

Agenda Report

To view the original Agenda Item, double-click on 'Agenda Report' blue hyperlink above.

The following item was dealt with by Council at its Ordinary Meeting on Tuesday 22 July 2014.

Please action as appropriate and ensure that notes of your actions are recorded in ECM.

1 RESOLVED: Marsh/Murray

That Council:

1. adopt the Zoning and Planning Controls for Shellharbour Local Environmental Plan 2013 Planning Proposal No 10 as outlined in Attachment 2.
2. authorise the General Manager to amend the Zoning and Planning Control Maps for Shellharbour Local Environmental Plan 2013 Planning Proposal No 10 as outlined in Attachment 3.
3. authorise the General Manager to forward the revised Planning Proposal as outlined in Attachment 2 to the Minister for Planning under Section 58(2) of the *Environmental Planning & Assessment Act 1979*.
4. authorise the General Manager to request the Minister for Planning to prepare the Draft Local Environmental Plan and make the Plan under Section 59 of the *Environmental Planning & Assessment Act 1979*.
5. delegate to the General Manager the authority to make minor mapping and wording changes if and as required by the Director General of the NSW Department of Planning & Environment or the Parliamentary Counsel's office.

CARRIED UNANIMOUSLY

11.2.2 Shellharbour Local Environmental Plan 2013 Planning Proposal No. 10 - Adoption of Exhibited Planning Proposal - Lot 11, DP 1128847, Crest Road, Albion Park (10203921)

To the General Manager

Directorate: City Outcomes

Department: City Strategy

Manager: Geoff Hoynes - Group Manager City Strategy

Author: Ian Rankine - Senior Strategic Planner

Summary

The purpose of this report is to provide the outcomes of the community and government agency engagement and to seek Council's adoption of the Planning Proposal at Lot 11, DP 1128847 Crest Road, Albion Park. The location of this property is shown in **Attachment 1**.

This report recommends that Council adopt the zoning and planning controls outlined in **Attachment 2** – Table of zoning and planning controls and **Attachment 3** – The maps to amend Shellharbour Local Environmental Plan 2013.

Background

This property was deferred by Council when it considered *Draft Shellharbour Local Environmental Plan (LEP) 2011/2012* at its meetings in May, June and July 2012. At that meeting Council resolved:

'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.' (This land is in Map 1.4).

This property was further considered by Council, at its meeting of 30 April 2013 (Item 3.2.1), through a report on a Planning Proposal for Part 2 of the deferred lands in *Shellharbour Local Environment Plan 2013*. At that meeting, Council resolved amongst other things, to:

'Prepare a planning proposal to amend Shellharbour LEP 2013 to incorporate the proposed planning controls in Attachment 4 with the exception of Item 8 being Lot 11, DP 1128847, Huon Crescent Albion Park with that item being dealt with at a future meeting of council.'

This report specifically deals with Lot 11, DP 1128847, Crest Road, Albion Park as required by the Council resolution of 30 April 2013 and as supported for public exhibition

by Council at its meeting of 23 July 2013. The property was described as Huon Crescent in the Council report and resolution of 30 April 2013 but is rated and linked to Crest Road in Council's land information systems and is described as Crest Road in the report of the Council meeting 23 July 2013, this report and for the public exhibition information.

At its meeting of 23 July 2013 Council resolved (Minute 209) that:

- '1. Council prepare a Planning Proposal (No 10) for Lot 11, DP 1128847, Crest Road, Albion Park to amend Shellharbour Local Environmental Plan 2013 to incorporate the proposed Zoning and Planning Controls in Attachment 6.
2. The Council authorise the General Manager to submit the Planning Proposal (Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No 10) to the NSW Department of Planning & Infrastructure in accordance with section 56 of the Environmental Planning & Assessment Act 1979 for review and gateway determination.
3. The Council delegate to the General Manager authority to make minor mapping and Local Environmental Plan instrument changes to Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No 10 if and as required by the NSW Department of Planning & Infrastructure's LEP Review Panel and gateway determination.
4. The Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No 10 be publically exhibited in accordance with the gateway determination.
5. A report be submitted to the Council on the public exhibition of the Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No 10 detailing the outcomes of the community and government agency engagement.
6. The Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No 10 be reported back to the Council for final consideration and with further recommendations regarding adoption.'

The public exhibition period was between 20 November 2013 and 18 December 2013. One submission was received from the property owner. No submissions were received from our community or government agencies.

This report focuses on the development opportunities supported by Council at its meeting of 23 July 2013 and then included in the information provided for public exhibition.

Existing LEP Controls

The land is currently zoned part Residential 2(e), part Rural 1(a) and part Environmental Protection (Scenic) 7(d) under *Shellharbour Local Environmental Plan 2000* and has an area of about 43 hectares.

Shellharbour LEP 2000 has a schedule amendment that was gazetted in September 2000 permitting the subdivision of the land into four lots with no more than one dwelling house on each lot. The current property description is different to that in Shellharbour LEP 2000 due to subsequent subdivisions of the land. As previously outlined in the report of 23 July 2013, whilst the intent of the schedule amendment is clear, the issue of whether the lot yield could be achieved under LEP 2000 may require a legal opinion. This Planning Proposal, the subject of this report, clarifies the potential lot yield for this property.

The *Albion Park Rural Residential Development Control Plan* (DCP) identified the general location of the four lots originally intended under Shellharbour LEP 2000. This was generally in the southern section of the property on top of the ridge leading up to the large above-ground water reservoir off Crest Road. A dwelling house has been constructed and is now occupied along the ridge in the southern area of this property.

The Shellharbour DCP adopted by Council at its meeting on 11 June 2013 and effective from 26 June 2013 hasn't brought across the provisions from the Albion Park Rural Residential DCP relating to location of lots. The location of lots was principally based on the on-site waste water considerations in place at that time. The recently adopted Shellharbour DCP has introduced new on-site waste water provisions that allow consideration of best practice options and provides greater flexibility for the siting of dwellings and on-site waste water treatment facilities.

Zoning and Planning Control Assessment

This section of the report reviews the number of lots that may be appropriate for this property.

Recommendation to Council Extraordinary Meeting 29 May 2012

- Three lots on plateau - southern end with dwellings located on the land zoned E4 Environmental Living
- Three lots lower slopes - eastern area of the property (1 x R5 Large Lot Residential zone, 2 x E4 Environmental Living zone)
- Remainder of the property Zoned E3 Environmental Management, E4 Environmental Living and SP2 Infrastructure - Electricity Transmission and Distribution.

Councillor Preference October 2012

- Three lots on plateau - southern end of the property
- Three lots lower slopes - eastern area of the property.

Planning Proposal recommended to and adopted by Council at its meeting of 23 July 2013

- Two lots at southern end of property - plateau

- One lot that contains the remaining land of this property.
- Three lots on the lower slopes - eastern area of the property.

Officer Assessment

The development options supported by Council at its meeting of 23 July 2013 and outlined above are still considered reasonable and appropriate.

The subject land, Lot 11, has road frontage to Huon Crescent. The road frontage is in the head of the cul-de-sac and has an adequate road reserve to provide vehicular access to development, as proposed in this Planning Proposal. The location and design of any future road/access would be subject to a preliminary design at the development application stage, should the Planning Proposal be supported. At this point of the process, there appears to be adequate area and location options for a road/access to be provided without the need for further studies or assessment.

It is recommended that a total of six lots and a dwelling house on each lot, be permitted on this property; two smaller lots at the southern end of the plateau; three lots on the lower slopes in the south eastern area of the property and one lot that contains the remaining land. It is proposed that the lot containing the remaining land will also include the recently constructed dwelling house (near the southern boundary).

Location of lots and houses

The Urban Fringe LES identified potential overlooking/amenity issues between existing residential development and any potential development on this land, in particular, land near Huon Crescent.

Submissions provided to Council during the exhibition of Draft Shellharbour LEP 2011, addresses to Council on Draft Shellharbour LEP 2011/12, Councillors debate during consideration of the adoption of Draft Shellharbour LEP 2011/12 and addresses to Council and debate on Item 11.2.1 of the Council Business Paper of 30 April 2013, have made clear the concerns of some of the residents of Huon Crescent to any development near their land.

The importance of limiting the amount and type of development near the existing Residential zoned land is something that Council staff has also acknowledged in their consideration of development opportunities on this land.

The report to Council of 30 April 2013 recommended six lots be permitted on this property. The mechanism to achieve this was the use of a clause to allow the subdivision of the land into six lots. There was no minimum or maximum lot size and no proposed criteria for location of those lots.

The proposed clause had specific advantages in that it allowed flexibility in lot size, subdivision design and took into account the topography and significant vegetation found on this lot.

This benefit does not over-ride the potential impact on the adjoining property owners if more than three lots and dwelling houses were located on the eastern slopes.

To assist in minimising this potential impact, the lots have been sited to the south of most of the existing development in Huon Crescent.

It is proposed that the Minimum Lot Size Map be used to identify the number and location of lots that may be permitted. This Map is part of the LEP and will identify the areas that have the potential for subdivision and subsequent construction of a dwelling house on each of those lots. See the Minimum Lot Size Map in **Attachment 3**.

These areas are:

- The ridge on top of the plateau. This will have a minimum lot size that will permit the subdivision of the land into two lots. The two lots will be located generally to the north and west of the access road to the Sydney Water Reservoir. These will have a minimum lot size of 1.0 hectare (10,000m²); and
- The eastern slopes in the vicinity of Huon Crescent. This will have a minimum lot size that will permit the subdivision of the land into three lots. Based on the information received from the owner, the minimum lot sizes will be about 600m², 4,000m² and 1.0 hectare (10,000m²).
- The remaining land will have an area of about 38 hectares and will be the sixth lot and include the dwelling house approved by Development Application 55/2013. The house has been constructed and an occupation certificate has been issued.

This 38 hectare part of the property will be zoned E3 Environmental Management, E4 Environmental Living and SP2 Infrastructure - Electricity Transmission and Distribution and a very small section that is an access handle off Avoca Place will be zoned R2 Low Density Residential, this is the same zone as the properties adjoining the access handle.

The proposed zoning and planning controls for Lot 1, DP 1128847 is shown in the Table in **Attachment 2** and the Maps in **Attachment 3**.

Financial and resource implications

This is a Council initiated Planning Proposal and Council will bear the costs associated with the processing this Planning Proposal.

Legal and policy implications

Should Council resolve to adopt the Planning Proposal to amend Shellharbour LEP 2013 as outlined in the recommendation, the General Manager will request the Minister for Planning to prepare the Draft Local Environmental Plan and make the Plan under Section 59 of the *Environmental Planning & Assessment Act*.

Public/Social Impacts

One written submission was received from the landowner during the exhibition of this Planning Proposal.

The public exhibition of Draft Shellharbour LEP 2011 that outlined potential development for this site resulted in a number of written submissions. Those issues were outlined in the Council report of 23 July 2013.

It is considered that development of this site will change the appearance and use of the land. This change is considered to be acceptable and the potential community benefit of providing a small number of additional allotments is considered to be greater than the potential impact on the adjoining and nearby residents.

Link to Community Strategic Plan

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

Objective: 2.1 Protects and promotes its natural environment

Strategy: 2.1.2 Deliver projects which work towards the protection of biodiversity in our natural areas

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 principals whilst reflecting the current and future community's needs

2.3.4 Facilitate the provision of development that meets the changing needs and expectations of the community

Consultations

Internal

Nil

External

The Gateway Determination required the Planning Proposal to be exhibited for 28 days. The Planning Proposal was placed on public exhibition between 20 November 2013 and 18 December 2013.

The exhibition was notified on Council's website, advertised in the Lake Times, letters sent to the property owner, adjoining and nearby property owners and the exhibition material was displayed in all our libraries and at our customer service counter in our administration building.

Letters and exhibition material were sent to the NSW Office of Environment and Heritage and the Southern Rivers Catchment Management Authority.

Submission

One written submission was received and this was from the landowner. The issues raised are summarised below:

- Commend Council on its proactive approach in seeking to address the urban fringe lands
- Have welcomed the opportunity to work with Council officers to bring the proposal to this point
- Intend to keep the vast majority of the property in family's ownership and are building the family home on the plateau section of the property
- The proposed six lots is a modest proposal compared with what has been proposed in the past and is very much aligned with the overall objectives of the Urban Fringe LES
- As long term residents of Albion Park are also conscious of issues such as maintaining the existing character of local community, including rural vistas on the eastern slopes of the property. This proposal seeks to address this by not proposing any additional lots behind the existing houses in Huon Crescent.

Comment

Points made in the submission are noted. There are no planning issues that need to be addressed or explained.

Political Donations Disclosure

Under Section 147(4) of the *Environmental Planning and Assessment Act 1979* (the Act) a person who makes a relevant planning application to Council is required to disclose any reportable political donations and gifts made by any person with a financial interest in the application within the period commencing two years before the application is made and ending when the application is determined, including:

- a. all reportable political donations made to any Councillor of this Council
- b. all gifts made to any Councillor or employee of this Council.

Under Section 147(5) of the *Act*, these disclosure requirements also apply to a person, or any associate of a person, who makes a relevant public submission to Council in relation to a relevant planning application.

Note: Section 147(1) of the Act states: 'political donations or gifts are not relevant to the determination of any such planning application, and the making of political donations or gifts does not provide grounds for challenging the determination on any such planning application'.

The Disclosure Statement received by Council indicates that no reportable donations or gifts have been made.

Recommendation

That Council:

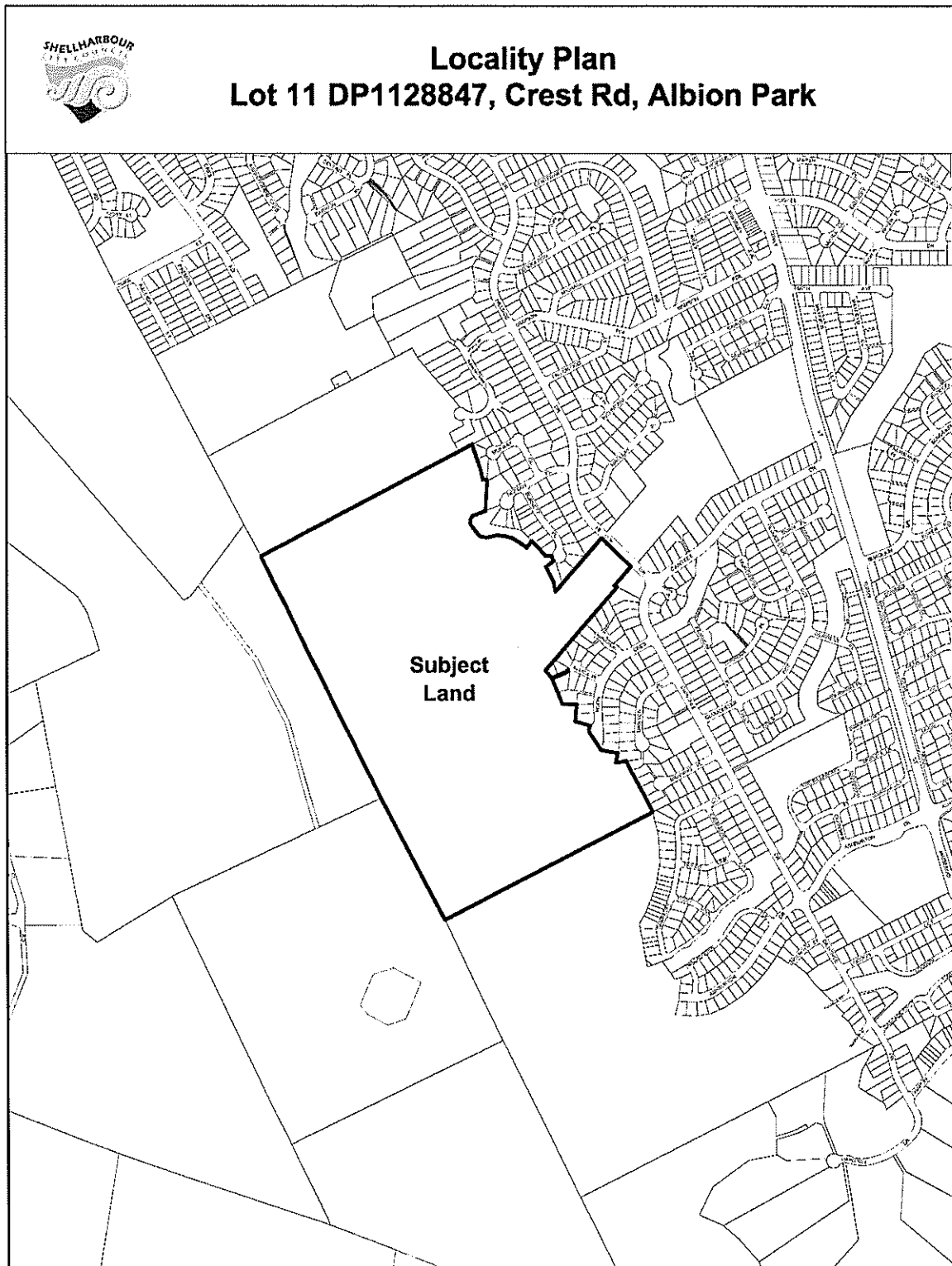
1. **adopt the Zoning and Planning Controls for Shellharbour Local Environmental Plan 2013 Planning Proposal No 10 as outlined in Attachment 2.**
2. **authorise the General Manager to amend the Zoning and Planning Control Maps for Shellharbour Local Environmental Plan 2013 Planning Proposal No 10 as outlined in Attachment 3.**
3. **authorise the General Manager to forward the revised Planning Proposal as outlined in Attachment 2 to the Minister for Planning under Section 58(2) of the *Environmental Planning & Assessment Act 1979*.**
4. **authorise the General Manager to request the Minister for Planning to prepare the Draft Local Environmental Plan and make the Plan under Section 59 of the *Environmental Planning & Assessment Act 1979*.**
5. **delegate to the General Manager the authority to make minor mapping and wording changes if and as required by the Director General of the NSW Department of Planning & Environment or the Parliamentary Counsel's office.**

Approved for Council's consideration: _____

Attachments

1. Locality Plan
2. Table of Zoning and Planning Controls
3. Maps to amend Shellharbour LEP 2013 (Available to view on Council's website)

Attachment 1 – Locality Plan



Printed: 27/06/2013

This map is supplied on the understanding that Council will not be responsible for any loss or damage which may result from any use made of such information as a result of errors or omissions contained in the map.
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Scale 1:10,000

Attachment 2 – Table of Zoning and Planning Controls

No.	Property	Area	Current Zone/Schedule	Proposed Planning Controls	
				Zone	FSR:1
1	Lot 11, DP 1128847, Crest Road, Albion Park	43.1ha	Shellharbour LEP 2000 1(a) Rural, 7(d) Environmental Protection (Scenic) and 2(e) Residential; and Schedule 1 - Four allotments	E3 Environmental Management E4 Environmental Living SP2 Infrastructure - Electricity Transmission and Distribution R2 Low Density Residential (battle-axe handle) Terrestrial Biodiversity	R2: 0.5:1
				Min Lot Size <ul style="list-style-type: none"> • 34ha x 1 • 1ha x 3 • 600m² x 1 • 4000m² x 1 • 450m² (battle-axe handle) 	Height 9.0m all land

11.2.2 – Attachment 3

Planning Proposal No.10



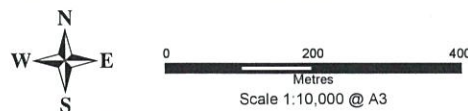
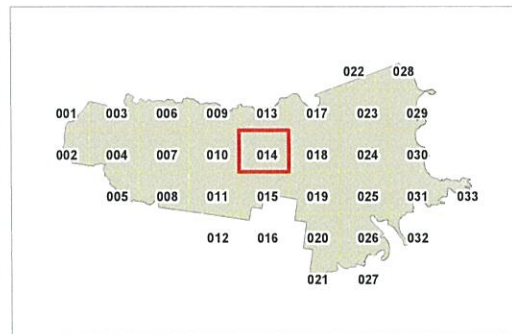
Shellharbour Local Environmental Plan 2013

Terrestrial Biodiversity Map
- Sheet BIO_014

 Environmentally Sensitive Land

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Projection GDA 1994
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Map identification number:
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Shellharbour Local Environmental Plan 2013

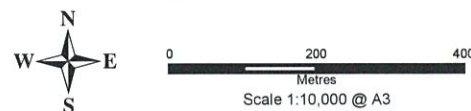
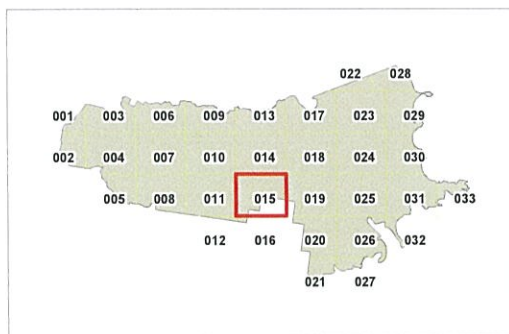
Floor Space Ratio Map - Sheet FSR_015

Maximum Floor Space Ratio (n:1)

- D 0.5
- H 0.7
- N 1
- S 1.5

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Shellharbour Local Environmental Plan 2013

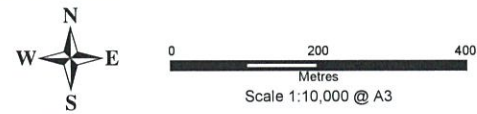
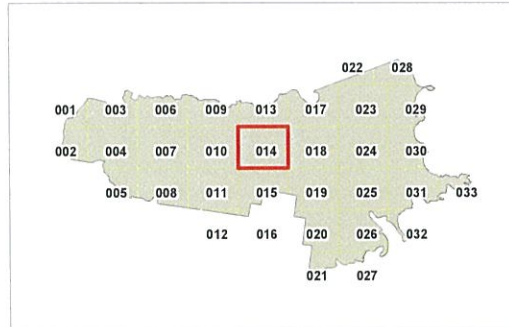
Height of Buildings Map - Sheet HOB_014

Maximum Building Height (m)

- E 6
- J 9
- L 11
- M 12
- O 15
- P 18
- T 25
- V 36

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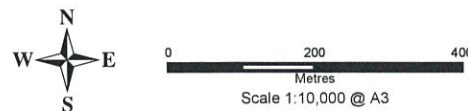
Height of Buildings Map
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KIAMA
MUNICIPAL COUNCIL



Shellharbour Local Environmental Plan 2013

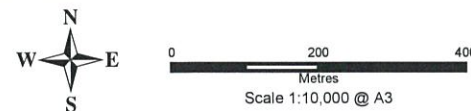
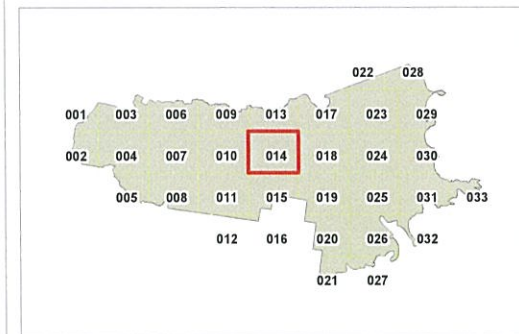
Lot Size Map - Sheet LSZ_014

Minimum Lot Size (sq m)

- G 450
- M 600
- V 2000
- W1 4000
- W2 4600
- Y 1 ha
- Z1 2.4 ha
- Z2 2.7 ha
- AA 8 ha
- AB1 10 ha
- AB2 16 ha
- AB3 17 ha
- AB4 20 ha
- AB5 22 ha
- AB6 26 ha
- AB7 34 ha
- AB8 40 ha
- AB9 42 ha

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Shellharbour Local Environmental Plan 2013

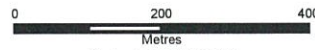
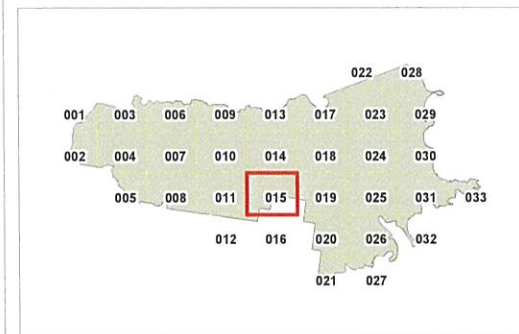
Lot Size Map - Sheet LSZ_015

Minimum Lot Size (sq m)

G	450
M	600
V	2000
W1	4000
W2	4600
Y	1 ha
Z1	2.4 ha
Z2	2.7 ha
AA	8 ha
AB1	10 ha
AB2	16 ha
AB3	17 ha
AB4	20 ha
AB5	22 ha
AB6	26 ha
AB7	34 ha
AB8	40 ha
AB9	42 ha

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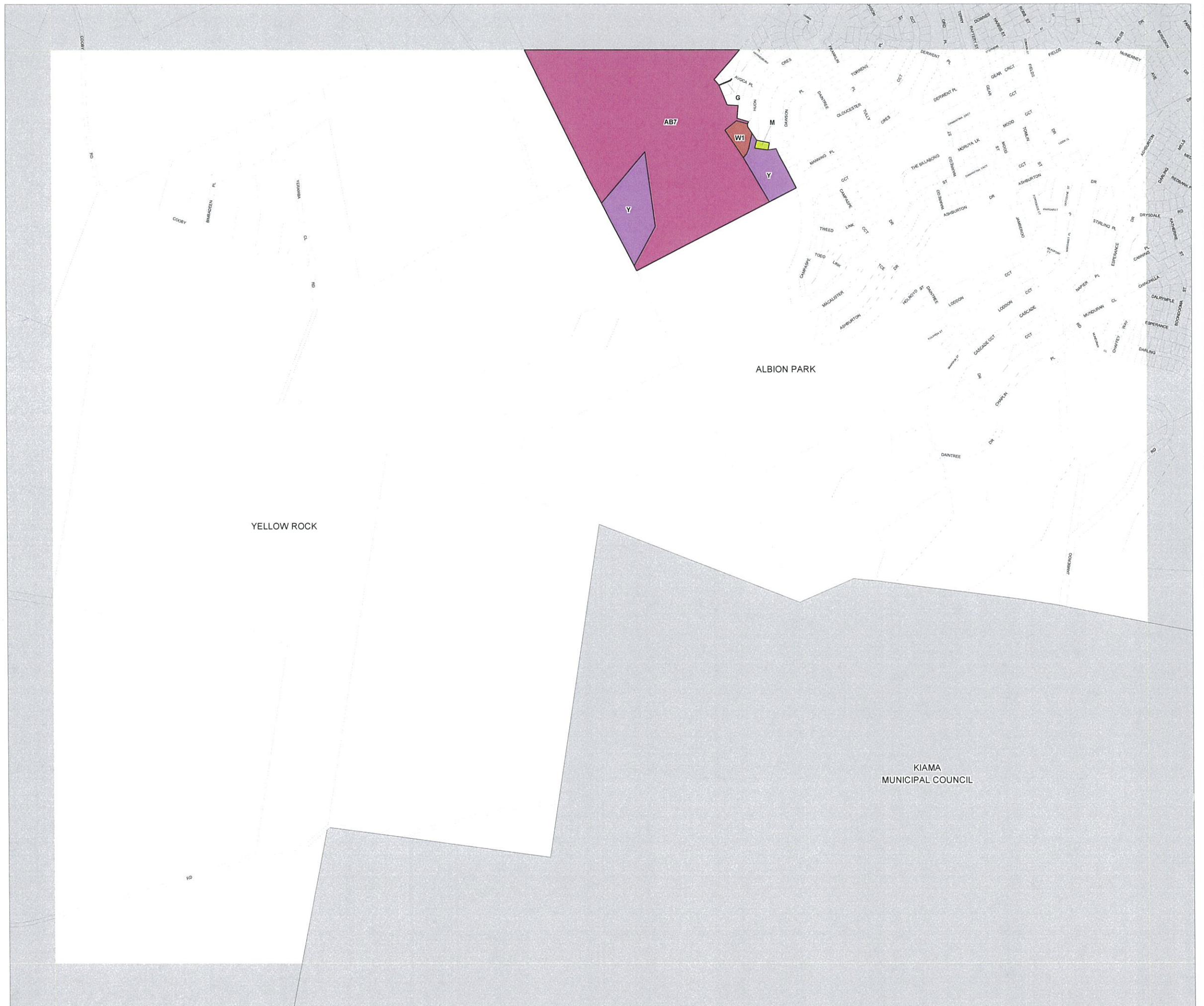
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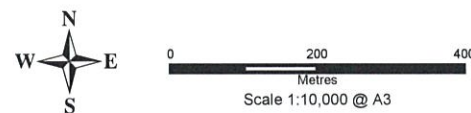
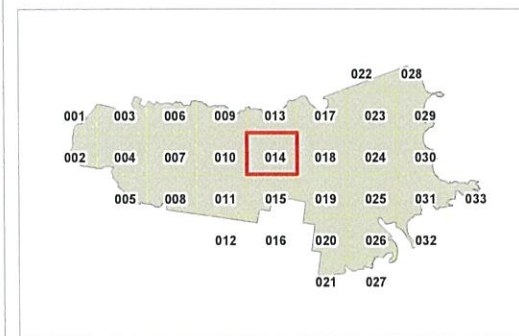
Land Zoning Map - Sheet LZN_014

Zone

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- B7 Business Park
- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E3 Environmental Management
- E4 Environmental Living
- IN1 General Industrial
- IN2 Light Industrial
- R2 Low Density Residential
- R3 Medium Density Residential
- R5 Large Lot Residential
- RE1 Public Recreation
- RE2 Private Recreation
- RU1 Primary Production
- RU2 Rural Landscape
- RU6 Transition
- SP1 Special Activities
- SP2 Infrastructure
- W1 Natural Waterways
- W2 Recreational Waterways
- DM Deferred Matter
- MD SEPP (Major Development) 2005

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Shellharbour Local Environmental Plan 2013

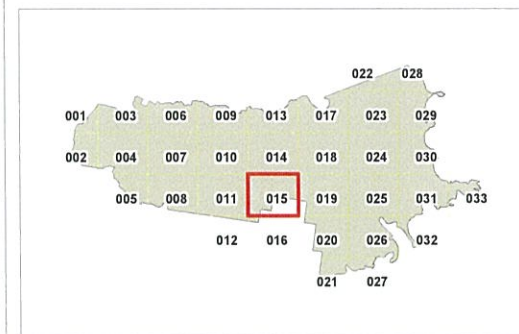
Land Zoning Map - Sheet LZN_015

Zone

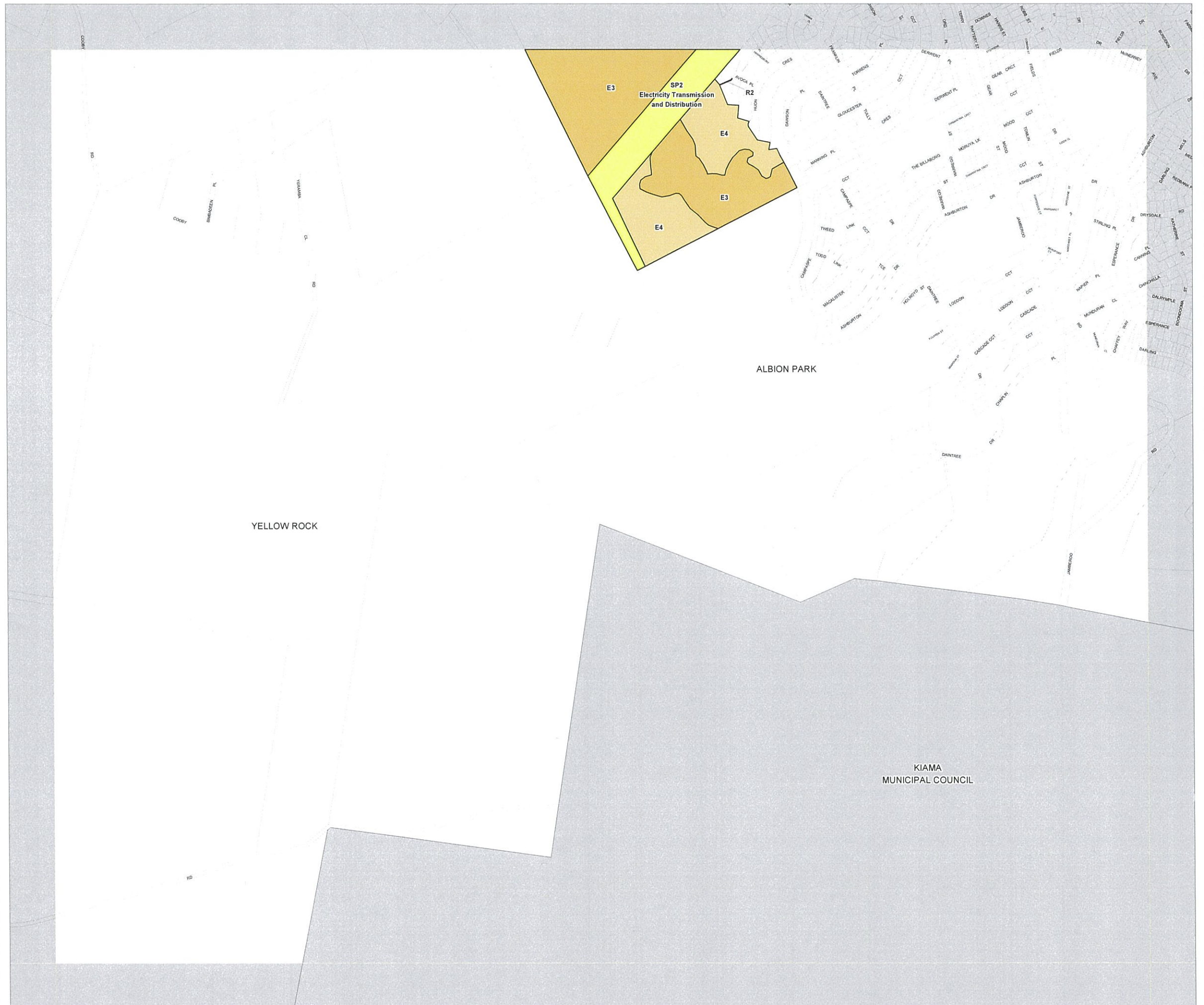
- B1 Neighbourhood Centre
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- E3 Environmental Management
- E4 Environmental Living
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- IN2 Light Industrial
- R2 Low Density Residential
- R3 Medium Density Residential
- R5 Large Lot Residential
- RE1 Public Recreation
- RE2 Private Recreation
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Shellharbour Local Environmental Plan 2013

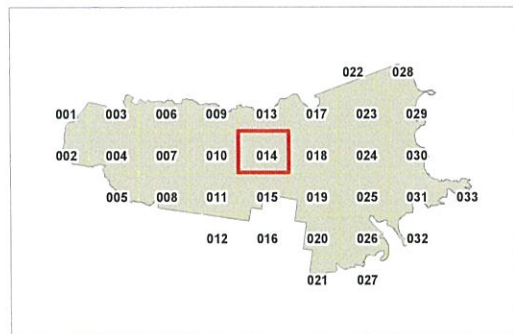
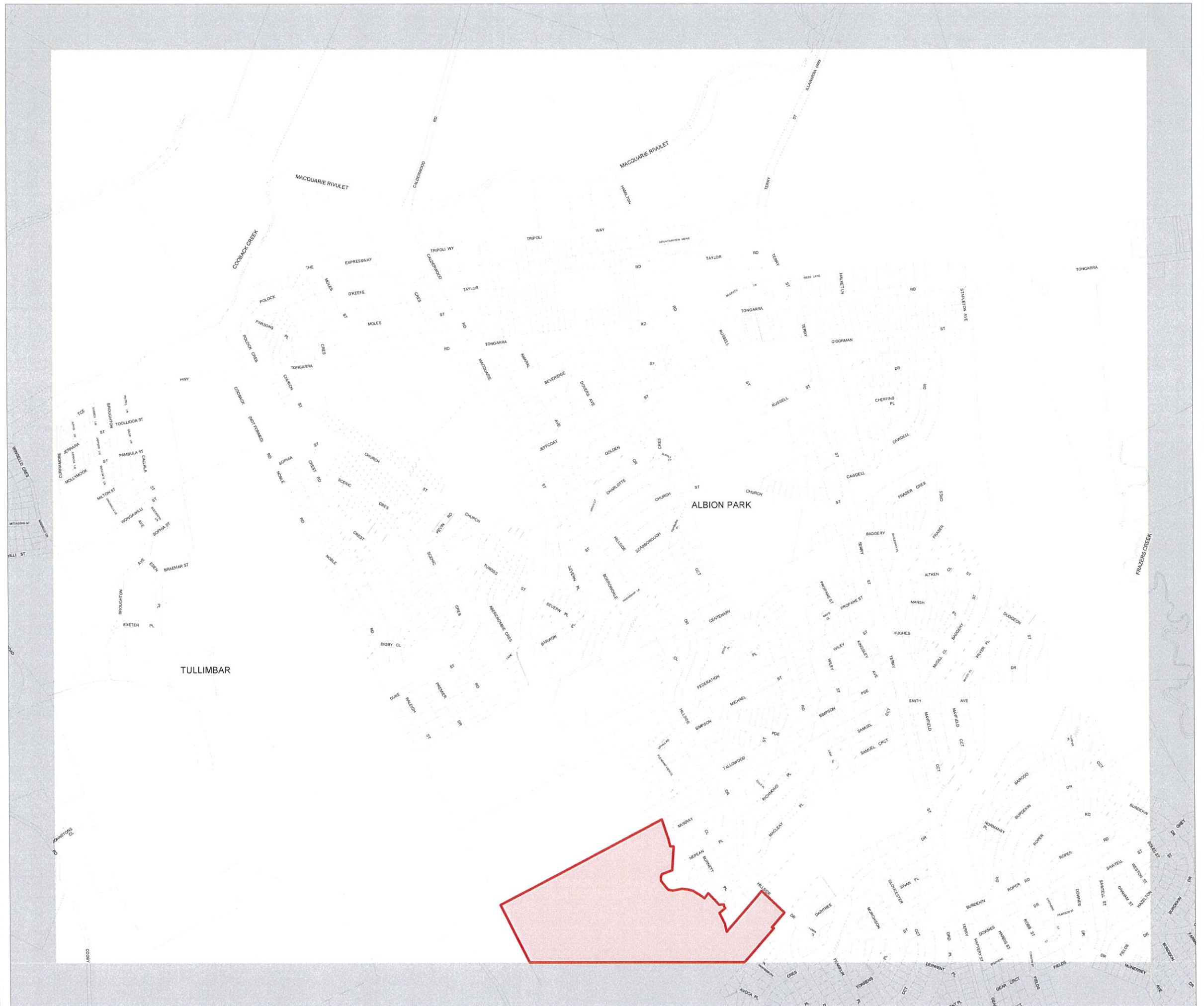
Site Identification Map
- Sheet SIM_014

Proposed Zone

 Subject Land

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**Shellharbour Local
Environmental
Plan 2013**

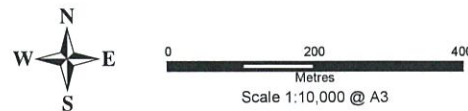
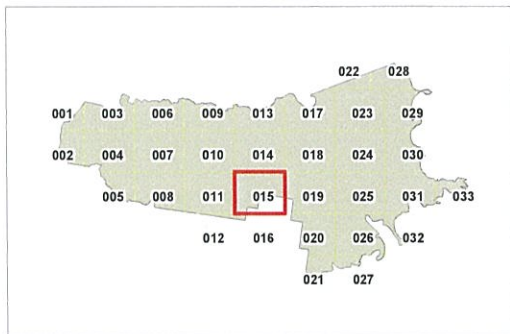
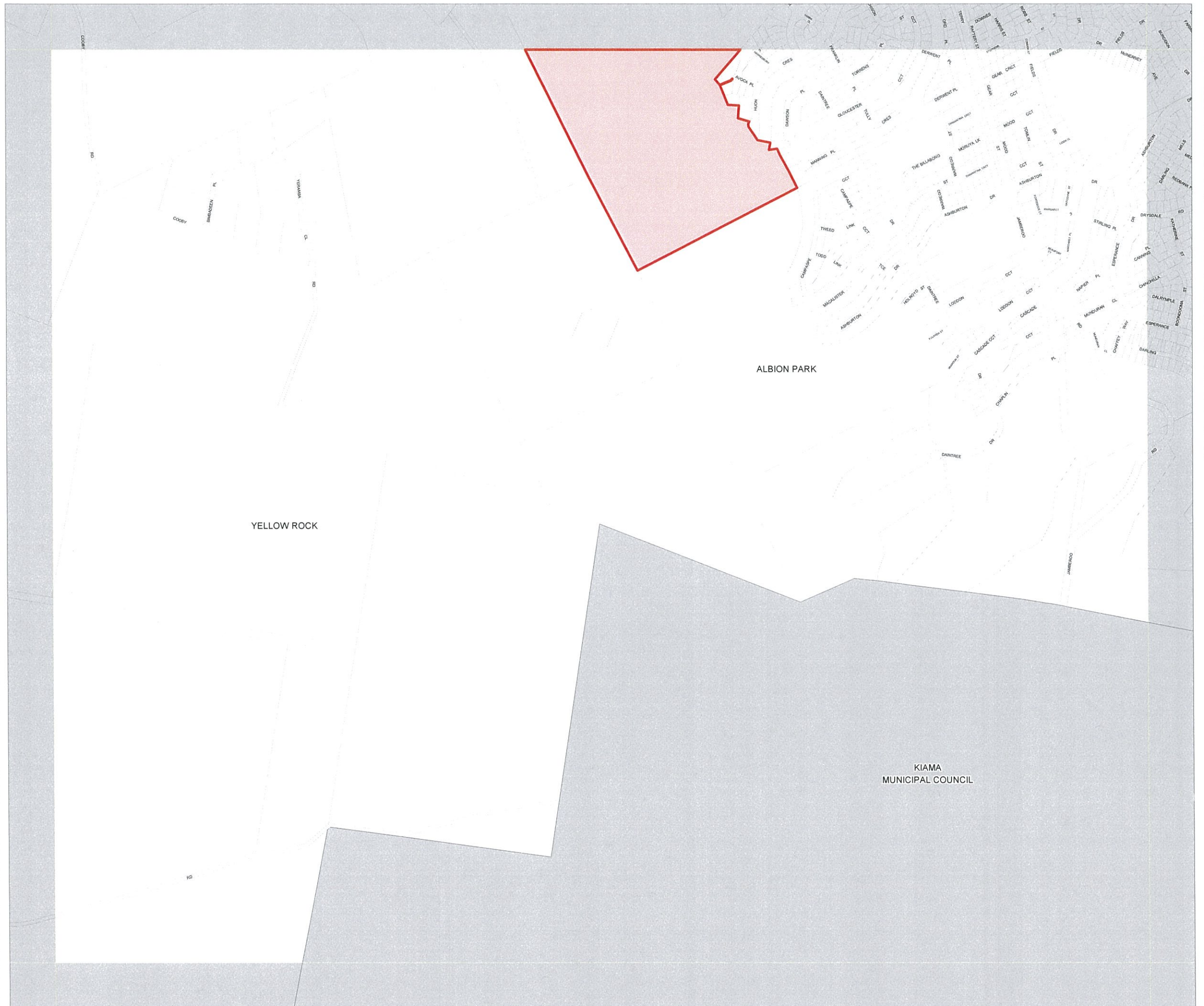
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Proposed Zone

 Subject Land

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