

20 April 2017



Modification Assessments
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Jane Flanagan

**Response to Submissions
S75w Modification Application – MP07-0147 (MOD 4)
Relating to North Cooranbong Concept Approval**

Dear Jane,

Reference is made to Johnson Property Group's (JPG's) s75w application (MOD 4) seeking modification of the North Cooranbong Concept Plan (MP07-0147) to include a local road connection (adding the relevant land into the concept plan) and to delete a redundant local road connection shown over land not covered by the concept plan (as generally documented in ADW Johnson Environmental Assessment Report dated October 2016). The Department of Planning and Environment has requested a response to submissions, which consist of three (3) agency/government submissions and three (3) public submissions. This correspondence is JPG's Response to Submissions.

Please find attached the following tables that summarise the matters raised, with a response.

- Table 1 – Response to Government Agency Submissions;
- Table 2 – Response to Public Submissions.

Please also find attached the following information as referenced in those tables:

- Copy of LEP Amendment Council Assessment Report and Minutes, and gazetted LEP zoning maps, illustrating that Lot 12 now includes residential and conservation zoned lands, as well as a plan illustrating conservation zoned lands in the immediate locality.
- Additional plan overlaying the concept local road connection onto the current zoning plan. The plan shows updated curve radii as sought by Lake Macquarie Council, and an updated corridor width to suit corridor planning (18m +3m works zone, instead of 17m +3m works zone). The plan also differentiates a 5.5m wide services corridor that sits within the road corridor (being a services corridor already separately approved for clearing by others) from the remaining road corridor which is not approved for clearing. A concept road cross section is included for information purposes.
- Correspondence from Lake Macquarie City Council (LMCC) outlining an 'in-principle' agreement for development and conservation over Lot 12 (which includes the clearing required for the remaining road corridor that is subject to this application and residential development which is not subject to this application). This arrangement will provide for a local on-site biodiversity offset.

Level 12, 48 Hunter Street
Sydney NSW 2000

PO Box A1308
Sydney South NSW 1235

Should you wish to discuss the contents of this correspondence please do not hesitate to contact me on 0408 991 888 or email bryang@johnsonpropertygroup.com.au.

Yours sincerely
Johnson Property Group

A handwritten signature in black ink, appearing to read 'Bryan Garland', written over a light blue horizontal line.

Bryan Garland
Development Director


Cc Natasha Harras (NSW Department of Planning)

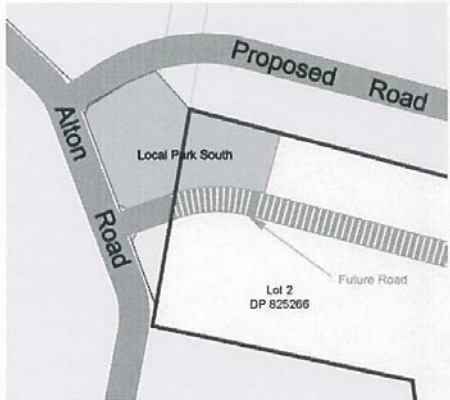
Enc. As detailed above

RESPONSE TO SUBMISSIONS – S75W MODIFICATION TO MP 07-0147 (MOD 4) – NORTH COORANBONG CONCEPT PLAN

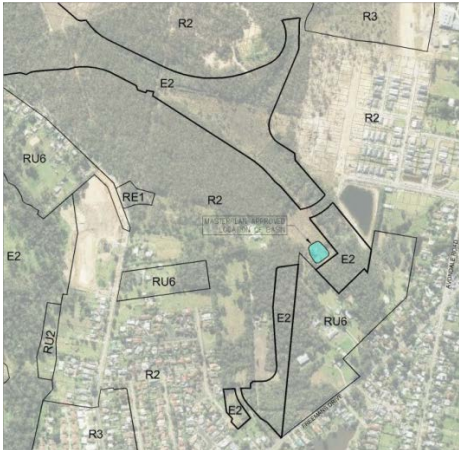
TABLE 1 RESPONSE TO GOVERNMENT AGENCY SUBMISSIONS

GOVERNMENT AGENCY	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
Lake Macquarie City Council	Land Zoning – No objection to modification on basis of land zoning	<p>LMCC does not raise any objection relating to land zonings. As an update, Lake Macquarie City Council resolved to make the LEP under delegation for the zoning of the land at their meeting of 14 November 2016, which was ratified on 28 November 2016 (refer attached copy of the Council assessment report and minutes). Both of these events occurred when the MOD 4 proposal was on public exhibition. The LEP amendment has since been gazetted, as published on 27 January 2017, and an extract of the zoning map is attached (Attachment 1).</p> <p>The siting of the proposed road corridor sits predominantly within the now gazetted R2 zoned land. An updated plan overlaying the proposed road corridor (see also below under ‘Road Design’) on the zoning plan is included as Attachment 2 (this replaces the now superseded plan from Appendix 4 of the MOD 4 Environmental Assessment (EA)).</p>
	Road Design – Supports the road standard but recommends that curve radii of 120m be confirmed prior to approval	<p>LMCC supports the road standard. Although the road standard remains unchanged (local road, bus route), the 17m wide corridor (plus 3m works zone) reported with the MOD 4 EA has been expanded to an 18m wide corridor (plus 3m works zone). This provides consistency with a more recent decision to accommodate a high voltage power line asset also within the road corridor, in conjunction with connecting services between the approved Local Recycled Water Centre and urban development it services further north, as well as road pavement construction and verges. For background information, a copy of the road cross section is attached, and has been discussed with LMCC (Attachment 2).</p> <p>The minor amendment to the corridor width, and minor realignment to accommodate the design curve radii to meet Council’s recommendation, is reflected on the updated zoning plan overlay in Attachment 2. Please note that a 5.5m wide services corridor (that sits within the 18m wide road corridor) has already been authorised for clearing, and is shown on plans for reference.</p>
	Dabson Land - Council notes that it appears that there is currently not sufficient road access to Lot 2 to allow for development of this land, and requests that DPE consider how road access can be provided to Lot 2 so that the land can be developed.	<p>Lot 2 does not currently have sufficient road access because adjoining land over which road access can be achieved is not owned or controlled by the owners of Lot 2. The proposed modification will not change that situation.</p> <p>The approved concept plan provides for road access to Lot 2 to be provided and the modification, while removing the north-south linkage, <u>maintains as approved</u> a road access solution to enable future residential development of Lot 2 from Alton Road (14m wide road). The road access approved under the Concept Plan borders the land that has been zoned and is identified for the Local Park - South. Refer attached extract from Appendix 2 of EA for MOD 4.</p>

GOVERNMENT AGENCY	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
		 <p data-bbox="994 807 2098 940">That road access for Lot 2 from Alton Road is supported by Lake Macquarie City Council's DCP 2014, Part 12, North Cooranbong Precinct Plan, Section 1.7 (Local Park South) and Figure 6 (extracted overpage). This is also consistent with the requirement under item 3.1 of the Terms of Approval for MP 07-0147 that requires Local Park South to be provided with 3 road frontages.</p>

GOVERNMENT AGENCY	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION										
		<div><div>1.7LOCAL PARK SOUTH</div><div>Objectives</div><div>a. To ensure that the Local Park south is accessible.</div><div>Controls</div><div>1 The minimum 5000sqm Local Park is to be constructed in accordance with the design requirements agreed and approved as part of the Part 3A Concept Plan and have frontage to three roads (one of which is Alton Road) as shown in Figure 6 – Road Treatment to Local Park South.</div><div></div><div>Figure 6 - Road Treatment to Local Park South</div><div><p>In summary, and notwithstanding that the concept plan does not apply to Lot 2, the concept plan as approved (and as modified) provides for road access from Alton Road that will enable Lot 2 to be developed. The proposed modification will not alter that road access.</p><p>The provision of the road access to Lot 2 from Alton Road is tied to the provision of the Local Park - South. The executed local voluntary planning agreement (VPA) provides for delivery and timing of local infrastructure, including Local Park - South, as per the below extract.</p><table><tr><td>2</td><td>Local Park - South (on-site)</td><td>As shown on the Plan in Annexure C, reference Item 2</td><td>Minimum of 5,000m²</td><td>\$200,000 (\$40/ m² x 5,000 m²)</td><td>\$100</td><td>\$278,000</td><td>\$139</td><td>Prior to the release of the first Subdivision Certificate for any part of Lot 2 DP \$25266 or prior to the release of a Subdivision Certificate for the 600th Residential Lot, whichever occurs later.</td><td>Works in Kind and Land Dedication</td></tr></table><p>The concept plan provides for orderly development and provision of road access to Lot 2 from</p></div></div>	2	Local Park - South (on-site)	As shown on the Plan in Annexure C, reference Item 2	Minimum of 5,000m ²	\$200,000 (\$40/ m ² x 5,000 m ²)	\$100	\$278,000	\$139	Prior to the release of the first Subdivision Certificate for any part of Lot 2 DP \$25266 or prior to the release of a Subdivision Certificate for the 600 th Residential Lot, whichever occurs later.	Works in Kind and Land Dedication
2	Local Park - South (on-site)	As shown on the Plan in Annexure C, reference Item 2	Minimum of 5,000m ²	\$200,000 (\$40/ m ² x 5,000 m ²)	\$100	\$278,000	\$139	Prior to the release of the first Subdivision Certificate for any part of Lot 2 DP \$25266 or prior to the release of a Subdivision Certificate for the 600 th Residential Lot, whichever occurs later.	Works in Kind and Land Dedication			

GOVERNMENT AGENCY	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
		<p>Alton Road. It is then a matter for the two landowners to resolve how that road access will be provided, within the parameters set by the planning approvals. It is not a matter for the planning regulatory authorities to resolve further, particularly in circumstances where the proposed modification will not have any effect on the requirement to provide the road access to Lot 2 from Alton Road.</p> <p><i>(see also response to public submissions Table 2 'Dabson' submission)</i></p>
	Environmental Impact	
	<ul style="list-style-type: none"> Concern that road and development on Lot 12 being considered in isolation of other adjoining RU6 lands 	<p>When Council commenced the planning proposal for land within Lot 12, adjoining owners of RU6 zoned lands were approached by Council to have their land incorporated. Council progressed the rezoning of Lot 12 without adjoining RU6 zoned land as none of the other landowners wanted to participate in the planning proposal process. Council adopted an amending plan, specific for Lot 12, and it has now been gazetted. In those circumstances, the reluctance of adjoining landowners to consider re-development of their land should not affect the current proposal to develop Lot 12.</p>
	<ul style="list-style-type: none"> Where possible, road to be located along proposed R2/E2 zoning to provide effective edge between development and retained native vegetation 	<p>The road corridor has, where possible, been incorporated on the boundary between the R2 and E2 zones – as shown on the overlay of the road corridor and gazetted zoning (Attachment 2). The design width, minimum curve radii, current property boundaries and the approved Local Water Centre facilities have, however, required some deviation from that alignment.</p> <p>This means that there are areas of R2 zoned lands that sit on the southern and eastern side of the road corridor. The development and use of these R2 zoned areas will be considered and assessed under any Part 4 application for the road and/or the road/subdivision, and as part of resolving an on-site offset solution. To that end, an in-principle agreement has been reached with LMCC for development and biodiversity conservation on the site, to facilitate not only the road corridor that is subject to this modification but also the development of the R2 zoned lands (refer further below and Attachment 3). That in-principle agreement incorporates conservation of some of the R2 zoned lands to the east of the road corridor due to ecological characteristics and so the road can provide an effective edge between residential development and retained vegetation. The remaining area of R2 zoned land on the boundary to the Local Water Centre will be retained for residential purposes.</p>
	<ul style="list-style-type: none"> Road doesn't allow for a 30m vegetation corridor along the eastern site boundary at the northern site boundary 	<p>The recent land use zoning decision was deferred by Council until the Land and Environment Court determined an appeal by an objector against the approval of the Local Water Centre. Council ultimately decided to zone part of the land E2, including a corridor greater than 30m wide along the eastern boundary. That corridor of E2 zoned land does not extend to the northern site boundary. The planning proposal assessment report specifically noted that the decision to zone that part of the land E2 was based on the outcome of the Land and Environment Court proceedings. The report stated: <i>"The conservation corridor will be zoned E2"</i></p>

GOVERNMENT AGENCY	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
		<p><i>Environmental Conservation to reflect this decision”.</i></p> <p>The proposed road corridor is not therefore sited on land identified for a vegetation corridor as determined by Council in its decision to zone the land E2, following the Land and Environment Court decision.</p> <p>It is noted that the approved concept plan provides for an environmental corridor to the north-east, and the figure below illustrates the combined environmental zoned lands inclusive of the recently gazetted zoning (refer also plan included in Attachment 1). There is no corridor to connect to at the northern site boundary, which adjoins cleared residential zoned land that under the concept approval and associated concept stormwater strategy, includes a basin, road and residential lots. Arguably there is no need for the vegetation corridor to extend to the northern site boundary.</p>  <p>Notwithstanding the above, an in-principle agreement has been reached with LMCC for local biodiversity conservation at the site, to facilitate not only the road corridor but also the development of the R2 zoned lands (refer further below and Attachment 3). That in-principle agreement incorporates conservation of some of the R2 zoned lands to the east of the road corridor through to the northern site boundary due to offset considerations. This means that a vegetation corridor along the eastern side of the road corridor will extend to the northern site boundary.</p>
	<ul style="list-style-type: none"> • Offsets to loss of 7 <i>Tetratheca juncea</i> and 11 <i>Angophora inopina</i> is required, using biobanking methodology and 	<p>The MOD 4 EA identified that the proposed road corridor impacts on 0.39ha of non-EEC native vegetation, and 11 <i>Angophora inopina</i> and 7 <i>Tetratheca juncea</i> clumps, with no known hollows, nests or other significant arboreal faunal roosting/denning habitat features.</p>

GOVERNMENT AGENCY	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
	<p>secured in perpetuity with suitable management funding.</p>	<p>For thoroughness, based on the updated road corridor (refer above), and excluding an area of impact that is already authorised for connection of services in this road corridor between the approved Local Water Centre and urban development further north (as well as for Ausgrid high voltage power assets) – being a 5.5m wide services corridor, the revised loss arising from the remaining road corridor width and a works zone (12.5m plus 3m works zone) has been advised as 0.3068ha of non-EEC native vegetation, 9 Angophora inopina and 4 Tetratheca juncea clumps. Attachment 3 includes an overlay of the remaining road corridor width which will need to be cleared with the ecological attributes.</p> <p>It is the ecologist’s opinion (MJD Environmental) that this level of loss is well below thresholds that would trigger state based offset mechanisms as a stand-alone assessment. That, in combination with the recent land use zoning decisions (see below), and the Part 4 applications that are to follow for the clearing for road construction <u>and</u> clearing for the adjoining residential zoned land, means that the loss can be incorporated into impact and offset outcomes at that time, and is not of the level warranted to delay determination of the modification itself.</p> <p>At a strategic planning level, Council considered the balance of development and conservation land as part of the recent land use zoning decision. An extract from their assessment report (refer actual report included in Attachment 1) identifies their position that (with emphasis added):</p> <p><i>“Concerns have been raised by the OEH regarding the adequacy of biodiversity offsetting to meet its policy of ‘improve or maintain’ biodiversity outcomes. Offsetting is required for the loss of vegetation associated with the proposed R2 Low Density Residential Zone. Discussions with the proponent regarding biodiversity offsetting led to the expansion of the E2 Environmental Conservation Zone prior to public exhibition to include a cluster of threatened flora species in the conservation zone. In addition, the recommended zone distribution provides conservation of the Endangered Ecological Community (EEC) at the southern end of the site and the establishment of a north-south conservation corridor along the eastern portion of the site, which was extended through the Court approval process. The conservation corridor will be zoned E2 Environmental Conservation to reflect this decision. The planning proposal is considered to provide a balanced approach to the provision of biodiversity conservation and urban release in a Growth and Expansion Corridor identified by Council’s Lifestyle 2030 Strategy” (our emphasis).</i></p> <p>JPG have long held the view that the most desirable and acceptable ‘offset’ for development of the R2 zoned lands (which includes the road corridor) - which can present a specific, identifiable contribution to conservation in the immediate catchment of the land to be impacted - is an on-site and local offset arrangement involving the conservation zoned lands (rather than an off-site and/or monetary offset under state-based biobanking policy).</p> <p>Given this, JPG has explored in some detail on site conservation outcomes with LMCC, with</p>

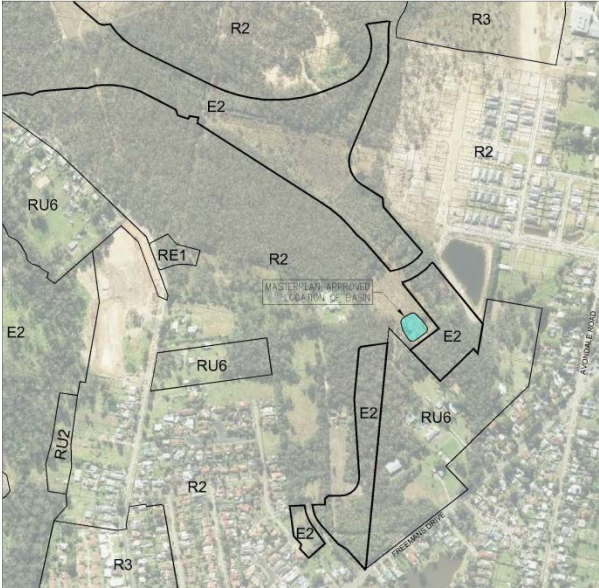
GOVERNMENT AGENCY	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
		<p>consideration given to Council's Biodiversity Offset Planning Policy and Lake Macquarie <i>Tetratheca juncea</i> Planning and Management Guidelines. JPG is satisfied that there is a suitable and adequate on site conservation outcome that will be acceptable to LMCC (for both the road and subdivision of R2 zoned lands). This will involve reducing in part the area to be cleared in the R2 zone and the identification of a secured conservation outcome for protection and management in perpetuity of the E2 zoned land and parts of the R2 zoned lands. This effectively complements and integrates biodiversity conservation needs arising from development of Lot 12 into the local conservation outcomes being delivered in the wider concept approval area.</p> <p>We attach recent correspondence from LMCC that shows this matter has been explored and an in-principle agreement has been reached to the satisfaction of LMCC (in accordance with the above mentioned Council offsetting and management policies) relating to development and conservation of the site (which includes but is not limited to the road corridor) (refer Attachment 3). That will be formalised in a Part 4 development application, that is reliant upon determination first of the road corridor location (this MOD).</p> <p>It is noted that the OEH submission (refer below) requests that DPE include an approval condition requiring an offset to be provided. Given this, the zoning context and that impacts of the road corridor itself are not significant, it is requested that DPE proceed with determination of MOD 4 without any further requirements relating to offsets. If an additional Term of Approval is to be imposed, it should reflect that any clearing for the road corridor within Lot 12 is to be considered in conjunction with clearing for the development of the R2 zoned lands within the same lot, with a local on-site offset solution to be incorporated, generally in accordance with the in-principle agreement as outlined in Council's letter dated 7 April 2017.</p>
Office of Environment and Heritage	<p>Loss of Biodiversity should be offset in accordance with NSW Government offsetting policy, and recommends that an approval condition be included that ensures a biodiversity offset is provided and that it is managed and secured in perpetuity.</p> <p>Subsequently clarified that offsetting mechanism is the <i>NSW Biodiversity Offsets Policy for Major Projects</i> which is underpinned by the Framework for Biodiversity Assessment.</p>	<p>Refer above.</p> <p>In summary, the road corridor itself has limited impacts and a holistic approach to any offsetting arrangement is more appropriate in the present circumstances. The impacts of the road and offset requirements for both the road and associated residential development should be considered as part of any Part 4 assessment. Offset solutions achieved on site, which build on the very recent balanced strategic planning and have in principle support of the local Council, are preferred over the provision of an offset for the road only as part of the MOD or a generic condition requiring compliance with a state wide offset policy. These latter solutions have the potential to restrain the provision of local and real conservation outcomes, which can be integrated into other local conservation outcomes.</p> <p>In circumstances where the impacts do not meet thresholds triggering state based offset mechanisms, it is more appropriate for the consideration of offsets to be determined in</p>

GOVERNMENT AGENCY	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
		consultation with the consent authority (Council) for any future Part 4 development applications seeking consent for the road and residential development. JPG submits that that the MOD should be approved for the road corridor on the basis that JPG has achieved in-principle agreement with Council for environmental offsets (as outlined in Council's letter dated 7 April 2017).
Roads and Maritime Service	Identifies no significant impacts to the classified (State) road network and no objection	JPG welcomes the RMS position, no additional response required.


RESPONSE TO SUBMISSIONS – S75W MODIFICATION TO MP 07-0147 (MOD 4) – NORTH COORANBONG CONCEPT PLAN

TABLE 2 RESPONSES TO PUBLIC SUBMISSIONS

PUBLIC SUBMISSION	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
Name withheld, Morisset	Various – objects and seeks refusal of modification	
	<ul style="list-style-type: none"> Too many modifications 	There is no limit on the number of modification applications which can be made.
	<ul style="list-style-type: none"> Do not agree with change of the water treatment plant, its location and impacts to adjoining properties and objects to changing connection to Freemans Drive to suit the water plant. 	This modification does not relate to the water treatment plant, which has received separate development consent.
	<ul style="list-style-type: none"> Connection to Freemans Drive should be further up like on Nellinda Road 	The modification does not alter the location of the approved intersection to Freemans Drive (under both concept approval and under separate development consents, and as required by executed VPA)
	<ul style="list-style-type: none"> Proponent should pay to upgrade and widen roads that exist and not create new roads so close to existing ones that will not ease traffic on roads that need fixing for everyone, need what's best for whole of area and all ratepayer 	The modification does not alter overall road context other than the physical location of a local link from an agreed intersection point. There is an executed VPA that provides for contributions by the proponent to identified local infrastructure, including roads, and that is not impacted upon by this amendment.
	<ul style="list-style-type: none"> Environmental consequences of modification by new road disturbing neighbours properties who have maintained bush, animals will not have same roaming distance and injured crossing the road, reduction in trees not compensated for in the nearby area with air pollution impacts 	The proposed road sits predominantly within land that Council has determined is appropriate for residential zoning. The modification seeks to confirm an alignment. Consideration of offsets is addressed within Table 1 and not repeated here.
	<ul style="list-style-type: none"> Social consequences and mental stability from feeling that Council has looked after them and another issue to divide the community 	Three (3) public submissions have been received. This suggests that the modification is not dividing the community.
	<ul style="list-style-type: none"> Another road adds to cost to maintain, use the money to fix existing roads. Make a sensible decision for all and stick to existing roads. 	The amendment proposes an alternative location for an internal road already required.
Name withheld, Cooranbong	Ecology	
	<ul style="list-style-type: none"> Road at northern end will cut through vegetation conservation corridors 	<p>Refer to response to LMCC in Table 1, and repeated below:</p> <p>The recent land use zoning decision was deferred by Council until the Land and Environment Court determined an appeal by an objector against the approval of the Local Water Centre. Council ultimately decided to zone part of the land E2, including a corridor greater than 30m wide along the eastern boundary. That corridor of E2 zoned land does not extend to the northern site boundary. The planning proposal</p>

PUBLIC SUBMISSION	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
		<p>assessment report specifically noted that the decision to zone that part of the land E2 was based on the outcome of the Land and Environment Court proceedings. The report stated: <i>“The conservation corridor will be zoned E2 Environmental Conservation to reflect this decision”</i>.</p> <p>The proposed road corridor is consistent with that recent zoning decision of Council. The extent of E2 zoned land reflects the requirement for vegetation corridors and has been determined by recent and separate processes. The zoning of the land is now gazetted and in place.</p> <p>Further, the approved concept plan provides for an environmental corridor to the north-east of this site, and the attached figure (overpage) illustrates the combined environmental zoned lands inclusive of the now gazetted zoning (refer also plan in Attachment 1). There is no corridor to connect to at the northern site boundary, which adjoins cleared residential zoned land that under the concept approval and associated concept stormwater strategy, includes a basin, road and residential lots. Arguably there is no need for the vegetation corridor to extend to the northern site boundary.</p>  <p>Notwithstanding the above, an in-principle agreement has been reached with LMCC for local biodiversity conservation at the site, to facilitate not only the road corridor but also the development of the R2 zoned lands (refer also Attachment 3). That in-</p>

PUBLIC SUBMISSION	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
		<p>principle agreement incorporates conservation of some of the R2 zoned lands to the east of the road corridor through to the northern site boundary due to offset considerations. This means that a vegetation corridor along the eastern side of the road corridor will extend to the northern site boundary.</p>
	<ul style="list-style-type: none"> Amendment to south will result in a barrier to connectivity to land on southern side of Freemans Drive which is identified in the corridor plan and Land and Environment Court findings 	<p>There is no amendment to the south.</p> <p>The zoning, the approved concept plan and approved development consents require a road to be constructed in the narrow residential zoned corridor through to Freemans Drive and this is unaltered by the proposed modification.</p> <p>The findings of the Land and Environment Court relate to the Local Water Centre only and not to adjoining land to the south of Freemans Drive.</p>
<p>Dabson (owner of Lot 2)</p>	<p>Objects to road being removed (as it generates considerable dis-benefits to their property, removes a road connection from the south that would enable them to make application for subdivision, and makes Lot 2 more reliant on JPG for development of their land, by limiting access from 3 possible connections to only 1 at Alton Road).</p> <p>Identifies that during original concept plan assessment, Dabsons would have preferred if the north south road was not across their land, assuming access from Alton Road was available.</p> <p>Acknowledges that currently Lot 2 has insufficient built road frontage to Alton Road (the only remaining access option if the modification is approved) with only 5m (undisputed) existing publicly gazetted road frontage, being a landlocked situation for subdivision development of Lot 2.</p> <p>Contends that any assumption that the 30m western road link as approved (that would provide additional road access to Lot 2 beyond its current road access) can be implemented cannot be made, due to status of the road abutting Lot 2. Also states that an anomaly exists, being that the 30m western road has to cross a 90m² section of ACA land, giving control to adjoining landowner on the timing of when road can be constructed and relied upon by Lot 2 (and</p>	<p>The north/south road linkage was in place to provide broader road connectivity and linkages between northern and southern parts of the wider urban release area, and for traffic distribution to intersections and the broader road network. The owner of Lot 2 does not object to the proposed alternative on the basis that it does not achieve those outcomes.</p> <p>The owner of Lot 2 does not consider that the north/south road is essential provided that there is an alternative access to Lot 2 available from Alton Road. The submission states: “Dabsons would have preferred if this road was not going across their land, assuming that access from Alton Road was available”. The objection does not raise issue with the proposed modification for urban design or master planning reasons relative to the overall release area. This supports JPG’s position that the road link does not need to extend through Lot 2, and an alternative alignment, as proposed, serves the same purpose relative to the wider urban release area.</p> <p>Lot 2 has a legal frontage of 5.33m to Alton Road at its south-western frontage. Lot 2 does not currently have adequate access to a public road to enable its development for more intense residential use.</p>

PUBLIC SUBMISSION	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
	<p>noting that an alternative design solution suggested at the time was ignored).</p> <p>Identifies that issues raised in submission can be largely avoided if all parties agree to status of road in dispute immediately to the west of Lot 2 and access is provided to the adjoining road system (as road, easement or otherwise) to enable Lot 2 to proceed at any time.</p> <p>States that Lot 2 do not wish to be dependent on a planning outcome that may never be achieved or that requires the agreement of other landowners, and does not want development of their residential land restricted and under the complete and full control of adjoining landowners.</p> <p>Also seeks resolution of sewerage, stormwater easement and bushfire management matters.</p>	 <p>The proposed modification will not change that situation.</p> <p>Potential development of Lot 2 has always been reliant upon the timing of surrounding land development, in order to achieve an adequate road frontage/access. That is not a new situation and is unaffected by the proposed modification.</p> <p>All 3 possible road connections to Lot 2 under the current Concept Plan depend on the development and progress of the adjoining lands. This is because the owner of Lot 2 does not own or have control over the adjoining land where those road connections are proposed. The timing of the road connections to Lot 2 is therefore dependent on the timing of development of adjoining lands.</p> <p>JPG's view is that removing two of those possible connections (north and south) for valid master planning reasons, and maintaining the concept plan for the third connection (Alton Road), makes the owner of Lot 2 no more or less reliant on JPG for development of that land.</p> <p>The approved concept plan provides a road access solution for Lot 2 (to Alton Road) – as outlined in response to Council in table 1. That road access is not subject to any modification.</p> <p>If the owner of Lot 2 wants to accelerate its development beyond that provided for in the concept approval, then arrangements for access to adjoining land and legal land</p>

PUBLIC SUBMISSION	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
		<p>ownership constraints will need to be resolved. Those are not matters the planning regulatory authorities should become involved in. Notwithstanding that Lot 2 does not form land to which the Concept Plan applies, the fact that access to Lot 2 will continue to be provided by the concept approval regardless of the proposed modification should satisfy the planning authorities that there is a planning solution already available in response to the objection by the owner of Lot 2..</p> <ul style="list-style-type: none"> • The objection refers to a dispute about the status of land between Lot 2 and Alton Road and claims relating to rights of access over that land (assuming this refers to the residue of land along the western boundary of Lot 2 as shown in the earlier figure). As a consequence, concerns are raised about whether the western access link in the concept plan can be legally implemented. JPG is not aware that the owner of Lot 2 has commenced any proceedings or taken any action setting out the basis of this dispute or claim. In any event, these are matters relating to ownership of land and proprietary interests and are not issues that need to be resolved by planning authorities through planning approvals. If the owner of Lot 2 wishes to have this “dispute” or “claim” determined, then there are other avenues available to do so. In any event, if that dispute is resolved in favour of the owner of Lot 2, there would be no impediment on the owner of Lot 2 creating access for the development of that land. If there is some resolution, then the relevant parties can consider the implications, if any, for the concept plan as approved. <p>In any event, JPG’s position is that the concept plan provides for a road access to Lot 2 from Alton Road that is not affected by any underlying position relating to ownership or access rights. That is an appropriate planning response to the issues raised by the owners of Lot 2.</p> <ul style="list-style-type: none"> • The objection refers to the location of the road access from Alton Road crossing a small area of land under JPG control, with claims that an alternative proposed by Lot 2 (to shift the road access southwards to be clear of ACA lands) was ignored. This claim is incorrect. The Director General’s Environmental Assessment Report (December 2008) considered submissions about a number of matters including the location of the Local Park - South and the road proposed to the south of that park. A response to those submissions was provided on pages 19/20. The siting of the road was considered appropriate taking into account the most suitable location for the local park identified by the Department and Council (who will gain

PUBLIC SUBMISSION	SUMMARY OF SUBMISSION MADE	RESPONSE TO SUBMISSION
		<p>ownership of the park). That park location has now been zoned for open space purposes, the relevant land will front the future southern road.</p> <p>While the objector agreed to the north-south road through their land, the provision of that road access under the Concept Plan is no different in its effect than the provision of road access to Lot 2 off Alton Road. The Concept Plan effectively operates as a master plan to guide development. It does not constitute an agreement for legal access, rights to enter, rights to construct or any other rights. The Concept Plan and the proposed modification cannot confirm the road status for the owner of Lot 2, nor can it be used as a means of forcing adjoining landowners to grant access rights and easements in favour of Lot 2. As explained previously, irrespective of the proposed modification, the timing of development of Lot 2 is dependent on access from adjoining land. These are property law issues, not planning matters, and are not relevant to the proposed modification of the concept plan.</p> <p>The development of Lot 2 has been and remains limited due to the lack of legal frontage it has to the surrounding road network. The owners of Lot 2 purchased land that is constrained and cannot be developed independently of adjoining land or without some arrangement for access over adjoining land. That remains the case, with or without the proposed modification. The Concept Plan should not be used as a means to overcome development risks that have been independently accepted by adjoining landowners.</p>

ATTACHMENT 1



Lake Macquarie Local Environmental Plan 2014

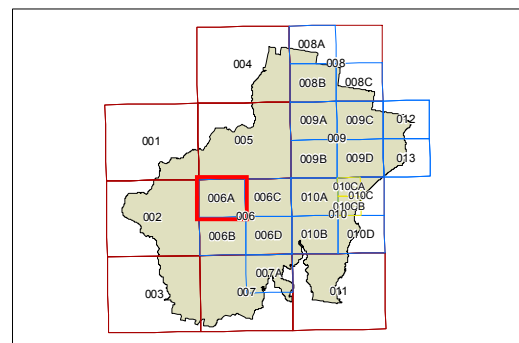
Land Zoning Map - Sheet LZN_006A

Zone

- B1** Neighbourhood Centre
- B2** Local Centre
- B3** Commercial Core
- B4** Mixed Use
- B7** Business Park
- E1** National Parks and Nature Reserves
- E2** Environmental Conservation
- E3** Environmental Management
- E4** Environmental Living
- IN1** General Industrial
- IN2** Light Industrial
- IN4** Working Waterfront
- R1** General Residential
- R2** Low Density Residential
- R3** Medium Density Residential
- RE1** Public Recreation
- RE2** Private Recreation
- RU2** Rural Landscape
- RU3** Forestry
- RU4** Primary Production Small Lots
- RU6** Transition
- SP1** Special Activities
- SP2** Infrastructure
- SP3** Tourist
- W1** Natural Waterways
- DM** Deferred matter

Cadastre

Cadastre 5/12/2016 © Land and Property Information (LPI)

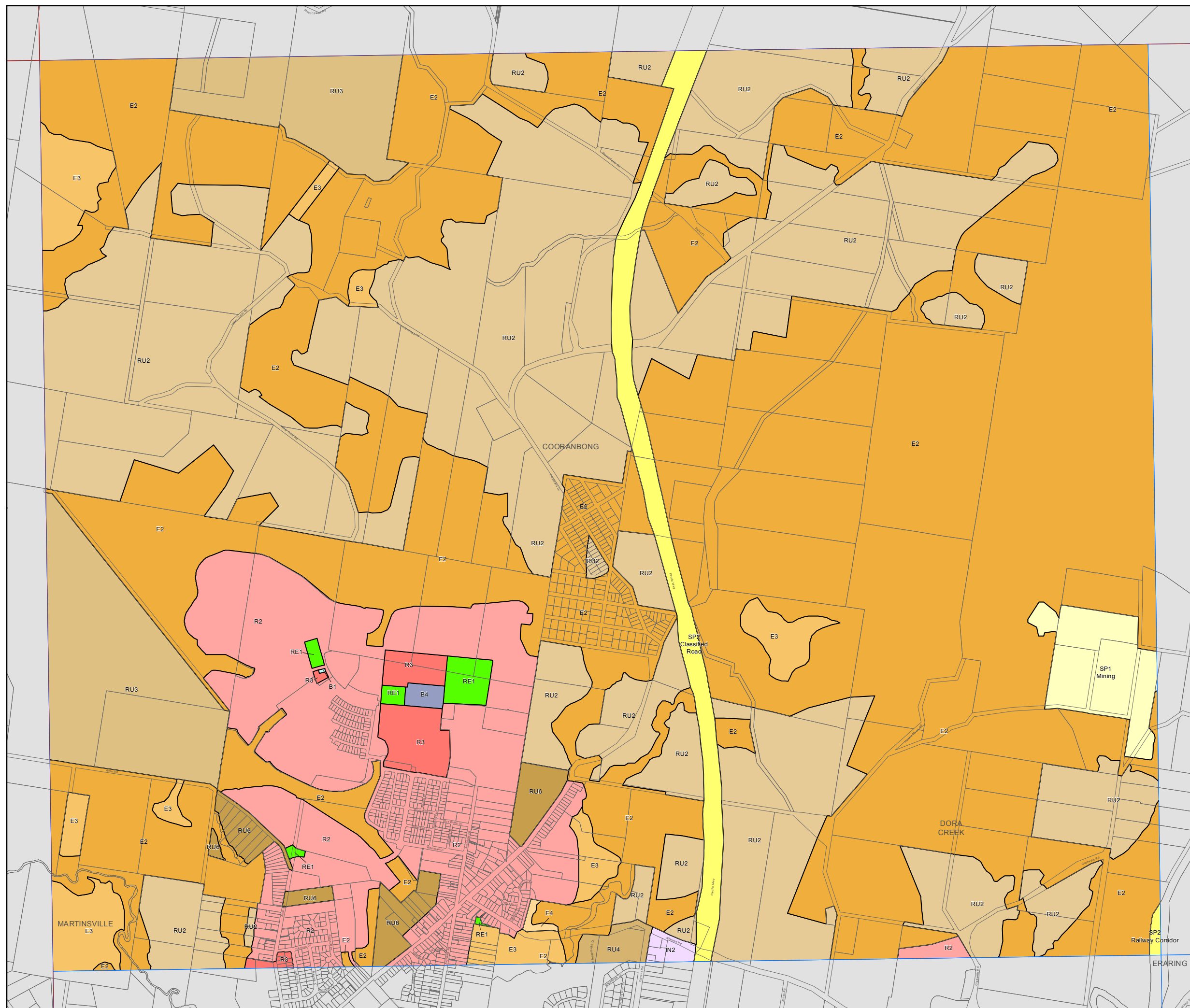


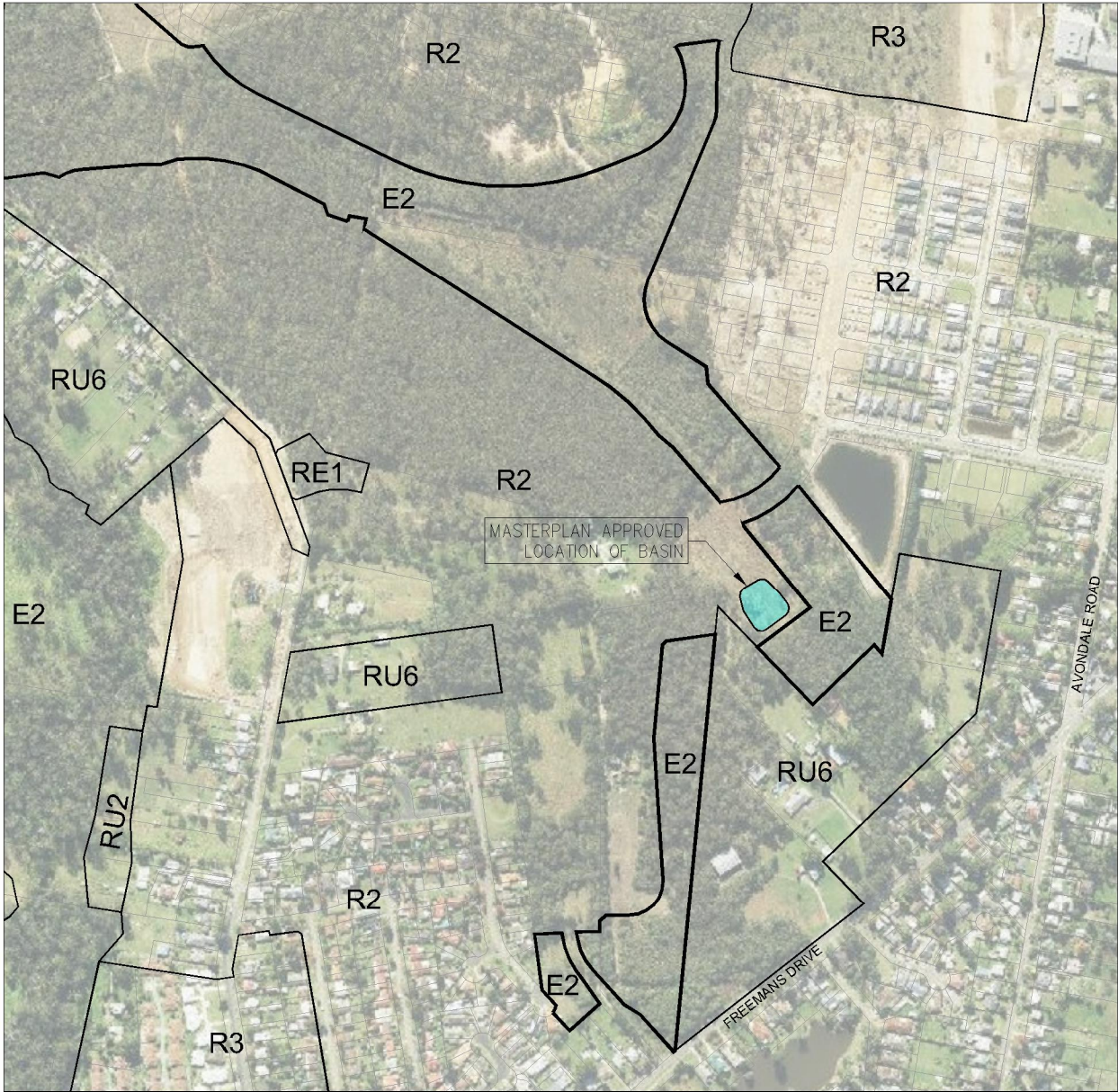
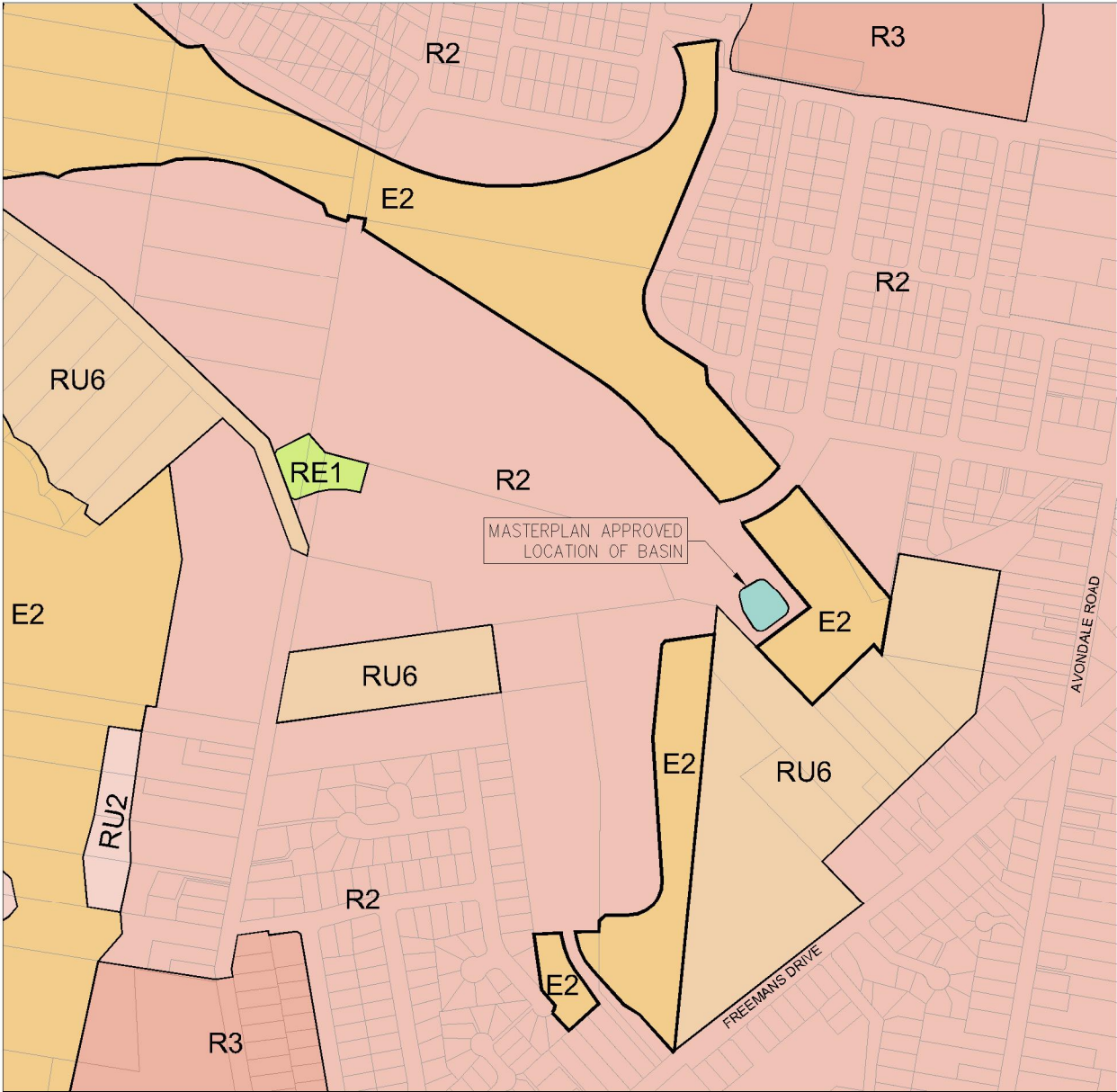
0 200 400 600
Metres

Scale: 1:20,000 @ A3

Projection: GDA 1994
MGA Zone 56

Map Identification Number: 4650_COM_LZN_006A_020_20161215





LEGEND



- ZONE E2 ENVIRONMENTAL CONSERVATION
- ZONE R2 LOW DENSITY RESIDENTIAL
- ZONE R3 MEDIUM DENSITY RESIDENTIAL
- ZONE RE1 PUBLIC RECREATION
- ZONE RU2 RURAL LANDSCAPE
- ZONE RU6 TRANSITION

ver.	date	comment	drawn	pm	level information	scale (A3 original size)	notes
A	13.12.16	INITIAL ISSUE	JN	LG	DATUM: N/A CONTOUR INTERVAL: N/A	0 200 400m SCALE: 1:8000 (FULL)	

drawing title:

CONSOLIDATED
ZONING PLAN

location: WATAGAN PARK,
COORANBONG

council: LMCC

dwg ref: 239078-ESK-101

client:



central coast office ph: (02) 4305 4300
hunter office ph: (02) 4978 5100

Determinations of the City Strategy Committee Meeting

14 November 2016



Councillor Jason Pauling declared a less than significant, non-pecuniary interest in 16STRAT046 – Adoption of Planning Proposal - Rezoning of Investigation Land at Freemans Drive Cooranbong and Permitting Utility Infrastructure in Urban Zones - and advised that he would be remaining in the chamber.

16STRAT046 Adoption of Planning Proposal - Rezoning of Investigation Land at Freemans Drive Cooranbong and Permitting Utility Infrastructure in Urban Zones

Folder No: RZ/3/2014

Report By: Senior Strategic Landuse Planner - Matthew Hill

42

Moved. Cr. Belcher
Seconded. Cr. Grigg

Council:

- A. Notes the issues raised during public exhibition and endorses the revised Planning Proposal to amend Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014) to rezone land at 617 and 617C Freemans Drive (Lots 11 and 12 DP 1158508) Cooranbong, to R2 Low Density Residential and E2 Environmental Conservation, and to make public utility infrastructure uses permissible in a number of urban zones, as contained in Attachment 1.
- B. Makes the Local Environmental Plan under delegation granted by the Minister for Planning, pursuant to the provisions of the *Environmental Planning and Assessment Act 1979*.
- C. Notifies those who made submissions, during the exhibition period, of Council's and the Minister's decision.

In accordance with Section 375A of the Local Government Act 1993 a division took place.

<u>For the Motion</u>	<u>Against the Motion</u>
Cr. Fraser	Cr. Pauling
Cr. Adamthwaite	Cr. Harrison
Cr. Langford	Cr. Baker
Cr. Belcher	
Cr. Buckley	
Cr. Cubis	
Cr. Gilbert	
Cr. Grigg	
Cr. Jones	
Cr. Shultz	

Chairperson

General Manager

City Strategy Committee Meeting 14 November 2016

16STRAT046 Adoption of Planning Proposal - Rezoning of Investigation Land at Freemans Drive Cooranbong and Permitting Utility Infrastructure in Urban Zones

Council Ref: RZ/3/2014 - D07602135
Report By: Senior Strategic Landuse Planner - Matthew Hill

Précis:

In September 2014, Council resolved to prepare a Planning Proposal to rezone land at 617 Freemans Drive, Cooranbong, and to permit utility infrastructure with consent in a range of land use zones (14STRAT033). While investigations relating to the Planning Proposal were being undertaken, a development application for a *water recycling facility* at 617 Freemans Drive was assessed and ultimately approved. The Planning Proposal was placed on public exhibition from 19 September to 19 October 2015 with submissions received being overwhelmingly in response to the *water recycling facility*.

The water recycling facility approval was challenged in the Land and Environment Court, where approval was granted subject to some changes, including an adjustment to the location of the facility.

The Planning Proposal has been amended as a result of a review of the submissions and the Land and Environment court decision, and is provided for Council's final decision.

Recommendation:

Council:

- A. Notes the issues raised during public exhibition and endorses the revised Planning Proposal to amend Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014) to rezone land at 617 and 617C Freemans Drive (Lots 11 and 12 DP 1158508) Cooranbong, to R2 Low Density Residential and E2 Environmental Conservation, and to make public utility infrastructure uses permissible in a number of urban zones, as contained in Attachment 1.
- B. Makes the Local Environmental Plan under delegation granted by the Minister for Planning, pursuant to the provisions of the *Environmental Planning and Assessment Act 1979*.
- C. Notifies those who made submissions, during the exhibition period, of Council's and the Minister's decision.

Background:

Citywide Infrastructure Provision

LMLEP 2014 currently relies on *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP) for permissibility relating to infrastructure developments, however, under the Infrastructure SEPP, works such as sewerage systems are only permissible in prescribed zones comprising:

- RU1 Primary Production
- RU2 Rural Landscape

City Strategy Committee Meeting 14 November 2016

- RU4 Rural Small Holdings
- IN1 General Industrial
- IN3 Heavy Industrial
- SP1 Special Activities
- SP2 Infrastructure

The emergence of private utility providers, with alternative wastewater reuse systems, is changing the way infrastructure provision is being considered. New technology allows smaller waste water treatment systems in closer proximity to the urban development that generates the waste, as compared to the past model of designated, centralised treatment plants with large buffer areas separating them from urban areas. The rezoning process is not able to effectively examine detailed development proposals, and rezoning land for a specific purpose results in an expectation that a subsequent development will be approved. Undertaking a concurrent LEP amendment and development assessment process can manage this to some extent, however, it remains a costly and time-consuming process.

LMLEP 2014 currently permits the proposed utility uses within a range of urban zones including each business zone and industrial zones IN1 General Industrial and IN2 Light Industrial. Facilitation of the development of utility infrastructure would be improved by permitting this development type with consent in a wider range of zones in LMLEP 2014.

Utility infrastructure is essential to support urban growth and development, and its inclusion in a broad range of urban zones covers the gaps in permissibility resulting from the Infrastructure SEPP, provides flexibility in positioning infrastructure, and ensures an efficient assessment process. Permitting infrastructure through LMLEP 2014 directs development proposals (such as the *water recycling facility* at 617 Freemans Drive) to Council for consent, and gives Council greater ability to be the decision maker in terms of infrastructure development.

Rezoning

617 and 617C Freemans Drive are currently zoned RU6 Transition, which indicates a need for investigation prior to determining an appropriate land use zone for the land. A Local Environmental Study was undertaken by the proponent to determine an appropriate distribution of land use zones. The zones put forward by the proponent were R2 Low Density Residential, SP2 Infrastructure (to support the *water recycling facility*), and E2 Environmental Conservation.

Council engaged Umwelt to complete a peer review of the Local Environmental Study. Consideration of the Local Environmental Study, peer review, and consultation with specialist staff resulted in two land use zones options being placed on public exhibition. Option 1 included zoning the land, subject to the water recycling facility as SP2 Infrastructure, while Option 2 proposed extending the R2 Low Density Residential zone over this land. Option 2 was included, primarily as a result of an appeal lodged with the Land and Environment Court relating to the *water recycling facility*. Despite this, submissions received during the public exhibition period raised concern that the SP2 Infrastructure zone could permit modifications to the *water recycling facility* without the consent of Council. Following consideration of submissions, the Planning Proposal put forward for adoption does not support the inclusion of the SP2 Infrastructure zone.

City Strategy Committee Meeting 14 November 2016

Proposal:

It is proposed that Council adopts the Planning Proposal (see Attachment 1) to amend the LEP to permit, with consent, utility infrastructure uses in a broader range of zones, and to rezone 617 and 617C Freemans Drive, Cooranbong from RU6 Transition to R2 Low Density Residential and E2 Environmental Conservation.

Consultation:

The Planning Proposal, Local Environmental Study, and other supporting information was placed on public exhibition from 19 September to 19 October 2015 with 42 submissions being received. The key matter raised in submissions was concern related to the *water recycling facility* at 617 Freemans Drive, Cooranbong. The issues raised and town planning comments are provided below.

Impacts associated with the *water recycling facility* and the SP2 Infrastructure zone

Almost all submissions objected to the approval of the *water recycling facility* on the site. Reasons for objections included environmental impact, social impact, amenity of residents (particularly existing residents), lack of economic justification to move away from the previous agreement to utilise the Hunter Water reticulated system, and Council's Lifestyle 2030 Strategy was not considered with regard to the *water recycling facility* at 617 Freemans Drive.

The LEP amendment process does not assess the impacts of a specific development, rather it assesses suitability of land for a broad range of uses. In terms of direct impacts of the *water recycling facility*, the development assessment process considered the potential impacts of the development (DA/714/2014). This resulted in consent being granted for the development.

Concern was also raised with the exhibited Option 1, which would rezone part of the site to SP2 Infrastructure. Rezoning the land to an SP2 Infrastructure Zone would effectively permit a *water recycling facility* to be developed without consent, as this is a prescribed zone under the Infrastructure SEPP. Following consideration of submissions, the SP2 Infrastructure zone is not supported for the site. Instead, the R2 Low Density Residential zone is proposed along with the introduction of the proposed additional utility uses in the Land Use Table.

Review of proposed additional uses in the Land Use Table

The publicly exhibited proposal was to add *water supply system* as permitted with consent to the following zones:

- Zone RU2 Rural Landscape
- Zone RU3 Forestry
- Zone RU4 Primary Production Small Lots

and to add *water supply system*, *sewage reticulation system*, *sewage treatment plant*, and *water recycling facility* as permitted with consent under the following zones:

- Zone R1 General Residential
- Zone R2 Low Density Residential
- Zone R3 Medium Density Residential

City Strategy Committee Meeting 14 November 2016

- Zone IN4 Working Waterfront
- Zone SP1 Special Activities
- Zone SP2 Infrastructure
- Zone SP3 Tourist
- Zone RE1 Public Recreation
- Zone RE2 Private Recreation

Submissions raised concerns with the introduction of utility infrastructure in residential zones. Utility infrastructure is considered to be crucial in supporting urban development and needs to be permissible to avoid the need for a rezoning process to enable utility uses. There are a range of zones in which the utility infrastructure is currently permissible with consent, include:

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B7 Business Park
- IN1 General Industrial
- IN2 Light Industrial

It is proposed that the exhibited amendment be maintained. A development assessment process, rather than a LEP amendment process, is the appropriate mechanism for considering specific utility development proposals.

Southern extent of E2 Environmental Conservation zone and impacts of development on EEC

The proponent made a submission seeking to reduce the extent of the E2 Environmental Conservation zone at the southern end of the subject land to accommodate a proposed stormwater detention basin. Council's Development Assessment and Compliance department (DAC) have advised the detention basin has been approved by the Court as part of the application for the *water recycling facility*, and it is proposed that the stormwater detention basin will be dedicated to Council. Given the approval of the detention basin, it is proposed that this part of the site will be zoned R2 Low Density Residential to reflect that the purpose of the basin is to support urban development, as opposed to providing conservation outcomes.

Request to delay process due to Land and Environment Court appeal

A number of submissions requested delaying the LEP amendment process pending a decision of the Land and Environment Court. Particular mention was given to the potential for the implementation of the SP2 Infrastructure zone to undermine the appeal process, as it would permit the *water recycling facility* development without consent.

The LEP amendment process was put on hold while the development application was being considered by the Court. The development application for the *water recycling facility* has now been approved.

City Strategy Committee Meeting 14 November 2016

Consultation with State agencies

Concerns have been raised by the Office of Environment and Heritage regarding the adequacy of biodiversity offsetting to meet its policy of 'improve or maintain' biodiversity outcomes. Offsetting is required for the loss of vegetation associated with the proposed R2 Low Density Residential Zone. Discussions with the proponent regarding biodiversity offsetting led to the expansion of the E2 Environmental Conservation zone prior to public exhibition to include a cluster of threatened flora species in the conservation zone. In addition, the recommended zone distribution provides conservation of the Endangered Ecological Community (EEC) at the southern end of the site, and the establishment of a north-south conservation corridor along the eastern portion of the site, which was extended through the Court approval process. The conservation corridor will be zoned E2 Environmental Conservation to reflect this decision. The Planning Proposal is considered to provide a balanced approach to the provision of biodiversity conservation and urban release in a Growth and Expansion Corridor identified by Council's Lifestyle 2030 Strategy. Further detail is provided in the Environmental Implications section of this report.

Other agencies did not raised objections. Agencies consulted were:

- Mine Subsidence Board
- Rural Fire Service
- Transport for NSW – Roads and Maritime Service
- Hunter Water Corporation
- NSW Local Aboriginal Land Council (Biraban)
- Office of Environment and Heritage
- IPART

Implications:

Policy Implications:

Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)

The additional proposed uses will permit, with consent, various types of utility infrastructure in urban zones where it is necessary to support development. *Utility installations* were permissible under LMLEP 2004 in all zones except the 8 National Park Zone. This was not problematic, and on-going permissibility will support the development of urban release areas.

The Infrastructure SEPP provides adequately for infrastructure in rural zones, while the proposed additional uses will remain prohibited in Zone RU6 Transition, and the environmental zones.

The LEP amendment will also rezone 617 and 617C Freemans Drive, Cooranbong from RU6 Transition to R2 Low Density Residential and E2 Environmental Conservation.

Lifestyle 2030 Strategy

The Planning Proposal is consistent with the Strategic Directions in the Lifestyle 2030 Strategy as follows:

City Strategy Committee Meeting 14 November 2016

A city responsive to the environment

The Planning Proposal includes provision for a north-south conservation corridor to protect the existing corridor of vegetation along the eastern portion of 617 Freemans Drive. This corridor was expanded further following the approval of the water recycling facility by the Court. The proposed additional infrastructure uses are not proposed for the environmental zones as these are intended to be used for environmental purposes rather than to accommodate infrastructure to support urban development.

A city that makes an equitable contribution to global sustainability

The Planning Proposal will accommodate infrastructure development across the City in a range of zones.

A well designed adaptable and liveable city

The Planning Proposal supports the development of utility infrastructure in a range of urban zones. Provision of the *water recycling facility* at 617 Freemans Drive will support development of the North Cooranbong urban release area, which is contained within the Morisset Growth and Expansion Corridor. The urban release area is intended to provide a mix of uses including housing, a school, commercial/retail development, and open space.

A well serviced and equitable city

Permitting utility infrastructure with consent in a range of zones is necessary to service and support development, including the development of the North Cooranbong urban release area.

A city of progress and prosperity

The Planning Proposal will facilitate the provision of infrastructure across the City. This will support the release of land for growth and development including the subject land, which falls within the Morisset Growth and Expansion corridor. The adjoining North Cooranbong urban release area contains land for commercial purposes, and development of this area will provide additional support to business activity in Cooranbong and Morisset.

A city responsive to the wellbeing of its residents

The North Cooranbong urban release area contains land for an additional school, as well as land for open space, and commercial/retail activity. Development of the area will provide greater opportunity for additional services and facilities to be established. The proposal seeks to support the development of the urban release area.

A city that practices participatory democracy and is well governed

Utility infrastructure is necessary to support urban development in accordance with the Lifestyle 2030 Strategy and the Lower Hunter Regional Strategy. Consultation has occurred with the results previously outlined.

Biodiversity Planning Policy and Guidelines for LEP Rezoning Proposals

The Local Environmental Study undertaken on 617 Freemans Drive identified a range of threatened species and an Endangered Ecological Community (EEC). The E2 Environmental Conservation zone has been applied to the EEC and to a cluster of threatened flora species in the north-eastern part of the lot, which also contributes to the north/south corridor along the eastern portion of the site.

City Strategy Committee Meeting 14 November 2016

Lower Hunter Regional Strategy

The proposal is consistent with the Lower Hunter Regional Strategy and represents a relatively minor addition to the North Cooranbong urban release area. Development in this area will support the emerging major centre at Morisset. Facilitating the provision of infrastructure across the City will assist in achieving development targets in the Lower Hunter Regional Strategy.

Lower Hunter Regional Conservation Plan

The Planning Proposal provides conservation of the EEC, conservation of a cluster of threatened flora species in the north-eastern part of the site, and the establishment of a north-south conservation corridor along the eastern portion of the site. This is an appropriate balance between meeting urban growth demands and conservation provisions.

The Planning Proposal does not seek to allow public utilities in environmental zones to ensure that this land is used for environmental purposes rather than to support adjoining urban areas.

Draft Hunter Regional Plan

The Draft Hunter Regional Plan identifies the site at Freemans Drive as being an urban area within the Hunter City Hinterland. The proposed rezoning is consistent with the Plan, and provides a relatively minor expansion of the North Cooranbong urban release area. The Plan also identifies the need to support urban development through appropriate infrastructure delivery in existing urban areas. In this regard, the proposed permissibility of utility infrastructure is consistent with the Plan.

State Environmental Planning Policies (SEPPs)

Assessment of the relevant State Environmental Planning Policies has been undertaken as contained in the Planning Proposal (see Attachment 1). The Planning Proposal is consistent with each of the relevant SEPPs.

Ministerial Directions

Assessment of the relevant Ministerial Directions has been undertaken as contained in the Planning Proposal (see Attachment 1). The Director-General has agreed that inconsistencies identified are justified.

Environmental Implications:

The recommended zone distribution provides conservation of the EEC, conservation of a cluster of threatened flora species in the north-eastern part of the site, and the establishment of a north-south conservation corridor along the eastern portion of the site. This is considered to be a balanced approach to the provision of biodiversity conservation and urban release in a Growth and Expansion Corridor identified by Council's Lifestyle 2030 Strategy.

Social Implications:

The provision of additional housing requires the support of utility infrastructure to service these growing communities and urban release areas.

In addition, the Planning Proposal seeks to rezone 617 Freemans Drive, Cooranbong as an extension to the North Cooranbong urban release area. Impacts related to the

City Strategy Committee Meeting 14 November 2016

development of the *water recycling facility* at 617 Freemans Drive have been considered as part of the development assessment process. It is proposed that this land is zoned R2 Low Density Residential rather than SP2 Infrastructure. This will ensure any modifications are subject to consent of Council.

Infrastructure Asset Implications:

The rezoning of land to R2 Low Density Residential, and subsequent development, will result in additional assets, such as roads and stormwater management devices, being received by Council. Given the proposed rezoning is an addition to the North Cooranbong urban release area, and is located in a Growth and Expansion corridor, this is considered reasonable.

Financial Implications:

There are no major financial implications resulting from the Planning Proposal. The proponent was required to enter into a standard LEP Amendment Agreement with Council following submission of the Planning Proposal for a Gateway determination, which required the applicant to pay the LEP Amendment costs in accordance with Council's fees and charges.

Risk and Insurance Implications:

The risk associated with preparing a Planning Proposal is minimised by following the process outlined in the *Environmental Planning & Assessment Act 1979*, the *Environmental Planning & Assessment Regulation 2000*, and Council's LEP Amendment Procedure. These procedural requirements have been followed throughout the LEP amendment process.

Options:

The following options are available:

1. Council supports the proposal to rezone 617 and 617C Freemans Drive, Cooranbong from Zone RU6 Transition to Zone R2 Low Density Residential and Zone E2 Environmental Conservation and to add the proposed infrastructure uses, as described, as permitted with consent in a number of urban zones. This is the recommended option.
2. Council supports the proposal as outlined above, with the addition of implementing an SP2 Infrastructure zone to the portion of land subject to the *water recycling facility* approval as requested by the proponent (see Attachment 2). This is not recommended as the SP2 Infrastructure zone could permit modifications to the *water recycling facility* without the consent of Council.
3. Council does not support the proposal and ceases the LEP amendment process.

Conclusion:

The proposed rezoning of land at 617 and 617C Freemans Drive, Cooranbong represents an extension of the North Cooranbong urban release area, which is within a Growth and Expansion corridor identified by Council's Lifestyle 2030 Strategy. The provision of utility infrastructure for this area, and other urban release areas in the City, is crucial in supporting the communities in these areas. The Planning Proposal seeks to enable the development of utility infrastructure without the need for future site specific LEP amendments. It also provides an avenue for Council to assess applications, rather than relying on the provisions of the Infrastructure SEPP alone.

City Strategy Committee Meeting 14 November 2016

It is recommended that the Planning Proposal be supported.

Manager - Integrated Planning - Sharon Pope

Attachments:

- | | |
|---|-----------|
| 1. Planning Proposal - Rezoning of Investigation Land at Freemans Drive Cooranbong and Permitting Utility Infrastructure in Urban Zones | D08105043 |
| 2. Proponent proposed land use zones for 617 Freemans Drive Cooranbong | D08063894 |



Planning Proposal

Lake Macquarie Local Environmental Plan 2014 Draft (Amendment No. X) – Rezoning at Freemans Drive, Cooranbong and Permitting Utility Infrastructure in a Range of Zones RZ/3/2014

Local Government Area:	Lake Macquarie City Council (LMCC)		
Name of Draft LEP:	Draft Amendment to Draft Lake Macquarie Local Environment Plan 2014 (Draft Amendment No. X)		
Subject Land:	<p>Rezoning: 617 Freeman Drive Cooranbong (Lot 12 DP 1158508) 617C Freemans Drive Cooranbong (Lot 11 DP 1158508)</p> <p>Utility Infrastructure Provision:</p> <ul style="list-style-type: none"> • Zone R1 General Residential • Zone R2 Low Density Residential • Zone R3 Medium Density Residential • Zone IN4 Working Waterfront • Zone SP1 Special Activities • Zone SP2 Infrastructure • Zone SP3 Tourist • Zone RE1 Public Recreation • Zone RE2 Private Recreation • Zone RU2 Rural Landscape • Zone RU3 Forestry • Zone RU4 Primary Production Small Lots 		
Land Owner:	<p>Rezoning: Australasian Conference Association Limited Lake Macquarie City Council</p>		
Applicant:	<p>Rezoning: Johnson Property Group</p> <p>Utility Infrastructure Provision: Council</p>		
Folder Number:	RZ/3/2014		
Date:	25 August 2014		
Author:	Matthew Hill - Senior Strategic Land Use Planner		
Tables:	<table> <tr> <th>Table No.</th><th>Details</th></tr> </table>	Table No.	Details
Table No.	Details		

Lake Macquarie City Council

1	Assessment of State Environmental Planning Policies
2	Assessment of Ministerial Directions

Maps:	Map No.	Details
	1a	Locality Map
	1b	Locality Aerial Photograph
	1c	Site Aerial Photograph
	2	Existing Zones
	3	Existing Height of Buildings
	4	Existing Lot Size
	5	Existing Urban Release Area
	6	Proposed Zones
	7	Proposed Height of Buildings
	8	Proposed Lot Size
	9	Proposed Urban Release Area

Part 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of the Planning Proposal is to amend Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014) to rezone the subject land to support residential development and additional conservation lands, while permitting with consent a water recycling facility and potable water infrastructure to service development in the North Cooranbong urban release area.

The Planning Proposal also seeks to permit with consent utility infrastructure in a range of zones to support development and to avoid the need for a rezoning proposal to support necessary utility infrastructure, while maintaining environmental zones for environmental purposes.

Part 2 – EXPLANATION OF PROVISIONS

The proposed objective will be achieved by amending the LMLEP 2014 by:

Amendment Applies to	Explanation of provision
Land Use Zones map	Rezone the subject land from Zone RU6 Transition to Zone R2 Low Density Residential and E2 Environmental Conservation.
Height of Buildings Map	Apply a maximum building height of 8.5 metres where Zone R2 Low Density Residential is applied, and a maximum building height of 5.5 metres where Zone E2 Environmental Conservation is applied.
Lot Size map	Apply a minimum lot size of 450m ² where the Zone R2 Low Density Residential is applied, and a minimum lot size of 40 hectares where the Zone E2 Environmental Conservation is applied.
Land Use Table	Add <i>water supply system</i> to permitted with

Lake Macquarie City Council

	<p>consent to the following zones:</p> <ul style="list-style-type: none"> • Zone RU2 Rural Landscape • Zone RU3 Forestry • Zone RU4 Primary Production Small Lots <p>Add <i>water supply system, sewage reticulation system, sewage treatment plant, and water recycling facility</i> to permitted with consent under the following zones:</p> <ul style="list-style-type: none"> • Zone R1 General Residential • Zone R2 Low Density Residential • Zone R3 Medium Density Residential • Zone IN4 Working Waterfront • Zone SP1 Special Activities • Zone SP2 Infrastructure • Zone SP3 Tourist • Zone RE1 Public Recreation • Zone RE2 Private Recreation
--	--

Definitions:

water supply system means any of the following:

- (a) a water reticulation system,
- (b) a water storage facility,
- (c) a water treatment facility,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

sewage reticulation system means a building or place used for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of the treated waste for use or disposal, including associated:

- (a) pipelines and tunnels, and
- (b) pumping stations, and
- (c) dosing facilities, and
- (d) odour control works, and
- (e) sewage overflow structures, and
- (f) vent stacks.

Note. Sewage reticulation systems are a type of ***sewerage system***—see the definition of that term in this Dictionary.

sewage treatment plant means a building or place used for the treatment and disposal of sewage, whether or not the facility supplies recycled water for use as an alternative water supply.

Note. Sewage treatment plants are a type of ***sewerage system***—see the definition of that term in this Dictionary.

Lake Macquarie City Council

water recycling facility means a building or place used for the treatment of sewage effluent, stormwater or waste water for use as an alternative supply to mains water, groundwater or river water (including, in particular, sewer mining works), whether the facility stands alone or is associated with other development, and includes associated:

- (a) retention structures, and
- (b) treatment works, and
- (c) irrigation schemes.

Note. Water recycling facilities are a type of **sewerage system**—see the definition of that term in this Dictionary.

Part 3 – JUSTIFICATION

Section A – Need for the Planning Proposal

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

The Planning Proposal is not the result of a strategic study or report. However, the subject land is within Zone RU6 Transition, which indicates the land has been earmarked for investigation for urban and conservation land uses. The subject land is within the Morisset Growth and Expansion Corridor identified by Council's Lifestyle 2030 Strategy, and is identified for urban development in the Lower Hunter Regional Strategy. A detailed Local Environmental Study has been undertaken, which has informed the distribution of land use zones.

It is necessary to enable the establishment of utility infrastructure in urban land use zones to ensure development can be serviced without the need for an LEP amendment. In this regard, the additional uses being proposed are ancillary to urban development. Although the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) permits certain utility infrastructure in prescribed zones, there are circumstances where this is not sufficient to support necessary utility infrastructure. The sewage treatment facility and potable water infrastructure proposed for the subject land is an example of this.

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

The proponent submitted a request to rezone 617 Freemans Drive, Cooranbong, from Zone RU6 Transition to Zone SP2 Infrastructure, Zone R2 Low Density Residential, and Zone E2 Environmental Conservation to support a *water recycling facility*, residential development, and conservation land uses. Additionally, the request sought to rezone approximately 4,000m² at 119 Avondale Road (Part of Lot 1 Section 6 DP 3533), Cooranbong, from Zone R2 Low Density Residential to Zone SP2 Infrastructure to support a future potable water reservoir. Zone SP2 Infrastructure was chosen as it is a prescribed zone under the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP), which permits the proposed infrastructure uses.

Council resolved to investigate the capability of 617 and 617C Freemans Drive to support use of the land for residential development and conservation. The addition of *water supply system*, *sewage reticulation system*, *sewage treatment plant*, and *water recycling facility* to the land use table will ensure future utilities can be provided without the need for a rezoning process. This approach ensures utility infrastructure necessary to support urban growth can be facilitated subject to a merit assessment process to consider direct impacts associated with specific design aspects of utility infrastructure.

Given the proposed additions to the land use table, which will permit water supply with consent, 119 Avondale Road (Part of Lot 1 Section 6 DP 3533) will not be rezoned.

Section B – Relationship to Strategic Planning Framework

Lake Macquarie City Council

2. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Lower Hunter Regional Strategy

The primary purpose of the Lower Hunter Regional Strategy is to ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing and employment needs of the Region's population to 2031. The LHRS works with the Regional Conservation Plan to ensure that the future growth of the Lower Hunter makes a positive contribution to the protection of sensitive environments and biodiversity.

The proposal is consistent with the Lower Hunter Regional Strategy and represents a relatively minor addition to the North Cooranbong urban release area. Development in this area will support the emerging major centre at Morisset. Facilitating the provision of infrastructure across the City will assist in achieving development targets in the Lower Hunter Regional Strategy.

Draft Hunter Regional Plan

The Draft Hunter Regional Plan identifies the site at Freemans Drive as being an urban area within the Hunter City Hinterland. The proposed rezoning is consistent with the Plan, and provides a relatively minor expansion of the North Cooranbong urban release area. The Plan also identifies the need to support urban development through appropriate infrastructure delivery in existing urban areas. In this regard, the proposed permissibility of utility infrastructure is consistent with the Plan.

Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The Lifestyle 2030 Strategy (LS2030) provides the long-term direction for the overall development of the City and is a long-range land use strategic plan and policy document.

The Strategic Directions identified in the LS2030 describe the overall desired outcomes and general intentions sought by Council for future development in the City. In particular, the Planning Proposal aligns with the following strategic directions and outcomes:

A city responsive to the environment

The Planning Proposal includes provision for a north/south conservation corridor to protect the existing corridor of vegetation along the eastern portion of 617 Freemans Drive. As a result of the Local Environmental Study undertaken on the site, the proposed E2 Environmental Conservation zone was expanded to include a cluster of threatened flora species. The proposed additional infrastructure uses are not proposed for the environmental zones as these are intended to be used for environmental purposes rather than to accommodate infrastructure to support urban development.

A city that makes an equitable contribution to global sustainability

The Planning Proposal will accommodate infrastructure development across the City in a range of zones. The proposed *water recycling facility* at 617 Freemans Drive, and the recently constructed facility at Wyee provide water reuse, which will lower overall usage.

A well designed adaptable and liveable city

The Planning Proposal supports the development of utility infrastructure in a range of urban zones. Provision of the *water recycling facility* at 617 Freemans Drive will support development of the North Cooranbong urban release area, which is contained within the Morisset Growth and Expansion Corridor. The urban release area is intended to provide a mix of uses including housing, a school, commercial/retail development, and open space.

A well serviced and equitable city

Lake Macquarie City Council

Permitting utility infrastructure with consent in a range of zones is necessary to service and support development, including the development of the North Cooranbong urban release area.

A city of progress and prosperity

The Planning Proposal will facilitate the provision of infrastructure across the City. This will support the release of land for growth and development including the subject land, which falls within the Morisset Growth and Expansion corridor. The adjoining North Cooranbong urban release area contains land for commercial purposes, and development of this area will provide additional support to business activity in Cooranbong and Morisset.

A city responsive to the wellbeing of its residents

The North Cooranbong urban release area contains land for an additional school, as well as land for open space, and commercial/retail activity. Development of the area will provide greater opportunity for additional services and facilities to be established. The proposal seeks to support the development of the urban release area.

A city that practices participatory democracy and is well governed

Utility infrastructure is necessary to support urban development in accordance with the Lifestyle 2030 Strategy and the Lower Hunter Regional Strategy. Consultation has occurred with the community, State Government agencies and service authorities. The results of this are outlined under the Part 5 – Community Consultation section of this report.

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

The Planning Proposal is consistent with the following relevant State Environmental Planning Policies (SEPPs) outlined in Table 1 below.

Table 1: Assessment of the Planning Proposal against relevant SEPPs

SEPP	Relevance	Implications
SEPP 19 – Bushland in Urban Areas	Aims to prioritise the conservation of bushland in urban areas, and requires consideration of aims in preparing a draft amendment.	A north/south conservation corridor will be established across the land, which will include the identified EEC, as well as the principal cluster of threatened flora species at the northern end of the site. This land will be zoned E2 Environmental Protection.
SEPP 44 – Koala Habitat Protection	Requires measures be implemented where koala habitat or potential koala habitat is identified on the subject land.	The Local Environmental Study found that no potential Koala habitat occurs on the site.
SEPP 55 – Remediation of Land	Requires the subject land to be suitable for its intended use in terms of the level of contamination, or where the land is unsuitable due to the level of contamination, remediation measures are required to ensure that the	The Local Environmental Study found that the subject land is suitable for the intended use. Further investigation will be required as part of any future subdivision application.

Lake Macquarie City Council

SEPP	Relevance	Implications
	subject land is suitable for its intended use.	

4. ***Is the planning proposal consistent with applicable Ministerial Directions (s.117 (2) directions)?***

An assessment of the Planning Proposal and its consistency against the applicable Ministerial Directions is provided at Table 2 below.

Table 2: Consistency with applicable Section 117(2) Ministerial Directions

Ministerial Direction	Relevance	Implications
1.2 – Rural Zones	The direction aims to protect the agricultural production value of rural land.	Inconsistent: The LES has determined that the subject land is suitable to support the proposed use. The land is not used for rural production and is surrounded by urban land use zones. Concurrence of the Director-General has been obtained as the proposal is consistent with the Lower Hunter Regional Strategy.
1.5 – Rural Lands	The direction aims to protect agricultural production value and to ensure orderly and economic development of land.	Inconsistent: The land is not used for rural production and is surrounded by urban land use zones. Concurrence of the Director-General has been obtained as the proposal is consistent with the Lower Hunter Regional Strategy.
2.1 – Environmental Protection Zones	The direction requires that a draft LEP contain provisions to facilitate the protection of environmentally sensitive land.	Consistent: A north/south conservation corridor will be established across the land, which will include the identified EEC, as well as the principal cluster of threatened flora species at the northern end of the site. This land will be zoned E2 Environmental Protection.
2.3 – Heritage Conservation	The direction aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent: There are no heritage items listed on the site, and no Aboriginal cultural heritage sites or objects were identified in the Project Area.
2.4 – Recreation Vehicle Areas	The direction restricts a draft LEP from enabling a recreation vehicle area.	Consistent: A recreation vehicle area is not proposed.

Lake Macquarie City Council

Ministerial Direction	Relevance	Implications
3.1 – Residential Zones	The direction requires a draft LEP to include provisions that facilitate housing choice, efficient use of infrastructure, and reduce land consumption on the urban fringe.	Consistent: The proposal includes a residential zone, which will be an extension of the existing North Cooranbong urban release area. Provision for utility infrastructure will facilitate development in urban zones.
3.2 – Caravan Parks and Manufactured Home Estates	The direction requires a draft LEP to maintain provisions and land use zones that allow the establishment of Caravan Parks and Manufactured Home Estates.	Consistent: The proposal does not affect provisions relating to Caravan Parks or Manufactured Home Estates.
3.3 – Home Occupations	The direction requires that a draft LEP include provisions to ensure that Home Occupations are permissible without consent.	Consistent: The amendment will retain the provisions of the principal LEP in this regard.
3.4 – Integrating Land Use and Transport	The direction requires consistency with State policy in terms of positioning of urban land use zones.	Consistent: The site is positioned within an urban growth and expansion corridor within Council's Lifestyle 2030 Strategy, and the emerging major regional centre of Morisset is nearby.
4.1 – Acid Sulfate Soils	Applies to land that has been identified as having a probability of containing acid sulfate soils, and requires that a draft amendment be consistent with the Acid Sulfate Soil component of the model Local Environmental Plan (ASS model LEP), or be supported by an environmental study.	Consistent: The lower part of the subject land has been identified as containing potential acid sulfate soils. This area is proposed to be zoned E2. The LES found that excavation of the site during construction may result in water seepage and a potential for oxidised sulphuric materials to be transported downslope. A precautionary mitigation strategy has been established to neutralise potential impacts during any future construction.
4.2 – Mine Subsidence and Unstable Land	The direction requires consultation with the Mine Subsidence Board where a draft LEP is proposed for land within a Mine Subsidence District.	Consistent: The Mine Subsidence Board has been consulted and indicated the site is not within a Mine Subsidence District.
4.3 – Flood Prone Land	Applies where the draft	Consistent: Parts of the

Lake Macquarie City Council

Ministerial Direction	Relevance	Implications
	amendment will affect provisions to flood prone land.	subject land have been identified as being affected by flooding, however the land to be within zone R2 Low Density Residential is above the 1% AEP level. The exception to this is 617C Freemans Drive, which was acquired by Council for the purpose of a road, and will not be subject to residential development.
4.4 – Planning for Bushfire Protection	Applies to land that has been identified as bushfire prone, and requires consultation with the NSW Rural Fire Service, as well as the establishment of Asset Protection Zones.	Consistent: The site contains land identified as bushfire prone land, and Asset Protection Zones are required. The NSW Rural Fire Service has not raised any objection to the proposal.
5.1 – Implementation of Regional Strategies	The direction requires a draft amendment to be consistent with the relevant State strategy that applies to the Local Government Area.	Consistent: The proposal is consistent with the strategic direction set by the Lower Hunter Regional Strategy.
6.1 – Approval and Referral Requirements	Prevents a draft amendment from requiring concurrence from, or referral to, the Minister or a public authority.	Consistent: The proposal does not require concurrence or referrals.
6.2 – Reserving Land for Public Purposes	The direction prevents a draft LEP from altering available land for public use.	Consistent: The proposal does not seek to alter the provision of land available for public use.
6.3 – Site Specific Provisions	The direction establishes a preference to contain any proposed use within a permissible land use zone rather than implementing additional clauses to the instrument.	Consistent: The proposed amendment will use existing zones within the Citywide LEP.

Section C – Environmental, Social and Economic Impact**5. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The detailed Local Environmental Study identified the Red Mahogany-Apple Paperbark Forest Endangered Ecological Community (EEC) on the site, which will be placed within the E2 Environmental Protection zone. The threatened species identified on-site include Little Bentwing Bat, Eastern Freetail Bat, *Grevillea parviflora*, *Angophora inopina*, and *Tetratheca juncea*. The principal cluster of threatened flora species will be placed in Zone E2

Lake Macquarie City Council

Environmental Conservation. The Local Environmental Study determined that the proposal is unlikely to result in local extinction, and recommends mitigation measures to reduce adverse impacts on the ecological values of the site.

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

A detailed Local Environmental Study has been undertaken on the site that is proposed to be rezoned. This has determined that the subject land is suitable to accommodate the proposed use. The studies completed as part of the Local Environmental Study included:

- Contamination and Geotechnical Assessment

The assessment concluded there was no indication of gross contamination on the site, and that the site would be suitable for rezoning and development from a contamination perspective subject to any geotechnical constraints associated with the proposed development, removal of anthropogenic materials including the septic tank, and implementation of an appropriate unexpected finds protocol within the Construction and Environmental Management Plan for the proposed residential development. A Remediation Action Plan will be required to support a subdivision application on the land.

- Flooding, Hydrology and Water Resource Management Study

The study found that the 1 in 100 year probable flood level was 4.5m AHD. The full extent of a proposed retention basin is to be located above the 1 in 100 year probable regional flood level with an outlet at RL 5m AHD. The land above the 1 in 100 year probable regional flood level is suitable for residential development from a flooding perspective.

- Acid Sulfate Soils Assessment

The study recommends a precautionary mitigation strategy to be implemented during construction to offset any potential acidification of soils within the proposed development areas. Mitigation measures will need to be outlined to support any future application for development on the site.

- Aboriginal Heritage Assessment

No Aboriginal cultural heritage sites or objects were identified in the Project Area. The study provides recommendations to be implemented during construction including procedures if objects are found during construction.

- Flora and Fauna Assessment

The study identified the Red Mahogany-Apple Paperbark Forest Endangered Ecological Community (EEC) on the site, which will be placed within the E2 Environmental Protection zone. The threatened species identified on-site include Little Bentwing Bat, Eastern Freetail Bat, *Grevillea parviflora*, *Angophora inopina*, and *Tetratheca juncea*. Mitigation measures have been recommended to reduce impacts during clearing and construction. The study concludes that the rezoning proposal is appropriate provided the mitigation measures are followed, which will be considered through future development of the land.

- Bushfire Assessment

The Bushfire Assessment outlines recommendations including the provision of Asset Protection Zones, design measures to mitigate bushfire impacts, and landscaping to reduce fuel loads. The Assessment concludes that implementation of the recommendations should reduce the bushfire hazard to a level considered necessary to provide an adequate level of protection to life and property.

- Traffic Impact Assessment

Lake Macquarie City Council

The study found that the additional traffic movements generated by the development will have a minimal impact upon the local road network, and the local intersections in the general vicinity of the subject site will have adequate capacity to cater for the additional traffic movements.

- Infrastructure Services Report

The study found that services are available for electricity and telecommunications. Sewer and water are intended to be provided through privately operated facilities on the subject land.

In addition, it is proposed that utility infrastructure will remain prohibited in environmental zones to ensure that environmental land is used for environmental purposes. The provision of utilities in urban zones will support the development of urban release areas. Environmental impacts associated with specific proposals for utility development will be assessed upon a development application being submitted.

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

It is necessary to ensure that utility infrastructure is supported in urban areas to enable urban development to be effectively serviced and for the needs of the community to be met. The provision of additional housing requires the support of utility infrastructure to service these growing communities and urban release areas.

The Planning Proposal seeks to permit utility infrastructure with consent in a range of urban zones, while direct impacts related to the development of utility infrastructure will be dealt with through a development assessment process. The proposed LEP amendment will enable Council to assess development applications for utility infrastructure in a range of zones without the need for future LEP amendments.

Section D – State and Commonwealth Interests

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

The Planning Proposal seeks to facilitate utility infrastructure in urban zones to enable development to be effectively serviced without the need for a LEP amendment process. The *water recycling facility* proposed at Cooranbong is necessary to support the development of the North Cooranbong urban release area. The proposed *water recycling facility* will be privately owned and operated.

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

The NSW Department of Planning and Environment has advised through its Gateway determination that Council should consider adding *water supply systems* to the land use table for rural zones as this can currently only be undertaken by a public authority. This addition has been made to the Planning Proposal.

Concerns have been raised by the Office of Environment and Heritage regarding the adequacy of biodiversity offsetting to meet its policy of 'improve or maintain' biodiversity outcomes. Offsetting is required for the loss of vegetation associated with the proposed R2 Low Density Residential Zone. Discussions with the proponent regarding biodiversity offsetting led to the expansion of the E2 Environmental Conservation zone prior to public exhibition to capture a cluster of threatened flora species in the conservation zone. In addition, the recommended zone distribution provides conservation of the EEC at the southern end of the site, and the establishment of a north-south conservation corridor along the eastern portion of the site, which has been enlarged following the approval of the *water recycling facility* development application by the Court. The Planning Proposal is considered to provide a balanced approach to the provision of biodiversity conservation and urban release in a Growth and Expansion Corridor identified by Council's Lifestyle 2030 Strategy.

Lake Macquarie City Council

Other agencies did not raised objections. Agencies consulted were:

- Mine Subsidence Board
- Rural Fire Service
- Transport for NSW – Roads and Maritime Service
- Hunter Water Corporation
- NSW Local Aboriginal Land Council (Biraban)
- Office of Environment and Heritage
- IPART

Part 4 – MAPPING

Lake Macquarie City Council



Map 1a – Locality

Planning Proposal – RZ/3/2014

13

Lake Macquarie City Council



Map 1b – Locality Aerial Photograph

Lake Macquarie City Council

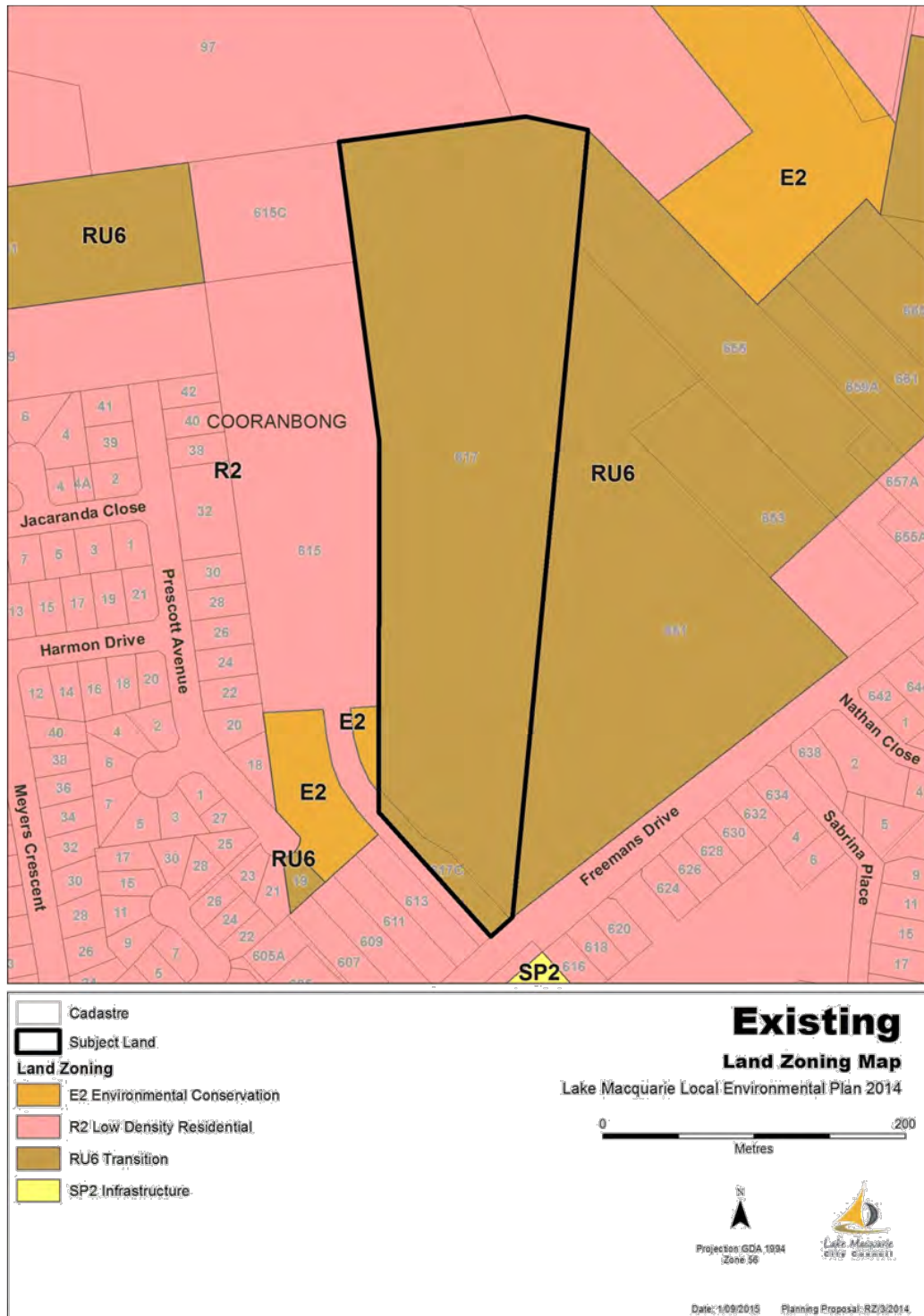


Map 1c – Site Aerial Photograph

Planning Proposal – RZ/3/2014

15

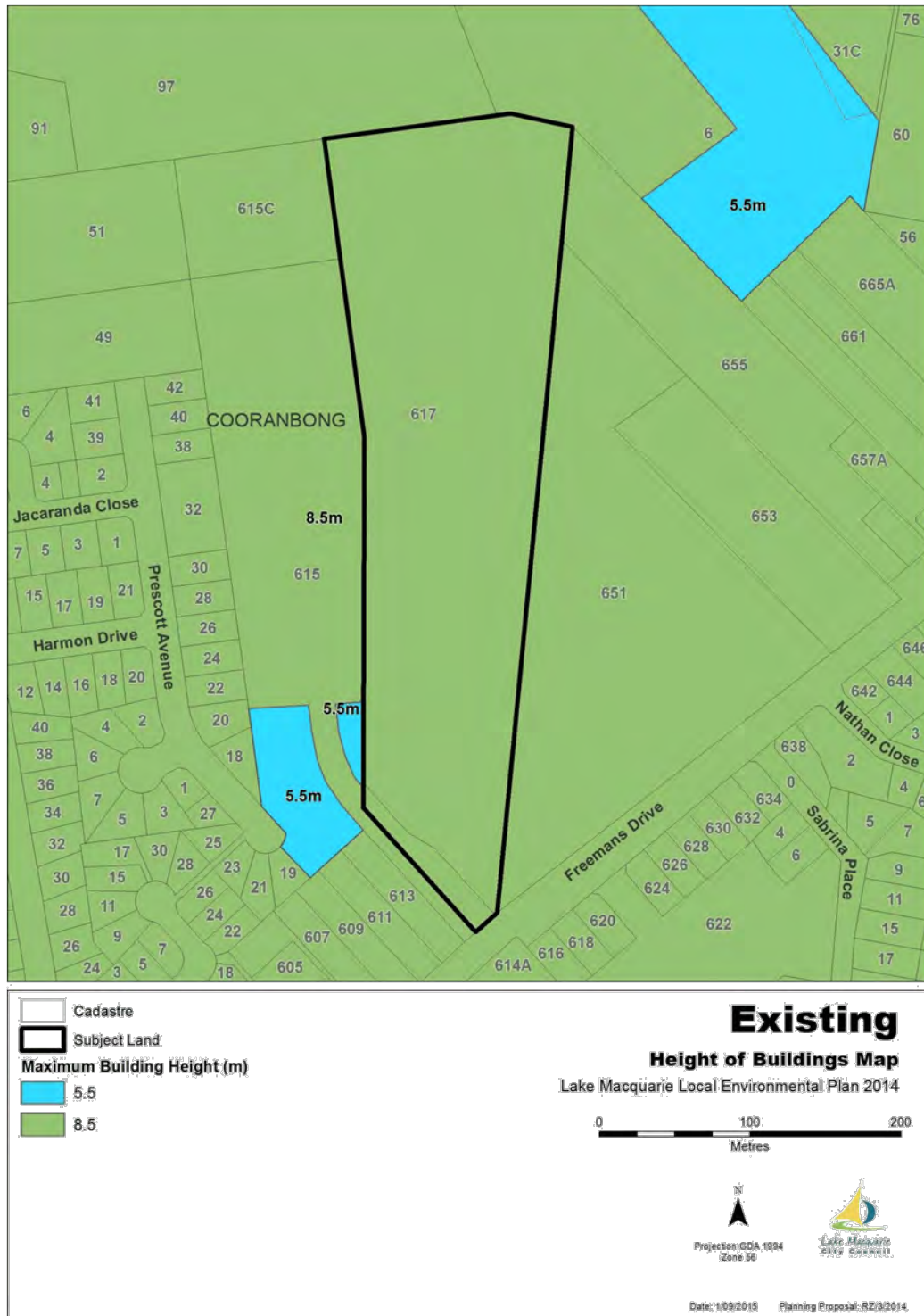
Lake Macquarie City Council

**Map 2 – Existing Zones**

Planning Proposal – RZ/3/2014

16

Lake Macquarie City Council

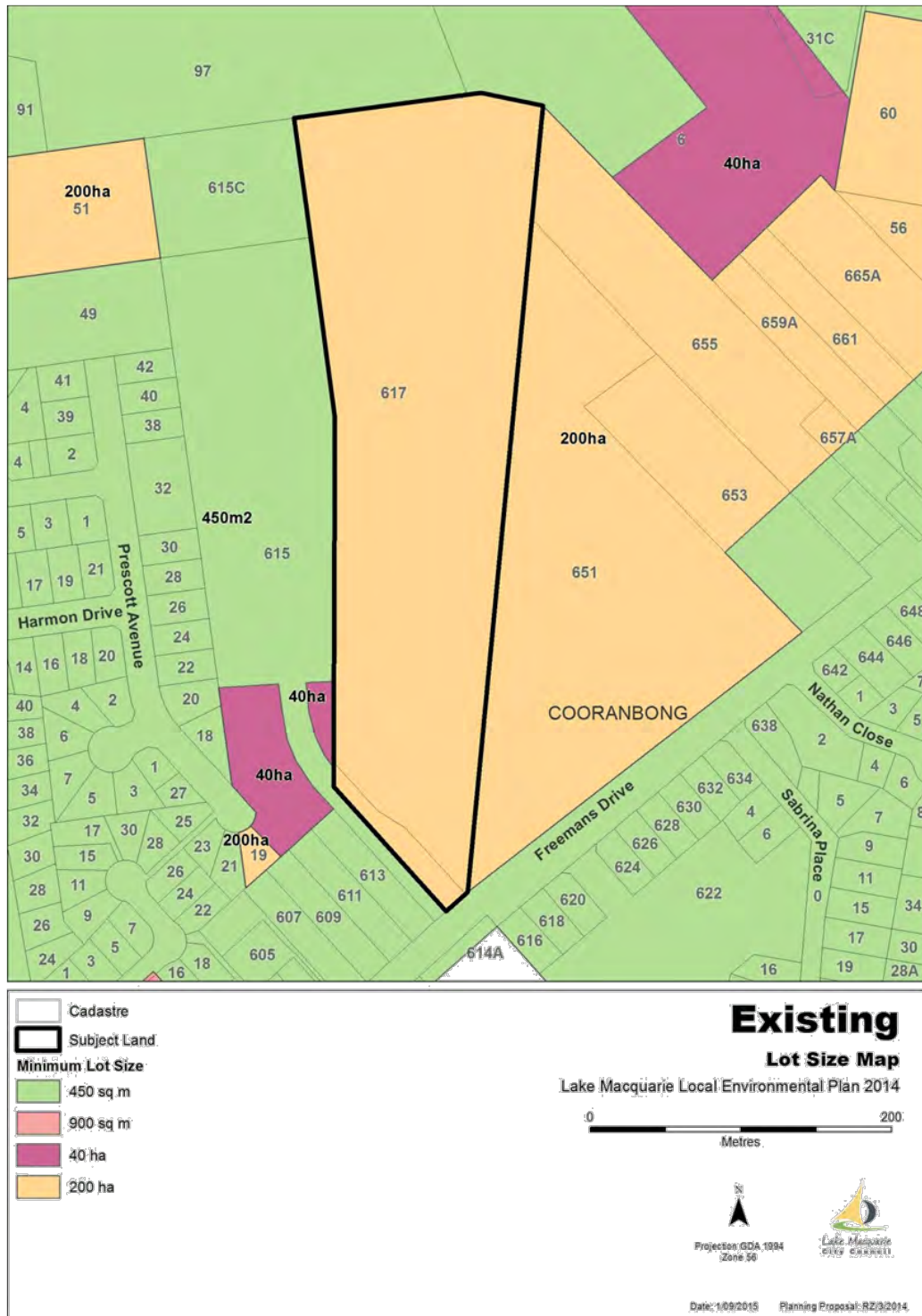


Map 3 – Existing Height of Buildings

Planning Proposal – RZ/3/2014

17

Lake Macquarie City Council

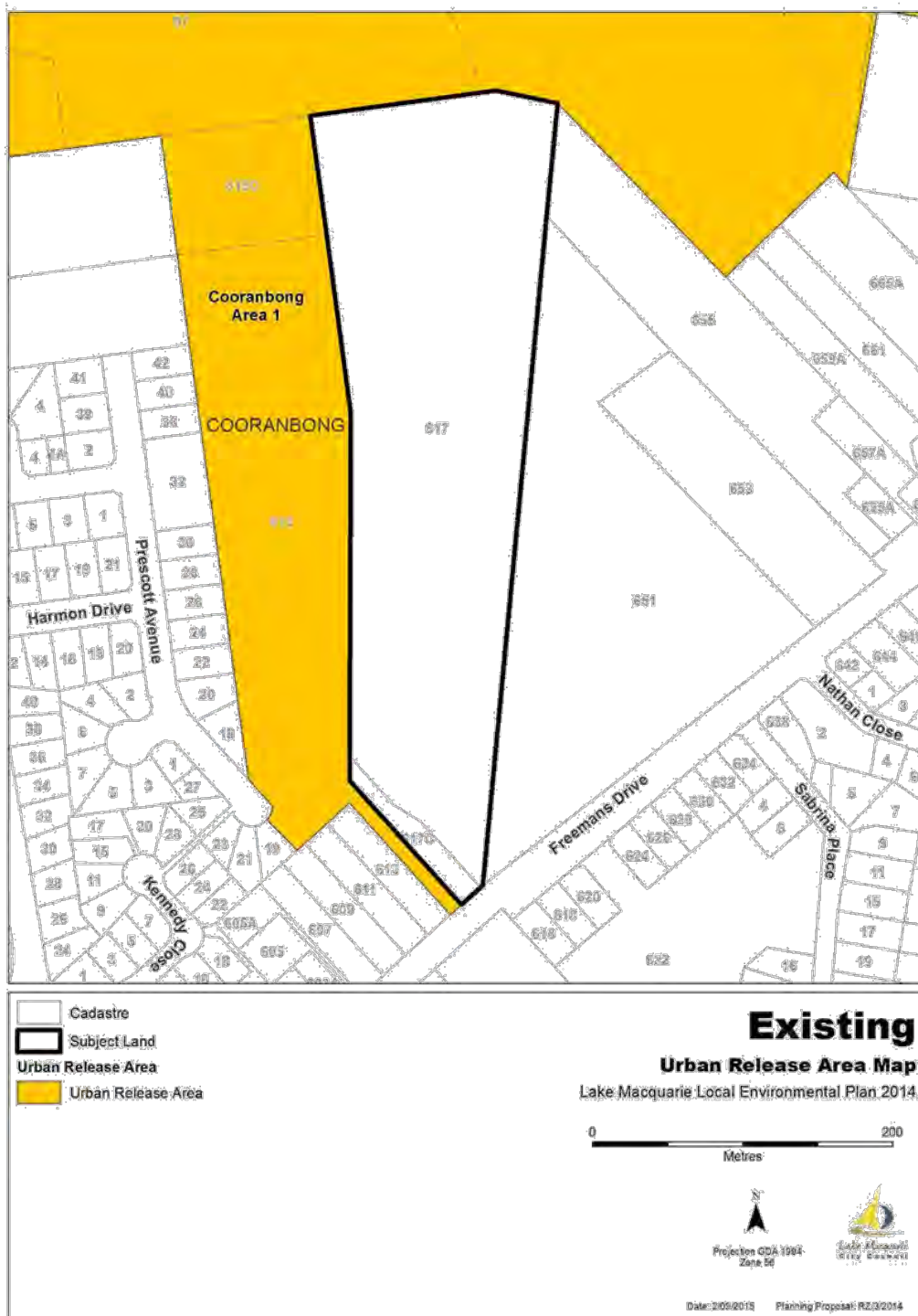


Map 4 – Existing Lot Size

Planning Proposal – RZ/3/2014

18

Lake Macquarie City Council

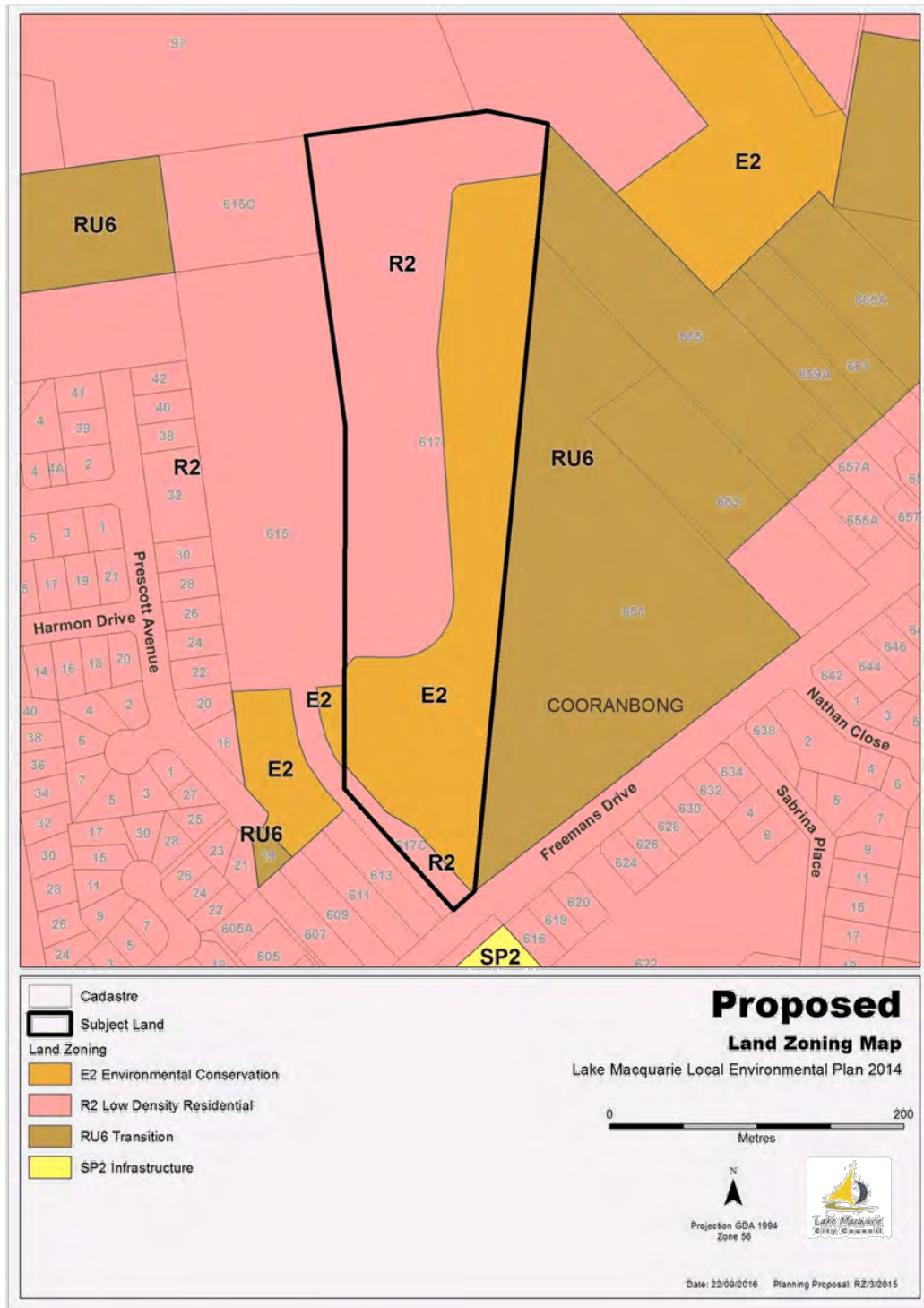


Map 5 – Existing Urban Release Area

Planning Proposal – RZ/3/2014

19

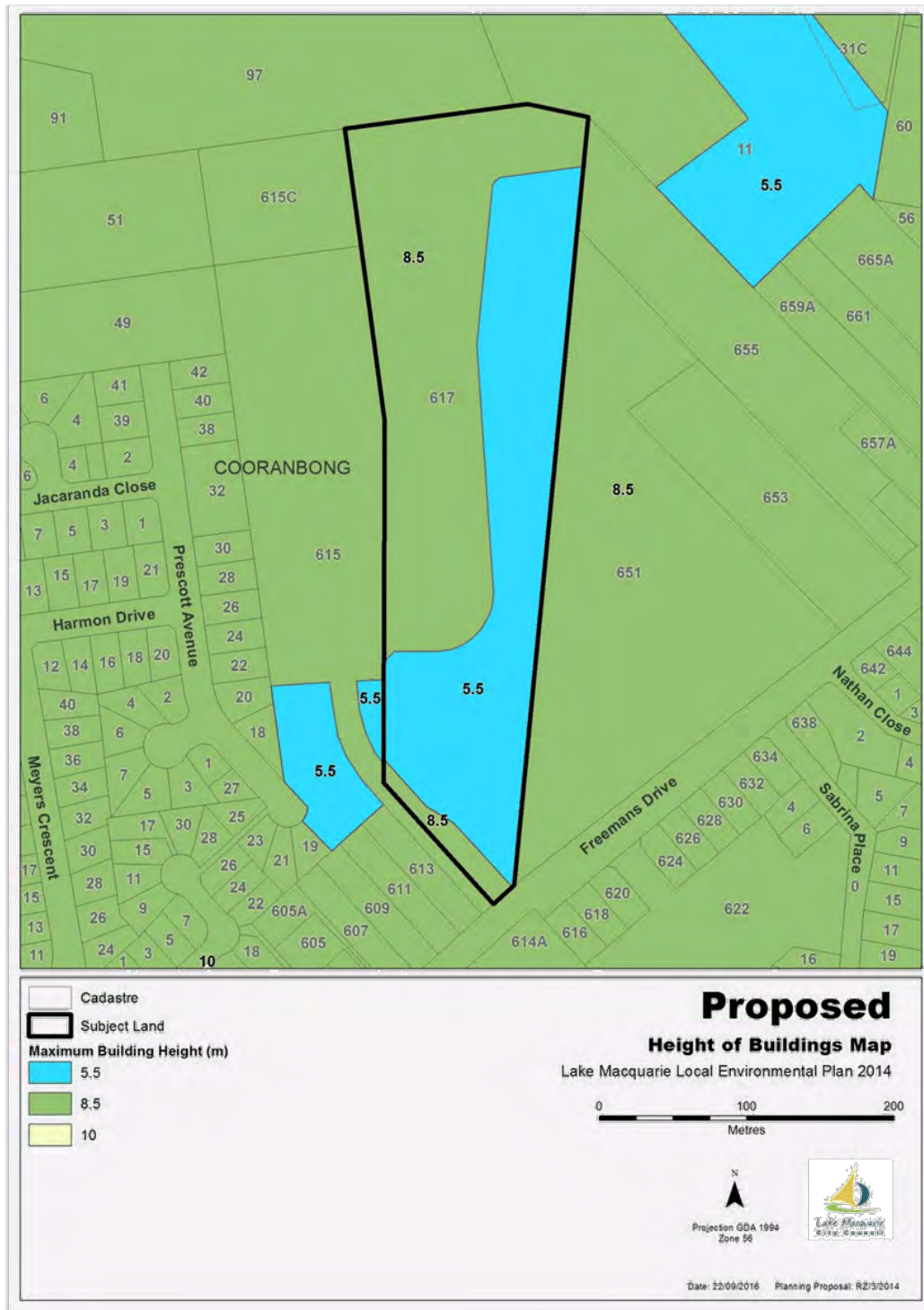
Lake Macquarie City Council

**Map 6 – Proposed Zones**

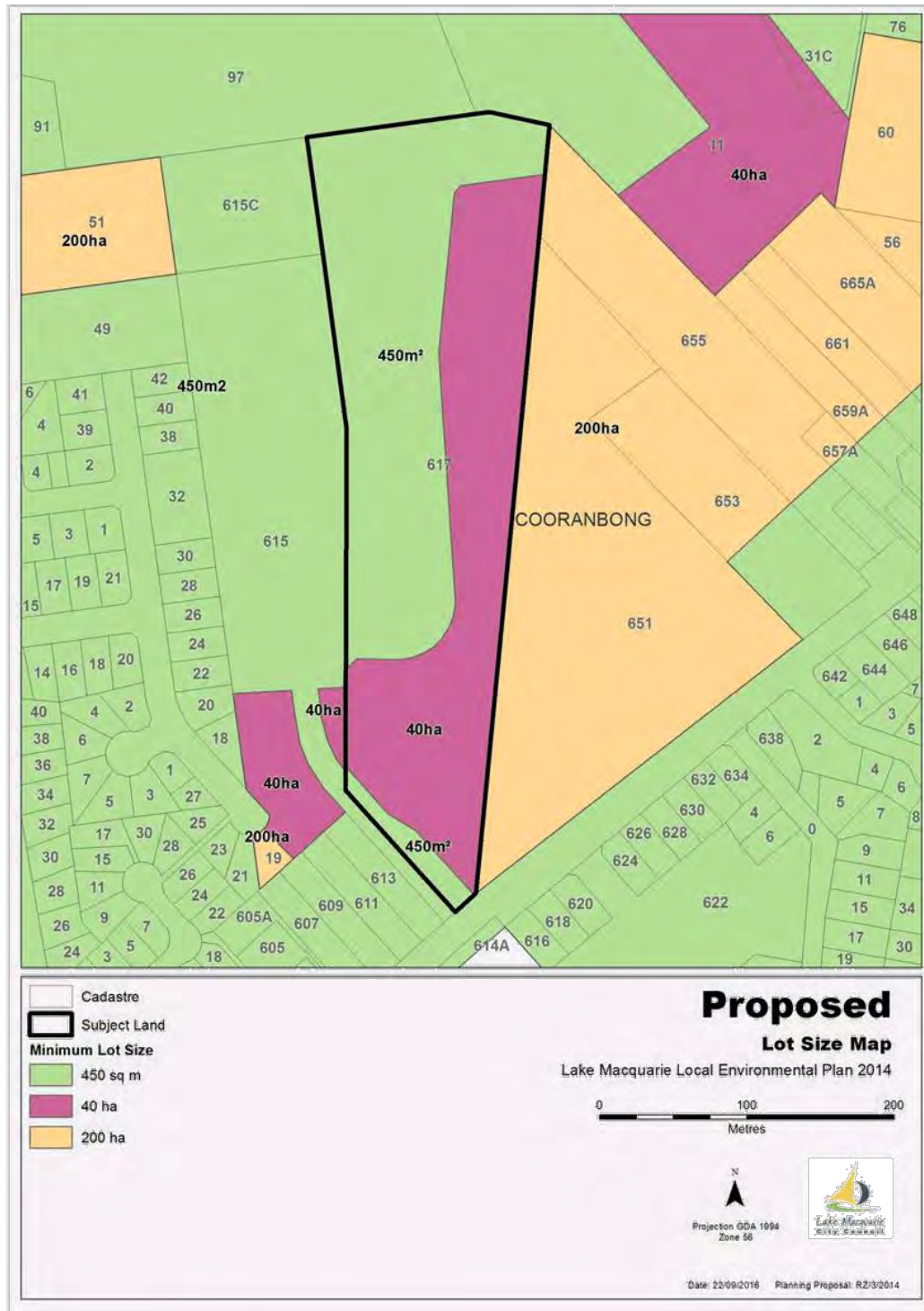
Planning Proposal – RZ/3/2014

20

Lake Macquarie City Council



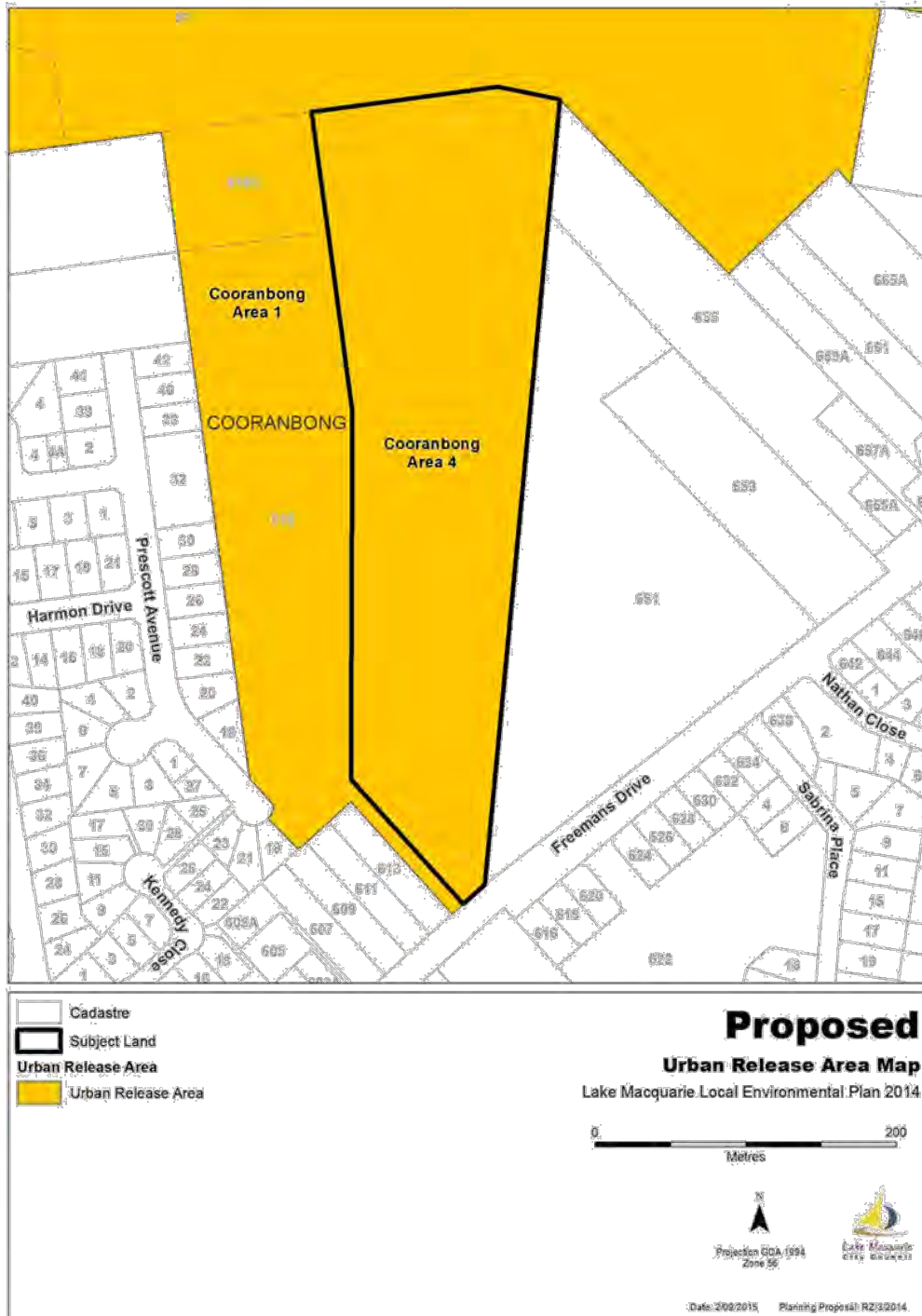
Lake Macquarie City Council



Planning Proposal – RZ/3/2014

22

Lake Macquarie City Council

Map 8 – Proposed Lot Size

Planning Proposal – RZ/3/2014

23

Lake Macquarie City Council

Map 9 – Proposed Urban Release Area

Part 5 – COMMUNITY CONSULTATION

The Planning Proposal, Local Environmental Study, and other supporting information was placed on public exhibition from 19 September to 19 October 2015 with 42 submissions being received. The key matter raised in submissions was concern related to the *water recycling facility* at 617 Freemans Drive, Cooranbong. The issues raised and town planning comments are provided below.

Impacts associated with the *water recycling facility* and the SP2 Infrastructure zone

Almost all submissions objected to the approval of the *water recycling facility* on the site. Reasons for objections included environmental impact, social impact, amenity of residents (particularly existing residents), lack of economic justification to move away from the previous agreement to utilise the Hunter Water reticulated system, and Council's Lifestyle 2030 Strategy was not considered with regards to the *water recycling facility* at 617 Freemans Drive.

The LEP amendment process does not assess the impacts of a specific development, rather it assesses suitability of land for a broad range of uses. In terms of direct impacts of the *water recycling facility*, the development assessment process considered the potential impacts of the development (DA/714/2014). This resulted in consent being granted for the development.

Concern was also raised with the exhibited Option 1, which would rezone part of the site to SP2 Infrastructure. Rezoning the land to an SP2 Infrastructure Zone would effectively permit a *water recycling facility* to be developed without consent, as this is a prescribed zone under the Infrastructure SEPP. As mentioned previously, following consideration of submissions, the SP2 Infrastructure zone is not supported for the site as it could permit modifications to the *water recycling facility* without the consent of Council. Instead, the R2 Low Density Residential zone is proposed along with the introduction of the proposed additional utility uses in the Land Use Table.

Review of proposed additional uses in the Land Use Table

The initial Planning Proposal recommended that *public utility infrastructure* and *public utility undertaking* be introduced as permissible with consent in a range of zones. Since then, the uses allowed to be placed in the LEP Land Use Table have been clarified with the Department of Planning and Environment (DP&E). This has resulted in some changes to the proposed uses to be introduced. The publicly exhibited proposed uses were to add *water supply system* as permitted with consent to the following zones:

- Zone RU2 Rural Landscape
- Zone RU3 Forestry
- Zone RU4 Primary Production Small Lots

And to add *water supply system*, *sewage reticulation system*, *sewage treatment plant*, and *water recycling facility* as permitted with consent under the following zones:

- Zone R1 General Residential
- Zone R2 Low Density Residential
- Zone R3 Medium Density Residential
- Zone IN4 Working Waterfront
- Zone SP1 Special Activities
- Zone SP2 Infrastructure

Lake Macquarie City Council

- Zone SP3 Tourist
- Zone RE1 Public Recreation
- Zone RE2 Private Recreation

Following consideration of submissions, which raised concerns with the introduction of utility infrastructure in residential zones, the proposed uses were given further consideration. Utility infrastructure is considered to be crucial in supporting urban development and needs to be permissible to avoid the need for a rezoning process to enable utility uses. There are a range of zones in which the proposed uses are currently permissible with consent, including:

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B7 Business Park
- IN1 General Industrial
- IN2 Light Industrial

As a result, it is proposed that the exhibited amendment be maintained in this regard. A development assessment process, rather than a LEP amendment process, is the appropriate mechanism for considering specific utility development proposals.

The Infrastructure SEPP is believed to effectively cater for other infrastructure uses. However, it is possible that in the future, private *electricity generating works* may begin to emerge. This use has not been proposed at this stage as small scale wind turbines and solar panels are adequately catered for by the Infrastructure SEPP, and other private *electricity generating works* (such as the co-generation plant at Charlestown Square) are considered to be ancillary to the primary use. This may need to be re-examined if there is a future shift towards private stand-alone precinct based *electricity generating works*.

Southern extent of E2 Environmental Conservation zone and impacts of development on EEC

The proponent made a submission seeking to reduce the extent of the E2 Environmental Conservation zone at the southern end of the subject land to accommodate a proposed stormwater detention basin. Council's Development Assessment and Compliance department have advised the detention basin has been approved by the Court as part of the application for the *water recycling facility*, and it is proposed that the stormwater detention basin will be dedicated to Council. Given the approval of the detention basin, it is proposed that this part of the site will be zoned R2 Low Density Residential to reflect that the purpose of the basin is to support of urban development, as opposed to providing conservation outcomes.

Request to delay process due to Land & Environment Court appeal

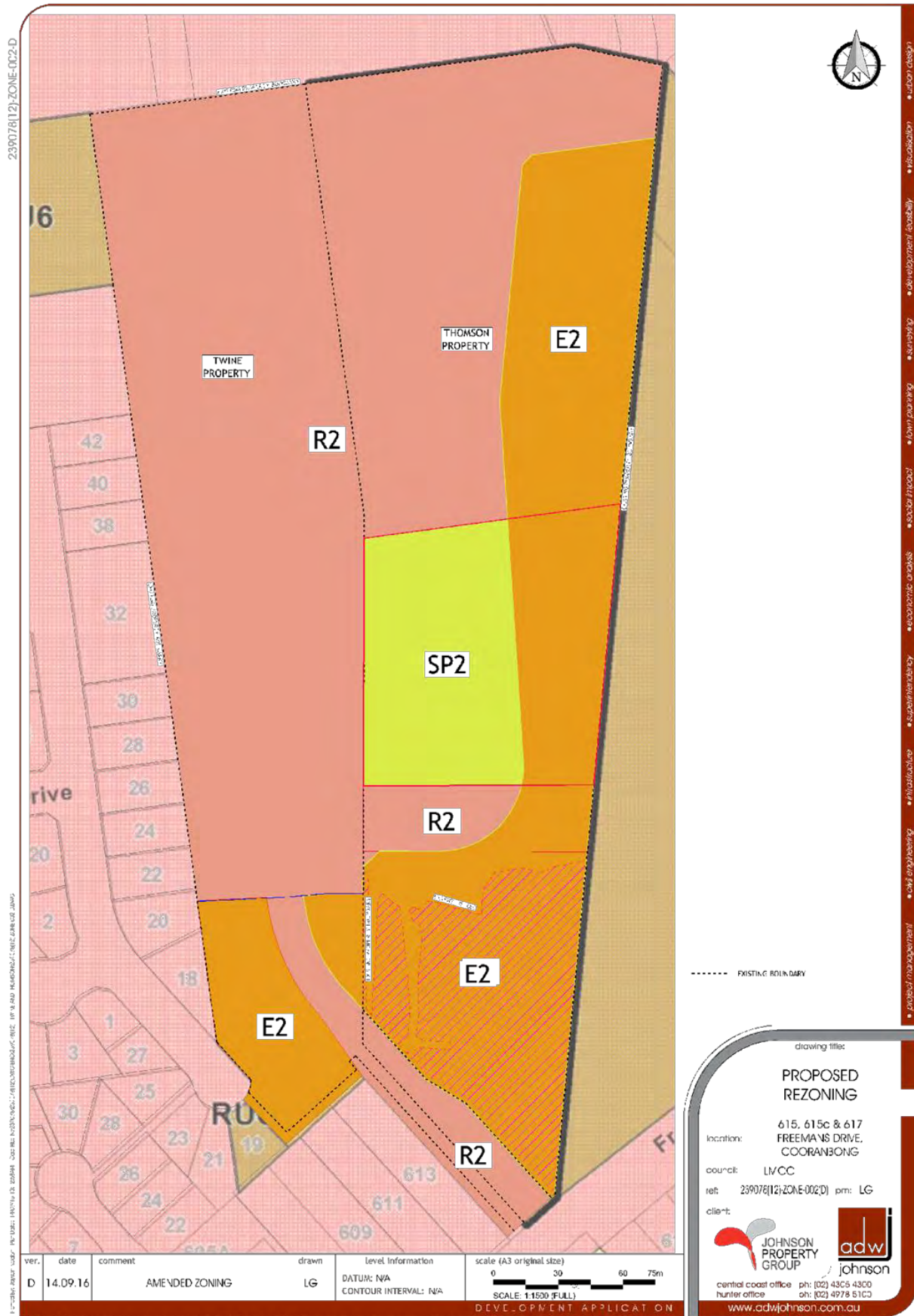
A number of submissions requested delaying the LEP amendment process pending a decision of the Land & Environment Court. Particular mention was given to the potential for the implementation of the SP2 Infrastructure zone to undermine the appeal process, as it would permit the *water recycling facility* development without consent.

The LEP amendment process was put on hold while the development application was being considered by the Court. The development application for the *water recycling facility* has now been approved.

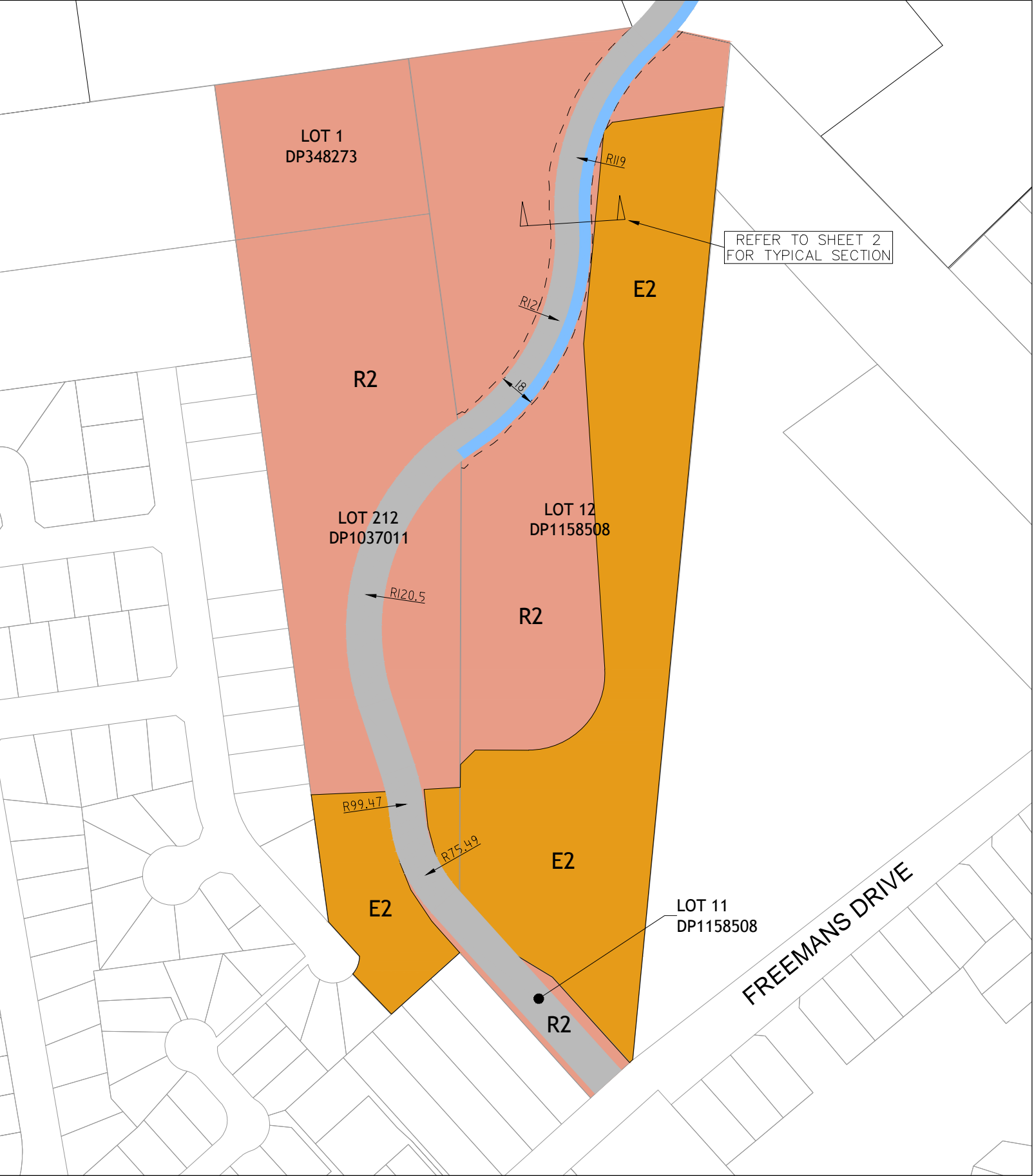
Lake Macquarie City Council

Part 6 – PROJECT TIMELINE

Action	Timeframe
Anticipated commencement date (date of Gateway determination)	October 2014
Anticipated timeframe for completion of required technical information	6 months
Timeframe for government agency consultation (pre exhibition)	1 month
Public exhibition (commencement and completion dates)	28 days
Date of Public hearing (if required)	N/A
Consideration of submissions	2 weeks
Timeframe for government agency consultation (post exhibition if required)	N/A
Post exhibition planning proposal consideration / preparation	1 month
Submission to Department to finalise LEP	November 2016
Date RPA will make Plan (if delegated)	N/A
Date RPA will forward to the Department for notification (if not delegated)	December 2016



ATTACHMENT 2



- - - - - EXTENT OF ROAD WORKS
- APPROVED 5.5m WIDE SERVICES CORRIDOR
- 18.0m WIDE ROAD

PROPOSED ZONING PLAN

ver.	date	comment	drawn	pm	level information	scale (A3 original size)	notes
C	20.04.17	AMEND LOT LAYOUT / ROAD CORRIDOR	Z.J.	L.G.	DATUM: N/A CONTOUR INTERVAL: N/A	0 50 100 125m SCALE: 1:2500 (FULL)	

SHEET 1 OF 2

drawing title:

PROPOSED ROAD
LINK ON CURRENT
ZONING PLAN

location: 615, 615c & 617
FREEMANS DRIVE,
COORANBONG

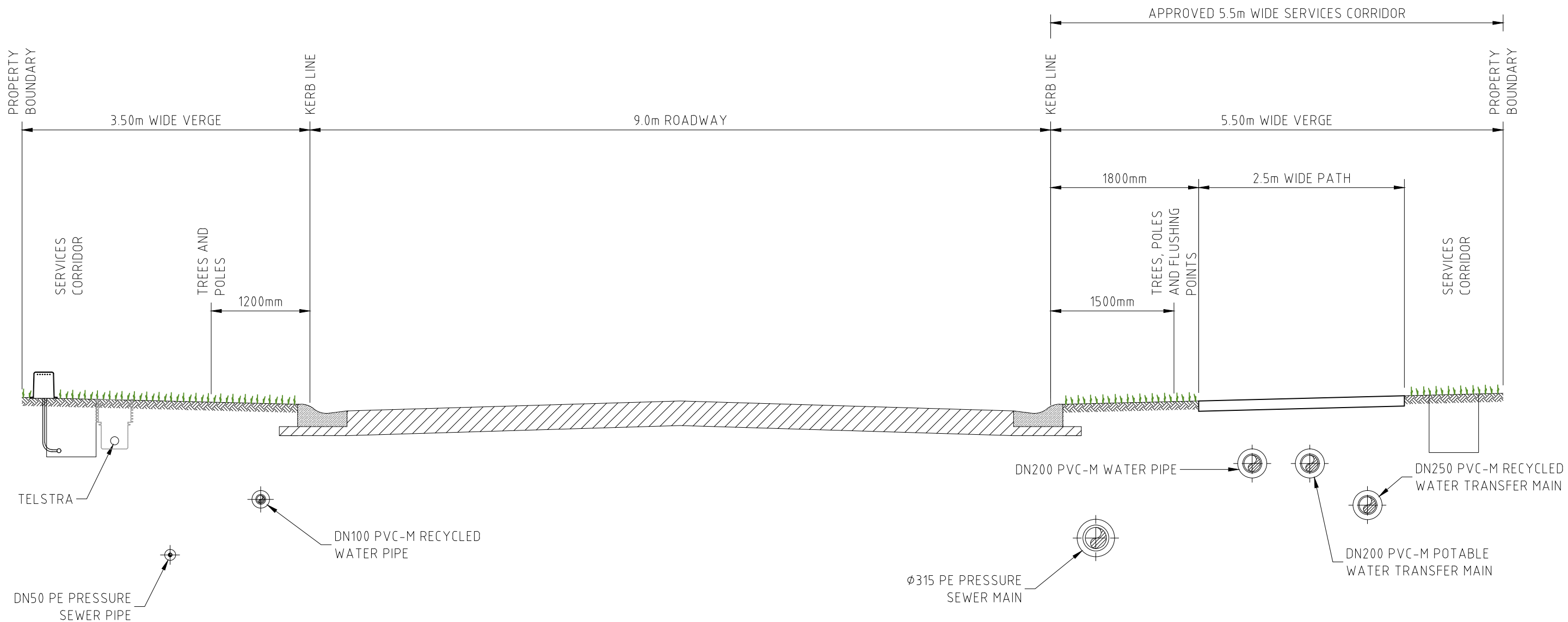
council: LMCC

dwg ref: 239078(12)-ZON-001-C

client:



central coast office ph: (02) 4305 4300
hunter office ph: (02) 4978 5100



TYPICAL CROSS SECTION
SCALE 1:50

NOTE:
1. FOR MINIMUM VERTICAL AND HORIZONTAL CLEARANCES REFER TO WATER SUPPLY CODE OF AUSTRALIA WSA 03-2011-3.1. (SYDNEY WATER EDITION 2012).

ver.	date	comment	drawn	pm	level information	scale (A3 original size)	notes
B	20.04.17	AMEND ROAD CORRIDOR	Z.J.	L.G.	DATUM: N/A CONTOUR INTERVAL: N/A	0 1.25 2.5 m SCALE: 1:50 (FULL)	

SHEET 2 OF 2

drawing title:

THOMSON ZONING
TYPICAL ROAD
SECTION

location:

615, 615c & 617
FREEMANS DRIVE,
COORANBONG


council:

LMCC

dwg ref:

239078(LWC)-ESK-101(B)

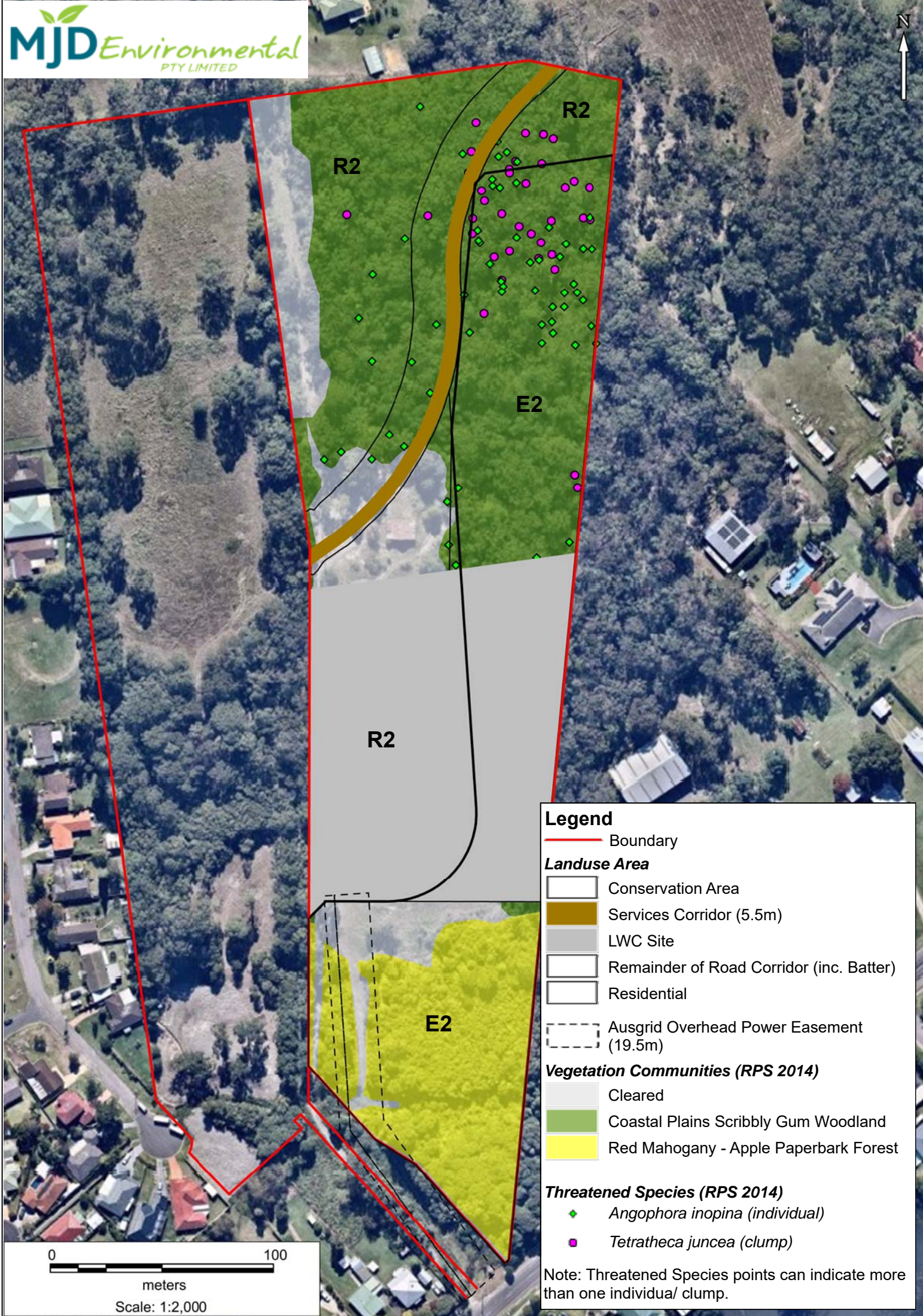
client:

JOHNSON
PROPERTY
GROUP



central coast office ph: (02) 4305 4300
hunter office ph: (02) 4978 5100

ATTACHMENT 3



Legend

- Boundary
- Landuse Area**
 - Conservation Area
 - Services Corridor (5.5m)
 - LWC Site
 - Remainder of Road Corridor (inc. Batter)
 - Residential
 - Ausgrid Overhead Power Easement (19.5m)
- Vegetation Communities (RPS 2014)**
 - Cleared
 - Coastal Plains Scribbly Gum Woodland
 - Red Mahogany - Apple Paperbark Forest
- Threatened Species (RPS 2014)**
 - ◆ *Angophora inopina* (individual)
 - *Tetratheca juncea* (clump)

Note: Threatened Species points can indicate more than one individual/ clump.

0 100
meters

Scale: 1:2,000

7 April 2017

Bryan Garland
Johnson Property Group
PO Box 34
COORANBONG NSW 2265

Dear Bryan

**Subject: Pre-lodgement Discussion- Provision of Biodiversity Offset for 617
Freemans Drive Coorانبong**

I refer to your ongoing discussion with Council regarding the provision of biodiversity offsets to compensate for development at Lot 12 DP 1158508 617 Freemans Drive Coorانبong (the site).

Development includes R2 zoned land shown in pink on the attached figure and the road alignment modification associated with the Section 75W modification application to MP07_0147 MOD4. Development excludes the conservation land zoned E2 and R2 shown in green on the attached figure.

Council has reached an in-principle agreement for development and conservation (biodiversity offset) at the site. The biodiversity offset provides a local on-site biodiversity offset and protects strategically important native vegetation which forms part of a corridor mapped in Council's Native Vegetation and Corridor Map v1(2011), protects *Tetratheca juncea*, *Angophora inopina*, and threatened fauna habitat for forest birds, arboreal mammals and bats.

The nominated biodiversity offsets are:

- 12,510 m² coastal plains scribbly gum woodland
- 7,915 m² of red mahogany- apple paperbark forest, which is characteristic of swamp sclerophyll forest on coastal floodplains endangered ecological community (EEC)
- 71 clumps of *Tetratheca juncea*
- 55 *Angophora inopina* individuals
- Revegetation and rehabilitation of 1,489 m² of currently cleared land adjacent to the swamp sclerophyll forest EEC
- Revegetation with suitable native species of 3,175 m² of currently cleared land adjacent to infrastructure batters adjacent to ECA 1A in the south-east of Precinct 2.
- Revegetation with suitable native species future detention basin batters situated adjacent to ECA 1A in the south-east of Precinct South C.

The biodiversity offset requires conservation and management in perpetuity.

The biodiversity offsets satisfy Council's Biodiversity Planning Policy and Guidelines for LEP

Our Ref: rz/3/2014 Your Ref:

Rezoning Proposals (2015), and Lake Macquarie *Tetratheca juncea* Planning and Management Guidelines.

It is the intent of Council to formalise this in-principle agreement as part of a future development application for subdivision of the site.

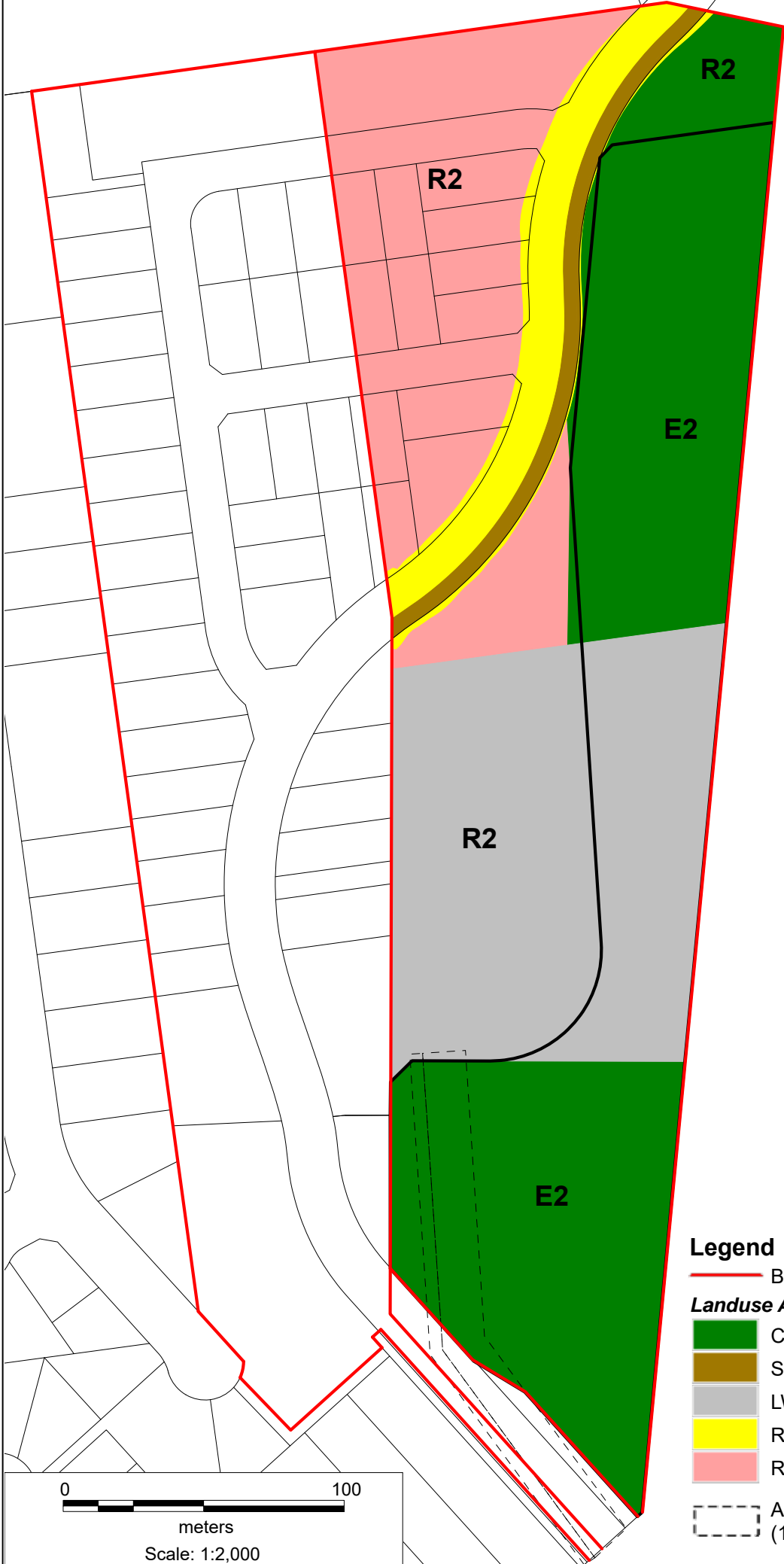
Should you require further information, please contact me on 4921 0334.

Yours faithfully

Vanessa Owen

Development Planner Flora & Fauna

Development Assessment & Compliance Department



Legend

- Boundary
- Landuse Area**
 - Conservation Area
 - Services Corridor (5.5m)
 - LWC Site
 - Remainder of Road Corridor (inc. Batter)
 - Residential
- Ausgrid Overhead Power Easement (19.5m)