Planning Proposal – 155 Old Main Road, Fennell Bay

Local Government Area	Lake Macquarie City		
Name of Draft LEP:	Lake Macquarie Local Environmental Plan 2014 – Fennell Bay		
Subject Land:	 155 Old Main Road, Fennell Bay (Lot 33 DP 858667 135 Old Main Road, Fennell Bay (Lot 1 DP 184321) 20 Corella Close, Fennell Bay (Lot 70 DP 1078962) 145 Toronto Road, Woodrising (Lot 2 DP 1112722) 120C Old Main Road, Fennell Bay (Lot 1 DP 1112722) – Hunter Water pump station 		
Owner:	Landcom and Hunter Water (pump station)		
Applicant:	Landcom		
Council Folder Number:	RZ/6/2018		
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Prepared by:	Senior Strategic Planner – Angel Troke		

Part 1 – Objective of the Planning Proposal

The objective of this Planning Proposal is to amend *Lake Macquarie Local Environmental Plan 2014* (LMLEP 2014) to rezone the site to allow a diverse housing mix including low and medium density housing and conservation of the remaining land.

Part 2 – Explanation of the Provisions

The amendment proposes the following changes to Lake Macquarie Local Environmental Plan 2014:

Land Zoning Map	The planning proposal will rezone the property from RU6 Transition and E3 Environmental Management to R2 Low Density, R3 Medium Density Residential and E2 Environmental Conservation. Consideration may also be given to a small local centre business zone to service the local needs of residents.
Lot Size Map	Minimum lot sizes would be resolved during preparation of supporting studies and as the planning proposal progresses.
Height of Buildings Map	Height of buildings would correspond to the proposed zoning as follows: R2 - 8.5m, R3 - 10 and E2 – 5.5m.
Land Reservation Acquisition Map	Potential addition of acquisition on part of property required for RMS road widening along Toronto Road, Booragul.

Part 3 – Justification for the Provisions

A. NEED FOR THE PLANNING PROPOSAL

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

The site is identified as a Housing Release Area within the Housing Opportunities map in the Greater Newcastle Metropolitan Plan. The site is also identified as an Investigation Area in the Urban Change and Urban Investigation Map in Council's Lifestyle 2030 Strategy. The site was previously zoned 10 Investigation in the Lake Macquarie Local Environmental Plan 2004 and was subsequently converted to its RU6 Transition zone within the Lake Macquarie Local Environmental Plan 2014, recognising the site is a priority investigation site. The site is identified within Council's Urban Development Program for residential housing.

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

The current zoning of the site is RU6 Transition and E3 Environmental Management, which are restrictive land use zones. The planning proposal is considered the only option available to rezone the site and allow development on the land.

B. RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

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

Hunter Regional Plan 2036

The rezoning is consistent with the goal to provide greater housing choice with compact development with a diversity of small lot sizes that is currently not well represented in the area. The indicative rezoning and concept plan is shown in Attachment 5.

It is consistent with the following directions:

Direction 21: Create a Compact Settlement

The proposed development concept proposes a compact development footprint focusing development close to existing infrastructure and urban development, whilst conserving the more remote proportion of the site. The rezoning is consistent with Action - 21.6 - Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and greenfield locations as further discussed below.

Direction 22: Promote housing diversity

The proposed rezoning of the site at Fennell Bay will provide a broad mix of housing types, ranging from conventional residential lots (300-700m²) to medium density/small residential lots (200-300m²) in order to cater for the changing needs of the community. The proposed development will supply approximately 565 lots which will also include a component of affordable housing within the proposed medium density area.

Greater Newcastle Metropolitan Plan

The site is identified as a Housing Release Area within the Housing Opportunities map in the Greater Newcastle Metropolitan Plan and will assist in meeting the projections of 13,700 new dwellings in Lake Macquarie by 2036.

The site at Fennell Bay is well placed to take advantage of the predicted future growth of Greater Newcastle due to its location in proximity to the Newcastle City, the strategic centre of Cardiff-Glendale and the north-west catalyst area. These factors, along with the sites proximity to the two railway stations of Fassifern and Booragul, results in the site providing an ideal opportunity for future residential development.

The majority of the housing stock in Fennell Bay currently consists of 'separate house' (95.1%). Medium density housing only makes up 4.9% of the housing stock. This is not dissimilar from the housing stock within Lake Macquarie as a whole, which consists of 90% separate dwellings and 10% medium density. Approximately 25% of the population of Fennell Bay is over 65. Therefore, more diverse housing is also required to cater for an aging population.

Provision of approximately 565 residential lots would assist in reaching the housing target of 4,800 new dwellings from greenfield development within the Lake Macquarie LGA, as identified in the Plan.

Whilst the Greater Newcastle Metropolitan Plan seeks to prioritise the delivery of infill housing opportunities within existing areas, it also recognises that greenfield development will supply 40% of future housing stock. Whilst this is a greenfield site, it is well located with existing infrastructure. The Greater Newcastle Metropolitan Plan includes an action for new release areas to achieve densities of 15 dwellings/ha with 25% of lots capable of providing small lot or multi-dwelling housing types. Of the 565 proposed lots, 495 are small lots being less than 450m².

		CARDIFF-GLENDALE	LAGHAN	WCASTLE PORT
Figure 8: H 2018	lousing opportunities			
Metro	Frame	Strategic Centre	Waterway	
Housin	g Release Area •	Centre	Regional Road	
Existing Housin	g Urban Area with Infill	Environmental and Open Space	State Road	

Figure 8: Extract from Greater Newcastle Metropolitan Plan – Housing Opportunities

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

Community Strategic Plan 2017-2027

Other Existing Urban Area

The proposal is considered consistent with the Community Strategic Plan by providing housing that promotes lifestyle and wellbeing, with good mobility and accessibility and connected communities. The proposal is consistent with the Community Strategic Plan's objective of new and high quality development and growth that complements our unique character and sense of place. Whilst protecting our natural environment with a large proportion of the site being conserved.

Lifestyle 2030 Strategy

The site is identified as an Investigation Area in Urban Change and Urban Investigation Map within Council's Lifestyle 2030 Strategy.



Figure 9: Extract from Lifestyle 2030 Strategy - Urban Change and Urban Investigation Map

The planning proposal is considered consistent with the principles of:

• A city responsive to the environment

Whilst there will be environmental impacts from the rezoning, the proposed rezoning will conserve a significant portion of the site mitigate environmental impacts.

A well designed adaptable and liveable city

The development is consistent with:

Outcome 3.11 - which seeks urban development, including new release urban development is more intensive and contains a gradation of density such as multi-unit housing surrounding each centre, with lower dwelling densities at the periphery of the development. The impacts associated with urban/non-urban interface are minimised. The development will include 88% of the site being small lot housing development.

• A well serviced and equitable city

The site is located with access to the arterial road network and within close proximity to Booragul and Fassifern train stations. The site will also include a component of affordable housing.

• A city responsive to the wellbeing of its residents

The rezoning site will allow residents to have good access to existing services and facilities. Further consideration of recreational opportunities will be required as the planning proposal progresses.

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

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

SEPP	Relevance	Comment
SEPP 19 – Bushland in Urban Areas	Aims to prioritise the conservation of bushland in urban areas, and requires consideration of aims in preparing a draft amendment.	The planning proposal will result in clearing of bushland, however a large proportion of the site will be conserved. There are social benefits in rezoning the site in providing diverse and affordable housing in a locality that is well serviced.
SEPP 44 - Koala Habitat Protection	Aims to encourage the proper conservation and management of areas of natural vegetation that provide koala habitat.	The site does not represent 'potential koala habitat' or 'core koala habitat' as defined in SEPP 44.
SEPP 55 – Remediation of Land	Establishes planning controls and provisions for the remediation of contaminated land.	A Phase 1 contamination assessment will be required to determine potential contamination on the site. Council has considered SEPP 55 and is satisfied that a preliminary contamination study carried out following Gateway determination will satisfy the requirements of Clause 6. Should further studies be recommended by the findings of the preliminary contamination study, these would be carried out in accordance with the Managing Land Contamination Planning Guidelines.
SEPP - Coastal Management 2016	This SEPP ensures that development in the NSW coastal zone is appropriate and	Part of the site (part 20 Corella Close, Fennell Bay) is within the coastal area and there are coastal wetlands downstream of

SEPP	Relevance	Comment
	suitably located to ensure that there is a consistent and strategic approach to coastal planning and management.	this development site. The part of the site that is within the coastal zone will not be developed, however consideration of water quality impacts on the coastal wetlands will be required with these wetlands being located within 1km of the development site.
SEPP (Affordable Rental Housing) 2009	Provides a consistent planning regime for the provision of affordable rental housing and aims to facilitate the effective delivery of new affordable rental housing through incentives.	This proposal allows future development to meet the requirements of the SEPP.
SEPP (Exempt and Complying Development) CODES	The Policy provides an assessment process for development that complies with specific development standards.	Future development will be able to be assessed under this SEPP.

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

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

Ministerial Direction	Relevance	Implications
1.1 - Business and Industrial Zones	Aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	The proposal mainly seeks to rezone the site for residential uses. However, as part of the investigations for the site, some consideration may be given to a small area of business zone to provide local services to the development.
1.2 - Rural Zones	Aims to protect the agricultural production value of rural land.	The proposal will rezone land that is zoned RU6 Transition land, which is land identified for further investigation for development. The land is not being, or has previously been used for rural uses.

Ministerial Direction	Relevance	Implications
1.3 – Mining, Petroleum and Extractive Industries	The direction requires consultation with the Director-General of the Department of Primary Industries where a draft LEP will restrict extractive resource operations.	The land was previously sterilised due to mining leases. Glencore Coal have now released their objection to the development of this land. Council will consult with Department of Primary Industries.
1.4 - Oyster Aquaculture	Aims to ensure that Priority Oyster Aquaculture Areas.	Not relevant. No oyster aquaculture areas are impacted.
1.5 - Rural Lands	Aims to protect the agricultural production value of rural land.	Does not apply to Lake Macquarie.
2.1 – Environmental Protection Zones	The direction requires that a draft LEP contain provisions to facilitate the protection of environmentally sensitive land.	The planning proposal does not seek to rezone environmental zoned land, however this site is likely to have significant biodiversity impacts and detailed assessment of environmental impacts will be required.
2.2 - Coastal Management	This direction seeks to give effect to the objects of the Coastal Management Act 2016.	Part of the site (part 20 Corella Close, Fennell Bay) is within the coastal area and there are coastal wetlands downstream of this development site. The part of the site that is within the coastal zone will not be developed, however consideration of water quality impacts on the coastal wetlands will be required with these wetlands being located within 1km of the development site.

Ministerial Direction	Relevance	Implications
2.3 – Heritage Conservation	The direction requires that a draft LEP include provisions to facilitate the protection and conservation of aboriginal and European heritage items.	The site contains two heritage items – Item 29 – Colliery relics and item A9 Amos Bros Quarry. Item 29 is located on 155 Old Main Road and is not located within the proposed development footprint. However development will potentially affect this site if access is not restricted. A9 is not located within the area proposed for development. The development area is not identified in Council's Sensitive Aboriginal Landscape mapping, however creeklines outside of the proposed development area are identified as Sensitive Aboriginal Landscape. Further Aboriginal consultation and investigation should occur, as well as assessment of European heritage impacts.
2.4 – Recreation Vehicle Areas	The direction restricts a draft LEP from enabling land to be developed for a recreation vehicle area.	This Planning Proposal does not propose any recreation vehicle areas and is consistent with this Direction.
3.1- Residential Zones	The direction requires a draft LEP to include provisions that facilitate housing choice, efficient use of infrastructure, and reduce land consumption on the urban fringe.	The proposed development concept includes a mix of low and medium residential housing along with affordable housing in a well serviced location with close proximity to the arterial road network, train stations and other services. The proposal is considered consistent with this SEPP.
3.2 – Caravan Parks and Manufactured Home Estates	The direction requires a draft LEP to maintain provisions and land use zones that allow the establishment of Caravan Parks and Manufactured Home Estates.	The LEP is not proposing caravan parks or manufactured home estates. The proposal is considered consistent with this direction.

Ministerial Direction	Relevance	Implications
3.3 – Home Occupations	The direction requires that a draft LEP include provisions to ensure that Home Occupations are permissible without consent.	The proposal does not change provisions relating to Home Occupation. This use is still permissible without consent.
3.4 – Integrating Land Use and Transport	The direction requires consistency with State policy in terms of positioning of urban land use zones.	The site is well located close to existing services and facilities in Fennell Bay and Woodrising. It is located nearby to the major road network and is in close proximity to Booragul and Fassifern railway station. The proposal is considered consistent with this direction.
4.1 Acid Sulfate Soils	Aim to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	The site contains Class 5 - acid sulphate soils, which are considered as low probability of containing acid sulphate soils, however further consideration of this will occur as part of the environmental studies to support the rezoning.
4.2 – Mine Subsidence and Unstable Land	The direction requires consultation with the Subsidence Advisory NSW where a draft LEP is proposed for land within a mine subsidence district.	The site is located partly in the Killingworth-Wallsend mine subsidence district and partly in the Lake Macquarie No.1 Extension mine subsidence district. Further consultation with the Subsidence Advisory NSW will be required.

Ministerial Direction	Relevance	Implications
4.3 - Flood Prone Land	Aims to ensure that development of flood prone land is consistent with the NSW Government Flood Prone Land Policy and the Principles of the Floodplain Development Manual 2005 and to ensure that the provision of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Part of the site is potentially affected by flooding as it contains Marmong Creek. Further assessment of flooding impacts is required.
4.4 – Planning for Bushfire Protection	The direction applies to land that has been identified as bushfire prone, and requires consultation with the NSW Rural Fire Service, as well as the establishment of Asset Protection Zones.	The site is bushfire prone and further assessment will be required to ensure bushfire risks can be addressed and consultation with RFS will be required.
5.10 – Implementation of Regional Plan	The direction seeks to give effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The rezoning is consistent with the goal to provide greater housing choice with compact development with a diversity of small lot sizes that is currently not well represented in the area.
6.1 – Approval and Referral Requirements	The direction prevents a draft amendment from requiring concurrence from, or referral to, the Minister or a public authority.	The proposal is consistent with this direction because an LEP Amendment would not require concurrence, consultation or referral of development applications to a Minister or public authority and would not identify development as designated development.
6.2 – Reserving Land for Public Purposes	The direction prevents a draft LEP from altering available land for public use.	This direction states that a planning proposal must not create, alter or reduce existing zonings or reservation of land for public purposes without the approval of the relevant public authority and the Director General

Ministerial Direction	Relevance	Implications
		of the Department of Planning. The Roads and Maritime Service in preliminary consultation has indicated they propose to duplicate Toronto Road. In order to achieve this as part of the planning proposal, an acquisition layer may be required to be placed on Toronto Road. This will be further investigated as the planning proposal progresses.
6.3 - Site Specific Provisions	Aims to reduce restrictive site-specific planning controls where a draft LEP amends another environmental planning instrument in order to allow a particular development proposal to proceed. Draft LEPs are encouraged to use existing zones rather than have site-specific exceptions.	The amendment does not propose site-specific zones or planning provisions. The proposal is consistent with this Direction.

C. ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

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

The proposal will have biodiversity impacts. A Biodiversity Constraints Assessment has been prepared which identified that the site is highly constrained and likely to contain a number of threatened flora and fauna species. Two threatened flora species have been identified on the site including Black-eyed Susan (*tetratheca juncea*) and Small-flower Grevillea (grevillea parviflora subsp. parviflora) and a number of other species likely to occur.

Eight threatened fauna species were identified in the study area including Brown Treecreeper (*Climacteris picumnus victoriae*), Masked Owl (*Tyto novaehollandiae*), Powerful Owl (*Ninox strenua*), Little Lorikeet (*Glossopsitta pusilla*), Eastern Free-tail Bat (*Mormopterus norfolkensis*), Varied Sittella (*Daphoenositta chrysoptera*), Grey-headed Flying Fox (*Pteropus poliocephalus*) and Little Bentwing-bat (*Miniopterus australis*). There are two threatened ecological communities with the Swamp Sclerophyll Forest on Coastal Floodplains and Freshwater Wetlands on Coastal Floodplains associated with the Marmong Creek riparian corridor.

Further ecology work is being undertaken and the proponents are interested in pursuing biocertification of the subject site. Further works would include a Biodiversity Biocertification Assessment Report in accordance with the Biodiversity Assessment Method. The study would address the following:

- A review of the current plot sampling effort and potential further sampling of BAM plots to ensure compliance with the BAM.
- A review of the threatened species targeted surveys undertaken to date and potential supplementary surveys for species credit species to ensure compliance with the BAM.
- Confirmation of the conservation significance of the development site, including the presence of any threatened biota and MNES and their habitats.
- Detailed consideration of measures to avoid and mitigate impacts.
- Detailed impact assessment including consideration of secondary and operational impacts.
- Credit calculations to determine the quantum of biodiversity offset required for residual impacts.



Figure 10: Biodiversity Constraints Assessment

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

The site has environmental constraints and further environmental assessment will be required.

Bushfire

The site is bushfire prone and a bushfire assessment will be required including identification of asset protection zones.



Figure 11: Bushfire Prone Land Map

<u>Heritage</u>

The site contains two heritage items – Item 29 – Colliery relics and item A9 Amos Bros Quarry. Item 29 is located in the northern section of 155 Old Main Road, however is not located in the proposed development footprint. Despite this, development will potentially affect this site if access is not restricted to this heritage item. Council's Heritage Study 1993 identified that this is an archaeological site of high potential for interpretation which could be a valuable community asset as a parkland with an interpreted heritage site and further archaeological investigations are needed. A9 is not located within the area proposed for development.

The development area is not identified in Council's Sensitive Aboriginal Landscape mapping, however creeklines outside of the proposed development area are identified as Sensitive Aboriginal Landscape. Further Aboriginal consultation and investigation should occur, as well as assessment of European heritage impacts and measures to ensure the heritage item is maintained.



Figure 12: Heritage Items

Watercourse and Flooding

There is a coastal wetland located downstream of the proposed rezoning as shown in map below. Part of the site is potentially subject to flooding due to Marmong Creek being present and there is known flooding areas west of Toronto Road, Booragul. Further investigation and consideration of flooding and watercourse impacts will be required.



Figure 13: Coastal Management SEPP



Figure 14: Flooding Map

<u>Noise</u>

Toronto Road and the railway line are likely to cause noise impacts on the development. An acoustic assessment is recommended to identify potential impacts and mitigation measures.

Contamination

The site is not identified as potentially contaminated on Council's Register of Contaminated Sites. Underground mining occurred on site and there is a historic mine shaft. The site is

largely vegetated, however there are some areas of clearing outside of the development footprint. There is also some isolated dumping within the site. A Phase 1 Contamination Assessment will be required to determine potential contamination and whether any further assessment is required.

<u>Soils</u>

Part of the site contains Class 5 Acid Sulphate soils and geotechnical zone T4 with slopes greater than 5 degrees, but less than 15%. Parts of the site are steep with ridgeline areas, but these area have been avoided in the proposed development concept. An urban capability assessment/geotechnical report will be needed to support the rezoning.

Additional Studies

It is recommended that the following studies be prepared to support the rezoning:

- Bushfire assessment
- Heritage Study including archaeological survey and Aboriginal heritage assessment
- Urban capability assessment including investigations on soil types and mine subsidence and a Phase 1 Contamination investigation
- Traffic and Infrastructure assessment to identify any impacts or upgrades required
- Noise assessment
- Flooding and Hydrology
- Additional ecological investigations
- Social assessment

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

Social Impacts

The proposed development will have positive social impacts providing a more diverse mix of housing with smaller lot sizes, as well as a component of affordable housing in a well serviced site with proximity to public transport, shops and services including local schools. Landcom's Housing Policy mandates that 8-10% of projects are affordable housing. The study will need to demonstrate how the recreational needs of the new population will be met and consider social impacts.

Economic Impacts

The proposed development will provide a number of jobs during the construction phase. A small local centre or shop top housing to service the development will be explored during the preparation of the planning proposal. However, this would be a small shop with minimal economic impacts expected.

D. STATE AND COMMONWEALTH INTERESTS

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

The site is located on the arterial road network having access to Toronto Road, Booragul and is also located within proximity to Booragul and Fassifern train stations. New intersections will be required on Toronto Road, however this will be determined through a traffic assessment and consultation with the Roads and Maritime Service. The site has access to all other infrastructure such as sewer, water and electricity. Consultation with utility providers will be required to determine infrastructure capacity.

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

Consultation will occur with State and Government agencies in accordance with the Gateway Determination. It is recommended that consultation occurs with the following government agencies:

- Mine Subsidence Board
- Transport for NSW
- Department of Premier and Cabinet
- Department of Planning Industry and Environment
- Rural Fire Service

Roads and Maritime Service Consultation

Preliminary consultation with Roads and Maritime Service has indicated the agency's intent to widen Toronto Road between Fennell Bay and Booragul. The road widening affects the frontage of the site

Part 4 – MAPPING

Attachment 1 – Aerial Map



Attachment 2 – Existing Zoning



Attachment 3 – Existing Lot Size







Attachment 5 - Indicative Proposed Zones and Concept Plan



Project Objectives:

- ▶ 565 dwellings
- Diverse mix of housing

Total Site Area	240.76 ha	100%	
Developable Area	26.55 ha	11%	
Road Reserve	17.62 ha	7%	
Additional works	6.24 ha	3%	
Estimated Bushland (vegetation)	190.35 ha	79%	

Lot size	Yield	Percentage
200-300m ²	140	25%
300-450m ²	355	63%
450-600m ²	70	12%
Total	565	100%



Note: the proposed zones and development footprint will be determined once environmental studies have been prepared. These examples are the proposed concept plans provided by the land owner and these plans will be updated further along in the process.

Part 5 – COMMUNITY CONSULTATION

The Planning Proposal will be exhibited in accordance with the Gateway determination. It is recommended that the planning proposal be exhibited for 28 days.

Part 6 – PROJECT TIMELINE

Action	Timeframe
Anticipated commencement date (date of Gateway determination)	July 2019
Anticipated timeframe for completion of required technical information	August 2020
Timeframe for government agency consultation (pre exhibition)	21 days
Public exhibition (commencement and completion dates)	28 days
Date of Public hearing (if required)	Nil
Consideration of submissions	21 days
Timeframe for government agency consultation (post exhibition if required)	21 days
Post exhibition planning proposal consideration / preparation	28 days
Submission to Department to finalise LEP	May 2021
Date RPA will make Plan (if delegated)	July 2021
Date RPA will forward to the Department for notification (if not delegated)	July 2021