



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

**Amendments
Cessnock
Local Environmental Plan 2011**

**Version 2.0
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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 regarding topographical features, including the sharing of infrastructure such as access arrangements, fire breaks and services;
- Rectify a drafting error that incorrectly map 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 Zone

Issue

This Local Planning Provision was removed by the 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 regarding topographical features, including the sharing of infrastructure such as access arrangements, fire breaks and services.

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

Affected Land

This proposed provision is relevant to all land zoned RU2.

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 Provision, 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 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.

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.

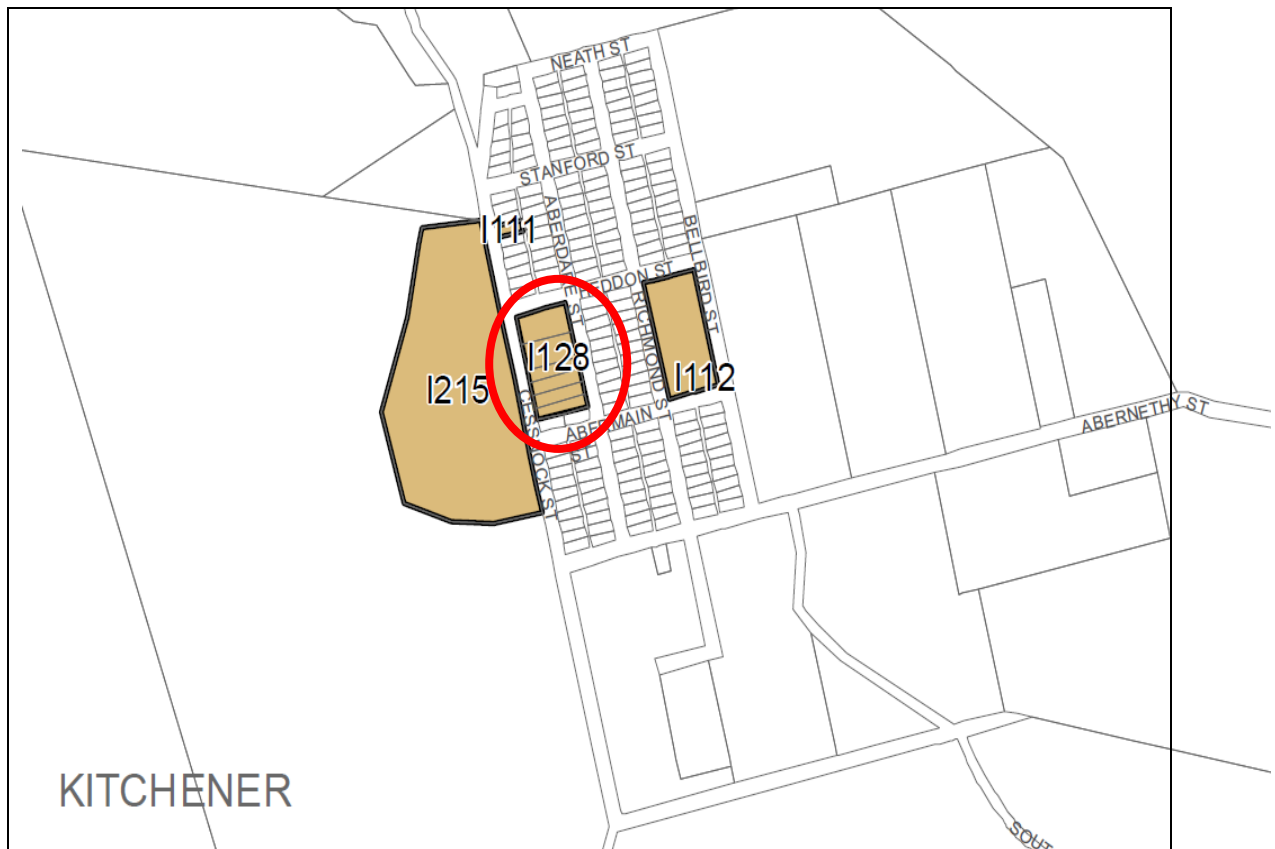


Figure 1

Proposed Amendment No. 3

Schedule 5: Environmental Heritage: Part 1 Heritage Items

Issue

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

The Uniting Church of Australia has requested to have these items listed as the “Uniting Church in Australia Bellbird Church”, and the “Uniting Church in Australia Wesley Hall, Cessnock”.

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, Section 3, DP 758082	Local	I22
Cessnock	Uniting Church in Australia Wesley Hall	4 Cooper Street	Lot 10, Section 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 mapping errors; and
- Rectifying 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 Direction.
2.4 Recreation Vehicle Areas	The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>).	Nothing in this Planning Proposal affects the aims and provisions of this Direction.
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	Nothing in this Planning Proposal affects the aims and provisions of this Direction.
3.2 Caravan parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.	The Planning Proposal does not seek to rezone land to provide for caravan parks or manufactured home estates. Further there are no existing caravan parks within the study area.

		It is considered that the Planning Proposal is consistent with this Direction.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Nothing in this Planning Proposal affects the aims and provisions of this Direction.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	Nothing in this Planning Proposal affects the aims and provisions of this Direction.
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 Direction.
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 Direction.
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound	Nothing in this Planning Proposal affects the aims and provisions of this Direction.

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

The proposed consultation strategy for this Planning Proposal includes:

- Notification in the Cessnock Advertiser, a locally circulated newspaper;
- Hard copy display at Council's Administration Building (Help & Information Centre); and Cessnock Public Library; and
- Web based notification on Council's website at www.cessnock.nsw.gov.au

PART 6: PROJECT TIMELINE

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

It is estimated that this amendment to the Cessnock Local Environmental Plan 2011 will be completed by December 2014 following receipt of a Gateway Determination in June 2014 (ie six (6) months).

Technical Studies have not been identified as a component of the Planning Proposal. The DoP&I Gateway Determination may make prescriptions relating to technical studies and this may impact on the estimated completion date.

PROJECT TIMELINE

	Mar 2014	June 2014	July 2014	Aug / Sept 2014	Oct 2014	Nov 2014	Dec 2014
STAGE 1 Submit to DoP&I – 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&I with request the amendment is made							

Appendix 1: Council Report and Minutes



Acrobat Document

Council Report EE9/2014



Acrobat Document

Minute to Council Report EE9/2014