

Planning Proposal

Amendment to Lake Macquarie Local Environmental Plan 2004 & Draft Lake Macquarie Local Environmental Plan 2013

Removal of Acquisition – Halyard Way, Belmont

Local Government Area: Lake Macquarie

Name of Draft LEP: Lake Macquarie Local Environmental Plan 2004 (Amendment No. 87)

Part 1 – Objective of the Planning Proposal

The objective of the Planning Proposal is to amend *Draft Lake Macquarie Local Environmental Plan 2013* (draft LMLEP 2013), to remove the acquisition identification from the subject land comprising Lot 803 DP 1156934 – 14 Halyard Way, Lot 1 Section P DP 10799 – 10 Hill Street, Lot 22 DP 879368 – 35 Macquarie Drive, Belmont. A small part of Lot 803 DP 1156934 affected by the acquisition is zoned RE1 Public Recreation under draft LMLEP 2013. It is proposed that this area will be rezoned to E2 Environmental Conservation as land cannot be zoned RE1 Public Recreation without either being in public ownership or having an acquisition identification applying to it.

Should this amendment proceed prior to the making of draft LMLEP 2013, an amendment is proposed to *Lake Macquarie Local Environmental Plan 2004* (LMLEP 2004). An amendment to LMLEP 2004 would comprise removal of the acquisition identification from the map, and would rezone a small portion of land within Lot 803 DP 1156934 – 14 Halyard Way affected by the acquisition from 6(1) Open Space Zone to 7(2) Conservation Zone as land cannot be zoned 6(1) Open Space Zone without either being in public ownership or having an acquisition identification applying to it.

In addition to this, the amendment would rezone land within Lot 803 DP 1156934 – 14 Halyard Way affected by the acquisition from 5 Infrastructure Zone to 7(2) Conservation (Secondary) Zone. This is due to clause 7.13 *Use of certain land for Seniors Housing* under draft LMLEP 2013 which will apply if the land is zoned 7(2) Conservation (Secondary) Zone under LMLEP 2004 immediately before its replacement by draft LMLEP 2013. This will maintain development rights for the property owner who has indicated an interest in pursuing Seniors Housing on the land.

Lot 1 Section P DP 10799 – 10 Hill Street and Lot 22 DP 879368 – 35 Macquarie Drive would have the acquisition identification removed, however, would not be rezoned. The current 5 Infrastructure Zone applying to these properties would become R2 Low Density Residential under draft LMLEP 2013.

Part 2 – Explanation of the Provisions

Lake Macquarie Local Environmental Plan 2004

If the amendment is adopted prior to the implementation of draft LMLEP 2013, it proposes to amend LMLEP 2004 by removing the cross-hatching from the subject land on the map and by rezoning part of Lot 803 DP 1156934 – 14 Halyard Way from 5 Infrastructure Zone and 6(1) Open Space Zone to 7(2) Conservation (Secondary) Zone (see Figure 1 & 2).

Draft Lake Macquarie Standard Instrument Local Environmental Plan

The amendment proposed to draft LMLEP 2013 is the removal of the acquisition identification on the Land Reservation Acquisition Map for the subject land, and to rezone part of Lot 803 DP 1156934 – 14 Halyard Way from RE1 Public Recreation to E2 Environmental Conservation. The minimum lot size and height of building maps will also be amended (see Figure 3 – 10).

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?

In the 1950's Council made representations to the Department of Main Roads (now known as Roads and Maritime Services (RMS)) to formalise a new main road between Valentine and Belmont. The proposed main road was identified for acquisition by the Department of Main Roads within the Northumberland County Scheme.

Over the years, some amendments were made to the proposed road corridor due to requests from landowners and negotiations between Council and the Department of Main Roads.

In 1996, the Department of Main Roads wrote to Council advising that they no longer required the road. As Council officers were still supportive of a road corridor in this location due to the amount of land purchased for a road network link and the possible future requirement for the road to become part of the State road network, responsibility for the acquisition layer was transferred from the Department of Main Roads to Council, and this situation still exists today.

The landowners of Lot 803 DP 1156934, 14 Halyard Way, Belmont served notice on Council some time ago to acquire that part of their property, which is affected by the proposed road corridor. Council officers have been in negotiations with the landowner's consultant to complete the acquisition. The landowner's consultant has now requested Council investigate removal of the acquisition layer from their client's property.

Following further discussions with the RMS, Council is seeking abandonment of the road corridor and any further acquisitions of land relating to this matter. The RMS has confirmed that it has not changed its previous position in relation to the corridor. It has advised that there is no economic justification for the corridor as a future arterial road, and that the existing main road route (MR527) between Valentine and Belmont has sufficient capacity to perform as an arterial road. There is also considerable concern regarding the future construction costs due to mine workings, land contamination, steep topography and the need for major earthworks. Given the RMS position, it is unlikely that funding would become available in the future from other levels of government for this project.

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

The LEP provides land identified for acquisition. The only mechanism to remove the acquisition provision is to amend the LEP.

3. Is there a net community benefit?

The RMS and Council have determined that the proposed road link is not necessary. Removal of the acquisition identification will reduce the overall acquisition liability for the City.

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 subject local road corridor is not identified within the Lower Hunter Regional Strategy, and is not considered necessary to support future growth. The existing main road network contains sufficient capacity to meet future needs.

2. Is the planning proposal consistent with the local council's Community Strategic plan, or other local strategic plan?

The existing road network provides sufficient capacity to accommodate future growth in the area. Council's lifestyle 2030 Strategy does not identify the proposed road as a necessary future link.

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

There are no State Environmental Planning Policies (SEPPs) relevant to this Planning Proposal.

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 relevant Ministerial Directions. The assessment is provided below.

Ministerial Direction	Relevance	Consistency
1.1 – Business and Industrial Zones	Aims to ensure a draft LEP maintains and protects business and industrial lands and that new zones are established in accordance with strategic policy directions.	N/A
1.2 – Rural Zones	Aims to protect agriculturally productive land by preventing a draft LEP from rezoning land from rural to an urban land use, or intensifying the permissible density of rural land; unless it is consistent with a Department of Planning regional strategy or justified with concurrence from the Director-General.	N/A
1.3 – Mining, Petroleum Production & Extractive Industries	Aims to 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
1.4 – Oyster Aquaculture	Aims to protect Priority Oyster Aquaculture Areas that may be affected by a draft LEP by requiring oyster aquaculture leases to be identified, as well as identification of land uses that may impact on oyster aquaculture activities, and the implementation of measures to mitigate land use conflict. Also requires consultation with the Director-General of the Department of Primary Industries.	N/A
1.5 – Rural Lands	Aims to protect agricultural production land by requiring a draft LEP affecting rural or environmental protection zones (including changes to minimum lot sizes) to be consistent with the	N/A

Ministerial Direction	Relevance	Consistency
	<i>Rural Planning Principles</i> and the <i>Rural Subdivision Principles</i> listed in the SEPP (Rural Lands) 2008.	
2.1 – Environmental Protection Zones	Aims to protect and conserve environmentally sensitive land by requiring appropriate provisions in a draft LEP and no reduction in environmental protection standards.	Consistent: The proposed conservation zones will extend land zoned for environmental protection purposes.
2.2 – Coastal Protection	Aims to protect the environment and character of coastal areas by requiring a draft LEP to include provisions that are consistent with State Government coastal policy documents.	N/A
2.3 – Heritage Conservation	Aims to conserve items of environmental heritage by requiring a draft LEP to include provisions to facilitate the protection and conservation of Aboriginal and European heritage items.	N/A
2.4 – Recreation Vehicle Areas	Aims to protect sensitive land or land with significant conservation values from adverse impacts of recreation vehicles by prohibiting a draft LEP from enabling of a recreation vehicle area in environmentally sensitive locations, and requiring certain matters to be considered in other locations.	N/A
3.1 – Residential Zones	Aims to facilitate housing choice, efficient use of infrastructure, and reduce land consumption on the urban fringe by requiring certain provisions in a draft LEP.	N/A
3.2 – Caravan Parks and Manufactured Home Estates	Aims to provide opportunities for caravan parks and manufactured home estates by requiring a draft LEP to maintain provisions and land use zones that allow the establishment of Caravan Parks, and to take into account SEPP 36 when identifying zones and locations for Manufactured Home Estates.	N/A
3.3 – Home Occupations	Aims to encourage low impact small businesses in dwelling houses by requiring a draft LEP	N/A

Ministerial Direction	Relevance	Consistency
	to permit home occupations without consent.	
3.4 – Integrating Land Use and Transport	Aims to improve access to housing, jobs and services, increase transport choice and reduce motor vehicle use by requiring a draft LEP to be consistent with <i>Improving Transport Choice- Guidelines for Planning and Development</i> , and <i>The Right Place for Business- Planning Policy</i> .	N/A
3.5 – Development Near Licensed Aerodromes	Aims to ensure the safe operations of aerodromes, ensure their operation is not compromised by development, and to ensure noise mitigation measures in residential areas affected by aircraft noise by requiring draft LEP preparation to include consultation with the Department of the Commonwealth responsible for aerodromes, as well as the implementation of development controls to mitigate land use conflict and noise impacts.	N/A
3.6 – Shooting Ranges	Aims to maintain public safety and minimise land use conflict associated with shooting ranges.	N/A
4.1 – Acid Sulfate Soils	Aims to manage adverse impacts arising from the presence of acid sulfate soils by ensuring that Council considers the affect of development on land identified as having a probability of containing acid sulfate soils; and requiring that a draft LEP be consistent with the Acid Sulfate Soils Model Local Environmental Plan; and a range of other matters.	N/A
4.2 – Mine Subsidence and Unstable Land	Aims to ensure development is appropriate for the potential level of subsidence. The direction requires consultation with the Mine Subsidence Board where a draft LEP is proposed for land within a mine subsidence district.	Consistent: The Mine Subsidence Board will be consulted to ensure previous advice remains relevant.
4.3 – Flood Prone Land	Aims to ensure that LEP provisions are commensurate with flood risk and consistent with the NSW Flood Prone Land	N/A

Ministerial Direction	Relevance	Consistency
	Policy and Floodplain Development Manual. Applies where the draft LEP will affect provisions to flood prone land.	
4.4 – Planning for Bushfire Protection	Aims to reduce risk to life and property from bushfire. Requires an LEP to have regard for <i>Planning for Bushfire Protection</i> , amongst other matters. 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.	Consistent: The subject land is bushfire prone and will be subject to the <i>Planning for Bushfire Protection</i> guidelines. Consultation will be undertaken with the Rural Fire Service.
5.1 – Implementation of Regional Strategies	Aims to give legal effect to regional strategies, by requiring draft LEPs to be consistent with relevant strategies. The direction requires a draft amendment to be consistent with the relevant State strategy that applies to the Local Government Area.	N/A
5.2 – Sydney Drinking Water Catchments	Aims to protect water quality in the Sydney drinking water catchment.	N/A
5.3 – Farmland of State and Regional Significance on the NSW Far North Coast	Aims to maintain agricultural land for future generations and to minimise land use conflicts relating to agricultural activities.	N/A
5.4 – Commercial and Retail Development along the Pacific Highway, North Coast	Aims to manage retail and commercial development along the Pacific Highway.	N/A
5.5 – Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	(Revoked 18 June 2010)	N/A
5.6 – Sydney to Canberra Corridor	(Revoked 10 July 2008)	N/A
5.7 – Central Coast	(Revoked 10 July 2008)	N/A
5.8 – Second Sydney Airport:	Aims to avoid incompatible development within the vicinity of	N/A

Ministerial Direction	Relevance	Consistency
Badgerys Creek	the proposed second Sydney airport.	
6.1 – Approval and Referral Requirements	Prevents a draft LEP from requiring concurrence from, or referral to, the Minister or a public authority unless approval is obtained from the Minister and public authority concerned. Also restricts the ability of a Council to identify development as designated development without the Director General's agreement.	N/A
6.2 – Reserving Land for Public Purposes	Aims to facilitate the reservation of land for public purposes, and to facilitate the removal of such reservations where the land is no longer required for acquisition. A Council must seek the Minister's or public authority's agreement to create, alter, or reduce existing zonings or reservations in an LEP. A Council can also be requested to rezone or remove a reservation by the above.	Consistent: The Planning Proposal seeks to remove the acquisition identification from the LEP map in LMLEP 2004 and the Land Reservation Acquisition Map in Draft LMLEP 2013. The RMS and Council have determined that the proposed road is no longer necessary.
6.3 – Site Specific Provisions	Aims to reduce restrictive site-specific planning controls where a draft LEP amends another environmental planning instrument in order to allow a particular development proposal to proceed. Draft LEPs are encouraged to use existing zones rather than have site-specific exceptions.	N/A
7.1 – Implementation of the Metropolitan Plan for Sydney 2036	Aims to give legal effect to the Metropolitan Plan for Sydney 2036.	N/A

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?**

The Planning Proposal seeks to remove the acquisition identification of the subject land only, and will not affect any critical habitat or threatened species, populations or ecological communities, or their habitats.

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

The removal of the acquisition identification means the road construction is no longer necessary. Environmental protection will be supported by the E2 Environmental Conservation zone, which has been allocated to the subject land under draft LMEP 2013.

D. State and Commonwealth interests

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

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

2. 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 Services
- Mine Subsidence Board
- Rural Fire Service

Part 4 – Details of Community Consultation

There has been no previous public consultation regarding this planning proposal. It is proposed that the Planning Proposal be placed on public exhibition for a period of 28 days.

Part 5 – Attachments

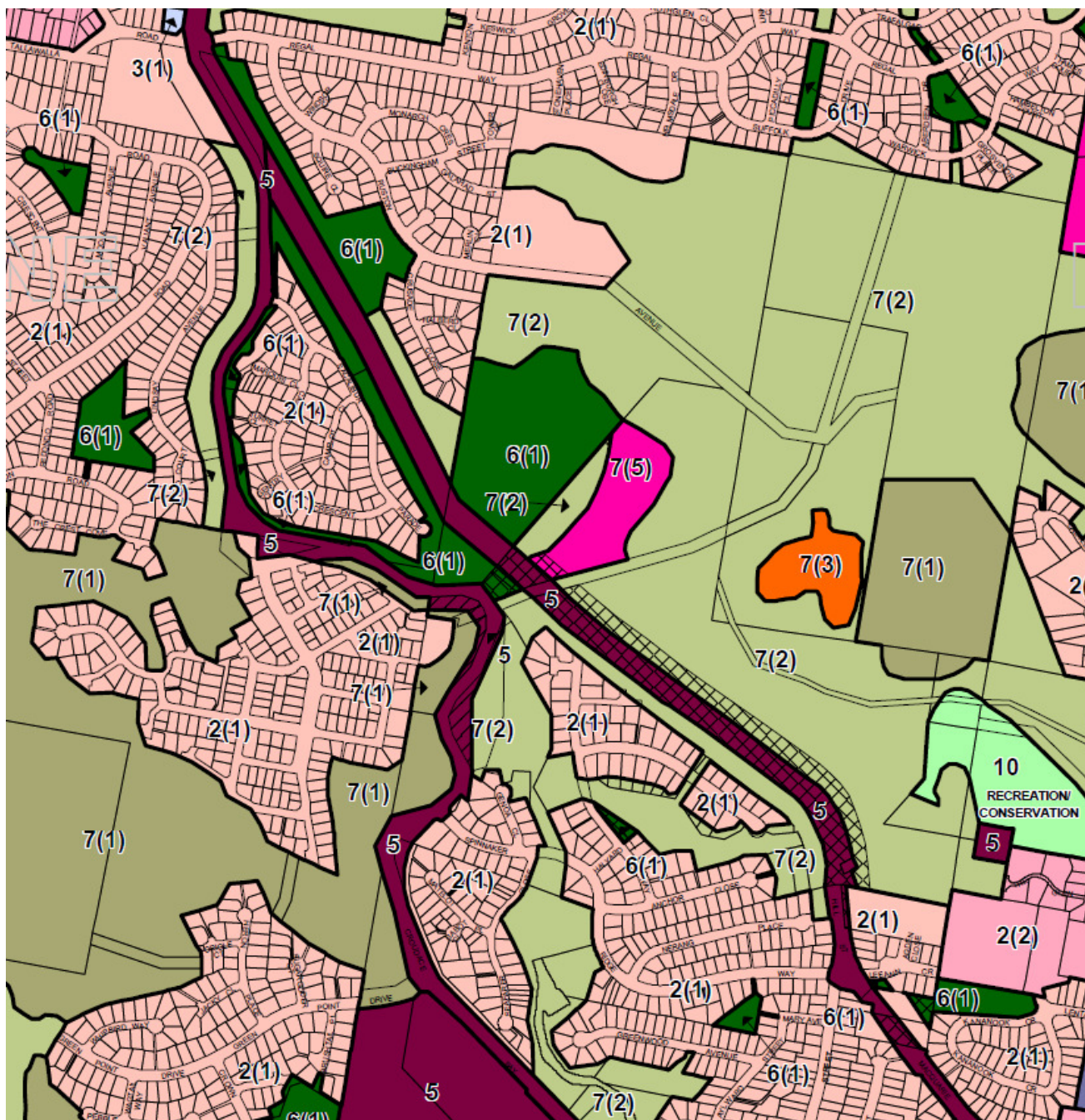


Figure 1: Extract from the existing Lake Macquarie Local Environmental Plan 2004 Map – Land Use Zones and Acquisition

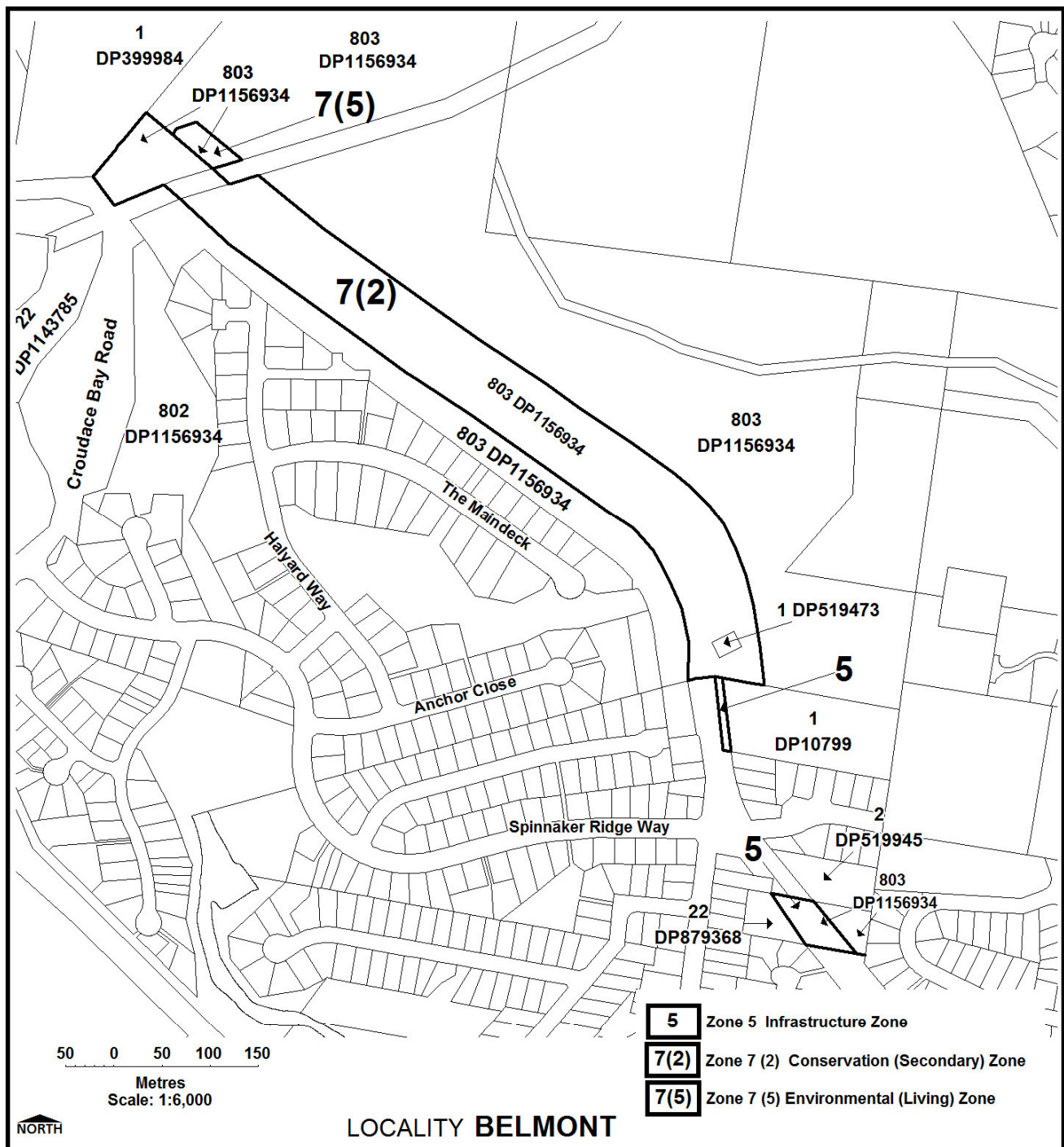


Figure 2: Proposed Lake Macquarie Local Environmental Plan 2004 Map – Land Use Zones and Acquisition Removal for the subject land

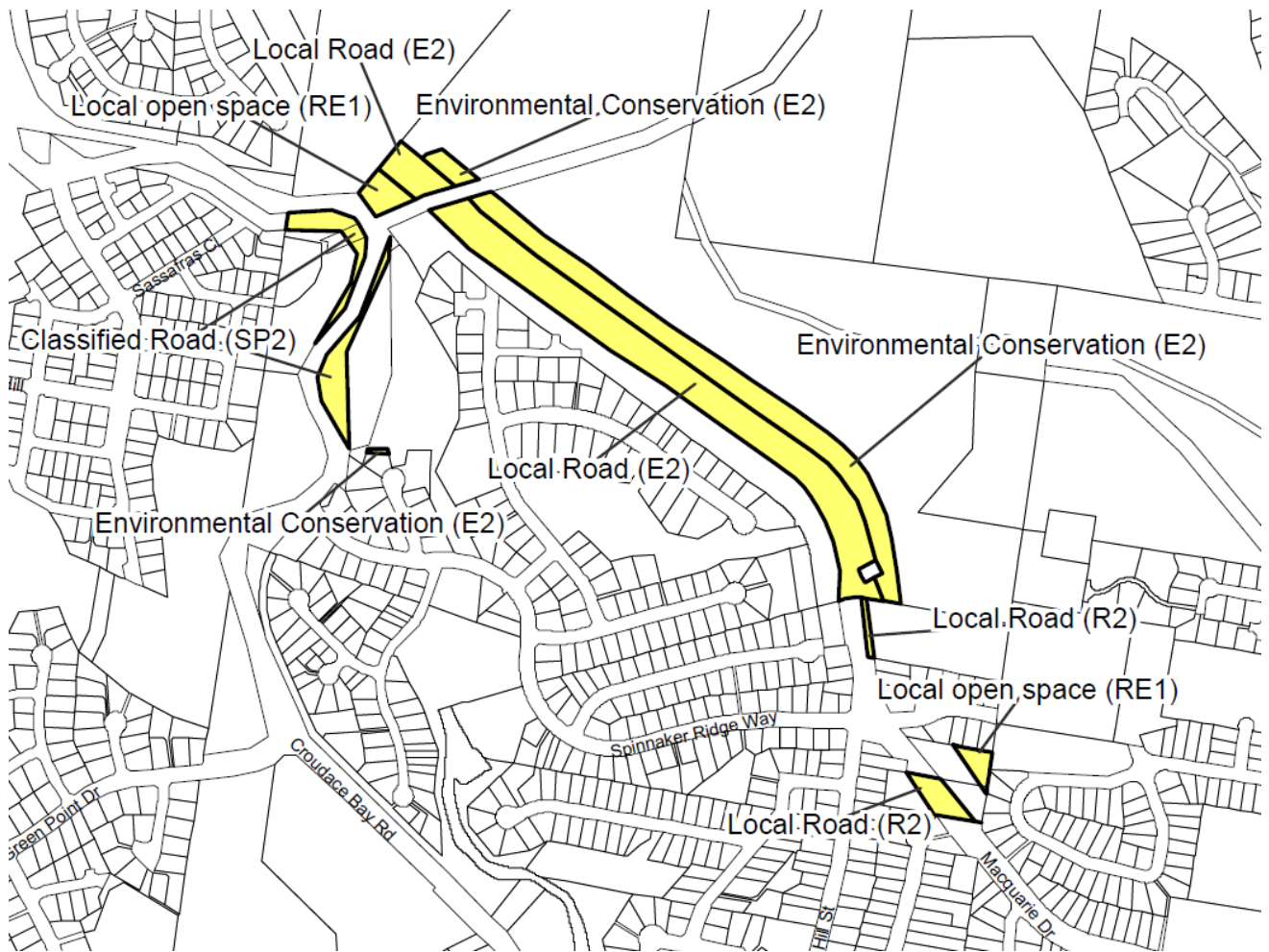


Figure 3: Extract from existing Draft Lake Macquarie Local Environmental Plan 2013 Land Reservation Acquisition Map

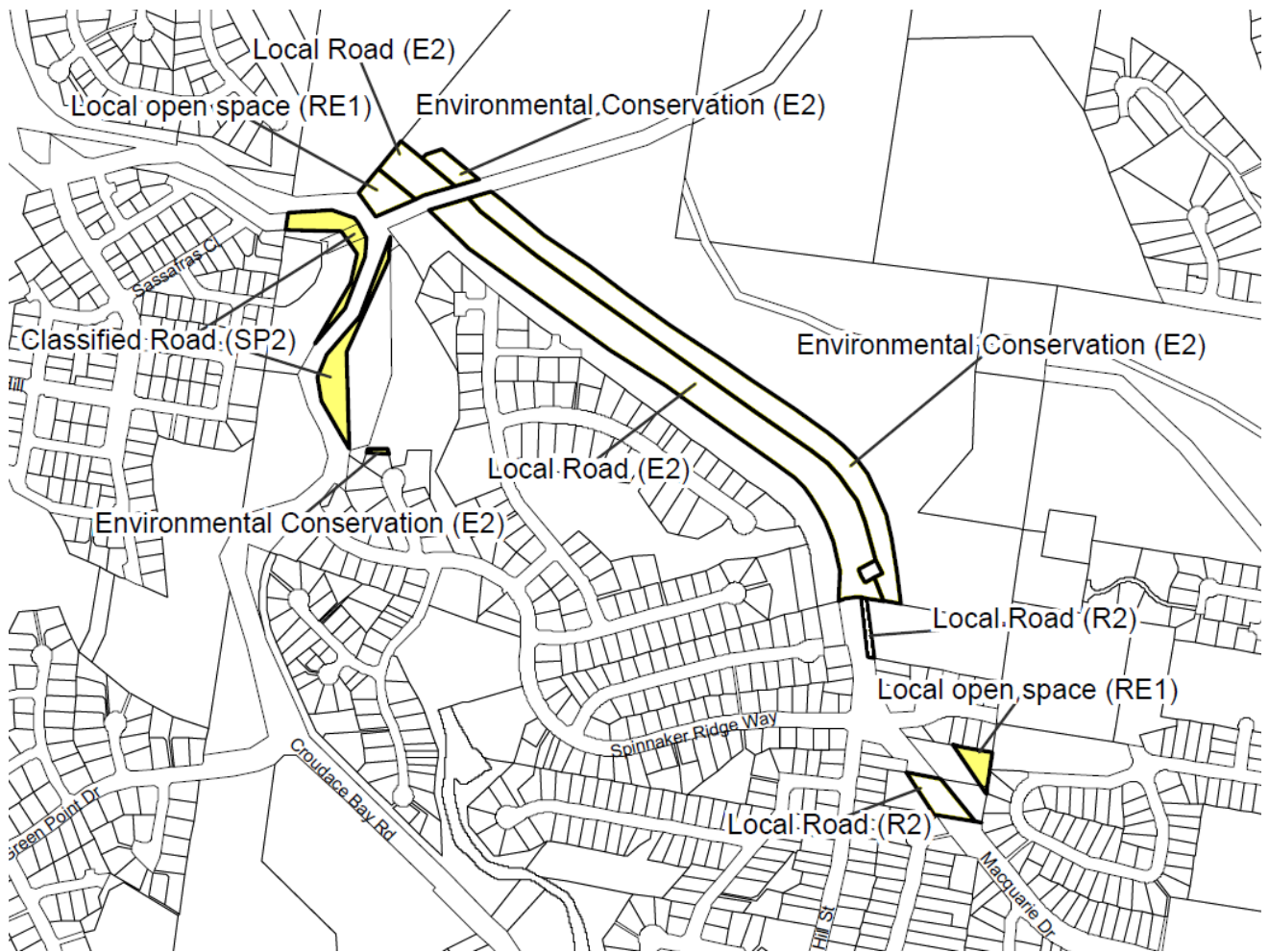


Figure 4: Proposed Removal of Acquisition from Draft Lake Macquarie Local Environmental Plan 2013 Land Reservation Acquisition Map for the subject land

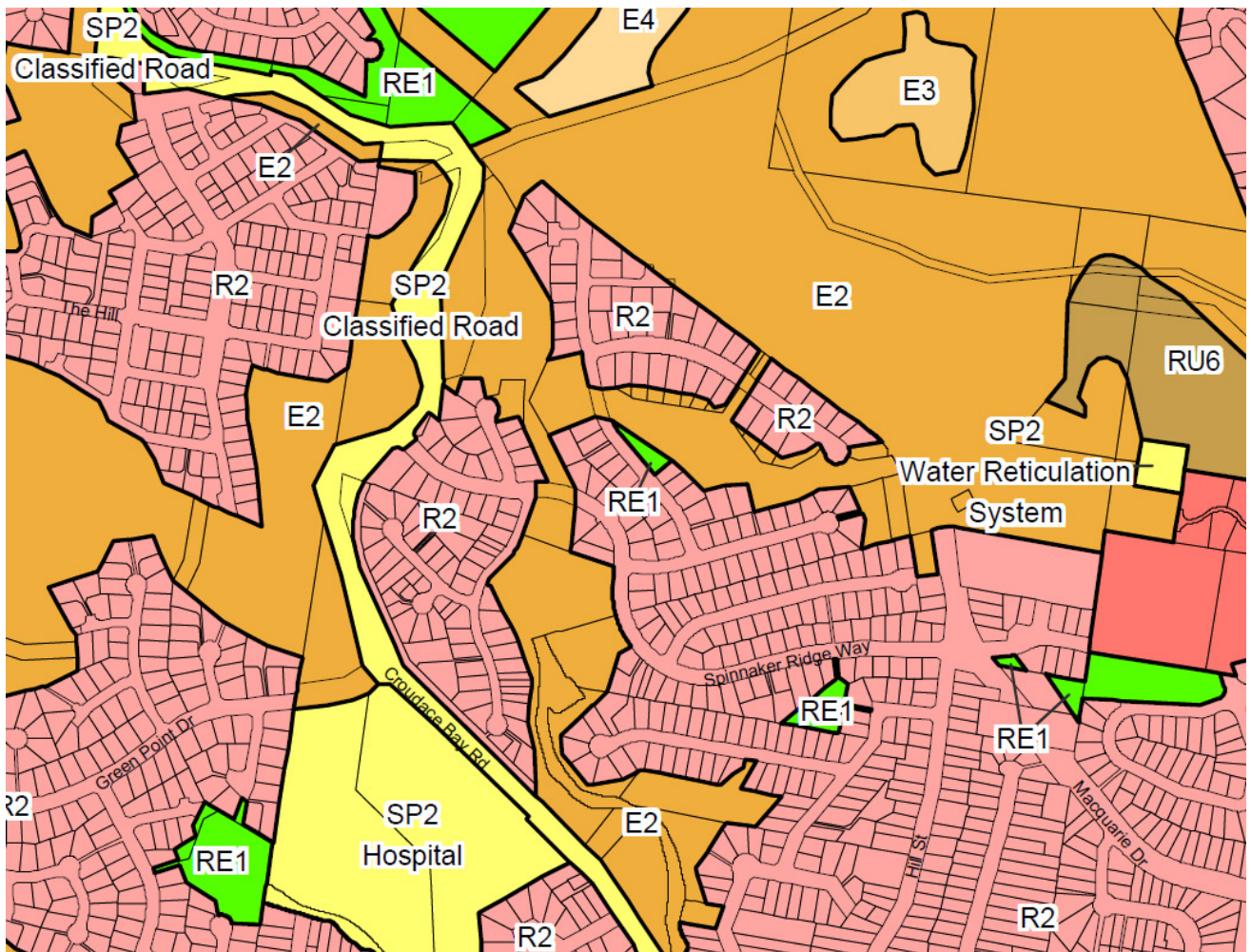


Figure 5: Extract from existing Draft Lake Macquarie Local Environmental Plan 2013 Land Use Zones Map



Figure 6: Proposed Amendment of Draft Lake Macquarie Local Environmental Plan 2013 Land Use Zones Map

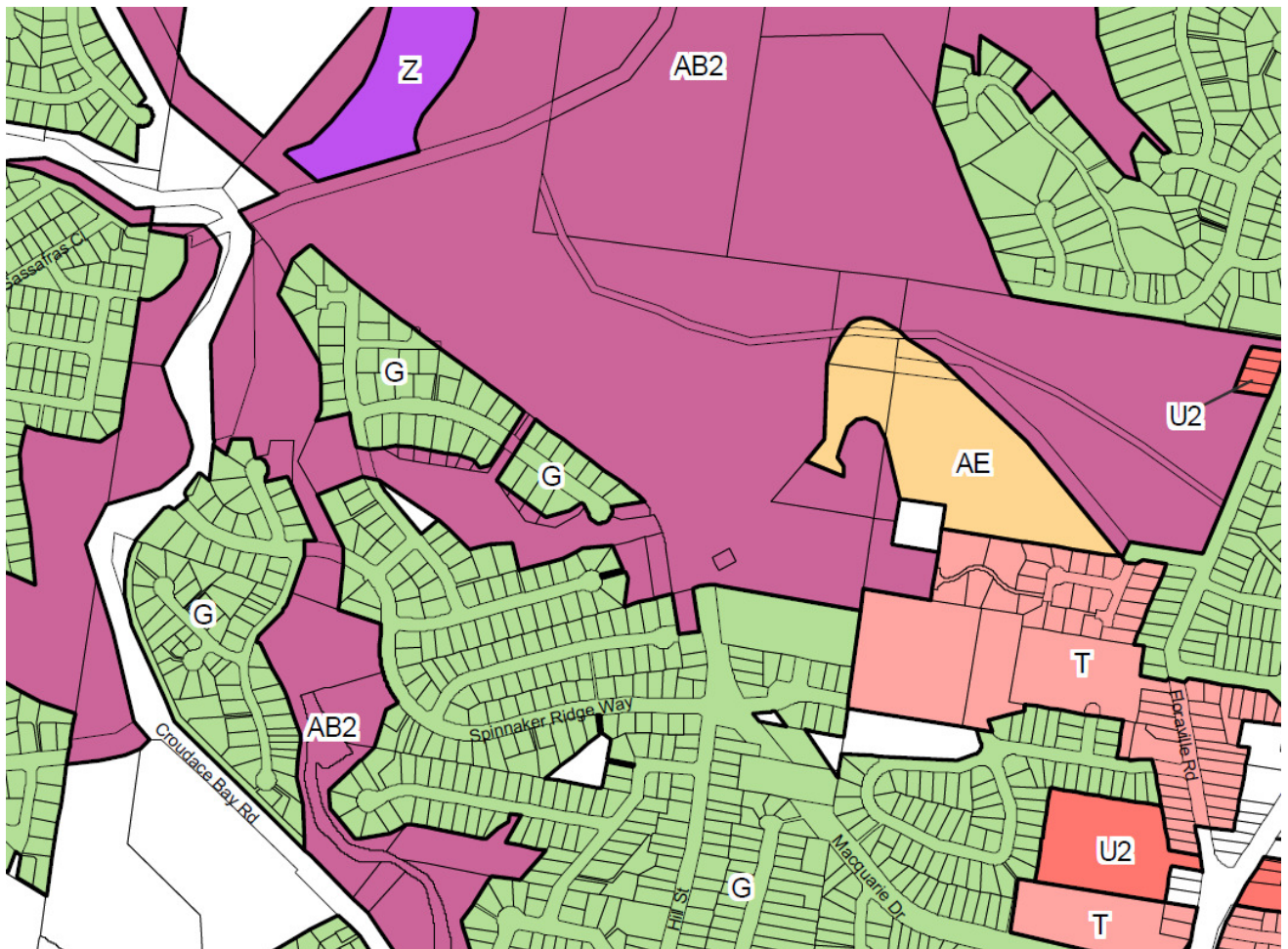


Figure 7: Extract from existing Draft Lake Macquarie Local Environmental Plan 2013 Minimum Lot Size Map

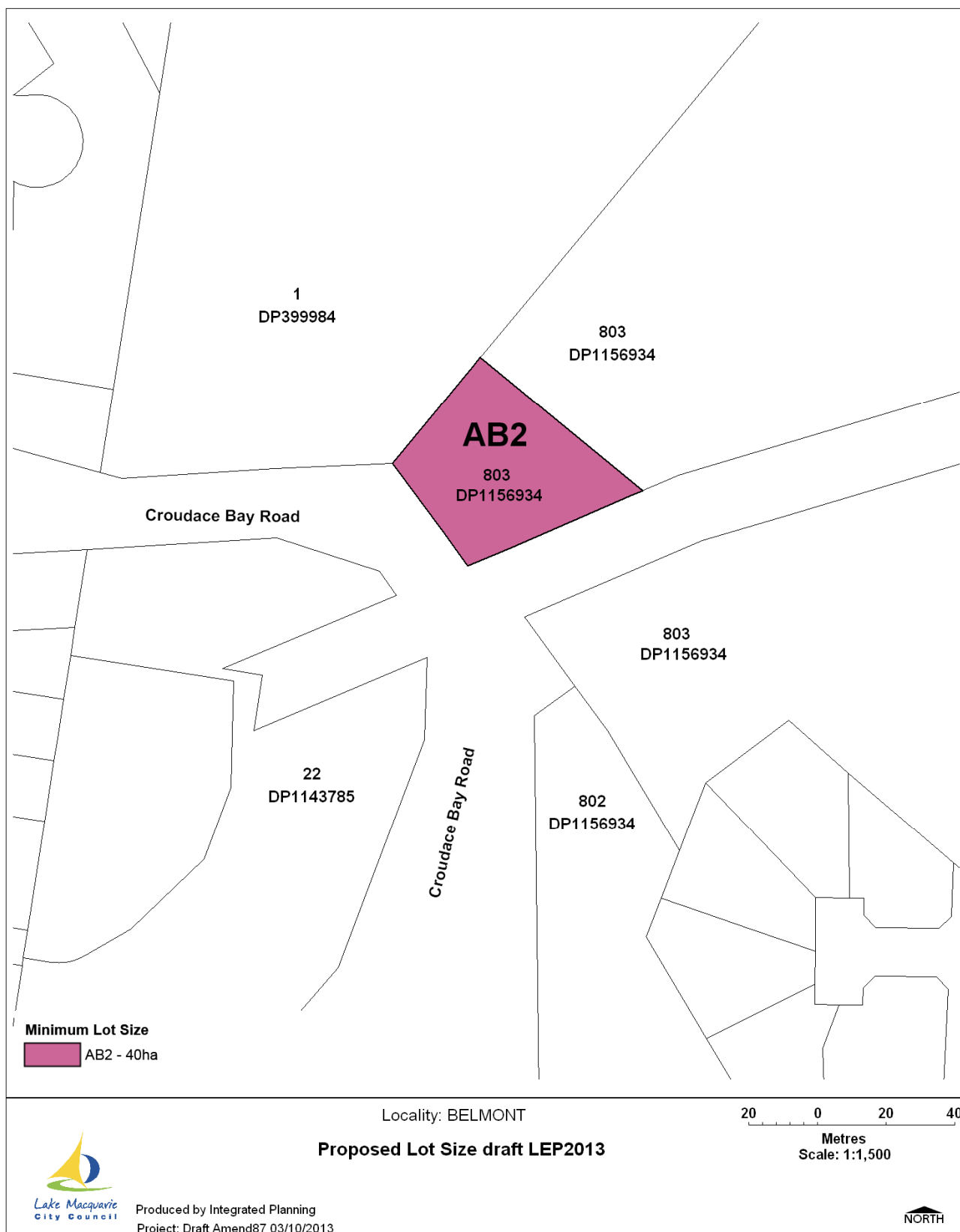


Figure 8: Proposed Amendment of Draft Lake Macquarie Local Environmental Plan 2013 Minimum Lot Size Map

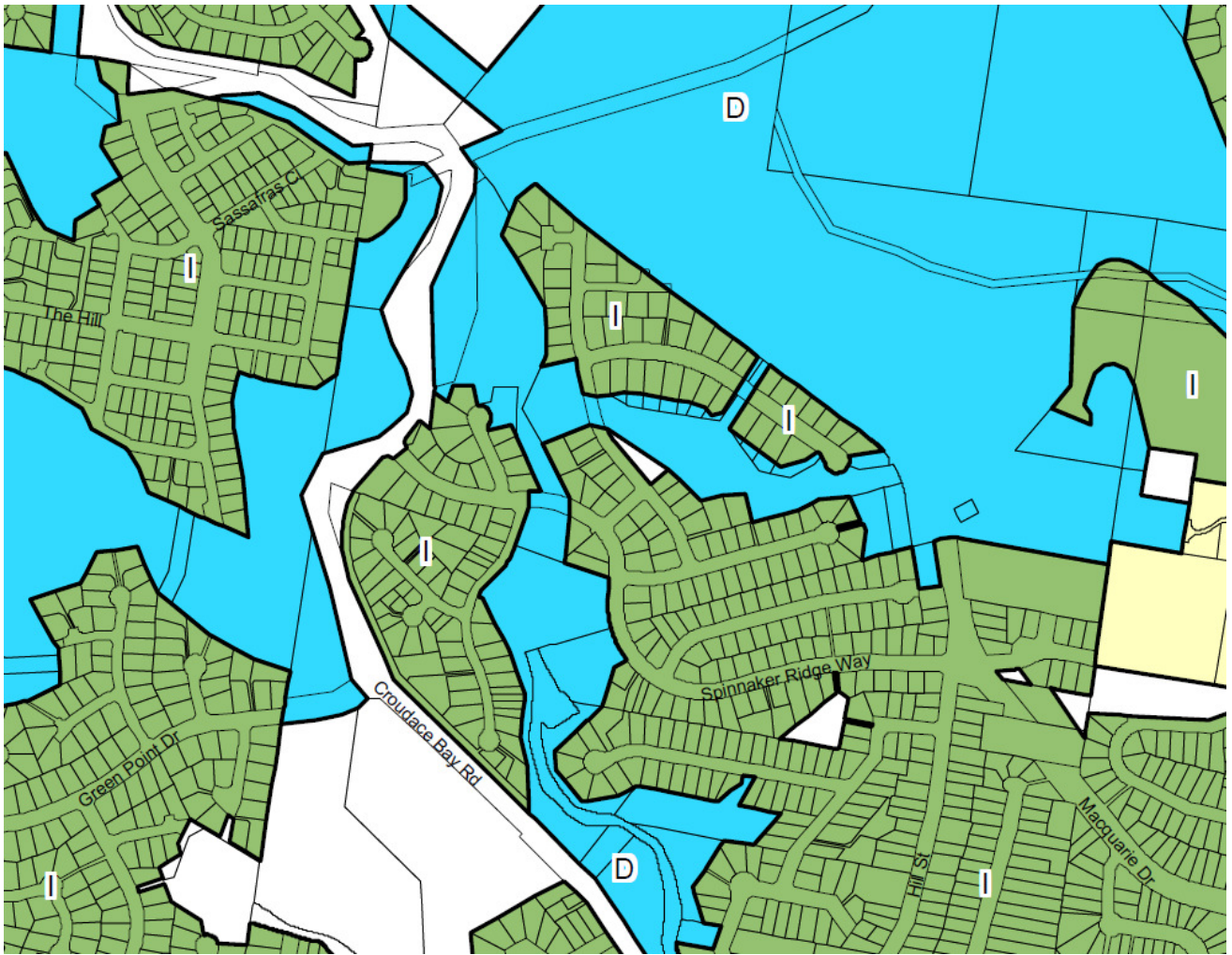


Figure 9: Extract from existing Draft Lake Macquarie Local Environmental Plan 2013 Height of Buildings Map

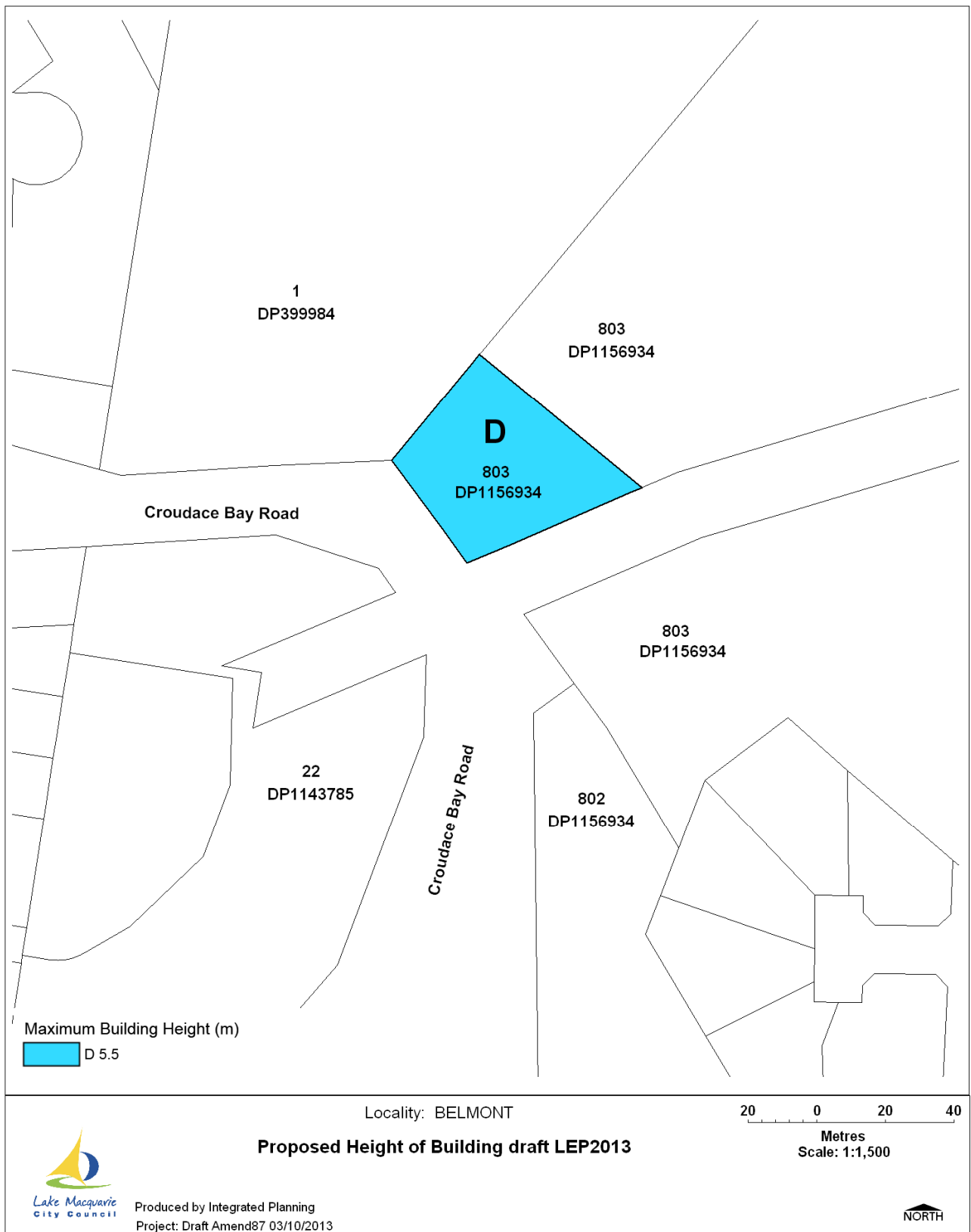


Figure 10: Proposed Amendment of Draft Lake Macquarie Local Environmental Plan 2013 Height of Buildings Map