PLANNING PROPOSAL

Amendment to the

Cessnock Local Environmental Plan 2011

1443 Wine Country Drive ROTHBURY

Rezoning of LOT 11 DP 1105639

Version 1.0

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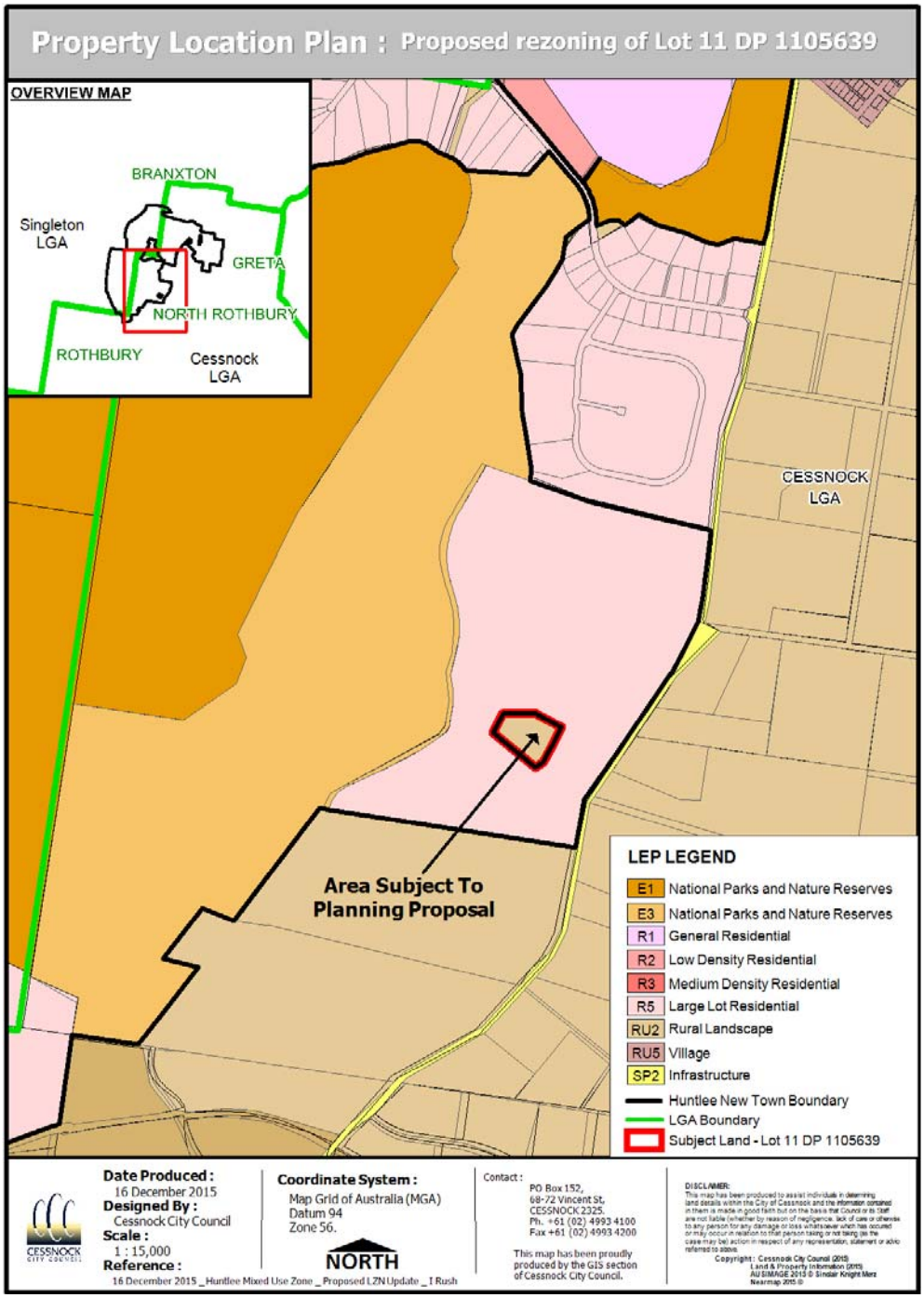
PART 1: OBJECTIVES and OUTCOMES

The objective of the Planning Proposal is to rezone Lot 11 DP 1105639, known as 1443 Wine Country Drive Rothbury (the 'subject site'), from RU2 Rural Landscape Zone to R5 Large Lot Residential Zone and amend the minimum lot size of the site from 40 hectares to 2,000m^2. The Planning Proposal will ensure that the zoning of the subject site reflects the desired future character of land in the immediate area, which was rezoned R5 Large Lot Residential as a component of the Huntlee New Town ('Huntlee') State Significant Development.

Figure 1: Subject Site and Land Use Zones



PART 2: EXPLANATION of PROVISIONS

The Planning Proposal was lodged with Council on 11 November 2015 and relates to Lot 11 DP 1105639, known as 1443 Wine Country Drive Rothbury. The site was previously zoned 1(a) Rural 'A' Zone under the *Cessnock Local Environmental Plan (LEP) 1989* before its transition to RU2 Rural Landscape Zone under the LEP 2011.

Approximately 80 hectares of land surrounding the subject site was rezoned from 1(a) Rural 'A' Zone to R5 Large Lot Residential Zone on 9 January 2009 as a component of the Huntlee State Significant Development. It is anticipated that the R5 zoned land immediately surrounding the subject site will provide for approximately 120 rural residential allotments as a component of Stage 1 of Huntlee. The allotments will be serviced with reticulated electricity, telecommunications, water and sewer.

It is unclear why the subject site was not included by the State Government with the rezoning of the adjoining Huntlee land. The proponent has advised that the land owner had assumed the subject site would be included, given its proximity to Huntlee; however, this did not occur. Therefore, the subject land remains an isolated and significantly undersized parcel of rural zoned land.

The Planning Proposal seeks to rezone Lot 11 DP 1105639, known as 1443 Wine Country Drive Rothbury, from RU2 Rural Landscape Zone to R5 Large Lot Residential Zone and amend the minimum lot size of the land from 40 hectares to 2,000m^2.

PART 3: JUSTIFICATION

In accordance with the Department of Planning and Environment'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

The Planning Proposal is not the direct result of any strategic study or report. The Proposal seeks to address an anomaly whereby the subject site has retained a rural zoning while land surrounding the site was rezoned rural residential as a component of the Huntlee State Significant Development.

2 Planning Proposal as best way to achieve to objectives

Amending the land use zone and minimum lot size of the subject site is considered to be the most appropriate way to achieve the objectives of the Planning Proposal.

Section B: Relationship to Strategic Planning Framework

3 Consistency with Objectives and Actions within Regional Strategies

Lower Hunter Regional Strategy 2006

The wider Branxton-Huntlee area is specifically identified for major urban release in the Lower Hunter Regional Strategy. The area is forecast to provide for up to 7,200 dwellings and is already significantly zoned for that purpose. While the Planning Proposal will not significantly increase the supply of large lot residential land, it will assist in bringing about the objective of the Lower Hunter Regional Strategy regarding the provision of new lots for residential development in the Branxton-Huntlee area.

Community Strategic Plan - Our People, Our Place, Our Future

The Proposal is considered to be consistent with the objectives of Council's Community Strategic Plan, specifically Objective 3.1, Protecting and Enhancing the Natural Environment and the Rural Character of the Area.

City Wide Settlement Strategy (2010)

Council's City Wide Settlement Strategy supports opportunities for infill, small area rezonings for the purpose rural residential development. The role of rural residential development in the adopted settlement hierarchy is to support the growth of villages and urban centres and to provide some limited additional lifestyle choice. The Proposal will support the growth of Huntlee by providing additional lots for residential development.

In terms of rural or large lot housing, the CWSS also seeks to consider the appropriate size for such development. The Strategy notes that the emergence of fully serviced residential lifestyle lots is reflective of the demand for larger residential lots. In response the CWSS proposed that 2000sqm - 4000sqm sized lots should be considered appropriate for areas that are serviced. The proposal is therefore considered consistent with the CWSS in regards to the form/density of housing proposed.

4 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.	Not applicable to the subject site.

SEPP	Relevance	Consistency and Implications
SEPP 14 – Coastal Wetlands	*Not Applicable to LGA*	*Not Applicable to LGA*
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.	**Consistent.** Nothing in the Planning Proposal affects the aims and provisions of the SEPP.
SEPP 19 – Bushland in Urban Areas	*Not Applicable to LGA*	*Not Applicable to LGA*
SEPP 21 - Caravan Parks	The SEPP provides for development for caravan parks.	**Consistent.** The Planning Proposal will not change the permissibility of Caravan Parks within the subject site; therefore, will not affect the aims and provisions of the SEPP.
SEPP 26 – Littoral Rainforests	*Not Applicable to LGA*	*Not Applicable to LGA*
SEPP 29 – Western Sydney Recreation Area	*Not Applicable to LGA*	*Not Applicable to LGA*
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	**Consistent.** Although the Planning Proposal will prohibit intensive agriculture within the subject site, it is considered that the agricultural viability of the property is already severely limited, given the property's size, existing land uses occurring on site, and proximity to other land zoned for rural residential purposes.
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.	The SEPP is not applicable to rural or rural residential zoned land.
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	**Consistent.** Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
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.	**Consistent.** The proposal will not change the permissibility of Manufactured Home Estates within the subject site; therefore, will not affect the aims and provisions of the SEPP.
SEPP 39 – Spit Island Bird Habitat	*Not Applicable to LGA*	*Not Applicable to LGA*
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	**Consistent.** While the site is considered to constitute 'Potential Koala Habitat' as defined in the SEPP, no evidence of Koala was found within the site and no individuals were observed following a fauna

SEPP	Relevance	Consistency and Implications
	of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	assessment. As a result, the site is not considered to constitute core Koala habitat under SEPP 44 and no further provisions of the SEPP 44 apply.
SEPP 47 – Moore Park Showground	*Not Applicable to LGA*	*Not Applicable to LGA*
SEPP 50 - Canal Estate Development	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	**Consistent.** Nothing in this Planning Proposal affects the aims and provisions of the SEPP.
SEPP 52 – Farm Dams and Other works in Land and Water Management Plan Areas	*Not Applicable to LGA*	*Not Applicable to LGA*
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	**Consistent.** The land is not known to contain contamination that would render the land unsuitable for its intended purpose.
SEPP 59 – Central Western Sydney Regional Open Space and Residential	*Not Applicable to LGA*	*Not Applicable to LGA*
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.	**Consistent.** Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
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.	**Consistent.** 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 development.	**Consistent.** Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 70 – Affordable Rental Housing (Revised	The SEPP provides for an increase in the supply and diversity of affordable rental and	**Consistent.** Nothing in this Planning Proposal affects the aims and provisions of this SEPP.

SEPP	Relevance	Consistency and Implications
Schemes)	social housing in NSW.	
SEPP 71 – Coastal Protection	*Not Applicable to LGA*	*Not Applicable to LGA*
SEPP Affordable Rental Housing 2009	The aims of this Policy are as follows: (a) to provide a consistent planning regime for the provision of affordable rental housing, (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards, (c) to facilitate the retention and mitigate the loss of existing affordable rental housing, (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing, (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing, (f) to support local business centres by providing affordable rental housing for workers close to places of work, (g) to facilitate the development of housing for the homeless and other d is advantaged people who may require support services, including group homes and supportive accommodation.	**Consistent.** Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	**Consistent.** The provisions of this SEPP will be considered in the assessment of any future residential development upon the site.
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	**Consistent.** Nothing in this Planning Proposal affects the aims and provisions of this SEPP.

SEPP	Relevance	Consistency and Implications
	minimal environmental impact that may be carried out without the need for 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 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.	**Consistent.** The Planning Proposal will not change the permissibility of seniors housing within the subject site; therefore, will not affect the aims and provisions of the 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.	**Consistent.** Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	*Not Applicable to LGA*	*Not Applicable to LGA*
SEPP (Kurnell Peninsula) 1989	*Not Applicable to LGA*	*Not Applicable to LGA*
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.	**Consistent.** 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.	**Consistent.** Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Miscellaneous Consent Provisions 2007	The aims of this Policy are as follows: (a) to provide that the erection of temporary structures is permissible with consent	**Consistent.** Nothing in this Planning Proposal affects the aims and provisions of this SEPP.

SEPP	Relevance	Consistency and Implications
	across the State, (b) to ensure that suitable provision is made for ensuring the safety of persons using temporary structures, (c) to encourage the protection of the environment at the location, and in the vicinity, of temporary structures by specifying relevant matters for consideration, (d) to provide that development comprising the subdivision of land, the erection of a building or the demolition of a building, to the extent to which it does not already require development consent under another environmental planning instrument, cannot be carried out except with development consent.	
SEPP Penrith Lakes Scheme 1989	*Not Applicable to LGA*	*Not Applicable to LGA*
SEPP Rural Lands 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	**Consistent.** It is considered that the agricultural viability of the property is already severely limited, given the property's size, existing land uses occurring on site, and proximity to other land zoned for rural residential purposes.
SEPP 53 Transitional Provisions 2011	*Not Applicable to LGA*	*Not Applicable to LGA*
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.	**Consistent.** Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP (Sydney Drinking Water Catchment 2011)	*Not Applicable to LGA*	*Not Applicable to LGA*
SEPP Sydney Region Growth Centres 2006	*Not Applicable to LGA*	*Not Applicable to LGA*
SEPP (Three Ports_ 2013	*Not Applicable to LGA*	*Not Applicable to LGA*
SEPP (Urban Renewal) 2010	*Not Applicable to LGA*	*Not Applicable to LGA*

SEPP	Relevance	Consistency and Implications
SEPP (Western Sydney Employment Area) 2009	*Not Applicable to LGA*	*Not Applicable to LGA*
SEPP (Western Sydney Parklands) 2009	*Not Applicable to LGA*	*Not Applicable to LGA*

5 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	Objective of Direction	Consistency and Implication
1 EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres.	Not applicable, as the Planning Proposal does not relate to an existing or proposed business or industrial zone.
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	**Inconsistent.** The Planning Proposal is considered to be of minor significance. The agricultural viability of the land is already severely limited, given the property's size, existing land uses occurring on site, and proximity to other land zoned for rural residential purposes.
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.	**Consistent.** Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
1.4 Oyster Aquaculture	*The objectives of this direction are:* *(a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered*	*Not Applicable to LGA*

Ministerial Direction	Objective of Direction	Consistency and Implication
	when preparing a planning proposal, *(b) to 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.*	
1.5 Rural lands	The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes.	**Inconsistent.** The Planning Proposal is considered to be of minor significance. The agricultural viability of the subject site is already severely limited, given the property's size, existing land uses occurring on site, and proximity to other land zoned for rural residential purposes.
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 will include provisions where necessary that facilitate the protection and conservation of environmentally sensitive areas. To achieve consistency with this Direction, an amended Flora and Fauna Assessment will be obtained and consultation is recommended with the NSW Office of Environment and Heritage in relation to the Planning Proposal and the revised Flora and Fauna Assessment.
2.2 Coastal Protection	*The objective of this direction is to implement the principles in the NSW Coastal Policy.*	*Not Applicable to LGA*
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.	**Consistent.** The site is not known to contain items of heritage value. Consultation will occur with the NSW Local Aboriginal Land Council to ascertain whether the site contains any items of Aboriginal significance.
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.	**Consistent.** The Planning Proposal does not seek to rezone land for the purpose of a recreation vehicle area.
3 HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential	The objectives of this direction	The site has an existing

Ministerial Direction	Objective of Direction	Consistency and Implication
Zones	are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	connection to a reticulated electricity and telecommunication service. Options for servicing the site with water and sewer are presently limited to rainwater tanks and on-site wastewater management systems. Council's Development Control Plan 2010 does not specifically require subdivisions located beyond two kilometres of serviced areas to be connected to a reticulated water and sewer service. Availability of reticulated water and sewer at the site will be largely dependent upon the timing of Stage 1 of the adjacent Huntlee development, which is expected to be connected to a reticulated service constructed by Huntlee Water. The proponent will be required to address site servicing in consultation with both Hunter Water Corporation and Huntlee Water to determine the most appropriate means by which to service the site.
3.2 Caravan parks and Manufactured Home Estates	The objectives of this direction are: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates.	**Consistent.** The Planning Proposal will not change the permissibility of Caravan Parks within the subject site; therefore, the Planning Proposal is considered to be consistent with 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.	**Consistent.** Home occupations are permitted without consent in the proposed R5 Large Lot Residential Zone.
3.4 Integrating Land Use and Transport	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: (a) improving access to	**Consistent.** The road network surrounding the site is expected to be upgraded as a component of Stage 1 of the Huntlee development, including the construction of a new road to the immediate east of the site.

Ministerial Direction	Objective of Direction	Consistency and Implication
	housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	
3.5 Development Near Licensed Aerodromes	The objectives of this direction are: (a) to ensure the effective and safe operation of aerodromes, and (b) to 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) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	**Consistent.** The proposal is not in the vicinity of a licensed aerodrome.
3.6 Shooting Ranges	The objectives are: (a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) to identify issues that must be addressed when giving	**Consistent.** The proposal does not relate to land adjacent to a shooting range.

Ministerial Direction	Objective of Direction	Consistency and Implication
	consideration to rezoning land adjacent to an existing shooting range.	
4 HAZARD AND RISK		
4.1 Acid Sulfate Soils	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	**Consistent.** Nothing in this Planning Proposal is contrary to the objectives of this Direction.
4.2 Mine Subsidence and Unstable Land	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.	**Consistent.** The site is not within a mine subsidence district and previous environmental studies have identified that the land is not undermined. Further consultation will occur with the NSW Mine Subsidence Board should the Planning Proposal proceed.
4.3 Flood Prone Land	The objectives of this direction are: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	**Inconsistent.** At its nearest point, the site is approximately 150 metres from Black Creek. Council's flood modelling for Black Creek, adopted on 18 November 2015, identifies that a minor portion of the site is impacted by flooding during a 1 percent Annual Exceedance Probability (AEP) event; however the matter is considered to be of minor significance. Previous flood assessments carried out in relation to the surrounding Huntlee State Significant Site concluded that the subject property and surrounding land is suitable for rural residential development and that a continuously rising evacuation route is achievable to Wine Country Drive. Additionally, results of previous hydraulic modelling suggest that areas of the floodplain located above 1 percent AEP event flood extent would be classified as either flood storage or flood fringe. The design approach adopted for flood affected lots within the surrounding Huntlee precinct has been to designate indicative building areas above the 1 percent

Ministerial Direction	Objective of Direction	Consistency and Implication
		AEP line at the subdivision stage.
4.4 Planning for Bushfire Protection	The objectives of this direction are: (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas.	The majority of the site is mapped as bushfire prone land. A bushfire assessment has been undertaken and concludes the site can be developed to meet the requirements of *Planning for Bushfire Protection 2006* and comply with Planning for Bushfire Protection Guidelines and the *Rural Fires Act 1997*. This includes provision of asset protection zones; appropriate access standards for those involved in evacuation; adequate water supply and pressures; Emergency management arrangements and suitable landscaping, to limit fire spreading to a building. Further consultation will occur with the NSW Rural Fire Service Council in relation to the Planning Proposal.
5 REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes, and actions contained in regional strategies.	**Consistent.** The wider Branxton-Huntlee area is specifically identified for major urban release in the Lower Hunter Regional Strategy. The area is forecast to provide for up to 7,200 dwellings and is already significantly zoned for that purpose. While the Planning Proposal will not significantly increase the supply of large lot residential land, it will assist in bringing about the objective of the Lower Hunter Regional Strategy regarding the provision of new lots for residential development in the Branxton-Huntlee area.
5.2 Sydney Drinking Water Catchment	*The objective of this Direction is to protect water quality in the Sydney drinking water catchment.*	*Not Applicable to LGA*
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	*The objectives of this direction are:* *(a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre,* *(b) to provide more certainty on the status of the best*	*Not Applicable to LGA*

Ministerial Direction	Objective of Direction	Consistency and Implication
	agricultural land, thereby assisting councils with their local strategic settlement planning, and *(c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.*	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	*The objectives for managing commercial and retail development along the Pacific Highway are:* *(a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route;* *(b) to prevent inappropriate development fronting the highway* *(c) to protect public expenditure invested in the Pacific Highway,* *(d) to protect and improve highway safety and highway efficiency,* *(e) to provide for the food, vehicle service and rest needs of travellers on the highway, and* *(f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.*	*Not Applicable to LGA*
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	*(Revoked 18 June 2010)*	*No longer applicable to the LGA.*
5.6 Sydney to Canberra Corridor	*(Revoked 10 July 2008. See amended Direction 5.1)*	*Not Applicable to LGA*
5.7 Central Coast	*(Revoked 10 July 2008. See amended Direction 5.1)*	*Not Applicable to LGA*
5.8 Second Sydney Airport: Badgerys Creek	*The objective of this direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.*	*Not Applicable to LGA*

Ministerial Direction	Objective of Direction	Consistency and Implication
5.9 North West Rail Link Corridor Strategy	*The objectives of this direction are to:* *(a) promote transit-oriented development and manage growth around the eight train stations of the North West Rail Link (NWRL)* *(b) ensure development within the NWRL corridor is consistent with the proposals set out in the NWRL Corridor Strategy and precinct Structure Plans.*	*Not Applicable to LGA*
6 LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	**Consistent.** Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
6.2 Reserving Land for Public Purposes	The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	**Consistent.** Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	**Consistent.** The Planning Proposal does not propose to allow a particular development to be carried out on the site.
7 Metropolitan Planning		
7.1 Implementation of A Plan for Growing Sydney	*The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.*	*Not Applicable to LGA*

Section C: Environmental, Social and Economic Impact

6 Impact on Threatened Species

The Planning Proposal is supported by a Flora and Fauna Assessment dated September 2015. The Assessment identifies that there would be no constraints to the proposed rezoning and subsequent development of the land under the *Environment Protection and Biodiversity Conservation Act 1999* or *Threatened Species Conservation Act 1995*. The Assessment concludes that any impacts of the development will occur in an area that is already substantially ecologically degraded and has low resilience to natural regeneration.

The proponent's Flora and Fauna Assessment was reviewed and it is considered that a revised Assessment should be submitted that thoroughly addresses the potential for the site to be habitat for *persoonia pauciflora* (North Rothbury Persoonia) and potential foraging habitat for Glossy Black Cockatoo. Both species are known to occur in the area, with the North Rothbury Persoonia listed in the *Environment Protection and Biodiversity Conservation Act 1999* as being critically endangered.

The proponent will be requested to submit a revised Flora and Fauna Assessment addressing the matters raised above. Consultation will also occur with the NSW Office of Environment and Heritage in relation to the Planning Proposal and the revised Flora and Fauna Assessment.

7 Environmental Impact

Flooding

At its nearest point, the site is approximately 150 metres from Black Creek. Council's flood modelling for Black Creek, adopted on 18 November 2015, identifies that a portion of the site is impacted by flooding during a 1 percent Annual Exceedance Probability (AEP) event. The area impacted is limited to land adjoining the south western boundary of the site.

Previous flood assessments carried out in relation to the Huntlee State Significant Site have concluded that the subject property and surrounding land is suitable for rural residential development and that a continuously rising evacuation route is achievable to Wine Country Drive. Additionally, results of previous hydraulic modelling suggest that areas of the floodplain located above 1 percent AEP event flood extent would be classified as either flood storage or flood fringe.

The design approach adopted for flood affected lots within the surrounding Huntlee precinct has been to designate indicative building areas above the 1 percent AEP line. This approach is also feasible to address the reasonably minor impact of flooding within the subject site. It is noted that proposed Lot 105, being the most likely to be flooded, already contains a large bed and breakfast establishment.

Bushfire Risk

The Planning Proposal is supported by a Bushfire Threat Assessment dated November 2015. The Bushfire Threat Assessment concludes that future residential development of the site is capable of meeting the aims and objectives of the NSW Rural Fire Service document, '*Planning for Bush Fire Protection 2006*'. Separate consultation will occur with the NSW Rural Fire Service in relation to the Planning Proposal.

8 Social and Economic Impacts

Social and economic benefits of the Planning Proposal include:

- Short term construction employment for construction of the development; and
- Provision of additional housing stock to meet supply specified in LHRS.

The Planning Proposal is not of a scale that will create any significant adverse social impacts.

Section D: State and Commonwealth Interests

9 Adequate Public Infrastructure

Servicing

The site currently contains a number of buildings, including a large bed and breakfast establishment and detached cottage, both of which are connected to the reticulated electricity and telecommunication service. Options for servicing the site with water and sewer are presently limited to rainwater tanks and on-site wastewater management systems. Council's Development Control Plan 2010 does not specifically require subdivisions located beyond two kilometres of serviced urban areas to be connected to a reticulated water and sewer service.

Availability of reticulated water and sewer at the site will be largely dependent upon the timing of Stage 1 of the adjacent Huntlee development, which is expected to be connected to a reticulated service constructed by Huntlee Water. Should Council support the Planning Proposal, the proponent will be required to address site servicing in consultation with both Hunter Water Corporation and Huntlee Water to determine the most appropriate means by which to service the site with regard to the timing of any future subdivision.

Access and Traffic

Access to the site is currently achieved via a right-of-carriageway through the adjacent allotment to Wine Country Drive. The right-of-carriageway is 6 metres wide. The road network surrounding the site is expected to be upgraded as a component of Stage 1 of the Huntlee development, including the construction of a new road to the immediate east of the site. In consideration of Council's current development standards regarding required road reserve widths, subdivision of the site will be limited until such time as the surrounding Huntlee development is constructed.

Traffic relating to any future subdivision of the site is not expected to generate impacts that would warrant further upgrades of the broader road network, other than those already proposed as part of the wider Huntlee development.

Developer Contributions

The adjacent Huntlee development is subject to a Planning Agreement made pursuant to Section 93F of the *Environmental Planning and Assessment Act 1979*. The Agreement relates to the payment of developer contributions. It is considered that future development in the subject site will also increase demand for community amenities and public services and an equivalent mechanism for collecting developer contributions is required.

Considerable discussion has occurred between Council's Strategic Land Use Planning staff and the proponent regarding developer contributions. The discussion has resulted in the proponent submitting a 'Heads of Agreement' that will inform the drafting of a Voluntary Planning Agreement.

10 Consultation with State and Commonwealth Authorities

Formal consultation with selected statutory agencies, including with the wider community, will be undertaken as directed by the Gateway determination. Consultation is recommended with the following statutory authorities and agencies:

Statutory Authority or Agency	**Reason**
NSW Office of Environment and Heritage	Review the proponent's Flora and Fauna Assessment and advise of any environmental conservation requirements. It is noted that the site may be habitat for *persoonia pauciflora* (North Rothbury Persoonia) and potential foraging habitat for Glossy Black Cockatoo. Both species are known to occur in the area, with the North Rothbury Persoonia listed in the *Environment Protection and Biodiversity Conservation Act 1999* as being critically endangered.
Hunter Water Corporation Huntlee Water	The proponent will be required to address site servicing in accordance with Ministerial Direction 3.1. Consultation with both Hunter Water Corporation and Huntlee Water is recommended to assist in determining the most appropriate means by which to service the site with regard to the timing of any future subdivision.
NSW Aboriginal Land Council	To determine whether the site is or contains significant items of Aboriginal heritage value.
NSW Rural Fire Services	To review the proponent's Bushfire Threat Assessment and advise of any requirements.
NSW Trade and Investment – Minerals and Petroleum	To review the Planning Proposal and advise of any objections.
NSW Trade and Investment – Agriculture	To review the Planning Proposal and advise of any objections.
Mine Subsidence Board	To review the Planning Proposal and advise of any objections.
Ausgrid	To confirm that a future subdivision of the site is capable of being connected to reticulated electricity.
Telstra	To confirm that a future subdivision of the site is capable of being connected to reticulated telecommunications.

PART 4: MAPPING

The following maps are required to be amended to achieve the intent of the Planning Proposal:

Land Zone Map – amend Land Zoning Map Sheet 1720_COM_LZN_005_080_20150527 as it relates to Lot 11 DP 1105639 to R5 Large Lot Residential.

Lot Size Map – amend Lot Size Map Sheet 1720_COM_LSZ_005_080_20150527 as it relates to Lot 11 DP 1105639 to apply a minimum lot size of 2,000m^2.

PART 5: COMMUNITY CONSULTATION

Community consultation will be undertaken in accordance with Council's set guidelines, requiring a minimum of twenty eight (28) days exhibition, and any specific requirements made by the Department of Planning and Environment and specified in the Gateway determination.

The proposed consultation strategy for this Planning Proposal includes:

- Notification in the Cessnock Advertiser, locally circulated newspaper;
- Hard copy display at Council's Administration Building (Help & Information Centre); and Cessnock and Kurri Kurri Public Library; and
- Web based notification on Council's website at www.cessnock.nsw.gov.au

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. It is estimated that the proposed amendment to the Cessnock Local Environmental Plan 2011 will be completed by March 2017.

PROJECT TIMELINE

	Apr 2016	May 2016	Jun 2016	Sep 2016	Oct 2016	Dec 2016	Mar 2017
STAGE 1 Submit to DoP&E – Gateway Panel consider Planning Proposal							
STAGE 2 Receive Gateway Determination							
STAGE 3 Preparation of documentation for Public Exhibition							
STAGE 4 Public Exhibition							
STAGE 5 Review/consideration of submission received							
STAGE 6 Report to Council							
STAGE 7 Forward Planning Proposal to DoP&E with request the amendment be made							

Appendix 1: Council Report and Minutes

Minutes from the Meeting of Council held on 16 March 2016

PLANNING AND ENVIRONMENT NO. PE15/2016

SUBJECT: ***18/2015/7: PLANNING PROPOSAL - 1443 WINE COUNTRY DRIVE ROTHBURY***

MOTION ***Moved:*** Councillor Wrightson ***Seconded:*** Councillor Doherty
1613
RESOLVED

1. **That Council request a Gateway determination for the Planning Proposal from the Department of Planning and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.**

2. **That Council request authorisation to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* to make the Local Environmental Plan.**

3. **That Council undertake consultation with public authorities and the community as determined by the Department of Planning and Environment Gateway determination.**

4. **That Council receive a report back on the Planning Proposal if unresolved written objections are received during the consultation with the Community; otherwise forward the Planning Proposal to the Department of Planning and Environment requesting that the plan be made.**

5. **That Council support in principal the applicant's 'Heads of Agreement' to enter into a draft Planning Agreement in respect of developer contributions and place the draft Agreement on public exhibition with the Planning Proposal.**

6. **That the draft Voluntary Planning Agreement be reported back to Council following community consultation.**

FOR	AGAINST
Councillor Gibson	Councillor Ryan
Councillor Doherty	
Councillor Wrightson	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Pynsent	
Total (8)	**Total (1)**

CARRIED

Report from the Meeting of Council held on 16 March 2016

Report To Ordinary Meeting of Council - 16 March 2016

Planning and Environment

Report No. PE15/2016

Planning and Environment

SUBJECT: ***18/2015/7: PLANNING PROPOSAL - 1443 WINE COUNTRY DRIVE ROTHBURY***

RESPONSIBLE OFFICER: ***Strategic Land Use Planning Manager - Martin Johnson***

APPLICATION NUMBER:	18/2015/7
PROPOSAL:	Planning Proposal – 1443 Wine Country Drive Rothbury
PROPERTY DESCRIPTION:	Lot 11 DP 1105639
PROPERTY ADDRESS:	1443 Wine Country Drive Rothbury
ZONE: (CURRENT)	RU2 Rural Landscape Zone
ZONE (PROPOSED)	R5 Large Lot Residential Zone
OWNER:	Mr PD Vizzard
PROPONENT:	HDB Town Planning and Design

SUMMARY

The purpose of this Report is to allow consideration of a Planning Proposal to rezone Lot 11 DP 1105639, known as 1443 Wine Country Drive Rothbury (the 'subject site'), from RU2 Rural Landscape Zone to R5 Large Lot Residential Zone and amend the minimum lot size of the site from 40 hectares to 2,000m^2. The Planning Proposal will ensure that the zoning of the subject site reflects the desired future character of land in the immediate area, which was rezoned R5 Large Lot Residential as a component of the Huntlee New Town ('Huntlee') State Significant Development.

RECOMMENDATION

1. **That Council request a Gateway determination for the Planning Proposal from the Department of Planning and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.**

2. **That Council request authorisation to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* to make the Local Environmental Plan.**

3. **That Council undertake consultation with public authorities and the community as determined by the Department of Planning and Environment Gateway determination.**

4. **That Council receive a report back on the Planning Proposal if unresolved written objections are received during the consultation with the Community; otherwise forward the Planning Proposal to the Department of Planning and Environment requesting that the plan be made.**

5. **That Council support in principal the applicant's 'Heads of Agreement' to enter into a draft Planning Agreement in respect of developer contributions and place the draft Agreement on public exhibition with the Planning Proposal.**

6. **That the draft Voluntary Planning Agreement be reported back to Council following community consultation.**

Chronology

Date	Brief Description
11 November 2015	Planning Proposal lodged with Council.
26 February 2016	Proponent submits a 'Heads of Agreement' in relation to developer contributions.

BACKGROUND

The Planning Proposal was lodged with Council on 11 November 2015 and relates to Lot 11 DP 1105639, known as 1443 Wine Country Drive Rothbury (the 'subject site'). The site was previously zoned 1(a) Rural 'A' Zone under the *Cessnock Local Environmental Plan (LEP) 1989* before conversion to RU2 Rural Landscape Zone under the LEP 2011.

Approximately 80 hectares of land surrounding the subject site was rezoned from 1(a) Rural 'A' Zone to R5 Large Lot Residential Zone in 2009 as a component of the Huntlee State Significant Development. The R5 zoned land surrounding the subject site is expected to provide for approximately 120 rural residential allotments as part of Stage 1 of the Huntlee development. The Huntlee allotments will be serviced with electricity, telecommunications and reticulated water and sewer and are subject to a Planning Agreement requiring the payment of developer contributions in respect of proposed community infrastructure in the greater Huntlee area.

The subject site was not included by the State Government in the rezoning of the adjoining Huntlee land and is now encircled by land zoned R5 Large Lot Residential. The proponent has advised that the land owner had assumed the site would be included in the wider Huntlee rezoning, given its proximity to the development; however, this did not eventuate. As such, the subject land remains an isolated and significantly undersized parcel of rural zoned land.

PROPOSAL

The Site

The subject site is a significantly undersized rural allotment, being only 2.05 hectares in area, where the minimum lot size is 40 hectares. The site contains a number of buildings, including a large bed and breakfast establishment, detached cottage and associated farm structures. The southern extent of the site is vegetated with trees, predominantly regrowth Casuarina Woodland, and the property generally falls to the south west. The current zoning of the site and surrounds are identified in **Figure 1**.

It is considered that the agricultural viability of the property is severely limited, given the property's size, existing land uses occurring on site, such as a large bed and breakfast establishment, and proximity to other land zoned for rural residential purposes.

Indicative Subdivision

The Planning Proposal will enable the site to be subdivided into large lot residential parcels, consistent with the subdivision proposal for the adjoining Huntlee land. An indicative subdivision has been supplied by the proponent together with the Planning Proposal demonstrating how the land could be subdivided into eight rural residential allotments, should the Proposal be supported by Council. Each allotment would have an area greater than 2,000m^2. The indicative subdivision layout is shown in **Figure 2**.

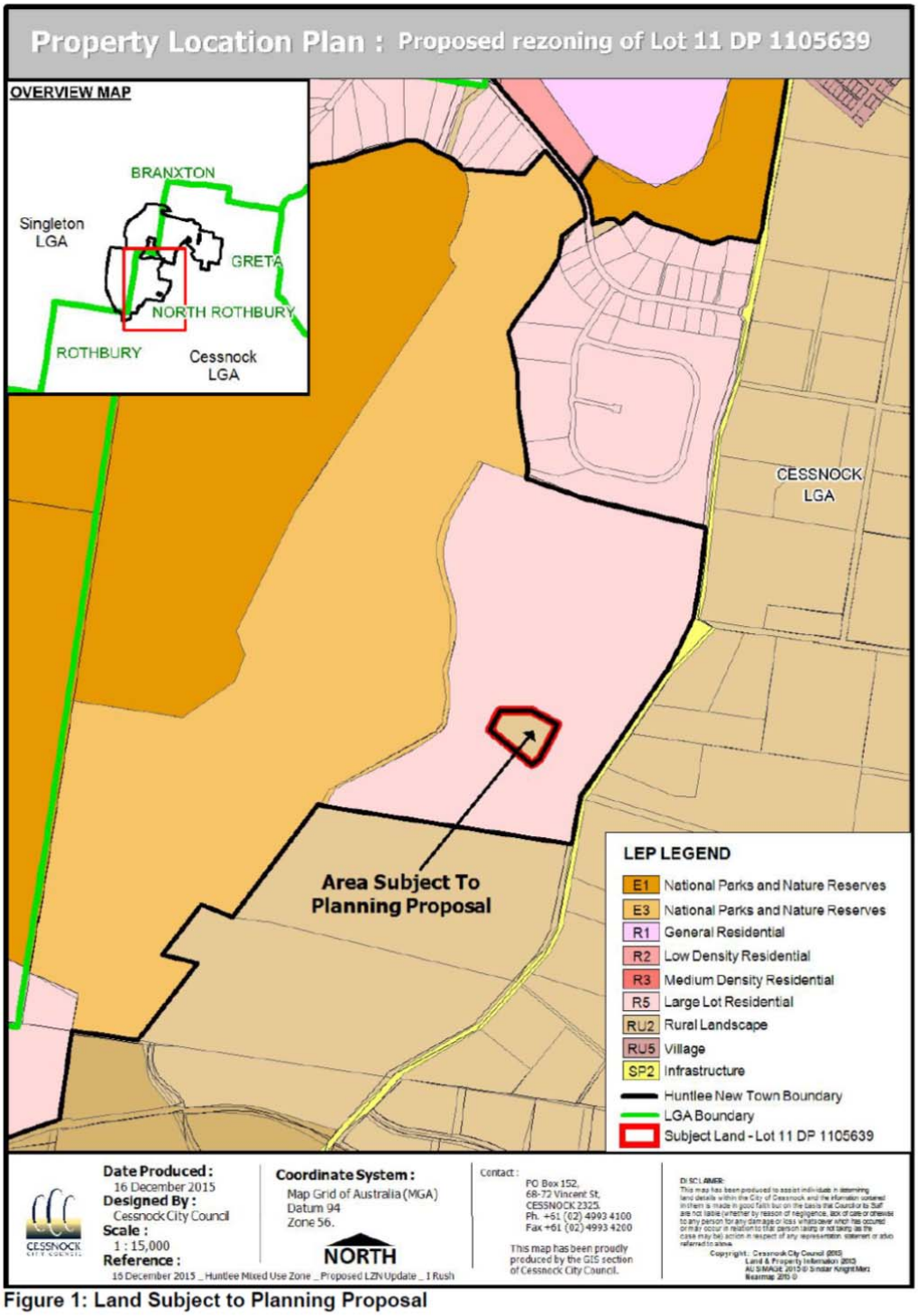


Figure 1: Land Subject to Planning Proposal

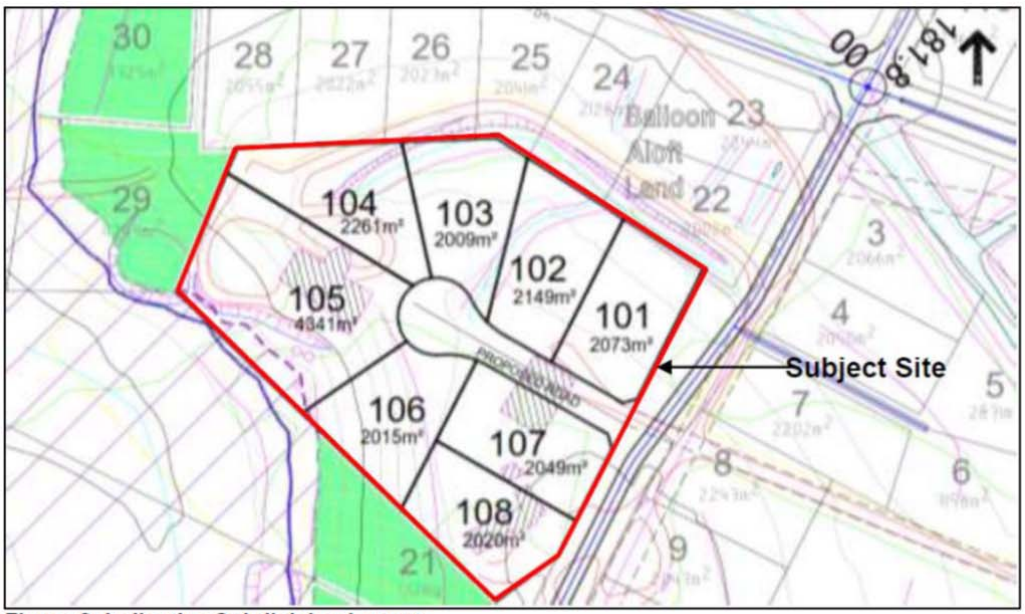


Figure 2: Indicative Subdivision Layout

Strategic Context

The Branxton-Huntlee area is specifically identified for major urban release in the Lower Hunter Regional Strategy. The area is forecast to provide for up to 7,200 dwellings and is already largely zoned for that purpose. While the Planning Proposal will not significantly increase the supply of large lot residential land, it will assist in bringing about the objective of the Lower Hunter Regional Strategy regarding the provision of new lots for residential development in the greater Branxton-Huntlee area.

Council's City Wide Settlement Strategy supports opportunities for infill small area rezonings for the purpose of rural residential development. The role of rural residential development in the adopted settlement hierarchy is to support the growth of villages and urban centres and to provide some limited additional lifestyle choice. It is considered that the Proposal will support the growth of Huntlee Urban Centre by providing additional lots for housing and additional population.

Flora and Fauna

The Planning Proposal is supported by a Flora and Fauna Assessment dated September 2015. The Assessment identifies that there would be no constraints to the proposed rezoning and subsequent development of the land under the *Environment Protection and Biodiversity Conservation Act 1999* or *Threatened Species Conservation Act 1995*. The Assessment concludes that any impacts of the development will occur in an area that is already substantially ecologically degraded and has low resilience to natural regeneration.

The Flora and Fauna Assessment has been reviewed and it is considered that a revised Assessment should be submitted that thoroughly addresses the potential for the site to be habitat for *persoonia pauciflora* (North Rothbury Persoonia) and potential foraging habitat for Glossy Black Cockatoo. Both species are known to occur in the area, with the North Rothbury Persoonia listed in the *Environment Protection and Biodiversity Conservation Act 1999* as being critically endangered.

Should Council support the Planning Proposal, the proponent will be requested to submit a revised Flora and Fauna Assessment addressing the matters raised above. Consultation will also occur with the NSW Office of Environment and Heritage in relation to the Planning Proposal and the revised Flora and Fauna Assessment.

Flooding

At its nearest point, the site is approximately 150 metres from Black Creek. Council's flood modelling for Black Creek, adopted on 18 November 2015, identifies that a minor portion of the site is impacted by flooding during a 1 percent Annual Exceedance Probability (AEP) event. The area impacted is limited to land adjoining the south western boundary of the site, as shown in **Figure 3**.

Figure 3: Impact of 1 Percent AEP Flood Event

Previous flood assessments carried out in relation to the Huntlee State Significant Site have concluded that the subject property and surrounding land is suitable for rural residential development and that a continuously rising evacuation route is achievable to Wine Country Drive. Additionally, results of previous hydraulic modelling suggest that areas of the floodplain located above 1 percent AEP event flood extent would be classified as either flood storage or flood fringe.

The design approach adopted for flood affected lots within the surrounding Huntlee precinct, which is already zoned R5 Large Lot Residential, has been to designate indicative building areas above the 1 percent AEP line at a subdivision stage. This approach is also feasible to address the reasonably minor impact of flooding within the subject site. It is also noted that proposed Lot 105, being the lot most likely to be flood affected, already contains a large bed and breakfast establishment. A flood free evacuation route currently exists from the subject site to Wine Country Drive.

Mine Subsidence

The site is not within a mine subsidence district and previous environmental studies have identified that the land is not undermined.

Servicing

The site currently contains a number of buildings, including a large bed and breakfast establishment and detached cottage, both of which are connected to reticulated electricity and telecommunications. Options for servicing the site with water and sewer are presently limited to rainwater tanks and on-site wastewater management systems. It is noted that Council's Development Control Plan 2010 does not specifically require subdivisions located beyond two kilometres of serviced urban areas to be connected to a reticulated water and sewer service.

Availability of reticulated water and sewer at the site will be largely dependent upon the timing of Stage 1 of the adjacent Huntlee development, which is expected to be connected to a reticulated service constructed by Huntlee Water. Should Council support the Planning Proposal, the proponent will be required to address site servicing in consultation with both Hunter Water Corporation and Huntlee Water to determine the most appropriate means by which to service the site with regard to the timing of any future subdivision.

Access and Traffic

Access to the site is currently achieved via a right-of-carriageway through the adjacent allotment to Wine Country Drive. The right-of-carriageway is 6 metres wide. The road network surrounding the site is expected to be upgraded as a component of Stage 1 of the Huntlee development, including the construction of a new road to the immediate east of the site. In consideration of Council's current development standards regarding public road reserve widths, the site's subdivision potential is limited until such time as the surrounding Huntlee development is constructed.

Traffic relating to any future subdivision of the site is not expected to generate impacts that would warrant further upgrades of the broader road network, other than those already proposed as part of the wider Huntlee development.

Bushfire Risk

The Planning Proposal is supported by a Bushfire Threat Assessment dated November 2015. The Bushfire Threat Assessment concludes that future residential development of the site is capable of meeting the aims and objectives of the NSW Rural Fire Service document, '*Planning for Bush Fire Protection 2006*'. Notwithstanding, should Council support the

Planning Proposal, separate consultation will be recommended with the NSW Rural Fire Service.

Developer Contributions

The adjacent Huntlee development is subject to a Planning Agreement made pursuant to Section 93F of the *Environmental Planning and Assessment Act 1979*. The Agreement relates to the payment of developer contributions. It is considered that future development in the subject site will also increase demand for community amenities and public services and an equivalent mechanism for collecting developer contributions is required.

Considerable discussion has occurred between Council's Strategic Land Use Planning staff and the proponent regarding developer contributions. The discussion has resulted in the proponent submitting a 'Heads of Agreement' that will inform the drafting of a Voluntary Planning Agreement. The Heads of Agreement is provided as **Enclosure 2**.

It is recommended that Council support in principal the applicant's Heads of Agreement and that the resulting draft Planning Agreement be reported back to Council following community consultation.

OPTIONS

1. Council resolve to support the recommendations of this Report and submit a planning proposal to the Department of Planning and Environment for a Gateway determination. This is the recommended option.

2. Request changes to the Planning Proposal. This option will delay the proposed amendments.

3. Not support the recommendation of this Report for the following reasons:

   (*To be provided by Council*).

CONSULTATION

Formal consultation with selected statutory agencies, including with the wider community, will be undertaken as directed by the Gateway determination.

Should Council support the Planning Proposal, consultation will be recommended with the following statutory authorities and agencies:

- Office of Environment and Heritage;
- Hunter Water Corporation;
- Huntlee Water;
- NSW Aboriginal Land Council;
- NSW Rural Fire Services;
- NSW Trade and Investment – Minerals and Petroleum;
- NSW Trade and Investment – Agriculture;

- Ausgrid;
- Telstra; and
- any others specified in the determination.

In addition, consultation has occurred with Council's Ecologist in relation to the Planning Proposal. This consultation resulted in a recommendation that a revised Flora and Fauna Assessment should be submitted that thoroughly addresses the potential for the site to be habitat for *Persoonia Pauciflora* (North Rothbury Persoonia) and potential foraging habitat for Glossy Black Cockatoo.

STRATEGIC LINKS

a. Delivery Program

A Sustainable and Healthy Environment: Objective 3.1, Protecting and Enhancing the Natural Environment and the Rural Character of the Area.

b. Other Plans

The Planning Proposal is considered to be consistent with relevant State Environmental Planning Policies and Section 117 Ministerial Directions.

IMPLICATIONS

a. Policy and Procedural Implications

The current status of the planning proposal is identified in the following process.

PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN

b. Financial Implications

The finalisation of the Planning Proposal will be met through rezoning fees. This Planning Proposal is considered to be a Category A rezoning application and attracts a phase 1 fee of $5,305.00.

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

It is considered that there are minimal risk implications arising from the recommendation of this Report.

e. Other Implications

Nil

CONCLUSION

The subject site is encircled by land zoned R5 Large Lot Residential. The agricultural viability of the site is severely limited, given the property's size, existing land uses occurring on site, and proximity to other land zoned for rural residential purposes. The Planning Proposal will ensure that the zoning of the subject site reflects the desired future character of land in the immediate area, while rectifying an anomaly whereby the subject land has retained a rural zoning while land surrounding the site was rezoned rural residential as a component of the Huntlee New Town State Significant Site.

Should Council determine to support the recommendation of this Report, a planning proposal will be forwarded to the Department of Planning and Environment for a Gateway determination. The Gateway determination will contain conditions that will need to be satisfied before exhibition can commence. A further report in relation to the Planning Proposal will be presented to Council following public exhibition, if unresolved objections are received, advising of the outcomes of the public consultation. The draft Voluntary Planning Agreement, relating to developer contributions, will be exhibited concurrently with the Planning Proposal and reported back to Council for endorsement following community consultation.

ENCLOSURES

1 Planning Proposal - 1443 Wine Country Drive Rothbury
2 Heads of Agreement

Appendix 2: Heads of Agreement

hdb
planning > design > development
PO Box 40, Maitland NSW 2320
1st Floor, 44 Church Street
Maitland NSW 2320

ABN: 35 078 017 508

T (02) 4933 6682
F (02) 4933 6683
W hdb.com.au

File Ref: 14/052

25 February 2016

The General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Attention: Mr. Iain Rush

Subject: Letter of Offer – 1443 Wine Country Drive

I refer to our previous discussions with Council in respect to the need for a Voluntary Planning Agreement to be entered into as part of the consideration of the planning proposal seeking to rezone 1443 Wine Country Drive.

Our clients site has been excluded and isolated by the approvals granted in respect to Huntlee. The subject site falls within the 80ha of land set aside for large lot residential development approved under Stage 1. While not constituting part of Huntlee the exclusion of the subject site does not appear to rely on any planning logic and hence the planning proposal referred to above seeks to redress this "anomaly".

In seeking to correct this anomaly it has been conveyed to our client that there is a need to put in place an agreement to ensure that a "fair" contribution is made towards the facilities proposed at Huntlee. From discussions with Council it is understood that the fair contribution has been calculated as $10,240.91 per lot.

This letter is therefore intended to represent our client's voluntary offer to enter into an agreement with Council commensurate with the above figure, as calculated by Council.

This offer is made subject to the following General Terms of the Agreement (see over the page)

GENERAL TERMS OF AGREEMENT

Parties	Cessnock City Council hereby referred to as **Council**; and the proponents being Peter Vizzard and Judy Lyn hereby referred to as **Landowner(s)**
Background	The Landowner(s) are seeking to rezone their land to address the anomaly that was caused by the approval and rezoning of Huntlee. The Landowner(s) have lodged a Planning Proposal, with the Council seeking amendments to the Cessnock Local Environmental Plan 2011. The proposal as it stands would allow for approximately 8 lots to be created subject to approval of Council. The Landowner(s) offer to enter into a planning agreement (**the Agreement**) with Council to make Development Contributions on the terms set out below.
Planning agreement under the Act	This Agreement will be a planning agreement within the meaning of section 93F of the Act.
Application of the Agreement	This Agreement will apply to: ▪ The Land; and ▪ The Development
Operation of the Agreement	The Agreement will commence from the date the Agreement is signed by the Parties, following approval of the amendment to Cessnock LEP 2011.
Development Contributions	Developer contributions are to be made consistent with the attached Table (Appendix 1) subject to final negotiation with Council and the exemptions provided for below. Contributions will be index annually consistent with CPI increases.
Exemptions	The existing lot will be considered as a "credit" and a contribution would not be payable for this lot.
Application of sections 94, 94A and 94EF of the Act	The Agreement will exclude the application of sections 94, 94A and 94EF of the Act to the Development, in the manner determined by the Parties acting reasonably and taking into consideration of the Development Contributions to be made under the Agreement.
Registration of the Agreement	The Landowners will do all things reasonably necessary to enable the Council to register the Agreement after Gateway Determination under section 93H of the Act.
Costs	Costs incurred by Council will be considered as an administrative cost of the Agreement and shall be incorporated as so. The extent of cost to the Agreement will be limited to a maximum of $3,500 representing approximately 5% of the total value of the contributions. The Landowners would be responsible for their own costs.

Having regard to the contribution required by Council ($10,240.91/lot) and the legal costs ($500/lot) this offer proposed a contribution of $10,740.91 per lot.

It is understood that these are general terms for the purpose of this letter and will be subject to finalisation as part of the negotiation of the voluntary planning agreement.

This Letter of Offer is provided for your consideration in support of the proposal to rezone 1443 Wine Country Drive. Subject to Council's consideration I look forward to discussing this matter with you further.

Yours sincerely
HDB Town Planning & Design

Mathew Egan
Principal Town Planner

Enc: Proposed Schedule of Contributions

Calculation of Developer Contributions per Lot as at 28 January 2016

	Monetary Contribution	Contribution per Lot	WIK Contribution	Contribution per Lot	Total Contribution per Lot - Huntlee	Total Contribution per Lot - 1443 WCD Rothbury
Community Building	NA		$1,289,062.50	$549.71	$549.71	$549.71
Community Hub - Library / Youth Centre / Neighbourhood Centre	$5,625,468.75	$2,398.92			$2,398.92	$2,398.92
Branxton Cemetery Columbarium Wall	$16,500.00	$7.04			$7.04	NA
District Sports Fields			$3,552,243.75	$1,514.82	$1,514.82	$1,514.82
Core Riparian Zones			$2,324,231.25	$991.14	$991.14	NA
District Parks			$5,340,972.66	$2,277.60	$2,277.60	$2,277.60
Local Parks			$3,591,740.63	$1,531.66	$1,531.66	$1,531.66
Town Centre Urban Squares			$1,378,265.63	$587.75	$587.75	NA
General Public Open Space			$8,438,427.94	$3,598.48	$3,598.48	NA
Public Open Space Maintenance			$3,196,875.00	$1,363.27	$1,363.27	NA
Contribution to Regional Recreational Facilities	$1,031,250.00	$439.77			$439.77	$439.77
Regional Sports Fields	$2,346,700.13	$1,000.73			$1,000.73	$1,000.73
Upgrade to Streets within North Rothbury by Council	$825,000.00	$351.81			$351.81	NA
Childcare / Government Pre-schools			$1,237,500.00	$527.72	$527.72	$527.72
Administrive Cost	$3,500.00	$500.00			N/A	$500.00
				Total Monetary Contribution per Lot	$17,140.40	$10,740.91

Appendix 3: XXX