

Planning Proposal

Concurrent DA/LEP Amendment for Belmont North Pharmacy

Draft Amendment No. X to Lake Macquarie Local Environmental Plan (LMLEP) 2014

Local Government Area:	Lake Macquarie City Council (LMCC)	
Name of Draft LEP:	Lake Macquarie Local Environmental Plan (LMLEP) 2004 (Draft Amendment No. X) and Draft Amendment to Draft Lake Macquarie Local Environment Plan 2013	
Subject Land:	Lot 1 DP 1135801 and Lot A DP 389480, 389 - 391 Pacific Highway, Belmont North	
Land Owner:	Gallucci Investments Pty Ltd	
Applicant:	Stevens Group	
Folder Number:	RZ/9/2015	
Date:	6 January 2016	
Author:	Matthew Hill - Senior Strategic Land-use Planner	
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Part 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of the Planning Proposal is to amend Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014) in order to permit, with consent, a *shop* on the subject land. The Planning Proposal is to be assessed concurrently with a development application for the proposed development of a pharmacy.

Part 2 – EXPLANATION OF PROVISIONS

The proposed objective will be achieved by amending the LMLEP 2014 by:

Amendment Applies to	Explanation of provision
Land Use Zone Map	Rezone Lot A DP 389480, 391 Pacific Highway, Belmont North from Zone B4 Mixed Use to Zone B7 Business Park
Lot Size Map	Apply 1500m ² to Lot A DP 389480, 391 Pacific Highway, Belmont North
Height of Building Map	Apply 15m to Lot A DP 389480, 391 Pacific Highway, Belmont North
Addition to Schedule 1 Additional Permitted Uses	Permit a <i>shop</i> on Lot 1 DP 1135801 and Lot A DP 389480, 389 - 391 Pacific Highway, Belmont North

Part 3 – JUSTIFICATION

Section A – Need for the Planning Proposal

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

The Planning Proposal is not the result of a strategic study or report. The purpose of the Planning Proposal is to put in place a single land use zone that reflects the historical use of the land as a single site. Given the proposed use is currently permissible with consent on Lot A, it is proposed that this use will be made permissible with consent across both lots, provided the applicant can demonstrate this will provide an acceptable outcome in terms of built form and compliance with Council's Development Control Plan. The process for achieving this is through concurrent assessment of a development application and LEP amendment.

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

In order to achieve the intended outcome the following options were considered:

Option 1 – Redesign Development

The first option examined was the potential for redesign. There was consideration given to whether the proposed development could be accommodated under the existing planning framework, with the building being positioned on Lot A, which is in the B4 Mixed Use zone, with the car park spilling onto Lot 1, which is zoned B7 Business Park.

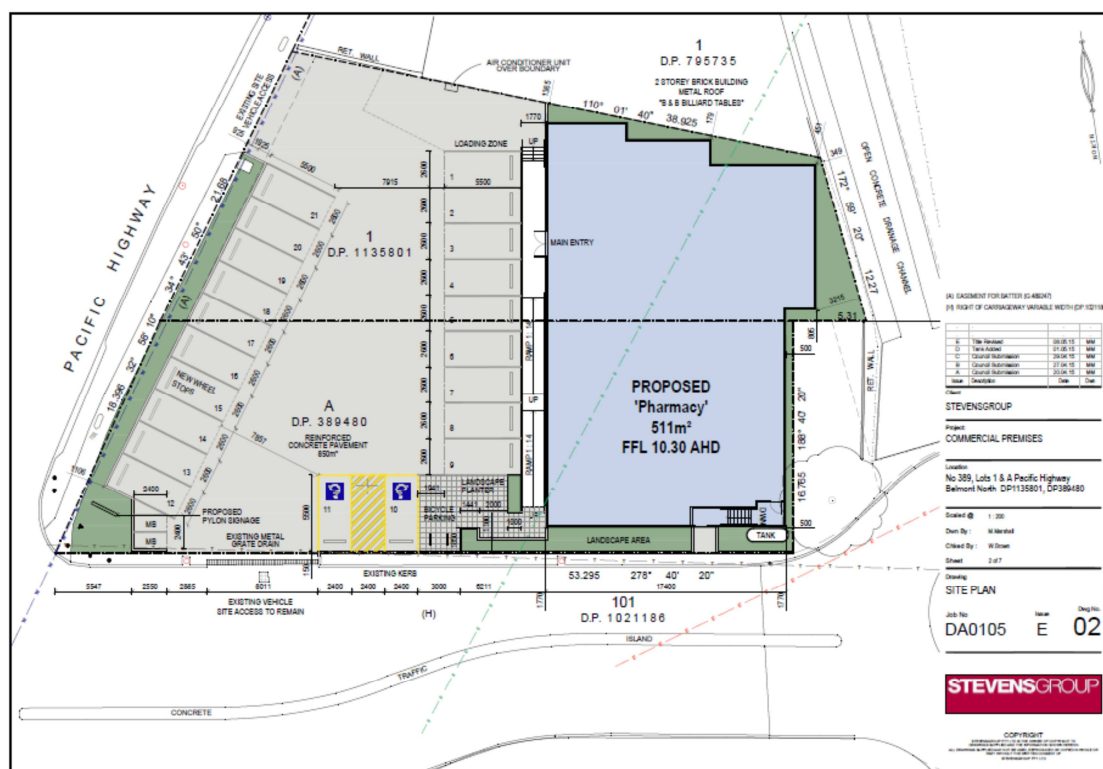


Figure 1: Proposed Pharmacy

The pharmacy building proposed by development application DA/816/2015 is 511m² with the remainder of the site being for car parking and landscaping. Redesign would provide an opportunity to move the proposed pharmacy design more in alignment with streetscape and front setback development controls contained in Development Control Plan 2014, which promote bringing the building forward, with car parking to the side/rear of the development.

While redesign is physically possible, the car park would be seen as ancillary to the pharmacy (*shop*), and would constitute a prohibited use on the land zoned B7 Business Park.

Option 2 – LEP Amendment

Existing Land Use

The Lake Macquarie Local Environmental Plan 1984 applied an industrial zone to the Belmont North precinct, including the subject land. Extensive resources were put into establishing appropriate land uses through the preparation of the Lifestyle 2020 Strategy, which ultimately informed the distribution of zones under Lake Macquarie Local Environmental Plan 2004, and was then carried over as similar zones under LMLEP 2014. Despite this, the subject land has historically been used as a single development site and the presence of two zones is problematic. Considering this, it is reasonable to rezone the subject land to accommodate its continuing use as a single development site.

Zone Options

Rezone Lot A from B4 to B7 with the addition of an enabling clause to facilitate the development of the site for a pharmacy – Proposed by applicant

Generally, in order to justify undertaking an amendment to the LEP to support a specific development, the applicant would need to demonstrate the following:

1. The subject development proposal for the land will provide a significant public benefit; and
2. The location has particular attributes that make it more desirable for the use than other adjoining or nearby land already zoned for the proposed use.

The subject application does not demonstrate a shortage of pharmacy outlets or difficulty for the local community accessing pharmacy services. Services are available at two pharmacies in the nearby Belmont town centre as well as at the existing Belmont North pharmacy, currently operated by the applicant. Nor does the application demonstrate that this site has unique characteristics that make it particularly suitable/ desirable for the intended use.

However, given the subject land is effectively a single development site, and the proposed development is permissible on Lot A, it is considered reasonable to allow a concurrent development assessment and LEP amendment process to occur provided the applicant can demonstrate the proposed development is:

- in alignment with Council's development controls; and
- meritorious in contributing to public benefit.

Rezoning Lot A from B4 Mixed Use to B7 Business Park will apply a single zone across what is in effect a single development site. The B7 Business Park zone is consistent with surrounding land use and the proposed expansion of the zone is negligible in terms of the broader Belmont North precinct.

Concurrent Assessment of a Development Application

For the purpose of supporting a specific development application on the subject land, it is important that a development application is assessed concurrently with the Planning Proposal. The LEP amendment will only proceed if the proposed development meets the points raised above to the satisfaction of Council.

Other Options

Defer the Matter until a Strategic Investigation is Undertaken

Consultation with staff, including discussion at Council's Rezoning Advisory Panel meeting of 15 September 2015, has raised the possible need for a strategic investigation of land use in the Belmont North precinct. This would determine the ongoing role of the Belmont North bulky goods/ business precinct and its relationship with Belmont town centre. Council is about to embark on preparation of the Lifestyle 2050 Strategy. This provides an opportunity to review broader land use at Belmont North regardless of the outcome on the subject land. While a broader strategic investigation is supported, it will not address the immediate issue with the zoning on the subject land.

Rezone Lot A from B4 to B7 with no enabling clause

As mentioned above, rezoning Lot A from B4 Mixed Use to B7 Business Park will apply a single zone across what is in effect a single development site. The B7 Business Park zone is consistent with surrounding land use and the proposed expansion of the zone is negligible in terms of the broader Belmont North precinct. However, in the absence of an enabling clause, the rezoning would not support the development proposal on the land, and would therefore not be pursued by the applicant.

Rezone Lot 1 from B7 to B4

Rezoning Lot 1 (and possibly the adjoining allotment to the north) to Zone B4 Mixed Use would permit the proposed pharmacy (*shop*) with consent. The site adjoins a significant area of land in Zone B4 Mixed Use, and the rezoning would be a logical extension of that land use. However, the subject land adjoins an open drain and is flood affected. The Rezoning Advisory Panel raised concerns with applying Zone B4 Mixed Use to the land as it permits residential accommodation with consent. This is considered an inappropriate use of the land due to constraints associated with flooding.

Rezone Both Lots to an Alternate Zone

The subject land could be rezoned to an alternate zone, which would facilitate redevelopment of the land as a single site, while restricting inappropriate uses such as residential development. The

principal issue with this approach is choosing an appropriate zone. Without the benefit of having undertaken a broader strategic investigation, it would be pre-emptive to apply a zone prior to a broader investigation being undertaken.

Section B – Relationship to Strategic Planning Framework

3. *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)?*

Lower Hunter Regional Strategy (LHRS)

The primary purpose of the LHRS is to ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing and employment needs of the Region's population until 2031. The LHRS works with the Regional Conservation Plan to ensure that the future growth of the Lower Hunter makes a positive contribution to the protection of sensitive environments and biodiversity.

The proposal is negligible in terms of its relationship to the LHRS. The proposed use is currently permissible on Lot A, and the LEP amendment will enable the subject land to continue to be used as a single development site, while also facilitating an improved development design.

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

Lifestyle 2030 Strategy (LS2030)

The Lifestyle 2030 Strategy (LS2030) provides the long-term direction for the overall development of the City and is a long-range land use strategic plan and policy document. The Planning proposal promotes redevelopment of the subject land, which is located within the East Lake Intensification Corridor.

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

The Planning Proposal is consistent with the following relevant State Environmental Planning Policies (SEPPs) outlined in Table 1 below.

Table 1: Assessment of the Planning Proposal against relevant SEPPs

SEPP	Relevance	Implications
SEPP 55 Remediation of Land	The objective of the SEPP is to ensure contamination and remediation of land is considered prior to rezoning.	The land has petroleum hydrocarbon impacted soil and groundwater in isolated hot spots. A Remediation Action Plan (RAP) was prepared and submitted as part of DA/816/2015 and identifies remediation of the land to a standard suitable for Commercial / Industrial uses. Given this, the proposal is generally consistent with the SEPP, as the level of remediation proposed is suitable for the use of a pharmacy.
SEPP (Infrastructure) 2007	The objective of the SEPP is to facilitate the coordination of essential infrastructure.	The proposal meets the definition of traffic generating development requiring referral to Roads and Maritime Services (RMS). The proposal was referred to RMS as part of DA/816/2015, who did not object to the proposal, however, requested changes to the traffic connections to Pacific Hwy. Further consultation will occur with RMS should the proposal proceed.

6. 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 2: 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.	The proposal is consistent with the Direction as it will not result in significant changes to the supply of land zoned for business purposes.
1.2 Rural Zones	Protect the agricultural production value of rural land.	N/A
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.	N/A
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
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.	N/A

Ministerial Direction	Objective/s	Consistency / Comment
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.	The proposal is consistent with the Direction as is will not result in significant changes to the supply or location of land zoned for business purposes.

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.	The proposal is consistent with this Direction. The site is identified as ASS Class 5 and consideration will need to be given to ASS during remediation and redevelopment.
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.	The proposal is located on the boarder of a Mine Subsidence District, and will be referred to the Mine Subsidence Board.

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.	The proposal is not consistent with this Direction as supporting redevelopment of the site may increase development on the land. While the B7 zone (and enabling clause) does not necessarily provide greater opportunity for development than the existing B4 zone, providing a single zone across both lots provides an opportunity for a larger development on the site. The proposed redevelopment will need to meet Council's development controls relating to flooding and hydrology, which will improve the use of the land in terms of a response to flooding. The DGs concurrence is requested regarding this Direction.
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.	N/A
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.	The Planning Proposal is not consistent with this Direction. It is proposed that a site specific clause will be applied for reasons outlined above. This is considered appropriate in the circumstances.

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 will enable the redevelopment of an urban site and will not result in threatened species being adversely affected.

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

Redevelopment of the site would lead to the implementation of a Remediation Action Plan associated with the proposed development. This will treat and remove contaminants from the site and contribute to a positive environmental outcome in terms of likely improvements in the quality of stormwater runoff leaving the site.

The site is flood affected and redevelopment will need to respond to the constraints associated with this. While the B4 Mixed Use zone was not proposed to be expanded due to the permissibility of residential accommodation on flood affected land, the proposed B7 Business Park zone prohibits residential use. The response of the proposed pharmacy use to flooding constraints will be assessed during the LEP amendment and development assessment process.

There may also be some impacts associated with filling the site, which will need to be considered during the assessment of the LEP amendment and concurrent development application.

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

In terms of its social and economic affects, the Planning Proposal and subsequent redevelopment will be negligible.

Section D – State and Commonwealth Interests

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

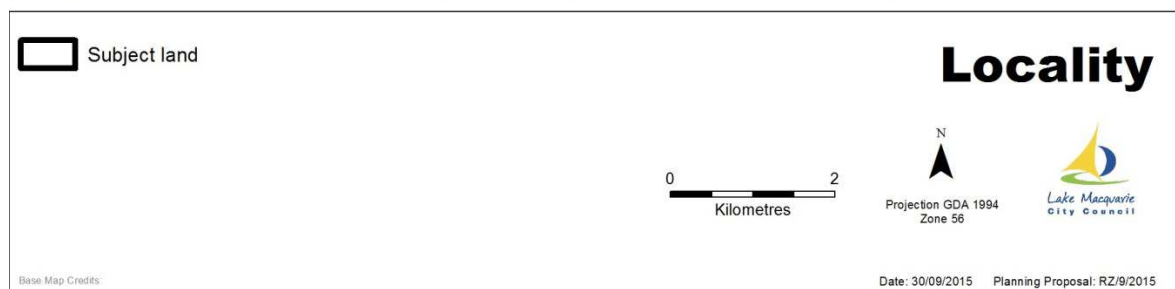
The site is located in an existing urban area and is adequately serviced for the proposed use.

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

Consultation with State and Commonwealth public authorities will be determined as part of the Gateway determination. Council recommends consultation with the following authorities:

- Roads and Maritime Service
- Mine Subsidence Board
- Hunter Water Corporation

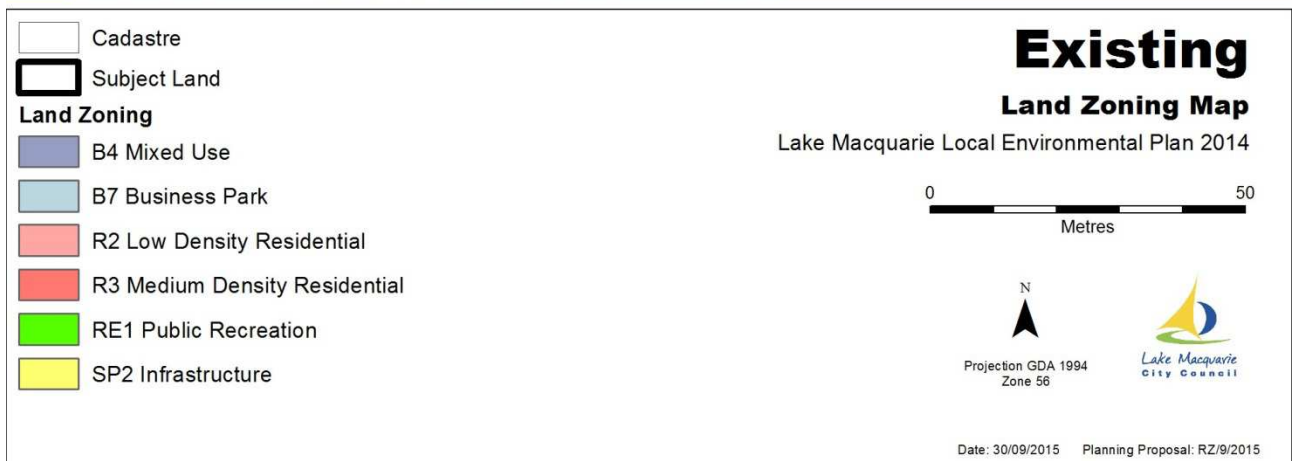
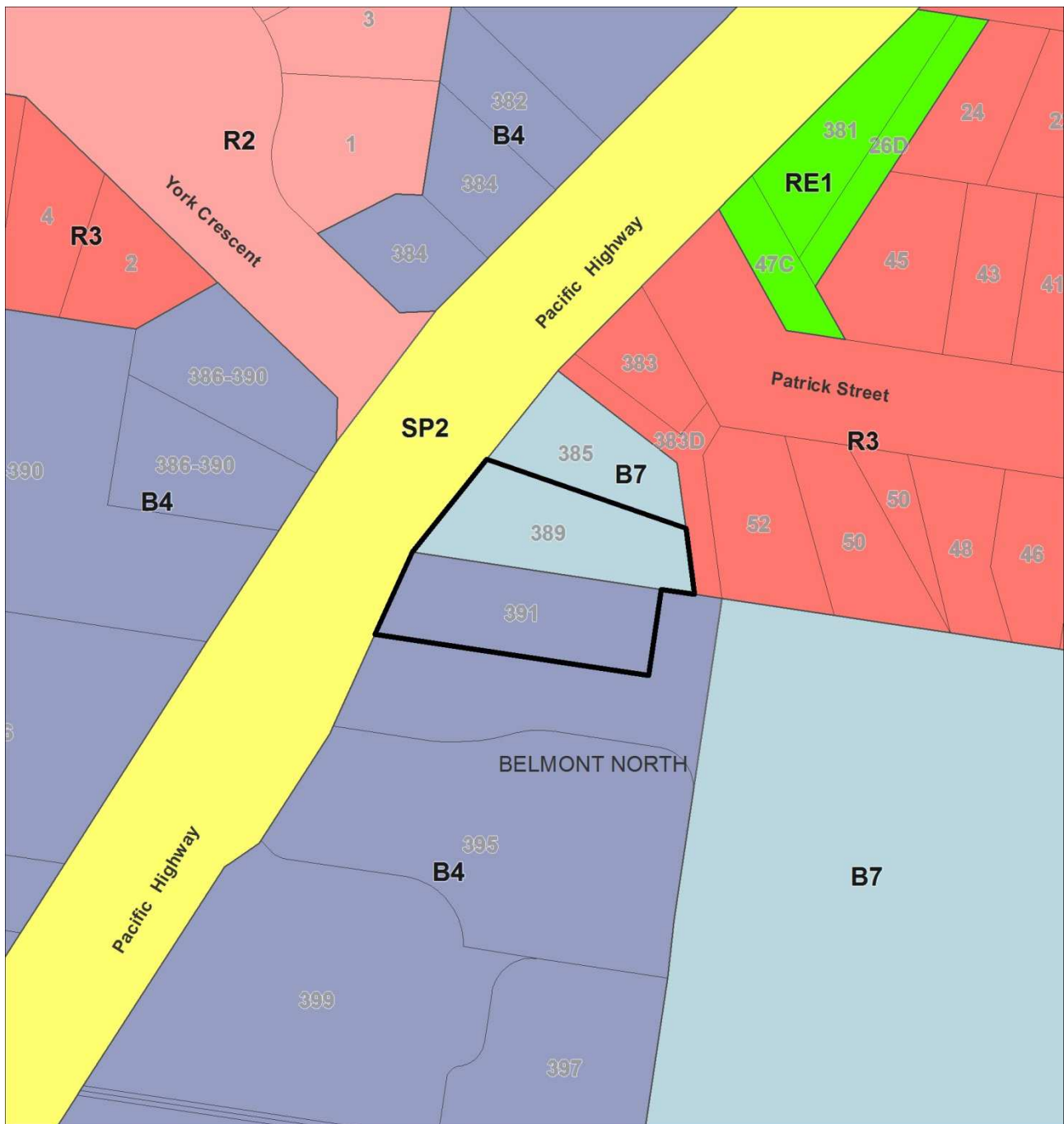
Part 4 – MAPPING



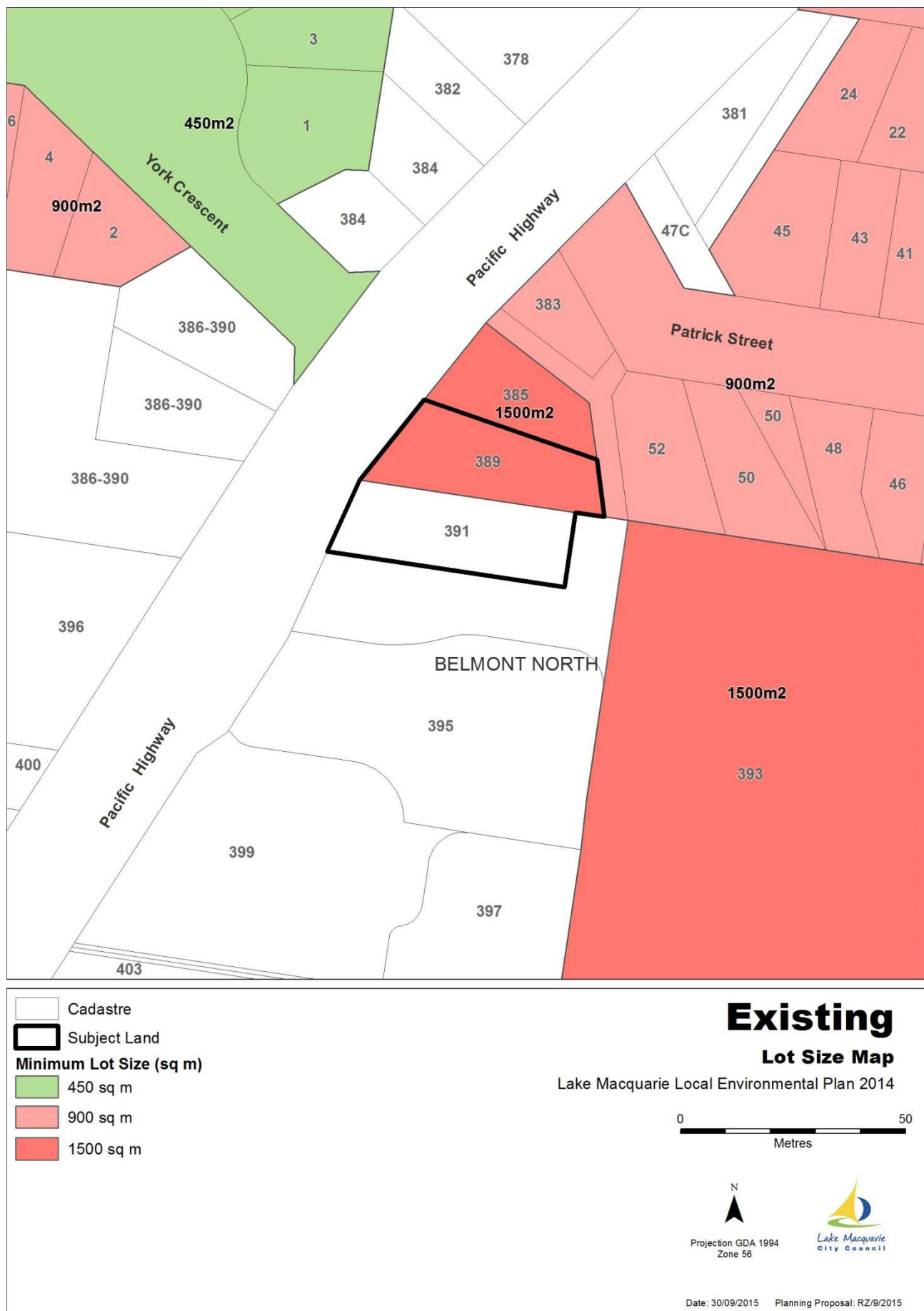
Map 1 – Locality



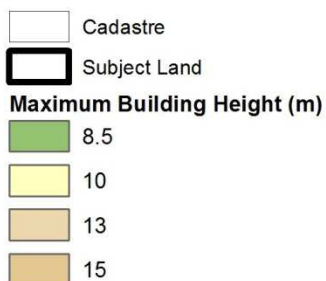
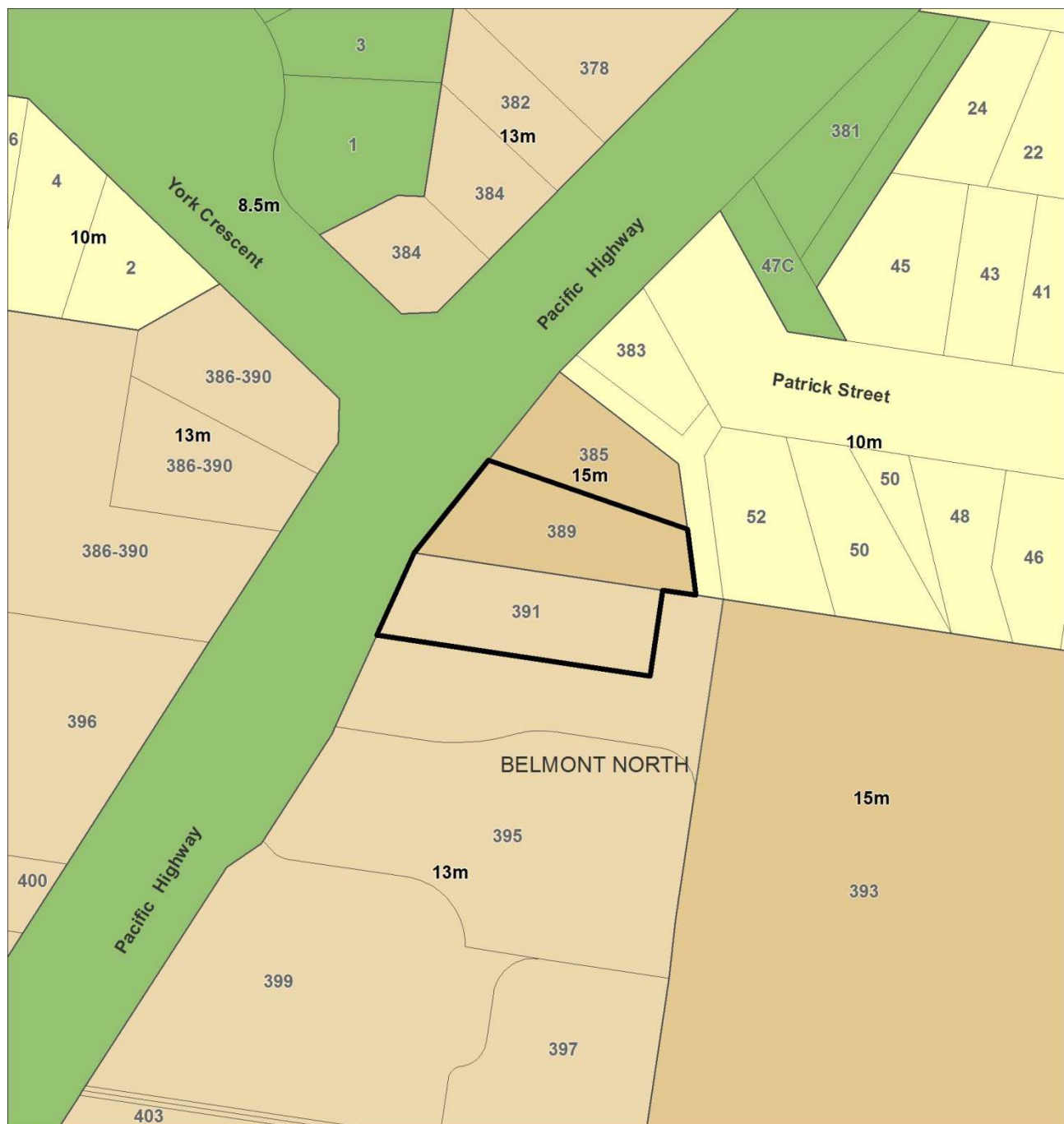
Map 2 – Aerial Photograph



Map 3 – Existing Zones



Map 4 – Existing Lot Size



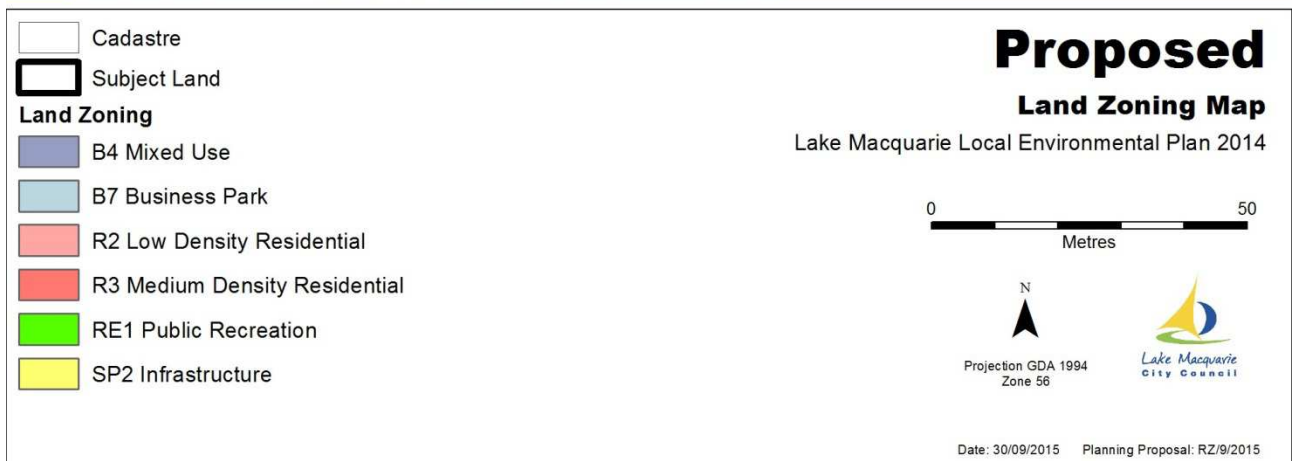
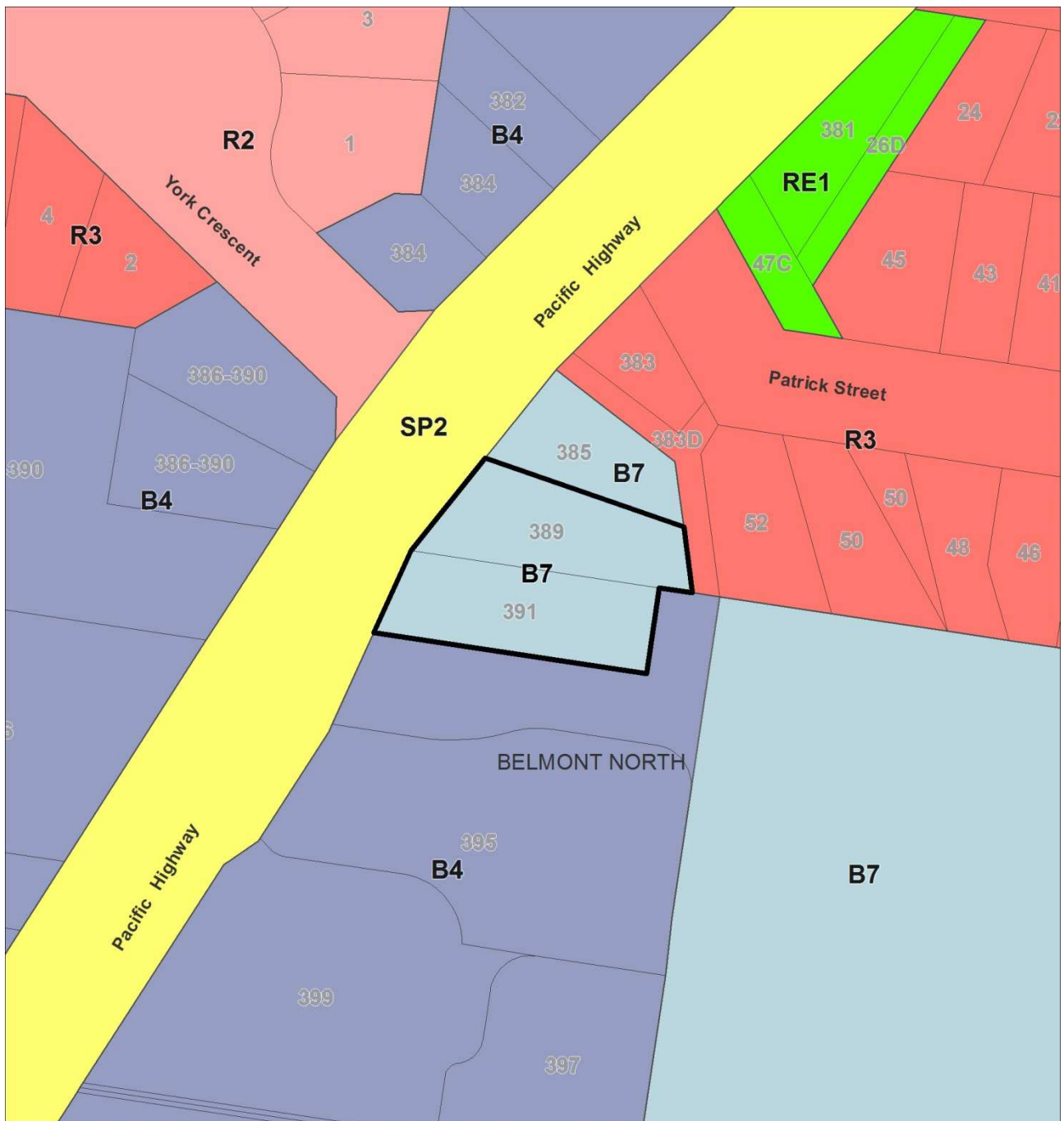
Existing Height of Buildings Map

Lake Macquarie Local Environmental Plan 2014

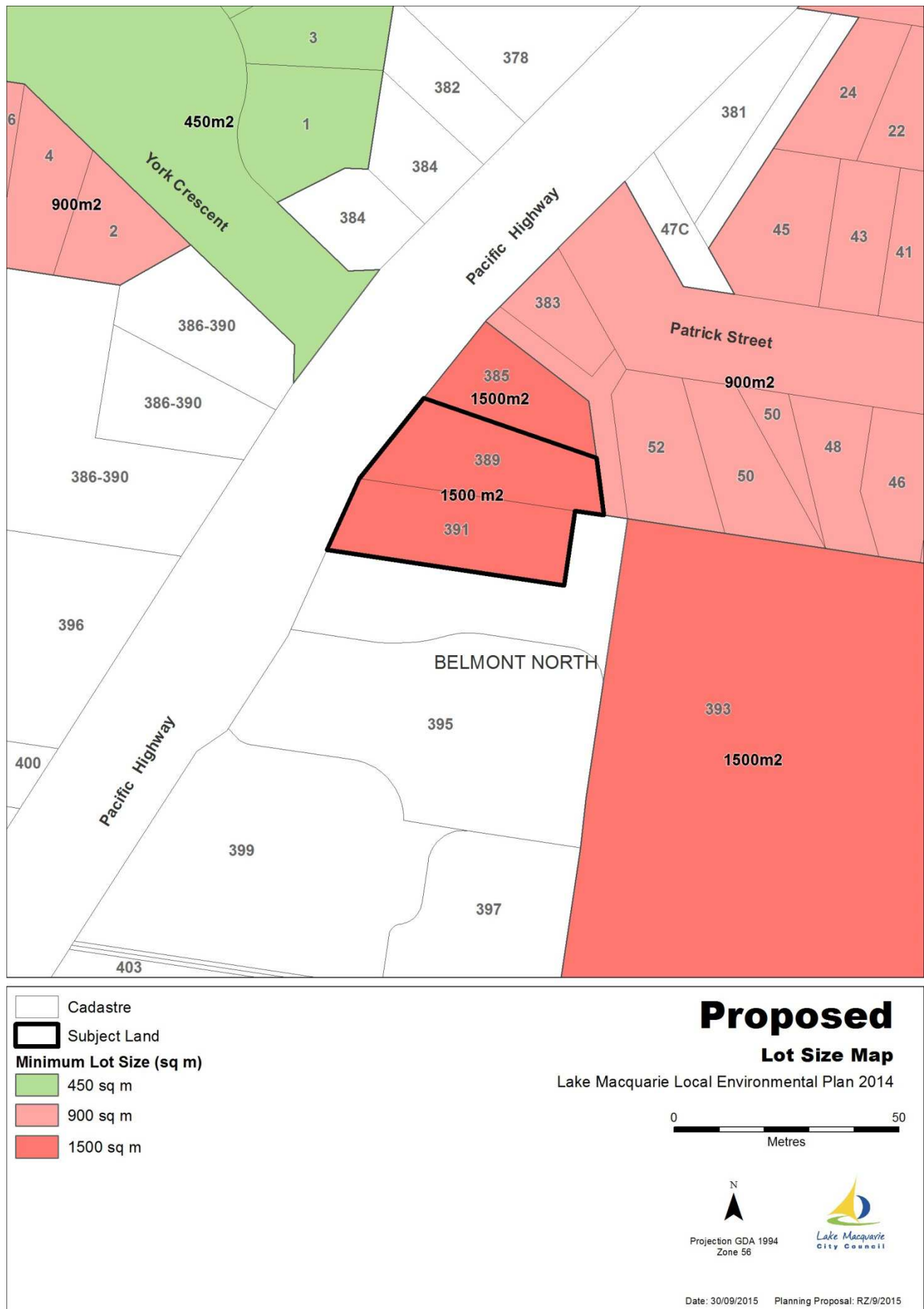


Date: 30/09/2015 Planning Proposal: RZ/9/2015

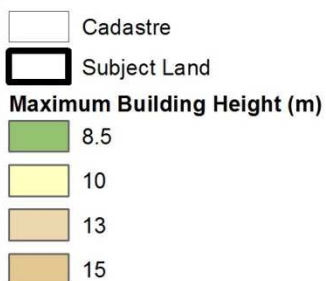
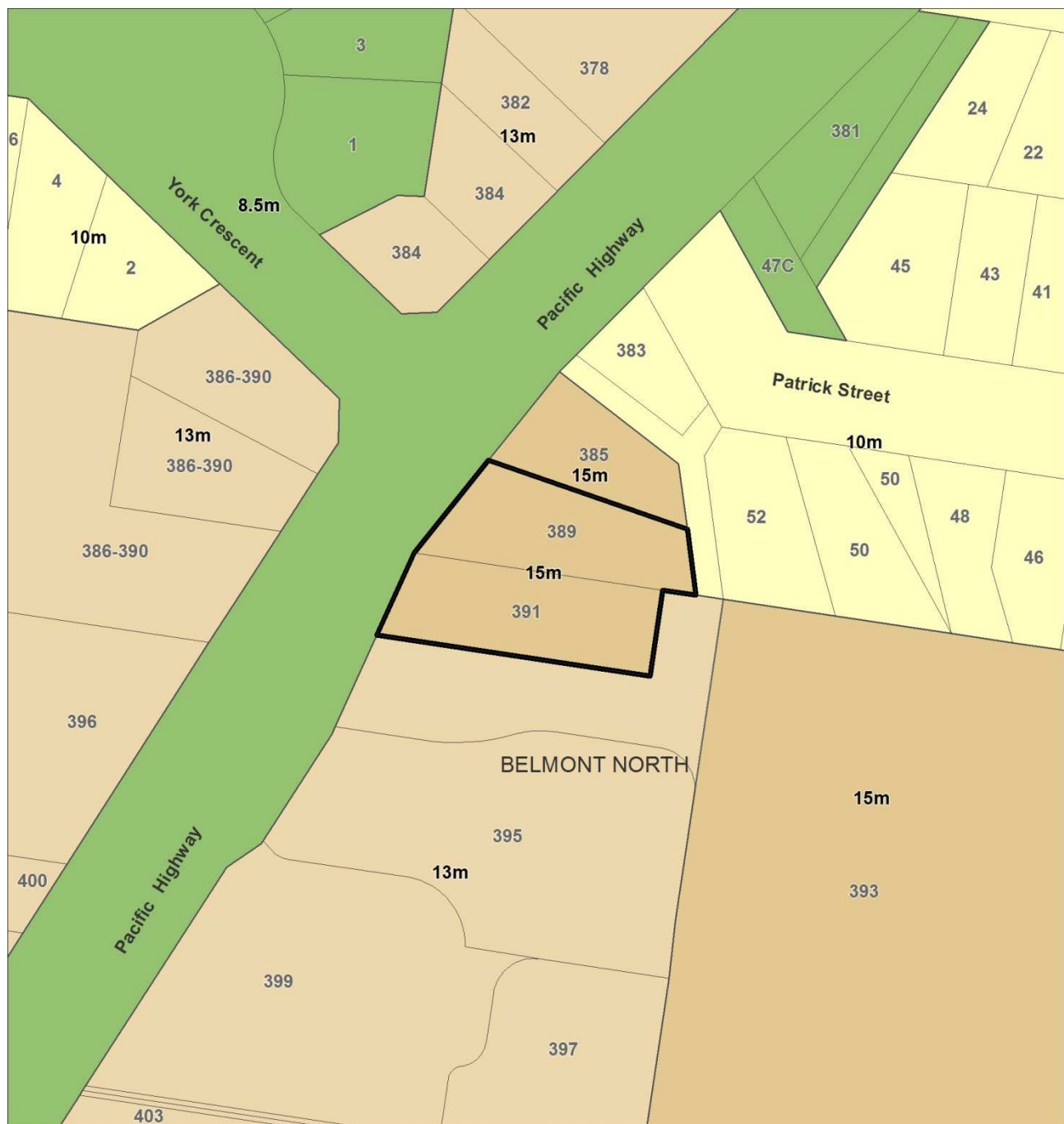
Map 5 – Existing Height of Building



Map 6 – Proposed Zones



Map 7 – Proposed Lot Size



Proposed

Height of Buildings Map

Lake Macquarie Local Environmental Plan 2014



Date: 30/09/2015 Planning Proposal: RZ/9/2015

Map 8 – Proposed Height of Building

Part 5 – COMMUNITY CONSULTATION

Given that the proposal is unique and will involve a concurrent development assessment process, it is recommended that the development application and the Planning Proposal be publicly exhibited concurrently for a period of at least 28 days.

Part 6 – PROJECT TIMELINE

Action	Timeframe
Anticipated commencement date (date of Gateway determination)	December 2015
Anticipated timeframe for completion of required technical information	Nil
Timeframe for government agency consultation (pre exhibition)	21 days
Public exhibition (commencement and completion dates)	28 days
Date of Public hearing (if required)	Nil
Consideration of submissions	2 weeks
Timeframe for government agency consultation (post exhibition if required)	21 days
Post exhibition planning proposal consideration / preparation	1 month
Submission to Department to finalise LEP	June 2016
Date RPA will make Plan (if delegated)	July 2016
Date RPA will forward to the Department for notification (if not delegated)	July 2016