

Planning Proposal

Land Use Relating to Local Government Boundary Adjustment

Newcastle Local Environmental Plan 2012 (Amendment No. X) and proposed amendment to Lake Macquarie Local Environmental Plan 2014 (Amendment No. X)

Local Government Area:	The City of Newcastle (NCC) and Lake Macquarie City Council (LMCC)
Name of Draft LEP:	Newcastle Local Environmental Plan 2012 (Amendment No. X) Lake Macquarie Local Environment Plan 2014 (Amendment No X)
Subject Land:	Part of Lot 711 DP 1113237, part of Lot 712 DP 1113237, Lot 2 DP 877349, and part of Newcastle Link Road, Minmi. Part of Lot 305 DP 1107690, part of Lot 101 DP 1041014, and part of SP 69436, Glendale.
Land Owner:	NSW (Roads and Maritime Service), Minmi Land Pty Ltd, The Newcastle Wallsend Coal Company Pty Ltd, and Macquarie College
Applicant:	NCC and LMCC
Folder Number:	F2009/01302
Date:	8 April 2014
Author:	Matthew Hill - Senior Strategic Planner

Tables:	Table No.	Details
	Table 1: NLEP 2012 Explanation of Provisions	
	Table 2: LMLEP 2014 Explanation of Provisions	
	Table 3: Consistency with applicable Section 117(2) Ministerial Directions	

Maps:	Map No.	Details
	Map 1: Locality	
	Map 2: Aerial	
	Map 3: Current Zones under NLEP 2012	
	Map 4: Current Zones under LMLEP 2014	
	Map 5: Proposed Zones under NLEP 2012	
	Map 6: Proposed Zones under LMLEP 2014	
	Map 7: Current Lot Size under NLEP 2012	
	Map 8: Current Lot Size under LMLEP 2014	
	Map 9: Proposed Lot Size under NLEP 2012	
	Map 10: Proposed Lot Size under LMLEP 2014	
	Map 11: Current Height of Buildings under NLEP 2012	

Map 12: Current Height of Buildings under LMLEP 2014

Map 13: Proposed Height of Buildings under NLEP 2012

Map 14: Proposed Height of Buildings under LMLEP 2014

Map 15: Current Urban Release Area under NLEP 2012

Map 16: Current Urban Release Area under LMLEP 2014

Map 17: Proposed Urban Release Area under NLEP 2012

Map 18: Proposed Land Application Map under NLEP 2012

Map 19: Proposed Land Application Map under LMLEP 2014

Part 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of the Planning Proposal is to amend *Newcastle Local Environmental Plan 2012* (NLEP 2012) *Lake Macquarie Local Environmental Plan 2014* (LMLEP 2014), to resolve land use and ensure the appropriate Local Environmental Plan applies to the land as a consequence of a local government boundary adjustment.

The Planning Proposal is intended to convert existing provisions to the relevant Local Environmental Plan as closely as possible, however, there is not an exact match in the application of provisions for each council. The part of Lot 305 DP 1107690 currently zoned Zone E4 Environmental Living under NLEP 2012 is proposed to be converted to Zone RU6 Transition under LMLEP 2014. This decision was made due to the historical nature of the land being within an investigation zone, and the current Zone E4 Environmental Living zone under NLEP 2012 containing an objective reflecting this, which states:

To provide for the development of land for purposes that will not, or will be unlikely to, prejudice its possible future development for urban purposes or its environmental conservation.

This is similar to an objective within Zone RU6 Transition zone under LMLEP 2014, which states:

To limit development to development that will not prejudice or have the potential to prejudice future conservation and/or development of the land.

In addition, the Zone E4 Environmental Living zone under LMLEP 2014 contains a lot size of 2 hectares, while the E4 zone under NLEP 2012 contains a lot size of 40ha. Application of the E4 zone under LMLEP 2014 would not represent the intentions of the current LEP provisions applying to this land.

Part 2 – EXPLANATION OF PROVISIONS

The proposed objective will be achieved by amending the NLEP 2012 by:

Table 1: NLEP 2012 Explanation of Provisions

Amendment Applies to	Explanation of provision
Maps	An amendment will be required to the Land Application Map to ensure it aligns with the new local government boundary. Land use zones, building heights, FSR, and lot sizes will need to be applied to the land added to Newcastle LGA (see attached maps).

The proposed objective will also result in changes to LMLEP 2014. They will be achieved by:

Table 2: LMLEP 2014 Explanation of Provisions

Amendment Applies to	Explanation of provision
Maps	If the amendment is adopted following the implementation of LMLEP 2014, it is proposed that the amendment will adjust the Land Application Map to align with the new local government boundary. Land use zones, building heights, and lot sizes will need to be applied to the land added to Lake Macquarie LGA (see attached maps). Part of Lot 305 DP 1107690 currently zoned

Amendment Applies to	Explanation of provision
	Zone E4 Environmental Living under NLEP 2012 will be rezoned to Zone RU6 Transition under LMLEP 2014, while part of SP 69436, Macquarie College, which is to be transferred from Newcastle to Lake Macquarie LGA will be rezoned from Zone SP2 Infrastructure – Educational Establishment under NLEP 2012 to Zone SP2 Infrastructure – School under LMLEP 2014.

Part 3 – JUSTIFICATION

Section A – Need for the Planning Proposal

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

The purpose of the Planning Proposal is to rectify the administration of Local Environmental Plans (LEP's) for Newcastle and Lake Macquarie LGA's as they relate to a local government boundary adjustment. The boundary adjustment will transfer land between each local government area (LGA). Without an LEP amendment, this will result in uncertainty around the application of LEP's for the subject land and conflict between their provisions.

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

It is essential that each LEP is amended to ensure their application is not in conflict, overlapping, or absent from certain land being transferred between the Newcastle and Lake Macquarie LGA's.

3. *Is there a net community benefit?*

The LEP amendment will resolve the potential implications of unzoned land and/ or overlapping LEP's, and restore certainty to the community in terms of land use and development rights.

Section B – Relationship to Strategic Planning Framework

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

The current land use provisions applicable to the subject land are consistent with the Lower Hunter Regional Strategy. It is proposed that the LEP amendment will be administrative and will seek to convert existing provisions as much as possible, while being consistent with the manner in which provisions have been applied in each LGA. The LEP amendment does not seek to change land use provisions relating to the subject land, however, a perfect conversion will not be possible.

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

As above.

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

There are no State Environmental Planning Policies (SEPP's) relevant to this Planning Proposal.

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

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

Table 3: Consistency with applicable Section 117(2) Ministerial Directions

Ministerial Direction	Objective/s	Consistency / Comment
1.1 Business and Industrial Zones	(a) Encourage employment growth in suitable locations, (b) Protect employment land in business and industrial zones, and (c) Support the viability of identified strategic centres.	N/A
1.2 Rural Zones	Protect the agricultural production value of rural land.	Consistent: There is a component of the proposal which will rezone rural land, however, the subject land currently contains Macquarie College and is not used for agricultural purposes. This land has also been assigned Zone SP2 Infrastructure – School under LMLEP 2014.
1.3 Mining, Petroleum Production and Extractive Industries	Ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	N/A
2.1 Environment Protection Zones	Protect and conserve environmentally sensitive areas.	Consistent: A small component of Lot 101 DP 1041014 will be rezoned from E2 Environmental Conservation under LMLEP 2014 to Zone R2 Low Density residential under NLEP 2012. This land currently contains urban development and is not suitable for conservation.
2.2 Coastal Protection	Implement the principles in the NSW Coastal Policy.	N/A
2.3 Heritage Conservation	Conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	N/A
2.4 Recreation Vehicle Areas	Protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	N/A

Ministerial Direction	Objective/s	Consistency / Comment
3.1 Residential Zones	(a) Encourage a variety and choice of housing types to provide for existing and future housing needs, (b) Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) Minimise the impact of residential development on the environment and resource lands.	Consistent: The Planning Proposal seeks a conversion of existing provisions and does not seek to alter the residential development potential of the subject land.
3.2 Caravan Parks and Manufactured Home Estates	(a) Provide for a variety of housing types, and (b) Provide opportunities for caravan parks and manufactured home estates.	N/A
3.3 Home Occupations	Encourage the carrying out of low-impact small businesses in dwelling houses.	N/A
3.4 Integrating Land Use and Transport	Ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	N/A

Ministerial Direction	Objective/s	Consistency / Comment
3.5 Development Near Licensed Aerodromes	(a) Ensure the effective and safe operation of aerodromes, and (b) Ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) Ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	N/A
3.6 Shooting Ranges	(a) Maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) Reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) Identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	N/A
4.1 Acid Sulfate Soils	Avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	N/A
4.2 Mine Subsidence and Unstable Land	Prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	N/A

Ministerial Direction	Objective/s	Consistency / Comment
4.3 Flood Prone Land	(a) Ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and (b) Ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	N/A
4.4 Planning for Bushfire Protection	(a) Protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) Encourage sound management of bush fire prone areas.	N/A
5.1 Implementation of Regional Strategies	Give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	Consistent: The Planning Proposal seeks to convert existing provisions which are consistent with the Lower Hunter Regional Strategy.
6.1 Approval and Referral Requirements	Ensure that LEP provisions encourage the efficient and appropriate assessment of development.	N/A
6.2 Reserving Land for Public Purposes	(a) Facilitate the provision of public services and facilities by reserving land for public purposes, and (b) Facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	N/A
6.3 Site Specific Provisions	Discourage unnecessarily restrictive site specific planning controls.	N/A

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 Planning Proposal is a conversion of provisions, and will not alter provisions relating to critical habitat or threatened species, populations or ecological communities, or their habitats.

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

The Planning Proposal is an administrative conversion of provisions and does not alter the likely development outcomes for the land.

9. ***How has the planning proposal adequately addressed any social and economic effects*** The Planning Proposal is seeking to provide certainty to the community by ensuring that the extent to which an LEP applies to the subject land is clear. Any social or economic effects related to the Planning Proposal are likely to be negligible.

Section D – State and Commonwealth Interests

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

The Planning Proposal is administrative and does not require any infrastructure provision.

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

Consultation will occur with the following agencies and service authorities:

- Department of Planning and Infrastructure
- Roads and Maritime Service

Part 4 – MAPPING



Map 1: Locality

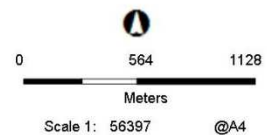


Aerial Photograph of Subject Land



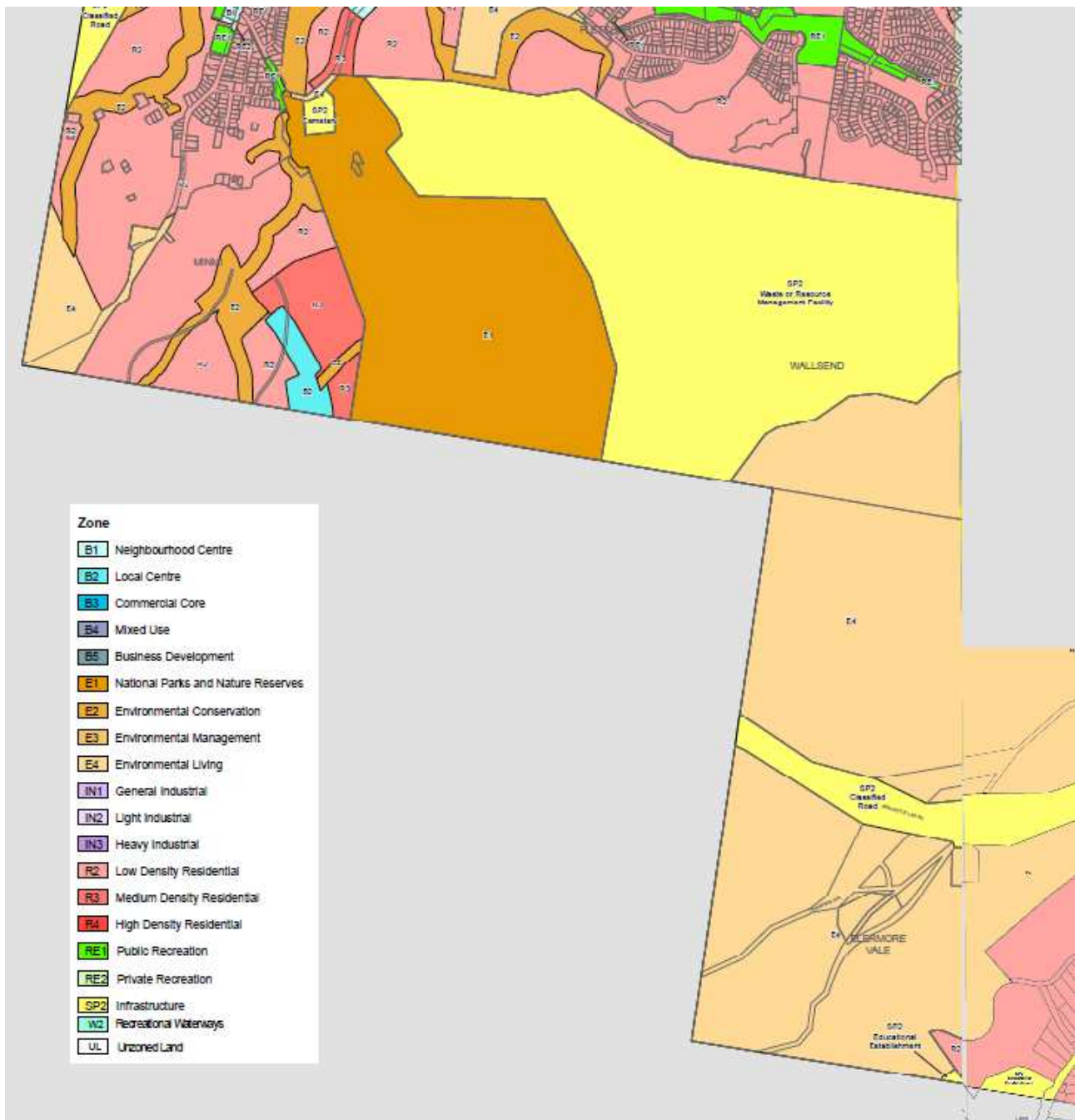
— Current LGA boundary
 — Subject land

Date: 12-Feb-14

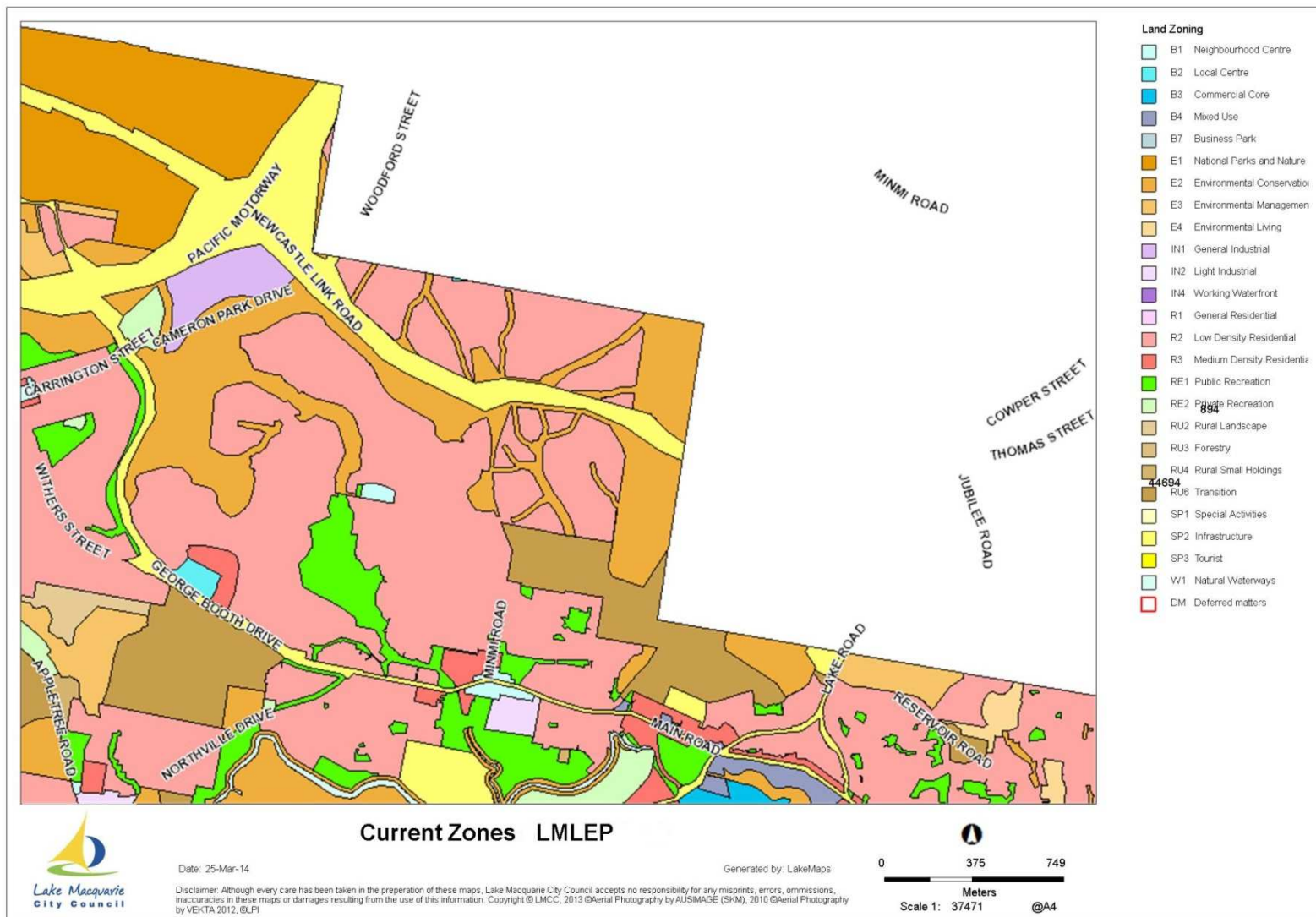


Disclaimer: Although every care has been taken in the preparation of these maps, Lake Macquarie City Council accepts no responsibility for any misprints, errors, omissions, inaccuracies in these maps or damages resulting from the use of this information. Copyright © LMCC, 2013 ©Aerial Photography by AUSIMAGE (SKM), 2010 ©Aerial Photography by VEKTA 2012, ©LPI, ©Contours by NSW Dept of Planning 2007 LiDAR, ©Surveyor-General's Dept 2012

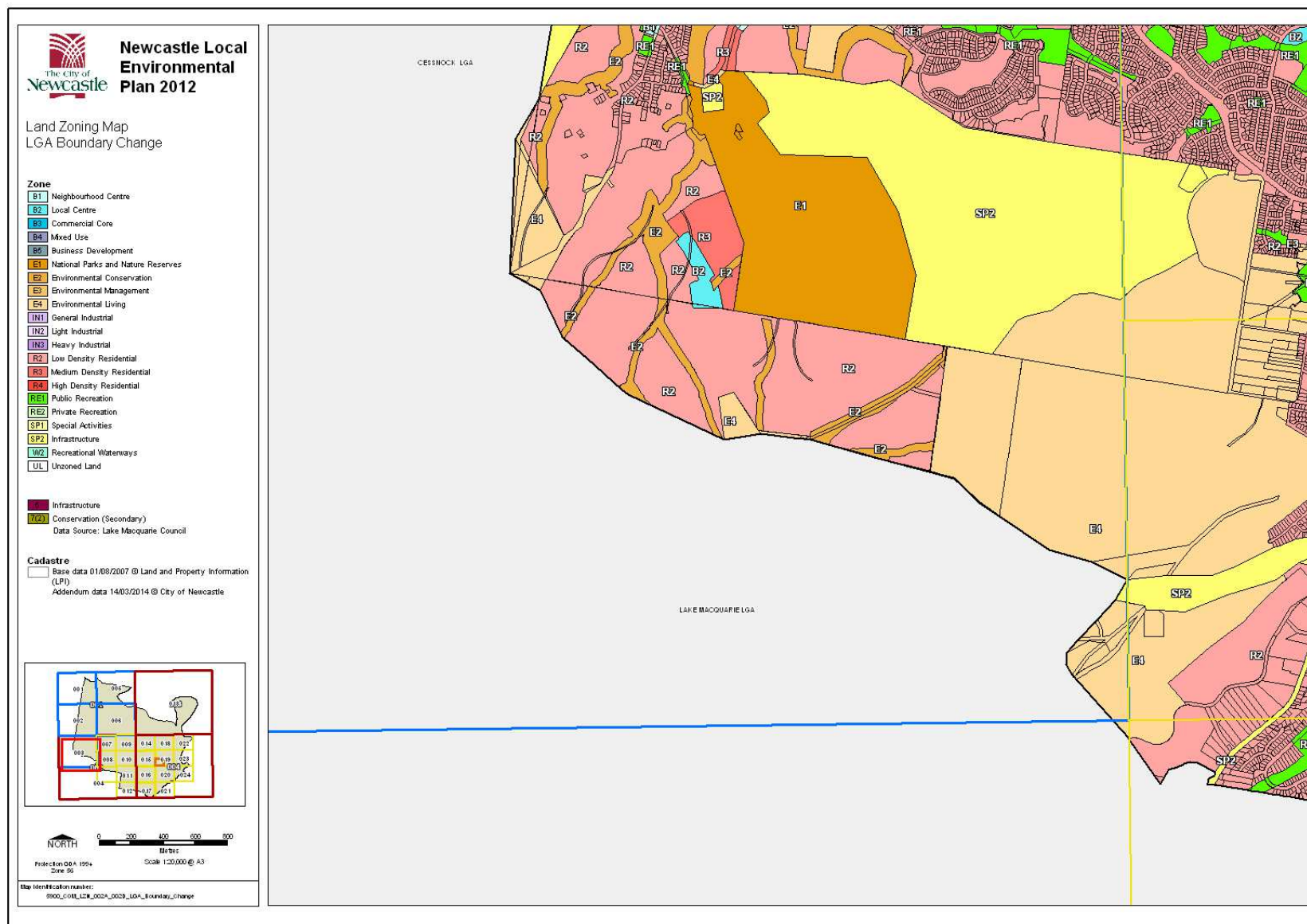
Map 2: Aerial



Map 3: Current Zones under NLEP 2012



Map 4: Current Zones under LMLEP 2014



Map 5: Proposed Zones under NLEP 2012



Map 7: Current Lot Size under NLEP 2012



Newcastle Local Environmental Plan 2012

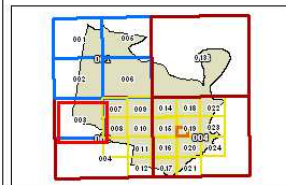
Lot Size Map
LGA Boundary Change

Minimum Lot Size (sq m)

F	400
G	450
U	1 000
Y	10 000 (1 ha)
Z	20 000 (2 ha)
AB	400 000 (40 ha)

Cadastral

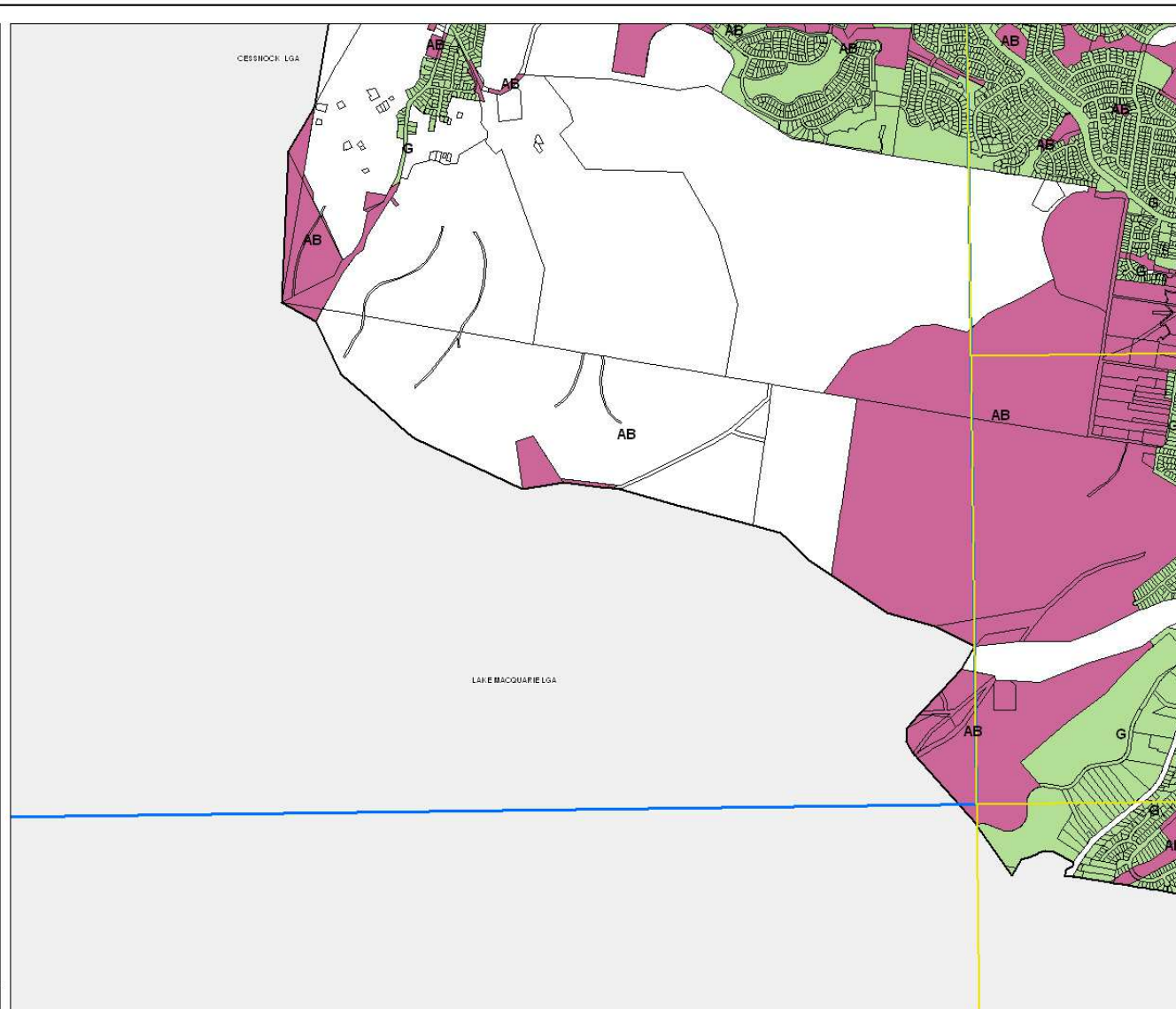
☐ Cadastre data as at 01/09/2007 © LPHMA
☐ Aerial data as at 14/03/2014 © Newcastle City Council



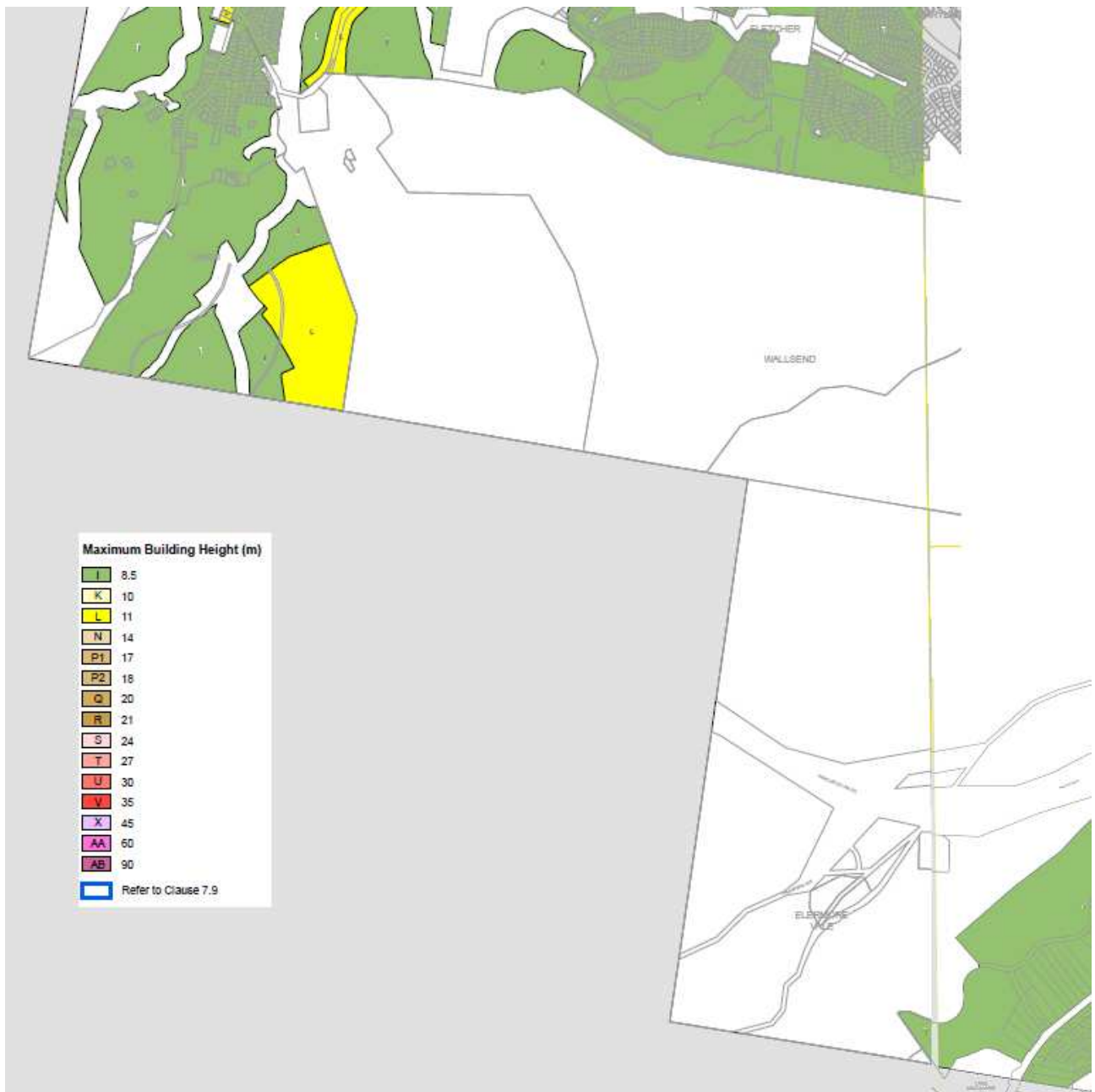
NORTH
 0 200 400 600 800
 Metres

Projection: GDA 1994
 Zone: 56
 Scale: 1:20,000 @ A3

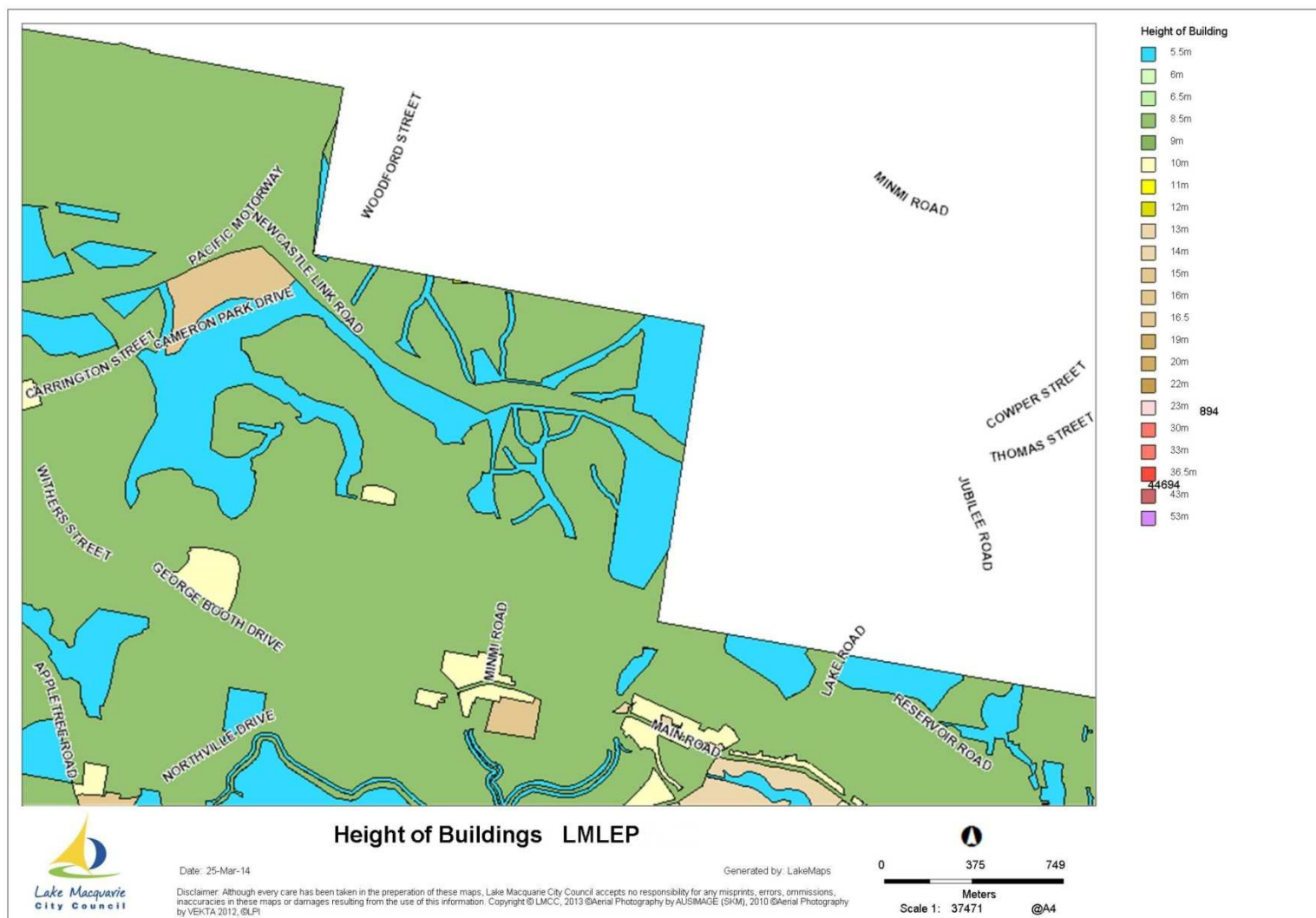
Map Identification number:
 9900_018_L22_0024_0029_LGA_Boundary_Change



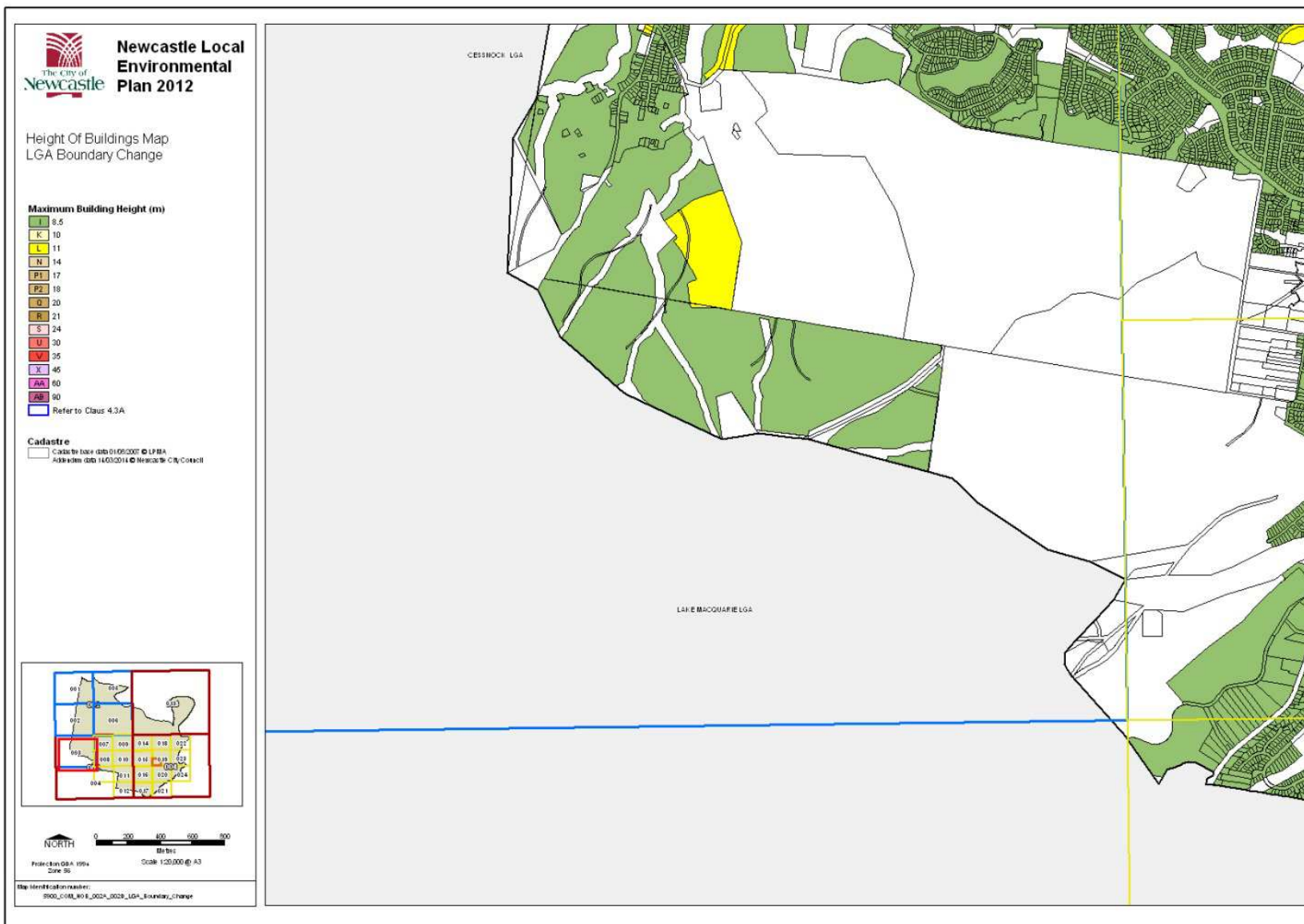
Map 9: Proposed Lot Size under NLEP 2012



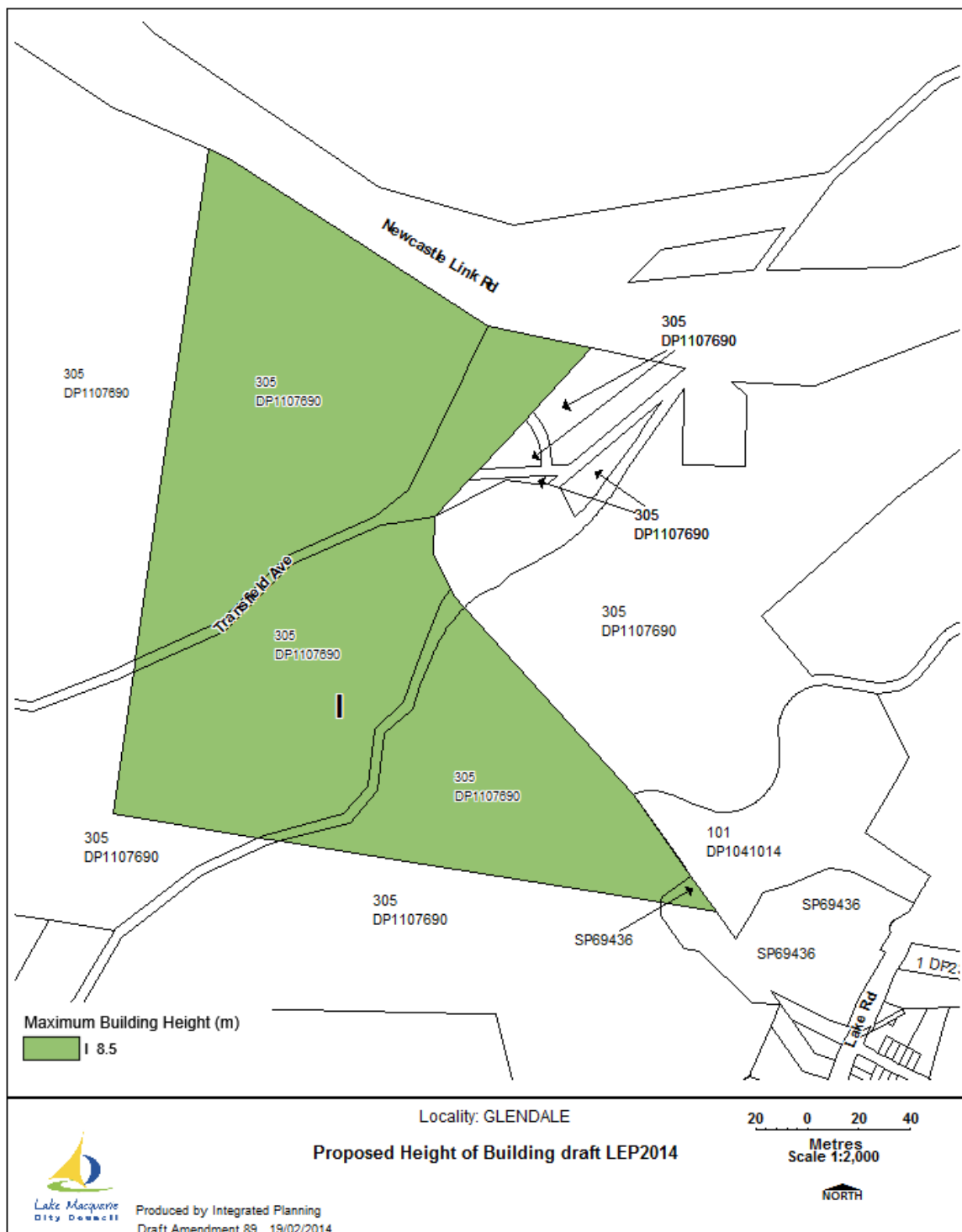
Map 11: Current Height of Buildings under NLEP 2012



Map 12: Current Height of Buildings under LMLEP 2014



Map 13: Proposed Height of Buildings under NLEP 2012

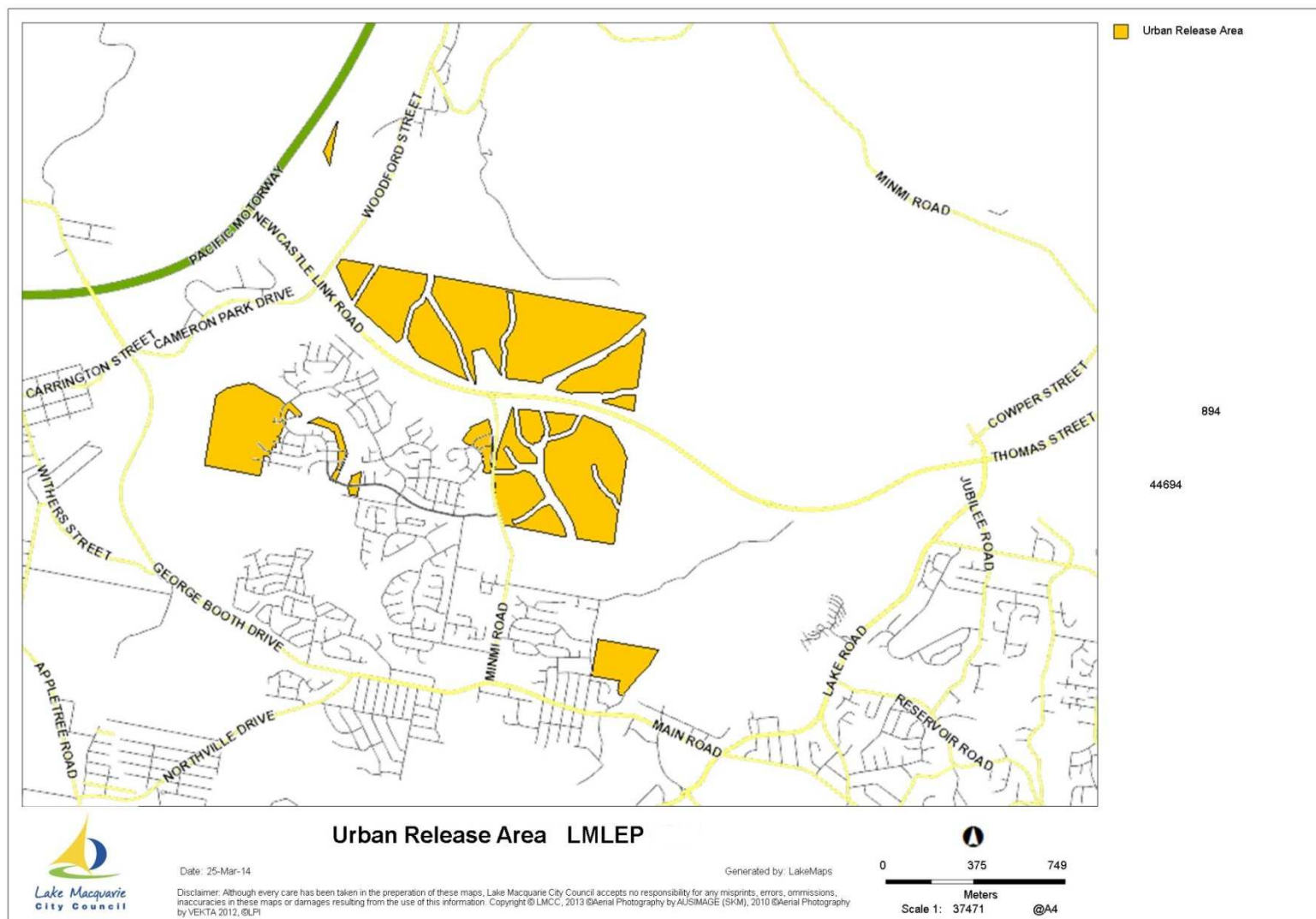


Map 14: Proposed Height of Buildings under LMLEP 2014

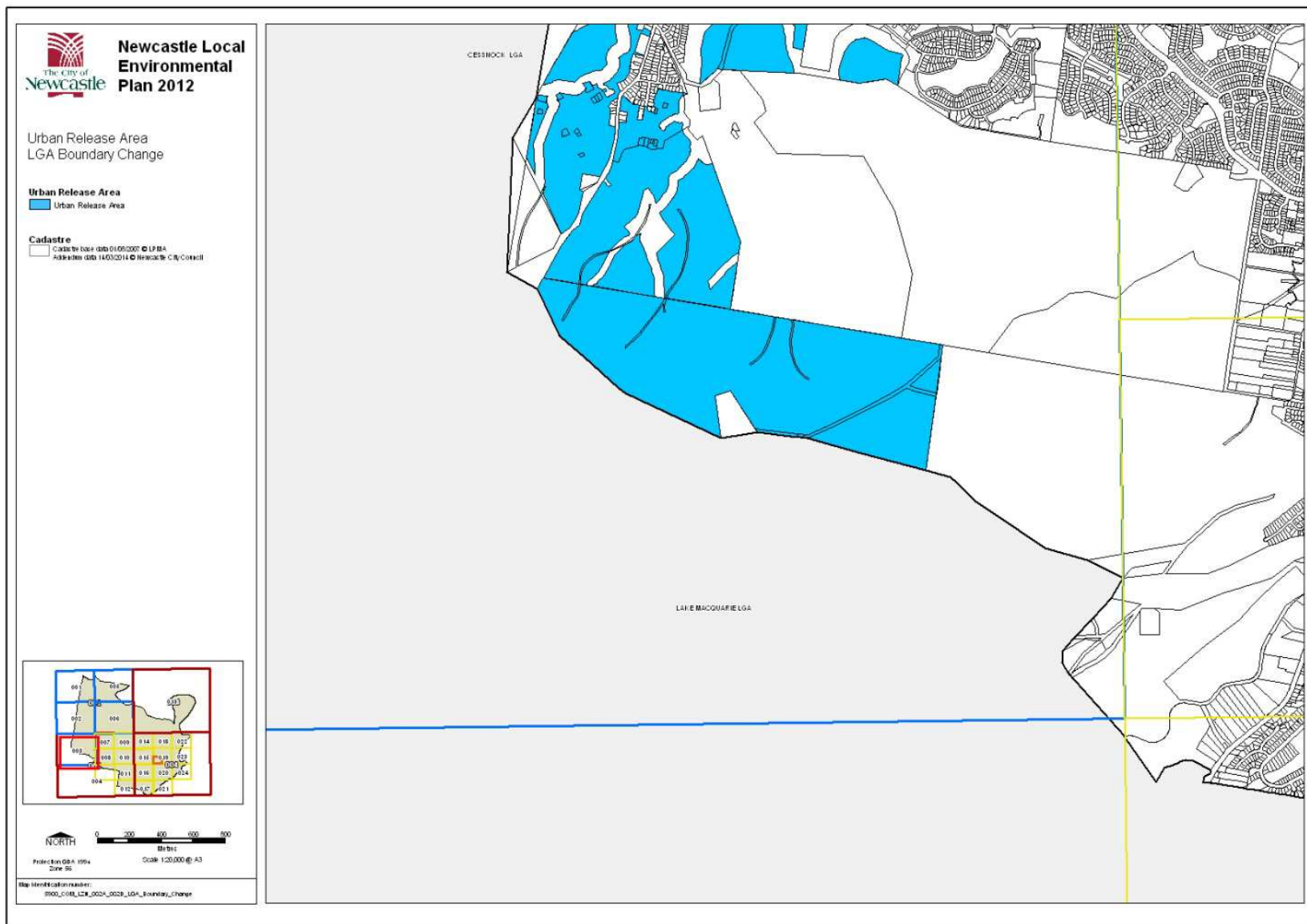
Planning Proposal – F2009/01302



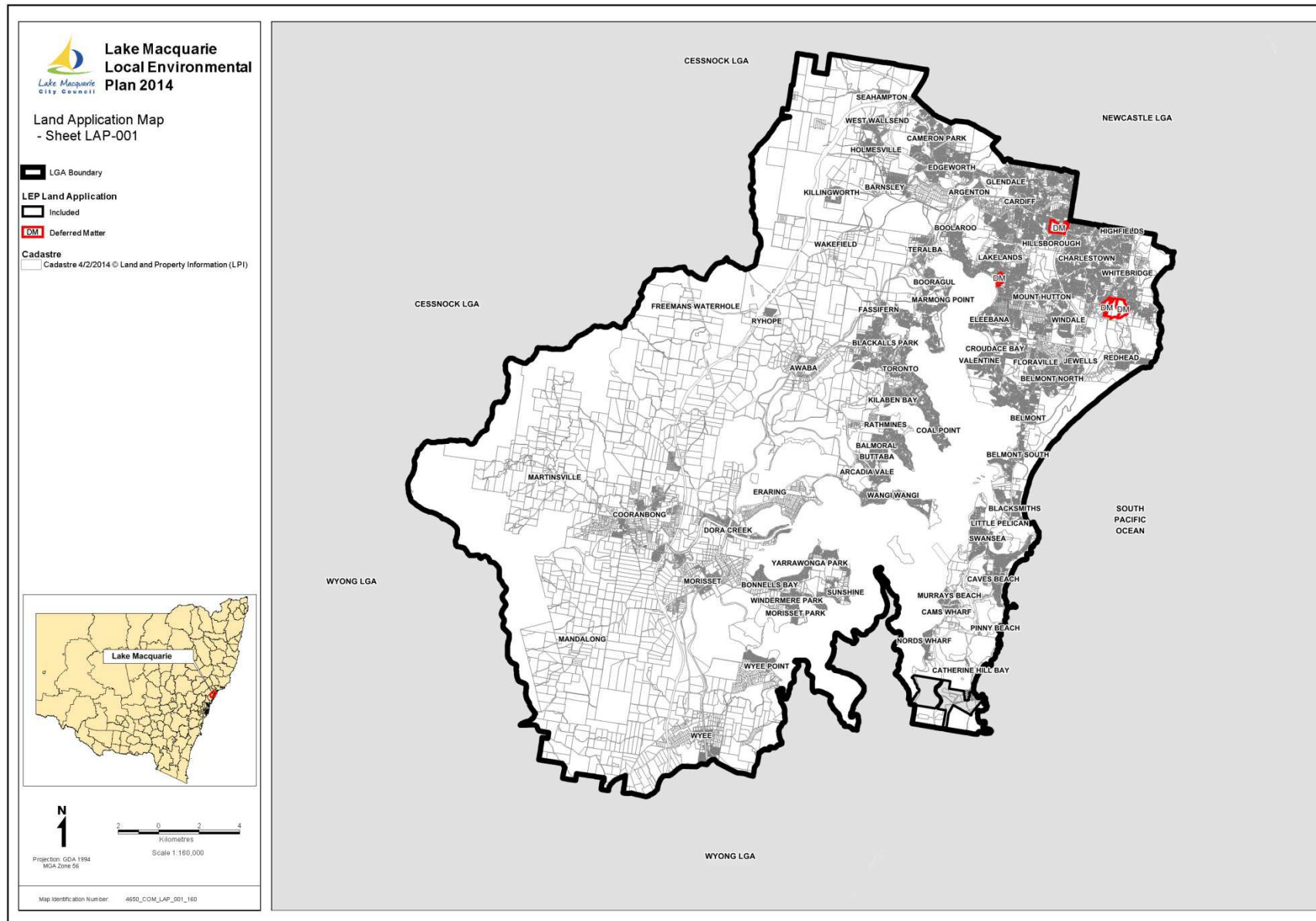
Map 15: Current Urban Release Area under NLEP 2012



Map 16: Current Urban Release Area under LMLEP 2014



Map 17: Proposed Urban Release Area under NLEP 2012



Map 19: Proposed Land Application Map under LMLEP 2014

Part 5 – COMMUNITY CONSULTATION

There has been no previous public consultation regarding this planning proposal. It is proposed that the Planning Proposal will be placed on public exhibition for a period of at least 14 days.

Part 6 – PROJECT TIMELINE

Action	Timeframe
Anticipated commencement date (date of Gateway determination)	May 2014
Anticipated timeframe for completion of required technical information	Nil
Timeframe for government agency consultation (pre exhibition)	21 days
Public exhibition (commencement and completion dates)	14 days
Date of Public hearing (if required)	Nil
Consideration of submissions	7 days
Timeframe for government agency consultation (post exhibition if required)	21 days
Post exhibition planning proposal consideration / preparation	7 days
Submission to Department to finalise LEP	2 days
Date RPA will make Plan (if delegated)	Following consideration by the Department and Parliamentary Counsel
Date RPA will forward to the Department for notification (if not delegated)	N/A