

PLANNING PROPOSAL

Reclassification of Community Land to Operational Land at Various Sites

**Amendment No. 86 to
Lake Macquarie Local Environmental Plan 2004**

Or

**Amendment to
Draft Lake Macquarie Local Environmental Plan 2013**

**Prepared by
LAKE MACQUARIE CITY COUNCIL**



Subject lands:

8c Main Road Cardiff Heights
58c Marshall Street New Lambton Heights
17 Walker Street Warners Bay
256 Lake Road Glendale
88 Neilson Street Edgeworth
11 Luprena Close Charlestown
320 Pacific Highway Charlestown

CONTENTS

INTRODUCTION

- PART 1** Objective of the Planning Proposal
- PART 2** Explanation of Provisions
- PART 3** Justification of the Provisions
- Section A: Need for the Planning Proposal*
- Section B: Relationship to Strategic Planning Framework*
- Section C: Environmental, Social and Economic Impact*
- Section D: State and Commonwealth Interests*
- 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** Supporting Information

8c Main Road, Cardiff Heights & 58c Marshall Street, New Lambton Heights

- Deposited Plan and Title Search

17 Walker Street, Warners Bay

- Deposited Plan and Title Search

- Deed between Verlie Mavis Gray and Lake Macquarie City Council

256 Lake Road, Glendale

- Deposited Plan and Title Search

- Council Resolution and other documents relating to transfer of land to Council

- Email from Council's Community Planner for Ageing and Disability

88 Neilson Street, Edgeworth

- Deposited Plan and Title Search

- Letter dedicating land to Council

11 Luprena Close, Charlestown

- Deposited Plan and Title Search

320 Pacific Highway, Charlestown

- Deposited Plan and Title Search

INTRODUCTION

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

Reclassification of the following Council owned sites from Community Land to Operation Land:

- Lot 41 DP 556474 (8c Main Road Cardiff Heights)
- Lot 42 DP 556474 (58c Marshall Street New Lambton Heights)
- Part Lot 31 DP 718196 (17 Walker Street Warners Bay)
- Lot 12 DP 567707 (256 Lake Road Glendale)
- Lot 102 DP 241213 (88 Neilson Street Edgeworth)
- Part Lot 22 DP 249304 (11 Luprena Close Charlestown)
- Part Lot 100 DP 706965 (320 Pacific Highway Charlestown)

Rezoning of the following Council owned sites:

- Lot 102 DP 241213 (88 Neilson Street Edgeworth)
- Part Lot 22 DP 249304 (11 Luprena Close Charlestown)
- Part Lot 100 DP 706965 (320 Pacific Highway Charlestown)

Council resolved at their meetings on the 26th November 2012 and the 8th of July 2013 to support the preparation and lodgement of this Planning Proposal to the Department of Planning and Infrastructure. A copy of the Council reports and resolutions are 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*' and '*A Guide to Preparing Planning Proposals*'.

Part 1- Objective of the Planning Proposal

The Planning Proposal seeks to amend Schedule 3 of the Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004), and Schedule 4 of the Draft Lake Macquarie Local Environmental Plan 2013 (Draft LMLEP 2013) to enable the reclassification of the Community land (detailed in the below tables within Part 2) to Operational land. The Planning Proposal also seeks to rezone three of the parcels, two from Open Space to Residential zonings, and one from Open Space to a Tourism zoning.

Part 2- Explanation of Provisions

Council is currently in the process of adopting a new comprehensive LEP based on the Standard Instrument LEP. Due to this the Planning Proposal includes changes to both the current LMLEP 2004 and the Draft LMLEP 2013. These are outlined within the following Tables 2.1 and 2.2.

Table 2.1 – Proposed LMLEP 2004 Amendments

Subject of Amendment	Explanation of Provision
Schedule 3 – Reclassification of Community Land to Operational Land	Inclusion of the following properties to the Schedule: • Lot 41 DP 556474 (8c Main Road Cardiff Heights) <i>Part 1 – No interests changed</i> • Lot 42 DP 556474 (58c Marshall Street New Lambton Heights) <i>Part 1 – No interests changed</i> • Part Lot 31 DP 718196 (17 Walker Street Warners Bay) <i>Part 2 - Trusts etc to be discharged</i> – Removal of Public Reserve notation (to be re-instated to the land remaining in Council ownership) – All other interests to remain • Lot 12 DP 567707 (256 Lake Road Glendale) <i>Part 2 - Trusts etc to be discharged</i> – Removal of Trust for Public Purpose (Aged Care Accommodation). – All other interests to remain • Lot 102 DP 241213 (88 Neilson Street Edgeworth) <i>Part 2 - Trusts etc to be discharged</i> – Removal of Public Reserve notation – All other interests to remain • Part Lot 22 DP 249304 (11 Luprena Close Charlestown) <i>Part 2 - Trusts etc to be discharged</i>

	– Removal of Public Reserve notation (to be re-instated to the land remaining in Council ownership) – All other interests to remain • Part Lot 100 DP 706965 (320 Pacific Highway Charlestown) <i>Part 1 – No interests changed</i>
LMLEP 2004 Land Zoning Map	Inclusion of the following amendments to the zoning map: • Lot 102 DP 241213 (88 Neilson Street Edgeworth) from 6(1) Open Space to 2(1) Residential, consistent with surrounding zones. • Part Lot 22 DP 249304 (11 Luprena Close Charlestown) from 6(1) Open Space to 2(2) Residential (Urban Living), consistent with surrounding zones. • Part Lot 100 DP 706965 (320 Pacific Highway Charlestown) from 6(1) Open Space to 6(2) Tourism and Recreation, consistent with surrounding zones.

Table 2.2 – Proposed Draft LMLEP 2013 Amendments

Subject of Amendment	Explanation of Provision
Schedule 4 – Classification and reclassification of public land	Inclusion of the following properties to the Schedule: Lot 41 DP 556474 (8c Main Road Cardiff Heights) <i>Part 1 – No interests changed</i> Lot 42 DP 556474 (58c Marshall Street New Lambton Heights) <i>Part 1 – No interests changed</i> Part Lot 31 DP 718196 (17 Walker Street Warners Bay) <i>Part 2 - Trusts etc to be discharged</i> - Removal of Public Reserve notation (to be re-instated to the land remaining in Council ownership) - All other interests to remain Lot 12 DP 567707 (256 Lake Road Glendale) <i>Part 2 - Trusts etc to be discharged</i> - Removal of Trust for Public Purpose (Aged Care Accommodation). - All other interests to remain Lot 102 DP 241213 (88 Neilson Street Edgeworth) <i>Part 2 - Trusts etc to be discharged</i> - Removal of Public Reserve notation - All other interests to remain Part Lot 22 DP 249304 (11 Luprena Close Charlestown) <i>Part 2 - Trusts etc to be discharged</i> - Removal of Public Reserve notation (to be re-instated to the land remaining in Council ownership) - All other interests to remain Part Lot 100 DP 706965 (320 Pacific Highway Charlestown) <i>Part 1 – No interests changed</i>
Land Zoning Map	Inclusion of the following amendments to the zoning map: - Lot 102 DP 241213 (88 Neilson Street Edgeworth) from RE1 Public Recreation to R2 Low Density Residential, consistent with surrounding zones. - Part Lot 22 DP 249304 (11 Luprena Close Charlestown) from RE1 Public Recreation to R3 Medium Density Residential, consistent with surrounding zones.

	Part Lot 100 DP 706965 (320 Pacific Highway Charlestown) from RE1 Public Recreation to SP3 Tourist, consistent with surrounding zones.
Lot Size Map	Inclusion of the following amendments to the lot size map: - Lot 102 DP 241213 (88 Neilson Street Edgeworth) – currently not defined on map, is to be amended to show the minimum lot size for land zoned R2 Low Density Residential – 450sqm. - Part Lot 22 DP 249304 (11 Luprena Close Charlestown) - currently not defined on map, is to be amended to show the minimum lot size for land zoned R3 Medium Density Residential – 900sqm.
Height of Buildings Map	Inclusion of the following amendments to the height of buildings map: - Lot 102 DP 241213 (88 Neilson Street Edgeworth) – currently not defined on map, is to be amended to show maximum building height of 8.5m. - Part Lot 22 DP 249304 (11 Luprena Close Charlestown) - currently not defined on map, is to be amended to show maximum building height of 10m.

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 and rezoning (where applicable). The outcomes of these investigations and reasoning to pursue the proposed amendments are outlined below.

- **8c Main Road, Cardiff Heights - Lot 41 DP 556474 & 58c Marshall Street, New Lambton Heights - Lot 42 DP 556474**

In 2012, Council sold three parcels of land adjoining the subject lots to the NSW Roads & Maritime Services (RMS) for the purposes of future road works. Throughout these negotiations, the RMS indicated their intention to additionally acquire the subject lots (Lots 41 and 42 on DP 556474) for the future road works.

The subject lots were acquired by Council in the 1970's for the construction of a new road, however construction did not eventuate and Council officers have since confirmed that there are no longer any plans for the construction of a road in this location.

The lots were never dedicated as road, nor were they advertised as Operational Land during the transitional provisions of the Local Government Act 1993 (LG Act). The subject lots are therefore Community Land and reclassification to Operational Land is required to enable their sale.

Both lots are zoned 2(1) Residential under the LMLEP 2004 (as illustrated in Figure 2) yet only have a total area of 69.6sqm with no street frontage. It is therefore considered that they have little development potential either as standalone lots or as a consolidated lot. Sale to the adjoining land owner RMS is considered to be an appropriate course of action.

- **17 Walker Street, Warners Bay - Lot 31 DP 718196**

The subject site (Lot 31 in DP 718196) has an area of 635.5sqm and is currently zoned part 2(2) Residential (Urban Living) and part 7(2) Conservation (Secondary) under the LMLEP 2004 (as illustrated in Figure 5).

The site is Community Land due to its dedication as a Public Reserve upon the registration of DP 718196 in 1985. Prior to the registration of DP 718196, Council entered into a Deed with the previous land owner in regards to the land's future public reserve dedication and paid \$6,000 compensation for the land (see copy of the Deed in Annex E).

Upon the registration of DP 718196, two lots were created, Lots 31 and 32. Lot 32 is accessed via a 3.66m wide frontage to Walker Street which is of insufficient width under current planning controls. This width additionally limits the development potential of Lot 32 and the owner has approached Council with

a request to purchase part of Lot 31 to increase the road frontage and improve access potential.

Historically it was proposed to create a road through Lot 31 linking Walker Street to Margaret Street to the west. To facilitate this, part of Lot 31 was zoned 5C Special Uses (Proposed Local Road Reservation) with the balance being zoned 6(c) Open Space (Local Reservation) under the Lake Macquarie Local Environmental Plan 1984. The local road proposal has since been abandoned and the land rezoned to its current zones.

The residential zoned portion of Lot 31 is irregular in shape and not considered to be of sufficient area to enable development in its own right. Sale of part of Lot 31 for consolidation with adjoining Lot 32 is therefore proposed as outlined in Figure 6 to facilitate the future development of Lot 32 in accordance with its current medium density zoning.

- **256 Lake Road, Glendale - Lot 12 DP 567707**

In 1972 Council was approached by the owner of Lot 3 DP 20184 (the parent lot of the subject lot) who proposed to subdivide his land into two lots and dedicate one of those lots to Council for aged care purposes. On 21 November 1972, Council resolved to accept the gift of the land on the understanding that it be used to construct aged care units (refer to Annex E for correspondence relating to gifting/transfer of the land to Council).

The parent lot was subdivided in 1974 to create Lots 11 and 12 in DP 567707. The subdivider retained Lot 11 and Lot 12 was transferred to Council's ownership on 11 October 1974.

On 30 June 1975, a report was submitted to Council stating that Council did not have the funds or personnel to construct and manage an Aged Care Facility. A proposal to lease the land to the Lions Club was subsequently considered but the Lions Club notified Council on 18 July 1977 that it could not continue with the leasing of the land due to limitations in Government funding required for the development.

Council has subsequently determined that the land to not be suitable for aged care purposes due to bushfire issues (it is located adjacent to heavily vegetated land that is zoned for Conservation), it is heavily vegetated itself, it is a sloping site and is distant from public transport and basic services such as retail and community services and facilities. It is also considered that the site would not comply with the requirements of SEPP (Housing for Seniors and People with a Disability) 2004. This understanding has been supported by Council's Community Planner for Ageing and Disability (refer to Annex E).

The land was advertised as Operational Land in 1994 with the transitional provisions of the LG Act however as it was gifted to Council for a specific purpose it is subject to an implied trust and the advertisement is effectively invalid. In order to act outside the purpose designated by the trust (i.e. use of land for any purpose other than aged care), the trust will first have to be extinguished. Reclassification under section 30 of the LG Act will result in the release of the trust.

As current planning considerations do not support the use proposed for the land by the trust, reclassification to Operational Land is recommended to enable the land to be developed in accordance with its highest and best use.

Any proceeds derived from the sale of the land is intended to be internally isolated for age care purposes and kept within a Restricted General Fund for this purpose.

The subject site contains an area of 6509sqm and is zoned 2(1) Residential under the LMLEP 2004 (as illustrated in Figure 8) and proposed R2 Low Density Residential under the Draft LMLEP 2013. The land may be appropriate for a small future residential subdivision and if reclassified, will be either developed or offered for sale, depending on prevailing market conditions once reclassification completed.

- **88 Neilson Street, Edgeworth - Lot 102 DP 241213**

The subject site has an area of 290.9sqm and is zoned 6(1) Open Space under the LMLEP 2004 (as illustrated in Figure 11). The site is currently fenced in with adjoining privately owned parcels at 78 and 80 Neilson Street, and contains an easement for a transmission line 30.48 wide.

The site is Council Community Land due to its dedication as a Public Reserve upon the registration of DP 241243 in 1971. Prior to the registration of DP241243, the City of Newcastle Gas and Coke Co Ltd agreed to dedicate the site as open space to Council without cost (refer to Annex E for correspondence between Newcastle Gas and Coke Co Ltd and Council).

Council was approached by the owner of 80 Neilson Street (who is also currently negotiating the purchase of 78 Neilson Street) to acquire the subject site.

The 'applicant's land' (80 and 78 Neilson Street) is identified in the Draft LMLEP 2013 as part of an urban release area and was rezoned in 2010 to permit residential development. The applicant proposes to subdivide this land for residential purposes and has discussed this proposal with Council officers at a Development Unit meeting on 7 March 2013. Three potential access points to the proposed subdivision were identified and discussed at that meeting and the subject Council-owned land was identified as the preferred location due to it inflicting the least impact to existing nearby residences.

It is proposed to reclassify the land to Operational Land to facilitate its sale, and rezone to a residential zone consistent with the applicant's adjoining land holdings.

The site is proposed to be rezoned to allow it to be incorporated with the future proposed development of adjoining 2(1) Residential land (80 and 78 Neilson Street) as previously outlined. The minimum lot size and building height's proposed for the parcel reflects that of the adjoining 2(1) Residential land to ensure consistency.

- **11 Luprena Close, Charlestown - Lot 22 DP 249304**

The subject land is zoned 6(1) Open Space under the LMLEP 2004 (as illustrated in Figure 17) and contains an area of 1,842sqm. The site is Community Land due to its dedication as a public reserve upon the registration of DP 249304 in 1975 (refer to Annex E for copy of Deposited Plan).

The owner of an adjoining parcel (75 Dudley Road) is pursuing the amendment to resolve encroachments onto the public reserve caused by the southern and western boundary fences and pool decking. The applicant obtained development consent for the alterations and additions, however throughout their construction, encroachments ranging from 0.40m to 0.58m at the western boundary and to a maximum width of 1.18m to the southern boundary, were discovered.

The western boundary encroachment affects the pedestrian access way from Dudley Road to the reserve in Luprena Close. The access way however possesses a width of 4.695m and the maximum width of the encroachment to that part is 0.58m, allowing a 4.115m wide access way to remain available to pedestrians.

The affected area south of the applicant's land is a small triangular portion that sits between 75 Dudley Road to the north and 14 Luprena Close to the south. Although the land forms part of the public reserve, it is not considered ideal for use by the public due to its size and relation to the remainder of the public reserve.

The applicant obtained an identification survey when he purchased the property in 1998. Since that time four development applications have been approved and works completed for dwelling alterations and additions (2001 and 2006), garage (2004) and swimming pool (2011).

No encroachments were identified in the 1998 survey or at any time throughout construction of the above mentioned works.

When constructing the pool, the western boundary fence was replaced but was constructed inside of the location of the original fence. No encroachments were identified at this time.

The survey reports obtained disclosed a variance in boundary lengths which has more than likely led to confusion over the location of the boundary, and the resultant encroachments.

Council is supportive of the reclassification, rezoning and sale of the encroachment lands.

The portion of the site subject to the reclassification is required to be rezoned from 6(1) Open Space to a residential zone in order for the encroachment issue to be accurately rectified. A change in zoning to 2(2) Residential (Urban Living) is considered appropriate for the site as it will reflect the current zoning of 75 Dudley Road in which the portion will be amalgamated with following its subdivision and sale. The minimum lot size and building height's proposed for the rezoned portion reflect that of the adjoining 2(2) Residential (Urban Living) land to ensure consistency.

- **320 Pacific Highway, Charlestown – Part Lot 100 DP 706965**

The subject land is Council owned Community Land zoned 6(1) Open Space under the LMLEP 2004 (as illustrated in Figure 23). An unauthorised structure (rotunda), constructed and used by the adjoining business Apollo Hotel, encroaches on to the site (as illustrated in Figure 22).

The site was acquired prior to 1976 and was not advertised as Operational Land when the LG Act was introduced, therefore the site remains to be Community Land.

The site of the encroachment, part lot 100 DP 706965, forms part of the highly disturbed area between the developed land of the Apollo Hotel and the bushland that constitutes Charlestown Park. The site of the encroachment is approximately 400m².

The Apollo Hotel (Land) Pty Limited has requested to purchase or lease the portion of land within Council's community land, on which the rotunda and associated landscaping has been erected. The rotunda was constructed without appropriate Council approval, by the previous owners of the Apollo Hotel, and is used by the current owners, specifically for wedding events. The current owners wish to retain the rotunda to enhance the appeal of the Apollo Hotel.

Condition 7 of a Development Consent issued in 2008, to extend the Apollo Hotel, required the removal of the rotunda, and vegetation rehabilitation of the site, by 30 July 2012. An application to modify the Development Consent resulted in a new condition that allowed the Apollo Hotel to make an application for reclassification of the land on which the rotunda and associated landscaping is erected. If the application was made by 30 July 2012, the requirement for removal of the rotunda was to be extended to 30 July 2014, unless the outcome of the reclassification application permits the rotunda and associated landscaping to remain. The applicant submitted formal application for reclassification and rezoning of the land on 16 May 2012 and Council is supportive of the encroachment lands reclassification, rezoning and sale.

The subject portion of the site is required to be rezoned in order to facilitate the permissible use of the encroachment. The proposed zoning 6(2) Tourism and Recreation will be consistent with that of the adjoining Apollo Hotel parcel for which the subject land will be consolidated with following reclassification. A minimum lot size and building height map has not been proposed for the subject portion to ensure it will align with the adjoining tourism zoned Apollo Hotel site following its consolidation.

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 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 affectations pursuant to section 30 of the Local Government Act 1993:

- i. Warners Bay – Lot 31 DP 718196 – Public reserve notation
- ii. Edgeworth – Lot 102 DP 241213 – Public reserve notation
- iii. Charlestown – Lot 22 DP 249304 – Public reserve notation

The removal of the public reserve status of the above lots is required in order to facilitate the reclassification of the lots to Operational Land. The Warners Bay and Charlestown lots are only part lot reclassifications, however in order to facilitate this, the public reserve status must be removed from the whole lot. It will then be a requirement of Council during the subdivision process that the public reserve status be re-instated to the land to remain in Council ownership.

- iv. Glendale – Lot 12 DP 567707 – Trust for Public Purpose (Aged Care Accommodation)

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

Lake Macquarie Council is the land owner for all of the sites subject of the Planning Proposal.

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)?

Lower Hunter Regional Strategy

The proposed reclassifications and rezoning are consistent with the Lower Hunter Regional Strategy (LHRS), which has a focus on encouraging residential infill development and increasing housing choice.

The strategy specifically identifies Glendale as an emerging Major Regional Centre and Warners Bay as a Town Centre. The proposed reclassifications in these areas will allow the land, currently zoned for residential purposes, to be sold and developed for their intended use and will subsequently support the growth and further establishment of these centres.

The Edgeworth site, although not specifically identified within the LHRS, is located within an established urban area close to the emerging Major Regional Centre of Glendale. The reclassification and rezoning of this site will encourage the future development of adjoining residential zoned land which will ultimately support increased growth for the area which is adjoining an emerging Major Regional centre.

The provisions of the LHRS are not impacted upon by the remaining subject lands which are administrative amendments (Charlestown sites) or are to support future road development (New Lambton Heights/Cardiff Heights sites).

The proposal is not contrary to the provisions of the Lower Hunter Conservation Plan.

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.

The proposal is consistent with the strategic plan maps in the LS2030. The Glendale and Edgeworth sites are identified within a growth and expansion corridor, with Glendale being identified as an emerging major regional centre in line with the LHRS. The intended future use of these sites to promote future residential development is consistent with the objectives of the strategy.

The Edgeworth site is adjacent to the LMCC Investigation Area however the lands adjoining the subject site are currently zoned for residential purposes, therefore will not require any investigations for future rezoning for urban development.

The Warners Bay site is identified between the Edgeworth/Glendale/Cardiff growth and expansion corridor and the town centre of Warners Bay. The reclassification to support a higher residential use on the adjoining site in line with its zoning provision is considered consistent with the vision for this area under the strategy.

No sites are identified in the Green System map as having any significant environmental features.

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?

No sites within the planning proposal include or adjoin sensitive environmental features. The subject sites are currently removed from any significant environmental corridors and are either previously established/disturbed sites or cleared of vegetation. The proposal will not adversely affect any species, habitats or communities.

The rezonings associated with this application are considered negligible in regards to environmental impact.

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 minor nature of the proposed reclassifications and rezonings.

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

The proposed reclassifications and rezonings 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;
- Enable the sale of Council owned land that will generate public funds for future expenditure on public and aged care focused purposes; and
- Rectify existing encroachments to public reserves and other Council owned Open Space areas to allow the boundaries of these public areas to be clearly and accurately defined.

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 or suburbs included in the Planning Proposal.

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

Consultation with the applicable Government Authorities will be undertaken in accordance with the Gateway Determination once issued.

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 *Appendix A*.

Part 5- Community Consultation

Community consultation will be undertaken in accordance with the requirements of 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).

The planning proposal is proposed to be exhibited for 28 days in accordance with section 5.5.2 of the Department's LEP guideline. 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.

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. Public notice of the public hearing will be sent and published at least 21 days before the start of the public hearing.

Part 6 – Project Timeline

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

Task	Timeline
Gateway Determination	November 2013
Public Exhibition (28 days)	December 2013
Public Hearing	January 2014
Consideration of submissions & prepare report on Public Hearing	January 2014
Report to Council post exhibition	February 2014
Submission to Department	March 2014
Notification of Plan Made	May 2014

ANNEX A - MAPS

8c Main Road Cardiff Heights & 58c Marshall Street Lambton Heights – Lot 41 DP 556474 & Lot 42 DP 556474

Figure 1 – Aerial map



Figure 2 – Existing zone under LMLEP 2004

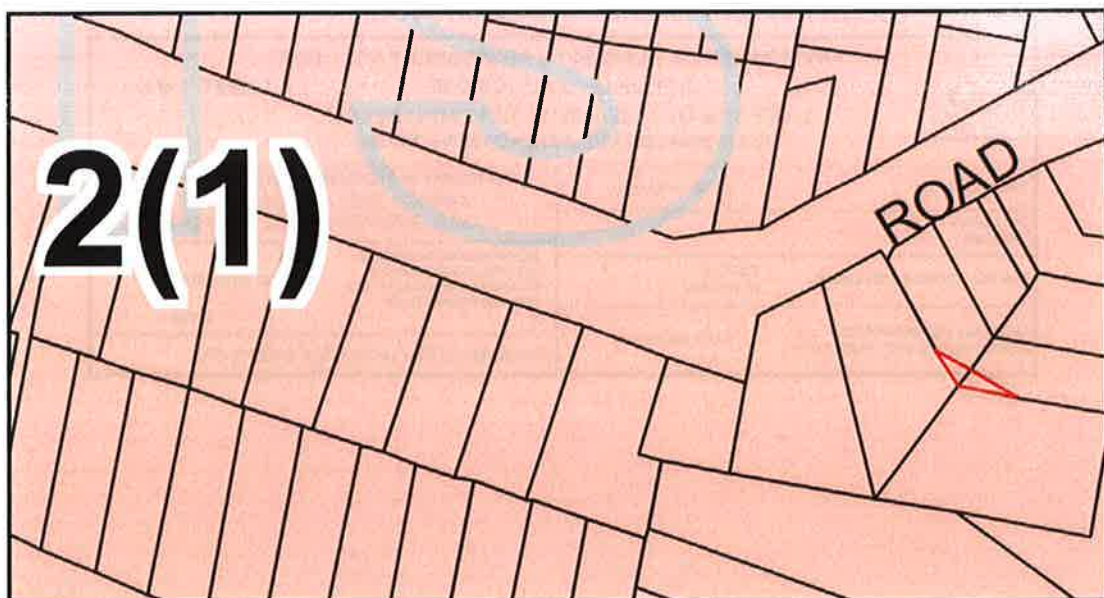
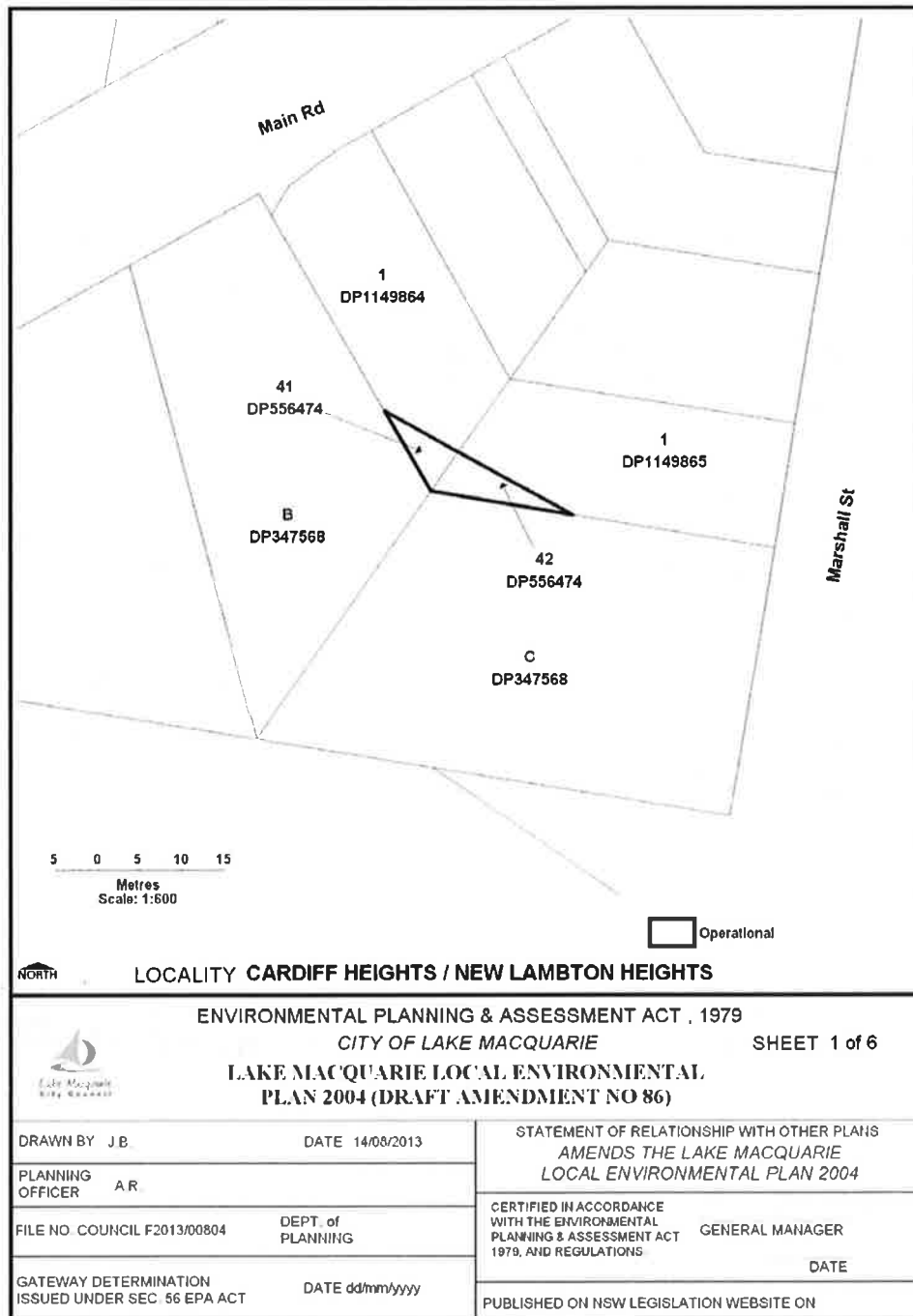


Figure 3 – Draft Zone Map under LMLEP 2004



17 Walker Street Warners Bay – Part Lot 31 DP 718196

Figure 4 – Aerial map



Figure 5 – Existing zone under LMLEP 2004

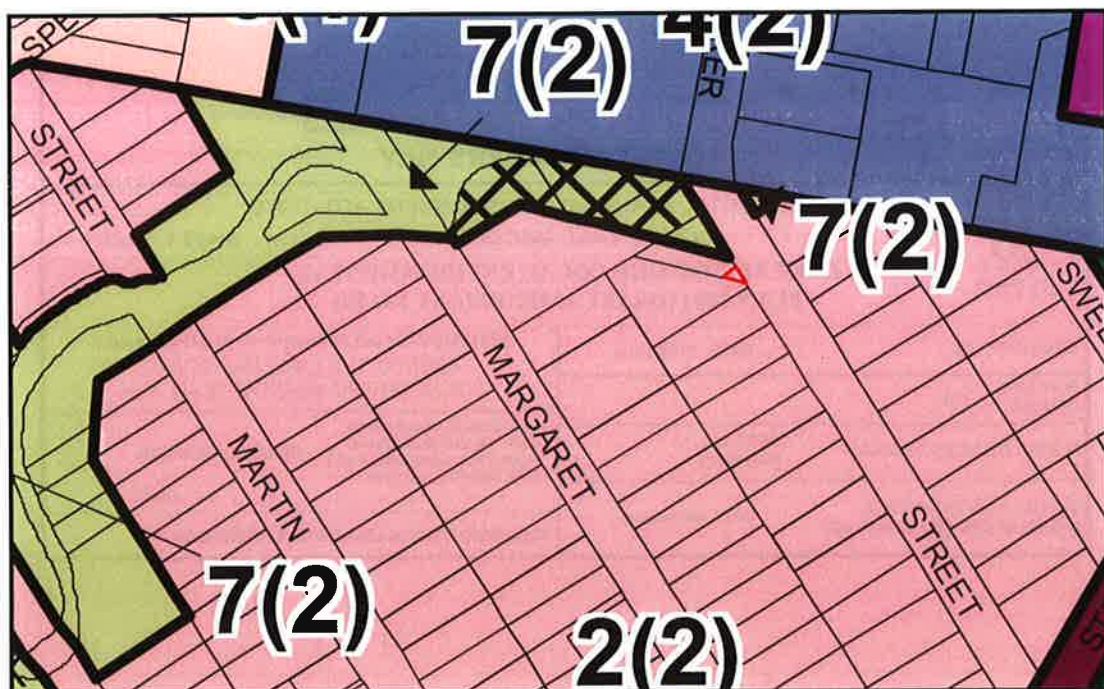
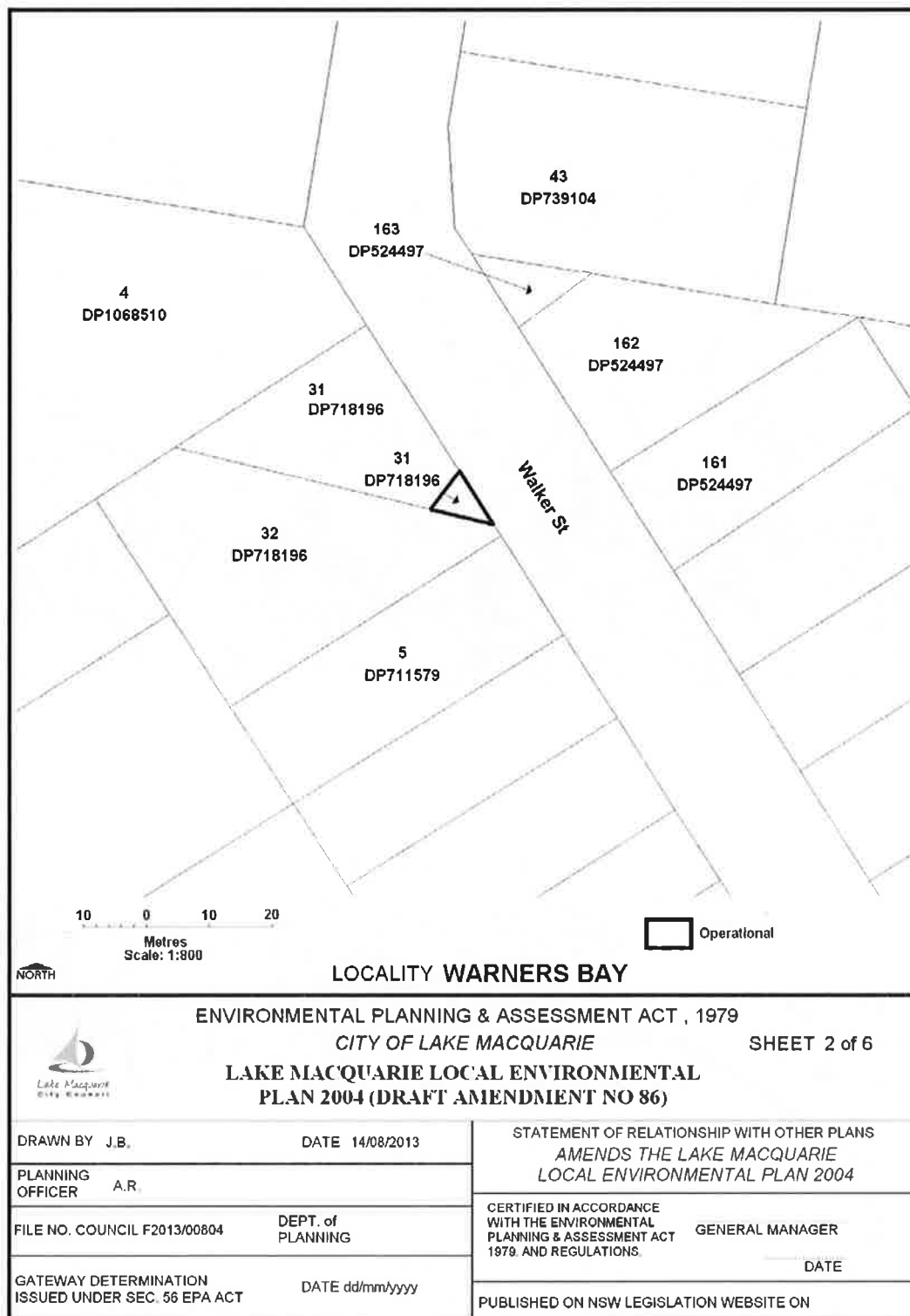


Figure 6 – Draft Zone Map under LMLEP 2004



256 Lake Road Glendale – Lot 12 DP 567707

Figure 7 – Aerial map



Figure 8 – Existing zone under LMLEP 2004

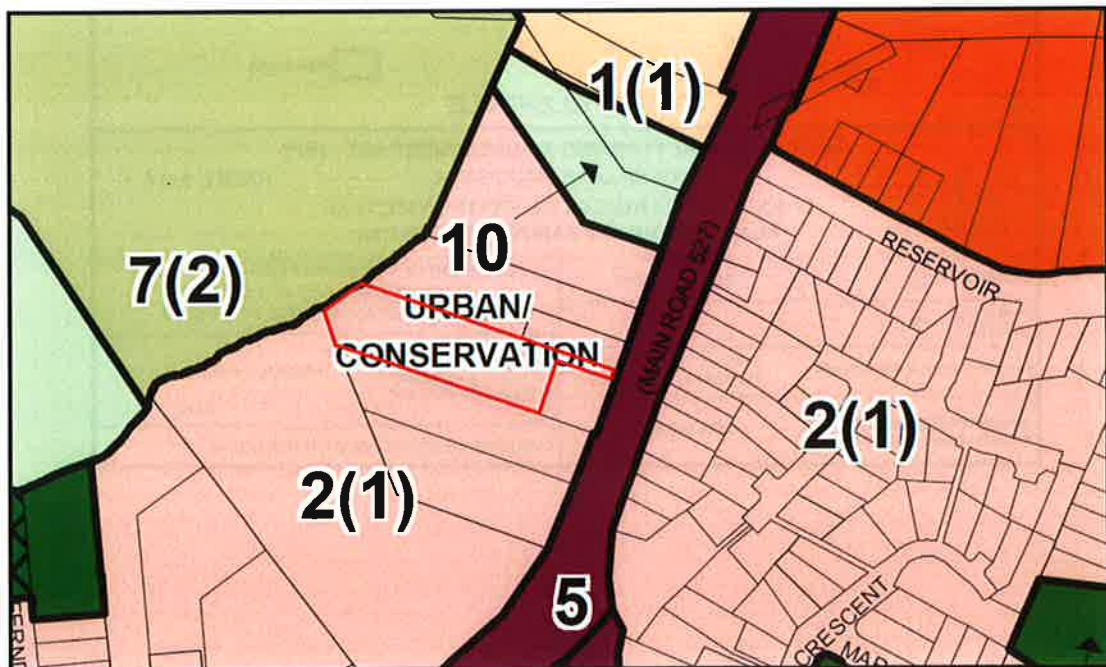
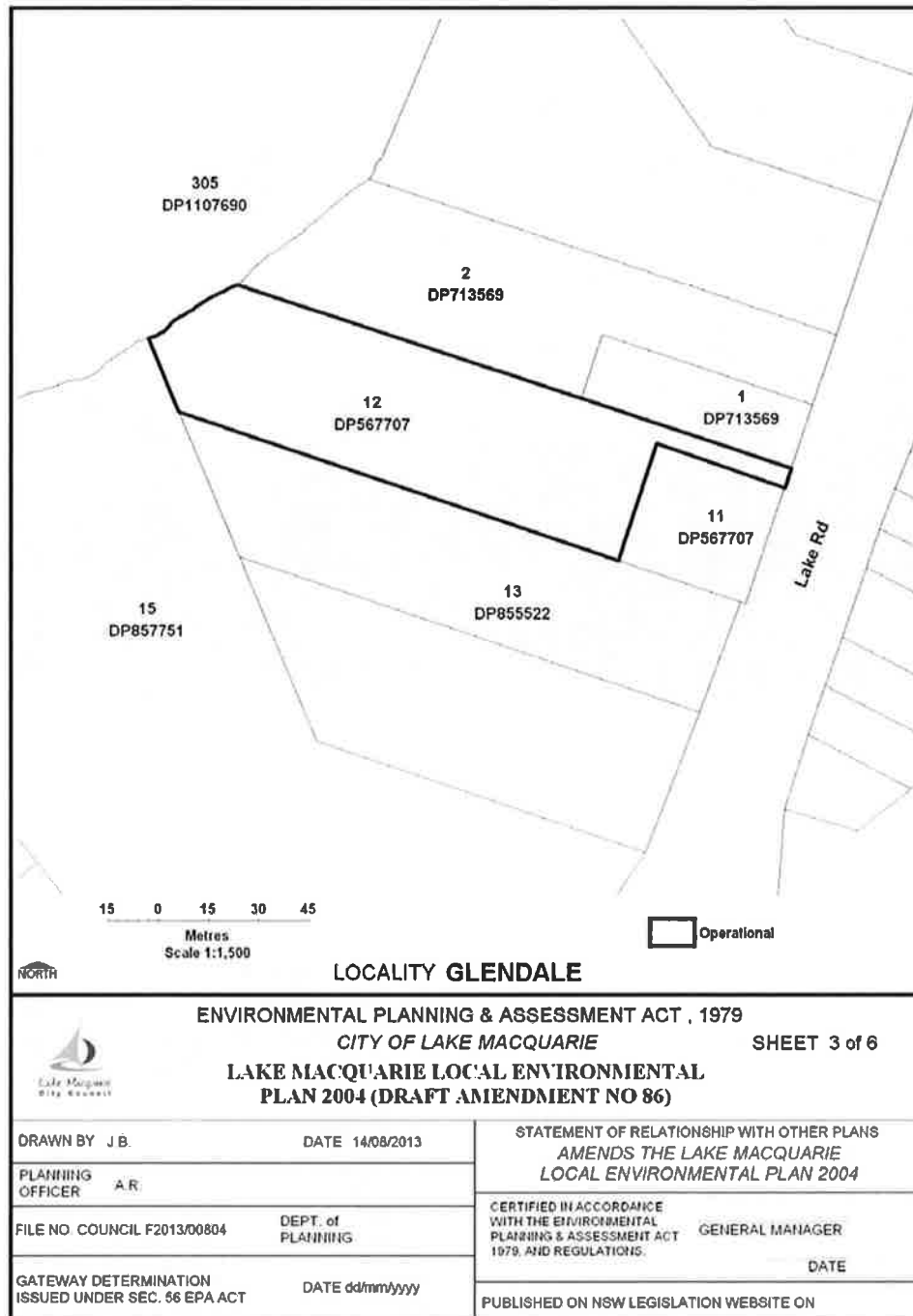


Figure 9 – Draft Zone Map under LMLEP 2004



88 Neilson Street Edgeworth– Lot 102 DP 241213

Figure 10 – Aerial map



Figure 11 – Existing zone under LMLEP 2004

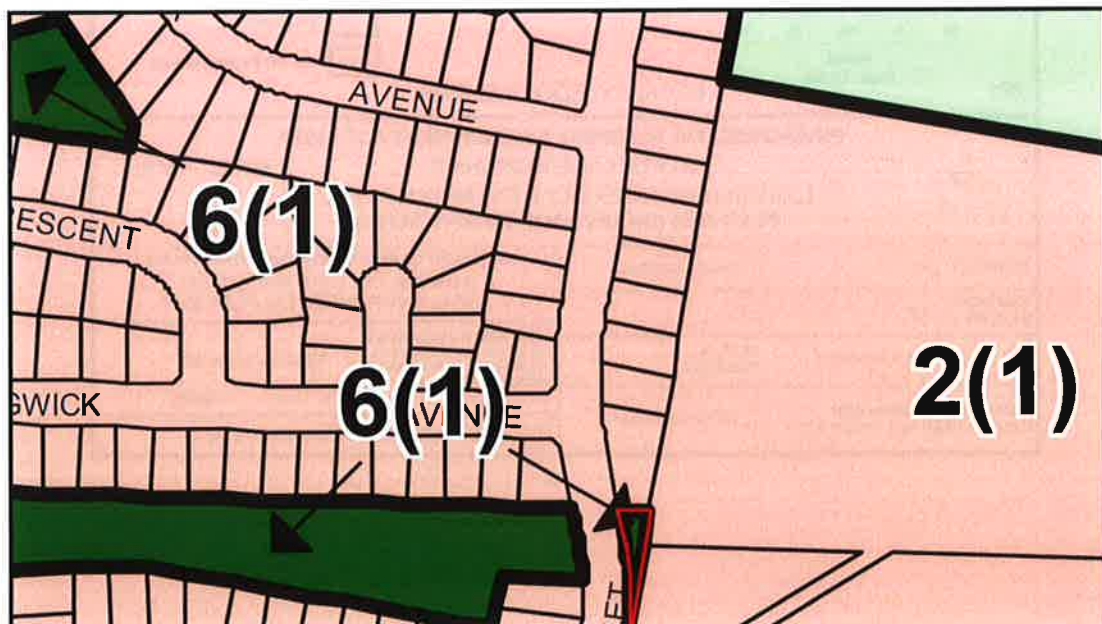


Figure 12 – Draft Zone Map under LMLEP 2004

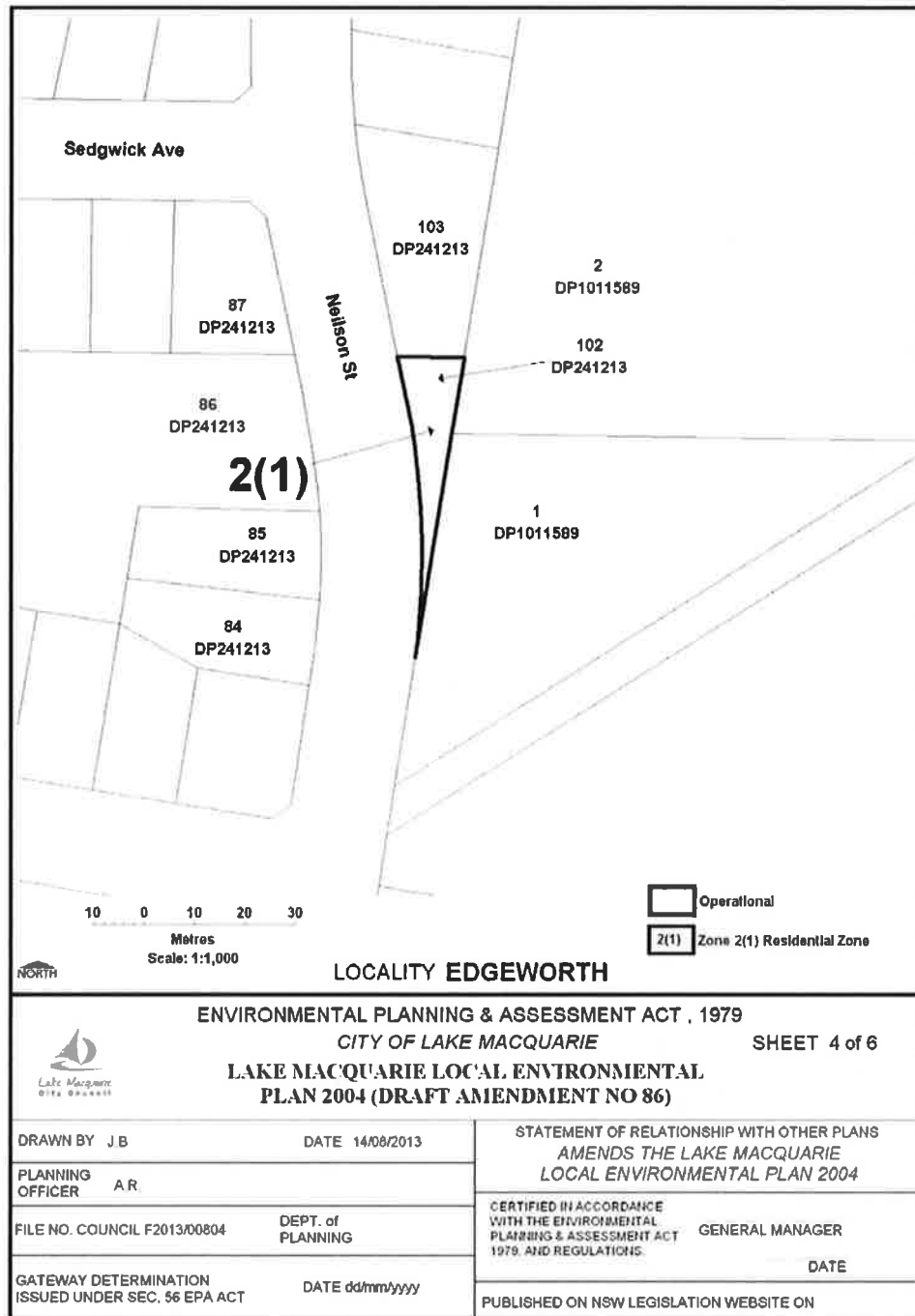


Figure 13 – Draft Zone Map under Draft LMLEP 2013

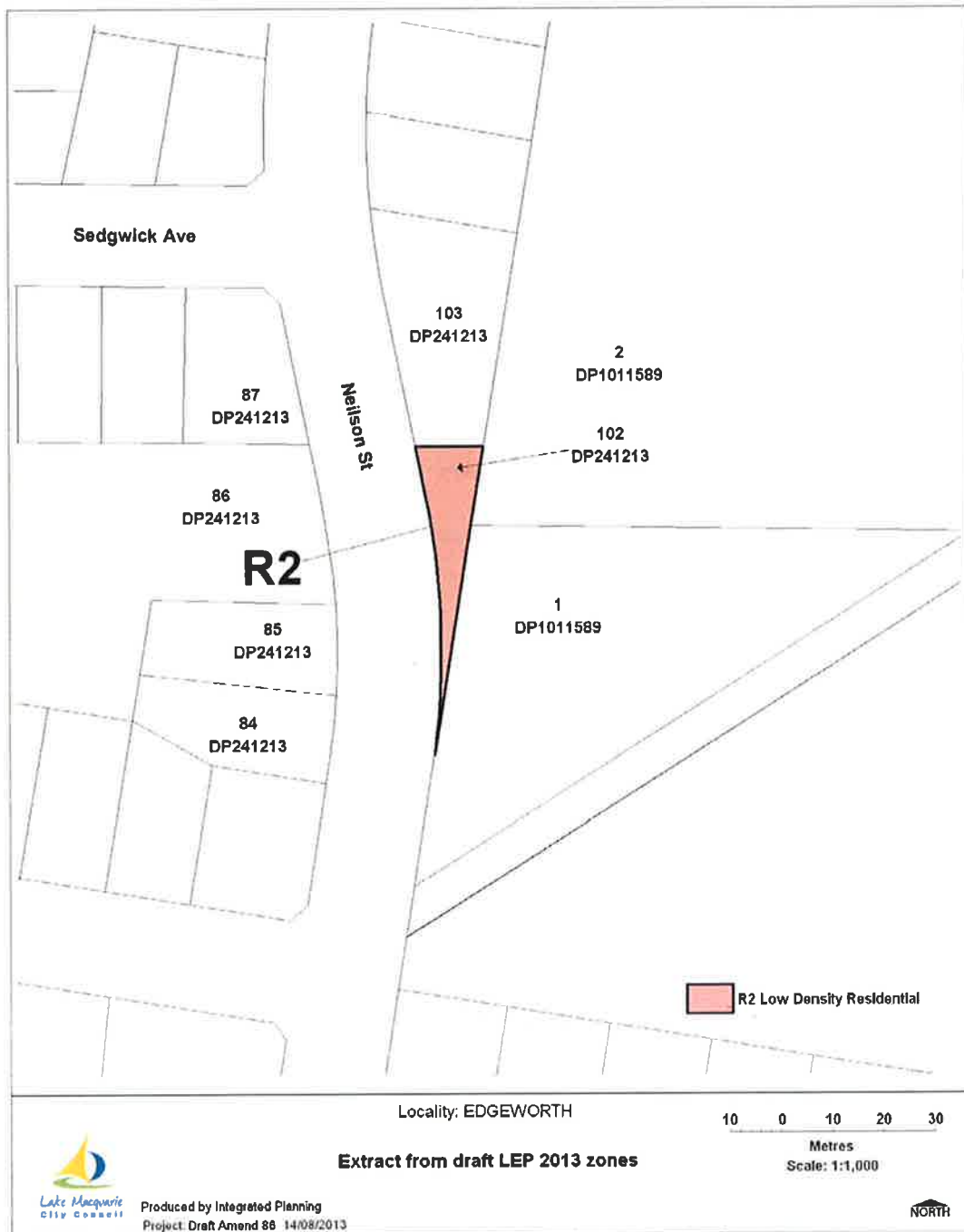
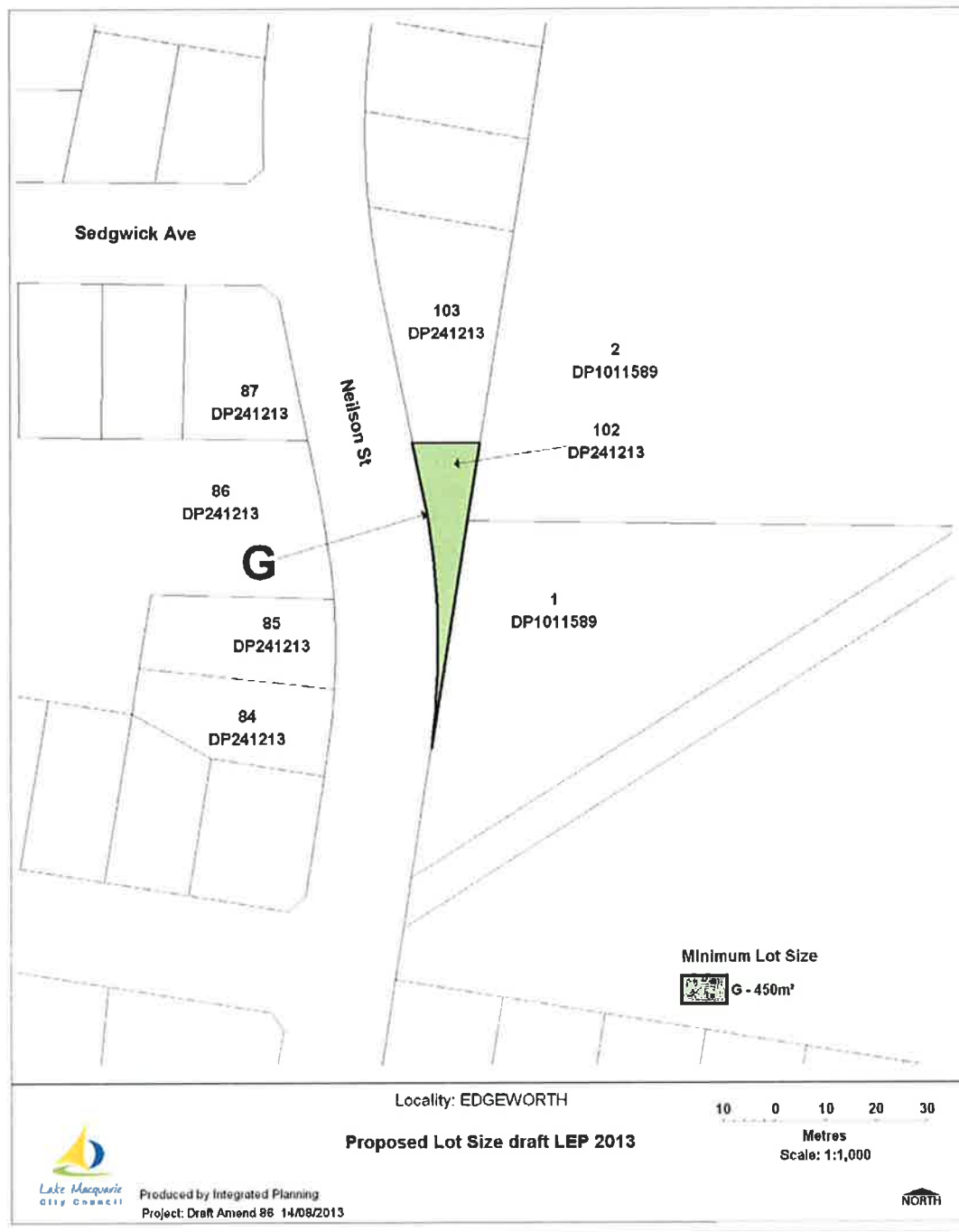


Figure 14 – Draft Building Height Map under Draft LMLEP 2013



Figure 15 – Draft Lot Size Map under Draft LMLEP 2013



11 Luprena Close Charlestown– Part Lot 22 DP 249304

Figure 16 – Aerial map



Figure 17 – Existing zone under LMLEP 2004

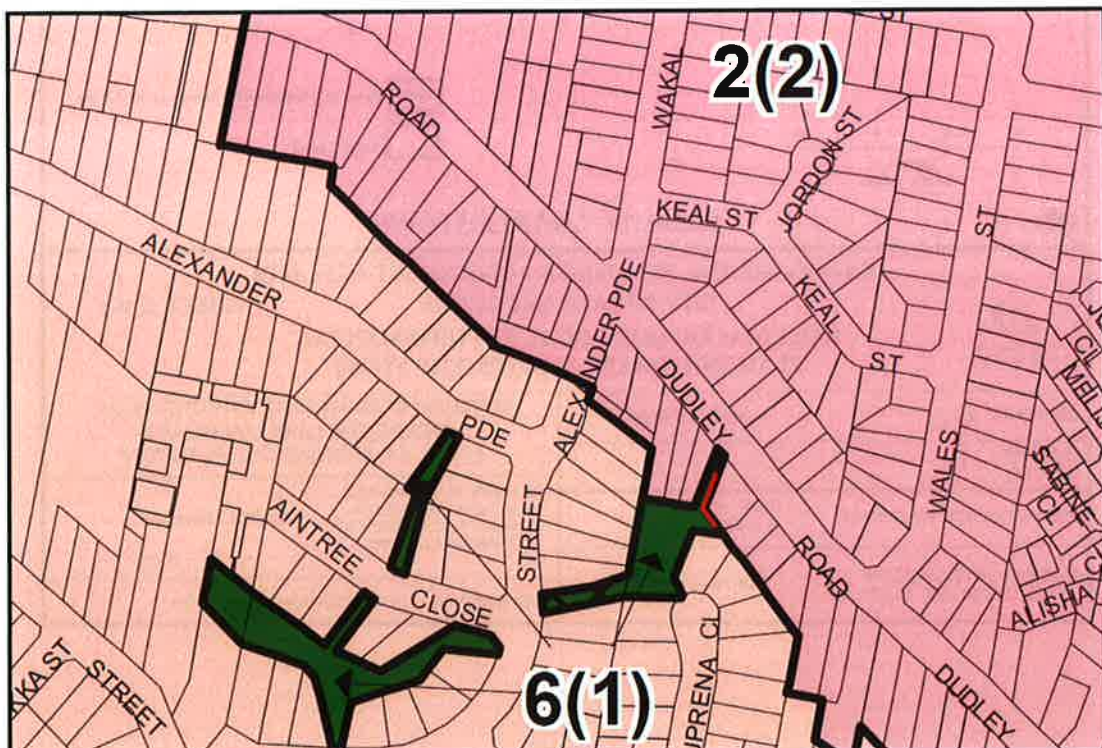


Figure 18 – Draft Zone Map under LMLEP 2004

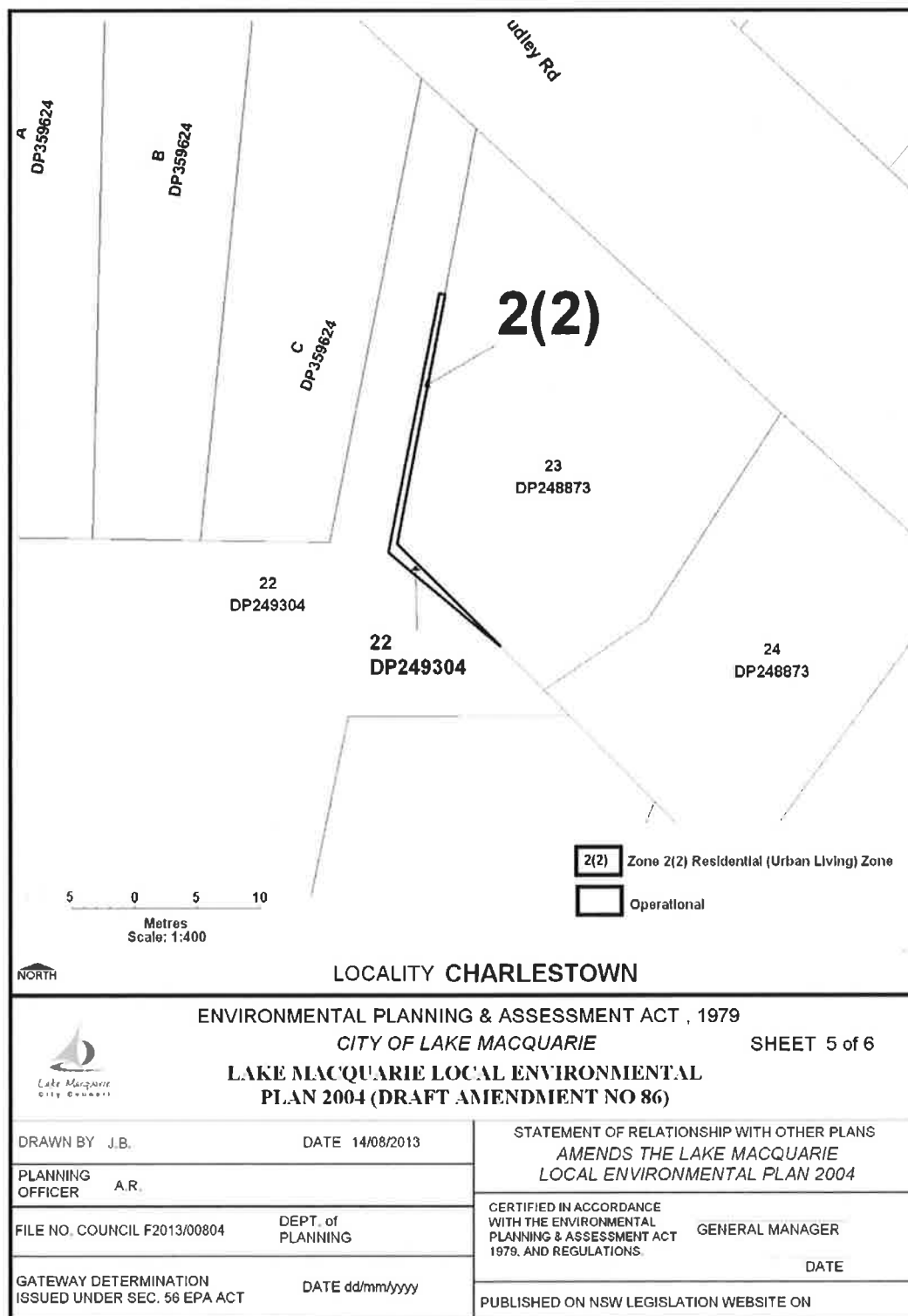


Figure 19 – Draft Zone Map under Draft LMLEP 2013

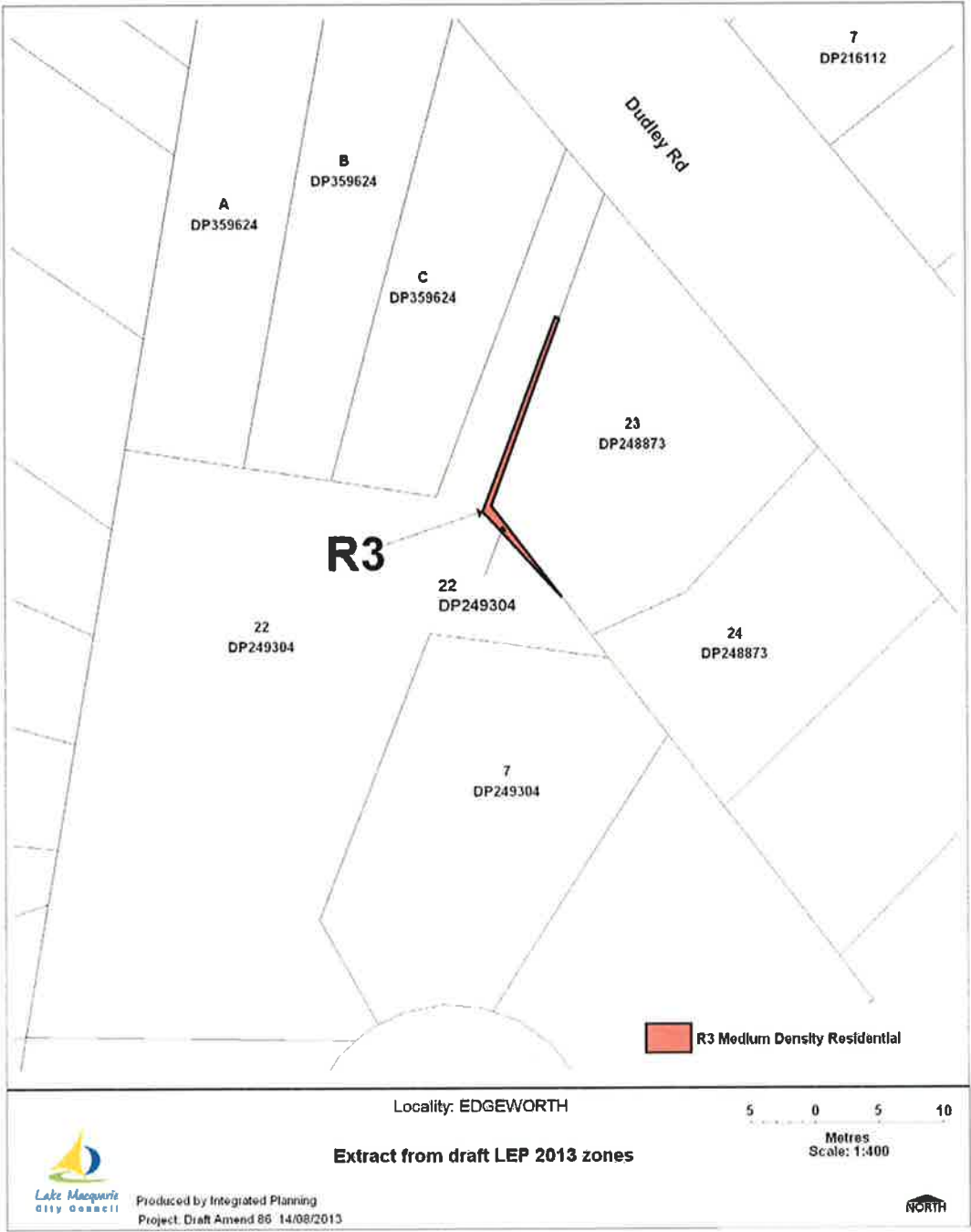


Figure 20 – Draft Building Height Map under Draft LMLEP 2013

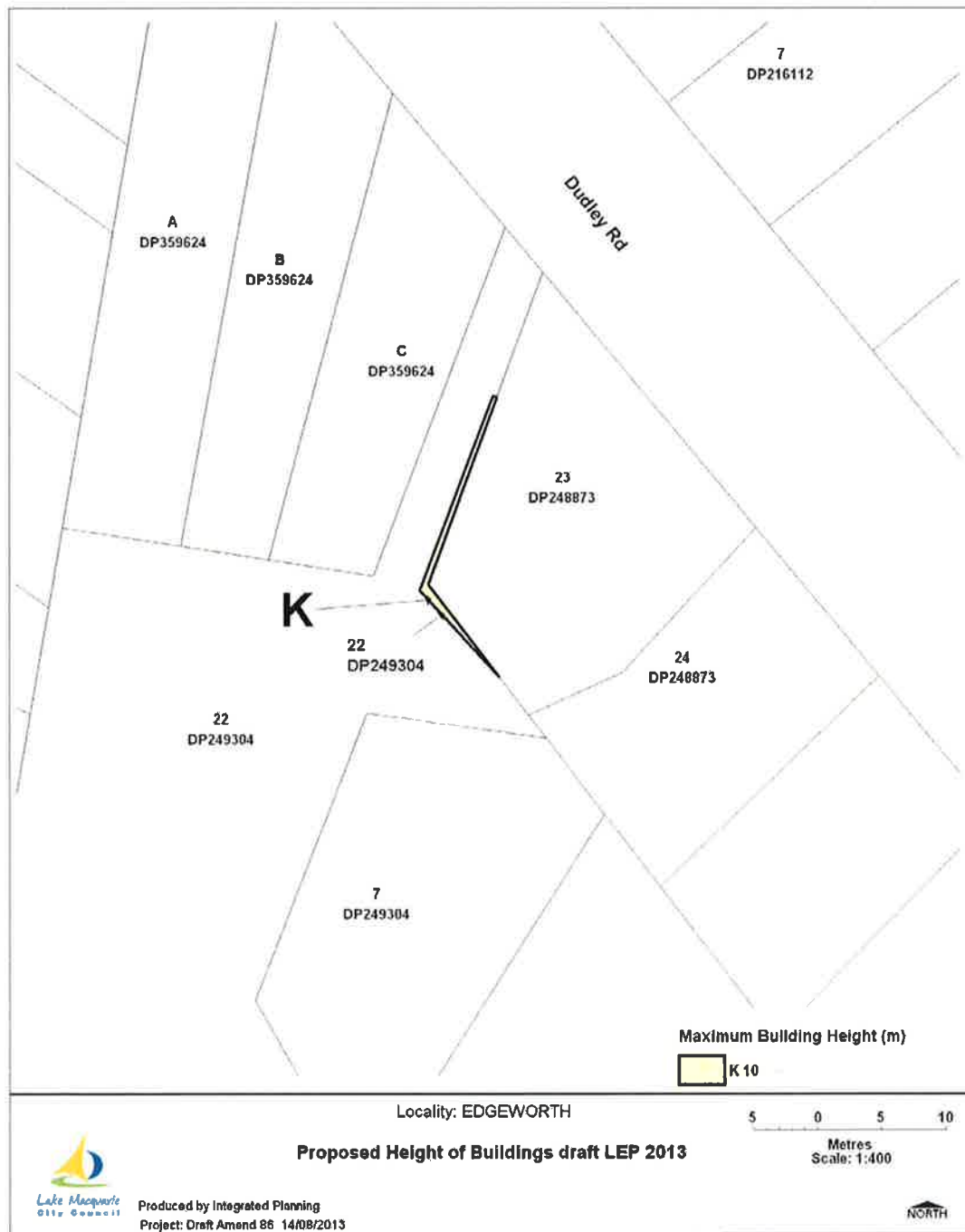
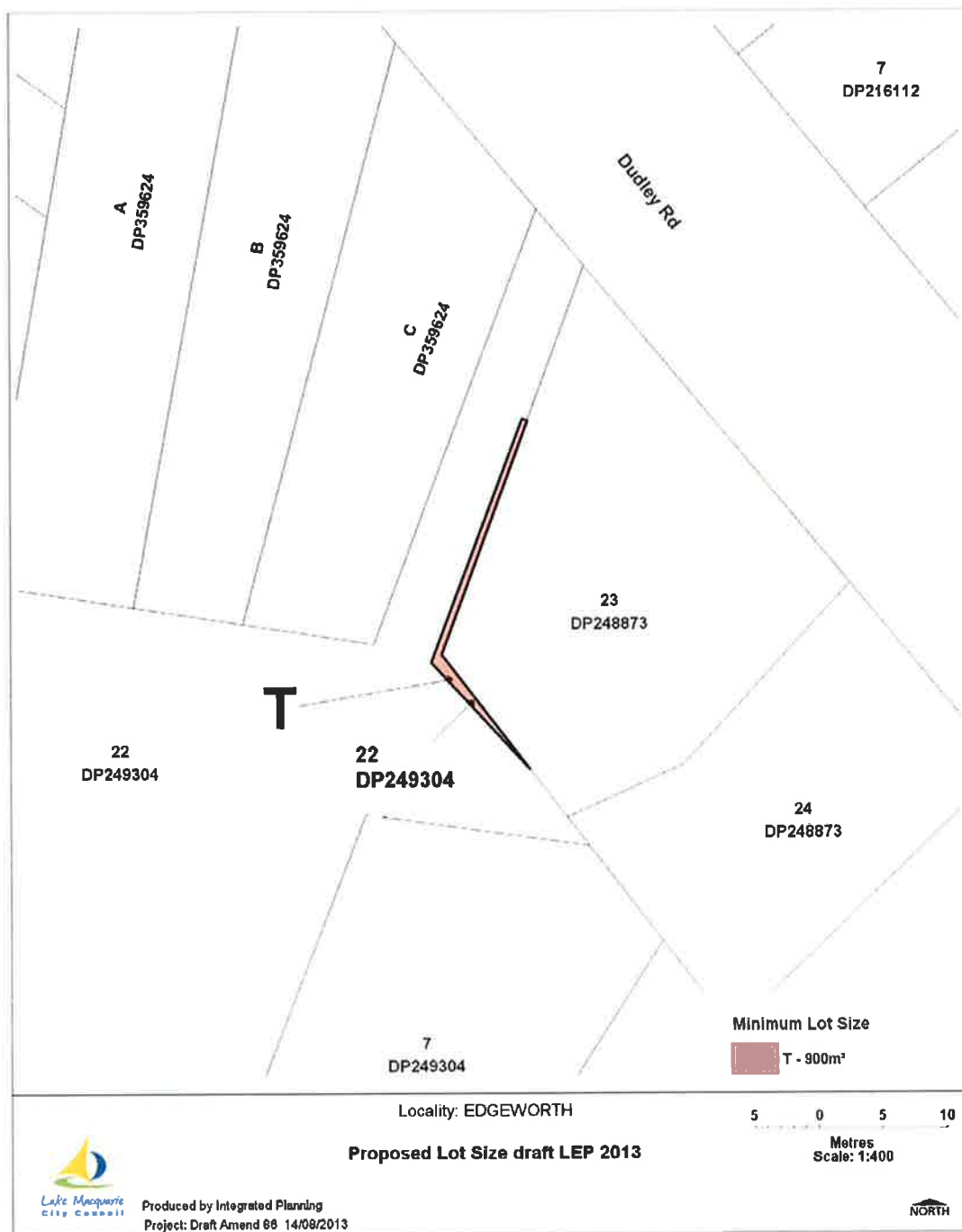


Figure 21 – Draft Lot Size Map under Draft LMLEP 2013



320 Pacific Highway Charlestown – Part Lot 100 DP 706965

Figure 22 – Aerial map



Figure 23 – Existing zone under LMLEP 2004

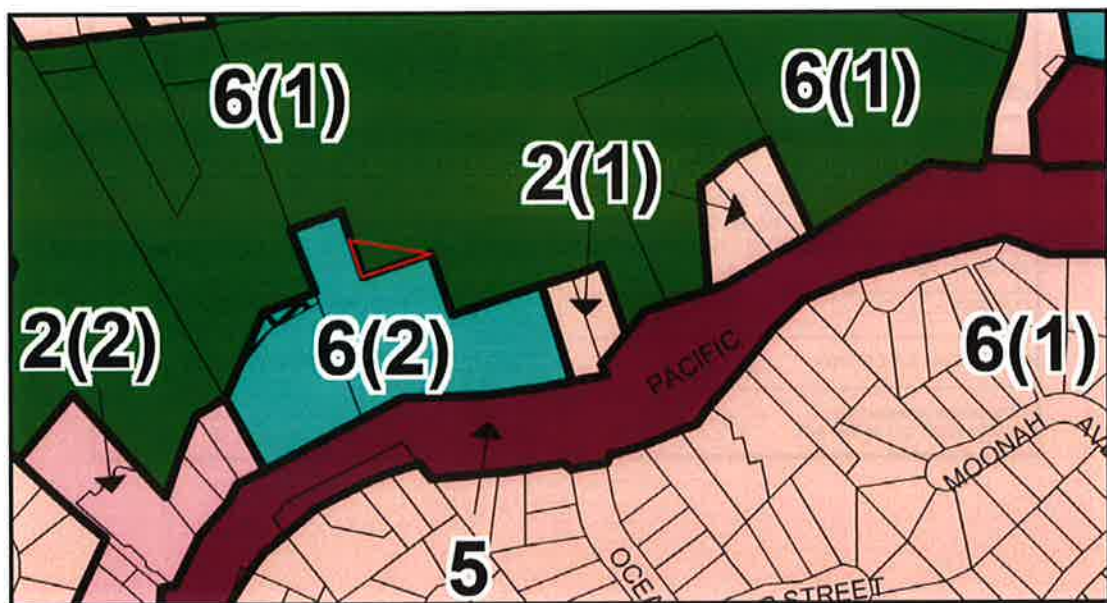
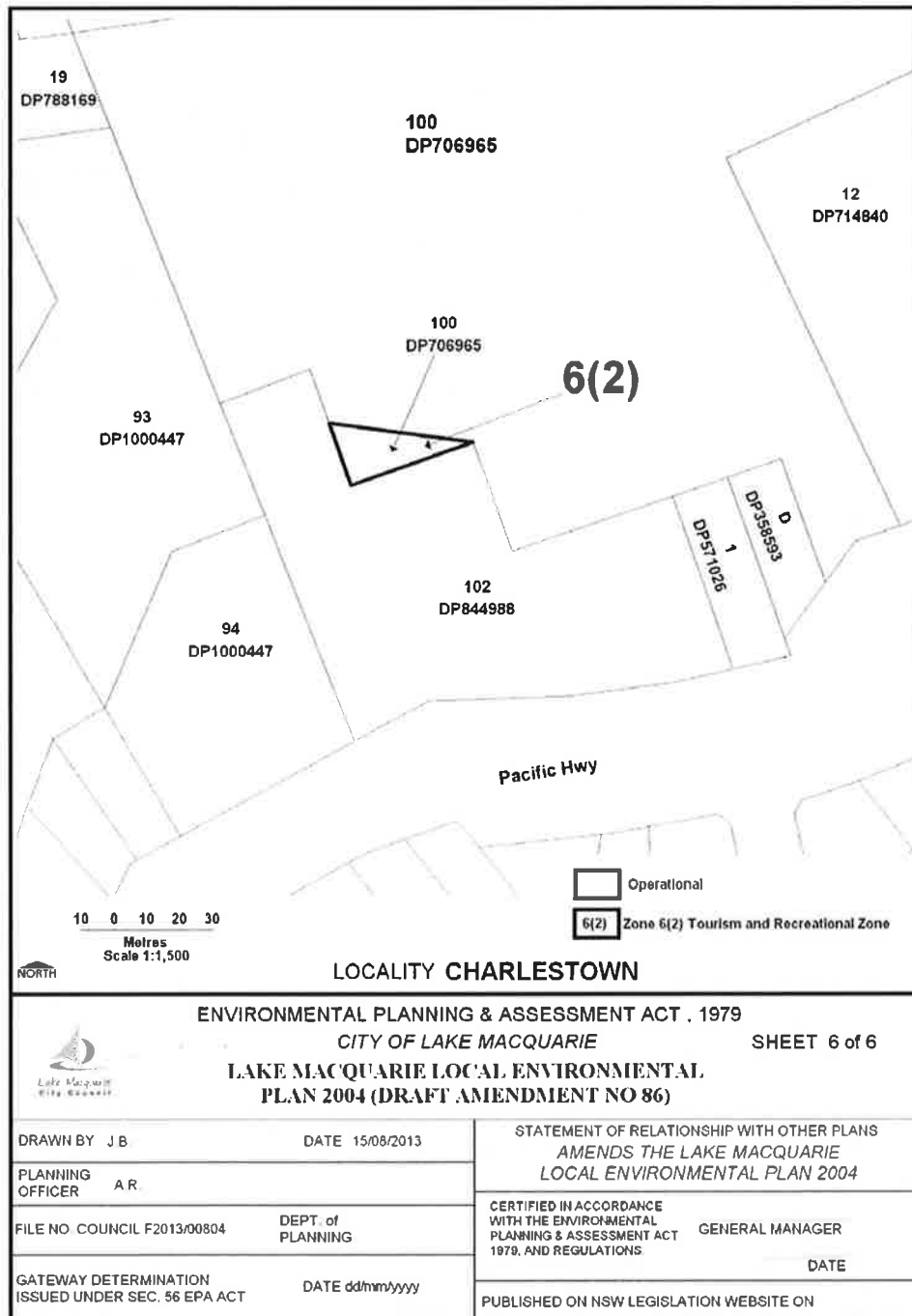


Figure 24 – Draft Zone Map under LMLEP 2004



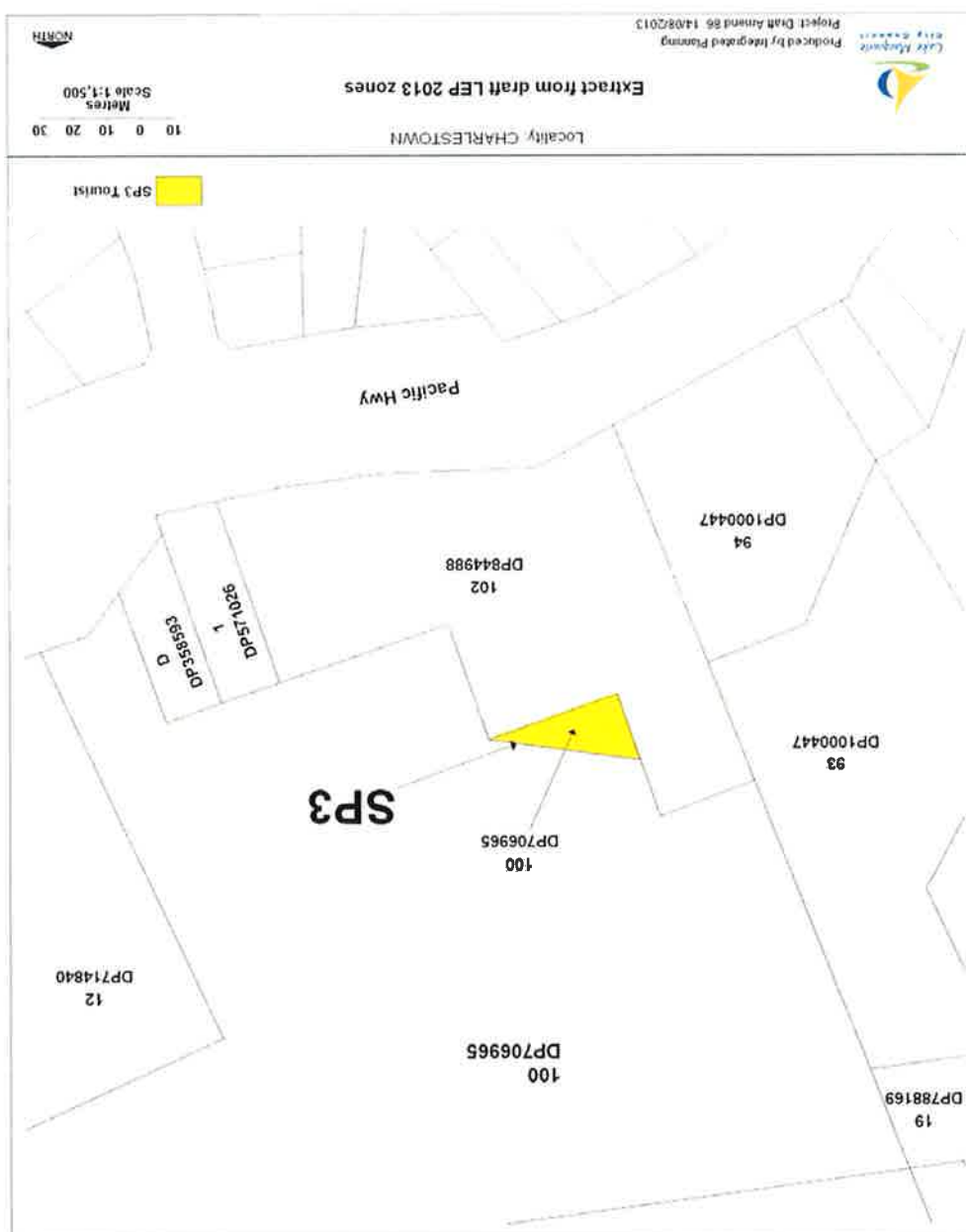


Figure 25 – Draft Zone Map under Draft LMLP 2013

ANNEX B – SEPP ASSESSMENT

Planning Proposal's Assessment against Applicable SEPPs

SEPP	Applicable	Consistency
State Environmental Planning Policy No 19—Bushland in Urban Areas	N/A	Although the Planning Proposal includes Public Reserve and Open Space zoned sites, no areas subject of the Planning Proposal currently contain urban bushland.
State Environmental Planning Policy No 71—Coastal Protection	Yes	17 Walker Street Warners Bay is identified as being within the coastal zone. Accordingly any future development of the land would need to be consistent with the SEPP and its supporting documents.
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Yes	Upon removal of the public reserve status of part 17 Walker Street Warners Bay, 88 Neilson Street Edgeworth and part of 11 Luprena Close Charlestown, certain exemptions on the use of the SEPP under the General Housing Code and the Rural Housing Code will no longer apply (SEPP Clause 1.19(6)(b)).
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	Yes	The SEPP has the potential to apply to the future development of the proposed residential zoned sites included within the Planning Proposal. 256 Lake Road Glendale was gifted to Council in 1974 on the understanding that it would be used to construct aged care accommodation. As further outlined within Part B - Section A (1), investigations into this use of the site resolved that it was unsuitable for the use due to the slope of the land, bushfire issues and inaccessibility to public transport among others. Under section 30 of the Local Government Act 1993, the reclassification of the site will extinguish the implied trust that the land be used for aged care. Any proceeds derived from the future sale of 256 Lake Road is intended to be set aside for aged care purposes to align with the lands original intent.

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	N/A	-
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	17 Walker Street Warners Bay is identified within the coastal zone. The proposed reclassification at this site will not impact upon the provisions of the NSW Coastal Policy, Coastal Design Guidelines 2003, or the NSW Coastline Management Manual. Any future development of the land would need to be consistent with the SEPP and its supporting documents.
2.3 Heritage Conservation	N/A	-
2.4 Recreation Vehicle Area	N/A	-
3. Housing, Infrastructure and Urban Development		
3.1 Residential zones	Yes	All sites with the exclusion of 88 Neilson Street Edgeworth, 11 Luprena Close Charlestown and 320 Pacific Highway Charlestown, are identified within a residential zoning. The reclassification's and rezoning's proposed within this planning proposal

Planning Proposal's assessment against Ministerial Directions

Ministerial Direction	Applicable	Consistency
		will allow for the sale of subject lots to facilitate future residential development in the subject areas. It is considered that the planning proposal is consistent with the objectives of this ministerial direction.
3.2 Caravan Parks and Manufactured Home Estates	N/A	-
3.3 Home Occupations	N/A	-
3.4 Integrating Land Use and Transport	Yes	It is proposed to rezone 88 Neilson Street Edgeworth and part of 11 Luprena Close Charlestown to residential zonings consistent with adjoining residential lots within established residential areas. It is also proposed to rezone part of 320 Pacific Highway Charlestown to a tourist zoning consistent with an adjoining established tourist use. It is considered that the proposed rezoning's outlined within the planning proposal are consistent with the objectives of this ministerial direction.
3.5 Development Near Licensed Aerodromes	N/A	-
4. Hazard and Risk		
4.1 Acid Sulfate Soils	Yes	17 Walker Street Warners Bay and 88 Neilson Street Edgeworth are identified within the Lake Macquarie Acid Sulfate Soils Planning Maps. The Warners Bay site is identified as a Category 3 site and the Edgeworth site a Category 5. Any future development on either site would need to be aware of this constraint and address the requirements of Clause 35 of the LMLEP 2004, or equivalent within the Draft LMLEP 2013 (currently Clause 7.1).
4.2 Mine Subsidence and Unstable Land	Yes	All sites are identified within a Mine Subsidence District. Consultation with the Mine Subsidence Board will be undertaken following receipt of the Gateway Determination to comply with the requirements of this direction.
4.3 Flood Prone Land	N/A	17 Walker Street Warners Bay is identified as flood prone land however no change to the zoning of the site is proposed.

Planning Proposal's assessment against Ministerial Directions

Ministerial Direction	Applicable	Consistency
4.4 Planning for Bushfire Protection	Yes	All sites with the exclusion of 11 Luprena Close Charlestown are identified within the Lake Macquarie Bushfire Prone Land map. Consultation with the NSW Rural Fire Service will be undertaken following receipt of the Gateway Determination to comply with the requirements of this direction.
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	The Lower Hunter Regional Strategy applies to all sites within the proposal. The strategy has been addressed within Part 3 – Section B (4) of the Planning Proposal.
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	-
5.6 Sydney to Canberra Corridor	N/A	-
5.7 Central Coast	N/A	-
5.8 Second Sydney Airport: Badgerys Creek	N/A	-
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	Yes	88 Neilson Street Edgeworth and 11 Luprena Close Charlestown are identified as

Planning Proposal's assessment against Ministerial Directions

Ministerial Direction	Applicable	Consistency
		Public Reserve with a 6(1) Open Space zoning. 320 Pacific Highway Charlestown also possesses a 6(1) Open Space zoning which has an intent for community use. Necessary investigations into the rezoning of these parcels have considered them to be acceptable and of minor loss to the community (investigations outlined within Part 3- Section A (1) of the Planning Proposal). The rezoning of these portions following the investigations received Council support (refer to Council Meeting Agenda's and Resolutions attached in Annex D).
6.3 Site Specific Provisions	Yes	The rezoning's included within the Planning Proposal will rectify existing encroachments except for 88 Neilson Street Edgeworth which is intended to facilitate future residential development of adjoining lots zoned for that purpose. All sites proposed for rezoning will apply a zone consistent with those surrounding the subject site. No development standards in addition to those already contained within the LEP will be applied.