

PLANNING PROPOSAL
Amendment to the
Cessnock Local Environment Plan 2011

“BELLBIRD HEIGHTS”

**Rezoning of Lot 1 and Lot 2 DP 1164334
40-42 Francis Street, Cessnock**

**Version 1.0
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Background

The rezoning proposal was lodged with Council in May 2005. The proposal was not supported due to being constrained by past mine workings and there being other less constrained sites able to meet anticipated supply in the longer term. At this time, the (then) Department of Planning advised Council that the proposal should not be pursued until after the release of the Lower Hunter Regional Strategy.

Following the release of the Lower Hunter Regional Strategy in 2006, the site was identified as a 'proposed urban area'.

A locality plan is provided as Map 1.

Council first considered the rezoning proposal at its meeting held 7 February 2007, where it resolved to commence the rezoning of the site to allow urban development. However, the Planning Proposal did not progress due to an unresolved objection from the Department of Resources & Energy (Mineral Resources).

On 24 December 2010 the Bellbird Heights Planning Proposal was transitioned into the 'Gateway', subject to the further consideration of the following matters:

- Mine subsidence and site contamination, as identified within the preliminary investigations reports and Council's planning proposal;
- Need for and nature of mechanisms to address incompatibility between the proposed residential development and current mine operations identified by Industry and Investment NSW and Council;
- The necessary environmental offsets for the proposed development, including the offsets to be achieved both on and off the site.

Upon resolution of these issues a Planning Proposal was to be lodged with the Department of Planning and Infrastructure and Council given direction on how to proceed with the Planning Proposal, including any consultation requirements.

On 8 December 2011, the Cessnock Planning Panel considered the Bellbird Heights Planning Proposal under Report PPEE72/2011 and resolved:

- 1. That the Planning Proposal not proceed; and**
- 2. That Council advise the Department of Planning and Infrastructure of the decision not to proceed with the proposal; and**
- 3. That the Proponent be invited to lodge a new Planning Proposal when it is demonstrated by documentary evidence that conflicts with adjoining landuses can be resolved – specifically ongoing mining operations.**

With the repeal of the Cessnock Planning Panel on 27 January 2012, Council reconsidered the Bellbird Heights Planning Proposal through the transitional provisions of the Repeal Order, and on 21 March 2012 under Report EE15/2012 resolved:

Council may reconsider the Planning Proposal on the basis that:

- **The Proponent undertake to provide the documentation and studies that have previously been requested by the Department of Planning and Infrastructure; and**

- The Planning Proposal is again reported to Council, at which time Council can consider forwarding the Proposal to the Department of Planning and Infrastructure for a Gateway Determination; and
- Adjoining landholders are notified that Council is considering the planning proposal.

Following ongoing meetings and discussion, the Proponent submitted on 5 November 2012 supplementary information and a revised land zoning concept responding to the considerations these matters as shown in Figure 1, below.

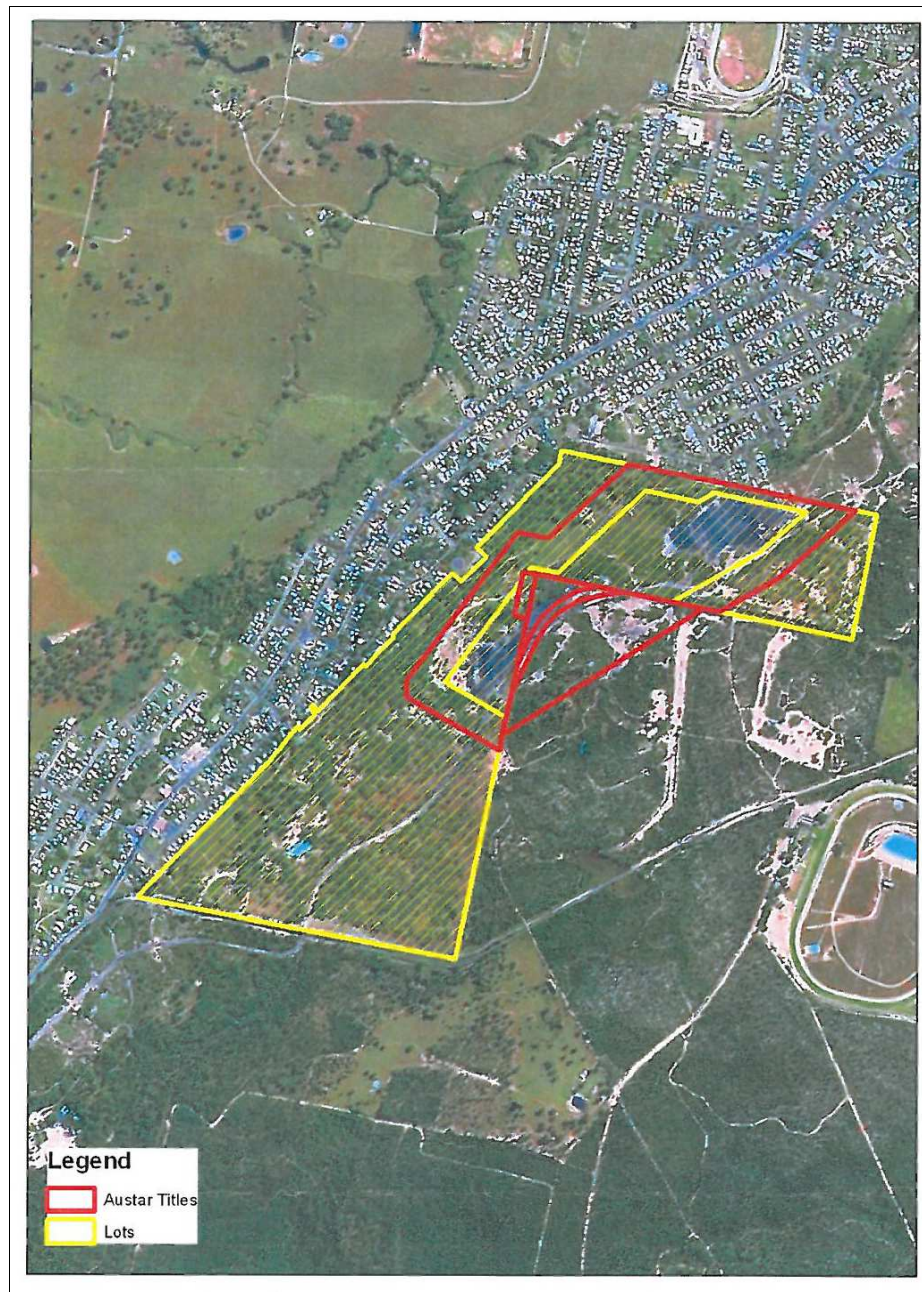


Figure 1: Location of Mining Lease 1345 and Lots 1 & 2 DP 1164334

While a reduction in land area has modify the objection of the Department of Resources and Energy, there still remains a number of unresolved issues relating to

this Planning Proposal, most notably the management of the area proposed for residential development immediately adjoining the active mine emplacement area.

The investigations and consultations for this Planning Proposal have been lengthy but have now progressed to such an extent that the modified Planning Proposal can be sent to the 'Gateway'. However, this will not meet the timeframe outlined in the Gateway Determination for completing the draft LEP by 24 December 2012.

Should Council resolve to proceed with the modified Planning Proposal, a requests a twelve (12) month extension to complete the Planning Proposal, finalised the supporting Development Control Plan and Planning Agreement(s) for biodiversity and local infrastructure requirements.

PART 1: OBJECTIVES

Objective

To enable an amendment to the planning controls for Lot 1 and Lot 2 DP 1164334, 40-42 Francis Street, Cessnock, known as the "Bellbird Heights" Precinct.

The Bellbird Heights Precinct is adjacent to the existing residential areas located to the south and east.

The subject land is shown in the locality plan as Map 1.

The objective of this Planning Proposal is to enable an expansion of the settlement of Bellbird Heights by rezoning additional land R2 - Low Density Residential Zone for residential allotments of varying sizes.

An E2 - Environmental Conservation zone is proposed to manage on site environmental considerations.

It is proposed to retain the RU2 - Rural Landscape Zone for that part of the land where it is identified that further discussion / investigations are necessary with the Proponent and key Government Agencies to resolve on site issues, particularly where constraints may restrict future development of land for residential purposes.

An indicative zoning concept is shown as Map 2.

Corresponding amendment of Lot Size Map will also need to be made. It is anticipated that a minimum lots size of 450m² to 1000m² for R2 - Low Density Residential, 40ha for the RU2 - Rural Landscape and 80ha minimum lot size for the E2 - Environmental conservation zones will be proposed

The Urban Release Areas Map that supports the Cessnock Local Environmental Plan (2011) will also need to be amended to show the area corresponding to the "Bellbird Heights" Precinct as an Urban Release Area.

PART 2: EXPLANATION of PROVISIONS

The Planning Proposal will implement strategies contained in the Lower Hunter Regional Strategy and Council's City Wide Settlement Strategy that aims for a sustainable level of development, for current and future populations, through the balanced provision of residential and employment land, infrastructure and investment, and environmental protection and conservation.

Proceeding to the Gateway will enable the Planning Proposal to be developed and refined through further investigation, assessment of impacts (and measures to reduce these), and planning of services, and enable the land to come on line for its identified use in a timely manner.

These include requirements that a Development Control Plan be prepared that incorporates provisions relating to flora and fauna conservation, soil erosion and sediment control, drainage and water management, bushfire risk management, remediation of land contamination (if required), the physical and financial feasibility of servicing the land, subdivision, staging of development and appropriate construction types and methods in relation to mine subsidence and soil compaction issues prior to approval of any development application for the subject site.

These studies will form the basis for assessing the Planning Proposal and would be professionally reviewed by Council Officers. Where required, independent studies will be undertaken to validate information to allow the full implications of the proposed rezoning to be considered and addressed.

Cessnock DCP 2010

An amendment to Cessnock DCP (2010) will be needed. The form and final (draft) content of this amendment will follow consultation with all relevant public authorities and completion of the supporting studies.

Local Infrastructure

An amendment to Council's current section 94 contributions plan and / or development of a Voluntary Planning Agreement for local infrastructure will be needed. The form and final (draft) content of this plan will follow consultation with all relevant public authorities and completion of the supporting studies.

PART 3: JUSTIFICATION

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

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

Section A: Need for Proposal

1. Resulting from a Strategic Study or Report

The Bellbird Heights Precinct is identified in the Lower Hunter Regional Strategy and Council's City Wide Settlement Strategy (2010) as a future urban area with an anticipated yield of 700. However, the yield for the Bellbird Heights Precinct has been revised down to between 305 lots.

The change in lot size provisions is considered to be appropriate in this regard following a review of on-site constraints. Increases in potential yields from other candidate areas with improved servicing availability will need to be investigated to help to off-set the reduction lot yield from this site.

2. Planning Proposal as best way to achieve to objectives

Under the existing zoning controls in the Cessnock LEP 2011, the proposed increased residential densities are not achievable. Therefore, a change to the zoning and minimum lot sizes is required to enable additional residential subdivision of the subject land and to implement the directions of the City Wide Settlement Strategy and the Lower Hunter Regional Strategy.

Placing land use and minimum lot size provisions in Council's Local Environmental Plan, in conjunction with the existing subdivision controls in Council's DCP, is considered to be the most appropriate method for managing subdivision and land use on the locality.

3. Net Community Benefit

A Net Community Benefit test has been undertaken and provided below.

Table 1: Net Community Benefit

Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800m of a transit node)?	Yes. The land identified as the Bellbird Heights Precinct is consistent with the settlement principles identified in the CWSS and is identified in the LHRS as a 'proposed urban area'.
Will the LEP be consistent with agreed centres and sub-regional planning policy for development in the area?	Yes. Future urban development of the site is capable of meeting the requirements of the LHRS with regard to the provisions of community facilities and services and the rezoning land for urban purposes.

Is the LEP located in a regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?	Yes. The proposal is consistent with the Lower Hunter Regional Strategy, which identifies the Bellbird Heights Precinct as a new release area, forming an extension to the existing urban footprint.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Yes. The proposed rezoning will provide for employment generating opportunities (through construction stages), and will underpin the local economy by building on the existing residential population and urban infrastructure. The rezoning will not result in the loss of employment lands.
Is the existing public infrastructure capable of servicing the proposed site?	Yes. It is anticipated that a Voluntary Planning Agreement will include contributions for Council's community assets, roads, drainage and traffic infrastructure. Such contributions would address additional sporting facilities, parks and playgrounds and cycle ways. Ongoing discussions with the Proponent will be required prior to this matter being reported, considered and endorsed by Council. Satisfactory arrangements through the Standard Instrument have been made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land.
Will the LEP facilitate the provision of public transport?	Yes. Existing bus services in the vicinity of the site are minimal. However, it is expected that the additional population will underpin an extension of existing services.
Will the LEP implement studies and strategic work consistent with State and regional policies?	Yes. The proposal is consistent with the Lower Hunter Regional Strategy.

Section B: Relationship to Strategic Planning Framework

4. Consistency with Objectives and Actions within Regional Strategies

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy identifies Cessnock LGA as a location of substantial residential growth (21700 dwellings), of which a high proportion (19,700) are projected in new release locations, such as at Bellbird Heights.

The Planning Proposal will contribute to the implementation of the housing targets identified in this LHRS by providing additional housing opportunities through mixed residential densities at Bellbird Heights.

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

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

Council's Community Strategic Plan includes 5 key directions related to community, economy, environment, services and leadership, with Objectives and Actions related to each key direction as identified below:

Action 2.1.1 – Promote the whole of the LGA and market the area comprehensively to attract new businesses and residents.

Objective 3.1 - Protecting and enhancing the natural environment and the rural character of the area. Development in accordance with the Proposal needs to be undertaken in a way that achieves this objective. While it is considered appropriate to rezone some of the Land for residential use, protection and enhancement of the natural environment and the rural character around the site is also an important consideration that needs further investigation.

City Wide Settlement Strategy (CWSS) (2010)

In order to implement Ministerial Direction No. 5.1 - Implementation of Regional Strategies, the Bellbird Heights Precinct is identified in the City Wide Settlement Strategy (2010) as a future urban area with an anticipated yield of 700. However, following a review of on-site constraints, the yield for Bellbird Heights Precinct has been revised down to 305 lots.

The change in the number of lots is considered to be appropriate in this regard following a review of on-site constraints. Increases in potential yields from other candidate areas with improved servicing availability will need to be investigated to help to off-set the reduction lot yield from this site.

6. Consistency with State Environmental Planning Policies

An assessment of relevant SEPPs against the Planning Proposal is provided in the table below.

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 6 - Number of Storeys in a Building	The SEPP clarifies the reference to storey, floors and levels.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 15 - Rural Land Sharing Communities	The SEPP provides for multiple occupancy development, with council consent, in rural and non-urban zones, subject to a list of criteria in the policy.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 21 -Caravan Parks	The SEPP provides for development for caravan parks.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 22 - Shops and commercial premises	The SEPP provides for the change of use of commercial premises.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 36 - Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
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.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 50 - Canal Estates	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
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	The Environmental Assessment, undertaken in November 2005, concludes that any contamination is expected to be small scale and localised as a result of former

		uses of the site (the Aberdare Extended Colliery mined the site until 1966). This potential contamination is not expected to be of an extent that would preclude the proposed development. Remediation work would be required if any contamination is encountered during redevelopment works. The reports suggest that a dumped washery reject located on the site has the potential to generate acidic leachate. It recommends that a management plan be devised for the dumped washery reject, as the acid producing potential of the mine spoil had the potential to affect the environment on and around the site, including corrosion of buried structures acidification of drainage water, and detrimental effects of future landscaping or other vegetation. The additional contaminated land information submitted with the Proposal is confusing and appears to not have comprehensively tested the Land for contamination. It is recommended potential contamination and remediation be investigated in more detailed analysis, should the Proposal proceed through the Gateway process.
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.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 64 - Advertising and Signage	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 65 - Design Quality of Residential Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.

SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Housing for Seniors or People with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Major Development 2005	The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels (JRPPs) and classes of regional development to be determined by JRPPs.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Infrastructure 2007	The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	Clause 104 of the SEPP requires developments of a certain size identified within Schedule 3 to be referred to the RTA. Council has undertaken consultation with the RTA who advised that they will rely on provisions in the LEP which ensure that satisfactory arrangements for the provision of State public infrastructure are made prior to the subdivision of land in an urban release area.
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Temporary Structures 2007	The SEPP provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Exempt and Complying Development Codes 2008	The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.

SEPP Rural Lands 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Affordable Rental Housing 2009	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.

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

The Proposal is inconsistent with some of the relevant directions for the reasons given against each direction in the Table below. The inconsistencies have been considered against the relevant criteria and it has been determined that there is justification for some of the inconsistencies.

Table 2: Relevant Section 117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implication
1. EMPLOYMENT AND RESOURCES		
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	The land zoned RU2 - Rural Landscape but is of limited agricultural potential. The Bellbird Heights Precinct is also identified for future urban development in the Lower Hunter Regional Strategy and is therefore considered to be consistent with this Direction. The Planning Proposal is not inconsistent with 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.	In consultation with the DRE, it was advised that there are no significant coal resources beneath the subject land due to past mining activity between 1917 and 1972. However, part of the subject site is covered by a current mining lease, which is an essential part of the Austar mine's operations, being the placement area for washery reject. The proposed residential usage would be incompatible with the current usage of the site. Following discussion with DRE, they confirmed that they would no longer object to the proposal subject to no land being

		rezoned residential in the area covered by ML 1345.
1.5 Rural Lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.	The Planning Proposal will rezone the Land from rural to residential and is therefore inconsistent with this direction. However, the Proposal is consistent with the LHRS (criteria c) and the Land is identified in the LHRS, were the benefits between rural land and residential zoning have been considered and the preferred strategies approved (criteria a). The inconsistency with this Direction is justified in this instance.
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	The Planning Proposal will include provisions to facilitate the protection and conservation of identified environmentally sensitive areas in a manner consistent with a property Vegetation Plan or a Voluntary Planning Agreement. The Planning Proposal is not inconsistent with this Direction.
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.	<u>Aboriginal Heritage</u> An Aboriginal Heritage Impact Assessment undertaken on the site found a number of isolated finds, including stone tools and a flaked glass tool. The Assessment concludes however that due to the disturbed nature of the site, it is of relatively low scientific, archaeological or Aboriginal cultural significance. Notwithstanding, should any sites be impacted on by the proposal, the AHIA recommends that additional sub-surface testing be undertaken prior to development occurring, artefacts be salvaged and kept with the appropriate group, subject to relevant permit being obtained and Mindaribba Local Aboriginal Land Council and the Lower Hunter Wonnarua Council be informed prior to the commencement of any work within the study area.

		<u>European Heritage</u> A Heritage Impact Assessment was undertaken on the site to assess the impact of the proposal on the Bellbird Branch Line of the South Maitland Railway. The report makes a number of recommendations, including maintaining the existing 100m wide corridor from which development is precluded, erecting fencing, camouflaged with native vegetation planting, along the railway corridor and providing pedestrian access to the Bellbird cutting bridge with appropriate signage to provide information on the history of the Bellbird Branch Line. The report concludes that the proposal will not have a detrimental impact on the SMR subject to the above recommendations being implemented.
2.4 Recreation Vehicle Areas	The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>).	Nothing in this planning proposal affects the aims and provisions of this Direction
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	HWC raises no objection to the proposal. The Corporation confirms, however, that there is limited capacity in the existing water supply system and wastewater transportation and treatment to accommodate new development, and augmentation works to existing infrastructure and a new pump station will be required to cater for the additional loads. This is actively being pursued by the proponent as part of a water supply and wastewater strategy being undertaken to adjust programming and amplify the infrastructure accordingly and will be finalised prior to gazettal should Council be given authorisation to exhibit the draft Plan. Provisions in the LEP 2011 facilitate the arrangements for the provision of State infrastructure and public utility

		infrastructure before the subdivision of land in an urban release area to satisfy the needs that arise from development of the land. The Planning Proposal is not inconsistent with this Direction.
3.2 Caravan parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.	The Planning Proposal does not seek to rezone land to provide for caravan parks or manufactured home estates, further there are no existing caravan parks within the study area. It is considered that the Planning Proposal is consistent with this Direction.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Home occupations are permitted without consent in the proposed R2 Zone. The Planning Proposal is consistent with this Direction.
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 sustainable transport objectives.	The RTA (now RMS) has advised they will rely on the provisions of the LEP which facilitate the satisfactory arrangements for the provision of State public infrastructure is made prior to the subdivision of land in an urban release area. Local infrastructure requirements will be facilitated through a Voluntary Planning Agreement.
3.5 Development Near Licensed Aerodromes	The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	Planning Proposal not affected by this direction.
3.6 Shooting Ranges	The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issued that must be addressed when rezoning land adjacent to an existing shooting range.	Planning proposal not affected by this direction.
4. HAZARD AND RISK		
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use	Planning proposal not affected by this direction.

	of land that has a probability of containing acid sulphate soils	
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.	The Mine Subsidence Board have advised that additional investigation is required in some areas of the precinct to determine whether historical mining activities pose a threat to future development of the precinct. While the Planning Proposal is not strictly inconsistent with Direction 4.2, this matter needs to be resolved prior to rezoning.
4.3 Flood Prone Land	The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.	Part of the land is likely to be within the 1:100 year flood zone. Notwithstanding, the planning proposal is not seeking to rezone flood prone land. It is considered that the Planning Proposal is consistent with this Direction.
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	This Direction requires consultation with the NSW Rural Fire Service if a draft LEP affects land mapped as bushfire prone land. The subject land is mapped as Bushfire Prone Land and a Bushfire Planning Assessment was prepared of the site. Comments received from the RFS confirm that future development requires bushfire safety authorities to be issued by the RFS to enable the land to be developed. Detailed bushfire controls will need to be submitted and assessed at the development application stage to ensure compliance with Planning for Bushfire Protection Guidelines and Rural Fires Act.
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 LHRS is relevant. The Planning Proposal has been modified to reflect the so site constrains. It is considered that the Planning Proposal is consistent with this Direction.

6. LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal does not propose amendments which require concurrence, consultation or referral of development applications to the Minister. The Planning Proposal does not identify any development as designated development. It is considered that the Planning Proposal is consistent with this Direction.
6.2 Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Planning proposal not affected by this direction.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The Planning Proposal does not propose to allow a particular development to be carried out on site.

Section C: Environmental, Social and Economic Impact

8. Impact on Threatened Species

Harper Somers O'Sullivan (Ecology) Pty Ltd undertook a flora and fauna assessment in May 2005 where it was established that:

- The site contains four (4) vegetation communities, being:
 - o Lower Hunter Spotted Gum – Ironbark Forest (LHSGIF);
 - o a small area of Hunter Lowland Redgum Forest (HLRF);
 - o degraded Kurri Sand Swamp Woodland (KSSW); and
 - o Cleared/Mainly Cleared Land.

The LHSGIF, HLRF and KSSW are listed as Endangered Ecological Communities under the *TSC Act (1995)*.

- The site contains one (1) threatened flora species - *Eucalyptus parramattensis* subsp. *Decadens* (Drooping Red Gum), which is located within the KSSW community.
- *Macrozamia flexuosa* (Burrawang) listed as a Rare or Threatened Australian Plant (ROTAP) was recorded within the LHSGIF during these and previous investigations.
- *Grevillea montana* was found as a scattered understorey species within the KSSW. This species is considered to be of regional significance, though is noted as occurring commonly in bushland remnants within the wider locality of the site.
- The fauna species recorded are considered typical of the habitats present on the site and in the vicinity of Cessnock. Species recorded were predominantly restricted to common avifauna, although several species of native and introduced mammals were also identified.
- Two threatened fauna species as listed in the *Threatened Species Conservation Act (TSC Act 1995)* were recorded during the course of these investigations, being:
 - o *Petaurus norfolcensis* (Squirrel Glider); and
 - o *Mormopterus norfolkensis* (East-coast Freetail-bat).
- Previous studies undertaken by Ecotone (2001) recorded the presence of three additional threatened species, being:
 - o *Chthonicola sagittata* (Speckled Warbler);
 - o *Falsistrellus tasmaniensis* (Eastern Falsistrelle); and
 - o *Scoteanax rueppelli* (Greater Broad-nosed Bat)

The Office of Environment and Heritage (OEH) are generally supportive of the proposed land use zoning outcomes for biodiversity and will be in a position to provide further advice during the formal consultation phase of the planning proposal.

A critical issue for the success of this Planning Proposal is how any environmental offset is managed. It is not considered appropriate that this land be transferred to Council because of ongoing cost considerations. While the ownership and management arrangements for the offset land are not in place at this time it is considered acceptable to progress the Planning Proposal to Gateway determination, as the negotiations between the Proponent and the OEH will be ongoing.

9. Environmental Impact

The Planning Proposal will have a positive environmental impact by conserving land of biodiversity significance in an E2 - Environmental Conservation zone.

Most of the land of biodiversity significance is proposed to be zoned E2 - Environmental Conservation and not developed in order to protect an endangered ecological community and to provide part of the biodiversity offset for vegetation removal within the proposed urban development area.

A Vegetation Management Plan is required prior to subdivision involving the land proposed to be zoned E2 - Environmental Conservation.

The Proposal will have a negative environmental impact because most residents will need to travel for employment. It is highly likely that many will travel by motor vehicle because of the dispersed nature of employment opportunities.

10. Social and Economic Impacts

A social impact assessment of the Proposal has not been provided and appears not to have been undertaken. To ensure that adequate provision of community facilities and other local infrastructure requirements for the proposed development, Council intends to prepare either a Section 94 Contributions Plan or Voluntary Planning Agreement for the Bellbird Heights Precinct. Council's preference for this site is a VPA.

Additional investigations and consultation with Council's Infrastructure and Community Departments will be required to determine future needs arising from the development.

Section D: State and Commonwealth Interests

11. Adequate Public Infrastructure

The provision of infrastructure has not been costed in the Planning Proposal. The preparation of a Contributions Plan and / or a Voluntary Planning Agreement will need be undertaken to ensure the adequate provision of local infrastructure, including the impacts of additional traffic on the local road network generated by future industrial development and contributions to drainage works.

12. Consultation with State and Commonwealth Authorities

Council will seek to consult with the following statutory authorities and agencies:

- Department of Planning and Infrastructure (DoP&I)
- Rural Fire Service (RFS);
- Office of Environment and Heritage (OEH);
- Hunter Water Corporation (HWC);
- Mine Subsidence Board (MSB);
- Department of Resource and Energy (DRE) (Mineral Resources);
- Electricity and Gas providers; and
- Roads and Maritime Services (RMS).

PART 4: MAPPING

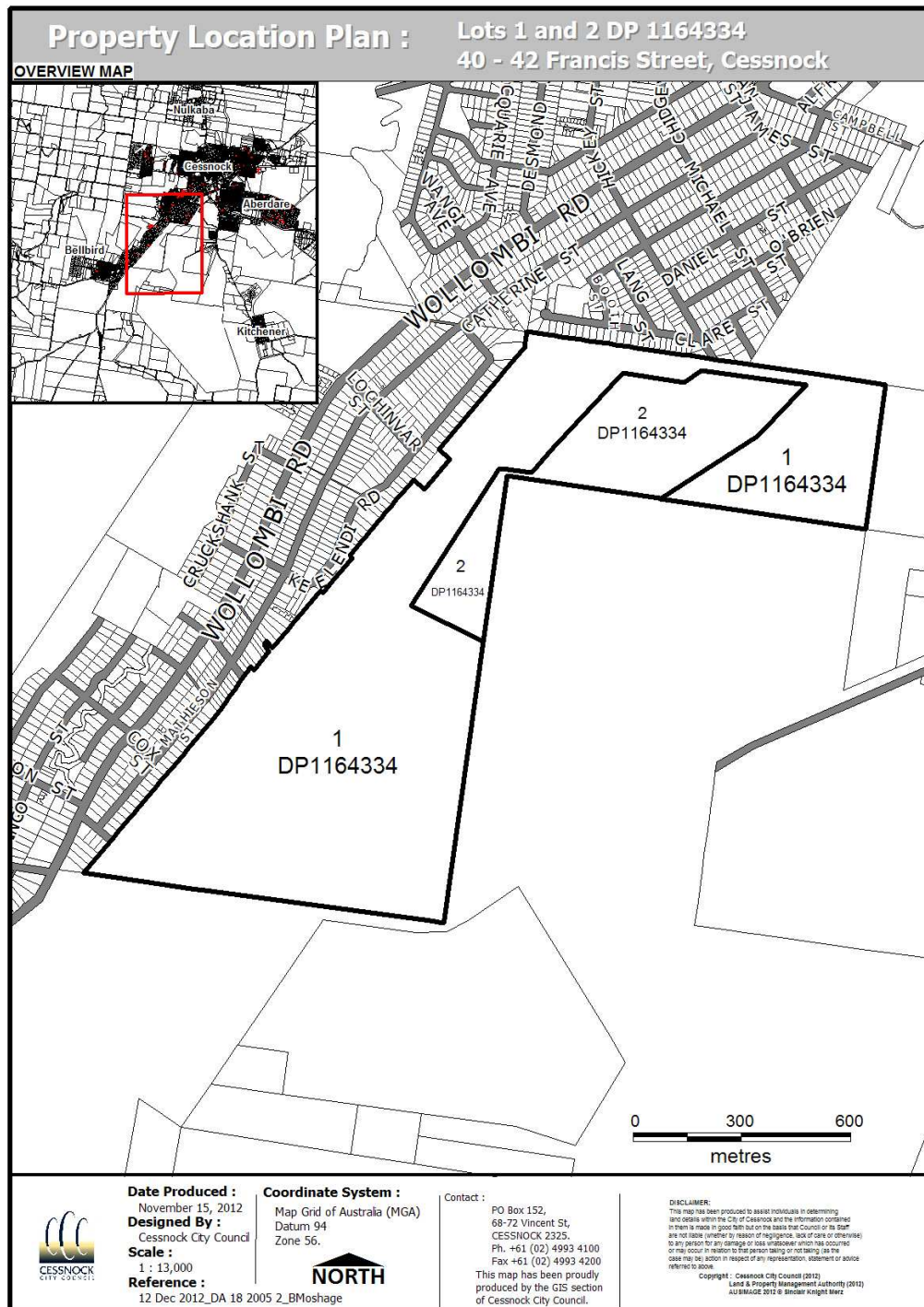
The Planning Proposal seeks to amend the Cessnock Local Environmental Plan 2011 as follows:-

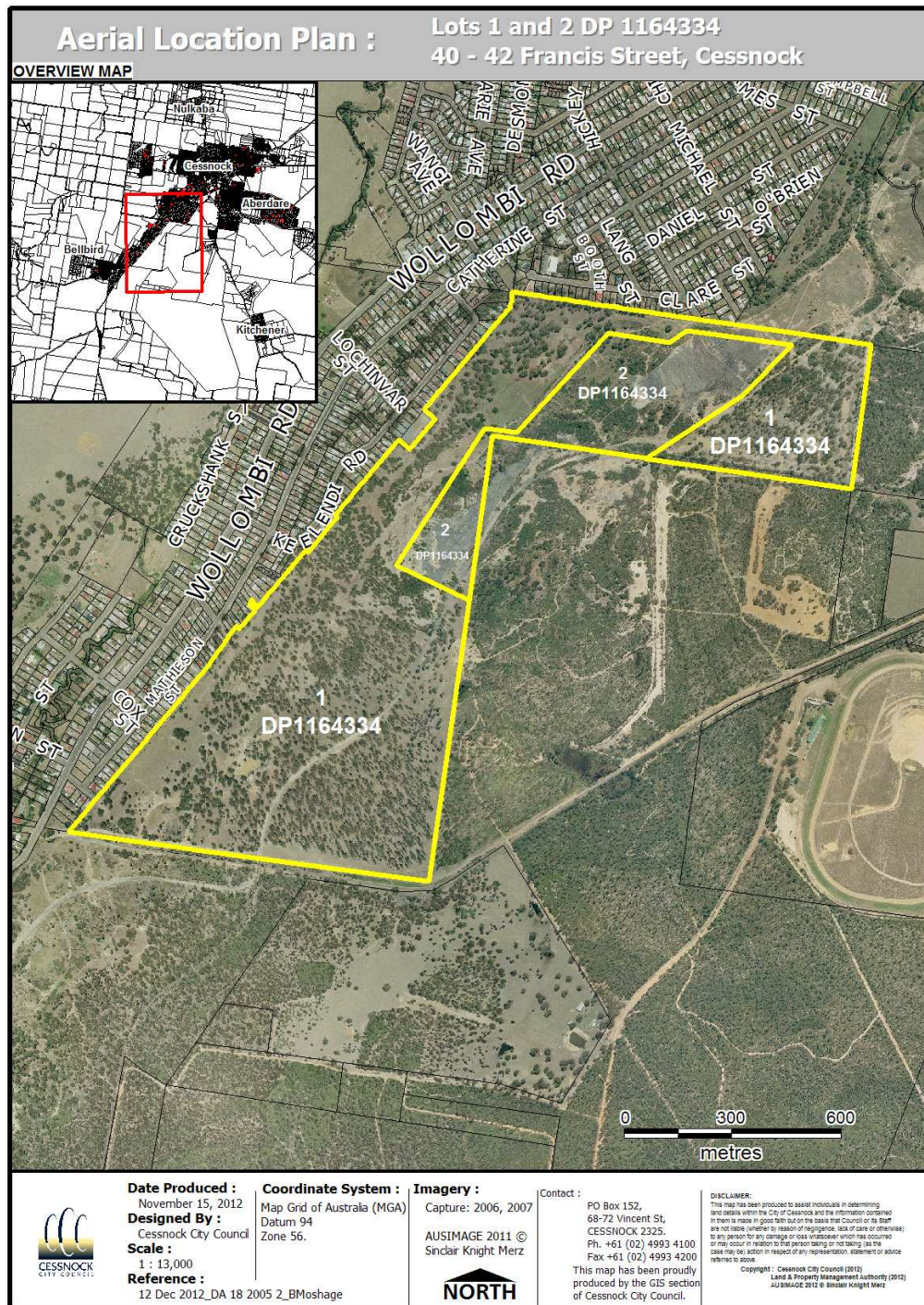
- Land Zoning Map in accordance with the proposed rezoning map attached as Map 3; and
- Corresponding amendment of Lot Size Map will also need to be made. It is anticipated that a minimum lots size of 450m² to 1000m² for R2 - Low Density Residential, 40ha for the RU2 - Rural Landscape and 80ha minimum lot size for the E2 - Environmental conservation zones will be proposed.

NOTE: The final proposed zoning boundaries and minimum lot size configurations will relate to the final assessment and consideration of the supporting studies, including the biobanking agreement for the site.

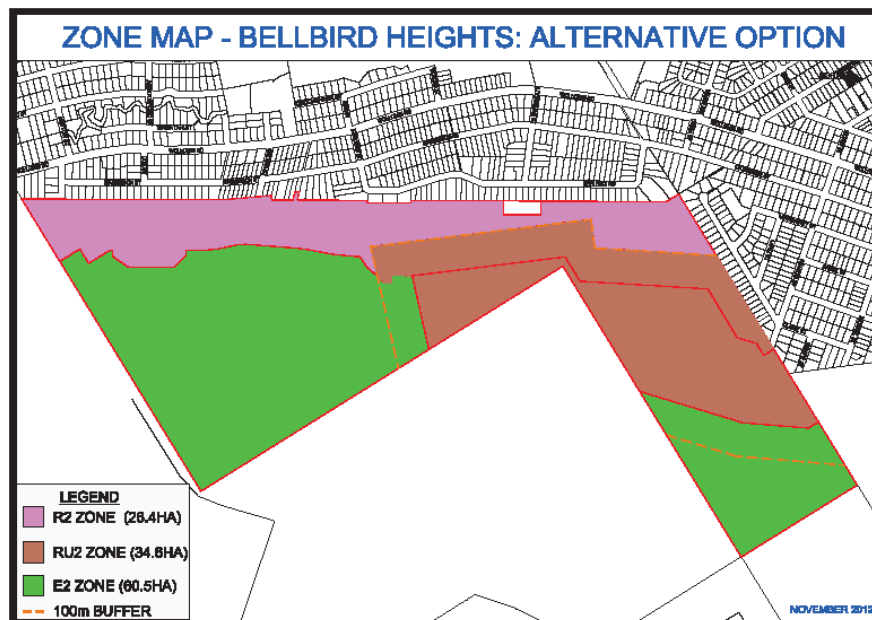
The Urban Release Areas Map that supports the Cessnock Local Environmental Plan (2011) will also need to be amended to show the area corresponding to the “Bellbird Heights” Precinct as an Urban Release Area.

Map 1: Location Plan





Map 2: Proposed Zoning Layout



PART 5: COMMUNITY CONSULTATION

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

It is also intended to consult with the adjoining land owners and community members who have previously made a submission in regard to this Planning Proposal.

Council will also seek to exhibit in conjunction with the Planning Proposal the draft Development Control Plan and draft contributions Plan and / or draft Voluntary Planning Agreement.

PART 6: PROJECT TIMELINE

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. It is estimated that this amendment to the Cessnock Local Environmental Plan 2011 will be completed by December 2013.

PROJECT TIMELINE

	Dec 2012	Jan 2013	Feb 2013	Mar 2013	April 2013	May 2013	June 2013	July 2013	Aug 2013	Sept 2013	Oct 2013	Nov 2013	Dec 2013
STAGE 1 Submit to DoP&I													
Gateway Panel consider Planning Proposal													
STAGE 2 Receive Gateway Determination													
STAGE 2a Consultation / Finalise supporting studies													
Contaminated land study and remediation plan													
Mapping of constraints and hazards													
The physical and financial feasibility of servicing the land													
Conservation of environmentally sensitive areas													
Bushfire assessment and protection													
STAGE 2b Preparation (draft) DCP													
STAGE 2c Preparation of (draft) Contributions Plan													
STAGE 3 Report to Council													
STAGE 4 Preparation of documentation for Public Exhibition													
STAGE 5 Public Exhibition													
STAGE 6 Review/consideration of submission received													
STAGE 7a Council/ Briefing													
STAGE 7b Report to Council													
STAGE 8 Forward Planning Proposal to DoP&I with request the amendment is made													

Appendix 1: Council Report and Minutes



Acrobat Document



Acrobat Document

Council report EE116/2012 and supporting enclosure documents



Acrobat Document

Council minutes to Report EE116/2012

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