

SECTION 59 PLANNING REPORT

Planning proposal details:

PP_2014_CESSN_001_00 (14/03886)

Planning proposal summary:

It is proposed to make housekeeping amendments to the LEP 2011 to provide for appropriate considerations in the assessment of dual occupancy developments in the RU2 - Rural Landscape zone; rectify drafting anomalies; and to update details in the Heritage Schedule.

Date of Gateway determination:

10 October 2015

1.0 SUMMARY

Planning Proposal - Housekeeping Amendments to Cessnock LEP 2011 (Attachment 1) relates to three matters, being:

1. The addition of a new 'Local Provision', ensuring that appropriate visual, environmental, agricultural impact and infrastructure considerations are provided for dual occupancies in the RU2 - Rural Landscape Zone;
2. Rectifying a drafting error that incorrectly mapped properties at Kitchener as heritage items; and
3. Renaming two heritage items (Bellbird Uniting Church and Methodist Church Wesley Hall, Cessnock) identified in Part 1 of Schedule 5 - Environmental Heritage to include the words 'Uniting Church in Australia' in their names.

2.0 GATEWAY DETERMINATION

A Gateway Determination was issued by the Department of Planning and Environment on 3 April 2014, allowing 9 months to complete the amendment. (Attachment 2)

An extension to the time to complete the Planning Proposal was sought on 11 November 2014 and granted on 19 November 2014. The Planning Proposal was now due for completion on 10 July 2015. (Attachment 3)

A third and final extension to the time to complete the legal review and notification of the Planning Proposal was sought on 2 July 2015 and granted on 6 July 2015. The Planning Proposal was now due for completion on 10 October 2015 (Attachment 4).

Planning Proposal exhibited the wording of the agreed clause relating to the RU2 zoned dual occupancy provisions.

Council also update the Planning Proposal prior to exhibition relating to the statements of heritage significance as set out in the Cessnock Heritage Study for heritage items I22 and I51, with the heritage schedule and mapping are formatted to comply with Standard Instrument LEP requirements.

All conditions of the Gateway Determination have been satisfied.

3.0 COMMUNITY CONSULTATION

In accordance with the Gateway Determination, the Planning Proposal was publicly exhibited for a period of 14 days from 12 to 25 November 2014.

All adjoining Councils to the Cessnock LGA were notified of the exhibition, since the RU2 zone (to which the proposed Local Provision regarding Dual Occupancies applies) is LGA-wide.

The Uniting Church in Australia (Cessnock-Bellbird) was advised of the exhibition, regarding the proposed name change to their heritage items in Bellbird and Cessnock.

The owners of Lots 390 & 391 DP 755215 and Lots 536, 537, 538 & 539 DP 257370, Cessnock Street, Kitchener were notified of the exhibition, regarding the intended removal of incorrect heritage item mapping from their properties.

To comply with one of the conditions of the Gateway Determination, letters advising of the exhibition were sent to Abermain Heritage Preservation Society Inc and Cessnock Family History Group regarding the proposed name change to the Uniting Church in Australia heritage items in Bellbird and Cessnock.

One (1) submission was received during the exhibition period, from Lake Macquarie City Council which advised:

"Lake Macquarie City Council raises no objection to the above approach, but points out that Lake Macquarie LEP 2014 similarly seeks to preserve the character of the RU2 Rural Landscape zone by only allowing "dual occupancies (attached)" in that zone. In the case of proposed clause 7.10, you may wish to consider if it would be beneficial to articulate what is meant by "appearance of being a single development" in your Council's DCP".

Lake Macquarie City Council's suggestion to further articulate 'the appearance of a single development' relating to rural dual occupancies is noted for inclusion in a future review of Cessnock Development Control Plan 2010.

A late submission was received from Newcastle City Council, stating that it had no objection to the proposal.

No amendments were made to the Planning Proposal as a result of the submission as report to Council on 4 February 2015 (Attachment 6) and on 18 February 2015 (Attachment 8).

All the consultation requirements stipulated by the Gateway Determination have been satisfied.

4.0 VIEWS OF PUBLIC AUTHORITIES

No public authorities were consulted as part of the consultation and /or exhibition requirements of the Planning Proposal.

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

An assessment of relevant Section 117 Directions is and other strategic planning documents provided in the Planning Proposal (Attachment 1).

6.0 PARLIAMENTARY COUNSEL OPINION

Council sought an opinion of Parliamentary Counsel on 23 April 2015.

Parliamentary Counsel's Opinion was given on 4 May 2015 (Attachment 10).

7.0 OTHER RELEVANT MATTERS

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

8.0 MAPPING

The relevant Maps and Map Cover Sheet are at Attachment 11 & 12, and were sent to the Department for checking on 29 April 2015.

On 18 May 2015, Council received email confirmation that the maps had been checked.

9.0 RECOMMENDATION

Council recommends Cessnock Local Environmental Plan (Amendment No 17) be made as per the attached Parliamentary Counsel Opinion (Attachment 10) and associated Map (Attachment 12).

Attachments:

1. Planning Proposal – *Housekeeping Amendments to Cessnock LEP 2011*;
2. Gateway Determination - PP_2014_CESSN_001_00 (14/03886);
3. Amendment to Gateway Determination - PP_2014_CESSN_001_00 (14/03886)
4. Second Amendment to Gateway Determination - PP_2014_CESSN_001_00 (14/03886)
5. Delegated Plan Making Reporting Requirements sheet
6. Report to Ordinary Meeting of Council 4 February 2015;
7. Minutes of Ordinary Meeting of Council 4 February 2015;
8. Report to Ordinary Meeting of Council 18 February 2015;
9. Minutes of Ordinary Meeting of Council 18 February 2015;
10. Parliamentary Counsel Opinion –*Cessnock Local Environmental Plan 2011 (Amendment No 17)*;
11. Map Cover Sheet associated with Cessnock Local Environmental Plan 2011 (Amendment No 17);
12. Maps associated with Cessnock Local Environmental Plan 2011 (Amendment No 17).

**Attachment No 1:
Planning Proposal – Housekeeping Amendments to Cessnock LEP
2011**



PLANNING PROPOSAL

‘City Wide Amendment Part 3’ Housekeeping Amendments Cessnock Local Environmental Plan 2011

**Version 4.0
23 April 2015**

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PART 1: OBJECTIVES

It is intended to amend the Cessnock Local Environmental Plan 2011 to incorporate refinements that:

- Ensure appropriate consideration is provided for the erection of dual occupancy housing within zone RU2 Rural Landscape regarding visual, environmental and agricultural impacts as well as infrastructure issues including the sharing of infrastructure such as access arrangements, fire breaks and services;
- Rectify a drafting error that incorrectly maps properties as heritage at Kitchener; and
- Address naming anomalies in the heritage schedule relating to the Uniting Church in Australia.

PART 2: EXPLANATION of PROVISIONS

This Planning Proposal has been prepared to enable the following amendments to be made to the Cessnock Local Environmental Plan 2011, which was published (gazetted) on 23 December 2011 and came into effect on that date.

Proposed Amendment No. 1

Part 7 Additional Local provision: Dual Occupancies in RU2 Rural Landscape Zone

Issue

A Local Planning Provision regarding rural dual occupancies was removed by the former Department of Planning and Infrastructure with the notification of the *Cessnock Local Environmental Plan 2011* on 23 December 2011.

This Planning Proposal seeks to re-establish these provisions to ensure appropriate consideration is provided to the erection of dual occupancy housing within zone RU2 - Rural Landscape relating to visual, environmental and agricultural impacts as well as infrastructure issues, including the sharing of infrastructure such as access arrangements, fire breaks and services.

This provision (in part) will facilitate orderly detached dual occupancy development in rural areas, an important form of housing within the city. It will also discourage fragmentation of rural lands.

The proposed provision is the 'agreed' version of the clause as mentioned in Clause 2 of the Gateway Determination. It is slightly different in wording to the clause that was originally proposed by Council, although its intent is the same. The clause as originally proposed by Council is as follows:

7.13 Erection of dual occupancy housing

- (1) The objective of this clause is to ensure that development for dual occupancy housing on land within zone RU2 preserves the natural quality of the land and the rural character of the area and does not impair the agricultural potential, viability and capability of the land.
- (2) Despite any other provision of this plan the consent authority must not consent to the erection of dual occupancy housing on land within zone RU2 unless the consent authority is satisfied that the dwellings are arranged in a clustered manner which:
 - (a) preserves the natural quality of the land and the rural character of the area;
 - (b) ensures that the agricultural potential and capability of the land is not impaired;
 - (c) has regard to topographical features of the land; and
 - (d) minimises the impact of services and infrastructure on the land such as access roads and fire breaks.

The proposed clause, required by the Department of Planning and Environment, is based on Clause 7.15 of *Port Stephens Local Environmental Plan 2013*, which at the time of discussion (March 2014) with the former Department of Planning and Infrastructure, was understood to be the only other LEP in NSW to contain this clause. Note that this clause is not a 'settled' Model Local Provision as set out on the Department of Planning and Environment's website.

Affected Land

This proposed provision is relevant to all land zoned RU2 Rural Landscape.

Any Council Interest

Given the general nature of this proposal, it is likely that Council would have interest in land that could be affected. However, this proposal has been prepared without regard to any such interest.

Recommendation

In Part 7 Additional Local Provisions, insert the following:

7.13 Dual occupancies on land in certain zones

- (1) The objective of this clause is to preserve the rural character of the area.
- (2) Development consent must not be granted to development for the purpose of dual occupancies on land in Zone RU2 Rural Landscape unless the consent authority is satisfied that:
 - (a) the dwellings are designed and sited to give the appearance of being a single development, and
 - (b) the dwellings will share facilities such as a common driveway, fire breaks and essential services, and
 - (c) any ancillary buildings and structures will be situated within close proximity to the dwellings, and
 - (d) the dwellings are designed and sited to avoid significant adverse environmental impacts, and
 - (e) the dwellings are designed and sited to avoid significant adverse impacts on the agricultural potential and capability of the land.

Proposed Amendment No. 2

Heritage Mapping - Kitchener

Issue

The purpose of this amendment is to rectify a drafting error that unintentionally identified and placed heritage item I128 on Lots 390 & 391 DP 755215 and Lots 536, 537, 538 & 539 DP 257370 as shown in Figure 1.

NOTE: Heritage Item I128 relates to the Rotary Park Miners Memorial at Lot 190 DP 1108272, Lang Street Kurri Kurri and is not proposed to be removed from the LEP Heritage Schedule or supporting Heritage Maps.

Affected Land

Lots 390 & 391 DP 755215 and Lots 536, 537, 538 & 539 DP 257370. Council has no interest in this land.

Recommendation

- The Heritage Map Sheet 1720_COM_HER_006D_040_20111206 be amended to remove reference to heritage item I128 from Lots 390 & 391 DP 755215 and Lots 536, 537, 538 & 539 DP 257370.

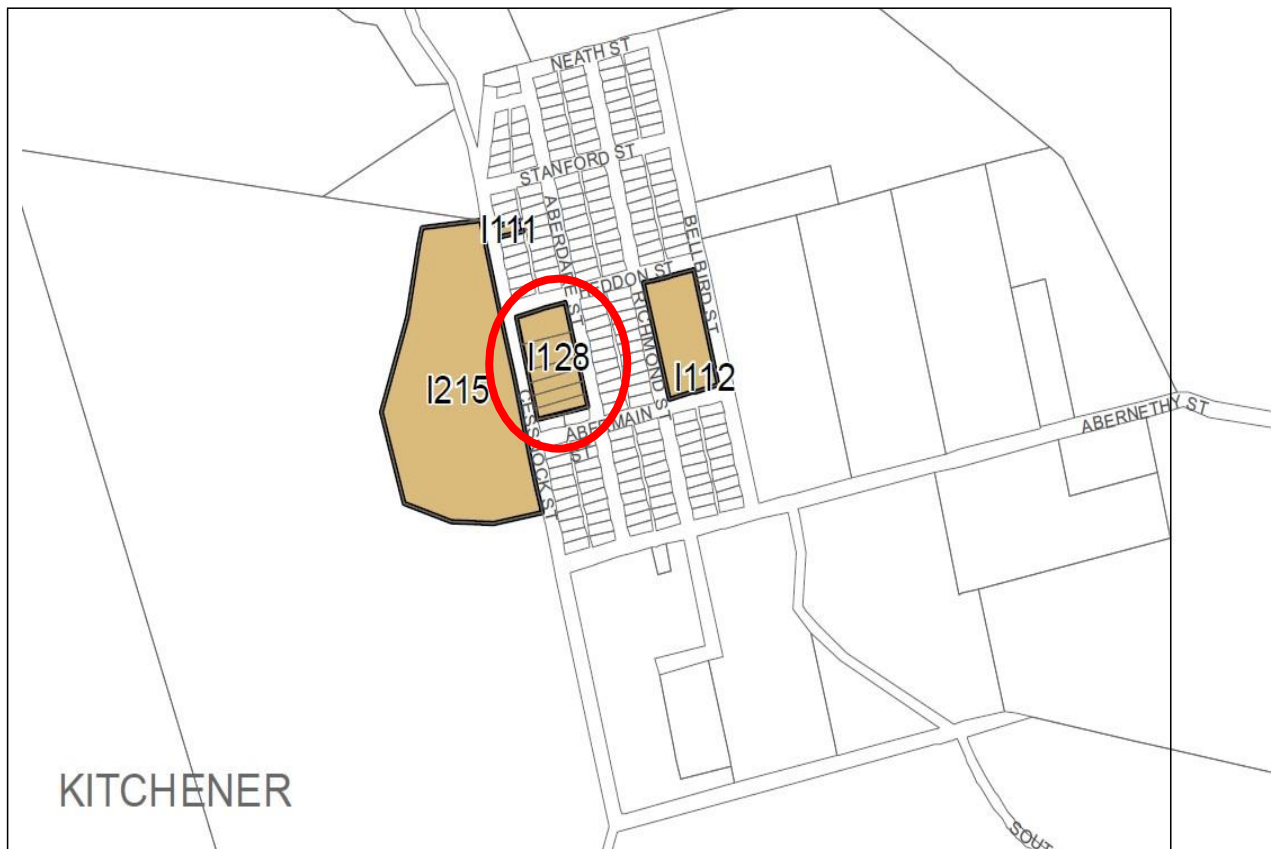


Figure 1

Proposed Amendment No. 3

Schedule 5: Environmental Heritage: Part 1 Heritage Items

Issue

The listing of heritage items I22 (Bellbird Uniting Church, 478 Wollombi Road, Bellbird) and I51 (Methodist Church Wesley Hall, 4 Cooper Street, Cessnock) within Part 1 of Schedule 5 contains errors in relation to item names.

The Uniting Church of Australia in 2013 advised that on June 22, 1977, the Methodist Church entered into a union and became the Uniting Church in Australia and have therefore requested to have these items listed as the “Uniting Church in Australia Bellbird Church”, and the “Uniting Church in Australia Wesley Hall, Cessnock”.

Clause 3 of the Gateway Determination requests that this Planning Proposal show how the proposed amendments relate to the ‘statements of significance’ for each Heritage Item.

The Statement of Significance for Item I51 Methodist Church Wesley Hall recognises the name change to the item: “...it is socially significant because of its importance then to the Methodist members of the Church and now to the Uniting Church members...”

The Statement of Significance for Item I22 Bellbird Uniting Church does not specifically recognise the name change to the Uniting Church in Australia, but states: “A very fine example of a small coalfields church of social significance to the non-conformist mining community of Bellbird in the 1920s and up to the present day”.

These Statements of Significance are given on the State Heritage Inventory listings for each of these sites at:

<http://www.environment.nsw.gov.au/heritageapp/heritagesearch.aspx>

The Statements of Significance are shown in Appendix 1.

Note that these Statements of Significance are slightly expanded from those given in the *City of Cessnock Heritage Study 1992*, prepared by Pike, Walker and Associates.

The inventory sheets from the *City of Cessnock Heritage Study 1992* are shown in Appendix 2.

Affected land

In practical terms, no land is affected by the change of the item name in the table. Council has no interest in this land.

Recommendation

In Part 1 of Schedule 5 Environmental Heritage, omit from the table the entries at Bellbird relating to Item I22 and Cessnock relating to Item I51 and substitute instead:

Bellbird	Uniting Church in Australia Bellbird Church	478 Wollombi Road	Lot 13, Sec 3, DP 758082	Local	I22
Cessnock	Uniting Church in Australia Wesley Hall	4 Cooper Street	Lot 10, Sec D, DP 4633; Lot 1, DP 1110465	Local	I51

PART 3: JUSTIFICATION

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

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

Section A: Need for Proposal

1. Resulting from a Strategic Study or Report

The Planning Proposal is consistent with the City Wide Settlement Strategy, which provides for the strategic planning framework for the urban growth in Cessnock LGA.

The development of the land to which this Planning Proposal relates, is consistent with this strategy.

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:

- Provide for appropriate consideration to the erection of dual occupancy housing within zone RU2 - Rural Landscape Zone;
- Rectifying heritage mapping errors; and
- Rectifying naming anomalies in the Heritage Schedule.

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 with Council's Strategic Plan 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 6 - Number of Storeys in a Building	The SEPP clarifies the reference to storey, floors and levels	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 15 - Rural Land Sharing Communities	The SEPP provides for multiple occupancy development, with council consent, in rural and non-urban zones, subject to a list of criteria in the policy	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 21 - Caravan Parks	The SEPP provides for development for caravan parks	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 22 - Shops and commercial premises	The SEPP provides for the change of use of commercial premises	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 36 - Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision	Nothing in this Planning Proposal affects the aims and provisions of this SEPP

SEPP 44 - Koala Habitat Protection	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 50 - Canal Estates	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 55 - Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 62 - Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from the rezoning of land and is of relevance for site specific rezoning proposals	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 64 - Advertising and Signage	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 65 - Design Quality of Residential Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP Housing for Seniors or People with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP Major Development 2005	The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels 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 and ESD	The Planning Proposal does not propose to change zoning that would affect the permissibility of mining on the subject lands
SEPP Temporary Structures 2007	The SEPP provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP Exempt and Complying Development Codes 2008	The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP Rural Lands 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP Affordable Rental Housing 2009	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels to determine DAS	Nothing in this Planning Proposal affects the aims and provisions of this SEPP

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

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

Table 2: Relevant Section 117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implication
1. EMPLOYMENT AND RESOURCES		
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land	It is not proposed to amend the zoning of any land currently affected by a rural zone or provide for an increase in land density. It is considered that the

		Planning Proposal is consistent with this Direction and will assist in achieving the objectives of this Direction.
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development	The Planning Proposal does not propose to change zoning that would affect the permissibility of mining on the subject lands. It is considered that the Planning Proposal is consistent with this Direction
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 is consistent with the rural planning principles specified in the Rural Land SEPP.
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas	The Planning Proposal does not seek to alter any existing zones that protect and conserve environmentally sensitive areas The Planning Proposal is not inconsistent with this Direction
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
2.4 Recreation Vehicle Areas	The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>)	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
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	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
3.2 Caravan parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates	The Planning Proposal does not seek to rezone land to provide for caravan parks or manufactured home estates. Further there are no existing caravan parks within the study area

		It is considered that the Planning Proposal is consistent with this Direction
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
3.5 Development Near Licensed Aerodromes	The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	Planning Proposal not affected by this direction
3.6 Shooting Ranges	The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issues that must be addressed when rezoning land adjacent to an existing shooting range	Planning Proposal not affected by this direction
4. HAZARD AND RISK		
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils	Planning Proposal not affected by this direction
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	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
4.3 Flood Prone Land	The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
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	Nothing in this Planning Proposal affects the aims and provisions of this SEPP

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

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 habitat 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 Infrastructure advised that this Planning Proposal should be kept separate from the Planning Proposals needed to rectify other more substantial amendments to the Cessnock Local Environmental Plan 2011, including addressing the 'Deferred Matters', given the potentially different consultation requirements.

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

It is not proposed to consult with any authorities due to the nature and content of this Planning Proposal.

PART 4: MAPPING

To achieve the intent of the Planning Proposal relating to heritage, it is proposed to amend the Heritage Map Sheet HER 006D by removing heritage item I128 from Lots 390 & 391 DP 755215 and Lots 536, 537, 538 & 539 DP 257370

Map Sheet	Map Identifier
Heritage Map	
HER 006D	1720_COM_HER_006D_040_20111206

PART 5: COMMUNITY CONSULTATION

Community consultation was undertaken in accordance with the Gateway Determination requirements, being fourteen (14) days exhibition. The Planning Proposal was publically exhibited from 12 to 25 November 2014. The Proposal was exhibited at the following locations:

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

All adjoining Councils to the Cessnock LGA were notified of the exhibition, since the RU2 zone (to which the proposed Local Provision regarding Dual Occupancies applies) is LGA-wide.

The Uniting Church in Australia (Cessnock-Bellbird) was advised of the exhibition, regarding the proposed name change to their heritage items in Bellbird and Cessnock.

The owners of Lots 390 & 391 DP 755215 and Lots 536, 537, 538 & 539 DP 257370, Cessnock Street, Kitchener were notified of the exhibition, regarding the intended removal of incorrect heritage item mapping from their properties.

To comply with one of the conditions of the Gateway Determination, letters advising of the exhibition were sent to Abermain Heritage Preservation Society Inc and Cessnock Family History Group regarding the proposed name change to the Uniting Church in Australia heritage items in Bellbird and Cessnock.

One submission was received during the exhibition period, from Lake Macquarie City Council which advised:

"Lake Macquarie City Council raises no objection to the above approach, but points out that Lake Macquarie LEP 2014 similarly seeks to preserve the character of the RU2 Rural Landscape zone by only allowing "dual occupancies (attached)" in that zone. In the case of proposed clause 7.10, you may wish to consider if it would be beneficial to articulate what is meant by "appearance of being a single development" in your Council's DCP".

Lake Macquarie City Council's suggestion to further articulate 'the appearance of a single development' relating to rural dual occupancies is noted for inclusion in a future review of Cessnock Development Control Plan 2010.

A late submission was received from Newcastle City Council, stating that it had no objection to the proposal.

No amendments were made to the Planning Proposal as a result of the submission as report to Council on 4 February 2015 and on 18 February 2015.

Consultation requirements stipulated by the Gateway Determination were complied with.

PART 6: PROJECT TIMELINE

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval.

It was originally estimated that this amendment to the Cessnock Local Environmental Plan 2011 would be completed by March 2015. The Gateway Determination was dated 3 April 2014 and stated that the timeframe for completing the LEP was to be 9 months.

On 19 November, 2014, the Department altered the Gateway Determination to extend the time for the Proposal to be completed until 10 July 2015.

A third and final extension to the time to complete the legal review and notification of the Planning Proposal was sought on 2 July 2015 and granted on 6 July 2015. The Planning Proposal was now due for completion on 10 October 2015.

Appendix 1: Statements of Significance



18 2013 1 1 _
Planning Proposal - Ci

Statement of Significance – Methodist Church Wesley Hall



18 2013 1 1 _
Planning Proposal - Ci

Statement of Significance –Bellbird Uniting Church

Appendix 2: Inventory Sheets from *City of Cessnock Heritage Study 1992*



18 2013 1 1 _
Planning Proposal - Ci

Attachment No 2:
Gateway Determination - PP_2014_CESSN_001_00 (14/03886)



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

Our ref: PP_2014_CESSN_001_00 (14/03886)
Your ref: EE9/2014

Attention: Bo Moshage

Dear Mr Glen,

Cessnock LEP 2011- PP_2014_CESSN_001_00: Housekeeping Amendment

I refer to Council's request for a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend Cessnock LEP 2011- PP_2014_CESSN_001_00.

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

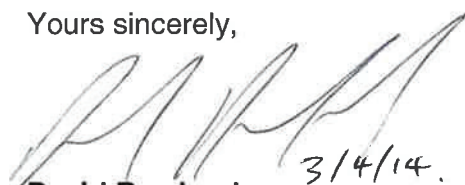
The Minister delegated his plan making powers to councils in October 2012. It is noted that Council accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

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

Should you have any queries about this matter, please contact Ken Phelan of the agency's Newcastle office on 4904 2705.

Yours sincerely,



3/4/14.

David Rowland
General Manager
Hunter & Central Coast Region



Gateway Determination

Cessnock LEP 2011- PP_2014_CESSN_001_00: Housekeeping Amendment

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

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
2. Council update the PP prior to exhibition to ensure consistency between the proposed RU2 zone dual-occupancy provisions and the wording of the agreed clause.
3. Council update the PP prior to exhibition to demonstrate how the proposed amendments relate to the statements of heritage significance, as set out in the Cessnock Heritage Study, for Heritage items I22 (478 Wollombi Road, Bellbird) and I51 (4 Cooper Street, Cessnock) within Part 1 of Schedule 5.
4. Council seek input from the local historical or heritage society on such a name change in relation to cultural heritage considerations.
5. The Heritage schedule and mapping are to be formatted to comply with Standard Instrument LEP technical requirements.
6. The timeframe for completing the LEP is to be **9 months**.

Dated 3rd day of April 2014.

David Rowland
General Manager
Hunter & Central Coast Region



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

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

Number	Name
PP_2014_CESSN_001_00	Planning proposal of housekeeping amendments to Cessnock LEP 2011

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

Dated 3rd April 2014

David Rowland
General Manager
Hunter & Central Coast Region

Attachment No 3:
Amendment to Gateway Determination - PP_2014_CESSN_001_00
(14/03886)



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

Our ref: 14/03886
Your ref: EE9/2014

Dear Mr Glen

**Planning Proposal PP 2014_ CESSN_001_00 – Alteration of Gateway
Determination**

I refer to your letter of 11 November 2014 in relation to Planning Proposal PP 2014_ CESSN_001_00 seeking an extension of time to complete the proposal for various housekeeping amendments.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the Environmental Planning and Assessment Act, 1979, to alter the Gateway determination dated 3 April 2014 for PP 2014_ CESSN_001_00.

The Gateway Determination has been altered to extend the time to complete the proposal. The Proposal is now due for completion on 10 July, 2015.

If you have any questions in relation to this matter, I have arranged for Mr Ken Phelan to assist you. Mr Phelan can be contacted on (02) 4904 2705.

Yours sincerely

19 November 2014

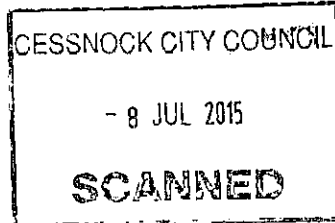
**David Rowland
General Manager
Hunter and Central Coast Region
Planning Services**

Attachment No 4:
Second Amendment to Gateway Determination -
PP_2014_CESSN_001_00 (14/03886)

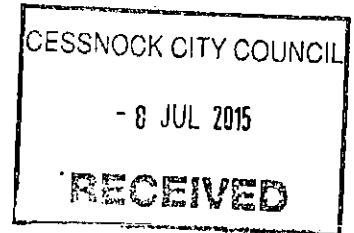


Planning & Environment

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



Our ref: PP_2014_CESS_001_00
Your ref: EE9/2014



Dear Mr Glen,

Planning Proposal PP_2014_CESSN_001_00 – Alteration of Gateway Determination

I refer to your email received on the 2 July 2015 requesting an extension of time to complete Planning Proposal PP_2014_CESSN_001_00 for the various housekeeping amendments.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the Environmental Planning and Assessment Act, 1979, to alter the Gateway determination dated 3 April 2014 for PP_2014_CESSN_001_00 (as altered).

The Gateway determination has been altered to extend the time to complete the proposal.

The proposal is now due for completion on 10 October 2015.

If you have any questions in relation to this matter, I have arranged for Mr Ken Phelan to assist you. Mr Phelan can be contacted on (02) 4904 2705.

Yours sincerely

6 July 2015

David Rowland
General Manager
Hunter and Central Coast Region
Planning Services

Attachment No 5:
Delegated Plan Making Reporting Requirements sheet

Cessnock Local Environmental Plan 2011

Delegated plan making reporting requirements

(Attachment 5 from “A Guide to Preparing Local Environmental Plans”)

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2014_CESSN_001_00
Date Sent to department under s56	25/2/2014
Date considered at LEP Review Panel	N/A
Gateway determination date	10 October 2015

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited	12/11/14 to 25/11/14	
Date of public hearing (if held)	N/A	
Date sent to PCO seeking Opinion	23 April 2015	
Date Opinion received	04 May 2015	
Date Council Resolved to Adopt LEP	18 February 2015	
Date LEP made by GM (or other) under delegation	9 July 2015	
Date sent to DP&I requesting notification	9 July 2015	

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional Relevant Information:

Attachment No 6:
Report to Ordinary Meeting of Council 4 February 2015

SUBJECT: ***PLANNING PROPOSAL - CITY WIDE AMENDMENTS PART 3***

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

Council at its Ordinary Meeting on 4/02/2015 12:00:00 AM resolved that the matter be deferred to a future meeting

SUMMARY

The purpose of this report is to provide feedback to Council on the public exhibition of Planning Proposal – City Wide Amendments (Part 3) and seek Council's endorsement to make the proposed amendments to the Cessnock Local Environmental Plan 2011. This Planning Proposal is the third in a series of Council-initiated amendments to the LEP, the first being largely administrative in nature and the second correcting minor errors and discrepancies.

The Planning Proposal – City Wide Amendments (Part 3) relates to three matters, being:

1. The addition of a new 'Local Provision', ensuring that appropriate visual, environmental, agricultural impact and infrastructure considerations are provided for dual occupancies in the RU2 - Rural Landscape Zone;
2. Rectifying a drafting error that incorrectly mapped properties at Kitchener as heritage items; and
3. Renaming two heritage items (Bellbird Uniting Church and Methodist Church Wesley Hall, Cessnock) identified in Part 1 of Schedule 5 - Environmental Heritage to include the words 'Uniting Church in Australia' in their names.

RECOMMENDATION

1. That Council endorse the Planning Proposal – City Wide Amendments (Part 3) as provided as Enclosure 1 and agree to make the proposed amendments to Cessnock Local Environmental Plan 2011 pursuant to the *Environmental Planning & Assessment Act 1979*.
2. That Council notifies persons who made a submission during the exhibition of the Planning Proposal – City Wide Amendments (Part 3).

BACKGROUND

On 19 February 2014, Council resolved under Report EE 9/2014:

1. That Council prepare a planning proposal to amend Part 7 Additional Local Provision of the Cessnock Local Environmental Plan 2011 to insert the following:
7.10 Erection of dual occupancy housing
(1) The objective of this clause is to ensure that development for dual occupancy housing on land within zone RU2 preserves the natural

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quality of the land and the rural character of the area and does not impair the agricultural potential, capability and viability of the land.

- (2) *Despite any other provision of this plan the consent authority must not consent to the erection of dual occupancy housing on land within zone RU2 unless the consent authority is satisfied that the dwellings are arranged in a clustered manner which:*
 - (a) *preserves the natural quality of the land and the rural character of the area;*
 - (b) *ensures that the agricultural potential, capability and viability of the land is not compromised;*
 - (c) *has regard to topographical features of the land; and*
 - (d) *minimises the impact of services and infrastructure on the land such as access roads and fire breaks.*

2. *That Council defer Schedule 2 - Exempt Development of the Cessnock Local Environmental Plan 2011 to insert in appropriate alphabetical order the following:*

Dams (Zones, RU2 & RU4)

- (1) *Maximum embankment fill batter grades - 1 (vertical):2.5 (horizontal).*
- (2) *Minimum distance from property boundary at closest point - 10m.*
- (3) *Minimum fill embankment crest width - 3m.*
- (4) *Minimum height difference between the embankment crest level and the spillway level - 1m.*
- (5) *Maximum fill embankment height, as measured from ground level (existing) immediately down slope of the embankment to the top of the embankment crest level - 3m.*
- (6) *Must not be in any area identified on the Acid Sulfate Soils Map.*
- (7) *Maximum capacity of water storage - 3ML.*
- (8) *Must not be constructed in a watercourse.*
- (9) *Must not be within 40m of any part of an onsite sewerage management system.*

3. *That Council amend Heritage Map Sheet 1720_COM_HER_006D_040_20111206 to remove heritage item I128 from Lots 390 & 391 DP 755215 and Lots 536, 537, 538 & 539 DP 257370.*

4. *That Council amend Part 1 of Schedule 5 Environmental Heritage of the Cessnock Local Environmental Plan 2011 by omitting the entries at Bellbird relating to Item I22 and Cessnock relating to Item I51 and substitute instead:*

Bellbird	Uniting Church in Australia Bellbird Church	478 Wollombi Road	Lot 13, Section 3, DP 758082	Local	I22
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Cessnock	Uniting Church in Australia Wesley Hall	4 Cooper Street	Lot 10, Section D, DP 4633; Lot 1, DP 1110465	Local	I51
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5. *That Council undertake a consultation program with public authorities and the community as determined by the "Gateway" Determination.*
6. *That a further report be presented to Council following the public exhibition of the Planning Proposal, if significant objections are received, advising of the outcomes of the consultation program and any recommendations relating to the adoption of the final LEP amendment.*

Following the Council resolution, the Planning Proposal was forwarded to the then Department of Planning and Infrastructure with a request for a Gateway Determination.

The Gateway Determination for the Planning Proposal was issued on 3 April 2014 by the then Department of Planning and Infrastructure. The Determination issued to Council authorised Council to exercise its delegation to make the plan, and required:

1. The public exhibition of the Planning Proposal for 14 days;
2. The inclusion of 'agreed wording' for the proposed RU2 zone dual occupancy Local Provision. This wording was based on the Port Stephens Local Environmental Plan 2013, which at the time, was understood to be the only other LEP in NSW to contain such a clause;
3. Updating of the Planning Proposal to demonstrate how the proposed amendments relate to the statements of heritage significance for the Uniting Church in Australia heritage items in Bellbird and Cessnock (as contained in Cessnock Heritage Study 1992);
4. Input from local historical /heritage societies regarding the proposed name change to the Uniting Church in Australia heritage items in Bellbird and Cessnock;
5. That the heritage schedule and mapping be formatted to comply with Standard LEP Technical requirements; and
6. That the Proposal be completed within 9 months.

Chronology

Date	Brief Description
19 February 2014	Council resolved to forward the Planning Proposal to the Department for a Gateway Determination under report EE 9/2014 and publically exhibit the Proposal.
3 April 2014	Gateway Determination issued by the Department allowing Planning Proposal to proceed subject to conditions.
12 to 25 November 2014	Planning Proposal publicly exhibited.
19 November	Department alters Gateway Determination to extend the time for the Proposal to be completed until 10 July 2015.

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REPORT/PROPOSAL

The Planning Proposal was revised after the Gateway Determination was received and placed on public exhibition from 12 to 25 November 2014, during which time one submission was received. In addition, one late submission was received. The consultation and submissions are detailed in 'Consultation' below.

The Planning Proposal has been updated as a result of the Council resolution and Gateway Determination and is provided as **Enclosure 1** to this report.

Details of each of the proposed amendments to *Cessnock LEP 2011* are provided in detail in the Planning Proposal.

OPTIONS

Council has the following options:

1. Authorise the making of the draft amendment to Cessnock Local Environmental Plan 2011.
2. Not proceed with the Planning Proposal for the following reasons:

(To be provided by Council).

Recommended Option

Option 1 is recommended to Council.

CONSULTATION

The Planning Proposal was publically exhibited from 12 to 25 November 2014. The Proposal was exhibited at the following locations:

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

All adjoining Councils to the Cessnock LGA were notified of the exhibition, since the RU2 zone (to which the proposed Local Provision regarding Dual Occupancies applies) is LGA-wide.

The Uniting Church in Australia (Cessnock-Bellbird) was advised of the exhibition, regarding the proposed name change to the heritage items in Bellbird and Cessnock;

The owners of Lots 390 & 391 DP 755215 and Lots 536, 537, 538 & 539 DP 257370, Cessnock Street, Kitchener were notified of the exhibition, regarding the intended removal of incorrect heritage item mapping from their properties.

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To comply with one of the conditions of the Gateway Determination, letters advising of the exhibition were sent to Abermain Heritage Preservation Society Inc and Cessnock Family History Group regarding the proposed name change to the Uniting Church in Australia heritage items in Bellbird and Cessnock.

One submission was received during the exhibition period, from Lake Macquarie City Council (included as **Enclosure 2**), which advised:

"Lake Macquarie City Council raises no objection to the above approach, but points out that Lake Macquarie LEP 2014 similarly seeks to preserve the character of the RU2 Rural Landscape zone by only allowing "dual occupancies (attached)" in that zone. In the case of proposed clause 7.10, you may wish to consider if it would be beneficial to articulate what is meant by "appearance of being a single development" in your Council's DCP".

Lake Macquarie City Council's suggestion to further articulate 'the appearance of a single development' relating to rural dual occupancies is noted for inclusion in a future review of Cessnock Development Control Plan 2010.

A late submission was received from Newcastle City Council (included as **Enclosure 3**), stating that it had no objection to the proposal.

STRATEGIC LINKS

a. Delivery Program

A Sustainable and Healthy Environment:

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

b. Other Plans

Lower Hunter Regional Strategy

One of the 'Rural Landscape and Rural Communities' outcomes of the Lower Hunter Regional Strategy (LHRS) is that "the rural character of the Region is recognised and protected in local environmental plans." The proposed addition of the Local Provision 'Dual Occupancies in the RU2 zone' is consistent with that outcome.

IMPLICATIONS

a. Policy and Procedural Implications

This report has regard to the provisions of the *Environmental Planning & Assessment Act 1979, as amended* and its *Regulations*.

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

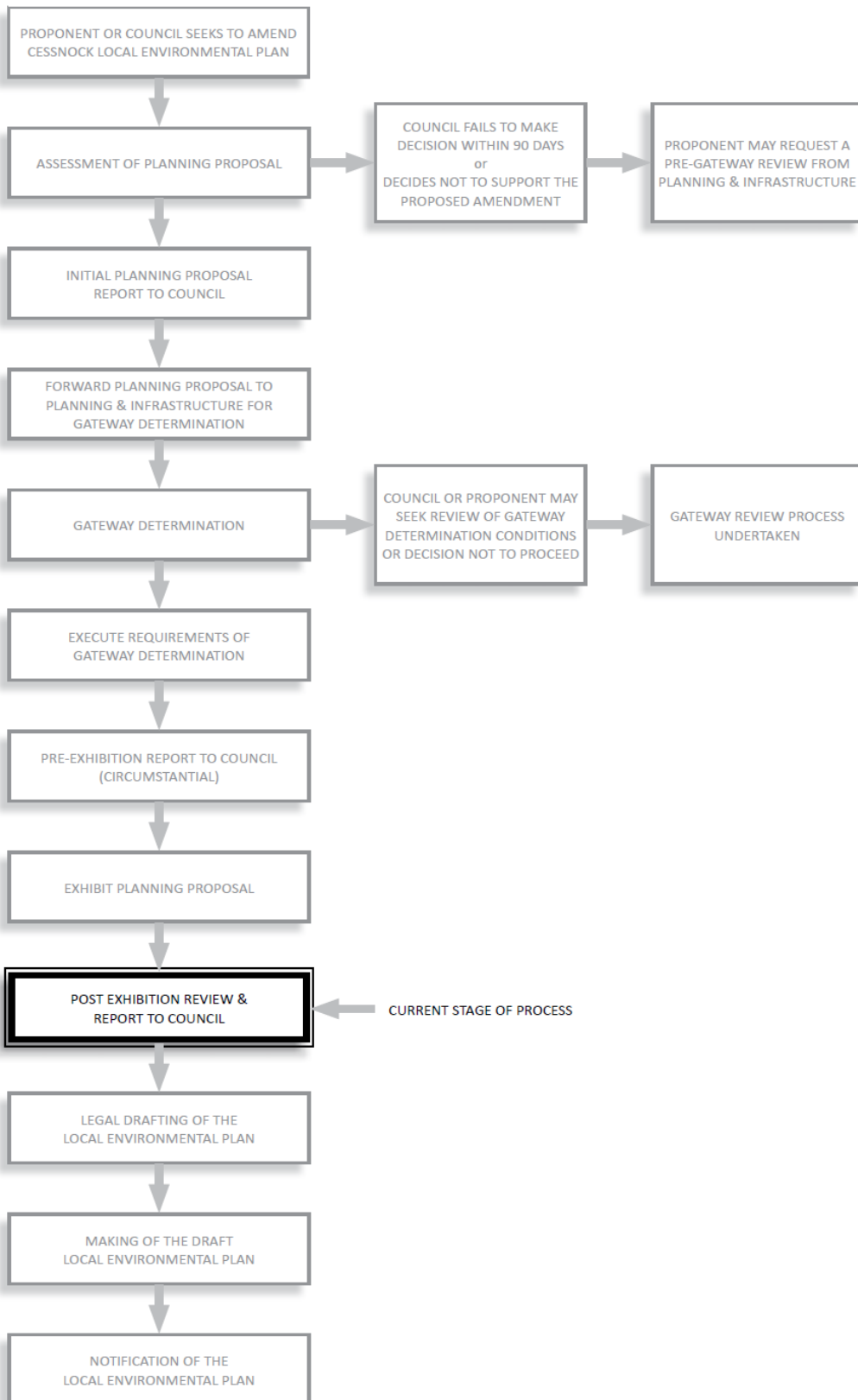
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PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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b. Financial Implications

The finalisation of the Planning Proposal will be met through normal departmental allocations. Legislative Implications.

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

c. Risk Implications

Nil.

d. Other Implications

Nil.

CONCLUSION

The community consultation for the Planning Proposal – City Wide Amendments Part 3 has been completed. No changes have been made to the Planning Proposal as a result of any submissions. It is therefore recommended that the Planning Proposal, as included as Enclosure 1, be made

ENCLOSURES

- 1** Planning Proposal - Cessnock LEP 2011 City Wide Amendments (Part 3)
- 2** Submission - The City of Newcastle
- 3** Submission - Lake Macquarie Council

Attachment No 7:
Minutes of Ordinary Meeting of Council February 2015

SUBJECT: PLANNING PROPOSAL - CITY WIDE AMENDMENTS PART 3

1. That Council endorse the Planning Proposal – City Wide Amendments (Part 3) as provided as Enclosure 1 and agree to make the proposed amendments to Cessnock Local Environmental Plan 2011 pursuant to the *Environmental Planning & Assessment Act 1979*.
2. That Council notifies persons who made a submission during the exhibition of the Planning Proposal – City Wide Amendments (Part 3).

PROCEDURAL MOTION **Moved:** Councillor Ryan
 Seconded: Councillor Olsen

That the report be *DEFERRED* to the next meeting to enable the Acting General Manager to respond to the following question asked by Councillor Ryan.

Has Council been receiving and approving applications for Dual Occupancies in the RU2 zone?

FOR	AGAINST
Councillor Gibson	Councillor Doherty
Councillor Troy	Councillor Hawkins
Councillor Wrightson	Councillor Smith
Councillor Olsen	Councillor Campbell
Councillor Ryan	Councillor Maybury
Councillor Stapleford	
Councillor Parsons	
Councillor Pynsent	
Total (8)	Total (5)

The Procedural Motion was **PUT** and **CARRIED**.

Attachment No 8:
Report to Ordinary Meeting of Council 18 February 2015

SUBJECT: *PLANNING PROPOSAL - CITY WIDE AMENDMENTS (PART 3)*

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

SUMMARY

The purpose of this report is to provide additional information to Council relating to dual occupancy development applications in the RU2 Rural Landscape Zone. This information was requested at the previous Ordinary Council meeting of 5 February 2015, when a decision on Report No PE 5/2015 regarding Planning Proposal – City Wide Amendments (Part 3) was deferred.

RECOMMENDATION

1. That Council endorse the Planning Proposal – City Wide Amendments (Part 3) as provided as Enclosure 2 and agree to make the proposed amendments to Cessnock Local Environmental Plan 2011 pursuant to the *Environmental Planning & Assessment Act 1979*.
2. That Council notifies persons who made a submission during the exhibition of the Planning Proposal – City Wide Amendments (Part 3).

BACKGROUND

Report No PE5/2015 to the Ordinary Meeting of Council of 4 February 2015 recommended that:

1. *That Council endorse the Planning Proposal – City Wide Amendments (Part 3) as provided as Enclosure 1 [of PE5/2015, being Enclosure 2 of this Report] and agree to make the proposed amendments to Cessnock Local Environmental Plan 2011 pursuant to the Environmental Planning & Assessment Act 1979.*
2. *That Council notifies persons who made a submission during the exhibition of the Planning Proposal – City Wide Amendments (Part 3).*

One of the amendments proposed to Cessnock Local Environmental Plan (LEP) 2011 in this recommendation was the addition of a 'Local Provision' to ensure that appropriate consideration is provided for dual occupancy housing within zone RU2 'Rural Landscape' regarding visual, environmental and agricultural impacts as well as infrastructure issues including the sharing of infrastructure such as access arrangements, fire breaks and services.

Report No PE5/2015 is attached as Enclosure 1 and the Enclosures to that Report (ie the Planning Proposal and submissions received) are included as Enclosures 2, 3 and 4.

Council deferred the decision on these recommendations pending receiving information in response to the following question asked by Councillor Ryan:

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"Has Council been receiving and approving applications for Dual Occupancies in the RU2 zone?"

REPORT/PROPOSAL

A review of Development Applications (DAs) received for Dual Occupancies in the RU2 Rural Landscape Zone in 2012, 2013 and 2014 (ie since the gazettal of Cessnock LEP 2011) is given in the table below.

Determination Year	DAs submitted	DAs approved		DAs refused	DAs withdrawn
		Attached	Detached		
2012	6	0	5	0	1 (attached)
2013	5	1	4	0	0
2014	4	0	3	1 (detached)	0

OPTIONS

Council has the following options:

1. Authorise the making of the draft amendment to Cessnock Local Environmental Plan 2011.
2. Not proceed with the Planning Proposal for the following reasons:

(To be provided by Council).

Recommended Option

Option 1 is recommended to Council.

CONSULTATION

Details of the public exhibition of the proposed amendments to Cessnock LEP 2011 are given in the 'consultation' section of PE5/2015, being Enclosure 1 of this Report. The two submissions received (one late) are included as Enclosures 3 and 4.

STRATEGIC LINKS**a. Delivery Program**

A Sustainable and Healthy Environment:

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

b. Other Plans**Lower Hunter Regional Strategy**

One of the 'Rural Landscape and Rural Communities' outcomes of the Lower Hunter Regional Strategy (LHRS) is that "the rural character of the Region is recognised and

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Report No. PE11/2015

Planning and Environment



protected in local environmental plans.” The proposed addition of the Local Provision ‘Dual Occupancies in the RU2 zone’ is consistent with that outcome.

IMPLICATIONS

a. Policy and Procedural Implications

This report has regard to the provisions of the *Environmental Planning & Assessment Act 1979, as amended* and its *Regulations*.

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

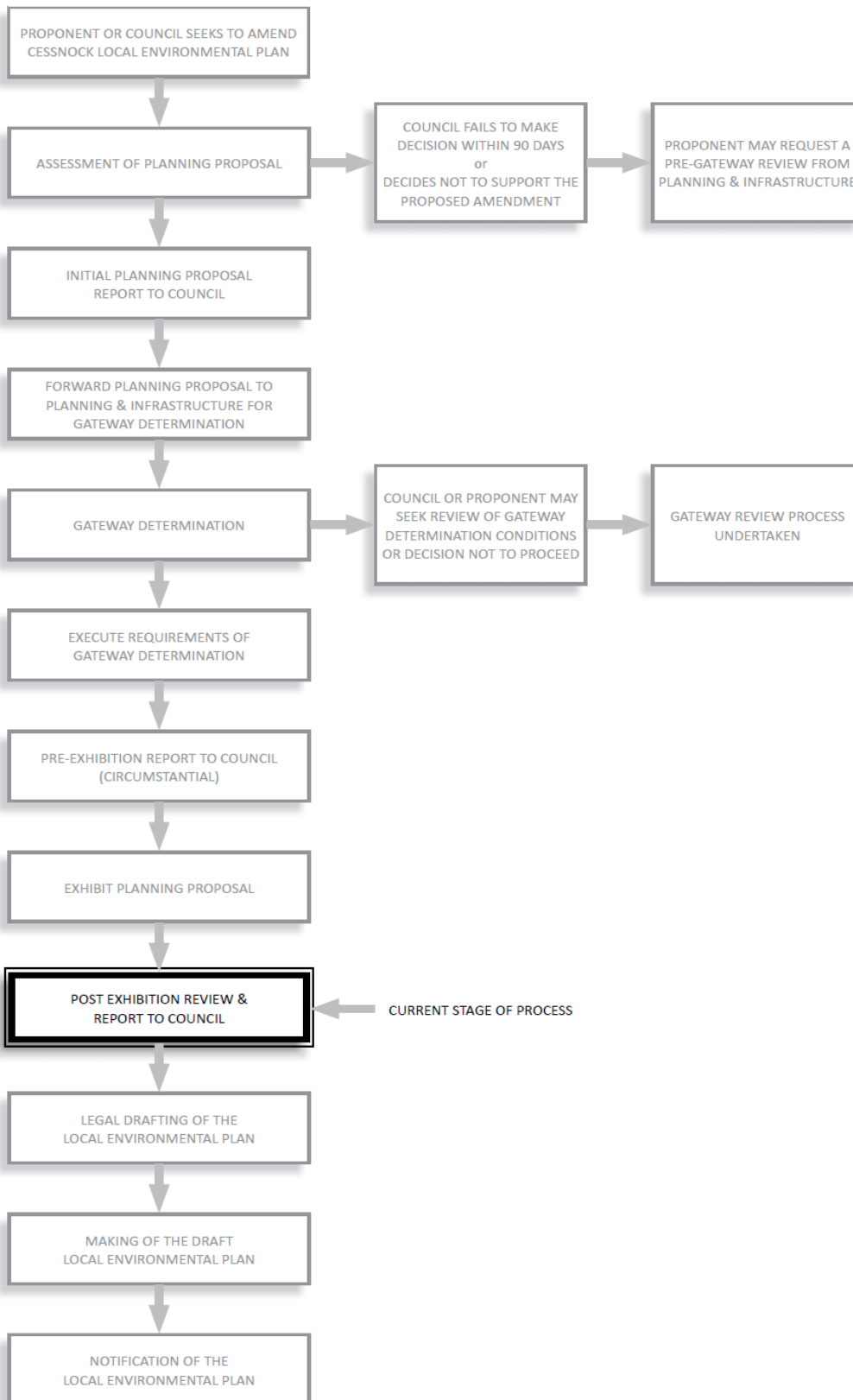
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PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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b. Financial Implications

The finalisation of the Planning Proposal will be met through normal departmental allocations.

c. Legislative Implications

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

d. Risk Implications

Nil

e. Other Implications

Nil

CONCLUSION

Community consultation for Planning Proposal – City Wide Amendments (Part 3) has been completed. No changes have been made to the Planning Proposal as a result of any submissions. Additional information presented in this report relating to previous dual occupancy development applications in the RU2 Rural Landscape Zone does not change the recommendation of the previous Report PE5/2015. It is therefore recommended that the Planning Proposal, as included as Enclosure 2, be endorsed, and the amendments to Cessnock LEP 2011 be made.

ENCLOSURES

- 1** PE 5/2015 - Report to Ordinary Council Meeting of 4 February 2015 regarding Planning Proposal - City Wide Amendments (Part 3)
- 2** Planning Proposal - City Wide Amendments (Part 3)
- 3** Submission received from Lake Macquarie City Council
- 4** Late submission received from Newcastle City Council

Attachment No 9:
Minutes of Ordinary Meeting of Council 18 February 2015

PLANNING AND ENVIRONMENT

PLANNING AND ENVIRONMENT NO. PE11/2015

SUBJECT: PLANNING PROPOSAL - CITY WIDE AMENDMENTS (PART 3)

Councillor Stapleford declared a Non Pecuniary Less Than Significant Interest for the reason that he owns land in this zoning. Councillor Stapleford remained in the Chamber and took part in discussion and voting.

Councillor Doherty declared a Non Pecuniary Less Than Significant Interest for the reason that he owns land that is zoned RU2. Councillor Doherty remained in the Chamber and took part in discussion and voting.

Councillor Pynsent declared a Non Pecuniary Less Than Significant Interest for the reason that he owns land zoned RU2 at Elrington. Councillor Pynsent remained in the Chamber and took part in discussion and voting.

MOTION **Moved:** Councillor Ryan **Seconded:** Councillor Olsen
1239

RESOLVED

1. That Council endorse the Planning Proposal – City Wide Amendments (Part 3) as provided as Enclosure 2 and agree to make the proposed amendments to Cessnock Local Environmental Plan 2011 pursuant to the *Environmental Planning & Assessment Act 1979*.
2. That Council notifies persons who made a submission during the exhibition of the Planning Proposal – City Wide Amendments (Part 3).

FOR

Councillor Gibson
Councillor Doherty
Councillor Olsen
Councillor Ryan
Councillor Stapleford
Councillor Hawkins
Councillor Campbell
Councillor Parsons
Councillor Maybury
Councillor Pynsent
Total (10)

AGAINST

Total (0)

CARRIED UNANIMOUSLY

Attachment No 10:
Signed Parliamentary Counsel Opinion –*Cessnock Local*
Environmental Plan 2011 (Amendment No 17)



New South Wales

PARLIAMENTARY COUNSEL

Opinion

Environmental Planning and Assessment Act 1979
Proposed Cessnock Local Environmental Plan 2011 (Amendment No 17)

Your ref: Bo Moshage
Our ref: AH e2015-099-d04

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

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

A handwritten signature in black ink, appearing to be 'D Colagiuri'.

(D COLAGIURI)
Parliamentary Counsel

4 May 2015

A handwritten signature in black ink, appearing to be 'Stephen Glen', followed by the date '9 July 2015'.

for STEPHEN GLEN
GENERAL MANAGER

AS DELEGATE FOR THE MINISTER FOR
PLANNING



New South Wales

Cessnock Local Environmental Plan 2011 (Amendment No 17)

under the

Environmental Planning and Assessment Act 1979

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

Minister for Planning

Cessnock Local Environmental Plan 2011 (Amendment No 17)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Cessnock Local Environmental Plan 2011 (Amendment No 17)*.

2 Commencement

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

3 Land to which Plan applies

This Plan applies to certain land to which *Cessnock Local Environmental Plan 2011* applies.

4 Maps

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

Schedule 1 Amendment of Cessnock Local Environmental Plan 2011

[1] Clause 7.13

Insert after clause 7.12:

7.13 Dual occupancies on land in Zone RU2

- (1) The objective of this clause is to preserve the rural character of the area.
- (2) Development consent must not be granted to development for the purpose of dual occupancies on land in Zone RU2 Rural Landscape unless the consent authority is satisfied that:
 - (a) the dwellings are designed and sited to give the appearance of being a single development, and
 - (b) the dwellings will use shared facilities such as a common driveway, fire breaks and essential services, and
 - (c) any ancillary buildings and structures will be situated within close proximity to the dwellings, and
 - (d) the dwellings are designed and sited to avoid significant adverse environmental impacts, and
 - (e) the dwellings are designed and sited to avoid significant adverse impacts on the agricultural potential and capability of the land.

[2] Schedule 5 Environmental heritage

Omit "Bellbird Uniting Church" from the matter relating to Item No I22.

Insert instead "Uniting Church in Australia Bellbird Church".

[3] Schedule 5, Item No I51

Omit "Methodist Church Wesley Hall".

Insert instead "Uniting Church in Australia Wesley Hall".

Attachment No 11:
Map Cover Sheet associated with Cessnock Local Environmental Plan
2011 (Amendment No 17)

Cessnock Local Environmental Plan 2011 Amendment No. 17

Planning Proposal - City Wide Amendment Part 3

Cessnock City Council
62-78 Vincent Street
CESSNOCK NSW 2325

Map Cover Sheet

The following map sheets are revoked:

Map Sheet	Map Identifier
Heritage Map HER 006D	1720_COM_HER_006D_040_20111206

The following map sheets are to be adopted:

Map Sheet	Map Identifier
HER 006D	1720_COM_HER_006D_040_20150413

Certified

 9 July 2015
per General Manager [Date]
Cessnock City Council

Minister for Planning

[Date]

Attachment No 12:
Maps associated with Cessnock Local Environmental Plan 2011
(Amendment No 17)



Cessnock Local Environmental Plan 2011

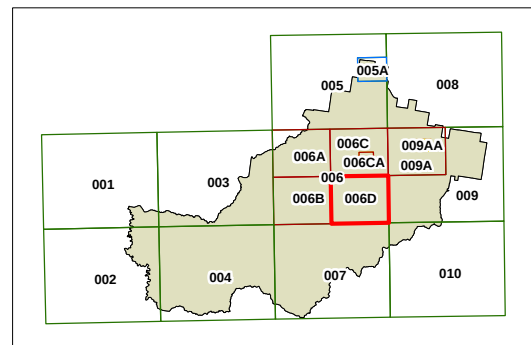
Heritage Map - Sheet HER_006D

Heritage

- Conservation Area - General
- Aboriginal Place of Heritage Significance
- Item - Archaeological
- Item - General
- Item - Landscape

Cadastre

Cadastre 31/03/2015 © Land and Property Information (LPI)



0 400 800 1,200 1,600
Metres
Scale 1:40,000 @ A3

Map identification number:
1720_COM_HER_006D_040_20150413

