



PLANNING PROPOSAL

Proposed amendment to Port Stephens Local Environmental Plan 2013

Amendment of zoning error for land parcel at 1141 Nelson Bay Road, Fern Bay
(Lot 17; DP 1108060)

February 2015

Contact

Strategic Planning
Ph: (02) 4980 0326

BACKGROUND

This planning proposal aims to amend the Port Stephens Local Environmental Plan 2013 (LEP 2013) by making an amendment under Section 73A Expedited Amendments of Environmental Planning Instruments of the Environmental Planning and Assessment Act 1979 for the land at 1141 Nelson Bay Road, Fern Bay (Lot 17, DP 1108060).

The site (see Figure 1) was incorrectly zoned on the land zone map during the transition to the standard instrument LEP. The map anomaly occurred when transitioning from Port Stephens Local Environmental Plan 2000 to the standard instrument Port Stephens Local Environmental Plan 2013.

This mapping error occurred from the hierarchy drafting of the standard instrument LEP through to the making of the Port Stephens LEP 2013. This occurred because an adjacent property (Lot 1143A; DP 1108060) and a portion of the subject property were nominated by Council's mapping system as owned by National Parks (Figure 2). This occurred in error; the subject property is privately owned and not National Park.

This mapping error needs to be amended to reflect accurate zone information for the subject site.

PLANNING PROPOSAL – ADMINISTRATIVE AMENDMENT

Address: Lot 17, DP 1108060, 1141 Nelson Bay Road, Fern Bay within the Port Stephens Local Government Area.

PART 1 – Objective of the proposed Local Environmental Plan Amendment

The objective of the planning proposal is to rectify an administrative error by rezoning the subject land from E1 National Parks and Nature Reserves to RU2 Rural Landscape.

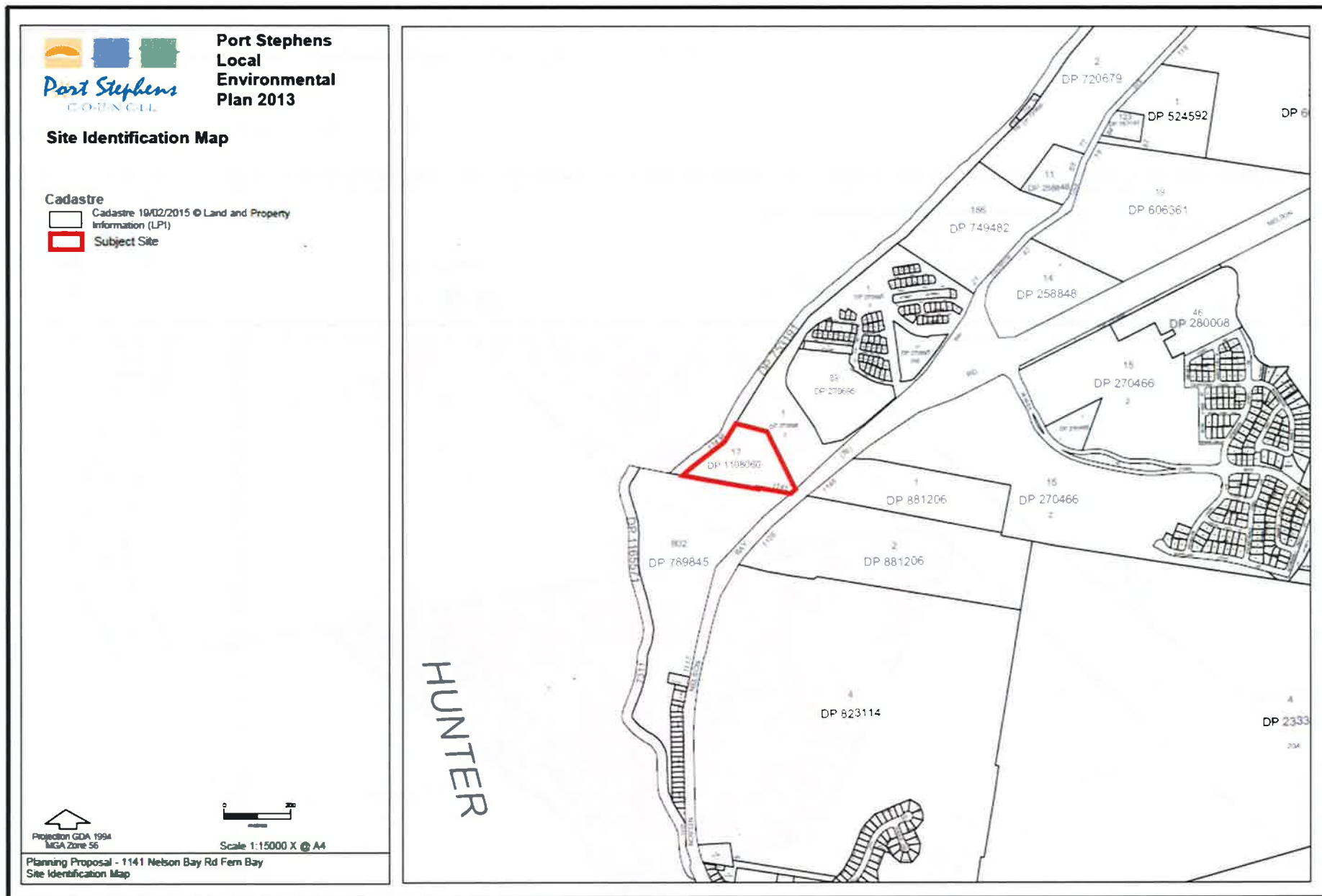


Figure 1- Site Identification Map

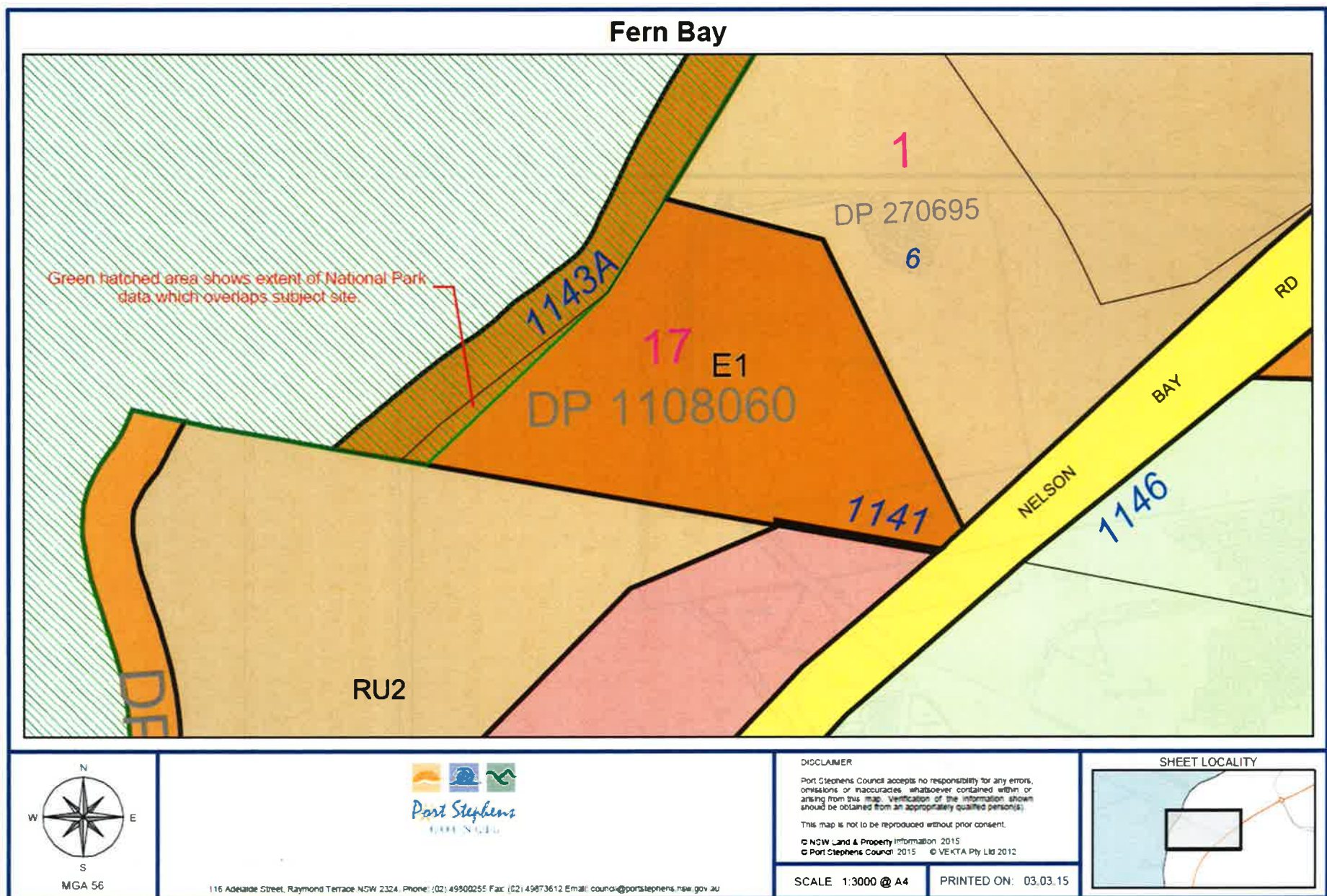


Figure 2 – National Park ownership data error

PART 2 – Explanation of the provisions to be included in proposed LEP

The proposal will be implemented by amendment of the Port Stephens Local Environmental Plan 2013 Zone Map for the site.

The amendments are as follows:

1. Land Zoning Map LZN_004A will amend the subject site from E1 National Parks and Nature Reserves to identify the site as RU2 Rural Landscape.
2. Lot Size Map LSZ_004A will amend the subject site so that it is identified as 'AB2', having a minimum lot size of 20ha.

PART 3 – Justification for the Planning Proposal

SECTION A – Need for the Planning Proposal

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

The proposal is not the result of any strategic study or report. The anomaly has arisen as a result of a technical error in the GIS mapping as part of the conversion from the former Port Stephens Local Environmental Plan 2000 to the standard instrument Port Stephens Local Environmental Plan 2013.

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

The Planning Proposal is remedying a transitional error in the Port Stephens Local Environmental Plan 2013.

The change is directly applicable to the instrument and there is no other way of amending the instrument other than via a planning proposal in accordance with Section 73A of the Environmental Planning and Assessment Act 1979. It is appropriate to use 73A of the Act to expedite correction of the error.

SECTION B – Relationship to Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

The Lower Hunter Regional Strategy (LHRS) is a strategic planning framework to guide the sustainable growth of the lower Hunter over the next 25 years. The administrative amendment will not conflict with the objectives of the Strategy as it seeks to rectify a transitional mapping error that resulted from the changeover to the standard instrument LEP.

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

Community Strategic Plan

The proposal is consistent with Council's Integrated Strategic Plan (Port Stephens 2022). The administrative amendment will not conflict with the objectives of the Plan as it seeks to rectify an administrative error that resulted from the transition to the standard instrument LEP.

The proposal is consistent with the Strategic Direction 3.6 'Develop strategic land use and infrastructure plans and prepare and maintain statutory planning instruments (Local Environment Plans), Development Control Plans and policies'.

Port Stephens Planning Strategy

Council's Port Stephens Planning Strategy seeks to encourage a sufficient supply of a diverse range of housing in the Local Government Area (LGA). The Planning Proposal is consistent with Council's adopted Port Stephens Planning Strategy (PSPS) as rectifying the administrative error that resulted from the transition to Port Stephens LEP 2013 does not conflict with the PSPS. The site will continue to support rural residential living.

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

Nothing in this administrative amendment affects the aims and provisions of any State environmental planning policies.

6. Is the planning proposal consistent with applicable Ministerial Directions?

The amendment is administrative in nature and does not propose to change requirements relating to any Section 117 Ministerial Directions.

The Planning Proposal is consistent with '1.2 Rural Zones' as it corrects a technical error which occurred during GIS transference of zone maps and, as stated under section 4(a) of this direction, does not "rezone land from a rural zone to a residential, business, industrial, village or tourist zone."

The site is currently being used for rural-residential living. Under the E1 zone the only permissible uses are "Uses authorised under the National Parks and Wildlife Act 1974". Land within the E1 zone is generally held in ownership of National Parks. This zoning was incorrectly applied due to a transitional error during transition to the standard instrument LEP.

SECTION C – Environmental, Social and Economic Impact

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 proposal aims to re-instate an equivalent zone RU2 to the 1a zone previously applied under the Port Stephens Local Environmental Plan 2000.

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

No additional environmental effects are anticipated as a result of this administrative amendment.

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

This administrative amendment will ensure that the Port Stephens Local Environmental Plan 2013 remains current, accurate and effective.

Correcting the error has positive implications for the landowner who has been negatively impacted.

SECTION D – State and Commonwealth interests

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

The amendment does not warrant changes to the delivery of public infrastructure.

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

The proposal is minor in nature; consultation will be undertaken if a Gateway Determination requires it.

Part 4 – Mapping

The planning proposal seeks to amend the following maps:

1. Land Zoning Map LZN_004A will amend the subject site from E1 National Parks and Nature Reserves to identify the site as RU2 Rural Landscape.
2. Lot Size Map LSZ_004A will amend the subject site so that it is identified as 'AB2', having a minimum lot size of 20ha.

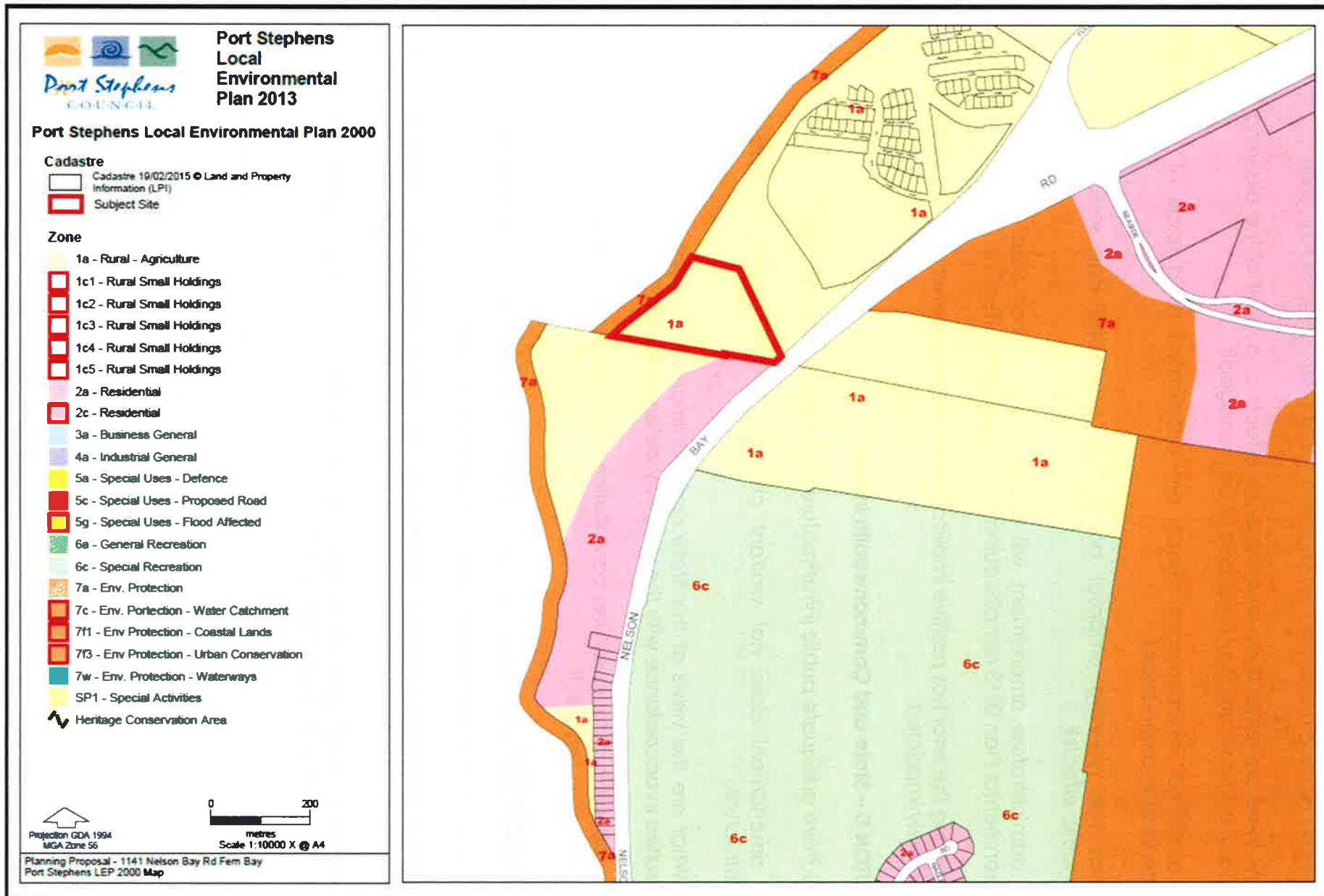


Figure 2 – Zone Map Port Stephens LEP 2000

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 1141 Nelson Bay Road, Fern Bay (Lot 17, DP 1108060)

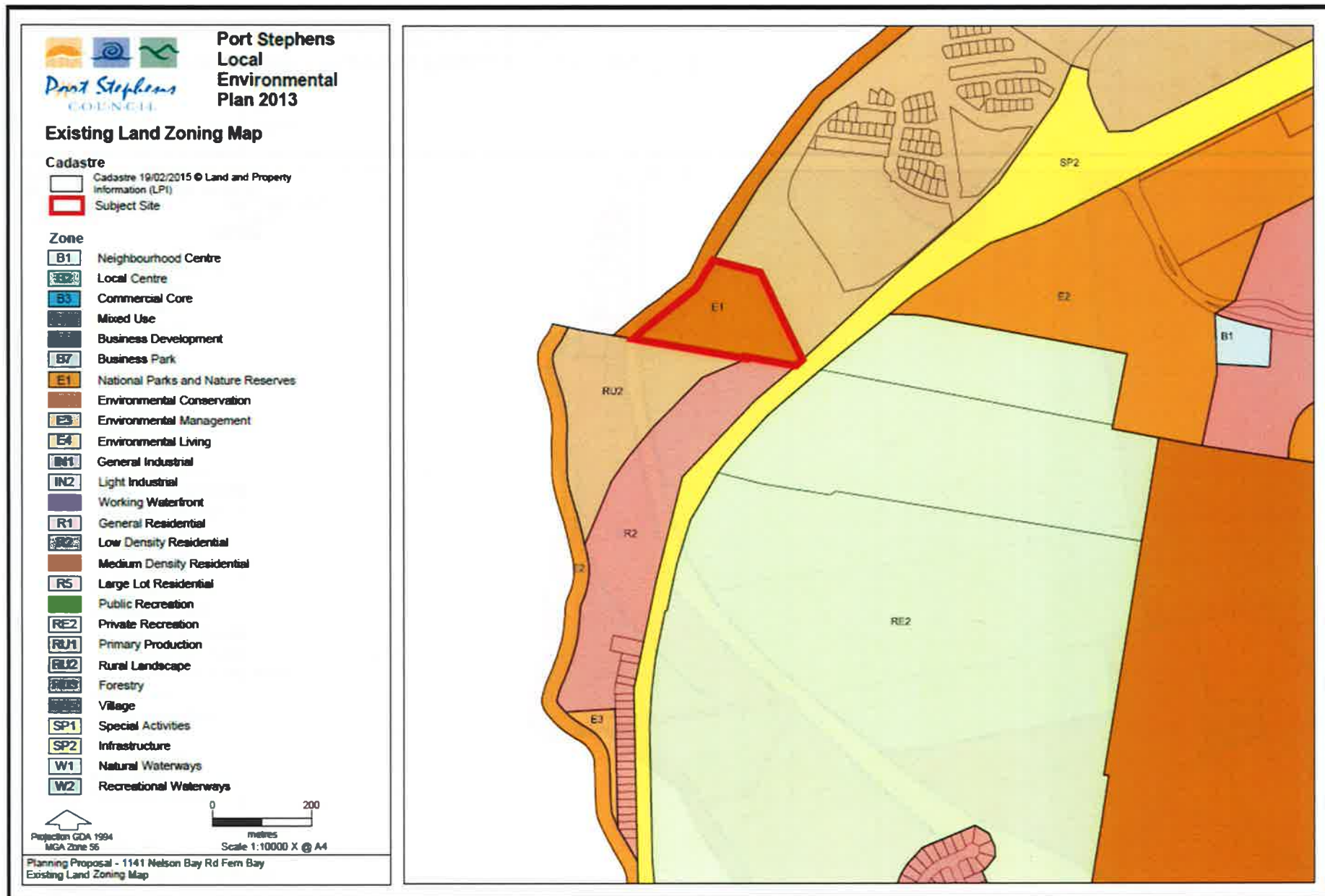


Figure 3 – Current Zone Map 2013 (LZN_004A)

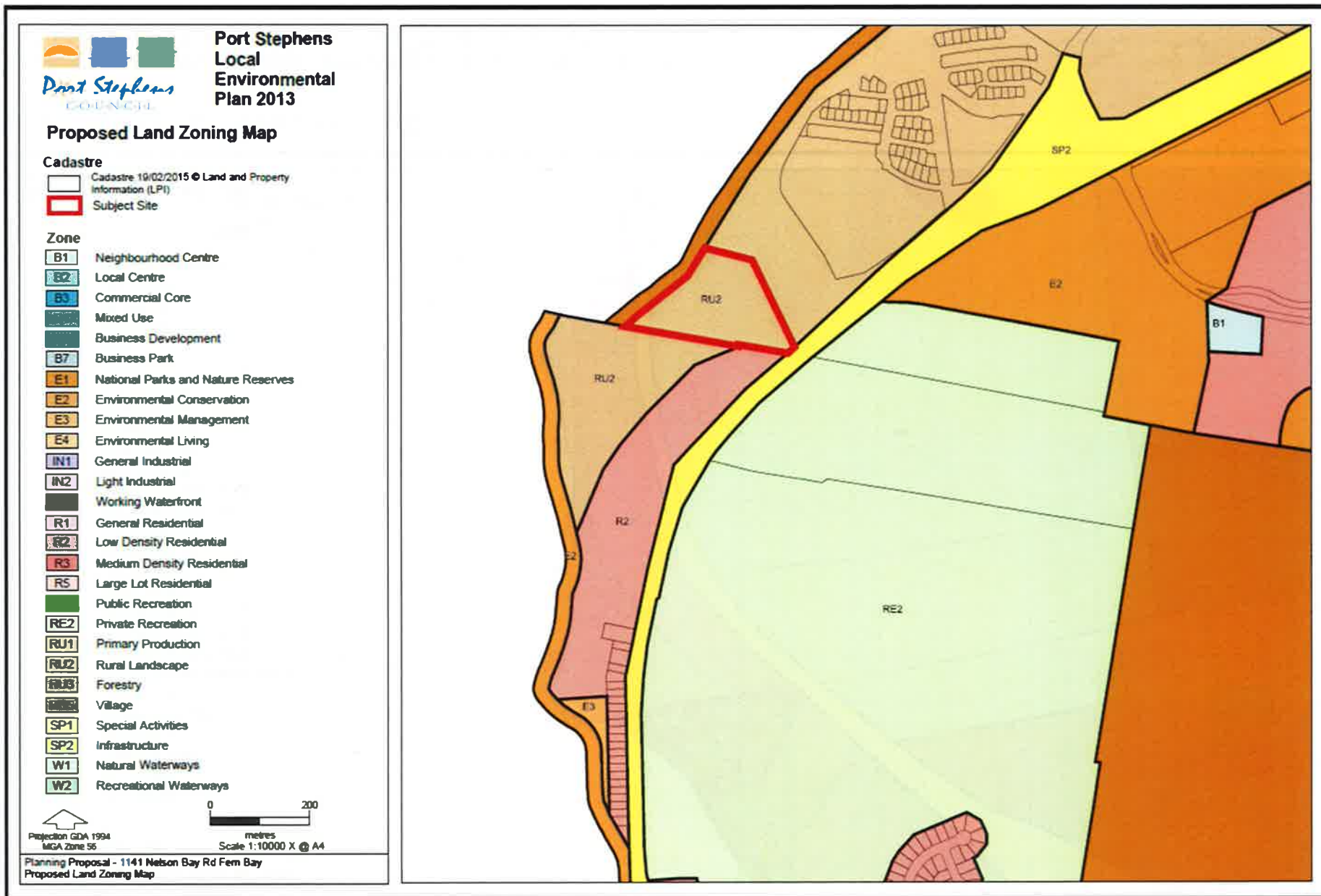


Figure 4 – Proposed Zone Map



Figure 5 – Current Lot Size Map 2013 (LSZ_004A)

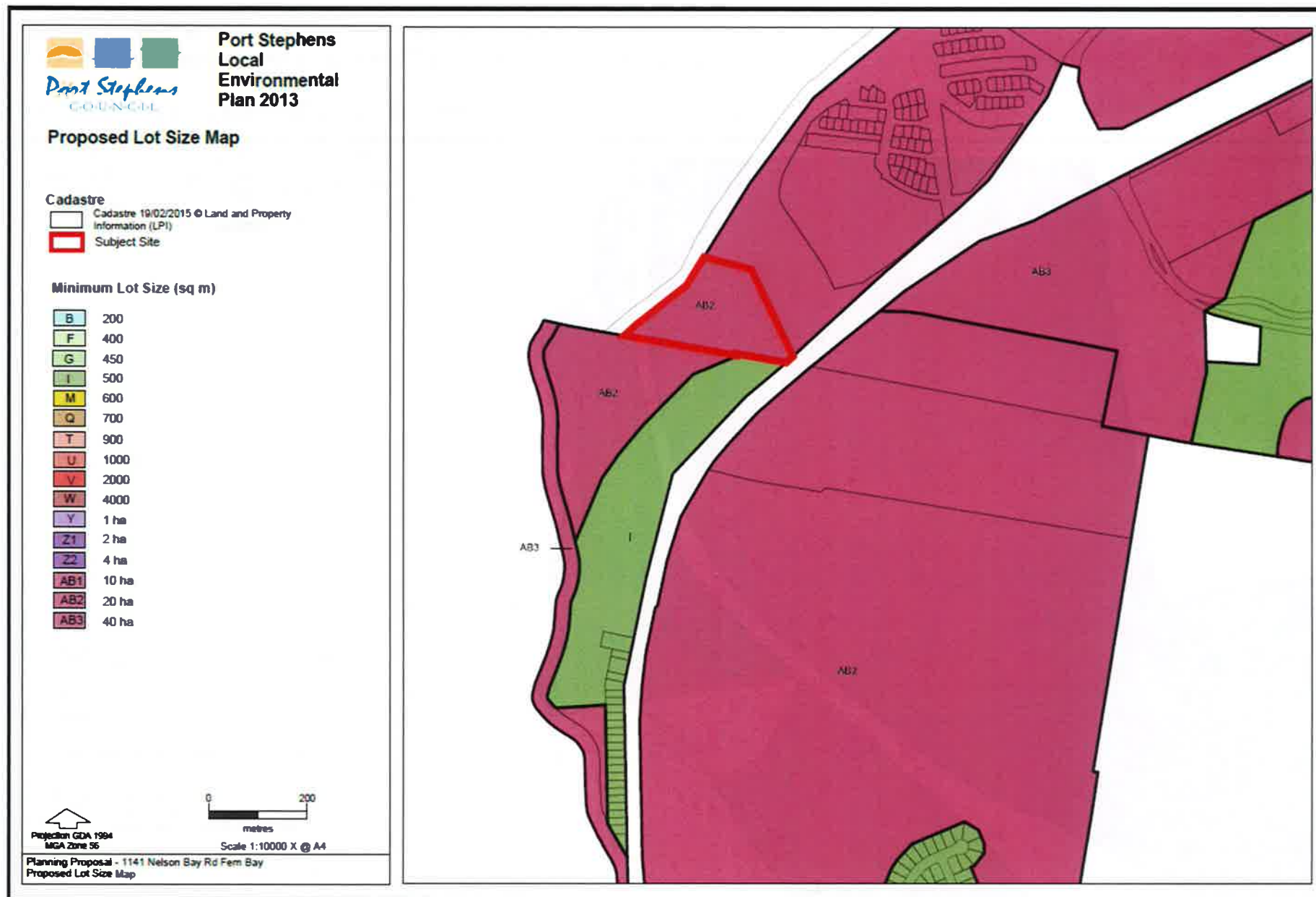


Figure 6 – Proposed Lot Size Map

Part 5 – Community Consultation

Community Consultation is not required under Section 73A of the Environmental Planning and Assessment Act 1979 given the amendment is of a minor nature.

Part 6 – Project Timeline

The project is expected to be completed within three months from Gateway Determination. The following timetable is proposed:

	Task Description	Estimated Timeline
1.	Gateway Determination	February 2015
2.	Completion of required technical information	February 2015
3.	Government Agency Consultation	Not required under section 73A of the Act
4.	Public Exhibition	Not required under section 73A of the Act
5.	Consideration of Submissions	Not required under section 73A of the Act
6.	Submission to Department to finalise the LEP	Council is requesting delegation for this plan
7.	Making of the Plan	March 2015
8.	Forward notification of Plan to Department	April 2015

