



Gateway determination report – PP-2024-278

Lake Macquarie Housing Diversity

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Planning proposal

1.1 Overview

Table 1 Planning proposal details

LGA	Lake Macquarie City Council
PPA	Lake Macquarie City Council
NAME	Housing Diversity
NUMBER	PP-2024-278
LEP TO BE AMENDED	Lake Macquarie Local Environmental Plan 2014
ADDRESS	LGA Wide
DESCRIPTION	LGA Wide
RECEIVED	13/02/2024
FILE NO.	IRF24/725
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- enable a greater diversity of housing choice and improve housing affordability within existing urban zoned residential areas; and
- facilitate infill housing opportunities in suitable locations.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal outlines that the objectives will be achieved by making the following changes to the Lake Macquarie LEP 2014:

Table 2 Current and proposed controls

Control	Current	Proposed
Land Use Table – Zone R2 Low Density Residential (Permitted with Consent)	Attached dwellings, multi-dwelling housing and residential flat buildings are prohibited	Permit residential accommodation with consent to enable the child terms of attached dwellings, multi-dwelling housing and residential flat buildings
Land Use Table – Zone R3 Low Density Residential (Permitted with Consent)	Dual occupancy and semi-detached dwellings are prohibited	Permit residential accommodation with consent to enable the child terms of dual occupancy and semi-detached dwelling
4.1A Exception to minimum subdivision lot size for certain residential development <i>*PP-2021-2586 is currently at finalisation stage and will amend the clause to permit subdivision of land below the 200m² minimum lot size for R3 Medium Density zoned land, should a concurrent development application be lodged for the development of the land for the purpose of a dual occupancy or semi-detached dwelling. This proposal is consistent with these changes</i>	Dual occupancies in the R2 Zone can be subdivided to a minimum lot size of 250m ²	Enable subdivision of a lawfully erected dual occupancy to any lot size in the R2 and R3 zones
	Dwelling houses and semi-detached dwellings in the R2 Zone can be subdivided to a minimum lot size of 300m ² and maximum size of 450m ²	A minimum lot size of 250m ² for the subdivision of land in the R2 zone associated with a dwelling house, semi-detached or attached dwelling
	Dwelling houses and attached dwellings in the R3 Zone can be subdivided to a minimum lot size of 200m ² and maximum size of 450m ²	A minimum lot size of 200m ² for each lot associated with dual occupancy development in the R3 zone, and less than 200m ² with concurrent approval of a dual occupancy
	Requires each proposed lot subdivided under subclause (3) to have frontage to a road	Clarify the meaning of road frontage to ensure it does not enable small-lot battle axe subdivisions for 3 or more lots.
4.1B Exception to minimum subdivision lot sizes for certain residential development in urban release areas		Amend 4.1B to reduce the min lot size to 250m ² , consistent with Clause 4.1A.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

Existing LEP and DCP controls will ensure that development in both zones will occur in suitable locations commensurate with the zone objectives. Council has also indicated they intend to review their Development Control Plan to ensure consistency with the planning proposal once finalised.

It is noted that the adjoining Newcastle LGA already enables a similar broad range of diverse residential accommodation in their R2 and R3 zones.

2 Need for the planning proposal

The proposal is needed to provide a greater range of smaller and diverse housing types to support future growth, an ageing population and decreasing household size and is an outcome of the Lake Macquarie Housing Strategy 2020.

The housing strategy identified that by 2036 couple families without children and lone person households will account for almost 50 per cent of all households in the Lake Macquarie LGA. A greater housing diversity mix, with a range of smaller housing types, will help cater for these trends and address the current heavy reliance on detached dwellings (84 percent of all houses in Lake Macquarie in 2020 are detached dwellings) along with providing more affordable options for households living in housing stress in Lake Macquarie LGA.

The Department conditionally endorsed the Lake Macquarie Housing Strategy 2020 on 23 November 2020. The planning proposal is the best way to implement the strategy.

3 Strategic assessment

3.1 Regional Plan

The Hunter Regional Plan 2041 acknowledges the importance of enabling diverse housing to provide choice, independence and affordability to meet the varied and changing needs of people. The planning proposal is consistent with the plan including Strategy 5.3 which requires that planning proposals will not prohibit certain housing typologies within residential zones in general and inner suburban contexts and will facilitate meeting an infill housing target of 80%.

3.2 District Plan

The Greater Newcastle Metropolitan Plan 2036 sets out strategies and actions to drive sustainable growth across Maitland, Cessnock, Lake Macquarie, Newcastle and Port Stephens communities. The Metropolitan Plan contains planning priorities and actions to prioritise the delivery of infill housing opportunities within urban areas by increasing housing diversity and choice, which will improve housing affordability and meet the needs of an aging population and support the reduction of household sizes. The planning proposal is consistent with the key elements of the plan.

3.3 Local

Table 3 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	The proposal is consistent with Planning Priority 2 – A city to call home – where diverse housing options cater to everyone's needs and implements Action 2.4 to amend the LEP to support infill housing.
Housing Strategy	The proposal is consistent with Priority 2 increasing diversity and choice in housing.

3.4 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant Ministerial Directions except as discussed below.

Table 4 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.2 Heritage Conservation	Justified.	<p>The proposal is inconsistent with this direction as it does not contain provisions to facilitate the conservation of heritage items and conservation areas located throughout the R2 and R3 Zones across the LGA.</p> <p>This inconsistency is considered to be of minor significance as the LEP and other relevant legislation already contain appropriate provisions relating to the protection of heritage matters that can ensure this matter is appropriately considered and addressed if required at the development application stage.</p>
4.1 Flooding	Justified	<p>The proposal is inconsistent with this direction as some of the R2 and R3 zoned land in Lake Macquarie is identified as flood prone and could result in a small intensification of development due to the smaller potential lot sizes and is not supported by a flood study.</p> <p>The inconsistency is considered to be of minor significance and justified as the land is already zoned for residential purposes, there is only a small potential intensification and Council has a Floodplain Risk Management Study and Plan, LEP and DCP controls that can ensure this matter is appropriately considered and addressed as needed at the development application stage.</p>
4.2 Coastal Management	Unresolved	<p>The proposal is inconsistent with this direction as the site is located within the coastal environmental and use areas and does not contain provisions that give effect and are consistent with the NSW coastal planning framework and is not accompanied by the required planning checklist. The checklist is to be completed prior to consultation and included in the consultation package. Until this checklist is completed, the proposal's consistency with this direction remains unresolved.</p>
4.3 Planning for Bushfire Protection	Unresolved	<p>The proposal is potentially inconsistent with this direction as some of the R2 and R3 zoned land in Lake Macquarie is identified as bushfire prone. Consistency with this direction is unable to be</p>

		<p>resolved until consultation post-Gateway is undertaken with the NSW RFS in accordance with the terms of the direction.</p> <p>Preliminary consultation with the NSW Rural Fire Service has been undertaken. The RFS indicated that a bushfire assessment report is required to identify critical areas of R2 and R3 zones on the bushfire prone land map and address the following:</p> <ul style="list-style-type: none"> • Chapter 5 (Residential and Rural Residential Subdivisions) • s8.2.1 (Increased Residential Density) <p>The planning proposal has not included the requested bushfire assessment report and addresses this issue by identifying that the proposed additional dwelling types are comparable with uses currently already permitted in the R2 and R3 residential zones and concludes the bushfire risk will not increase and continue to be considered for all forms of development at the development application stage in accordance with Planning for Bushfire Protection 2019.</p> <p>This approach is considered reasonable to allow the proposal to proceed and enable further formal consultation with the RFS.</p>
4.5 Acid sulfate soils	Justified	<p>The proposal is inconsistent with this direction as it permits a small potential intensification of development on acid sulfate soils and is not supported by an acid sulfate study. This inconsistency is considered to be of minor significance as Lake Macquarie LEP 2011 already contains acid sulfate soil provisions that will ensure that this matter can be adequately considered and addressed at the development application stage.</p>
4.6 Mine subsidence and unstable land	Unresolved	<p>The planning proposal includes land that is located within a declared mine subsidence district and therefore requires consultation with Subsidence Advisory.</p> <p>Consistency with the Ministerial direction will be determined following consultation with Subsidence Advisory NSW.</p>

3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs, including recent changes such as the Transport Orientated Development reforms that will apply in certain key locations in the LGA.

4 Site-specific assessment

4.1 Environmental

The proposal applies to existing residential zoned urban areas. No significant impacts to ecological and environmental values or risk from potential land contamination are considered likely noting that the changes relate primarily to increasing a diversity of housing types in existing residential areas rather than significantly increasing development potential or changing the existing land zone. Any potential issues or impacts for specific sites can also be considered and addressed appropriately at the development application stage.

4.2 Social and economic

The proposal seeks to provide a greater diversity and affordability of housing choice in existing residential zoned urban areas. It is considered the proposal will deliver significant economic and social benefits for the local community.

4.3 Infrastructure

As the changes relate primarily to increasing a diversity of housing types in existing residential areas rather than significantly increasing development potential, no additional or adverse impacts on infrastructure are anticipated. Preliminary consultation with Transport for NSW (TfNSW) recommended that Council consider the following at the local level:

- revising the DCP car parking rates in consultation with TfNSW's Draft Guide to Traffic Impact Assessment; and
- consider if residential precincts without neighbourhood centres are well connected by active transport connections under the provision of a s7.12 levy or alternative funding mechanism.

It is also noted that the existing urban areas are already serviced by utilities and that any future development will be subject to the State Housing and Productivity Contribution and local infrastructure contributions to ensure that they provide an adequate contribution towards any State or local infrastructure when new development occurs. Consultation with Hunter Water is also recommended in regard to water and sewage systems.

5 Consultation

5.1 Community

The planning proposal is categorised as standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- NSW Rural Fire Service
- Hunter Water Corporation
- Subsidence Advisory NSW

6 Timeframe

Council proposes an 8 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

The proposed 8-month timeframe is considered to be satisfactory and in line with the Department's commitment to reducing processing times and with regard to the benchmark timeframes.

7 Local plan-making authority

Council has not requested delegation to be the Local Plan-Making authority.

As the planning proposal is consistent with the Hunter Regional Plan 2041 and Council's Department endorsed local housing strategy, it is however considered appropriate that Council be authorised to be the local plan-making authority for this proposal.

8 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 3.2 Heritage Conservation, 4.1 Flooding and 4.5 Acid Sulfate Soils are justified; and
- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection and 4.6 Mine Subsidence and Unstable Land are unresolved and will require justification.

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

1. Prior to agency and community consultation, the planning proposal is to be amended to include a completed NSW Coastal Design Guidelines 2023 assessment checklist for planning proposals.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 1. the planning proposal is categorised as standard, as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 working days; and
 2. the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
 - NSW Rural Fire Service
 - Hunter Water Corporation
 - Subsidence Advisory NSW

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The LEP should be completed on or before 8 months of the Gateway determination date.
6. That Council be authorised to be the local plan-making authority for this proposal.



16/5/24

(Signature)

(Date)

Craig Diss

Manager, Hunter and Northern Region



21/05/2024

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