



PLANNING PROPOSAL

Amendment to the *Cessnock Local Environment Plan 2011*

City Wide Administrative Amendment 2015 to the Cessnock Local Environmental Plan 2011

Version 1.0

15 October 2015

Contact: Iain Rush
Strategic Land Use Planner

Telephone: 02 4993 4155

Email: ian.rush@cessnock.nsw.gov.au

TABLE of CONTENTS

PART 1: OBJECTIVES and OUTCOMES	3
PART 2: EXPLANATION of PROVISIONS.....	4
PART 3: JUSTIFICATION	14
Section A: Need for Proposal	14
1 Resulting from a Strategic Study or Report.....	14
2 Planning Proposal as best way to achieve to objectives.....	14
3 Net Community Benefit	14
Section B: Relationship to Strategic Planning Framework	15
4 Consistency with Objectives and Actions within Regional Strategies	15
5 Consistency with Council's Community Strategic Plan or other Local Strategic Plan	15
6 Consistency with State Environmental Planning Policies	15
7 Consistency with s.117 Ministerial Directions for Local Plan Making.....	20
Section C: Environmental, Social and Economic Impact	28
8 Impact on Threatened Species	28
9 Environmental Impact	28
10 Social and Economic Impacts	28
Section D: State and Commonwealth Interests.....	29
11 Adequate Public Infrastructure.....	29
12 Consultation with State and Commonwealth Authorities	29
PART 4: MAPPING.....	30
PART 5: COMMUNITY CONSULTATION	31
PART 6: PROJECT TIMELINE	32

Tables

Table 1: Relevant State Environmental Planning Policies	15
Table 2: Relevant s.117 Ministerial Directions.....	21

Figures

Figure 1: Boundary of Heritage Item I215.....	9
Figure 2: Land at East Branxton, North of Miller Park	10
Figure 3: Land at Cessnock, owned by Telstra	11
Figure 4: Land at Cessnock, owned by Endeavour Industries	12
Figure 5: Land at Cessnock, Utilised for Seniors Housing	13

Appendices

Appendix 1: Council Report and Minutes	34
--	----

PART 1: OBJECTIVES and OUTCOMES

The objective of this Planning Proposal is to amend the *Cessnock Local Environmental Plan 2011* (CLEP 2011) to achieve the following outcomes:

- incorporate new provisions in Part 4 of CLEP 2011 to allow consideration of variations to the minimum lot size in Zone R2 Low Density Residential and Zone R3 Medium Density Residential to permit the Torrens subdivision of certain dual occupancy development;
- incorporate new provisions in Part 4 of CLEP 2011 to allow consideration of development applications that seek to adjust property boundaries in certain rural and environmental zones, but do not satisfy the exempt development standards of *State Environmental Planning Policy (Exempt and Complying Development Codes)* 2008 (Codes SEPP);
- rectify minor anomalies in the land use tables that accompany certain zones under CLEP 2011;
- rectify a misalignment of the boundary of heritage item I215, known as ‘Collieries of the South Maitland Coalfields/Greta Coal Measures’ to ensure that the boundary aligns with the cadastral boundary;
- remove the land reservation acquisition layer that affects various parcels of land recently acquired by Council, located to the north of Miller Park at Branxton; and
- rezone certain parcels of privately owned land that are inappropriately zoned RE1 Public Recreation under CLEP 2011 to reflect the adjoining land use zone.

PART 2: EXPLANATION of PROVISIONS

This Planning Proposal has been prepared to enable the following amendments to be made to the CLEP 2011 instrument and maps. CLEP 2011 was gazetted on 23 December 2011 and came into effect on that date.

Proposed Amendment No. 1

Part 4 Principal Development Standards: Exceptions to minimum lot sizes for certain residential development

Issue

Between 2012 and 2014, Council approved 23 development applications for dual occupancies that also sought to vary the minimum lot size pursuant to Clause 4.6 of the LEP 2011 to allow the dual occupancy to be Torrens subdivided. The average lot size variation approved by Council was 10 percentage, or 45m². The largest variation approved was 25 percentage, or 150m², and related to a battle-axe allotment. The largest variation approved in respect of a standard allotment was 17.1 percentage, or 86m². Without Council varying the minimum lot size provision contained in the LEP 2011, dual occupancies located on parcels of land less than 900m² in area may only be strata subdivided.

The proposed amendment seeks to reflect the historical position of Council regarding the Torrens subdivision of dual occupancies, without the need to consider formal requests from applicants to vary the minimum lot size standard pursuant to Clause 4.6.

The proposed amendment will apply where an applicant seeks to Torrens subdivide a dual occupancy that is erected, or proposed to be erected, on a single parcel of land that is greater than 600m² in area, excluding the area of any access handle. The proposed development standard will permit the Torrens subdivision of the dual occupancy development, such that each dwelling is located on its own parcel, being greater than 300m² in area, excluding the area of any access handle.

The amendment will streamline the assessment process for particular dual occupancy developments, by providing greater flexibility in the LEP 2011 to allow the determination to be carried out under delegation. The proposed amendment will result in improved development assessment timeframes and reduced reporting.

The amendment will be implemented by incorporating an established standard clause into the LEP 2011. A version of the clause is already contained in many standard instrument LEPs across NSW.

Affected Land

The instrument amendment is not specific to any one location, but will apply to dual occupancy development erected, or proposed to be erected, on land zoned R2 Low Density Residential or R3 Medium Density Residential in the Cessnock Local Government Area.

Recommendation

Include in LEP 2011 the following provision as Clause 4.1C – Exceptions to minimum lot sizes for certain residential development

Clause 4.1C – Exceptions to minimum lot sizes for certain residential development

- (1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.

- (2) This clause has effect despite clause 4.1.
- (3) This clause applies to development on land in the following zones:
 - (i) R2 Low Density Residential
 - (ii) R3 Medium Density Residential
- (4) Development consent may be granted to a single development application for development that is both of the following:
 - (a) the erection of a dual occupancy on land to which this clause applies,
 - (b) subdivision of that land into 2 lots each containing one dwelling, if the size of each lot, excluding the area of any access handle, is greater than 300m².
- (5) Development consent may be granted for the subdivision of a lot on which there is a dual occupancy if:
 - (a) the area of each lot resulting from the subdivision is greater than 300m², excluding the area of any access handle; and
 - (b) each of the resulting lots will have only one dwelling on it; and
 - (c) the subdivision is consistent with the development consent for the dual occupancy.

Proposed Amendment No. 2

Part 4 Principal Development Standards: Boundary Adjustments of Land in Certain Rural and Environmental Protection Zones

Issue

A boundary adjustment is a type of subdivision that amends the shape and/or size of an allotment, but does not create additional lots.

Local and State planning instruments do not currently allow consideration of boundary adjustments between undersized rural or environmentally zoned parcels of land, where the adjustment is not considered 'minor'. A minor adjustment is typically considered to be a change in area of less than 10 percentage. Council has previously refused applications on this basis.

The purpose of this amendment is to provide greater flexibility in the LEP 2011 to allow consideration of applications that seek to adjust property boundaries in rural and environmental zones, but do not satisfy the exempt provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or existing provisions of the LEP 2011, but are nevertheless able to demonstrate consistency with the character and objectives of the zone.

Affected Land

The instrument amendment is not specific to any one location, but will affect certain rural, residential, and environmentally zoned parcels of land across the Cessnock Local Government Area.

Recommendation

Include in LEP 2011 the following provision as Clause 4.2C Boundary Adjustments of land in Certain Rural and Environmental Protection Zones.

Clause 4.2C - Boundary Adjustments of land in Certain Rural and Environmental Protection Zones

- (1) The objective of this clause is to facilitate boundary adjustments between lots where one or more resultant lots do not meet the minimum lot size shown on the *Lot Size Map* in relation to that land but the objectives of the relevant zone can be achieved.
- (2) This clause applies to land in any of the following zones:
 - (a) Zone RU2 Rural Landscape,
 - (b) Zone RU4 Primary Production Small Lots,
 - (c) Zone RU5 Village,
 - (d) Zone E2 Environmental Conservation,
 - (e) Zone E3 Environmental Management.
- (3) Despite clause 4.1, development consent may be granted to subdivide land by way of a boundary adjustment between adjoining lots where one or more resultant lots do not meet the minimum lot size shown on the *Lot Size Map* in relation to that land if the consent authority is satisfied that:
 - (a) the subdivision will not create additional lots, and
 - (b) the number of dwellings or opportunities for dwellings on each lot after the subdivision will be the same as before the subdivision, and
 - (c) the potential for land use conflict will not be increased as a result of the subdivision, and

- (d) the boundary adjustment is consistent with the objectives of the zone, and
 - (e) the subdivision will not result in any increased bush fire risk to existing buildings, and
 - (f) if the land is in Zone RU2 Rural Landscape or Zone RU4 Primary Production Small Lots, the agricultural viability of the land will not be adversely affected as a result of the subdivision.
- (4) Before granting development consent to development to which this clause applies, the consent authority must be satisfied that the subdivision will not compromise the continued protection and long-term maintenance of any land in Zone E2 Environmental Conservation or Zone E3 Environmental Management.

Proposed Amendment No. 3

Rectify Anomalies in the Land Use Tables for Certain Zones Under LEP 2011

Issue

The Standard Instrument Local Environmental Plan sets out standard definitions for land uses, which include group terms and sub-terms. Group terms are used to identify particular categories of land uses, which comprise one or more sub-terms. The land use, *Residential accommodation*, for example, is a group term that comprises several sub-terms, including *Attached dwellings*.

Where a group term is included in a zone land use table, each corresponding sub-term is also taken to be included, unless that sub-term is expressly prohibited in the same land use table.

The purpose of this amendment is to simplify the land use tables that accompany certain zones by removing sub-terms, where the associated group term is already included. The proposed amendment will not change Council's policy position regarding the permitted or prohibited land uses in the zones.

Affected Land

The instrument amendment is not specific to any one location, but will affect certain land use zones across the Cessnock Local Government Area.

Recommendation

- Remove *Attached dwellings* from 'Prohibited' in the Land Use Table for Zone RU2 Rural Landscape. The land use is already prohibited under the *Residential accommodation* group term.
- Remove *Home industries* from 'Permitted with consent' in the Land Use Table for Zone RU5 Village. The land use is already permitted with consent under the *Light industry* group term.
- Remove *Home occupations* from 'Permitted with consent' in the Land Use Table for Zone R1 General Residential. The land use is already permitted without consent in the Zone.
- Remove *Exhibition villages; Home-based child care; Home businesses; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Signage* from 'Permitted with consent' in the Land Use Table for Zone R1 General Residential. The land uses are already permitted with consent in the Zone by the words, *Any other development not specified in item 2 or 4*
- Remove *Roadside stalls* from 'Prohibited' in the Land Use Table for Zone B2 Local Centre. The land use is mandated as being 'permissible with consent' under the *Commercial premises* group term.
- Remove *Farm stay accommodation* from 'Prohibited' in the Land Use Table for Zone B7 Business Park. The land use is already prohibited under the *Tourist and visitor accommodation* group term.
- Remove *Stock and sale yards* from 'Prohibited' in the Land Use Table for Zone IN1 General Industrial. The land use is already prohibited under the *Rural industries* group term.

Proposed Amendment No. 4

Align Boundary of Heritage Item I215 at Heddon Greta to Cadastral Boundary

Issue

The boundary of Local Heritage Item I215, known as 'Collieries of the South Maitland Coalfields/Greta Coal Measures' does not align to the cadaster. As a result, several adjacent parcels of land are identified as containing the heritage item. The purpose of this amendment is to align the boundary of the Heritage Item to the relevant parcel of land.

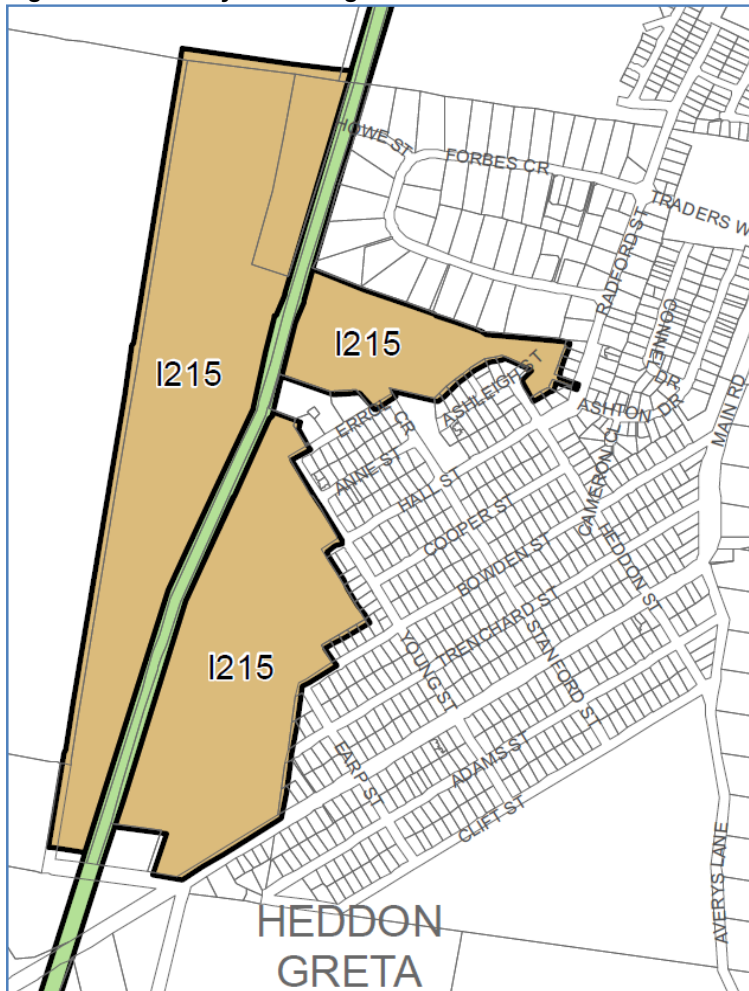
Affected Land

The land affected by the amendment is identified in **Figure 1**.

Recommendation

- Heritage Map - Sheet 1720_COM_HER_009A_040_20130418 be amended to align the boundary of the Heritage Item I215 to the relevant parcel of land.

Figure 1: Boundary of Heritage Item I215



Proposed Amendment No. 5

Removal of Land Reservation Acquisition Layer – Land North of Miller Park at Branxton

Issue

The affected land is identified for acquisition in the maps that accompany the LEP 2011. The land is designated for the future expansion of facilities and public open space associated with Miller Park at Branxton.

Council completed its acquisition of the land in 2014 and the Land Reservation Acquisition Map should now be amended by removing the acquisition layer.

It should be noted that adjacent land parcels also identified for acquisition will not be affected as Council has not yet acquired them. The adjacent parcels of land at Lot 1 DP 591952 and parts of the Maitland Street road reserve, relate to the Miller Park Sports and Recreation Club and road widening, respectively.

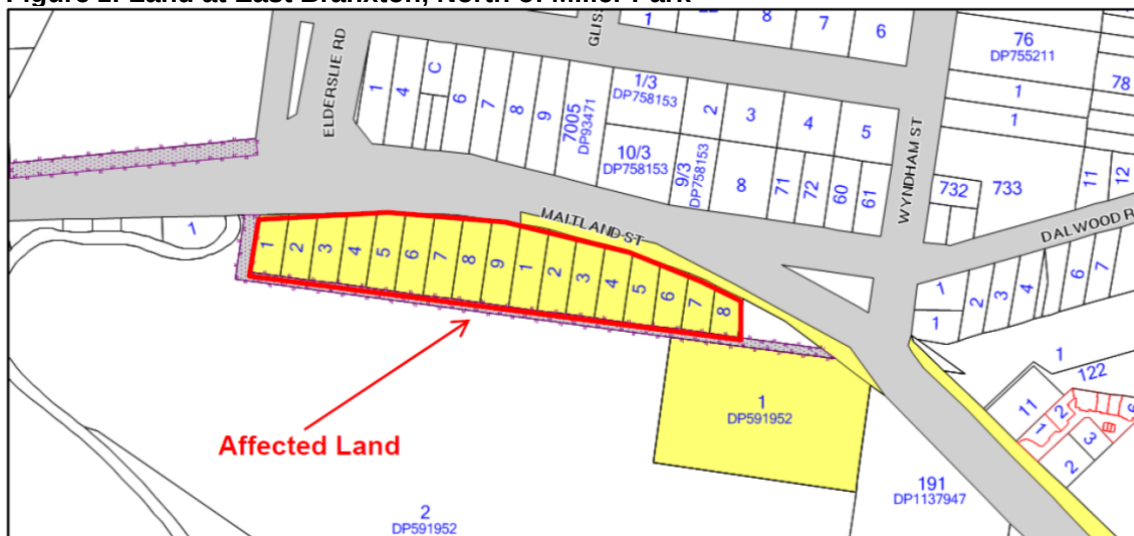
Affected Land

Lots 1 to 8 DP 1134121, Lot 9 DP 658961, and Lots 1 to 8 DP 772428, identified as 'Affected Land' in **Figure 2**.

Recommendation

- Land Reservation Acquisition Map - Sheet 1720_COM_LRA_005A_020_20150204 be amended to remove land reservation acquisition layer that applies to Lots 1 to 8 DP 1134121, Lot 9 DP 658961, and Lots 1 to 8 DP 772428.

Figure 2: Land at East Branxton, North of Miller Park



Proposed Amendment No. 6

Rezoning of land at Millfield Street Cessnock to R3 Medium Density Residential

Issue

The affected land is zoned RE1 Public Recreation and is owned by Telstra. The land contains a telecommunications facility – mobile phone tower.

The land was previously zoned 6(a) Open Space under *Cessnock Local Environmental Plan 1989*, but was rezoned RE1 Public Recreation upon gazettal of the LEP 2011. This was a result of a straight conversion of the zones. Land zoned RE1 Public Recreation is typically owned or managed by Council.

The land is not required for recreational purposes and should be rezoned R3 Medium Density Residential to reflect the adjacent land use zone in accordance with the Department's Practice Note, PN 08-002, issued 7 March 2008. Notwithstanding, telecommunications facilities remain permissible pursuant to *State Environmental Planning Policy (Infrastructure) 2007*. This approach is consistent with other facilities across the Local Government Area.

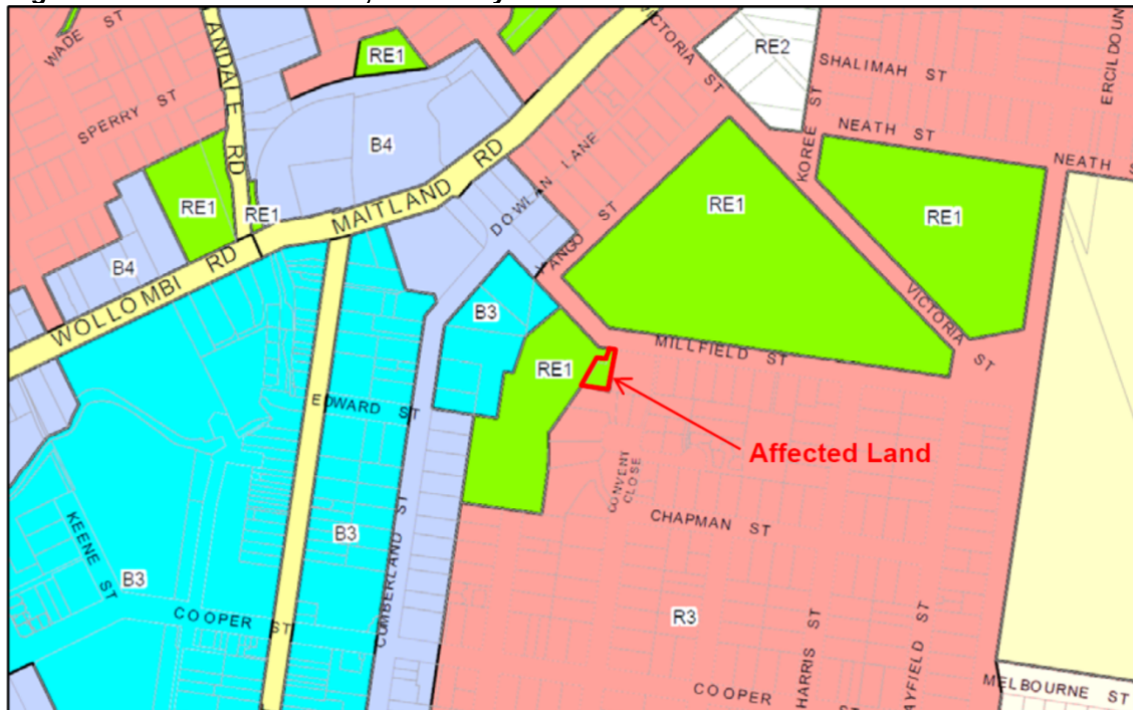
Affected Land

Lot 1 DP 748154, identified as 'Affected Land' in **Figure 3**.

Recommendation

- Land Zoning Map - Sheet 1720_COM_LZN_006CA_010_20150401 be amended to rezone Lot 1 DP 748154 from RE1 Public Recreation to R3 Medium Density Residential.
- Lot Size Map - Sheet 1720_COM_LSZ_006CA_010_20140910 be amended to apply minimum lot size of 450m² to Lot 1 DP 748154.

Figure 3: Land at Cessnock, owned by Telstra



Proposed Amendment No. 7

Rezoning of land at Edgeworth Street Cessnock to R3 Medium Density Residential

Issue

The affected land is zoned RE1 Public Recreation and is owned by Endeavour Industries. The land contains an existing commercial premises that provides employment opportunities to people living with disabilities.

The land was previously zoned 6(a) Open Space under *Cessnock Local Environmental Plan 1989*, but was rezoned RE1 Public Recreation upon gazettal of the LEP 2011. This was a result of a straight conversion of the zones. Land zoned RE1 Public Recreation is typically owned or managed by Council.

The land is identified in Council's adopted Open Space Strategy as being no longer required for recreational purposes and should be rezoned R3 Medium Density Residential to reflect the adjacent land use zone. Endeavour Industries currently relies on existing use rights to carry on its operations at the premises and this will not change as a result of this amendment.

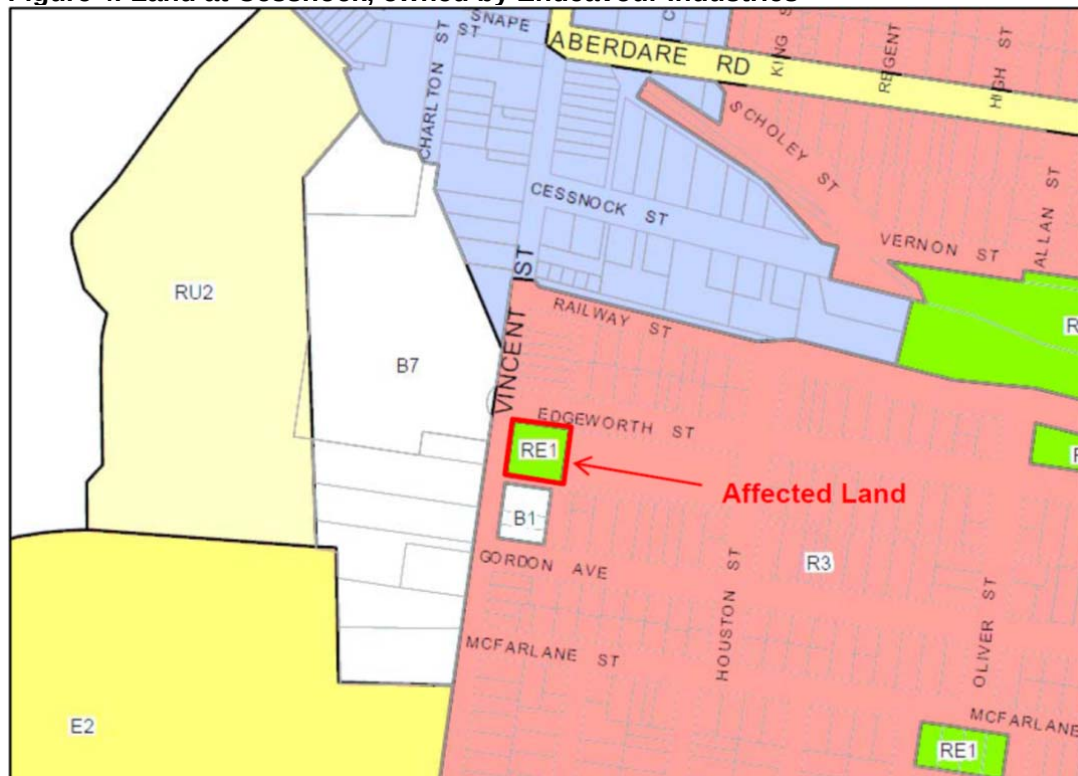
Affected Land

Lot 584 DP 1046691, identified as 'Affected Land' in **Figure 4**.

Recommendation

- Land Zoning Map - Sheet 1720_COM_LZN_006CA_010_20150401 be amended to rezone Lot 584 DP 1046691 from RE1 Public Recreation to R3 Medium Density Residential.
- Lot Size Map - Sheet 1720_COM_LSZ_006CA_010_20140910 be amended to apply minimum lot size of 450m² to Lot 584 DP 1046691.

Figure 4: Land at Cessnock, owned by Endeavour Industries



Proposed Amendment No. 8

Rezoning of Land at Jurd Street Cessnock to R2 Low Density Residential

Issue

The affected land is zoned RE1 Public Recreation and is owned by Northern Coalfield's Community Care. The land contains an existing aged care development.

The land was previously zoned 6(a) Open Space under *Cessnock Local Environmental Plan 1989*, but was rezoned RE1 Public Recreation upon gazettal of the LEP 2011. This was a result of a straight conversion of the zones. Land zoned RE1 Public Recreation is typically owned or managed by Council.

The land has been assessed as being no longer required for recreational purposes and should be rezoned R2 Low Density Residential Zone to reflect the adjacent land use zone. The proposed amendment is consistent with the existing use of the site for aged care, which is permitted with consent in the R2 Low Density Residential Zone.

Affected Land

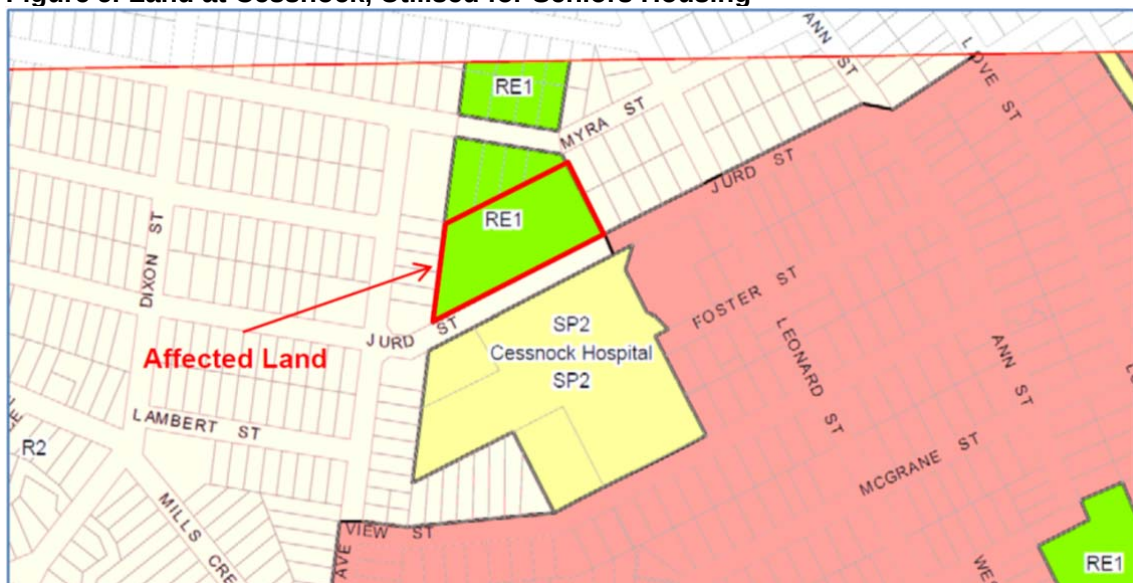
Lot 3 DP 631305, identified as 'Affected Land' in **Figure 5**.

The parcels of land zoned RE1 Public Recreation that are located to the immediate north of the affected land are owned by Council and are not included in this Planning Proposal. The land may be subject to a separate planning proposal following the completion of Council's forthcoming recreational needs analysis.

Recommendation

- Land Zoning Map - Sheet 1720_COM_LZN_006CA_010_20150401 be amended to rezone Lot 3 DP 631305 from RE1 Public Recreation to R2 Low Density Residential.
- Lot Size Map - Sheet 1720_COM_LSZ_006CA_010_20140910 be amended to apply minimum lot size of 450m² to Lot 3 DP 631305.

Figure 5: Land at Cessnock, Utilised for Seniors Housing



PART 3: JUSTIFICATION

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

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

Section A: Need for Proposal

1 *Resulting from a Strategic Study or Report*

The Planning Proposal is not the result of a specific strategic study or report. The Proposal seeks to rectify minor anomalies in the CLEP 2011 instrument and maps, and provide greater flexibility in the LEP instrument to consider development applications that seek to subdivide a parcel of land into two or more undersized allotments, including minor boundary adjustments between undersized allotments.

2 *Planning Proposal as best way to achieve to objectives*

The intended outcomes relate to refinements of the Cessnock Local Environmental Plan 2011. A Planning Proposal is required to make the proposed change to the Cessnock Local Environmental Plan 2011.

3 *Net Community Benefit*

The intended outcomes will provide a net community benefit by incorporating greater flexibility in CLEP 2011 to consider development applications that seek to subdivide a parcel of land into two or more undersized allotments for certain residential development. The Planning Proposal will also bring about net community benefit by rectifying various mapping and instrument anomalies.

Section B: Relationship to Strategic Planning Framework

4 *Consistency with Objectives and Actions within Regional Strategies*

Lower Hunter Regional Strategy 2006

The applicable regional strategy is the Lower Hunter Regional Strategy. There is no inconsistency with the objectives or actions of the Lower Hunter Regional Strategy.

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

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

There is no inconsistency between Council's Strategic Plan and the Planning Proposal.

City Wide Settlement Strategy (2010)

There is no inconsistency between Council's City Wide Settlement Strategy and the Planning Proposal.

6 *Consistency with State Environmental Planning Policies*

An assessment of relevant SEPPs against the planning proposal is provided in the table below.

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 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.	Nothing in this Planning Proposal impacts upon the operation of this SEPP. The SEPP only relates to Council's deferred matter sites.
SEPP 14 – Coastal Wetlands	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 15 - Rural Land Sharing Communities	The SEPP provides for multiple occupancy development, with council consent, in rural and non-urban zones, subject to a list of criteria in the policy.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 19 – Bushland in Urban Areas	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 21 - Caravan Parks	The SEPP provides for development for caravan parks.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 26 – Littoral Rainforests	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 29 – Western Sydney Recreation	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

SEPP	Relevance	Consistency and Implications
Area		
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 36 - Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 39 – Spit Island Bird Habitat	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 44 - Koala Habitat Protection	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 47 – Moore Park Showground	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 50 - Canal Estate Development	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 52 – Farm Dams and Other works in Land and Water Management Plan Areas	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 55 - Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 59 – Central Western Sydney Regional Open Space and Residential	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

SEPP	Relevance	Consistency and Implications
SEPP 62 - Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from the rezoning of land and is of relevance for site specific rezoning proposals.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 64 - Advertising and Signage	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 65 - Design Quality of Residential Apartment Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 70 – Affordable Rental Housing (Revised Schemes)	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in the Greater Metropolitan Region.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 71 – Coastal Protection	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP Affordable Rental Housing 2009	The aims of this Policy are as follows: (a) to provide a consistent planning regime for the provision of affordable rental housing, (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards, (c) to facilitate the retention and mitigate the loss of existing affordable rental housing, (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new	Nothing in this Planning Proposal impacts upon the operation of this SEPP.

SEPP	Relevance	Consistency and Implications
	affordable rental housing, (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing, (f) to support local business centres by providing affordable rental housing for workers close to places of work, (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.	
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	Nothing in this Planning Proposal impacts upon the operation 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.	This Planning Proposal seeks to incorporate new provisions within Part 4 of CLEP 2011 to allow consideration of development applications that seek to adjust property boundaries of existing, but undersized rural and environmentally zoned allotments. The proposed provisions are not inconsistent with the Codes SEPP, but provide additional flexibility that will allow consideration of development applications for boundary adjustments that do not meet the exempt standards of the Codes SEPP, regarding subdivision.
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.	The proposal seeks to rezone a parcel of land on which there is located an existing seniors housing development. The proposed rezoning will ensure that the development does not rely on existing use rights, but is permitted with consent.
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 impacts upon the operation of this SEPP.
SEPP (Kosciuszko National Park – Alpine Resorts)	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

SEPP	Relevance	Consistency and Implications
2007		
SEPP (Kurnell Peninsula) 1989	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP Major Development 2005	The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the 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 impacts upon the operation of this SEPP.
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP Miscellaneous Consent Provisions 2007	The aims of this Policy are as follows: (a) to provide that the erection of temporary structures is permissible with consent across the State, (b) to ensure that suitable provision is made for ensuring the safety of persons using temporary structures, (c) to encourage the protection of the environment at the location, and in the vicinity, of temporary structures by specifying relevant matters for consideration, (d) to provide that development comprising the subdivision of land, the erection of a building or the demolition of a building, to the extent to which it does not already require development consent under another environmental planning instrument, cannot be carried out except with development consent.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP Penrith Lakes Scheme 1989	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

SEPP	Relevance	Consistency and Implications
SEPP Rural Lands 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	This Planning Proposal seeks to incorporate new provisions within Part 4 of CLEP 2011 to allow consideration of development applications that seek to adjust property boundaries of existing, but undersized, rural and environmentally zoned allotments. It is considered that the Proposal is not inconsistent with SEPP Rural Lands, as the proposed development standard will relate to boundary adjustments between existing undersized allotments and will not bring about further fragmentation of rural land.
SEPP 53 Transitional Provisions 2011	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP (Sydney Drinking Water Catchment 2011)	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP Sydney Region Growth Centres 2006	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Three Ports_ 2013	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Urban Renewal) 2010	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Western Sydney Employment Area) 2009	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Western Sydney Parklands) 2009	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

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.

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Objective of Direction	Consistency and Implication
1. EMPLOYMENT AND RESOURCES		
1. Business and Industrial Zones	The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres.	This Planning Proposal does not seek to reduce the amount of employment land available in the Cessnock Local Government Area. Therefore, the Proposal is considered to be consistent with this Ministerial Direction.
2. Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	This Planning Proposal seeks to incorporate new provisions within Part 4 of CLEP 2011 to allow consideration of development applications that seek to adjust the property boundaries of existing, but undersized, rural and environmentally zoned allotments. It is considered that the Proposal is not inconsistent with the Ministerial Direction, as the proposed standard relates to boundary adjustments between existing undersized allotments and will not bring about further fragmentation of rural land that would otherwise reduce the agricultural potential of that land.
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.	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
4. Oyster Aquaculture	<i>The objectives of this direction are: (a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, (b) to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on</i>	<i>Not Applicable to LGA</i>

Ministerial Direction	Objective of Direction	Consistency and Implication
	<i>water quality and consequently, on the health of oysters and oyster consumers.</i>	
5. Rural lands	The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes.	This Planning Proposal seeks to incorporate new provisions within Part 4 of CLEP 2011 to allow consideration of development applications that seek to adjust the property boundaries of existing, but undersized, rural and environmentally zoned allotments. It is considered that the Proposal is not inconsistent with the Ministerial Direction, as the proposed standard relates to boundary adjustments between existing undersized allotments and will not bring about further fragmentation of rural land that would otherwise reduce the agricultural potential of that land.
2. ENVIRONMENT AND HERITAGE		
1. Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	This Planning Proposal seeks to incorporate new provisions within Part 4 of CLEP 2011 to allow consideration of development applications that seek to adjust the property boundaries of existing, but undersized, rural and environmentally zoned allotments. It is considered that the Proposal is not inconsistent with the Ministerial Direction, as the proposed standard relates to boundary adjustments between existing undersized allotments and will not bring about further fragmentation of rural land that might otherwise reduce the agricultural potential of that land.
2. Coastal Protection	<i>The objective of this direction is to implement the principles in the NSW Coastal Policy.</i>	<i>Not Applicable to LGA</i>
3. Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	This Planning Proposal seeks to correct a misalignment of the heritage boundary associated with Local Heritage Item I215, known as 'Collieries of the South Maitland Coalfields/Greta Coal Measures'.

Ministerial Direction	Objective of Direction	Consistency and Implication
		The proposed amendment is considered to be consistent with the Ministerial Direction by ensuring that the heritage item is accurately defined in the maps that accompany the LEP instrument.
4. Recreation Vehicle Areas	The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
1. Residential Zones	The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	The proposal is not inconsistent with the Ministerial Direction. The Planning Proposal will provide greater flexibility in the application of Torrens Title subdivision to certain residential development, including dual occupancies, attached dwellings, and semi-detached dwellings.
2. Caravan parks and Manufactured Home Estates	The objectives of this direction are: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates.	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
3. Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
4. Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.

Ministerial Direction	Objective of Direction	Consistency and Implication
	available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	
5. Development Near Licensed Aerodromes	The objectives of this direction are: (a) to ensure the effective and safe operation of aerodromes, and (b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
6. Shooting Ranges	The objectives are: (a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
4. HAZARD AND RISK		
1. Acid Sulfate	The objective of this direction is	Nothing in this Planning Proposal

Ministerial Direction	Objective of Direction	Consistency and Implication
Soils	to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils	is contrary to the objectives of the Ministerial Direction.
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.	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
3. Flood Prone Land	The objectives of this direction are: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
4. Planning for Bushfire Protection	The objectives of this direction are: (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas.	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
5. REGIONAL PLANNING		
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.	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
2. Sydney Drinking Water Catchment	<i>The objective of this Direction is to protect water quality in the Sydney drinking water catchment.</i>	<i>Not Applicable to LGA</i>
3. Farmland of State and Regional Significance on the NSW	<i>The objectives of this direction are: (a) to ensure that the best agricultural land will be available for current and</i>	<i>Not Applicable to LGA</i>

Ministerial Direction	Objective of Direction	Consistency and Implication
<i>Far North Coast</i>	<i>future generations to grow food and fibre, (b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and (c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.</i>	
4. <i>Commercial and Retail Development along the Pacific Highway, North Coast</i>	<i>The objectives for managing commercial and retail development along the Pacific Highway are: (a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route; (b) to prevent inappropriate development fronting the highway (c) to protect public expenditure invested in the Pacific Highway, (d) to protect and improve highway safety and highway efficiency, (e) to provide for the food, vehicle service and rest needs of travellers on the highway, and (f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.</i>	Not Applicable to LGA
5. <i>Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)</i>	(Revoked 18 June 2010)	Not Applicable to LGA
6. <i>Sydney to Canberra Corridor</i>	(Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable to LGA
7. <i>Central Coast</i>	(Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable to LGA
8. <i>Second</i>	<i>The objective of this direction is</i>	Not Applicable to LGA

Ministerial Direction	Objective of Direction	Consistency and Implication
<i>Sydney Airport: Badgerys Creek</i>	<i>to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.</i>	
9. <i>North West Rail Link Corridor Strategy</i>	<i>The objectives of this direction are to: (a) promote transit-oriented development and manage growth around the eight train stations of the North West Rail Link (NWRL) (b) ensure development within the NWRL corridor is consistent with the proposals set out in the NWRL Corridor Strategy and precinct Structure Plans.</i>	<i>Not Applicable to LGA</i>
6. LOCAL PLAN MAKING		
1. Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
2. Reserving Land for Public Purposes	The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	This Planning Proposal seeks to rezone certain parcels of privately owned land that are inappropriately zoned RE1 Public Recreation under CLEP 2011. This matter is considered to be of minor significance and not contrary to the intent of the Ministerial Direction.
3. Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Nothing in this Planning Proposal is contrary to the objectives of the Ministerial Direction.
7. Metropolitan Planning		
1. <i>Implementation of A Plan for Growing Sydney</i>	<i>The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.</i>	<i>Not Applicable to LGA</i>

Section C: Environmental, Social and Economic Impact

8 *Impact on Threatened Species*

There is no likelihood of adverse impact on threatened species, populations, ecological communities or critical habitats as a result of this Planning Proposal

9 *Environmental Impact*

There is no likelihood of adverse environmental impact as a result of this Planning Proposal.

10 *Social and Economic Impacts*

There is no likelihood of adverse social or economic impact as a result of this Planning Proposal.

Section D: State and Commonwealth Interests

11 *Adequate Public Infrastructure*

The Planning Proposal will not generate demand for additional public infrastructure.

12 *Consultation with State and Commonwealth Authorities*

The Department of Planning and Environment has previously agreed that a separate Planning Proposal approach is the most appropriate and timely in terms of achieving these types of amendments.

No other State or Commonwealth authorities have been consulted with regard to this Planning Proposal.

PART 4: MAPPING

To achieve the intent of the Planning Proposal, it is proposed to amend the following map sheets:

Land Zoning

- 1720_COM_LZN_006CA_010_20150401

Lot Size

- 1720_COM_LSZ_006CA_010_20140910

Land Reservation Acquisition

- 1720_COM_LRA_005A_020_20150204

Heritage Map

- 1720_COM_HER_009A_040_20130418

PART 5: COMMUNITY CONSULTATION

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

The proposed consultation strategy for this Planning Proposal includes:

- Notification in the Cessnock Advertiser, which is the locally circulating newspaper in the LGA;
- Hard copy display at Council's Administration Building and at Cessnock Public Library;
- Web based notification on Council's website at www.cessnock.nsw.gov.au; and
- Notification to property owners that are directly affected by a land use zone amendment.

PART 6: PROJECT TIMELINE

It is estimated that this proposed amendment to CLEP 2011 will be completed by May 2016, following receipt of a Gateway Determination from DPE in Dec 2015 (i.e. six (6) months).

Technical Studies have not been identified as a component of the Planning Proposal. If the DPE Gateway Determination makes prescriptions relating to technical studies, this will impact the estimated completion date.

PROJECT TIMELINE

	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016	Apr 2016	May 2016
STAGE 1 Submit to DoP&E – Gateway Panel consider Planning Proposal							
STAGE 2 Receive Gateway Determination							
STAGE 3 Preparation of documentation for Public Exhibition							
STAGE 4 Public Exhibition							
STAGE 5 Review/consideration of submission received							
STAGE 6 Report to Council							
STAGE 7 Forward Planning Proposal to DoP&E with request the amendment be made							

Appendix 1: Council Report and Minutes

PLANNING AND ENVIRONMENT NO. PE77/2015

SUBJECT: 18/2015/3: PLANNING PROPOSAL - CITY WIDE ADMINISTRATIVE AMENDMENT 2015

Councillor Gibson declared a Non-Pecuniary Interest – Less Than Significant Conflict for the reason that he owns property within that zoning. Councillor Gibson remained in the Chamber and participated in discussion and voting.

MOTION **Moved:** Councillor Stapleford **Seconded:** Councillor Campbell
1441
RESOLVED

1. That Council prepare a planning proposal to amend the *Cessnock Local Environmental Plan 2011* in the following manner:
 - incorporate new provisions to allow the Torrens title subdivision of dual occupancy development in Zone R2 Low Density Residential and Zone R3 Medium Density Residential;
 - allow property boundary adjustments in certain rural and environmental zones;
 - amend minor anomalies in the land use tables that accompany certain zones;
 - amend the boundary of heritage item I215, known as 'Collieries of the South Maitland Coalfields/Greta Coal Measures' to align with the cadastral boundary;
 - remove the land reservation acquisition layer that affects various parcels of land recently acquired by Council, located to the north of Miller Park at Branxton; and
 - rezone certain parcels of privately owned land that are zoned RE1 Public Recreation to reflect the adjoining land use zone.
2. That Council requests a Gateway determination in respect of the planning proposal from the Department of Planning and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.
3. That Council undertake a consultation program with public authorities and the community as determined by the Department of Planning and Environment Gateway determination.
4. That a further report be presented to Council following the public exhibition of the planning proposal, if significant objections are received.

This is page 30 of the Minutes of the Ordinary Council Meeting held on 21 October 2015 confirmed on 4 November 2015

.....General ManagerChairperson

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

CARRIED

This is page 31 of the Minutes of the Ordinary Council Meeting held on 21 October 2015 confirmed on
4 November 2015

.....General ManagerChairperson

Planning and Environment

Report No. PE77/2015

Planning and Environment



SUBJECT: 18/2015/3: PLANNING PROPOSAL - CITY WIDE
ADMINISTRATIVE AMENDMENT 2015

RESPONSIBLE OFFICER: Strategic Landuse Planning Manager - Martin Johnson

APPLICATION NUMBER:	18/2015/3
PROPOSAL:	City Wide Administrative Amendment 2015
PROPERTY DESCRIPTION:	Applies to the LGA
PROPERTY ADDRESS:	Applies to the LGA
ZONE: (CURRENT)	Applies to multiple zones.
ZONE: (PROPOSED)	Applies to multiple zones.
OWNER:	This Planning Proposal applies to the LGA; however, certain amendments relate to land owned by Collieries of the South Maitland Coalfields/Greta Coal Measures Group, Telstra, Endeavour Industries, and Northern Coalfield's Community Care.
PROPONENT:	Cessnock City Council

SUMMARY

The purpose of this Report is to allow consideration of a Planning Proposal to amend the *Cessnock Local Environmental Plan 2011* (LEP 2011). The Proposal is administrative in nature and seeks to address various identified issues in the LEP 2011 instrument and maps, including new provisions for subdivision of dual occupancies and boundary adjustments in rural and environmental zones.

The Report seeks Council's endorsement to prepare a planning proposal in order to seek a 'Gateway determination' from the Department of Planning and Environment to commence the Local Environmental Plan making process.

RECOMMENDATION

1. That Council prepare a planning proposal to amend the *Cessnock Local Environmental Plan 2011* in the following manner:
 - incorporate new provisions to allow the Torrens title subdivision of dual occupancy development in Zone R2 Low Density Residential and Zone R3 Medium Density Residential;
 - allow property boundary adjustments in certain rural and environmental zones;

This is Page 111 of the Agenda of the Ordinary Council Meeting of the Cessnock City Council to be held on 21 October 2015



- amend minor anomalies in the land use tables that accompany certain zones;
 - amend the boundary of heritage item I215, known as 'Collieries of the South Maitland Coalfields/Greta Coal Measures' to align with the cadastral boundary;
 - remove the land reservation acquisition layer that affects various parcels of land recently acquired by Council, located to the north of Miller Park at Branxton; and
 - rezone certain parcels of privately owned land that are zoned RE1 Public Recreation to reflect the adjoining land use zone.
2. That Council requests a Gateway determination in respect of the planning proposal from the Department of Planning and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.
 3. That Council undertake a consultation program with public authorities and the community as determined by the Department of Planning and Environment Gateway determination.
 4. That a further report be presented to Council following the public exhibition of the planning proposal, if significant objections are received.

BACKGROUND

This Planning Proposal is the fifth in a series of administrative amendments to the LEP 2011. The objective of the Proposal is to address various identified issues in the LEP instrument and maps, as well as including new provisions in the LEP instrument to allow greater flexibility to consider variations to the minimum lot size for dual occupancies. The proposal also seeks to provide greater flexibility in the LEP 2011 to consider minor boundary adjustments between undersized allotments in certain rural and environmental zones.

REPORT/PROPOSAL

This Planning Proposal has been prepared to enable the following amendments to be made to the LEP 2011.

Proposed Amendment No. 1

Part 4 Principal Development Standards: Exceptions to minimum lot sizes for certain residential development

Issue

Between 2012 and 2014, Council approved 23 development applications for dual occupancies that also sought to vary the minimum lot size pursuant to Clause 4.6 of the LEP 2011 to allow the dual occupancy to be Torrens subdivided. The average lot size variation approved by Council was 10 percent, or 45m². The largest variation approved was 25 percent, or 150m²,

Planning and Environment

Report No. PE77/2015

Planning and Environment



and related to a battle-axe allotment. The largest variation approved in respect of a standard allotment was 17.1 percent, or 86m². Without Council varying the minimum lot size provision contained in the LEP 2011, dual occupancies located on parcels of land less than 900m² in area may only be strata subdivided.

The proposed amendment seeks to reflect the historical position of Council regarding the Torrens subdivision of dual occupancies, without the need to consider formal requests from applicants to vary the minimum lot size standard pursuant to Clause 4.6.

The proposed amendment will apply where an applicant seeks to Torrens subdivide a dual occupancy that is erected, or proposed to be erected, on a single parcel of land that is greater than 600m² in area, excluding the area of any access handle. The proposed development standard will permit the Torrens subdivision of the dual occupancy development, such that each dwelling is located on its own parcel, being greater than 300m² in area, excluding the area of any access handle.

The amendment will streamline the assessment process for particular dual occupancy developments, by providing greater flexibility in the LEP 2011 to allow the determination to be carried out under delegation. The proposed amendment will result in improved development assessment timeframes and reduced reporting.

The amendment will be implemented by incorporating an established standard clause into the LEP 2011. A version of the clause is already contained in many standard instrument LEPs across NSW.

Affected Land

The instrument amendment is not specific to any one location, but will apply to dual occupancy development erected, or proposed to be erected, on land zoned R2 Low Density Residential or R3 Medium Density Residential in the Cessnock Local Government Area.

Recommendation

Include in LEP 2011 the following provision as Clause 4.1C – Exceptions to minimum lot sizes for certain residential development

Clause 4.1C – Exceptions to minimum lot sizes for certain residential development

- (1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.
- (2) This clause has effect despite clause 4.1.
- (3) This clause applies to development on land in the following zones:
 - (i) R2 Low Density Residential
 - (ii) R3 Medium Density Residential
- (4) Development consent may be granted to a single development application for development that is both of the following:
 - (a) the erection of a dual occupancy on land to which this clause applies,

Planning and Environment

Report No. PE77/2015

Planning and Environment



- (b) subdivision of that land into 2 lots each containing one dwelling, if the size of each lot, excluding the area of any access handle, is greater than 300m².
- (5) Development consent may be granted for the subdivision of a lot on which there is a dual occupancy if:
 - (a) the area of each lot resulting from the subdivision is greater than 300m², excluding the area of any access handle; and
 - (b) each of the resulting lots will have only one dwelling on it; and
 - (c) the subdivision is consistent with the development consent for the dual occupancy.

Proposed Amendment No. 2

Part 4 Principal Development Standards: Boundary Adjustments of Land in Certain Rural and Environmental Protection Zones

Issue

A boundary adjustment is a type of subdivision that amends the shape and/or size of an allotment, but does not create additional lots.

Local and State planning instruments do not currently allow consideration of boundary adjustments between undersized rural or environmentally zoned parcels of land, where the adjustment is not considered 'minor'. A minor adjustment is typically considered to be a change in area of less than 10 percent. Council has previously refused applications on this basis.

The purpose of this amendment is to provide greater flexibility in the LEP 2011 to allow consideration of applications that seek to adjust property boundaries in rural and environmental zones, but do not satisfy the exempt provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or existing provisions of the LEP 2011, but are nevertheless able to demonstrate consistency with the character and objectives of the zone.

Affected Land

The instrument amendment is not specific to any one location, but will affect certain rural, residential, and environmentally zoned parcels of land across the Cessnock Local Government Area.

Recommendation

Include in LEP 2011 the following provision as Clause 4.2C Boundary Adjustments of land in Certain Rural and Environmental Protection Zones.

Clause 4.2C - Boundary Adjustments of land in Certain Rural and Environmental Protection Zones

- (1) The objective of this clause is to facilitate boundary adjustments between lots where one or more resultant lots do not meet the minimum lot size shown on the *Lot Size Map* in relation to that land but the objectives of the relevant zone can be achieved.



- (2) This clause applies to land in any of the following zones:
 - (a) Zone RU2 Rural Landscape,
 - (b) Zone RU4 Primary Production Small Lots,
 - (c) Zone RU5 Village,
 - (d) Zone E2 Environmental Conservation,
 - (e) Zone E3 Environmental Management.
- (3) Despite clause 4.1, development consent may be granted to subdivide land by way of a boundary adjustment between adjoining lots where one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that:
 - (a) the subdivision will not create additional lots, and
 - (b) the number of dwellings or opportunities for dwellings on each lot after the subdivision will be the same as before the subdivision, and
 - (c) the potential for land use conflict will not be increased as a result of the subdivision, and
 - (d) the boundary adjustment is consistent with the objectives of the zone, and
 - (e) the subdivision will not result in any increased bush fire risk to existing buildings, and
 - (f) if the land is in Zone RU2 Rural Landscape or Zone RU4 Primary Production Small Lots, the agricultural viability of the land will not be adversely affected as a result of the subdivision.
- (4) Before granting development consent to development to which this clause applies, the consent authority must be satisfied that the subdivision will not compromise the continued protection and long-term maintenance of any land in Zone E2 Environmental Conservation or Zone E3 Environmental Management.

Proposed Amendment No. 3

Rectify Anomalies in the Land Use Tables for Certain Zones Under LEP 2011

Issue

The Standard Instrument Local Environmental Plan sets out standard definitions for land uses, which include group terms and sub-terms. Group terms are used to identify particular categories of land uses, which comprise one or more sub-terms. The land use, *Residential accommodation*, for example, is a group term that comprises several sub-terms, including *Attached dwellings*.

Where a group term is included in a zone land use table, each corresponding sub-term is also taken to be included, unless that sub-term is expressly prohibited in the same land use table.

The purpose of this amendment is to simplify the land use tables that accompany certain zones by removing sub-terms, where the associated group term is already included. The proposed amendment will not change Council's policy position regarding the permitted or prohibited land uses in the zones.

Planning and Environment

Report No. PE77/2015

Planning and Environment



Affected Land

The instrument amendment is not specific to any one location, but will affect certain land use zones across the Cessnock Local Government Area.

Recommendation

- Remove *Attached dwellings* from 'Prohibited' in the Land Use Table for Zone RU2 Rural Landscape. The land use is already prohibited under the *Residential accommodation* group term.
- Remove *Home industries* from 'Permitted with consent' in the Land Use Table for Zone RU5 Village. The land use is already permitted with consent under the *Light industry* group term.
- Remove *Home occupations* from 'Permitted with consent' in the Land Use Table for Zone R1 General Residential. The land use is already permitted without consent in the Zone.
- Remove *Exhibition villages; Home-based child care; Home businesses; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Signage* from 'Permitted with consent' in the Land Use Table for Zone R1 General Residential. The land uses are already permitted with consent in the Zone by the words, *Any other development not specified in item 2 or 4*
- Remove *Roadside stalls* from 'Prohibited' in the Land Use Table for Zone B2 Local Centre. The land use is mandated as being 'permissible with consent' under the *Commercial premises* group term.
- Remove *Farm stay accommodation* from 'Prohibited' in the Land Use Table for Zone B7 Business Park. The land use is already prohibited under the *Tourist and visitor accommodation* group term.
- Remove *Stock and sale yards* from 'Prohibited' in the Land Use Table for Zone IN1 General Industrial. The land use is already prohibited under the *Rural industries* group term.

Proposed Amendment No. 4

Align Boundary of Heritage Item I215 at Heddon Greta to Cadastral Boundary

Issue

The boundary of Local Heritage Item I215, known as 'Collieries of the South Maitland Coalfields/Greta Coal Measures' does not align to the cadastre. As a result, several adjacent parcels of land are identified as containing the heritage item. The purpose of this amendment is to align the boundary of the Heritage Item to the relevant parcel of land.

Affected Land

The land affected by the amendment is identified in **Figure 1**.

Planning and Environment

Report No. PE77/2015

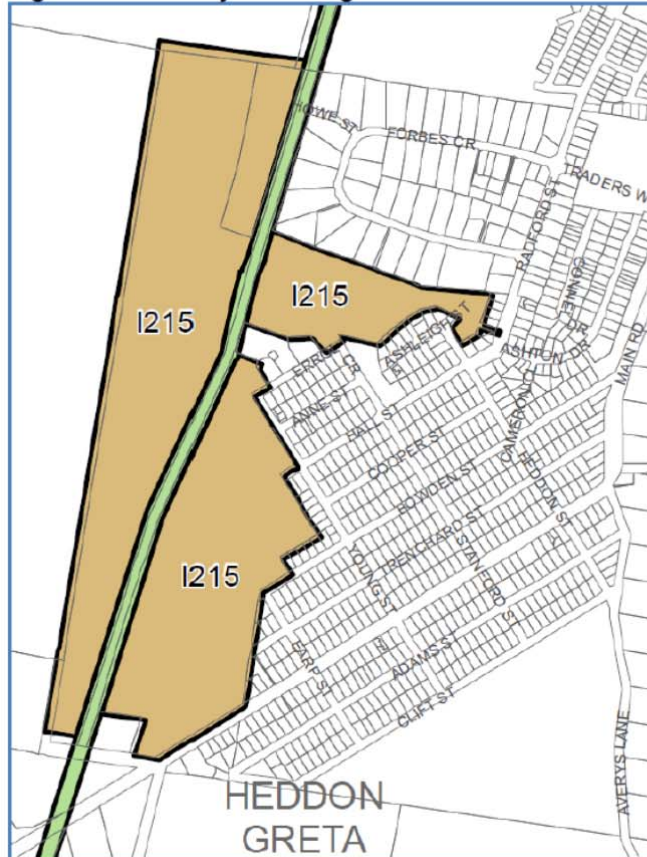
Planning and Environment



Recommendation

- Heritage Map - Sheet 1720_COM_HER_009A_040_20130418 be amended to align the boundary of the Heritage Item I215 to the relevant parcel of land.

Figure 1: Boundary of Heritage Item I215



Proposed Amendment No. 5

Removal of Land Reservation Acquisition Layer – Land North of Miller Park at Branxton

Issue

The affected land is identified for acquisition in the maps that accompany the LEP 2011. The land is designated for the future expansion of facilities and public open space associated with Miller Park at Branxton.

Council completed its acquisition of the land in 2014 and the Land Reservation Acquisition Map should now be amended by removing the acquisition layer.

It should be noted that adjacent land parcels also identified for acquisition will not be affected as Council has not yet acquired them. The adjacent parcels of land at Lot 1 DP 591952 and

Planning and Environment

Report No. PE77/2015

Planning and Environment



parts of the Maitland Street road reserve, relate to the Miller Park Sports and Recreation Club and road widening, respectively.

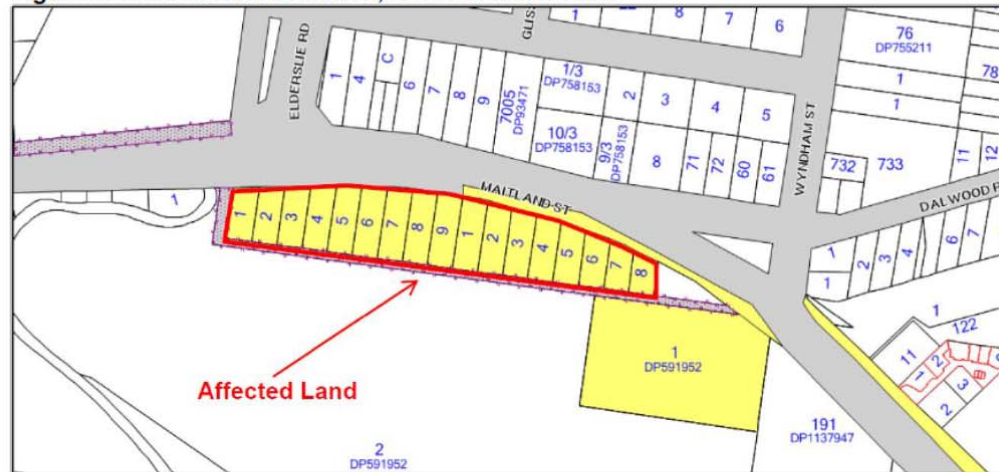
Affected Land

Lots 1 to 8 DP 1134121, Lot 9 DP 658961, and Lots 1 to 8 DP 772428, identified as 'Affected Land' in **Figure 2**.

Recommendation

- Land Reservation Acquisition Map - Sheet 1720_COM_LRA_005A_020_20150204 be amended to remove land reservation acquisition layer that applies to Lots 1 to 8 DP 1134121, Lot 9 DP 658961, and Lots 1 to 8 DP 772428.

Figure 2: Land at East Branxton, North of Miller Park



Proposed Amendment No. 6

Rezoning of land at Milford Street Cessnock to R3 Medium Density Residential

Issue

The affected land is zoned RE1 Public Recreation and is owned by Telstra. The land contains a telecommunications facility – mobile phone tower.

The land was previously zoned 6(a) Open Space under *Cessnock Local Environmental Plan 1989*, but was rezoned RE1 Public Recreation upon gazettal of the LEP 2011. This was a result of a straight conversion of the zones. Land zoned RE1 Public Recreation is typically owned or managed by Council.

The land is not required for recreational purposes and should be rezoned R3 Medium Density Residential to reflect the adjacent land use zone in accordance with the Department's Practice Note, PN 08-002, issued 7 March 2008. Notwithstanding, telecommunications facilities remain permissible pursuant to *State Environmental Planning Policy (Infrastructure) 2007*. This approach is consistent with other facilities across the Local Government Area.

Planning and Environment

Report No. PE77/2015

Planning and Environment



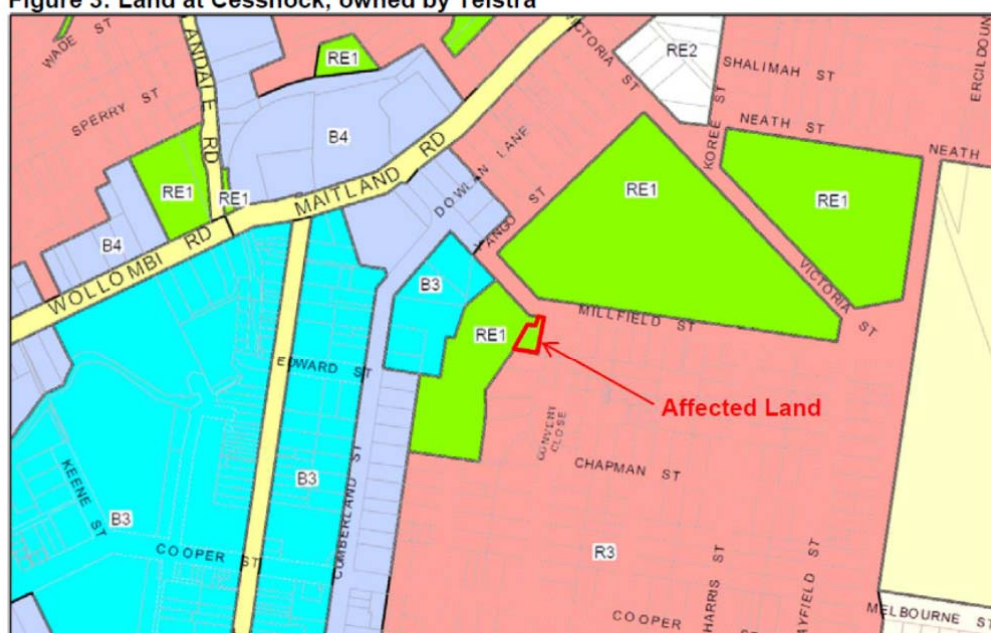
Affected Land

Lot 1 DP 748154, identified as 'Affected Land' in Figure 3.

Recommendation

- Land Zoning Map - Sheet 1720_COM_LZN_006CA_010_20150401 be amended to rezone Lot 1 DP 748154 from RE1 Public Recreation to R3 Medium Density Residential.
- Lot Size Map - Sheet 1720_COM_LSZ_006CA_010_20140910 be amended to apply minimum lot size of 450m² to Lot 1 DP 748154.

Figure 3: Land at Cessnock, owned by Telstra



Proposed Amendment No. 7

Rezoning of land at Edgeworth Street Cessnock to R3 Medium Density Residential

Issue

The affected land is zoned RE1 Public Recreation and is owned by Endeavour Industries. The land contains an existing commercial premises that provides employment opportunities to people living with disabilities.

The land was previously zoned 6(a) Open Space under *Cessnock Local Environmental Plan 1989*, but was rezoned RE1 Public Recreation upon gazettal of the LEP 2011. This was a result of a straight conversion of the zones. Land zoned RE1 Public Recreation is typically owned or managed by Council.

The land is identified in Council's adopted Open Space Strategy as being no longer required for recreational purposes and should be rezoned R3 Medium Density Residential to reflect the

Planning and Environment

Report No. PE77/2015

Planning and Environment



adjacent land use zone. Endeavour Industries currently relies on existing use rights to carry on its operations at the premises and this will not change as a result of this amendment.

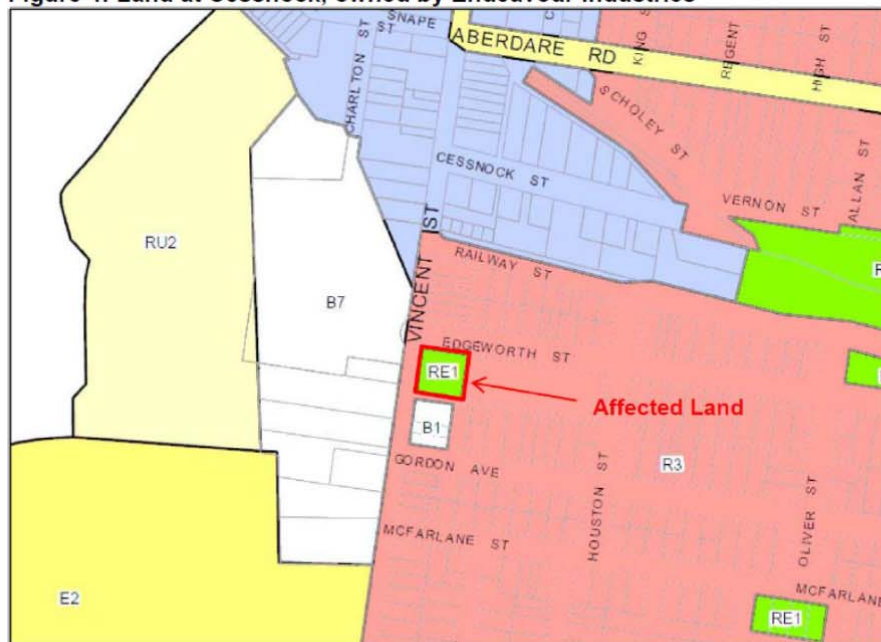
Affected Land

Lot 584 DP 1046691, identified as 'Affected Land' in **Figure 4**.

Recommendation

- Land Zoning Map - Sheet 1720_COM_LZN_006CA_010_20150401 be amended to rezone Lot 584 DP 1046691 from RE1 Public Recreation to R3 Medium Density Residential.
- Lot Size Map - Sheet 1720_COM_LSZ_006CA_010_20140910 be amended to apply minimum lot size of 450m² to Lot 584 DP 1046691.

Figure 4: Land at Cessnock, owned by Endeavour Industries



Proposed Amendment No. 8

Rezoning of Land at Jurd Street Cessnock to R2 Low Density Residential

Issue

The affected land is zoned RE1 Public Recreation and is owned by Northern Coalfield's Community Care. The land contains an existing aged care development.

The land was previously zoned 6(a) Open Space under *Cessnock Local Environmental Plan 1989*, but was rezoned RE1 Public Recreation upon gazettal of the LEP 2011. This was a result of a straight conversion of the zones. Land zoned RE1 Public Recreation is typically owned or managed by Council.

Planning and Environment

Report No. PE77/2015

Planning and Environment



The land has been assessed as being no longer required for recreational purposes and should be rezoned R2 Low Density Residential Zone to reflect the adjacent land use zone. The proposed amendment is consistent with the existing use of the site for aged care, which is permitted with consent in the R2 Low Density Residential Zone.

Affected Land

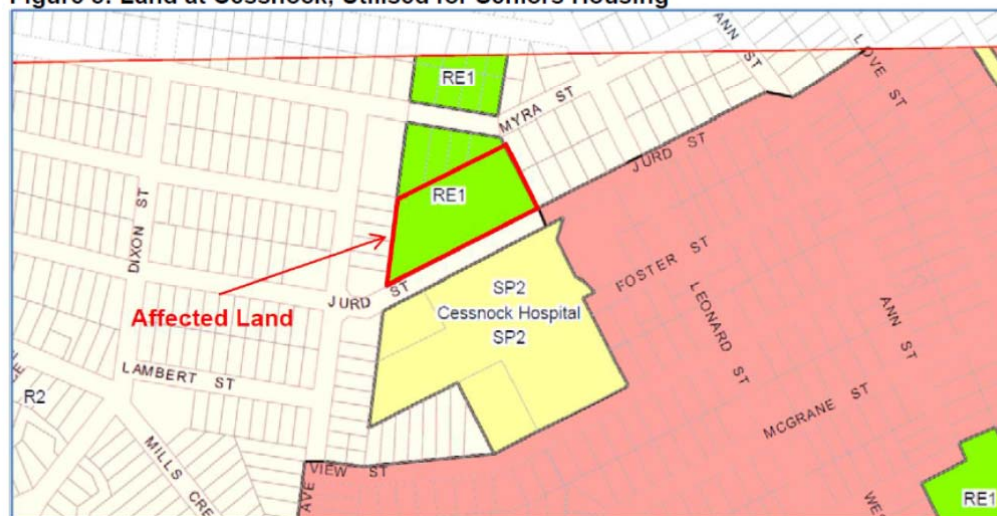
Lot 3 DP 631305, identified as 'Affected Land' in Figure 5.

The parcels of land zoned RE1 Public Recreation that are located to the immediate north of the affected land are owned by Council and are not included in this Planning Proposal. The land may be subject to a separate planning proposal following the completion of Council's forthcoming recreational needs analysis.

Recommendation

- Land Zoning Map - Sheet 1720_COM_LZN_006CA_010_20150401 be amended to rezone Lot 3 DP 631305 from RE1 Public Recreation to R2 Low Density Residential.
- Lot Size Map - Sheet 1720_COM_LSZ_006CA_010_20140910 be amended to apply minimum lot size of 450m² to Lot 3 DP 631305.

Figure 5: Land at Cessnock, Utilised for Seniors Housing



OPTIONS

1. Council resolve to support the recommendations of this Report and submit a Planning Proposal to the Department of Planning and Environment for a Gateway determination. This is the recommended option.
2. Request changes to the Planning Proposal. This option will delay the proposed amendments.
3. Not support the recommendation of this Report. This is not the preferred option and will not assist the improvement in the operation of the LEP 2011.

Planning and Environment

Report No. PE77/2015

Planning and Environment



CONSULTATION

- NSW Department of Planning and Environment.
- Council's Planning and Environment Directorate

STRATEGIC LINKS

a. Delivery Program

N/A

b. Other Plans

Nil

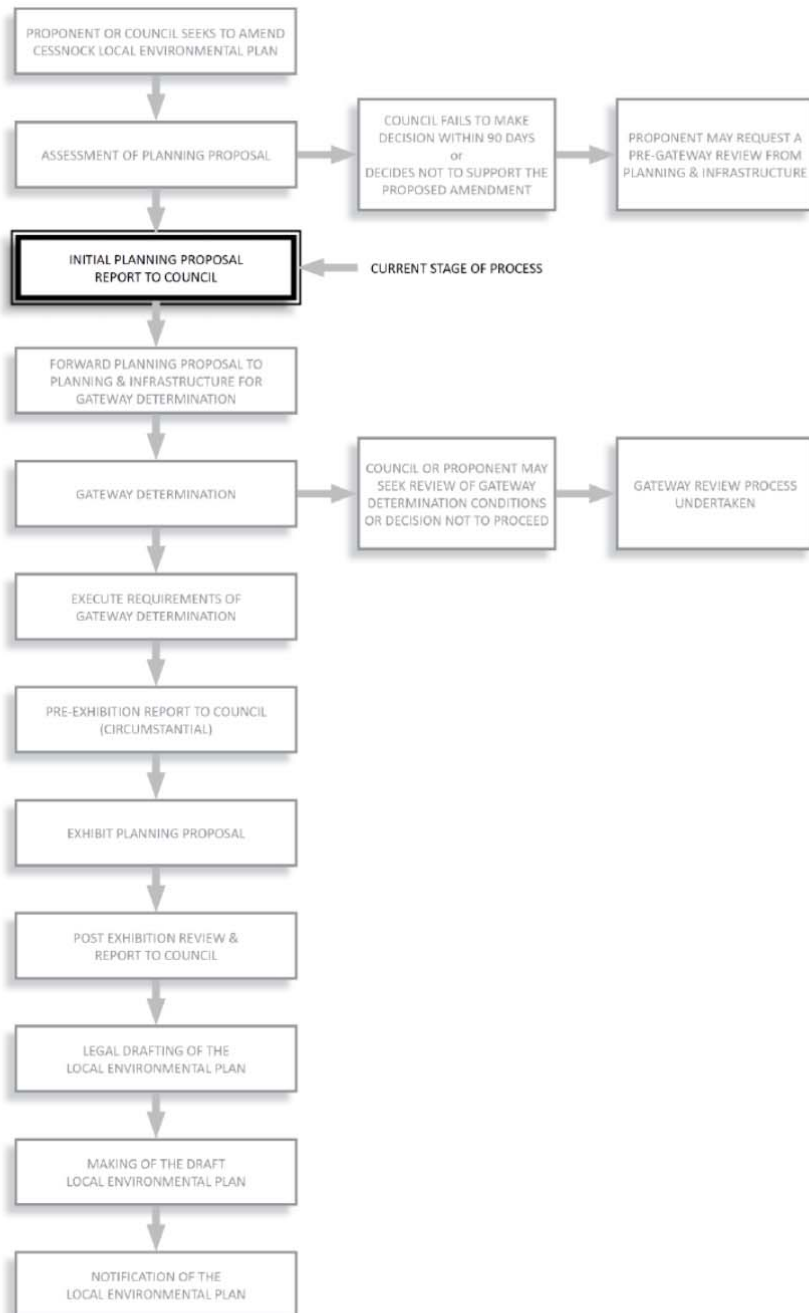
IMPLICATIONS

a. Policy and Procedural Implications

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

It is intended that the Planning Proposal be exhibited in accordance with any specific requirements made by the Department of Planning and Environment during the Gateway determination.

PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN





b. Financial Implications

The cost of this project is funded from Council's Strategic Land Use Planning budget.

c. Legislative Implications

This Report has regard to the provisions of the *Environmental Planning & Assessment Act 1979* and its Regulations and the *Standard Instrument (Local Environmental Plans) Order 2006* (as amended).

d. Risk Implications

The proposed changes will remove potential problems and / or delays for planned or possible future development.

e. Other Implications

Nil.

CONCLUSION

The proposed amendments to the Cessnock LEP 2011 are essential to ensure Council's intent for its planning instrument is maintained.

Other more substantial amendments to the Cessnock LEP 2011 will be subject to separate Planning Proposals, given the potentially different consultation requirements.

The Department of Planning and Environment has previously agreed that a separate Planning Proposal approach is the most appropriate and timely method to achieve these types of amendments.

ENCLOSURES

- 1** Planning Proposal - City Wide Administrative Amendment 2015