

Planning proposal

Part 130 Munibung Road, Boolaroo

Summary		Details	
Name of draft LEP:		Part 130 Munibung Road, Boolaroo	
Subject land:		Part of Lot 196 DP 1290647 - 130 Munibung Road Boolaroo and Part of Lot 195 DP 1290647 - 30 Mackenzie Parade Boolaroo	
Proponent:		HUNTER DEVELOPMENT BROKERAGE PTY. LIMITED	
Landowner:		GREEN CAPITAL WEEMALA PTY LTD	
Planning portal reference:		PP-2022-3908	
Council reference:		RZ/3/2022	
Version:		V1	
Date:		27/02/2024	
Authors:		Iain Moore - Strategic Landuse Planning Coordinator Amber Vergot - Senior Strategic Land Use Planner	
Attachments:		Attachment 1 – Proposed Lot Layout and Retaining Walls (Council ref. D11260056) Attachment 2 – Civil Designs and Site Line Assessment (Council ref. D11299508)	
Supporting studies		<ol style="list-style-type: none">1. Aboriginal Heritage Information Management System (AHIMS) Report (Council ref. D10711369)2. Assessment of Hunter Regional Plan 2041 Strategies (Council ref. D11268178)3. Bushfire Assessment (Council ref. D10899510)4. Contamination Testing Results (Council ref. D11294447)5. Ecological Assessment Report (Council ref. D10899504)6. Geotechnical Assessment (Council ref. D11074726)7. Proposed Park Design for Weemala (Council ref. D11260067)8. Site Audit Statement (Council ref. D10711365)9. Stormwater Management Plan (Council ref. D10970918)10. Stormwater Strategy (Council ref. D10899516)11. Visual Impact Assessment (Council ref. D11260078)12. Water Servicing Strategy (Council ref. D10899529)	

Version	Author	Date	Details
1	Iain Moore; Amber Vergot	November 2023	Pre-Gateway Version
2	Iain Moore; Amber Vergot	February 2024	Gateway Determination Version

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Part 1 – Objectives and intended outcomes

Objective

To amend the *Lake Macquarie Local Environmental Plan 2014* (LEP) to enable low density residential development on the mid-western slopes of Munibung Hill.

Intended outcomes

The intended outcome is to rezone the subject land (1.6 ha, Part Lot 196 DP 1290647 No. 130 Munibung Road Boolaroo and Part Lot 195 DP 1290647 No. 30 Mackenzie Parade Boolaroo) from C2 Environmental Conservation to R2 Low Density Residential to support:

- Residential use of remediated land areas on the former Pasminco site
- Increase residential opportunity and housing diversity close to Cockle Creek train station and Boolaroo economic centre

The objective of this planning proposal is clear and adequate to enable the planning proposal to proceed.

Part 2 – Explanation of provisions

The proposed objective will be achieved by amending the LMLEP 2014 by:

Amendment applies to	Explanation of provision
Land Zoning Map	The planning proposal will amend land use zones on the subject land as follows: <ul style="list-style-type: none"> - C2 Environmental Conservation to R2 Low Density Residential
Height of Building Map	The planning proposal will amend the Height of Building (HoB) map, as follows: <ul style="list-style-type: none"> - 5.5m to 8.5m
Minimum Lot Size	The planning proposal will amend the minimum lot size map, as follows: <ul style="list-style-type: none"> - 40 hectares to 450m²

The explanation of provisions adequately explains how the objectives of the proposal will be achieved.

Part 3 – Justification of strategic and site-specific merit

Section A – Need for the planning proposal		
No.	Question	Considerations
1	Is the planning proposal a result of an endorsed LSPS, strategic study or report?	<p>No</p> <p>The Planning Proposal (PP) is not a result of an endorsed LSPS, strategic study or report.</p>
2	Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	<p>The planning proposal is the best means of achieving the following intended outcomes to:</p> <ul style="list-style-type: none"> - Provide additional low density residential development on the western slopes of Munibung Hill - Amend the Height of Building and Limited Lot Size maps to be consistent with the adjoining residential land areas. <p>The approach taken in drafting a planning proposal is consistent with the legislative planning framework set out in the <i>EP&A Act 1979</i> (in) <i>making an environmental planning instrument, the planning authority is required to prepare a document that explains the intended effect of the proposed instrument and sets out the justification for making the proposed instrument (the planning proposal)</i> (<i>EP&A Act</i> c13.33 (1)).</p>
Section B – Relationship to the strategic planning framework		
No.	Question	Considerations
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)?	<p>Hunter Regional Plan 2041</p> <p>The Hunter Regional Plan 2041 has recently come into effect and extends on the Hunter Regional Plan 2036 with an intention to reset priorities, adapt and meet evolving circumstances and strategic intentions.</p> <p>The proposal is consistent with Objective 3, 4, 5 and 6 of the Hunter Regional Plan 2041.</p> <p>Objective 3: Create 15-minute neighbourhoods to support mixed, multi-modal, inclusive, and vibrant communities</p> <p>Objective 3 identifies the North West Lake Macquarie regionally significant growth area as evolving into, amongst other aspects, a housing hub where 10,000 new residents will be located east of Cockle Creek and supporting 15-minute neighbourhoods.</p> <p>The proposed amendments will provide additional land for residential development within a 15-minute catchment of relevant transport services, including Cockle Creek Station and retail and employment services at Boolaroo, Glendale, Cardiff and Speers Point, all supported by existing infrastructure.</p> <p>The Hunter Regional Plan 2041 identifies the need to “Deliver and maximize the potential of urban infill opportunities at the Pasminco redevelopment area in</p>

Section B – Relationship to the strategic planning framework

No.	Question	Considerations
		<p>Boolaroo.” The proposed amendments will facilitate residential development. The planning proposal does not prohibit any uses that are already permissible in the zone.</p> <p>Objective 4: An inter-connected and globally-focused Hunter without car dependent communities</p> <p>Objective 4 relates to the role of North West Lake Macquarie as a regionally significant growth area.</p> <p>The proposed amendment facilitates delivery of up to 22 infill dwellings serviced by existing infrastructure. The proposal is located in close proximity to Cockle Creek Station, and shops and services at Boolaroo, Glendale, Cardiff and Speers Point reducing reliance on car dependency. The proposal aims to improve public transport linkages from Munibung Hill to Cockle Creek Station.</p> <p>The proposal site is located outside key freight and logistics corridors, and land use is compatible with long term growth of this key strategic location.</p> <p>The proposal is consistent with the vision for this precinct in the draft North West Lake Macquarie Place Strategy.</p> <p>OBJECTIVE 5: Plan for ‘nimble neighbourhoods’, diverse housing, and sequenced development</p> <p>The planning proposal will contribute to this objective by enabling a diversity of housing typologies consistent with the Lake Macquarie LEP and DCP. The proposal will deliver low density infill housing, consistent with the staging of surrounding development. The planning proposal does not prohibit any uses that are already permissible in the zone.</p> <p>OBJECTIVE 6: Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments</p> <p>The subject land is currently zoned for environmental conservation, consistent with early master planning for the former Pasminco site. The site had the potential to connect Munibung Hill to open space in Cockle Creek and provide some scenic relief from surrounding residential development on the western slopes of Munibung Hill.</p> <p>However, land to the north, west and south of the subject site has subsequently been rezoned for low density residential development. This change of use has impacted biodiversity and fragmented vegetation corridors.</p> <p>The supporting ecological report undertaken by AEP found that the extent of native vegetation within the site is highly degraded and there are no biodiversity values within the site.</p> <p>Due to the lack of biodiversity and proximity to other R2 zones, the change in zone from C2 to R2 is considered suitable.</p> <p>The Assessment of Hunter Regional Plan 2041 Strategies provides a detailed assessment against all the relevant objectives and strategies of the Hunter Regional Plan 2041.</p>

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No.	Question	Considerations
		<p>The Greater Newcastle Metropolitan Plan (GNMP) sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens communities, which together make up Greater Newcastle.</p> <p>The Plan also helps to achieve the vision set in the Hunter Regional Plan 2036 – for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart.</p> <p>The plan specifically identifies the objective of the Munibung Precinct to align local plans to facilitate urban renewal through increased housing density and mixed-use including large format retail and office uses.</p> <p>The planning proposal will facilitate delivery of additional housing in an infill area, in close proximity to large format retail and commercial development. Whilst the subject land is zoned for conservation purposes, the supporting ecological report found that the extent of native vegetation within the site is highly degraded and there is no tree cover and no biodiversity values within the site. Rezoning the subject land will not detract from the Blue and Green Grid and urban tree canopy identified in the Plan.</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	<p>Lake Macquarie Local Strategic Planning Statement (LSPS)</p> <p>The LSPS identifies the North West Growth Area of Lake Macquarie as a location that will drive investment and change in the broader North West Growth Area. The Munibung Precinct is a strategic location for infill mixed use, residential development, and other employment opportunities to occur in a range of scales.</p> <p>The planning proposal will facilitate delivery of additional housing in the North West Growth Area and provide economic benefits associated with increasing residential development.</p> <p>The outcomes for the Munibung Precinct also include improved scenic amenity, including maintaining a ridgeline native vegetation corridor on Munibung Hill with appropriate access. As concluded in the ecological report, the subject land has no to little biodiversity values, and it is considered highly unlikely for a significant impact to occur as part of the proposed rezoning and future development. As access to Munibung Hill through the subject site is not a preferred route, the proposal is consistent with maintaining a ridgeline native vegetation corridor on Munibung Hill with appropriate access. The proposal will not impact the vegetation on the upper slopes of Munibung Hill. In addition, the Visual Impact Assessment and the Site Line Assessment concludes the proposal will have minimal impact on the scenic setting of the area.</p> <p>The proposal is consistent with Planning Priority 2 <i>A city to call home</i>, as it delivers housing in infill areas close to jobs, services, strategic centres, and public transport.</p> <p>The proposal is consistent with Planning Priority 6 <i>A city with a vast natural environment – that is valued, protected and enhanced</i>. The land has no biodiversity values and limited capacity to function as a biodiversity corridor and is therefore better utilised to provide housing.</p> <p>The proposal is consistent with Planning Priority 7 <i>A city of resilience – where the people and places are responsive and proactive to change</i>. Given the subject land has no to little biodiversity values, and the supporting studies support residential development of the site, it is appropriate to consider facilitating</p>

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No.	Question	Considerations
		<p>residential development on the land.</p> <p>Lake Macquarie Housing Strategy</p> <p>The Lake Macquarie City Housing Strategy (adopted 2020) provides a long-term approach to the design and delivery of quality housing in and around the City centres and neighbourhoods of Lake Macquarie, this confirms that the City requires more housing to meet the needs of the growing population. The Lake Macquarie community and households are changing, and so the types of housing needed are diversifying.</p> <p>The City, is projected to grow by almost 30,000 people by 2036, or 14 percent. Lake Macquarie has an estimate capacity to supply between 33,000 and 52,000 dwellings by 2050 of which greenfield housing will supply 24 - 37 percent and infill housing providing 63 - 76 percent.</p> <p>The Housing Strategy identifies the North West Growth Area as a focus area for new growth and seeks to support growth in this part of Lake Macquarie with infill and greenfield housing development. The subject planning proposal is classified as an urban infill site. It is anticipated the proposal will enable up to 20 dwellings to be added to the infill housing supply in LGA.</p> <p>The proposal will enable increased housing choice, close to open space, and in a coordinated and efficient way. It will provide a local contribution to the priorities and strategy objectives identified by the LMHS.</p>
5.	Is the planning proposal consistent with any other applicable State and regional studies or strategies?	<p>The proposal is generally consistent with the following State and regional strategies:</p> <p>A 20-Year Economic Vision for Regional NSW (2021)</p> <p>The 20-Year Economic Vision for Regional NSW is the NSW Government's plan to drive sustainable, long-term economic growth in regional NSW. The proposal is consistent with ensuring adequate infrastructure, housing and services in growing centres. The proposal is located in a well-serviced area, with infrastructure and employment opportunities.</p> <p>Hunter Regional Transport Plan (H RTP) and Future Transport Strategy 2056 (FTS)</p> <p>The H RTP details the actions the NSW Government will take to address the transport challenges in the Hunter Region. The subject site is located within a 5-minute drive or 10-minute bicycle ride of the Cockle Creek train station, which provides links to Sydney and Newcastle. Future development of the site will be required to contribute to the local transport infrastructure and address any upgrade requirements. Any future development will need to include appropriate provision for walking and cycling and connection with existing network in accordance with the H RTP.</p> <p>The planning proposal is consistent with the Future Transport Strategy 2056 as it supports the potential of existing infrastructure located within walking distance of the subject area - enhances livability and supports thriving places in co-locating mixed use business in close proximity to light industrial and residential areas. The subject sites are part of the wider catalytic urban renewal project located at the former Pasminco heavy industrial site.</p> <p>Housing 2041: NSW Housing Strategy</p> <p>The 20-year vision to 2041 aims to deliver better housing outcomes in the right locations and to suit diverse needs. The planning proposal will enable additional residential dwellings and increase housing choice in Boolaroo and surrounds. The</p>

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No.	Question	Considerations
		proposal aligns directly with three of the four pillars – supply, diversity, and resilience, while the fourth pillar of affordability is not specifically addressed by the proposal it does locate residential accommodation close to employment opportunities and jobs.
6.	Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?	<p>SEPP (Biodiversity and Conservation) 2021 This policy aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.</p> <p>The subject land has undergone extensive excavation as part of the remediation process which has resulted in the loss of vegetation on the site. Additionally, previous industrial activities on the Pasminco site are associated with extensive land clearing on the western slopes of Munibung Hill.</p> <p>Although native vegetation has been identified within the subject site, the ecological report concludes it is difficult to ascertain a Plant Community Type (PCT) and the lack of structure and function, means that the current site is unlikely to be contributing meaningfully to the broader ecosystem and biodiversity values in the area. Due to the lack of topsoil, regeneration of adjoining species is limited. It is considered highly unlikely for a significant impact to occur as part of the proposed rezoning and future development.</p> <p>The site has also been found to be unsuitable as a source for translocating seed and soil materials to other sites.</p> <p>The supporting ecological report highlights that there were no koalas or koala records identified within 2.5kms of the site in the past 18 years. There is no upper stratum or canopy species, koala use trees species, or any koala habitat present within the subject site. As such no further survey work is required.</p> <p>The subject land is not identified as “avoided land” or a “strategic conservation area” under Chapter 13 of the SEPP.</p> <p>The proposal is consistent with this policy.</p> <p>SEPP (Building Sustainability Index: BASIX) 2004 This SEPP is not applicable at the rezoning stage.</p> <p>SEPP (Housing) 2021 This proposal is consistent with this policy.</p> <p>SEPP (Resilience and Hazards) 2021 Part 2 The subject site is not located within any of the following coastal management areas:</p> <ul style="list-style-type: none"> - the Land Application Area - Coastal Environmental Area - Coastal Use Area - Coastal Wetland and buffer area - Littoral Rainforest and buffer area. <p>The planning proposal is consistent with Chapter 2 of this SEPP.</p> <p>Part 4 The policy aims to provide a state-wide approach for remediation of contaminated land to ensure there is minimal risk to human health and any other part of the</p>

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No.	Question	Considerations
		<p>environment.</p> <p>Clause 4.19 of the policy is specifically introduced for the former Cockle Creek Zinc and Lead Smelter and Incitec Fertiliser factory site and aims to ensure that there are adequate measures in place to reduce the risk to human health and other parts of the environment on this site.</p> <p>Clause 4.19 requires that development consent may not be granted for the subject land unless the Planning Secretary has certified the consent authority that adequate measures are in place for perpetual care of the land on the former Cockle Creek Smelter and Incitec site immediately.</p> <p>Remediation of the Pasminco Cockle Creek Smelter (PCCS) site was approved by the DPIE (under delegation of the Minister for Planning). The approval was for the remediation of the PCCS and Incitec site, which included the construction of a containment cell. A number of site audit reports and site audit statements have been prepared for the Pasminco site as remediation has progressed, including for the land subject to this planning proposal.</p> <p>The subject site is subject to Site Audit Statement GN 416-12, which certifies the site is suitable for the following uses:</p> <p>Residential – with accessible soil, including garden (minimal home-grown produce contributing less than 10% fruit and vegetable intake), excluding poultry</p> <ul style="list-style-type: none"> - Day care, preschool and primary school - Secondary school - Park, recreation open space and playing field - Commercial/industrial. <p>In August 2022, Council staff undertook further testing of the subject land using an X-ray Fluorescence Analyzer. The results, provided in the Contamination Testing Results, show levels of Lead, Arsenic, Cadmium and Zinc well below the criteria for residential land use for lead, being 300ppm. The results demonstrate that there has been very limited (if any) migration of contamination from unremediated areas adjacent to the property. It is concluded that the rezoning proposal can rely on the Site Audit Statement GN416-12 issued for the property on 23 March 2015.</p> <p>The planning proposal is consistent with Chapter 4 of this SEPP. The proposal is consistent with the relevant SEPP</p>
7.	Is the planning proposal consistent with the applicable Ministerial Directions (section 9.1 Directions)?	<p>1.1 Implementation of Regional Plans</p> <p>As discussed above, the Hunter Regional Plan 2041 applies to the subject land. The land is within the North West Lake Macquarie regionally significant growth area, where 10,000 new residents will be located east of Cockle Creek, supporting 15 minute neighbourhoods. The proposed amendments will provide additional land for residential development within a 15-minute catchment of relevant transport and services.</p> <p>The Hunter Regional Plan 2041 identifies the need to “Deliver and maximise the potential of urban infill opportunities at the Pasminco redevelopment area in Boolaroo.” The proposed amendments will facilitate low density residential development.</p> <p>Within the Growth Area, the Cockle Creek Precinct seeks to “enhance open spaces and connect the cultural and recreational potential of Munibung Hill”. The subject land is zoned for environmental conservation consistent with early master</p>

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No.	Question	Considerations
		<p>planning for the former Pasminco site. The site had the potential to connect Munibung Hill to open space in Cockle Creek and potentially provide scenic relief from surrounding residential development on the western slopes of Munibung Hill. However, land to the north, west and south of the subject site has been subsequently rezoned for low density residential development. The site is no longer required as a key link between Munibung Hill and open space in Cockle Creek.</p> <p>The Assessment of Hunter Regional Plan 2041 Strategies provides an assessment of the proposal against the objectives and strategies of the Hunter Regional Plan 2041 (Council ref: D11268178).</p> <p>The location of the infill dwellings on the fringe of Boolaroo, in close proximity to Munibung Hill, provides an appropriate range of housing typologies, and a transition to the adjacent C2 zoned land.</p> <p>The site is 'General suburban' context, which sets a desired rate of 30 dwellings per hectare, as the site is located at the outer boundary of 800m from a strategic centre or public transport corridor. As such, the proposed minimum lot size (and proposed subdivision layout) represents a reasonable housing yield across the site (ranging from 600-800m² lots).</p> <p>The proposal is consistent with the Hunter Regional Plan 2041.</p> <p>1.3 Approval and Referral Requirements The planning proposal does not:</p> <ul style="list-style-type: none"> - include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, - contain provisions requiring concurrence, consultation or referral of a Minister or public authority, or - identify development as designated development. <p>The planning proposal is consistent with this Direction.</p> <p>1.4 Site Specific Provisions The planning proposal seeks to:</p> <ul style="list-style-type: none"> - - rezone the site to an existing zone already in the <i>Lake Macquarie LEP 2014</i> that allows residential use without imposing any development standards or requirements in addition to those already contained in that zone, and - - allows residential use on the subject land without imposing any development standards or requirements in addition to those already contained in the <i>Lake Macquarie LEP 2014</i>. <p>The planning proposal is consistent with this Direction.</p> <p>3.1 Conservation Zones This direction applies as it determines; a planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards that apply to the land.</p> <p>As discussed above, the subject land has undergone extensive excavation as part of the remediation process which has resulted in the loss of vegetation on the site. Additionally, previous industrial activities on the Pasminco site are associated with extensive land clearing on the western slopes of Munibung Hill.</p> <p>Although native vegetation has been identified within the subject site, the ecological report concludes it is difficult to ascertain a Plant Community Type (PCT) and the lack of structure and function, means that the current site is unlikely</p>

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No.	Question	Considerations
		<p>to be contributing meaningfully to the broader ecosystem and biodiversity values in the area. Due to the lack of topsoil, regeneration of adjoining species is limited. It is considered highly unlikely for a significant impact to occur as part of the proposed rezoning and future development.</p> <p>The ecological report also highlights that there were no koalas or koala records identified within 2.5kms of the site in the past 18 years. There is no upper stratum or canopy species, koala use trees species, or any koala habitat present within the Subject Site.</p> <p>The ecological report concludes that the proposal to remove approx. 1.3ha of native vegetation will be unlikely to have significant impacts on the ecological communities and potential threatened species that may occur on site. There are no biodiversity values within the site.</p> <p>The planning proposal seeks to rezone land zoned C2 Environmental Conservation to R2 Low Density Residential. The planning proposal is inconsistent with this direction as it reduces the conservation standards that apply to the subject land.</p> <p>Council has indicated that this inconsistency is considered to be minor and is justified by the ecological report prepared to support the planning proposal. Consistency with this direction will be determined following further consultation to be completed prior to public exhibition.</p> <p>3.2 Heritage Conservation</p> <p>The AHIMS report does not identify any Aboriginal sites recorded in or near the subject site. The report also highlights that no Aboriginal places have been declared in or near the subject site.</p> <p>The subject site contains no known items of environmental heritage significance.</p> <p>The subject adjoins the Sensitive Aboriginal Landscape layer in Lake Macquarie LEP 2014.</p> <p>Previous comments received from the Awabakal Descendants Traditional Owners Aboriginal Corporation in 2011 regarding the rezoning and redevelopment of the Pasminco site advised that Munibung Hill and its upper slopes are of high significance to the traditional owners. Therefore, it is recommended the planning proposal be referred to the Awabakal Descendants Traditional Owners Aboriginal Corporation for comment during exhibition of the planning proposal.</p> <p>Consultation with Biraban LALC is required prior to public exhibition. Representatives of Biraban LALC were consulted as part of the Munibung Hill Management Plan where this land is identified as an 'investigation area'.</p> <p>Consistency with this direction will be determined following further consultation to be completed prior to public exhibition.</p> <p>4.1 Flooding Not applicable.</p> <p>4.2 Coastal Management Not applicable.</p> <p>4.3 Planning for Bushfire Protection</p> <p>Part of the subject land is identified as a Bushfire vegetation buffer zone, with a proposed northeast boundary close to vegetation 3 category. A bushfire assessment has been prepared.</p>

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No.	Question	Considerations
		<p>Pre-lodgement referral to NSW Rural Fire Service noted no concerns or issues with the proposed rezoning.</p> <p>Further consultation will occur with NSW RFS prior to exhibition of the planning proposal. Consistency with this direction will be determined following further consultation to be completed prior to public exhibition.</p> <p>4.4 Remediation of Contaminated Land</p> <p>The planning proposal is consistent with this direction as the subject land is deemed suitable for residential use in Site Audit Statement GN 416-12.</p> <p>Council staff undertook more recent contamination testing on 19 August 2022. The results provided in the Contamination Testing Results, support the findings of the Site Audit Report.</p> <p>4.5 Acid Sulfate Soil</p> <p>The subject land to which this planning proposal applies is not identified to contain acid sulfate soils within the LMLEP 2014 Acid Sulfate Soils Map, hence the proposal is consistent with the direction.</p> <p>4.6 Mine Subsidence and Unstable Land</p> <p>The subject land is within the Mine Subsidence District.</p> <p>Consultation at pre-lodgement stage with NSW Subsidence determined; <i>The subject site (as detailed in figure 1 of the Planning Proposal report by HDB dated 14 June 2022) is not undermined by historical mine workings and does not overlie a current coal title. Noting this SA NSW has no comments on the proposal. (Council ref: D10738452).</i></p> <p>As directed, further consultation will need to occur if a development application is submitted in the future.</p> <p>The proposal is consistent with this direction.</p> <p>5.1 Integrating Land Use and Transport</p> <p>The planning proposal is consistent with this direction as it will enable residential development close to shopping services (proposed Costco), existing public transport (proposed on Fotheringham Road), and the emerging strategic centre (Glendale). Additionally, Lake Macquarie Transport Interchange is proposed in close proximity to the subject land which is further expected to reduce the car dependency.</p> <p>5.2 Reserving Land for Public Purposes</p> <p>The planning proposal does not seek to alter, create or reduce the existing land reserved for public purposes; therefore, it is consistent with this direction.</p> <p>6.1 Residential Zones</p> <p>The proposal will facilitate the delivery of up to 22 infill dwellings in an area with existing infrastructure and services. Land immediately to the north and south of the subject land is already zoned for low density residential development and being developed accordingly.</p> <p>The proposal broadens the choice of building types in appropriate locations available in the housing market, while making efficient use of existing infrastructure and services. The proposal also limits use of land for housing in fringe locations, as it provides an infill housing opportunity.</p> <p>Whilst the site is currently zoned C2 Environmental Conservation, it has limited biodiversity values as identified and set out in the ecological report.</p> <p>Rezoning this site from C2 to R2, makes this proposal inconsistent with this</p>

Section B – Relationship to the strategic planning framework

No.	Question	Considerations
		<p>direction (due to the change of zoning from R2), but is of minor significance due to the degraded nature of the site and limited biodiversity value as outlined in the ecological report. The minor inconsistency is justified in terms of the direction.</p> <p>7.1 Business and Industrial Zones Not applicable.</p> <p>8.1 Mining, Petroleum Production and Extractive Industries Not applicable.</p>

Section C – Environmental, social and economic impact		
No.	Question	Considerations
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?	<p>The ecological report found that the extent of native vegetation within the site is highly degraded and is limited to a few species in the mid and ground stratum levels with no canopy species present.</p> <p>Typically clearing of native vegetation above the clearing threshold would trigger entry into the Biodiversity Offset Scheme (BOS) however, the current site condition as described above is highly degraded and modified as a result of previous site activities and rehabilitation works.</p> <p>As such although native vegetation has been identified within the subject site it is difficult to ascertain a Plant Community Type (PCT) and the lack of structure and function, means that the current site is unlikely to be contributing meaningfully to the broader ecosystem and biodiversity values in the area. Due to the lack of topsoil, regeneration of adjoining species is limited.</p> <p>It is considered highly unlikely for a significant impact to occur as part of the proposed rezoning and future development.</p> <p>The ecological report concludes that the proposal to remove approx. 1.3ha of native vegetation will be unlikely to have significant impacts on the ecological communities and potential threatened species that may occur on site. This is because there are no or little biodiversity values within the site.</p>
9	Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?	<p>Visual Impact</p> <p>The Hunter Regional Plan 2041, Greater Newcastle Metropolitan Plan, the Lake Macquarie Local Strategic Planning Statement and the Cockle Creek Precinct Area Plan identify Munibung Hill as a significant scenic landmark which can be viewed from many locations to the west. The Bunderra Master Plan, prepared in 2008, identified that the subject land could potentially absorb the visual impact of residential development on the lower western slopes of Munibung Hill.</p> <p>The Visual Impact Assessment, prepared in accordance with the Lake Macquarie Scenic Quality Guidelines, indicates the subject land can be observed from a distance. However, as neighbouring land to the north, west and south is zoned for residential development, the potential visual effects of rezoning the subject land would be minor to moderate.</p> <p>Future development on the site would be substantially screened from view due to future adjoining residential development and the undulating topography in the vicinity of the site. This includes screening by the containment cell to the west of the site.</p> <p>The site line assessment also demonstrates that the scenic setting of Munibung Hill, being identified as a feature within a Very High Scenic Management Zone in the Scenic Quality Guidelines, will not be adversely compromised by the proposed rezoning.</p> <p>The Site Line Assessment provides an assessment of sight lines from Fotheringham Road to the subject site, demonstrating minimal visual impact of potential residential development.</p> <p>The concept subdivision layout for potential future residential development has been amended over time, and if any further changes occur this will need to be assessed at the DA stage.</p> <p>Bushfire Assessment</p> <p>Part of the subject land is identified as a Bushfire vegetation buffer zone, with a</p>

Section C – Environmental, social and economic impact

No.	Question	Considerations
		<p>proposed northeast boundary close to vegetation 3 category. A bushfire assessment report has been prepared. Pre-lodgement referral to NSW Rural Fire Service noted no concerns or issues with the proposed rezoning. Further consultation will occur with NSW RFS prior to exhibition of the planning proposal.</p> <p>Any future development of the site will need to comply with the relevant bushfire management requirements. The bushfire assessment report demonstrates that the site can be developed for residential use.</p> <p>Contamination</p> <p>The subject site is subject to Site Audit Statement GN 416-12, which certifies the site is suitable for the following uses:</p> <ul style="list-style-type: none"> - Residential – with accessible soil, including garden (minimal home-grown produce contributing less than 10% fruit and vegetable intake), excluding poultry - Day care, preschool and primary school - Secondary school - Park, recreation open space and playing field - Commercial/industrial <p>There has been no work conducted on this site since the EPA remediation ended.</p> <p>Council staff undertook more recent contamination testing on 19 August 2022. The results provided in the Contamination Testing Results, support the findings of the Site Audit Report.</p> <p>Flood and Stormwater Management</p> <p>The proposed amendment does not impact existing approved flood and stormwater management design. In this regard, all developments will be above 1% AEP. The subject land was included in the Stormwater Strategy for adjoining development applications and includes an approved stormwater concept plan and stormwater management plan. An updated report will be prepared for the additional lots as part of any subsequent development applications.</p> <p>Traffic</p> <p>The planning proposal seeks to increase the residential capacity of the approved Weemala development by up to 22 lots. Applying the standard trip generation of 6.5 trips per dwelling would increase traffic by 143 movements per day. This increase in traffic would be distributed over the road network to the east, Blantyre Road, to the north, Munibung Road, and to the west, Main Road. Given the limited size of the development and indicated dwelling yield, the current level of analysis is adequate to support the proposed amendments. A detailed Traffic Impact Assessment will be included at the DA stage if required.</p> <p>Heritage</p> <p>Due to the remediation of the land, the AHIMS report prepared for the site suggests that there are no existing items of Archaeological or Heritage significance present on the site. Given the proximity of the site to Munibung Hill, the Biraban LALC and the Awabakal Descendants Traditional Owners Aboriginal Corporation will be consulted prior to public exhibition of the planning proposal.</p> <p>Geotechnical and Slope Stability</p> <p>The Geotechnical Assessment indicates the risk of slope instability on the subject land to be low, provided future development is undertaken in accordance with good hillside construction practice and specific recommendations provided in the risk assessment report. The assessment acknowledges that there may be</p>

Section C – Environmental, social and economic impact

No.	Question	Considerations
		<p>extensive future cuts (of up to 10 m) on the site and makes recommendations as to the treatment of these. The assessment concludes “the site is considered suitable for the proposed residential development from a geotechnical perspective”.</p> <p>Preliminary civil designs provided in Attachments 1 and 2 indicate retaining may be up to 6m along the eastern boundary of the subject site, with a corresponding regrade of the land and terracing of future lots. This approach has been delivered at adjacent developments within the Cockle Creek precinct. The proposed treatment is consistent and provides a solution to manage regrading of the subject land, which will be addressed at the Development Application stage.</p>
10	Has the planning proposal adequately addressed any social and economic effects?	<p>The subject land has the potential to deliver a number of additional residential lots to supplement the housing market. The proposed rezoning of the C2 Environmental Conservation zone to R2 Low Density Residential Zone would facilitate the development of infill housing types in the area which is consistent with the character of the area.</p> <p>The proposal will result in positive social and economic effects for the local area by the generation of employment opportunities during construction and post-construction phases. It will also promote and assist the overarching aim for the area facilitating housing growth.</p> <p>The LMCC Parks and Play Strategy 2021 supports the health and wellbeing of residents. The objective of this strategy is:</p> <ul style="list-style-type: none"> - <i>to provide a strategic framework for the provision, management, maintenance and promotion of parks, play spaces and public amenity buildings throughout the local government area.</i> - <i>This strategy aims to ensure access to park opportunities within walking distance of all residential areas.</i> <p>A park (with an area of approximately 5,000 m²) has been designed and located at approximately 400m from the subject site. Due to the projected small lot yield, an additional park has not been proposed nor is one required under the Parks and Play Strategy. The proposed park within the ‘Weemala’ development is inclusive of walking tracks, children’s play area, picnic areas, and park furniture including seating and landscaping. As mentioned in the strategy, 100% of the residents will have access to this park within 800m. The central location of the proposed park is accessible via Tussock Road, Vicat Street and Mackenzie Parade.</p> <p>Open spaces, landscaping and visual enhancement have been considered in the planning for the wider ‘Weemala’ residential area. This includes street plantings and shared pathways to enhance the amenity of the local area. Detailed landscaping plans will be submitted with the development application for the future dwellings. At this stage, the park design proposed for the broader development and other landscaping features have been submitted for council consideration under separate approvals.</p>

Section D – Infrastructure (Local, State and Commonwealth)

No.	Question	Considerations
11	Is there adequate public	The site is located within a developing residential precinct and can be fully serviced with electricity, telecommunications, water, sewer and drainage. It is

infrastructure for the planning proposal

located within the road grid system connected to Fotheringham Road, which will support transport options for buses and provide a connection to Munibung Road and the nearby train station.

An updated servicing strategy has been prepared for the Weemala Residential Development to address the additional demand and the Water Booster Station is currently being designed by Mr. David Powell (DGP Waters Pty Ltd) to meet Hunter Water and Firefighting specifications.

A Water Servicing Strategy for the site and surrounding developments has been prepared by DGP Water Pty Ltd.

The planning proposal does not place significant additional demands on public infrastructure.

Section E – State and Commonwealth interests

No.	Question	Considerations
12	What are the views of state and federal authorities and government agencies consulted in order to inform the Gateway determination?	<p>The site is located within a developing residential precinct and can be fully serviced with electricity, telecommunications, water, sewer and drainage. It is located within the road grid system connected to Fotheringham Road, which will support transport options for buses and provide a connection to Munibung Road and the nearby train station.</p> <p>An updated servicing strategy has been prepared for the Weemala Residential Development to address the additional demand and the Water Booster Station is currently being designed by Mr. David Powell (DGP Waters Pty Ltd) to meet Hunter Water and Firefighting specifications.</p> <p>A Water Servicing Strategy for the site and surrounding developments has been prepared by DGP Water Pty Ltd.</p> <p>The planning proposal does not place significant additional demands on public infrastructure.</p> <p>There are no identifiable legislative requirements which would impact Commonwealth interests.</p> <p>Preliminary consultation occurred at pre-lodgement stage with the following agencies:</p> <ul style="list-style-type: none"> - Department of Environment and Heritage - Biodiversity and Conservation Division (BCD) - Subsidence Advisory NSW - NSW Environmental Protection Authority - Department of Planning, Housing and Infrastructure – Local and Regional Planning (DPHI) - NSW Rural Fire Service - Hunter Water Corporation - Department of Environment and Heritage - Natural Resource Assets Regulator <p>Key issues raised are summarised below:</p> <p>Department of Environment and Heritage – Biodiversity Conservation Division (BCD) BCD responded to the referral request identifying they have no comments at this stage.</p> <p>Subsidence Advisory NSW</p>

Section E – State and Commonwealth interests		
No.	Question	Considerations

NSW Subsidence Advisory identified:

- The land is located within a declared mine subsidence district.
- Development within a district requires approval from Subsidence Advisory NSW (SA NSW).
- The subject site is not undermined by historical mine workings and does not overlie a current coal title.
- Subsidence Advisory has no further comments on the proposal.

NSW Environmental Protection Authority (NSW EPA)

EPA responded to the referral request identifying they have no comments at this stage.

Department of Planning, Housing and Infrastructure – Local and Regional Planning (DPHI)

DPHI noted that a Traffic Impact Assessment is required in accordance with the Transport for NSW Guidelines.

However, Council's internal staff have advised that a limited number of dwelling/lots will be created as a result of this proposal, thus the road network being developed to serve the new residential and business area at Pasminco will likely absorb the incremental increase.

NSW Rural Fire Service

The NSW RFS identify the site is bushfire prone land and also notes the proposal involves a change of use.

Although NSW RFS raise no concerns or issues in relation to bush fire, they did identify that the land may have inadequate emergency or water supply access.

Staff suggest referral to the NSW RFS with updated water servicing plans prior to exhibition.

Hunter Water Corporation

Advice from Hunter Water identifies:

The Weemala development has existing water and sewer servicing strategies that document the servicing of existing residentially zoned land with similar elevations and topography to the proposed rezoning area.

Hunter Water notes that the water servicing strategy requires a water booster pump station to service elevated properties. The developer is required to deliver the water booster station prior to occupation.

Staff suggest referral to the Hunter Water Corporation with updated water servicing plans prior to exhibition.

Department of Environment and Heritage - Natural Resource Assets Regulator

Advice had not been received at the time pre-lodgment advice was provided to the proponent. It was received after and had no implications for the planning proposal.

The Department of Environment and Heritage - Water (Licensing and Approvals) have reviewed the proposal and had no comments, as the proposal does not impact waterfront land.

In summary the proponent needs to consider:

Section E – State and Commonwealth interests		
No.	Question	Considerations
		<ul style="list-style-type: none"> - Need for adequate services and utilities - Potential need for Traffic and Transport Impact Assessment in accordance with Transport for NSW - Potential impact on flora and fauna - Need for appropriate stormwater management and water quality - Potential subsidence risks - Requirements of Part 4 of NSW Rural Fire Service, Planning for Bushfire Protection <p>Based on the above, it is recommended that the following state agencies be consulted prior to exhibition of the planning proposal:</p> <ul style="list-style-type: none"> - NSW Rural Fire Service - Transport for NSW - Department of Environment and Heritage - Biodiversity and Conservation - Subsidence Advisory NSW - Hunter Water Corporation and relevant utility providers - NSW Environmental Protection Authority <p>Given the proximity of the site to Munibung Hill, it is recommended that the Awabakal Descendants Traditional Owners Aboriginal Corporation and Biraban LALC are also consulted prior to exhibition of the planning proposal.</p>


Part 4 – Mapping

Map 1 – Locality



Map 2 – Aerial



 Subject Land

Air Photo

2023 Aerial Photography

Nearmap Imagery 2023

0 500
Metres



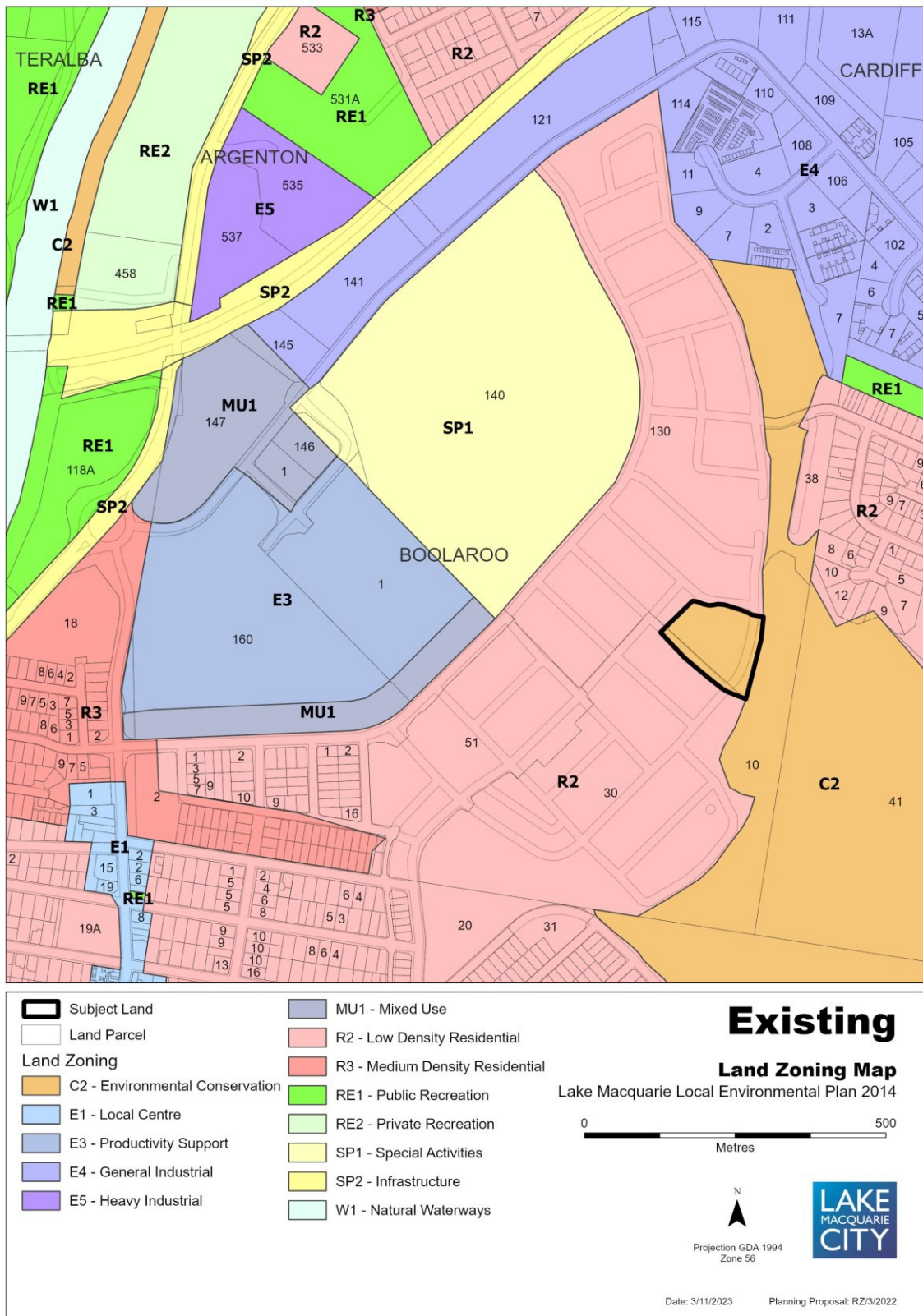
Projection GDA 1994
Zone 56



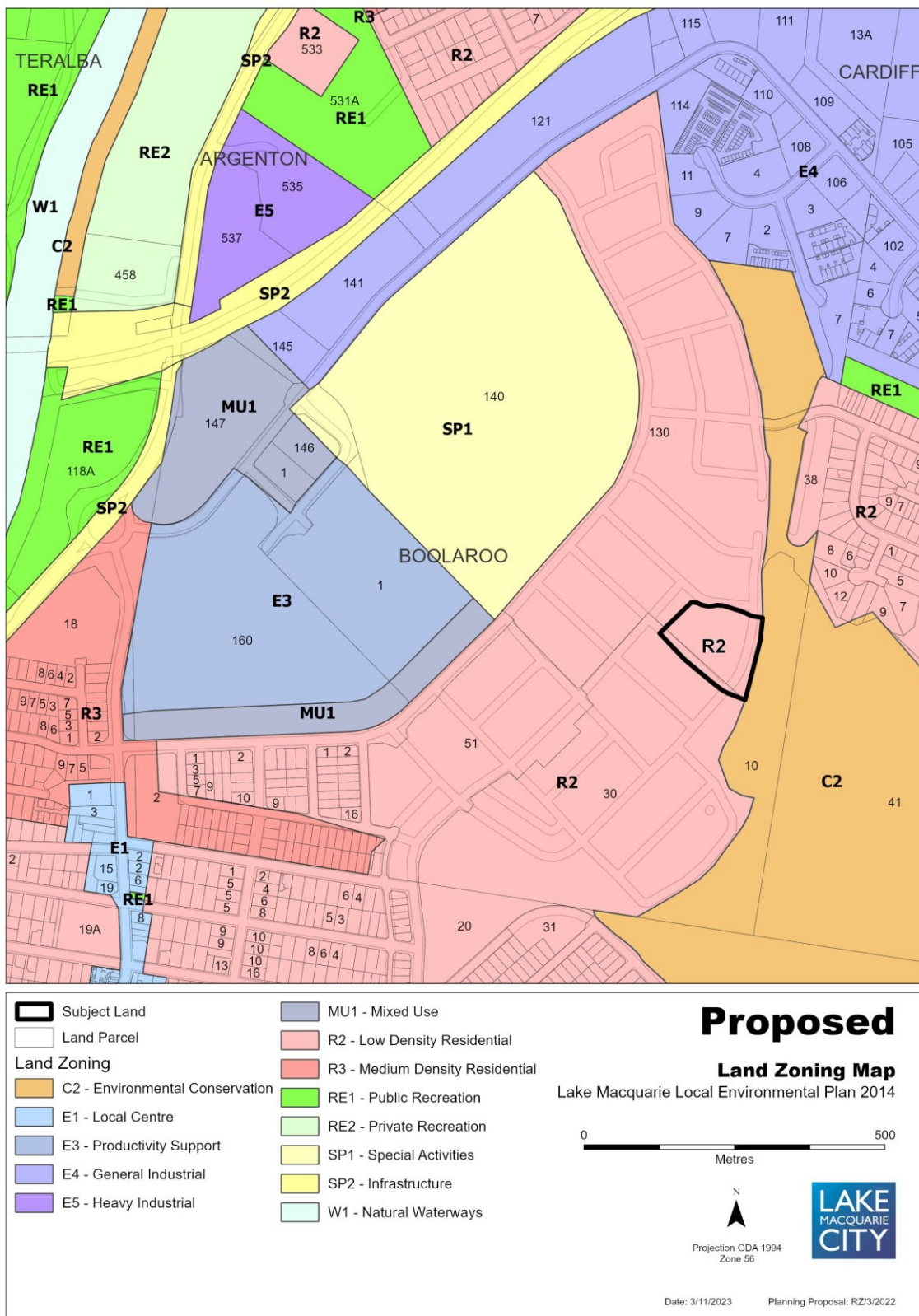
Date: 30/10/2023

Planning Proposal: RZ/3/2022

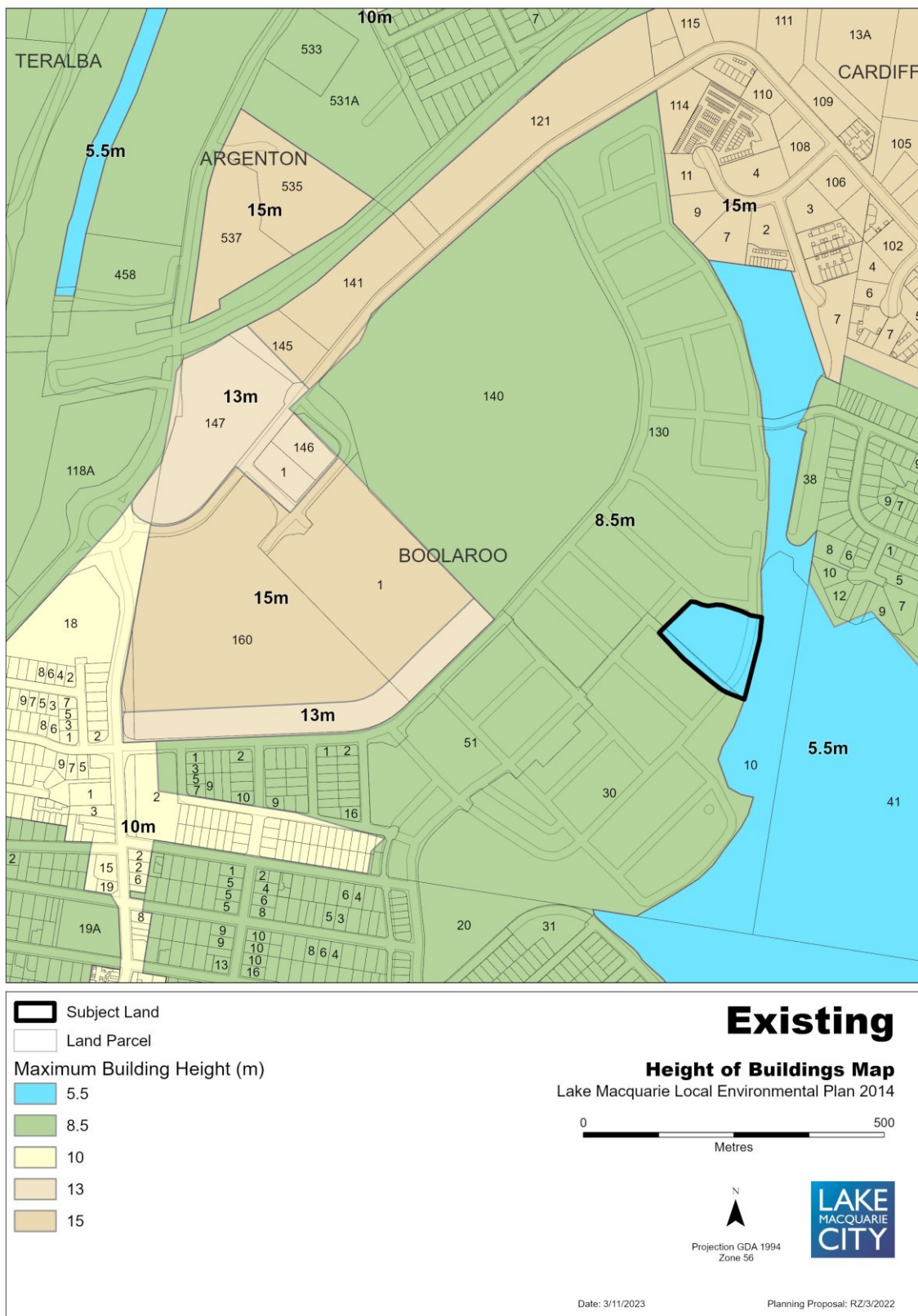
Map 3 – Existing Land Use Zones



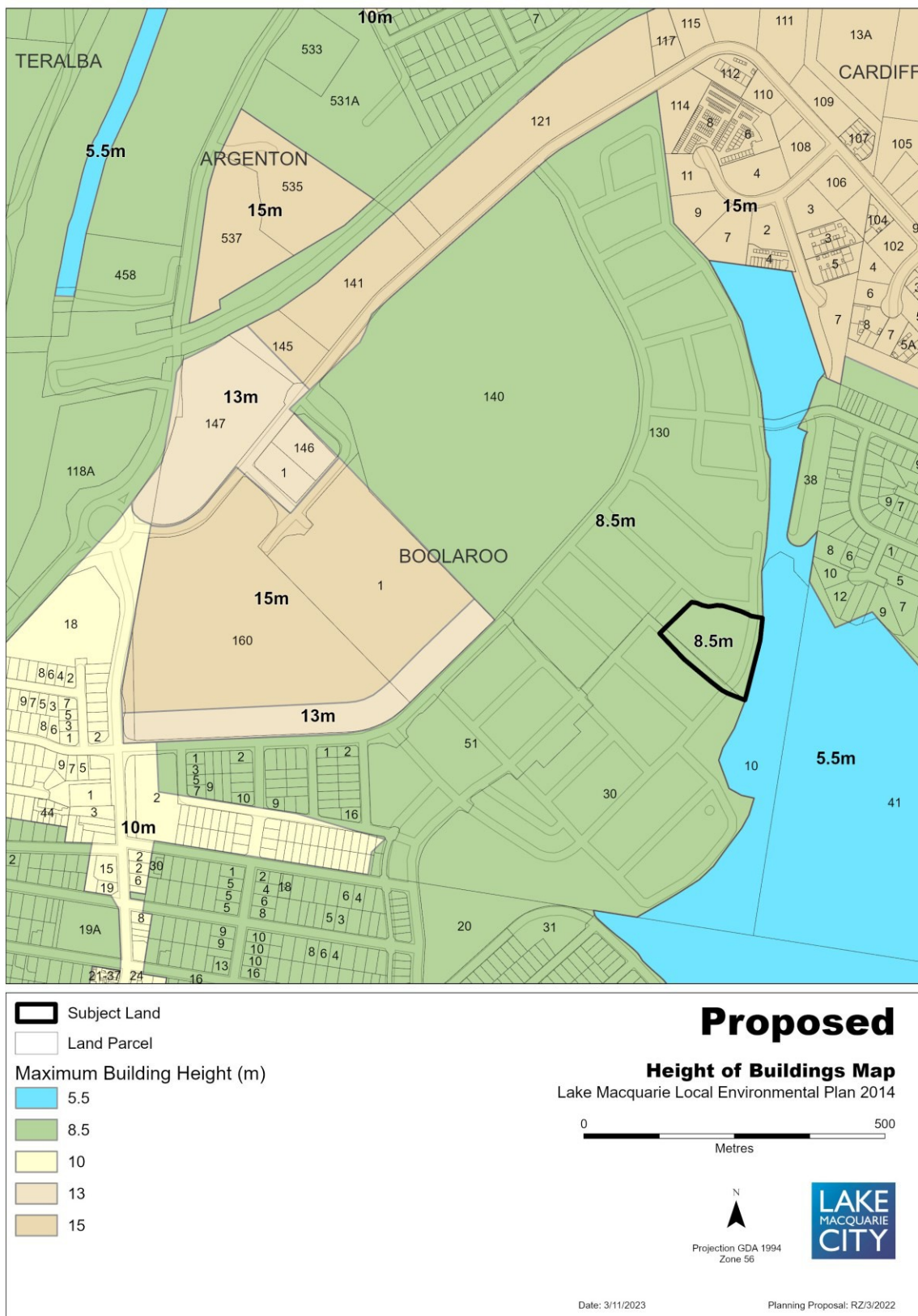
Map 4 – Proposed Land Use Zones



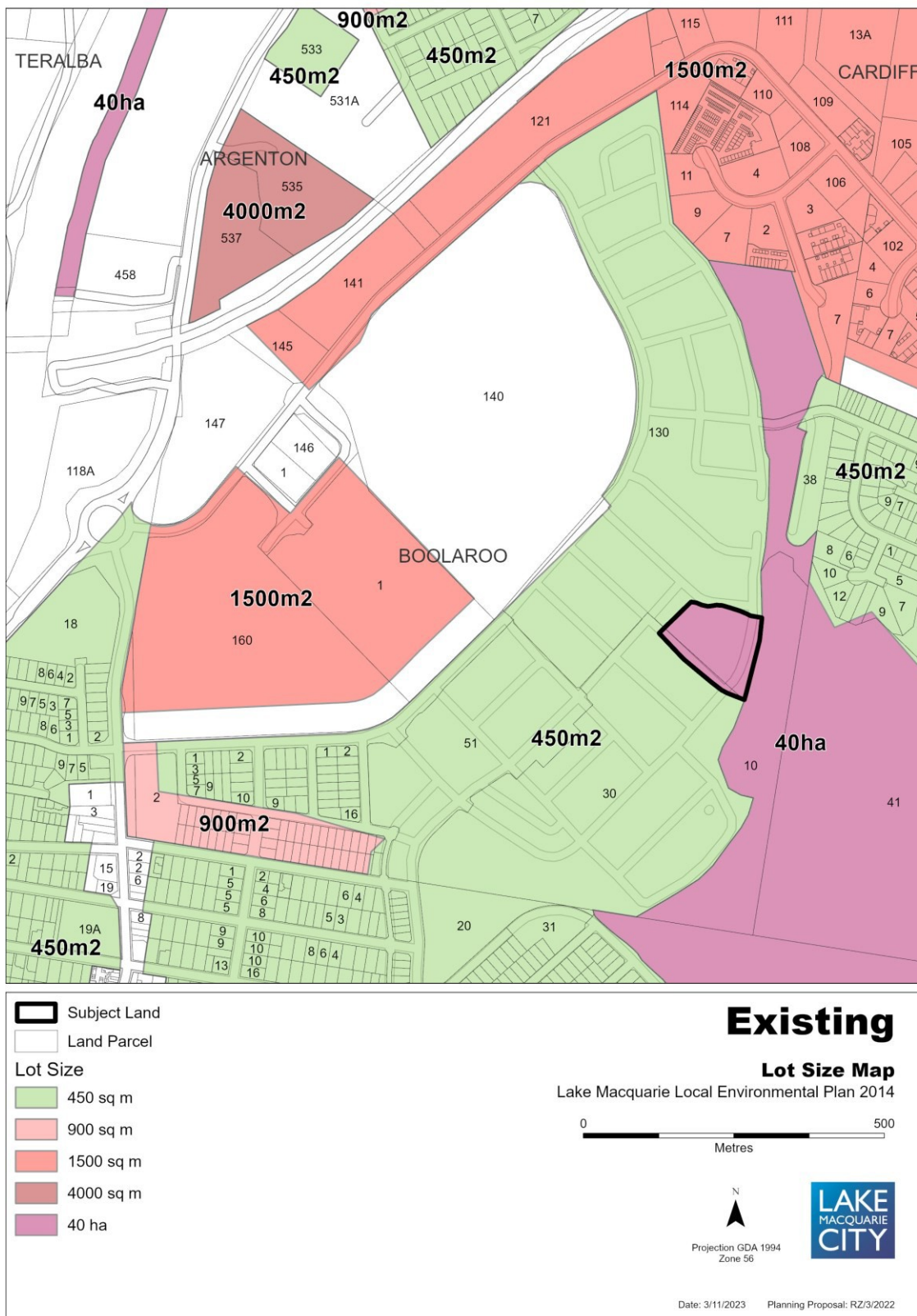
Map 5 – Existing Height of Buildings Map



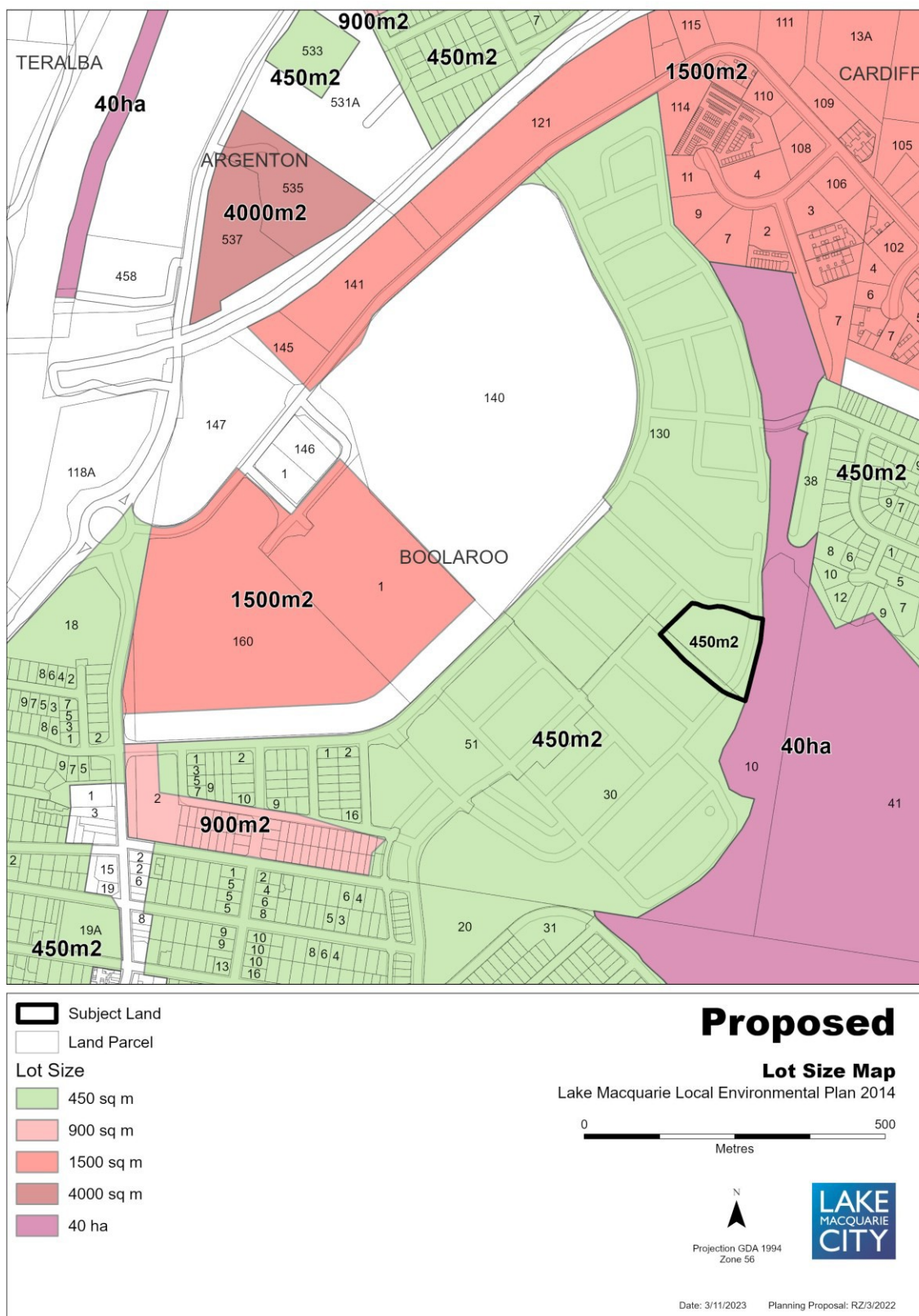
Map 6 – Proposed Height of Buildings Map



Map 7 – Existing Minimum Lot Size Map



Map 8 – Proposed Minimum Lot Size Map



Part 5 – Community Consultation

The planning proposal will be placed on public exhibition in accordance with the Gateway Determination and Council's Community Participation Plan.

It is recommended that Biraban LALC and the Awabakal Descendants Traditional Owners Aboriginal Corporation be consulted prior to exhibition of this planning proposal.

Part 6 – Project Timeline

Stage	Timeframe and / or date
Gateway determination	25 working days (11 March 2024)
Pre-exhibition	50 working days (23 May 2024)
Commencement and completion of public exhibition period	20 working days (21 June – 19 July 2024)
Consideration of submissions	10 working days (2 August 2024)
Post-exhibition review and additional studies	10 working days (16 August 2024)
Post exhibition planning proposal consideration / preparation	55 working days (17 August – 1 November 2024)
Submission to Department for finalisation (where applicable)	10 working days (15 November 2024)
Gazettal of LEP Amendment	45 working days (22 January 2025)

Part 7 – Assessment Summary - Recommended Gateway Conditions and Determination

Local plan-making authority

As the planning proposal is categorised as standard and is consistent with the Hunter Regional Plan 2041, the Lake Macquarie Local Strategic Planning Statement and State Environmental Planning Policies, Council recommends it be the local plan making authority for this proposal.

Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- the planning proposal is consistent with the Hunter Regional Plan 2041, the Lake Macquarie Local Strategic Planning Statement and State Environmental Planning Policies.
- inconsistencies with section 9.1 Ministerial Directions 3.1 Conservation Zones and 3.2 Heritage Conservation Zones requires further consultation to consider how to resolve these inconsistencies.
- the minor inconsistency with section 9.1 Ministerial Directions 6.1 Residential Zones is considered appropriate, as the planning proposal seeks to rezone a small portion of C2 Environmental Conservation zoned land that has no to little biodiversity values and is not required as part of an ecological corridor as outlined in the ecological report.

- supporting geotechnical, ecological, land contamination and visual impact assessments show future residential development on the subject land is appropriate.
- the proposed proposal does not impact existing approved flood and stormwater management design.
- due to the remediation of the land, the AHIMS report prepared for the site suggests that there are no existing items of Archaeological or Heritage significance present on the site.
- the proposal will result in positive social and economic effects for the local area by the generation of employment opportunities during construction and post-construction phases.
- the site is located within a developing residential precinct and can be serviced with electricity, telecommunications, water, sewer and drainage. It is located within the road grid system connected to Fotheringham Road, which will support transport options for buses and provide a connection to Munibung Road and the nearby train station.

Recommendation

It is recommended the delegate of the Secretary:

- agree that any inconsistencies with section 9.1 Ministerial direction 6.1 Residential Zones are minor or justified by studies or investigations, and
- note that the consistency with section 9.1 Ministerial direction 3.1 Conservation Zones, 3.2 Heritage Conservation and 4.3 Planning for Bushfire Protection is unresolved and consistency will be determined after public authority consultation

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to exhibition, consultation is required with the following public authorities and organisations:
 - NSW Rural Fire Service
 - Department of Environment and Heritage - Biodiversity and Conservation
 - Biraban Local Aboriginal Land Council (LALC)
 - Awabakal Descendants Traditional Owners Aboriginal Corporation
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. The planning proposal must be exhibited three months from the date of the Gateway determination.
4. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



(Signature)

11/3/2024 (Date)

Yasmin Campbell
Manager, Greater Newcastle

A handwritten signature in black ink, appearing to be 'Dan Simpkins', with a long horizontal line extending to the right.

____ (Signature)

____ 20/3/2024 ____ (Date)

Dan Simpkins
Director, Central Coast and Hunter