



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

**JAMES STREET, CESSNOCK**  
**Part of Lot 101 DP 1193184**  
**James, O'Brien, Villis and Michael Streets**  
**Cessnock**

**Version 1.1**  
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## **PART 1: BACKGROUND and OBJECTIVES**

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### **Objective**

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The objective of the Planning Proposal is to enable residential development on the subject land by amending the Cessnock Local Environmental Plan 2011 to zone the subject land R3 Medium Density Residential with a minimum lot size of 450m<sup>2</sup>.

### **Background**

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The subject site is identified in the Lower Hunter Regional Strategy and Cessnock City Council's City Wide Settlement Strategy as having potential for increased development opportunities.

The site forms part of the wider site identified in the Lower Hunter Regional Strategy and Cessnock City Council's City Wide Settlement Strategy as the "Cessnock Civic Site", which has been partly rezoned and being developed for employment lands.

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## **PART 2: EXPLANATION of PROVISIONS**

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The objective of this Planning Proposal will be achieved by amending the Cessnock Local Environmental Plan 2011.

### **Cessnock Local Environmental Plan 2011**

The Cessnock Local Environmental Plan 2011 is proposed to be amended in the following ways:

1. Rezone part of Lot 101 DP 1193184 from RU2 Rural Landscape to R3 Medium Density Residential.
2. Amend the Minimum Lot Size Map for part of Lot 101 DP 1193184 from a minimum lot size of 40 hectares to a minimum lot size of 450m<sup>2</sup>.

### **Cessnock Development Control Plan 2010**

Development of the site will be in accordance with Council's adopted Development Control Plan. The size of the site to be rezoned R3 Medium Density Residential does not warrant a site specific DCP.

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## PART 3: JUSTIFICATION

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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 subject site is identified in the Lower Hunter Regional Strategy (LHRS) and Council's City Wide Settlement Strategy (CCWSS) (2010) as a new urban area. The subject site is identified in Cessnock City Council's City Wide Settlement Strategy (2010) as having potential for increased development opportunities. The site forms part of the Cessnock Civic Precinct described in the LHRS and CCWSS.

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

Under the existing zoning controls in the Cessnock LEP 2011, the proposed increased residential densities are not achievable. Therefore, a change to the zoning and minimum lot sizes is required to enable additional residential subdivision of the subject land and to implement the directions of the City Wide Settlement Strategy and the Lower Hunter Regional Strategy. Placing land use and minimum lot size provisions in Council's Local Environmental Plan, in conjunction with the existing subdivision controls in Council's DCP, is considered to be the most appropriate method for managing subdivision and land use on the locality.

#### 3. **Net Community Benefit**

A Net Community Benefit test has been undertaken and is provided below.

**Table 1: Net Community Benefit**

|                                                                                                                                                                                              |                                                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800m of a transit node)? | <b>Yes.</b> The subject site is consistent with the settlement principles identified in the CWSS and is identified in the LHRS as a proposed urban area.                                                                                   |
| Will the LEP be consistent with agreed centres and sub-regional planning policy for development in the area?                                                                                 | <b>Yes.</b> Future urban development of the site is capable of meeting the requirements of the Lower Hunter Regional Strategy with regard to the provisions of community facilities and services and rezoning the land for urban purposes. |

|                                                                                                                                                        |                                                                                                                                                                                                                                                                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Is the LEP located in a regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy? | <b>Yes.</b> The proposal is consistent with the Lower Hunter Regional Strategy, which identifies the James Street site as a new release area, forming a logical extension of the existing urban footprint.                                                                                           |
| Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?                                            | <b>Yes.</b> The proposed rezoning will provide for employment generating opportunities (through construction stages), and will underpin the local economy by building on the existing residential population and urban infrastructure. The rezoning will not result in the loss of employment lands. |
| Is the existing public infrastructure capable of servicing the proposed site?                                                                          | <b>Yes.</b> The site has three existing formed roads at its boundaries. The site has existing services at its boundaries and has an existing sewer line along the sites eastern boundary.                                                                                                            |
| Will the LEP facilitate the provision of public transport?                                                                                             | <b>Yes.</b> It is expected that the additional population will increase the demand for public transport, in turn increasing the demand for a more frequent service to the area.                                                                                                                      |
| Will the LEP implement studies and strategic work consistent with State and regional policies?                                                         | <b>Yes.</b> The proposal is consistent with the Lower Hunter Regional Strategy.                                                                                                                                                                                                                      |

## **Section B: Relationship to Strategic Planning Framework**

### **4. Consistency with Objectives and Actions within Regional Strategies**

#### **Lower Hunter Regional Strategy 2006**

The Lower Hunter Regional Strategy identifies Cessnock LGA as a location of substantial residential growth (21,700 dwellings).

The Planning Proposal will contribute to the implementation of the housing targets identified in the LHRS by providing additional housing opportunities through the proposed R3 Medium Density Residential zone.

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

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

The Community Strategic Plan (Our People, Our Place, Our Future), was developed by Council following extensive local community consultation. The Plan establishes the following goals:

1. To promote and provide quality services and facilities which focus on the needs of the community;
2. To protect, enhance and promote our natural, developed and cultural environment;
3. To actively foster the creation of employment and sustainable development opportunities acceptable to community and environmental standards;
4. To be a professionally managed and customer focused organisation which provides leadership through partnerships with the community; and

5. To identify needs, share information and provide opportunities for active participation and community consultation.

This Planning Proposal is considered to make efficient use of existing recreational and community infrastructure. This Planning Proposal is not of a scale that will create significant adverse social or economic impacts.

### **City Wide Settlement Strategy (2010)**

Following the release of the Lower Hunter Regional Strategy in 2006, the Cessnock City Wide Settlement Strategy 2003 was reviewed to coordinate with the Lower Hunter Regional Strategy forming what is now known as the Cessnock City Wide Settlement Strategy 2010.

The Cessnock City Wide Settlement Strategy identifies the subject site as having potential for increased development opportunities.

### **6. Consistency with State Environmental Planning Policies**

There are no existing or draft State Environmental Planning Policies (SEPPs) that prohibit or restrict the proposed development as outlined in this Planning Proposal. An assessment of relevant SEPPs against the Planning Proposal is provided in the table below.

**Table 2: Relevant State Environmental Planning Policies**

| <b>SEPP</b>                                                                         | <b>Relevance</b>                                                                                                                                                                                                                             | <b>Consistency and Implications</b>                                                                                              |
|-------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| <b>SEPP 1 - Development Standards</b>                                               | The SEPP makes development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary.                                 | This SEPP does not apply to Cessnock Local Government Area following the gazettal of the Cessnock Local Environmental Plan 2011. |
| <b>SEPP 4 - Development without Consent and Miscellaneous Complying Development</b> | The SEPP allows relatively simple or minor changes of land or building use and certain types of development without the need for formal development applications. The types of development covered in the policy are outlined in the policy. | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                  |
| <b>SEPP 6 - Number of Storeys in a Building</b>                                     | The SEPP clarifies the reference to storey, floors and levels.                                                                                                                                                                               | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                  |
| <b>SEPP 15 - Rural Land Sharing Communities</b>                                     | 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.                                                                                       | <i>Not Applicable</i>                                                                                                            |
| <b>SEPP 21 - Caravan Parks</b>                                                      | The SEPP provides for development for caravan parks.                                                                                                                                                                                         | <i>Not Applicable</i>                                                                                                            |
| <b>SEPP 22 - Shops and commercial premises</b>                                      | The SEPP provides for the change of use of commercial premises.                                                                                                                                                                              | <i>Not Applicable</i>                                                                                                            |
| <b>SEPP 30 - Intensive Agriculture</b>                                              | The SEPP provides considerations for consent for intensive agriculture.                                                                                                                                                                      | <i>Not Applicable</i>                                                                                                            |

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| <b>SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)</b> | The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.                                                                                                                                                                                                       | <i>Not Applicable</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>SEPP 33 - Hazardous &amp; Offensive Development</b>             | The SEPP provides considerations for consent for hazardous & offensive development.                                                                                                                                                                                                                                          | <i>Not Applicable</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>SEPP 36 - Manufactured Homes Estates</b>                        | The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.                                                                                                                                                                     | <i>Not Applicable</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>SEPP 44 - Koala Habitat Protection</b>                          | 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. | <p>SEPP 44 encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure the permanent free-living populations will be maintained over their present range. Under SEPP 44, potential koala habitat is defined as areas of native vegetation where the trees listed in Schedule 2 of the SEPP constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.</p> <p>An ecological assessment was prepared for the site.</p> <p>The site does not constitute 'Potential Koala Habitat'. As such no further provisions of the policy apply to the site.</p> |
| <b>SEPP 50 - Canal Estates</b>                                     | The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.                                                                                                                                                                                | <i>Not Applicable</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

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| <b>SEPP 55 - Remediation of Land</b>                             | 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                                                                                                                                   | <p>The objective of this Policy is to provide a state wide approach to the remediation of contaminated land. Clause 6 of the policy is applicable to the consideration of contamination and remediation in relation to rezoning proposals. Council is required to consider whether there is the possibility that the land may be contaminated due to past land uses, and if so, whether the land is suitable for its proposed use in its current or remediate state.</p> <p>Previous Environmental Site Assessments undertaken for the wider Cessnock Civic precinct confirms that the site is suitable for residential development.</p> |
| <b>SEPP 62 - Sustainable Aquaculture</b>                         | 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.                                                                                                                    | <i>Not Applicable</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>SEPP 64 - Advertising and Signage</b>                         | 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>SEPP 65 - Design Quality of Residential Development</b>       | 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. | <i>Not Applicable</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>SEPP Building Sustainability Index: BASIX 2004</b>            | The SEPP provides for the implementation of BASIX throughout the State.                                                                                                                                                                                                           | The provisions of this SEPP will be considered in the assessment of any future residential development upon the site.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>SEPP Housing for Seniors or People with a Disability 2004</b> | The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.                                                                                                                                      | The provisions of this SEPP will be considered in the assessment of any future residential development upon the site.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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| <b>SEPP Major Development 2005</b>                                      | The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels (JRPPs) and classes of regional development to be determined by JRPPs. | <i>Not Applicable</i>                                                                                                                                                                                                                              |
| <b>SEPP Infrastructure 2007</b>                                         | 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.                                                                                                                                                                                                                                                                          | The provisions of this SEPP require development applications for subdivisions creating greater than 200 lots to be referred to the Roads and Maritime Services (RMS) for comment. The size of the subject site will not trigger referral with RMS. |
| <b>SEPP Mining, Petroleum Production and Extractive Industries 2007</b> | The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.                                                                                                                                                                                                                                                                                                                                                               | <i>Not Applicable</i>                                                                                                                                                                                                                              |
| <b>SEPP Temporary Structures 2007</b>                                   | The SEPP provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity.                                                                                                                                                                                                                                                                                                                | <i>Not Applicable</i>                                                                                                                                                                                                                              |
| <b>SEPP Exempt and Complying Development Codes 2008</b>                 | 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.                                                                                                                                                                    |
| <b>SEPP Rural Lands 2008</b>                                            | The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.                                                                                                                                                                                                                                                                                                                                   | <i>Not Applicable</i>                                                                                                                                                                                                                              |
| <b>SEPP Affordable Rental Housing 2009</b>                              | 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.                                                                                                                                                                    |
| <b>SEPP State and Regional Development 2011</b>                         | The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.                                                                                                                                                                                                                                                                              | <i>Not Applicable</i>                                                                                                                                                                                                                              |

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

An assessment of relevant s.117 Directions against the planning proposal is provided in the table below.

**Table 3: Relevant s.117 Ministerial Directions**

| <b>Ministerial Direction</b>                                      | <b>Aim of Direction</b>                                                                                                                                                                                                        | <b>Consistency and Implication</b>                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. EMPLOYMENT AND RESOURCES</b>                                |                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                     |
| <b>1.1 Business and Industrial Zones</b>                          | Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.                                                        | <i>Not Applicable</i>                                                                                                                                                                                                                                                                                                                               |
| <b>1.2 Rural Zones</b>                                            | The objective of this direction is to protect the agricultural production value of rural land.                                                                                                                                 | This direction states (in part) that a draft Local Environmental Plan shall not rezone land from a rural zone to a residential, business, industrial, Villisge or tourist zone. The subject site is identified for future urban development in the Lower Hunter Regional Strategy and, as such, is considered to be consistent with this direction. |
| <b>1.3 Mining, Petroleum Production and Extractive Industries</b> | 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. | <i>Not Applicable</i>                                                                                                                                                                                                                                                                                                                               |
| <b>1.5 Rural lands</b>                                            | The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.                                               | The Planning Proposal rezones land from RU2 to R3 and reduces the minimum lot size from 40 hectares to 450m2. However the land currently does not support agriculture and is highly unlikely to support viable agriculture in the future.                                                                                                           |
| <b>2. ENVIRONMENT AND HERITAGE</b>                                |                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                     |
| <b>2.1 Environmental Protection Zones</b>                         | The objective of this direction is to protect and conserve environmentally sensitive areas.                                                                                                                                    | The planning proposal is considered to be consistent with this direction as the subject site is significantly denuded of vegetation.                                                                                                                                                                                                                |
| <b>2.3 Heritage Conservation</b>                                  | The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.                                                                   | An archaeological assessment has been undertaken for the wider Cessnock Civic Precinct which concluded there were no items of significance on the subject site. Therefore the planning proposal is considered to be consistent with this direction.                                                                                                 |

|                                                         |                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| <b>2.4 Recreation Vehicle Areas</b>                     | 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> ).                                                                                                                                                               | <i>Not Applicable</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</b> |                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>3.1 Residential Zones</b>                            | 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. | <p>This direction states that a planning proposal must:</p> <p><i>contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).</i></p> <p><b>Utilities and Infrastructure</b></p> <p>The planning proposal proposes to be serviced by reticulated sewer and water, electricity &amp; telecommunication. All of these services are located adjacent to or on the subject land.</p> <p>The planning proposal is considered to be consistent with this direction.</p> |
| <b>3.2 Caravan parks and Manufactured Home Estates</b>  | The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.                                                                                                                                                                                  | <p>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.</p> <p>The planning proposal is considered to be consistent with this direction.</p>                                                                                                                                                                                                                                                                                                                                                 |
| <b>3.3 Home Occupations</b>                             | The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.                                                                                                                                                                                                                       | <p>Home occupations are permitted without consent in the proposed R3 Zone.</p> <p>The planning proposal is considered to be consistent with this direction.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>3.4 Integrating Land Use and Transport</b>           | The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.                                                                                                                                  | The subject site has multiple connection points to the existing local road network. Given the size of the subject site minimal increases in traffic volumes are likely to occur with the sites development.                                                                                                                                                                                                                                                                                                                                                                                                              |

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| <b>3.5 Development Near Licensed Aerodromes</b> | 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                                                                                                                                                                                                                               | <i>Not Applicable</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>3.6 Shooting Ranges</b>                      | 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.                                                                                                                                                                                | <i>Not Applicable</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>4. HAZARD AND RISK</b>                       |                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>4.1 Acid Sulfate Soils</b>                   | 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>4.2 Mine Subsidence and Unstable Land</b>    | The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.                                                                                                                                                                                                                                          | The Mine Subsidence Board has advised the subject land has never been undermined and the site has no restrictions to buildings with respect to mine subsidence.                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>4.3 Flood Prone Land</b>                     | 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. | The flood impact assessment undertaken for the site indicated that the majority of the site is above the 1:100 year flood level. The building envelope for all proposed lots has the capacity to be located above the 1:100 year flood level.                                                                                                                                                                                                                                                                                                                                         |
| <b>4.4 Planning for Bushfire Protection</b>     | The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.                                                                                                                                                      | The majority of the site is mapped as bushfire prone land. A bushfire assessment has been undertaken and concludes the site can be developed to meet the requirements of the <i>Planning for Bushfire Protection 2006</i> and comply with Planning for Bushfire Protection Guidelines and the <i>Rural Fires Act 1997</i> . This includes provision of asset protection zones; appropriate access standards for those involved in evacuation; adequate water supply and pressures; Emergency management arrangements and suitable landscaping, to limit fire spreading to a building. |
| <b>5. REGIONAL PLANNING</b>                     |                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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| <b>5.1 Implementation of Regional Strategies</b> | The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.                                                                                                             | The LHRS is relevant. It is considered the Planning Proposal is consistent with this direction.                                                                                                                                                                                                                                           |
| <b>6. LOCAL PLAN MAKING</b>                      |                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                           |
| <b>6.1 Approval and Referral Requirements</b>    | The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.                                                                                                                                    | <p>The Planning Proposal does not propose amendments which require concurrence, consultation or referral of development applications to the Minister.</p> <p>The Planning Proposal does not identify any development as designated development.</p> <p>It is considered that the Planning Proposal is consistent with this Direction.</p> |
| <b>6.2 Reserving Land for Public Purposes</b>    | 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. | <i>Not Applicable</i>                                                                                                                                                                                                                                                                                                                     |
| <b>6.3 Site Specific Provisions</b>              | The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.                                                                                                                                                            | The Planning Proposal does not propose to allow a particular development to be carried out on the site.                                                                                                                                                                                                                                   |

## 8. LHRS: Sustainability Criteria

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

| 1.0 Sustainability Criteria Considerations                                                                                                                                                                                                                 | Comments                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1.1 Infrastructure Provision</b>                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                      |
| <b>1.1.1</b> Assessment of whether the Planning Proposal is consistent with any regional strategy, sub-regional strategy, State Infrastructure Strategy, or section 117 direction.                                                                         | This proposal is consistent with the LHRS. It increases the supply of housing to provide for population growth. It provides for an extension to the existing R3 zoned land, is consistent with the CWSS 2010 and is either generally consistent with s117 directions or has non inconsequential inconsistencies with the directions. |
| <b>1.1.2</b> Identification of whether the provision of infrastructure (utilities, transport, open space and communications) is costed and economically feasible based on Government methodology for determining infrastructure development contributions. | There is sufficient capacity in local reticulated sewer and water systems to cater for the proposal. The capacity of telecommunication systems and the road system will be confirmed following the Gateway determination.                                                                                                            |
| <b>1.1.3</b> Assessment of the proponent's preparedness to enter into a developer agreement.                                                                                                                                                               | There have been no discussions regarding a developer agreement. It is unlikely that there will be any need to enter into a developer agreement in relation to the proposal.                                                                                                                                                          |
| <b>1.2 Access</b>                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                      |
| <b>1.2.1</b> Assessment of the accessibility of the area by public transport and/or appropriate road access in terms of: location & land use; network; and catchment.                                                                                      | The proposal is located approximately 700m from the nearest bus stop which includes school bus routes and the Cessnock to Newcastle bus route. There is appropriate road access connecting to the region.                                                                                                                            |
| <b>1.2.2</b> Identification of the potential negative impact on performance of the existing sub-regional road, bus, rail, ferry and freight network.                                                                                                       | The proposal will not have any impact on subregional transport systems.                                                                                                                                                                                                                                                              |

|                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1.3 Housing Diversity</b>                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                    |
| <b>1.3.1</b> Identification of whether the Planning Proposal contributes to the geographic market spread of housing supply, including targets established for aged, disability or affordable housing.                                                                              | The proposal will contribute to achieving the housing supply target for Cessnock LGA specified in the LHRS. The R3 zone permits a wide range of dwelling types and provides for medium density close to the Cessnock CBD.                                                                                                                          |
| <b>1.4 Employment Lands</b>                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                    |
| <b>1.4.1</b> Identification of whether the Planning Proposal seeks to maintain or improve the existing level of subregional employment self-containment and also meets subregional employment projections (i.e. employment-related land is provided in appropriately zoned areas). | The planning proposal will provide for employment generating opportunities (through construction stages), and will underpin the local economy by building on the existing residential population and urban infrastructure. The rezoning will not result in the loss of employment lands.                                                           |
| <b>1.5 Avoidance of Risk</b>                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                    |
| <b>1.5.1</b> Identification of whether any residential development within the Planning Proposal is located within the 1:100 floodplain.                                                                                                                                            | The flood impact assessment undertaken for the site indicated that the majority of the site is located outside of the adopted 1:100 year flood level. There are some lots (Lots 401, 402, 403, 404, 405, 425 and 426) which are affected by the flood planning layer to the rear of the block. It is expected that these impacts can be mitigated. |
| <b>1.5.2</b> Identification of whether the Planning Proposal avoids physically constrained land.                                                                                                                                                                                   | The proposal is not located on physical constrained land.                                                                                                                                                                                                                                                                                          |
| <b>1.5.3</b> Assessment of the avoidance of land use conflicts with adjacent existing or future land use as planned under relevant sub-regional or regional strategy.                                                                                                              | The proposal is highly unlikely to create land use conflicts.                                                                                                                                                                                                                                                                                      |
| <b>1.5.4</b> Assessment of the provision of an available safe evacuation route (flood and bushfire).                                                                                                                                                                               | Proposed road access to the site is via Michael and James Street. These roads will be subject to inundation in the 1:100 flood event. It is proposed that an additional access point be included at Villis Street.                                                                                                                                 |

| <b>1.6 Natural Resources</b>                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>1.6.1</b> Assessment of whether the demand for water within infrastructure capacity to supply water and whether it places unacceptable pressure on environmental flows</p>                               | <p>It is expected that there is capacity in the reticulated water supply system to cater for the proposed development. Hunter Water will be consulted following the gateway determination.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p><b>1.6.2</b> Assessment of whether the Planning Proposal demonstrates the most efficient/ suitable use of land (e.g. avoids identified significant agricultural land; avoids productive resource lands)</p> | <p>The proposal to rezone RU2 land to R3 does not occupy or compromise the use of significant agriculture land. Council is not aware that the proposal will prevent the use of productive resource land. The NSW Department of Primary Industries - Minerals and Petroleum will be consulted following the Gateway Determination.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p><b>1.6.3</b> Assessment of whether the demand for energy places unacceptable pressure on capacity to supply energy- requires demonstration of efficient and sustainable supply solution</p>                 | <p>It is unlikely that the proposal will place any unacceptable pressure on the energy supply network. Ausgrid will be consulted following the Gateway Determination.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>1.7 Environmental Protection</b>                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p><b>1.7.1</b> Assessment of whether the Planning Proposal is consistent with the Government-approved Regional Conservation Plan.</p>                                                                         | <p>A preliminary desktop ecological assessment has been undertaken. The site affected by the Planning Proposal contains some areas of Lower Hunter Spotted Gum - Iron Bark Forest; Central Hunter Riparian Forest; and Hunter Lowland Redgum Forest.</p> <p>The Lower Hunter Regional Conservation Plan identifies the Lower Hunter Spotted Gum – Iron Bark forest and the Hunter Lowland Redgum Forest as an Endangered Ecological Community.</p> <p>It is expected that any potential loss of endangered ecological communities or threatened species habitats by proposed residential development would be likely to result in only minor impacts. It is therefore considered that biodiversity issues are unlikely to be a major constraint to the future residential development of the land.</p> <p>The proposal will be referred to the Office of Environment and Heritage as part of the Gateway process.</p> |

|                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1.7.2</b> Identification of whether the Planning Proposal maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and agreed by OEH).                                                                                                           | As part of the gateway determination the proposal will be referred to the Office of Environment and Heritage. It is not expected that the area affected by the proposal will have any impact on these areas.                                                                        |
| <b>1.7.3</b> Assessment of whether the Planning Proposal maintains or improves existing environmental conditions for air and water quality.                                                                                                                                                      | The proposal is minor in nature and will have a negligible impact on these conditions.                                                                                                                                                                                              |
| <b>1.7.4</b> Identification of whether the Planning Proposal protects areas of Aboriginal cultural heritage value (as agreed by OEH).                                                                                                                                                            | A search of the Aboriginal Heritage Information Management System indicates that no Aboriginal sites are recorded or declared within 200m of the land. No indigenous heritage assessment has been undertaken. It is considered that this matter best be dealt with at the DA stage. |
| <b>1.8 Quality &amp; Equity in Services</b>                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                     |
| <b>1.8.1</b> Assessment of whether the Planning Proposal ensures quality health, education, legal, recreational, cultural and community, development and other Government services are accessible.                                                                                               | The planning proposal will not have any adverse impact on quality health, education, legal, recreational, cultural and community, development or any other Government services.                                                                                                     |
| <b>2.0 Environmental Planning Criteria Considerations</b>                                                                                                                                                                                                                                        | <b>Comments</b>                                                                                                                                                                                                                                                                     |
| <b>2.1</b> Assessment of the strategic planning justification and merit of the Planning Proposal, including compliance with all relevant statutory considerations such as s117 Directions and associated legislative requirements including State & Commonwealth threatened species legislation. | The proposal has strategic justification. It either complies with, or has a minor justifiable inconsistency with relevant statutory directions.                                                                                                                                     |
| <b>2.2</b> Assessment of site constraints and opportunities relevant to Planning Proposal.                                                                                                                                                                                                       | The above material assessed site constraints and opportunities relevant to the Planning Proposal and concludes that it delivers a satisfactory planning outcome.                                                                                                                    |

|                                                                                                                                                                        |                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>2.3</b> Assessment of physical & social infrastructure needs (onsite & offsite) sufficient to identify S.80 developer works and any s.94 contribution requirements. | The proposal will require extension to the adjacent sealed roads. Council's City Wide Section 94 Plan will apply to any increased social and recreational infrastructure which is expected form the development of an additional 24-25 lots. |
| <b>2.4</b> Assessment of environmental & social impacts on existing environment and local communities.                                                                 | The proposal will increase the viability of existing local services because additional residents will reside in Cessnock. Social and environmental impacts will be negligible.                                                               |
| <b>2.5</b> Evidence of consultation undertaken (affected landowners, relevant public authorities, infrastructure providers and community).                             | Consultation will be undertaken with affected landholders. This will be done via letters and through the consultation period prescribed under the Gateway process.                                                                           |
| <b>2.6</b> Relevant comments from Council (e.g. asset engineers & natural resources).                                                                                  | Council officers have not raised any objections to the proposal.                                                                                                                                                                             |
| <b>2.7</b> Evidence of project viability (costs associated with infrastructure timing and delivery of services to the proposed community).                             | Infrastructure costs largely relate to the connection of services to the land and upgrade of adjacent road infrastructure and will be borne by the developer. The community costs of the proposal are negligible.                            |
| <b>2.8</b> Whether sufficient information has been provided to prepare the Planning Proposal for Gateway determination.                                                | Yes. The proposal and its impact has been documented in this report.                                                                                                                                                                         |

|                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>2.9</b> Identification of outstanding information required for pre and post Gateway referral with reasons why.</p> | <p>Consultation is suggested with:</p> <ul style="list-style-type: none"> <li>• NSW Office of Environment and Heritage.</li> <li>• Hunter Water Corporation (HWC).</li> <li>• NSW Aboriginal Land Council (NSWALC).</li> <li>• NSW Rural Fire Service: advice regarding bush fire hazard.</li> <li>• NSW Trade and Investment - Minerals and Petroleum: Identification of any extractive resources impacts.</li> <li>• NSW Trade and Investment – Agriculture: impact of the loss of RU2 zoned land;</li> <li>• NSW Department of Primary Industries - Minerals and Petroleum;</li> <li>• Mine Subsidence Board: identification of risks from underground mining.</li> <li>• Road and Maritime Services: Identification of any impact on regional roads.</li> <li>• Ausgrid: capacity of the electricity network.</li> <li>• Telstra: capacity of the telecommunications network; and</li> <li>• Any others specified in the determination.</li> </ul> |
|--------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## **Section C: Environmental, Social and Economic Impact**

### **9. Impact on Threatened Species**

Various flora and fauna assessments have been undertaken on the site for the subject planning proposal. The site is predominately cleared of native vegetation although some minor areas of remnant vegetation occur. No threatened species had been previously detected on the site. The reports concluded that biodiversity issues are unlikely to be a major constraint to the future residential development of the land.

### **10. Environmental Impact**

A small section of the site is mapped as bushfire prone land. A bushfire assessment was undertaken on the site for the planning proposal. The assessment concluded the development of the site can comply with the requirements of Planning for Bushfire Protection (NSW RFS 2006).

The eastern boundary of the subject site is bounded by the 1:100 year flood level adopted by Council. The flood impact mapping of the 1:100 year flooding of the site indicated that the majority of the site is above the 1:100 year flood level. All proposed lots can have at a minimum the size of a standard residential lot for a building envelope located above the 1:100 year flood level.

### **11. Social and Economic Impacts**

Social and economic benefits of the Planning Proposal include:

- Short term construction employment for construction of the development;
- Provision of additional housing stock to meet demand;
- Providing housing within close proximity to the CBD, schools and infrastructure.

The Planning Proposal is not of a scale that will create any significant adverse social impacts.

## **Section D: State and Commonwealth Interests**

### **12. Adequate Public Infrastructure**

Provision of local infrastructure including contributions to local open space and community facilities for the benefit of the local and wider community will be implemented in accordance with Councils section 94 plans.

#### **Traffic and Road Works**

A previous traffic impact assessment was undertaken for the subject site for a 100 unit seniors living development. Peak hour traffic data was obtained at the critical intersections to assess current and future traffic flows. The report concluded the site was suitable for development based on traffic studies. The subject Planning Proposal site is smaller in footprint to the previous application and it is considered the site with its multiple points of access remains suitable for development with respect to traffic.

#### **Servicing**

Existing Hunter Water Corporation (HWC) reticulation system is in the area. Water & Sewer services will be in accordance with standard HWC requirements. Water mains are located at the boundary of the site within the adjoining road reserves. Sewer mains traverse through the site.

Electricity supply will be via the existing 3 phase transmission lines located in the surrounding road network.

Telecommunication supply will be via the existing telecommunication network located in the surrounding road network.

### **13. Consultation with State and Commonwealth Authorities**

Pursuant to Planning and Infrastructure gateway determination Council is to consult with the following statutory authorities and agencies.

- Office of Environment and Heritage (OEH);
- Hunter Water Corporation (HWC);
- NSW Aboriginal Land Council (NSWALC)
- NSW Rural Fire Service (RFS)
- NSW Trade and Investment – Mineral Resources and Energy
- NSW Department of Primary Industries - Minerals and Petroleum;
- NSW Trade and Investment – Agriculture
- Mine Subsidence Board;
- Roads and Maritime Services;
- Ausgrid;
- Telstra; and
- Any others specified in the Gateway Determination

The statutory authorities pursuant to the gateway determination will have 21 days to respond.

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## PART 4: MAPPING

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

**Land Zone Map** – amend Land Zoning Map Sheet 1720\_COM\_LZN\_006CA\_040\_2011214 as it relates to part of Lot 11, DP 1193184; James, O'Brien, Villis and Michael Streets Cessnock to R3 Medium Density Residential in accordance with the proposed Land Use Zone map shown at Appendix 4.

**Lot Size Map** – amend Lot Size Map Sheet 1720\_COM\_LSZ\_006CA\_010\_20120712 as it relates to part of Lot 11, DP 1193184; James, O'Brien, Villis and Michael Streets Cessnock to apply a minimum lot size of 450m<sup>2</sup> in accordance with the proposed Minimum Lot Size map shown at Appendix 6.

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## PART 5: COMMUNITY CONSULTATION

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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 Planning and Infrastructure during the Gateway determination.

The proposed consultation strategy for this Planning Proposal includes:

- Notification in the Cessnock Advertiser, 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](http://www.cessnock.nsw.gov.au)

It is also intended to consult with the adjoining land owners and community members who have previously made a submission in regard to this development.

## PART 6: PROJECT TIMELINE

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

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

### PROJECT TIMELINE

|                                                                                                                | April<br>2014 | May<br>2014 | June<br>2014 | July<br>2014 | Aug<br>2014 | Sep<br>2014 | Oct<br>2014 |
|----------------------------------------------------------------------------------------------------------------|---------------|-------------|--------------|--------------|-------------|-------------|-------------|
| <b>STAGE 1</b> Submit Planning Proposal to Planning & Infrastructure                                           |               |             |              |              |             |             |             |
| <b>STAGE 2</b> Anticipated commencement date (Gateway Determination)                                           |               |             |              |              |             |             |             |
| <b>STAGE 3</b> Public Exhibition Period                                                                        |               |             |              |              |             |             |             |
| <b>STAGE 4</b> Reviewal / consideration of submissions                                                         |               |             |              |              |             |             |             |
| <b>STAGE 5</b> Report to Council                                                                               |               |             |              |              |             |             |             |
| <b>STAGE 6</b> Forward Planning Proposal to Planning & Infrastructure to finalise the Local Environmental Plan |               |             |              |              |             |             |             |

## Appendix 1: Location Plan



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## Appendix 2: Council Report and Minutes

Report To Ordinary Meeting of Council - 16 April 2014

Our Natural, Developed and Cultural Environment

Report No. EE64/2014

Planning and Environment



**SUBJECT:** *PLANNING PROPOSAL - JAMES STREET, CESSNOCK*

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

|                              |                                                        |
|------------------------------|--------------------------------------------------------|
| <b>APPLICATION NUMBER:</b>   | 18/2014/1                                              |
| <b>PROPOSAL:</b>             | JAMES STREET, CESSNOCK                                 |
| <b>PROPERTY DESCRIPTION:</b> | PART OF LOT 101, DP 1193184                            |
| <b>PROPERTY ADDRESS:</b>     | JAMES, O'BRIEN, VILLIS AND MICHAEL STREETS<br>CESSNOCK |
| <b>ZONE (CURRENT):</b>       | RU2 RURAL LANDSCAPE                                    |
| <b>ZONE (PROPOSED):</b>      | R3 MEDIUM DENSITY RESIDENTIAL                          |
| <b>APPLICANT:</b>            | HARDIE HOLDINGS                                        |

### SUMMARY

The purpose of this report is to provide an overview of a planning proposal known as "James Street" located adjacent to James, O'Brien, Villis and Michael Streets Cessnock. The planning proposal seeks to rezone part Lot 101 DP 1193184 from RU2 Rural Landscape to R3 Medium Density Residential and to amend the current minimum lot size of 40 hectares to a minimum lot size of 450m<sup>2</sup>. The planning proposal will create 25 residential zoned lots.

### RECOMMENDATION

1. That Council forward a Planning Proposal to the Department of Planning and Infrastructure under s.56 (1) of the *Environmental Planning and Assessment Act 1979* seeking a gateway determination to:
  - a) rezone the subject site, being Part lot 101, DP 1193184 (also known as James Street, Cessnock) from RU2 Rural Landscape to R3 Medium Density Residential; and
  - b) amend the Minimum Lot Size Map for the subject site from 40 hectares to 450m<sup>2</sup>.
2. Exhibit the Planning Proposal in accordance with the Gateway determination and Council's statutory obligations, should the Gateway determination be favourable.

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This is Page 41 of the Agenda of the Ordinary Council Meeting of the Cessnock City Council to be held on 16 April 2014

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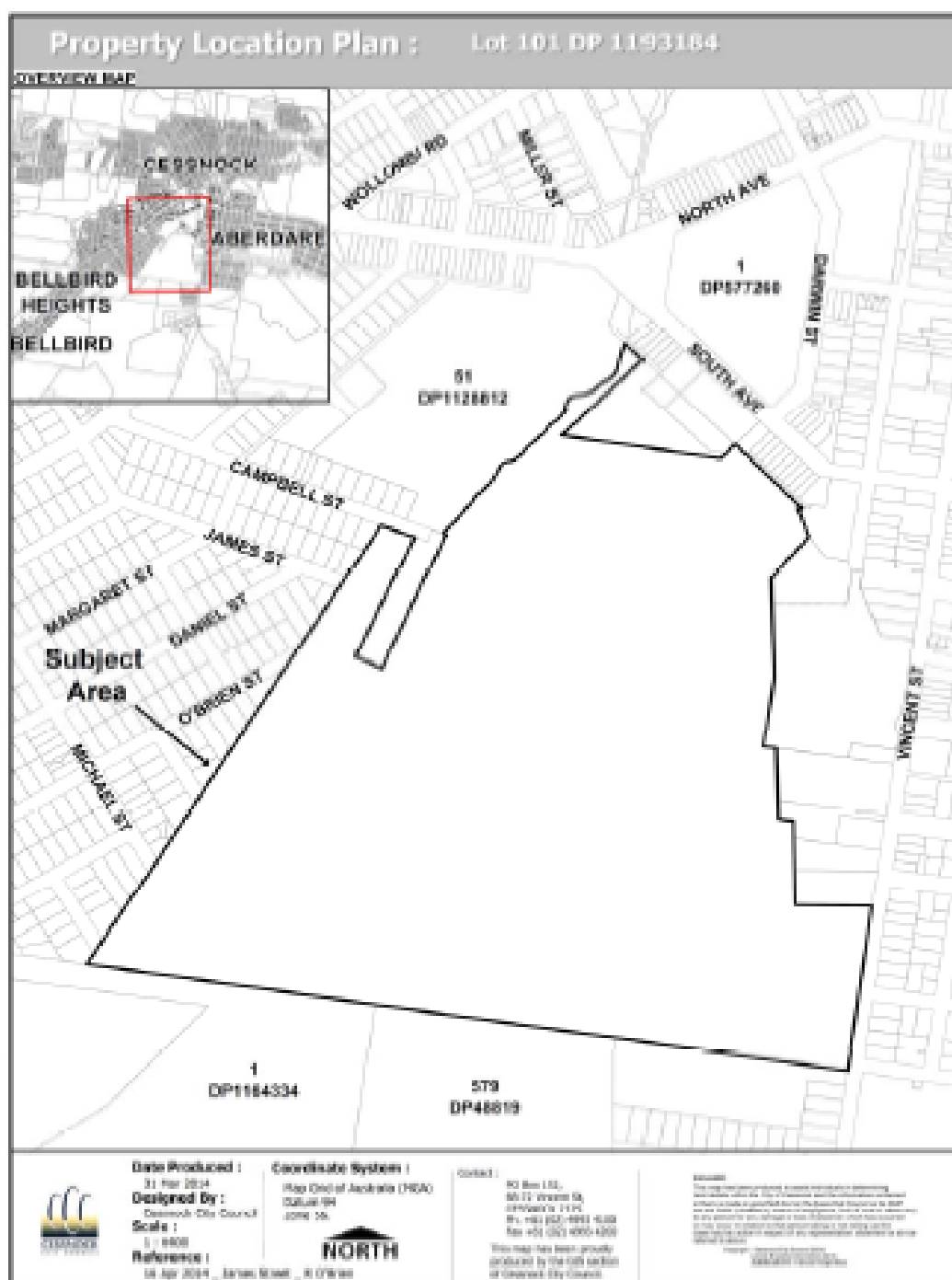


**BACKGROUND**

The subject site forms part of a larger site identified in the Lower Hunter Regional Strategy 2006 and Cessnock City Council's City Wide Settlement Strategy 2010 as the "Cessnock Civic Site". The site has been identified as having potential for increased development opportunities. It has also been partly rezoned and developed for employment lands containing the recently constructed Bunnings development. In 2009 a proposal was submitted for a Seniors Living Development on the subject site. The proposal included 100 self-care villas, including both single storey and double storey villas. The application was withdrawn.

**Chronology**

| Date       | Brief Description                                                                                      |
|------------|--------------------------------------------------------------------------------------------------------|
| 19/02/2014 | This Planning proposal to rezone a small portion of the Cessnock Civic site to R3 lodged with Council. |
| 16/04/2014 | Planning proposal to rezone a small portion of the Cessnock Civic site to R3 reported to Council.      |



This is Page 43 of the Agenda of the Ordinary Council Meeting of the Cessnock City Council to be held on 16 April 2014



Aerial View:



## REPORT/PROPOSAL

### The Proposal

The planning proposal seeks to rezone part Lot 101 DP 1193184 from RU2 Rural Landscape to R3 Medium Density Residential and to amend the current minimum lot size of 40 hectares to a minimum lot size of 450m<sup>2</sup>. Lots range in size from 632m<sup>2</sup> to 1230 m<sup>2</sup>. The minimum lot size of 450m<sup>2</sup> and the R3 zoning provides some additional ability for further subdivision in the area. If made, the planning proposal will create 25 lots.

### The Site

The subject site is 2.85 hectares in size. It is currently zoned RU2 Rural Landscape and is vacant. The site is predominantly flat with a slight slope towards the south and east. The site is generally lower than adjoining residential development to the west. It is located approximately 800 metres to the south-west of the intersection of Vincent Street and Hall Street and only 650 metres from the south western periphery of land zoned B3 Commercial Core associated with the Cessnock CBD. Land to the south of the site is zoned RU2 Rural Landscape. Land to the north and west of the subject site is zoned R3 Medium Density Residential.

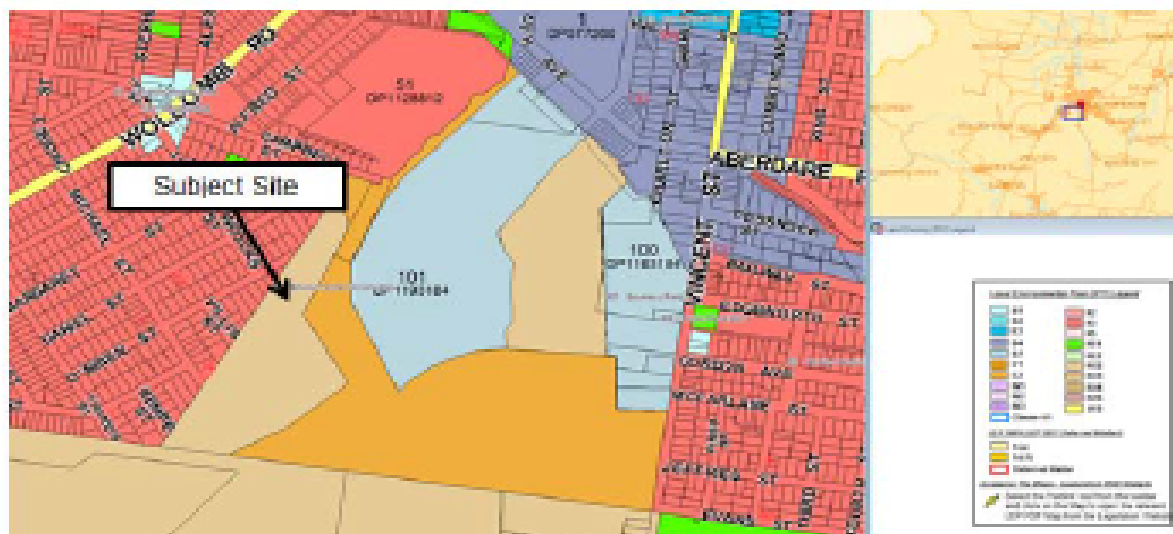


Figure 1 – Subject Site

### Strategic Context

#### Lower Hunter Regional Strategy 2006

The Lower Hunter Regional Strategy 2006 identifies Cessnock LGA as a location of substantial residential growth (21,700 dwellings). The strategy states that sites less than 50 hectares may be developed if consistent with the principles of the strategy, if they are identified within an endorsed local strategy and if they satisfy the Sustainability Criteria in the Strategy.

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The Planning Proposal will contribute to the implementation of the housing targets identified in the LHRS by providing additional housing opportunities through the proposed R3 Medium Density Residential zone. The location of this site close to the Cessnock CBD, it is expected that the proposed development will be consistent with the strategic directions of the LHRS. The planning proposal demonstrates consistency with the sustainability criteria.

***Cessnock City Wide Settlement Strategy 2010***

The City Wide Settlement Strategy identifies the site as being suitable for consideration as a potential residential infill area for an additional 100 dwellings. It states that site specific studies are required to support the rezoning process. The proposed development is consistent with the principles of establishing settlement hierarchies and of cluster planning which seeks to increase densities around existing centres. The proposal only aims to develop 25 lots as the advice from the Mine Subsidence Board advises that there are underground mine workings throughout the rest of the site and it is not economically justified to develop beyond the current footprint.

***Consistency with State Environmental Planning Policies***

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

| SEPP                                                                                | Relevance                                                                                                                                                                                                                                    | Consistency and Implications                                                                                                     |
|-------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| <b>SEPP 1 - Development Standards</b>                                               | The SEPP makes development standards more flexible. It allows Councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary.                                 | This SEPP does not apply to Cessnock Local Government Area following the gazettal of the Cessnock Local Environmental Plan 2011. |
| <b>SEPP 4 - Development without Consent and Miscellaneous Complying Development</b> | The SEPP allows relatively simple or minor changes of land or building use and certain types of development without the need for formal development applications. The types of development covered in the policy are outlined in the policy. | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                  |
| <b>SEPP 6 - Number of Storeys in a Building</b>                                     | The SEPP clarifies the reference to storey, floors and levels.                                                                                                                                                                               | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                  |
| <b>SEPP 15 - Rural Land Sharing Communities</b>                                     | 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.                                                                                       | <i>Not Applicable.</i>                                                                                                           |
| <b>SEPP 21 - Caravan Parks</b>                                                      | The SEPP provides for development for caravan parks.                                                                                                                                                                                         | <i>Not Applicable.</i>                                                                                                           |
| <b>SEPP 22 - Shops and commercial premises</b>                                      | The SEPP provides for the change of use of commercial premises.                                                                                                                                                                              | <i>Not Applicable.</i>                                                                                                           |
| <b>SEPP 30 - Intensive Agriculture</b>                                              | The SEPP provides considerations for consent for intensive agriculture.                                                                                                                                                                      | <i>Not Applicable.</i>                                                                                                           |

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|--------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)</b> | The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.                                                                                                                                                                                                       | <i>Not Applicable.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>SEPP 33 - Hazardous &amp; Offensive Development</b>             | The SEPP provides considerations for consent for hazardous & offensive development.                                                                                                                                                                                                                                          | <i>Not Applicable.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>SEPP 36 - Manufactured Homes Estates</b>                        | The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.                                                                                                                                                                     | <i>Not Applicable.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>SEPP 44 - Koala Habitat Protection</b>                          | 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. | SEPP 44 encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure the permanent free-living populations will be maintained over their present range. Under SEPP 44, potential koala habitat is defined as areas of native vegetation where the trees listed in Schedule 2 of the SEPP constitute at least 15 percent of the total number of trees in the upper or lower strata of the tree component.<br><br>An ecological assessment was prepared for the site. The site does not constitute 'potential koala habitat'. As such, no further provisions of the policy apply to the site. |
| <b>SEPP 50 - Canal Estates</b>                                     | The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.                                                                                                                                                                                | <i>Not Applicable.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>SEPP 55 - Remediation of Land</b>                               | 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                                                                                                                                                                              | The objective of this policy is to provide a State-wide approach to the remediation of contaminated land. Clause 6 of the policy is applicable to the consideration of contamination and remediation in relation to rezoning proposals. Council is required to consider whether there is the possibility that the land may be contaminated due to past land uses, and if so, whether the land is suitable for its proposed use in its current or remediate state.                                                                                                                                                                               |

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|------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Previous Environmental Site Assessments undertaken for the wider Cessnock Civic Precinct confirms that the site is suitable for residential development. |
| <b>SEPP 62 - Sustainable Aquaculture</b>                         | 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.                                                                                                                                                                                                                                                                                                            | <i>Not Applicable.</i>                                                                                                                                   |
| <b>SEPP 64 - Advertising and Signage</b>                         | 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.                                                                          |
| <b>SEPP 65 - Design Quality of Residential Development</b>       | 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.                                                                                                                                                                                         | <i>Not Applicable.</i>                                                                                                                                   |
| <b>SEPP Building Sustainability Index: BASIX 2004</b>            | The SEPP provides for the implementation of BASIX throughout the State.                                                                                                                                                                                                                                                                                                                                                                                                   | The provisions of this SEPP will be considered in the assessment of any future residential development upon the site.                                    |
| <b>SEPP Housing for Seniors or People with a Disability 2004</b> | The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.                                                                                                                                                                                                                                                                                                                              | The provisions of this SEPP will be considered in the assessment of any future residential development upon the site.                                    |
| <b>SEPP Major Development 2005</b>                               | The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels (JRPPs) and classes of regional development to be determined by JRPPs. | <i>Not Applicable.</i>                                                                                                                                   |
| <b>SEPP Infrastructure 2007</b>                                  | 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                                                                                                                                                                                                                                                                                              | The provisions of this SEPP require development applications for subdivisions creating greater than 200 lots to be referred to the Roads and             |

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|                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                       |
|-------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
|                                                                         | service facilities.                                                                                                                                                                                                                                                                                                                                                                                                              | Maritime Services (RMS) for comment. The size of the subject site will not trigger referral with RMS. |
| <b>SEPP Mining, Petroleum Production and Extractive Industries 2007</b> | The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.                                                                                                                                                                                                                                                                                                                      | <i>Not Applicable.</i>                                                                                |
| <b>SEPP Temporary Structures 2007</b>                                   | The SEPP provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity.                                                                                                                                                                                                                                                                       | <i>Not Applicable.</i>                                                                                |
| <b>SEPP Exempt and Complying Development Codes 2008</b>                 | 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.                       |
| <b>SEPP Rural Lands 2008</b>                                            | The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.                                                                                                                                                                                                                                                                                          | <i>Not Applicable.</i>                                                                                |
| <b>SEPP Affordable Rental Housing 2009</b>                              | 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 the site.                                      |
| <b>SEPP State and Regional Development 2011</b>                         | The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.                                                                                                                                                                                                                                     | <i>Not Applicable.</i>                                                                                |

**Ministerial Section 117 Directions**

Section 117(2) of the *Environmental Planning & Assessment Act 1979* enables the Minister for Planning and Infrastructure to issue directions that Council must address when preparing planning proposals to amend a Local Environmental Plan. An assessment of relevant s.117 Directions against the planning proposal is provided in the table below.

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| Ministerial Direction                                             | Aim of Direction                                                                                                                                                                                                                  | Consistency and Implication                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. EMPLOYMENT AND RESOURCES</b>                                |                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                    |
| <b>1.1 Business and Industrial Zones</b>                          | Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.                                                           | <i>Not Applicable.</i>                                                                                                                                                                                                                                                                                                                             |
| <b>1.2 Rural Zones</b>                                            | The objective of this direction is to protect the agricultural production value of rural land.                                                                                                                                    | This direction states (in part) that a draft Local Environmental Plan shall not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. The subject site is identified for future urban development in the Lower Hunter Regional Strategy and, as such, is considered to be consistent with this direction. |
| <b>1.3 Mining, Petroleum Production and Extractive Industries</b> | The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development. | <i>Not Applicable.</i>                                                                                                                                                                                                                                                                                                                             |
| <b>1.5 Rural Lands</b>                                            | The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.                                                  | The Planning Proposal rezones land from RU2 to R3 and reduces the minimum lot size from 40 hectares to 450m <sup>2</sup> . However the land currently does not support agriculture and is highly unlikely to support viable agriculture in the future.                                                                                             |
| <b>2. ENVIRONMENT AND HERITAGE</b>                                |                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                    |
| <b>2.1 Environmental Protection Zones</b>                         | The objective of this direction is to protect and conserve environmentally sensitive areas.                                                                                                                                       | The planning proposal is considered to be consistent with this direction as the subject site is significantly denuded of vegetation.                                                                                                                                                                                                               |
| <b>2.3 Heritage Conservation</b>                                  | The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.                                                                      | An archaeological assessment has been undertaken for the wider Cessnock Civic Precinct which concluded there were no items of significance on the subject site. Therefore the planning proposal is considered to be consistent with this direction.                                                                                                |
| <b>2.4 Recreation Vehicle Areas</b>                               | 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> ).                                                       | <i>Not Applicable.</i>                                                                                                                                                                                                                                                                                                                             |

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| 3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT       |                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>3.1 Residential Zones</b>                           | 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. | <p>This direction states that a planning proposal must: <i>contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the Council, or other appropriate authority, have been made to service it).</i></p> <p><b>Utilities and Infrastructure</b><br/>The planning proposal proposes to be serviced by reticulated sewer and water, electricity &amp; telecommunication. All of these services are located adjacent to or on the subject land.</p> <p>The planning proposal is considered to be consistent with this direction.</p> |
| <b>3.2 Caravan Parks and Manufactured Home Estates</b> | The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.                                                                                                                                                                                  | <p>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.</p> <p>The planning proposal is considered to be consistent with this direction.</p>                                                                                                                                                                                                                                                                                                                                       |
| <b>3.3 Home Occupations</b>                            | The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.                                                                                                                                                                                                                       | <p>Home occupations are permitted without consent in the proposed R3 Zone.</p> <p>The planning proposal is considered to be consistent with this direction.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>3.4 Integrating Land Use and Transport</b>          | The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.                                                                                                                                  | The subject site has multiple connection points to the existing local road network. Given the size of the subject site minimal increases in traffic volumes are likely to occur with the sites development.                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>3.5 Development Near Licensed Aerodromes</b>        | The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by                                                                                                                                                                                                   | <i>Not Applicable.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

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|                                              |                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                              | incompatible future adjoining land uses.                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>3.6 Shooting Ranges</b>                   | 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.                                                                                                                                                                                | <i>Not Applicable.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>4. HAZARD AND RISK</b>                    |                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>4.1 Acid Sulfate Soils</b>                | 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 is not affected by this direction.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>4.2 Mine Subsidence and Unstable Land</b> | The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.                                                                                                                                                                                                                                          | The Mine Subsidence Board has advised the subject land has never been undermined and the site has no restrictions to buildings with respect to mine subsidence.                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>4.3 Flood Prone Land</b>                  | 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. | The flood impact assessment undertaken for the site indicated that the majority of the site is above the 1:100 year flood level. The building envelope for all proposed lots has the capacity to be located above the 1:100 year flood level.                                                                                                                                                                                                                                                                                                                                         |
| <b>4.4 Planning for Bushfire Protection</b>  | The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.                                                                                                                                                      | The majority of the site is mapped as bushfire prone land. A bushfire assessment has been undertaken and concludes the site can be developed to meet the requirements of the <i>Planning for Bushfire Protection 2006</i> and comply with Planning for Bushfire Protection Guidelines and the <i>Rural Fires Act 1997</i> . This includes provision of asset protection zones; appropriate access standards for those involved in evacuation; adequate water supply and pressures; Emergency management arrangements and suitable landscaping, to limit fire spreading to a building. |

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| 5. REGIONAL PLANNING                             |                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                           |
|--------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>5.1 Implementation of Regional Strategies</b> | The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.                                                                                                             | The LHRS is relevant. It is considered the Planning Proposal is consistent with this direction.                                                                                                                                                                                                                                           |
| 6. LOCAL PLAN MAKING                             |                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                           |
| <b>6.1 Approval and Referral Requirements</b>    | The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.                                                                                                                                    | <p>The Planning Proposal does not propose amendments which require concurrence, consultation or referral of development applications to the Minister.</p> <p>The Planning Proposal does not identify any development as designated development.</p> <p>It is considered that the Planning Proposal is consistent with this Direction.</p> |
| <b>6.2 Reserving Land for Public Purposes</b>    | 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. | <i>Not Applicable.</i>                                                                                                                                                                                                                                                                                                                    |
| <b>6.3 Site Specific Provisions</b>              | The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.                                                                                                                                                            | The Planning Proposal does not propose to allow a particular development to be carried out on the site.                                                                                                                                                                                                                                   |

**Natural Environment**

The site is known to contain a relatively minor and degraded occurrence of the endangered ecological community Lower Hunter Spotted Gum Ironbark Forest and potential habitat for several threatened species listed under the Threatened Species Conservation (TSC) Act. However, any potential loss of endangered ecological communities or threatened species habitats by proposed residential development would be likely to result in only minor impacts. It is therefore considered that biodiversity issues are unlikely to be a major constraint to the future residential development of the land. The proponent has advised that if the planning proposal is approved by the 'gateway', then further surveys and assessments will be undertaken to confirm the presence of any threatened species.

**Site Access**

Access to the proposed development will be from Michael and James Streets, which are existing dead end streets associated with the residential area to the west of the subject site. Both of the access streets connect to Wollombi Road, which forms part of the regional road network for west Cessnock. Councils 1:100 flood mapping has identified both of these streets are subject to inundation in the 1:100 flood event. Therefore it is recommended that alternative access to the site be provided via Willis Street which is not affected by flooding.

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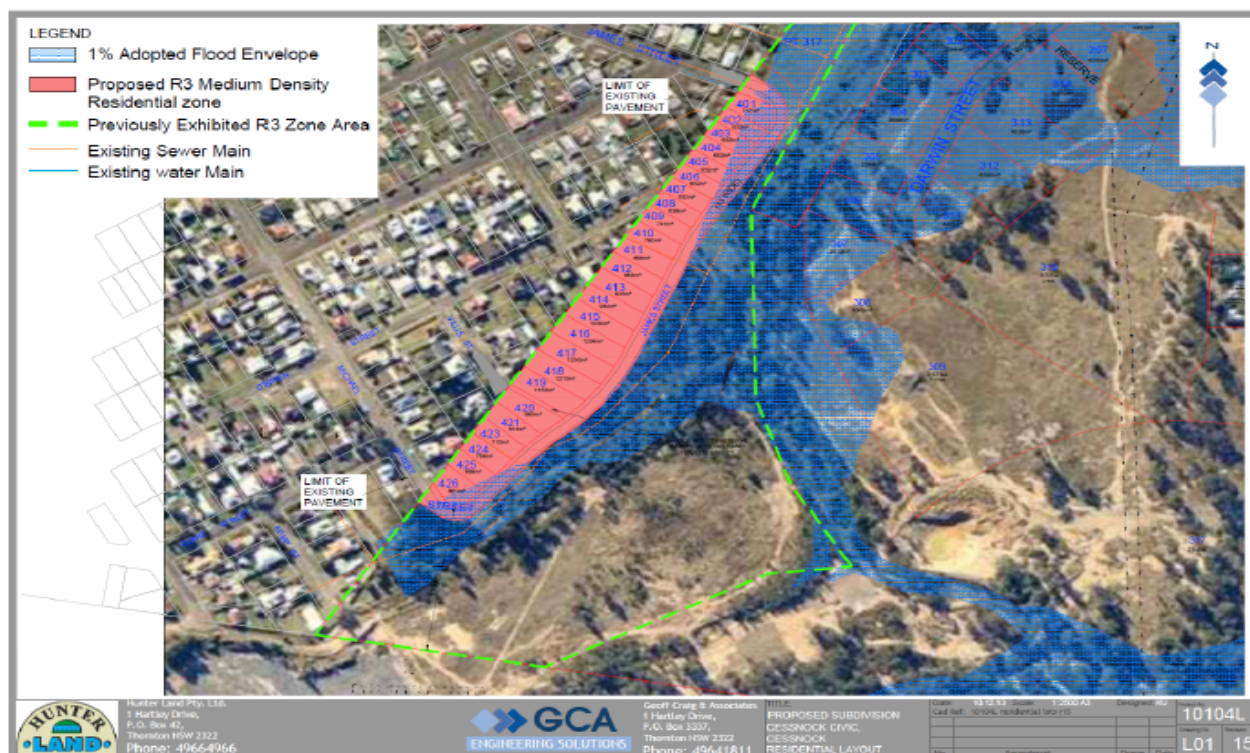
## Our Natural, Developed and Cultural Environment

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This will reduce the lot yield from 25 to 24 lots. Details of the subdivision pattern are provided at Figure 2.



**Figure 2 – Proposed Lot Layout with Flooding Constraints**

### Recreation and Community Facilities

The cumulative impact of the planning proposal and development of the surrounding areas will create additional demand for recreation and community facilities. This will create the need to upgrade existing recreational and community facilities servicing Cessnock. Either a VPA and amendment to an existing section 94 contributions plan or a site specific section 94 plan will need to be negotiated and proposed to address this and other issues.

### Minimum Lot Size

The Lower Hunter Regional Strategy anticipates the average density yield within new urban release areas to achieve a density of 12 dwellings per hectare. With a proposed yield of 24-25 R3 lots over 2.85ha, the planning proposal is expected to produce a yield in excess of 12 dwellings per hectare.

### Supporting Studies

The planning proposal is supported by the following documentation:

- Bushfire Threat Assessment prepared by Firebird Ecosultants Pty Ltd.

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- Preliminary Desktop Ecological Assessment – Part Lot 101 DP 1193184, James Street, Cessnock prepared by Firebird Ecosultants Pty Ltd.
- Letter from the mine subsidence board dated March 2010.
- Proposed subdivision residential layout prepared by GCA Engineering solutions.
- Proposed zone plan prepared by GCA Engineering solutions.

Many of the studies provided by the applicant in support of the planning proposal were recycled from the “Civic Site” proposal previously reported to Council. While aspects of these generally apply to the subject site, certain studies and investigations may need to be updated or clarified in a form that specifically addresses the land subject to this planning proposal. This will ensure that all detailed technical issues are clearly addressed and documentation is transparent for the purpose of public exhibition. These studies can be updated as required after the submission of the Planning Proposal to the Gateway.

***Servicing***

The proposed development will be connected to the existing reticulated water and sewer supply.

***OPTIONS***

Council has the following options:

1. Progress the Planning Proposal to Planning and Infrastructure for ‘Gateway’ determination under section 56(1) of the *Environmental Planning and Assessment Act 1979* as recommended by this report.
1. Not proceed with the Planning Proposal for the following reasons:

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*(To be provided by Council).*

***CONSULTATION***

Formal consultation with selected statutory agencies, including with the wider community, will be undertaken following and as directed by, the “Gateway” determination. It is recommended that the Planning Proposal be exhibited for a period of 28 days.

Should the Planning Proposal progress through the “Gateway”, Council will seek to consult with the following statutory authorities and agencies:

- Office of Environment and Heritage (OEH);
- Hunter Water Corporation (HWC);
- NSW Aboriginal Land Council (NSWALC)
- NSW Rural Fire Services (RFS)
- NSW Trade and Investment – Minerals and Petroleum
- NSW Trade and Investment – Agriculture;
- Mine Subsidence Board;
- Roads and Maritime Services;

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- Ausgrid;
- Telstra; and
- Any others specified in the determination.

It is noted that discussions have already been held with the Mine Subsidence Board with regard to the previous proposal for the senior living development at the subject site. At this time, the Mine Subsidence Board advised Council by way of letter in 2009 that there are no recorded mine workings at the subject site and that it would have no objection to development of the site. It is expected that this development would not pose any additional constraints than the previous proposal.

In addition, internal consultation has been made with the following sections of Council:

- Strategic Flooding & Drainage Engineer
- Principal Natural Environment Planner

**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**

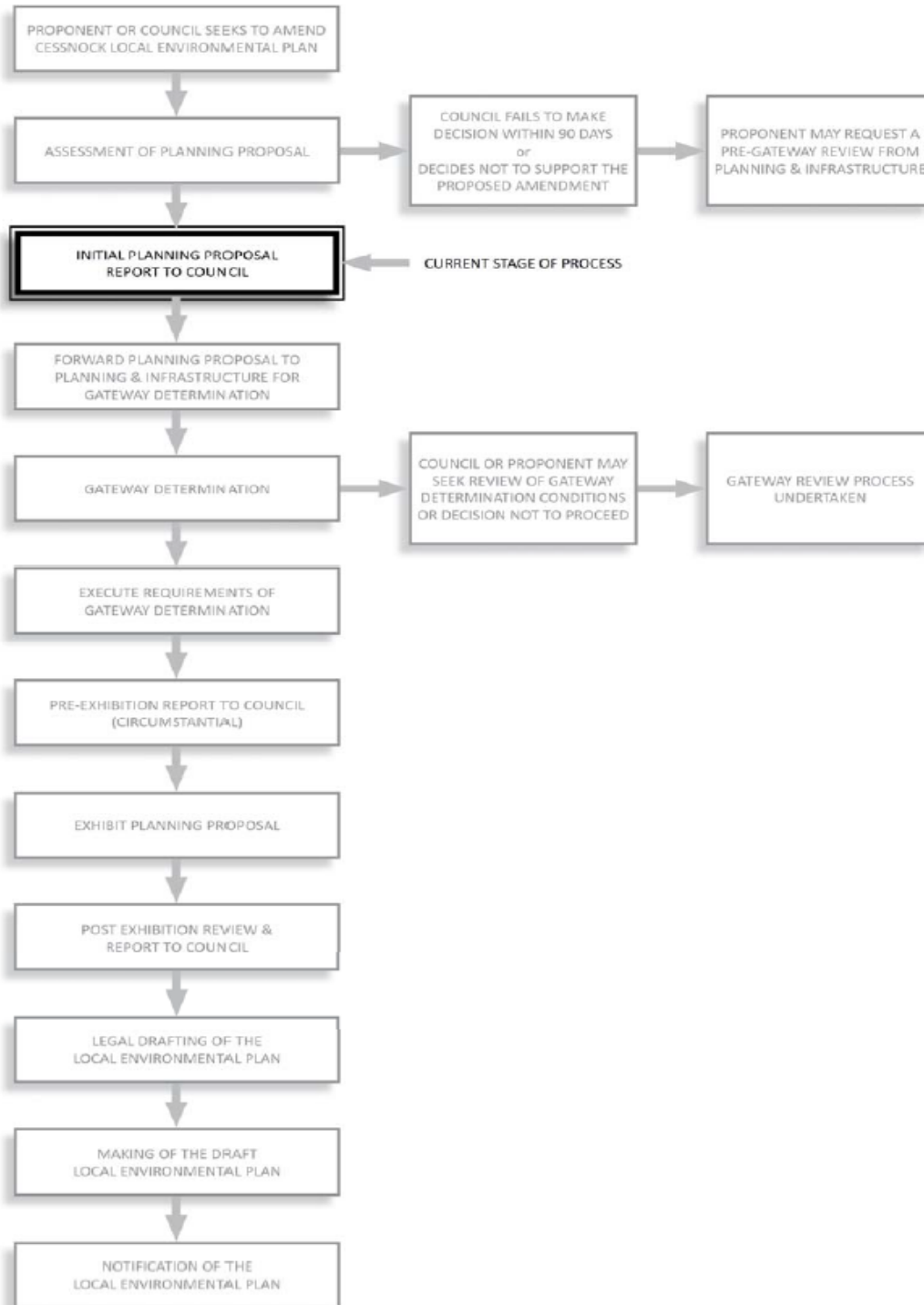
The Planning Proposal is considered to be consistent with relevant State Environmental Planning Policies and Section 117 Ministerial Directions.

**IMPLICATIONS**

**a. Policy and Procedural Implications**

The planning proposal's current status is identified in the following process.

PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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**b. Financial Implications**

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

**c. Legislative Implications**

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

**d. Risk Implications**

Nil.

**e. Other Implications**

Nil.

**CONCLUSION**

The proposal to rezone the subject land from RU2 Rural Landscape to R3 Medium Density Residential and amend the minimum lot size from 40 hectares to 450m<sup>2</sup> under the Cessnock Local Environmental Plan 2011 is considered worthy of support as it is identified in the Lower Hunter Regional Strategy for future development and strategically justified in terms of the Lower Hunter Regional Strategy and the City Wide Settlement Strategy.

The proposed development will complement the existing housing supply in Cessnock. Should Council determine to support the proposal, a planning proposal will be forwarded to the Department of Planning and Infrastructure for Gateway Determination. The Gateway Determination is likely to contain conditions that will need to be satisfied before exhibition can commence. Once the planning proposal is exhibited for public comment it will be reported back to Council for determination.

**ENCLOSURES**

- [1](#) Planning Proposal - James Street 32 Pages



## ENVIRONMENT

### OUR NATURAL, DEVELOPED AND CULTURAL ENVIRONMENT NO. EE64/2014

**SUBJECT: PLANNING PROPOSAL - JAMES STREET, CESSNOCK**

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**MOTION**

**Moved:** Councillor Smith

**Seconded:** Councillor Troy

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**RESOLVED**

1. That Council forward a Planning Proposal to the Department of Planning and Infrastructure under s.56 (1) of the *Environmental Planning and Assessment Act 1979* seeking a gateway determination to:
  - a) rezone the subject site, being Part lot 101, DP 1193184 (also known as James Street, Cessnock) from RU2 Rural Landscape to R3 Medium Density Residential; and
  - b) amend the Minimum Lot Size Map for the subject site from 40 hectares to 450m<sup>2</sup>.
2. Exhibit the Planning Proposal in accordance with the Gateway determination and Council's statutory obligations, should the Gateway determination be favourable.

**FOR**

Councillor Gibson  
Councillor Troy  
Councillor Doherty  
Councillor Wrightson  
Councillor Stapleford  
Councillor Hawkins  
Councillor Smith  
Councillor Campbell  
Councillor Parsons  
Councillor Maybury  
Councillor Pynsent  
**Total (11)**

**AGAINST**

Councillor Olsen

**Total (1)**

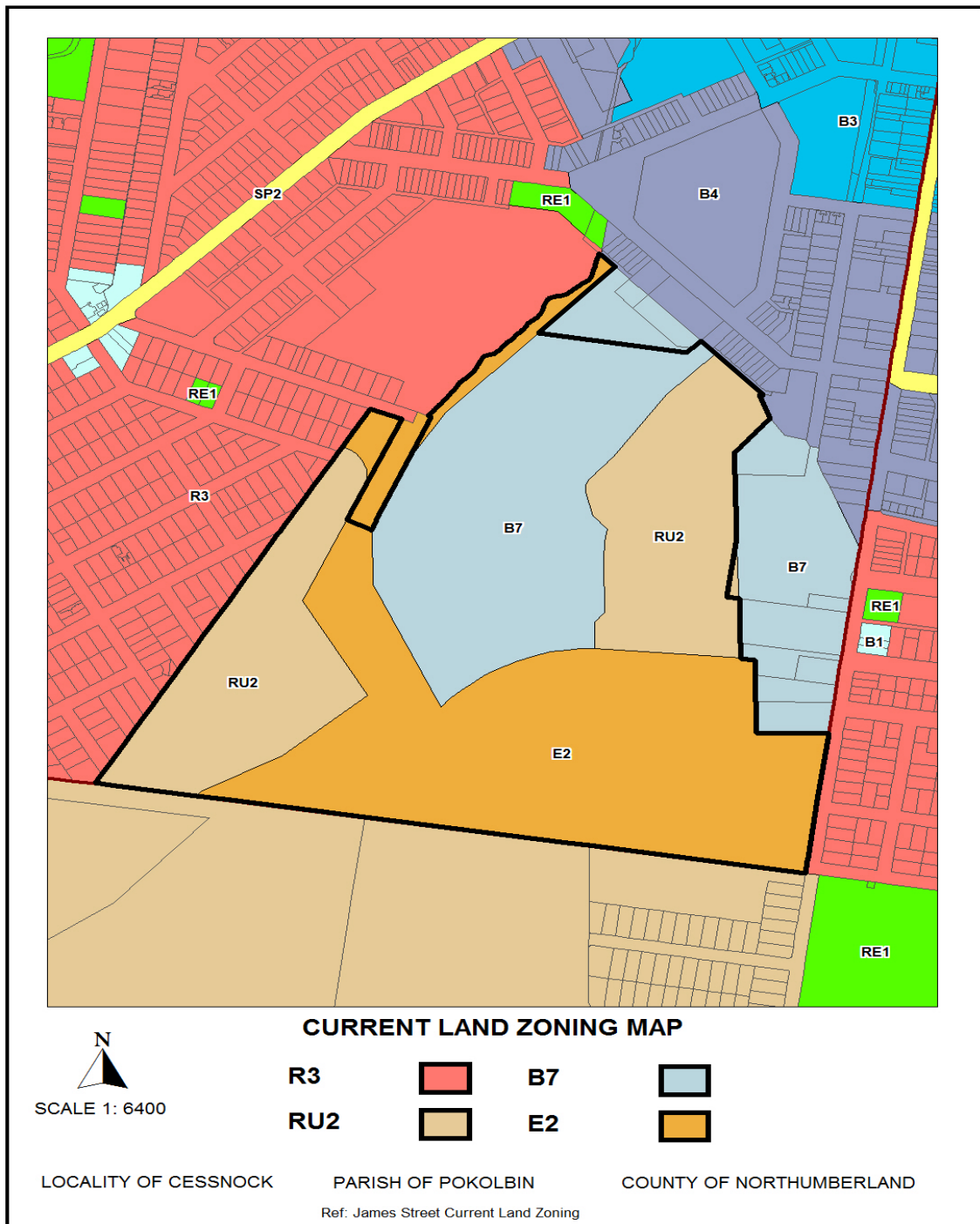
**CARRIED**

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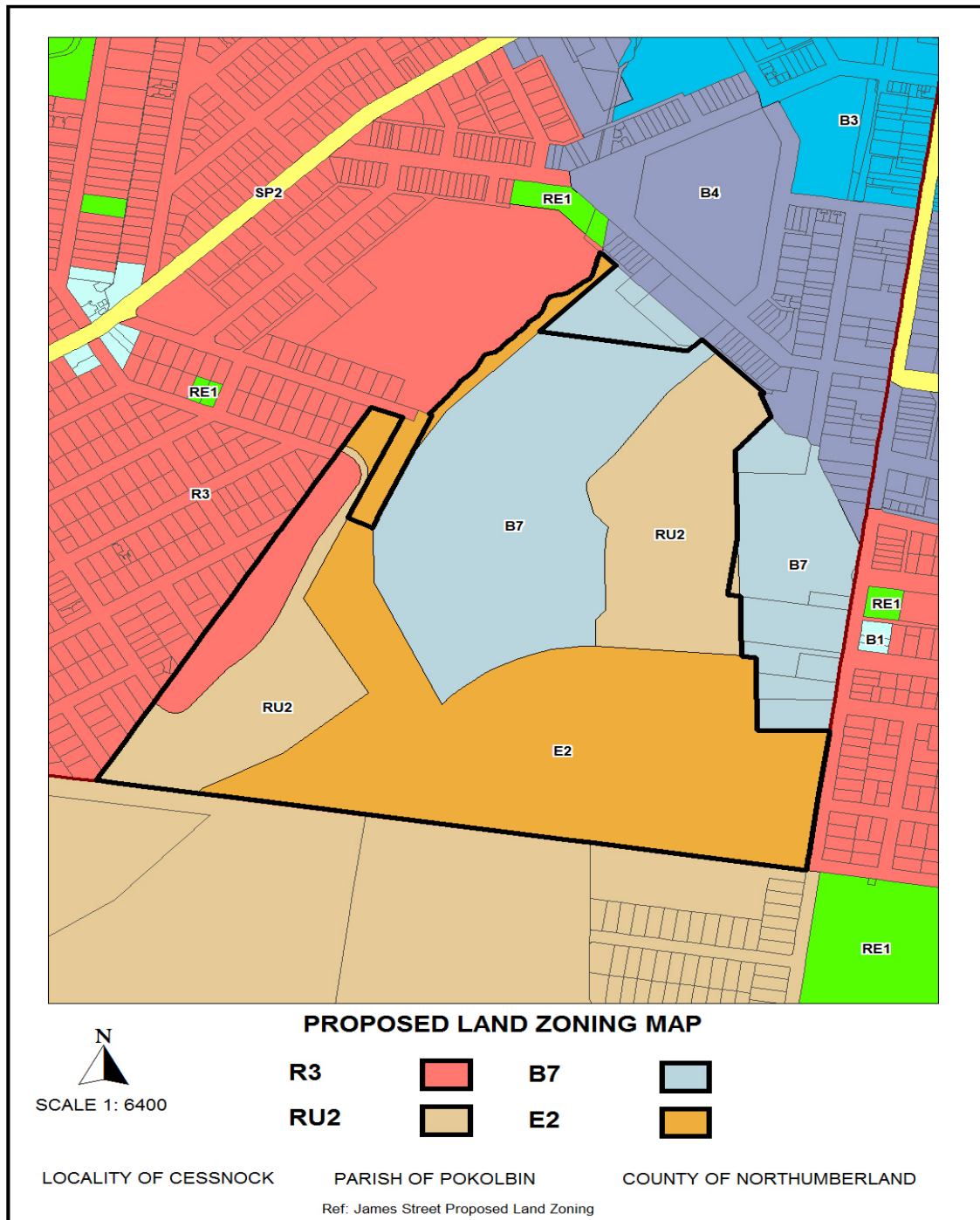
This is page 20 of the Minutes of the Ordinary Council Meeting held on 16 April 2014 confirmed on 7 May 2014

.....General Manager .....Chairperson

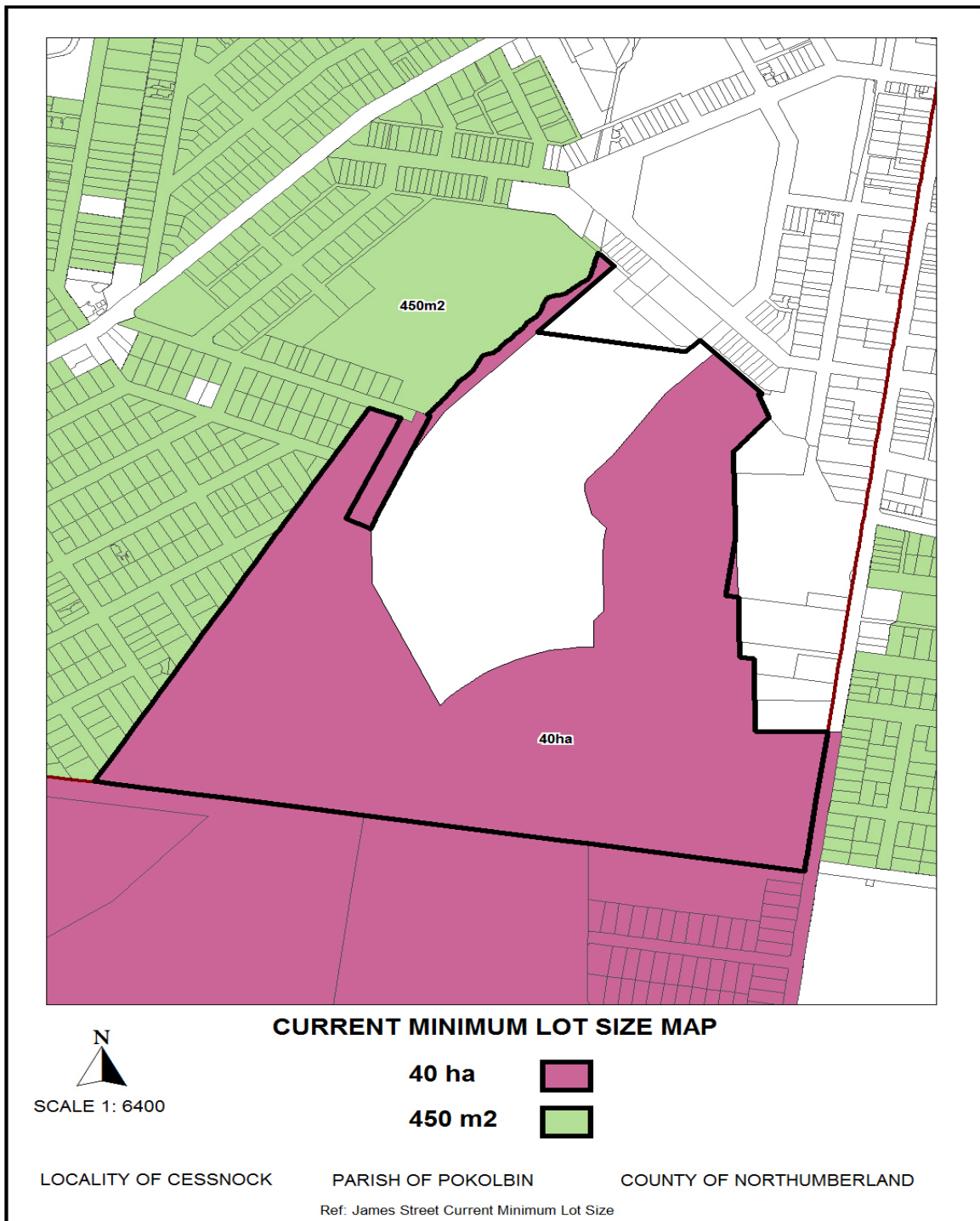
## Appendix 3: Existing Land Use Zone Map



## Appendix 4: Proposed Land Use Zone Map



## Appendix 5: Current Minimum Lot Size Map



## Appendix 6: Proposed Minimum Lot Size Map

