

PLANNING PROPOSAL

Amendment No. 46 to Lake Macquarie LEP 2004

(Land off Ada Street and Macquarie Road, Cardiff South)

Local Government area: Lake Macquarie City

Name of Draft LEP: Lake Macquarie Local Environmental Plan 2004
(Amendment No. 46)

Part 1 – Objectives or Intended Outcome

This Planning Proposal is to enable the development of Lot 1 DP 788892 (50 Ada Street, Cardiff South) and Lot 2 DP 788892 (158 Macquarie Road, Cardiff South) for a combination of low density and medium density housing, and the conservation of native vegetation on Lot A DP 398188 (116 Macquarie Road Cardiff South). The site currently comprises a privately owned disused football field, a privately owned golf driving range and a strip of densely vegetated public open space. The location of the site in the context of the Lake Macquarie Local Government Area is shown in Appendix 1.

The proposal involves amending Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004) to rezone land at Cardiff South from 10 Investigation, 6(2) Tourism and Recreation Zone, 6(1) Open Space Zone, 5 Infrastructure Zone and 2(1) Residential Zone to 2(1) Residential Zone, 2(2) Residential (Urban Living) Zone and 7(3) Environmental (General) Zone. The areas of the proposed zones are shown in the table below. An aerial photo of the site showing the existing zoning is shown in Appendix 2.

Zone	Area (ha)
2(1) Residential	10.25
2(2) Residential (Urban Living)	0.65
7(3) Environmental (General)	1.95

The proposed zoning, shown in the maps in Appendices 3 and 4, is expected to facilitate a development yield of at least 100 dwellings.

The proposal also includes inserting a local clause to ensure site-specific issues relating to stormwater detention are adequately addressed prior to consent being granted for development.

This Planning Proposal has arisen from a Local Environmental Plan amendment that commenced under the former plan-making process. Council resolved to prepare the plan on 27 November 2006 and the Department responded to Council's section 54 notification on 2 March 2007, confirming that an Environmental Study was not required. Consultation with relevant government agencies was undertaken in accordance with section 62 of *The Act* (now repealed) in the first half of 2007. Since that time, a number of studies have been undertaken. These are detailed later in this Planning Proposal.

Part 2 – Explanation of Provisions

The Planning Proposal will result in the following amendments to the Lake Macquarie LEP 2004 Map and Instrument:

Amendment Applies to:	Explanation of Provision
Map	Rezone the site from 10 Investigation, 6(2) Tourism and Recreation, 6(1) Open Space, 5 Infrastructure and 2(1) Residential to 2(1) Residential, 2(2) Residential (Urban Living) and to 7(3) Environmental (General) (Refer to Map Sheet in Appendix 3).
Dictionary	Amend the definition of <i>the map</i> by adding Lake Macquarie Local Environmental Plan 2004 (Amendment No 46)
Schedule 9 Consent to development subject to special requirements	Insert at the end of this schedule an entry that applies to Land at Cardiff South, being Lots 1 and 2 DP 788892, Ada Street Cardiff South, imposing the following requirements (to be met prior to development consent being granted): The existing stormwater detention volume contained within the site shall be retained, within the catchment, following any development in addition to the storage requirement generated by the development

The Planning Proposal would result in the following changes to Draft Lake Macquarie LEP 2011 (Council's Standard Instrument LEP):

Amendment Applies to:	Explanation of Provision
Land Zoning Map	Land to be zoned 2(1) Residential would be zoned R2 Low Density Residential, Land to be zoned 2(2) Residential (Urban Living) would be zoned R3 Medium Density Residential, Land to be zoned 7(3) Environmental (General) Zone

Amendment Applies to:	Explanation of Provision
	would be zoned E3 Environmental Management
Lot Size Map	Minimum lot sizes would correspond to proposed zoning as follows: R2 – 450m ² , R3 – 900m ² , E3 – 40ha
Height of Buildings Map	Maximum building heights would correspond to proposed zoning as follows: R2 – 8.5m, R3 – 10m, E3 – 5.5m
Part 7 Additional local provisions	Insert entry at end of Part 7 titled <i>Land at Cardiff South</i> that includes the following direction: Before granting consent to development to which this clause applies the consent authority must be satisfied that: ○ The existing stormwater detention volume contained within the site shall be retained, within the catchment, following any development in addition to the storage requirement generated by the development

Part 3 – Justification

A. NEED FOR THE PLANNING PROPOSAL

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

Lifestyle 2020 is Council's citywide strategic planning document that informed preparation of the current LMLEP 2004. The northern part of the site (Lot 1) is zoned 10 Investigation which reflects the fact that the land was identified during planning for Lifestyle 2020 as having potential for urban development, subject to a strategic assessment.

Council resolved to prepare an amendment to LMLEP 2004 in November 2006. Despite the fact that the Department's response advised that a formal Local Environmental Study was not required, a number of specialist studies have been undertaken for the site. These include:

- *Flooding investigation and concept detention basin design (July 2006, Patterson Britton & Partners Pty. Ltd.)* – investigated opportunity to provide detention storage immediately downstream of Ada Street to maintain existing peak flows within Winding Creek in Cardiff CBD. It includes a concept detention basin design for Council-owned land South of John Street. This option would be subject to further detailed investigation and consultation with Council.

- *Geotechnical report (February 2007, Coffey Geotechnics Pty Ltd)* – reviewed constraints imposed on development on the site due to past mining activities and discusses remediation options to allow certain development.
- *Traffic study (January 2008, TPK & Associates Pty. Ltd.)* – Assessed traffic impact for the site assuming lot yield of 80 lots. Recommends signalisation of intersection of Ada Street and Macquarie Road.
- *Biodiversity assessment (April 2008, Total Earth Care Pty. Ltd.)* – Findings discussed below under Part C Question 8.
- *Hydrology assessment (August 2008, BMT WBM Pty. Ltd.)* – carried out stream identification, hydrologic and hydraulic assessment, water quality testing and discussion on stormwater management. See also comments below under Part C Question 9.

A planning statement and concept proposal, informed by the above studies, has been carried out on behalf of the owners of the Investigation zoned land and the owners of the adjoining golf driving range (currently zoned 6(2) Tourism and Recreation). This document also considered the appropriateness of the zoning currently applying to Council owned land between the subject site and Macquarie Road. A proposed structure plan from the concept proposal is shown at Attachment 5 to this Planning Proposal.

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

The planning proposal will facilitate residential development and conservation. These are the most efficient and suitable uses of land in this locality. The current zones do not support residential development or encourage the proper maintenance and rehabilitation of remnant native vegetation. The rezoning of the land via the Planning Proposal is considered the most suitable and transparent way of achieving the objectives.

The 10 Investigation Zone currently applying to the northern part of the site (Lot 1) is very restrictive to development, as the intention of the zone is to investigate the highest and best use of the land and rezone it accordingly. Without rezoning the land for residential use as recommended by this Planning Proposal, the zoning would be converted to zone E3 Environmental Management under LMLEP 2011, a zone that is similarly restrictive to development.

The 6(2) Tourism and Recreation Zone currently applying to the southern part of the site (Lot 2) also offers relatively limited development opportunities, as the site is not well located for tourism related uses. The proposed residential zone offers much more viable development opportunities for the site.

The 7(3) Environmental (General) zone proposed to apply to Council owned land adjacent to Macquarie Road (Lot A) is the most appropriate way to conserve the biodiversity values associated with the remnant native vegetation. The current zones applying to this land (Open Space, Infrastructure and Residential) do not reflect the current or intended land use.

3. Is there a net community benefit?

The rezoning of land envisaged by this Planning Proposal would deliver a significant net community benefit, chiefly associated with the provision of land for housing in a convenient location already well-serviced by infrastructure, transport, employment and community facilities. Utilising the site for infill residential development will serve to defer the need for additional housing on the urban fringe.

It is estimated the site would deliver a yield of some 100 dwellings housing approximately 250 residents. These residents would help patronise local businesses and facilities.

If rezoned, the subdivision of the site for housing would be likely to trigger the need for upgrades to the local road network and stormwater drainage system, which would benefit nearby existing residents.

Currently, the disused football field in the northern part of the site (Lot 1 DP 788892) acts as an 'informal' detention basin in storm events (the creek line traversing the site was piped and diverted during construction of the soccer field and spectator mounds). The current basin is not designed, constructed or maintained as a detention basin and therefore is at risk of failing in an extreme storm event. The proposed clause for the LEP regarding stormwater detention on the site will ensure that appropriate stormwater management facilities are provided to address the current on-site detention as well as stormwater detention requirements generated by future development of the site. This will benefit surrounding properties by resolving the current stormwater risk.

A net community benefit test, undertaken using the Department's Draft Centres Policy, is attached at Appendix 6.

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?

The Lower Hunter Regional Strategy (LHRS) estimates an additional 115,000 dwellings will be required to house the Region's growing population between 2006 and 2031. Lake Macquarie is expected to accommodate 36,000 of those new dwellings, with approximately 7,000 dwellings constructed in urban infill areas. The proposal will facilitate the construction of at least 100 dwellings. A greater overall number of dwellings may result if part of the site was developed for seniors housing. The northern part of the site would be eminently suitable for this purpose. The final development outcome for the site is dependant on the landowners choice and will be assessed at the development application stage.

The proposal is consistent with the LHRS neighbourhood planning principles, such as locating housing close to town centres with a range of shops and services; providing a wide range of housing choices; and promoting conservation lands in-and-around development sites to help protect biodiversity.

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

The Lifestyle 2020 Strategy provides the long-term strategic direction for the overall development of the City of Lake Macquarie. The Strategy informed the preparation of Lake Macquarie LEP 2004, which subsequently zoned part of the site 10 Investigation Zone. One of the key objectives of the 10 Investigation Zone is to provide land for future development and/or conservation. This planning proposal seeks to rezone the 10 Investigation Zone land to a combination of 2(1) Residential Zone and 2(2) Residential (Urban Living) Zone to facilitate a variety of residential development.

The proposal (including the land currently zoned 6(2) Tourism and Recreation Zone) is consistent with Lifestyle 2020 Strategy's overall Strategic Directions. For example, Lifestyle 2020 Strategy seeks to facilitate the supply of land and housing, through:

- encouraging housing in locations that support public transport and Centres. The proposed rezoning is located approximately 1 kilometre from Cardiff town centre which is identified as a Sub-Regional centre in LS2020. Cardiff / Glendale is an emerging regional centre identified in the Lower Hunter Regional Strategy.

- maximising redevelopment and infill opportunities within a 5 and 10 minute walk of centres and public transport nodes or stops. While Cardiff emerging regional centre is outside the 10 minute walk catchment area, there is a bus stop within 250 metres of the site on Macquarie Road (route 334) and within 500 metres of the site on First Street Cardiff South (routes 334 and 339). Route 334 links the site with Glendale (emerging regional centre) and Newcastle (regional City) via Kotara (regional shopping centre). Route 339 links the site with Charlestown (major regional centre) and Glendale. The site is within 1.3 kilometres of Cardiff railway station linking the site with Newcastle and Sydney.
- facilitating the consolidation of under developed lands to contribute to the supply of residential land. The proposal seeks to consolidate two parcels that may not be financially viable to develop individually. The concept plan for the site proposes an integrated road and lot layout.
- encouraging a diverse range of allotments and housing types in new and urban areas. The proposed 2(1) / R2 zone and 2(2) / R3 zone would facilitate a mix of housing types including single dwellings, dual occupancies, multiple dwelling housing, seniors housing, including residential care facilities and (potentially) residential flat buildings.

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

The planning proposal is consistent with applicable state environmental planning policies. Refer to the table below for further information.

SEPP	Relevance	Implications	Consistent
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.	The majority of native vegetation on the subject site is in Council ownership and is zoned 6(1) Open Space, 5 Infrastructure or 2(1) Residential. This land is proposed to be zoned 7(3) Environmental (General) to reflect its biodiversity and amenity values. Some native vegetation exists within the area proposed to be zoned 2(1) Residential. The need to retain this vegetation will be further considered at the development stage.	Yes
SEPP 32 – Urban Consolidation	The policy focuses on the redevelopment of urban land that is no longer required for the purpose it is currently zoned or used, and encourages local councils to pursue their own urban consolidation strategies to help implement the aims and objectives of the policy.	The site consists of a privately owned disused soccer field and a privately owned golf driving range. Council does not require additional land for open space in this part of the city. The proposed residential zoning will facilitate urban consolidation on a well-located infill site.	Yes
SEPP 44 – Koala Habitat Protection	Aims to encourage the proper conservation and management of areas of natural vegetation that provide koala habitat.	Flora and fauna studies conducted for the local environmental study (LES) did not reveal any koala habitat or Potential habitat.	Yes
SEPP 55 – Remediation of Land	Establishes planning controls and provisions for the remediation of contaminated land.	A geotechnical assessment for Lot 1 found that soil contamination on the site was minimal and was only associated with asphalt contained in road and car park areas. The remainder of the site is unlikely to contain significant contamination and will be assessed further at the development stage.	Yes
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 site is not within the Coastal Zone.	Yes

SEPP (Mining, Petroleum Production and Extractive Industries) 2007	This Policy aims to provide for the proper management and development of mineral, petroleum and extractive material resources for the social and economic welfare of the State. The Policy establish appropriate planning controls to encourage ecologically sustainable development.	This SEPP provides that, notwithstanding the proposed zoning, - development for the purpose of petroleum or mineral exploration is permissible without consent (Clause 6); and, - development for the purpose of underground mining is permissible with consent on any land (Clause 7[1]).	Yes
SEPP (Infrastructure) 2007	Provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The SEPP supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.	The SEPP provides that the RTA must be consulted in relation to traffic generating development. Although the proposal does not meet the criteria to be considered a 'traffic-generating development', the RTA has been consulted in accordance with the former Section 62 provisions of The Act, and a traffic study has been prepared.	Yes

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

The Proposal is consistent with the following relevant Ministerial Directions apart from Direction 3.2 – Caravan Parks and Manufactured Home Estates, Direction 4.3 – Flood Prone Land and Direction 6.3 - Site Specific Provisions. Justification for the inconsistencies is provided in the table below, and the **Director General's concurrence is sought in relation to the justification for the inconsistency with Direction 4.3 and 6.3.** (Concurrence in relation to Direction 3.2 has already been received as documented below.)

Ministerial Direction	Relevance	Consistency / Comment
1.3 – Mining, Petroleum Production and Extractive Industries	This direction aims to protect the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials and requires consultation with the Department of Primary Industries.	Consistent: The NSW Department of Primary Industries (Minerals) advised it has no objection to the rezoning providing underground mining is permissible with development consent.

Ministerial Direction	Relevance	Consistency / Comment
2.1 – Environmental Protection Zones	The direction requires that a draft LEP contain provisions to facilitate the protection of environmentally sensitive land.	Consistent: The Planning Proposal seeks to apply an environmental protection zone over public land identified as environmentally sensitive and currently zoned open space, infrastructure and residential.
2.3 – Heritage Conservation	The direction requires that a draft LEP provide provisions in order to conserve heritage items.	Consistent: There are no recorded heritage items within the area proposed to be rezoned.
2.4 – Recreation Vehicle Areas	The direction restricts a draft LEP from enabling land to be developed for a recreation vehicle area.	Consistent: The draft LEP will not propose a recreation vehicle area, and is consistent with the direction.
3.1 – Residential Zones	The direction requires a draft LEP to include provisions that facilitate housing choice, efficient use of infrastructure, and reduce land consumption on the urban fringe.	Consistent: The draft LEP is expected to facilitate a development yield of at least 100 dwelling lots in an urban infill location well serviced by existing infrastructure and services. The proposed zoning will permit dwelling houses, dual occupancies, multiple dwelling housing and residential flat buildings and seniors housing.
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.	Inconsistent: The proposal includes rezoning approximately 5.6 hectares of land currently zoned 6(2) Tourism and Recreation (in which Caravan Parks are permissible with consent) to 2(1) Residential (in which caravan parks are prohibited). Justification: The land has never been used for a caravan park or manufactured home estate and its location does not lend itself to this form of development. The delegate of the Director General provided written comments dated 10.11.08 stating that this inconsistency was considered to be of minor significance. (LMCC ref. D01285607)
3.3 – Home Occupations	The direction requires that a draft LEP include provisions to ensure that Home Occupations are permissible without consent.	Consistent: The amendment will not affect provisions relating to this, and will retain the provisions of the principal LEP in this regard.

Ministerial Direction	Relevance	Consistency / Comment
3.4 – Integrating Land Use and Transport	The direction requires consistency with State policy in terms of positioning of urban land use zones.	Consistent: The rezoning of this site for residential development will be consistent with this direction. The area is well serviced and in close proximity to other centres such as the emerging major regional centre of Glendale. The site is located in close to schools, public bus routes and other services.
4.1 – Acid Sulfate Soils	The direction applies to land that has been identified as having a probability of containing acid sulfate soils, and requires that a draft LEP is consistent with the Acid Sulfate Soil component of the model Local Environmental Plan (ASS model LEP), or be supported by an environmental study.	Consistent: The subject land is not within a potential Acid Sulphate Soil area.
4.2 – Mine Subsidence and Unstable Land	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 was consulted pursuant to section 62 of the EP&A Act 1979 and has advised that much of the site has been undermined by shallow mine workings and is at risk from subsidence. Consequently, MSB approval for any future development would be contingent on the applicant demonstrating that the risk of mine subsidence damage to structures has been addressed.
4.3 – Flood Prone Land	The direction applies where the draft LEP will affect provisions to flood prone land.	Inconsistent: The disused soccer field within Lot 1 in the north of the site is flood prone and currently acts as a de facto detention basin in heavy rainfall events – an unintended consequence of the construction of (unapproved) spectator mounds. Justification: This issue is well documented and one option is to relocate the detention capacity to a purpose built basin on nearby Council-owned land. The issue will be resolved at a future development stage based on detailed engineering design. For the purposes of this direction, the inconsistency is considered to be of minor significance.
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.	Consistent: the site contains bushfire prone lands associated with several pockets of remnant native vegetation. The RFS was consulted pursuant to Section 62 of The Act. Any future subdivision of the land will establish appropriate asset protection zones (APZs).

Ministerial Direction	Relevance	Consistency / Comment
5.1 – Implementation of Regional Strategies	The direction requires a draft LEP to be consistent with the relevant State strategy that applies to the Local Government Area.	Consistent: The draft LEP will be consistent with the strategic direction set by the Lower Hunter Regional Strategy in catering for the increased population growth. The area is in close proximity to the emerging major regional centre of Glendale.
6.1 – Approval and Referral Requirements	The direction prevents a draft LEP from requiring concurrence from, or referral to, the Minister or a public authority.	Consistent: The draft LEP is consistent with this requirement.
6.2 – Rezoning Land for Public Purposes	The direction prevents a draft LEP from altering available land for public use.	Consistent: While the draft LEP seeks to rezone land currently zoned 6(1) Open Space to 7(3) Environmental (General), the land will remain in public ownership and its use will not change.
6.3 – Site Specific Provisions	The direction requires that a draft LEP make use of existing land use zone categories and not introduce additional controls. The direction also requires the amendment does not impose any additional requirements to those already applying in the principal LEP.	Inconsistent: The draft amendment proposes creation of a local clause to address stormwater issues. Justification: Although the site is considered appropriate for a residential zoning, the circumstances surrounding the current stormwater detention on the site and the need to maintain this detention to mitigate downstream impacts warrants the imposition of a local provision. The current LMLEP 2004 already includes a schedule listing locations where consent to development is subject to special requirements. This proposal would create an additional entry to that schedule. Under draft LMLEP 2011, the item would be dealt with as an “additional local provision”. For the purpose of this direction, it is considered that the inconsistency is of minor significance.

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?

A biodiversity assessment was conducted over the subject site in April 2008. No threatened plant species, populations or ecological communities listed under the

Threatened Species Conservation (TSC) Act or Environment Protection and Biodiversity Conservation (EPBC) Act were recorded on the site. Parts of the site do, however, constitute potential habitat for the following threatened flora species:

Charmhaven apple (*Angophora Inopina*)

Netted Bottle Brush (*Callistemon Linearifolius*)

Black-eyed Susan (*Tetralochea Juncea*)

No threatened fauna populations were recorded on the subject site, however the following three threatened fauna species listed under the TSC Act and EPBC Act were recorded flying over the site:

Little Bentwing bat (*Miniopterus australis*)

Eastern Bentwing bat (*Miniopterus schreibersii oceanensis*)

Grey-headed Flying fox (*Pteropus poliocephalus*)

Other threatened fauna species for which the site contains potential habitat include the Eastern False Pipstrelle, Eastern Freetail bat, Greater Broad-nosed bat and Squirrel Glider.

None of the above listed species are likely to be significantly adversely affected by the planning proposal, as the majority of remnant vegetation within the site is contained within the Council-owned parcel (Lot A) that is to be zoned 7(3) Environmental (General).

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

As noted in the table above against local planning direction 4.2 Mine Subsidence and Unstable Land, a large portion of the site is affected by abandoned shallow mine workings. The Mine Subsidence Board has indicated that this will affect the type and extent of development that can be approved for the site. It may be necessary to restrict development to certain locations, grout the workings, or pier to the floor of the coal seam. Further geotechnical investigations may be required at the subdivision application stage to confirm the best options for development.

Another potential environmental effect of the proposal, noted in the comments against local planning direction 4.3 Flood Prone Land, is the alteration of the stormwater drainage regime through the site.

Currently, a drainage line runs through the site from the southern boundary of Lot 2 in a northerly direction along an open grass swale. After crossing the boundary into Lot 1, the drainage line is piped underneath the disused soccer field after which it enters a culvert from which it leaves the site (passing underneath the neighbouring tennis courts, and flows into a nearby watercourse. During heavy rainfall events, the soccer field within Lot 1 acts as a de facto stormwater detention basin – an unintended consequence of the construction of spectator mounds. Removing the stormwater storage capacity currently provided by the soccer field (estimated at 7000m³) could have an adverse effect on properties downstream in terms of their susceptibility to flooding.

This issue is proposed to be managed by requiring that the existing stormwater detention volume is retained in the catchment following any development. It may be possible to reconfigure or relocate the detention volume to reduce the impact on the development site, but this would be subject to detailed design by the developer and would have to be fully funded by the developer. In addition, stormwater runoff as a result of future development of the site would be managed on-site by the inclusion of appropriate stormwater management facilities and water-sensitive urban design.

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

The proposal is expected to deliver significant net social and economic benefits, by providing land for a variety of housing types in a location convenient to schools, transport, and employment within the emerging major regional centre of Glendale and the Cardiff Industrial estate. The proposed housing will integrate well with existing residential areas surrounding the site, and raises no potential land use conflict issues.

D. STATE AND COMMONWEALTH INTERESTS

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

The site is already serviced by all essential infrastructure including electricity, water and sewer. The anticipated development yield of approximately 100 dwellings is not expected to warrant significant upgrades to existing public infrastructure, although some upgrades to the local road and drainage network are likely to be required as conditions of consent to future subdivision of the site.

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

Consultation with relevant government agencies was undertaken in accordance with section 62 of *The Act* (now repealed) in the first half of 2007.

Responses were received from the Department of Environment and Conservation (now Department of Environment, Climate Change and Water), Department of Natural Resources, Heritage Council NSW, Mine Subsidence Board, Roads and Traffic Authority, Rural Fire Service and Hunter Water Corporation. These agencies will be invited to provide further comments during public exhibition of the Planning Proposal.

Department of Environment and Conservation (now Department of Environment, Climate Change and Water)

No objection raised to the proposed rezoning. Council was recommended to consider:

- Potential land use conflicts associated with air, noise and odour impacts
- Impacts on native vegetation – particularly threatened or regionally significant flora and fauna species, populations and ecological communities
- Relevant threatened species provisions of the *EP&A Act 1979*, SEPP 44 Koala Habitat Protection, SEPP 71 Coastal Protection and the *Native Vegetation Act 2003*
- Aboriginal cultural heritage and consultation with relevant Aboriginal community groups
- Identification and management of any areas of contamination
- Sustainable management of stormwater

Planning Comment:

The proposed rezoning presents no foreseeable land use conflicts.

A biodiversity assessment was conducted over the subject site in April 2008, the findings of which are summarised under Question 8 (above).

Council wrote to Bahtabah Local Aboriginal Land Council in March 2007 and again in June 2007 but did not receive a response.

A geotechnical assessment for Lot 1 found that soil contamination on the site was minimal and was only associated with asphalt contained in road and car park areas. The remainder of the site is unlikely to contain significant contamination and will be assessed further at the development stage.

Stormwater management is discussed in response to Question 9 (above).

Department of Natural Resources

The DNR raised no issues of concern with the rezoning of the subject site.

Heritage Council of NSW

The site does not contain any items of heritage significance, however Council should ensure that the rezoning does not impact on any heritage items in the vicinity of the site.

Planning Comment:

The former Cardiff South Colliery tramway, a listed local heritage item in LMLEP 2004 (RT-09), is contained within Lot 38 DP 827464, which adjoins the eastern boundary of the subject site. The proposed residential zoning will not impact on this item.

Mine Subsidence Board (MSB)

Much of the subject site is undermined by abandoned shallow mine workings that present a high risk of damage to surface improvements. MSB approval of future development of the site would require the applicant to demonstrate that the risk of mine subsidence damage has been removed, e.g. through selective location of improvements, grouting of workings or piercing to the floor of the coal seam.

Planning Comment:

The potential risks associated with the shallow mine workings will only be realised at the development application stage. It is therefore considered reasonable for this issue to be addressed at the development application stage when further detail is known.

Roads and Traffic Authority (RTA)

The RTA did not object to the exhibition of the rezoning proposal but requested that a traffic study be prepared to the RTA's satisfaction prior to the plan's gazettal. The RTA also requested they be consulted again during public exhibition of the proposal.

Planning Comment:

A traffic study for the site was finalised in March 2008. The RTA further advised in March 2009 that direct access from the subject site to Macquarie Road would not be supported as opportunities exist to connect to the local road network. The study recommends upgrades to the intersection of Ada Street and Macquarie Road. As the expense of the identified intersection upgrade may prove prohibitively expensive,

alternate options may be investigated in consultation with the RTA closer to the development stage, when traffic volumes can be estimated more accurately.

Rural Fire Service (RFS)

The site contains and is adjoined by areas of native vegetation which and therefore Asset Protection Zones will be required in accordance with *Planning for Bushfire Protection 2006*.

Planning Comment:

APZ's will be required to be provided at the development application stage in accordance with *Planning for Bushfire Protection 2006*.

Hunter Water Corporation

Hunter Water advised that there is sufficient water pressure at the point of connection (in Ada Street) to service the proposed development, and that the wastewater pump station to which the site gravitates has sufficient capacity to cater for the anticipated additional load from the site.

In addition to the provision of water and wastewater services, Hunter Water currently has responsibilities associated with flood management and certain stormwater infrastructure in the Winding Creek catchment in Cardiff. During heavy rainfall events, the soccer field within Lot 1 acts as a stormwater detention basin, with stormwater ponding on the football field being contained by the spectator mounds. According to modelling by Hunter Water, removing the stormwater storage capacity currently provided by the soccer field (estimated at 7000m³) would lead to a 3 - 4 cm increase in flood levels downstream in Cardiff town centre. As the Cardiff commercial area is already subject to severe flooding, any further increase in flooding would be unacceptable.

Council wrote to Hunter Water in December 2007 requesting a contribution towards construction costs associated with the proposed detention basin, which was considered justified on the basis that Hunter Water is responsible for flood management and infrastructure in the Winding Creek catchment and collects a special rate for this purpose. Hunter Water has advised, however, that they would not contribute funds for the project and that their responsibility is with existing infrastructure such as concrete drainage channels. Hunter Water is reviewing the management arrangements for the Winding Creek catchment with a view to either transferring responsibility for stormwater management in the catchment to Council, or establishing a memorandum of

understanding to clarify each party's specific responsibilities. Discussions between Council's Asset Management Department and Hunter Water in this regard are ongoing.

Planning comment:

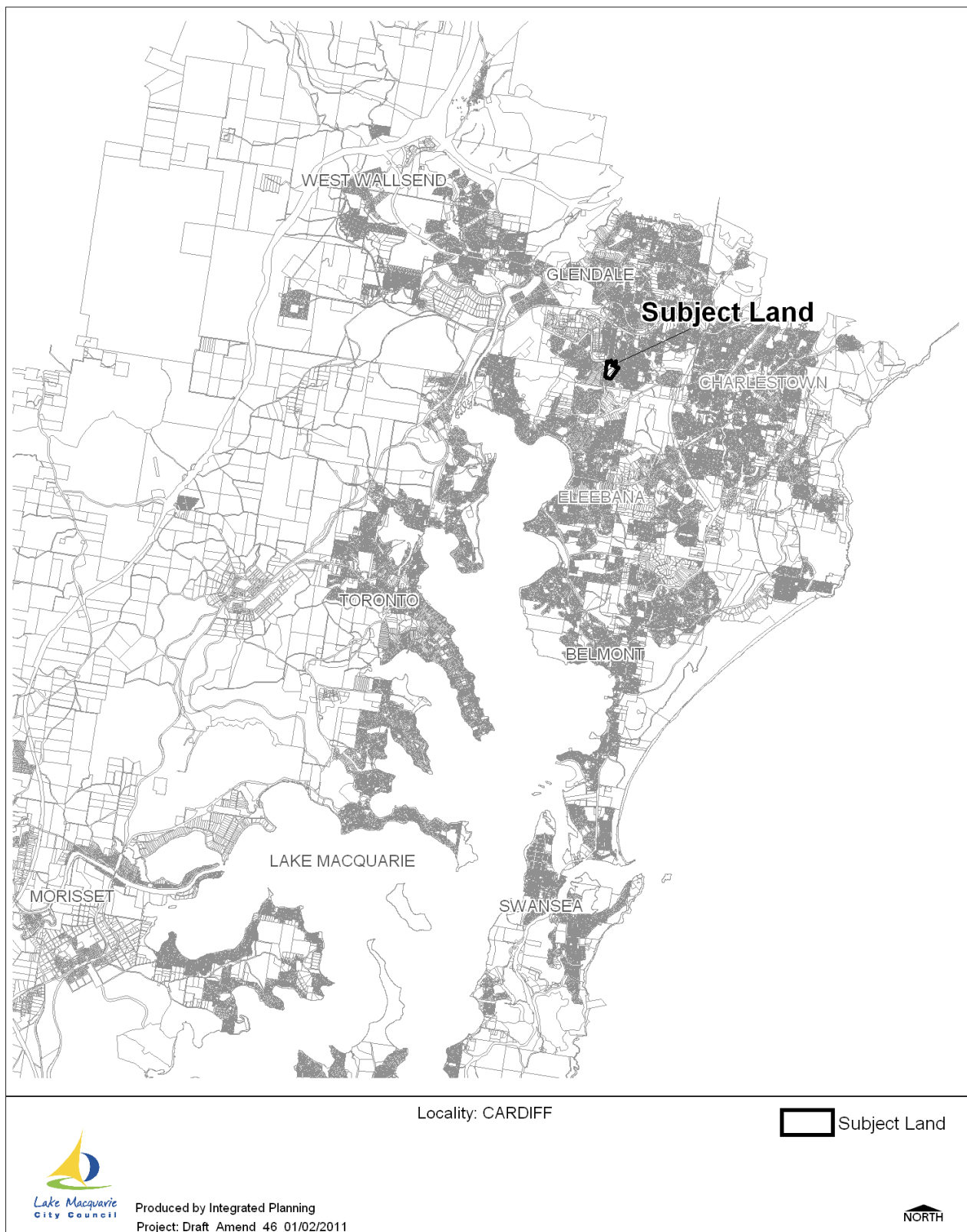
This issue will be managed by requiring that the existing stormwater detention volume is retained in the catchment following any development. It may be possible to reconfigure or relocate the detention volume to reduce the impact on the development site, but this would be subject to detailed design by the developer at the development application stage and would have to be fully funded by the developer. In addition, stormwater runoff as a result of future development of the site would be managed on-site by the inclusion of appropriate stormwater management facilities and water-sensitive urban design measures.

A site specific clause is proposed to be included in the LEP amendment requiring that, prior to development consent being granted, the applicant must demonstrate that “the existing stormwater detention volume contained within the site shall be retained, in the catchment, following any development in addition to the storage requirement generated by the development”.

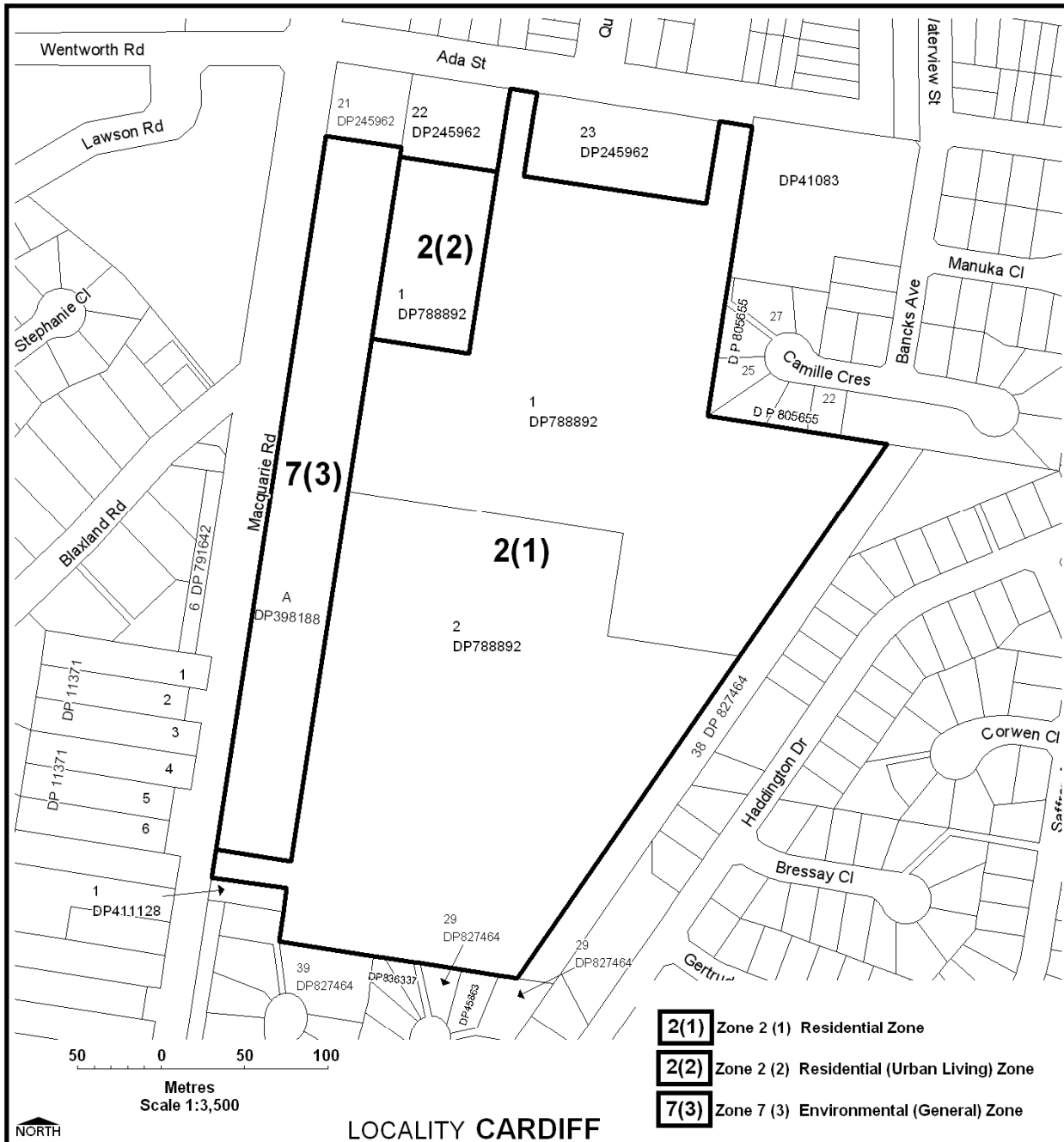
Part 4 – Community Consultation

The public would have the opportunity to view and comment on the Planning Proposal once the Department endorses the Proposal to go on public exhibition. It is submitted that the Proposal does not fit the definition of a ‘Low impact Planning Proposal’ and should therefore be exhibited for at least 28 days.

Appendix 1 – Locality Map



Appendix 3 – Proposed Zoning (LMLEP 2004)



ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

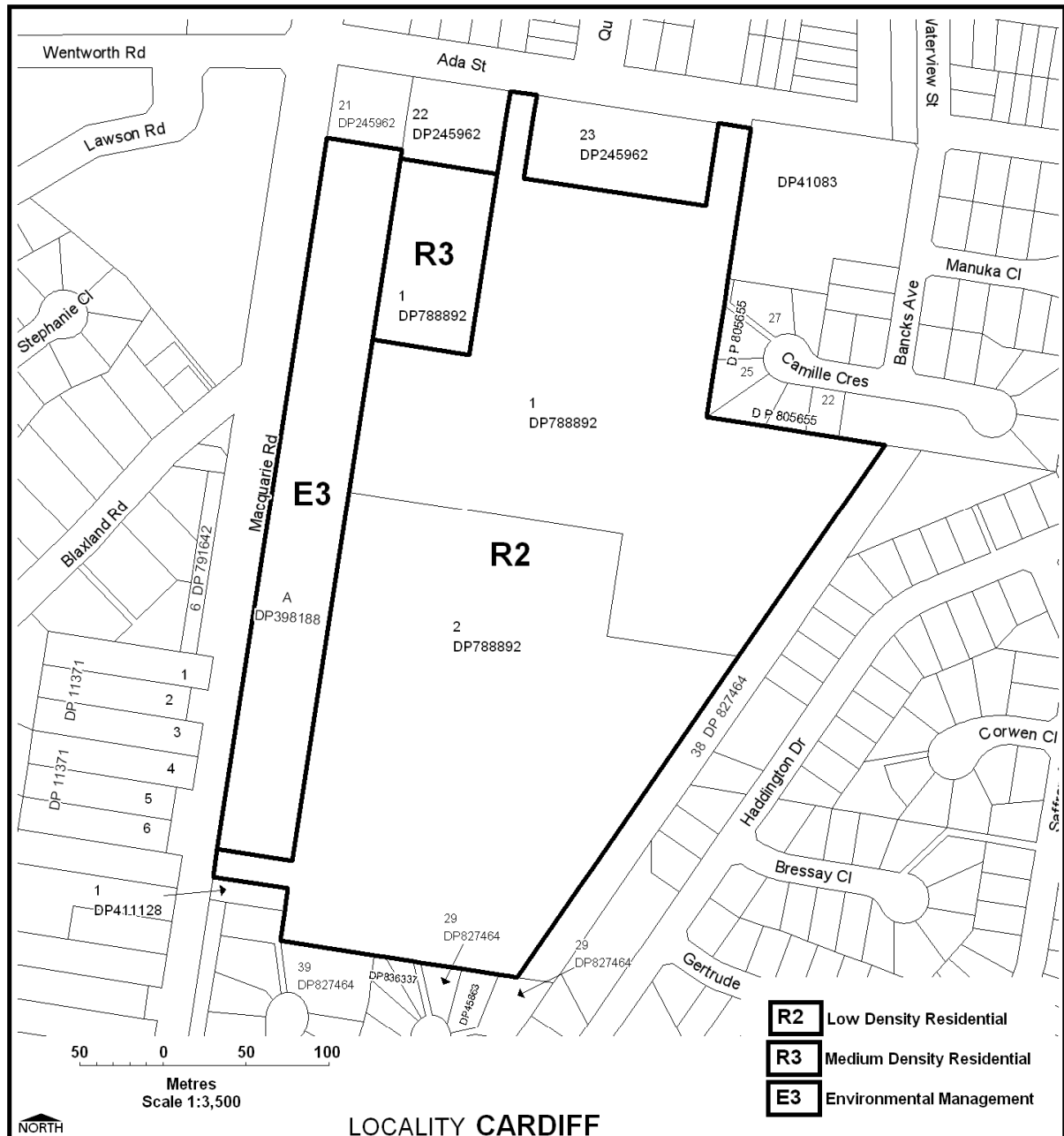
CITY OF LAKE MACQUARIE

SHEET 1 of 1

LAKE MACQUARIE LOCAL ENVIRONMENTAL PLAN 2004 (AMENDMENT NO 46)

DRAWN BY J.B.	DATE 01/02/2011	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMENDS THE LAKE MACQUARIE LOCAL ENVIRONMENTAL PLAN 2004	
PLANNING OFFICER A.D.			
FILE NO. COUNCIL RZ/11/2009	DEPT. of PLANNING XXXXXXXX	CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS.	GENERAL MANAGER
CERTIFICATE ISSUED UNDER SEC. 65 EPA ACT	DATE dd/mm/yyyy		DATE
		PUBLISHED ON NSW LEGISLATION WEBSITE ON	

Appendix 4 – Proposed Zoning (Draft LMLEP 2011)



		ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 CITY OF LAKE MACQUARIE LAKE MACQUARIE LOCAL ENVIRONMENTAL PLAN 2011 (AMENDMENT NO 46)	SHEET 1 of 1
DRAWN BY J.B. PLANNING OFFICER A.D.	DATE 01/02/2011	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMENDS THE LAKE MACQUARIE LOCAL ENVIRONMENTAL PLAN 2004	
FILE NO. COUNCIL RZ/11/2009 CERTIFICATE ISSUED UNDER SEC. 65 EPA ACT	DEPT. of PLANNING XXXXXXXX DATE dd/mm/yyyy	CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS. GENERAL MANAGER DATE	
		PUBLISHED ON NSW LEGISLATION WEBSITE ON	

Appendix 5 – Conceptual Structure Plan

PROPOSED STRUCTURE PLAN

Ada Street, Cardiff



- Site boundary
- Proposed medium density housing
- Proposed low density housing
- Vehicle entry
- Pedestrian access
- Restore creek
- Proposed detention areas
- Transmission tower

Appendix 6 – Net Community Benefit Test

The table below assesses the Proposal against relevant criteria listed in the Draft Centres Policy for determining a Proposal's merits.

Draft Centres Policy criteria	Ada Street Planning Proposal
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800 metres of a transit node)?	Yes. The site is classed as 'infill' and is within 800 metres of existing public bus routes.
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	The site is approximately 3km by road from Glendale, identified in the Lower Hunter Regional Strategy as an Emerging Major Regional Centre.
Is the LEP likely to create a precedent, or create or change the expectations of the landowner or other landholders?	This Planning Proposal applies to a site in a strategic urban infill location. There is little risk of an unwanted precedent being created.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	There is little scope for other spot rezoning proposals in the locality, which is already extensively urbanised. As such, there are unlikely to be significant cumulative effects from other proposals.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The site currently contains a golf driving range which employs a small number of staff. The proposed future land use is residential housing. The proposed zoning accommodates a number of employment-generating uses including residential care facilities and home-based businesses.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	The LEP will improve the supply of residential land in a convenient infill location and includes components of medium and low-density zoning to facilitate a mix of housing types.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?	The LEP is expected to facilitate a development yield of approximately 100 dwellings. Existing infrastructure is generally capable of servicing the site. Intersection upgrade(s) may be necessary to improve access to the classified road network. Public transport is currently available in the form of 2 local bus routes, which link to larger centres and transport nodes.

Will the proposal result in changes to the car distances travelled by customers, employees, and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	The construction of housing on the subject site will serve to defer the need for additional housing on the urban fringe, potentially reducing car distances travelled by future residents.
Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	The proposal will provide an incremental benefit to the patronage of existing and proposed public infrastructure and services.
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	The proposal includes rezoning a 2 ha strip of vegetated land currently zoned Open Space, Residential and Infrastructure to an Environmental zone to protect the existing biodiversity values contained on that parcel. The site is within the Winding Creek catchment which is susceptible to flooding. A site specific clause is proposed as part of the LEP requiring that the existing stormwater detention volume contained within the site be retained within the catchment following any development, in addition to the storage requirement generated by the development.
Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?	The proposed housing will integrate well with existing residential areas surrounding the site, and raises no potential land use conflict issues. Local amenity will be improved through the redevelopment of the disused soccer field site which has been subject to vandalism and other antisocial behaviour.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	The proposal should result in increased patronage of local businesses.
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	The proposal is for an infill residential development which is not expected to develop into a centre.
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	Preparing the draft plan will facilitate development of a currently under-utilised site resulting in improved housing supply in a convenient location well serviced by existing infrastructure and close to schools, shops and major employment centres.