



PLANNING PROPOSAL

Amendment to the

Cessnock Local Environmental Plan 2011

John Renshaw Drive BLACK HILL

Rezoning of Lot 1131 DP 1057179

Version 2.0

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PART 1: OBJECTIVES and OUTCOMES

The objectives of this Planning Proposal are to:-

1. Implement the policy provisions of the Lower Hunter Regional Strategy 2006 which identifies the subject land as Employment Lands – balanced with the management of local impacts;
2. To improve the condition of land which include endangered ecological communities (Lower Hunter Spotted Gum) and provide mechanisms for the highly ecologically significant parts of land for conservation in perpetuity;
3. To enable a limited number of environmental living (residential subdivision and dwelling) opportunities compatible with the ecologically significant parts of the site that also supports the ongoing viability of the Black Hill Public School and other local services; and
4. To ensure that development occurs in a cost effective manner whereby there are no inappropriate demands on the funding and/or prioritisation of public infrastructure.

PART 2: EXPLANATION of PROVISIONS

Statutory Requirements

This Planning Proposal describes the subject land and outlines the proposed zoning and planning control changes. It has been prepared in accordance with the Department of Planning and Environment's (DoPE) Guide to Preparing Planning Proposals (October 2012), and with reference to DoPE's Guide to Preparing Local Environmental Plans (October 2012). These guides outline the matters to be addressed in a planning proposal set out in Section 55(2) of the Environmental Planning and Assessment Act 1979.

The Planning Proposal

This Planning Proposal (PP) proposes the rezoning of approximately 300 hectares of land from Zone RU2 Rural Landscape to a combination of IN2 Light Industrial (195.6ha), E4 Environmental Living (64ha) and E2 Environmental Conservation (40.4ha) under the *Cessnock Local Environmental Plan 2011* (LEP 2011).

Cessnock Local Environmental Plan 2011 - Instrument

1. The above objectives will be achieved by amending the Cessnock Local Environmental Plan 2011 (Cessnock LEP 2011) in the following ways (as shown in **Map 4** within this Planning Proposal):
 - a) The predominant zoning of the subject land being IN2 – Light Industrial (approximately 195.6 hectares);
 - b) The zoning of the northern sector of the site from RU2 – Rural Landscape to E2 – Environmental Conservation (approximately 40.4 hectares);
 - c) The zoning of the southern sector of the site from RU2 – Rural Landscape to E4 – Environmental Living (approximately 64 hectares)
2. The objectives will be enacted by:-
 - a) Applying the current IN2 Light Industrial zone (approximately 195.6 ha) which has zone objectives and a land use table including the additional permitted use of general industry (under Schedule 1) as follows:

Zone IN2 Light Industrial

Objectives of zone

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*

Permitted without consent

Nil

Permitted with consent

Depots; Hotel or motel accommodation; Industrial training facilities; Light industries; Neighbourhood shops; Pubs; Roads; Timber yards; Warehouse or distribution centres; Any other development not specified in item 2 or 4

Prohibited

Agriculture; Airstrips; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Commercial premises; Community facilities; Correctional centres; Eco-tourist facilities; Educational establishments; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Function centres; Hazardous storage establishments; Health services facilities; Helipads; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industries; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Offensive storage establishments; Public administration buildings; Recreation facilities (major); Recreation facilities (outdoor); Residential accommodation; Respite day care centres; Resource recovery facilities; Sewerage systems; Tourist and visitor accommodation; Waste disposal facilities; Water recreation structures; Wharf or boating facilities; Wholesale supplies.

- b) Amending the Cessnock LEP 2011 by the introduction of the E4 – Environmental Living zone with objectives and the land use table as set out below:

Zone E4 Environmental Living

Objectives of zone

- *To provide balance between low-impact residential development in areas with special ecological, scientific or aesthetic values with enabling limited additional population to support local services and facilities;*
- *To ensure that residential development does not have an adverse effect on those values;*
- *To conserve the rural or bush land character and the biodiversity or other conservation values of the land.*
- *To provide for the development of land for purposes that will not, or will be unlikely to, prejudice its possible future development for urban purposes or its environmental conservation.*

Permitted without consent

Environmental protection works; Home occupations: Home based child care

Permitted with consent

Agriculture; Animal boarding or training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Child care centres; Community facilities; Dwelling houses; Emergency services facilities; Environmental facilities; Farm buildings; Flood mitigation works;; Home businesses; Home industries; Information and education facilities; Landscaping material supplies; Neighbourhood shops; Passenger transport facilities; Plant nurseries; Recreation areas; Research stations; Respite day care centres; Roads; Roadside stalls; Secondary dwellings; Water reticulation systems

Prohibited

Aquaculture; Industries; Intensive livestock agriculture; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3.

- c) Retaining the objectives and land use table for the E2 Environmental Conservation zone which applies to the northern sector of the site which are as follows:

Zone E2 Environmental Conservation

Objectives of zone

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

Permitted without consent

Home occupations

Permitted with consent

Dwelling houses; Environmental facilities; Environmental protection works; Extensive agriculture; Home-based child care; Recreation areas; Roads; Secondary dwellings; Tourist and visitor accommodation

Prohibited

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

- d) Applying the existing Clause 6.3 in the Cessnock LEP 2011 - given that the subject site is proposed to become an urban release area - regarding development control plans.

Development Control Plan

1. *The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.*
2. *Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in sub-clause (3) has been prepared for the land.*
3. *The development control plan must provide for all of the following:*
 - (a) *a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,*
 - (b) *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,*
 - (c) *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,

- (d) a network of passive and active recreational areas,*
- (e) Stormwater and water quality management controls,*
- (f) 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,*
- (g) detailed urban design controls for significant development sites,*
- (h) measures to encourage higher density living around transport, open space and service nodes,*
- (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,*
- (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.*

4. Sub-clause (2) does not apply to any of the following development:

- (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,*
- (b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,*
- (c) a subdivision of land in a zone in which the erection of structures is prohibited,*
- (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.*

Cessnock Local Environmental Plan 2011 – Part 7 Additional Local Provisions

The objectives will be enacted by the inclusion of a new local clause allowing the maximum of four lots to be created with the erection of a single dwelling only on each lot in the E4 – Environmental Living zone only.

Subdivision of land at Black Hill Road, Black Hill

- (1)** This clause applies to land at Black Hill Road, Black Hill, being Lot 1131, DP 1057179 zoned E4 Environmental Living.
- (2)** Despite clause 4.1 (3), development consent may be granted for the subdivision of land to which this clause applies, but only if:
 - (a)** the land will be subdivided into a maximum of 4 lots, and
 - (b)** a maximum of one dwelling house will be erected on each lot.

Schedule 1 Additional permitted uses

Use of certain land at Black Hill

(1) This clause applies to land at Black Hill Road, Black Hill, being Lot 1131, DP 1057179 zoned IN 2 Light Industrial and identified on the Additional Permitted Uses Map.

(2) Development for the purpose of **General Industry** is permitted with development consent.

Cessnock Local Environmental Plan 2011 - Maps

1.2 The objectives will be enacted by:

- a. Amending the **land zoning map** (refer to **Map 4**) which is integral to the Cessnock LEP 2011 to the effect that:
 - i. The predominant zoning of the subject land being IN2 – Light Industrial (approximately 195.6 hectares);
 - ii. The zoning of the northern sector of the site from RU2 – Rural Landscape to E2 – Environmental Conservation (approximately 40.4 hectares);
 - iii. The zoning of the southern sector of the site from RU2 – Rural Landscape to E4 – Environmental Living (approximately 64 hectares).
- b. Amending the **Lot Size Map** (refer to **Map 6**) so that:-
 - i. No minimum lot size will be applicable to the land zoned IN2 – Light Industrial;
 - ii. A minimum lot size of 80 hectares applies to the E4 – Environmental Living zone. However it should be noted a local clause is recommend below for up to four additional lots to be created; and
 - iii. A minimum lot size of 80 hectare for the E2 – Environmental Conservation zone which is consistent with the E2 – Environmental Conservation zone currently in the Cessnock LEP 2011.
- c. Amending the **urban release area map** (refer to **Map 7**) which is integral to the Cessnock LEP 2011 so that the subject land is identified as an urban release area. It is a condition of the Gateway determination that the land be identified as an urban release area which has the effects of:-
 - i. Enabling the required contribution by the proponent of funding towards the provision of Designated State infrastructure and to provide the required public infrastructure in a timely manner - (Designated State infrastructure includes state and regional roads, bus interchanges and bus lanes, land required for regional open space and land required for social infrastructure and facilities).
- d. A Development Control Plan having to be prepared for the site before any development application is determined.
- e. The intended outcomes for the E4 Environmental Living zone will be achieved through a combination of the zone objectives and land use table, local clause allowing for a maximum of four lots and the Development Control Plan. As a result the Planning Proposal is considered to be consistent with the Regional Plan in that the number of lots will not represent a rural subdivision of any consequent scale.

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:

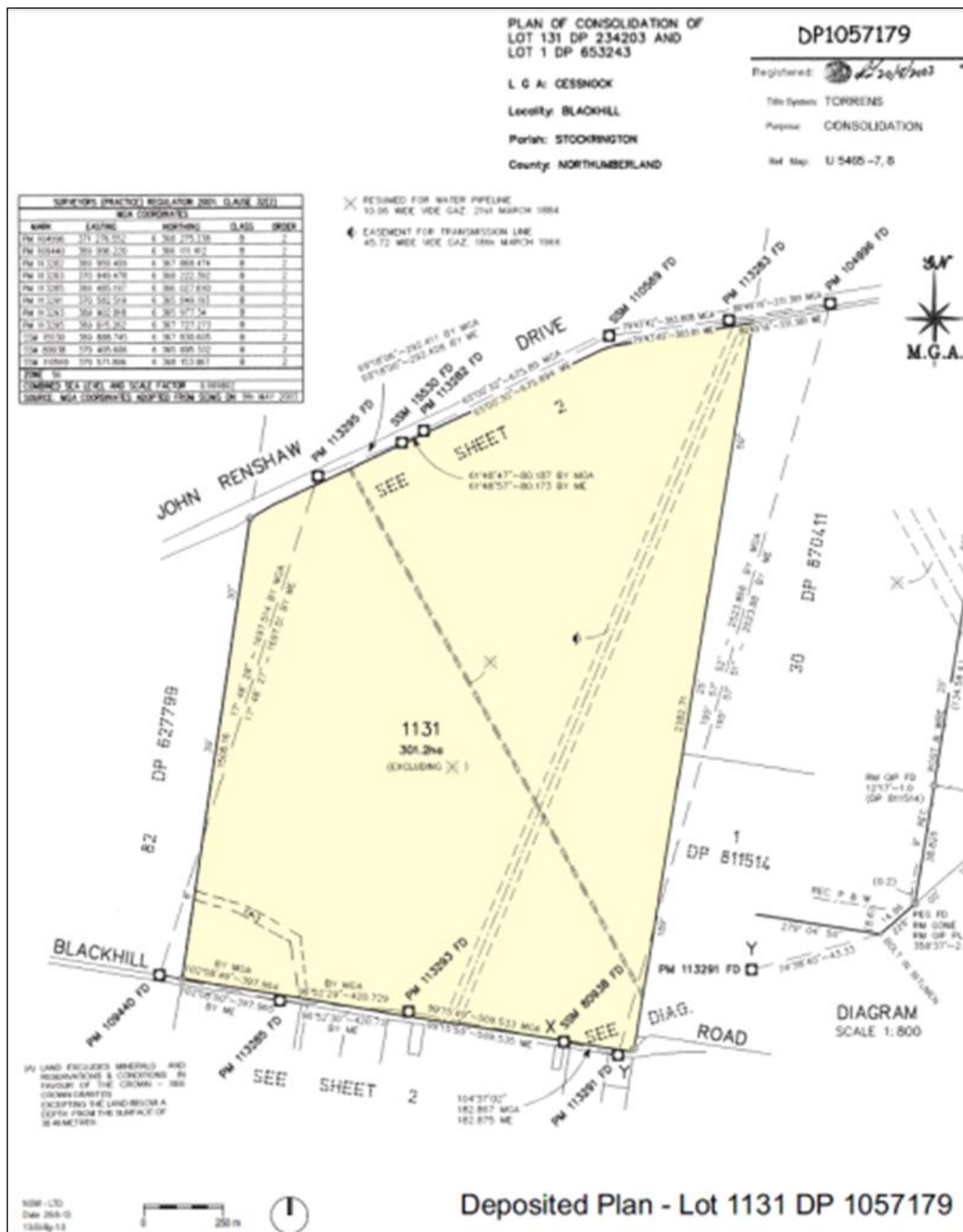
- Section A: Need for Proposal;
- Section B: Relationship to Strategic Planning Framework;
- Section C: Environmental, Social and Economic Impact; and
- Section D: State and Commonwealth Interests

Overview of the Site

The subject site is located on the eastern extremity of the Cessnock Local Government Area (LGA). The site is bounded on the east by the Newcastle LGA, and the boundary with the Maitland LGA is located less than 500m to the north (See **Map 1**).

Black Hill is located approximately 20km north-west of the Newcastle commercial centre; 12 km south-east of Maitland; 15 km east of Kurri Kurri; and approximately 14 km south-west of Raymond Terrace. All of these centres provide a wide range of business, commercial and residential services and facilities. Excellent connections are provided from the subject site to these major destinations and beyond (e.g. to Sydney and Brisbane) through the site's proximity to John Renshaw Drive; the New England Highway; the Pacific Highway; the Hunter Expressway; and the M1 Pacific Motorway; all located within 5km of the site, with most located within 2km.

Figure 1 – Deposited Plan of Subject Site



Locality Character

The area is characterised by rural, rural residential and bushland uses. The character of the area to the north and north-east of the subject site has undergone a transition in recent years, changing from predominantly rural enterprise uses given mining and industrial developments and rezonings. This includes the recent development of several business and industrial parks west of Beresfield, sited to take advantage of the road network accessibility. A concept plan for a large industrial development directly adjacent to the subject site has recently been approved. Specific land uses in the immediate vicinity of the site are described below:

- **North:** The northern boundary of the site is adjoined by John Renshaw Drive, a major 2-lane thoroughfare providing connections from Kurri Kurri in the west to the New England Highway in the east. The Donaldson Open Cut Mine is located on the northern side of John Renshaw Drive, separated from the road by a vegetated buffer. The portal of the Abel Underground Mine (also operated by Donaldson Coal) is located in association with the Open Cut Mine. This mine extends under John Renshaw Drive and under the subject site. Further to the north-east of the site lie several industrial and business estates; the New England Highway; and the township of Beresfield;
- **East:** Overhead 330kV transmission lines run the length of the site's eastern boundary within a 60 metre wide easement that is cleared to grass level. Large areas of predominantly heavily vegetated land lie to the east of the power lines. A 183ha section of this land, known as the 'Black Hill Employment Lands (Northern Estates)' is owned by Coal & Allied. A concept plan for the industrial development of this land was recently approved. The remainder of the land accommodates sparse rural and rural residential development;
- **South:** The site is bounded to the south by Black Hill Road, a 2-lane rural road. The Black Hill Public School is located on the southern side of Black Hill Road, in addition to the Black Hill Uniting Church and cemetery and several rural/ rural residential developments; and
- **West:** Land to the west comprises a significant area of heavily vegetated bushland.

Site Description

The land formerly accommodated a substantial chicken meat and egg farming operation first developed in the early 1960's; comprising multiple individual family farms, each with its own dwelling house, up to 57 large chicken sheds and associated development. In addition to the chicken sheds, farming development included a vaccine laboratory; diagnostic laboratory; veterinarian dwelling house; workshops; dead-bird burial grounds; and fuel/chemical storage areas. Most of this development has now been demolished, with only a few structures remaining.

Currently, the site is a mix of grassy paddocks, used for low-scale grazing purposes and tree covered areas. Much of the site has been cleared in the past to accommodate various activities and is now vegetated with pasture grasses. Large areas of native woodland vegetation remain scattered throughout the site, though this vegetation is fragmented, mostly heavily under scrubbed and disturbed, with little or no native understorey remaining, and with young stands of trees that lack larger hollows. Vegetation associated with most creek lines within the site appears to be in a highly degraded state, with infestations of lantana.

Existing development on, and uses of, the site generally comprise the following:

- Fencing, cattle yards and ramps - the site is frequently grazed by up to 250 head of beef cattle at any one time;
- Former diagnostic laboratory building - currently vacant;
- 4 occupied dwelling houses- utilised by a property manager and rental tenants;
- Former turkey hatchery buildings- a large building is currently vacant, while a smaller building is used as a site office;
- Several sheds/ outbuildings scattered around the site- predominantly vacant;
- Several roads throughout the site- predominantly unsealed and in poor condition;
- Former vaccine laboratory buildings and associated development- currently vacant; and
- Stockpiling area for concrete material.

Various areas of the site are also affected by contamination (derived from previous activities on the site) and underground mining operations. Contamination remediation works are ongoing in several locations around the development site, while remediation (including capping) is complete in several other locations.

Underground mining works (part of the Abel Underground Coal Mine, operated by Donaldson Coal) began under the site in August 2010, and were expected to continue until around July 2013 under the current license. This mining has occurred under the majority of the site, and various air, water, noise and vibration monitoring stations are positioned around the site in association with this mining. Due to these operations, access to the site is strictly controlled via gates and fencing. The mining operations can continue under the site with the written agreement of the landowner. This consent has been granted and the mining timeframe has now been extended until mid-2015. To date, some areas of the site have experienced effects associated with recent mining activities, including mine subsidence.

Section A: Need for Proposal

1 Resulting from a Strategic Study or Report

The Planning Proposal results from policy directions and/or analysis from the following strategic plans and studies:

- a) *The Lower Hunter Regional Strategy – Department of Planning and Environment* (October 2006) (now superseded);
- b) *Hunter Regional Plan – Department of Planning and Environment* (October 2016);
- c) *Shaping the Lower Hunter: Shaping the next Twenty Years - Discussion Paper* (March 2013);
- d) *Cessnock City Wide Settlement Strategy*: Cessnock City Council 2010
- e) *The Hunter Region Employment Lands – a market and context review for the Hunter Development Corporation* by ADW Johnson Pty Ltd and Daley Research Systems (November 2010) – Unpublished document;
- f) *The Hunter Region Employment Lands Study by URBIS – prepared for the Hunter Development Corporation* (December 2012) – Unpublished document;
- g) *The Hunter Region Employment Lands by the Hunter Development Corporation* (December 2010) – Published document; and
- h) *Employment Lands Analysis - Monteath and Powys* (commissioned for this purpose by Council) – December 2014.

Lower Hunter Regional Strategy (Superseded)

The Lower Hunter Regional Strategy (LHRS) was adopted by the NSW Cabinet in October 2006 and subsequently released by (then) Department of Planning and Infrastructure in 2006. The LHRS was re-affirmed by the NSW Cabinet in February 2010. This document has now been superseded by the 14 October 2016 release of the Hunter Regional Plan, however, as this proposal was initiated under LHRS it still remains relevant in the context of the assessment. As a result all previous analysis of the site in regard to the LHRS has been retained in this Planning Proposal.

The LHRS includes the identification of population and employment capacity targets for the Lower Hunter region over the next 25 years and actions to ensure the ongoing growth and prosperity of the region.

The Lower Hunter Region is targeted to accommodate an additional 66,000 jobs in the next 25 years, 16,500 of which are projected to occur in designated employment lands. This demand is anticipated to derive not only from an increasing population but also to meet the

growing needs of the broader metropolitan region of Sydney. The LHRs anticipates that, in order to meet the demands for employment land, the *zoning of a further 1,000 hectares of additional land identified through the Regional Strategy* is required, *including land at...Black Hill* (p20).

Further, the LHRs has identified an opportunity to enhance the region's freight handling capacity through the designation of a site as a future freight hub *in the vicinity of the junction of the New England and Pacific Highways* with access to the Golden Highway and main north-south railway. This land is intended to accommodate various freight handling activities, and *additional employment lands at...Black Hill* will directly support the freight hub (p21). This development of employment land is recognised to *provide a competitive advantage to new industries through the minimisation of transport and handling costs* (p21). The LHRs directs local councils to *rezone proposed employment land as identified in the Regional Strategy (Strategy Map) through their local environmental plans* (p22).

The LHRs recognises that the area proposed as a freight hub and surrounding employment uses is likely to have some significant conservation values which need to be managed. Accordingly, the LHRs recommends this be achieved through a *structure-planning process that brings together the owners of the various sites in the freight hub precinct* (p21).

The Department of Planning and Environment did not proceed to initiate preparation of this Structure Plan. However a study has been completed for the freight hub precinct on behalf of a number of State government agencies. The study, Freight Hub Hunter (October 2008) analysed the demand and opportunities for a freight hub and associated activities, and set objectives for employment land within this precinct. The site is identified as a potential development area within the precinct, but not one of the preferred options for the intermodal freight hub.

Further, the LHRs has identified an opportunity to enhance the region's freight handling capacity through the designation of a site as a future freight hub in the vicinity of the junction of the New England and Pacific Highways with access to the Golden Highway and main north-south railway. This land is intended to accommodate various freight handling activities, and additional employment lands at...Black Hill will directly support the freight hub (p21). This development of employment land is recognised to provide a competitive advantage to new industries through the minimisation of transport and handling costs (p21). The LHRs directs local councils to rezone proposed employment land as identified in the Regional Strategy (Strategy Map) through their local environmental plans (p22).

Hunter Regional Plan

The Hunter Regional Plan 2036 provides the strategy necessary to deliver the vision for the Hunter Region. The subject site is identified as part of a Growth Area in the Plan. Black Hill is identified under Direction 24: Protect the economic functions of employment land. This Direction focuses on the convergence of the national road network around this Thornton, Beresfield and Black Hill area. As a result in this context Growth Area would be interpreted to be considered as employment land which is the same as the LHRs.

The Black Hill Planning Proposal is also considered to be consistent with the Hunter Regional Plan in regard to the environmental values of the area, as the proposal will be required to achieve biodiversity offsetting which will need to occur both on and off site.

Lower Hunter Regional Conservation Plan

The Lower Hunter Regional Conservation Plan is a complimentary document to the LHRs and identified a green corridor between the Watagan Ranges and the Stockton Peninsular is identified for protection in the LHRs (p13). The site subject of this PP adjoins, but is not mapped within, the green corridor.

Cessnock City Wide Settlement Strategy 2010

The Cessnock City-Wide Settlement Strategy was adopted by Council in 2010. The most relevant data and policy directions relevant to the evaluation of the Black Hill Planning Proposal are explained below.

Existing land supply

The Cessnock LEP 1989 identified three industrial land use zonings:

- 4(a) Industrial zone;
- 4(b) Light Industrial zone
- 4(h) Hunter Employment Zone

These zones are concentrated in six main areas across the Cessnock LGA as shown below.

Table 1: Cessnock LGA zone concentration

Location	Total Area (ha)	Occupied (ha)	Vacant (ha)
<i>4(a) Industrial</i>			
Kurri Kurri	60	45	15
Cessnock (Tunnel Rd)	10	0	10
<i>TOTAL 4(a) land</i>	70	45	25
<i>4(b) Light Industrial</i>			
Cessnock	16.4	12	4.4
Kurri Kurri	23.3	18.6	4.7
Weston	10.5	7.1	3.4
Branxton	13.6	9.7	3.9
<i>TOTAL 4(b) land</i>	63.8	47.4	16.4
<i>4(h) HEZ</i>			
	870	0	870

There is a mixture of light and general industrial land located at Kurri Kurri and Weston. The total extent of zoned land covers 94 hectares (as shown in Figure 10.2), of which 34 hectares is zoned for light industrial purposes. Opportunities for expansion are limited due to the proximity to residential areas (new and proposed) and the location of the Kurri Kurri Waste Water Treatment Works.

Hunter Economic Zone

The Hunter Economic Zone (HEZ) is by far the largest of all the industrial areas in the Cessnock LGA. Its advantage lies in the fact that it is one of the largest single tracts of industrial land in the Lower Hunter with around 870 hectares zoned, surrounded by some 2,300 hectares of bushland. In this zone, allotment sizes are linked to the requirements of individual development (no pre-emptive subdivision), and is one of the few areas in the Hunter Region that can accommodate development with land requirements of up to 100 hectares. The development of HEZ is likely to encourage light industrial development to locate in close proximity to the HEZ estate.

HEZ is targeted towards the regional-global market and specific zone objectives and a suite of planning controls exist to tailor development outcomes. This site is not considered to cater for general purpose local industrial land needs, instead recognised as one of the 'special purpose' sites in the Lower Hunter Regional Strategy.

Implementation of the Lower Hunter Regional Strategy will result in major changes to the regional industrial land supply over 25 years to 2031. For the HEZ site, the planned major tracts of export land targeting similar markets across the region will place further competitive pressures on HEZ, notwithstanding that it has ‘first mover’ advantages to other sites in this category (being already zoned for development). The site has no direct frontage but is close to the Hunter Expressway.

Take-up of Industrial Land

The CWSS includes commentaries as follows:

- a) *Historically, take-up rates of light industrial land in Cessnock were estimated at between 2 and 4 ha per annum and, for general industrial land, almost a negligible rate of around 1 - 2 ha per annum. This pattern has been attributed to a number of reasons:*
 - i. *Comparatively limited supply of both general and light industrial land;*
 - ii. *Traditional sources of demand have been from industries which are now in decline;*
 - iii. *Available land is largely encumbered by environmental, access and land use conflicts;*
 - iv. *Land ownership is fragmented and available parcels are small/poorly configured; and*
 - v. *There are a number of competing marketed industrial areas in the Lower Hunter.*
- b) *In terms of more recent demand trends, real estate agents confirm a shortage of industrial land in the township of Cessnock (AEC Group, 2007). The supply pressure has pushed average industrial land prices beyond \$160/m2 and resulted in Cessnock losing business to Racecourse Road at Maitland. The recent subdivision at Kurri Kurri has sold off the plan though no building works have commenced. Demand across the market is from local service businesses given the nature of the land supply and demand is reported as strongest for 2,000 – 4,000 m2 lots as per the Kurri Kurri subdivision (AEC Group, 2007).*
- c) *Current sale and price trends based on RP data property statistics indicate that an average of 5-10 industrial land sales involving around 5-7 hectares of land have occurred since 2000. It should be noted that this is not vacant greenfield sites and, therefore, does not wholly represent new industrial land take-up rates but gives an indicative value. There has been a dramatic increase in the average rates of these sales above \$150/sqm in 2006 although there was less than 1 ha of land sold in total. Over the past seven (7) years, Branxton has recorded the highest average value of land at \$73/sqm, followed by Cessnock (\$59/sqm), Weston (\$33/sqm) and Kurri Kurri (\$26/sqm). The majority of lot sales have been less than 1 ha in size (AEC Group, 2007).*
- d) *Projected local demand for all general purpose industrial land is estimated at between 72 -192 hectares over 25 years to 2031 (see Table 10.4 below) based on various take-up rates. The upper ratio considers the potential for higher population growth, latent market demand, and supply-led increases to demand and associated industry support uses that may be generated from progressive development at HEZ. The lower (or conservative) ratio considers continued low organic population growth, competition from nearby local government areas and retail bulky goods development being restricted in industrial zones. The medium ratio generally reflects the current take-up rate across all existing land zoned either 4(a) or 4(b) in the Cessnock LGA.*

Table 2 - Projected Light Industrial and Industrial Land Demand, Cessnock (CWSS – S2, AECgroup) (Source: Table 10.4 Cessnock City Wide Settlement Strategy 2010)

a) Growth Scenario	b) Take-Up Rates	c) 2016 (9yrs)	d) 2021 (14yrs)	e) 2027 (19yrs)	f) 2031 (24yrs)
g) Low	h) 3ha/annum	i) 27	j) 42	k) 57	l) 72
m) Medium	n) 5ha/annum	o) 45	p) 70	q) 95	r) 120
s) High	t) 8ha/annum	u) 72	v) 112	w) 152	x) 192

Accordingly, as outlined in the table above, it is projected that an additional 72-192 ha of general purpose industrial land is required to ensure sufficient zoned land between 2006 and 2031 - and as related to the employment capacity projections outlined in the Lower Hunter Regional Strategy. Staging of this supply is required to give an indicative measure of the need for land over the planning horizon of 25 years.

The CWSS stated that sufficient additional land has been identified within other areas across the LGA to accommodate the identified short-term shortage of industrial land. This includes Huntlee which has a nominated 50 ha for a business park and 70 ha for industrial land.

The current zoning of HEZ is problematic, in that it has been structured to present as a unique industrial estate, through the use of the land use zone, zone objectives and a suite of specific clauses. To retain the integrity of this direction, it is appropriate that HEZ be allocated a separate land use zone to the general purpose industrial lands, in order to tailor the zone accordingly. Either the IN1 General Industrial or SP1 Special Activities zone may be appropriate for HEZ, subject to advice from the Department of Planning.

The directions in the CWSS are:

- Direction EL1: - Retain the 'uniqueness' of HEZ through the use of a separate land use zone, zone objectives and local provisions where appropriate.
- Direction EL2: Retain opportunities for dispersed employment opportunities in the new LEP in accordance with the actions contained in the Lower Hunter Regional Strategy.
- Direction EL3: Provide opportunities for additional sites to be developed for employment lands to meet local needs for general purpose industrial lands.
- Direction EL4: Recognise that industrial land supply is limited in the Cessnock LGA and restrict other uses that compete with industrial activities from these areas.

The actions in the CWSS are:

- Action EL3: Identify sites considered suitable for employment lands in the short term (0-5 yrs) as shown in Figures 10.5 and 10.6. See chapter 9 (Figure 9.1) for 'Cessnock Civic';
- Action EL5: Retain the current planning provisions for HEZ where appropriate within the confines of the Standard Instrument.
- Action EL6: Defer the rezoning of land within HEZ for 'industry support' until the findings of the State Significant Site Study are known.

The Cessnock City-Wide Settlement Strategy concludes with projected demand for between 72ha and 192ha of industrial land between 2006 and 2031. Pro-rata, this would be approximately 46ha to 123ha between 2015 and 2031 for the Cessnock LGA.

Hence, in terms of the directions above, particularly EL 2, the progression of the Black Hill site should be implemented.

The CCWS also foreshadowed that Council will prepare a comprehensive biodiversity strategy to identify priority areas for vegetation offsets, and outlines environmental zones to be included in the Cessnock LEP. Council is yet to resolve to exhibit a draft biodiversity strategy. Relevant elements in the draft biodiversity strategy would be:

- There is a need to identify biodiversity assets (p34);
- There is a need to establish new mechanisms to assess impacts on biodiversity assets (p37);
- Council has not determined how offsetting will be achieved at the rezoning stage (i.e. onsite or offsite) (p20).

The site is not included in any of the environmental zoning areas identified in the CCWS and at this time, the biodiversity strategy is still in preparation and policy decisions have not been finalised.

The Hunter Development Corporation – Unpublished Reports

The Hunter Development Corporation (HDC) commissioned two reports to review demand and supply trends in employment lands and thereby contribute to the Regional Growth Plan for the Lower Hunter which will supersede the LHRS. HDC conditionally provided those reports (by ADW Johnson and URBIS) to assist the evaluation of this PP.

Employment Lands Analysis: Monteath and Powys (December 2014)

Cessnock City Council additionally commissioned the “*Employment Lands Analysis*” to be prepared by: Monteath and Powys. The analysis is also embodied in the Employment Lands Analysis.

Conclusion

The Planning Proposal is consistent with the implementation of the LHRS, Hunter Regional Plan and Cessnock City Wide Settlement Strategy and is considered to be compatible with locality impacts including the management of biodiversity assets.

2 Planning Proposal as best way to achieve objectives

Amending the Cessnock LEP in the manner proposed is considered the best way of achieving the outcomes for the site. This is for the following reasons:

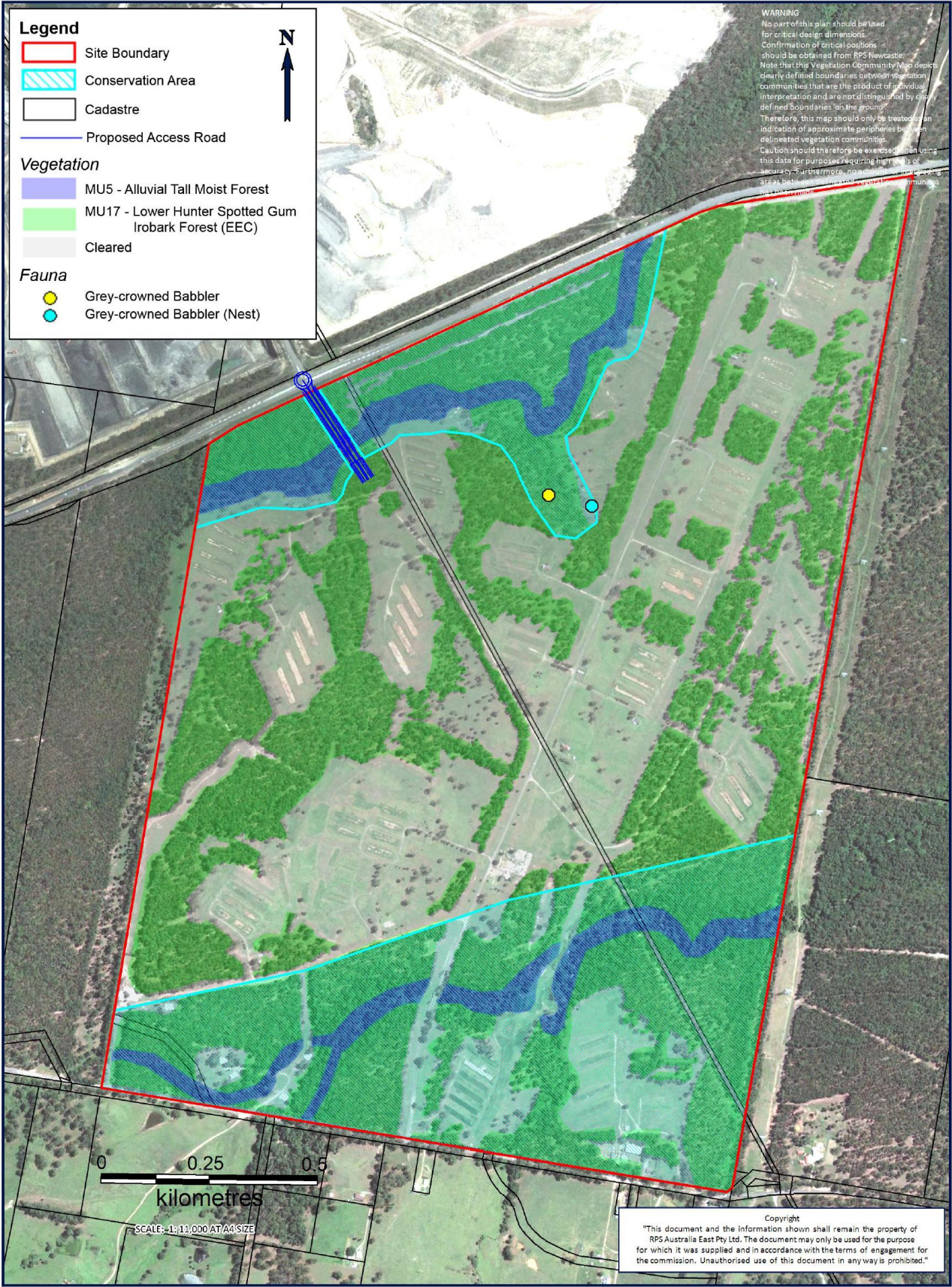
1. Land that is well located and capable of being serviced for general industrial activities and as is proposed for zoning to IN2 Light Industrial;
2. Key ecologically significant parts of the site are proposed to be rezoned to:
 - a) E2 in the northern sector to enable the condition of the vegetation/EEC and riparian areas of the site to be protected, enable removal of weeds and limiting stock access and to protect the habitat with the highest ecological value, including the habitat for the Grey-crowned Babbler. A Flora and

Fauna Assessment for the site has identified areas of high environmental significance and areas where improvements need to be made (see **Figure 2**); and

- b) E4 Environmental Living in the southern sector to provide a sound balance between a limited number of low density residential lots to be subdivided (and provide additional population support for local services – particularly the school) and conservation of the vegetation/EEC. The DCP and the local clause are to be developed to limit yield of lots in this zone to a maximum of four and proposed to facilitate optimal use of cleared areas for dwellings, outbuildings and asset protection zones.

Further, additional conservation measures (to occur either on-site or off-site) to compensate for vegetation clearing are to be agreed between the proponent and Council prior to the industrial development of the site. A voluntary Planning Agreement outlining this commitment has been negotiated and executed between the proponent and Council. Remediation of contaminated areas within the site will also be undertaken prior to development of the site.

Figure 2: Vegetation Communities and Proposed Conservation Areas



3. Identifying the Site as an Urban Release Area: by designating the site as an Urban Release Area, the site will be subject to Part 6 of the Cessnock LEP 2011. A DCP must be prepared before development is approved. Contributions towards Designated State Infrastructure (state/ regional roads, regional open space, and land for emergency and educational use) will be made. This will ensure that development occurs in a logical and cost-effective manner and that the development provides for key public infrastructure (water, sewer, electricity and telecommunications).

The best means to provide for supply of industrial land.

An Employment Lands Analysis (refer Enclosure 7 of Council Report 10 December 2014 **Appendix 1**) consolidates the data, analysis and policy contents of the various strategic and assessment documents produced – the LHRS, the LHRCP, the LH discussion paper (2013) , the Cessnock CWSS, the unpublished reports to the HDC and the Monteath and Powys report.

Key issues for the assessment of the need and strategic justification for the land subject of the Planning Proposal at Black Hill are:

- a) What land is actually available (zoned and serviced – actual/committed) into the medium to long terms which represent alternative sites for the types of development which will locate in IN 2 zones,
- b) Are these sites of comparable availability given analysis of constraints and being serviced/potentially serviced at feasible costs?
- c) What is the data for land sales and take up at Beresfield and Thornton which would give a more recent and localised analysis of relevant trends? and
- d) How pivotal are the locational advantages of good access to the Hunter Expressway and M1 Motorway, the Newcastle Port and Airport and the New England Highway?

The appropriate criteria for decision making about the overall planning for adequate supply of industrial land (IN1 and IN2 zoned land) within the Lower Hunter Region and for a major Planning Proposal such as this are concluded to be:

- a) Facilitate agglomeration around key centre locations;
- b) Provide efficient and economic access to arterial roads and transport networks;
- c) Enable accessibility and proximity to a local workforce – particularly if there is evident localised and relatively higher levels of unemployment (including from relatively recent closure and/or downsizing of certain industries);
- d) Ensure the most effective utilisation of public investment and fulfilment of public agency priorities in the delivery of infrastructure;
- e) Ensure the integration of re-zoning of land from rural to industrial only if provision of adequate capacities and funding for infrastructure are available or committed.
- f) Manage growth over time through annual monitoring of supply and demand and major reviews of the Regional Growth Plan every five years; and
- g) Provide a contingency buffer of about 50% over and above committed supply of vacant, serviced industrial land at any point in time.

Responding to the above criteria, the following conclusions are drawn about implementing the LHRS policy direction for the provision of employment lands at Black Hill:

- a) This site remains as “employment lands” in the LHRS (as reaffirmed in 2010) and any non-fulfilment of that outcome at the local level has to be justified by submissions regarding inconsistency to respond the Ministerial direction;
- b) The Black Hill proposal does substantially align with the criteria stated above – including the potential for delivery of infrastructure at full costs to the owner of the

- subject site and the adjacent land owner (Coal and Allied). The adjacent Coal and Allied site (which is in the Newcastle LGA) presents an opportunity for combined water and sewer infrastructure funding and construction with the proponent (reciprocal needs for provision of water and sewer through the two sites are asserted to be needed) but will also potentially present short and medium term (and potentially long-term) over-supply; The potential joint servicing represents a major advantage for enabling the release of employment lands in a highly favourable strategic location;
- c) The recent rezoning of the Tomago, Anambah, “Freeway North”, and Rutherford (combined total 675 ha) and, more recently, the Coal and Allied site (183ha – zoned IN2) adjacent to the subject site provide opportunities for significant IN2 oriented land supply and agglomeration – totalling 858 ha but there are very significant uncertainties relating to the development feasibility, timing and actual yields from these properties;
 - d) The availability of the Kurri Kurri Hydro Smelter site also adds to the supply of land zoned for industrial and serviced. The Planning Proposal has now been reported to Council on 18 November 2015 and was issued a Gateway determination on 23 March 2016.

Accessibility to the M15 Hunter Expressway, M1 Motorway, the Newcastle Port and Airport and the New England Highway are significant locational advantages for industrial development at Black Hill – particularly for industries for which transport costs are significant within business financial structures and decision-making about locations for new enterprises.

Section B: Relationship to Strategic Planning Framework

3 Consistency with Objectives and Actions within Regional Strategies

Lower Hunter Regional Strategy 2006 (superseded)

The *Lower Hunter Regional Strategy* (LHRS) was the strategy applicable to the Lower Hunter Region until superseded by the Hunter Regional Plan adopted on 14 October 2016. However, as the Planning Proposal has been considered in the context of LHRS throughout the process, it is therefore appropriate that the Planning Proposal be considered in the context of both Regional documents. The planning proposal is wholly consistent with the objectives and desired outcomes of the Strategy, which call for the development of a freight and employment hub in the location of the subject site and its surrounds. The Proposal's consistency with all relevant 'Actions' of the Strategy is addressed below.

Table 3: Assessment of the proposal against the relevant Actions within the LHRS

ACTION	CONSISTENCY
Local Councils will rezone employment land as identified in the Regional Strategy (Strategy Map) through their local environmental plans	The subject site is identified as <i>future freight hub and employment lands</i> within the Strategy Map. The proposed zoning of the site for industrial uses will allow for a wide range of employment uses, industrial and freight handling - related uses, in compliance with this Action.
The Department of Planning in conjunction with Newcastle, Maitland and Cessnock councils as well as landowners, will develop a structure plan that maximises the employment and conservation outcomes for the freight hub precinct	No structure plan has been prepared by DoPE, or by Council. There is no requirement in the LHRS for the structure plan to be completed before rezoning can commence, and the Gateway determination has confirmed that preparation of such a plan is not required at this time. The industrial and environmental conservation zoning of the site has been proposed to respond to the constraints and opportunities of the site.
Councils will identify opportunities for bulky goods style retailing in appropriate locations in commercial centres and restrict this form of retailing in employment and industrial zones as set out in the NSW Government Policy 'The Right Place for Business'	Bulky goods retailing is not permitted in the IN2 Light Industrial zone, and therefore the Planning Proposal is in compliance with this Action.
Local environmental plans in the Watagan to Stockton Corridor ... are to provide for the ongoing role of biodiversity corridor and inter-urban break.	The site is not within the Watagan to Stockton green corridor, and this Planning Proposal is in compliance with this Action.

Hunter Regional Plan

The Hunter Regional Plan was approved by the Department of Planning and Environment on 14 October 2016. In regard to employment lands the document places a strong emphasis on the consolidation and reinforcement of the existing employment lands and the importance of

industry clusters which have specific locational advantages to key transport infrastructure. The Black Hill Planning Proposal is contiguous with existing industrial zoned land and would form part of this industry cluster which will assist to reinforce and consolidate the Black Hill and Beresfield industrial estates.

The Plan also shows that the Black Hill site located in the “Indicative Greater Newcastle Metropolitan Area, and in the proposed Watagan to Stockton’ Green Corridor” as a “Gateway Determination Site”. It is not identified in the Plan as an Urban Release Area, however it appears to be identified as a “growth area” which reflects that the process to rezone the site and amend the Cessnock Local Environmental Plan 2011 is still underway and yet to be finalised.

The Regional Plan outlines that the proposed green corridor is:

“..intended to accommodate national transport infrastructure to enhance north-south connectivity, and the delivery of new release areas in Greater Newcastle and the western and northern parts of its hinterland”; and

“The aim of conservation planning in this area will be to conserve existing remnant vegetation and invest in the rehabilitation of land to strengthen the regionally significant corridor between Watagans National park and Port Stephens.”

Discussion on biodiversity corridors in the Plan allows corridors to take certain forms including:

*“Stepping stone corridors of discontinuous patches of vegetation;
Continuous lineal strips of vegetation along lineal strips; and
Part of a larger habitat area known or likely to be important to local fauna as could occur in a national park or State forest.”*

A green corridor does not act to specifically prevent development proposals nor urban release areas. However this must be considered in the context of this Planning Proposal.

The Black Hill site has areas of remnant vegetation as well as fully cleared areas where previous agricultural uses (e.g. Poultry) had been carried out. The site adjoins other land with continuous and disconnected patches of remnant vegetation and could be seen as a stepping stone corridor as well as part of a larger habitat area. There is scope for the protection of the ‘existing’ remnant vegetation on the site in consideration of other sites in the vicinity. As a result, the Planning Proposal for the site could still accommodate the requirements relating to the proposed green corridor. This will be an important consideration in the required development control plan for the site.

The Black Hill Planning Proposal is considered consistent with the Hunter Regional Plan as the proposal will be required to achieve biodiversity offsetting which will need to occur both on and off site as well as reinforce the existing industry cluster utilising the existing infrastructure corridors.

4 Consistency with Council’s Community Strategic Plan or other Local Strategic Plan

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

In 2010 Cessnock City Council adopted its 10-year community strategic plan, titled *Cessnock Community Strategic Plan*. This Plan adopted objectives and strategies to achieve desired

outcomes related to 5 Key Directions which in the opinion of the Cessnock community would make a significant long term difference to the City (i.e. *Our Community, Our Economy, Our Environment, Our Services and Our Leadership*).

This Planning Proposal generally supports the objectives and desired outcomes of the strategic plan. Specifically, the following strategies to achieve the Plan's objectives are supported by this proposal:

2.1.1- Promote the whole of the LGA and market the area comprehensively to attract new businesses and residents

This Proposal will allow for the development of a wide range of new industrial/ employment business opportunities, significantly increasing job opportunities within the LGA and beyond.

2.1.4- Develop a freight hub and transport interchange at the Bloomfield/ Donaldson site

This proposal will provide supportive employment uses for any future freight hub in the vicinity. In addition, the Planning Proposal is considered to be consistent with the *Cessnock City Wide Settlement Strategy 2010* as outlined in **Part 2, Section A** of this Planning Proposal.

5 Consistency with State Environmental Planning Policies

An assessment of relevant State Environmental Planning Policies against the Planning Proposal is provided in the table below.

Consistency with State Environmental Planning Policies

Two State Environmental Planning Policies (SEPPs) apply to this Planning Proposal – *State Environmental Planning Policy No. 44- Koala Habitat Protection* (SEPP 44) and – *State Environmental Planning Policy No. 55- Remediation of Land* (SEPP 55). The Planning Proposal is consistent with both SEPPs, as outlined below.

SEPP 44 – Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of koala habitat areas in order to maintain the viability of koala populations. Land should be included in an environmental protection zone if it is 'Core Koala Habitat'.

Three species of koala feed trees have been identified on the site, particularly within the main creek lines. However, the trees do not occur at the designated percentages which constitute 'Potential Koala Habitat' as defined within the SEPP. Additional investigations were conducted to determine if there was evidence of a koala population, but no 'Core Koala Habitat' was found. Details about the koala habitat assessment are included in the *Flora and Fauna Assessment*.

The Planning Proposal is consistent with SEPP 44 – Koala Habitat Protection.

SEPP 55 – Remediation of Land

This SEPP aims to promote the remediation of contaminated land for the purpose of reducing risks to people and the environment. Clause 6 of the SEPP provides that the Council must not allow the rezoning of this land for industrial, residential or environmental conservation purposes unless:

- (a) *the planning authority has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and*
- (c) *if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.*

The site has accommodated a number of activities in the past that have led to contamination of certain areas. However, contamination remediation activities have been undertaken since the poultry farming ceased in 2003. Details about the current contamination status of the site, and recommendations for its further remediation are discussed in **Part 3, Section C** of this Planning Proposal.

A *Site Contamination Investigation* report by Noel Arnold & Associates concludes that “*the land can be made suitable for industrial and residential land uses (and other activities permissible within the Environmental Conservation E2 area) through development and implementation of a remediation action plan (RAP), or series of RAPs if a staged approach is adopted (pp28-29)*”.

Table 4: 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 this Planning Proposal.
SEPP 14 – Coastal Wetlands	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
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 to this Planning Proposal.
SEPP 19 – Bushland in Urban Areas	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 21 - Caravan Parks	The SEPP provides for development for caravan parks.	Not Applicable to this Planning Proposal.
SEPP 26 – Littoral Rainforests	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 29 – Western Sydney Recreation Area	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Not Applicable to this Planning Proposal.
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	Not Applicable to this Planning Proposal.

SEPP	Relevance	Consistency and Implications
	development.	
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous and offensive development.	Not Applicable to this Planning Proposal.
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 to this Planning Proposal.
SEPP 39 – Spit Island Bird Habitat	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
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.	Refer to full detail above.
SEPP 47 – Moore Park Showground	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
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.	Not Applicable to this Planning Proposal.
SEPP 52 – Farm Dams and Other works in Land and Water Management Plan Areas	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
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	Refer to full detail above.
SEPP 59 – Central Western Sydney Regional Open Space and Residential	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
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 to this Planning Proposal.
SEPP 64 - Advertising and	The SEPP aims to ensure that outdoor advertising is compatible	Not Applicable to this Planning Proposal.

SEPP	Relevance	Consistency and Implications
Signage	with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	
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.	Not Applicable to this Planning Proposal.
SEPP 70 – Affordable Rental Housing (Revised Schemes)	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	Not Applicable to this Planning Proposal.
SEPP 71 – Coastal Protection	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
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	Not Applicable to this Planning Proposal.

SEPP	Relevance	Consistency and Implications
	work, (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.	
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	Not Applicable to this Planning Proposal.
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 development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.	Not Applicable to this Planning Proposal.
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.	Not Applicable to this Planning Proposal.
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.	Not Applicable to this Planning Proposal.
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Kurnell Peninsula) 1989	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
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	Not Applicable to this Planning Proposal.

SEPP	Relevance	Consistency and Implications
	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.	
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Not Applicable to this Planning Proposal.
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 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	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
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 to this Planning Proposal.
SEPP 53 Transitional Provisions 2011	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint	Not Applicable to this Planning Proposal.

SEPP	Relevance	Consistency and Implications
	Regional Planning Panels (JRPPs) to determine development applications.	
SEPP (Sydney Drinking Water Catchment 2011)	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP Sydney Region Growth Centres 2006	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Three Ports_ 2013	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Urban Renewal) 2010	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Western Sydney Employment Area) 2009	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Western Sydney Parklands) 2009	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

6 Consistency with Section 117 Ministerial Directions for Local Plan Making

The Section 117 Directions issued to Councils under Section 117 (2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), relevant to this proposal, are addressed in Table 2 below.

Table 5: Relevant Section 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.	This Planning Proposal is consistent with all aspects of this Direction, as it provides for new industrial zoned areas; complies with the objectives of the Direction; and is located in an area designated for industrial purposes within the Lower Hunter Regional Strategy. The area is identified as a Growth Area in the Hunter Regional Plan (HRP) (October 2016) with Black Hill identified as part of a significant employment precinct.
1.2. Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	This Planning Proposal is inconsistent with this Direction. However, clause 5(e) of the Direction provides that a Planning Proposal may be inconsistent with

Ministerial Direction	Objective of Direction	Consistency and Implication
		this Direction if it is justified by a strategy which considers the value of agricultural land; identifies the land which is the subject of the Planning Proposal and is approved by the Director-General of DoPE. As the subject site is identified for industrial/ employment purposes in the LHRS and HRP, this Planning Proposal satisfies the provisions of this Direction. DoPE has agreed that the inconsistency is justified and advised that no further approval is required in relation to this Direction.
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.	Coal mining activities are currently occurring beneath the subject site (i.e. via operations of the Abel Underground Coal Mine), and the LHRS Natural Resources Map identifies parts of the subject site as containing Coal Resources. However, the proposed industrial/ employment development of the site is not likely to restrict the potential extraction of these resources due to the current underground coal mining operations taking place i.e. it is anticipated that the existing coal resources beneath the site will be exhausted before the development of the site for industrial purposes. Further, the proposed IN2 zoning does not prohibit the undertaking of mining activities. Nevertheless, consultation was undertaken with the Mineral Resources Branch (MRB) within the Department of Trade & Investment in relation to the PP. The MRB recommended that further discussions take place between key stakeholders to assist in the formulation of appropriate development controls to minimise potential conflicts between mining uses (whether ongoing or completed) and industrial development. This is proposed to

Ministerial Direction	Objective of Direction	Consistency and Implication
		occur, and appropriate controls will be enshrined in a DCP prepared for the site.
1.4. Oyster Aquaculture	<i>The objectives of this direction are:</i> <i>(a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal,</i> <i>(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.</i>	Not Applicable to LGA
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.	This Planning Proposal is consistent with most of the relevant Rural Planning Principles in that it ensures consistency with the applicable regional strategy (i.e. the LHRS/HRP); will protect significant water resources and other variables (refer to Part 3, Section C of this PP); and strives to balance the social, economic and environmental interests of the community. However, the Planning Proposal will not comply with all Rural Planning Principles, by the nature of the proposed development (i.e. industrial/employment). Nevertheless, the Direction provides that a Planning Proposal may be inconsistent with this Direction so long as it is justified by a strategy which considers the value of agricultural land; identifies the land which is the subject of the Planning Proposal and is approved by the Secretary of DoPE. As the subject site is identified for industrial/employment purposes in the LHRS and HRP, this Planning Proposal satisfies the provisions of this Direction.
2. ENVIRONMENT AND HERITAGE		

Ministerial Direction	Objective of Direction	Consistency and Implication
2.1. Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	This Planning Proposal is consistent with this Direction where it zones land to E2 Environmental Conservation and E4 Environmental Living zones facilitating the protection and conservation of environmentally sensitive riparian and remnant vegetation areas associated with Viney Creek and Weakleys Flat Creek, as well as the nesting habitat of the threatened Grey-crowned Babbler. The Lower Hunter Spotted Gum – an EEC - covers substantial areas of the site and the PP seeks to achieve a sound balance between implementing regional policy direction for industrial development and achieving reasonable protection and management of that EEC and other environmental assets on the site.
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.	This Planning Proposal is consistent with this Direction as the provisions of the Cessnock LEP and relevant Sections of the National Parks and Wildlife Act 1974 both serve to adequately protect the heritage significance of heritage items/ places. Further discussion on heritage matters is provided in Part 3, Section C of this PP. Accordingly, this Planning Proposal satisfies this Direction.
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.	Development associated with the subject site will aim to implement the objectives of the relevant guidelines through detailed site design and management. These principles will be implemented via a future DCP. The Planning Proposal complies with this Direction as it is in accordance with the relevant Strategy/Plan which gives consideration to the integration of land use and transport. As the

Ministerial Direction	Objective of Direction	Consistency and Implication
		subject site is identified for industrial/ employment purposes in the LHRs/HRP, this Planning Proposal satisfies the provisions of this Direction. DoPE has agreed that the Planning Proposal is justified and advised that no further approval is required in relation to this Direction.
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1. Residential Zones	The objectives of this direction 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.	This is not applicable to this planning proposal.
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.	This is not applicable to this planning proposal.
3.3. Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	This is not applicable to this planning proposal.
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 housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of	Development associated with the subject site will aim to implement the objectives of the relevant guidelines through detailed site design and management (e.g. street networks will allow permeability for buses and pedestrians etc). These principles will be implemented via a future DCP. The Planning Proposal complies

Ministerial Direction	Objective of Direction	Consistency and Implication
	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.	with this Direction as it is in accordance with the relevant Strategy/Plan which gives consideration to the integration of land use and transport. As the subject site is identified for industrial/ employment purposes in the LHRS/HRP, this Planning Proposal satisfies the provisions of this Direction. DoPE has agreed that the Planning Proposal is justified and advised that no further approval is required in relation to this Direction.
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.	This is not applicable to this planning proposal.
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 consideration to rezoning land adjacent to an existing	This is not applicable to this planning proposal.

Ministerial Direction	Objective of Direction	Consistency and Implication
	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	This is not applicable to this planning proposal.
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.	While the subject site is not mapped as a Mine Subsidence Area, the land is currently being undermined as part of underground coal mining activities. Accordingly, there is the potential for the land to be identified as 'unstable land' and/or to be mapped as a Mine Subsidence Area in the future. It is anticipated that development of the site can be undertaken in a safe and appropriate manner regardless of any subsidence issues. This issue is discussed further in Part 3, Section C of this PP. Nevertheless, consultation was undertaken with the Mine Subsidence Board (MSB) in relation to this Planning Proposal. The MSB had no objections to the rezoning of the land, and did not recommend restrictions on the scale, density or type of development to be permitted on the land at this time. However it recommended that the development of the site be staged to allow for the completion of ongoing (underground) mining activities. Accordingly, the Planning Proposal satisfies this Direction. Note that additional consultation was undertaken with the Mineral Resources Branch within the Department of Trade and Investment in relation to mining matters- see Direction 1.3 above in this Table.
4.3. Flood Prone Land	The objectives of this direction are:	This is not applicable to this planning proposal.

Ministerial Direction	Objective of Direction	Consistency and Implication
	(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.	
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 subject site is identified as 'bushfire prone', and a detailed bushfire hazard assessment has been undertaken identifying appropriate bushfire management controls to be applied in association with development design. It is noted that all future development within the site will have to be assessed against <i>Planning for Bushfire Protection 2006</i> as part of the development assessment process. Consultation was undertaken with the NSW Rural Fire Service (RFS) in relation to the previous PP regarding this Direction. The RFS then raised no concerns in relation to the rezoning, but advised that the recommendations outlined in the bushfire hazard assessment are to be considered in relation to future development of the site. However, this modified PP will require further consultation with the RFS. Accordingly, the Planning Proposal satisfies this Direction.
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.	The proposal is consistent with the provisions of the LHRS and HRP, and is therefore consistent with this Direction in terms of proposing a substantial area for zoning to IN2 General Industrial.
5.2. Sydney Drinking Water Catchment	<i>The objective of this Direction is to protect water quality in the Sydney drinking water catchment.</i>	<i>Not Applicable to LGA</i>
5.3. Farmland of	<i>The objectives of this direction</i>	<i>Not Applicable to LGA</i>

Ministerial Direction	Objective of Direction	Consistency and Implication
<i>State and Regional Significance on the NSW Far North Coast</i>	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 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. <i>Commercial and Retail Development along the Pacific Highway, North Coast</i>	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. <i>Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)</i>	(Revoked 18 June 2010)	Not Applicable to LGA

Ministerial Direction	Objective of Direction	Consistency and Implication
5.6. Sydney to Canberra Corridor	<i>(Revoked 10 July 2008. See amended Direction 5.1)</i>	<i>Not Applicable to LGA</i>
5.7. Central Coast	<i>(Revoked 10 July 2008. See amended Direction 5.1)</i>	<i>Not Applicable to LGA</i>
5.8. Second Sydney Airport: Badgerys Creek	<i>The objective of this direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.</i>	<i>Not Applicable to LGA</i>
5.9. North West Rail Link Corridor Strategy	<i>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.</i>	<i>Not Applicable to LGA</i>
6. LOCAL PLAN MAKING		
5.10. Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The proposal does not include any provisions that would require additional referrals/ concurrence or identify designated development, and is therefore consistent with this Direction.
5.11. 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.	This is not applicable to this planning proposal.
5.12. Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	This Planning Proposal is consistent with this Direction, in that the inclusion of general industries in the zone table makes the zone more consistent with a standard light industrial zone. However, the DoPE directed the land use be included as an additional permitted use rather than the zone table which

Ministerial Direction	Objective of Direction	Consistency and Implication
		complicates the existing LEP. No changes are proposed to the E2 zone and urban release provisions as already in force in the Cessnock LEP. The introduction of a local clause to permit the subdivision of the E4 zoned land into a maximum of four lots does not apply restrictive site specific planning controls, as it does not further limit the use of the site, or impose higher development standards to the site. Without this local clause, the minimum lot size for a subdivision affecting E4 zoned land would be 80ha and only one E4 zoned lot could be created.
7. METROPOLITAN PLANNING		
7.1 <i>Implementation of A Plan for Growing Sydney</i>	<i>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.</i>	<i>Not Applicable to LGA</i>

Section C: Environmental, Social and Economic Impact

7 *Impact on Threatened Species*

Site Investigations

The studies for the previous Planning Proposal for the subject site in recent years are:

- *Ecological Constraints Study* (prepared by Harper Somers O'Sullivan, November 2003);
- The draft *Black Hill Master Plan & Site Redevelopment Background Paper* (prepared by Harper Somers O'Sullivan and Parsons Brinckerhoff, December 2003);
- The *Vegetation Management Plan for Clearing of Regrowth Vegetation & Exotic Weeds* (prepared by Harper Somers O'Sullivan, April 2004);
- The *Flora & Fauna Assessment for Seven Rural Residential Allotments* (prepared by Harper Somers O'Sullivan, January 2006); and
- a *Flora and Fauna Assessment* (prepared by RPS, August 2013).

The most recent of these (the *Flora and Fauna Assessment* dated August 2013- the 'F&FA') was informed by the previous studies undertaken on the site.

Impacts on Threatened Species or Ecological Communities

Section 5A of the *Environmental Planning and Assessment Act 1979* lists seven factors that must be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities or their habitats from development. The assessment of significance (also known as a '7-Part Test') is also used to determine whether further detailed investigations are required.

As part of the F&FA, twenty-six threatened species and one threatened ecological community (as listed in **Table 7** below) were identified as requiring a 7-Part Test, due to their actual or potential presence within the site. The 7-Part Test takes into account proposed mitigation measures such as retention of the riparian vegetation, creating corridor linkages across the site into adjacent landscapes and managing the conservation lands in perpetuity.

Table 6: TSC Act Listed Species

TSC Act Listed Species	
Critically Endangered Species	
Regent Honeyeater	
Endangered Species	
Swift Parrot	
Vulnerable Species	
Gang-gang Cockatoo	Squirrel Glider
Brown Treecreeper (eastern subsp.)	Koala
Little Lorikeet	Eastern Bentwing Bat
Black-chinned Honeyeater (eastern subsp.)	Little Bentwing Bat
Turquoise Parrot	Southern Myotis
Scarlet Robin	Yellow-bellied Sheath-tail-bat
Grey-crowned Babbler	Eastern False Pipistrelle
Powerful Owl	Grey-headed Flying-fox
Masked Owl	Greater Broad-nosed Bat
Spotted-tail Quoll	Eastern Freetail-bat
Yellow-bellied Glider	
Flora	
<i>Callistemon linearifolius</i> (Nettle Bottle Brush)	<i>Grevillea parviflora</i> subsp. <i>parviflora</i> (Small-flower Grevillea)
<i>Tetralochea juncea</i> (Black-eyed Susan)	
Threatened Ecological Communities	
Lower Hunter Spotted Gum – Ironbark Forest in the Sydney Basin Bioregion	

8 Environmental Impact

A number of assessments have been undertaken with regard to the subject site. These assessments generally indicate that the implementation of appropriate mitigation techniques. A summary of the key findings are provided in the following sections.

Flora and Fauna

As outlined in the above section, a number of studies have been undertaken in recent years to investigate the impact of development on the site's biodiversity. The most recent of these (the F&FA dated August 2013) was informed by the previous studies undertaken on the site.

Results of Site Investigations

The F&FA made the following key points with regard to significant environmental values identified on the site:

- No threatened plant species listed under the *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth) or *Threatened Species Conservation Act 1995* (NSW) were recorded in the site during targeted field surveys.
- Two vegetation communities are present on site, namely MU 5 Alluvial Tall Moist Forest (15ha or 5% of the site) and MU 17 Lower Hunter Spotted Gum- Ironbark Forest (145 ha or 48% of the site). Their locations are shown in **Figure 2**. In addition,

cleared pastures occur over 139ha or 46% of the site. Lower Hunter Spotted Gum-Ironbark Forest is listed as an Endangered Ecological Community (EEC) under the *Threatened Species Conservation Act 1995* (TSC Act).

- Current and previous fauna surveys have identified 8 threatened fauna species listed in the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) or the TSC Act as occurring on the subject site, being
 - Grey-crowned Babbler (vulnerable - TSC), recorded in 2013 and previously;
 - Little Lorikeet (vulnerable - TSC) recorded previously;
 - Grey-headed Flying-fox (vulnerable – TSC and EPBC) recorded previously;
 - East-coast Freetail-bat (vulnerable - TSC) recorded in 2013 and previously;
 - Little Bentwing-bat (vulnerable – TSC) recorded in 2013;
 - Eastern Bentwing-bat (vulnerable - TSC) recorded in 2013 and previously;
 - Yellow-bellied Sheath-tail-bat (vulnerable - TSC) recorded in 2013 and previously; and
 - Greater Broad-nosed Bat (vulnerable – TSC) recorded previously.
- Two nests of the Grey-crowned Babbler were recorded on site, supporting at least one family of this species. The location of the nests is shown in **Figure 2** and will be retained within the E2 zone.
- Both the vegetated and cleared areas provide habitat for some terrestrial and arboreal mammals and birds, though mostly for foraging purposes with nesting limited to small hollow-dependent fauna.
- As discussed above, no 'Core Koala Habitat' is present on the site (pursuant to SEPP 44), although the retention of vegetation along creek lines offers some potential habitat for koalas.
- Despite the highly degraded and weed infested nature of the riparian areas, they do hold ecological value as they provide a water source for fauna species and niches for amphibian species. Nearly 99% of the riparian vegetation community (MU5 – Alluvial Tall Moist Forest) is proposed to be retained within the E2 zone.
- The site is located in a highly modified landscape and habitat has become increasingly fragmented over the past years due to mining and clearing for development and agriculture. John Renshaw Drive and the cleared electricity easement on the eastern boundary are significant barriers to fauna movements.
- Patches of vegetation on the site maintain connectivity with the large fragment remnant vegetation to the west, which is further connected to patches south of Black Hill Road and beyond. These connections will be maintained in both the northern and southern E2/E4 zoned areas.

Conclusion

Impacts from loss or change of native vegetation and habitat, fragmentation of habitat, fauna injury and edge effects have all been considered. The results of the F&FA indicate that the site can be developed for the outcomes of this Planning Proposal without significant impacts on threatened species, communities or their habitat, provided appropriate mitigation measures are implemented. These measures will be implemented through the following mechanisms:

- the proposed E2 Environmental Conservation and E4 Environmental Living zones;
- commitments to additional conservation measures, as outlined within the Planning Agreement (executed between the proponent and Council); and
- environmental conservation outcomes included within the forthcoming DCP.

It should also be noted that additional flora and fauna assessments, including 7-Part Tests, must still be undertaken at the development application stage.

As outlined within the F&FA, it is unlikely that any Matters of National Environmental Significance under the EPBC Act will be affected by the proposal.

BUSHFIRE HAZARD

Cessnock City Council identifies the subject site as containing 'bushfire prone land'. A *Bushfire Protection Assessment* has been prepared by Australian Bushfire Protection Planners to determine Asset Protection Zones (APZ) for future development and to manage the possible bushfire hazards. The key recommendations are as follows:

- Industrial development should be located at a distance from bushfire prone vegetation which prevents direct flame contact with buildings. This distance varies between 19 and 31 metres depending on the slope of the land.
- Future dwellings should be a minimum of 35 meters from the bushfire hazard and this APZ should be maintained as an Inner Protection Zone, meaning (for example) tree canopy cover should be less than 15% and located more than 2 metres from dwellings.
- Water supply for firefighting operations must be provided in accordance with the relevant technical standards.
- Bushfire construction standards must apply to all industrial and residential buildings within 100m of bushfire prone vegetation.
- Public road access for firefighting operations must be provided and comply with the technical requirements of the bushfire guidelines. This includes an 8m wide perimeter road between any IN2 development area and bushfire prone vegetation, and an alternative emergency access link to the site if John Renshaw Drive is not available.

An existing access road from Black Hill Road could be used as the alternate access. This road would be locked at the southern boundary of the site, and only emergency services agencies or the public under the direction of NSW Police could use this road.

It is noted that any future development on the site will need to comply with the provisions of Planning for Bushfire Protection 2006, and may be referred to the NSW Rural Fire Service for advice or approval.

MINE SUBSIDENCE AND GEOTECHNICAL CONSTRAINTS

Mine Subsidence as a Result of Underground Coal Mining

Underground mining works (part of the Abel Underground Coal Mine, operated by Donaldson Coal) began under the site in August 2010 and were expected to continue until around July 2013 under the current license. This mining was expected to occur under the majority of the site, and various air, water, noise and vibration monitoring stations are positioned around the site in association with this mining. Due to these operations, access to the site is strictly controlled via gates and fencing. The mining operations can continue under the site with the written agreement of the landowner. This agreement has been provided and operations are expected to continue until mid-2015.

There has been no previous underground mining of the site.

The coal is being mined via 'development' and 'pillar extraction' mining methods at depths of around 100m, which have the potential to cause subsidence of the land within the site due to the settling of ground into the resultant mining voids and other mechanisms. It is noted that the site is not located within an existing designated Mine Subsidence District, though it is expected that the site will be re-classified as a Subsidence District by the Mine Subsidence Board (MSB) in the future.

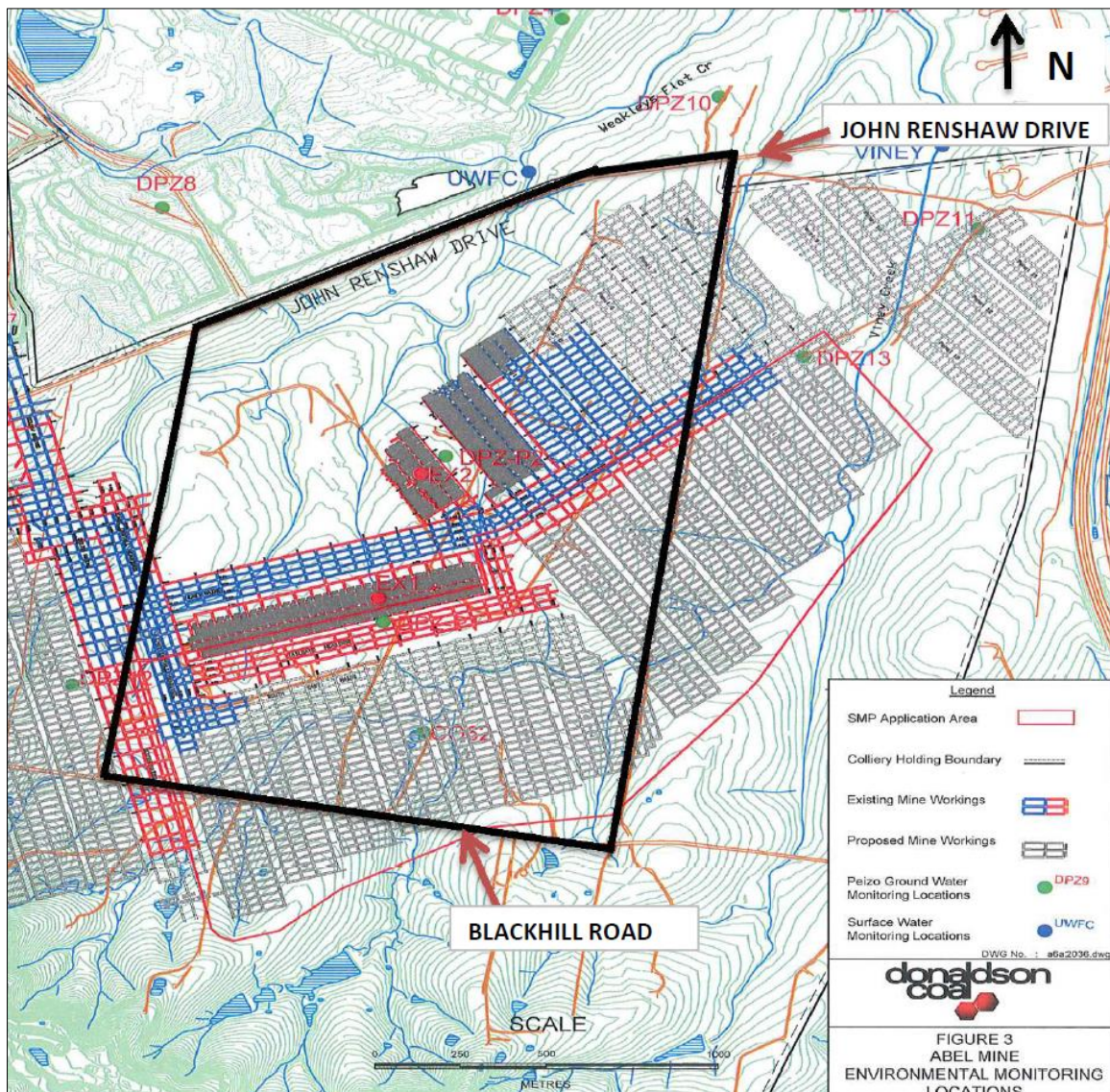
To date, some areas of the site have experienced effects associated with recent mining activities.

A *Preliminary Geotechnical Assessment & Preliminary Mine Subsidence Review* (the 'Review') was prepared by Coffey Geotechnical in 2013. Amongst other matters, this review considered the findings of the Mine Subsidence Management Plan (MSMP) prepared by Donaldson Coal in association with the Abel Mine. The MSMP encompasses the *Area 2 Subsidence Management Plan Application Area*, which includes the subject site and adjoining land. This application area and the associated existing and proposed mine workings are shown in **Figure 3** below.

Key findings from the Coffey Review are as follows:

- Some areas within the site have already experienced relatively high 'tilts' and 'strains' associated with recent mining activities.
- Given the depth of the mining (100m approximately) 'sinkholes' are unlikely to develop. However with any workings at a depth of 80m and within 40m from the site boundary some surface subsidence i.e. 'troughs' (broad shallow depressions) within the site would be expected. The key anticipated impacts to the site may include subsidence of up to 1.3 metres, surface cracking up to 230mm wide, localised surface depressions extending up to 1 metre deep and changes to surface gradients of +/- 4% above pillar extraction panels.

Figure 2: Area 2 SMP Application Area and associated proposed/ existing underground mine workings



- Most subsidence will occur during or shortly after mining (6 – 10 weeks) as workings are allowed to collapse. Ongoing residual settlement may continue for up to 1 year but is unlikely to result in further damage to the site surface.
- The MSB has indicated that the Board would not recommend any development on the site until the subsidence caused by undermining the land has been effectively completed.

Further advice provided by the MSB in relation to this Planning confirmed that development of the site should be staged to allow for the completion of the ongoing mining activities.

Regardless, proposed development can be appropriately designed and management measures implemented to ensure that subsidence does not detrimentally impact future development. It is noted that consent will be required from the MSB for all future DAs should the site be designated a Mine Subsidence District.

Note: Recent advice from the now Subsidence Advisory NSW is that this site will be included in the Black Hill Mines Subsidence District which is expected to be proclaimed early 2017.

Geotechnical Constraints

The abovementioned review (Coffey, 2013) also addressed geotechnical constraints associated with the site. Key findings of this Review are listed below:

- A detailed slope stability assessment should be undertaken after mine subsidence has ceased, however due to the low topography of the site, slope instability is unlikely.
- The site lies within an area of no known occurrence of acid sulphate soils, and no acid sulphate soil management plan is required.

There are no significant constraints on the type of structures that may be constructed on the site in terms of soils and rocks, however no development should be approved until the mine subsidence has ceased. Site drainage and soil condition should be considered in the preparation of the Development Control Plan for the site, including provisions for landscaping, earthworks, storm water management and road design/construction.

ABORIGINAL AND NON-INDIGENOUS CULTURAL HERITAGE ISSUES

An *Aboriginal Due Diligence Assessment* was prepared for the site by RPS. This Assessment documented the results of a site survey undertaken to identify areas of Aboriginal archaeological significance. The survey found the following:

- The field survey investigation identified no new Aboriginal sites;
- Two registered Aboriginal sites are located in the north of the site (AHIMS sites #38-4-1289 and #38-4-1290), with an unspecified number of stone artefacts and a recorded site area of 63 meters x 57 meters; and
- Two areas of potential archaeological sensitivity including undisturbed portions of Weakley Flat Creek and tributary of Viney Creek, however these areas are in the proposed environmental zones and are not at risk of being disturbed.

The Assessment made a number of recommendations for the management of the site including the preservation of identified sites and quality potentially archeologically sensitive areas (or Potential Archaeological Deposits- 'PADs') if possible; the further assessment of PADs for archaeological integrity should they be proposed to be disturbed; as well as obtain permits under s90 of the *National Parks & Wildlife Act 1974*.

It is considered likely that additional archaeological testing/ survey and potentially consultation will be required to inform detailed design of future industrial development on the site (primarily due to the presence of the two registered sites within the proposed IN2 area), and will be undertaken in conjunction with the DA process. Through consultation in relation to this Planning Proposal, the Mindaribba Local Aboriginal Land Council recommended that a full Aboriginal Heritage Assessment be conducted prior to development proceeding. Such an Assessment will be completed if future development has the potential to impact on the two registered sites.

There are no known items or places of non-indigenous heritage significance within the site. *Historic Heritage Advice* was prepared by RPS in 2013 which confirmed that there are no listed heritage items within 1 kilometre of the site and that *there are no historic heritage constraints applicable to the proposed rezoning of the project area.*

TRAFFIC, TRANSPORT & ACCESS IMPACTS

A *Traffic and Transport Report* (TTR) was prepared by Hyder in 2013. The TTR examined various access options into the site in relation to intersection and road network capacity. Principles established to ensure effective transport management include:

- Two access points to the site from the north, to allow balanced impacts on the road network, provide alternative options in emergency events and improve viability for a bus route.
- Recognise the external network opportunities and constraints when considering access to and from the site.
- Support public transport and cycleway linkages between the site, other employment areas and residential areas.
- Coordinate access and movement with major landowners in the Black Hill area.
- The rural dwellings in the proposed E4 zone will have access to Black Hill Road.

An access on Black Hill Road for industrial development is not viable, as the road is not suitable for industrial traffic. As discussed in the *Bushfire Hazard* section of this PP, an existing access road from Black Hill Road could be used as an alternative emergency egress. This road would be locked at the southern boundary of the site, and only emergency services agencies or the public under the direction of NSW Police could use this road.

Full industrial development of the site would result in appropriately 3,800 additional two-way vehicle trips in the PM peak hour, based on a projected development estimate of 680,000m² of industrial gross floor area. Traffic growth has also been forecast and considers new network connections (Hunter Expressway, M1 to Pacific Highway link) as well as new development such as the adjacent Coal and Allied (C&A) employment lands. Background growth is assumed to occur at 1.6% pa, which is in line with historical traffic growth on John Renshaw Drive. Cumulative growth to the year 2013 is assumed to occur at 3.3% pa, primarily derived from the Coal and Allied development.

The small number of residential dwellings included in this proposal would create an insignificant impact on the local road network.

Traffic Impact Management

The most appropriate access option to the site for industrial traffic at full development capacity is to have two access points from John Renshaw Drive, as described below and illustrated in **Figure 4**.

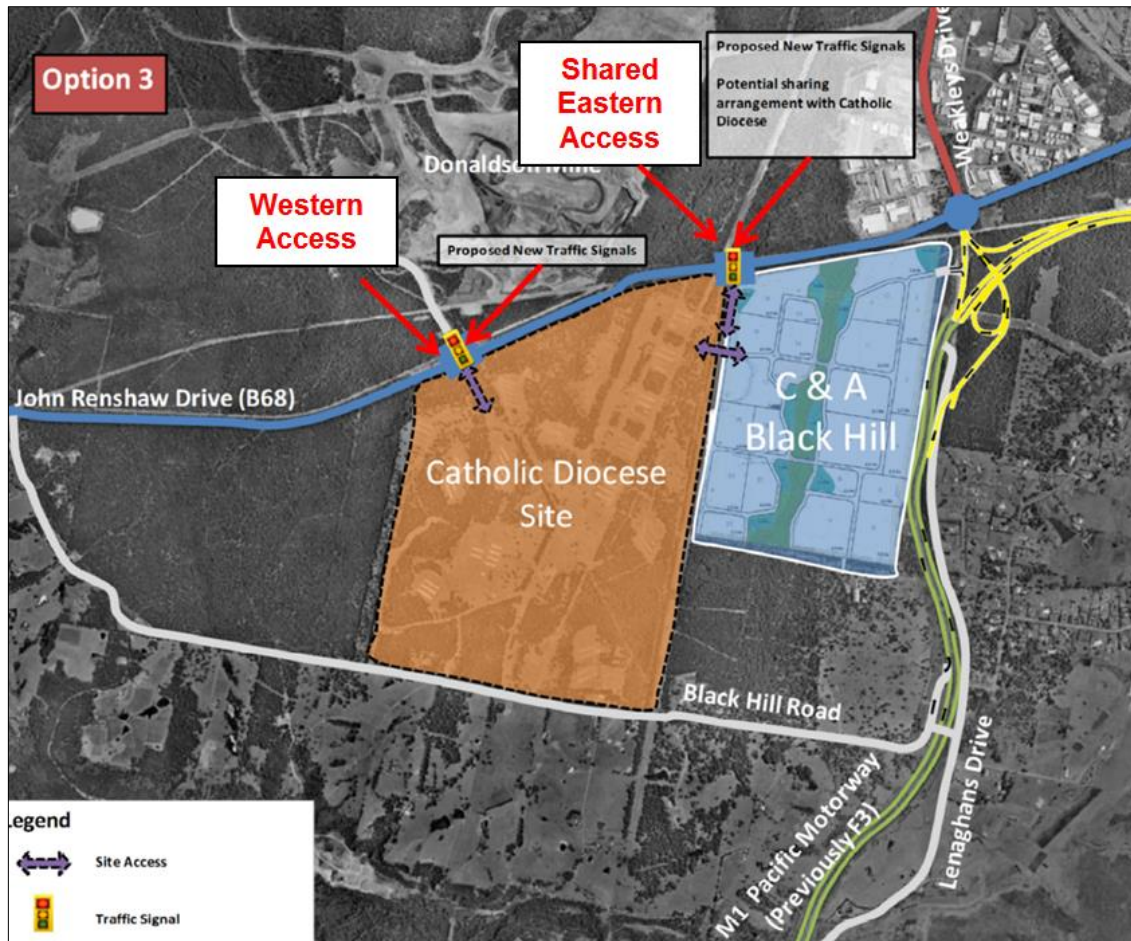
- Western access - a new signalised intersection approximately 280 metres from the site's western boundary, created by adding a fourth leg to the existing Donaldson Mine access (i.e. within the proposed IN2 zoned corridor); and
- Shared Eastern access - a signalised intersection adjacent to the site's eastern boundary that has been agreed by the Roads & Maritime Service (RMS), but not yet constructed. This intersection is likely to be shared with the C&A development. The precise position and design of the intersection has not yet been determined. There is likely to be some direct access between the subject site and the C&A land via a new internal access road/s.

The Western access point has the potential to accommodate the majority of the anticipated traffic generation (traffic from up to 630,000m² Gross Floor Area [GFA]), dependant on the actual traffic growth scenario at the time of construction and the ultimate trip generation rate that the development can achieve. Additional traffic up to the full projected 680,000m² GFA is likely to be accommodated by enhancing the proposed shared eastern access.

The shared eastern access has the potential to accommodate a greater proportion of the industrial traffic than projected, particularly during the early development stages, but is reliant on the design and sizing of an appropriate intersection. This intersection will be designed in consultation with C&A.

The roundabout at the end of the M1 Pacific Motorway/ Weakleys Drive is currently operating with a poor level of service and, regardless of any future development outcomes from this Planning Proposal, the roundabout will continue to operate with poor service during critical peak periods.

Figure 3: Potential industrial site access from John Renshaw Drive



The construction of the Western access and the (potentially shared) construction of the Shared Eastern access would be conditions of development consent and funded by the proponent. Access intersections required as a result of a single development are not covered by local or state infrastructure contribution plans.

A 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, including updated traffic modelling will be included in the forthcoming DCP.

VISUAL IMPACTS

Any future development of the subject site could result in significant changes to the existing visual presentation of the area from surrounding land and streets, and may result in a change to the visual character of the immediate area. To better understand the potential impacts a *Landscape & Visual Impact Assessment* was prepared by Moir Landscape Architecture. Key findings of the assessment are as follows:

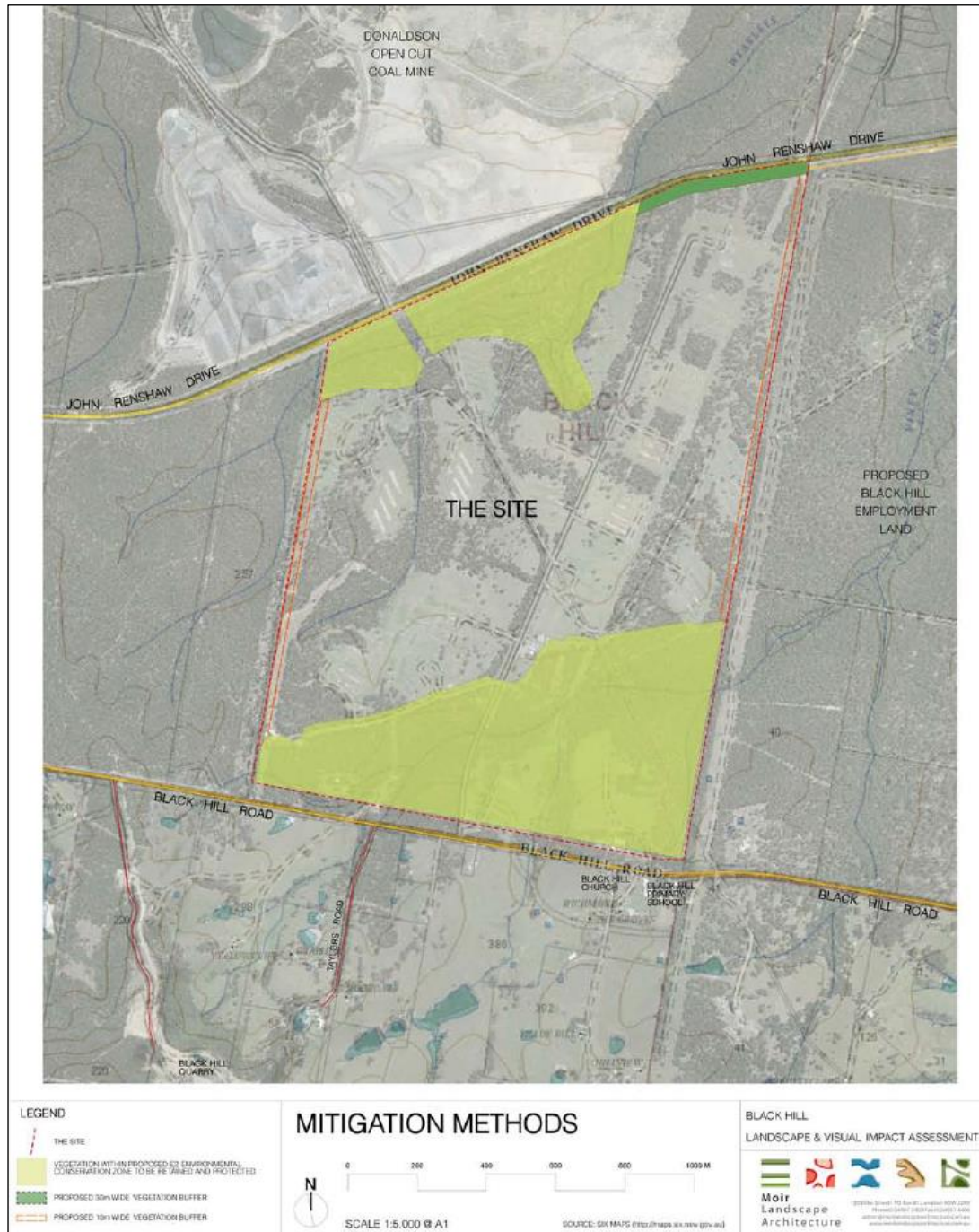
- The site is identified as having a 'low-moderate' *landscape quality rating*.
- A number of key viewpoints towards the site from around the locality were identified. Of the 18 viewpoints assessed, the subject site would be visible from 8 viewpoints. Impacts of development within the site on these viewpoints would have the following impacts, assuming no mitigation measures were put in place: low visual impact (1 viewpoint), moderate visual impact (5 viewpoints) and high visual impact (2 viewpoints).
- The highest visual impact is likely to be felt from parts of John Renshaw Drive, as the IN2 zone will directly adjoin the road for approximately 650m.
- There is expected to be nil visual impact along Black Hill Road, due to the presence of the proposed E4 area and the width of associated screening vegetation.

The Assessment made a number of recommendations which may be adapted to suit future development in order to minimise any detrimental impacts on visual amenity. The Assessment predicts that all visual impacts on the key viewpoints can be reduced to *low* or *nil* with the application of mitigation measures during development design. Recommended mitigation measures include:

- Provision of adequate development setbacks from public roads, namely John Renshaw Drive, and subsequent buffer vegetation planting of 10m width along the site's northern, eastern and western boundaries.
- Physical and visual separation between development zones (within IN2 zone) and the provision of 'green' corridors within the site
- Entry and internal roads should be positioned where possible close to existing topographical contours.
- Retention of existing vegetation, wherever possible, including any vegetation outside development footprints and unaffected by bulk earthworks (in addition to vegetation within the proposed E2 and E4 zones).

The proposed vegetation retention areas and buffer planting zones are illustrated in **Figure 4**.

Figure 4: Proposed Mitigation Methods - Visual Impacts



The future DCP must provide for 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. The inclusion of the mitigation measures in this DCP will therefore address visual impacts arising from this PP.

CONTAMINATION ISSUES

The site has previously been used as a large poultry farming operation over many years and contamination of parts of the site has occurred as a result. Historical contamination sources within the site include the following:

- Buried poultry carcasses;
- Underground fuel storage tanks;
- Application of pest control products and timber preservatives;
- Asbestos from farm buildings; and
- Rubbish dumping across the site.

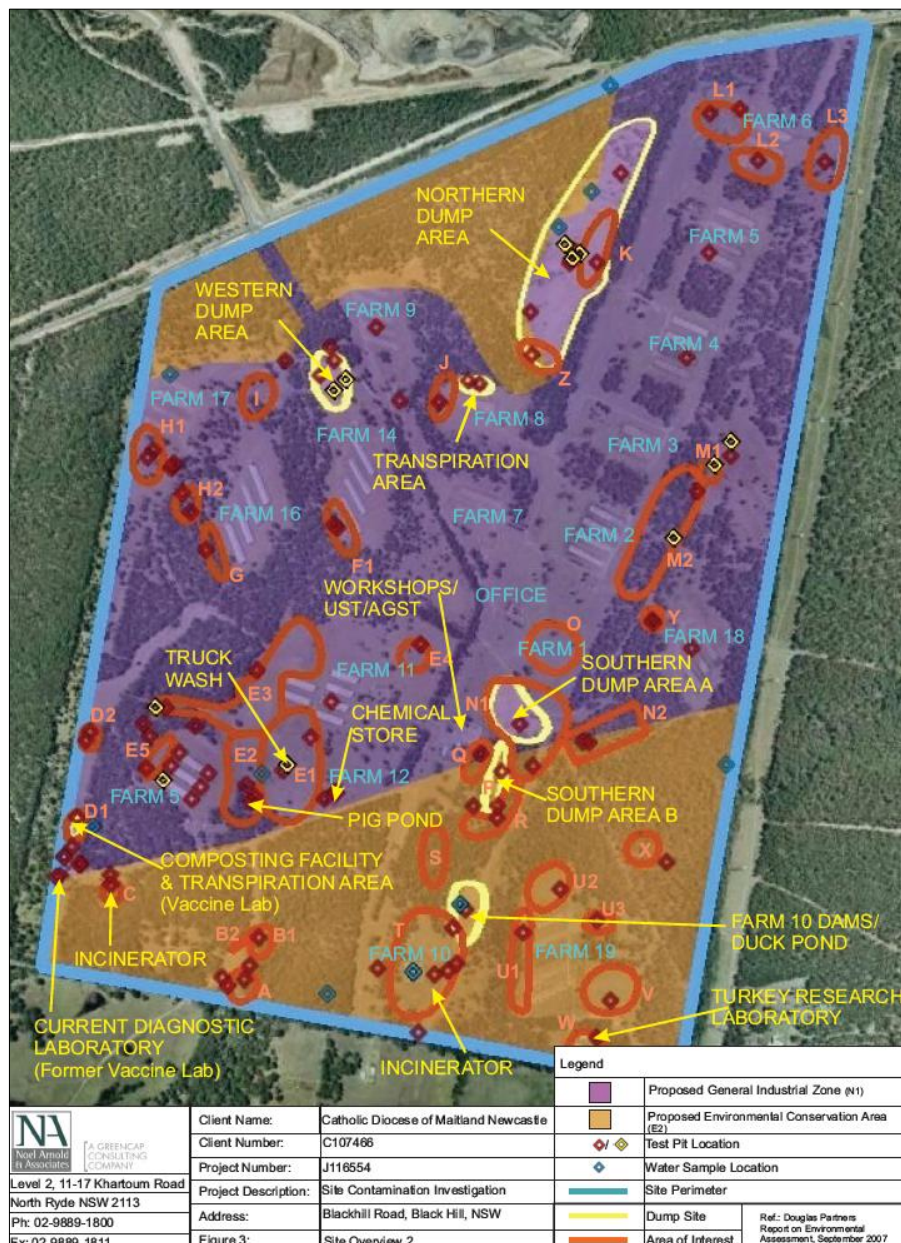
Extensive assessments of the site's contamination status have occurred in the past, and various site remediation activities have been undertaken in order to restore the site to a standard appropriate for the existing rural uses. Remediation activities around some areas of the site have now been completed, generally through the capping of the soil.

A *Site Contamination Investigation* (SCI) was undertaken by Noel Arnold & Associates in 2013. The SCI provides additional information regarding contamination from previous uses of the land, and supplements the existing investigations that have been undertaken since the poultry farming on the site ceased.

Contamination residues from previous uses of the land were identified as part of the SCI, and included asbestos cement sheeting and floor tile wastes and elevated concentrations of metal and petroleum hydrocarbons at some locations. Elevated concentrations of nutrients were also reported in soil and water samples, which pose a potential risk to surface water quality.

Microbiological contamination and low aesthetic quality of soils and waters were identified in areas impacted by animal farming activities, e.g. within the pig and duck ponds, as shown in **Figure 5** below. Remediation works in the form of site capping have been completed in some areas where burial of poultry was earlier identified. There is anecdotal evidence for burial of poultry in some additional areas however the test pitting program in the SCI did not identify additional poultry burial areas. The SCI report concludes that the land can be made suitable for industrial and residential land uses (and other activities permissible within the E2 and E4 zones) through the development and implementation of a remediation action plan, or a series of plans if a staged development approach is adopted. The remediation action plans would need to be completed and approved before development could commence, in accordance with *State Environmental Planning Policy No 55 – Remediation of Land*. No additional provisions are required in the Planning Proposal or in a DCP.

Figure 5: Site contamination investigation- site overview



9 Social and Economic Impacts

A *Social Impact Assessment* (SIA) was prepared by Key Insights in 2013. The SIA analysed socio-economic data together with the results of qualitative research (one-on-one interviews and meetings) undertaken with local people and organisations to capture the full range of potential issues and opportunities arising from the Planning Proposal.

The SIA identified potential impacts from development of the site in the following key areas:

- Sense of place (local character);
- Amenity;
- Social cohesion/ equity;
- Housing;
- Employment and economic impacts;
- Regional industrial land capacity/ loss of agricultural land;
- Black Hill Public School; and
- Cumulative impacts.

The following is an extract from the SIA regarding the key concerns and aspirations raised during interviews and meetings:

The main concerns in the Black Hill community are the loss of rural ambience and local amenity because of the potential encroachment of industrial land into the quiet rural landscape. There is a strong desire to protect the environment of the school. There is some recognition of the potential of development in terms of local accessible employment and economic activity; however this would only be acceptable with appropriate offsets and minimal, if any, visual and noise impacts on the community along Black Hill Road. There is local support for the continuation of rural residential development on the site with the potential for new families and enrolments for the school as well as for the management of the environmental conservation zone (p10).

A number of recommendations are proposed in the SIA to address these concerns. Some recommendations are matters for the site owners to pursue separately to the PP, such as facilitating a Community Open Day at the Black Hill Public School. All other recommendations have been incorporated into the PP, including:

- permitting a limited number of residential lots and dwellings (four) in the E4 zoned area fronting Black Hill Road,
- ensuring no access to the industrial land from Black Hill Road,
- providing a buffer between any industrial development and Black Hill Road, and
- adopting the recommendations of the environmental investigations (outlined within this Planning Proposal) to mitigate negative impacts.

The SIA concludes that *on balance, there would be a net social and economic benefit associated with the rezoning of the subject site and subsequent sensitive redevelopment (p55).*

POTENTIAL ECONOMIC IMPACTS

The site is currently utilised for low-scale grazing purposes (up to about 250 head of cattle), which provides insignificant employment opportunities even when flow-on effects are taken into account. Local farmers have indicated that the site does not constitute high value agricultural land.

It is difficult to quantify the end value of any industrial development of the site as the type and scale of uses are yet to be identified. However the SIA notes:

- *\$50 million in construction costs over the development of the site would be a conservative estimate;*
- *At 9 jobs per \$1 million spent in construction the development would deliver 450 jobs in the construction phase with multipliers throughout the economy;*
- *A second significant impact on the sub-regional economy from the construction phase comes from expenditure on materials; and*
- *Inputs to the sub-regional and local economy during the operational phase of any development would again far exceed those associated with agriculture however it is not possible to quantify without a determination of the end use.*

Development associated with the Planning Proposal is not anticipated to have any negative impacts on the local or wider economy.

Section D: State and Commonwealth Interests

10 Adequate Public Infrastructure

An assessment of the infrastructure available to the site was undertaken by SMEC in 2013. This *Preliminary Infrastructure Investigation* was prepared to determine the trunk servicing requirements for services including water, wastewater, electricity, telecommunication and gas. The key findings of the Investigation are as follows:

- **Water:** An appropriate mains water supply is available. Hunter Water Corporation has advised that a connection can be made from the existing DN500 watermain on the southern side of John Renshaw Road.
- **Wastewater:** Expected use for the site is estimated at 2,000 equivalent tenements (ETs) and Hunter Water has advised that there is limited capacity currently available close to the site (i.e. a 'couple of hundred' ET available within existing infrastructure). Wastewater flows will ultimately need to be conveyed to one of the nearest wastewater treatment works (Morpeth, Shortland or Kurri Kurri). Various options are available to connect to these works, and should be investigated further to determine the preferred option. Alternatively onsite treatment may be a viable option. It is recommended that an on-site option is further investigated as part of development design for the site.
- **Electricity:** Ausgrid have indicated staged upgrades will likely be required to service any development and that some initial capacity is available on site.
- **Telecommunications:** Telstra maintains existing networks through the site and have advised that the network is currently insufficient to meet the likely demand for the site.
- **Gas:** Jemena have indicated that natural gas is available in the vicinity and may supply the proposed industrial area and will proceed based on the gas consumption customers once known.

By virtue of the identification of the site as an urban release area in the Cessnock LEP, clause 6.2 will apply to the development of the site. This clause requires that Council must be satisfied before granting consent to a development application that public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.

11 Consultation with State and Commonwealth Authorities

As directed within the previous Gateway determination, the following agencies have been consulted during the process of assessment of the previous Planning Proposal:

- Mine Subsidence Board;
- NSW Rural Fire Service;
- Transport for NSW- Roads & Maritime Service;
- NSW Aboriginal Land Council (represented by Mindaribba LALC);
- Office of Environment & Heritage;
- NSW Department of Primary Industries- Agriculture; and
- NSW Department of Primary Industries- Minerals & Petroleum (Mineral Resources Branch).
- Hunter Water;
- Newcastle City Council;
- Maitland City Council;
- Ausgrid;
- Telstra; and
- Any others specified in the determination.

Table 8 below provides a summary of the Agencies' feedback, as well as a responding comment, where relevant. Full copies of agency responses have been provided previously to DoPE. Note as part of the revised Gateway determination additional consultation was required with Office of Environment and Heritage.

Table 7: Summary of Government Agency Responses

AGENCY COMMENTS	RESPONSE
Mine Subsidence Board (13/11/13)	
The site is not within a mine subsidence district and therefore MSB approval is not required for surface development.	Noted
The Board concurs with Coffey Report that the development should be staged to allow for the extraction of the remaining Upper Donaldson seam by Donaldson Coal.	The proponent will work with Council, Donaldson Coal & other relevant stakeholders throughout preparation of the DCP to establish appropriate staging and development controls in response to any ongoing or future mining plans.
The Board has no objection to the rezoning of the land and development of the land following mining.	Noted
NSW Rural Fire Service (07/01/14)	
RFS raises no concerns to the proposed rezoning.	Noted
Recommendations detailed in the 'Bushfire Protection Assessment' should be considered in future development of the site.	The recommendations will inform preparation of the DCP and subsequent development applications (DAs).
Transport for NSW- Roads & Maritime Services (24/01/14)	
RMS concurrence is required for connections to John Renshaw Drive (classified State Road B68) under Section 138 of the <i>Roads Act 1993</i> .	Noted- such concurrence would be sought at the DA stage.
RMS consent is required for traffic control signals and facilities under Section 87 of the <i>Roads Act 1993</i> .	Noted- such consent would be sought at the DA stage.
RMS will provide comment on subsequent DAs with regard to satisfying the requirements under Schedule 3 Column 2 in accordance with Clause 104 of the Infrastructure SEPP.	Noted
RMS considers the Traffic & Transport Report to be inadequate in addressing road and traffic issues. RMS requests the following preliminary requirements be adopted and additional information provided:	A submission was prepared by the proponent in response to RMS concerns about the Traffic & Transport Report, and provided to Council. In summary, it noted that a DCP will be prepared before any development of the land can take place, which will include more detailed design and consideration of the proposed road network. Further detailed design, modelling and

AGENCY COMMENTS	RESPONSE
	assessment will be undertaken in association with future DAs for development, which the RMS will have additional opportunities to provide comment on. Therefore the existing Traffic & Transport Report is considered adequate and appropriate for the rezoning stage. Council undertook liaison with RMS officers on 28/03/14 in relation to the above. The RMS confirms it has no further issues/ objection with regard to the Planning Proposal.
i. Master plan showing: • road upgrades (eastern and western intersections) • internal road connections between the adjoining Coal and Allied development and the site • no direct property access shall be permitted to/from John Renshaw Drive, and • all access to individual properties shall be via the internal road network	A DCP will be prepared before any development takes place on the land, which will include consideration of the issues identified by the RMS.
ii. John Renshaw Drive is to be upgraded to dual carriageways between the proposed Coal & Allied access and the proposed western signalised access.	The Traffic & Transport Report did not identify any logistical requirement to upgrade the road to dual carriageways, based on projected traffic volumes from the site. However the traffic situation should be re-examined at the DA stage to determine the requirement for any road upgrades.
iii. Revise the traffic study to reflect the concept master plan and include the traffic volumes of the Coal & Allied development. RMS does not concur with the traffic volumes in the traffic study	The Traffic & Transport Report takes into account the traffic volumes associated with the C&A development and was prepared using the RMS' own Lower Hunter Traffic Model. Traffic volume assumptions were previously agreed with RMS officers (August 2013). Additional modelling may be required pre DA approval.
iv. RMS to review the Paramics model being undertaken as part of M1 to Raymond Terrace upgrade investigations to determine the required intersection and mid-block capacity upgrades and traffic signal coordination	Such detailed intersection modelling shall be reviewed and/or undertaken at the DA stage.
v. RMS considers the proposed Coal & Allied intersection will be significantly impacted by this development and may require additional capacity. This is to be	Detailed intersection modelling and design shall be undertaken at the DA stage.

AGENCY COMMENTS	RESPONSE
investigated further and modelled, considering the proposed internal links between the developments.	
vi. The proposed western access road shall be designed and constructed as a signalised intersection in accordance with the Austroads Guide to Road Design 2010 (with RMS supplements) and the RTA Traffic Signal Design 2008 to the satisfaction of RMS including, but not limited to, the following works: • Upgrading the intersection to a four leg traffic controlled intersection, which incorporates vehicular access to/ from the development and Donaldson mine sites. • The required lane configuration, types and lengths shall be determined by RMS subject to a review of the revised Traffic study to be prepared to the satisfaction of RMS in accordance with the RMS's Guide to Traffic Generating Developments. • The intersection shall be designed to accommodate the largest design vehicle (25/26m B-Double). Comment: Turning templates shall be provided in electronic and hardcopy format for all movements for RMS' review and acceptance. • Street lighting shall be provided at the intersection to Australia Standards, or as determined by RMS.	Noted. Such detailed design measures will be addressed at the DA stage, in consultation with the RMS.
All works associated with the proposed development shall be at full cost to the developer and at no cost to the RMS or Council.	Noted- the need for any future upgrade works shall be determined and negotiated with the RMS at the appropriate time.
Due to the limited amount of information provided, RMS is unable to comment on the potential subdivision of the land proposed to be zoned E4 Environmental Living.	Noted. It is emphasised that residential development within the E4 zone would create very low volumes of traffic and insignificant impacts on the local road network.

AGENCY COMMENTS	RESPONSE
Mindaribba Local Aboriginal Land Council (undated)	
Mindaribba supports the rezoning provided a full Aboriginal Heritage Assessment is conducted prior to development proceeding.	If required (e.g. if there is the potential for impacts on registered sites), a full Aboriginal Heritage Assessment will be undertaken at the DA stage.
The LALC should be involved in the assessments.	Noted
Office of Environment & Heritage (28/11/13)	
Development design should use the hierarchy of 'avoid, mitigate, offset' in addressing biodiversity concerns.	The Planning Proposal <u>avoids</u> impacts on key ecological values (e.g. known habitat of a threatened bird species) through the E2 zoning of large parts of the site. Further, a range of <u>mitigation</u> measures have been outlined within the Flora & Fauna Assessment which will be implemented through the preparation of the DCP and future DAs. Finally, the proponent commits to the undertaking of additional appropriate conservation measures (whether they occur on-site or off-site) to <u>offset</u> the impacts of anticipated vegetation clearing within the IN1 zone. This commitment is enshrined within the Voluntary Planning Agreement (VPA) to be enacted between Council and the proponent, and details will be agreed before any development of the land takes place.
Given the high conservation values onsite, a field inspection should be attended by relevant parties to discuss appropriate land uses zones and 'avoid, mitigate and offset' to achieve an 'improve and maintain' outcome for the proposal.	Further discussions with OEH, Council and the proponent have occurred since the agency comments were received. It was determined that a site inspection was not necessary and that the proposed E2 zoning was appropriate in this case. The negotiation of additional conservation measures to offset vegetation clearing could appropriately occur after the rezoning stage-these commitments are outlined in the VPA.
Proposed significant impacts on high conservation values should be offset using the NSW Governments BioBanking Assessment Methodology (BAM).	Negotiations with regard to identifying appropriate conservation outcomes will be informed by the results of the Biobanking Assessment Methodology, as outlined within the VPA.
In the absence of a formal Biodiversity Certification or BioBanking Agreement under Parts 7A and 7AA of the TS Act, a Species Impact Statement and OEH concurrence may be required at DA stage.	Noted
Any impact on the known Aboriginal sites would require a full Aboriginal Cultural Heritage Assessment, Aboriginal Cultural Heritage Consultation Requirements and an Aboriginal Heritage Impact Permit	Noted- any proposal to impact on known sites would be comprehensively assessed at the DA stage.

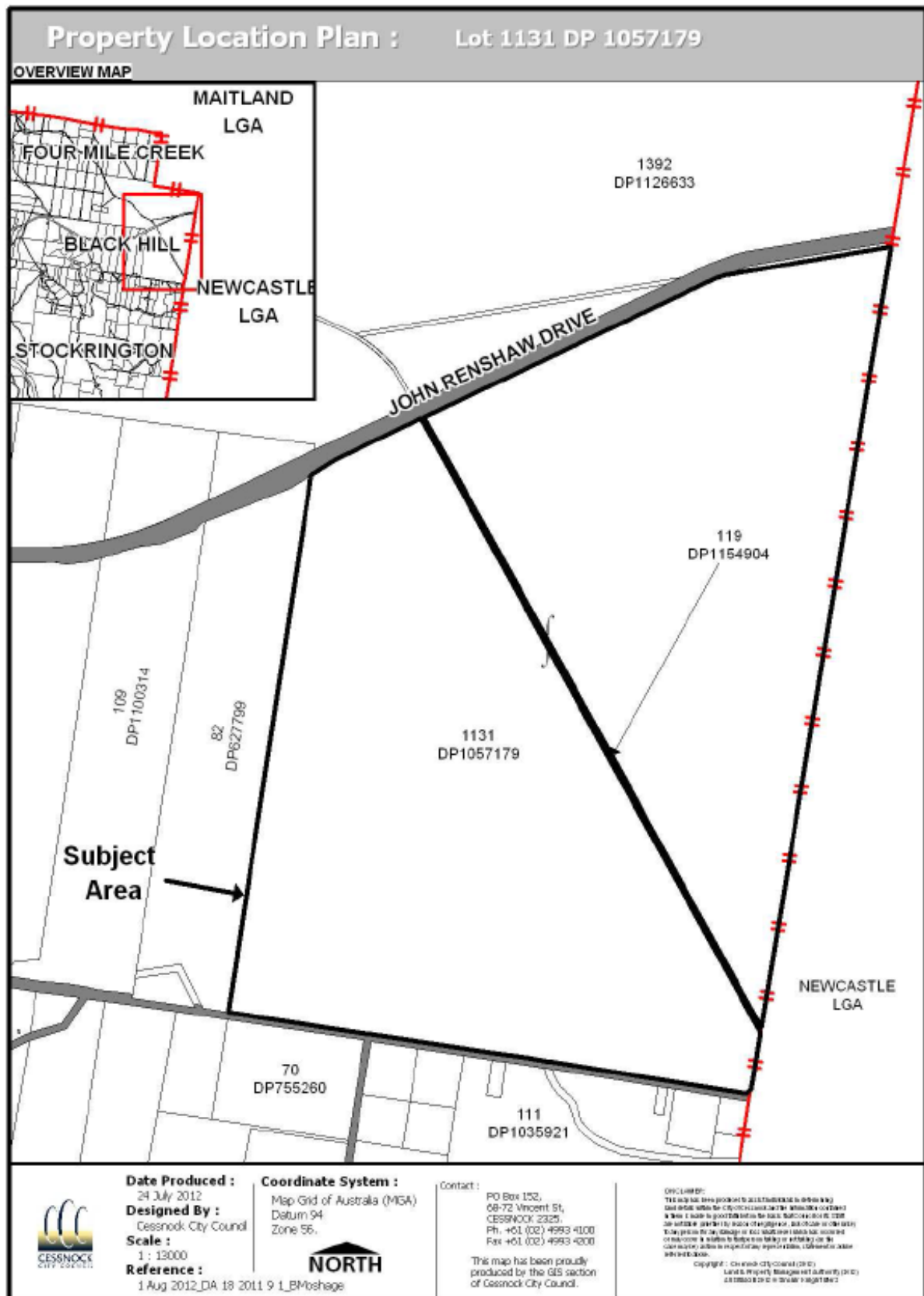
AGENCY COMMENTS	RESPONSE
(AHIP).	
OEH supports and concurs with the Aboriginal Heritage Due Diligence Assessment.	Noted
Office of Environment & Heritage (29/09/16)	
OEH advised the original response remains current.	Noted and response provided above.
OEH remains supportive of the Planning Agreement to manage required biodiversity offsets.	Noted.
OEH highlighted the importance of the values of the site and of particular note the Regent Honeyeater.	The proponent will need to consider all OEH and legislative requirements when fulfilling the requirements of the Planning Agreement and subsequent development assessment process.
NSW Department of Primary Industries (Agriculture) (22/11/13)	
It would be beneficial to identify strategically suitable (i.e. buffers, transport and distance to processing) areas for any future poultry activity in the Cessnock LGA.	The identification of alternative land for poultry farming activities is outside the scope of this PP. The poultry farming ceased on this site in 2003, before the identification of its strategic industrial/employment potential.
Encourages development options that are in line with Cessnock LEP and support possible future agricultural industries in this zone (e.g. poultry industry or aquaculture).	The proposed IN2 Light Industrial zone permits a wide variety of industrial activities that would support the poultry or aquaculture industries.
Department of Trade & Investment (Mineral Resources Branch) (06/12/13)	
Concerned that there is no planning mechanisms for MSB to guide future building requirements or standards since the site is not within a declared mine subsidence district. Strongly recommends further consultation with Donaldson Coal, Mineral Resource Branch, MSB and Council to establish planning controls to manage underground mining and potential subsidence impacts within the subject area.	The proponent will work with Council, Donaldson Coal & other relevant stakeholders throughout preparation of the DCP to establish appropriate staging and development controls in response to any ongoing or future mining plans, including associated subsidence issues.
Petroleum Exploration License (PEL) 267 held by AGL Upstream Investments Pty Limited exists over a broad area including this site.	Noted
MRB has no concerns regarding the rezoning of the environmental areas, but does have concerns regarding the IN1 rezoning with relation to managing the future subsidence impacts.	The proponent will work with Council, Donaldson Coal & other relevant stakeholders throughout preparation of the DCP to establish appropriate staging and development controls in response to any ongoing or future mining plans, including associated subsidence issues.

PART 4: MAPPING

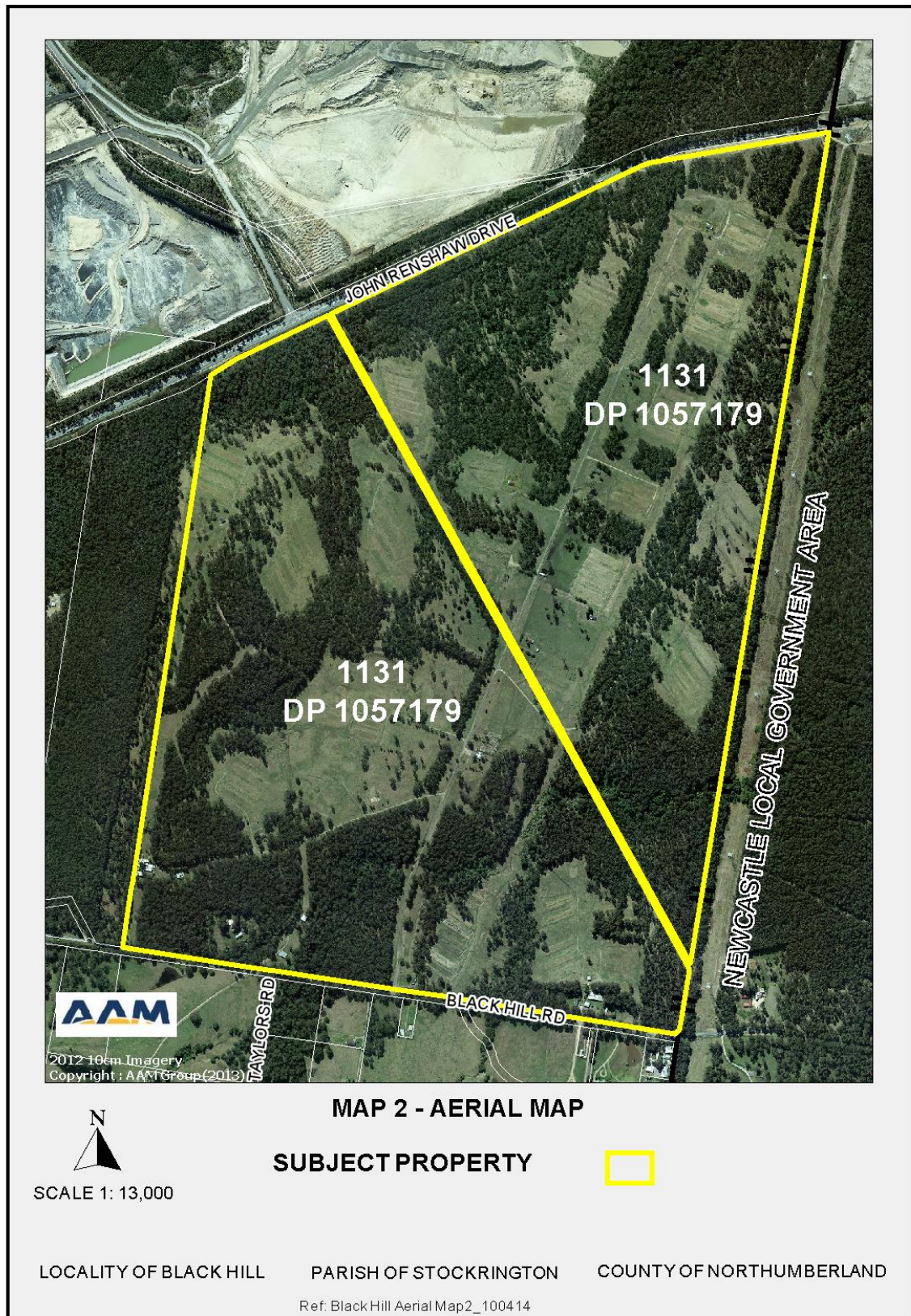
The Planning Proposal seeks to amend the Cessnock Local Environmental Plan 2011 maps applying to Lot 1131 DP 1057179, part of Lot 119 DP 1154904 and part of Lot 13 DP 1097621 as follows:

- **Land Zone Map** – Amend map sheet 1720_COM_LZN_009_080_20161117 to partly zone the subject land IN2 Light Industrial, E2 Environmental Conservation and E4 Environmental Living in accordance with Map 4 of this Planning Proposal.
- **Lot Size Map** – Amend map sheet 1720_COM_LSZ_009_080_20161117 so that no Minimum Lot Size applies to land proposed to be zoned IN2 Light Industrial, a minimum lot size of 80 hectares applies to land proposed to be zoned E2 Environmental Conservation and E4 Environmental Living in accordance with Map 6 of this Planning Proposal.
- **Urban Release Areas Map** – Create a new Urban Release Area map for Grid Number 009 and identify the subject land as an Urban Release Area in accordance with Map 7 of this Planning Proposal. Insert map sheet 1720_COM_URA_009_080_20161117
- **Additional Permitted Uses Map** – Create a new Additional Permitted Uses map for Grid Number 009 and identify the subject land as an Additional Permitted Use. Insert map sheet 1720_COM_APU_009_080_20161117
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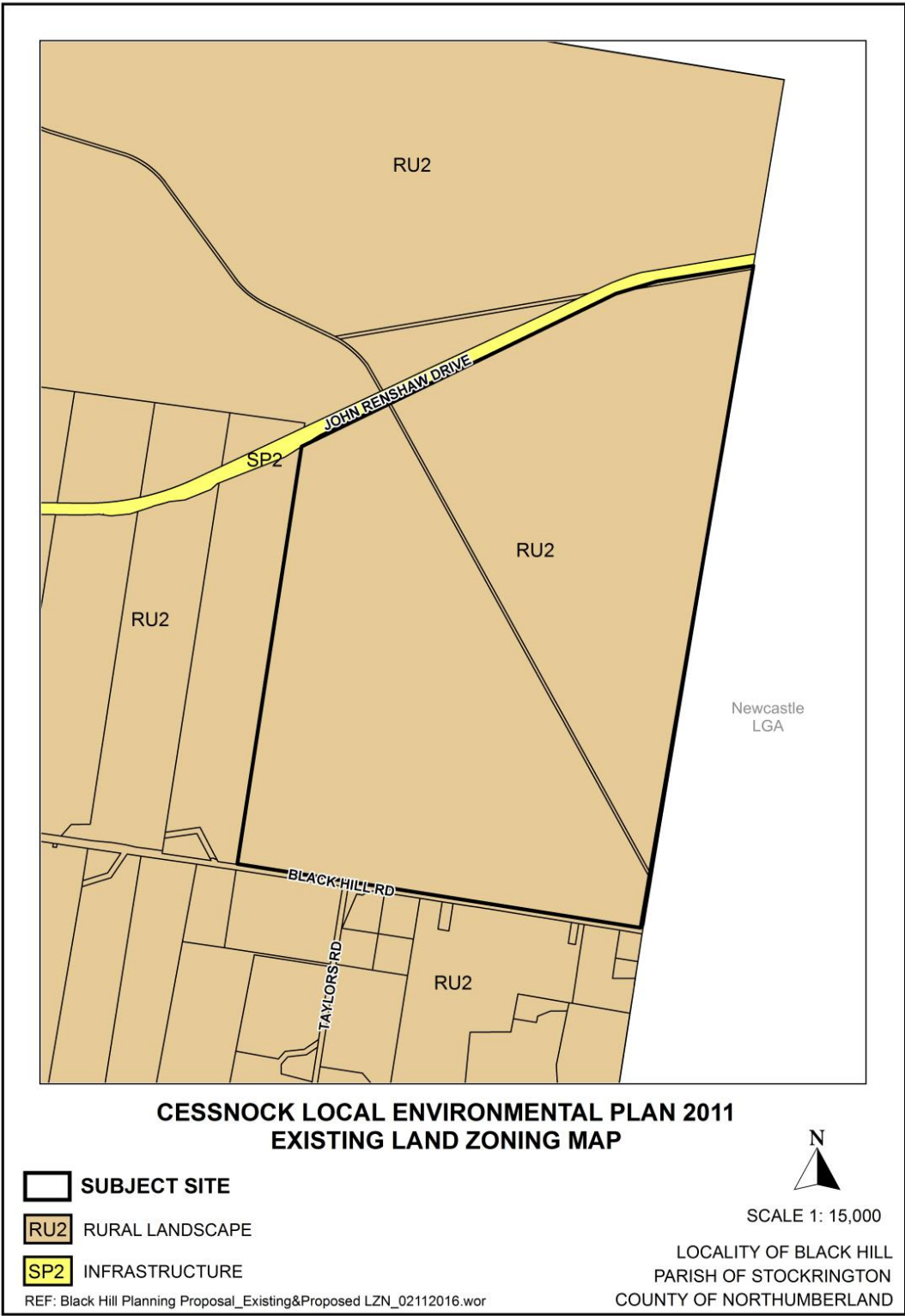
Map 1: Location Plan



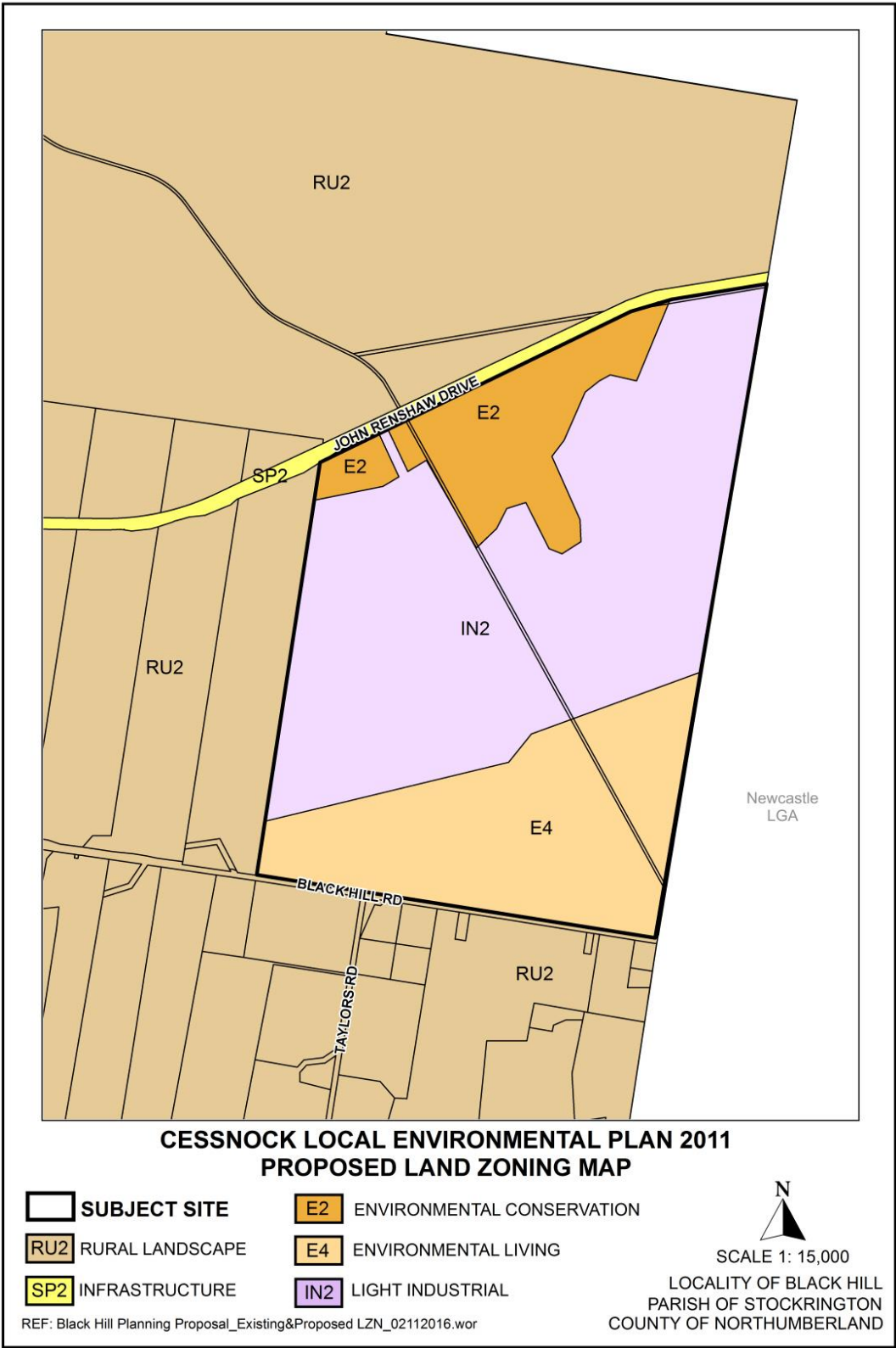
Map 2: Aerial Location Plan



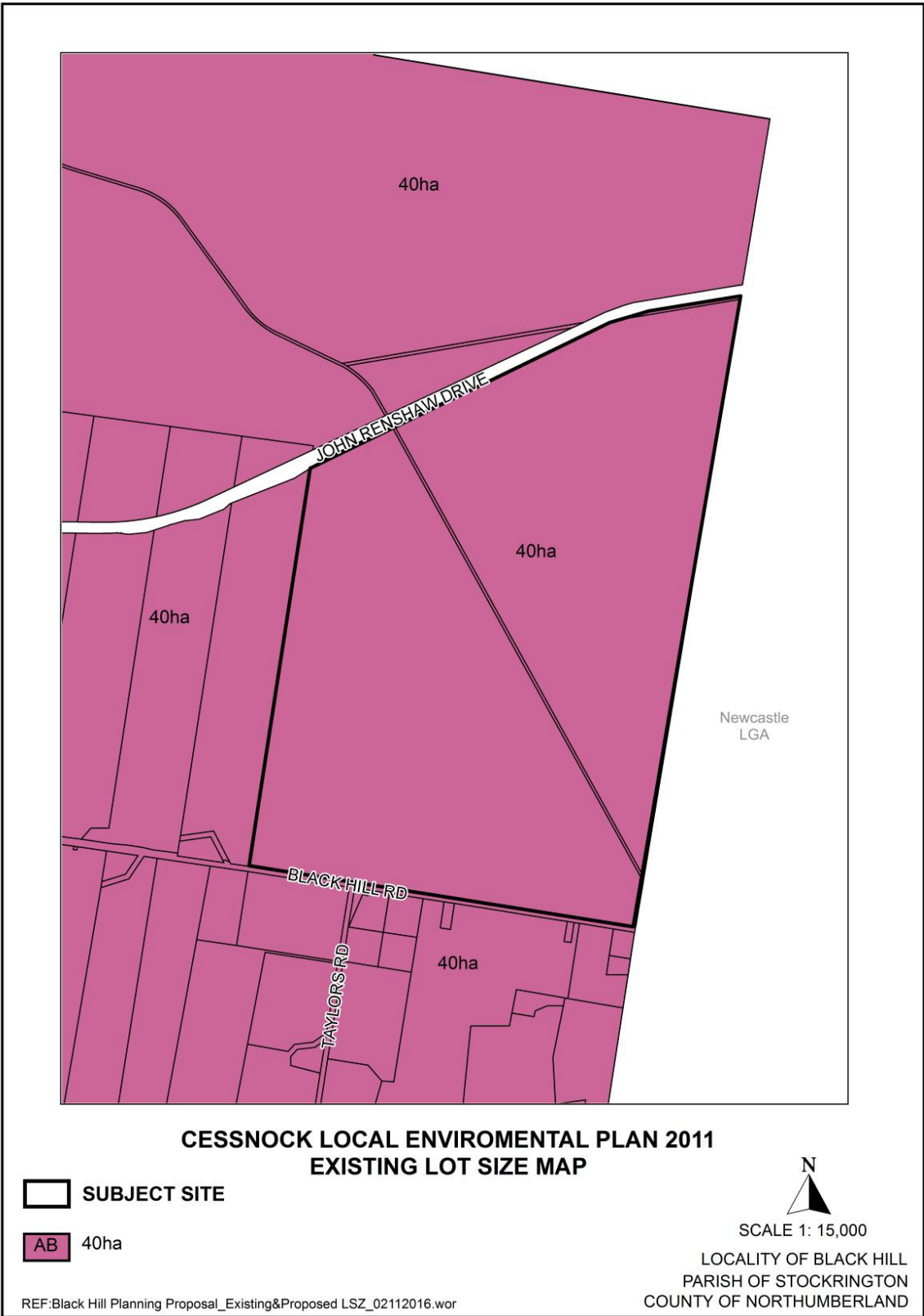
Map 3: Existing Zoning



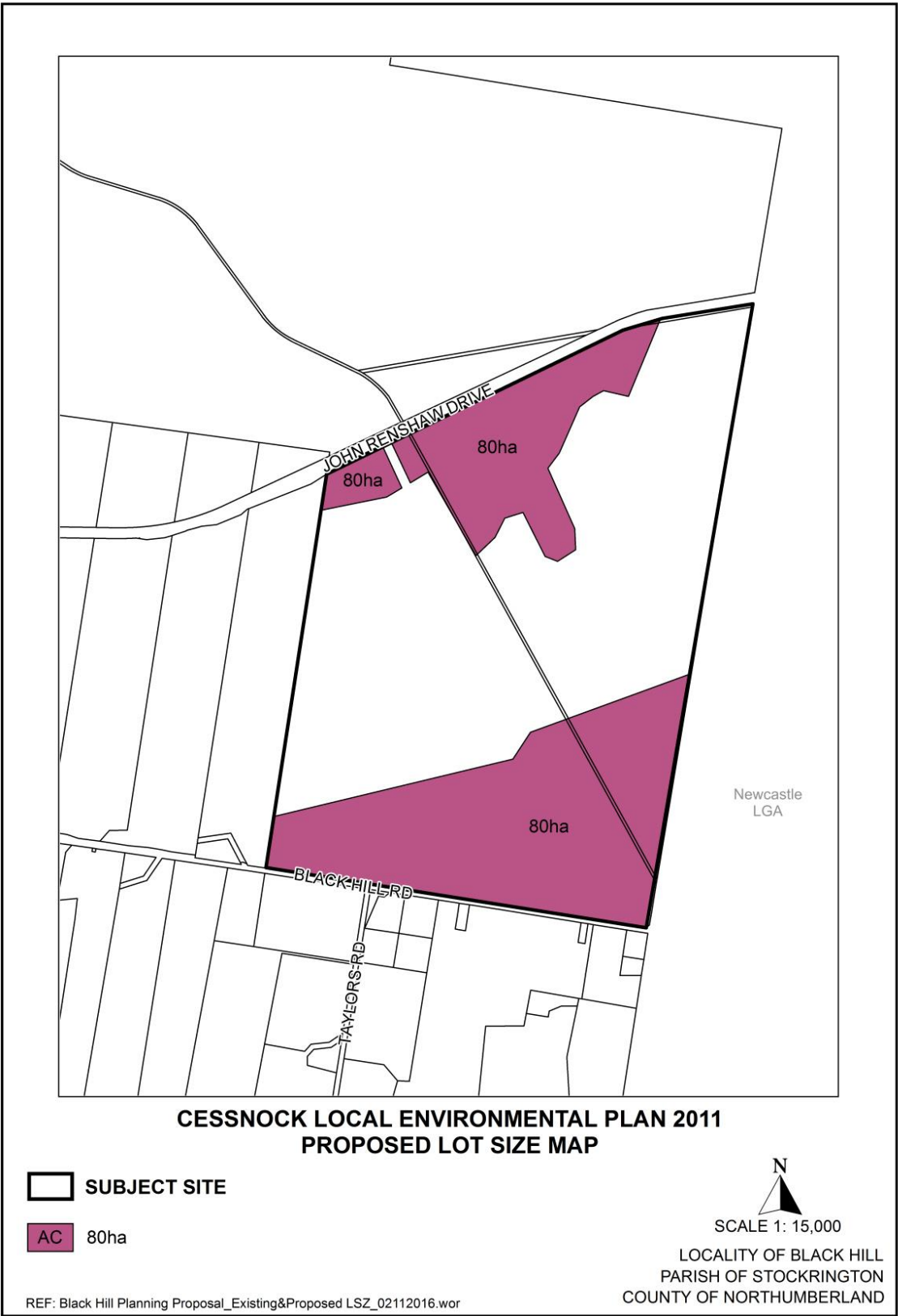
Map 4: Proposed Land Zoning



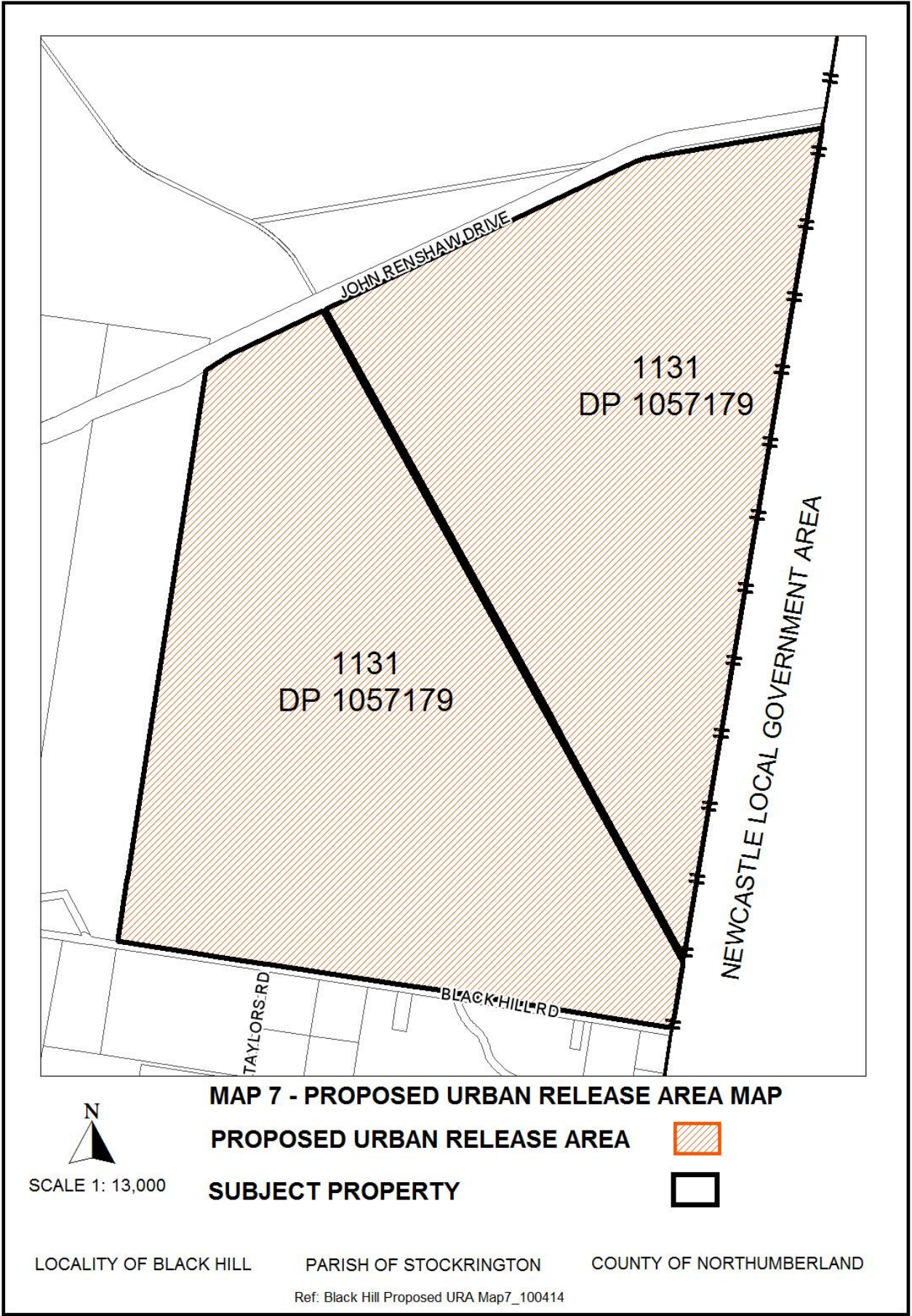
Map 5: Existing Minimum Lot Size



Map 6: Proposed Minimum Lot Size



Map 7: Proposed Urban Release Areas



PART 5: COMMUNITY CONSULTATION

Public Exhibition for Previous Planning Proposal

The previous Planning Proposal and supporting studies were placed on public exhibition between 25 June and 30 July 2014. The draft voluntary Planning Agreement was exhibited from 2 July to 6 August 2014.

Also as part of that public exhibition an “open day” was held at the Black Hill Public School on 17 July 2014 at which presentations of maps and other wall chart based explanations were presented together with the availability of the professional Planners from City Plan Services (proponent’s representatives) and Council to respond to enquiries and comments from the members of the public. Following the conclusion of the open day on 17 July 2014, an independently facilitated Community Forum was conducted.

In response to the public exhibition, 135 public submissions were received objecting to the Planning Proposal, together with a petition with 28 signatories. Copies of this information have been provided to DoPE when the previous Planning Proposal was referred to Gateway.

Public Exhibition for Revised Planning Proposal

The revised Planning Proposal was placed on public exhibition from 29 June to 31 July 2016 and made available at the following locations:

- Notification in the Cessnock Advertiser and Newcastle Herald;
- Hard copy display at Council’s Administration Building;
- Kurri Kurri Public Library and
- Cessnock Public Library.

Web based notification was available on Council’s website at www.cessnock.nsw.gov.au

Although there were less submissions received during this period, the issues and fundamental objections to the Planning Proposal have remained the same.

PART 6: PROJECT TIMELINE

Table 8: Project Timeline for the previous PP and for the initial steps for the amended PP is as follows:

Stage	Completion Times	Comment
1: Lodgement of Planning Proposal	November 2011	Completed
2: Gateway Determination	December 2012	Completed
3: Completion of Technical Information	September 2013	Completed
4: Agency Consultation	October - December 2013	Completed
5: Council Report & Briefing (if required)	July 2014	Completed April 2014, including agreement on VPA
6: Public Exhibition	July/August 2014	Completed
7: Review & Consideration of Submissions; engagement and negotiation with community representatives and the proponents	October to December 2014	Completed
8: Council Report & Briefing	10 December 2014	Completed
9: Submit amended Planning Proposal to Department with Request for Gateway determination	December 2014	Completed
10: Council Report	4 November 2015	Completed – Rescission Motion Received.
11: Rescission Motion Considered	18 November 2015	Completed – Decision deferred until release of Hunter Regional Plan
12: Council Report	16 March 2016	Completed
13: Submit amended Planning Proposal to Department with Request for revised Gateway determination	30 March 2016	Completed.
14: Revised Gateway determination received.	7 June 2016	Completed.
15: Public Exhibition	29 June – 31 July 2016	Completed.
16: Review & Consideration of Submissions;	August - September	Completed
17: Council Report	2 November	Completed.

Stage	Completion Times	Comment
	2016	
18: Refer to DoPI	21 November 2016	Completed.

Amended Timeframe	Mar 2016	April 2016	May 2016	June 2016	July 2016	Aug 2016	Sept 2016	Oct 2016	Nov 2016
STAGE 1 Submit to DoPE – Request for Revised Gateway Panel consideration of									
STAGE 2 Receive Revised Gateway Determination				17					
STAGE 3 Preparation of documentation for Public Exhibition				7					
STAGE 4 Public Exhibition				29	31				
STAGE 5 Review/consideration of submission received									
STAGE 6 Report to Council									2
STAGE 7 Forward Planning Proposal to DoPE with request the amendment be made.									21

Appendix 1: Council Report and Minutes

Report to Ordinary Meeting of Council – 7 March 2012 – previously provided

Minutes of Ordinary Meeting of Council – 7 March 2012 – previously provided

Report to Ordinary Meeting of Council – 1 August 2012- previously provided

Minutes of Ordinary Meeting of Council – 1 August 2012 – previously provided

Report to Ordinary Meeting of Council – 16 April 2014 - – previously provided

Minutes of Ordinary Meeting of Council – 16 April 2014 – previously provided

Report to Ordinary Meeting of Council – 10 December 2014 – previously provided

Minutes of Ordinary Meeting of Council – 10 December 2014 – previously provided

Rescission Motion to Ordinary Meeting of Council – 16 December 2014 – previously provided

Report to Ordinary Meeting of Council – 4 November 2015 – previously provided

Minutes of Ordinary Meeting of Council – 4 November 2015 – previously provided

Report of Ordinary Meeting of Council – 18 November 2015 – previously provided

Rescission Motion to Ordinary Meeting of Council – 18 November 2015 – previously provided

Report to Ordinary Meeting of Council – 16 March 2016 – previously provided

Minutes of Ordinary Meeting of Council – 16 March 2016 – previously provided

Report to Ordinary Meeting of Council – 2 November 2016

Minutes of Ordinary Meeting of Council – 2 November 2016

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