

Planning Proposal – 57 Thomas Street Edgeworth

Draft Amendment No. 79 to Lake Macquarie Local Environmental Plan (LMLEP) 2004

Local Government Area:	Lake Macquarie City Council (LMCC)
Name of Draft LEP:	Lake Macquarie Local Environmental Plan (LMLEP) 2004 (Draft Amendment No. 79)
Subject Land:	Lot 10 DP 791439 (57) Thomas Street, Edgeworth
Land Owner:	Hilliar Holdings Pty Ltd and Grantan Holdings Pty Ltd
Applicant:	Acroplan Pty Ltd
Tables:	Table 1 – Assessment of the Planning Proposal against the relevant SEPPs Table 2 – Consistency with applicable Section 117(2) Ministerial Directions
Maps:	Map 1 – Locality Map Map 2 – Aerial Map and Current Zones Map 3 – Proposed Zones under LMLEP 2004 Map 4 – Proposed Zones under draft LMLEP 2013
Attachments	Attachment 1 - Initial Contamination Evaluation Checklist

Part 1 – Objectives or Intended Outcome

The objective of the Planning Proposal is to amend Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004) in order to accommodate a major retail outlet comprising of two commercial tenancies and associated car parking on Lot 10 DP 791439 (57) Thomas Street, Edgeworth. The land is approximately 5,830m².

Part 2 – Explanation of Provisions

The proposed objective will be achieved by amending the LMLEP 2004 Land Zoning Map on Lot 10 DP 791439 (57) Thomas Street Edgeworth in accordance with the proposed zoning map shown as Map 3 in Part 4 of this Planning Proposal.

If the amendment is adopted prior to the implementation of draft LMLEP 2013, the amendment proposes the following changes to LMLEP 2004.

The Planning Proposal will also result in changes to draft Lake Macquarie Local Environmental Plan 2013 (LMLEP 2013) by:

- amending the Land Zoning Map of Lot 10 DP 791439 from 4(2) Industrial (General) to B1 Neighbourhood Centre (as shown in Map 4, Part 4);
- amending the Lot Size Map of Lot 10 DP 791439 from category U2, 1500m² minimum lot size to no minimum lot size: and
- amending Height of Buildings Map of Lot 10 DP 791439 from category O1, 15m maximum height of building to category K, 10m maximum height of building.

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 Planning Proposal is not the result of a strategic study or report. The Planning Proposal is a proponent driven minor LEP Amendment request to allow a proposed major retail outlet on 57 Thomas Street Edgeworth.

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

In order to enable the proposed development, an LEP amendment is necessary. The amendment will ensure that the proposed development and its various uses are permitted on the subject land with development consent. Given the current interface with existing 3(1) zone land to the west of the subject site, it seems logical to extend this zone across to the Thomas Street intersection so that in affect, no industrial zoned land will front Main Road.

It is considered that a change in zoning is the most transparent way of identifying the proposed future uses of the site.

B. RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

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

Lower Hunter Regional Strategy (LHRS) (2006)

The subject land is located within a proposed renewal corridor identified in the Lower Hunter Regional Strategy (LHRS). The LHRS states that renewal corridors are situated along strategic transport routes and link strategic centres. The LHRS identifies the role of the renewal corridors to present opportunities for economic renewal and/or housing renewal and intensification.

This corridor has been identified for residential and mixed used opportunities because of its high frequency transport networks and its close proximity to the emerging major regional centre of Glendale/Cardiff.

The proposal seeks to rezone the land from a light industrial zone to a business zone, which is in line with the strategic direction outlined in the LHRS. It is estimated that the Planning Proposal may deliver up to 30 full time positions, generated by the proposed major retail operations, which would assist with the employment projections of the LHRS.

4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Lifestyle 2030 Strategy (LS2030)

The Lifestyle 2030 Strategy (LS2030) provides the long-term direction for the overall development of the City and is a long-range land use strategic plan and policy document.

The Planning Proposal aligns with the city vision, core values, and aims of the LS2030.

The Strategic Directions identified in the LS2030 describe the overall desired outcomes and general intentions sought by Council for future development in the City. In particular, the Planning Proposal aligns with Strategic Direction 4, 'A well serviced and equitable city'. This direction attempts to maximise opportunities for development in existing urban areas and to provide more efficient use of existing land and infrastructure. Another intention of this direction is to recognise community, commercial, and investor needs through accommodating the City's projected population growth, where feasible, within Centres and established areas.

Under the 'Urban Structure Map', the land is identified as part of a 'Neighbourhood Centre' with 'Potential and Existing Employment Lands'. Similarly, under the 'Urban Change and Urban Investigation Map', the site is within (or on the cusp) of an identified 'Core Commercial and Living Urban Area'.

It is considered the proposal to rezone the subject land to accommodate retail employment is in line with this identified use within the Urban Structure Map and will create further employment opportunities in this area.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal is consistent with the following relevant State Environmental Planning Policies (SEPPs) outlined in Table 1 below. The proposal aims to change the zoning of the site to enable efficient and appropriate use of the land.

Table 1: Assessment of the Planning Proposal against relevant SEPPs

SEPP	Relevance	Implications
SEPP (Infrastructure) 2007	Aims to more efficiently facilitate the delivery of infrastructure through the establishment of consistent planning provisions for infrastructure and services. The policy requires the RMS to be consulted in relation to certain types of traffic generating development.	The proposed change in zone will not affect the number of additional infrastructure developments identified under this SEPP.
SEPP 22 – Shops & Commercial Premises	The aim of this policy is to permit the change of use of one commercial use to another even if the change of use is prohibited under the LEP, so long as it meets the objectives of the zone.	As the planning proposal is to zone to a commercial use, this Policy will apply to future development applications, as it does for existing commercially zoned land.
SEPP 55- Remediation of Land	The objective of this Policy is to provide a state-wide planning approach to the remediation of contaminated land and promote the remediation of the land to reduce the risk of harm to human health.	Integrated Planning has prepared an 'initial evaluation checklist' in order to meet the obligations under Clause 6 of SEPP 55. The 'Initial Contamination Evaluation Checklist' for this planning proposal is provided at Attachment 1.

SEPP	Relevance	Implications
SEPP (Exempt & Complying Development Codes) 2008	The aim of this Policy is to streamline the assessment process for development that complies with specific development standards. This Policy will apply to any future development on the land, regardless of the change in zone.	There are no major implications within this Policy on the planning proposal.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 (2) directions)?

An assessment of the Planning Proposal and its consistency against the applicable Ministerial Directions is provided at Table 2 below.

Table 2: Consistency with applicable Section 117(2) Ministerial Directions

Ministerial Direction & Relevance	What a relevant planning authority must do is this direction applied	Consistency / Comment
1.1 – Business and Industrial Zones Aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones and to support the viability of identified strategic corridors.	In order to comply with the Direction, a planning proposal must retain the areas and locations of existing business and industrial zones, not reduce the total potential floor space area for employment uses and related public services in business zones, and not reduce the total potential floor space area for industrial uses in industrial zones.	The planning proposal will reduce the total potential floor space area of land zoned Industrial. However, the proposed zoning will retain the area for employment uses and the proposed zone is also in line with the LHRs and the Newcastle and Lake Macquarie Western Corridor Planning Strategy by increasing the amount of business zoned land.
3.4-Integrating Land Use and Transport The objective of this direction is to ensure future development improves access to housing, jobs, and services by walking, cycling and public transport. It also aims to: increase the choice of available transport and reduce car dependency, support viable public transport services, and provide efficient movement of freight.	A planning proposal must locate zones for urban purposes and include provisions that give effect to, and are consistent with, the aims, objectives and principles of: (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and (b) The Right Place for Business and Services – Planning Policy (DUAP 2001)	The proposal seeks to rezone the land to enable a retail type use in an existing urban centre. The proposal will not change existing access or service provision and is considered consistent with this direction.

Ministerial Direction & Relevance	What a relevant planning authority must do is this direction applied	Consistency / Comment
4.1 Acid Sulphate Soils The direction applies to land that has been identified as containing potential Acid Sulfate Soils (ASS)	The principle requires that a draft LEP is consistent with the ASS component of the model Local Environmental Plan (ASS model LEP), or that it is supported by an environmental study. A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing ASS on the ASS Planning Maps unless the relevant planning authority has considered an ASS study assessing the appropriateness of the change of land use given the presence of ASS.	The subject land is identified as being affected by Class 3 and 5 Acid Sulphate Soils. Any planning proposal must be consistent with the Acid Sulphate Soils Model LEP in the Acid Sulphate Soils Planning Guidelines.
4.2 – Mines Subsidence and unstable land This seeks to prevent damage associated with mine subsidence	The direction requires consultation with the Mine Subsidence Board (MSB) 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 <i>Mine Subsidence Compensation Act 1961</i>. Development of the land is subject to the concurrence of the Mine Subsidence Board. The proposed major retail outlet is likely to remain single to two storeys height. Further consultation with the MSB will be required following the Gateway determination.
5.1- Implementation of Regional Strategies	This direction requires a proposal to be consistent with the Lower Hunter Regional Strategy (LHRS).	As discussed previously, the proposal is consistent with the LHRS, and this direction.
6.1 Approval and Referral Requirements The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development	This direction seeks to minimise the inclusion of provisions in planning instruments that require the concurrence, consultation, or referral of development applications to a Minister or public authority. It also sets out consultation and approval requirements, if such provisions are to be included in a planning instrument, or if a planning instrument identifies development as designated development.	The planning proposal does not contain provisions that require concurrence of a Minister or public authority without obtaining the approval of the appropriate Minister or Director-General. The planning proposal does not identify designated development.

7. 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?

The subject site has been developed for industrial use and is devoid of vegetation. This site is within a well established urban area, as identified in the aerial in Map 2 below, and is predominantly concrete hard stand. As a result, no known critical habitat or threatened species, populations or ecological communities, or their habitats are located on the site.

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

A summary of the environmental issues relating to the Planning Proposal is outlined below. Further investigation into these constraints will be undertaken after the Gateway Determination, if required.

Hydrology, Water Quality, and Flooding

The site is not affected by any issues relating to hydrology, water quality or flooding.

Traffic

The subject site is located along Main Road. Following the Gateway determination, consultation with the Roads and Maritime Services department will be undertaken in order to determine the level of traffic assessment required for the Planning Proposal.

Contamination

There are no known contaminants on the site, however the subject land has been previously used as a mechanical workshop, which is a listed activity outlined in Table 1 of the contaminated land planning guidelines.

The sort of contamination likely to have resulted from the previous use of the site would be the spillage of fuel, oil, or solvents associated with the repair of motor vehicles.

Further assessment on possible land contamination on the subject land will be required following the Gateway Determination.

Noise

The local area is predominantly subject to traffic noise associated with the high volume of vehicles utilising Main Road. It is considered noise impacts due to increased traffic generation coming to and from the proposed retail outlets will need to be addressed as part of the traffic assessment identified above.

Visual

The site is within Scenic Management Zones A and B. A detailed visual impact assessment will be required following the Gateway Determination. The change of zone from an industrial use to a retail/commercial use could potentially be more visually appealing, provided future development is consistent with Lake Macquarie Council's Development Control Plan No. 1.

To mitigate the visual impact of development, any future Development Application will need to provide a Landscape Plan and demonstrate that the design achieves integration with surrounding land uses and built form.

Bushfire

The site is not identified as bushfire prone land. The site contains small areas of managed grass and a few scattered shade trees. The bushfire threat is considered very low.

Geotechnical

The site is not identified as having any significant geotechnical constraints. The subject site is however, located within a Mine Subsidence District and consultation with the Mine Subsidence Board will be undertaken following Gateway determination.

Heritage

The site does not contain and is not within proximity to any known heritage or Aboriginal heritage items.

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

An assessment of the current information and Council records have indicated that there are no environmental, social and economic issues, which have not been adequately addressed at this stage, for the proposal to proceed for further consideration.

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

The site is currently serviced by all essential infrastructure including electricity, roads, water and sewer. The anticipated development of the site is not expected to warrant significant upgrades to existing public infrastructure.

It is not anticipated that the Planning Proposal will significantly influence the existing levels of service and capacity of the local road network. The Roads and Maritime Service (RMS) will be consulted if requested by the, Gateway determination.

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

Limited consultation with State and Commonwealth public authorities has been undertaken to date. As identified earlier in this Planning Proposal, it is considered that the following consultation with state authorities is required prior to public exhibition of the Planning Proposal:

- Mine Subsidence Board
- Roads and Maritime Services
- Minerals DPI
- Transport NSW

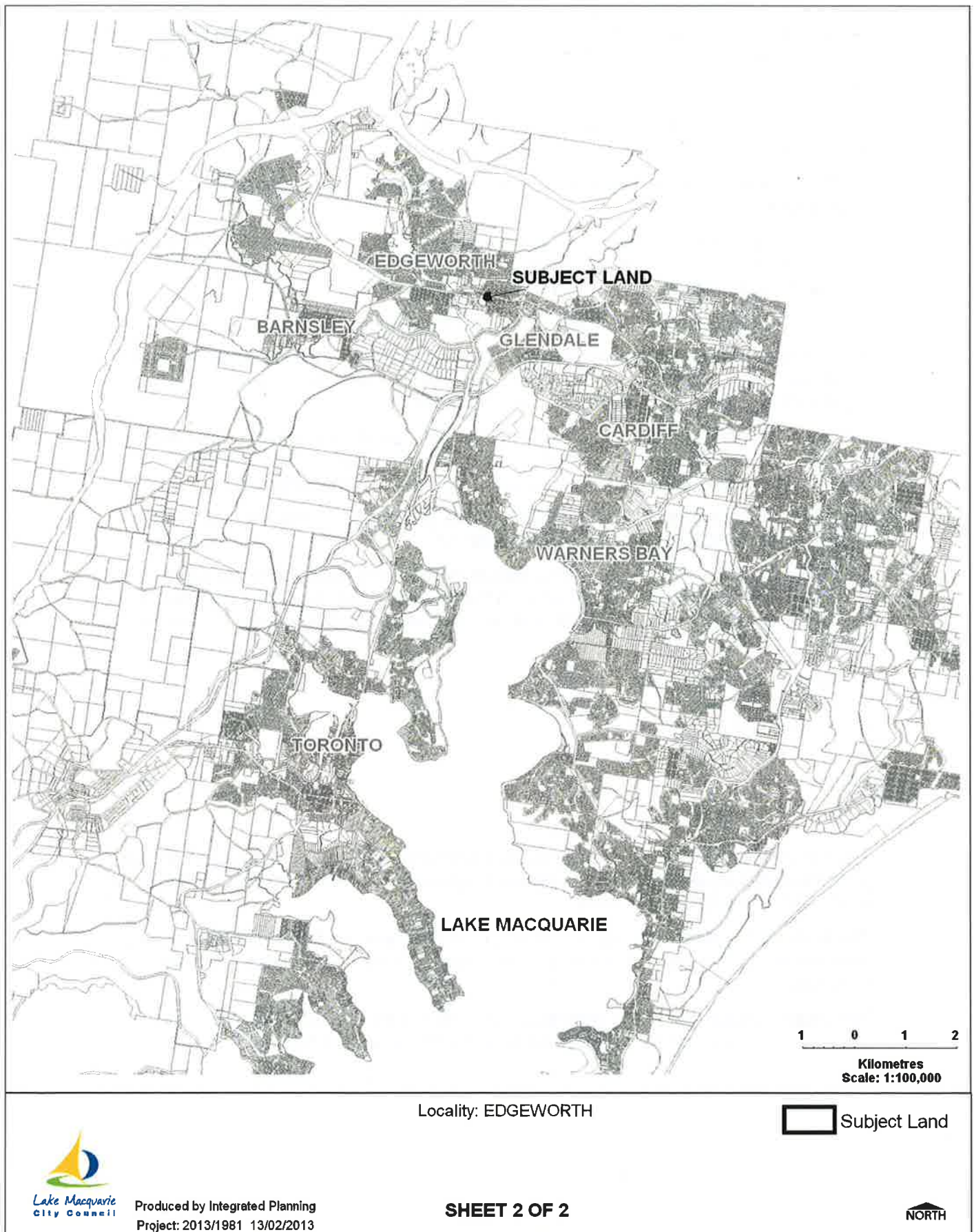
Part 4 – Mapping

The public will have the opportunity to view and comment on the Planning Proposal once the Gateway endorses the Proposal to go on public exhibition in accordance with section 57 of the *EP&A Act 1979*.

The Director-General must approve the form of the Planning Proposal following any revisions to comply with the gateway determination before community consultation is undertaken.

The Proposal does not fit the definition of a 'Low impact Planning Proposal' and Council believes it should therefore be exhibited for at least 28 days.

Map 1 – Locality



Map 2 – Aerial and Current Zones



Locality:EDGEWORTH

 Subject Land

EXTRACT FROM EXISTING LMCC LEP2004 ZONINGS
LMCC 2012 Aerial Photography

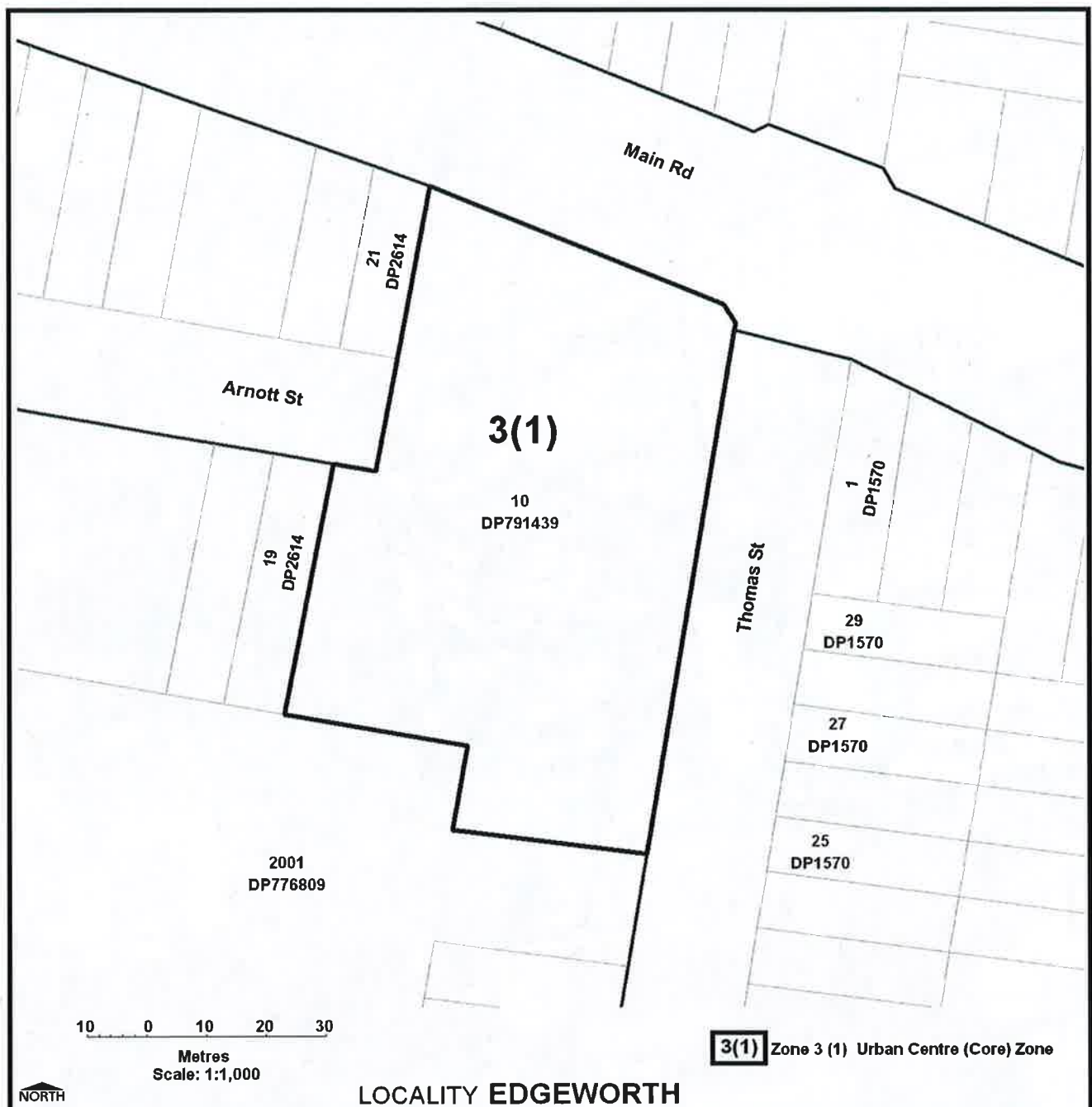
SHEET 1 OF 2

 NORTH



Produced by Integrated Planning
 Project: 2013/1981 13/02/2013

Map 3 – Proposed Zone under LMLEP 2004



ENVIRONMENTAL PLANNING & ASSESSMENT ACT , 1979

CITY OF LAKE MACQUARIE

SHEET 1 of 1



**LAKE MACQUARIE LOCAL ENVIRONMENTAL
PLAN 2004 (DRAFT AMENDMENT NO 79)**

DRAWN BY J.B. DATE 10/04/2013

PLANNING OFFICER K.P.

FILE NO. COUNCIL RZ/3/2013 DEPT. of PLANNING XXXXXXX

CERTIFICATE ISSUED UNDER SEC. 65 EPA ACT DATE dd/mm/yyyy

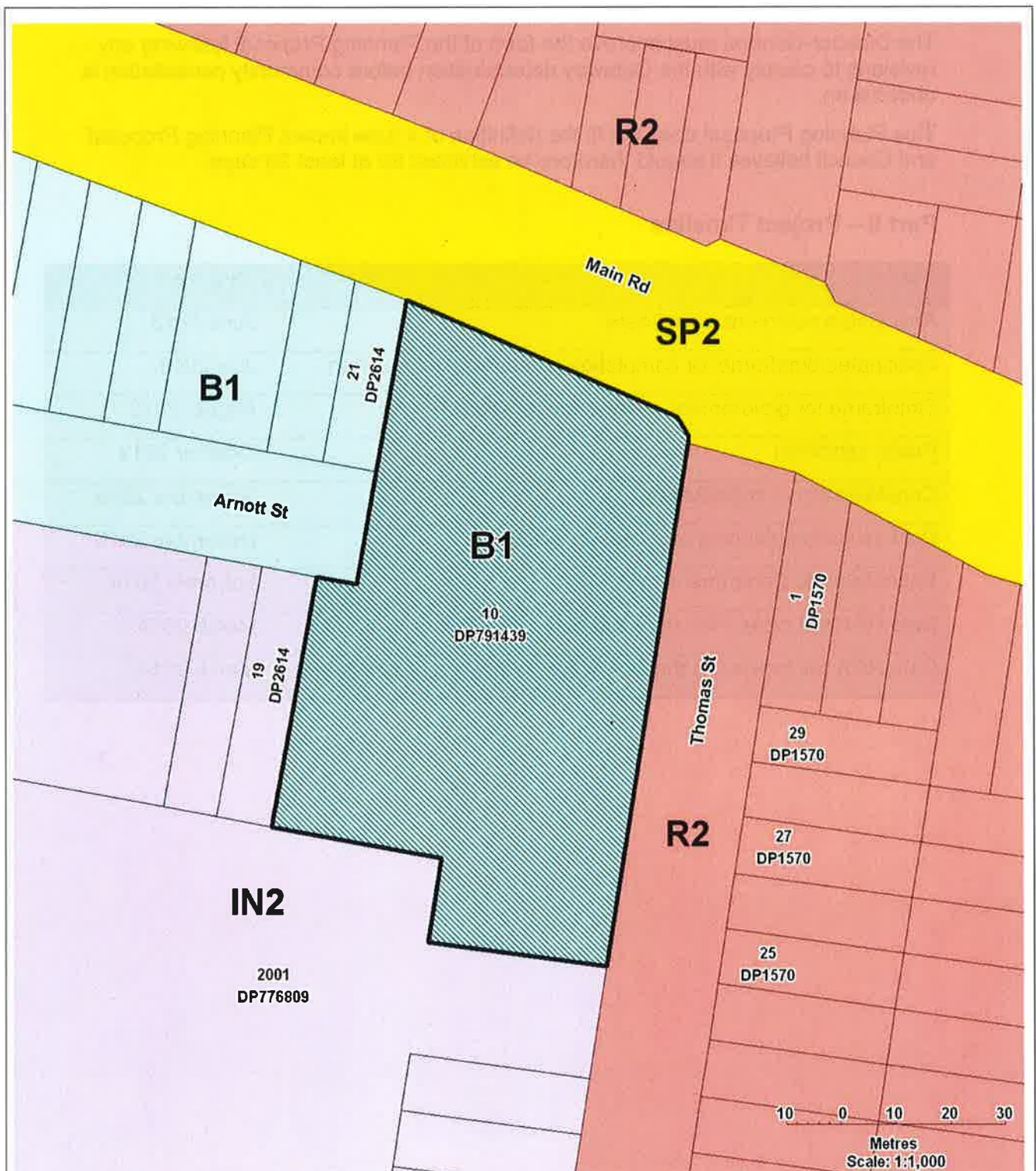
STATEMENT OF RELATIONSHIP WITH OTHER PLANS
AMENDS THE LAKE MACQUARIE
LOCAL ENVIRONMENTAL PLAN 2004

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

DATE

PUBLISHED ON NSW LEGISLATION WEBSITE ON

Map 4 – Proposed Zone under draft LMLEP 2013



Locality:EDGEWORTH

EXTRACT FROM DRAFT SLEP2012

 Subject Land

 Neighbourhood Centre



Produced by Integrated Planning
Project: 2013/1981 13/02/2013



Part 5 – Details of Community Consultation

The public will have the opportunity to view and comment on the Planning Proposal following the Gateway endorsement to go on public exhibition in accordance with Section 57 of the *EP&A Act 1979*.

The Director-General must approve the form of the Planning Proposal following any revisions to comply with the Gateway determination before community consultation is undertaken.

This Planning Proposal does not fit the definition of a 'Low impact Planning Proposal' and Council believes it should therefore be exhibited for at least 28 days.

Part 6 – Project Timeline

Action	Timeframe
Anticipated commencement date	June 2013
Anticipated timeframe for completion of technical information	July 2013
Timeframe for government agency consultation	August 2013
Public exhibition	October 2013
Consideration of submissions	November 2013
Post exhibition planning proposal preparation	December 2013
Submission to Department	February 2014
Date RPA will make Plan (if delegated)	March 2014
Date RPA will forward to the DoP&I for notification (if delegated)	March 2014

Attachment 1: Initial Contamination Evaluation Checklist

Assessment Details

RZ No.: 3/2013

Address: Lot 10 DP 79143986 (57) Thomas Street Edgeworth

LMCC Officer and Date: Karen Partington 15/2/2013

Part 1 - Initial Evaluation Requirements

Yes/No/
Uncertain

1. Have any previous investigations relating to land contamination been conducted on the property, or adjacent land, that indicate the potential for land contamination?

Uncertain

Details: (Provide details of a search of the Lake Macquarie Contaminated Land or Potentially Contaminated Land Database and s.149 certificate notations)

2. Has the property at any time been zoned for industrial, agricultural or defence purposes?

Yes

Details: (Provide details of a review Northumberland District Planning Scheme 1966, LMLEP 1984, and LMLEP 2004)

3. Has an activity listed in Table 1 ever occurred on the property or been approved on the property?

Yes

Details: (Provide a history of past and current land uses and development approvals for the property)

Previous Uses include:

- Motor Vehicle repair
- Cleaning Services
- Automotive parts retail
- Spray Booth

4. Has the property ever been regulated through licensing or other mechanisms in relation to any activity listed in Table 1?

No

Details: (Provide details of a search of the Protection of the Environment Operations Act 1997 (the POEO Act) licence register www.environment.nsw.gov.au/prpoeo)

5. Are there any land use restrictions on the property relating to possible contamination, such as notices issued by the EPA or other regulatory authority?

No

Details: (Provide details of a search of the Contaminated Land Management Act 1997 (CLM Act) record of notices www.environment.nsw.gov.au/prclmapp/aboutregister.aspx)

6. Does a site inspection suggest that the property may have been associated with any activities listed in Table 1?

Yes

Details: (Comment on site inspection findings)

As stated above, the property is zoned Industrial and it is confirmed that some activities listed in Table 1 have been undertaken on the site.

7. Are you aware of information of contamination on land immediately adjacent to the property, which may result in potential contamination of the property?

No

Details: (Comment on land use history of adjacent land and s.149 certificate notations)

Adjoining land uses are for light industrial uses. It is unlikely that contamination impacts on land immediately adjacent to the subject land could

affect the subject land.

Table 1 - Some Activities that may Cause Contamination (referenced from p. 12 of the Guidelines)

• acid/alkali plant and formulation	• engine works	• power stations
• agricultural/horticultural activities	• explosives industry	• railway yards
• airports	• gas works	• scrap yards
• asbestos production and disposal	• iron and steel works	• service stations
• chemicals manufacture and formulation	• landfill sites	• sheep and cattle dips
• defence works	• metal treatment	• smelting and refining
• drum re-conditioning works	• mining and extractive industries	• tanning and associated trades
• dry cleaning establishments	• oil production and storage	• waste storage and treatment
• electrical manufacturing (transformers)	• paint formulation and manufacture	• wood preservation
• electroplating and heat treatment premises	• pesticide manufacture and formulation	

Part 2 – Additional Evaluation Requirements

8. Does a site inspection indicate that any current structures on the property contain asbestos building materials? (typically structures built prior to the mid-1980s)

Yes/No/
Uncertain

- *Comment on site inspection findings*

9. Have any structures been demolished on the property that could have contained asbestos building materials?

- *Comment on site inspection findings and past aerial photographs*

10. Have any parts of the property been excavated that have the potential for acid sulphate soils?

- The site is completely covered in hard stand. Class 3 and 5 Acid Sulphate Soils are mapped for the site.

11. Have any parts of the property been filled with off-site material that could include:

- i. black slag from the former Pasminco Cockle Creek lead smelter;
- ii. fill contaminated with asbestos; and/or
- iii. any other unidentified potentially contaminated material?

- *Comment on site inspection findings*

12. Is the site categorized by Department of Defence as having substantial or slight potential of containing Unexploded Ordnance (UXO) (applicable to the localities of Redhead, Jewells, Belmont North, Belmont South and Catherine Hill Bay only)

- *If applicable comment on findings from Department of Defence UXO Home Page www.defence.gov.au/uxo/index.asp*