

SECTION 59 PLANNING REPORT

Planning proposal details:

PP_2014_CESSN_002_00

Planning proposal summary:

To rezone land at Campbell Street, Ellalong from RU2 Rural Landscape to RU5 Village under the Cessnock Local Environmental Plan (LEP) 2011.

Date of Gateway determination:

14 May 2014

1.0 SUMMARY

Policy background

This rezoning was identified in Council's City Wide Settlement Strategy (CWSS) 2003 as an opportunity to expand the village of Ellalong and was confirmed in the CWSS 2010 pending the provision of reticulated sewer (which is now available). The rezoning will lead to a minor extension of Ellalong Village, enabling development for up to 18 additional lots, and facilitates development that is consistent with the existing Village. The rezoning is over land that is already a defined street block bordered on three sides by sealed roads. The rezoning is justified as a minor scale "other release area" ie one that is not identified as a specific release area in the Lower Hunter Regional Strategy 2006 (LHRS) but which is identified in the CWSS and meets the sustainability criteria specified in the LHRS.

Overview of zones and development standards to be amended

The following Cessnock LEP 2011 Maps will be amended as they relate to Lot 11, DP 1184254; Lot 13 DP 1194493; Lot 14 DP 1194493; Lot 1, DP 727399; and Lot 2, DP 727399, being Nos 2-8 Campbell St, Ellalong:

- Land Zoning Map Sheet LZN 006D - from RU2 Rural Landscape to RU5 Village; and
- Lot Size Map Sheet LSZ 006D - from a minimum lot size of 40ha to 1500m².

Exhibition and submissions summary

In accordance with the Gateway Determination, the Planning Proposal (Attachment 1) was publicly exhibited for a period of 14 days from 30 July to 13 August 2014. One submission was received as a result of the exhibition, objecting to the proposal. No amendments were made to the Planning Proposal as a result of the submission.

2.0 GATEWAY DETERMINATION

A Gateway Determination (at Attachment 2) was issued by the Department of Planning and Environment on 14 May 2014, allowing 9 months to complete the amendment.

All conditions of the Gateway Determination have been complied with.

3.0 COMMUNITY CONSULTATION

In accordance with the Gateway Determination, the Planning Proposal (Attachment 1) was publicly exhibited for a period of 14 days from 30 July to 13 August 2014. One submission was received as a result of the exhibition objecting to the proposal. The concerns of the submission, with planner's responses, are given at page 6 of Attachment 3 - Report to Ordinary Meeting of Council 5 November 2014.

No amendments were made to the Planning Proposal as a result of the submission.

Consultation requirements stipulated by the Gateway Determination were complied with.

4.0 VIEWS OF PUBLIC AUTHORITIES

The Gateway Determination required consultation with the following agencies:

- NSW Trade & Investment - Resources & Energy
- Office of Environment & Heritage
- Mine Subsidence Board
- NSW Rural Fire Service

Further consultation with the following agencies was also undertaken:

- NSW Transport - Roads & Maritime Services
- Ausgrid
- Telstra (no reply was received)

Responses from all the agencies listed above are summarised at page 7 of Attachment 3 - Report to Ordinary Meeting of Council 5 November 2014.

None of the agencies objected to the proposal, but some gave advice on various development matters. These matters are able to be suitably dealt with through the processing of a Development Application under Part 4 of the *Environmental Planning and Assessment Act*.

The Gateway Determination required Council to update its consideration of s117 directions following agency consultation. There were no updates required as a result of the responses.

5.0 CONSISTENCY WITH S.117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS

An assessment of relevant Section 117 Directions is provided in the Planning Proposal (Attachment 1).

In accordance with the relevant Section 117 Directions, the following were consulted and provided responses:

- NSW Rural Fire Service (Attachment 7);

- Mine Subsidence Board (Attachment 8); and
- NSW Trade & Investment – Resources and Energy (Attachment 9).

As specified above, there were no updates to s117 directions required as a result of the responses.

6.0 PARLIAMENTARY COUNSEL OPINION

Council sought an opinion of Parliamentary Counsel on 8 December 2014. Parliamentary Counsel's Opinion was given on 18 December 2014 (Attachment 5).

7.0 OTHER RELEVANT MATTERS

There are no additional matters that are relevant considerations for the making of the plan.

8.0 MAPPING

The relevant Maps and Map Cover Sheet are at Attachment 6, and were sent to the Department for checking on 10 December 2014. On 13 January, 2015, Council received email confirmation that the maps had been checked.

9.0 RECOMMENDATION

Council recommends Cessnock Local Environmental Plan (Amendment No 15) be made as per the attached Parliamentary Counsel Opinion (Attachment 5) and associated Maps (Attachment 6).

Attachments:

1. Planning Proposal – *Campbell Street, Ellalong*;
2. Gateway Determination - PP_2014_CESSN_002_00;
3. Report to Ordinary Meeting of Council 5 November 2014;
4. Minutes of Ordinary Meeting of Council 5 November 2014;
5. Parliamentary Counsel Opinion –*Cessnock Local Environmental Plan 2011 (Amendment No 15)*;
6. Maps associated with Cessnock Local Environmental Plan 2011 (Amendment No 15);
7. Letter of response dated 11 July 2014 from NSW Rural Fire Service to Cessnock City Council;
8. Letter of response dated 11 June 2014 from Mine Subsidence Board to Cessnock City Council; and
9. Letter of response dated 25 June 2014 from NSW Trade & Investment – Resources and Energy to Cessnock City Council.

Attachment No 1:
Planning Proposal – Campbell Street, Ellalong



PLANNING PROPOSAL
*Amendment to the
Cessnock Local Environment Plan 2011*

CAMPBELL STREET, ELLALONG
**Rezoning of Lot 11, DP 1184254; Lot 12, DP
1184254; Lot 1, DP 727399; and Lot 2, DP 727399**

Version 3.0
November 2014

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PART 1: OBJECTIVES OR INTENDED OUTCOMES

This Planning Proposal aims to facilitate the extension of the village of Ellalong. In order to achieve this objective, it is proposed to amend the Cessnock Local Environmental Plan 2011 to rezone land described as Lot 11, DP 1184254; Lot 12, DP 1184254; Lot 1, DP 727399; and Lot 2, DP 727399 from RU2 Rural Landscape to RU5 Village and to reduce the minimum lot size from 40 ha to 1500m². Approximately eighteen (18) additional lots capable of supporting dwellings are anticipated as a result of the proposal.

The land is located to the southeast of the existing village of Ellalong. The land is bound by Church St, Campbell St and South St, Ellalong. Lots 11 and 12 DP 1184254 occupy an area of approximately 3.76 ha. These lots do not include any structures, rather they are covered by grass with a scattered tree canopy. Lots 1 and 2 DP 727399 include 4.34 ha of land occupied by dwellings and associated structures.

Land to the north of the subject land is zoned RU5 and is generally occupied by single detached dwellings on lot sizes of 3000-4000m². Some lots are vacant and a timber church occupies one of the lots. Land to the west and south of the subject land is zoned RU2 and used for grazing. Land to the east of the subject land is zoned RU2 and covered by a mixture of pasture and woodland. Lots closer to the centre of Ellalong Village are 1000-2000m². Figures 1 and 2 show an over view of the local area surrounding the site.



Figure 1: Local context of the Site

PART 2: EXPLANATION of PROVISIONS

The objective of the proposed amendment to the Cessnock Local Environmental Plan 2011 (CLEP 2011) is to extend the village of Ellalong. The proponent's intended future use of the land is inconsistent with the objectives of this zone. The land is currently zoned RU2 Rural Landscape. The RU2 zone is intended for rural land uses, whereas the proposed use is for low density residential purposes. The RU5 zone permits a range of residential land uses consistent with those typically found in a village. It is considered that the zoning change will facilitate appropriate development and environmental outcomes for the village of Ellalong.

This objective will be delivered by:

- Amending Land Zoning Map Sheet LZN 006D as it relates to Lot 11, DP 1184254; Lot 12, DP 1184254; Lot 1, DP 727399; and Lot 2, DP 727399, to RU5 Village; and
- Amending Lot Size Map Sheet LSZ 006D as it relates to Lot 11, DP 1184254; Lot 12, DP 1184254; Lot 1, DP 727399; and Lot 2, DP 727399 to include a minimum lot size of 1500m².
- The existing zone map is shown at **Appendix 3** and the proposed zone map is shown in **Appendix 4**.
- The existing lot size map is at **Appendix 5** and the proposed lot size map is shown at **Appendix 6**.



Figure 2: Aerial Photo of the Site

PART 3: JUSTIFICATION

In accordance with NSW Planning's and Infrastructure'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 proposal was identified in Council's City Wide Settlement Strategy (CWSS) 2003 as an opportunity to expand the village of Ellalong and this was confirmed in the CWSS 2010 pending the provision of reticulated sewer (which is now available). The Planning Proposal will lead to a minor extension of Ellalong Village and facilitates development that is consistent with the existing Village. The proposal affects land that is already a defined street block bordered on three sides by sealed roads. The proposal is justified as a minor scale "other release area" that is not identified in the Lower Hunter Regional Strategy 2006 (LHRS) but which is identified in the CWSS and meets the sustainability criteria specified in the LHRS.

2. Planning Proposal as best way to achieve objectives

The Planning Proposal is the best way to achieve the objectives being sought. An alternative zoning would not be consistent with the character of the existing village of Ellalong. Retaining the existing zoning and amending the minimum lot size to permit the proposed development would be inconsistent with the objectives of the RU2 Rural Landscape zone.

3. Net Community Benefit

The proposal provides a net community benefit by permitting a minor expansion of the existing village of Ellalong. The land is not used for agriculture and it is unlikely to do so in the future. The proposal is an appropriate use of underutilised land. The proposal will not cause significant change to the character of the village but development of the subdivision and the construction of dwellings will increase economic activity in the area, help increase student numbers at Ellalong School and will provide additional population to support the viability of the existing shop and hotel.

Section B: Relationship to Strategic Planning Framework

4. Consistency with Objectives and Actions within Regional Strategies

The Lower Hunter Regional Strategy (LHRS) does not specifically identify the land as a potential urban area, however states: *“Sites less than 50 hectares (that are not identified as a potential urban area) may be developed if consistent with the principles of the Strategy and if they are identified within an endorsed local strategy.”* Consistency with the broader objectives and actions of these plans is demonstrated by the proposal's compliance with the Sustainability Criteria of the LHRS (details below).

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

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

Objective 2.1

Diversifying local business options:

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

Objective 2.2

Achieving more sustainable employment opportunities:

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

Objective 2.3

Increasing tourism opportunities and visitation in the area:

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

Objective 3.1

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

- Our area's rural character and heritage is protected.
- Our community is aware of the value of natural resources and biodiversity.
- Our environmental amenity is protected and enhanced.
- Our waterways and catchments are maintained and enhanced.

City Wide Settlement Strategy (2010)

The land was identified in the City Wide Settlement Strategy (CWSS) 2003 as a potential residential expansion area of the village of Ellalong. The subject site is part of a larger area identified in the CWSS as “CC2”. The CWSS 2010 identified a village zoning as appropriate for the land, subject to studies justifying the rezoning. The balance of the area within “CC2” is located to the east of Church Street and could be subject to a rezoning process at a later time because it is physically separated from the subject land and can be logically developed as a separate exercise without undue inefficiencies in infrastructure provision or co-ordination. The subject land is also bordered on three sides by sealed roads; whereas the land to the east of Church Street

has an unmade road on its eastern edge (Hamilton Street) and is more heavily vegetated in parts.

The site is not referenced in the Lower Hunter Regional Conservation Plan (LHRCP), it is not located within the green corridor, is located adjacent to an existing “village” area, is identified in the City Wide Settlement Strategy 2010 (CWSS), is less than 50 hectares and it adequately addresses the sustainability criteria of the LHRP.

6. Consistency with State Environmental Planning Policies

An assessment of relevant SEPPs against the planning proposal is provided in the table below. Any inconsistency of the Planning Proposal with State Environmental Planning Policies is minor and justified.

Table 1: Relevant State Environmental Planning Policies

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

SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Not applicable.
SEPP 36 - Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	Not applicable. Caravan Parks are not a permissible use in the proposed zone.
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.	A fauna study undertaken in late 2013 did not find evidence of koalas on the land. The koala feed trees present on site comprised less than 15% of the trees on the site. Consequently, the site does not constitute potential koala habitat.
SEPP 50 - Canal Estates	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	Not applicable.
SEPP 55 - Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination	A phase 1 Contamination Investigation was undertaken for the proponent in January 2014. The assessment identified three Areas of Environmental Concern: • Asbestos fibro cladding on existing buildings • Potential contamination from septic systems • Potential residual pesticides in the cattle grazing area The assessment recommended that if demolition is proposed: a) Hazardous Materials Registers be completed for the two residential dwellings; b) A Demolition Management Plan be undertaken. The assessment concluded that a Phase 2 Contamination Study, including a Remedial Action Plan is not required. It is considered that rezoning of the land for village purposes can proceed from a contamination perspective.

SEPP 62 - Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from the rezoning of land and is of relevance for site specific rezoning proposals.	Not applicable.
SEPP 64 - Advertising and Signage	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 65 - Design Quality of Residential Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	Residential flat buildings are not a permissible use in the RU5 zone under the CLEP 2011.
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. Seniors housing is permissible in the RU5 zone under the CLEP 2011.
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.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources.	Nothing in this planning proposal affects the aims and provisions of this SEPP. NSW Trade & Investment - Minerals Resources Branch (MRB) had no issues to raise with respect to the proposal.

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.	The land is not used for agriculture and is highly unlikely to be used for agriculture because of its size, location in proximity to an existing village and characteristics. The proposal is consistent with Rural Planning Principles and Rural Subdivision Principles.
SEPP Affordable Rental Housing 2009	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	Some parts of the SEPP apply to land zoned RU5 under the CLEP 2011. Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
Deemed SEPP Hunter Regional Local Environmental Plan 1989 (Heritage)	The deemed SEPP aims to conserve times of environmental heritage listed in the Schedules to the Plan	The site does not contain, nor is adjacent to land or heritage items listed in the Schedules to the deemed SEPP. There are no heritage items on or adjoining the site that are listed in the CLEP 2011.

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

An assessment of relevant s.117 Directions against the planning proposal is provided in the table below. It is considered that the proposal is consistent with all s117 Directions or that any inconsistency is minor and justified.

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implication
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified strategic centres.	The proposal does not create or alter business or industrial zone. It will create a small increase in economic activity to support business and industry.
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	The land rezones land in a rural zone (RU2) to a village zone (RU5). The land is adjacent to an existing village. The land is not prime agricultural land. In addition, the configuration of the existing land parcels is not such as to support viable rural activity. The proposal is consistent with Rural Planning Principles and Rural Subdivision Principles.
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.	NSW Trade & Investment - Minerals Resources Branch (MRB) had no issues to raise with respect to the proposal and advised that: - the area is covered by Consolidated Coal Lease (CCL) 728 held by Austar Coal Mine Pty Ltd and that Austar are currently longwall mining to the east in the Kitchener-Quorrobolong area. - Petroleum Exploration Licence (PEL) 267 held by AGL Upstream Investments Pty Ltd exists over a broad regional area that includes the subject site
1.5 Rural lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.	The Planning Proposal rezones rural land from RU2 to RU5 and reduces the minimum lot size from 40 ha to 1500 m ² . However, the land does not support agriculture and is highly unlikely to support viable agriculture in the future.

2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	The Proponent has undertaken a Vegetation Report and Fauna Assessment which states that “given the proximity of the site to existing residential habitation, the modification evident on site and provided the recommendations in the Fauna Assessment are implemented it is considered that no significant areas of habitat for the species or communities considered in this report will be isolated, fragmented or removed as a result of rezoning and future development on site”. The vegetated part of the land is covered by disturbed “canopy only” vegetation with a small area of a vegetation known as “Ellalong Grey Gum - Stringybark– Apple Forest”. The area is not mapped as an Endangered Ecological Community. The land has been severely modified through past management practices.
2.2 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Clause 5.10 of CLEP 2011 provides general heritage conservation provisions. The Planning Proposal does not contain specific heritage provisions. There are no known items of environmental or indigenous heritage significance on the site. A search of the AHIMS database indicates that no Aboriginal sites are recorded in or within 200m of the land and that no Aboriginal places have been declared in or within 200m of the land. No indigenous heritage assessment has been undertaken. Given the heavily disturbed nature of the site and the extent of grass cover it is considered that this matter will be dealt with at the development application stage.
2.3 Recreation Vehicle Areas	The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles	The Planning Proposal does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983).

3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services and minimise the impact of residential development on the environment and resource lands.	The proposed RU5 zone permits a wider range of dwelling types and a greater intensity of development than the existing RU2 zone, albeit at a low residential density relative to most “urban” areas. The proposal will make use of existing reticulated water and sewerage services. Telecommunications and electricity are available. Service authorities were consulted and did not have any objection to the Proposal.
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.	Caravan parks and mobile home villages are not permissible in the existing RU2 or the proposed RU5 zone.
3.4 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	The RU5 Zone permits home occupations without consent. Home based child care, home businesses and home industries are permitted with consent. Although it did not have any objection to the Proposal, the Rural Fire Service nonetheless advised that a number of development types (including home based child care) are classified as ‘Special Fire Protection Purpose (SFPP) developments, requiring greater separation distances between development and unmanaged vegetation and as such, some of the future residential lots may not be suitable for SFPP development types.
3.5 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 land is adjacent to an existing village. It is contained within an existing street block of consistent proportions to the other blocks comprising the general “grid” layout of Ellalong village. The land is within 800-1000 metres of a playground, local sportsfield, school, shop, community hall and hotel. The village receives four scheduled bus services per weekday, two on Saturdays and none on Sundays.

3.6 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	The Planning Proposal is not affected by this Direction.
3.7 Shooting Ranges	The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issues that must be addressed when rezoning land adjacent to an existing shooting range.	The Planning Proposal is 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 of land that has a probability of containing Acid Sulfate soils	The CLEP 2011 contains provisions to address development on sites with potential Acid Sulfate soils. Acid Sulfate soil maps included in the CLEP 2011 do not show the land affected by Acid Sulfate 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 (MSB) has advised that the land is not within a Mine Subsidence District, that the subject site is undermined by the Greta seam at a depth of 350m, and that there will be specific surface development guidelines restricting the size, construction and building materials of certain types of developments.
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 Floodplain Development Manual 2005 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.	There does not appear to be a level of flood hazard that would prevent development of the site. While Council does not have any Flood Mapping coverage for this part of the catchment at Ellalong, it is not expected that flooding is an impediment to the rezoning of the site to RU5. Any flood hazards due to local catchment flooding will be assessed and addressed at a development application stage.

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.	The site is bushfire prone. The Bushfire Risk Mapping shows the land as being in vegetation category 1 or vegetation buffer. Development will be required to meet the requirements of <i>Planning for Bushfire Protection 2006</i> . DAs will need to comply with Section 79BA of the Environmental Planning and Assessment Act 1979 and Section 100B of the Rural Fires Act 1997. Accordingly, the requirements of <i>Planning for Bushfire Protection</i> should be considered at the DA stage. The Rural Fire Service have been consulted and have no objection to the Planning Proposal.
5. REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The proposal gives effect to the <i>Lower Hunter Regional Strategy (LHRS)</i> , because it increases the supply of housing to provide for population growth which reinforces an existing urban settlement. Consistent with the LHRS it maintains the character of an existing village. The proposal meets the sustainability criteria set out in the LHRS for small scale rezonings in certain circumstances.
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 proposal is not affected by 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.	The proposal is 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 proposal does not introduce site specific provisions to CLEP 2011.

8. Department of Planning's Criteria for Spot Rezonings

This Planning Proposal has been assessed against the Department of Planning's LEP Pro-forma Evaluation Criteria-Category 1: Spot Rezoning LEP, which provides criteria

for consideration for any draft LEP. It is considered that it satisfactorily meets all criteria.

Criteria	Consistency
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The proposal will not introduce additional employment lands. It will create a small increase in general economic activity during the construction of the development and later, through the ongoing demand for goods and services from residents. This will help underpin the viability of the local shop and hotel.
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g., land release, strategic corridors, development within 800m of a transit node)?	This proposal is consistent with the LHRS because it: a) increases the supply of housing to provide for population growth which reinforces an existing urban settlement. b) maintains the character of an existing village. c) meets the sustainability criteria set out in the LHRS for small scale rezonings.
Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s.117) directions?	As mentioned above, this proposal is generally consistent State and regional policies. Any inconsistencies with Ministerial directions (s.117) are minor and justified.
Is the LEP located in a global / regional city, strategic centre or corridor nominated within the metropolitan Strategy or other regional / sub-regional strategy?	No.
Will the LEP deal with a deferred matter in an existing LEP?	No.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Yes. The proposal facilitates the viability of existing social and economic infrastructure, including the local shop, school and hotel. The proposal is consistent with the CWSS 2010 and is specifically identified for future rezoning in that Strategy.
Is the LEP likely to create a precedent, or create or change in the expectations of the landowner or other landowners?	This proposal does not set a precedent as it forms a small logical extension of an existing village within the existing subdivision layout of the village that has already been identified by the CWSS 2010.
Will the LEP be compatible / complementary with surrounding land uses?	Yes. The proposal is consistent with the character of the adjacent village. It will not impede the use of nearby agricultural lands.

9. LHRS: Sustainability Criteria

The Lower Hunter Regional Strategy identifies sustainability criteria for rezoning proposals outside of identified potential urban areas. It is considered that the proposal meets all criteria or that any inconsistency is minor and justified.

1.0 Sustainability Criteria Considerations	Comments
1.1 Infrastructure Provision	
1.1.1 Assessment of whether the Planning Proposal is consistent with any regional strategy, sub-regional strategy, State Infrastructure Strategy, or section 117 direction.	This proposal is consistent with the LHRS because it: a) increases the supply of housing to provide for population growth which reinforces an existing urban settlement. b) maintains the character of an existing village. c) meets the sustainability criteria set out in the LHRS for small scale rezonings in certain circumstances. d) is consistent with the CWSS 2010. e) is generally consistent with Section 117 Directions.
1.1.2 Identification of whether the provision of infrastructure (utilities, transport, open space and communications) is costed and economically feasible based on Government methodology for determining infrastructure development contributions.	There is sufficient capacity in the local reticulated sewer and water systems to cater for the proposal. The local school has declining enrolments and surplus capacity as a result. Ausgrid has no objection to the Proposal, and Council has no reason to believe that telecommunication systems have insufficient capacity (although a response was not obtained from Telstra). The road system will be upgraded at the future Development Application stage.
1.1.3 Assessment of the proponent's preparedness to enter into a developer agreement.	There have been no discussions regarding a developer agreement. It is not considered that there is a need to enter into a developer agreement in relation to the proposal, but that Council's Section 94 Contributions Plans will be applicable to any future subdivision.
1.2 Access	
1.2.1 Assessment of the accessibility of the area by public transport and/or appropriate road access in terms of: location & land use; network; and catchment.	The proposal is located adjacent to an existing village. It is located within 800-1000 metres of a playground, local sportsfield, school, community hall and shop. There is a regular scheduled bus route serving the village, albeit with a low service frequency. Road distance to the nearest major service centre (Cessnock) is 12km or 14 minutes travel time by car.
1.2.2 Identification of the potential negative impact on performance of the existing sub-regional road, bus, rail, ferry and freight network.	The proposal is minor in scale and will have no impact on subregional transport systems. NSW Roads & Maritime Services had no objection to the proposal.

1.3 Housing Diversity	
1.3.1 Identification of whether the Planning Proposal contributes to the geographic market spread of housing supply, including targets established for aged, disability or affordable housing.	The proposal will contribute to achieving the housing supply target for Cessnock LGA specified in the LHRs. The RU5 zone permits a range of low density dwelling types, including seniors housing. The proposal will provide for village living opportunities.
1.4 Employment Lands	
1.4.1 Identification of whether the Planning Proposal seeks to maintain or improve the existing level of subregional employment self-containment and also meets subregional employment projections (i.e. employment-related land is provided in appropriately zoned areas).	The small scale of the proposal will have a small but positive impact on economic activity in the region. The proposal will contribute to the viability of the local shop, school and hotel, which are the major employers in the village of Ellalong.
1.5 Avoidance of Risk	
1.5.1 Identification of whether any residential development within the Planning Proposal is within the 1:100 floodplain.	The proposal is not located within the 1:100 floodplain.
1.5.2 Identification of whether the Planning Proposal avoids physically constrained land.	The proposal is not located on physically constrained land.
1.5.3 Assessment of the avoidance of land use conflicts with adjacent existing or future land use as planned under relevant sub-regional or regional strategy.	The proposal is highly unlikely to create land use conflicts. Adjacent uses are either identified in the CWSS 2010 for future village zonings, or will continue to be agricultural, predominantly in the form of grazing. The proposal is separated from the agricultural land by a sealed road.
1.5.4 Assessment of the provision of an available safe evacuation route (flood and bushfire).	A detailed flood or bushfire risk evacuation assessment is not considered necessary. The land is categorised as bushfire prone land and new development will be required to comply with <i>Planning for Bushfire Protection 2006</i>. Ellalong has three evacuation routes. These are: a) Paxton/Millfield; b) Bellbird; and c) Cessnock & Mulbring via Sandy Creek Rd. The land is not flood prone.

1.6 Natural Resources	
1.6.1 Assessment of whether the demand for water within infrastructure capacity to supply water and whether it places unacceptable pressure on environmental flows	The Hunter Water Corporation has confirmed there is capacity in the reticulated water supply system to cater for the proposed development. It should be noted that the proposal is of a very small scale.
1.6.2 Assessment of whether the Planning Proposal demonstrates the most efficient/ suitable use of land (e.g. avoids identified significant agricultural land; avoids productive resource lands)	The proposal does not occupy or compromise the use of significant agricultural land. NSW Trade & Investment – Mineral Resources Branch has no objections to the proposal, but advises that the area is covered by Consolidated Coal Lease 728 and that Petroleum Exploration Licence 267 covers a broad regional area that includes the subject site.
1.6.3 Assessment of whether the demand for energy places unacceptable pressure on capacity to supply energy - requires demonstration of efficient and sustainable supply solution	Given the very small scale of the proposal it is unlikely to place an unacceptable pressure on the energy supply network. Ausgrid has no objection to the proposal, although advises that its “existing network currently has limited capacity” however “it is not anticipated that there will be significant upgrade or feeder augmentation works required for the development to progress”.
1.7 Environmental Protection	
1.7.1 Assessment of whether the Planning Proposal is consistent with the Government-approved Regional Conservation Plan.	The Planning Proposal is consistent with the Lower Hunter Regional Conservation Plan.
1.7.2 Identification of whether the Planning Proposal maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and agreed by OEH).	The proposal has no impact on these areas.
1.7.3 Assessment of whether the Planning Proposal maintains or improves existing environmental conditions for air and water quality.	The proposal is minor in nature and will have a negligible impact on these conditions.
1.7.4 Identification of whether the Planning Proposal protects areas of Aboriginal cultural heritage value (as agreed by OEH).	A search of the Aboriginal Heritage Information Management System indicates that no Aboriginal sites are recorded in or within 200m of the land and that no Aboriginal places have been declared in or within 200m of the land. No indigenous heritage assessment has been undertaken. Given the heavily disturbed nature of the site and the extent of grass cover, it is considered that this matter is best dealt with at the DA stage.

1.8 Quality & Equity in Services	
1.8.1 Assessment of whether the Planning Proposal ensures quality health, education, legal, recreational, cultural and community, development and other Government services are accessible.	The proposal is a minor extension to an existing village. Ellalong is serviced with a playground, sportsfield, shop, school, community hall, hotel and a regular scheduled bus service. Cessnock, the closest commercial, service and administrative centre, is located 12 kms to the east.
2.0 Environmental Planning Criteria Considerations	Comments
2.1 Assessment of the strategic planning justification and merit of the Planning Proposal, including compliance with all relevant statutory considerations such as s117 Directions and associated legislative requirements including State & Commonwealth threatened species legislation	The proposal has strategic justification and has been identified as such in the CWSS 2010. It either complies with, or has a minor justifiable inconsistency with relevant statutory directions and complies with Commonwealth and State threatened species legislation.
2.2 Assessment of site constraints and opportunities relevant to Planning Proposal.	The above material assessed site constraints and opportunities relevant to the Planning Proposal and concludes that it delivers a satisfactory planning outcome.
2.3 Assessment of physical & social infrastructure needs (onsite & offsite) sufficient to identify S.80 developer works and any s.94 contribution requirements.	The proposal is minor in nature. It will require minor upgrading of the adjacent sealed roads, such as sealed shoulders, kerb and guttering and safety improvements. Council's City Wide Section 94 Plan will apply to any increased social and recreational infrastructure which is expected.
2.4 Assessment of environmental & social impacts on existing environment and local communities.	The proposal will increase the viability of existing local services because additional residents will reside in Ellalong. Social and environmental impacts will be negligible.
2.5 Evidence of consultation undertaken (affected landowners, relevant public authorities, infrastructure providers and community).	The Proposal was placed on public exhibition in accordance with the conditions of the Gateway Determination. The details of notification to the local community and the consultation undertaken with public authorities and infrastructure providers is given below.
2.6 Relevant comments from Council (e.g. asset engineers & natural resources)	Council officers have not raised any objections to the proposal. However, they have identified a number of matters to be addressed at the DA stage, such as local road improvements and local drainage infrastructure.
2.7 Evidence of project viability (costs associated with infrastructure timing and delivery of services to the proposed community).	The proposal is minor in nature. Infrastructure costs largely relate to the connection of services to the land and upgrade of adjacent road infrastructure and will be borne by the developer. The community costs of the proposal are negligible.

2.8 Whether sufficient information has been provided to prepare the Planning Proposal for Gateway determination.	Yes. The proposal and its impact has been documented in detail in this report.
2.9 Identification of outstanding information required for pre and post Gateway referral with reasons why.	Relevant public agencies and infrastructure providers were consulted regarding the proposal. No further issues for consultation have been identified.

Section C: Environmental, Social and Economic Impact

10. Impact on Threatened Species

A Vegetation Report (late 2013) and Fauna Assessment (early 2014) were prepared on behalf of the proponent for the site. The Vegetation Report and Fauna Assessment found that the site generally supports a heavily modified regrowth woodland consistent with 'Ellalong Grey Gum – Stringybark – Apple Forest' and cleared grass which has been subject to past disturbance from such factors as clearing, canopy thinning and weed incursion. The trees on site are generally all young and regenerating, with very few mature trees on site. The vegetation does not constitute an Endangered Ecological Community under the *Threatened Species Conservation Act 1995*.

The Fauna Assessment concluded that "given the proximity of the site to existing residential habitation, the modification evident on site and provided the recommendations in the Fauna Assessment are implemented it is considered that no significant areas of habitat for the species or communities considered in this report will be isolated, fragmented or removed as a result of rezoning and future development on site" and that "consideration should therefore be given to the retention of suitable Eucalypt feed tree species where possible in the scope of future development design. Where retention is not possible amelioration measures such as replacement plantings of koala feed trees within the landscaping on site could be implemented to limit the degree of habitat removal for this species".

The Office of Environment and Heritage (OEH) does not object to the rezoning, but encourages Council where possible to increase biodiversity values across the landscape through enhancing landscape connectivity, revegetating and rehabilitating riparian areas and protecting important habitat for threatened species such as hollow-bearing trees. It is considered that these issues can be addressed at the Development Application stage for future subdivision and development.

11. Environmental Impact

The proposal is not likely to lead to any significant environmental impact as a result of this planning proposal. The proposal will consolidate village land and make use of the existing infrastructure in the Ellalong village.

Additional future residents will have some additional environmental impact by consuming resources and generating greenhouse emissions.

The large lot size will provide the opportunity for residents to reduce their environmental impact by permitting greater flexibility in dwelling design and orientation, pursuing self-sufficiency activities, such as home vegetable gardens, large rainwater tanks, small revegetation areas and the like.

The distance of Ellalong from major service centres such as Cessnock, could increase motor vehicle dependency.

12. Social and Economic Impacts

The social and economic impact of the proposal is likely to be positive because it will:

- a) Increase the viability of the local school which has been experiencing reduced enrolments in recent years; and

- b) Lead to a small increase in local economic activity which will assist the viability of local businesses such as the shop and hotel.

Section D: State and Commonwealth Interests

13. Adequate Public Infrastructure

- The Hunter Water Corporation has stated that there is adequate reticulated water and sewer capacity to meet the demand created by the proposal (**Appendix 7**).
- The standard of roads in the immediate vicinity may need to be upgraded to cater for the additional traffic volume. This can be adequately assessed and provided for at the Development Application stage, including the application of Council's City-Wide s94 Contributions Plan.
- NSW Roads & Maritime Services (RMS) has no objection to the proposal.
- It is considered that drainage infrastructure can be adequately assessed and provided at the Development Application stage.
- Ausgrid has no objection to the proposal, although advises that its "existing network currently has limited capacity" however "it is not anticipated that there will be significant upgrade or feeder augmentation works required for the development to progress".

14. Consultation with State and Commonwealth Authorities

Consultation was undertaken with the following agencies in accordance with the Gateway Determination:

- NSW Trade and Investment – Mineral Resources Branch
- Office of Environment and Heritage (OEH)
- NSW Rural Fire Service (RFS)
- Mine Subsidence Board (MSB)

Further consultation with the following agencies was also undertaken:

- Ausgrid
- Telstra
- Hunter Water Corporation (HWC)
- Road and Maritime Services (RMS)

The only agency not to reply to Council was Telstra. None of the other agencies objected to the proposal. Their advice is summarised below.

Office of Environment & Heritage

The Office of Environment & Heritage (OEH) was forwarded the proponent's Vegetation Report and Fauna Assessment, submitted to Council in early 2014.

OEH recognises that "the areas proposed for rezoning are predominantly regrowth vegetation and pasture and therefore presents minimal ecological constraints to large

lot residential development. OEH has no objections to the rezoning, but “encourages Council where possible to increase biodiversity values across the landscape through enhancing landscape connectivity, revegetating and rehabilitating riparian areas and protecting important habitat for threatened species such as hollow –bearing trees”.

It is considered that these measures can be incorporated into the final design of the site at a future Development Application stage and that Chapter 7, Part C of Council's *Development Control Plan 2010* will be able to facilitate appropriate retention of trees on the site

NSW Transport - Roads & Maritime Services

NSW Transport Roads & Maritime Services advised that it has no objection to the proposed rezoning.

NSW Department Trade & Investment – Mineral Resources Branch

The Minerals Resources Branch (MRB) has no issues to raise with respect to the proposal, but advises that there are other stakeholders with interests in the region:

- The area is covered by Consolidated Coal Lease (CCL) 728 held by Austar Coal Mine Pty Ltd and that Austar are currently longwall mining to the east in the Kitchener-Quorrobolong area.
- Petroleum Exploration Licence (PEL) 267 held by AGL Upstream Investments Pty Ltd exists over a broad regional area that includes the subject site.

Mine Subsidence Board

The land is not located within a Mine Subsidence District. The Mine Subsidence Board (MSB) advised that the subject site is undermined by the Greta seam at a depth of 350m. The MSB advised that the following improvements (provided they are erected on reinforced concrete footings and/or slabs) are limited to a maximum length of 30 metres and maximum width of 18 metres:

- Single or two storey timber or steel framed improvements clad with weatherboards or other similar materials
- Single or two storey brick veneer improvements
- Full masonry and other types of improvements will be considered for this property under the Board's “Graduated Guidelines for Residential Construction”.

It is considered that these issues are able to be dealt with at a future Development Application stage.

NSW Rural Fire Service

The land is identified as Bushfire Prone Land. Future development will need to comply with *Planning for Bushfire Protection 2006*. The Rural Fire Service (RFS) has no objection to the proposed rezoning but provides the following advice:

- The proposed zoning of RU5 permits a number of development types which are classified as special fire protection purposes (SFPP) developments. These developments require the issue of a Bush Fire Safety Authority under section 100B of the *Rural Fires Act 1997*.
- Consideration is to be given to the provision of asset protection zones within property boundaries.

It is considered that these issues are able to be addressed at the Development Application stage.

Ausgrid

Ausgrid advised that its existing network currently has limited capacity, but that it is not anticipated that there will be significant upgrade or feeder augmentation works required for the development to progress. These issues are able to be addressed at the Development Application stage.

PART 4: MAPPING

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

Land Zone Map – amend Land Zoning Map Sheet

1720_COM_LZN_006D_040_2011214 as it relates to Lot 11, DP 1184254; Lot 12, DP 1184254; Lot 1, DP 727399; and Lot 2, DP 727399 to RU5 Village in accordance with the proposed Land Use Zone map shown at **Appendix 4**.

Lot Size Map – amend Lot Size Map Sheet 1720_COM_LSZ_006D_040_20130423 as it relates to Lot 11, DP 1184254; Lot 12, DP 1184254; Lot 1, DP 727399; and Lot 2, DP 727399 to apply a minimum lot size of 1500m² in accordance with the proposed Minimum Lot Size map shown at **Appendix 6**.

PART 5: COMMUNITY CONSULTATION

Community consultation was undertaken as directed in the Gateway Determination. Given the 'low impact' nature of this proposal, a 14 day exhibition period was required by the Determination.

The proposal was exhibited from 30 July to 13 August 2014 at the following locations:

- Council's Administration Building (Customer Service Section);
- Cessnock Public Library;
- Kurri Kurri Public Library; and
- Council's website at www.cessnock.nsw.gov.au

During the exhibition period, one public submission was received which opposed the proposal. The concerns of the public submission, with planner's responses are summarised as follows:

1. The previous incremental subdivision and development of housing in the village was undertaken with no notification to adjoining residents and similarly, the change of zoning to the site was not notified to adjoining residents.

Planner's response: The submission is presumably referring to the notification requirements of previous Development Applications in the village, which are not relevant to this proposal, and may be referring to the consultation processes of the previous City Wide Settlement Strategies, particularly the recommendations of the 2010 CWSS, the processes of which are also not directly relevant to this proposal. However, this proposal has been publicly exhibited in accordance with the Gateway Determination.

2. A perception of the incremental loss of habitat on the site, particularly the loss of mature trees with inappropriate land management practices over the years.

Planner's response: A Vegetation Report (late 2013) and Fauna Assessment (early 2014) were prepared on behalf of the proponent for the site. The Vegetation Report and Fauna Assessment found that the site generally supports a heavily modified regrowth woodland consistent with 'Ellalong Grey Gum – Stringybark – Apple Forest' and cleared grass which has been subject to past disturbance from such factors as clearing, canopy thinning and weed incursion. The trees on site are generally all young and regenerating, with very few mature trees on site. The vegetation does not constitute an Endangered Ecological Community under the *Threatened Species Conservation Act 1995*.

The Fauna Assessment concluded that "given the proximity of the site to existing residential habitation, the modification evident on site and provided the recommendations in the Fauna Assessment are implemented it is considered that no significant areas of habitat for the species or communities considered in this report will be isolated, fragmented or removed as a result of rezoning and future development on site" and that "consideration should therefore be given to the retention of suitable Eucalypt feed tree species where possible in the scope of future development design. Where retention is not possible amelioration measures such as replacement plantings of koala feed trees within the landscaping on site could be implemented to limit the degree of habitat removal for this species".

3. A comparison to recent growth in Aberdare that has seen pressure on public transport, schools, electricity and water supply.

Planner's response: Incremental increases in the size of smaller villages require consideration of the infrastructure required to service the growing community. The local school has been experiencing reduced enrolments in recent years, and the small increase in population as a result of this proposal may assist in the school's vitality. Similarly, a small increase in population may also assist the local bus network. In regard to electricity provision, Ausgrid has advised Council that although its existing network currently has limited capacity, it is not anticipated that there will be significant upgrade or feeder augmentation works required for the development to progress. Water supply issues are considered in the next point.

4. Concern regarding impacts on water pressure, especially with the current difficulties of water pressure in peak times in Ellalong, and the concern that water pressure may not be sufficient for firefighting purposes in this bushfire prone area.

Planner's response: Hunter Water advised the applicant in mid 2013 that "there is sufficient capacity in the Paxton Waste Water Treatment Works to cater for the development" and that "there is currently sufficient water supply capacity available to serve the development, although capacity availability and system performance varies over time." Hunter Water further advised Council in October 2014 that their position on the adequacy of future water supply provision as given in 2013 still stands.

5. The cumulative effect of the proposal with the recently approved 38 blocks in Alexandra Street leading to a change in vibe in the village.

Planner's response: It is acknowledged that incremental increases in the size of Ellalong may contribute to a gradual change in atmosphere of the area, just as an increase in size of any village or urban area would.

PART 6: PROJECT TIMELINE

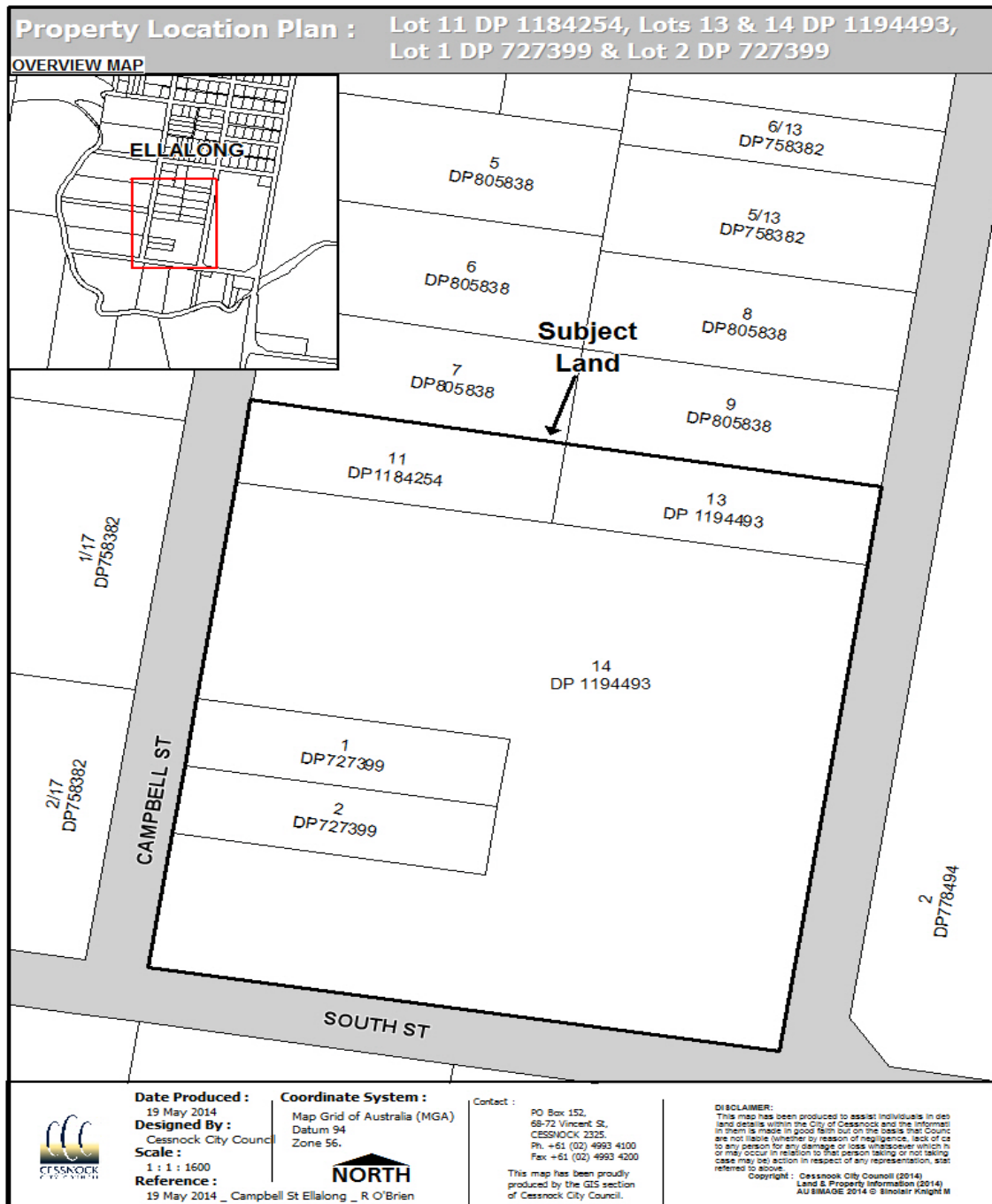
The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval as outlined in the following table.

It is estimated that this amendment to the Cessnock Local Environmental Plan 2011 will be completed by January 2015.

PROJECT TIMELINE

	April 2014	May 2014	June 2014	July 2014	Aug 2014	Sept 2014	Oct 2014	Nov 2014	Dec 2014
STAGE 1 Submit Planning Proposal to Planning & Infrastructure									
STAGE 2 Anticipated commencement date (Gateway Determination)									
STAGE 3 Public Exhibition Period									
STAGE 4 Review / consideration of submissions									
STAGE 5 Report to Council									
STAGE 6 Forward s59 report to Planning and Environment to notify the Local Environmental Plan									

Appendix 1: Location Plan



Appendix 2: Council Report and Minutes – 5 November 2014

SUBJECT: *PLANNING PROPOSAL - CAMPBELL STREET, ELLALONG*

RESPONSIBLE OFFICER: *Strategic Landuse Planning Manager - Martin Johnson*

APPLICATION NUMBER:	18/2013/4/1
PROPOSAL:	CAMPBELL STREET, ELLALONG
PROPERTY DESCRIPTION:	LOT 11, DP 1184254; LOT 12, DP 1184254; LOT 1, DP 727399; AND LOT 2, DP 727399
PROPERTY ADDRESS:	CAMPBELL STREET AND CHURCH STREET ELLALONG
ZONE (CURRENT):	RU2 RURAL LANDSCAPE
ZONE (PROPOSED):	RU5 VILLAGE
OWNERS:	AXFILM PTY LTD; BROOKE HARRISON; HIDIENA AAGJE RAAK AND EDWARD RONALD SPLIET.
APPLICANT:	THOMAS AND ASSOCIATES CONSULTING PTY LTD

SUMMARY

The purpose of this report is to provide feedback to Council on the public exhibition of Planning Proposal – Campbell Street, Ellalong and seek Council's endorsement to make the proposed amendment to the Cessnock Local Environmental Plan 2011.

The Campbell Street, Ellalong Planning Proposal proposes to rezone land from RU2 Rural Landscape to RU5 Village and to reduce the minimum lot size from 40ha to 1,500m² in accordance with the adjacent land in the village of Ellalong.

RECOMMENDATION

1. That Council endorse the Planning Proposal as provided as Enclosure 1 and agree to make the proposed amendment to Cessnock Local Environmental Plan 2011 pursuant to the *Environmental Planning & Assessment Act 1979*.
2. That Council notifies persons who made a submission during the exhibition of the Planning Proposal.

BACKGROUND

On 16 April 2014, Council resolved under Report EE 65/2014:-

1. That Council forward a Planning Proposal to the Department of Planning and Infrastructure under s56 (1) of the *Environmental Planning and Assessment Act 1979* seeking a Gateway determination to:

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- (a) *Rezone the subject site from RU2 Rural Landscape to RU5 Village; and*
- (b) *Amend the Minimum Lot Size Map for the subject site from 40 hectares to 1,500sqm.*
- 2. *That Council exhibit the Planning Proposal in accordance with the Gateway determination and Council's statutory obligations, should the Gateway Determination be favourable.*

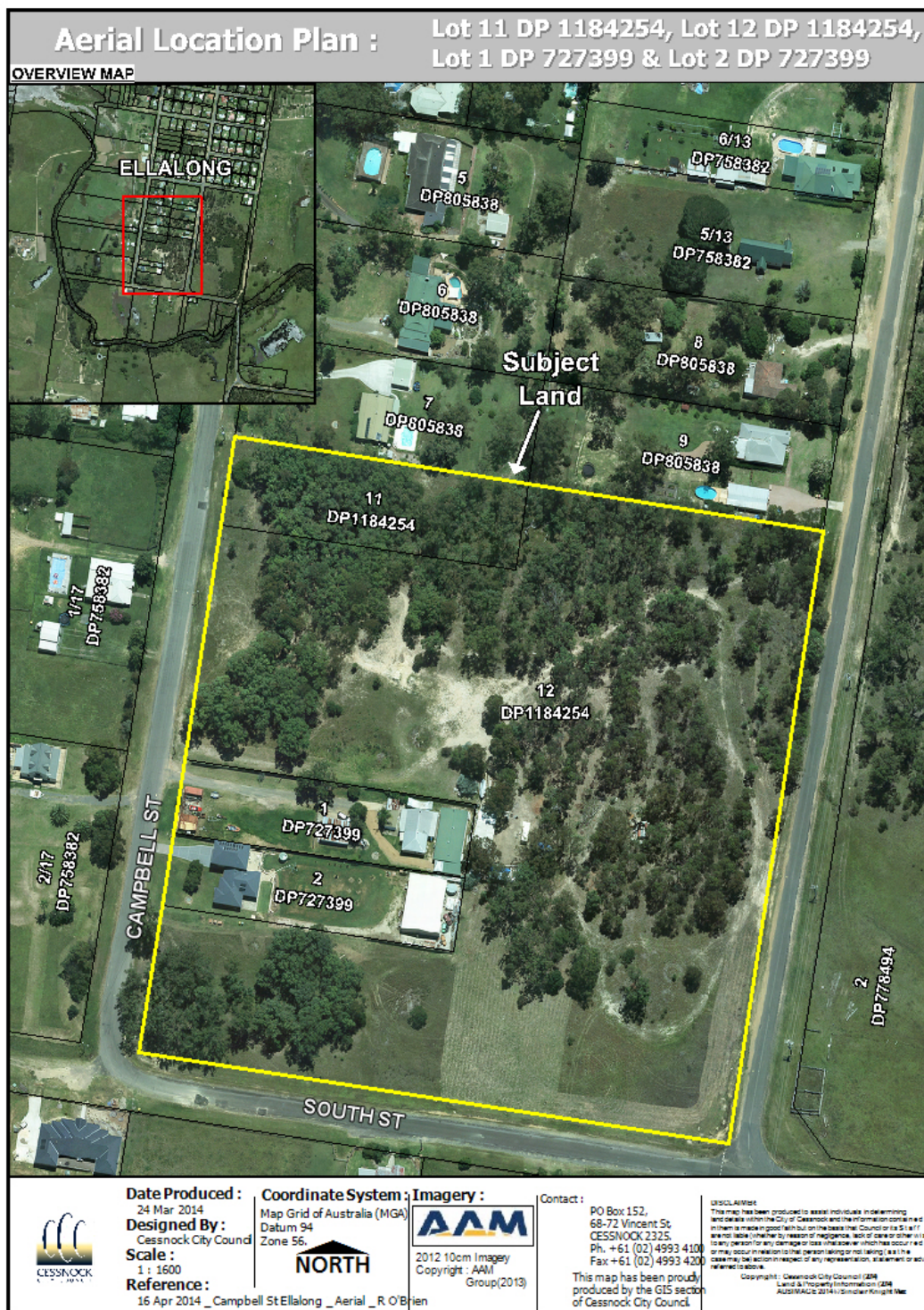
The Gateway Determination for the Planning Proposal was issued on 14 May 2014 by the then Department of Planning and Infrastructure. The determination required the public exhibition of the Planning Proposal for 14 days and consultation with NSW Office of Environment and Heritage, NSW Trade & Investment - Resources & Energy, Mine Subsidence Board and NSW Rural Fire Service.

Chronology

Date	Brief Description
13 September 2013	Planning Proposal lodged with Council.
19 September 2013	External consultant engaged to compile the planning proposal and Council report due to lack of internal resources.
21 October 2013	Council requested additional information to support the Planning Proposal and requested confirmation of reduced site area.
25 October 2013	Proponent formally withdrew two (2) parcels from the planning proposal. The withdrawn parcels included 8.5 hectares of land to the east of Church Street known as Lots 1 and 2, DP 778494. This left a residue of 4ha still under the rezoning including the following four (4) parcels: Lot 11, DP 1184254; Lot 12, DP 1184254; Lot 1, DP 727399; and Lot 2, DP 727399
28 January 2014	Council received from the proponent an updated Vegetation Report, Fauna Assessment and Preliminary Contamination Assessment of the subject site.
3 April 2014	Assessment completed.
16 April 2014	Council resolved to forward the Planning Proposal to the Department for a Gateway Determination under report EE65/2014 and publically exhibit the Proposal.
14 May 2014	Gateway Determination issued by the Department of Planning & Environment allowing Planning Proposal to proceed subject to conditions.
30 July – 13 August 2014	Planning Proposal publicly exhibited.

Property Location Plan





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The Planning Proposal was placed on exhibition from 30 July to 13 August 2014 and one community submission was received. In addition, advice was received from a number of government agencies. The submissions and advice are detailed in 'Consultation' below.

The Planning Proposal has been updated as a result of the information received from the government agencies, and is provided as **Enclosure 1** to this report.

OPTIONS

Council has the following options:

1. Submit the Campbell Street, Ellalong Planning Proposal to the Department of Planning and Environment as an amendment to Cessnock Local Environmental Plan 2011.
2. Not proceed with the Planning Proposal for the following reasons:

(To be provided by Council).

Recommended Option

Option 1 is recommended to Council.

CONSULTATION

Formal consultation was undertaken with the community and relevant government agencies, consistent with the Gateway Determination.

The Planning Proposal was placed on exhibition from 30 July to 13 August 2014. This was a total of fourteen (14) days in accordance with the Gateway Determination. The proposal was exhibited at the following locations:

- Council's Administrative Building (Customer Services Section);
- Cessnock Public Library;
- Kurri Kurri Public Library; and
- Council's website at www.cessnock.nsw.gov.au

Community submission

During the exhibition period, one public submission was received which opposed the proposal. A copy of this submission is provided as **Enclosure 2**. The concerns of the public submission, with planner's responses are summarised as follows:

1. The previous incremental subdivision and development of housing in the village was undertaken with no notification to adjoining residents and similarly, the change of zoning to the site was not notified to adjoining residents.

Planner's response: The submission is presumably referring to the notification requirements of previous Development Applications in the village, which are not relevant to this proposal, and may be referring to the consultation processes of the previous City Wide Settlement Strategies, particularly the recommendations of the 2010 CWSS, the processes of which are also not directly relevant to this proposal. However, this proposal has been publicly exhibited in accordance with the Gateway Determination.

2. A perception of the incremental loss of habitat on the site, particularly the loss of mature trees with inappropriate land management practices over the years.

Planner's response: A Vegetation Report (late 2013) and Fauna Assessment (early 2014) were prepared on behalf of the proponent for the site. The Vegetation Report and Fauna Assessment found that the site generally supports a heavily modified regrowth woodland consistent with 'Ellalong Grey Gum – Stringybark – Apple Forest' and cleared grass which has been subject to past disturbance from such factors as clearing, canopy thinning and weed incursion. The trees on site are generally all young and regenerating, with very few mature trees on site. The vegetation does not constitute an Endangered Ecological Community under the *Threatened Species Conservation Act 1995*.

The Fauna Assessment concluded that "given the proximity of the site to existing *residential* habitation, the modification evident on site and provided the recommendations in the Fauna Assessment are implemented it is considered that no significant areas of habitat for the species or communities considered in this report will be isolated, fragmented or removed as a result of rezoning and future development on site" and that "consideration should therefore be given to the retention of suitable Eucalypt feed tree species where possible in the scope of future development design. Where retention is not possible amelioration measures such as replacement plantings of koala feed trees within the landscaping on site could be implemented to limit the degree of habitat removal for this species".

In regard to koala habitat, the Fauna Assessment stated that "two species of koala feed tree were recorded within the site...but were in insufficient numbers to constitute 15% of the trees on site." It concluded that "the study area does not constitute 'Potential Koala Habitat [under the provisions of State Environmental Planning Policy 44 – Koala Habitat Protection] and no further provision of this Policy applies to the subject site."

3. A comparison to recent growth in Aberdare that has seen pressure on public transport, schools, electricity and water supply.

Planner's response: Incremental increases in the size of smaller villages require consideration of the infrastructure required to service the growing community. The local school has been experiencing reduced enrolments in recent years, and the small *increase* in population as a result of this proposal may assist in the school's vitality. Similarly, a small increase in population may also assist the local bus network. In regard to electricity provision, Ausgrid has advised Council that although its existing network currently has limited capacity, it is not anticipated that there will be significant upgrade or feeder augmentation works required for the development to progress. Water supply issues are considered in the next point.

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4. Concern regarding impacts on water pressure, especially with the current difficulties of water pressure in peak times in Ellalong, and the concern that water pressure may not be sufficient for firefighting purposes in this bushfire prone area.

Planner's response: Hunter Water advised the applicant in mid-2013 that "there is sufficient capacity in the Paxton Waste Water Treatment Works to cater for the development" and that "there is currently sufficient water supply capacity available to serve the development, although capacity availability and system performance varies over time." Hunter Water further advised Council in October 2014 that their position on the adequacy of future water supply provision as given in 2013 still stands.

5. The cumulative effect of the proposal with the recently approved 38 blocks in Alexandra Street leading to a change in vibe in the village.

Planner's response: It is acknowledged that incremental increases in the size of Ellalong may contribute to a gradual change in atmosphere of the area, just as an increase in size of any village or urban area would.

The applicant (who is acting on behalf of the major landholder of the subject site) has also provided evidence to Council of its consultation with the other land owners within the site and advises that the other land owners did not raise any objections.

Government agency consultation

The Gateway Determination required consultation with the following agencies:

- NSW Trade & Investment - Resources & Energy
- Office of Environment & Heritage
- Mine Subsidence Board
- NSW Rural Fire Service

Further consultation with the following agencies was also undertaken:

- NSW Transport - Roads & Maritime Services
- Ausgrid
- Telstra (no reply was received)

Their responses are summarised below and are included as **Enclosures 3 to 8**.

It is noted that the Gateway Determination required Council to update its consideration of s117 directions following agency consultation. There were no updates required as a result of the responses; however the relevant part of the Planning Proposal has been updated to include some background information received from the agencies.

Office of Environment & Heritage

The Office of Environment & Heritage (OEH) was forwarded the proponent's Vegetation Report and Fauna Assessment, submitted to Council in early 2014.

OEH recognises that "the areas proposed for rezoning are predominantly regrowth vegetation and pasture and therefore presents minimal ecological constraints to large lot residential development. OEH has no objections to the rezoning, but "encourages Council

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where possible to increase biodiversity values across the landscape through enhancing landscape connectivity, revegetating and rehabilitating riparian areas and protecting important habitat for threatened species such as hollow –bearing trees”.

It is considered that these measures can be incorporated into the final design of the site at a future Development Application stage and that Chapter 7, Part C of Council's *Development Control Plan 2010* will be able to facilitate appropriate retention of trees on the site

NSW Transport - Roads & Maritime Services

NSW Transport Roads & Maritime Services advised that it has no objection to the proposed rezoning.

NSW Department Trade & Investment – Mineral Resources Branch

The Minerals Resources Branch (MRB) has no issues to raise with respect to the proposal, but advises that there are other stakeholders with interests in the region:

- The area is covered by Consolidated Coal Lease (CCL) 728 held by Austar Coal Mine Pty Ltd and that Austar are currently longwall mining to the east in the Kitchener-Quorrobolong area.
- Petroleum Exploration Licence (PEL) 267 held by AGL Upstream Investments Pty Ltd exists over a broad regional area that includes the subject site.

Mine Subsidence Board

The land is not located within a Mine Subsidence District. The Mine Subsidence Board (MSB) advised that the subject site is undermined by the Greta seam at a depth of 350m. The MSB advised that the following improvements (provided they are erected on reinforced concrete footings and/or slabs) are limited to a maximum length of 30 metres and maximum width of 18 metres:

- Single or two storey timber or steel framed improvements clad with weatherboards or other similar materials
- Single or two storey brick veneer improvements
- Full masonry and other types of improvements will be considered for this property under the Board's "Graduated Guidelines for Residential Construction".

It is considered that these issues are able to be dealt with at a future Development Application stage, and that the proponent, through this report, should be made aware of these requirements.

NSW Rural Fire Service

The land is identified as Bushfire Prone Land. Future development will need to comply with *Planning for Bushfire Protection 2006*. The Rural Fire Service (RFS) has no objection to the proposed rezoning but provides the following advice:

- The proposed zoning of RU5 permits a number of development types which are classified as special fire protection purposes (SFPP) developments. These

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developments require the issue of a Bush Fire Safety Authority under section 100B of the *Rural Fires Act 1997*.

- Consideration is to be given to the provision of asset protection zones within property boundaries.

It is considered that these issues are able to be addressed at the Development Application stage, and that the proponent, through this report, should be made aware of the possible limitations of some types of development as they relate to SFPP requirements.

Ausgrid

Ausgrid advised that its existing network currently has limited capacity, but that it is not anticipated that there will be significant upgrade or feeder augmentation works required for the development to progress. These issues are able to be addressed at the Development Application stage.

STRATEGIC LINKS

a. Delivery Program

A Sustainable and Healthy Environment:

- Objective 3.1 - Protecting and Enhancing the Natural Environment and the Rural Character of the Area.

b. Other Plans

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy (LHRS) does not specifically identify the land as a potential urban area, however states: "*Sites less than 50 hectares (that are not identified as a potential urban area) may be developed if consistent with the principles of the Strategy and if they are identified within an endorsed local Strategy.*"

The proposal adequately addresses the "Sustainability Criteria" specified in the LHRS, and is identified by the 'endorsed local Strategy' being the City Wide Settlement Strategy (see discussion following).

Cessnock City Wide Settlement Strategy

The subject site is part of a larger area which was identified as "CC2" in the City Wide Settlement Strategy (2003) as a suitable site to expand the village of Ellalong.

The Cessnock City Wide Settlement Strategy 2010 (CWSS) identified land across the Cessnock Local Government Area to be investigated for future urban development, including the identification of a village zoning as appropriate for the land, subject to the provision of reticulated sewer and subject to studies justifying the rezoning. Reticulated sewer is now available.

The balance of the area within "CC2" is located to the east of Church Street and could be subject to a rezoning process at a later time.

IMPLICATIONS

a. Policy and Procedural Implications

This report has regard to the provisions of the Environmental Planning & Assessment Act and its Regulations.

The status of the Planning Proposal in the plan making process is illustrated in the process map below.

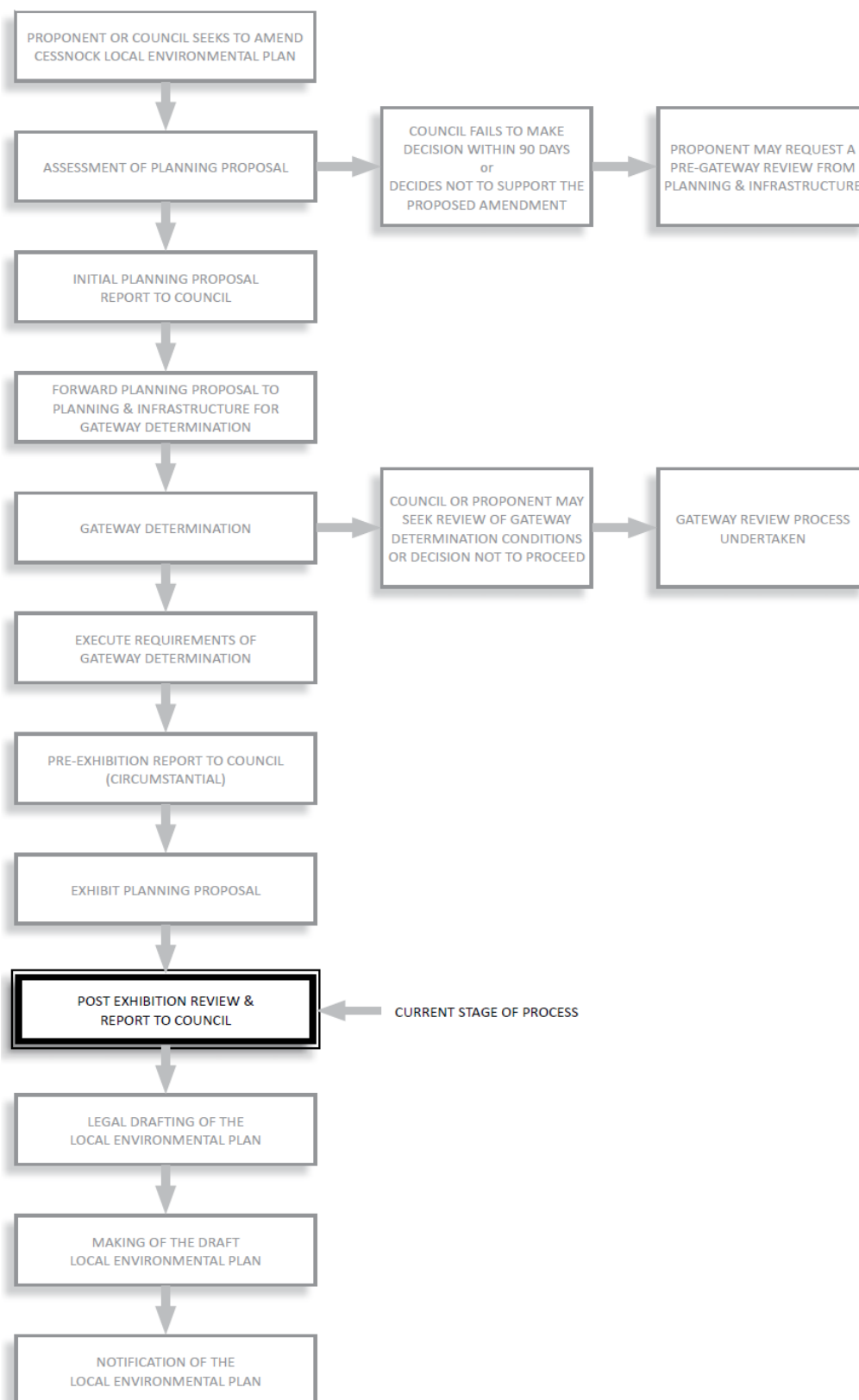
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PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



b. Financial Implications

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

c. Legislative Implications

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

d. Risk Implications

Nil.

e. Other Implications

Nil.

CONCLUSION

The community consultation for the Campbell Street, Ellalong Planning Proposal has been completed. The Planning Proposal aims to facilitate development of a type similar to the existing village of Ellalong. A review of planning considerations indicates that the land is suitable to provide an extension of the village zoning of Ellalong. It is therefore recommended that the Planning Proposal be referred to the Department of Planning and Environment for Making.

ENCLOSURES

- 1** Planning Proposal
- 2** Community submission - *This matter is considered to be confidential under Section 10A(2) (a) of the Local Government Act, as it deals with personnel matters concerning particular individuals. (Submission.)*
- 3** Government Agency Response - Office of Environment & Heritage
- 4** Government Agency Response - Roads & Maritime Services
- 5** Government Agency Response -Resources & Energy
- 6** Government Agency Response - Resources & Energy additional info
- 7** Government Agency Response - Mines Subsidence Board
- 8** Government Agency Response - Rural Fire Service
- 9** Government Agency Response Ausgrid

PLANNING AND ENVIRONMENT NO. PE133/2014

SUBJECT: PLANNING PROPOSAL - CAMPBELL STREET, ELLALONG

MOTION **Moved:** Councillor Maybury **Seconded:** Councillor Stapleford
1125

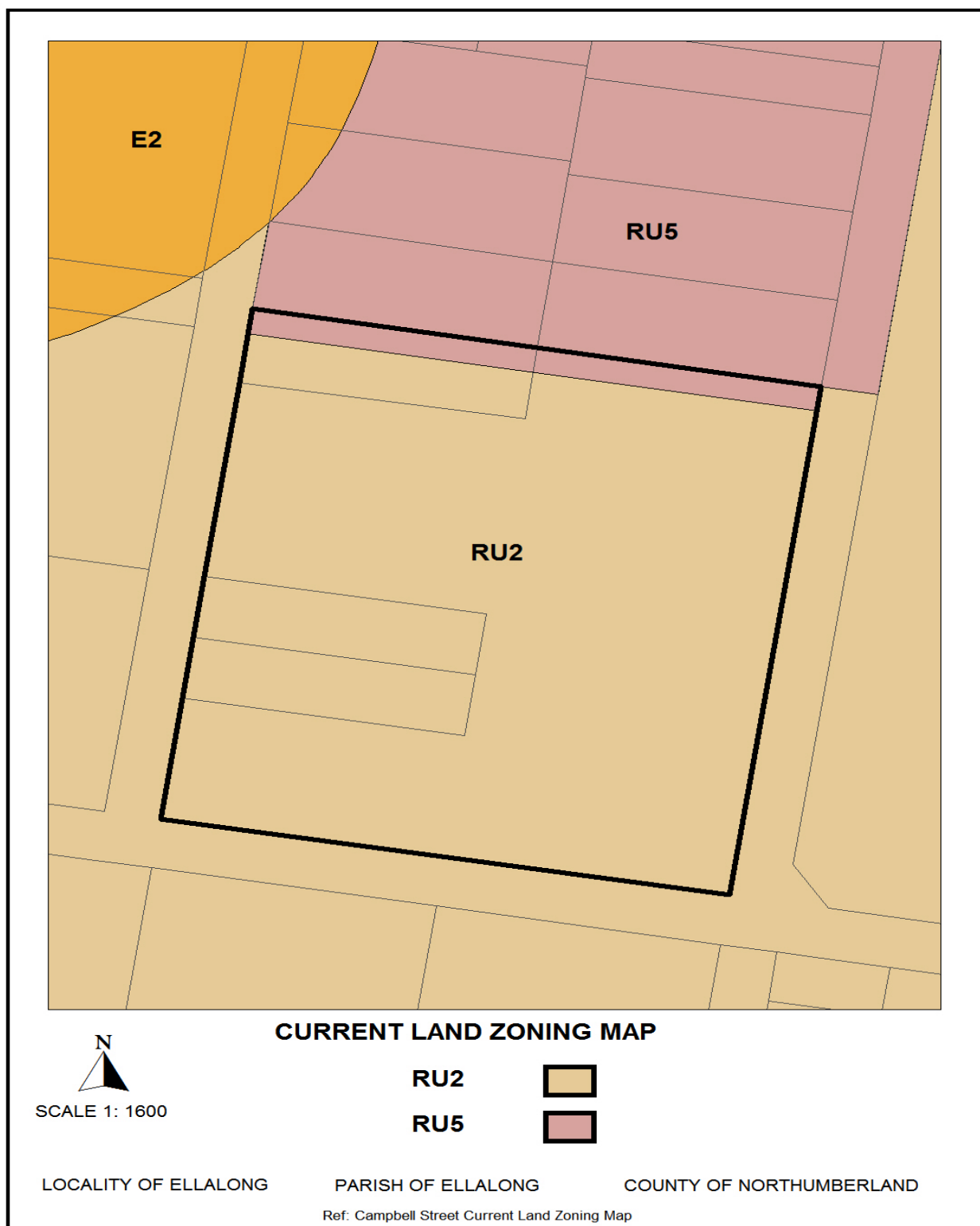
RESOLVED

1. That Council endorse the Planning Proposal as provided as Enclosure 1 and agree to make the proposed amendment to Cessnock Local Environmental Plan 2011 pursuant to the *Environmental Planning & Assessment Act 1979*.
2. That Council notifies persons who made a submission during the exhibition of the Planning Proposal.

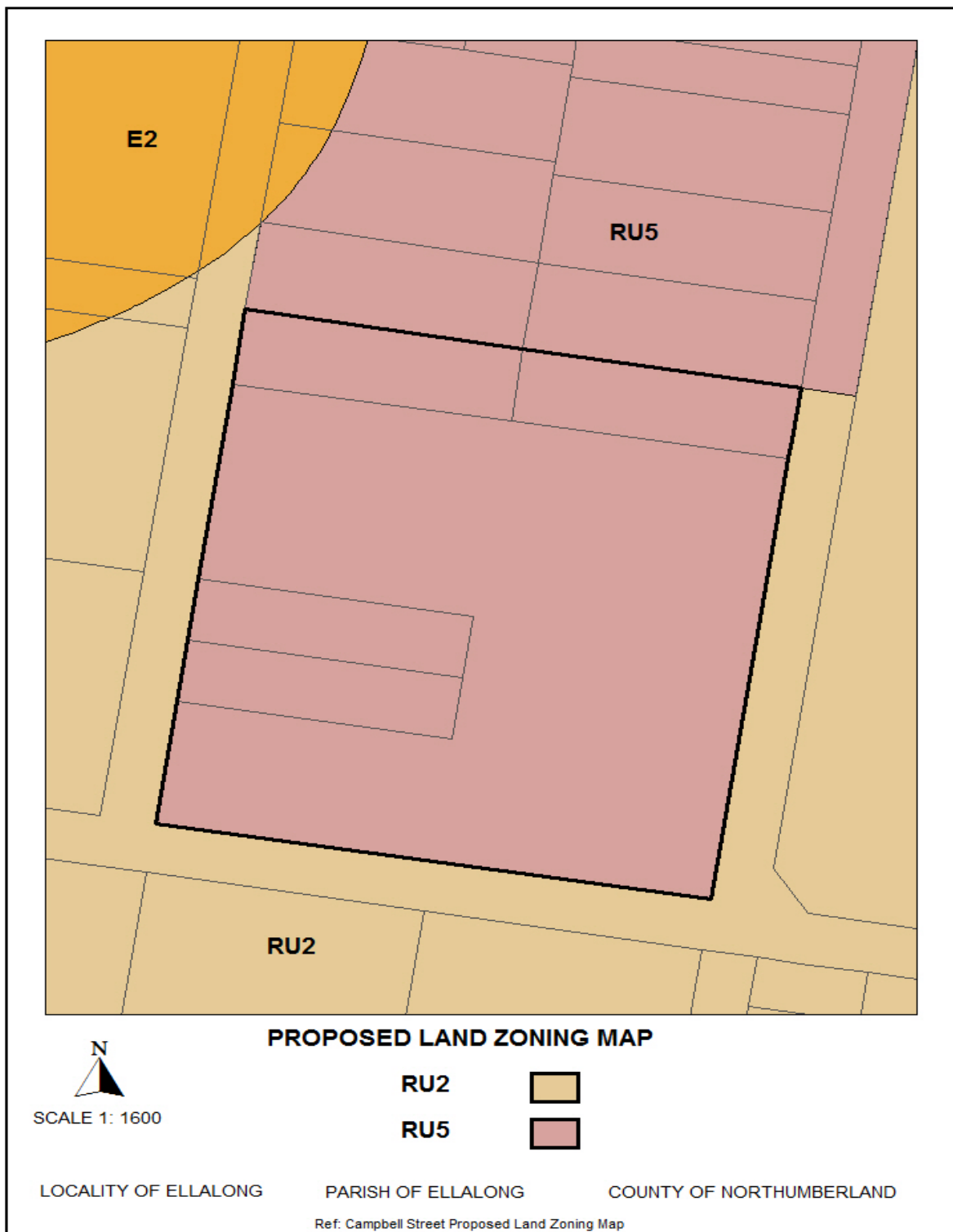
FOR	AGAINST
Councillor Wrightson	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Parsons	
Councillor Maybury	
Councillor Pynsent	
Total (9)	Total (0)

CARRIED UNANIMOUSLY

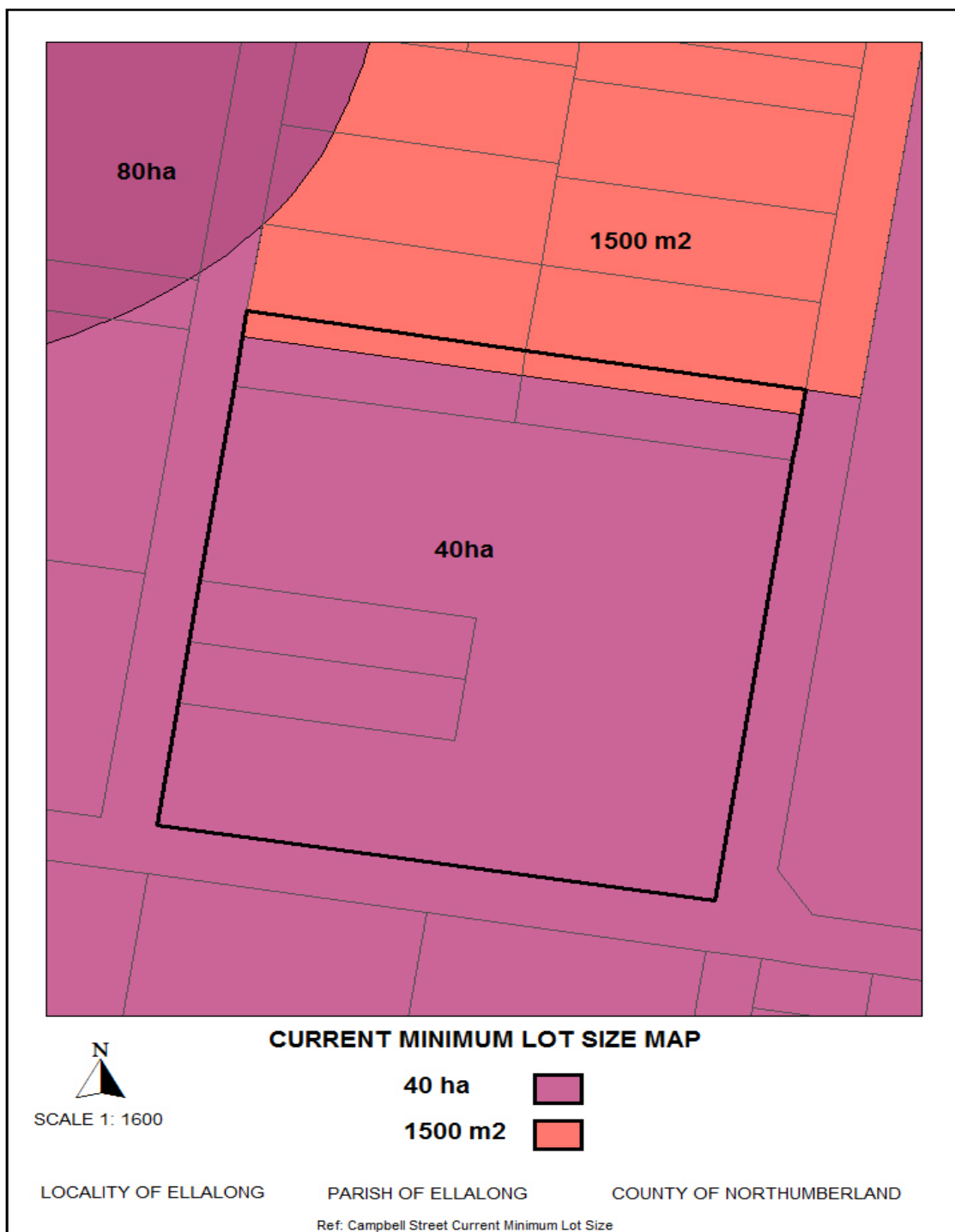
Appendix 3: Existing Land Use Zone Map



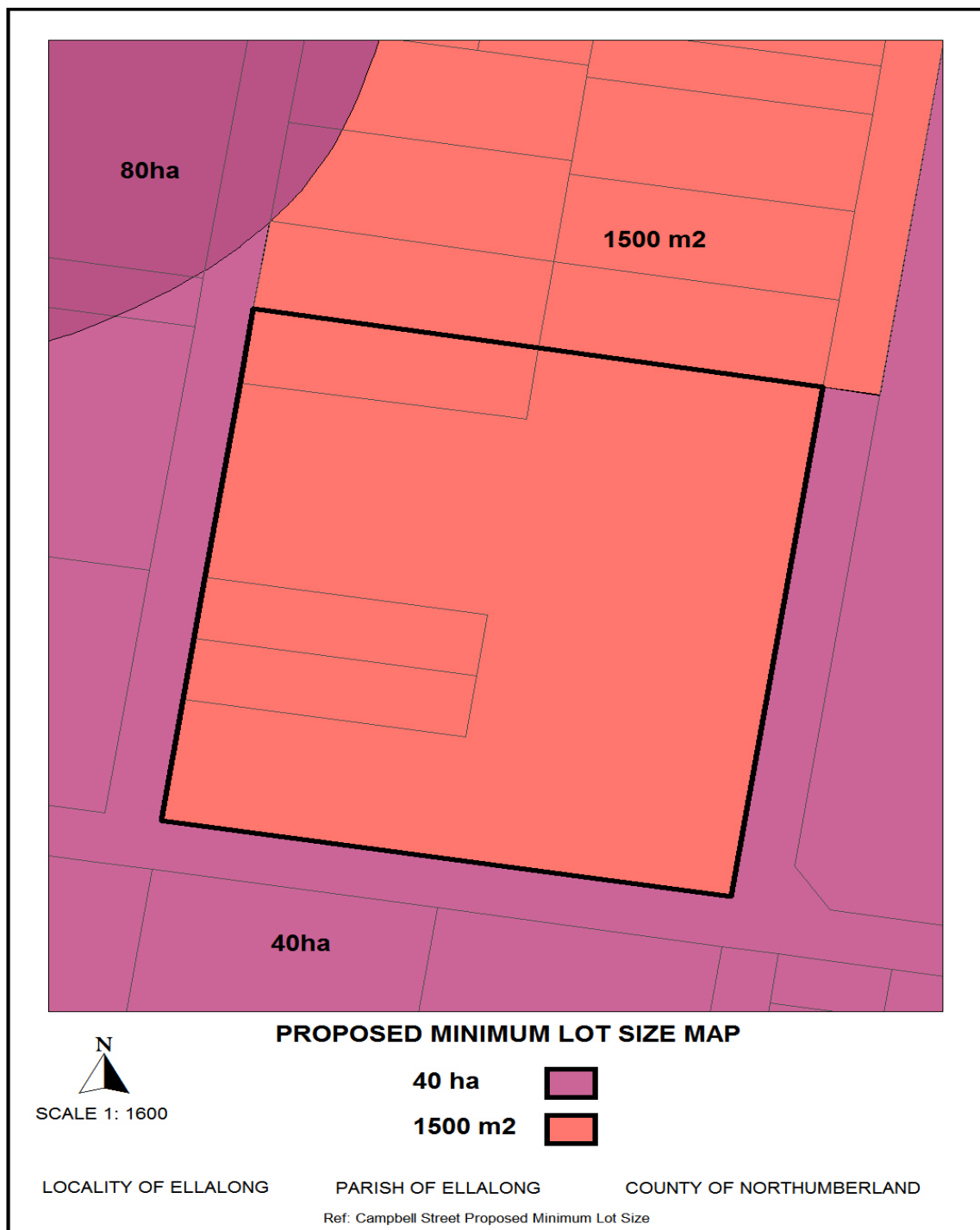
Appendix 4: Proposed Land Use Zone Map



Appendix 5: Existing Minimum Lot Size Map



Appendix 6: Proposed Minimum Lot Size Map



Appendix 7: Letter from Hunter Water Corporation



Hunter Water Corporation
ABN 46 228 513 446

PO Box 5171
HRMC NSW 2310
36 Honeysuckle Drive
NEWCASTLE NSW 2300
1300 657 657
(02) 4979 9625 (F)
enquiries@hunterwater.com.au

13 June 2013

Our Ref: 2013-550

Axfilm Pty Ltd
C/- Marshall Scott Pty Ltd
PO Box 165
Cessnock NSW 2235

Attention: Mark Scott

Dear Mark

**PRELIMINARY SERVICING ADVICE FOR PROPOSED SUBDIVISION OF LOT 12 DP1184254
CHURCH STREET, ELLALONG**

Thank you for your request for Hunter Water's preliminary servicing advice for the provision of water and sewer services for the proposed subdivision of 1 lot into 18 residential lots at Lot 12 DP 1184254, Church Street, Ellalong.

The preliminary servicing advice offered in this correspondence is based on an estimated development loading of approximately 18 Equivalent Tenements (ET) on the water and sewerage systems.

General information relevant to the proposal is included in this correspondence that is based on Hunter Water's knowledge of its system performance and other potential development in the area at the present time. Please note that system performance and capacity availability change over time as development proceeds and circumstances change. Accordingly the preliminary servicing advice offered is not a commitment by Hunter Water and may be subject to significant change prior to your development proposal proceeding.

If you proceed with a development application you will need to lodge a further application with Hunter Water to then determine the formal requirements that shall apply. Hunter Water will then issue a **Notice of Formal Requirements**. You will need to comply with each of the requirements in this Notice for the issue of a Section 50 Compliance Certificate for the specific development.

In this instance, Hunter Water's preliminary servicing advice is as follows:

Financial Contribution

Dependent on the connection points and utilisation of infrastructure, it may be necessary to pay a reimbursement towards capacity uptake in infrastructure constructed by other developers. Hunter Water administers reimbursements for a maximum period of 15 years following hand over of assets to Hunter Water.

It is not possible to calculate reimbursement values at this time due to the tentative nature of information, connection points etc, and accordingly such calculations are usually deferred until definitive information is available.

Water Supply

The property has frontage to a DN100 C1CL watermain along Church Street and a DN80 C1CL watermain on Campbell Street. Depending on the lot layout connection to both mains may be required to avoid dead-ends in the local water network and ensure sufficient capacity for fire fighting is available to the subdivision.

There is currently sufficient capacity available to serve the proposed subdivision, however, as noted elsewhere in this correspondence, capacity availability and system performance varies overtime. A detailed analysis will be undertaken upon lodgement of a Notice of Formal Requirements.

The location of possible connection points is shown in Figure 1.

Wastewater Transportation

The nearest sewer connection point to service this development is access chamber J9501 located in the north-west corner of the site which was designed and constructed by another developer. The location of the proposed sewer connection point is shown in Figure 2.

A brief analysis of the site contours indicates that most of development site may drain by gravity to this access chamber. Lots having a lower elevation may not be able to drain to this point. You should confirm the necessary infrastructure to serve the subdivision via completion of detailed site survey and delivery of a developer-funded servicing strategy which addresses, but not be limited to the following matters:

- Lot layout;
- Accurate load information;
- Other potential and proposed development sites within the vicinity and associated loadings;
- Identify and assess the optimal method of serving all lots; and
- Estimate the capital and operational costs of the proposed wastewater transport infrastructure.

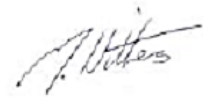
Wastewater Treatment

There is currently sufficient capacity in Paxton WWTW to cater for this development.

Please note that a Review of Environmental Factors will be required for any works external to the development site, or where the service design includes infrastructure or activities that may have environmental impacts that would not have been specifically addressed in council's or the Department of Planning & Infrastructure's assessment and determination of the proposed development. Examples may be the construction of water and sewer pump stations, sewer vents, trunk mains, reservoirs, development in a Wastewater Treatment Plant buffer zone, or development in a water reserve. Furthermore, a Controlled Activity Approval will be required from the NSW Office of Water for any excavation within 40m of a water body or should groundwater be present.

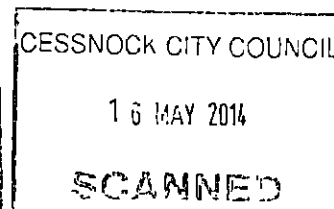
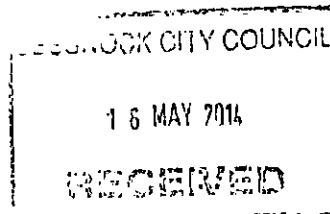
Should you require further clarification or assistance please do not hesitate to contact me on (02) 4979 9495.

Yours Sincerely



MALCOLM WITHERS
Senior Developer Services Engineer

Attachment No 2:
Gateway Determination - PP_2014_CESSN_002_00



Mr Stephen Glen
General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Our ref: PP_2014_CESSN_002_00 (14/07240)
Your ref: DOC 2014/015747

Attention: Robert O'Brien

Dear Mr Glen,

Planning Proposal to amend Cessnock Local Environmental Plan 2011 – Campbell Street, ELLALONG

I refer to Council's letter dated 24 April 2014 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land at Ellalong to RU5 Village to permit a minor expansion of the existing village.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones and 1.5 Rural Lands are of minor significance and justified by the endorsed City Wide Settlement Strategy 2003. No further approval is required in relation to these Directions.

Council may still need to obtain the Department's approval to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The Minister delegated his plan making powers to Councils in October 2012 and it is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Attached for your assistance is a simplified guide to the plan making process and reporting requirements to ensure that the LEP Tracking System is kept updated.

Should you have any questions regarding this matter, I have arranged for Trent Wink from the Department's Newcastle office to assist you. Mr Wink can be contacted on (02) 49042716.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D. Rowland', with a stylized flourish at the end.

14 May 2014

David Rowland
General Manager
Hunter and Central Coast Region
Growth Planning and Delivery

Gateway Determination

Planning Proposal (Department Ref: PP_2014_CESSN_002_00): to rezoned land at Campbell Street, Ellalong.

I, the General Manager, Hunter and Central Coast Region at Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Cessnock Local Environmental Plan (LEP) 2011 to rezone land from RU2 Rural Landscape to RU5 Village should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - NSW Department of Primary Industries - Minerals and Petroleum (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries)
 - Office of Environment and Heritage
 - Mine Subsidence Board (S117 Direction 4.2 Mine Subsidence and Unstable Land)
 - NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of S117 Directions.

3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The timeframe for completing the LEP is to be **9 months**.

Dated 14th of May 2014.



David Rowland
General Manager
Hunter & Central Coast Region
Planning Operations and Regional Delivery
Department of Planning and Environment

Delegate of the Minister for Planning



Planning & Environment

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Cessnock City Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2014_CESSN_002_00	Planning proposal to rezone land at Campbell Street, Ellalong from RU2 Rural Landscape to RU5 Village under the Cessnock Local Environmental Plan (LEP) 2011.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guideline for the preparation of local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 14th of May 2014

David Rowland
General Manager
Hunter and Central Coast Region
Growth Planning and Delivery
Department of Planning and Environment

Delegated plan making reporting requirements (attachment 5 from “A Guide to preparing local environmental plans)”

Notes:

- The Department will fill in the details of Table 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the Department’s publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department with the RPA’s request to have the LEP notified

Table 1 – To be completed by the Department

Stage	Date/Details
Planning Proposal Number	PP_2014_CESSN_002_00
Date Sent to Department under s56	29 April 2014
Date considered at LEP Review Panel	
Gateway determination date	

Table 2 – To be completed by the RPA

Stage	Date/Details
Dates draft LEP exhibited	
Date of public hearing (if held)	
Date sent to PCO seeking Opinion	
Date Opinion received	
Date Council Resolved to Adopt LEP	
Date LEP made by GM (or other) under delegation	
Date sent to P&I requesting notification	
Brief Description of Purpose of planning proposal	

Table 3 – To be completed by the Department

Stage	Date/Details
Notification Date and details	

Additional relevant information:

PLAN MAKING PROCESS POST GATEWAY – FOR DELEGATED MATTERS

1. Post Exhibition Review

- If planning proposal is revised, council is to email a copy of the revised proposal to the regional planning team - hunter@planning.nsw.gov.au under Section 58(2) of the Act prior to requesting LEP to be made.
- If changes to planning proposal are substantial then may no longer be authorised by the Gateway determination and a new Gateway may be required before LEP is made. Councils are encouraged to contact regional planning team to seek advice before finalising the LEP under delegation.
- Any unresolved s117 directions must be finalised before progressing with LEP

2. Legal Drafting of the LEP

- Council's request to draft and finalise the plans should be made directly to Parliamentary Counsel's Office (PCO) - parliamentary.counsel@pco.nsw.gov.au as soon as possible to ensure timeframes are met.
- The request to parliamentary.counsel@pco.nsw.gov.au is to include the planning proposal, a copy of the gateway determination and details of any change to the proposal arising from the gateway determination. The name and contact details of the Council contact officer should also be supplied.
- A copy of the request should also be forwarded to the department for administrative purposes only - planmaking.monitoring@planning.nsw.gov.au.

3. Maps

- Council should upload the maps and GIS data directly to the department's FTP site (ftp://lepup:lep_upload@203.3.194.247/).
- Once uploaded Council should email POCGIS@planning.nsw.gov.au and advise that maps are available for checking. Any questions can be directed to Brent Condcliffe or Noo Porima ph 89228 6542.
- Unless otherwise negotiated the department will only undertake a technical review of any maps, to ensure they comply with LEP mapping technical guidelines.
- No maps or mapping/GIS data is to be sent directly to PCO.

4. Making of the draft LEP s59

- Council's delegate resolves to finalise the LEP by signing the instrument (see example below).
- If council's delegate decides not to make plan or defer a matter, council should liaise with regional team for assistance.
- Council must also notify PCO if plan not proceeding

5. Notification of LEP

- Council advises and requests the department plan is made - planmaking.monitoring@planning.nsw.gov.au and the following documents to be provided for notification
 - 1. Signed LEP - which includes full name of LEP and PCO file reference
 - 2. Signed map cover sheet and associated maps,
 - 3. Name and position of the delegation who signed the LEP and date,
 - 4. Completed Attachment 5 - delegated plan making reporting template,
 - 5. Copy of council's assessment (s 59 report) which is usually the council report/minutes
 - 6. PC opinion
- Request to planmaking.monitoring@planning.nsw.gov.au by Tuesday of the week will enable notification by Friday.

Example of signature front page

Fred. Smith

Fred Smith
General Manager

As delegate for the Minister for Planning
Infrastructure
12/12/13

Attachment No 3:
Report to Ordinary Meeting of Council 5 November 2014

SUBJECT: *PLANNING PROPOSAL - CAMPBELL STREET, ELLALONG*

RESPONSIBLE OFFICER: *Strategic Landuse Planning Manager - Martin Johnson*

APPLICATION NUMBER:	18/2013/4/1
PROPOSAL:	CAMPBELL STREET, ELLALONG
PROPERTY DESCRIPTION:	LOT 11, DP 1184254; LOT 12, DP 1184254; LOT 1, DP 727399; AND LOT 2, DP 727399
PROPERTY ADDRESS:	CAMPBELL STREET AND CHURCH STREET ELLALONG
ZONE (CURRENT):	RU2 RURAL LANDSCAPE
ZONE (PROPOSED):	RU5 VILLAGE
OWNERS:	AXFILM PTY LTD; BROOKE HARRISON; HIDIENA AAGJE RAAK AND EDWARD RONALD SPLIET.
APPLICANT:	THOMAS AND ASSOCIATES CONSULTING PTY LTD

SUMMARY

The purpose of this report is to provide feedback to Council on the public exhibition of Planning Proposal – Campbell Street, Ellalong and seek Council's endorsement to make the proposed amendment to the Cessnock Local Environmental Plan 2011.

The Campbell Street, Ellalong Planning Proposal proposes to rezone land from RU2 Rural Landscape to RU5 Village and to reduce the minimum lot size from 40ha to 1,500m² in accordance with the adjacent land in the village of Ellalong.

RECOMMENDATION

1. That Council endorse the Planning Proposal as provided as Enclosure 1 and agree to make the proposed amendment to Cessnock Local Environmental Plan 2011 pursuant to the *Environmental Planning & Assessment Act 1979*.
2. That Council notifies persons who made a submission during the exhibition of the Planning Proposal.

BACKGROUND

On 16 April 2014, Council resolved under Report EE 65/2014:-

1. That Council forward a Planning Proposal to the Department of Planning and Infrastructure under s56 (1) of the *Environmental Planning and Assessment Act 1979* seeking a Gateway determination to:

Planning and Environment

Report No. PE133/2014

Planning and Environment



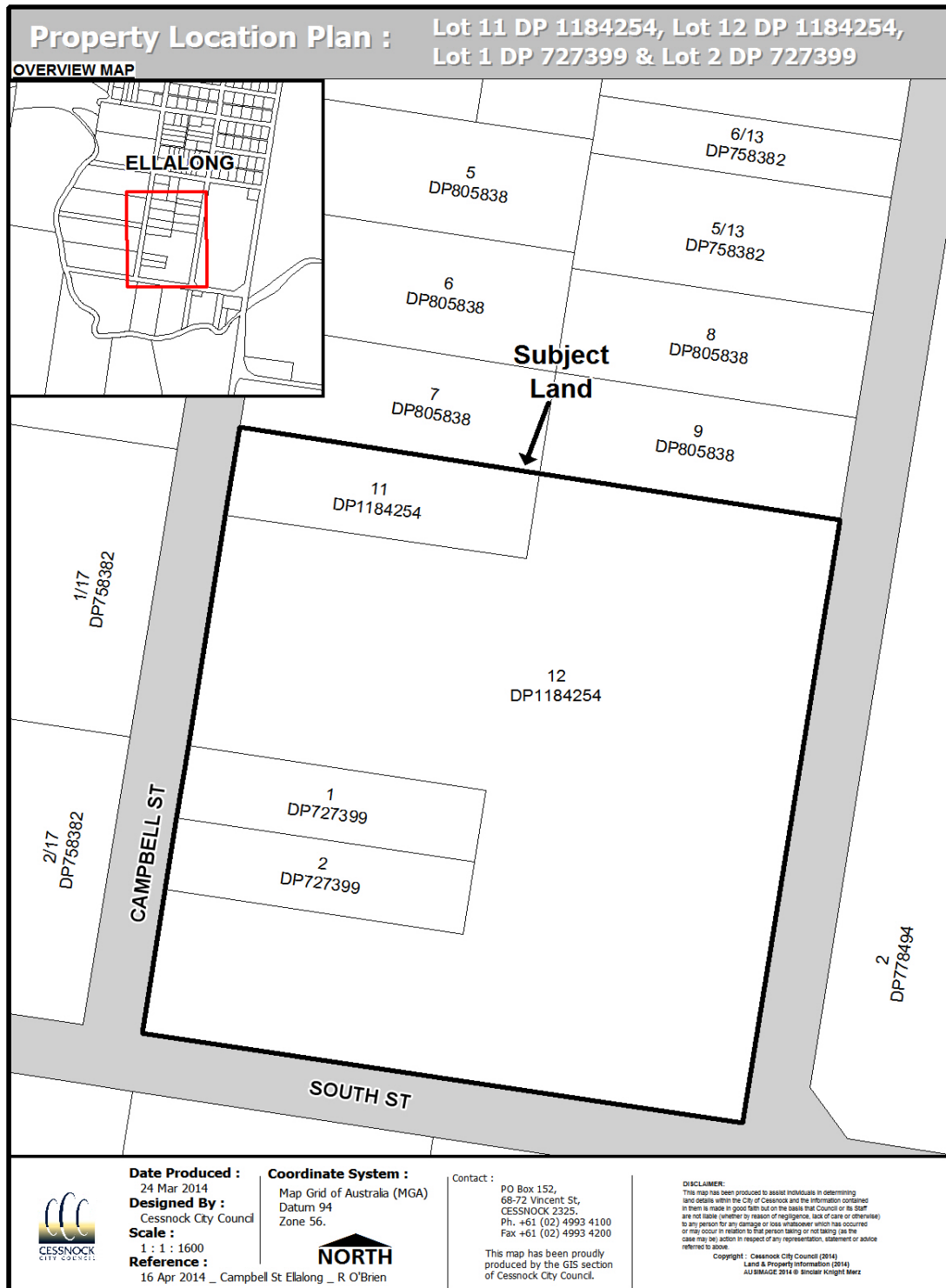
- (a) *Rezone the subject site from RU2 Rural Landscape to RU5 Village; and*
- (b) *Amend the Minimum Lot Size Map for the subject site from 40 hectares to 1,500sqm.*
- 2. *That Council exhibit the Planning Proposal in accordance with the Gateway determination and Council's statutory obligations, should the Gateway Determination be favourable.*

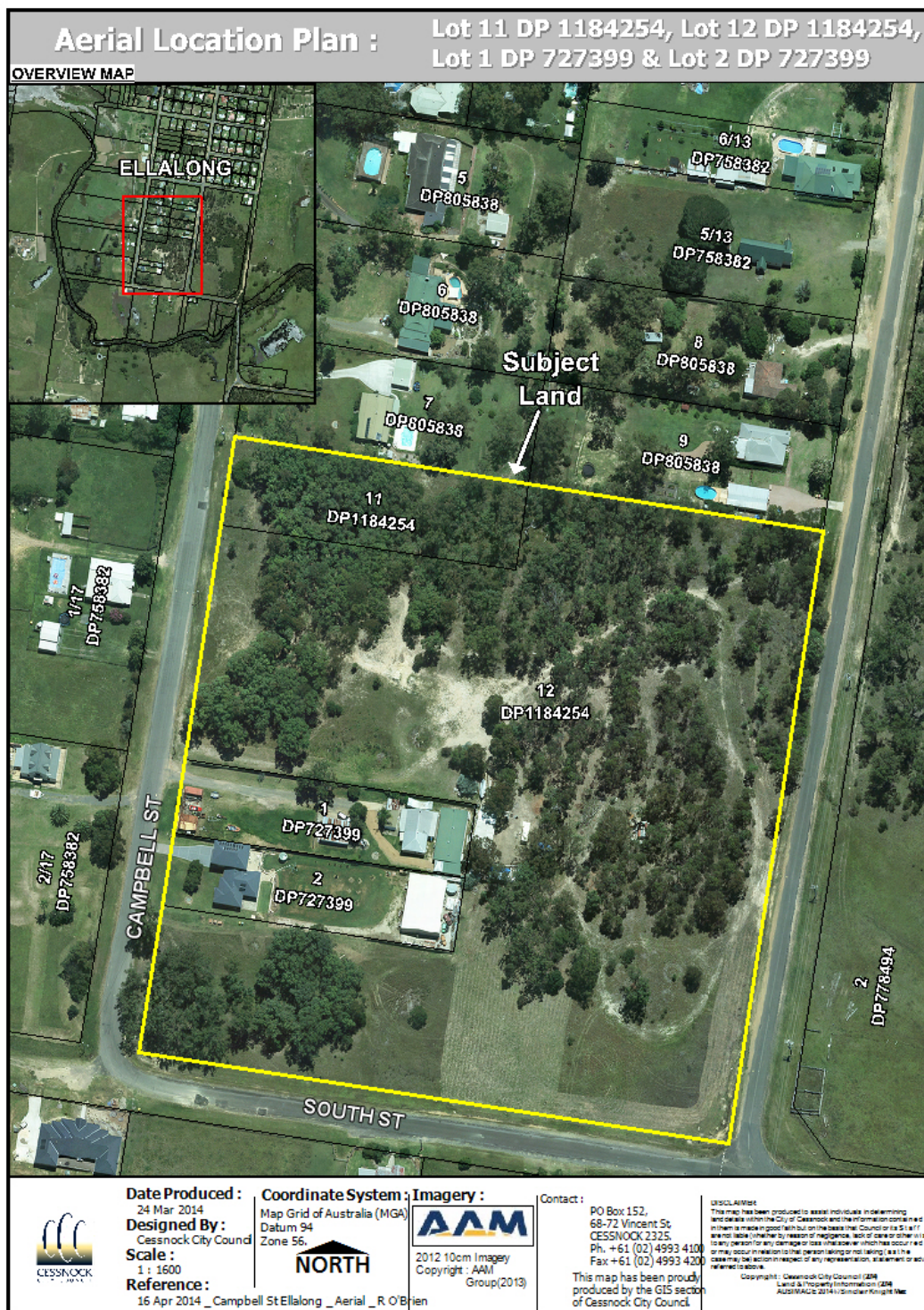
The Gateway Determination for the Planning Proposal was issued on 14 May 2014 by the then Department of Planning and Infrastructure. The determination required the public exhibition of the Planning Proposal for 14 days and consultation with NSW Office of Environment and Heritage, NSW Trade & Investment - Resources & Energy, Mine Subsidence Board and NSW Rural Fire Service.

Chronology

Date	Brief Description
13 September 2013	Planning Proposal lodged with Council.
19 September 2013	External consultant engaged to compile the planning proposal and Council report due to lack of internal resources.
21 October 2013	Council requested additional information to support the Planning Proposal and requested confirmation of reduced site area.
25 October 2013	Proponent formally withdrew two (2) parcels from the planning proposal. The withdrawn parcels included 8.5 hectares of land to the east of Church Street known as Lots 1 and 2, DP 778494. This left a residue of 4ha still under the rezoning including the following four (4) parcels: Lot 11, DP 1184254; Lot 12, DP 1184254; Lot 1, DP 727399; and Lot 2, DP 727399
28 January 2014	Council received from the proponent an updated Vegetation Report, Fauna Assessment and Preliminary Contamination Assessment of the subject site.
3 April 2014	Assessment completed.
16 April 2014	Council resolved to forward the Planning Proposal to the Department for a Gateway Determination under report EE65/2014 and publically exhibit the Proposal.
14 May 2014	Gateway Determination issued by the Department of Planning & Environment allowing Planning Proposal to proceed subject to conditions.
30 July – 13 August 2014	Planning Proposal publicly exhibited.

Property Location Plan





Planning and Environment

Report No. PE133/2014

Planning and Environment



The Planning Proposal was placed on exhibition from 30 July to 13 August 2014 and one community submission was received. In addition, advice was received from a number of government agencies. The submissions and advice are detailed in 'Consultation' below.

The Planning Proposal has been updated as a result of the information received from the government agencies, and is provided as **Enclosure 1** to this report.

OPTIONS

Council has the following options:

1. Submit the Campbell Street, Ellalong Planning Proposal to the Department of Planning and Environment as an amendment to Cessnock Local Environmental Plan 2011.
2. Not proceed with the Planning Proposal for the following reasons:

(To be provided by Council).

Recommended Option

Option 1 is recommended to Council.

CONSULTATION

Formal consultation was undertaken with the community and relevant government agencies, consistent with the Gateway Determination.

The Planning Proposal was placed on exhibition from 30 July to 13 August 2014. This was a total of fourteen (14) days in accordance with the Gateway Determination. The proposal was exhibited at the following locations:

- Council's Administrative Building (Customer Services Section);
- Cessnock Public Library;
- Kurri Kurri Public Library; and
- Council's website at www.cessnock.nsw.gov.au

Community submission

During the exhibition period, one public submission was received which opposed the proposal. A copy of this submission is provided as **Enclosure 2**. The concerns of the public submission, with planner's responses are summarised as follows:

1. The previous incremental subdivision and development of housing in the village was undertaken with no notification to adjoining residents and similarly, the change of zoning to the site was not notified to adjoining residents.

Planner's response: The submission is presumably referring to the notification requirements of previous Development Applications in the village, which are not relevant to this proposal, and may be referring to the consultation processes of the previous City Wide Settlement Strategies, particularly the recommendations of the 2010 CWSS, the processes of which are also not directly relevant to this proposal. However, this proposal has been publicly exhibited in accordance with the Gateway Determination.

2. A perception of the incremental loss of habitat on the site, particularly the loss of mature trees with inappropriate land management practices over the years.

Planner's response: A Vegetation Report (late 2013) and Fauna Assessment (early 2014) were prepared on behalf of the proponent for the site. The Vegetation Report and Fauna Assessment found that the site generally supports a heavily modified regrowth woodland consistent with 'Ellalong Grey Gum – Stringybark – Apple Forest' and cleared grass which has been subject to past disturbance from such factors as clearing, canopy thinning and weed incursion. The trees on site are generally all young and regenerating, with very few mature trees on site. The vegetation does not constitute an Endangered Ecological Community under the *Threatened Species Conservation Act 1995*.

The Fauna Assessment concluded that "given the proximity of the site to existing *residential* habitation, the modification evident on site and provided the recommendations in the Fauna Assessment are implemented it is considered that no significant areas of habitat for the species or communities considered in this report will be isolated, fragmented or removed as a result of rezoning and future development on site" and that "consideration should therefore be given to the retention of suitable Eucalypt feed tree species where possible in the scope of future development design. Where retention is not possible amelioration measures such as replacement plantings of koala feed trees within the landscaping on site could be implemented to limit the degree of habitat removal for this species".

In regard to koala habitat, the Fauna Assessment stated that "two species of koala feed tree were recorded within the site...but were in insufficient numbers to constitute 15% of the trees on site." It concluded that "the study area does not constitute 'Potential Koala Habitat [under the provisions of State Environmental Planning Policy 44 – Koala Habitat Protection] and no further provision of this Policy applies to the subject site."

3. A comparison to recent growth in Aberdare that has seen pressure on public transport, schools, electricity and water supply.

Planner's response: Incremental increases in the size of smaller villages require consideration of the infrastructure required to service the growing community. The local school has been experiencing reduced enrolments in recent years, and the small *increase* in population as a result of this proposal may assist in the school's vitality. Similarly, a small increase in population may also assist the local bus network. In regard to electricity provision, Ausgrid has advised Council that although its existing network currently has limited capacity, it is not anticipated that there will be significant upgrade or feeder augmentation works required for the development to progress. Water supply issues are considered in the next point.

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Report No. PE133/2014

Planning and Environment



4. Concern regarding impacts on water pressure, especially with the current difficulties of water pressure in peak times in Ellalong, and the concern that water pressure may not be sufficient for firefighting purposes in this bushfire prone area.

Planner's response: Hunter Water advised the applicant in mid-2013 that "there is sufficient capacity in the Paxton Waste Water Treatment Works to cater for the development" and that "there is currently sufficient water supply capacity available to serve the development, although capacity availability and system performance varies over time." Hunter Water further advised Council in October 2014 that their position on the adequacy of future water supply provision as given in 2013 still stands.

5. The cumulative effect of the proposal with the recently approved 38 blocks in Alexandra Street leading to a change in vibe in the village.

Planner's response: It is acknowledged that incremental increases in the size of Ellalong may contribute to a gradual change in atmosphere of the area, just as an increase in size of any village or urban area would.

The applicant (who is acting on behalf of the major landholder of the subject site) has also provided evidence to Council of its consultation with the other land owners within the site and advises that the other land owners did not raise any objections.

Government agency consultation

The Gateway Determination required consultation with the following agencies:

- NSW Trade & Investment - Resources & Energy
- Office of Environment & Heritage
- Mine Subsidence Board
- NSW Rural Fire Service

Further consultation with the following agencies was also undertaken:

- NSW Transport - Roads & Maritime Services
- Ausgrid
- Telstra (no reply was received)

Their responses are summarised below and are included as **Enclosures 3 to 8**.

It is noted that the Gateway Determination required Council to update its consideration of s117 directions following agency consultation. There were no updates required as a result of the responses; however the relevant part of the Planning Proposal has been updated to include some background information received from the agencies.

Office of Environment & Heritage

The Office of Environment & Heritage (OEH) was forwarded the proponent's Vegetation Report and Fauna Assessment, submitted to Council in early 2014.

OEH recognises that "the areas proposed for rezoning are predominantly regrowth vegetation and pasture and therefore presents minimal ecological constraints to large lot residential development. OEH has no objections to the rezoning, but "encourages Council

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where possible to increase biodiversity values across the landscape through enhancing landscape connectivity, revegetating and rehabilitating riparian areas and protecting important habitat for threatened species such as hollow –bearing trees”.

It is considered that these measures can be incorporated into the final design of the site at a future Development Application stage and that Chapter 7, Part C of Council's *Development Control Plan 2010* will be able to facilitate appropriate retention of trees on the site

NSW Transport - Roads & Maritime Services

NSW Transport Roads & Maritime Services advised that it has no objection to the proposed rezoning.

NSW Department Trade & Investment – Mineral Resources Branch

The Minerals Resources Branch (MRB) has no issues to raise with respect to the proposal, but advises that there are other stakeholders with interests in the region:

- The area is covered by Consolidated Coal Lease (CCL) 728 held by Austar Coal Mine Pty Ltd and that Austar are currently longwall mining to the east in the Kitchener-Quorrobolong area.
- Petroleum Exploration Licence (PEL) 267 held by AGL Upstream Investments Pty Ltd exists over a broad regional area that includes the subject site.

Mine Subsidence Board

The land is not located within a Mine Subsidence District. The Mine Subsidence Board (MSB) advised that the subject site is undermined by the Greta seam at a depth of 350m. The MSB advised that the following improvements (provided they are erected on reinforced concrete footings and/or slabs) are limited to a maximum length of 30 metres and maximum width of 18 metres:

- Single or two storey timber or steel framed improvements clad with weatherboards or other similar materials
- Single or two storey brick veneer improvements
- Full masonry and other types of improvements will be considered for this property under the Board's "Graduated Guidelines for Residential Construction".

It is considered that these issues are able to be dealt with at a future Development Application stage, and that the proponent, through this report, should be made aware of these requirements.

NSW Rural Fire Service

The land is identified as Bushfire Prone Land. Future development will need to comply with *Planning for Bushfire Protection 2006*. The Rural Fire Service (RFS) has no objection to the proposed rezoning but provides the following advice:

- The proposed zoning of RU5 permits a number of development types which are classified as special fire protection purposes (SFPP) developments. These

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developments require the issue of a Bush Fire Safety Authority under section 100B of the *Rural Fires Act 1997*.

- Consideration is to be given to the provision of asset protection zones within property boundaries.

It is considered that these issues are able to be addressed at the Development Application stage, and that the proponent, through this report, should be made aware of the possible limitations of some types of development as they relate to SFPP requirements.

Ausgrid

Ausgrid advised that its existing network currently has limited capacity, but that it is not anticipated that there will be significant upgrade or feeder augmentation works required for the development to progress. These issues are able to be addressed at the Development Application stage.

STRATEGIC LINKS

a. Delivery Program

A Sustainable and Healthy Environment:

- Objective 3.1 - Protecting and Enhancing the Natural Environment and the Rural Character of the Area.

b. Other Plans

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy (LHRS) does not specifically identify the land as a potential urban area, however states: "*Sites less than 50 hectares (that are not identified as a potential urban area) may be developed if consistent with the principles of the Strategy and if they are identified within an endorsed local Strategy.*"

The proposal adequately addresses the "Sustainability Criteria" specified in the LHRS, and is identified by the 'endorsed local Strategy' being the City Wide Settlement Strategy (see discussion following).

Cessnock City Wide Settlement Strategy

The subject site is part of a larger area which was identified as "CC2" in the City Wide Settlement Strategy (2003) as a suitable site to expand the village of Ellalong.

The Cessnock City Wide Settlement Strategy 2010 (CWSS) identified land across the Cessnock Local Government Area to be investigated for future urban development, including the identification of a village zoning as appropriate for the land, subject to the provision of reticulated sewer and subject to studies justifying the rezoning. Reticulated sewer is now available.

The balance of the area within "CC2" is located to the east of Church Street and could be subject to a rezoning process at a later time.

IMPLICATIONS

a. Policy and Procedural Implications

This report has regard to the provisions of the Environmental Planning & Assessment Act and its Regulations.

The status of the Planning Proposal in the plan making process is illustrated in the process map below.

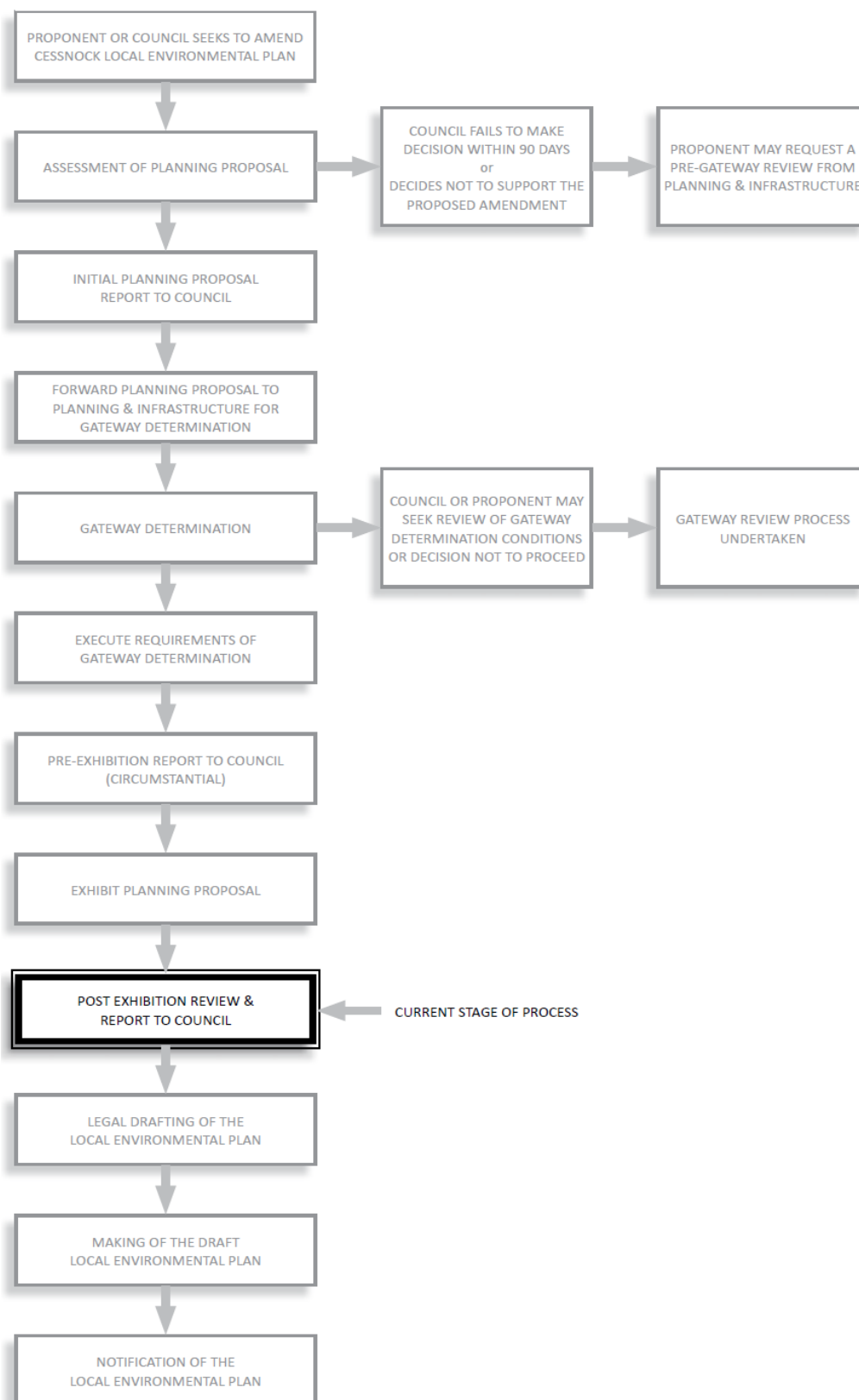
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Planning and Environment



PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



b. Financial Implications

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

c. Legislative Implications

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

d. Risk Implications

Nil.

e. Other Implications

Nil.

CONCLUSION

The community consultation for the Campbell Street, Ellalong Planning Proposal has been completed. The Planning Proposal aims to facilitate development of a type similar to the existing village of Ellalong. A review of planning considerations indicates that the land is suitable to provide an extension of the village zoning of Ellalong. It is therefore recommended that the Planning Proposal be referred to the Department of Planning and Environment for Making.

ENCLOSURES

- 1** Planning Proposal
- 2** Community submission - *This matter is considered to be confidential under Section 10A(2) (a) of the Local Government Act, as it deals with personnel matters concerning particular individuals. (Submission.)*
- 3** Government Agency Response - Office of Environment & Heritage
- 4** Government Agency Response - Roads & Maritime Services
- 5** Government Agency Response -Resources & Energy
- 6** Government Agency Response - Resources & Energy additional info
- 7** Government Agency Response - Mines Subsidence Board
- 8** Government Agency Response - Rural Fire Service
- 9** Government Agency Response Ausgrid

Attachment No 4:
Minutes of Ordinary Meeting of Council 5 November 2014

PLANNING AND ENVIRONMENT NO. PE133/2014

SUBJECT: PLANNING PROPOSAL - CAMPBELL STREET, ELLALONG

MOTION **Moved:** Councillor Maybury **Seconded:** Councillor Stapleford
1125

RESOLVED

1. That Council endorse the Planning Proposal as provided as Enclosure 1 and agree to make the proposed amendment to Cessnock Local Environmental Plan 2011 pursuant to the *Environmental Planning & Assessment Act 1979*.
2. That Council notifies persons who made a submission during the exhibition of the Planning Proposal.

FOR

AGAINST

Councillor Wrightson
Councillor Ryan
Councillor Stapleford
Councillor Hawkins
Councillor Smith
Councillor Campbell
Councillor Parsons
Councillor Maybury
Councillor Pynsent
Total (9)

Total (0)

CARRIED UNANIMOUSLY

Attachment No 5:
Parliamentary Counsel Opinion –*Cessnock Local Environmental Plan*
2011 (Amendment No 15)



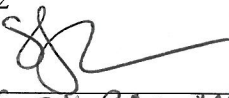
New South Wales

PARLIAMENTARY COUNSEL

Opinion

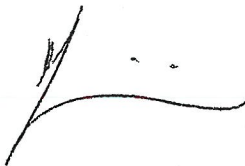
Environmental Planning and Assessment Act 1979
Proposed Cessnock Local Environmental Plan 2011 (Amendment No 15)

Your ref: Jan Fallding
Our ref: JF e2014-352-d02


20/1/2015
GENERAL MANAGER
CESSNOCK CITY COUNCIL

In my opinion the attached draft environmental planning instrument may legally be made.

When the environmental planning instrument is made, a map cover sheet that lists the final form of the maps adopted by the instrument should be signed by the person making the instrument.

A handwritten signature, likely of D Colagiuri, consisting of a stylized 'D' and 'C' followed by a horizontal line.

(D COLAGIURI)
Parliamentary Counsel
18 December 2014



New South Wales

Cessnock Local Environmental Plan 2011 (Amendment No 15)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979.

Minister for Planning

 20/1/2015
GENERAL MANAGER
CESSNOCK CITY COUNCIL

Cessnock Local Environmental Plan 2011 (Amendment No 15)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Cessnock Local Environmental Plan 2011 (Amendment No 15)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This Plan applies to the following land at Ellalong:

- (a) Lot 11, DP 1184254, 2–4 Campbell Street,
- (b) Lots 13 and 14, DP 1194493, 2–4 Campbell Street,
- (c) Lots 2 and 1, DP 727399, 6 and 8 Campbell Street, respectively.

4 Maps

The maps adopted by *Cessnock Local Environmental Plan 2011* are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Plan.

**Attachment No 6:
Maps associated with Cessnock Local Environmental Plan 2011
(Amendment No 15)**

Environmental Planning and Assessment Act 1979

Cessnock Local Environmental Plan 2011 (Amendment No 15)

Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Map Cover Sheet

The following map sheets are revoked:

Map Sheet	Map Identification Number
Minimum Lot Size Map LSZ_006D	1720_COM_LSZ_006D_040_20130423
Land Zoning Map LZN_006D	1720_COM_LZN_006D_040_2011214

The following map sheets are adopted:

Map Sheet	Map Identification Number
Lot Size Map LSZ_006D	1720_COM_LSZ_006D_040_20141127
Land Zoning Map LZN_006D	1720_COM_LZN_006D_040_20141127

Certified

 20/1/2015
General Manager [Date]
Cessnock City Council

Minister for Planning

[Date]

1720_COM_MCS_20141127

Page 1 of 1



Cessnock Local Environmental Plan 2011

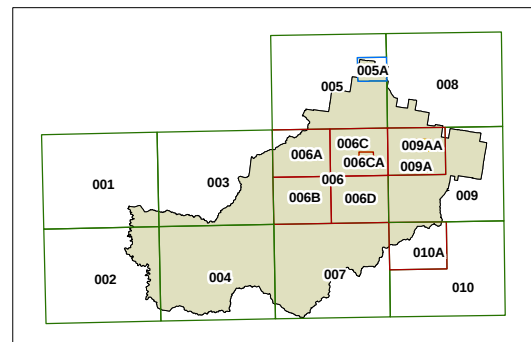
Lot Size Map - Sheet LSZ_006D

Minimum Lot Size (m2)

G	450
M	600
R	750
U1	1200
U2	1500
V	2000
W	4000
Z	4 ha
AB	40 ha
AC	80 ha
AE	200 ha
	Refer to Clause 4.1

Cadastre

Cadastre 27/11/2014 © Land and Property Information (LPI)

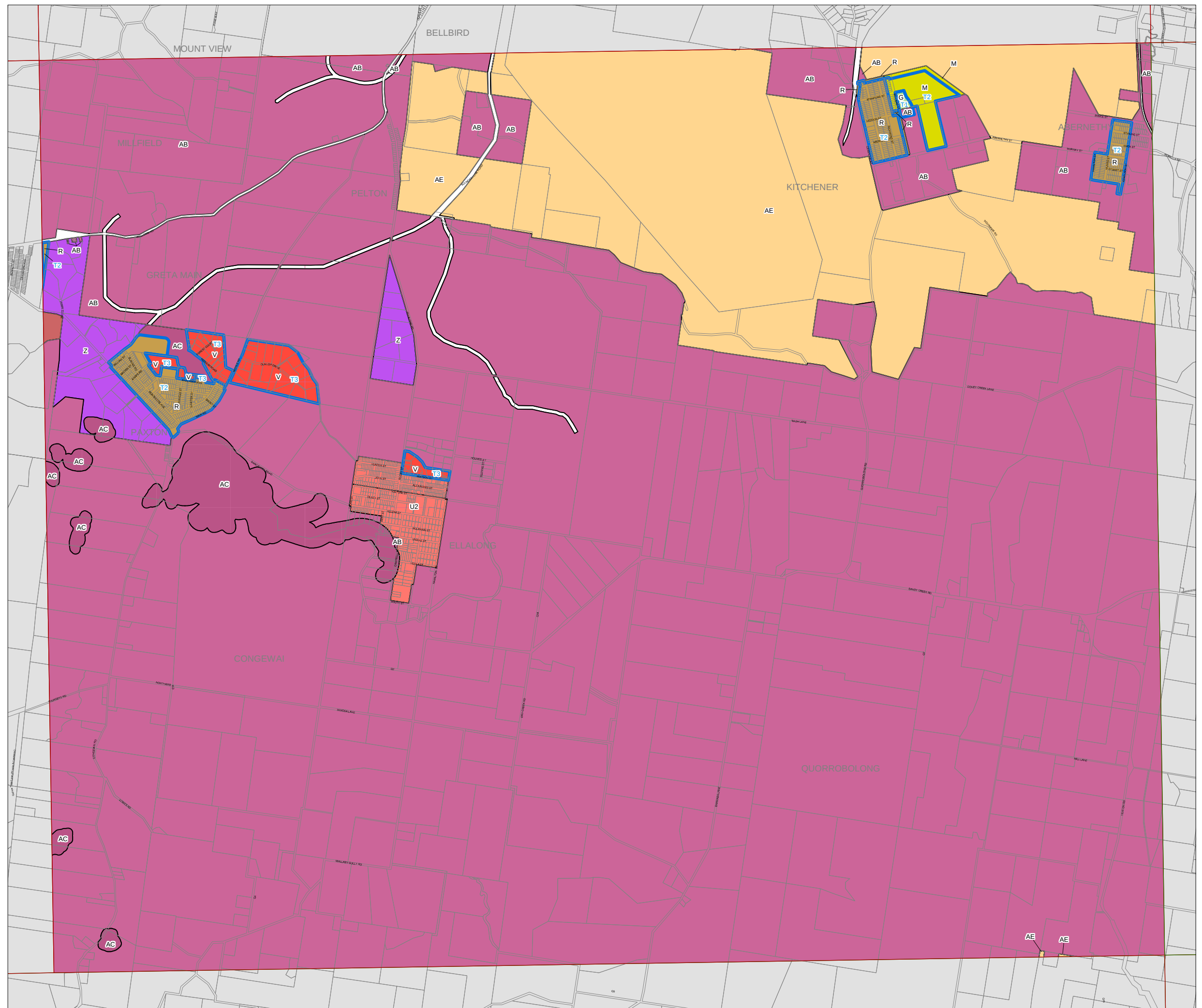


0 400 800 1,200 1,600
Metres

Scale 1:40,000 @ A3

Map identification number:

1720_COM_LSZ_006D_040_20141127





Cessnock Local Environmental Plan 2011

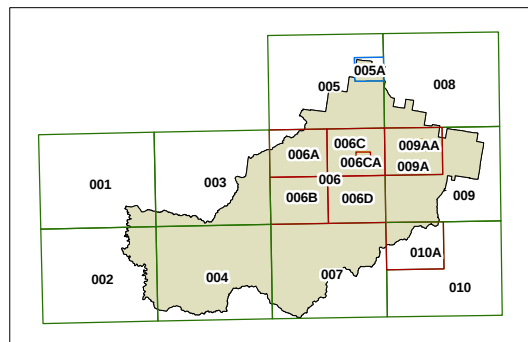
Land Zoning Map - Sheet LZN_006D

Zone

- B1** Neighbourhood Centre
- B2** Local Centre
- B3** Commercial Core
- B4** Mixed Use
- B7** Business Park
- E1** National Parks and Nature Reserves
- E2** Environmental Conservation
- IN1** General Industrial
- IN2** Light Industrial
- IN3** Heavy Industrial
- R2** Low Density Residential
- R3** Medium Density Residential
- R5** Large Lot Residential
- RE1** Public Recreation
- RE2** Private Recreation
- RU2** Rural Landscape
- RU3** Forestry
- RU4** Primary Production Small Lots
- RU5** Village
- SP2** Infrastructure
- DM** Deferred Matter
- MDP** SEPP (Major Development) 2005

Cadastr

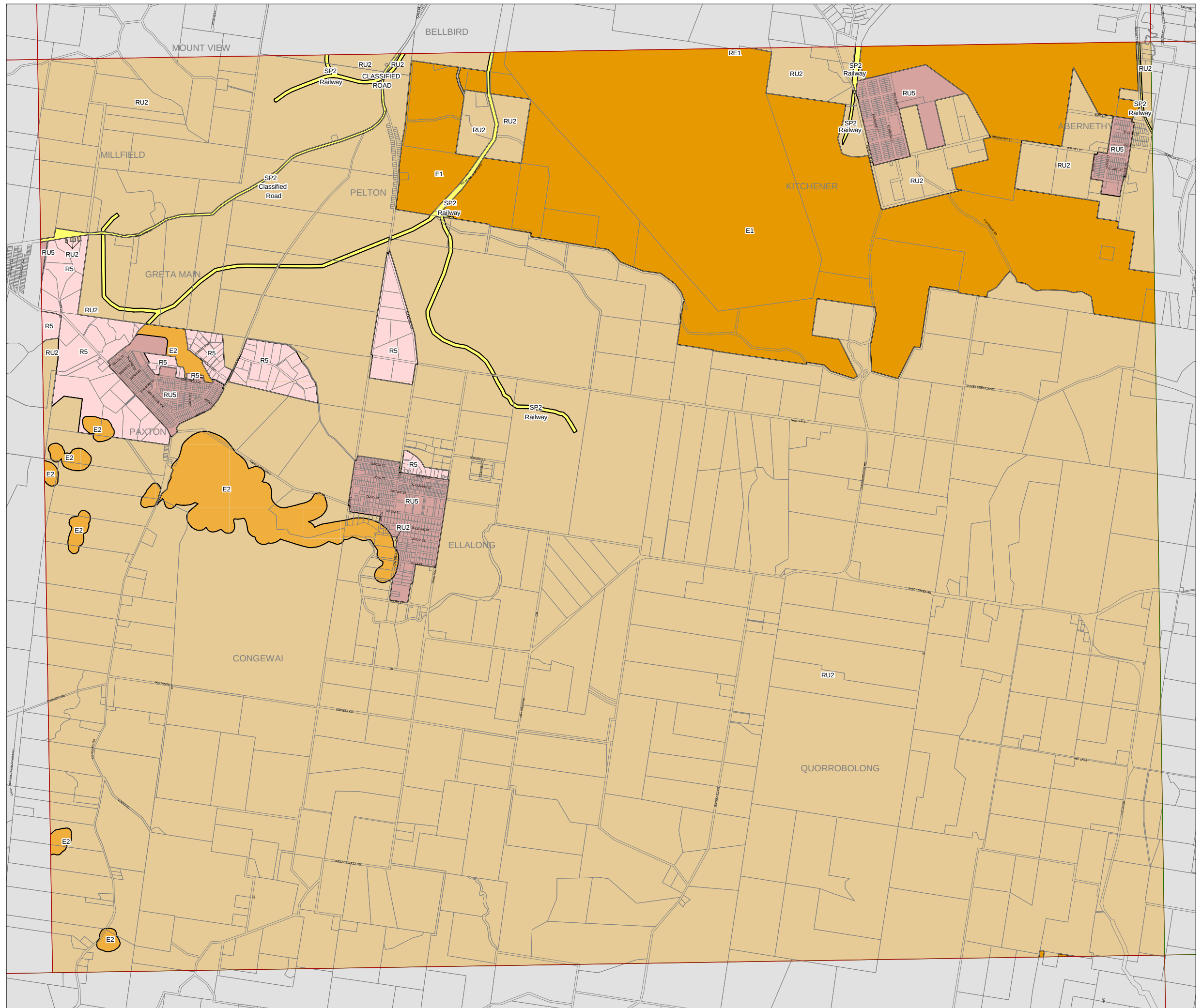
Cadastr 27/11/2014 © Land and Property Information (LPI)



0 400 800 1,200 1,600
Metres

Scale 1:40,000 @ A3

Map identification number:
1720_COM_LZN_006D_040_20141127



Attachment No 7:

**Letter of response dated 11 July 2014 from NSW Rural Fire Service to
Cessnock City Council**



NSW RURAL FIRE SERVICE



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

Your reference: DOC2014/022257
Our reference: LEP/0025

11/07/14

Attention: Robert O'Brien

Dear Sir/Madam,

Government Agency Consultation- Planning Proposal- Campbell Street, Ellalong

I refer to your letter dated 30 May 2014 seeking advice for the above Planning Instrument in accordance with section 56(2)d of the *Environmental Planning and Assessment Act 1979*.

As identified in 4.4 *Planning for Bushfire Protection (PBP) 2006* under Section 117 of the *Environmental Planning & Assessment Act 1979*, Council is required to give consideration to bush fire protection measures. The NSW Rural Fire Service (RFS) has no objection to the proposed rezoning, has reviewed the information provided and gives the following comments

Special Fire Protection Purpose developments

The proposed zoning of RU5 in the area permits a number of development types which are classified as special fire protection purpose (SFPP) developments. SFPP developments require the issue of a Bush Fire Safety Authority under section 100B of the *Rural Fires Act 1997*. Council should be advised that the assessment of SFPP developments differs to residential developments and greater separation distances are required between development and unmanaged vegetation in accordance with Table A2.6 of *PBP 2006*. As such, some of the residential lots may not be suitable for SFPP developments. It should be noted that the Rural Fire Service considers home-based child care as being a special fire protection purpose development and must comply with the separation distances identified in *PBP 2006*.

Postal address

NSW Rural Fire Service
Records Management
Locked Bag 17
GRANVILLE NSW 2141

Street address

NSW Rural Fire Service
Glendenning Customer Service Centre
42 Lamb Street
GLENDENNING NSW 2761

T 1300 NSW RFS
F (02) 8867 7983

www.rfs.nsw.gov.au

Email: csc@rfs.nsw.gov.au

Asset Protection Zones

When determining minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings in bush fire prone areas, consideration is to be given to the provision of asset protection zones within property boundaries in accordance with *PBP 2006* table A2.4 (Subdivision) to achieve a maximum 29kW/m² radiant heat flux and A2.6 (Special Fire Protection Purpose developments) to achieve a maximum 10kW/m² radiant heat flux.

Asset Protection Zones (APZs) for dwellings should be located within property boundaries. Strategic planning should include the provision of larger lots closer to the hazard to allow for greater space for the establishment of asset protection zones.

Access

Public road access will need to comply with the relevant Sections 4.1.3 of *PBP 2006*. Particular consideration should be given to the principles of emergency services accessing and whilst residents are leaving the area via the same public roads.

Water, Electricity and Gas

Water, gas and electricity connections are services should comply with Section 4.1.3 of *PBP 2006*.

Any future development applications will need to comply with *PBP 2006*. For any enquiries regarding this correspondence please contact Emma Jensen on 1300 679 737.

Yours sincerely



Catherine Ryland

Acting Team Leader Development Assessment and Planning

Customer Service Centre (East)

Attachment No 8:

**Letter of response dated 11 June 2014 from Mine Subsidence Board
to Cessnock City Council**



In reply please send to: Singleton

Our reference: FN14-41504S1 – TENQ14-11491S1

Your reference: DOC2014 022250

Contact: Troy Atkin (02) 6572 4344

Cessnock City Council
Mr Robert O'Brien
PO Box 152
CESSNOCK NSW 2325

11 June 2014

Dear Mr O'Brien

ENQUIRY NO: TENQ14-11491S1
Government Agency Consultation – Planning Proposal – Campbell Street, Ellalong

Thank you for your invitation to comment on the proposed rezoning of Lots 11, DP 1184254, Lot 13 DP 1194493, Lot 14 DP 1184854, Lot 1 and 2 DP 727399, Campbell Street, Ellalong.

This site is not within a Mine Subsidence District and as such Mine Subsidence Board approval is not required for surface development outside of a proclaimed Mine Subsidence District. The provisions of the Mine Subsidence Compensation Act cover any damage to improvements as a result of mining.

The subject site is undermined by the Greta seam at a depth of 350m.

As a guide to persons intending to erect improvements on this property, the Board has adopted the following surface development guidelines subject to these improvements being erected on reinforced concrete footings and/or slabs to comply with AS 2870. The following improvements are limited to a maximum length of 30 metres and maximum width of 18 metres.

1. Single or two storey timber or steel framed improvements clad with weatherboards or other similar materials.
2. Single or two storey brick veneer improvements.
3. Full masonry and other types of improvements will be considered for this property under the Board's 'Graduated Guidelines for Residential Construction'. The improvements will be subject to length restriction and may require engineering design. Details of the requirements may be obtained from the Board's technical staff.

Yours faithfully

Troy Atkin
Acting District Manager

ABN: 87 445 348 918

NEWCASTLE

Ground Floor
NSW Government Offices
117 Bull Street
Newcastle West 2302
PO Box 488G Newcastle 2300
Telephone: (02) 4908 4300
Facsimile: (02) 4929 1032
DX 4322 Newcastle West

PICTON

100 Argyle Street
Picton 2571
PO Box 40 Picton 2571
Telephone: (02) 4677 1967
Facsimile: (02) 4677 2040
DX 26053 Picton

SINGLETON

The Central Business Centre
Unit 6, 1 Pitt Street
Singleton 2330
PO Box 524 Singleton 2330
Telephone: (02) 6572 4344
Facsimile: (02) 6572 4504

WYONG

Suite 3 Feldwin Court
30 Hely Street
Wyong 2259
PO Box 157 Wyong 2259
Telephone: (02) 4352 1646
Facsimile: (02) 4352 1757
DX 7317 Wyong

HEAD OFFICE

PO Box 488G
Newcastle 2300
Telephone: (02) 4908 4395
Facsimile: (02) 4929 1032



Email

mail@minesub.nsw.gov.au

Web

www.minesub.nsw.gov.au

24 Hour

Emergency Service
Free Call 1800 248 083

G 8 (Auto) Aug 2007

Attachment No 9:

**Letter of response dated 25 June 2014 from NSW Trade & Investment
– Resources and Energy to Cessnock City Council**



25th June 2014

Robert O'Brien
Strategic Land Use Planner
Cessnock City Council
PO Box 152
Cessnock NSW 2325

Your Reference: DOC2014/022255
Our Reference (TRIM): OUT14/17908

EMAILED: robert.obrien@cessnock.nsw.gov.au

Dear Mr O'Brien

**Re: Planning Proposal - Amendment to the Cessnock Local Environment Plan 2011
Campbell Street, Ellalong. Rezoning of Lot 11 DP1184254, Lot 13 DP1194493, Lot 14
DP1194493, Lot 1 DP727399 & Lot 2 DP727399**

Thank you for the opportunity to provide advice on the above matter. This is a response from the NSW Department of Trade & Investment (DTIRIS) – Mineral Resources Branch (MRB). The Department of Primary Industries, incorporating advice from Agriculture, Fisheries and Forests NSW may respond separately.

The Mineral Resources Branch has no issues to raise with respect to the proposal, however all future development should be referred to the Mine Subsidence Board for advice regarding any existing mine workings in the area.

General Information

The subject area is covered by Consolidated Coal Lease 728 (CCL) held by Austar Coal Mine Pty Limited.

Petroleum Exploration License (PEL) 267 held by AGL Upstream Investments Pty Limited exists over a broad regional area that includes the subject site.

Identification of these titles is to make the consent authority aware that there are other stakeholders with interests in the region.

Geoscience Information Services

MRB has a range of online data available on line through the following website address:
<http://www.resources.nsw.gov.au/geological/online-services>

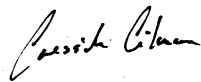
This site hosts a range of data to enable research into exploration, land use and general geoscience topics. Additionally, the location of exploration and mining titles in NSW may be accessed by the general public using the following online utilities:

NSW Department of Trade and Investment, Regional Infrastructure and Services
RESOURCES & ENERGY DIVISION
PO Box 344 Hunter Region Mail Centre NSW 2310
Tel: 02 4931 6666 Fax: 02 4931 6726
ABN 51 734 124 190
www.dtiris.nsw.gov.au

1. **MinView** allows on-line interactive display and query of exploration tenement information and geoscience data. It allows spatial selection, display and download of geological coverages, mineral deposits and mine locations, geophysical survey boundaries, drillhole locations, historical and current exploration title boundaries and other spatial datasets of New South Wales. This online service is available at:
<http://www.resources.nsw.gov.au/geological/online-services/minview>
2. **NSW Titles** enables the public to access and view frequently updated titles mapping information across NSW. This online service is available at:
<http://nswtitles.minerals.nsw.gov.au/nswtitles/>

Queries regarding the above information, and future requests for advice in relation to this matter, should be directed to the MRB Land Use team at landuse.minerals@trade.nsw.gov.au.

Yours sincerely



Cressida Gilmore
Team Leader Land Use