
10.2 City Outcomes Directorate

10.2.1 Planning Proposal - Lot 9, DP 1038941, 240 - 242 Croome Road, Croom - Deferred Land (10746998)

To the General Manager

Directorate: City Outcomes
Department: City Strategy

Manager: Cheryl Lappin – Acting Group Manager, City Strategy
Author: Ian Rankine – Senior Strategic Planner

Summary

The purpose of this report is to seek Council's resolution to prepare a Planning Proposal to bring Lot 9 DP 1038941, 240 – 242 Croome Road, Croom into *Shellharbour Local Environmental Plan (LEP) 2013*. The property has an area of 20.26 hectares and is currently deferred from *Shellharbour LEP 2013*.

The potential residential density of this property has been reviewed and an increase in residential density is not considered appropriate at this time.

The location of this property is shown in **Attachment 1**. The current zoning of this property is shown in **Attachment 2**.

This Planning Proposal has been initiated by Council staff and not the landowner. This Planning Proposal continues the process of considering the lands deferred when Council adopted Shellharbour LEP 2013 at its Extra-ordinary meeting of May 2012. Currently there is approximately 660ha of deferred land remaining in the Local Government Area.

It is proposed to use similar zoning and planning controls as currently applies, with the exception of a small area of E3 Environmental Management that contains an Endangered Ecological Community (Illawarra Lowlands Grassy Woodland). Use of this zone will be similar to the adjoining properties that are already in Shellharbour LEP 2013.

The specific controls are contained in **Attachments 3 – 9**.

The report also recommends that the Planning Proposal be submitted to the NSW Planning & Environment (DPE) seeking a Gateway determination to enable the public exhibition of the Proposal. A copy of this report will form part of Council's submission to the NSW Department of Planning & Environment.

Background

This property was deferred by Council at its Extra-ordinary meeting of 29 May 2012 when it considered the adoption of Shellharbour LEP 2013. At that meeting Council resolved as follows:

'That the land identified in Map 1.4 in the Urban Fringe Local Environmental Study be deferred from the Draft Shellharbour Local Environmental Plan 2011 so that potential increases in residential densities can be studied/assessed.'

The potential residential density of this property has been reviewed and an increase in residential density is not considered appropriate at this time. This view has been taken based on the location of the property and its proximity to a working hard rock (blue metal) quarry currently operated by Holcim (about 650 metres from the identified resource, about 950 metres from plant and about 1300 metres from current extraction), visual attributes and water course running through the site. Any change to the residential densities would require preparation and assessment of specialist reports on potential contamination, loss of agricultural land, impact on visual attributes, flooding, flora and fauna, Aboriginal and European heritage, social impact assessment and appropriate noise and vibration studies.

Also, the DPE's Illawarra Urban Development Program 2014 update states that:

'Shellharbour LGA has sufficient supply of strategy identified greenfields land (10,233 lots). This is well above the required 3,135 lots needed according to the 15 year benchmark. There are 6,657 lots zoned which also meets the 8 year benchmark of 1,672 lots. Based on the 7.3 year benchmark of zoned and serviced ready lots, Shellharbour LGA would require 1,526 lots and has 3,007 zoned and serviced ready (pages 29 & 30).'

Based on this information, the Shellharbour Local Government Area has adequate residential land available, without the need to investigate potential land that has identified constraints.

The Urban Fringe Local Environmental Study (LES) project was undertaken to assist in determining the appropriate zone and land uses for the property and was adopted by Council in 2010. The Urban Fringe LES is still considered to contain the most relevant information regarding zoning and land use for this property and the recommendations are generally still relevant. This report recommends minor changes to the LES recommendations. These are a change from R5 Large Lot Residential to R2 Low Density Residential which is in keeping with the current development potential for the land and adjoining properties and a small section of E3 Environmental Management for the land containing Endangered Ecological Community in the south-west corner to be consistent with the same zoning for the adjoining properties.

No information has been submitted from the owners that demonstrates the information contained in the LES is not appropriate.

Financial / Resources Implications

There are no fees applicable to this Planning Proposal as it has been initiated by Council. The costs associated in preparing the Planning Proposal will be borne by City Strategy.

Legal and Policy implications

The property is currently included in two LEPs, Shellharbour LEP 2000 and Shellharbour Rural LEP 2004. The preparation and finalisation of this Planning Proposal will bring the property into one LEP, Shellharbour LEP 2013, and remove about 20 hectares of deferred lands.

The NSW Department of Planning & Environment issued a circular (PS 09-002) that relates to the introduction of Environmental zones and land uses on properties. The intent of this circular is to highlight that placing an environmental zone on land should not restrict the development of that land from that which may be currently carried out. If development is too narrowly restricted, the council may be required to acquire the land under the *Land Acquisition (Just Terms Compensation) Act 1991*.

The use of the E3 Environmental Management zone is considered reasonable in this case. The area is about 2050 m², being about 1% of the total lot area. The zoning will also be similar for this stand of Ecological Endangered Community as that on adjoining properties.

Should Council support the preparation of a Planning Proposal, the Planning Proposal will need to be sent to the NSW Department of Planning & Environment for Gateway assessment and approval to place the Planning Proposal on public exhibition.

The Planning Proposal will need to be prepared, exhibited and assessed in accordance with the requirements of the *Environmental Planning & Assessment Act* and *Regulations*, the *Guide to Preparing Planning Proposals* and the *Guide to Preparing Local Environmental Plans* prepared by the NSW Department of Planning & Environment.

NSW Department of Industry (Resources & Energy – Geological Surveys NSW) provided Council with a Mineral Resource Audit of our Local Government Area in late 2015. Based on this information, the Mineral Resource Transition Area applies to all of this property. Preliminary consultations with Geological Surveys NSW for this Planning Proposal has resulted in the Transition Area only applying to all of the non-residential zoned land.

Consultation has also been undertaken with the Civil Aviation Safety Authority and Council's Group Manager City Services in accordance with Local Planning Direction 3.5 Development near Licensed Aerodromes.

Council Decision Making During Merger Proposal Periods – Section 23A of the Local Government Act 1993

The Office of Local Government's (OLG) document *Council Decision Making During Merger Proposal Periods* includes general principles and a number of specific guidelines. The general principles and regulatory guidelines of relevance are:

Councils and council officials should not make decisions during a merger proposal period that:

- Seek to damage or impede the operational effectiveness of a new council including by (but not limited to)
- Make significant and/or ongoing financial commitments that will be binding on a new council
- Make other significant undertakings or commitments that will be binding on a new council
- Make decisions that are designed to limit the flexibility or discretion of a new council
- Would not otherwise withstand legal challenge on the basis that the new council and not the outgoing one would need to defend any such challenge.

In the case of this Planning Proposal, the preparation of the Proposal with the final outcome being the inclusion of the property in Shellharbour LEP 2013 is an Action that forms part of the 2016/17 Operational Plan. As such, this will form part of Council's normal operating functions.

In accordance with the OLG guidelines there are no adverse impacts on Council resolving to prepare a Planning Proposal and seek a Gateway determination from the DPE to place it on public exhibition.

Delegations

Council has received certain delegations from the Minister for Planning to finalise certain types of Planning Proposals/LEP Amendments.

Review of the criteria for use of delegations by Council's, indicates that the Minister for Planning or his delegate may grant delegation to Council to finalise this Planning Proposal. The recommendation includes an option for Council to seek delegation to finalise this Planning Proposal/LEP Amendment. Should that delegation be granted by the Minister for Planning, further reports will be made to Council to consider finalising the LEP prior to the delegation being used.

Public / Social Impact

Placing the Planning Proposal on public exhibition will provide an opportunity for interested parties to provide their views for Council's consideration.

Link to Community Strategic Plan

This report supports the following objectives and strategies of the Community Strategic Plan:

Objective: 2.3 A liveable City that is connected through places and spaces

Strategy: 2.3.2 Undertake all land use planning addressing social, economic and environmental principles whilst reflecting the current and future community's needs

Consultations

Internal

Team Leader Development – Planning
Environment Officer
Infrastructure Services - Team Leader Water Engineering & Design, Manager Property, Asset Management & Waste Management
Group Manager City Services
Manager Risk Management Services

External

Civil Aviation Safety Authority
NSW Department of Industry (Geological Surveys NSW)
One of the landowners. Brief discussions were held regarding possible options and the need for a Council report to consider the matter.

Political Donations Disclosure

Not Applicable (at this stage of the process).

Recommendation

1. That Council confirm its consideration of the guidelines issued by the NSW government in accordance with Section 23A of the Local Government Act, 1993, in resolving on this matter.
2. That Council prepare Planning Proposal No 1/2016 to amend Shellharbour Local Environmental Plan 2013 in the following manner:
 - a. Amend Shellharbour LEP 2013 Land Zoning Map in accordance with Attachment 3
 - b. Amend Shellharbour LEP 2013 Minimum Lot Size Map in accordance with Attachment 4
 - c. Amend Shellharbour LEP 2013 Building Height Map in accordance with Attachment 5

- d. Amend Shellharbour LEP 2013 Floor Space Ratio Map in accordance with Attachment 6
 - e. Amend Shellharbour LEP 2013 Terrestrial Biodiversity Map in accordance with Attachment 7
 - f. Amend Shellharbour LEP 2013 Extractive Resources Transition Area Map in accordance with Attachment 8.
3. That Council authorise the General Manager to submit Shellharbour Local Environmental Plan 2013 Planning Proposal No 1/2016 to the NSW Department of Planning & Environment in accordance with section 56 of the *Environmental Planning & Assessment Act 1979* for review and gateway determination.
 4. That Council delegate to the General Manager authority to make minor mapping and Local Environmental Plan instrument changes to Shellharbour Local Environmental Plan 2013 Planning Proposal No 1/2016 if and as required by the NSW Department of Planning & Environment's LEP Review Panel and gateway determination.
 5. That Council as part of its gateway submission apply to the Department of Planning and Environment to use its plan making related delegations including making or not making the plan under section 59 of the *Environmental Planning and Assessment Act*, after any public exhibition of the draft plan.
 6. That Shellharbour Local Environmental Plan 2013 Planning Proposal No 1/2016 be publicly exhibited in accordance with the gateway determination.
 7. That after the public exhibition period has closed, a report be submitted to Council for consideration detailing the public exhibition outcomes and with further recommendations regarding adoption.

Approved for Council's consideration: _____

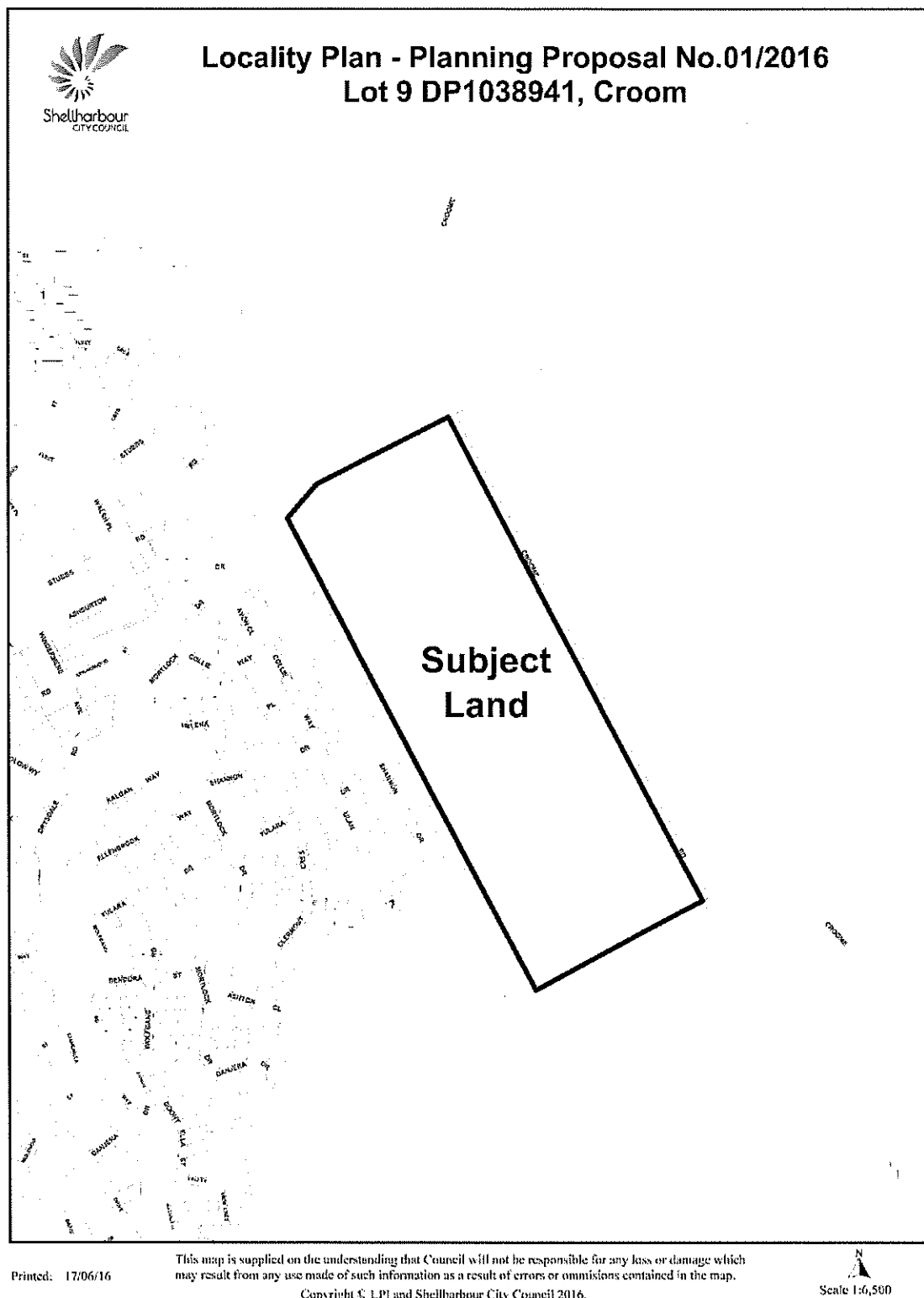
Date of Meeting: 9 August 2016

Attachments

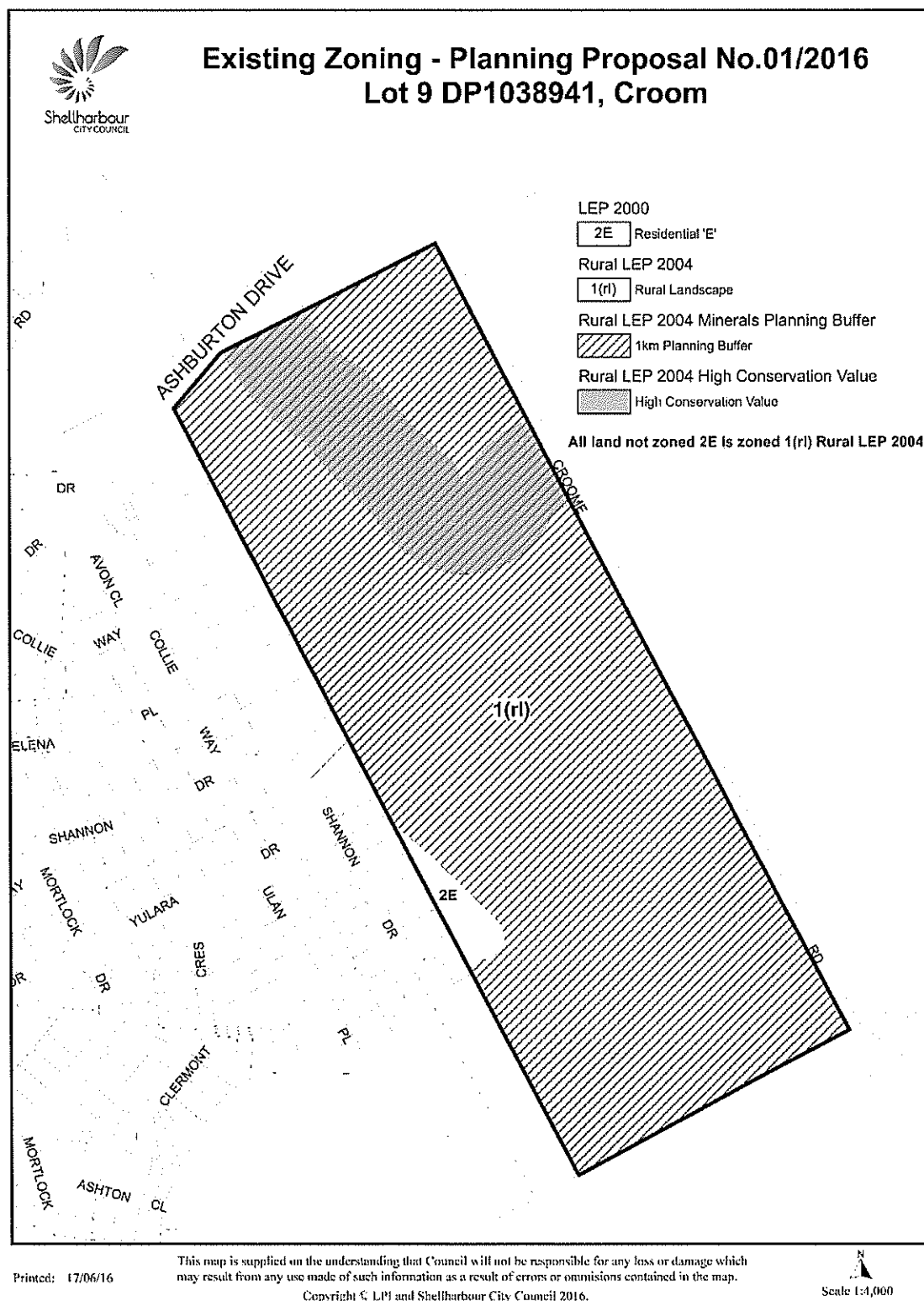
1. Locality Map
2. Current Zoning Map
3. Shellharbour LEP 2013 Land Zoning Map
4. Shellharbour LEP 2013 Minimum Lot Size Map
5. Shellharbour LEP 2013 Building Height Map
6. Shellharbour LEP 2013 Floor Space Ratio Map
7. Shellharbour LEP 2013 Terrestrial Biodiversity Map

8. Shellharbour LEP 2013 Extractive Resources Transition Area Map
9. Table of Zoning & Planning Controls

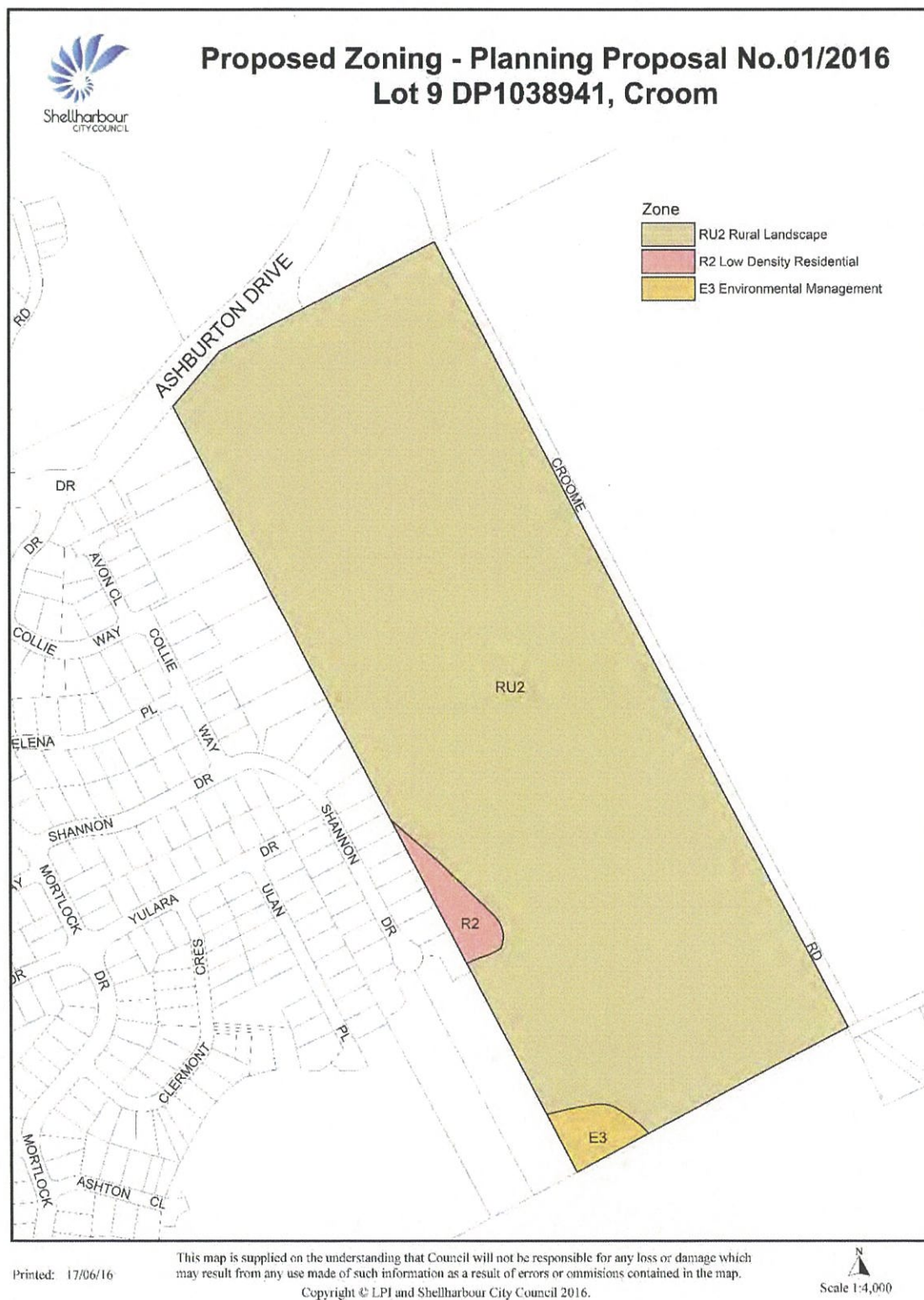
Attachment 1 – Locality Map



Attachment 2 – Current Zoning Map



Attachment 3 – Shellharbour LEP 2013 Land Zoning Map



**Proposed Lot Size - Planning Proposal No.01/2016
Lot 9 DP1038941, Croom**

Minimum Lot Size

- G 450 sq m
- AB2 16 ha

Map labels: ASHBURTON DRIVE, CROOME, COLLIE, AVON CL, WAY, COLLIE, PL, WAY, DR, SHANNON, DR, SHANNON, DR, ULAN, DR, YULARA, CRES, CLERMONT, PL, MORTLOCK, ASHTON CL, MORTLOCK.

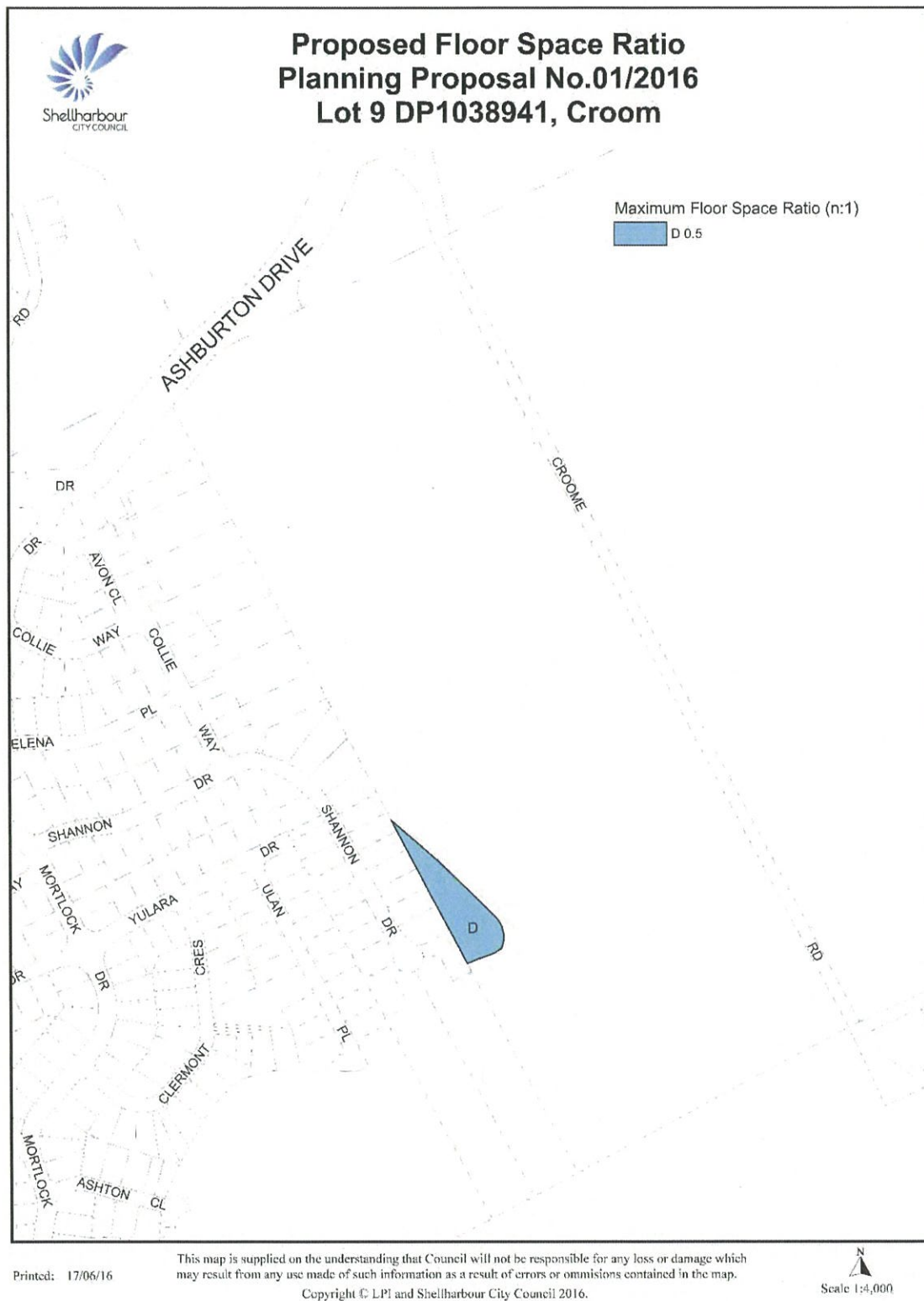
Map features: AB2, G.

Scale 1:4,000

Attachment 5 - Shellharbour LEP 2013 Building Height Map



Attachment 6 - Shellharbour LEP 2013 Floor Space Ratio Map



Proposed Terrestrial Biodiversity Planning Proposal No.01/2016
Lot 9 DP1038941, Croom

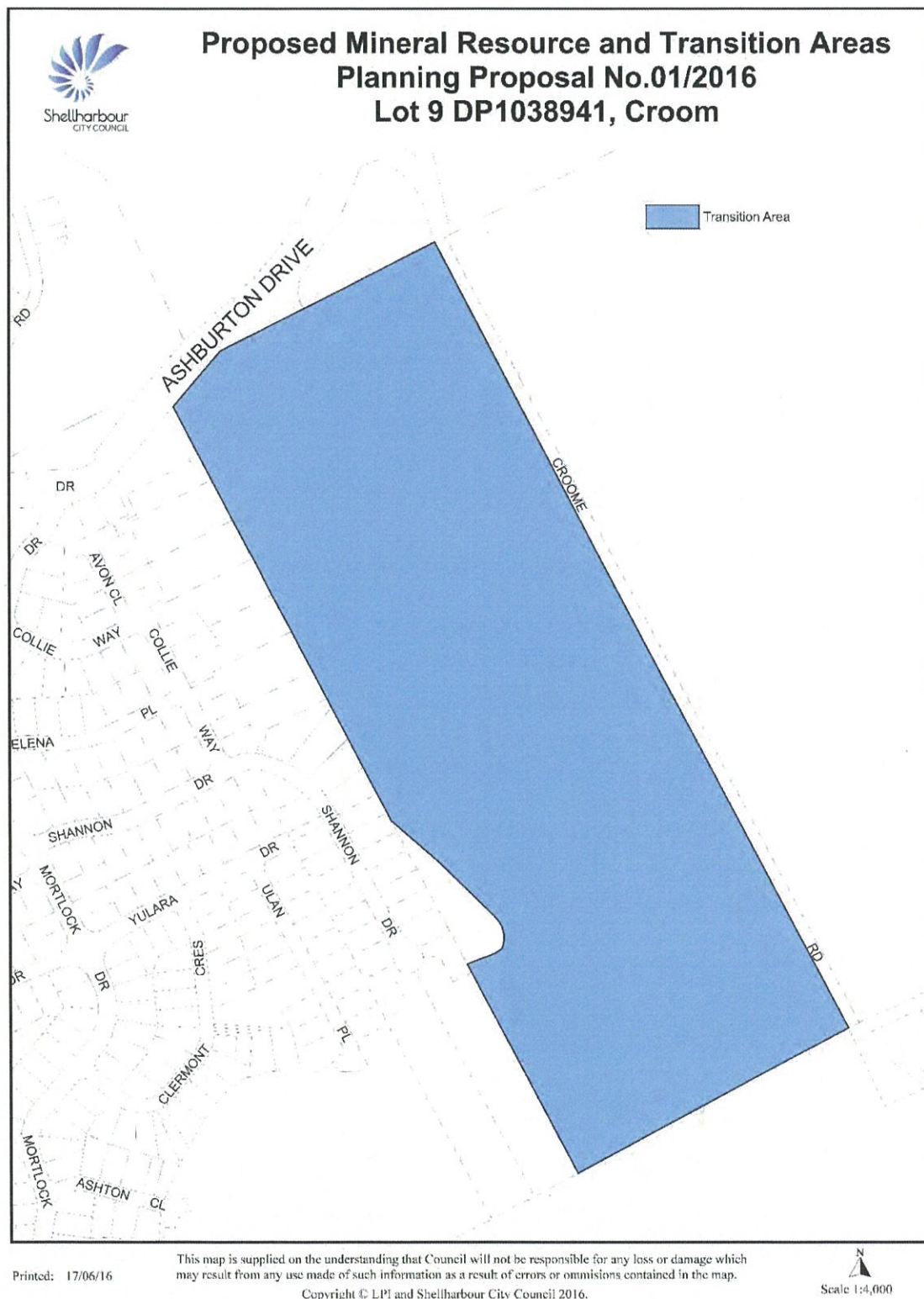
Environmentally Sensitive Land

ASHBURTON DRIVE
 CROOME
 AVON CL
 COLLIE WAY
 COLLIE PL
 WAY
 DR
 SHANNON DR
 SHANNON DR
 ULAN DR
 YULARA
 CLERMONT
 MORTLOCK DR
 MORTLOCK DR
 ASHTON CL
 ELENA

0 1000

Scale 1:4,000

Attachment 8 - Shellharbour LEP 2013 Extractive Resources Transition Area Map



Attachment 9 - Table of zoning and planning controls

Property	Area	Existing Planning Controls	Proposed Planning Controls			
		Zone/Clause	Zone/Clause	Min Lot Size	Height	FSR:1
240 - 242 Croome Rd, Croome Lot 9 DP 1038941	20.27 hectares	- Residential 2(e) Mixed Use Residential - Shellharbour LEP 2000 1(f) Rural Landscape, Quarry Buffer and Area of High Conservation Value - Shellharbour Rural LEP 2004	- Part R2 Low Density Residential. This will be the same shape as the current 2(e) Mixed Use land in Shellharbour LEP 2000 - Part RU2 Rural Landscape - Part E3 Environmental Management for that section of the land in the south west corner containing the Endangered Ecological Community vegetation classed as Illawarra Lowlands Grassy Woodland - Terrestrial Biodiversity map & clause 6.5 for land currently identified as High Conservation Value in Shellharbour Rural LEP 2004 and the area of vegetation in the south western corner of the lot - Mineral Resources Transition Area map & clauses 6.10 & 6.11 for the RU2 and E3 zoned land. This will cover the same land as the current Quarry Buffer in Shellharbour Rural LEP 2004	- R2 – 450m² - RU2 and E3 – 16ha	9.0 m all land	- R2 – 0.5:1 - RU2 and E3 – Nil