



city council

PLANNING PROPOSAL

AMENDMENT TO THE MAITLAND LEP 2011

**ABERGLASSLYN HOUSE HERITAGE CONSERVATION AREA
ABERGLASSLYN**

(VARIOUS LOTS SURROUNDING ABERGLASSLYN HOUSE)

Version 2.0
November 2016



CONTENTS

INTRODUCTION	1
PART 1: OBJECTIVES OR INTENDED OUTCOMES	4
PART 2: EXPLANATION OF PROVISIONS.....	4
PART 3: JUSTIFICATION FOR PROPOSED REZONING.....	5
SECTION A – NEED FOR THE PLANNING PROPOSAL	5
SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK.....	9
SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT	11
SECTION D – STATE AND COMMONWEALTH INTERESTS.....	11
PART 4: DRAFT LEP MAPS	12
PART 5: COMMUNITY CONSULTATION	19
PART 6: TIMEFRAMES	20

Version 1.0 – October 2016 (For Section 55 Council Report)

Version 2.0 – November 2016 (For Gateway Determination)

Tables

Table 1: Land affected by proposed Heritage Conservation Area.....	4
Table 2: Proposed changes to land zones.	4
Table 3: Proposed changes to minimum lot size maps.	5
Table 4: s117 Directions.	9

INTRODUCTION

This planning proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979. It explains the intended effect of, and justification for the proposed amendment to Maitland Local Environmental Plan 2011 (MLEP 2011) to reinstate and expand the Heritage Conservation Area (HCA) around Aberglasslyn House and to rezone land within that proposed HCA to better reflect intended built outcome of the area.

This planning proposal is the result of a direction given by the Department of Planning during the drafting of the MLEP2011 to remove the Heritage Control Area from the LEP and map it in the Maitland Development Control Plan 2011 (DCP). This direction has created vulnerabilities in the protection of the curtilage Aberglasslyn House.

This planning proposal addresses concerns that the existing development controls are not adequate to ensure that the curtilage of the Aberglasslyn House is protected from inappropriate development associated with the Aberglasslyn Urban Release Area.

The planning proposal applies to land within the Aberglasslyn Urban Release Area.

Background

Aberglasslyn House is a State Listed item. It is an incomplete, two-storey, early Victorian house overlooking a bend in the Hunter River. It is built of finely worked Ravensfield sandstone with a slate roof. It is a large rectangular house, drawing in plan from the compact form of the late 18th and early 19th century English neo-classical villas, with well-proportioned rooms arranged around a central square hall containing a geometric staircase describing a circular wall beneath a hemispherical dome. Because of the disastrous financial depression of the early 1840s the house was not finished to the original plan - planned rear single storey wings containing offices were not built and only part of the interior detailing was completed. In the late 1850s most of the unfinished detailing was made good in a simple manner with mitred, moulded architraves instead of the elaborate aedicular forms of the original work. At this time two storeyed verandahs of cast iron columns on sandstone plinths were built instead of the single storey colonnade originally planned, for which sandstone columns had been quarried and moulded.

The workmanship of the first build and the materials used are of the highest quality; in particular the Ravensfield stone and the cedar. The house retains in its wallpapers and paint finished, together with its services (bells, water closet and ballroom) exhibit remarkable evidence of both building, the effect of the financial depression and the taste of its builders.

Aberglasslyn is intimately sited close to the Hunter River. It commands extensive pastoral views and is a dramatic European monument set in isolation in an antipodean landscape.

Statement of significance:

It is arguably the finest extant Greek Revival style villa (in the 18th century sense of the word) in Australia. The configuration of its fabric, largely in its c1860 form, is patent physical evidence of the high expectations of colonial settlers of the 1830s and early 1840s and the severity of the

economic crash of the 1840s. It is the earliest known surviving example in Australia of a house design generated in part by considerations of an integrated sanitary plumbing system. The building is one of a group of surviving pre-1850 in the vicinity of Maitland. The house and setting is physical evidence of the pattern of land settlement and leasehold farming in the Maitland area. It contains elements of high individual and often unique quality, including a domed stairwell and geometric stair of unique quality and design in Australia. The place is perceived by many knowledgeable people to be one of the major sites of cultural significance in Australia. On a regional basis the building is an historic landmark (monument). It is an exemplary example of the 19th century builder's art embodied in the quality of the stonework, brickwork, timber selection, carpentry and joinery, plasterwork, hardware etc. (Clive Lucas & Partners 1985:32-33)

Maitland Local Environmental Plan 1993

Under the Maitland Local Environmental Plan 1993 Aberglasslyn House and its curtilage was protected against development of the Aberglasslyn Urban Release Area by the following local clause:

39A Development within the Aberglasslyn House Heritage Control Area

- 1) *This clause applies to the Aberglasslyn House Heritage Control Area.*
- 2) *Despite any other provision of this plan, the Council must not grant consent to an application to carry out development on land within the Aberglasslyn House Heritage Control Area unless:*
 - a) *the Council has assessed the effect that the development will have on the heritage significance of Aberglasslyn House and its setting and is satisfied, as a result of that assessment, that the development is not incompatible with that heritage significance, and*
 - b) *a development control plan applying to the Aberglasslyn House Heritage Control Area has been prepared that provides for the following:*
 - i. *a subdivision layout,*
 - ii. *(ii) amelioration of visual impacts of the development on the curtilage of Aberglasslyn House,*
 - iii. *an overall landscaping strategy, including the extent, location and form of landscaping,*
 - iv. *detailed urban design controls, including building envelopes, building materials and colours.*

During the preparation and drafting of the Maitland LEP 2011, the Department advised that a local provision clause was not required, as the protection of this heritage item and its curtilage is provided for under clause 5.10. To further protect the land 'in the vicinity of a heritage item', the Department suggested an amendment to the DCP to identify the heritage control area specifically.

The Development Control Plan does identify the heritage control area and to date this has been reasonably effective at controlling development. However, the Development Control Plan is a subordinate document to the Local Environmental Plan. Therefore, there is risk the area could be further subdivided as the LEP development standards for lot size and land use zone permit further subdivision.

Ancillary buildings including sheds have been constructed and are visible above the ridgeline from Aberglasslyn House (refer Figure 1 and Figure 2). This may be considered a minor incursion into the curtilage at this point. However, the existing development controls continue to permit rural sheds and ancillary buildings as exempt development¹. The MLEP2011 does permit the subdivision of the R1 zoned land to create additional residential lots.

For these reasons it is proposed to make the following changes to the MLEP2011:

1. Reinstate and expand the heritage conservation area to include Aberglasslyn House and its curtilage.
2. Rezone the land from RU2 and R1 (Part) to E3 Environmental Management.
3. Amend the lot size map (Part) from 450m² to 40ha.

¹ On rural zoned land, rural sheds up to 50m² (on lots <2ha) and 200m² (on lots >2ha) are exempt development under the SEPP (Exempt and Complying Development) 2008. On residential land there are a number of exempt development types that could encroach on the visual curtilage of Aberglasslyn House and undermine the integrity of the curtilage.

PART 1: OBJECTIVES OR INTENDED OUTCOMES

To amend the Maitland Local Environmental Plan 2011 to protect the curtilage of Aberglasslyn House.

PART 2: EXPLANATION OF PROVISIONS

The planning proposal seeks:

- To amend the HER map series to introduce a heritage conservation area including and surrounding land around Aberglasslyn House in accordance with Figure 7.
- To amend the lot size to a minimum of 40ha for including and surrounding land around Aberglasslyn House in accordance with Figure 9.
- To amend the land use zone to E3 Environmental Management for land surrounding Aberglasslyn House in accordance with Figure 11.

Table 1: Land affected by proposed Heritage Conservation Area.

Lot/DP	Address	Affected
3/DP255369	92 ABERGLASSLYN LANE ABERGLASSLYN	Entire lot
3/DP1124849	36 COCKATOO RIDGE ABERGLASSLYN	Part lot
1909/DP1162515	56 COCKATOO RIDGE ABERGLASSLYN	Part lot
1912/DP1162515	50 COCKATOO RIDGE ABERGLASSLYN	Part lot
1902/DP1162514	70 COCKATOO RIDGE ABERGLASSLYN	Part lot
1905/DP1162514	64 COCKATOO RIDGE ABERGLASSLYN	Part lot
2705/DP1163947	26 COCKATOO RIDGE ABERGLASSLYN	Part lot
2805/DP1169721	16 COCKATOO RIDGE ABERGLASSLYN	Part lot
2902/DP1169722	8 COCKATOO RIDGE ABERGLASSLYN	Part lot
3900/DP1220527	SANDPIPER CIRCUIT ABERGLASSLYN	Part lot

Table 2: Proposed changes to land zones.

Lot/DP	Address	Existing zone	Proposed zone
3/DP255369	92 ABERGLASSLYN LANE ABERGLASSLYN	RU2	E3
3/DP1124849	36 COCKATOO RIDGE ABERGLASSLYN	R1/RU2	R1/E3
1909/DP1162515	56 COCKATOO RIDGE ABERGLASSLYN	R1/RU2	R1/E3
1912/DP1162515	50 COCKATOO RIDGE ABERGLASSLYN	R1/RU2	R1/E3
1902/DP1162514	70 COCKATOO RIDGE ABERGLASSLYN	R1/RU2	R1/E3
1905/DP1162514	64 COCKATOO RIDGE ABERGLASSLYN	R1/RU2	R1/E3
2705/DP1163947	26 COCKATOO RIDGE ABERGLASSLYN	R1/RU2	R1/E3
2805/DP1169721	16 COCKATOO RIDGE ABERGLASSLYN	R1	R1/E3
2902/DP1169722	8 COCKATOO RIDGE ABERGLASSLYN	R1	R1/E3

Table 3: Proposed changes to minimum lot size maps.

Lot/DP	Address	Existing min lot size	Proposed min lot size
3/DP1124849*	36 COCKATOO RIDGE ABERGLASSLYN	450m2/40ha	450m2/40ha
1909/DP1162515*	56 COCKATOO RIDGE ABERGLASSLYN	450m2/40ha	450m2/40ha
1912/DP1162515*	50 COCKATOO RIDGE ABERGLASSLYN	450m2/40ha	450m2/40ha
1902/DP1162514*	70 COCKATOO RIDGE ABERGLASSLYN	450m2/40ha	450m2/40ha
1905/DP1162514*	64 COCKATOO RIDGE ABERGLASSLYN	450m2/40ha	450m2/40ha
2705/DP1163947*	26 COCKATOO RIDGE ABERGLASSLYN	450m2/40ha	450m2/40ha
2805/DP1169721	16 COCKATOO RIDGE ABERGLASSLYN	450m2	450m2/40ha
2902/DP1169722	8 COCKATOO RIDGE ABERGLASSLYN	450m2	450m2/40ha

* The area of the each lot size has changed.

PART 3: JUSTIFICATION FOR PROPOSED REZONING

In accordance with the Department of Planning's 'Guide to Preparing Planning Proposals', this section provides a response to the following issues:

- Section A: Need for the planning proposal;
- Section B: Relationship to strategic planning framework;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

SECTION A – NEED FOR THE PLANNING PROPOSAL

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

No. The planning proposal is the result of a complaint received from the owners of Aberglasslyn House about the visibility of structures associated with residential development of Aberglasslyn Urban Release Area. On inspection, it is clear that ancillary development (for example; sheds etc) are visible above the ridgeline from the house (refer Figure 1 and Figure 2).

The Maitland LEP 1993 contained a heritage control area (Figure 5) and a local clause that effectively protected Aberglasslyn House and its curtilage. However, in the drafting of the Maitland LEP 2011 the Department of Planning advised that the local clause was not required and any controls should be moved to the DCP. The primary reasons that Council is now seeking to reintroduce LEP controls to protect Aberglasslyn House are:

1. The DCP is subordinate to the LEP and the LEP contains controls that would permit further subdivision of the lots (i.e. land zone and minimum lot size) and
2. The SEPP (Exempt and Complying Development Codes) 2008 allows for certain ancillary development (in rural and residential zones) that could further compromise the integrity of the curtilage.

Therefore, this planning proposal proposes to affect changes to the HER, LSZ and LZN maps series to ensure that the curtilage of Aberglasslyn House is protected as was originally anticipated.



Figure 1: View from Aberglasslyn House to Aberglasslyn Urban Release Area.



Figure 2: View from Aberglasslyn House to Aberglasslyn Urban Release Area.



Figure 3: View of ancillary development above ridgeline.



Figure 4: Aberglasslyn Urban Release Area - Western Precinct.

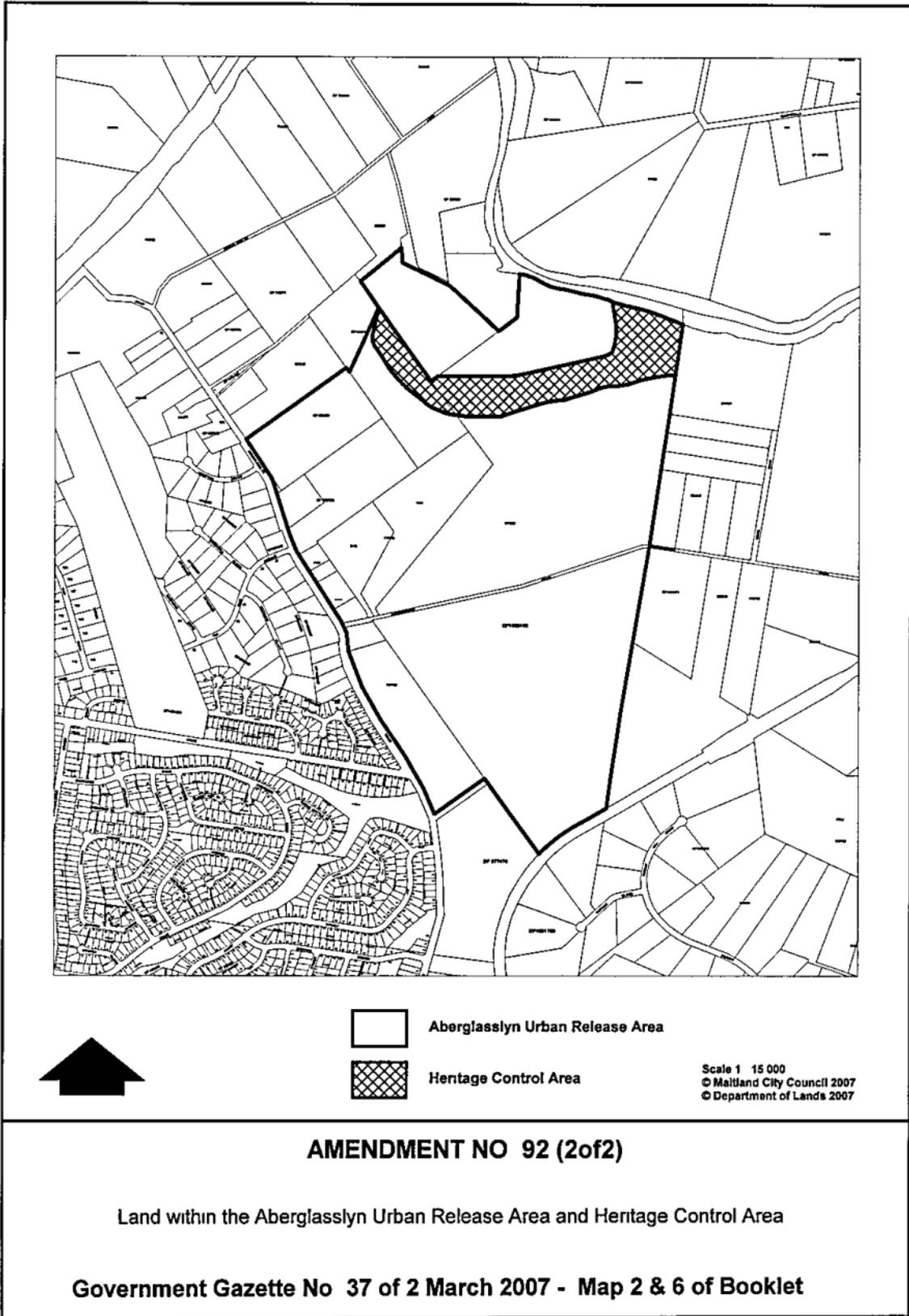


Figure 5: Maitland Local Environmental Plan 2011: Amendment 92.

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

There is no better way to achieve the objectives of this planning proposal. Council's DCP controls have not adequately protected Aberglasslyn House from encroachment of ancillary development associated with the residential development of the Aberglasslyn Urban Release Area. Furthermore, it is possible that further subdivision could occur in the curtilage because of the existing LEP development controls and the subordinate nature of the development control plan.

3. Is there a net community benefit?

No net community benefit test has been undertaken as part of this planning proposal. However, the protection of a state significant heritage asset is a significant community benefit.

SECTION 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?

Hunter Regional Plan 2036

The planning proposal is consistent with the direction 19 of the HRP2036.

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

Maitland +10 (Community Strategic Plan)

The proposal supports the following objective of the Council's community strategic plan (Maitland +10);

- Our unique built heritage is maintained and enhanced, coupled with sustainable new developments to meet the needs of our growing community.

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

There are no applicable State Environmental Planning Policies.

7. Is the planning proposal consistent with applicable Ministerial Directions for Local Plan making?

Table 4: s117 Directions.

s117 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
<p>1.2 Rural Zones</p>	<p>Consistent</p>
<p>The objective of this direction is to protect the agricultural production value of rural land.</p>	<p>The proposal seeks to rezone an area of RU2 Rural Landscape land to E3 Environmental Management. This area of land is not used for rural purposes. It is unlikely to be used for rural purposes in the future due to the proximity and encroachment of residential</p>



s117 DIRECTIONS**CONSISTENCY AND IMPLICATIONS**

development. The proposed E3 Environmental Management zone allows extensive agricultural uses with consent.

1.5 Rural Lands**Consistent**

The objectives of this direction are to protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.

As above.

2. ENVIRONMENT AND HERITAGE**2.3 Heritage Conservation****Consistent**

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The proposal reinstates the protection of Aberglasslyn House and its curtilage that existed until the MLEP 2011.

3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT**3.1 Residential Zones****Consistent**

Encourage a variety and choice of housing, minimise the impact of residential development on the environmental and resource lands and make efficient use of infrastructure and services.

The proposal will reduce the area of R1 General Residential on some of the lots. However, this area was never intended to accommodate additional dwelling houses. In fact the subdivision design is such that all existing residential dwellings are located outside the heritage control area identified in the MDCP2011.

3.3 Home Occupations**Consistent**

To encourage the carrying out of low-impact small businesses in dwelling houses.

The proposal will not affect the permissibility of the home occupations.

5. REGIONAL PLANNING**5.1 Implementation of Regional Strategies****Consistent**

This direction requires a draft amendment to be consistent with relevant state strategies that apply to the LGA.

The proposal is consistent with the Hunter Regional Plan 2036.

6. LOCAL PLAN MAKING**6.1 Approval and Referral****Consistent**

The direction aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

The HCA will be listed as local heritage item in the MLEP2011. Therefore it is unlikely to increase referrals to the Office of Environment and Heritage.

s117 DIRECTIONS

CONSISTENCY AND IMPLICATIONS

6.3 Site Specific Provisions

Consistent

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

The proposal adds additional restrictions on land within the proposed heritage control area. However, this is deemed necessary to ensure the protection of Aberglasslyn House and its curtilage.

SECTION 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?

Not applicable.

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

Not applicable.

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

The planning proposal has considered social and economic effects. There may be some additional restriction on development potential for lots within the proposed E3 Environmental Management Area. However, this was always the intended outcome. The planning proposal will not impact adversely on existing subdivisions and development within the Aberglasslyn URA. The revised zone and lot size controls as well as the reinstatement of the heritage conservation area in the LEP are consistent with the development outcome envisaged for the area.

SECTION D – STATE AND COMMONWEALTH INTERESTS

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

Not applicable.

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

No formal consultation with State and Commonwealth public authorities has been undertaken at this stage. Consultation will occur in accordance with the conditions outlined in the Gateway Determination. It is anticipated that the Office of Environment and Heritage will be consulted in relation to this planning proposal.

PART 4: DRAFT LEP MAPS

The following Draft LEP maps support the proposal:

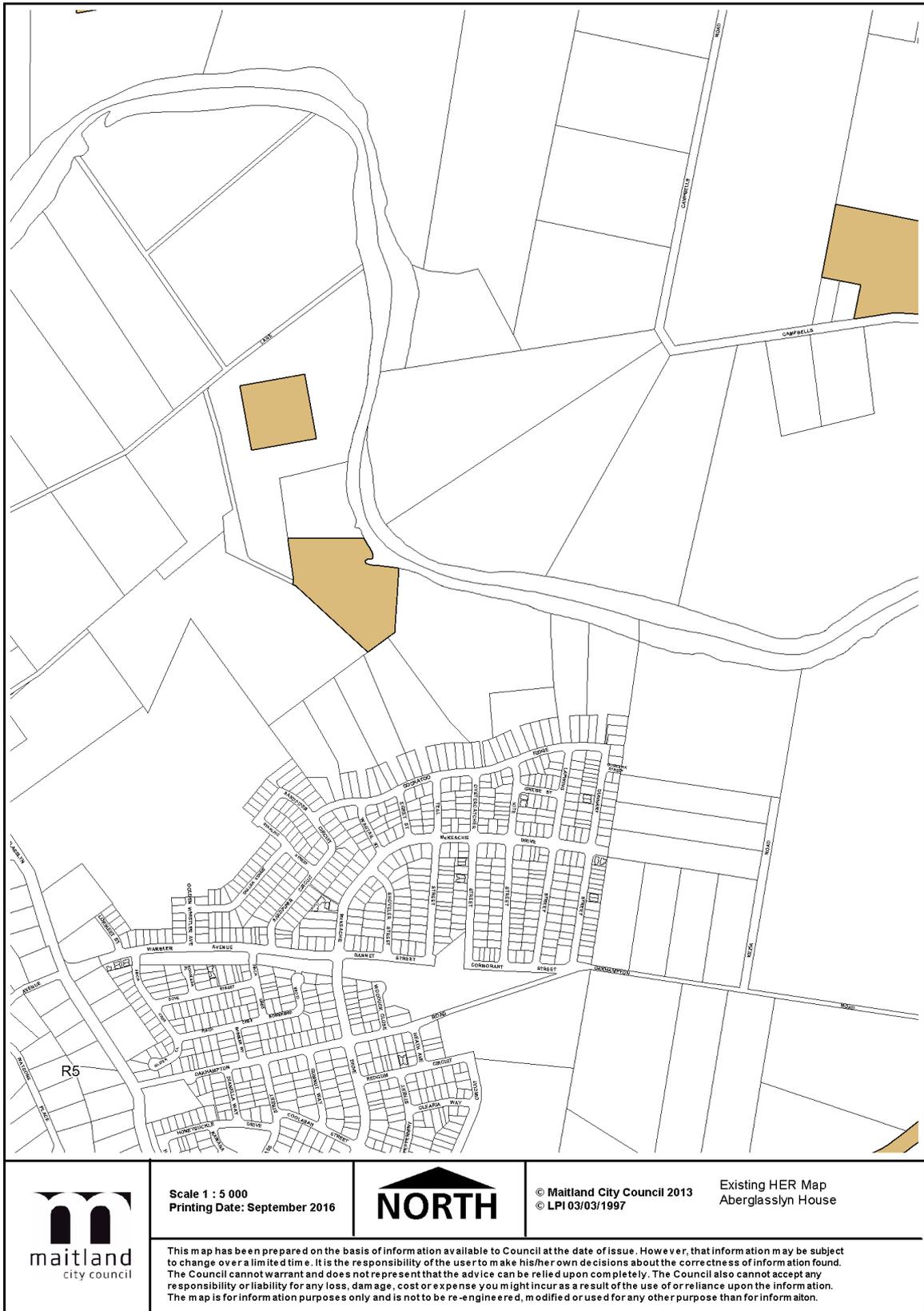


Figure 6: Existing HER map.



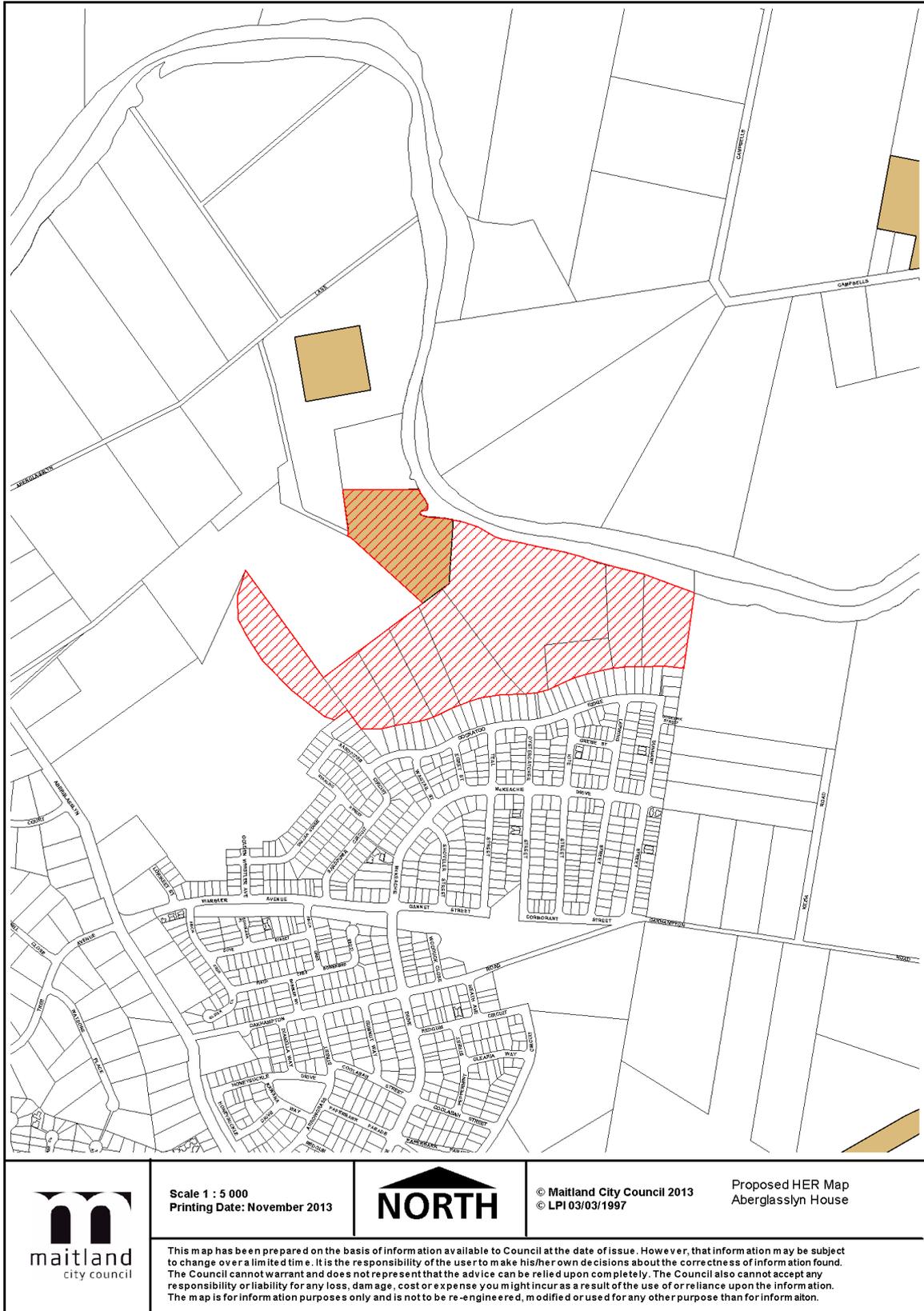


Figure 7: Proposed HER map.



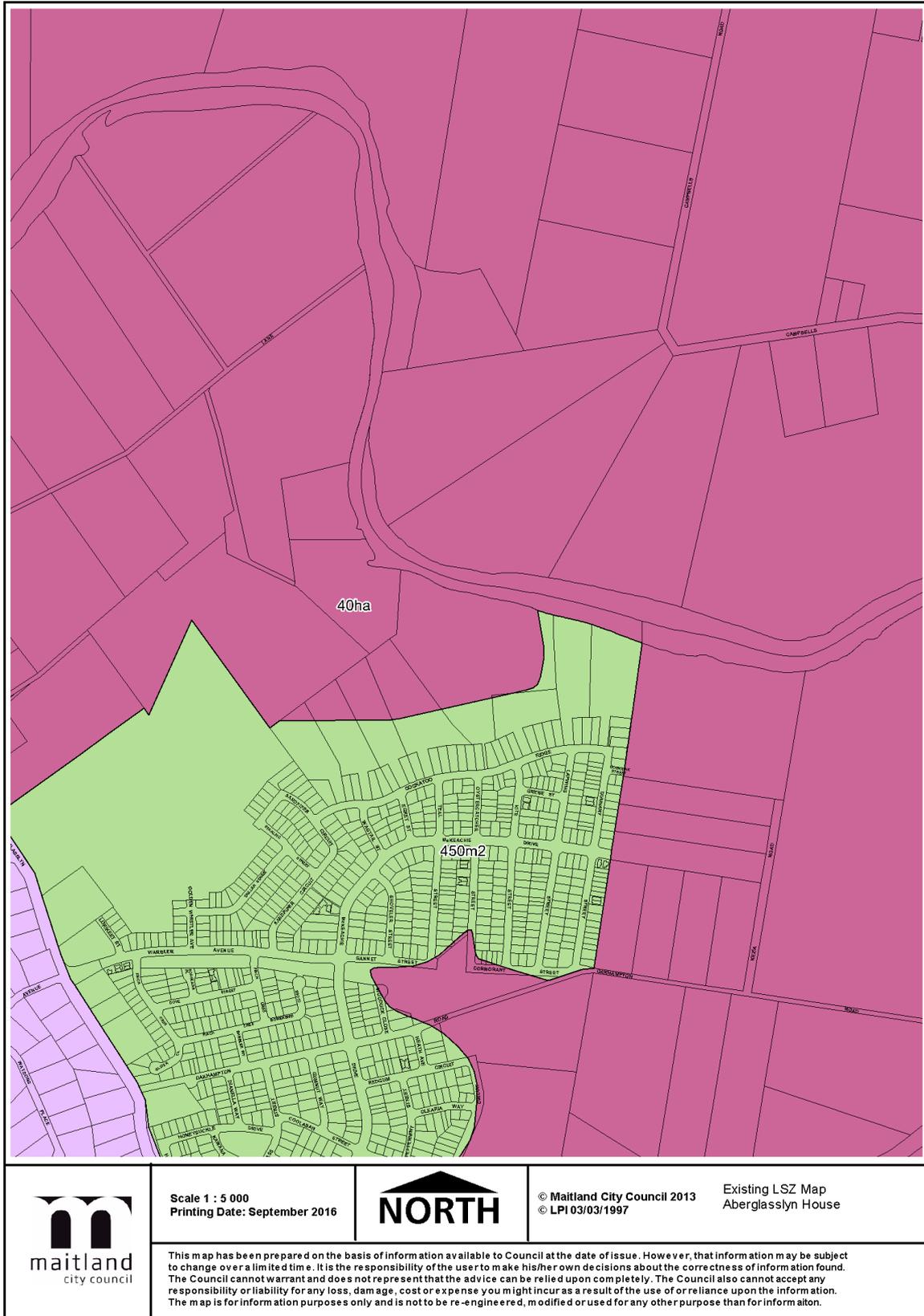


Figure 8: Existing LSZ map.



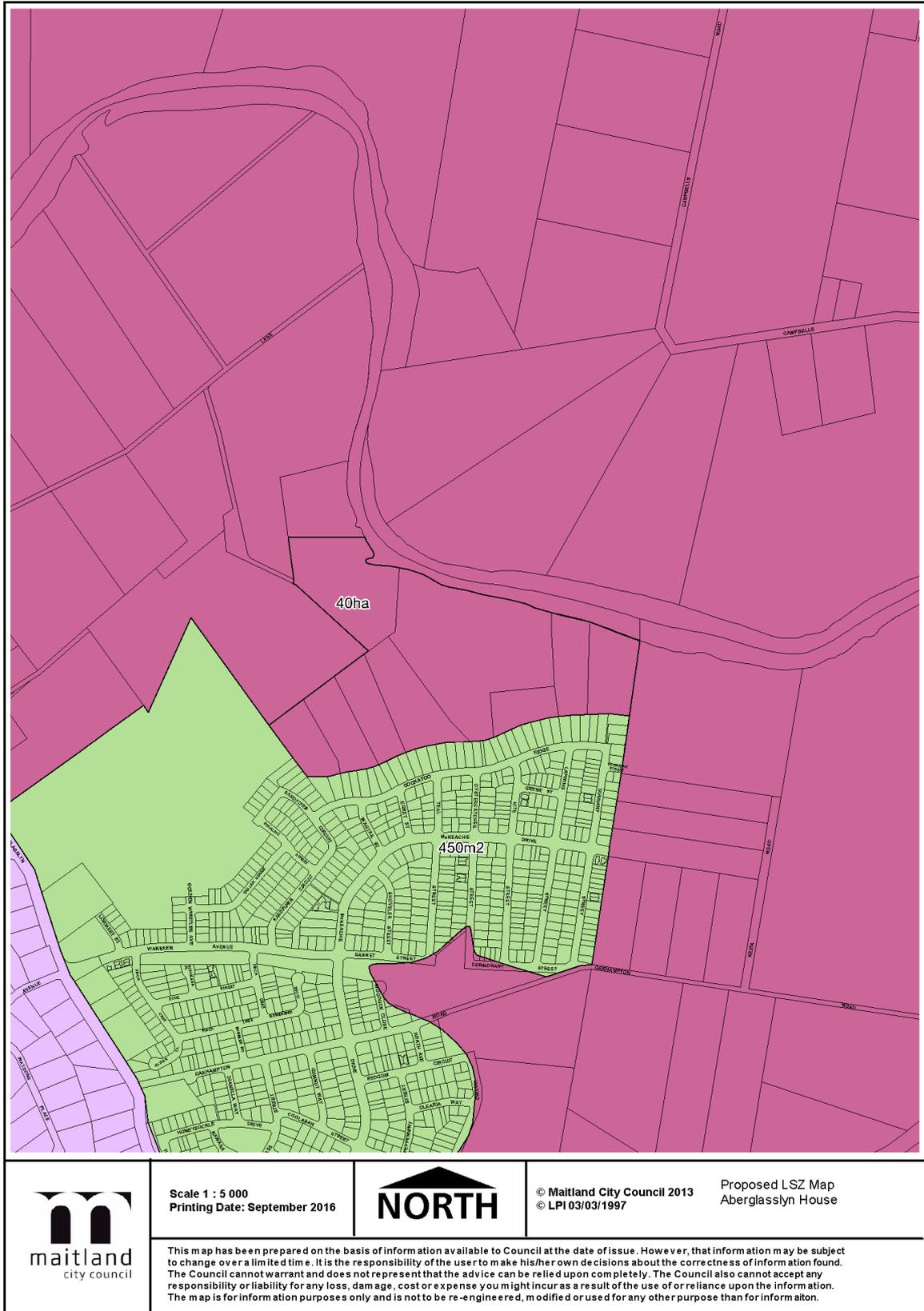


Figure 9: Proposed LSZ map.



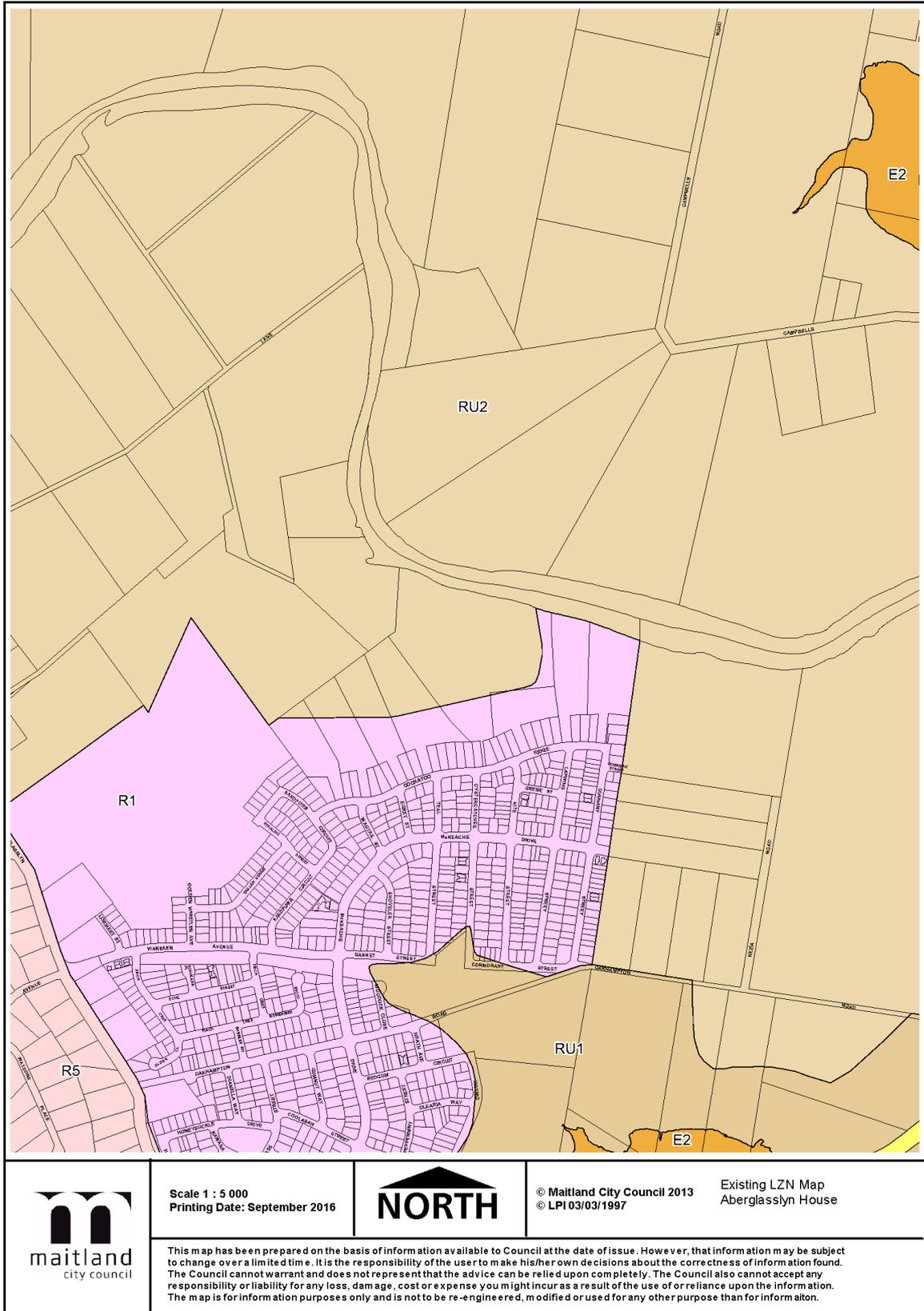


Figure 10: Existing LZN map.



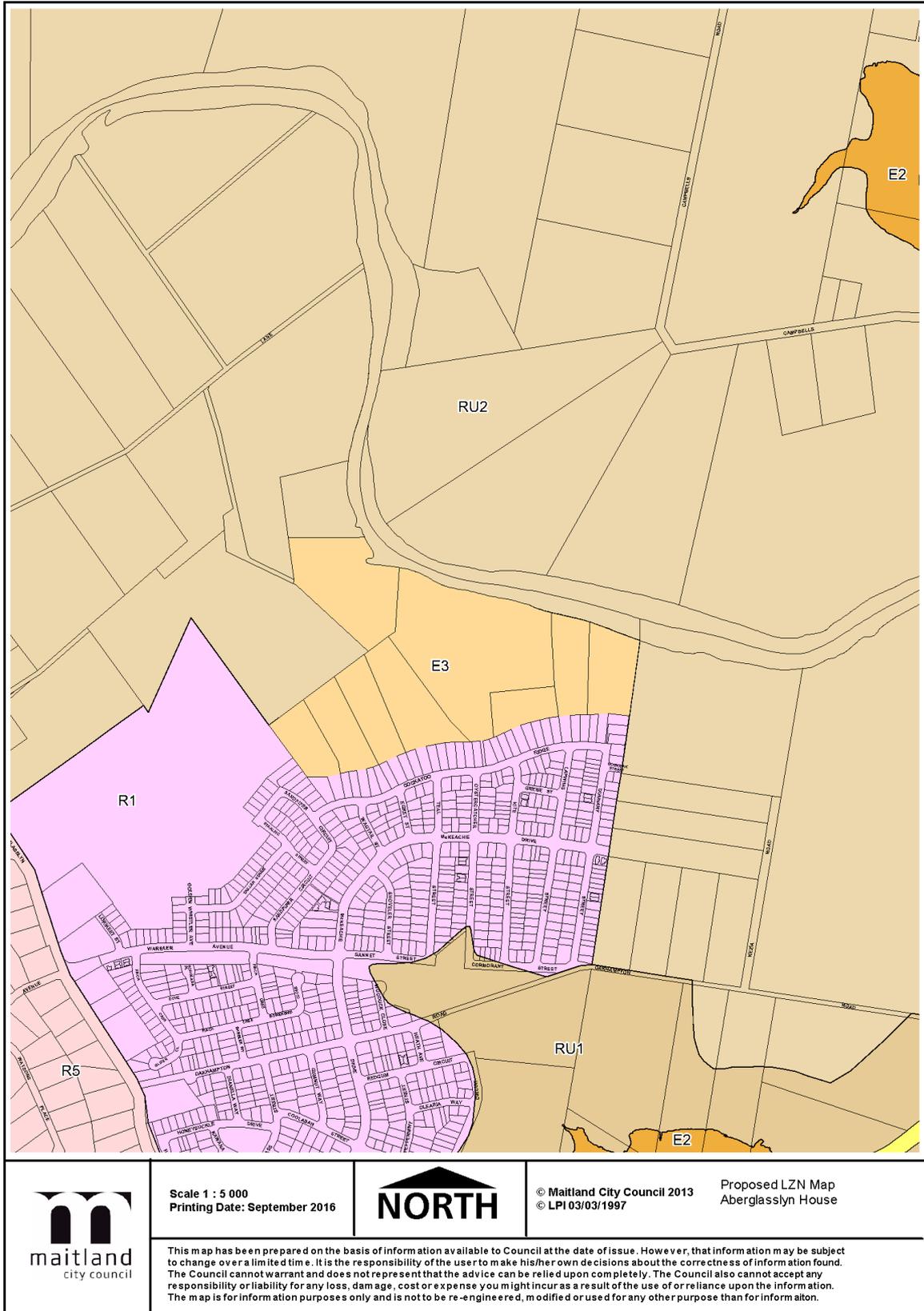


Figure 11: Proposed LZN map.



PART 5: COMMUNITY CONSULTATION

In accordance with Section 57(2) of the Environmental Planning and Assessment Act 1979, community consultation will be undertaken by the local authority prior to approval of the planning proposal. The duration of exhibition will be in accordance with the Gateway Determination.



PART 6: TIMEFRAMES

PROJECT TIMELINE	DATE
Anticipated commencement date (date of Gateway determination)	January 2016
Anticipated timeframe for the completion of required studies	N/a
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination) (21 days)	February 2017
Commencement and completion dates for public exhibition period	March 2017
Dates for public hearing (if required)	N/a
Timeframe for consideration of submissions	April 2017
Timeframe for the consideration of a proposal post exhibition	May 2017
Anticipated date RPA will forward the plan to the department to be made (if not delegated)	June 2017
Anticipated date RPA will make the plan (if delegated)	August 2017
Anticipated date RPA will forward to the department for notification (if delegated)	December 2017