

Planning Proposal

Amendment to Lake Macquarie Local Environmental Plan 2004

F3 Freeway Service Centre

Local Government Area: Lake Macquarie

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

This Planning Proposal has been prepared by Council using information provided by the proponent in the report titled *Planning Proposal Submission to Lake Macquarie Council relating to the Proposed Service Station on the south bound site of F3 Freeway, May 2012*, and associated annexures prepared by Elton consulting for Blaxland Properties.

Part 1 – Objective of the Planning Proposal

The objective of the Planning Proposal is to amend *Lake Macquarie Local Environmental Plan 2004* (LMLEP 2004) (and the draft Lake Macquarie Standard Instrument LEP) to enable the establishment of a highway service centre on a 14.5 hectare site to the east of the F3 Freeway being Lot 211 DP 702166 (see Figure 1, 2, & 3). It is proposed that the highway service centre will include 24 hour fuel, petrol, gas and diesel with separate dispensing areas for cars and trucks, an ancillary 250m² convenience retail shop, restaurants (including sit down, takeaway and drive through facilities), toilets and wash rooms, and car and truck parking.

Building height controls will be transferred from the DCP to the LEP during the implementation of the Standard Instrument LEP. It is likely that the proposed development will be assessed under these new provisions. Consideration has been given to appropriate building heights to ensure that the envisaged scale of development can be realised on the subject land, while maintaining the character of the area and vistas from the Freeway. The height required to support the proposed development is 10 metres. This will need to comprise part of the LEP amendment.

The proponent has indicated a desire to subdivide land to be used as a service centre from the parent lot. This would allow the residual land to be used for a rural use. This could be undertaken either by application under *State Environmental Planning Policy 1 – Development Standards* (SEPP 1), or clause 4.6 in the case of the Standard Instrument, or by inserting an additional clause within the LEP which would provide more certainty to the proponent. The process will be much more efficient by inserting a provision in the additional uses section of the LEP.

Minimum lot size controls will be transferred from a schedule to a map layer under the Standard Instrument LEP. This could facilitate site specific Minimum Lot Size provisions for the subject land to enable the proposed subdivision without the need for an enabling clause, however, the precise size of any residual land will not be known until a development application has been approved for the service centre. As such, it is appropriate to include a clause to facilitate subdivision of the land into no more than two lots as outlined in Part 2.

The existing zone applying to the land is 1(1) Rural (Production) Zone, which will transfer to RU2 Rural Landscape under the standard Instrument LEP. Council previously sought to apply the 5 Infrastructure Zone to the land as the proposed use of the site is ancillary to the use and function of the F3 Freeway which carries the 5 Infrastructure Zone, however, a previous Gateway determination indicated that this was not supported. This Planning Proposal does not propose to rezone the subject land as other zones would permit uses that are inappropriate to the site and its location.

Part 2 – Explanation of the Provisions

Lake Macquarie Local Environmental Plan 2004

To implement the proposed amendment, the following provisions are proposed for the LEP. If the amendment is adopted prior to the implementation of the Standard Instrument LEP, the amendment proposes the following changes to LMLEP 2004.

On the advice of the Department of Planning, use of the Standard Instrument definition for *highway service centre* is proposed. It is proposed that *highway service centre* be added to the dictionary of LMLEP 2004. The definition does not provide for an ancillary shop which has led to the amendment also proposing a shop not exceeding 250m². Subdivision of the parent lot to enable the highway service centre to be separated from the residual rural land is proposed to be accommodated by enabling the subdivision of Lot 211 DP 702166 into no more than two lots, which will be less than the minimum lot size provided by the LEP.

The proposed provisions for LMLEP 2004 are:

Schedule 7 Additional development allowed on certain land

Item No	Column 1	Column 2
X	Land at Cooranbong being part of Lot 211, DP 702166	Development on Lot 211, DP 702166, for the purpose of: a. a highway service centre b. a shop not exceeding 250m ² c. Subdivision of Lot 211, DP 702166, into no more than 2 lots to separate the highway service centre site and access ramps from adjoining rural land. Each lot is able to be less than 40ha in size.

Dictionary

highway service centre means a building or place used to provide refreshments and vehicle services to highway users. It may include any one or more of the following:

- (a) a restaurant or café,
- (b) take away food and drink premises,
- (c) service stations and facilities for emergency vehicle towing and repairs,
- (d) parking for vehicles,
- (e) rest areas and public amenities.

Draft Lake Macquarie Standard Instrument Local Environmental Plan

If the Standard Instrument is implemented prior to this amendment being adopted, the following is proposed to be implemented in the Standard Instrument LEP.

An amendment to Schedule 1 will identify the subject land and provide for a *highway service centre* and *shop* not exceeding 250m². The Standard Instrument LEP does not provide adequately for signage in the RU2 Rural Landscape zone, which has led to the proposed addition of *signage* as a use on the site. Subdivision of the site, as mentioned previously, is proposed to be supported by

inserting a clause to enable subdivision of Lot 211 DP 702166 into no more than two lots which will be less than the minimum lot size otherwise permitted by the LEP.

A height of 10 metres is necessary to support the proposed development on the site, particularly the canopy for the area to be used by trucks. A category exists in the draft Lake Macquarie Standard Instrument LEP, which is K 10m. This will need to be applied to Lot 211 DP 702166.

The proposed provisions for draft Standard Instrument Local Environmental Plan are:

Schedule 1

X Use of certain land at Cooranbong

(1) This clause applies to land at Cooranbong identified as "Cooranbong Area 1" on the Additional Permitted Uses Map.

(2) Development for the purpose of a highway service centre, shop not exceeding 250m², and signage on Lot 211, DP 702166.

(3) Subdivision of Lot 211, DP 702166 into no more than 2 lots to separate the highway service centre site and access ramps from adjoining rural land.

Height of Buildings Map

Apply category K 10 metres maximum building height to Lot 211 DP 702166.

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?

This Planning Proposal is not the result of a strategic study or report. The proposal has been put forward by the landowner and agreed to by Council. The subject land meets the requirements of the Roads and Maritime Services in terms of distance from another service centre, and the land has been disturbed by previous land uses providing a suitable location for the proposal. The development will provide employment opportunities to the local community and support the ongoing role of the F3 Freeway as the primary transport corridor in the region.

Some investigations have been undertaken by the proponent to support the proposal, however, further studies are considered necessary to progress the proposal. Studies previously undertaken include:

- Traffic and Utility Services Report
- Economic Report
- Retail Analysis Report
- Flora and Fauna Report
- Bushfire Report

These reports indicate that the proposal can be accommodated on the subject site and that the proposal is feasible, provided that Asset Protection Zones are established, and loss of biodiversity is offset. Additional studies are considered necessary to identify any other issues that may need to be resolved through the LEP amendment process. The additional studies considered necessary include:

- Aboriginal Heritage Impact Assessment
- Land Contamination and Geotechnical Assessment
- Flooding/Hydrology Assessment
- Noise and Vibration Assessment
- Others as determined by the Gateway assessment

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

In order to enable the proposed development an LEP amendment is necessary. The amendment will ensure that the proposed development and its various uses are permitted on the subject land with development consent. A clause enabling additional uses on the land will facilitate the proposed development.

It is proposed that land to be used for the service centre will be subdivided from the parent lot being Lot 211 DP 702166, to enable residue land to be sold and used for a separate use. This could be facilitated by including provision for the proposed subdivision within the enabling clause, or by assessing an application under State Environmental Planning Policy 1 – Development Standards (SEPP 1) or in the case of the Standard Instrument, clause 4.6. The process for undertaking this subdivision would be much more efficient by inserting the proposed subdivision clause as outlined in Part 2 above.

Inclusion of *highway service centre* in the land use table under an urban zone could support the proposed development, however, inappropriate uses could result on the subject land if

the land is rezoned for this purpose. The subject land is appropriate for providing the very specific use of a service centre to support the ongoing function of the F3 Freeway as the primary regional transport corridor, however, broader uses that would be supported by applying an existing zone and associated uses in the land use table, may lead to inappropriate use of the site. An enabling clause is the only appropriate path in facilitating the proposed service centre.

3. Is there a net community benefit?

Given the additional employment opportunities offered by the proposed development and the minimal environmental impact likely to result, the proposal is considered to provide a net community benefit. A Net Community Benefit Test has been undertaken and provided below.

Net Community Benefit Test

Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800 metres of a transit node)?	The proposal is effectively development that is ancillary to the F3 Freeway, and is not of a scale that warrants specific identification within the Lower Hunter Regional Strategy. The proposal will support increased use of the Freeway as growth occurs in the region.
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	The proposal is ancillary to the F3 Freeway, which is identified within the LHRS as the primary transport corridor within the region. The proposal will support increased use of the Freeway as growth occurs in the region.
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	It is not likely that the proposal will set a precedent or alter the expectation of landholders. The proposal is a one-off proposal that is intended to support the function of the Freeway and is not likely to influence development expectations on adjoining land. State Government policy also requires 24km between service centres along the highway, which will mitigate similar proposals in the locality.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	The proposal has not been influenced by other rezonings, and is not likely to result in additional spot rezonings in the locality. As such, the proposal is not part of a cumulative rezoning process. The proposal is a one-off to provide additional supporting development for the function of the Freeway.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The development that is intended to follow the LEP amendment will generate permanent employment opportunities for the local community. The proponent has established that the number of jobs generated by the development will be 472 construction jobs, 99 on-going jobs, and 183 jobs through the multiplier effect.
Will the LEP impact upon the supply of residential land and therefore housing supply and	The proposal will not have an impact on the supply of residential land.

affordability?	
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?	Roads The proposed use will not generate more vehicles on the F3 itself. Ongoing consultation has been undertaken with TRMS to ensure that the access ramp design is safe and readily accessible, and complies with the necessary requirements. Further detailed work will be undertaken with RMS post gateway, to ensure that internal road design and access ramps are sufficient and will not result in a loss of level of service that is unacceptable. Public infrastructure Local infrastructure will be essential to the site's successful development. Preliminary investigations of the site's ability to be serviced by water and sewer infrastructure have been undertaken by Cardno. The investigation by Cardno has revealed that in order to service the site the following works will be required: Potable Water Supply To supply potable water the site, the connection point from the site to the existing potable water network services will require 1,150m of 150mm diameter lead in main. These works will only provide fire fighting flows to building levels at or below RL12m and RL26m. An alternative to carrying out these network upgrades associated with meeting fire fighting pressure requirements may be an onsite system of booster pumps and dedicated fire fighting water storage tanks subject to further negotiations and approvals from Hunter Water.  Sewer Servicing There is capacity at the nearest Waste Water Treatment Plant

(Dora Creek) to service the site.

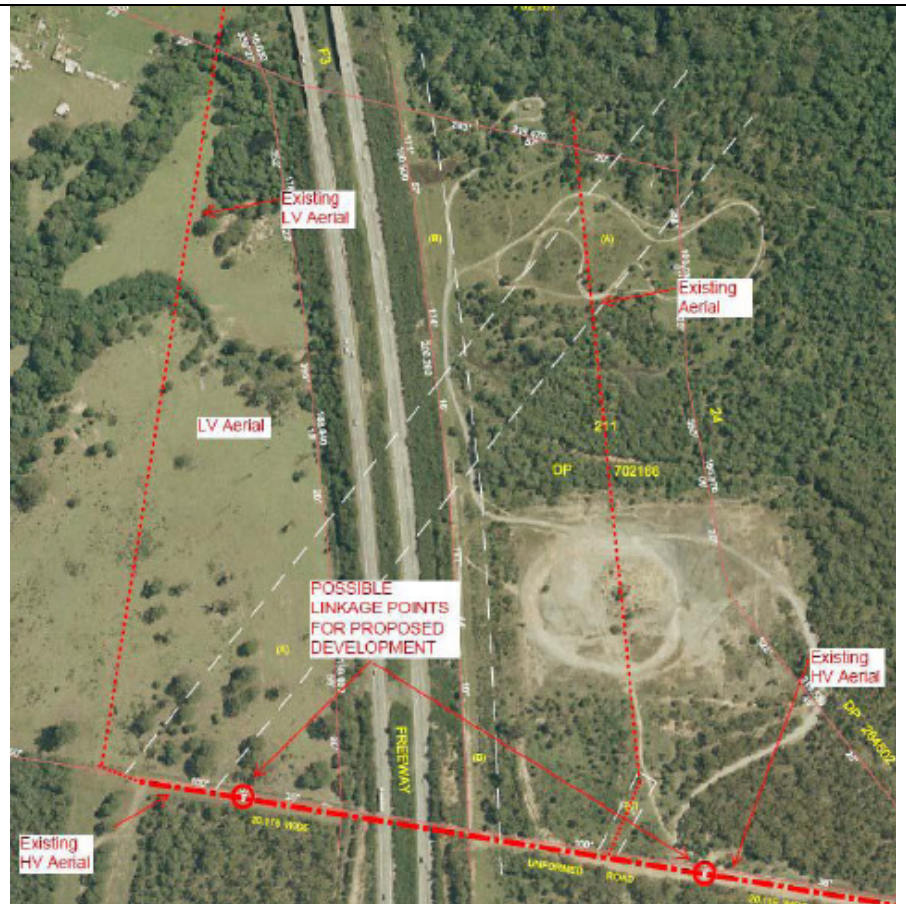
Upgrades required for the site are substantial, requiring a 1,380m sewer main extension and an on site pumping station.



Electrical Servicing

Connection to Energy Australia's network to service Lot 211 will be to the existing 11kV aerial service at the southern boundary of lot 211. The developer will be required to construct high voltage feeder cables within the site from the connection point to the development. An 800kVA pad mount substation will be required for each site.

A 60m wide transmission line easement traverses the northern portion of Lot 211. The easement owner, Transgrid Australia, will only allow limited development activities within this easement excluding construction of buildings. Transgrid has confirmed that the easement is required for future provision of transmission lines to the nearby Eraring Power Station and as such Transgrid is not in a position to reconsider any proposal to have the easement extinguished. However, a letter from Transgrid has been received indicating that development of car parks, driveways etc can occur within the easement.



Telecommunications Servicing

Telstra have advised that their network can be upgraded to provide the required telecommunications services to the site. They will undertake a Business Plan assessment for the site once details of the development are confirmed.

Natural Gas Servicing

The nearest gas main to the site is the Sydney – Newcastle primary main. Connection to this main to service the site would be very costly at approximately \$1.5 million and involve a planning, design and construction phase of at least 24 months.

The only other alternative is a potential future extension of the Morisset gas network to Cooranbong; however timing for this work is presently unknown.

Initial conclusions are that servicing the site with gas within a reasonable timeframe and budget will be difficult and hence planning should process on the basis that energy supply will be from the electrical grid or by on site LPG tanks.

Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?

The proposal will support increased traffic volumes on the freeway as growth occurs in the region. The proposal is responding to growth rather than being a catalyst for additional vehicle use. As such, the affect of the proposal in this regard is likely to be negligible.

Are there significant

The F3 Freeway is a significant transport corridor, which forms part

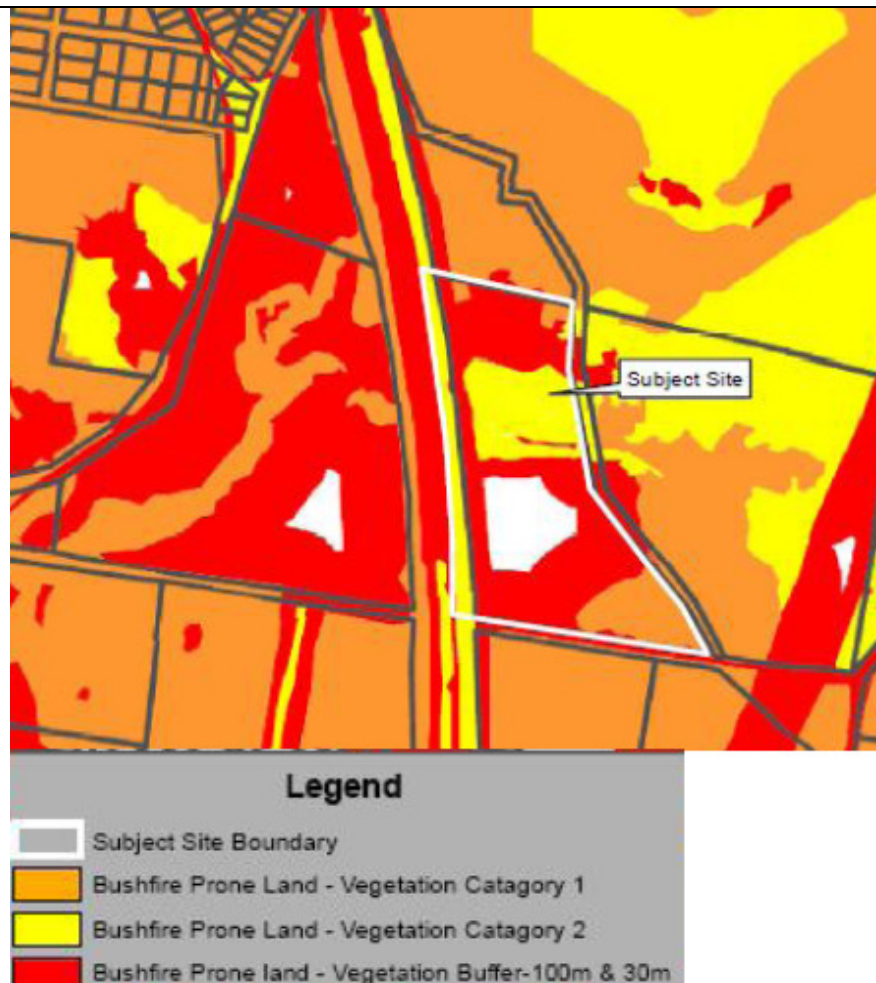
Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	of the National Highway. The proposal is intended to support increasing use of the Freeway due to growth in the region. As such, the proposal is likely to support the ongoing function of the Freeway.
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	Preliminary investigations of the site have determined that the site is suitable to support the proposed development, however, further studies will be necessary to confirm site suitability and siting of the development. The investigation undertaken so far have found the following: Fauna and Flora Based on the detailed field survey, information and assessment, the following provides a summary by Conacher Pty Ltd: • No threatened flora or fauna species listed within the EPBC Act (1999) or the TSC Act (1995) were observed within the subject site; • Two endangered ecological communities River-Flat Eucalypt Forest on Coastal Floodplains of the North Coast, Sydney basin and South East Corner bioregions and Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions, as listed within the TSC Act (1995), were observed within the subject site; • No endangered populations, listed within the TSC Act (1995), were observed on the subject site; • No migratory species, listed within the EPBC Act (1999) were observed within the subject site; • The proposed development is not likely to have a significant effect on threatened species, populations, endangered ecological communities or their habitats; • A Species Impact Statement should not be required for the proposed development; • It is considered that a referral of this project to the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) is not required. It is proposed that loss of biodiversity will be offset through rehabilitation and environmental management works on-site. Consultation has occurred with the Office of Environment and Heritage (OEH), which is of the view that the biodiversity loss can be managed on-site.



Bushfire

Bushfire Prone Land Mapping:

Conacher advises that the Council's Bushfire Prone Land Map for the development site shows that the site is predominately located within a 100 metre buffer area to Category 1 vegetation. The southeast corner of the site is located within an area mapped as Category 1. Refer to figure below.



Forest Fire Danger Index

The subject site is located within the Lake Macquarie City Council Local Government Area in the Greater Hunter Region. The Forest Fire Danger Index for the Greater Hunter Region is rated at 100 for use in determining asset protection zone requirements and categories for bushfire attack.

Vegetation Classification

Vegetation within the site and adjoining areas consists of either cleared land, forest or remnant vegetation for bushfire hazard assessment purposes. The vegetation along the northern drainage line and future vegetation within the riparian corridor area is assessed as forest vegetation.

Asset Protection Zone and Bushfire Hazard Management

The proposed development has a bushfire threat located within 140 metres. Therefore a bushfire separation distance of at least 15 metres is recommended to the bushfire hazard is for commercial buildings.



Access

The proposed development will be an isolated development surrounded by undeveloped rural or bushland areas. It is most likely that fire appliances will generally operate from hydrants located within the developed areas of the site using water from the local reticulated system.

Future development will benefit from direct ingress and egress routes to the F3 Freeway. There are also areas within the existing development such as car parking areas, lawns and other open areas that will enable adequate access and turning areas for fire appliances. The direct ingress and egress route will enable the safe evacuation of people while simultaneously enabling access for emergency services if required ongoing consultation will be required with the Rural Fire Service and the NSW Fire Brigade to confirm the suitability of the proposed access/egress system.

Riparian Corridor and Drainage

The riparian corridor will be assessed based on a site assessment and inspection by the NSW Office of Water and NSW Environment and Heritage. Given the relatively degraded state of the riparian zone, the preliminary assessment indicates that the maximum corridor widths of a 40m core riparian zone and a 10m vegetation buffer measured from the top of bank will not apply for the site and that a more likely outcome is 35m and 5m respectively. Council

	records do not indicate the site is flood liable, however a flood study will be required to determine flood levels within the creek at Development Application Stage.
Will the LEP be compatible/ complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?	The proposal is complementary to the function of the F3 Freeway, and will support increasing use of the Freeway as growth occurs in the region. Subsequent development on the site is likely to be typical of a highway service centre. The part of the site subject to the proposed development is highly degraded (see Site Images), and is surrounded by vegetation. The site is not likely to support an alternative agricultural use without significant rehabilitation. There are options available for the proposal to be either integrated with the local road network and community, or for the development to remain separated. This, and the design of subsequent development on the subject land, will be considered further upon assessment of a development application for the proposed development.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	The proposal will support a second service centre along the F3 Freeway, which will provide additional competition to the F3 Freeway service centre at Warnervale.
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	The proposal is a one-off stand-alone proposal, and is not likely to develop into a centre in the future.
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	The proposal will provide an additional service centre along the F3 Freeway, which will support increasing traffic volumes as growth in the region occurs and will generate additional jobs for the local community.

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)?

The proposal will play a role in supporting the increasing use of the Freeway as growth in the region occurs. The Lower Hunter Regional Strategy (LHRS) indicates an expected population growth of 160,000 people, translating to an anticipated demand for 66,000 jobs by 2031. It is likely that the F3 Freeway will remain as the primary transport route, linking the region to Sydney and providing a thoroughfare for the north coast. The proposal will support the ongoing role of the Freeway in providing efficient transportation within and through the region, including supporting the development of the identified future freight hub and employment lands.

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

The following assessment of the proposal has been undertaken against the Strategic Directions of Council's Lifestyle 2020 Strategy:

A City Responsive to its Environment

The part of the site subject to the proposed development is degraded and predominantly clear of vegetation, however, the proposal will clear approximately 4.23 hectares comprising 0.25 hectares of the Swamp Sclerophyll Forest Endangered Ecological Community (see Figure 5). The subject land is capable of supporting Asset Protection Zones without substantial clearing of existing vegetation, and the land has not been identified as being flood prone or affected by acid sulphate soils. The final design and associated extent of vegetation clearing will need to be considered further as part of the development assessment process for the proposed development.

The proposal provides further support to an existing major transport corridor. It is believed that the proposal is appropriate to support increased freeway traffic, as growth continues in the region.

Design measures will need to be implemented to mitigate environmental impacts resulting from the development. These will be assessed following the LEP amendment. The subject land is capable of supporting the proposed development without significant environmental impacts provided the appropriate mitigation measures are implemented. The subsequent development resulting from the LEP amendment will be assessed on its merits upon submission of a development application.

A Well Serviced and Equitable City

The development of the land for the proposed use will provide additional employment opportunities in the local area, while providing services to people travelling through the local government area. The proposal is a stand-alone development that is not related to the establishment of town centres or connectivity within neighbourhoods, and it is intended that the proposed development will be accessible only from the Freeway (although this will be assessed upon receiving a development application for the proposed development).

A Well Designed and Liveable City

The condition of the subject land is unlikely to support rural use due to its degraded state and redevelopment will support remediation of the land to facilitate the proposed use. The specific design and siting of the development proposed will be considered upon receiving a development application, however, the concept design indicates that the development will be positioned upon the degraded part of the site.

A City of Progress and Prosperity

The Freeway is the primary transport corridor in the region and an increased traffic volume is expected as regional growth continues. The proposal will contribute to the ongoing function of the Freeway as the primary transport corridor, which will provide support for other investment in the region. The proposal will also lead to employment opportunities directly by providing jobs to the local community.

An Easily Accessible City

It is important to ensure that appropriate services are available to traffic using the Freeway, and to ensure its ongoing efficiency as the primary transport corridor in the region. The proposal will provide for the needs of freeway users, and provide a benefit to Lake Macquarie City's economy by capturing some trade from Freeway users that would otherwise occur at the service centres located at Warnervale or Beresfield.

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.

SEPPs	Relevance	Implications
SEPP 1 – Development Standards	The SEPP provides for flexibility of development standards where justified.	SEPP 1 will be replaced by clause 4.6 of the Standard Instrument LEP. The

SEPPs	Relevance	Implications
		development process will be more efficient and the intent clearer if subdivision provisions are included in the additional development section of the LEP.
SEPP 33 – Hazardous and Offensive Development	The SEPP aims to ensure that a consent authority is adequately informed and has sufficient information to effectively assess an application for development, and to minimise adverse impacts associated with the development.	The SEPP will need to be considered upon submission of a subsequent application for development. Further investigations will be necessary to support development of the site in this regard, however, these are not considered necessary for the Planning Proposal to proceed.
SEPP 44 – Koala Habitat Protection	The SEPP aims to provide proper conservation and management of Koala habitat by requiring the identification, conservation, and management of actual and potential Koala habitat.	A detailed flora and fauna investigation of the site determined that the subject land does not contain core Koala habitat, however, the site contains potential Koala habitat. The part of the site subject to the proposed development is degraded and predominantly clear of vegetation. The flora and fauna investigation concluded that a species impact statement should not be required. Any loss of biodiversity will be offset through on-site rehabilitation and improvement works.
SEPP 55 – Remediation of Land	The SEPP requires the subject land to be suitable for its intended use in terms of the level of contamination, or where the land is unsuitable due to the level of contamination, remediation measures are required to ensure that the subject land is suitable for its intended use.	Investigations will be necessary to determine whether the subject land contains contaminants due to prior land uses. Where contaminants are identified, remediation will be required in accordance with State Government guidelines and regulations prior to development occurring. At the development application stage, details will also be required regarding contamination prevention measures.
SEPP 64 – Advertising and Signage	The SEPP aims to ensure that signage and advertising, particularly in road corridors, in appropriate to the location and setting of a proposed development.	The SEPP will need to be considered in the design and assessment of any subsequent application for development of the subject land.
SEPP (Infrastructure)	The SEPP aims to provide a consistent planning regime for	Development resulting from the proposal is not likely to require

SEPPs	Relevance	Implications
2007	the delivery of infrastructure. It also provides provision for consultation and assessment.	implementation of the provisions of the SEPP.
SEPP (Mining, Petroleum Production and Extractive industries) 2007	The SEPP aims to manage the development of land for mining, petroleum, and extractive development in a manner that provides social and economic welfare of the State, and provides controls to promote ecologically sustainable development.	The subject land is within a Mine Subsidence District, and the Mine Subsidence Board will be consulted in this regard.

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

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

Ministerial Direction	Relevance	Consistency
1.1 – Business and Industrial Zones	Aims to ensure a draft LEP maintains and protects business and industrial lands and that new zones are established in accordance with strategic policy directions.	N/A
1.2 – Rural Zones	Aims to protect agriculturally productive land by preventing a draft LEP from rezoning land from rural to an urban land use, or intensifying the permissible density of rural land; unless it is consistent with a Department of Planning regional strategy or justified with concurrence from the Director-General.	The Planning Proposal is not proposing to rezone the land, however, it will facilitate the development of the site for a service centre, which is considered a more intense land use. This is not consistent with the Direction, however, the proposal is not inconsistent with the objective of the Direction, which is to protect the agricultural production value of rural land. In this regard, the inconsistency is considered to be of minor significance. The part of the site subject to the proposed development is highly degraded from previous use and is not likely to be used for agriculture without significant rehabilitation. The proposed use will create local employment opportunities and provide additional services to motorists as growth occurs in the region, and use of the Freeway increases.

Ministerial Direction	Relevance	Consistency
		The proposed subdivision of the land will not result in an increase in density of development. The parent lot does not provide a dwelling lot, and the subdivision of residual land will not add to the development potential of that residual land. Concurrence is sought from the Director-General regarding this direction.
1.3 – Mining, Petroleum Production & Extractive Industries	Aims to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	This direction is not applicable , as the proposed development will not prohibit the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or affect future extraction of State or regionally significant reserves. The Department of Primary industries will be consulted to confirm this.
1.4 – Oyster Aquaculture	Aims to protect Priority Oyster Aquaculture Areas that may be affected by a draft LEP by requiring oyster aquaculture leases to be identified, as well as identification of land uses that may impact on oyster aquaculture activities, and the implementation of measures to mitigate land use conflict. Also requires consultation with the Director-General of the Department of Primary Industries.	N/A
1.5 – Rural Lands	Aims to protect agricultural production land by requiring a draft LEP affecting rural or environmental protection zones (including changes to minimum lot sizes) to be consistent with the <i>Rural Planning Principles</i> and the <i>Rural Subdivision Principles</i> listed in the SEPP (Rural Lands) 2008.	N/A
2.1 – Environmental Protection Zones	Aims to protect and conserve environmentally sensitive land by requiring appropriate provisions in a draft LEP and no reduction in environmental protection standards.	The proposal does not affect land currently zoned for conservation purposes and is consistent with this Direction. The part of the site subject to the proposed development is also degraded and

Ministerial Direction	Relevance	Consistency
		predominantly clear of vegetation. High value conservation land will be preserved or offset, where clearing is unavoidable, through on-site rehabilitation and improvement works.
2.2 – Coastal Protection	Aims to protect the environment and character of coastal areas by requiring a draft LEP to include provisions that are consistent with State Government coastal policy documents.	N/A
2.3 – Heritage Conservation	Aims to conserve items of environmental heritage by requiring a draft LEP to include provisions to facilitate the protection and conservation of Aboriginal and European heritage items.	The proposal is consistent with this Direction. Part of the subject land falls within the identified Sensitive Aboriginal Cultural Landscape. As such, an Aboriginal Heritage Impact Assessment is considered necessary to support the proposal. With the exception of part of the entrance ramp, the development as shown in the concept plan, will occur outside of the designated Sensitive Aboriginal Cultural Landscape (see Figure 6).
2.4 – Recreation Vehicle Areas	Aims to protect sensitive land or land with significant conservation values from adverse impacts of recreation vehicles by prohibiting a draft LEP from enabling of a recreation vehicle area in environmentally sensitive locations, and requiring certain matters to be considered in other locations.	The proposal is consistent with this Direction and does not include a recreation vehicle area.
3.1 – Residential Zones	Aims to facilitate housing choice, efficient use of infrastructure, and reduce land consumption on the urban fringe by requiring certain provisions in a draft LEP.	N/A
3.2 – Caravan Parks and Manufactured Home Estates	Aims to provide opportunities for caravan parks and manufactured home estates by requiring a draft LEP to maintain provisions and land use zones that allow the establishment of Caravan Parks, and to take into account SEPP 36 when identifying zones and locations for Manufactured Home	The proposed amendment is consistent with this Direction and does not affect opportunities for caravan parks or Manufactured Home Estates and is not applicable to this proposal.

Ministerial Direction	Relevance	Consistency
	Estates.	
3.3 – Home Occupations	Aims to encourage low impact small businesses in dwelling houses by requiring a draft LEP to permit home occupations without consent.	The proposed amendment does not relate to dwelling houses and is not applicable to this proposal.
3.4 – Integrating Land Use and Transport	Aims to improve access to housing, jobs and services, increase transport choice and reduce motor vehicle use by requiring a draft LEP to be consistent with <i>Improving Transport Choice- Guidelines for Planning and Development</i> , and <i>The Right Place for Business- Planning Policy</i> .	N/A
3.5 – Development Near Licensed Aerodromes	Aims to ensure the safe operations of aerodromes, ensure their operation is not compromised by development, and to ensure noise mitigation measures in residential areas affected by aircraft noise by requiring draft LEP preparation to include consultation with the Department of the Commonwealth responsible for aerodromes, as well as the implementation of development controls to mitigate land use conflict and noise impacts.	N/A
3.6 – Shooting Ranges	Aims to maintain public safety and minimise land use conflict associated with shooting ranges.	N/A
4.1 – Acid Sulfate Soils	Aims to manage adverse impacts arising from the presence of acid sulfate soils by ensuring that Council considers the affect of development on land identified as having a probability of containing acid sulfate soils; and requiring that a draft LEP be consistent with the Acid Sulfate Soils Model Local Environmental Plan; and a range of other matters.	N/A
4.2 – Mine Subsidence and Unstable Land	Aims to ensure development is appropriate for the potential level of subsidence. The direction requires consultation with the Mine Subsidence Board where a draft LEP is proposed for land	The proposal is consistent with this Direction. The subject land is located within the West Lake Mine Subsidence District. It is intended that the Mine Subsidence Board will be consulted following the Gateway

Ministerial Direction	Relevance	Consistency
	within a mine subsidence district.	determination to determine further requirements.
4.3 – Flood Prone Land	Aims to ensure that LEP provisions are commensurate with flood risk and consistent with the NSW Flood Prone Land Policy and Floodplain Development Manual. Applies where the draft LEP will affect provisions to flood prone land.	N/A
4.4 – Planning for Bushfire Protection	Aims to reduce risk to life and property from bushfire. Requires an LEP to have regard for <i>Planning for Bushfire Protection</i> , amongst other matters. Applies to land that has been identified as bushfire prone, and requires consultation with the NSW Rural Fire Service, as well as the establishment of Asset Protection Zones.	The proposal is consistent with this Direction. The site contains land identified as bushfire prone land, and Asset Protection Zones will be required. Water supply for fire fighting purposes can be provided, and there is capability to provide a secondary access to the site, although this may only be used for emergency purposes.
5.1 – Implementation of Regional Strategies	Aims to give legal effect to regional strategies, by requiring draft LEPs to be consistent with relevant strategies. The direction requires a draft amendment to be consistent with the relevant State strategy that applies to the Local Government Area.	The proposal is not of a scale to be specifically identified in the Lower Hunter Regional Strategy, however, as growth in the region occurs, the proposal will provide some employment opportunities, and will support increased use of the F3 Freeway. The proposal is consistent with the Strategy in this regard.
5.2 – Sydney Drinking Water Catchments	Aims to protect water quality in the Sydney drinking water catchment.	N/A
5.3 – Farmland of State and Regional Significance on the NSW Far North Coast	Aims to maintain agricultural land for future generations and to minimise land use conflicts relating to agricultural activities.	N/A
5.4 – Commercial and Retail Development along the Pacific Highway, North Coast	Aims to manage retail and commercial development along the Pacific Highway.	N/A
5.5 – Development in the vicinity of Ellalong, Paxton and Millfield	(Revoked 18 June 2010)	N/A

Ministerial Direction	Relevance	Consistency
(Cessnock LGA)		
5.6 – Sydney to Canberra Corridor	(Revoked 10 July 2008)	N/A
5.7 – Central Coast	(Revoked 10 July 2008)	N/A
5.8 – Second Sydney Airport: Badgerys Creek	Aims to avoid incompatible development within the vicinity of the proposed second Sydney airport.	N/A
6.1 – Approval and Referral Requirements	Prevents a draft LEP from requiring concurrence from, or referral to, the Minister or a public authority unless approval is obtained from the Minister and public authority concerned. Also restricts the ability of a Council to identify development as designated development without the Director General's agreement.	The draft amendment is consistent with this requirement and does not propose to require concurrence concurrences or referrals, and does not identify development as designated development.
6.2 – Reserving Land for Public Purposes	Aims to facilitate the reservation of land for public purposes, and to facilitate the removal of such reservations where the land is no longer required for acquisition. A Council must seek the Minister's or public authority's agreement to create, alter or reduce existing zonings or reservations in an LEP. A Council can also be requested to rezone or remove a reservation by the above.	This Direction is not applicable to this proposal and will not have implications for public land reservations.
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 proposal is not consistent with this direction, however, it is considered to be of minor significance. The subject land is appropriate for providing the very specific use of a service centre to support the ongoing function of the F3 Freeway as the primary regional transport corridor, however, broader uses that would be supported by applying an existing zone and associated uses in the land use table, may lead to inappropriate use of the site. An enabling clause is the only appropriate path in facilitating the proposed service centre.

Ministerial Direction	Relevance	Consistency
		The Director-General's advice is sought in this regard.
7.1 – Implementation of the Metropolitan Plan for Sydney 2036	Aims to give legal effect to the Metropolitan Plan for Sydney 2036.	N/A

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 concept plan indicates that the part of the site subject to the proposed development is substantially disturbed (see Figure 3). The Conacher Environmental Group Flora and Fauna Report identified the presence of two endangered ecological communities, being River-flat Eucalypt Forest and Swamp Sclerophyll Forest (see Figure 5). The proposed development will not require the removal of vegetation within the River-flat Eucalypt Forest. Although there may be approximately 0.25 hectares of vegetation clearing within the Swamp Sclerophyll Forest to support the proposed development. The Report states that the necessary clearing is not likely to substantially or adversely modify the composition of the vegetation community such that its local occurrence is likely to be placed at risk of extinction. The report concluded that the proposed development is not likely to have a significant effect on threatened species, populations, endangered ecological communities or their habitats, and a Species Impact Statement should not be required for the proposed development.

OEH have advised that loss of biodiversity could be offset through environmental management and improvement works on-site. The proponent has indicated this intention and will prepare a specific biodiversity offsets strategy in consultation with OEH and Council.

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

The subject land is in a highly degraded state due to previous use as a works depot. The site does contain vegetation, however, the concept plan indicates that the development will focus on the previously disturbed part of the site (see Figure 3). There is likely to be some clearing of vegetation to support the development. It is not anticipated that there will be other significant environmental effects as a result of the proposal, however, additional studies are considered necessary to identify any matters that may be of consequence.

The Bushfire Report undertaken by Conacher Environmental Group concluded that most of the subject land has been highly disturbed over a long period and has suffered from high levels of native vegetation removal, weed invasion, soil placement or disturbance, and that there are no significant environmental constraints to development of the land.

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

Internal consultation has been undertaken and studies have been completed to assess social and economic implications. The proposal will support the ongoing role of the Freeway as growth continues in the region, and will provide employment opportunities to the local community. The proponent has indicated that the development will provide 472 construction

jobs, 99 on-going jobs, and 183 jobs through the multiplier effect (indirect employment opportunities).

Economic and retail analysis reports submitted by the proponent have demonstrated the feasibility of the proposed development, and consultation with specialist staff indicated demand for a second service centre on the Freeway.

D. State and Commonwealth interests

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

Consultation undertaken with service authorities by the proponent has determined that the land can be adequately serviced to accommodate the proposed development of the subject land, although some upgrades will be extensive and costly.

Consultation with Hunter Water Corporation determined that the developer will need to extend the main by 1,150m to service up to 26m AHD, or upgrade to 200mm pipe to provide service if development occurs above 26m AHD.

Additionally, a sewer main extension would be required, which may be up to 1,350m in length. A Wastewater Servicing Strategy would also need to be prepared to support the proposed development, which would need to outline the proposed upgrades to impeller or pumps to support connection to the Cooranbong 9 WWPS. Hunter Water Corporation also advised that the Dora Creek Waste Water Treatment Works has sufficient capacity to support the proposal.

Transgrid advised that it had no objection to the proposed concept plan design.

The developer has advised that the costs of servicing the site have been examined, and the proposed development is feasible.

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

The requirement for consultation with State and Commonwealth public authorities will be undertaken as directed by the Gateway determination. It is proposed that consultation will occur with the following agencies:

- Department of Planning and Infrastructure
- Transport for NSW
- Roads and Maritime Services
- Destination NSW
- Hunter Water Corporation
- Ausgrid
- Trade and Investment
- Office of Environment and Heritage
- Department of Primary Industries
- Mine Subsidence Board
- Transgrid

- Rural Fire Service

Roads and Maritime Services (RMS) has advised that a number of issues must be resolved / addressed during the Gateway process and in particular, matters relating to the Ramps. In addition, Roads and Maritime Services have identified matters to be addressed as part of the development application process.

The RMS is now satisfied that the proposal can proceed to the Gateway, provided that internal road design and access ramps are demonstrated to be sufficient and will not result in a loss of level of service that is unacceptable. Further consultation is required in this regard. The proponent will also be required to undertake a detailed traffic assessment and an independent Road Safety Audit at the development application stage to support the development.

Consultation with the Mine Subsidence Board has indicated that further consultation and approval will be necessary to support a development application.

OEH has advised that an Aboriginal heritage should be considered through further investigation to identify any possible impacts of the proposal. OEH has also advised that the proposal will need to meet the 'improve or maintain' principle in terms of biodiversity, which could be managed through on-site environmental management and rehabilitation works.

Part 4 – Details of Community Consultation

There has been no previous public consultation regarding this planning proposal. Council's preference is for a minimum public exhibition period of 28 days. This will enable the LEP amendment to proceed in a timely manner, and is considered adequate for this scale of land use amendment in the context of the locality.



Figure 1: Subject Land Locality Map



Figure 2: Aerial Photograph (source: Elton Consulting Planning Proposal May 2012)

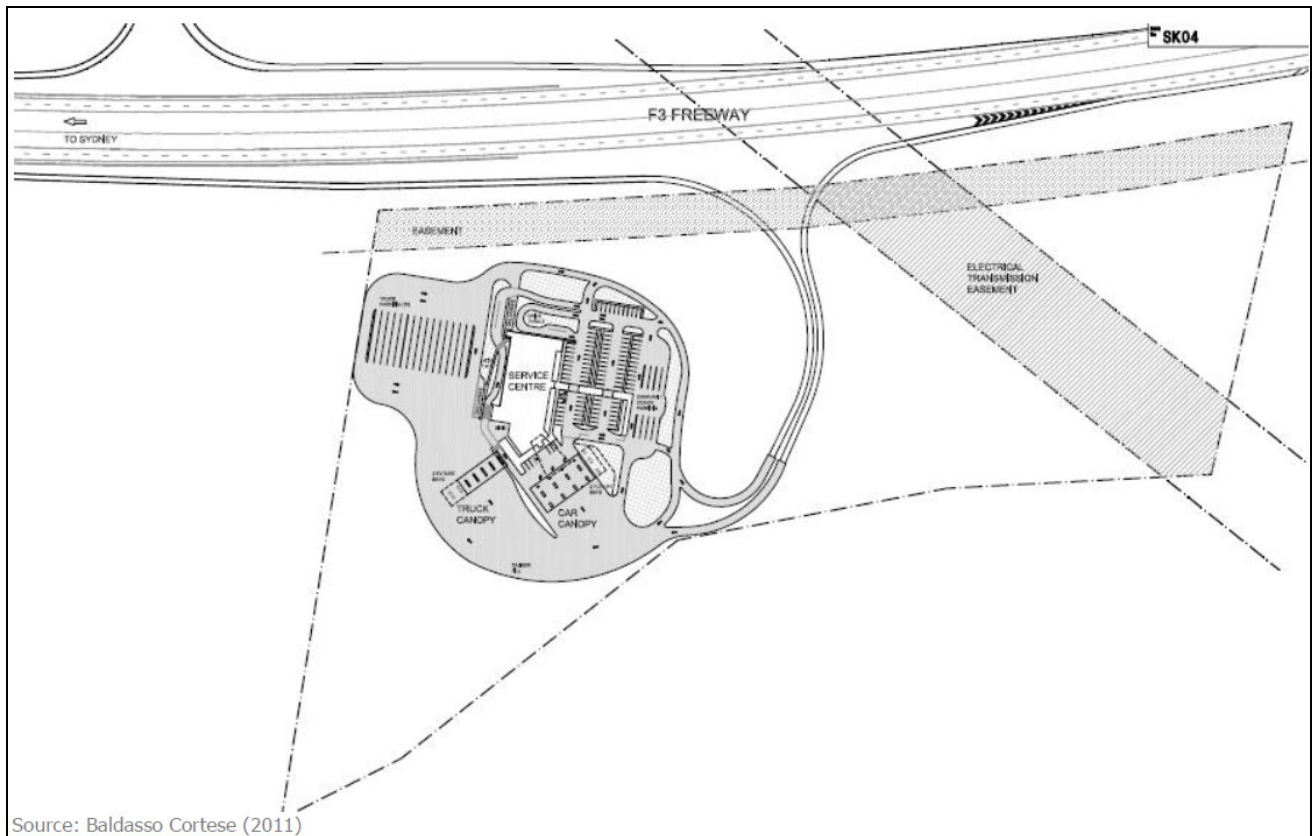


Figure 3: Concept Plan for Proposed Service Centre (source: Elton Consulting Planning Proposal May 2012)

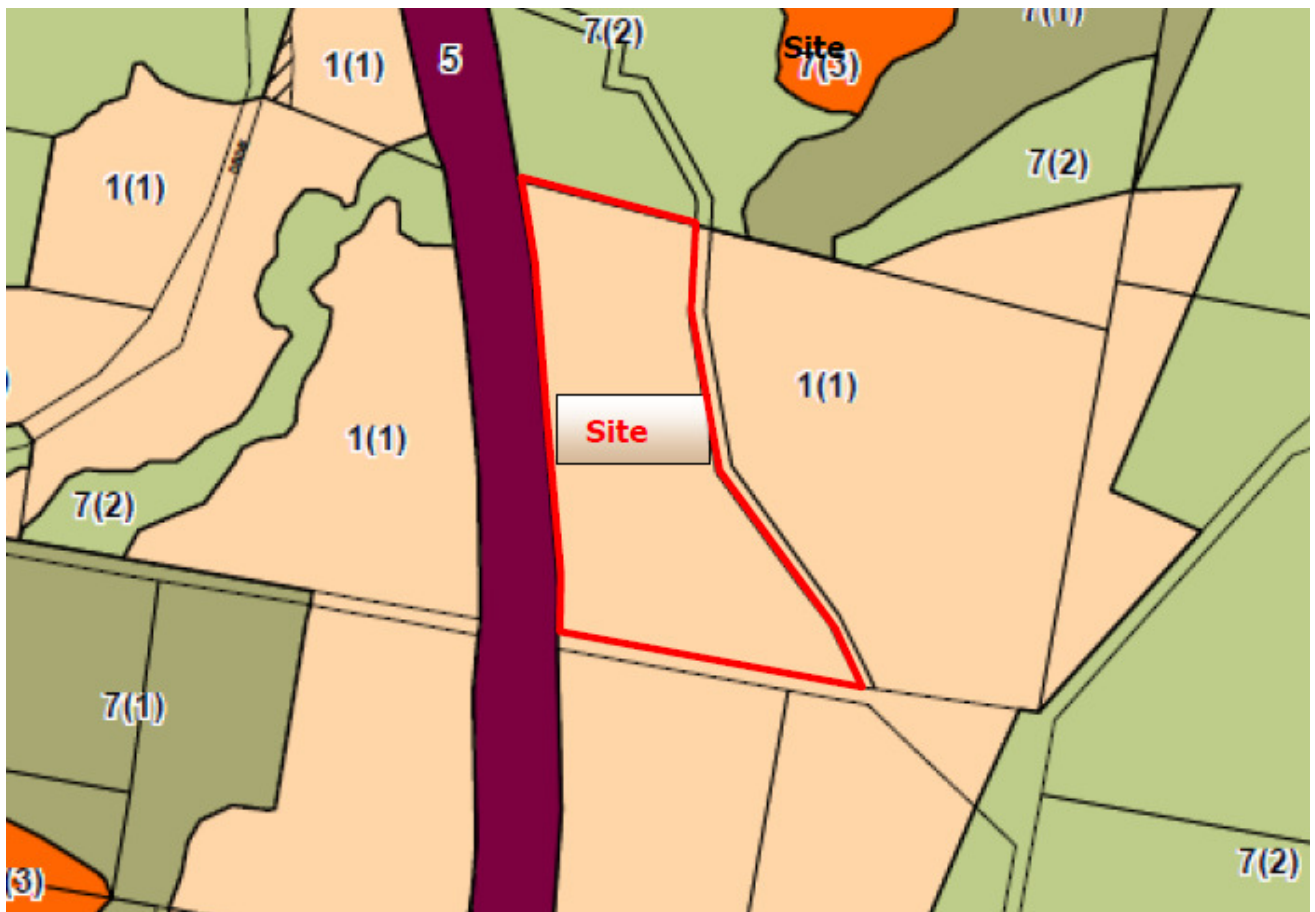


Figure 4: Existing Zone Distribution LMLEP 2004 (source: Elton Consulting Planning Proposal May 2012)

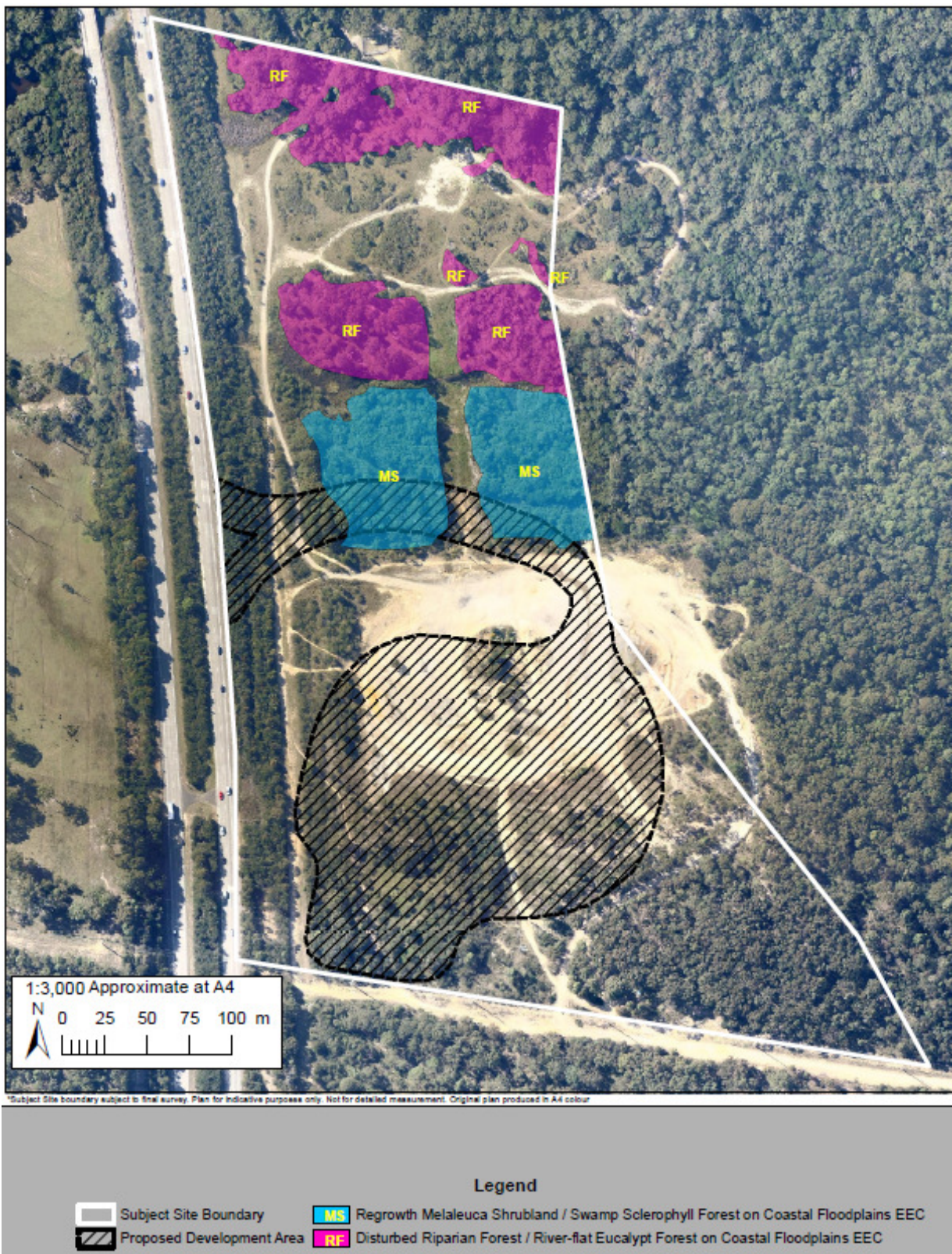


Figure 5: Distribution of Endangered Ecological Communities (source: Conacher 2012)

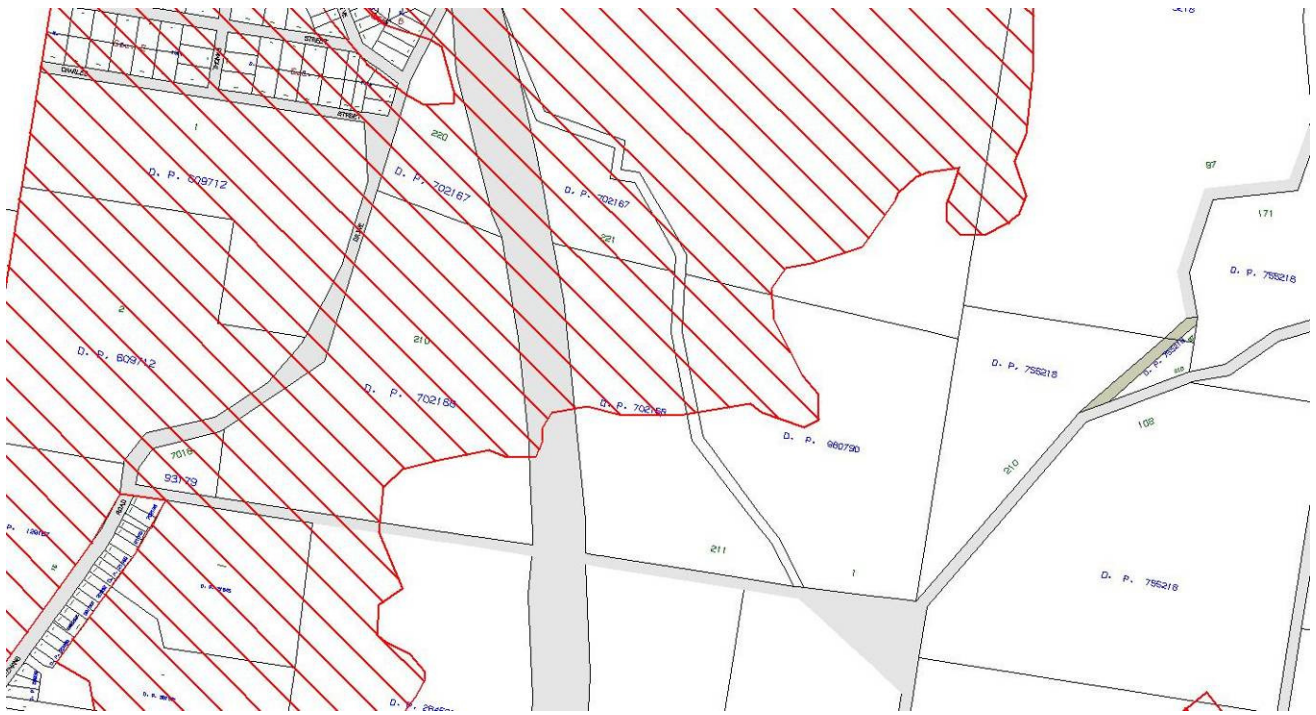


Figure 6: Sensitive Aboriginal Landscape Map

Site Images





