

Planning Proposal
Amendment No. 57 to LMLEP 2004 (Pasminco Stage 2 and
Incitec Pivot Site - Boolaroo)
[REVISED JANUARY 2011]

Local Government Area Lake Macquarie City
Name of Draft LEP: Lake Macquarie Local Environmental Plan 2004
(Amendment No. 57)

Part 1 – Objectives or Intended Outcome

This Planning Proposal is to enable a second, and final, stage of redevelopment of the former Pasminco Cockle Creek Smelter and the adjoining former Incitec Pivot Fertilizer plant. The first stage of rezoning of the Pasminco site occurred as part of Amendment No.21 to Lake Macquarie LEP 2004, published on 3 September 2010. The land is to undergo extensive remediation work (in accordance with approvals granted under Part 3A of the *Environmental Planning and Assessment Act 1979 (The Act)*).

The proposal involves amending Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004) to rezone approximately 85 hectares of land at Boolaroo from 4(1) Industrial (Core) and Zone 7(2) Conservation (Secondary) Zones to 2(1) Residential, 2(2) Residential (Urban Living), B4 Mixed Use, 4(2) Industrial (General) and 7(2) Conservation (Secondary) Zones. The areas of the proposed zones are as follows:

2(1) Residential	63.0 hectares
2(2) Residential (Urban Living)	5.6 hectares
B4 Mixed Use	6.2 hectares
4(2) Industrial (General)	6.3 hectares ⁽¹⁾
7(2) Conservation (Secondary)	3.9 hectares ⁽²⁾

Notes: ⁽¹⁾ includes a 2.5 hectare parcel owned by LMCC comprising a stormwater detention basin
⁽²⁾ in addition to 51 hectares currently zoned 7(2) outside remediation boundary

The proposed zoning, shown in the map at Appendix 4, is expected to facilitate a development yield of between 700 and 800 dwellings and accommodate between 300 and 400 jobs

The Planning Proposal also involves amending LMLEP 2004 to require a site-specific Development Control Plan (DCP) be prepared for those parts of the site to be zoned 2(1) Residential, 2(2) Residential (Urban Living), B4 Mixed Use, 4(2) Industrial (General) and 7(2) Conservation (Secondary), and stipulates there must be no significant land use conflicts between the proposed development and the ongoing remediation of the remainder of the site. Similar requirements were included in Amendment 21 to LMLEP 2004 for the first stage of rezoning of the Pasminco lands.

The remediation strategies for both the Pasminco and Incitec sites involve the construction of on-site containment cells for the isolation of contaminated soil and

materials. The footprint of these containment cells (total area 32.5 ha) is to be excluded from the proposed rezoning and will therefore retain the current 4(1) Industrial (Core) zoning that applies to the land. It is intended that this area be zoned SP1 Special Activities under Lake Macquarie Local Environmental Plan 2011.

This Planning Proposal has arisen from a Local Environmental Plan amendment that commenced under the former plan-making process. Council resolved to prepare the plan on 10 December 2007 and the Department responded to Council's section 54 notification on 2 February 2008, confirming that an Environmental Study was required. Consultation with relevant government agencies was undertaken in accordance with section 62 of *The Act* (now repealed) in the first half of 2008.

Part 2 – Explanation of Provisions

The amendment proposes the following changes to LM LEP 2004 instrument and map:

Amendment Applies to:	Explanation of Provision
Map	Rezone the site from 4(1) Industrial (Core) and 7(2) Conservation (Secondary) to 2(1) Residential, 2(2) Residential (Urban Living), B4 Mixed Use, 4(2) Industrial (General), 7(2) Conservation (Secondary) Zone. Refer to Map Sheet in Appendix 4.
Schedule 8	Amend Item 10 by adding the land subject to this amendment to Column 1 and only those parts of the site to be zoned 2(1), 2(2), B4 and 7(2).
Schedule 9	Amend Item 4 by adding the land subject to this amendment to Column 1.

Note that a similar requirement for schedule 8 and 9 were included in Amendment 21 to LMLEP 2004 for the first stage of rezoning of the Pasminco lands. It is envisaged that the items in Schedules 8 and 9 of LMLEP 2004 pertaining to Amendment 21 will be modified to also apply to land the subject of this Planning Proposal.

The Planning Proposal would result in the following changes to Draft Lake Macquarie LEP 2011 (Council's Standard Instrument LEP):

Amendment Applies to:	Explanation of Provision
Land Zoning Map	Land to be zoned 2(1) Residential would be zoned R2 Low Density Residential, Land to be zoned 2(2) Residential (Urban Living) would be zoned R3 Medium Density, Land to be zoned 4(2) Industrial (General) would be zoned IN2 Light Industrial Land to be zoned 7(2) Conservation (Secondary) Zone would be zoned E2 Environmental Conservation

Lot Size Map	Minimum lot sizes would correspond to proposed zoning as follows: R2 – 450m ² , R3 – 900m ² , IN2 – 1500m ² , E2 – 40ha
Height of Buildings Map	Maximum building heights would correspond to proposed zoning as follows: R2 – 8.5m, R3 – 10m, B4 – 12m, IN2 – 10m, E2 – 5.5m

Part 3 – Justification

A. NEED FOR THE PLANNING PROPOSAL

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

The Pasminco Cockle Creek smelter ceased operations in September 2003. In late 2004 Council engaged consultants to prepare a land use strategy for the site, and in November 2005 Council adopted a set of site specific land use principles intended to provide direction for applications for rezoning and development.

In March 2006, Council resolved to prepare an amendment to LMLEP 2004 to rezone part of the former smelter site for a combination of light industrial and urban purposes. This amendment was subsequently referred to as “Stage 1 Rezoning”. The basis for rezoning the site in two stages was to allow development of less contaminated land while remediation continues on other parts of the site.

Council resolved to prepare an LEP amendment to rezone the remainder of the site in December 2007. Director General specifications for a Local Environmental Study (LES) were issued by the Department of Planning in February 2008.

In September 2008, the proponent submitted to Council a Master Plan for the site. This Master Plan is attached at Appendix 1. Following Council’s review and comments, the Master plan was updated to form the LES, and includes the following specialist studies:

- Heritage interpretation
- Urban capability
- Visual impact
- Flora and fauna
- Bushfire protection
- Archaeology
- Trunk services
- Stormwater management
- Acoustic
- Rail vibration
- Traffic
- Economic assessment
- Housing and community facilities needs

It is considered that the LES adequately addressed its objectives, namely to:

- Address the specifications for an LES issued by the Director General of the NSW Department of Planning;

- Fulfil the requirements of the Planning Circular PS-06-13 – Local Environmental Studies; and,
- Address the comments from Council on the Bunderra Master Plan.

The LES concludes that the proposal is consistent with the provisions of relevant strategic land use plans, the site is suitable for urban development, and that the proposed rezoning will facilitate the orderly and efficient use of land without any significant adverse environmental, social, or economic impacts.

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

The current zoning of the subject site is 4(1) Industrial (Core) and 7(2) Conservation (Secondary). The 4(1) zoning reflects the site's former use as a lead and zinc smelter and fertilizer manufacturing plant.

A change the land use zones applying to the site is the only appropriate means of facilitating the highest and best use of the land following the site's remediation. The proposed residential, business, light industrial and conservation zones reflect the site's strategic location and natural attributes.

3. Is there a net community benefit?

The Proposal will deliver a significant net community benefit. It will facilitate the redevelopment of the site for residential and business uses close to existing services, public transport, and community facilities. It will also result in improved public access to walking trails on Munibung Hill and aid in the protection of a small population of the threatened flora species, Charmhaven apple (*Angophora Inopina*).

The table below assesses the Proposal against relevant criteria listed in the Draft Centres Policy for determining a Proposal's merits.

Draft Centres Policy criteria	Pasminco/Incitec Planning Proposal
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800 metres of a transit node)?	Yes. The site is within 800 metres of Cockle Creek Railway Station and is serviced by a public bus route.
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	The site is 2km by road from Glendale, identified in the Lower Hunter Regional Strategy as an Emerging Major Regional Centre.
Is the LEP likely to create a precedent, or create or change the expectations of the landowner or other landholders?	This Planning Proposal applies to a unique situation in Lake Macquarie of a large brownfield site in a strategic urban infill location. There is little risk of an unwanted precedent being created.
Have the cumulative effects of other spot	The Planning Proposal is for a Precinct

rezoning proposals in the locality been considered? What was the outcome of these considerations?	rezoning.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	While the area of land zoned for industrial purposes will decrease, the density of employment within the proposed Business and Industrial zones will be much higher, leading to a net increase in employment on the site once fully developed. It is anticipated the proposed zoning will accommodate between 300 and 400 jobs.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	Yes. The proposal includes residential zoning with the potential to accommodate in the order of 700 dwellings. This is expected to have a positive effect on both housing supply and affordability in the local area.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?	Yes. The site is well served by all major infrastructure and utilities, including public transport. Adjustments to the road network will be necessary including new intersections with RTA controlled roads. The development proponent will be responsible for these costs.
Will the proposal result in changes to the car distances travelled by customers, employees, and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	Yes. The site will provide for housing in close proximity to one of the region's largest employment nodes (centred on the Cardiff Industrial Area) and the emerging Regional Centre of Glendale. This will have a positive impact in reducing commuter distances and associated environmental and financial costs.
Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	Yes. Cockle Creek railway station is currently relatively under-utilised. The proposed redevelopment of the subject site is expected to result in much greater patronage of this facility. A similar increase in patronage can also be expected for local bus routes.
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	An area of the site containing the threatened species Charmhaven apple (<i>Angophora Inopina</i>) will be protected and enhanced with additional planting and by restricting access. There are no other major environmental constraints.
Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?	Yes. The proposal includes a mix of land uses that will integrate well with the neighbouring industrial, business and residential uses. The redevelopment will result in significant improvements to the

	public domain, particularly in terms of visual amenity.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	Yes. The proposal includes some land for business and industrial uses that will increase local competition. It will also support an increase in the local population of around 1500 residents to support local businesses
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	The proposal includes approximately 6 hectares of land under the B4 Mixed Use zone. This area has the potential to include neighbourhood shops to serve the immediate surrounding residential area but is also expected to facilitate a range of business and commercial uses that would complement the nearby local centre at Boolaroo, regional centre at Glendale, and Cardiff Industrial Estate.
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	The public interest reasons for preparing the draft plan is to facilitate the ongoing remediation of the site, and to create the opportunity for a key strategic site to be developed for a range of land uses more appropriate than the site's historical use for heavy industry.

B. RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The former Pasminco and Incitec sites are shown in the Lower Hunter Regional Strategy (LHRS) as employment land, presumably reflecting the historical industrial uses in this location.

Together with the stage 1 rezoning, the proposed employment lands will ensure a significant part of the site provides for employment-generating development, with the potential to support in excess of 1000 jobs, which more than compensates for the loss of 325 jobs as a result of the closure of the previous heavy industries on the site (Pasminco and Incitec).

The Proposal is consistent with a number of objectives and outcomes in the LHRS. In particular, redevelopment of the Pasminco and Incitec Pivot sites will support the growth of the nearby emerging major regional centre at Glendale.

Importantly, the proposed zoning will mean the site (including the section already rezoned) has the capacity to accommodate over 1000 dwellings in a strategically located infill location.

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

Council's Lifestyle 2020 Strategy provides the long-term direction for the overall development of the City and is a tool for managing private and public development in Lake Macquarie. This Proposal is consistent with the goals of Lifestyle 2020 in relation to:

- Allowing appropriate redevelopment of a disused heavy industrial site,
- Providing opportunities for mixed use development,
- Providing zoning that supports a range of housing types close to public transport and other services, and
- Improving transport connections with surrounding areas, particularly the extension of Munibung Road through to the Arterial Road, T C Frith Avenue, and the connection to Delaware Drive, Macquarie Hills.

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

The Proposal is consistent with the following relevant State Legislation.

SEPP	Relevance	Implications	Consistent
SEPP 11 – Traffic Generating Developments	This policy requires the RTA to be consulted in relation to certain types of development.	The RTA has been consulted in accordance with s62 of the EP&A Act, 1979 and in accordance with this SEPP.	Yes
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 area has been heavily disturbed in the past due to activities associated with the industrial use of the land. Minimal native bushland will be required to be removed.	Yes
SEPP 32 – Urban Consolidation	The policy focuses on the redevelopment of urban land that is no longer required for the purpose it is currently zoned or used, and encourages local councils to pursue their own urban consolidation strategies to help implement the aims and objectives of the policy.	The proposal will redevelop industrial land to allow for a combination of land uses including residential, commercial, and industrial. The site is currently zoned 4(1) Industrial (Core) zone. This heavy industry zoning is not the preferred land use of the site due to the proximity to existing nearby residential areas. Light industrial uses are proposed for part of the site.	Yes

SEPP 44 – Koala Habitat Protection	Aims to encourage the proper conservation and management of areas of natural vegetation that provide koala habitat.	Flora and fauna studies conducted for the local environmental study (LES) did not reveal any koala habitat or Potential habitat.	Yes
SEPP 55 – Remediation of Land	Establishes planning controls and provisions for the remediation of contaminated land.	The site is contaminated and Part 3A Approval has been granted by the Department of Planning to remediate the site. Incitec has begun the Part 3A process to remediate their site. The entire site will be remediated in accordance with the Part 3A approval prior to development occurring.	Yes
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 site is within the Coastal Zone as defined on the Coastal Zone Maps for Lake Macquarie. The site does not have direct access to the foreshore and is only marginally visible from Lake Macquarie. The rezoning will not affect the beach environment or coastal management strategies.	Yes

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

The Proposal is consistent with the following relevant Ministerial Directions, with the exception of Direction 1.1 – Business and Industrial Zones and Direction 2.1 – Environmental Protection Zones. The nature of these inconsistencies and the justification for each is given in the table below.

Section 117 Ministerial Directions

Ministerial Direction	Relevance	Consistency / Comment
1.1 – Business and Industrial Zones	This direction aims to encourage employment growth, protect employment land in business and industrial zones and support the viability of strategic centres.	Inconsistent: The proposed rezoning would decrease the area of land within the heavy industrial zone and will change the zoning of the land. The Land is currently zoned 4(1) Industrial (Core). Of the 127 hectares of land previously zoned 4(1), Stage 1 and Stage 2 of the rezoning will result in approximately 36 hectares being retained in an employment zone, 62 hectares being rezoned for residential purposes, and about 29 hectares comprising contamination containment cells and therefore will not be suitable for industrial purposes. Justification: Together with the stage 1 rezoning, the proposed employment lands have the potential to support employment in excess of 1000 jobs, which more than compensates for the loss of 325 jobs as a result of the closure of the previous heavy industries on the site (Pasminco and Incitec). The inconsistency is justified in the LES prepared for the site. The employment zones identified to replace the outdated heavy industrial zone allow a wider range of contemporary employment uses. Such land is in close proximity to and will support the Glendale emerging regional centre and the Cardiff to Edgeworth corridor as identified in the Lower Hunter Regional Strategy.
1.3 – Mining, Petroleum Production and Extractive Industries	This direction aims to protect the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials and requires consultation with the Department of Primary Industries.	Consistent: The NSW Department of Primary Industries (Minerals) advised it has no objection to the rezoning providing underground mining is permissible with development consent. The MSB has advised Council that it has no objection to the proposed rezoning. The MSB approval would be required for any subdivision or the erection of improvements subsequent to the rezoning.

2.1 – Environmental Protection Zones	The direction requires that a draft LEP contain provisions to facilitate the protection of environmentally sensitive land.	Inconsistent: The land to be rezoned for urban development is largely clear of native vegetation. However, the proposal involves rezoning some of the 7(2) Conservation (Secondary) land located in the south west of the site, which adjoins Boolaroo. Justification: Approval under Part 3A of the EP&A Act, 1979 has been given by the Department of Planning to remediate the site. In areas, this will require the removal of native vegetation to allow the remediation of the site. As such, the areas to be rezoned from conservation will have little conservation significance once remediated. A large proportion of the Pasminco land will remain in the conservation zone and a reserve established for a known population of the vulnerable listed species, Charmhaven apple (<i>Angophora Inopina</i>). Whilst the proposal is inconsistent with this direction in that an area zoned for environmental protection may be rezoned, the LES undertaken for the site confirms the proposal is largely consistent with this direction as the majority of conservation zoned land will be maintained and a reserve area will be established with land being rezoned from industrial to conservation.
2.2 – Coastal Protection	This direction aims to implement the principles in the NSW Coastal Policy.	Consistent. The draft LEP relates to land that is in the coastal zone. The draft LEP will not alter any provisions relating to the coastal zone currently within LMLEP 2004. The provisions in LMLEP 2004 are consistent with the NSW Coastline Management Manual 1990, the NSW Coastal Policy 1997, and the Coastal Design Guidelines 2003. The draft LEP is supported by an LES.

2.3 – Heritage Conservation	The direction requires that a draft LEP provide provisions in order to conserve heritage items.	Consistent: The draft LEP affects land, which contains an item of local heritage significance listed in the LMLEP 2004 as AG-06 - Speers Point Tram Route and R-02 Speers Point Steam Tram Line. The draft LEP does not amend any provisions relating to the heritage item and the LMLEP will still contain provisions for the items to be protected. There are also provisional heritage items that were listed in the Heritage Study 1993 prepared for Council such as the Sulphide Corporation Railway Sidings. In addition to the LES, a Heritage Interpretation Plan has been prepared for the site. A number of elements of the site were identified as being of heritage significance including the former laboratory building, the alignment of the railway line and Fotheringham Road. The master plan for the site and the consequential zoning respects the heritage significance of these elements of the site in the manner outlines in the LES.
2.4 – Recreation Vehicle Areas	The direction restricts a draft LEP from enabling land to be developed for a recreation vehicle area.	Consistent: The draft LEP will not propose a recreation vehicle area, and is consistent with the 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.	Consistent: The draft LEP will provide a logical extension of an existing and established residential area of Boolaroo. The redevelopment of the Pasminco and Incitec industrial land to a mix of land uses including residential and employment land will provide an opportunity to cater for population growth in a well serviced area, which is also close to the emerging major regional centre of Glendale.
3.2 – Caravan Parks and Manufactured Home Estates	The direction requires a draft LEP to maintain provisions and land use zones that allow the establishment of Caravan Parks and Manufactured Home Estates.	Consistent: The proposal will not affect provisions relating to Caravan Parks or Manufactured Home Estates.
3.3 – Home Occupations	The direction requires that a draft LEP include provisions to ensure that Home Occupations are permissible without consent.	Consistent: The amendment will not affect provisions relating to this, and will retain the provisions of the principal LEP in this regard.

3.4 – Integrating Land Use and Transport	The direction requires consistency with State policy in terms of positioning of urban land use zones.	Consistent: The redevelopment of this site for a combination of land uses for urban development including industrial, commercial, and residential will be consistent with this direction. The area is well serviced and in close proximity to other centres such as the emerging major regional centre of Glendale. The site is located in close proximity to the Cockle Creek railway station and other services.
4.1 – Acid Sulfate Soils	The direction applies to land that has been identified as having a probability of containing acid sulfate soils, and requires that a draft LEP is consistent with the Acid Sulfate Soil component of the model Local Environmental Plan (ASS model LEP), or be supported by an environmental study.	Consistent: Part of the subject land has the potential for Class 5 Acid Sulphate Soil. Existing provisions of Council's LEP and DCP will apply in this regard.
4.2 – Mine Subsidence and Unstable Land	The direction requires consultation with the Mine Subsidence Board where a draft LEP is proposed for land within a mine subsidence district.	Consistent: The Mine Subsidence Board was consulted pursuant to section 62 of the EP&A Act 1979 and raised no objection to the proposed rezoning. There are former mine workings on the site between the proposed containment cell and the Cardiff West Industrial Estate.
4.3 – Flood Prone Land	The direction applies where the draft LEP will affect provisions to flood prone land.	Consistent: The subject land has not been identified as being prone to flooding, and the draft LEP does not affect provisions relating to flood prone land.
4.4 – Planning for Bushfire Protection	The direction applies to land that has been identified as bushfire prone, and requires consultation with the NSW Rural Fire Service, as well as the establishment of Asset Protection Zones.	Consistent: the site contains bushfire prone lands. A plan of management has been prepared and implemented for the existing site including the provision of a network of fire trails on the vegetated lands, which can be used for recreational purposes. Land proposed for urban development has been cleared of vegetation as part of the site remediation and the proposed zoning includes land required for asset protection purposes.
5.1 – Implementation of Regional Strategies	The direction requires a draft LEP to be consistent with the relevant State strategy that applies to the Local Government Area.	Consistent: The draft LEP will be consistent with the strategic direction set by the Lower Hunter Regional Strategy in catering for the increased population growth as well as supplying employment land. The area is in close proximity to the emerging major regional centre of Glendale.
6.1 – Approval and Referral Requirements	The direction prevents a draft LEP from requiring concurrence from, or referral to, the Minister or a public authority.	Consistent: The draft LEP is consistent with this requirement.

6.2 – Rezoning Land for Public Purposes	The direction prevents a draft LEP from altering available land for public use.	Consistent: The draft LEP does not propose to alter provisions or land use zones related to the use of land for public purposes.
6.3 – Site Specific Provisions	The direction requires that a draft LEP make use of existing land use zone categories and not introduce additional controls.	Consistent: The draft amendment will utilise existing land use zone categories and will not introduce additional controls.

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?

Vegetation within the site proposed for development has been modified and mostly removed as a result of the remediation activity currently being undertaken. The remediation strategy approved for the site under Part 3A of the Act (Application no. 06_0184) involves excavating contaminated topsoil which has required some clearing of native vegetation in some parts of the site.

Notwithstanding the above, a small population of the threatened species Charmhaven apple (*Angophora Inopina*) has been identified and will be protected under a conservation zoning.

Despite the disturbed state of the site, it provides a habitat for a range of fauna species. The threatened grey-headed flying fox and eastern bent-wing bat were recorded in the study area in a location subsequently remediated. A range of other threatened species have been recorded in habitats within a 10 kilometre radius of the site. The remaining flora and fauna on the site is within an area that is not proposed for development, but rather located within the proposed Charmhaven apple (*Angophora Inopina*) Reserve and on Munibung Hill.

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

It is considered that there are no other likely environmental effects as a result of the Proposal.

However, the Pasminco site is currently being remediated in accordance with a major project application approved by the Minister for Planning in May 2007. This includes a number of different techniques and procedures but generally comprises excavating contaminated material from the various parts of the Pasminco site and placing the contaminated material in a capped containment cell. Where necessary the excavation will involve the removal of building slabs and underground services. The remediation will occur in a staged manner. After the excavation of any particular area is complete, and the site validated and signed off by the Site Auditor as being fit for its future intended purpose (which will be one or more of industrial/commercial, residential or open space uses), the remediated area will be re-filled and/or regraded to achieve expected future development levels as necessary.

A capped containment cell is being constructed on the Pasminco site for the receipt and long-term storage of contaminated material. At the completion of the site remediation, the surface of the cell will be stabilised and landscaped and will effectively encapsulate the contaminated material and provide an acceptable and safe long term management solution to the potential risk of harm to human health or the environment.

The remediation will include the construction and use of environmental controls during and after the remediation including surface and groundwater controls for the cell and a treatment plant to treat potential future leachate and groundwater that may be emitted from the cell.

There are certain areas on the western part of the Pasminco site and on Munibung Hill that are too steep for development and for machinery. These areas will not be remediated. For these areas, it is proposed to develop and implement a Site Management Plan that will include a Health and Safety Plan, planting of vegetation for dust and erosion control, and other controls as required.

A major project application for the remediation of the Incitec Fertilizer site (08_0221) was approved in November 2010. This application proposes a second, smaller containment cell be constructed on the Incitec site. The containment cell will be fully lined and designed to create a low-maintenance repository structure for on-site contaminated fill, soil, and building materials with limited potential for impacts to the surrounding environment in the future.

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

The Proposal will result in a mix of land uses on a currently disused heavy industrial site. Based on the housing projections, it is estimated that the site could house up to 2,000 additional residents. As a consequence of the proposed dwelling mix it is likely that the site will attract:

- A higher proportion of young families with children than is currently the case in Boolaroo;
- A similar proportion of working age couples without children to existing Boolaroo; and
- Higher proportion of single parent families and aged persons than would be typically expected in new release areas.

As the site is located in an existing urban area and because the population of Boolaroo has been declining, many of the necessary facilities and services are available in the area. Others will be planned and provided by relevant authorities as part of their normal operations.

The proposed residential areas will have a positive economic impact on the existing Boolaroo shopping strip and be within close proximity to the sub-regional retail centre at Glendale. A combination of medium and low-density residential zones will facilitate housing diversity to cater for a range of needs and preferences.

Importantly, the areas of land to be rezoned for light industrial and commercial use have the potential to accommodate more jobs than were present on site at the peak of activity within the former smelter and fertilizer manufacturing plant.

The site offers ready access to existing community facilities and public transport including schools, open space, public buses, and Cockle Creek train station.

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

The site offers ready access to existing public infrastructure including the arterial road network, public buses, and Cockle Creek train station. The site is already connected to all utilities including water, sewer, electricity, telephone, and gas services. These utilities will be augmented as necessary in consultation with service providers to supply future development of the site.

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

Consultation with relevant government agencies was undertaken in accordance with section 62 of *The Act* (now repealed) in the first half of 2008.

Responses were received from the Department of Planning (Heritage Branch, Hunter Water, Koopahtoo Local Aboriginal Land Council, the Rural Fire Service, Housing NSW, the Mine Subsidence Board, Energy Australia, the Roads and Traffic Authority, Hunter New England Area Health Service, the Department of Environment and Climate Change (now Department of Environment, Climate Change and Water), the Department of Primary Industries (now Industry & Investment NSW) and the Hunter-Central Rivers Catchment Management Authority.

A summary of submissions from government authorities at the section 62 consultation stage are provided below along with a planning comment where required.

Department of Planning – Heritage Branch

The specifications for the LES are supported. The LES should make recommendations for the interpretation of any archaeological relics, if any are retained as a result of archaeological investigations. Council should ensure that the final heritage report is included in its Local Studies Collection. Council should ensure that the rezoning of the site would allow for the continued use and conservation of any heritage items or relics that might be retained in situ in an appropriate manner.

Planning Comment:

Heritage has been considered in the master plan and Local Environmental Study and a Heritage Interpretation Plan has been prepared at Council's request. While most structures were deemed too contaminated to be retained, the old Pasminco laboratory building is to be conserved for its heritage significance. Council granted development consent in March 2010 for alterations and additions to the old laboratory building to allow it to be used as administration offices associated with the remediation and redevelopment of the Pasminco site.

Hunter Water

No objection is raised to the proposal; however, various upgrades to the water and wastewater reticulation networks may be required prior to servicing the proposed development.

Recycled water opportunities should be considered, with the site being identified as a potential site for reuse due to close proximity to Edgeworth WWTW.

Detailed developer funded water and wastewater servicing strategies will be required in the future.

Koompahtoo Local Aboriginal Land Council (LALC)

The LALC would be pleased to see Munibung Hill be retained within a conservation zone.

Parts of Munibung Hill are considered a sacred Aboriginal site and the LALC would not want this area disturbed. Consultation should occur with the LALC before any developments take place.

Planning Comment:

Further comment from the relevant Aboriginal Land Council will be invited during public exhibition of the Planning Proposal.

NSW Rural Fire Service (RFS)

A large area of the southern part of the site and adjoining land to the east and southeast is identified as bush fire prone on the Lake Macquarie Bush Fire Prone Land Map.

The RFS has no objection to the rezoning, however advises that any future residential subdivision will need to comply with the requirements of *Planning for Bush Fire Protection*, and would be subject to assessment in accordance with section 100B of the *Rural Fires Act 1997*.

Housing NSW

Council is encouraged to make provisions within the draft LEP to improve the supply of affordable housing.

Planning Comment:

The proposed development will add to supply of affordable housing by adding to housing stock in the area and designating areas for medium density residential development.

Mine Subsidence Board

No objection is raised to the proposed rezoning. The applicant should seek the Board's approval for any proposed subdivision or the erection of improvements at the appropriate time.

Energy Australia

New residential subdivisions within the council area will require additional electrical infrastructure and may require the acquisition of easements, however it appears there are no major constraints affecting the ability of Energy Australia to provide electricity to the subject land.

Roads and Traffic Authority

The proposal for two intersections on T C Frith Drive is supported in principle. All road works to be undertaken will be at full cost to the developer and at no cost to the RTA or Council. The applicant will be required to enter into a Works

Authorisation Deed with the RTA for any works affecting the State Road network.

Planning Comment:

The RTA has written to Council several times since their response pursuant to section 62 of *The Act*. Their most recent letter, dated 30 September 2010, clarifies that the RTA does not require a second intersection on T C Frith Avenue (in addition to the intersection of the Munibung Road extension with T C Frith Avenue). The letter also stated that, should a second intersection be proposed in the future, RTA concurrence will be required and the RTA will not contribute to its cost.

Hunter New England Area Health Service

The site has a long history of industrial contamination of soil, which should be addressed before residential development occurs. The current remediation plan requires that all land to be rezoned as residential will have contaminated soil removed and a Site Auditor will validate the final remediation as safe. This is an adequate assurance of health protection.

To maximise health and social outcomes, future development should consider:

- street design (such as a grid design) that minimises distances between lots and facilities and open space;
- safe and convenient footpaths and cycleways to facilities, the lake and Glendale;
- safe and convenient public transport;
- provision of affordable and healthy food within the proposed commercial and industrial areas.

Planning Comment:

Where practical, the health and social outcomes will be addressed in the DCP that will be required to be prepared for the site prior to development consent.

Department of Environment and Climate Change (DECC)

These sites are declared remediation sites under the *Contaminated Land Management Act 1997*. DECC will regulate the remediation activities and will be assessing the remediation works to be satisfied that they are suitable for the proposed new uses/zoning.

The following issues should be considered:

- Impacts on flora and fauna and threatened species and high conservation value areas.
- Potential land use conflicts including air and noise pollution and odour.
- Aboriginal cultural heritage and the views of the Aboriginal community groups - the proposed LEP should not impact on areas of cultural significance.
- Management of stormwater to prevent impacts on adjacent waterways.

Planning Comment:

Studies have been provided addressing DECC's issues. An odour assessment has not been included, as this is not considered

necessary at the rezoning stage. Odour issues will be addressed during the assessment of future development applications.

Department of Primary Industries (DPI)

DPI Minerals has no objections to the proposed rezoning of the former Pasminco smelter and Incitec sites providing underground mining is permissible with development consent. The sites are within the Lake Macquarie Mine Subsidence District and therefore any development of the area must be referred to the Mine Subsidence Board and the Department of Primary Industries.

The Speers Point quarry is located 120m to the south of the site and this needs to be considered in allowing rezoning and development of the southern most section of the site.

Stormwater concerns may arise in the future and management issues should be addressed at any development application stage. *Guidelines for the Assessment of Aquatic Ecology* were provided for consideration in the preparation of the LES for the site.

Planning Comment:

SEPP Mining, Petroleum Production, and Extractive Industries makes provision for the permissibility of underground mining on any land.

Council has consulted with the Mine Subsidence Board regarding the rezoning of the site and no objections were raised.

The Speers Point quarry ceased operations in 2007 and is currently in the early stages of being rezoned, and there are no land use conflicts anticipated between the proposed developments.

Consideration will be given to stormwater management at the development application stage. The LES considers stormwater management in the Site Trunk Services Strategy prepared for the site.

Hunter-Central Rivers Catchment Management Authority (CMA)

The *Native Vegetation Act* 2003 does not apply to the clearing of the site, which is subject to the Part 3A approval under the *EP&A Act* 1979 for the remediation of the site. However, the *Native Vegetation Act* 2003 would apply in the land zoned 7(2) Conservation (Secondary) if clearing was to exceed the remediation area and if this were the case, offsets would be required. The CMA requested Council to limit the extent of land to be rezoned to those areas being remediated.

The CMA requested Council consider Guiding Principles from the Hunter and Central Rivers Catchment Action Plan prior to rezoning to ensure all significant environmental values are appropriately considered. These Guiding Principles relate to protection of regionally significant vegetation, threatened species and the consideration of key threatening processes. In addition, one of the Guiding Principles is concerned with limiting development to be restricted to primarily cleared land.

Planning Comment:

The area to be rezoned is limited to the areas being remediated.

The Guiding Principles from the Hunter and Central Rivers Catchment Action Plan have been considered in the rezoning. An Charmhaven apple (*Angophora Inopina*) reserve will be established to protect this threatened species.

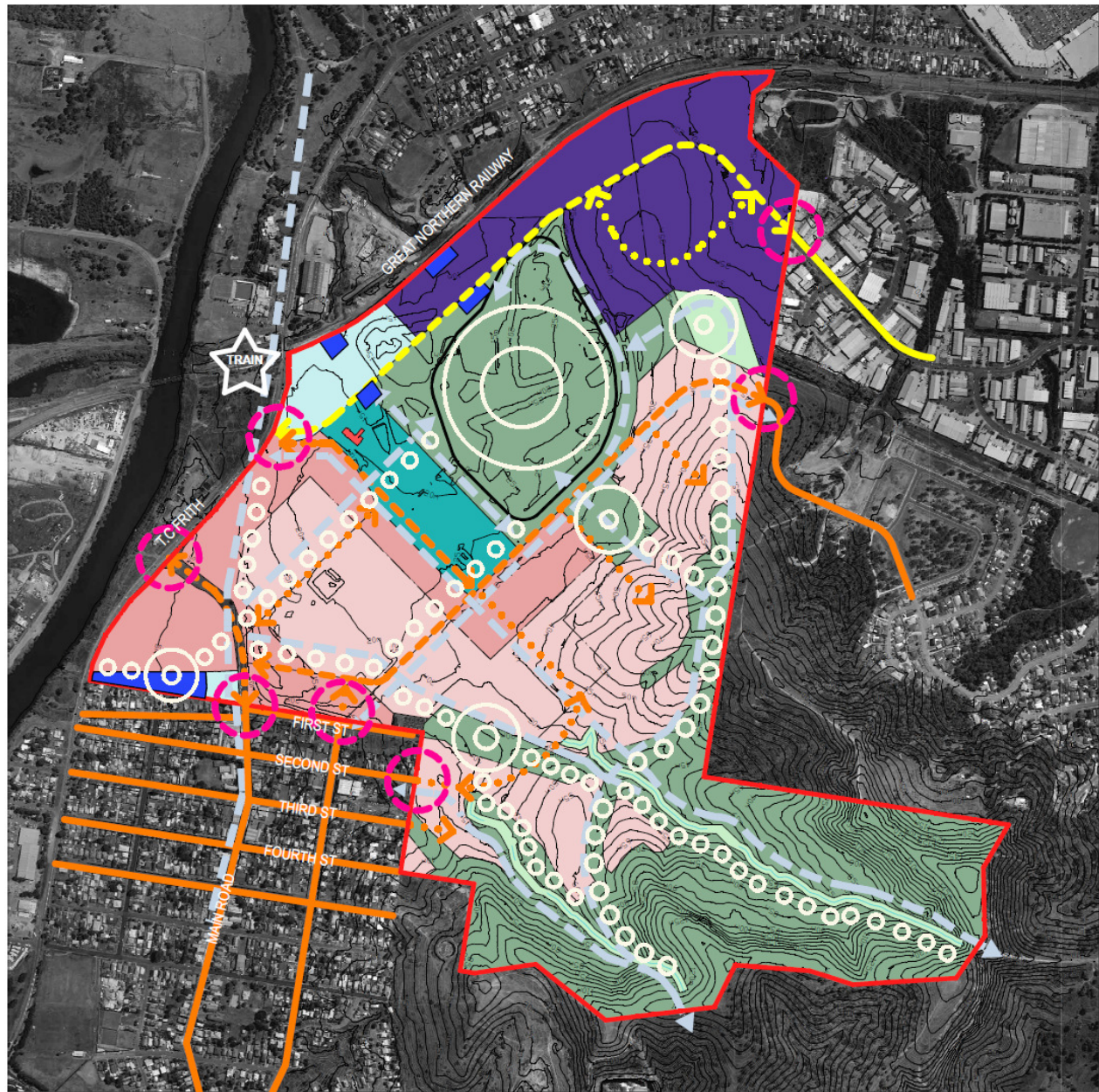
Concluding comment:

It is considered that consultation already undertaken with government authorities is adequate. However, further consultation with State and Commonwealth public authorities will be undertaken if directed by the DoP's 'Gateway' process.

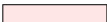
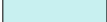
Part 4 – Details of Community Consultation

The public would have the opportunity to view and comment on the Planning Proposal once the Department endorses the Proposal to go on public exhibition. It is submitted that the Proposal does not fit the definition of a 'Low impact Planning Proposal' and should therefore be exhibited for at least 28 days.

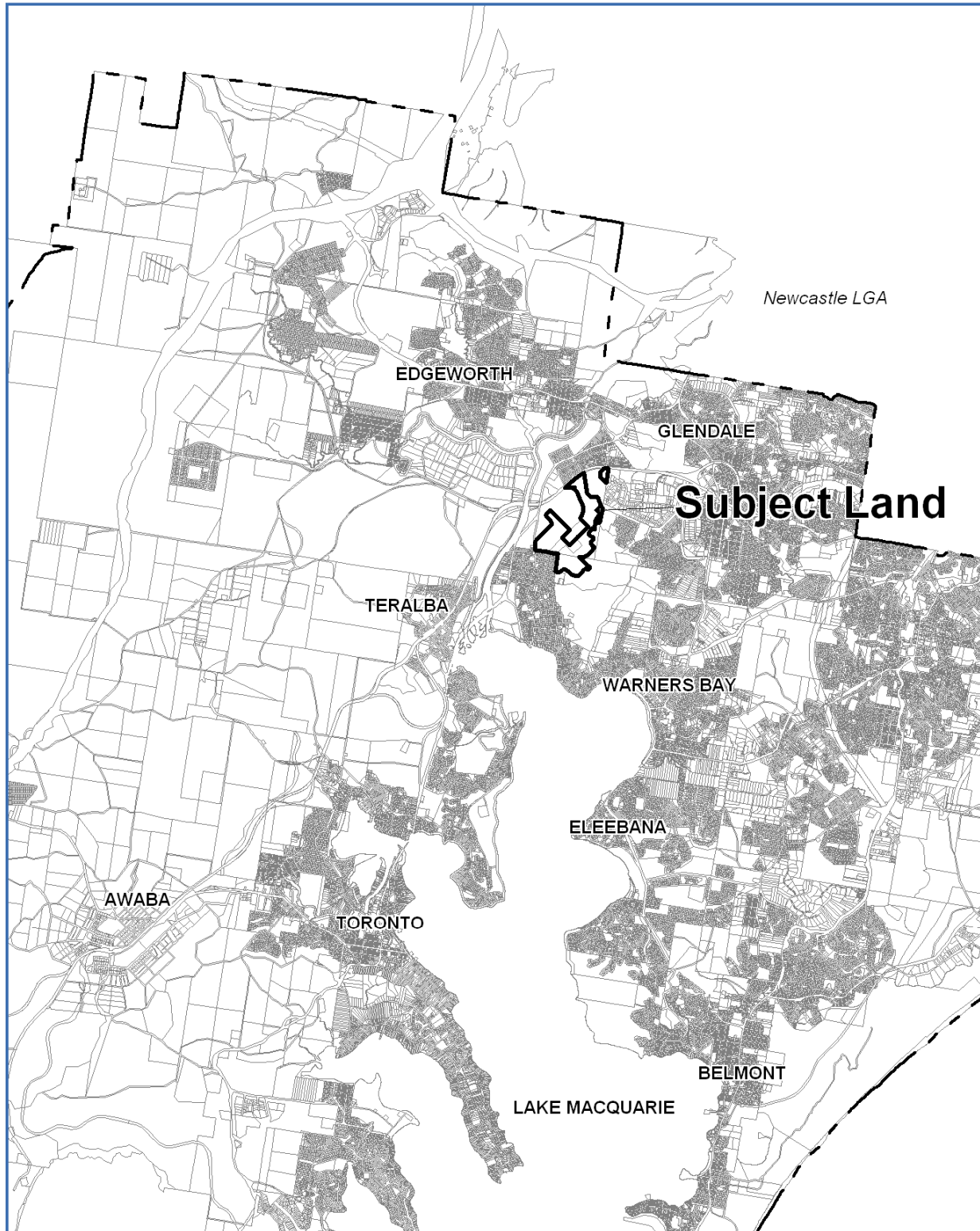
Appendix 1 – Master Plan Map



MASTERPLAN CONCEPT LEGEND

	Residential		Access / egress to site		Proposed pedestrian / cycling links
	Residential (Urban Living)		Existing industrial traffic road		Proposed open space links (parkways, pedestrian trails, local parks located at least 300m from residential lots)
	Industrial (general)		Proposed industrial main road / link		Proposed open space (Major open space areas, parks, tracks, sports fields, landscape features, overland flow)
	Urban Centre		Proposed industrial collector road		Stormwater treatment ponds
	Urban Centre (support)		Existing residential traffic road		
	Environmental reserve / Riparian zone		Proposed residential main road		
	Open space		Proposed residential collector road		

Appendix 2 – Locality Map



11/11/2010 - Project Amendment 5/



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Bolaroo

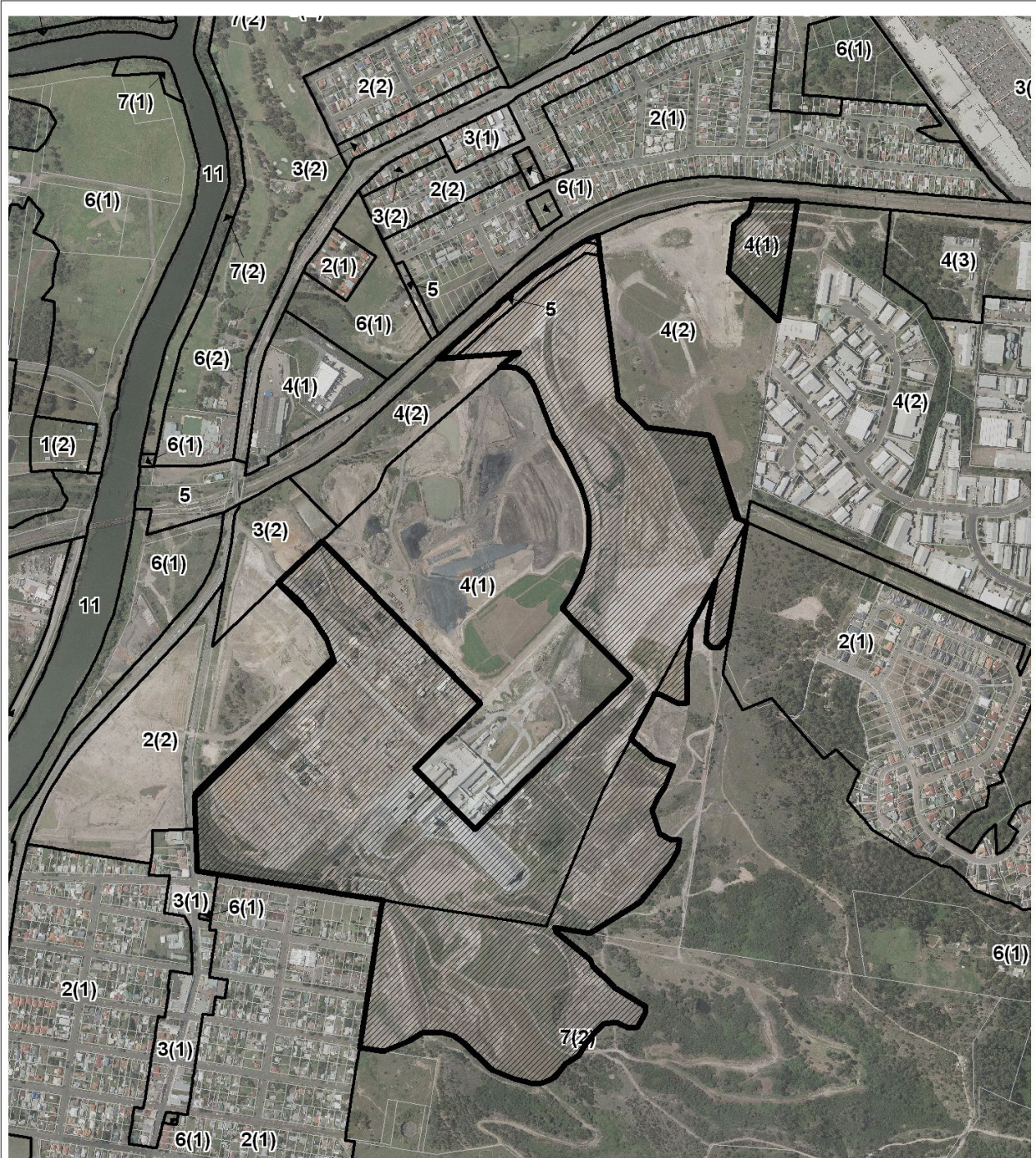


Subject Land



1 0 1 2 3
Kilometres

Appendix 3 – Existing Zoning



Locality: BOOLAROO

EXTRACT FROM EXISTING LMCC LEP2004 ZONINGS SKM AusImage 2010 Aerial Photography



Produced by Integrated Planning
Project: Amendment 57 11/11/2010

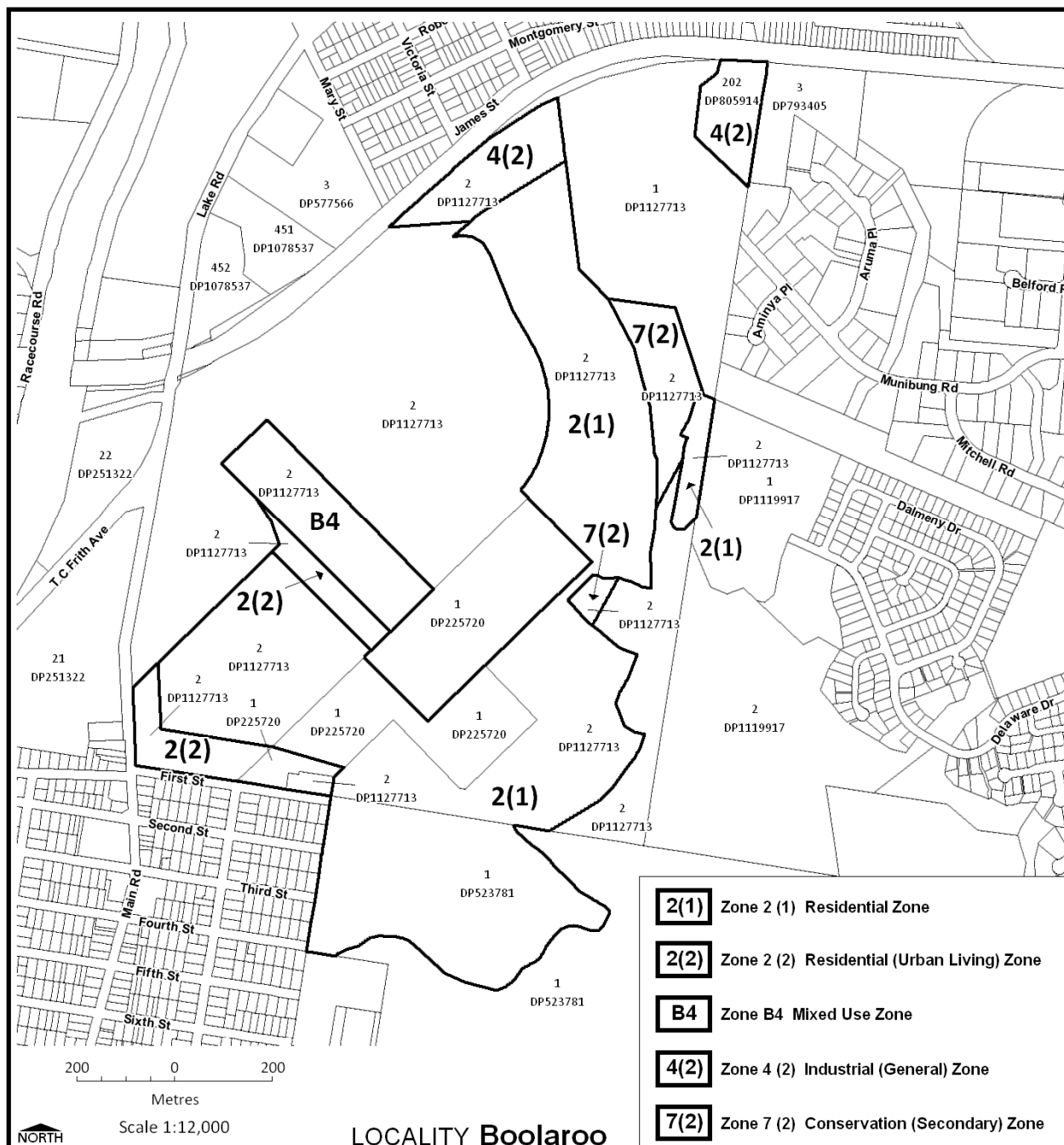


Subject Land

200 0 200
Metres
Scale 1:12000



Appendix 4 – Proposed Zoning



ENVIRONMENTAL PLANNING & ASSESSMENT ACT , 1979

CITY OF LAKE MACQUARIE

SHEET 1 of 1



LAKE MACQUARIE LOCAL ENVIRONMENTAL PLAN 2004 (DRAFT AMENDMENT NO 57)

DRAWN BY GH DATE 10/11/2010

PLANNING
OFFICER AD

FILE NO. COUNCIL DEPT. of
PLANNING

STATEMENT OF RELATIONSHIP WITH OTHER PLANS
*AMENDS THE LAKE MACQUARIE
LOCAL ENVIRONMENTAL PLAN 2004*

CERTIFIED IN ACCORDANCE
WITH THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS. GENERAL MANAGER
DATE

PUBLISHED ON NSW LEGISLATION WEBSITE ON