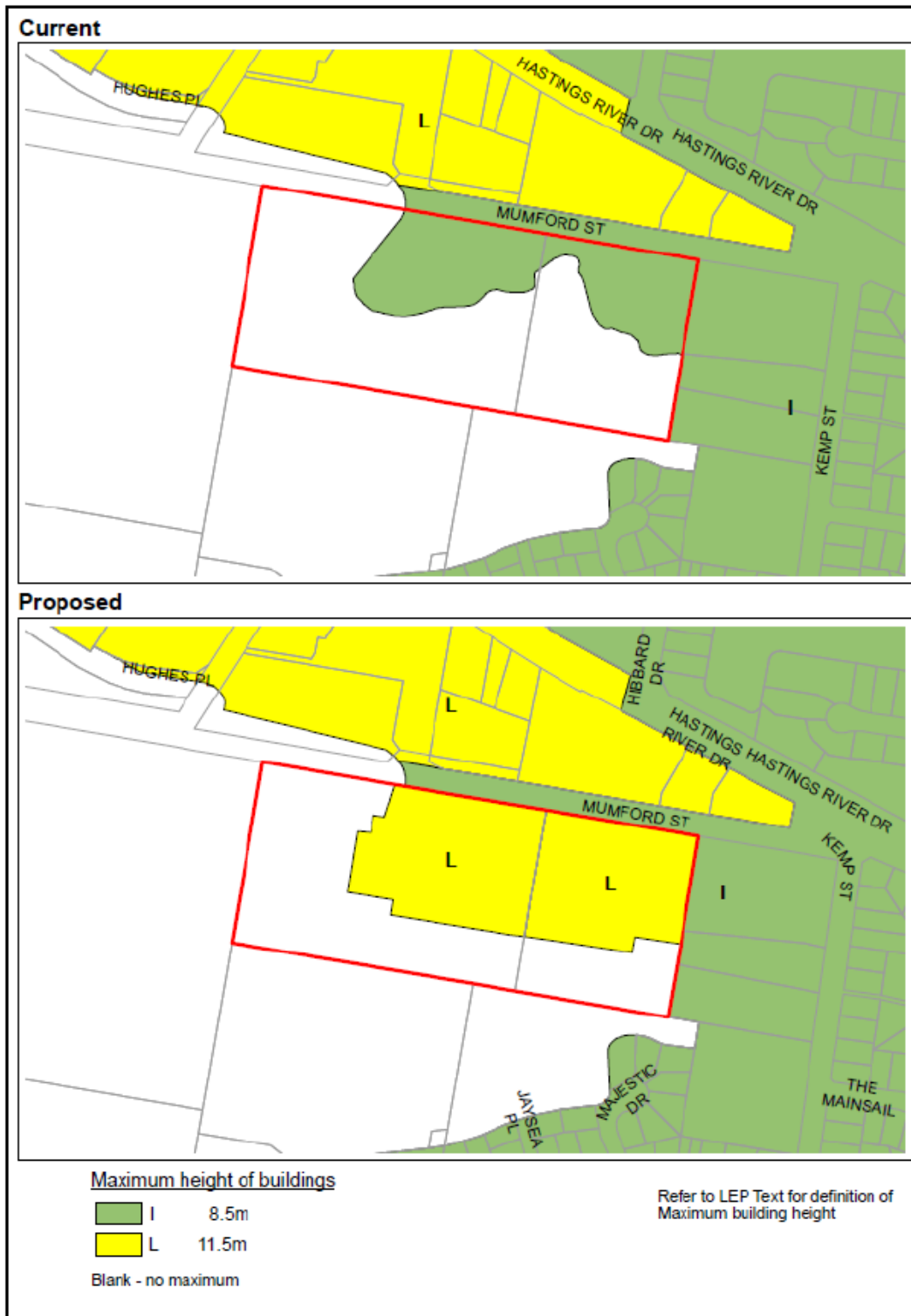


Figure 6 - Current and proposed height of buildings map (Source: Planning Proposal)

The planning proposal does not address any alterations to the floor space ratio map; however, Council has advised that it is their intention to remove the floor space ratio of 0.65:1 on the subject land (Figure 7) in order to align with adjoining B5 zoned land. A condition has been included as part of the gateway determination requiring the planning proposal to be updated to address this matter prior to community consultation.



**Figure 7 - Current floor space ratio map (Source: ePlanning Spatial Viewer)**

## 1.6 Background

The planning proposal was originally lodged with Council in 2014. Although there is significant background between the proponent and Council the proposal has not been previously considered by the Department. The proposal has evolved significantly since its initial lodgement, including an agreement to proceed with a B5 Business Development zone rather than an IN1 General Industrial zone as well as greater preservation of the environmental conservation zoning.

Development Application 2021/257 was lodged in April 2021 over the subject land for vegetation removal, drainage and earthworks to facilitate a car park for the existing educational establishment as well as for expansion of the vehicle sales and repair business. The planning proposal documentation considers the conceptual drawings submitted with the DA and the two processes are running concurrently.



## 2 Need for the planning proposal

The planning proposal is not the result of any strategic study or report. The proposal is a site-specific rezoning request initiated by the landowners of Lot 2 DP 601094 and Lot 4 DP 825704.

The planning proposal is supported by the following additional studies that identify the subject land as being capable of supporting the proposed development (subject to agency and community consultation):

- 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;
- Streamline Biodiversity Development Assessment Report, AEP, March 2021.

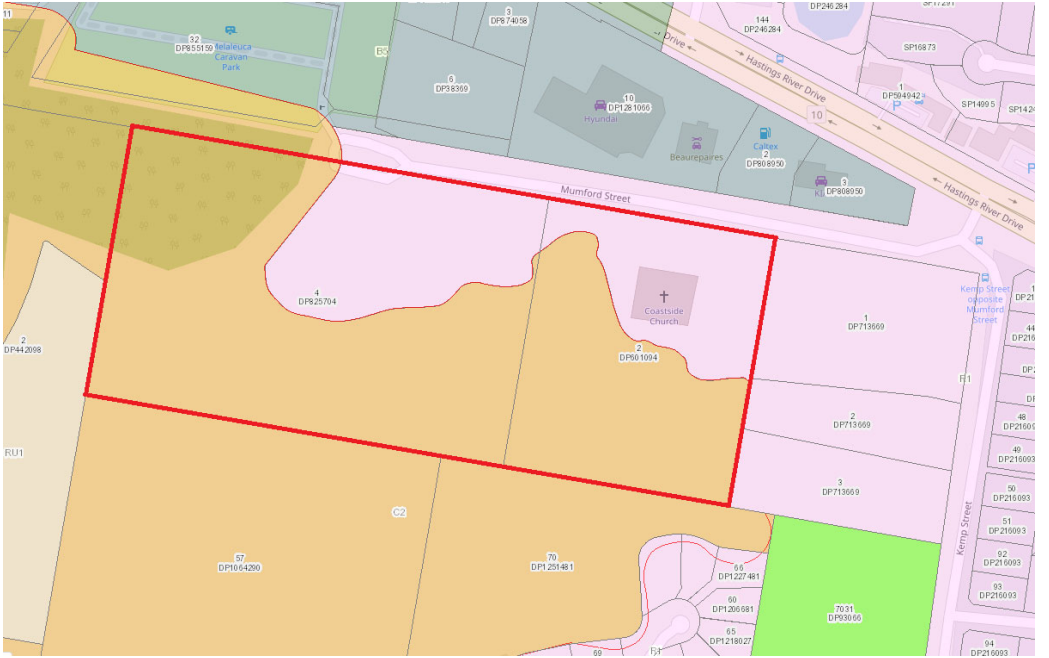
The planning proposal is considered to be the most appropriate means of rezoning the subject land.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan.

### Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
<p>Direction 1: Deliver environmentally sustainable growth</p>	<p>This direction aims to manage growth to protect the conservation and economic value of important coastal landscapes and the natural environment. Directing future growth to locations that can sustain additional development, and are readily serviced, will deliver sustainable growth across the region and help protect the environment.</p> <p>The subject land is located to the east of the Pacific Highway within the sensitive coastal strip. The urban growth area imposed by the Regional Plan reflects the existing zone boundaries as denoted by the thin red line in Figure 8. As this planning proposal intends to alter the zone boundary and vary the urban growth area, an assessment against Appendix A of the Regional Plan is required.</p>  <p><b>Figure 8 - Urban Growth Area boundary (Source: Northern Region Viewer)</b></p> <p><u>Policy</u></p> <p>The variation is consistent with the objectives and outcomes in the North Coast Regional Plan 2036, relevant section 9.1 directions and State Environmental Planning Policies as well as applicable local strategies as detailed within this report.</p> <p><u>Infrastructure</u></p> <p>Existing transport, water and sewerage infrastructure is capable of supporting future development on the subject land at no cost to government.</p> <p><u>Environmental and farmland protection</u></p> <p>While the land does not contain any items of heritage value or important farmland the site is classified as containing attributes of HEV (see Figure 9). The land is also classified as core koala habitat and contains coastal wetland areas.</p>

The proponent intends to seek biodiversity certification of the development land under the *Biodiversity Conservation Act 2016* as part of the planning proposal. Consultation with the NSW Department of Planning and Environment – Biodiversity Conservation Division (BCD) will be required.

#### Land use conflict

The subject land is suitably separated from incompatible land uses, including agricultural activities, sewage treatment plants, waste facilities and productive resource lands.

#### Avoiding risk

The subject land is physically constrained due to inundation by flooding, bushfire and acid sulfate soils. These matters have been addressed separately within this report and are considered to be manageable.

#### Heritage

There are no known items of Aboriginal or non-Aboriginal heritage present on the subject land.

#### Coastal area

The subject land is located within the coastal area. The proposal represents a minor and contiguous variation to the urban growth area and responds to on-site conditions. The variation is considered appropriate in this instance as it will facilitate continuation of existing education land uses as well as allow for the expansion of adjoining business and employment land uses.

Direction 2:  
Enhance  
biodiversity,  
coastal and  
aquatic  
habitats, and  
water  
catchments

This direction advocates for development to be appropriately located to limit any adverse impact on the region's biodiversity and water catchments. The direction requires development to be focused to areas of least biodiversity sensitivity in the region and the implementation of the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of HEV.

The subject land is located within the coastal strip as defined in the Regional Plan and contains areas of HEV (see Figure 9), core koala habitat and legislated coastal wetlands.

BCD has provided preliminary advice regarding the proposed development, dated 24 June 2021, as follows:

1. Proponents of a planning proposal should seek biodiversity certification of the development land under the *Biodiversity Conservation Act 2016* as part of the planning proposal.
2. If biodiversity certification is not sought, then the planning proposal must:
  - include site investigations of the planning area undertaken by a suitably qualified ecological consultant for the presence of HEV land as per the criteria for HEV land set out in the NCRP and document these in the planning proposal report;
  - maximise avoiding land use intensification in confirmed areas of HEV land and protect HEV land with a suitable zone and other planning controls;

- 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;
- determine the 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.

A number of ecological assessments have been completed for the subject land to inform the proposed zone boundaries and subsequent offset arrangements. The most recent assessment, Streamline Biodiversity Development Assessment Report (SBDAR), was prepared by AEP in March 2021 and aims to meet the requirements of the Biodiversity Assessment Method 2020 (BAM) established under Section 6.7 of the NSW *Biodiversity Conservation Act 2016*.

It is considered that the SBDAR meets the requirements of BCD as outlined in their correspondence dated 24 June 2021.

Consultation with BCD will be required.



**Figure 9 - Land of high environmental value (HEV) (Source: Northern Region Viewer)**

Direction 3:  
Manage  
natural hazards  
and climate  
change

This direction acknowledges natural hazards that may impact land on the North Coast and aims to reduce the risk from such hazards.

The allotments are exposed to natural hazards including bushfire, flooding and acid sulfate soils. Sufficient information has been submitted with the planning proposal to indicate that these hazards are capable of being addressed at the development application stage.



Direction 6: Develop successful centres of employment	<p>This direction aims to facilitate economic activity around industry anchors such as health, education and airport facilities by considering new infrastructure needs and introducing planning controls that encourage clusters of related activity.</p> <p>The subject land is located within the geographic area known as Hibbard and a variety of land uses exist in the locality. The proposed B5 Business Development zoning will provide for an expansion of the existing B5 zone to the north of the subject site and is expected to create opportunities for additional commercial development and employment.</p>
Direction 18: Respect and protect the North Coast's Aboriginal Heritage	<p>This direction aims to avoid harm to Aboriginal objects and places, or areas of significance to Aboriginal people.</p> <p>The planning proposal is supported by an Aboriginal Cultural Heritage Assessment prepared by the Birpai Local Aboriginal Land Council. The assessment concluded that there are no impediments to the proposed rezoning.</p>

## 3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

**Table 5 Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement (LSPS)	<p>The planning proposal is considered to be consistent with the themes and planning priorities contained within the LSPS. In particular, the planning proposal will assist in achieving the following planning priorities:</p> <ul style="list-style-type: none"> <li>• PP1 – Protect, conserve and enhance our biodiversity, areas of high environmental value and our scenic &amp; cultural landscapes while cultivating sustainable growth and development;</li> <li>• PP2 – Manage growth sustainably;</li> <li>• PP3 – Increase our community's resilience to the impacts and risks of natural hazards and environmental change;</li> <li>• PP4 – Protect and improve the health of our waterways and aquatic habitats; and</li> <li>• PP5 – Sustainably and efficiently manage our energy, water, waste and natural resources.</li> </ul>
Port Macquarie-Hastings Urban Growth Management Strategy 2036	<p>The Port Macquarie-Hastings UGMS was endorsed by the Department in November 2018. Although the Strategy does not contain any specific provisions for the subject site it is identified as being within the urban growth boundary. The land is also identified as accommodating high priority koala habitat, medium – high biodiversity attributes and being subject to inundation by flooding.</p> <p>As discussed in section 3.1 of this report, the application proposes a minor and contiguous variation to the extent of the urban growth boundary which is considered suitable in this instance.</p>

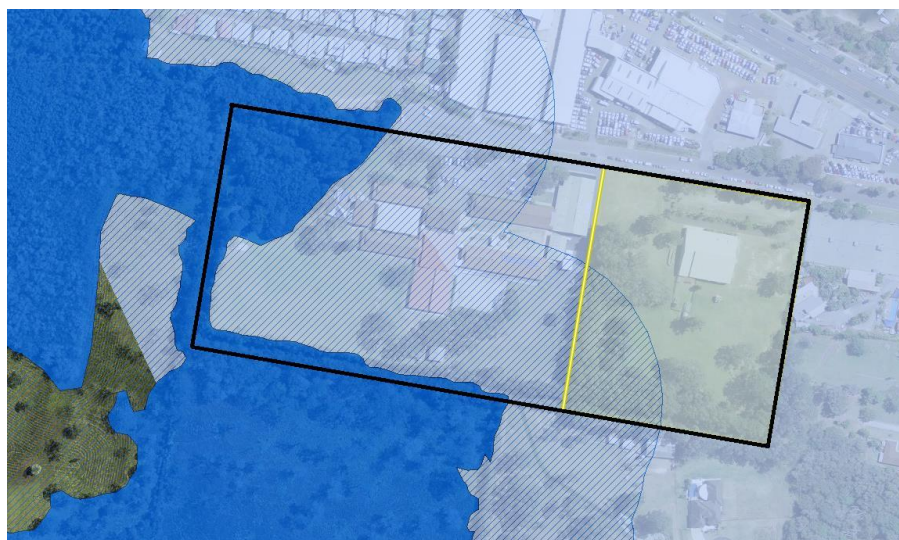
### 3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 6 section 9.1 Ministerial Direction assessment**

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Justifiably inconsistent	<p>The planning proposal is considered to be inconsistent with this direction as it enables further development on land mapped under the Regional Plan as containing HEV.</p> <p>The inconsistency with this direction is considered to be of minor significance as the proponents are seeking biodiversity certification of the development land under the <i>Biodiversity Conservation Act 2016</i> as part of the planning proposal.</p> <p>Consultation with BCD will be required.</p>
3.1 Conservation Zones	Justifiably inconsistent	<p>This direction states that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas and must not reduce the conservation standards that apply to the land.</p> <p>The planning proposal is inconsistent with this direction as it affects land mapped as containing HEV in the North Coast Regional Plan and biodiversity values as mapped on the Biodiversity Values map. Additionally, it proposes to reduce the amount of land zoned C2 Environmental Conservation.</p> <p>The inconsistency with this direction is considered to be of minor significance as the proponents are seeking biodiversity certification of the development land under the <i>Biodiversity Conservation Act 2016</i> as part of the planning proposal.</p> <p>Consultation with BCD will be required.</p>
4.1 Flooding	Unresolved	<p>This direction applies to a planning proposal that alters a zone that affects flood prone land.</p> <p>The subject site has been identified as being located within the floodplain of the Hastings River. The land is subject to inundation by a probable maximum flood and 1% annual exceedance probability flood event. As the planning proposal proposes to rezone land within the flood planning area from a conservation zone to a business zone, the provisions of this direction apply.</p> <p>A Flood Impact Risk Assessment has been submitted with the application.</p> <p>Notwithstanding, the inconsistency with this direction is considered to be unresolved as the site is flood affected. Until consultation has been undertaken with BCD, the direction remains unresolved. A suitable condition has been included as part of the gateway determination documentation in order to address this matter.</p>

4.2 Coastal Management	Justifiably inconsistent	<p>This direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone – comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area.</p> <p>The subject land contains coastal wetlands and is within the proximity area to coastal wetlands as well as the coastal environment area.</p> <p>The proposal does not include provisions that give effect to and are consistent with the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas, the NSW Coastal Management Manual and associated Toolkit, the NSW Coastal Design Guidelines 2003 or any relevant Coastal Management Program.</p> <p>Inconsistency with this direction is considered to be of minor significance. Land classified as coastal wetlands will be zoned C2 and although land within the proximity area is proposed to be rezoned to B5, a combined bioretention / detention basin is proposed to be used in order to manage stormwater discharge and reduce the impacts of the development by both treating and controlling the discharge of runoff from the site.</p> <p>To this end, post-development peak flows are not expected to exceed the pre-development peak flows, and the stormwater treatment management measures proposed for the site will ensure that the pollutants that may impact on dissolved oxygen levels are managed such that the downstream wetlands are not significantly impacted.</p>
4.3 Planning for Bushfire Protection	Unresolved	<p>This direction is relevant to the proposal as the application affects or is in proximity to land mapped as bushfire prone.</p> <p>The direction provides that Council must consult with the Commissioner of the NSW Rural Fire Service (RFS) after a Gateway determination is issued and before community consultation is undertaken. Until consultation has been undertaken, the direction remains unresolved.</p>



**Figure 10 – Coastal wetlands (dark blue), proximity area for coastal wetlands (blue stripe) and coastal environment area (light blue)**  
 (Source: State Environmental Planning Policy (Coastal Management) 2018 – maps)

4.4 Remediation of Contaminated Land	Unresolved	<p>This direction aims to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. The direction applies to the subject planning proposal as it will facilitate further development of Lot 4 DP 825704 for educational purposes.</p> <p>Council has advised that although the land in question is not known to be contaminated, the subject site has been filled and does adjoin an identified contaminated site. Therefore, there is incomplete knowledge regarding whether the land to be rezoned is suitable for use for educational purposes.</p> <p>In order to address the objectives of this direction, the planning proposal authority 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. A suitable condition has been included as part of the gateway determination documentation in order to address this matter.</p>
4.5 Acid Sulfate Soils	Justifiably inconsistent	<p>The land subject to this planning proposal is affected by acid sulfate soils.</p> <p>The planning proposal is inconsistent with this direction as it enables intensification of land use on acid sulfate soils and the proposal is not supported by an acid sulfate soils study that considers the <i>Acid Sulfate Soils Planning Guidelines</i>. However, a Desktop Acid Sulfate Soil Assessment Report has been submitted with the application, which concludes that the proposed rezoning can be undertaken so as to not adversely impact upon acid sulfate soils.</p> <p>The inconsistency is considered to be of minor significance. Port Macquarie-Hastings LEP 2011 contains suitable provisions (clause 7.1) to ensure that this matter can be appropriately considered and addressed as part of any future development application.</p>
5.1 Integrating Land Use and Transport	Justifiably inconsistent	<p>This direction is relevant to the planning proposal as it will alter a provision relating to urban land.</p> <p>The proposal is inconsistent with this direction as it has not considered consistency of the proposal with the aims, objectives and principles of:</p> <ul style="list-style-type: none"> <li>Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</li> <li>The Right Place for Business and Services – Planning Policy (DUAP 2001).</li> </ul> <p>The inconsistency is considered to be of minor significance as the proposal will facilitate continuation of existing education land uses and expand adjoining business and employment land uses.</p>



6.2 Caravan Parks and Manufactured Home Estates	Justifiably inconsistent	<p>This direction aims to provide for a variety of housing types and provide opportunities for caravan parks and manufactured home estates.</p> <p>The planning proposal is inconsistent with the terms of this direction as it will prohibit the construction of a caravan park on the subject land.</p> <p>The inconsistency is considered to be of minor significance. The subject land contains a community church which is currently being utilised (without consent) as a vehicle repair station as well as an existing school. The planning proposal will facilitate continuation of these existing uses.</p>
---	--------------------------	--

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

**Table 7 Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021	Chapter 4	Consistent	<p>Chapter 4 of the SEPP applies to land subject of a development application in each local government area listed in Schedule 2, including Port Macquarie-Hastings.</p> <p>The subject land is classified as core koala habitat. While a draft Koala Plan of Management (KPoM) has been submitted with the planning proposal, this is outdated and is yet to be adopted by Council or approved by the Department.</p> <p>In the event no KPoM applies to the land, the requirements of Chapter 4 clause 4.9 may be relevant to a future development application on the land.</p> <p>It is noted that the proposal has addressed the requirements of SEPP (Biodiversity and Conservation) 2021 but has not addressed the specific matters raised in Chapter 4.</p> <p>It is recommended that prior to public exhibition, Council amend the planning proposal to address the requirements of Chapter.</p>

SEPP (Resilience and Hazards) 2021	Chapter 2	Consistent	<p>This SEPP applies to land that is within the coastal zone – comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area.</p> <p>The subject land contains coastal wetlands and is within the proximity area to coastal wetlands as well as the coastal environment area. It is noted that the Ecological Constraints Assessment prepared by JBEnviro in December 2018 states that as part of the rezoning and zone boundary adjustment process, the formal boundary of the Coastal SEPP is to be verified by site survey.</p> <p>Earthworks and the clearing of native vegetation on land identified as “coastal wetlands” may only be carried out with development consent and may be classified as designated development.</p> <p>Furthermore, development consent must not be granted to development on land identified as “proximity area for coastal wetlands” unless the consent authority is satisfied that the proposed development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland, or the quality and quality of surface and ground water flows to and from the adjacent coastal wetland.</p> <p>As such, an application must consider whether flow regimes as a result of the proposed development are impacted. The applicant has prepared a Hydrology Impact Assessment Report to determine the potential for the proposed development to impact on the hydrology of the wetland, including the water quantity and quality.</p> <p>Full assessment will be required as part of the development application process.</p>
---	-----------	------------	---


## 4 Site-specific assessment

### 4.1 Environmental

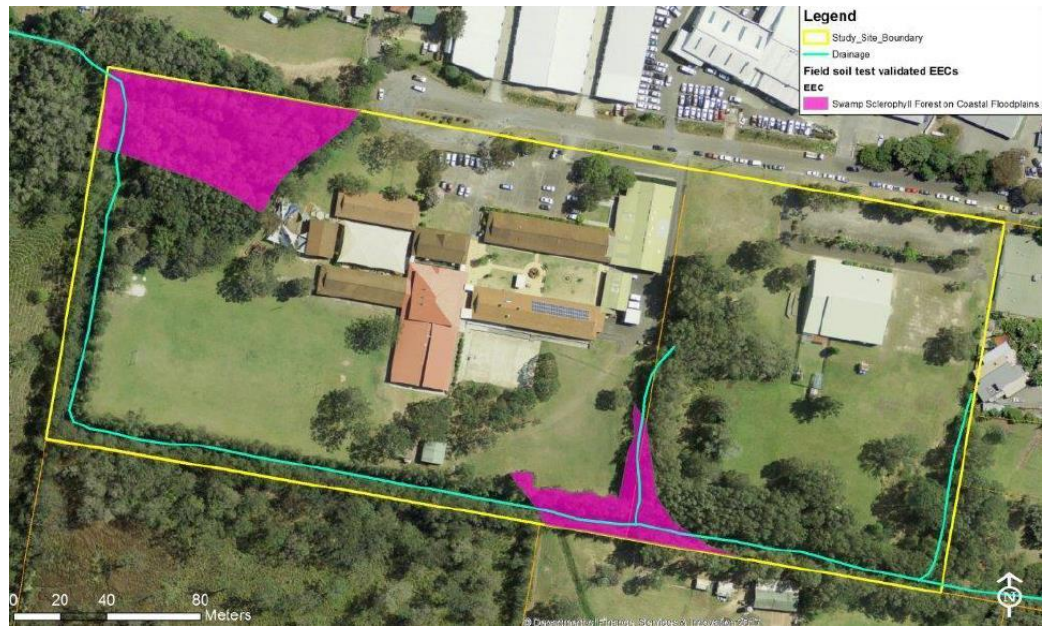
The following table provides an assessment of the potential environmental impacts associated with the proposal.

**Table 8 Environmental impact assessment**

Environmental Impact	Assessment
Biodiversity	<p>As detailed in this report, the subject land accommodates HEV, biodiversity values (Figure 11), core koala habitat and legislated coastal wetlands.</p>  <p><b>Figure 11 - Biodiversity Values Map (light purple - biodiversity values, dark purple - biodiversity values added in the last 90 days) (Source: Biodiversity Values Maps and Threshold Tool)</b></p> <p>The following relevant ecological reports have been submitted with the planning proposal:</p> <ul style="list-style-type: none"> <li>• Ecological Constraints Assessment, JBEnviro, December 2018</li> <li>• Streamline Biodiversity Development Assessment Report, AEP, March 2021</li> </ul> <p>Pertinent points of each of the reports are as follows:</p> <p><u>Ecological Constraints Assessment, JBEnviro, December 2018</u></p> <p>The proposed development on Lot 2 involves the conversion of the existing church to a dedicated automobile workshop as well as the construction of an additional two buildings and car parking. The development will require removal of part of the patch of swamp forest along the western side of the allotment as well as the northeast tip in the east for a bioretention basin and filling above the flood level.</p> <p>The proposed development on Lot 4 involves the construction of a number of new buildings and carparking facilities.</p> <p>The vegetation on the subject land is comprised of regrowth paperbark swamp forest (including a derived small wetland area) and lawns/miscellaneous vegetation (see Figure 12). These vary predominantly due to disturbance regimes and history.</p>

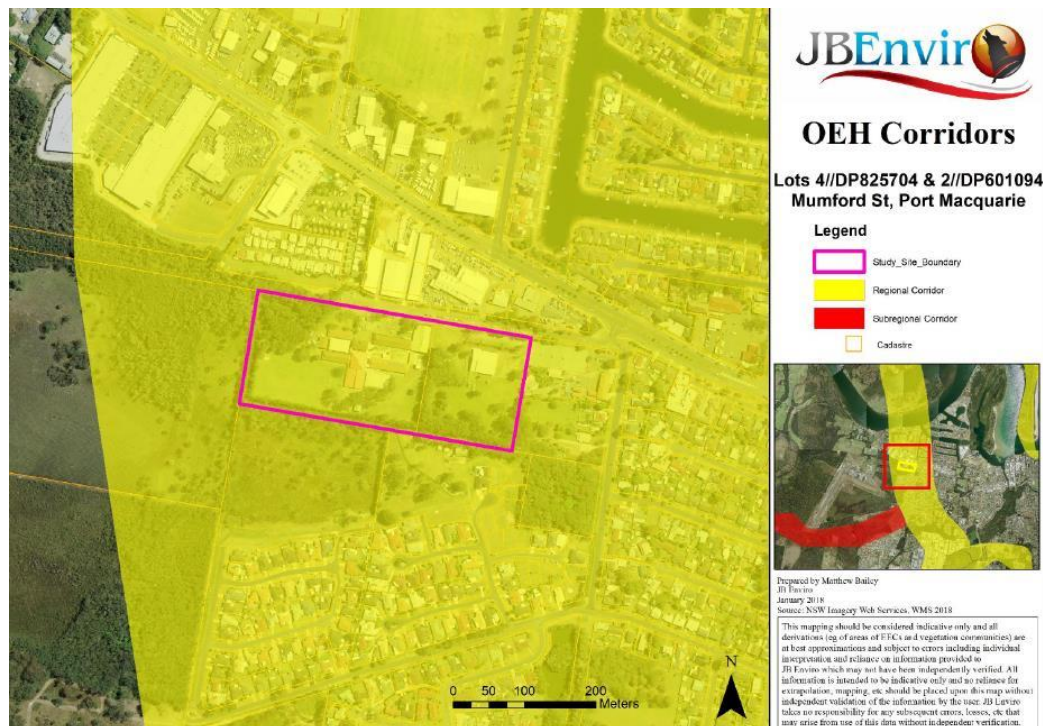
Environmental Impact	Assessment
Biodiversity (continued)	 <p><b>Figure 12 - Vegetation communities on the subject land (Source: Ecological Constraints Assessment, JBEnviro December 2018)</b></p> <ul style="list-style-type: none"> <li>• Paperbark swamp forest dominates the site in the northwest as well as along the western boundary, the eastern boundary and the (internal) boundary between Lot 4 and Lot 2. This community primarily consists of regrowth vegetation, with the eldest being the clump between Lots 2 and 4 and a handful of Swamp Mahogany on the fringes of the swamp forest in the southern end of Lot 2. Floristic diversity is medium-low, which is to be expected given the disturbance history. The patches in the northwest and to a lesser extent, the patch in the southwestern corner on Lot 2 show a higher and developing diversity but have high levels of weed infestation due to edge effects associated with the adjacent stormwater drains.</li> <li>• Freshwater wetland occurs in a small area in the southwest of Lot 2. It is mostly surrounded by swamp forest. This community appears likely to have been established by originally borrowing material for nearby filling due to its unusual shape. The high watertable and regular slashing is considered likely to have prevented any substantial shrub layer and excluded a canopy / understorey stratum from re-establishing post disturbance.</li> <li>• Cleared land occurs over the remainder of the site encompassing lawns, gardens and miscellaneous vegetation. The vegetation association is overall very open with the total number of trees being relatively low for its area. The two notable patches of trees are in a belt south of the school in the vicinity of the rear shed and a smaller patch west of the school adjoining the swamp forest remnant in the northwest corner. Most of these were planted in the 1990s during early stages of the school's establishment.</li> </ul> <p>To ground-truth the extent of EEC on the subject land geotechnical investigations were undertaken. These investigations indicate that the soil landscape that dominates the southern end of Lot 2 is of estuarine geomorphology, indicating that 'coastal floodplain' is not present in this area. An updated EEC map for the site is shown in Figure 13.</p>



Biodiversity  
(continued)

**Figure 13 - EEC based on site soil tests (Source: Ecological Constraints Assessment, JBEnviro December 2018)**

The Ecological Constraints Assessment identifies that the site falls within the Limeburner-Lake Innes Regional Corridor (Figure 14). Within a kilometre radius of the site, this regional corridor has the major limitations of the Hastings River and urban areas of Port Macquarie. As such, the assessment concludes that only the most mobile of species (i.e. birds, bats, some insects) are likely to undertake landscape movements via this modelled corridor.

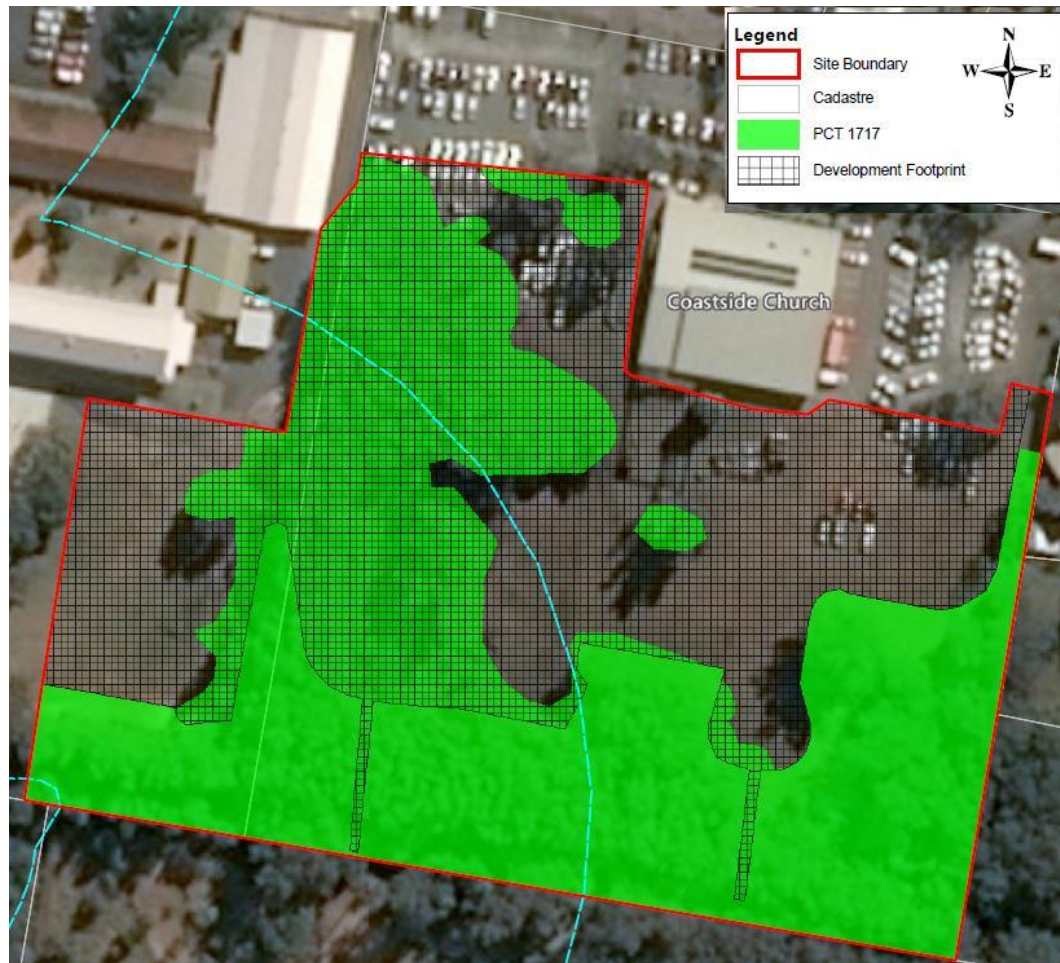


**Figure 14 - Regional Corridors (Source: Ecological Constraints Assessment, JBEnviro December 2018)**

Environmental Impact	Assessment
Biodiversity (continued)	<p>The site adjoins a relatively sizeable tract of native vegetation, mostly dominated by swamp forest to heathland, to the west and south around the eastern side of the Port Macquarie airport. This area has been subject to major studies (Darkheart 2005a, Biolink 2012), indicating it supports Core Koala Habitat, Squirrel Glider, Wallum Froglet and probably <i>Allocasuarina defungens</i>. This vegetation has linkage to a similar and larger tract of forest west of the airport, which eventually links to Lake Innes Nature Reserve. It is therefore a very significant local corridor.</p> <p>The remnant vegetation on the site's southern side and northwest links to the habitat east of the airport and to remnant vegetation to the south and as such has habitat linkage and local corridor values. However, linkage to the north deteriorates rapidly due to long established commercial and residential development, and similarly to the east into only urban woodland with limited value for any but tolerant species. The site is therefore not a key interlink in a local corridor for species intolerant of urban woodland habitats; however, it would readily support the koala which can use as little as 1 tree/ha.</p> <p>Four threatened species were confirmed to occur in the study site by this survey, including the Koala, Grey-Headed Flying Fox, Squirrel Glider and Little Bent-Wing Bat. The Eastern Freetail Bat and Common Bent-Wing Bat were "possible/probable" recordings, while the Eastern Cave Bat was a tentative "possible" detection.</p> <ul style="list-style-type: none"> <li>• Koala: The koala was expected to occur given local records, which include core koala habitat 500m to the west of the site and the common presence of Swamp Mahogany. The koala was recorded on-site as part of a survey in 2005. The Ecological Constraints Assessment undertaken by JBEnviro in December 2018 recorded no koalas and few scats. Nevertheless, the site is considered to form part of the nearby core koala habitat to the west and southwest.</li> <li>• Grey-Headed Flying Fox: Grey Headed Flying Foxes were readily observed flying over the site during the 2005 survey. The site has potential to seasonally support a small number of Grey Headed Flying Foxes as a small part of their wider foraging range. The site potentially forms part of a much larger range used for opportunistic foraging but is not known or considered to be key or temporary roosting habitat.</li> <li>• Squirrel Glider: The 2005 survey recorded a single female Squirrel Glider on two occasions. While the site does not contain this species' cited preferred habitat, this recording was not unexpected given recordings of this species in proximity to the west of the site. Core habitat for the group/s using the site is likely to be concentrated in the forest along the southern boundary and northwest corner as well as in the adjacent areas of woodlands and swamp forest to the south and west. As the Squirrel Glider has been recorded foraging (and possibly even denning) in scattered parklands/partial woodlands consisting of isolated trees, the swamp forest and adjacent scattered trees in the gardens and lawns on site may provide potential foraging sources. Overall, the site is considered to form part of the local Squirrel Glider group/s foraging range.</li> <li>• Little Bent-Wing Bat: The site forms part of the vast area of foraging habitat of the population centred on the maternity caves in the upper Macleay.</li> </ul>

Environmental Impact	Assessment
Biodiversity (continued)	<ul style="list-style-type: none"> <li>East-coast Freetail Bat: Due to the “probably / possible” detection of this species during the survey, local records and the presence of structurally suitable habitat on site, this species is considered a likely occurrence on site. The site is therefore considered to form a small part of the local population’s opportunistic foraging range.</li> </ul> <p>The Ecological Constraints Assessment prepared by JBEnviro in December 2018 concludes by stating that the subject land 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, most importantly for the squirrel glider and koala, and part of this vegetation qualify as EEC – <i>Swamp Sclerophyll Vegetation on Coastal Floodplains</i>. The final development concept will be subject to the <i>Biodiversity Conservation Act 2016</i> which may require the dedication of offsets. Additionally, as the site contains core koala habitat, a Koala Plan of Management will be required to be approved over the site.</p> <p><u>Streamline Biodiversity Development Assessment Report, AEP, March 2021</u></p> <p>The SBDAR was prepared to meet the requirements of the Biodiversity Assessment Method (BAM) 2020 established under the <i>Biodiversity Conservation Act 2016</i>. The report considers the findings of the Ecological Constraints Assessment undertaken by JBEnviro in December 2018.</p> <p>Avoid and minimise has been considered during the SBDAR taking into consideration all threatened entities likely to be impacted by the development, including Swamp Forest EEC, Swift Parrots, Koala and Squirrel Glider.</p> <p>The total study area is 1.87 ha, of which only approximately 0.49 ha of native vegetation is proposed to be impacted. While over half of the proposed development footprint has been designed to occur primarily within existing cleared areas, the application proposes to clear approximately 0.49 hectares of <i>PCT 1717 - Broad-leaved Paperbark - Swamp Mahogany - Swamp Oak - Saw Sedge swamp forest of the Central Coast and Lower North Coast</i> (Figure 15). This vegetation is disturbed and is generally in a degraded condition, predominantly due to weed invasion and previous management of the site. The SBDAR indicates that the proposed rezoning for development is located within areas of poorest condition.</p> <p>An area of existing C2 zoned land is proposed for retention within the southern portion of the lot. Approximately 0.71ha of this land will be managed under a VMP to improve biodiversity values and maintain connectivity through the site to large areas of remnant vegetation further to the west. Although the development will impact on connectivity features to the central-north of the site due to vegetation removal, connectivity to the north is broken over a significant distance as a result of Hastings River Drive and residential / commercial land uses.</p>



Biodiversity  
(continued)

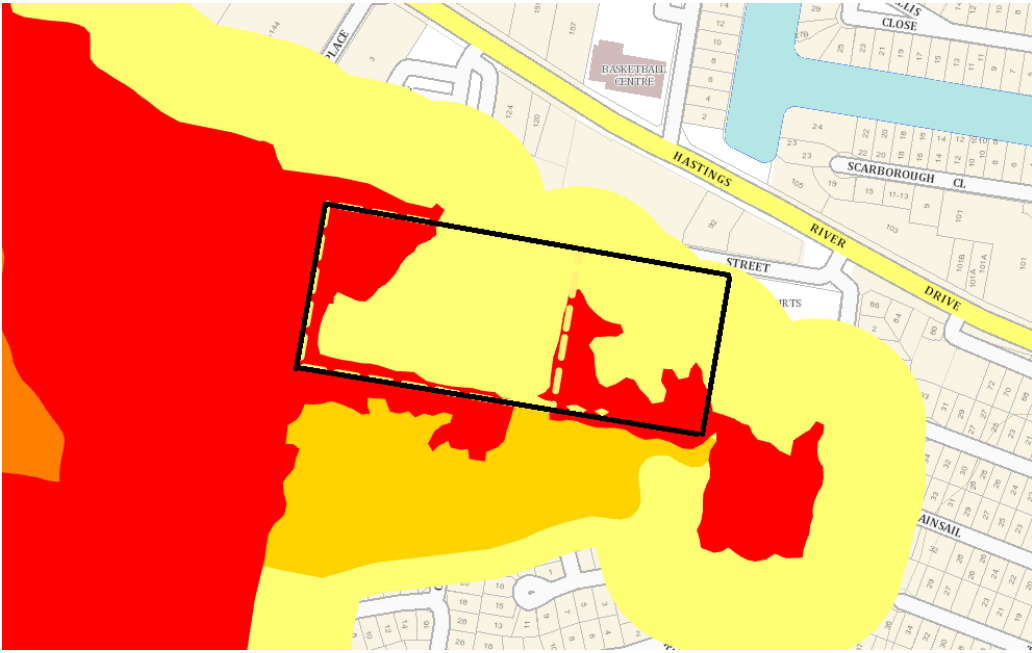
**Figure 15 - Extent of land to be cleared to facilitate proposed development (hashed area) (Source: SBDAR, AEP, March 2021)**

Fauna species recorded were typical of those expected in this locality, particularly due to the degraded nature of the habitat with existing connection to larger patches of habitat offsite. No threatened species were recorded within the subject site. However, the subject site is mapped as important habitat for Swift Parrot and, given the existing fauna records within the locality, both the Koala and Squirrel Glider have been assumed present.

- Review of BAM Important Area mapping determined that the site falls within important habitat for Swift Parrot, and therefore requires assessment for serious and irreversible impact (SAIL). It was determined that no SAIL are likely to occur as a result of the proposal given application of avoid and minimise principals, specifically the retention and improvement of habitat within the site under a VMP. Given the habitat type present, the degraded condition of the vegetation and the small development footprint, a SAIL for Swift Parrot is considered unlikely as a result of the proposed development.
- Koalas are known to be present in the locality and have previously been recorded on site. Only a small number of *Eucalyptus robusta*, a preferred feed tree, will be removed by the development with the majority of the canopy trees being removed being *Melaleuca quinquenervia*. The areas of the site containing preferred koala habitat will be maintained and improved via implementation of the VMP.

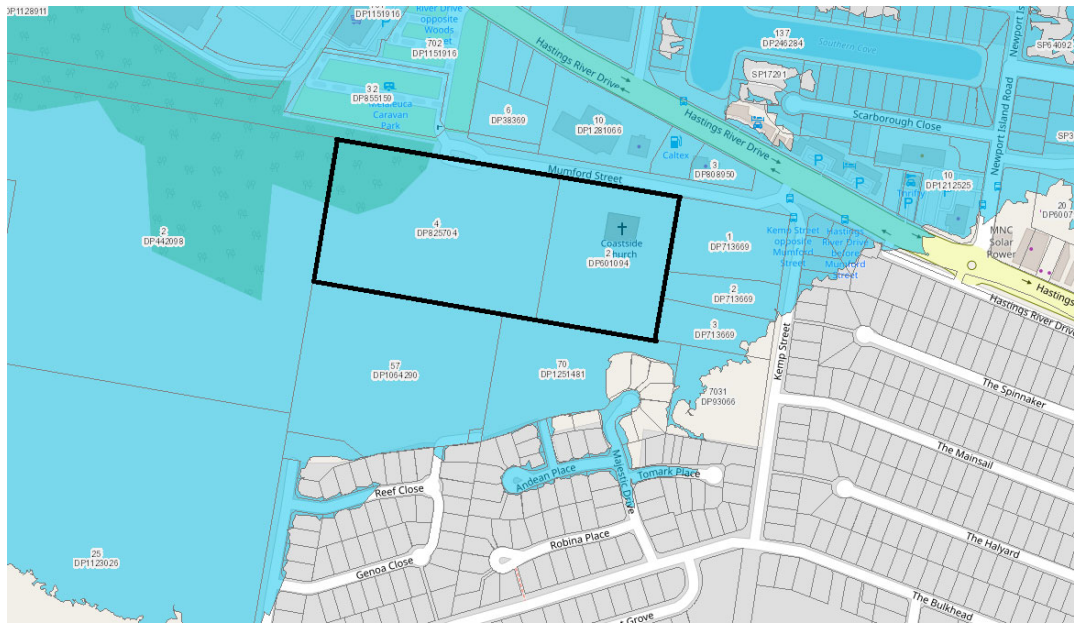
Environmental Impact	Assessment
	<ul style="list-style-type: none"> <li>Squirrel Glider are known from the locality and have previously been recorded on site. Given that no hollow bearing trees were recorded within the subject site, it limits the potential for the site to be core habitat for the species. While there will be some impact to foraging habitat for Squirrel Gliders, the retained vegetation within the site will be maintained and improved via implementation of the VMP.</li> </ul> <p>The removal of native vegetation within the site will require offsetting under the Biodiversity Offsets Scheme to achieve the 'no net loss standard'. To offset residual impacts of the proposal upon identified biodiversity values, the proposal will require a total of:</p> <ul style="list-style-type: none"> <li>15 PCT 1717 Ecosystem Credits (or equivalent);</li> <li>23 Swift Parrot Species Credits;</li> <li>15 Koala Species Credits; and</li> <li>15 Squirrel Species Glider Credits.</li> </ul> <p>Consultation with BCD will be required in relation to this matter.</p>
Koala	<p>The Ecological Constraints Assessment prepared by JBEnviro in December 2018 undertakes an assessment pursuant to the provisions of SEPP No. 44, which has since been repealed.</p> <p>The SBDAR notes that within the development area the PCT 1717 canopy is dominated by <i>Melaleuca quinquenervia</i>, hence the development area does not contain 15% Schedule 2 feed trees pursuant to <i>State Environmental Planning Policy (Koala Habitat Protection) 2020</i> (now repealed). However, the residue of the site, proposed for a future VMP, includes a number of mature <i>Eucalyptus robusta</i>, a tree species listed on Schedule 2 and comprising at least 15% of the tree canopy cover in the upper strata.</p> <p>Considering historical records and presence of preferred koala feed trees, the site is considered core koala habitat. As such, a future development application will be required to address the specific requirements of SEPP (Biodiversity and Conservation) 2021. It is recommended that the planning proposal be amended to address the relevant chapters of this SEPP relating to koalas.</p>



Environmental Impact	Assessment
Bushfire	<p>The subject site is mapped as bushfire prone land (Figure 16) and the application is accompanied by a Bushfire Planning Report.</p> <p>The Bushfire Planning Report concludes that although the subject land is at risk of bushfire attack, with the implementation of the bushfire threat reduction measures and consideration of the recommendations of the report, the bushfire risk is manageable for the proposed rezoning subject to design and construction as well as compliance with the relevant requirements of the NSW Rural Fire Service.</p> <p>Consultation with the NSW Rural Fire Service will be required.</p>  <p>The map displays bushfire prone land with a red rectangular area indicating the subject site. The surrounding area is colored yellow. The map includes labels for 'BASKETBALL CENTRE', 'HASTINGS RIVER', 'SCARBOROUGH CL', 'DRIVE', and 'AINSALE'.</p> <p><b>Figure 16 - Bushfire prone land (Source: ePlanning Spatial Viewer)</b></p>
Hydrology	<p>The applicant has prepared a Hydrology Impact Assessment Report to determine the potential for the proposed development to impact on the hydrology of the wetland, including the water quantity and quality. The key site constraint is that the proposed stormwater management measures will be required to discharge to an existing drainage flow path on the southern side of the subject land.</p> <p>A combined bioretention / detention basin is proposed to be used in order to manage stormwater discharge and reduce the impacts of the development by both treating and controlling the discharge of runoff from the site. Post-development peak flows are not expected to exceed the pre-development peak flows. Furthermore, the stormwater treatment management measures proposed for the site will ensure that the pollutants that may impact on dissolved oxygen levels are managed such that the downstream wetlands are not significantly impacted.</p>

## Flooding

The subject land is affected by inundation by flooding as detailed in Figure 17.



**Figure 17 - Extent of flood affectation on the subject land (Source: Northern Region Viewer)**

A Flood Impact Risk Assessment has been submitted with the application, and the following conclusions are drawn:

- The peak 1% AEP flood level in the vicinity of the site is predicted to be 3.13m AHD.
- Under existing topographic conditions, the majority of the development site is predicted to be inundated during the 1% AEP flood. Peak floodwater depths are predicted to be up to 2.38 metres.
- Peak 1% AEP flow velocities across the site are low, with a maximum of 0.19 m/s which occurs in an area adjacent to the proposed building footprint. Velocities are typically less than 0.10 m/s elsewhere throughout the site.
- Flood hazards across the site for the 1% AEP event are predicted to range between Low and Very High hazard. This is largely a consequence of the depth of floodwaters with flow velocities at all locations within the 'low' hazard range.
- Hydraulic category mapping for the site shows that the majority of the site is categorised as flood storage with the exception of the eastern most parts of the site which are flood fringe. Those parts of the site on which the works are proposed are classified as flood storage.
- The proposed development is not predicted to result in any change to peak 1% AEP flood levels within or outside of the development site. This complies with Councils Flood Policy (2015).
- The proposed development is predicted to cause a maximum increase in peak 1% AEP flow velocities of 0.11 m/s and 0.08 m/s for areas within and outside of the site, respectively. This complies with Councils Flood Policy (2015).
- The proposed development is predicted to cause no change in 1% AEP flood hazards across adjoining properties.

The flood risk assessment for the site determined the following:

Environmental Impact	Assessment
	<ul style="list-style-type: none"> <li>The proposed evacuation route is generally upwardly grading to land that is flood free (above the PMF level). Only one localised 'dip' occurs along the evacuation route. This occurs at the turn-off from Mumford Street onto Kemp Street where elevations at the low-point are 0.09 metres below the peak 5% AEP flood level. However, the low-point is shielded from flooding by higher terrain with elevations of at least 2.45 mAHD. On this basis, the low-point would be shielded from flooding during events up to and including the 5% AEP flood.</li> <li>At least 8.0 hours warning time is available for flood evacuation. This is based on the time taken for inundation of the low point to occur relative to the time when a Minor Flood Warning would be issued at Wauchope. This is based on worst-case conditions which would occur during a PMF event. During a 1% AEP event the warning time is predicted to increase to over 13 hours.</li> </ul> <p>Consultation with BCD and the NSW State Emergency Service will be required.</p>
Acid Sulfate Soils	<p>The subject land is classified as being affected by acid sulfate soils and as such, a Desktop Acid Sulfate Soil Assessment Report accompanies the application.</p> <p>According to the NSW Department of Natural Resources Acid Sulfate Soil Risk Maps, the subject land is affected by Class 2, Class 3 and Class 5 acid sulfate soils. The significance of the Risk Map classifications as they relate to the proposed development on the subject site is as follows:</p> <ul style="list-style-type: none"> <li>Works below natural ground level and works by which the watertable is likely to be lowered are likely to present an environmental risk if undertaken in Class 2 land;</li> <li>Works beyond 1 metre below natural ground level and works by which the watertable is likely to be lowered beyond 1 metre below natural ground level are likely to present an environmental risk if undertaken in Class 3 land; and</li> <li>Works which are likely to lower the watertable below 1 metre AHD on adjacent Class 2 or 4 lands are likely to present an environmental risk if undertaken in Class 5 land.</li> </ul> <p>As such, an Acid Sulfate Soils Management Plan will be required to address the environmental risks associated with any future development on the subject site. Furthermore, active management of future construction activities will be required in order to respond to the risks associated with the disturbance of acid sulfate soils on the land. Port Macquarie-Hastings LEP 2011 contains suitable provisions (clause 7.1) to ensure that this matter can be appropriately considered and addressed as part of any future development application.</p>
Heritage	<p>The Birpai Aboriginal Land Council were engaged to inspect the subject land and complete an Aboriginal Cultural Heritage Assessment.</p> <p>Following the site inspection and consultation with local Aboriginal peoples, the Aboriginal Cultural Heritage Assessment concludes that there are no known or identified Aboriginal cultural heritage sites on the subejct land.</p>

Environmental Impact	Assessment
Noise	<p>A Desktop Noise Impact Report has been completed to assess potential noise impacts associated with the future development of the subject site and its impact on sensitive residential receivers in the area. The report concludes that the proposed rezoning of the site and subsequent future development would not be expected to represent a significant change to background noise levels, beyond that which currently exist, as:</p> <ul style="list-style-type: none"> <li>the future development of the subject site is consistent with an expansion of the existing uses on the land as well as land uses within the immediate locality; and</li> <li>spatial and barrier separation exists between the developable areas of the subject site and adjacent residential receivers.</li> </ul>
Traffic	<p>A Traffic Assessment has been completed to determine current traffic entering and leaving Mumford Street as well as to appraise the effect of future development of the subject land.</p> <p>The report concludes that the proposed rezoning is unlikely to impact current peak hour traffic and that there will be minimal impact on the loss of amenity or safety for pedestrians and cyclists.<sup>0</sup></p>

## 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 9 Social and economic impact assessment**

Social and Economic Impact	Assessment
Social & Economic	<p>The planning proposal will:</p> <ul style="list-style-type: none"> <li>facilitate continuation of existing education land uses;</li> <li>expand adjoining business and employment land uses; and</li> <li>protect important environmental values.</li> </ul> <p>As such, the proposal is expected to create opportunities for additional commercial development and employment while considering important biodiversity matters.</p>

## 4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

**Table 10 Infrastructure assessment**

Infrastructure	Assessment
Local	<p>The subject land is currently serviced by electricity, roads, sewer, water reticulation and data.</p> <p>Local infrastructure upgrades will be required to identify site specific requirements at the development application stage.</p>
State	There will be no impact on State or regional infrastructure or the requirement for additional funding.

## 5 Consultation

### 5.1 Community

Council does not specify the duration of their proposed community consultation period.

In accordance with the Local Environmental Plan Making Guideline dated December 2021 the subject planning proposal is classified as 'standard'. As such, a consultation period of 20 working days has been specified as part of the Gateway determination.

### 5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

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

## 6 Timeframe

Council proposes a 12 month time frame to complete the LEP.

The Local Environmental Plan Making Guideline dated December 2021 specifies a benchmark timeframe of 225 working days for a standard planning proposal.

Therefore, the Department recommends a time frame of 10 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

Council has requested that the Department determine the relevant Local Plan-Making authority.



As the planning proposal is consistent or justifiably inconsistent with the State, regional and local planning framework and deals only with matters of local significance the Department recommends that Council be authorised to be the Local Plan-Making authority for this proposal.

## 8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- it will facilitate continuation of existing education land uses, expand adjoining business and employment land uses and protect important environmental values;
- it is not inconsistent with the North Coast Regional Plan 2036 and will assist in delivering key directions such as developing successful centres of employment;
- it will have positive social and economic impacts through creating opportunities for additional commercial development and employment while considering important biodiversity matters.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- reference current section 9.1 Ministerial Directions;
- address requirements of SEPP (Biodiversity and Conservation) 2021, Chapter 4, as relevant to the planning proposal,
- amend planning proposal maps to apply proposed controls along Mumford Street, to the extent that it applies to the planning area of the planning proposal,
- include proposed alterations to the floor space ratio map;
- consider the recommendations of a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 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 are minor or justified, and
- Note that the consistency with section 9.1 Directions 4.1 Flooding, 4.3 Planning for Bushfire Protection and 4.4 Remediation of Contaminated Land is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:

- reference current section 9.1 Ministerial Directions;
- address requirements of SEPP (Biodiversity and Conservation) 2021, Chapter 4, as relevant to the planning proposal;
- amend planning proposal maps to apply proposed controls along Mumford Street, to the extent that it applies to the planning area of the planning proposal,

- include proposed alterations to the floor space ratio map; and
  - consider the recommendations of a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.
2. Consultation is required with the following public authorities:
    - NSW Department of Planning and Environment – Biodiversity Conservation Division (BCD)
    - NSW Rural Fire Service
    - NSW State Emergency Service
  3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
  4. The planning proposal must be exhibited two months from the date of the Gateway determination.
  5. The planning proposal must be reported to council for a final recommendation eight months from the date of the Gateway determination.
  6. The timeframe for completing the LEP is to be 10 months from the date of the Gateway determination.
  7. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



10 May 2022

(Signature)

(Date)

Ella Wilkinson

Acting Manager, Northern Region



16/5/2022

(Signature)

(Date)

Jeremy Gray

Director, Northern Region

Assessment officer

Kate Campbell

Senior Planning Officer, Northern Region

5778 1401