



IRF24/19528

Gateway determination report – PP-2024-4

Rezone Lot 8 DP 29077, 1 Progress Road, Mount
Hutton from Zone R2 to Zone E1

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Acknowledgment of Country

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

Contents

| | | |
|----------|---|-----------|
| 1 | Planning proposal..... | 1 |
| 1.1 | Overview..... | 1 |
| 1.2 | Objectives of planning proposal | 1 |
| 1.3 | Explanation of provisions | 1 |
| 1.4 | Site description and surrounding area..... | 2 |
| 1.5 | Mapping..... | 4 |
| 2 | Need for the planning proposal | 5 |
| 3 | Strategic assessment | 5 |
| 3.1 | Regional Plan | 5 |
| 3.2 | Metropolitan Plan..... | 5 |
| 3.3 | Local..... | 5 |
| 3.4 | Section 9.1 Ministerial Directions | 6 |
| 3.5 | State environmental planning policies (SEPPs) | 10 |
| 4 | Site-specific assessment | 10 |
| 4.1 | Environmental..... | 10 |
| 4.2 | Social and economic..... | 10 |
| 4.3 | Infrastructure | 10 |
| 4.4 | Community | 10 |
| 4.5 | Agencies..... | 11 |
| 5 | Timeframe | 11 |
| 6 | Local plan-making authority | 11 |
| 7 | Assessment summary | 11 |
| 8 | Recommendation..... | 12 |

Table 1 Reports and plans supporting the proposal

| Relevant reports and plans |
|--|
| Planning proposal for gateway determination (Jun 2024) |
| Council report and resolution (Jun 2024) |
| Contamination assessment remedial action plan (Oct 2023) |
| Contamination assessment (Sep 2023) |
| Traffic impact assessment (Aug 2023) |
| Aboriginal Heritage Information Management Search (Dec 2022) |
| Bushfire hazard assessment (Feb 2022) |
| Survey plan (Jan 2022) |

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

| | |
|--------------------------|---|
| LGA | Lake Macquarie |
| PPA | Lake Macquarie City Council |
| NAME | Rezone Lot 8 DP 29077, 1 Progress Road, Mount Hutton from Zone R2 to Zone E1 |
| NUMBER | PP-2024-4 |
| LEP TO BE AMENDED | Lake Macquarie Local Environmental Plan 2014 |
| ADDRESS | 1 Progress Road, Mount Hutton |
| DESCRIPTION | Lot 8 DP 29077 |
| RECEIVED | 14/06/2024 |
| FILE NO. | IRF24/1398 |
| 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 proposal aims to rezone Lot 8 DP 29077, 1 Progress Road, Mount Hutton, from R2 Low Density Residential to E1 Local Centre and amend associated development standards to enable the expansion of an existing local centre. The intent is to leverage the site's unique characteristics and strengthen the adjoining local centre by providing more local employment opportunities and services for surrounding residents. The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Lake Macquarie LEP 2014 as per the changes below:

Table 3 Current and proposed controls

| Control | Current | Proposed |
|-----------|----------------------------|-----------------|
| Land zone | R2 Low Density Residential | E1 Local Centre |

| Control | Current | Proposed |
|-----------------------------|-------------------|---------------------|
| Maximum height of buildings | 8.5 metres | 10 metres |
| Minimum lot size | 450 square metres | No minimum lot size |
| Number of jobs | N/A | 30 |

The proposed controls are consistent with an adjoining local centre. The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The 1,702 square metre site is predominantly flat and irregular in shape, with frontage to Progress Road and located in the North East Growth Area of Mount Hutton. It currently contains a dwelling house adjacent to the southern boundary.

The Mount Hutton local centre adjoins to the east and contains an Aldi supermarket, pet hospital, food and drink premises, and small shops. The Mount Hutton public school adjoins to the north, a watercourse to the west, and public open space is adjacent to the site on the southern side of Progress Road. The surrounding locality is characterised by low and medium density residential housing (**Figures 1-3**).



Figure 1 - Site location (source: DPHI eplanning spatial viewer)



Figure 2 - Locality plan (source: planning proposal)



Figure 3 - Subject site (source: planning proposal)

The planning proposal notes that the southern part of the site is subject to flooding in a 1:100-year annual exceedance probability event (**Figure 4**) and is mapped as bushfire-prone, being within the 30-metre buffer zone from category 3 vegetation to the west (**Figure 5**). The proposal also notes that the vegetation on the site is of low biodiversity value.



Figure 4 - Flooding hazard (source: planning proposal)



Figure 5 - Bushfire prone land (source: planning proposal)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Lake Macquarie Local Environmental Plan 2014 maps, which are suitable for community consultation (**Figures 6-8**). Mapping that complies with the Standard Technical Requirements for Standard Instrument LEP Maps will need to be prepared prior to finalisation of the proposal.

| | |
|--|--|
| | <p>Figure 6 - Existing and proposed land zone map (source: planning proposal)</p> |
| | <p>Figure 7 - Existing and proposed height of buildings map (source: planning proposal)</p> |
| | <p>Figure 8 - Existing and proposed lot size map (source: planning proposal)</p> |

2 Need for the planning proposal

The planning proposal is not the result of an endorsed local strategic planning statement or approved local strategy, study, or report.

The proposal has been initiated to facilitate the use of the site for commercial development due to proximity to essential amenities, active transport networks, and natural alignment with the footprint of the adjoining local centre. Challenges such as bushfire hazard, flood risk and site configuration do not support intensive residential development and make the site more suitable for commercial development, offering flexibility in future design and layout to enhance streetscape activation while addressing key constraints effectively.

The planning proposal is supported by various reports and specialist studies, as listed in Table 1, and is the best means of achieving the Council's objectives and intended outcomes.

3 Strategic assessment

3.1 Regional Plan

The planning proposal is consistent with the vision, objectives, and overall intent of the Hunter Regional Plan 2041 by capitalising on the site's proximity to the existing local centre and recognising constraints that limit additional housing capacity.

In particular, the proposal aims to promote the 15-minute neighbourhood concept through existing transport infrastructure, supporting the local centre's role in servicing surrounding residential areas. It also aligns with objectives focusing on creating vibrant communities (objective 3), promoting multimodal connectivity (objective 4), and fostering business and service hubs within healthy and innovative communities in the Hunter region (objective 8).

3.2 Metropolitan Plan


The Greater Newcastle Metropolitan Plan (GNMP) 2036 outlines sustainable growth strategies for the region, including Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens. Mount Hutton falls within the Metro Core area, aiming to create a cosmopolitan lifestyle with strong communities, job opportunities, and recreational options.

The proposal is considered to align with the GNMP's vision for the Metro Core, focusing on job proximity, resilience to hazards, and enhanced transport connections through existing active and public transport infrastructure.

3.3 Local

The proposal is consistent with the strategic direction and objectives, as stated in the table below:

Table 4 Local strategic planning assessment

| Local Strategies | Justification |
|--|--|
| Shaping the Future Local Strategic Planning Statement (LSPS) 2020 | <p>Council's LSPS identifies the site as part of an urban intensification area surrounding the Mount Hutton economic centre in the North-East Growth Area (Figure 9). The intensification area, already developed, is expected to evolve to accommodate higher housing density, employment land, and necessary infrastructure.</p>  <p>Figure 9: City structure and opportunity map - North-East Growth Area (source: planning proposal)</p> <p>The planning proposal also notes alignment with Council's LSPS in concentrating growth and development in the LGA's existing urban areas and around centres with available infrastructure.</p> |
| Lake Mac 2032 Community Strategic Plan (CSP) 2022-2032 | <p>The proposal is considered to align with Council's CSP particularly, objective 4.4 <i>We Have Vibrant Economic and Neighbourhood Centres</i> which encourages the co-location of jobs, housing, essential services, transport options and recreational activities.</p> |
| Lake Macquarie Development Control Plan (DCP) 2014 - Mount Hutton Precinct Area Plan | <p>The site is located within the Mount Hutton Precinct identified in Council's DCP 2014 as a residential area undergoing changes. The plan outlines three shopping areas, including the local centre adjoining the subject site.</p> <p>The planning proposal aligns with the DCP vision to transform Mount Hutton into a dynamic, pedestrian-friendly hub for shopping, commerce, and community activities.</p> |

3.4 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant section 9.1 Directions, except as discussed below:

Table 5 Section 9.1 Ministerial Direction assessment

| Directions | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|---------------------------|----------------------------|--|
| 3.2 Heritage Conservation | Justifiably inconsistent | <p>This direction states that a planning proposal must contain provisions that facilitate the conservation of heritage and Aboriginal cultural significance.</p> <p>This inconsistency is of minor significance as the proposal states that the site does not contain or adjoin any items of European heritage and an Aboriginal Heritage Information Search also found no Aboriginal sites or places nearby. Additionally, the proposal confirms that the site is not located within or near sensitive Aboriginal landscape areas and the LEP already contains suitable heritage provisions.</p> <p>It is considered appropriate that consultation however occur with the Awabakal Local Aboriginal Land Council to confirm the proposal's suitability.</p> |

| Directions | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|--------------|----------------------------|---|
| 4.1 Flooding | Justifiably inconsistent | <p>The proposal is inconsistent with this direction as part of the site is subject to flooding in a 1% Annual Exceedance Probability event (Figure 4) and the PMF of 41.05 (Figure 10) and it does not include provisions that give effect to the NSW Flood Prone Land Policy, the principles of the Floodplain Development Manual 2005, the Considering Flooding in Land Use Planning Guidelines 2021, or any adopted flood study or floodplain risk management plan.</p>  <p>Figure 10 - PMF (source: LMCC website)</p> <p>The adjoining watercourse to the west contributes to the risk of flooding, with the Council's mapping indicating the site is affected by low-hazard flooding, and subject to Lake Macquarie DCP 2014 catchment flood management controls for future development.</p> <p>In accordance with the terms of this direction, the inconsistency is justified based on the proposal's alignment with the Jewells Wetland Floodplain Risk Management Study and Management Plan, adopted by the Council on 26 February 2018.</p> <p>In April 2023, the former Department of Planning and Environment's Biodiversity Conservation Division, now the Department of Climate Change, Energy, Environment, and Water's Biodiversity Conservation and Science (BCS), reviewed the</p> |

| Directions | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|---------------------------------------|----------------------------|--|
| | | initial scoping proposal. BSC indicated that commercial development at this location is seen as a risk reduction measure compared to the current residential zoning and supported the proposal. It is recommended to consult with BSC once again to confirm the suitability of this planning proposal. |
| 4.3 Planning for Bushfire Protection | Unresolved | <p>This direction is relevant to the proposal as the land is mapped as bushfire prone (Figure 5).</p> <p>A report assessing the risk of bushfires (Feb 2022) has been submitted to support the proposal, indicating that a commercial development would be more suitable than residential in addressing the bushfire threat affecting the site.</p> <p>This direction requires that Council must consult with the Commissioner of the NSW Rural Fire Service (RFS). Until this consultation has occurred, the inconsistency of the proposal with this direction remains unresolved.</p> |
| 4.6 Mine Subsidence and Unstable Land | Unresolved | <p>This direction is relevant to the proposal as the land is located within a declared Mine Subsidence District. The direction requires that Council must consult with Subsidence Advisory NSW. At the pre-scoping stage Subsidence Advisory NSW indicated no objection to the proposal. Formal consultation on the PP is however recommended to confirm this earlier advice. Until this consultation is completed this direction remains unresolved.</p> |
| 6.1 Residential Zones | Justifiably inconsistent | <p>This direction seeks to encourage a variety and choice of housing types for existing and future housing needs. The planning proposal is inconsistent with this direction as it will reduce a residential zone.</p> <p>While the proposal seeks to rezone the land from a residential to an employment zone, this inconsistency is considered to be of minor significance as residential flat buildings and shop top housing are permitted in the E1 zone and the bushfire and flooding constraints limit the residential development potential of the site.</p> |

| Directions | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|-----------------------------|----------------------------|--|
| 7.1 Industry and Employment | Justifiably inconsistent | <p>The planning proposal is inconsistent with this direction as it proposes to rezone a new employment area that is not identified in a local strategy approved by the Planning Secretary.</p> <p>This inconsistency is considered to be of minor significance, as the proposal involves only a minor extension (1701m²) to an existing employment area and aligns with the Hunter Regional Plan 2041, which takes into account the objectives of this direction.</p> |

3.5 State environmental planning policies (SEPPs)

The planning proposal is considered to be generally consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

The proposal is not expected to result in any adverse environmental impacts.

A Preliminary and Detailed Site Investigations Report (Sep 2023) along with a Remedial Action Plan (Oct 2023) concluded that the site has some very minor contamination associated with the current driveway but can be made suitable for its intended use.

The Action Plan recommended excavating and disposing of the contaminated soil and subsequent soil sampling to confirm its removal. This issue can be appropriately addressed during the development application stage.

4.2 Social and economic

It is considered likely that the planning proposal will have a positive social and economic outcome, providing 30 more local job opportunities and additional local centre services for surrounding residents, which will directly benefit the local economy.

The site's separation from nearby residential areas and the relevant development controls in the Lake Macquarie Development Control Plan 2014 will also limit future development to a scale and design that complements the surroundings. This will ensure that visual and residential amenity are considered and addressed as needed during the development application stage.

4.3 Infrastructure

There are no new or additional local or state infrastructure needs identified as a result of the proposal. The site already has access to water, sewer, electricity, and telecommunications.

A traffic impact assessment (Aug 2023) submitted to support the proposal concludes that it will not significantly impact traffic and access, including the nearby signalised intersection at Dunkley Parade and Progress Road.

Any future development application for the site will need to provide more detailed plans for vehicular access and infrastructure servicing. The planning proposal recommends consulting Transport for NSW. It is recommended the consultation also occur with Hunter Water.

4.4 Community

Council proposes a community consultation period of 28 days.

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

4.5 Agencies

It is recommended that the following additional agencies also be consulted and all agencies be given 30 working days to comment:

- NSW Rural Fire Service;
- Transport for NSW
- School Infrastructure NSW.
- Department of Climate Change, Energy, the Environment and Water - Biodiversity Conservation and Science;
- Subsidence Advisory NSW;
- Awabakal Aboriginal Land Council; and
- Hunter Water.

5 Timeframe

Council proposes a 12 month time frame to complete the LEP.

The LEP Plan Making Guidelines (Aug 2023) establish maximum benchmark timeframes for planning proposal by category. As previously noted, this planning proposal is categorised as a standard proposal.

LEP completion within 9 months of the date of the Gateway determination is recommended in line with the benchmark timeframes. A notation to this effect is recommended for inclusion in the Gateway determination. It is also recommended that the Gateway determination require that the Project Timeline be updated to reflect the Gateway determination finalisation date.

6 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is of local significance, and generally consistent, or justifiably inconsistent with the State, regional and local planning framework, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

7 Assessment summary

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

- the proposal aligns with the planning priorities and actions of the Lake Macquarie LSPS;
- the proposal is consistent or justifiably inconsistent with all relevant section 9.1 directions and SEPPs, the Hunter Regional Plan 2041, and the Greater Newcastle Metropolitan Plan 2036; and
- the proposal is expected to provide positive social and economic benefits with minimal environmental impacts.

Based on the assessment outlined in this report, the proposal must be updated before agency and community consultation to:

- revise the Project Timeline to reflect the Gateway determination finalisation date.

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, 6.1 Residential Zones and 7.1 Industry and Employment are minor or 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 conditions.

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated prior to agency and community consultation to:
 - revise the Project Timeline to reflect the Gateway determination finalisation date.
2. Consultation is required with the following public authorities and given 30 working days to comment:
 - Transport for NSW
 - NSW Rural Fire Service;
 - School Infrastructure NSW;
 - Department of Climate Change, Energy, the Environment and Water - Biodiversity Conservation and Science;
 - Subsidence Advisory NSW;
 - Awabakal Aboriginal Land Council; and
 - Hunter Water.
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
4. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.
5. The Gateway note that the LEP should be completed within 9 months of the date of the Gateway determination.



28/6/24

(Signature)

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