

Mackay Region
PLANNING SCHEME
ONE REGION, ONE VISION

Temporary Local Planning Instrument 01/2023
Finch Hatton Flood Hazard Regulation

Version 1.0

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Part 1 Preliminary

1.1 Short Title

This Temporary Local Planning Instrument (TLPI) may be cited as *Temporary Local Planning Instrument 01/2023 – Finch Hatton Flood Hazard Regulation*.

1.2 Purpose

The purpose of this TLPI is to:

- (a) provide flood hazard regulation based on the identified Flood hazard overlay (Finch Hatton) in Schedule 3, and
- (b) to protect life and property by ensuring development appropriately responds to, or is avoided in response to, high flood hazard areas.

To achieve this purpose, the TLPI:

- (a) identifies flood hazard overlay mapping, including high flood hazard area, over the area identified in Schedule 3, and
- (b) applies categories of development and assessment for development listed in Schedule 1 and the area mapped as Flood hazard overlay (Finch Hatton) in Schedule 3, and
- (c) includes assessment benchmarks relating to the flood hazard, including the high flood hazard area, in Schedule 2.

1.3 Commencement and duration of this TLPI

This TLPI commences on 19 January 2024.

This TLPI has effect for a period of 2 years from the date of commencement, unless repealed by Council resolution in accordance with section 23 of the *Planning Act 2016*.

1.4 Application

This TLPI applies to the mapped flood hazard areas identified in Schedule 3, which are located in the Mackay Regional Council local government area.

This TLPI affects the operation of the Mackay Region Planning Scheme 2017.

This TLPI applies to development on land partially or wholly within the Flood hazard overlay (Finch Hatton) identified in Schedule 3.

1.5 Relationship with the Mackay Region Planning Scheme 2017

If the Mackay Region Planning Scheme 2017, to which this TLPI applies, is inconsistent with this TLPI, the TLPI prevails to the extent of any inconsistency.

1.6 Relationship with the *Building Regulation 2021*

For the purposes of Part 3, Section 8, Items 1(a) and 1(b) of the *Building Regulation 2021*:

- (a) land identified in the 1% Annual Exceedance Probability (AEP) and 0.2% AEP food events plus climate change factor category of the Flood hazard overlay (Finch Hatton) identified in this TLPI is designated as a Flood Hazard Area;
- (b) the defined flood event is the water surface elevation associated with the 1% AEP flood event plus climate change factor category of the Flood hazard overlay (Finch Hatton); and
- (c) this TLPI provides for finished floor levels of habitable rooms to be 300mm above the defined flood level.

1.7 Terms and definitions

A term used in this TLPI has the meaning assigned to that term by the following:

- (a) *Planning Act 2016*;
- (b) *Planning Regulation 2017*; or
- (c) Mackay Region Planning Scheme 2017 – Schedule 1 Definitions.

In the event that a term has been assigned a meaning in more than one of the instruments listed above, the meaning contained in the instrument that is highest on the list prevails.

In addition, the administrative terms in Table 1.1 have meaning in this TLPI:

Table 1.7.1 – Administrative terms relevant to this TLPI

Column 1 Term	Column 2 Definition
Critical infrastructure	critical infrastructure means any of the following uses: <ul style="list-style-type: none">(a) major electricity infrastructure; or(b) renewable energy facility; or(c) substation; or(d) telecommunications facility; or(e) utility installation.
Essential community services	essential community services means any of the following uses: <ul style="list-style-type: none">(a) air service; or(b) community use; or(c) emergency services; or(d) hospital, including supporting health care service.
High flood hazard area	high flood hazard area means the area on the Flood hazard overlay map (Finch Hatton) in Schedule 3 identified as having a high flood hazard. Development of land in this area may pose intolerable risks to life and property during a defined flood event.

1.8 Implementation and effect

This TLPI affects the operation of the Mackay Region Planning Scheme 2017 by introducing Flood hazard overlay (Finch Hatton) maps FH - TLPI - 1, FH - TLPI - 2, FH - TLPI - 3 and FH - TLPI - 4 over the Finch Hatton area (see Schedule 3).

The provisions in Parts 1 and 2 of this TLPI apply to the Mackay Region Planning Scheme 2017.

This TLPI designates the flood hazard area and the DFE for the purposes of the National Construction Code and the Queensland Development Code.

Part 2 Schedules

Schedule 1 – Categories of development and assessment

2.1.1 Categories of development and assessment for the Flood hazard overlay (Finch Hatton)

- (1) The categories of development and assessment for development within the Flood hazard overlay (Finch Hatton) map in Schedule 3, are identified in Column 2 of Table 2.1.1.1.
- (2) If development is identified as having a different category of development or category of assessment than under Table 2.1.1.1 below, the highest level of assessment applies as follows:
 - (a) Accepted development subject to requirements prevails over Accepted development;
 - (b) Code assessment prevails over Accepted development subject to requirements and Accepted development; and
 - (c) Impact assessment prevails over Code assessment, Accepted development subject to requirements and Accepted development.

2.1.2 Assessment benchmarks for development within the Flood hazard overlay (Finch Hatton)

- (1) The relevant assessment benchmarks for development within the Flood hazard overlay (Finch Hatton) in Schedule 3 are identified in Column 3 of Table 2.1.1.1 – Flood hazard overlay (Finch Hatton).

Table 2.1.1.1 – Flood hazard overlay (Finch Hatton)

Column 1 Development	Column 2 Categories of development and assessment	Column 3 Assessment benchmarks for assessable development and requirements for accepted development
Development in the High flood hazard area		
Material change of use for: <ul style="list-style-type: none"> • Animal husbandry • Cropping • Environment facility • Park • the following uses where locating within the footprint of an existing non-residential building and not involving an increase in gross floor area: <ul style="list-style-type: none"> ○ Bar ○ Food and drink outlet ○ Health care services ○ Office ○ Service industry, involving bicycle repairs ○ Shop ○ Theatre 	Accepted development	No assessment benchmarks
Material change of use for all uses, except for uses identified as accepted development in this section	Code assessment	Flood hazard overlay (Finch Hatton) code (TLPI 01/2023)
Operational work involving filling where net fill exceeds 50m ³	Code assessment	Flood hazard overlay (Finch Hatton) code (TLPI 01/2023)

Column 1 Development	Column 2 Categories of development and assessment	Column 3 Assessment benchmarks for assessable development and requirements for accepted development
Reconfiguring a lot	Code assessment	Flood hazard overlay (Finch Hatton) code (TLPI 01/2023)
Development in the 1% AEP or 0.2% AEP flood hazard areas outside of the High flood hazard area		
Material change of use for: <ul style="list-style-type: none"> • Dual occupancy • Dwelling house • Dwelling unit 	Accepted development subject to requirements	Flood hazard overlay (Finch Hatton) code (TLPI 01/2023)
Material change of use for non-habitable domestic outbuilding associated with dual occupancy or dwelling house	Accepted development	No assessment benchmarks
Material change of use for: <ul style="list-style-type: none"> • Critical infrastructure • Essential community services • Vulnerable uses 	Code assessment	Flood hazard overlay (Finch Hatton) code (TLPI 01/2023)
Material change of use for all other uses, except for: <ul style="list-style-type: none"> • Animal husbandry • Cropping • Cemetery • Environment facility • Home-based business • Market • Nature-based tourism if for self-contained recreational vehicle ground • Park • Permanent plantation • Roadside stall • Tourist park, if for self-contained recreational vehicle ground • Non-residential uses locating within an existing building previously occupied by a non-residential use 	Code assessment	Flood hazard overlay (Finch Hatton) code (TLPI 01/2023)
Operational work involving filling where: <ul style="list-style-type: none"> • outside of the building envelope of a proposed building; • net fill exceeds 50m³ 	Code assessment	Flood hazard overlay (Finch Hatton) code (TLPI 01/2023)
Reconfiguring a lot	Code assessment	Flood hazard overlay (Finch Hatton) code (TLPI 01/2023)

Schedule 2 – Flood hazard overlay (Finch Hatton) code

2.2.1 Application

This code applies to Assessable development involving land wholly or partially within the area identified as Flood hazard overlay (Finch Hatton) in Schedule 3.

Note – Pursuant to section 32(a) of the *Building Act 1975* and section 8 of the *Building Regulation 2021*, land identified as areas affected by 1% AEP and 0.2% AEP flood events on the Flood Hazard Overlay (Finch Hatton) Maps FH - TLPI - 1, FH - TLPI - 2, FH - TLPI - 3 and FH - TLPI - 4 in Schedule 3, is designated as a “Flood hazard area”.

Note – The Flood hazard overlay is only one response to flooding. Strategic planning, education, disaster management, flood emergency management and mitigation or protection works are also important.

2.2.2 Purpose

- (1) The purpose of the code is to ensure that development in the flood hazard area at Finch Hatton, that is subject to inundation in defined flood events is avoided, or where all options for avoiding the flood hazard area are exhausted, development is planned, designed, constructed and operated to:
 - (a) protect people and property; and
 - (b) ensure development appropriately protects and does not result in an intolerable flood risk to people, property, infrastructure or the environment; and
 - (c) not impede or burden disaster management responses and recovery; and
 - (d) limit the exposure of vulnerable uses where risk levels cannot be mitigated to an acceptable level; and
 - (e) ensure that works to mitigate the risk from flood hazard occur in a way that protects, maintains and improves the protective function of landforms, vegetation, biodiversity and natural processes in managing the effects of flooding.

- (2) The purpose of this code will be achieved through the following overall outcomes:
 - (a) Buildings, structures and on-site utilities in the flood hazard area:
 - (i) are located, designed and constructed to be resilient to flood hazards up to and including the defined flood event; and
 - (ii) minimise the impacts of flooding on the life of a building or structure including preventing and withstanding the effects of floodwater inundation; and
 - (iii) minimise environmental impacts from on-site utilities; and

 - (b) the natural floodplain function (conveyance and storage) is protected and maintained by ensuring that development:
 - (i) does not adversely affect the hydraulic function of flood conveyance and capacity of waterways or overland flow paths; and
 - (ii) maintains flood storage; and
 - (iii) does not, directly or cumulatively, cause or increase adverse impacts on other properties or land upstream, downstream or adjacent sites within the floodplain from flooding; and

 - (c) development occurs in a way that:
 - (i) maintains or improves the protective function of landforms, vegetation, biodiversity, natural processes and natural land contours, where possible; and
 - (ii) protects and improves vegetation, riparian corridors and overland flow paths; and

 - (d) public safety and the environment are not adversely affected by the inappropriate storage or handling of hazardous materials; and

- (e) development does not result in the undue burden on disaster management responses and recovery capacity and capability; and
- (f) in the High flood hazard area:
 - (i) the following development avoids locating in the High flood hazard area:
 - (A) essential community services that are relied upon by residents and visitors to service the community during and after a flood event; and
 - (B) intensive rural activities (defined activity group), including activities that involve the keeping of animals; and
 - (C) uses that increase the number of people residing in High flood hazard areas, including:
 - accommodation activities – hotel involving accommodation, nature based tourism, resort complex, short-term accommodation and tourist park; and
 - residential activities – caretaker’s accommodation, dwelling house, dwelling unit, multiple dwelling activities (defined activity group), non-resident workforce accommodation, rural worker’s accommodation; and
 - (D) uses that store hazardous materials; and
 - (E) vulnerable uses; and
 - (ii) non-residential development not mentioned in (2)(f)(i):
 - (A) avoids locating in the High flood hazard area; or
 - (B) exhausts all options for avoiding the High flood hazard area and ensures development:
 - appropriately mitigates the flood hazard risk to people and property to an acceptable level; and
 - does not result in an intolerable flood risk to people, property, infrastructure or the environment; and
- (g) critical infrastructure avoids locating in a flood hazard area unless it is deemed necessary to and the infrastructure will remain operational and accessible to serve the community needs during and immediately after a flood event.
- (h) development involving reconfiguring a lot:
 - (i) avoids High flood hazard areas; or
 - (ii) in all other flood hazard areas outside of the High flood hazard area:
 - (A) minimises the exposure of people and property to an intolerable level; and
 - (B) facilitates safe and efficient evacuation.

2.2.3 Compliance with the Flood hazard overlay (Finch Hatton) code

Development that complies with the purpose of the code, complies with the code.

Development that complies with the performance outcomes or acceptable outcomes of the code, complies with the purpose of the code.

2.2.4 Assessment benchmarks and requirements

Part A – Benchmarks for assessable development and requirements for accepted development

Table 2.2.4.1 – Flood hazards overlay (Finch Hatton) – assessable development

Performance outcomes	Acceptable outcomes
For accepted development subject to requirements	
Dual occupancy, dwelling house or dwelling unit located in 1% AEP or 0.2% AEP flood hazard areas outside of the High flood hazard area	
PO1 Habitable rooms and utilities associated with dual occupancy, dwelling house and dwelling unit have acceptable levels of flood immunity.	AO1.1 The minimum floor level for habitable rooms (new buildings and extensions to existing buildings) in dual occupancy, dwelling house and dwelling unit is the highest of the following: (a) 300mm above the DFE ¹ flood level; or (b) 225mm above natural ground level; or (c) 300mm above the greater of top of the kerb level or the crown of the adjacent bitumen road.
	AO1.2 Utilities on the premises (e.g. on-site sewerage treatment systems, electrical supply, telecommunication connections, and water supply) are located above the DFE flood level.
PO2 Development maintains: (a) the flood characteristics and storage capacity of the subject site; and (b) a high level of visual amenity as viewed from the street and adjoining and nearby properties.	AO2.1 Where the minimum floor level prescribed by AO1.1 is more than 1 metre above ground level, freestanding structures on poles are provided rather than 'slab on ground' construction and/or filling under the building footprint ² .
	AO2.2 Development does not involve: (a) any physical alteration of a watercourse; and (b) net filling exceeding 50 cubic metres.

¹ "DFE" – defined flood event – is the 1% AEP flood event plus climate change factor. The DFE is derived from the WRM 2013 (2023 update) flood study.

² The building footprint is the actual area at natural ground level covered by the building or buildings.

Performance outcomes	Acceptable outcomes
For assessable development	
Resilient built form	
<p>PO3 Buildings, structures and on-site utilities are located, designed and constructed to:</p> <ul style="list-style-type: none"> (a) be resilient to flood risks up to and including the DFE; and (b) minimise the impacts of flooding on the asset's life including preventing and withstanding the effects of floodwater inundation; and (c) minimise environmental impacts from on-site utilities. 	<p>AO3.1 Buildings in the flood hazard area, including residential and non-residential buildings (except for Class 10 structures), provide a minimum finished floor level that is the highest of the following:</p> <ul style="list-style-type: none"> (a) 300mm above the DFE flood level; or (b) 225mm above natural ground level; or (c) 300mm above the greater of top of the kerb level or the crown of the adjacent bitumen road.
	<p>AO3.2 The understorey area of a building below the finished floor level is left open to allow the free flow and inundation of flood water.</p>
	<p>AO3.3 Utilities on the premises (e.g. on-site sewerage treatment systems, electrical supply, telecommunication connections, and water supply) are:</p> <ul style="list-style-type: none"> (a) located outside of or above the DFE; or (b) sealed to prevent water intrusion.
Building height	
<p>PO4 Buildings in flood hazard areas:</p> <ul style="list-style-type: none"> (a) utilise a usable extent of building height above flood levels; and (b) integrate with the built form character of the surrounding area; and (c) does not form overdevelopment of the site. 	<p>AO4 Building height above ground level in flood hazard area does not exceed the maximum building height set by the relevant zone code plus the DFE flood level.</p>

Performance outcomes	Acceptable outcomes
Floodplain function (flood conveyance and storage)	
<p>PO5 The natural floodplain function (conveyance and storage) is protected and maintained by ensuring that development, including excavating or filling, does not:</p> <p>(a) have an adverse impact on the protective function of landforms, vegetation and natural processes in managing the effects of flooding; and</p> <p>(b) directly or cumulatively, cause or increase adverse impacts on other properties or land upstream, downstream or adjacent sites within the floodplain from flooding.</p>	<p>AO5.1 The ground level of reconfigured lots and development sites:</p> <p>(a) remains unchanged; or</p> <p>(b) maintains net floodplain storage on the subject site and does not worsen flood impacts (depth, duration, direction, velocity, concentration) on surrounding sites.</p> <p>Note – AO5.1 does not apply to filling that is directly associated with (primarily beneath) building work³ on sites located outside the High flood hazard area.</p> <p>AO5.2 Development:</p> <p>(a) does not adversely affect the hydraulic function of flood conveyance and capacity of waterways or overland flow paths; and</p> <p>(b) does not remove vegetation that provides for the stabilisation of landforms associated with storage and conveyance of flood water; and</p> <p>(c) maintains flood storage; and</p> <p>(d) maintains existing ground levels; and</p> <p>(e) does not increase water flow velocity, levels or runoff volume; and</p> <p>(f) does not reduce flood warning times.</p> <p>AO5.3 Flood conveyance or flood function areas may be used for car parking where there is a low degree of flood hazard and vehicles can be readily moved in the event of a flood. Flood awareness signage is provided to parking areas that serve as a flood conveyance or performs a flood function.</p>
Hazardous materials	
<p>PO6 Public safety and the environment are not adversely affected by the detrimental impacts of floodwater on hazardous materials stored in bulk on the premises.</p>	<p>AO6 The storage or handling of hazardous materials:</p> <p>(a) does not occur in a High flood hazard area; or</p> <p>(b) in flood hazard areas outside of the High flood hazard area:</p> <p>(i) is undertaken outside of or a minimum of 300mm above the DFE flood level; or</p> <p>(ii) in buildings or areas that are designed to prevent the intrusion of floodwater.</p>

³ The building footprint is the actual area at natural ground level covered by the building or buildings.

Performance outcomes	Acceptable outcomes
Disaster management	
<p>PO7 Development does not result in the undue burden on disaster management responses and recovery capacity.</p>	<p>AO7 Development has access to a public road that is safe for vehicles, pedestrian movements and emergency services up to and including the DFE.</p>
High flood hazard areas	
<p>PO8 Development located in the High flood hazard area does not:</p> <ul style="list-style-type: none"> (a) intensify an intolerable risk through increasing the number people residing in high flood hazard areas, whether on a permanent, short-term or temporary basis; or (b) involve essential community services or critical infrastructure that is relied upon by residents and visitors to service the community, including during or after a flood event; or (c) involve vulnerable uses; or (d) involve intensive rural activities, including activities that involve the keeping of animals; or (e) store hazardous materials on the premises. 	<p>AO8 The following uses do not locate in the High flood hazard area:</p> <ul style="list-style-type: none"> (a) accommodation associated with a hotel; or (b) any use that involves the storage of hazardous materials; or (c) caretaker's accommodation; or (d) critical infrastructure; or (e) dwelling house; or (f) dwelling unit; or (g) essential community services; or (h) intensive rural activities (defined activity group); or (i) multiple dwelling activities (defined activity group); or (j) nature based tourism, including self-contained RV grounds; or (k) non-resident workforce accommodation (l) relocatable home park; or (m) resort complex; or (n) rural worker's accommodation; or (o) short-term accommodation (p) tourist park, including self-contained RV grounds; or (q) vulnerable uses.
<p>PO9 Non-residential development, whether new or increasing the intensity or scale of existing non-residential development:</p> <ul style="list-style-type: none"> (a) does not locate in the High flood hazard area; or (b) exhausts all options for avoiding the High flood hazard area and ensures development: <ul style="list-style-type: none"> (i) is located on that part of the site which has the lowest level of risk as identified by a site-based flood risk assessment; and (ii) appropriately mitigates the flood hazard risk to people and property to an acceptable level; and (iii) does not result in an intolerable flood risk to people, property, infrastructure or the environment; and 	<p>No acceptable outcome is prescribed.</p>

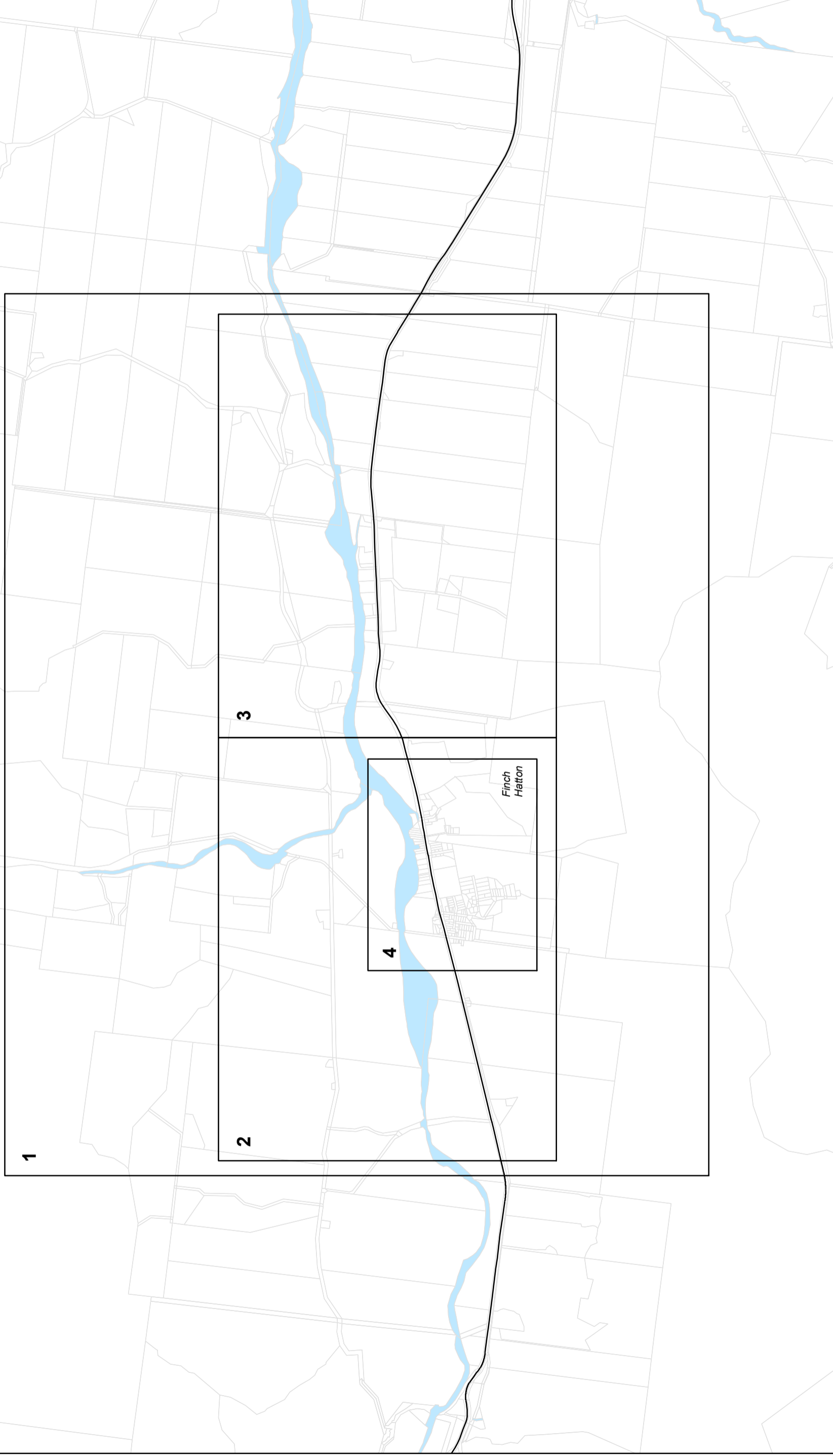
Performance outcomes	Acceptable outcomes
<ul style="list-style-type: none"> (iv) can be serviced with infrastructure (unaffected by the DFE); and (v) is designed and constructed to: <ul style="list-style-type: none"> (A) prevent and withstand floodwater inundation; and (B) not impede the conveyance of flood water. <p>Note – PO9 is not applicable to non-residential development mentioned in PO8.</p>	
Reconfiguring a lot	
<p>PO10 Development involving reconfiguring a lot:</p> <ul style="list-style-type: none"> (a) avoids High flood hazard areas; or (b) in all other flood hazard areas outside of the High flood hazard area: <ul style="list-style-type: none"> (i) minimises the exposure of people and property to an intolerable level; and (ii) facilitates safe and efficient evacuation. 	<p>AO10.1 Development involving a reconfiguring a lot:</p> <ul style="list-style-type: none"> (a) does not occur in the High flood hazard area; or (b) maintains the number of lots at risk in the High flood hazard area. <p>AO10.2 For development located outside of the High flood hazard area, a development envelope is provided as part of a subdivision to:</p> <ul style="list-style-type: none"> (a) ensure that there is sufficient area to: <ul style="list-style-type: none"> (i) accommodate future intended uses which avoids flood risk hazard areas as much as practicable; and (ii) identify access to a public road that remains safe and trafficable for vehicles, pedestrian movements and emergency services up to and including the DFE; and (iii) cater for infrastructure required for the intended use and any other construction features; and (b) demonstrates that works in association with the reconfiguration can achieve an acceptable risk level for future intended purposes.

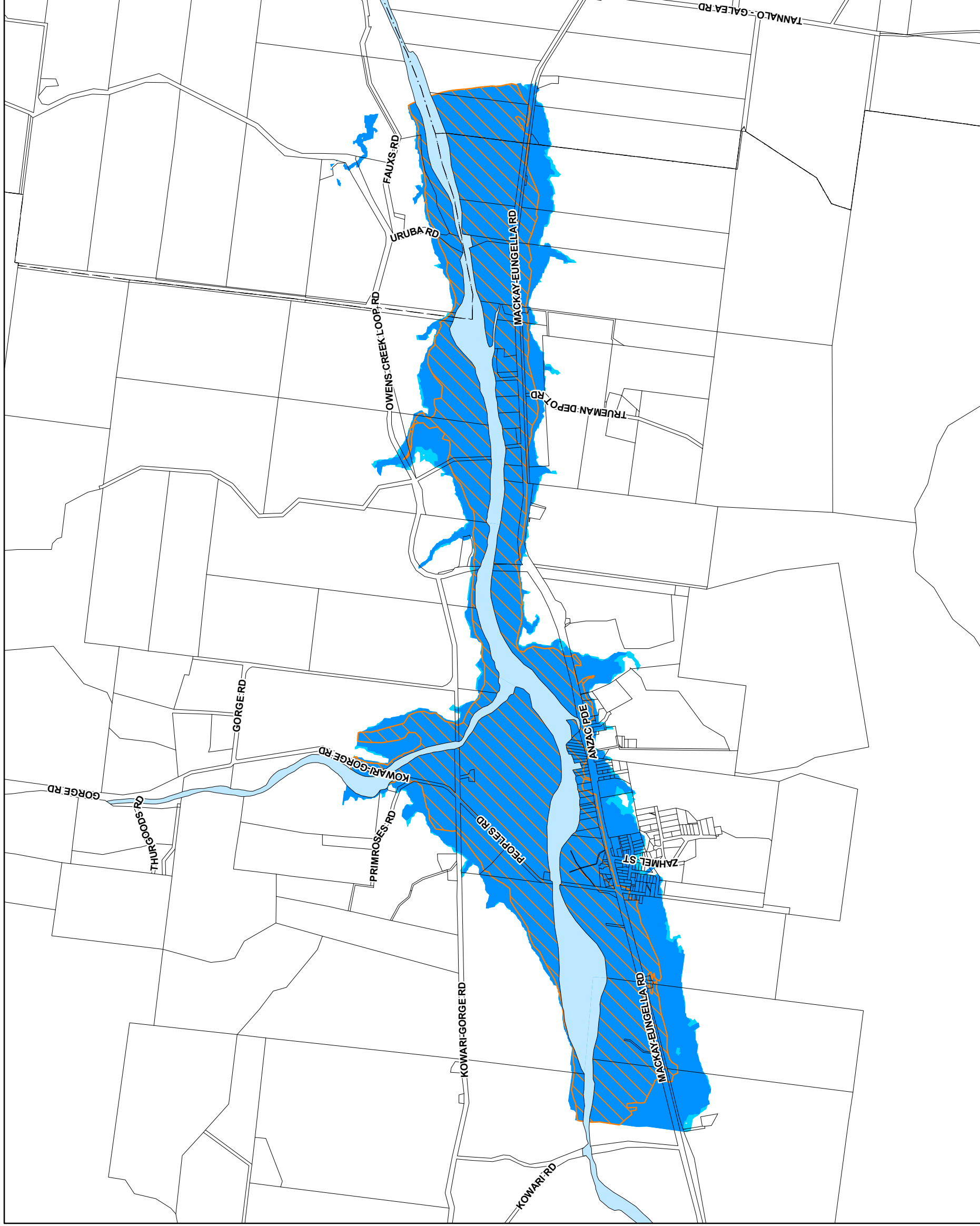
Schedule 3 – Mapping

1. Flood hazard overlay (Finch Hatton)

GRID INDEX - Finch Hatton Temporary Local Planning Instrument

FLOOD HAZARDS





Development Constraints

- High Flood Hazard Area
 - Area affected by 1% AEP flood event
 - Area affected by 0.2% AEP flood event
- Cadastral**
- Local Government Boundary
 - Cadastre - October 2023 (Sourced DOR)
 - Suburb or Locality
 - Waterway or Waterbody

Flood hazard overlay data is based off adopted Mackay Regional Council flood and stormwater studies. The flood hazard overlay mapping does not identify all flood hazards and is to be used as a guide only for planning purposes. Always check with Council about whether there is a flood study available for a particular area of interest. The Flood and coastal hazard overlay code is considered to be relevant in areas not covered by the overlay but where developments are below the Defined Flood Event (DFE) or Minimum Floor Levels.

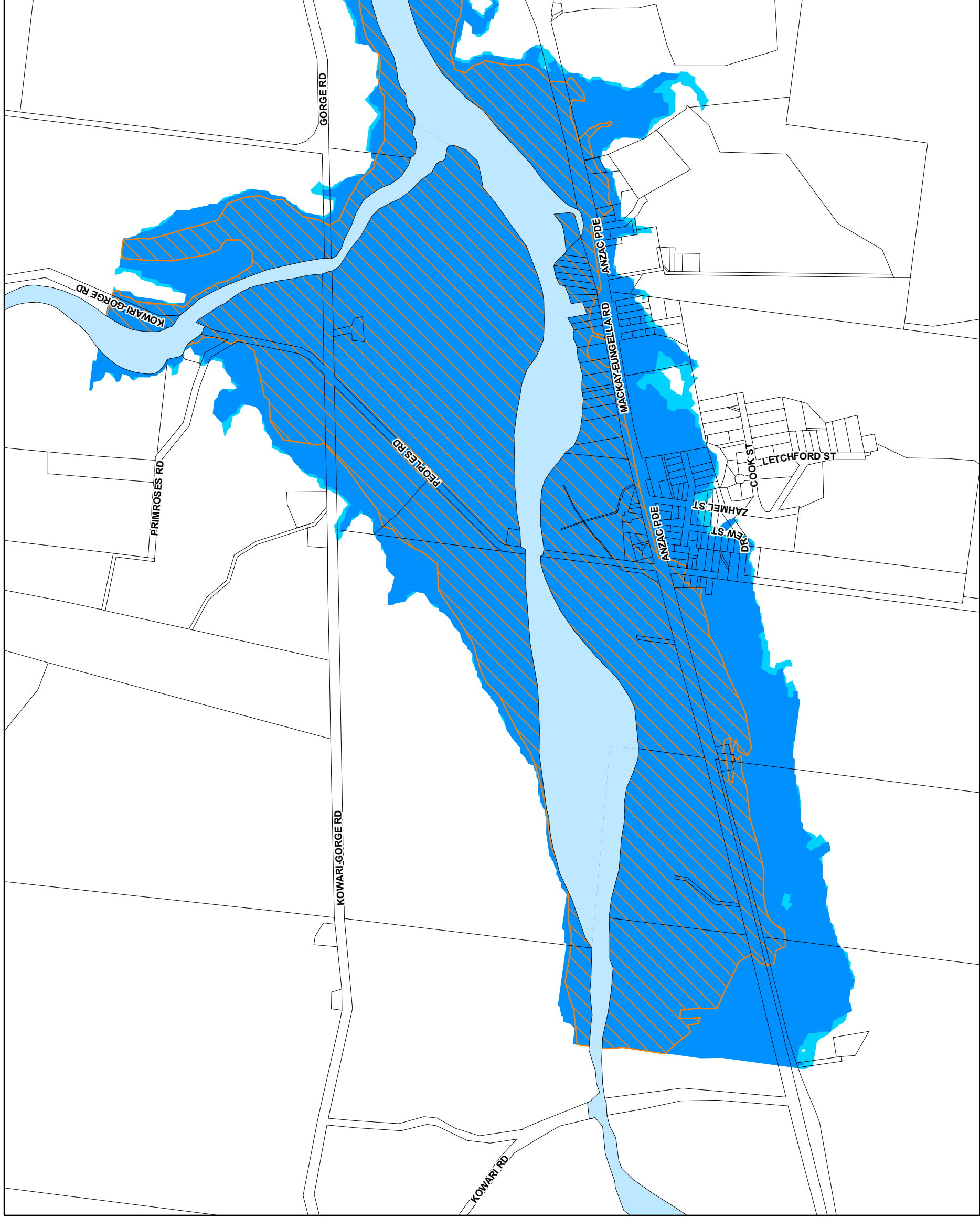
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Effective from XXXX 2023

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Approx Scale @ A3 1:25000





Development Constraints

- High Flood Hazard Area
 - Area affected by 1% AEP flood event
 - Area affected by 0.2% AEP flood event
- Cadastral**
- Local Government Boundary
 - Cadastral - October 2023 (Sourced DOR)
 - Suburb or Locality
 - Waterway or Waterbody

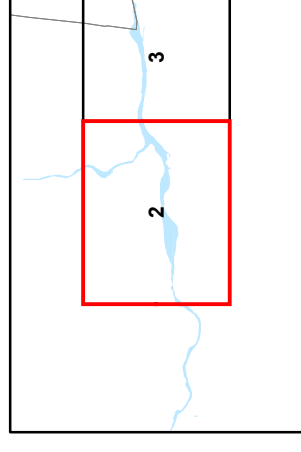
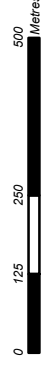
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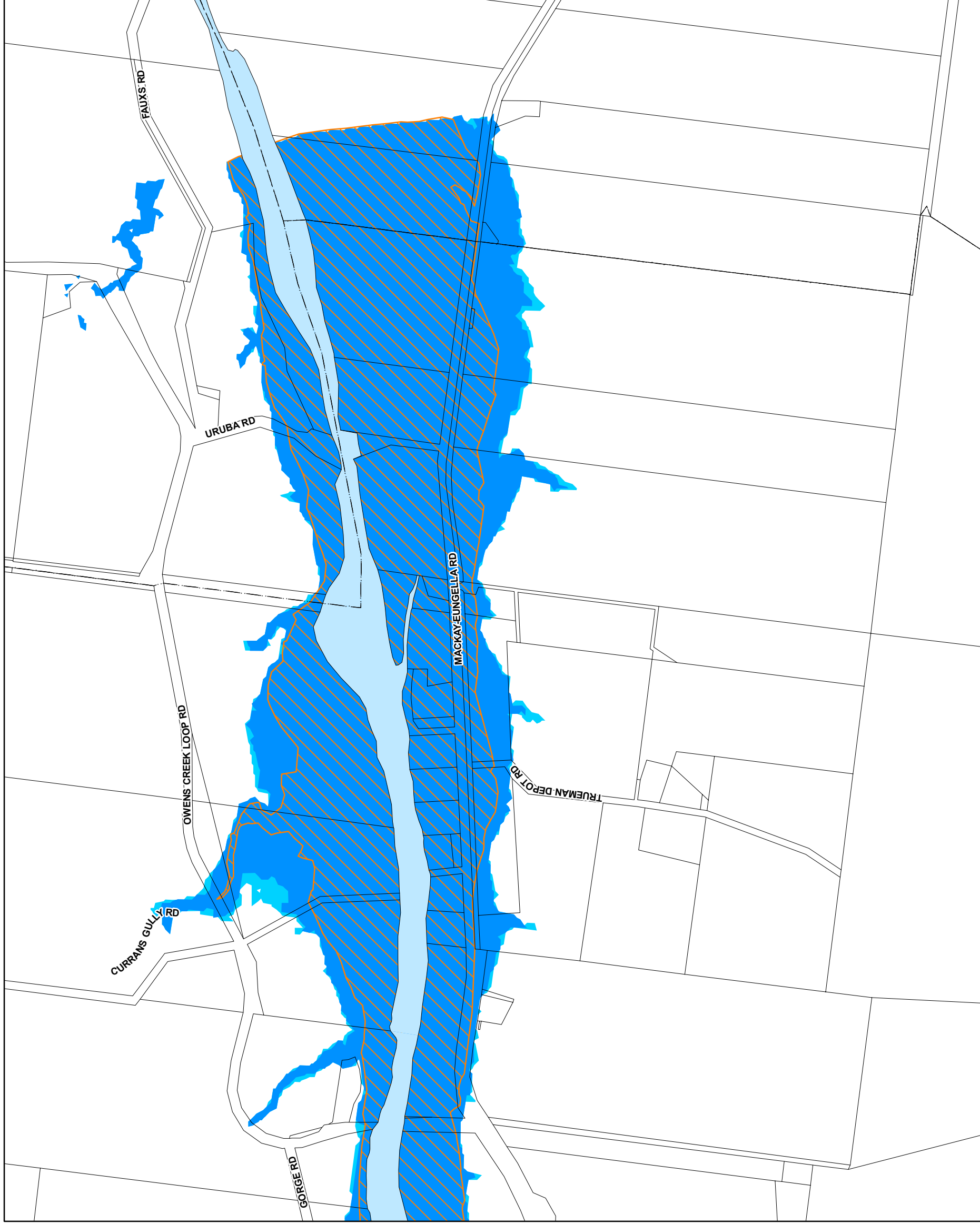
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Approx Scale @ A3 1:12000





Development Constraints

- High Flood Hazard Area
 - Area affected by 1% AEP flood event
 - Area affected by 0.2% AEP flood event
- Cadastral**
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 - Cadastral - October 2023 (Sourced DOR)
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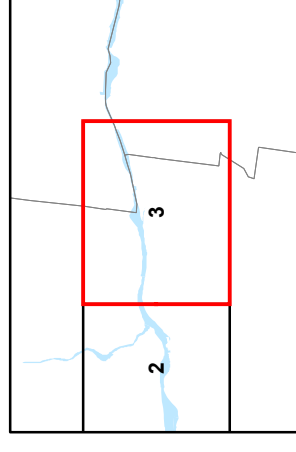
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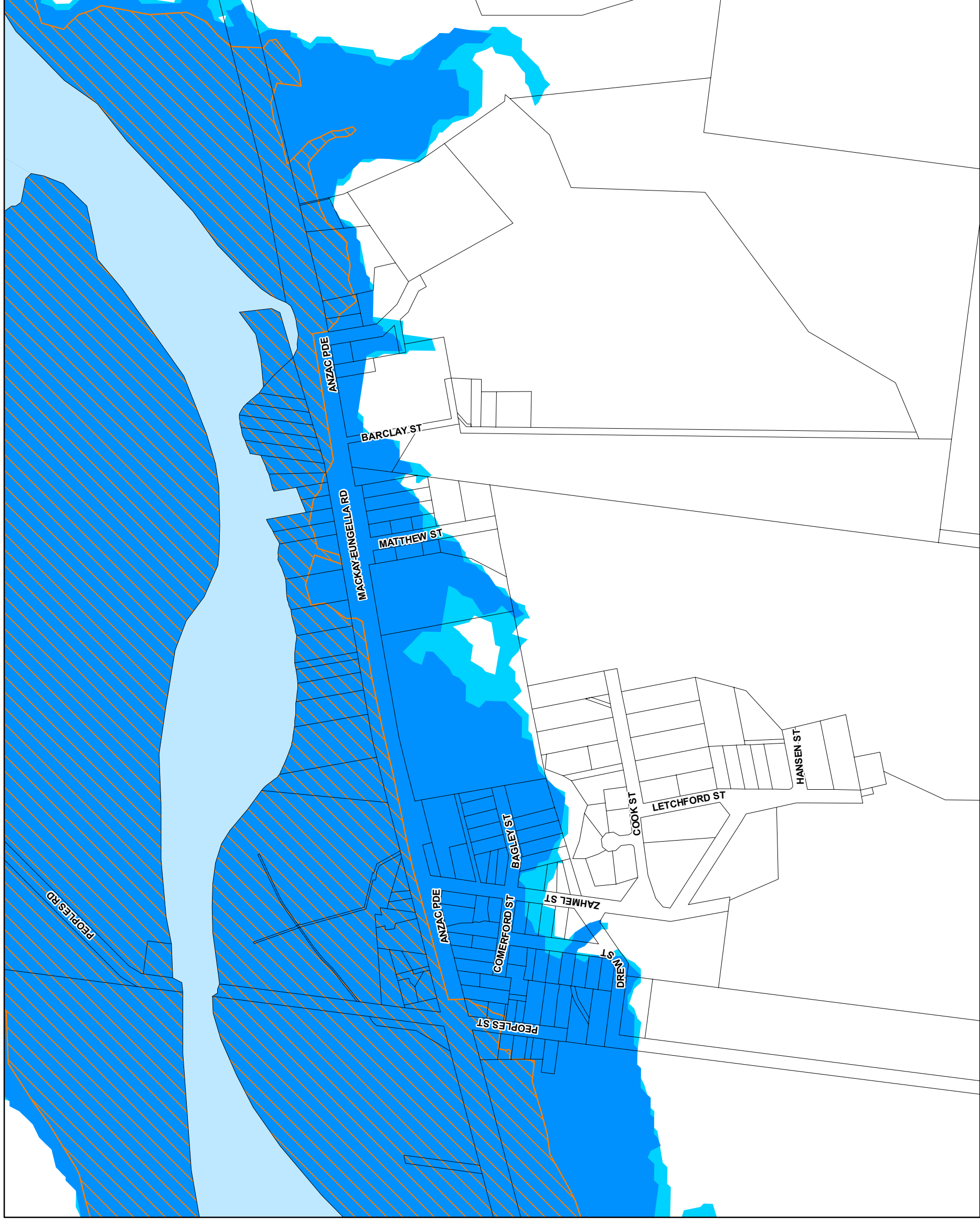
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Development Constraints

- High Flood Hazard Area
 - Area affected by 1% AEP flood event
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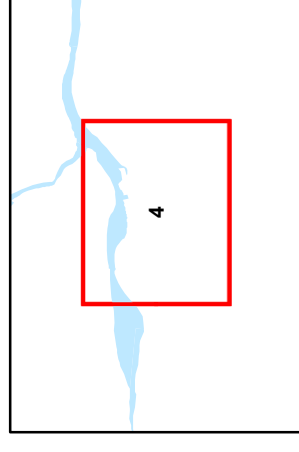
Flood hazard overlay data is based off adopted Mackay Regional Council flood and stormwater studies. The flood hazard overlay mapping does not identify all flood hazards and is to be used as a guide only for planning purposes. Always check with Council about whether there is a flood study available for a particular area of interest. The Flood and coastal hazard overlay code is considered to be relevant in areas not covered by the overlay but where developments are below the Defined Flood Event (DFE) or Minimum Floor Levels.

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Effective from XXXX 2023

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Geocentric Datum of Australia 2020 (GDA2020)

Approx Scale @ A3 1:6000



END OF TEMPORARY LOCAL PLANNING INSTRUMENT