
ENVIRONMENTAL AND PLANNING SERVICES REPORT – PART 1.**4. SECTION 59 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 – PLANNING REPORT****Planning Proposal details:**

PP_2013_COROW_003_00: to rezone part of Lot 11 DP 737090 and part of Lot 12 DP 737090, Melbourne Street, Mulwala.

Planning Proposal Summary:

To rezone part of Lots 11 and 12 DP 737090 Melbourne Street, Mulwala from zone W2 – Recreational Waterway to zone R1 – General Residential and amend the related Land Zoning Map, Lot Size Map, Height of Buildings Map and River Front Building Line Map.

Date of Gateway Determination:

1 August 2013

1.0 SUMMARY

- The rezoning of the lots is to correct a mapping error in Corowa LEP 2012.
- Part of the lots is to be rezoned from W2 – Recreational Waterways to R1 – General Residential.
- The Planning Proposal was placed on public exhibition from 21 August 2013 until 20 September 2013.
- Points raised in the submissions from the Government agencies included, the need to ensure dwelling floor heights are located 500mm above 1% flood level and acknowledging that the amendment is to correct a mapping error.
- There are no key amendments proposed to the Planning Proposal as a consequence of public exhibition or agency consultation.

2.0 GATEWAY DETERMINATION

- The Gateway Determination was issued on 1 August 2013.
- The project timetable for the completion of the Planning Proposal is 12 months from the week following the date of the Gateway Determination.
- The Gateway Determination was not subject to a review request.
- The conditions included in the Gateway Determination have been complied with.

3.0 COMMUNITY CONSULTATION

- The Planning proposal was on public exhibition from 12 August 2013 until 20 September 2013. The Planning Proposal was available for viewing at Council offices in Corowa, Howlong and Mulwala, as well as being exhibited on Council's website.
 - No submissions were received following public exhibition.
 - The Planning proposal was not re-exhibited.
 - The consultation requirements included in the Gateway Determination were complied with i.e. minimum number of days made publically available (28) and the type of material that was to be made publically available.
 - Following a Post Exhibition review Council resolved to proceed with the Planning Proposal as exhibited.
 - As there were no issues raised during public exhibition there have been no amendments made to the Planning Proposal in response of such.
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- Documents placed on public exhibition are attached.

4.0 VIEWS OF PUBLIC AUTHORITIES

- The following public authorities were consulted with and all provided a response:
 - **Office of Environment and Heritage** –no objection, but recommends that Council ensures that all future dwellings on the 2 lots have a floor height of at least 500mm above the 1% flood level.
 - **NSW Office of Water** – acknowledging that the amendment is to correct a mapping error.
 - **Roads and Maritime Services** – acknowledging that the amendment is to correct a mapping error.
 - **DPI – Fisheries** – acknowledging that the amendment is to correct a mapping error.
- Agency consultation occurred in accordance with the requirements of the Gateway Determination i.e. agencies were given at least 21 days to comment and the type of material that was to be forwarded to them.
- Following a Post Exhibition review Council resolved to proceed with the Planning Proposal as exhibited.
- It is not proposed to amend the Planning Proposal to respond to the issue raised by the agencies as this is of such a nature that should be assessed at development application stage of any future development.
- Documents forwarded to the public authorities are attached.

5.0 CONSISTENCY WITH S.117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS

The following Section 117 Directions have been addressed as part of the Planning Proposal:

Consistency with SEPP's

The following relevant environmental planning instruments (EPI) have been considered in the preparation of this planning proposal:

EPI	Applicable	Relevant	Consistent	Comments
Murray Regional Environmental Plan No 2—Riverine Land	Yes	Yes	Yes	The PP is generally consistent with the provisions of the MREP
State Environmental Planning Policy No 1—Development Standards	Yes	Yes	Yes	This SEPP may apply to development of the land to which the PP applies and does not affect the operation of the SEPP

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State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	Yes	Yes	Yes	This SEPP may apply to development of the land to which the PP applies and does not affect the operation of the SEPP
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State Environmental Planning Policy No 6—Number of Storeys in a Building	Yes	Yes	yes	This SEPP may apply to development of the land to which the PP applies and does not affect the operation of the SEPP
State Environmental Planning Policy No 21—Caravan Parks	Yes	Yes	Yes	The PP is consistent with the provisions of the SEPP in that development of a caravan park requires the consent of Council and is permissible development in zone R1
State Environmental Planning Policy No 22—Shops and Commercial Premises	Yes	Yes	Yes	The PP will not affect the application of this SEPP
State Environmental Planning Policy No 30- Intensive Agriculture	Yes	Yes	Yes	The PP will not affect the operation of this SEPP
State Environmental Planning Policy No 32—Urban	Yes	Yes	Yes	The PP will not affect the application of this SEPP
Consolidation (Redevelopment of Urban Land).				
State Environmental Planning Policy No 33—Hazardous and Offensive Development	Yes	Yes	Yes	The PP will not affect the application of this SEPP

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State Environmental Planning Policy No 36—Manufactured Home Estates	Yes	Yes	Yes	The PP will not affect the application of this SEPP
State Environmental Planning Policy No 44—Koala Habitat Protection	Yes	Yes	Yes	The PP will not affect the application of this SEPP
State Environmental Planning Policy No 50 – Canal Estate Development	Yes	Yes	Yes	The PP will not affect the application of this SEPP
State Environmental Planning Policy No 55—Remediabon of Land	Yes	Yes	Yes	The PP will not affect the application of this SEPP. The PP is to correct a mapping error
State Environmental Planning Policy No 62—Sustainable Aquaculture		Yes	Yes	The PP will not affect the application of this SEPP
State Environmental Planning Policy No 64—Advertising and Signage	Yes	Yes	Yes	The PP will not affect the application of this SEPP
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	Yes	Yes	Yes	The PP will not affect the application of this SEPP
State Environmental Planning Policy (Affordable Rental	Yes	Yes	Yes	The PP will not affect the application

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Housing) 2009				
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.	Yes	Yes	Yes	The PP does not affect the application of the SEPP
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Yes	Yes	Yes	The PP does not affect the application of this SEPP
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	Yes	Yes	Yes	The PP does not affect the application of this SEPP
State Environmental Planning Policy (Infrastructure) 2007	Yes	Yes	Yes	The PP does not affect the application of this SEPP
State Environmental Planning Policy (Major Development) 2005	Yes	Yes	Yes	The PP does not affect the application of this SEPP
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	Yes	Yes	Yes	The PP does not affect the application of this SEPP
State Environmental Planning Policy (Rural Lands) 2008	Yes	Yes	Yes	The PP does not affect the application of this SEPP
State Environmental	Yes	Yes	Yes	The PP does not affect the application of this SEPP

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Planning Policy (Temporary Structures and Places of Public Entertainment) 2007				
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Consistency with Section 117 Directions

The Following relevant s117 Directions have been considered in the preparation of this planning proposal:

No.	s117 Directions	Objective	Consistency	Comments
2	Environment and Heritage			
2.1	Environment Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas	Yes	The PP is consistent with the objectives of this direction. The portion of land that is part of Lake Mulwala will remain W2 Recreational Waterways zone
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	Yes	The PP does not affect the standard provisions for the protection of heritage and archaeological sites
3	Housing, Infrastructure and Urban Development			

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3.1	Residential Zones	The objectives of this direction are: to encourage a variety and choice of housing types to provide for existing and future housing needs, to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environment and resource lands.	Yes residential is consistent	The proposed rezoning of the subject sites to with the objectives of this direction.
3.2	Caravan Parks and Manufactured Home Estates	The objectives of this direction are to provide for a variety of housing types and to provide opportunities for caravan parks and manufactured home estates.	Yes	The PP allows the development of caravan parks and MHE's within the zone RI.
3.3	Home Occupations	The objective of this direction is to encourage the carrying out of low- impact small businesses in dwelling	Yes	The PP is consistent with this direction.

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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: improving access to housing, jobs and services by walking, cycling and public transport, and increasing the choice of available transport and reducing dependence on cars, and reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and supporting the efficient and viable operation of public transport CP rvirnc and	Yes existing urban development	The PP is consistent with objectives of this direction in that the subject land is in close proximity to
4	Hazard and Risk			
4.3	Flood Prone Land	The objectives of this direction are: to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 200.5, and 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.	Yes This direction. 1% flood level.	The PP is consistent with the objectives of All of the subject land that will be in the zone R1 is located above the

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4.4	Planning for Bushfire Protection	The objectives of this direction are 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 to encourage sound management of bush	Yes	The PP is consistent with the objectives of the direction
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	Yes	No identified regional strategies apply
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	Yes	There are no approval or referral requirements proposed in the PP.
6.2	Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition	Yes	The PP does not affect land reserved for public purposes.

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6.3	Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Yes controls	The PP does not propose site planning
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6.0 PARLIAMENTARY COUNSEL OPINION

- An opinion was sought from Parliamentary Counsel on 29 October 2013.
- An opinion was given on 27 March 2014 and states that the draft environmental planning instrument may legally be made. See attachment.

7.0 OTHER RELEVANT MATTERS

- No representations have been received on the Planning Proposal from State or Federal members of Parliament.
- The Council has not met with the Planning Minister in relation to the Planning Proposal.

8.0 MAPPING

- Maps indicating the current and the Planning Proposal i.e. Land Zoning Map, Lot Size Map, Height of Buildings Map and River Front Building Line Map are attached.

9.0 RECOMMENDATION

RECOMMENDED that Council adopt this report, its attachments and all submissions in accordance with Section 59 of the Environmental Planning and Assessment Act 1979
AND
Council further directs the General Manager (a delegate of the Minister for Planning and Infrastructure) to make the Plan in accordance with this Section 59 planning report.

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COROWA LEP 2012 – Amendment 3

Part 1 – Objectives or Intended Outcomes

The Intended outcome for the Planning Proposal is to:-

- To correct a mapping error that applies to part of land at Lot 11 DP 737090 – land that is currently zoned W2- Recreational Waterways to be zoned R1- General Residential i.e. land that is north of the foreshore/retaining wall.
- To correct a mapping error that applies to part of land at Lot 12 DP 737090 – land that is currently zoned W2- Recreational Waterway to be zoned R1-General residential i.e. land that is north of the foreshore/retaining wall.

Part 2 – Explanation of Provisions

In relation to items 1 and 2 above will entail amendments to the relevant land zoning, lot size, height of buildings and riverfront building line maps and the map cover sheet.

Refer to the maps that accompany this Planning Proposal

The draft maps provided comply with the Technical Guidelines.

Part 3 – Justification

Section A – Need for the planning proposal

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

The planning proposal is to correct a mapping error. Land that is north of the foreshore and retaining wall that is above the 1% flood level has been mapped as W2 Recreational Waterways instead of R1 General Residential.

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

The planning proposal is the best means to achieve the proposed outcomes as the identified land requires rezoning to correct the error.

- 3 Is there a net community benefit?

While not quantified there will be net community benefit realised in that a mapping error will be corrected and land use restored which will allow future development.

Section B – Relationship to strategic planning framework

- 4 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)?

There is no regional or sub-regional strategy applicable to the subject lands. The draft Murray Regional Strategy is being prepared and the proposal is not inconsistent with this as it relates to relatively minor changes to local planning in urban areas.

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

The proposal is not consistent with the approved Corowa Strategic Land Use Plan and can be considered as minor. This is where the original mapping error occurred with the land being identified as environmentally sensitive rather than residential. The land is occupied by 2 dwellings a motel (64 units) and associated wellness buildings.

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

Yes – refer to assessment in **Attachment B**

- 7 Is the planning proposal consistent with applicable Ministerial Directions (s. 117 direction)?

Yes – refer to assessment in **Attachment C**.

Section C – Environmental, social and economic impact

- 8 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 – the lands north of the foreshore/retaining wall are occupied by 2 dwellings, a motel (64 units) and associated wellness building and are general clear and free of constraint and suitable for the proposed rezoning and is part of the urban area. The southern portion of the lands i.e. south of the foreshore/retaining wall forms part of Lake Mulwala. The area of lands south of the foreshore/retaining wall will remain W2 Recreational Waterways. Consultation will occur with agencies to ascertain if there are any significant species, communities or habitats.

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

No – there are no known environmental effects. Both lots are connected to existing utilities i.e. sewer, water and electricity. Portions of lands north of the foreshore/retaining wall are above the 1% flood level. Consultation will occur with agencies to ascertain if there are any significant constraints.

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

The proposal will provide residential development opportunities on lands suitable for such use which have social and economic benefits.

Section D – State and Commonwealth interests

11 Is there adequate public infrastructure for the planning proposal?

Yes – the identified lands are adequately serviced by local services to cater for the existing and future development.

12 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

No consultation has occurred at this stage. Consultation with the state government agencies will be undertaken post gateway determination.

It is proposed to consult with the NSW Office of Environment and Heritage, Office of Water, Roads and Maritime Services, primary Industries – Fisheries, Environmental protection Authority and Murray-Darling Basin Authority.

There is no Commonwealth land involved and there is no reason to consult with Commonwealth agencies in this case.

Section E – Reclassification of Public Land

There is no public land identified and therefore this section is not applicable.

Part 4 – Mapping

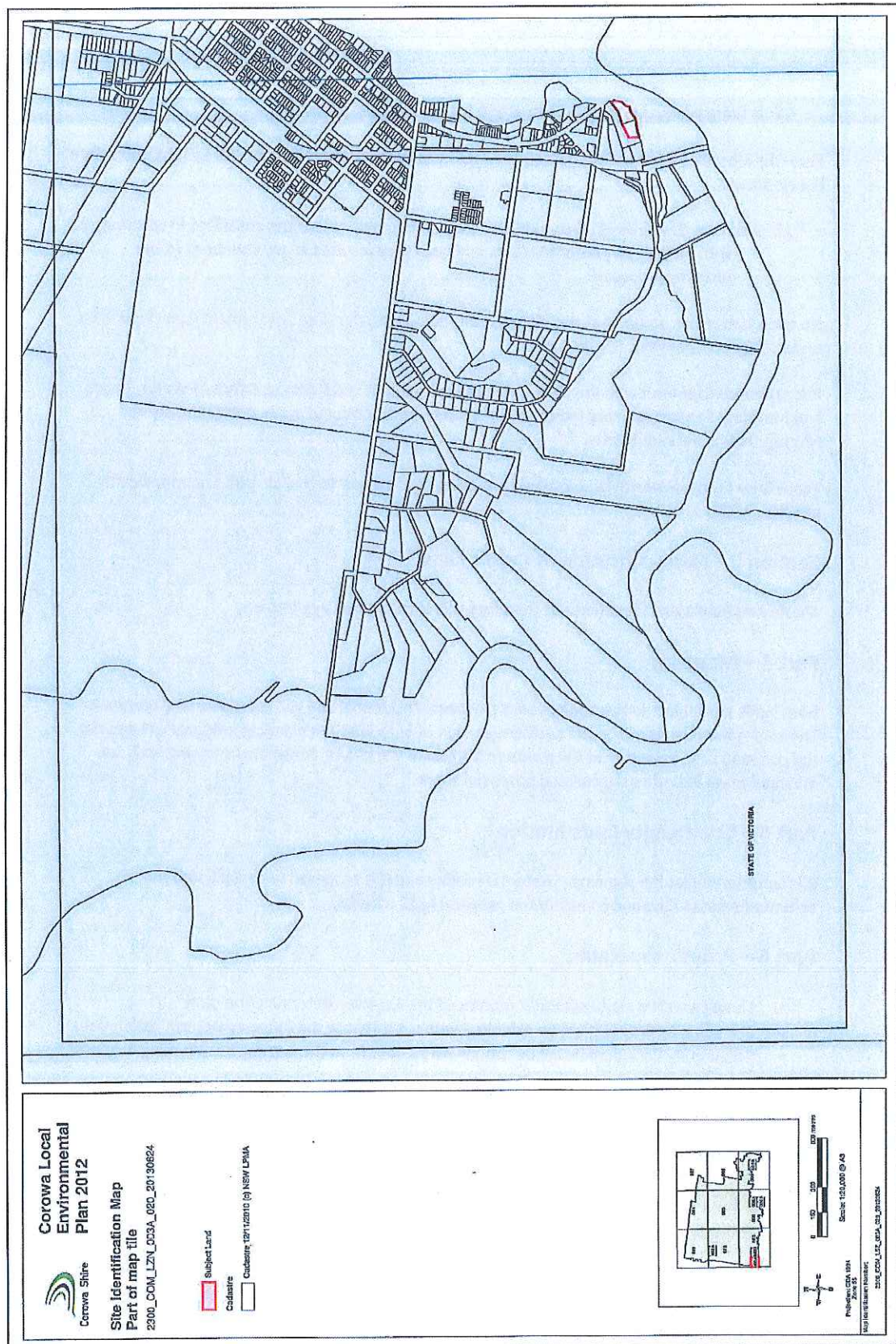
Both lands are subject to two zonings i.e. R1 General Residential and W2 Recreational Waterways. The zoning boundaries are on the northern portion of both lots. The planning proposal will amend the common zone boundary to the southern portion of the lots i.e. foreshore/retaining wall. See attached maps indicating current and proposed zones.

Part 5 – Community Consultation

It is considered that the planning proposal is routine and it is proposed to consult with the community for 14 days and complete the proposal in 12 months.

Part 6 – Project timetable

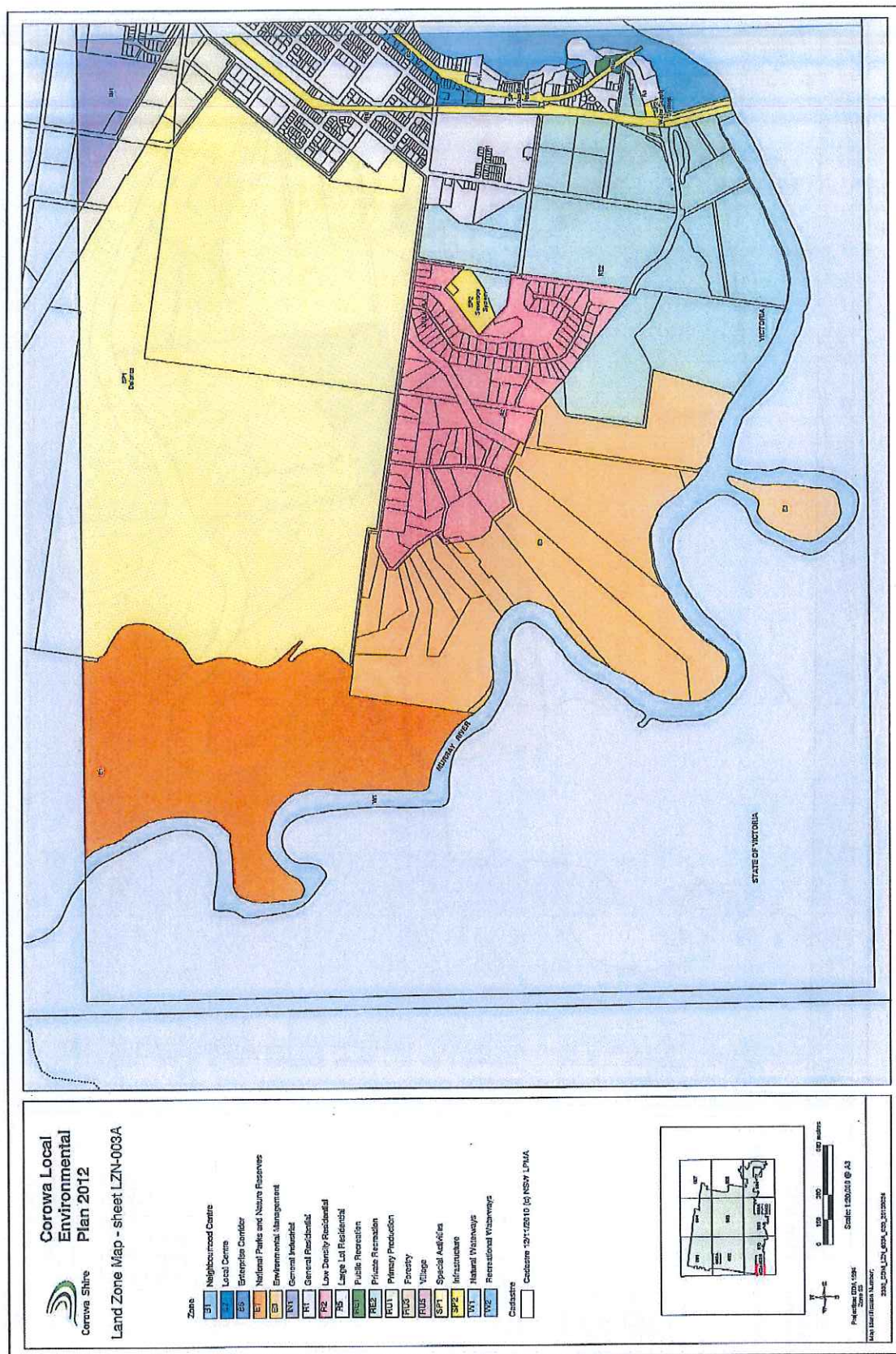
- The plan will be made within 12 months of the Gateway Determination date.
- The planning proposal will be exhibited within 4 weeks of the Gateway Determination date.
- Community Consultation will be completed 28 days from the last day the Planning Proposal must be exhibited.
- Public Authority Consultation will be completed within 35 days of the Gateway Determination date.
- The RPA will request the Department to draft and finalise the LEP no later than 6 weeks prior to the projected making of the plan date specified in the first dot point.



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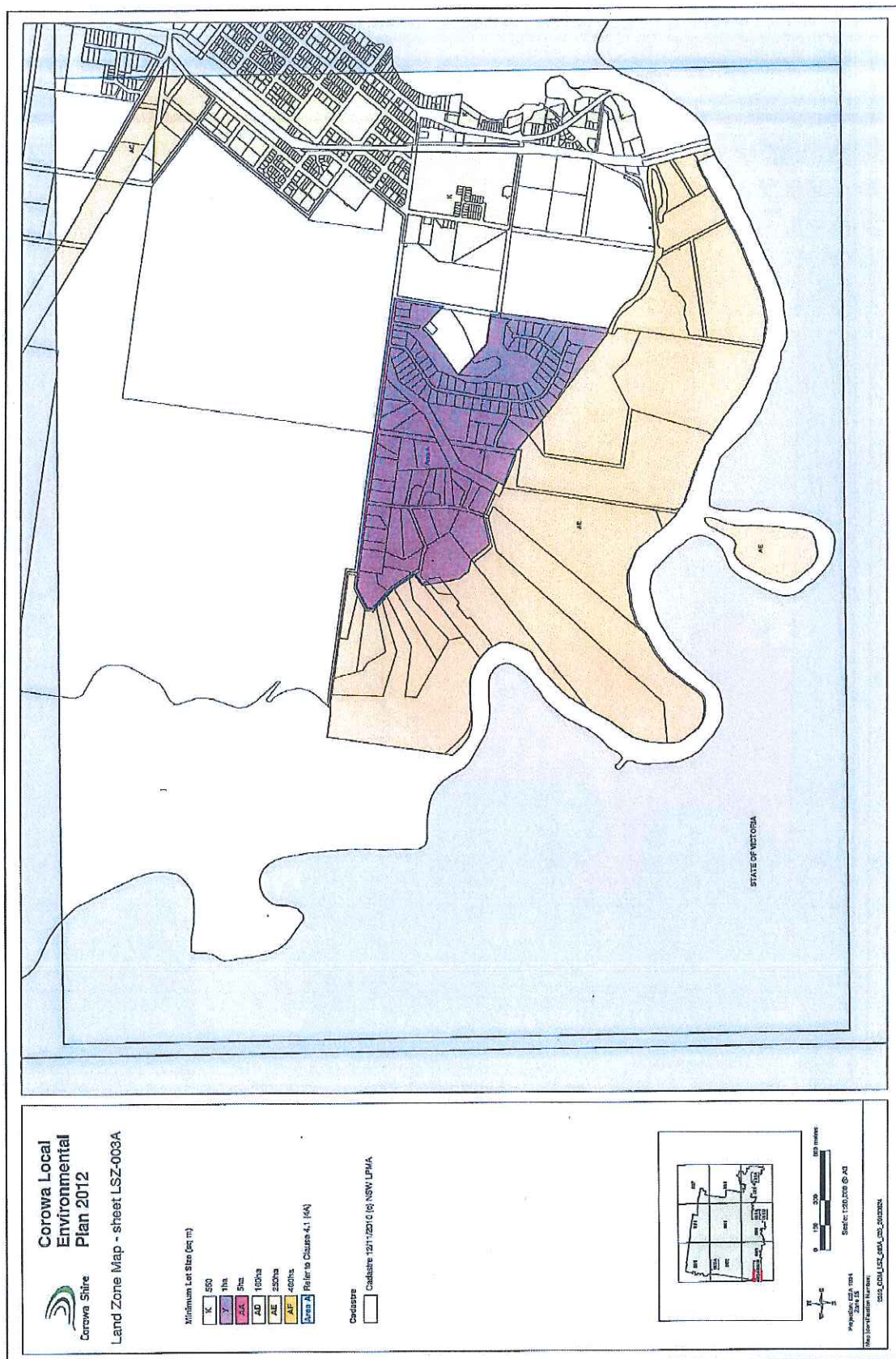
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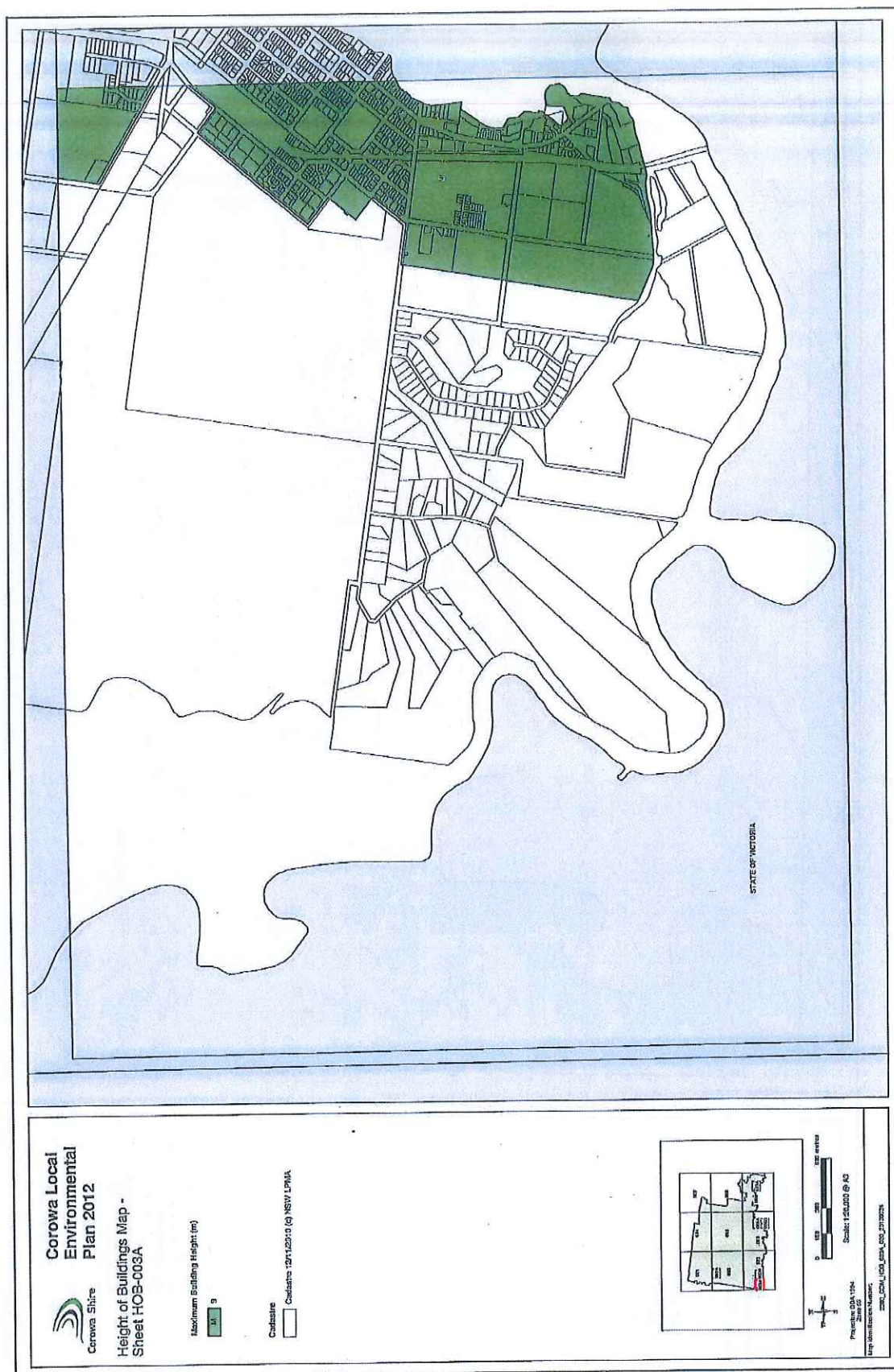
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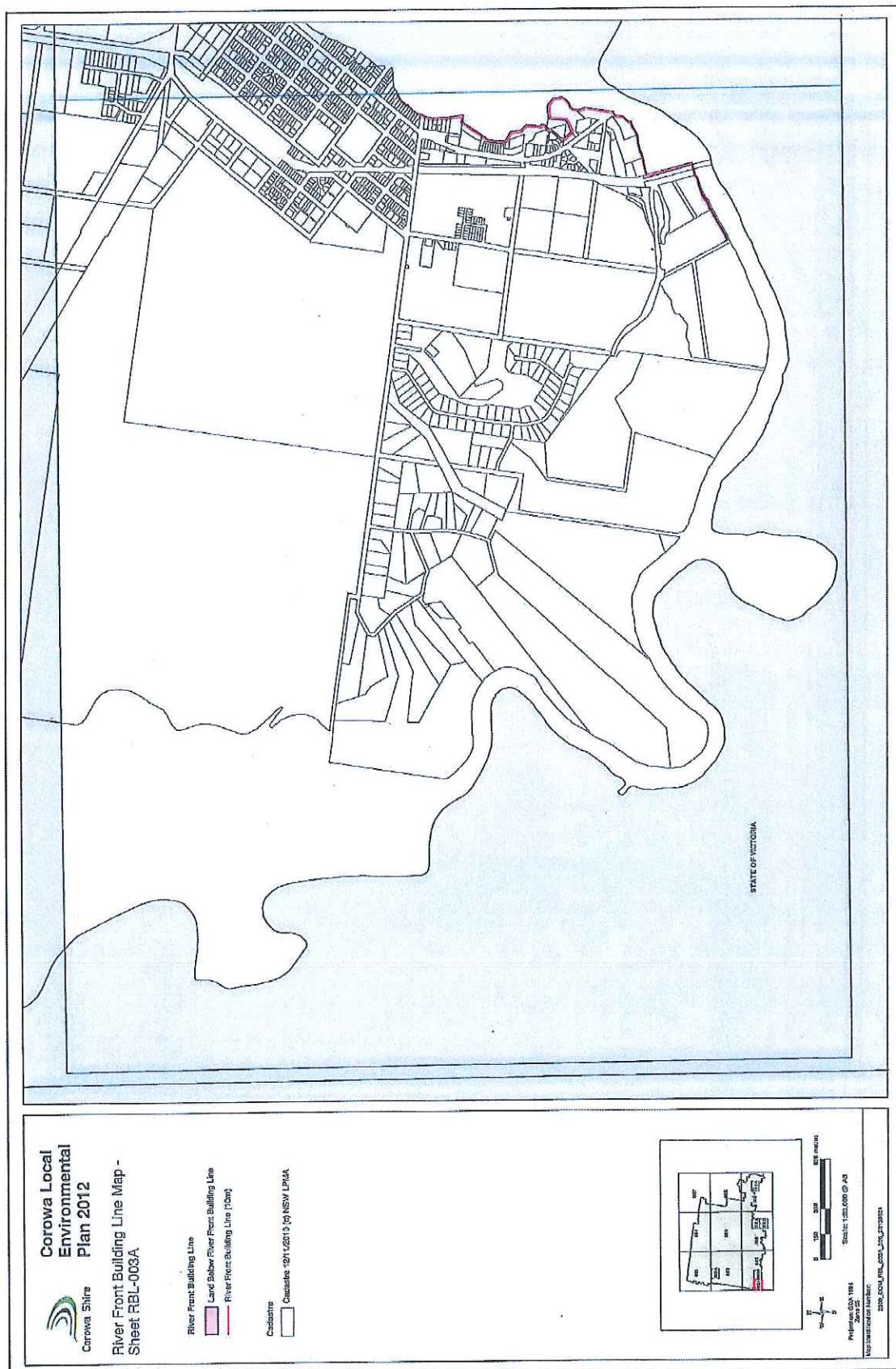
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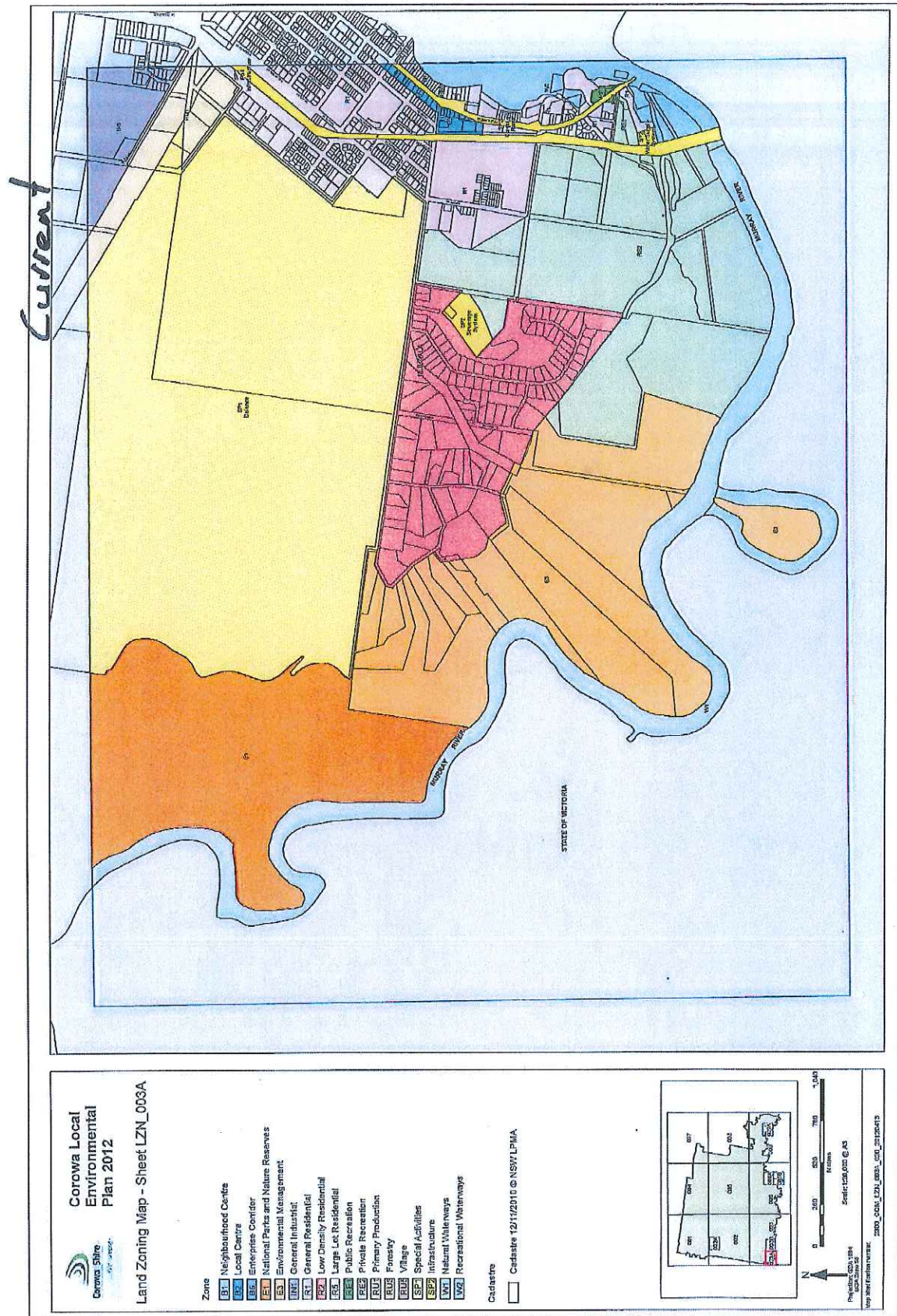
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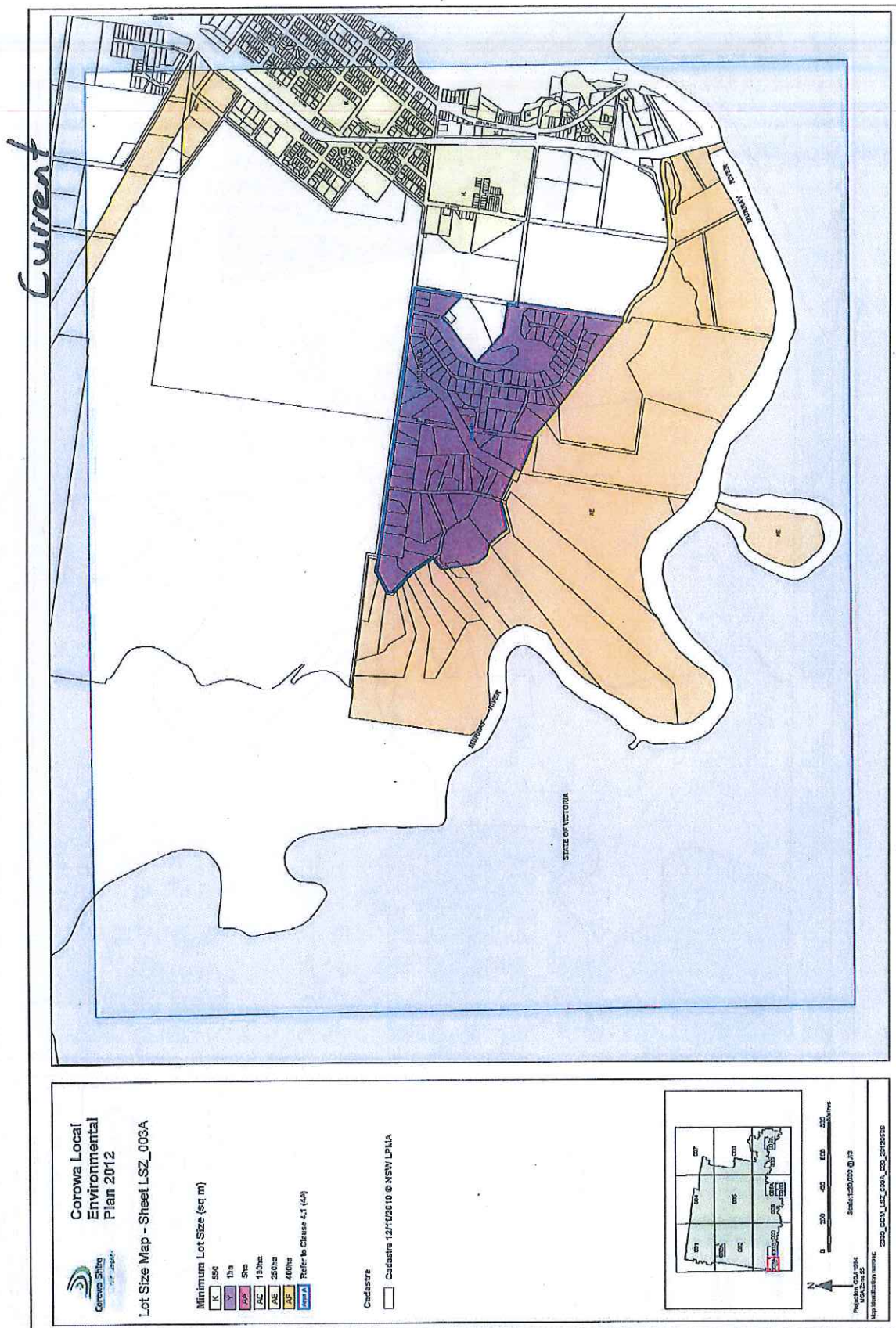
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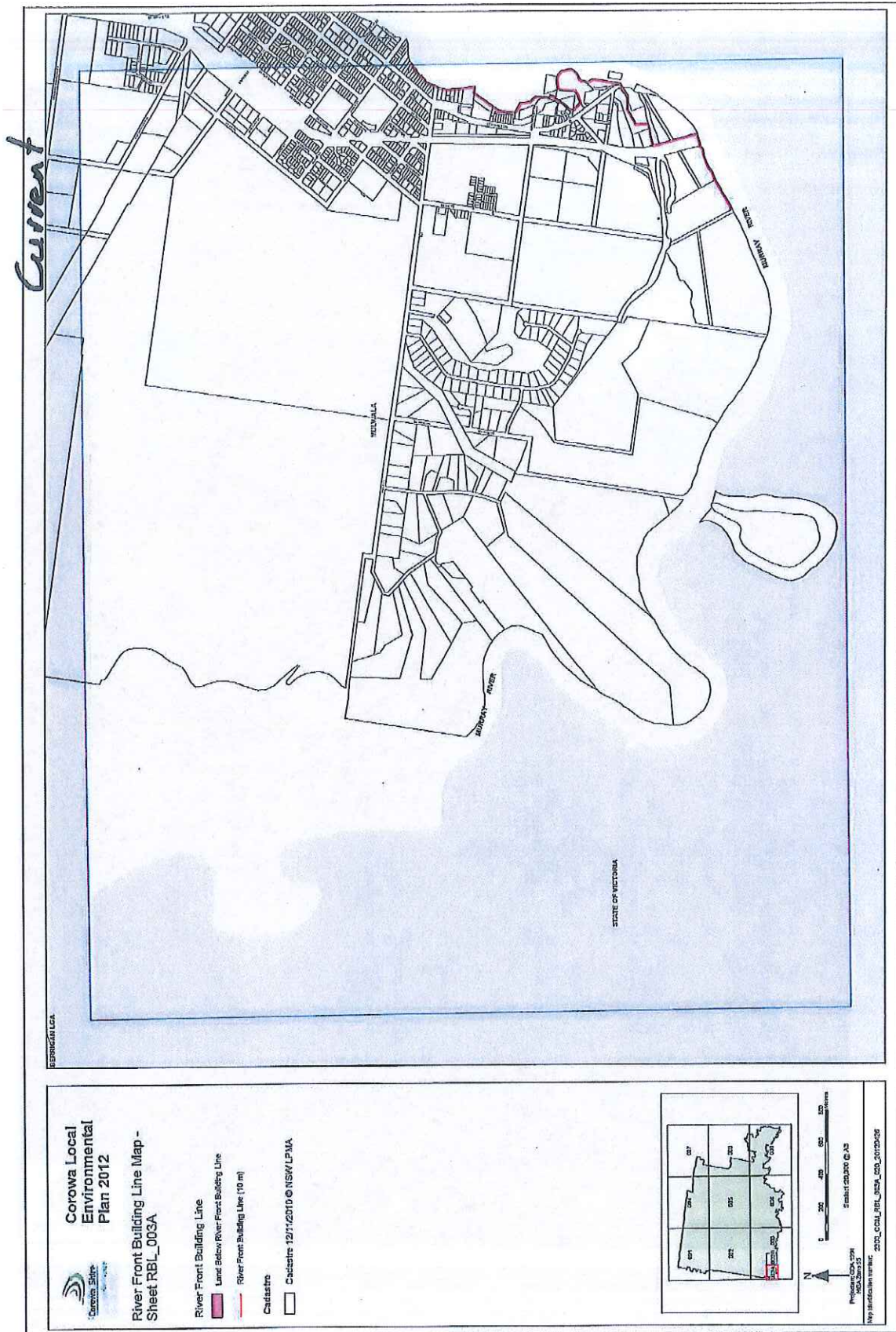
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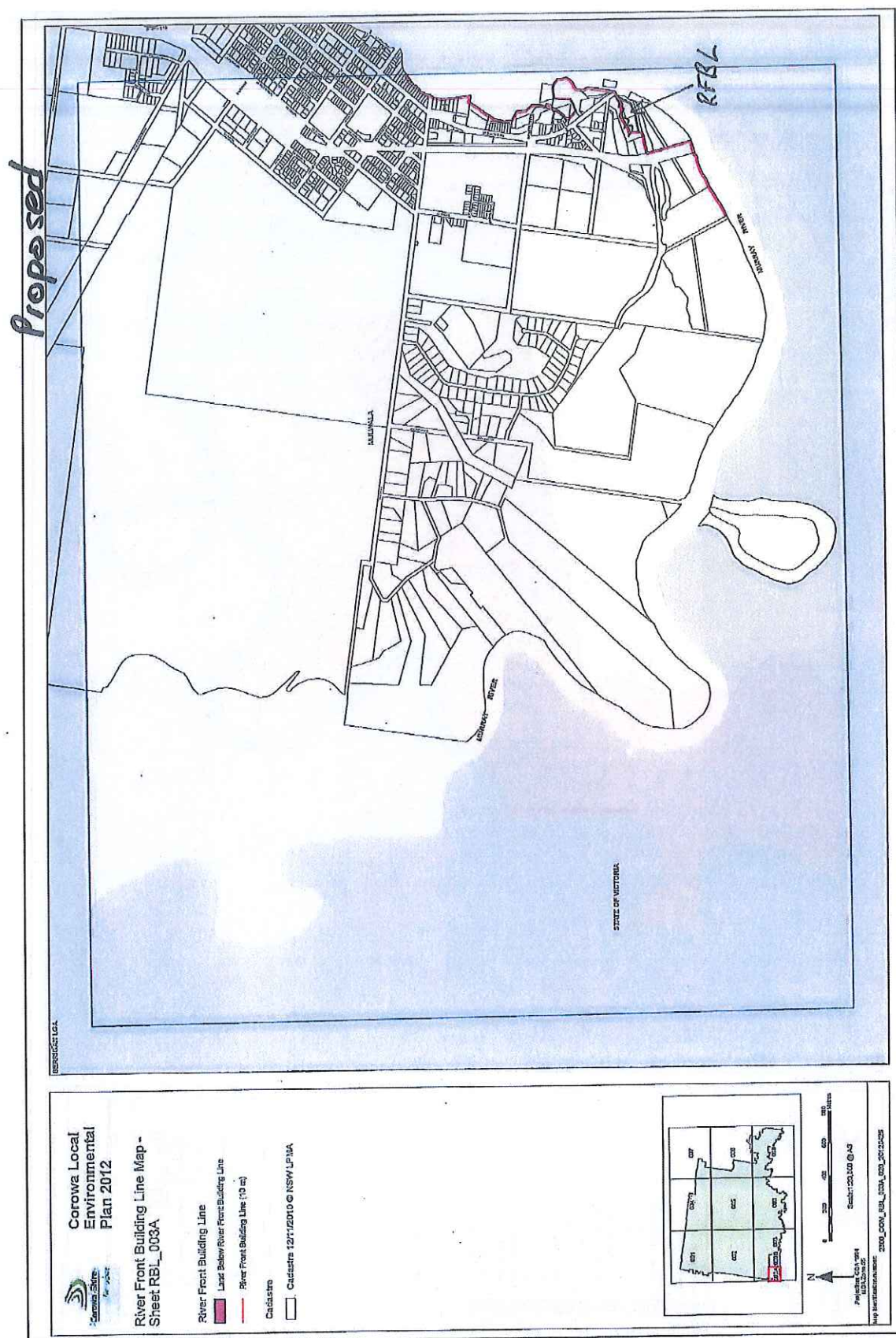
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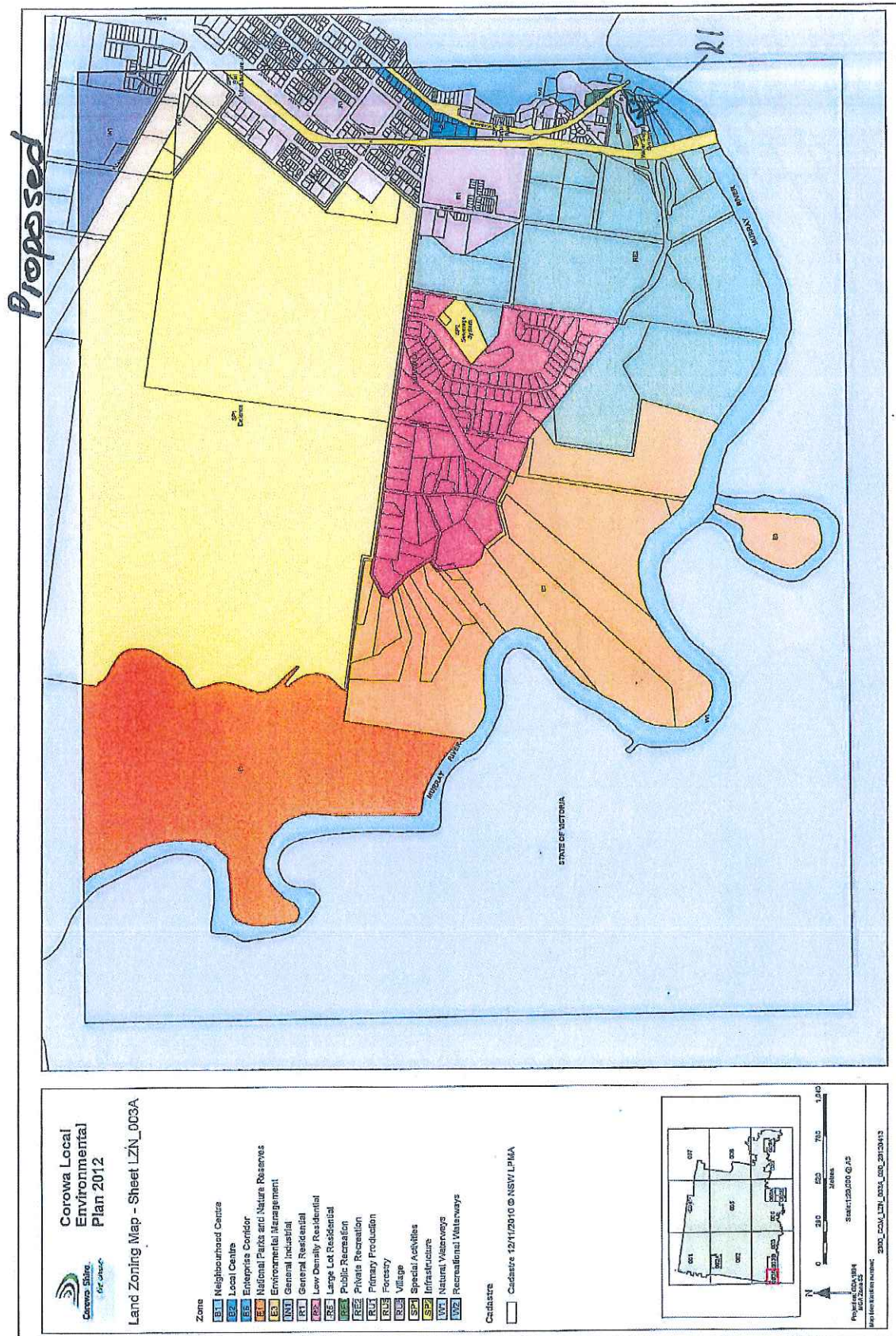
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