



PLANNING PROPOSAL

Public Exhibition Version

Reclassification of Community Land to Operational Land at Various Sites

2022 Roads Amendment

Amendment to Lake Macquarie Local Environmental Plan 2014

**Prepared by
LAKE MACQUARIE CITY COUNCIL**

Subject lands:

460C Lake Road, Argenton
59C Clydebank Road, Balmoral
49C Haig Street, Belmont
9C The Parade, Belmont
4C Hendrick Street, Cardiff
39D Macquarie Road, Cardiff
14C Milson Street, Charlestown
216C Pacific Highway, Charlestown
14C Pacific Highway, Gateshead
23A Emily Street, Marks Point
94C Main Road, Speers Point
2C Wood Street, Swansea
Land adjoining 21 Dobell Drive, Wangi Wangi

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Planning Proposal

2022 Roads Amendment

Draft Amendment F2021/01352 to Lake Macquarie Local Environmental Plan 2014

Public Exhibition Version

Local Government Area:	Lake Macquarie City Council (LMCC)
Name of Draft LEP:	Draft Amendment F2021/01352 to Lake Macquarie Local Environment Plan 2014
Subject Land:	<p>The planning proposal includes the following 15 items:</p> <p>Item 1 - 460C Lake Road, Argenton</p> <p>Item 2 - 59C Clydebank Road, Balmoral</p> <p>Item 3 - 49C Haig Street, Belmont</p> <p>Item 4 - 9C The Parade, Belmont</p> <p>Item 5 - 4C Hendrick Street, Cardiff</p> <p>Item 6 - 39D Macquarie Road, Cardiff</p> <p>Item 7 - 14C Milson Street, Charlestown</p> <p>Item 8 - 216C Pacific Highway, Charlestown</p> <p>Item 9 - 14C Pacific Highway, Gateshead</p> <p>Item 10 - 23A Emily Street, Marks Point</p> <p>Item 11 - 94C Main Road, Speers Point</p> <p>Item 12 - 2C Wood Street, Swansea</p> <p>Item 13 - Land adjoining 21 Dobell Drive, Wangi Wangi</p> <p><i>(Refer to Appendix A for further details)</i></p>
Land Owners:	Lake Macquarie City Council (LMCC)
Applicant:	Lake Macquarie City Council (LMCC)
Department of Planning and Environment reference number:	PP-2022-2197
Council Reference Number:	F2021/01352
Date:	February 2022
Author:	Joanne Marshall – Statutory Property Officer

INTRODUCTION

This Planning Proposal provides an explanation of the intended effect and justification for the following proposed amendments to the Lake Macquarie Local Environmental Plan:

Reclassification of the following Council owned sites from Community Land to Operation Land for the purpose of road dedication:

- Item 1 - 460C Lake Road, Argenton, Lot 24 DP 1110828
- Item 2 - 59C Clydebank Road, Balmoral Lot, 1 DP 361413
- Item 3 - 49C Haig Street, Belmont, Part Lot 42 DP 1115062
- Item 4 - 9C The Parade, Belmont, Lot 1 DP 209843
- Item 5 - 4C Hendrick Street, Cardiff, Lot 2 Sec C DP 4143
- Item 6 - 39D Macquarie Road, Cardiff, Lot 3 DP 559007
- Item 7 - 14C Milson Street, Charlestown, Lot 1 & 2 DP 350691
- Item 8 - 216C Pacific Highway, Charlestown, Lot B DP 399059
- Item 9 - 14C Pacific Highway, Gateshead, Lot 1 DP 432780
- Item 10 - 23A Emily Street, Marks Point, Lots 1 & 2 DP 371792
- Item 11 - 94C Main Road, Speers Point, Lot 1 DP 181190
- Item 12 - 2C Wood Street, Swansea, Lot 1 & 2 DP 329284
- Item 13 - Land adjoining 21 Dobell Drive, Wangi Wangi, Lot 343 DP 848273

The Planning Proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* and the format specified within the relevant Department of Planning Guidelines including 'Local Environmental Plan Making Guideline, Dec 2021' [Making and Amending LEPs - \(nsw.gov.au\)](https://www.nsw.gov.au/making-and-amending-leps) and LEP Practice Note PN 19-001. [classification-and-reclassification-of-public-land-through-a-local-environmental-plan-2016-10-05.pdf \(nsw.gov.au\)](https://www.nsw.gov.au/classification-and-reclassification-of-public-land-through-a-local-environmental-plan-2016-10-05.pdf)

Part 1 – Objectives and Intended Outcomes

Objective:

The Planning Proposal seeks to amend Schedule 4 of the Lake Macquarie Local Environmental Plan 2014 to enable the reclassification of the Community land (detailed in the below tables within Part 2) to Operational land.

Intended Outcomes:

To dedicate the lands for road purpose being the current use of the land.

Part 2 – Explanation of Provisions

The provisions in this planning proposal will amend LMLEP 2014 as outlined below:

Item No.	Explanation of provisions
1	<ul style="list-style-type: none">• Reclassify the subject land from Community to Operational Land (Include within Schedule 4)• The Land Zoning Map is currently SP2 Infrastructure Railway Corridor and will not change• It does not appear on either the Height of Buildings Map or the Lot Size Map and will not change
2	<ul style="list-style-type: none">• Reclassify the subject land from Community to Operational Land (Include within Schedule 4)• The Land Zoning Map is currently E2 Environmental Conservation and will not change• The Height of Buildings Map is currently 5.5m and will not change• The Lot Size Map is currently 40 Hectares and will not change
3	<ul style="list-style-type: none">• Reclassify the subject land from Community to Operational Land (Include within Schedule 4)• The Land Zoning Map is currently R2 Low Density Residential and will not change• The Height of Buildings Map is currently 8.5m and will not change• The Lot Size map is currently 450sqm and will not change
4	<ul style="list-style-type: none">• Reclassify the subject land from Community to Operational Land (Include within Schedule 4)• The Land Zoning Map is currently R2 Low Density Residential and will not change• The Height of Buildings Map is currently 8.5m and will not change• The Lot Size map is currently 450sqm and will not change
5	<ul style="list-style-type: none">• Reclassify the subject land from Community to Operational Land (Include within Schedule 4)• The Land Zoning Map is currently R2 Low Density Residential and will not change• The Height of Buildings Map is currently 8.5m and will not change• The Lot Size map is currently 450sqm and will not change

Item No.	Explanation of provisions
6	<ul style="list-style-type: none"> • Reclassify the subject land from Community to Operational Land (Include within Schedule 4) • The Land Zoning Map is currently SP2 Infrastructure Railway Corridor and will not change • It does not appear on either the Height of Buildings Map or the Lot Size Map and will not change
7	<ul style="list-style-type: none"> • Reclassify the subject land from Community to Operational Land (Include within Schedule 4) • The Land Zoning Map is currently R3 Medium Density Residential and will not change • The Height of Buildings Map is currently 10m and will not change • The Lot Size map is currently 900sqm and will not change
8	<ul style="list-style-type: none"> • Reclassify the subject land from Community to Operational Land (Include within Schedule 4) • The Land Zoning Map is currently SP2 Infrastructure Railway Corridor and will not change • It does not appear on either the Height of Buildings Map or the Lot Size Map and will not change
9	<ul style="list-style-type: none"> • Reclassify the subject land from Community to Operational Land (Include within Schedule 4) • The Land Zoning Map is currently B1 Neighbourhood Centre and will not change • The Height of Buildings Map is currently 10m and will not change • It does not appear on the Lot Size Map and will not change
10	<ul style="list-style-type: none"> • Reclassify the subject land from Community to Operational Land (Include within Schedule 4) • The Land Zoning Map is currently R2 Low Density Residential and will not change • The Height of Buildings Map is currently 8.5m and will not change • The Lot Size map is currently 450sqm and will not change
11	<ul style="list-style-type: none"> • Reclassify the subject land from Community to Operational Land (Include within Schedule 4) • The Land Zoning Map is currently R2 Low Density Residential and will not change • The Height of Buildings Map is currently 8.5m and will not change • The Lot Size map is currently 450sqm and will not change
12	<ul style="list-style-type: none"> • Reclassify the subject land from Community to Operational Land (Include within Schedule 4) • The Land Zoning Map is currently R3 Medium Density Residential and will not change • The Height of Buildings Map is currently 10m and will not change • The Lot Size map is currently 900sqm and will not change
13	<ul style="list-style-type: none"> • Reclassify the subject land from Community to Operational Land (Include within Schedule 4) • The Land Zoning Map is currently R2 Low Density Residential and will not change • The Height of Buildings Map is currently 8.5m and will not change • The Lot Size map is currently 450sqm and will not change

Part 3 – Justification of Strategic and Site-specific Merit

Section A - Need for the Planning Proposal

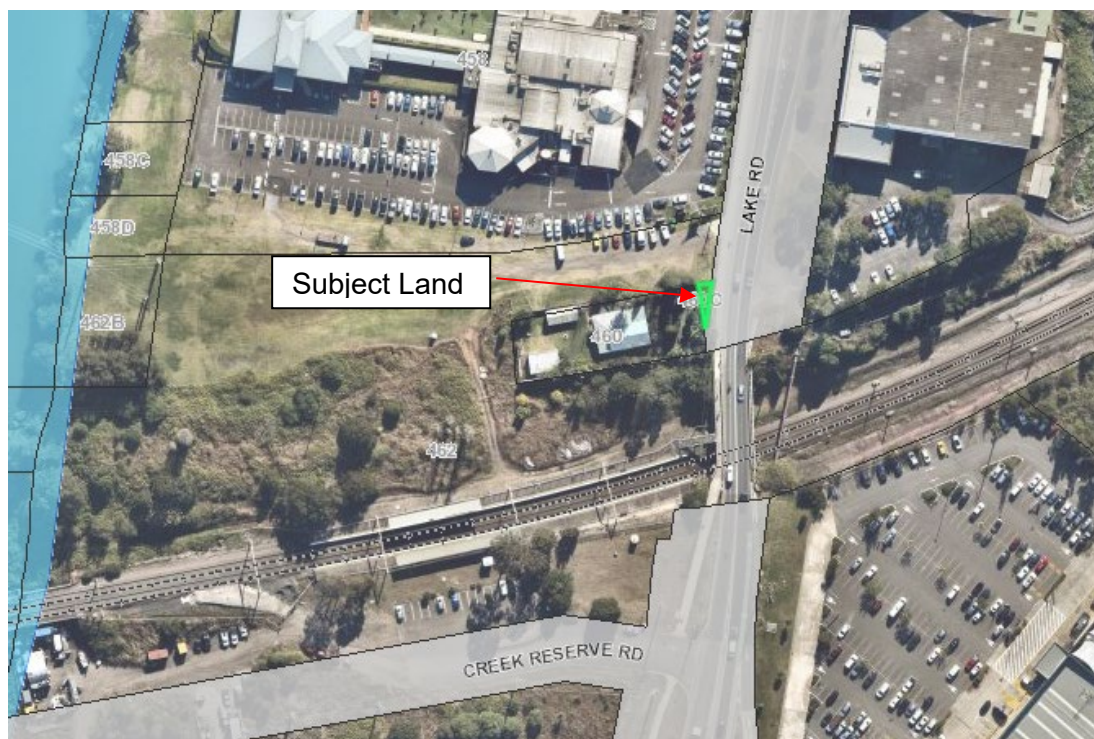
1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The Planning Proposal has not been prepared following any outcomes of a Local Strategic Planning Statement (LSPS), a study or report relevant to the subject properties. These properties have been identified through routine administrative tasks as either administrative anomalies or being identified as having a constructed road over them and therefore considered inappropriate for their identified purpose.

Investigations were undertaken in relation to each property to determine their appropriateness for reclassification. The outcomes of these investigations and reasoning to pursue the proposed amendments are outlined below.

- **ITEM 1: 460C Lake Road, Argenton Lot 24 DP 1110828**

This is a triangular piece of land located between the street and the adjacent residential property. Access to the residential property from the street is facilitated by the land.



The subject land was originally acquired for road widening purposes but administrative processes to confirm the status of the land as road were not completed at the time. Under the transitional provisions of the *Local Government Act 1993* (NSW), the land became classified as community land by default.

Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements, and therefore needs to be reclassified as operational land in order to accurately reflect its use and dedicate it as road, and to maintain the existing access to the adjacent property.

- **ITEM 2: 59C Clydebank Road, Balmoral Lot 1 DP 361413**

This land is located adjacent to other Council owned community land which is categorised as natural area. Part of Clydebank Road, including a bridge/culvert has been formed outside the road corridor and lies within this land.



Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements, and therefore needs to be reclassified as operational land in order to accurately reflect its use and dedicate it as road.

- **ITEM 3: Part 49C Haig Street, Belmont, Part Lot 42 DP 1115062**

This is a long thin piece of land located on the edge of a Deposited Plan, which is noted on the plan as being part of a Drainage Reserve. The eastern end of the land extends into the road corridor of Haig Street.

Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements, and therefore needs to be reclassified as operational land in order to accurately reflect its use and dedicate it as road.



- **ITEM 4: 9C The Parade, Belmont, Lot 1 DP 209843**

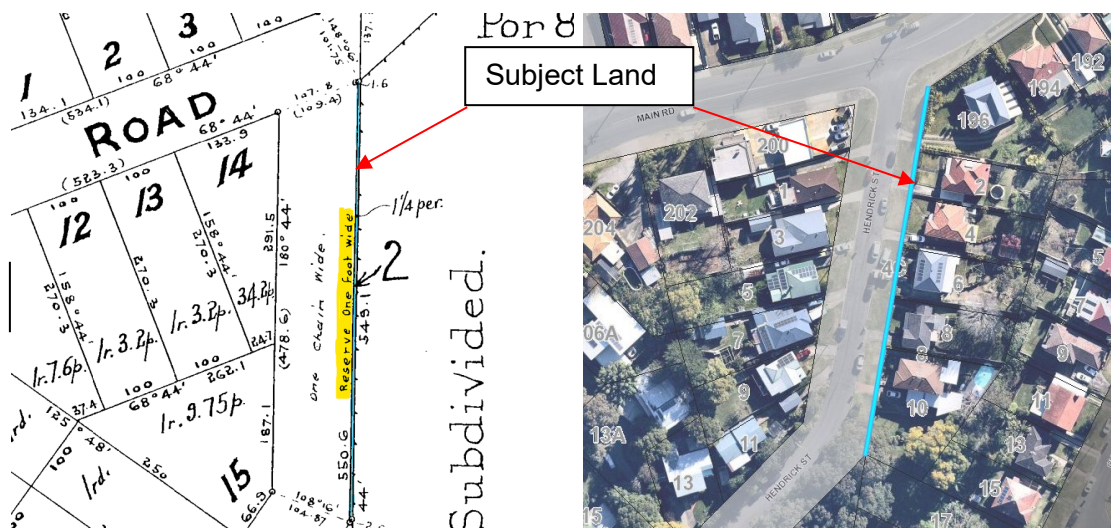


This is a triangular piece of land that was purchased for road purposes, but administrative processes to confirm the status of the land as road were not completed. The land is now used as a splay corner for the formed road. Under the transitional provisions of the *Local Government Act 1993* (NSW), the land became classified as community land by default.

Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements, and therefore needs to be reclassified as operational land in order to accurately reflect its use and dedicate it as road.

- **ITEM 5 - 4C Hendrick Street, Cardiff, Lot 2 Sec C DP 4143**

When the land was originally subdivided in 1902, a narrow strip of land, one foot (30cm) wide, noted as Reserve, was left along the eastern side of Hendrick Street where it adjoined the next portion of land. See blue highlighting below:



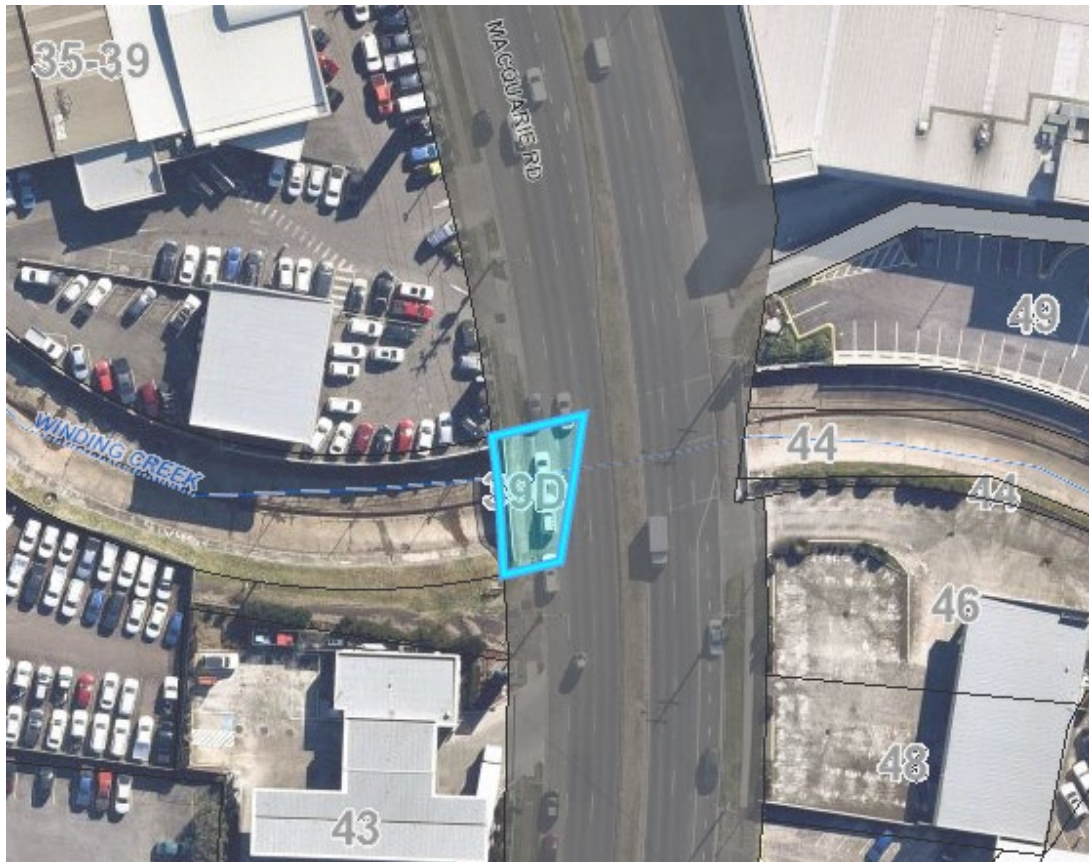
Due to the Reserve notation on the plan of the land, in 1993 the land became classified as community land by default, under the transitional provisions of the *Local Government Act 1993* (NSW).

Hendrick Street is currently a formed road and six properties gain access over the subject land to the adjacent properties.

Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements, and therefore needs to be reclassified as operational land in order to accurately reflect its use and dedicate it as road.

ITEM 6: 39D Macquarie Road, Cardiff, Lot 3 DP 559007

This is a piece of land on which a bridge and road has been constructed that spans across Hunter Water stormwater channel infrastructure.



The remainder of the bridge and road are dedicated as public road. However, administrative processes to also confirm the status of the subject land as road have not been completed. Under the transitional provisions of the *Local Government Act 1993* (NSW), the land subsequently became classified as community land by default.

Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements, and therefore needs to be reclassified as operational land in order to accurately reflect its use and dedicate it as road.

- **ITEM 7: 14C Milson Street, Charlestown, Lot 1 & 2 DP 350691**

This land was purchased in 1945 for the purpose of extending Edward Street, Charlestown and contains a formed road.

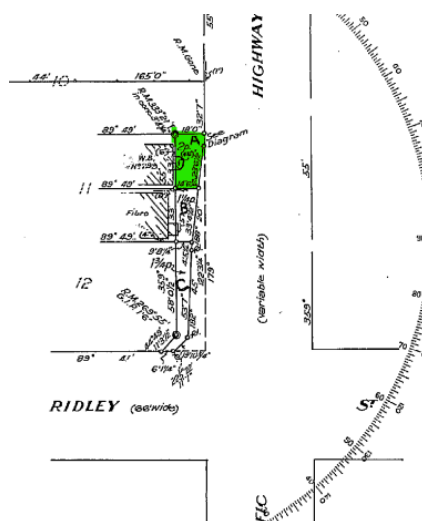


Although the road was acquired and formed administrative processes to confirm the status of the subject land as road have not been completed. Under the transitional provisions of the *Local Government Act 1993* (NSW), the land subsequently became classified as community land by default.

Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements and therefore needs to be reclassified as operational land to accurately reflect its use and dedicate it as road.

- **ITEM 8: 216C Pacific Highway, Charlestown, Lot B DP 399059**

This land was resumed for road widening in 1956. It is a formed part of the Pacific Highway at Charlestown.

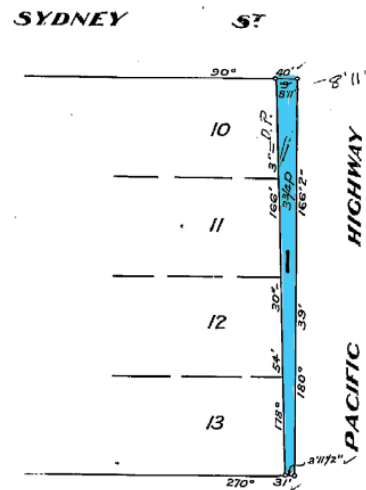


Although the road was acquired and formed, administrative processes to confirm the status of the subject land as road were not completed. Under the transitional provisions of the *Local Government Act 1993* (NSW), the land subsequently became classified as community land by default.

Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements and therefore needs to be reclassified as operational land to accurately reflect its use and dedicate it as road.

- **ITEM 9: 14C Pacific Highway, Gateshead, Lot 1 DP 432780**

This land was resumed for road widening in 1947. It is a formed part of the Pacific Highway at Gateshead, but administrative processes to confirm the status of the subject land as road were not completed.



Under the transitional provisions of the *Local Government Act 1993* (NSW), the land subsequently became classified as community land by default.

Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements and therefore needs to be reclassified as operational land to accurately reflect its use and dedicate it as road.

- **ITEM 10: 23A Emily Street, Marks Point, Lots 1 & 2 DP 371792**

This is land that was resumed to form a road providing alternative access to residents on the western side of the Pacific Highway without the need to travel along the highway.



Although the road is formed, administrative processes to confirm the status of the subject land as road were not completed. Under the transitional provisions of the *Local Government Act 1993* (NSW), the land subsequently became classified as community land by default.

Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements and therefore needs to be reclassified as operational land to accurately reflect its use and dedicate it as road.

- **ITEM 11: 94C Main Road, Speers Point, Lot 1 DP 181190**

This is land over which road has been constructed, but administrative processes to confirm the status of the subject land as road have not been completed.



Under the transitional provisions of the *Local Government Act 1993* (NSW), the land subsequently became classified as community land by default.

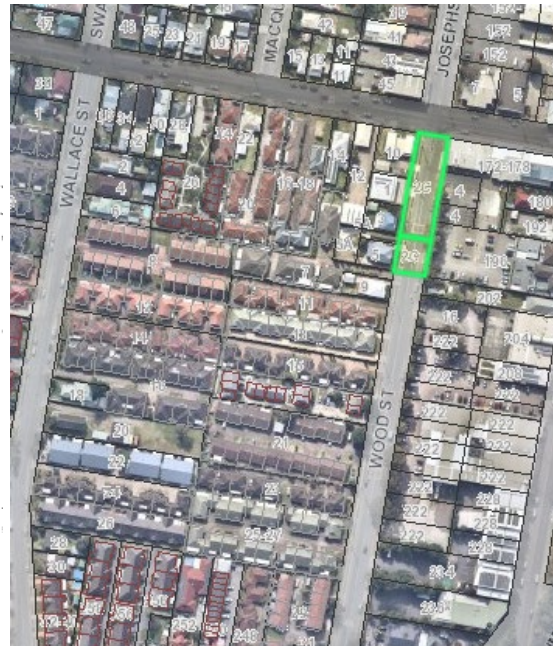
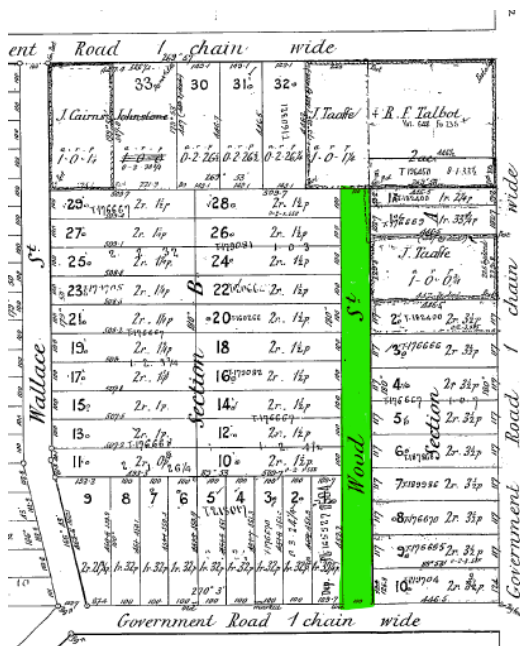
Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements and therefore needs to be reclassified as operational land to accurately reflect its use and dedicate it as road.

- **ITEM 12: 2C Wood Street, Swansea, Lots 1 & 2 DP 329284**

This is land over which road was constructed to extend the existing road known as Wood Street, and provides a complete thoroughfare between Lake Road and Josephson Street. However, administrative processes to confirm the status of the subject land as road have not been completed.

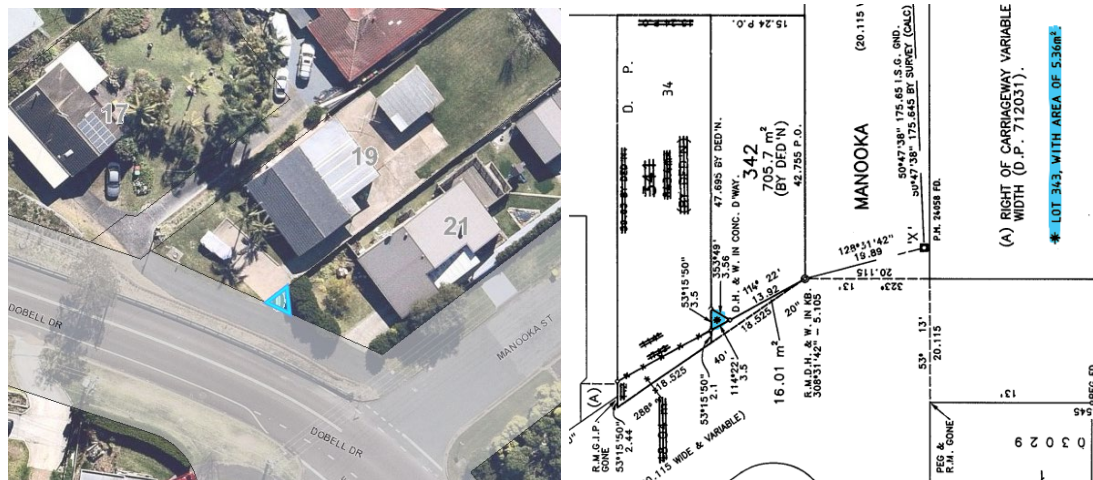
Under the transitional provisions of the *Local Government Act 1993* (NSW), the land subsequently became classified as community land by default.

Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements and therefore needs to be reclassified as operational land to accurately reflect its use and dedicate it as road.



- **Item 13 - Land adjoining 21 Dobell Drive, Wangi Wangi**

This is a small triangular piece of land that provides vehicular access to No 19 Dobell Drive, Wangi Wangi.



In 1994 Council widened the adjacent road to provide access to other neighbouring properties, and also created a splay corner to enable access to No 19.

Administrative processes to confirm the status of the splay corner as road were not completed at the time. Under the transitional provisions of the *Local Government Act 1993* (NSW), the land subsequently became classified as community land by default.

Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements and therefore needs to be reclassified as operational land to accurately reflect its use and dedicate it as road.

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

The proposed Planning Proposal amendments are considered the best means of achieving the intended outcomes for each property. All the properties either have formed road over them or are required for access to private properties. Pursuant to section 47F of the *Local Government Act 1993* (NSW) community land may not be dedicated as public road, unless it meets specific requirements. The lands referred to in this report do not meet those requirements and therefore they need to be reclassified as operational land to accurately reflect their use and then dedication as road.

In 1993 all Councils had to classify their land holdings as either operational or community land pursuant to sections 25 and 26 of the *Local Government Act 1993*. At the end of 3 months, any land not classified is taken to have been classified under a local environmental plan as community land pursuant to s31(2A) of the *Local Government Act 1993*.

Although some of this land may have been acquired for road purposes, neither the Deposited Plan nor the Certificate of Title for the land states this, so by default the land has become community land.

Investigations reveal that none of the lands were dedicated to Council in lieu of section 7.11 contributions and therefore reclassification by way of a LEP amendment, pursuant to the provisions of the Environmental Planning and Assessment Act 1979, is the only action available to now reclassify the land in order to dedicate it as road.

Section B - Relationship to the Strategic Planning Framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

Hunter Regional Plan 2036

The proposed reclassifications are consistent with the Hunter Regional Strategy 2036 (HRS), which has a focus on providing the Hunter region with a leading regional economy, a biodiversity-rich natural environment, thriving communities and greater housing choice and jobs.

All the land within this planning proposal has public road over it, or forms part of a road corridor adjoining a road. As Community land may not be dedicated as a public road, the reclassifications are required so Council may then dedicate the land as road. This will then reflect the correct classification of the land for what it is being used for. This would satisfy Objective No. 26.1 - Align land use and infrastructure planning to maximise the use and capacity of existing infrastructure and the efficiency of new infrastructure for all the land within this proposal.

Greater Newcastle Metropolitan Plan

The proposed reclassifications are consistent with the Greater Newcastle Metropolitan Plan 2036 (GNMP), which sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens communities, which together make up Greater Newcastle.

The reclassifications will enable Council to dedicate the land as road which is what it is being used for.

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Imagine Lake Mac, previously Lifestyle 2050 Strategy

The draft *Lifestyle 2050 Strategy* was adopted by Council on 11 June 2019, and is now known as *Imagine Lake Mac Strategy*, and accordingly must be considered for future planning purposes.

The proposed reclassifications of Items 1 to 13 will enable dedication of the identified land to "Road" thus allowing implementation of 'A city of close connections', which includes expanding active transport networks.

Therefore, the proposal is consistent with the strategic plan maps in the *Imagine Lake Mac Strategy*.

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

This planning proposal is to rectify land that has road formed over it but not dedicated as road. It is considered that the minor nature of this proposal will be consistent with any other relevant State or regional study or strategy – for example; Future Transport Strategy 2056.

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

An assessment of the proposal against the relevant State Environmental Planning Policies (SEPPs) is provided within *Appendix B*.

7. Is the planning proposal consistent with applicable Ministerial Directions?

An assessment of the proposal against the Section 9.1 Ministerial Directions is provided within *Appendix C*.

An assessment of these Directions shows that the following are inconsistent, potentially inconsistent or require approval from the Department of Planning and Environment:

- a. 1.1 – Business and Industrial Zones - Item 9, 14C Pacific Highway, Gateshead, is within a B1 Neighbourhood Business zone. This planning proposal does not propose altering the zone boundary and therefore complies with this Ministerial direction.
- b. 2.1 - Environment Protection Zones - Item 2, 59C Clydebank Road, Balmoral, is located within a C2 Environmental Conservation zone. This planning proposal does not propose a reduction to the environmental standards that apply to the land and therefore complies with this Ministerial direction.
- c. 2.2 – Coastal Protection – Items 1, 2, 3, 4, 10, 12 and 13 are all identified as being within the Coastal zone. The planning proposal is to legitimise existing roads already on these lands and therefore is considered to be consistent with the direction.
- d. 3.1 - Residential zones – Items 3, 4, 5, 7, 10, 11 and 13 are located within existing residential R2 or R3 zones. As the Planning Proposal is to legitimise existing roads

already on the land and no physical work is to take place on the land, it is considered to be of minor significance.

- e. 4.1 – Acid Sulfate Soils – Items 1, 2, 3, 4, 10, 11 and 12 are identified as being on the Acid Sulphate Soils map. As the Planning Proposal is to legitimise existing roads already on the land and no physical work is to take place on the land, it is considered to be of minor significance.
- f. 4.2 – Mine Subsidence and Unstable Land - Potentially inconsistent for all items except 10, 11 and 12 and will require consultation with the Mine Subsidence Board.
- g. 4.3 – Flood Prone Land – Items 2, 4 and 10 are identified as flood prone land. The planning proposal is in accordance with a floodplain risk management plan, and as no physical work is to take place on the land, it is considered to be of minor significance.
- h. 4.4 – Planning for Bushfire Protection - Potentially inconsistent for Item 2 and will require consultation with the Rural Fire Service.
- i. 6.2 – Reserving Land for Public Purposes - Three of the sites are proposed or currently identified on the Land Reservation Acquisition layer of LMLEP 2014, as follows:
 - Item 1 - 460C Lake Road, Argenton – Zoned SP2 Railway
 - Item 6 - 39D Macquarie Road, Cardiff – Zoned SP2 Classified Road
 - Item 8 - 216C Pacific Highway, Charlestown - Zoned SP2 Classified Road

As the Planning Proposal is to legitimise the existing roads already on the land, with Item 6 & 8 both being for road purposes, the zoning will not change. In accordance with this Ministerial direction, the relevant public authorities, being Transport NSW, will need to be consulted.

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?*

The land contained within this planning proposal is unlikely to have any impact upon critical habitat or threatened species, populations or ecological communities, or their habitats, as they all physically have road upon them or are located within a road reserve. This planning proposal is purely administrative to reclassify the land and enable road dedications.

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

No adverse environmental effects are anticipated as a result of the Planning Proposal.

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

The proposed reclassifications will largely have positive social and economic benefits for the community in that it will enable the mapping to reflect what is physically on the land – being formed road or its adjoining road corridor.

No negative social or economic effects are anticipated from the proposed amendments.

Section D – Infrastructure (Local, State and Commonwealth)

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

The proposal will not require any changes to the delivery of public infrastructure to any of the lands included in the Planning Proposal. As the sites all contain existing roads, this planning proposal will enable the formal dedication of these roads.

Section E – State and Commonwealth Interests

12. What are the views of State and Commonwealth Public Authorities and Government Agencies consulted in order to inform the Gateway determination?

The Gateway determination will identify the public authorities to be consulted during the public exhibition period. It is expected that the following authorities will require notification:

- Subsidence Advisory NSW,
- NSW Rural Fire Service, and
- Transport NSW.

Section F: Special Considerations for Reclassification of Public Land

See LEP Practice Note: PN 16-001, 16 October 2016 [classification-and-reclassification-of-public-land-through-a-local-environmental-plan-2016-10-05.pdf \(nsw.gov.au\)](https://www.nsw.gov.au/classification-and-reclassification-of-public-land-through-a-local-environmental-plan-2016-10-05.pdf).

9. (a) If the provisions of the planning proposal include the extinguishment of any interests in the land, what are the reasons why the interests are proposed to be extinguished.

The proposal seeks to remove the following Public Reserve Notations, interests, covenants and restrictions pursuant to section 30 of the Local Government Act 1993:

Item No	Address	Classification of Land	Interests in land	Reason why interests are extinguished
1	460C Lake Road, Argenton, Lot 24 DP 1110828	Community change to Operational for Road Dedication	Crown Grant	Retain
2	59C Clydebank Road, Balmoral, Lot 1 DP 361413	Community change to Operational for Road Dedication	Minerals & Crown Grant	Retain
			C99758 Rights to Mine	Retain
3	49C Haig Street, Belmont, Part Lot 42 DP 1115062	Community change to Operational for Road Dedication	Crown Grant	Retain
4	9C The Parade, Belmont, Lot 1 DP 209843	Community change to Operational for Road Dedication	Crown Grant	Retain
			C328096 Rights to Mine & uses on land	Retain – as it relates to rights to mine

Item No	Address	Classification of Land	Interests in land	Reason why interests are extinguished
5	4C Hendrick Street, Cardiff, Lot 2 Sec C DP 4143	Community change to Operational for Road Dedication	Minerals by Crown Grant	Retain
6	39D Macquarie Road, Cardiff, Lot 3 DP 559007	Community change to Operational for Road Dedication	Minerals (s141 Public Works Act, 1912)	Retain
7	14C Milson Street, Charlestown, Lot 1 & 2 DP 350691	Community change to Operational for Road Dedication	Crown Grant	Retain
8	216C Pacific Highway, Charlestown, Lot B DP 399059	Community change to Operational for Road Dedication	Crown Grant	Retain
9	14C Pacific Highway, Gateshead, Lot 1 DP 432780	Community change to Operational for Road Dedication	Crown Grant	Retain
10	23A Emily Street, Marks Point, Lots 1 & 2 DP 371792	Community change to Operational for Road Dedication	Minerals by Crown Grant	Retain
11	94C Main Road, Speers Point, Lot 1 DP 181190	Community change to Operational for Road Dedication	Crown Grant	Retain
			A93169 Minerals & Rights to Mine	Retain
12	2C Wood Street, Swansea, Lot 1 & 2 DP 329284	Community change to Operational for Road Dedication	Minerals by Crown Grant	Retain
13	Land adjoining 21 Dobell Drive, Wangi Wangi, Lot 343 DP 848273	Community change to Operational for Road Dedication	Minerals by Crown Grant	Retain

NOTE: Crown Grant and Mineral rights have been retained pursuant to clause 5.2(5)(b) & (c) of Lake Macquarie Local Environmental Plan 2014.

Please see Annex E for proposed changes to Schedule 4 of Lake Macquarie Local Environmental Plan 2014.

(b) The concurrence of the landowner, where the land is not owned by the relevant planning authority.

Pursuant to section 28 of the Local Government Act 1993, Council may not forward a Planning Proposal which includes a proposal to classify or reclassify public land, without the approval of the owner of that land.

Lake Macquarie Council is the landowner for all of the sites the subject of this planning proposal.

(c) How funds obtained from any future sale of the land will be used.

None of the land is expected to be sold, so no funds will be obtained. This land has been inappropriately classified as community land, and this planning proposal is to enable it to be dedicated as road which is its current use.

Part 4- Maps

The maps proposed to be included as part of the LEP Amendment are outlined within Part 2 of this Planning Proposal and are attached within *Annex A*.

Part 5- Community Consultation

Community consultation will be undertaken in accordance with the requirements of the Gateway determination and Schedule 1 clause 4 of the *Environmental Planning and Assessment Act 1979*, section 29 of the *Local Government Act 1993* and the Department's LEP guideline "A guide to preparing local environmental plans" (April 2013).

Government Agencies

The following government agencies have been notified:

- Transport for NSW – as identified under the Gateway determination
- NSW Rural Fire Service – as required under Ministerial direction 4.3 Bushfire Protection
- Subsidence Advisory NSW – as required under Ministerial direction 4.6 Mine Subsidence

Exhibition

The planning proposal will be exhibited for 30 days in accordance with section 5.5.2 of the Department's LEP guideline, as it contains reclassification of public land. The exhibition will be advertised in a local newspaper and on Council's website. In addition, any identified affected landowners and adjoining landowners will be notified of the proposal.

Public Hearing

In accordance with section 29 of the *Local Government Act 1993*, a public hearing will be held. The public hearing will be undertaken in accordance with section 5.5.3 of the Department's LEP guideline.

Part 6 – Project Timeline

The following table provides an indicative timeline for the Draft Local Environmental Plan:

Task	Timeline
Gateway Determination submitted to Department	July 2022
Determination by Secretary to Exhibit	October 2022
Public Exhibition (30 days)	Finishes 24 January 2023
Public Hearing	Late February 2023
Consideration of submissions & prepare report on Public Hearing	March 2023
Report to Council post exhibition	April 2023
Submission to Department	May 2023
Notification of Plan Made	7 July 2023

Figure 2 – Existing Zone under LMLEP 2014

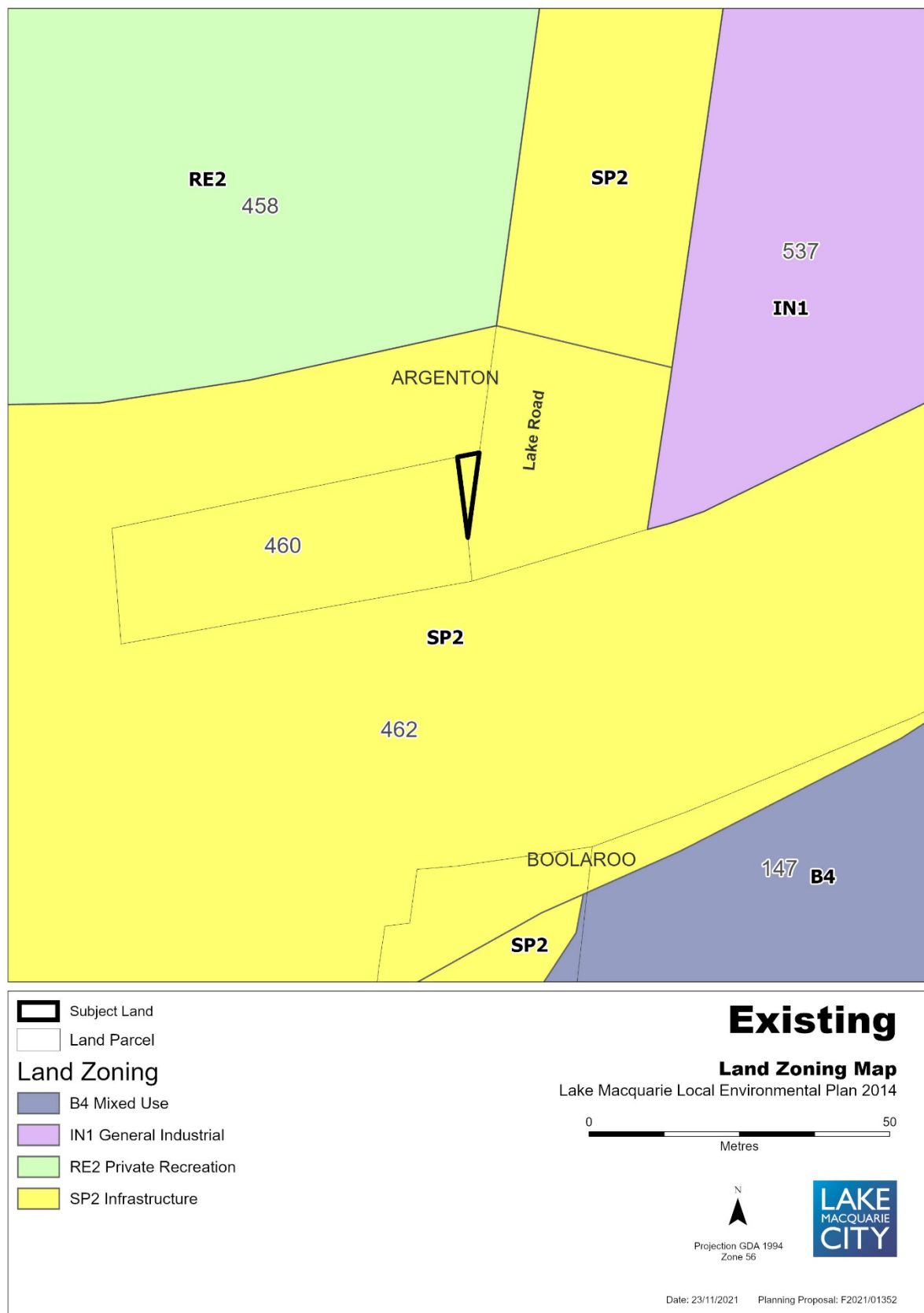
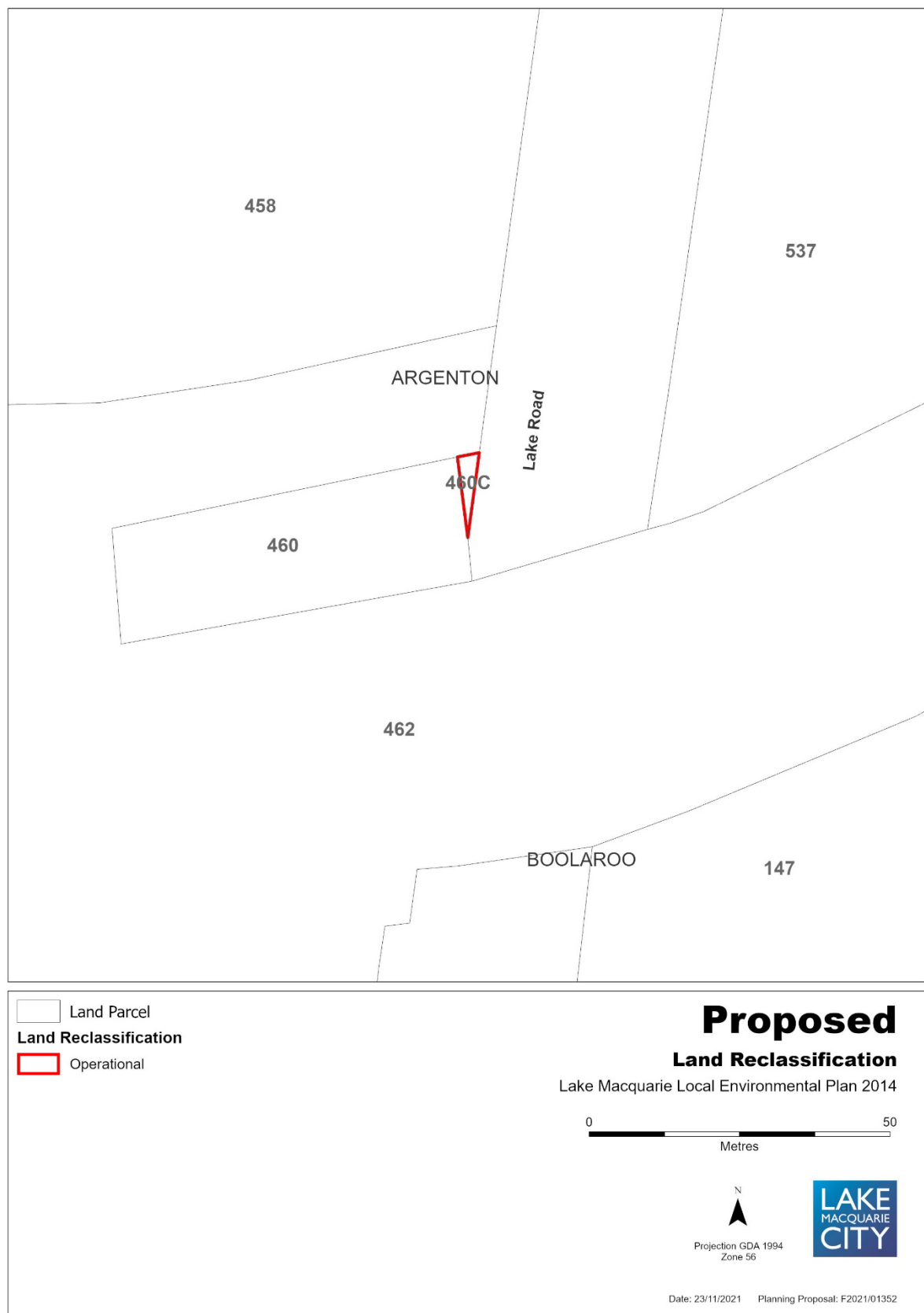


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



ITEM 2: 59C Clydebank Road, Balmoral Lot 1 DP 361413

Figure 1 – Aerial Map



Figure 2 – Existing Zone under LMLEP 2014

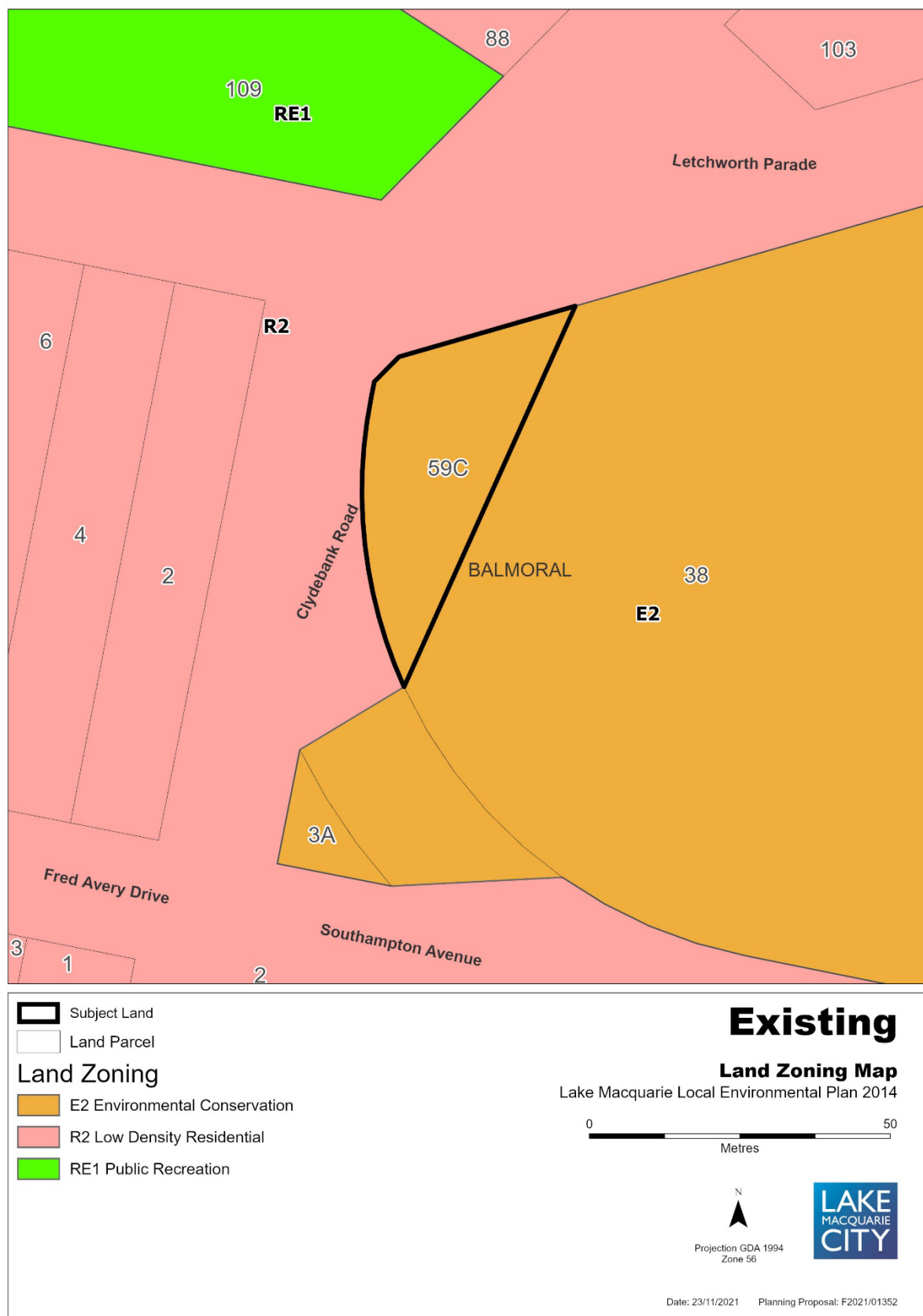
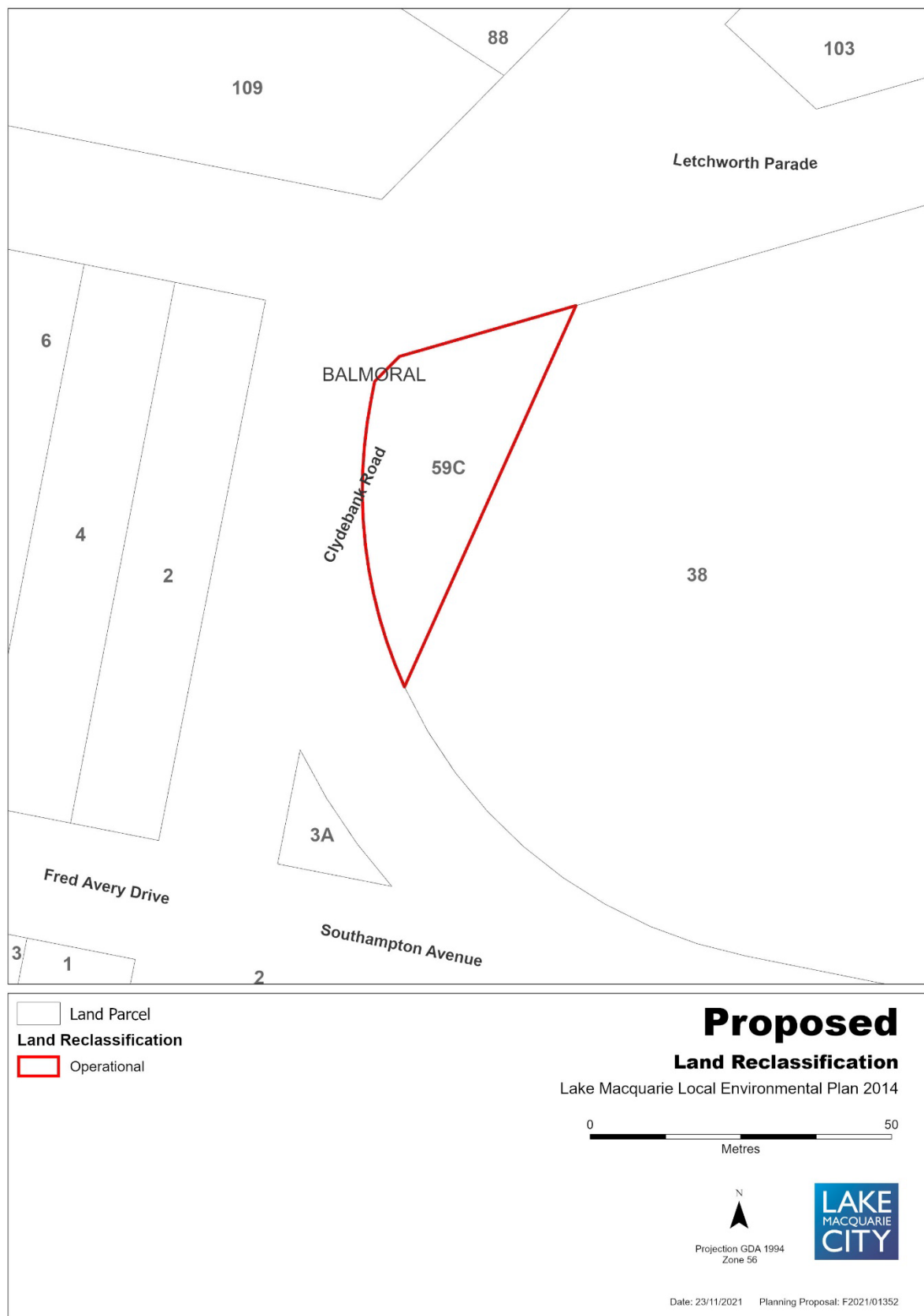
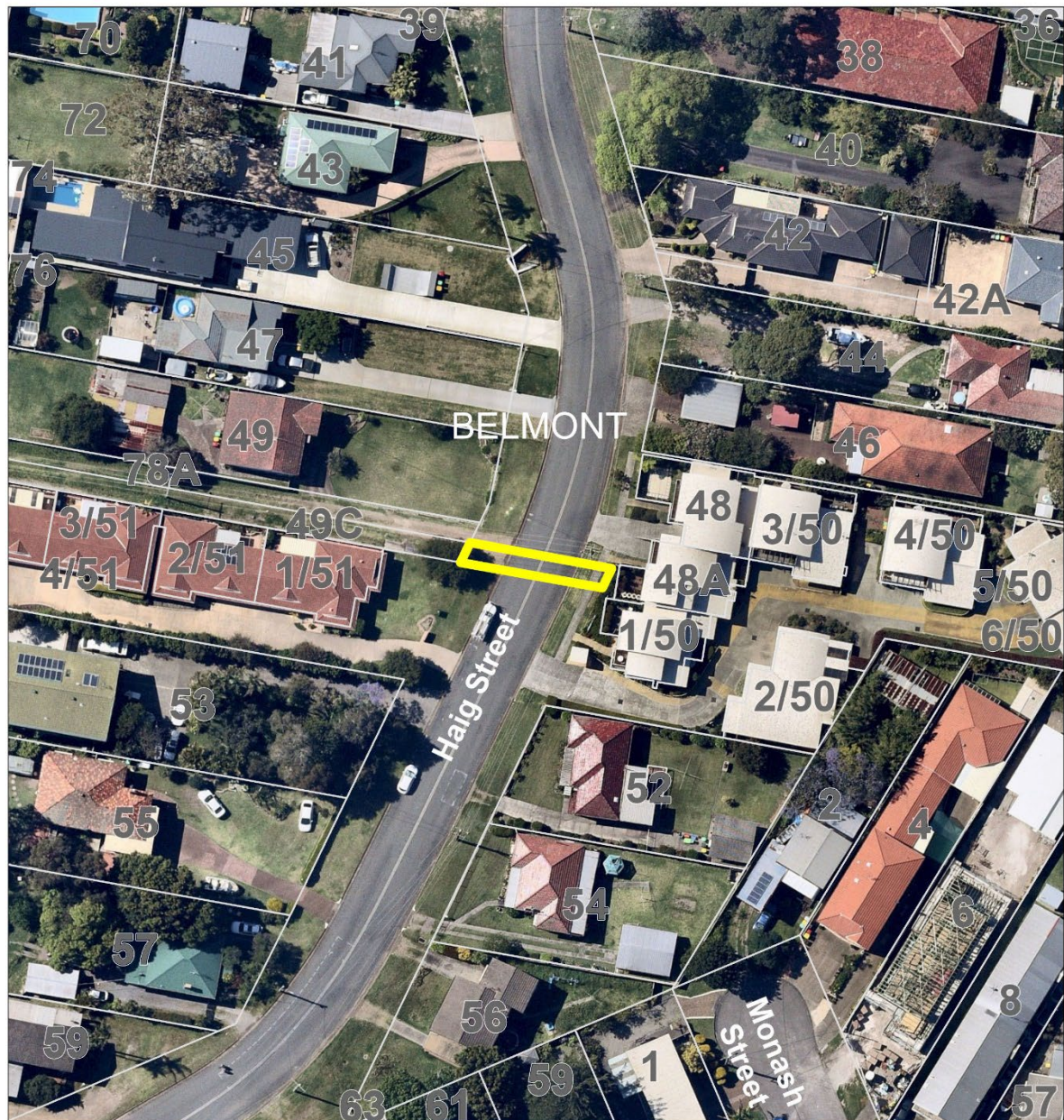


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



ITEM 3: 49C Haig Street, Belmont, Part Lot 42 DP 1115062

Figure 1 – Aerial Map

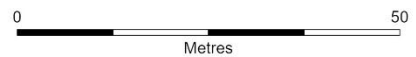


- Subject Land
- Land Parcel

Air Photo

2021 Aerial Photography

Nearmap Imagery 2021



Date: 23/11/2021

Planning Proposal: F2021/01352

Figure 2 – Existing Zone under LMLEP 2014

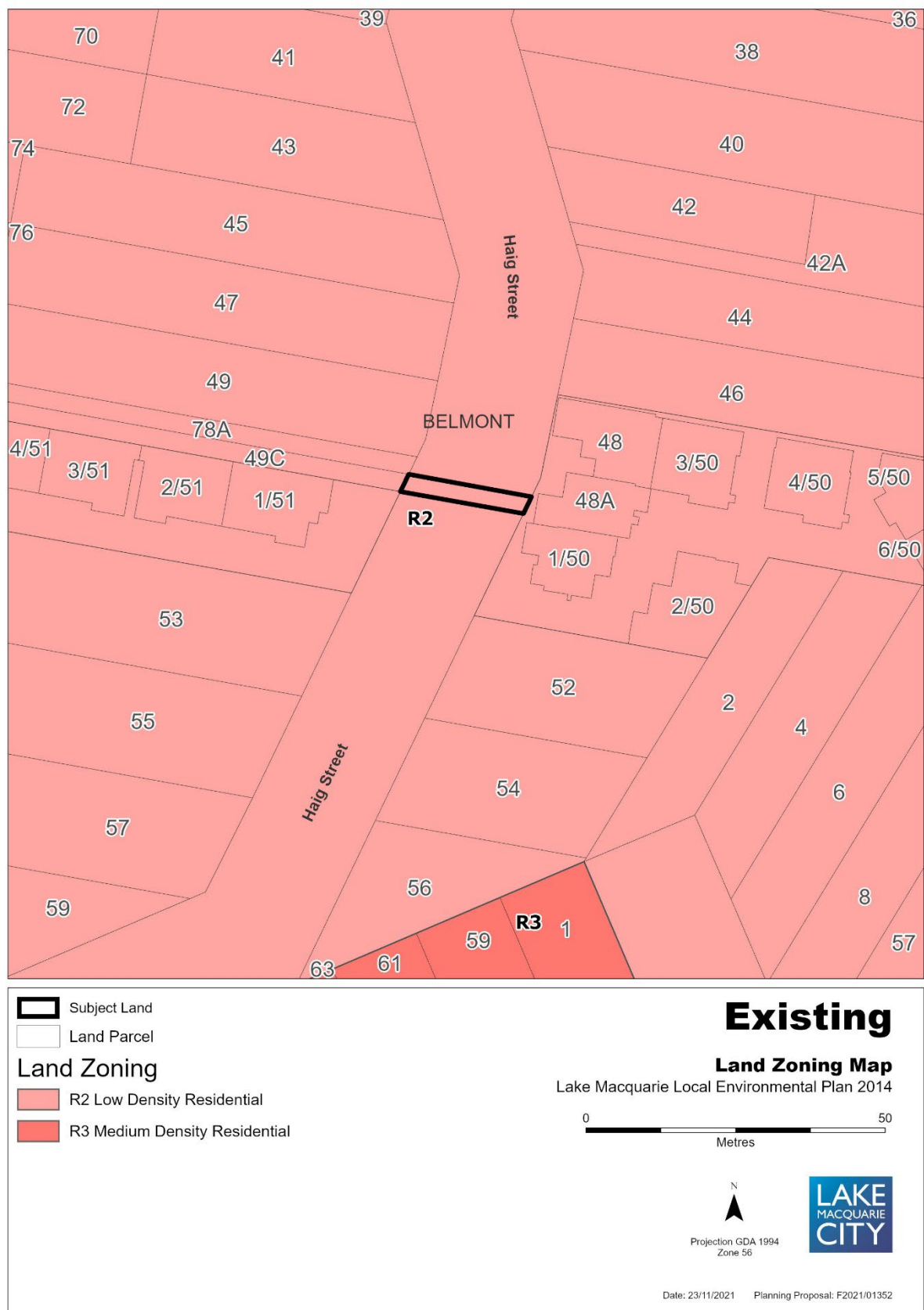
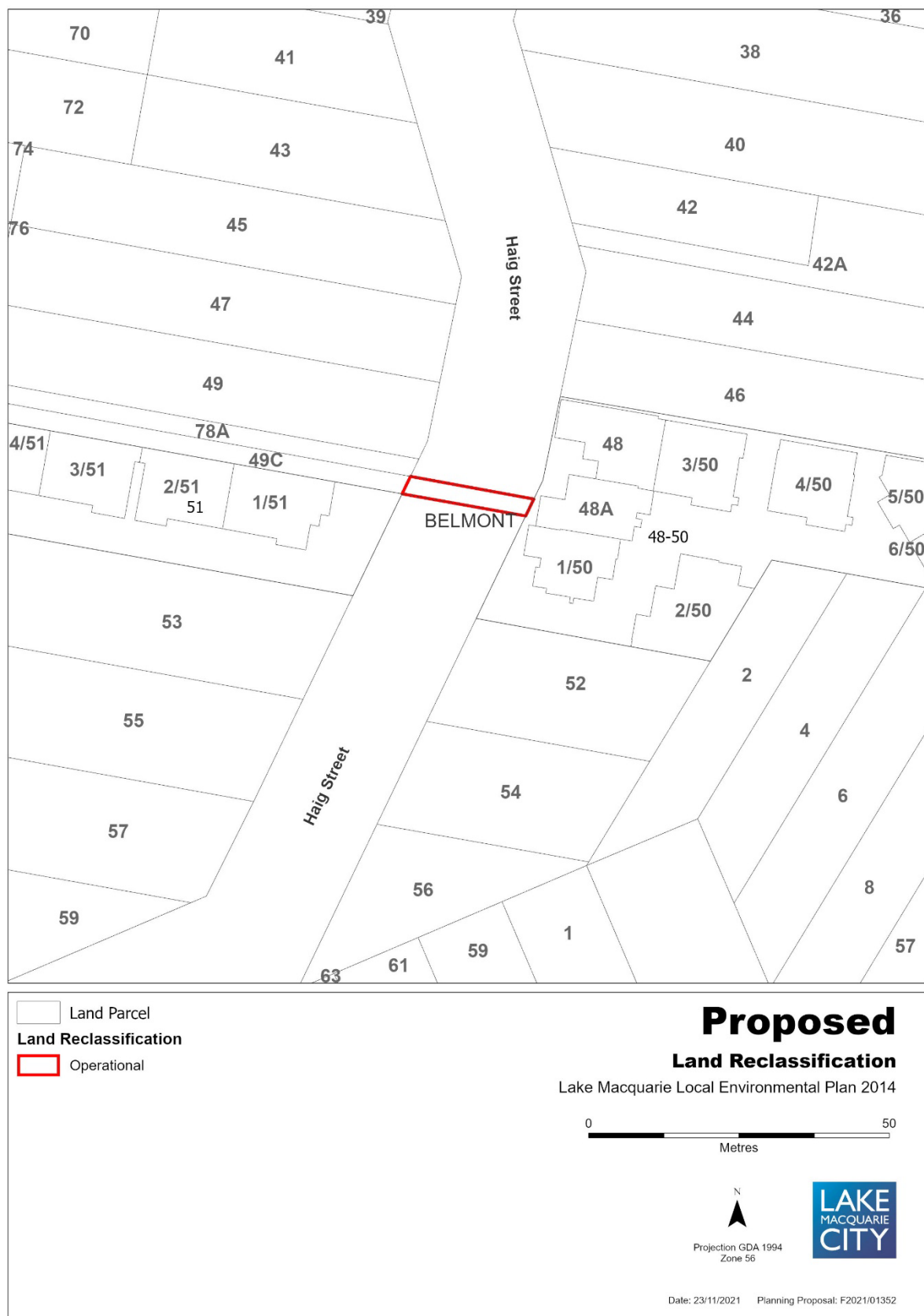


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



ITEM 4: 9C The Parade, Belmont, Lot 1 DP 209843

Figure 1 – Aerial Map



-  Subject Land
-  Land Parcel

Air Photo
2021 Aerial Photography
Nearmap Imagery 2021

0 50
Metres

N
Projection GDA 1994
Zone 56



Date: 23/11/2021

Planning Proposal: F2021/01352

Figure 2 – Existing Zone under LMLEP 2014

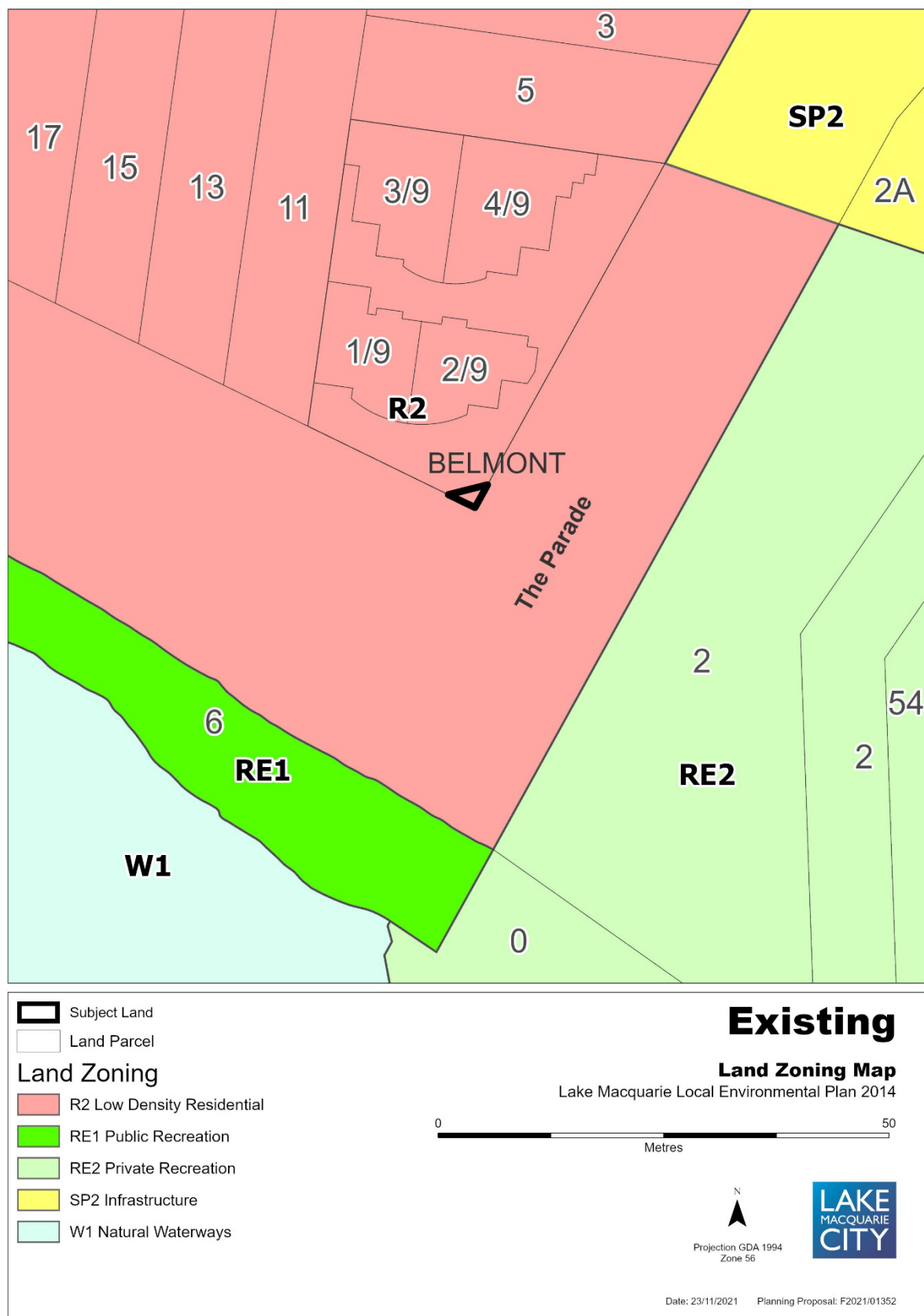
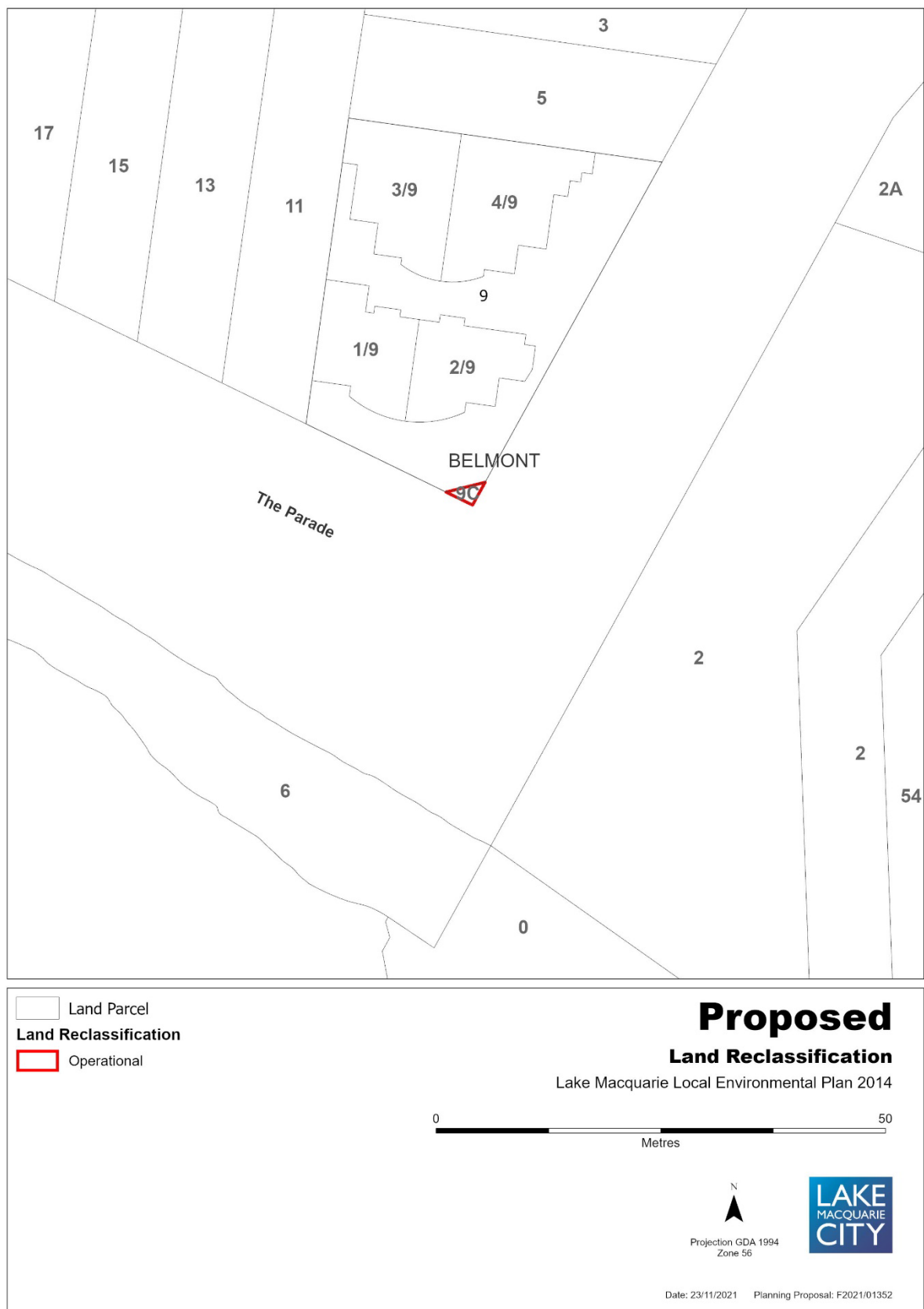


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



ITEM 5: 4C Hendrick Street, Cardiff, Lot 2 Sec C DP 4143

Figure 1 – Aerial Map



Figure 2 – Existing Zone under LMLEP 2014

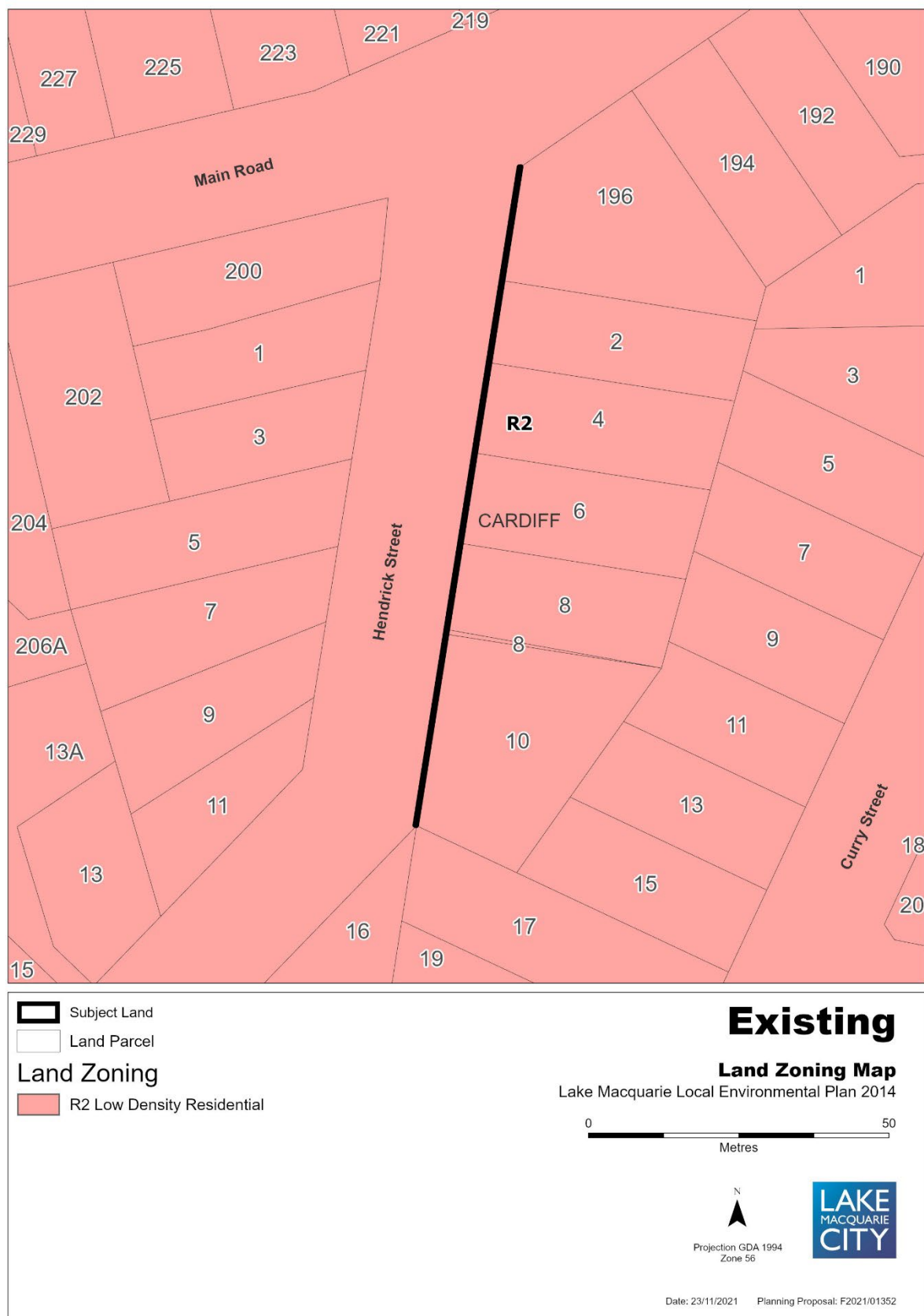
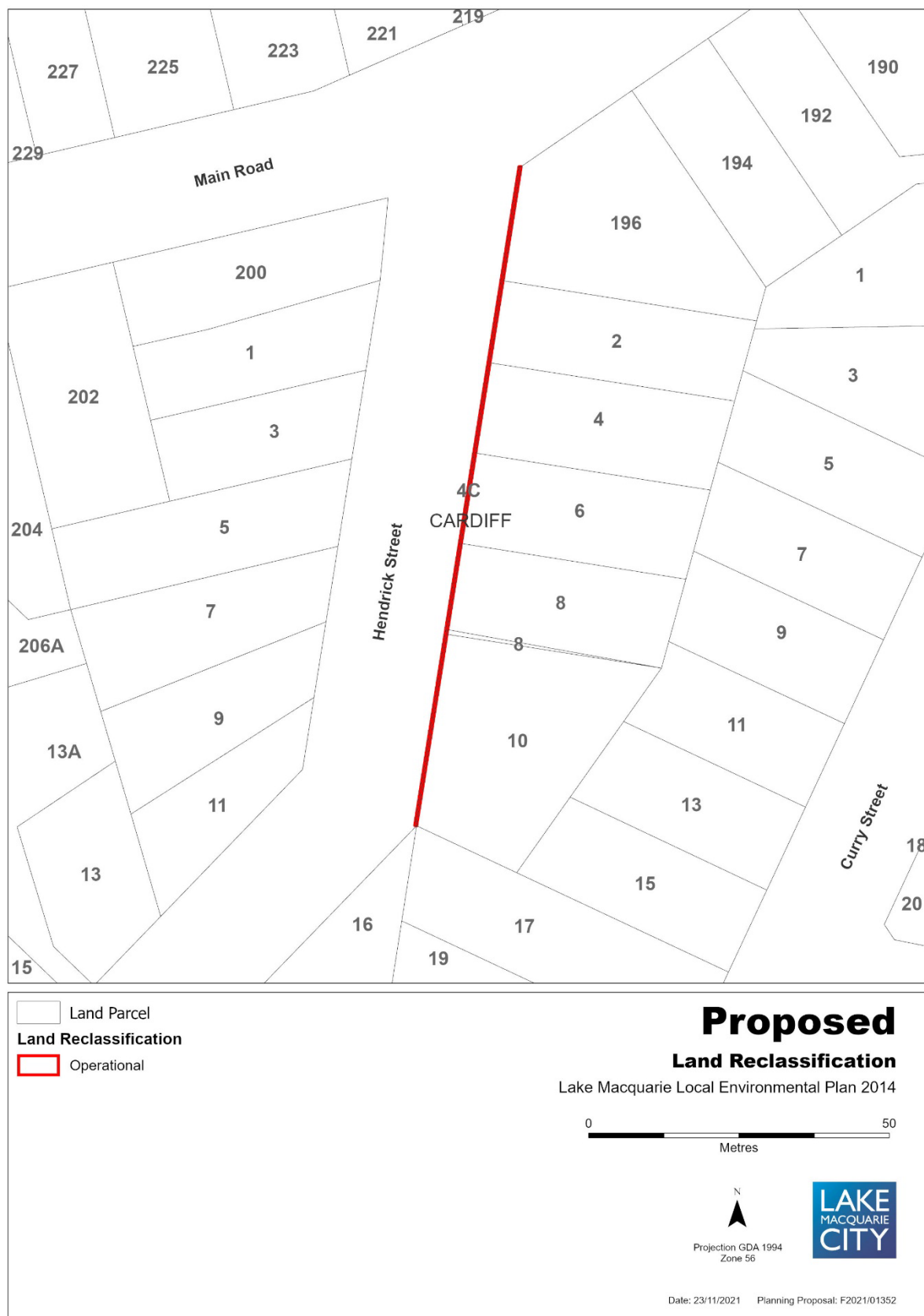


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



ITEM 6: 39D Macquarie Road, Cardiff, Lot 3 DP 559007

Figure 1 – Aerial Map



Figure 2 – Existing Zone under LMLEP 2014

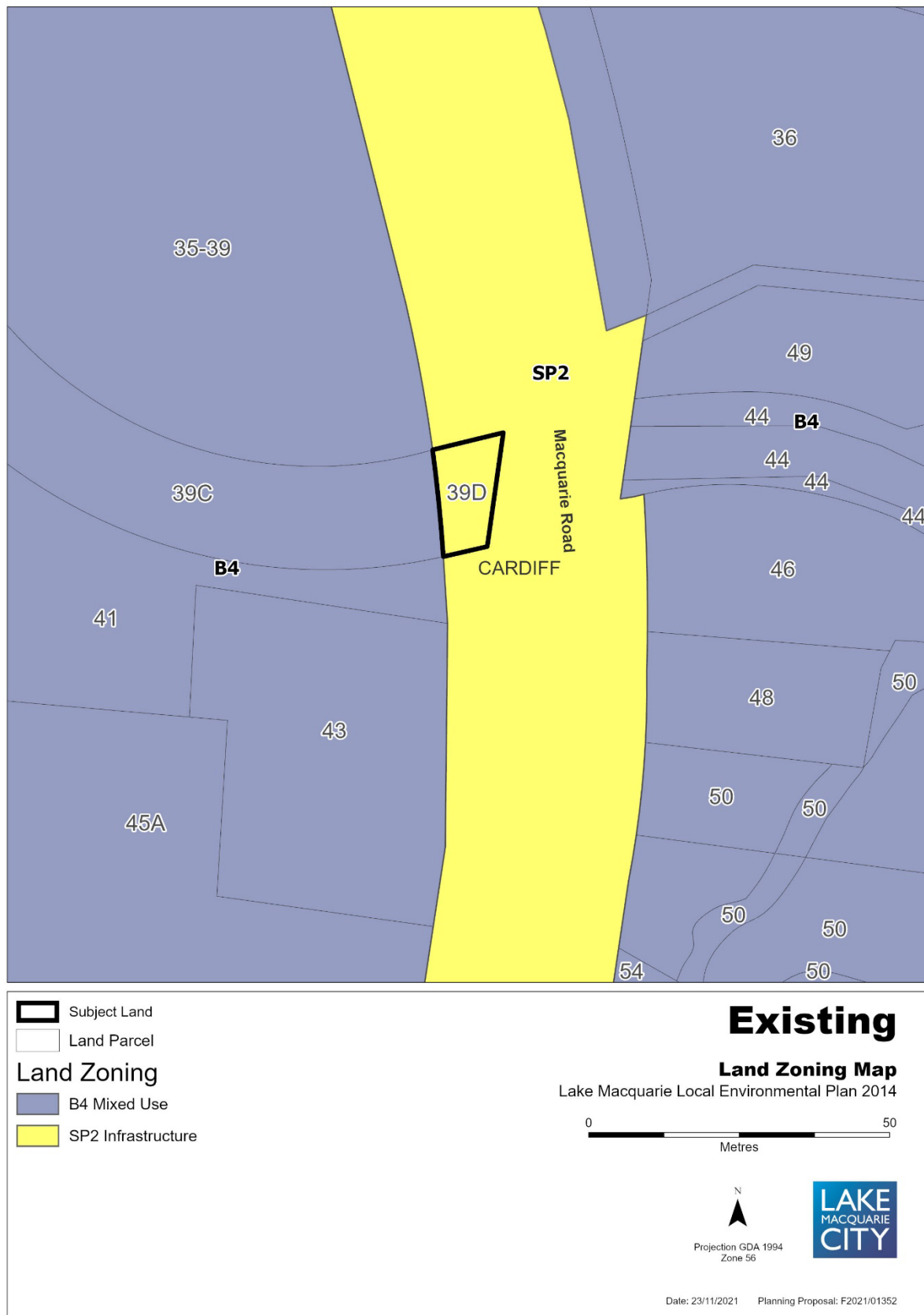
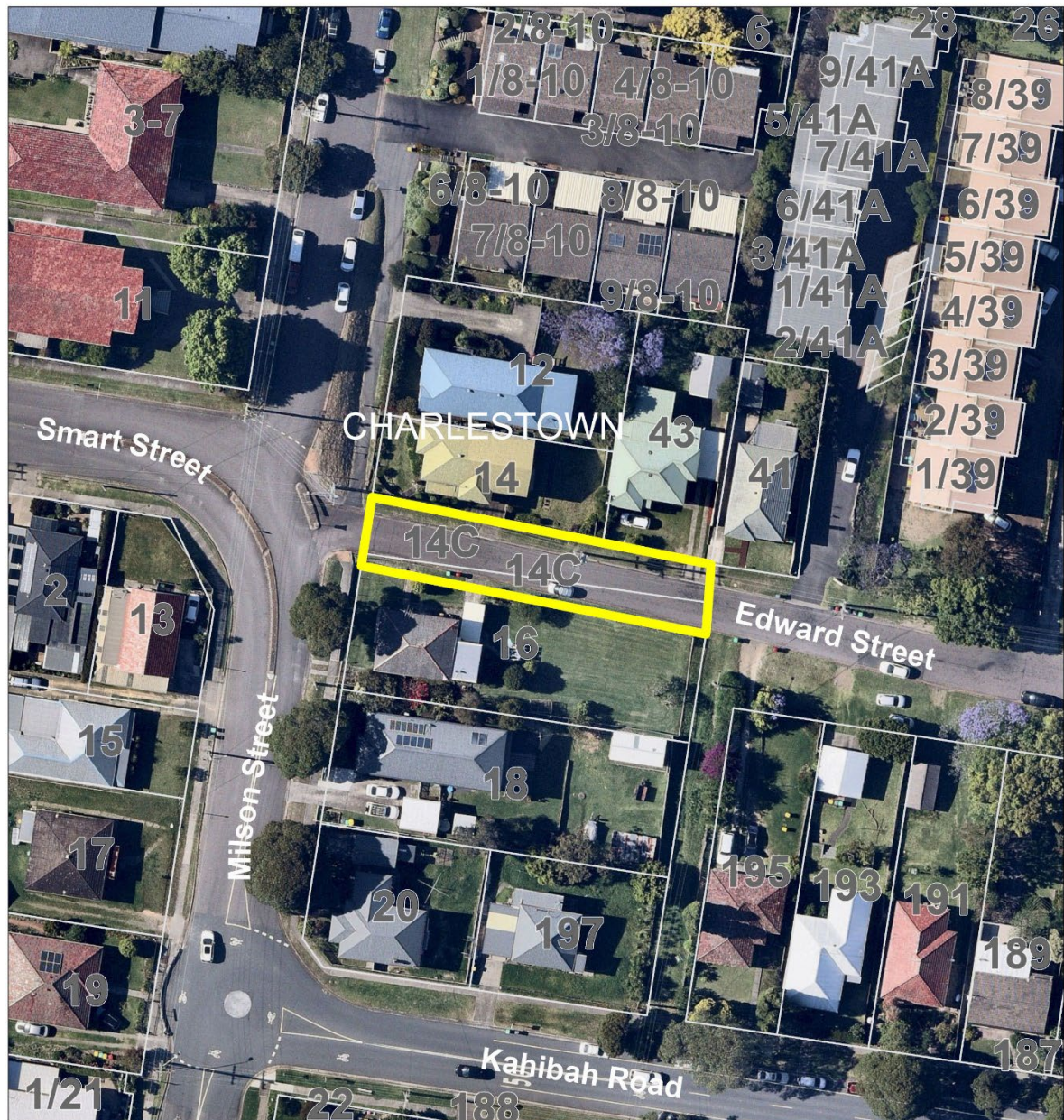


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



ITEM 7: 14C Milson Street, Charlestown, Lot 1 & 2 DP 350691

Figure 1 – Aerial Map



- Subject Land
- Land Parcel

Air Photo

2021 Aerial Photography

Nearmap Imagery 2021

0 50
Metres

N
Projection GDA 1994
Zone 56



Date: 23/11/2021

Planning Proposal: F2021/01352

Figure 2 – Existing Zone under LMLEP 2014

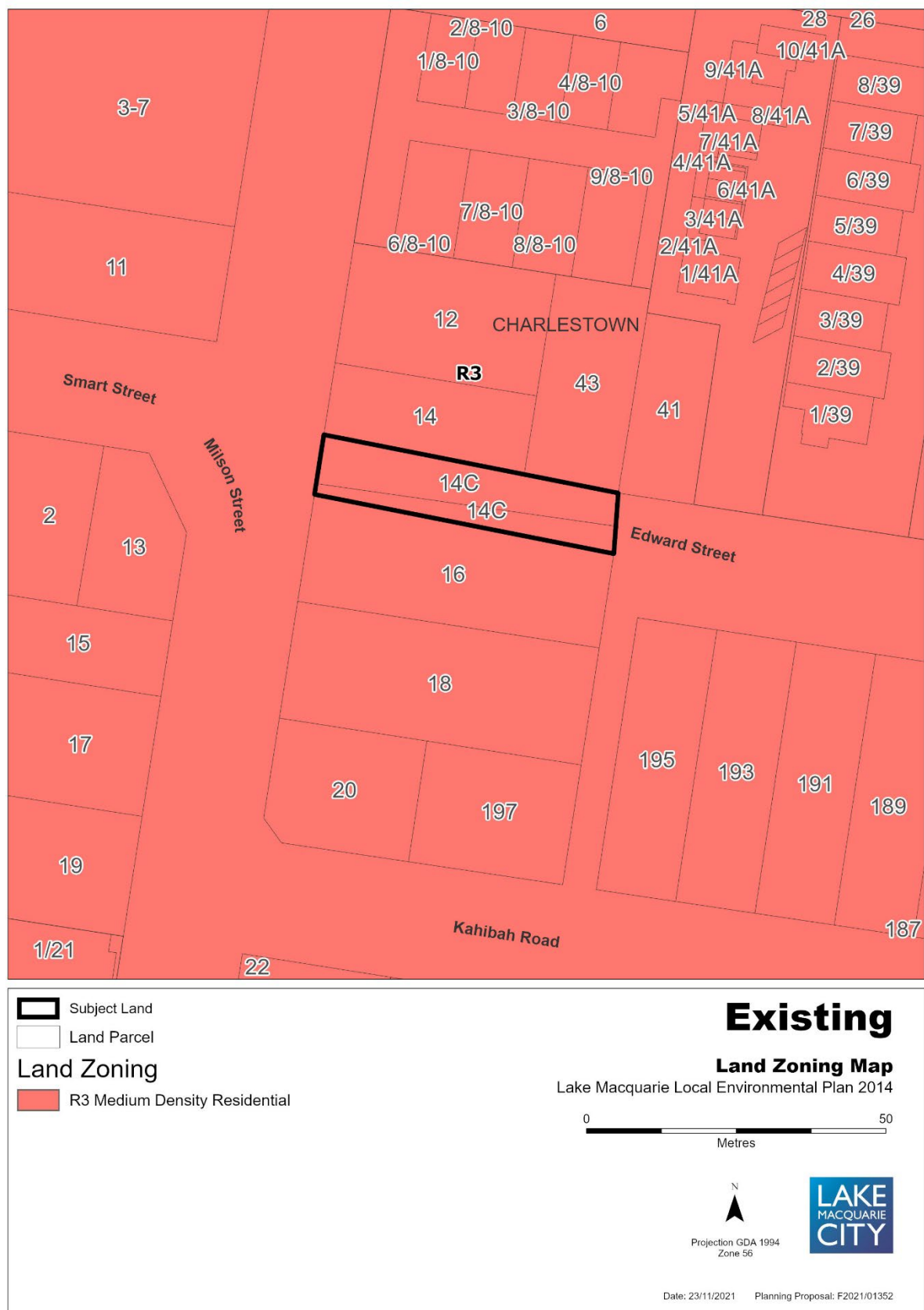
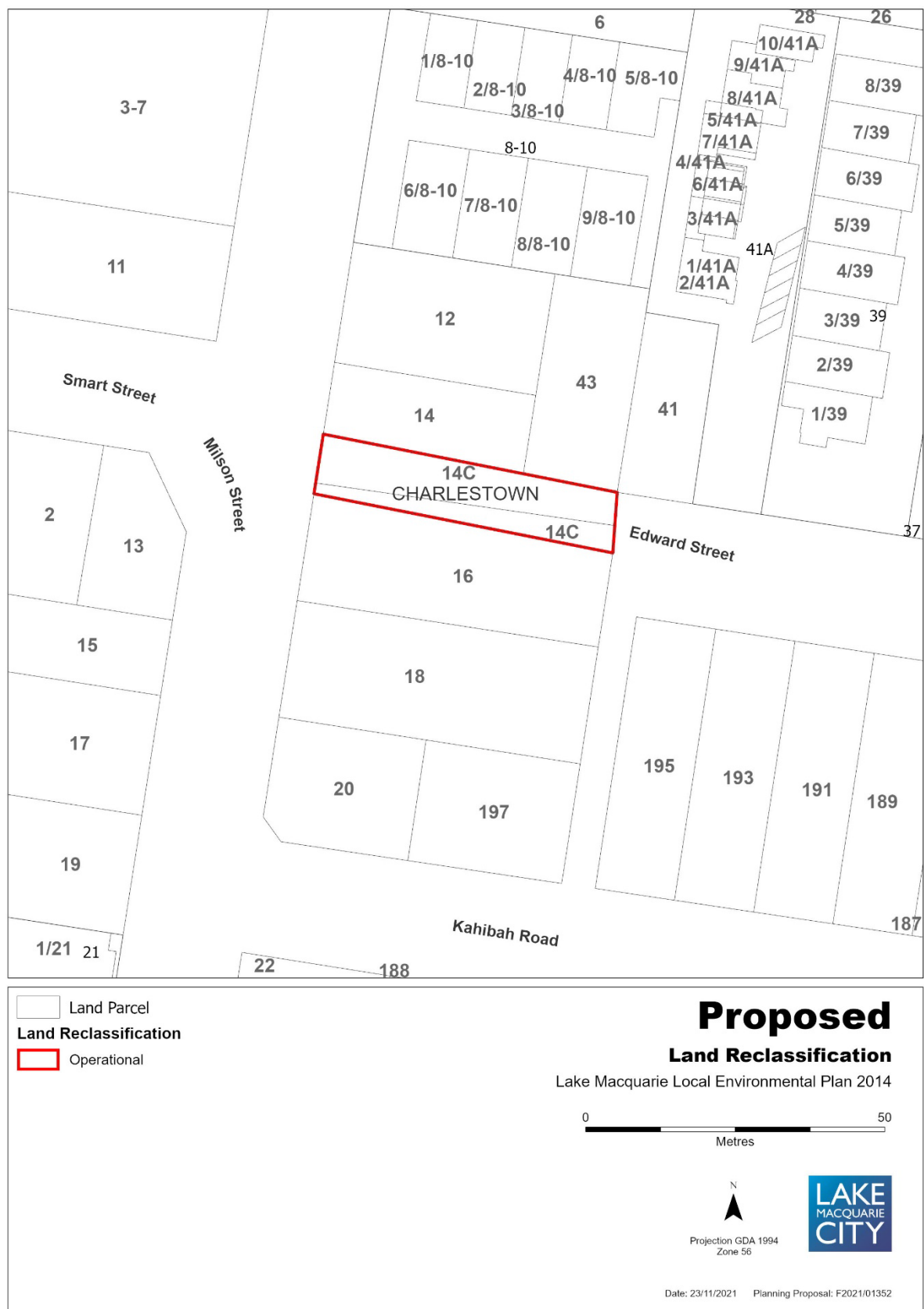


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



ITEM 8: 216C Pacific Highway, Charlestown, Lot B DP 399059

Figure 1 – Aerial Map



Figure 2 – Existing Zone under LMLEP 2014

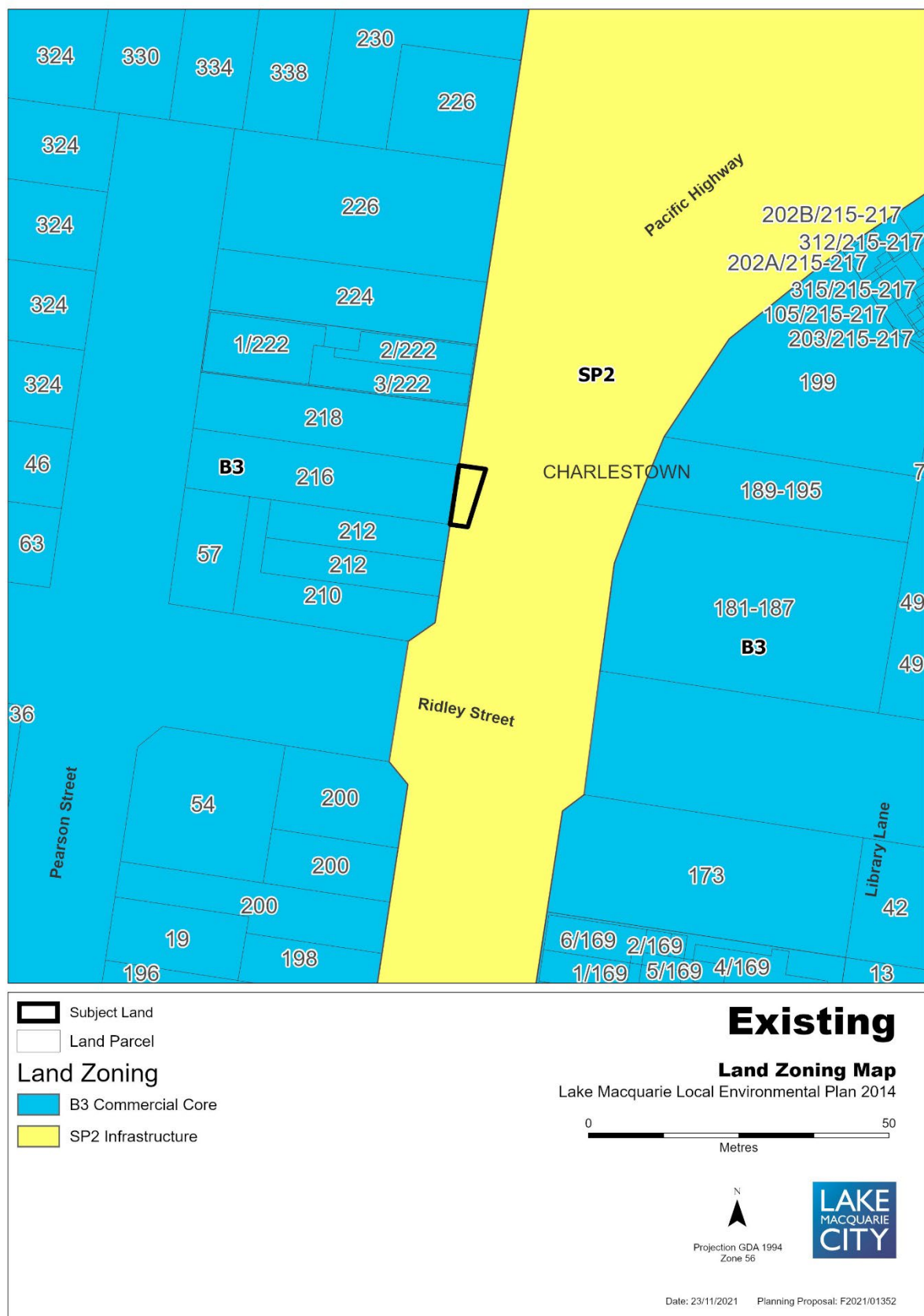
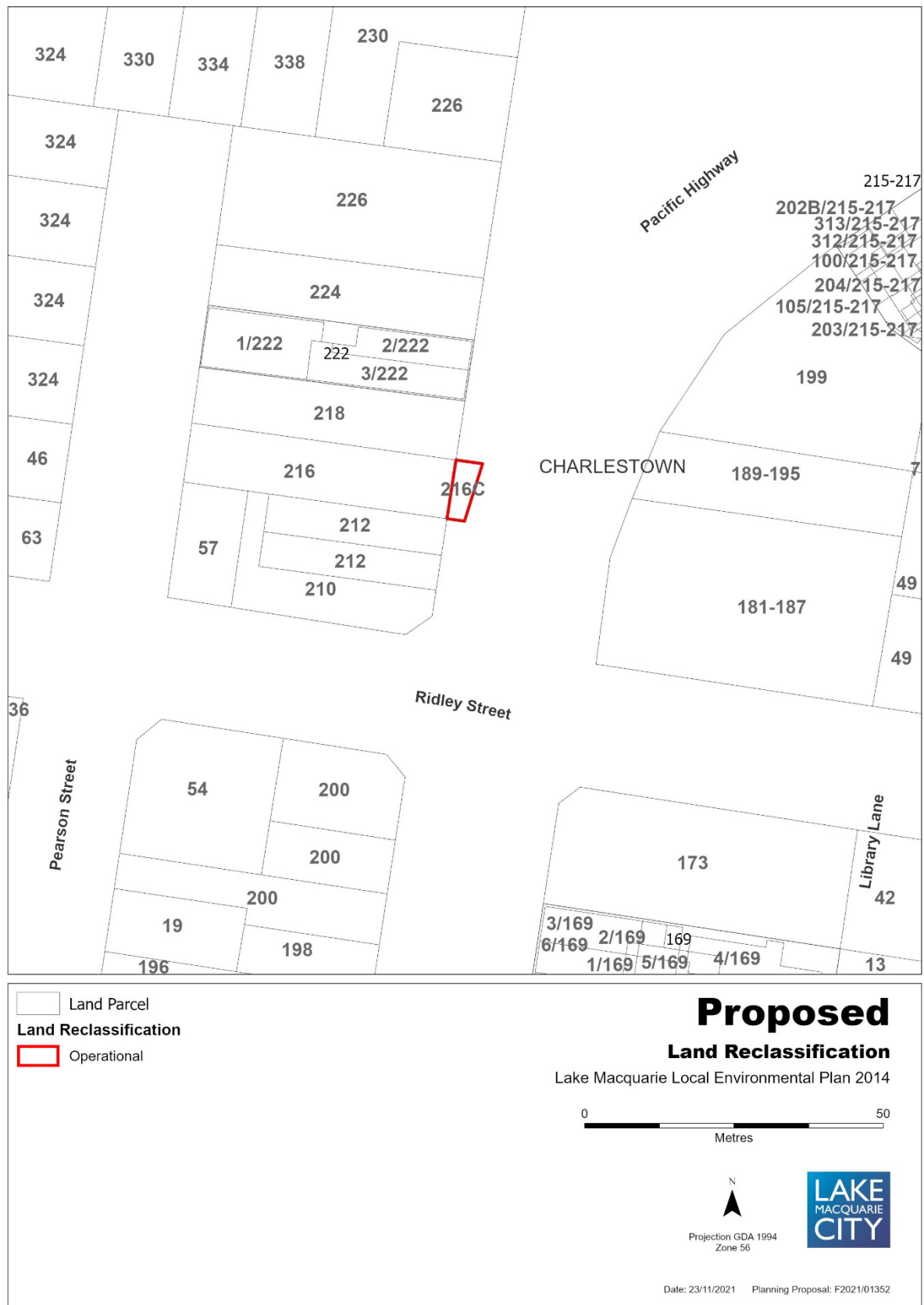


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



Item 9: 14C Pacific Highway, Gateshead, Lot 1 DP 432780

Figure 1 – Aerial Map



- Subject Land
- Land Parcel

Air Photo

2021 Aerial Photography

Nearmap Imagery 2021

0 50
Metres

N
Projection GDA 1994
Zone 56



Date: 23/11/2021

Planning Proposal: F2021/01352

Figure 2 – Existing Zone under LMLEP 2014

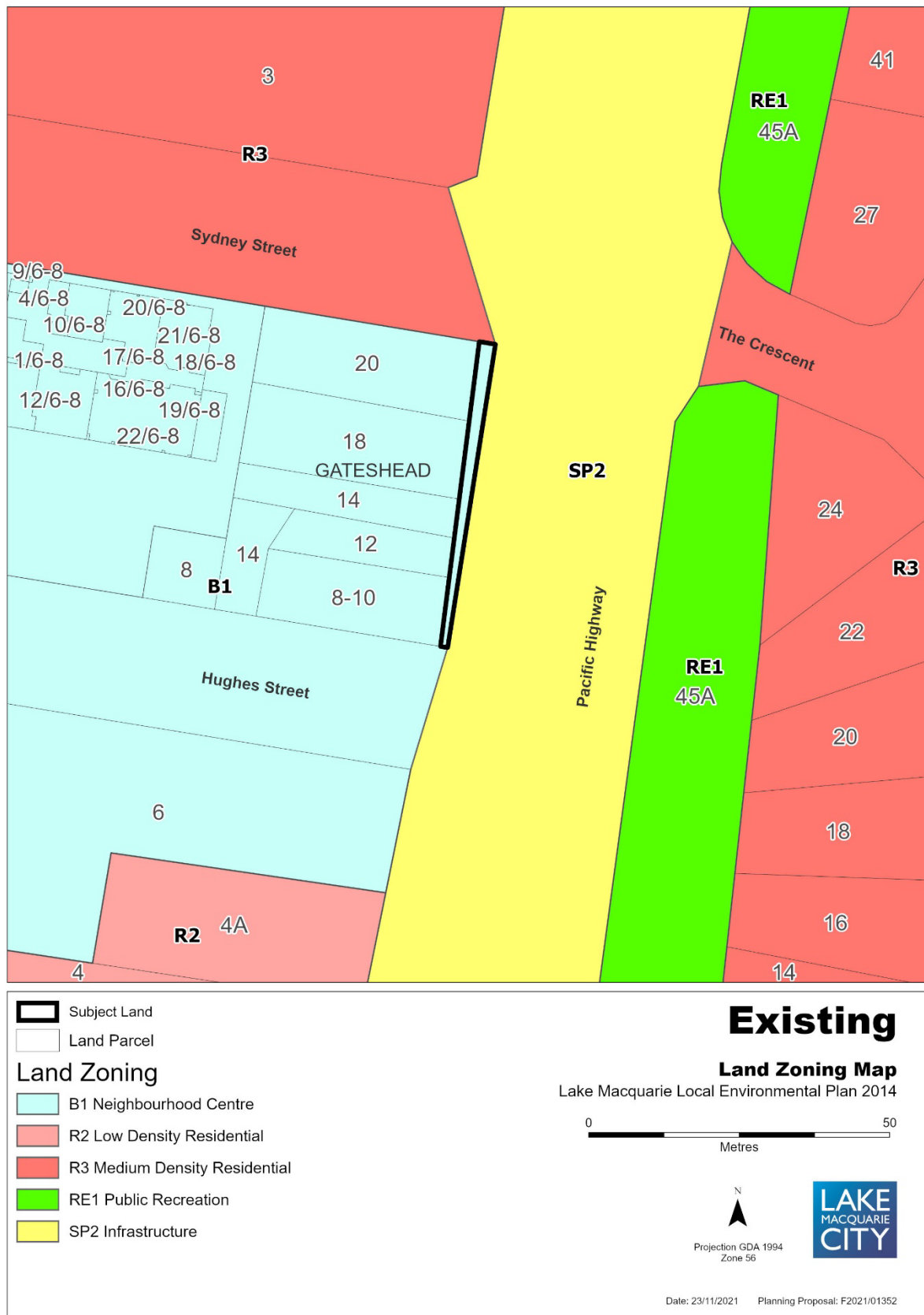
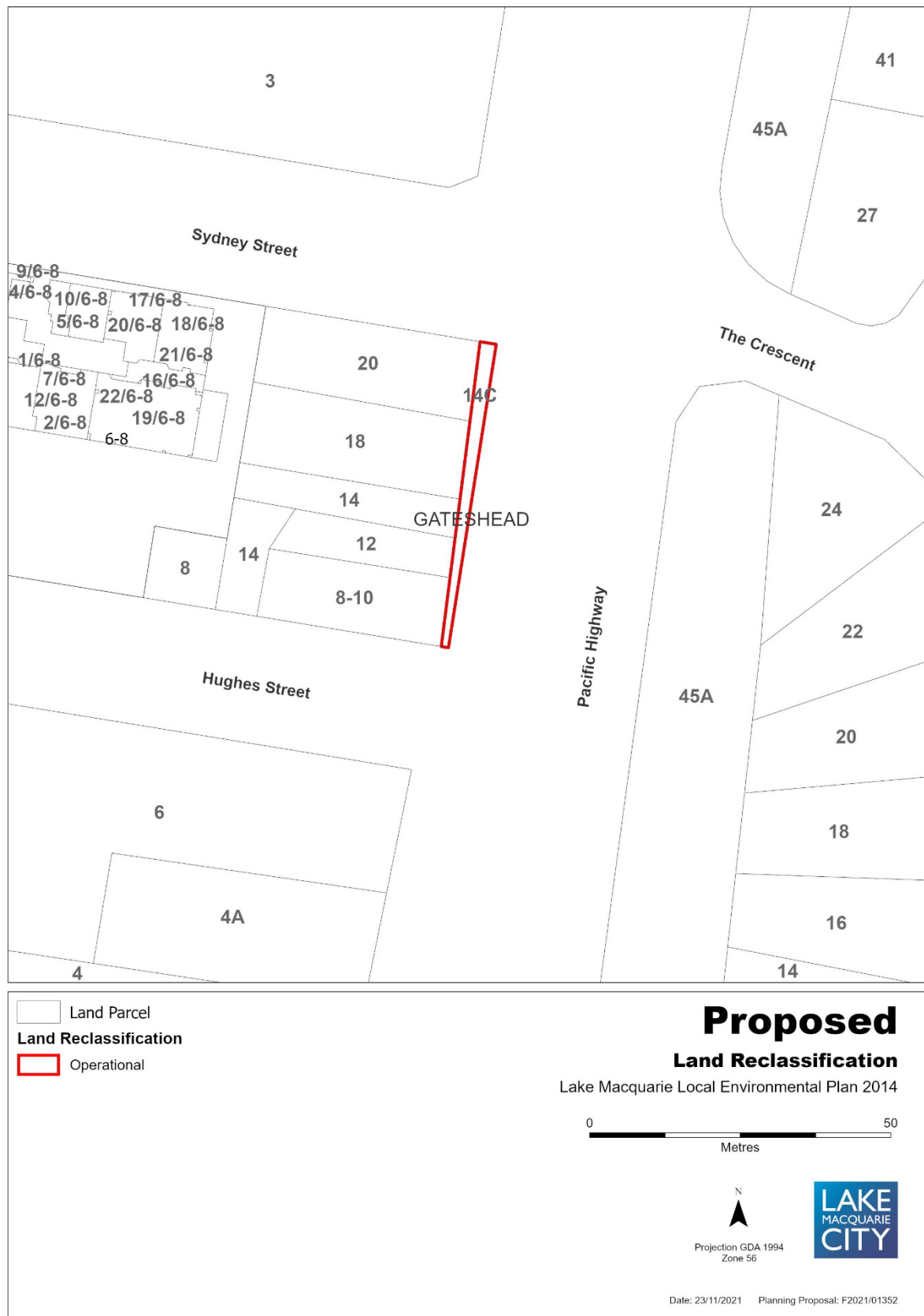


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



Item 10: 23A Emily Street, Marks Point, Lots 1 & 2 DP 371792

Figure 1 – Aerial Map

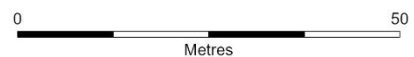


- Subject Land
- Land Parcel

Air Photo

2021 Aerial Photography

Nearmap Imagery 2021



Date: 1/12/2021

Planning Proposal: F2021/01352

Figure 2 – Existing Zone under LMLEP 2014



Figure 3 – Draft Land Reclassification Map under LMLEP 2014



Item 11: 94C Main Road, Speers Point, Lot 1 DP 181190

Figure 1 – Aerial Map



- Subject Land
- Land Parcel

Air Photo
2021 Aerial Photography
 Nearmap Imagery 2021

0 50
 Metres

N

 Projection GDA 1994
 Zone 56



Date: 24/11/2021

Planning Proposal: F2021/01352

Figure 2 – Existing Zone under LMLEP 2014

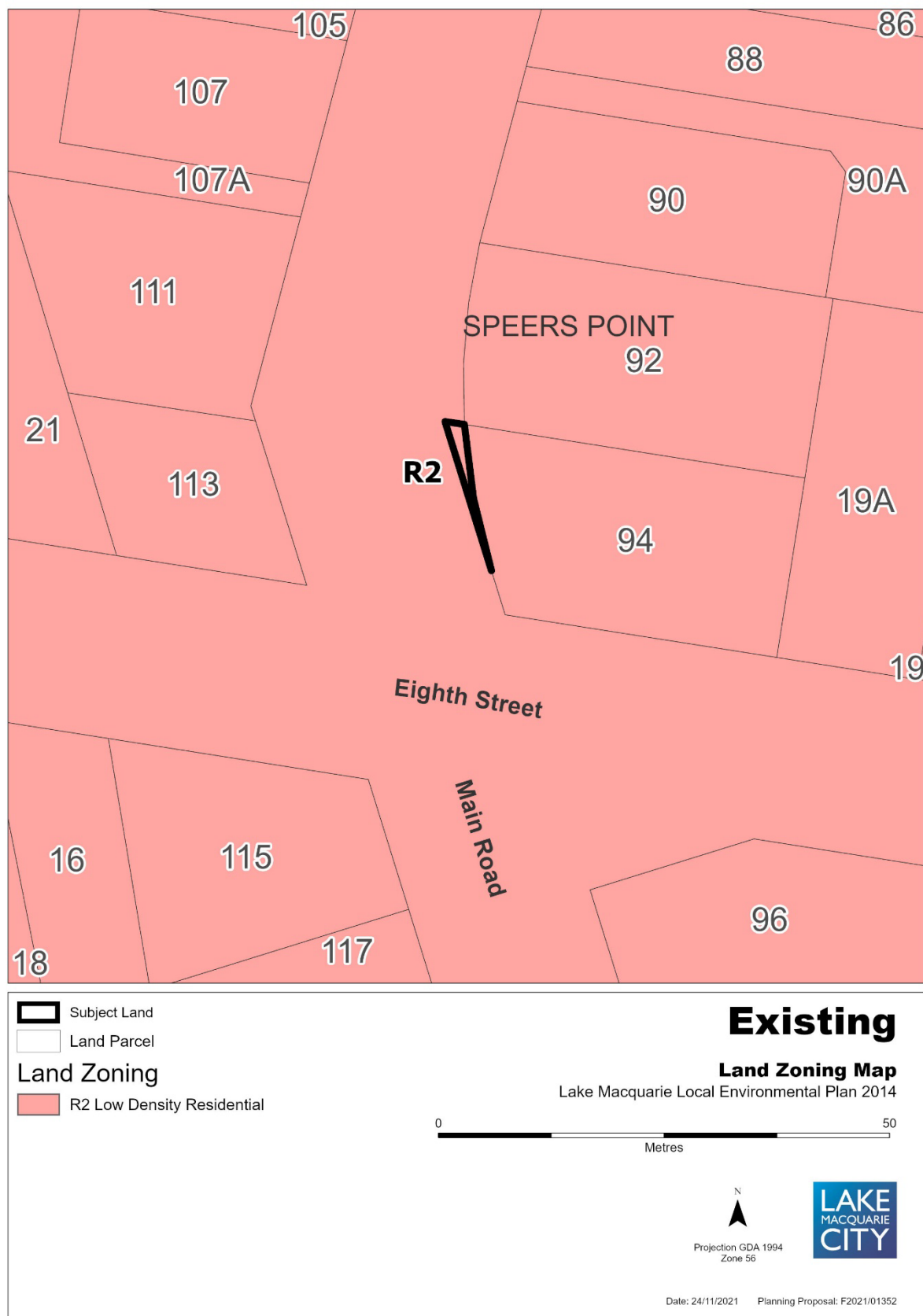


Figure 3 – Draft Land Reclassification Map under LMLEP 2014

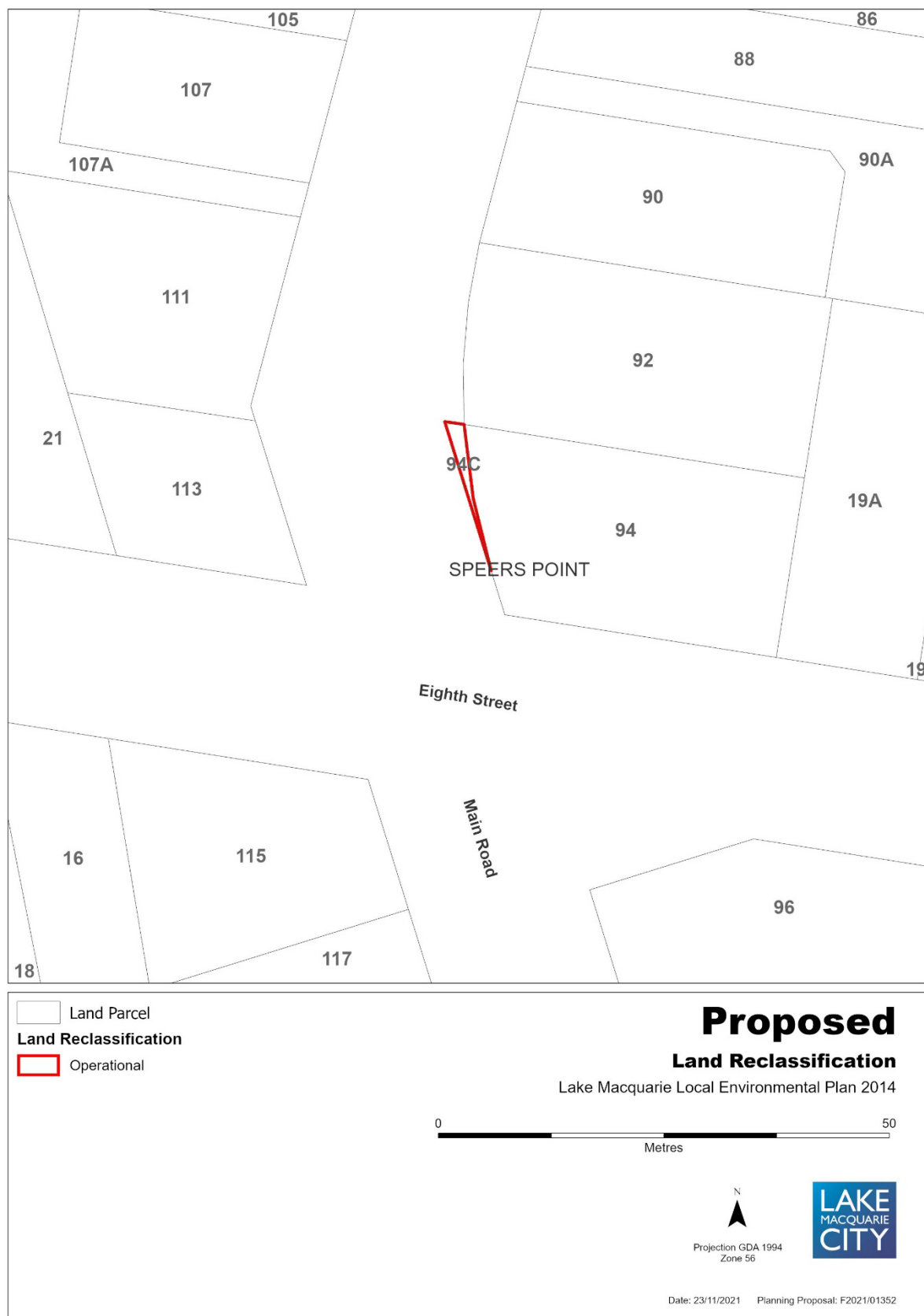


Figure 1 – Aerial Map



LAKE
MACQUARIE
CITY

Planning Proposal: F2021/01352

Figure 2 – Existing Zone under LMLEP 2014

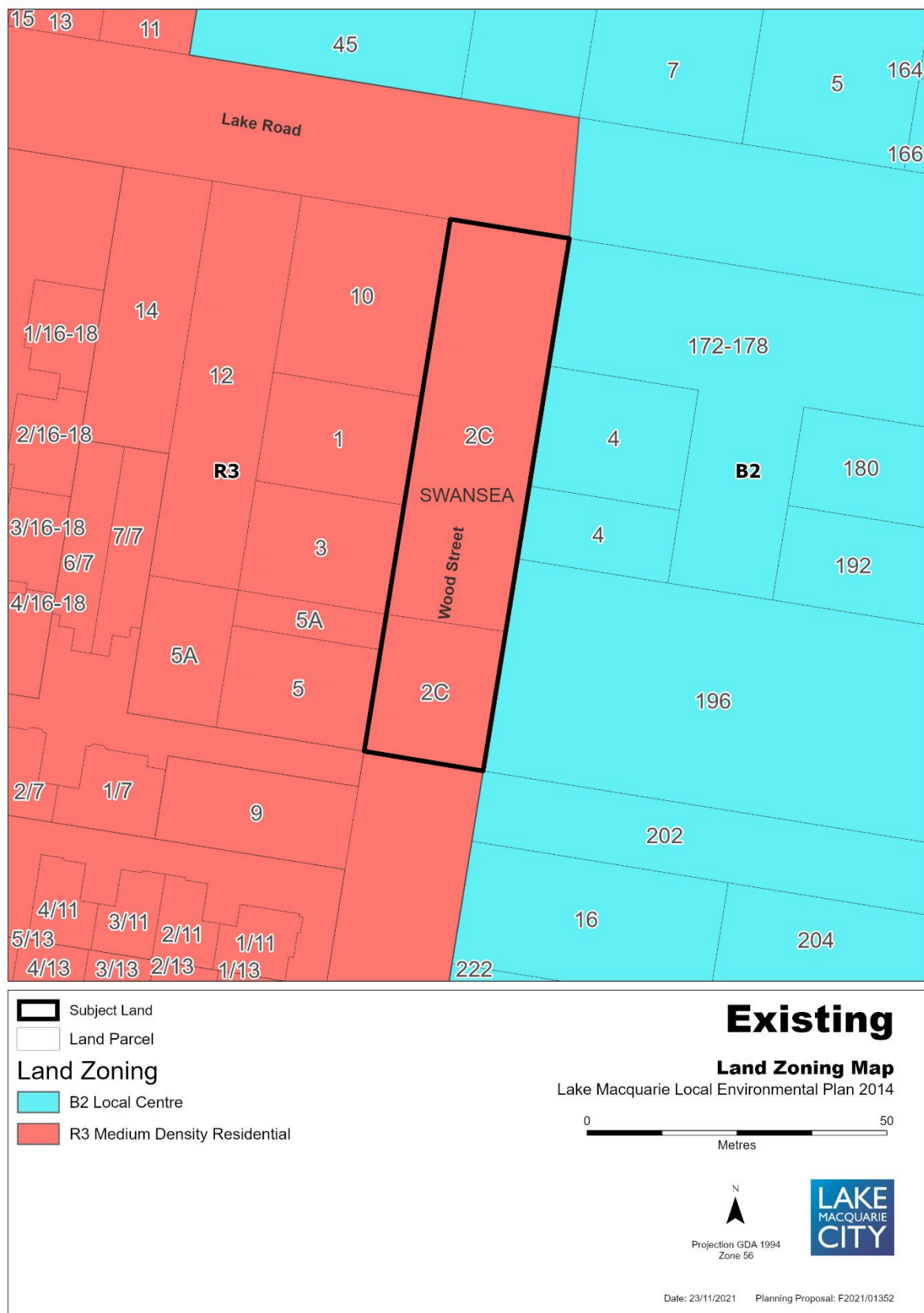
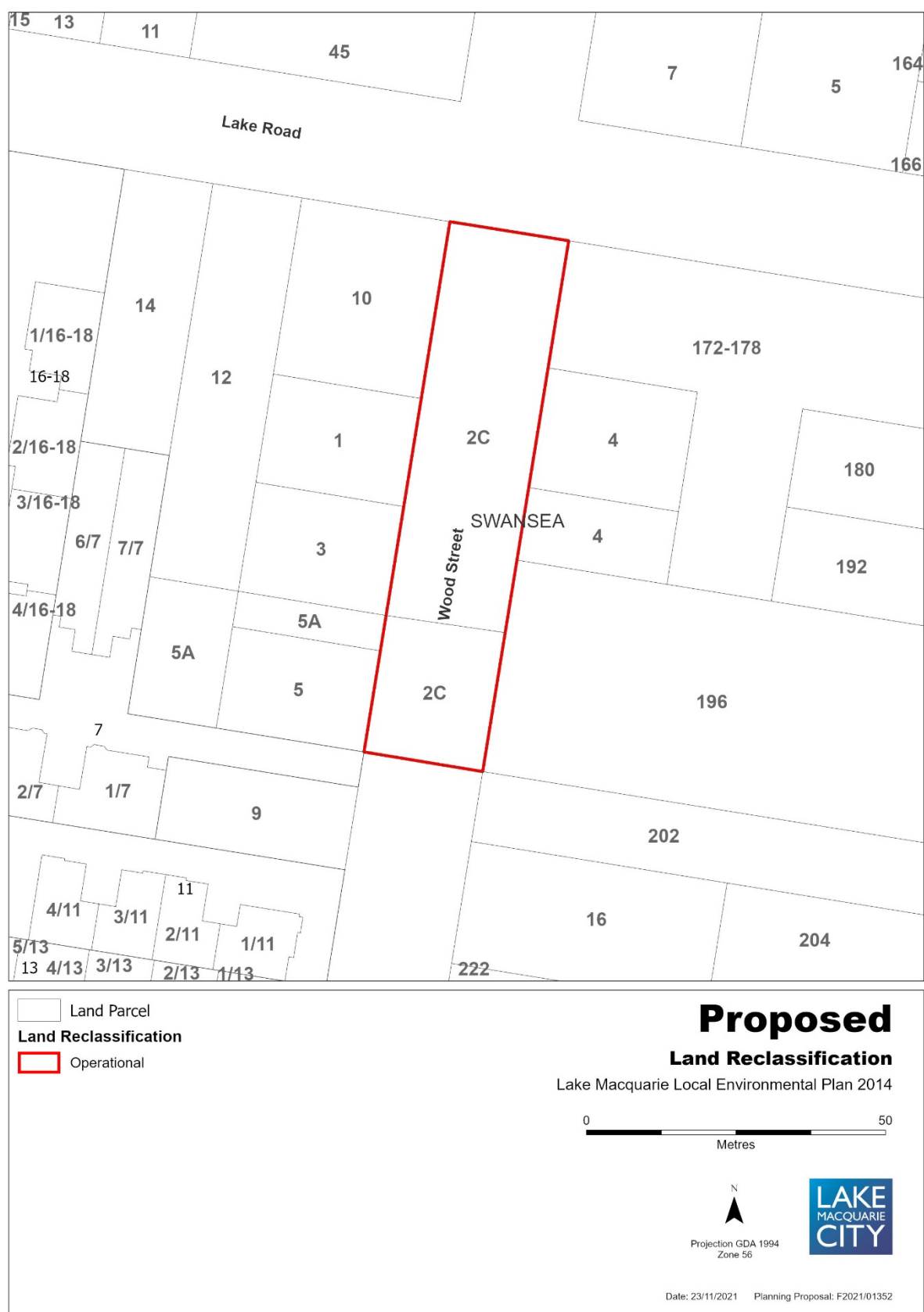


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



Item 13: Land adjoining 21 Dobell Drive, Wangi Wangi

Figure 1 – Aerial Map

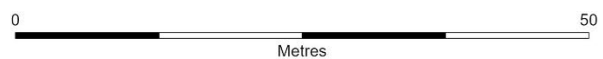


- Subject Land
- Land Parcel

Air Photo

2021 Aerial Photography

Nearmap Imagery 2021



N
Projection GDA 1994
Zone 56



Date: 23/11/2021

Planning Proposal: F2021/01352

Figure 2 – Existing Zone under LMLEP 2014

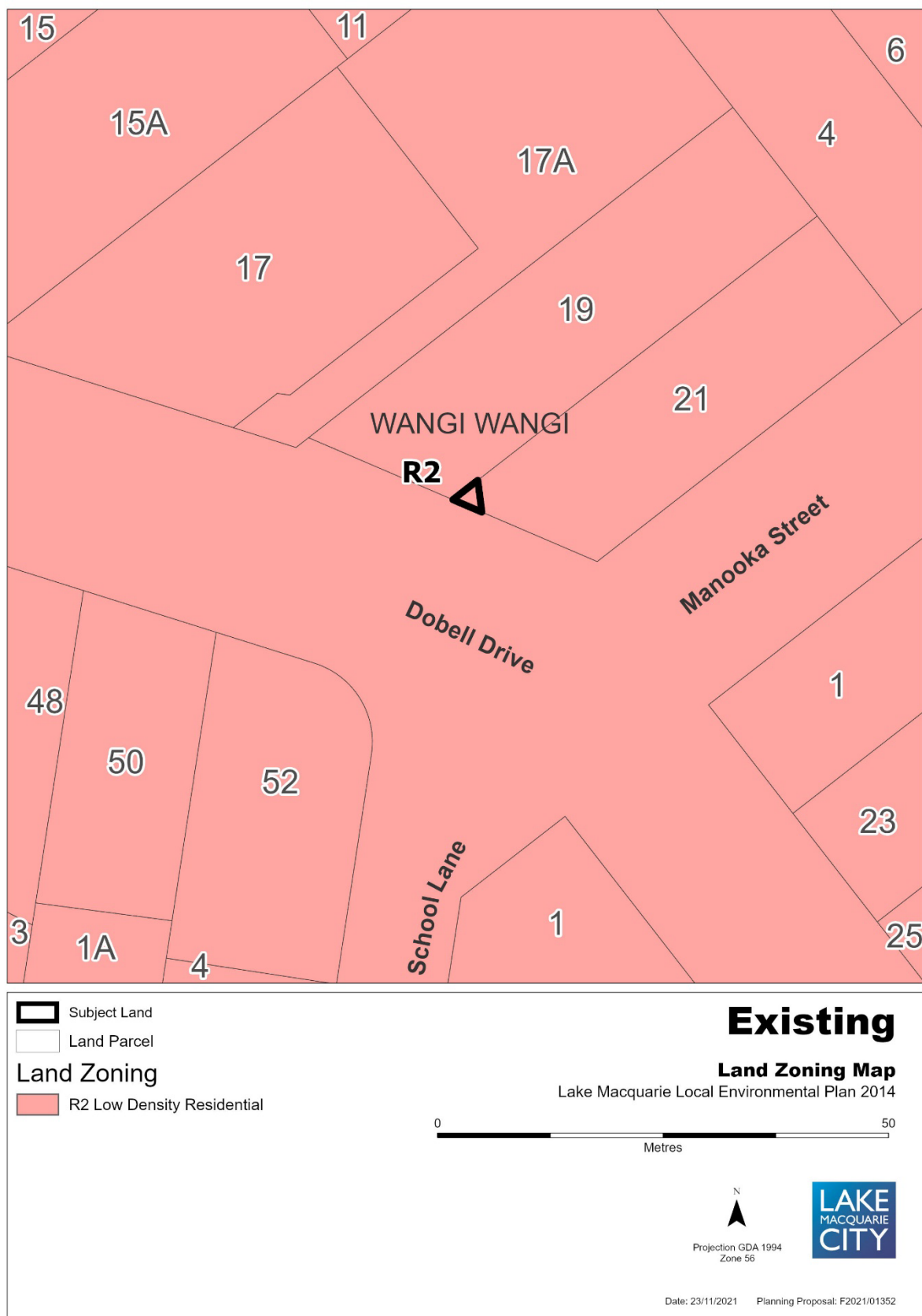


Figure 3 – Draft Land Reclassification Map under LMLEP 2014



ANNEX B – SEPP ASSESSMENT

Planning Proposal's Assessment against Applicable SEPPs

SEPP	Applicable	Consistency
State Environmental Planning Policy (Biodiversity and Conservation) 2021	N/A	Policy does not apply to Lake Macquarie local government area
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	No works proposed
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	
State Environmental Planning Policy (Housing) 2021	Yes	The planning proposal is consistent with this policy.
State Environmental Planning Policy (Industry and Employment) 2021	No	The policy identifies some land at Gateshead as deferred matters, however Item 9 - 14C Pacific Highway, Gateshead is outside that area.
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	No	No works proposed
State Environmental Planning Policy (Planning Systems) 2021	No	
State Environmental Planning Policy (Precincts—Central River City) 2021	No	
State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021	No	
State Environmental Planning Policy (Precincts—Regional) 2021	No	The lands the subject of this Planning Proposal are not listed within State significant or activation precincts
State Environmental Planning Policy (Precincts—Western Parkland City) 2021	No	
State Environmental Planning Policy (Primary Production) 2021	No	
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes	The following land has been identified as being within the Coastal Zone: 1. 460C Lake Road, Argenton

Planning Proposal's Assessment against Applicable SEPPs

SEPP	Applicable	Consistency
		2. 59C Clydebank Road, Balmoral 3. 49C Haig Street, Belmont 4. 9C The Parade, Belmont 10. 23A Emily Street, Marks Point 12. 2C Wood Street, Swansea 13. Land adjoining 21 Dobell Drive, Wangi Wangi Accordingly, this State Environmental Planning Policy applies. It is considered that the reclassifications for road dedication purposes will not have any detrimental effects on the coastal environment as this is administrative only confirming what is physically on the land.
State Environmental Planning Policy (Resources and Energy) 2021	No	
State Environmental Planning Policy (Transport and Infrastructure) 2021	No	No works proposed

ANNEX C – MINISTERIAL DIRECTION ASSESSMENT

Planning Proposal's assessment against Ministerial Directions

Focus area	Applicable	Consistency
1. Planning Systems		
1.1 Implementation of Regional Plans	Yes	The Hunter Regional Plan 2036 applies to all sites within the proposal. The strategy has been addressed within Part 3 – Section B (4) of the Planning Proposal.
1.2 Development of Aboriginal Land Council land	N/A	
1.3 Approval and Referral Requirements	Yes	The planning proposal is considered consistent with this Ministerial Direction as it does not change any controls relating to concurrence, consultation, referral to the Minister or identification of development as designated development.
1.4 Site Specific Provisions	Yes	The planning proposal is considered consistent with this Ministerial Direction as the proposal is for reclassification of land only.
1.5 Parramatta Road Corridor Urban Transformation Strategy	N/A	
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N/A	
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A	
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A	
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	N/A	
1.10 Implementation of the Western Sydney Aerotropolis Plan	N/A	
1.11 Implementation of Bayside West Precincts 2036 Plan	N/A	

Planning Proposal's assessment against Ministerial Directions

Focus area	Applicable	Consistency
1.12 Implementation of Planning Principles for the Cooks Cove Precinct	N/A	
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	N/A	
1.14 Implementation of Greater Macarthur 2040	N/A	
1.15 Implementation of the Pyrmont Peninsula Place Strategy	N/A	
1.16 North West Rail Link Corridor Strategy	N/A	
1.17 Implementation of the Bays West Place Strategy	N/A	
2. Design and Place		
No Ministerial Directions available yet under this focus area		
3. Biodiversity and Conservation		
3.1 Conservation Zones	Yes	<p>Item 2 of the planning proposal – 59C Clydebank Road, Balmoral, is located within a C2 Environmental Conservation zone. This direction does not allow for reduction of the environmental protection standards that apply to the land. This reclassification is to legitimise an existing road already on the land and accordingly it is considered that this proposal complies with the Ministerial direction.</p> <p>As this is the only land in the planning proposal within a Conservation zone, it is considered to be consistent with this Ministerial Direction</p>
3.2 Heritage Conservation	No	<p>The Heritage provisions of LMLEP2014 will remain unchanged.</p> <p>No items are heritage listed.</p>
3.3 Sydney Drinking Water Catchments	N/A	

Planning Proposal's assessment against Ministerial Directions

Focus area	Applicable	Consistency
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	N/A	
3.5 Recreation Vehicle Area	N/A	
4 Resilience and Hazards		
4.1 Flooding	Yes	<p>The following lands:</p> <p>Item 2 - 59C Clydebank Road, Balmoral</p> <p>Item 10 - 23A Emily Street, Marks Point</p> <p>have been identified on the flood prone land map as being high hazard.</p> <p>Item 4 - 9C The Parade, Belmont</p> <p>has been identified on the flood prone land map as being low hazard.</p> <p>The planning proposal is in accordance with a floodplain risk management plan, and as no physical work is to take place on the land, it is considered to be of minor significance.</p>
4.2 Coastal Management	Yes	<p>The following land has been identified as being within the Coastal Zone:</p> <ol style="list-style-type: none"> 1. 460C Lake Road, Argenton 2. 59C Clydebank Road, Balmoral 3. 49C Haig Street, Belmont 4. 9C The Parade, Belmont 10. 23A Emily Street, Marks Point 11. 2C Wood Street, Swansea 13. Land adjoining 21 Dobell Drive, Wangi Wangi <p>The planning proposal is only to reclassify the land to legitimise an existing road already on the land and therefore is considered to be consistent with the direction. Any future development on these sites will require compliance with the NSW Coastal Management Policy.</p>
4.3 Planning for Bushfire Protection	Yes	<p>The following lands:</p> <p>Item 2 - 59C Clydebank Road, Balmoral</p>

Planning Proposal's assessment against Ministerial Directions

Focus area	Applicable	Consistency
		have been identified as Vegetation Buffer under the Bushfire prone land map. The proposal to reclassify the land and maintain the existing road on it, will require consultation with the Rural Fire Service in accordance with this direction.
4.4 Remediation of Contaminated Land	Yes	Item 1, 460C Lake Road, Argenton and Item 11, 94C Main Road, Speers Point are both identified as contaminated land due to their proximity to the Pasminco plant. As the Planning Proposal is to legitimise an existing road already on the land and no physical work is to take place on the land, it is considered appropriate to proceed with the planning proposal without further contamination studies being required.
4.5 Acid Sulfate Soils	Yes	<p>The following lands are identified as being on the Acid Sulphate Soils map:</p> <p>as Class 5 land:</p> <p>Item 1 - 460C Lake Road, Argenton; Item 3 - Part of 49C Haig Street, BELMONT Item 11 - 94C Main Road, SPEERS POINT Item 13 - Land adjoining 21 Dobell Drive, Wangi Wangi</p> <p>as Class 3 land:</p> <p>Item 10 - 23A Emily Street, Marks Point;</p> <p>as Class 2 land:</p> <p>Item 2 - 59C Clydebank Road, Balmoral Item 4 - 9C The Parade, Belmont Item 12 - 2C Wood Street, SWANSEA</p> <p>As no physical work is to take place on the land, it is considered to be of minor significance.</p>
4.6 Mine Subsidence and Unstable Land	Yes	<p>The following lands:</p> <p>Item 1 - 460C Lake Road, Argenton Item 3 - Part of 49c Haig Street, Belmont Item 4 - 9C The Parade, Belmont Item 5 - 4C Hendrick Street, Cardiff Item 6 - 39D Macquarie Road, Cardiff Item 7 - 14C Milson Street, Charlestown Item 8 - 216C Pacific Highway, Charlestown Item 9 - 14C Pacific Highway, Gateshead</p> <p>are identified on the Lake Macquarie Subsidence Advisory map.</p>

Planning Proposal's assessment against Ministerial Directions

Focus area	Applicable	Consistency
		<p>Item 2 - 59C Clydebank Road, Balmoral Item 13 - Land adjoining 21 Dobell Drive, Wangi Wangi are identified on the West Lake Subsidence Advisory map.</p> <p>Accordingly, the proposal should be referred to the Subsidence Advisory NSW for consultation in accordance with the direction.</p>
5: Transport and Infrastructure		
5.1 Integrating Land Use and Transport	No	The planning proposal does not create, alter or remove a zone or a provision relating to urban land.
5.2 Reserving Land for Public Purposes	Yes	<p>Three of the sites are proposed or currently identified on the Land Reservation Acquisition layer of LMLEP 2014, as follows:</p> <p>Item 1 - 460C Lake Road, Argenton – Zoned SP2 Railway Item 6 - 39D Macquarie Road, Cardiff – Zoned SP2 Classified Road Item 8 - 216C Pacific Highway, Charlestown - Zoned SP2 Classified Road</p> <p>As the Planning Proposal is to legitimise the existing roads already on the land, with Item 6 & 9 both being for road purposes, the zoning will not change.</p> <p>In accordance with this Ministerial direction, the relevant public authorities, being Transport NSW, will need to be consulted.</p>
5.3 Development Near Regulated Airports and Defence Airfields	N/A	
5.4 Shooting Ranges	N/A	
6: Housing		
6.1 Residential zones	Yes	<p>The following items are located within existing residential zones R2 or R3:</p> <p>Item 3 – 49C Haig Street, Belmont Item 4 – 9C The Parade, Belmont Item 5 – 4C Hendrick Street, Cardiff</p>

Planning Proposal's assessment against Ministerial Directions

Focus area	Applicable	Consistency
		Item 7 – 14C Milson Street, Charlestown Item 10 – 23A Emily Street, Marks Point Item 11 – 94C Main Road, Speers Point Item 12 – 2C Wood Street, Swansea Item 13 - Land adjoining 21 Dobell Drive, Wangi Wangi As the Planning Proposal is to legitimise an existing road already on the land and no physical work is to take place on the land, it is considered to be of minor significance.
6.2 Caravan Parks and Manufactured Home Estates	N/A	
7: Industry and Employment		
7.1 Business and Industrial Zones	Yes	Item 9 of the planning proposal – 14C Pacific Highway, Gateshead, is located within a B1 Neighbourhood Business zone. This direction does not allow the altering of any existing business zone boundaries. This reclassification does not involve a boundary adjustment and accordingly it is considered that this proposal complies with the Ministerial direction.
7.2 Reduction in non-hosted short term rental accommodation period	N/A	
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	N/A	
8: Resources and Energy		
8.1 Mining, Petroleum Production and Extractive Industries	N/A	
9: Primary Production		
9.1 Rural Zones	No	No items are located within Rural zones
9.2 Rural Lands	N/A	
9.3 Oyster Aquaculture	N/A	

Planning Proposal's assessment against Ministerial Directions

Focus area	Applicable	Consistency
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	N/A	-

ANNEX D – COUNCIL RESOLUTIONS

22OS008	Reclassification of Various Sites - 2022 Roads Amendment to Lake Macquarie Local Environmental Plan 2014
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Key focus area	8. Organisational support
Objective	8.2 Governance
File	F2021/01352 - D10555684
Author	Statutory Property Officer - Joanne Marshall
Responsible manager	Executive Manager Future City Precincts - David Antcliff

Executive Summary

As part of its administrative functions, Council annually does a housekeeping review of its properties to determine if it is achieving best use out of its land. This year, two reports will be presented to Council for update of land classifications to reflect the current and/or proposed use of the land. This report looks at community land with roads over it, and a later report will look at all other land.

The thirteen parcels of Council-owned land referred to in this report are classified as community land under the *Local Government Act 1993* (LG Act 1993). Each parcel of land forms part of a road. Historically, land classification was not a requirement when these roads were established. Current practice requires appropriate classification of the land to operational land to complete the road dedication process. This report seeks Council’s endorsement to complete the necessary reclassification and dedications as road.

The use of community land is strictly governed by the LG Act 1993 and, generally, the use of community land as road is not permitted. In order to reflect the use of the land as road, the land needs to be reclassified as operational land and subsequently dedicated as road pursuant to the *Roads Act 1993* (NSW) (‘Roads Act’).

<p>Recommendation</p> <p>Council:</p> <p>A. approves reclassification of the following Council-owned sites from community land to operational land for the purpose of road dedication:</p> <p>Item 1 - 460C Lake Road, Argenton (Lot 24 DP 1110828)</p> <p>Item 2 - 59C Clydebank Road, Balmoral (Lot 1 DP 361413)</p> <p>Item 3 – Part 49C Haig Street, Belmont (Part Lot 42 DP 1115062)</p> <p>Item 4 - 9C The Parade, Belmont (Lot 1 DP 209843)</p> <p>Item 5 - 4C Hendrick Street, Cardiff (Lot 2 Sec C DP 4143)</p> <p>Item 6 - 39D Macquarie Road, Cardiff (Lot 3 DP 559007)</p> <p>Item 7 - 14C Milson Street, Charlestown (Lot 1 and 2 DP 350691)</p> <p>Item 8 - 216C Pacific Highway, Charlestown (Lot B DP 399059)</p> <p>Item 9 - 14C Pacific Highway, Gateshead (Lot 1 DP 432780)</p> <p>Item 10 - 23A Emily Street, Marks Point (Lots 1 and 2 DP 371792)</p>

Item 11 - 94C Main Road, Speers Point (Lot 1 DP 181190)

Item 12 - 2C Wood Street, Swansea (Lot 1 and 2 DP 329284)

Item 13 – Land adjoining 21 Dobell Drive, Wangi Wangi (Lot 343 DP 848273),

- B. approves a planning proposal, for the purpose of reclassification of the land referred to in part A of the recommendation, to be forwarded to the Minister for Planning for a Gateway Determination to be made pursuant to section 3.34 of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act), and
- C. undertakes consultation with State Government agencies and service authorities and prepares any required studies in accordance with the Gateway Determination,
- D. places the draft planning proposal on exhibition, subject to the outcome of the Gateway Determination,
- E. notifies stakeholders and affected landowners of the public exhibition,
- F. undertakes a public hearing in accordance with section 29 of the *Local Government Act 1993*, and
- G. receives a further report on the matter following public exhibition and the public hearing.

Discussion

The *Local Government Act 1993* (LG Act) requires Council to classify all its public land as either operational or community land. Operational land can be used generally by Council for its operational purposes and to facilitate the carrying out of Council functions, for example, depots, quarries, commercially leased land, public roads, etc. Community land is subject to restrictions on its use and management under the LG Act, and is intended for public access and community uses, for example, parks, bushland, community halls, etc.

Land not classified by Council on the commencement of the LG Act in 1993 was automatically classified as community land under the provisions of that legislation. Due to the volume of land owned by Council at the time, some parcels of land were not identified as requiring operational classification, and were automatically classified as community land. The thirteen parcels of land referred to in this report have been identified to require operational classification due to the nature of their use.

Pursuant to section 47F of the LG Act, community land may not be dedicated as public road, unless it meets specific requirements. The land referred to in this report does not meet those requirements. Therefore, it must be reclassified as operational land to accurately reflect its use and dedicate it as road under the *Roads Act 1993*.

The reclassification process is governed by part 3, division 3.4 of the *Environmental Planning and Assessment Act 1997* (EP&A Act). A planning proposal has been prepared in accordance with the legislative requirements, which includes:

- a statement of the intended outcomes
- the justification for those outcomes having regard to each individual parcel of land
- details of the community consultation and public hearing that is proposed in relation to the planning proposal
- the proposed process for implementation of the outcomes of the planning proposal.

A summary is provided in Attachment 1, which justifies the outcomes of the planning proposal.

In accordance with the requirements of the EP&A Act, the planning proposal will be forwarded to the Minister for Planning for a gateway determination to be made.

Upon completion of the requirements set out in the gateway determination, including any public exhibition, public hearing and consultation process, a further report will be submitted to Council. That report will include information regarding any submissions received, and make further recommendations as to proceeding with the planning proposal for any subsequent dedication of the land as road.

Assessment of options

It is recommended to proceed with the reclassification of the land. The planning proposal outcomes will rectify the anomalies in the current classification of the land, and enable it to be dedicated as road in accordance with its actual use through the processes set out in the *Roads Act 1993*.

If the reclassification of the land does not proceed, the land will remain inappropriately classified for its current use as road.

Community engagement and internal consultation

As part of the process to determine if the reclassification should commence, the matters are submitted to Council’s Rezoning Advisory Panel (RAP). RAP is made up of representatives from relevant Council departments and considers proposals based on the expertise of each department, and the merits of the proposal. Individual remarks are recorded and included in reports pertaining to the proposed reclassification, giving a balanced overview of the matter.

All the land the subject of this report was considered by RAP at its meetings on 2 December 2020 and 25 August 2021, with no issues or objections being raised. The only items that had discussion were:

- 1. 59C Clydebank Road, Balmoral, where it was decided that the whole of the lot should be reclassified, as the cost of a survey and subdivision to separate out the road section was not justified.
- 2. 94C Main Road, Speers Point, where it was noted that the land has potential contamination constraints. As no building work is to be carried out on the land, this was noted for future reference.

Council’s Corporate Legal team was also consulted in the preparation of this report.

Community engagement, including a public hearing, will commence once Gateway approval has been given by the Department of Planning and Environment.

Key considerations

Economic impacts	None.
Environment	As the land already contains existing constructed roads over them, no environmental impacts are anticipated.
Community	The proposal is consistent with current usage for the land, and therefore the community impact is minimal. This will be further determined through community consultation and public hearing processes.
Civic leadership	The exhibition of the planning proposal and subsequent public hearing, will satisfy statutory requirements and ensure consultation with the community and stakeholders.
Financial	Costs associated with advertising and registering the proposed lots as roads will be met by Council, funds are available in the 2021-2022 and 2022-2023 budgets.
Infrastructure	No cost or work is required to the existing infrastructure. The roads will now be correctly classified enabling Council to carry out its duties under the <i>Roads Act 1993</i> .
Risk and insurance	Risks associated with preparation of a reclassification are minimised by following due processes under the <i>Environmental Planning and Assessment Act 1997</i> , the <i>Local Government Act 1993</i> and Council procedures, as noted. Additionally, this action is covered by Council’s professional indemnity insurance as a standard activity.

Legislative and policy considerations

Environmental Planning and Assessment Act 1997 (NSW)

Local Government Act 1993 (NSW)

Roads Act 1993 (NSW)

Local Environmental Plan Making Guideline, Dec 2021 - Department of Planning, Industry and Environment

LEP Practice Note PN 19-001 – NSW Department of Planning

Council's Amending Local Environmental Plan to Reclassify Land Procedure

Attachments

1. Summary of Planning Proposal - Maps & justification - 2022 Roads Amendment D10653292

Council Minute Item

Action

Ordinary Council

23/05/2022

TRIM Ref: D10555684

Subject: Reclassification of Various Sites - 2022 Roads Amendment
to Lake Macquarie Local Environmental Plan 2014

Date to be 20/06/2022

Completed by:

Council Decision:

Moved. Cr. Grigg
Seconded. Cr. Belcher

Council:

- A. approves reclassification of the following Council-owned sites from community land to operational land for the purpose of road dedication:

Item 1 - 460C Lake Road, Argenton (Lot 24 DP 1110828)

Item 2 - 59C Clydebank Road, Balmoral (Lot 1 DP 361413)

Item 3 – Part 49C Haig Street, Belmont (Part Lot 42 DP 1115062)

Item 4 - 9C The Parade, Belmont (Lot 1 DP 209843)

Item 5 - 4C Hendrick Street, Cardiff (Lot 2 Sec C DP 4143)

Item 6 - 39D Macquarie Road, Cardiff (Lot 3 DP 559007)

Item 7 - 14C Milson Street, Charlestown (Lot 1 and 2 DP 350691)

Item 8 - 216C Pacific Highway, Charlestown (Lot B DP 399059)

Item 9 - 14C Pacific Highway, Gateshead (Lot 1 DP 432780)

Item 10 - 23A Emily Street, Marks Point (Lots 1 and 2 DP 371792)

Item 11 - 94C Main Road, Speers Point (Lot 1 DP 181190)

Item 12 - 2C Wood Street, Swansea (Lot 1 and 2 DP 329284)

Item 13 – Land adjoining 21 Dobell Drive, Wangi Wangi (Lot 343 DP 848273),

- B. approves a planning proposal, for the purpose of reclassification of the land referred to in part A of the recommendation, to be forwarded to the Minister for Planning for a Gateway Determination to be made pursuant to section 3.34 of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act), and
- C. undertakes consultation with State Government agencies and service authorities and prepares any required studies in accordance with the Gateway Determination,
- D. places the draft planning proposal on exhibition, subject to the outcome of the Gateway Determination,
- E. notifies stakeholders and affected landowners of the public exhibition,
- F. undertakes a public hearing in accordance with section 29 of *the Local Government Act 1993*, and
- G. receives a further report on the matter following public exhibition and the public hearing.

End

The minutes of Ordinary Council on 23/05/2022 is located in TRIM folder titled 'GOVERNANCE - COUNCIL MEETINGS - Minutes and Agenda - Council Agendas & Minutes - PDF Version'

ANNEX E – CHANGES TO SCHEDULE 4 OF LAKE MACQUARIE LOCAL ENVIRONMENTAL PLAN 2014

Lake Macquarie Local Environmental Plan 2014

Schedule 4 Classification and reclassification of public land

(Clause 5.2)

Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Locality	Description
Land adjoining 21 Dobell Drive, Wangi Wangi	Lot 343 DP 848273
2C Wood Street, Swansea	Lot 1 DP 329284
2C Wood Street, Swansea	Lot 2 DP 329284
4C Hendrick Street, Cardiff	Lot 2 Sec C DP 4143
9C The Parade, Belmont	Lot 1 DP 209843
14C Milson Street, Charlestown	Lot 1 DP 350691
14C Milson Street, Charlestown	Lot 2 DP 350691
14C Pacific Highway, Gateshead	Lot 1 DP 432780
23A Emily Street, Marks Point	Lots 1 DP 371792
23A Emily Street, Marks Point	Lots 2 DP 371792
39D Macquarie Road, Cardiff	Lot 3 DP 559007
49C Haig Street, Belmont	Part Lot 42 DP 1115062
59C Clydebank Road, Balmoral	Lot 1 DP 361413
94C Main Road, Speers Point	Lot 1 DP 181190
216C Pacific Highway, Charlestown	Lot B DP 399059
460C Lake Road, Argenton	Lot 24 DP 1110828

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged

ANNEX H – SUPPORTING INFORMATION

Separately attached.

ANNEX I – GATEWAY APPROVAL AND ACCOMPANYING LETTER



Department of Planning and Environment

Ms Morven Cameron
Chief Executive Officer
Lake Macquarie City Council
Box 1906 Hunter Region Mail Centre
NSW 2310

Our ref: IRF22/3154

Dear Ms Cameron

Planning Proposal (PP-2022-2197) to amend *Lake Macquarie Local Environmental Plan 2014*

I am writing in response to the planning proposal Council has forwarded to the Minister for Planning and Homes under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the 2022 roads planning proposal

As delegate of the Minister for Planning and Homes, I have determined the planning proposal should proceed subject to the conditions in the enclosed gateway determination.

No further approval is required in relation to section 9.1 Ministerial directions.

I have determined not to authorise Council to be the local plan-making authority given Council owns the land subject to the planning proposal.

The amending local environmental plan (LEP) is to be finalised on or before 7 July 2023. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made eight weeks in advance of the date the LEP is projected to be made.

Should you have any enquiries about this matter, I have arranged for Thomas Holmes, Senior Planning Officer, Central Coast and Hunter Region, to assist you. Mr Holmes can be contacted on 9860 1583.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dan Simpkins', followed by a horizontal line.

17/10/2022

Dan Simpkins
Director, Central Coast and Hunter Region
Planning and Land Use Strategy

Encl: Gateway determination



Gateway Determination

Planning proposal (Department Ref: PP-2022-2197): To reclassify land from 'community' 'operational' (2022 LEP Roads Amendment).

I, the Director, Central Coast and Hunter at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the *Lake Macquarie Local Environmental Plan 2014* to reclassify land from 'community' to 'operational' should proceed subject to the following conditions:

1. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 30 days;
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021); and
 - (c) exhibition commences in 4 months following the date of the gateway determination.
2. Consultation is required with Transport for NSW under section 3.34(2)(d) of the Act. Transport for NSW is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 30 days to comment on the proposal.
3. A public hearing is required to be held in accordance with Section 29 of the *Local Government Act 1993* and the Department's Practice Note PN 16-001.
4. The local environmental plan should be completed on or before 7 July 2023.

Dated 17th day of October 2022.

Dan Simpkins
Director, Central Coast and Hunter
Planning and Land Use Strategy
Department of Planning and Environment

Delegate of the Minister for Planning and
Homes