

# ATTACHMENT BOOKLET 6

**ORDINARY COUNCIL MEETING**

**TUESDAY 27 JUNE 2017**

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# PLANNING PROPOSAL

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To amend the Land Zoning Map within Pittwater Local  
Environmental Plan 2014 relating to 15 Jubilee Avenue,  
Warriewood

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## **PART 1: OBJECTIVES OR INTENDED OUTCOMES**

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The objective of this Planning Proposal is to amend the Pittwater Local Environmental Plan 2014 to:

1. Change the land use zoning of 15 Jubilee Avenue, Warriewood (Lot 202 DP 1019363) from IN2 (Light Industrial) to B7 (Business Park) to facilitate the development of the site as an ancillary office and light industrial facility for use in conjunction with the pharmaceutical business (Blackmores) at 20 Jubilee Avenue, Warriewood.

**PART 2: EXPLANATION OF PROVISIONS**

	<b>Proposed Amendments</b>	<b>Description</b>
1	Amendment to Land Zoning Map – Sheet LZN_012	Change the land use zone of 15 Jubilee Avenue, Warriewood from IN2 (Light Industrial) to B7 (Business Park)

## **PART 3 : JUSTIFICATION**

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### **Section A Need for the Planning Proposal**

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

No, the proposed change has not arisen as a result of a strategic study or report.

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

Yes. A Planning Proposal is the best and only means of achieving the objective and intended outcome.

### **Section B Relationship to Strategic Planning Framework**

**3. 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)?**

**Strategic Merit:**

Consistency with the relevant Draft District Plan

The exhibited Draft North District Plan (released in November 2016) is the applicable Draft District Plan in this instance. The Plan outlines a range of priorities and actions which are broadly categorised as creating:

- A productive city
- A liveable city; and
- A sustainable city

With regard to the creation of a productive city, the Plan includes a priority to protect and support employment and urban services land, and to grow jobs. The Plan identifies that land which was previously zoned for industrial or similar purposes, can now include other business zones that permit a number of industrial and commercial uses. In this instance, the proposal will support existing employment, by facilitating the growth of one of the Northern Beaches' largest employers, and through creating additional jobs on the subject site. The proposed change in land use zone is consistent with this part of the Draft District Plan.

In terms of liveability, the site does not currently permit any form of residential development, nor would the proposed new land use zone. However, the increase in employment would provide for employment self-containment within the Northern Beaches.

In terms of sustainability, it is considered that a future development could be designed and implemented (via the development application process) with acceptable impacts to the existing natural environment. The site is well-connected in terms of access to public transport (close to a variety of bus stops) and the ability for future occupants to cycle or walk to work.

Consistency with relevant local Council strategy

The relevant strategic study is the *Warriewood Valley Strategic Review Report* (2013). This Review Report, carried out by the former Pittwater Council and NSW Department of Planning and Infrastructure, was endorsed by the former Director General of Planning on 1 May 2013, and was adopted by the former Pittwater Council on 12 June 2013.

The focus of the Strategic Review was to investigate intensification of residential densities in the as-yet undeveloped land, particularly those identified as 'Designated Residential Sectors'. Although it was vacant, the subject site was already zoned 4(b): Light Industrial "B" under Pittwater Local Environmental Plan 1993 (as amended), and identified as an Employment Sector. Designated Employment Sectors were not recommended for any increased dwelling density under the Strategic Review process.

Following the adoption of the Strategic Review, further investigations were carried out, and these resulted in the production of the *Warriewood Valley Strategic Review Addendum Report 2014*. The Addendum Report was undertaken in order to investigate sites which were not identified in the Review Report; this includes the current site, which is identified as Sector 105 in this document. The sites were each given a Land Capability classification, identifying their suitability for further development. The subject site was given a classification of 1, being the most capable for future development. The land being rezoned from IN2 to B7 under Pittwater Local Environmental Plan 2014 is consistent with the Addendum Report as it applies to this land.

#### Response to a change in circumstances

In terms of changing trends, the Economic Impact Assessment submitted by Mecone Planning identifies that the nature and composition of industrial land generally has transitioned over past decades, with a shift to a range of business uses being accommodated on what was previously light industrial and warehousing land.

This view is corroborated within local government documents including The SHOROC Regional Employment Study (March 2008), which assesses the former Council areas of Mosman, Manly, Warringah, and Pittwater, and notes:

*'There is a growing demand for businesses to co-locate their industrial and commercial components within business parks across Sydney'.*

It is acknowledged that there is still a need to retain land as industrial land, and that these areas play an important role in the economy and functioning of the wider region. However, the circumstances of this case are such that the change in land use would support an existing light industrial pharmaceutical business which is a key employer in the region; the change in land use zone is supported.

#### **Site-Specific Merit:**

##### The natural environment

The site is currently vacant, comprising a predominantly flat, grassed surface, with a number of small trees located around the perimeter of the site. The site is not located on the Biodiversity Map within Pittwater LEP 2014 and is not identified as accommodating protected or significant natural, environmental or wildlife features. Council's Landscape Architect raised no concerns relating to harm to the existing natural features of the site. The site could be appropriately developed, as shown by the concept plan submitted by the applicant, with minimal adverse impact on the natural environment.

##### Existing, approved and likely future uses of the land

The area immediately surrounding the site is predominantly commercial and industrial, comprising the existing Blackmores site to the north, a second pharmaceutical business (Natures Way) to the north west, and the Pittwater RSL site to the north east. To the south are a range of manufacturing and warehouse uses. The land uses which would be permissible within the B7 zone would be compatible with the existing context, and with the land uses permitted within the adjacent IN2 zone.

There are also residential properties within the area however, the closest being directly to the east at 185 Warriewood Road, which despite being zoned as IN2 (Light Industrial) comprises two residential dwellings. It is anticipated that the change in land use zone from IN2 to B7 would be likely to result in similar, if not ameliorated impacts to this and other nearby residential properties.

Services and infrastructure to meet the demands of the proposal

The site is currently vacant. Being zoned IN2 and located within a designated employment sector, redevelopment is anticipated and encouraged. Any form of development will result in an increased need to access services and infrastructure which is already accounted for under the Warriewood Valley Section 94 Contributions Plan. A development permissible within the B7 land use zone would not require significant additional resources above those originally anticipated and accounted for within the current IN2 zoning.

**4. Is the planning proposal consistent with the council's local strategy or other local strategic plan?**

The *Pittwater Local Planning Strategy* is the relevant local strategy applicable to land under the former Pittwater Local Government Area. Written prior to the implementation of the *Warriewood Valley Strategic Review Report* and the formulation of the Pittwater LEP 2014, the *Pittwater Local Planning Strategy* provided recommendations to inform the creation of the future standard instrument LEP (now gazetted as Pittwater Local Environmental Plan 2014).

The Strategy lists the Warriewood Valley Employment Lands as a key employment area in the former Pittwater LGA, and states that '*the area should generally be safeguarded from further encroachment of inappropriate retail uses*'. The Strategy does not identify a need for a significant increase in industrial land, rather that existing industrial land be safeguarded, and to generally retain existing employment land by the allocation of appropriate zones to maintain the existing employment functionality of these employment areas.

While it would not be appropriate to permit the change of all IN2 land to B7 land, the particular circumstances of this case are such that the amendment of land use zone for this particular site is acceptable. The change would stimulate an existing manufacturing business and allow its expansion, without prejudicing nearby industrial land.

Regardless that this site is of a generous size and regular dimensions, and is generally free from existing constraints ordinarily affecting development opportunity, redevelopment has not yet been realised. Changing the land use zone for this as-yet undeveloped employment site may provide redevelopment opportunities to an otherwise under-utilised employment site. The B7 (Business Park) zone will continue to permit a range of industrial and commercial uses already permitted under the IN2 zone. Importantly, the rezoning of the subject site will facilitate and support the growth of the existing pharmaceutical business operating immediately across the street at 20 Jubilee Avenue, Warriewood.

The B7 (Business Park) zone will continue to prohibit all forms of retail premises (except for kiosks and food and drink premises), thus protecting the type of employment activities consistent with the local planning strategy while at the same time ensuring that there are land uses (such as kiosk and food and drink premises) that service the working population within this employment precinct.

**5. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

The Planning Proposal is generally consistent with the relevant State Environmental Planning Policies (see **Appendix 1**).

**6. Is the planning proposal consistent with applicable Ministerial Directions (Section 117 Directions)?**

The Planning Proposal is generally consistent with the applicable Ministerial Directions. Where there are inconsistencies, justification has been provided addressing how the inconsistency can be waived consistent with the Directions (see **Appendix 2**).

**Section C Environmental, social and economic impact**

**7. 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 is currently vacant, comprising predominantly a flat, grassed surface, with a number of small trees located around the perimeter of the site. The site is not identified as accommodating protected or significant natural, environmental or wildlife features. The site is not identified on the Biodiversity Map of the Pittwater LEP 2014. The application has been referred to Council's Landscape Architect who raised no concerns relating to harm to the existing natural features of the site.

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

The principal environmental issue is the potential for land contamination. A Contamination Report accompanies the application which identifies that the proposed change in zone would not change the risk profile associated with the site, and notes that further investigations would be required as part of the future development application process.

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

The change in land use zone will stimulate the redevelopment of an existing parcel designated as employment land that has been under-utilised since it was first rezoned for such a purpose in the 1990s. The change in zoning, aimed to permit the development of ancillary office and light industrial premises operating in conjunction with an existing pharmaceutical business, is anticipated to generate additional employment, positively benefiting the local economy.

**Section D State and Commonwealth interests**

**10. Is there adequate public infrastructure for the planning proposal?**

The sites are located within an established area, meaning that access to roads, sewerage, water and electricity are present. A development within either the existing IN2 (Light Industrial) zone, or the proposed B7 (Business Park) zone, would have adequate access to services and infrastructure. The change in land use zone would not alter the levy applicable under the Warriewood Valley Section 94 Contributions Plan.

**11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway Determination?**

Although preliminary views from Sydney Water and Roads and Maritime Services were provided at the non-statutory phase, a condition of the Gateway Determination required further consultation with these same public authorities as well as Ausgrid and NSW Environment Protection Agency. Further consultation has been carried out with each of these four state agencies. Responses have been received from all four, and the comments provided are discussed within the report to be presented to Council on 27 June 2017.

#### **PART 4: MAPPING**

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An extract of the current Pittwater LEP 2014 Land Zoning Map, showing the subject land being sheet LZN\_012 is contained in **Appendix 3**.

The proposed amendment to the Pittwater LEP 2014 Land Zoning Map, being sheet LZN\_012, is contained in **Appendix 4**.

## **PART 5: COMMUNITY CONSULTATION**

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### Background

Prior to the issuing of the Gateway Determination and Council's resolution of 28 February 2017, The Planning Proposal was placed on a preliminary (non-statutory) consultation phase between 10 December 2016 and 11 January 2017. Properties were notified within the Warriewood Valley suburb and also the area immediately surrounding the site (3,064 letters in total). An advertisement was placed in the Manly Daily (displayed on Saturday 10 December 2016) and a site notice was displayed at the front of the site throughout the notification period. The application documents were made available electronically on Council's website and in hard copy in Customer Service Centres at Manly, Dee Why, Mona Vale, and Avalon. Notification letters were also sent to Warriewood Residents Association and Mona Vale Chamber of Commerce.

At that time, ten (10) submissions were received from members of the public. The matters raised were discussed and addressed within the report presented to the ordinary Council meeting on 28 February 2017.

### Statutory exhibition

The Gateway Determination issued by the Department of Planning and Environment on 6 April 2017 includes conditions pertaining to further community consultation. Specifically, condition 1 requires that the Planning Proposal is made publicly available for 28 days. The Planning Proposal was placed on statutory notification for a period of 26 days between 15 April 2017 and 22 May 2017. This included the written notification of residents within the Warriewood Valley suburb and those within the immediate vicinity of the site, as well as the previously notified community groups and those who had made a submission during the preliminary (non-statutory) exhibition phase. A public notice was placed in the Manly Daily on 15 April 2017 and the documents were made available electronically on Council's website and in hard copy at each of Council's Customer Service Centres.

One (1) submission was received during the statutory notification period. This submission primarily relates to existing traffic issues within the locality, and the potential for increased traffic as a result of the amendment. The issues raised are addressed within the report presented to Council on 27 June 2017.

**PART 6: PROJECT TIMELINE**

<b>Planning Proposal Milestone</b>	<b>Timeframe</b>	<b>Anticipated Completion Date</b>
Date of Gateway determination	6 weeks from Council decision to forward Planning Proposal to Gateway	Gateway Determination received 6 April 2017
Completion of required technical information	Due to the nature of the proposal additional technical information is not sought by Council	N/A
Government agency consultation	Any required formal consultation will occur concurrent with public exhibition	Written notification sent to state agencies on 13 April 2017.
Public exhibition	14 days	Statutory exhibition was carried out for 36 days (in line with Department's conditions) between 15 April 2017 and 22 May 2017.
Consideration of submissions	2 weeks from close of public exhibition	Late May
Consideration of proposal post-exhibition and report to Council	4 weeks from close of public exhibition	To be considered at Council meeting dated 27 June 2017.
Submission to Department and PCO to prepare draft instrument	Following Council decision to finalise LEP	Early July
RPA to make plan (if delegated)	4 weeks from Council decision to finalise LEP	Early August
Notification of LEP/LEP comes into force	1 week from RPA making plan	Late August

## Appendix 1: Consideration of SEPPs

The following SEPPs and deemed SEPPs are relevant to the former Pittwater Local Government Area. The Table identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and if applicable, whether the Planning Proposal is consistent with the provisions of that SEPP.

<b>State Environmental Planning Policy (SEPP)</b>	<b>Applicable</b>	<b>Consistent</b>
SEPP No 1 – Development Standards	YES	YES
SEPP No 14 – Coastal Wetlands	NO	N/A
SEPP No 19 – Bushland in Urban Areas	NO	N/A
SEPP No 21 – Caravan Parks	NO	N/A
SEPP No 26 – Littoral Rainforests	NO	N/A
SEPP No 30 – Intensive Agriculture	NO	N/A
SEPP No 33 – Hazardous and Offensive Development	YES	YES
SEPP No 36 – Manufactured Home Estates	NO	N/A
SEPP No 44 – Koala Habitat Protection	YES	YES
SEPP No 47 – Moore Park Showground	NO	N/A
SEPP No 50 – Canal Estate Development	NO	N/A
SEPP No 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	NO	N/A
SEPP No 55 – Remediation of Land	YES	YES
SEPP No 62 – Sustainable Aquaculture	YES	YES
SEPP No 64 – Advertising and Signage	YES	YES
SEPP No 65 – Design Quality of Residential Flat Development	NO	N/A
SEPP No 70 – Affordable Housing (Revised Schemes)	NO	N/A
SEPP 71 – Coastal Protection	NO	N/A
SEPP (Affordable Rental Housing) 2009	NO	N/A
SEPP (Building Sustainability Index: BASIX) 2004	NO	N/A
SEPP (Exempt and Complying Development Codes) 2008	YES	YES
SEPP (Housing for Seniors or People with a Disability) 2004	NO	N/A
SEPP (Infrastructure) 2007	YES	YES
SEPP (Integration and Repeals) 2016	NO	N/A
SEPP (Kosciuszko National Park—Alpine Resorts) 2007	NO	N/A
SEPP (Kurnell Peninsula) 1989	NO	N/A
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	N/A
SEPP (Miscellaneous Consent Provisions) 2007	YES	YES
SEPP (Penrith Lakes Scheme) 1989	NO	N/A
SEPP (Rural Lands) 2008	NO	N/A
SEPP (State and Regional Development) 2011	YES	YES
SEPP (State Significant Precincts) 2005	NO	N/A
SEPP (Sydney Drinking Water Catchment) 2011	NO	N/A
SEPP (Sydney Region Growth Centres) 2006	NO	N/A
SEPP (Three Ports) 2013	NO	N/A
SEPP (Urban Renewal) 2010	NO	N/A
SEPP (Western Sydney Employment Area) 2009	NO	N/A
SEPP (Western Sydney Parklands) 2009	NO	N/A
<b>Deemed SEPP: Sydney Regional Environmental Plan (SREP)</b>		
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	N/A

## **Appendix 2: Consideration of Section 117 Directions**

### **1 Employment and Resources**

	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
1.1	Business and Industrial Zones	YES	YES
1.2	Rural Zones	NO	N/A
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	NO	N/A

### **2 Environment and Heritage**

	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
2.1	Environment Protection Zones	YES	YES
2.2	Coastal Protection	NO	N/A
2.3	Heritage Conservation	YES	YES
2.4	Recreation Vehicle Areas	YES	YES
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	NO	N/A

### **3 Housing, Infrastructure and Urban Development**

	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
3.1	Residential Zones	NO	N/A
3.2	Caravan Parks and Manufactured Home Estates	NO	N/A
3.3	Home Occupations	NO	N/A
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development Near Licensed Aerodromes	NO	N/A
3.6	Shooting Ranges	NO	N/A

### **4 Hazard and Risk**

	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
4.1	Acid Sulfate Soils	YES	YES
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	NO
4.4	Planning For Bushfire Protection	NO	N/A

#### Justification to 4.3 Flood Prone Land

The subject site is identified as flood-prone as it is subject to a 'minor overland flow' affectation, triggering the provisions of this Direction. It is not however, designated as a 'floodway'.

Subsection (6)(b) of Direction 4.3 states that a Planning Proposal must not permit development that will result in significant flood impacts to other properties, and subsection (6)(c) states that it must not permit a significant increase in the development of the land which may result from the change in zoning. The change in zoning alone would not result in inconsistency with this Direction.

Insofar as the inconsistency to Direction 4.3 (a), (b) and (c) applies, the change in zoning alone is of minor significance.

## **5 Regional Planning**

	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (revoked)	-	-
5.6	Sydney to Canberra Corridor (revoked)	-	-
5.7	Central Coast (revoked)	-	-
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A
5.9	North West Rail Link Corridor Strategy	NO	N/A
5.10	Implementation of Regional Plans	NO	N/A

## **6 Local Plan Making**

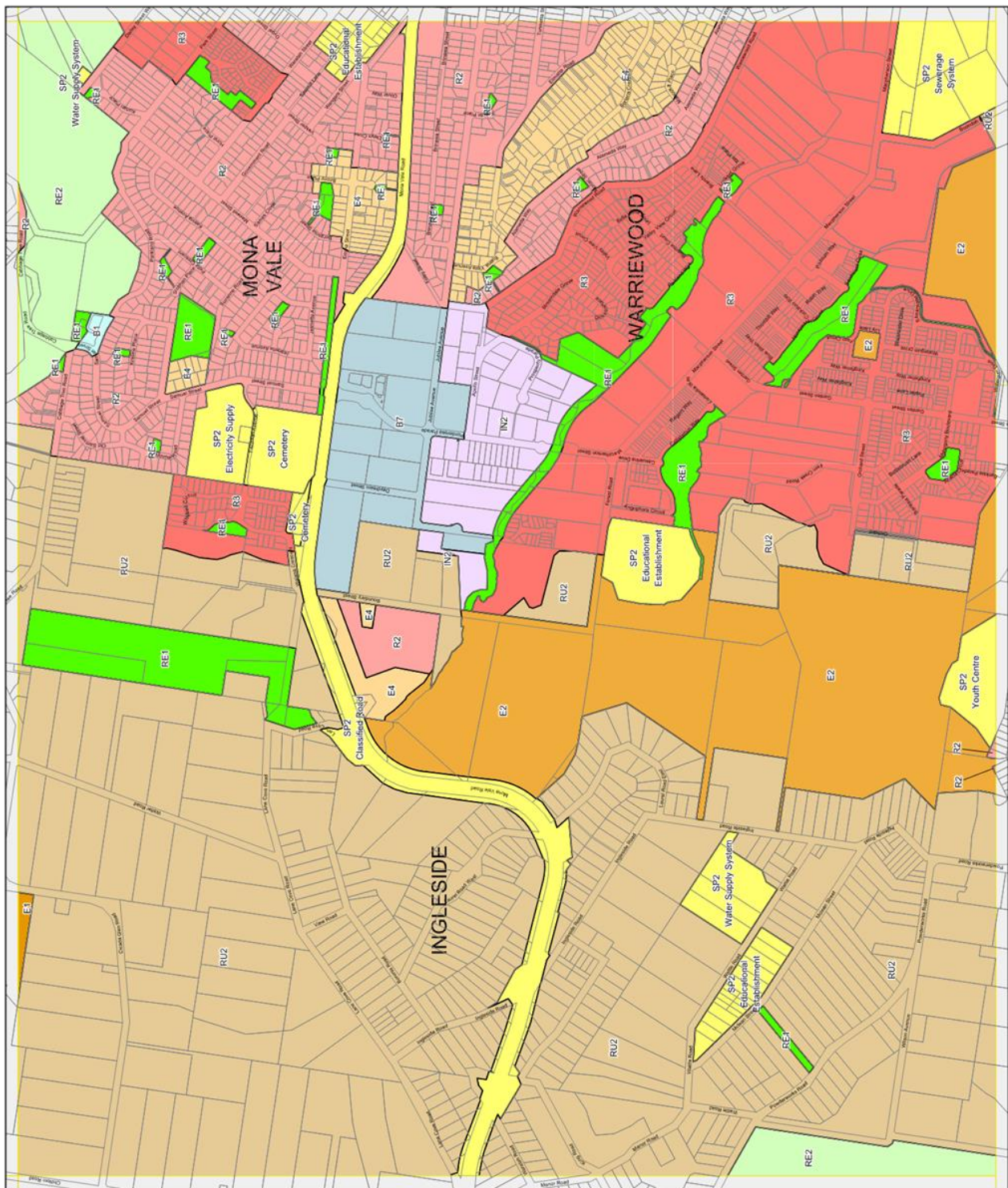
	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Provisions	YES	YES

## **7 Metropolitan Planning**

	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
7.1	Implementation of the Metropolitan Strategy	YES	YES

**Appendix 3: Current LEP Map**

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**Pittwater Local  
Environmental  
Plan 2014**

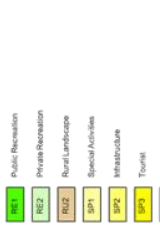


Land Zoning Map -  
Sheet LZN\_012

- Zone**
- B1 Neighbourhood Centre
  - B2 Local Centre
  - B3 Mixed Use
  - B4 Enterprise Corridor
  - B5 Business Park
  - E1 National Parks and Nature Reserves
  - E2 Environmental Conservation
  - E3 Environmental Management
  - E4 Environmental Living
  - IN2 Light Industrial
  - IN3 Working Waterfront
  - R2 Low Density Residential
  - R3 Medium Density Residential
  - R4 Large Lot Residential
  - R5 Public Recreation
  - R6 Private Recreation
  - R7 Rural Landscape
  - SP1 Special Activities
  - SP2 Infrastructure
  - SP3 Tourism
  - W1 Natural Waterways
  - W2 Recreational Waterways

- Cadastre**
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Projection: GDA 1994  
MGR Zone 56

File Number: 6370\_COM\_LZN\_012\_20150611

Scale 1:10,000 @ A3

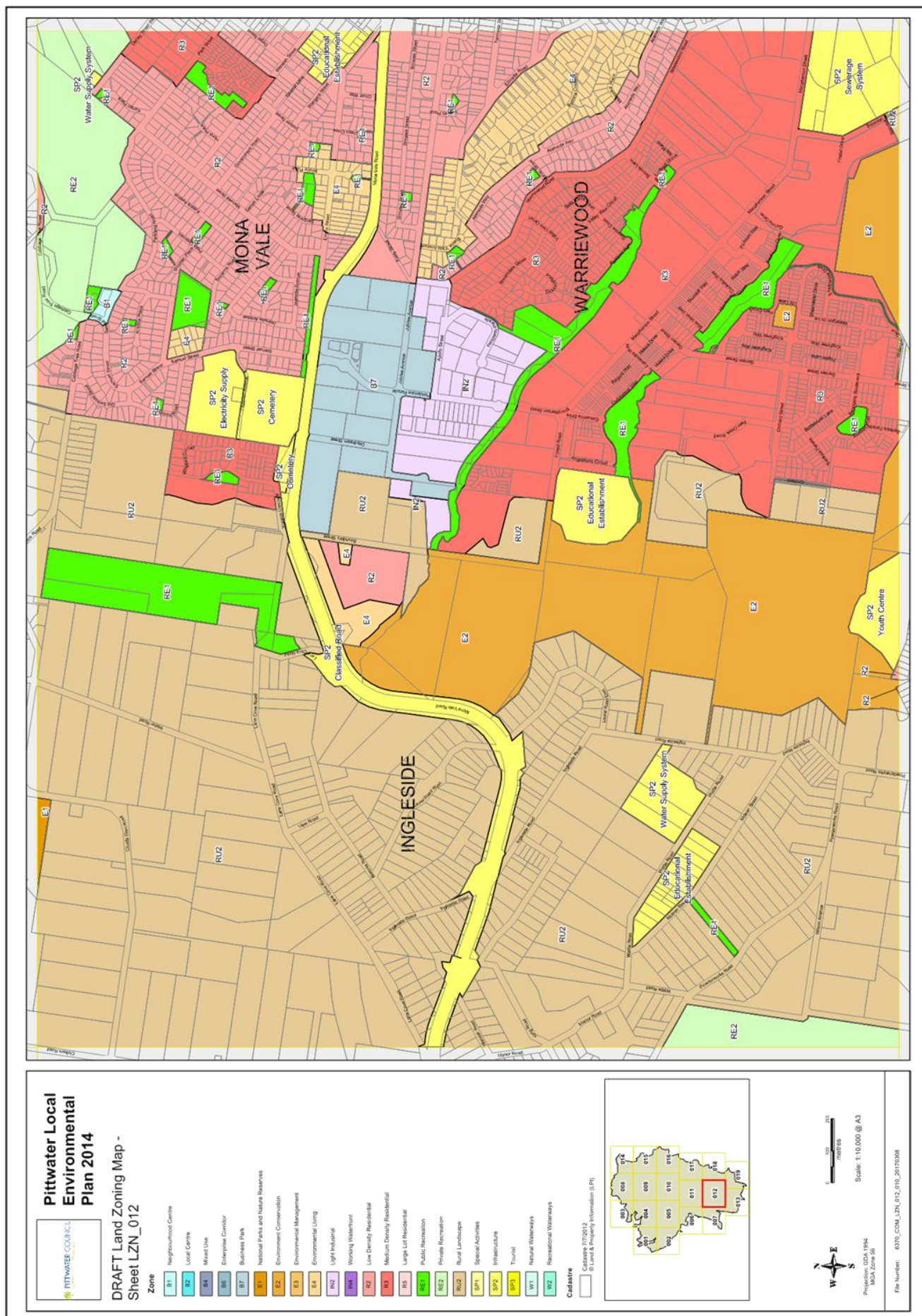
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**Appendix 4: Proposed LEP Map Amendment**

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**Appendix 5: Correspondence from State Agencies**

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Transport  
Roads & Maritime  
Services

Friday 19 May 2017

Roads and Maritime Reference: SYD16/01726  
Council Ref: PP0004/16

General Manager  
Northern Beaches Council  
PO Box 882  
Mona Vale 1660

**Attention:** Cheryl Williamson

**PUBLIC EXHIBITION OF A PLANNING PROPOSAL (REZONING) FOR 15 JUBILEE AVENUE, WARRIEWOOD**

Dear Ms Williamson

I refer to your letter of 13 April 2017 inviting Roads and Maritime Services to provide comment on the abovementioned planning proposal in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979*.

Roads and Maritime has reviewed the submitted documentation and it is noted that the Planning Proposal is seeking to rezone 15 Jubilee Avenue, Warriewood from IN2 zone (Light Industrial) to a B7 zone (Business Park) and to increase the floor space ratio and maximum height permissible for the site.

Roads and Maritime raises no objection to the Planning Proposal and reiterates our comments sent to Council by letter dated 18 January 2017 which acknowledged Council's work in identifying traffic impacts associated with cumulative rezonings in the Warriewood Valley/industrial area and the preparation of an associated delivery mechanism (Section 94 Contributions Plan) and package of transport infrastructure works to support development of the subject site. Additional arterial road capacity will also be provided through the future widening of Mona Vale Road, between Manor Road and Foley Street, from two lanes to four lanes and the upgrading of the Mona Vale Road/Ponderosa Parade/Samuel Street roundabout to a signalised intersection.

Thank you for the opportunity to provide advice on the subject proposal. If you require clarification on any issue raised, please contact Tricia Zapanta, Strategic Land Use Planner on 8849 2473 or by email on [Tricia.Zapanta@rms.nsw.gov.au](mailto:Tricia.Zapanta@rms.nsw.gov.au).

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Greg Flynn".

Greg Flynn  
Program Manager, Land Use

Roads and Maritime Services

27-31 Argyle Street, Parramatta NSW 2150 |  
PO Box 973 Parramatta NSW 2150 |

[www.rms.nsw.gov.au](http://www.rms.nsw.gov.au) | 13 22 13



26 May 2017

Our Ref 163355

Cheryl Williamson  
Senior Planner – Land Release  
Northern Beaches Council  
PO Box 882  
Mona Vale 1660

**RE: Planning Proposal – 15 Jubilee Avenue, Warriewood  
PP0004/16**

Dear Cheryl,

Thank you for notifying Sydney Water of the development application listed above. We have reviewed the application and provide the following comments for your consideration.

**Water**

- The future 4 Storey building will require a connection to a minimum sized 150mm water main.
- The site can be serviced by the existing 200mm water main located on the northern side of Jubilee Avenue.

**Wastewater**

- The property is serviced by an existing 150mm sewer main located within the site.
- The property is traversed by a trunk 1050 sewer main. Where proposed works are in close proximity to a Sydney Water asset, the developer will be required to carry out additional works to facilitate their development.
- The developer will need to refer to the Sydney Water technical guidelines for building over and adjacent to Sydney Water pipe asset when planning the future development on the property. The guidelines are available on the Sydney Water [website](#).

**Sydney Water E-Planning**

Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. This email address is [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au).

Further advice and requirements for this proposal are at Attachment 1 and 2 (overleaf). If you require any further information, please contact Lulu Huang of Growth Planning and Development on 02 8849 4269 or e-mail [lulu.huang@sydneywater.com.au](mailto:lulu.huang@sydneywater.com.au).

Yours sincerely,

  
Paul Mulley  
Manager, Growth Planning and Development



DOC17/233938-03:PW

Northern Beaches Council  
(Attention: Ms Cheryl Williamson)  
PO Box 882  
MONA VALE NSW 1660

Dear Ms Williamson

**Public Exhibition of a Planning Proposal (Rezoning) for 15 Jubilee Avenue, Warriewood  
(PP004/16)**


I am writing in reply to your request for comments regarding the above planning proposal and gateway determination received by the Environment Protection Authority (EPA) on 18 April 2017.

The EPA has undertaken a review of the submitted information and has attached comments (**Attachment A**) to assist Council in their assessment of the planning proposal. These comments relate to:

- Land Use Conflict
- Road Traffic Noise
- Contaminated Land
- Waste Management.

If you have questions regarding the above, please phone the contact officer on (02) 4224 4100.

Yours sincerely

  
22/05/17  
**PETER BLOEM**  
**Manager Regional Operations Illawarra**  
**Environment Protection Authority**

Contact officer: CRAIG PATTERSON  
(02) 4224 4100

Attachment

## **ATTACHMENT A**

### **Land Use Conflict**

The Planning Proposal is seeking to rezone land at the subject site from Zone IN2 to Zone B7 Business Park. The Pittwater LEP 2014, states that the objective of a B7 Business Park zoning is:

- To provide a range of office and light industrial uses
- To encourage employment opportunities
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area; and
- To provide healthy, attractive, functional and safe business areas.

This proposed zoning allows for a range of potential sensitive land uses that would be subject to consent; including child care centres, community facilities and respite day care centres. Council should ensure that any proposal to rezone this land does not result in land use conflict due to any potential land use incompatibility, especially where the proposal will adjoin existing industrial uses.

The EPA considers that appropriate land use planning should ensure land use conflict is avoided. For example, new developments should be planned to avoid noise-related land use conflicts up front through measures including spatial separation, best practice building design, siting and construction, and the use of appropriate air and noise mitigation techniques. In the absence of such approaches, the potential to address noise and odour issues retrospectively following development can be challenging and expensive and can lead to community complaint.

### **Road Traffic Noise**

The supporting information does not appear to include consideration of any potential road traffic noise impacts and proposed mitigation strategies associated with the proposed rezoning. The impacts from road traffic noise should be assessed to determine whether noise mitigation measures are required, in order to satisfy the *NSW Road Noise Policy* (DECCW 2011).

Further information on the range of noise mitigation strategies is provided in Section 3.1 of the *Noise Guide for Local Government* (EPA 2013) (<http://www.epa.nsw.gov.au/noise/nglg.htm>) and Section 3 of *Development Near Rail Corridors and Busy Roads—Interim Guideline* (Department of Planning 2008). In addition, the *NSW Road Noise Policy* (DECCW 2011) provides information and assessment requirements in relation to traffic generating development. A copy of this guideline can be obtained at the following web site:

<http://www.epa.nsw.gov.au/resources/noise/2011236nswroadnoisepolicy.pdf>.

### **Contaminated Land**

The processes outlined in *State Environmental Planning Policy 55* (SEPP55) should be followed in order to identify any contamination on the site and ensure the land is suitable for proposed use. Where any additional investigations identify contamination which has not previously been reported which meets the triggers in the *Guidelines for the Duty to Report Contamination*: [www.epa.nsw.gov.au/resources/clm/150164-report-land-contamination-guidelines.pdf](http://www.epa.nsw.gov.au/resources/clm/150164-report-land-contamination-guidelines.pdf).

Contamination should be notified to the EPA in accordance with requirements of Section 60 of the CLM Act. The following guidance should also be consulted by Council in regard to the proposal:

- *NSW EPA Sampling Design Guidelines*. A copy of this guideline can be obtained at: [www.epa.nsw.gov.au/resources/clm/95059samppgdline.pdf](http://www.epa.nsw.gov.au/resources/clm/95059samppgdline.pdf).
- *Guidelines for the NSW Site Auditor Scheme (2nd edition) 2006*. A copy of this guideline can be obtained at: <http://www.epa.nsw.gov.au/resources/clm/auditorguidelines06121.pdf>.
- *Guidelines for Consultants Reporting on Contaminated Sites, 2011*: A copy of this guideline can be obtained at: [www.epa.nsw.gov.au/resources/clm/20110650consultantsglines.pdf](http://www.epa.nsw.gov.au/resources/clm/20110650consultantsglines.pdf)
- *The National Environment Protection (assessment of contamination) Measures 2013* as amended.

Consideration should be given to the use of an auditor accredited under the CLM Act to audit the suitability of the land for the proposed use where there is uncertainty of the quality of assessment, or remediation undertaken, or uncertainty of the suitability of land for the proposed use.

Any waste generated during demolition and construction needs to be classified in accordance with the EPA's *Waste Classification Guidelines* and managed in accordance with that classification. Any fill that is being transported from a development can only be transported to sites that are lawfully able to receive such material.

Further advice on contaminated land management during the planning and development control process is available on the EPA website: <http://www.epa.nsw.gov.au/clm/planning.htm>

#### Waste Management

The EPA has developed information to improve waste management associated with new residential development. In this regard, Council should consult the *Waste Not Development Control Plan (DCP) Guideline* (EPA 2008) to determine whether the waste provisions in any supporting DCP are contemporary and adequate in relation to the proposed rezoning. This guideline provides suggested planning approaches and conditions for planning authorities to consider at the development application phase in relation to waste minimisation and resource recovery. This includes consideration of demolition and construction waste and the provision of facilities and services to allow the ongoing separation, storage and removal of waste and recyclables.

A key component of this guideline includes the requirement of developers to submit a plan showing estimates of waste generation during demolition, construction and ongoing use of the site, as well as details on how these wastes will be sorted, stored and removed for recycling and/or disposal. A copy of the guideline can be obtained at the following site:

(<http://www.epa.nsw.gov.au/resources/warr/08353SiteWasteMin2.pdf>).

The EPA recommends any supporting DCP should also refer to the following guidelines to assist the development of waste management strategies:

- The *Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities* (EPA December 2012). This guide can be accessed at: <http://www.epa.nsw.gov.au/resources/managewaste/120960-comm-ind.pdf>.
- The *Better Practice for Public Place Recycling* (DEC 2005) provides information on standards for recycling systems in public places, such as parks, shopping centres, footpaths, bus stops, etc. This guideline can be accessed at: <http://www.epa.nsw.gov.au/warr/publicrecycling.htm>.



**From:** Clair Snowden  
**To:** [Cheryl.Williamson](mailto:Cheryl.Williamson@northernbeaches.nsw.gov.au)  
**Subject:** RE: Notice of Public Exhibition - Development Applications  
**Date:** Wednesday, 24 May 2017 11:03:14 AM  
**Attachments:** [ATT00007.png](#)

Hi Cheryl

Sorry for delay no the engineers haven't any comments

Thanks  
Clair

**From:** Cheryl Williamson <[Cheryl.Williamson@northernbeaches.nsw.gov.au](mailto:Cheryl.Williamson@northernbeaches.nsw.gov.au)>  
**To:** Manager: Property Portfolios <[manager.property.portfolios@ausgrid.com.au](mailto:manager.property.portfolios@ausgrid.com.au)>, "csnowden@ausgrid.com.au" <[csnowden@ausgrid.com.au](mailto:csnowden@ausgrid.com.au)>,  
**Date:** 24/05/2017 10:46 AM  
**Subject:** RE: Notice of Public Exhibition - Development Applications

Hi again Clair,

Just following on from our emails below, I just wanted to make sure that the engineers didn't have any comments to make on this Planning Proposal? I haven't anticipated that there will be concerns, but just want to be sure.

If you could sent me a very short email back confirming that they have no issues, that would be great.

Many thanks,



**Cheryl Williamson** Senior Planner - Land Release

Land Release Planning  
tel: 02 9970 1638  
[Cheryl.Williamson@northernbeaches.nsw.gov.au](mailto:Cheryl.Williamson@northernbeaches.nsw.gov.au)  
[northernbeaches.nsw.gov.au](http://northernbeaches.nsw.gov.au)

**From:** Cheryl Williamson [<mailto:Cheryl.Williamson@northernbeaches.nsw.gov.au>]  
**Sent:** Thursday, 27 April 2017 2:16 PM  
**To:** T1Connect  
**Subject:** Notice of Public Exhibition - Development Applications

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**From:** Clair Snowden [<mailto:csnowden@ausgrid.com.au>] **On Behalf Of** Manager Property Portfolios  
**Sent:** Thursday, 27 April 2017 2:16 PM  
**To:** Cheryl Williamson  
**Subject:** RE: Notice of Public Exhibition - Development Applications

Hi Cheryl

Thank you for your email and forwarding this on for me. I have sent the Notice to our engineers and if they require an extension I will advise.

Many thanks

Clair Snowden

**From:** Cheryl Williamson <[Cheryl.Williamson@northernbeaches.nsw.gov.au](mailto:Cheryl.Williamson@northernbeaches.nsw.gov.au)>  
**To:** Manager: Property Portfolios <[manager.property.portfolios@ausgrid.com.au](mailto:manager.property.portfolios@ausgrid.com.au)>, "csnowden@ausgrid.com.au" <[csnowden@ausgrid.com.au](mailto:csnowden@ausgrid.com.au)>,  
**Date:** 27/04/2017 10:59 AM  
**Subject:** RE: Notice of Public Exhibition - Development Applications

Hi Clair,

Many thanks for your email. I don't work in the DA team, but will forward to the relevant people here to get the address updated.

If you need a little additional time to respond to the Planning Proposal for 15 Jubilee Avenue, Warriewood, please let me know – I would think we would be able to accommodate an additional week for example.

With regards,

Cheryl Williamson  
Senior Planner – Land Release  
Northern Beaches Council  
P: (02) 9970 1638  
E: [cheryl.williamson@northernbeaches.nsw.gov.au](mailto:cheryl.williamson@northernbeaches.nsw.gov.au)

**NORTHERN BEACHES**  
COUNCIL

**From:** Clair Snowden [<mailto:csnowden@ausgrid.com.au>] **On Behalf Of** Manager Property Portfolios



17/04456

Mr Mark Ferguson  
General Manager  
Northern Beaches Council  
PO Box 1336  
DEE WHY NSW 2099

Dear Mr Ferguson

**Planning proposal to amend Pittwater Local Environmental Plan 2014 –  
15 Jubilee Avenue, Warriewood**

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) regarding a planning proposal to amend Pittwater Local Environmental Plan 2014 to rezone the site at 15 Jubilee Avenue, Warriewood from IN2 Light Industrial to B7 Business Park.

As delegate of the Greater Sydney Commission, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also determined the planning proposal's inconsistency with section 117 Direction 4.3 Flood Prone Land is of minor significance. No further approval is required in relation to this Direction.

Plan making powers were delegated to Councils in October 2012. I note that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of the planning proposal and have decided to issue an authorisation for Council to exercise delegation to make the plan.

The amending Local Environmental Plan is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the Plan should be made directly to Parliamentary Counsel's office six weeks prior to the project's publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

The State Government is committed to reducing the time taken to complete Local Environmental Plans by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Commission may take action under s54(2)(d) of the Act if the timeframes outlined in this determination are not met.

If you have any queries in regard to this matter, please contact Ms Lauren Templeman in the Department's Sydney Region East team on (02) 9274 6590.

Yours sincerely



**Sandy Chappel** 6.4.17  
**Director, Sydney Region East**  
**Planning Services**  
**Department of Planning and Environment**

**Delegate of the Greater Sydney Commission**

Encl:  
Gateway determination  
Written authorisation to exercise delegation  
Reporting template for delegated Local Environmental Plan amendments



## Gateway Determination

**Planning proposal (Department Ref: PP\_2017\_NBEAC\_001\_00): to rezone 15 Jubilee Avenue, Warriewood from IN2 Light Industrial to B7 Business Park.**

I, the Director, Sydney Region East at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to Pittwater Local Environmental Plan 2014 to rezone 15 Jubilee Avenue, Warriewood from IN2 Light Industrial to B7 Business Park should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2) and 57 of the Act as follows:
  - a) the planning proposal must be made publicly available for 28 days; and
  - b) the relevant planning 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 section 5.5.2 of the Department's 'A Guide to Preparing Local Environmental Plans'.
2. Consultation is required with the following public authorities under section 56(2)(d) of the Act and / or to comply with the requirements of section 117 Directions and State Environmental Planning Policies:
  - Roads and Maritime Services;
  - Sydney Water
  - Environmental Protection Agency; and
  - Ausgrid.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment.

Should the public authorities require any additional information, or specify any additional matters to be addressed, the planning proposal is to be updated to respond to any such submission, a copy of which is to be included with the updated planning proposal.

3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

4. The timeframe for completing the amending Local Environmental Plan is to be 12 months from the week following the date of the Gateway determination.

Dated 6<sup>th</sup> day of April 2017



**Sandy Chappel**  
**Director, Sydney Region East**  
**Planning Services**  
**Department of Planning and Environment**  
  
**Delegate of the Greater Sydney Commission**



## Written Authorisation to Exercise Delegation

Northern Beaches Council is authorised to exercise the functions of the Greater Sydney Commission under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2017_NBEAC_001_00	Planning proposal to rezone the site at 15 Jubilee Avenue, Warriewood from IN2 Light Industrial to B7 Business Park.

In exercising the Commission's functions under section 59, the Council must comply with the Department of Planning and Environment's 'A Guide to Preparing Local Environmental Plans' and 'A Guide to Preparing Planning Proposals'.

Dated 6<sup>th</sup> day of April 2017

**Sandy Chappel**  
Director, Sydney Region East  
Planning Services  
Department of Planning and Environment

**Delegate of the Greater Sydney Commission**

PP\_2017\_NBEAC\_001\_00 (17/04456)

Table 1: Comments received from State agencies

Public agency	Comments	Response
NSW Roads and Maritime Services	Roads and Maritime raises no objection to the Planning Proposal and reiterates previous comments (in letter dated 18 January 2017) which acknowledged Council's work in identifying traffic impacts associated with cumulative rezonings in the Warriewood Valley/industrial area and the preparation of an associated delivery mechanism (Section 94 Contributions Plan) and package of infrastructure works to support development of the subject site.  Additional arterial road capacity will also be provided through the future widening of Mona Vale Road, between Manor Road and Foley Street, from two lanes to four lanes and the upgrading of the Mona Vale Road/Ponderosa Parade/Samuel Street roundabout to a signalised intersection.	Noted.  The site is already able to be developed for an employment-generating use; it is not anticipated that the change in land use zone will result in a material or detrimental increase in traffic impacts within the locality.
Sydney Water	<u>Water</u> : The future 4 storey building will require a connection to a minimum sized 150mm water main. The site can be serviced by the existing 200mm water main located on the northern side of Jubilee Avenue.  <u>Wastewater</u> : The property is serviced by an existing 150mm sewer main located within the site. The property is traversed by a trunk 1050 sewer main. Where proposed works are in close proximity to a Sydney Water asset, the developer will be required to carry out additional works to facilitate their development.  The developer will need to refer to the Sydney Water technical guidelines for building over and adjacent to Sydney Water pipe asset when planning the future development on the property. The guidelines are available on the Sydney Water website.	Noted.  The rezoning of the site will not provide approval for the construction of a building on the site; this will require the approval of a separate development application.  Noted.  The applicant has been made aware of Sydney Water requirements to inform on the final building design to be lodged with a future development application.

ATTACHMENT 3  
COMMENTS AND SUBMISSIONS  
ITEM NO. X – 27 JUNE 2017

NORTHERN BEACHES  
COUNCIL

NSW Environment Protection Agency	<p><u>Land use conflict:</u> The proposed zoning allows for a range of potential sensitive land uses that would be subject to consent, including child care centres, community facilities and respite day care centres. Council should ensure that any proposal to rezone this land does not result in land use conflict due to any land use incompatibility, especially where the proposal will adjoin existing industrial uses.</p>	<p>The existing IN2 zone is a light industrial zone, rather than a general industrial zone meaning that heavier industries (which are likely to include noise and pollution characteristics) are not permitted and not currently present. The immediately locality already accommodates residential dwellings in close proximity and existing industrial uses are restricted in terms of their use to be respectful of this.</p> <p>Following the rezoning of the site, a Development Application will be required for any future development. The assessment of such an application will be required to satisfy the heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and in particular relating to the suitability of the site for the development, and whether the development would be in the public interest.</p>
	<p><u>Road traffic noise:</u> The supporting information does not appear to include consideration of any potential road traffic noise impacts and proposed mitigation strategies associated with the proposed rezoning. The impacts of road traffic noise should be assessed to determine whether noise mitigation measures are required, in order to satisfy the NSW Road Noise Policy (DECCW 2011)</p>	<p>The existing traffic utilising Jubilee Avenue, and the anticipated increase in traffic resulting from a future development of the site, are not considered to be of a level likely to result in significant adverse noise impacts to a future development on this site. While it is acknowledged that the site could be redeveloped for a variety of uses under the new land use zone, the Applicant has expressed an intention to redevelop the site in association with the existing Blackmore's pharmaceutical business directly to the north, and that the site would be used for office and light industrial purposes.</p> <p>Any future development application for the redevelopment of the site would nonetheless be required to include an assessment of noise, both from the proposed use, and to the proposed use from surrounding uses and the roadway.</p>
	<p><u>Contaminated land:</u> The processes outlined in State Environmental Planning Policy 55 (SEPP 55) should be followed in order to identify any contamination on the site and ensure the land is suitable for proposed use.</p>	<p>A Contamination Report accompanied the original Planning Proposal Application which identified that the proposed change in zone would not change the risk profile associated with the site, and notes that further investigations would be required as part of the future development application process (during which the provisions of SEPP 55, as well as other land contamination controls would be assessed).</p>

NSW Environment Protection Agency (continued)	<p>Waste management: The EPA has developed information to improve waste management associated with new residential development. In this regard, Council should consult the Waste Not Development Control Plan (DCP) Guideline (EPA 2008) to determine whether the waste provisions in any supporting DCP are contemporary and adequate in relation to the proposed rezoning.</p>	<p>Residential development is not permissible within the current IN2 zone, and would not be permissible within the proposed B7 zone. It is not possible as part of this LEP rezoning process to amend the provisions of a separate DCP.</p> <p>Nonetheless, any future development application will assess the ability of the development to adequately manage waste, both during construction and on an ongoing basis.</p>
Ausgrid	Written confirmation received that there are no comments on the proposal.	Noted.

**Table 2: Submissions from the Community**

One (1) submission was received as a result of the statutory notification of this Planning Proposal. The issues raised are summarised and discussed below:

Submission issue	Response
Traffic congestion within the locality	The proposed change in land use zone is not anticipated to result in a significant intensification in traffic. The site is currently vacant and is already zoned to permit employment-generating development. Any development on this site would result in an increase in traffic to some degree, however the traffic generation is not unreasonable.
No further planning approvals should be granted until traffic congestion has been resolved	It would not be reasonable to preclude any further planning approvals within the locality on this basis. Future planning applications (including Planning Proposals and Development Applications) will be assessed on their own merits, and in the case of significant new development will consider a Traffic Impact Assessment.  The comments of NSW Roads and Maritime (refer to table 1 above) note that the cumulative rezonings within Warriewood Valley and the industrial area have been appropriately accounted for in terms of traffic capacity, and that the future widening of Mona Vale Road will further improve upon the existing situation.
Lack of infrastructure improvements over the last 20 years	The fact that the subject site has been vacant for many years has meant that no Section 94 contributions (which directly fund infrastructure improvements) have been able to be levied. It is anticipated that the rezoning of the land will stimulate development to take place, which will include the levying of infrastructure contributions. This contribution will, in part, assist in improvements to infrastructure within the surrounding locality.
Safety issue from parking spaces in surrounding streets being used by boat trailers; rules surrounding this are not being enforced	This matter is not directly linked to the current proposal to rezone the land at 15 Jubilee Avenue. However, the submission has been forwarded to Council's Environmental Compliance team who is currently investigating the matter.

**Table 3: Applicant response to submission**

The following discussion was provided to Council by Mecone Planning on 26 May 2017 in response to the above submission:

Issue	Comment
<p>Traffic:</p> <ul style="list-style-type: none"> <li>Lack of infrastructure improvements in local roads;</li> <li>Presence of parking spaces taken up by boats and trailers;</li> <li>No further planning approvals should be provided until traffic issues resolved.</li> </ul>	<ul style="list-style-type: none"> <li>The submission is focused primarily on traffic concerns and is not opposed in principle to the rezoning of the site;</li> <li>The exact location of the objector's residence is unknown, but is referenced as Prosperity Parade. This is a cul-de-sac that is physically separated from the subject site, and would not be immediately impacted by traffic as a result of the rezoning;</li> <li>The objector's suggestion that no further planning approvals should be issued in the general area until road upgrades are undertaken is unreasonable. As outlined in Mecone's previous response to submissions, any development of the site (which is vacant) would increase traffic demands, however the Planning Proposal was supported by a Traffic Study which found that the rezoning of the site and potential use as an office building: <ul style="list-style-type: none"> <li>Would not trigger the need for upgrades to Ponderosa Parade/Jubilee Avenue;</li> <li>Would facilitate the implementation of Collector Street characteristics for Jubilee Avenue;</li> <li>Has a vehicle generation rate similar to or lower than many currently permitted uses under the IN2 Zoning.</li> </ul> </li> <li>Future development of the site will be required to make Section 94 contributions, which will be utilised by Council towards the upgrade of local roads in Warriewood;</li> <li>The issue of boats and trailers parking in residential streets is not a relevant matter for the rezoning of this site.</li> </ul>

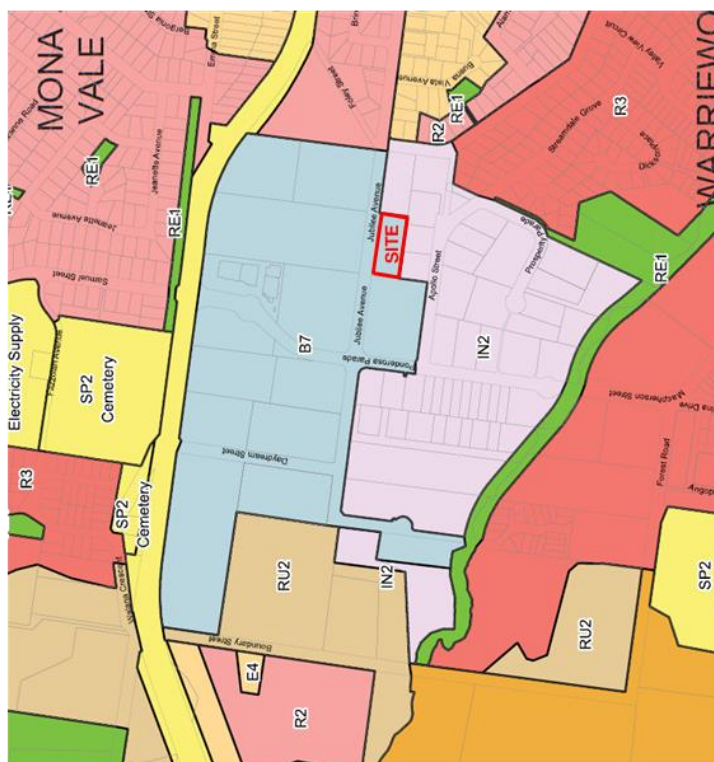


Figure 2: Proposed Land Use Zoning map

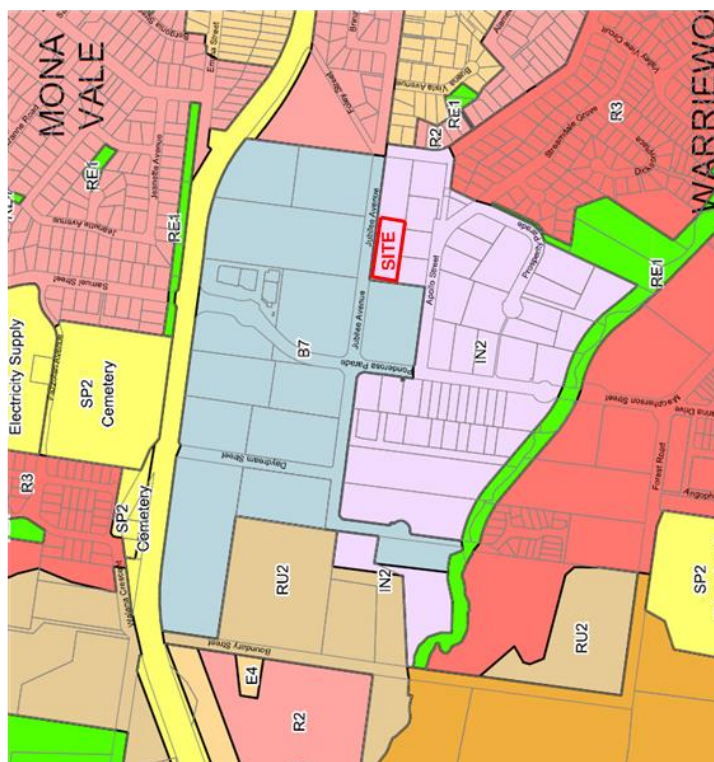


Figure 1: Existing Land Use Zoning map



Planning &  
Environment

## Gateway Determination

**Planning proposal (Department Ref: PP\_2016\_NBEAC\_004\_00):** minor policy and housekeeping amendments.

I, Executive Director, Regions at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the *Pittwater Local Environmental Plan 2014* to make minor policy and housekeeping amendments should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to include:
  - a plain English explanation of the intended effect of the proposed provisions.
  - include the word 'alteration' to Item 8, clause 7.8 (Limited development on foreshore area), subclause (2)(a), which is to read as:
 

'(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes:

    - (a) the extension, alteration or rebuilding of an existing dwelling wholly or partly on the foreshore area if the footprint of the extension, alteration or rebuilding will not extend any further forward of the foreshore building line than the footprint of the existing dwelling,'
  - replace map sheet 6370\_COM\_LSZ\_012\_010\_20140623 in appendix 3 with map sheet 6370\_COM\_LSZ\_012\_010\_20150804.
2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (b) the relevant planning 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 section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning and Infrastructure 2013).
3. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
  - Transport for NSW; and
  - Roads and Maritime Services.

PP\_2016\_NBEAC\_004\_00 (16/06510)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. The planning proposal should be updated prior to public exhibition.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated *4<sup>th</sup>* day of *October* 2016

  
**Stephen Murray**  
**Executive Director, Regions**  
**Planning Services**  
**Department of Planning and Environment**

**Delegate of the Greater Sydney  
Commission**



Mr Mark Ferguson  
Interim General Manager  
Northern Beaches Council  
PO Box 882  
Mona Vale NSW 1660

Our ref: PP\_2016\_NBEAC\_004\_00 (16/06510) |

  
Dear Mr Ferguson

**Planning proposal to amend the Pittwater Local Environmental Plan 2014 –  
PP\_2016\_NBEAC\_004\_00 – Housekeeping Amendments**

I am writing in response to your Council's letter dated 1 July 2016 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) for the above planning proposal.

As delegate of the Greater Sydney Commission, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

The State Government is committed to reducing the time taken to complete LEP's by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Greater Sydney Commission may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Ms Tegan Park of the Department's regional office to assist you. Ms Park can be contacted on (02) 9274 6369.

Yours sincerely

 4 October 2016  
**Stephen Murray**  
**Executive Director, Regions**  
**Planning Services**

Encl: Gateway determination



**Planning &  
Environment**

**WRITTEN AUTHORISATION TO EXERCISE DELEGATION**

Northern Beaches Council is authorised to exercise the functions of the Greater Sydney Commission under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2016_NBEAC_004_00	Planning proposal for minor policy and housekeeping amendments

In exercising the Greater Sydney Commission's functions under section 59, the Council must comply with the Department's 'A Guide to Preparing Local Environmental Plans' and 'A Guide to Preparing Planning Proposals'.

Dated *4 October* 2016

A handwritten signature in black ink, appearing to read "Stephen Murray".

**Stephen Murray**  
**Executive Director, Regions**  
**Planning Services**  
**Department of Planning and Environment**

**Delegate of the Greater Sydney Commission**

PP\_2016\_NBEAC\_004\_00 (16/06510)

# NORTHERN BEACHES COUNCIL

## PLANNING PROPOSAL PP0002/15

To facilitate a number of amendments (primarily minor policy and 'house-keeping' matters) to the Pittwater Local Environmental Plan 2014

April 2017

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## PART 1: OBJECTIVES OR INTENDED OUTCOMES

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The Pittwater Local Environmental Plan (LEP) 2014 came into effect on 27 June 2014. The LEP was intended as a translation of the provisions of the Pittwater LEP 1993 into the NSW Government's *Standard Instrument—Principal Local Environmental Plan* (Standard Instrument).

Following a thorough review of the Pittwater LEP 2014 after it was made, it was evident that a number of changes had been introduced in the period between Council adopting the draft Pittwater LEP on 20 December 2013 and the Pittwater LEP 2014 being made. The policy implications of these changes have been reviewed and it is considered necessary to rectify a number of the changes made.

Additionally, since the Pittwater LEP 2014 has been in effect, some 'house-keeping' matters have been identified and subsequent amendments are proposed to improve the accuracy and the effective operation of the plan.

The amendments proposed to the Pittwater LEP 2014 are generally consistent with the version of the draft Pittwater LEP adopted by Council on 20 December 2013, Council policies, the Pittwater LEP 1993 and/or provisions within the Pittwater 21 Development Control Plan (DCP) that were in place prior to the commencement of the Pittwater LEP 2014.

The objectives of this Planning Proposal are to amend the Pittwater LEP 2014 to:

- Rectify anomalies and discrepancies, and improve the clarity of the written instrument and maps.
- Implement or amend provisions consistent with the draft Pittwater LEP as publicly exhibited and/or adopted by Council, where certain provisions were altered or not included when the plan was made.
- Make other minor amendments relating to individual sites.

Council's General Manager (Council's sub-delegate) seeks to exercise the LEP making powers delegated under Section 59 of the *Environmental Planning & Assessment Act* (EP&A Act) in regard to this Planning Proposal. Council's General Manager thereby requests that a Written Authorisation to Exercise Delegation be issued.

## **PART 2: EXPLANATION OF PROVISIONS**

The tables below provide a description and explanation of the proposed changes to the Pittwater LEP 2014.

### **Rectify anomalies and discrepancies, and improve the clarity of the written instrument and maps**

	<b>Proposed Amendments</b>	<b>Description</b>
1	<p>Amend clause 4.3 (Height of buildings) subclause (2F) to read:</p> <p>“Despite subclause (2), Development on land identified as “Area 6” on the Height of Buildings Map must not exceed a building height of 8.5 metres for a minimum distance of 12.5 metres, as measured from the front boundary of properties fronting Orchard Street, Macpherson Street, Warriewood Road or Garden Street.”</p>	<p>The proposed amendment is intended to clarify where development must not exceed 8.5 metres in height in the Warriewood Valley Urban Release Area. The amendment will ensure that the 8.5 metre height requirement only applies to development fronting particular streets in the Warriewood Valley Urban Release Area – it does not apply to development that fronts any new street created within the existing “Area 6”.</p> <p>There is no proposed change to the ordering or numbering of subclauses for 4.3 Height of Buildings. The current provisions will be retained. Previous versions of mapping included an error on the clause numbering identifying it as Clause 4.3(5) or Clause 4.3(7).</p>

2	<p>Amend clause 4.3 (Height of buildings) by adding the following subclauses:</p> <p>"Despite subclause (2) the height of a secondary dwelling or rural worker's dwelling in the E4 Environmental Living or RU2 Rural Landscape zones, must not exceed 5.5 metres if detached from the principal dwelling."</p> <p>And;</p> <p>'Despite subsclause (2), the height of the rear dwelling within a dual occupancy (detached) must not exceed 5.5 metres'</p>	<p>The proposed amendment is intended to clarify that secondary dwellings, rural worker's dwellings and the second dwelling within a dual occupancy (detached) should be single storey in appearance, consistent with the Pittwater 21 DCP prior to the Pittwater LEP 2014 being made.</p> <p>SEPP (Affordable Rental Housing) 2009 under Schedule 1, Development standards for secondary dwellings, Part 3, clause 6 stipulates a maximum building height of 8.5 metres for a secondary dwelling. However SEPP (Affordable Rental Housing) 2009 does not apply to Zone E4 Environmental Living, which covers a large portion of Pittwater's residential areas and Zone RU2 Rural landscape in which rural workers dwelling is permitted.</p> <p>The Amendment seeks to clarify that secondary dwelling and rural workers dwellings in zones E4 and RU2 respectively must not exceed a height of 5.5 metres. The intention of the provision is to ensure these types of structures are single storey and remain consistent with the existing character of the surrounding locality.</p> <p>It is noted that these subclauses were included in the draft Pittwater LEP as adopted by Council on 20 December 2013, however they were not included in the Pittwater LEP 2014 when it was made.</p> <p>Following The Department's advice in relation to the Sutherland LEP 2015, Council has proposed to adopt a similar clause for the rear dwelling in a dual occupancy excluding the street frontage portion. Where a detached dual occupancy is proposed with two street frontages, Council would prefer to consider Clause 4.6 Objections on their merits.</p>
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3	<p>Amend the Height of Buildings Map Grid Map 012 in relation to 14 Orchard Street, Warriewood (Sector 901F), Lot B1 DP 369510, as per <b>Attachment 4.8</b>.</p>	<p>The proposed amendment is intended to rectify an error on the Height of Buildings Map in relation to Sector 901F of the Warriewood Valley Urban Release Area.</p> <p>The amendment as proposed sought to ensure that the height conveyed on the Height of Buildings Map was consistent with the boundary of the Warriewood Valley Urban Release Area and the Land Zoning Map. It would ensure that on 14 Orchard Street, Warriewood (Sector 901F) a 10.5 metre height limit only applies to the area within the Warriewood Valley Urban Release Area and that an 8.5 metre height limit applies to the area outside the Warriewood Valley Urban Release Area.</p> <p>14 Orchard Street Warriewood Valley was considered under the Warriewood Valley Strategic Review Report 2012 (2012 Strategic Review) which was prepared by Pittwater Council in collaboration with the Department of Planning and Infrastructure.</p> <p>The 2012 Strategic Review recommended a density of 10 dwellings per developable hectare for 14 Orchard Street, which equates to a maximum dwelling yield of 14 dwellings which is reflected in clause 6.1(3) of Pittwater Local Environmental Plan 2014.</p> <p>Adjoining Sectors 901D and 901E (also known as 1 Fern Creek Road and part 12 Orchard Street) have the same density of 10 dwellings per developable hectare and have an 8.5 metre maximum building height as reflected on the Height of Buildings Map Sheet HOB_012.</p> <p>At the density of 10 dwellings per developable hectare, it is anticipated that the residential form would be of a lower scale and not requiring a building height above 8.5 metres which is the standard generally applied to the broader Pittwater LGA.</p> <p>The maximum 10.5 metre building height requirement was to apply to those sectors along Macpherson Street, Garden Street and Orchard Street that have been allocated a density of 32 dwellings per developable hectare subject to the building height along the immediate street frontages being limited to 8.5 metres.</p>
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		<p>This was the intent of the recommendations of the 2012 Strategic Review as agreed to by then Director-General of Planning and adopted by Pittwater Council.</p> <p>There is no proposed change to the ordering or numbering of subclauses for 4.3 Height of Buildings. The current provisions will be retained. Previous versions of mapping included an error on the clause numbering identifying it as Clause 4.3(5) or Clause 4.3(7).</p> <p>However, it has been noted that the proposed new Height of Buildings map that covers this property (<b>Attachment 4.8</b>) is incorrect. Council intends to make a post-notification amendment to correct this error. The proposed new map will zone the entire property to a 8.5m height limit and remove the area 6 mapping as it will no longer be relevant. The new map can be seen at <b>Appendix 5</b> and detailed in the plan English version.</p>
4	<p>Amend clause 6.1(1)(c) to remove:</p> <p>'to facilitate the mitigation of odours from the Warriewood Sewage Treatment Plant on the users and occupiers of residential development in a buffer area.'</p>	<p>The proposed amendment is intended to remove an objective that is no longer relevant.</p> <p>The subclause that related to this objective (i.e. the subclause that translated clause 30D of the Pittwater LEP 1993) was removed prior to the Pittwater LEP 2014 being made. Accordingly, the objective is no longer relevant.</p>
5	<p>Amend Schedule 1 subclause 19 to read as follows:</p> <p>19 Use of certain land at 1191 Barrenjoey Road, Palm Beach</p> <p>(1) This clause applies to land:</p> <p>(a) at 1191 and 1193 Barrenjoey Road, Palm Beach, being Lot 298, DP 721572 and Lot 7005, DP 1117451, and</p> <p>(b) identified as "Area 19" on the Additional Permitted Uses Map.</p> <p>Amend the Additional Permitted Uses Map Grid Map 014 to accurately identify the extent of "Area 19" consistent with area currently leased for these purposes. "Area 19" should be amended as per <b>Attachment 4.1</b>.</p>	<p>The proposed amendment is intended to rectify an error in the Pittwater LEP 2014 that relates to the boundary of an area associated with an additional permitted use that is currently in operation and was permitted under the Pittwater LEP 1993.</p> <p>The amendment will ensure that the use of the site will continue to be permissible.</p>

6	Amend the Height of Buildings Map Grid Maps 013 and 017 as per <b>Attachments 4.9 and 4.10 (Elanora Heights) and 4.14 and 4.15 (Newport)</b> .	<p>The proposed amendment is intended to provide improved readability of the Height of Buildings Map and consistency with approved masterplans in relation to the Elanora and Newport commercial centres.</p> <p>Since the Pittwater LEP 2014 was made, issues have arisen with determining the height standard on the Height of Buildings Map in certain centres. To improve the readability, it is proposed to include inset maps at a larger scale for the Elanora and Newport commercial centres. This amendment also ensures that the inset maps are as accurate as possible in locating the boundary between different height controls, consistent with the approved masterplans.</p>
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**Implement or amend provisions consistent with the draft Pittwater LEP as publicly exhibited and/or adopted by Council, where certain provisions were altered or not included when the plan was made**

	<b>Proposed Amendments</b>	<b>Description</b>
7	<p>This has been the subject of numerous discussions and the advice is that the Department of Planning and Environment's position is final.</p> <p>(2) Development must not be granted on land in the foreshore area except for the following purposes;</p> <p>(a) the extension, alteration or rebuilding of an existing dwelling wholly or partly on the foreshore area if the footprint of the extension, alteration or rebuild will not extend any further forward of the foreshore building line.</p>	<p>Council's requested wording was not supported by the Department of Planning and Environment. Accordingly, in order to progress the Planning Proposal, the wording nominated by DP&amp;E must be adopted.</p> <p>The wording nominated is more closely aligned with the adopted wording of the Council however does not completely capture the full intent of the Council's preferred position.</p> <p>The reasoning for the amendment is as follows;</p> <p>The proposed amendment is necessary as the Pittwater LEP 2014 was intended to be a 'like for like' translation of the Pittwater LEP 1993 and Pittwater 21 DCP, which did not permit the erection of a building in the foreshore area.</p> <p>Prior to the commencement of the Pittwater LEP 2014, our foreshore building line control was located in the Pittwater 21 DCP and read (inter alia):</p>

		<p><i>"Development is prohibited between the foreshore building line and property boundary adjacent to the waterway, except development for the purpose of the following:</i></p> <ul style="list-style-type: none"> <li><i>i. boating facilities;</i></li> <li><i>ii. an inground swimming pool at natural ground level;</i></li> <li><i>iii. fencing;</i></li> <li><i>iv. works to enable pedestrian access;</i></li> <li><i>and</i></li> <li><i>v. seawalls"</i></li> </ul> <p>This policy did not allow extensions of dwellings below the foreshore building line and as such Council wished to continue with a consistent policy in this regard. This was based on the Environmental Planning Model Provisions 1980, and Part IV General Amenity and Convenience 7. (4), which read "A building shall not be erected between a foreshore building line and a bay, river, creek, lake or lagoon in respect of which the line is fixed".</p> <p>In modifying Council's version of the local provision, the Pittwater LEP 2014 that was made has increased the development potential in the foreshore area beyond the previously well-established limits that Council had in place. As such, it was necessary for clause 7.8 to be amended to remove the ability for buildings to be extended and altered in any way that increases the footprint or extent of a building within the foreshore area.</p>
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**Make other minor amendments relating to individual sites**

	<b>Proposed Amendments</b>	<b>Description</b>
8	Amend the Land Zoning Map Grid Area 012 for 6A Macpherson Street, Warriewood (Lot 6 DP 1161389) from R3 Medium Density Residential to RE1 Public Recreation, as per <b>Attachment 4.20</b> .	<p>6A Macpherson Street, Warriewood is mapped as creekline corridor on the Pittwater LEP 2014 Urban Release Area Map and in the Warriewood Valley Section 94 Contribution Plan adopted by Council.</p> <p>As land mapped as creekline corridor comes into Council ownership, council intends to rezone the land to RE1 Public Recreation consistent with the areas of creekline corridor already in Council ownership.</p> <p>The proposed amendment is required as the land has been dedicated to Council and forms part of the creek line corridor shown on the Urban Release Area Map.</p>

9	Remove 67A Marine Parade, Avalon Beach (Lot 2 DP 1205310) from the Land Reservation Acquisition Map, as per <b>Attachment 4.18.</b>	The proposed amendment is required as the land has been acquired.
10	<p>Amend Lot Size Map Sheet LSZ_012 by:</p> <ul style="list-style-type: none"> <li>Changing the minimum Lot Size of part of 14 Walana Crescent, Mona Vale (Lot 367 DP806738) from 20,000 sq m (2.0ha) to 700 sq m,</li> <li>Change the minimum Lot Size of part of 2 Fern Creek Road, Warriewood (Lot 2 DP 736961) from 10,000 sq m (1.1ha) to 2,000 sq m.</li> <li>Change the minimum Lot Size of 8 Jubilee Ave, Warriewood (Lot 1 DP5055) from 10,000sq m (1.1ha) to 8,000 sq m</li> </ul> <p>As per <b>Attachment 4.19.</b></p>	<p>The proposed amendment is intended to rectify an anomaly by making mapping changes to the Lot Size Map sheet LSZ_012, where part of the land is also within the Warriewood Valley Urban Release Area.</p> <p>The amendment will ensure that land that forms part of the Urban Release Area can be subdivided from land that will remain zoned RU2 (where the land is dissected by the boundary of the Urban Release Area), despite the remaining RU2 portion of land not meeting the minimum subdivision lot size development standard (i.e. 10,000 square metres).</p>

## PART 3: JUSTIFICATION

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### Section A Need for the Planning Proposal

#### 1. Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal stems from the preparation of the Pittwater LEP 2014 in line with the Standard Instrument.

On 5 November 2007, Council resolved to commence the statutory process to prepare a new LEP for Pittwater in line with the Standard Instrument.

In August 2011, Council adopted the *Pittwater Local Planning Strategy*, which was prepared to establish an equitable, consistent and transparent policy framework for local level planning to guide land use planning and decision-making into the future.

The *Pittwater Local Planning Strategy* identified that Pittwater is on track to achieve set housing and employment targets (as identified in the relevant Metropolitan Strategy for Sydney at the time – *A City of Cities – A Plan for Sydney's Future* and the draft North East Subregional Strategy) without the need to increase housing or employment capacity in the Local Government Area (LGA). The *Pittwater Local Planning Strategy* provided the basis for preparing the Pittwater LEP 2014.

Having established that the planning regime in Pittwater was adequate to meet housing and employment targets, Council resolved to undertake a 'like for like' approach to preparing the new LEP for Pittwater, or a translation of the previous LEP – the Pittwater LEP 1993.

Council adopted the draft Pittwater LEP on 20 December 2013.

Following a thorough review of the Pittwater LEP 2014 after it was made, it was evident that a number of changes had been introduced in the period between Council adopting the draft Pittwater LEP and the Pittwater LEP 2014 being made.

Meetings were held with the Hon. Robert Stokes MP (then Minister for the Environment, Minister for Heritage, Minister for the Central Coast, and Assistant Minister for Planning) and DP&E staff to discuss issues with some of the changes made to the Pittwater LEP 2014 and to establish a forward path for each.

In line with the intention to undertake a 'like for like' approach to preparing the new LEP for Pittwater, and following the meetings held with the Hon. Robert Stokes MP and DP&E staff, a number of changes made to the Pittwater LEP 2014 are sought to be rectified.

Further, since the Pittwater LEP 2014 has been in effect, some 'house-keeping' matters have been identified and subsequent amendments are proposed to improve the accuracy and the effective operation of the plan.

**2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Yes. The Planning Proposal is the best and only means of achieving the objectives.

## **Section B Relationship to Strategic Planning Framework**

- 3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The Planning Proposal is considered to be consistent with the objectives and actions contained in *A Plan for Growing Sydney* and the Draft North East Subregion Strategy. The proposed amendments will not have a significant impact on such objectives and actions. In particular, it is unlikely that any of the proposed amendments will affect the delivery of housing or employment in the Pittwater LGA.

- 4. Is the Planning Proposal consistent with the council's local strategy or other local strategic plan?**

The Planning Proposal is considered to be consistent with the *Pittwater Local Planning Strategy*.

The *Pittwater Local Planning Strategy* provides an evidence-based rationale and policy framework to guide land use planning and decision making in Pittwater.

*Pittwater 2025* is Council's Community Strategic Plan – a 12 year community plan outlining the community's aspirations and desires to shape Pittwater's future. The amendments proposed are of a minor nature and will not have a significant impact on the strategies outlined in *Pittwater 2025*. Though several of the amendments proposed in this Planning Proposal are considered necessary to achieve the community's aspirations in relation to land use and development.

- 5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

This Planning Proposal is considered to be consistent with the relevant State Environmental Planning Policies (see **Appendix 1**).

- 6. Is the Planning Proposal consistent with applicable Ministerial Directions (Section 117 Directions)?**

The Planning Proposal is considered to be consistent with the applicable Ministerial Directions (see **Appendix 2**).

**Section C Environmental, social and economic impact**

**7. 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?**

No. It is unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposed amendments in this Planning Proposal. However, it is noted that if Amendment 7 (in Part 2 of this Planning Proposal) is not supported, the natural environment within the foreshore area is likely to be affected, which may or may not include impact on critical habitat or threatened species, populations or ecological communities, or their habitats.

**8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

No. It is unlikely that other environmental effects will result from the proposed amendments in this Planning Proposal. However, it is noted that if Amendment 7 (in Part 2 of this Planning Proposal) is not supported, the natural environment within the foreshore area is likely to be affected.

**9. How has the Planning Proposal adequately addressed any social and economic effects?**

As Council resolved to undertake a 'like for like' approach to preparing the new LEP for Pittwater, or a translation of the previous LEP – the Pittwater LEP 1993, all care was taken within the bounds of the Standard Instrument, to ensure that the new LEP for Pittwater provides for development outcomes (including social and economic outcomes) generally consistent with the previous Pittwater LEP 1993 where appropriate.

As the proposed amendments in this Planning Proposal are intended to rectify changes made to the Pittwater LEP 2014 since Council adopted the draft Pittwater LEP on 20 December 2013, or to address 'house-keeping' matters that have been identified since the LEP came into effect; the proposed amendments are considered to be of a minor nature and seek to maintain the intended 'like for like' approach undertaken to prepare the Pittwater LEP 2014 and, subsequently, the outcomes (including social and economic) of the Pittwater LEP 1993.

## **Section D State and Commonwealth interests**

### **10. Is there adequate public infrastructure for the Planning Proposal?**

No additional public infrastructure is required as a result of the proposed amendments in this Planning Proposal.

### **11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway Determination?**

Council consulted with Transport for NSW and the Roads & Maritime Services (RMS) prior to public exhibition in accordance with the conditions of the Department of Planning & Environment's Gateway Determination. The agency responses were:

#### *Transport for NSW*

Transport for NSW advised that they had no concerns and would forward the proposal to Roads and Maritime Services for their commentary.

#### *Roads & Maritime Services*

The RMS stated that they would not support two of the proposed amendments due to their potential impacts upon Mona Vale Road, Wakehurst Parkway and Barrenjoey Road, namely:

- Draft Amendment 6, which related to 167 Mona Vale Road, Ingleside. The Planning Proposal originally intended to change the part of this property zoned SP2 Classified Road to RU2 Rural Landscape. It also proposed to give this portion of the property a 20,000 sqm minimum lot size. The RMS, with the agreement of Council, advised to defer this draft change by incorporating it into the current investigations associated with the Mona Vale Road upgrade and the Ingleside Precinct Planning process. Accordingly, draft Amendment 6 applying to 167 Mona Vale Road, Ingleside has been removed from this Planning Proposal.
- Draft Amendment 9 due to its potential impact upon Mona Vale Road, Wakehurst Parkway and Barrenjoey Road. This amendment would have introduced an additional permitted use for private properties partially zoned SP2 Classified Road to construct '*access structures ancillary to a dwelling house*' over this land. Council agrees with the determination of the RMS in relation to properties that are alongside Mona Vale Road. However it disagrees with the consultation response received in relation to properties that sit alongside Barrenjoey Road and Wakehurst Parkway. Due to the condition of the Department of Planning & Environment to update the Planning Proposal further to the consultation with the RMS, Council has been required to delete draft Amendment 9 in its entirety and the associated proposed mapping. Council will notify the owners of these properties of this change in the proposal.

Consultation with other relevant public and service authorities will be undertaken during the public exhibition of the Planning Proposal.

#### **PART 4: MAPPING**

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The proposed amended Pittwater LEP 2014 Maps are contained in **Appendix 4**.

## PART 5: COMMUNITY CONSULTATION

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Community consultation will be undertaken in accordance with Section 57 of the EP&A Act and the requirements of '*A guide to preparing local environmental plans*' (Department of Planning & Infrastructure, 2013).

As part of the statutory public exhibition of the Planning Proposal, the following is proposed to be undertaken:

- A 30-day public exhibition period
- Notification in writing to landowners directly affected by site specific amendments, registered Pittwater community groups and Chambers of Commerce, and relevant public authorities and State agencies at the commencement of the public exhibition period
- Notification in the Manly Daily at the commencement of the public exhibition period
- Relevant documentation available at Council's Customer Service Centres and libraries for the duration of the public exhibition period
- Relevant documentation on Council's website for the duration of the public exhibition period
- Council staff will be available to respond to any enquiries

**PART 6: PROJECT TIMELINE**

<b>Planning Proposal Milestone</b>	<b>Timeframe</b>	<b>Anticipated Completion Date</b>
Council decision to forward Planning Proposal to Gateway	-	17 February 2016
Date of Gateway determination	6 weeks from Council decision to forward Planning Proposal to Gateway	August 2016
Completion of required technical information	<i>Due to the nature of this Planning Proposal it is not anticipated that additional technical information will be required</i>	-
Government agency consultation	Formal consultation will be undertaken concurrent to the public exhibition	-
Public exhibition	30 days	April-May 2017
Consideration of submissions	2 weeks following the public exhibition	May-June 2017
Consideration of Planning Proposal post-exhibition and report to Council	4 weeks following the public exhibition	June 2017
Council decision to finalise LEP	Next available council meeting following post-exhibition consideration	June 2017
Submission to DP&E and PCO to prepare draft instrument	Following Council decision to finalise LEP	June 2017
RPA to make plan (if delegated)	2 weeks from receipt of final draft instrument and maps from PCO and DP&E	July 2017
Notification of LEP/LEP comes into force	1 week from RPA making the plan	September 2017

## **Appendix 1: Consideration of SEPPs**

The following SEPP's are relevant to the Pittwater LGA. The table below identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and, if applicable, whether the Planning Proposal is consistent with the provisions of the SEPP.

<b>Title of State Environmental Planning Policy (SEPP)</b>	<b>Applicable</b>	<b>Consistent</b>	<b>Reason for inconsistency</b>
SEPP No 1 – Development Standards	NO	-	-
SEPP No 14 – Coastal Wetlands	NO	-	-
SEPP No 21 – Caravan Parks	NO	-	-
SEPP No 26 – Littoral Rainforests	NO	-	-
SEPP No 30 – Intensive Agriculture	NO	-	-
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	NO	-	-
SEPP No 33 – Hazardous and Offensive Development	NO	-	-
SEPP No 44 – Koala Habitat Protection	NO	-	-
SEPP No 50 – Canal Estate Development	NO	-	-
SEPP No 55 – Remediation of Land	NO	-	-
SEPP No 62 – Sustainable Aquaculture	NO	-	-
SEPP No 64 – Advertising and Signage	NO	-	-
SEPP No 65 – Design Quality of Residential Flat Development	NO	-	-
SEPP No 70 – Affordable Housing (Revised Schemes)	NO	-	-
SEPP 71 – Coastal Protection	YES	YES	-
SEPP (Affordable Rental Housing) 2009	NO	-	-
SEPP (Building Sustainability Index: BASIX) 2004	NO	-	-
SEPP (Exempt and Complying Development Codes) 2008	NO	-	-
SEPP (Housing for Seniors or People with a Disability) 2004	NO	-	-

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SEPP (Infrastructure) 2007	NO	-	-
SEPP (Major Development) 2005	NO	-	-
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	-	-
SEPP (Miscellaneous Consent Provisions) 2007	NO	-	-
SEPP (State and Regional Development) 2011	NO	-	-

If there are any inconsistencies with any applicable SEPP, it is noted that the SEPP will prevail to the extent of the inconsistency.

Further, it is noted that if the amendment proposed to Clause 7.8 of the Pittwater LEP 2014 is not supported, maintaining it as is would be inconsistent with the Aims and Part 2 (Matters for consideration) of SEPP 71 – Coastal Protection (in the area that makes up the coastal zone).

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the Pittwater LGA. The table below identifies which of the relevant deemed SEPP's apply to the Planning Proposal (or not) and, if applicable, whether the Planning Proposal is consistent with the provisions of the deemed SEPP's.

<b>Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)</b>	<b>Applicable</b>	<b>Consistent</b>	<b>Reason for inconsistency</b>
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	-	-

## Appendix 2: Consideration of Section 117 Directions

### 1 Employment and Resources

	Direction	Applicable	Consistent
1.1	Business and Industrial Zones	YES	YES
1.2	Rural Zones	YES	YES
1.3	Mining, Petroleum Production and Extractive Industries	NO	-
1.4	Oyster Aquaculture	NO	-
1.5	Rural Lands	NO	-

#### Justification for inconsistency

Nil.

### 2 Environment and Heritage

	Direction	Applicable	Consistent
2.1	Environmental Protection Zones	YES	YES
2.2	Coastal Protection	YES	YES
2.3	Heritage Conservation	YES	YES
2.4	Recreation Vehicle Areas	YES	YES

#### Justification for inconsistency

The Planning Proposal does not include provisions that meet the requirements of:

- 2.1(4)
- 2.2(4)

However, it does not include provisions that are inconsistent with such requirements.

### 3 Housing, Infrastructure and Urban Development

	Direction	Applicable	Consistent
3.1	Residential Zones	YES	YES
3.2	Caravan Parks and Manufactured Home Estates	YES	YES
3.3	Home Occupations	YES	YES
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development Near Licensed Aerodromes	NO	-
3.6	Shooting Ranges	NO	-

### **Justification for inconsistency**

The Planning Proposal does not include provisions that meet the requirements of:

- 3.1(4) or (5)
- 3.2(4) or (5)
- 3.3(4)
- 3.4(4)

However, it does not include provisions that are inconsistent with such requirements.

Further, is noted that if the proposed amendment to Schedule 1 (in relation to the use of certain land in Zone SP2 Infrastructure "Classified Road") is not supported, maintaining the current planning regime for these properties would be maintaining an inconsistency with Section 117 Direction 3.1 (Residential zones), in particular 5(b).

## **4 Hazard and Risk**

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	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
4.1	Acid Sulphate Soils	YES	YES
4.2	Mine Subsidence and Unstable Land	NO	-
4.3	Flood Prone Land	YES	YES
4.4	Planning For Bushfire Protection	YES	YES

### **Justification for inconsistency**

The Planning Proposal does not include provisions that meet the requirements of:

- 4.1(4), (5), (6), or (7)
- 4.3(4), (5), (6), (7), or (8)
- 4.4(4), (5) or (6)

However, it does not include provisions that are inconsistent with such requirements.

## **5 Regional Planning**

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	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
5.1	Implementation of Regional Strategies	NO	-
5.2	Sydney Drinking Water Catchments	NO	-
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	-

5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	-
5.8	Second Sydney Airport: Badgerys Creek	NO	-

**Justification for inconsistency**

N/A

## **6 Local Plan Making**

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	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Purposes	YES	YES

**Justification for inconsistency**

Nil.

## **7 Metropolitan Planning**

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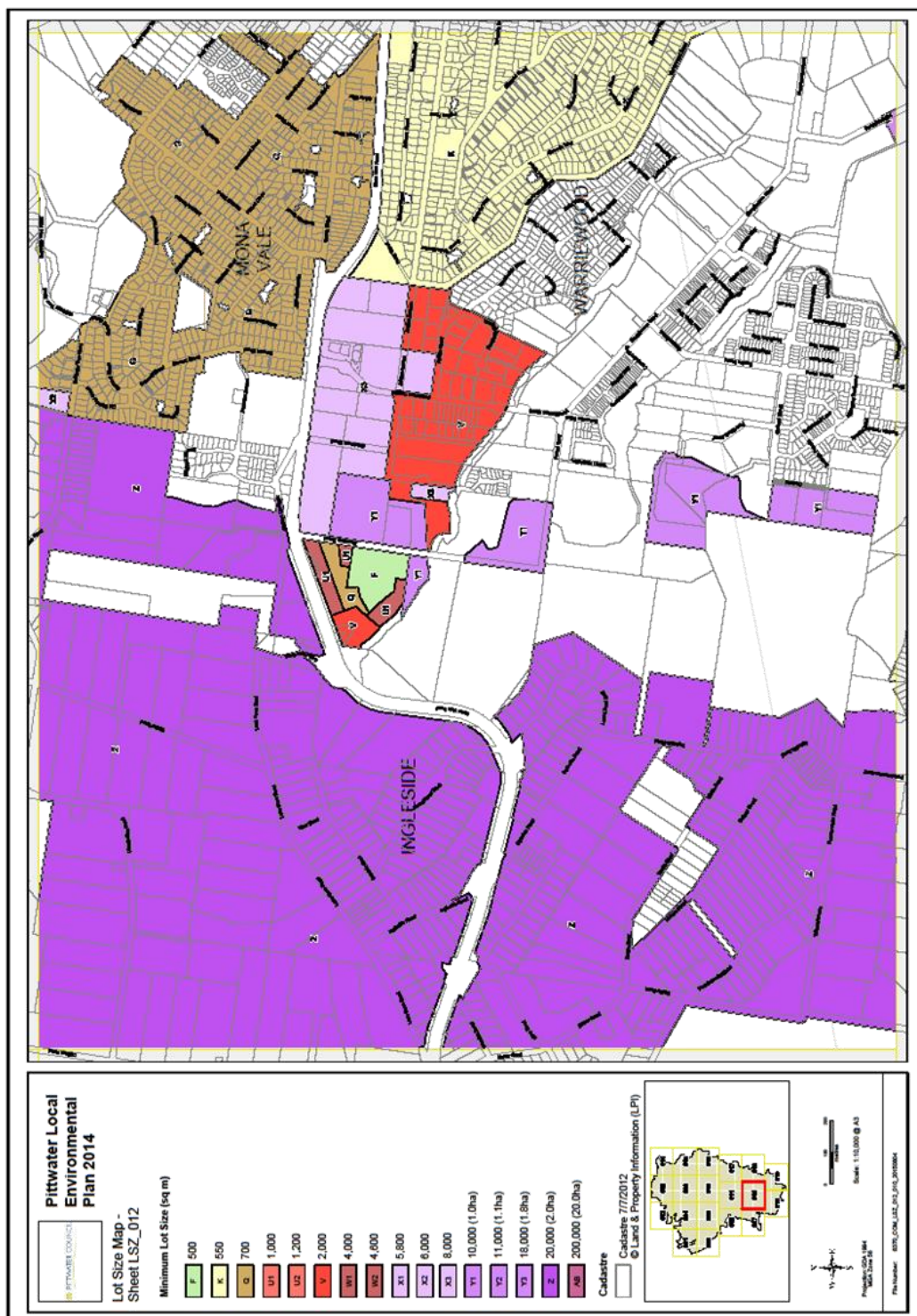
	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
7.1	Implementation of the Metropolitan Strategy	YES	YES

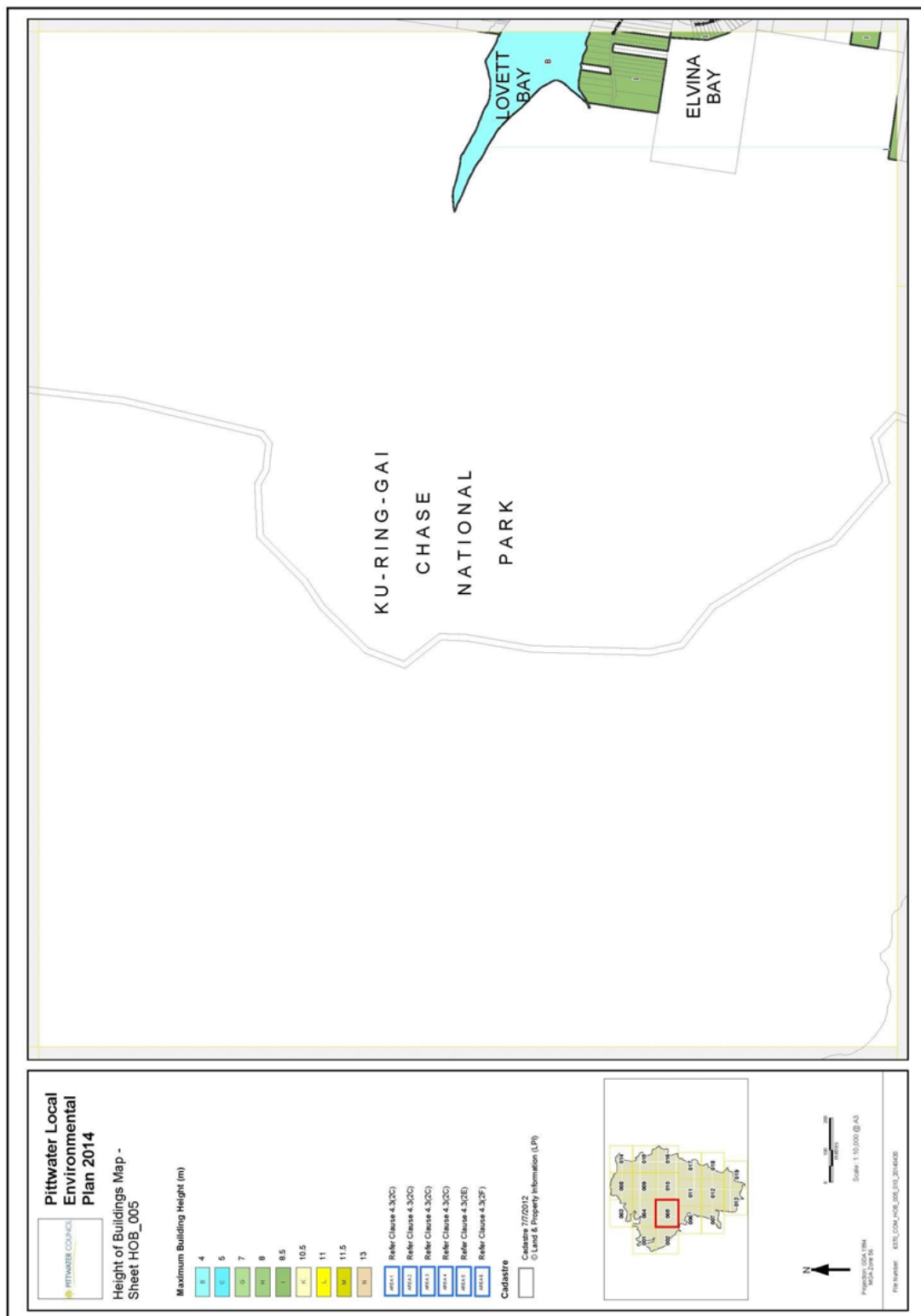
**Justification for inconsistency**

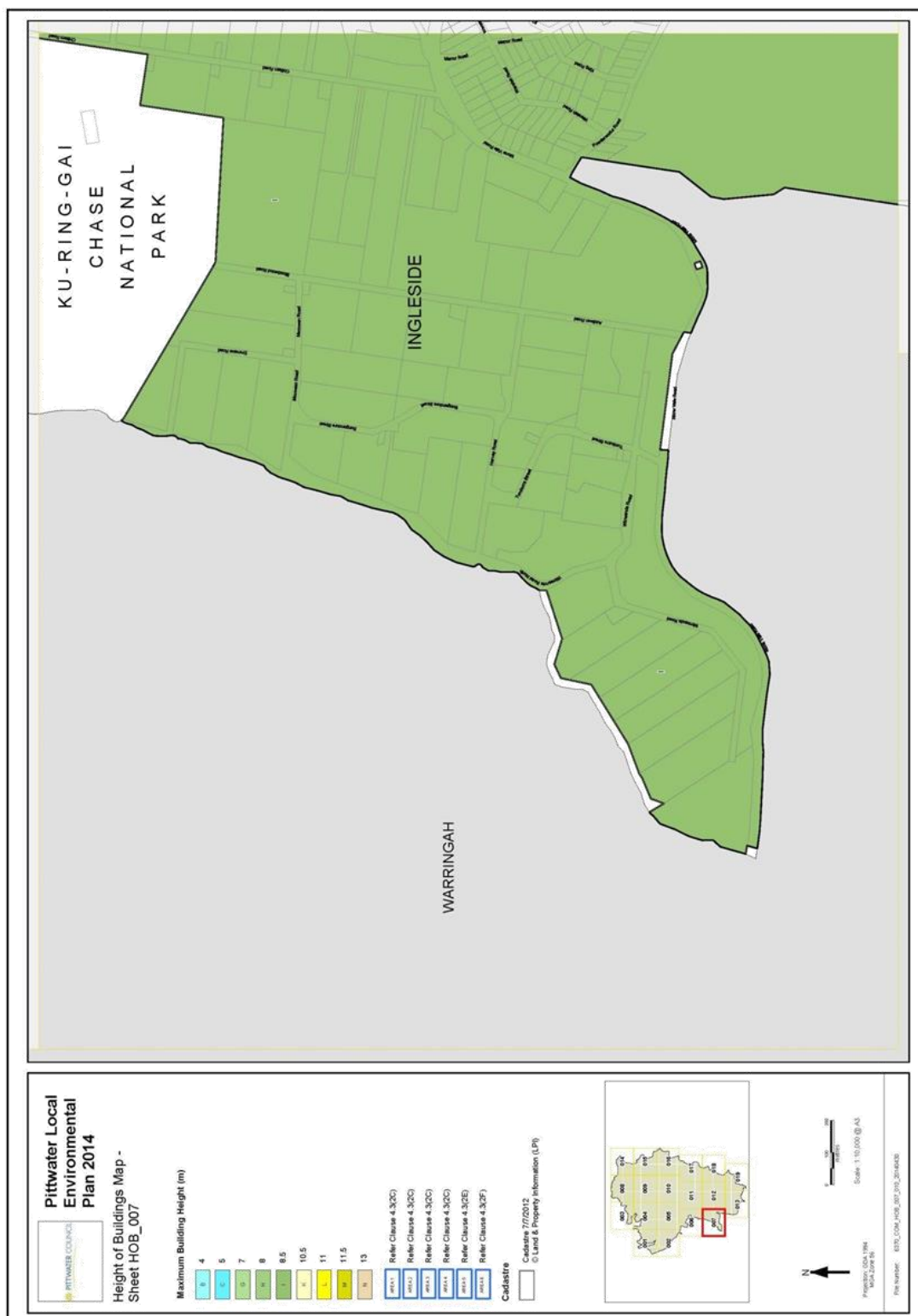
Nil.

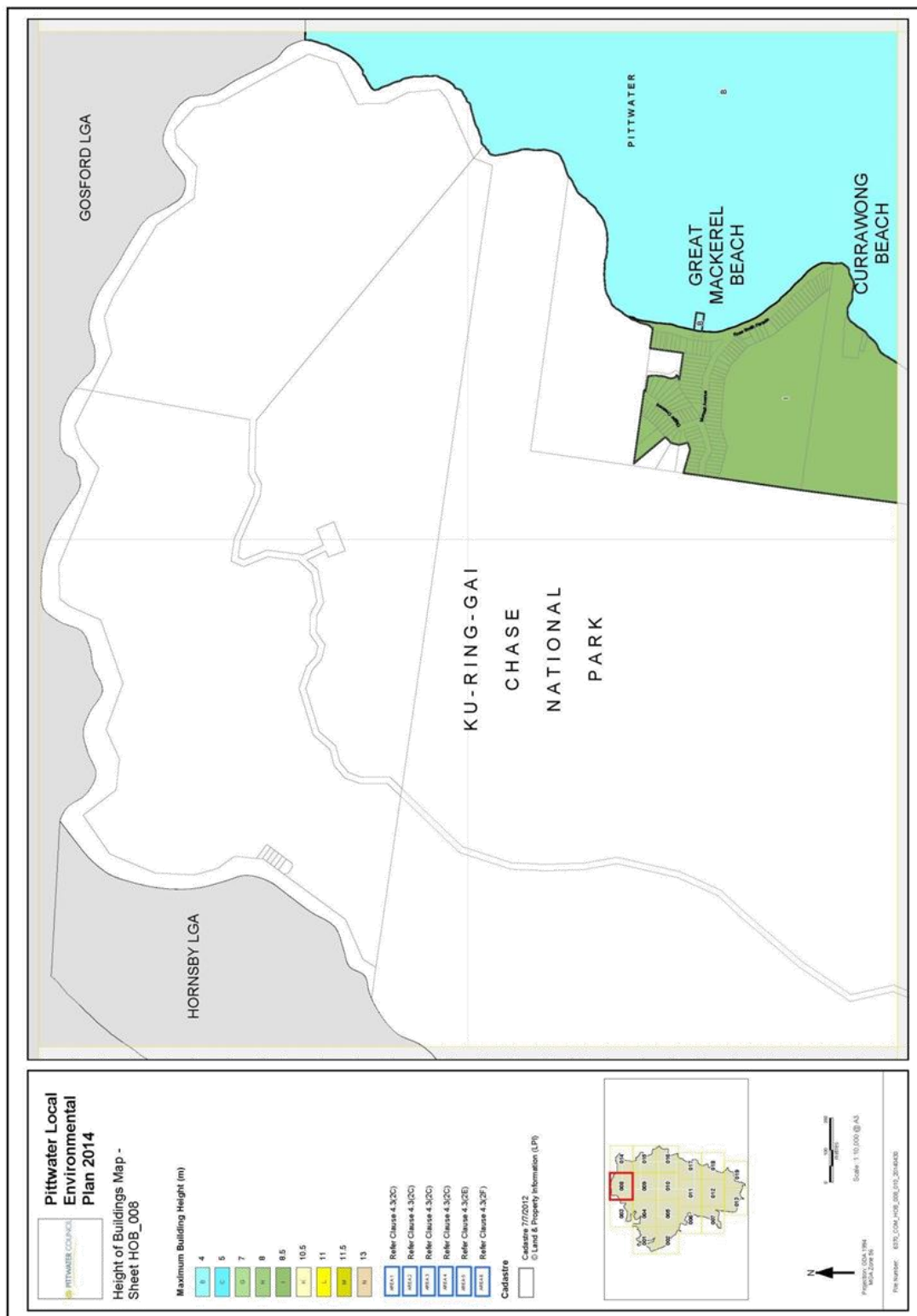
**Appendix 3: Current Pittwater LEP 2014 Maps**

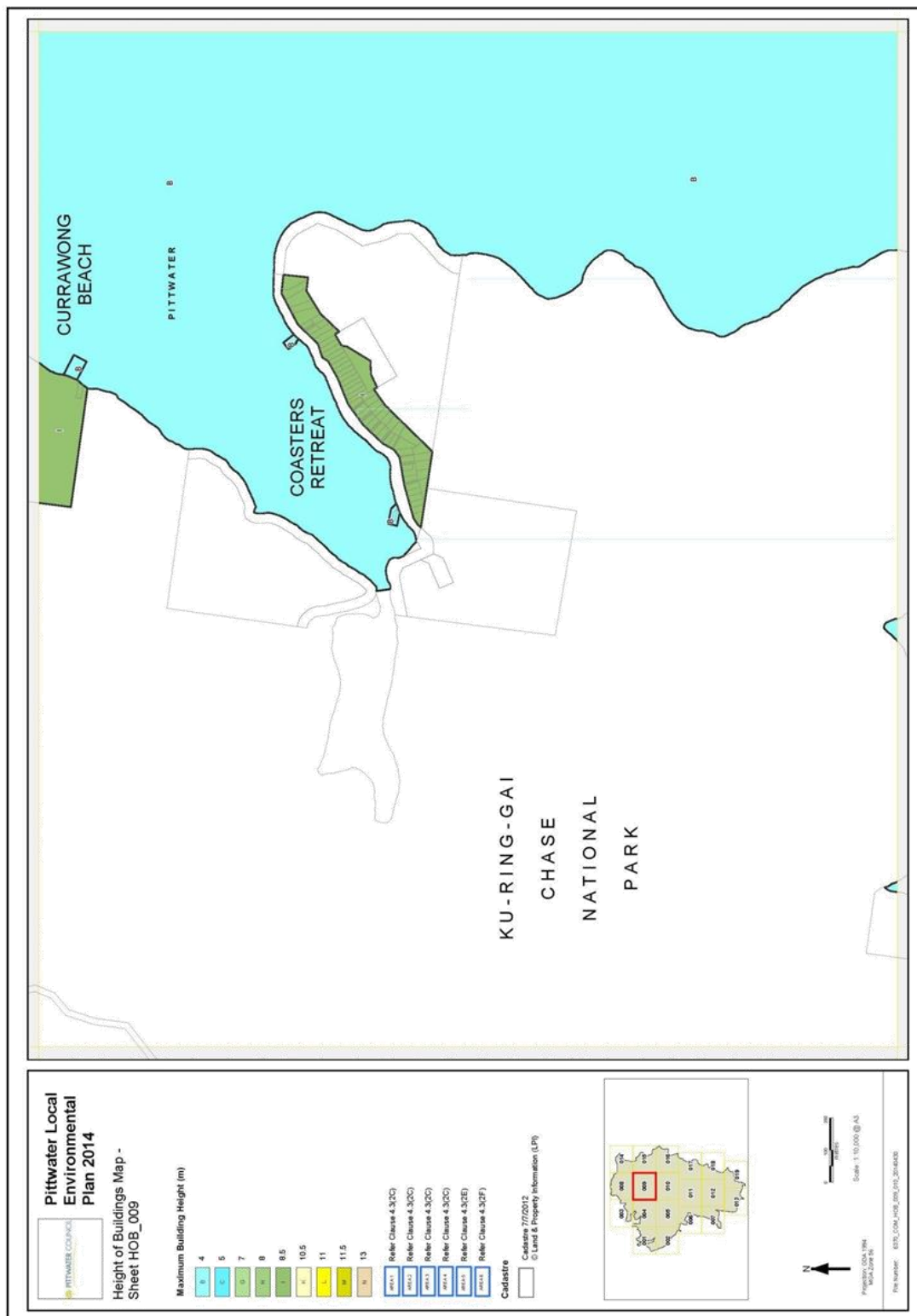
Page 40

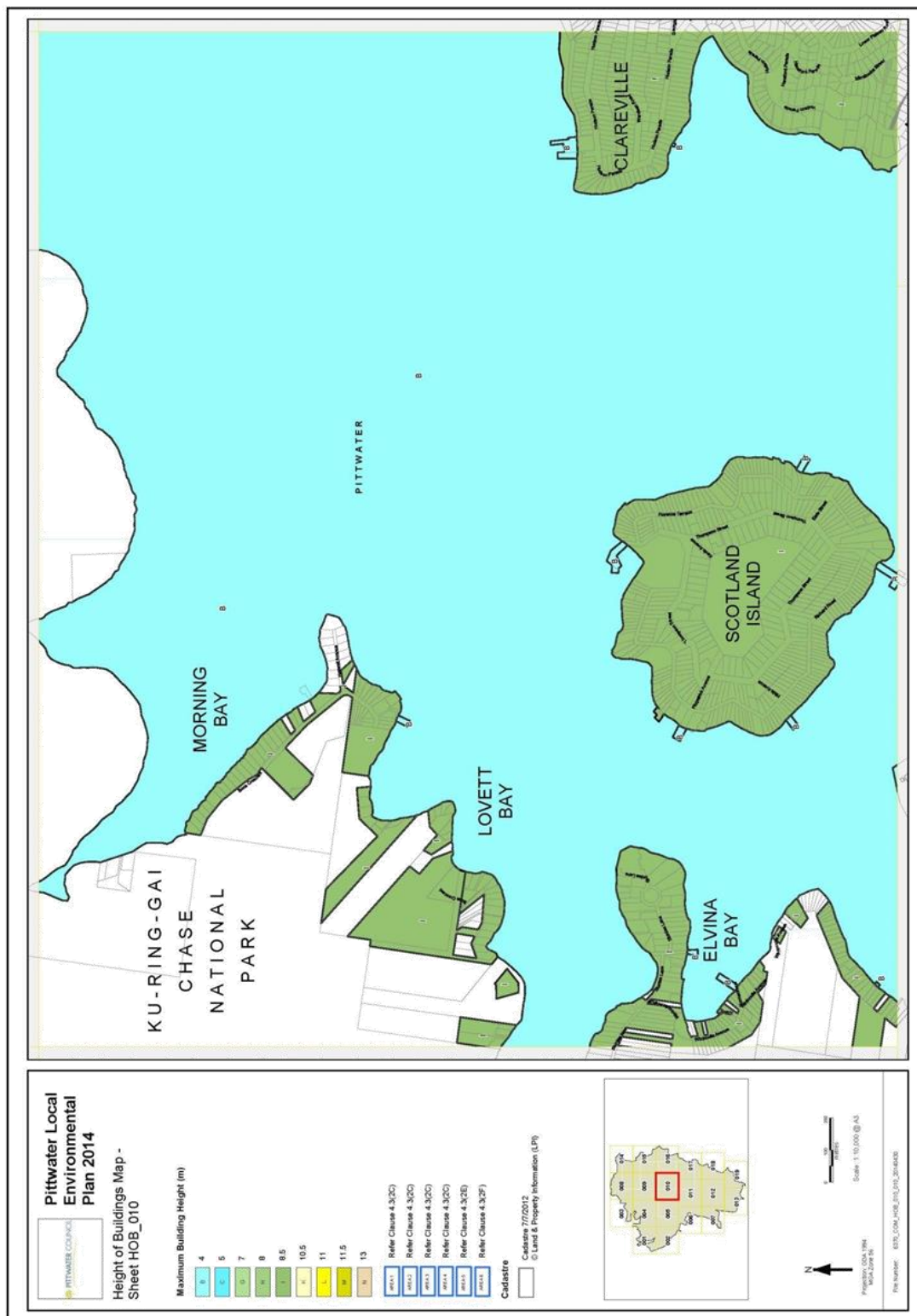




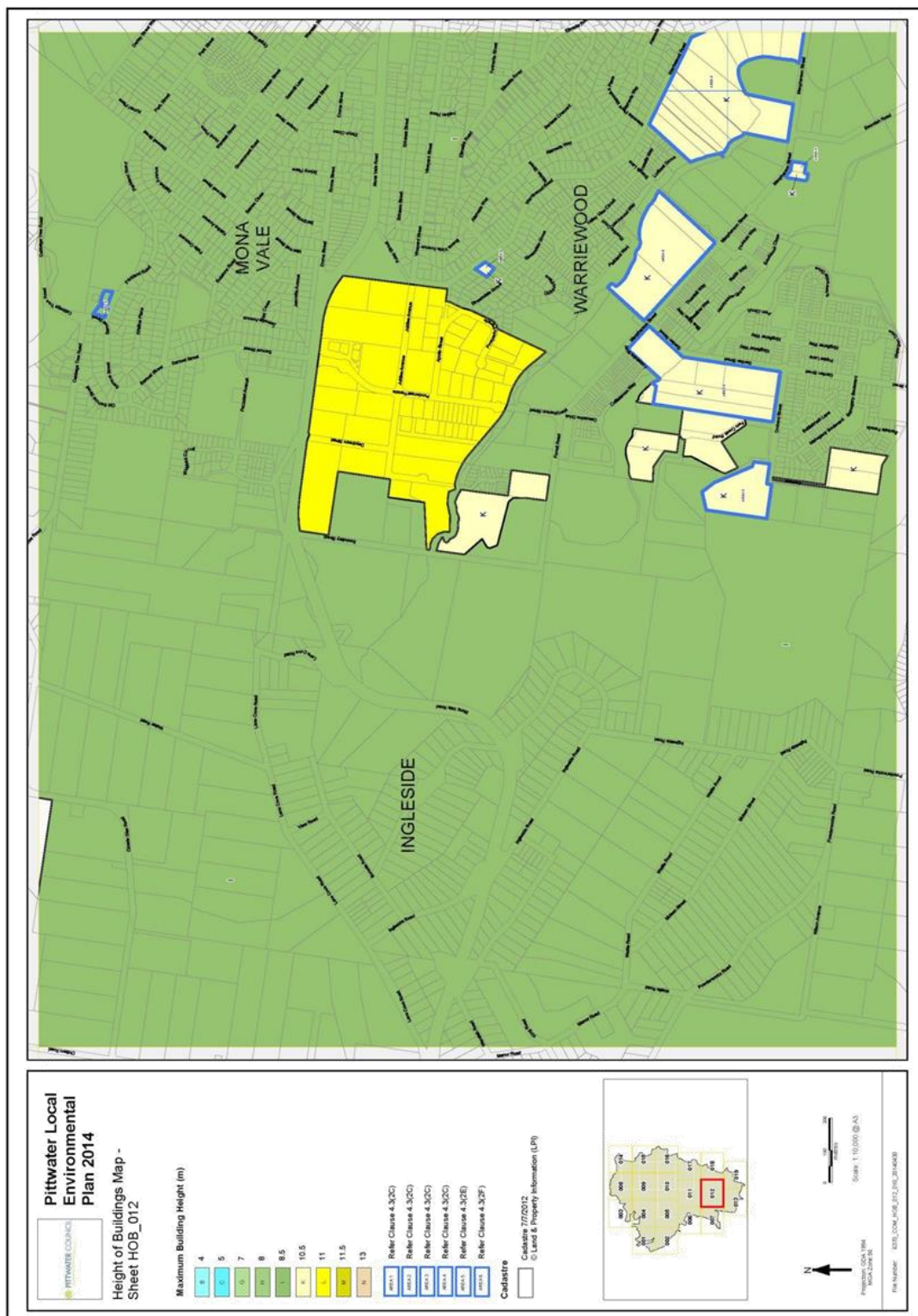


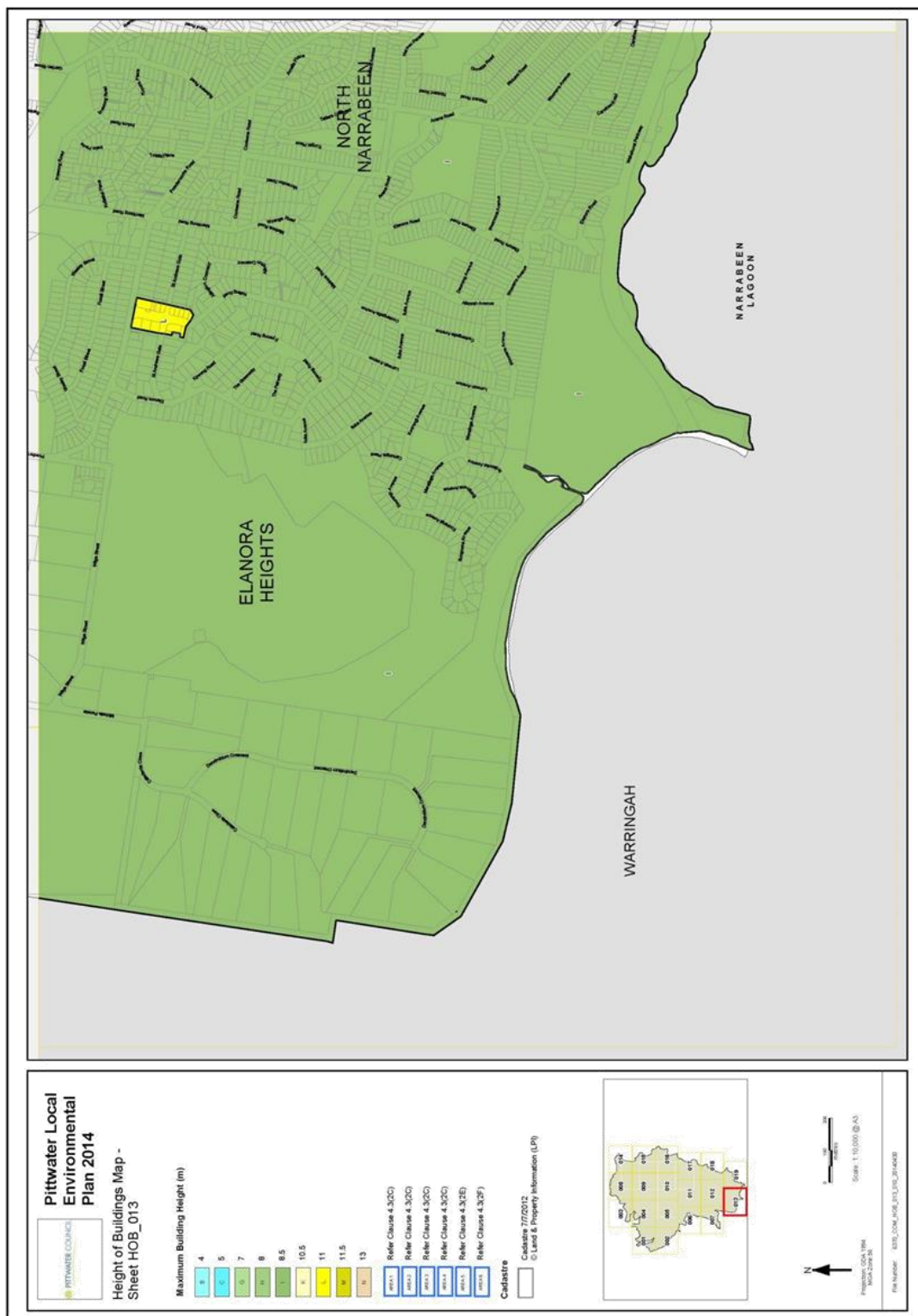


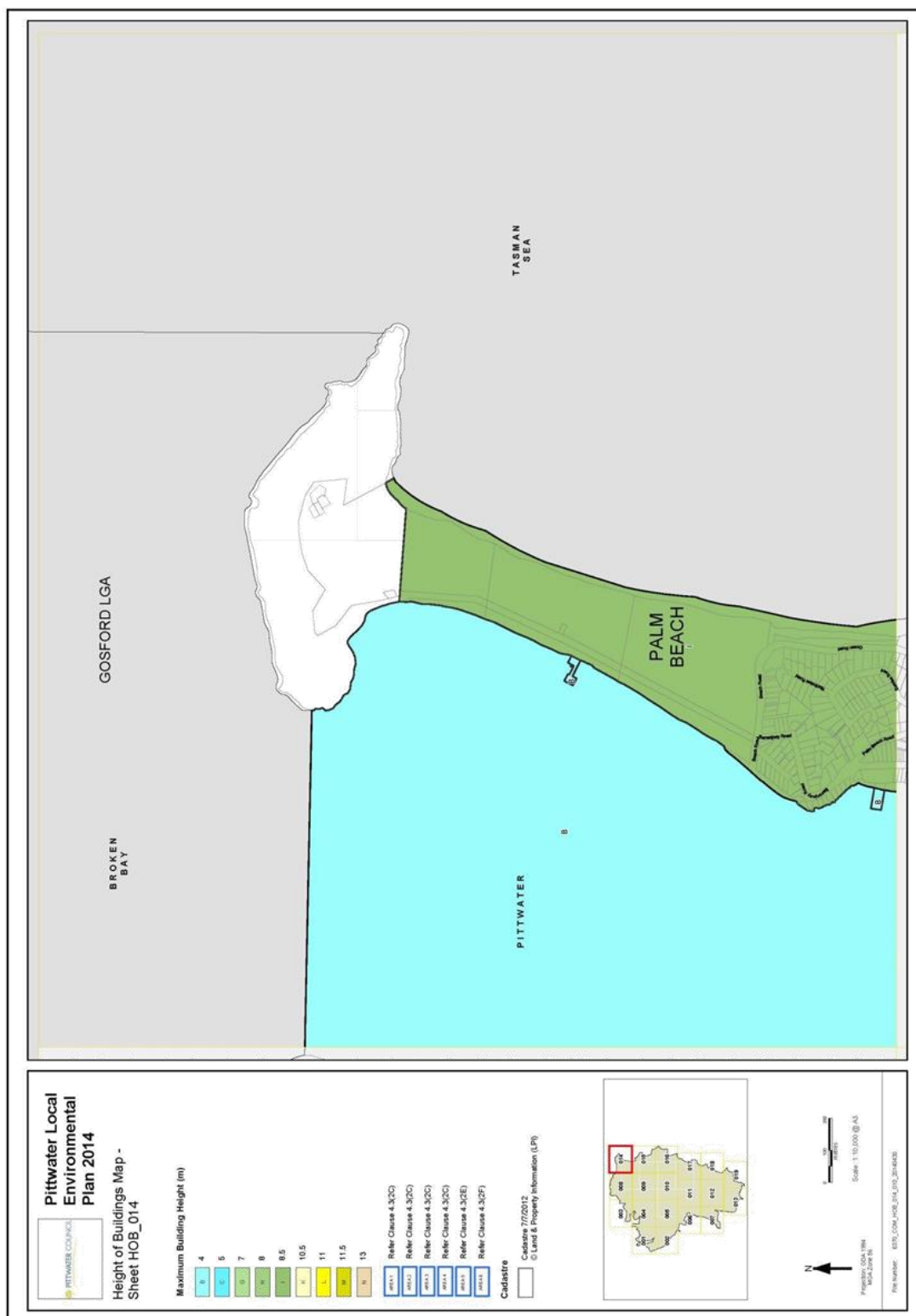


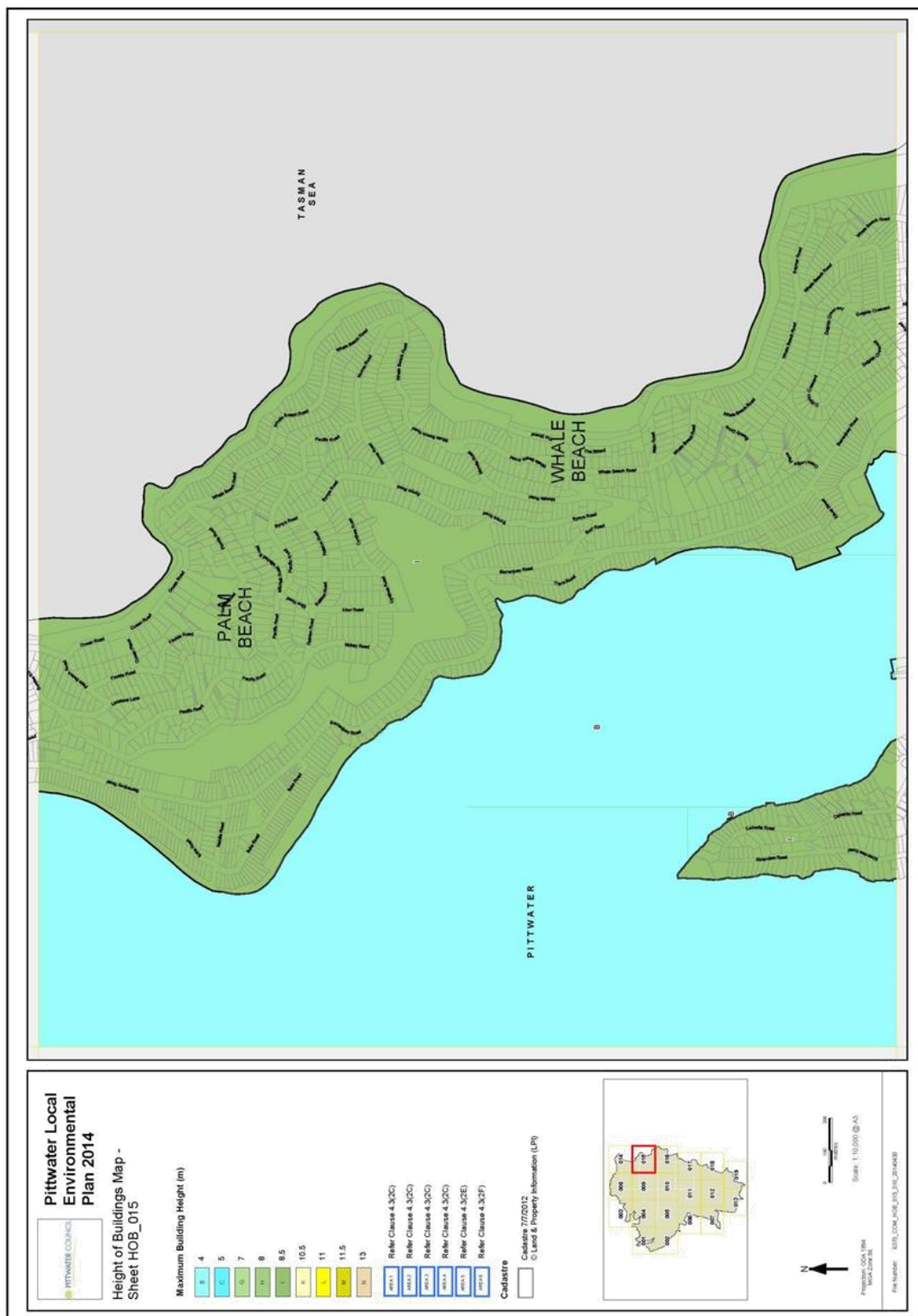


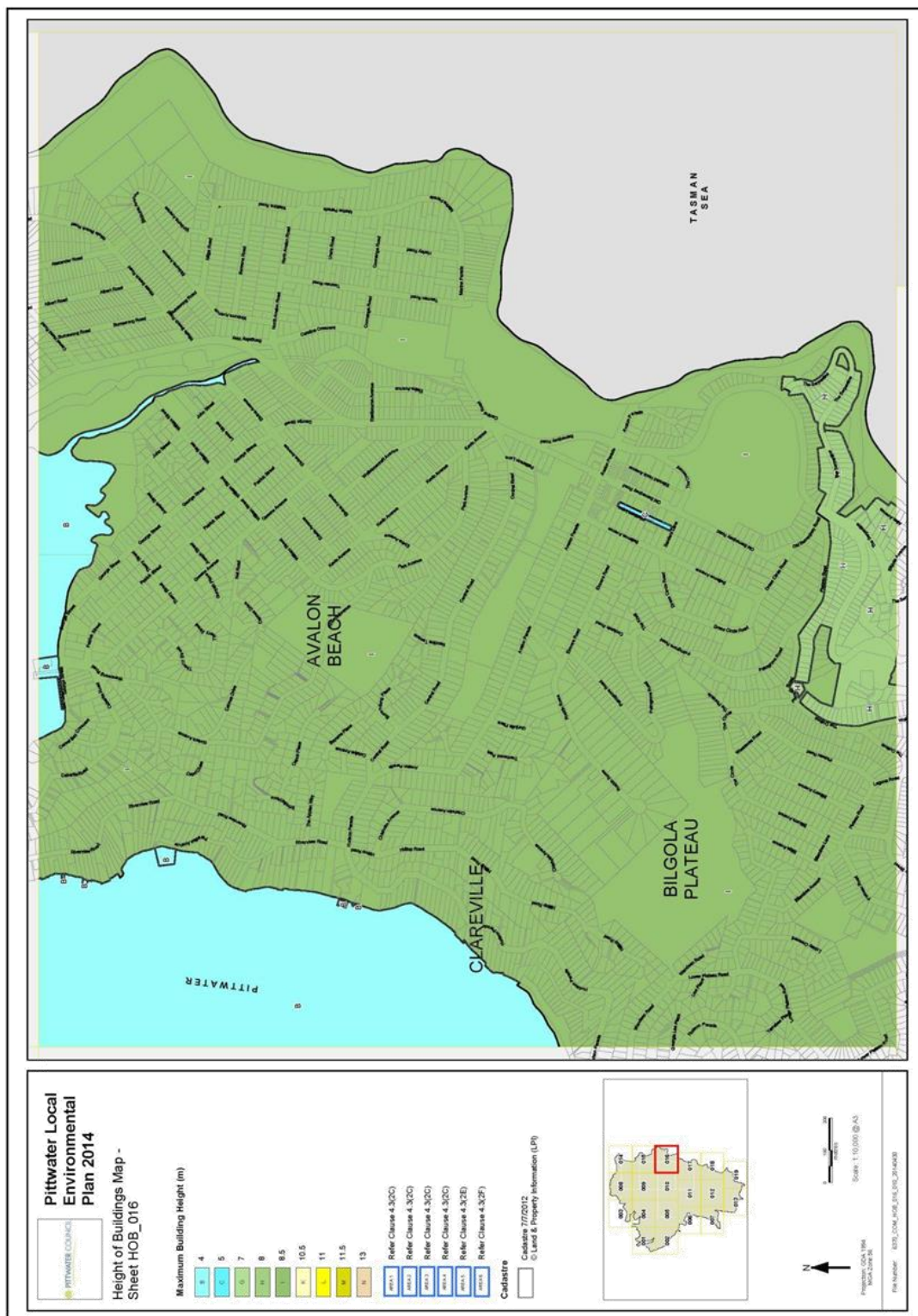


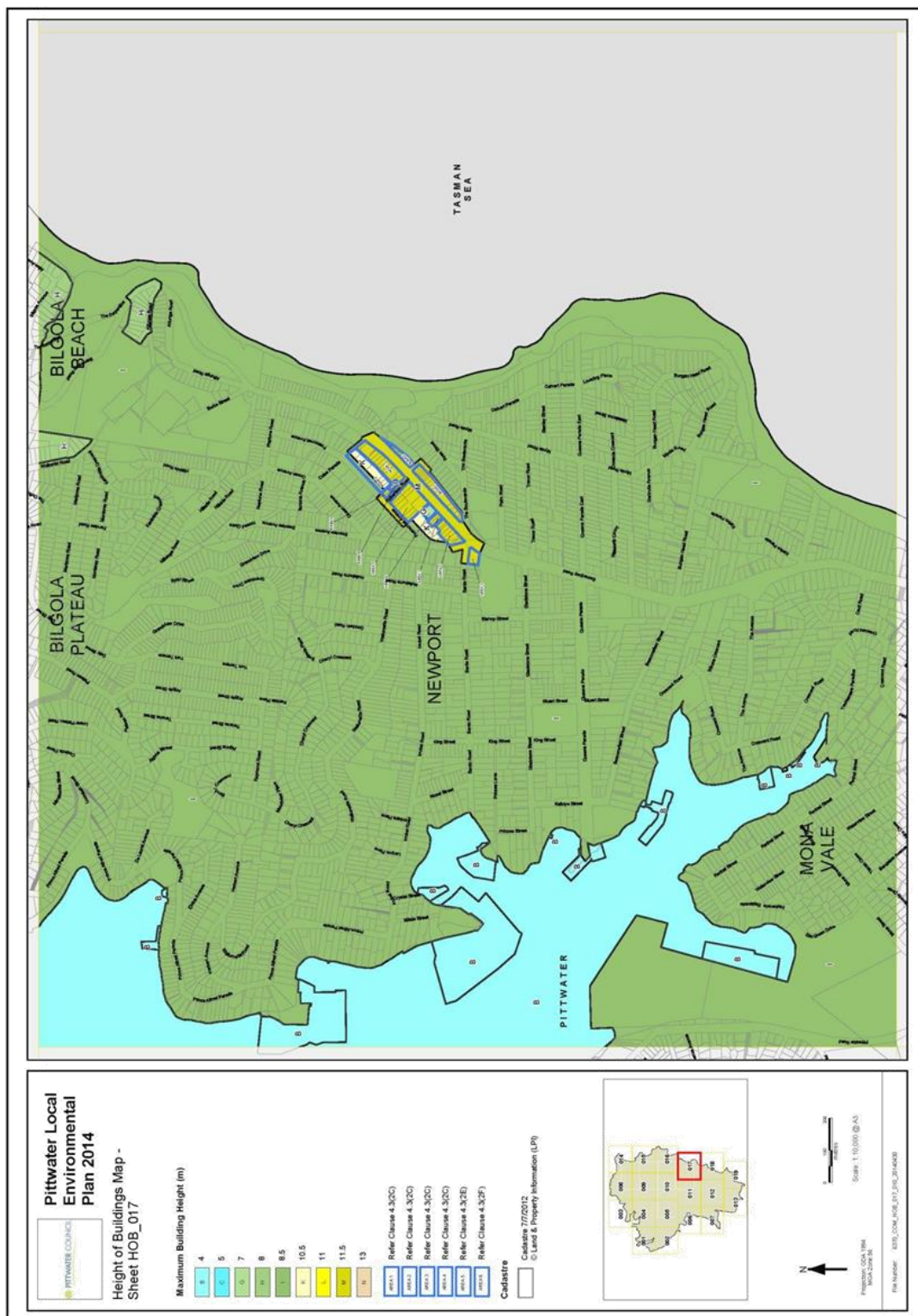


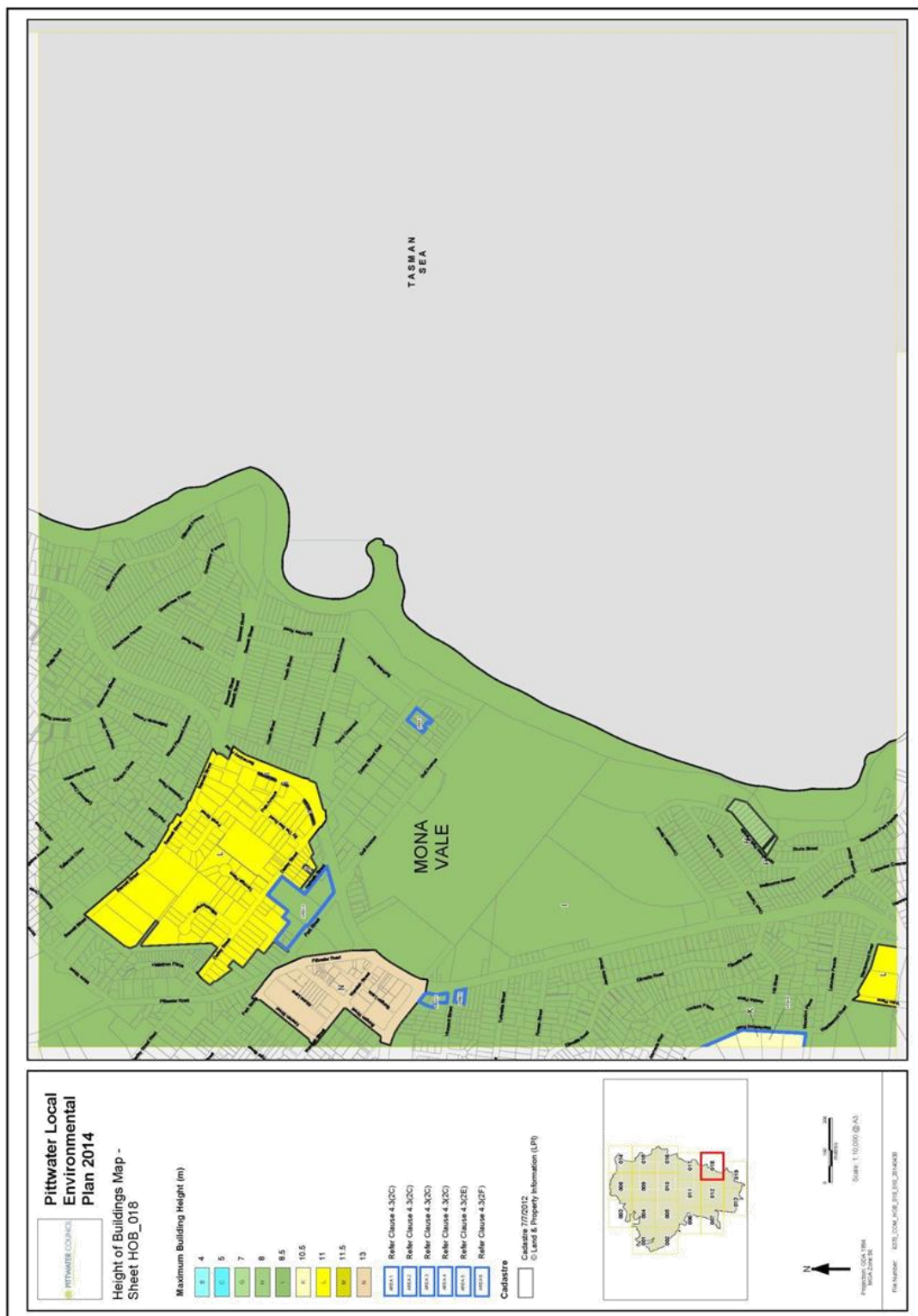


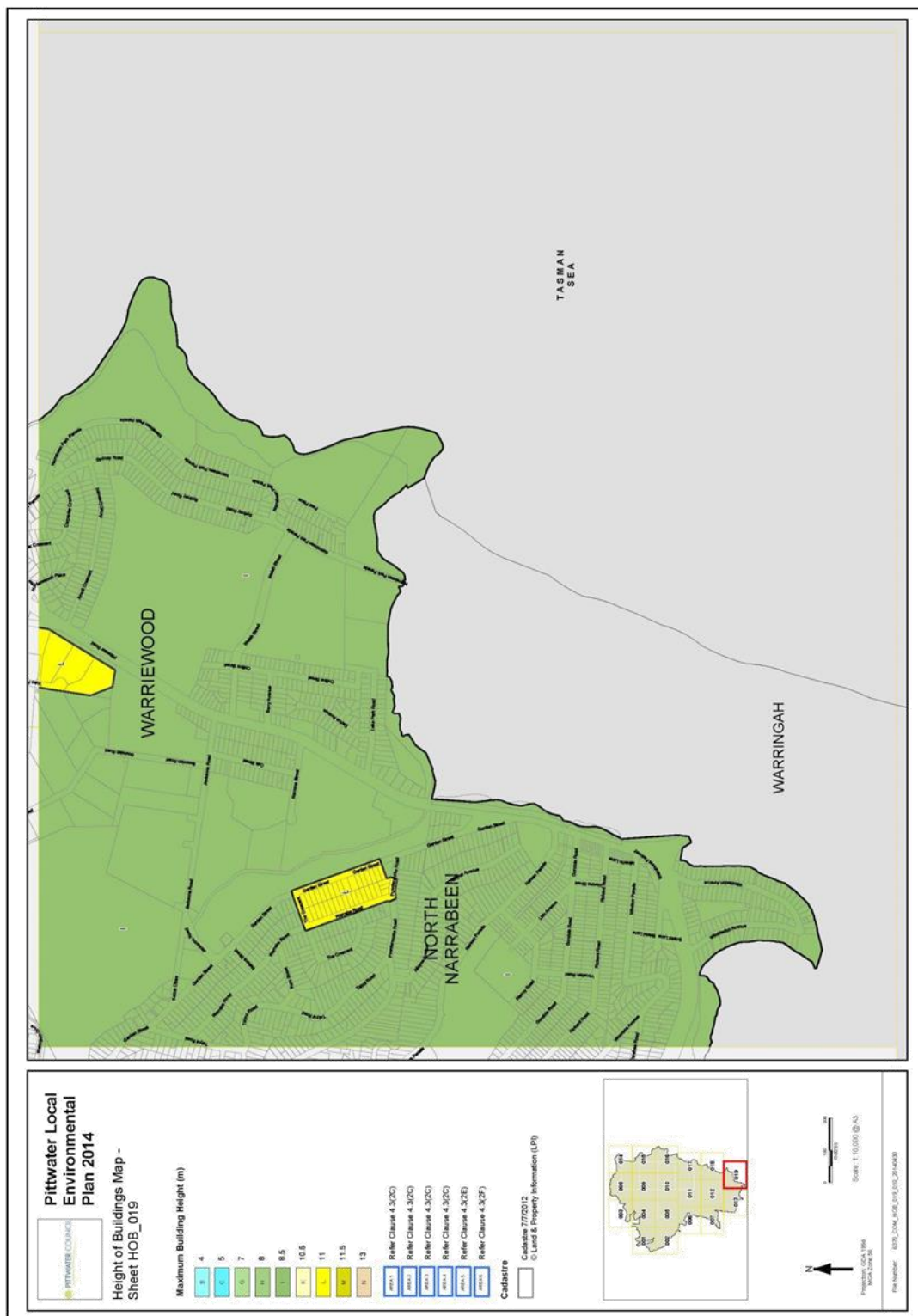


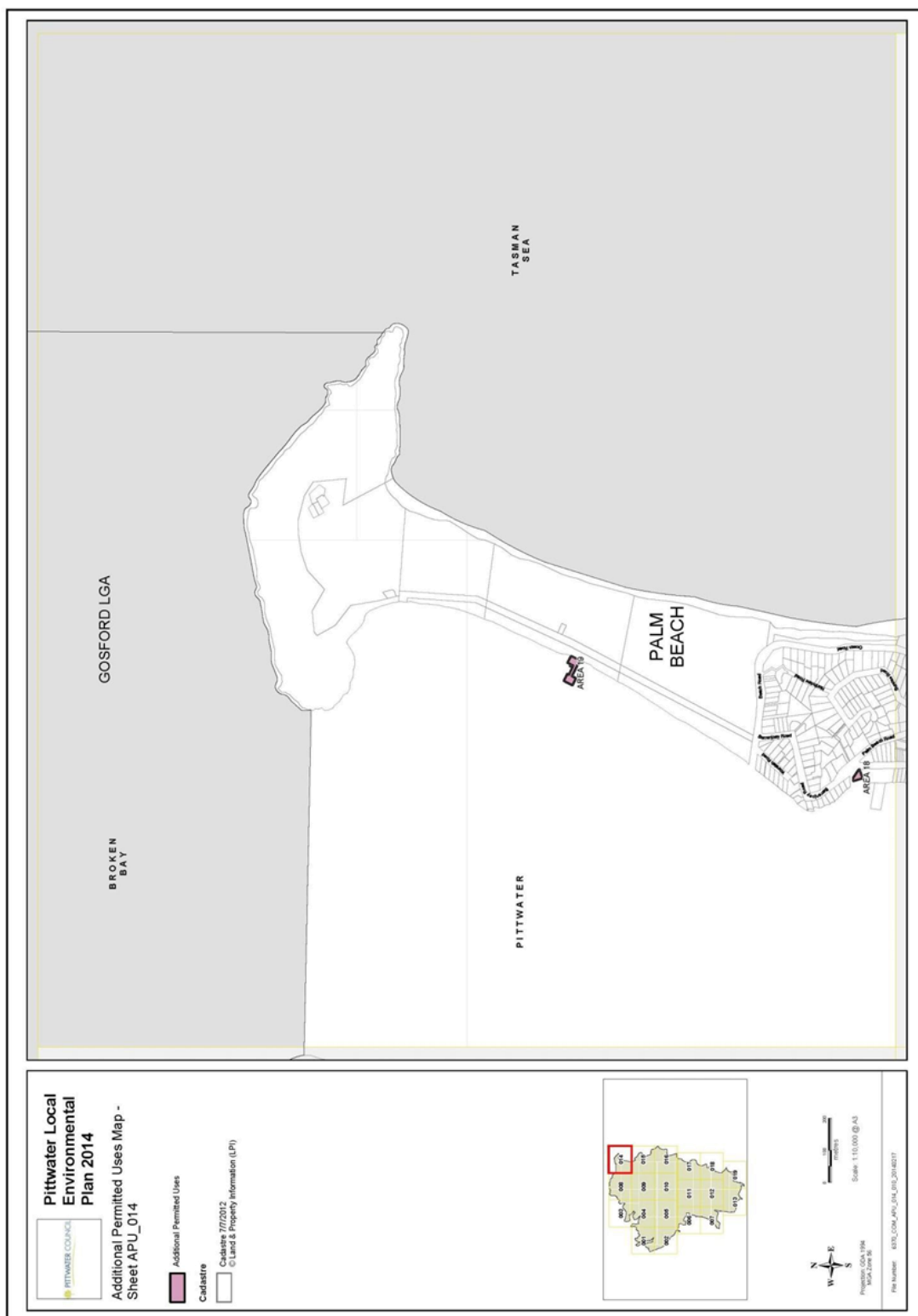


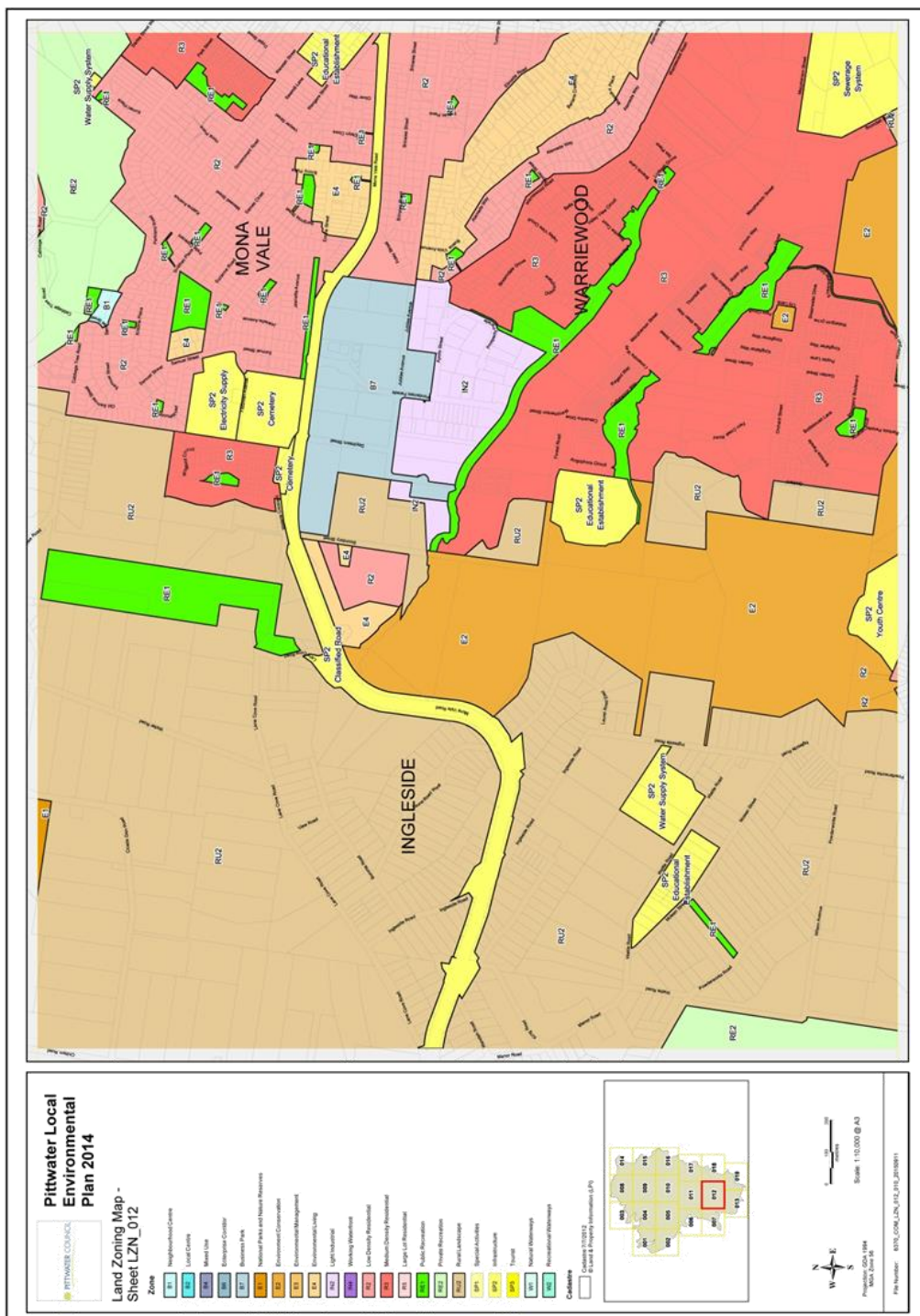


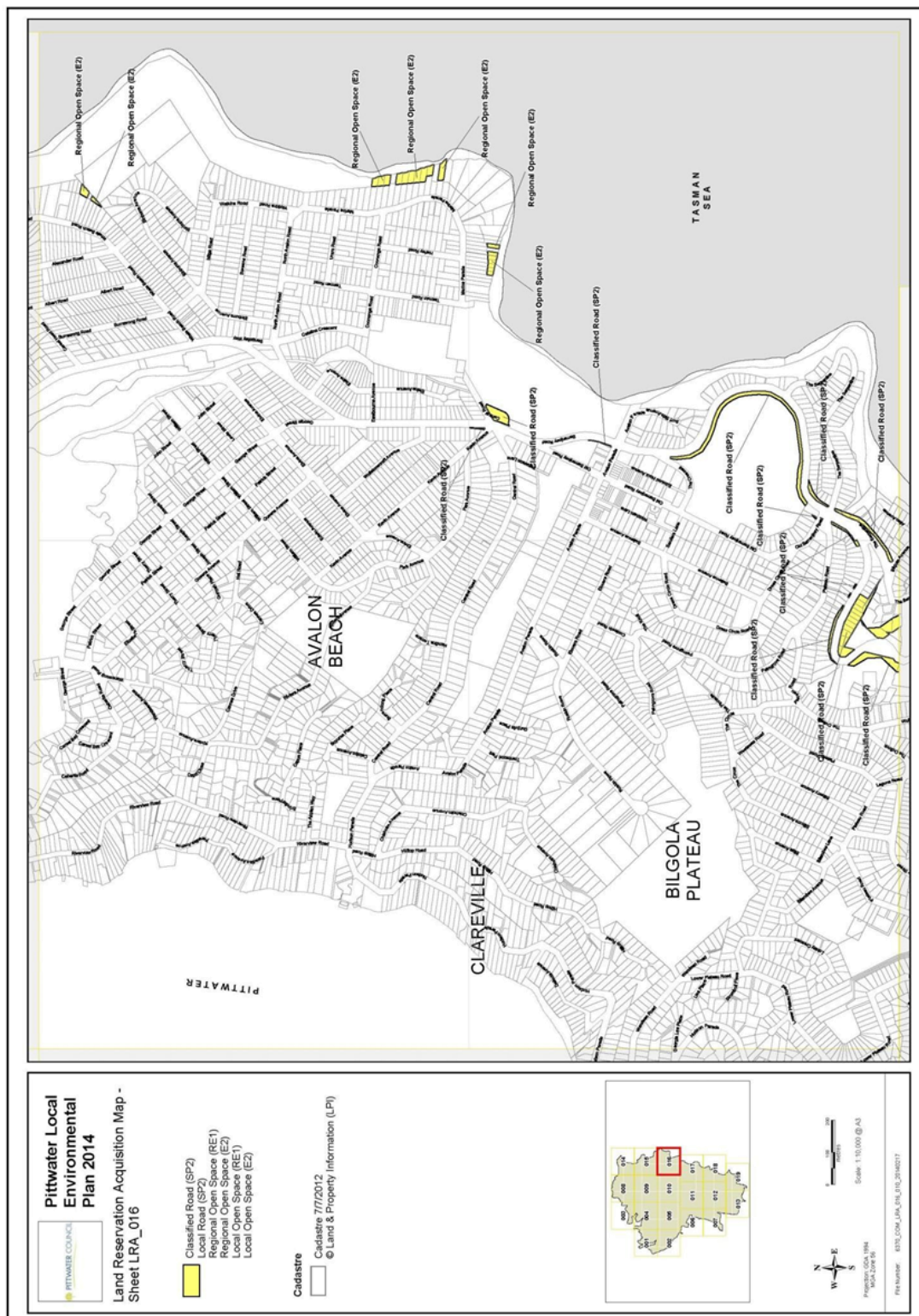






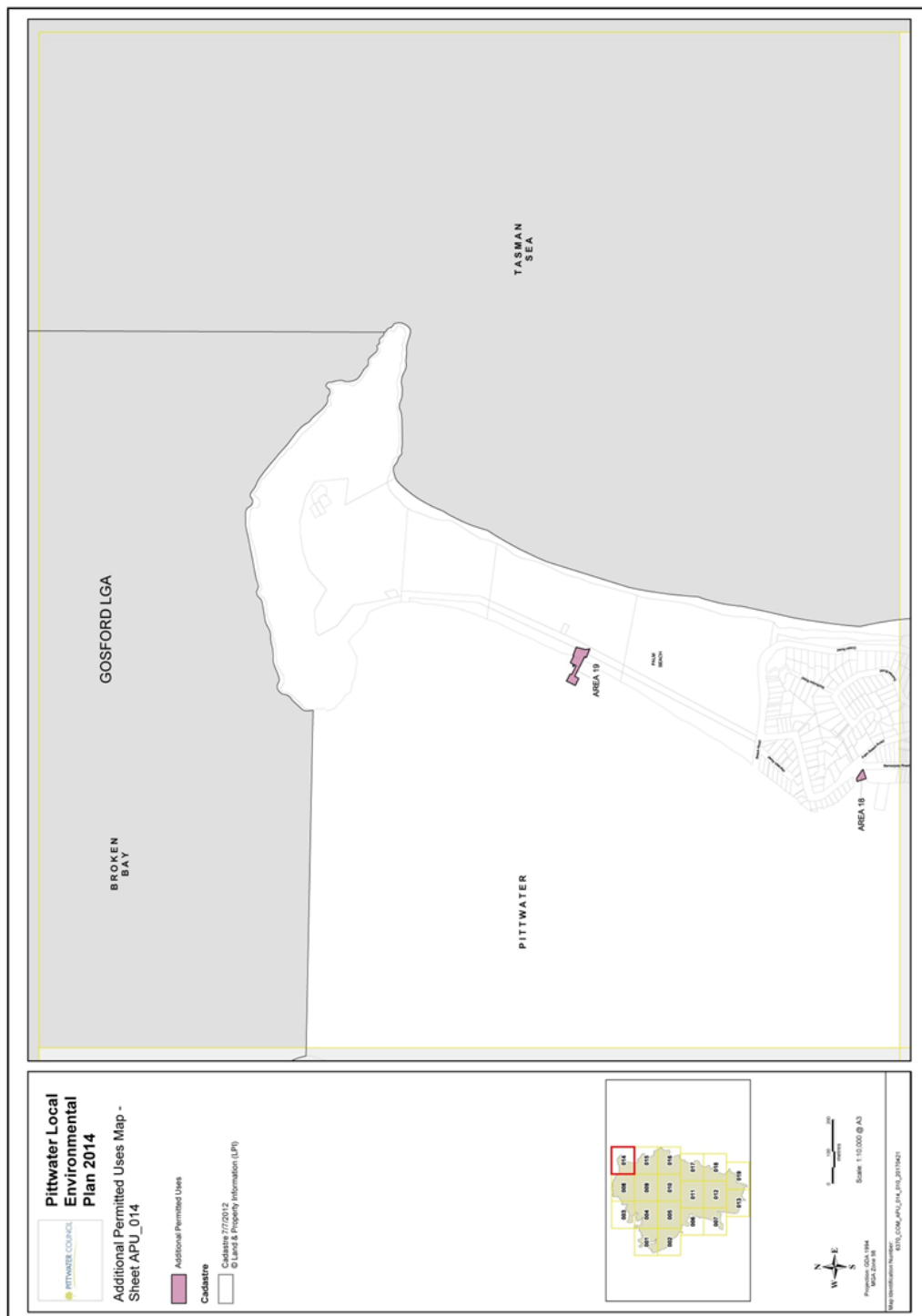






**Appendix 4: Proposed Pittwater LEP 2014 Maps**

Attachment 4.1



**Pittwater Local Environmental Plan 2014**

**Height of Buildings Map - Sheet HOB\_005**

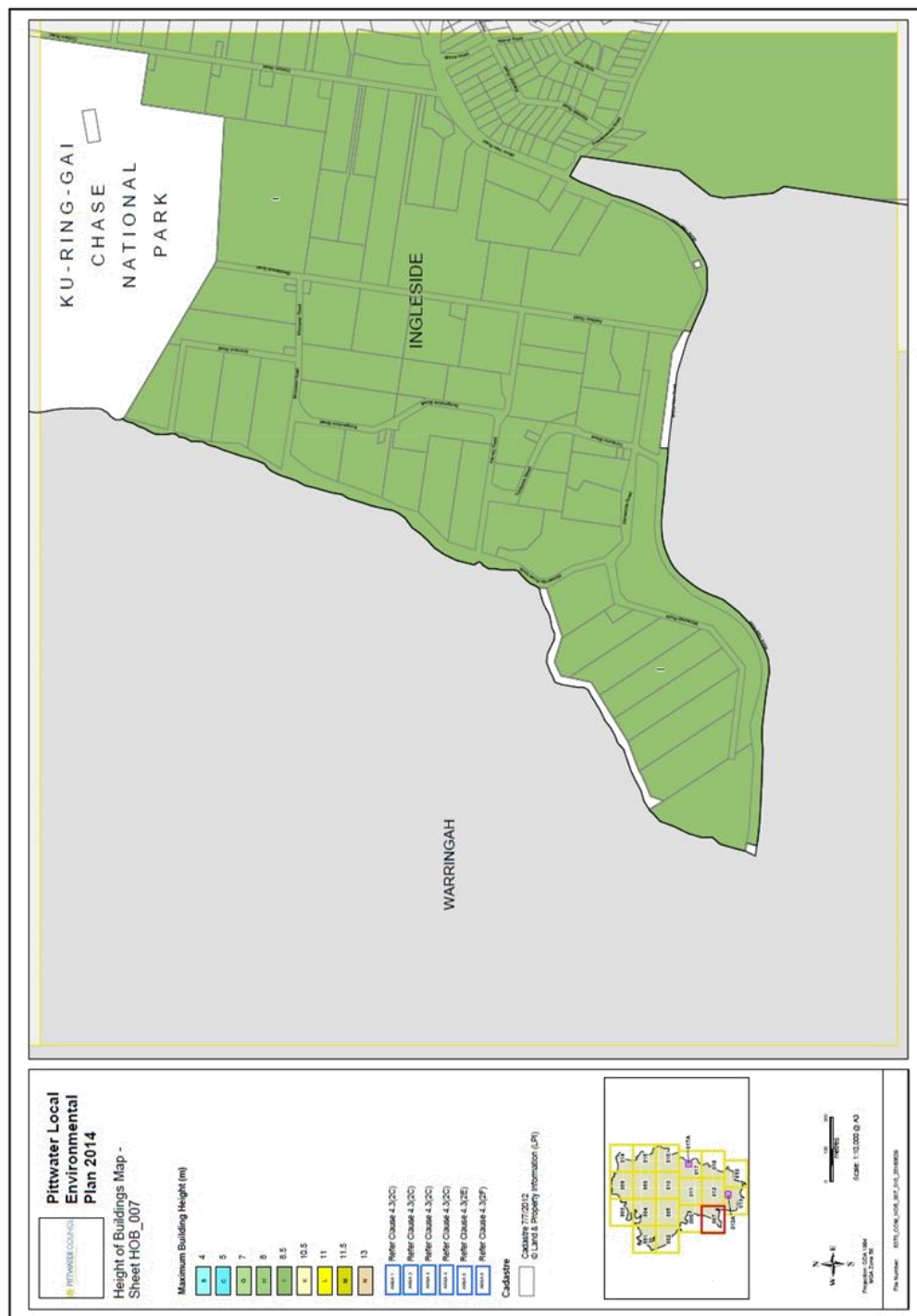
**Maximum Building Height (m)**

4
5
6
7
8
8.5
10.5
11
11.5
13

**Codes:**

- B1 Refer Clause 4.3(2C)
- B2 Refer Clause 4.3(2D)
- B3 Refer Clause 4.3(2E)
- B4 Refer Clause 4.3(2F)
- B5 Refer Clause 4.3(2G)
- B6 Refer Clause 4.3(2H)
- B7 Refer Clause 4.3(2I)
- B8 Refer Clause 4.3(2J)
- B9 Refer Clause 4.3(2K)
- B10 Refer Clause 4.3(2L)
- B11 Refer Clause 4.3(2M)
- B12 Refer Clause 4.3(2N)
- B13 Refer Clause 4.3(2O)
- B14 Refer Clause 4.3(2P)
- B15 Refer Clause 4.3(2Q)
- B16 Refer Clause 4.3(2R)
- B17 Refer Clause 4.3(2S)
- B18 Refer Clause 4.3(2T)
- B19 Refer Clause 4.3(2U)
- B20 Refer Clause 4.3(2V)
- B21 Refer Clause 4.3(2W)
- B22 Refer Clause 4.3(2X)
- B23 Refer Clause 4.3(2Y)
- B24 Refer Clause 4.3(2Z)
- B25 Refer Clause 4.3(2AA)
- B26 Refer Clause 4.3(2AB)
- B27 Refer Clause 4.3(2AC)
- B28 Refer Clause 4.3(2AD)
- B29 Refer Clause 4.3(2AE)
- B30 Refer Clause 4.3(2AF)
- B31 Refer Clause 4.3(2AG)
- B32 Refer Clause 4.3(2AH)
- B33 Refer Clause 4.3(2AI)
- B34 Refer Clause 4.3(2AJ)
- B35 Refer Clause 4.3(2AK)
- B36 Refer Clause 4.3(2AL)
- B37 Refer Clause 4.3(2AM)
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- B66 Refer Clause 4.3(2BP)
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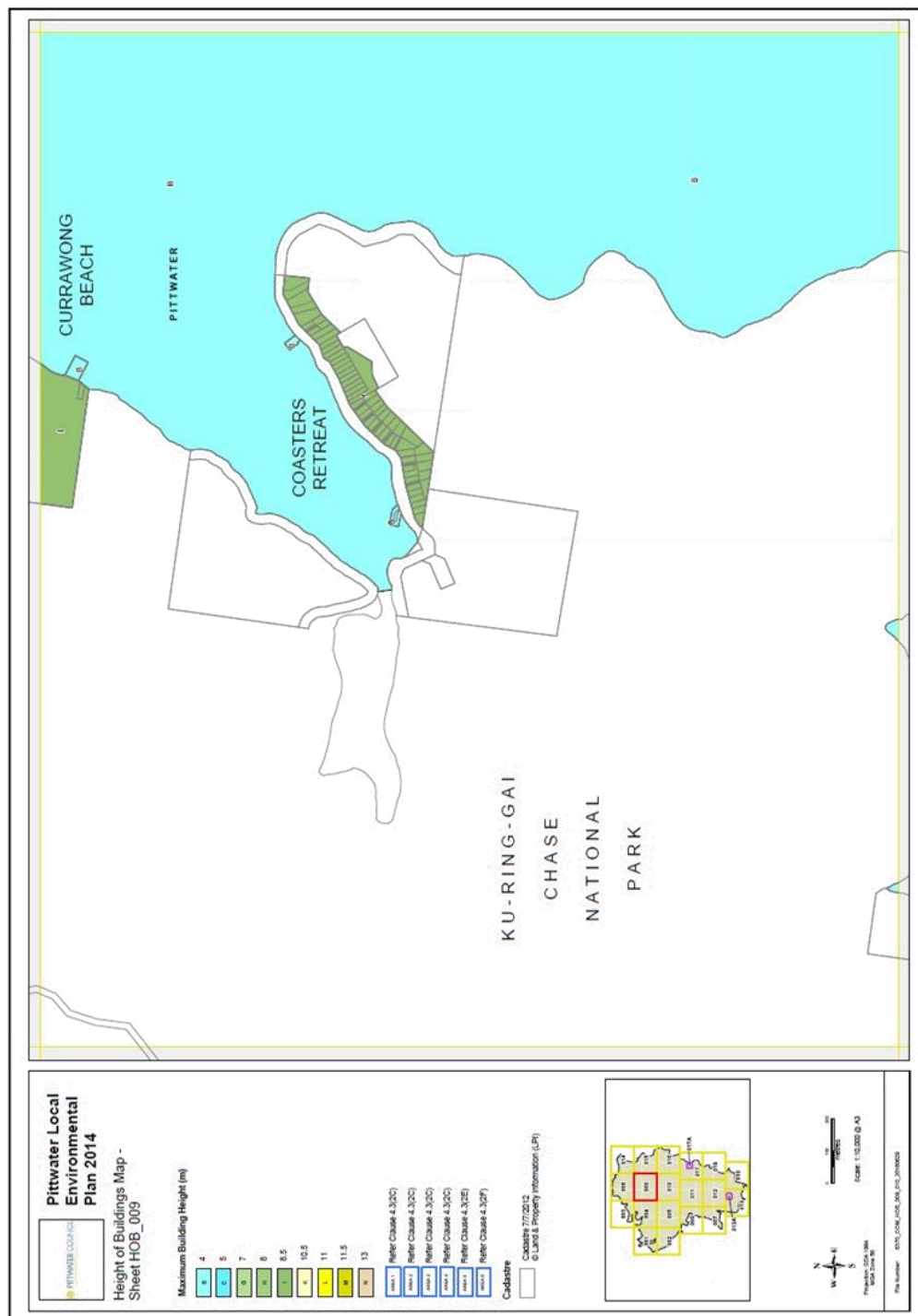
Attachment 4.3



Attachment 4.4



Attachment 4.5



**Pittwater Local Environmental Plan 2014**

**Height of Buildings Map - Sheet HOB\_010**

**Maximum Building Height (m)**

4	Refer Clause 4.3(2C)
5	Refer Clause 4.3(2C)
7	Refer Clause 4.3(2C)
8	Refer Clause 4.3(2C)
8.5	Refer Clause 4.3(2C)
10.5	Refer Clause 4.3(2D)
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**Cadastre**

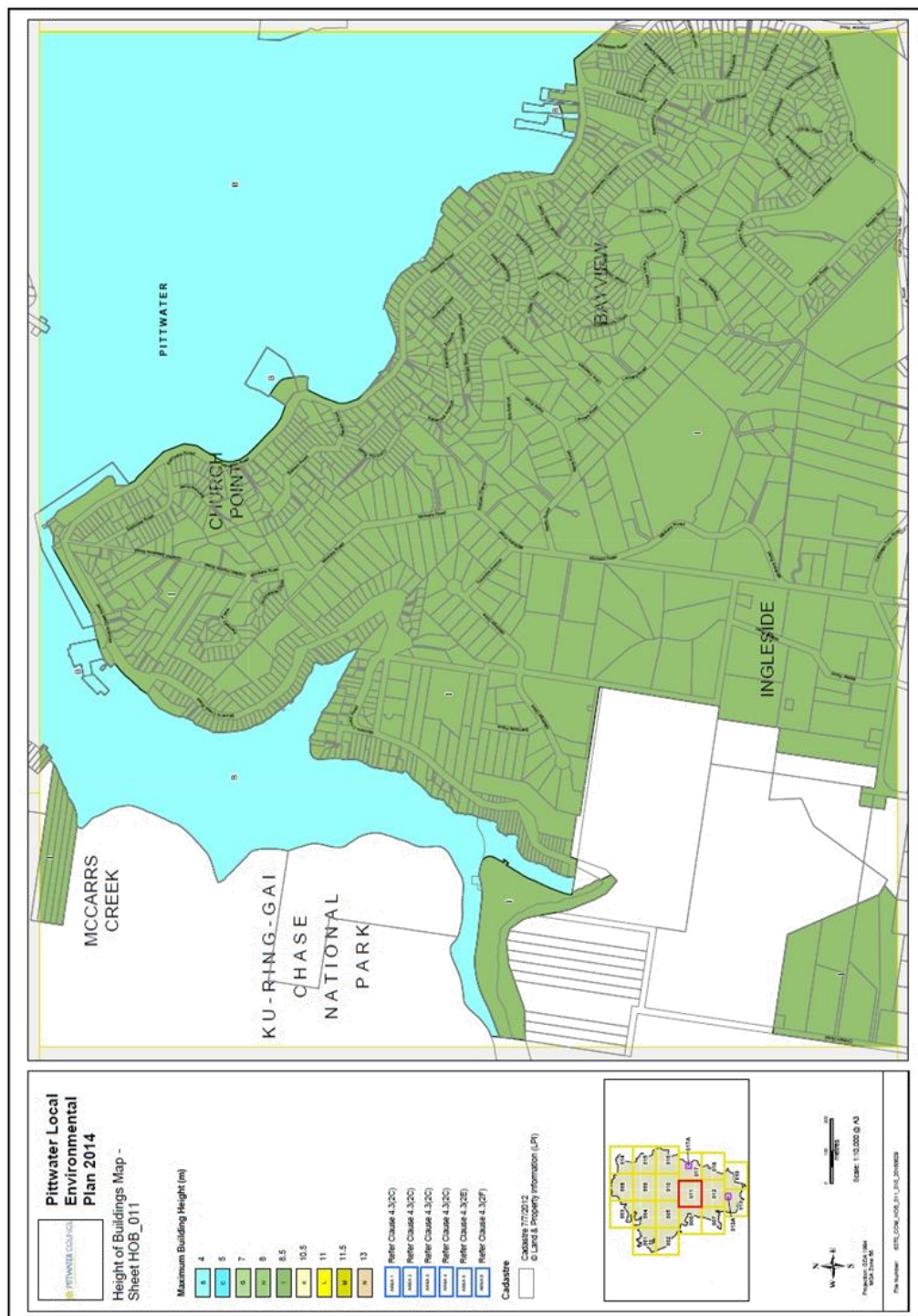
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☐ Land & Property Information (LPI)

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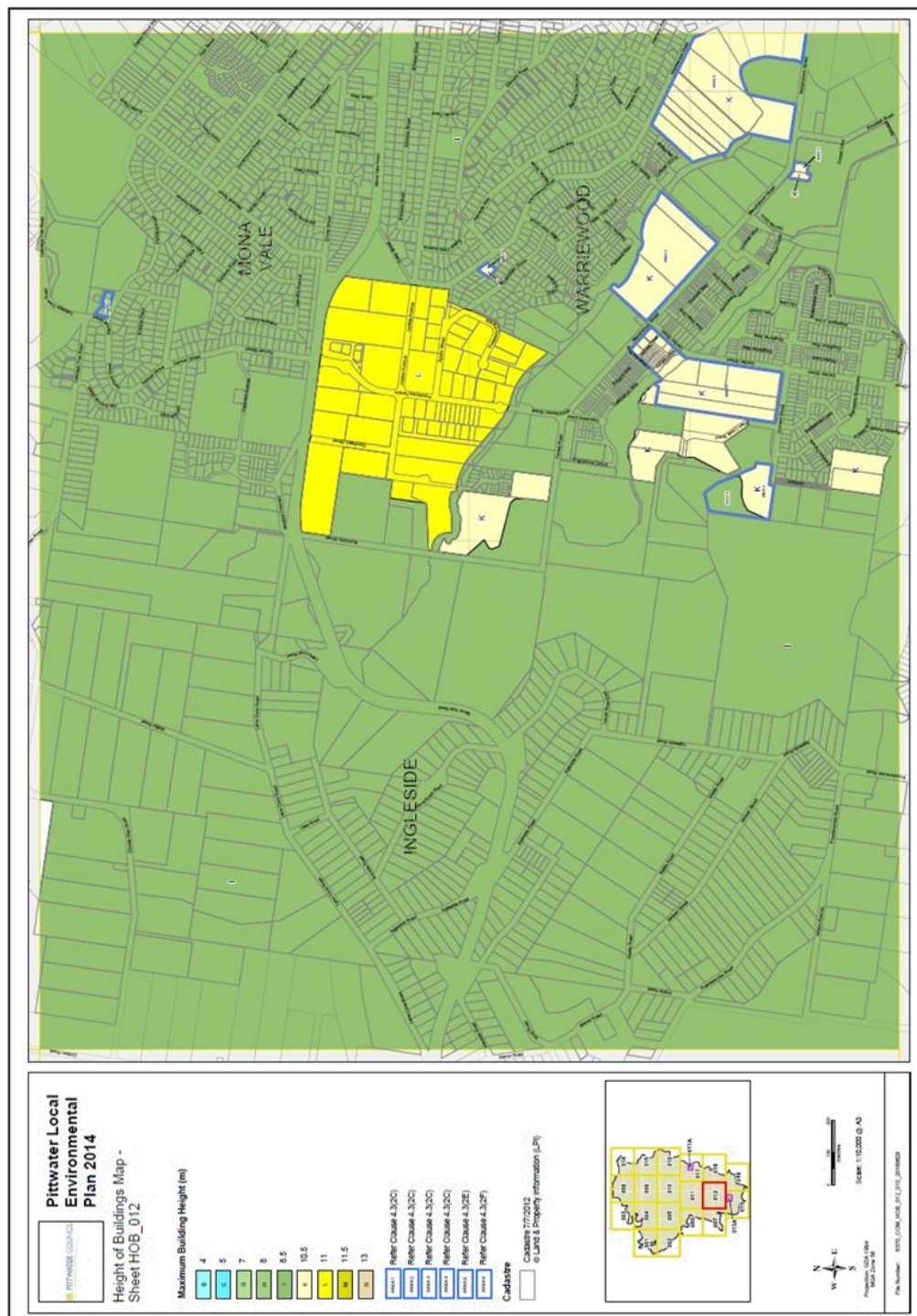
**North Arrow**

**Inset Map:** Shows the location of the map area within the Sydney region.

Attachment 4.7



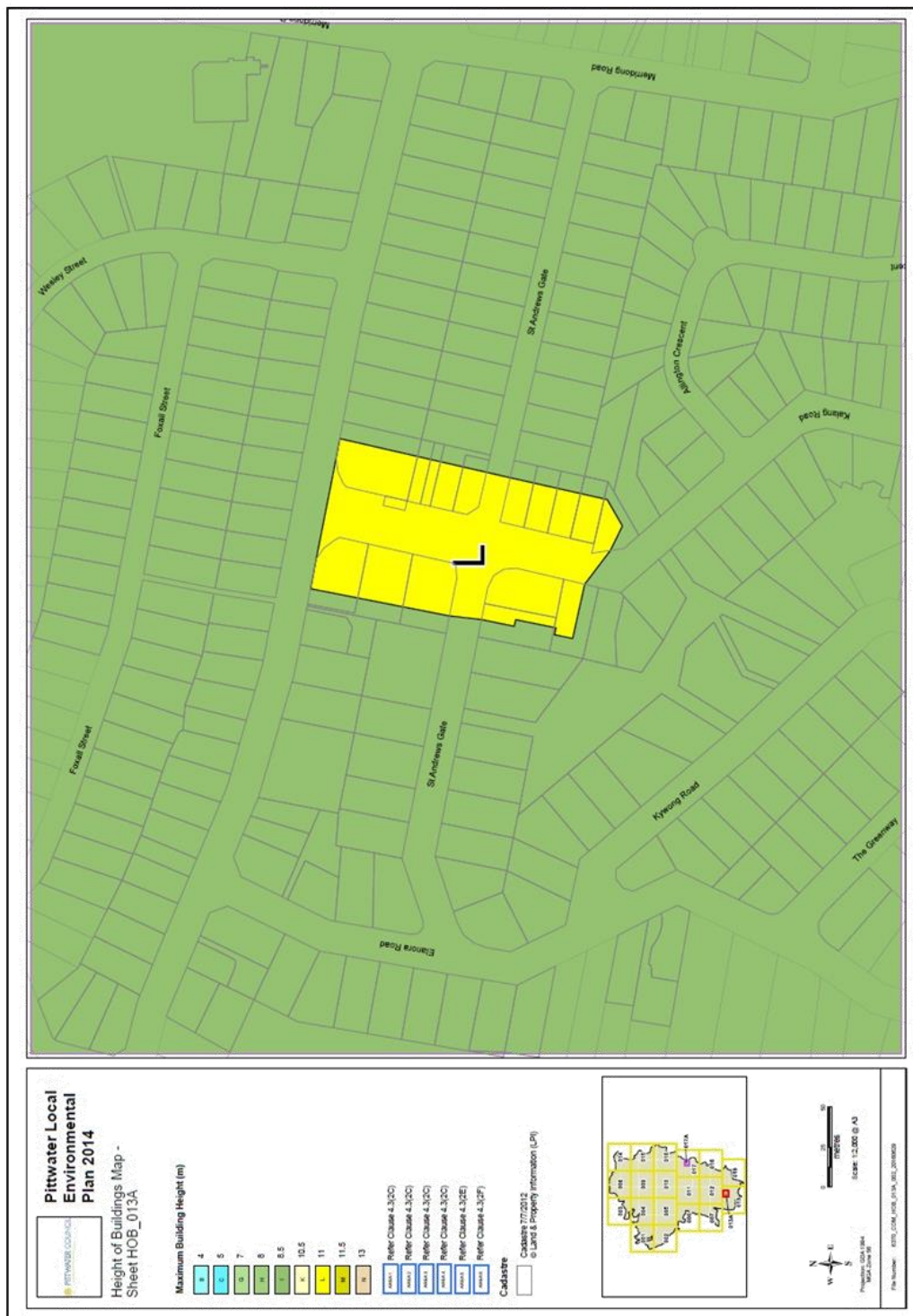
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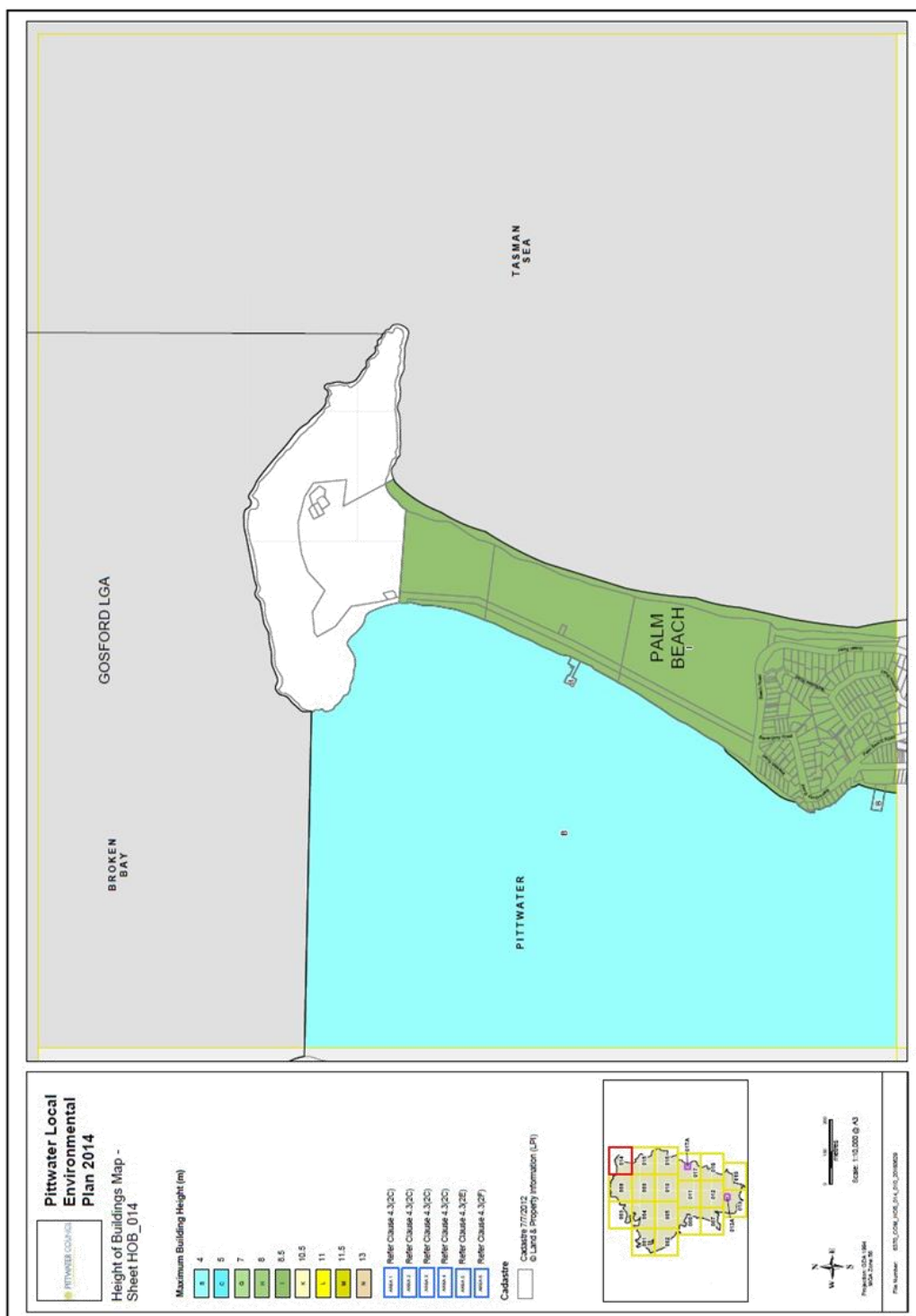
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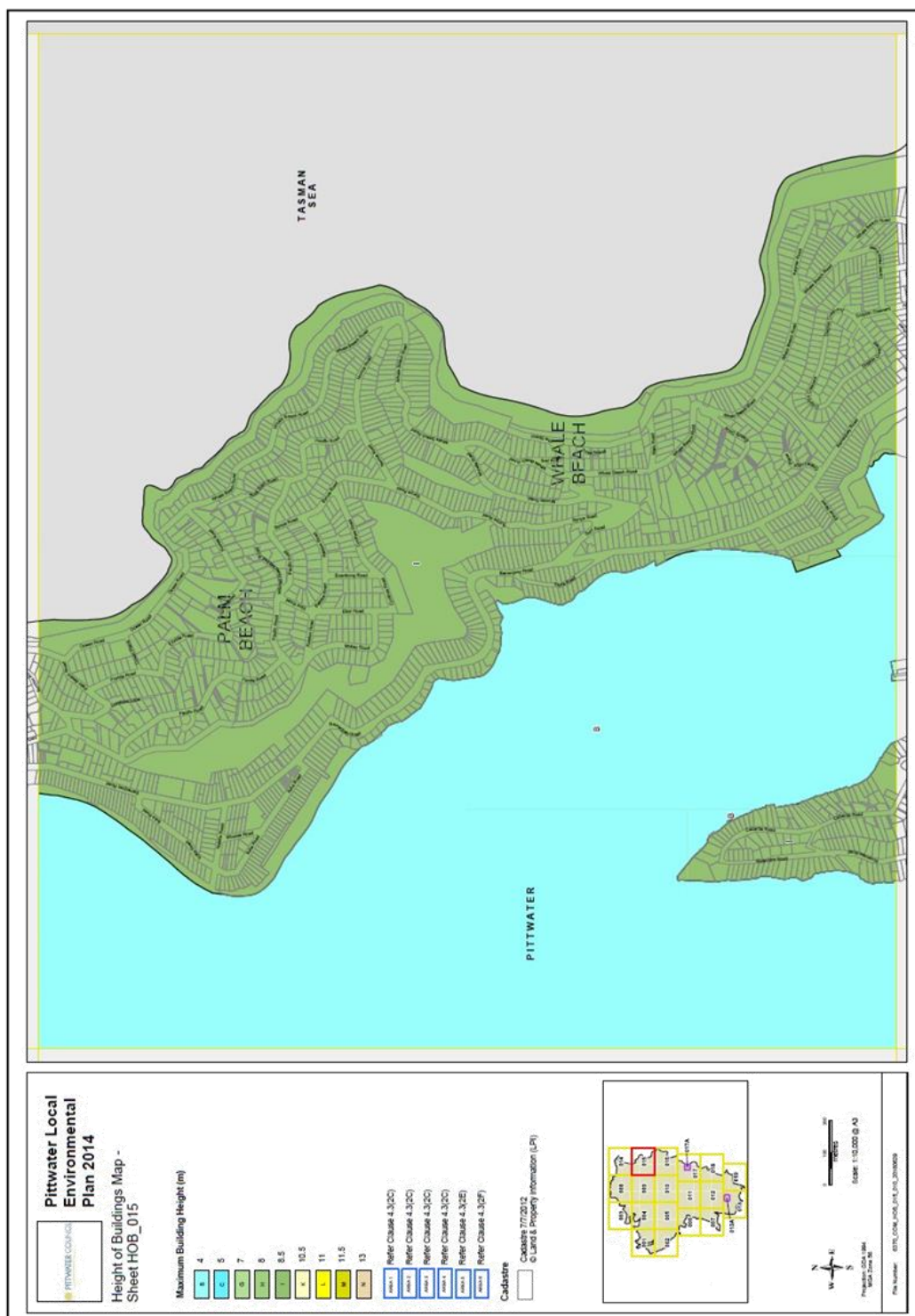
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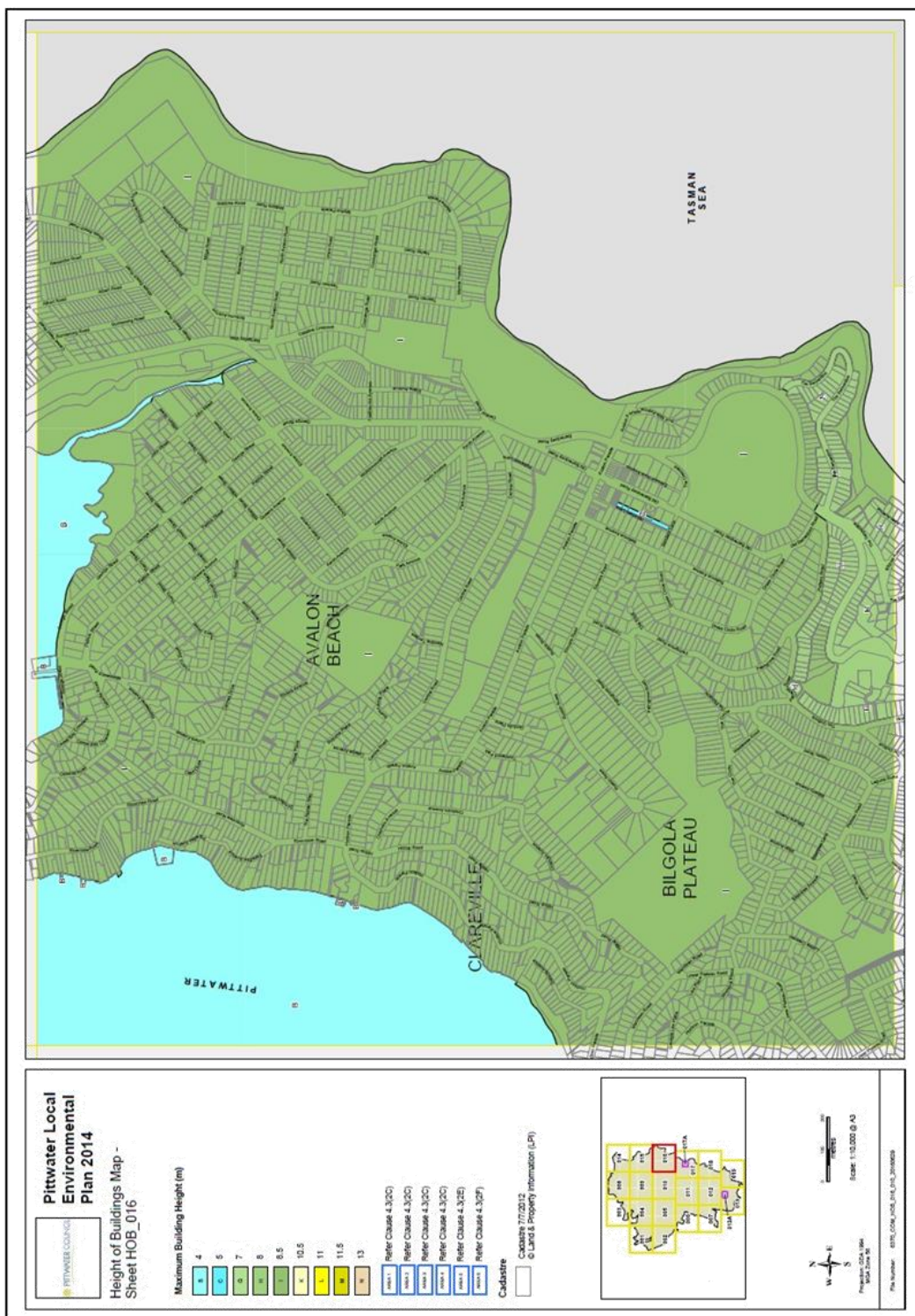
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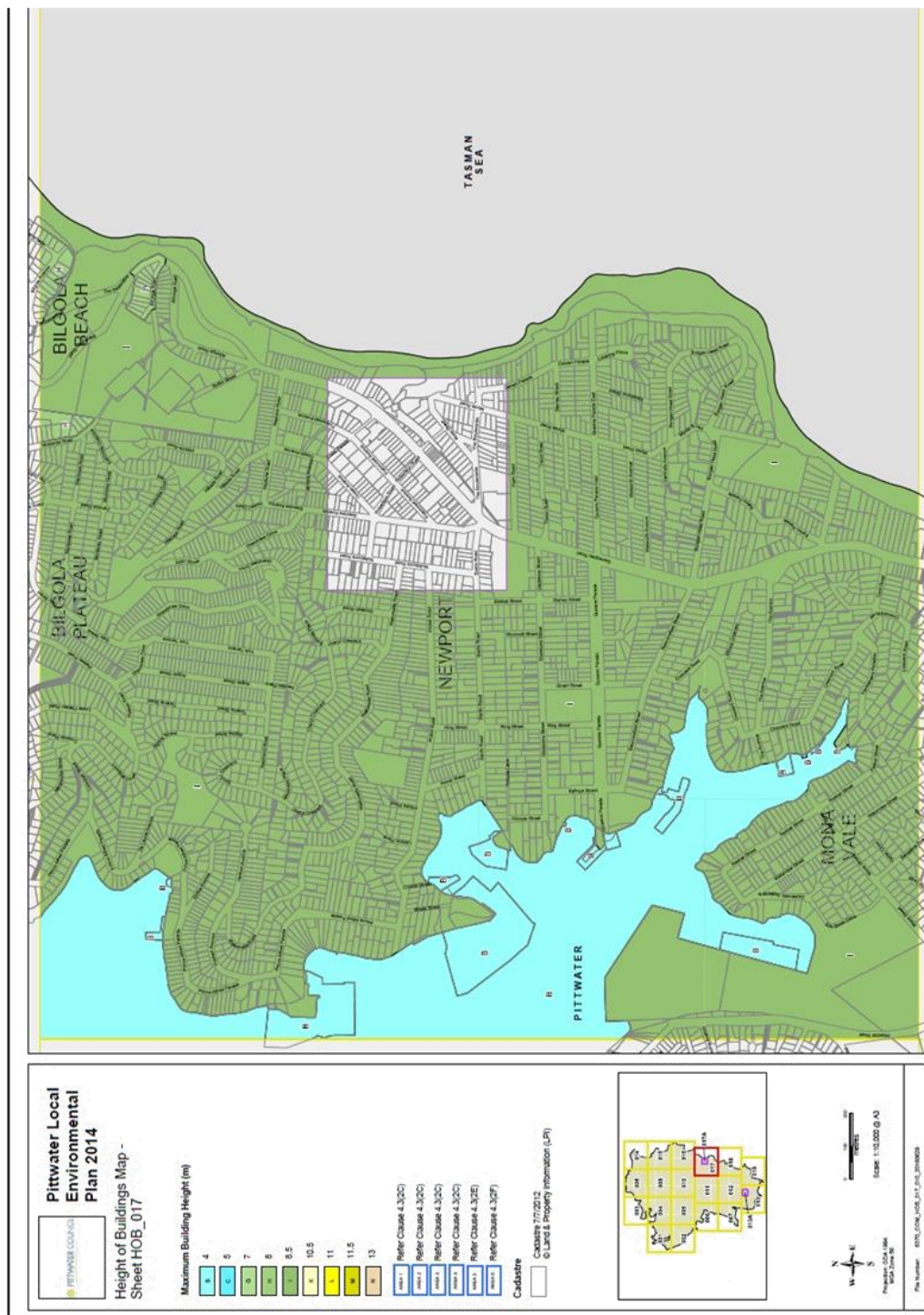
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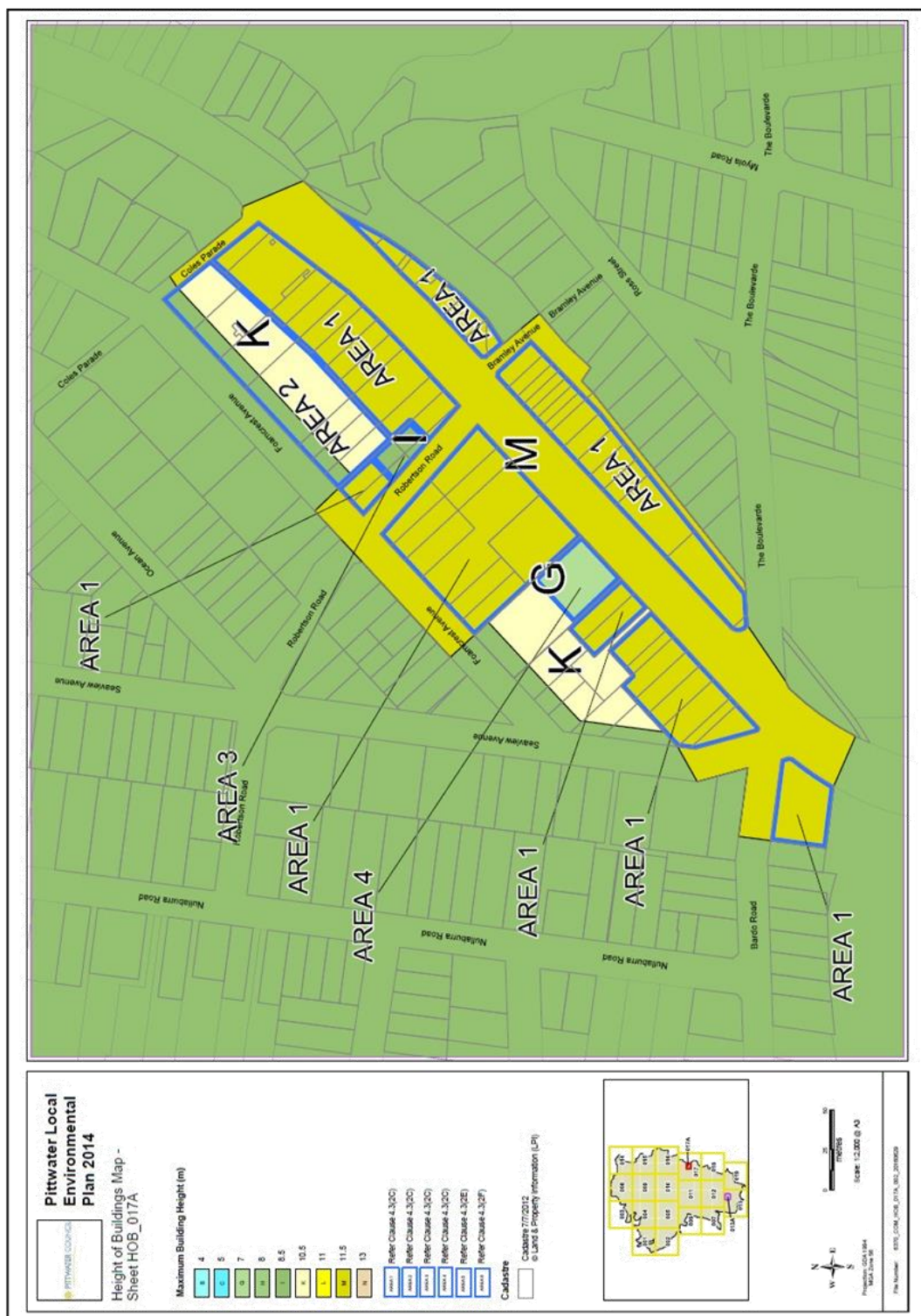
Attachment 4.13



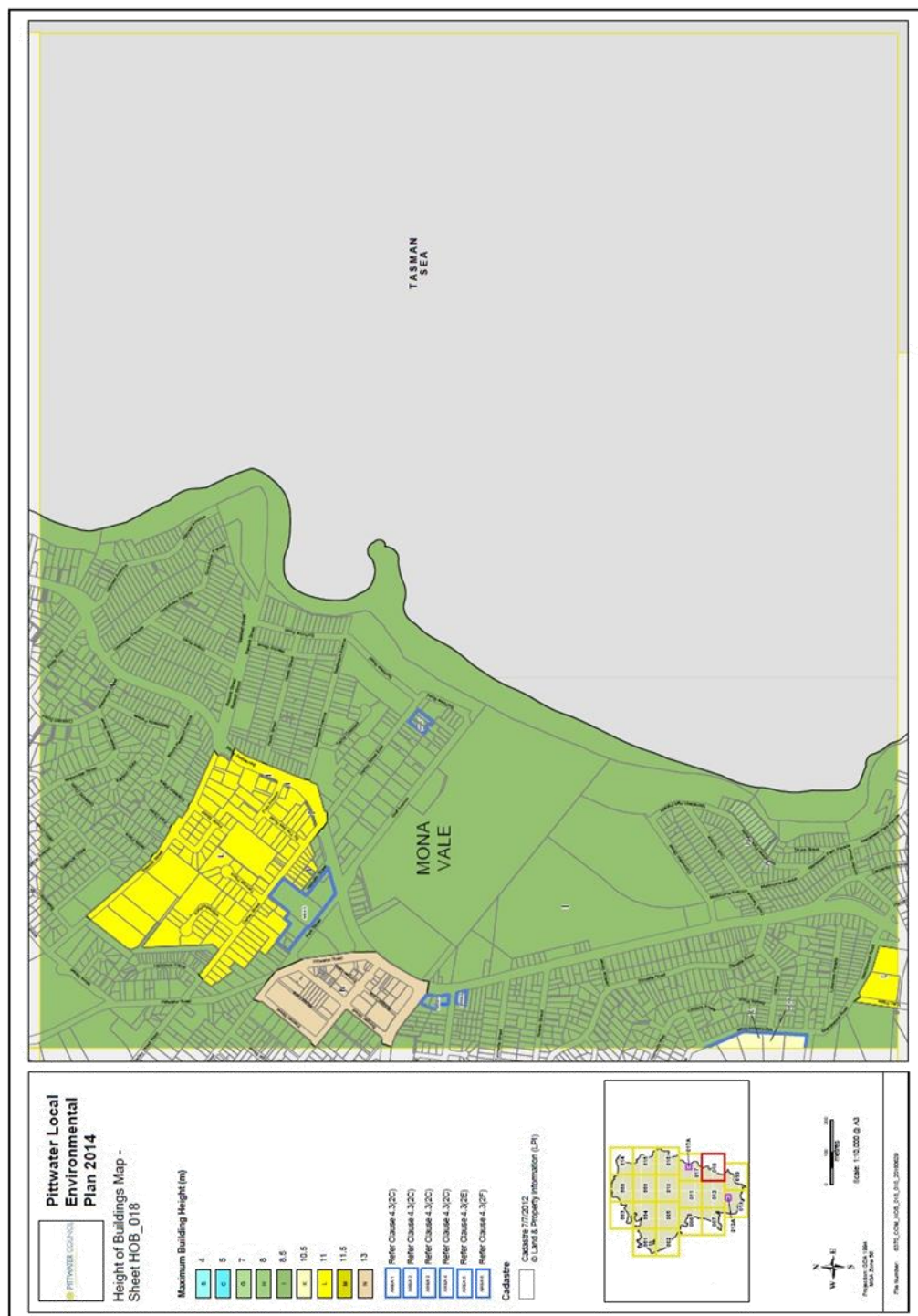
Attachment 4.14



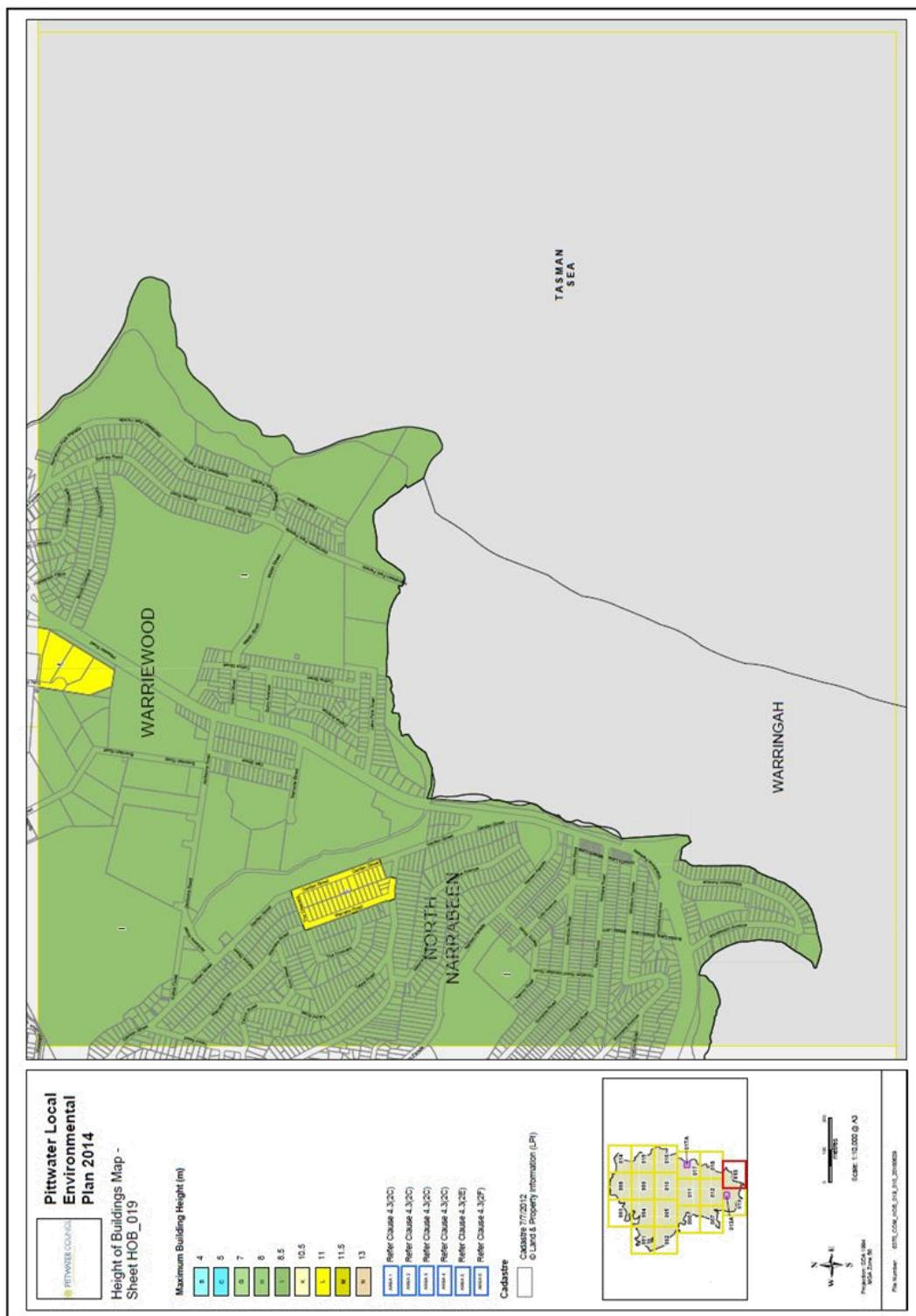
## Attachment 4.15



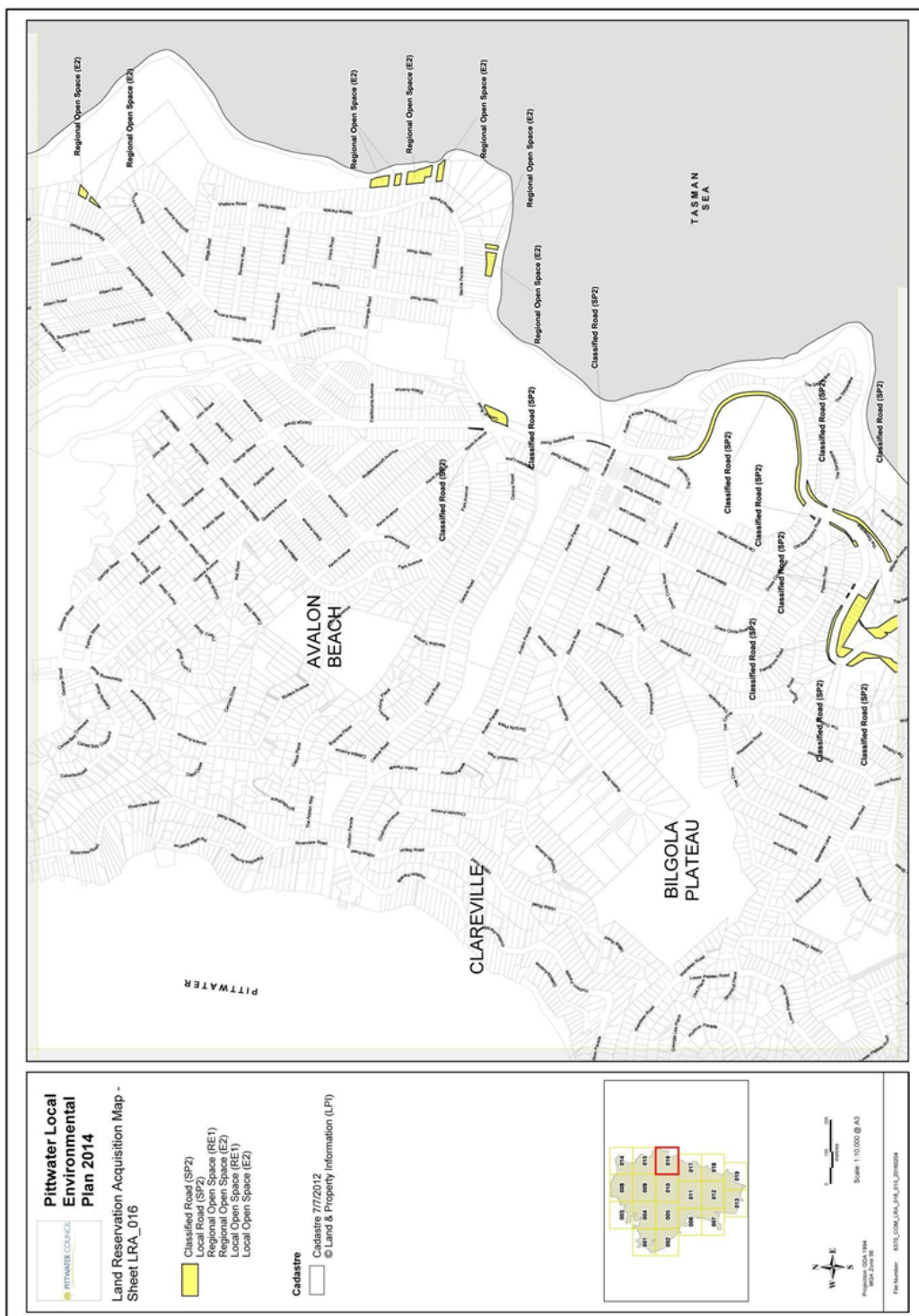
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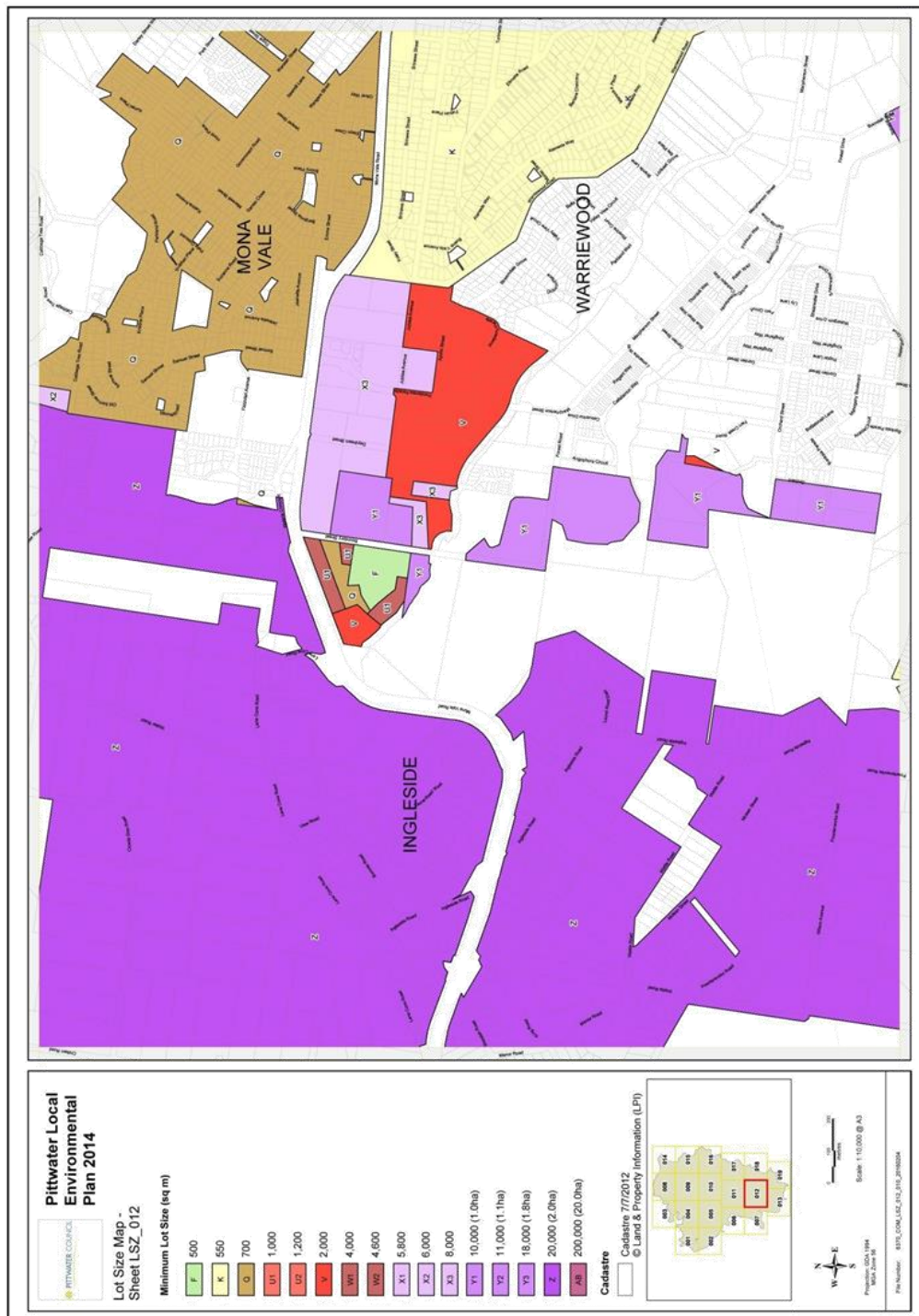
Attachment 4.17



Attachment 4.18

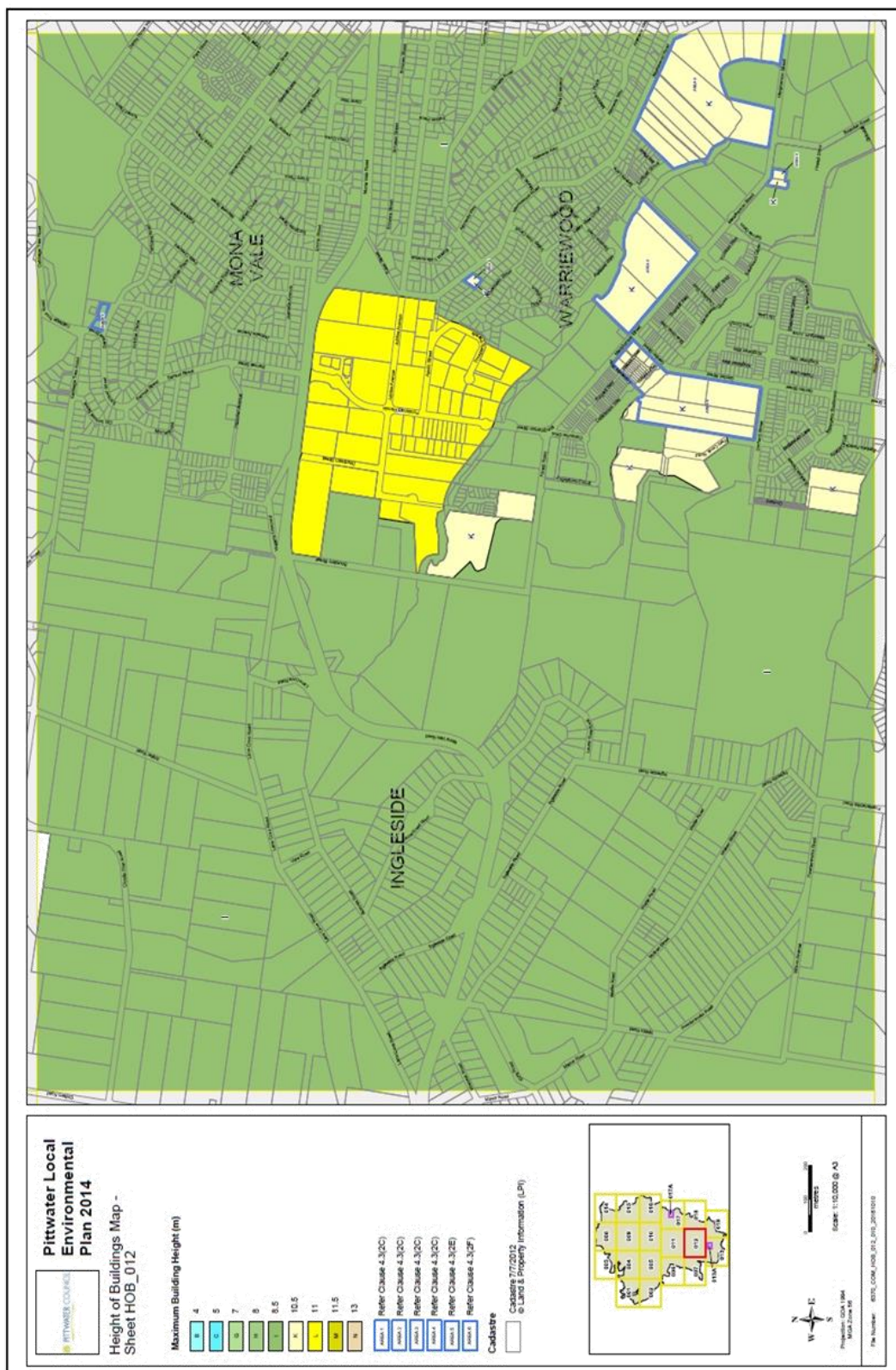


Attachment 4.19





Appendix 5: Proposed Post-Notification Change for the Height of Buildings Map relating to 14 Orchard Street, Warriewood



# NORTHERN BEACHES COUNCIL

## PLANNING PROPOSAL PP0002/15

“Plain English” Explanation of Provisions and Intent

April 2017

## **PART 1: OBJECTIVES OR INTENDED OUTCOMES**

This section gives background and the reasons for the changes proposed by this amendment, known as the "Planning Proposal". The reasons for the Planning Proposal are to:

- Rectify anomalies and discrepancies, and improve the clarity of the written instrument and maps.
- Implement or amend provisions consistent with the draft Pittwater LEP as publicly exhibited and/or adopted by Council, where certain provisions were altered or not included when the plan was made.
- Make other minor amendments relating to individual sites.

## **PART 2: EXPLANATION OF PROVISIONS**

---

This section explains the proposed amendments in the Planning Proposal. There are a number of changes suggested in the Planning Proposal. Below is a detailed explanation of each change that is proposed.

### **1. Amend Clause 4.3 Height of Buildings Subclause (2F)**

Clause 4.3 Height of Buildings and subclause (2F) currently reads as:

*"Despite subclause (2), development on land identified as "Area 6" on the Height of Buildings Map must not exceed a building height of 8.5m at the street frontage".*

The Planning Proposal intends to change this clause to the following:

*"Despite subclause (2), development on land identified as "Area 6" on the Height of Buildings Map must not exceed a building height of 8.5 metres for a minimum distance of 12.5 metres, as measured from the front boundary of properties fronting Orchard Street, Macpherson Street, Warriewood Road, or Garden Street."*

Subclause (2F) and "Area 6" mapping only applies to properties within the Warriewood Valley Release Area. The change proposed to the clause will specify the street fronts where the 8.5 metre height restriction applies and the distance from the frontage to which it applies.

The reason for this change is to clearly indicate that along the named streets, buildings will be required to be a maximum of two storeys. Beyond the frontage of these properties, buildings will be allowed up to the maximum 10.5 metre height limit. Making this change will also bring this clause in alignment with the recommendations of the *Warriewood Valley Strategic Review Report 2012* and the *Warriewood Valley Strategic Review Addendum Report 2014*.

### **2. Amend Clause 4.3 Height of Buildings to add two new subclauses**

The Planning Proposal intends to make a change to Clause 4.3 Height of Buildings by adding two new subclauses at the end of the existing clause. The two new clauses are as follows:

*"Despite subclause (2), the height of a secondary dwelling or rural worker's dwelling in the E4 Environmental Living or RU2 Rural Landscape zones, must not exceed 5.5 metres if detached from the principal dwelling".*

And;

*"Despite subclause (2), the height of the rear dwelling within a dual occupancy (detached) must not exceed 5.5 metres"*

These clauses were in the Draft Pittwater Local Environmental Plan that was publically exhibited and adopted by Council. It aimed to replicate the provisions in the Pittwater 21 Development Control Plan affording a secondary dwelling and rural worker's dwelling that is detached from the main dwelling, and the rear-most dwelling in a detached dual occupancy development, to be single storey to minimise negative impacts to adjoining properties.

These clauses however, do not appear in the Pittwater Local Environmental Plan 2014 that is now in force. The clauses (as they appear above) are to be 'reinstated' consistent with Council's policy.

Currently secondary dwellings are permitted in the R2 Low Density Residential zone and the E4 Environmental Living zone. Secondary dwellings on land zoned R2 Low Density Residential is subject to State Environmental Planning Policy (Affordable Rental Housing) 2009, and allows secondary dwellings up to 8.5 metres in height and overrides the Pittwater Local Environmental Plan 2014. No change is proposed for secondary dwellings applying to land zoned R2 due to the state policy.

A 5.5m height limit for a secondary dwelling or a rural worker's dwelling that is detached from the main dwelling on land zoned E4 Environmental Living and RU2 Rural Landscape. As the state policy does not apply to the E4 zone, Council has the ability to introduce and enforce the provision. Similarly, rural worker's dwellings in the RU2 zone are not covered by the state policy and can be restricted to a single storey.

A 5.5m height limit will be applied to the rear-most dwelling in a detached dual occupancy development. The proposed clause would require the rear dwelling in a detached dual occupancy development on land to be single storey. These limitations to appear in Clause 4.3 will override the Height of Buildings map in the specified circumstances

### **3. Amend Height of Buildings Map for 14 Orchard Street, Warriewood**

A portion of 14 Orchard Street Warriewood is within the Warriewood Valley Release Area. This portion can accommodate up to 14 dwellings based on the adopted density of 10 dwellings per hectare applied to the portion within the Warriewood Valley Release Area. This is not proposed to be changed.

The property currently has a 10.5 metre building height limit and is notated to be in "Area 6" under the Height of Buildings Map. The proposed changes to the Height of Building Map means that the entire property will now have an 8.5 metre building height limit (not 10.5 metres) and will no longer show an "Area 6" notation.

The reasons for the changes to the property are to ensure consistency with the recommendations of the *Warriewood Strategic Review Report 2012* and the *Warriewood Strategic Review Addendum Report 2014*, specific to 14 Orchard Street, Warriewood.

### **4. Amend Clause 6.1(1)(c) to remove references to Warriewood Sewerage Treatment Plant**

Objective (c) of this clause currently reads as:

*'to facilitate the mitigation of odours from the Warriewood Sewage Treatment Plant on the users and occupiers of residential development in a buffer area.'*

This amendment seeks to remove an objective of the clause that is no longer relevant. This objective was removed from the draft clause in the Pittwater Local Environmental Plan 2014. However, it was in the Pittwater Local Environmental Plan 2014 when it was made. Deleting this objective will return the clause as it was intended.

### **5. Additional Permitted Uses – Barrenjoey Boathouse**

Page 4

This proposed amendment relates to the "Barrenjoey Boathouse" and its area of operation at Palm Beach.

Currently Schedule 1, Additional Permitted Uses, Clause 19 reads as follows:

*19 Use of certain land at 1191 Barrenjoey Road, Palm Beach*

*(1) This clause applies to land:*

*(a) at 1191 Barrenjoey Road, Palm Beach, being Lot 298, DP 721572 and identified as "Area 19" on the Additional Permitted Uses Map, and*

*(b) that is subject to Special Lease 1963/86.*

*(2) Development for the purposes of business premises (but only those associated with use of the waterway), charter and tourism boating facilities, kiosks or restaurants or cafes is permitted with development consent.*

This clause is proposed to be amended to the following:

*19 Use of certain land at 1191 Barrenjoey Road, Palm Beach*

*(1) This clause applies to land:*

*(a) At 1191 and 1193 Barrenjoey Road, Palm Beach, being Lot 298, DP 721572 and Lot 7005, DP 1117451, and*

*(b) Identified as "Area 19" on the Additional Permitted Uses Map.*

At the same time, a change is proposed to the Additional Permitted Use Map and "Area 19" to ensure it covers the entire area of the additional permitted use. This will cover the entire area of operation of the Barrenjoey Boathouse.

The proposed amendment is intended to rectify an error in the Pittwater LEP 2014 that relates to the boundary of an area associated with an additional permitted use that is currently in operation and was permitted under the Pittwater LEP 1993. The amendment will ensure that the use of the entire site will continue to be permissible and the boathouse can continue to operate. Currently the clause and mapping do not cover the entirety of the Boathouse's operations and the land they lease.

## **6. Height of Buildings Mapping inserts for Elanora Heights and Newport village centres**

Amend the Height of Buildings Map Grid Maps 013 and 017 as per Attachment 4.9 and 4.10 (Elanora Heights) and Attachment 4.14 and 4.15 (Newport) of the Planning Proposal.

Both the Elanora Heights and Newport village centres were subject to detailed master-planning projects. The outcomes of these projects made a number of amendments to the controls for the centres, including detailed height controls. However the current height of building maps for these centres does not clearly detail these controls.

Mapping inserts, at a larger scale, applying specifically to Newport and Elanora Heights will amend the Height of Buildings Maps to improve the clarity of the height limits for individual properties in both centres and improve the operation of the plan.

## **7. Amend Clause 7.8 Limited Development on Foreshore Area and subclause (2)**

Amend Clause 7.8 Limited Development on Foreshore Area and subclause (2) to read as:

*(2) Development must not be granted on land in the foreshore area except for the following purposes;*

- (a) the extension, alteration or rebuilding of an existing dwelling wholly or partly on the foreshore area if the footprint of the extension, alteration or rebuild will not extend any further forward of the foreshore building line than the footprint of the existing dwelling.*

This change seeks to bring the clause as close as possible to the clause that existed under the previous Pittwater Local Environmental Plan (Pittwater Local Environmental Plan 1993). This clause seeks to prevent the extension or addition to a building that would allow the building to further breach the foreshore building line. This clause has been subject to much discussion between the former Pittwater Council and the Department of Planning and Environment. However Council has been informed that this wording is final and no further changes are permitted.

## **8. Applying to 6A Macpherson Street, Warriewood**

6A Macpherson Street, Warriewood is land mapped as creekline corridor that has come into Council ownership. As creekline corridor land in Warriewood Valley comes into Council's ownership, that land is then rezoned to its intended public purpose. In this instance the land will be rezoned from R3 Medium Density Residential to RE1 Public Recreation. This is consistent with the remaining creeklines in Warriewood Valley.

## **9. Applying to 67A Marine Parade, Avalon**

67A Marine Parade, Avalon (Lot 2 DP 1205310) is to be removed from the Land Acquisition Map, as per Attachment 4.18 of the Planning Proposal.

The land is zoned E2 Environmental Conservation and identified on the Land Acquisition Map as "Regional Open Space". The Department of Planning purchased the land in 2015 and therefore does not need to be identified on the Land Acquisition Map. The land is subsequently proposed to be removed from the Land Acquisition Map

## **10. Amend Minimum Lot Size Map as it relates to three properties in the Warriewood Valley Release Area**

The following three properties are partially within the Warriewood Valley Release Area and partially outside the Release Area. The changes proposed by this amendment relate to the RU2 Rural Landscape zoned portions of these properties.

14 Walana Crescent is part zoned R3 Medium Density Residential and part zoned RU2 Rural Landscape, and a minimum lot size applies as result of the zoning, being;

- Part of land zoned RU2 – Minimum lot is 20,000m<sup>2</sup>, and
- Part of land zoned R3 -- No minimum lot size.

8 Jubilee Avenue is part zoned IN2 Light Industrial and part zoned RU2 Rural Landscape, and a minimum lot size applies as a result of the zoning, being:

- Part of land zoned RU2 – Minimum lot size is 10,000m<sup>2</sup>, and
- Part of land zoned IN2 – Minimum lot size is 2,000m<sup>2</sup>.

2 Fern Creek Road is part zoned R3 Medium Density Residential and part zoned RU2 Rural Landscape, and a minimum lot size applies as result of the zoning, being;

- Part of land zoned RU2 – Minimum lot is 10,000m<sup>2</sup>, and
- Part of land zoned R3 - No minimum lot size.

It is proposed to amend the 'Lot Size Map' in relation to the RU2 Rural Landscape portions of these properties as follows:

- 14 Walana Crescent, Mona Vale – from 20,000m<sup>2</sup> lot size to 700m<sup>2</sup>
- 2 Fern Creek Road, Warriewood – from 10,000m<sup>2</sup> lot size to 2,000m<sup>2</sup>
- 8 Jubilee Avenue, Warriewood – from 10,000m<sup>2</sup> lot size to 8,000m<sup>2</sup>

## **PART 2A: EXPLANATION OF DELETED PROVISIONS**

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The following two amendments were deleted from the Planning Proposal. As part of the Department of Planning and Environment's determination to proceed with the subject Planning Proposal, Council was required to consult with Transport for NSW and the NSW Roads and Maritime Services. Council was also required to update the Planning Proposal based on the commentary received from these state agencies before commencing public exhibition. While Transport for NSW raised no objection, the Roads and Maritime Services objected to two amendments and asked for them to be removed. Subsequently, the two following amendments have been deleted from the Planning Proposal.

### **167 Mona Vale Road, Ingleside**

Two proposed changes were intended to this property and were as follows:

- Remove the 'SP2 Classified Road' zoning from the front of this property where it adjoins Mona Vale Road and rezone to 'RU2 Rural Landscape' as the remainder of the property; and
- Apply a 20,00m<sup>2</sup> minimum lot size to the same portion of the property fronting Mona Vale Road to bring it into alignment with the minimum lot size for the remainder of the property.

As per the conditions of the approval to exhibit this Planning Proposal, consultation was required with RMS. Commentary received from the RMS indicated that they would not support any changes to planning controls that govern Mona Vale Road or properties alongside the road due to pending upgrade works. Council and the RMS agreed that due to this upgrade, and future development in Ingleside, that it would be beneficial to remove this amendment.

### **Additional Permitted Uses over privately owned land zoned SP2 Classified Road**

This amendment intended to permit certain development over privately owned land zoned as 'SP2 Classified Road' and which is subject to potential acquisition in the future for road widening.

Council had intended to add an Additional Permitted Use over privately owned land zoned SP2 Classified Road to permit 'access structures ancillary to a dwelling'. Structures that would have been permitted included garages, carports, driveways and inclinator. This was intended to reintroduce a provision that existed in the Pittwater Local Environmental Plan 1993 (PLEP1993), being:

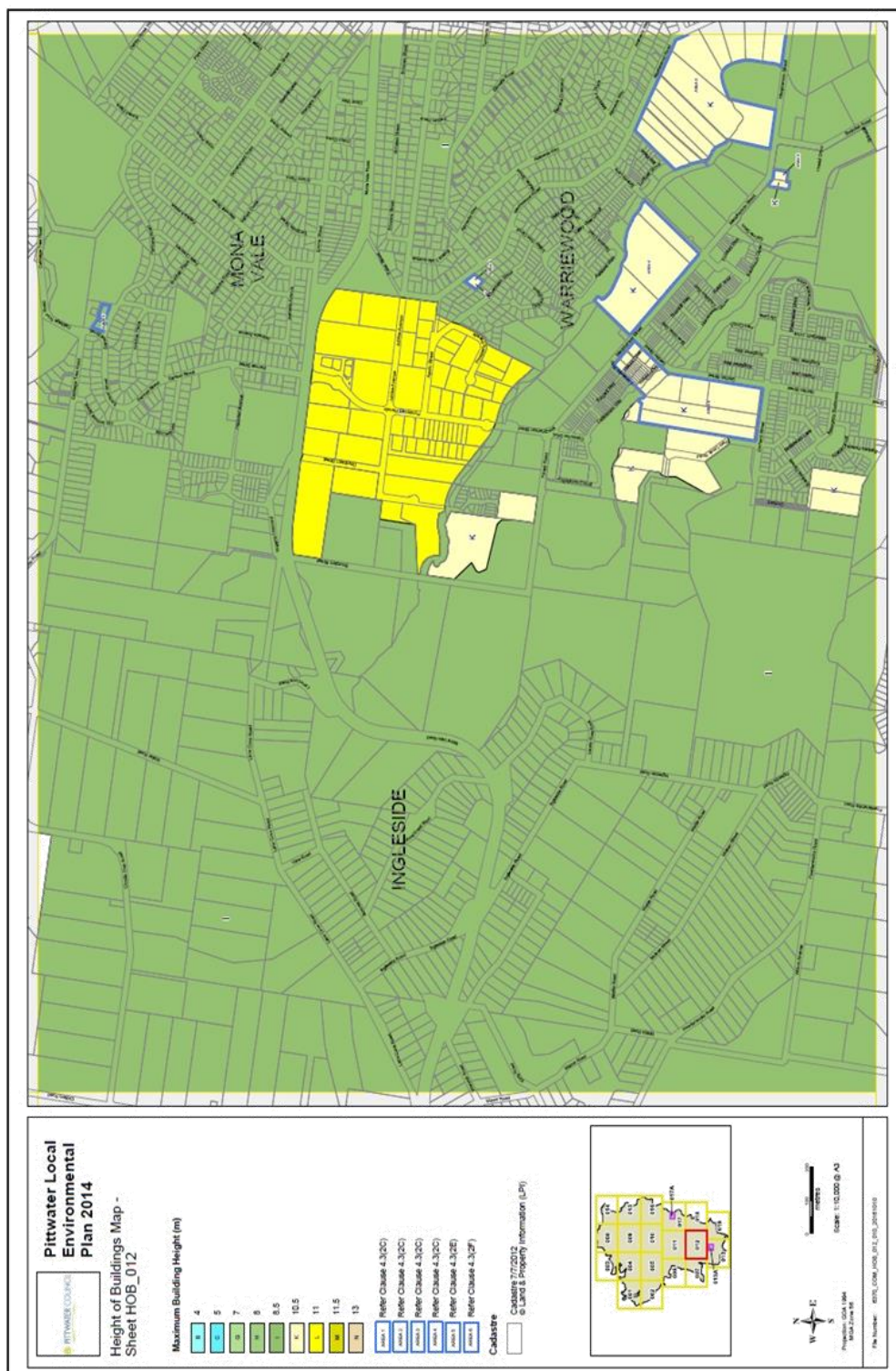
#### ***28 Buildings, etc, not to be erected without consent—Zone No 9(a), 9(b), 9(c) or 9(d)***

- (1) A person shall not carry out any development on land within Zone No 9 (a), 9 (b), 9 (c) or 9 (d) so as to render it unfit for the purpose for which it is reserved.*
- (2) Until land within Zone No 9 (a), 9 (b), 9 (c) or 9 (d) is acquired by the public authority concerned, the council may, subject to subclause (3), consent to the carrying out of development on that land for any purpose.*
- (3) (Repealed)*
- (4) In considering whether to consent to an application for consent referred to in subclause (2), the council shall take into consideration:*
  - (a) the effect of the proposed development on the costs of acquisition,*
  - (b) the imminence of acquisition, and*
  - (c) the costs associated with the reinstatement of the land for the purposes specified in item 1 of the matter relating to that zone in the Table to clause 9.*
- (5) (Repealed)*

The RMS have indicated that they do not support the inclusion of the Additional Permitted Use.

Council does not agree with the determination of the RMS in relation to this specific amendment. However due to the condition of the approval to proceed to public exhibition, Council has been required to delete it from the Planning Proposal.

**Appendix 6: Proposed Post-Notification Change for the Height of Buildings map relating to 14 Orchard Street, Warriewood**



# NORTHERN BEACHES COUNCIL

## PLANNING PROPOSAL PP0002/15

To facilitate a number of amendments (primarily minor policy and 'house-keeping' matters) to the Pittwater Local Environmental Plan 2014

June 2017

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## **PART 1: OBJECTIVES OR INTENDED OUTCOMES**

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The Pittwater Local Environmental Plan (LEP) 2014 came into effect on 27 June 2014. The LEP was intended as a translation of the provisions of the Pittwater LEP 1993 into the NSW Government's *Standard Instrument—Principal Local Environmental Plan* (Standard Instrument).

Following a thorough review of the Pittwater LEP 2014 after it was made, it was evident that a number of changes had been introduced in the period between Council adopting the draft Pittwater LEP on 20 December 2013 and the Pittwater LEP 2014 being made. The policy implications of these changes have been reviewed and it is considered necessary to rectify a number of the changes made.

Additionally, since the Pittwater LEP 2014 has been in effect, some 'house-keeping' matters have been identified and subsequent amendments are proposed to improve the accuracy and the effective operation of the plan.

The amendments proposed to the Pittwater LEP 2014 are generally consistent with the version of the draft Pittwater LEP adopted by Council on 20 December 2013, Council policies, the Pittwater LEP 1993 and/or provisions within the Pittwater 21 Development Control Plan (DCP) that were in place prior to the commencement of the Pittwater LEP 2014.

The objectives of this Planning Proposal are to amend the Pittwater LEP 2014 to:

- Rectify anomalies and discrepancies, and improve the clarity of the written instrument and maps.
- Implement or amend provisions consistent with the draft Pittwater LEP as publicly exhibited and/or adopted by Council, where certain provisions were altered or not included when the plan was made.
- Make other minor amendments relating to individual sites.

Council will not be exercising its delegation to make the amendments to the Local Environmental Plan.

## **PART 2: EXPLANATION OF PROVISIONS**

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The tables below provide a description and explanation of the proposed changes to the Pittwater LEP 2014.

### **Rectify anomalies and discrepancies, and improve the clarity of the written instrument and maps**

	<b>Proposed Amendments</b>	<b>Description</b>
1	<p>Amend clause 4.3 (Height of buildings) subclause (2F) to read:</p> <p>“Despite subclause (2), Development on land identified as “Area 6” on the Height of Buildings Map must not exceed a building height of 8.5 metres for a minimum distance of 12.5 metres, as measured from the front boundary of properties fronting Orchard Street, Macpherson Street, Warriewood Road or Garden Street.”</p>	<p>The proposed amendment is intended to clarify where development must not exceed 8.5 metres in height in the Warriewood Valley Urban Release Area. The amendment will ensure that the 8.5 metre height requirement only applies to development fronting particular streets in the Warriewood Valley Urban Release Area – it does not apply to development that fronts any new street created within the existing “Area 6”.</p> <p>There is no proposed change to the ordering or numbering of subclauses for 4.3 Height of Buildings. The current provisions will be retained. Previous versions of mapping included an error on the clause numbering identifying it as Clause 4.3(5) or Clause 4.3(7).</p>

2	<p>Amend clause 4.3 (Height of buildings) by adding the following subclauses:</p> <p>“Despite subclause (2) the height of a secondary dwelling or rural worker’s dwelling in the E4 Environmental Living or RU2 Rural Landscape zones, must not exceed 5.5 metres if detached from the principal dwelling.”</p> <p>And;</p> <p>‘Despite subsclause (2), the height of the rear dwelling within a dual occupancy (detached) must not exceed 5.5 metres’</p>	<p>The proposed amendment is intended to clarify that secondary dwellings, rural worker’s dwellings and the second dwelling within a dual occupancy (detached) should be single storey in appearance, consistent with the Pittwater 21 DCP prior to the Pittwater LEP 2014 being made.</p> <p>SEPP (Affordable Rental Housing) 2009 under Schedule 1, Development standards for secondary dwellings, Part 3, clause 6 stipulates a maximum building height of 8.5 metres for a secondary dwelling. However SEPP (Affordable Rental Housing) 2009 does not apply to Zone E4 Environmental Living, which covers a large portion of Pittwater’s residential areas and Zone RU2 Rural landscape in which rural workers dwelling is permitted.</p> <p>The Amendment seeks to clarify that secondary dwelling and rural workers dwellings in zones E4 and RU2 respectively must not exceed a height of 5.5 metres. The intention of the provision is to ensure these types of structures are single storey and remain consistent with the existing character of the surrounding locality.</p> <p>It is noted that these subclauses were included in the draft Pittwater LEP as adopted by Council on 20 December 2013, however they were not included in the Pittwater LEP 2014 when it was made.</p> <p>Following The Department’s advice in relation to the Sutherland LEP 2015, Council has proposed to adopt a similar clause for the rear dwelling in a dual occupancy excluding the street frontage portion. Where a detached dual occupancy is proposed with two street frontages, Council would prefer to consider Clause 4.6 Objections on their merits.</p>
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3	<p>Amend the Height of Buildings Map Grid Map 012 in relation to 14 Orchard Street, Warriewood (Sector 901F), Lot B1 DP 369510, as per <b>Attachment 4.12</b>.</p>	<p>The proposed amendment is intended to rectify an error on the Height of Buildings Map in relation to Sector 901F of the Warriewood Valley Urban Release Area.</p> <p>The amendment as proposed sought to ensure that the height conveyed on the Height of Buildings Map was consistent with the boundary of the Warriewood Valley Urban Release Area and the Land Zoning Map. It would ensure that on 14 Orchard Street, Warriewood (Sector 901F) a 10.5 metre height limit only applies to the area within the Warriewood Valley Urban Release Area and that an 8.5 metre height limit applies to the area outside the Warriewood Valley Urban Release Area.</p> <p>14 Orchard Street Warriewood Valley was considered under the Warriewood Valley Strategic Review Report 2012 (2012 Strategic Review) which was prepared by Pittwater Council in collaboration with the Department of Planning and Infrastructure.</p> <p>The 2012 Strategic Review recommended a density of 10 dwellings per developable hectare for 14 Orchard Street, which equates to a maximum dwelling yield of 14 dwellings which is reflected in clause 6.1(3) of Pittwater Local Environmental Plan 2014.</p> <p>Adjoining Sectors 901D and 901E (also known as 1 Fern Creek Road and part 12 Orchard Street) have the same density of 10 dwellings per developable hectare and have an 8.5 metre maximum building height as reflected on the Height of Buildings Map Sheet HOB_012.</p> <p>At the density of 10 dwellings per developable hectare, it is anticipated that the residential form would be of a lower scale and not requiring a building height above 8.5 metres which is the standard generally applied to the broader Pittwater LGA.</p> <p>The maximum 10.5 metre building height requirement was to apply to those sectors along Macpherson Street, Garden Street and Orchard Street that have been allocated a density of 32 dwellings per developable hectare subject to the building height along the immediate street frontages being limited to 8.5 metres.</p>
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		<p>This was the intent of the recommendations of the 2012 Strategic Review as agreed to by then Director-General of Planning and adopted by Pittwater Council.</p> <p>There is no proposed change to the ordering or numbering of subclauses for 4.3 Height of Buildings. The current provisions will be retained. Previous versions of mapping included an error on the clause numbering identifying it as Clause 4.3(5) or Clause 4.3(7).</p> <p>The proposed mapping in the exhibited Planning Proposal incorrectly gave a split height mapping for the property. The correct map was included as a separate appendix showing the property in its entirety as 8.5m height limit. The mapping in the proposal now indicates the correct 8.5m limit with no "Area 6" overlay for 14 Orchard Street.</p>
4	<p>Amend clause 6.1(1)(c) to remove:</p> <p>'to facilitate the mitigation of odours from the Warriewood Sewage Treatment Plant on the users and occupiers of residential development in a buffer area.'</p>	<p>The proposed amendment is intended to remove an objective that is no longer relevant.</p> <p>The subclause that related to this objective (i.e. the subclause that translated clause 30D of the Pittwater LEP 1993) was removed prior to the Pittwater LEP 2014 being made. Accordingly, the objective is no longer relevant.</p>
5	<p>Amend Schedule 1 subclause 19 to read as follows:</p> <p>19 Use of certain land at 1191 Barrenjoey Road, Palm Beach</p> <p>(1) This clause applies to land:</p> <p>(a) at 1191 and 1193 Barrenjoey Road, Palm Beach, being Lot 298, DP 721572 and Lot 7005, DP 1117451, and</p> <p>(b) identified as "Area 19" on the Additional Permitted Uses Map.</p> <p>Amend the Additional Permitted Uses Map Grid Map 014 to accurately identify the extent of "Area 19" consistent with area currently leased for these purposes. "Area 19" should be amended as per <b>Attachment 4.1</b>.</p>	<p>The proposed amendment is intended to rectify an error in the Pittwater LEP 2014 that relates to the boundary of an area associated with an additional permitted use that is currently in operation and was permitted under the Pittwater LEP 1993.</p> <p>The amendment will ensure that the use of the site will continue to be permissible.</p>

6	<p>Amend the Height of Buildings Map Grid Maps 013 and 017 as per <b>Attachments 4.13 and 4.14 (Elanora Heights) and 4.18 and 4.19 (Newport)</b>.</p>	<p>The proposed amendment is intended to provide improved readability of the Height of Buildings Map and consistency with approved masterplans in relation to the Elanora and Newport commercial centres.</p> <p>Since the Pittwater LEP 2014 was made, issues have arisen with determining the height standard on the Height of Buildings Map in certain centres. To improve the readability, it is proposed to include inset maps at a larger scale for the Elanora and Newport commercial centres. This amendment also ensures that the inset maps are as accurate as possible in locating the boundary between different height controls, consistent with the approved masterplans.</p>
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**Implement or amend provisions consistent with the draft Pittwater LEP as publicly exhibited and/or adopted by Council, where certain provisions were altered or not included when the plan was made**

	Proposed Amendments	Description
7	<p>This has been the subject of numerous discussions and the advice is that the Department of Planning and Environment's position is final.</p> <p>(2) Development must not be granted on land in the foreshore area except for the following purposes;</p> <p style="padding-left: 40px;">(a) the extension, alteration or rebuilding of an existing dwelling wholly or partly on the foreshore area if the footprint of the extension, alteration or rebuild will not extend any further forward of the foreshore building line.</p>	<p>Council's requested wording was not supported by the Department of Planning and Environment. Accordingly, in order to progress the Planning Proposal, the wording nominated by DP&amp;E must be adopted.</p> <p>The wording nominated is more closely aligned with the adopted wording of the Council however does not completely capture the full intent of the Council's preferred position.</p> <p>The reasoning for the amendment is as follows;</p> <p>The proposed amendment is necessary as the Pittwater LEP 2014 was intended to be a 'like for like' translation of the Pittwater LEP 1993 and Pittwater 21 DCP, which did not permit the erection of a building in the foreshore area.</p> <p>Prior to the commencement of the Pittwater LEP 2014, our foreshore building line control was located in the Pittwater 21 DCP and read (inter alia):</p>

	<p><i>"Development is prohibited between the foreshore building line and property boundary adjacent to the waterway, except development for the purpose of the following:</i></p> <ul style="list-style-type: none"> <li><i>i. boating facilities;</i></li> <li><i>ii. an inground swimming pool at natural ground level;</i></li> <li><i>iii. fencing;</i></li> <li><i>iv. works to enable pedestrian access;</i></li> <li><i>and</i></li> <li><i>v. seawalls"</i></li> </ul> <p>This policy did not allow extensions of dwellings below the foreshore building line and as such Council wished to continue with a consistent policy in this regard. This was based on the Environmental Planning Model Provisions 1980, and Part IV General Amenity and Convenience 7. (4), which read "A building shall not be erected between a foreshore building line and a bay, river, creek, lake or lagoon in respect of which the line is fixed".</p> <p>In modifying Council's version of the local provision, the Pittwater LEP 2014 that was made has increased the development potential in the foreshore area beyond the previously well-established limits that Council had in place. As such, it was necessary for clause 7.8 to be amended to remove the ability for buildings to be extended and altered in any way that increases the footprint or extent of a building within the foreshore area.</p>
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**Make other minor amendments relating to individual sites**

	<b>Proposed Amendments</b>	<b>Description</b>
8	Amend the Land Zoning Map Grid Area 012 for 6A Macpherson Street, Warriewood (Lot 6 DP 1161389) from R3 Medium Density Residential to RE1 Public Recreation, as per <b>Attachment 4.23</b> .	<p>6A Macpherson Street, Warriewood is mapped as creekline corridor on the Pittwater LEP 2014 Urban Release Area Map and in the Warriewood Valley Section 94 Contribution Plan adopted by Council.</p> <p>As land mapped as creekline corridor comes into Council ownership, council intends to rezone the land to RE1 Public Recreation consistent with the areas of creekline corridor already in Council ownership.</p> <p>The proposed amendment is required as the land has been dedicated to Council and forms part of the creek line corridor shown on the Urban Release Area Map.</p>

9	Remove 67A Marine Parade, Avalon Beach (Lot 2 DP 1205310) from the Land Reservation Acquisition Map, as per <b>Attachment 4.22.</b>	The proposed amendment is required as the land has been acquired.
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**Post-Notification Changes to the Planning Proposal**

Changes	Description
<p>Deleted Amendment:</p> <p>Amend Lot Size Map Sheet LSZ_012 by:</p> <ul style="list-style-type: none"> <li>Changing the minimum Lot Size of part of 14 Walana Crescent, Mona Vale (Lot 367 DP806738) from 20,000 sq m (2.0ha) to 700 sq m,</li> <li>Change the minimum Lot Size of part of 2 Fern Creek Road, Warriewood (Lot 2 DP 736961) from 10,000 sq m (1.1ha) to 2,000 sq m.</li> <li>Change the minimum Lot Size of 8 Jubilee Ave, Warriewood (Lot 1 DP5055) from 10,000sq m (1.1ha) to 8,000 sq m</li> </ul>	<p>The proposed amendment is intended to rectify an anomaly by making mapping changes to the Lot Size Map sheet LSZ_012, where part of the land is also within the Warriewood Valley Urban Release Area.</p> <p>The amendment will ensure that land that forms part of the Urban Release Area can be subdivided from land that will remain zoned RU2 (where the land is dissected by the boundary of the Urban Release Area), despite the remaining RU2 portion of land not meeting the minimum subdivision lot size development standard (i.e. 10,000 square metres).</p> <p>This amendment was deleted after exhibition due to issues regarding the interface between the Warriewood Escarpment and the urban release area. The properties can still be subdivided through a community title arrangement whereby the affected land becomes common property of the community/neighbourhood association.</p>
<p>Reintroduce provision with revised wording:</p> <p>Amend Schedule 1 – Additional Permitted Uses and mapping to read as follows:</p> <p>Schedule 1 – Additional Permitted Uses</p> <p>24. Use of certain land in Zone SP2 Infrastructure “Classified Road”</p> <p>(1) This clause applies to land identified as “Area 24” on the Additional Permitted Uses map</p> <p>(2) Development for access purposes to a dwelling house are permitted with development consent, but only if the consent authority has considered the following:</p>	<p>The revised wording of this clause is similar to the intent of the clause that was approved by Council. Council was required to consult with the Roads and Maritime Services before exhibition. RMS raised concern with this amendment and it was removed from the exhibition material. During the exhibition period Council met with the RMS and was able to agree on a revised wording of the clause. It is proposed to reintroduce this provision as a post-notification change.</p>

	<ul style="list-style-type: none"> <li>i. The effect of the proposed development on the costs of acquisition</li> <li>ii. The imminence of acquisition, and</li> <li>iii. The costs associated with the reinstatement of the land for the purpose for which it is being acquired</li> </ul> <p>As per <b>Attachment 4.1-4.5</b></p>	
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## PART 3: JUSTIFICATION

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### Section A Need for the Planning Proposal

#### 1. Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal stems from the preparation of the Pittwater LEP 2014 in line with the Standard Instrument.

On 5 November 2007, Council resolved to commence the statutory process to prepare a new LEP for Pittwater in line with the Standard Instrument.

In August 2011, Council adopted the *Pittwater Local Planning Strategy*, which was prepared to establish an equitable, consistent and transparent policy framework for local level planning to guide land use planning and decision-making into the future.

The *Pittwater Local Planning Strategy* identified that Pittwater is on track to achieve set housing and employment targets (as identified in the relevant Metropolitan Strategy for Sydney at the time – *A City of Cities – A Plan for Sydney's Future* and the draft North East Subregional Strategy) without the need to increase housing or employment capacity in the Local Government Area (LGA). The *Pittwater Local Planning Strategy* provided the basis for preparing the Pittwater LEP 2014.

Having established that the planning regime in Pittwater was adequate to meet housing and employment targets, Council resolved to undertake a 'like for like' approach to preparing the new LEP for Pittwater, or a translation of the previous LEP – the Pittwater LEP 1993.

Council adopted the draft Pittwater LEP on 20 December 2013.

Following a thorough review of the Pittwater LEP 2014 after it was made, it was evident that a number of changes had been introduced in the period between Council adopting the draft Pittwater LEP and the Pittwater LEP 2014 being made.

Meetings were held with the Hon. Robert Stokes MP (then Minister for the Environment, Minister for Heritage, Minister for the Central Coast, and Assistant Minister for Planning) and DP&E staff to discuss issues with some of the changes made to the Pittwater LEP 2014 and to establish a forward path for each.

In line with the intention to undertake a 'like for like' approach to preparing the new LEP for Pittwater, and following the meetings held with the Hon. Robert Stokes MP and DP&E staff, a number of changes made to the Pittwater LEP 2014 are sought to be rectified.

Further, since the Pittwater LEP 2014 has been in effect, some 'house-keeping' matters have been identified and subsequent amendments are proposed to improve the accuracy and the effective operation of the plan.

**2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Yes. The Planning Proposal is the best and only means of achieving the objectives.

## **Section B Relationship to Strategic Planning Framework**

- 3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The Planning Proposal is considered to be consistent with the objectives and actions contained in *A Plan for Growing Sydney* and the Draft North East Subregion Strategy. The proposed amendments will not have a significant impact on such objectives and actions. In particular, it is unlikely that any of the proposed amendments will affect the delivery of housing or employment in the Pittwater LGA.

- 4. Is the Planning Proposal consistent with the council's local strategy or other local strategic plan?**

The Planning Proposal is considered to be consistent with the *Pittwater Local Planning Strategy*.

The *Pittwater Local Planning Strategy* provides an evidence-based rationale and policy framework to guide land use planning and decision making in Pittwater.

*Pittwater 2025* is Council's Community Strategic Plan – a 12 year community plan outlining the community's aspirations and desires to shape Pittwater's future. The amendments proposed are of a minor nature and will not have a significant impact on the strategies outlined in *Pittwater 2025*. Though several of the amendments proposed in this Planning Proposal are considered necessary to achieve the community's aspirations in relation to land use and development.

- 5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

This Planning Proposal is considered to be consistent with the relevant State Environmental Planning Policies (see **Appendix 1**).

- 6. Is the Planning Proposal consistent with applicable Ministerial Directions (Section 117 Directions)?**

The Planning Proposal is considered to be consistent with the applicable Ministerial Directions (see **Appendix 2**).

**Section C Environmental, social and economic impact**

**7. 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?**

No. It is unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposed amendments in this Planning Proposal. However, it is noted that if Amendment 7 (in Part 2 of this Planning Proposal) is not supported, the natural environment within the foreshore area is likely to be affected, which may or may not include impact on critical habitat or threatened species, populations or ecological communities, or their habitats.

**8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

No. It is unlikely that other environmental effects will result from the proposed amendments in this Planning Proposal. However, it is noted that if Amendment 7 (in Part 2 of this Planning Proposal) is not supported, the natural environment within the foreshore area is likely to be affected.

**9. How has the Planning Proposal adequately addressed any social and economic effects?**

As Council resolved to undertake a 'like for like' approach to preparing the new LEP for Pittwater, or a translation of the previous LEP – the Pittwater LEP 1993, all care was taken within the bounds of the Standard Instrument, to ensure that the new LEP for Pittwater provides for development outcomes (including social and economic outcomes) generally consistent with the previous Pittwater LEP 1993 where appropriate.

As the proposed amendments in this Planning Proposal are intended to rectify changes made to the Pittwater LEP 2014 since Council adopted the draft Pittwater LEP on 20 December 2013, or to address 'house-keeping' matters that have been identified since the LEP came into effect; the proposed amendments are considered to be of a minor nature and seek to maintain the intended 'like for like' approach undertaken to prepare the Pittwater LEP 2014 and, subsequently, the outcomes (including social and economic) of the Pittwater LEP 1993.

**Section D State and Commonwealth interests**

**10. Is there adequate public infrastructure for the Planning Proposal?**

No additional public infrastructure is required as a result of the proposed amendments in this Planning Proposal.

**11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway Determination?**

Council consulted with Transport for NSW and the Roads & Maritime Services (RMS) prior to public exhibition in accordance with the conditions of the Department of Planning & Environment's Gateway Determination. The agency responses were:

*Transport for NSW*

Transport for NSW advised that they had no concerns and would forward the proposal to Roads and Maritime Services for their commentary.

*Roads & Maritime Services*

The RMS stated that they would not support two of the proposed amendments due to their potential impacts upon Mona Vale Road, Wakehurst Parkway and Barrenjoey Road, namely:

- Draft Amendment 6, which related to 167 Mona Vale Road, Ingleside. The Planning Proposal originally intended to change the part of this property zoned SP2 Classified Road to RU2 Rural Landscape. It also proposed to give this portion of the property a 20,000 sqm minimum lot size. The RMS, with the agreement of Council, advised to defer this draft change by incorporating it into the current investigations associated with the Mona Vale Road upgrade and the Ingleside Precinct Planning process. Accordingly, draft Amendment 6 applying to 167 Mona Vale Road, Ingleside has been removed from this Planning Proposal.
- Draft Amendment 9 due to its potential impact upon Mona Vale Road, Wakehurst Parkway and Barrenjoey Road. This amendment would have introduced an additional permitted use for private properties partially zoned SP2 Classified Road to construct '*access structures ancillary to a dwelling house*' over this land. Council agrees with the determination of the RMS in relation to properties that are alongside Mona Vale Road. However it disagrees with the consultation response received in relation to properties that sit alongside Barrenjoey Road and Wakehurst Parkway. Due to the condition of the Department of Planning & Environment to update the Planning Proposal further to the consultation with the RMS, Council was required to delete draft Amendment 9 in its entirety and the associated proposed mapping. Council notified the owners of affected properties of

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this change. However during the exhibition period Council met with the RMS and was able to agree to a revised wording of the clause which is proposed to be reintroduced.

Consultation with other relevant public and service authorities was undertaken during the public exhibition of the Planning Proposal. No further comments were raised.

#### **PART 4: MAPPING**

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The proposed amended Pittwater LEP 2014 Maps are contained in **Appendix 4**.

## **PART 5: COMMUNITY CONSULTATION**

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Community consultation was undertaken in accordance with Section 57 of the EP&A Act and the requirements of '*A guide to preparing local environmental plans*' (Department of Planning & Infrastructure, 2013).

As part of the statutory public exhibition of the Planning Proposal, the following was undertaken:

- A 30-day public exhibition period
- Notification in writing to landowners directly affected by site specific amendments, registered Pittwater community groups and Chambers of Commerce, and relevant public authorities and State agencies at the commencement of the public exhibition period
- Notification in the Manly Daily at the commencement of the public exhibition period
- Relevant documentation available at Council's Customer Service Centres and libraries for the duration of the public exhibition period
- Relevant documentation on Council's website for the duration of the public exhibition period
- Council staff were available to respond to any enquiries

**PART 6: PROJECT TIMELINE**

<b>Planning Proposal Milestone</b>	<b>Timeframe</b>	<b>Anticipated Completion Date</b>
Council decision to forward Planning Proposal to Gateway	-	17 February 2016
Date of Gateway determination	6 weeks from Council decision to forward Planning Proposal to Gateway	August 2016
Completion of required technical information	<i>Due to the nature of this Planning Proposal it is not anticipated that additional technical information will be required</i>	-
Government agency consultation	Formal consultation will be undertaken concurrent to the public exhibition	-
Public exhibition	30 days	April-May 2017
Consideration of submissions	2 weeks following the public exhibition	May-June 2017
Consideration of Planning Proposal post-exhibition and report to Council	4 weeks following the public exhibition	June 2017
Council decision to finalise LEP	Next available council meeting following post-exhibition consideration	June 2017
Submission to DP&E and PCO to prepare draft instrument	Following Council decision to finalise LEP	June 2017
RPA to make plan (if delegated)	2 weeks from receipt of final draft instrument and maps from PCO and DP&E	July 2017
Notification of LEP/LEP comes into force	1 week from RPA making the plan	September 2017

### **Appendix 1: Consideration of SEPPs**

The following SEPP's are relevant to the Pittwater LGA. The table below identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and, if applicable, whether the Planning Proposal is consistent with the provisions of the SEPP.

<b>Title of State Environmental Planning Policy (SEPP)</b>	<b>Applicable</b>	<b>Consistent</b>	<b>Reason for inconsistency</b>
SEPP No 1 – Development Standards	NO	-	-
SEPP No 14 – Coastal Wetlands	NO	-	-
SEPP No 21 – Caravan Parks	NO	-	-
SEPP No 26 – Littoral Rainforests	NO	-	-
SEPP No 30 – Intensive Agriculture	NO	-	-
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	NO	-	-
SEPP No 33 – Hazardous and Offensive Development	NO	-	-
SEPP No 44 – Koala Habitat Protection	NO	-	-
SEPP No 50 – Canal Estate Development	NO	-	-
SEPP No 55 – Remediation of Land	NO	-	-
SEPP No 62 – Sustainable Aquaculture	NO	-	-
SEPP No 64 – Advertising and Signage	NO	-	-
SEPP No 65 – Design Quality of Residential Flat Development	NO	-	-
SEPP No 70 – Affordable Housing (Revised Schemes)	NO	-	-
SEPP 71 – Coastal Protection	YES	YES	-

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SEPP (Affordable Rental Housing) 2009	NO	-	-
SEPP (Building Sustainability Index: BASIX) 2004	NO	-	-
SEPP (Exempt and Complying Development Codes) 2008	NO	-	-
SEPP (Housing for Seniors or People with a Disability) 2004	NO	-	-
SEPP (Infrastructure) 2007	NO	-	-
SEPP (Major Development) 2005	NO	-	-
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	-	-
SEPP (Miscellaneous Consent Provisions) 2007	NO	-	-
SEPP (State and Regional Development) 2011	NO	-	-

If there are any inconsistencies with any applicable SEPP, it is noted that the SEPP will prevail to the extent of the inconsistency.

Further, it is noted that if the amendment proposed to Clause 7.8 of the Pittwater LEP 2014 is not supported, maintaining it as is would be inconsistent with the Aims and Part 2 (Matters for consideration) of SEPP 71 – Coastal Protection (in the area that makes up the coastal zone).

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the Pittwater LGA. The table below identifies which of the relevant deemed SEPP's apply to the Planning Proposal (or not) and, if applicable, whether the Planning Proposal is consistent with the provisions of the deemed SEPP's.

<b>Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)</b>	<b>Applicable</b>	<b>Consistent</b>	<b>Reason for inconsistency</b>
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	-	-

## Appendix 2: Consideration of Section 117 Directions

### 1 Employment and Resources

	Direction	Applicable	Consistent
1.1	Business and Industrial Zones	YES	YES
1.2	Rural Zones	YES	YES
1.3	Mining, Petroleum Production and Extractive Industries	NO	-
1.4	Oyster Aquaculture	NO	-
1.5	Rural Lands	NO	-

#### Justification for inconsistency

Nil.

### 2 Environment and Heritage

	Direction	Applicable	Consistent
2.1	Environmental Protection Zones	YES	YES
2.2	Coastal Protection	YES	YES
2.3	Heritage Conservation	YES	YES
2.4	Recreation Vehicle Areas	YES	YES

#### Justification for inconsistency

The Planning Proposal does not include provisions that meet the requirements of:

- 2.1(4)
- 2.2(4)

However, it does not include provisions that are inconsistent with such requirements.

### 3 Housing, Infrastructure and Urban Development

	Direction	Applicable	Consistent
3.1	Residential Zones	YES	YES
3.2	Caravan Parks and Manufactured Home Estates	YES	YES
3.3	Home Occupations	YES	YES
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development Near Licensed Aerodromes	NO	-
3.6	Shooting Ranges	NO	-

### **Justification for inconsistency**

The Planning Proposal does not include provisions that meet the requirements of:

- 3.1(4) or (5)
- 3.2(4) or (5)
- 3.3(4)
- 3.4(4)

However, it does not include provisions that are inconsistent with such requirements.

Further, is noted that if the proposed amendment to Schedule 1 (in relation to the use of certain land in Zone SP2 Infrastructure "Classified Road") is not supported, maintaining the current planning regime for these properties would be maintaining an inconsistency with Section 117 Direction 3.1 (Residential zones), in particular 5(b).

## **4 Hazard and Risk**

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	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
4.1	Acid Sulphate Soils	YES	YES
4.2	Mine Subsidence and Unstable Land	NO	-
4.3	Flood Prone Land	YES	YES
4.4	Planning For Bushfire Protection	YES	YES

### **Justification for inconsistency**

The Planning Proposal does not include provisions that meet the requirements of:

- 4.1(4), (5), (6), or (7)
- 4.3(4), (5), (6), (7), or (8)
- 4.4(4), (5) or (6)

However, it does not include provisions that are inconsistent with such requirements.

## **5 Regional Planning**

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	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
5.1	Implementation of Regional Strategies	NO	-
5.2	Sydney Drinking Water Catchments	NO	-
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	-

5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	-
5.8	Second Sydney Airport: Badgerys Creek	NO	-

**Justification for inconsistency**

N/A

## **6 Local Plan Making**

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	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Purposes	YES	YES

**Justification for inconsistency**

Nil.

## **7 Metropolitan Planning**

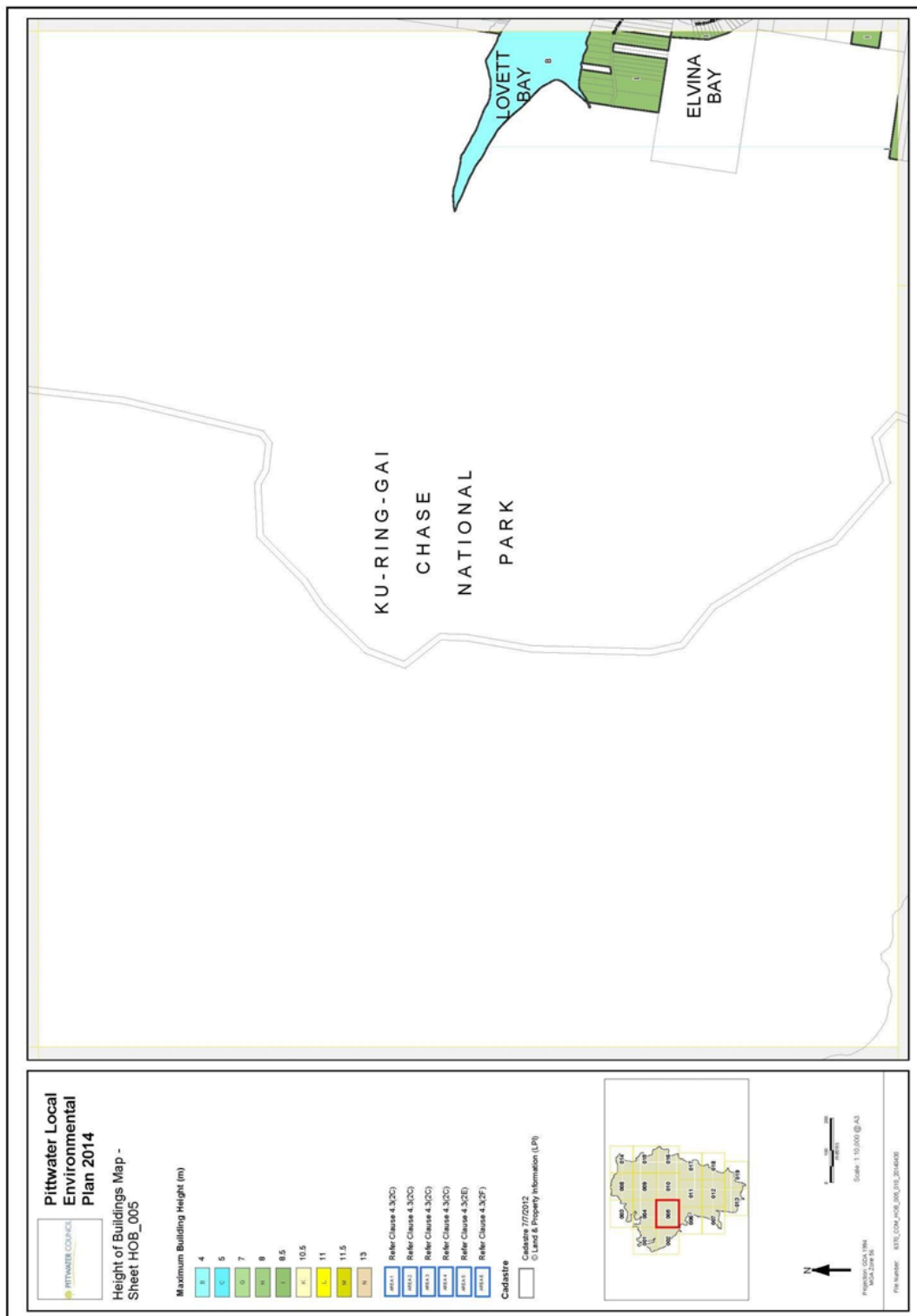
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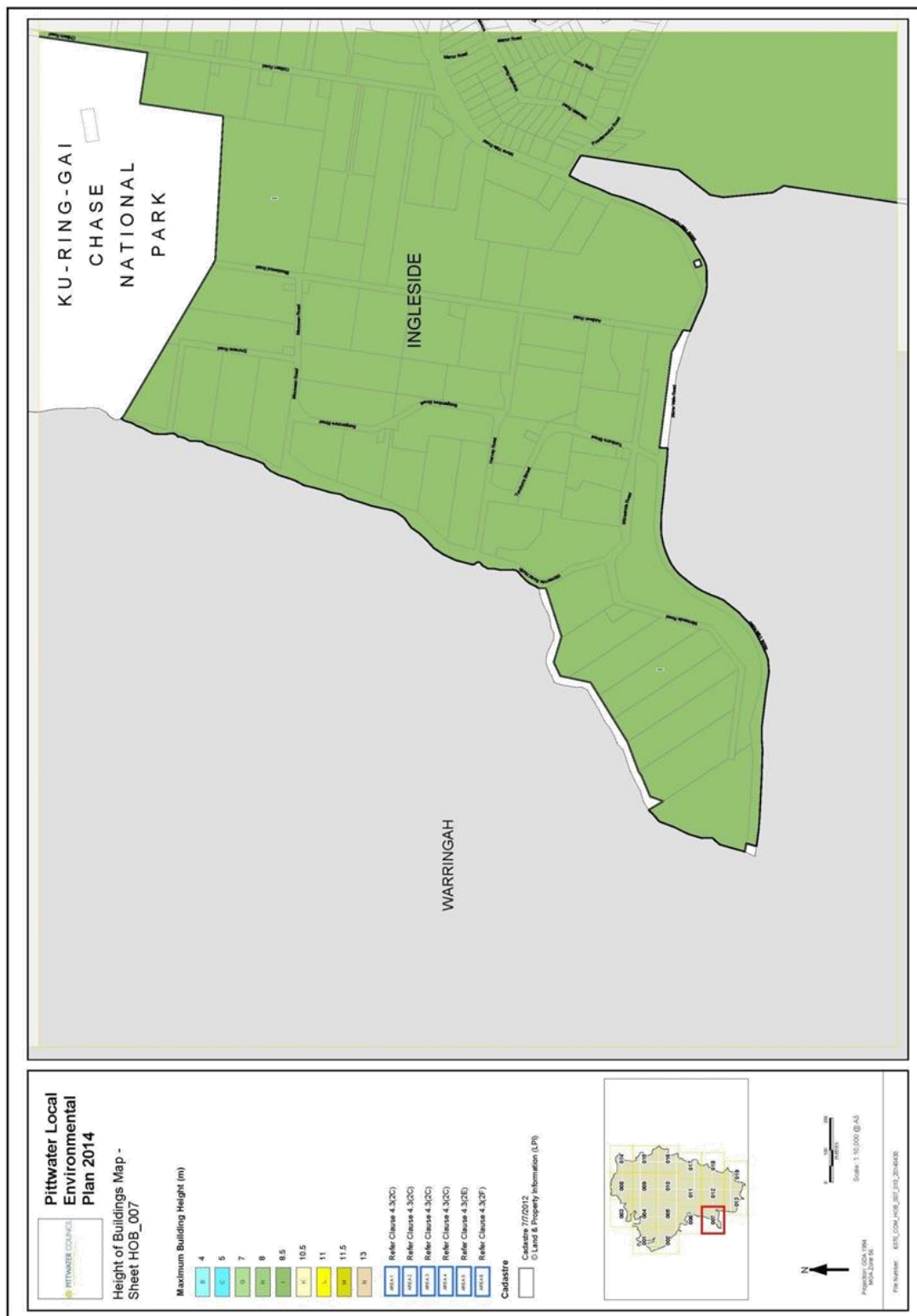
	<b>Direction</b>	<b>Applicable</b>	<b>Consistent</b>
7.1	Implementation of the Metropolitan Strategy	YES	YES

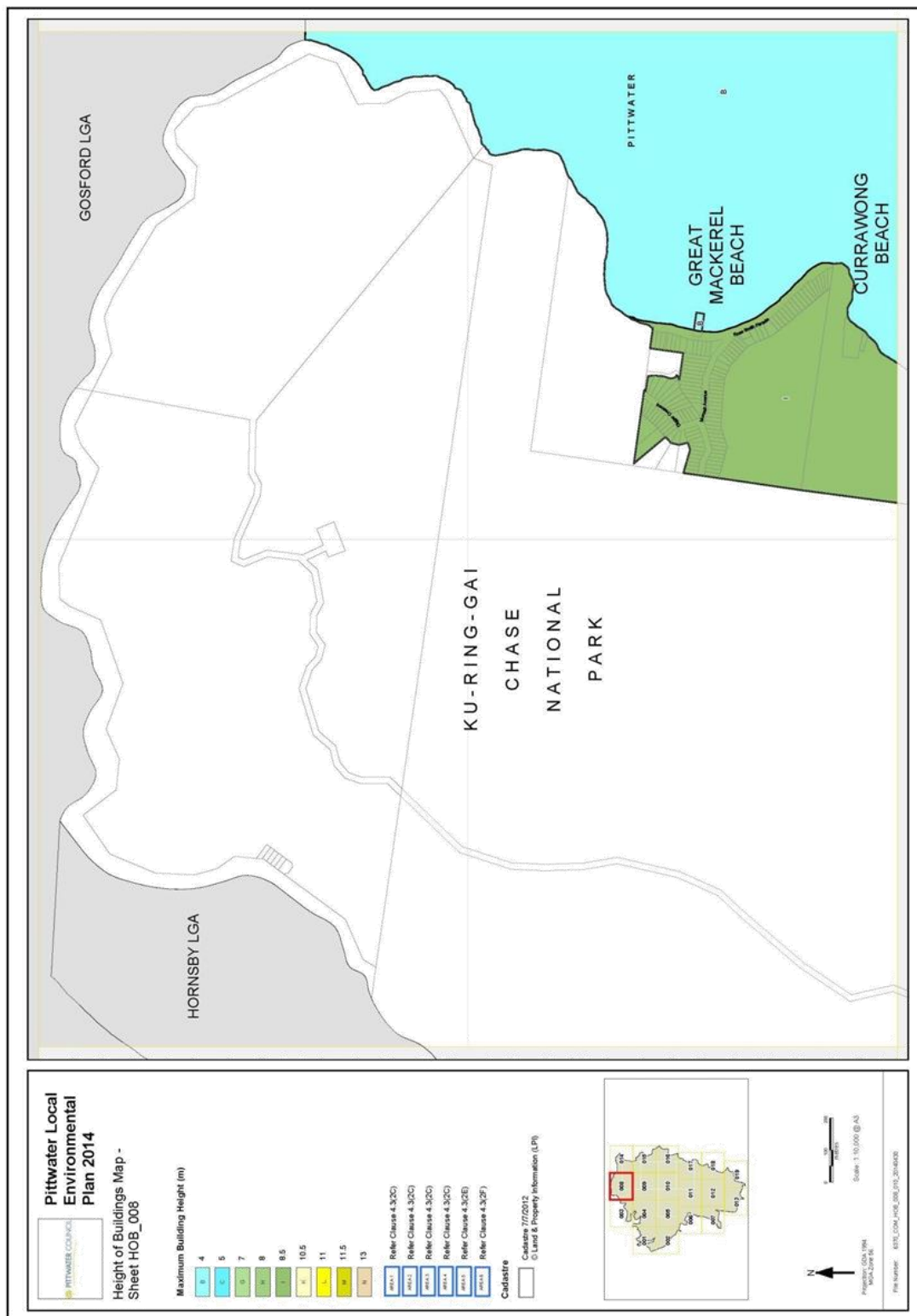
**Justification for inconsistency**

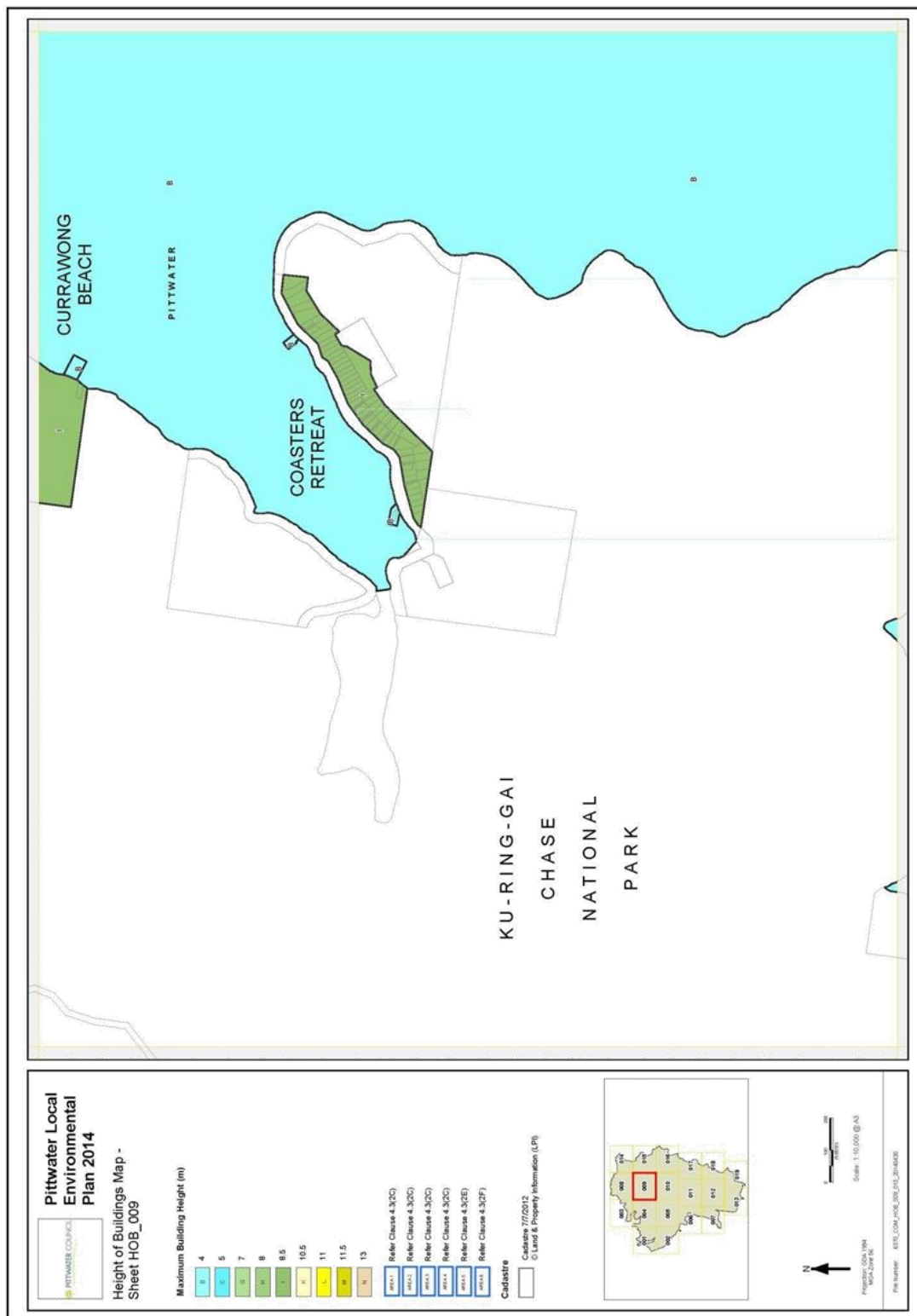
Nil.

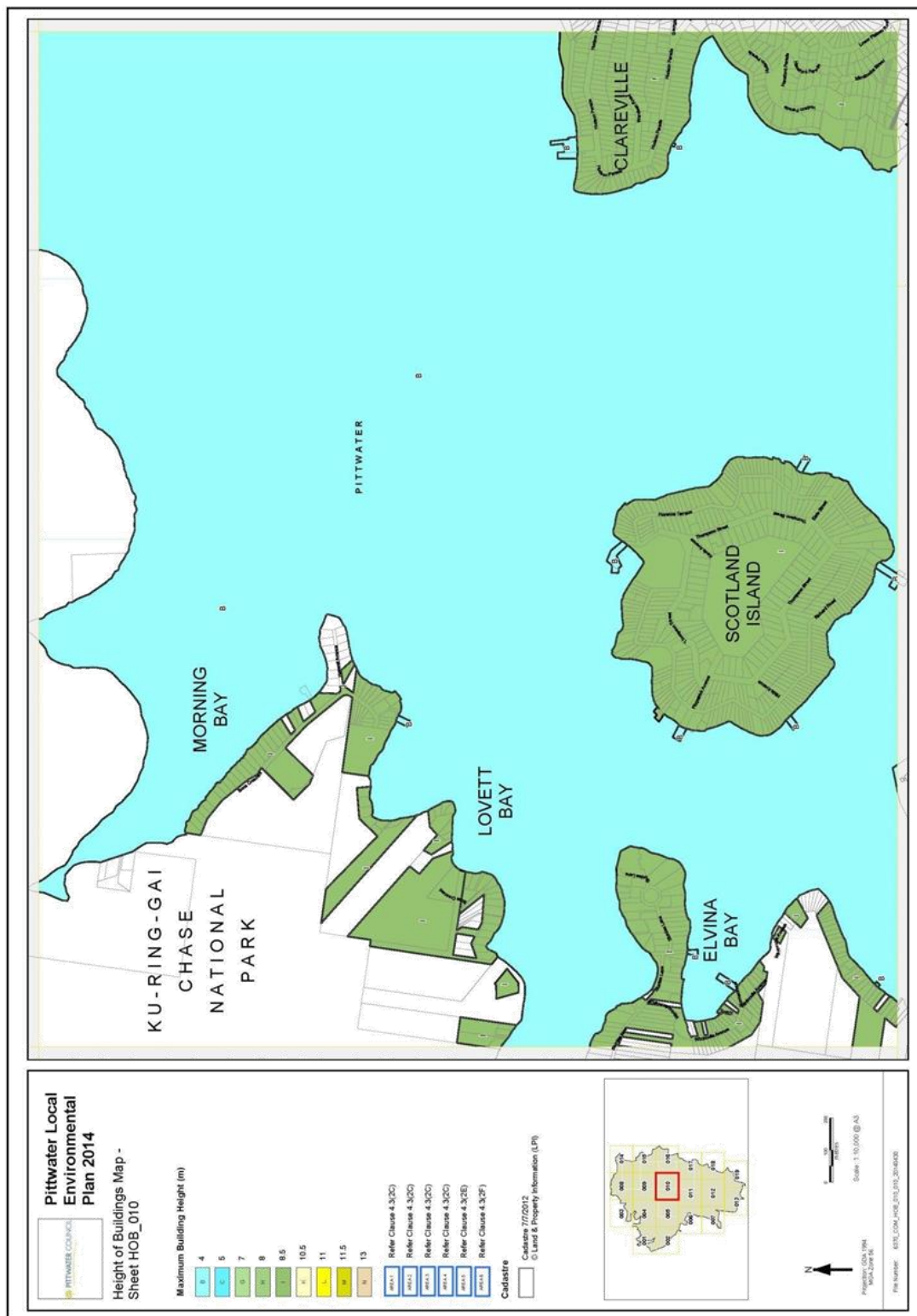
**Appendix 3: Current Pittwater LEP 2014 Maps**

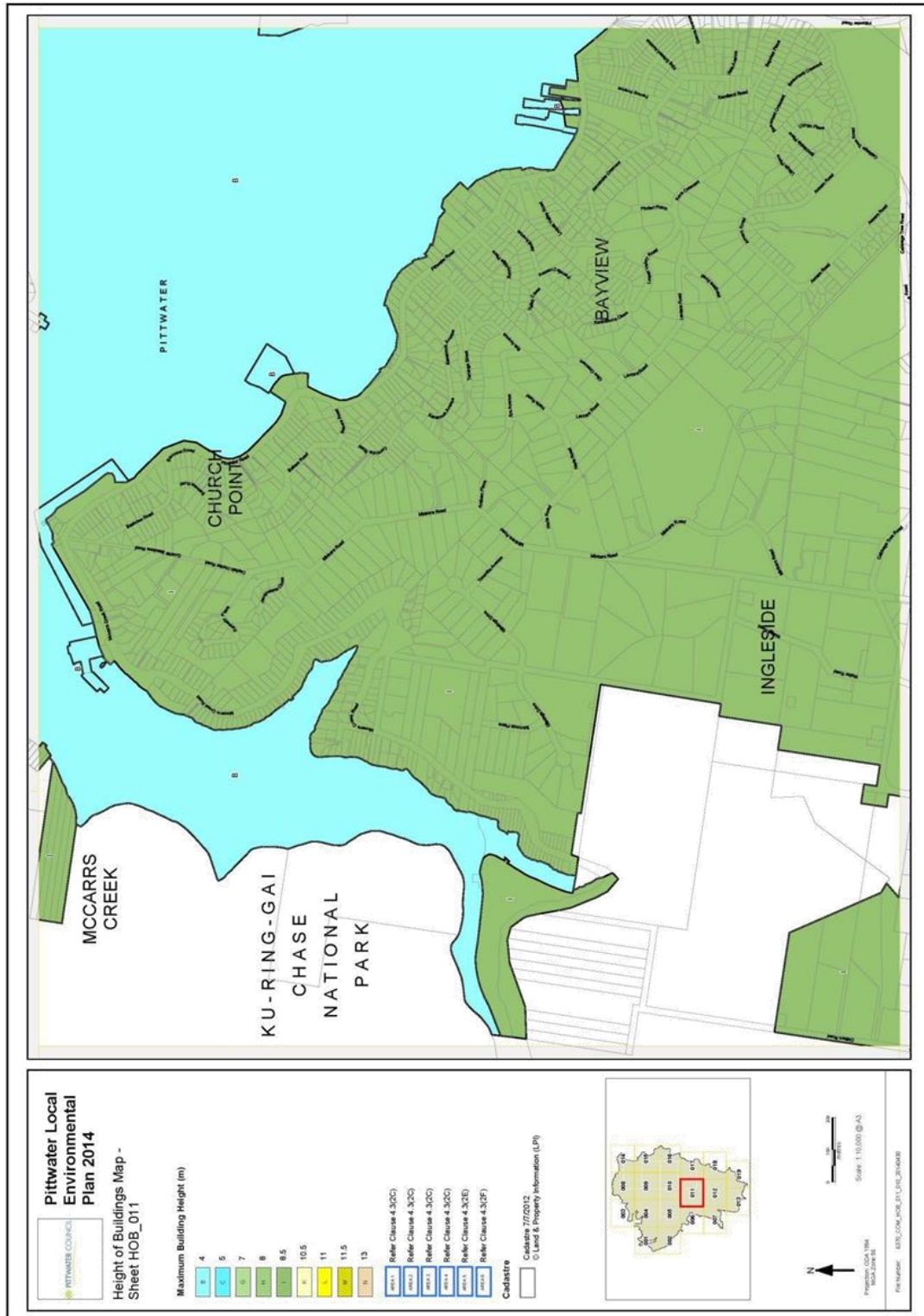


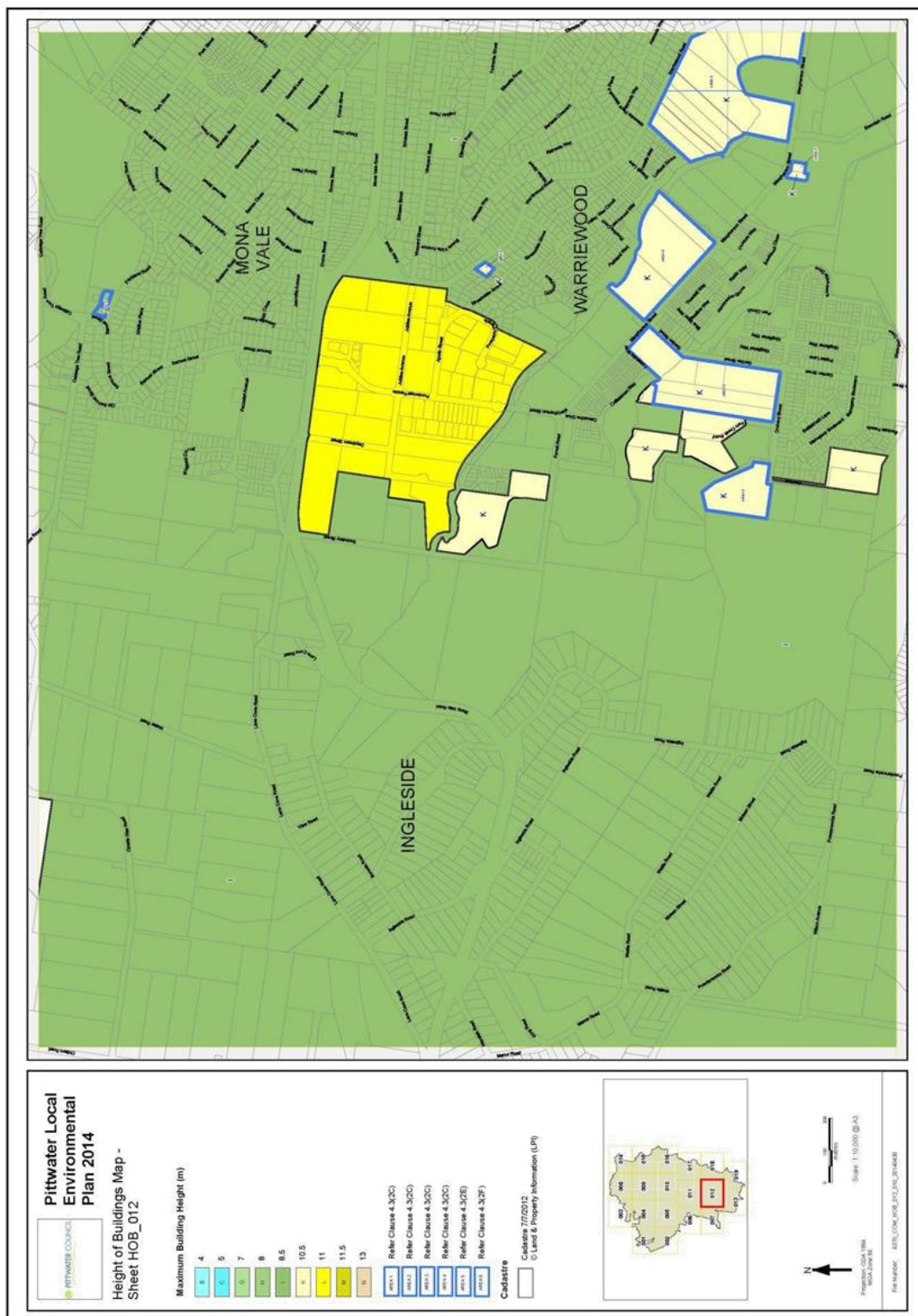


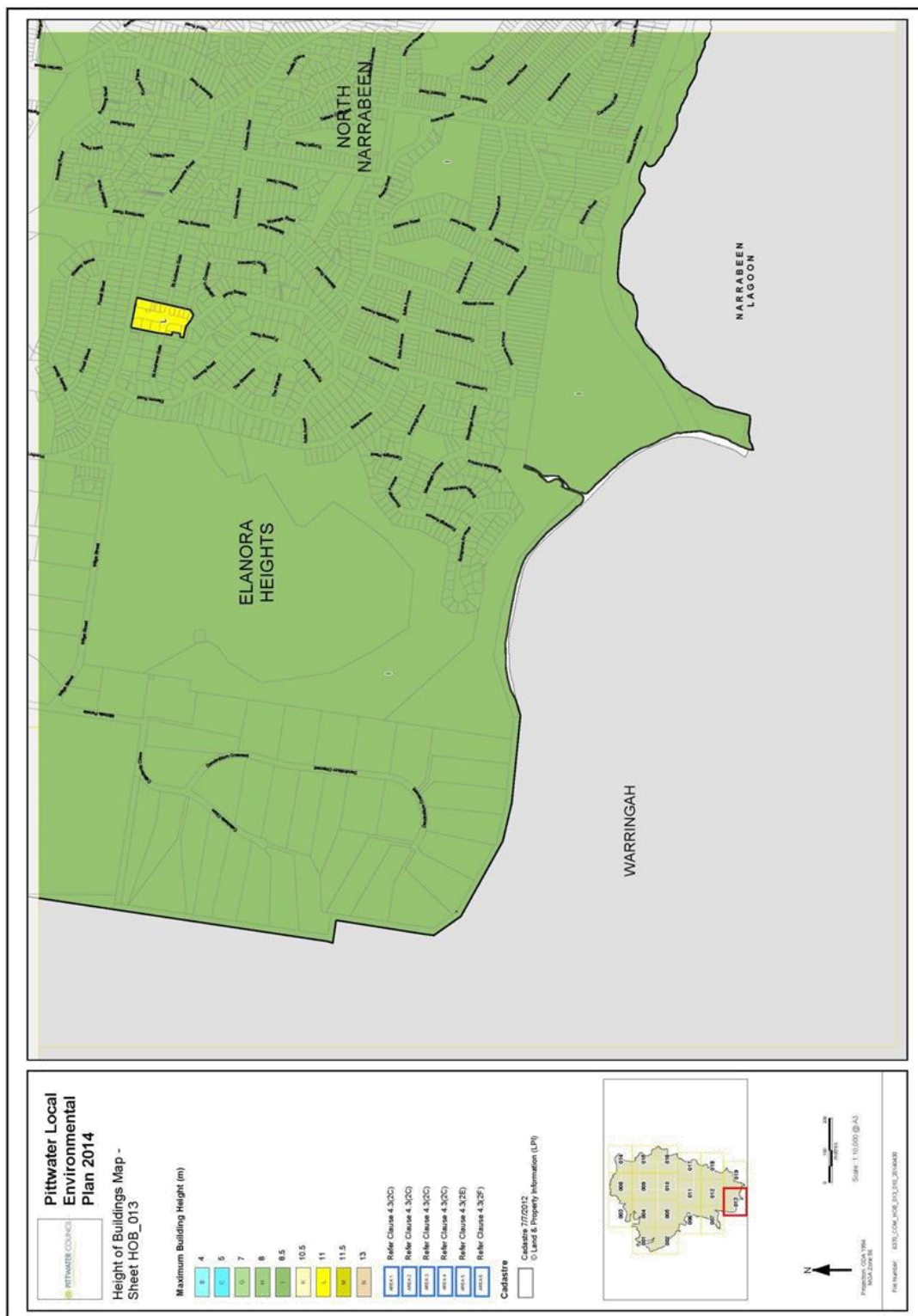


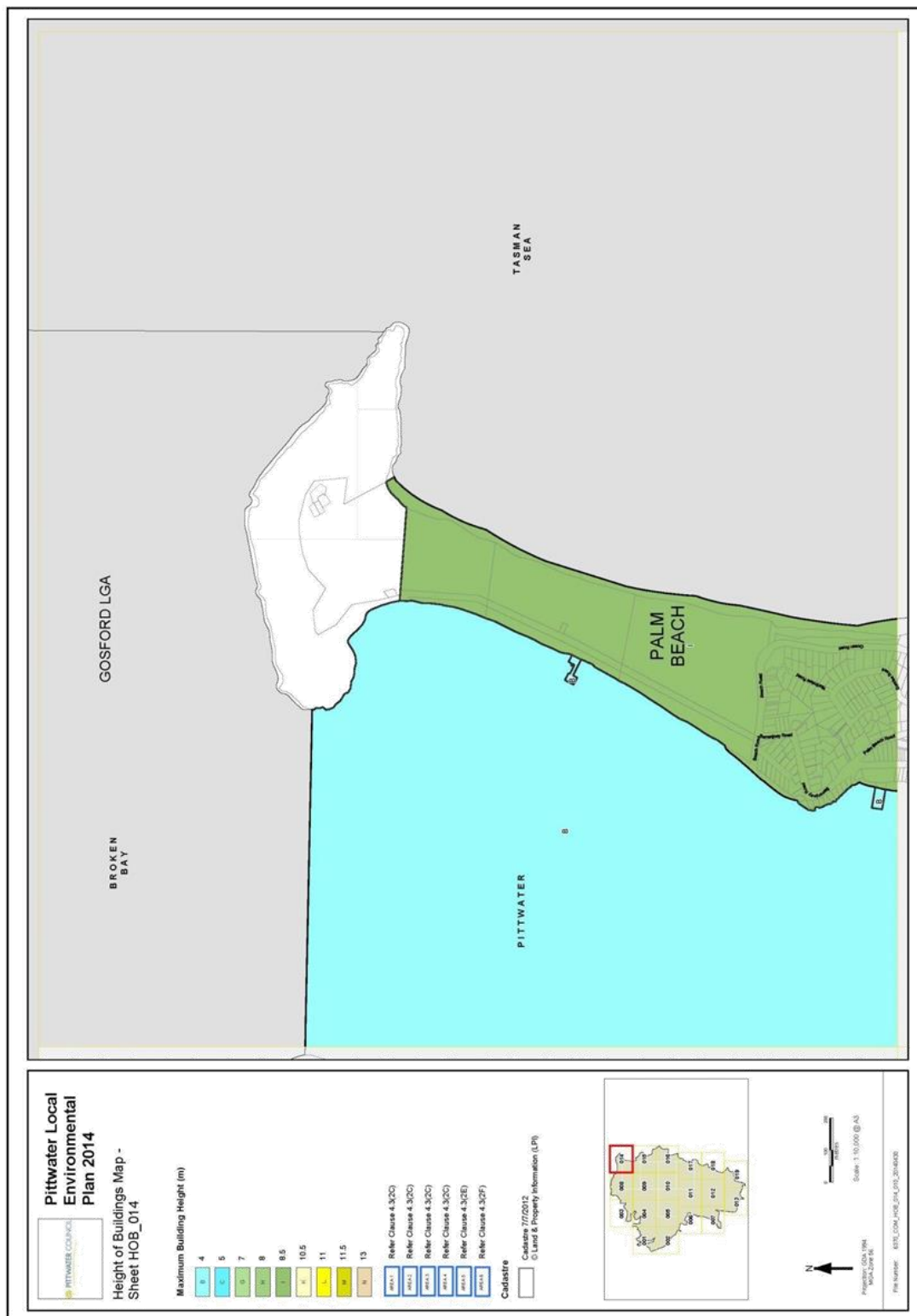


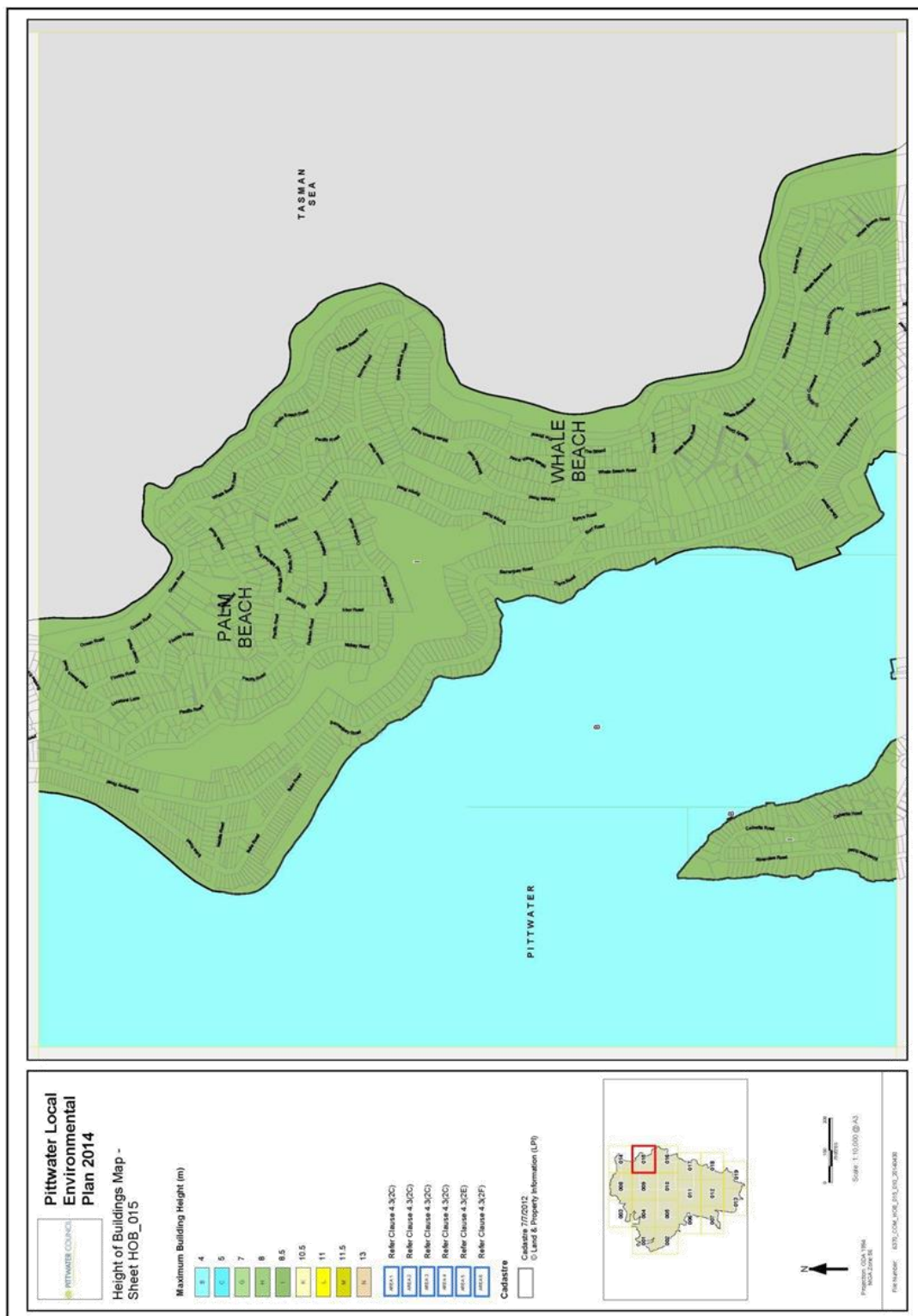


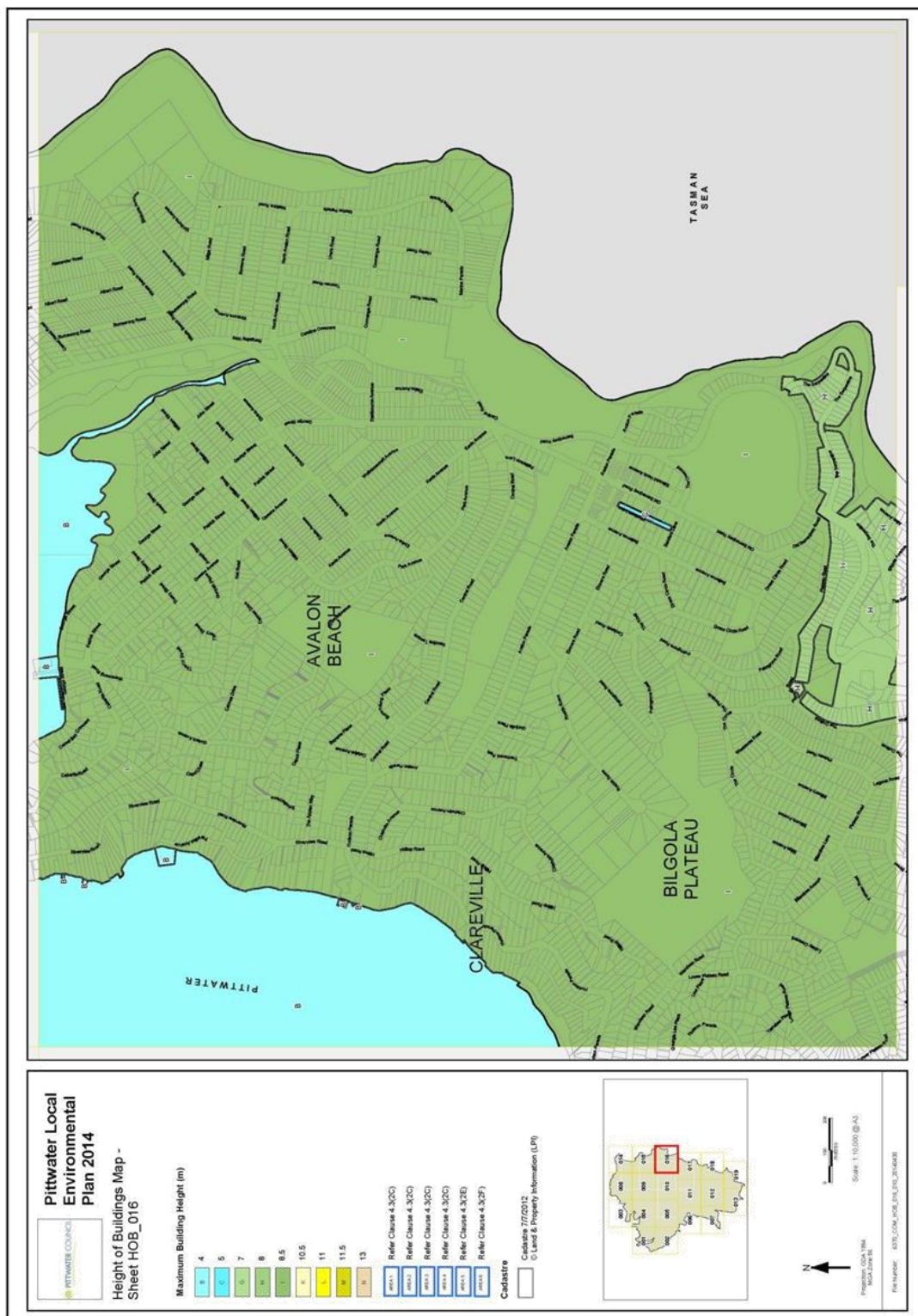


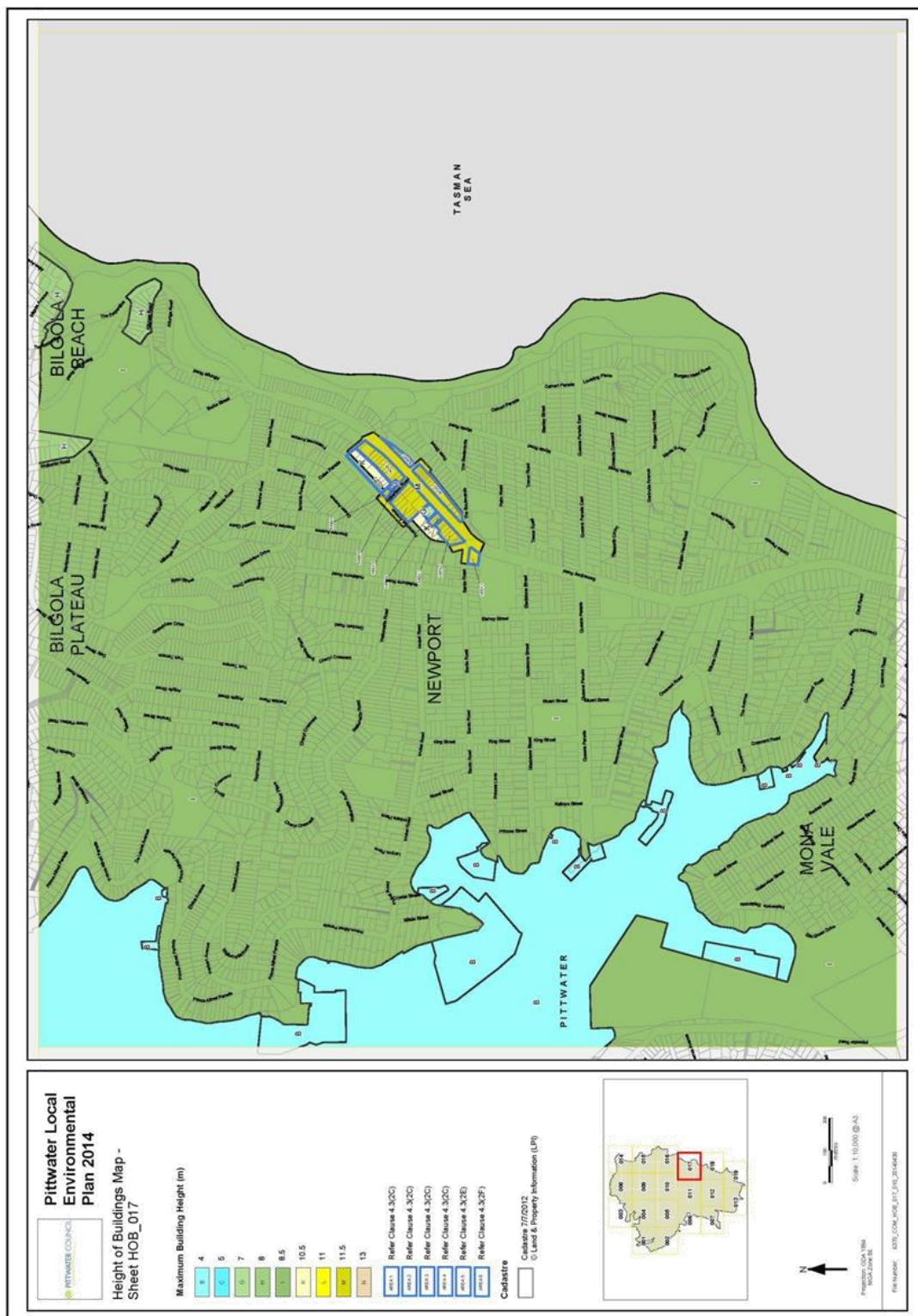


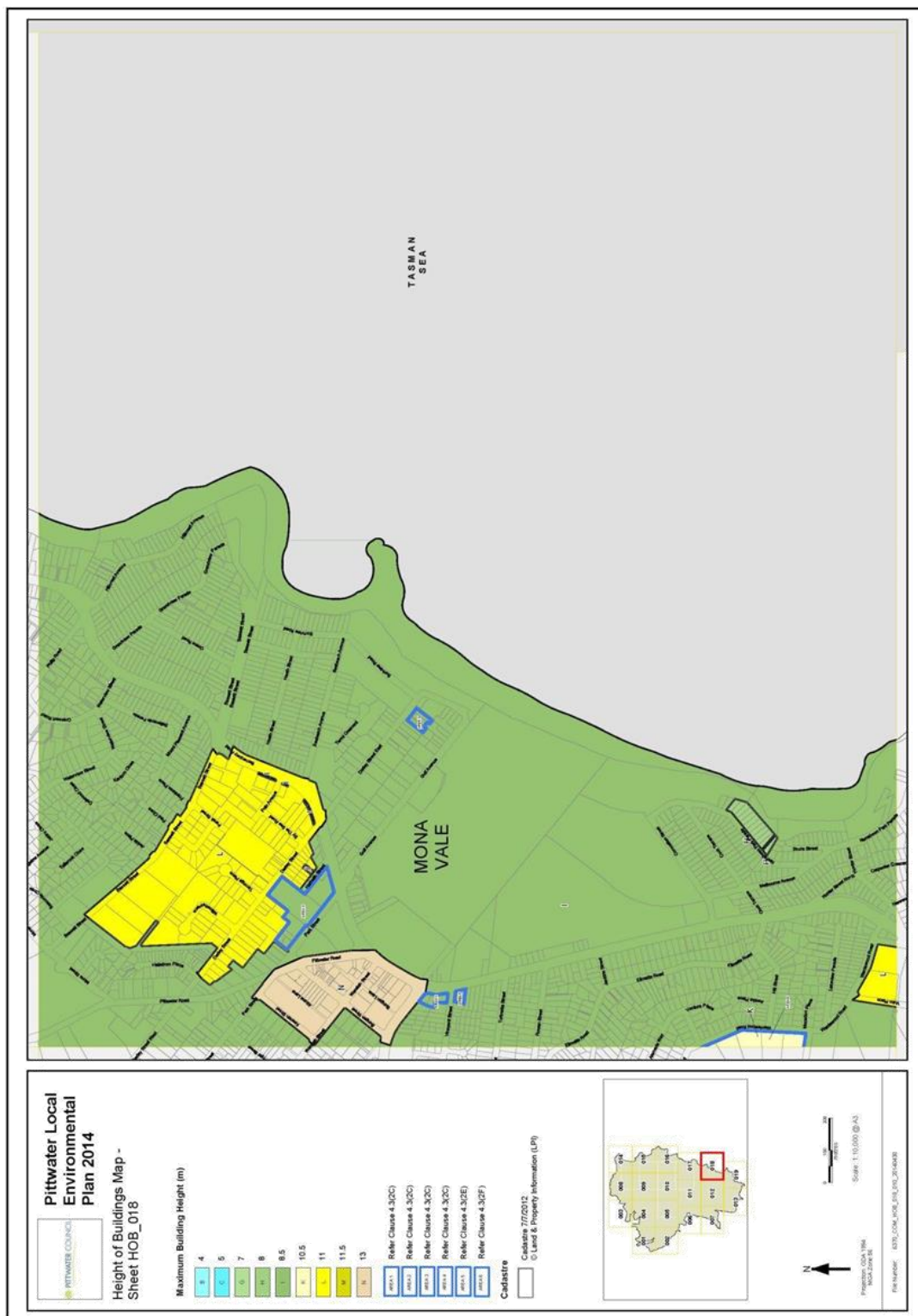


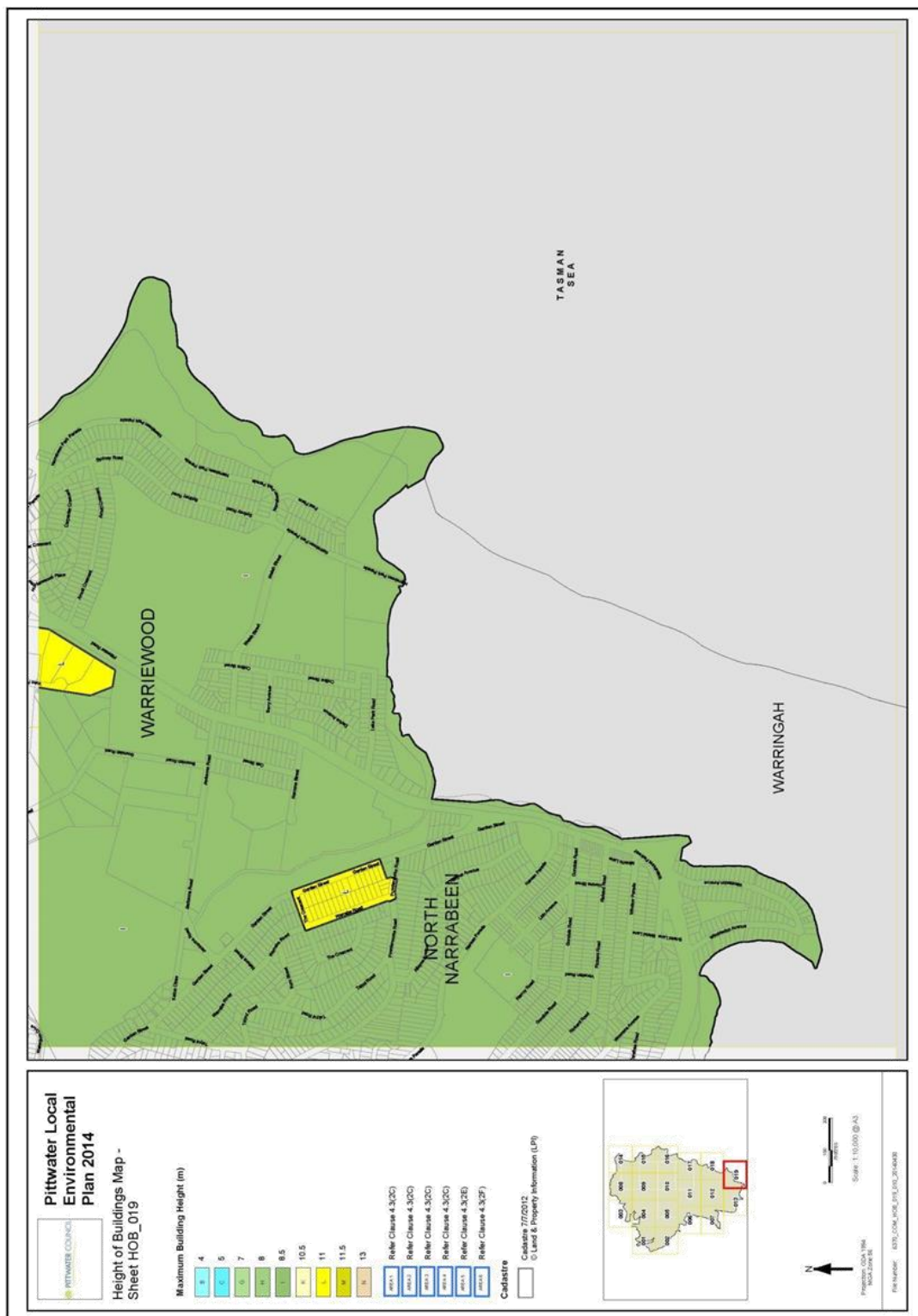


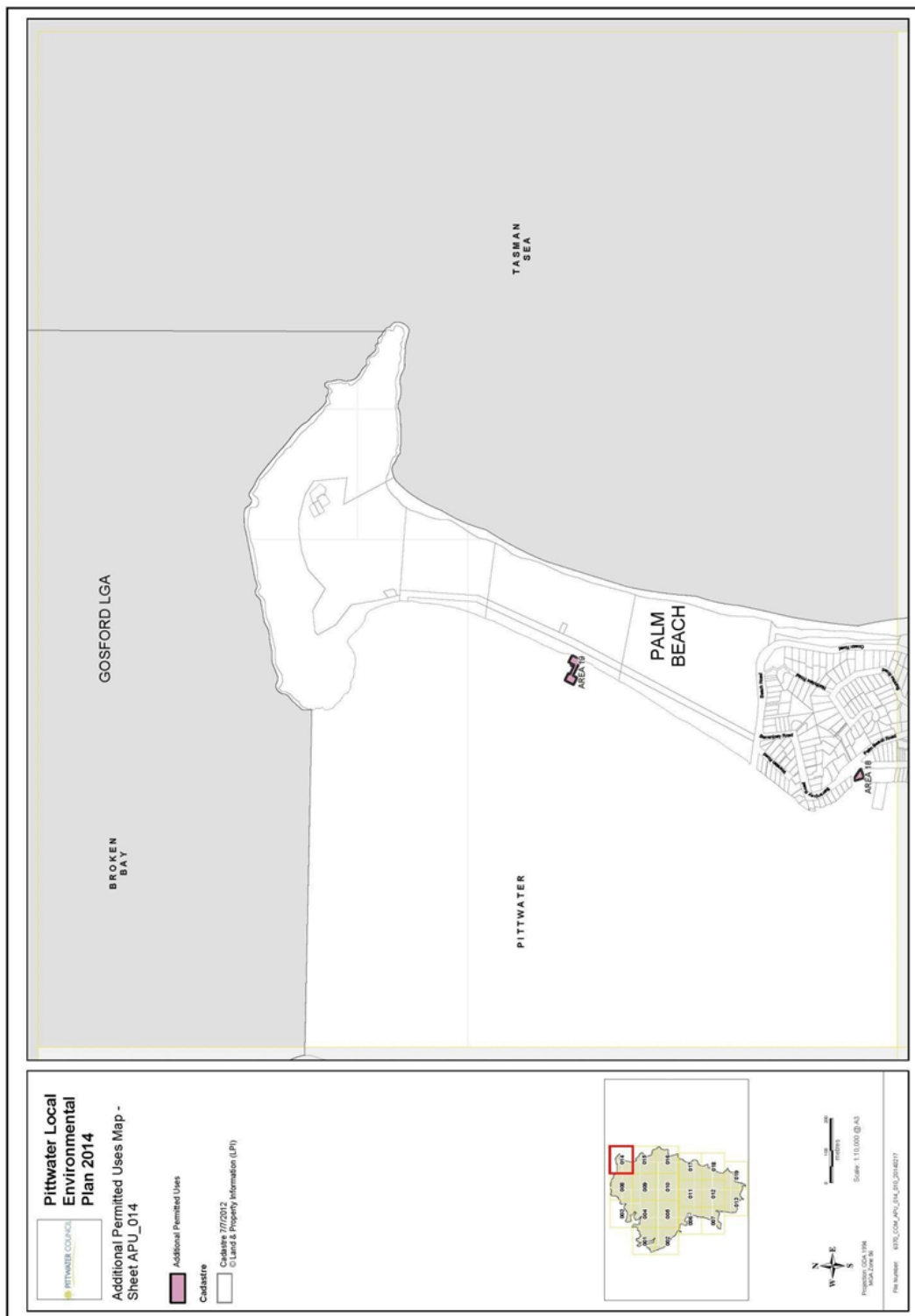


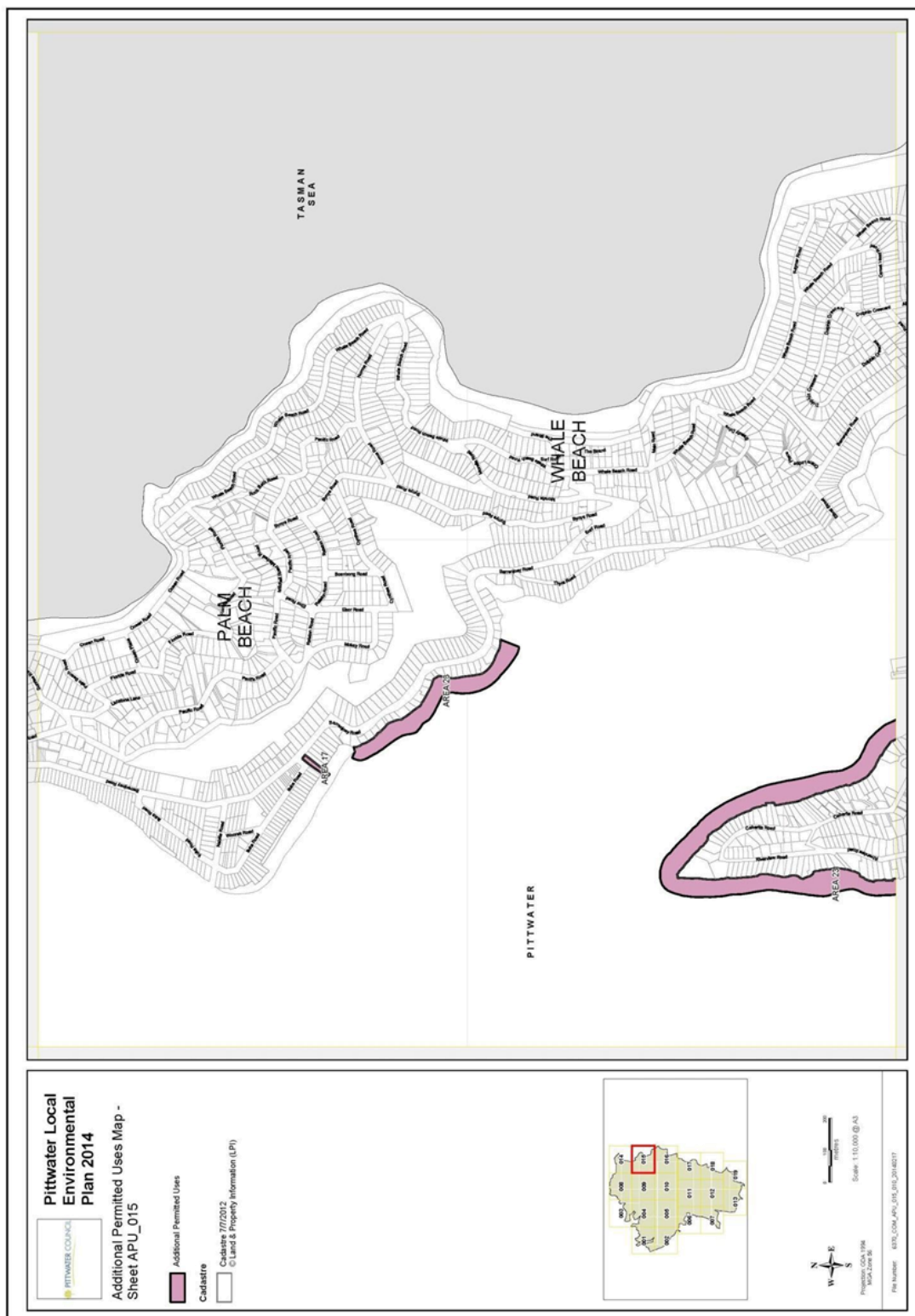


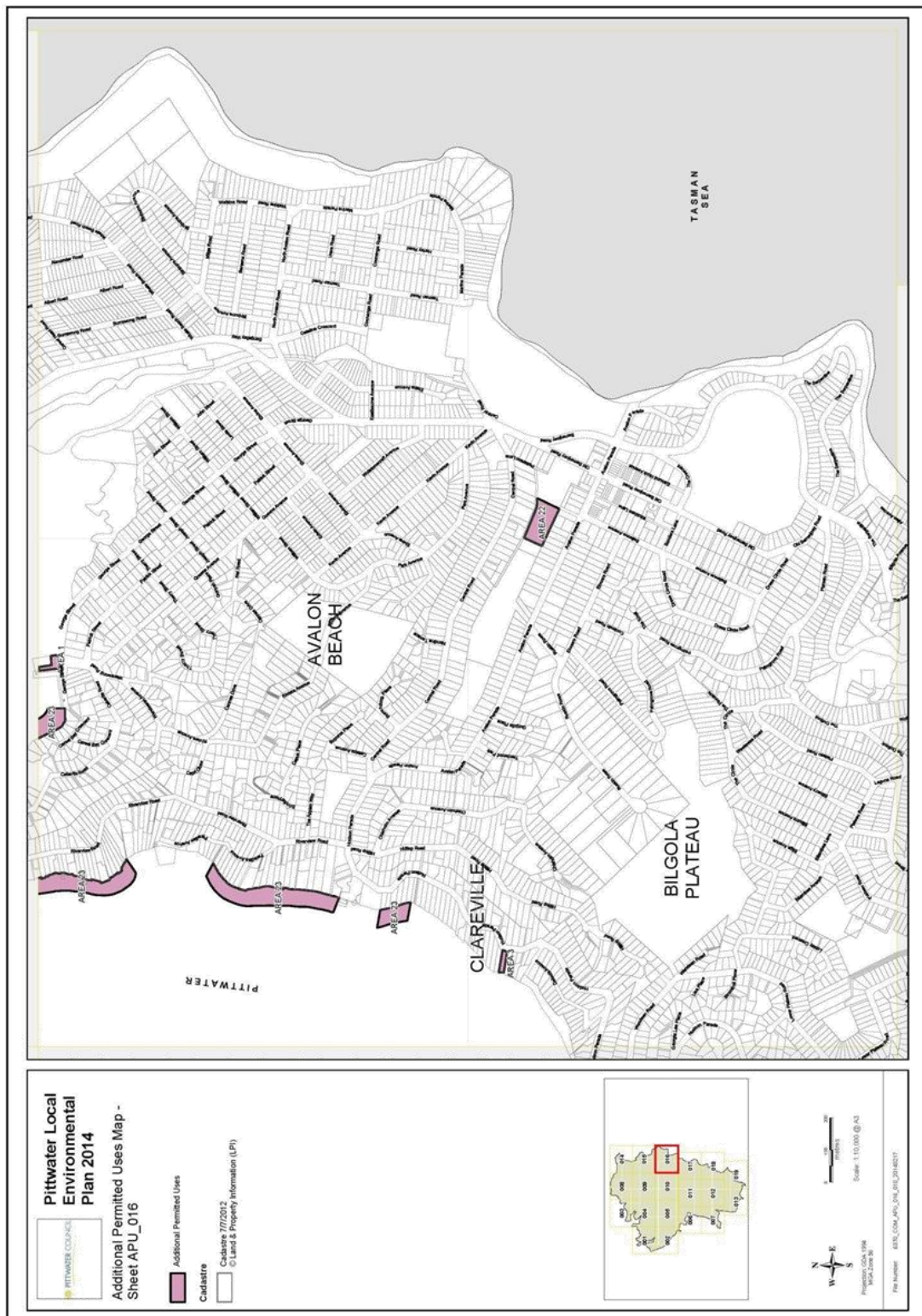


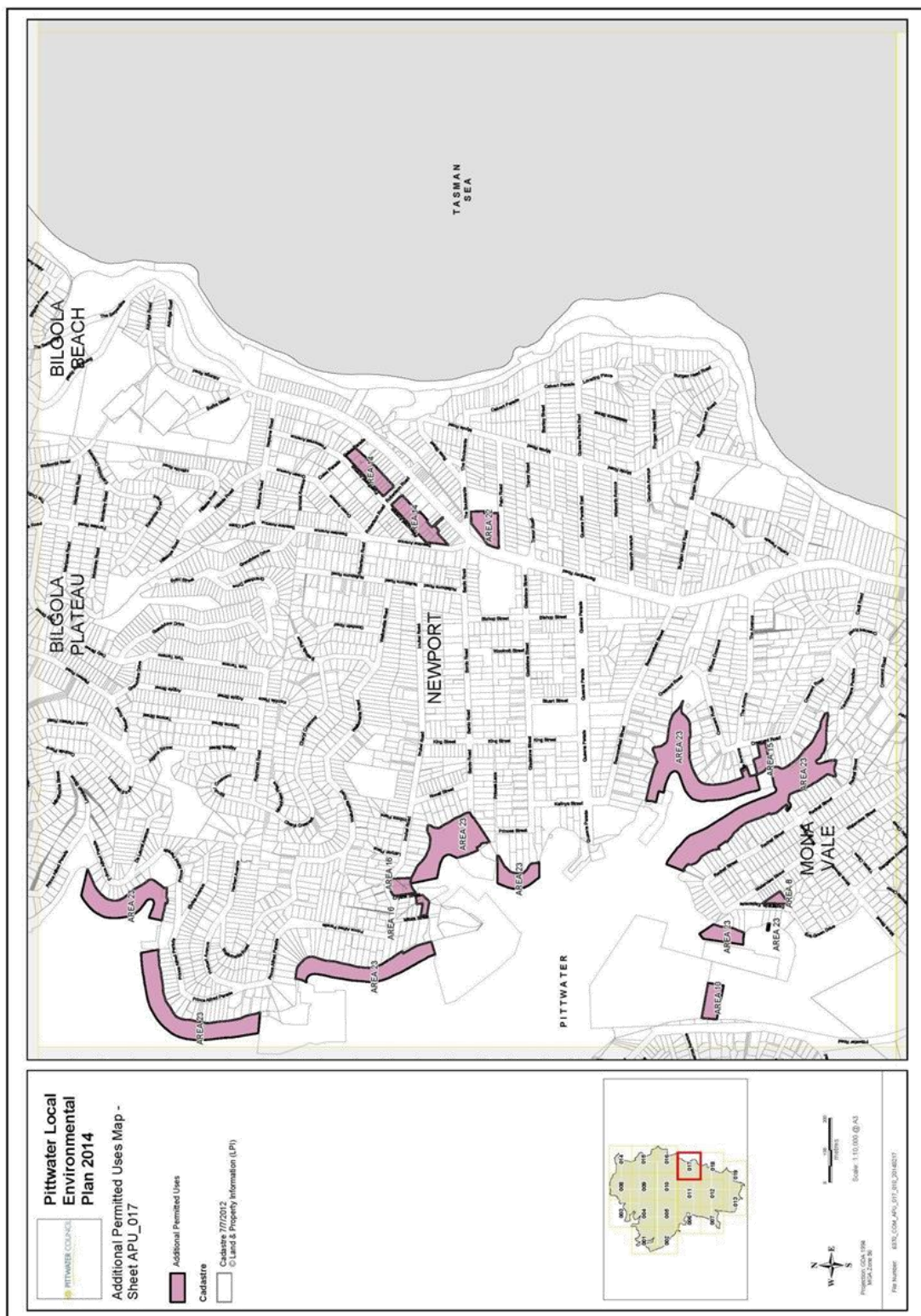


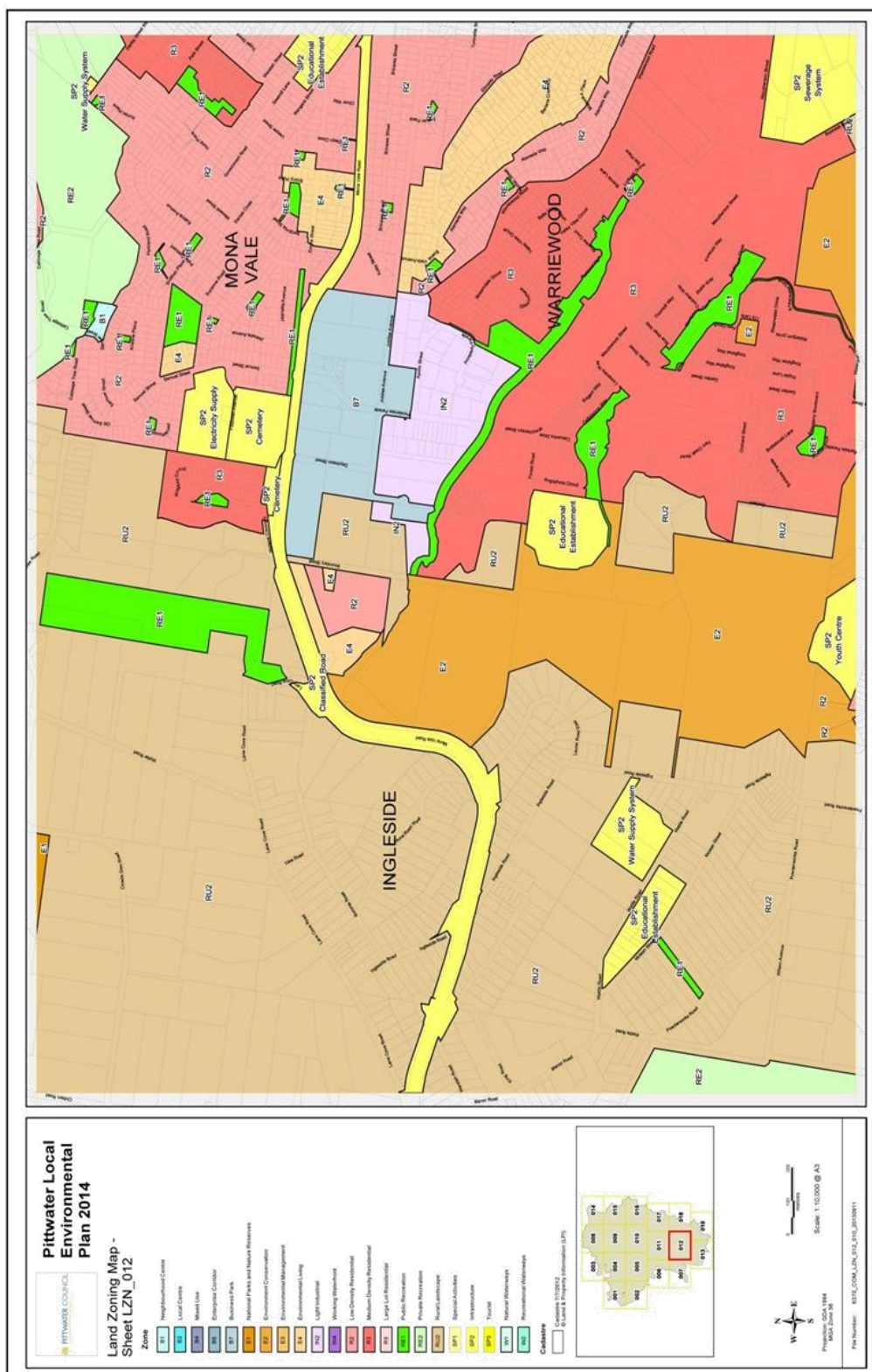


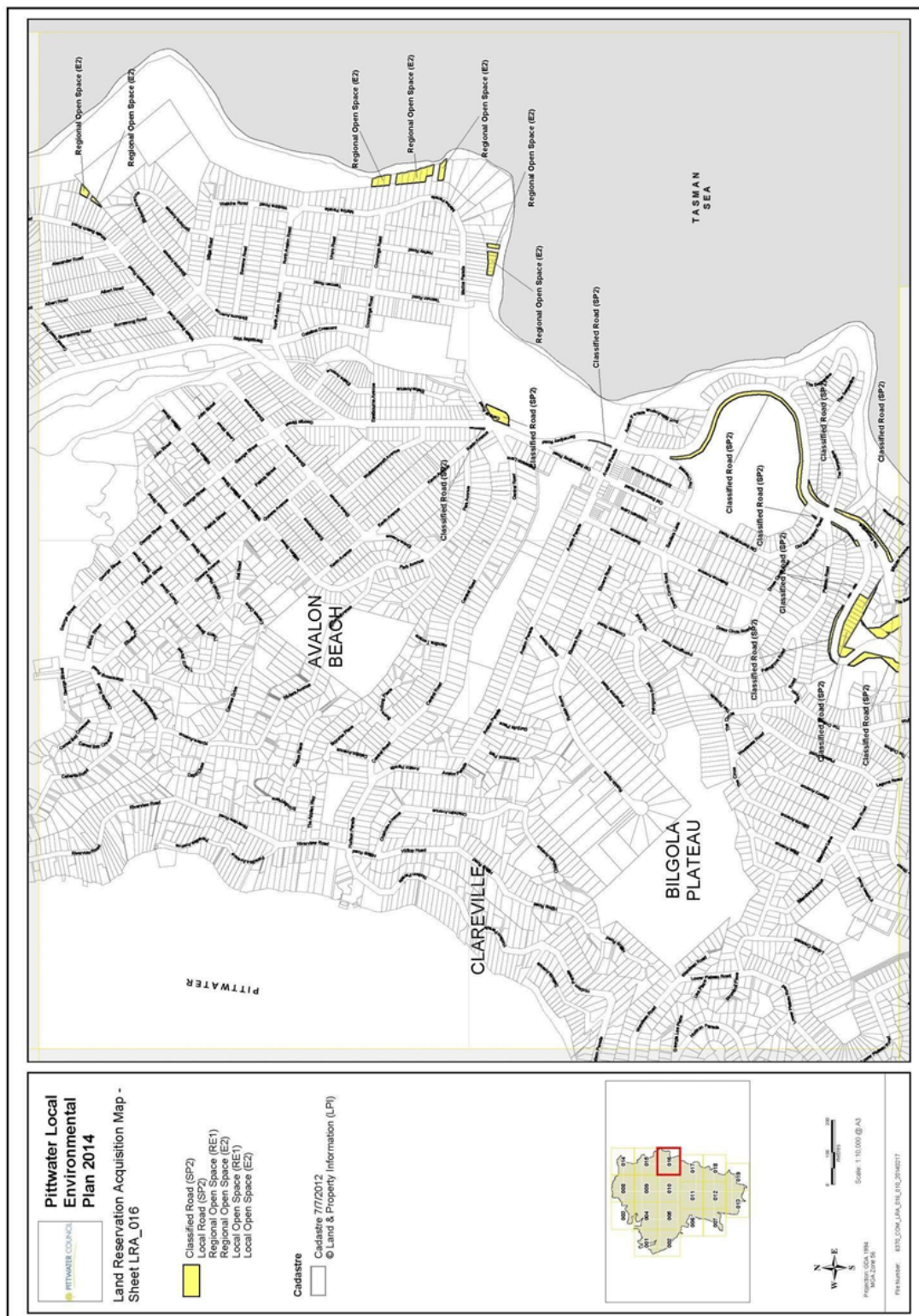










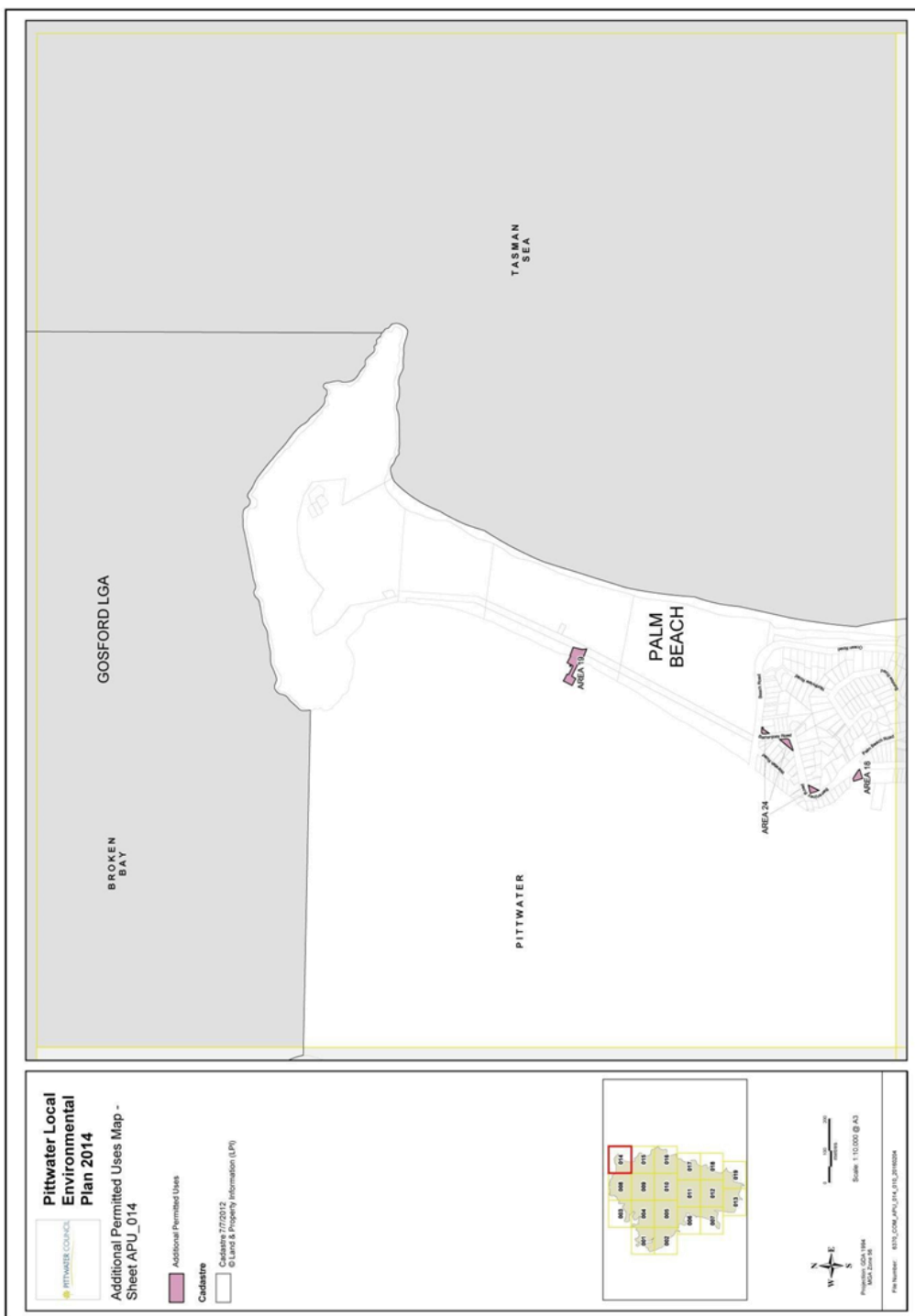


Appendix 4: Proposed Pittwater LEP 2014 Maps

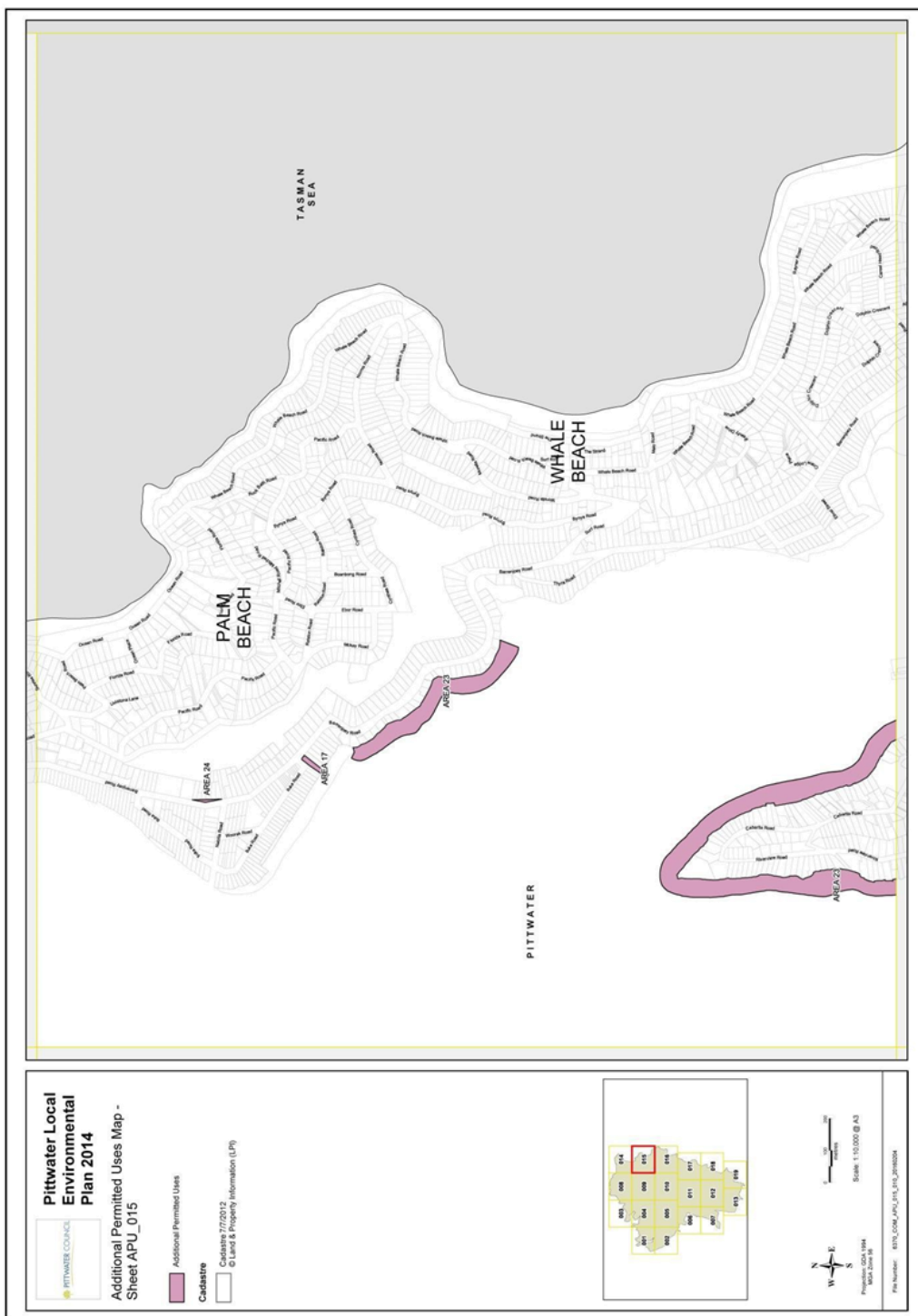
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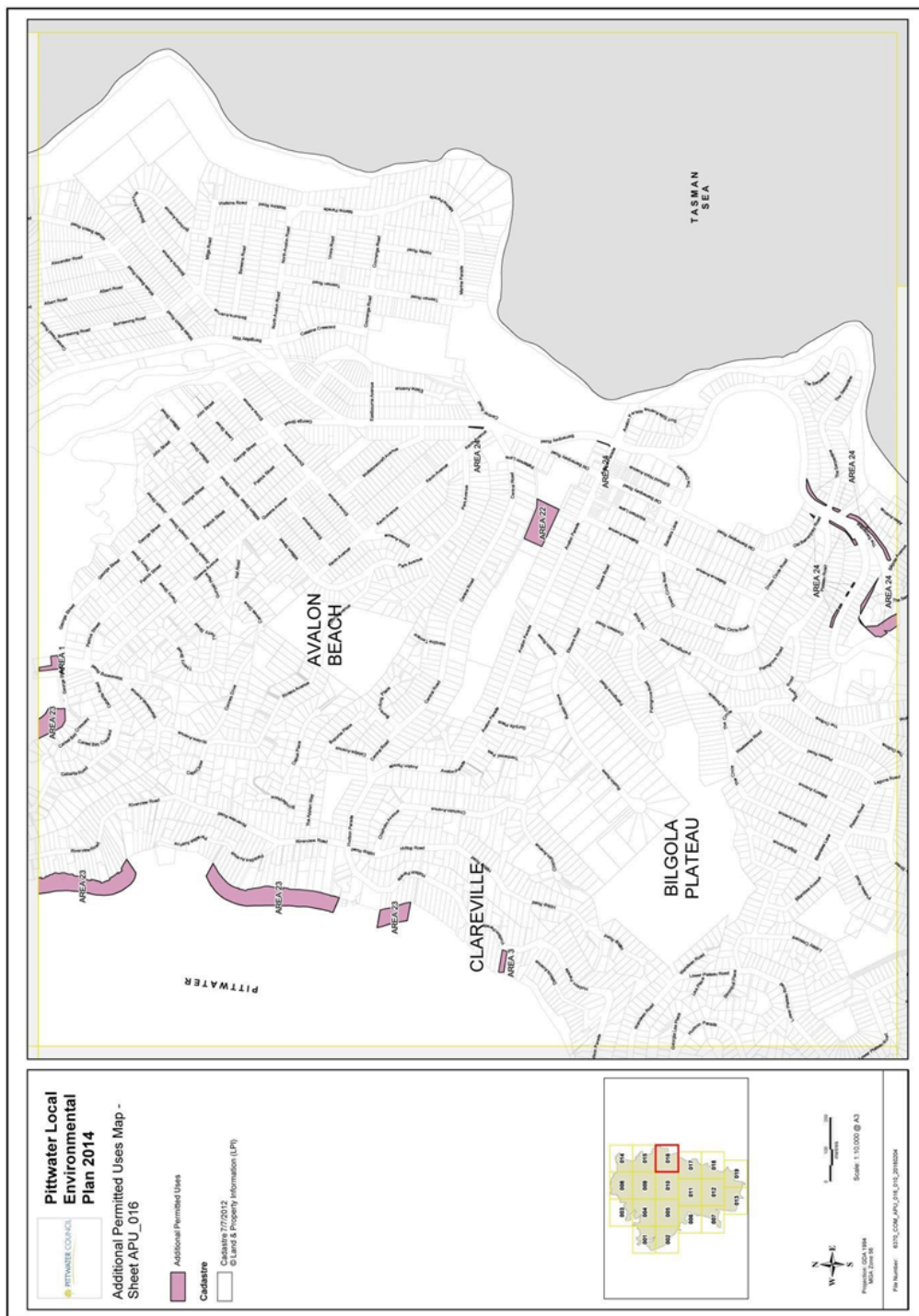
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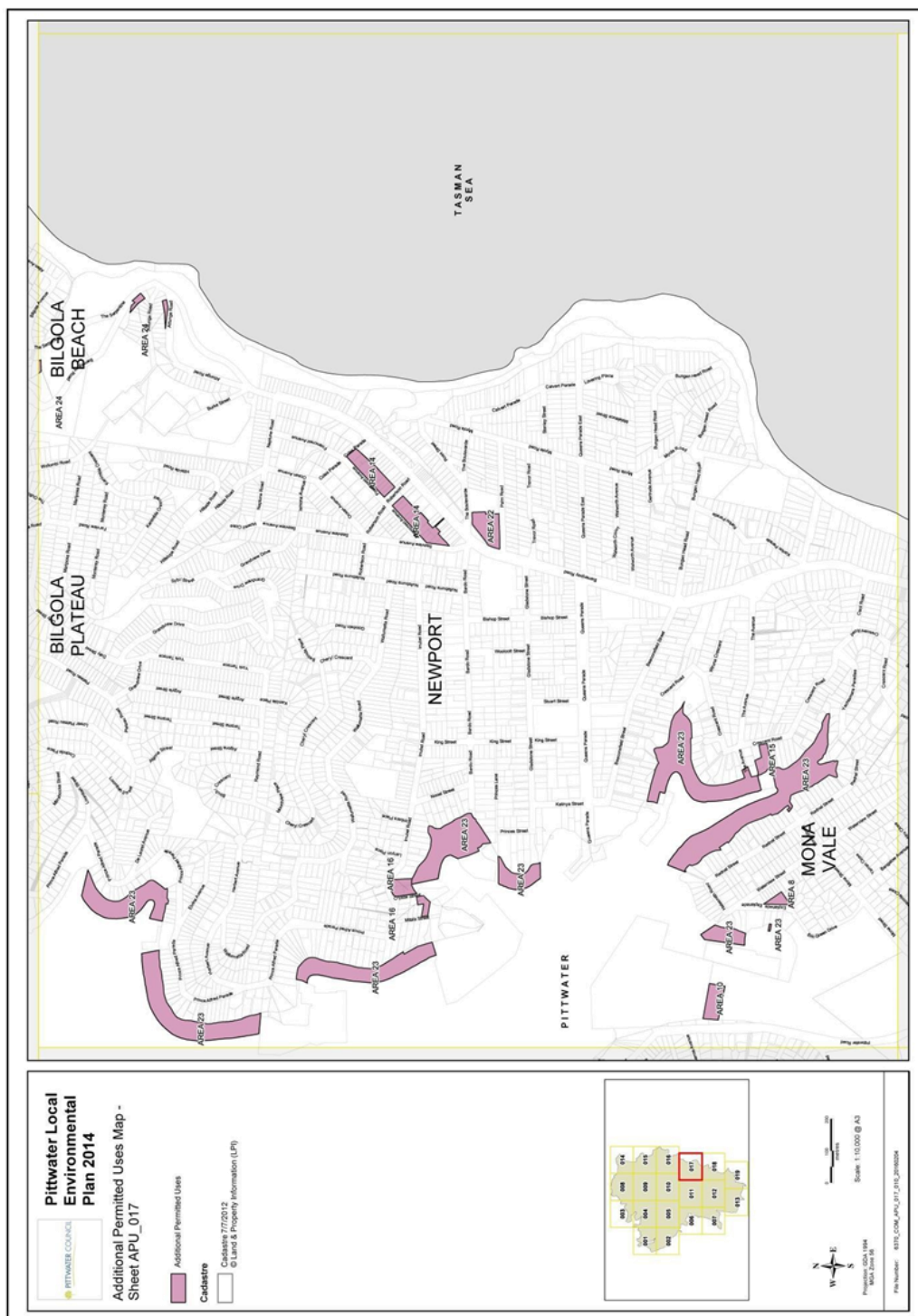
Attachment 4.3



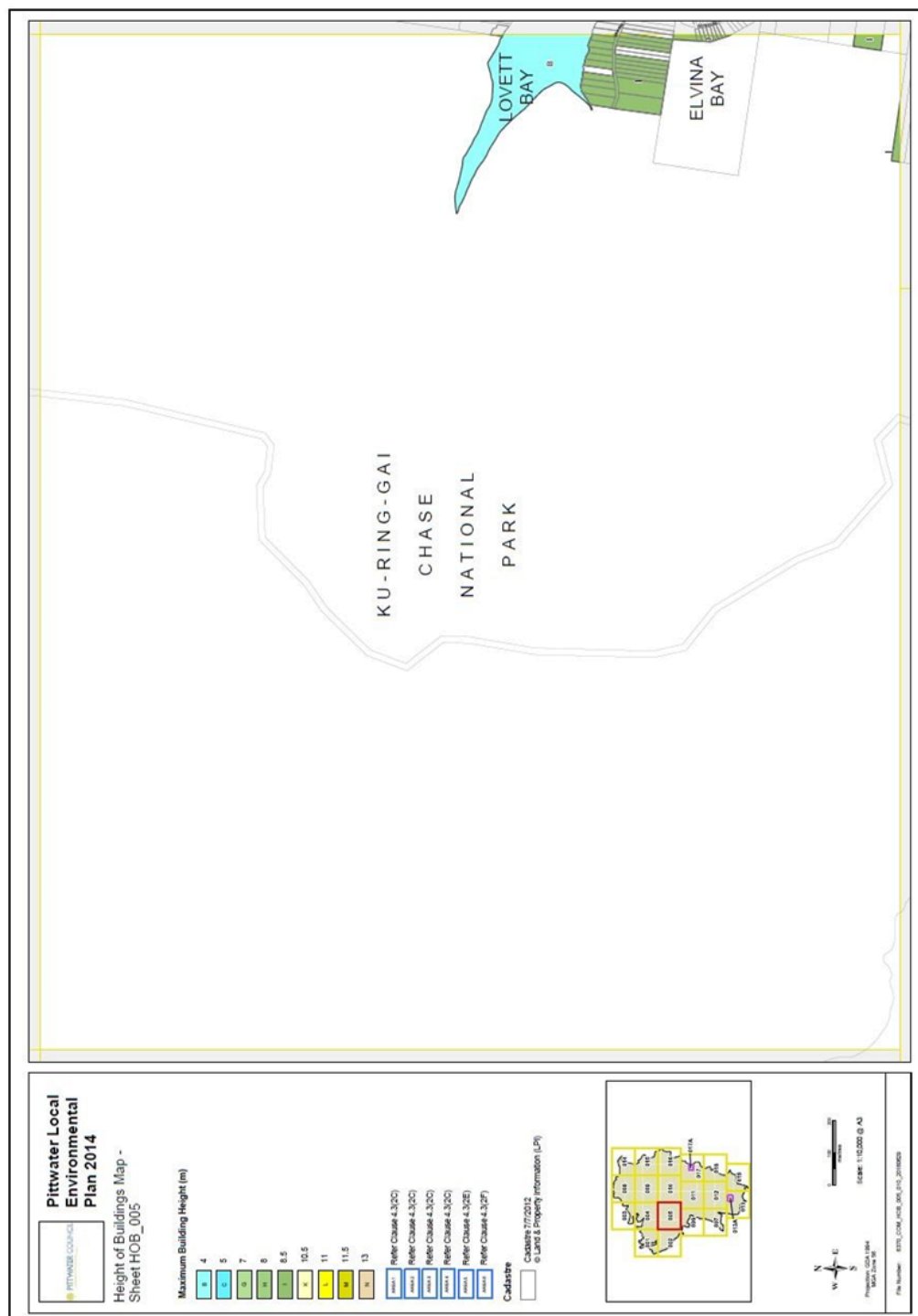
Attachment 4.4



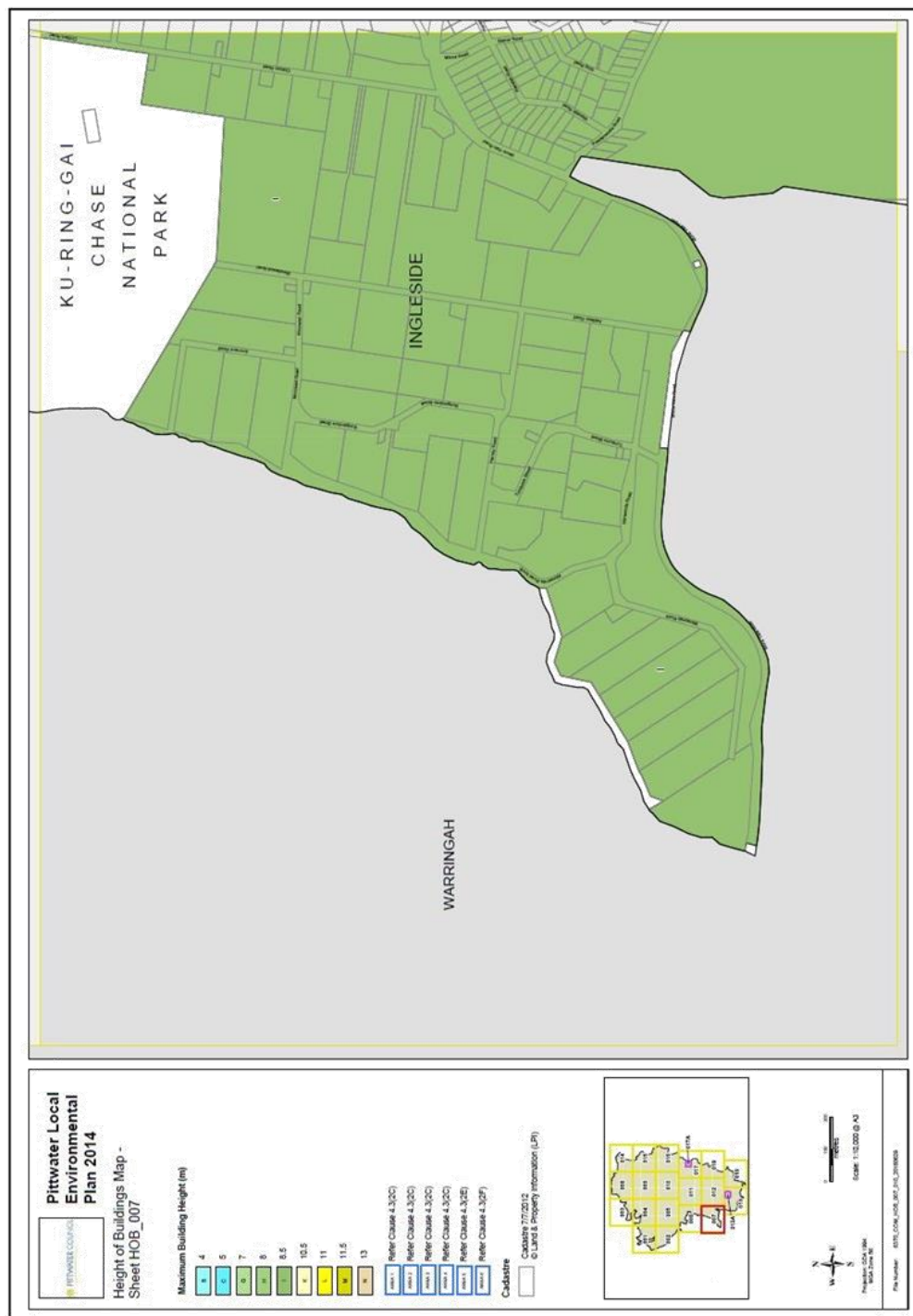
Attachment 4.5



## Attachment 4.6



Attachment 4.7



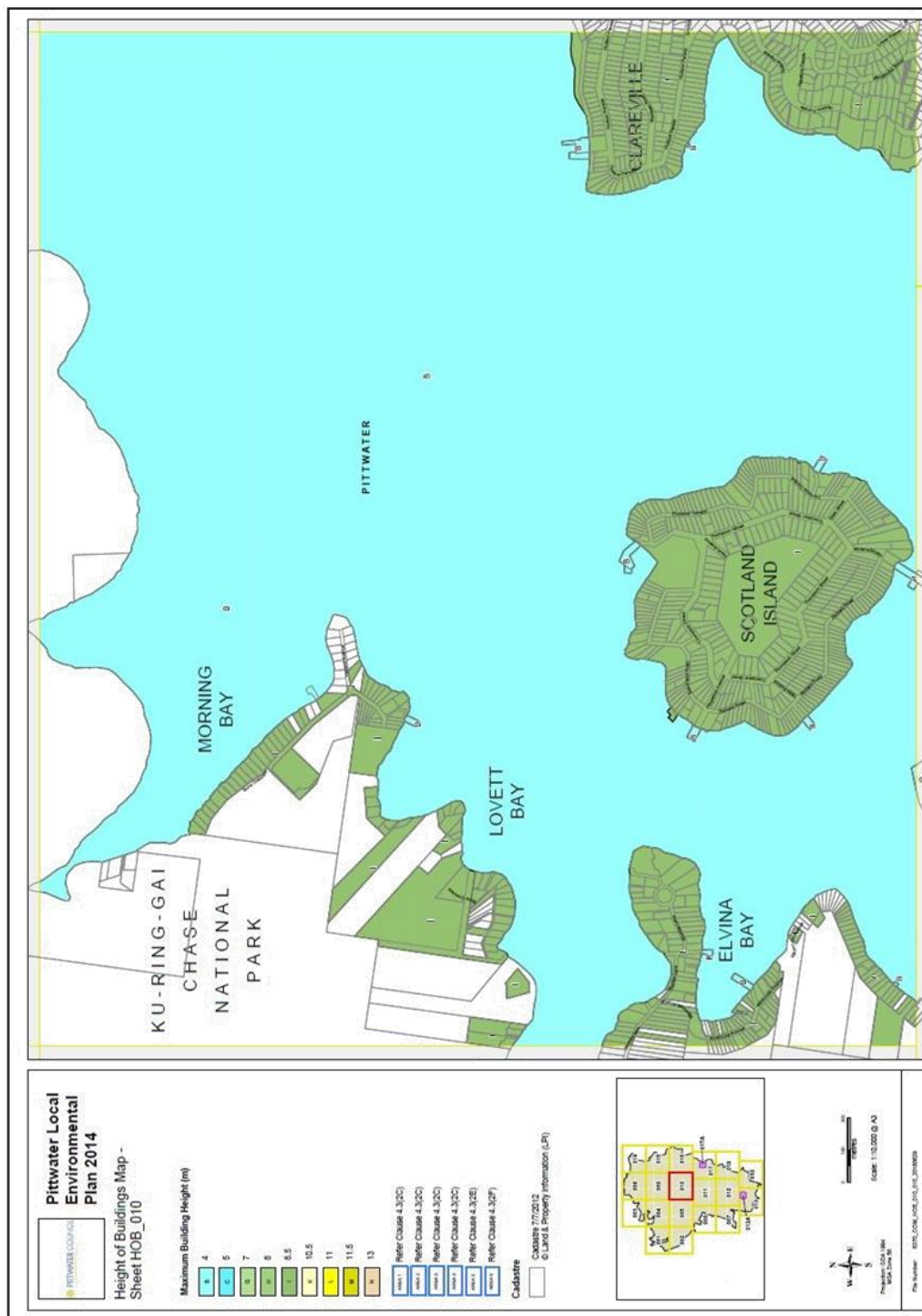
Attachment 4.8



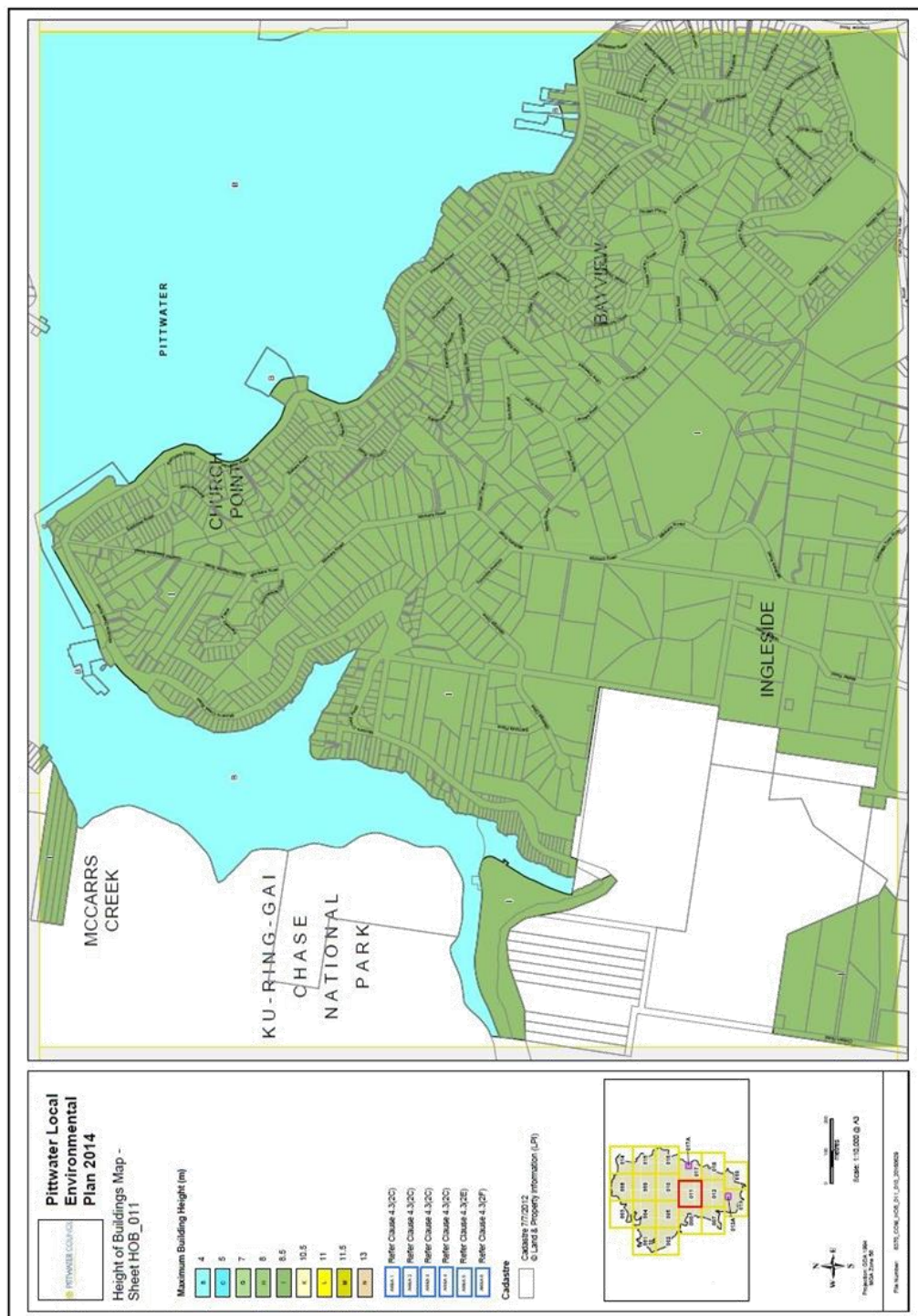
Attachment 4.9



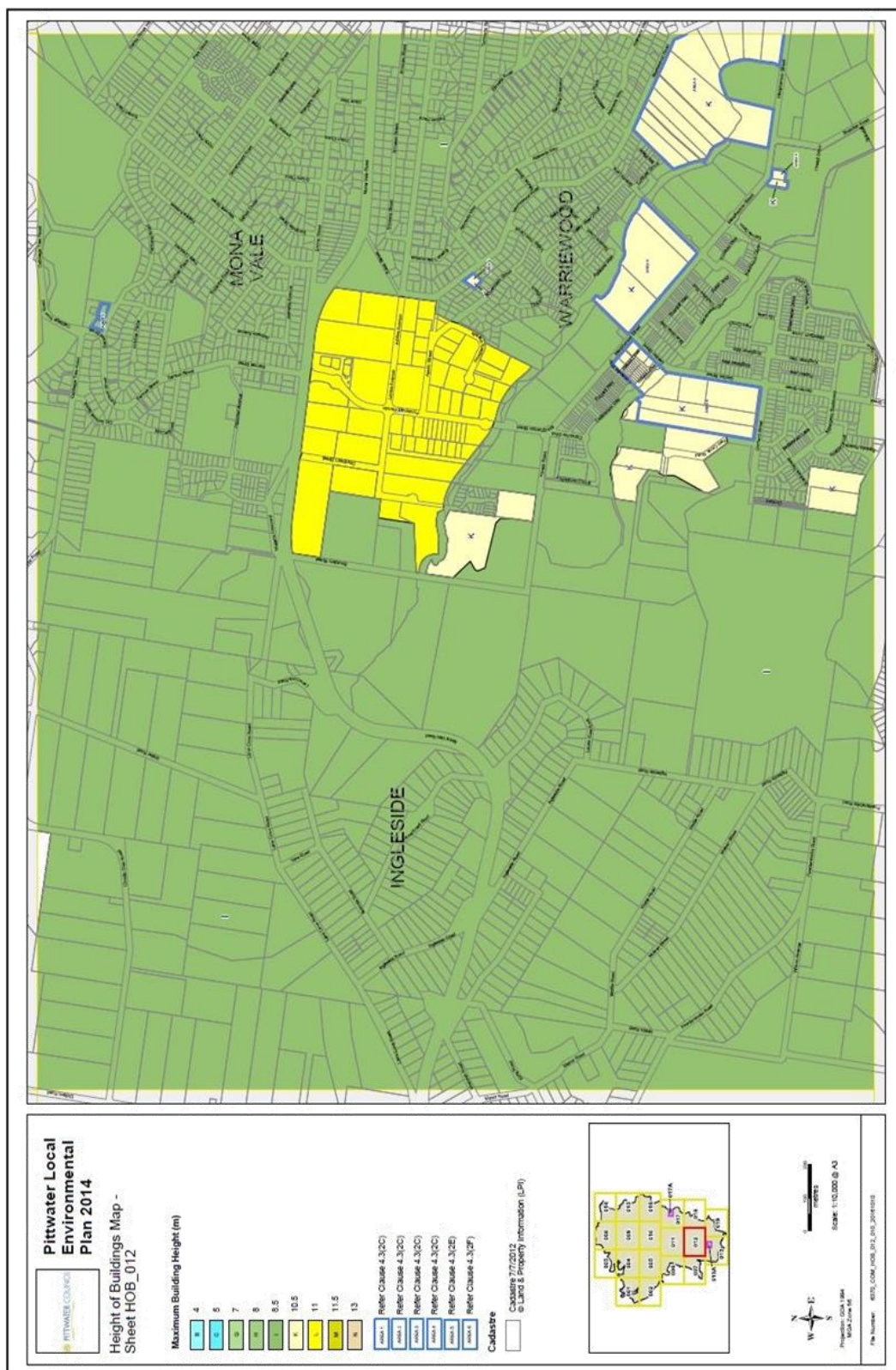
Attachment 4.10



Attachment 4.11



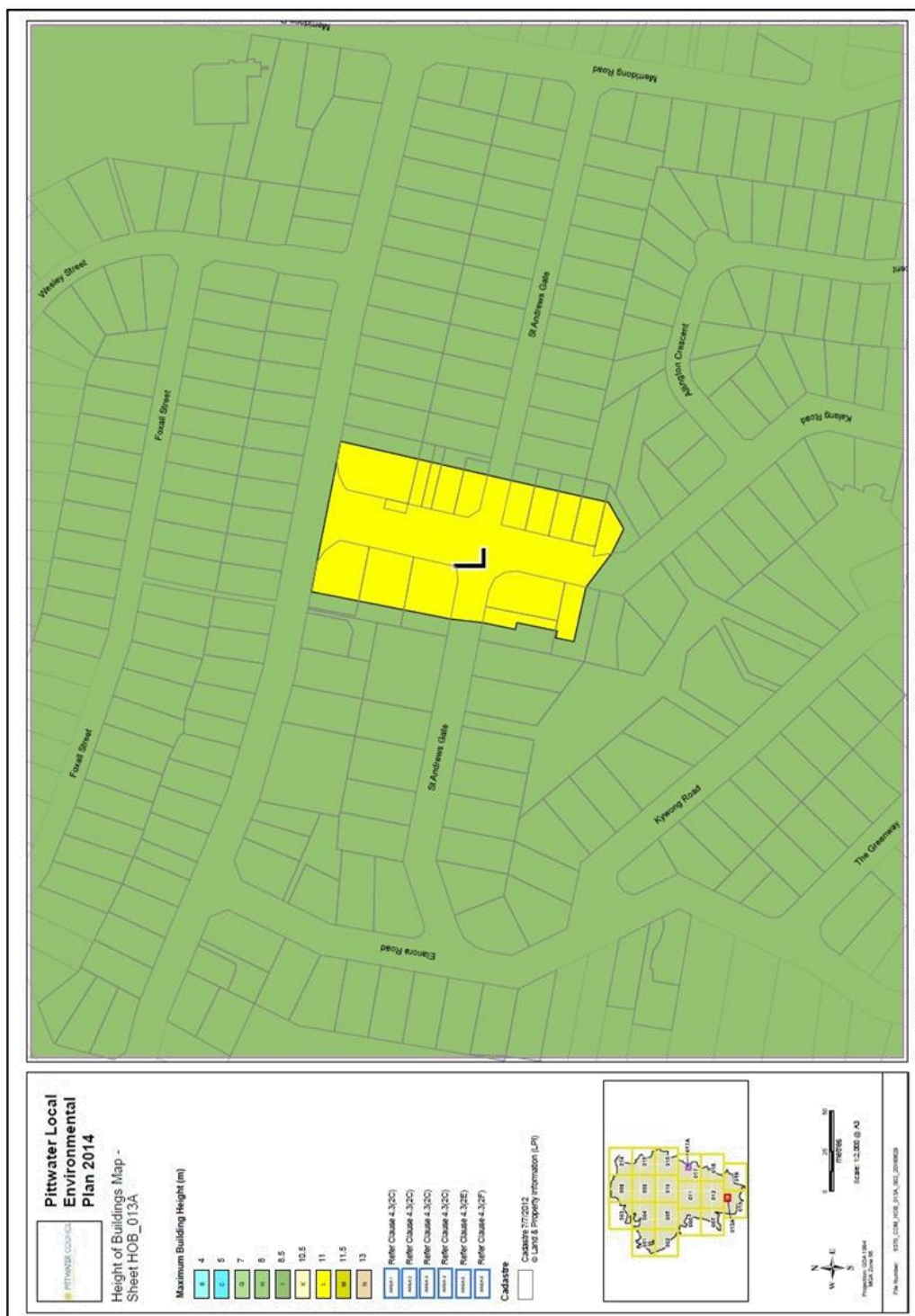
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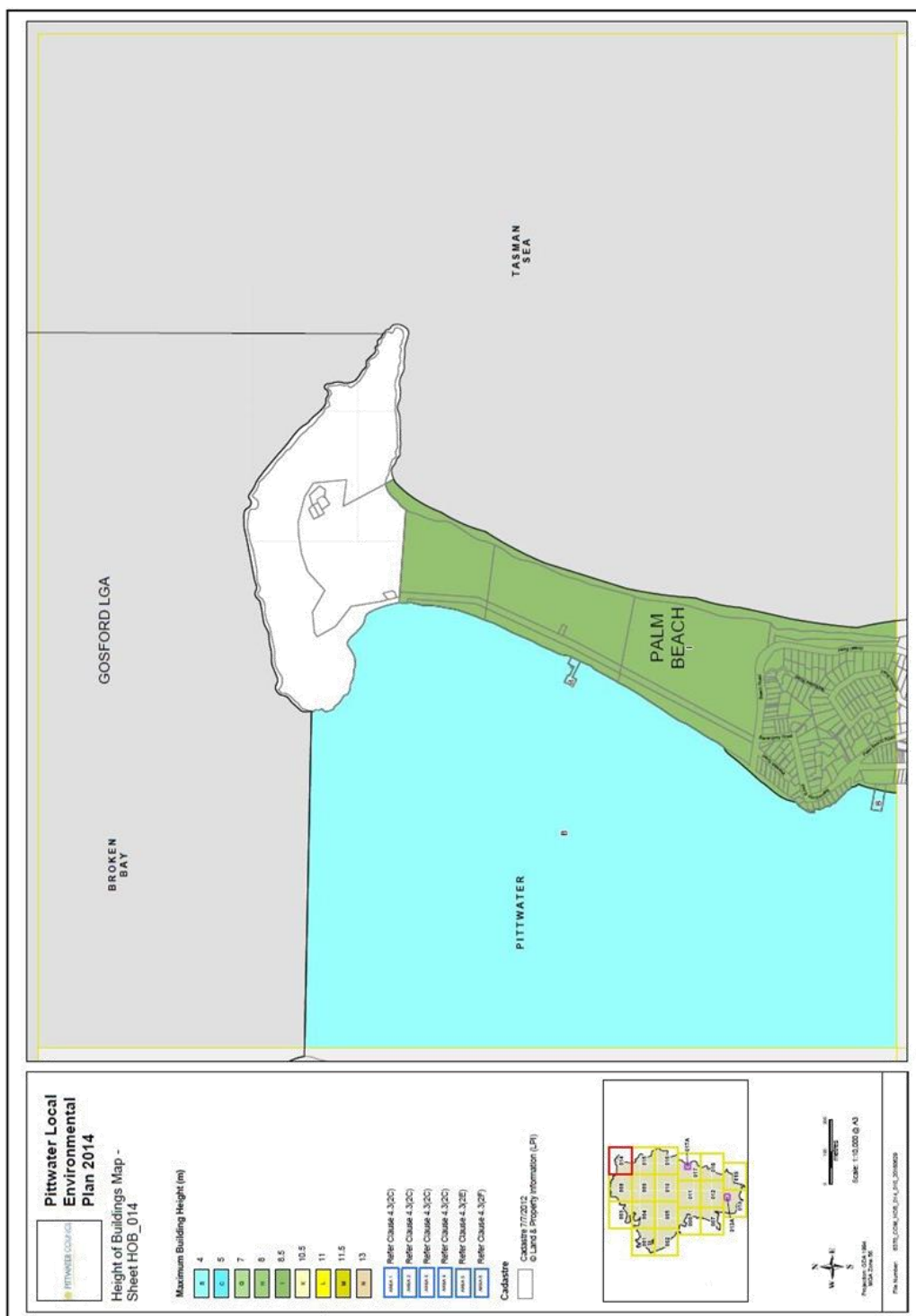
Attachment 4.13



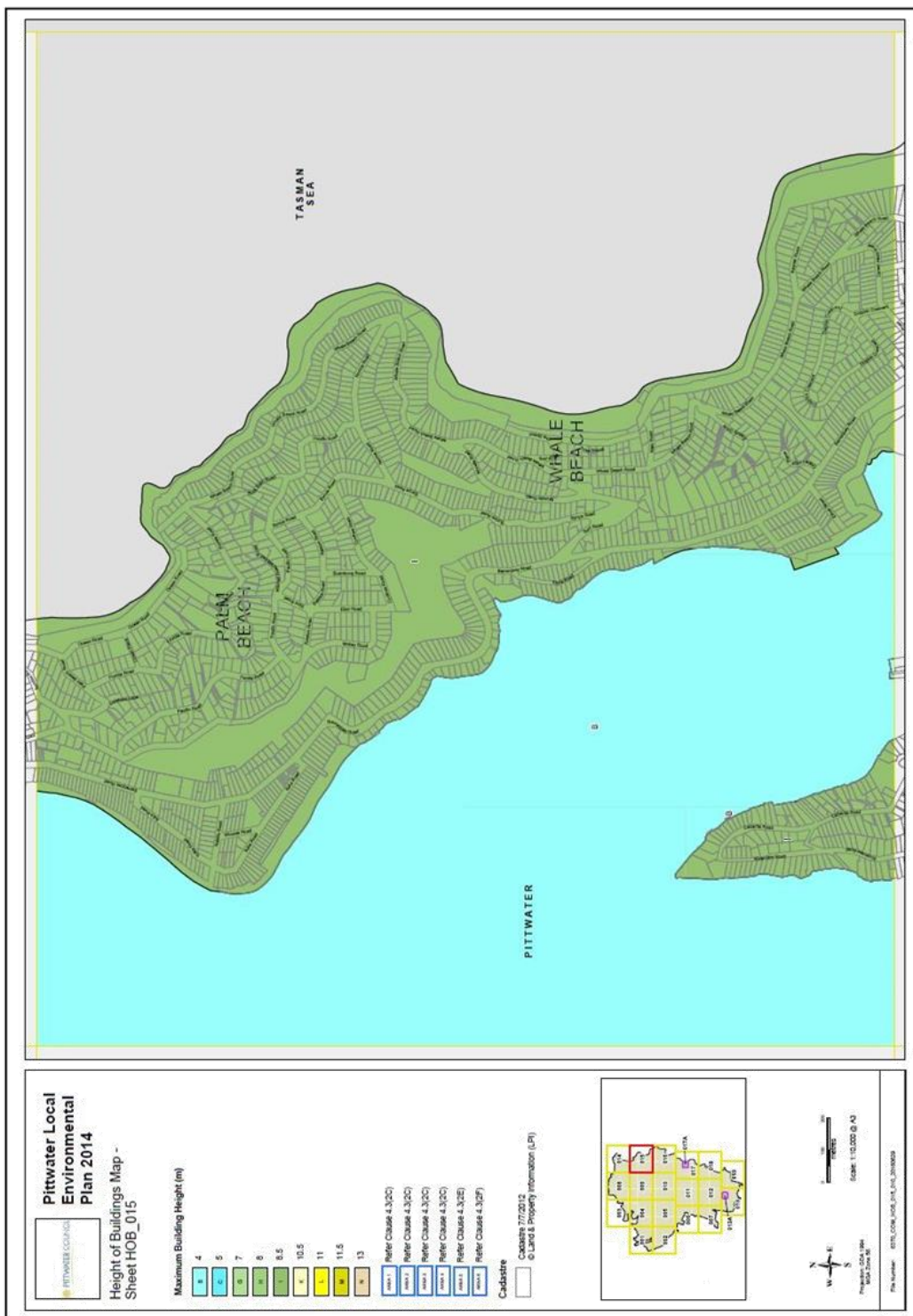
## Attachment 4.14



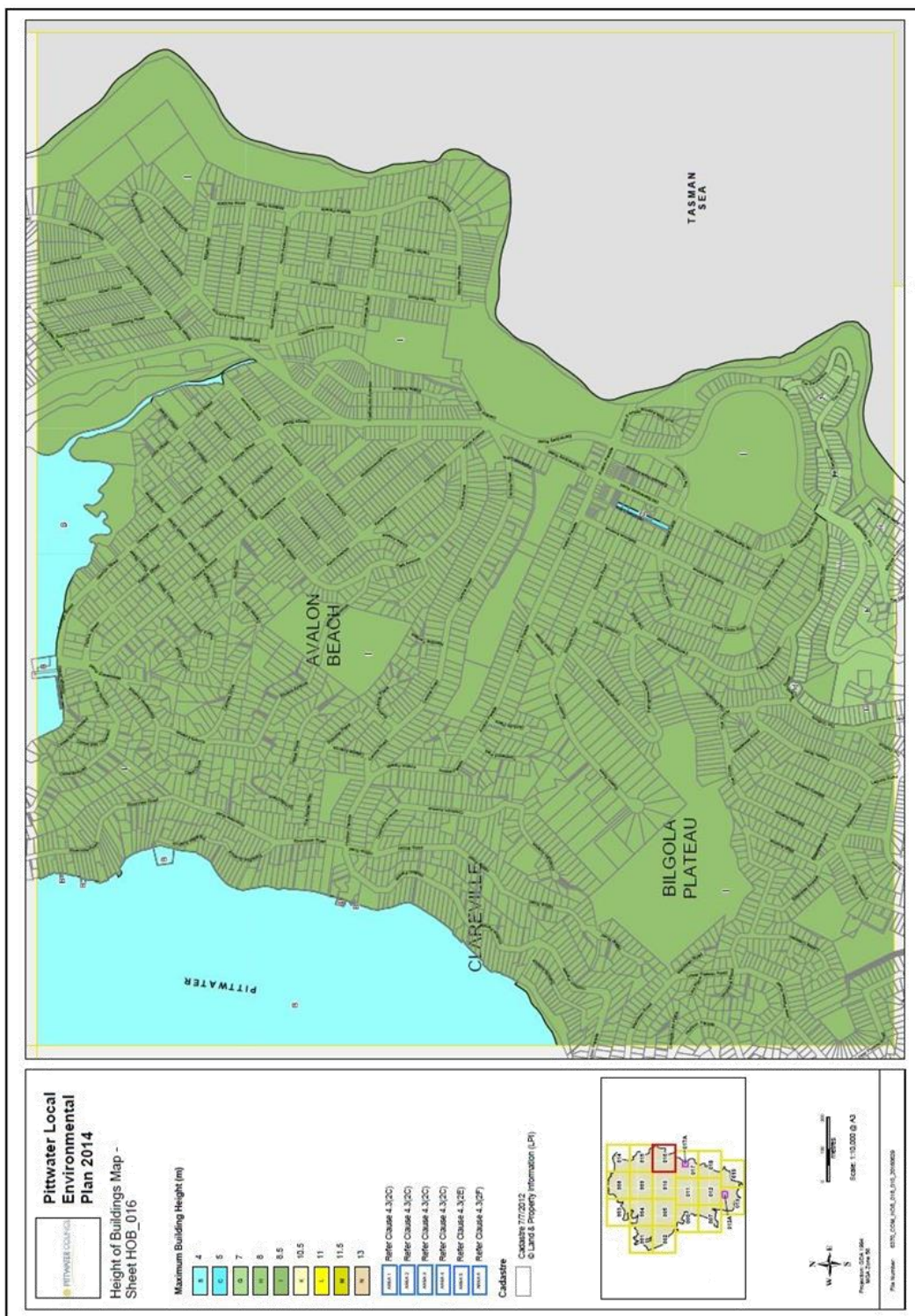
Attachment 4.15



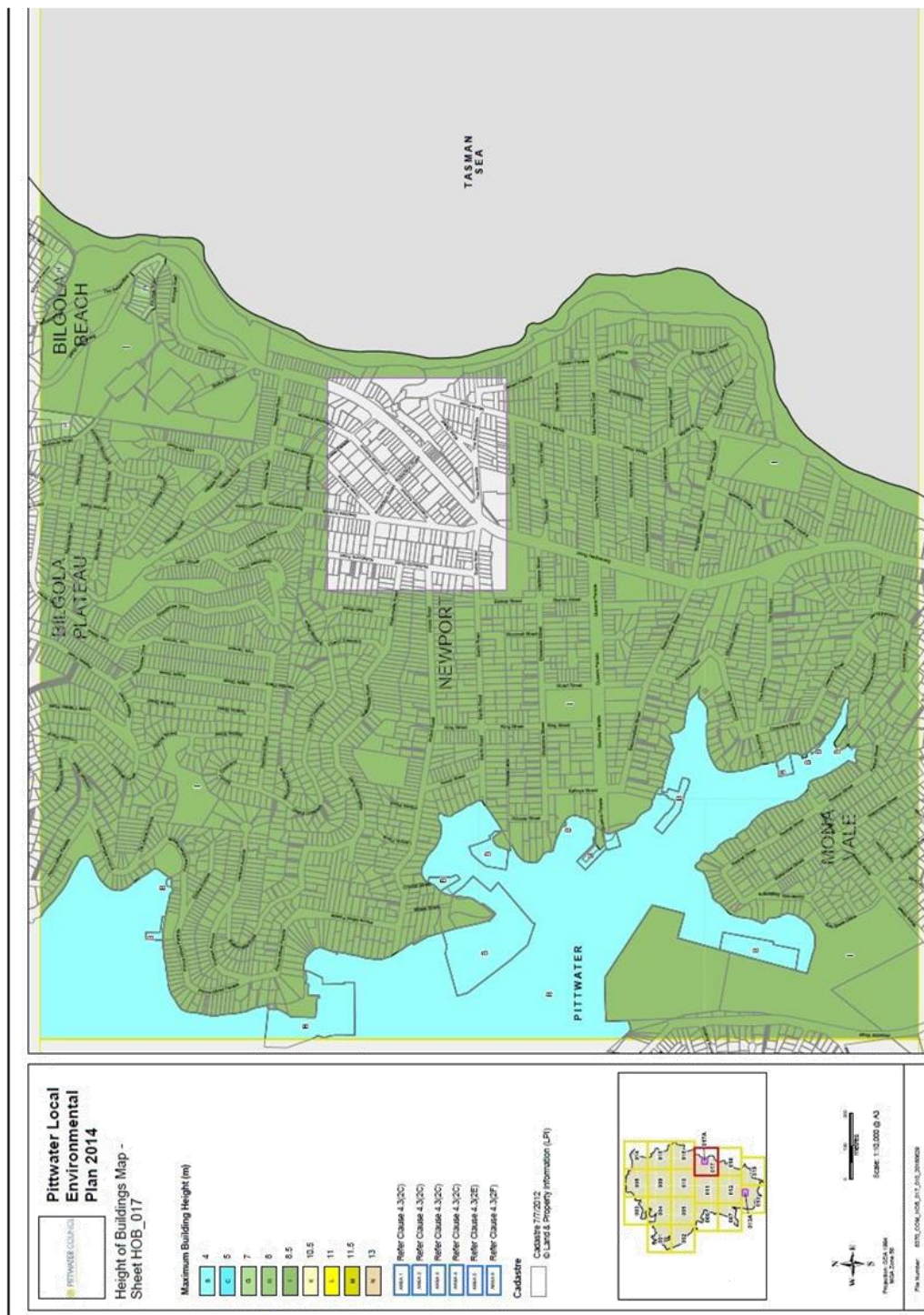
Attachment 4.16



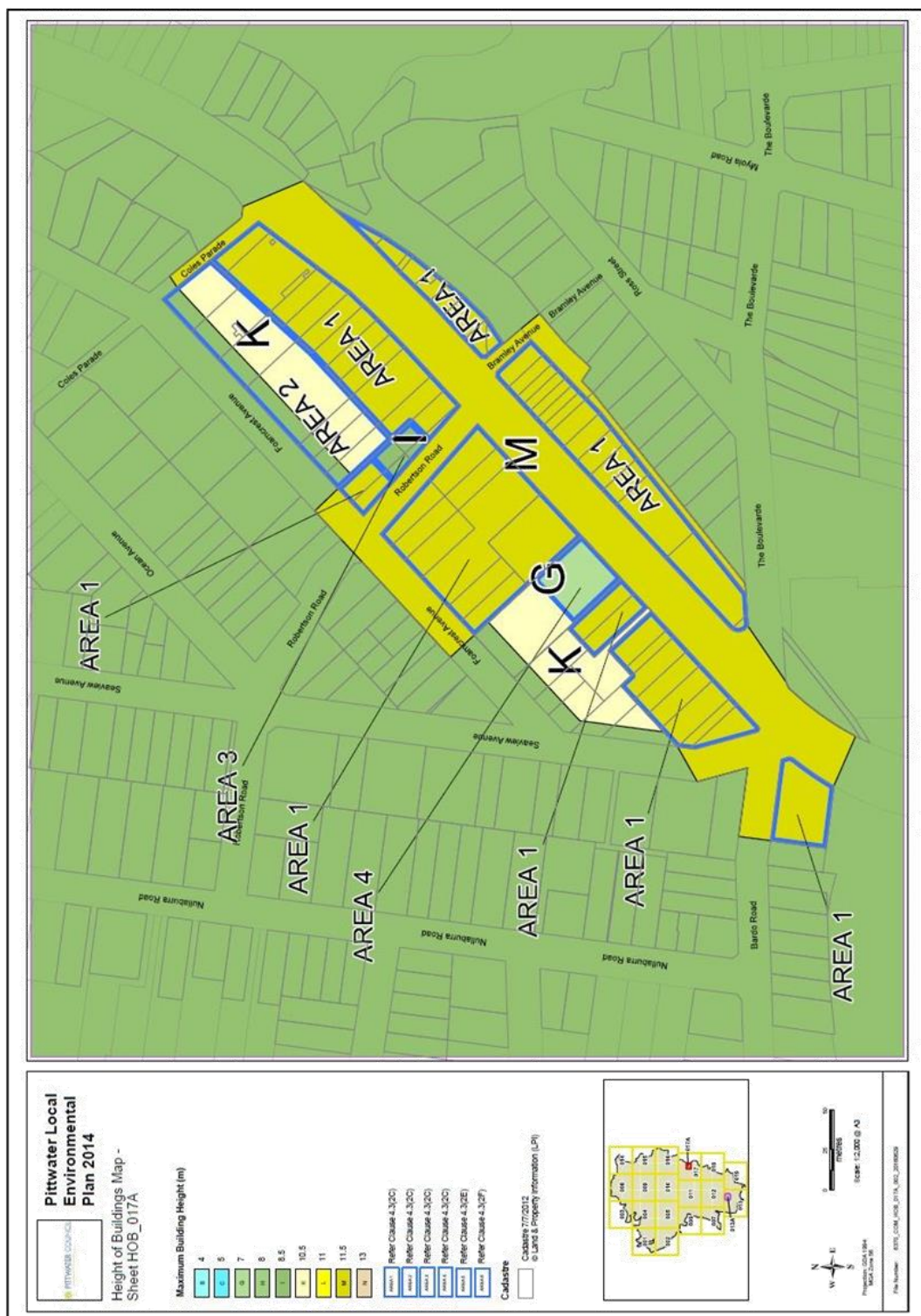
Attachment 4.17



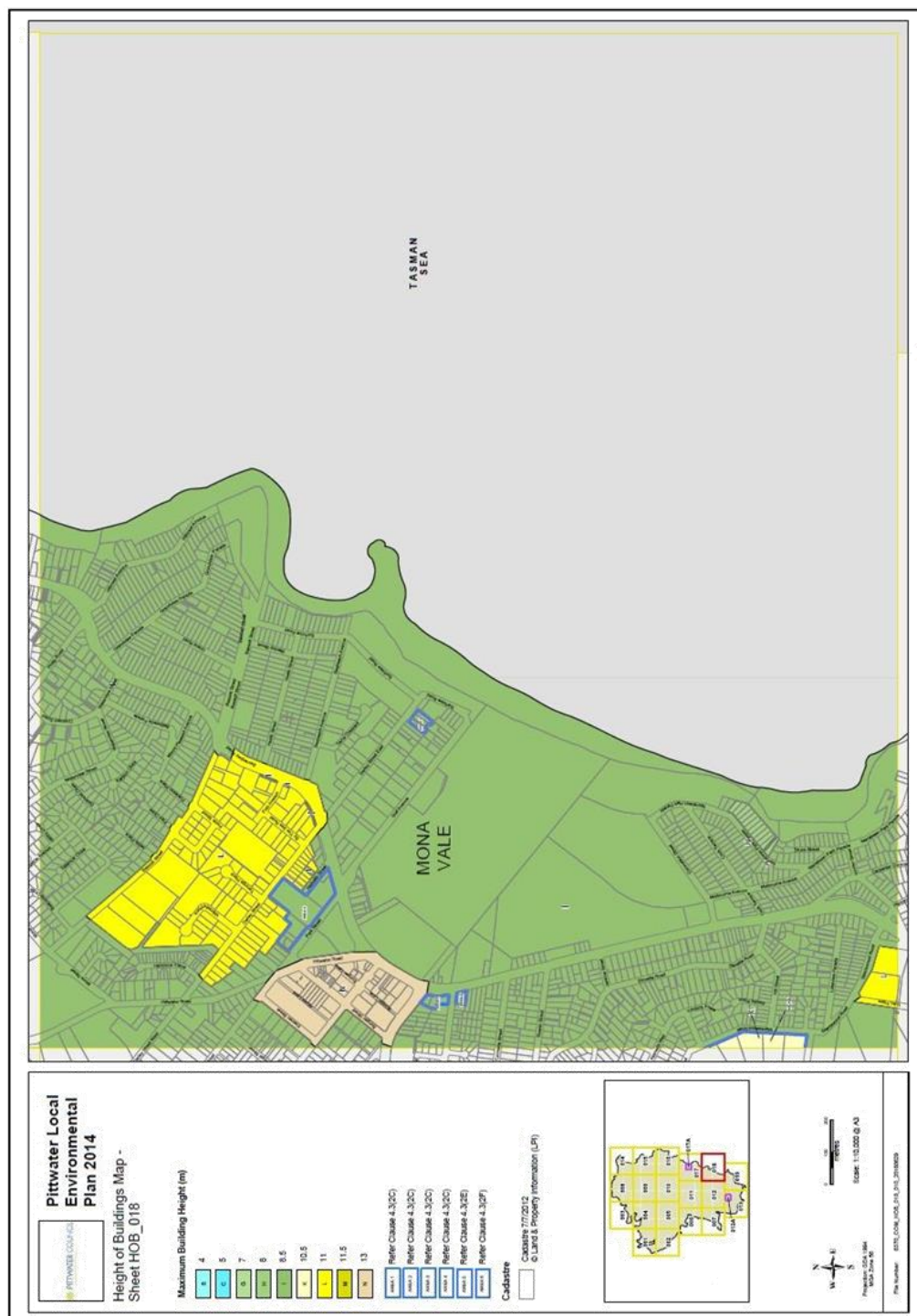
Attachment 4.18



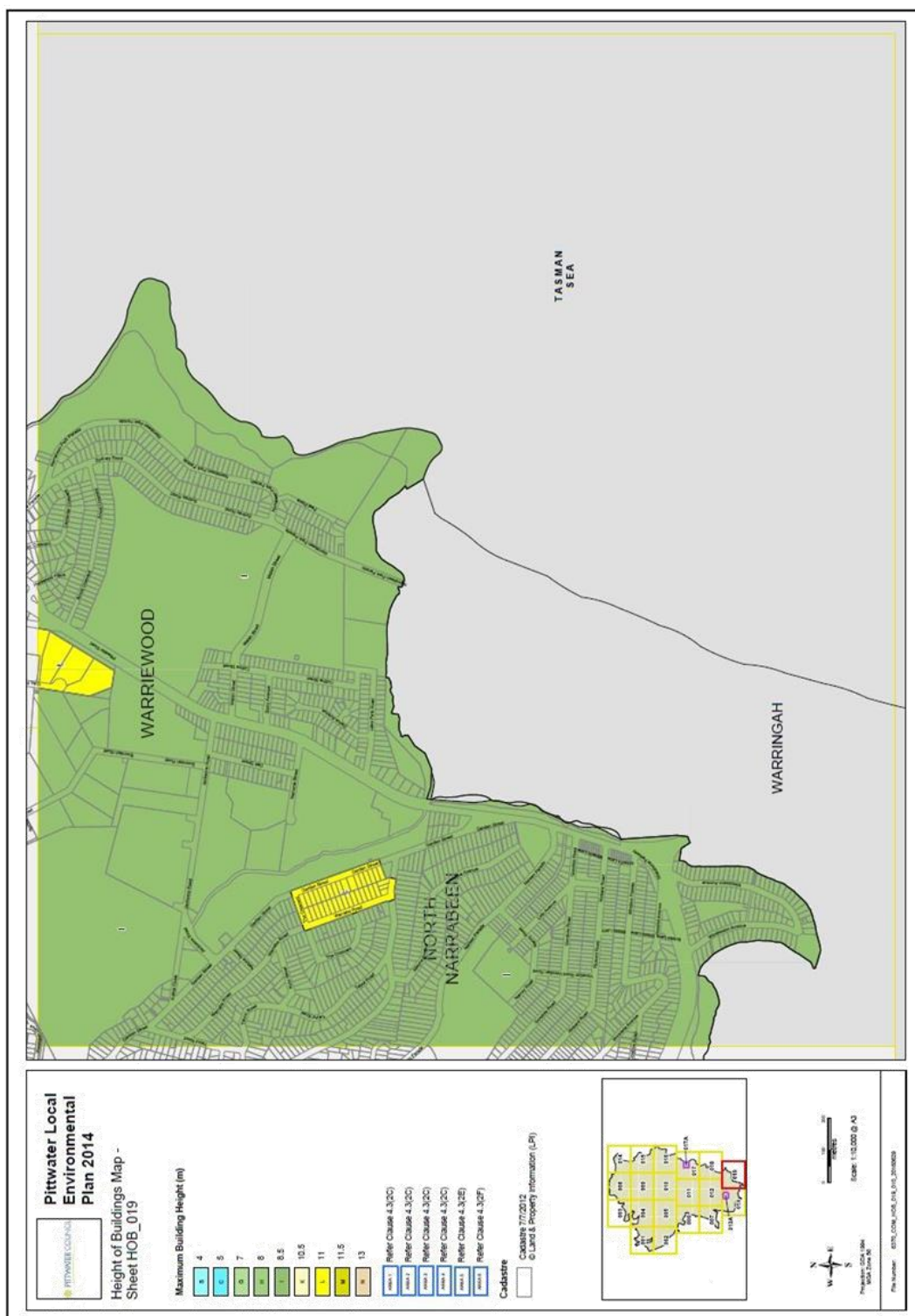
## Attachment 4.19



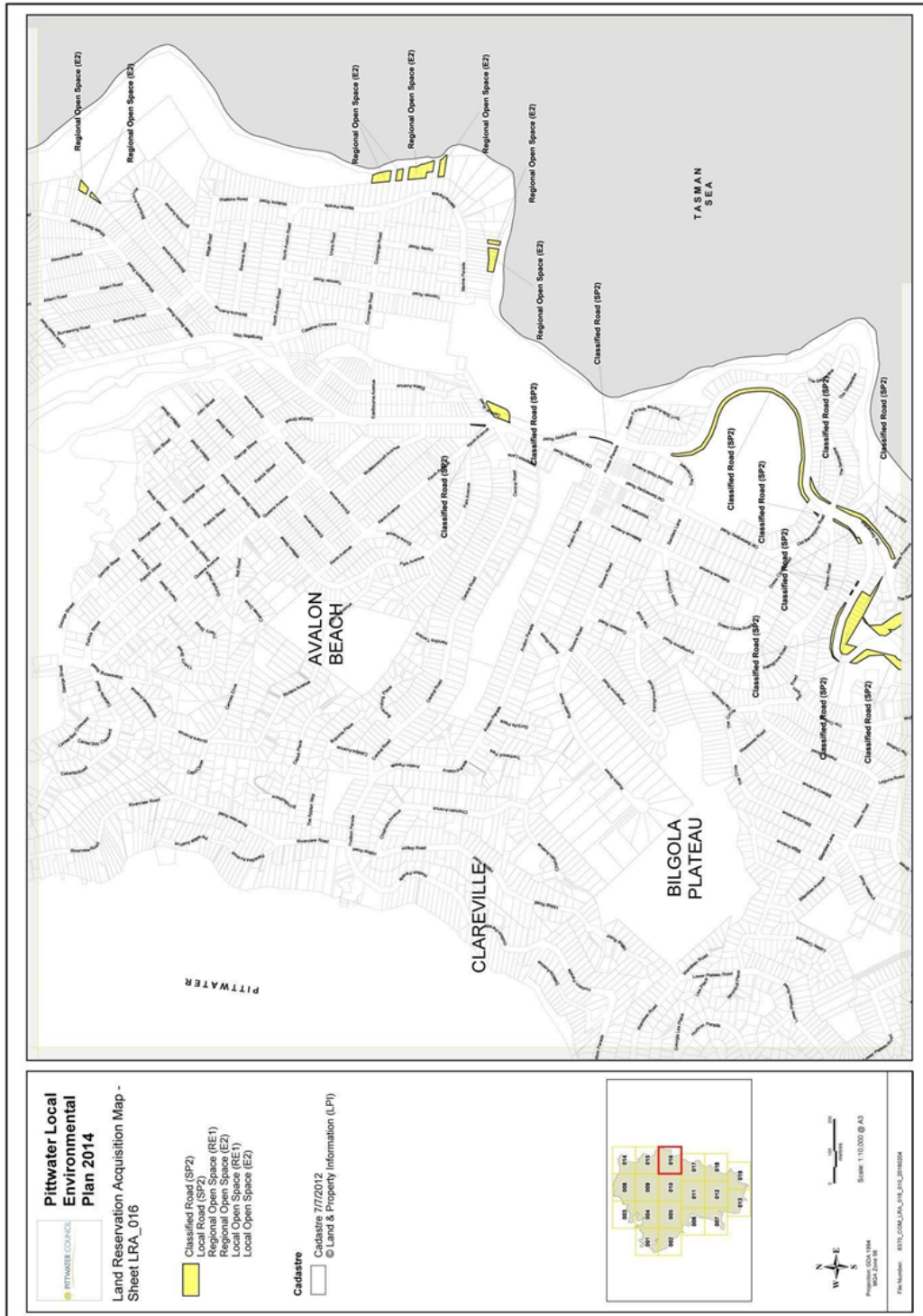
## Attachment 4.20



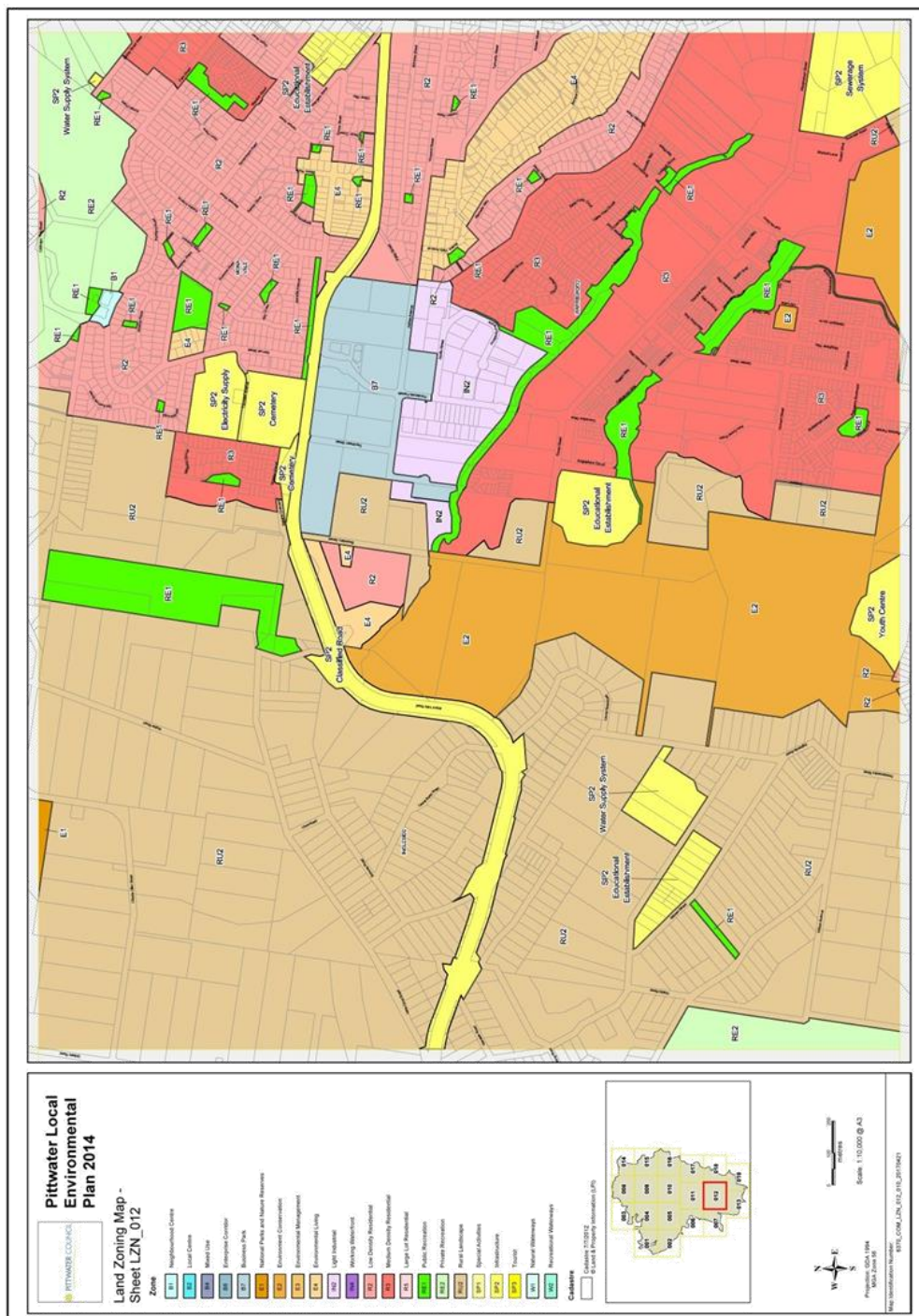
Attachment 4.21



Attachment 4.22



## Attachment 4.23



**ATTACHMENT 4 – SUBMISSIONS RECEIVED DURING EXHIBITION**

**STATE AGENCIES**

AGENCY	SUBMISSION	RESPONSE
Sydney Water	No objections	Noted
Transport for NSW	No objections	Noted

**SUBMISSIONS FROM THE COMMUNITY**

SUBMISSION NUMBER	COMMENTS	MATTER	RESPONSE
1	'rezone an area of Mona Vale from 20,000 to 700 size lots – the property at 14 Walana Crescent, Mona Vale'	Three properties are partially in the Warriewood Valley Urban Release Area  Amend minimum lot sizes for the portion of these properties outside the release area zoned RU2 Rural Landscape.	This particular amendment is longer proposed to be carried due to the likely unintended impacts (as detailed in the report).
	Concerns around hidden agenda/hiding behind 'Housekeeping' or plans not well notified	Planning Proposal in general	Letters were sent to all registered community groups within the area covered by the Pittwater Local Environmental Plan 2014. A notice in the Manly Daily was published and copies of the Planning Proposal were put at Council's customer services centres and main libraries. Comments were invited from interested parties for four weeks.
2	'density yield for Sector 5 (Warriewood Valley) under the LEP is incorrect and does not translate from 32 dwellings/ha which is prescribed under Warriewood Strategy. Yield in the sector should be changed from 94 dwellings to 99. Any re-notification would be far less onerous on Council than a separate planning proposal and fairer way forward for land owners who have been adversely	Planning Proposal in general.	This submission relates to a recent Land and Environment Court decisions at 8 Forest Road, Warriewood and the pro-rata allocation of dwellings across two sites. This matter is outside the scope of the 'Housekeeping' Planning Proposal. Further, re-notification of this planning proposal to make a change to the benefit of an aggrieved

	affected by this error.'		party regarding a development application is not appropriate justification.
<b>3</b>	Request amendments relating to the land zoning and minimum lot sizes for properties in Barkarla Road, Bayview	Planning Proposal in general.	This request is outside the scope and endorsed intent of the Planning Proposal. Council notes there are anomalies in Barkala Road, and have identified this matter as part of future amendments to the Pittwater Local Environmental Plan 2014.