

Planning Proposal – 83 Jonathan Street, Eleebana

Lake Macquarie Local Environmental Plan 2014

Pre-Gateway Version

Local Government Area:	Lake Macquarie
Name of Draft LEP:	Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014) Amendment RZ/3/2017
Subject Land:	83 Jonathan Street, Eleebana (Lot 1 DP228896)
Land Owners:	Mr T M Davies and Mrs R L Davies
Applicant	Lake Macquarie City Council (land owner initiated)
Folder Number	RZ/4/2017 (Document Number D08496129)
Date	August 2017
Author	Andrew Donald – Senior Strategic Planner
Attachments	Nil

Part 1 – Objectives of the Planning Proposal

The objective of this planning proposal is to facilitate subdivision of a 1.25 hectare lot at Eleebana to provide a number of additional dwelling lots and to provide for the long-term protection of part of the site containing high biodiversity values.

Part 2 – Explanation of the Provisions

The amendment proposes the following changes to Lake Macquarie LEP 2014:

Amendment Applies to	Explanation of Provisions
Land Zoning Map	Rezone the subject land from Zone RU4 Primary Production Small Lots to: • Zone R2 Low Density Residential (approximately 8,500m²), and • Zone E2 Environmental Conservation (approximately 4,000m²) in accordance with the proposed zoning map shown at attachment X.
Lot Size Map	Change the minimum lot size for the subject land from 1 hectare to: • 450m² for that part of the site to be zoned R2 Low Density Residential, and • 40 hectares for that part of the site to be zoned E2 Environmental Conservation in accordance with the proposed lot size map shown at attachment X

Part 3 – Justification for the Provisions

A. Need for the planning proposal

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

The amendments contained in the planning proposal are not the result of a strategic study or report, but rather an opportunity that has been identified by a private landowner for infill development adjacent to an established urban area.

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

The current land use zoning and associated minimum lot size restricts the ability for more intensive development of the lot, which currently contains a single detached dwelling. Additionally, the current zoning does not recognise the biodiversity value associated with remnant native vegetation in the southern part of the subject site. The proposed changes to zoning and minimum lot size are the logical means to facilitate subdivision of the site for additional housing and to provide protection for that part of the site containing high biodiversity value.

B. Relationship to strategic planning framework

1. 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)?

Hunter Regional Plan (HRP) 2036

The HRP 2036 aims to identify and protect the region's environmentally sensitive and important areas. This proposal is consistent with that aspect of the HRP 2036 as it will clearly identify and protect important habitat.

The site is not within a location specifically earmarked in the HRP 2036 as one of Lake Macquarie's "Future housing and urban renewal opportunities", however the HRP does stipulate the need to "revitalise existing suburbs and explore opportunities for new infill and greenfield release areas".

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

The site is not within identified growth and expansion corridors in Council's Lifestyle 2030 Strategy (LS2030); however, the small scale of the proposal means this inconsistency is not significant.

LS2030 provides long-term strategic directions for the City, including the management of our environmental areas. This proposal is consistent with strategic direction 1 (A city responsive to the environment) in LS2030 insofar as it will provide for the better protection and management of biodiversity values in the southern part of the site.

The planning proposal is less consistent with strategic direction 3 (A well designed, adaptable and liveable city) in that it is not part of a community endorsed plan to increase density within the locality, and will shift the urban/non-

urban interface in a manner that will adversely impact some neighbouring properties.

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

An assessment has been undertaken to determine the level of consistency the proposal has with relevant State Environmental Planning Policies (SEPPs). The planning proposal is consistent with all relevant SEPPs.

SEPPs	Relevance	Implications
SEPP 19 – Bushland in Urban Areas	Aims to prioritise the conservation of bushland in urban areas, and requires consideration of aims in preparing a draft amendment	The proposal proposes to place an environmental zoning over native vegetation in the southern part of the site. A full biodiversity assessment of the site should be conducted post gateway determination to ensure the planning proposal is consistent with the aims of SEPP 19 and related legislation.
SEPP 44 – Koala Habitat Protection	Aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline	A preliminary ecological assessment of the site indicates the presence of koala habitat is unlikely. A full biodiversity assessment of the site should be conducted post gateway determination to ensure the planning proposal is consistent with the aims of SEPP 44.
SEPP 55 – Remediation of Land	Aims to establish planning controls and provisions for the remediation of contaminated land	The proposal is consistent with this SEPP. A Phase 1 Contamination Assessment would should be prepared post-gateway given the past agricultural/horticultural activities that could have taken place on the Site.
SEPP 71 – Coastal Protection	This SEPP ensures that development in the NSW coastal zone is appropriate and suitably located, to ensure that there is a consistent and strategic approach to coastal planning and management.	The subject site falls within the mapped coastal zone being located approximately 800m from the Lake edge. It is not, however, considered a 'sensitive coastal location'. The proposal is consistent with the aims and objectives of this SEPP.
SEPP (Infrastructure) 2007	Aims to provide a consistent planning regime for the delivery of infrastructure. It also provides provision for consultation and assessment.	The proposal is consistent with the aims and provisions of the SEPP.
SEPP (Exempt and Complying Development Codes)	Aims to provide streamlined assessment processes for development that complies with specified development standards.	Should the site be rezoned for low-density residential use, this policy would allow one or two storey houses to be developed without going through a merit-based assessment process.

SEPPs	Relevance	Implications
2008		The proposal is consistent with the aims and provisions of the SEPP.
SEPP (Mining, Petroleum Production and Extractive Industries 2007	Aims to provide for the proper management and development of mineral, petroleum and extractive material resources.	The proposal is consistent with the aims and provisions of the SEPP.
SEPP (Affordable Rental Housing) 2009	This policy aims to provide a consistent planning regime for the provision of affordable rental housing to facilitate the effective delivery of new affordable rental housing by providing incentives and non-discretionary development standards.	The proposal is consistent with the aims and provisions of the SEPP.

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

The proposal has been assessed against relevant Ministerial Directions. The assessment is provided below.

Ministerial Direction	Relevance	Implications
1.2 – Rural Zones	This direction aims to protect the agricultural production value of rural land.	This direction stipulates that a planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone, or contain provisions that will increase the permissible density of land within a rural zone. The proposal is inconsistent with this direction. <u>The Secretary's concurrence that the inconsistency is of minor significance is therefore required.</u>
1.3 – Mining, Petroleum Production and Extractive Industries	Aims to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	The proposal is unlikely to impact on mining, petroleum or extractive industries and the proposal is considered consistent with this direction.
2.1 – Environment Protection Zones	Aims to protect and conserve environmentally significant	A preliminary ecological assessment indicates the site contains a potential EEC (being River-Flat Eucalypt Forest

Ministerial Direction	Relevance	Implications
	areas.	on Coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions), and potential habitat for a number of threatened species including <i>Tetratheca Juncea</i>, Powerful Owl, Gang-gan Cockatoo, Squirrel Glider, Spotted-tailed Quoll, Little Bentwing Bat, Eastern Bentwing Bat and Grey-headed Flying Fox. The site's environmental values would generally be protected based on the conservation zoning proposed over the southern part of the site, however a small area of Redgum-Ironbark Forest, identified as a possible EEC, is located within that part of the site proposed to be zoned residential. A full biodiversity assessment of the site should be conducted post gateway determination to ensure the planning proposal is consistent with the aims of this direction.
2.2 – Coastal Protection	This direction aims to implement the principles in the NSW Coastal Policy.	The subject site falls within the mapped coastal zone being located approximately 800m from the Lake edge. It is not, however, considered a 'sensitive coastal location'. The proposal is consistent with this direction.
2.3 - Heritage Conservation	The direction requires that a draft LEP include provisions to facilitate the protection and conservation of Aboriginal and European heritage items.	The subject site does not contain and is not within the vicinity of any known European or Aboriginal Heritage items or significant landscapes. The planning proposal is thus consistent with this direction.
3.1 – Residential Zones	The direction requires a draft LEP to include provisions that facilitate housing choice, efficient use of infrastructure, and reduce land consumption on the urban fringe.	The planning proposal is consistent with this direction.
3.4 – Integrating Land Use and Transport	This Direction seeks to locate development in the most appropriate location to encourage sustainable	The site is over 500 metres from the nearest public bus route on Warners Bay Road, however it directly adjoins the existing urban footprint.

Ministerial Direction	Relevance	Implications
	transport.	The proposal is inconsistent with this direction. <u>The Secretary's concurrence that the inconsistency is of minor significance is therefore required.</u>
4.1- Acid sulphate Soils	Aim to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	The site contains Class 5 Acid Sulfate soils. Council's LEP and DCP already contain appropriate controls to ensure acid sulphate soils potential impacts are considered and minimised at the time of development. The planning proposal is consistent with this direction.
4.2 – Mine Subsidence and Unstable Land	Aims to ensure development is appropriate for the potential level of subsidence. The direction requires consultation with the Mine Subsidence Board where a draft LEP is proposed for land within a mine subsidence district.	The site is within a proclaimed Mine Subsidence district pursuant to section 15 of the Mine Subsidence Compensation Act 1961. This direction requires consultation with the Mine Subsidence Board for amendments to the LEP within a Mine subsidence district. Council will consult with the Mine Subsidence Board if the proposal proceeds. The planning proposal is consistent with this direction.
4.3 - Flood prone land	Aims to ensure that development of flood prone land is consistent with the NSW Government Flood Prone Land Policy and the Principles of the Floodplain Development Manual 2005, and to ensure that the provision 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.	The direction does not apply , as the proposal does not affect flood prone land.
4.4 – Planning for Bushfire Protection	Aims to encourage the sound management of bush fire prone areas and to ensure a planning proposal addresses Planning for Bushfire Protection 2006.	The entire site is identified as bushfire prone land and includes the categories of bushfire vegetation category 1 and bush fire vegetation buffer. Should the site be rezoned to allow residential development, dwellings would need to adopt a construction standard commensurate

Ministerial Direction	Relevance	Implications
		with the bushfire risk. Consultation will occur with the Rural Fire Service. A Bushfire Hazard Assessment Report has been prepared for the site in accordance with Planning for Bushfire Protection 2006. The most bushfire prone part of the site is proposed to be zoned for conservation. Asset protection zones will need to be provided within the residential-zoned part of the site. The planning proposal is consistent with this direction.
5.1 – Implementation of Regional Strategies	Aims to give legal effect to regional strategies, requiring that draft LEPs are consistent with relevant strategies. It also requires draft amendments be consistent with the relevant State strategy.	The HRP 2036 aims to identify and protect the region's environmentally sensitive and important areas. This proposal is consistent with that aspect of the HRP 2036 as it will clearly identify and protect important habitat. The site is not within a location specifically earmarked in the HRP 2036 as one of Lake Macquarie's "Future housing and urban renewal opportunities", however the HRP does stipulate the need to "revitalise existing suburbs and explore opportunities for new infill and greenfield release areas". The planning proposal is consistent with this direction.
6.1 Approval and Referral Requirements	Ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The proposal is consistent with the direction as it does not contain any provisions that require concurrence, or identify development as 'designated'.

C. Environmental, social and economic impact

1. 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?

Vegetation on the southern part of the site is shown in Council's Native Vegetation and Corridors map as part of a corridor of native remnant vegetation that contributes significantly to the movement and viability of flora and fauna in Lake Macquarie City.

A preliminary ecological assessment shows the site to have a range of environmental values. The southern part of the site in particular contains

steep, heavily vegetated land which contains potential habitat for several threatened species. Ten hollow-bearing trees have been counted on the site.

The site's environmental values would be largely retained based on the conservation zoning proposed over the southern part of the site, however a small area of Redgum-Ironbark Forest, identified as a possible endangered ecological community (EEC), is located within that part of the site proposed to be zoned residential. A full biodiversity assessment of the site should be conducted post gateway determination to gain a more complete understanding of the likely impacts of the planning proposal.

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

Rezoning and subsequent development of the subject site will increase stormwater runoff. This matter would normally be assessed and managed in conjunction with a development application.

The site is identified as bushfire prone, however risk can be adequately managed through the establishment of APZs and minimum construction standards for future development.

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

The planning proposal would result in an increase of less than 10 dwellings, which is unlikely to result in any significant social or economic effects, positive or negative. Some neighbouring residents have expressed concerns in relation to a potential reduction in amenity resulting from the future subdivision and development of the subject site.

D. State and Commonwealth interests

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

The planning proposal is of a scale that is unlikely to have implications for state infrastructure. Some upgrades to local road and drainage infrastructure are likely to be necessary if the land is rezoned and subdivided.

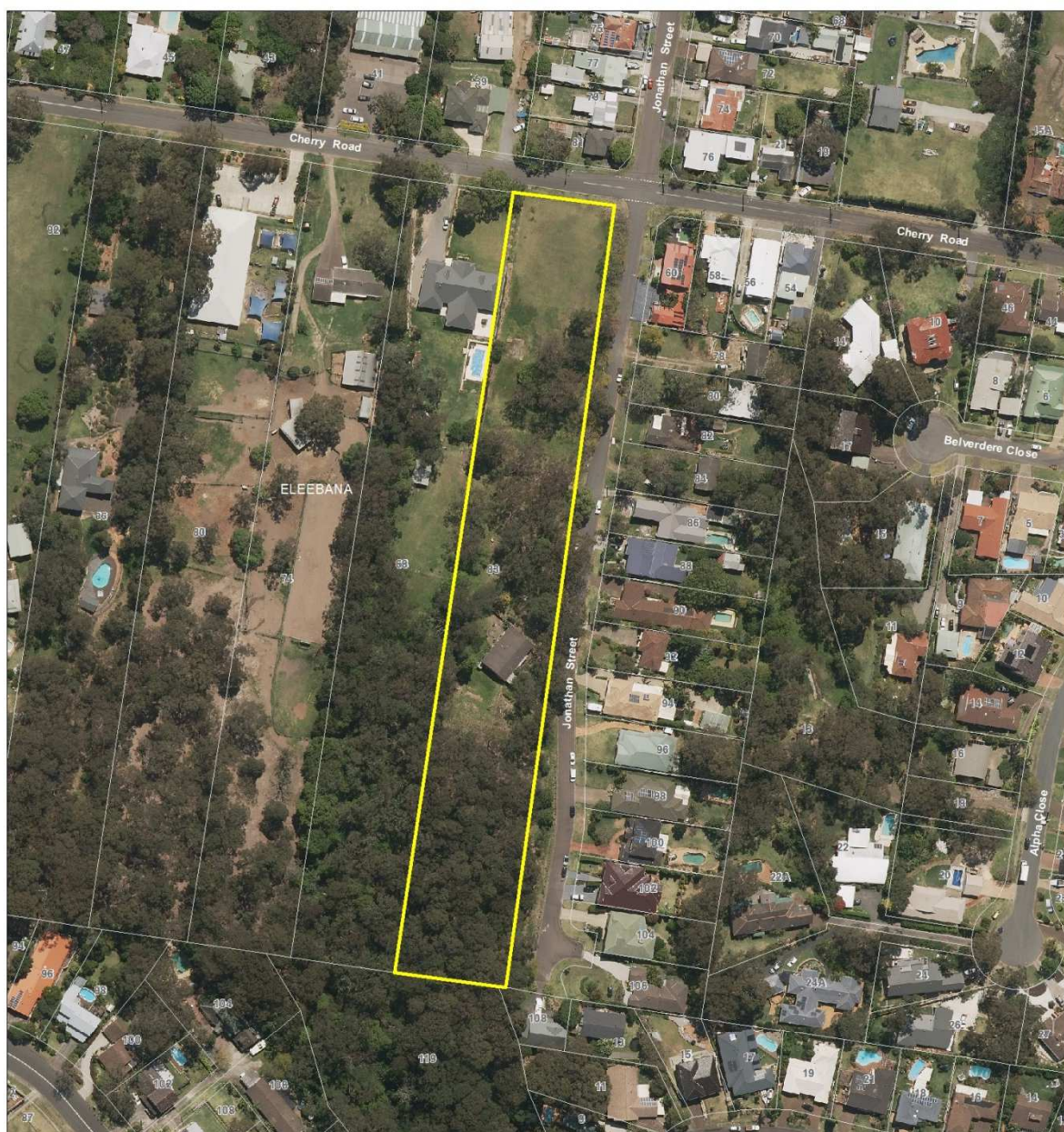
2. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Formal consultation has not occurred with any government agencies. Council will consult with government agencies if directed by the Gateway determination.

Part 4 – Mapping



Map 1 – Locality



- Land Parcel
- Subject Land

Air Photo

2016 Aerial Photography

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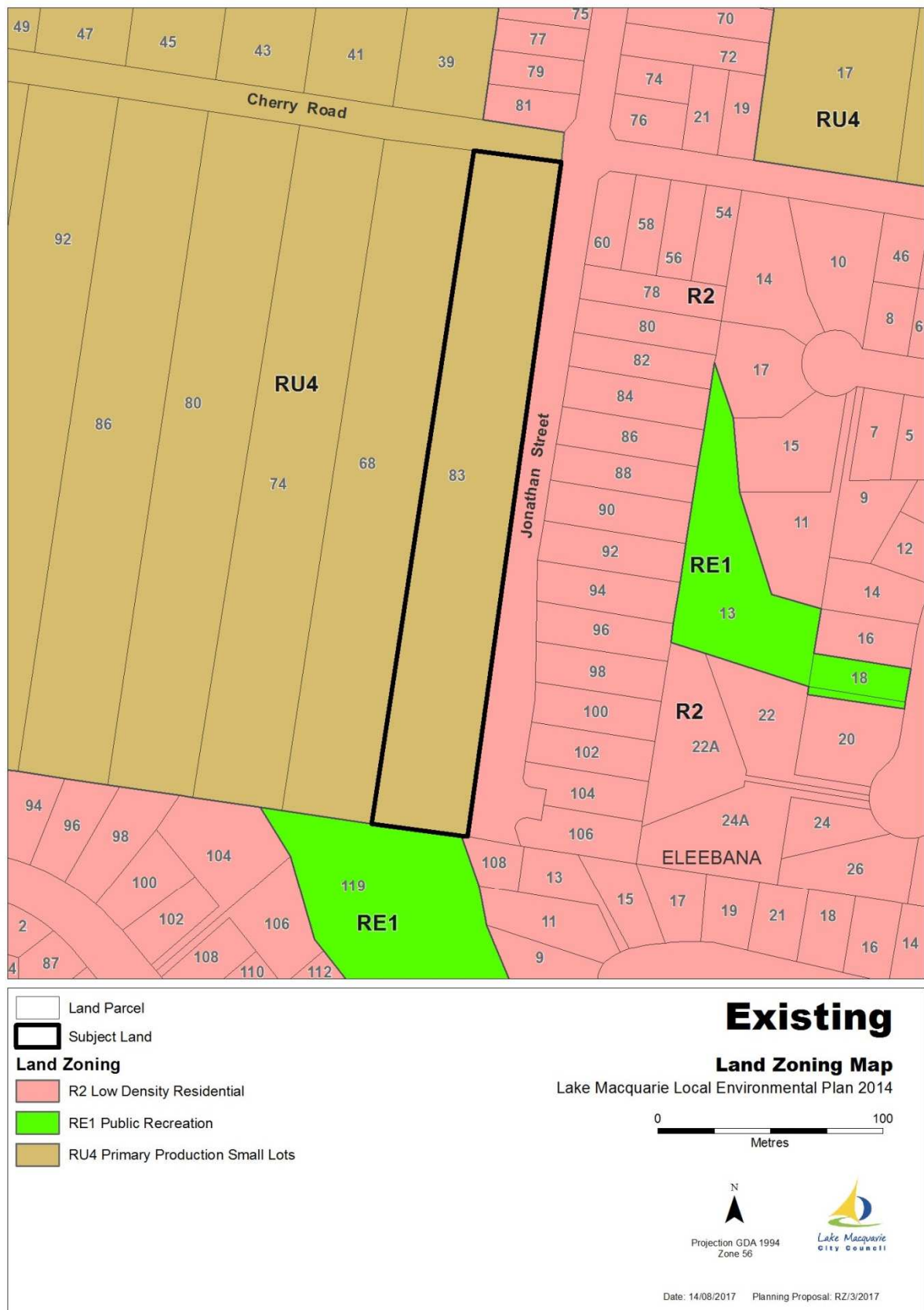
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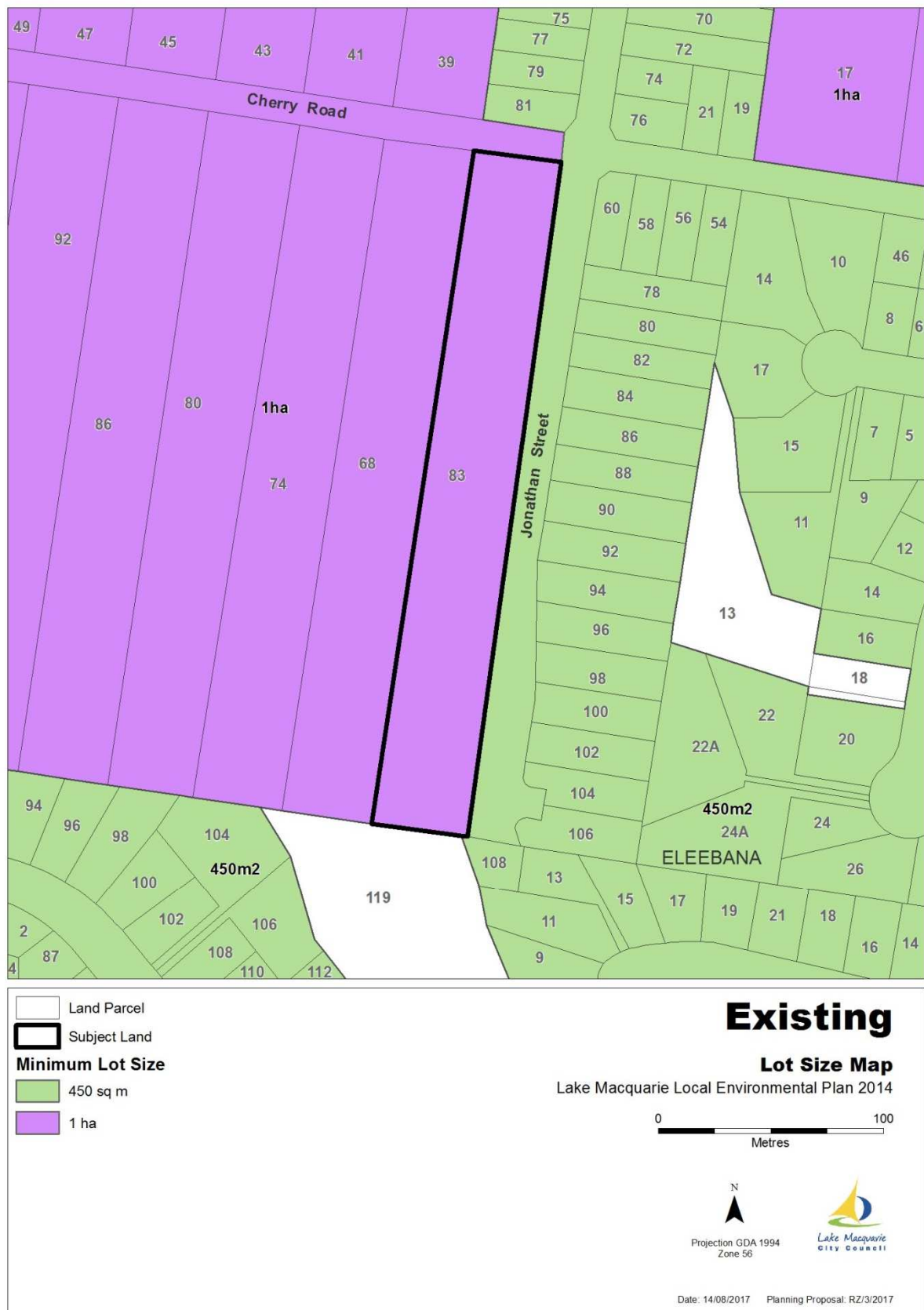
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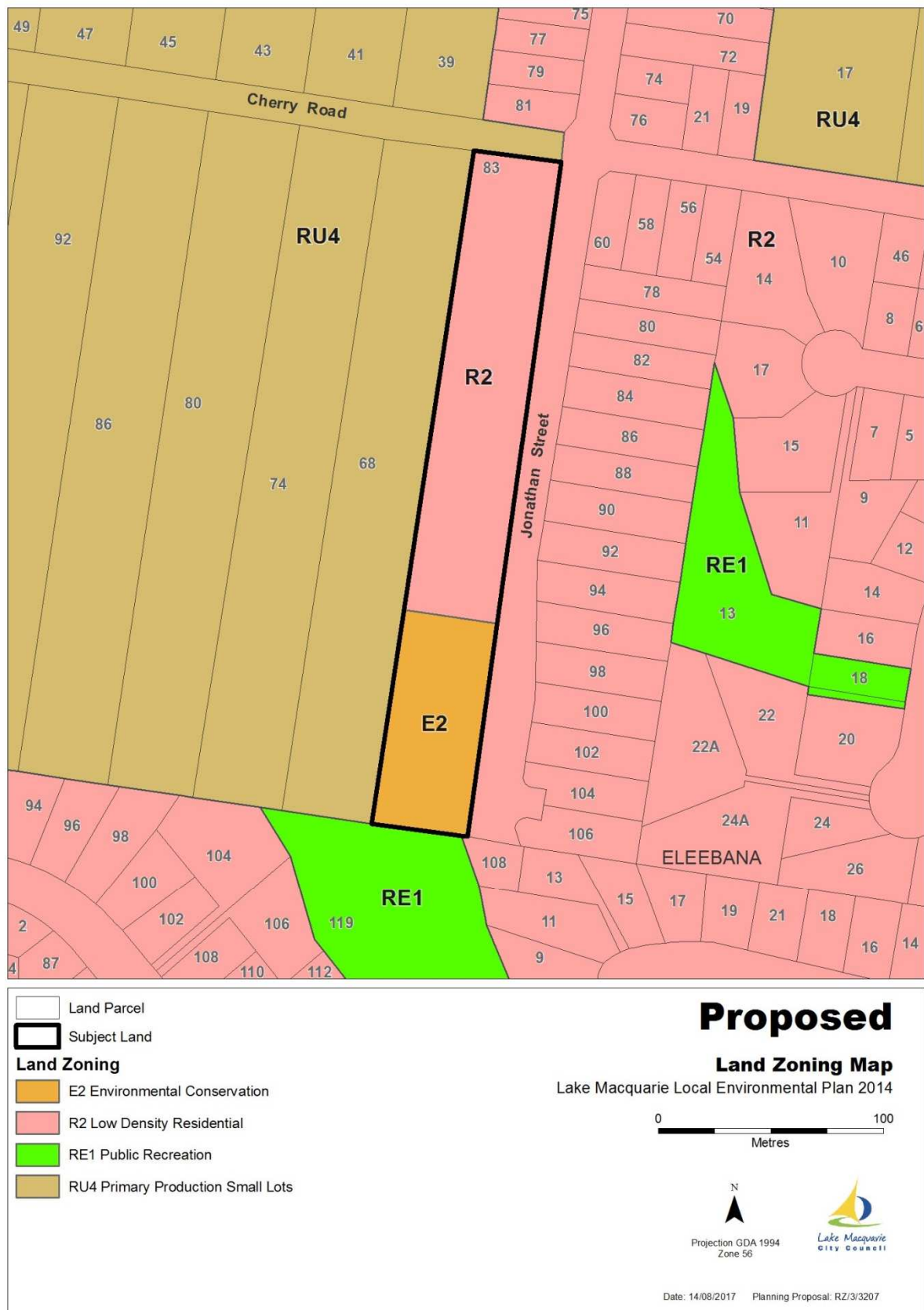
Map 2 – Aerial Photograph



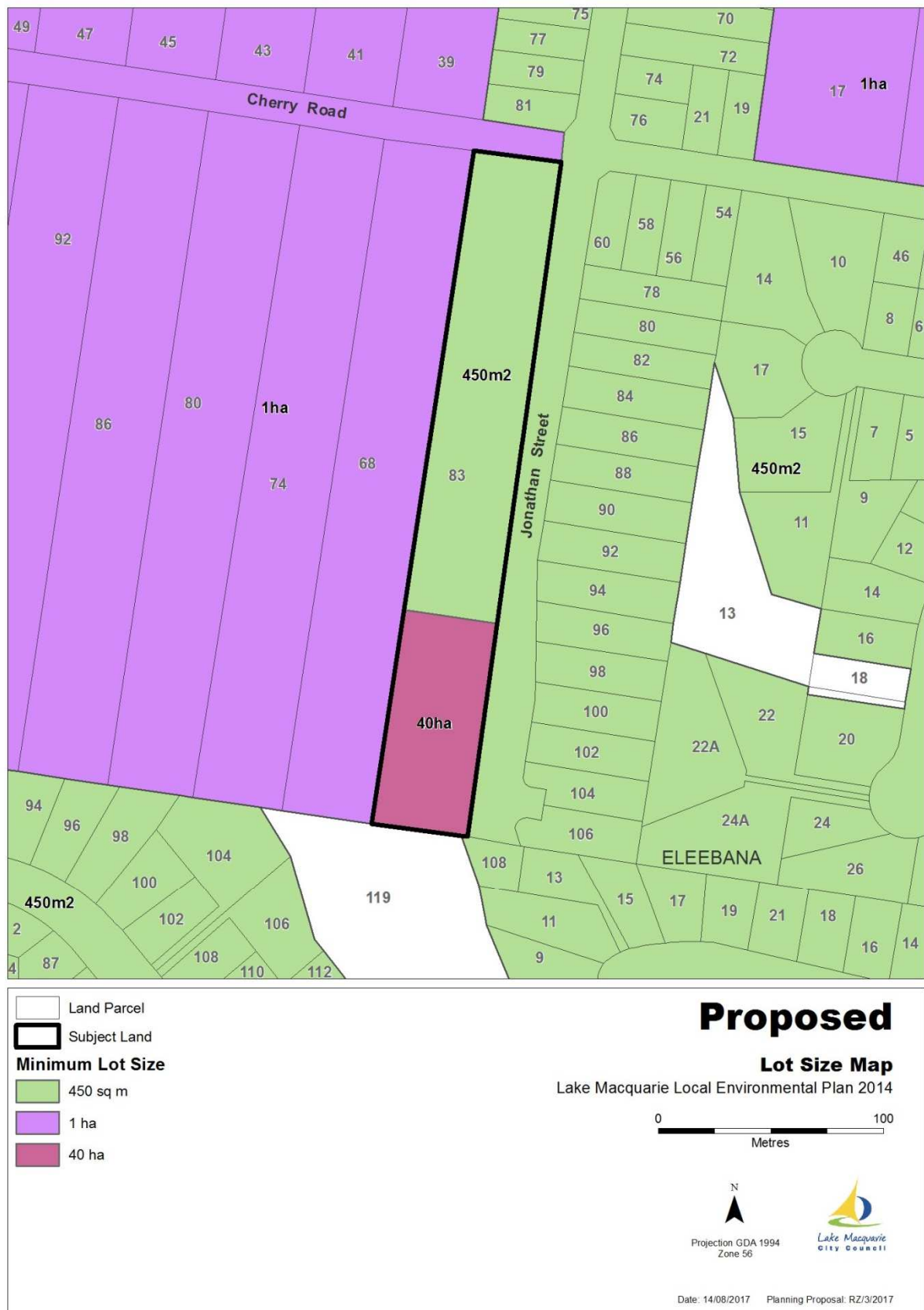
Map 3 – Existing Zones



Map 4 – Existing Lot Size



Map 5 – Proposed Zones



Map 6 – Proposed Lot Size

Part 5 – Details of Community Consultation

Preliminary community consultation occurred as a result of Council's request for a site inspection, which was attended by a number of local residents and landowners in addition to the proponent of the planning proposal. Some neighbouring residents have expressed concerns in relation to a potential reduction in amenity resulting from the future subdivision and development of the subject site

Council will undertake further community consultation as directed by the Gateway determination.

Part 6 – Project Timeline

Action	Timeframe
Anticipated commencement date (date of Gateway determination)	September 2017
Anticipated timeframe for completion of required technical information	November 2017
Timeframe for government agency consultation (pre exhibition)	December 2017
Public exhibition (commencement and completion dates)	February 2017
Date of Public hearing (if required)	March 2017
Consideration of submissions	March 2017
Timeframe for government agency consultation (post exhibition if required)	N/A
Post exhibition planning proposal consideration / preparation	April 2018
Submission to Department to finalise LEP	May 2018
Date RPA will make Plan (if delegated)	June 2018
Date RPA will forward to the Department for notification (if not delegated)	June 2018