



PLANNING PROPOSAL
Amendment to the
Cessnock Local Environment Plan 2011

**Rezoning of 324 & 325 Camp Road and 996
Lovedale Road, Allandale, Lots 1-6 DP 1036942,
and Lots 263-4 DP 755211**

Version 1.0
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TABLE of CONTENTS

PART 1: OBJECTIVES and BACKGROUND	3
PART 2: EXPLANATION of PROVISIONS.....	4
PART 3: JUSTIFICATION	6
Section A: Need for Proposal	6
Section B: Relationship to Strategic Planning Framework.....	7
Table 1: Relevant State Environmental Planning Policies.....	8
Table 2: Relevant s.117 Ministerial Directions	11
Section C: Environmental, Social and Economic Impact	16
Section D: State and Commonwealth Interests	17
PART 5: COMMUNITY CONSULTATION.....	18
PART 6: PROJECT TIMELINE.....	19
Appendix 1: Location Plan.....	21
Appendix 2: Council Report and Minutes	22
Appendix 3: Existing Land Use Zone map	33
Appendix 4: Proposed Land Use Zone map.....	34
Appendix 5: Existing Minimum Lot Size map	35
Appendix 6: Proposed Minimum Lot Size map.....	36
Appendix 7: Proposed changes to the LEP written instrument.....	37
Appendix 8: Letter from the Office of Environment and Heritage	38

PART 1: OBJECTIVES and BACKGROUND

This Planning Proposal aims to provide greater flexibility in the development layout of the proposed “Anvil Creek” integrated tourism, golf course and residential development which was originally rezoned in 2008 for this purpose. Subsequently development consent was granted for Stage 1 and a Masterplan for the site.

The current zoning of the land is very closely related to the approved development detailed above, consequently even a relatively minor change to the approved layout creates a conflict with the zone boundaries. The proponent is seeking to change the golf course layout in response to market conditions, which would not be permissible under the existing LEP provisions.

The proposal achieves greater flexibility by amending the allocation of land use zones, including the extension of the R2 Low Density Residential zone over much of the land currently zoned RE2 Private Recreation and some of the land zoned RU2 Rural Landscape. The balance of the RE2 zoned land and some of the RU2 zoned land that contain ecologically endangered species (EEC) is proposed to be zoned E2 Environmental Conservation. The proposal also provides additional measures to protect areas of biodiversity significance and to avoid residential overdevelopment of the site.

The objective of the Planning Proposal is to amend the LEP provisions to allow greater flexibility in the design of the development whilst ensuring that the amount of development permitted remains consistent with the current LEP provisions and the existing consent.

PART 2: EXPLANATION of PROVISIONS

Objectives

The objectives of the proposed amendments to the Cessnock Local Environmental Plan 2011 (LEP) are:

- To increase flexibility to enable development which has a different layout than the approved development to be considered;
- To maintain the level of development on site consistent with the current zoning, and
- To maintain or reduce the potential environmental impact arising from the current zoning.

These objectives will be delivered by the following mechanisms.

The land uses permissible within the subject site are governed by the LEP land use table and zoning map, however these provisions are modified by Table 4 of Schedule 1 of the LEP (additional permitted land uses applying to a specific site), which permits the following land uses with consent throughout the site:

- viticulture,
- multi dwelling housing,
- hotel or motel accommodation (comprising no more than 150 rooms),
- residential flat buildings,
- serviced apartments (comprising no more than 85 apartments).

The proponent is proposing changes to the layout of the golf course and the residential components of the development that would result in dwellings being located within the existing RE2 zone where they are not a permissible land use, and vice versa for the parts of the golf course.

In order to accommodate the golf course changes it is proposed to rezone most of the RE2 zoned land to R2 zoned land, and amend Schedule 1 Clause 4 of the LEP to include golf courses as an additional permitted use in the R2 zone.

In addition it is proposed that the existing B1 Neighbourhood Centre zoned land in the north of the site be rezoned R2.

Certain land that contains endangered ecological communities (EECs) would be rezoned from RE2 and RU2 to E2.

The existing zone map is at **Appendix 3** and the proposed zone map is shown in **Appendix 4**.

The land area currently zoned B1 is 6.5 ha, RE2 is 176.2 ha, R2 is 210.7 ha and RU2 29.2 ha. Under the proposal the zone areas will be B1 4.8 ha, R2 386.3 ha and E2 31.4 ha.

The existing RE2 zone boundaries were located to accommodate the layout of the original golf course concept, and to recognise the existence of areas of biodiversity significance, such as EECs. The existing R2 zone boundaries, and in particular, the spatial area embraced by the R2 zone, were located to limit the amount of residential development on the site.

While the proposal provides the flexibility sought by the proponent it potentially creates concerns regarding the potential maximum number of dwellings on the site, and of the environmental impacts of permitting a wider range of land uses within the R2 zone.

As a result it is proposed to rezone certain areas of high biodiversity value, which contain important areas of endangered ecological communities (EEC) to E2. In addition, a clause in the LEP requiring a vegetation management plan to be lodged prior to development consent would permit “fine tuning” of other conservation areas such as riparian areas, at the development application stage when greater detail was known (see Appendix 5).

The original plans for the site included a maximum limit of 1364 dwellings. The maximum number of dwellings was set based on a development concept for an “integrated residential, golf course and tourism development”, a review of land capability, the distance from Greta township (which is greater than easy walking distance), and the need to protect riparian and other areas of environmental importance. It is important that an explicit limit is placed on the maximum number of dwellings that can be developed on the site under the proposed zoning changes, because the substantially increased area proposed to be included in the enlarged R2 zone could potentially accommodate many more dwellings if developed to its maximum permissible capacity, and in effect result in a new unplanned suburb.

The above concerns could be addressed by a new clause that could be included within the Part 7 “Additional Local Provisions” of the LEP, which would:

- i. limit the number of dwellings on the subject site to the previous agreed 1364 dwellings, and,
- ii. require a vegetation management plan to be lodged to the satisfaction of the consent authority prior to development consent being granted for the subdivision of land.

The above clause would ensure that the quantum of residential development was maintained at the level envisaged by Council when the land was originally rezoned to provide for an “integrated residential, golf course and tourism development”. Further, it would provide a mechanism for biodiversity issues to be further addressed when more detailed development planning has been undertaken by the proponent.

To further ensure that the proposed amendment to Part 7 above is not challenged by Clause 4.6 “Exceptions to Development Standards”, it is proposed to include the new Part 7 clause into Clause 4.6, Subclause (8) of the LEP preventing development consent from being granted for development that would contravene the new Part 7 clause.

Because the subject land is designated as an Urban Release Area in the LEP, an additional safeguard is provided by Clause 6.3 of the LEP. This clause requires adoption of a Development Control Plan that addresses a number of specific matters prior to consent being granted for development on the land.

This requirement will ensure a comprehensive approach to the detailed development planning of the site in its entirety.

It is considered that the combined effect of the above changes will facilitate an improved development and environmental outcome from the proposed development.

The proponent has also proposed rezoning the northern B1 Neighbourhood Business zone to R2. This change is supported. The B1 area is unlikely to be viable. Neighbourhood shops are permissible with consent in the R2 zone if sufficient demand for convenience level retail eventuates.

PART 3: JUSTIFICATION

In accordance with the Department of Planning's "Guide to Preparing Planning Proposals", this section provides a response to the following issues:

- Section A: Need for Proposal;
- Section B: Relationship to Strategic Planning Framework;
- Section C: Environmental, Social and Economic Impact; and
- Section D: State and Commonwealth Interests

Section A: Need for Proposal

1. Resulting from a Strategic Study or Report

No additional strategic study has been undertaken. However, the Planning Proposal is consistent with the intent of the existing LEP provisions for the land and is consistent with the Lower Hunter Regional Strategy (LHRS).

2. Planning Proposal as best way to achieve objectives

The consideration of planning issues by Council and discussions with the Office of Environmental and Heritage indicate that the Proposal is the best way to achieve the objectives being sought. The Proposal provides flexibility while protecting the environmental values of the site and ensuring a low intensity development.

3. Net Community Benefit

The proposal provides a net community benefit by providing greater flexibility for future development to respond to market needs, thus increasing the viability of development. Certain parts of the site that contain endangered ecological communities (EEC) will receive greater protection than at present under a proposed E2 zoning.

A previous economic assessment of the completed development indicated that it will provide an estimated \$1.3 billion benefit to the Hunter Region.

Section B: Relationship to Strategic Planning Framework

4. Consistency with Objectives and Actions within Regional Strategies

The LHRS 2006 identified the site as a potential urban area, as shown in the map below. The land was rezoned for development in 2008 consistent with this outcome and this Proposal seeks to facilitate development to this end.



5. Consistency with Council's Community Strategic Plan or other Local Strategic Plan

The Proposal is consistent with the Cessnock 2023 Community Strategic Plan particularly the following objectives and strategic directions:

Objective 2.1

Diversifying local business options

- Our local government area is attractive and supportive of business.
- We have a diversity of business and industries across the local government area.
- Our planning controls provide for adequate industrial and commercial land

Objective 2.2

Achieving more sustainable employment opportunities

- We have learning opportunities for people of all ages.
- We have employment opportunities in the local government area

Objective 2.3

Increasing tourism opportunities and visitation in the area

- We have a range of diverse visitor experience across the entire local government area.
- Our local government area is attractive to visitor

Objective 3.1

Protecting & enhancing the natural environment & the rural character of the area

- Our area's rural character and heritage is protected.

- Our community is aware of the value of natural resources and biodiversity.
- Our environmental amenity is protected and enhanced.
- Our waterways and catchments are maintained and enhanced.

City Wide Settlement Strategy (2010)

The land was rezoned before this Strategy was adopted. Table 5.2 of the Strategy includes Anvil Creek in its estimate of lot production to 2031 to meet the “capacity target” of 21,000 dwellings set for the LGA by the LHRS.

6. Consistency with State Environmental Planning Policies

An assessment of relevant SEPPs against the planning proposal is provided in the table below.

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 1 - Development Standards	The SEPP makes development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary.	This SEPP does not apply to Cessnock Local Government Area following the gazettal of the Cessnock Local Environmental Plan 2011.
SEPP 4 - Development without Consent and Miscellaneous Complying Development	The SEPP allows relatively simple or minor changes of land or building use and certain types of development without the need for formal development applications. The types of development covered in the policy are outlined in the policy.	Nothing in this planning proposal affects the aims and provisions of this SEPP
SEPP 6 - Number of Storeys in a Building	The SEPP clarifies the reference to storey, floors and levels.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 15 - Rural Land Sharing Communities	The SEPP provides for multiple occupancy development, with council consent, in rural and non-urban zones, subject to a list of criteria in the policy.	Not applicable.
SEPP 21 - Caravan Parks	The SEPP provides for development for caravan parks.	Not applicable.
SEPP 22 - Shops and commercial premises	The SEPP provides for the change of use of commercial premises.	Not applicable.
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Not applicable.
SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.	Not applicable.
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Not applicable.

SEPP 36 - Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	Not applicable.
SEPP 44 - Koala Habitat Protection	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	There is potential koala habitat in the Study area along the eastern riparian area and along the northeastern boundary. Targeted surveys undertaken in association with the original rezoning of the site failed to detect evidence of koalas. Since the original rezoning, the construction of the Hunter Expressway has further isolated the site. It is considered that the land is not core koala habitat and is not an impediment to the proposed rezoning.
SEPP 50 - Canal Estates	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	Not applicable
SEPP 55 - Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination	A Phase 1 Contamination Investigation has already occurred. This investigation concluded that any identified contamination issues are localised and would not prevent the proposed land uses from occurring. Accordingly, a Phase 2 investigation could be undertaken at any resultant development application stage. A Phase 2 Investigation is required by conditions of the current development consent. The DCP/DA process will address any specific need to further consider this issue.
SEPP 62 - Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from the rezoning of land and is of relevance for site specific rezoning proposals.	Not applicable.
SEPP 64 - Advertising and Signage	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 65 - Design Quality of Residential Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of	Residential flat buildings are an additional permissible use on the site in Clause 4 Schedule 1 of the Cessnock Local Environmental Plan 2011. The provisions of SEPP 65 will be applied at the development

	residential flat development.	application stage as may be applicable.
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Housing for Seniors or People with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	The SEPP applies to the entire site due to the provisions of Clause 4 Schedule 1 of the Cessnock Local Environmental Plan 2011. The provisions of the SEPP will be applied at the development application stage as may be applicable. Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Major Development 2005	The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels (JRPPs) and classes of regional development to be determined by JRPPs.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Infrastructure 2007	The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	The site is adjacent to a railway line and the Hunter Expressway and any DA potentially affected by noise from these elements will have to have regard to the requirements of this SEPP. Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Nothing in this planning proposal affects the aims and provisions of this SEPP. Consultation will be undertaken with the Division of Resources and Energy of NSW Trade and Investment should the proposal proceed to the Gateway stage.
SEPP Temporary Structures 2007	The SEPP provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Exempt and Complying Development Codes 2008	The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for	Nothing in this planning proposal affects the aims and provisions of this SEPP.

	development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.	
SEPP Rural Lands 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	Not applicable.
SEPP Affordable Rental Housing 2009	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	This SEPP applies to land zoned R2 Low Density Residential. Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
Deemed SEPP Hunter Regional Local Environmental Plan 1989 (Heritage)	The deemed SEPP aims to conserve times of environmental heritage listed in the Schedules to the Plan	The site does not contain or is adjacent to land or heritage items listed in the Schedules to the deemed SEPP. There are heritage items on site that are listed in the LEP and receive a consequent level of protection.

7. Consistency with s.117 Ministerial Directions for Local Plan Making

An assessment of relevant s.117 Directions against the planning proposal is provided in the table below.

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implication
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	The Planning Proposal removes an existing albeit undeveloped area of land zoned B1. It is considered that this land would not accommodate a viable local business centre, and that its purpose of providing local convenience goods and services could be readily met by a neighbourhood shop (which is permissible in the proposed replacement zone).
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	The land rezones land in a rural zone (RU2) to zone R2 and E2 as relevant. The land is identified as a potential urban area by the Lower Hunter Regional Strategy, and is not prime agricultural land. In addition the configuration of the existing RU2 zone is not such

		as to support viable rural activity.
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Consultation will be undertaken with the Division of Resources and Energy of NSW Trade and Investment should the proposal proceed to the Gateway stage.
1.5 Rural lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.	The Planning Proposal rezones rural land. However, this land does not support agriculture other than low level grazing (see also Direction 1.2 above).
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	The Planning Proposal rezones land of biodiversity significance by rezoning land to E2. The Proposal also contains a clause requiring a vegetation management plan to be lodged to the satisfaction of the consent authority prior to subdivision of the land.
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The Planning Proposal does not contain specific heritage provisions. However, items of environmental heritage on the site relating to the former Greta Army and Migrant Camp are protected through the inclusion of the site in Schedule 5 of the Cessnock Local Environmental Plan 2011.
2.4 Recreation Vehicle Areas	The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles	The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983).
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	The Planning Proposal seeks to maintain the potential number of dwellings on the site to 1364 dwellings. However, by increasing the land area subject to the R2 zone, it allows increasing flexibility in the location of potential dwellings to meet site constraints and market opportunity.
3.2 Caravan parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.	The Planning Proposal is not affected by this Direction.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	The R2 Zone permits home occupations without consent, and home based child care, home businesses and home industries with consent.

<p>3.4 Integrating Land Use and Transport</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 sustainable transport objectives.</p>	<p>The site includes a business zone in its southeastern corner that may support local retail functions to serve the new residents. The R2 zone permits neighbourhood shops with consent. The site is located 1-4.5 kilometres from Greta railway station, and 1.8- 5.3 kilometres from Greta town centre. Detailed site planning will consider strategies to maximise active transport and connectivity within the development.</p>
<p>3.5 Development Near Licensed Aerodromes</p>	<p>The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses</p>	<p>The Planning Proposal is not affected by this Direction.</p>
<p>3.6 Shooting Ranges</p>	<p>The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issues that must be addressed when rezoning land adjacent to an existing shooting range.</p>	<p>The Planning Proposal is not affected by this Direction.</p>
<p>4. HAZARD AND RISK</p>		
<p>4.1 Acid Sulfate Soils</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 sulphate soils</p>	<p>The Cessnock Local Environmental Plan 2011 contains provisions to address development on sites with potential acid sulphate soils. Council GIS mapping indicates that the site is unlikely to be affected by acid sulphate soils. This will be confirmed at the development application stage, and appropriate measures taken if required.</p>
<p>4.2 Mine Subsidence and Unstable Land</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>The land does not appear to be within a Mine Subsidence District. Consultation will be undertaken with the Division of Resources and Energy of NSW Trade and Investment should the proposal proceed to the Gateway stage.</p>
<p>4.3 Flood Prone Land</p>	<p>The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>, and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.</p>	<p>The site has not been subject to a formal Flood Study. Any flood hazards appear to be due to local catchment flooding which will be assessed and addressed at a development application stage. There does not appear to be a level of flood hazard that would prevent development of the site.</p>

<p>4.4 Planning for Bushfire Protection</p>	<p>The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.</p>	<p>Development will be required to meet the requirements of Planning for Bushfire Protection. Parts of the site are bush fire prone and development applications will need to comply with Section 79BA of the Environmental Planning and Assessment Act and Section 100B of the Rural Fires Act 1997. Accordingly, the requirements of Planning for Bushfire Protection should be considered at the development application stage as relevant.</p>
<p>5. REGIONAL PLANNING</p>		
<p>5.1 Implementation of Regional Strategies</p>	<p>The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.</p>	<p>The Planning Proposal will facilitate the development of a “potential urban area” identified by the Lower hunter Regional Strategy.</p>
<p>6. LOCAL PLAN MAKING</p>		
<p>6.1 Approval and Referral Requirements</p>	<p>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p>	<p>The Planning Proposal is not affected by this Direction.</p>
<p>6.2 Reserving Land for Public Purposes</p>	<p>The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p>	<p>The Planning Proposal is not affected by this Direction.</p>
<p>6.3 Site Specific Provisions</p>	<p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.</p>	<p>The Planning Proposal seeks to amend some existing site specified planning controls, and to introduce some additional controls. A number of alternatives have been examined, and the proposed controls provide the most efficient and effective way of achieving sound development on the site, given the nature of the site and the foreshadowed development concept.</p>

Department of Planning's Criteria for Spot Rezoning

This planning proposal has been assessed having regard for the Department of Planning's LEP Pro-forma Evaluation Criteria-Category 1: Spot Rezoning LEP, which provides criteria for consideration for any draft LEP. This LEP Amendment request is assessed against these criteria in the table below.

Criteria	Consistency
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	This planning proposal will reduce employment lands by rezoning a small area (1.7 ha) of land from B1 to R2. However, it is considered that this will not result in a loss of employment because the B1 zoned land is unlikely to support a viable centre in that location given the nature of the proposed development. Neighbourhood shops are permissible in the R2 zone should there be sufficient demand for local retail.
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g., land release, strategic corridors, development within 800m of a transit node)?	This Proposal is consistent with the LHRS and is located within an identified urban release area.
Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s.117) directions?	As mentioned above this Proposal is consistent with the LHRS and any inconsistencies with Ministerial directions (s.117) are minor and justified.
Is the LEP located in a global / regional city, strategic centre or corridor nominated within the metropolitan Strategy or other regional / sub-regional strategy?	No, but it is located in an urban release area identified in the LEP, and a potential urban area identified in the LHRS.
Will the LEP deal with a deferred matter in an existing LEP?	No.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Yes. However the nature of development on the site will not change, and as such, there will be no significant change in existing and/or cumulative impacts.
Is the LEP likely to create a precedent, or create or change in the expectations of the landowner or other landowners?	No. There will be no change in the development potential of the site.
Will the LEP be compatible / complementary with surrounding land uses?	Yes. The Proposal does not change the nature of development likely to take place on the land under the existing zoning, and its relationship/impact on surrounding land uses.

Section C: Environmental, Social and Economic Impact

8. Impact on Threatened Species

The Proposal seeks to provide greater protection for threatened species, EEC and areas of biodiversity significance by rezoning certain lands containing EECs to E2, and by requiring a vegetation management plan to be lodged prior to development consent being granted. The riparian areas being rezoned from RE2 to R2 are protected by a number of statutory mechanisms , and will also be the subject of DCP provisions.

9. Environmental Impact

The Proposal is not likely to lead to an increased environmental impact as a result of development relative to that likely to occur under the existing zoning of the site. The Proposal provides greater certainty in the maximum dwelling yield of the site (which was originally determined on the basis of a number of criteria, including environmental impact), which is now explicitly specified in the LEP under the Proposal.

The Proposal may lead to improved environmental impacts from development because it will permit increased flexibility in the development footprint and a consequent greater ability to respond to investigations as detailed development planning occurs.

10. Social and Economic Impacts

The Proposal is not likely to lead to an increased social impact as a result of development relative to that likely to occur under the existing zoning of the site. There is greater certainty in the maximum dwelling yield of the site (which was originally determined on the basis of a number of criteria, including social impact) because it is explicitly specified in the LEP under the Proposal.

The economic impact of the Proposal is likely to be positive because it permits increased flexibility for the development layout to respond to changes in market demand, within the constraints of the site.

Section D: State and Commonwealth Interests

11. Adequate Public Infrastructure

The Proposal will not change the demand for public infrastructure to, or on, the site relative to the existing zoning.

12. Consultation with State and Commonwealth Authorities

Consultation has occurred with the Department of Infrastructure and Planning and the NSW Office of Environment and Heritage during the preparation of this Proposal. Further consultation will occur with Government agencies as directed in the Gateway determination.

PART 5: COMMUNITY CONSULTATION

Community consultation will be undertaken as directed in the Gateway determination consistent with Council's usual practice. Given the minor nature of this Proposal it is suggested that a 14 day exhibition period is sufficient.

PART 6: PROJECT TIMELINE

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval as outlined in the following table.

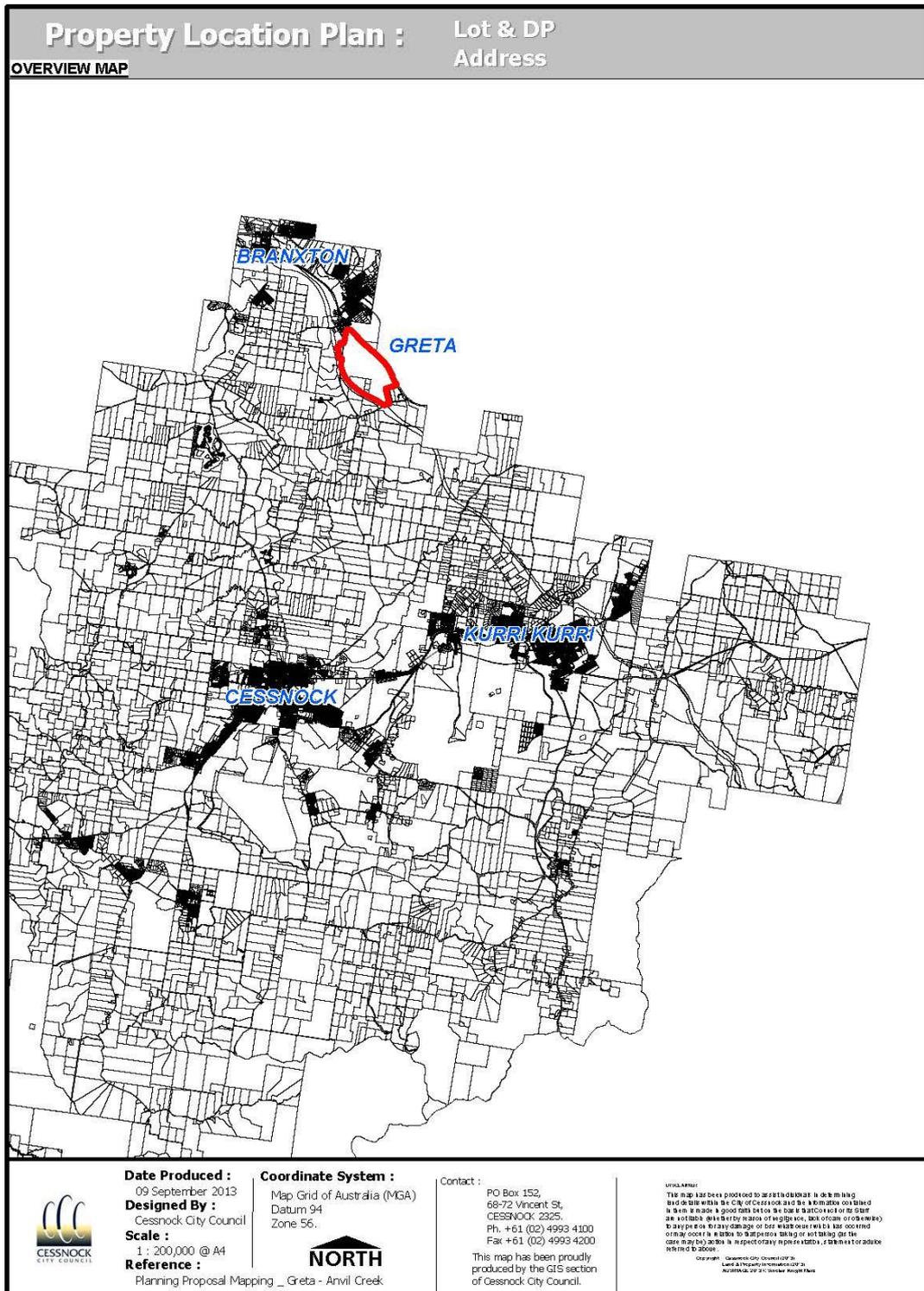
It is estimated that this amendment to the Cessnock Local Environmental Plan 2011 will be completed by September 2014.

Technical Studies have not been identified as a component of the Planning Proposal, however the Department of Planning and Infrastructure Gateway Determination may make prescriptions relating to technical studies and this may impact on the estimated completion date.

PROJECT TIMELINE

	Sept 2013	Oct 2013	Nov 2013	Dec 2013	Jan 2014	Feb 2014	March 2014	April 2014	May 2014	June 2014	July 2014	Aug 2014	Sep 2014
STAGE 1 Submit Planning Proposal to Department of Planning & Infrastructure													
STAGE 2 Anticipated commencement date (Gateway Determination)													
STAGE 3 Preparation (Draft) Development Control Plan													
Preparation (Draft) Section 94 Contributions Plan													
STAGE 4 Public Exhibition Period													
STAGE 5 Reviewal / consideration of submissions to public exhibition													
STAGE 6 Report to Council													
STAGE 7 Forward Planning Proposal to Department of Planning & Infrastructure to finalise the Local Environmental Plan													

Appendix 1: Location Plan



Appendix 2: Council Report and Minutes

Report To Ordinary Meeting of Council - 18 September 2013

Our Natural, Developed and Cultural Environment

Report No. EE72/2013

Strategy and Sustainability



SUBJECT: *PLANNING PROPOSAL - ANVIL CREEK, GRETA*
RESPONSIBLE OFFICER: *Acting Strategic Land Use Planning Manager - Scott Christie*

APPLICATION NUMBER:	18/2013/3/1
PROPOSAL:	ANVIL CREEK, GRETA
PROPERTY DESCRIPTION:	Lots 1-6 DP 1036942, and Lots 263-4 DP 755211
PROPERTY ADDRESS:	324 and 325 CAMP ROAD AND 996 LOVEDALE ROAD, ALLANDALE
ZONE (CURRENT):	RU2 RURAL LANDSCAPE, R2 LOW DENSITY RESIDENTIAL, B1 NEIGHBOURHOOD CENTRE AND RE2 PRIVATE RECREATION
ZONE (PROPOSED):	R2 LOW DENSITY RESIDENTIAL, E2 ENVIRONMENTAL CONSERVATION AND B1 NEIGHBOURHOOD CENTRE
OWNER:	GRETA ESTATES PTY LTD
APPLICANT:	INGHAM PLANNING PTY LTD

SUMMARY

The Report seeks to obtain Council's agreement to submit a Planning Proposal for a Gateway determination to the Department of Planning and Infrastructure. The Planning Proposal aims to provide greater flexibility in the development layout of the proposed "Anvil Creek" development. It achieves this by extending the R2 zoned land over most of the RE2 and RU2 zoned land. The balance of the RE2 and RU2 zoned land that is of high conservation value containing ecologically endangered communities are proposed to be zoned E2 Environmental Conservation. The proposal also provides additional measures to protect areas of biodiversity significance and avoid substantial impacts of residential development over the site.

The site is already zoned to permit development and has consent for Stage 1 of the development.

RECOMMENDATION

That Council progress the Planning Proposal at Enclosure 1 to the Department of Planning and Infrastructure for 'Gateway' determination under s.56 (1) of the Environmental Planning and Assessment Act 1979.

This is Page 64 of the Agenda of the Ordinary Council Meeting of the Cessnock City Council to be held on 18 September 2013

BACKGROUND

The subject site was formerly the Greta Army and Migrant Camp, and is currently used for grazing cattle. After an application to rezone the land was lodged with Council in 2005, the subject site was rezoned in 2008 to facilitate the development of the proposed “Anvil Creek” tourist and residential development. Subsequently, development consent was granted for a Masterplan and Stage 1 of the development. A Planning Agreement between Council and the proponent linked to the development consent for Stage 1 was agreed in 2008 providing for a range of onsite and offsite facilities and infrastructure.

As illustrated in **Figure 1** below, the subject site is located between the Hunter Expressway and the Hunter Railway Line. The township of Greta is located approximately 3.5km to the north-west whilst the Hunter Expressway’s Allandale Road Interchange, located at the south-eastern corner of the site, connects the subject site to the Newcastle region with east facing on and off ramps. This Interchange is likely to be a major entry to Cessnock LGA and in particular, the Vineyards region.



Figure 1: Location Plan

The site is zoned B1 Neighbourhood Centre, R2 Low Density Residential RE2 Private Recreation and RU2 Rural Landscape, as shown in **Figure 2** below.

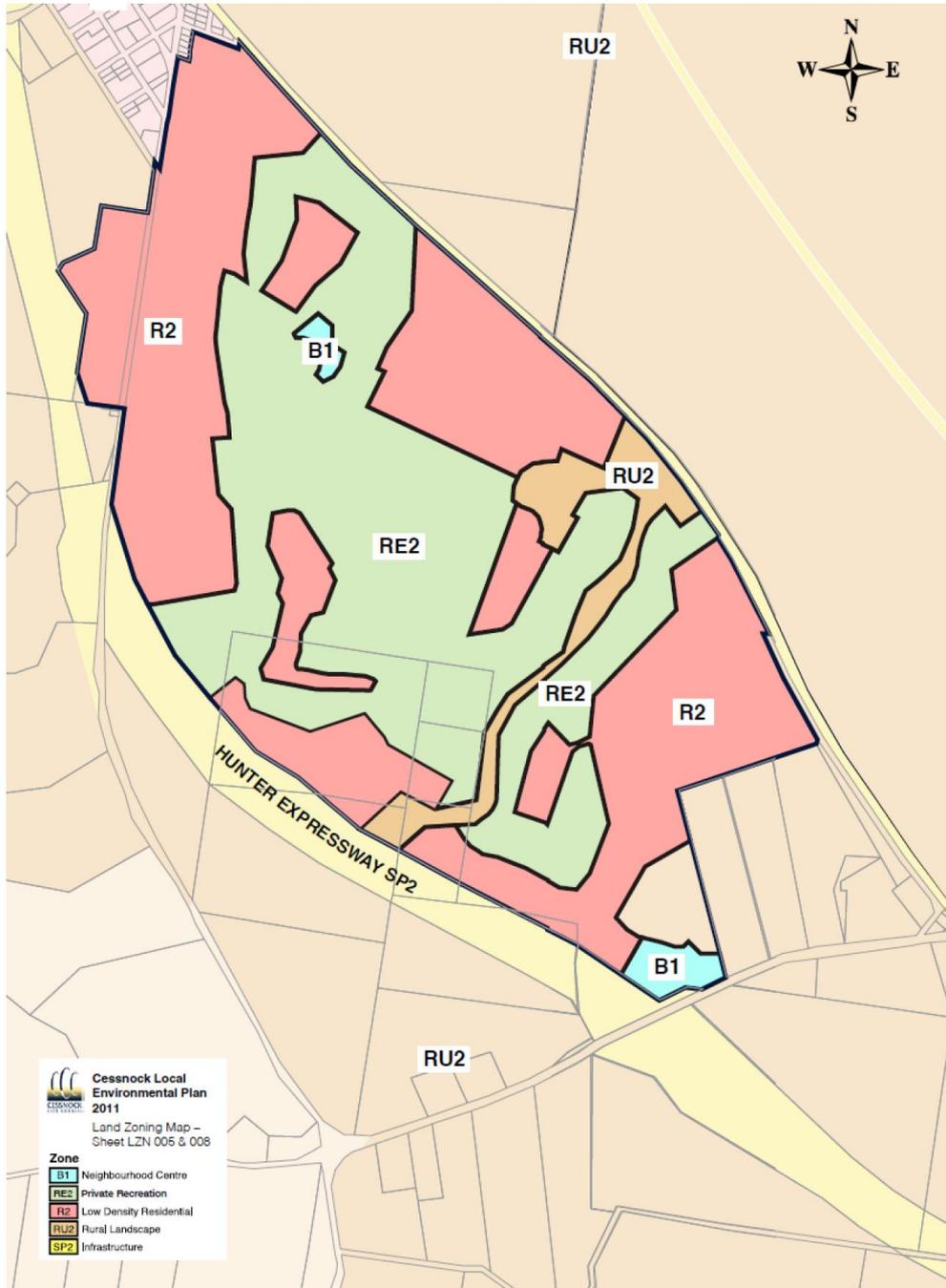


Figure 2: Existing Zoning Plan

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Report No. EE72/2013

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The existing development consent for the subject site includes:

- An 18 hole golf course
- A golf clubhouse/hotel
- Tourist accommodation buildings
- A retail area adjacent to the "Allandale Road" Interchange to the Hunter Expressway
- Permanent residential accommodation
- A village commercial centre
- Public and private open space

The current zoning provisions on the subject site are specific to the approved development. The proponent has submitted a planning proposal to amend the Cessnock Local Environmental Plan (2011) (LEP) to enable flexibility in the golf course design in response to market changes in golf course layouts, whilst maintaining consistency with the approved development yields.

The proponent intends for the nature and extent of development envisaged under the existing zoning provisions to be maintained, consequently maintaining the demand for infrastructure.

Accordingly, Council's investigations have focused on providing the required flexibility, while ensuring the impact of any future development that may be permissible under the proposed LEP changes is no greater than the existing approved proposal.

REPORT/PROPOSAL

The LEP land use table and zoning map governs land uses permissible within the subject site, however these provisions are modified by Schedule 1, Clause 4 of the LEP (additional permitted land uses applying to a specific site) which permits the following land uses with consent throughout the site:

- viticulture,
- multi dwelling housing,
- hotel or motel accommodation (comprising no more than 150 rooms),
- residential flat buildings,
- serviced apartments (comprising no more than 85 apartments).

The current zoning provisions are designed specifically for the approved development restricting the use of a golf course to the RE2 zoned land. Any changes to the layout of the golf course resulting in parts of the golf course being located within the existing R2 zoned land are not permissible.

To accommodate changes to the golf course the proponent is proposing to rezone most of the RE2 zoned land to R2 and amend Schedule 1, Clause 4 of the LEP to include golf courses as an additional permitted use on the site.

In addition, it is proposed that the existing B1 Neighbourhood Centre zoned land in the north of the site be rezoned R2.

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Report No. EE72/2013

Strategy and Sustainability



Certain land that contains endangered ecological communities (EECs) would be rezoned from RE2 and RU2 to E2.

The proposed zoning plan is shown in **Figure 3** below:

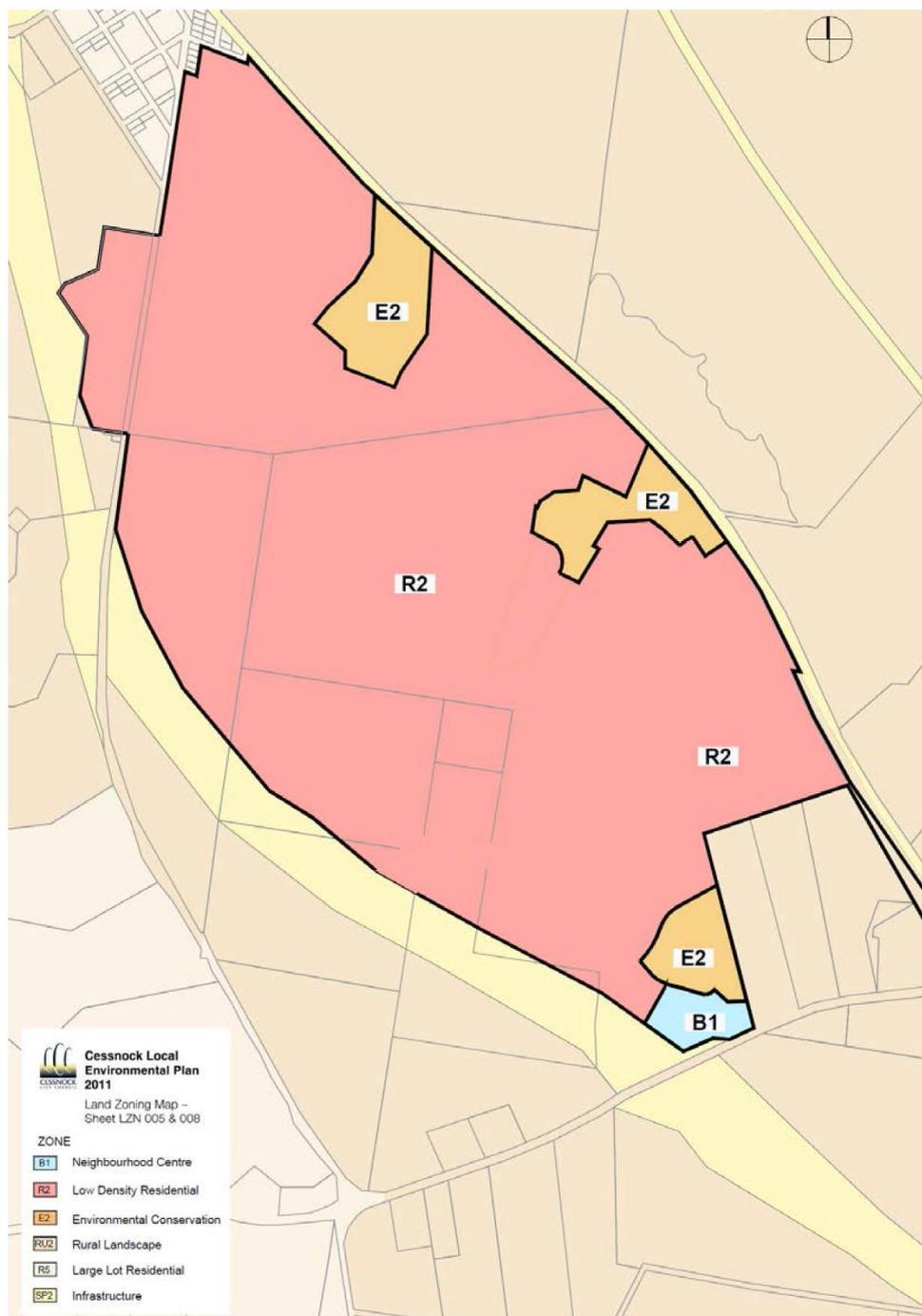


Figure 3: Proposed Zoning Plan

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Report No. EE72/2013

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The difference between the approximate current and proposed land zoning areas is demonstrated in the following table:

Zone	Current Area (approx. ha)	Proposed Area (approx. ha)	Difference (approx. ha)
B1 Neighbourhood Centre	6.48	4.84	-1.64
RE2 Private Recreation	176.09	0	-176.09
R2 Low Density Residential	210.54	386.01	+175.47
RU2 Rural Landscape	29.16	0	-29.16
E2 Environmental Conservation	0	31.42	+31.42
Total Area	422.27	422.27	0

The existing RE2 zone boundaries were located to accommodate the layout of the original golf course, and to recognise the existence of areas of biodiversity significance, such as EECs. The existing R2 zone boundaries, and in particular the spatial area embraced by the R2 zone, were located to limit the amount of residential development on the site.

While the proposed zone changes provide the flexibility sought by the proponent, they create potential concerns regarding the potential maximum number of dwellings on the site, and also in relation to the environmental impacts of permitting a wider range of land uses within the R2 zone.

Discussions with the Office and Environment and Heritage have resulted in agreement that it is appropriate to rezone certain areas that are of high biodiversity value from RE2 to E2 because they contain important areas of endangered ecological communities. In addition, it was agreed that a clause in the LEP requiring a vegetation management plan to be lodged prior to development consent being granted would permit the “fine tuning” of other conservation areas, such as riparian areas, at the development application stage following more detailed understanding of the proposal (see **Enclosure 2**).

The original plans for the site included a maximum 1364 dwellings derived from a development concept for an “integrated residential, golf course and tourism development”, a review of land capability, the distance from Greta township (greater than easy walking distance), and the need to protect riparian and other areas of environmental importance.

It is important that an explicit limit is placed on the maximum number of dwellings that can be developed on the site, because the additional 175.47 ha proposed to be included in the R2 zone could potentially accommodate many more dwellings if developed to its maximum permissible capacity, and in effect result in a new unplanned suburb. Unless an explicit limit is stated in the LEP it could be assumed that all the R2 zoned land is generally suitable for development with a minimum lot size of 450 square metres (subject to the usual section 79C and other statutory considerations) which would be well in excess of Council’s intent for development intensity on the site.

The above concerns will be addressed by a new clause proposed to be included within Part 7 “Additional Local Provisions” of the LEP, which would:

- i. limit the number of dwellings on the subject site to the previous agreed 1364 dwellings, and,

This is Page 69 of the Agenda of the Ordinary Council Meeting of the Cessnock City Council to be held on 18 September 2013

Our Natural, Developed and Cultural Environment

Report No. EE72/2013

Strategy and Sustainability



- ii. require a vegetation management plan to be lodged to the satisfaction of the consent authority prior to development consent being granted for the subdivision of land.

The above clause would ensure that the quantum of residential development was maintained at the level envisaged by Council when the land was originally rezoned to provide for an "integrated residential, golf course and tourism development". Further, it would provide a mechanism for biodiversity issues to be further addressed following a more detailed understanding of the development.

To further ensure that the proposed amendment to Part 7 above is not challenged by Clause 4.6 "Exceptions to Development Standards", it is proposed to include the new Part 7 clause into Clause 4.6, Subclause (8) of the LEP preventing development consent from being granted for development that would contravene the new Part 7 clause.

It is noted that the subject land is designated as an Urban Release Area in the LEP, and that Clause 6.3 of the LEP requires a site specific Development Control Plan to be prepared for all areas designated as an Urban Release Area. Clause 6.3 (3) requires the Development Control Plan to provide for all of the following:

- *a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,*
- *an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,*
- *an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,*
- *a network of passive and active recreational areas,*
- *stormwater and water quality management controls,*
- *amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,*
- *detailed urban design controls for significant development sites,*
- *measures to encourage higher density living around transport, open space and service nodes,*
- *measures to accommodate and control appropriate neighbourhood commercial and retail uses, and*
- *suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.*

This requirement ensures a comprehensive approach to the detailed development planning of the site in its entirety.

It is considered that the combined effect of the above changes will facilitate an improved development and environmental outcome from the proposed development.

These matters have been discussed with Department of Planning and Infrastructure, and the Office of Environmental and Heritage, who agree that the approach has merit, and warrants progression to the Gateway determination stage.

Our Natural, Developed and Cultural Environment

Report No. EE72/2013

Strategy and Sustainability



The proponent has also proposed rezoning the northern B1 Neighbourhood Business zone to R2. This change is supported as the area is unlikely to be a viable commercial centre. In any case, neighbourhood shops are permissible with consent in the R2 zone if sufficient demand for convenience level retail eventuates.

A future DCP clause can manage other issues such as golf ball hazards in residential areas adjacent to the golf course by requiring a hazard risk assessment to be undertaken.

OPTIONS

The Council has the following options.

1. Progress the Planning Proposal at (**Enclosure 1**) to the Department of Planning and Infrastructure for 'Gateway' determination under s.56 (1) of the *Environmental Planning and Assessment Act 1979* as recommended by this report.
2. Not proceed with the Planning Proposal for the following reasons:

(To be provided by Council).

CONSULTATION

Consultation has been undertaken with the proponent, the Department of Planning and Infrastructure and the Office of Environment and Heritage.

Formal consultation, including with the wider community, will be undertaken following the Gateway determination.

STRATEGIC LINKS

a. Delivery Program

The following Delivery Program items are relevant:

2.3.2 Support programs that promote visitation across the Local Government Area.

The proposal seeks to facilitate an integrated tourism, golf course and residential development at the Hunter Expressway gateway to the vineyards promoting visitation within the Cessnock Local Government Area.

b. Other Plans

The development of Anvil Creek is consistent with the Lower Hunter Regional Strategy.

Our Natural, Developed and Cultural Environment

Report No. EE72/2013

Strategy and Sustainability



IMPLICATIONS

a. Policy and Procedural Implications

NIL

b. Financial Implications

The finalisation of the Planning Proposal will be met through rezoning fees. The finalised Planning Proposal will amend the Cessnock Local Environmental Plan 2011 and accordingly will be administered under Council's standard procedures.

Council infrastructure costs resulting from the development will need to be addressed by conditions of development consent, a Section 94 Plan or a Planning Agreement, as appropriate. It should be noted that the existing development consent has an associated Planning Agreement addressing Council infrastructure which is unlikely to be applicable if a new development application was lodged for the site.

c. Legislative Implications

The process underway to develop and finalise the Planning Proposal is consistent with Council's statutory responsibilities under the Environmental Planning and Assessment Act 1979.

d. Risk Implications

Planning risks associated with the Planning Proposal will be managed by the proposed inclusion of additional clauses in the LEP and further managed by Clause 6.3 of the LEP requiring a comprehensive Development Control Plan to be adopted before development consent can be granted on the site.

Risks associated with the proximity of dwellings to the golf course can be managed through hazardous reduction clauses contained in the future Development Control Plan and/or development consent(s) for the site, similar to the Averys Village planning proposal at Heddon Greta.

e. Other Implications

The development of Anvil Creek will increase and diversify the supply of tourism related attractions and accommodation, as well as housing choice, within part of the Local Government Area that will experience increased accessibility and demand as a result of the completion of the Hunter Expressway.

CONCLUSION

The Planning Proposal aims to increase flexibility in golf course design on the subject site while maintaining the original intent of the development. The proposed amendments to the LEP contain safeguards to avoid excessive development of housing on the site, and effectively manage negative impacts on areas of biodiversity significance.



ENCLOSURES

- 1 Planning Proposal 28 Pages
- 2 OE&H Letter of 29 August 2013 1 Page

COUNCIL MINUTES

*OUR NATURAL, DEVELOPED AND CULTURAL ENVIRONMENT NO.
EE72/2013*

SUBJECT: *PLANNING PROPOSAL - ANVIL CREEK, GRETA*

MOTION *Moved:* Councillor Maybury *Seconded:* Councillor Parsons
1

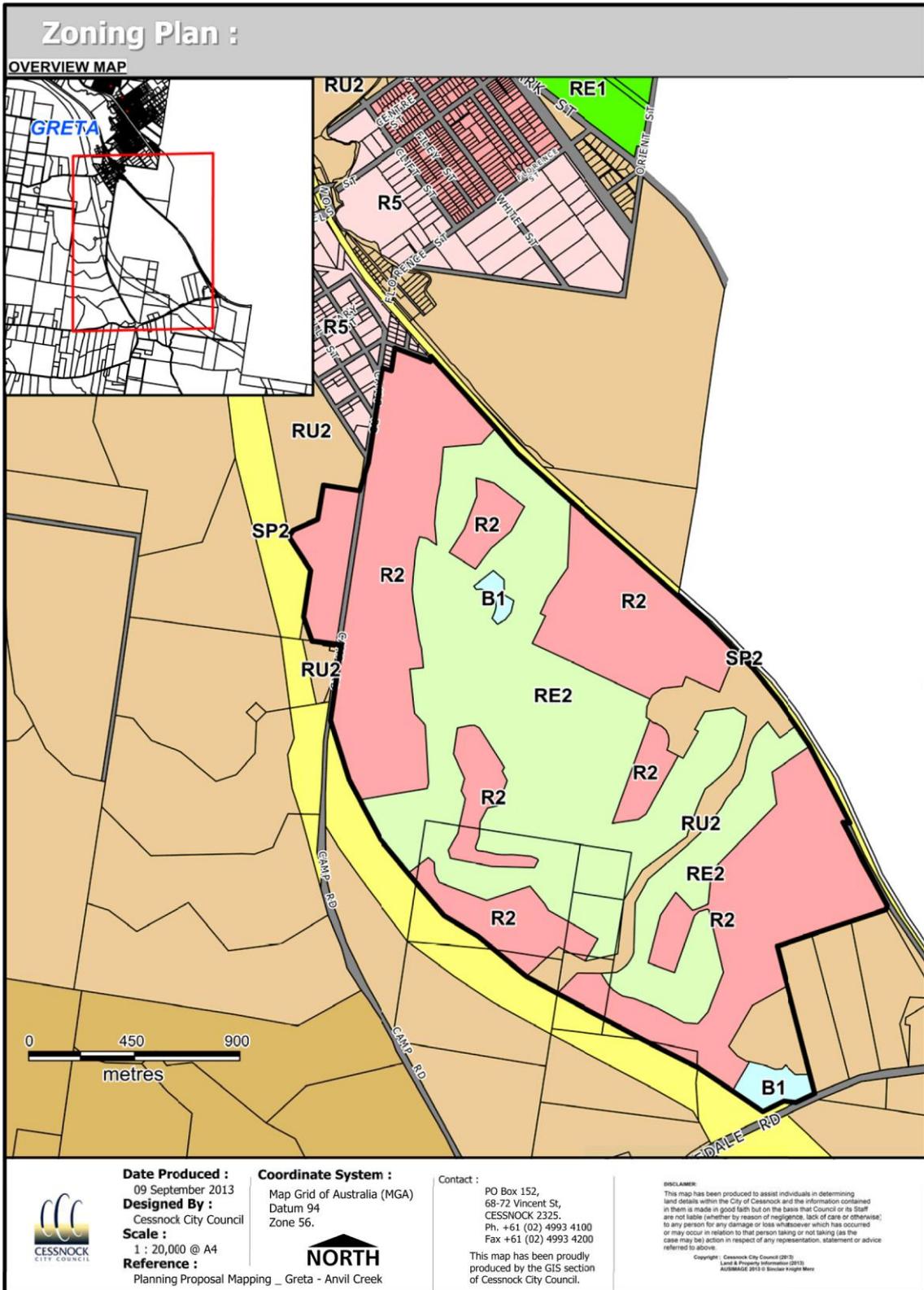
RESOLVED

That Council progress the Planning Proposal at Enclosure 1 to the Department of Planning and Infrastructure for 'Gateway' determination under s.56 (1) of the Environmental Planning and Assessment Act 1979.

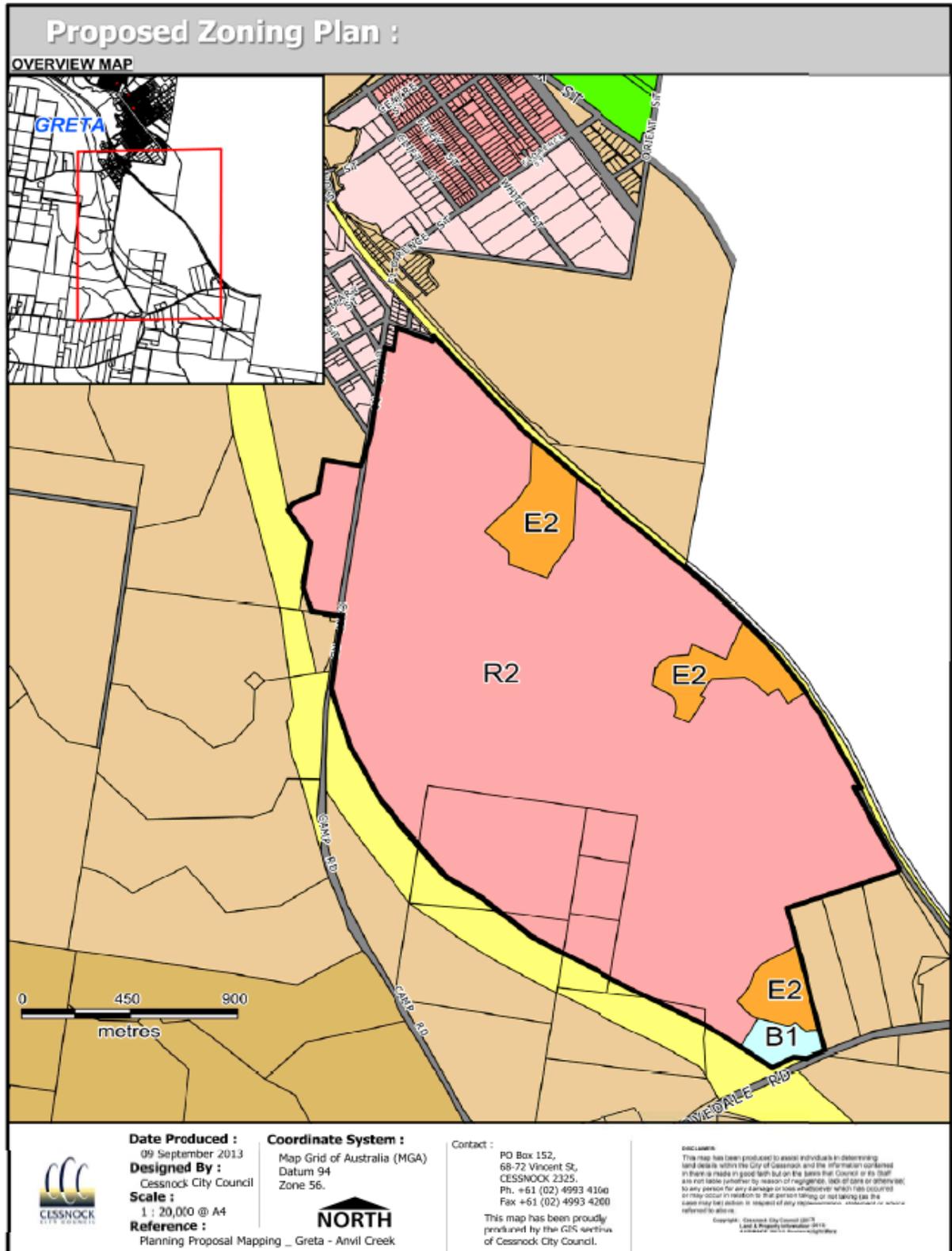
FOR	AGAINST
Councillor Gibson	
Councillor Doherty	
Councillor Wrightson	
Councillor Olsen	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Parsons	
Councillor Maybury	
Councillor Troy	
Councillor Pynsent	
Councillor Campbell	
Total (13)	Total (0)

CARRIED UNANIMOUSLY

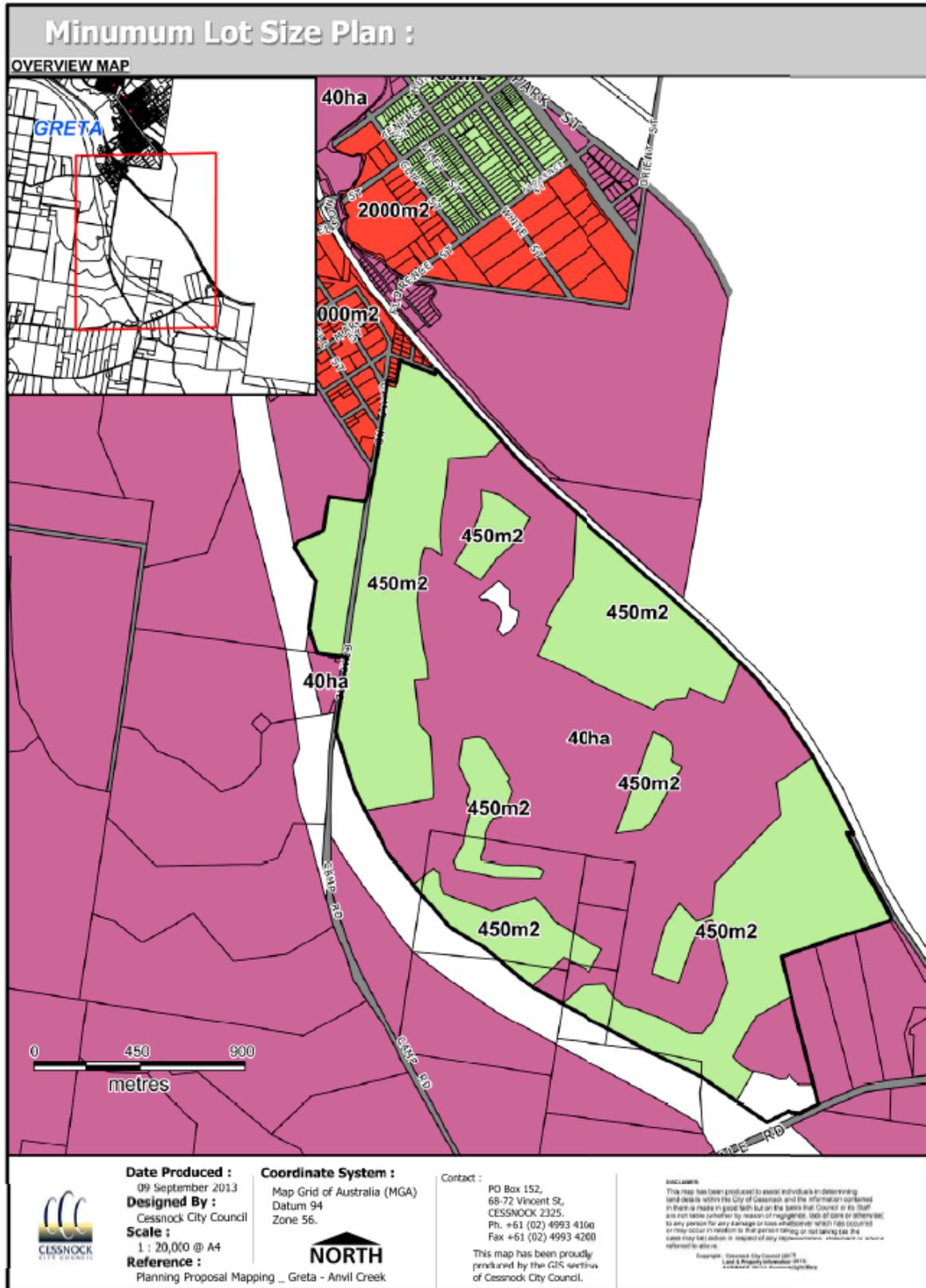
Appendix 3: Existing Land Use Zone map



Appendix 4: Proposed Land Use Zone map



Appendix 5: Existing Minimum Lot Size map



Appendix 7: Proposed changes to the LEP written instrument

Proposed amendments to the Cessnock Local Environmental Plan 2011

New clause:

Clause 7.10 Certain Land at Camp Road, Greta

- (1) This clause applies to land being Part Lots 1–6, DP 1036942 and Lots 263 and 264, DP 755211 at Camp Road, Greta, known as the former Army and Migrant Camp, and identified on the Additional Permitted Uses Map.
- (2) The number of dwellings on the land is to be no greater than 1364 dwellings,
- (3) Consent will not be granted for development for the purposes of the subdivision of land unless a vegetation management plan has been lodged to the satisfaction of the consent authority.

Amended Schedule (amendments shown underlined)

Schedule 1 Additional permitted uses

4 Use of certain land at Camp Road, Greta

(1) This clause applies to land being Part Lots 1–6, DP 1036942 and Lots 263 and 264, DP 755211 at Camp Road, Greta, known as the former Army and Migrant Camp and identified on the Additional Permitted Uses Map.

- (2) Development for the following purposes is permitted with consent:
- (a) viticulture,
 - (b) multi dwelling housing,
 - (c) hotel or motel accommodation (comprising no more than 15 rooms),
 - (d) residential flat buildings,
 - (e) serviced apartments (comprising no more than 85 apartments),
 - (f) recreation facility (outdoor) in the form of a golf course.

Appendix 8: Letter from the Office of Environment and Heritage



Office of
Environment
& Heritage

Our reference: DOC13/48637; FIL12/7304
Contact: Steve Lewer, 4908 6814

Mr Scott Christie
A/Strategic Land Use Planning Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Dear Mr Christie

RE: ANVIL CREEK PLANNING PROPOSAL (GRETA ESTATES PTY LTD), 324 AND 325 CAMP ROAD AND 996 LOVEDALE ROAD, ALLANDALE

I refer to the meeting on 29 August 2013 to discuss amendments to the proposed Anvil Creek Planning Proposal by Greta Estates Pty Ltd, located at 324 and 325 Camp Road and 996 Lovedale Road, Allandale.

The meeting was attended by representatives from the Office of Environment and Heritage (OEH), Cessnock City Council, the proponent (Greta Estates Pty Ltd) and their planning consultants (Ingham Planning Pty Ltd). The discussion involved proposed changes to the existing land use zones on the site to accommodate changes to the golf course layout, and included proposed residential and environmental conservation zones. The following issues were resolved and agreed to by all parties (including OEH):

- that R2 (Low Density Residential) zoning (as per Cessnock Local Environment Plan 2011) would be amended to extend over the majority of the 'extended finger' of the southern riparian area (currently zoned as RU2 Rural Landscape). The far north-eastern portion of the riparian area is to be zoned as E2 Environmental Conservation.
- that three areas of E2 zone would be established to protect the majority of the significant areas of retained native vegetation (i.e. mixture of different ecological communities). These are located in the far-north eastern corner, the north-eastern portion of the southern drainage line, and in the far southern part of the proposal (on the northern boundary of the land zoned B1 Neighborhood Centre land).
- that a Vegetation Management Plan would be incorporated into the proposed Development Control Plan for the site, as per Clause 6.3 of the Cessnock Local Environment Plan 2011.

If you require any further information regarding this matter please contact Steve Lewer, Regional Biodiversity Conservation Officer, on 4908 6814.

Yours sincerely

29 AUG 2013

RICHARD BATH
Senior Team Leader - Planning
Regional Operations

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