

Planning Proposal

Amendment No. 62 to Lake Macquarie Local Environmental Plan 2004

Zoning of Lot 75 DP 755242 Awaba Street Morisset

Local Government Area: Lake Macquarie

Name of Draft LEP: Lake Macquarie Local Environmental Plan 2004 (Amendment No. 62)

Part 1 – Objective of the Planning Proposal

The objective of the Planning Proposal is to amend *Lake Macquarie Local Environmental Plan 2004* (LMLEP 2004) by rezoning Lot 75 in DP 755242 from 10 Investigation to 2(1) Residential, 2(2) Residential (Urban Living) and 7(1) Conservation (Primary) Zone to enable residential development and conservation of environmentally sensitive areas of the site.

The expected residential yield is 8-10 dwellings.

Part 2 – Explanation of the Provisions

The amendment proposes the following changes to LMLEP 2004:

Amendment Applies To	Explanation of the Provision
Map	It is proposed that the subject land, Lot 75 in DP 755242 will be rezoned from 10 Investigation Zone (1.21 ha) to: 2(1) Residential – 0.64 ha, 2(2) Residential (Urban Living) – 0.23 ha and 7(1) Conservation (Primary) Zone – 0.34 ha.
Dictionary	Amend the definition of <i>the map</i> by adding Lake Macquarie Local Environmental Plan 2004 (Amendment No 62)

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 the Provision
LMLEP 2011 Standard Instrument – Land Zoning Map (LNZ_011)	In transferring the land use provisions to the Land Zoning Map to draft <i>LMLEP 2011</i> , it is considered appropriate to convert areas designated for the 2(1) Residential zoning to R2 Low Density Residential, 2(2) Residential (Urban Living) to R3 Medium Density Residential and 7(1) Conservation (Primary) to E2 Environmental Conservation.
LMLEP 2011 Standard Instrument – Minimum Lot Size Map (LSZ_011)	Minimum lot sizes would correspond to proposed zoning as follows: R2 – 450m ² , R3 – 900m ² , E2 – 40ha
LMLEP 2011 Standard Instrument – Building Height Map	Maximum building heights would correspond to proposed zoning as follows: R2 – 8.5m, R3 – 10m, E2 – 5.5m
LMLEP 2011 Standard Instrument – Investigations Areas Map	Remove the subject land from the Investigation Areas map.

Part 3 – Justification for the Provisions

A. Need for the planning proposal

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

The land to which this planning proposal applies was originally included in Lake Macquarie LEP Amendment No. 41 but was removed from that amendment after public exhibition and before submission to the Department of Planning seeking publication of the amendment. Studies related to land capability and land suitability were undertaken during the preparation of the local environment study for Amendment 41 (LMCC 2010), which included land referred to as the Stockton Street, Freemans Drive and Terrigal Street areas at Morisset.

The studies supported the change in rezoning to 2(1) Residential, 2(2) Residential (Urban Living) and 7(1) Conservation (Primary) zones subsequently published in Amendment 41.

The 2010 local environmental study also incorporated findings of studies undertaken for the proposed rezoning of the Stockton Street properties only (Coombes, R 2005).

Currency of Amendment 41 Studies

The subject land (Lot 75 in DP 755242) was included in the Amendment 41 study area and was also covered by the Coombes study in 2005. The findings are generally current and adequate to meet legislative requirements for a rezoning proposal with the possible exception of the flora and fauna study.

A detailed flora and fauna study was undertaken for the Stockton Street properties (Evans in Coombes 2005). Council's Biodiversity Planning Policy and Guidelines for LEP Rezoning (LMCC 2009) indicates that flora and fauna studies are generally only current for 12 months, given the potential for new species listings or requirements under the Threatened Species Act or other legislation.

Biodiversity -Flora and Fauna Study

Field investigations revealed the presence of the Endangered Ecological Community (EEC) Riparian Melaleuca Swamp Woodland, located within the riparian corridor associated with Clacks Creek (Evans 2005). The other vegetation community identified by Evans was Coastal Plains Scribbly Gum Woodland, classed as a regionally significant vegetation type (see Figure 6). Evans notes that the conservation value of remnants with a cleared understorey is considered less than vegetated areas that are part of an identified habitat corridor.

The Riparian Melaleuca Swamp Woodland would be protected under the proposed 7(1) Conservation (Primary) Zone. The Scribbly Gum Woodland occurs as isolated fragments with a cleared understorey and would not be protected under the proposed rezoning.

Fauna surveys undertaken by Evans revealed the presence of five species listed as vulnerable on Schedule 2 of the *Threatened Species Conservation Act 1995*. These included:

- *Petaurus norfolcensis* (Squirrel Glider);
- *Pteropus poliocephalus* (Grey-headed flying fox);
- *Mormopterus norfolkensis* (Eastern Freetail-bat);
- *Miniopterus australis* (Little Bentwing-bat); and
- *Myotis adversus* (Large-footed Myotis)

Squirrel Glider Study

The Squirrel Glider Review for Morisset Structure Plan Area (Fallding, M P & Smith, A P 2008) was commissioned by Lake Macquarie City Council. The report focused on habitat requirements to maintain a viable population of Squirrel Gliders.

The subject land is in an area of habitat fragments recommended for retention, on the alignment of the north-south habitat corridor along Clacks Creek. The proposed 7(1) Conservation (Primary) Zone would result in retention of existing vegetation along this corridor .

The study also identifies a key conflict point where Clacks Creek crosses the Awaba St road reserve. Future road and crossing design should allow for improving connectivity between the riparian vegetation areas either side of the road.

Tetratheca juncea Survey

Between September 2007 and January 2008, a comprehensive survey for the threatened plant species *Tetratheca juncea* (TJ) in the Morisset area was undertaken by consultants on behalf of Council.

In addition to mapping the location of plant clumps, vegetation within the area surveyed was given one of three classifications based on whether the vegetation was suitable habitat for TJ, suitable but disturbed habitat, or unsuitable habitat (too moist).

Lot 75 DP 755242 was found to contain suitable but disturbed TJ habitat, and no plants were observed on that property.

Geotechnical Assessment

Coffey Geosciences were engaged by Council in July 2008 to undertake a geotechnical and urban capability assessment of the Amendment 41 land. The study included broad subsurface investigation, laboratory testing and a desk top study in relation to the following:

- Slope stability;
- Extractive resources;
- Mine subsidence;
- Soil salinity;
- Erosion characteristics and susceptibility to erosion;
- Acid sulphate soil extent and management;
- Drainage and water table depth;
- Areas of soft compressible soils;
- General foundation conditions including preliminary indications of site classifications;
- General pavement subgrade and road construction conditions.

The study classifies the risk to development from geotechnical instability as follows.

Geotechnical Terrain Unit	Instability Risk Classification	Comment
A	Low	No specific constraints.
B	Low	Design development to accommodate slope profile. Minimise disturbance to slopes.
C1	Low	Development in low undulating areas should minimise disturbance to slopes.
C2	Medium to High	Many areas are likely to be unsuitable for development due to low relief and poor foundation conditions. Evidence of possible soil creep and localised minor erosion, slumping and scouring of creek banks was observed. Specific geotechnical advice and further slope stability investigation should be targeted in these areas if development is proposed.

The lower lying parts of the subject site are classified Terrain Unit C2 which may be affected by Acid Sulfate Soils. On the subject land the C2 area occurs largely in the proposed 7(1) Conservation Zone, and further investigation would be required prior to any excavations at subdivision stage.

Coffey summarises that generally 'development of the site for residential use is considered feasible from a geotechnical point of view'.

Bushfire Report

The subject land contains vegetation classified as Category 1 bushfire prone land. The Rural Fire Service has written to Council in response to Amendment 41 advising they have no objection to the rezoning, but stipulate that future development applications must address the requirements of *Planning for Bushfire Protection 2006*. The RFS also advise that given the proposed retention of vegetation within the conservation area, bushfire protection measures for residential development will be required commensurate with the hazard.

Hydrological assessment

The subject land drains to Stockton Creek via Clacks Creek, then to Dora Creek, which flows into Lake Macquarie approximately five kilometres northwest of the site.

GHD were engaged by Council in July 2008 to undertake a Hydrologic, Hydraulic and Water Quality Investigation for the Amendment 41 land including the subject site. The study established 100 year recurrence interval flood planning levels and recommended drainage reserves (see Figure 11)

GHD also noted Clacks Creek is part of a wetland system and at present active bank erosion is not evident. The existing riparian vegetation and buffer is necessary to prevent future stream bank erosion and to protect water quality. The report indicates that to achieve the objective of maintaining aquatic ecological processes, the Rivers and Foreshore Improvement Act 1948 (RFIA) designates protected waterway as within 40 metres of the top of the bank.

The GHD study concludes that development can proceed without an increase in the stormwater impacts on Clacks Creek, Stockton Creek or Dora Creek through the utilisation of water sensitive urban design (WSUD) features, such as rainwater tanks, grassed swales, gross pollutant traps and constructed wetlands. A site based stormwater management plan will be required for each development application following rezoning.

Traffic and Transport assessment

Freemans Drive is the main collector road linking Morisset with Cooranbong. Stockton Street, along with Kahibah Street forms a more direct link between Morisset Town Centre, the subject site and Freemans Drive to the north (see Figure 9). Both Freemans Drive and Stockton Street will experience significant increases in traffic volume as a result of forecast population growth in Cooranbong. Goodwins Road bisects Stockton Street and provides an alternate link to Freemans Drive. A local bus service between Morisset and Cooranbong operates along Stockton St.

The subject site has frontage to the unformed section of Awaba Street west of Clacks Creek. Construction of Awaba Street from Stockton Street in the west, to Bridge Street in the east will be necessary to improve connectivity between emerging residential areas. Future intersection upgrades will be identified as part of the Morisset Planning District s94 Contributions plan currently being developed by Council.

Development of the subject land would utilise existing road reserves.

Infrastructure assessment

All essential utilities including electricity, water, sewer and telecommunications are present in or adjacent to the subject site. Additionally, natural gas is available in Morisset and new development sites may be connected to natural gas, subject to feasibility assessment.

Electricity

Energy Australia, electricity providers for the Lake Macquarie LGA, have stated that “based on the electrical network in the immediate area, it would appear that there are no major constraints impacting on the ability of Energy Australia to provide electricity to the subject land

Water and Wastewater

Hunter Water have advised that some scheduled upgrades of local water and wastewater infrastructure may need to be completed prior to the servicing of new development within the subject land.

Natural Gas

Natural gas mains exist in close proximity to the subject land. Jemena Gas Networks, which operate the region’s gas network, will extend infrastructure to new areas where it is economically viable to do so. Viability is increased in areas of higher-density development, such as that facilitated by the 2(2) Residential (Urban Living) zone.

Indigenous Heritage Assessment

As part of Amendment 41 the majority of land was subject to an Aboriginal Archaeological Heritage Impact Assessment undertaken by Goondawirrow Heritage in 2005 (Coombes LES). The assessment concluded that ‘No potential evidence was found during the course of the survey for this report. The potential for any such evidence to be found in the future is low, therefore it is considered that the majority of this study area contains no scientific significance. However, isolated finds and small artefact scatters may still be present within remnant bushland with low ground disturbance.’

The Goondawirrow heritage assessment included direct consultation with the Koombahtoo Local Aboriginal Land Council, who concurred with the findings of the report.

European Heritage Assessment

European heritage was considered as part of the Coombes LES (2005). The development of Morisset is principally attributed to construction of the Great Northern Railway in 1887, which lead to the first land grants and government subdivisions. Other heritage themes documented

for the area include timber-cutting, saw milling; education; agriculture; health and tourism; and mining and energy generation.

The European Heritage Assessment included searches of relevant heritage databases, including the Register of the National Estate, State Heritage Register and Inventory, Register of the National Trust and Lake Macquarie Local Environmental Plan. No items were identified within the subject area of Amendment 41, however several items exist in the broader Morisset area, including Morisset Showground, Morisset High School, Morisset Cemetery and the Morisset Hospital.

Following review of relevant databases and previous heritage studies and undertaking site inspections, the heritage assessment concluded that no potential historical archaeological deposit object or material or potential heritage item was identified in the study area.

Social and Economic Assessment

According to the Morisset Structure Plan, the annual population growth rate in the Morisset Planning District between 1996 and 2006 averaged 1.95%, which was two and a half times the growth rate of the Lake Macquarie Local Government Area as a whole. Population Age profiles indicate the Morisset area has a higher than average proportion of older residents.

Council has recently endorsed a rezoning proposal for land one kilometre southwest of the subject land that will create some 50 hectares of employment land. Once developed, this employment land will be a valuable source of jobs that will attract more working age residents and families and increase the demand for new housing.

Rezoning of the subject land is likely to facilitate a small increase in the local population. It is estimated that the subject site could accommodate 8-10 dwellings.

Intensification of residential development in this location is considered appropriate given the site is close to the Morisset town centre, schools, shops, services, public transport, open space and recreation facilities. Both Morisset High School and Morisset Public School have capacity for additional students.

There has also been considerable private sector investment in Morisset recently with the development of two new shopping centres, one incorporating a Coles supermarket and Country Target store, and the other a Woolworths supermarket. A GP Super Clinic is being constructed in Morisset's shopping precinct that will provide integrated health services to meet the needs and priorities of the local community.

The Amendment 41 rezoning also included approximately 2000 square metres of land zoned 3(1) Urban Centre to encourage the development of convenient neighbourhood shops north of the subject site.

Council's *Section 94 Contributions Plan No. 1 - Citywide* enables Council to seek contributions from new subdivisions to provide Council with funds to deliver the social infrastructure required to support new residential development. Council is currently preparing a new Section 94 Contributions Plan for the Morisset Planning District that will more accurately determine essential community infrastructure required as a result of increasing development in the Morisset area.

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

In order to achieve the development and conservation aims for the site Council considered;

Option 1

Amend LMLEP 2004 to include a clause enabling residential uses on part of the subject land outside a nominated riparian corridor.

This was rejected as it would leave the 10(Investigation Zone) unresolved and would not secure protection for the riparian corridor.

Option 2

Amend LEP2004 to rezone the subject land from 10(Investigation) to 2(1) Residential, 2(2) Residential (Urban Living) and 7(1) Conservation (Primary) Zone

This provides a clear planning intent for use of the land and is the preferred option. Further variations within Option 2 were also considered.

Option 2a

Amend LEP 2004 to rezone the subject land with a 40m Conservation Zone to Clacks Creek for revegetation

Option 2b

Amend LEP 2004 to rezone the subject land with a 40m wide Conservation Zone to Clacks Creek and permit encroachments in the Conservation Zone for road and drainage infrastructure

Option 2c

Amend LEP 2004 to rezone the subject land with a 20m-35m wide Conservation Zone to Clacks Creek as shown in Figure 5. .

Option 2c) was endorsed by Council at the meeting of 13 December 2010. This option conserves the existing vegetation along Clacks Creek, with some opportunities for supplementary plantings, whilst ensuring a viable area of land for standard and medium density residential development.

3. Is there a net community benefit?

A Net Community Benefit Test has been undertaken and provided below.

Net Community Benefit Test

Criteria	Planning Comment
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)?	The site is located within a kilometre of Morisset, which has been identified as an emerging regional centre in the Lower Hunter Regional Strategy. The proposal is compatible with agreed state and regional strategic direction for development in the area.
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 located within the Morisset area. The Morisset area has been identified as an emerging regional centre in the Lower Hunter Regional Strategy.
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	The subject site is adjacent to land rezoned residential in Amendment 41. It is not likely that the proposal will set a precedent or alter the expectation of landholders.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of	The cumulative effects of other spot rezonings has been considered in Amendment 41 and considered compatible with the objectives of

Criteria	Planning Comment
these considerations?	the Morisset Structure Plan 2008.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The LEP will not facilitate a permanent employment generating activity or result in the loss of employment lands. The proposal is to enable intensification of residential development within the locality.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	The proposal will enable an increase in the available stock of residential land for future development. Given the anticipated small lot yield, it is unlikely that this rezoning will have any impact on housing affordability.
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?	Water, electricity and gas utilities are available. Existing roads and road reserves provide access to the site. A cycleway on Stockton St to the Morisset centre is to be constructed as part of the VPA for the North Cooranbong development. Buses from Cooranbong operate along Stockton St to Morisset rail station.
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 subject proposal seeks to provide residential development close to the emerging regional centre of Morisset and the rail station. This would result in positive outcomes for greenhouse gas emissions, operating costs and road safety.
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 would result in a small increase in patronage of government rail and bus services and local government 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?	It is proposed to zone a portion of the site to protect the values of the ecological corridor along Clacks Creek. The current 10 Investigation Zone does not specifically provide protection to the corridor. The land is not constrained by other environmental factors.
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 LEP will be compatible with the area surrounding the subject site, which has recently been rezoned for residential development and conservation (Amendment No. 41 to Lake Macquarie LEP 2004). At sub-division stage works within the road reserve would contribute to amenity of the

Criteria	Planning Comment
	public domain.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	The proposal will not provide any retail or commercial premises.
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	The site is located close to Morisset which is an Emerging Regional Centre. The proposal itself does not have the potential 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?	The LHRS and Council's Lifestyle 2020 Strategy identify the area for future growth and intensification. If the LEP amendment does not proceed the subject land will be converted from the existing 10 Investigation Zone to E3 Environmental Conservation in Council's comprehensive standard LEP 2011. The more time that lapses, the more likely that further studies will be required to update studies already done. The costs would ultimately transfer to the price of subdivided lots, reducing affordability.

B. Relationship to strategic planning framework

1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Morisset area has been identified as an emerging regional centre in the Lower Hunter Regional Strategy. The strategy identifies Morisset as a place for concentration of business, higher order retailing, employment, professional services and civic functions and facilities. It will become a focal point for subregional road and transport networks and may service a number of districts.

The subject land is approximately 800m from the Morisset Town Centre and the bus-rail interchange. It is located on a local bus route and a planned cycleway route. Rezoning the larger proportion of the site to 2(1) Residential and 2(2) Residential (Urban Living) would be consistent with the LHRS to the extent that it would:

- Allow new dwellings on the subject site close to one of the Region's centres.
- Facilitate the concentration of activities along a transport route and adjacent to a centre
- Support a mix of housing types in proximity to local employment
- Provide a small increase in the supply of labour to local employment
- Allow continued access to mineral resource

The proposed rezoning supports the LHRS Neighbourhood Planning Principles including:

- • housing with easy access to the emerging major town centre of Morisset
- • housing close to local jobs and public transport and a cycleway
- • housing close to future local neighbourhood shops (as published in Amendment 41)
- • a potential range of housing choices in a mix of 2(1) and 2(2) zones
- • conservation lands in and around the development site to help protect biodiversity

The vegetation along Clacks Creek on the subject property has been identified in the Lower Hunter Regional Conservation Strategy as part of a network of important wildlife linkages. Protecting the designated riparian/habitat linkages through the site by applying the 7(1) Conservation (Primary) zone is consistent with the Conservation Strategy to maintain and enhance the biodiversity value of the corridor.

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

The proposed rezoning supports the following strategic directions of Council’s Lifestyle 2020 strategic plan as follows:

5.1 A City responsive to its environment – proposal would protect a riparian corridor of ecological significance

5.2 A well serviced and equitable city – proposal would provide housing close to the Morisset centre and within 200m of a local bus route and future cycleway

5.3 A well designed and liveable city – proposal would protect the scenic amenity of the area through protection of riparian vegetation. Vehicle and pedestrian infrastructure would be addressed at the subdivision stage.

5.5 An easily accessible city - proposal would provide housing approximately 800m from the Morisset town centre and bus-rail interchange.

Lifestyle 2020 also identifies Morisset as the primary centre for the district with increased employment, retail, urban amenity and medium and low density residential opportunities. The subject land is part of an area identified in the ‘Opportunities for Morisset Town Centre’ map for medium density residential.

The Morisset Structure Plan (LMCC 2008) is a broad planning document that also identifies key planning objectives and outcomes for urban expansion in the Morisset area. The subject land has been identified in the Structure Plan as being suitable for residential development in the short- term, subject to more detailed planning to identify appropriate zone boundaries.

Particular principles related to urban form, flora and fauna habitat and community facilities are detailed below.

Morisset Structure Plan Principle	How draft amendment responds to principle
Desired future character and urban form	
P1.1. The existing structure of the town, including the town centre and existing grid pattern of development, will be retained and future development will respond to this structure	The subject site lies within a grid of formed and some unformed roads. Proposed zoning will facilitate retention of a grid subdivision pattern.
P1.2. The design of all residential areas and sites should aim to provide for a variety of housing types and forms that respond to community needs.	Proposed zoning will facilitate a mixture of housing types capable of responding to community needs.

P1.3. Future development will respect existing environmental values and be designed to respond to environmental constraints.	The proposed zoning reflects environmental constraints and will not impinge on areas of high biodiversity value.
P1.4. Medium and higher density development should be encouraged near the town centre, with lower density in areas away from the centre.	The site will include an area on Awaba Street zoned to allow medium density development. The site is close to the Morisset town centre, and access to bus movements between Cooranbong and Morisset.
Flora and Fauna Habitat	
P2.1. The Morisset Structure Plan requires that at least 75% of extant vegetation within Major and Minor Fragments and designated movement corridors outside existing conservation zones should be conserved through development trade-offs that secure perpetual protection of retained habitat in return for approvals to develop the remaining 25% of habitat.	Current aerial photography indicates that the proposed zoning for conservation would protect approximately 65-75% of the extant vegetation on the subject land. An increase in the width of the conservation zone would not increase this proportion due to past land clearing near the Creek.
P2.2. The Morisset Structure Plan requires that movement corridors should be at least 40m wide (greater if required for specific species) and have no more than two canopy gaps over 35m wide. Where existing corridors do not meet minimum requirements, such as canopy gaps of more than 35m or less than 40m wide, rehabilitation should occur to strengthen corridors	The proposal would create a variable width conservation zone running along Clacks Creek corridor as shown in Figure 5. The corridor width on the western side of the creek is 20m for approximately half the length increasing to a maximum of approximately 35m at the northern end. The narrower section would allow some minor revegetation through street tree plantings and landscaping.
P2.3. The Morisset Structure Plan requires that terrestrial biodiversity or riparian movement corridors are not to be severed where existing connections are available, and consideration should be given to fauna movement needs across barriers such as roads where necessary (e.g. maintain tall trees, place "glide poles" on roadside verges, provide suitable culvert underpasses).	The future formation of Awaba Street and a creek crossing would affect the existing fauna movement along Clacks Creek. Where possible, future road and bridge/culvert design will be required to facilitate movement across the road barrier.
P2.4. The Morisset Structure Plan requires that movement corridors, as far as practicable, should be considered for 7(1) Conservation (Primary) zoning and placed into public ownership.	The Clacks Creek movement corridor is proposed to be zoned 7(1) Conservation (Primary). Dedication of this land to Council would be considered in conjunction with subdivision of the land.
P2.5. The Morisset Structure Plan requires that identified core riparian zones be retained and enhanced where possible. A core riparian zone of a minimum of 40 metres or existing	Clacks Creek originates south of the site and flows in a northerly direction along the eastern boundary. Due to historical land clearing near the Creek, vegetation doesn't currently extend up to 40m on

<p>riparian vegetation should be established along both sides of watercourses. Rehabilitation should occur within and adjacent to riparian zones to strengthen core riparian values.</p>	<p>both sides of the watercourse. The proposed area for conservation on the western bank of the creek is a corridor that varies in width from a minimum of 20m to a maximum of 35m. It would incorporate the existing riparian vegetation.</p>
<p>P2.6. The Morisset Structure Plan requires that core riparian zones should be zoned 7(1) Conservation (Primary) and, when practical, placed into public ownership to provide adequate protection.</p>	<p>Riparian vegetation associated with Clacks Creek will be zoned 7(1) Conservation (Primary). The dedication of this land to Council will be encouraged at the time of future subdivision.</p>
<p>P2.7. The Morisset Structure Plan requires that Areas of high quality remnants of the significant vegetation community, Coastal Plains Scribbly Gum Woodland should be conserved within a 7(1) Conservation (primary) zone.</p>	<p>More detailed site studies show remnant vegetation has a cleared understorey and is of lower quality. It is not considered appropriate to apply a 7(1) Conservation zoning to Coastal Plains Scribbly Gum Woodland. Subdivision design, however, should permit retention of significant trees where possible.</p>
<p>P2.8. The Morisset Structure Plan requires that habitat removal within major and minor fragments should be compensated through mechanisms such as offsets within the local area, contributions to support rehabilitation works and dedications.</p>	<p>The riparian corridor will be included in the 7(1) Conservation (Primary) Zone. Revegetation work and the dedication of this land to Council will be encouraged at the time of future subdivision.</p>
<p>P2. The Morisset Structure Plan requires maintenance of the local Squirrel Glider population as part of a regional metapopulation. Maintain a total minimum area of 250ha in the Morisset Structure Plan area as Squirrel Glider habitat, in major, minor and small habitat fragments. The highest priority fragments for conservation are areas B, Q, K and M. Area B should be the last developed. (see Figure 7 Morisset Structure Plan Area Squirrel Glider Review; LMCC, Final Report; 18 January 2008). Protect movement corridors with appropriate zoning and land tenure. Ensure staging of development does not compromise planned movement corridors or remove existing links before planned corridors are secured.</p>	<p>Appropriate conservation zoning is proposed to ensure long-term retention of existing vegetation running along Clacks Creek. Revegetation work and the dedication of this land to Council will be encouraged at the time of future subdivision.</p>
<p>P2.10 The Morisset Structure Plan requires that preserve at least half of the</p>	<p>The subject land includes a minor habitat fragments and a core riparian zone as</p>

<p>mapped Squirrel Glider habitat (existing habitat) within the Morisset Structure Plan area in core areas (Minor and Major Fragments), by zoning these to prevent urban development and supporting appropriate land tenure; such as dedication to Council as Public Reserve, or private tenure with title affected by a conservation covenant, or a Crown Reserve.</p> <p>Conserve and rehabilitate Small Habitat Fragments where possible. No development or zoning of land currently zoned 10 Investigation for urban purposes, where this would prevent maintaining or rehabilitating a movement corridor as shown on the map, or prevent the above objective from being achieved.</p> <p>A minimum of 217 ha of habitat in conservation zonings (preferably in secure land tenure) in Habitat Fragments of >4 ha in area. As far as possible, at least 75% of the total area of Habitat Fragments should be in Large Fragments greater than 100 ha (to maintain the existing proportion).</p>	<p>shown on Figure 7.</p> <p>Movement corridor along Clacks Creek will be zoned 7(1) Conservation and landowners will be encouraged to dedicate the conservation-zoned land to Council at the subdivision stage.</p>
<p>P2.11. The Morisset Structure Plan requires that development complies with relevant LMCC standards relating to Stormwater Management and Water Sensitive Urban Design.</p>	<p>Modelling has shown that development can proceed without an increase in the stormwater impacts on Clacks Creek, Stockton Creek or Dora Creek through the utilisation of water sensitive urban design (WSUD) features, such as rainwater tanks, grassed swales, gross pollutant traps and constructed wetlands. A site based stormwater management plan will be required for each development application following rezoning.</p>
<p>P2.12. The Morisset Structure Plan requires rezoning and subdivision development applications to demonstrate that:</p> <ul style="list-style-type: none"> - Flora and fauna assessments have been undertaken in accordance with LMCC's Flora and Fauna Survey Guidelines (2001) and the former DEC's Threatened Biodiversity Survey and Assessment Guidelines (2004). - Core riparian zone has been mapped and vegetated buffers 	<p>Detailed flora and fauna assessments have been undertaken for the site in accordance with relevant guidelines. Core riparian zones and EECs have been determined and included in the conservation zone.</p> <p>To maintain appropriate buffer zones, stormwater and drainage infrastructure should not be located in the 7(1) Conservation Zone. Stormwater and drainage design would also need to employ water sensitive urban design measures to maintain integrity of the</p>

<p>specified, where required.</p> <ul style="list-style-type: none"> - Habitat buffers for Endangered Ecological Communities (EECs) and threatened species have been considered and implemented where necessary. - Threatened species' requirements have been considered during bushfire management planning. - Stormwater and drainage will be managed to ensure riparian vegetation integrity and water quality is maintained. 	<p>riparian vegetation and downstream water quality. This would be addressed at the subdivision application stage.</p> <p>Planning for bushfire management would not impinge on retention of existing vegetation in the 7(1) Conservation Zone.</p>
<p>P2.13. The Morisset Structure Plan requires that Council's assessment of rezoning proposals will take into account the conclusions and recommendations of Survey for <i>Tetratheca juncea</i> for the Morisset Structure Plan, Lake Macquarie LGA; prepared by Eastcoast Flora Survey, January 2008.</p>	<p>No <i>Tetratheca juncea</i> plants were identified on the subject land.</p>
<p>P2.14. The Morisset Structure Plan requires that rezoning applications must take into account Council's Biodiversity Planning Policy and guidelines for LEP Rezoning Applications.</p>	<p>The draft LEP amendment is consistent with Council's Biodiversity Planning Policy and Guidelines for LEP Rezoning Applications.</p>
<p>Community facilities</p>	
<p>P3.1. The Morisset Structure Plan requires that development provides infrastructure to meet demand and to accommodate pressure for services and facilities from other expanding areas such as Morisset Peninsula and North Cooranbong.</p>	<p>The proposed residential development will be subject to section 94 contributions to go towards the provision of essential community services and infrastructure.</p>
<p>P3.2. The Morisset Structure Plan requires that future expansion of development in Morisset should be co-ordinated to ensure that facilities providing for wider needs cater to demand. Where necessary, regional facilities should be identified and funded through the contributions system envisaged by the Lower Hunter Regional Strategy.</p>	<p>The land will be subject to Clause 62 of LMLEP 2004, which requires "satisfactory arrangements to be made for the provision of designated State public infrastructure and public utility infrastructure before the subdivision of land in urban release areas".</p>

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

An assessment has been undertaken to determine the level of consistency the proposal has with relevant State Environmental Planning Policies (SEPPs). The assessment is provided below.

SEPPs	Relevance	Implications
SEPP 19 – Bushland in Urban Areas	This policy aims to protect and preserve bushland in urban areas for a range of reasons, including: to protect habitats for native flora and fauna; to protect wildlife corridors and vegetation links with other nearby bushland; and to protect bushland for its scenic values, and to retain the unique visual identity of the landscape.	The subject land includes remnants of native vegetation, particularly along the Clacks Creek corridor. In accordance with the policy it is proposed to protect this vegetation in a Conservation Zone.,
SEPP 44 – Koala Habitat Protection	The SEPP aims to provide proper conservation and management of Koala habitat by requiring the identification, conservation, and management of actual and potential Koala habitat.	While vegetation within the subject site qualifies as 'potential koala habitat', further investigations did not indicate 'core koala habitat', and no resident population of koalas was detected.
SEPP 55 – Remediation of Land	The SEPP requires the subject land to be suitable for its intended use in terms of the level of contamination, or where the land is unsuitable due to the level of contamination, remediation measures are required to ensure that the subject land is suitable for its intended use.	A preliminary assessment of possible contamination within the subject site did not identify contamination of an extent that would render it unsuitable for residential use. However, appropriate investigations and remediation should be carried out where necessary, prior to development consent being granted.
SEPP (Infrastructure) 2007	The SEPP aims to provide a consistent planning regime for the delivery of infrastructure. It also provides provision for consultation and assessment.	Development resulting from the proposal can be adequately serviced with existing infrastructure.
SEPP (Mining, Petroleum Production and Extractive industries) 2007	The SEPP aims to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources. The SEPP provides that development for the purpose of petroleum production and extractive industries may be carried out with development consent on land on which development for the purposes of agriculture or industry may be carried out (with or without development consent).	Neither agriculture nor industry are permissible (with or without development consent) in the conservation or residential zones proposed for the subject site. The proposed zoning would be inconsistent with the aims of the SEPP but the inconsistency is considered to be of minor significance given the limited area of the site.
Draft SEPP 66 – Integration of	This policy aims to ensure that urban structure, building forms,	The proposed rezoning would result in approximately 8-10

SEPPs	Relevance	Implications
Land Use and Transport	<p>land use locations, development designs, subdivision and street improve accessibility to housing, employment and services by walking, cycling and public transport.</p> <p>In relation to rezoning land for residential development, the local environmental plan should include provisions that:</p> <ul style="list-style-type: none"> encourage an average gross residential density of at least 15 dwellings per hectare and support the achievement of viable public transport thresholds, and ensure development of the land will result in subdivision designs and layouts that encourage and are supportive of walking, cycling and the use of public transport. 	<p>dwellings on a site of 0.88ha or 9-11 dwellings per ha.</p> <p>The site is bounded on the south by Awaba St which connects to Stockton St and the bus and future cycle route. The lot and road layout including direct access to Awaba St and the cycleway and bus route would be addressed at sub-division stage with the objective to support walking, cycling and public transport access to Morisset and the larger region.</p>

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

An assessment has been undertaken to determine the level of consistency the proposal has with relevant Ministerial Directions. The assessment is provided below.

Ministerial Direction	Relevance	Implications
1.2 – Rural Zones	Aims to protect agriculturally productive land by preventing a draft LEP from rezoning land from rural to an urban land use, or intensifying the permissible density of rural land; unless it is consistent with a Department of Planning regional strategy or justified with concurrence from the Director-General	The subject site has not been identified as agriculturally productive land and is currently zoned for Investigation. The proposal is therefore consistent with this direction.
1.3 – Mining, Petroleum Production and Extractive Industries	Aims to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	The Department of Primary Industries (DPI) in response to s62 consultation for Amendment 41 advised no objection to urban development on the subject land provided that access is maintained for future coal seam methane and petroleum exploration. Extractive industry is not a permissible use in the

Ministerial Direction	Relevance	Implications
		proposed residential zones. This is inconsistent with the direction but the inconsistency is considered to be of minor significance given the limited area of the site.
2.1 – Environmental Protection Zones	Aims to protect and conserve environmentally sensitive land by requiring appropriate provisions in a draft LEP and no reduction in environmental protection standards.	The subject land is currently zoned 10 Investigation The proposal seeks to protect the corridor identified as being environmentally sensitive by applying a 7(1) conservation zone. Therefore, the proposal is consistent with this direction.
2.3 – Heritage Conservation	Aims to conserve items of environmental heritage by requiring a draft LEP to include provisions to facilitate the protection and conservation of Aboriginal and European heritage items.	No items of environmental heritage have been identified on the subject site. The proposal is consistent with the direction.
2.4 – Recreation Vehicle Areas	Aims to protect sensitive land or land with significant conservation values from adverse impacts of recreation vehicles by prohibiting a draft LEP from enabling of a recreation vehicle area in environmentally sensitive locations, and requiring certain matters to be considered in other locations.	The proposal does not include a recreation vehicle area.
3.1- Residential Zones	Aims to encourage a variety and choice of housing types to provide for existing and future housing needs. To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure services, and to minimise the impact of residential development on the environment and resource lands.	The proposal seeks to rezone land for residential purposes in an area already serviced by existing utility infrastructure. The proposal would provide for future housing needs in Morisset which is an emerging regional centre. The proposed zoning allows for low and medium density housing. The proposal is consistent with this direction.
3.4 Integrating Land Use and Transport	The aim of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking,	The proposal provides for residential land use located close to existing road and transport infrastructure. The site is within 800m of the Morisset town centre. A new cycleway will be located less than 100m away. The cycleway along Stockton St to the Morisset town

Ministerial Direction	Relevance	Implications
	<p>cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>	<p>centre is being provided as part of the North Coorunbong residential subdivision.</p> <p>The proposal is consistent with this direction.</p>
4.1- Acid sulphate Soils	Aim to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	The site has not been identified as containing ASS. Therefore, the proposal is consistent with this direction.
4.2 – Mine Subsidence and Unstable Land	Aims to ensure development is appropriate for the potential level of subsidence. The direction requires consultation with the Mine Subsidence Board where a draft LEP is proposed for land within a mine subsidence district.	<p>The Mine Subsidence Board advised it had no objections to the rezoning proposal under Amendment 41. This included the subject land.</p> <p>The proposal is consistent with this direction.</p>
4.3- Flood prone land	Aims to ensure that development of flood prone land is consistent with the NSW Government Flood Prone Land Policy and the Principles of the Floodplain Development Manual 2005, and to ensure that the provision of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	<p>GHD Hydrological Assessment Oct 2008 indicates the extent of low, medium and high hazard flood prone land along Clacks Creek. The flood prone land would be contained within the proposed conservation zone as shown in Figure 11 and Figure 4.</p> <p>The proposal is consistent with this direction.</p>
4.4 – Planning for Bushfire Protection	Aims to reduce risk to life and property from bushfire. Requires an LEP to have regard for <i>Planning for Bushfire Protection</i> , amongst other matters. Applies to land that has been identified as bushfire prone, and requires consultation with the NSW Rural Fire Service, as well as the establishment of Asset Protection Zones.	The site contains land identified as bushfire prone land. The NSW Rural Fire Service has been consulted and advise that retention of vegetation within the conservation areas may represent a bushfire risk and the appropriate bushfire protection measures for residential development will required as set out in <i>Planning for Bushfire Protection 2006</i> . Asset Protection Zones will be required

Ministerial Direction	Relevance	Implications
		<p>between the riparian vegetation and residential development.</p> <p>The proposal is considered to be consistent with the direction</p>
5.1 – Implementation of Regional Strategies	Aims to give legal effect to regional strategies, by requiring draft LEPs to be consistent with relevant strategies. The direction requires a draft amendment to be consistent with the relevant State strategy that applies to the Local Government Area.	The area of Morisset as a whole is identified LHRs. The planning proposal is consistent with the development of Morisset as an emerging regional centre.
6.1 – Approval and Referral Requirements	Prevents a draft LEP from requiring concurrence from, or referral to, the Minister or a public authority unless approval is obtained from the Minister and public authority concerned. Also restricts the ability of a Council to identify development as designated development without the Director General's agreement.	The draft amendment does not require concurrence from, or referral to, the Minister or a public authority. The planning proposal is consistent with this direction.
6.2 – Reserving Land for Public Purposes	Aims to facilitate the reservation of land for public purposes, and to facilitate the removal of such reservations where the land is no longer required for acquisition. A Council must seek the Minister's or public authority's agreement to create, alter or reduce existing zonings or reservations in an LEP. A Council can also be requested to rezone or remove a reservation by the above.	The amendment does not have implications for public land reservations. The proposal is consistent with this direction.
6.3 – Site Specific Provisions	Aims to reduce restrictive site specific planning controls where a draft LEP amends another environmental planning instrument in order to allow a particular development proposal to proceed. Draft LEPs are encouraged to use existing zones rather than have site specific exceptions.	The amendment does not propose site specific zones or planning provisions. The proposal is consistent with this direction.

C. Environmental, social and economic impact

1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The site includes the Endangered Ecological Community (EEC) Riparian Melaleuca Swamp Woodland, located within the riparian corridor associated with Clacks Creek. The Riparian Melaleuca Swamp Woodland would be protected under the proposed 7(1) Conservation (Primary) Zone.

The threatened species *Tetratheca juncea* habitat occurs locally, however no plants were observed on the site (Coombes LES 2005).

Five species listed as vulnerable on Schedule 2 of the *Threatened Species Conservation Act 1995* have been identified on the site or adjoining lots (Coombes LES 2005) and are.

Petaurus norfolcensis (Squirrel Glider);

Pteropus poliocephalus (Grey-headed flying fox);

Mormopterus norfolkensis (Eastern Freetail-bat);

Miniopterus australis (Little Bentwing-bat); and

Myotis adversus (Large-footed Myotis)

The north - south corridor on Clacks Creek was identified as a habitat corridor for the Squirrel Glider population (Fallding and Smith, 2008). This corridor would be protected under the proposed 7(1) Conservation (Primary) Zone. Future design of the creek crossing the Awaba Street road reserve should consider fauna movements across the road reserve.

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

The proposed zone layout will result in a residential zone closer than 40m to a watercourse. The Department of Water and Energy publication 'Guidelines for Controlled Activities: Riparian corridors' provides advice for residential development adjacent a watercourse as follows:

1. A Core Riparian Zone (CRZ) The Department will seek to ensure that the CRZ remains, or becomes vegetated, with fully structured native vegetation (including groundcovers, shrubs and trees). There should be no infrastructure such as roads, drainage, stormwater structures or services within the CRZ. The minimum CRZ for a second order watercourse is 20m on each side of the watercourse and measured from the top of bank.
2. A Vegetated Buffer (VB) protects the environmental integrity of the CRZ from weed invasion, micro-climate changes, litter, trampling and pollution. There should be no infrastructure such as roads, drainage, stormwater structures or services within the VB. The recommended width of the VB is 10 metres but this depends on merit issues.
3. An Asset Protection Zone (APZ) is a requirement of the NSW Rural Fire Service and is designed to protect assets (houses, buildings, etc.) from potential bushfire damage. The APZ is measured from the asset to the outer edge of the vegetated buffer (VB). The APZ should contain cleared land which means that it can not be part of the CRZ or VB. The APZ must not result in clearing of the CRZ or VB. Infrastructure such as roads, drainage, stormwater structures, services, etc. can be located within APZs.

The guidelines state that 'the final CRZ width will be determined after a merit assessment of the site and consideration of any impacts of the proposed activity'.

The most recent advice from the Office of Water (formerly Department of Water and Energy) in February 2010 states that 'a riparian buffer of 20m either side of Clacks Creek would probably be appropriate to meet the requirements of the Water Management Act 2000'.

Future development applications within 40m of the watercourse would be referred to the NSW Office of Water for concurrence.

From a geotechnical viewpoint development of the site for residential use is considered feasible (Coffey 2008). The lower lying parts of the subject site may be affected by Acid Sulfate Soils. This area occurs partly in the proposed Conservation Zone. Further investigation would be required prior to any excavations at the sub-division stage. .

The Rural Fire Service advise that the retention of vegetation within the site in the form of conservation areas may represent a bushfire risk and the appropriate bushfire protection measures for residential development will be required commensurate with the hazard. This would include provision of an Asset Protection Zone between the Conservation Zone and future dwellings. It would not be appropriate to use any part of the Conservation Zone for an APZ. Future development of the site will need to comply with the provisions of *Planning for Bushfire Protection 2006*.

Stormwater and drainage impact are addressed in the GHD report 2008 which states that Clacks Creek is part of a wetland system where healthy riparian vegetation exists and active bank erosion is not evident. The proposed conservation zoning of the riparian corridor would maintain bank stability.

The GHD study also concludes that development can proceed without an increase in the stormwater impacts on Clacks Creek, Stockton Creek or Dora Creek through the utilisation of water sensitive urban design features, such as rainwater tanks, grassed swales, gross pollutant traps and constructed wetlands. These design features will be implemented at the development application stage. A site based stormwater management plan will be required for a development application at subdivision stage

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

The socio-economic study reported in Coombes 2005 reported positive growth in population, facilities and services in Morisset. The provision of 8-10 new dwellings in this location is considered appropriate as the site is close to the Morisset town centre, schools, shops, services, public transport and open space and recreation facilities.

Given the scale of the site the economic effects of the proposal would be of minor significance.

D. State and Commonwealth interests

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

Investigations show that there will be adequate existing infrastructure to service the proposed residential rezoning, including electricity, water, sewer and natural gas.

As part of Amendment 41 consultation, Energy Australia advised that, based on the electrical network in the immediate area, it would appear that there are no major constraints to supplying electricity to the subject land. Hunter Water Corporation advised that some areas may be affected by capacity constraints in terms of water supply and wastewater transportation infrastructure until certain upgrades are carried out in 2011.

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

Relevant authorities were consulted during the previous section 62 consultation period for Amendment No. 41. Comments received from each authority during this consultation are detailed in the table below.

Authority	Comment
Mine Subsidence Board	The MSB has no objections to the proposed rezoning. Applicants should nonetheless seek MSB's approval for any proposed subdivision or erection of improvements at the appropriate time.
Energy Australia	Energy Australia advised that, based on the electrical network in the immediate area, it would appear that there are no major constraints impacting on the ability for electricity to be provided to the subject land. The proposed change in zoning would, however, necessitate additional infrastructure, which may require the acquisition of additional easements. Electricity reticulation to new residential subdivisions must be installed underground at the cost of the developer. This may also impact upon the ability of some existing customers to recoup funds under Rural Reimbursement Schemes.
Roads and Traffic Authority	<p>The RTA concurs with the proposed rezoning and exhibition of the draft LEP amendment, once prepared. The RTA will, however, maintain an objection to the finalisation of the draft LEP amendment until such time as the Morisset Structure Plan and accompanying transport and traffic impact studies are finalised. The studies should be prepared in accordance with the RTA's <i>Guide to Traffic Generating Developments</i> and submitted to the RTA for review.</p> <p><i>Planning Comment: The Morisset Structure Plan was adopted by Council on 24 November 2008. The accompanying transport and traffic impact studies were finalised to the RTA's satisfaction.</i></p>
Department of Environment, Climate Change and Water	DECC advised that the preparation of a draft LEP for the subject land should consider impacts on native vegetation; potential land use conflicts relating to air, odour or noise; legislation relating to threatened species; management of any areas of contamination; and, sustainable stormwater management. DECC also notes that an appropriate level of Aboriginal cultural heritage

Authority	Comment
	<p>assessment must be undertaken, and the views of relevant Aboriginal community groups sought and fully considered. A list of environmental issues to guide preparation of Local Environmental Plans was included with DECC's response.</p> <p><i>Planning Comment: The issues raised by DECC were addressed in the environmental investigations and studies undertaken for Amendment No. 41 to LM LEP 2004. This site was previously part of Amendment No. 41.</i></p>
NSW Department of Primary Industries	<p>The DPI Minerals division has advised that they have no objection to the rezoning of the subject area for urban development. The subject area is, however, within an area being explored for coal seam methane. The DPI has requested that access be maintained for current and future petroleum exploration activities, and that Mining or "gas production" should be a permissible use within the rezoned area to allow for possible future gas extraction.</p> <p><i>Planning Comment: The planning proposal does not address the permissibility of Mining or "gas production". The permissibility of these activities are controlled by the relevant SEPP.</i></p>
NSW Rural Fire Service	<p>The RFS has no objection to the rezoning, but notes that the subject site is identified as bushfire prone on the Lake Macquarie Bushfire Prone Land Map. Future development applications must therefore address the requirements of <i>Planning for Bushfire Protection 2006</i>. The RFS also advises that the retention of vegetation within the site in the form of conservation areas may retain the bushfire risk and the appropriate bushfire protection measures for residential development will be required commensurate with the hazard.</p>
Department of Lands	<p>Lands noted that the Crown Road Reserve for Coorunbung St has a high conservation value as part of an endangered ecological community and an identified wildlife corridor. Vegetative buffers need to be retained or re-established with native species along freehold boundaries to safeguard its environmental values.</p> <p>The Crown Road Reserve is currently zoned 7(1) conservation</p> <p>The rezoning proposal includes a 7(1)</p>

Authority	Comment
	Conservation corridor between the Crown Road Reserve and future residential land.
Department of Water and Energy-clarification was sought from DWE regarding the riparian corridor on the subject property.	In this particular case, the Department has previously discussed the matter with the applicant and/ or their consultants as well as Council. Latest advice (24 February 2010) from the NSW Office of Water stated that a 20m wide riparian buffer along both sides of Clacks Creek would be appropriate to meet the requirements of the Water Management Act 2000.
Department of Community Services	No comment was received.
Department of Education and Training	No comment was received
TELSTRA	No comment was received.
State Member for Lake Macquarie	No comment was received.
Department of Housing	No comment was received
Hunter New England Area Health Service	<p>HNE Health acknowledges the proposed LEP amendment is within an area identified for a number of large residential developments that will increase demand for health services in the longer term. HNE Health has therefore identified the need to perform a comprehensive review to identify the demographics and health needs of the anticipated additional population in order to comment on the need for expanded health services or infrastructure in the Morisset area.</p> <p>HNE Health also highlights the importance of planning for older residents in neighbourhood design by giving due consideration to such issues as public transport access, walkability, and appropriate open space.</p> <p>HNE Health provided further comments during the public exhibition period, reiterating previous advice and to suggest issues including affordable housing, environmental health, and healthy lifestyles be given further consideration in the design of the future development.</p>
Lake Macquarie Catchment Coordinator	No comment was received.
Landcom	No comment was received.

Authority	Comment
NSW Health	No comment was received.
Ministry of Transport	<p>MoT has reinforced the need to consider Ministerial Planning Direction 3.4 – Integrating Land Use and Transport, and would like the opportunity to comment on the preparation of any planning agreement due to the potential to obtain funding for relevant public transport infrastructure.</p> <p>MoT provided further comments during the public exhibition period and requested that Council provide further information on initiatives for modal shift from car usage to public transport, walking and cycling, as well as proposed road layouts that support buses and bus stops.</p> <p>MoT supports Council’s commitment to prepare a Transport and Pedestrian Management Accessibility Plan (outlined in the Morisset Structure Plan) and would appreciate the opportunity to comment on that plan.</p> <p>MoT requested that the development contributions plan to be prepared by Council considers pedestrian, cycleway connections, and bus access upgrades.</p>
Department of Planning Heritage Branch	The Heritage Office notes there are no identified heritage items within or near the subject site. It is, nonetheless, essential that investigations be undertaken to determine the location of any heritage items within the lands affected by the draft LEP.
Hunter Central Rivers Catchment Management Authority	No comment was received.
Hunter Urban division general Practise	No comment was received.
AGL Gas Networks	No comment was received.
Hunter Water Corporation	HWC had no objection to exhibition of the draft LEP, but advised that some areas may be affected by capacity constraints in terms of water supply and wastewater transportation infrastructure until certain upgrades are carried out. The necessary upgrades are scheduled to take place in 2011.
Koompahtoo Local Aboriginal Land Council	No comment was received.

Consultation with government agencies (as detailed above) was undertaken as part of Amendment No. 41 during 2009.

In this planning proposal the zone boundaries on the subject site have changed from the layout included in Amendment No. 41 with the effect of reducing the width of the 7(1) Conservation Zone along Clacks Creek.

Additional Consultation with Office of Water

Council has specifically sought advice from the Office of Water regarding the required width of the conservation zone along the creek. The Office of Water responded by letter on 24 February 2010 indicating that 'a riparian buffer of 20m either side of Clacks Creek would probably be appropriate to meet the requirements of the Water Management Act 2000'.

Part 4 –Details of Community Consultation

The subject proposal has previously been publically exhibited as part of Amendment No. 41 for a period of 28 days.

During the exhibition timeframe one submission was received in regard to the subject property written on behalf of the owners of the subject property. Their objection concerned the width of the 7(1) Conservation zone on their property. The landowners believed the requirement for a 40m wide 7(1) Conservation zone was too onerous and combined with the constraint of bush fire on the subject property, would not enable them to maximise the residential development potential of the site.

Further consultation has been undertaken with the landowner to determine an equitable zoning outcome for the subject property in view of bush fire constraints and the associated riparian vegetation.

Based on consultation with the landowner and decisions reached by the elected Council, some changes have been made to the 7(1) zone boundary. The changes are relatively minor and affect only this property. The landowner has had input into the proposed zone layout.

It is considered that re-exhibition of the proposal is not warranted.

Part 5 – Attachments

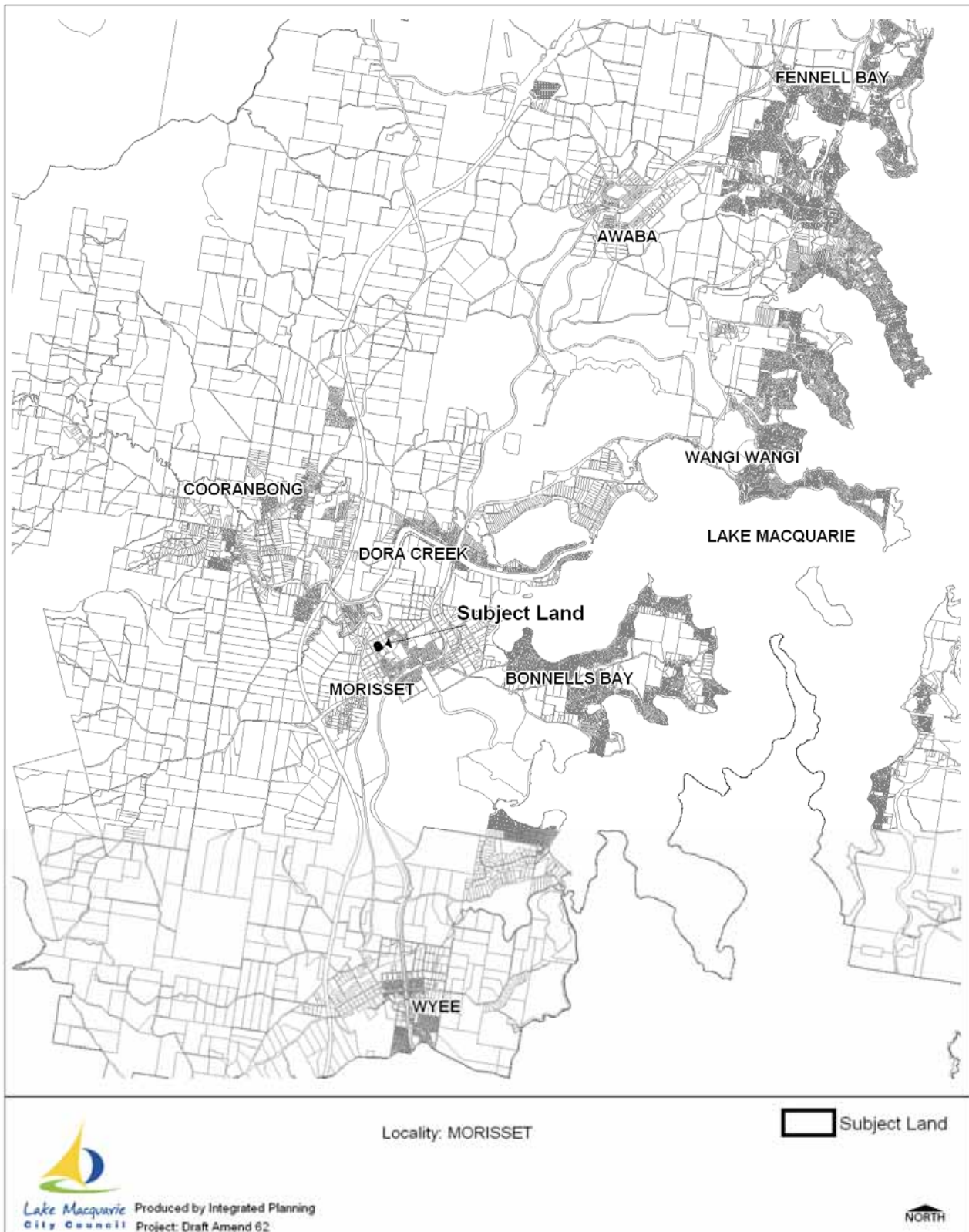


Figure 1: Subject Land Locality Map



Figure 2- Aerial photo showing subject land

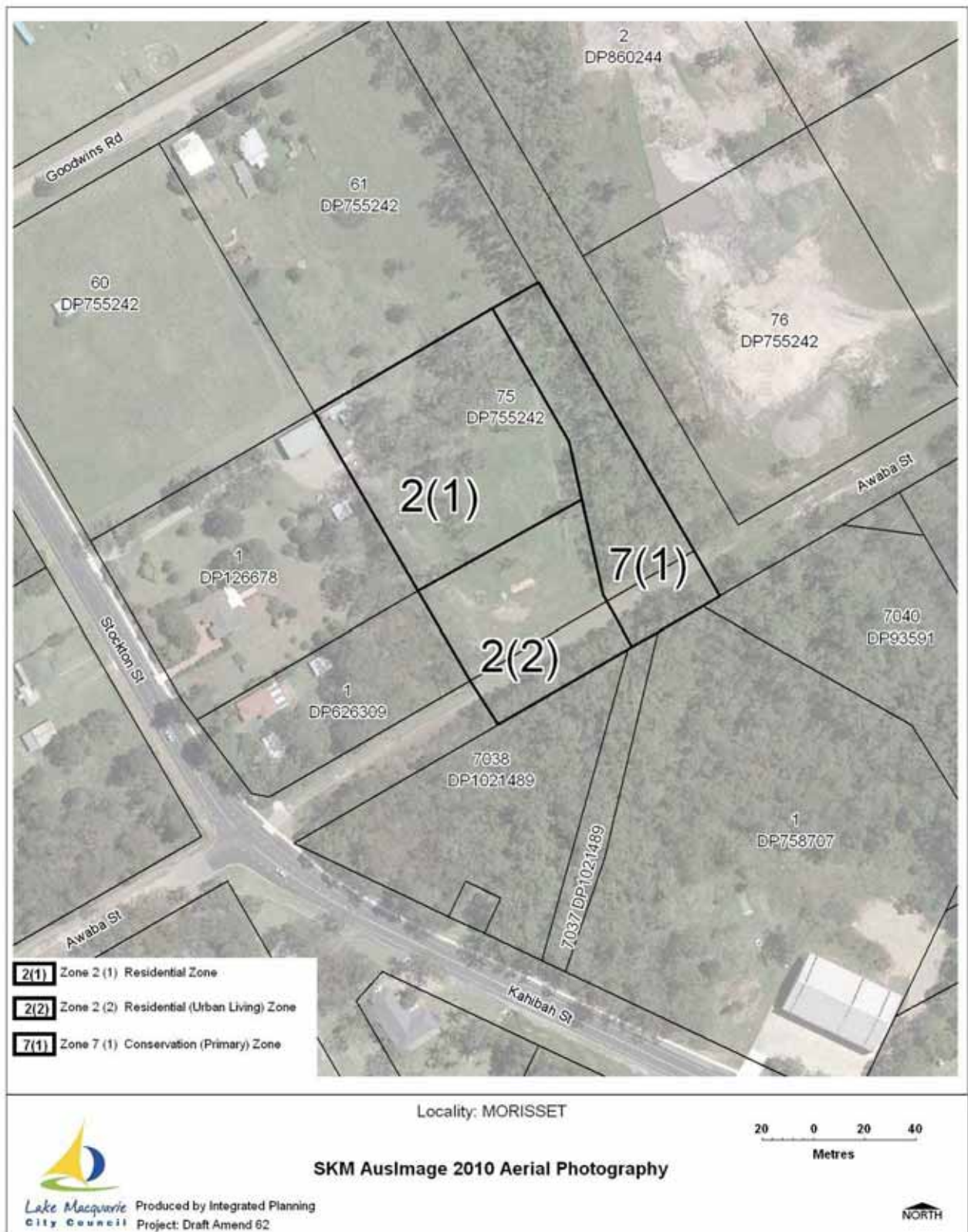


Figure 3- Recommended zoning option

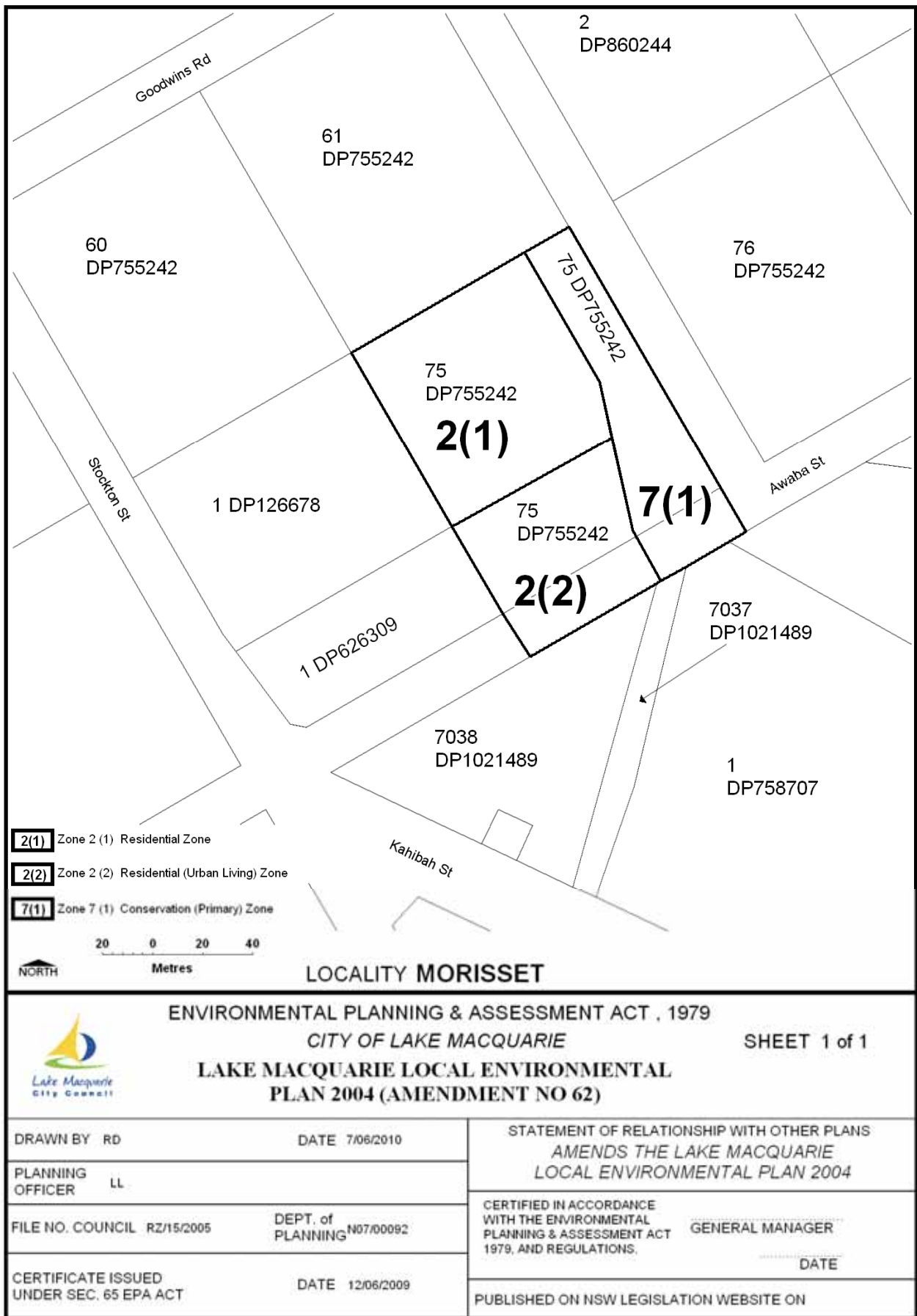
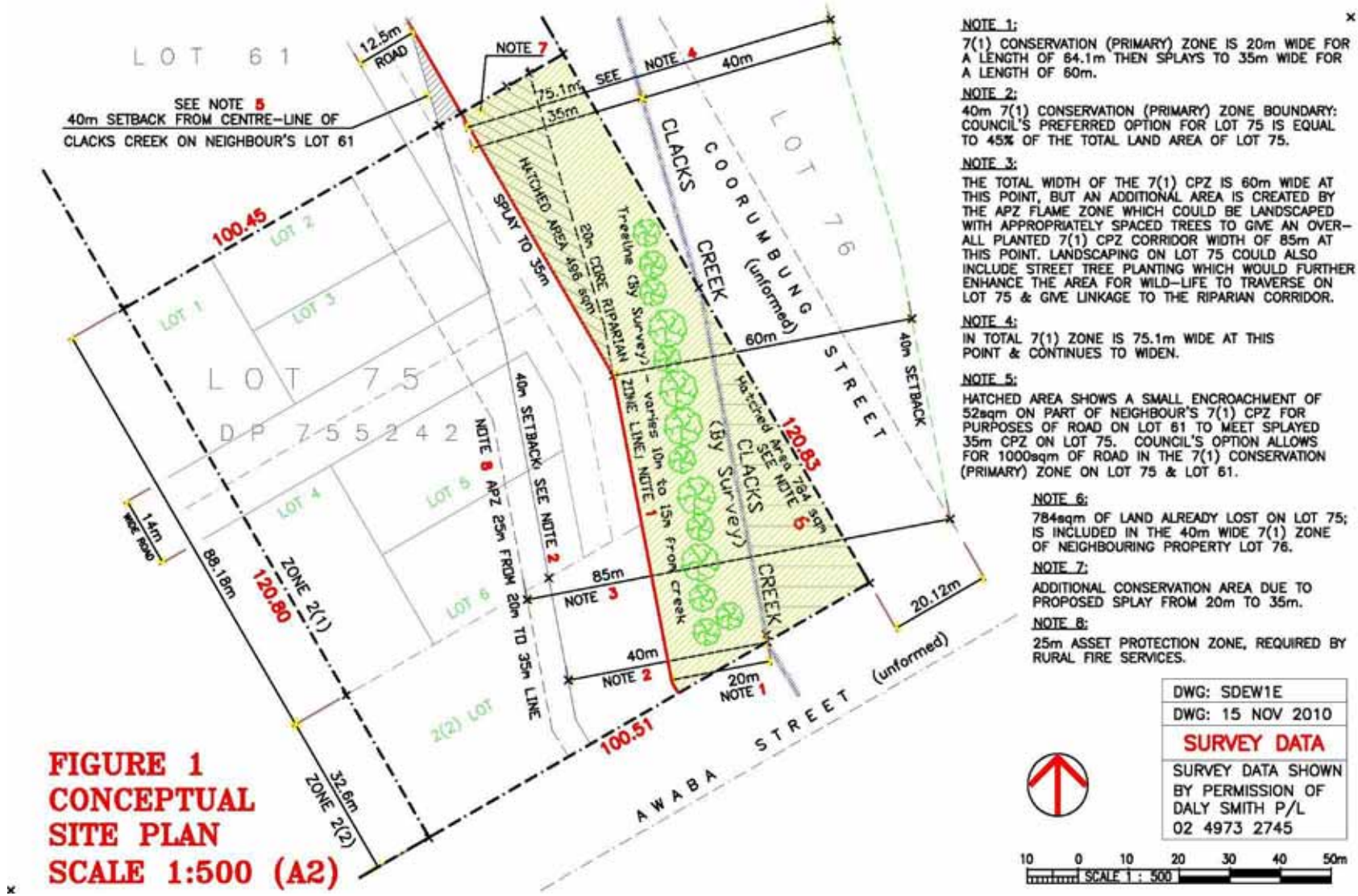


Figure 4- Zoning map



NOTE 1:
7(1) CONSERVATION (PRIMARY) ZONE IS 20m WIDE FOR A LENGTH OF 64.1m THEN SPLAYS TO 35m WIDE FOR A LENGTH OF 60m.

NOTE 2:
40m 7(1) CONSERVATION (PRIMARY) ZONE BOUNDARY: COUNCIL'S PREFERRED OPTION FOR LOT 75 IS EQUAL TO 45% OF THE TOTAL LAND AREA OF LOT 75.

NOTE 3:
THE TOTAL WIDTH OF THE 7(1) CPZ IS 60m WIDE AT THIS POINT, BUT AN ADDITIONAL AREA IS CREATED BY THE APZ FLAME ZONE WHICH COULD BE LANDSCAPED WITH APPROPRIATELY SPACED TREES TO GIVE AN OVER-ALL PLANTED 7(1) CPZ CORRIDOR WIDTH OF 85m AT THIS POINT. LANDSCAPING ON LOT 75 COULD ALSO INCLUDE STREET TREE PLANTING WHICH WOULD FURTHER ENHANCE THE AREA FOR WILD-LIFE TO TRAVERSE ON LOT 75 & GIVE LINKAGE TO THE RIPARIAN CORRIDOR.

NOTE 4:
IN TOTAL 7(1) ZONE IS 75.1m WIDE AT THIS POINT & CONTINUES TO WIDEN.

NOTE 5:
HATCHED AREA SHOWS A SMALL ENCROACHMENT OF 52sqm ON PART OF NEIGHBOUR'S 7(1) CPZ FOR PURPOSES OF ROAD ON LOT 61 TO MEET SPLAYED 35m CPZ ON LOT 75. COUNCIL'S OPTION ALLOWS FOR 1000sqm OF ROAD IN THE 7(1) CONSERVATION (PRIMARY) ZONE ON LOT 75 & LOT 61.

NOTE 6:
784sqm OF LAND ALREADY LOST ON LOT 75; IS INCLUDED IN THE 40m WIDE 7(1) ZONE OF NEIGHBOURING PROPERTY LOT 76.

NOTE 7:
ADDITIONAL CONSERVATION AREA DUE TO PROPOSED SPLAY FROM 20m TO 35m.

NOTE 8:
25m ASSET PROTECTION ZONE, REQUIRED BY RURAL FIRE SERVICES.

DWG: SDEW1E
DWG: 15 NOV 2010
SURVEY DATA
SURVEY DATA SHOWN BY PERMISSION OF DALY SMITH P/L 02 4973 2745

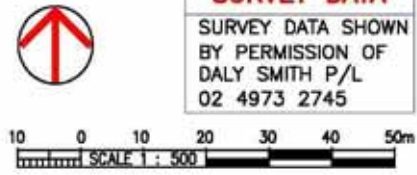
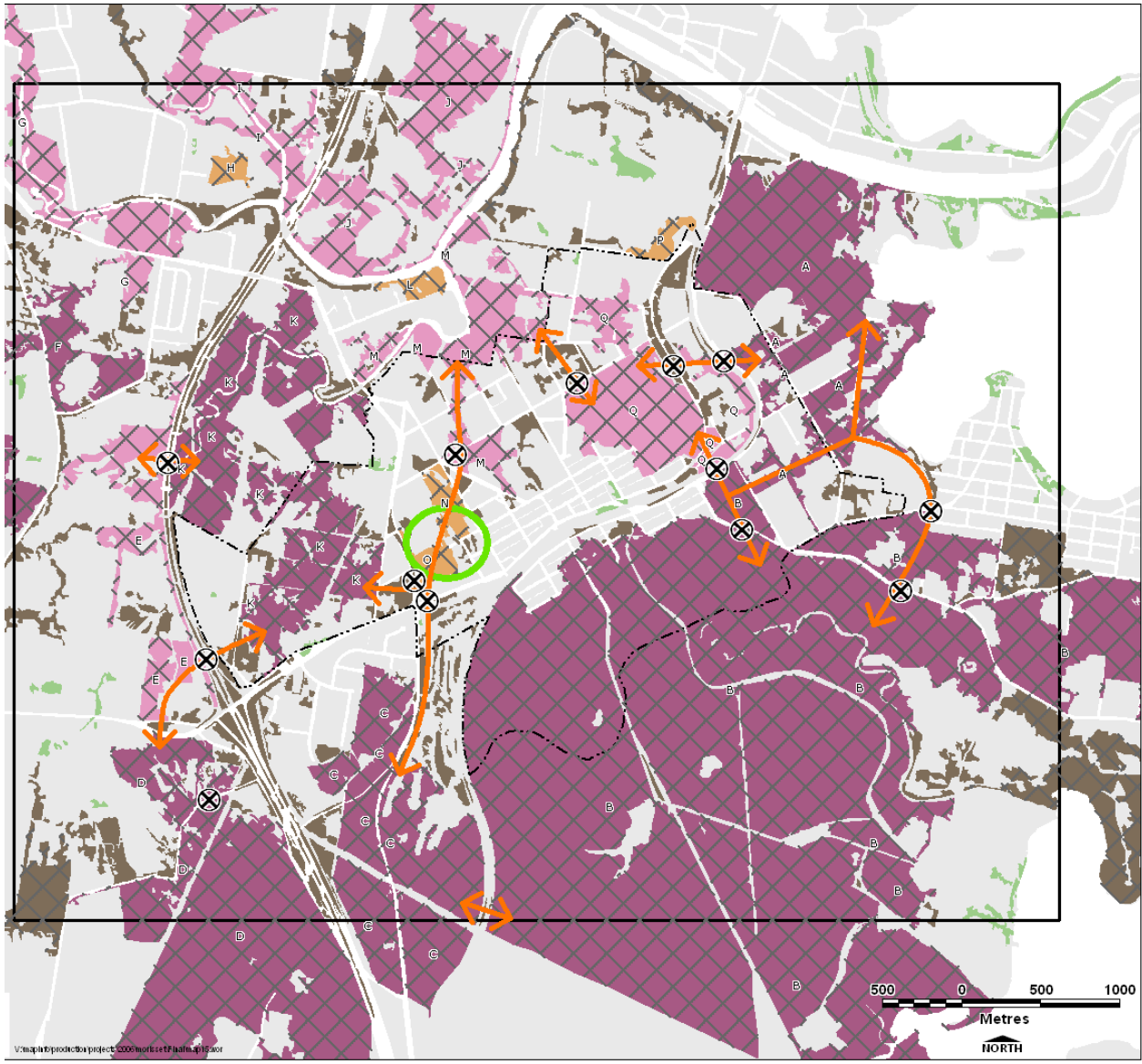


Figure 5- Lot Layout provided by Landowner



Figure 6 Vegetation Communities (from Coombes, 2005 p39)



Map 15 - Conservation Priority Corridor network

Concept map based on Habitat Fragment Map (Map 14). Identify critical habitat corridors required to maintain connectivity, and widened and/or rehabilitated. Also shows key actual/potential crossing areas and likely road/habitat conflict locations which require design solutions.

ID	Area (ha)	Group
F	6,784.4	Major Habitat
B	920.8	Major Habitat
D	532.3	Major Habitat
A	132.7	Major Habitat
K	113.7	Major Habitat
C	109.8	Major Habitat
J	68.9	Minor Habitat
Q	60.9	Minor Habitat
M	46.6	Minor Habitat
G	40.6	Minor Habitat
I	40.2	Minor Habitat
E	35.5	Minor Habitat
N	6.3	Small Habitat
O	5.5	Small Habitat
L	4.4	Small Habitat
P	4.3	Small Habitat
H	4	Small Habitat
	311.5	Movement Corridor

- Morisset Structure Plan Boundary
- ▭ Study Area
- ⊗ Key conflict locations for corridors
- Area to be retained as habitat (min 4ha, preferably mc)
- Conceptual links to be maintained
- Major Habitat Fragment (>100ha)
- Minor Habitat Fragment (30-100ha)
- Small Habitat Fragment (4-30ha)
- Movement Corridor
- Other remnant vegetation
- ⊗ >4ha remnant
- Native vegetation outside study area

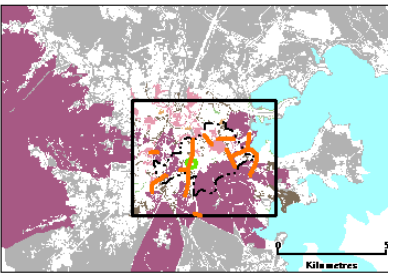


Figure 7- Squirrel Glider Review for Morisset Structure Plan Area (Fallding and Smith 2008)

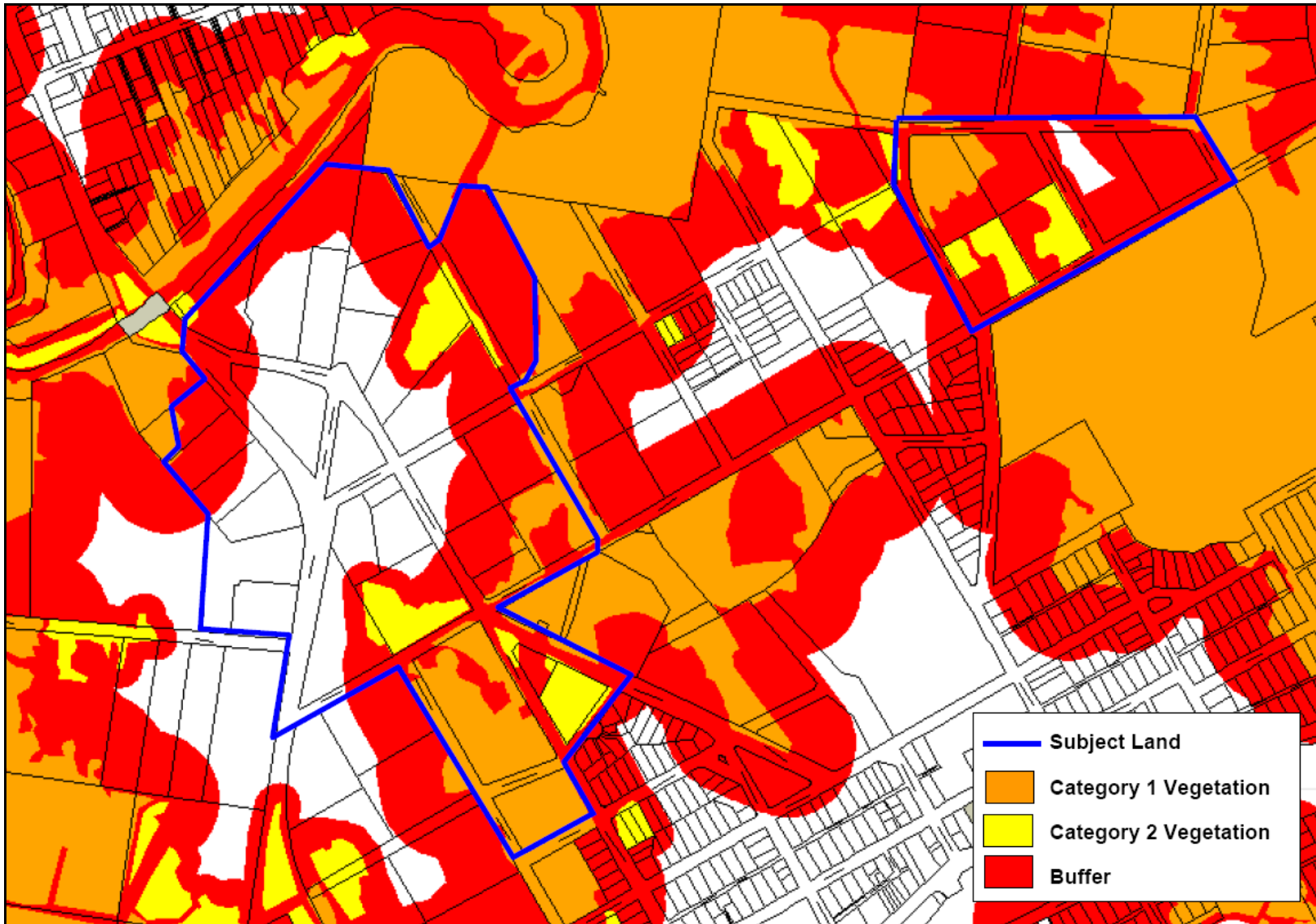


Figure 8- Bushfire Prone Land (LMCC, 2010)

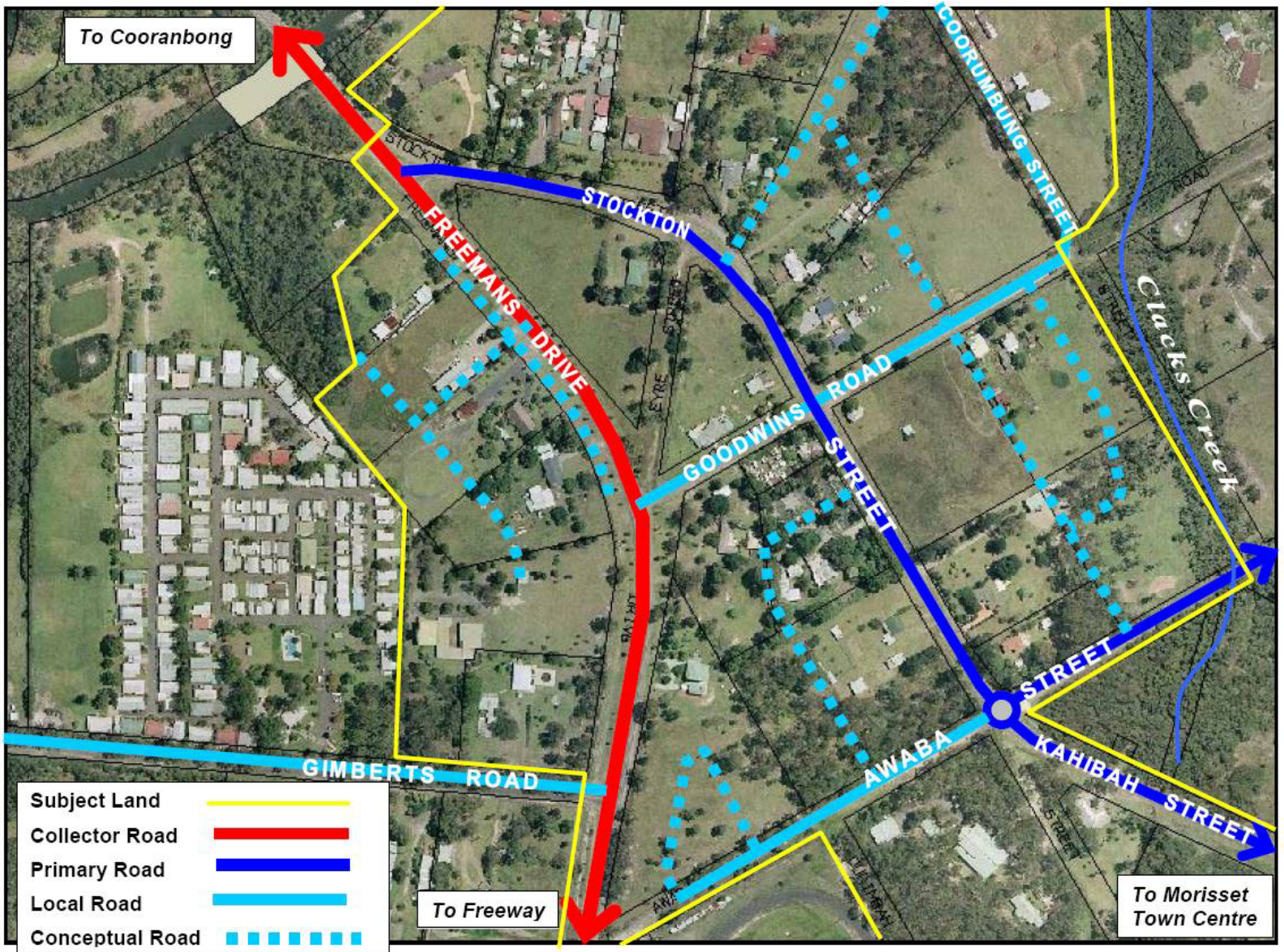


Figure 9 Road Hierarchy (LMCC, 2010)

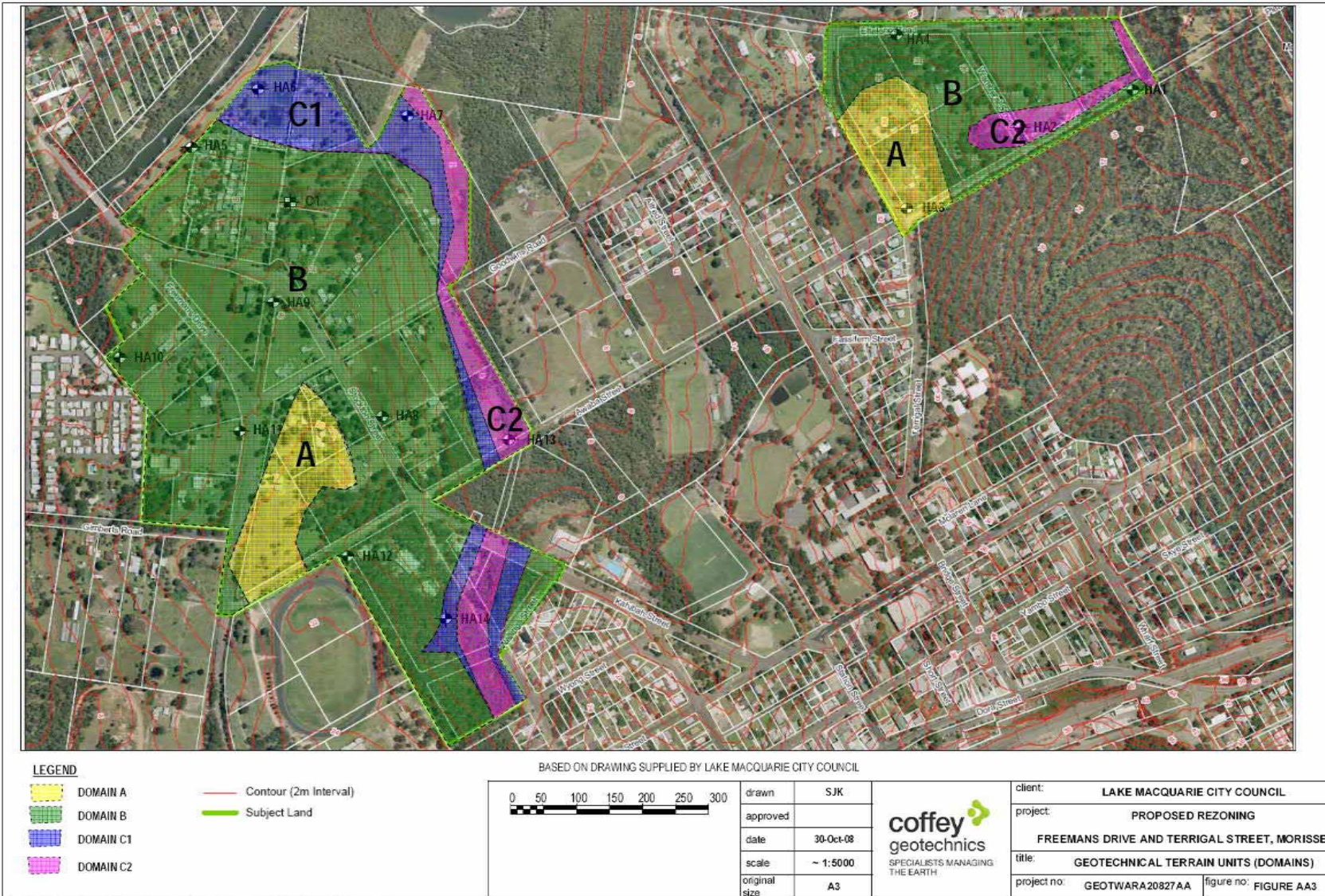


Figure 10 Geotechnical Terrain Units (Coffey, 2008)

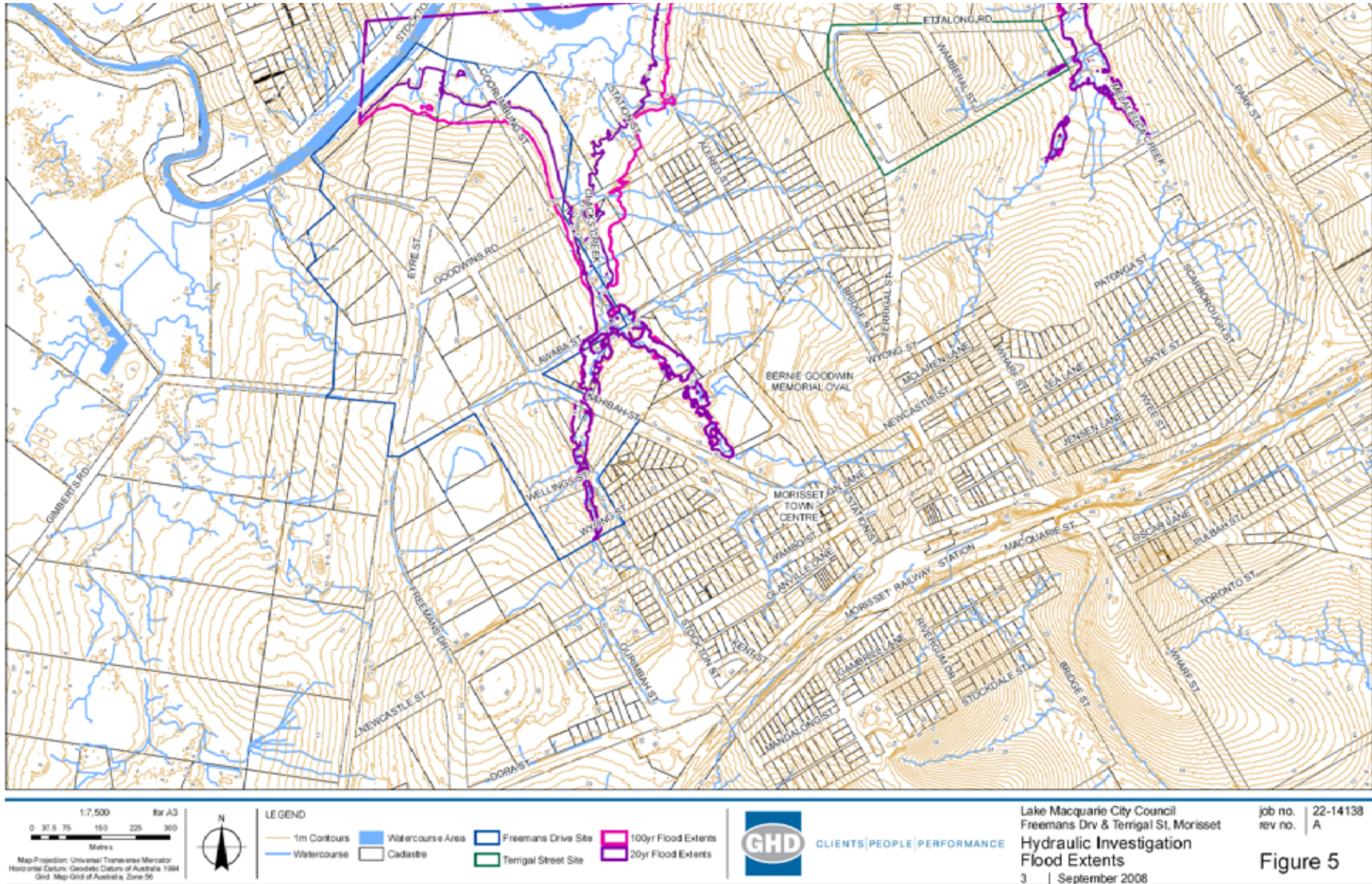


Figure 11 Hydraulic Investigations (GHD, 2008)