

Planning Proposal

Amendment No. 82 to Lake Macquarie Local Environmental Plan 2004 and proposed Amendment to Draft Lake Macquarie Local Environmental Plan 2014

Charlton Christian College – Fassifern

POST EXHIBITION VERSION

Local Government Area:	Lake Macquarie City
Name of Draft LEP:	Lake Macquarie Local Environmental Plan 2004 (Amendment No. 82) and Draft Amendment 'Charlton Christian College' to Draft Lake Macquarie Local Environmental Plan 2014.
Owner:	Christian Education Foundation Limited
Applicant:	Charlton Christian College
Subject Land:	43 Fassifern Road, Fassifern - Lot 1 DP 877105 18 Tucker Close, Fassifern – Lot 4 DP 926559
Maps and Photos:	Attachment 1 – Locality Map Attachment 2 – Aerial Photo and Current Zoning - Lake Macquarie LEP 2004 Attachment 3 – Zoning – Draft Lake Macquarie LEP 2014 Attachment 4 – Indicative Proposed Zoning - Draft Amendment No. 82 to Lake Macquarie LEP 2004 Attachment 5 – Indicative Proposed Zoning – Draft Lake Macquarie LEP 2014 Attachment 6 – Charlton Christian College Masterplan
Other Attachments	Attachment 7 – Evaluation Criteria for the Delegation of Plan Making Functions Attachment 8 – s117 Direction Consultation Attachment 9 – s117 Direction 4.3 Concurrency Attachment 10 – Gateway Determination

Part 1 – Objective of the Planning Proposal

The objective of the planning proposal is to rezone 43 Fassifern Road, Fassifern to allow for the continued operation and expansion of Charlton Christian College and the conservation of the western environmental corridor. A small area of the adjoining railway corridor will be rezoned to facilitate the continued railway use.

Part 2 – Explanation of the Provisions

The amendment proposes the following changes to Lake Macquarie LEP 2004:

Amendment Applies To	Explanation of the Provision
Map	The planning proposal will rezone: • The Charlton Christian College site from 10 Investigation - Urban Conservation to 2(1) Residential and 7(2) Conservation (Secondary), and • The part of the railway corridor zoned 10 Investigation to 5 Infrastructure, and • Part of 43 Fassifern Road from 10 Investigation to 7(2) Conservation (Secondary). This will result in the land zones reflecting the characteristics and use of the land. The zone boundary between the residential and conservation zones was determined using the Ecological Assessment and after consultation with relevant agencies. An indicative zoning plan is contained in Attachment 4 to this proposal.
Dictionary	Amend the definition of <i>the map</i> by adding Lake Macquarie Local Environmental Plan 2004 (Amendment No. 82)

Council requested delegations for the plan making functions under section 59 of the *EP&A Act 1979*. The Evaluation Criteria for the Delegation of Plan Making Functions is contained in Attachment 6.

The Planning Proposal would result in the following changes to Draft Lake Macquarie LEP 2014 (Council's Standard Instrument LEP):

Amendment Applies To	Explanation of the Provision
Draft LMLEP 2014 Standard Instrument – Land Zoning Map (LNZ_011)	Amend the land zoning map to rezone: • The Charlton Christian College site from RU6 Transition to R2 Low Density Residential and E2 Environmental Conservation. • Rezone part of the railway corridor from RU6 Transition to SP2 Railway and E2 Environmental Conservation. An indicative zoning plan is contained in Attachment 3.

Amendment Applies To	Explanation of the Provision
Draft LMLEP 2014 Standard Instrument – Minimum Lot Size Map (LSZ_011)	Minimum lot sizes would correspond to proposed zoning as follows: R2 – 450m² and E2 - 40 ha. The SP2 zone has no minimum lot size.
Draft LMLEP 2014 Standard Instrument – Building Height Map (HOB_011)	Maximum building heights would correspond to proposed zoning as follows: R2 – 8.5m and E2 – 5.5m. The SP2 zone has no maximum building height.

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 planning proposal is not the result of a strategic study or report. However, the site is identified as a 10 Investigation zone, which Council has identified for future investigation, development and/or conservation. The Charlton Christian College site was zoned Rural 1(a) in the Lake Macquarie LEP 1984. The site was given development consent for the school in 1998.

The zoning was changed to 10 Investigation zone in the Lake Macquarie LEP 2004. Development for the purpose of an educational establishment is currently prohibited in the 10 Investigation zone in the Lake Macquarie LEP 2004 and the proposed RU6 Transition in the draft Lake Macquarie LEP 2014. The College has plans to submit a revised master plan to allow its expansion from 600 to 880 students and rezoning is necessary to permit educational establishment uses for future development applications.

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

A planning proposal to rezone the site from 10 Investigation to 2(1) Residential to allow the continued operation and expansion of the Charlton Christian College is needed to allow future development applications to be determined for the site without having to use existing use rights. The continued reliance of existing use rights is questionable given the proposed expansion and a planning proposal to rezone the site is needed.

The 2(1) Residential zone is consistent with zoning for other school sites within the Lake Macquarie LGA and is consistent with the surrounding low density residential land uses.

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 site is located within Fassifern, which is not within close proximity to any identified regional centre in the Lower Hunter Regional Strategy, however it is located in proximity to the Toronto Town Centre. Whilst a residential zone will be applied to

the site, consistent with other school sites, the site is proposed to continue its use as an educational establishment.

The continued use and expansion of the site as an educational establishment will assist in providing for the educational needs of the increasing population identified in the Lower Hunter Regional Strategy. The conservation of part of the site is consistent with conservation objectives of the Lower Hunter Regional Strategy.

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

Lifestyle 2030 Strategy

Council's Lifestyle 2030 Strategy identifies the site as being located on the border between an urban area and proposed conservation lands. The strategy identifies the site in the Urban Change and Urban Investigation Map as an area bordering LMCC Investigation area and Core Commercial Living Urban Area. The planning proposal is consistent with Council's Lifestyle 2030 Strategy and the following strategies and outcomes.

Strategic Direction 1 – A City responsible to the environment

Outcome 1.2 - Biodiversity values are protected and managed.

Comment: The western proportion of the site will be conserved through appropriate zoning. The extent of the conservation zone has been determined following review of the Ecological Assessment to ensure biodiversity values are protected.

Strategic Direction 6 – A City responsive to the wellbeing of its residents

Outcome 6.12 – Facilities and mechanisms that ensure education, health care, community development, income distribution, employment and social welfare (social infrastructure) are developed and recognised as an important component of place making.

Outcome 6.16 – There is an adequate supply of appropriately located educational facilities, with opportunities for co-sharing with community groups (to be provided with appropriate consultation with the Department of Education and Communities).

Comment: The rezoning of the site to allow the continued use and expansion of the Charlton Christian College will assist in providing for the educational needs of the community. The College is well located with bus, train, road and cycle access.

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 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 site contains bushland and the majority of this is proposed to be conserved through appropriate zoning. However, there are some impacts on the bushland as outlined in the proponent's Master Plan and zoning plan. Despite this,

SEPPs	Relevance	Implications
		the planning proposal is generally considered consistent with this SEPP, which requires Councils to give priority to retaining bushland, unless it is satisfied that significant environmental, economic or social benefits will arise, which outweigh the value of the bushland. The expansion of the College will provide social benefits in providing education for the growing population.
SEPP 44 – Koala Habitat Protection	Aims to encourage the proper conservation and management of areas of natural vegetation that provide koala habitat.	The site contains koala feed trees in a proportion of over 15% and is considered to be potential koala habitat. However, numerous fauna surveys undertaken on the subject land since 1997, including targeted searches for koalas or signs of koala presence found no sign of koala activity or koala presence in any part of the site during any of the field surveys. Given this, the rezoning is unlikely to impact on koala habitat and the planning proposal is considered consistent with SEPP 44.
SEPP 55 – Remediation of Land	Aims to establish planning controls and provisions for the remediation of contaminated land	The site has been operating as a school since 1998 and prior to this, the site was vegetated and contained bush tracks and an easement. The Phase 1 Contamination Investigation report identified two areas of potential concern: a stockpile comprising soils, wood, metal and plastic and another area comprising a collection of discarded equipment and materials. This report found insufficient data was available to comment with a reasonable degree of certainty on whether the College was suitable for rezoning to residential and conservation zones. The report recommended that a targeted stage 2 detailed site investigation and sampling be undertaken. Council's Principal Environmental Officer reviewed the Phase 1 report and was satisfied that the Phase1 Contamination Assessment indicated nothing which would prevent the proposed rezoning, and the stockpile may be assessed and sampled at a later date during development application assessment. Council's Environmental Officer advised it is most likely that this material has been generated from former school construction, and because asbestos was taken out of the market in 1987, it would

SEPPs	Relevance	Implications
		not contain asbestos. The land is therefore suitable for the continued use and expansion of the College in the proposed 2(1) Residential zone, and the planning proposal consistent with SEPP 55.
SEPP (Infrastructure) 2007	Aims to provide a consistent planning regime for the delivery of infrastructure. It also provides provision for consultation and assessment.	Development resulting from the proposal can be adequately serviced with existing infrastructure. The site is currently developed as a school and has all necessary infrastructure. SEPP Infrastructure 2007 contains provisions, which allow for the use of sites as educational establishments.
SEPP 71 – Coastal Protection	This SEPP ensures that development in the NSW coastal zone is appropriate and suitably located, to ensure that there is a consistent and strategic approach to coastal planning and management.	The subject site falls within the coastal zone being located approximately 220m from the Lake edge. The planning proposal is considered consistent with this SEPP as the zoning will largely reflect the current use of the site. The proposal also seeks to conserve part of the site. The site does not impact on access to the foreshore. Council's DCP contains appropriate controls to ensure development in the coastal zone is consistent with SEPP 71. The planning proposal is considered consistent with SEPP 71.

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

The proposal has been assessed against relevant Ministerial Directions. The assessment is provided below. The proposal is considered generally consistent with the section 117 Directions. A minor inconsistency exists with Direction 4.3 Flood Prone Land as described below, for which concurrence is sought from P&I upon the making of the Plan.

Ministerial Direction	Relevance	Implications
1.3 – Mining, Petroleum Production and 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.	The site is within 1km of the existing Fassifern Colliery. The planning proposal will allow the existing school use to continue. The proposal is unlikely to impact on mining, petroleum or extractive industries and the proposal is considered consistent with this direction. Council has consulted with the Department of Trade and Investment – Mineral Resources Branch. The Mineral Resources Branch advised it has no

Ministerial Direction	Relevance	Implications
		concerns with the planning proposal. However, the area is a declared Mine Subsidence District and any future development would require consultation with the Mine Subsidence Board to provide the appropriate design parameters. There is a Consolidated Coal Lease (CCL) 727 held by Centennial Newstan PTY Limited that exists over the subject area. Similarly, Petroleum Exploration License (PEL) 267 held by AGL Upstream Investments PTY LTD exists over a broad regional area that includes the subject site. Identification of these titles is to make the consent authority aware that there are other stakeholders with interests in the region. The consent authority may need to consult with the title holder formally or out of courtesy based on the proposal assessment. Comment: No objections were raised. Whilst leases exist over these areas, the College site is already largely developed and further consultation would occur at development application stage. The proposal is consistent with this direction.
2.1 – Environment Protection Zones	Aims to protect and conserve environmentally significant areas.	The planning proposal seeks to zone part of the site to a conservation zone to ensure the protection of threatened flora and fauna. There will be some impacts on flora and fauna, however the proposal is considered consistent with this direction.
2.2 – Coastal Protection	This direction aims to implement the principles in the NSW Coastal Policy.	The subject site falls within the coastal zone being located approximately 220m from the Lake edge. The proposed zoning will largely reflect the current use of the site. The proposal also seeks to conserve part of the site. The site does not impact on access to the foreshore. Council's DCP contains appropriate controls to ensure development in the coastal zone is consistent with this direction. The planning proposal is considered consistent with this direction and with the NSW Coastal Policy.
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	The site is proposed to be rezoned to residential to allow the continued operation and expansion of the Charlton Christian College. Residential zoning is consistent with the zoning for other school sites within Lake Macquarie LGA.

Ministerial Direction	Relevance	Implications
	on the urban fringe.	The proposal is considered consistent with this direction, as it is consistent with the objective of making efficient use of infrastructure and services and ensuring that new housing has appropriate access to infrastructure and services with the continued use of this site for education.
3.4 - Integrating Land Use and Transport	The aim of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	The site is well located within 200m of the Fassifern railway station and is located on Fassifern Road and serviced by buses. There is also a cycle connection to the College, which connects Fassifern Train Station to Toronto. The site already has access to all essential infrastructure with its existing use as a school. The proposal is therefore considered consistent with this direction.
4.1- Acid sulphate Soils	Aim to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	The site contains Class 5 Acid Sulfate soils. Council's LEP and DCP already contain appropriate controls to ensure acid sulphate soils impacts are minimised. The Proposal is therefore consistent with this direction.
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 within a mine subsidence district.	The site is within a proclaimed Mine Subsidence district pursuant to section 15 of the Mine Subsidence Compensation Act 1961. This direction requires consultation with the Mine Subsidence Board (MSB) for amendments to the LEP within a Mine subsidence district. Council has consulted with the MSB and they raised no objections to the rezoning. Approval from the MSB will be required at development application stage. The

Ministerial Direction	Relevance	Implications
		proposal is therefore considered consistent with this direction.
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.	A small area in the northern part of the site is considered to be flood prone. The site is identified in the draft LEP 2014 – Flood Planning Area. The site contains a tributary to LT Creek and is identified as flood prone in the LT Creek Flood Study. The majority of this area is covered by the proposed 7(2) Conservation (Secondary) zone. However, there is a small overlap of the proposed 2(1) Residential zone with the flood liable area. This area will not be developed and will constitute an asset protection zone. The Master Plan does not identify any development within the flood liable areas. Council's LEP and DCP contain appropriate controls to ensure flood risks to future development are minimised, consistent with the principles of the NSW Government's <i>Floodplain Development Manual 2005, Flood Prone Land Policy and Guideline on Development Controls on Low Flood Risk Areas</i>. On 26 March 2014 P&I determined this minor inconsistency to be justifiable (refer to Attachment 8). Further information on flooding is contained in this Proposal in Section C – Economic, Social and Environmental Impacts – Question 2 – <i>Other Likely Environmental Effects</i>.
4.4 – Planning for Bushfire Protection	Aims to encourage the sound management of bush fire prone areas and to ensure a planning proposal addresses <i>Planning for Bushfire Protection</i> 2006.	The entire site is identified as bushfire prone land. Asset protection zones (APZ) have been identified for the site and can be accommodated in the proposed residential zone. The Bushfire Hazard Assessment Report prepared for the site is in accordance with <i>Planning for Bushfire Protection</i> 2006. The RFS raised some concerns with potential conflict over the location of the APZ and the proposed conservation boundary. To comply with <i>Planning for Bushfire Protection</i> 2006, the proposed Integrated Development Application for the school's expansion will address the location of two Special Fire Protection Purpose buildings) to resolve this conflict (further information on RFS advice is provided in Section D below). The planning proposal is therefore

Ministerial Direction	Relevance	Implications
		considered consistent with this direction.
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 planning proposal is considered consistent with the Lower Hunter Regional Strategy. The site is located within Fassifern, which is located in proximity to the Toronto Town Centre. Whilst a residential zone will be applied to the site, consistent with other school sites, the site is proposed to continue its use as an educational establishment. The continued use of the site as an educational establishment will assist in providing for the educational needs of the increasing population identified in the Lower Hunter Regional Strategy. The conservation of part of the site is consistent with conservation objectives of the Lower Hunter Regional Strategy.

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 site is densely vegetated in the northwest and southwest, and contains the threatened flora species - *Grevillea parviflora subsp. parviflora* and *Tetratheca juncea*. However, the two patches of *Grevillea parviflora subsp. parviflora* have now been removed with development application consent (DA/741/1997/D) for the construction of the oval and school hall. The *Tetratheca juncea* would be maintained in the proposed conservation zoned area.

The site also contains threatened fauna species: East-coast Freetail Bat, Eastern Bentwing Bat, Little Bentwing Bat and Grey-headed Flying-fox. The following species have the potential to occur in the study area: Eastern False Pipistrelle, Greater Broad-nosed Bat, Yellow-bellied Sheath-tail-bat, Squirrel Glider, Masked Owl, and the Powerful Owl. The site also contains the Swamp Schlerophyll Forest on Coastal Floodplains Endangered Ecological Community.

Flora and fauna studies have been prepared along with a Conservation Management Plan, which sets out management strategies for the preservation and rehabilitation of various flora species.

There is expected to be flora and fauna impacts with removal of vegetation and hollow bearing trees associated with any future development. The seven part test undertaken for the Master Plan concept plan identified that any potential impacts are likely to be low. The flora and fauna report makes a number of recommendations to minimise impacts including the retention of hollow bearing trees in the design and within the APZ. These recommendations can be implemented at the DA stage, making adverse effects unlikely.

The proposed 7(2) Conservation (Secondary) boundary has been determined based on a review of the Ecological Assessment and in consultation with Council's Sustainability Department.

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

The planning proposal includes bushfire, traffic and acoustic reports. These reports have been prepared based on the revised Master Plan for Charlton Christian College, which will increase its capacity from 600 to 880 students and envisages:

- Addition of 3 general learning buildings and administration building
- Expansion of library area
- Addition of a trade training centre
- Specialist general learning areas for music and visual arts.
- Outdoor play areas including PE courts.
- Extension of the existing carpark and addition of a carpark to the north.

Bush Fire

The Bush Fire Hazard Assessment Report outlines required asset protection zones (APZs) and recommendations to satisfy *Planning for Bushfire Protection* 2006. The APZs will be implemented at the DA stage. Consultation will need to occur with the Rural Fire Service to ensure their requirements are met.

Traffic

A Traffic Impact Assessment has been prepared to support the planning proposal. The College propose additional car parking facilities within the school grounds to minimise potential pedestrian and traffic conflicts based on the current layout. Access to the school will be via Fassifern Road and not via Narara Street as confirmed with Council's Development Assessment and Compliance Department. Consultation will need to occur with RMS on any potential traffic impacts to the classified road network at the DA stage.

Acoustic

The planning proposal is supported by an acoustic assessment, which identifies that no major noise impacts upon surrounding residential areas are expected provided the recommendations of the acoustic assessment are followed.

Stormwater

The Master Plan incorporates a detention basin to address potential stormwater impacts based on the expansion of the college. These issues will be addressed further at the DA stage for the proposed expansion of the College envisaged under the Master Plan.

Flood Impact

The north western part of the subject site is impacted by flooding and is identified as a flood planning area within Draft Lake Macquarie LEP 2014 as shown in Figure 1 below. The northern tip of the site has been identified as subject to flooding in the LT

Creek Flood Study 2011 as shown in Figure 2 below. No development is planned for this area in the Charlton Christian College Master Plan as shown in Figure 3 and this area will comprise an APZ.



Figure 1: Extract from Draft LM LEP 2014 - Flood Planning Area



Figure 2: Extract from LT Creek Flood Study 2011 – Maximum Flood Hazard – 1% AEP Event



Figure 3: Charlton Christian College and Flood Planning Area

Contamination

The Gateway Determination required the preparation of a Phase 1 Contamination Investigation report. The report identified two areas of environmental concern within the Charlton Christian College site: a stockpile comprising soils, wood, metal and plastic and another area comprising a collection of discarded equipment and materials. These areas may contain contaminants of potential concern. The Phase 1 Contamination Investigation report identified that there was insufficient data available to comment with a reasonable degree of certainty on whether the College was

suitable for rezoning to residential and conservation zones. The report recommended that a targeted stage 2 detailed site investigation and sampling be undertaken.

Council's Principal Environmental Officer has reviewed the Phase 1 report and was satisfied that the Phase 1 Contamination Assessment indicated nothing that would prevent the proposed rezoning and that the stockpile may be assessed and sampled at a later date. They advised it is most likely that this material has been generated from former school construction, and because asbestos was taken out of the market in 1987, it would not contain asbestos.

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

The rezoning to allow the continued use and expansion of the College will assist in providing schooling needs for the community. The Master Plan for the College allows for the expansion of the school from 600 to 880 students and envisages new learning and play areas. The appropriate zoning of the school and its future expansion will have positive social implications in providing educational facilities in a well serviced location with good public transport links.

The proposal did identify potential noise impacts and traffic impacts from the further extension of the school to nearby residents. However, an acoustic and traffic assessment are included with the proposal, which identify recommendations to mitigate impacts. During the exhibition of the planning proposal, no submissions raised concerns about noise generated by this proposal.

The continued use and extension of the College is likely to have positive economic impacts via construction jobs as well as further employment in the school.

D. State and Commonwealth interests

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

The site is well serviced in terms of access to public infrastructure. The site has access to Fassifern Road and is within 200m of Fassifern Train Station. There is also a cycleway that provides access to the College, which connects Fassifern Train Station to Toronto. The site is serviced by all relevant utility infrastructure including water, sewer, electricity and telecommunications.

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

The Gateway determination required consultation with the following agencies prior to exhibition:

- Department of Primary Industries (S117 Direction – 1.3 Mining, Petroleum Production & Extractive Industries);
- Mine Subsidence Board (S117 Direction – 4.2 Mine Subsidence and Unstable Land)
- Rural Fire Service (S117 Direction – 4.4 Planning for Bushfire Protection)

Pursuant to section 56(2)(d) of the *EP&A Act 1979*, Council additionally consulted with the following agencies:

- Office of Environment and Heritage
- Roads and Maritime Services

- RailCorp

Consultation responses from these government agencies along with a planning comment are provided below.

Department of Trade and Investment – Mineral Resources

The Mineral Resources Branch has no concerns with the planning proposal. However, the area is a declared Mine Subsidence District (Lake Macquarie No1) and any future development would require consultation with the Mine Subsidence Board (MSB) to provide the appropriate design parameters.

Mineral Resources notes that Consolidated Coal Lease (CCL) 727 held by Centennial Newstan PTY Limited exists over the subject area. Similarly, Petroleum Exploration License (PEL) 267 held by AGL Upstream Investments PTY LTD exists over a broad regional area that includes the subject site. Identification of these titles is to make the consent authority aware that there are other stakeholders with interests in the region. The consent authority may need to consult with the title holder formally or out of courtesy based on the proposal assessment.

Planning Comment:

No objections were raised by Mineral Resources. Whilst leases exist over these areas, the College site is already largely developed and further consultation would occur at the DA stage.

Mine Subsidence Board (MSB)

The MSB has no objections to the proposed rezoning. The applicant should seek the Board's approval for any proposed subdivision or the erection of improvements at the appropriate time.

Planning Comment:

No concerns were raised by the Mine Subsidence Board. The Mine Subsidence Board will be consulted further at development application stage.

Office of Environment and Heritage

OEH first issued a response indicating the ecological information was inadequate to make an assessment of the planning proposal. Issues were raised with:

- no maps of vegetation communities or threatened species;
- no indication of areas of impact including the asset protection zones and conservation areas;
- no discussion on how the proposal will reach an 'improve or maintain biodiversity' outcome or how the removal of vegetation will be offset;
- no recent flora and fauna surveys; and
- further clarification is required in relation to the location of threatened species as there appears to be at variance with OEH records.

Following the submission of additional ecological information to OEH, the Office issued a response indicating it was satisfied with the Proponent's response to all matters raised by OEH in earlier correspondence.

OEH further indicated:

- it would normally require further offsets than those provided in order to achieve an 'improve or maintain' outcome, and recommended Council request that the car park and detention basin be located and designed to minimise the impacts on the biodiversity of the site
- it generally requests that APZs are included within the development footprint due to their significant impacts on biodiversity

However, OEH acknowledged that in this instance, due to the timing of the rezoning with respect to past, current and future DAs for the school's expansion, OEH is satisfied with the conservation zoning and supports Council's intention to include the APZ in the conservation zone in this instance.

Planning Comment:

The car park and detention basin will be the subject of a separate development application. Council is satisfied the OEH requirement to locate these facilities to minimise impacts on vegetation could be met.

The majority of the College is developed as part of previous development applications. Some future college facilities are proposed as part of the proposed Master Plan, though the majority of these are located within the existing, already developed College footprint and will not impact on biodiversity.

The western corridor will be conserved through appropriate conservation zoning.

As the Rural Fire Service similarly expressed concern of the conflict between the APZs and proposed conservation zone, it was resolved to relocate two structures on the Master Plan to avoid conflict between the APZs and conservation zone, as noted below.

Rural Fire Service (RFS)

With regard to existing and future Special Fire Protection Purposes (SFPP) development related to the Master Plan for the College located on bush fire prone land, the RFS provided general advice on the requirements of *Planning for Bush Fire Protection 2006* be considered in the planning stages, including:

- an assessment of the level of hazard posed to future development by the land or adjacent land and the hazard may change as a result of the development;
- the provision of APZs;
- the preparation of an emergency and evacuation management plan;
- the provision of access including the provision of perimeter roads; and
- the provision of water supply for fire fighting purposes.

The RFS indicated the rezoning should consider the minimum specifications for APZs for SFPP in *Planning for Bush Fire Protection 2006*, citing potential conflict between the requirements of APZs of 85m to the north west (based on > 5-10 degrees down slope under forest vegetation to be retained within the subject site) and the zoning provisions of 7(2) Conservation (Secondary) or E2 Environmental Conservation. Further in relation to APZs, the RFS clarified that:

- The PE court in the Master Plan can be considered as part of the APZ.
- The school hall and COLA are expected to be used frequently for school activities with COLA serving as an extension to the hall for major events in most instances. Moreover, the space labelled as 'music' attached to the hall is to serve as a classroom. Therefore, these structures cannot be treated as non-habitable buildings and cannot be exempt from APZ requirements.
- Increased construction standards cannot be accepted in lieu of the APZ requirements for the existing and proposed buildings in the north west section of the subject site. The proposed pre-school and trade training centre can be relocated within the subject site to achieve the stipulated radiant heat level of 10kW/m² for Special Fire Protection Purpose (SFPP) developments.
- The inclusion of a specific clause in the LEP to facilitate APZ management as part of 7(3) Environment (General) zone is acceptable if it eliminates potential conflict between the requirements for maintenance of APZs and the provisions for environmental conservation zones.

Planning Comment:

As the Proponent is yet to be granted approval for structures in the north western aspect of the site, it was agreed with DAC and the Proponent the preferred approach is to relocate the proposed pre-school and Trade Training Centre, thereby resolving the conflict between the APZ and satisfying the requirements of the RFS.

Department of Primary Industries – Office of Water

The Office of Water has no objections. The following comments were provided for Council's consideration in relation to any potential future development in the area.

- **Riparian Corridors**—the planning proposal states that the site contains a tributary to LT Creek and the Charlton Christian College Masterplan appears to show proposed development in proximity to this creek. Please note that any development within 40m of waterfront land may require a controlled activity approval from the Office of Water.
- **Flooding and Water Cycle Management**—the Office of Water notes that part of the site is considered to be flood prone and that the Charlton Christian College Masterplan proposes a detention basin to mitigate these impacts. It is recommended the management of peak flows using detention basins be designed so that these structures are off line, and are consistent with the Guidelines for Controlled Activities. It is also recommended that objectives incorporate the maintenance of groundwater recharge at predevelopment levels.
- **Water Licences under the Water Management Act 2000 and Water Act 1912**—prior to construction of any detention basin, the proponent would need to determine if any licences or approvals were required under the Water Act 1912 or the Water Management Act 2000 for these works.

Planning Comment:

Approval will be required for the stormwater detention pond and any development within proximity to the creek at development application stage.

Roads and Maritime Service

Fassifern Road is an unclassified local road. Council is the roads authority for this road and all other public roads in the area. Should road works be required on the classified (State) road, RMS would exercise the functions of roads authority under Sections 64 and 71 of the Act.

In accordance with SEPP Infrastructure 2007, RMS will provide comment on the subject DA as it meets the requirements of Traffic Generating Developments.

RMS has no objections to the proposed rezoning. However, RMS has concerns regarding the proposed eastern egress onto Fassifern Road. It poses an unacceptable road safety risk as Safe Intersection Sight Distance cannot be achieved due to the existing vertical and horizontal alignment at this section of road (even when the security fence is relocated). Consideration should be given to removing this egress and utilising the existing access point.

Planning Comment:

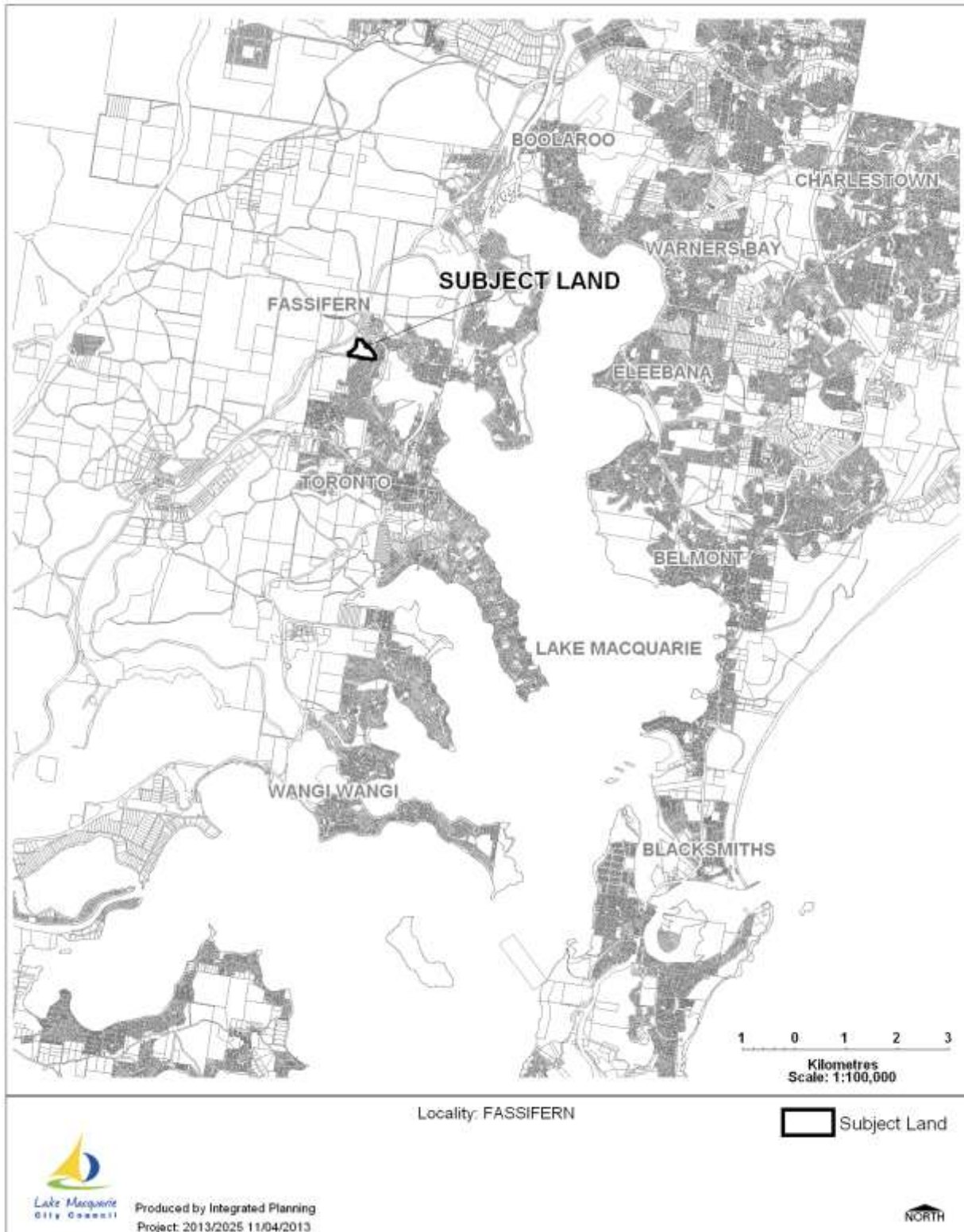
Council notes the concerns over the access location and this issue had already been identified by Council's Traffic Section. The access shown to the site within the Masterplan will be assessed when a development application is lodged and will likely require a change in the design to improve safety in line with the RMS comments.

RailCorp

Railcorp have not provided comments on this planning proposal.

Part 4 - Mapping

Attachment 1- Locality Map



Attachment 2 – Aerial Photo and Current Zoning – Lake Macquarie Local Environmental Plan 2004



Locality: FASSIFERN

 Subject Land

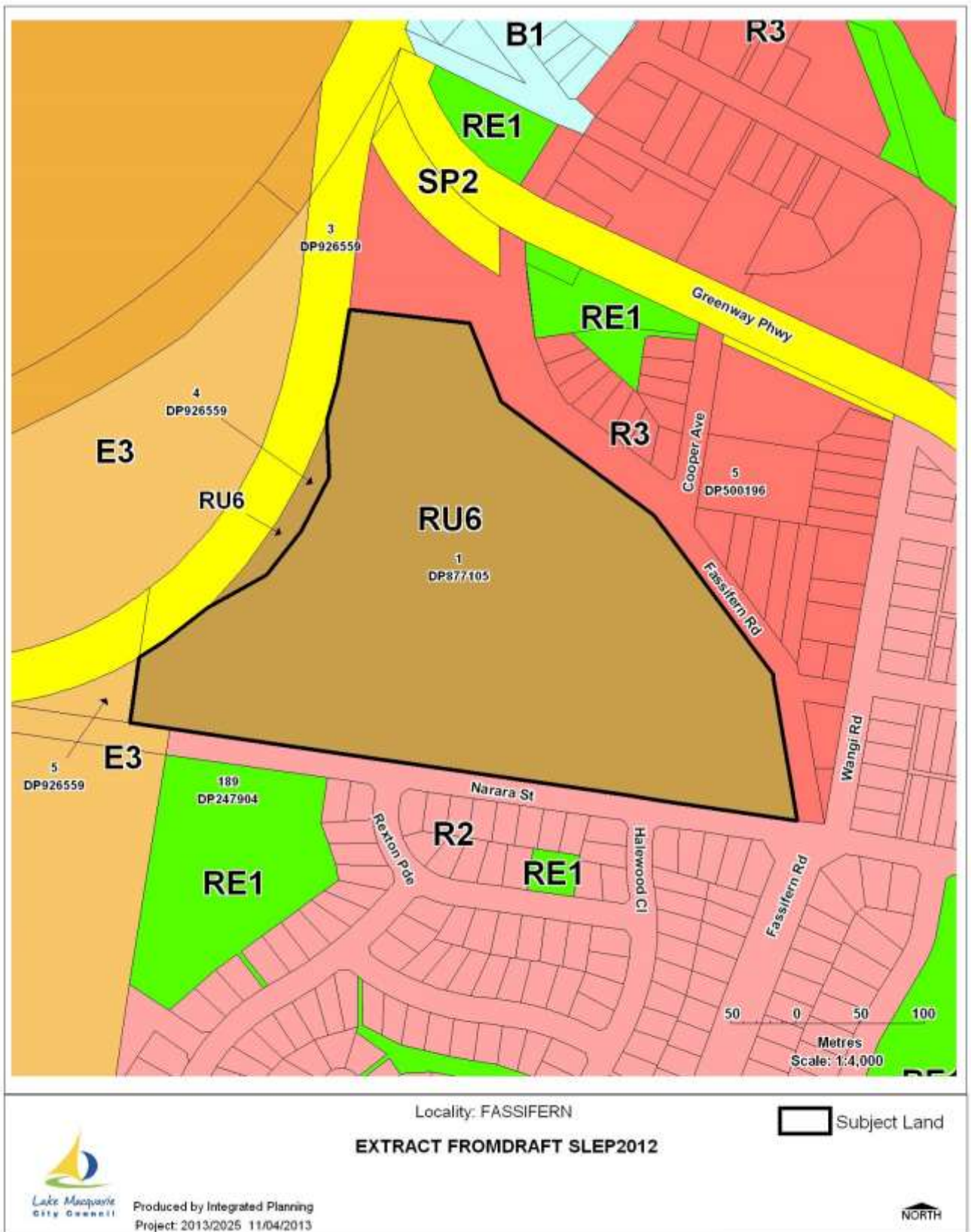
EXTRACT FROM EXISTING LMCC LEP2004 ZONINGS
SKM AusImage 2010 Aerial Photography



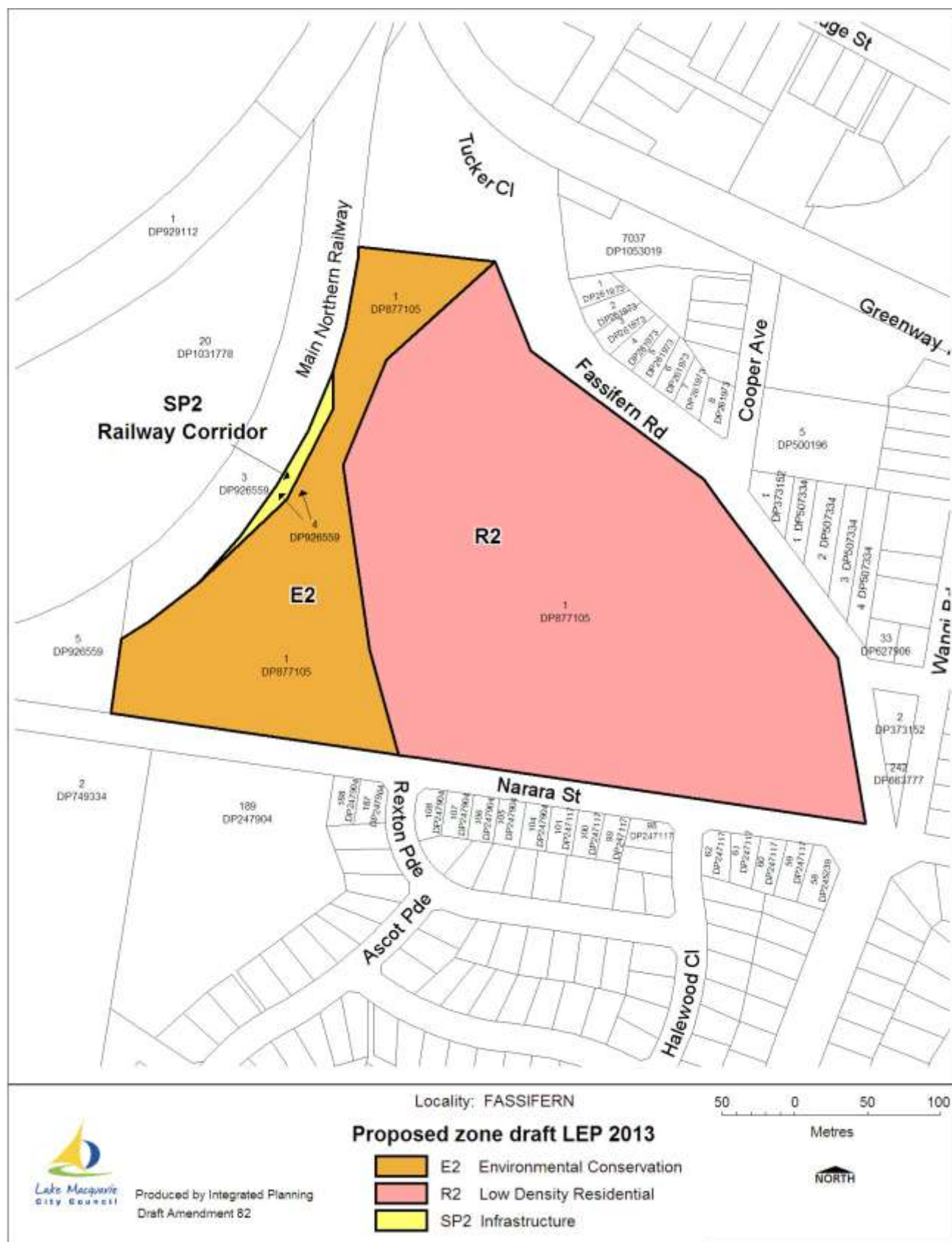
Produced by Integrated Planning
 Project: 2013/2025 11/04/2013



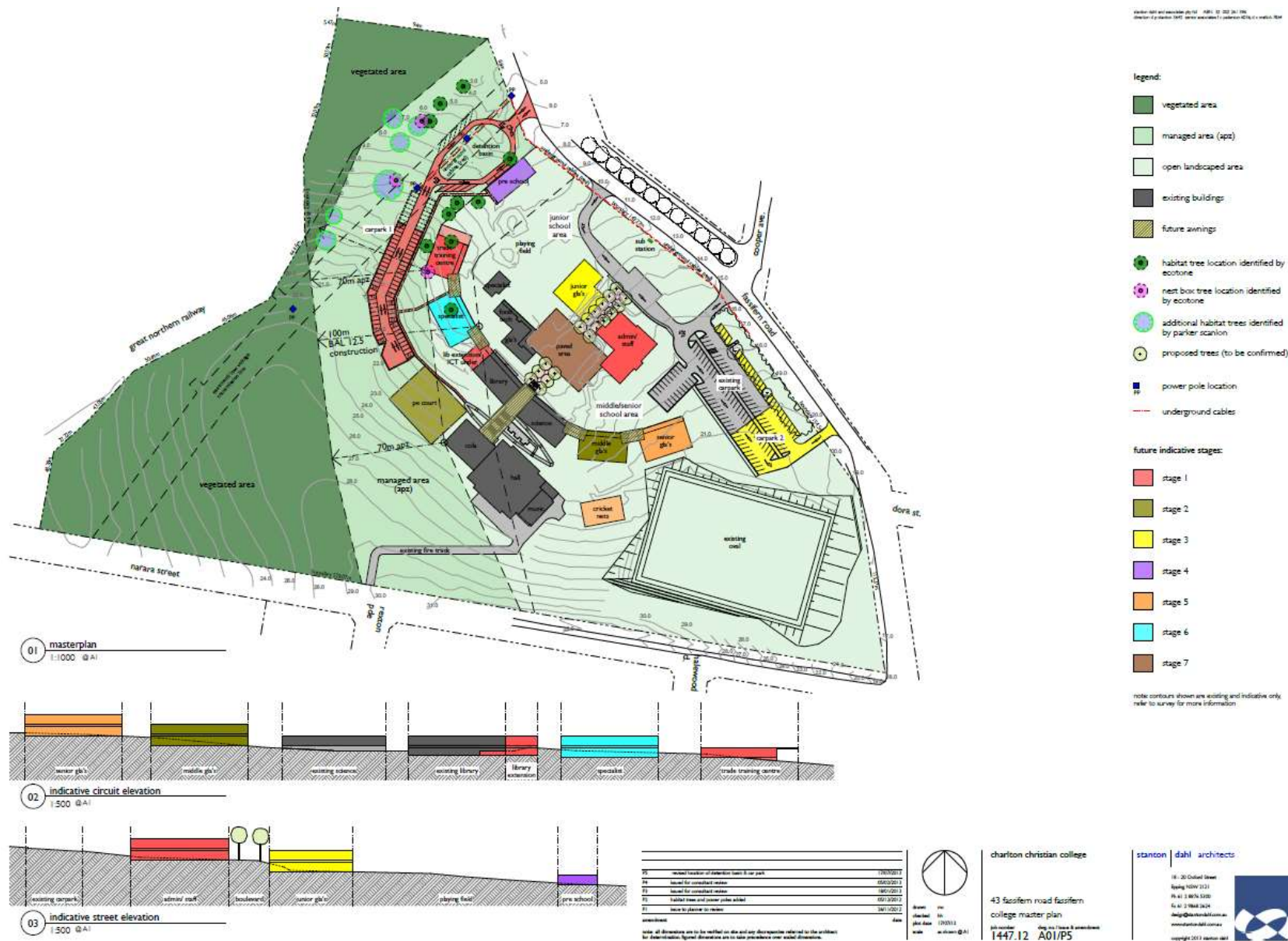
Attachment 3 - Zoning Map – Draft Lake Macquarie LEP 2014



Attachment 5 – Indicative Proposed Zoning – Draft Lake Macquarie LEP 2014



Attachment 6 - Charlton Christian College Draft Master Plan



Part 5 - Details of Community Consultation

Affected landowners and the broader community were invited to comment on the Planning Proposal during the exhibition period. No submissions were received as a result of the exhibition of the Planning Proposal that warrant a change to the Planning Proposal.

Council notified the Crown Lands Division as an adjoining landowner. Crown Lands have requested the transfer of ownership of Crown road Narara Street, which adjoins the southern boundary of the site, to Council.

Planning Comment:

Narara Street is owned by Crown Lands and is not subject to this Planning Proposal. It adjoins the southern boundary of the subject land. Advice sought from Council's Development Assessment and Compliance Department on the proposed Master Plan for the site indicated access is gained from Fassifern Road and not via Narara Street. The matter of Narara Street becoming a dedicated road is therefore a separate matter to this Planning Proposal. This matter would require a resolution of Council to initiate the transfer of this Crown road, Narara Street, to Council. Therefore, the matter should be investigated separately.

Part 6 – Project Timeline

The project timeline is contained below.

Task	Timeframe
Commencement Date – Gateway Determination	13 August 2013
Timeframe for completion of technical information	Gateway Determination requires a Phase 1 Contamination Investigation September – November 2013
Government Agency Consultation	Allow 4 weeks. Ends 27 September 2013
Commencement and Completion Dates for Public Exhibition Period	9 December 2013 – 23 December 2013
Dates for Public Hearing	Public hearing is not likely.
Timeframe for Consideration of Submissions	January 2014
Timeframe for Council consideration of a proposal post exhibition	February 2014
Submission to DoPI to finalise LEP	March 2014
Anticipated date RPA to finalise the plan (if delegated)	April 2014
Anticipated date RPA will forward to DoPI for notification	April 2014

ATTACHMENT 7 – Evaluation Criteria for the Delegation of Plan Making Functions

Local Government Area: Lake Macquarie City

Name of draft LEP: Lake Macquarie Local Environmental Plan 2004 (Amendment No. 82) and Draft Amendment 'Charlton Christian College' to Draft Lake Macquarie Local Environmental Plan 2014.

Address of Land (if applicable):

43 Fassifern Road, Fassifern - Lot 1 DP 877105

18 Tucker Close, Fassifern – Lot 4 DP 926559

Intent of draft LEP: The objective of the planning proposal is to rezone 43 Fassifern Road, Fassifern from 10 Investigation to residential and conservation for educational establishment use for Charlton Christian College.

Additional Supporting Points/Information:

- Planning Proposal prepared by Lake Macquarie City Council
- Planning Proposal prepared by Don Fox Planning including Ecological Assessment, Bush Fire Hazard Assessment, Traffic Impact Assessment and Acoustic Assessment

Evaluation criteria for the issuing of an Authorisation (Note: where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	YIN			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N			
Heritage LEPs	YIN			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		NA		

Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		NA		
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?	N			
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		NA		
Is the planning proposal proposed to rectify an anomaly in a classification?	N			
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		NA		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		NA		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		NA		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		NA		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?	N			
Spot Rezonings	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			

If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		NA		
Does the planning proposal create an exception to a mapped development standard?	N			
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A(1)(c) of the Act in order for a matter in this category to proceed).	N			

NOTES

- Where a council responds ‘yes’ or can demonstrate that the matter is ‘not relevant’, in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.

ATTACHMENT 8 – s117 Directions consultation

In reply please send to:
Newcastle District Office
Our reference: FN96-00481L0 PG.VS
Your reference:
Contact: Paul Gray (02) 4908 4356

Lake Macquarie City Council
Box 1906
HRMC NSW 2310

5 September 2013

Dear Sir

REZONING APPLICATION NO TENQ13-10539L1
LOT 1 DP 877105 NO 43 FASSIFERN RD FASSIFERN
CHARLTON CHRISTIAN COLLEGE

The Mine Subsidence Board has no objections to the proposed rezoning as described in your letter of 4th September 2013 and accompanying plan.

The applicant should be advised to seek the Board's approval for any proposed subdivision or the erection of improvements at the appropriate time.

Yours faithfully


Paul Gray
for Ian Bullen
Acting District Manager



ABN: 87 445 348 918

NEWCASTLE

Ground Floor
NSW Government Offices
117 Bull Street
Newcastle West 2302
PO Box 4880 Newcastle 2300
Telephone: (02) 4908 4300
Facsimile: (02) 4929 1032
DX 4322 Newcastle West

PICTON

100 Argyle Street
Picton 2571
PO Box 40 Picton 2571
Telephone: (02) 4677 1967
Facsimile: (02) 4677 2040
DX 25053 Picton

SINGLETON

The Central Business Centre
Unit 5, 1 Pitt Street
Singleton 2330
PO Box 524 Singleton 2330
Telephone: (02) 6572 4344
Facsimile: (02) 6572 4504

WYONG

Suite 3 Feldwin Court
30 Hely Street
Wyong 2259
PO Box 157 Wyong 2259
Telephone: (02) 4352 1646
Facsimile: (02) 4352 1757
DX 7317 Wyong

HEAD OFFICE

PO Box 4880
Newcastle 2300
Telephone: (02) 4908 4395
Facsimile: (02) 4929 1032



Email

mail@minesub.nsw.gov.au

Web

www.minesub.nsw.gov.au

24 Hour

Emergency Service
Free Call 1800 248 083

T 14 (Auto) Nov 2001



**Trade &
Investment**
Resources & Energy

25 September 2013

Angel Troke
Strategic Landuse Planner
Integrated Planning Department
Lake Macquarie City Council
126-138 Main Road
Speers Point NSW 2284

Your Reference: Project 2013/2025 11/04/2013
Our Reference (TRIM): OUT13/28959
EMAILED

Dear Ms Troke,

**Re: Planning Proposal – Consultation – 43 Fassifern Road, Fassifern –
Charlton Christian College**

Thank you for the opportunity to provide advice on the above matter. This is a response from the NSW Department of Trade & Investment (DTIRIS) – Mineral Resources Branch (MRB). The Department of Primary Industries, incorporating advice from Agriculture, Fisheries and Forests NSW may respond separately.

MRB has no concerns with the planning proposal. However, the area is a declared Mine Subsidence District (Lake Macquarie No1) and any future development would require consultation with the Mine Subsidence Board (MSB) to provide the appropriate design parameters.

MRB notes that Consolidated Coal Lease (CCL) 727 held by Centennial Newstan PTY Limited exists over the subject area. Similarly, Petroleum Exploration License (PEL) 267 held by AGL Upstream Investments PTY LTD exists over a broad regional area that includes the subject site.

Identification of these titles is to make the consent authority aware that there are other stakeholders with interests in the region. The consent authority may need to consult with the title holder formally or out of courtesy based on the proposal assessment.

Queries regarding the above information, and future requests for advice in relation to this matter, should be directed to the MRB Land Use team at landuse.minerals@industry.nsw.gov.au.

Yours sincerely

Cressida Gilmore
Team Leader Land Use

NSW Department of Trade and Investment, Regional Infrastructure and Services
RESOURCES & ENERGY DIVISION
PO Box 344 Hunter Region Mail Centre NSW 2310
Tel: 02 4931 6666 Fax: 02 4931 6726
ABN 51 734 124 190
www.dtiris.nsw.gov.au

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 1300 679 737
e-mail: csc@rfs.nsw.gov.au

Facsimile: 8867 7983



RECEIVED

21 OCT 2013

The General Manager
Lake Macquarie City Council
Box 1906
HUNTER REG MAIL CENTRE NSW 2310

LAKE MACQUARIE
CITY COUNCIL

Your Ref: -

Our Ref: L13/0013

DA1309058881 KV

Attention: Angel Troke

10 October 2013

Dear Sir/Madam

**Planning Instrument for Planning Proposal
Charlton Christian College 43 Fassifern Road Fassifern**

I refer to your letter dated 04 September 2013 seeking advice for the above Planning Instrument in accordance with the *Environmental Planning and Assessment Act 1979*.

The NSW Rural Fire Service (RFS) notes that the planning proposal seeks to amend the Lake Macquarie LEP 2004 to rezone the Charlton Christian College site from 10 Investigation to 2(1) Residential and 7(2) Conservation (Secondary) and part of the Railway corridor from 10 Investigation to 5 Infrastructure and 7(2) Conservation (Secondary). Alternatively, the proposal seeks to amend the draft Lake Macquarie LEP 2013 to rezone the Charlton Christian College site from RU6 Transition to R2 Low Density Residential and E2 Environmental Conservation and part of the Railway corridor from RU6 Transition to SP2 Railway and E2 Environmental Conservation.

Based on a preliminary assessment of the documentation received for the proposal, please be advised that the RFS raises concern regarding the potential for conflict between the requirements of Asset Protection Zones (APZs) of 85 metres to the north west and 70 metres to the south west determined for future development related to Charlton Christian College and the zoning provisions of 7(2) Conservation (Secondary) or E2 Environmental Conservation. The rezoning of the subject site should consider the minimum specifications for APZs for Special Fire Protection Purpose (SFPP) development under Appendix 2 of *Planning for Bush Fire Protection 2006* to facilitate the future expansion of Charlton Christian College.

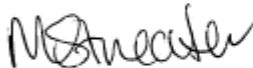
With regard to existing and future SFPP development related to revised master plan for Charlton Christian College located on bush fire prone land within the subject site, it is suggested that the requirements of *Planning for Bush Fire Protection 2006* be

considered in the planning stages. This includes the provision of the following bush fire protection measures:

- An assessment of the level of hazard posed to future development by the land or adjacent land and how the hazard may change as a result of development.
- The provision of Asset Protection Zones in accordance with Appendix 2 of *Planning for Bush Fire Protection 2006*.
- The preparation of an emergency and evacuation management plan in accordance with Section 4.2.7 of *Planning for Bush Fire Protection 2006*.
- The provision of access in accordance with Section 4.2.7 of *Planning for Bush Fire Protection 2006*. This includes the provision of perimeter roads.
- The provision of water supply for fire fighting purposes in accordance with Section 4.2.7 of *Planning for Bush Fire Protection 2006*.

Should you have any further enquiries regarding this matter please contact Ms Kalpana Varghese on 8867 7968.

Yours sincerely



Michelle Streater
A/Team Leader, Development Assessment and Planning

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 1300 679 737
e-mail: csc@rfs.nsw.gov.au

Facsimile: 8867 7983



The General Manager
Lake Macquarie City Council
Box 1906
HUNTER REG MAIL CENTRE NSW 2310

Your Ref: RZ/6/2013
Our Ref: L13/0013
DA13041687148 KV

Attention: Tom Boyle

29 January 2014

Dear Sir/Madam

**Planning proposal for Charlton Christian College 43 & 83a Fassifern Road
Fassifern NSW 2283**

I refer to your letter dated 29 November 2013 seeking further advice regarding the above Planning Instrument.

The following comments are to be considered for the master plan of the proposed development on the subject site:

- The proposed Asset Protection Zone (APZ) of 85 metres on the north western aspect is based on >5-10 degrees down slope under forest vegetation to be retained within the subject site and is recommended to be complied with.
- The PE court in the master plan can be considered as part of the APZ.
- The school hall and COLA are expected to be used frequently for school activities with COLA serving as an extension to the hall for major events in most instances. Moreover, the space labelled as 'music' attached to the hall is to serve as a class room. Therefore, these structures cannot be treated as non-habitable buildings and cannot be exempt from APZ requirements.
- Increased construction standards cannot be accepted in lieu of the APZ requirements for the existing and proposed buildings in the north west section of the subject site. The proposed pre-school and trade training centre can be relocated within the subject site to achieve the stipulated radiant heat level of 10kW/m² for Special Fire Protection Purpose (SFPP) developments.

- The inclusion of a specific clause in the Local Environmental Plan (LEP) to facilitate APZ management as part of Environmental (General) 7(3) zone is acceptable if it eliminates potential for conflict between the requirements for maintenance of APZs and the provisions for environmental conservation zones.

Should you have any further enquiries regarding this matter please contact Ms Kalpana Varghese on 8867 7968.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Streater', written in a cursive style.

Michelle Streater
A/Team Leader, Development Assessment and Planning

ATTACHMENT 9 – s117 Direction 4.3 Concurrency



Mr Brian Bell
General Manager
Lake Macquarie City Council
Box 1906
Hunter Region Mail Centre NSW 2310

Our ref: 13/11841

Att: Thomas Boyle

Dear Mr Bell

LAKE MACQUARIE LEP 2004 (AMENDMENT NO. 82) – CHARLTON CHRISTIAN COLLEGE

I refer to Council's letter and updated Planning Proposal dated 26 February 2014, requesting concurrence with s.117 Directions for PP_2013_LAKEM_011 being Lake Macquarie LEP 2004 (Amendment No.82) – 43 Fassifern Road, Fassifern, Charlton Christian College.

As delegate of the Director General for Planning and Infrastructure, I have now determined that the draft LEP (PP_2013_LAKEM_011) inconsistency with s.117 Direction – 4.3 Flood Prone Land is justified, and the provisions of the planning proposal that are inconsistent are of minor significance. It is noted that the proposed Master Plan for the site does not identify any development within the flood liable land, and issues relating to flooding can be addressed as part of any future development assessment process to meet legislative requirements. No further approval is required in relation to s.117 Directions.

Council was issued authorisation to exercise delegations on 13 August 2013, and have advised Council will exercise delegation to make this plan. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office at least 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Planning and Infrastructure for administrative purposes.

Should you have any further enquiries about this matter, please contact Susan Blake of the agency's Newcastle office on (02) 4904 2700.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Rowland'.

26 March 2014

David Rowland
General Manager
Hunter & Central Coast
Growth Planning & Delivery
as delegate of the Director-General

ATTACHMENT 10 – Gateway Determination



Planning &
Infrastructure



Our ref: PP_2013_LAKEM_011 (13/11841)
Your ref: RZ/6/2013

Mr Brian Bell
General Manager
Lake Macquarie City Council
Box 1906
HUNTER REG MAIL CTR 2310

Att: Angel Troke

Dear Mr Bell

Planning Proposal to amend Lake Macquarie Local Environmental Plan 2004 or Draft Lake Macquarie LEP 2013

I refer to Council's request for a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act"), in respect of the planning proposal to rezone the Charlton Christian College site from 10 Investigation to 2(1) Residential and 7(2) Conservation (Secondary); and rezone part of the railway corridor from 10 Investigation to 5 Infrastructure and 7(2) Conservation (Secondary).

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed, subject to the conditions in the attached Gateway determination.

Please note that additional information will be required to determine whether or not the inconsistency with s117 Direction 4.2 Flood Prone Land is justifiable and this matter will need to be addressed prior to the proposal being finalised. In addition consistency with s117 Directions 1.3 Mining, Petroleum Production & Extractive Industries, 4.2 Mine Subsidence and Unstable Land and 4.4 Planning for Bushfire Protection, cannot be determined until after consultation with relevant agencies. Council is reminded that any minor inconsistencies with s117 Directions need to be agreed to prior to the plan being submitted to be made.

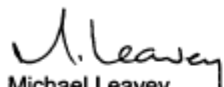
The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan. Council's cooperation in completing the attached reporting template and returning it to the Department to assist in tracking progress of the proposal would be appreciated.

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

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

Should you have any questions regarding this matter, please contact Susan Blake of the Department's Newcastle office on 4904 2700.

Yours sincerely



Michael Leavey 13/8/13
Regional Director
Hunter & Central Coast Region

Gateway Determination

Planning Proposal (Department Ref: PP_2013_LAKEM_011_00): to rezone Lot 1 DP 882105 at 43 Fassifern Road, Fassifern and Lot 4 DP 926559 at 18 Tucker Close, Fassifern for residential, infrastructure and conservation purposes.

I, the Regional Director of the Hunter & Central Coast Region at the Department of Planning and Infrastructure, as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Lake Macquarie Local Environmental Plan (LEP) 2004 to Lake Macquarie LEP 2013 to rezone the Charlton Christian College site from Investigation to part Residential and Conservation; and rezone part of the railway corridor from Investigation to Infrastructure and Conservation should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
2. Additional information regarding the proposal's inconsistency with s117 direction 4.3 Flood Prone Land, is required to be included as part of the Planning Proposal. This information may include, but is not limited to, a copy of the flood affected area overlain by the proposed residential zoning.
3. Consultation is required with the following public authorities, prior to exhibition, to comply with the requirements of relevant S117 Directions:
 - Department of Primary Industries (S117 Direction – 1.3 Mining, Petroleum Production & Extractive Industries)
 - Mine Subsidence Board (S117 Direction – 4.2 Mine Subsidence and Unstable Land)
 - Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of S117 Directions.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - RailCorp
 - Office of Environment and Heritage
 - Roads and Maritime ServicesEach public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
5. Council is to demonstrate the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. Council is to prepare an initial site contamination report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition.
6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

7. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 13th day of August

2013.



Michael Leavey
Regional Director
Hunter & Central Coast Region
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure



Planning & Infrastructure

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Lake Macquarie City Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_LAKEM_011_00	Planning Proposal to rezone Lot 1, DP 882105 at 43 Fassifern Road, Fassifern and Lot 4, DP 926559 at 18 Tucker Close, Fassifern for part residential, infrastructure and conservation purposes.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guideline for the preparation of local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 13 August 2013

Michael Leavey
Regional Director
Hunter & Central Coast Region
Department of Planning and Infrastructure