

<b>24DP022</b>	Endorsement of planning proposal to rezone land from R2 Low Density Residential to E1 Local Centre - Progress Road, Mount Hutton
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<b>Key focus area</b>	4. Diverse economy
<b>Objective</b>	4.3 Our growing population supports a thriving local economy
<b>File</b>	RZ/1/2024/COUNCILREPORTS - D11601622
<b>Author</b>	Strategic Planner - Karin Coon
<b>Responsible manager</b>	Manager Integrated Planning - Wes Hain
<b>Previous items</b>	24DP008 - Planning Proposal to rezone land from R2 Low Density Residential zone to E1 Local Centre zone - Mount Hutton - Development and Planning Standing Committee - 11 Jun 2024 6.30pm

### Executive summary

**Address:** 1 Progress Road, Mount Hutton (Lot 8 DP 29077)

**Owner:** Progress Holdings NSW Pty Ltd

**Proponent:** Progress Holdings NSW Pty Ltd

This report details the results of the public exhibition and state agency consultation for the planning proposal and seeks Council's endorsement of the planning proposal in Attachment 1.

The planning proposal seeks to rezone 1 Progress Road, Mount Hutton from R2 Low Density Residential to E1 Local Centre and amend associated development standards. This will enable commercial development at the site to expand the existing local centre.

The planning proposal was exhibited from 16 September to 15 October 2024 and no submissions were received.

### ***Recommendation***

Council:

- A. endorses the planning proposal to amend the *Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)*, as provided in Attachment 1, and
- B. makes the amendment to the *LMLEP 2014* under delegation granted by the Minister for Planning and Public Spaces, pursuant to section 3.36 of the *Environmental Planning and Assessment Act 1979*.

### Context

The planning proposal (Attachment 1) to amend the *Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)* relates to 1 Progress Road, Mount Hutton. The site has an area of 1701m<sup>2</sup> and is currently occupied by a single storey dwelling.

The subject site adjoins the Mount Hutton local centre (Dunkley Parade shops) which is anchored by:

- Aldi to the east (zoned E1 Local Centre)
- Mount Hutton Public School to the north (zoned R2 Low Density Residential)
- a watercourse linked to Scrubby Creek to the west
- Mullington Park and playground on the south side of Progress Road (zoned RE1 Public recreation).

The surrounding neighbourhood is otherwise characterised by low to medium density residential development.



**Figure 1 – Subject site (blue border) with footpaths shown in pink, and bus routes in light blue**

The site is located within an identified area of change in the Lake Macquarie Local Strategic Planning Statement (LSPS), specifically in an ‘urban intensification area’ surrounding Mount Hutton Economic Centre within the North-East Growth Area. Urban intensification areas are existing urban areas that are intended to evolve and include an increased density of housing and employment with access to relevant infrastructure.

## Discussion

The planning proposal aims to rezone the site from R2 Low Density Residential to E1 Local Centre, as shown in Figure 2. It is also proposed to increase the building height from 8.5m to 10m and remove the minimum lot size consistent with the adjoining E1 zoned land.

The planning proposal is consistent with the strategic direction as outlined in the Hunter Regional Plan 2041 and the Lake Macquarie LSPS.



**Figure 2 Current zone (left) and proposed zone (right)**

The planning proposal will provide for sustainable development, aligned with Council's strategic plan to concentrate growth in our existing urban areas and around centres where infrastructure already exists. It aims to strengthen the existing local centre and provide local employment opportunities and services where people live, consistent with the objectives of the Hunter Regional Plan.

The site is ideal for commercial development given its central location, close to homes and local amenities, its accessibility in relation to the existing active and public transport network, and its low biodiversity values. While the shape of the land and bushfire hazard limits its residential development potential, these factors are more compatible with commercial development. The southern part of the site is affected by low hazard flooding, however most of the site is above the flood planning level. The NSW Biodiversity Conservation Division considers commercial development at the site to be a reduction of flooding risk.

A Local Centre zone is a logical expansion of the existing Mount Hutton local centre, bounded by the watercourse reserve, park and school. The size of the site allows for the feasible development of business premises which would complement the established adjoining local centre businesses without compromising nearby larger centres such as Lake Macquarie Square and Charlestown. This approach supports a network of smaller and larger centres that serve different needs.

Council's decision on 25 March 2024 to finalise the Infill Housing planning proposal (24SP017) increased the maximum building height for the R3 Medium Density Residential zone to the south and east of the site, from 10m to 11m, which will enable three storey development. This decision is expected to further increase the local population that the neighbourhood centre supports.

This combination of factors supports the proposed amendment from a low-density residential zone to a local centre zone. This will enable a range of retail, business and community uses at the site to serve the needs of people who live in, work in or visit the area.

### **Community engagement and internal consultation**

The planning proposal was publicly exhibited between 16 September and 15 October 2024 in accordance with the Gateway Determination. Notification letters were sent to 13 adjoining

property owners. The planning proposal was also advertised on the Shape Lake Mac website and in e-newsletters reaching 3385 subscribers.

During the exhibition period, there was 446 project page views and the planning proposal document was downloaded 73 times. No submissions were received as part of public exhibition. No changes have been made to the proposal as a result of the community engagement.

### Agency consultation

In accordance with the Gateway Determination, consultation was undertaken with 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. There were no concerns raised or objections to the proposal, and it has not been necessary to make any changes to the proposal because of agency advice.

Internal consultation was undertaken with Council's Development Assessment and Certification, Asset Management, Environmental Systems, Integrated Planning and Community Partnerships departments.

### Assessment of options

It is recommended that Council endorses the planning proposal in Attachment 1. This will facilitate commercial development at the site, complementing the existing Mount Hutton local centre on Dunkley Parade. This change is aligned with directions in local and regional strategic plans by providing for the right type of development in the right place.

Should Council decide not to support the planning proposal, there is a risk that a well-placed site may remain underdeveloped, failing to reach its full potential. Not endorsing the planning proposal will retain the existing R2 Low Density Residential zone and land uses permitted in the R2 zone will continue to be available subject to development consent.

### Next steps

If Council endorses the recommendation to amend the *LMLEP 2014*, staff will prepare and finalise a local environmental plan amendment in accordance with section 3.36(2) of the *Environmental Planning and Assessment Act 1979*. Once the amendment to the *LMLEP 2014* is finalised, the landowner will be able to lodge development applications for the range of business and commercial uses permitted in the E1 Local Centre zone.

### Key considerations

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#### Economic

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The planning proposal will provide additional employment lands in Mount Hutton. The proponent estimates that the site could provide over 900m<sup>2</sup> of commercial floor area resulting in at least 30 on-going jobs on the site. The planning proposal is considered to be complementary to the existing adjoining local centre.

The site is not suitable for an additional supermarket that would compete with the adjoining Aldi or other supermarkets in the area. The site shape and potential floor area is likely to result in a development that would not compromise the nearby larger retail centres such as Lake Macquarie Square and Charlestown Square. Instead, the development is expected to attract businesses that will complement the existing mix and support a network of smaller and larger centres that serve different needs.

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The planning proposal is expected to support liveability of the area by the creation of local jobs and increasing the number of people in the area that will work, shop, dine and use the services at the Mount Hutton local centre.

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### **Environment**

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The planning proposal aims to facilitate further development on an urban site that is accessible by active and public transport, well-equipped with services and with low biodiversity values. Directing development and increasing density to well-located sites reduces the pressure on other less appropriate sites where development could have a more negative environmental impact.

The site adjoins a watercourse which eventually flows into Jewells Wetland. Council has suitable development controls for natural water systems and stormwater management to manage any impact. Any future development application would need to demonstrate how it addresses any potential impacts on water quality, aquatic habitat and riparian vegetation.

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### **Community**

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The planning proposal will strengthen the local centre for the Mount Hutton community through the creation of local jobs and providing more options for residents to work, shop, dine and use the services at the Mount Hutton local centre.

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### **Civic leadership**

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The planning proposal aligns with the Lake Macquarie LSPS. It concentrates growth and development in established urban areas and around centres with existing infrastructure. This approach strengthens our local centres and offers employment opportunities and services close to where people live.

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### **Financial**

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There are minimal financial implications for Council associated with the recommendation. The relevant fee outlined in Council's fees and charges cover the staff time spent assessing the planning proposal and has been paid by the proponent.

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### **Infrastructure**

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The planning proposal will enable a relatively minor increase in commercial floorspace which will support the use of public infrastructure. It aims to facilitate the practical and economical use of existing infrastructure by enabling jobs and services at a site that can be easily accessed by all modes of transport, including active and public transport. The traffic analysis undertaken for the planning proposal shows that the proposal will not significantly impact on the traffic and road network, including the operation and performance of the nearby signalised intersection.

A future development application will be subject to development contributions which are used to provide local infrastructure needed to support development.

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### **Compliance**

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The planning proposal has been prepared in accordance with the process outlined within the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2021*, and Council's procedure for Amending Local Environmental Plans.

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## **Legislative and policy considerations**

*Environmental Planning and Assessment Act 1979*

*Environmental Planning and Assessment Regulation 2021*

*Lake Macquarie Local Environmental Plan 2014*

Hunter Regional Plan 2041

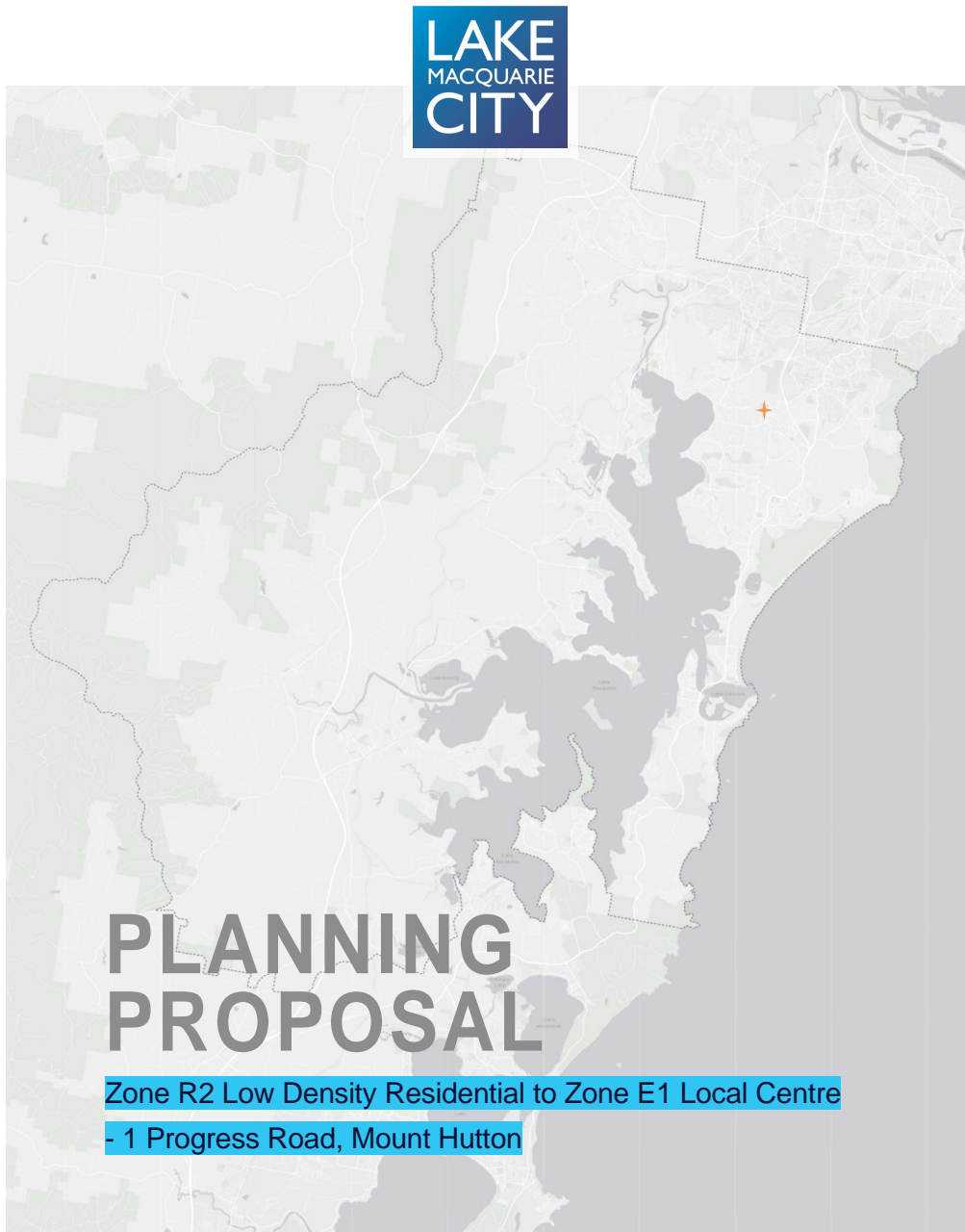
Greater Newcastle Metropolitan Plan 2036

Lake Macquarie Local Strategic Planning Statement

Lake Macquarie Development Control Plan 2014

## **Attachments**

1. Planning Proposal - 1 Progress Road - Mount Hutton - post exhibition version D11445482



**Council resolution for adoption - December 2024**

Proposed amendments to Lake Macquarie Local Environmental Plan 2014. The planning proposal explains the intended effect of the proposed changes and provides justification for the proposal.

 **02 4921 0333**  **LAKEMAC.COM.AU**

## ACKNOWLEDGEMENT OF COUNTRY

**Lake Macquarie City Council dhumaan Awabakala ngarrakal yalawaa, yalawan, yalawanan.**

Lake Macquarie City Council acknowledges the Awabakal people and Elders past, present and future.

**Dhumaan ngayin ngarrakalu kirraanan barayidin.**

We remember and respect the Ancestors who cared for and nurtured this Country.

**Ngarrakalumba yuludaka bibayilin barayida baaduka.**

It is in their footsteps that we travel these lands and waters.

Wording by the Aboriginal Reference Group. Translated by Miromaa Aboriginal Language and Technology Centre



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## Summary table

Summary	Details
<b>Name of draft LEP:</b>	Lake Macquarie Local Environment Plan 2014 – Zone R2 Low Density Residential to Zone E1 Local Centre - 1 Progress Road, Mount Hutton
<b>Subject land:</b>	1 Progress Road, Mount Hutton (Lot 8 DP 29077)
<b>Proponent/ landowner:</b>	Progress Holdings NSW Pty Ltd
<b>Planning consultant:</b>	Resolve Urban Planning
<b>Council reference:</b>	RZ/1/2024
<b>Planning portal reference:</b>	PP-2024-4
<b>Version:</b>	4
<b>Stage:</b>	Council resolution for adoption
<b>Date:</b>	28 October 2024
<b>Author:</b>	Karin Coon, Strategic Planner
<b>Attachments:</b>	<ul style="list-style-type: none"> <li>Attachment 1 - Assessment of consistency with Hunter Regional Plan 2041</li> <li>Attachment 2 – Consistency with Ministerial Directions relevant to the planning proposal</li> </ul>
<b>Supporting studies:</b>	<ol style="list-style-type: none"> <li>Detail survey (Earth Surveying consulting surveyors 2022)</li> <li>Bushfire advice (Australian Bushfire Consulting Services 2022)</li> <li>AHIMS Search (NSW Heritage 2022)</li> <li>Contamination Assessment. Combined Preliminary &amp; Detailed Site Investigation Report (Ideal Geotech 2023)</li> <li>Remediation Action Plan (Ideal Geotech 2024)</li> <li>Traffic Impact Assessment (Northern Transport Planning and Engineering 2023)</li> </ol>
<p>Supporting studies are not attached to the proposal. They are published on the NSW Planning Portal and Lake Macquarie's Community engagement hub Shape Lake Mac.</p>	

### Document Revision

Version	Date	Author	Details
1	31 May 2024	Karin Coon	Council resolution for Gateway determination
2	28 June 2024	Karin Coon	Agency consultation. Updated timeline according to Gateway determination.
3	6 September 2024	Karin Coon	Public exhibition. Updated timeline, existing Height of Building maps, and agency advice.
4	28 October 2024	Karin Coon	Planning proposal for endorsement. Updated part 5 and 6 (public exhibition details and project timeline). No changes to part 1-4.

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Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

## Introduction

This planning proposal explains the intended effect of and the justification for the proposal to rezone 1 Progress Road, Mount Hutton from Zone R2 Low Density Residential to Zone E1 Local Centre in *Lake Macquarie Local Environmental Plan 2014* (LMLEP).

The proposed amendments will optimise land use as the site is considered less suitable for low density housing than local centre land uses. The proposed change aligns with principles in regional and local strategic plans – supporting and strengthening the existing local centre, creating additional local employment opportunities, and leveraging established transport infrastructure.

The planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the NSW Government's 'Local Environmental Plan Making Guideline'<sup>1</sup> (LEP Making Guideline).



A **planning proposal** explains how and why a Local Environmental Plan (LEP) is proposed to be changed. An LEP is a legal document that sets the rules for land use and development in a local government area. The *Lake Macquarie Local Environmental Plan 2014* (LMLEP2014) provides the framework for land use in Lake Macquarie. LEPs are made by councils and approved by the state government.

A planning proposal is written for a wide audience: local and state government, experts in a range of fields, and our community members. While a planning proposal needs to include technical terms, we aim to explain matters so they can be understood by everybody. We have added explanations of common terms and processes where appropriate.

A planning proposal can be initiated by a proponent or the council. The planning proposal describes the proposed changes, the expected outcomes, the possible impacts and the reasons for making the changes.

The 'Local Environmental Plan Making Guideline' provides a detailed description of the complete LEP Making process, including description of each stage, who is involved in the process, their roles and responsibilities. While its main purpose is to assist and guide councils, communities, State agencies, proponents, and practitioners, it is a good place to start for anyone interested in learning more about planning proposals.

## Site

The proposal relates to a site in the Mount Hutton suburb within the Lake Macquarie Local Government Area. The site proposed to be rezoned is located at 1 Progress Road and has an area of 1,701 m<sup>2</sup>. The site has a frontage of 13.28m to Progress Road and is currently occupied by a single storey dwelling.

The subject site is adjoining the Mount Hutton local centre in the east (zoned E1 Local Centre), Mount Hutton public school in the north (zoned R2 Low Density Residential), a watercourse linked to Scrubby Creek to the west, and Mullington park and playground on the south side of Progress Road (zoned RE1 Public recreation). The surrounding neighbourhood is otherwise characterised by low to medium density residential properties.

<sup>1</sup> <https://www.planning.nsw.gov.au/sites/default/files/2023-03/lep-making-guideline.pdf>

Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton



Figure 1 Aerial of the subject site (built footpaths shown in pink, and bus routes in cyan).

Mount Hutton has two local centre zoned areas. A large area further south where Lake Macquarie Square is located, and this smaller area on the corner of Dunkley Parade and Progress Rd with Aldi, Mount Hutton Pet Hospital and a couple of smaller shops and food and drink premises.

Located on Progress Rd, the site is easily accessible within short distance from the bus routes and stops on Dunkley Parade, with established foot paths to the site from adjoining areas (with a missing link along the front of the site). The Dunkley Parade and Progress Road intersection is signalised with a four-way pedestrian crossing.

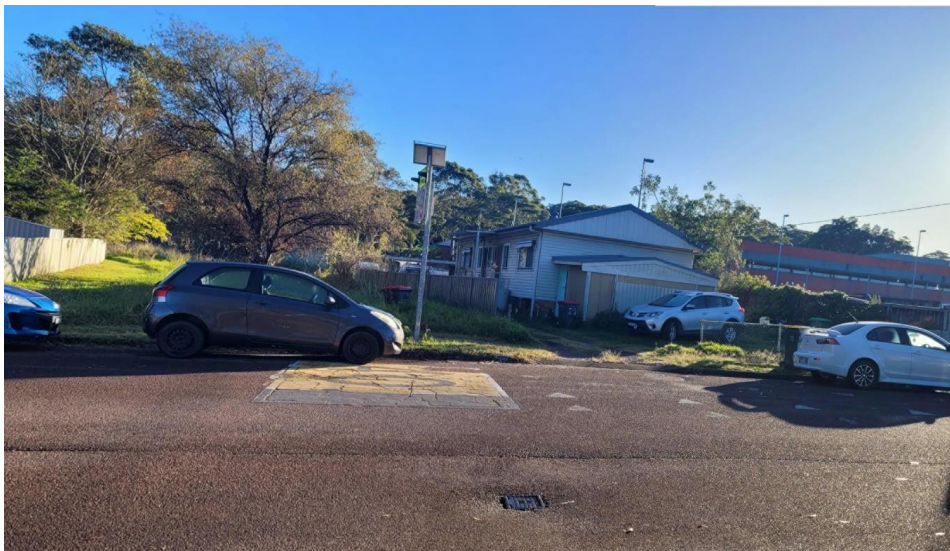


Figure 2 Photo of the site taken from Mullington Park

Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

## Document structure – how to read this document

This planning proposal is structured in five parts in accordance with the LEP Making Guideline:

<b>Part 1 – Objectives and intended outcomes</b>	Describes what is intended to be achieved by the proposal.
<b>Part 2 – Explanation of provisions</b>	Describes how the LEP is proposed to be changed.
<b>Part 3 – Justification of strategic and site-specific merit</b>	Describes how the proposal aligns with the strategic planning framework, the potential environmental, social, and economic impacts and measures to lessen any harmful impacts.
<b>Part 4 – Mapping</b>	Shows the spatial intent of the planning proposal and the area to which it applies.
<b>Part 5 – Community Consultation</b>	Describes consultation requirements and outcomes with State agencies, authorities, and the community.
<b>Part 6 – Project Timeline</b>	Describes the anticipated timeframe for completing the planning proposal.

Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

## Part 1 – Objectives and intended outcomes

### Objective

To amend the *Lake Macquarie Local Environmental Plan 2014 (LMLEP)* for the subject site, 1 Progress Road Mount Hutton, from Zone R2 Low Density Residential zoning to Zone E1 Local Centre zoning. This will allow for land use entirely consistent with the existing land use of the immediately adjoining local centre.

### Intended outcomes

- Optimise land and infrastructure use responsive to the site location and qualities.
- Contribute to the Mount Hutton local centre's role in providing employment and services for the surrounding residential area.
- Provide local centre zoning that effectively “completes” the extent of local centre zoning on the eastern side of the adjoining watercourse.

## Part 2 – Explanation of provisions

### Intended provisions

- Amend the Lake Macquarie Local Environmental Plan 2014 ‘Land Zoning Map’, for the subject site, from R2 Low Density Residential to E1 Local Centre.
- Amend the Lake Macquarie Local Environmental Plan 2014 ‘Height of Buildings Map’, for the subject site, from 8.5m maximum building height to 10m.
- Amend the Lake Macquarie Local Environmental Plan 2014 ‘Lot Size Map’, by removing the specific minimum lot size requirement for the site.

The proposed change for maximum building height and minimum lot size is for the heights to be consistent with the adjoining E1 Local Centre zoned land and Council wide principles where minimum lot size is normally not defined for E1 zoned land.



Figure 3 shows proposed change to the ‘Land Zoning Map’ from the existing R2 low density residential zone (left) to E1 Local Centre zone (right).

Part 1 – Objectives and intended outcomes

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Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton



Figure 4 shows proposed change to the 'Height of Buildings Map' from the existing maximum 8.5 metre building height (left) to maximum 10 metre building height (right).



Figure 5 shows proposed change to the 'Lot Size Map' from the existing 450 sq m minimum lot size (left) to none (right).

Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

## Part 3 – Justification of strategic and site-specific merit



This part of the planning proposal contains a detailed assessment and justification for the proposal.

Sections A and B describe how the proposed amendment aligns with the strategic planning framework such as regional plans and government priorities to ensure that the proposal has strategic merit.

Sections C, D, and E identify potential environmental, social, and economic impacts of the proposal, any proposed measures to reduce negative impact, as well as the views of state and federal authorities and government agencies. In this way the planning proposal is to demonstrate that the proposal is suitable for the site and the site is (or can be made) suitable for the resultant development.

### Section A – need for the planning proposal

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

The planning proposal is not the result of a strategic study or report. The proposal seeks to optimise the use of land and infrastructure. The site is better suited for a local centre than low density residential development due to its location and unique characteristics:

- The site is well placed for development based on proximity to local amenities such as the primary school, park and playground, supermarket and cafe, as well as established active and public transport network and other infrastructure.
- The site is constrained by bushfire hazard. Given the unique shape and width of the lot, residential development beyond a single dwelling house is difficult to achieve. It would require dwellings to be set well back in the site.
- Commercial development is required to respond to bushfire threat via construction measures but does not require the application of an Asset Protection Zone. Commercial development therefore may be sited close to the street and provide opportunities for streetscape activation.
- The site is identified as being flood prone, however most of the site is above the flood planning level of 41m AHD. The NSW Biodiversity Conservation Division (BCD) considers commercial development at the site to be a reduction of flooding risk.
- The site is a natural completion of the local centre, the extent effectively bounded by the public park, school and watercourse reserve.
- Commercial use of the site represents a logical addition to the established businesses and services provided within the Mount Hutton. The site area, 1701m<sup>2</sup>, will allow for the feasible development of business premises, but will not impact on the viability of larger centres such as Charlestown.
- The impact of the adjoining Aldi carpark entrance on the visual streetscape, traffic and noise is more compatible with and can be more efficiently mitigated by a local centre development than a low-density residential development.
- At its meeting 25 March 2024, Council endorsed a council-wide planning proposal to facilitate infill housing. In Mount Hutton, the endorsed changes include increase of maximum height for the surrounding areas zoned R3 Medium Density Residential, from 10 to 11 meters to enable three storey developments. This will over time increase the local population that the local neighbourhood centre supports.

Part 3 – Justification of strategic and site-specific merit

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Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

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

There are no other options to achieve the intended outcomes with the current zoning. Rezoning the site to E1 Local Centre will enable development consistent with the adjoining local centre land uses and responsive to the site constraints. If the land is not rezoned, a well-placed site will not have the opportunity to achieve the most optimal land use.

## Section B – relationship to the strategic planning framework

### Consistency with regional plans and strategies

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

#### Hunter Regional Plan 2041

The Hunter Regional Plan 2041 is a 20-year land use strategy to guide land use planning decisions for the Hunter region. The plan sets the strategic land use framework for continued economic growth, sustainable development, and diversification in the region.

The plan contains nine objectives and specific strategies to achieve each objective. A planning proposal must be consistent with an identified strategy or demonstrate how the relevant performance outcomes will be achieved. Attachment 1, page 39 contains a specific assessment of the planning proposal against each defined strategy.

**The proposal is consistent with the key principles defined in the Regional Plan** due to the site location adjoining the local centre, and the site's constraints reducing its ability to deliver more housing.



The planning proposal will support the 15-minute neighbourhood concept by leveraging the established active and public transport infrastructure, and supporting the existing neighbourhood centre's ability to service the surrounding residential areas. The planning proposal will particularly give effect to the following objectives:

- Objective 3: Create 15-minute neighbourhoods to support mixed, multi-modal, inclusive and vibrant communities
- Objective 4: An inter-connected and globally-focused Hunter without car dependent communities
- Objective 8: Plan for businesses and services at the heart of healthy, prosperous and innovative communities

Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

### Greater Newcastle Metropolitan Plan 2036

The Greater Newcastle Metropolitan Plan 2036 was launched on 17 September 2018. The plan 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.

Mount Hutton is located within the defined area for the Metro Core where “People living in the metro core will enjoy a cosmopolitan lifestyle focused around strong local communities, jobs and services, with a range of recreational opportunities in parks and reserves between the coast and adjoining hinterland.

With nearly two-thirds of Greater Newcastle’s homes and jobs, the metro core is well positioned for improved integration of transport and services through intensification of activity. Many residents live within 30-minutes of their workplace or centres providing services for their daily needs. More transport options to these centres, including cycle paths, buses and trains will bring these places closer together.”

The proposal is consistent with the principles provided in the plan – the vision for the Metro core and will give effect to strategies such as providing jobs closer to homes, increasing resilience to natural hazards and improving connections to jobs, services and recreation by providing jobs and services accessible by existing active and public transport infrastructure.



### Consistency with local plans and strategies

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

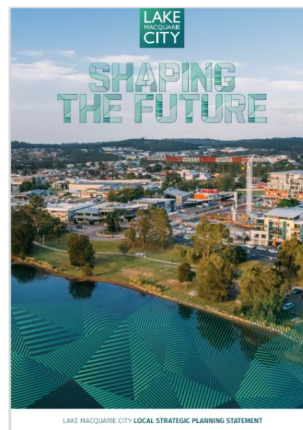
#### Lake Macquarie Local Strategic Planning Statement

The Environmental Planning and Assessment Act 1979 (EP&A Act) requires councils to prepare and make local strategic planning statements. The planning statements are tools for local strategic planning in NSW. They are informed by strategic plans and community consultation, adopted by the elected Council and endorsed by the Department.

A Local Strategic Planning Statement (LSPS) set out a 20-year vision for land use in the local area, special characteristics which contribute to local identity, shared community values to be maintained and enhanced and how growth and change will be managed into the future.

Once an LSPS is made, it becomes a consideration when preparing Local Environmental Plans.

**The planning proposal is consistent with the Lake Macquarie Local Strategic Planning Statement.**



Part 3 – Justification of strategic and site-specific merit

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Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

The site is located in an identified area of change – in an urban intensification area surrounding Mount Hutton Economic Centre within the North-East Growth Area.

The urban intensification areas are already developed areas that are to evolve and include an increased density of housing, employment zones and relevant infrastructure.

The proposal is also in line with Council’s strategy to focus growth and development in our existing urban areas and around centres where infrastructure already exists.

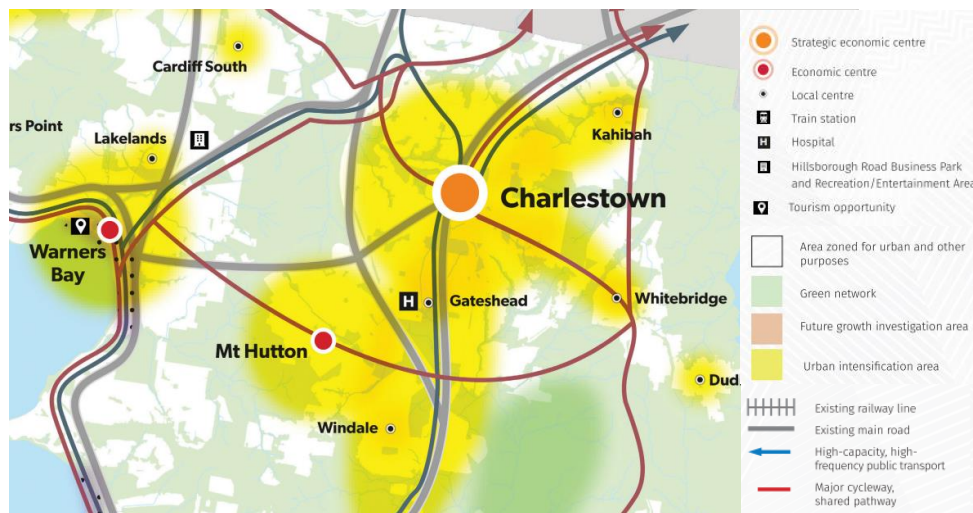


Figure 6 CITY STRUCTURE AND OPPORTUNITY MAP – North-East Growth Area (from the LSPS)

#### Mount Hutton Precinct Area Plan

The Lake Macquarie Development Control Plan (DCP) 2014 supports the *Lake Macquarie Local Environmental Plan 2014*. The DCP provides guidance and details requirements for development that should be taken into account when preparing a Development Application (DA).

The subject site is located within a DCP Area Plan for the Mount Hutton Precinct. The area plan describes Mount Hutton as a residential area in transition and identifies three shopping areas, of which the local centre on Dunkley Parade anchored by Aldi is one. The proposal is in line with the envisaged future character of Mount Hutton as an active, pedestrian, and family friendly place for shopping, business and social activities.

#### Consistency with other applicable State and regional studies and strategies

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

NSW Government’s proposed changes to create low-and mid-rise housing is based on the principle that “more homes are best placed in areas that are well-served by town centres and good public transport, so people can quickly and easily get to where they need to be. This means that more people will be able to live within walking distance of supermarkets, restaurants, and good public transport to get them to work and other places.” (page 12, [Explanation of Intended Effect: Changes to create low- and mid-rise housing \(nsw.gov.au\)](#), Department of Planning and Environment 2023). Based on this principle and given the site’s location, adjoining a local centre with an Aldi, coffee shop and take-away, a park, school, pedestrian and public transport facilities (see Figure 1), the site should, if remaining

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a residentially zoned lot, be prime for increased density. However, the site's constraints relating to bushfire, flooding and shape, makes this not viable. Rezoning the lot and strengthening the local centre, will provide more local centre functions for the surrounding residentially zoned areas and encourage densification. The E1 zone does not exclude residential opportunities if a developer finds a way to mitigate the environmental constraints in developing concepts for the land.

### Consistency with State Environmental Planning Policies (SEPPs)

#### 6. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

State Environmental Planning Policies (SEPPs) apply across the state and deal with matters of state or regional planning significance. **The proposal is considered consistent with applicable SEPPs**, as detailed below.

#### [SEPP \(Biodiversity and Conservation\) 2021](#)

**Chapter 2 - Vegetation in Non-Rural Areas** aims to protect biodiversity values and other non-vegetation to preserve natural/scenic amenity of non-rural areas.

The planning proposal does not result in clearing of bushland. The subject site does not contain vegetation of any significant biodiversity value or any significant tree. A future development application (DA) for development on the subject site will be subject to consideration of amenity and visual impact and relevant development controls with minimum requirements for landscaping.

**Chapter 4 - Koala Habitat Protection 2021** applies to City of Lake Macquarie Local Government area (covered by the Central Coast Koala Management Area) and aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

The subject site does not contain vegetation of any significant biodiversity value or any native trees and is not considered to be a potential current or future koala habitat. The proposal is unlikely to have any impact on koala population. See also description of environmental impact, page 16.

#### [SEPP \(Housing\) 2021](#)

Not relevant to the planning proposal. May be applicable at a later Development Application stage depending on its content.

#### [SEPP \(Planning Systems\) 2021](#)

Not relevant to the planning proposal.

#### [SEPP \(Primary Production\) 2021](#)

Not relevant to the planning proposal.

#### [SEPP \(Resilience and Hazards\) 2021](#)

The State Environmental Planning Policy (Resilience and Hazards) 2021 provides a framework for coastal management, hazardous and offensive development, and remediation of contamination land. The proposal does not entail hazardous or offensive development and is not located within a coastal zone, and it is only whether the land can be made suitable for the proposed uses due to contamination which is relevant to the proposal.

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**Chapter 4 - Remediation of Land** aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

The subject site is on Council's register of potentially contaminated land. A Preliminary Site Investigation (PSI) and Detailed Site Inspection (DSI) was carried out and lead and zinc contamination were found in the driveway. The Remedial Action Plan (RAP) confirms the site can be remediated for all permissible uses or developments (with and without consent) in the E1 Local Centre zone in the Lake Macquarie Local Environmental Plan 2014.

Section 4.9 outlines the responsibility for the consent authority in determining development application (DA), where it must not grant a consent before it is satisfied the land is suitable or will be in a remediated state and is satisfied the land will be remediated before the land is used for that purpose. This will apply for any future DA at the site.

See detailed description of contamination under environmental impact, p 20.

#### [SEPP \(Resources and Energy\) 2021](#)

Not relevant to the planning proposal.

#### [SEPP \(Sustainable Buildings\) 2022](#)

Not relevant to the planning proposal, but will be applicable for a future DA.

#### [SEPP \(Transport and Infrastructure\) 2021](#)

The State Environmental Planning Policy (Transport and Infrastructure) 2021 aims to facilitate effective delivery of infrastructure across the State.

The E1 Local Centre zone permits a wide range of uses. Considerations related to consent for specific developments covered by the SEPP will be subject to detailed assessment and referrals required by the SEPP during the DA stage.

The proposal is not likely to enable traffic-generating development as defined by schedule 3 due to its limited size, location, and site-specific constraints. The proposal is supported by a Traffic Impact Assessment concluding that traffic impact would be negligible. See details on page 24.

Hunter Water and Ausgrid had no objections to the proposal during the pre-lodgement phase.

#### Consistency with Ministerial Directions (section 9.1 Directions)

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

The Minister for Planning issues Local Planning Directions in accordance with section 9.1 of the EP&A Act to give directions to Councils' regarding the principles, aims, objectives or policies to be achieved or given effect to in the preparation of planning proposals.

The table in Attachment 2 (page 45) provides a complete overview of all Ministerial Directions and identifies the directions that are applicable to the planning proposal, as well as an evaluation of consistency.

**In summary, the planning proposal is considered to be consistent with all applicable directions.**

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## Section C – environmental, social and economic impact

### Environmental impact

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

No. The subject site is not included in any of Council's mapping of threatened fauna, endangered ecological communities, areas with native vegetation of specific value or located along existing or potential rehabilitation native vegetation corridors (see Figure 7).



Figure 7 shows the site's location in relation to Council's maps with identified threatened ecological communities, significant areas of native vegetation, existing and potential native vegetation corridors.

- EPBC Act (Federal) - Threatened Ecological Communities (2022)
- BC Act (NSW) - Threatened Ecological Communities (2022)

#### Native Vegetation (2022)

- Corridor of Remnant Native Vegetation that contributes significantly to movement and viability of flora and fauna.
- Corridor of Partially Cleared Remnant Native Vegetation that contributes significantly to movement and viability of flora and fauna.
- Remnant Native Vegetation - minor role in flora and fauna movement, may contribute to flora and fauna viability in other ways.
- Partially Cleared Remnant Native Vegetation - minor role in flora and fauna movement, may contribute to flora and fauna viability in other ways.

#### Native Vegetation Corridors (2022)

- Riparian Corridor – Native vegetation adjacent to creeks and drainage lines, where visible in aerial photographs
- Corridor narrowed to less than 200 metres in width.
- Crossing Point – Cleared potential barrier of approximately 10-70 metres width that interrupts native vegetation, but could be crossed by mobile fauna.
- Rehabilitation Corridor – Partly cleared native vegetation and crossing points that are strategically located and could be rehabilitated to enhance fauna movement.
- Rehabilitation Urban Corridor – Urban land that interrupts fauna movement but may be enhanced with individual trees or pockets of trees to assist fauna movement. Full rehabilitation difficult or unlikely
- Widely Interfaced Crossing Point – Wide interface of bushland (<500metres) at each side of a crossing point and less than approximately 70 metres in crossing distance. Important areas for fauna movement.

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Based on a site inspection, Council’s Environmental planner considers biodiversity value to be low. The site is covered in hip high kikuyu with some other weeds, exotic trees, shrubs and banana plant. The trees on the adjacent property to the north provide value as there is very little tree cover in the area, and future development is not to impact these.

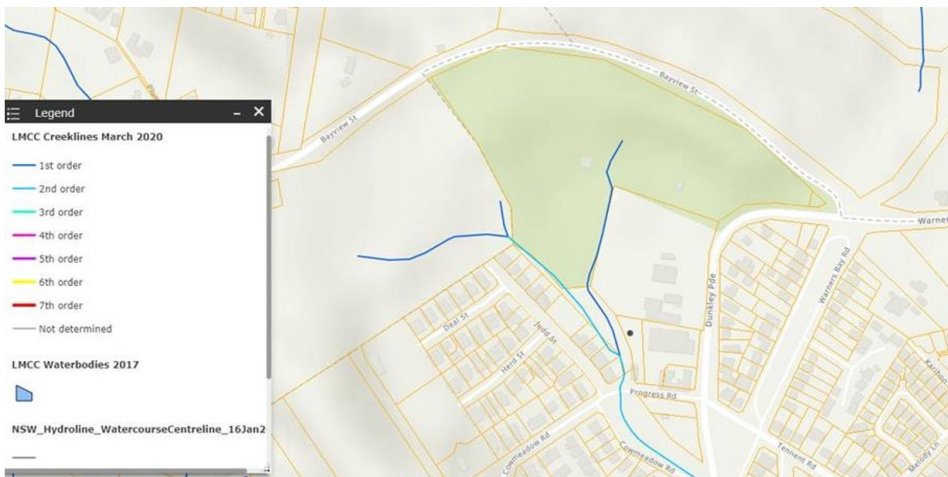


**Figure 8 Photos showing vegetation cover on the northern part of the site (June 2023).**

The site adjoins a watercourse joining the Scrubby Creek further south which flows into Jewells Wetland (see Figure 9 and Figure 10). The state of the adjoining watercourse further south (concrete channel), adjoining land use and road barriers limits the value of the adjoining waterway as an ecological corridor, both in the current and potential future state.

However, maintaining water quality in the catchment is important to the ongoing health of this waterway, and limiting any negative impact on water quality into the waterway is an important consideration for a future development.

Council has suitable development controls for natural water systems and stormwater management to manage impact. Any future development application would need to demonstrate that development have negligible potential impacts on water quality, aquatic habitat, and riparian vegetation.



**Figure 9 Council’s creek line mapping identifies the adjoining watercourses as first and second order creeks according to the Strahler System of ordering watercourses.**

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Figure 10 Crokers Creek/Jewells Wetland catchment area (from the Jewells Wetland Flood Study 2013)

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

**Bushfire hazard**

The subject site is located on bushfire prone land, and future development must demonstrate compliance with *Planning for Bush Fire Protection 2019*.

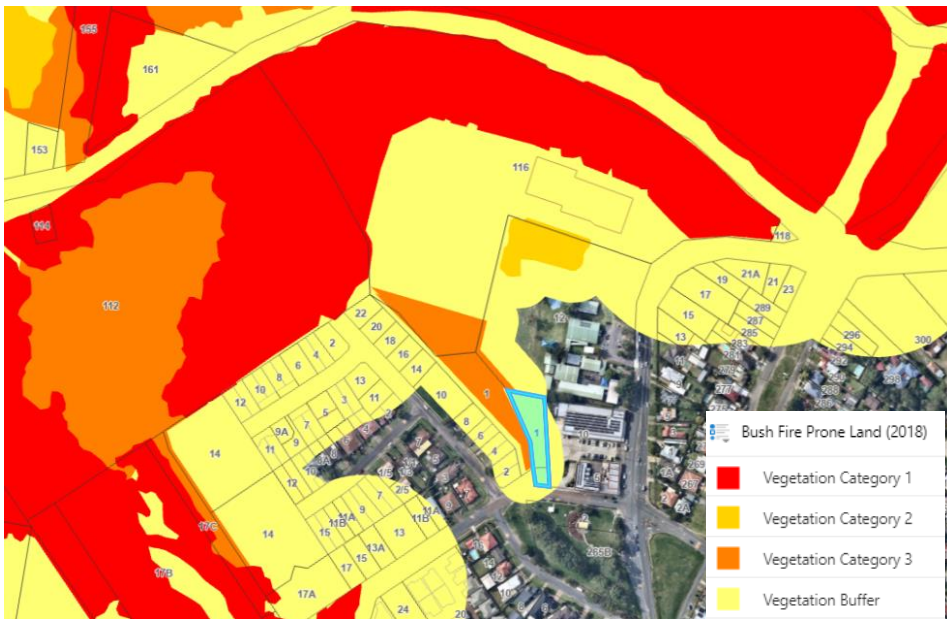


Figure 11 shows that the subject site is located within the vegetation buffer zone surrounding Category 3 Vegetation area.

The proponent has submitted a review and bushfire hazard assessment for the site (Australian Bushfire Consulting Services 2023) with a Bushfire Attack Level (BAL) ribbon diagram and description of bushfire protection measures such as Asset Protection Zone (APZ) and construction requirements for both residential and commercial land uses. The assessment confirms how a commercial development would be more suitable to respond to the bushfire threat given the site location, shape, and urban context.

The NSW RFS has no objection to the proposed rezoning. Conditions relating to bushfire will apply to a future development on the site. Further details on their advice on page 25.

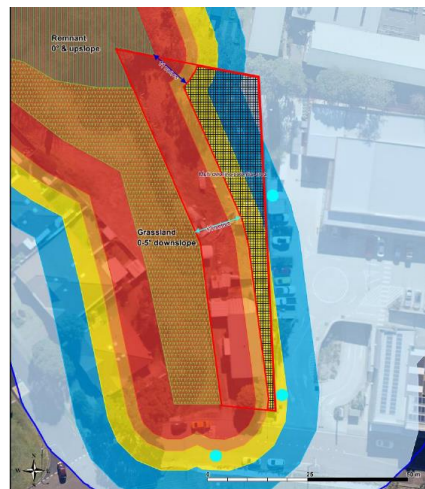


Figure 12 on the right shows a site assessment summary with BAL categories on the subject site (from the Bushfire Assessment Report by Australian Bushfire Consulting Services 2023)

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## Contamination

The property at 1 Progress Road, Mount Hutton is listed in Council's contaminated land database under licence CL/2584/2013. The property has been assigned contaminated notation 2, potentially contaminated land. The proponent has submitted a contamination assessment (combined preliminary and detailed site investigation – PSI and DSI) and Remedial Action Plan (RAP) conducted by Ideal Geotech. See supporting studies.

The scope of the investigation involved desktop research, historical aerial photography analysis, geological and hydrogeological assessments, environmental database queries, on-site inspections, and the formulation of a Conceptual Site Model (CSM). Three areas of environmental concern were identified: a house from the 1960s, an unpaved driveway, and other likely activities like farming near the site. Subsequently, the Detailed Site Investigation involved the collection of 18 samples from 16 locations from varying depths to assess soil contamination and bridge data gaps identified during the Preliminary Site Investigation. Only the sample from the driveway area tested positive for lead and zinc that exceeded health criteria thresholds. The source of the contamination remains uncertain. However, it is presumed to have originated from current and historical vehicular and possibly renovation work related to the old house.

Following these investigations, Ideal Geotech prepared a Remedial Action Plan (RAP) targeted at addressing the lead and zinc-contaminated soil in the driveway area. They found that the unique remediation requirement of the subject site is best suited towards excavation and disposal of contaminated soil, as well as subsequent soil sampling after remediation to validate contamination removal. Ideal Geotech conclude that the site can be made suitable for all permissible uses identified in the E1 Local Centre land use table in the Lake Macquarie Local Environment Plan 2014.

The above-mentioned PSI, DSI and RAP records have been added to Council's *Contaminated or Potentially Contaminated Land Database*. A future assessment of a development application for the subject land will address contamination to consider if the land is suitable, or if it can and will be made suitable, for the proposed development. If the development is approved and remediation is required, a condition of consent will be included requiring the remediation works to be carried out during construction.

The proposal is therefore considered consistent with direction 4.4 of the Section 9.1 Directions under the *Environmental Planning and Assessment Act 1979*.

## Flooding

The southern part of the site is affected by low hazard flooding controls (low hazard means the area of land affected by the 1% AEP flood plus 500mm freeboard) – see figure below, informed by the [Jewells Wetland Flood Study \(2013\)](#). Lake Macquarie Development Control Plan 2014 (LMDCP) 'Catchment Flood Management' controls apply for a future development on the site.

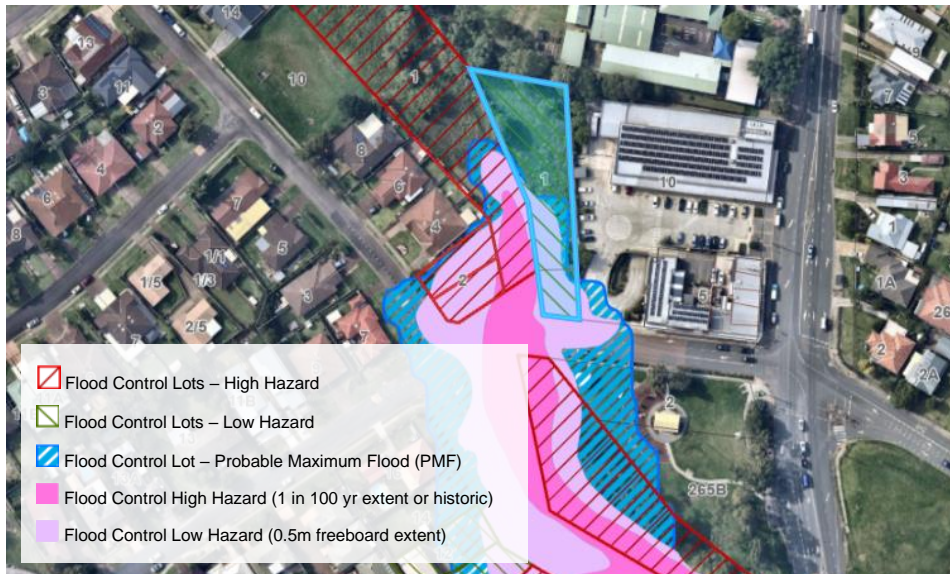
The Flood Planning Level (FPL) is a height used to set floor levels for property development in flood prone areas. The proposed zoning broadens options for a wide range of land uses which are affected differently by flooding requirements. A commercial development would more easily achieve minimum floor levels for buildings, whilst a sensitive development such as seniors living; child care centre; etc, the Probable Maximum Flood (PMF) level would set the minimum floor heights – refer to *Property Flooding Information Summary* from Council's web-site: [Property Flooding Information Summary: Lake Macquarie City Council](#)

The NSW Department of Planning and Environments Biodiversity and Conservation Division (BCD) is satisfied with the flooding aspects of the scoping proposal and considers that a commercial development would be a reduction in risk in this location and is supported (see page 26).

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**Figure 13** The subject site is a 'low hazard flood control lot' and Flooding Controls apply.

### Site Topography - Geotechnical

Council has defined slope stability geotechnical zones within the Local Government area based on a geological model along with ground slopes. The site is located in a Geo\_3 and Geo\_5 zone. The severity of the Geo Zones takes the following order i.e. 1 being the most severe and 6 being the least severe. This means that geotechnical assessment is required for certain developments at a development application stage, however this is not considered relevant for the rezoning process.

The subject site has been the subject of a detail survey to determine existing site slope conditions. The survey confirms that the site is predominately flat with slope conditions not precluding a future commercial use of the site.

### Heritage

There are no items of European heritage identified on the site and the site does not adjoin any items of European heritage significance.

The site is not included on or in the vicinity of areas mapped as sensitive Aboriginal landscape. The Aboriginal Heritage Information Management System Search (AHIMS) found no Aboriginal sites or places recorded in or near the subject site. The site does not comprise Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974.

### Visual environment

The proposed amendment will enable other uses than currently permissible on the site with typically different building typologies, different design requirements for example street frontage and building setbacks and increased permissible building heights from 8.5 to maximum 10 metres. The site context is described in the Introduction, page 5. The proposal responds to the context in the following way:

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*Commercial Development to the East* – The site adjoins the parking and access area of the Aldi Supermarket and commercial land uses of Mount Hutton. This includes a large retaining wall on the boundary of the site. A concept design has considered this existing built form and confirmed that future redevelopment can respond to the adjoining site conditions by:

- Providing increased activity and street address next to the existing vehicular access of the adjoining allotment
- The design can abut the existing retaining wall without the amenity limitations attributed to residential development. Light and ventilation afforded to the commercial premises from other elevations
- The height of the proposed development will reflect the existing development and height limits of the centre

The built footpaths currently end at each side of the site. The redevelopment of the site will provide an opportunity to add this missing link to the pedestrian network which will improve the access between the residential areas in the west and the school, shops and bus stops in the east of the site.

*Residential development to the west* – the site, and adjoining residential development, will always be separated by the existing drainage reserve and channel on the site's immediate western boundary. This reserve provides a physical setback of over 12m between the two land uses serving to protect the amenity for the residents in respect of overlooking, overshadowing and building bulk.

*School to the North* – any future development will be required to implement suitable visual privacy mitigation measures along with this boundary.

*Recreation area to the south* – The site is separated from the recreational area by Progress Road. This ensures that any future works will not overshadow the public domain.

The proposed increase in building heights is modest and corresponds with the height limits for the adjoining local centre zoned properties. Council recently resolved to increase the height limit for the surrounding R3 Medium density zoned areas from 10 to 11 metres to accommodate 3 storey developments (see images below). The amendment was finalised and came into effect on 28 June 2024. The Height of Building Maps have been updated prior to public exhibition to reflect these changes (page 33 and 34).



Figure 14 Existing maximum building heights (left) and recently endorsed increase of maximum building heights (right). Location of subject site marked in red.

The proposal represents a potential to enhance the visual streetscape. The Aldi car park entrance currently dominates and negatively impacts the streetscape with its extensive hard concrete surfaces. This is contrasted by the current land use at 1 Progress Road, giving a fragmented and unfinished impression. A development under a Local Centre zone would provide an opportunity for built form outcome that could mitigate the visual dominance of the car park entrance, and general visual streetscape upgrade facing the public park.

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The proposed change in land use zone enables development with other building typologies (building function, form and architectural style) than low density dwellings, and other development controls that apply for a later development application. This includes requirements for front set backs, street frontage, pedestrian facilities and façade articulation to provide interest and detail at a pedestrian scale and level. Detailed assessment of the designs for a specific development and suitable conditions of consent would be considered a DA stage.

### Social and economic impact

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

##### **Social**

The proposal is expected to yield positive social outcomes by introducing new employment opportunities through land use. The effects on existing social infrastructure, such as Mount Hutton Public School, Mount Hutton Playground, and Mullington Park, are expected to be minimal to moderately beneficial. The likelihood of negative social consequences is substantially reduced due to the site's separation from neighbouring residential areas by public land and a watercourse.

School Infrastructure NSW has not expressed opposition to the proposal, as noted on page 29, but has requested consultation during the development phase, to ensure that its interests are considered and protected.

Adding a wide public footpath along the site will be a functional upgrade for pedestrians including school children. Additionally, a future development permissible in a Local Centre zone is likely to increase activity at the site. This would encourage more foot traffic, further activate the local centre and offer additional passive surveillance of the park.

##### **Economic**

The proposal is likely to have positive economic effects by increasing the commercial land supply in Lake Macquarie. The proposal encourages employment growth in a suitable location identified for growth in local plans. It is conservatively estimated, based on the proponent's current operations, that at least 30 jobs will be generated from a commercial land use of the site. This is based on initial concept planning identifying the site can provide over 900m<sup>2</sup> gross floor area for a land use consistent with the intended zoning.

The proposal is complementary to the adjoining local centre, supporting the viability of existing businesses rather than competing for profit.

The site is not suitable for an additional supermarket that would impact on the adjoining Aldi or other supermarkets in the area, and the limited frontage would encourage other types of businesses than the tenancies fronting Progress Road and Warners Bay Road. The site shape and potential floor area would not support a significant retail development, or significantly increase lettable floor area, to jeopardise the viability of larger retail centres such as Lake Macquarie Square and Charlestown Square.

Instead, the development is expected to attract businesses that will complement the existing mix. The rezoning is expected to support the viability of existing centres by the creation of local jobs and increasing the number of people in the area that will shop, dine and use the services at the Mount Hutton local centre and Lake Macquarie Square further south.

Overall, the proposal represents an enhancement to Mount Hutton's commercial areas, contributing positively to the community's employment and economic vitality.

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Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

## Section D – Infrastructure (Local, State and Commonwealth)

### Impact on public infrastructure

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

The proposed LEP amendment will enable increased density in an established urban area which is serviced by existing public infrastructure and will make use of capacity in the established infrastructure network. It is not expected that the proposed rezoning will place significant additional demand on public infrastructure, services or utilities. Specific infrastructure requirements will be assessed in more detail during a future development application stage, and relevant contributions will be calculated and collected to contribute to the maintenance and supply of council and state infrastructure.

#### Traffic impact and road network

The planning proposal is accompanied by a Traffic Impact Statement undertaken by Northern Transport Planning and Engineering (2023). The assessment includes a survey of existing traffic, prediction of additional traffic by a commercial development on the subject site, and a SIDRA analysis to assess the impact on the surrounding road network and the performance of the intersection of Progress Road/ Dunkley Parade. The traffic analysis shows that the proposal will not significantly impact on the traffic and access network, including the operation / performance of the adjacent intersection.

#### Water and Wastewater

Hunter Water has advised that the site is connected to the New Lambton Heights 2 Reservoir water supply zone, and the gravity network of the Gateshead 1 Wastewater Pump Station catchment. There is an existing 150 mm Concrete sewer main within the property, which the developer will need to consider at a later stage when developing design for their development. Hunter Water considered the scoping proposal at the pre-lodgement stage and did not have any objections to the proposed rezoning.

#### Electricity

Ausgrid considered the scoping proposal at the pre-lodgement stage. They did not have any objections to the proposed rezoning, and provided advice for a future DA.

#### Contributions

*Local infrastructure contributions*, also known as development contributions, are charged by councils. They fund council infrastructure like playgrounds, parks, community facilities, and local roads. The contribution is based on the cost, location and type of development. Development contributions are calculated and charged on development approvals in accordance with the relevant development contributions plan at the time of approval.

The *Housing and Productivity Contribution* applies to development applications for new residential, commercial, and industrial development in the Greater Sydney, Illawarra Shoalhaven, Lower Hunter and Central Coast regions. Contributions collected under this system will help deliver essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space.

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## Section E – State and Commonwealth interests

Views of state and federal authorities and government agencies

### 12. What are the views of state and federal authorities and government agencies?

#### Pre-lodgement consultation

Council consulted with the following agencies and service providers in the pre-lodgement phase of the planning proposal based on the criteria specified in Attachment B 'Authority and Government Agency pre-lodgement' of the LEP making guideline:

1. NSW Rural Fire Service
2. Department of Planning and Environment (Biodiversity and Conservation Division)
3. Subsidence Advisory
4. School Infrastructure NSW
5. Hunter Water
6. Ausgrid

There were no objections to the proposal. Individual advice provided is described below.

#### **NSW Rural Fire Service (NSW RFS) – 19 April 2023**

The proposal was referred to NSW RFS as the subject site is mapped as bushfire prone land. The NSW RFS considered the information submitted and provided the following comments:

“The NSW RFS has no objection to the proposed rezoning from R2 Low Density Residential to B1 Neighbourhood Centre for the subject site. The recommendations in the Bushfire Assessment Report prepared by Australian Bushfire Consulting Services (dated 11/02/2022, ref: 22-020) submitted with this application are required to be considered for future development to demonstrate compliance with *Planning for Bush Fire Protection* (PBP) 2019, including but not limited to the following:

- The entire property must be managed as an inner protection area in accordance with Appendix 4.1.1 of *Planning for Bush Fire Protection* 2019.
- Future development that increases the residential density of the site must not be located within 12 metres of the west lot boundary and 11m from the north-west lot boundary as identified with the Bushfire Assessment Report prepared by Australian Bushfire Consulting Services, (dated 11/02/2022, ref: 22-020).
- Future buildings will need to be constructed in accordance with the respective BAL requirements as detailed within sections 3 and 5-9 of AS3959 - 2018 Construction of buildings in bushfire prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas 2014 as appropriate.

It should be noted that Special Fire Protection Purpose (SFPP) development and places of public gathering (with floor areas greater than 500m<sup>2</sup>), permitted within the proposed land use zone, will not be able to achieve compliance with PBP 2019 within the subject site.”

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### **Department of Planning and Environment - Biodiversity and Conservation Division (BCD) – 19 April 2023**

#### Flooding

The proposal was referred to BCD as the subject site is mapped as flood prone land and proposes land uses that will result in future development works on flood-prone land. BCD provided the following comments with regards to 'Flooding and flood risk':

"1. BCD is satisfied with the flooding aspects of the scoping proposal

BCD has reviewed the Scoping proposal, the provided survey and Lake Macquarie Council's on-line flood information with respect to this site. It is understood that most of the site is only impacted by the PMF (probable maximum flood) event. A minimum floor level applies to development on the site. The draft design provided is consistent with good design adjacent to flow paths. Commercial development of the type proposed is considered to be a reduction in risk in this location and is supported.

#### Recommendation 1

BCD is satisfied that the proposal is consistent with ministerial directions, local planning directions 4.1, for flooding. No further information is required."

#### Biodiversity

Biodiversity and Conservation Division's (BCD) reviewed the Scoping Proposal, dated December 2022 in conjunction with the Concept Plan and Site Survey during the pre-lodgement phase. In their written advice dated 18 April 2023, BCD recommended that the buildings and trees are inspected by a suitably qualified ecologist for hollows and roosting habitat for native fauna including microbats prior to removal. If present, a wildlife management plan should be implemented.

As there would be no triggers for this type of inspection for a Development Application, Council sought clarification from BCD that if they considered these investigations to be necessary, this should be done during the planning proposal stage. BCD were provided with notes and images from Council's environmental planner from their site inspection, informing that trees viewed on aerials are either exotic or on the adjacent property, and that buildings on site are occupied (not vacant). BCD updated their advice on 29 June 2023, clarifying they will not expect surveys to be carried out at the planning proposal stage.

### **Subsidence Advisory – 27 April 2023**

The proposal was referred to Subsidence Advisory due to the subject site's location within the Lake Macquarie Subsidence District. Subsidence Advisory provided the following advice:

The site is within a declared Mine Subsidence District (MSD) and future development will require Subsidence Advisory's approval. Subsidence Advisory's records indicate that the site is not undermined, is located outside the influence of historical coal mine workings and located outside of an active coal mine or exploration title.

Subsidence Advisory would approve development consistent with the proposal under our Development Application Merit Assessment Policy (...)

Conditions of approval may include a requirement that the applicant provide confirmation following construction that works were carried out in accordance with the approved architectural plans.



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### **School Infrastructure NSW - 22 May 2023**

The proposal was referred to School Infrastructure NSW (SINSW) due to the site's location adjacent to the Mount Hutton Public School. SINSW had no objections to the proposal. They request that the developer consults with SINSW in planning and design of future development to mitigate any negative impact related to overshadowing, privacy and access, and that "transport planning for the proposal be guided by the NSW Government Movement and Place Framework (MAPF) and its Built Environment Performance indicators", particularly with regards to facilitating accessibility to public schools (walkability and public transport access).

### **Hunter Water - 12 April 2023**

Hunter Water has no objection to the proposed rezoning of 1 Progress Road, Mount Hutton from "R2 Low Density Residential" to "B1 Neighbourhood Centre":

- The site is connected to the gravity network of the Gateshead 1 Wastewater Pump Station catchment.
- The site is connected to the New Lambton Heights 2 Reservoir water supply zone.

Formal connection requirements, and any developer-funded upgrades to the Hunter Water networks, will be formalised as part of a Section 50 application during the DA stage.

Hunter Water has also provided additional advice (April 2024) with standard requirements for a future development application.

### **Ausgrid - 10 May 2023**

AusGrid provided advice with Council's obligations and considerations during a future development application stage, as well as standard requirements in relation for the construction and installation of electrical infrastructure.

### Gateway determination

#### **Department of Planning, Housing and Infrastructure – 28 June 2024**

The Department reviewed the proposal through the Gateway determination process. The Gateway determination established that the planning proposal may proceed subject to the conditions in the gateway determination, and that Council may exercise local plan-making authority functions in relation to the planning proposal.

The determination also specified that the Department agrees that the inconsistency of the planning proposal with section 9.1 Directions 3.2 Heritage Conservation, 4.1 Flooding, 6.1 Residential Zones and 7.1 Industry and Employment, is justified in accordance with the terms of these Directions. No further approval is required in relation to these Directions.

Council will still need to obtain the agreement of the Secretary to comply with the requirements of section 9.1 Directions 4.3 Planning for Bushfire Protection and 4.6 Mine Subsidence and Unstable Land prior to the LEP being made.

### Post-gateway consultation

The Gateway determination conditioned consultation with the following public authorities and government agencies:

- Transport for NSW
- NSW Rural Fire Service

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- School Infrastructure NSW
- Department of Climate Change, Energy, the Environment and Water
- Subsidence Advisory NSW
- Awabakal Aboriginal Land Council
- Hunter Water

Each public authority was notified via the NSW Planning Portal on 28 June 2024, provided with a copy of the planning proposal and given 30 working days to comment on the proposal. The following advice has been received:

#### **Department of Climate Change, Energy, the Environment and Water – 5 July 2024**

The Biodiversity, Conservation and Science (BCS) Group of the NSW Department of Climate Change, Energy, the Environment and Water (DCCEE) have reviewed the Planning Proposal and have no comments relating to biodiversity or flooding matters.

#### **Subsidence Advisory NSW – 16 July 2024**

Subsidence Advisory does not have any objection to the rezoning. Any future applications received for subdivision or surface development of the land would be assessed in accordance with our Subdivision and Merit Assessment Policies

#### **Transport for NSW – 26 July 2024**

TfNSW raises no objection to or requirements for the proposed development as it is considered there will be no significant impact on the nearby classified (State) road network.

#### **NSW Rural Fire Service (NSW RFS) - 8 August 2024**

The NSW RFS has no objection to the proposed rezoning from R2 Low Density Residential to E1 Local Centre for the subject site. The recommendations in the Bushfire Assessment Report prepared by Australian Bushfire Consulting Services (dated 11/02/2022, ref: 22-020) submitted with this application are required to be considered for future development to demonstrate compliance with *Planning for Bush Fire Protection 2019*, including but not limited to the following:

- The entire property must be managed as an inner protection area in accordance with Appendix 4.1.1 of *Planning for Bush Fire Protection 2019*;
- Future development that increases the residential density of the site, particularly where residential flat buildings and shop top housing are concerned, must not be located within 12 metres of the west lot boundary and 11m from the north-west lot boundary as identified with the Bushfire Assessment Report prepared by Australian Bushfire Consulting Services, (dated 11/02/2022, ref: 22-020); and,
- Future buildings will need to be constructed in accordance with the respective BAL requirements as detailed within sections 3 and 5 to 9 of AS3959 - 2018 Construction of buildings in bushfire prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas 2014 as appropriate.

#### **Hunter Water – 12 August 2024**

Hunter Water has no objection to the proposal. Their requirements are outlined in the Development Requirements Letter issued to the proponent 10 April 2024.

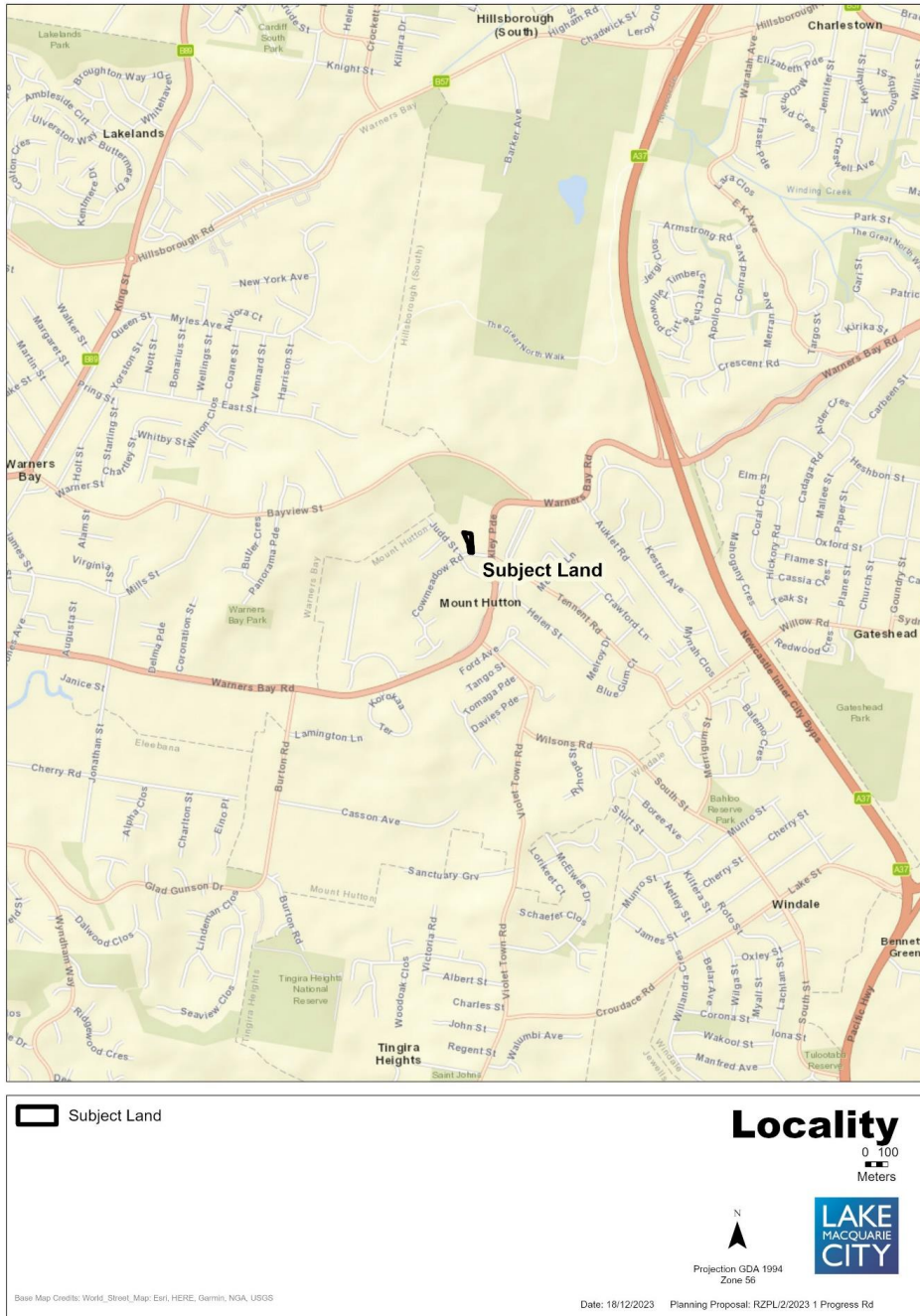
Part 3 – Justification of strategic and site-specific merit

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Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

# Part 4 – Mapping

## Map 1 – Locality



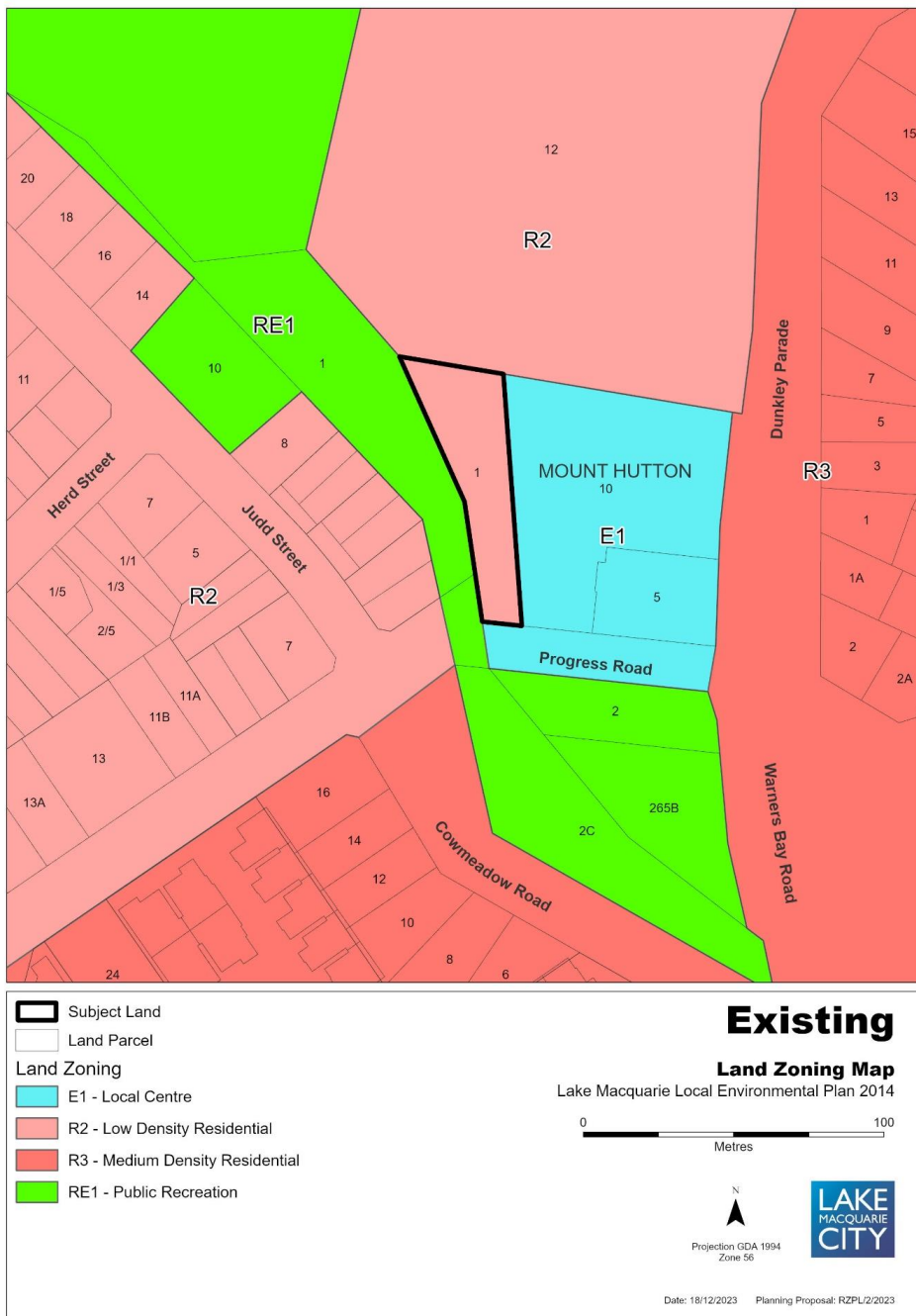
Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

Map 2 – Aerial



Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

Map 3 – Existing Land Zoning Map



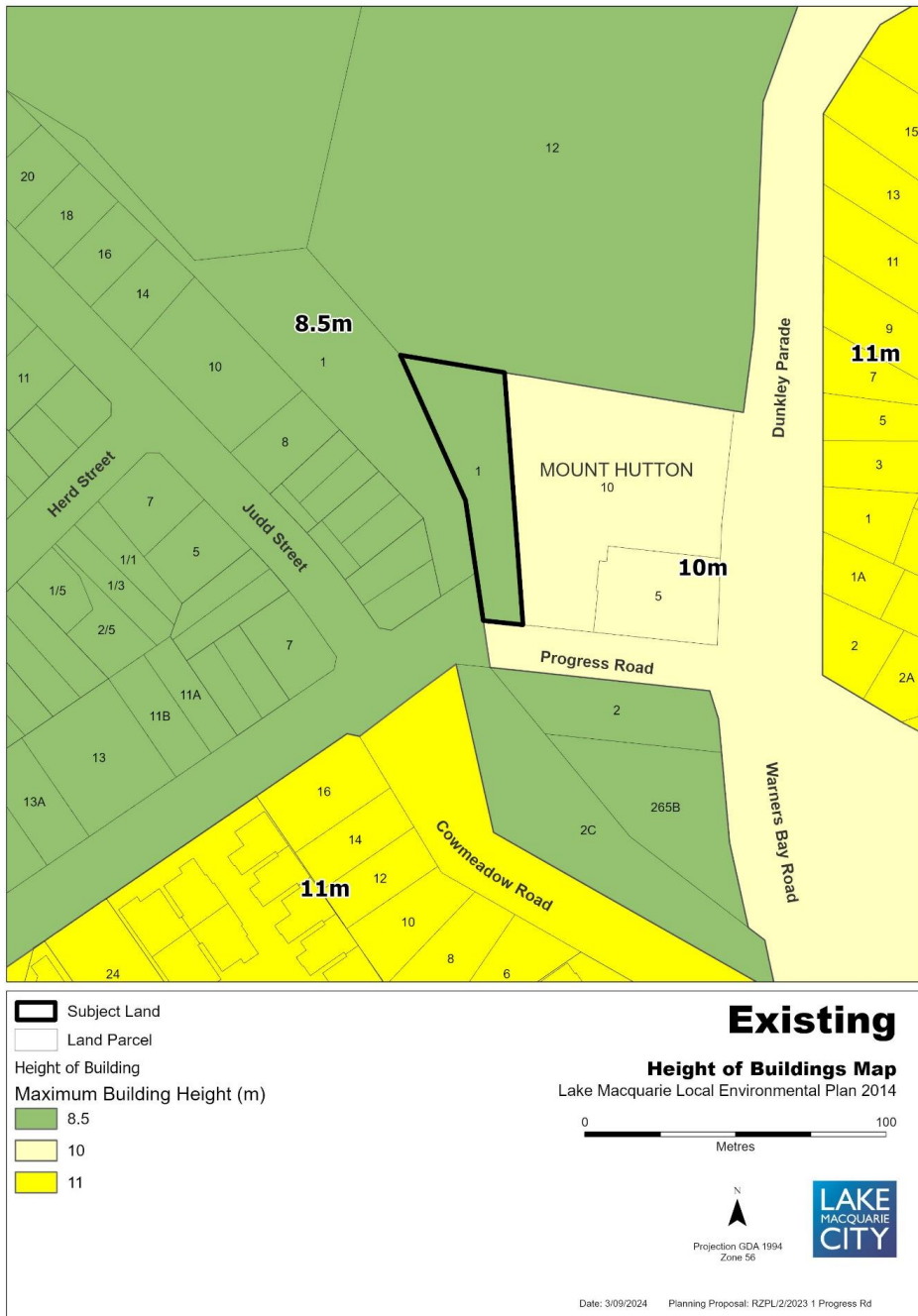
Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

Map 4 – Proposed Land Zoning Map



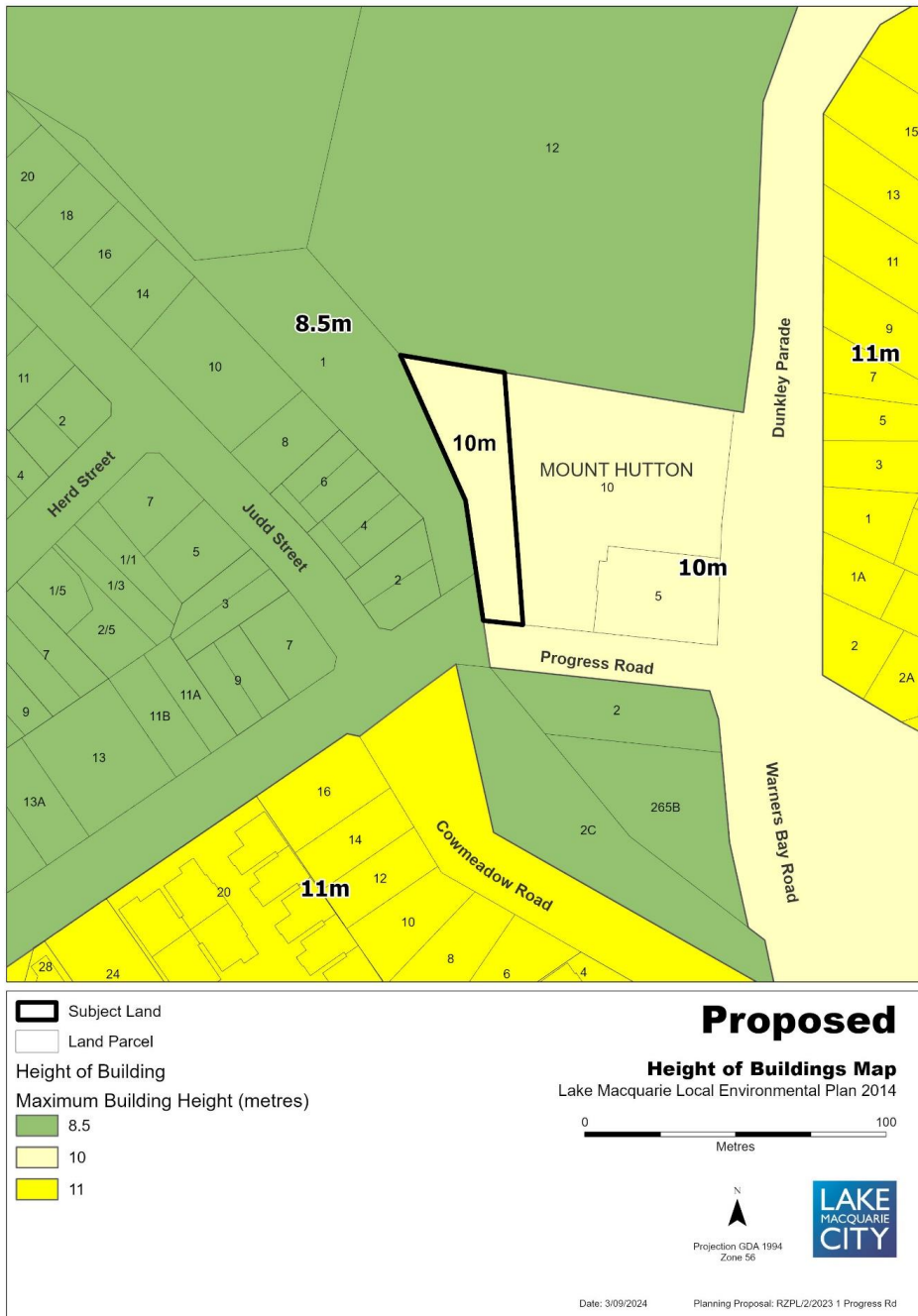
Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

Map 5 – Existing Height of Buildings Map



Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

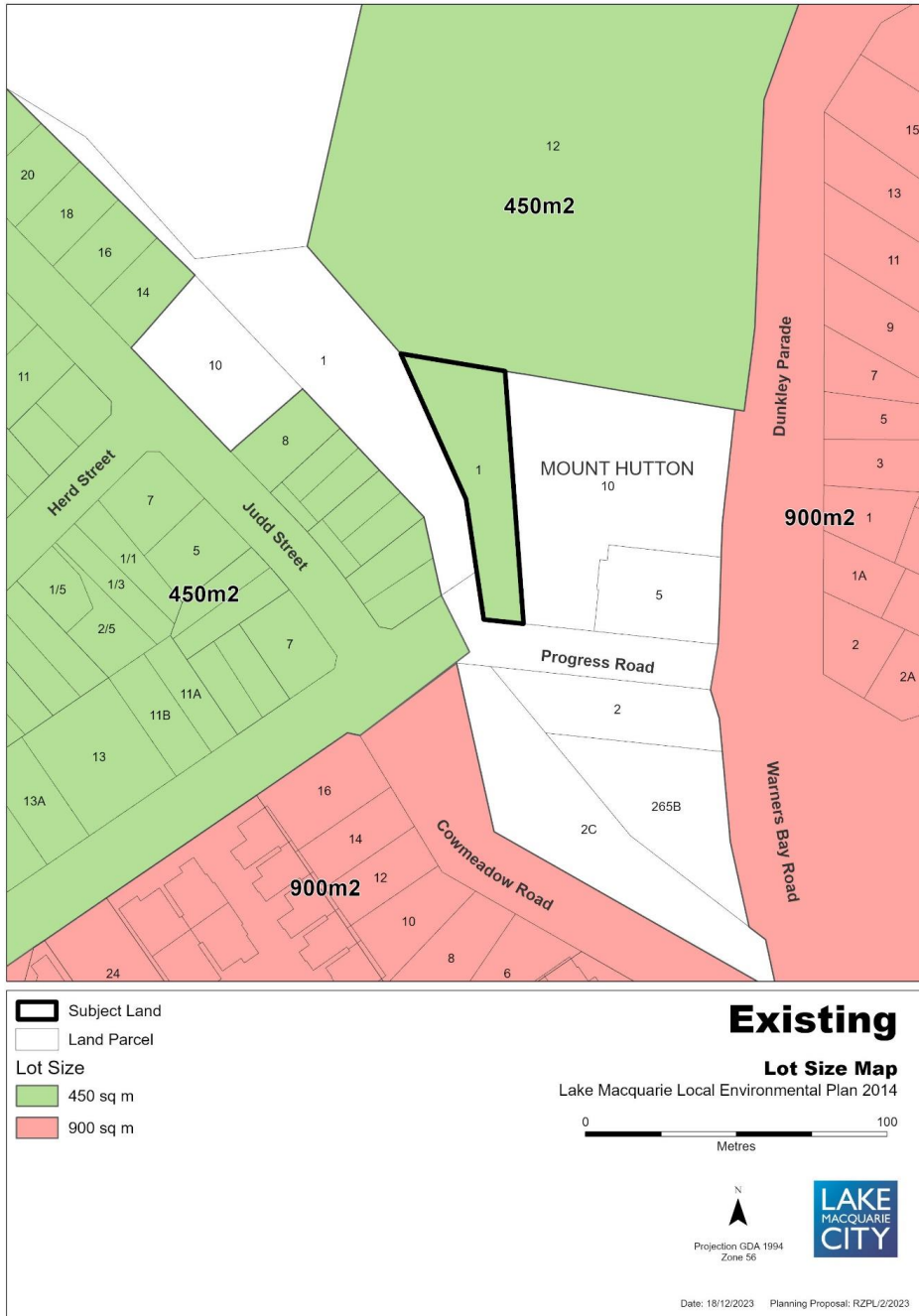
Map 6 – Proposed Height of Buildings Map





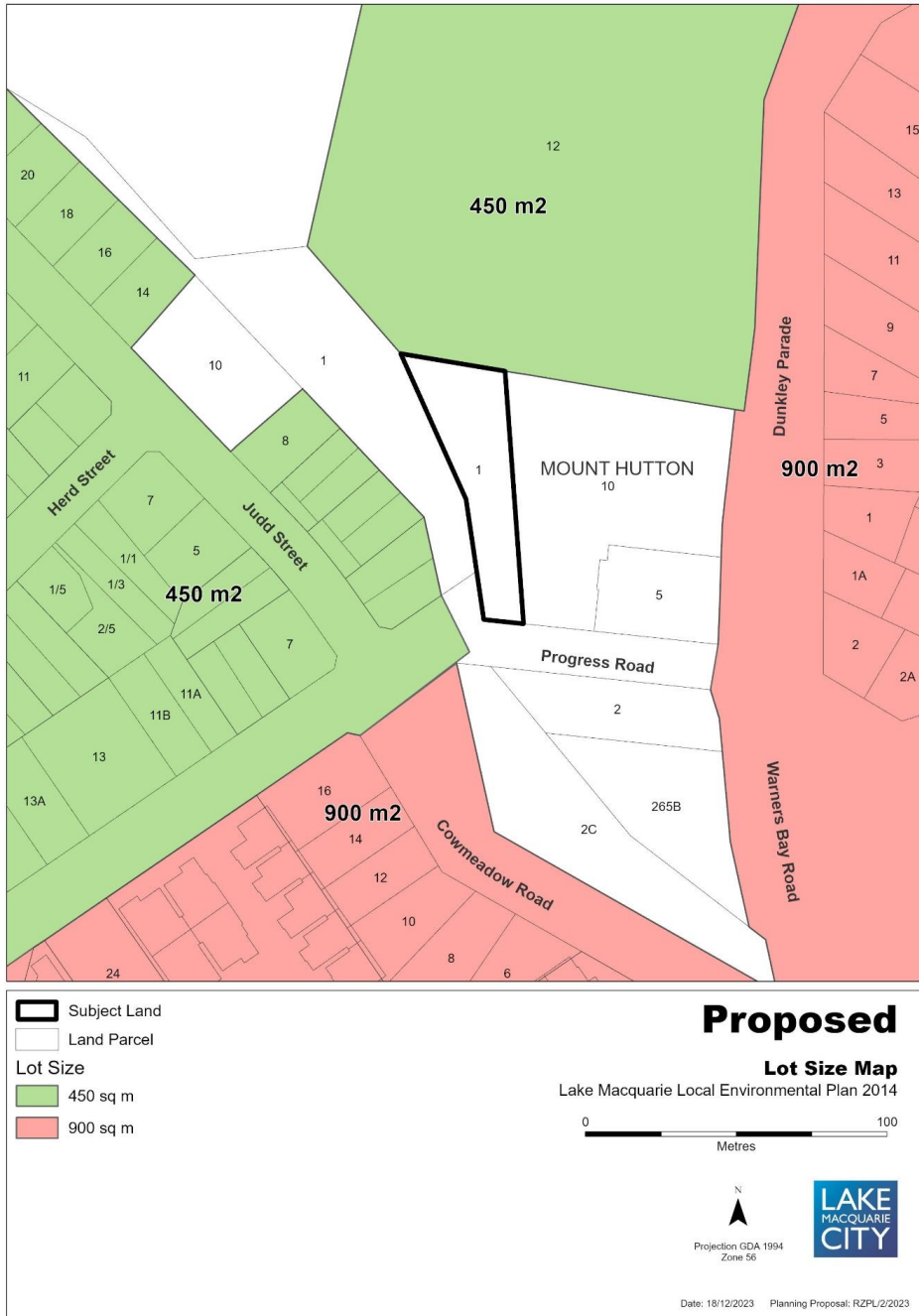
Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

Map 7 – Existing Lot Size Map



Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

Map 8 – Proposed Lot Size Map



Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

## Part 5 – Community Consultation

### Consultation with state agencies or authorities

Council consulted with state agencies or authorities during the pre-lodgement stage in 2023 according to the criteria for authority and government agency consultation in the pre-lodgement stage (provided by attachment B of the 'LEP Making Guideline'). Council also consulted with state agencies or authorities according to the Gateway determination in July-August 2024. No objections were noted. See section E, page 25 for details.

### Community consultation

The proposal was on public exhibition between 16 September and 15 October 2024. The proposal was exhibited and available for the public on Council's community engagement portal ShapeLakeMac and the NSW Government Planning Portal. Hard copies of the proposal were available at Windale Hub and LMCC Customer Service counter. Adjoining landowners were notified by mail.



During the exhibition period, there was:

- 446 project pageviews at Shape Lake Mac
- 73 downloads of the planning proposal document
- 3385 reached through Council's e-newsletters.

No submissions were made.



In preparing a planning proposal, Council staff review studies, consult with internal experts, state agencies and authorities, and our community.

Council's 'Community Engagement Strategy' [Let's Shape Lake Mac](#) outlines our approach to engaging with the community and stakeholders. The strategy outlines who, when and how we will engage on plans and policies.

The level of community consultation for each planning proposal depends on its complexity and impact. The main opportunity for the community to give feedback on a planning proposal is usually during the **Public Exhibition** period. Council will consider any submissions and may make changes to the planning proposal before it is finalised.

Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

## Part 6 – Project Timeline

The process of making or amending a Local Environmental Plan (LEP) involves six key stages, as outlined in the NSW Government's 'Local Environmental Plan Making Guideline'. The planning proposal is updated as it advances through these stages.

This planning proposal is currently at the end of stage 5 of the LEP making process – Public Exhibition where Council will be considering whether to endorse the proposed amendment of the Local Environmental Plan or not.

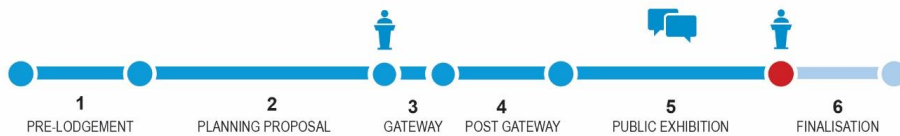





Figure 15 shows where the planning proposal is at in the Local Environmental Plan making process.

The table below provides an overview of the key activities and expected timeline for this planning proposal. These are indicative dates and timeframes which may change due to future decisions and advice given during future stages.

**Table 1 Indicative timeline for planning proposal based on gateway determination.**

Stage	Dates/Timeframe
<b>Stage 1:</b> Pre-lodgement phase	March – June 2023
<b>Stage 2:</b> Planning proposal lodged on the Planning Portal	January 2024
<b>Stage 2:</b> Council resolution to proceed to Gateway and Public exhibition 	11 June 2024
<b>Stage 3:</b> Gateway assessment and determination	28 June 2024
<b>Stage 4:</b> Post Gateway phase – consultation with agencies and preparation of exhibition	July-August 2024
<b>Stage 5:</b> Public Exhibition – 20 working days 	16. September - 15. October
<b>Stage 5:</b> Post-exhibition assessments - consideration of submissions, review of proposal and any additional studies.	Oct-Nov 2024
<b>Stage 5:</b> Council consideration of proposal 	9 December 2024
<b>Stage 6:</b> Finalisation – notification / gazettal of LEP Amendment - 55 working days*	Within 28 March 2025

\* Benchmark timeframes – Local Environmental Plan Making Guideline

Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

## Attachment 1 - Assessment of consistency with Hunter Regional Plan 2041

### OBJECTIVE 1: Diversify the Hunter’s mining, energy and industrial capacity

Strategy 1.1 Planning proposals for mine or power station sites identified as regionally significant growth areas will be supported by a place strategy which demonstrates how the proposal will	Compliance
<ul style="list-style-type: none"> <li>maximise employment generation or will attract visitors to the region.</li> </ul>	N/A
<ul style="list-style-type: none"> <li>make use of voids and/or site infrastructure such as rail loops, hard stand areas, power, water and road access.</li> </ul>	N/A
<ul style="list-style-type: none"> <li>support the growth of adjoining industrial areas or settlement areas.</li> </ul>	N/A
<ul style="list-style-type: none"> <li>enhance corridors within the landscape such as biodiversity corridors or disused infrastructure corridors.</li> </ul>	N/A
<ul style="list-style-type: none"> <li>complement areas with special amenity value such as critical industry clusters, open space, villages and residential areas</li> </ul>	N/A
<ul style="list-style-type: none"> <li>have considered the existing and likely future uses of adjoining land and avoid land use conflict.</li> </ul>	N/A
<ul style="list-style-type: none"> <li>align with any specific guidance in the district planning priorities section of this plan</li> </ul>	N/A
Strategy 1.4 Planning proposals for new employment lands will demonstrate they:	Compliance
<ul style="list-style-type: none"> <li>are located in areas which will not result in land use conflict.</li> </ul>	Yes
<ul style="list-style-type: none"> <li>can be adequately serviced and any biodiversity impacts are manageable</li> </ul>	Yes
<ul style="list-style-type: none"> <li>respond to the employment land needs identified for that local government area.</li> </ul>	Yes

#### Assessment

- The planning proposal does not apply to former mine or power station site.
- The site is not of a size or location suitable for industrial land use (manufacturing, logistics and warehouses). The proposed rezoning will support job growth and employment uses appropriate for the site as it is well serviced, with low biodiversity impacts and land use conflicts.

### OBJECTIVE 2: Support the right of Aboriginal residents to economic self-determination

No relevant PP matters.

Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

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

<b>Strategy 3.1 Planning proposals that propose a residential, local centre or commercial centre zone will not prohibit the following land uses within urban core, general urban, inner suburban and general suburban contexts:</b>	<b>Compliance</b>
business premises	Yes
restaurants or cafes	Yes
take-away food and drink premises	Yes
neighbourhood shops and supermarkets	Yes
educational establishments	Yes
early education and care facilities	Yes
health services facilities	Yes
markets	Yes
community facilities	Yes
recreation areas	Yes
<b>Strategy 3.2 Planning proposals will incorporate:</b>	
<ul style="list-style-type: none"> <li>a small neighbourhood centre if the proposed residential yield exceeds 1,500 dwellings or</li> </ul>	N/A
<ul style="list-style-type: none"> <li>a large neighbourhood centre if the proposed residential yield exceeds 4,000 dwellings.</li> </ul>	N/A
The neighbourhood centre will:	N/A
<ul style="list-style-type: none"> <li>support a floor area informed by a local retail demand analysis</li> </ul>	
<ul style="list-style-type: none"> <li>have enough developable area to accommodate the uses over one level with at grade parking to reduce costs</li> </ul>	N/A
<ul style="list-style-type: none"> <li>be located to maximise its convenience for the vast majority of residents of which it serves</li> </ul>	N/A
<ul style="list-style-type: none"> <li>be located in a high profile location (i.e. main arterial road or precinct with strong pedestrian traffic)</li> </ul>	N/A
<ul style="list-style-type: none"> <li>be supported by a walkable catchment and pedestrian friendly environment.</li> </ul>	N/A

**Assessment**

The planning proposal does not prohibit any of listed land uses and does not provide opportunities for a large residential yield which is why strategy 3.2 is considered non applicable. It is however

Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

strongly aligned with the main objective of creating 15-minute neighbourhoods and supporting mixed, multi-modal, inclusive and vibrant communities.

The planning proposal will complement and strengthen an existing neighbourhood centre and provide local opportunities for jobs and services at a site which is easily accessible through an existing, well established active and public transport infrastructure (see Figure 1). Development at the site would be required to offer a pedestrian facility and provide opportunities for streetscape improvements that would benefit the neighbourhood.

**OBJECTIVE 4: An inter-connected and globally-focused Hunter without car dependent communities**

Strategy 4.10 Planning proposals will:	Compliance
<ul style="list-style-type: none"> <li>align with the growth of defence, aeronautics, aerospace, freight and logistics capacity at Williamstown and the Port of Newcastle, taking into consideration the Port of Newcastle Port Master Plan 2040;</li> </ul>	N/A
<ul style="list-style-type: none"> <li>maximise opportunities to increase capacity to manage freight through the ports/airports and provide access to new markets; and</li> </ul>	N/A
<ul style="list-style-type: none"> <li>protect ports and airports via assessment of the impacts of development on the port/airport to avoid land limiting their future growth.</li> </ul>	N/A
<b>Strategy 4.11 Planning proposals must not undermine the long-term capacity of inter-regional connections to meet future freight and logistics movements.</b>	N/A
<b>Strategy 4.13 Planning proposals will not allow incompatible land uses that could affect the long-term growth of defence-related assets, key strategic links and training areas.</b>	N/A

*Assessment*

The strategies under this objective that apply to planning proposals are not applicable, however as the planning proposal does support the objective in reducing car dependencies and relevant defined performance outcomes

- Access is provided to housing, jobs and services by walking, cycling and public transport
- Urban areas and densities support the efficient and viable operation of public transport services.

by optimising land use and density on a site easily accessible by walking, cycling and public transport infrastructure. By strengthening the local centre function and providing the opportunity for a higher density within short distance from a bus stop than the current zoning and site constraints allow, the proposal supports efficient and viable operation of public transport services by optimising market opportunities/ demand on an existing route.

**OBJECTIVE 5: Plan for 'nimble neighbourhoods', diverse housing and sequenced development**

Strategy 5.3 Planning proposals will not prohibit the following housing typologies within residential zones that apply to urban core, general urban, inner suburban and general suburban contexts:	Compliance
attached dwellings	N/A

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<b>Strategy 5.3 Planning proposals will not prohibit the following housing typologies within residential zones that apply to urban core, general urban, inner suburban and general suburban contexts:</b>	<b>Compliance</b>
boarding houses	N/A
dual occupancies	N/A
group homes	N/A
multi dwelling housing	N/A
secondary dwellings	N/A
semi-detached dwellings.	N/A

#### *Assessment*

The planning proposal to rezone the site from a low-density residential to local centre zone changes the types of houses permissible on the site. A local centre zone permits residential flat buildings and shop top housing. Noting that the environmental constraints make it challenging to deliver a residential development on the site, there are no proposed provisions to exclude any types of residential development permissible within the zone should a developer find a concept with a residential component that effectively mitigate bushfire and flooding risks.

#### **OBJECTIVE 6: Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments**

	<b>Compliance</b>
<b>Strategy 6.3 Planning proposals will ensure the biodiversity network is protected within an appropriate conservation zone unless an alternate zone is justified following application of the avoid, minimise, offset hierarchy.</b>	N/A
<b>Strategy 6.4 Planning proposals should promote enterprises, housing and other uses that complement the biodiversity, scenic and water quality outcomes of biodiversity corridors. Particularly, where they can help safeguard and care for natural areas on privately owned land.</b>	N/A
<b>Strategy 6.11 Planning proposals will demonstrate that development within a drinking water catchment or sensitive receiving water catchment will achieve a neutral or beneficial effect on water quality.</b>	Yes

#### *Assessment*

There are no heritage or cultural values documented at the site, and biodiversity values are low (see also assessment of environmental impact, p 16). The site adjoins an existing drainage reserve. All future development will be undertaken in accordance with Council controls for stormwater management and erosion and sediment control to mitigate impact on the watercourse. Any specific environmental impacts associated with a future development on the site can be addressed at the development application stage.

Enabling increased density on an accessible and well serviced site with low biodiversity values, reduce the development pressure on other land where conservation values and environmental impact are higher.



Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

#### OBJECTIVE 7: Reach net zero and increase resilience and sustainable infrastructure

<b>Strategy 7.5 Planning proposals will: protect sensitive land uses from sources of air pollution, such as major roads, railway lines and designated freight routes, using appropriate planning and development controls and design solutions to prevent and mitigate exposure and detrimental impacts on human health and wellbeing.</b>	N/A
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##### Assessment

Site is not located in close proximity to major road, railway line or designated freight routes.

The proposed rezoning increases hazard-resilience by responding to and mitigating the bushfire and flooding risks related to the site (see also response from NSW RFS and BCD on page 25).

#### OBJECTIVE 8: Plan for businesses and services at the heart of healthy, prosperous and innovative communities

	Compliance
<b>Strategy 8.2 Planning proposals will accommodate new commercial activity in existing centres and main streets unless it forms part of a proposed new community or is an activity that supports a 15-minute neighbourhood.</b>	Yes
<b>Strategy 8.6 Planning proposals to facilitate tourism activities will:</b>	
<ul style="list-style-type: none"> <li>demonstrate that the scale and type of tourism land use proposed can be supported by the transport network and complements the landscape setting</li> </ul>	N/A
<ul style="list-style-type: none"> <li>be compatible with the characteristics of the site and existing and likely future land uses in the vicinity of the site</li> </ul>	N/A
<ul style="list-style-type: none"> <li>demonstrate that the tourism land use would support the function of nearby tourism gateways or nodes</li> </ul>	N/A
<ul style="list-style-type: none"> <li>be supported by an assessment prepared in accordance with the Department of Primary Industries' Land Use Conflict Risk Assessment Guide if the use is proposed on or in the vicinity of rural zoned lands.</li> </ul>	N/A

##### Assessment

The proposal accommodates new commercial activity in relation to an existing centre, providing an opportunity for the centre to better serve the local community and supporting a 15-minute neighbourhood. See also assessment of economic impact, page 23.

Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

### OBJECTIVE 9: Sustain and balance productive rural landscapes

	Compliance
<b>Strategy 9.1 Planning proposals will consider the location of mineral and energy resources, mines and quarries and ensure sensitive land uses would not encroach on those operations. A noise study may be required to demonstrate impacts on the operations can be avoided or mitigated.</b>	N/A
<b>Strategy 9.6 Planning proposals to expand rural town and village growth boundaries will be supported by an assessment prepared in accordance with the Department of Primary Industries' Land Use Conflict Risk Assessment Guide to limit or avoid conflicts between residential uses and agricultural activities.</b>	N/A
<b>Strategy 9.4 Planning proposals for lands within or near critical industry cluster land will demonstrate they are</b>	
<ul style="list-style-type: none"> <li>compatible with equine and viticultural activities and:</li> </ul>	N/A
<ul style="list-style-type: none"> <li>complements scenic values, visual amenity and local character</li> </ul>	N/A
<ul style="list-style-type: none"> <li>provides suitable separation distances for sensitive uses, like tourist accommodation, having regard to spray, noise, and lighting considerations</li> </ul>	N/A
<ul style="list-style-type: none"> <li>considers existing and likely future agricultural and rural uses of adjoining lands and the cumulative impact of similar proposals on the locality.</li> </ul>	N/A

Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

## Attachment 2 – Consistency with Ministerial Directions relevant to the planning proposal

The following table identifies which Ministerial Directions are applicable to the planning proposal<sup>2</sup> with an evaluation of consistency.

Ministerial Direction	Evaluation
<b>Focus area 1: Planning Systems</b>	
<p><b>1.1 Implementation of Regional Plans</b></p> <p>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p>	<p><b>Consistent.</b> The Planning Proposal is consistent with Hunter Regional Plan 2041. See detailed assessment on page 11.</p>
<p><b>1.2 Development of Aboriginal Land Council land</b></p> <p>The objective of this direction is to provide for the consideration of development delivery plans prepared under chapter 3 of the <i>State Environmental Planning Policy (Planning Systems) 2021</i> when planning proposals are prepared by a planning proposal authority.</p>	<p><i>Not applicable. The subject land is not identified on the Land Application Map</i></p>
<p><b>1.3 Approval and Referral Requirements</b></p> <p>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p>	<p><b>Consistent.</b> The proposal does not contain any specific provisions requiring concurrence, consultation, or referral of development applications to a Minister or public authority or nominate any development as 'designated development'.</p>
<p><b>1.4 Site Specific Provisions</b></p> <p>The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.</p>	<p><b>Consistent.</b> The proposal does not seek site-specific provisions.</p>
<p><b>1.4A Exclusion of Development Standards from Variation</b></p> <p>The objective of this direction is to maintain flexibility in the application of development standards by ensuring that exclusions from the application of clause 4.6 of a Standard Instrument Local Environmental Plan (<b>Standard Instrument LEP</b>) or an equivalent provision of any other environmental planning instrument, are only applied in limited circumstances.</p>	<p><i>Not applicable. The proposal does not to introduce or alter an existing exclusion to clause 4.6 of a Standard Instrument LEP or an equivalent provision of any other environmental planning instrument.</i></p>
<b>Focus area 2: Design and Place</b>	
N/A. This focus area was blank when the Directions were made.	
<b>Focus area 3: Biodiversity and Conservation</b>	
<p><b>3.1 Conservation Zones</b></p>	<p><b>Consistent.</b> The planning proposal does not contain environmentally sensitive areas to be protected and conserved and does not apply to land within a</p>

<sup>2</sup> Place-based Ministerial directions that only apply to specific local government areas (LGAs), and not to Lake Macquarie LGA, are not included in the table. This includes the following directions: 1.5-1.22, 3.3, 3.4, 3.8, 3.9, 7.2, 7.3, 9.2, 9.4.

## Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

Ministerial Direction	Evaluation
<p>The objective of this direction is to protect and conserve environmentally sensitive areas.</p>	<p>conservation zone or land otherwise identified for environment conservation/protection purposes.</p> <p>See description of environmental impact, p.16.</p>
<p><b>3.2 Heritage Conservation</b></p> <p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>	<p><b>Justifiably Inconsistent.</b> This direction states that a planning proposal must contain provisions that facilitate the conservation of heritage and Aboriginal cultural significance. There are no registered items, areas, objects and places of environmental and indigenous heritage significance at the subject site or in its immediate surroundings that may potentially be impacted by the rezoning. See description of environmental impact, p. 21.</p> <p>Delegate of the Secretary of the Department of Planning, Housing and Infrastructure has agreed the inconsistency is of minor significance.</p>
<p><b>3.5 Recreation Vehicle Areas</b></p> <p>The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.</p>	<p><b>Consistent.</b> The planning proposal does not enable land to be developed for the purpose of a recreation vehicle area.</p>
<p><b>3.6 Strategic Conservation Planning</b></p> <p>The objective of this direction is to protect, conserve or enhance areas with high biodiversity value.</p>	<p><i>Not applicable. The proposal does not relate to land that, under the State Environmental Planning Policy (Biodiversity and Conservation) 2021, is identified as avoided land or a strategic conservation area.</i></p>
<p><b>3.7 Public Bushland</b></p> <p>The objective of this direction is to protect bushland in urban areas, including rehabilitated areas.</p>	<p><b>Consistent.</b> The planning proposal does not relate to public bushland and is consistent with the objectives of the direction.</p>
<p><b>3.10 Water Catchment Protection</b></p> <p>The objectives of this direction are to:</p> <p>(a) maintain and improve the water quality (including ground water) and flows of natural waterbodies, and reduce urban run-off and stormwater pollution</p> <p>(b) protect and improve the hydrological, ecological and geomorphological processes of natural waterbodies and their connectivity</p> <p>(c) protect and enhance the environmental quality of water catchments by managing them in an ecologically sustainable manner, for the benefit of all users</p> <p>(d) protect, maintain and rehabilitate watercourses, wetlands, riparian lands and their vegetation and ecological connectivity.</p>	<p><b>Consistent.</b> The site adjoins an existing drainage reserve in the Jewells Wetland catchment. All future development will be required to undertaken in accordance with Council requirements to manage water quality and impact on the watercourse.</p> <p>Council has development controls related to water catchment protection that will apply for any future development, including controls related to 'Natural Water Systems' and 'Storm Water Management' in the <a href="#">Lake Macquarie Development Control Plan</a> and 'Water Cycle Management Guidelines' under <a href="#">Development Guidelines</a>.</p> <p>See also description of environmental impact, p. 16.</p>
<p><b>Focus area 4: Resilience and Hazards</b></p>	
<p><b>4.1 Flooding</b></p> <p>The objectives of this direction are to:</p> <p>(a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land</p>	<p><b>Justifiably inconsistent.</b> The proposal is inconsistent with this direction as part of the site is subject to flooding in a 1%Annual Exceedance Probability event and the PMF of 41.05 and it does not include provisions that give effect to the NSW</p>

Planning Proposal – R2 Low Density Residential to E1 Local Centre - 1 Progress Road, Mount Hutton

Ministerial Direction	Evaluation
<p>Policy and the principles of the Floodplain Development Manual 2005, and</p> <p>(b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.</p>	<p>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. The southern section of the site is affected by low hazard flood controls (freeboard extent) and catchment flooding controls (minimum floor level) apply to future development. 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. BCD has considered the proposal (see p 26) and is satisfied with the flooding aspects, finding a commercial development would be a reduction in risk.</p> <p>Delegate of the Secretary of the Department of Planning, Housing and Infrastructure has agreed the inconsistency is justified.</p>
<p><b>4.2 Coastal Management</b></p> <p>The objective of this direction is to protect and manage coastal areas of NSW.</p>	<p><i>Not applicable. The site is not located within a Coastal Area as defined under State Environmental Planning Policy Resilience and Hazards 2021.</i></p>
<p><b>4.3 Planning for Bushfire Protection</b></p> <p>The objectives of this direction are to:</p> <p>(a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) encourage sound management of bush fire prone areas.</p>	<p><b>Justifiably inconsistent.</b> The subject site is mapped as being bushfire prone land. The proposal is supported by a bushfire report assessing how a residential and commercial development on the subject site may respond to the bushfire threat. Council has consulted with NSW Rural Fire Service, and they have no objection to the rezoning (p 25). Any future development must demonstrate compliance with <i>Planning for Bushfire Protection 2019</i>.</p> <p>Delegate of the Secretary of the Department of Planning, Housing and Infrastructure has agreed the inconsistency with this Direction is justified.</p>
<p><b>4.4 Remediation of Contaminated Land</b></p> <p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p>	<p><b>Consistent.</b> The proposal is supported by a combined Preliminary and Detailed Site Investigation (PSI/DSI report) finding localised lead and zinc contamination by Ideal Geotech. The Remedial Action Plan (RAP) demonstrates that the Site can be remediated to meet or exceed HIL-A criteria, ensuring its suitability and safety for proposed constructions and the permissible uses and activities associated with 'E1 Local Centre' zoning. A future development consent will address contamination and remediation works as required by the State Environmental Planning Policy (Resilience and Hazards) 2021 and Contaminated land controls in the Lake Macquarie's Development Control Plan.</p> <p>See detailed description of contamination under environmental impact, p 20.</p>
<p><b>4.5 Acid Sulfate Soils</b></p> <p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>	<p><i>Not applicable. Planning proposal does not involve land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps held by the Department of Planning and Environment.</i></p>

Attachment 2 - Assessment of consistency with Ministerial Directions

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<p><b>4.6 Mine Subsidence and Unstable Land</b></p> <p>The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</p>	<p><b>Justifiably inconsistent.</b> The site is located within the Lake Macquarie Subsidence District. Subsidence Advisory had no objections to the proposal. Their records indicate that the site is not undermined, is located outside the influence of historical coal mine workings and located outside of an active coal mine or exploration title. Future development will require their approval.</p> <p>Delegate of the Secretary of the Department of Planning, Housing and Infrastructure has agreed the inconsistency with this Direction is justified.</p>
<p><b>Focus area 5: Transport and Infrastructure</b></p>	
<p><b>5.1 Integrating Land Use and Transport</b></p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> <li>(d) supporting the efficient and viable operation of public transport services, and</li> <li>(e) providing for the efficient movement of freight.</li> </ul>	<p><b>Consistent.</b> The proposal will improve access to job and services by walking, cycling and public transport due to its location, and thus reduce dependence on cars, and support the efficient and viable operation of public transport services.</p> <p>The proposal will enable jobs and services where active transport infrastructure is mostly established (with high quality pedestrian facilities such as pelican crossings), within short distance from the bus stops on Dunkley Parade, a public transport route with buses frequently stopping, supporting the viable operation of an existing bus service.</p> <p>The site is located on Council's Principal Pedestrian Network as established by Council's <a href="#">Walking, Cycling and Better Streets Strategy</a>. As shown in Figure 1, the existing built paths ends at the site. The redevelopment of the site will provide an opportunity to add this missing link to the pedestrian network which will improve the access between the residential areas in the west and the school, shops and bus stops in the east of the site.</p>
<p><b>5.2 Reserving Land for Public Purposes</b></p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>(a) facilitate the provision of public services and facilities by reserving land for public purposes, and</li> <li>(b) facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</li> </ul>	<p><b>Consistent.</b> No land reserved for a public purpose forms part of this proposal.</p>
<p><b>5.3 Development Near Regulated Airports and Defence Airfields</b></p> <p>The objectives of this direction are to: (a) ensure the effective and safe operation of regulated airports and defence airfields; (b) ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and (c) ensure development, if situated on noise sensitive land, incorporates appropriate mitigation</p>	<p><i>Not applicable. The site is not near to an airport or defence airfield.</i></p>

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<p>measures so that the development is not adversely affected by aircraft noise.</p> <p>5.4 Shooting Ranges</p> <p>The objectives are to: (a) maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range; (b) reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, and (c) identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range</p>	<p><i>Not applicable. Planning proposal will not affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.</i></p>
<p><b>Focus area 6: Housing</b></p>	
<p>6.1 Residential Zones</p> <p>The objectives of this direction are to:</p> <p>(a) encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>(c) minimise the impact of residential development on the environment and resource lands.</p>	<p><b>Justifiably inconsistent.</b> The planning proposal is inconsistent with this direction as it will reduce a residential zone. The proposed rezoning will seek to alter the current residential zoning of the site but will remain consistent with this direction where:</p> <ul style="list-style-type: none"> <li>• It does not reduce the permissible residential density of the land.</li> <li>• Residential accommodation is permissible in the E1 Local Centre Zone. The housing types permissible within this zone include residential flat buildings and shop top housing. This provides an opportunity to widen variation in local housing stock currently dominated by individual houses.</li> <li>• The proposal will facilitate more efficient use of existing infrastructure, relative to the extensive available infrastructure presently servicing only one dwelling within the site.</li> <li>• Future development will provide for the efficient use of a largely vacant lot immediately adjoining a commercial centre, reducing the consumption of land for urban development.</li> </ul> <p>Delegate of the Secretary of the Department of Planning, Housing and Infrastructure has agreed the inconsistency is of minor significance.</p>
<p>6.2 Caravan Parks and Manufactured Home Estates</p> <p>The objectives of this direction are to:</p> <p>(a) provide for a variety of housing types, and</p> <p>(b) provide opportunities for caravan parks and manufactured home estates.</p>	<p><b>Consistent.</b> No caravan parks or manufactured home estates sought by this application. The subject site is not suitable as a caravan park or manufactured home estate. Current zoning does not permit this form of development, the proposal does not alter the permissibility of this form of development.</p>
<p><b>Focus area 7: Industry and Employment</b></p>	
<p>7.1 Employment Zones</p> <p>The objectives of this direction are to:</p> <p>(a) encourage employment growth in suitable locations,</p> <p>(b) protect employment land in employment zones, and</p> <p>(c) support the viability of identified centres.</p>	<p><b>Justifiably inconsistent.</b> 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. The proposal is however otherwise consistent with the 7.1 direction as follows:</p> <p>a) <i>give effect to the objectives of this direction</i></p>

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	<ul style="list-style-type: none"> <li>- The proposal gives effect to the objectives. See detailed description below.</li> </ul>
	<p>b) <i>retain the areas and locations of existing business and industrial zones</i></p> <ul style="list-style-type: none"> <li>- The proposal does not reduce the areas and locations on existing business and industrial zones.</li> </ul>
	<p>c) <i>not reduce the total potential floor space area for employment uses and related public services in business zones</i></p> <ul style="list-style-type: none"> <li>- The proposal does not reduce the total potential floor space area in the employment and business zones.</li> </ul>
	<p>d) <i>not reduce the total potential floor space area for industrial uses in industrial zones, and</i></p> <ul style="list-style-type: none"> <li>- The proposal has no impact on industrial zoned land.</li> </ul>
	<p>e) <i>ensure that proposed new employment areas are in accordance with a strategy that is approved by the Planning Secretary.</i></p> <ul style="list-style-type: none"> <li>- Section B of the planning proposal details how the proposal is consistent with the Hunter Regional Plan and Lake Macquarie LSPS.</li> </ul>
	<p><u>7.1 Employment zone objectives</u></p> <p>The planning proposal gives effect to the objectives of this direction in the following way:</p> <p>(a) <i>encourage employment growth in suitable locations</i></p> <p>The proposal encourages employment growth in a suitable location, namely within the local centre of Mount Hutton.</p> <p>It is conservatively estimated, based on the proponent's current operations, that at least 30 jobs will be generated from a commercial land use of the site. This is based on initial concept planning identifying the site is capable of providing over 900m<sup>2</sup> gross floor area for a land use consistent with the intended zoning.</p> <p>This growth in employment will be entirely complementary to the existing land uses in the Local Centre, improving expenditure within the adjoining businesses.</p> <p>(b) <i>protect employment land in business and industrial zones</i></p> <p>The proposal will not impact on any other areas of business or industrial zoned land. The proposal is</p>



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	<p>deemed to be complementary to the adjoining commercial land uses and will in no way detract from the viability of the core Mount Hutton retail centre located off Wilson Road.</p> <p>The site shape and potential floor area would not support significant retail land use, or significantly increase lettable floor area, to jeopardise viability of the core retail land use within Mount Hutton.</p> <p>The function and viability of the immediate adjoining land users in the local centre will also not be impacted by this proposal. The site would in no way be suitable for an additional supermarket that would impact on the adjoining Aldi, whilst the sites limited frontage would encourage an alternative business land use to the tenancies all fronting Progress Road or Warners Bay Road.</p> <p>The proposal will therefore provide opportunity for additional employment generating floor space; however, this space will be utilised in a manner that complements rather than detracts from existing business zoned land in Mount Hutton.</p> <p><i>(c) support the viability of identified centres</i></p> <p>The intended zoning change supports the viability of identified centres as follows:</p> <p>Mount Hutton local centre (Dunkley Parade shops) – the adjoining centre viability is supported by increasing the number of persons travelling to the centre for employment. This will increase expenditure and activity within the centre.</p> <p>Mount Hutton Square – The expected use of the site under a E1 Zone would generate additional persons traveling to Mount Hutton for work. It is expected that those same persons will utilise the extensive retail offerings of this centre on their way to or from work, increasing expenditure within this centre.</p> <p>The scale of the proposal is such that it will not impact on the viability of other identified centres in Lake Macquarie.</p> <p>Delegate of the Secretary of the Department of Planning, Housing and Infrastructure has agreed the inconsistency is of minor significance.</p>
<b>Focus area 8: Resources and Energy</b>	
<p><b>8.1 Mining, Petroleum and Extractive Industries</b></p> <p>The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</p>	<p><i>Not applicable. Planning proposal does have the effect of prohibiting mining of coal, other minerals, production of petroleum, obtaining extractive materials or restricting the potential development of any known mineral resources.</i></p>
<b>Focus area 9: Primary Production</b>	

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<p><b>9.1 Rural Zones</b></p> <p>The objective of this direction is to protect the agricultural production value of rural land.</p>	<p><i>Not applicable. Planning proposal will not affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).</i></p>
<p><b>9.3 Oyster Aquaculture</b></p> <p>The objectives of this direction are to:</p> <p>(a) ensure that 'Priority Oyster Aquaculture Areas' and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, and</p> <p>(b) protect 'Priority Oyster Aquaculture Areas' and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.</p>	<p><i>Not applicable. The site is not located within Priority Oyster Aquaculture Area.</i></p>