

# Planning Proposal

## Amendment to Lake Macquarie Local Environmental Plan 2014

### Warners Bay Town Centre Deferred Matter

#### Pre Gateway Version

|                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Local Government Area</b> | Lake Macquarie City Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Name of Draft LEP:</b>    | Amendment to <i>Lake Macquarie Local Environmental Plan 2014</i> –Warners Bay Town Centre Deferred Matter                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Subject Land:</b>         | As shown on Subject Land and Aerial Photo map (Figure 2)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Owner:</b>                | Various – Private and Council.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Applicant:</b>            | Council initiated                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Maps and Photos:</b>      | <ul style="list-style-type: none"> <li>• Locality Map (Figure 1)</li> <li>• Subject Land and Aerial Photo (Figure 2)</li> <li>• Current Zoning – Lake Macquarie LEP 2004 (Figure 3)</li> <li>• Proposed Zones –Lake Macquarie LEP 2014 (Figure 4)</li> <li>• Proposed Height of Building Map Lake Macquarie LEP 2014 (Figure 5)</li> <li>• Proposed Minimum Lot Size Map Lake Macquarie LEP 2014 (Figure 6)</li> <li>• Proposed Flood Planning Map Lake Macquarie LEP 2014 (Figure 7)</li> <li>• Proposed Acid Sulfate Soils Map Lake Macquarie LEP 2014 (Figure 8)</li> <li>• Proposed Heritage Map Lake Macquarie LEP 2014 (Figure 9)</li> </ul> |
| <b>Attachments</b>           | Attachment 1 – draft Warners Bay Town Centre Planning Framework.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

## Part 1 – Objective of the Planning Proposal

Warners Bay Town Centre was deferred from draft *Lake Macquarie Local Environmental Plan 2014* by Council resolution in June 2013, following exhibition of that draft LEP. The Warners Bay Town Centre was zoned 3(1) Commercial Core and 3(2) Commercial (Support) under Lake Macquarie LEP 2004.

The objective of this Planning Proposal is to amend *Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)* to bring the Warners Bay Town Centre “Deferred Matter” into the operation of LMLEP 2014 by:

- zoning the “Deferred Matter” land to B2 – Local Centre and B4 – Mixed Use,
- establishing appropriate building heights for development in the town centre ranging from 13 meters to 22 meters,
- identifying certain land as subject to flood planning controls,
- identifying certain land as class 3 or class 5 potential acid sulphate soils,
- identifying the local heritage item in the subject land.

The Planning Proposal also seeks to rezone 30A Charles Street from R3 to B4 to enable a range of business type development on the lot and encourage consolidation with 25 Lake Street to enable a viable commercial development that supports the objectives for a diversity of commercial space in the town centre and an active frontage along Lake Street. A minimum lot size of this lot is also proposed to be removed from the LMLEP 2014 Lot Size Map, which is consistent with other business zoned land in the LGA.

## Part 2 – Explanation of the Provisions

The proposed B2 and B4 zones for the Warners Bay Town Centre is equivalent to the current 3(1) and 3(2) zone applying to the subject land under LMLEP 2004. The proposed zones reflect the conversion process undertaken when preparing Lake Macquarie LEP 2014.

The Planning Proposal would result in the following changes to *Lake Macquarie LEP 2014*.

| Amendment Applies to:   | Explanation of Provision:                                                                                                            |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Land Application Map    | Add Warners Bay Town Centre Deferred land to the LMLEP 2014 Land Application Map                                                     |
| Land Zoning Map         | Rezone land from Deferred and R3 to B2 and B4 on the Land Zoning Map (Figure 4)                                                      |
| Height of Buildings Map | Establish building heights in the town centre ranging from 13 meters to 22 meters as shown on the Height of Buildings Map (Figure 5) |
| Lot Size Map            | Change the minimum lot size for 30A Charles Street from 900m <sup>2</sup> to Not Specified (Figure 6)                                |

|                        |                                                                                                                                            |
|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Flood Planning Map     | Part of the subject land is identified as being within a flood planning area. (Figure 7)                                                   |
| Acid Sulfate Soils Map | Parts of the subject land are classified as class 3 or class 5 potential acid sulphate soils as shown on Acid Sulfate Soils Map (Figure 8) |
| Heritage Map           | Identification of a local heritage item within the subject land. (Figure 9)                                                                |

## Part 3 – Justification for the Provisions

### A. NEED FOR THE PLANNING PROPOSAL

#### 1. Is the Planning Proposal a result of any strategic study or report?

Besides from the need to address the deferred matter and bring Warners Bay Town Centre into the operation of LMLEP 2014, the Planning Proposal reflects Council's draft Warners Bay Town Centre Planning Framework. The strategic planning framework sets out the desired long term development outcome for the town centre and among other things, identifies the appropriate building heights.

#### 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 the only way to address the deferred matter and bring the Warners Bay Town Centre into the operation of LMLEP 2014.

The Planning Proposal is also the only way to rezone 30A Charles Street from R3 to B4 to enable a range of business type development on the lot and encourage consolidation with 25 Lake Street.

### B. RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

#### 1. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Planning Proposal is consistent with the Lower Hunter Regional Strategy (LHRS). Warners Bay is identified as a local town centre in the strategy whose function is to be a shopping and business centre for the district, including health and professional services mixed with medium and higher density residential. The LHRS identifies the focus of centres to accommodate a high proportion of projected job growth. The LHRS also identifies the target of 36,000 new dwellings by 2031 for Lake Macquarie LGA, 14,000 of those in centres and corridors.

The Planning Proposal will contribute to achieving the LHRS job and dwelling targets.

#### 2. Is the Planning Proposal consistent with the local council's Community Strategic plan or other local strategic plan?

##### Lifestyle 2030

Lifestyle 2030 identifies Warners Bay as a town centre whose function is to; provide a range of retail, commercial, professional and social facilities, have medium density residential within and adjoin the centre, serve the surrounding residential

communities and be located on major transport routes, accessed by frequent public transport services. Town Centres are also to be accessible by pedestrians and cyclists and express the character of the area.

The Planning Proposal is consistent with the key aims and strategic directions of the LS2030 Strategy, specifically:

- reinforcing and strengthening centres to provide a wide range of services and facilities,
- providing local employment opportunities,
- guiding the development of compact, distinct and diverse urban communities with a range of housing types,
- integrating land use with the efficient provisions of public and private movement systems,
- recognising community, commercial and investor needs through accommodating the City's projected population growth, where feasible, within Centres and established areas.

### **3. Is the Planning Proposal consistent with applicable state environmental planning policies?**

An assessment has been undertaken to determine the level of consistency the Planning Proposal has with relevant State Environmental Planning Policies (SEPPs). The assessment is provided below.

| <b>SEPP</b>                       | <b>Relevance</b>                                                                                                                                                                                                                                                                                                 | <b>Comment</b>                                                                |
|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| SEPP 14 – Coastal Wetlands        | The aim of this policy is to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State.                                                                                                                                                              | This Planning Proposal does not affect Coastal Wetlands.                      |
| SEPP 19 – Bushland in Urban Areas | Aims to prioritise the conservation of bushland in urban areas, and requires consideration of aims in preparing a draft amendment.                                                                                                                                                                               | This Planning Proposal does not affect Bushland in Urban Areas.               |
| SEPP 32 - Urban Consolidation     | The aims and objectives of this policy are to promote orderly and economic redevelopment of urban land no longer required for its original use or for redevelopment for multi-unit housing. The policy requires that a draft LEP must give consideration to implementing the aims and objectives of this policy. | The Planning Proposal is consistent with the aims and objectives of the SEPP. |

| SEPP                                                             | Relevance                                                                                                                                                                                      | Comment                                                                                                                      |
|------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| SEPP 44 - Koala Habitat Protection                               | Aims to encourage the proper conservation and management of areas of natural vegetation that provide koala habitat.                                                                            | This Planning Proposal does not affect Koala Habitat.                                                                        |
| SEPP 55 – Remediation of Land                                    | Establishes planning controls and provisions for the remediation of contaminated land.                                                                                                         | The Planning Proposal is consistent with clause 6 of the SEPP.                                                               |
| SEPP 71- Coastal Protection                                      | This SEPP ensures that development in the NSW coastal zone is appropriate and suitably located to ensure that there is a consistent and strategic approach to coastal planning and management. | The Planning Proposal is consistent with the aims (clause 2) and matters for consideration (clause 8) of the SEPP.           |
| SEPP Mining, Petroleum Production and Extractive Industries 2007 | The aim of this policy is to provide for the proper management and development of mineral, petroleum and extractive material resources.                                                        | The Planning Proposal does not propose to change zoning that would affect the permissibility of mining on the subject lands. |

#### 4. Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

An assessment has been undertaken to determine the level of consistency the proposal has with Ministerial Directions. The Planning Proposal is consistent with all relevant Ministerial Directions. The assessment is provided below.

| Ministerial Direction               | Relevance                                                                                                                                                                      | Implications                                                                                                                                                                           |
|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.1 - Business and Industrial Zones | Aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres | <b>Consistent</b> – the Planning Proposal is consistent with the objectives of this direction and seeks to maintain the current business zones and uses permitted on the subject land. |
| 1.2 - Rural Zones                   | Aims to protect the agricultural production value of rural land.                                                                                                               | Not applicable.                                                                                                                                                                        |

| Ministerial Direction                             | Relevance                                                                                                                                                                          | Implications                                                                                                                                                                                                                                                                                                                  |
|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.3 – Mining, Petroleum and Extractive Industries | The direction requires consultation with the Director-General of the Department of Primary Industries where a Planning Proposal will restrict extractive resource operations.      | <b>Consistent</b> – the Planning Proposal seeks to address a Deferred Matter by bring the Warners Bay Town Centre into the operation of the Lake Macquarie LEP 2014 and will not affect the winning of extractive materials or restrict the potential development of coal, other minerals, petroleum or extractive materials. |
| 1.4 - Oyster Aquaculture                          | Aims to protect Priority Oyster Aquaculture Areas.                                                                                                                                 | Not applicable.                                                                                                                                                                                                                                                                                                               |
| 1.5 - Rural Lands                                 | Aims to protect the agricultural production value of rural land.                                                                                                                   | Not applicable.                                                                                                                                                                                                                                                                                                               |
| 2.1 – Environmental Protection Zones              | The direction requires that a Planning Proposal contain provisions to facilitate the protection of environmentally sensitive land                                                  | <b>Consistent</b> – the Planning Proposal does not affect environmentally sensitive areas.                                                                                                                                                                                                                                    |
| 2.2 - Coastal Protection                          | This direction aims to implement the principles in the NSW Coastal Policy                                                                                                          | <b>Consistent</b> – the Planning Proposal is amending Lake Macquarie LEP 2014 and will not affect provisions regarding coastal protection contained in Lake Macquarie LEP 2014.                                                                                                                                               |
| 2.3 – Heritage Conservation                       | The direction requires that a Planning Proposal include provisions to facilitate the protection and conservation of aboriginal and European heritage items.                        | <b>Consistent</b> – the Planning Proposal is maintaining the general heritage item identified in the subject land. The Planning Proposal is not affecting heritage provisions contained in Lake Macquarie LEP 2014.                                                                                                           |
| 2.4 – Recreation Vehicle Areas                    | The direction restricts a Planning Proposal from enabling land to be developed for a recreation vehicle area.                                                                      | <b>Consistent</b> – the Planning Proposal is not enabling land to be developed for the purpose of a recreation vehicle area.                                                                                                                                                                                                  |
| 3.1- Residential Zones                            | The direction requires a Planning Proposal to include provisions that facilitate housing choice, efficient use of infrastructure, and reduce land consumption on the urban fringe. | <b>Consistent</b> – The Planning Proposal is consistent with the objectives and requirements of this direction. The proposed rezoning of 30A Charles Street from R3 to B4 is also consistent with the objectives and requirements of this direction.                                                                          |

| Ministerial Direction                             | Relevance                                                                                                                                                                                                                   | Implications                                                                                                                                                                                                                                                       |
|---------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3.2 – Caravan Parks and Manufactured Home Estates | The direction requires a draft LEP to maintain provisions and land use zones that allow the establishment of Caravan Parks and Manufactured Home Estates.                                                                   | <b>Consistent</b> – the Planning Proposal is not identifying or affecting zones, locations or provisions regarding caravan parks or manufactured home estates.                                                                                                     |
| 3.3 – Home Occupations                            | The direction requires that a draft LEP include provisions to ensure that Home Occupations are permissible without consent.                                                                                                 | <b>Consistent</b> – the Planning Proposal does not affect the carrying out of home occupations in dwelling houses without consent.                                                                                                                                 |
| 3.4 – Integrating Land Use and Transport          | The direction requires consistency with State policy in terms of positioning of urban land use zones.                                                                                                                       | <b>Consistent</b> – the Planning Proposal is consistent with the objectives and requirements of this direction.                                                                                                                                                    |
| 3.5 Development near Licensed Aerodromes          | The direction aims to ensure the effective, safe and uncompromised operation of aerodromes. The direction also seeks to ensure the residential development close to aerodromes is not adversely affected by aircraft noise. | Not applicable.                                                                                                                                                                                                                                                    |
| 3.6 – Shooting Ranges                             | The direction aims to maintain public safety and reduce land use conflicts associated with shooting ranges.                                                                                                                 | Not applicable.                                                                                                                                                                                                                                                    |
| 4.1 Acid Sulfate Soils                            | Aim to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils                                                                                         | <b>Consistent</b> – the Planning Proposal identifies areas within the subject land that are classified as potential Acid Sulfate Soils. The Lake Macquarie LEP 2014 contains provisions that are consistent with the NSW Government Acid Sulfate Soils Guidelines. |
| 4.2 – Mine Subsidence and Unstable Land           | The direction requires consultation with the Mine Subsidence Board where a Planning Proposal is proposed for land within a mine subsidence district.                                                                        | <b>Consistent</b> – the Planning Proposal affects land within a mine subsidence district. Consultation with the Mine Subsidence Board will be undertaken.                                                                                                          |

| Ministerial Direction                       | Relevance                                                                                                                                                                                                                                                                                                                                                                   | Implications                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4.3 - Flood Prone Land                      | Aims to ensure that development of flood prone land is consistent with the NSW Government Flood Prone Land Policy and the Principles of the Floodplain Development Manual 2005 and to ensure that the provision 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. | <b>Consistent</b> – the Planning Proposal includes land that is subject to flood planning controls. The Planning Proposal is consistent with the objectives and requirements of this direction. The Planning Proposal seeks to amend Lake Macquarie LEP 2014 which contains provisions consistent with the NSW Flood Prone Land Policy and Principles of the Floodplain Development Manual 2005. |
| 4.4 – Planning for Bushfire Protection      | The direction applies to land that has been identified as bushfire prone, and requires consultation with the NSW Rural Fire Service, as well as the establishment of Asset Protection Zones.                                                                                                                                                                                | <b>Consistent</b> – the Planning Proposal subject land includes a small area of land identified as a buffer to bushfire prone land. Consultation with the NSW Rural Fire Service will be undertaken. The Planning Proposal seeks to amend Lake Macquarie LEP 2014 which contains provisions consistent with Planning for Bushfire Protection 2006.                                               |
| 5.1 – Implementation of Regional Strategies | The direction requires a Planning Proposal to be consistent with the relevant State strategy that applies to the Local Government Area.                                                                                                                                                                                                                                     | <b>Consistent</b> – the Planning Proposal applies to land within the Lower Hunter Regional Strategy. The Planning Proposal is consistent with the objectives contained in the strategy. The strategy has been considered in detail in Part B of this Planning Proposal.                                                                                                                          |
| 6.1 – Approval and Referral Requirements    | The direction prevents a Planning Proposal from requiring concurrence from, or referral to, the Minister or a public authority.                                                                                                                                                                                                                                             | <b>Consistent</b> – the Planning Proposal does not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.                                                                                                                                                                                                      |
| 6.2 – Reserving Land for Public Purposes    | The direction prevents a Planning Proposal from altering available land for public use.                                                                                                                                                                                                                                                                                     | <b>Consistent</b> – the Planning Proposal does not create, alter or reduce zoning or reservations of land for public purposes.                                                                                                                                                                                                                                                                   |
| 6.3 - Site Specific Provisions              | Aims to reduce restrictive site-specific planning controls where a Planning Proposal amends another environmental planning instrument in order to allow a particular development proposal to proceed. Planning                                                                                                                                                              | <b>Consistent</b> – the Planning Proposal does not propose any site specific planning controls that seek to allow a particular development to proceed.                                                                                                                                                                                                                                           |

| Ministerial Direction | Relevance                                                                                 | Implications |
|-----------------------|-------------------------------------------------------------------------------------------|--------------|
|                       | Proposals are encouraged to use existing zones rather than have site-specific exceptions. |              |

### C. ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

- 1. 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?**

There is no likelihood of adverse impact on threatened species, populations, ecological communities or critical habitat as a result of this Planning Proposal.

- 2. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

Part of the subject land is prone to flooding. The Planning Proposal identifies this land as being affected by flood planning controls. Future development will need to consider and address the relevant flood planning controls.

There are no other likely environmental effects as a result of this Planning Proposal.

- 3. How has the Planning Proposal adequately addressed any social and economic effects?**

The Planning Proposal seeks to resolve a deferred matter. The social and economic effects are covered in the related draft Warners Bay Town Centre Framework.

#### Social

The Planning Proposal identifies the local heritage item within the subject land. The Warners Bay Town Centre currently provides access to a range of social services and facilities, which are adequate to service the needs of the current and anticipated population. There are no adverse social impacts resulting from the Planning Proposal.

#### Economic

The Planning Proposal provides the planning framework for viable economic development within the Town Centre. There are no adverse economic impacts resulting from the Planning Proposal.

### D. STATE AND COMMONWEALTH INTERESTS

- 1. Is there adequate public infrastructure for the Planning Proposal?**

As the Planning Proposal seeks to bring the Warners Bay Town Centre within Lake Macquarie LEP 2014 and there is no significant change in land use zones or the types of development permitted from those permitted currently, it is considered there is adequate public infrastructure available to the subject area.

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

This section will be updated following gateway determination and consultation with relevant public authorities.

It is considered the following public authorities should be consulted:

- Roads and Maritime Service
- Mine Subsidence Board (under s117 Direction 4.2)
- Rural Fires Service (under s117 Direction 4.4)

Part 4 – Mapping

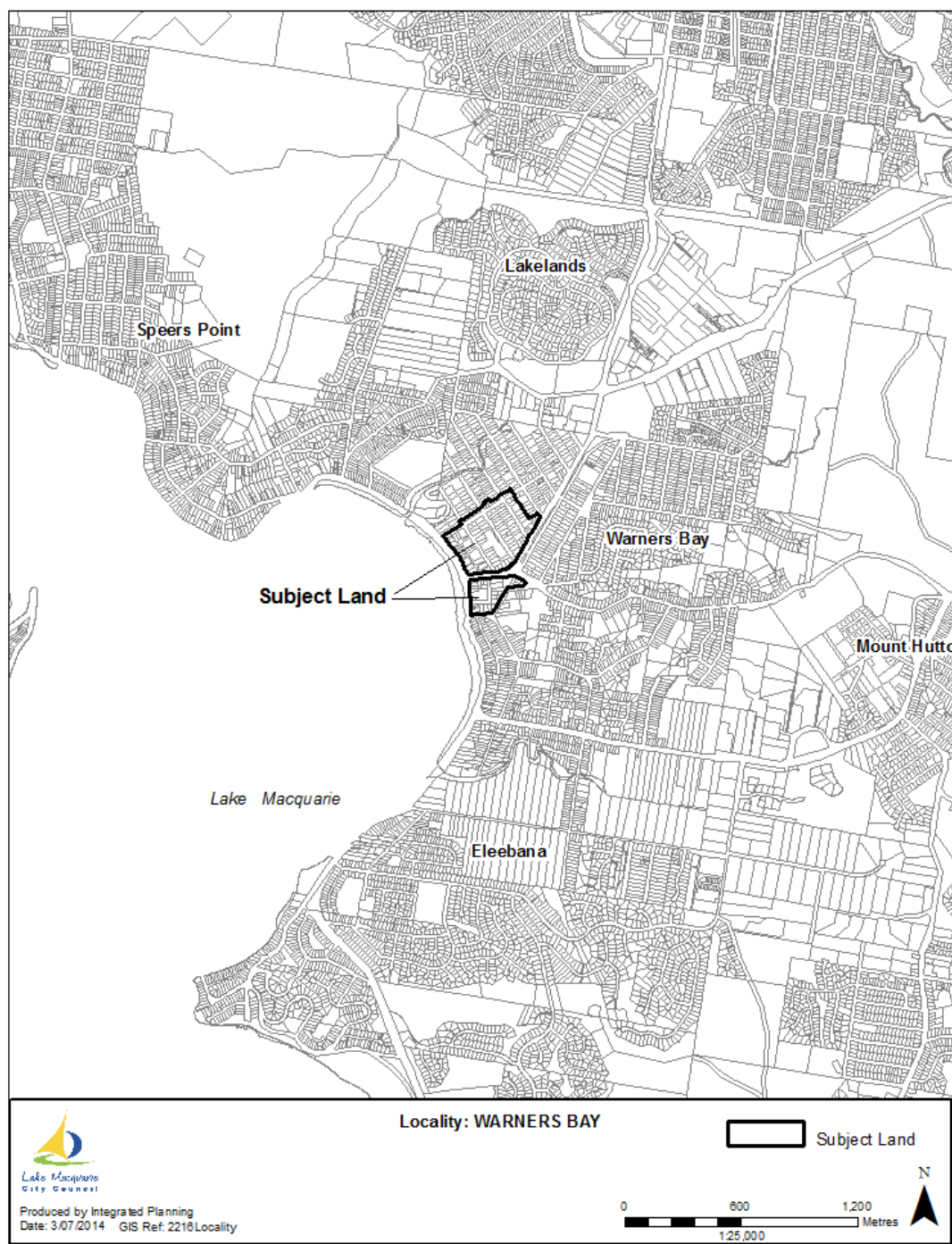


Figure 1 – Locality Map

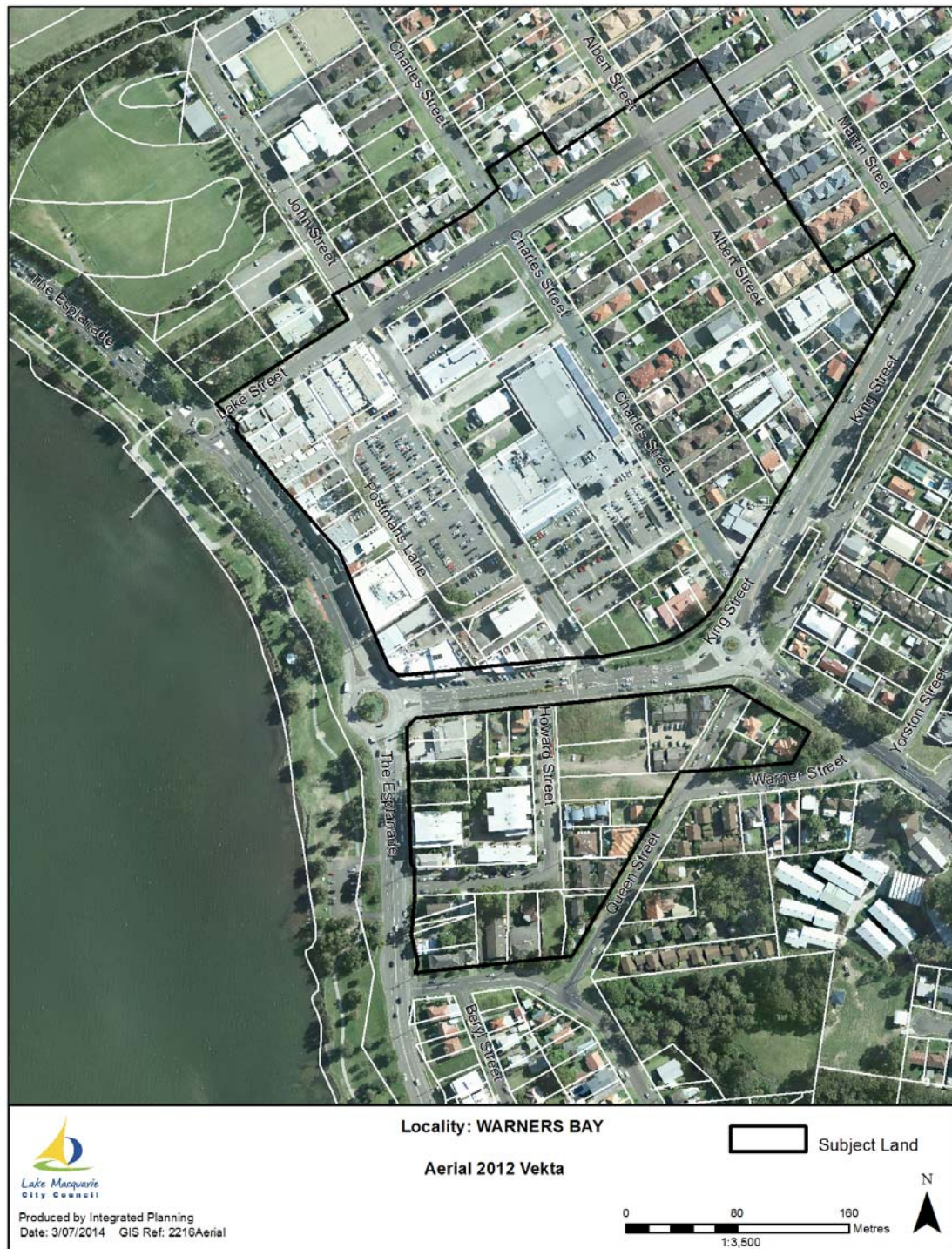


Figure 2 – Subject Land & Aerial Photo

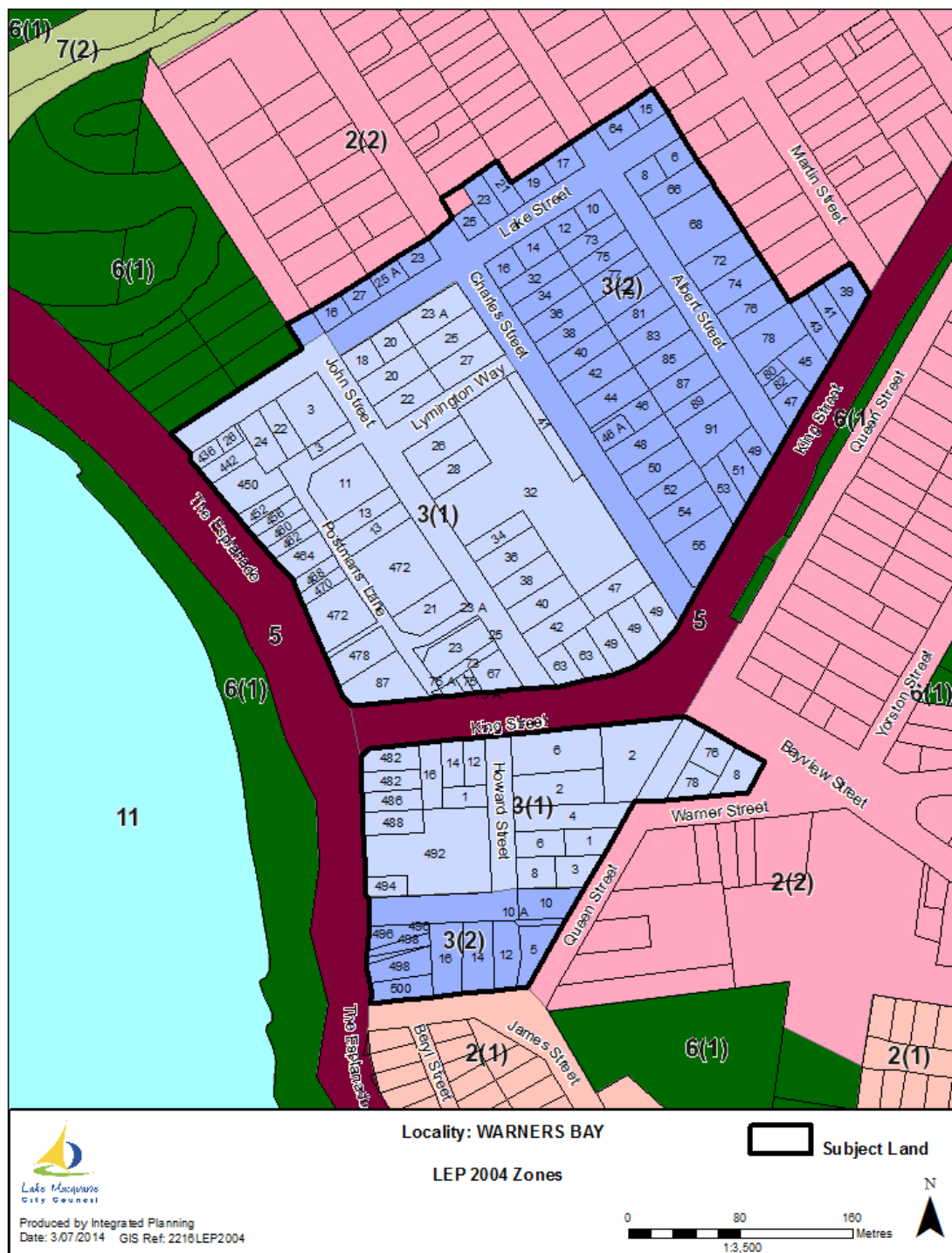


Figure 3 – Current Zones – Lake Macquarie LEP 2004

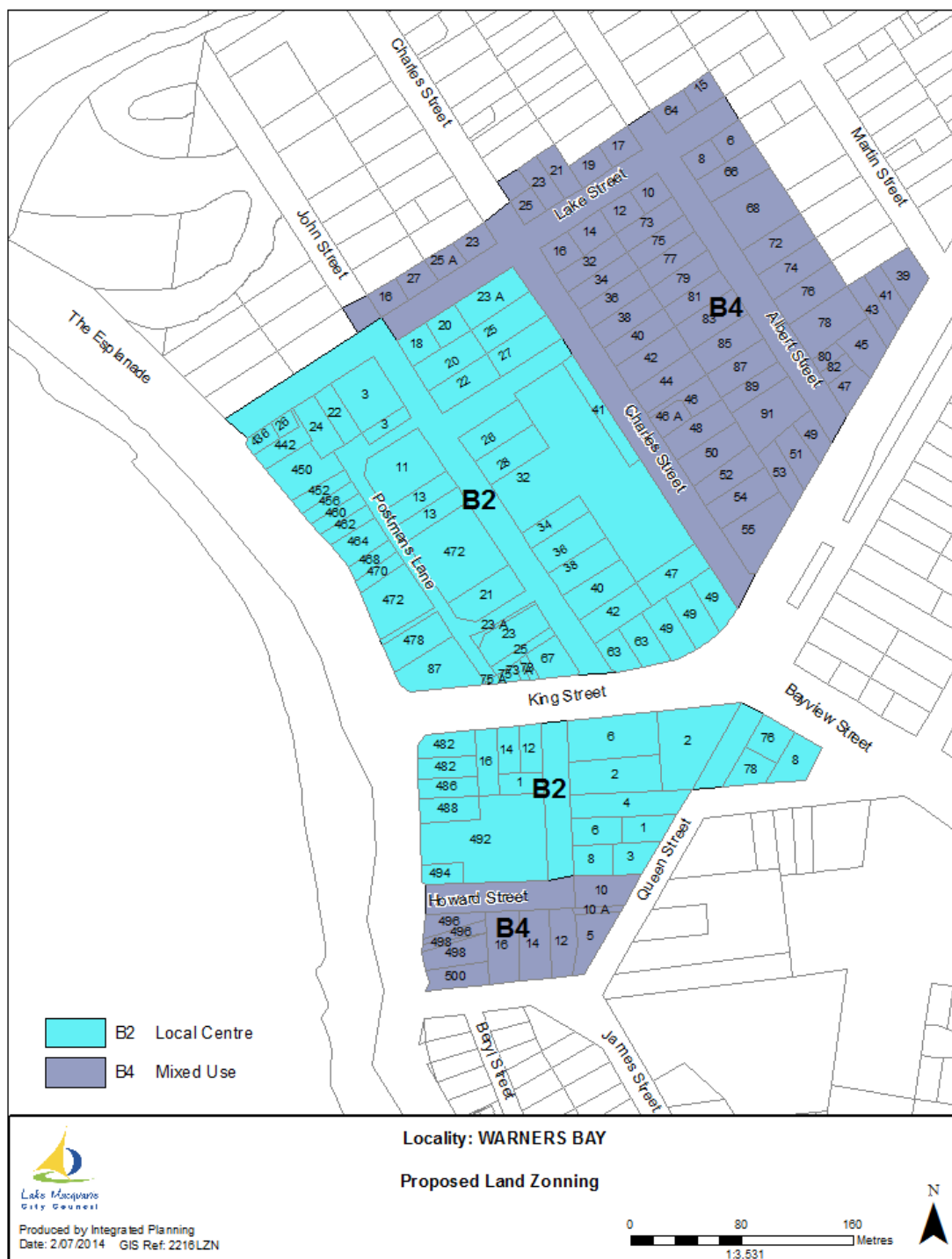


Figure 4 - Proposed Zones - Lake Macquarie LEP 2014



Figure 5 - Proposed Height of Building Map - Lake Macquarie LEP 2014



Figure 6 - Proposed Lot Size Map - Lake Macquarie LEP 2014

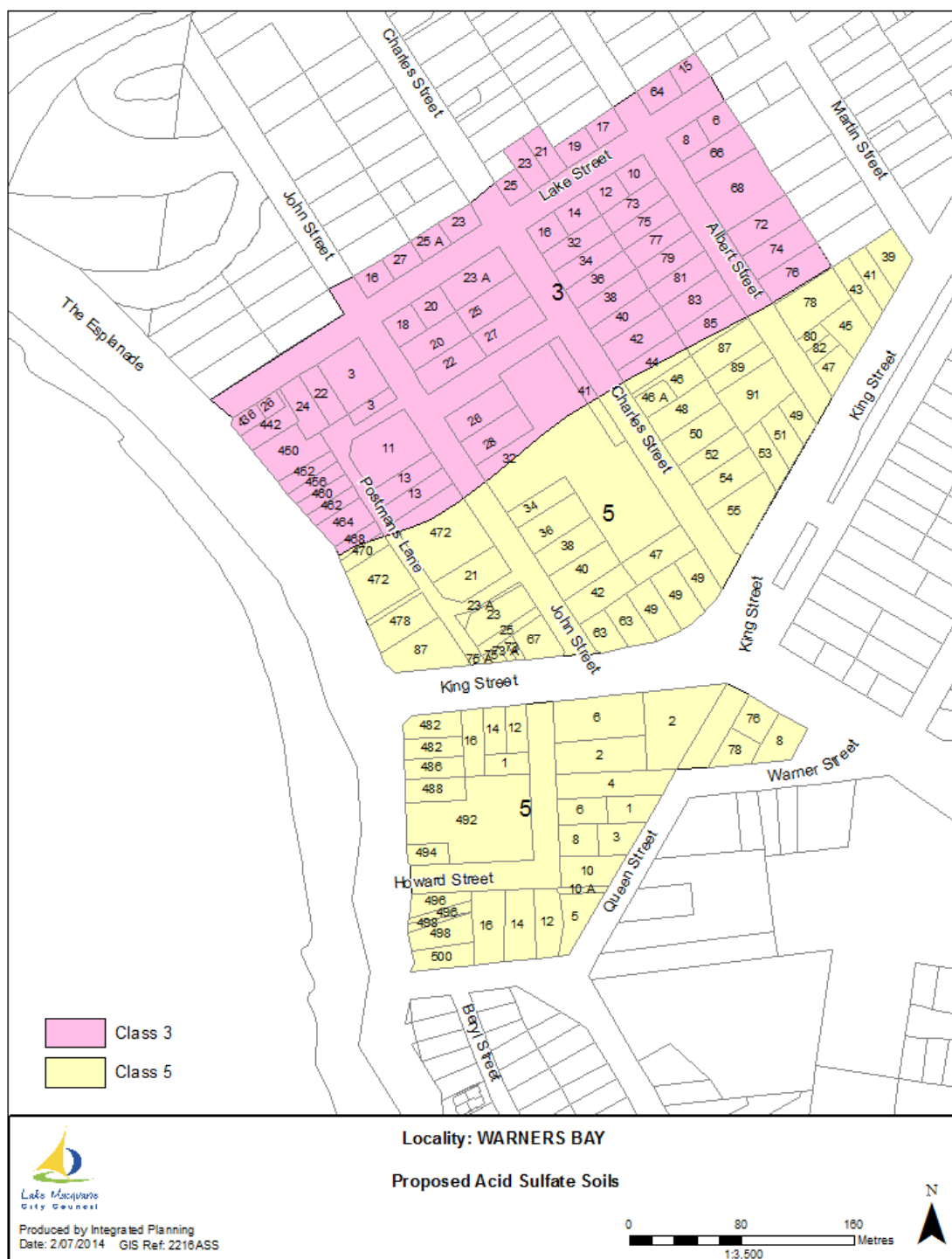


Figure 7 - Proposed Acid Sulfate Soils Map - Lake Macquarie LEP 2014

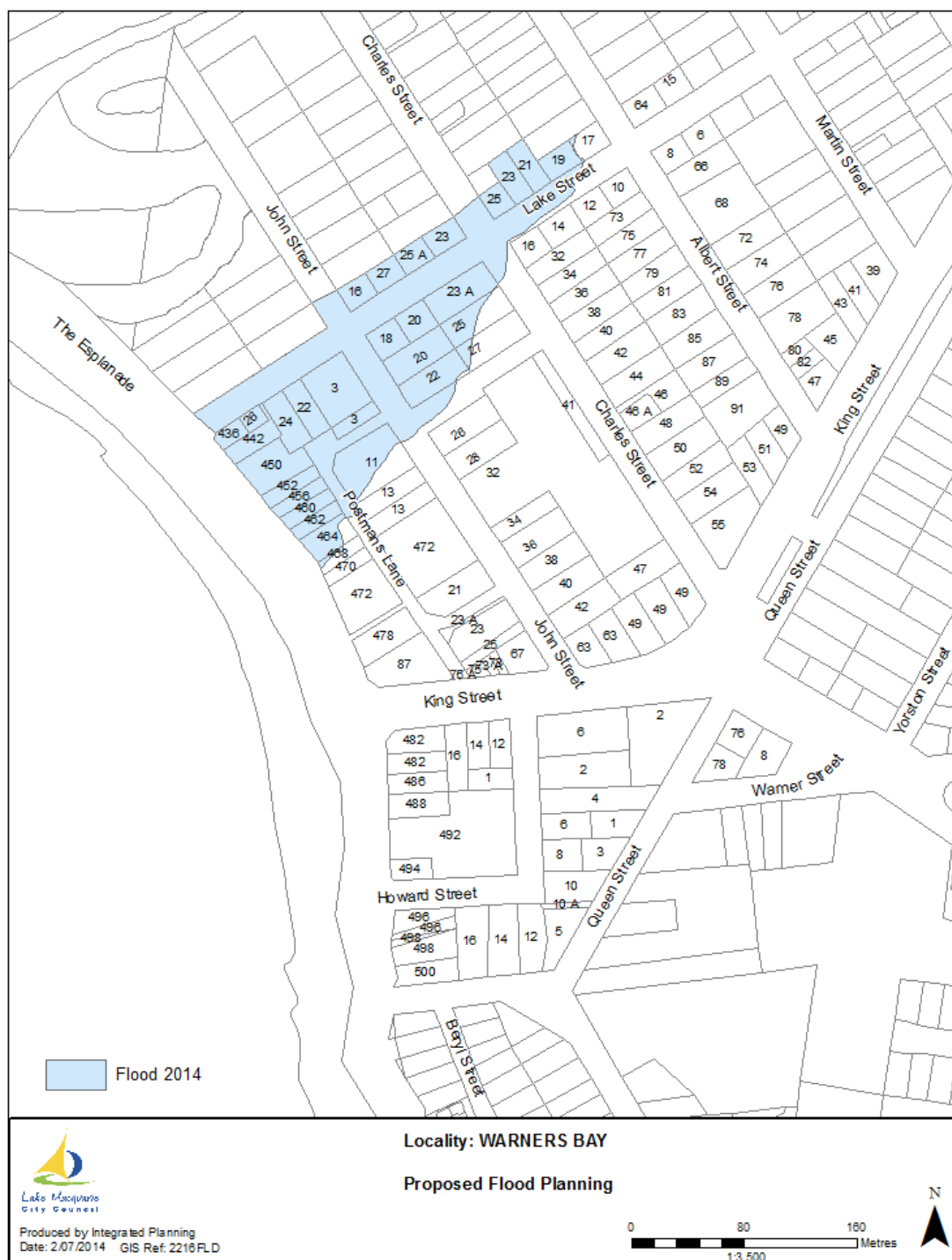


Figure 8 - Proposed Flood Planning Map - Lake Macquarie LEP 2014



Figure 9 - Proposed Heritage Map - Lake Macquarie LEP 2014

## **Part 5 – Details of Community Consultation**

This section will be updated following gateway determination and community consultation.

The local community has shown great interest in planning work for the Warners Bay Town Centre on previous occasions. For this reason a variety of consultation activities are proposed to be undertaken and may include, notification of affected and adjoining landowners, meetings with stakeholders, drop-in days and exhibition material being available in hard copy and electronically.

A draft strategic Planning Framework, revised Town Centre Area Plan and draft Streetscape Master Plan will be exhibited with this Planning Proposal. A 42 day consultation period is proposed to provide the community with adequate time to consider and comment on the suite of planning documents.

## Part 6 – Project Timeline

The project timeline would be updated post Gateway Determination and is subject to the requirements of the Gateway Determination. A preliminary estimated timeline is provided below.

| Task                                                           | Timeframe      |
|----------------------------------------------------------------|----------------|
| Commencement Date – Gateway Determination                      | September 2014 |
| Government Agency Consultation                                 | October 2014   |
| Commencement and Completion Dates for Public Exhibition Period | October 2014   |
| Dates for Public Hearing                                       | N/A            |
| Timeframe for Consideration of Submissions                     | November 2014  |
| Timeframe for the consideration of a proposal post exhibition  | February 2015  |
| Submission to DoPI to finalise LEP                             | March 2015     |
| Anticipated date RPA to finalise the plan (if delegated)       | April 2015     |
| Anticipated date RPA will forward to DoPI for notification     | April 2015     |

## **Attachments**

**Attachment 1 – draft Warners Bay Town Centre Planning Framework**