

PLANNING PROPOSAL

Gateway Version

Reclassification of Community Land to Operational Land at Various Sites

Town Centres Amendment

**Amendment to
Lake Macquarie Local Environmental Plan 2014**

**Prepared by
LAKE MACQUARIE CITY COUNCIL**

Subject lands:

94A & 100A The Boulevarde, Toronto

209, 211A, part 201 & part 205 Brighton Avenue, Toronto

Part 20 The Boulevarde, Toronto

40, 42 & 56 Maude Street & 2 Edgar Street, Belmont

39 George Street, Belmont

23A & 25 John Street, Warners Bay



CONTENTS

INTRODUCTION

PART 1	Objective of the Planning Proposal
PART 2	Explanation of Provisions
PART 3	Justification of the Provisions
	<i>Section A: Need for the Planning Proposal</i>
	<i>Section B: Relationship to Strategic Planning Framework</i>
	<i>Section C: Environmental, Social and Economic Impact</i>
	<i>Section D: State and Commonwealth Interests</i>
PART 4	Maps
PART 5	Community Consultation
PART 6	Project Timeline

APPENDIX:

Annex A	Maps
Annex B	SEPP Assessment
Annex C	Ministerial Directions Assessment
Annex D	Council Resolutions
Annex E	Changes to Schedule 4 of Lake Macquarie Local Environmental Plan 2014
Annex F	Public Authorities Submissions
Annex G	Independent Facilitator's Report for Public Hearing
Annex H	Supporting Information
	- Title Searches & Interests in Land

Planning Proposal

Town Centres Amendment

Draft Amendment F2017/00657 to Lake Macquarie Local Environmental Plan 2014

Gateway Version

Local Government Area:	Lake Macquarie City Council (LMCC)
Name of Draft LEP:	Draft Amendment F2017/00657 to Lake Macquarie Local Environment Plan 2014
Subject Land:	The planning proposal includes the following 11 items: • Item 1: 94A & 100A The Boulevarde TORONTO Lot 12 & Lot 17 DP 1002630 • Item 2: 209, 211A, part 201 & part 205 Brighton Avenue TORONTO Lots 13 & 15 DP 1002630, Lots 103, 101, & 100 DP 243194 • Item 3: 20 The Boulevarde, TORONTO Lot 1 DP 915793 • Item 4: 40, 42 & 56 Maude Street & 2 Edgar Street BELMONT Lots 23, 24, 31 & 32 Sec I DP 2374 • Item 5: 39 George Street BELMONT Lot 1 DP 334449 • Item 6: 23A & 25 John Street WARNERS BAY Lot 1 & 3 DP 719621 <i>(Refer to Appendix A for further details)</i>
Land Owners:	• Lake Macquarie City Council (LMCC)
Applicant:	Lake Macquarie City Council (LMCC)
Department of Planning and Environment reference number:	
Council Reference Number:	F2017/00657
Date:	August 2017
Author:	Joanne Marshall – Statutory Property Officer

INTRODUCTION

This Planning Proposal provides an explanation of the intended effect and justification for the following proposed amendments to the Lake Macquarie Local Environmental Plan:

Reclassification of the following Council owned sites from Community Land to Operation Land for the purpose of future planning for town centre sites:

- Item 1: 94A & 100A The Boulevarde TORONTO
Lot 12 & Lot 17 DP 1002630
- Item 2: 209, 211A, part 201 & part 205 Brighton Avenue TORONTO
Lots 13 & 15 DP 1002630, Lots 103, 101, & 100 DP 243194
- Item 3: 20 The Boulevarde, TORONTO
Lot 1 DP 915793
- Item 4: 40, 42 & 56 Maude Street & 2 Edgar Street BELMONT
Lots 23, 24, 31 & 32 Sec I DP 2374
- Item 5: 39 George Street BELMONT
Lot 1 DP 334449
- Item 6: 23A & 25 John Street WARNERS BAY
Lot 1 & 3 DP 719621

Council resolved at its meeting on the 24 July 2017 to support the preparation and lodgement of this Planning Proposal to the Department of Planning and Environment. A copy of the Council resolution is attached in Annex D.

The Planning Proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and the format specified within the relevant Department of Planning Guidelines including 'A Guide to Preparing Local Environmental Plans', 'A Guide to Preparing Planning Proposals' and LEP Practice Note PN 16-001.

Part 1 – OBJECTIVES OR INTENDED OUTCOMES

The Planning Proposal seeks to amend Schedule 4 of the Lake Macquarie Local Environmental Plan 2014 to enable the reclassification of the Community land (detailed in the below tables within Part 2) to Operational land. The intended outcome for the 6 items in this planning proposal are as follows:

- Items 1 to 6: reclassify the identified lands from Community Land to Operational Land for the purpose of future planning for town centre sites and include within Schedule 4 of LMLEP 2014.

Part 2 – EXPLANATION OF PROVISIONS

The provisions in this planning proposal will amend LMLEP 2014 as outlined below:

Item No.	Explanation of provisions
1	• Reclassify the subject land from Community to Operational Land (Include within Schedule 4)
2	• Reclassify the subject land from Community to Operational Land (Include within Schedule 4)
3	• Reclassify the subject land from Community to Operational Land (Include within Schedule 4)
4	• Reclassify the subject land from Community to Operational Land (Include within Schedule 4)
5	• Reclassify the subject land from Community to Operational Land (Include within Schedule 4)
6	• Reclassify the subject land from Community to Operational Land (Include within Schedule 4)

Part 3 – Justification for the Provisions

Section A - Need for the Planning Proposal

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

The Planning Proposal has not been prepared following any outcomes of a study or report relevant to the subject properties. These properties have been identified through routine administrative tasks as either administrative anomalies or being identified as no longer being required or considered appropriate for their intended purpose.

Necessary investigations were undertaken into each property to determine their appropriateness for reclassification. The outcomes of these investigations and reasoning to pursue the proposed amendments are outlined below.

- **ITEM 1: 94A & 100A The Boulevard, Toronto - Lot 12 & Lot 17 DP 1002630**
- **ITEM 2: 209, 211A, part 201 & part 205 Brighton Avenue, Toronto - Lots 13 & 15 DP 1002630, Lots 103, 101, & 100 DP 243194**

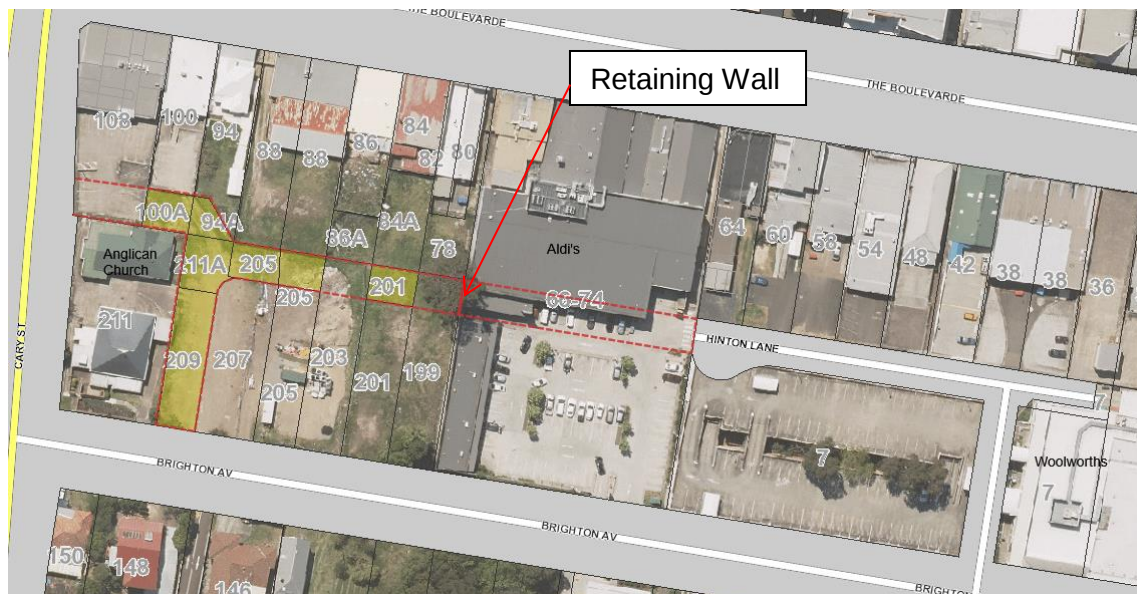
In 1972 Council had a Plan of Resumption for land at the rear of properties fronting Brighton Avenue, for an extension of Hinton Lane from the existing Woolworths car park structure to the Anglican church on the corner of Cary Street and Brighton Avenue (outlined in red dashes below).

Council acquired all this land except Lots 105-109 DP 243194, which was partly purchased privately and partly land swapped with Council. At this time, in 1989, Council abandoned the rear laneway.

This land then formed part of the Aldi's development which was approved in 2014. Unfortunately, the Aldi's development constructed a retaining wall across the Hinton Lane extension, thus making the laneway impossible to build.

The land (highlighted yellow) and currently vacant, was never dedicated as "Road" and accordingly, has become Community Land by default. Council now wishes to develop this land in conjunction with some surrounding land that it also owns, with the intention of revitalising the Toronto Town Centre.

The LG Act does not permit community land to be developed, and accordingly, the lands will require reclassification to operational for this purpose.



- **ITEM 3: Part 20 The Boulevardde TORONTO - Lot 1 DP 915793**

The subject land contained a hall which was used as a community hall and library, which was transferred to Council in 1956.

Council was in the process of constructing a new library at 7 Pemell Street, when the Newcastle earthquake damaged the rear of the hall in 1989. As a development application was required to demolish/fix the hall, it was decided to call for tenders for the commercial use of the building, which was repaired and is now used as a Yoga studio, gym and commercial space.

The subject land comprises of two Lots being Lot 2 DP 4929 and Lot 1 DP 915793. In 1993 when Council had to classify its land, only one lot (Lot 2 DP 4929) was listed as Operational land, and the other lot has by default become Community land.

The LG Act does not permit community land to be leased or developed for commercial purposes, and accordingly, the lands will require reclassification to operational for this purpose.

- **ITEM 4: 40, 42 & 56 Maude Street & 2 Edgar Street BELMONT - Lots 23, 24, 31 & 32 Sec I DP 2374**

In January 1990 Council adopted Development Control Plan No 5 – Belmont Commercial Area: Herbert and Maude Streets Precinct. This Plan recommended mixed development for the block, and outlined possible car parking areas including the provision of a public car park at the western end of the block.

Since that time, Council has been slowly acquiring property as they have become available, initially with the intention of implementing this Plan, including the subject lands. The land at 40 Maude Street is currently vacant, and the other lands contain existing dwelling houses which are leased by Council.

Research of the subject lands cannot find the advertisements in the newspaper making then Operational land. Accordingly, by default, these lands have now become Community land.

Council now wishes to develop this land in conjunction with some surrounding land that it also owns, with the intention of revitalising the Belmont Town Centre.

The LG Act does not permit community land to be developed, and accordingly, the lands will require reclassification from community land to operational land for this purpose.

- **ITEM 5: 39 George Street BELMONT - Lot 1 DP 334449**

The land known as 39 George Street is contained within the Belmont Town Centre Area Plan, and was purchased in 1995 for investment purposes. Council has leased the residential building on the site since.

Unfortunately, when the land was purchased it was not advertised as Operational land, therefore by default is Community land. Community land cannot be developed for commercial purposes.

Council now wishes to develop this land in conjunction with some surrounding land that it also owns, with the intention of revitalising the Belmont Town Centre. Accordingly, the land will require reclassification from Community Land to Operational Land for this purpose.

- **ITEM 6: 23A & 25 John Street WARNERS BAY - Lot 1 & 3 DP 719621**

In 1986, Council undertook a land exchange with Australia Post who wished to build a new post office by expanding to the north of their existing site over part of Council-owned land.

The land at 25 John Street is currently being used as a road, giving rear access to the retail shops fronting King Street. Whilst 23a John Street is being used as a footpath running along the northern side of the post office building. Neither parcels of land have been dedicated as "Road".

Following the introduction of the LG Act 1993, Council was required to advertise all Operational Land. Investigations have revealed that the subject lands were not advertised in 1993 to classify them as Operational Land. Accordingly, the land has now become Community Land by default.

Council now wishes to develop this land in conjunction with some surrounding land that it also owns, with the intention of revitalising the Warners Bay Town Centre. Accordingly, the lands will require reclassification from Community Land to Operational Land for this purpose.

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

The proposed Planning Proposal amendments are considered the best means of achieving the intended outcomes for each property. All the properties are classified as Community Land under the provisions of the LG Act which possess statutory limitations on their use. To achieve the long term objective for each parcel, each must first be reclassified to Operational land.

Investigations reveal that none of the lands were dedicated to Council in lieu of section 94 contributions and therefore reclassification by way of a LEP amendment, pursuant to the provisions of the Environmental Planning and Assessment Act 1979, is the only action available to achieve the desired outcomes.

3. (a) If the provisions of the planning proposal include the extinguishment of any interests in the land, what are the reasons why the interests are proposed to be extinguished.

The proposal seeks to remove the following Public Reserve Notations, interests, covenants and restrictions pursuant to section 30 of the Local Government Act 1993:

Item No	Address	Classification of Land	Interests in land	Reason why interests are extinguished
1	94A The Boulevard TORONTO Lot 12 DP 1002630	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			7413455 - Land required for Road Purposes	Extinguish – Road abandoned & land will now be redeveloped for commercial purposes

Item No	Address	Classification of Land	Interests in land	Reason why interests are extinguished
	100A The Boulevard TORONTO Lot 17 DP 1002630	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			I984497 - Lease in 1998 for 5 years	Extinguish – Lease expired & not renewed, no longer required.
			7903972 - Land required for Road Purposes	Extinguish – Road abandoned & land will now be redeveloped for commercial purposes
2	201 Brighton Avenue TORONTO Lot 103 DP 243194	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
	205 Brighton Avenue TORONTO Lot 101 DP 243194	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
	205 Brighton Avenue TORONTO Lot 100 DP 243194	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
	209 Brighton Avenue TORONTO Lot 15 DP 1002630	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
	211A Brighton Avenue TORONTO Lot 13 DP 1002630	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
3	20 The Boulevard TORONTO Lot 1 DP915793	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			AJ895839 – Lease expires 2017	Retain – Renewal option of 3 years taken
			AM610633 – Lease expires 2020	Retain
			AM610634 – Lease expires 2022	Retain
4	40 Maude Street BELMONT	Community change to	Crown Grant	Retain

Item No	Address	Classification of Land	Interests in land	Reason why interests are extinguished
	Lot 23 Sec I DP 2374	Operational for Town Centre revitalisation		
	42 Maude Street BELMONT Lot 24 Sec I DP 2374	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
	56 Maude Street BELMONT Lot 31 Sec I DP 2374	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			A966490 – Excludes Minerals	Retain
	2 Edgar Street BELMONT Lot 32 Sec I DP 2374	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			A966490 – Excludes Minerals	Retain
5	39 George Street BELMONT Lot 1 DP 334449	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			B877555	Retain – Minerals & Rights to Mine
6	23A John Street WARNERS BAY Lot 1 DP 719621	Community change to Operational for Town Centre revitalisation	Crown Grant	Retain
			BK 1926 No 222	Retain –Rights to Mine
	25 John Street WARNERS BAY Lot 3 DP 719621	Community change to Operational for Town Centre revitalisation	Nil	

NOTE: Crown Grant and Mineral rights have been retained pursuant to clause 5.2(5)(b) & (c) of Lake Macquarie Local Environmental Plan 2014. Current leases have also been retained.

Please see Annex E for proposed changes to Schedule 4 of Lake Macquarie Local Environmental Plan 2014.

(b) The concurrence of the landowner, where the land is not owned by the relevant planning authority.

Pursuant to section 28 of the Local Government Act 1993, Council may not forward a Planning Proposal which includes a proposal to classify or reclassify public land, without the approval of the owner of that land.

Lake Macquarie Council is the landowner for all of the sites where reclassification is being sought.

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 exhibited draft strategies)?

Hunter Regional Plan 2036

The proposed reclassifications are consistent with the Hunter Regional Strategy 2036 (HRS), which has a focus on providing the Hunter region with a leading regional economy, a biodiversity-rich natural environment, thriving communities and greater housing choice and jobs.

The proposed reclassifications of the subject lands will enable Council to revitalise existing communities, which is a specific aim of the HRS under Goal 3 – Thriving communities, Direction 20 – Revitalise existing communities. The reclassifications will enable Council to undertake planning and place-making for these centres by developing land already in its ownership.

Vital social infrastructure, such as pedestrian links/arcades, meeting places/pedestrian malls, etc, can then be planned and undertaken within these town centres.

The centres of Toronto, Belmont and Warners Bay are all identified as centres of local significance under the HRS. Specifically they are identified to implement the Town Centres Area Plans, and to develop these centres into higher density, compact mixed use centres.

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

Lifestyle 2030 Strategy

Lifestyle 2030 (LS2030) provides the long-term direction for the overall development of the city and describes Council's high level policies for managing private and public development within Lake Macquarie.

Strategic Direction 3 – A well designed adaptable and liveable city, identifies in outcomes 3.6 and 3.8, the need for Local Area Plans with specific development guidelines for these town centres, as well as a stronger functional and urban design relationship between the Lake and the centres.

The proposal is consistent with the strategic plan maps in the LS2030.

Under the Strategy mapping, the land identified for reclassification is located within Toronto, Belmont or Warners Bay, which are all identified as Town Centres with surrounding core commercial and living urban areas.

6. Is the planning proposal consistent with applicable state environmental planning policies (SEPPs)?

An assessment of the proposal against the relevant State Environmental Planning Policies (SEPPs) is provided within *Appendix B*.

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

An assessment of the proposal against the Section 117 Ministerial Directions is provided within *Appendix 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?

This is highly unlikely as all the land is located within or on the edge of existing town centres. Most land has previously been used for residential purposes, and is now either vacant or still retains the existing residential houses.

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

No adverse environmental effects are anticipated as a result of the Planning Proposal due to the land being located within or on the edge of existing town centres.

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

The proposed reclassifications will largely have positive social and economic benefits for the community in that it will:

- Enable and/or facilitate the future development of land for purposes consistent with its current zoning and strategic intent; and
- Enable the revitalisation of the mid-sized town centres which will feel the impact of increased residential growth within the region.

No negative social or economic effects are anticipated from the proposed amendments.

Section D – State and Commonwealth Interests

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

The proposal will not require any changes to the delivery of public infrastructure to any of the lands included in the Planning Proposal. As most sites have previously been used for residential purposes, existing infrastructure is already available to the lands proposed to be reclassified.

12. What are the views of State and Commonwealth Public Authorities consulted?

The Gateway determination will identify which public authorities will need to be consulted prior to the public exhibition.

Part 4- Maps

The maps proposed to be included as part of the LEP Amendment are outlined within Part 2 of this Planning Proposal and are attached within *Annex A*.

Part 5- Community Consultation

Community consultation will be undertaken in accordance with the requirements of the Gateway determination and section 57 of the *Environmental Planning and Assessment Act 1979*, section 29 of the *Local Government Act 1993* and the Department's LEP guideline "A guide to preparing local environmental plans" (April 2013).

Exhibition

The planning proposal will be exhibited for 28 days in accordance with section 5.5.2 of the Department's LEP guideline, as it contains reclassification of public land. The exhibition will be advertised in a free local newspaper and on Council's website. In addition, any identified affected landowners and adjoining landowners will be notified of the proposal.

Public Hearing

In accordance with section 29 of the *Local Government Act 1993*, a public hearing will be held. The public hearing will be undertaken in accordance with section 5.5.3 of the Department's LEP guideline.

Part 6 – Project Timeline

The following table provides an indicative timeline for the Draft Local Environmental Plan:

Task	Timeline
Gateway Determination	September 2017
Public Exhibition (28 days)	October - November 2017
Public Hearing	December 2017
Consideration of submissions & prepare report on Public Hearing	January 2017
Report to Council post exhibition	February - March 2017
Submission to Department	May 2017
Notification of Plan Made	June - July 2017

ANNEX A – MAPS

ITEM 1: 94A & 100A The Boulevard, Toronto - Lot 12 & Lot 17 DP 1002630, &
ITEM 2: 209, 211A, part 201 & part 205 Brighton Avenue, Toronto - Lots 13 & 15
DP 1002630, Lots 103, 101, & 100 DP 243194

Figure 1 – Aerial Map



Figure 2 – Existing Zone under LMLEP 2014

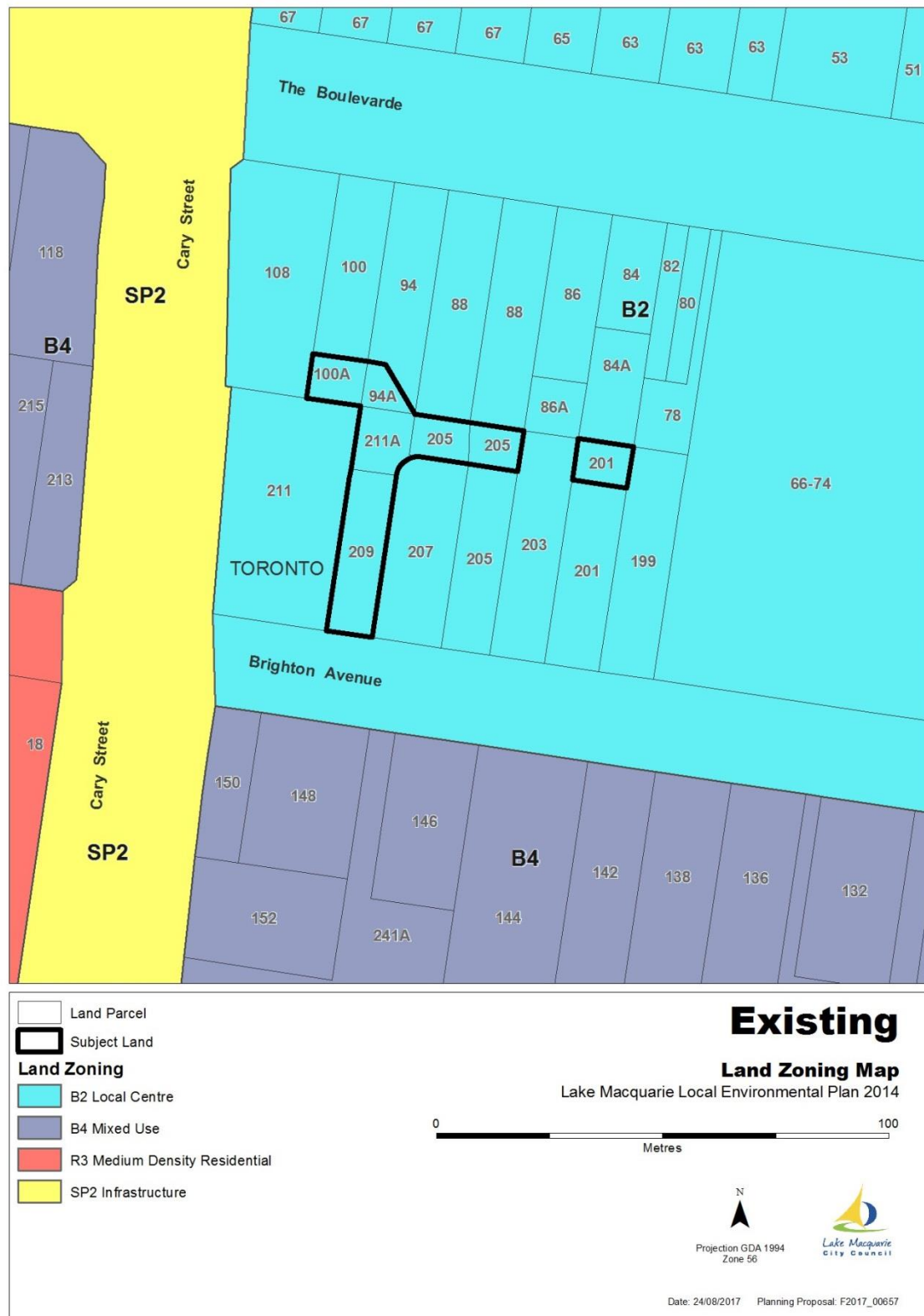


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



Item 3 - Part 20 The Boulevard TORONTO - Lot 1 DP 915793

Figure 1 – Aerial Map



Figure 2 – Existing Zone under LMLEP 2014

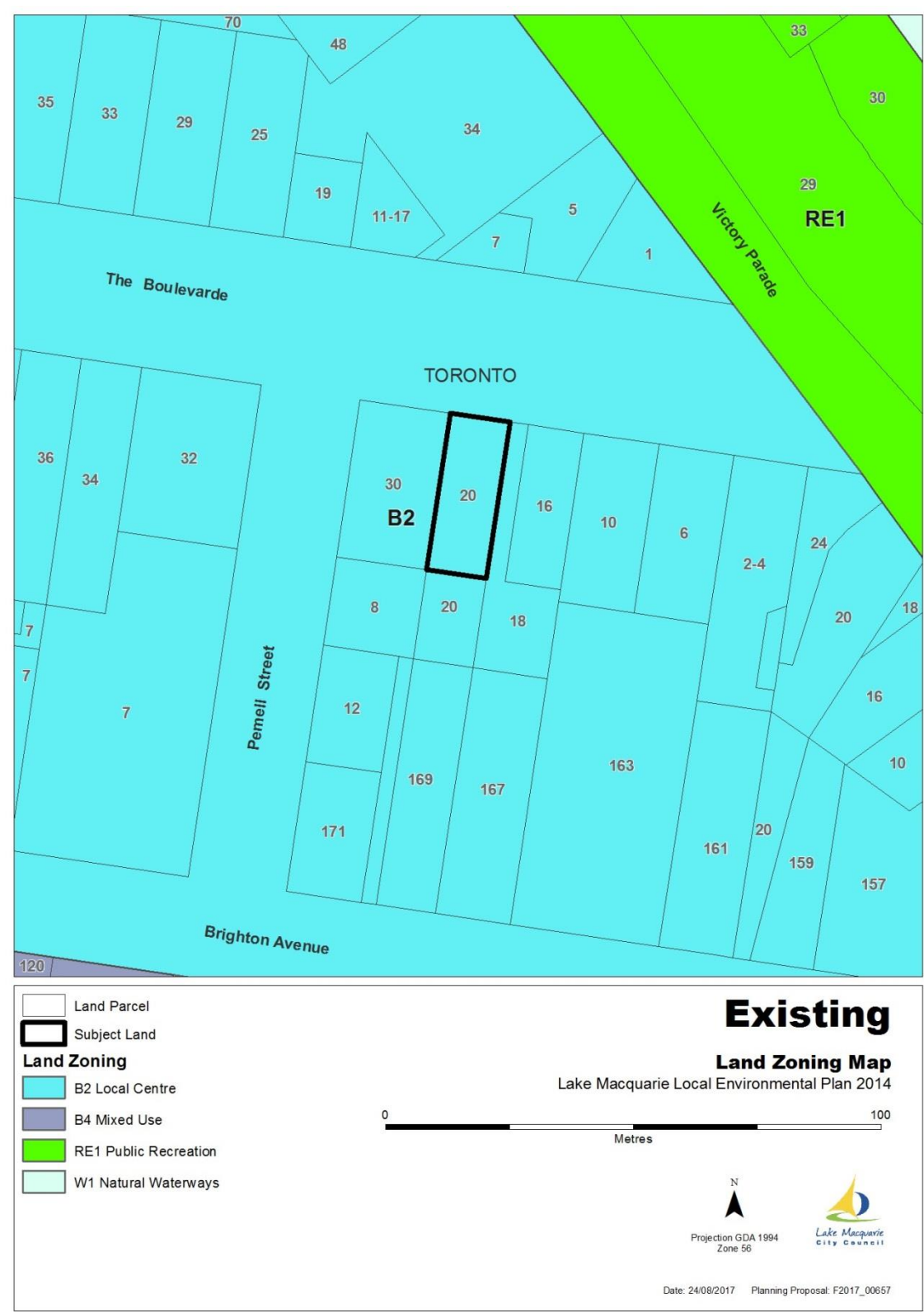
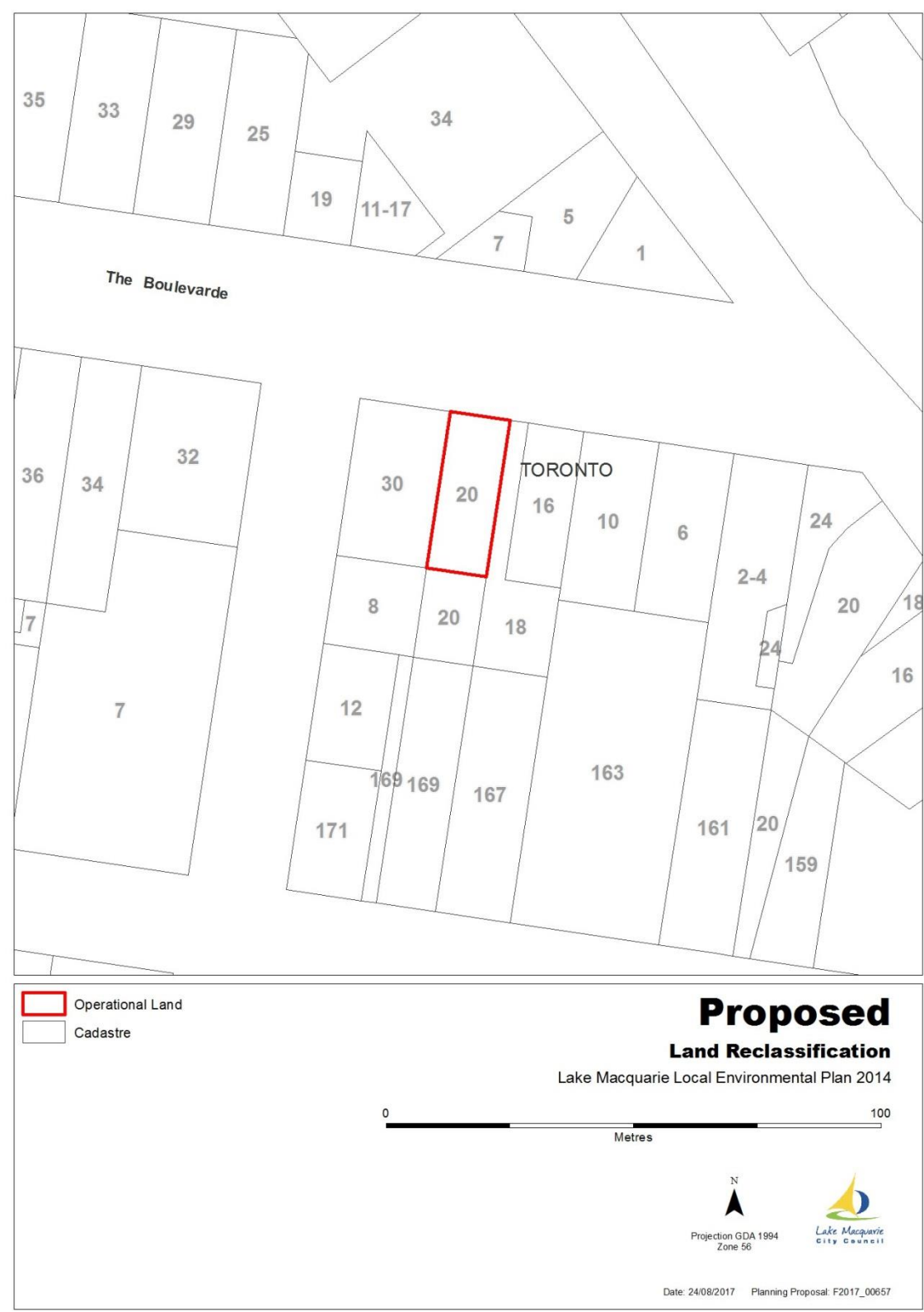


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



Item 4 - 40, 42 & 56 Maude Street & 2 Edgar Street BELMONT - Lots 23, 24, 31 & 32 Sec I DP 2374

Figure 1 – Aerial Map



Figure 2 – Existing Zone under LMLEP 2014

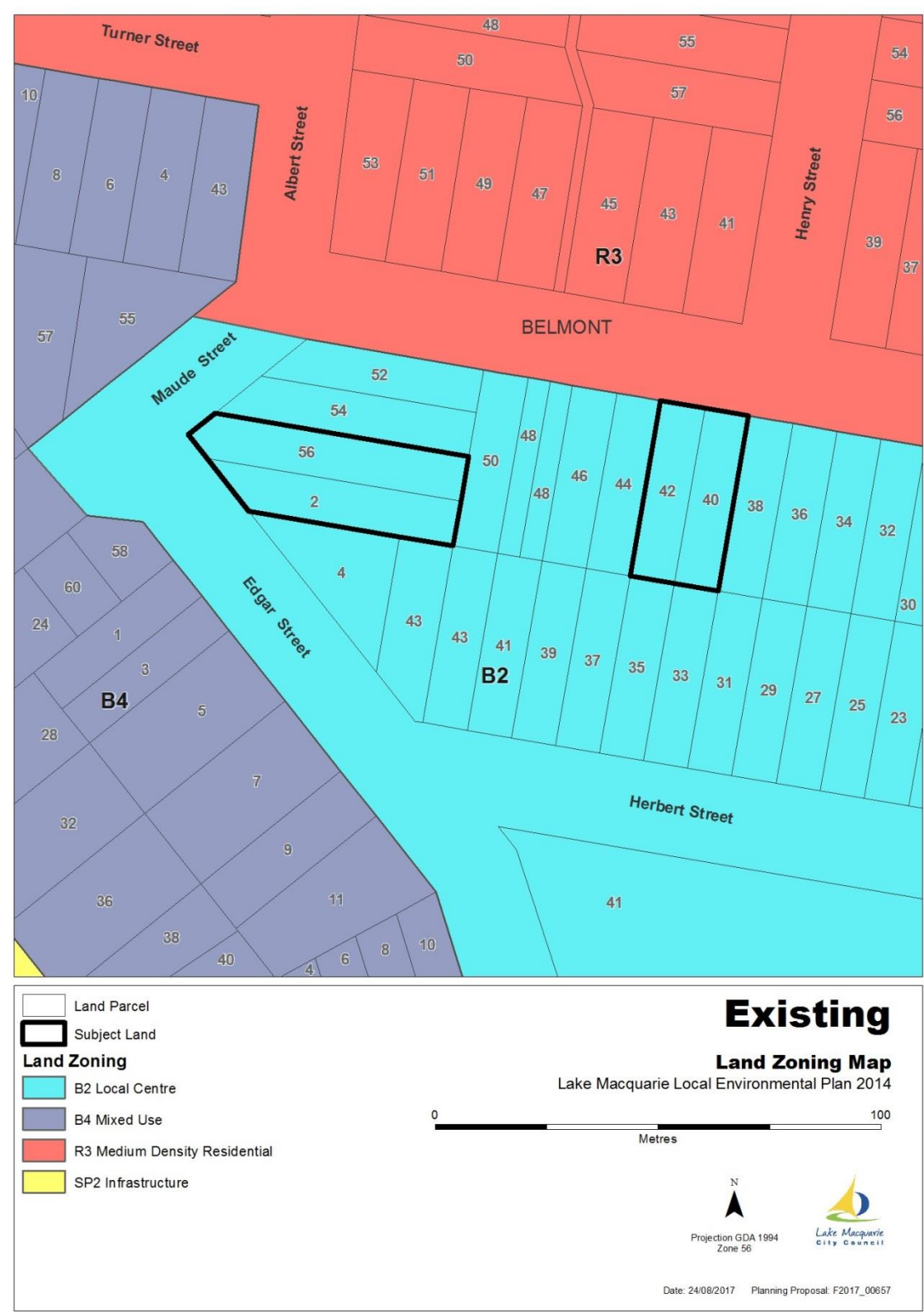
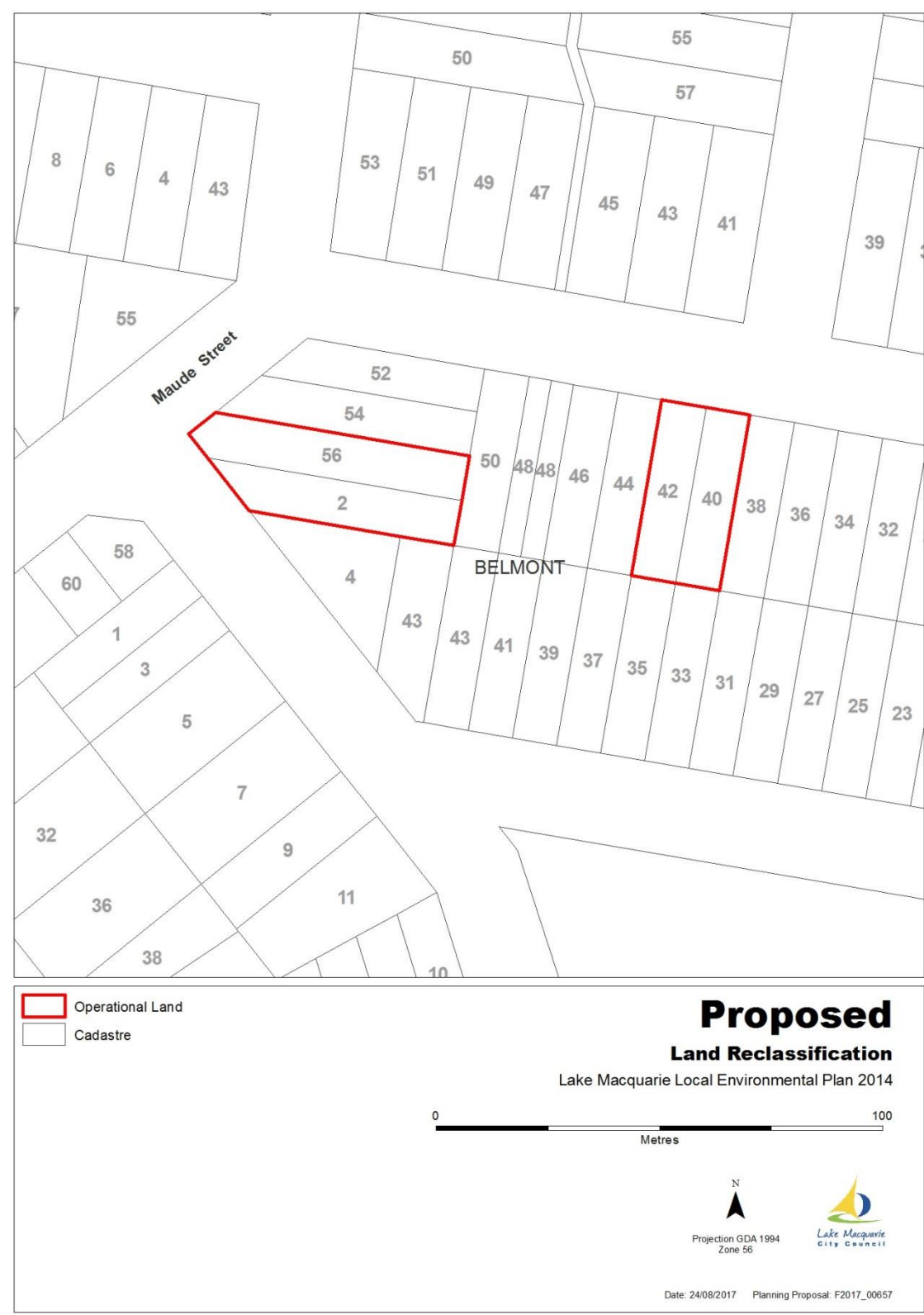


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



Item 5 - 39 George Street BELMONT - Lot 1 DP 334449

Figure 1 – Aerial Map



Figure 2 – Existing Zone under LMLEP 2014

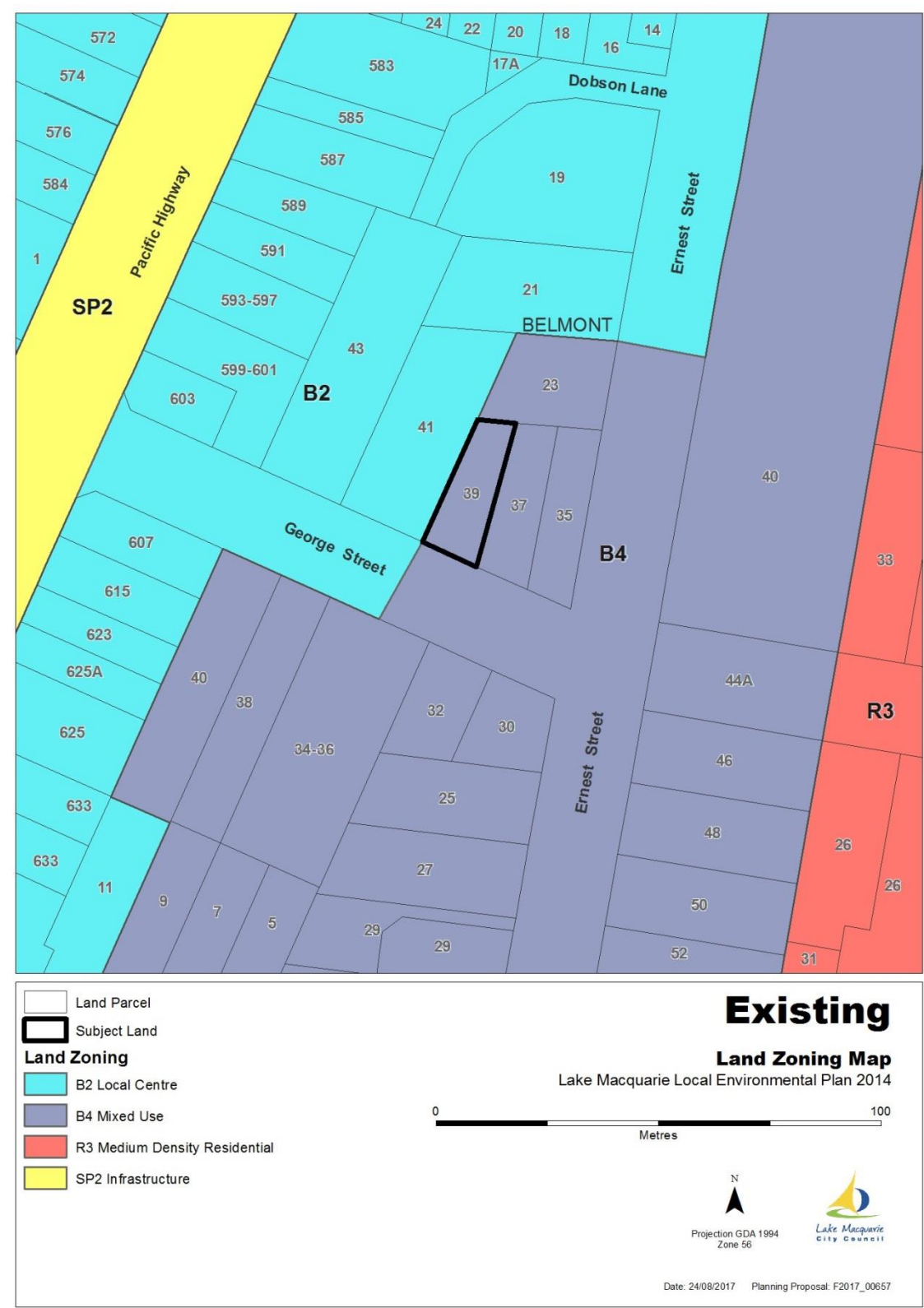
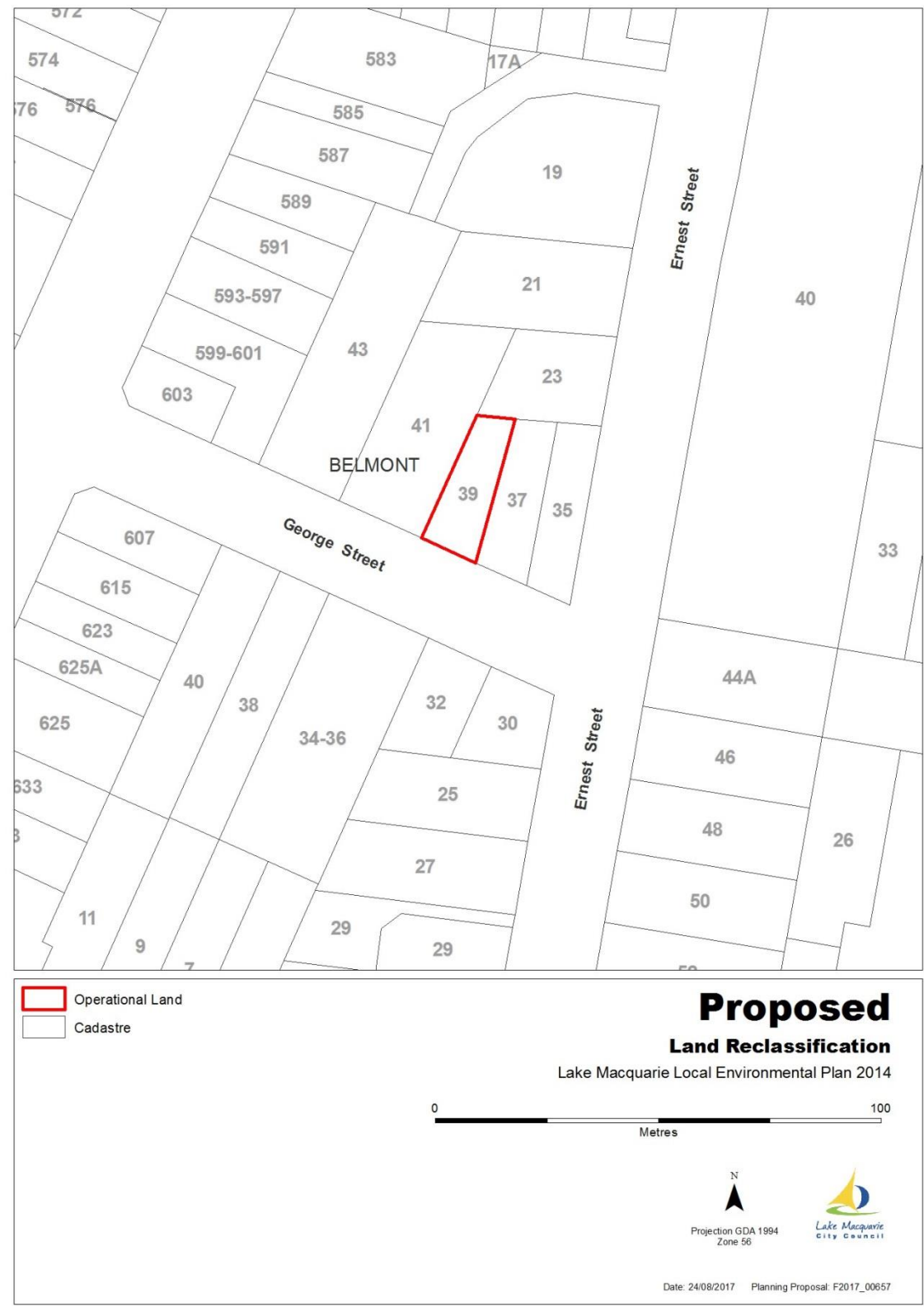


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



Item 6 - 23A & 25 John Street WARNERS BAY - Lot 1 & 3 DP 719621

Figure 1 – Aerial Map



Figure 2 – Existing Zone under LMLEP 2014

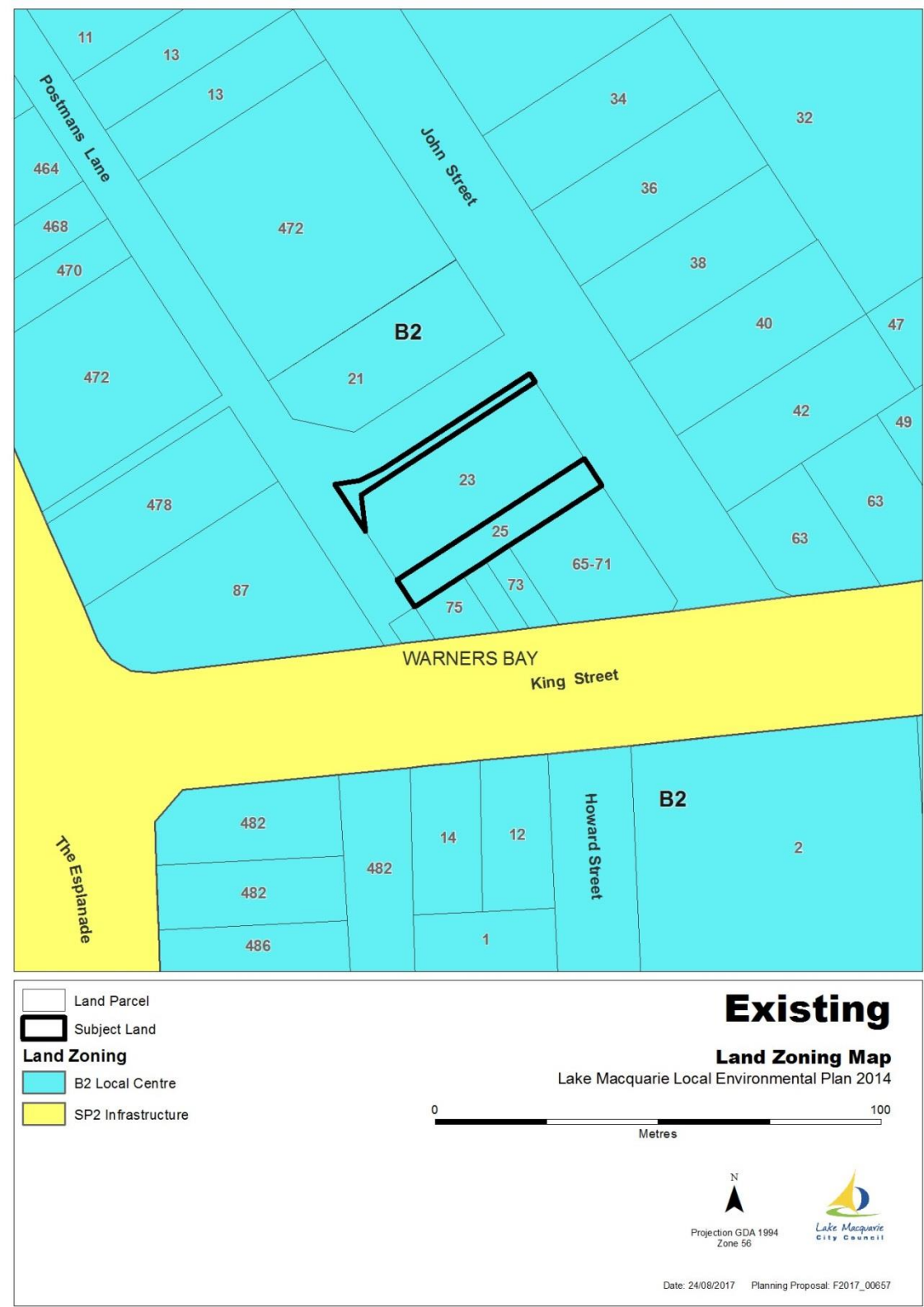
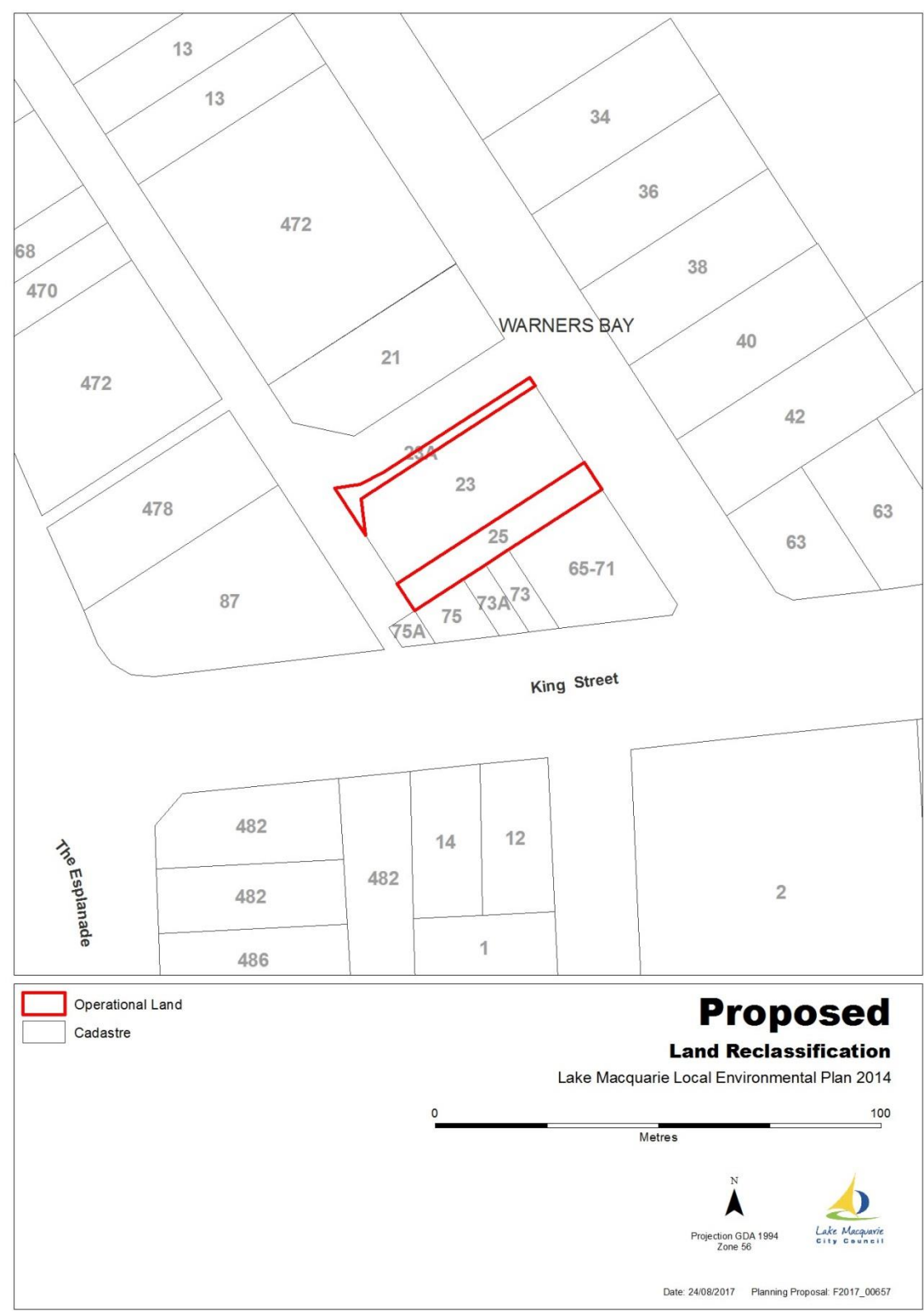


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



ANNEX B – SEPP ASSESSMENT

Planning Proposal's Assessment against Applicable SEPPs

SEPP	Applicable	Consistency
State Environmental Planning Policy No 55 Remediation of Land	No	None of the items have been identified as being contaminated or requiring remediation.
State Environmental Planning Policy No 71 Coastal Protection	Yes	All items are identified as being within 1,000 metres of Lake Macquarie, and so State Environmental Planning Policy No 71 – Coastal Protection applies. It is considered that the reclassifications will not have any detrimental effects on the foreshore of Lake Macquarie as the sites are already within designated town centres. Any future development on the land would be subject to a development application and the provisions of this SEPP will need to be considered at that time.

ANNEX C – MINISTERIAL DIRECTION ASSESSMENT

Planning Proposal's assessment against Ministerial Directions

Ministerial Direction	Applicable	Consistency
1. Employment and Resources		
1.1 Business and Industrial Zones	Yes	All items within the planning proposal are located within business zones and this direction does not allow the altering of any existing business zone boundaries. However as the proposal only involves reclassification, the zoning boundaries of the zones and development controls shall remain the same and accordingly is considered to be consistent with the Ministerial Direction.
1.2 Rural Zones	N/A	-
1.3 Mining, Petroleum Production and Extractive Industries	N/A	-
1.4 Oyster Aquaculture	N/A	-
1.5 Rural Lands	N/A	
2. Environment and Heritage		
2.1 Environment Protection Zones	N/A	
2.2 Coastal Protection	Yes	The subject lands are identified within the coastal zone. The planning proposal is only to reclassify the land (zoning will remain the same) and therefore is considered to be consistent with the direction. Any future development on these sites will require compliance with the NSW Coastal Policy.
2.3 Heritage Conservation	N/A	The Heritage provisions of LMLEP2014 will remain unchanged. No items are heritage listed.
2.4 Recreation Vehicle Area	N/A	-
3. Housing, Infrastructure and Urban Development		

Planning Proposal's assessment against Ministerial Directions

Ministerial Direction	Applicable	Consistency
3.1 Residential zones	Yes	The subject lands are within commercial zones (B2 & B4) which permit residential flat buildings and shop-top housing developments. As the planning proposal is only to reclassify the land (zoning will remain the same) and therefore is considered to be consistent with the direction.
3.2 Caravan Parks and Manufactured Home Estates	N/A	-
3.3 Home Occupations	N/A	-
3.4 Integrating Land Use and Transport	N/A	This Ministerial Direction does not apply as the planning proposal is for reclassification only and does not involve the creation, alteration or removal of a zone.
3.5 Development Near Licensed Aerodromes	N/A	-
3.6 Shooting Ranges	N/A	-
4. Hazard and Risk		
4.1 Acid Sulfate Soils	Yes	The following sites are identified within the Lake Macquarie Acid Sulfate Soils Planning Maps: Item 1 – 94A & 100A The Boulevard TORONTO – Class 5 Item 2 – 209, 211A, part 201 & part 205 Brighton Avenue TORONTO – Class 5 Item 3 – 20 The Boulevard, TORONTO – Class 5 Item 4 – 40, 42 & 56 Maude Street & 2 Edgar Street BELMONT – Class 2 Item 5 – 39 George Street BELMONT – Class 3 Item 6 – 23A & 25 John Street WARNERS BAY – Class 5 The proposal is for reclassification only with the zone remaining the same (therefore, it is not considered an intensification of the use). Any future development on these sites would need to be aware of this constraint and would be required to address the

Planning Proposal's assessment against Ministerial Directions

Ministerial Direction	Applicable	Consistency
		requirements of Clause 7.1 of the LMLEP 2014 at development application stage.
4.2 Mine Subsidence and Unstable Land	Yes	All lands (except Item 4 - 40, 42 & 56 Maude Street & 2 Edgar Street BELMONT) are identified as being within a Mine Subsidence District. Consultation with the Mine Subsidence Board will be undertaken to satisfy the requirements of this direction.
4.3 Flood Prone Land	Yes	The following sites are identified as Flood Prone land: Item 4 – 40, 42 & 56 Maude Street & 2 Edgar Street BELMONT – High hazard These are all located within existing zones – no zoning changes proposed, with determined flood planning levels. The proposal is for reclassification only with the zone remaining the same (therefore, it is not considered an intensification of the use). Any future development on these sites would need to be aware of this constraint and would be required to address the requirements of Clause 7.3 of the LMLEP 2014 at development application stage.
4.4 Planning for Bushfire Protection	N/A	
5. Regional Planning		
5.1 Implementation of Regional Strategies	N/A	
5.2 Sydney Drinking Water Catchments	N/A	-
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A	-
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A	-
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A	-

Planning Proposal's assessment against Ministerial Directions

Ministerial Direction	Applicable	Consistency
5.6 Sydney to Canberra Corridor	N/A	-
5.7 Central Coast	N/A	-
5.8 Second Sydney Airport: Badgerys Creek	N/A	-
5.9 North West Rail Link Corridor Strategy	N/A	-
5.10 Implementation of Regional Plans	Yes	The Hunter Regional Plan 2036 applies to all sites within the proposal. The strategy has been addressed within Part 3 – Section B (4) of the Planning Proposal.
6. Local Plan Making		
6.1 Approval and Referral Requirements	Yes	It is considered that the planning proposal is consistent with the objectives of this Ministerial Direction.
6.2 Reserving Land for Public Purposes	N/A	None of the sites are currently identified on the Land Reservation Acquisition layer of LMLEP 2014.
6.3 Site Specific Provisions	N/A	As the planning proposal is for a reclassification only, the zones and provisions will remain unaltered. Therefore, this Ministerial direction does not apply.
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	N/A	-

ANNEX D – COUNCIL RESOLUTIONS

Council Minute Item

Action

Ordinary Council Meeting

24/07/2017

TRIM Ref: D08346895

Subject: Various Sites - Town Centres Amendment - Lake Macquarie Local Environmental Plan 2014

Date to be Completed by: 24/07/2017

Instructions to User

This TRIM action is assigned to you to complete. Record all actions taken in TRIM using InfoCouncil's process to add a note, and then complete the TRIM action via InfoCouncil.

Council Decision:

39

Moved. Cr. Buckley
Seconded. Cr. Baker

- A. Council authorises preparation and submission of a Planning Proposal pursuant to section 55 of the Environmental Planning and Assessment Act 1979 (EP&A), to the Department of Planning & Environment (DP&E), as follows:
- i) Reclassification of Lots 12, 13, 15 & 17 DP 1002630 and Lots 100, 101 & 103 DP 243194 (94A & 100A The Boulevarde and 209, 211A, part 201 & part 205, Brighton Avenue, Toronto) from Community Land to Operational Land for the purpose of future planning for town centre sites;
 - ii) Reclassification of Lot 1 DP 915793 (part 20 The Boulevarde, Toronto) from Community Land to Operational Land for the purpose of future planning for town centre sites;
 - iii) Reclassification of Lots 23, 24, 31 & 32 Sec I DP 2374 (40, 42 & 56 Maude Street & 2 Edgar Street, Belmont) from Community Land to Operational Land for the purpose of future planning for town centre sites;
 - iv) Reclassification of Lot 1 DP 334449 (39 George Street, Belmont) from Community Land to Operational Land for the purpose of future planning for town centre sites; and
 - v) Reclassification of Lot 1 & 3 DP 719621 (23A & 25 John Street, Warners Bay) from Community Land to Operational Land for the purpose of future planning for town centre sites.
- B. Upon receipt of DP&E's Gateway Determination under section 56 of the EP&A Act 1979, and if approval is given, Council authorises the exhibition of the Planning Proposal and community notification & consultation in accordance with the Gateway Determination.

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

For the Motion

Cr. Adamthwaite
Cr. Langford
Cr. Pauling
Cr. Harrison
Cr. Baker
Cr. Belcher
Cr. Buckley
Cr. Cubis
Cr. Grigg
Cr. Jones
Cr. Shultz
(carried)

Against the Motion

(Carried)

End

*The minutes of Ordinary Council Meeting on 24/07/2017 is located in TRIM folder titled
'GOVERNANCE - COUNCIL MEETINGS - Minutes and Agenda - Council Agendas & Minutes -
PDF Version'*

**17 STRAT034 Various Sites – Town Centres Amendment – Lake Macquarie
Local Environmental Plan 2014**

Council Ref: F2017/00657 – D08346895
Report By: Statutory Property Officer – Joanne Marshall

Précis:

The parcels of Council-owned land nominated in this report are classified as Community Land under the Local Government Act 1993 (LG Act 1993). Each parcel has been investigated by Council staff, and has received support to commence action to reclassify from Community Land to Operational Land.

This action is required to enable Council to facilitate potential future commercial redevelopment opportunities for these town centre sites, any of which will be subject to further Council reports.

Recommendation:

- A. Council authorises preparation and submission of a Planning Proposal pursuant to section 55 of the Environmental Planning and Assessment Act 1979 (EP&A), to the Department of Planning & Environment (DP&E), as follows:
- i) Reclassification of Lots 12, 13, 15 & 17 DP 1002630 and Lots 100, 101 & 103 DP 243194 (94A & 100A The Boulevarde and 209, 211A, part 201 & part 205, Brighton Avenue, Toronto) from Community Land to Operational Land for the purpose of future planning for town centre sites;
 - ii) Reclassification of Lot 1 DP 915793 (part 20 The Boulevarde, Toronto) from Community Land to Operational Land for the purpose of future planning for town centre sites;
 - iii) Reclassification of Lots 23, 24, 31 & 32 Sec I DP 2374 (40, 42 & 56 Maude Street & 2 Edgar Street, Belmont) from Community Land to Operational Land for the purpose of future planning for town centre sites;
 - iv) Reclassification of Lot 1 DP 334449 (39 George Street, Belmont) from Community Land to Operational Land for the purpose of future planning for town centre sites; and
 - v) Reclassification of Lot 1 & 3 DP 719621 (23A & 25 John Street, Warners Bay) from Community Land to Operational Land for the purpose of future planning for town centre sites.
- B. Upon receipt of DP&E's Gateway Determination under section 56 of the EP&A Act 1979, and if approval is given, Council authorises the exhibition of the Planning Proposal and community notification & consultation in accordance with the Gateway Determination.

Background:

94A & 100A The Boulevard and 209, 211A, part 201 & part 205, Brighton Avenue, Toronto (Lots 12, 13, 15 & 17 DP 1002630 and Lots 100, 101 & 103 DP 243194) (illustrated in red on Attachment 1)

These lots were purchased with the intention of extending Hinton Lane to provide rear vehicular access to the commercial properties that front both The Boulevard and Brighton Avenue, Toronto.

The proposed laneway was abandoned in 1989 as part of a land swap and the approval of the Aldi supermarket development that has resulted in a retaining wall being constructed mid-way through the Hinton Lane extension, making the laneway impossible to build.

This land was never dedicated as “Road” and accordingly, has become Community Land by default. Council now wishes to pursue redevelopment opportunities for this land in conjunction with some surrounding land that it also owns, with the intention of revitalising the northern end of the Toronto Town Centre, and providing an appropriate commercial return to Council.

The Local Government (LG) Act 1993 does not permit Community Land to be developed in this way, and accordingly, the lands will require reclassification to Operational Land for this purpose.

Part 20 The Boulevard, Toronto (Lot 1 DP 915793) (illustrated in red on Attachment 3)

The subject land contained a hall situated over two lots (Lot 2 DP 4929 and Lot 1 DP 915793) and was used as a community hall and library, which was owned by the Toronto School of Arts. In 1956, the land was transferred to Council along with all furniture, fittings and library records.

In the 1980’s Council commenced construction of a new library and commercial development in nearby Pemell Street.

In 1989, the Newcastle earthquake, damaged the rear of the hall, and as a Development Application was required to demolish/repair the hall, it was decided to call for tenders for the commercial use of the building.

The new Toronto library (at 7 Pemell Street) was opened in 1990.

Upon introduction of the LG Act 1993 when Council had to classify its land, only one lot (Lot 2 DP 4929) was listed as Operational Land, and the other lot has, by default, become Community Land.

Council currently leases the building for commercial purposes, being a yoga, gym and office space.

The LG Act does not permit Community Land to be leased or developed for commercial purposes, and accordingly, the land requires reclassification to Operational Land to permit potential redevelopment.

40, 42 & 56 Maude Street & 2 Edgar Street, Belmont (Lots 23, 24, 31 & 32 Sec I DP 2374) (illustrated in red on Attachment 5)

In January 1990, Council adopted Development Control Plan No 5 – Belmont Commercial Area: Herbert and Maude Streets Precinct. This Plan recommended mixed development for the block, including an element of public car parking.

Since that time, Council has been acquiring property as it has become available, initially with the intention of implementing this Plan, including the subject lands.

Following the introduction of the LG Act 1993, Council was required to advertise all Operational Land. Investigations have revealed that the subject lands were not advertised upon acquisition to classify them as Operational Land. Accordingly, the land has now become Community Land by default.

Council is now investigating development of this land in conjunction with the surrounding land that it also owns, with the intention of redeveloping and embellishing the Belmont Town Centre.

The LG Act does not permit Community Land to be developed in this way, and accordingly, the lands will require reclassification from Community Land to Operational Land for this purpose.

39 George Street, Belmont (Lot 1 DP 334449) (illustrated in red on Attachment 7)

The subject land was sought by Council for purchase in 1992 for the purpose of public car parking. At this time, Council was unsuccessful and it was sold to another purchaser.

In 1995, the property again became available for sale, and this time Council was successful in the purchase. Council's City Engineer at the time, indicated that the site in isolation was unsuitable for car parking, and accordingly should be purchased from Council's investment funds for redevelopment purposes.

The site was purchased and Council has leased the building on the subject land as residential premises.

Following the introduction of the LG Act 1993, Council was required to advertise all Operational Land. Investigations have revealed that the subject lands were not advertised upon acquisition to classify them as Operational Land. Accordingly, the land has now become Community Land by default.

The LG Act does not permit Community Land to be leased or developed for commercial purposes, and accordingly, the lands will require reclassification to Operational Land for this purpose.

23A John Street, Warners Bay (Lot 1 DP 719621) formerly part of Lot 11 Sec 30 DP 111125 & 25 John Street, Warners Bay (Lot 3 DP 719621) formerly part of Lot 12 Sec 30 DP 111125.

In 1986, Council undertook a land exchange with Australia Post wherein Council exchanged part of Lot 11 Sec 30 DP 111125 John Street, Warners Bay for part of Lot 12 Sec 30 DP 111125 John Street, Warners Bay. This was due to Australia Post wishing to build a new post office by expanding to the north of their existing site over part of Council-owned land (Lot 11 Sec 30 DP 111125).

Following the introduction of the LG Act 1993, Council was required to advertise all Operational Land. Investigations have revealed that the subject lands were not advertised in 1993 to classify them as Operational Land. Accordingly, the land has now become Community Land by default.

Council now wishes to develop this land in conjunction with some surrounding land that it also owns, with the intention of revitalising the Warners Bay Town Centre. Accordingly, the lands will require reclassification from Community Land to Operational Land for this purpose.

Proposal:

It is proposed that Council considers the reclassification from Community Land to Operational Land, to allow dealings in the land that are restricted by a Community classification.

It is proposed Council will prepare the Planning Proposal for submission to the DP&E for Gateway Determination, and to commence the public notification process. Upon completion of the public notification, a further report will be submitted to Council addressing any submissions received and proposals going forward.

Consultation:

As part of the process to determine if the reclassification and rezoning actions should commence, the matters are submitted to Council's Rezoning Advisory Panel (RAP). RAP is made up of representatives from relevant Council departments and considers proposals based on the expertise of each department, and the merits of the proposal. Individual remarks are recorded and included in reports pertaining to the proposed reclassification, giving a balanced overview of the matter.

All the land the subject of this report, were considered by RAP at its meeting on 3 April 2017, or by email to RAP members on 17 May 2017, with no issues or objections being raised.

Council's Corporate Legal Office was also consulted in the preparation of this report.

Implications:***Policy Implications:***

The proposals are generally consistent with relevant State Environmental Planning Policies; section 117(2) Ministerial Directions and the Lower Hunter Regional Plan.

Environmental Implications:

The proposed reclassification does not result in any environmental implications.

Social Implications:

The proposed reclassifications will not have any social implications, at this time. They will however, enable Council to investigate future uses of the sites and development opportunities for possible revitalisation of the various town centres, where Council owns land.

Social implications will be assessed under any future development application that may be proposed for the land.

Infrastructure Asset Implications:

Some of the properties were specifically purchased for laneways, which have since been abandoned. In respect to the land at Toronto, the City Engineer is quoted in a report to Council dated 7 March 1989, "such lane [Hinton Lane] will no longer be required".

For the other sites, no implications to Council's existing or proposed infrastructure assets have been identified for the remaining proposed reclassifications.

Financial Implications:

The reclassifications in themselves will enable future options for these sites to be undertaken, including possible redevelopment for commercial purposes.

Three of the properties were specifically purchased for laneways. If the future options for the sites include sale, or commercial redevelopment of the sites, then the portion of these lands to the whole development will need to be compensated back into the Roads & Drainage funds at that time.

The remaining parcels of land were purchased for strategic purposes therefore any proceeds or costs will be to the Strategic Property Reserve.

Risk and Insurance Implications:

The level of risk associated with the preparation of a Planning Proposal is minimised by following due process as established by the Environmental Planning & Assessment Act 1979, Local Government Act 1993, Environmental Planning and Assessment Regulation 2000, and Council's procedure - Amending LMLEP to Reclassify Land. This action is covered by Council's professional indemnity insurance as a standard activity.

Options:

1. To proceed as recommended and commence preparation of a Planning Proposal to include each property. This option is favoured as Council generally supports each proposed reclassification as a strategic project that has merit.
2. To retain any of the lands as Community Land. This option is not favoured as land has been identified as surplus to Council's needs for laneways or has become Community Land by default. The reclassifications will enable Council to investigate possible future uses of the sites and allow dealings in the land without restrictions imposed by the Community Land classification.

Conclusion:

It is considered appropriate to commence the reclassification process for the identified parcels of land in order to facilitate the future use of the lands for their intended purposes.

Manager Property & Business Development – Kate Cramp

ANNEX E - CHANGES TO SCHEDULE 4 OF LAKE MACQUARIE LOCAL ENVIRONMENTAL PLAN 2014

Lake Macquarie Local Environmental Plan 2014

Schedule 4 Classification and reclassification of public land

(Clause 5.2)

Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Locality	Description
2 Edgar Street, Belmont	Lot 32, Sec I, DP 2374
39 George Street, Belmont	Lot 1, DP 334449
40 Maude Street, Belmont	Lot 23, Sec I, DP 2374
42 Maude Street, Belmont	Lot 24, Sec I, DP 2374
56 Maude Street, Belmont	Lot 31, Sec I, DP 2374
201 Brighton Avenue, Toronto	Lot 103, DP 243194
205 Brighton Avenue, Toronto	Lot 101, DP 243194
205 Brighton Avenue, Toronto	Lot 100, DP 243194
209 Brighton Avenue, Toronto	Lot 15, DP 1002630
211A Brighton Avenue, Toronto	Lot 13, DP 1002630
20 The Boulevarde, Toronto	Lot 1, DP 915793
23A John Street, Warners Bay	Lot 1, DP 719621
25 John Street, Warners Bay	Lot 3, DP 719621

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
94A The Boulevarde, Toronto	Lot 12, DP 1002630	Crown Grant
100A The Boulevarde, Toronto	Lot 17, DP 1002630	Crown Grant

ANNEX H – SUPPORTING INFORMATION