



## Planning Proposal

October 2014

## Ballina Heights Estate

14/66698 Council

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Planning Proposal – October 2014  
Ballina Heights Estate

## INTRODUCTION

### Summary of Planning Proposal

This planning proposal relates to part of the remaining, largely undeveloped components of the Ballina Heights Estate. The proposal seeks to adjust land use zone boundaries and associated planning provisions for a number of sites within the Ballina Heights Estate all of which are either owned by the current developers of the estate (i.e. Vixsun Pty Ltd and the Roman Catholic Church) or which comprise public land in the care and control of Ballina Shire Council.

The land parcels affected by the changes in this planning proposal is shown in Figure 1.

The subject land contains a mix of land use zones and it is proposed to adjust these to better reflect the desired future land use outcomes as preferred by the developers of the estate and to be more consistent with the intent of various plans of subdivision approved in development applications to Ballina Shire Council.

The components of this planning proposal are summarised in Table 1.

The zoning amendments included in this planning proposal also necessitate updates to the following BLEP 2012 maps:

- Land Application Map
- Acid Sulfate Soils Map ASS\_005
- Building Height Allowance Map BHA\_005B
- Flood Planning Map FLD\_005
- Floor Space Ratio Map FSR\_005B
- Height of Buildings Map HOB\_005
- Lot Size Map LSZ\_005B
- Land Zoning Map LZN\_005B
- Strategic Urban Growth Area Map SGA\_005B



Figure 1 – Land affected by planning proposal

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**Table 1 – Schedule of Proposed Changes**

<b>Land Description</b>	<b>Owner</b>	<b>Proposed Change</b>
Lot 116 DP 1058129 Lot 136 DP 1066838 Lot 153 DP 1066838	Ballina Shire Council	Rezone public reserves from R2 Low Density Residential to RE1 Public Recreation, remove minimum lot size provisions.
Lot 360 DP 1189176	Roman Catholic Church	Adjust residential zone boundaries (R2/R3) and associated minimum lot size provisions to reflect future land use intent and subdivision consent.
Lot 360 DP 1189176	Roman Catholic Church	Add RE1 Public Recreation zone to land intended for future public open space, remove minimum lot size provisions.
Lot 389 DP 1199596	Vixsun Pty Ltd	Adjust the B2 Local Centre zone boundary to reflect recently gazetted cadastral boundaries. Also adjust associated minimum lot size, height of buildings and floor space ratio provisions.
Lots 360-376 and 389 DP 1199596	Vixsun Pty Ltd	Adjust residential zone boundaries (R2/R3) and associated minimum lot size provisions to match cadastral boundaries and to reflect future land use intent and subdivision consent.
Lot 388 DP 1199596	Ballina Shire Council	Add recently dedicated public open space to RE1 Public Recreation zone, remove minimum lot size.
Lot 303 DP 1147087 Lot 317 DP 1148856	Ballina Shire Council	Adjust boundaries of RE1 Public Recreation zone to include all open space areas, adjust Land Application boundary and associated mapping for acid sulfate soils, building height allowance and flood planning.
Lot 360 DP 1189176	Roman Catholic Church	Adjust zone boundaries for clarity at eastern extremity of lot.

### Planning Context

#### *Ballina Local Environmental Plan 2012*

The *Ballina Local Environmental Plan 2012* (BLEP 2012) provides a suite of land use zones and associated planning provisions to facilitate various forms of urban development in Ballina Shire. The Ballina Heights Estate has been under development for over 10 years and comprises a mix of residential, business and open space zones.

In the drafting of the BLEP 2012, the approach taken in relation developing residential areas such as the Ballina Heights Estate was to provide for uniform flexibility in the range of permissible land uses. This was achieved through the application of the R3 Medium Density Residential zone. The views of the landowners were sought at the time of drafting, however no indication was given with regard to their preferred zoning outcomes.

With the development of the estate now in its final stages, the landowners have sought to amend the provisions of the LEP to achieve their desired land use outcomes. This planning proposal seeks to refine the existing land use zones and associated planning provisions for sections of the undeveloped components of the estate to ensure the zoning is compatible with the developers' land use intent and is consistent with development approvals for the subdivision of the land.

#### *Residential Zones*

This planning proposal seeks to adjust existing zone boundaries in undeveloped stages of the Ballina Heights Estate to reflect the developers' preferred land use outcomes and to be generally consistent with subdivision consents granted by Council. It is proposed to apply the R2 Low Density Residential zone to the majority of this residual component of the estate with certain lots retaining the R3 Medium Density zone to enable medium density and dual occupancy development.

These changes to residential zoning are primarily intended to provide for consistency with previous subdivision approvals within the estate. The exception to this is that the developer proposes to retain ten lots under the current R3 Medium Density Residential zone that are not currently approved as dual occupancy lots (five are currently subject to a s96 modification to the development approval for Stage 8A to provide for designation of additional dual occupancy lots). This is generally consistent with the principle of providing for some variation in housing types in the estate and the concept of providing an indication of intended development outcomes prior to sale of individual allotments.

#### *Business Zone*

The Ballina Heights Estate includes an area of B2 Local Centre zone on its western edge. This land is to contain a future mixed use development including commercial and retail components. Recent registration of subdivision plans has more clearly defined the eastern boundary of this commercial precinct. This planning proposal seeks to align the boundary between the B2 Local Centre (and its associated land use controls such as height of buildings, floor space ratio and special minimum lot sizes) and the rest of the estate (general R2 Low Density Residential zone) along the recently gazetted cadastral boundary for Ballina Heights Drive.

*Open Space Zone*

The Ballina Heights Estate contains a number of areas of public open space, some already in Council's control and ownership and others soon to be dedicated. Now that the boundaries of these areas of current and near future open space areas have been finalised, this planning proposal seeks to apply the RE1 Public Recreation zone to all public open space land currently in Council's ownership and those areas identified as soon to be dedicated. In addition, this planning proposal seeks to add a number of additional areas already in Council's ownership and functioning as open space into the RE1 zone. In conjunction with the application of the RE1 zone, existing minimum lot size provisions for this land will be removed consistent with Council's approach to managing RE1 zoned land across the Shire.

An adjustment to the boundary of the RE1 Public Recreation zone on the eastern edge of the estate will necessitate an adjustment to the Land Application Map and removes an area currently identified as Deferred Matter. This will consequently result in changes to the Acid Sulfate Soils Map, Building Height Allowance Map and Flood Planning Map.

Ballina Shire Growth Management Strategy 2012

The Ballina Shire Growth Management Strategy 2012 provides the strategic planning context for urban development in Ballina Shire. The proposed changes to the planning provisions affecting the land to which this planning proposal relates are consistent with Council's Growth Management Strategy as the estate is a planned residential area.

**PART 1 – OBJECTIVES & INTENDED OUTCOMES**

The objective of this planning proposal is to acknowledge the development outcomes intended for the land based on the developers' preferred land uses and a series of existing subdivision consents.

The primary outcomes of the change will be a reduction in the area of land zone R3 Medium Density Residential and an increase in the areas zoned R2 Low Density Residential and RE1 Public Recreation.

**PART 2 – EXPLANATION OF THE PROPOSAL**

The proposal will result in adjustments to the land use zoning and associated planning controls applicable to undeveloped sections of the Ballina Heights Estate. These areas are in the ownership of the developers of the estate (the Roman Catholic Church and Vixsun Pty Ltd).

The proposal also seeks to modify certain zoning provisions and planning controls applicable to existing and soon to be dedicated open space areas in the Ballina Heights Estate.

The specific changes included in this proposal are detailed in Table 1 above.



**PART 3 – JUSTIFICATION**

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

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

The proposal is not the result of any strategic study or report.

The need for the planning proposal has arisen as a result of the processes associated with the implementation of the BLEP 2012. At the time of preparation of the BLEP 2012, the planning for the Ballina Heights Estate had not been finalised. With the developers of the Ballina Heights Estate now in a position to indicate the intended land use outcomes for a substantial portion of the estate, Council is now in a position to define with more certainty the final land use outcomes desired for the estate by way of zoning.

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

The planning proposal is considered to be the most appropriate means of securing the intended development outcomes for the land into the future as the change sought relates specifically to permissibility of land uses in residential zones.

**Section B - Relationship to the 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 proposal is consistent with the Far North Coast Regional Strategy (FNCRS), which provides the regional framework for the consideration of policy development and the overall vision of the future. The Ballina Heights Estate is a planned residential area.

**4. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plans?**

The planning proposal is consistent with the local and regional planning framework and Council's Community Strategic Plan as it provides for a mixture of housing types (notwithstanding the reduction in the area of land zoned for medium density development) in a planned residential area. It does not compromise the overall intended density outcomes for the area.

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

Yes, the proposal is generally consistent with applicable State Environmental Planning Policies (SEPP).

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

Yes, the proposal is consistent with the relevant Section 117 Directions. A Section 117 Direction checklist for the planning proposal is contained in Appendix A.

**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 proposal seeks to apply a refined regime of land use zones and associated planning controls to land within the Ballina Heights Estate. The majority of this land has been previously zoned and approved as being suitable for urban residential development. Additional areas within the estate have been identified and approved for dedication as public open space. These public open space areas are either already in Council ownership or will soon be dedicated. They comprise a mix of active and passive public recreation land uses and include areas that will be retained and restored as significant urban bushland.

As a result, there is not considered any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as part of the proposal.

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

No significant adverse environmental impacts are likely to arise as a result of the planning proposal.

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

As a consequence of its relatively minor nature, no broad positive or negative social or economic impacts are likely to arise as a result of the planning proposal.

**Section D - State and Commonwealth interests.**

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

The planning proposal does not create the need for any additional public infrastructure.

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

Consultation will be undertaken with relevant agencies during the public exhibition stage of the LEP amendment in accordance with the Gateway determination.

#### PART 4 – MAPPING

The amendments included in this planning proposal will necessitate updates to the following BLEP 2012 maps:

- Land Application Map
- Acid Sulfate Soils Map ASS\_005
- Building Height Allowance Map BHA\_005B
- Flood Planning Map FLD\_005
- Floor Space Ratio Map FSR\_005B
- Height of Buildings Map HOB\_005
- Lot Size Map LSZ\_005B
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- Strategic Urban Growth Area Map SGA\_005B

Copies of the full draft amended map tiles referenced above maps are included in Appendix B.

#### PART 5 – COMMUNITY CONSULTATION

It is proposed that this planning proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*.

#### PART 6 – TIMELINE

The proposed timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion (Before)
Gateway Determination	November 2013
Government Agency Consultation	January 2014
Public Exhibition Period	January-February 2014
Public Hearing	N/A
Submissions Assessment	February 2014
RPA Assessment of Planning Proposal and Exhibition Outcomes	February 2014
Submission of Endorsed LEP to DP&I for Finalisation	March 2014
RPA Decision to Make the LEP Amendment (if delegated)	March 2014
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	March 2014

<b>APPENDICES</b>
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**Appendix A – Section 117 Direction Checklist**

<b>Section 117 Direction Checklist</b>	
<b>Planning Proposal Ballina Heights Estate, Cumbalum</b>	
<b>Direction No.</b>	<b>Compliance of Planning Proposal</b>
<b>1. Employment and Resources</b>	
1.1 Business and Industrial Zones	<p>Consistent. This planning proposal seeks to adjust the existing boundary of the future commercial precinct of the Ballina Heights Estate. This land is currently zoned B2 Local Centre and the proposed amendment equates to a minor adjustment to the existing eastern boundary of this future precinct to reflect recently gazetted cadastral boundaries.</p> <p>The functional area of the future commercial precinct is not compromised by this adjustment.</p>
1.2 Rural Zones	Does not apply to planning proposal.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Does not apply to planning proposal.
<b>2. Environment and Heritage</b>	
2.1 Environmental Protection Zones	Consistent. Land identified as having environmental values has been incorporated into the RE1 Public Recreation zone to be managed as land under public ownership.
2.2 Coastal Protection	Does not apply to planning proposal.
2.3 Heritage Conservation	Consistent. There are no heritage items affected by the proposal.
2.4 Recreation Vehicle Areas	Consistent. The proposal does not relate to recreational vehicle areas.
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	<p>This proposal seeks to refine the zoning regime for vacant areas within existing residential zones that are soon to be developed for residential land uses. It will result in a reduction of existing land zoned R3 Medium Density Residential by rezoning areas to R2 Low Density Residential. This will result in a reduction in the permissible residential density of the land and as such is inconsistent with the requirements of this direction.</p> <p>In the circumstances it is considered that this inconsistency is of minor significance in that the proposed rezoning applies to a relatively small area and is consistent with the overall planning intent for the estate. It is also consistent with existing subdivision approvals that have considered and designated specific lots for specific residential densities. The proposed zoning regime is also consistent with the established land use pattern in the rest of the Ballina Heights Estate.</p>
3.2 Caravan Parks and Manufactured Home Estates	Consistent. The proposal does not relate to caravan parks and manufactured home estates.
3.3 Home Occupations	Consistent. The proposal will not affect the existing permissibility of home occupations.
3.4 Integrated Land Use and Transport	Consistent. The proposal will not alter transport planning arrangements in the approved estate.

### 9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum.DOC

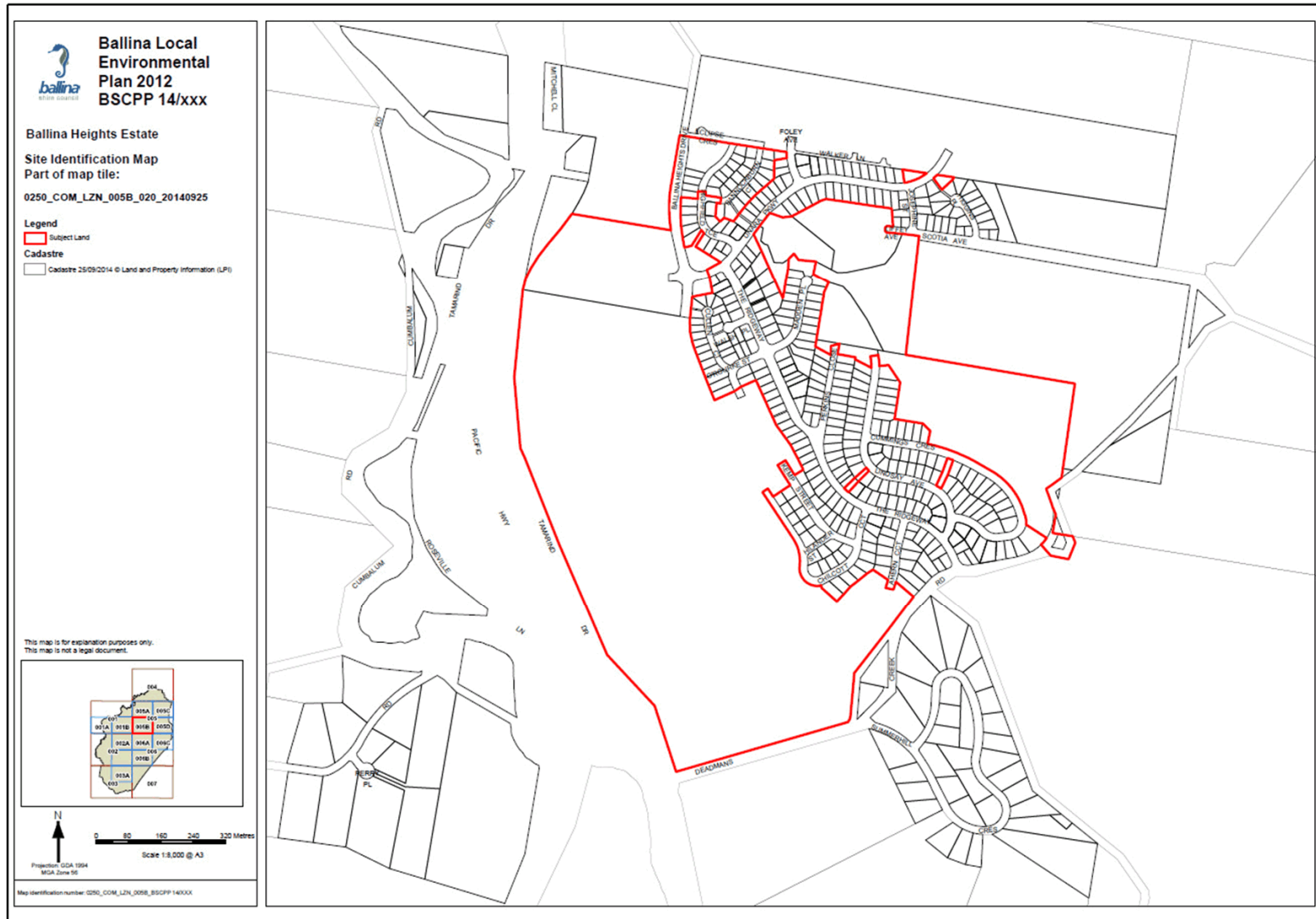
3.5 Development Near Licensed Aerodromes	<p>The proposal affects land affected by the Obstacle Limitation Surface for the Ballina airport. Areas subject to this proposal have an elevation that exceeds the identified 46.5m AHD inner horizontal surface for this airport.</p> <p>It is intended to consult with the Department of the Commonwealth responsible for aerodromes and the operators of the aerodrome in relation to the proposal and apply appropriate development standards where relevant.</p>
3.6 Shooting Ranges	Does not apply to planning proposal.
<b>4. Hazard and Risk</b>	
4.1 Acid Sulfate Soils	<p>Consistent. No intensification of development is enabled by this proposal on land subject to acid sulfate soils.</p> <p>This proposal includes an adjustment to the Land Application Map and consequently, will necessitate an amendment to the Acid Sulfate Soils map. The amended ASS map data will be consistent with the Acid Sulfate Soils Planning Maps adopted for Ballina Shire.</p>
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	<p>Consistent. This proposal includes an adjustment to the Land Application Map and consequently, will necessitate an amendment to the Flood Planning Map.</p> <p>The data specified on the amended Flood Planning Map will be consistent with the data adopted by Council in the 2010 Ballina Flood Study Update which has been prepared in accordance with NSW Government requirements.</p>
4.4 Planning for Bushfire Protection	<p>Expected to be consistent.</p> <p>The subject land is identified as being bush fire prone. Further consultation will be undertaken with the NSW Rural Fire Service in accordance with any requirements specified in the Gateway determination and prior to the finalisation of this proposal.</p> <p>The proposed amendments are not expected to increase or exacerbate the risk for any existing urban land uses affected by bush fire risk. Existing residential subdivisions approved in the Ballina Heights Estate will be subject to relevant terms of approval under any bush fire safety authority issued by the Rural Fire Service.</p>
<b>5. Regional Planning</b>	
5.1 Implementation of Regional Strategies	Consistent. The proposal relates primarily to residential land uses within a planned urban area as identified in the Far North Coast Regional Strategy.
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The proposal affects land identified as Regionally Significant Farmland. The proposal includes an adjustment to the existing boundary of land currently zoned RE1 Public Recreation which affects this identified farmland. The proposal is consistent with the provisions of the Far North Coast Regional Strategy and will not result in the loss of land that is currently used for farming or is expected to be in the future.
5.4 Commercial and Retail Development	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Repealed
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Repealed
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Repealed
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire

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<b>6. Local Plan Making</b>	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent. The proposal includes the incorporation of additional public land into the RE1 Public Recreation zone. The subject land is already owned and managed by Council and no other government agencies or private landowners are affected by this component of the proposal.
6.3 Site Specific Provisions	Does not apply to planning proposal.
<b>7. Metropolitan Planning</b>	
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire.

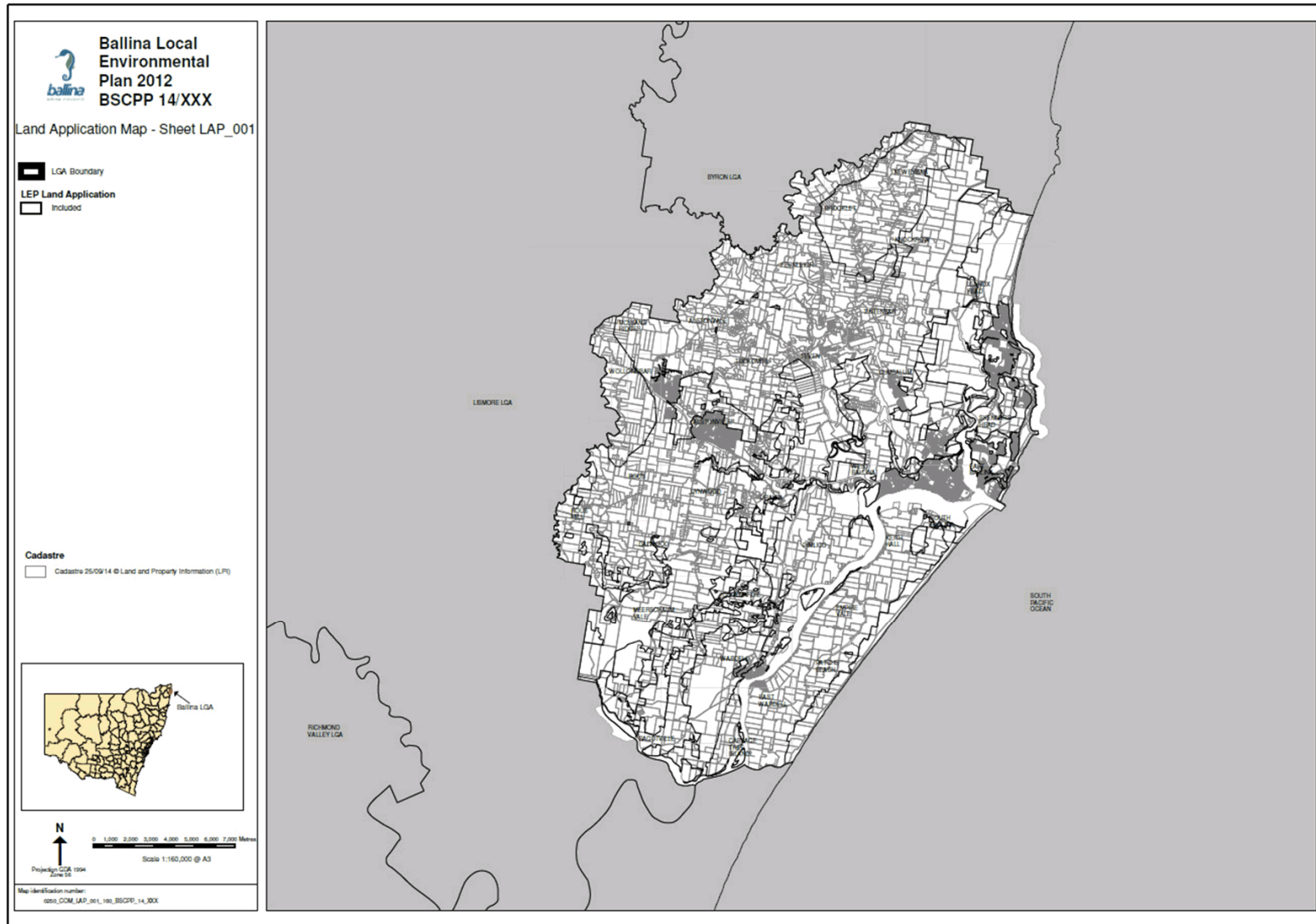
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Appendix B – Maps



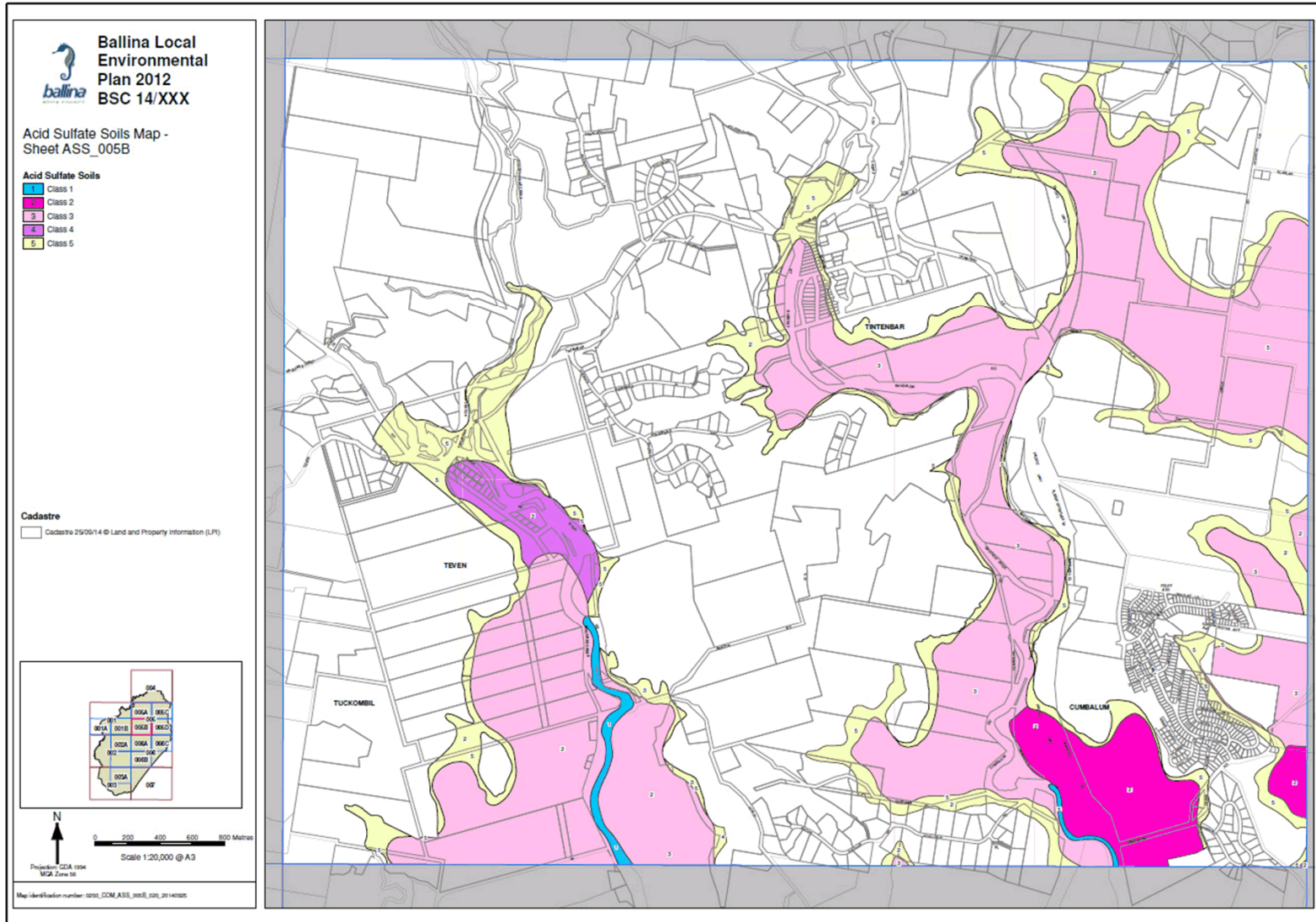


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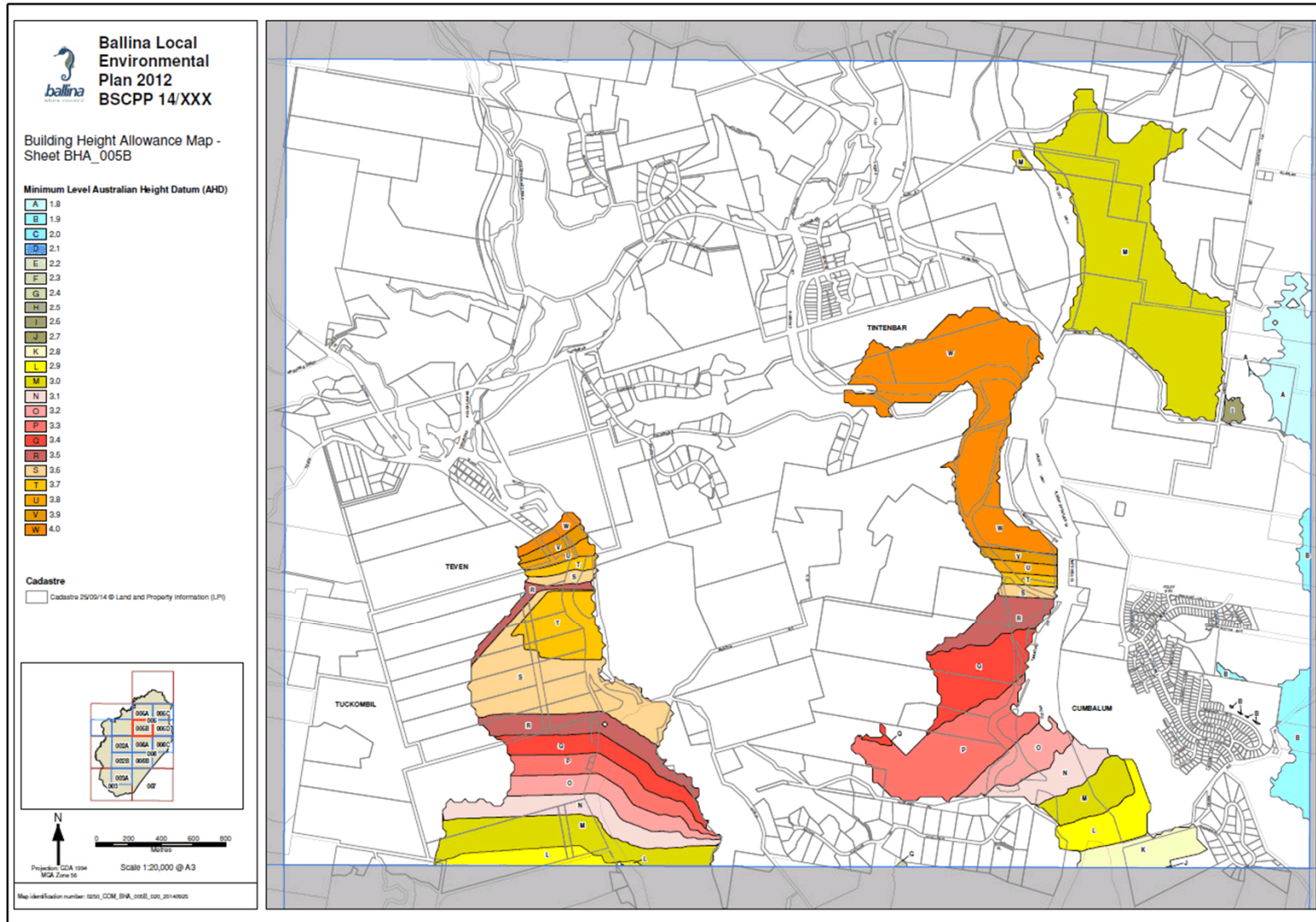




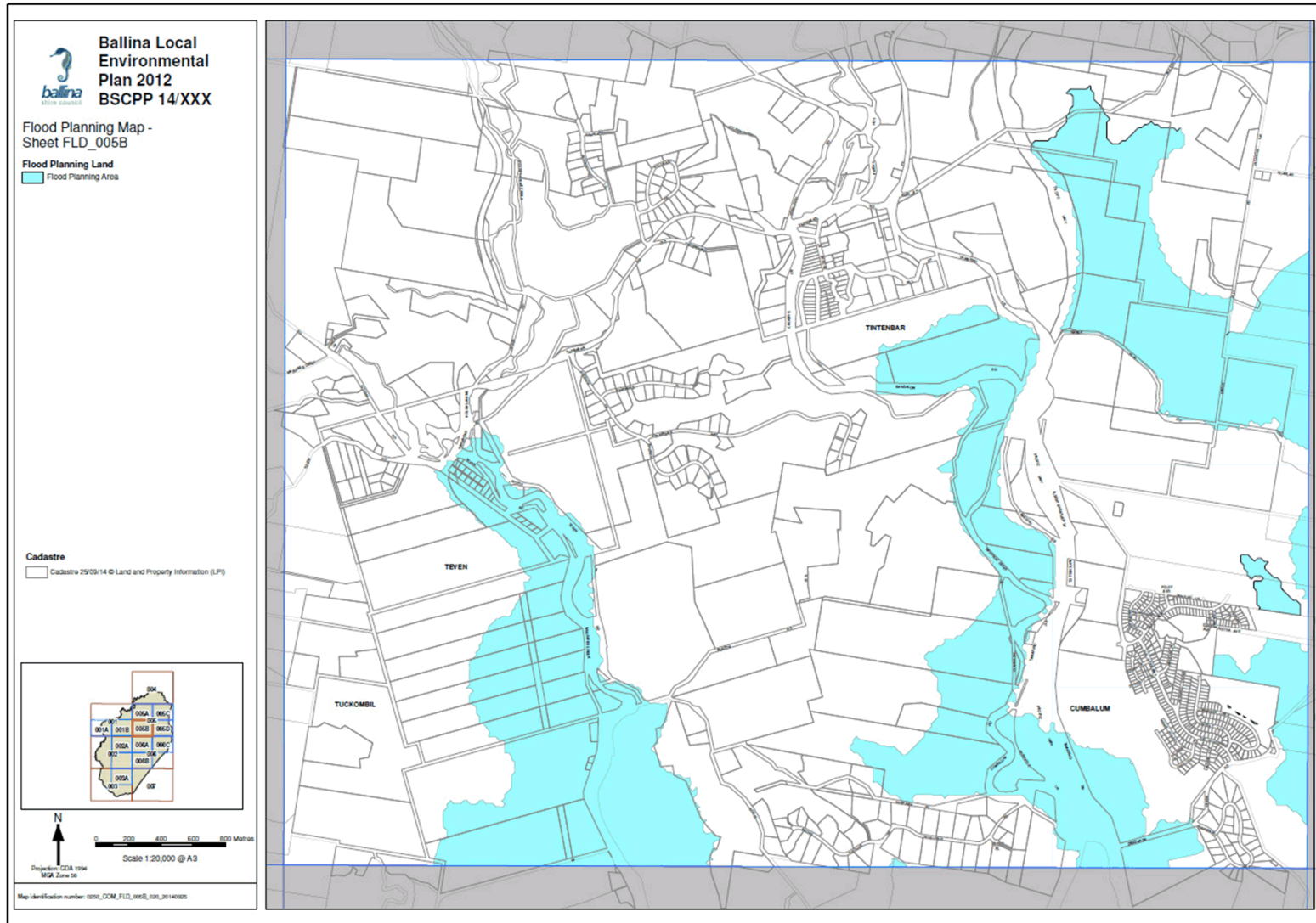
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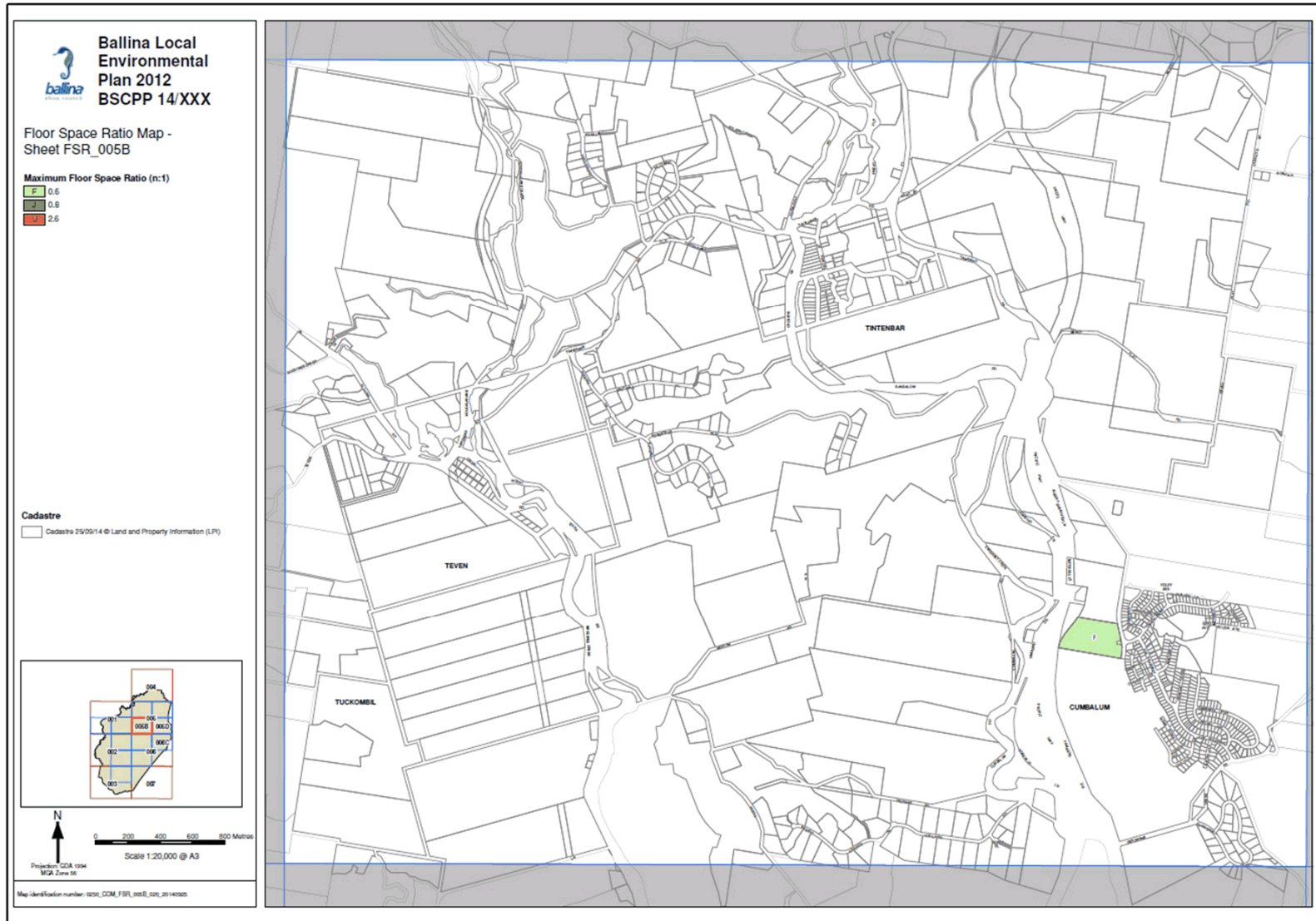


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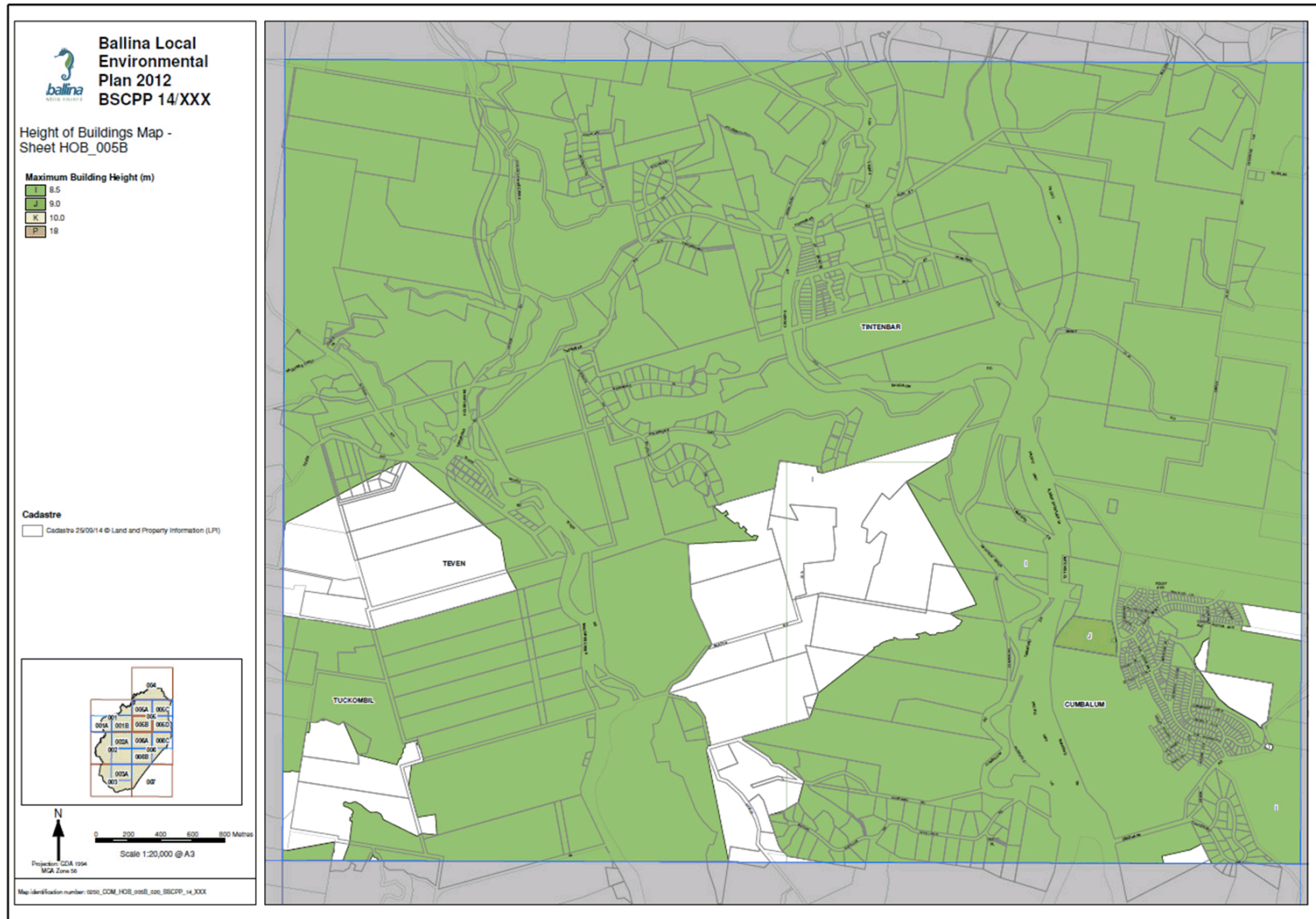




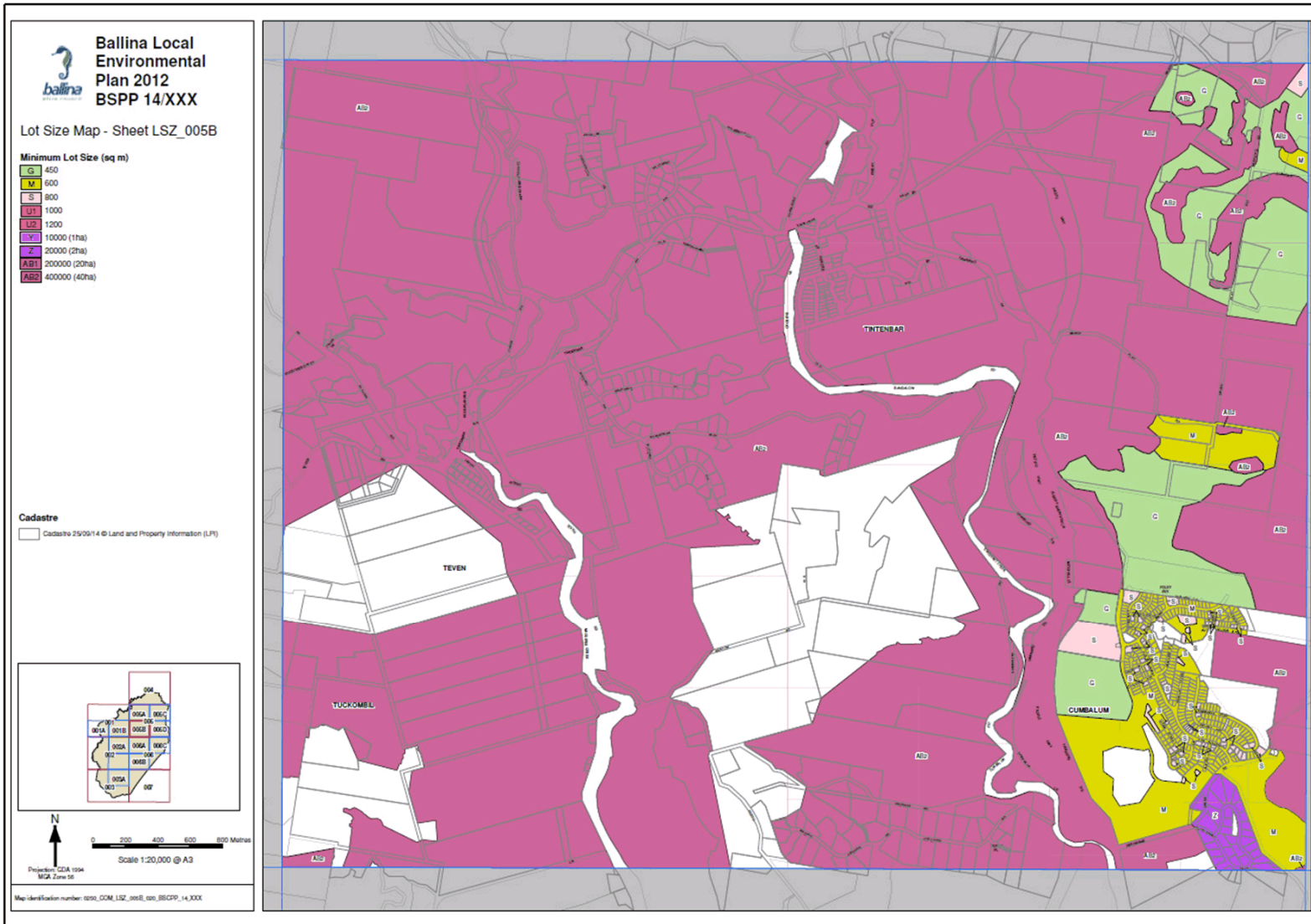
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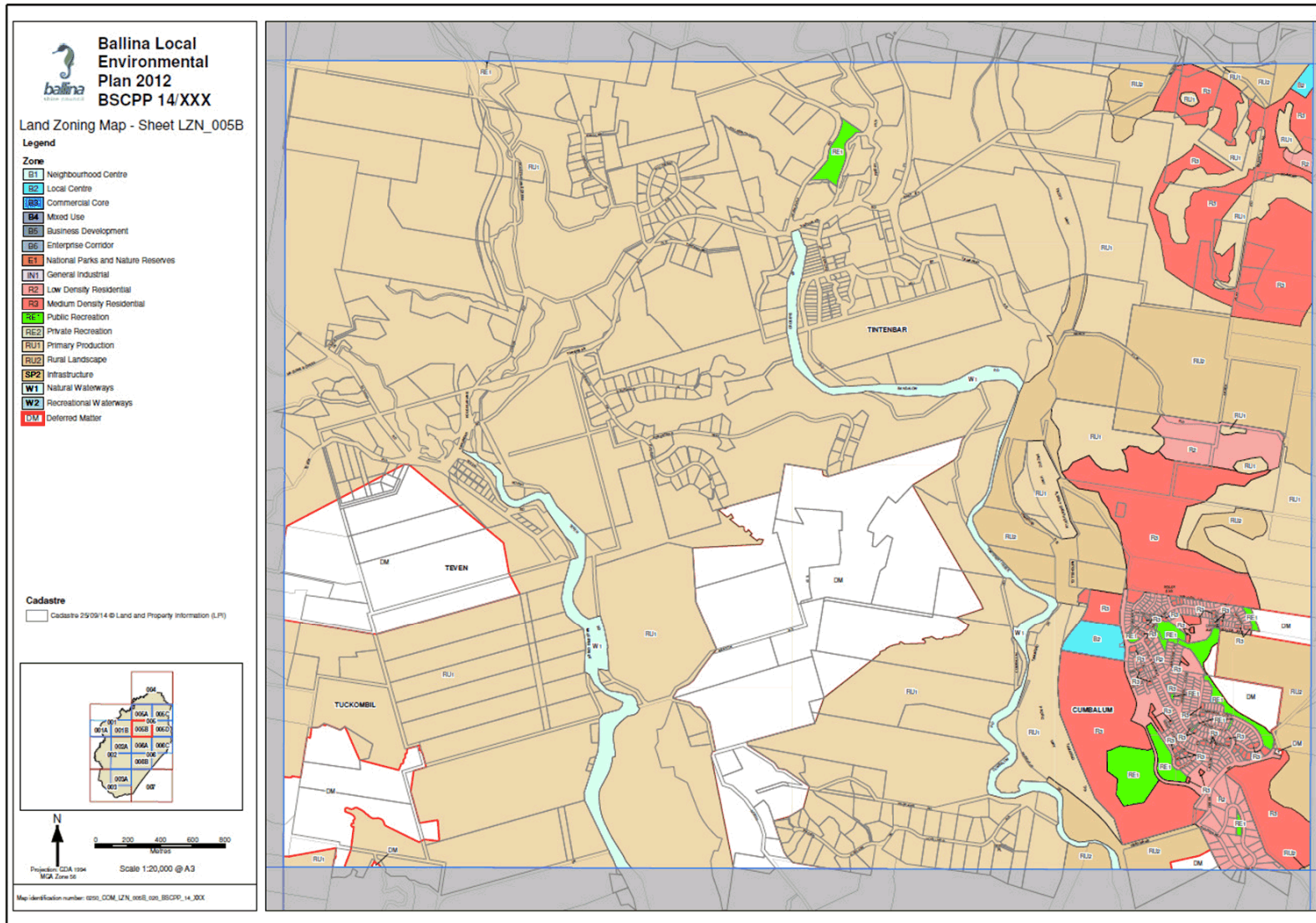


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