

Ref: MC/16/84023



Carolyn McNally
Secretary,
Department of Planning and Environment
23-33 Bridge Street
GPO Box 39
SYDNEY NSW 2001



ATTN: Tessa Parmeter

Dear Ms McNally,

Re: Zoning of Lot 2759 DP 752038 and Lot 1 DP 577319 adjacent to 47 Fisher Street Balgowlah Heights.

Council resolved at its Extraordinary Meeting of 16 June 2016 to submit a Planning Proposal to rezone land known as Lot 2759 DP 752038 and Lot 1 DP 577319 adjacent to 47 Fisher Street Balgowlah Heights.

Due to the local nature of this Planning Proposal, Council seeks delegation for making this amendment to the *Manly LEP 2013* as detailed in the Planning Proposal. Council seeks to exhibit the Planning Proposal for fourteen (14) days.

If you require any further information, please contact Nayeem Islam, Manager Land Use Planning on 02 9976 1582 or nayeem.islam@northernbeaches.nsw.gov.au

Yours faithfully,


Stephen Clements
Deputy General Manager, Planning and Community
Northern Beaches Council

Date:.....30/6/16.....

INFORMATION CHECKLIST

Attachment 1

> STEP 1: REQUIRED FOR ALL PROPOSALS

(under s55(a) – (e) of the EP&A Act)

- Objectives and intended outcome
- Mapping (including current and proposed zones)
- Community consultation (agencies to be consulted)
- Explanation of provisions
- Justification and process for implementation (including compliance assessment against relevant section 117 direction/s)

> STEP 2: MATTERS - CONSIDERED ON A CASE BY CASE BASIS

(Depending on complexity of planning proposal and nature of issues)

PLANNING MATTERS OR ISSUES	To be considered	N/A	PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context			Urban Design Considerations		
• Demonstrated consistency with relevant Regional Strategy	☐	☒	• Existing site plan (buildings vegetation, roads, etc)	☐	☒
• Demonstrated consistency with relevant sub-regional strategy	☐	☒	• Building mass/block diagram study (changes in building height and FSR)	☐	☒
• Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy	☐	☒	• Lighting impact	☐	☒
• Demonstrated consistency with Threshold Sustainability Criteria	☐	☒	• Development yield analysis (potential yield of lots, houses, employment generation)	☐	☒
Site Description/Context			Economic Considerations		
• Aerial photographs	☒	☐	• Economic impact assessment	☐	☒
• Site photos/photomontage	☐	☒	• Retail centres hierarchy	☐	☒
Traffic and Transport Considerations			• Employment land	☐	☒
• Local traffic and transport	☐	☒	Social and Cultural Considerations		
• TMAP	☐	☒	• Heritage impact	☐	☒
• Public transport	☐	☒	• Aboriginal archaeology	☐	☒
• Cycle and pedestrian movement	☐	☒	• Open space management	☐	☒
Environmental Considerations			• European archaeology	☐	☒
• Bushfire hazard	☐	☒	• Social and cultural impacts	☐	☒
• Acid Sulphate Soil	☐	☒	• Stakeholder engagement	☐	☒
• Noise impact	☐	☒	Infrastructure Considerations		
• Flora and/or fauna	☐	☒	• Infrastructure servicing and potential funding arrangements	☐	☒
• Soil stability, erosion, sediment, landslip assessment, and subsidence	☐	☒	Miscellaneous/Additional Considerations		
• Water quality	☐	☒	List any additional studies		
• Stormwater management	☐	☒			
• Flooding	☐	☒			
• Land/site contamination (SEPP55)	☐	☒			
• Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	☐	☒			
• Sea level rise	☐	☒			

ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area: Northern Beaches Council.

Name of draft LEP: Manly LEP 2013 Amendment 12.

Address of Land (if applicable): Two small lots adjacent to 47 Fisher Street
Balgowlah Heights, Lot 2759 DP 752038 and Lot 1 DP 577319.

Intent of draft LEP: To rezone land from SP2 Infrastructure to R1 Residential at 45
Pacific Parade, Manly.

Additional Supporting Points/Information: See Planning Proposal

Evaluation criteria for the issuing of an Authorisation (Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N	X		
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N	X		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	N	X		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	N	X		

Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		X		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		X		
Is the planning proposal proposed to rectify an anomaly in a classification?		X		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		X		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		X		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		X		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		X		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		X		
Spot Rezonings	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	Y			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		X		

Does the planning proposal create an exception to a mapped development standard?	N			
Section 73A matters				
Does the proposed instrument	N	X		
a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).				

NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.

Manly LEP 2013 Planning Proposal

Rezoning of Lot 2759 DP 752038 and Lot 1 DP 577319

47 Fisher Street Balgowlah Heights.

June 2016 –

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LIST OF ATTACHMENTS

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- Attachment 1** Current and Proposed Land Use Zoning Maps of the Subject Area
- Attachment 2** Current and Proposed Development Standards
- Attachment 3** Aerial View of Subject Area (2014)
- Attachment 4** Northern Beaches Council Report and Minutes.

LIST OF STUDIES CONDUCTED (see separate document)

Nil

INTRODUCTION

This planning proposal has been prepared by Northern Beaches Council as a result of a Council resolution made on 16th June 2016 (see Attachment 3). The Council resolved to prepare a planning proposal to amend the zoning of land at Lot 2759 DP 752038 at the rear of 47 Fisher Street Balgowlah Heights from RE1 Public Recreation to R2 Low Density Residential and an adjacent lot (Lot 1 DP 577319) from R2 Low Density Residential to RE1 Public recreation, in the *Manly Local Environmental Plan 2013*.

Background

The current zoning of Lot 2759 DP 752038 at the rear of 47 Fisher Street Balgowlah Heights is RE1 Public Recreation. The previous Manly LEP 1988 zoned the site as open space (and did not indicate that the site should be acquired). The County of Cumberland plan also indicated this site as open space.

However, in 14 May 1976 Council approved a building application for extensions to the dwelling house at 47 Fisher Street over the land. Circa July 1976 it appears that Lot 1 DP 577319 was subdivided and title transferred to the Crown. Subsequently on 1 October 1976 a Crown Grant for Lot 2759 DP 752038 was granted to the owner of 47 Fisher Street. It appears that an agreement was entered into, to exchange the lots but the zoning remained unchanged.

Subject area

The subject area are two lots adjacent to 47 Fisher Street Balgowlah Heights and Heathcliff Park. Lot 2759 DP 752038 is an irregular block, having an area of 118.3m² a width of 4m/10.705m and a length of 24.595m/34.545m on the boundary adjoining 47 Fisher Street. Lot 1 DP 577319 is a triangular block, having an area of 59.2m² with a width of 8.075m adjoining 47 Fisher Street and a length of 15.0m/15.47m adjoining Heathcliff Park.

The adjoining Heathcliff Park has an area of approximately 5335.3m²

Land uses

The subject area contains a dwelling house and open space.

An aerial view of the area which is the subject of this planning proposal, outlined in red, is attached on the following page.



Land Zonings

Lot 2759 DP 752038 is currently zoned RE1 Public Recreation. Lot 1 DP 577319 is currently zoned R2 Low Density Residential.

The surrounding zones include:

- RE1 Public Recreation
- R2 Low Density Residential

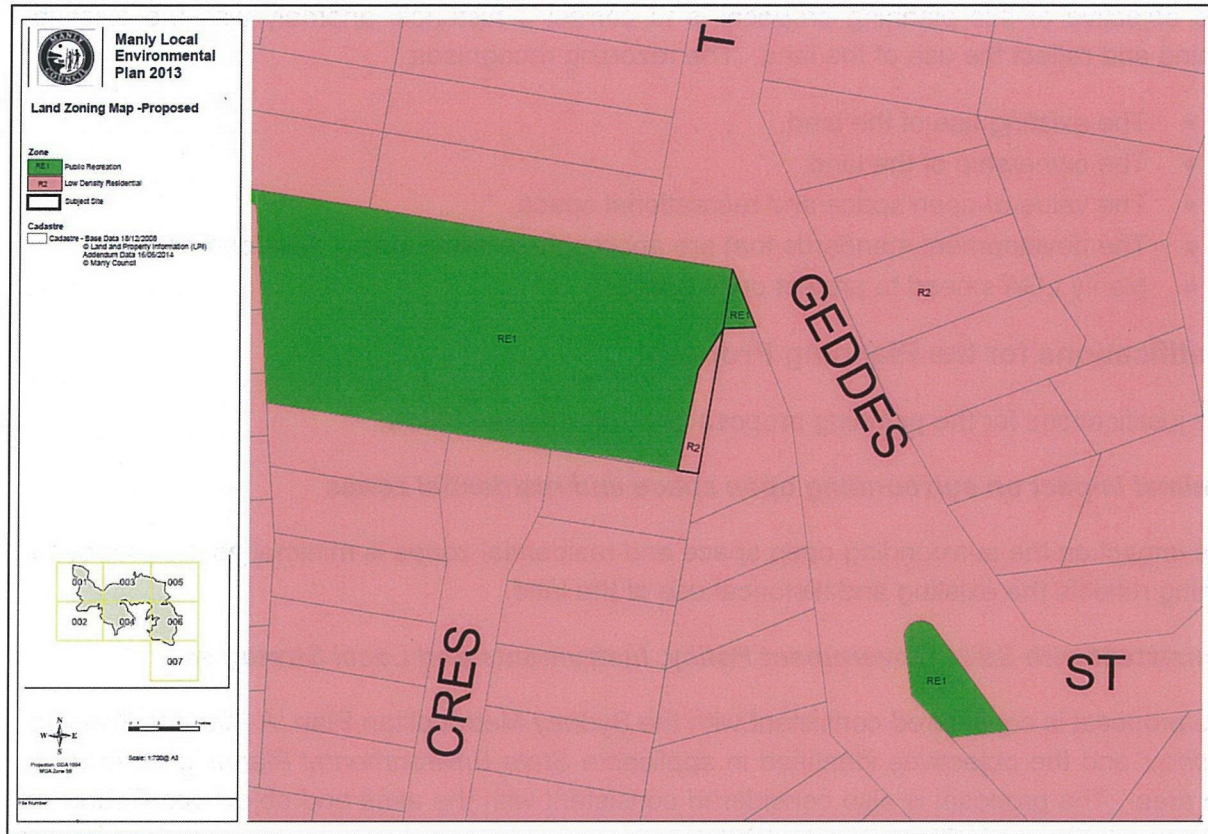
The adjoining Heathcliff Park is zoned RE1 Public Recreation and the surrounding residential properties are zoned R2 Low Density Residential.

The land use tables of Zones R2 and RE1 are included within Part 3 Question 1 of this planning proposal.

Current Manly LEP 2013 Zoning



Proposed Manly LEP 2013 Zoning



Objectives of the Planning Proposal

The objective of this planning proposal is to correct a historical anomaly with the existing zoning and reflect the use of the land. The rezoning recognises:

- The existing use of the land,
- The ownership of the land,
- The value of open space and recreational space,
- The development standards that are applicable to surrounding development, and
- Manly LGA's need to protect open space.

Justifications for the Planning Proposal

The justifications for the planning proposal are summarised below:

Minimal impact on surrounding open space and residential zones

The impact on the surrounding open space and residential zones is minimal as the proposed zoning reflects the existing and historical use of the land.

Consistent with State Government Policy, Instruments and Local Strategies

The proposal is considered consistent with the Sydney Metropolitan Plan 'A Plan for Growing Sydney' and the objectives identified in applicable *State Environmental Planning Policies* to the area. The proposal is also considered consistent with the aims and objectives Council's *Community Strategic Plan – Beyond 2024*.

Employment Opportunities

The rezoning of land does not affect employment opportunities.

Improved residential amenity

The application of development standards to Lot 2759 DP 752038 will help to limit the amenity impacts on the surrounding residential land in the area.

Consistent with surrounding land uses

The proposed zoning of Lot 2759 DP 752038 as R2 matches the zoning of 47 Fisher Street (Lot 2 DP 577319) and the surrounding residential land. The proposed zoning of lot 1 DP 577319 matches that of the adjoining Heathcliff Park and provides consistency of zoning for the land under Council's care and control.

CONCLUSION

This planning proposal concludes that the rezoning of Lot 2759 DP 752038 as R2 Low Density Residential and Lot 1 DP 577319 as RE1 Public Recreation, is well founded, consistent with State policies and instruments, and beneficial to the Manly locality. The following parts of the planning proposal seek to justify and identify the opportunities afforded by the proposed rezoning.

It is considered the planning proposal will be publically exhibited for a period of 14 days, and open to consultation with State agencies and public authorities for 21 days. This is due to the minor nature of the proposal and the small size of the lots affected.

Part 1 Objectives of the planning proposal

The objective of this planning proposal is to correct a historic anomaly identified in this planning proposal, and rezone this accordingly. The rezoning recognises:

- The existing use of the land,
- The ownership of the land,
- The value of open space and recreational space,
- The development standards that are applicable to surrounding development, and
- Manly LGA's need to protect open space.

Part 2 Explanation of provisions

The proposed objective of this planning proposal will be achieved by:

Manly LEP 2013 Mapping

- Amending the Manly LEP 2013 Land Zoning Map Grid Sheet 004 (LZN) to indicate Lot 2759 DP 752038 as R2 Low Density Residential and Lot 1 DP 577319 as RE1 Public Recreation. See Attachment 1 of this planning proposal.
- Amending the Manly LEP 2013 Floor Space Ratio Map Grid Sheet 004 (FSR) to indicate Lot 1 DP 577319 with no FSR control.
- Amending the Manly LEP 2013 Height of Buildings Map Grid Sheet 004 (HoB) to indicate Lot 1 DP 577319 with no HoB control.
- Amending the Manly LEP 2013 Minimum lot size Map Grid Sheet 004 (LSZ) to indicate Lot 1 DP 577319 with no LSZ control.

Manly LEP 2013 Written Instrument

- No change.

Part 3 Justification

The following section addresses questions set out in Section 2.3(a) of *A Guide to Preparing Planning Proposals* in meeting the objectives of this planning proposal.

Section A - Need for the planning proposal

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

Yes. The planning proposal is a result of an internal study of small and residual lots. During the study the anomaly in the zoning was discovered.

Review and Analysis of studies and reports already conducted.

Manly Council Small and Residual Lot review: Northern Beaches Council (South) Land Use Planners conducted a study of the number and types of small and residual lots with the Manly LGA. The intent of the study was to determine a method of encouraging lot

consolidation in order provide more efficient use of land, reducing the long term administrative costs to Council and other public authorities as well as preventing spurious development applications for dwellings on significantly undersized allotments which results in negative planning outcomes.

CONCLUSION

Given the minor nature of the proposal to match the current and historic use as well as reflect the land ownership it is considered that substantial studies are not necessary.

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

Yes. The planning proposal is the best means of meeting the intended outcomes of the planning proposal by amending the *Manly LEP 2013* land use zoning to enable the primary objective of the proposal. The current zoning of the privately owned land as RE1 Public Recreation creates significant burdens on the land holder and does not serve a public or planning purpose as Council has no plans to acquire the land in the future. The zoning of the Crown land as residential does not serve a public purpose as the land is under Council care control for use as a park. Amending the *Manly LEP 2013* to correct this anomaly is the only way to address this issue.

Section B – Relationship to strategic planning framework

3. 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)?

The planning proposal is consistent with Sydney Metropolitan Plan “*A Plan for Growing Sydney*”.

The proposal is consistent with Direction 3.2 of “*A Plan for Growing Sydney*” in that it maintains the linkages of the open space located at Healthcliff Park to the surrounding land thereby maintaining public access. The proposal also allows for a more formalised public access to Healthcliff Park to be provided from Geddes Street in the future.

Priorities for the North Subregion

The proposal is not effected by the priorities for the Northern Subregion.

4. Is the planning proposal consistent with Council’s local strategy or other local strategic plan?

The planning proposal is considered to be consistent with Northern Beaches Council’s *Manly Community Strategic Plan - Beyond 2026* (CSP) local strategy, and will not limit any other local strategic plans.

In Chapter 5 of Manly’s CSP four primary goals and strategies for the LGA are identified. Stated below are the goals and strategies identified on page 36 of the CSP.

I. A connected, involved and safe community that cares for its residents and visitors with goals to... • Improving Manly's community safety outcomes in relation to late night Manly's culture. • Promote healthy and active Manly community. • Maintain and support connected Manly neighbourhoods and amenities. • Create a more culturally vibrant Manly. • Facilitate services that support the social and welfare needs of the Manly community.
II. A viable Manly for work, employment and infrastructure with goals to... • Facilitate a diversified Manly economy that caters for local and visitors alike. • Promote tourism as an important part of the local economy. • Improve traffic, parking and sustainable transport options in Manly. • Maintain key amenities and physical infrastructure to acceptable service standards in Manly.
III. A sustainable, protected and well managed natural and built Manly with goals to... • Protect and conserve natural heritage, bushlands, water-ways and biodiversity. • Create liveable neighbourhoods with more affordable housing choices. • Maintain public health and building standards. • Facilitate reduction in greenhouse gas emissions in the Manly area. • Promote responsible waste management.
IV. A well governed Manly with transparent and responsible decision-making in partnership with the community by goals to... • Maintain public confidence in Council's transparent and accountable decision-making. • Work in partnership with the community. • Efficient use of Council's resources. • Advocate to State and Federal Governments.

Source: Manly Community Strategic Plan - Beyond 2024, page 31.

This planning proposal aims to meet and promote Goal Three 'A Sustainable, protected and well managed natural and built Manly.

Chapter 8 'A viable Manly for Work, Employment and Infrastructure' addresses how Manly may achieve Goal Three of the CSP, and identifies the known constraints and opportunities affecting the Goal.

In summary, these include:

"1. Protect and conserve natural heritage, bushlands, water-ways and biodiversity for future generations"

The CSP identifies the need for Council natural assets such as remnant bushland in Council reserves to be protected within the LGA. The proposal will support this aim by zoning land

that has not been bushland for several decades residential and zoning the public land adjacent to the Healthcliff Park RE1 Public Recreation.

“2. Create liveable neighbourhoods with more affordable housing choice”

The proposal provides for improved liveability for the locality through maintaining linkages to open and recreational spaces. The proposal also allows for greater flexibility for the lot at 47 Fisher Street, Balgowlah heights.

“3. Maintain public health and building standards”

This goal is not affected by the proposal.

“4. Facilitate a reduction in greenhouse gas emissions in the Manly area.”

This goal is not affected by the proposal.

“5. Promote responsible waste management in Manly.”

This goal is not affected by the proposal.

Consistency with the *Manly Community Strategic Plan – Beyond 2024*

Specifically, the planning proposal is consistent with the CSP, and aims to meet the objectives of the CSP by:

- Zoning a lot of historically residential land to Zone R2 Low Density Residential to support its function for housing.
- Zoning a lot that is Crown land under Council care and control to Zone RE1 Public Recreation.

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

The planning proposal is considered consistent with applicable State Environmental Planning Policies (SEPPs).

The list of all applicable SEPPs in Manly are:

- *State Environmental Planning Policy 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy 21 – Caravan Parks*
- *State Environmental Planning Policy 30 – Intensive Agriculture*
- *State Environmental Planning Policy 32 – Urban Consolidation (Redevelopment of Urban Land)*
- *State Environmental Planning Policy 33 – Hazardous and Offensive Development*
- *State Environmental Planning Policy 50 – Canal Estate Development*
- *State Environmental Planning Policy 55 – Remediation of Land*
- *State Environmental Planning Policy 64 – Advertising and Signage*
- *State Environmental Planning Policy 65 – Design Quality of Residential Flat Development*
- *State Environmental Planning Policy 70 – Affordable Housing (Revised Schemes)*
- *State Environmental Planning Policy 71 – Coastal Protection*

- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
- *State Environmental Planning Policy (Major Development) 2005*
- *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007*
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy (State and Regional Development) 2011*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed State Environmental Planning Policy)*

The planning proposal does not contradict any SEPP provision that is applicable to the Manly LGA. The planning proposal does not impose any onerous development considerations not already outlined by a SEPP.

From the list of SEPPs that apply to Manly, the following SEPPs are considered to be relevant to the planning proposal:

- *State Environmental Planning Policy 19 – Bushland in Urban Areas*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed State Environmental Planning Policy)*

State Environmental Planning Policy 19 – Bushland in Urban Areas (SEPP 19)

Cause 2(1) of the SEPP 19 identifies the general aims of the policy. These are:

- “(a) its value to the community as part of the natural heritage,*
- (b) its aesthetic value, and*
- (c) its value as a recreational, educational and scientific resource.”*

Cause 2(2) of the SEPP 19 identifies the specific aims of the policy. These are:

- “(a) to protect the remnants of plant communities which were once characteristic of land now within an urban area,*
- (b) to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term,*
- (c) to protect rare and endangered flora and fauna species,*
- (d) to protect habitats for native flora and fauna,*
- (e) to protect wildlife corridors and vegetation links with other nearby bushland,*
- (f) to protect bushland as a natural stabiliser of the soil surface,*
- (g) to protect bushland for its scenic values, and to retain the unique visual identity of the landscape,*
- (h) to protect significant geological features,*
- (i) to protect existing landforms, such as natural drainage lines, watercourses and foreshores,*
- (j) to protect archaeological relics,*
- (k) to protect the recreational potential of bushland,*
- (l) to protect the educational potential of bushland,*
- (m) to maintain bushland in locations which are readily accessible to the community, and*
- (n) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.”*

Having regard to the requirements of clause 10 of SEPP 19, the proposal is considered to be consistent with both the General and Specific aims of the SEPP 19. The proposal is unlikely to have significant impacts on the remnant bushland within Healthcliff Park as it reflects the existing and historical uses of the land since the 1970's. As such the proposal is considered to give priority to retaining bushland as required by Clause 10(b) of SEPP 19.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREPSHC 2005) [Deemed State Environmental Planning Policy]

The site is located within the Sydney Harbour Catchment but is not located within the foreshores and waterways area.

The Clause 2 aims of the SREPSHC 2005 that relate to the Sydney Harbour Catchment are as follows:

"This plan has the following aims with respect to the Sydney Harbour Catchment:

- (a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained:*
 - (i) as an outstanding natural asset, and*
 - (ii) as a public asset of national and heritage significance, for existing and future generations,*
- (b) to ensure a healthy, sustainable environment on land and water,*
- (c) to achieve a high quality and ecologically sustainable urban environment,*
- (d) to ensure a prosperous working harbour and an effective transport corridor,*
- (e) to encourage a culturally rich and vibrant place for people,*
- (f) to ensure accessibility to and along Sydney Harbour and its foreshores,*
- (g) to ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity,*
- (h) to provide a consolidated, simplified and updated legislative framework for future planning."*

Given the circumstances of the proposal it is considered that the proposed rezoning will not have a significant impact on the above objectives.

Having regard to the Clause 13 Planning Principles for Sydney Harbour Catchment the following is noted:

- Future development from the rezoning is unlikely to impact the hydrological, ecological and geomorphological processes on which the health of the catchment depends.
- The proposed rezoning is unlikely to result in a negative impact on the natural assets of the catchment.
- The proposed zoning will not have cumulative environmental impacts as it reflects the existing zoning of the land.
- The proposed zoning is unlikely to impact water quality or natural drainage systems.
- Any development on Lot 2759 DP 752038 is unlikely to be visible from the harbour as it would be obscured by the development on 47 Fisher Street Balgowlah Heights.

- The proposal will not impact the number of public accessible vantage points for viewing Sydney Harbour.
- The proposal is unlikely to impact the water quality of runoff or flood risk.
- The proposal does not affect the objectives or targets set out in the Sydney Harbour Catchment Blueprint 2003.
- The proposal is unlikely to impact on the existing native vegetation or ecological continuity within the catchment as the zoning reflects the existing use.
- The proposed zoning is unlikely to be affected by urban salinity or land degradation.
- The subject lots are not known to contain acid sulfate soils.

Given the above, proposal is consistent with the Clause 13 Planning Principals for Sydney Harbour Catchment within *SREPSHC 2005*.

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

Of the list of Directions issued under Section 117 (2) of the *Environmental Planning and Assessment Act 1979*, this proposal does not fall under any directions.

Section C – Environmental, social and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal

No critical habitat, threatened species, populations, ecological communities or their habitats will be adversely affected as a result of the proposal.

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

Given the nature of the proposal there are no likely environmental effects as a result of the rezoning of the land.

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

It is considered the planning proposal has adequately addressed the social and economic effects related to the proposed rezoning of land noting the minor nature of the proposal.

Section D - State and Commonwealth interests

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

As the proposal reflects the existing uses of the land. It is not considered that the proposal will increase the demands on the existing public infrastructure in the locality.

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

Relevant public authorities will be consulted with in accordance with the Gateway determination.

Part 4 Mapping

This planning proposal contains two (2) maps.

- One 'current' Land Zoning Map for the subject area.
- One 'proposed' Land Zoning Map for the subject area.

See Attachment 1 of this proposal contains the two (2) maps stated above.

Attachment 2 of this proposal contains the current and proposed Floor Space Ratio, current and proposed Height of Buildings and current and proposed Lot Size Maps.

Part 5 Community Consultation

As the planning proposal affects only two small lots, the planning proposal will be publically exhibited for a period of 14 days and open to consultation with State agencies and public authorities for 21 days.

Part 6 Project timeline

The proposed timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion
Anticipated commencement date (date of Gateway determination)	July 2016
Anticipated timeframe for the completion of required technical information	August 2016
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	September 2016 (21 Days)
Public exhibition period	September 2016 (14 Days)
Timeframe for consideration of submissions	November 2016
Date of submission to the department to finalise the LEP	December 2016
Anticipated date RPA (Northern Beaches Council) will make the plan (if delegated)	December 2016

LIST OF ATTACHMENTS

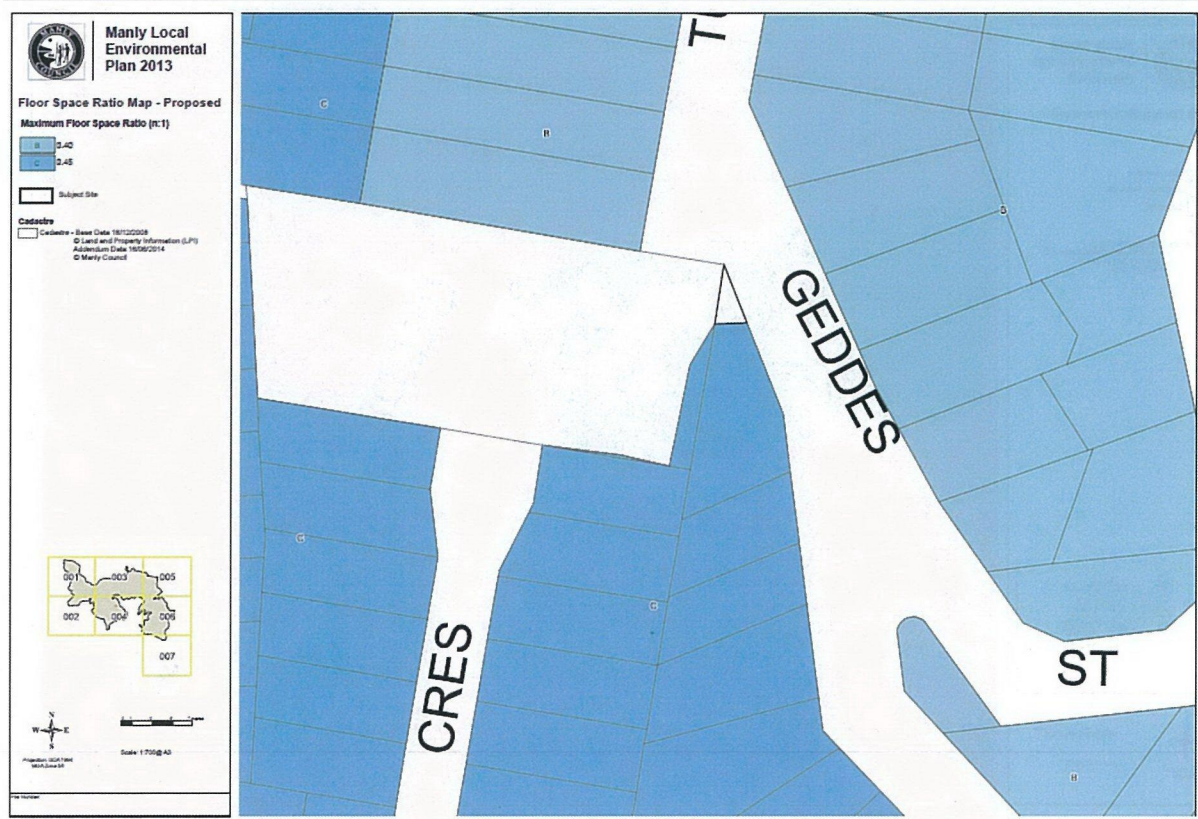
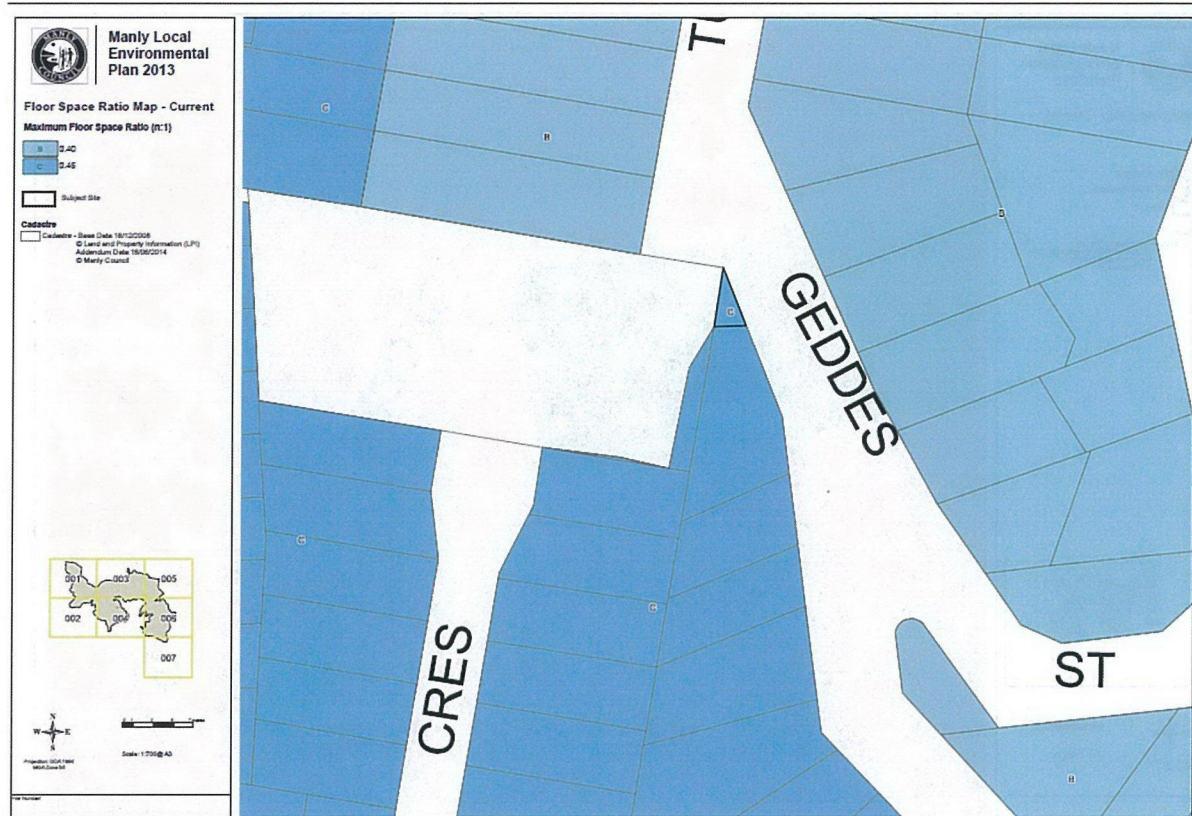
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|---------------------|---|
| Attachment 1 | Current and Proposed Land Use Zoning Maps of the Subject Area |
| Attachment 2 | Current and Proposed Development Standards |
| Attachment 3 | Aerial View of Subject Area (2014) |
| Attachment 4 | Northern Beaches Council Report and Minutes. |

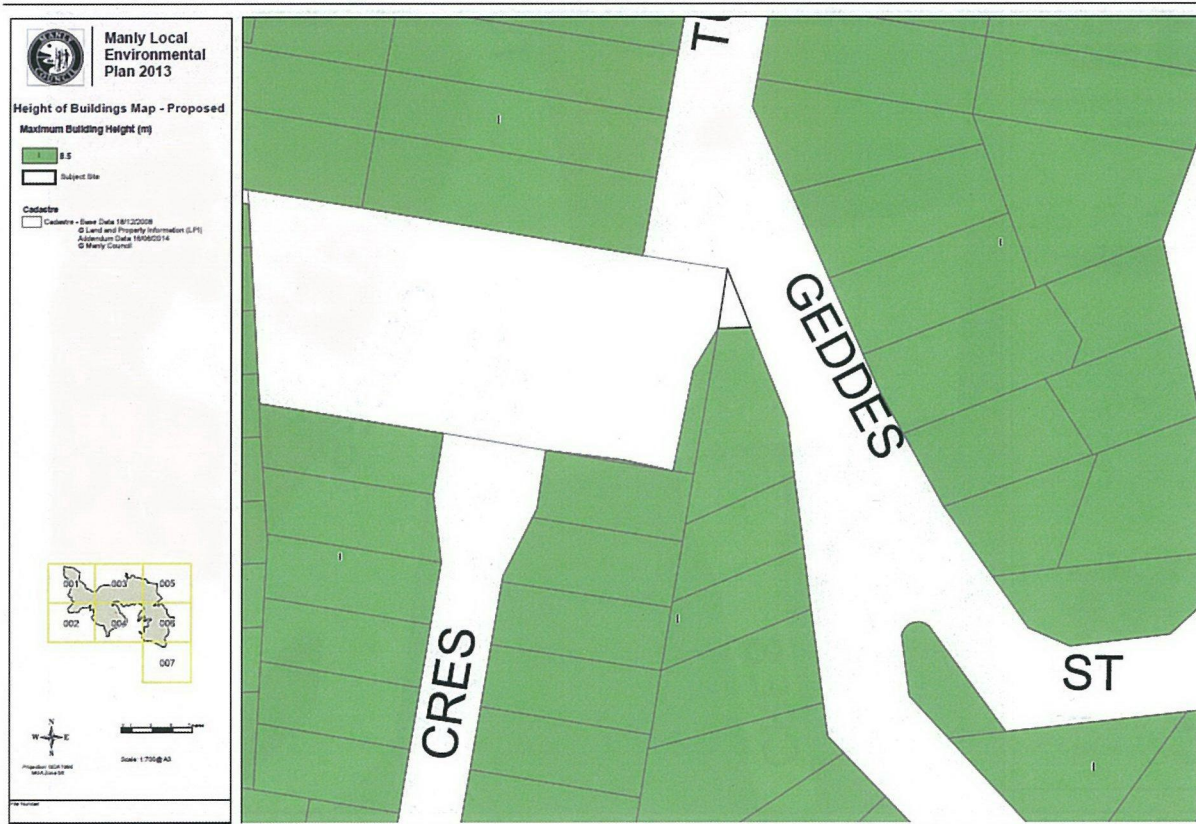
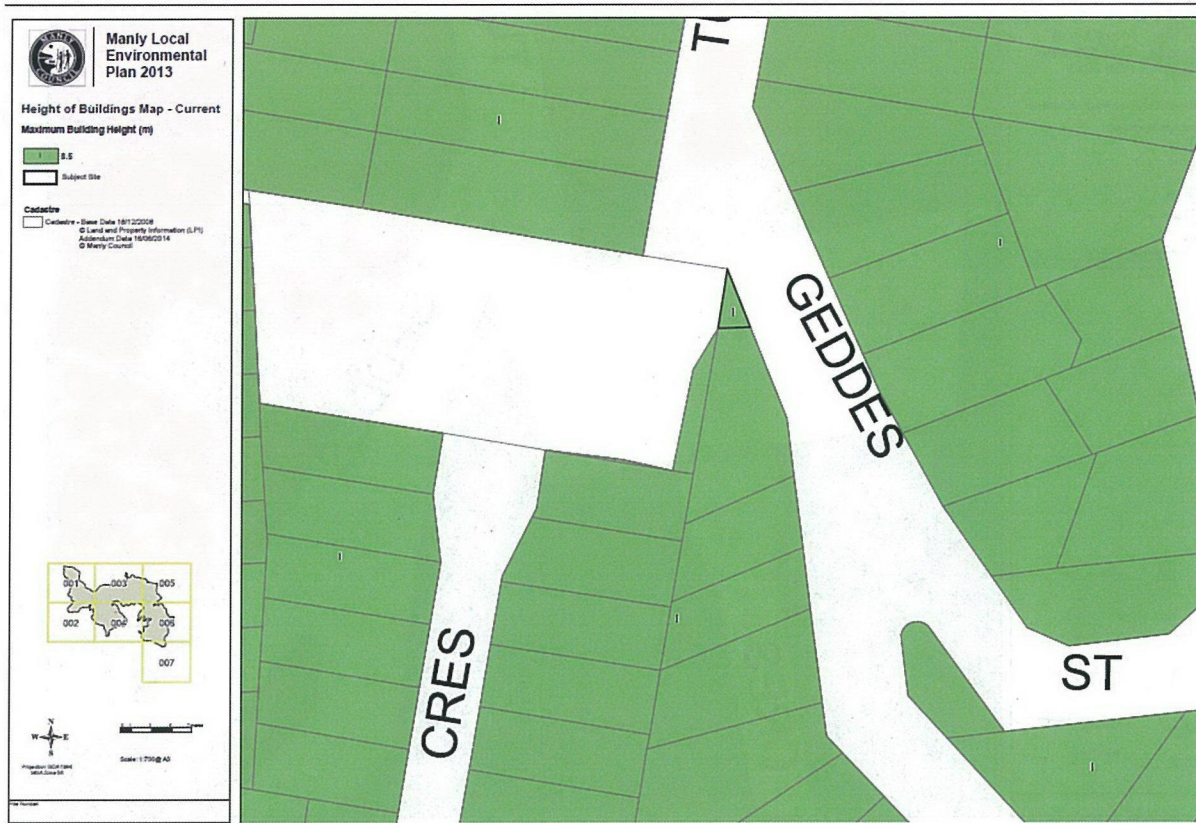
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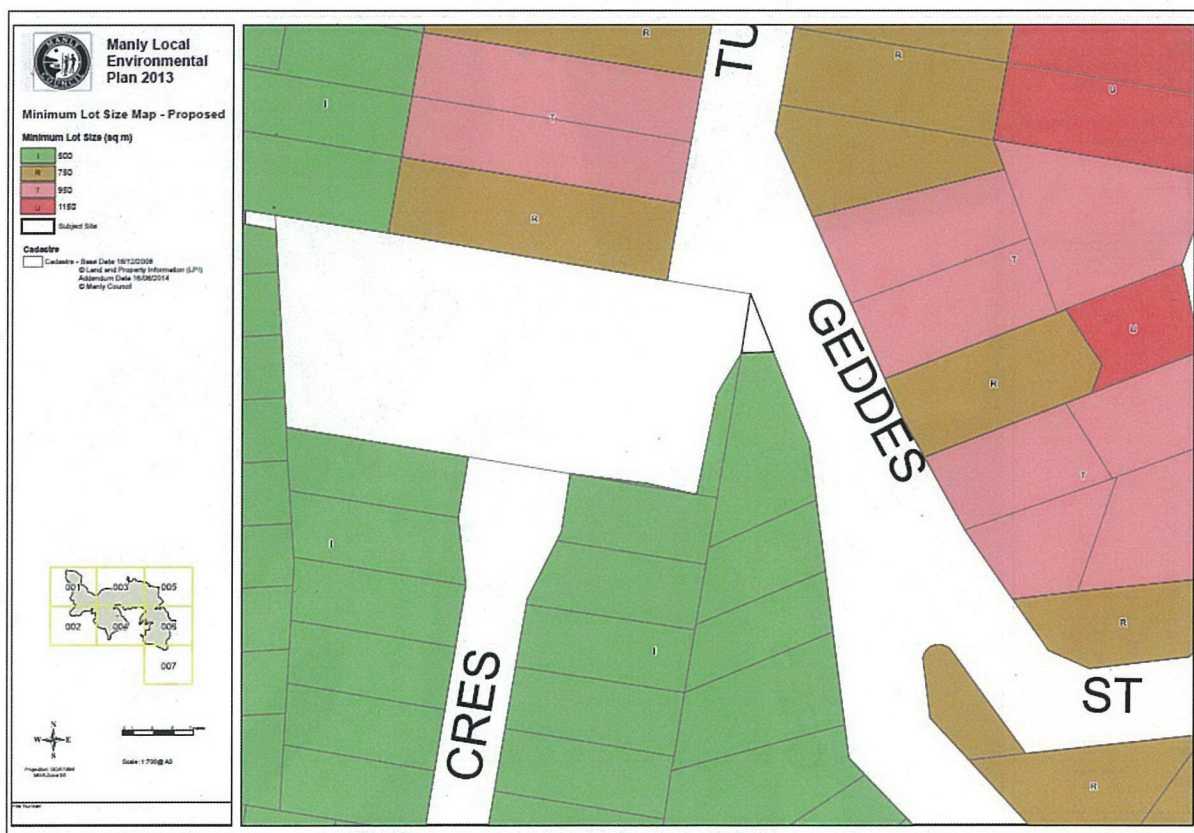
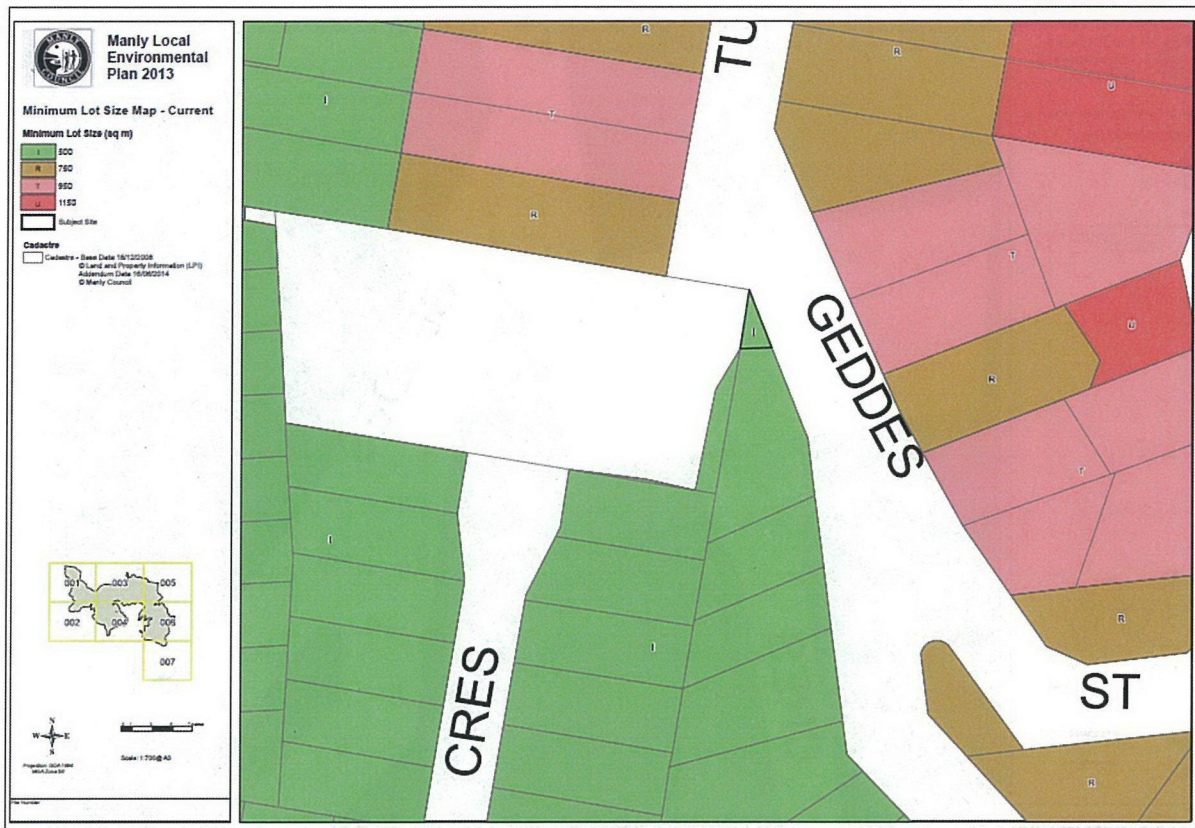
Current and Proposed Land Use Zoning Maps of the Subject Area



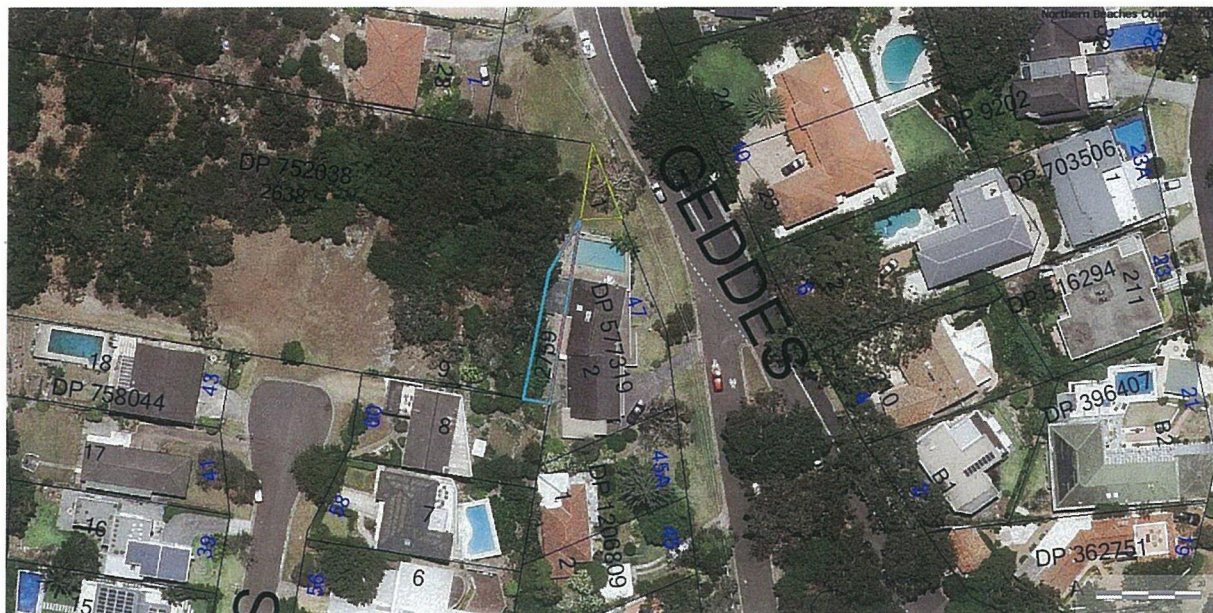
Attachment 2 Current and Proposed Development Standards







Attachment 3 Aerial View of Subject Area (2014)



Attachment 4 Evaluation Criteria for the Delegation of Plan Making Functions

Attachment 5 Northern Beaches Council Report and Minutes.

9.0 PLANNING & COMMUNITY DIVISION REPORTS

9.1 MINOR REZONING 47 FISHER STREET AND SURROUNDS, BALGOWLAH HEIGHTS

026/16 RESOLVED

D Persson

That Council:

- A. Prepare a planning proposal to rezone Lot 2759 DP 752038 to R2 Low Density Residential with the same floor space ratio, height of building and minimum lot size development standards as 47 Fisher Street and rezone Lot 1 DP 577319 as RE1 Public Recreation with the same development standards as the adjoining Heathcliff Park in the *Manly Local Environmental Plan 2013*.
- B. Prepare DCP Maps to be exhibited at the same time as the planning proposal adopting the same development controls as 47 Fisher Street for Lot 2759 DP 752038 and providing for normal RE1 DCP controls for Lot 1 DP 577319 within the Manly DCP 2013.

9.2 PLANNING PROPOSAL FOR 75M2 SECONDARY DWELLINGS WITHIN EXISTING DWELLINGS

027/16 RESOLVED

D Persson

That Council prepare a planning proposal adopting a similar clause to clause 6.10 of the *Warringah LEP 2011*, allowing secondary dwellings up to 75m² within existing dwelling houses applicable for Zones R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, E3 Environmental Management and E4 Environmental Living within the *Manly LEP 2013*.

8.2 RFT 2015/103 - MINOR WORKS PANEL - ASPHALTIC CONCRETE RESTORATION, ASPHALTIC CONCRETE HEAVY PATCHING AND CONCRETE RESTORATION WORKS

028/16 RESOLVED

D Persson

That Council resolve to accept the recommendation contained in the confidential report for Environment and Infrastructure, Report No. 15.1.

10.0 TRANSFORMATION, PEOPLE & CULTURE DIVISION REPORTS

Nil

9.0 PLANNING & COMMUNITY DIVISION REPORTS

ITEM 9.1	MINOR REZONING 47 FISHER STREET AND SURROUNDS, BALGOWLAH HEIGHTS
REPORTING MANAGER	MANAGER PLANNING & COMMUNITY
TRIM FILE REF	2016/178932
ATTACHMENTS	NIL

EXECUTIVE SUMMARY

PURPOSE

To initiate a planning proposal to correct a historical anomaly in the zoning of two small lots.

SUMMARY

Council's Strategic Planners have identified an anomaly in the zoning of two small lots (Lot 2759 DP 752038) at the rear of 47 Fisher Street Balgowlah Heights and an adjacent Lot (Lot 1 DP 577319). Lot 2759 DP 752038 is currently zoned RE1 Public Recreation, however, the site has been in private ownership since 1976 and has a dwelling house and swimming pool on it (which extends over from No. 47 Fisher Street). Adjacent to No. 47 Fisher Street is Lot 1 DP 577319 which is owned by the Crown, with Council having care and control of the site and is currently zoned R2 Low Density Residential. It is recommended that Council prepare a planning proposal to rezone Lot 2759 DP 752038 to R2 low density residential and rezone Lot 1 DP 577319 to RE1 Public Recreation.

RECOMMENDATION OF DEPUTY GENERAL MANAGER PLANNING & COMMUNITY

That Council:

- A. Prepare a planning proposal to rezone Lot 2759 DP 752038 to R2 Low Density Residential with the same floor space ratio, height of building and minimum lot size development standards as 47 Fisher Street and rezone Lot 1 DP 577319 as RE1 Public Recreation with the same development standards as the adjoining Heathcliff Park in the *Manly Local Environmental Plan 2013*.
 - B. Prepare DCP Maps to be exhibited at the same time as the planning proposal adopting the same development controls as 47 Fisher Street for Lot 2759 DP 752038 and providing for normal RE1 DCP controls for Lot 1 DP 577319 within the Manly DCP 2013.
-

REPORT

BACKGROUND

The current zoning of Lot 2759 DP 752038 at the rear of 47 Fisher Street Balgowlah Heights is RE1 Public Recreation. The previous Manly LEP 1988 zoned the site as open space (and did not indicate that the site should be acquired). The County of Cumberland Plan also indicated this site as open space.

However, on 14 May 1976 Council approved a building application for extensions to the dwelling house at 47 Fisher Street over the land. Circa July 1976 it appears that Lot 1 DP 577319 was subdivided and title transferred to the Crown. Subsequently on 1 October 1976 a Crown Grant for Lot 2759 DP 752038 was granted to the owner of 47 Fisher Street. It appears that an agreement was entered into to exchange the lots but the zoning remained unchanged.

Site Details

Lot 2759 DP 752038 has an area of 118.3m² a width of 4m and a length of 34.545m on the boundary adjoining 47 Fisher Street. Lot 1 DP 577319 has an area of 59.2m² with a width of 8.075m adjoining 47 Fisher Street and a length of 15.47m adjoining Heathcliff Park.

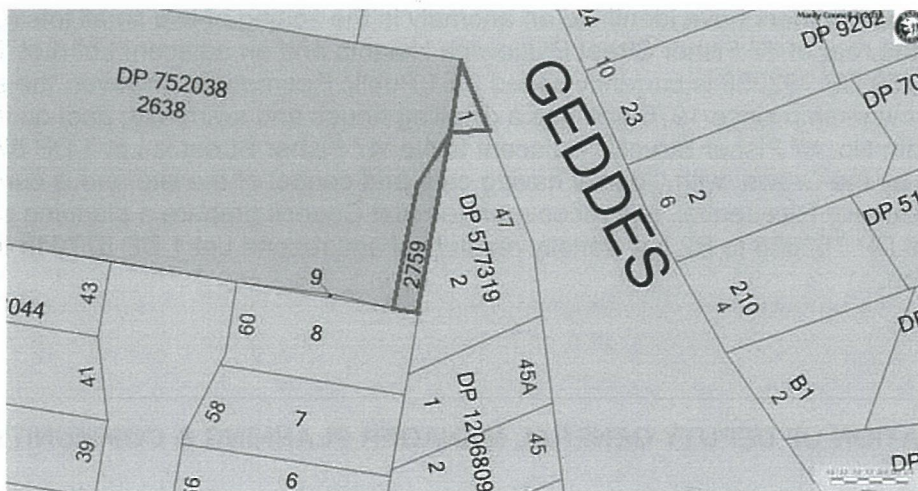


Figure 1: Zoning of subject lots shown in red (light green indicating RE1 Public Recreation zone and salmon indicating R2 Low Density Residential zone)



Figure 2: Existing development.

CONSULTATION

Council's Strategic Planner will consult with the affected land owner and the Crown before proceeding with the proposal. Statutory consultation will occur with the surrounding neighbours for a period of two weeks.

TIMING

Consultation with the affected property owners and the Crown will occur within June. Statutory consultation will occur after gateway determination from the Department of Planning and Environment.

FINANCIAL IMPACT

The preparation of the planning proposal will use the existing strategic planning resources. Given the nature of the proposal it is unlikely that significant studies will be necessary.

SOCIAL IMPACT

The rezoning of this land is unlikely to have significant social impacts

ENVIRONMENTAL IMPACT

Any environmental impacts associated with the rezoning are likely to be minor as the proposed zoning reflects the existing uses on the site.



Manly Local Environmental Plan 2013

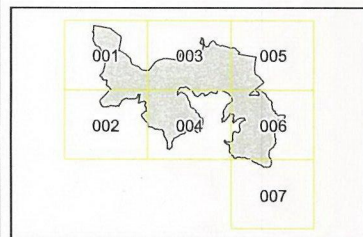
Land Zoning Map - Current

Zone

- RE1 Public Recreation
- R2 Low Density Residential
- Subject Site

Cadastre

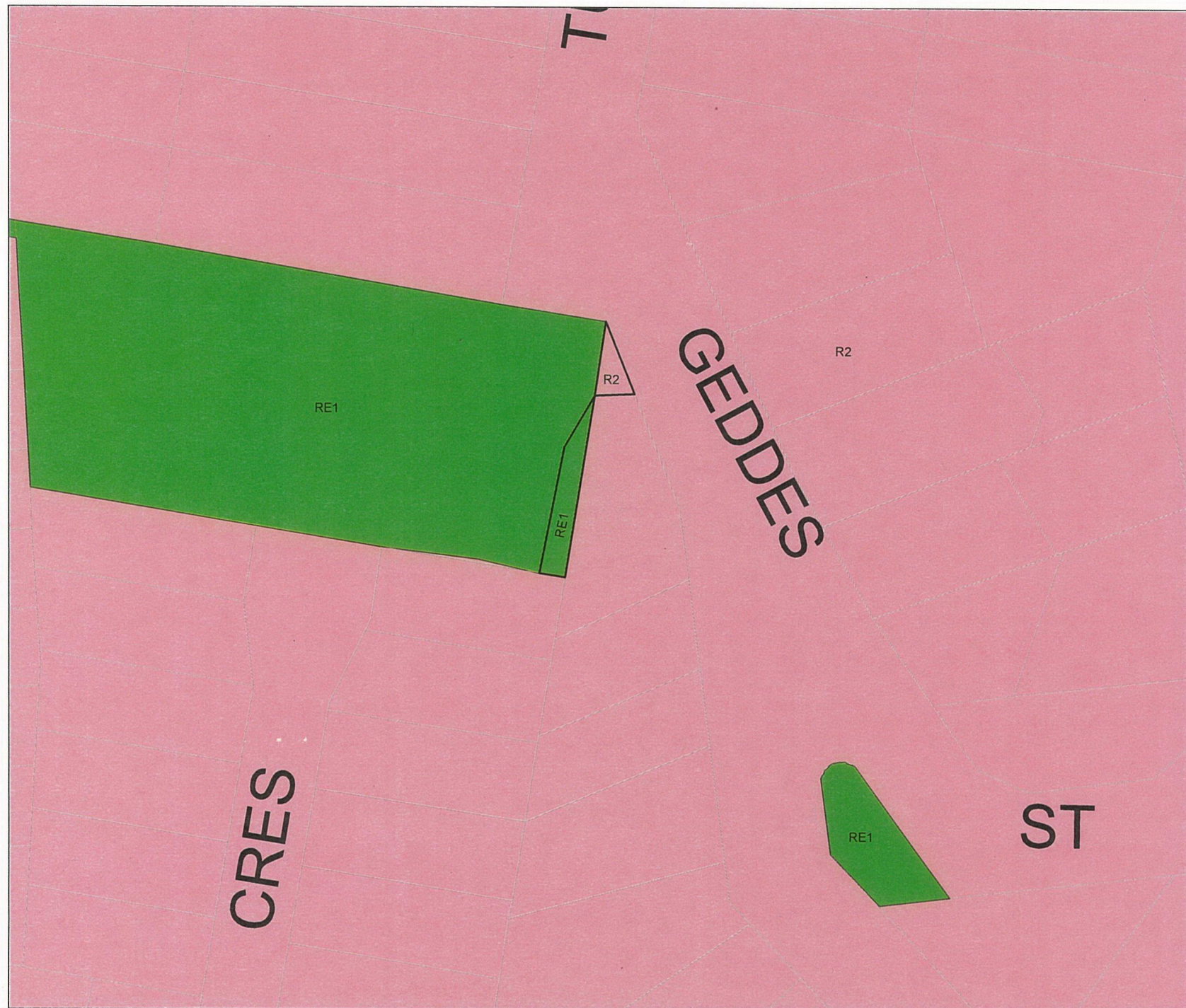
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- © Land and Property Information (LPI)
- Addendum Data 16/06/2014
- © Manly Council



Projection: GDA 1994
MGA Zone 56



Scale: 1:700 @ A3





Manly Local Environmental Plan 2013

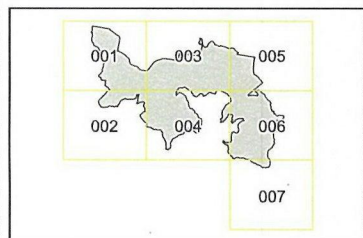
Land Zoning Map -Proposed

Zone

- RE1 Public Recreation
- R2 Low Density Residential
- Subject Site

Cadastral

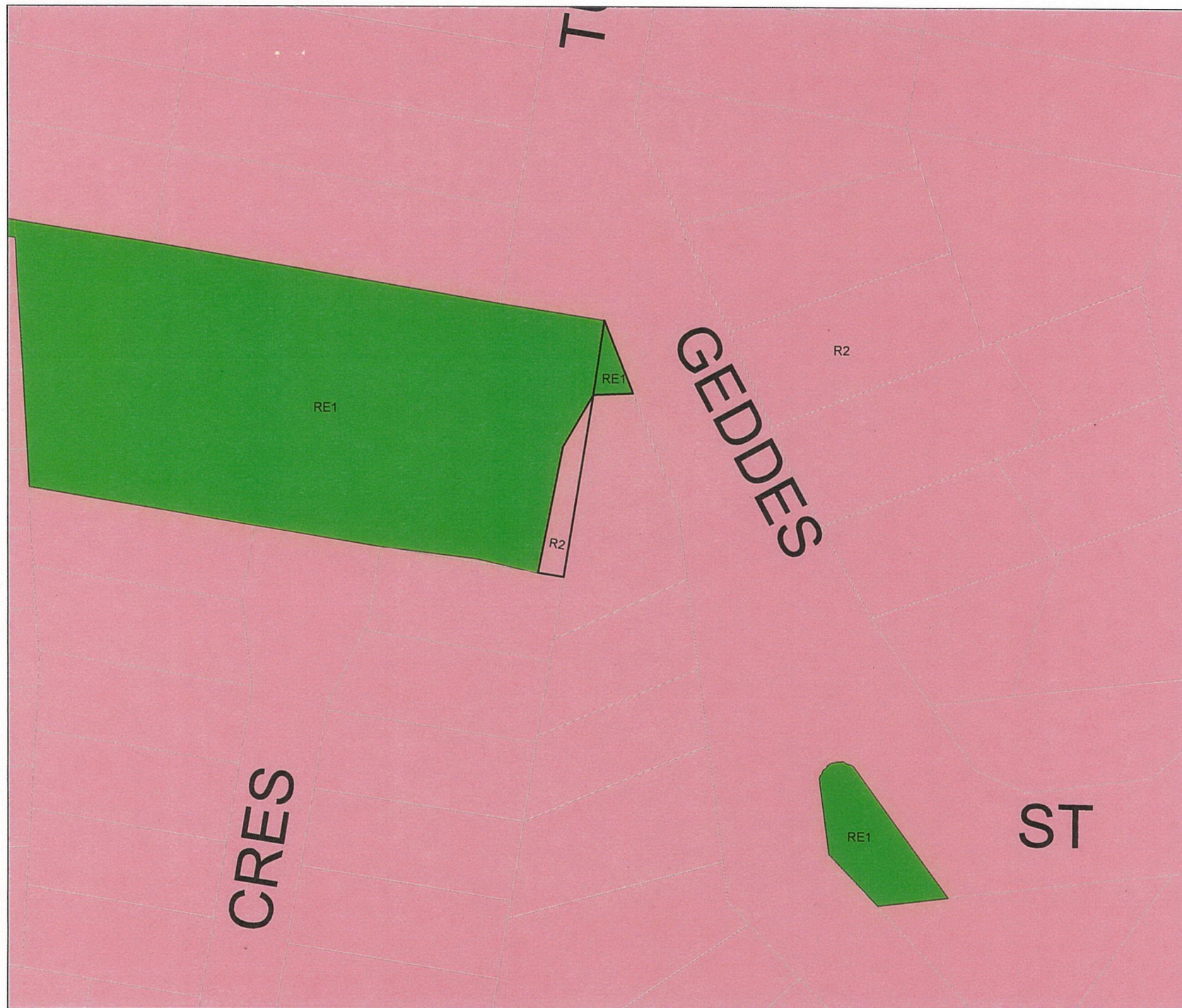
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MGA Zone 56



Scale: 1:700 @ A3





Manly Local Environmental Plan 2013

Floor Space Ratio Map - Current

Maximum Floor Space Ratio (n:1)

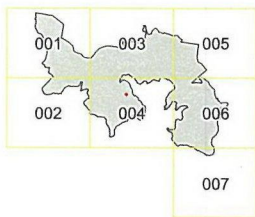
B 0.40

C 0.45

Subject Site

Cadastre

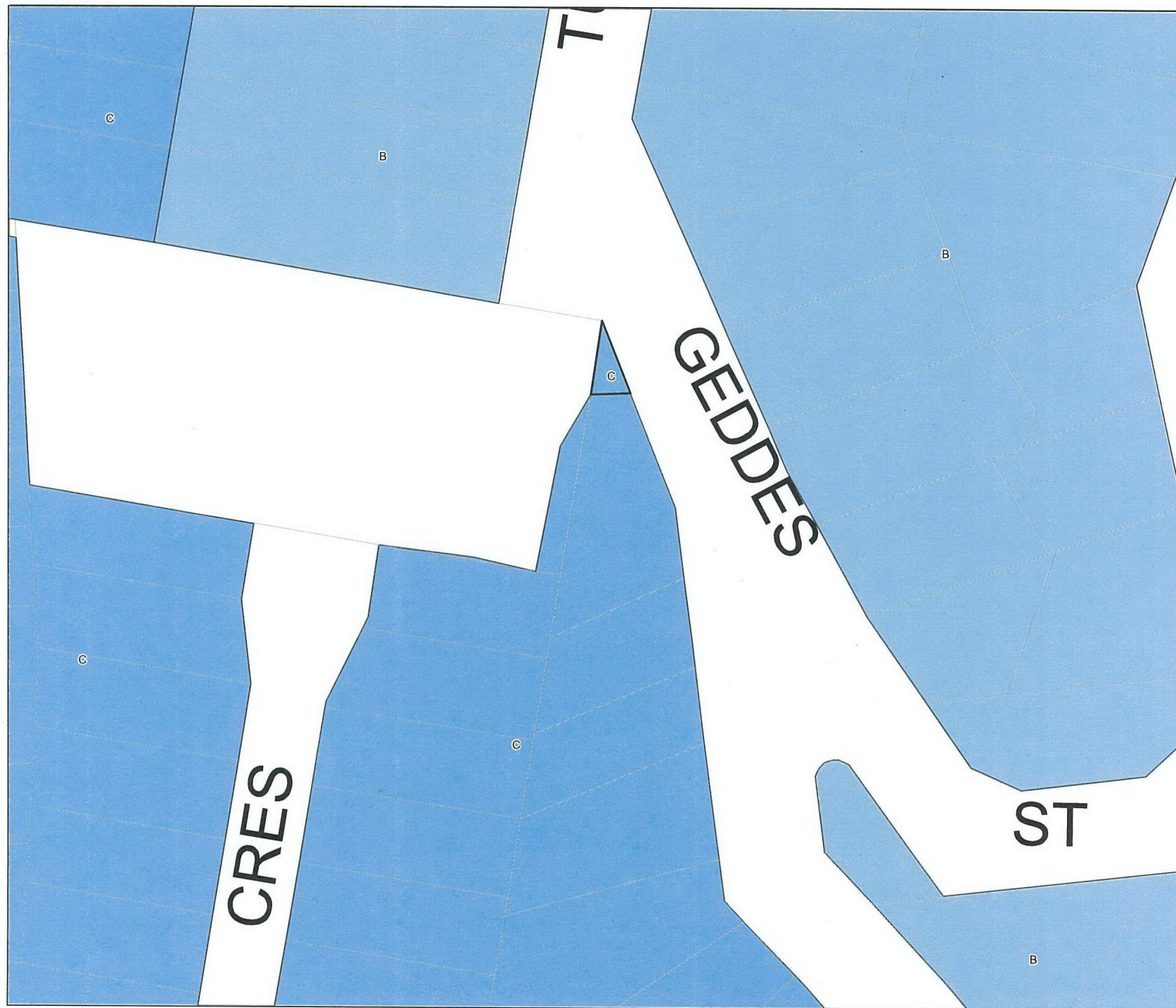
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Addendum Data 16/06/2014
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Projection: GDA 1994
MGA Zone 56



Scale: 1:700@A3





Manly Local Environmental Plan 2013

Floor Space Ratio Map - Proposed

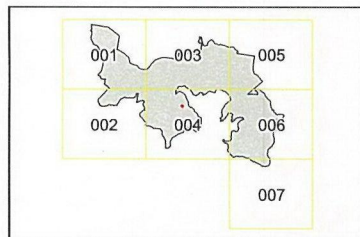
Maximum Floor Space Ratio (n:1)

B	0.40
C	0.45

 Subject Site

Cadastral

 Cadastral - Base Data 18/12/2008
© Land and Property Information (LPI)
Addendum Data 16/05/2014
© Manly Council

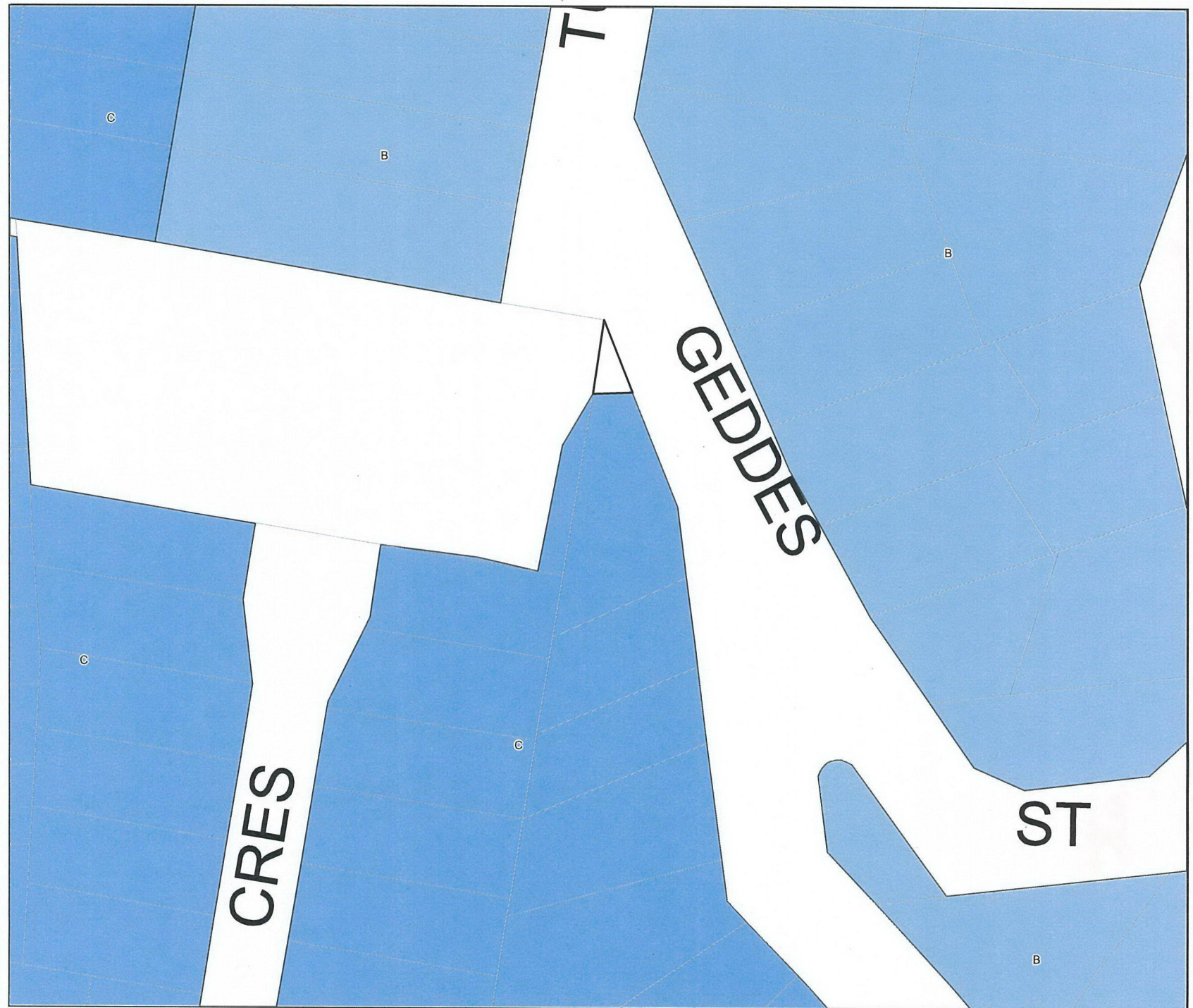


Projection: GDA 1994
MGA Zone 56

0 1 3 5 7 metres

Scale: 1:700@ A3

File Number:





Manly Local Environmental Plan 2013

Height of Buildings Map - Current

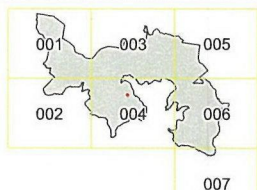
Maximum Building Height (m)

1 8.5

Subject Site

Cadastral

Cadastral - Base Data 18/12/2008
© Land and Property Information (LPI)
Addendum Data 16/06/2014
© Manly Council

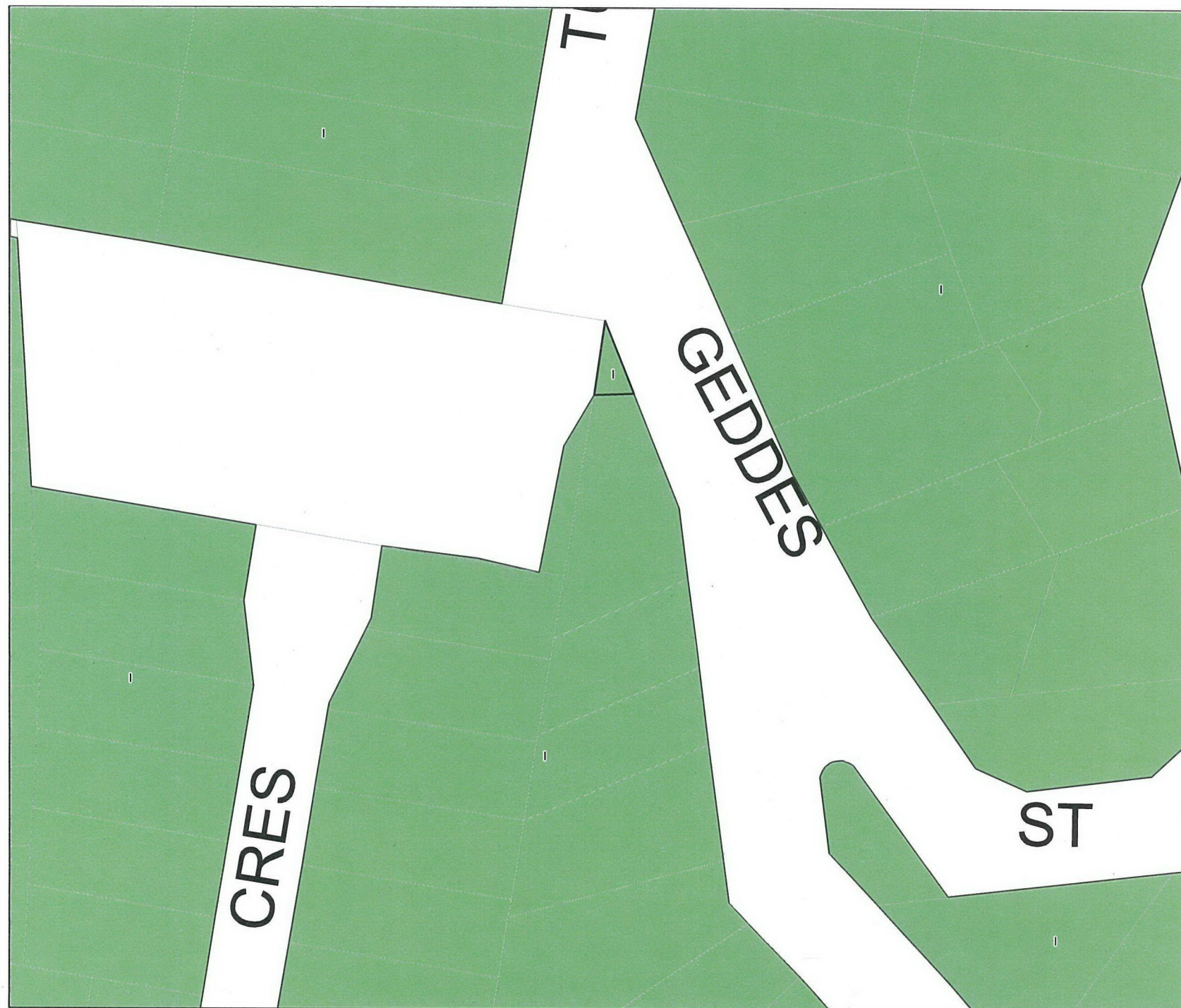


Projection: GDA 1994
MGA Zone 56

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File Number





Manly Local Environmental Plan 2013

Height of Buildings Map - Proposed

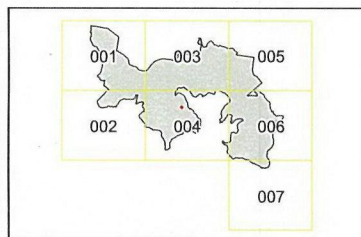
Maximum Building Height (m)

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Subject Site

Cadastral

Cadastral - Base Data 18/12/2008
© Land and Property Information (LPI)
Addendum Data 15/06/2014
© Manly Council

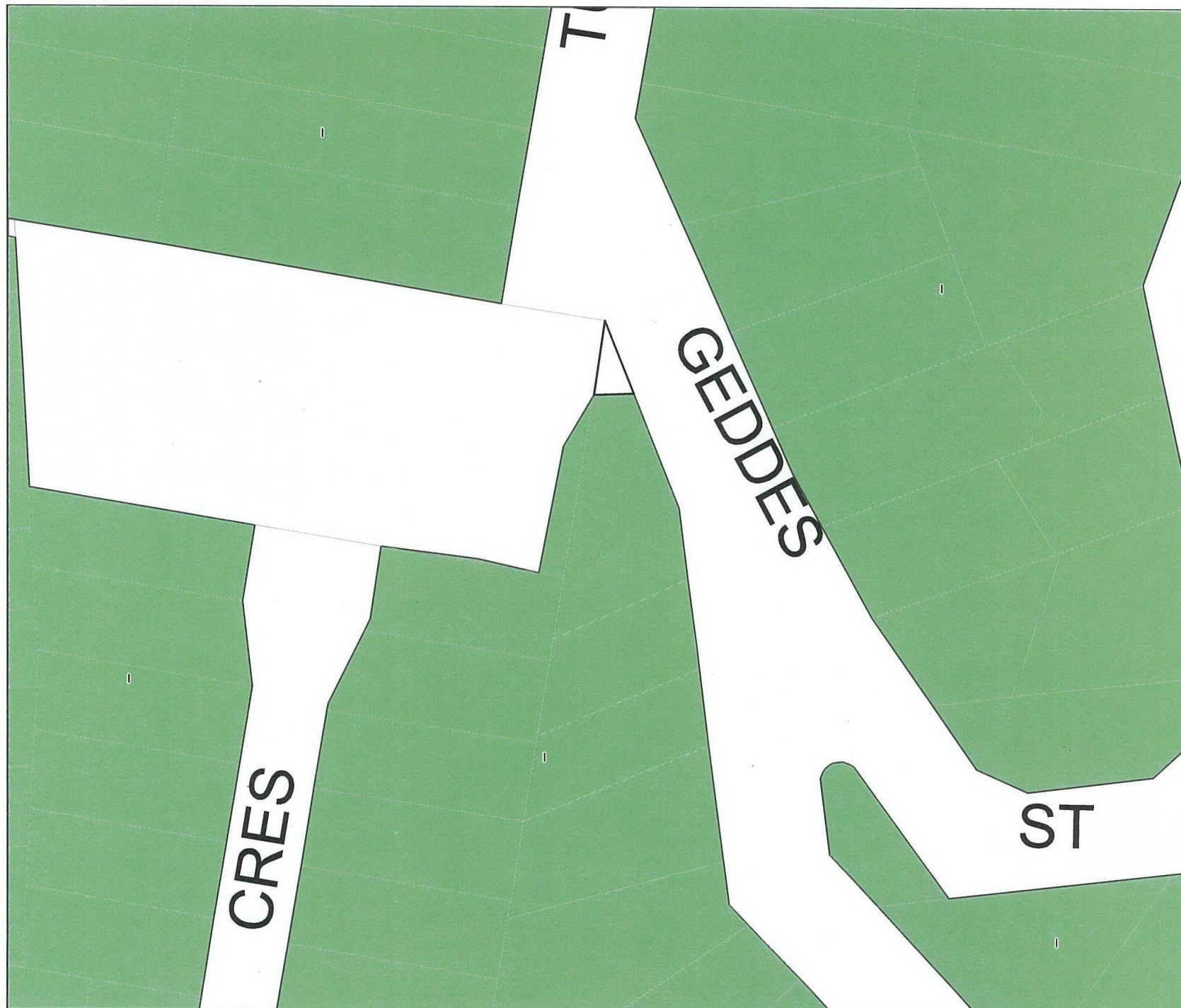


0 1 3 5 7 metres

Scale: 1:700 @ A3

Projection: GDA 1994
MGA Zone 56

File Number:





Manly Local Environmental Plan 2013

Minimum Lot Size Map - Current

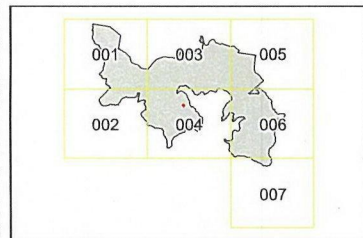
Minimum Lot Size (sq m)

I	500
R	750
T	950
U	1150

Subject Site

Cadastre

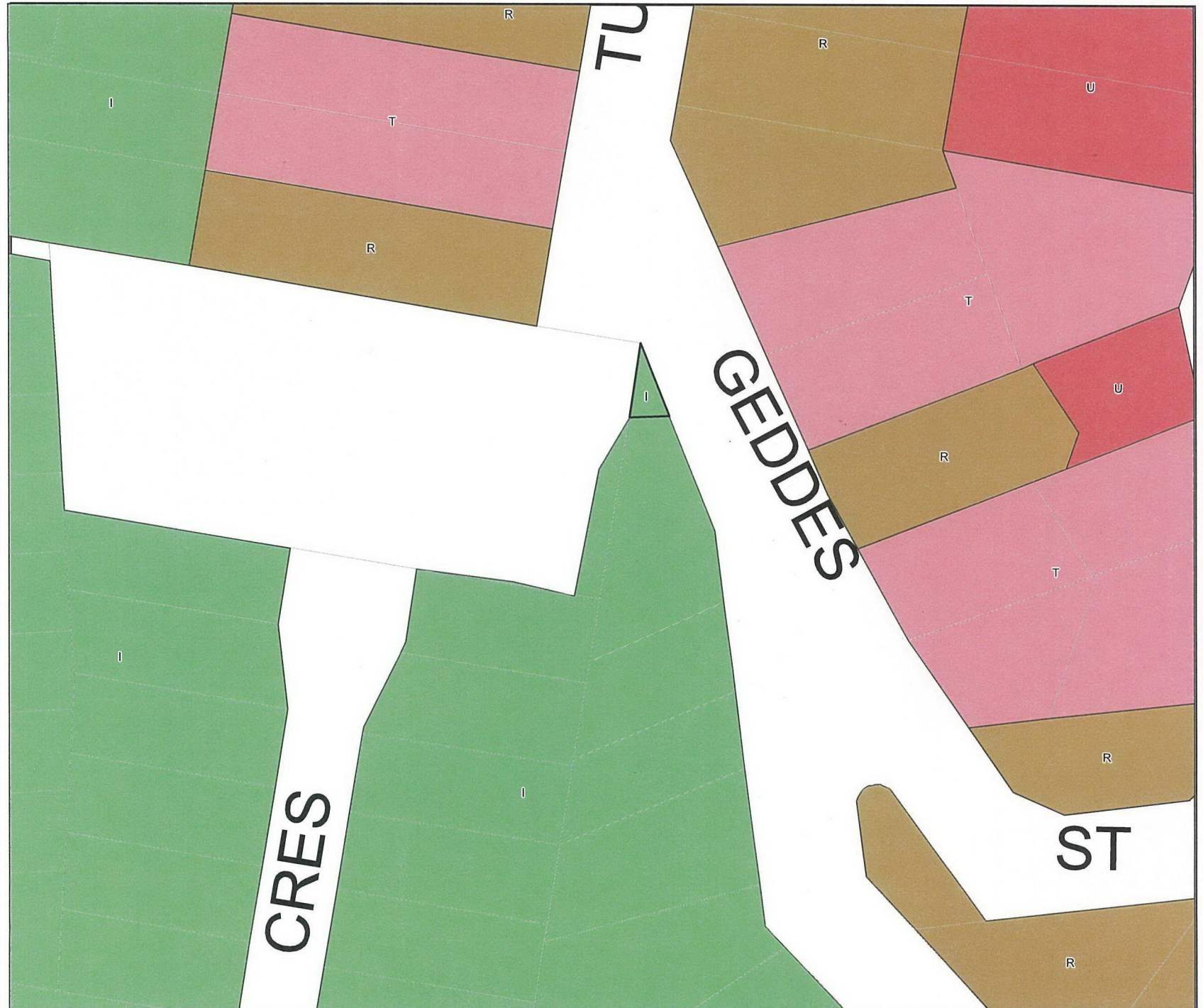
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© Land and Property Information (LPI)
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© Manly Council



Projection: GDA 1994
MGA Zone 56



Scale: 1:700 @ A3





Manly Local Environmental Plan 2013

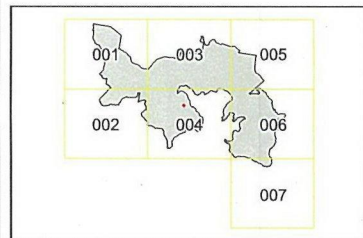
Minimum Lot Size Map - Proposed

Minimum Lot Size (sq m)

I	500
R	750
T	950
U	1150
	Subject Site

Cadastral

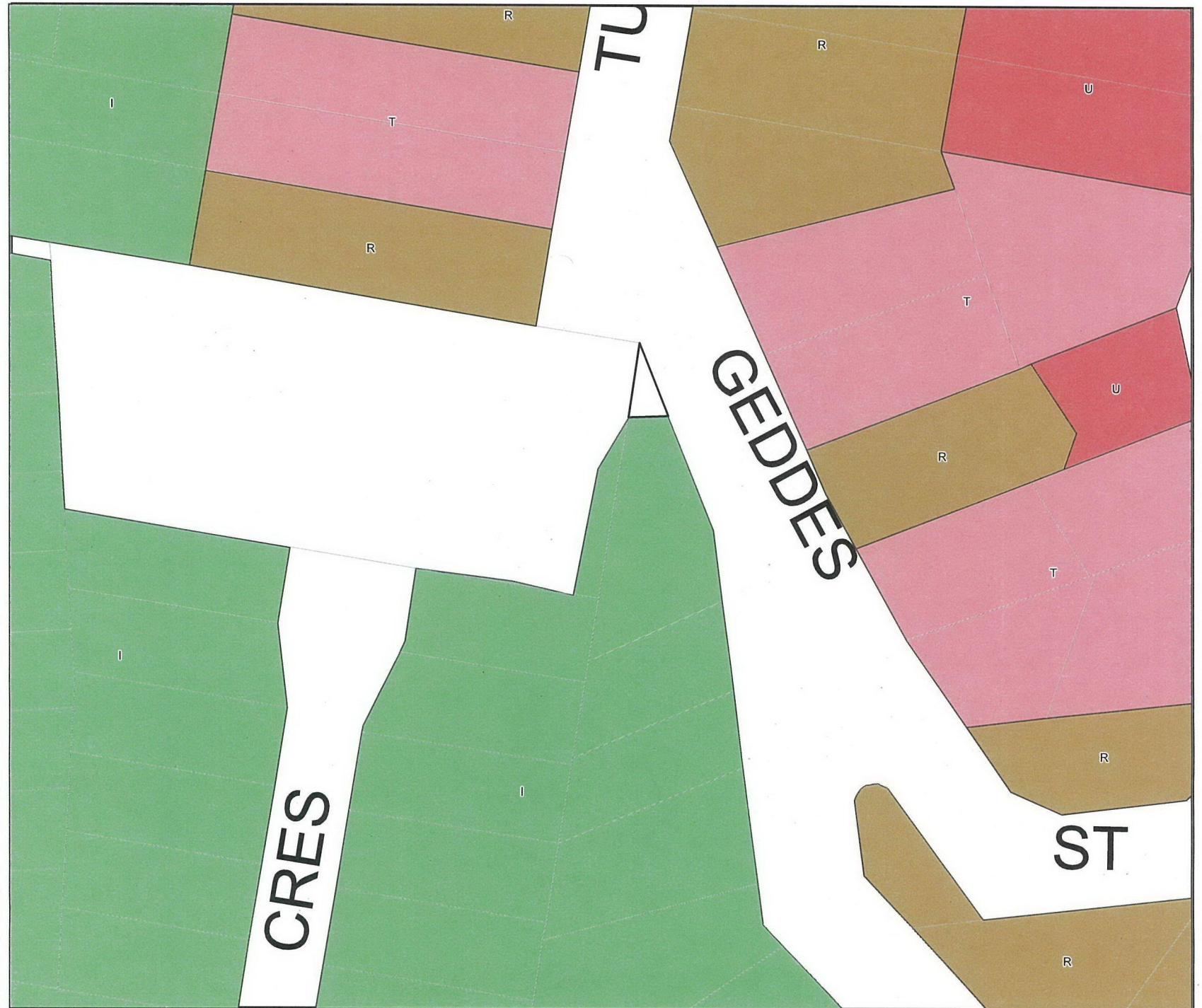
Cadastral - Base Data 18/12/2008
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Addendum Data 16/06/2014
© Manly Council



Projection: GDA 1994
MGA Zone 56



Scale: 1:700@ A3



Glen Hugo

From: Stanley Rees <stan.rees@crowland.nsw.gov.au>
Sent: Monday, 27 June 2016 5:11 PM
To: Glen Hugo
Subject: Zoning of Lot 1 DP 577319 and Lot 2759 DP 752038 adjacent to 47 Fisher St, Balgowlah Heights

Glen

I have checked the proposal as outlined in the letter from Northern Beaches Council, signed by Manager, Land Use Planning on 21-6-16.

DPI- Lands would be supportive of a planning proposal to correct the anomaly and zone proposed for the subject lots.

Lot 2759 DP 752038 has the same owner as Lot 2 DP 577319, as do Lot 1 DP 677319 and Lot 2638 DP 752038 which are part of the same Crown Reserve R83645 for Public Recreation for which Council is Trust Manager.

It may be worth noting that Lot 2638 DP 752038 is subject to Aboriginal Land Claim No 23054 lodged by the Metropolitan Local Aboriginal Land Council on 3-12-09. The status of the Claim is incomplete.

A check of the records suggests that there is no current Aboriginal Land Claim over Lot 1 DP 577319 (nor over Lot 2579 DP 752038 for that matter), so it is likely not necessary to reference the Metropolitan Local Aboriginal Land Council in the matter.

Regards

Stan Rees I Natural Resources Management Project Officer
Valentine Avenue, Parramatta 2150 I PO Box 2185 Dangar NSW 2309
T: 9842 8327 I E: stan.rees@crowland.nsw.gov.au
W: www.dpi.nsw.gov.au

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Northern Beaches Council

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