



Planning Proposal

AMENDMENT TO THE MAITLAND LEP 2011

Amendments to Flood Planning Maps

Version 1.0

28/08/2014

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Version 1.0 – 25.07.2014 (For Section 55 Council Report)

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INTRODUCTION

This planning proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979. It explains the intended effect of, and justification for the proposed amendment to Maitland Local Environmental Plan 2011 (MLEP 2011) to update all Flood Planning Maps (FPMs) contained in the MLEP 2011.

This planning proposal is the result of inconsistencies between the Flood Planning Levels (FPLs) contained within the MLEP 2011 and the Hunter River: Branxton to Green Rocks Flood Study 2010 (herein referred to as the Flood Study 2010).

The planning proposal applies to all land within the Maitland LGA that is flood affected, as per the 1:100 Average Recurrence Interval (ARI) flood extent defined in the Flood Study 2010 (plus 0.5m freeboard). The MLEP 2011 FPMs will be updated to reflect this flood extent, so as to be consistent with the definition of Flood Planning Level included under Clause 7.3 (5) of the MLEP 2011, being a 1:100 ARI plus 0.5m freeboard.

PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objectives of the proposal are;

1. To amend the Flood Planning Maps in the MLEP 2011 to reflect the definition of Flood Planning Level included under Clause 7.3 (5) of the MLEP 2011, which is 1:100 ARI plus 0.5m freeboard.

PART 2: EXPLANATION OF PROVISIONS

The planning proposal seeks to amend all Flood Planning Maps (FPMs) contained within the Maitland LEP 2011 to reflect the Flood Planning Level (FPL) informed by the *Hunter River: Branxton to Green Rocks Flood Study 2010* and other supporting flood studies from adjoining LGAs which, collectively, map the 1:100 ARI plus 0.5m freeboard FPL.

PART 3: JUSTIFICATION FOR PROPOSED REZONING

In accordance with the Department of Planning's 'Guide to Preparing Planning Proposals', this section provides a response to the following issues:

- Section A: Need for the planning proposal;
- Section B: Relationship to strategic planning framework;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

SECTION A – NEED FOR THE PLANNING PROPOSAL

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

The planning proposal is a result of mapping inconsistencies being noted between the current FPMs contained in the MLEP 2011 and information contained within the *Hunter River: Branxton to Green Rocks Flood Study 2010*. The current FPMs contained in the MLEP 2011 reflect outdated flood mapping from before the Flood Study 2010 was adopted by Council. This mapping anomaly requires a planning proposal to amend the current maps to reflect the flood extent informed by data contained in the 2010 Flood Study and flood studies from adjoining LGAs, which will also reflect consistency with the definition of Flood Planning Level as outlined under Clause 7.3(5) of the MLEP 2011.

The Hunter River (Branxton to Green Rocks) Flood Study was completed in December 2010. A combination of hydrologic and hydraulic models were used in that study to determine design flood levels resulting from modelled Hunter River flood events. The modelling took into consideration coincident inflows from tributaries such as Wallis Creek, Fishery Creek, Black Creek and part of the Paterson River. The possible effects of climate change induced increases in design rainfall intensities were also analysed. The flood study supersedes the previous flood study completed in two parts in 1990 and 1998.

Based on the findings of the 2010 Flood Study, the Draft Floodplain Risk Management Plan (FRMP) has recently been prepared, which is proposed to be placed on public exhibition concurrent with the this planning proposal and the proposed Draft DCP Chapter – Hunter River Floodplain Management.

The final stage of the flood management process is the implementation of the FRMP, which will follow the adoption of the FRMP. This includes construction of flood mitigation works to protect existing development, adoption and adherence to the proposed MLEP 2011 and MDCP 2011 amendments relating to flooding, and relevant policies to ensure that new development is compatible with the flood hazard. The planning proposal is therefore consistent with implementation of the 2010 Flood Study and Draft FRMP.

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

This mapping anomaly requires a planning proposal to amend the current flood extent shown in the MLEP 2011 FPMs to reflect the 2010 Flood Study data and Clause 7.3(5) of the MLEP 2011. There is no better way, or alternative way, to achieve this objective.

NSW Floodplain Development Manual 2005

The NSW Floodplain Development Manual (FDM) 2005 identifies the need for local Councils to “...Incorporate appropriate planning provisions of Floodplain Risk Management Plans into LEPs, DCPs and development control policies.” (FDM 2005:11). Given that Council has access to the flood extent information (ie 1:100 ARI extent) outlined under the Flood Study 2010, Council is complying with the FDM 2005 principles relating to LEP amendments by mapping the 1:100 ARI extent in its proposed FPL maps under the Maitland LEP 2011. While the Draft FRMP has not yet been adopted by Council, the *Hunter River: Branxton to Green Rocks Flood Study 2010* was adopted by Council on 27 July 2010. The action to update the Maitland LEP 2011 FPMs is seen to be consistent with the FDM 2005 and the adopted 2010 Flood Study.

3. Is there a net community benefit?

No net community benefit test has been undertaken as part of this planning proposal. While land use planning, development and flood data requests are currently assessed by reference to the Flood Study 2010 (meaning that the most up to date flood information is available), the formalisation of this data into the MLEP 2011 is considered to be of significant community benefit. This will also benefit Council staff in their operational duties, by simplifying the process for the distribution and assessment of flood levels and mapping, by providing one centralised statutory location for referencing flood extent information relating to land within the Maitland LGA.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Lower Hunter Regional Strategy (NSW Department of Planning and Infrastructure) 2006

Page 38 of the LHRS discusses the issue of flooding as a natural hazard. The most pertinent comments in the LHRS are:

“Appropriate planning provisions will be incorporated in Local Environmental Plans consistent with the Floodplain Development Manual and Council’s risk management plan to minimise risk from flooding.” (LHRS, 2006:38); and

“Local Environmental Plans will zone areas subject to high hazard to reflect the limitations of the land.” (LHRS 2006:39).

These outcomes and actions clearly demonstrate the importance of maintaining up to date flood extent mapping in the MLEP 2011. The planning proposal is consistent with the relevant provisions of the LHRS 2006.

5. Is the planning proposal consistent with the local council’s Community Strategic Plan, or other local strategic plan?

Maitland +10 (Community Strategic Plan)

The proposal supports the following objectives of the Council’s community strategic plan (Maitland +10);

Our Built Space

- Our infrastructure is well-planned, integrated and timely, meeting community needs now and into the future.

Our natural environment

- The potential impacts of our growing community on the environment and our natural resources are actively managed.

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

An assessment of the planning proposal against the relevant SEPPs is provided in the table below.

Table 1: Relevant State Environmental Planning Policies.

RELEVANCE	CONSISTENCY AND IMPLICATIONS
SEPP (INFRASTRUCTURE) 2007	CONSISTENT
Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	While some of the provisions of this SEPP relate to flooding, the planning proposal does not have the purpose of amending zonings or altering the uses within any zone that the FPMs apply to. Therefore, nothing in this planning proposal affects the aims and provisions of this SEPP.

7. Is the planning proposal consistent with applicable Ministerial Directions for Local Plan making?

Table 2: s117 Directions.

s117 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
1. EMPLOYMENT AND RESOURCES	
1.1 Business and Industrial zones	Consistent
The objective of this direction is to protect employment land, encourage employment growth and support the viability of centres.	While the planning proposal does affect land within existing business and industrial zones (by virtue of the revised FPL extent), the planning proposal does not involve rezoning business or industrial zoned land. In any case, the planning proposal is supported by an adopted flood study.
1.2 Rural Zones	Consistent
The objective of this direction is to protect the agricultural production value of rural land.	While the planning proposal does affect land within existing rural zones (by virtue of the revised FPL extent), the planning proposal does not involve rezoning rural zoned land. In any case, the planning proposal is supported by an adopted flood study.
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable
The objective of this direction is 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.	This planning proposal does not involve rezoning land or creating planning provisions that would facilitate inappropriate development, as defined in this direction. In any case, the planning proposal is supported by an adopted flood study.

s117 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
1.4 Oyster Aquaculture	Not applicable
The objectives of this direction are to ensure that Priority Oyster Aquaculture Areas and other oyster aquaculture areas, and any adverse impacts on these areas, are considered when preparing a planning proposal.	This planning proposal does not involve land within a Priority Oyster Aquaculture Area or land subject to the NSW Oyster Industry Sustainable Aquaculture Strategy 2006.
1.5 Rural Lands	Consistent
The objectives of this direction are to protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.	While the planning proposal does affect land within existing rural and environmental protection zones (by virtue of the revised FPL extent), the planning proposal does not involve rezoning rural or environmental zoned land. In any case, the planning proposal is supported by an adopted flood study.
2. ENVIRONMENT AND HERITAGE	
2.1 Environment Protection Zones	Consistent
The objective of this direction is to protect and conserve environmentally sensitive areas.	This planning proposal does not involve rezoning land. In any case, the planning proposal is supported by an adopted flood study.
2.2 Coastal Protection	Not applicable
The objective of this direction is to implement the principles in the NSW Coastal Policy.	This planning proposal does not involve land within the coastal zone.
2.3 Heritage Conservation	Consistent
The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	This planning proposal does not involve the rezoning of land and will not affect the conservation of any heritage items. The planning proposal is supported by an adopted flood study.
2.4 Recreation Vehicle Areas	Consistent
The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	The subject planning proposal will not enable land to be developed for the purpose of a recreation area.
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT	
3.1 Residential Zones	Consistent
Encourage a variety and choice of housing, minimise the impact of residential development on the environmental and	This planning proposal does not involve rezoning land. The planning proposal is supported by an adopted flood study, which

s117 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
resource lands and make efficient use of infrastructure and services.	provides information on revised FPL extents.
3.2 Caravan Parks & Manufactured Home Estates	Consistent
To provide a variety of housing types and to provide for caravan parks and manufactured home estates.	This planning proposal does not involve rezoning land. The planning proposal is supported by an adopted flood study.
3.3 Home Occupations	Consistent
To encourage the carrying out of low-impact small businesses in dwelling houses.	This planning proposal does not involve rezoning land or creating planning provisions that would prohibit home occupations to be carried out in dwelling houses without the need for development consent.
3.4 Integrating Land Use and Transport	Not applicable
The objectives relate to the location of urban land and its proximity to public transport infrastructure and road networks, and improving access to housing, employment and services by methods other than private vehicles.	This planning proposal does not involve creating, altering or removing a zone or provision relating to urban land. However, the planning proposal will result in some properties being affected by flooding that were previously unaffected by flood mapping on the FPL maps currently contained in the MLEP 2011. The planning proposal is supported by an adopted flood study, which provides information on revised FPL extents.
3.5 Development Near Licensed Aerodromes	Not applicable
The objectives relate to the safe operation of aerodromes, as well as mitigating against obstruction, flight hazard and aircraft noise.	This planning proposal does not involve creating, altering or removing a zone or provision relating to land in the vicinity of a licensed aerodrome. In any case, the planning proposal is supported by an adopted flood study.
3.6 Shooting ranges	Not applicable
The objectives relate to safety and planning associated with shooting ranges.	This planning proposal does not involve creating, altering or removing a zone or provision relating to land in the vicinity of a shooting range.
4. HAZARD and RISK	
4.1 Acid Sulfate Soils	Consistent
The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	The Maitland LEP 2011 includes ASS maps for the entire Maitland LGA, which are to be interpreted in conjunction with Clause 7.1 – Acid Sulfate Soils of the Maitland LEP 2011. In any case, the planning proposal is supported

s117 DIRECTIONS**CONSISTENCY AND IMPLICATIONS**

by an adopted flood study.

4.2 Mine Subsidence and Unstable Land**Consistent**

The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

This planning proposal does not involve rezoning land, however, the flood extent will be amended, including land within a Mine Subsidence District. The planning proposal is supported by an adopted flood study, which provides information on revised FPL extents.

4.3 Flood Prone Land**Consistent**

The objectives of this direction are:

- (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
- (b) to 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 subject planning proposal does not involve rezoning land. However, the proposal is consistent with this direction since it is supported by an adopted flood study, which provides information on revised FPL extents. The adopted flood study has been prepared in accordance with the NSW Floodplain Development Manual 2005, to assist with informing the proposed Draft Floodplain Risk Management Plan. The planning proposal fully satisfies the provisions of this 117 Direction, most notably parts (6)(a) – (8).

4.4 Planning for Bushfire Protection**Consistent**

The objectives of this direction are:

- (a) to 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) to encourage sound management of bush fire prone areas.

This planning proposal does not involve rezoning land or creating planning provisions that would result in increased hazard or risk to life or property from bushfire. The planning proposal is supported by an adopted flood study, which provides information on revised FPL extents.

5. REGIONAL PLANNING**5.1 Implementation of Regional Strategies****Consistent**

This direction requires a draft amendment to be consistent with relevant state strategies that apply to the LGA.

The planning proposal is considered to be consistent with the Lower Hunter Regional Strategy as it addresses the relevant outcomes and actions that relate to flooding.

5.2 Sydney Drinking Water Catchment**Not applicable**

The objective of this direction is to protect water quality in the Sydney drinking water catchment.

The planning proposal does not affect land within the Sydney drinking water catchment.

s117 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable
This direction aims to protect the best agricultural land for current and future generations by providing certainty over long term use, and in doing so, minimising land use conflicts.	This s117 Direction does not apply to the Maitland LGA.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
This direction aims to manage commercial and retail development along the Pacific Highway between Port Stephens and Tweed Shire Councils.	This s117 Direction does not apply to the Maitland LGA.
5.8 Second Sydney Airport: Badgery's Creek	Not applicable
This direction aims to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgery's Creek.	This s117 Direction does not apply to the Maitland LGA.
5.9 North West Rail Link Corridor Strategy	Not applicable
This direction aims to promote transit-oriented development around the train stations of the NWRL and ensure development adheres to the NWRL Corridor Strategy and precinct Structure Plans.	This s117 Direction does not apply to the Maitland LGA.
6. LOCAL PLAN MAKING	
6.1 Approval and Referral	Consistent
The direction aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	This planning proposal does not involve rezoning land, however, the amendments to Council's FPMs will assist in ensuring that development is assessed in an efficient and appropriate manner.
6.2 Reserving Land for Public Purposes	Consistent
The direction aims to facilitate (i) the provision of public services and facilities by reserving land for public purposes; and (ii) removal of reservations of land for public purposes where land is no longer required for acquisition.	This planning proposal does not result in any change to the amount of land identified as being reserved for public purposes.
6.3 Site Specific Provisions	Not applicable
The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	This planning proposal does not have the purpose of allowing a particular development to be carried out.
7 METROPOLITAN PLANNING	

s117 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Not applicable
The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.	This s117 Direction does not apply to the Maitland LGA.

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

8. 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?

Not applicable. The planning proposal is for the purpose of amending FPMs, and does not involve the rezoning of any land. The planning proposal is supported by an adopted flood study, which provides information on revised FPL extents.

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

Not applicable. The planning proposal is for the purpose of amending FPMs, and does not involve the rezoning of any land or site specific development.

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

The planning proposal is for the purpose of amending FPMs contained under the MLEP 2011, and does not involve the rezoning of any land. However, the amendment of FPMs in the LEP will provide up to date flood planning levels based on comprehensive flood mapping across the whole of the LGA. The proposal also achieves consistency between LEP mapping and the updated flood planning levels across the City.

Council has an obligation to ensure that the Flood Planning Level is mapped, and that involves undertaking flood studies over time to note any changes in flood extent or levels. While the latest flood data may result in some properties being tagged as flood affected that were not previously tagged under the Maitland LEP 2011 FPMs, Council is obliged to map the flood extent based on the most up to date information available to Council. The positive social effect will be that the most up to date flood extent will be incorporated into Council's statutory planning instrument, allowing the community to identify whether their property is flood affected, and assisting Council staff in the assessment and distribution of flood extent and flood level information. The Flood Study 2010 was prepared to inform the Draft Floodplain Risk Management Plan that has been prepared, prior to public exhibition.

The proposed amended FPMs will be supported by proposed amendments to the Development Control Plan (DCP) 2011 including additional planning guidelines for future development affected

by flooding and supporting maps showing flood extents, depths, hazard, velocities and hydraulic categories which will provide additional information for the community relating to management of flood affected lands in the City.

SECTION D – STATE AND COMMONWEALTH INTERESTS

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

The planning proposal is for the purpose of amending FPMs under the Maitland LEP 2011, and does not involve the rezoning of any land. The proposal is consistent with SEPP (Infrastructure) 2007. Any public infrastructure requirements related to flooding would be highlighted in association with the forthcoming Draft Floodplain Risk Management Plan, which is proposed to be exhibited concurrently with the proposed LEP and DCP changes.

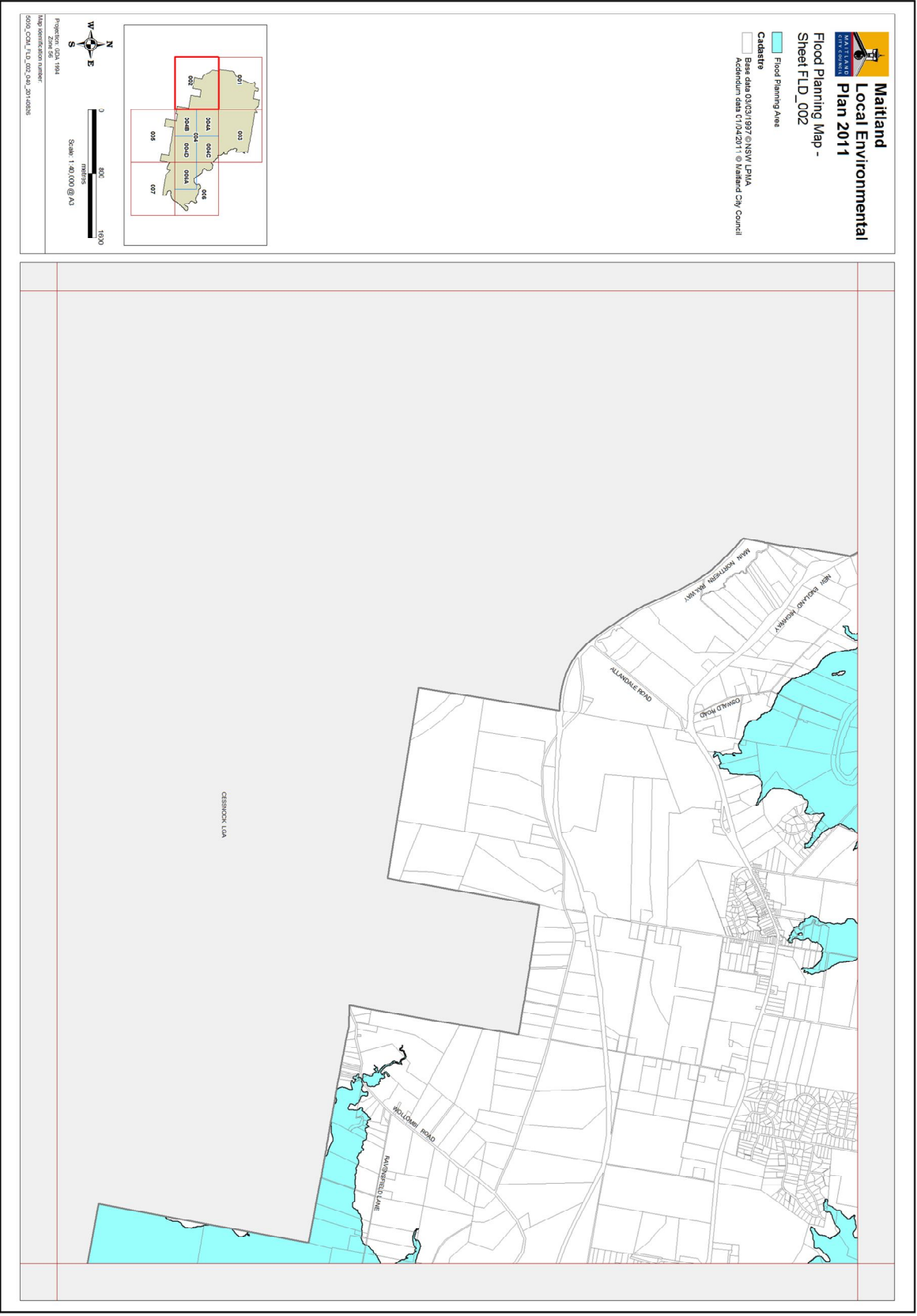
12. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

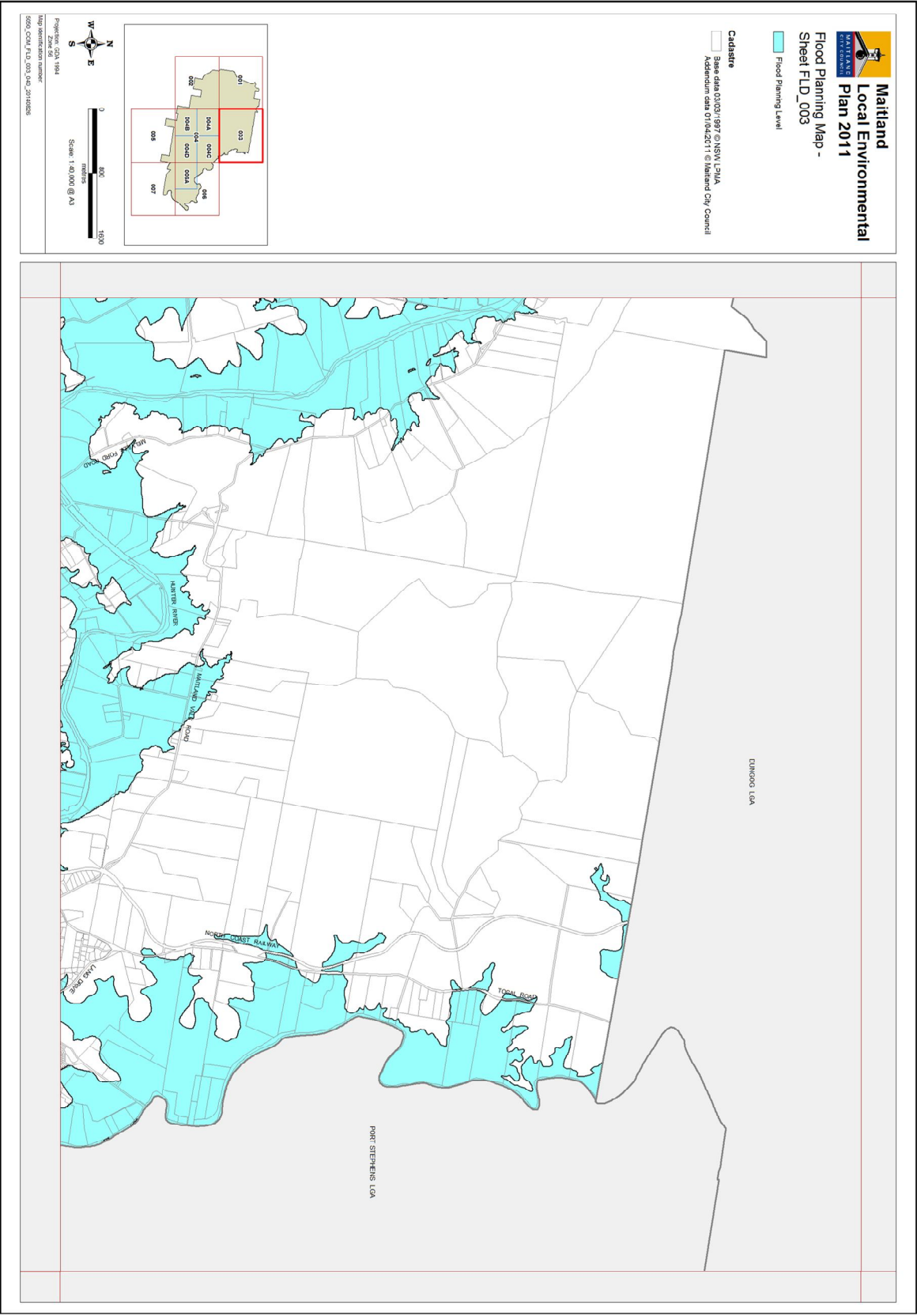
Consultation has been undertaken with Council's Flood Management Committee (FMC) relating to the proposed changes to LEP flood mapping and proposed changes to the DCP 2011, in addition to the Draft Floodplain Risk Management Plan. State agencies on the FMC include the Floodplain Management branch of the Office of Environment and Heritage (OEH), State Emergency Service (SES) and Hunter-Central Rivers Catchment Management Authority (CMA), as well as community and business representatives are members of the FMC.

No other formal consultation with State and Commonwealth public authorities has been undertaken at this stage. Consultation will occur in accordance with the Gateway Determination resulting from this planning proposal. It is anticipated that OEH (Floodplain Management), SES, CMA and RMS would be consulted in relation to this planning proposal. Emergency services such as NSW Police, NSW Fire Brigades and NSW Ambulance Service should also be consulted.

PART 4: DRAFT LEP MAPS

The following Draft LEP maps support the proposal:







Maitland
Local Environmental
Plan 2011

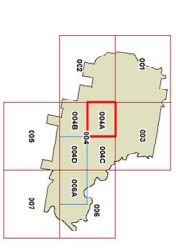
Flood Planning Map -
Sheet FLD_004A

 Flood Planning Level

Cadastral

 Base data 03/03/1997 © NSW LPM

 Amendment data 01/04/2011 © Maitland City Council



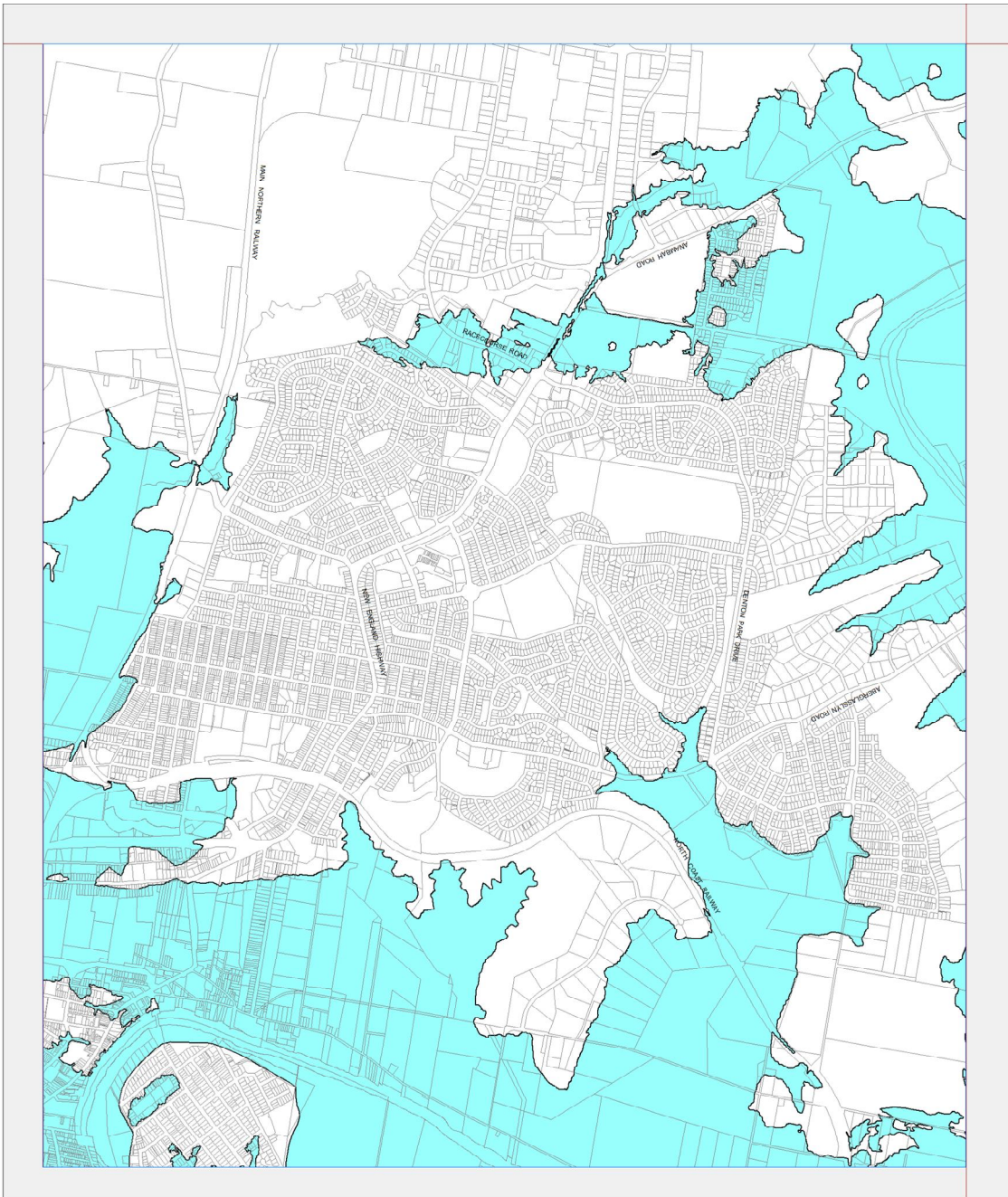


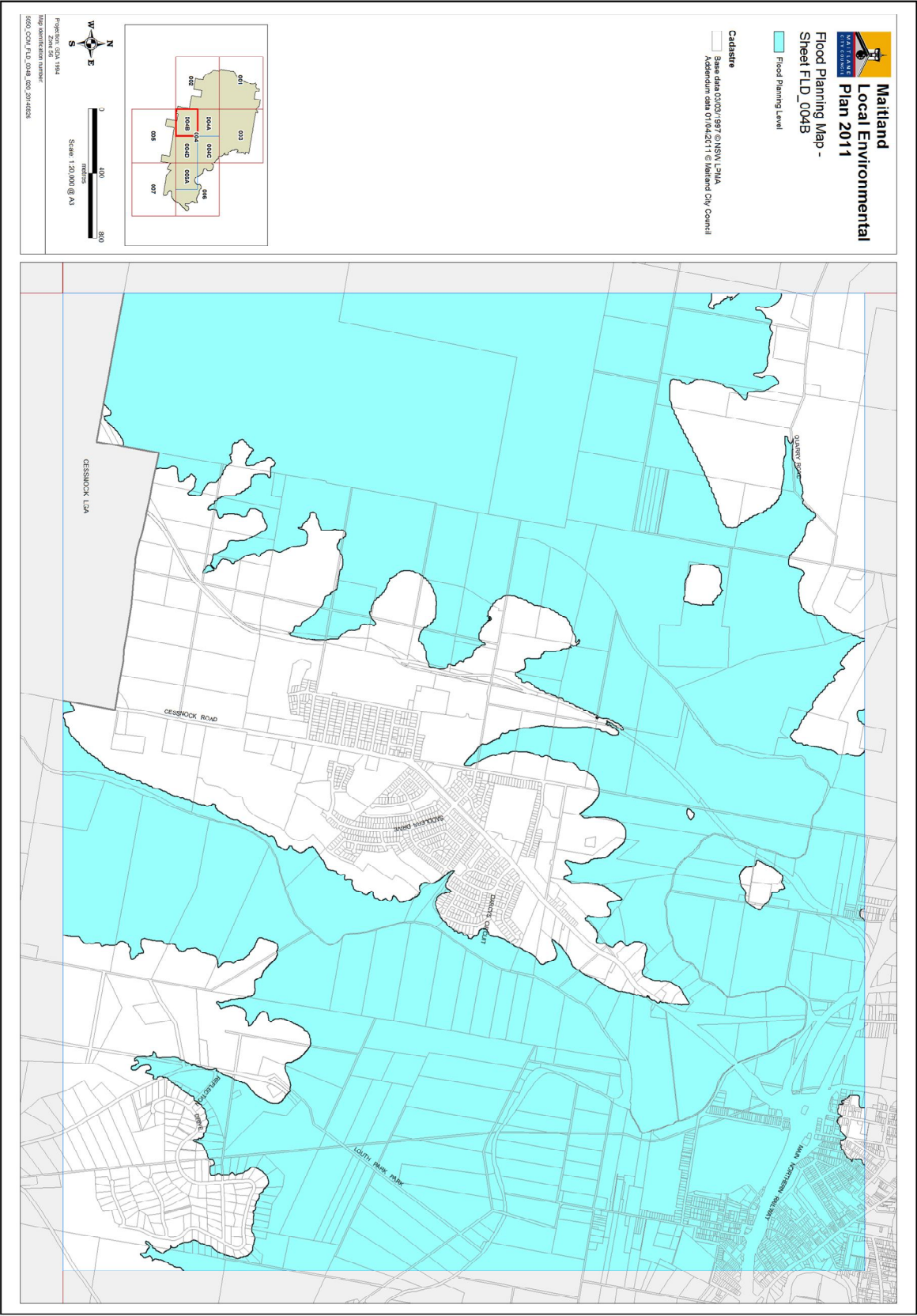
North arrow



Scale: 1:20,000 @ A3

Map information source:
Maitland City Council, 2011



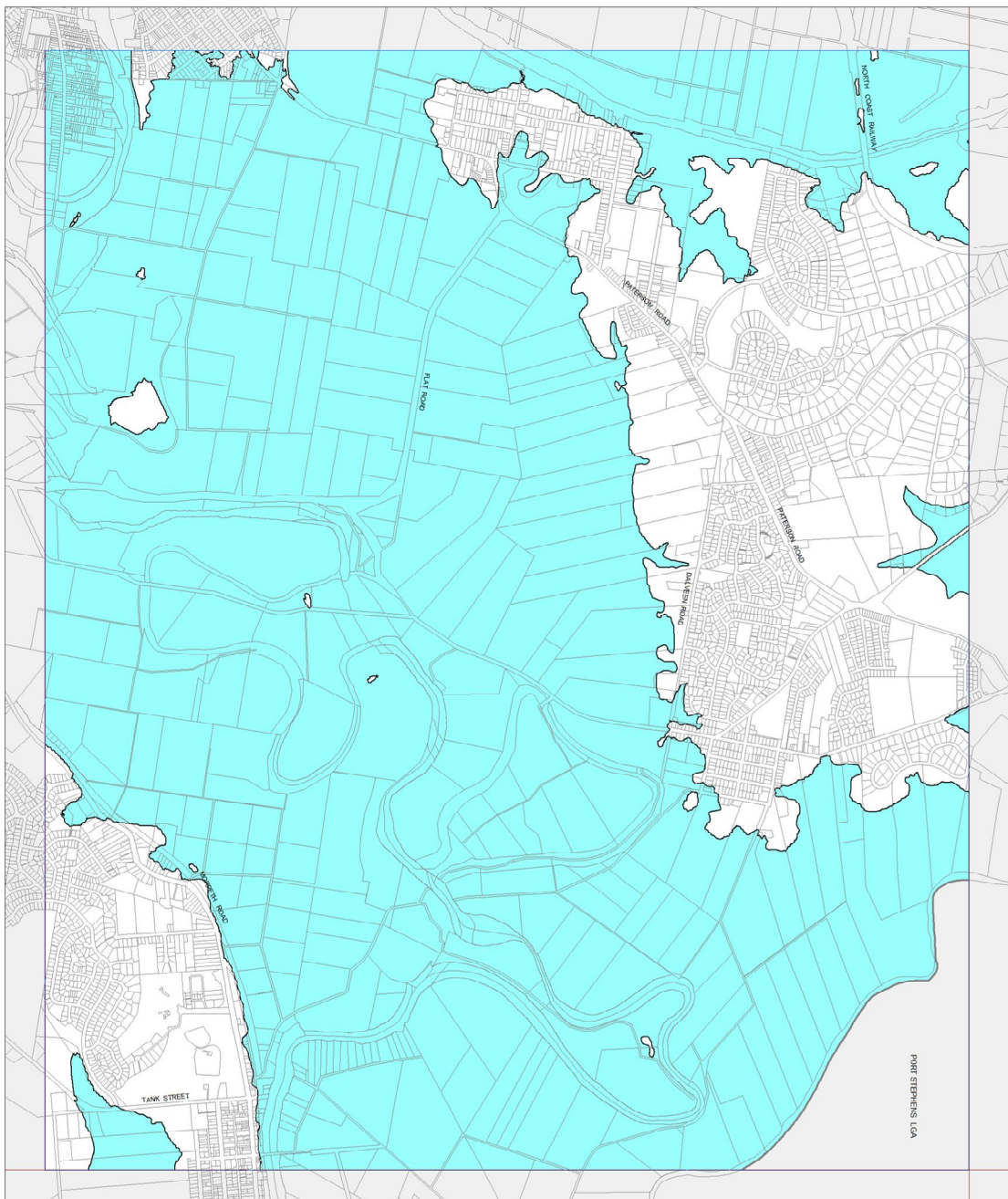
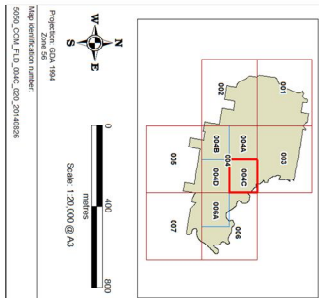


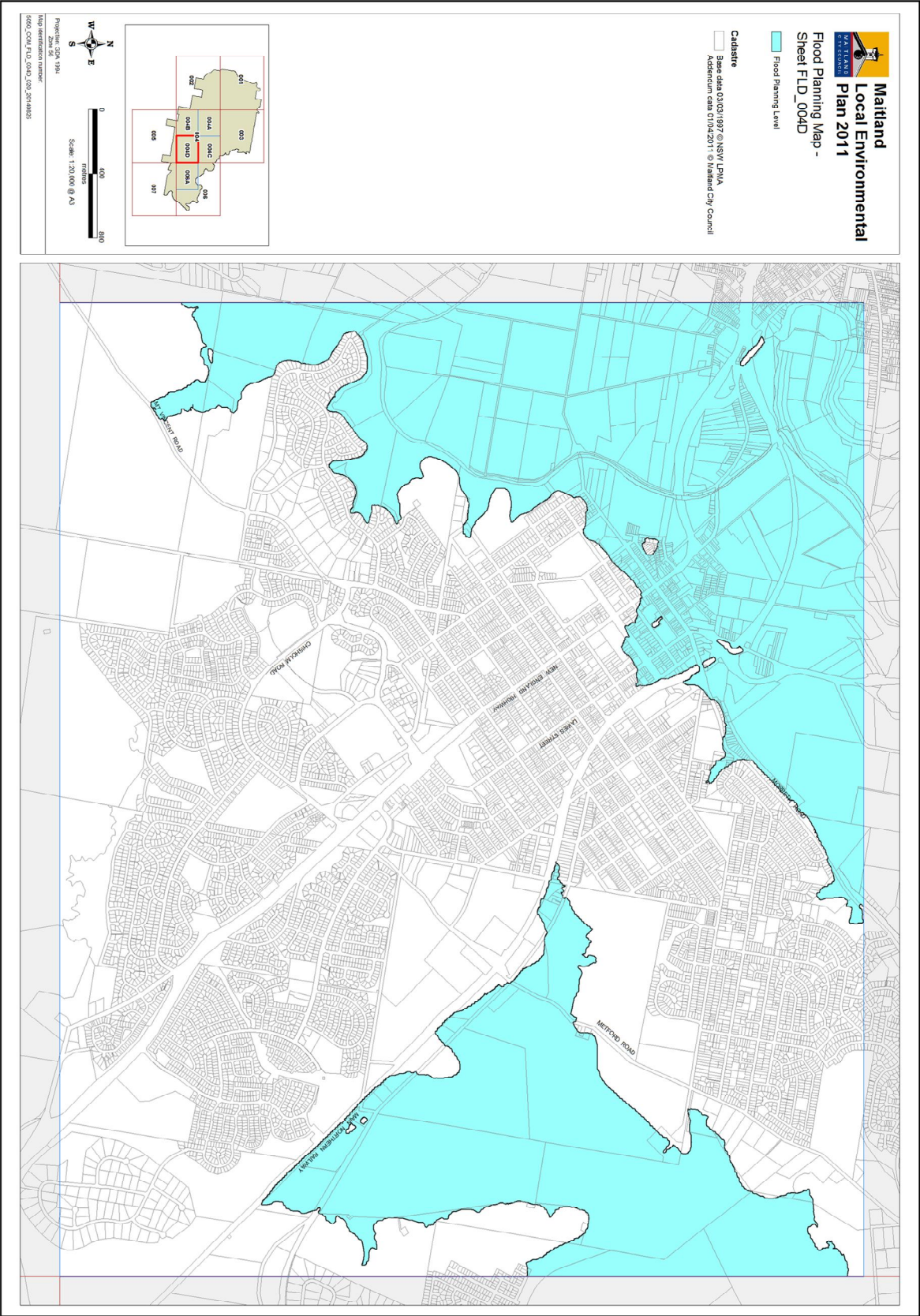
Flood Planning Map -
Sheet FLD_004C

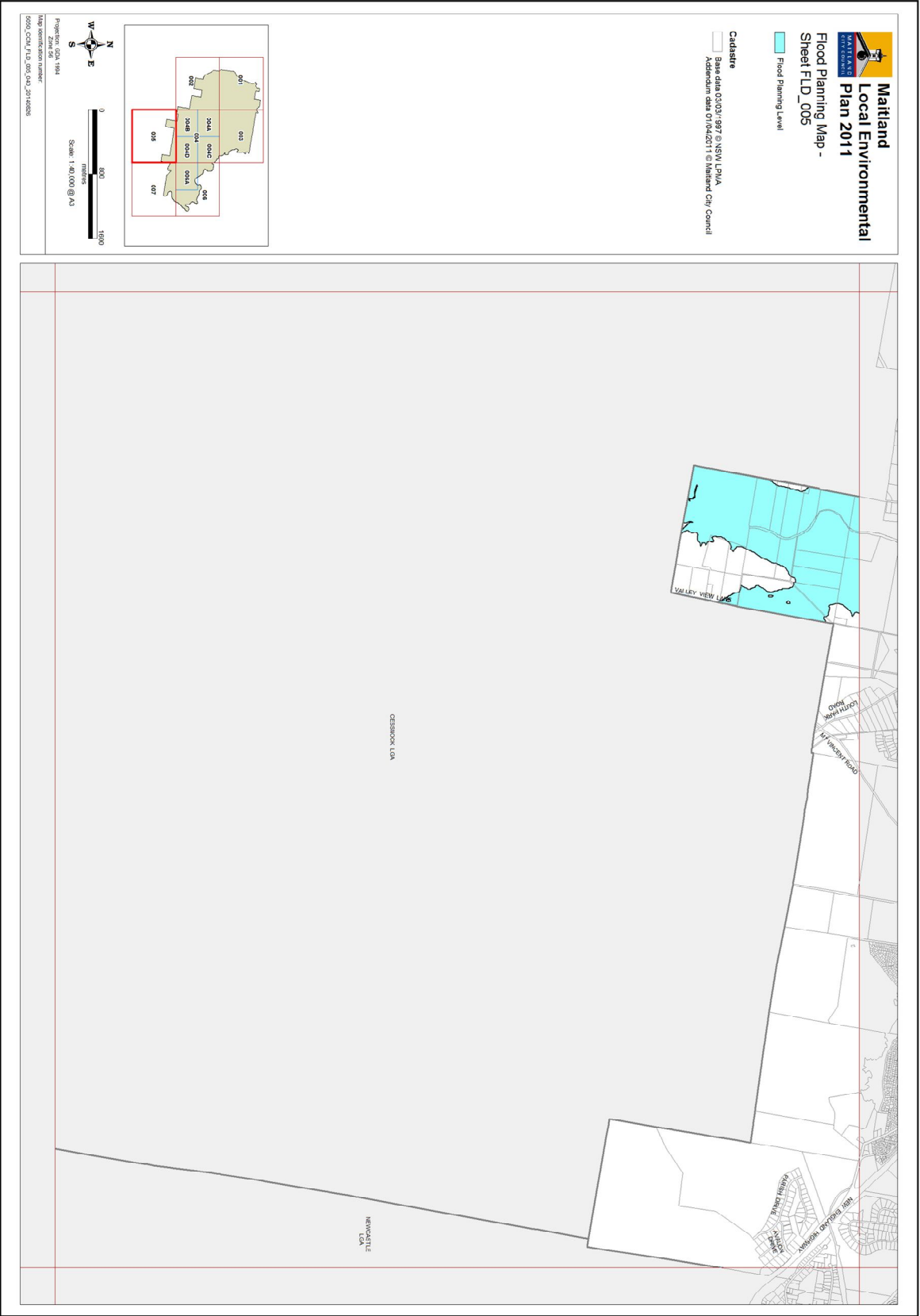
Flood Planning Level

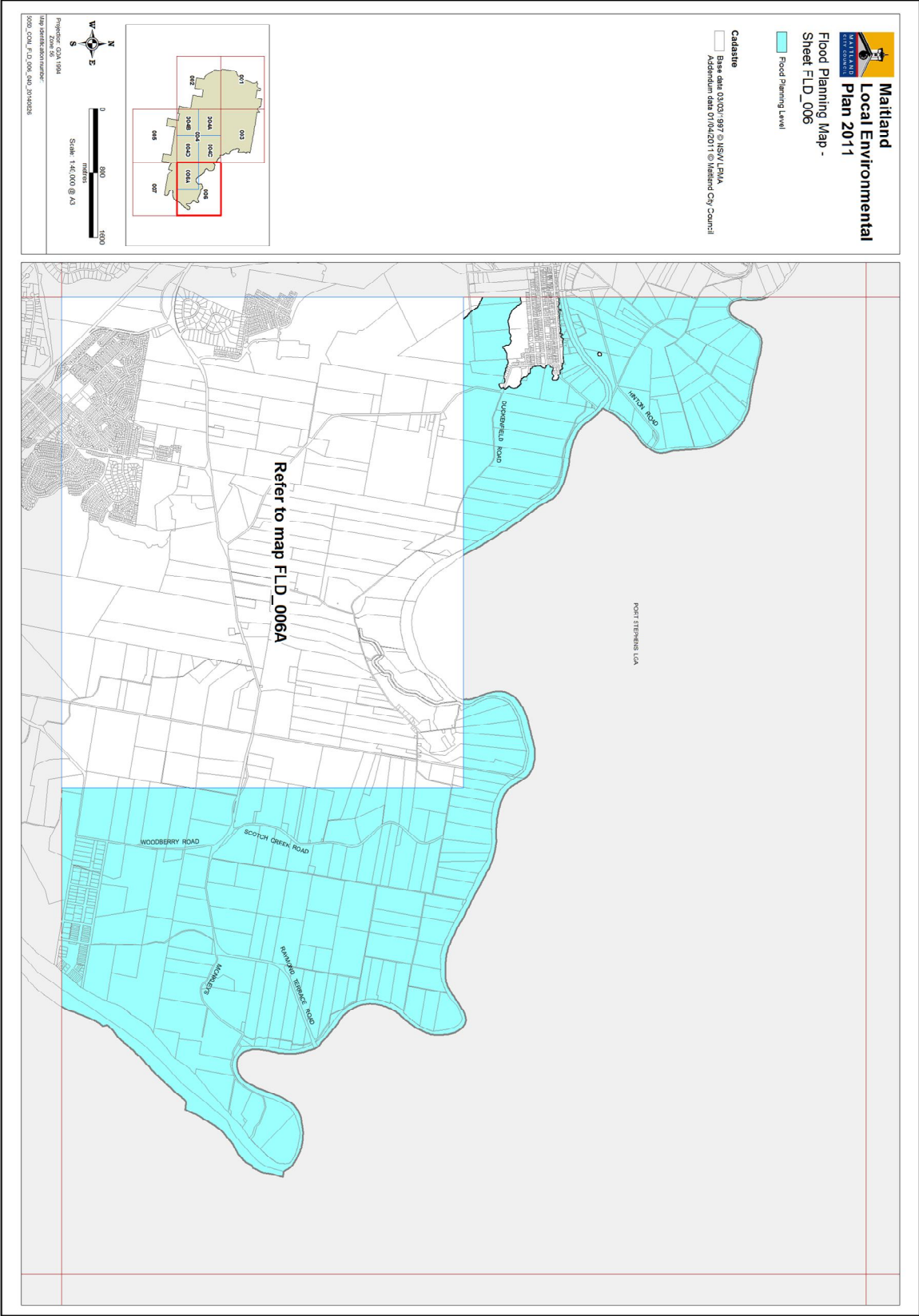
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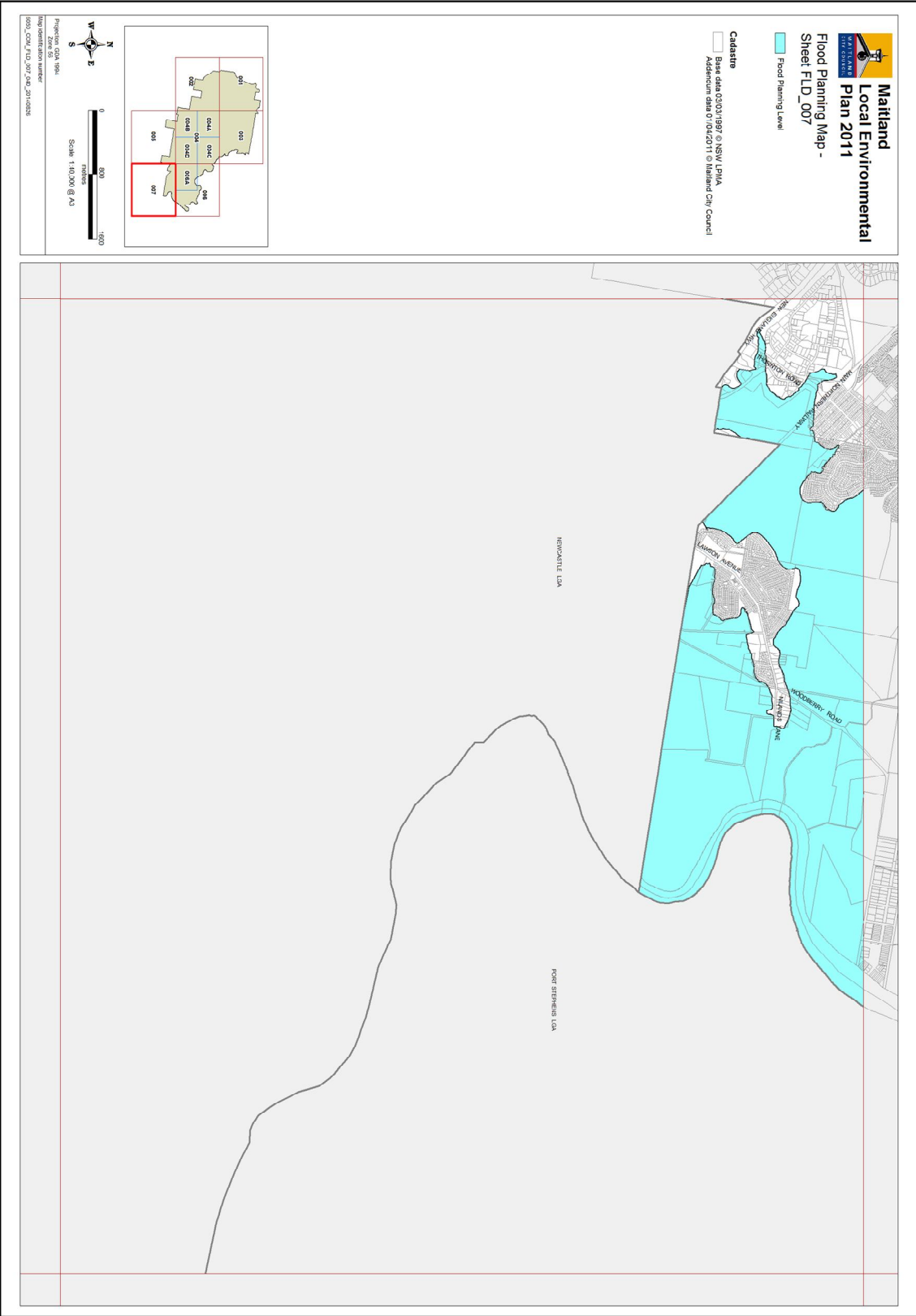
Base data 03/03/'997 © NSW L.P.M.A
Addendum data 01/04/2011 © Maitland City Council











PART 5: COMMUNITY CONSULTATION

In accordance with Section 57(2) of the Environmental Planning and Assessment Act 1979, community consultation must be undertaken by the local authority prior to approval of the planning proposal.

In accordance with Council's adopted Community Engagement Strategy (March 2009), consultation on the proposed rezoning will be to inform and receive feedback from interested stakeholders. To engage the local community the following will be undertaken:

- Consultation with the Floodplain Management Committee;
- Notice in the Hunter Post newspaper;
- Exhibition material and relevant consultation documents to be made available at all Council Libraries and Council's Administration Building;
- Consultation documents to be made available on Council's website;
- Notices published on Council's social media applications, for public comment.

At the close of the consultation process, Council officers will consider all submissions received and present a report to Council for their endorsement of the planning proposal before proceeding to finalisation of the amendment.

The consultation process, as outlined above, does not prevent any additional consultation measures that may be determined appropriate as part of the Gateway Determination process.

PART 6: TIMEFRAMES

PROJECT TIMELINE	DATE
Anticipated commencement date (date of Gateway determination)	3 October 2014
Anticipated timeframe for the completion of required studies	N/A
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination) (21 days)	5 December 2014
Commencement and completion dates for public exhibition period	15 October 2014 – 10 December 2014
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	6 February 2015
Timeframe for the consideration of a proposal post exhibition	24 February 2015
Anticipated date RPA will forward the plan to the department to be made (if not delegated)	27 February 2015
Anticipated date RPA will make the plan (if delegated)	10 April 2015
Anticipated date RPA will forward to the department for notification (if delegated)	10 April 2015