



Planning Proposal

Amendment to Lake Macquarie Local Environmental Plan 2014 at

1377 Hue Hue Road, Wyee

Post- Exhibition Version

Summary	Details
Local Government Area:	Lake Macquarie City Council
Name of draft LEP:	Rezone land from RU2 Rural landscape to R2 Low-Density residential at 1377 Hue Hue Road, Wyee
Subject land:	1377 Hue Hue Road, Wyee and part of Digary Road
Proponent:	Topa Property PTY LTD
Planning portal reference:	PP-2022-3016
Council reference:	RZ/1/2022
Date:	September 2024
Version:	Post-Public Exhibition
Author:	Mashal Moughal – Strategic Land use Planner
Pre-lodgement meeting and advice:	Meeting 5 April 2022 Advice Issued 13 April 2022
Gateway Determination	Dated 25 August 2023 Issued 28 August 2023
Studies:	Aboriginal Due Diligence Assessment Aboriginal Cultural Heritage Assessment Biodiversity and Riparian Assessment Traffic Impact Assessment Bushfire Threat Assessment PMF Technical Advice Integrated Water Cycle Management Report Preliminary Site Investigation Geotech and Salinity Investigation Social Impact Assessment Traffic Noise and Vibration Assessment

Version	Date	Details

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Introduction

This planning proposal relates to land at 1377 Hue Hue Road, Wyee and the adjoining Digary Road. The northern part of the site is currently zoned RU2 Rural Landscape, and the southern part is zoned C2 Environmental Conservation. The planning proposal seeks to rezone the northern part of the RU2 Rural Landscape zoned land to R2 Low-Density Residential. The planning proposal also seeks to realign the boundaries between the existing C2 Environmental Conservation and proposed R2 Low-Density Residential zone in the southern part of the site and on Digary Road.

The boundary realignment within the site will add a buffer to two habitat trees located on the existing and proposed zone boundaries. Also, the realignment of boundaries on Digary Road will enable infrastructure (i.e., access road) for the future residential development. The planning proposal will retain the existing C2 Environmental Conservation zoned land in the southern section of the land. The C2 Environmental Conservation zoned land, through a Voluntary Planning Agreement (VPA), will be used to offset any impacts of future development on the ecological values on the subject site.

The rezoning will enable the creation of approximately 40 to 50 residential lots adjoining to the existing residential area of the Wyee West Precinct, while maintaining the environmental conservation outcomes to the southern portion of the site. The rezoning of the land presents a logical expansion to the Wyee West Precinct and will be supported by appropriate local infrastructure including augmentation of services as required, stormwater management infrastructure and local roads, including the delivery of Digary Road which is currently an unformed road. The planning proposal also seeks to amend the minimum lot size and Urban Release Area (URA) LMLEP 2014 maps for the land to be zoned R2 Low Density Residential.

The planning proposal does not change the existing Building Height Maps. The current height limit (8.5m) applied to the subject site is consistent with the neighbouring R2 Low- Density Residential development and therefore does not require further amendments. The height limit for the part of the site zoned C2 Environmental Conservation will also remain 5.5m.

Part 1 – Objectives and Intended Outcomes:

Objective

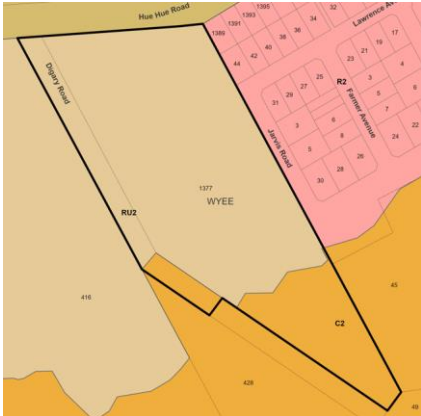
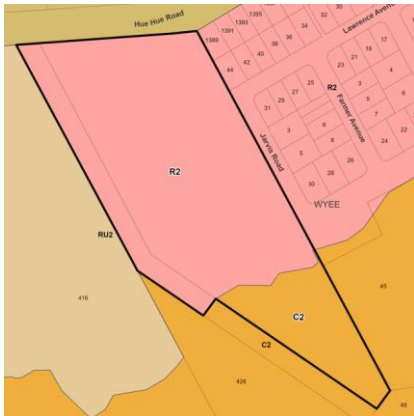
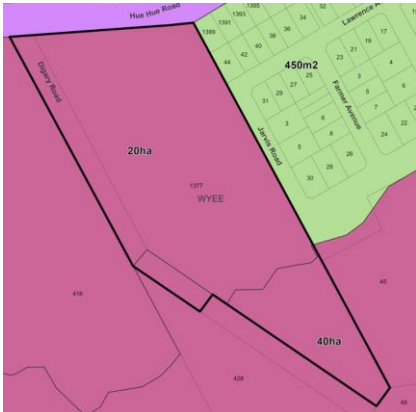
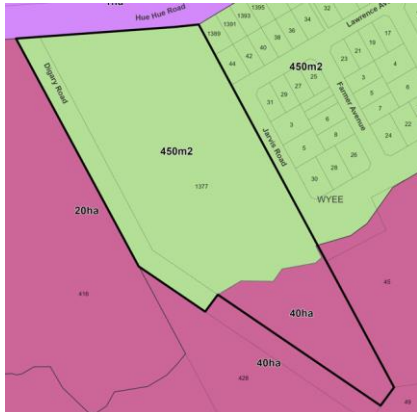
The objective of this planning proposal is to amend the *Lake Macquarie Local Environmental Plan 2014* (LMLEP 2014) to facilitate residential development on land adjoining the existing residential area of the Wyee West Precinct.

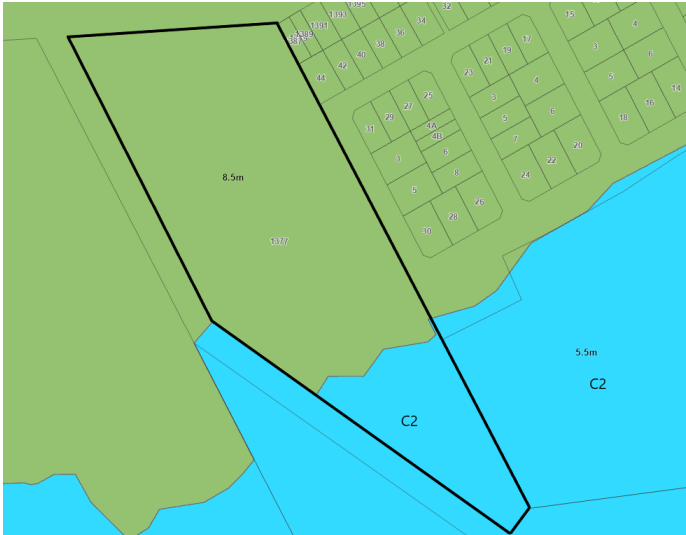
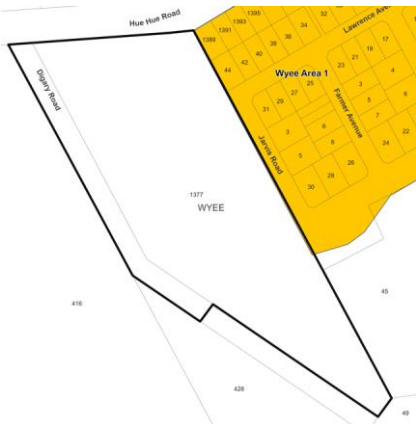
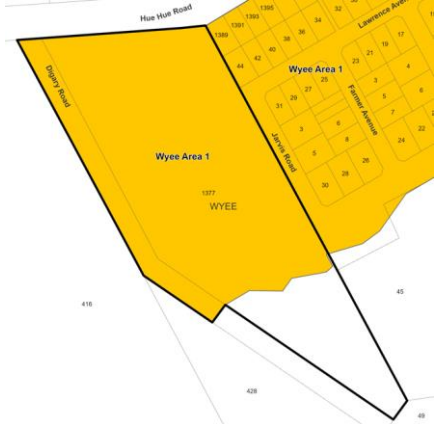
Intended Outcomes

The planning proposal would permit additional housing close to services and public transport while maintaining the environmental conservation outcomes of the southern portion of the site. The land has an area of approximately 4.5 ha with frontage to Hue Hue Road and could accommodate approximately 40 to 50 lots with a variety of smaller lots sizes under the Small Lot housing provisions in the LMLEP 2014.

Part 2 – Explanation of Provisions

The Planning Proposal will amend the LMLEP 2014 as follows:

Table 1: Proposed changes to the LMLEP 2014 Map and Instrument		
Item No.	Address	Explanation of provisions
1	Sites identified on the Zoning Maps of LMLEP 2014 as shown in Part 4	<p>Zoning Map – The planning proposal seeks to amend the zoning map under the Lake Macquarie LEP 2014 from RU2 Rural Landscapes to R2 Low Density Residential and C2 Environmental Conservation and from C2 Environmental Conservation to R2 Low Density Residential.</p> <div style="display: flex; justify-content: space-around;">   </div> <div style="display: flex; justify-content: space-around;"> <p><i>Figure 1 - Existing zoning</i></p> <p><i>Figure 2- Proposed zoning</i></p> </div>
2	Changes to the Minimum Lot Sizes Maps of LMLEP 2014 as shown in Part 4	<p>Lot Size Map – The planning proposal seeks to change the minimum lot size from 20ha to 450m² for the area that is proposed to be zoned R2 Low Density Residential, which is consistent with the minimum lot size for R2 zoned land in the LGA.</p> <div style="display: flex; justify-content: space-around;">   </div> <div style="display: flex; justify-content: space-around;"> <p><i>Figure 3-Existing minimum lot size</i></p> <p><i>Figure 4- Proposed minimum lot size</i></p> </div>

<p>3</p>	<p>Building Height Maps of LMLEP 2014</p>	<p>Building Height Map – The planning proposal does not seek to change the building height for the area as the current heights are consistent with the neighbouring residential land use zones. The land that is proposed to be zoned R2 Low Density Residential will continue to have a height limit of 8.5m and the part of the site that is zoned C2 Environmental Conservation will remain 5.5m.</p>  <p><i>Figure 5- Existing Building Height to remain</i></p>
<p>4</p>	<p>Urban Release Area Map of LMLEP 2014 as shown in Part 4</p>	<p>Urban Release Area (URA) Map– The planning proposal seeks to include part of the site to be zoned R2 as an urban release area under the Urban Release Area Map.</p>  <p><i>Figure 6- Existing URA map</i></p>  <p><i>Figure 7- Proposed URA map</i></p>

Part 3 – Justification of strategic and site-specific merit

Relevant Strategies/ Instruments Considerations

Section A – need for the planning proposal

1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The planning proposal is a proponent-initiated proposal and is not a direct action of the Local Strategic Planning Statement (LSPS) or a strategic study. However, the LSPS identifies the site as being within the Wyee future growth investigation area. Moreover, the planning proposal is consistent with the specific objectives for Wyee in the LSPS, including the following objectives:

- *Additional residential areas are developed with a range of housing types, particularly near the local centre and railway station while maintaining local ecological corridors.*
 - *Mannering Creek and its riparian corridors are rehabilitated and conserved*
-

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

The planning proposal is the best means of achieving the objectives and intended outcomes, as it seeks to rezone the land from RU2 Rural Landscape to R2 Low Density Residential and C2 Environmental Conservation, thereby enabling residential development on the site while retaining the existing biodiversity conservation outcomes in the southern section of the site. There are no other means to achieve the same outcome in this instance.

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

Hunter Regional Plan 2041 (HRP)

The Hunter Regional Plan 2041 (the HRP) builds on the previous plan which was finalised in October 2016 and resets the regional plan priorities to ensure it continues to respond to the region's needs for the next 20 years.

The site is located within the Morisset Growth Area identified in the HRP. More specifically, the HRP identifies that 'Morisset and its supporting local centres of Cooranbong and Wyee represent the largest future growth area in the Hunter and will underpin the economic diversification of the region'. The HRP further states that 'the area has the potential to accommodate an additional 12,000 to 36,000 people over the next 20 years'. The proposal is anticipated to result in approximately 40 to 50 new residential lots and will thereby contribute to the growth of Wyee.

Furthermore, the Planning Proposal is consistent with Objectives 3, 4, 5 and 6 of the HRP, as outlined below.

Objective 3: Create 15-minute neighbourhoods to support mixed, multi-modal, inclusive and vibrant communities.

Relevant Strategies/ Instruments	Considerations
	<p><u>Strategy 3.1</u> The planning proposal is not consistent with Strategy 3.1 as the rezoning does not provide opportunity for the specified commercial/retail land uses.</p> <p>Refer to the assessment against objective 3 performance outcomes for compliance with strategy 3.1.</p> <p><u>Strategy 3.2-</u> The proposal is consistent with this objective, as the site has access to existing infrastructure, shops and services that are essential for everyday needs. In addition, the site is located in walking and cycling distance to the Wyee train station, which provides public transport connections to Morisset and other areas. Furthermore, the southern section of the site, which contains remnant forest, will be conserved in a conservation zone.</p> <p><u>Objective 4: An inter-connected and globally-focused Hunter without car dependent communities</u></p> <p>The planning proposal is consistent with this objective, as the site has access to walking and cycling paths and public transport.</p> <p><u>Objective 5: Plan for “Nimble Neighbourhoods”, diverse housing and sequenced development</u></p> <p>The proposal is consistent with this objective, as it makes use of existing infrastructure and services. In addition, the site is located near the M1 and the Wyee train station, which provide access to employment opportunities in Morisset and other places. Moreover, the proposal will provide a variety and choice of housing types to meet the existing and future housing needs of the community. Furthermore, the planning proposal will also help to support local businesses and public transport services. In addition, the proposal will retain the C2 Environmental Conservation zoned land in the southern section of the site, thereby protecting the environmental values of the site.</p> <p><u>Strategy 5.3 -</u> The planning proposal is not consistent with Strategy 5.3 of the HRP 2041 as the planning proposal does not provide opportunity for developing ‘attached and multi-unit dwellings’.</p> <p>Refer to the assessment against objective 5 performance outcomes for compliance with strategy 5.3.</p> <p><u>Objective 6: Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments</u></p> <p>The planning proposal is consistent with this objective, as it will retain the C2 Environmental Conservation zoned land in the southern section of the site. In addition, a Vegetation Management Plan will be put in place as part of a Voluntary Planning Agreement. Together, these measures will protect areas of high environmental value and will maintain and improve the environmental value of the biodiversity network. Moreover, the</p>

Relevant Strategies/ Instruments	Considerations
	<p>Aboriginal Cultural Heritage Assessment found no items or objects of Aboriginal heritage significance on the site. Furthermore, adequate water management measures, including a stormwater detention basin, will be put in place to protect the health of Mannering Creek and other waterways.</p> <p><u>Strategy 6.3</u> - The planning proposal is consistent with strategy 5.3. The planning proposal seeks to mostly rezone the RU2 part of the subject and retain the existing C2 Environmental Conservation land use zoning on the southern part of the site to protect the biodiversity values.</p> <p><u>Strategy 6.4</u> - The planning proposal is consistent with strategy 6.4. The rezoning introduces housing on the site which will safeguard the biodiversity and scenic values by providing a separation between the biodiversity values through the application of Asset Protection Zones (APZ). The APZ will act as a buffer between the residential development whilst allowing private owners to maintain the conservation areas from elements such as weeds and other pollutants.</p> <p>The residential land use will also require developments to design and maintain on-site stormwater management systems to avoid and reduce any adverse impacts on the neighbouring waterways.</p> <p>Objective 7: Reach net zero and increase resilience and sustainable infrastructure</p> <p><u>Strategy 7.5</u> The subject site is mostly surrounded by RU2 Rural landscapes, RU4 primary production small lots and R2 Low-density residential land and there are not any known sensitive/ hazardous land uses.</p> <p>Nevertheless, any future redevelopment for sensitive land uses will be subject to the relevant planning development controls and design solutions to prevent and mitigate exposure and detrimental impacts on human health and wellbeing.</p> <p><u>Objective 9: Sustain and balance productive rural landscapes</u></p> <p>The planning proposal is inconsistent with this objective, as it seeks to rezone agricultural land to a residential land use. However, consolidation of the site with other agricultural land is constrained by conservation land, residential land and the Motorway. It is thus considered that the loss of approximately 3.2ha of rural zoned land in an isolated location will not have a significant impact on the agricultural productivity in the Hunter Region. Moreover, the land is identified as a future growth area in the Local Strategic Planning Statement and the Hunter Regional Plan. In addition, the site is strategically well located for housing, as it is situated close to existing infrastructure, services, and public transport, and adjoins an existing residential area.</p>
Hunter Regional Plan (HRP) 2041-	Objective 3 Performance outcomes

Relevant Strategies/ Instruments	Considerations
Performance Outcomes	<p>The planning proposal satisfies the relevant performance outcomes as follows:</p> <ul style="list-style-type: none"> The existing urban settlement is along the key road networks such as the M1, Hue Hue Road and Wyee Road. The site is approximately 1.2 km away from the the Local Centre (Wyee Road), and approximately 1.8km away from Wyee Train Station (Wyee Road). The planning proposal is maximising the use of existing infrastructure by providing housing close to employment land (E1 Local Centre) and reducing car dependency by being close to the Wyee train station (see figure 8). The site is located near additional land use zones that include RU4 Primary Production Small Lots, R3 Medium Density Residential and E1 Local Centre that provide opportunities for a variety of employment, retail, and health services. The subject site is also in close proximity to recreational and conservation zones which provide opportunity for existing and future residents access to open space, sporting activities, cultural entertainment, and outdoor recreation activities. The planning proposal will reinforce existing neighbourhood settlement scale and patterns and complement the rural village character of Wyee. The planning proposal does not propose any public spaces as part of the rezoning. However, any future subdivision or residential development (dwelling house etc) will be required to address Council's Urban Greening Strategy and other relevant DCP controls for private open space.

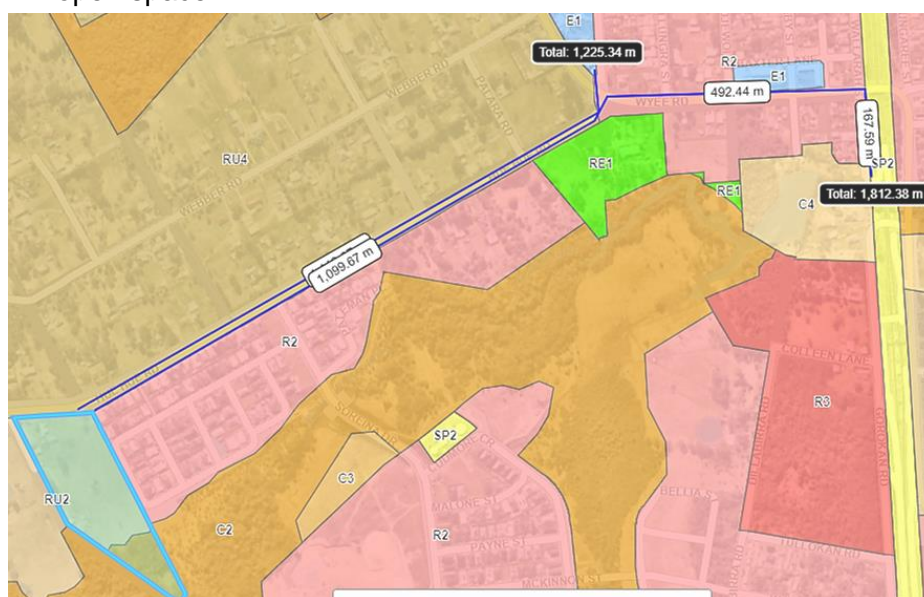


Figure 8- Map showing proximity to Local Centre and Wyee train station.

Relevant Strategies/ Instruments	Considerations
	<p data-bbox="456 376 954 409">Objective 5 Performance Outcomes</p> <p data-bbox="456 432 1374 495">The planning proposal satisfies the relevant performance outcomes as follows:</p> <ul style="list-style-type: none"> <li data-bbox="456 521 1428 656">• As assessed under <i>objective 3 performance outcomes</i> the planning proposal is maximising the use of existing infrastructure by providing housing close to employment land (E1 Local Centre) and reducing car dependency by being close to the Wyee train station. <li data-bbox="456 689 1406 824">• The site is being rezoned from C2 Environmental Conservation to R2 Low-Density Residential that provides opportunity for a variety of residential development that were not possible under the C2 Environmental Conservation zone. <li data-bbox="456 857 1428 992">• It is noted that the site is also in proximity to R3 Medium Density Residential, RU2 Rural Landscapes, RU4 Primary Production and E1 Local Centre zoned land which also provide opportunity for a variety of urban and rural residential typologies. <li data-bbox="456 1025 1398 1133">• The planning proposal will provide residential development to be located close to employment/ commercial activities and thus support local businesses and transport services. <li data-bbox="456 1167 1414 1346">• The rezoning is mostly occurring on cleared part of the site and will also be subject to a planning agreement to establish and manage the protected conservation zone to the south of the site. The planning proposal will not have any known adverse impacts on the agricultural, environmental resources or industrial lands of the site. <li data-bbox="456 1379 1422 1514">• Any future residential densities resulting from the planning proposal will be of a consistent scale to the existing settlement pattern and therefore will maintain the 'rural village' scenic and recreational values of Wyee. <li data-bbox="456 1547 1406 1966">• The planning proposal will provide a variety of residential typologies that can meet the needs of diverse individuals and communities. The new housing types will include: <ul style="list-style-type: none"> <li data-bbox="504 1693 772 1727">- boarding houses <li data-bbox="504 1738 783 1771">- dual occupancies <li data-bbox="504 1783 762 1816">- dwelling houses <li data-bbox="504 1827 727 1861">- group homes <li data-bbox="504 1872 820 1906">- secondary dwellings <li data-bbox="504 1917 746 1951">- senior housing <li data-bbox="504 1962 780 1995">- shop-top housing

Relevant Strategies/ Instruments	Considerations
Greater Newcastle Metropolitan Plan 2036	<p>The proposal will contribute to the delivery of housing in an area with established services and infrastructure and close to public transit and is thus consistent with the Greater Newcastle Metropolitan Plan 2036 (GNMP) and supports its objectives to:</p> <ul style="list-style-type: none"> • Deliver housing close to jobs and services; and • improve connections to jobs, services and recreation. <p>The proposal seeks to rezone rural zoned land identified as state significant agricultural land in the draft state significant agricultural land maps and is thus inconsistent with Action 13.1, which aims to protect and preserve productive agricultural land to support the growth of agricultural industries and keep fresh food available locally. However, rezoning the land to a residential land use is justified as the site adjoins residential land and is isolated from other rural land by C2 Environmental Conservation and R2 Low Density Residential zones and by the M1 Pacific Motorway. Moreover, the site is identified as a future growth investigation area in the LSPS.</p>

4 Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan

Lake Macquarie Local Strategic Planning Statement (LSPS)	<p>The Local Strategic Planning Statement (LSPS) locates the subject site within the South West Growth Area where Wyee is identified as an area having considerable opportunities for urban development.</p> <p>For Wyee, the LSPS specifically states:</p> <ul style="list-style-type: none"> • The service role of the local centre is reinforced with an increase in services to cater for the growing population. • Additional residential areas are developed with a range of housing types, particularly near the local centre and railway station while maintaining local ecological corridors. • High-amenity cycle and pedestrian linkages run between new residential, recreation, and commercial areas and the train station. • Mannering Creek and its riparian corridors are rehabilitated and conserved. • Quality recreational areas are provided to cater for the growing community. <p>The proposal is considered to be consistent with the above criteria for Wyee. Moreover, the planning proposal is considered consistent with the following planning priorities of the LSPS:</p> <p><u>Planning Priority 2: A City to Call Home.</u></p> <p>The proposal is consistent with this priority, as it will contribute to housing growth to accommodate Lake Macquarie's growing population.</p> <p>More specifically, the proposal is consistent with the following principles:</p>
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Relevant Strategies/ Instruments	Considerations
	<ul style="list-style-type: none"> • Work with industry to unlock more housing close to jobs, services, public transport, and social and recreational spaces, within and around centres to meet residents' day-to-day needs. • Work with industry to deliver future housing growth through infill development in and around centres and train stations and new housing areas in the North-West and South-West growth areas. • Work with industry and government agencies to ensure future housing is well serviced with health services, education, active transport infrastructure and public transport. • Ensure new growth areas are highly liveable and well serviced with access to services, facilities and social opportunities by a range of transport modes. • Ensure future residential housing is located with access to jobs, shopping, services, community facilities, and public spaces by a range of transport modes and maintains important local conservation areas.

Planning Priority 6: A City with a Vast Natural Environment.

The proposal is considered consistent with this priority as it seeks to avoid and minimise the impact of development on areas of high ecological value, and protect important biodiversity areas by retaining the C2 Environmental Conservation zoned land in the southern section of the site and by putting in place a vegetation management plan for the C2 zoned land.

Lake Macquarie City Housing Strategy	<p>The Lake Macquarie City Housing Strategy (Housing Strategy) provides a long-term approach to the delivery of quality housing in the Lake Macquarie Local Government Area. The Housing Strategy identifies Wyee as part of the South West Growth Area and includes an objective to complete housing release areas around Wyee.</p> <p>Furthermore, the proposal is considered consistent with the following priorities and objectives of the Lake Macquarie City Housing Strategy.</p> <p><u>Priority 1: Facilitate Efficient Housing Supply & Infrastructure Coordination</u></p> <p>The planning proposal is consistent with this priority, as it facilitates the efficient supply of housing to meet the housing demand of Lake Macquarie's growing population. Moreover, this priority includes an objective to focus new greenfield housing only where it is well located near existing centres and transport nodes. The proposal is consistent with this objective as it is located adjoining an existing residential area and in proximity to public transport and local services.</p>
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Relevant Strategies/ Instruments	Considerations
Lake Macquarie Community Strategic Plan 2022-2032	<u>Priority 2: Increase Diversity and Choice in Housing</u>
	<p>The proposal is considered consistent with this priority, as it provides land and housing development opportunities to meet demand for a range of housing options to meet the diverse housing needs of the community.</p>
	<u>Unique Landscapes</u>
	<p>The planning proposal is consistent with this key focus area, as it seeks to retain the C2 Environmental Conservation zoned land in the southern section of the site, thereby protecting an area of high environmental value.</p>
	<u>Diverse Economy</u>
	<p>The planning proposal is consistent with this key focus area, as it helps to accommodate the growing population and support a thriving local economy. The proposal also supports the objective of having vibrant economic and neighbourhood centres and the strategy of encouraging the co-location of jobs, housing, essential services, transport options and recreational activities.</p>

Section B – relationship to the strategic planning framework

5 Is the planning proposal consistent with any other applicable State and regional studies or strategies?

Housing 2041 – NSW Housing Strategy	<p>Housing 2041 represents a 20-year vision for housing in NSW. It embodies the government's goals and ambitions to deliver better housing outcomes by 2041— housing in the right locations, housing that suits diverse needs and housing that feels like home.</p> <p>The vision is reflected in the four pillars of supply, diversity, affordability and resilience of housing, as outlined below:</p> <ul style="list-style-type: none"> • supply—housing supply delivered in the right location at the right time • diversity—housing is diverse, meeting varied and changing needs of people across their life • affordability—housing that is affordable and secure • resilience—housing that is enduring and resilient to natural and social change. <p>The planning proposal is consistent with the NSW Housing Strategy, as it seeks to deliver housing in the right location and will also allow for diverse housing to meet the varied and changing needs of the population.</p>
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Relevant Strategies/ Instruments	Considerations
6. Is the planning proposal consistent with applicable SEPPs	
State Environmental Planning Policy (Biodiversity and Conservation) 2021	<p><u>Chapter 3 Koala habitat protection 2020</u></p> <p>Chapter 3 applies to part of the site that is zoned RU2 Rural Landscape. The Biodiversity and Riparian Assessment prepared by AEP and dated July 2022, states that approximately 16%-17% of the canopy trees within the study area consisted of listed koala feed trees and as such further surveys were undertaken to determine if the site is core koala habitat. The surveys did not result in the observation or recording of koalas within the study area. Therefore, it has been determined that the site is not core koala habitat and no further investigation is required.</p> <p><u>Chapter 4 Koala habitat protection 2021</u></p> <p>Chapter 4 applies to part of the site that is zoned C2 Environmental Conservation. The Biodiversity and Riparian Assessment (AEP, July 2022) states that site inspections identified koala use tree species listed in Schedule 3 for the relevant koala management area were located on the site.</p> <p>As koala use trees were identified on the site, additional assessments were undertaken to determine if koalas were present on site and to determine if the site was core koala habitat.</p> <p>No koalas were found during the various surveys. Local records are sparse and not within 2.5km of the site, as such the site does not fall within an area of historical occupation as defined by the SEPP guidelines. The Biodiversity and Riparian Assessment states that based on paucity of recent local records and the results of the targeted surveys, it is unlikely that koalas are present within the site.</p> <p>As it was determined that it is unlikely that koalas are present on the site, it is considered that the site does not contain core koala habitat and hence no further assessment is required. In addition, the vegetation in the southern section of the site will be preserved.</p>
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	<p>The <i>State Environmental Planning Policy (Exempt and Comply Development Codes) 2008</i> will continue to apply to the land. The planning proposal does not impede its operation over the site.</p>
State Environmental Planning Policy (Housing) 2021	<p>The planning proposal does not include any provisions that impede the operation of the <i>State Environmental Planning Policy (Housing) 2021</i> over the site.</p>

Relevant Strategies/ Instruments	Considerations
State Environmental Planning Policy (Primary Production) 2021	<p>The <i>State Environmental Planning Policy (Primary Production) 2021</i> currently does not include any State significant agricultural land in Schedule 1.</p> <p>Furthermore, although the site is identified as State Significant Agricultural Land on the draft State Significant Agricultural Land Map, consolidation of the site with other agricultural land is constrained by conservation land, residential land and the Motorway. It is thus considered that the loss of approximately 3.2ha of rural zoned land in an isolated location is of minor significance. Moreover, the site is identified as a future growth investigation area in the Local Strategic Planning Statement and in the Hunter Regional Plan. In addition, the site is well located for housing, as it adjoins an existing residential area and has good access to existing infrastructure, services and public transport.</p>
State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land	<p>A Preliminary Site Investigation has been undertaken by GeoEnviro Consultancy Pty Ltd to inform the planning proposal. The investigation included a review of historical uses and limited sampling regime. The Preliminary Site Investigation Report prepared by GeoEnviro Consultancy Pty Ltd (2021) concludes that the risk of gross contamination on the site is low and that the site is suitable for the intended residential use. The planning proposal is thus consistent with Chapter 4 of the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>.</p>

7. Is the planning proposal consistent with the applicable Ministerial Directions (section 9.1 Directions)?

1.1 Implementation of Regional Plans

The proposal is consistent with this direction, as it helps to achieve the objectives set out in the Greater Newcastle Metropolitan Plan 2036, as well as in the Hunter Regional Plan 2041.

The site is located within the Morisset Growth Area identified in the Hunter Regional Plan 2041. More specifically, the HRP identifies that 'Morisset and its supporting local centres of Cooranbong and Wyee represent the largest future growth area in the Hunter and will underpin the economic diversification of the region'. The HRP further states that 'the area has the potential to accommodate an additional 12,000 to 36,000 people over the next 20 years'. The proposal is anticipated to result in approximately 40 to 50 new residential lots and will thereby help to accommodate population growth in Wyee.

Moreover, the proposal will contribute to the delivery of housing in an area with established services and infrastructure and close to public transit and is thus consistent with the objectives of the Greater Newcastle Metropolitan Plan 2036 to:

- Deliver housing close to jobs and services; and
- improve connections to jobs, services and recreation.

Relevant Strategies/ Instruments	Considerations
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1.3 Approval and Referral Requirements

The proposal is consistent with this direction. It does not require concurrence, consultation or referral of development applications to a Minister or public authority and would not identify development as designated development.

1.4 Site Specific Provisions

The proposal is consistent with this Direction and does not propose restrictive site-specific planning provisions.

3.1 Conservation Zones

The proposal will retain the southern part of the site that is zoned C2 Environmental Conservation. Moreover, although the proposal will result in the rezoning of a very small part of the Digary Road reserve from C2 to R2, the proposal will rezone a small part of the RU2 zoned land to C2 and thus there will not be much, if any, reduction in C2 zoned land. In addition, the proposal will not reduce the conservation standards that apply to the land. Furthermore, the C2 zoned land will be managed in accordance with a vegetation management plan, which aims to improve biodiversity values of the remaining vegetation on the site. The proposal is therefore consistent with this direction.

3.2 Heritage Conservation

European Heritage

The site does not contain any items of European heritage significance.

Aboriginal Heritage

An Aboriginal Due Diligence Assessment (ADDA) was conducted by Biosis in 2021, which identified three areas of moderate archaeological potential within the study area. The ADDA thus recommended that an Aboriginal Cultural Heritage Assessment (ACHA) be completed to identify and assess whether the future development facilitated by the planning proposal would impact on Aboriginal heritage. An ACHA was thus undertaken by Biosis (dated 9 December 2022), which includes an assessment of Aboriginal cultural, historic and aesthetic heritage significance of the site, as well as Aboriginal community consultation, and test excavations to determine the archaeological significance of the areas of moderate archaeological potential identified in the ADDA.

The ACHA found the following:

- Cultural (social) significance: The study area holds high cultural significance to the Aboriginal people of the local region as it is part of the cultural landscape that Aboriginal people have connected with over generations.
 - Historical significance: The study area is not currently known to have any historic associations.
 - Aesthetic significance: The landscape of the study area is closely linked with Aboriginal cultural values; however, stock grazing, vegetation clearance and construction of residential dwellings and associated buildings and services has reduced the aesthetic quality of the area to moderate.
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Relevant Strategies/ Instruments	Considerations
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- Archaeological (scientific) significance: The archaeological assessment undertaken has determined that the study area has low archaeological values, as no Aboriginal objects or sites were identified during the investigation.

The ACHA also includes various recommendations, including recommended management measures to be put in place before and during construction works to manage any unanticipated Aboriginal objects, historical relics or human remains.

The ACHA concludes that the proposal will not impact on any known Aboriginal heritage values.

In summary, the planning proposal is considered to be consistent with this ministerial direction.

3.5 Recreation Vehicle Areas

The proposal does not seek to enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the *Recreation Vehicles Act 1983*) and is thus consistent with this direction.

4.1 Flooding

The southern section of the site is identified as being within the flood planning area and thus this direction applies to the planning proposal.

Part of the land within the flood planning area is located on the C2 Environmental Conservation zoned land and the other part on the RU2 Rural Landscape zoned land proposed to be rezoned to R2 Low Density Residential. The proposal is thus inconsistent with this direction. However, the part of the land within the flood planning area to be rezoned to R2 is only intended to be used for a stormwater detention basin and not for residential development. There will be specific DCP controls for the site to ensure that only a stormwater basin and no residential development is allowed on land affected by the probable maximum flood.

Moreover, the proposal is consistent with the rest of the requirements under this direction, as it will not permit development in floodway areas, and will not result in flood impacts to other properties. In addition, the proposal will not permit development for the purposes of residential accommodation in a high hazard area. Furthermore, flood evacuation and egress will be considered in the DA stage. Also, the planning proposal has been reviewed by the Biodiversity Conservation and Science Division (BCS) which established that the proposal is consistent with the relevant provisions of the Flood Risk Management Manual 2023 and Ministerial Directions. Therefore, the proposal is not likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures.

The planning proposal is inconsistent with this direction as it seeks to rezone land in the flood planning area from RU2 Rural Landscape to R2 Low Density Residential. However, for the reasons mentioned above, the inconsistency is considered to be of minor significance.

4.3 Planning for Bushfire

This direction applies to the planning proposal, as the site is mapped as being bushfire prone. The planning proposal has been referred to the NSW Rural Fire Service for comment. The comments received by the NSW Rural Fire Service have been addressed in the Bushfire Threat Assessment prepared by AEP and dated July 2022, which accompanies the planning proposal.

The Bushfire Threat Assessment has assessed the bushfire protection measures required by *Planning for Bushfire Protection 2019* (PBP) and the construction requirements for proposed development in accordance with the provisions of the *Building Code of Australia – Volume 2*,

Relevant Strategies/ Instruments	Considerations
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Edition 2010 and Australian Standard 3959-2009 (AS 3959) – Construction of buildings in bushfire-prone areas, to provide direction for future development planning within the site.

The Bushfire Threat Assessment concludes that the proposal can satisfactorily comply with relevant specifications and requirements of *Planning for Bush Fire Protection 2019* and AS 3959.

The planning proposal is therefore considered to be consistent with this direction.

4.4 Remediation of Contaminated Land

A Preliminary Site Investigation has been undertaken by GeoEnviro Consultancy Pty Ltd to inform the planning proposal. The investigation included a review of historical uses and limited sampling regime. The Preliminary Site Investigation Report prepared by GeoEnviro Consultancy Pty Ltd (2021) concludes that the risk of gross contamination on the site is low and that the site is suitable for the intended residential use. The planning proposal is thus consistent with this direction.

4.5 Acid Sulfate Soils

The site does not contain any acid sulfate soils.

4.6 Mine Subsidence and Unstable Land

The site is not within a mine subsidence district and has not been identified as unstable land.

5.1 Integrating Land Use and Transport

The site is within approximately 2km distance to the Wyee railway station and neighbourhood shopping centre. Bus stops, pathways and cycleways are available in the surrounding streets. Connecting pathways and cycleways will also be part of the considerations at the DA stage. The proposal is therefore considered consistent with this direction.

6.1 Residential Zones

This direction applies to the proposal, as it seeks to rezone part of the site from RU2 Rural Landscape to R2 Low Density Residential. The planning proposal is consistent with this direction, as it encourages the provision of a variety and choice of housing types to provide for the existing and future housing needs of the community. Moreover, the proposal makes efficient use of existing infrastructure and services and ensures that new housing has appropriate access to infrastructure and services. In addition, the planning proposal includes provisions to map the site as an Urban Release Area. Clause 6.3 of the LMLEP 2014 requires that development consent must not be granted for development on land in an urban release area unless a development control plan applies to the site. The site will be included in the existing DCP Part 12 – Precinct Area Plans - Wyee West and will have specific controls apply to it. Moreover, the planning proposal does not contain provisions which will reduce the permissible residential density of the land.

6.2 Caravan Parks and Manufactured Home Estates

The proposal is consistent with this direction as it will not impact the provision of caravan parks and manufactured home estates.

8.1 Mining, Petroleum Production and Extractive Industries

The proposal is considered to be consistent with this direction, as it does not propose any changes that would have an effect on mining, petroleum production and/or extractive industries.

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9.1 Rural Zones

The planning proposal is inconsistent with this direction as it aims to rezone rural zoned land (RU2 Rural Landscape) to a residential zone (R2 Low Density Residential). However, the land is identified as a future growth area in the Local Strategic Planning Statement and Hunter Regional Plan. Moreover, the site is strategically well located for housing, as it is located close to existing infrastructure, services, and public transport.

Furthermore, the site is isolated from other rural land by conservation land, residential land and the Motorway. It is therefore considered that the loss of approximately 3.2ha of rural zoned land in an isolated location is of minor significance.

Section C – environmental, social, and environmental impact

8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

A Biodiversity and Riparian Assessment Report has been prepared for the site to accompany the planning proposal. The report identifies vegetation on the site as Coastal Plains Scribbly Gum Woodland, Alluvial Riparian Blackbutt Forest and Wyong Paperbark Swamp Forest. Based on the proposed land to be rezoned and associated road construction, scattered stands of Coastal Plains Scribbly Gum Woodland and minor portion of Alluvial Riparian Blackbutt Forest will be impacted upon. These vegetation types are consistent with the Swamp Sclerophyll Forest on Coastal Floodplains, which is an Endangered Ecological Community (EEC).

While 0.05ha of EEC vegetation is proposed to be removed, 0.84ha of habitat is to be retained and managed in the existing C2 zoned land as part of the proposed rezoning. As the amount of native vegetation to be removed is small and extremely fragmented and as the proposal will not fragment or isolate the remaining vegetation within the southern section of the site, the proposal will not affect the long-term survival of the EEC in the southern section of the site or nearby areas. Moreover, the planning proposal also includes the application of a Voluntary Planning Agreement (VPA) over the southern C2 Environmental Conservation zoned land. The VPA requires the developer to rehabilitate the C2 zoned land before dedicating it to Council. The VPA also requires the developer to pay an endowment fund to Council for the ongoing management of the conservation land in perpetuity. The requirements for the rehabilitation of the C2 zoned land will be outlined in a vegetation management plan, which will ensure that the habitat values of the bushland and the quality and resilience of the EEC are increased. In addition, the VPA and vegetation management plan will also help to ensure that any remaining biodiversity impacts from the development will be adequately offset.

While the proposal will not directly impact the EEC vegetation (i.e. Swamp Sclerophyll Forest EEC and River-Flat Eucalypt Forest EEC) in the southern section of the site, there is potential for indirect impacts, such as alterations to hydrological conditions, as a result of future residential development in the northern section of the site. However, as part of future proposed development, a Stormwater Management Plan will be prepared to ensure there is no detrimental impacts on the downstream ecology caused by development of the site. Furthermore, the proposed development will be constructed with adequate subsurface drainage, runoff collection systems, and basin, in conjunction with the local street network and water sensitive urban design to manage run off volume. In addition, it is considered unlikely that the proposal will impact the existing groundwater or surface water regimes.

Relevant Strategies/ Instruments	Considerations
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It is therefore considered that impacts to hydrological conditions and residual clearing caused by the proposed development surrounding EEC will be negligible and unlikely to place the local occurrence of this community at risk of local extinction.

Moreover, no threatened species listed within the *Environment Protection and Biodiversity Conservation Act 1999* have been detected on the site. In addition, while the small area of habitat may offer resources for species should they occur, it is unlikely that the removal of approximately 4.02ha of exotic grassland containing 0.23ha of scattered native vegetation will have any meaningful impact on the life cycle of any threatened species. The report therefore concludes that there will not be any significant impacts on any critical habitat, threatened species or endangered ecological communities.

Furthermore, the report outlines the site contains trees identified as koala feed and use tree species under Chapter 3 and Chapter 4 of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021*. A targeted koala survey was thus undertaken over the site and surrounding area but did not identify the presence of koalas on the site or within 2.5km of the site. The site is therefore considered unlikely to contain koalas and is thus not deemed to be 'core koala habitat'.

9 Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

Bushfire

The site is located on bushfire prone land. The planning proposal has therefore been referred to the NSW Rural Fire Service for comment. The comments received by the NSW Rural Fire Service have been addressed in the Bushfire Threat Assessment prepared by AEP and dated July 2022, which accompanies the planning proposal.

The Bushfire Threat Assessment has assessed the bushfire protection measures required by *Planning for Bushfire Protection 2019* (PBP) and the construction requirements for proposed development in accordance with the provisions of the *Building Code of Australia – Volume 2, Edition 2010 and Australian Standard 3959-2009 (AS 3959) – Construction of buildings in bushfire-prone areas*, to provide direction for future development planning within the site.

The Bushfire Threat Assessment states that 'suitable access/egress is provided off Hue Hue Road, Digary Road and via the proposed perimeter road and internal road network. It is considered that the proposed access and egress arrangements are appropriate, and no issues have been identified with evacuation, safe haven zones, or firefighting logistics'.

Moreover, the Bushfire Threat Assessment also states that 'a reticulated water supply system from established residential areas is expected to service the site, and street hydrant access will need to be delivered in accordance with AS2419.1 – 2017'.

The Bushfire Threat Assessment further states that 'it is considered that the proposed protection measures, principally APZs, perimeter roads and relevant construction standards, would comply with the relevant requirements of PBP 2019 and AS-3959. When applied, these measures should provide adequate protection to life and property within the proposed development in the event of a bushfire occurring in the immediate locality'.

It is therefore considered that the planning proposal is able to meet the required objectives and principles of PBP 2019. In addition, specific controls for bushfire management have been

Relevant Strategies/ Instruments	Considerations
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included in the DCP for the site. DAs for the site will therefore need to comply with the DCP controls and the requirements of PBP 2019.

Flooding

The southern section of the site is identified as being within the flood planning area. Part of the land within the flood planning area is located on the C2 Environmental Conservation zoned land and the other part on the RU2 Rural Landscape zoned land proposed to be rezoned to R2 Low Density Residential. However, part of the land within the flood planning area to be rezoned to R2 is only intended to be used for a stormwater detention basin and not for residential development. Moreover, a DCP will be prepared for the site, which will include controls to ensure that only a stormwater basin and no residential development is allowed on land affected by the probable maximum flood.

Furthermore, although part of the proposed R2 zoned land is located within the flood planning area (which is based on the probable maximum flood), the 1 in 100-year flood extent plus the 0.5m freeboard is fully contained within the C2 zoned land.

In addition, a specific Flood Assessment has been prepared based on TuFLOW modelling to confirm extents of the Probable Maximum Flood (PMF). The assessment confirms that all residential lots are able to accommodate dwellings outside of the PMF and that evacuation routes along Hue Hue Road are not compromised.

Water Management

An Integrated Water Cycle Management Report has been prepared by Orion Consulting Engineers Pty Ltd (dated May 2022). The report establishes the full integrated water cycle management strategy for the proposed future residential development in accordance with the Stormwater Management controls of the Lake Macquarie Council Development Control Plan 2014. Amongst other water management measures that will be put in place is a stormwater detention and treatment basin to manage stormwater flows and quality.

Contamination

A Preliminary Site Investigation has been prepared by GeoEnviro Consultancy Pty Ltd (dated September 2021) in support of the planning proposal. The investigation includes a review of historical uses and limited sampling regime and concludes that the risk of gross contamination on the site is low and that subject to the following recommendations, the site is suitable for the intended residential purpose:

Demolition is to be carried out by a licensed contractor and if any asbestos is encountered, it has to be removed in accordance with Safework requirements;

Once the structures are demolished, validation sampling is to be undertaken to confirm the footprint of structures is not affected by contamination.

Should uncontrolled fill be encountered, it should be disposed of off-site at an approved landfill.

Geotechnical and Salinity

A Geotechnical and Salinity Investigation was undertaken over the site by GeoEnviro Consultancy Pty Ltd (dated November 2021) to support the planning proposal and to demonstrate the suitability of the land for development.

**Relevant Strategies/ Considerations
Instruments**

For the northern portion of the site that is to be developed for residential purposes, no significant constraints were identified and the investigation makes appropriate recommendations that should be implemented during earthworks to ready the site for residential development of the land.

The investigation found that the majority of the site was considered to be non to slightly saline with the southern portion of the site (to remain C2) found to be moderately saline. Despite the non to slightly saline conditions for the northern portion of the site, the soils were found to be mildly aggressive to concrete but non-aggressive to steel. To guide future residential development and ensure it responds to the soil conditions, the investigation identifies appropriate management measures to be implemented.

Residential development can be accommodated on the site subject to the implementation of the identified management measures and subject to relevant standards being met during development works.

Furthermore, the site is not identified as containing acid sulfate soils.

Road Traffic Noise

The Pacific Highway is located approximately 100m away from the site and is a source of road traffic noise that may impact on the amenity of residential development. In this regard, a Traffic Noise and Vibration Assessment has been prepared in support of the planning proposal. The assessment demonstrates that road traffic noise and vibration present a minor impact to residential amenity of the site. This impact can readily be mitigated through the treatment of dwelling facades on future lots fronting the western and northern boundary of the site. A noise and vibration control has been included in the Development Control Plan to require development to be accompanied by an acoustic report and vibration study demonstrating acceptable noise and vibration levels for the development can be met. In addition, the control also states that if the acoustic report and vibration study recommend noise and/or vibration mitigation measures to be put in place, the development application must demonstrate how these measures have been incorporated into the design of the development.

Visual Impact

The majority of the southern side of Hue Hue Road between the Pacific Motorway and Wyee Road has been developed for low density residential purposes. The continuation of this form of development for an additional 150m to the west only has an interface with one other property on the northern side of Hue Hue Road and is not considered to have a significant impact on the character or amenity of the surrounding area.

The site is located approximately 100m to the east of the Pacific Highway. Views to the site from the Pacific Highway are largely obstructed due to the batter within the road reserve and associated vegetation. Views to the site are also obstructed as the land generally falls away from the north-west to south-east.

10. Has the planning proposal adequately addressed any social and economic effects?

Heritage

An Aboriginal Due Diligence Assessment (ADDA) was conducted by Biosis in 2021, which identified three areas of moderate archaeological potential within the study area. The ADDA thus recommended that an Aboriginal Cultural Heritage Assessment (ACHA) be completed to identify and assess whether the future development facilitated by the planning proposal would impact on

Relevant Strategies/ Instruments	Considerations
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Aboriginal heritage. An ACHA was thus undertaken by Biosis (dated 9 December 2022), which includes an assessment of Aboriginal cultural, historic and aesthetic heritage significance of the site, as well as Aboriginal community consultation, and test excavations to determine the archaeological significance of the areas of moderate archaeological potential identified in the ADDA.

The ACHA found the following:

- Cultural (social) significance: The study area holds high cultural significance to the Aboriginal people of the local region as it is part of the cultural landscape that Aboriginal people have connected with over generations.
- Historical significance: The study area is not currently known to have any historic associations.
- Aesthetic significance: The landscape of the study area is closely linked with Aboriginal cultural values; however, stock grazing, vegetation clearance and construction of residential dwellings and associated buildings and services has reduced the aesthetic quality of the area to moderate.
- Archaeological (scientific) significance: The archaeological assessment undertaken has determined that the study area has low archaeological values, as no Aboriginal objects or sites were identified during the investigation.

The ACHA provides various recommendations, including recommended management measures to be put in place before and during construction works to manage any unanticipated Aboriginal objects, historical relics or human remains.

The ACHA also involved consultation with the Aboriginal community, including notification of the proposal, as well as presentation of information about the proposal and ACHA methodology to the Registered Aboriginal Parties (RAPs) and request for comments. The draft ACHA was also provided to the RAPs, who had 28 days to provide comments. During the final consultation stage, one comment was received, stating that the RAP had read the ACHA and Archaeological Report and that the RAP endorses the recommendations made in the ACHA.

The ACHA concludes that the proposal will not impact on any known Aboriginal heritage values.

General social and economic impacts

The planning proposal is anticipated to have positive economic and social impacts in Wyee and in the Lake Macquarie LGA. It will provide additional housing supply and choice in an area in close proximity to public transport and shopping facilities and within 30 minutes of the Strategic Centre of Morisset and associated employment opportunities. The development of the site will generate construction related employment and investment, as well as ongoing investment in the local economy.

Given the small scale of development, it is not anticipated that significant demand for new facilities will be generated nor will undue pressure be placed on existing social infrastructure as detailed in the Social Impact Assessment.

The development of the site will also provide development contributions that Council can utilise to expedite planned projects in the region or augment the embellishment of local facilities. Moreover, future development on the site will adopt a similar form of development as the completed sections of the adjoining residential area to the eastern side of the site, thereby helping to integrate the future community with the existing community.

Relevant Strategies/ Instruments Considerations

Section D – Infrastructure (Local, State and Commonwealth)

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

The site adjoins the existing Wyee West Precinct with lead in services readily able to be connected to. The proponent has commenced engagement with key utility providers to develop options and associated costs to deliver water, sewer and electricity to the site. The inclusion of the site on the Urban Release Area Map will also require arrangements to be made with the State Government for the provision of State public infrastructure.

In terms of local infrastructure, the planning proposal and associated residential lot yield is not considered to place significant additional demand on Council's infrastructure. The demand on infrastructure has been considered, as outlined below:

Traffic and Transport	A Traffic Impact Assessment has been prepared for the planning proposal. Based on the proposed residential yield of 54 lots on the site alone, an additional 38 vehicle trips per hour will be generated. This traffic volume is considered to be able to be accommodated within the existing road network without the need for road widening or intersection upgrades. On this basis, the proponent would intend to provide development contributions for the proposed development in accordance with <i>Lake Macquarie City Council Development Contributions Plan 2012 – Morisset Contributions Catchment</i> (Contributions Plan) that includes a component to go towards local traffic and transport infrastructure.
Stormwater Management	The Integrated Water Cycle Management Report prepared for the planning proposal identifies the need for a combined stormwater detention and treatment basin. The stormwater basin and other stormwater management measures will be required as part of future subdivision design and will need to meet DCP controls. Implementation of stormwater management measures will occur through future development.
Open Space and Community Facilities	Based on the relatively low residential yield, associated population and studies that informed Council's Contributions Plan, the development of the site is unlikely to generate significant demand for open space or community facilities that would warrant the provision of facilities on the site. Therefore, instead of providing open space and community facilities on the site, the proponent will pay contributions for open space and community facilities.

Section E – State and Commonwealth interests

12. What are the views of state and federal authorities and government agencies consulted in order to inform the Gateway determination?

12.1- Pre-lodgement Agency Consultation

Preliminary consultation has occurred with State authorities during the pre-lodgement phase. Referrals were sent to the following agencies during the 'pre-lodgement phase':

- NSW Rural Fire Service
- NSW Department of Planning and Environment – Biodiversity and Conservation Division
- Heritage NSW

Relevant Strategies/ Instruments	Considerations
<ul style="list-style-type: none"> • NSW Environmental Protection Authority • Hunter Water • Ausgrid • Jemana • NSW Department of Primary Industries 	

The following outlines comments received from agencies during the Pre-lodgement phase.

NSW Rural Fire Service

NSW Rural Fire Service requested a bushfire risk assessment report which addresses the requirements of *Planning for Bush Fire Protection (PBP) 2019*. NSW Rural Fire Service stated that the Bushfire Threat Assessment (dated August 2021) submitted at the pre-lodgement phase does not include the hazard along the south-western side boundary within the C2 zoned land. Given the hazard associated with the connectivity of the vegetation to the border, NSW Rural Fire Service recommended that it should be included in future bushfire risk assessments.

An Updated Bushfire Threat Assessment (dated July 2022), which addresses the above requirements, has been submitted with the planning proposal and has been considered in the assessment of the planning proposal.

The Updated Bushfire Threat Assessment (dated July 2022) will be provided to the NSW Rural Fire Service for review during the post-gateway agency consultation stage.

NSW Department of Planning and Environment – Biodiversity, Conservation and Science Division (BCS)

Biodiversity

1. BCS recommends that the proposal includes further assessment of impacts on Endangered Ecological Communities (EECs) and that the test of significance is updated to assess the proposed direct impacts on EEC vegetation.
2. BCS recommends that further information is provided on the proposed delivery and possible extension of Digary Rd and potential future impacts on biodiversity values within the C2 zoned land.
3. BCS recommends that the proposal includes further assessment of the squirrel glider and potential impacts on the species from the proposed development.
4. BCS recommends that the proposal includes further details about the location of the stormwater detention basin. It is recommended that stormwater detention infrastructure is located outside of the proposed C2 zone.
5. BCS recommends that the proposal includes further details on koala surveys and a minimum of three SAT survey sites undertaken within the subject area.
6. BCS recommends the proposal includes further details on frog surveys and refer to *the NSW Survey Guide for Threatened Frogs* (DPIE, 2020) to ensure frog surveys are adequate.

Relevant Strategies/ Instruments	Considerations
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Flooding and flood risk

7. BCS recommends that further information on the Probable Maximum Flood (PMF) is provided to ensure that the proposed development's potential emergency management impacts are adequately assessed.

An Updated Biodiversity and Riparian Assessment (dated October 2022), which addresses the above requirements, has been submitted with the planning proposal and has been considered in the assessment of the planning proposal.

Moreover, the proponent has provided some technical advice regarding the Probable Maximum Flood to address BCS' comments regarding flooding.

An updated report has now been prepared to the satisfaction of BCS.

Heritage NSW

An Aboriginal Cultural Heritage Due Diligence report prepared by Biosis and dated 18 August 2021 has been provided to accompany the scoping proposal and has been reviewed by Heritage NSW as part of the pre-lodgement consultation period. Heritage NSW advised Council that an assessment under the 2010 Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW is not considered an archaeological assessment or substitute for a comprehensive Aboriginal Cultural Heritage Assessment report.

Heritage NSW stated that the due diligence process does not adequately assess the impacts of this planning proposal on Aboriginal Cultural Heritage as required by Ministerial Directions issued under Section 9.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), specifically Local Planning Direction 3.2 Heritage Conservation. This is because without Aboriginal community consultation the extent of the impacts on Aboriginal objects and heritage values through the planning proposal and future development is not known.

Heritage NSW therefore requested that a comprehensive Aboriginal Cultural Heritage Assessment that includes both Aboriginal community consultation and archaeological assessment is undertaken to inform the planning proposal and ensure it is consistent with the Ministerial Directions 3.2 Heritage Conservation.

Heritage NSW further stated that to adequately assess the Aboriginal cultural heritage significance of the land subject to the planning proposal, the proponent needs to clearly identify all potential areas, objects, places or landscapes of heritage significance to Aboriginal culture and people that may potentially constrain future land-use planning.

An Aboriginal Cultural Heritage Assessment (ACHA) was undertaken by Biosis (dated 9 December 2022), which involved the assessment of Aboriginal cultural heritage significance of the site, as well as Aboriginal community consultation, and test excavations to determine the archaeological significance of the areas of moderate archaeological potential identified in the Aboriginal Due Diligence Assessment.

The assessment of the Aboriginal cultural/social, historical, aesthetic and archaeological significance of the site included in the ACHA found the following:

- Cultural (social) significance: The study area holds high cultural significance to the Aboriginal people of the local region as it is part of the cultural landscape that Aboriginal people have connected with over generations.
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Relevant Strategies/ Instruments	Considerations
	<ul style="list-style-type: none"> • Historical significance: The study area is not currently known to have any historic associations. • Aesthetic significance: The landscape of the study area is closely linked with Aboriginal cultural values; however, stock grazing, vegetation clearance and construction of residential dwellings and associated buildings and services has reduced the aesthetic quality of the area to moderate. • Archaeological (scientific) significance: The archaeological assessment undertaken has determined that the study area has low archaeological values, as no Aboriginal objects or sites were identified during the investigation. <p>The ACHA was provided to Heritage NSW for review during the post-gateway agency consultation stage. However, the submitted ACHA was not reviewed as Heritage NSW only reviews ACHA's on merit in accordance with their guidelines.</p> <p>NSW Environment Protection Authority (EPA)</p> <p>The EPA stated that the proposal does not constitute a Scheduled Activity under Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> (POEO Act). As such, the EPA does not consider that the proposal will require an Environment Protection Licence under the POEO Act. The EPA does not require any follow-up consultation.</p> <p>Consultation with the below State and Commonwealth public authorities has occurred in accordance with the Gateway determination.</p> <ul style="list-style-type: none"> • Rural Fire Service • NSW Department of Planning and Environment – Biodiversity and Conservation Division • Heritage NSW • Hunter Water • Australian Pipeline and Gas Authority (Jemana) • NSW Department of Primary Industries

Figure 2 – Aerial Photo of the Site



Figure 4 – Proposed Land Use Map

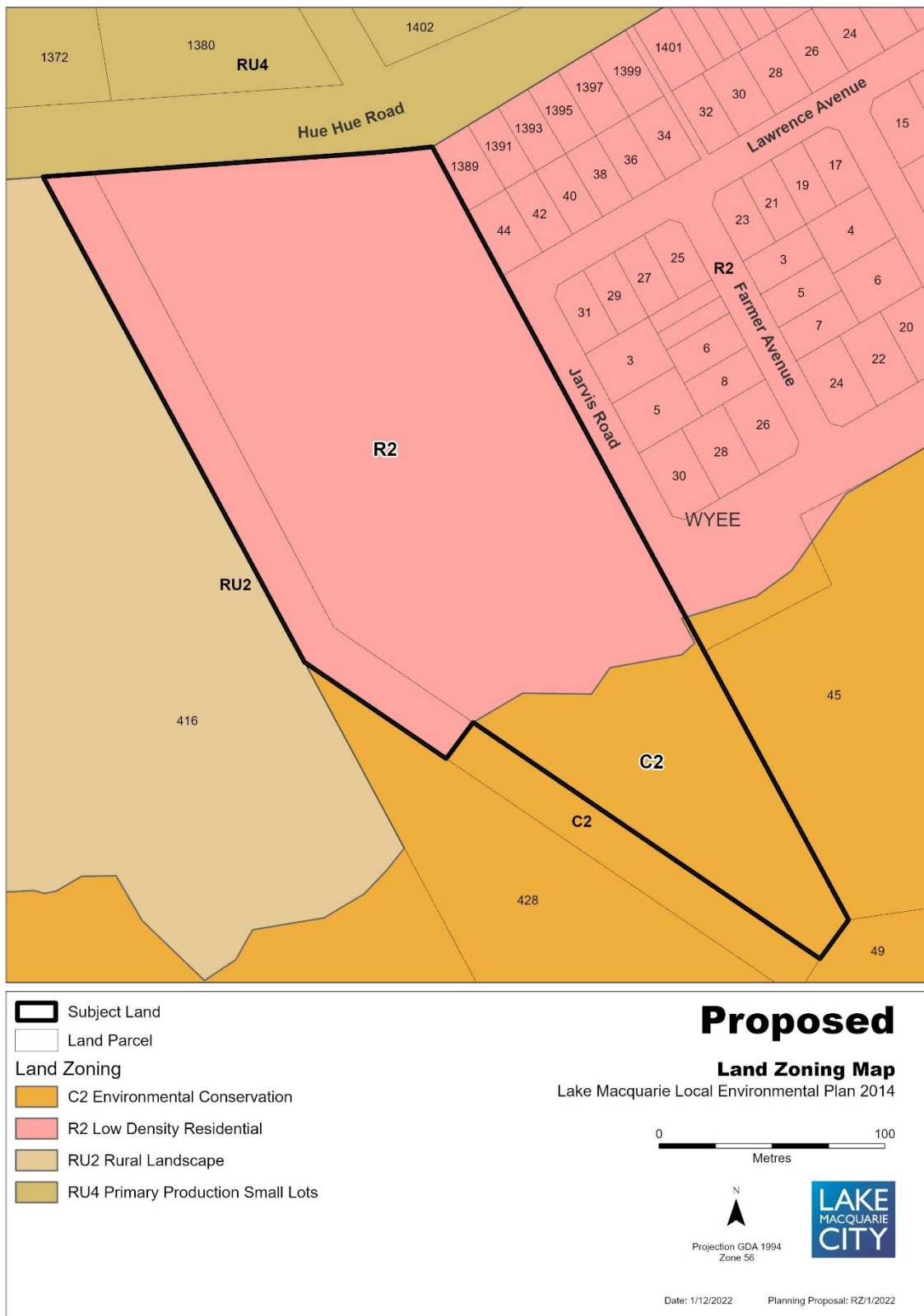


Figure 5 – Existing Minimum Lot Size Map

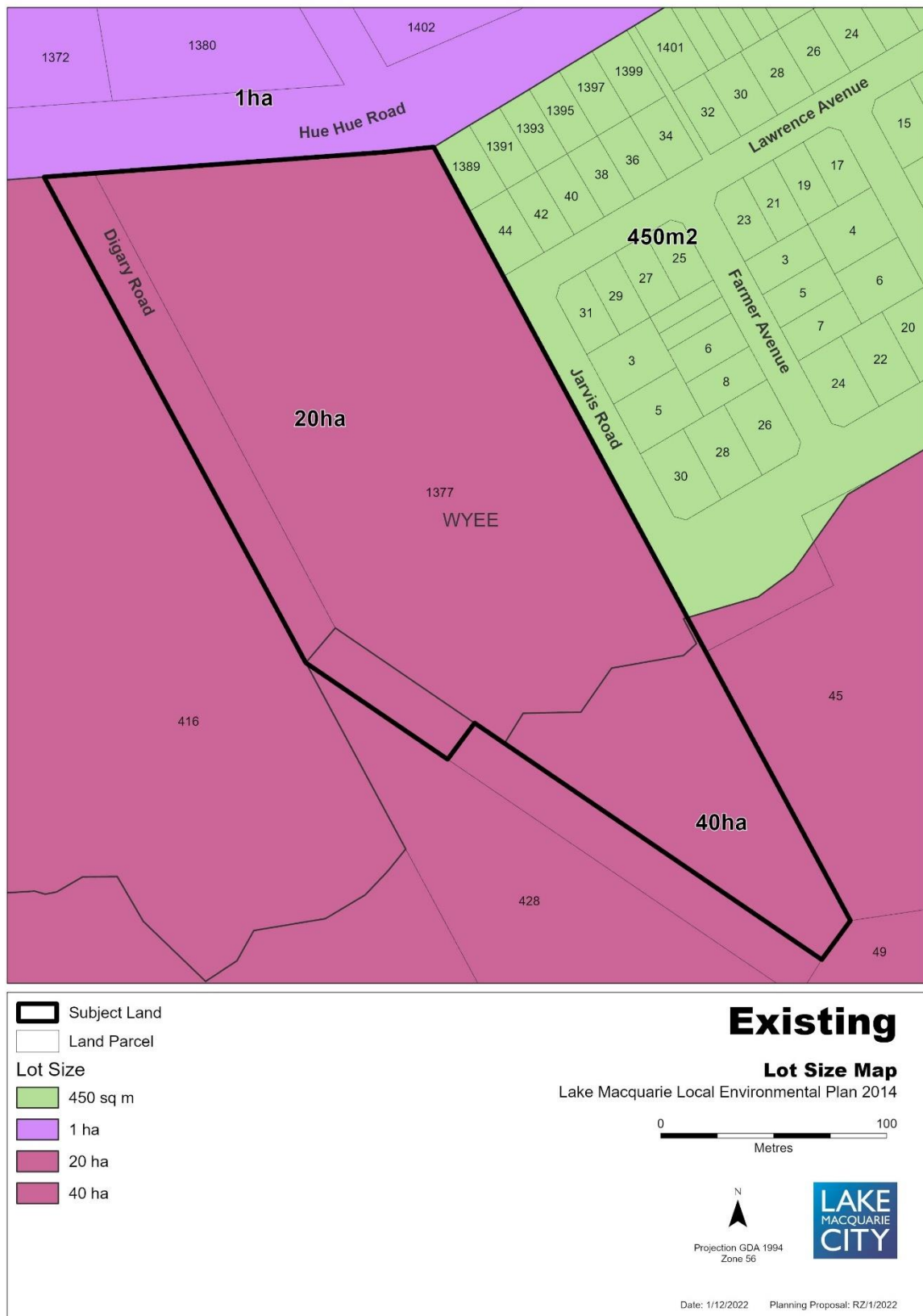


Figure 6 – Proposed Minimum Lot Size Map

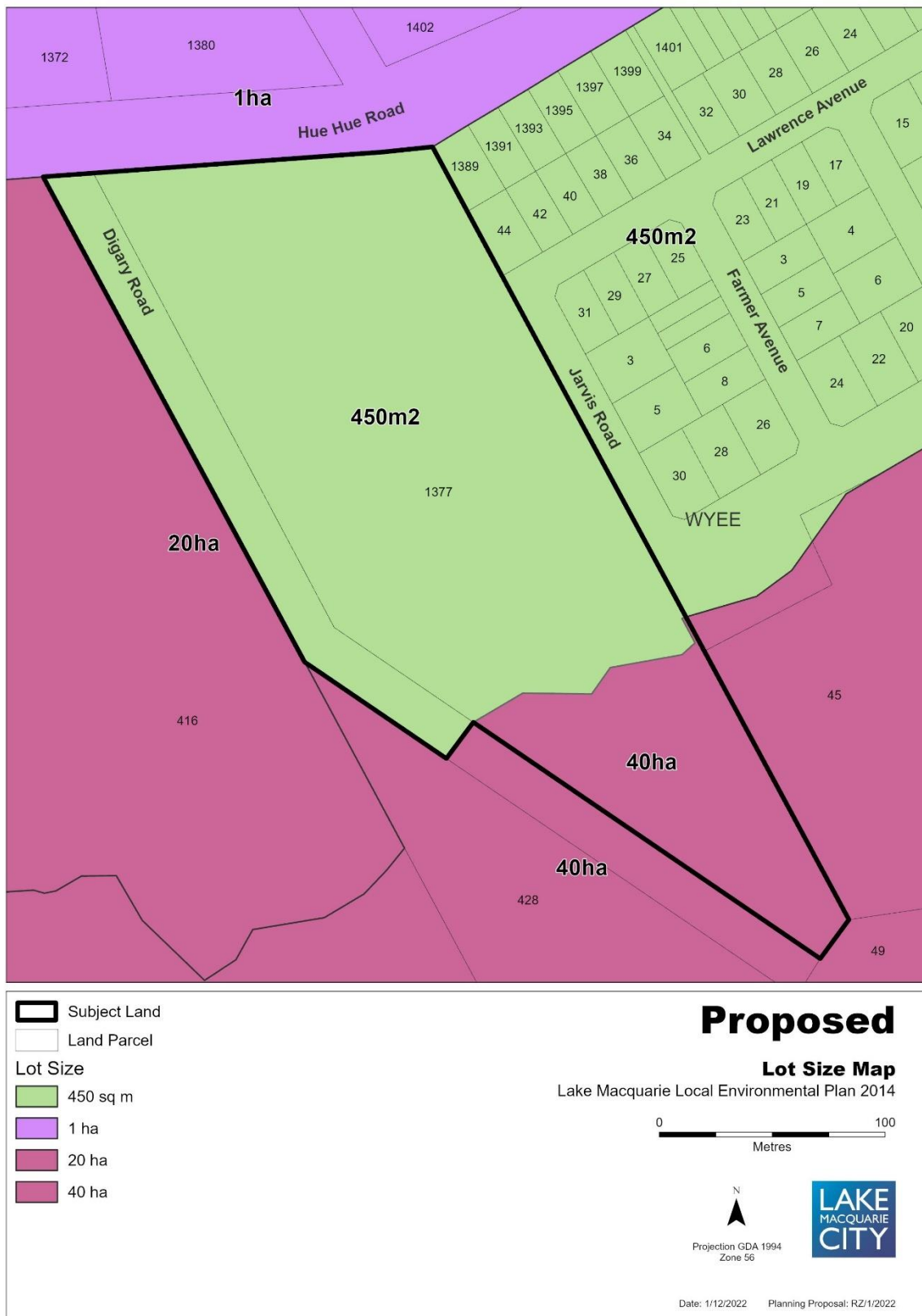
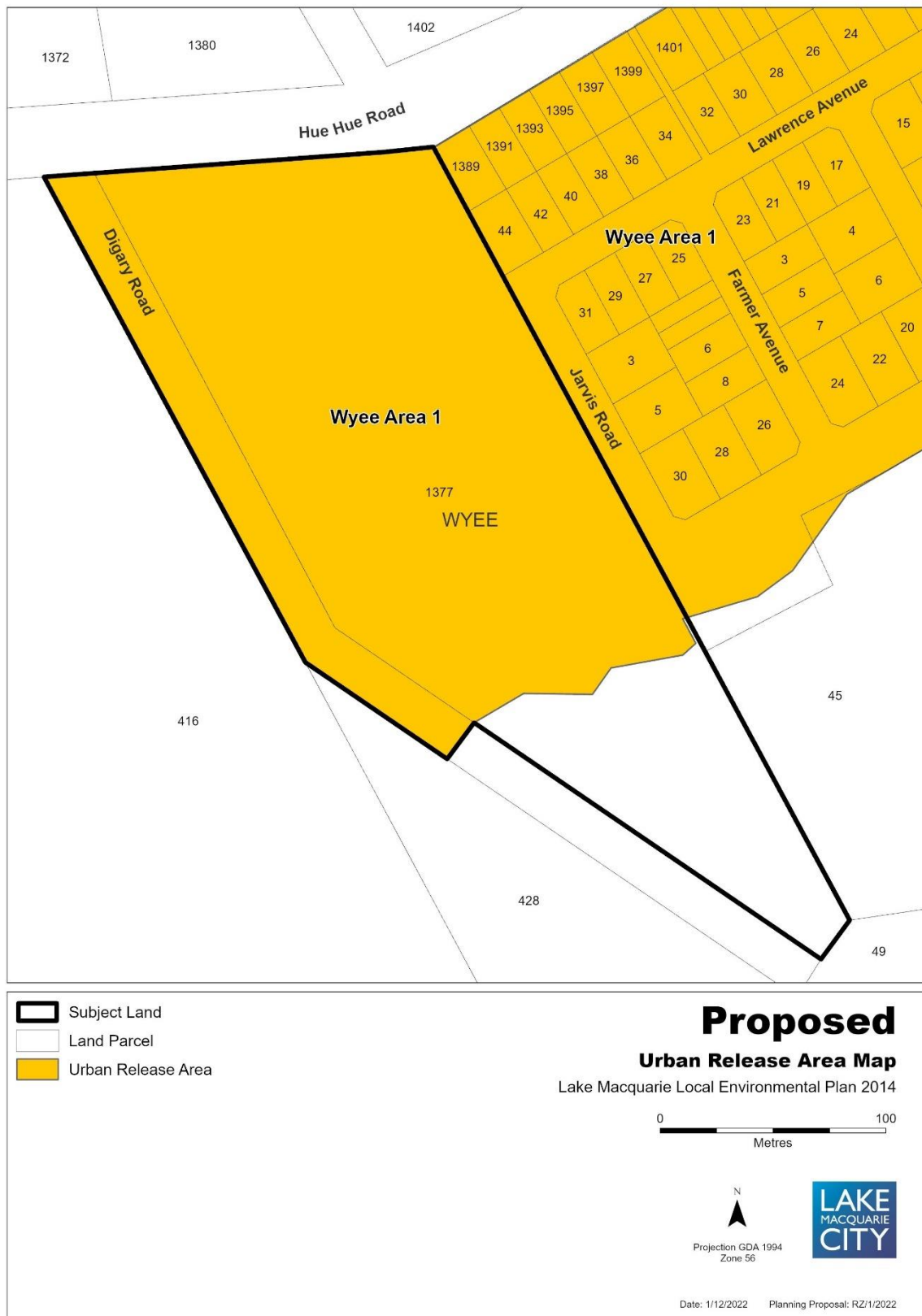


Figure 7 – Existing Urban Release Area Map



Figure 8 – Proposed Urban Release Area Map



Part 5 – Community Consultation

A Pre-Lodgement scoping proposal was considered by Council in early 2022. This included consultation with Council staff and Government agencies. A Pre-Lodgement meeting was held on 5 April 2022 followed by the issue of written advice on 13 April 2022. The advice issued contained comment from the following agencies:

- Lake Macquarie City Council
- NSW Rural Fire Service
- NSW Department of Planning and Environment – Biodiversity and Conservation Division
- Heritage NSW
- NSW Environmental Protection Authority

The following agencies were also contacted during the Pre-Lodgement stage, however no comment has been received at this stage:

- Hunter Water
- Australian Pipeline and Gas Authority
- NSW Department of Primary Industries

The proponent has also undertaken consultation with the Aboriginal community as part of the Aboriginal Cultural Heritage Assessment process.

Post-gateway Determination Community Consultation

The planning proposal and the DCP amendment were publicly exhibited from 1 May to 29 May 2024 and re-exhibited from the 1 August till 28 August 2024 in accordance with the Gateway Determination. The planning proposal was exhibited on Council's Shape Lake Mac webpage and a total of three public submissions were received. All three submissions did not support the proposal.

The main concerns raised included lack of amenities, traffic related issues (congestion and noise) and impact on quality of life and the environment.

Post Gateway Agency consultation

As per the Gateway Determination conditions, Council consulted with the State agencies and Public Authorities. The following comments were received.

Department of Primary Industries NSW (DPI)

No objections were raised by the agency, however, recommended that consideration to potential land use conflict (between rural and residential) activities be considered. Also, where necessary, minimise land use conflict by physical separation of any existing rural and proposed residential land uses as per the *Land Use Conflict Risk Assessment Guide* (LUCRA).

NSW Rural Fire Service (RFS)

NSW RFS advised that the initial bushfire threat assessment was inconsistent with the conceptual layout shown in the planning proposal and needed to be amended. A revised bushfire report was prepared to the satisfaction of RFS. No objections were raised during the review of the revised report. RFS advised that any future developments on the subject site must demonstrate compliance with the relevant provisions of the *Planning for Bushfire Protection 2019*.

Biodiversity Conservation and Science Division (BCS)

BCs advised that the provided Integrated Water Management report was not consistent with the subdivision layout as shown in the planning proposal and needed to be amended. The agency also advised that the report needed to further demonstrate compliance with the *s.91 Ministerial Direction 4.1* Flooding and emergency evacuation requirements detailed in the *Flood Risk Management Manual 2023*. An updated report was prepared to the satisfaction of BCS.

Heritage NSW (HNSW)

No objections were raised. The agency noted that an Aboriginal Cultural Heritage Assessment Report (ACHAR) was submitted as part of the planning proposal and that it was not reviewed by the agency. HNSW also advised that there were no identified items listed on the State Register would be impacted by the planning proposal.

Jemana

No objections were raised. The agency noted that the proposal is unlikely to impact the high-pressure natural gas transmission pipeline is located within 70m to the subject site.

Hunter Water

No objections were raised.

Ausgrid

No objections were raised.

Part 6 – Project Timeline

Stage	Timeframe	Revised Gateway Timeframes
Gateway determination	25 working days	183 days (delayed in Department Gateway Assessment, no gateway alteration issued)
Pre-exhibition Agency Consultation	50 working days	130 days (extended via Gateway Alteration)
Commencement and completion of public exhibition period	20 working days	No changes
Consideration of submissions	10 working days	No Changes
Post-exhibition review and additional studies	10 working days	N/A
Post exhibition planning proposal consideration / preparation	55 working days	Subject to change. Additional gateway alteration required for re-exhibition and finalisation of VPA.
Submission to Department for finalisation (where applicable)	10 working days	No changes
Gazettal of LEP Amendment	45 working days	No Changes