



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

CAMPBELL STREET, ELLALONG
Rezoning of Lot 11, DP 1184254; Lot 12, DP
1184854; Lot 1, DP727399; Lot 2 DP 727399

Version 1.1
April 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 DP1184254, Lot 12 DP1184854, Lot 1 DP727399 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 dwellings are anticipated as a result of the proposal.

The land is located to the southeast of the existing village of Ellalong and affects approximately. 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. Figure 1 and 2 shows 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 Lot 11 DP1184254, Lot 12 DP1184854, Lot 1 DP727399 and Lot 2 DP 727399, to RU5 Village; and
- Amending Lot Size Map Sheet LSZ 006D as it relates to Lot 11 DP1184254, Lot 12 DP1184854, Lot 1 DP727399 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**.

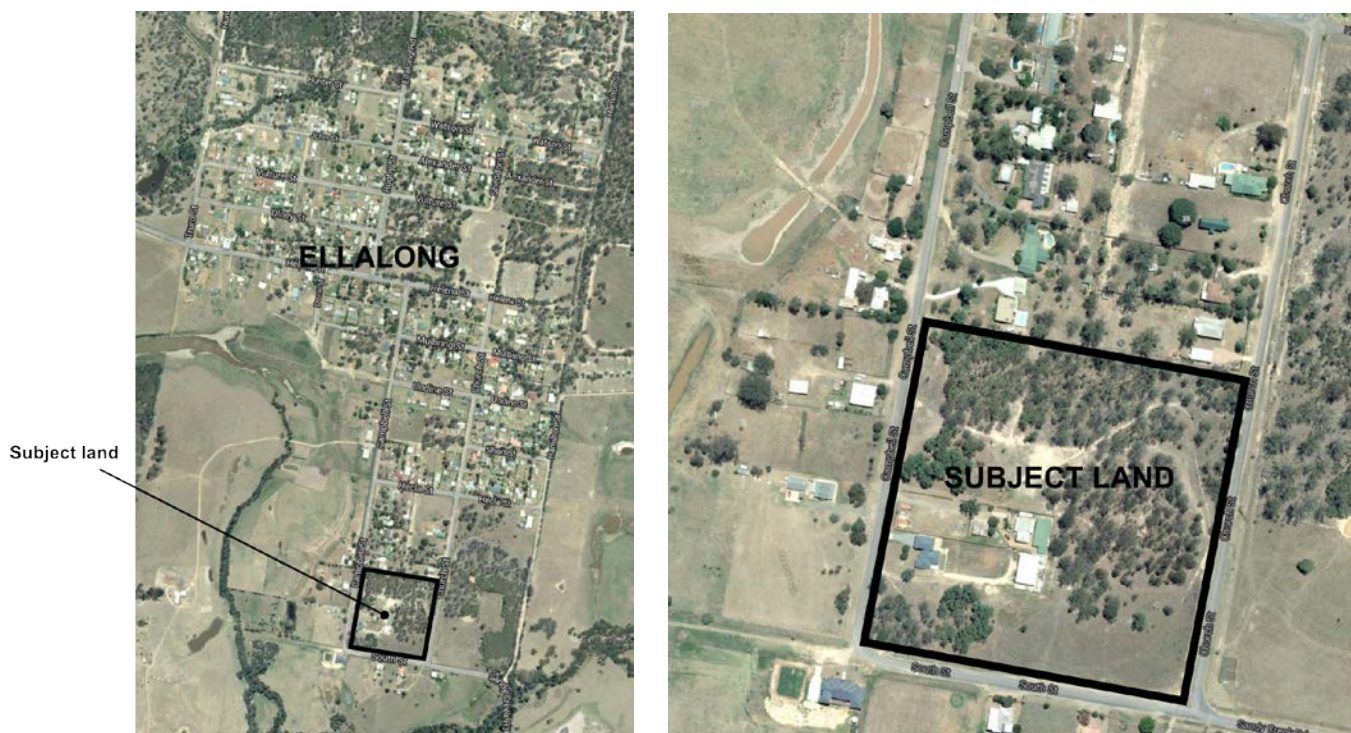


Figure 2: Aerial Photo of the Site

PART 3: JUSTIFICATION

In accordance with 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 the 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 surrounded by sealed roads. The proposal is justified as a minor scale "other release area" that is not identified in the 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 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 is identified in the CWSS as a potential residential expansion area of the village of Ellalong. It is part of the area identified in the CWSS as “CC2”. The CWSS 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 surrounded 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 were identified: • 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. Consultation will be conducted with the NSW Department of Primary Industry - Minerals and Petroleum following the Gateway Determination.
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 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 heritage items on site that are listed and managed in accordance with 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 s177 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.	Consultation will be conducted with the NSW Department of Primary Industry - Mineral and Petroleum following the Gateway Determination.
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 m2. 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 flora and fauna studies that have determined that no significant areas of habitat for the significant or threatened species or communities will be isolated, fragmented or removed as a result of rezoning and future development. 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 is available. Service authorities will be consulted following the Gateway Determination.
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.
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 and 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 land does not appear to be within a Mine Subsidence District. Consultation regarding subsidence hazard will be undertaken with the Mine Subsidence Board of NSW Trade and Investment following the Gateway determination.
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 Planning for Bushfire Protection. 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 Planning for Bushfire Protection should be considered at the DA stage. The Rural Fire Service will be consulted following the Gateway Determination.

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 Regional Strategy, 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 Rezoning

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) it maintains the character of an existing village. c) The proposal 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 strategy and is specifically identified 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.
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 either generally consistent with Section 117 Directions or has non inconsequential inconsistencies with the directions. The proposal.

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 local reticulated sewer and water systems to cater for the proposal. The local school has declining enrolments and surplus capacity as a result. Council has no reason to believe that telecommunication systems or the road system have insufficient capacity and this will be confirmed following the Gateway determination.
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 unlikely that there will be any need to enter into a developer agreement in relation to the proposal.
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.
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.
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 proposal will contribute to the viability of the local shop, school and hotel, which are the major employers in the village of Ellalong. The small scale of the proposal will have a positive, impact on economic activity in the region.
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 physical 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 set aside for village housing or agriculture 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 "Planning for Bushfire Protection". The land is not flood prone. Ellalong has three evacuation routes. This includes: a) Paxton/Millfield; b) Bellbird; and c) Cessnock & Mulbring via Sandy Creek Rd.
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 agriculture land. Council is not aware that the proposal will prevent the use of productive resource land and the NSW Department of Primary Industries - Mineral and Petroleum will be consulted following the Gateway Determination.
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 will be consulted following the Gateway Determination.
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 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. 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).	Consultation will be undertaken with affected landholders.
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.	Consultation is suggested with: • NSW Trade and Investment – Mineral Resources and Energy: Identification of any extractive resources impacts. • NSW Trade and Investment – Agriculture • NSW Department of Primary Industries – Minerals and Petroleum. • Hunter Water Corporation (HWC); • Road and Maritime Services: Identification of any impact on regional roads.\ • NSW Rural Fire Service: advice regarding bush fire hazard. • Mine Subsidence Board: identification of risks from underground mining. • Ausgrid: capacity of the electricity network. • Telstra: capacity of the telecommunications network. • Any others specified in the determination.

Section C: Environmental, Social and Economic Impact

10. Impact on Threatened Species

The land has been severely modified through past management practices and thus is not mapped as an Endangered Ecological Community. The vegetated part of the land is covered by a small area of vegetation known as “Ellalong Grey Gum - Stringybark–Apple Forest”. Studies have determined that no significant areas of habitat for significant or threatened species or communities will be isolated, fragmented or removed as a result of rezoning and future 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 have a positive environmental impact as it consolidates village land and makes use of the existing infrastructure in the Ellalong village.

- Additional residents will have some 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.
- Consultation will need to occur with electricity and telecommunication authorities following the Gateway determination.

14. Consultation with State and Commonwealth Authorities

Consultation is suggested with:

- NSW Trade and Investment – Mineral Resources and Energy
- NSW Trade and Investment – Agriculture
- NSW Department of Primary Industries – Minerals and Petroleum.
- Hunter Water Corporation (HWC);
- Road and Maritime Services;
- NSW Rural Fire Service (RFS);
- Mine Subsidence Board;
- Ausgrid;
- Telstra; and
- Any others specified in the determination.

These consultations will be undertaken following the Gateway determination, in addition to others specified in the determination.

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 1184854; 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 1184854; 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 will be undertaken as directed in the Gateway determination. Given the minor nature of this proposal, a 14 day exhibition period is suggested.

The proposal will be exhibited 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

PART 6: PROJECT TIMELINE

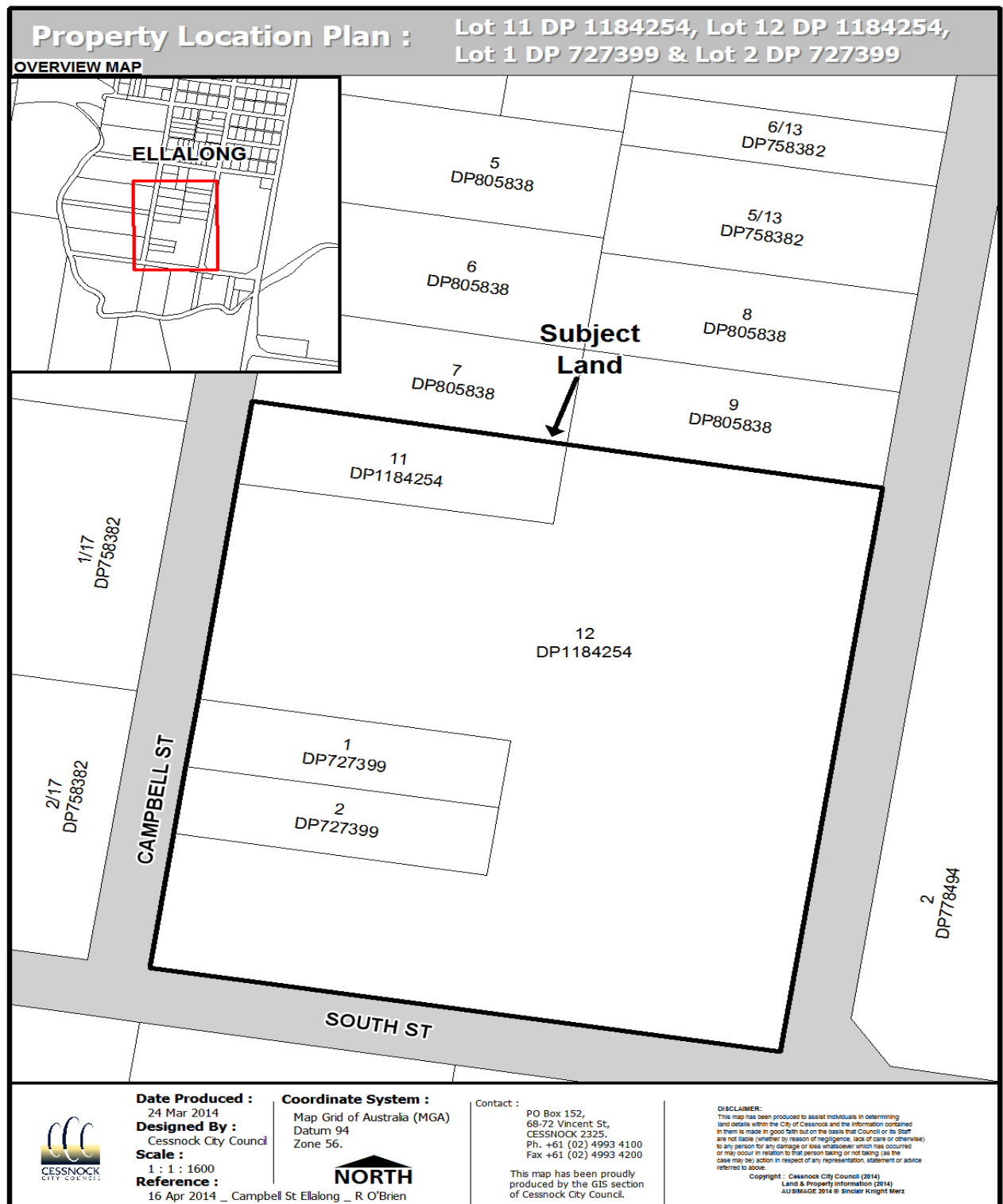
The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval as outlined in the following table.

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

PROJECT TIMELINE

	April 2014	May 2014	June 2014	July 2014	Aug 2014	Sept 2014	Oct 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 Planning Proposal to Planning and Infrastructure to finalise the Local Environmental Plan							

Appendix 1: Location Plan



Appendix 2: Council Report and Minutes

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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 1184854; 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; HIDDINA AAGJE RAAK AND EDWARD RONALD SPLIET.
APPLICANT:	THOMAS AND ASSOCIATES CONSULTING PTY LTD

SUMMARY

The report seeks to obtain Council's approval to submit a Planning Proposal to the Department Planning and Infrastructure for a Gateway determination. The Planning Proposal seeks to amend the Cessnock Local Environmental Plan 2011 (CLEP 2011) to rezone the 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 forward a Planning Proposal to the Department of Planning and Infrastructure under s.56 (1) of the *Environmental Planning and Assessment Act 1979* seeking a Gateway determination to:
 - 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 1,500m².
2. That Council exhibit the Planning Proposal in accordance with the Gateway determination and Council's statutory obligations, should the Gateway determination be favourable,.

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**BACKGROUND**

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 1184854; Lot 1, DP 727399 and Lot 2, DP 727399 from RU2 Rural Landscape to RU5 Village and to reduce the minimum lot size from 40ha to 1500m². Approximately eighteen (18) additional dwellings are anticipated as a result of the proposal.

The land is located to the southeast of the existing village of Ellalong and is bound by Church St, Campbell St and South St Ellalong. Lots 1 and 2, DP 727399 include 5,060m² of land occupied by dwellings and associated structures. Lots 11 and 12, DP 1184254 occupy an area of approximately 3.5 ha. These lots do not include any structures, rather they are covered by grass with a scattered tree canopy.

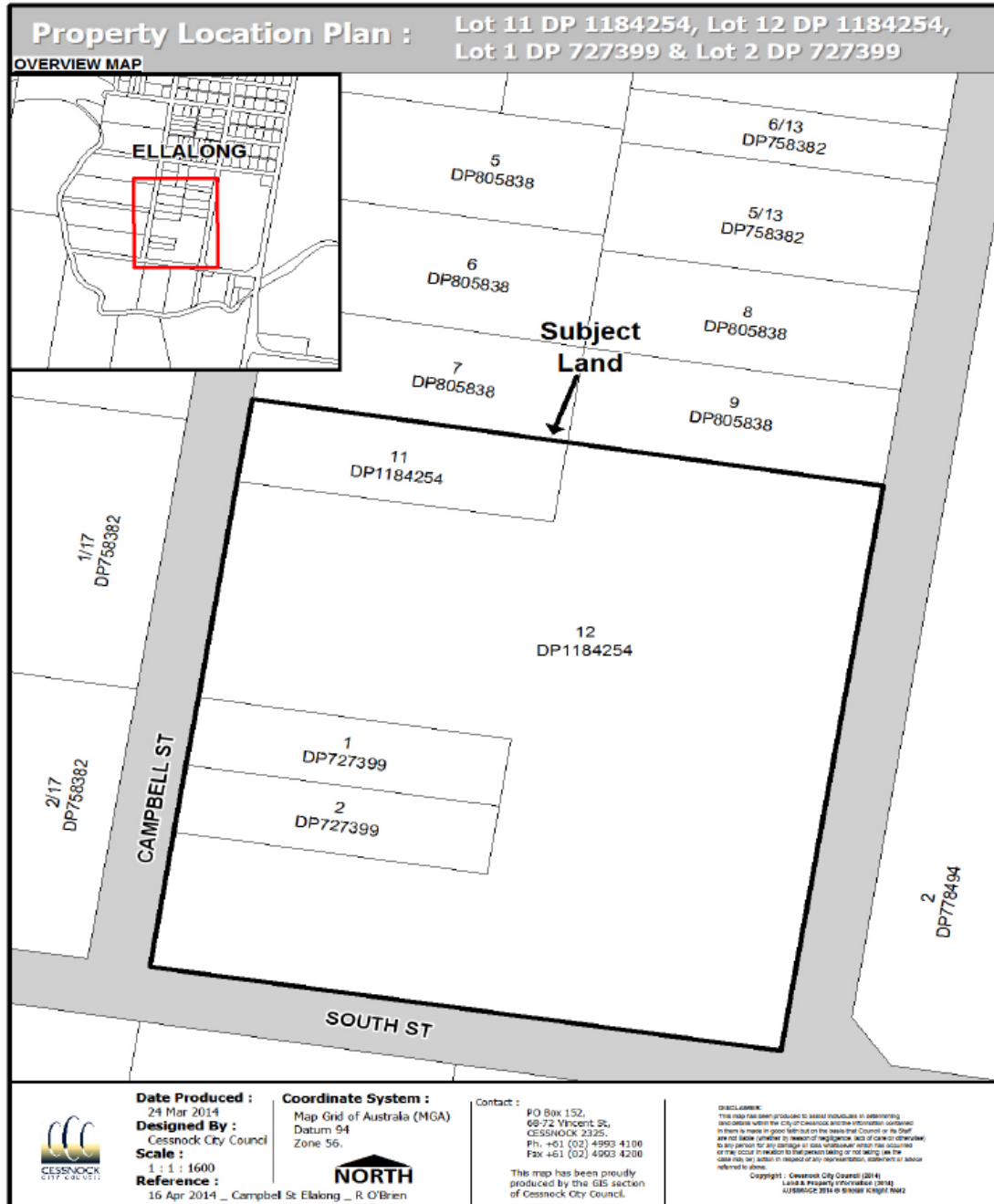
Land to the north of the subject land is zoned RU5 Village and is generally occupied by single detached dwellings on lot sizes of 3000-4000m². Land to the west and south is zoned RU2 Rural Landscape and used for grazing. Land to the east is zoned RU2 Rural Landscape and covered by a mixture of pasture and woodland. The site to the immediate east, known as Lot 1 and 2 DP 778494 Hecla Street, Ellalong has also been identified in the City Wide Settlement Strategy as a site for rezoning but is not part of this application (see Figure 1).

Chronology

Date	Brief Description
13 September 2013	Planning Proposal lodged with Council.
19 September 2013	External consultant engaged to compile the planning proposal and this Council report due to lack of internal resources.
21 October 2013	Council requested additional information to support the Planning Proposal and 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:
28 January 2014	Council received an updated flora and fauna assessment and a consultant was engaged to undertake a contamination review of the subject site
3 April 2014	Assessment completed.

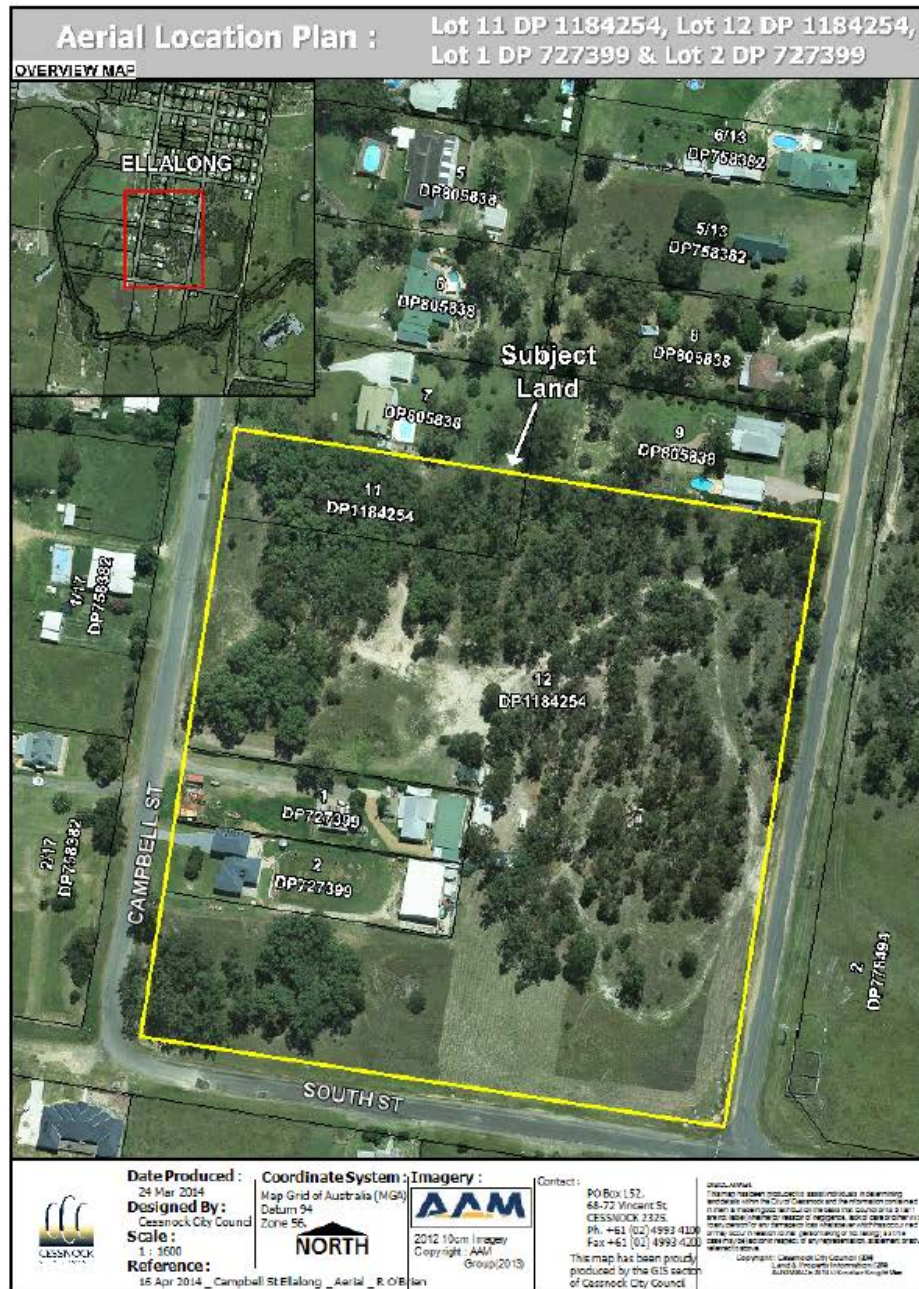
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Location Map:



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Aerial View:



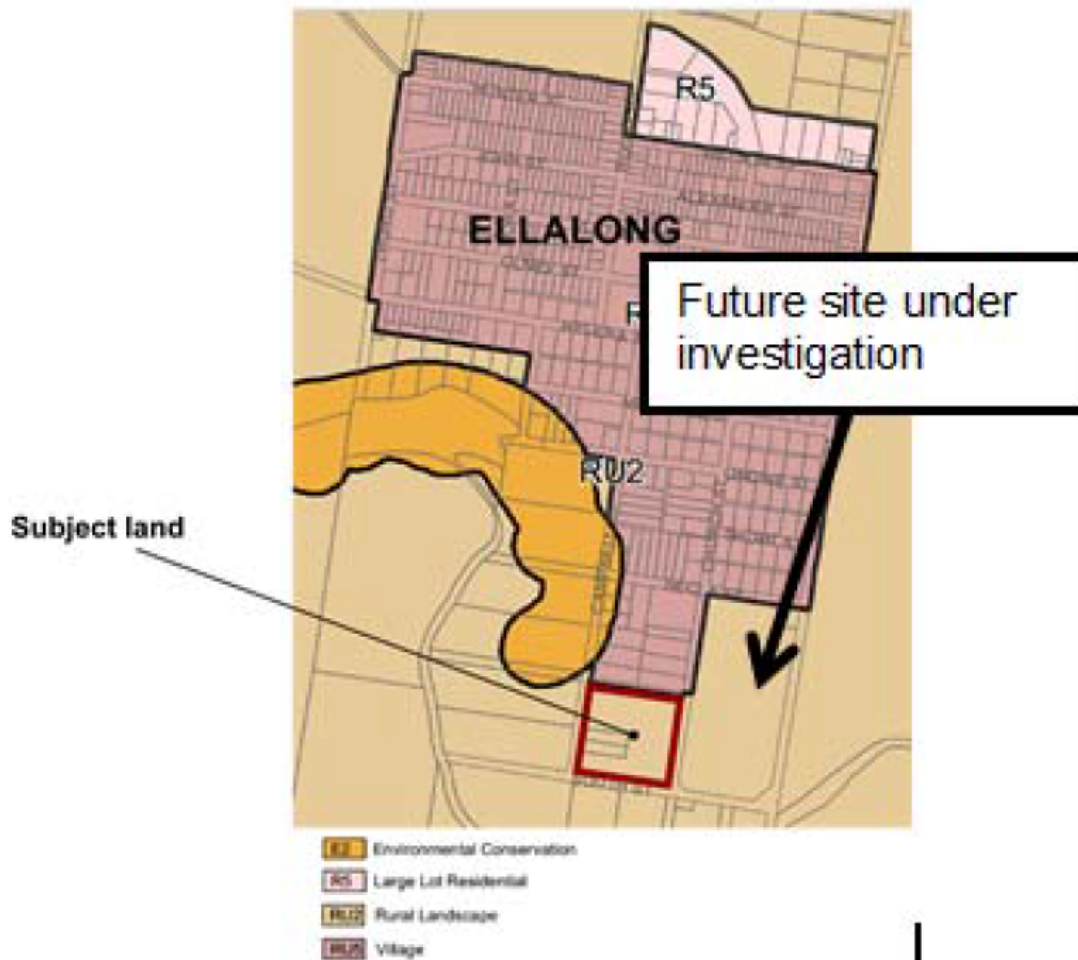


Figure 1 – Zoning Map CLEP 2011

REPORT/PROPOSAL

The objective of the Planning Proposal is to amend the Cessnock Local Environmental Plan 2011 to rezone land described as Lot 11, DP1184254; Lot 12, DP1184854; Lot 1, DP727399 and Lot 2, DP 727399 from RU2 Rural Landscape to RU5 Village and to reduce the minimum lot size from 40ha to 1500m².

The proponent's intended future use of the land is inconsistent with the objectives of the current zoning of the site. The RU2 Rural Landscape zone is intended for rural land uses,

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whereas the RU5 Village zone permits a range of residential land uses. It is considered that the Planning Proposal will lead to a minor extension of Ellalong village and facilitate development that is consistent with the existing village.

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 balance of the area within "CC2" is located to the east of Church Street and this area could be subject to a rezoning process at a later time. The City Wide Settlement Strategy (2010) identified 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 proposal is not specifically referenced as a potential urban area in the Lower Hunter Regional Strategy (LHRS). However, as it is of a minor scale, is identified in a local Strategy (CWSS) and meets the "Sustainability Criteria" specified in the LHRS, it is considered to be feasible.

It is not considered that the proposal will have any significant impact on the character of Ellalong village. The proposal will provide additional population to support the viability of the existing shop and hotel, and help increase student numbers at Ellalong school, whose enrolments have declined since 2010.

In relation to a range of other planning considerations:

- It is unlikely that rezoning the subject land to RU5 will have any detrimental impact on the agricultural value of the adjacent rural land. The subject land is not used for agriculture and it is unlikely that it will in the future.
- Hunter Water advise there is sufficient reticulated sewer and water service capacity to cater for development on the land.
- The land is not subject to the 1:100 Flood Prone Lands layer.
- A flora and fauna study has found that development of the land will not impact on any threatened species. The land is covered by a small remnant of vegetation known as "Ellalong Grey Gum - Stringybark- Apple Forest". The area is not mapped as an Endangered Ecological Community.
- A contaminated lands study has not identified any issues surrounding contaminated land that would prevent the future use of land for residential purposes.
- The land is identified as Bushfire Prone Land. Future development will need to comply with the "Planning for Bushfire Protection".
- The road system has sufficient capacity to cater for the development of the land. Works relating to the adjacent road surface, street drainage and kerb and guttering will be required if the land is developed and these can be managed through conditions of development consent.
- The land is located within 800-1000m of a playground, local sportsfield, school, community hall and shop.
- There is a regular scheduled bus route serving the village to Cessnock. It is 12km to the nearest major service centre (Cessnock).
- The land is not located within a Mine Subsidence District.
- Development of the land will not affect any known items or places of European or Indigenous heritage significance.

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Because of the small scale of the proposal and the nature of land, it is not proposed to designate the land as an Urban Release Area in the LEP.

Strategic Context

Lower Hunter Regional Strategy 2006

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 of the LHRS.

Cessnock City Wide Settlement Strategy 2010

The land is identified in the CWSS as a potential residential expansion area of the village of Ellalong. It is part of the area identified in the CWSS as "CC2". The CWSS 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. The subject land is surrounded by sealed roads; whereas the land to the east of Church Street has an unmade road on its eastern edge (Hamilton Street).

Consistency with State Environmental Planning Policies

An assessment of relevant SEPPs against the 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.

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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 home 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 percent 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. These were: Asbestos fibro cladding on existing buildings

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		• 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 Village 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 Village Zone under the CLEP 2011.

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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. Consultation will be conducted with the NSW Department of Primary Industry - Mineral and Petroleum following the Gateway Determination.
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 and characteristics. The proposal is consistent with Rural Planning Principles and

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		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 heritage items on site that are listed and managed in accordance with 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 s177 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 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	Consultation will be conducted with the NSW Department of Primary Industry - Mineral and Petroleum following the Gateway Determination.

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	are not compromised by inappropriate development.	
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 40ha to 1500m 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 flora and fauna studies that have determined that no significant areas of habitat for the significant or threatened species or communities will be isolated, fragmented or removed as a result of rezoning and future development. 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.

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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 Village Zone permits a wider range of dwelling types and a greater intensity of development than the existing RU2 Rural Landscape 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 is available. Service authorities will be consulted following the Gateway Determination.
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 Village 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 Village Zone permits home occupations without consent. Home based child care, home businesses and home industries are permitted with consent.
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 and 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	The Planning Proposal is not affected by this Direction.

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	uses.	
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 land does not appear to be within a Mine Subsidence District. Consultation regarding subsidence hazard will be undertaken with the Mine Subsidence Board of NSW Trade and Investment following the Gateway determination.
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 Planning for Bushfire Protection. 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 Planning for

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		Bushfire Protection should be considered at the DA stage. The Rural Fire Service will be consulted following the Gateway Determination.
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 Regional Strategy, 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.

OPTIONS

Council has the following options:

1. Progress the Planning Proposal to Planning and Infrastructure for 'Gateway' determination under section 56 (1) of the *Environmental Planning and Assessment Act 1979*, as recommended by this report.

1. Not proceed with the Planning Proposal for the following reasons:

(To be provided by Council).

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CONSULTATION

Formal consultation with selected statutory agencies, including with the wider community, will be undertaken following and as directed by, the "Gateway" determination. In the event a Gateway Determination is issued by the Department of Planning and Infrastructure NSW, it is recommended that the Planning Proposal be exhibited for a period of 14 days.

Consultation with public authorities will be undertaken. Consultation is suggested with:

- NSW Department of Primary Industries - Minerals and Petroleum;
- Road and Maritime Services;
- NSW Rural Fire Service;
- Mine Subsidence Board;
- Ausgrid;
- Telstra; and
- Any others specified in the Gateway determination.

STRATEGIC LINKS

The proposal implements the following aspects of Council's Strategic Plan and Delivery Program:

a. Delivery Program

A Sustainable and Healthy Environment

This desired outcome of the Delivery Program included Strategic Land Use Planning and focuses on the conservation and preservation of the natural environment whilst balancing the impact of development to ensure a healthy and sustainable community.

Objective 3.1: Protecting & Enhancing the Natural Environment & the Rural Character of the Area.

Strategic Direction:

Our planning controls provide protection to the rural character and heritage of the area.

Civic Leadership and Effective Governance

Objective 5.2: Encouraging More Community Participation in Decision Making.

b. Other Plans

The development of the subject land is consistent with objectives of LHRS and implements an action of the CWSS in relation to release area "CC2".

c. Other Plans

Nil

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IMPLICATIONS

a. Policy and Procedural Implications

Following Council's endorsement, a Planning Proposal will be submitted to the Department of Planning and Infrastructure for a "Gateway" determination.

The planning proposal's status is indicated in the process map below.

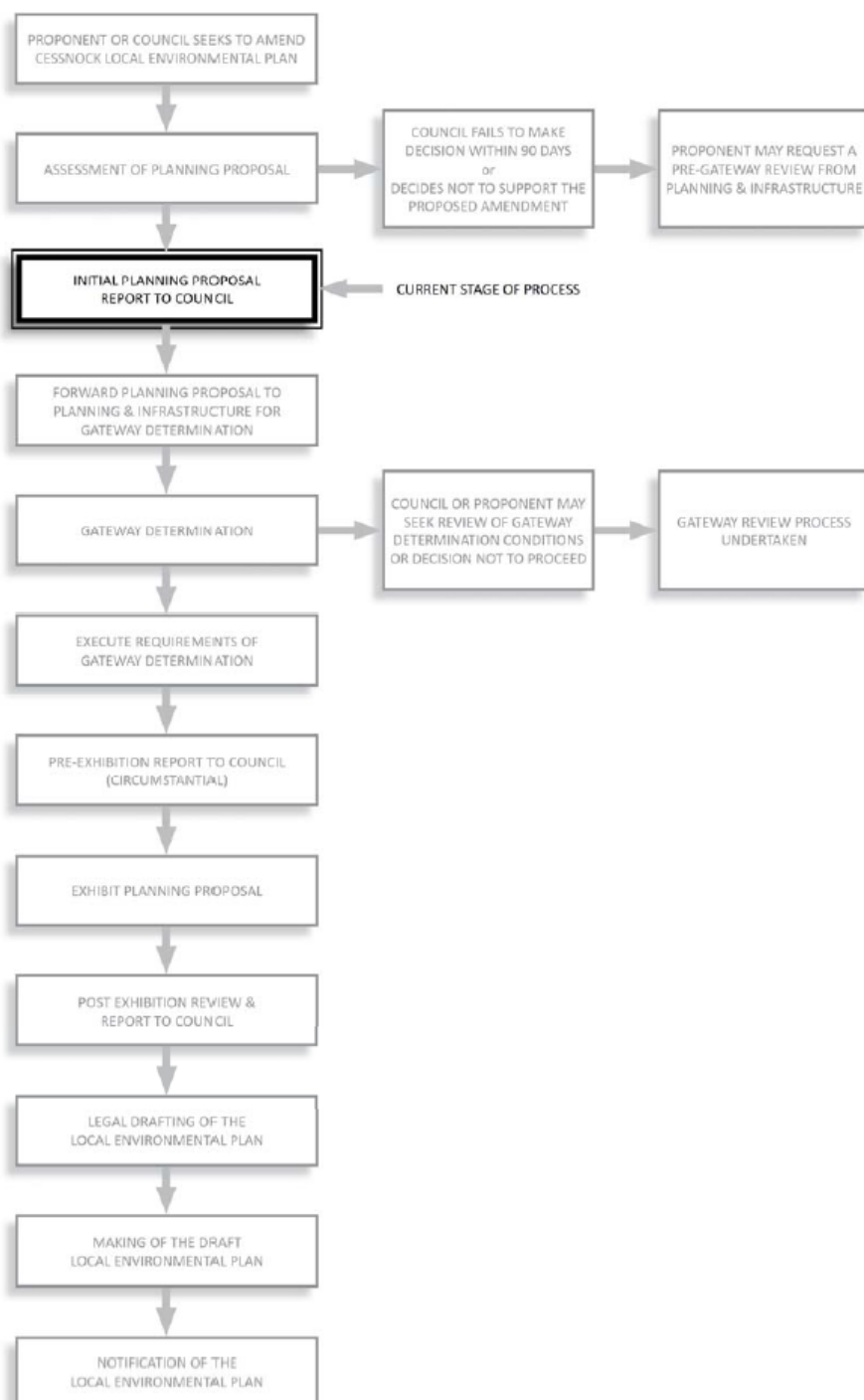
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PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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b. Financial Implications

The finalisation of the Planning Proposal will be met through rezoning fees. This Planning Proposal is considered to be a Category B rezoning application and attracts a phase 1 fee of \$4,100.00.

c. Legislative Implications

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

d. Risk Implications

Nil.

e. Other Implications

The development of the subject land will lead to an increase in the population of Ellalong that will assist in maintaining the viability of local services. The nature of the development will be similar to that existing in the village and consequently will not disrupt the character of the existing community.

CONCLUSION

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 considered that the proposal should proceed to a Gateway Determination.

ENCLOSURES

- [1](#) Planning Proposal 33 Pages

OUR NATURAL, DEVELOPED AND CULTURAL ENVIRONMENT NO. EE65/2014

SUBJECT: PLANNING PROPOSAL - CAMPBELL STREET, ELLALONG

Councillor Jeff Maybury declared an Non Pecuniary Interest – Significant Conflict for the reason that his daughter is employed by the Applicant, Thomas & Associates. Councillor Maybury advised that he would leave the Chamber and take no part in discussion and voting.

Councillor Jeff Maybury left the meeting, the time being 7.13 pm.

MOTION **Moved:** Councillor Troy **Seconded:** Councillor Gibson
854

RESOLVED

1. That Council forward a Planning Proposal to the Department of Planning and Infrastructure under s.56 (1) of the *Environmental Planning and Assessment Act 1979* seeking a Gateway determination to:
 - 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 1,500m².
2. That Council exhibit the Planning Proposal in accordance with the Gateway determination and Council's statutory obligations, should the Gateway determination be favourable,.

FOR	AGAINST
Councillor Gibson	
Councillor Troy	
Councillor Doherty	
Councillor Wrightson	
Councillor Olsen	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Parsons	
Councillor Pynsent	
Total (11)	Total (0)

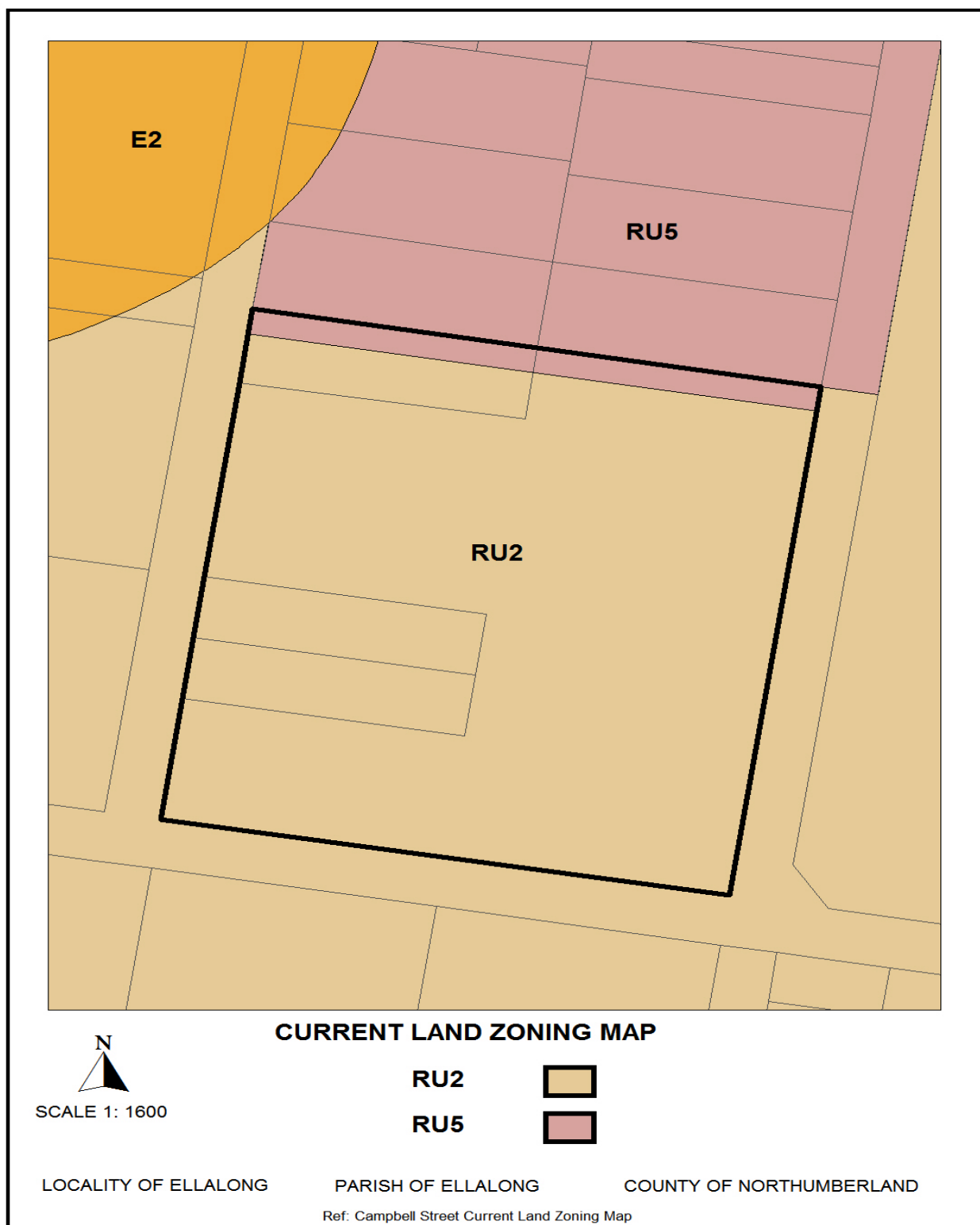
CARRIED UNANIMOUSLY

Councillor Jeff Maybury returned to the meeting, the time being 7.15 pm

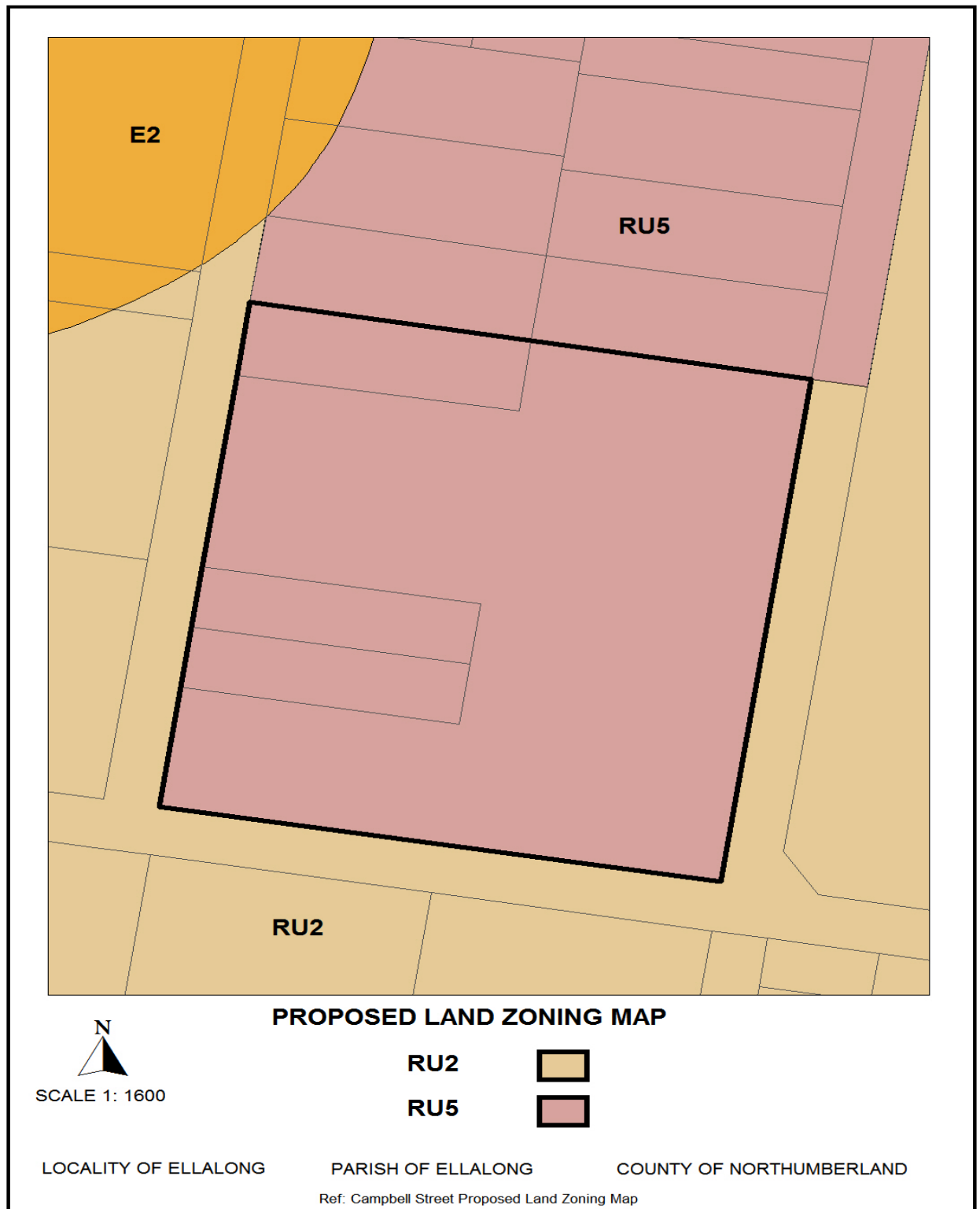
This is page 21 of the Minutes of the Ordinary Council Meeting held on 16 April 2014 confirmed on 7 May 2014

.....General ManagerChairperson

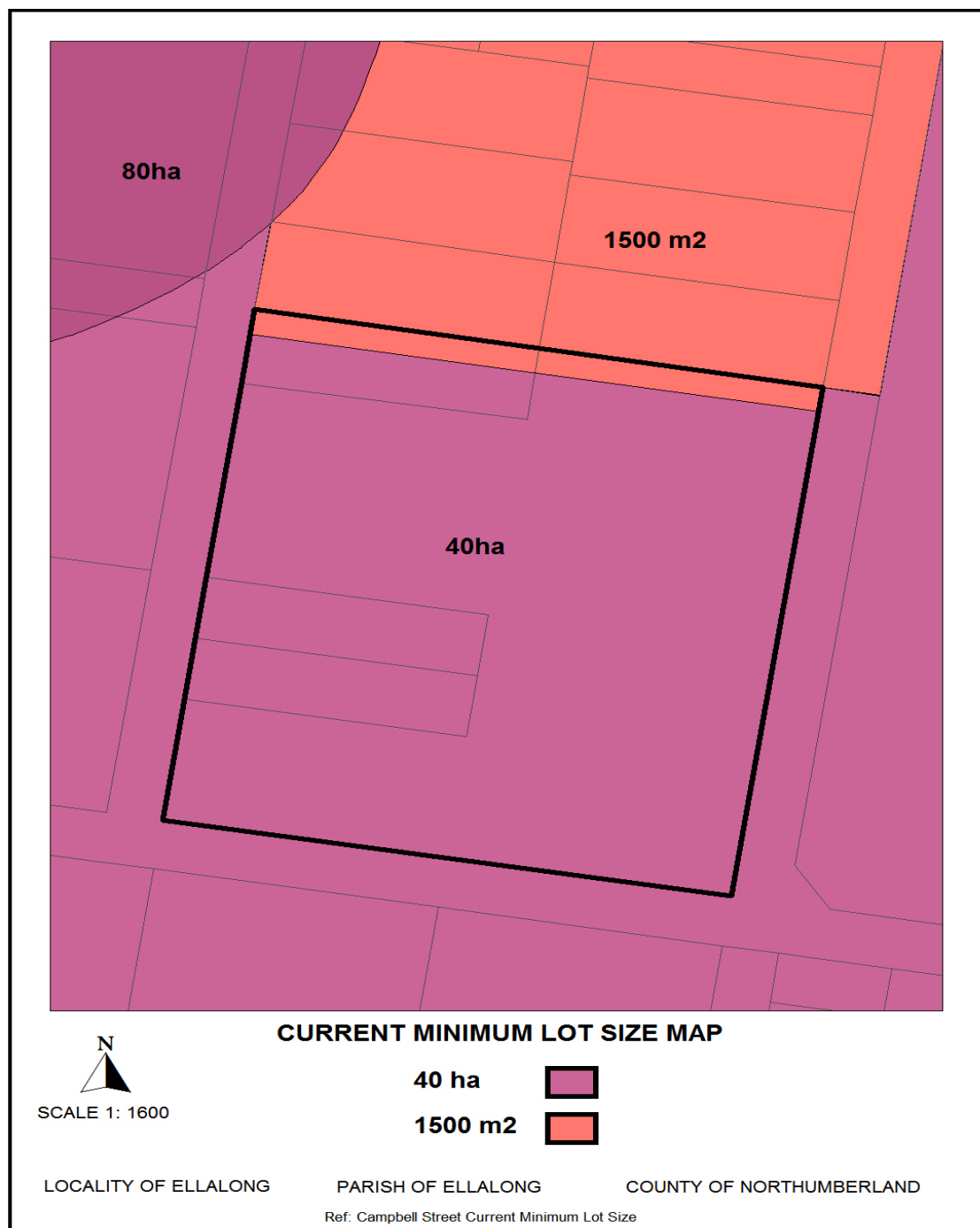
Appendix 3: Existing Land Use Zone Map



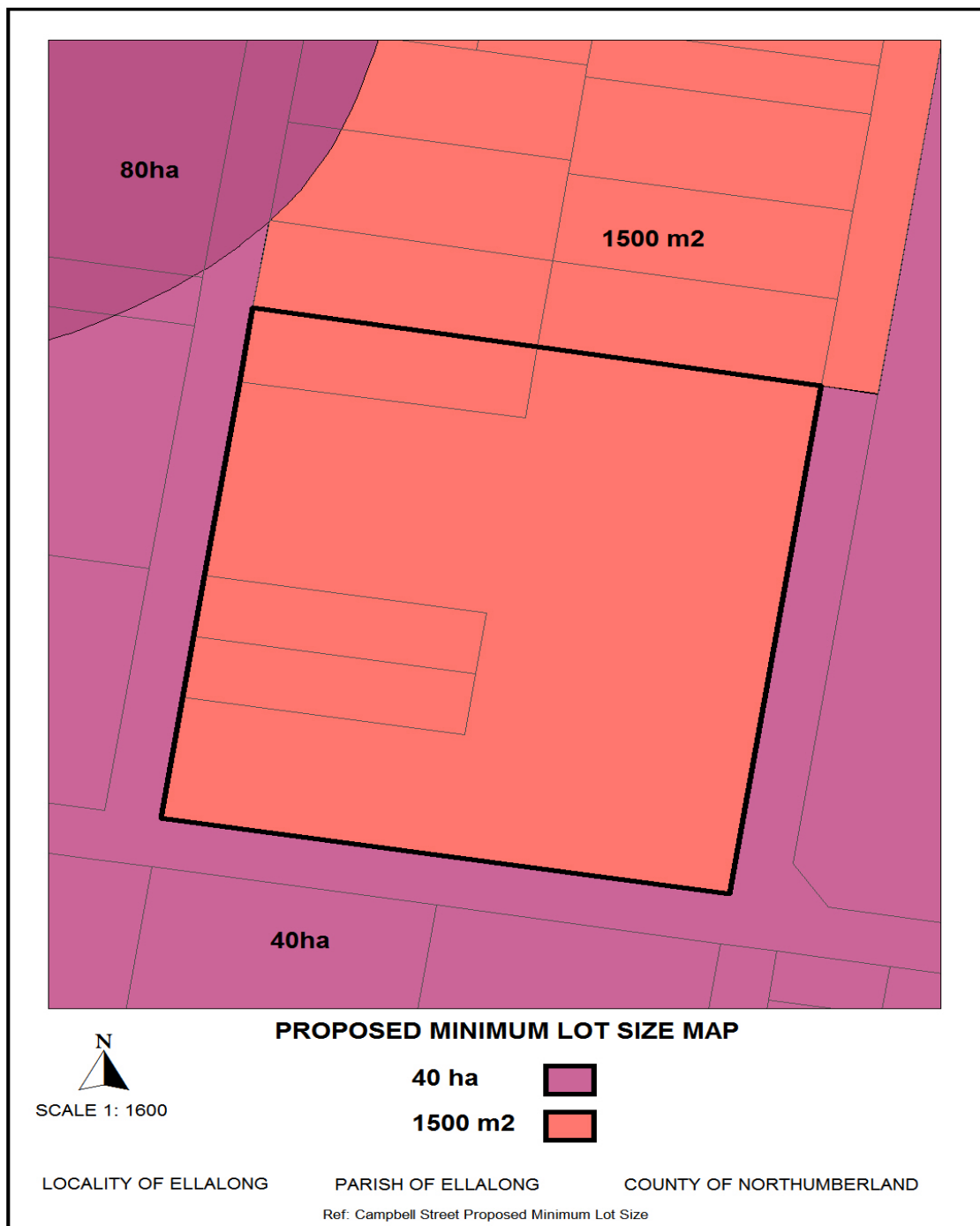
Appendix 4: Proposed Land Use Zone Map



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.

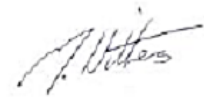
Wastewater Treatment

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