

COUNCIL RESOLUTION EXTRACT FROM MINUTES 13 OCTOBER 2014

DISCLOSURES OF INTERESTS

Councillor Martin declared a non-significant conflict of interest in Items 6, 7 and 12 as they all relate to Planning Proposals which will go, or have already been to the Department of Planning and Environment and she is employed by that Department.

Councillor Bradbery declared a non-pecuniary, non-significant conflict of interest in Item 7 as he is a resident of Shearwater Drive.

ITEM 7 - DRAFT PLANNING PROPOSAL - PANORAMA ESTATE, SHEARWATER DRIVE, LAKE HEIGHTS

184 COUNCIL'S RESOLUTION - RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Crasnich that –

- 1 A draft Planning Proposal be prepared to amend the Wollongong Local Environment Plan 2009 to:
 - a Rezone 136 Shearwater Drive (Lot 520 DP 1108716), 148 Shearwater Drive, (Lot 325 DP 1106412), 172 Shearwater Drive, (Lot 314 DP 1106412), 176 Shearwater Drive, (Lot 313 DP 1106412), and 178 Shearwater Drive, Lake Heights (Lot 312 DP 1106412) from RE1 Public Recreation to R2 Low Density Residential and apply a Floor Space Ratio of 0.5:1, and a Minimum Lot Size of 450m²;
 - b Rezone Lots 526 and 527 DP 1108716 Shearwater Drive, Lake Heights from R2 Low Density Residential to RE1 Public Recreation to reflect their public reserve status and remove the minimum Floor Space Ratio and the Minimum Lot Size requirement;
 - c Update the Natural Resource Sensitivity Map (Attachment 3 of the report) to accurately represent the current distribution of vegetation within the subdivision;
 - d Update the Riparian Land Map (Attachment 4 of the report) to accurately represent the current position of riparian lands within

Minute No.

the subdivision.

- 2 The draft Planning Proposal be forwarded to the NSW Department of Planning and Environment for a Gateway determination and if approved exhibited for a minimum period of 28 days.
- 3 The draft Planning Proposal be submitted to the NSW Department of Planning and Environment for a Gateway determination and requesting authority for the General Manager to exercise plan making delegations in accordance with Council's resolution of 26 November 2012.
- 4 Council investigate the opportunity to purchase land in order to formalise a pedestrian connection along the desire line.

Variation *The variation moved by Councillor Martin (the inclusion of Part 4) was accepted by the mover and seconder.*

ITEM 7

DRAFT PLANNING PROPOSAL - PANORAMA ESTATE, SHEARWATER DRIVE, LAKE HEIGHTS

This report considers a draft Planning Proposal request for the rezoning of 136, 148, 172, 176 and 178 Shearwater Drive, Lake Heights from RE1 Public Recreation to R2 Low Density Residential, and the rezoning of Lots 526 and 527 DP 1108716 Shearwater Drive, Lake Heights from R2 Low Density Residential to RE1 Public Recreation to resolve inconsistencies between Wollongong Local Environmental Plan 2009 and the approved Subdivision Plan for the Panorama Estate in Lake Heights.

This report presents the assessment of the rezoning request and recommends that Council proceed with the preparation of a draft Planning Proposal.

RECOMMENDATION

- 1 A draft Planning Proposal be prepared to amend the Wollongong Local Environment Plan 2009 to:
 - a Rezone 136 Shearwater Drive (Lot 520 DP 1108716), 148 Shearwater Drive, (Lot 325 DP 1106412), 172 Shearwater Drive, (Lot 314 DP 1106412), 176 Shearwater Drive, (Lot 313 DP 1106412), and 178 Shearwater Drive, Lake Heights (Lot 312 DP 1106412) from RE1 Public Recreation to R2 Low Density Residential and apply a Floor Space Ratio of 0.5:1, and a Minimum Lot Size of 450m²;
 - b Rezone Lots 526 and 527 DP 1108716 Shearwater Drive, Lake Heights from R2 Low Density Residential to RE1 Public Recreation to reflect their public reserve status and remove the minimum Floor Space Ratio and the Minimum Lot Size requirement;
 - c Update the Natural Resource Sensitivity Map (Attachment 3) to accurately represent the current distribution of vegetation within the subdivision;
 - d Update the Riparian Land Map (Attachment 4) to accurately represent the current position of riparian lands within the subdivision.
- 2 The draft Planning Proposal be forwarded to the NSW Department of Planning and Environment for a Gateway determination and if approved exhibited for a minimum period of 28 days.
- 3 The draft Planning Proposal be submitted to the NSW Department of Planning and Environment for a Gateway determination and requesting authority for the General Manager to exercise plan making delegations in accordance with Council's resolution of 26 November 2012.

ATTACHMENTS

- 1 Aerial Photo
- 2 Current Zoning Map
- 3 Council Public Reserve Ownership
- 4 Zoning and Development History Review
- 5 Proposed Zoning, FSR, Minimum Lot Size Maps
- 6 Natural Resource Sensitivity Map
- 7 Riparian Land Map
- 8 Locality Map

REPORT AUTHORISATIONS

Report of: Renee Campbell, Manager Environmental Strategy and Planning
Authorised by: Andrew Carfield, Director Planning and Environment – Future City and Neighbourhoods

BACKGROUND

Panorama Estate is a subdivision of land at Whimbrel Avenue and Shearwater Drive, Lake Heights. The Estate is located to the north of Flagstaff Road and to the south of Cringila Park (Attachment 1). The land is zoned R2 Low Density Residential and RE1 Public Recreation (Attachment 2).

The subdivision was approved through DA-1997/395 and amended by DA-1997/395/A and created 112 lots and four public reserve lots. The majority of the residential lots now contain dwelling houses.

In 2012, Council officers received an enquiry concerning the permissibility of a dwelling house on a lot in Shearwater Drive, which was zoned RE1 Public Recreation. The enquirer was advised that a dwelling house was not permissible in the zone. This enquiry commenced a review of the zoning/development history of the site and lead to the lodgement of the draft Planning Proposal request to amend the planning controls.

In summary:

- 148 Shearwater Drive is a residential size lot zoned RE1 Public Recreation (Attachment 2).
- 172, 176 and 178 Shearwater Drive were proposed to be a public reserve containing an on-site Detention Pond, but have been released as residential sized lots partially zoned RE1 Public Recreation and R2 Low Density Residential (Attachment 2).
- The access handle to 136 Shearwater Drive is partially zoned RE1 Public Recreation and R2 Low Density Residential (Attachment 2).

The proponent is seeking these areas to be zoned R2 Low Density Residential. In addition, areas of public reserve which have been transferred to Council are zoned R2 Low Density Residential. Attachment 3 shows the public reserves owned by Council, in particular Lots 526 and 527 DP 1108716 Shearwater Drive. It is not unusual for land zoned R2 Low Density Residential to be transferred to Council for public reserves, with the zoning adjusted to RE1 Public Recreation by a future housekeeping Local Environmental Plan amendment.

A detailed review of the zoning/development history of the site has occurred (Attachment 4) which found that the subdivision certificates were inconsistent with both the zoning map of the Wollongong Local Environmental Plan 2009 and the amended Development Application No 1997/395/A. The majority of the inconsistencies are minor and do not affect the development outcome. The exception is the lots subject to the draft Planning Proposal request.

It is noted that some of the original lots in the subdivision have now been subject to further development applications and have been re-subdivided.

A Councillor briefing on the proposal occurred on 16 June 2014.

PROPOSAL

This proposal seeks to amend the Zoning, Floor Space Ratio, Minimum Building Height and Minimum Lot Size maps of Wollongong Local Environmental Plan 2009 as follows:

- Rezoning 136, 148, 172, 176, and 178 Shearwater Drive, Lake Heights from part RE1 Public Recreation to R2 Low Density Residential, apply a Floor Space Ratio of 0.5:1 and a Minimum Lot Size of 450m².
- Rezoning Lots 526 and 527 DP 1108716 Shearwater Drive, Lake Heights from R2 Low Density Residential to RE1 Public Recreation, remove the minimum Floor Space Ratio and the Minimum Lot Size requirement. These two lots are owned by Council as public reserve.

The intent of the rezoning submission is to resolve inconsistencies between zoning maps of the Wollongong Local Environmental Plan 2009 and the approved subdivision plan for the Panorama Estate development at Lake Heights.

The proposed rezoning of the five lots partly zoned RE1 Public Recreation zone to R2 Low Density Residential would result in a reduction of approximately 3,502m² of RE1 Public Recreation zoned land. Conversely, the proposed rezoning of the two lots zoned R2 Low Density Residential would result in an increase of 5,504m² of land zoned RE1 Public Recreation zoned land. Therefore this Planning Proposal would result in a net increase of 2,002m² of RE1 Public Recreation zoned land. However, as the land proposed to be zoned RE1 Public Recreation is already public reserve managed by Council there will be no physical increase in the amount of open space.

The five allotments proposed to be rezoned from RE1 Public Recreation to R2 Low Density Residential are considered suitable for residential development:

- Part of the access handle (driveway) of 136 Shearwater Drive is zoned RE1 Public Recreation. The driveway adjoins the adjacent public reserve located to the east. The land is privately owned, and the driveway serves a new dwelling house. The land has no value as public open space and it is appropriate that it be rezoned to R2 Low Density Residential, consistent with the rest of the property.
- 148 Shearwater Drive is located to the east of the central open space, on the northern side of Shearwater Drive. The lot has an area of 883.9m², slopes to the north and is covered by grass. The adjoining Lot 527 has an area of 5,345m², contains a watercourse and provides a connection with Cringila Park. The lot does not provide any additional open space benefits, and should be rezoned to enable sale and development of a dwelling house. The lot has been created and was not transferred to Council as part of the subdivision certificate. Accordingly, if Council wants the land to increase the area of open space, it would need to purchase the land.
- 172, 176 and part lot 178 at the eastern end of the subdivision, were identified as a public reserve containing a drainage basin. The basin was not constructed and the land was not transferred to Council as part of the subdivision certificate. The drainage basin is no longer required. The land slopes to the north and is covered by grass. There is an informal accessway through the land to Auburn Parade. If Council wants to formalise the access path, Council will need to purchase part or all of the land. A partial acquisition would need a development application to subdivide the land to create a pathway. Alternate access is available to Grattan Street (a longer route), or from Lot 527 through Cringila Reserve (along the rear of the lots) to Auburn Parade. It would be less expensive to formalise this second route than purchase part or all of the three properties.

The two allotments proposed to be rezoned from R2 Low Density Residential to RE1 Public Recreation have been transferred to Council as public reserve and are suitable for local passive public open space and should be rezoned to RE1 Public Recreation.

Attachment 5 contains the proposed Zoning, Floor Space Ratio and Minimum Lot Size maps.

The review has also identified the need to update the Natural Resource Sensitivity – Biodiversity, Riparian Land maps.

The Natural Resource Sensitivity – Biodiversity Map shows vegetation which was removed with consent during the subdivision. The land is now occupied with dwelling houses and the map should be updated to remove the constraint (Attachment 6).

The Riparian Land Map incorrectly shows the location of watercourses as being in the private lots rather than the public reserves. The map should be updated to reflect the correct location (Attachment 7).

CONSULTATION AND COMMUNICATION

Preliminary public notification was undertaken for a period of 14 days from 3 to 17 February 2014. Details were made available on Council's website and hard copies were also made available in Wollongong City Library, Unanderra Library, Warrawong Library and the Customer Service Centre in the Wollongong City Council Administration Building. A hard copy was also sent to Neighbourhood Forum 7. Two submissions were received and the main issues raised in the submissions can be summarised as follows:

ISSUE	COMMENT
The more RE1 Public Recreation zoned land in the Panorama Estate, the better.	The proposed realignment/rezoning of the five lots zoned RE1 Public Recreation zone would result in the loss of approximately 3,502m ² of RE1 Public Recreation zoned land. The proposed realignment/rezoning of the two lots zoned R2 Low Density Residential would result in a gain of 5,504m ² of RE1 Public Recreation zoned land. Therefore this Planning Proposal would result in a net gain of 2,002m ² of RE1 Public Recreation zoned land. However, as the land proposed to be zoned RE1 Public Recreation is already public reserve managed by Council there will be no physical increase in the amount of open space.
Hawks have been seen hunting in the area proposed to be rezoned.	None of the five lots affected by this rezoning request contain any trees or vegetation, and therefore the proposal would have minimal impact on the habitat of any hawks that may be in the area. The grassy lots would provide a foraging area for the birds.
Lot 314 DP 1106412, No 172 Shearwater Drive is utilised for access to Cringila Park and Cringila shops.	The proposed realignment/rezoning of Lots 312, 313 and 314 DP 1106412, Nos 172-178 Shearwater Drive from RE1 Public Recreation to R2 Low Density Residential would result in the loss of direct pedestrian access to Cringila Community Park and Cringila shops to the north; however, the proposal is considered to have minimal impact on pedestrian networks as there is adequate pedestrian access provided via Lot 214 DP 1072049, No 97 Whimbrel Avenue (refer to Attachment 8). It is possible however that Council could consider a formal link between Shearwater Drive and Auburn Parade, as proposed in the original subdivision to maintain the existing pedestrian desire lines to the north east of the subdivision.

ISSUE	COMMENT
There is existing traffic and parking problems associated with duplexes and smaller subdivisions within the Panorama Estate and the RE1 Public Recreation zoning can offset that.	Should the Planning Proposal proceed, residential development will be permitted on the five lots proposed to be realigned/rezoned from RE1 Public Recreation Zone to R2 Low Density Residential. The proposal is considered to have minimal impact on traffic and parking in the Panorama Estate.
Development of Lot 325 DP 1106412, No 148 Shearwater Drive would result in loss of ocean views.	One objection was received from the owner of Lot 515, No 129 Shearwater Drive with regard to loss of views to Port Kembla Harbour. The proposal is considered to have minimal impact as the land as Lot 515 is elevated approximately 4 metres above Lot 325 and it is likely that views would be maintained over the rooftop of any future dwelling house on Lot 325 and over the adjacent public reserve Lot 527.

PLANNING AND POLICY IMPACT

Illawarra Regional Strategy (2007)

The Illawarra Regional Strategy applies to the local government areas of Kiama, Shellharbour and Wollongong and is one of a number of regional strategies that have been prepared by the (then) Department of Planning for high growth areas in NSW.

The primary purpose of the Strategy is to ensure adequate land is available and appropriately located to sustainably accommodate the projected housing and employment needs of the region's population over the next 25 years.

Should the planning proposal proceed the proposal would be consistent with the Strategy to utilise existing infrastructure to cater for growth and future household needs.

Section 117 Directions

Direction No 3: Housing, Infrastructure and Urban Development

Clause 3.1 Residential Zones

This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:

- (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary);
- (b) any other zone in which significant residential development is permitted or proposed to be permitted.

Clause (4) *A planning proposal must include provisions that encourage the provision of housing that will:*

- (a) *broaden the choice of building types and locations available in the housing market; and*
- (b) *make more efficient use of existing infrastructure and services; and*
- (c) *reduce the consumption of land for housing and associated urban development on the urban fringe; and*
- (d) *be of good design.*

The proposed rezoning would make more efficient use of existing infrastructure and services and reduce the consumption of land on the urban fringe.

- (5) *A planning proposal must, in relation to land to which this direction applies:*
 - (a) *contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it); and*
 - (b) *not contain provisions which will reduce the permissible residential density of land.*

Adequate arrangements can be made to service the lots. The Planning Proposal will not reduce the permitted residential density of the land.

Direction No 4 Hazard and Risk – Flood Prone Land

Clause 4.3 Flood Prone Land

This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. 148 Shearwater Drive is flood affected – uncategorised flood risk precinct although the slope of the land suggests flooding is unlikely. The proposal to rezone the land from public recreation to residential would be inconsistent with this Section 117 Direction.

Stormwater Disposal

OSD pond 2 approved in the north-east corner under DA-1997/395 and DA-1997/395/A was subsequently removed from the proposal during the detailed design for the Construction Certificate CS-2005/7. Nos 172, 176 and 178 Shearwater Drive are therefore unconstrained by stormwater infrastructure and are not prevented from residential development.

Geotechnical Risk

The five affected lots proposed to be realigned/rezoned from RE1 Public Recreation zone to R2 Low Density Residential zone are known to be affected by geotechnical instability. The instability of the site would not prevent residential development of these lots.

Biodiversity

148 Shearwater Drive, Lake Heights, contains an area mapped as being of Natural Resource Sensitivity–Biodiversity. The area has however been cleared of native vegetation and is therefore not prevented from residential development.

Riparian Land

176 and 178 Shearwater Drive, Lake Heights contain mapped Riparian Land, however a watercourse does not exist on these lots and therefore these lots are not prevented from residential development.

Options

Council has the following options with regard to this Planning Proposal:

- 1 Resolve not to progress the Planning Proposal. The Zoning Map, Minimum Subdivision Lot Size Map, Height of Buildings Map and Floor Space Ratio Map in Wollongong Local Environmental Plan 2009 will remain unchanged.
- 2 Resolve to progress the Planning Proposal to the NSW Department of Planning and Environment for Gateway review and approval as an amendment to the Wollongong Local Environmental Plan 2009. **RECOMMENDED**
- 3 Resolve to progress only part(s) of the Planning Proposal to the NSW Department of Planning and Environment for review and approval as an amendment to the Wollongong Local Environmental Plan 2009. The revised Planning Proposal could potentially include the additional pedestrian link between Shearwater Drive and Auburn Parade. Council would be required to buy part or all of the lots to create the pedestrian link.

This report contributes to the delivery of Wollongong 2022 under the objective '*The sustainability of our urban environment is improved*' and the Community Goal '*We value and protect our environment*'.

It specifically addresses the Annual Plan 2014-15 Key Deliverables '*Assess rezoning submissions on a priority basis and progress supported Planning Proposals*' which forms part of the Five Year Action 5.1.5.1 *Continue to undertake social land use and environmental planning activities that assist in service planning* contained within the Revised Delivery Program 2012-17.

CONCLUSION

The inconsistencies between the Zoning Maps of Wollongong Local Environmental Plan 2009 and the approved subdivision plan for the Panorama Estate development at Lake Heights appear to have occurred as a result of overlooked amendments to the approved lot layout under Modification A (DA-1997/395/A) and the issue of the Subdivision Certificates (SC-2007/115 and SC-2007/116).

The five allotments proposed to be rezoned from RE1 Public Recreation to R2 Low Density Residential are considered suitable for residential development.

The two allotments proposed to be rezoned from R2 Low Density Residential to RE1 Public Recreation are considered suitable for public open space and have been transferred to Council as public reserve.

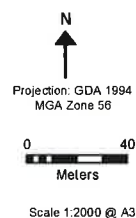
It is recommended that Council support the submission of the Planning Proposal to the NSW Department of Planning and Environment for Gateway determination prior to exhibition.



Planning Proposal
 Lots 136, 148, 172, 176, 178, 526 and 527
 Shearwater Drive, Lake Heights
 Aerial Photography 2012



Subject sites

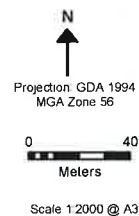




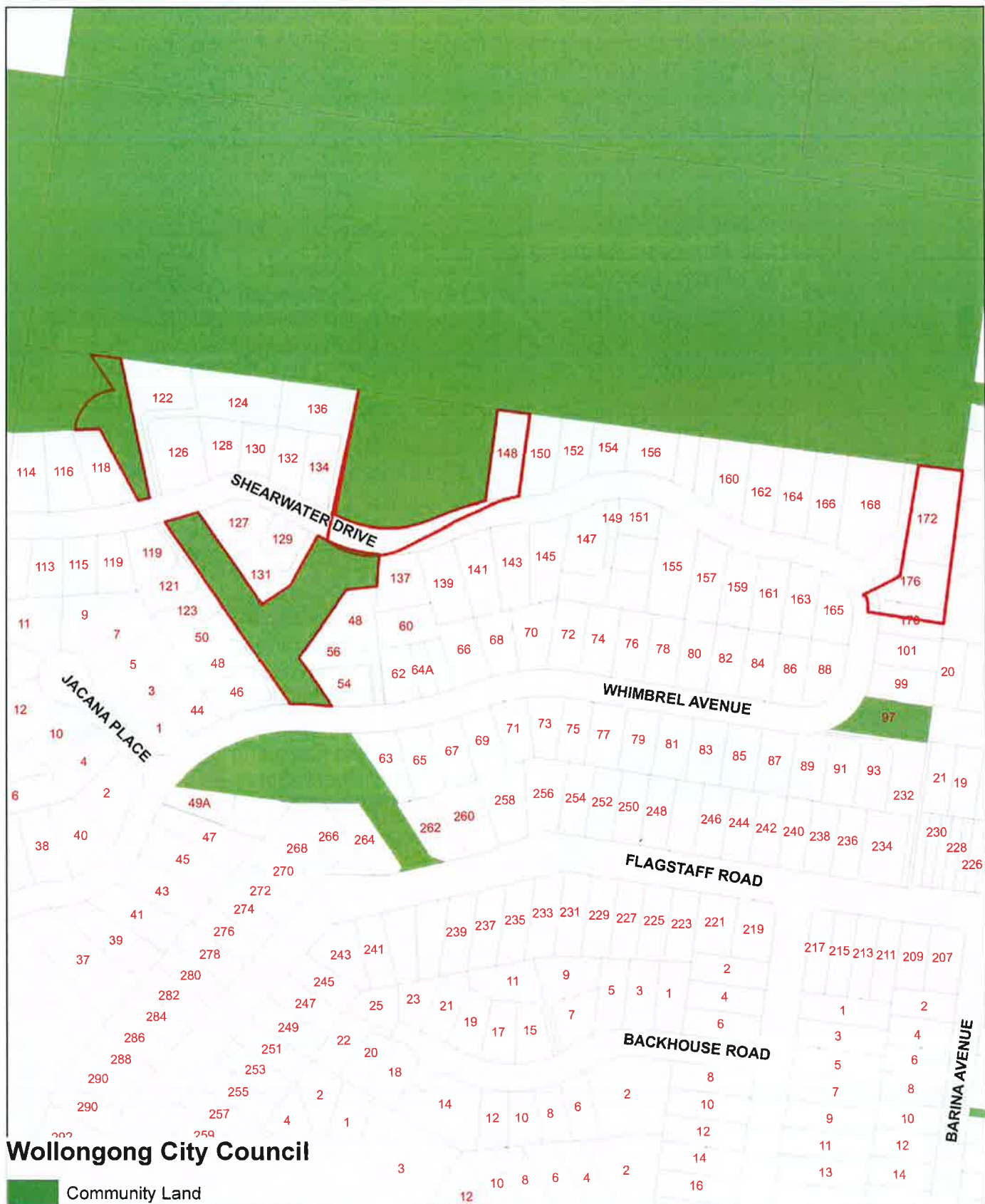
Planning Proposal
Lots 136, 148, 172, 176, 178, 526 and 527
Shearwater Drive, Lake Heights
Existing Zoning



Subject sites



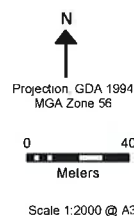
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Planning Proposal Lots 136,148,172,176,178, 526 and 527 Shearwater Drive, Lake Heights



Subject sites



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ZONING AND DEVELOPMENT HISTORY REVIEW

The Panorama Estate was formerly known as Lot 100 DP 826915, 264A Flagstaff Road, Lake Heights. Until 1988 the land was part of holdings owned by BHP (**Figure 1**). Under the Illawarra Planning Scheme Ordinance (1968) the land was zoned 1(b) Non-Urban.

Draft Illawarra Planning Scheme (1980), which became the Wollongong Local Environmental Plan No. 38, proposed to rezone the land to part 2(a) Low Density Residential and 7(d) Environmental Protection (Scenic). BHP objected to the proposed 7(d) zoning as it was considered the land should be zoned 6(b) Private Recreation as playing fields and parkland was the intended end use for the site.

Wollongong Local Environmental Plan No. 38 was gazetted on 2 March, 1984 and the land was zoned 2(a) Low Density Residential and 6(b) Private Recreation.

In 1986 Council sought to buy the land from BHP but there was disagreement over the price. In a 1988 review of Wollongong LEP 38 the zoning of the land was not proposed to be changed; however, at about the same time as the review BHP sold the lots north of the subject land to Council for the establishment of Cringila Community Park. The subject land was sold to private persons who were renting an existing house on the land from the company at the time.

The review of Wollongong Local Environmental Plan No. 38, which became Wollongong Local Environmental Plan 1990, was amended just before it was forwarded to the Minister to zone all the 6(b) Private Recreation land to 6(a) Public Recreation. There are limited Council records documenting the reason for the change however it is assumed to be a reflection of Council's purchase of the major part of BHP's holding and that the private ownership of the land was overlooked. Under Wollongong Local Environmental Plan 1990, gazetted on 28 December 1990, the subject land was zoned 6(a) Public Recreation as shown in **Figure 2**.

An application to rezone the land from 6(a) Public Recreation to 2(a) Low Density Residential was considered by Council on 20 and 27 March 1995. On 27 March 1995 Council resolved to exhibit a draft Local Environmental Plan to rezone the subject site from 6(a) Public Recreation to 2(a) Low Density Residential under the Wollongong Local Environmental Plan 1990. On 29 April 1996 Council resolved to amend the Wollongong Local Environmental Plan 1990 to enable residential development and to adopt a Technical Policy/Development Control Plan to guide future residential development.

On 5 July 1996 Wollongong Local Environmental Plan 1990 (Amendment No. 125) rezoned the land to part 2(a) Low Density Residential and part 6(a) Public Recreation as shown in **Figure 3**. Technical Policy/Development Control Plan No. 95/2 was also adopted to guide development as shown in **Figure 4**. The rezoning and the development controls were based on a Subdivision Concept Plan as shown in **Figure 5**.

A Development Application (DA-1997/395) was submitted on 15 July 1997 for the 'Panorama Estate' described as *Subdivision - 109 Lots & Public Reserves*. On 28 July 1997 Council considered a proposed realignment to the boundaries between the areas zoned 2(a) Low Density Residential and part 6(a) Public Recreation, as a result of the preparation of detailed designs for the development application for 'Panorama Estate'. Council resolved to defer the matter.

On 4 August 1997 Council resolved to prepare a draft Local Environmental Plan to realign the boundaries between the 2(a) Low Density Residential and part 6(a) Public Recreation zoned areas of land as shown in **Figure 6** and to amend the Technical Policy/Development Control Plan No. 95/2 to reflect the amended zoning.

DA-1997/395 was approved by Council on 12 November 1997 as shown in **Figure 7**. The approved landscape masterplan and public reserves plan approved under DA-1997/395 are provided in **Figures 8 and 9**. Despite the description of the development application, DA-1997/395 approved a total of 117 lots including five public reserves.

On 9 January 1998 Wollongong Local Environmental Plan 1990 (Amendment No. 163) was gazetted to realign the boundaries of the proposed public reserves and residential lots within the estate. Amendment No. 163 is consistent with the plans approved under DA-1997/395.

A modification application DA-1997/395/A for minor works was lodged on 3 July 1998 and was approved on 16 October 1998 as shown in **Figure 10**. The number of lots approved under Modification A remained as per the original application. The minor works involved removal of an

access road connecting Whimbrel Avenue and Shearwater Drive. The modification resulted in the road being replaced with an additional public reserve which was placed in the centre of the site to connect the public reserves on the north and south of the site.

The Subdivision Certificates were approved by Council in five Stages as follows:

- Stage 1 - Subdivision Certificate No. 6977 approved on 10 September 2002 (32 lots);
- Stage 2 - SC-2004/111 approved on 29 September 2004 (26 lots and one reserve lot);
- Stage 3 - SC-2007/115 approved on 18 July 2007 (25 lots);
- Stage 4 - SC-2006/83 approved on 4 July 2006 (four lots); and
- Stage 5 - SC-2007/116 approved on 18 July 2007 (25 lots and three reserve lots).

TOTAL: 112 lots and 4 public reserves (one having 2 part lots)

The five affected lots for proposed realignment/rezoning from RE1 Public Recreation zone to R2 Low Density Residential were approved under SC-2007/115 and SC-2007/116 therefore only these Subdivision Certificates will be considered in further detail in this report. Lots 312, 313, 314 and 325 in Deposited Plan 1106412 were approved under SC-2007/115 (Stage 3) as shown in **Figure 11**. Lot 520 in Deposited Plan 1108716 was approved under SC-2007/116 (Stage 5) as shown in **Figure 12**.

Wollongong Local Environmental Plan 2009 was gazetted on 26 February 2010 which reflected the zoning of Wollongong Local Environmental Plan 1990. The Wollongong Local Environmental Plan 1990 Zoning Map is shown in **Figure 13** and the Wollongong Local Environmental Plan 2009 Zoning Map is shown in **Figure 14**.

Discussion

As Wollongong LEP 1990 (Amendment No. 163) was gazetted prior to the lodgement and approval of the DA-1997/395/A there are slight inconsistencies between the boundaries of the public reserves.

There are also various inconsistencies in the lot layout approved under the development consent DA-1997/395/A and the Subdivision Certificates SC-2007/115 and SC-2007/116. In the case of SC-2007/115 the lot layout is slightly different however the total number of lots is the same. In the case of SC-2007/116 there is one additional lot approved in SC-2007/116 compared to DA-1997/395/A – see **Figure 10**. This additional lot is located adjacent to Lot No. 20 shown on the approved DA-1997/395/A Subdivision Plan. This is relevant to the rezoning application as the changes made to the lot layout between the development consent and the Subdivision Certificate ultimately reconfigured the boundaries of the public reserves within 'Panorama Estate'.

Lots 312, 313 and 314 in Deposited Plan 1106412, located in the north-east corner of the site, were approved under SC-2007/115 as part of Stage 3 (25 lots). The number of lots approved in Stage 3 is consistent between the development consent and the Subdivision Certificate SC-2007/115 however the lot layout is different.

DA-1997/395 approved Lot 114 in the north-east corner of the site to include an on-site detention (OSD) pond. Lot 114 appears to have been originally intended as a public reserve as it is included in the Public Reserves Plan approved as part of DA-1997/395. The lot numbering is also consistent with Lot 114 being intended as a public reserve as the lots either side are numbered 25 and 26 whereas the public reserve lots are generally sequentially numbered 113, 114, 115 and 116 (with Lot 5 being an exception). The originally approved Lot 114 was also approved as an OSD pond under DA-1997/395/A (although it was re-numbered to Lot 47). It is considered highly unlikely that it was intended to be a residential lot as it contained an OSD pond.

Lot 114 was rezoned to 6(a) Public Open Space by Wollongong Local Environmental Plan 1990 (No. 163) as per the intention to be a public reserve.

This OSD pond was subsequently removed from the proposal during the detailed design for the Construction Certificate (CS-2005/7). The Subdivision Certificate was approved showing a slightly different lot layout, creating Lots 312, 313 and 314 in the vicinity of Lot 114 as approved in the original development consent (or Lot 47 as it was known in DA-1997/395/A). Even though the OSD pond was no longer necessary in the north-east corner of the site it appears that the part R2 Low Density Residential and part 6(a) Public Open Space zoning under Wollongong Local Environmental Plan 1990 on these lots was overlooked in the assessment of the Subdivision Certificate.

Lot 325 in Deposited Plan 1106412, located on the northern boundary of the site, was also approved under SC-2007/115 as part of Stage 3. The lot layout is also inconsistent between the development consent and the Subdivision Certificate. The public reserve approved as Lot 113 in DA-1997/395, and re-numbered as Lot 14 in DA-1997/395/A, included Lot 325. The public reserve lot approved in the development consent has a width of 94m which is similar in width to the combined frontages of the lots currently zoned RE1 Public Recreation (which includes Lot 325), as shown in **Figure 11**. It appears that the boundary of the public reserve adjacent to Lot 325 was moved westward during the approval of the Subdivision Certificate (reducing the size and width of the public reserve); however, when the Subdivision Certificate was issued the zoning of the land remained 6(a) Public Open Space.

Lot 520 in Deposited Plan 1108716, located on the northern boundary of the site, was approved under SC-2007/116 as part of Stage 5. The lot layout is generally consistent between the development consent and the Subdivision Certificate. It is unknown why part of the allotment is zoned RE1 Public Recreation. The inconsistency with the zoning appears to have been overlooked by Council in the issue of the Subdivision Certificate.

Lot 526 in DP 1108716, located in the north-west corner of the site, was approved under SC-2007/116 as part of Stage 5. A portion of this lot was approved as a public reserve in the original development consent. The lot boundaries changed upon the approval of DA-1997/395/A as a result of the removal of an access road and cul-de-sac and remained consistent between the approval of DA-1997/395/A and the issue of the Subdivision Certificate. The zoning remained as per Amendment No. 163 of Wollongong Local Environmental Plan 1990. There was no further rezoning following the approval of DA-1997/395/A or SC-2007/116.

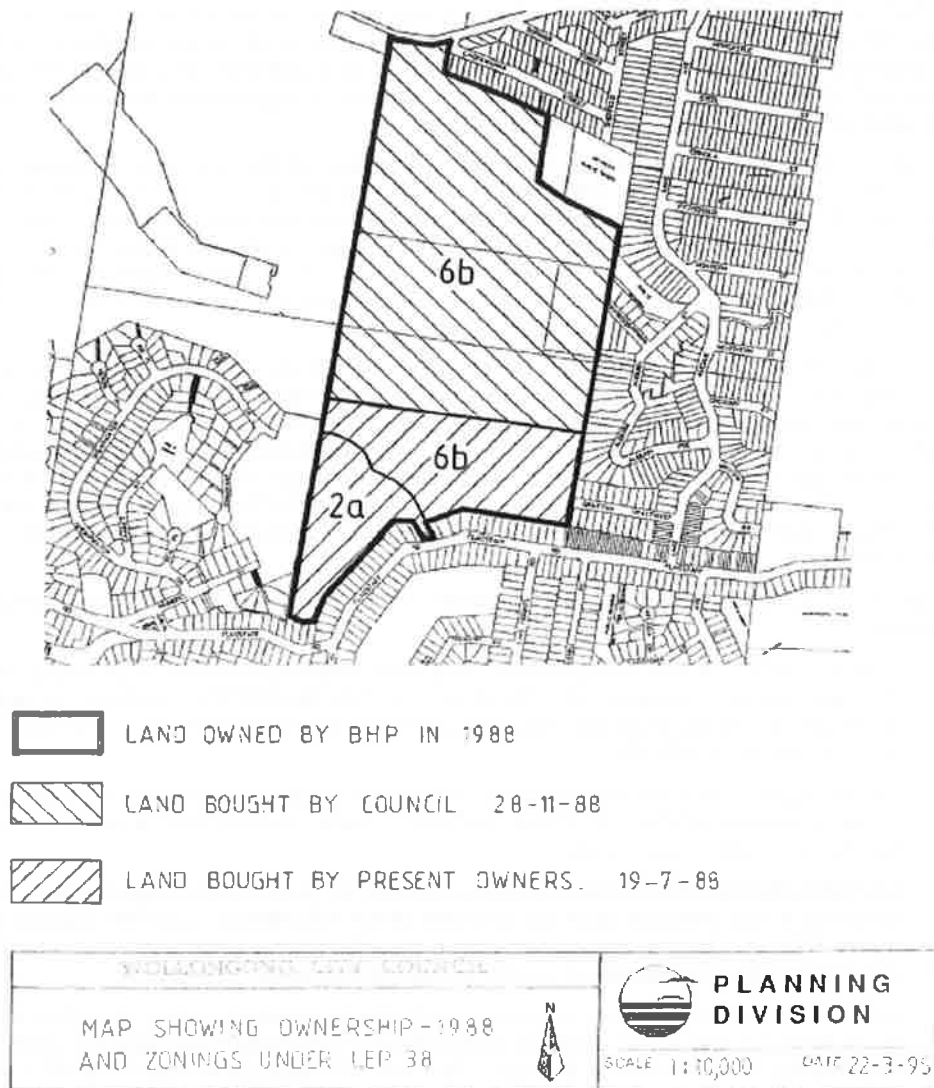
Part Lot 527 in DP 1108716, located in the centre of the site was approved under SC-2007/116 as part of Stage 5. Lot 527 was intended to be residential lots in the original development consent. The lot boundaries changed upon the approval of DA-1997/395/A as a result of the removal of an access road and cul-de-sac, and Part Lot 527 was created as an additional public reserve in the centre of the site. The lot layout remained consistent between the approval of DA-1997/395/A and the issue of the Subdivision Certificate; however, the zoning remained as per Wollongong Local Environmental Plan 1990 Amendment No. 163. There was no further rezoning following the approval of DA-1997/395/A or SC-2007/116.

On the basis of the chronological history provided above the following preliminary observations can be made:

- Lots 312, 313, 314 and 325 appear to have been originally intended to be Public Reserves in the development consent (DA-1997/395 and DA-1997/395/A), however, it appears the 'inconsistency' in the zone boundary provisions has occurred when the Subdivision Certificate was issued (SC-2007/115).
- Lot 520 appears to have been originally intended to be entirely zoned as a residential lot. The partial affectation of the RE1 Public Recreation zone, which affects a portion of the access handle, is a minor inconsistency.
- Lot 526 appears to have been originally intended for public open space however to a lesser extent as it was enlarged upon the approval of DA-1997/395/A. Lot 526 appears to retain a partial R2 Low Density Residential zoning as Wollongong Local Environmental Plan 1990 Amendment No. 163 was gazetted prior to the approval of DA-1997/395/A.
- Lot 527 appears to have been originally intended to be residential lots in DA-1997/395 however the subdivision layout was modified during the DA-1997/395/A to create an additional public open space in the centre of the site. Part Lot 527 appears to retain the R2 Low Density Residential zoning as Wollongong Local Environmental Plan 1990 Amendment No. 163 was gazetted prior to the approval of DA-1997/395/A.

Figure 1: Map showing land ownership in 1988

ATTACHMENT 1

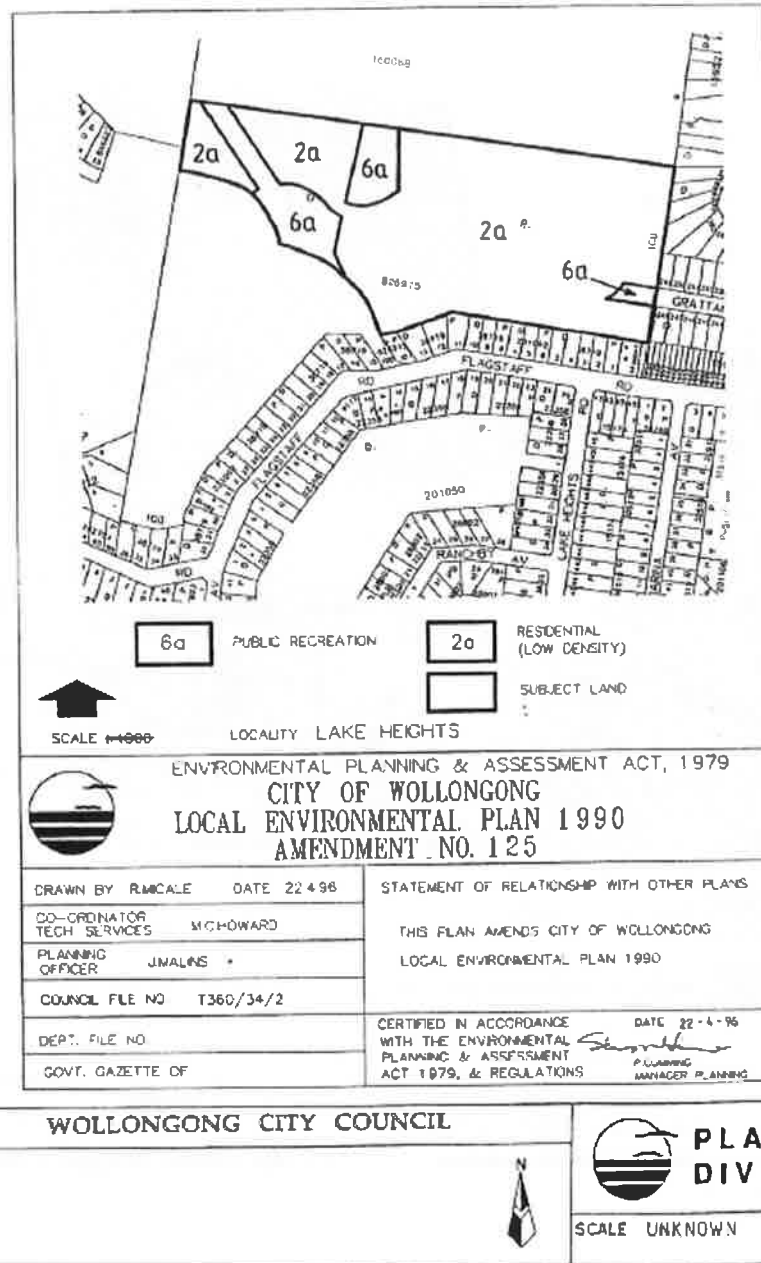


ATTACHMENT 2



Figure 3: Wollongong LEP 1990 Amendment No. 125 Zoning Map

ATTACHMENT 1



2



Figure 5: Revised Development Concept

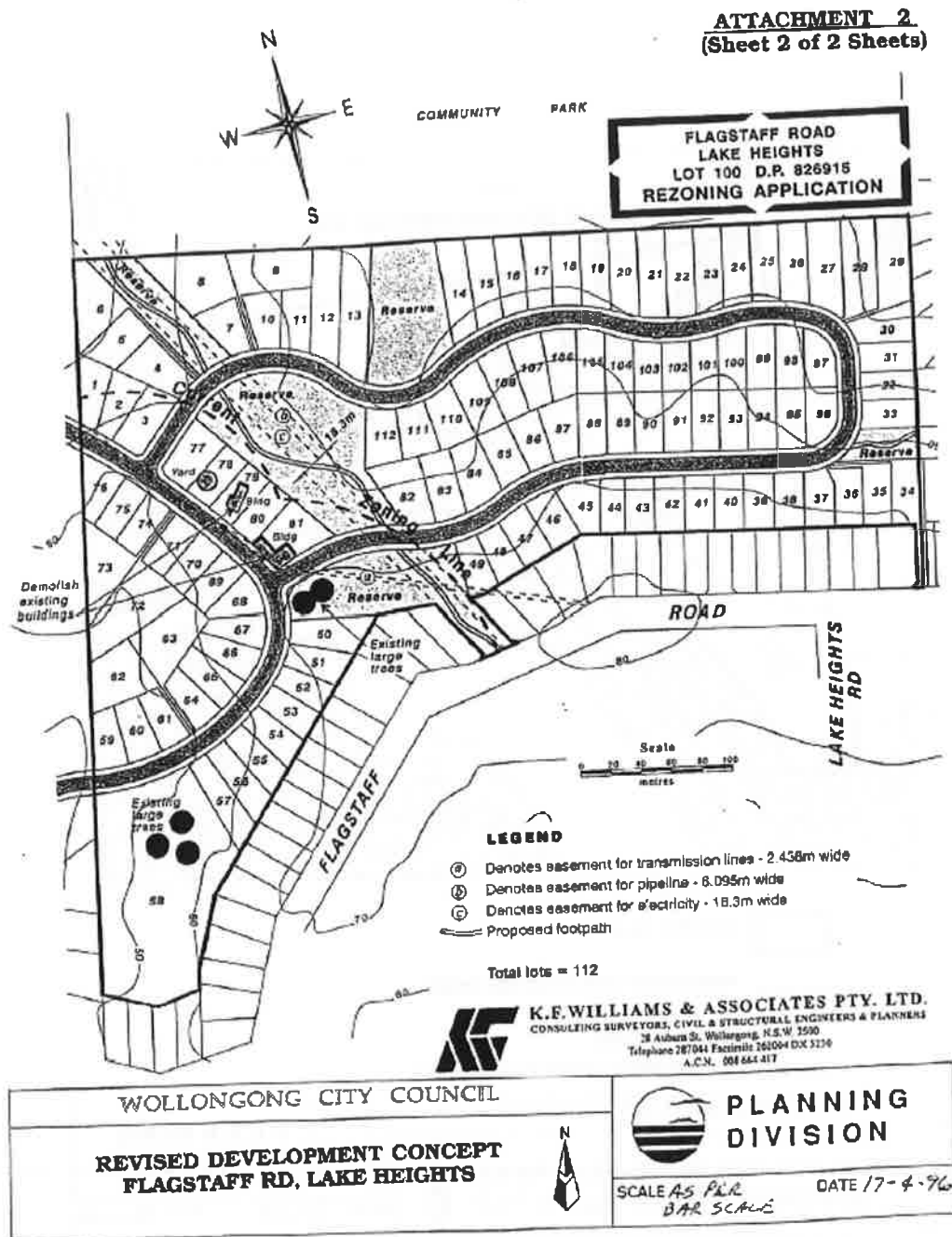


Figure 6: Wollongong LEP 1990 Amendment No. 163 Proposed Zoning Map

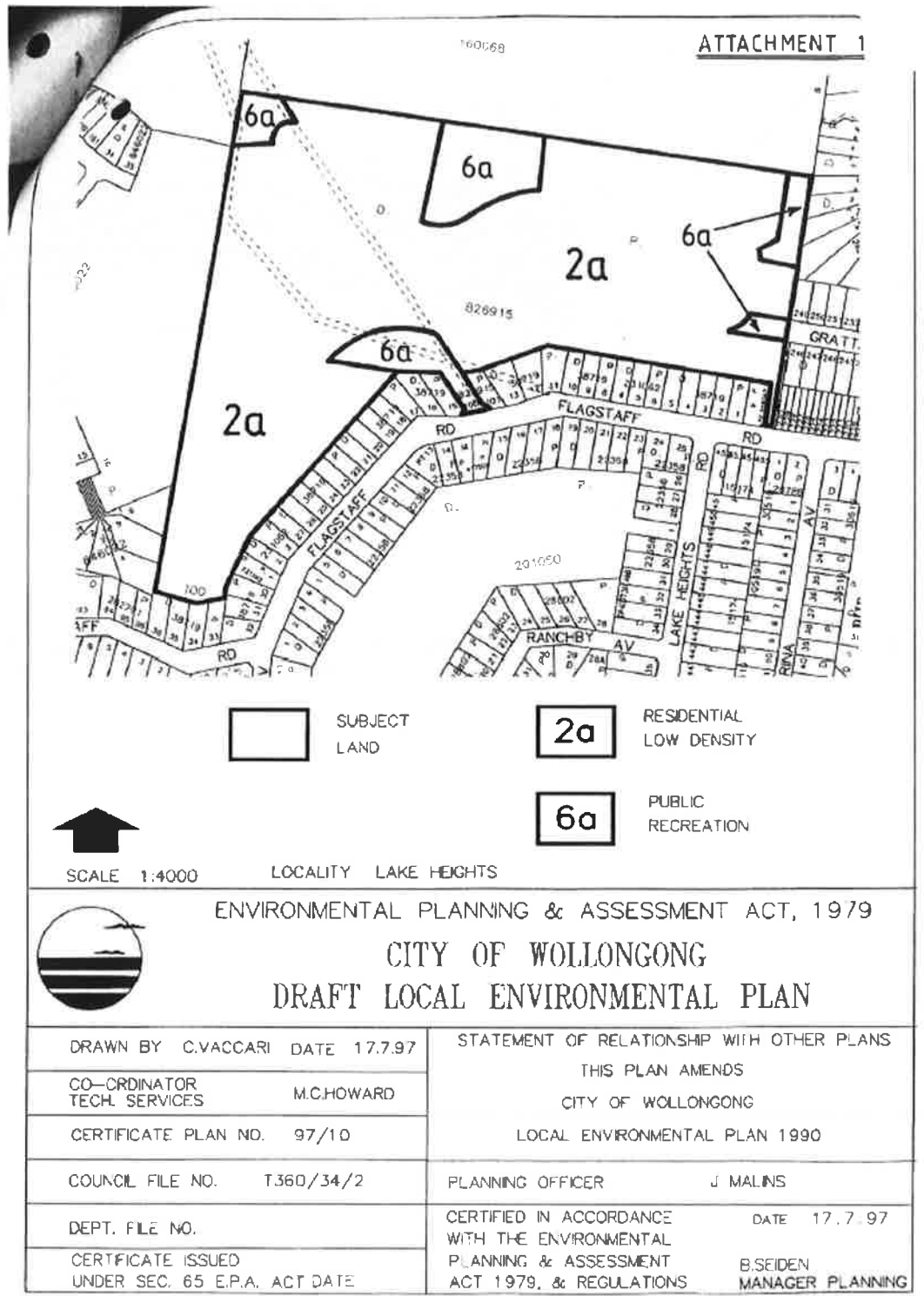
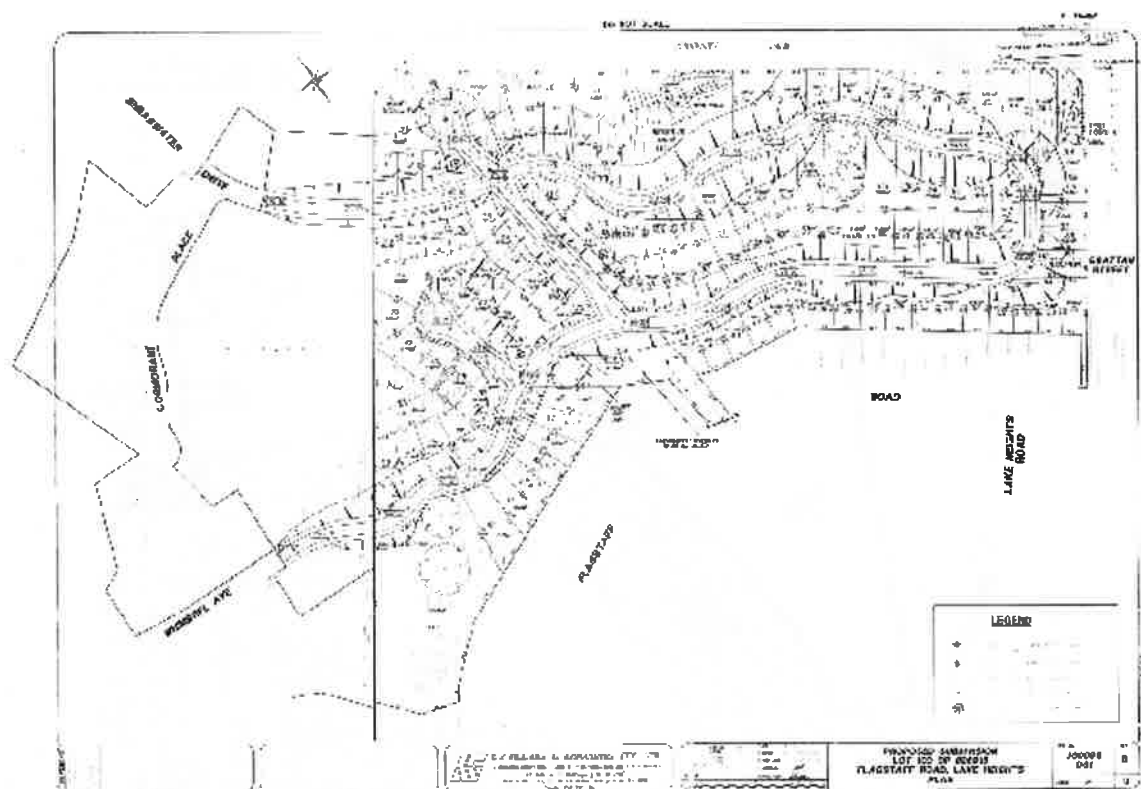


Figure 7: Approved Subdivision Plan DA-1997/395



ALIGNED WITH TO BE CONSISTENT WITH PLAN

RESTERED BUILDING ZONE

LEGEND

CONTRACT TREE - IN CHARGE

Scale: 1" = 100' 0"

North Arrow

The image contains several architectural drawings:

- Top Left:** A site plan labeled "LOT 13 PERSPECTIVE" showing a building footprint and surrounding landscape.
- Top Center:** A large site plan labeled "LOT 13" showing a building footprint, parking areas, and landscaping. It includes dimensions and descriptive text.
- Top Right:** A site plan labeled "LOT 14 PERSPECTIVE" showing a building footprint and surrounding landscape.
- Bottom Left:** A site plan labeled "LOT 15 PERSPECTIVE" showing a building footprint and surrounding landscape.
- Bottom Center:** A site plan labeled "LOT 16 PERSPECTIVE" showing a building footprint and surrounding landscape.
- Bottom Right:** A site plan labeled "LOT 17 PERSPECTIVE" showing a building footprint and surrounding landscape.

Figure 10: Approved Subdivision Plan DA-1997/395/A (Modification)

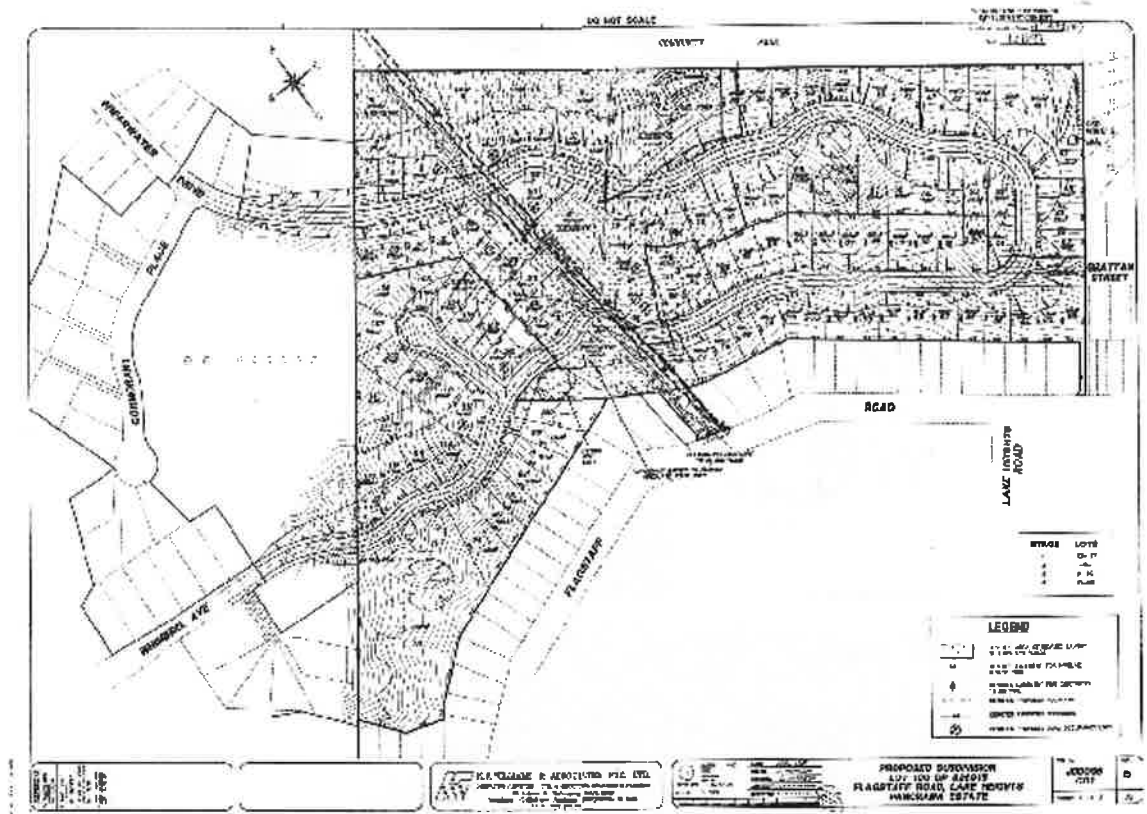


Figure 11: Width of public reserve

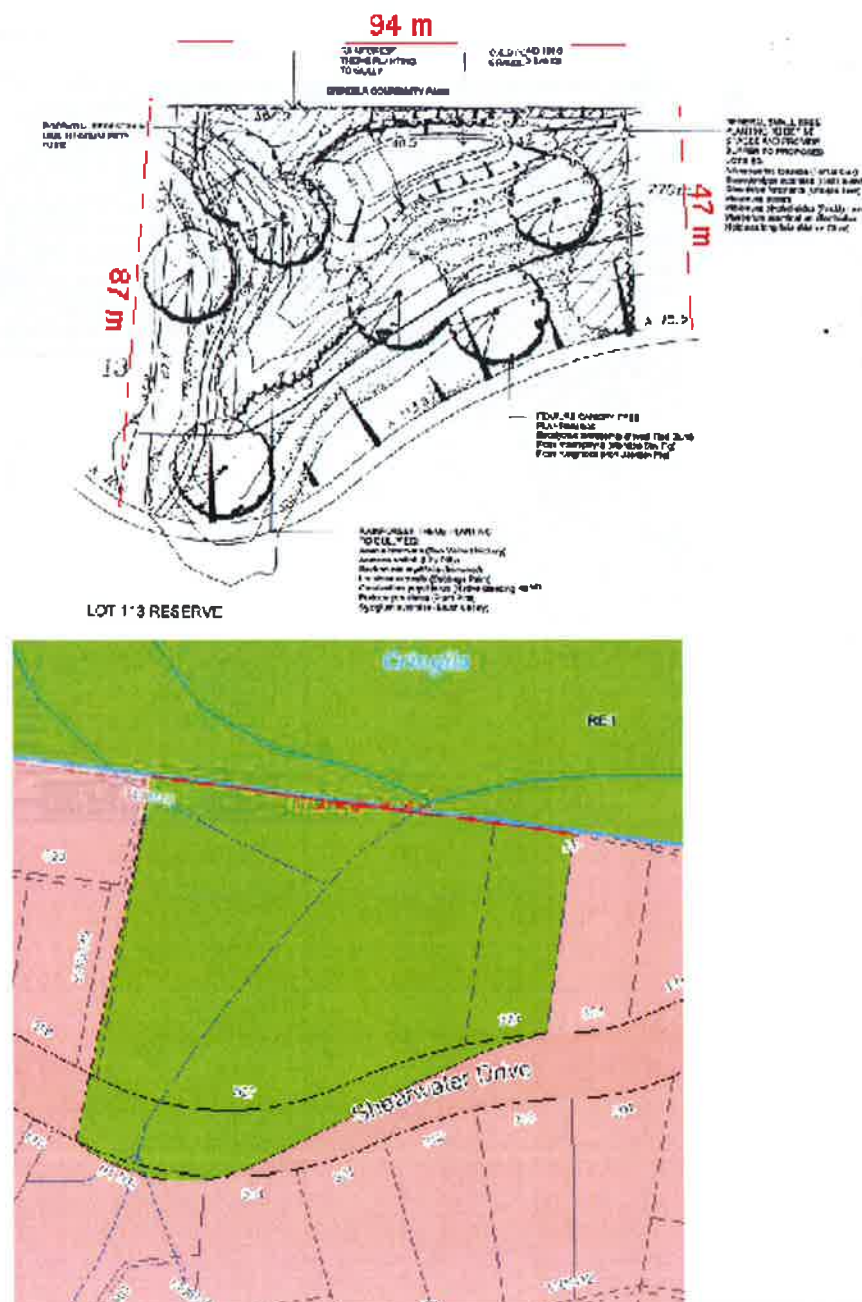
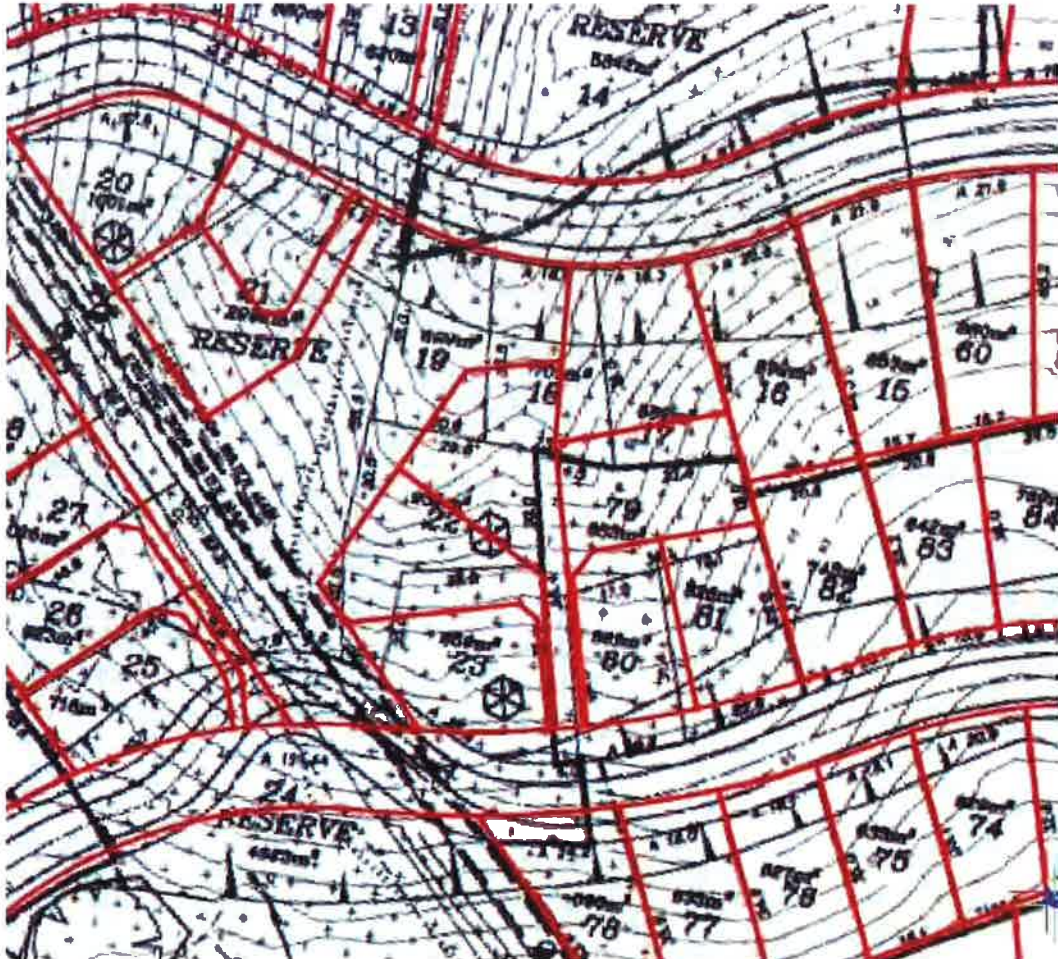


Figure 10: Overlay of the Subdivision Plan approved under DA-1997/395A and the existing lot layout as approved under SC-2007/116



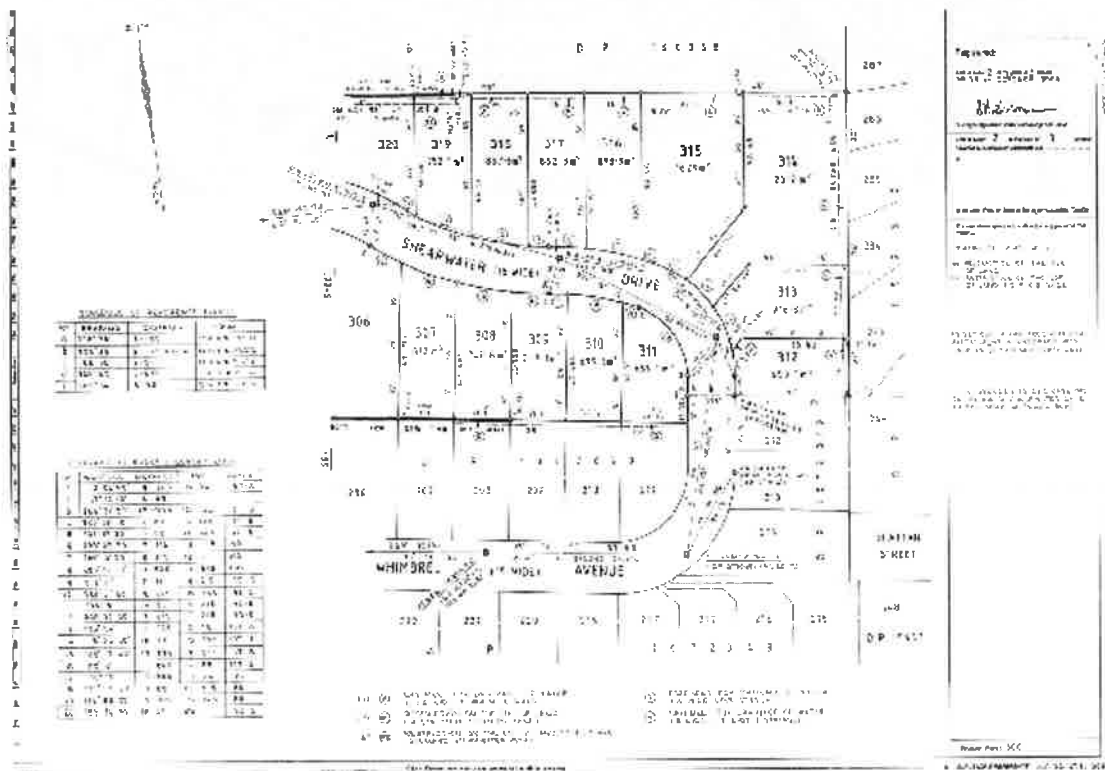
[illegible]

Figure 12: Approved Subdivision Plan SC-2007/116

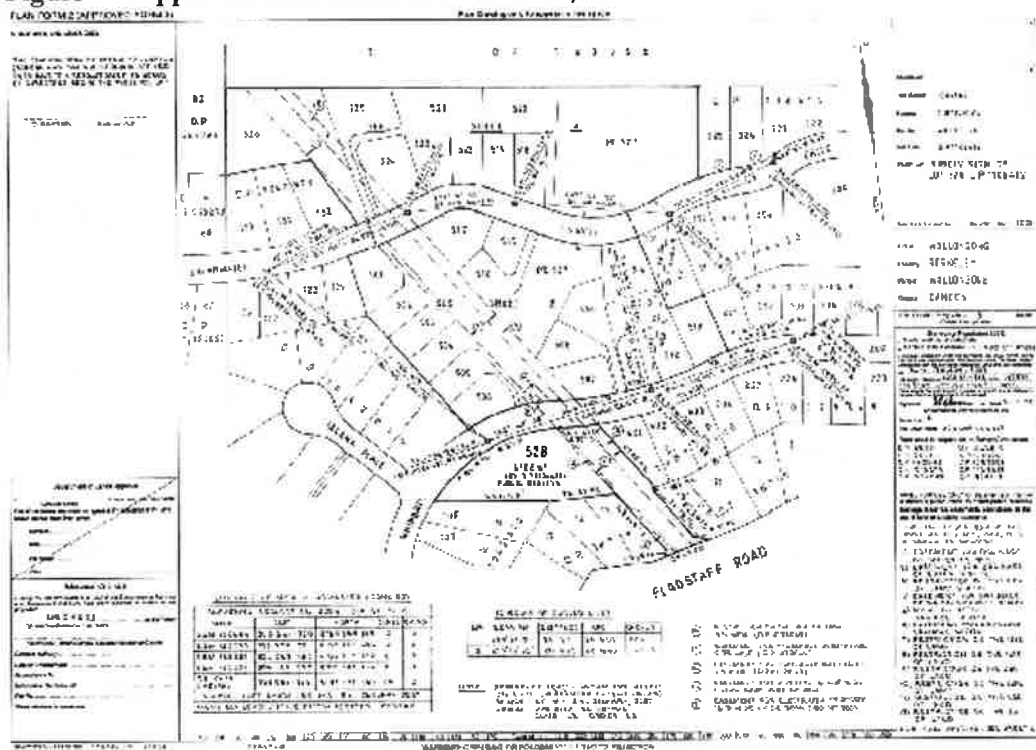


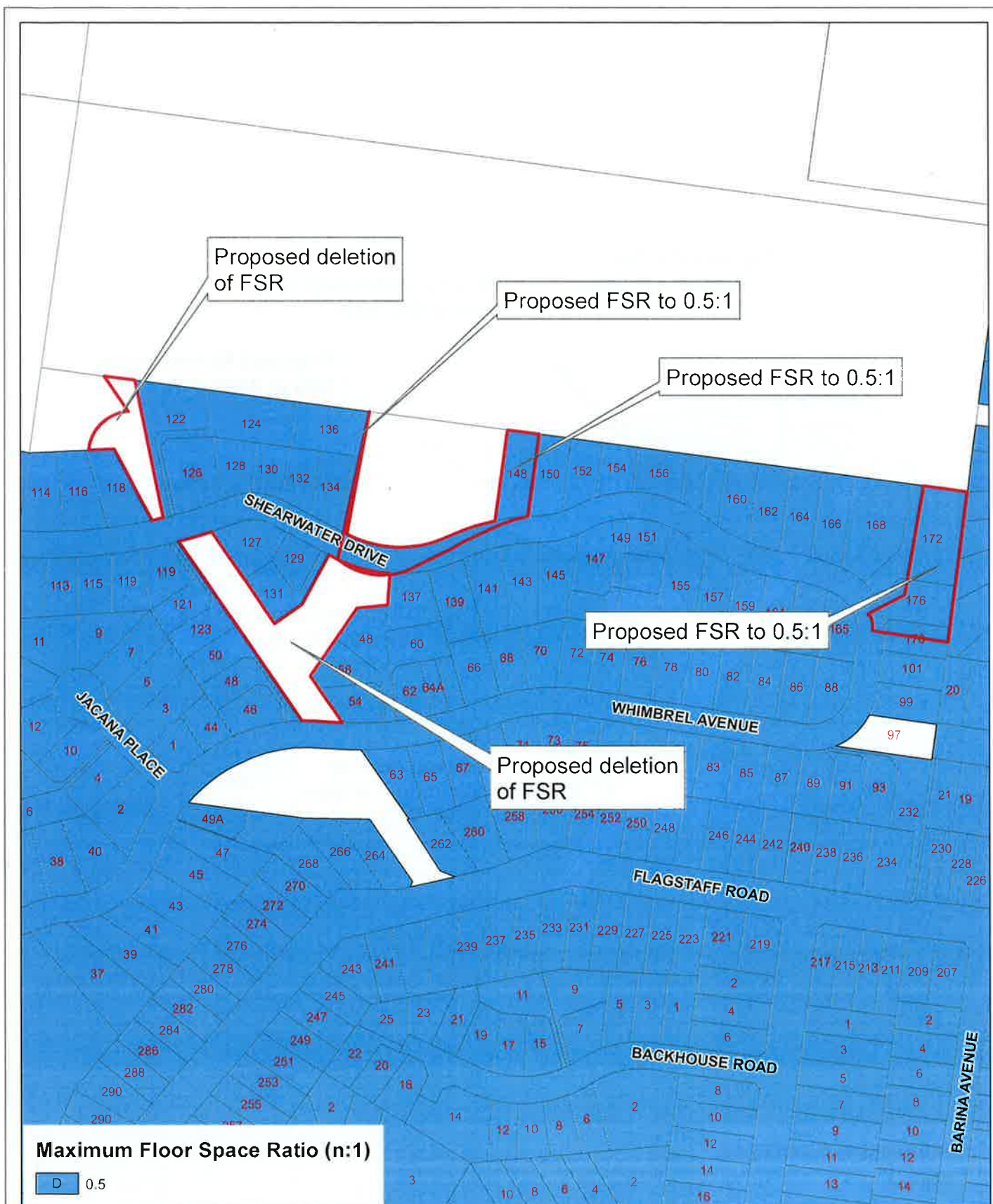
Figure 13: Wollongong LEP 1990 Zoning Map



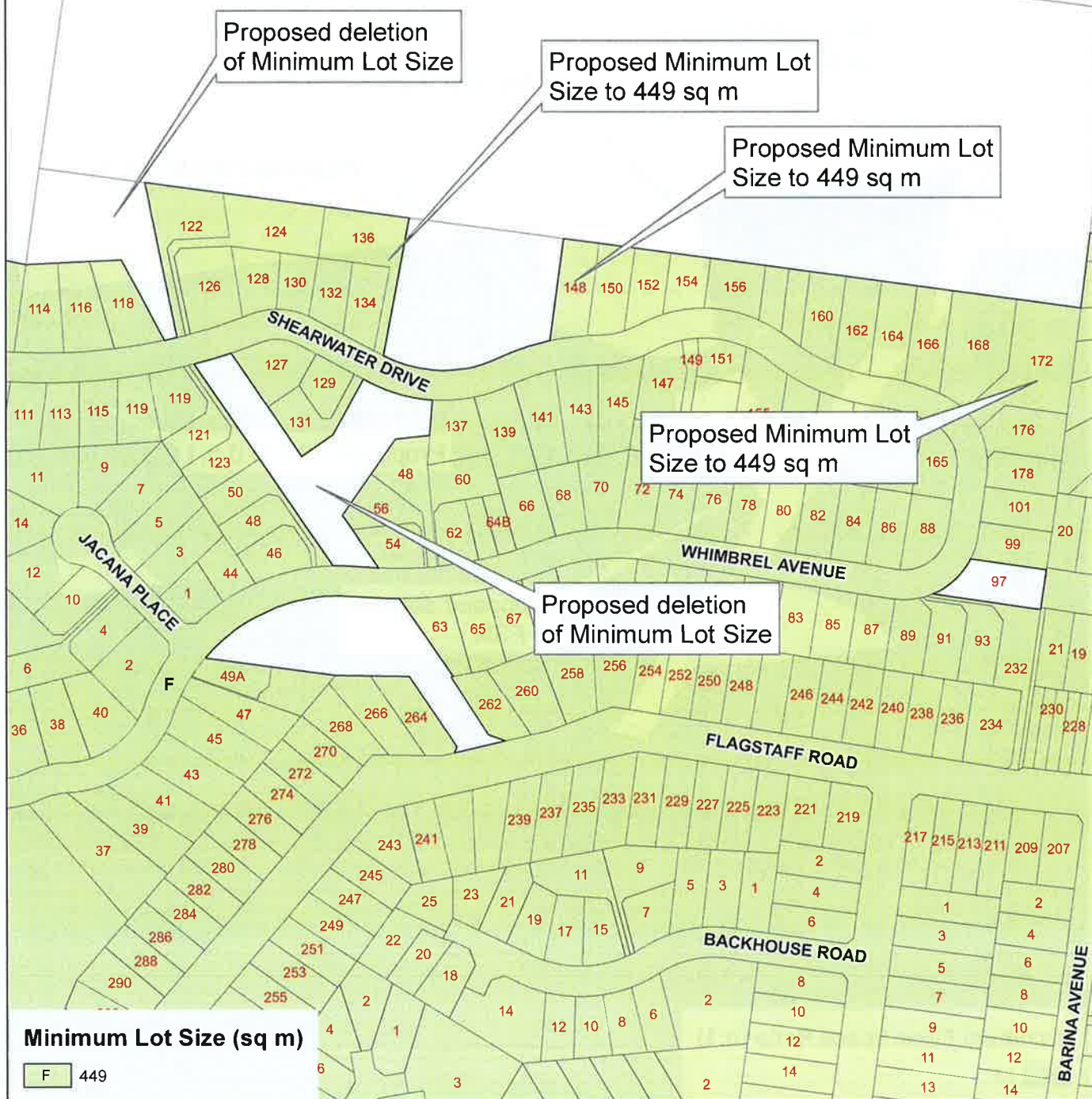
Figure 14: Wollongong LEP 2009 Zoning Map





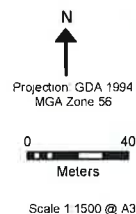


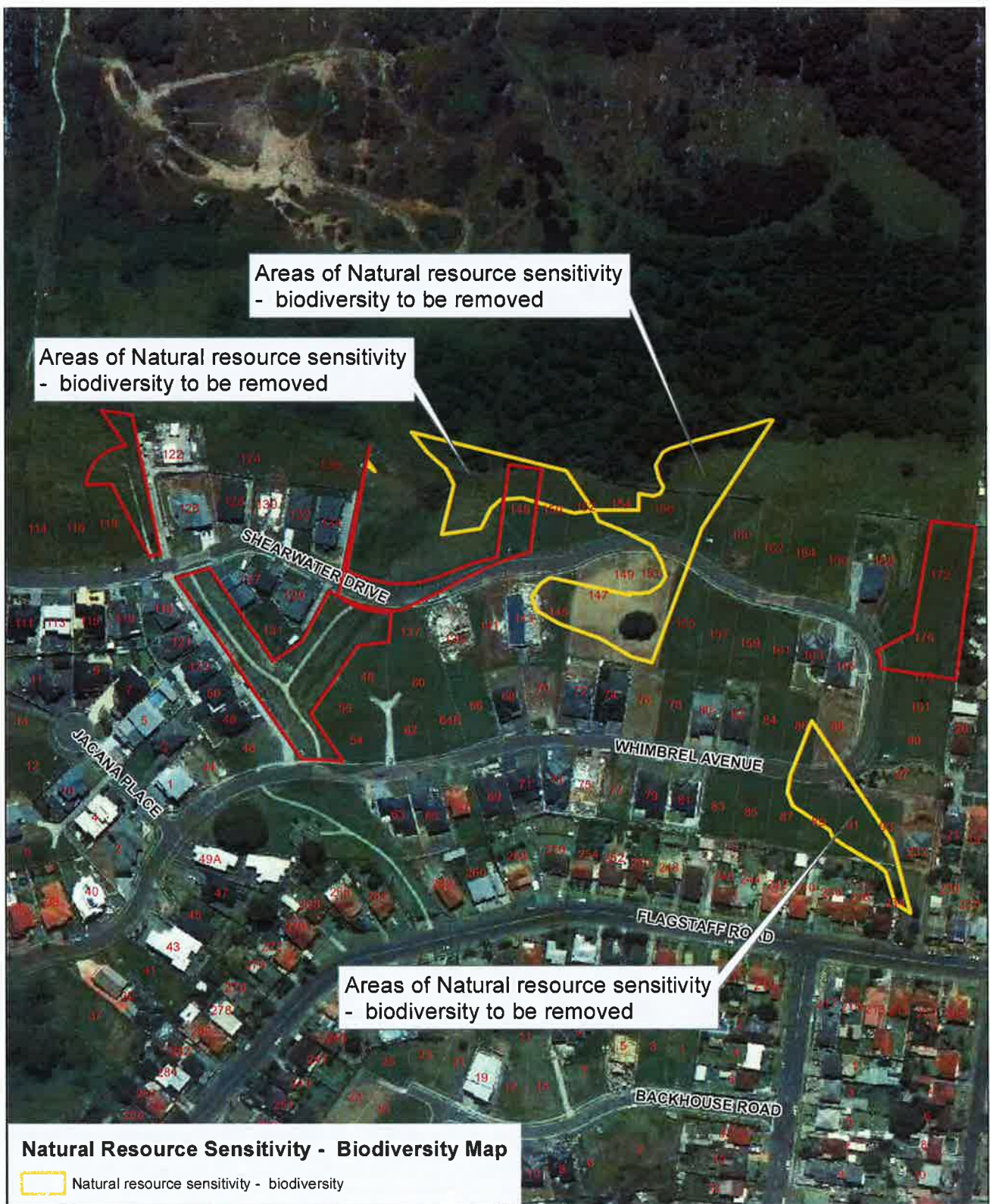
AB



Planning Proposal 136, 148, 172, 176, 178, 526 and 527 Shearwater Drive, Lake Heights

Subject sites





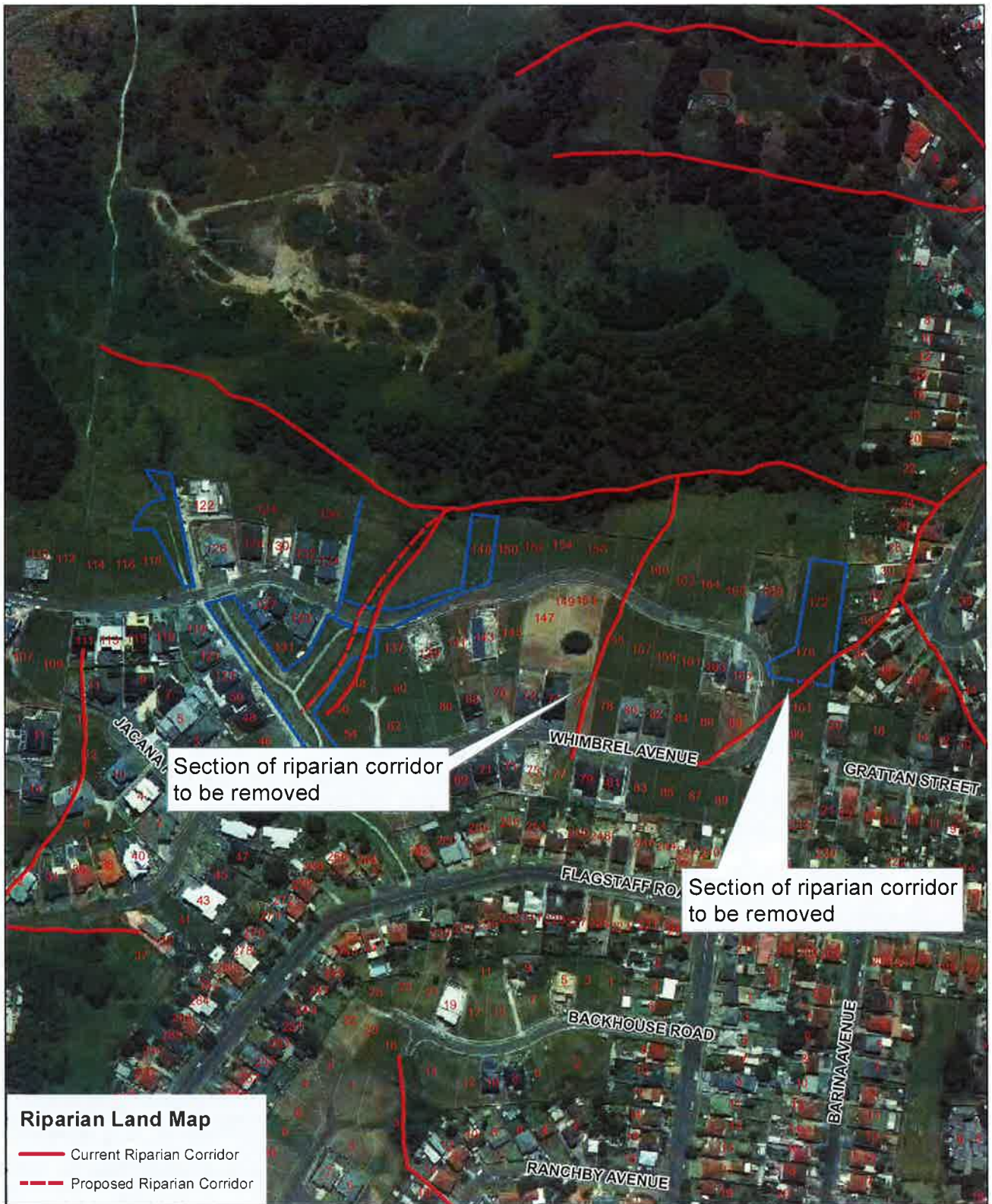
Planning Proposal
136,148,172,176,178, 526 and 527
Shearwater Drive, Lake Heights

Red outline: Subject sites

N
Projection: GDA 1994
MGA Zone 56
0 40
Meters
Scale 1:1500 @ A3



Map Verification number:
PanoramaEcologyLakeHts_NaturalResBiod.mxd



Planning Proposal
136,148,172,176,178, 526 and 527
Shearwater Drive, Lake Heights

 Subject sites

N
Projection: GDA 1994
MGA Zone 56
0 40
Meters
Scale 1:1500 @ A3





Planning Proposal
 Lots 136,148,172,176,178, 526 and 527
 Shearwater Drive, Lake Heights
 Locality Map

 Subject sites

N
 Projection: GDA 1994
 MGA Zone 56
 0 100
 Meters
 Scale 1:2000 @ A3



