

Steve Murray - PP - Area 14

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To: Steve Murray <Steve.Murray@planning.nsw.gov.au>
Date: 05/10/11 2:39 PM
Subject: PP - Area 14
Attachments: PlanningProposal_Draft_reduced.pdf



Dear Steve

As discussed yesterday please find attached the Planning Proposal to correct the mapping error in the recently published PMHLEP2011 (Am6).

Please call me if you need to discuss this further.

Thanks again for your assistance in resolving this matter.

Regards

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Planning Proposal (Minor Amendment)

Lot A DP374315, Lot 4 DP615261

Ocean Drive, Lake Cathie



PORT MACQUARIE
HASTINGS

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Planning Proposal (Minor Amendment)

Proposal	To amend the lot size map 6380_COM_LSZ_013E_020_20110726 to correct a mapping error.
Property Details	Lot A DP374315, Lot 4 DP615261 Ocean Drive, Lake Cathie
Applicant Details	Council
Land owner	Seawide Pty Limited and Milland Pty Limited

Background

The Department of Planning and Infrastructure published an amendment to the Port Macquarie-Hastings Local Environmental Plan 2011 on 30 September 2011. The amendment affected or introduced changes to the:

- land zone map,
- lot size map,
- height of buildings map,
- floor space ratio map,
- acoustic control map, coastal erosion map and visually sensitive land map; and
- urban release area.

A mapping error on the lot size map was introduced during one of the amendments required by Legal Services and was carried through to the LEP amendment. The published map imposes a 40ha minimum lot size on the B4 Mixed Use, E2 Environmental Conservation and E3 Environmental Management zones. No minimum lot size is proposed for these zones.

The cause of the error has been attributed to the existing minimum lot size being visible through a hollow polygon.

The lot size map as published is inconsistent with the map that was exhibited and the versions provided to the Department up until 26 July 2011. The map as published does not reflect the intent for the area.

This planning proposal has been prepared to support the correction of this error.

Proposal

To revoke map sheet 6380_COM_LSZ_013E_020_20110726 that contains the mapping error and adopt a revised version that removes the 40ha minimum lot size from the area covered by the B4 Mixed Use, E2 Environmental Conservation and E3 Environmental Management zones.

Part 1 - Objectives or Intended Outcomes

To correct a mapping error on the lot size map that accompanied a previous planning proposal (PP_2010_PORTM_003_00).

Part 2 - Explanation of Provisions

To revoke map sheet 6380_COM_LSZ_013E_020_20110726 and adopt a revised version that does not apply a minimum lot size to the areas covered by the B4 Mixed Use, E2 Environmental Conservation and E3 Environmental Management zones.

Part 3 – Justification

Section A - Need for the planning proposal.

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

No. The planning proposal has been prepared to correct an error in a previous LEP amendment.

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

Council has been advised that the minor amendment cannot be addressed under the provisions of 73A(b) of the Environmental Planning and Assessment Act 1979.

Is there a net community benefit?

The correction of the error will make the LEP consistent with that exhibited in respect to the lot size in this location. It is considered neutrally beneficial.

Due to its minor nature it is not considered appropriate to assess the proposal against the Net Community Benefit (Draft Centres Policy).

Section B - Relationship to strategic planning framework.

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

Not applicable. This was addressed in detail in the Planning Proposal (PP_2010_PORTM_003_00).

Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Not applicable. This was addressed in detail in the Planning Proposal (PP_2010_PORTM_003_00).

Is the planning proposal consistent with applicable state environmental planning policies?

There are no applicable state environmental planning policies.

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

The relevant s117 directions are:

S117(2) Direction – title & objectives	Draft LEP consistency – Council comments
1. Employment and Resources	
1.1 Business and Industrial Zones The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres.	CONSISTENT The proposed zoning is B4 – Mixed Use to allow a variety of business and residential uses. The purpose of the centre is envisaged as convenience, entertainment and tourist-type boutique shopping given the close proximity of the village centre to the only beach access in the precinct. It is not expected to generate significant levels of the employment opportunities and is not expected to detract from the viability of the Area 14 – Village Centre. The error imposes a lot size constraint on the Mixed Use that was unintended. If it is not corrected then it may undermine the development of that zone.
1.2 Rural Zones The objective of this direction is to protect the agricultural production value of rural land.	NOT APPLICABLE
1.3 Mining, Petroleum Production and Extractive Industries The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	NOT APPLICABLE

S117(2) Direction – title & objectives	Draft LEP consistency – Council comments
1.4 Oyster Aquaculture The objectives of this direction are: (a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a draft LEP, (b) to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.	NOT APPLICABLE
1.5 Rural Lands The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes.	NOT APPLICABLE
2. Environment and Heritage	
2.1 Environmental Protection Zones The objective of this direction is to protect and conserve environmentally sensitive areas.	NOT APPLICABLE
2.2 Coastal Protection The objective of this direction is to implement the principles in the NSW Coastal Policy.	NOT APPLICABLE
2.3 Heritage Conservation The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	NOT APPLICABLE
2.4 Recreation Vehicle Areas The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	NOT APPLICABLE
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	NOT APPLICABLE
3.2 Caravan Parks and Manufactured Home Estates The objectives of this direction are: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates.	NOT APPLICABLE
3.3 Home Occupations The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	NOT APPLICABLE
3.4 Integrating Land Use and Transport The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public	NOT APPLICABLE

S117(2) Direction – title & objectives	Draft LEP consistency – Council comments
transport services, and (e) providing for the efficient movement of freight.	
3.5 Development Near Licensed Aerodromes The objectives of this direction are: (a) to ensure the effective and safe operation of aerodromes, and (b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	NOT APPLICABLE
4. Hazards and Risk	
4.1 Acid Sulfate Soils The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	NOT APPLICABLE
4.2 Mine Subsidence and Unstable Land The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	NOT APPLICABLE
4.3 Flood Prone Land The objectives of this direction are: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	NOT APPLICABLE
4.4 Planning for Bushfire Protection The objectives of this direction are: (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas.	NOT APPLICABLE
5. Regional Planning	
5.1 Implementation of Regional Strategies The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	NOT APPLICABLE
5.2 Sydney Drinking Water Catchments	NOT APPLICABLE
5.3 Farmland of State and Regional Significance on the NSW Far North Coast The objectives of this direction are: (a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre, (b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and (c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.	NOT APPLICABLE
5.4 Commercial and Retail Development along the Pacific Highway, North Coast The objectives for managing commercial and retail	NOT APPLICABLE

S117(2) Direction – title & objectives	Draft LEP consistency – Council comments
development along the Pacific Highway are: (a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route; (b) to prevent inappropriate development fronting the highway (c) to protect public expenditure invested in the Pacific Highway, (d) to protect and improve highway safety and highway efficiency, (e) to provide for the food, vehicle service and rest needs of travellers on the highway, and (f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.	
5.8 Second Sydney Airport: Badgerys Creek	NOT APPLICABLE
6. Local Plan Making	
6.1 Approval and Referral Requirements The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	NOT APPLICABLE
6.2 Reserving Land for Public Purposes The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	NOT APPLICABLE
6.3 Site Specific Requirements The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	NOT APPLICABLE

Section C - Environmental, social and economic impact.

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?

Not applicable.

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

Not applicable.

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

The error imposes a constraint that it likely to affect the development of the area.

Section D - State and Commonwealth interests.

Is there adequate public infrastructure for the planning proposal?

Not applicable. This was addressed in detail in the Planning Proposal (PP_2010_PORTM_003_00).

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

The State and Commonwealth public authorities were consulted during the planning proposal.

Given the minor nature of this amendment it is considered unnecessary for additional consultation to be undertaken.

Part 4 – Community Consultation

The proposal is consistent with that previously exhibited. There were no public submissions relating to the minimum lot size of the mixed use or environmental zones.

It is requested that the Gateway Panel determine that the planning proposal does not require community consultation under section 73A(b) of the Environmental Planning and Assessment Act 1979 as provided for under 56(3) of that Act being ;

“(1) An amending environmental planning instrument may be made under this Part without compliance with the provisions of this Part relating to the conditions precedent to the making of the instrument if the instrument, if made, would amend or repeal a provision of a principal instrument in order to do any one or more of the following:
(a) correct an obvious error in the principal instrument consisting of a misdescription, ... or a formatting error,
(b) address matters in the principal instrument that are of a ... other minor nature,
(c) deal with matters that the Minister considers 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.
(2) A reference in this section to an amendment of an instrument includes a reference to the amendment or replacement of a map adopted by an instrument..”

If the Gateway Panel determines that consultation is required it is requested that the proposal be considered low impact;

- Being consistent with the pattern of surrounding land use zones and land uses;
- Being consistent with the strategic planning framework;
- Presents no issues with regard to infrastructure servicing;
- Is not a principal LEP; and
- Does not reclassify public land.

The proposal is consistent with that previously exhibited. Council did not receive any submissions relating to minimum lot sizes during the exhibition period.

Contact Details:

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Attachments:

- 1 LSZ map as exhibited.
- 2 LSZ map as presented to DoPI – 15 March 2011
- 3 LSZ map as approved – 30 September 2011
- 4 LSZ map proposed (with correction).

**Port Macquarie-
Hastings (Area
14 - 1B) Local
Environmental
Plan 2010
DRAFT**



**Lot Size Map -
Sheet LSZ_001**

Minimum Lot Size

G	450 m ²
Q	700 m ²
U1	1000 m ²
U2	1800 m ²
V	2000 m ²
W1	3000 m ²
W2	4000 m ²
X1	5000 m ²
X2	8000 m ²
1.0 Ha	
1.2 Ha	
1.5 Ha	
2.0 Ha	
3.0 Ha	
6.0 Ha	
10 Ha	
40 Ha	
100 Ha	
Special provisions - Clause 4.1A	

Cadastral

Base data 1994 © Land and Property
Management Authority of NSW (LPMAN)
Addendum data © 30/09/2010 PMHC



Projection: GDA 1994 - Zone 56 Scale: 1:5,000
Map identification number: 6550_A14_LSZ_001_002_20101105



Attachment 2



Port Macquarie-Hastings Local Environmental Plan 2011

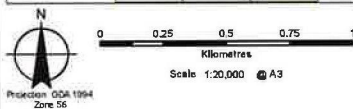
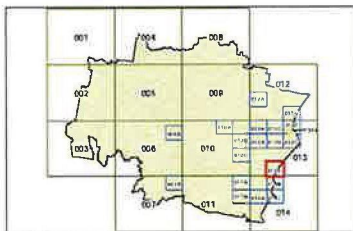
Lot Size Map Sheet LSZ_013E

Minimum Lot Size

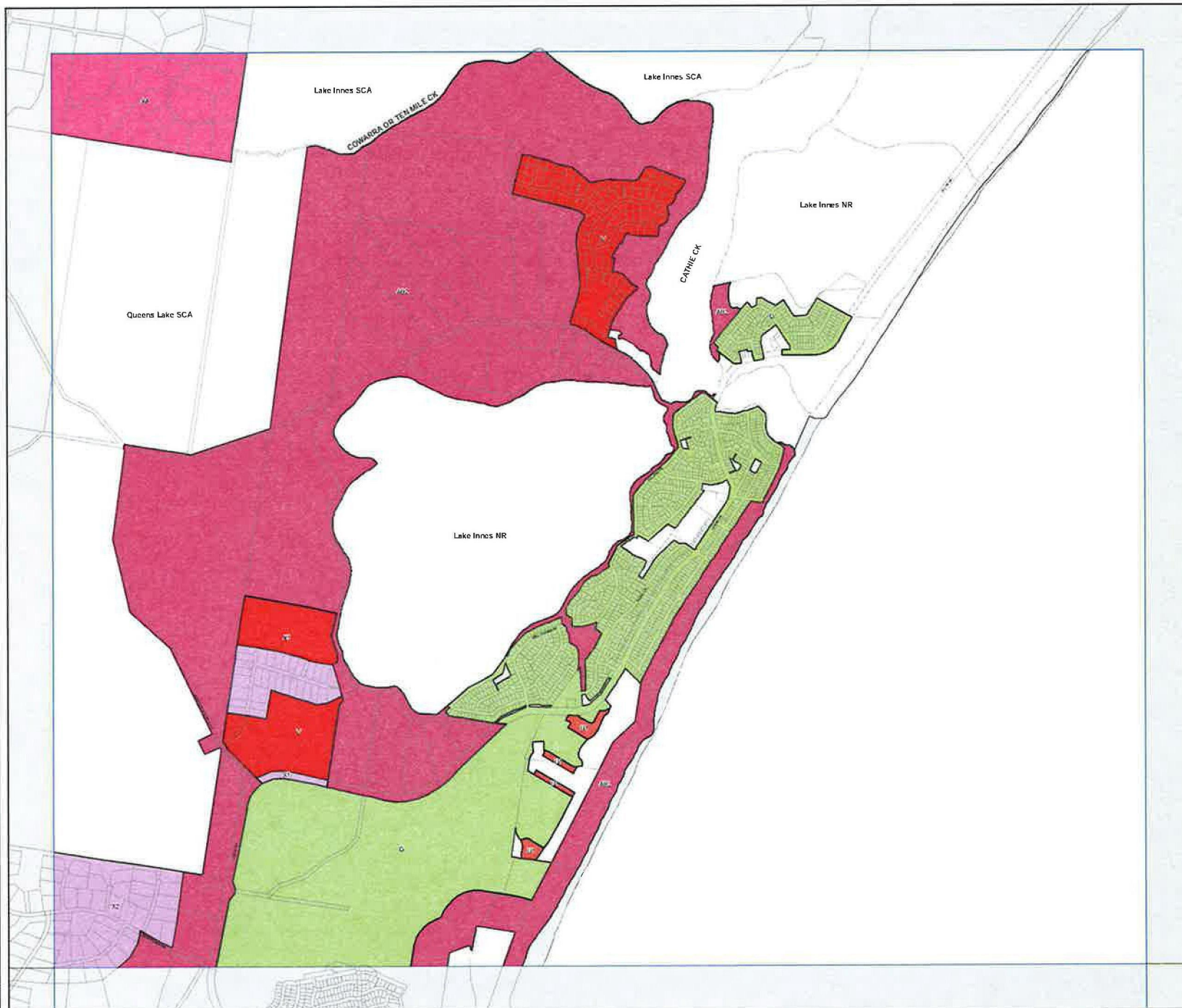
G	450 m ²
G1	700 m ²
L1	1000 m ²
L2	1800 m ²
V	2000 m ²
V1	3000 m ²
V2	4000 m ²
X1	5000 m ²
X2	8000 m ²
1.0	1.0 Ha
1.2	1.2 Ha
1.5	1.5 Ha
2.0	2.0 Ha
3.0	3.0 Ha
6.0	6.0 Ha
10	10 Ha
40	40 Ha
100	100 Ha
Special provisions - Clause 4.1A	

Cadastre

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Map identification number: 9380_COM_LSZ_013E_00_20110315





Port Macquarie-Hastings Local Environmental Plan 2011

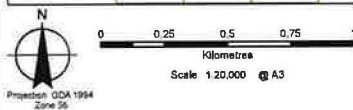
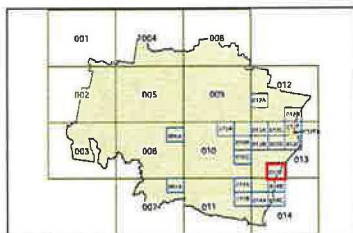
Lot Size Map Sheet LSZ_013E

Minimum Lot Size (sq m)

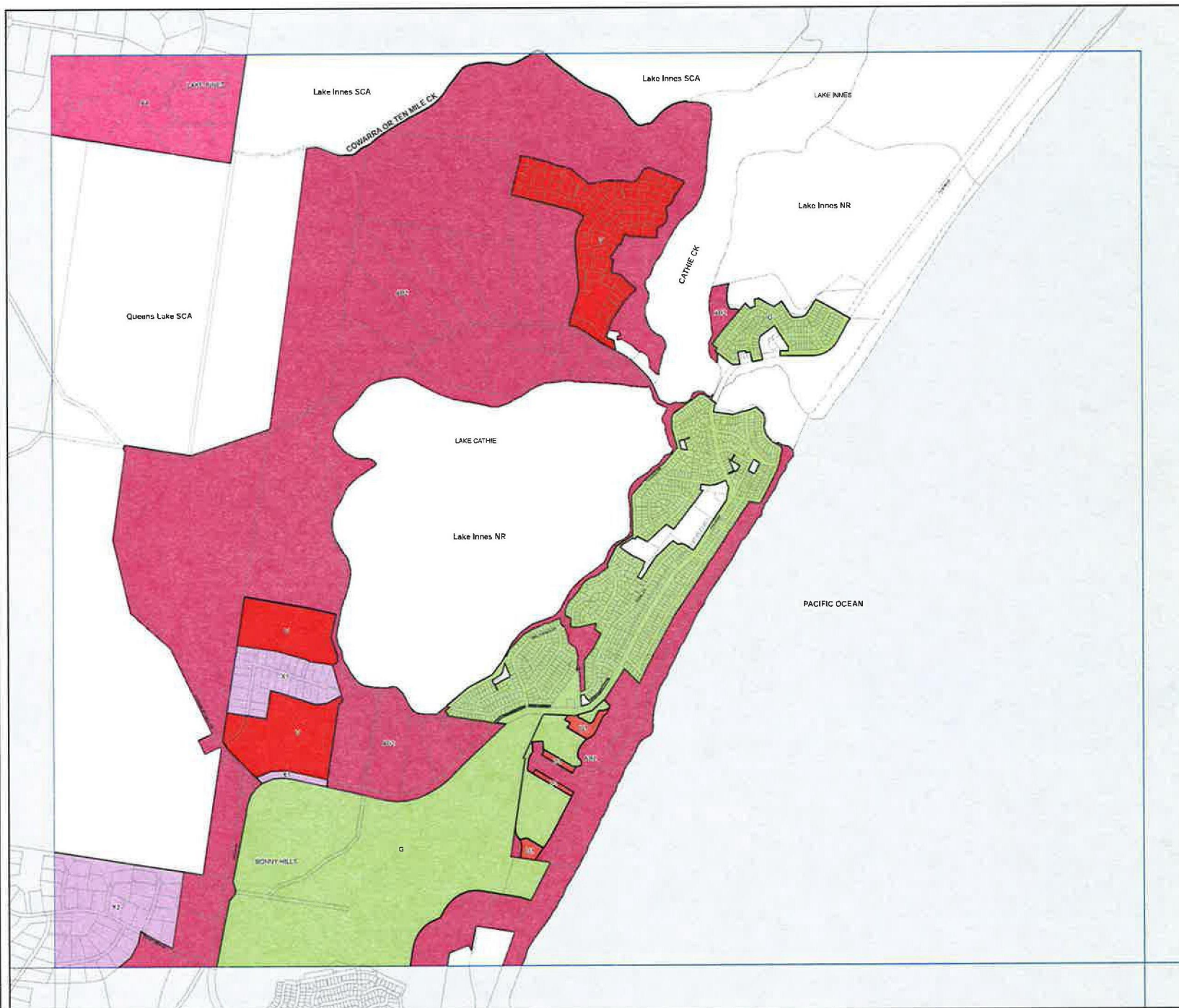
G	450
G2	700
U1	1000
U2	1800
V	2000
W1	3000
W2	4000
X1	5000
X2	8000
Y1	1.0 ha
Y2	1.2 ha
Y3	1.5 ha
Z	2.0 ha
Z2	3.0 ha
AA	6.0 ha
AB	10 ha
AB2	40 ha
AD	100 ha
Area 1	Area 1

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Map identification number 6380_CGM_LSZ_013E_030_20110728





Lot Size Map

Sheet LSZ_013E

Minimum Lot Size (sq m)



450

700

1000

1800

2000

3000

4000

5000

8000

1.0 ha

1.2 ha

1.5 ha

2.0 ha

3.0 ha

5.0 ha

10 ha

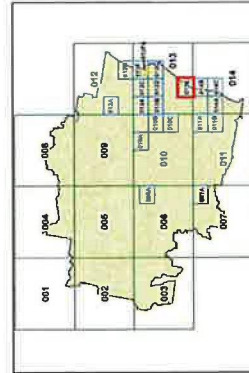
40 ha

100 ha

Area 1

Cadastra

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Addendum data © 2010/2011 FWHC



Scale 1:20,000 @ A3
Projection: GDA 1994
Zone 56

