

May 20, 2025

Melissa Eavis, MCIP, LPP  
Planner III - Planned Growth  
Strategic Projects  
Planning and Development  
eavism@halifax.ca

**RE: Regional Centre MPS Amendment and Substantive DA Amendment Opal Ridge (Penhorn) Special Planning Area**

Dear Melissa:

Clayton Developments Limited on behalf of Opal Ridge Developments Limited (ORDL), Opal Ridge Suites GP Limited, SHX Developments Limited, and the Luxor Group Inc, are pleased to submit requests for an MPS amendment to the Regional Centre MPS and substantive amendments to the Opal Ridge (former Penhorn Mall Lands) development agreement (Case 23224/ PLANAPP 2024-00990). This request is an update to our previous request for substantive development agreement amendments (PLANAPP-2025-00215).

Over the last two years, the municipality has made a series of amendments to the *Regional Centre Land Use By-law* for housekeeping matters to facilitate housing approvals in the Regional Centre. These changes have been beneficial; however, they have created discrepancies between existing development agreements approved prior to this period of regulatory renewal, and current regulations.

This application reflects the need to update the Regional Centre MPS and development agreement for the Penhorn Future Growth Node (FGN) and the following matters:

MPS Amendments

1. The MPS policies for the Penhorn FGN need to be updated to reflect recent thinking with regards to anticipated population on the site. Current policy preamble provides an estimated final population which is significantly lower than the site could reasonably and conservatively accommodate. We are requesting this number be removed.
2. Additional policy adjustments and clarifications are necessary to achieve updated building typologies in the Regional Centre while still achieving the intended transitions to protect surrounding low and medium density development from unreasonable building scale and solar impacts. Further, several unintended consequences or impacts of existing policy have been identified which need housekeeping revisions to enable effective building configurations under the agreement.

Development Agreement Amendments

3. Increased unit allocations and maximum building heights are needed for the development to be more consistent with similar CEN and HR zoned sites near transit terminals which were updated during the *Urgent Changes to Planning Documents for Housing initiative*. This would increase site densities for the Penhorn Mall FGN development agreement from 905 units to a 1,388 units.

4. Updating language in the development agreement to account for recent LUB housekeeping amendments and several minor adjustments to manage how building form is applied in specific instances.

Details of the requests can be found below as well as a discussion of related issues and associated rationale.

### **Regional Centre MPS Amendments**

The current Penhorn FGN policies support approximately 1,500-1,750 dwelling units and the approved agreement enables 905 units on roughly 63 percent of the 42 acre site. HRM has identified that our previous request to increase the allotment to 1388 dwelling units would be in conflict with the intent of the remaining unallocated population for the future development (commercial) portion of the FGN owned by Crombie REIT without an MPS amendment. HRM also indicated that the request would preclude potential future development of the Crombie lands.

Original population estimates in the FGN policy preamble were too conservative due to several factors which may not have been known at the time including:

- Decreasing unit sizes, due to affordability concerns, mean that more units can fit into previously envisioned building forms or typologies;
- Building heights definitions (low rise, mid-rise, tall-mid-rise and high-rise) have evolved further enabling the consideration of taller buildings capable of housing an increased number of units; and
- Creating the desired typologies in a dense, urban and transit supportive form with the current unit count will likely leave undeveloped spaces or undersized buildings. Ultimately, the current unit count is not adequate to create the desired form. The current density is very low for the intended type of development.

The proposed increase in units is to add 483 units which would increase the units per acre to 52 for the agreement.

HRM has identified additional adjustments to the preamble and policies may be appropriate to support and the proposed building forms and transitions. The following amendments would support the proposal:

- Clarification that where policy references building typologies, that these are not mandatory but are suggestive and that any of the building forms enabled are acceptable provided other policy intents are met;
- Clarification in Area 4 regarding transitions to low rise Manor Park multi-unit dwellings would be helpful to identify that there are many ways to ensure that appropriate transitions or separations are met. Change in form, stepping of building, landscaping or separation distance are all appropriate.
- Clarification in Area 4 that buildings are not required to be mixed use and residential only building are appropriate as well. Due to topography and the proposed street network, commercial uses may not be appropriate in Area 4.

A number of housekeeping updates are requested to the Future Growth Node Land Use Concept (Map 11 of the Regional Centre MPS) which reflect experience working with the policy and the above changes:

- Area 1/Area 3: A minor adjustment to the line between area 1 and 3 will allow for logical building form for Block B rather than having to split a building into low rise and mid-rise forms, a very awkward situation. Original policy for this area made several assumptions including that road locations would enable low density housing on the western side of the site adjacent Brownlow Park. This assumption did not take place and this area has mostly been used as a road, multi-use path and street trees. This separation from Brownlow Park has a similar affect to the transitions originally anticipated so buildings loom over the park. The location of Area 3 can now be adjusted to the edge of the right-of-way for Opal Ridge Drive. Further, Area 3 should be expanded to include the entirety of Block A.
- Area 2 through 4: Labelling for building types should be clarified to appropriately identify available options and reflect clarifications related to building form requested above.

No other changes to the Regional Centre MPS are requested. Detailed suggested policy wording for Penhorn Future Growth Node are attached to this submission.

### **Development Agreement Amendments**

**Densify CEN-2 Zoned Sites (Area 3 and 4) – Updates are proposed** to be more consistent with the HAF changes recently made abutting transit terminal opportunity sites. CEN-2 zoned properties within the agreement were targeted for increased building heights and density increases while maintaining required building form or typology. The attached shadow studies demonstrate, additional building height may be considered while maintaining shadow impact assessment requirements on Penhorn Lake Park and Brownlow Park as per the Regional Centre Land Use By-law (LUB). Changes to the Maximum Building Height Schedule and the prescribed densities in the agreement would be required and are detailed below:

Area 3 (Block B) - Block B, south of Opal Ridge Drive, is proposed to increase from 48m (~15 storeys) to 26 storeys. This is a reasonable level of intensification given the position within the FGN (Area 3), the CEN-2 Zoning applied and the sites proximity to transit services. Block B is within close walking distance (350m) of the Penhorn transit terminal, and merits consideration for additional height due to closely aligning with rapid transit strategy goals and policy which allows consideration of high-rise towers in Area 3. Further policy supports future development on the remaining lands in Area 3 with similar building forms. Transitions to lower density development are appropriately handled by separation distance or building form. Further discussion on building transitions is found below.

Area 4 (Block H) – At the corner of Portland St. and Opal Ridge Dr., are three buildings, proposed at 10, 16 and 18 storeys and house a total of 461 units an increase in 188 units. The owner of this site (Luxor) is considering design changes to address relationships with the adjacent Manor Park multiple unit dwellings. Design and rationale updates will be submitted prior to public engagement. In the meantime, we request that review activities continue based on the proposed dwelling unit count with the caveat that additional review will be completed once detail in this area is received.

**Area 2 - Right Sizing Building Form for Block D (Continuous Streetwall)** - Block D has a unique street interface which requires special attention to achieve a desired continuous streetwall. An increase in the maximum building length or width of just 10 m is required to achieve a continuous streetwall due to the

blocks size. Current policy enables this local variation. Further, the maximum front or flanking yard setback should be increased to on portions of Block D and F to achieve a functional building form on these awkward corners.

**Reconcile Housekeeping Amendments with FGN Requirements** - The second purpose of this request is to undertake a number of housekeeping amendments to make the references in the development agreement consistent with LUB updates that have taken place since the development agreement was first signed. These amendments consider three main matters:

- **Changes to permit payment of density bonusing charges prior to occupancy rather than at development permit** - The 2023 Regional Centre LUB Annual Review (Case 2023: -00462) amended the timing for payment of density bonus charges from initial permitting to occupancy of any buildings. This change caused there to be inconsistent language between the existing Penhorn development agreement, and the Regional Centre practice regarding the timing of payments. We are proposing updated language to enable payment of density bonus at occupancy.
- **Changes to the Maximum Building Height Schedule to reference storeys** - As part of the recent HAF changes, building heights in HR and CEN zoned areas are now measured in storeys rather than metres. While the HR Zone height references were updated to storeys in Case 2024-00990, the CEN zoned properties were not, which is inconsistent with the LUB. The proposed amendment would make the development agreement consistent with the *Regional Centre LUB* by updating the schedules to storeys.
- **Changes to the Maximum Building Height Schedule (Block D and F Height Increase)** - Further to the recent *HAF changes*, mid-rise buildings now include seven storey buildings. To remain consistent with this change, we are requesting that a 7-storey maximum building height be applied to Block D and Block F. While there is an increase in height, the height still provides an appropriate transition to the adjacent townhouses (yet to be constructed) and the existing low-density dwelling located beyond the bounds of the Penhorn FGN. Further discussion on building transitions is found below. In conjunction with the proposed increase, the number of units is proposed to increase.

### Discussion of Related Issues

**Contextual Justification for Increased Density** - The proposed increase in dwelling units reflects a context-sensitive and policy-consistent intensification within the built form already enabled. The chosen building forms, low, mid or high rise respect the direction of existing policy.

Where the majority of the proposed density increase is located on Blocks H and B, they are only 221 or 340 metres from the local bus terminal (approximately a two to four minute walk), making it well within an easy walking distance to the terminal like all lands in this compact transit-oriented development. This aligns with regional and local planning goals to concentrate housing density near existing and planned transit infrastructure.

For context, the Penhorn FGN is currently planned for a residential density of approximately 41 units per acre, which is substantially below what you would see for the proposed development type. Typically

between 50 and 150 units per acre is typical of transit-oriented developments. For context, the Strawberry Hill FGN is being suggested at up to 160 units per acre. The proposed addition of units would bring the Penhorn FGN into alignment with best practices in urban intensification and efficient land use while not changing proposed building form.

Further, the density increase supports municipal objectives, planned infrastructure investments identified in the Portland Street Functional Plan and the Halifax Transit Rapid Transit Strategy. Both of which aim to concentrate development in connected areas such as this site located on the future Red Line Bus Rapid Transit Route.

**Building transitions and relationships** –Map 11 establishes transitions through Zone 1 (low-rise) and establishes Area 2 (low-rise or mid-rise). At Area 3 (Mid-Rise to High-Rise) are transitions to the tallest buildings in the middle of the site. Through good design, mixing building typologies and using pedestrian oriented form, transitions are achieved to the centre of the site. The tallest buildings being a significant distance from the streetwall and ROW from 30m to 60m. The combination of separation distance, streetwall, and step back creates reasonable transitions or separations from Brownlow Park, Opal Ridge Drive and any proximate low or medium density dwellings or parks.

For the increase in height for Area 2, the increase in height to 7 storeys is still within the appropriate mid-rise classification. The transition to existing low density development is still buffered by low rise town houses on the site. The transition in height and intensity is still appropriate. No shadowing issues were identified for the above noted increases in height. For demonstration purposes, please find below a massing diagram for the site:



*Figure 3 Massing Diagram Opal Ridge Looking South (Proposed Tower Heights Block B).  
Not including massing for Block H (under review)*

**Density Implications for the Penhorn FGN** - The proposed changes enable 483 additional units under the agreement. While these increases are assigned to individual blocks for information purposes, the development agreement enables assignment of units to specific blocks by the developer up to the maximum permitted in the agreement and in the building forms enabled by the agreement.

For information purposes the initial assignment of density is as shown in the following table:

Penhorn Future Growth Node – Original, Enabled and Proposed Densities					
Block	DA Original Density (Units)	Existing DA (planned, built or enabled under DA)	Proposed Density (Units)	Proposed Building Height and Units	Summary (Change from current DA)
A	174	174 Under construction	174 (+0)	<u>BLDG A1</u> : 120 Units @ 12 Storeys	Unchanged Building. Straight conversion of 39 m to storeys.
				<u>BLDG A2</u> : 54 Units @ 6 Storeys	Unchanged Building. Straight conversion of 11m to storeys Straight conversion of 20m to storeys.
B	193	193	320 (+127)	<u>BLDG B1</u> : 85 Units @ 5 Storeys	+ 127 units 11/14/17 m to 5 storeys 48m to 26 storeys (Up to 11 additional storeys)
				<u>BLDG B2</u> : 235 Units @ up to 26 Storeys	
C	87	104 Under construction	104 (+0)	<u>BLDG C</u> : 104 Units @ 7 Storeys	No change
D	91	97	105 (+8)	<u>BLDG D</u> : 105 Units @ 7 Storeys	+ 8 units 1 additional storey
E	45	45	45 (+0)	45 Townhouse Units	No change
F	53	0	75 (+75)	<u>BLDG F</u> : 75 Units @ 7 Storeys	+ 75 units 1 additional storey
G	76	104 Under construction	104 (+0)	<u>BLDG G</u> : 104 Units @ 7 Storeys	No change
H	188	188	461 (+273)	<u>BLDG H1</u> : 186 Units @ up to 18 Storeys	+ 273 units (H1, H2 & H3) 42 m to 18 storeys (~ 5 additional storeys)
				<u>BLDG H2</u> : 109 Units @ up to 10 Storeys	39 m to 10 storeys (~3 storey decrease)
				<u>BLDG H3</u> : 166 Units @ up to 16 Storeys	42 m to 16 storeys + 1 building (up to 16 storeys)
<b>TOTAL UNITS</b>	<b>905</b>	<b>905</b>	<b>1,388 (+483)</b>		

Note: Block H subject to further review and comment by Luxor.

Blocks B and H proposed building forms may exceed the available number of units. Where this exists building height and massing may be adjusted at detailed design and be reduced as enabled by the agreement.



**Unchanged Building Form and Community Character** - The original Visioning process for the Penhorn FGN was the result of extensive engagement, and established the planning framework and development intent for the site. This process did not set a specific population cap or prescribe dwelling unit densities. Rather, its primary focus was on defining the appropriate building form and character, which remains unchanged under the current proposal. By maintaining the original form and typology while adapting the unit count, we remain faithful to the vision created in partnership with the community.

This request is because the original design did not reflect contemporary construction costs or the growing preference for smaller, more efficient unit types. The proposed increase in units does not require a change to the permitted building form under policy, land use designation, or overall policy direction. This proposed amendment is a necessary refinement that brings the site's potential into alignment with current best practices and regional housing goals. It ensures that the site can deliver a mix of housing options while remaining consistent with the original development vision, objectives and urban form envisioned.

**Future Development Lands** – While planning policy enables redevelopment of the Crombie REIT portion of the FGN, there has been no indications that redevelopment of the Future Development portion of the site will take place in the near term. Further we understand that the length of existing leases and economics suggest that any type of redevelopment is not contemplated at this time or within typical planning timelines. Any assessment of the development potential of these lands at this time would be highly speculative and premature. Crombie REIT has provided a letter of direction with regard to their lands (see attached).

**Need for Additional Infrastructure Studies** - We respectfully resubmit that the studies provided as part of the previous development agreement application which outline existing sewer and water capacities, and traffic are sufficient to service the proposed amendments to the development agreement and account for build out of the lands covered by the development agreement.

#### Planning Fees

We understand that additional planning application fees will be required given the addition of an MPS amendment. Please confirm the difference owed is \$2290.

#### Conclusion:

In summary, the following items support our request for an MPS amendment and additional units and other matters in this application:

- The building form and other policies for the Penhorn FGN remain intact with many fully implemented by our development of the FGN.
- As a development partner, Clayton has demonstrated our ability to implement the vision for the FGN and provide valuable, expedited and timely housing in a time of need.
- The proposal supports current understanding of sustainable urban growth, unit mix, unit size and market demands; and
- Supports the need to look forward not back. The time is now to increase the number of developable units on the development ready portion of the site as the next opportunity for redevelopment of this site could be a century away.

For all of the reasons outlined above, we respectfully request that the municipality support the requested MPS and development agreement amendment to increase the dwelling unit count on the developable portion of the Penhorn FGN and other amendments. The proposed change is minor in terms of built form but significant in terms of housing impact, urban efficiency, and alignment with FGN and regional policy objectives.

Thank you for your consideration and attention on this request. Relevant supporting information is attached. Should you have any questions with regards to the enclosed materials, please do not hesitate to contact the undersigned.

Kind regards.

# Original Signed

**Andrew Bone, MCIP, LPP**

Director of Planning and Development, Clayton Developments Limited

#### Enclosures

1. Opal Ridge – Traffic Review with Revised Units prepared by WSP Canada Inc.
2. (2A) Water and Wastewater Capacity Memo – Additional Multi-Unit Density Opal Ridge Development – Dartmouth, Nova Scotia prepared by Strum Consulting.
  - o 2B – Sanitary Calculations prepared by Strum Consulting
  - o 2C – Drawing 20-7306-A01-Rev 2 prepared by Strum Consulting
  - o 2D – Drawing 2D - 20-7306-A03-Rev 2 prepared by Strum Consulting
3. Shadow Impact Analysis – Block D and Block F (Prepared by Clayton Developments)
4. Shadow Impact Analysis – Block B and Block H (Prepared by MNArchitecture for the Luxor Group Inc)
5. Regional Centre MPS – Proposed Policy Revisions (Proposed)
6. Regional Centre MPS - Proposed Map 11 Revisions (Proposed)
7. Draft Amending Development Agreement (Proposed)
8. Schedule B-2 - Concept Plan (Proposed)
9. Schedule E-2 - Maximum Building Height Precincts (Proposed)
10. Schedule G-1 - Maximum Front and Flanking Yards (Proposed)
11. Crombie REIT letter

CC: Kevin Neatt, VP Planning and Development, Clayton Developments Limited  
Jared Dalziel, Senior Planner, Clayton Developments Limited



## Regional Centre MPS – Proposed Policy Revisions

### 2.9.1.2 PENHORN MALL LANDS

A Community Vision for the Penhorn Mall Lands was approved in principle by Council in October of 2009, which envisioned the area as a mixed-use area clustered around the transit terminal on Portland Street. The redevelopment concept includes pedestrian and transit-oriented spaces and corridors, and a range of low, medium, and high-density housing choices containing ~~approximately 1,500-1,750 dwelling units.~~

Public amenity spaces including Penhorn Lake and Brownlow Park will support the development of this community, and additional open spaces and connections will be provided. Protection of the water quality of Penhorn Lake is a key objective, and will be considered during the development and construction phases of the site. Four areas are identified in this Future Growth Node:

- Area 1: this area abuts the Manor Park neighbourhood, and Penhorn Lake Park and Brownlow Park. Future development will maintain and enhance the existing vegetative buffer. Low-rise residential buildings are supported in this area due to its proximity to an existing low-rise residential neighbourhood. Similarly
- Area 2: this area abuts Area 1 and the Penhorn Lake Park. Future development will maintain and enhance the existing vegetative buffer through landscaping. Predominantly residential low-rise buildings and / or mid-rise buildings will be supported in this area to provide transition between the low-rise residential of Area 1, and the more dense and mixed-use Area 3. Part of this area also abuts the Circumferential Highway where a multi-use trail is planned to connect the transit facility to Area 3 and Penhorn Lake Park.
- Area 3: this area is intended to be the mixed-use centre of the Penhorn Future Growth Node. Midrise buildings, tall-mid-rise buildings and high-rise buildings ~~or mixed typologies~~ clustered around a transit facility is supported in this area. A mainstreet pedestrian-oriented development is envisioned for this area, providing a focal point for commercial activity and supporting public amenities for this dense community. A multi-modal active transportation greenway connects and provides a transition between this area and Area 2, and connects the two key parks that exist on the site.
- Area 4: this area is nestled between the Manor Park low-rise residential area, Brownlow Park, lowrise Area 1, and the mixed- use centre of Area 3. This area is facing Portland Street and is in close proximity to the transit facility. This area may develop into low-rise ~~to, mide-rise, tall mid-rise~~ or high-rise mixed-use development ~~or mixed typologies~~, and additional park space adjacent to Brownlow Park may also be considered for this area. ~~Nothing shall prevent the establishment of residential buildings without commercial uses if deemed appropriate. Appropriate transitions to adjacent Manor Park shall be provided through separation, building transition or landscaping with taller buildings or typologies located at or near Portland Street and Opal Ridge Drive.~~

### Policy F-9

When considering a development agreement for the Penhorn Lands Future Growth Node, Council shall consider Policy F-6 and the following:

- a) That the general location of proposed land uses, road network connections, parks, and multi-use trails is reasonably consistent with Map 11;
- b) That site and building design supports a compact, mixed-use neighbourhood by:
  - i) planning for a mix of low to high-rise buildings as illustrated on Map 11,
  - ii) transitioning the height of new development down to existing low-rise residential buildings and public parks,
  - iii) locating commercial and institutional uses within mixed-use buildings up to the third floor, and primarily along the ground floor of pedestrian-oriented commercial streets,
  - iv) providing pedestrian-oriented building facades and designs,

- v) prohibiting new drive-through facilities,
  - vi) providing substantial landscaping around the perimeter of the site, and adjacent to all buildings, and
  - vii) providing a mix of units, including grade-related dwelling units and ground-oriented premises;
- c) That environmental protection, water quality and Urban Forest Master Plan objectives are supported by:
  - i) designing on-site stormwater management that emphasizes low impact development measures to maintain water quality in Penhorn Lake, with consideration given to the Analysis of Regional Lakes Water Quality Data (2006 - 2011) prepared by Stantec in 2012, and Surface Water Quality Monitoring – 2017 Final Report prepared by AECOM,
  - ii) considering a water quality monitoring program during and following development to ensure that the water quality objectives of the Regional Plan are satisfied, and
  - iii) preparing a landscaping and vegetation plan as part of site development to support the canopy target for the Manor Park Neighbourhood as referenced in the Urban Forest Master Plan;
- d) Parks and open spaces provide the full range of recreation and open spaces needed to serve the dense community by:
  - i) locating public amenity spaces near the transit terminal on Portland Street,
  - ii) retaining, and where feasible, enhancing vegetative buffers around Penhorn Lake,
  - iii) establishing setbacks from municipally-owned lands around Penhorn Lake,
  - iv) only permitting pervious landscaping materials within the setbacks from municipally-owned lands around Penhorn Lake, and
  - v) planning for public park spaces to be aligned with, and to be visible from existing parks and the multi-modal pathway linking the Penhorn Lake area and Brownlow Park; and
- e) That the transportation network prioritizes walking, the easy use of mobility devices, cycling, and transit use by:
  - i) providing a minimum of two street access points to Portland Street, as illustrated on Map 11,
  - ii) planning for a multi-modal greenway that links the Penhorn Lake area and Brownlow Park, and accommodates public spaces, trees, and an off-road active transportation route,
  - iii) designing wide pathways to access the back half of the site and intersect with the greenway to give priority to pedestrians and active transportation,
  - iv) and designing pedestrian pathways to connect the transit facility, existing neighbourhoods, Brownlow Park, Penhorn Park, and the proposed Penhorn Lake trails.

Regional Centre MPS - Proposed Map 11 Revisions

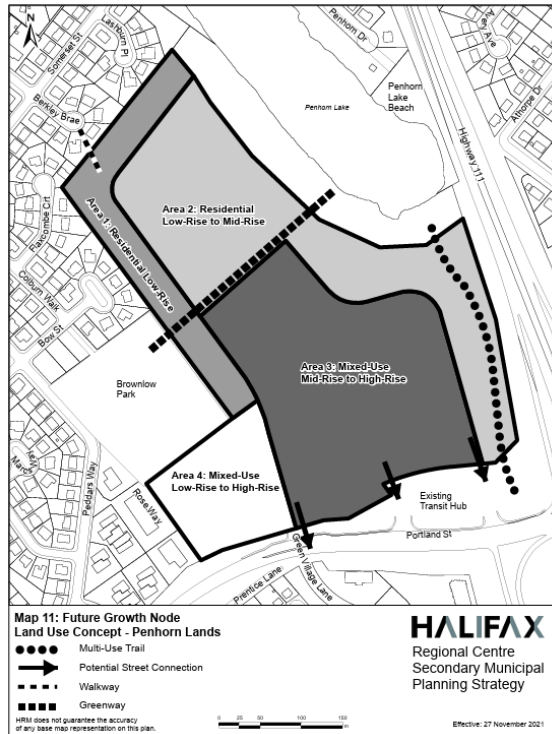


Figure 1 Existing Map 11

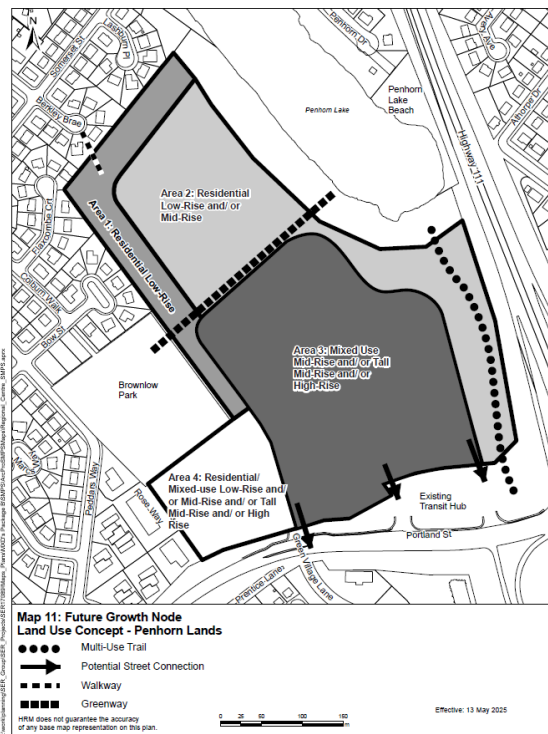


Figure 2 Proposed Map 11