

## Planning and Assessment

IRF19/766

### Gateway determination report

<b>LGA</b>	Cessnock
<b>PPA</b>	Cessnock City Council
<b>NAME</b>	Stonebridge Drive rezoning RE2 to R2 and additional Permitted Use (18-25 homes)
<b>NUMBER</b>	PP_2018_CESSN_003_00
<b>LEP TO BE AMENDED</b>	Cessnock Local Environmental Plan 2011
<b>ADDRESS</b>	Stonebridge Drive, Cessnock
<b>DESCRIPTION</b>	Part of Lots 1000 & 1009 DP 1234890
<b>RECEIVED</b>	18 December 2018 (adequate 1 July 2020)
<b>FILE NO.</b>	IRF19/766
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal (**Attachment A**) seeks to rezone part of Lots 1000 and 1009 DP 1234890 from RE2 Private Recreation to R2 Low Density Residential, amend the Lot Size Map to apply a minimum lot size of 450m<sup>2</sup>, and to amend the additional permitted uses on the subject site.

### 1.2 Site description

The site includes part of Lots 1000 and 1009 DP 1234890 over the southern part of the Cessnock Golf Course as shown on the map in Figure 1.

### 1.3 Existing planning controls

The subject site is currently zoned RE2 Private Recreation reflecting it is currently part of the Cessnock golf course (see Figure 2). No minimum lot size, building height or floor space ratio provisions apply to the site.

### 1.4 Surrounding area

The site is located 1.5km to the east of Cessnock CBD and 1.5km from the western town boundary heading towards the southern part of the Pokolbin Vineyards District as indicated in Figure 1. To the north of the site is the southern part of the golf course, with residential development on the eastern and western boundaries. To the south is rural land (including a manufactured home estate), and the Cessnock Showground.

The map in Figure 2 identifies the surrounding land use zones, which reflect the site is on the fringe of the town.



Figure 1: Site location

Source – Nearmap

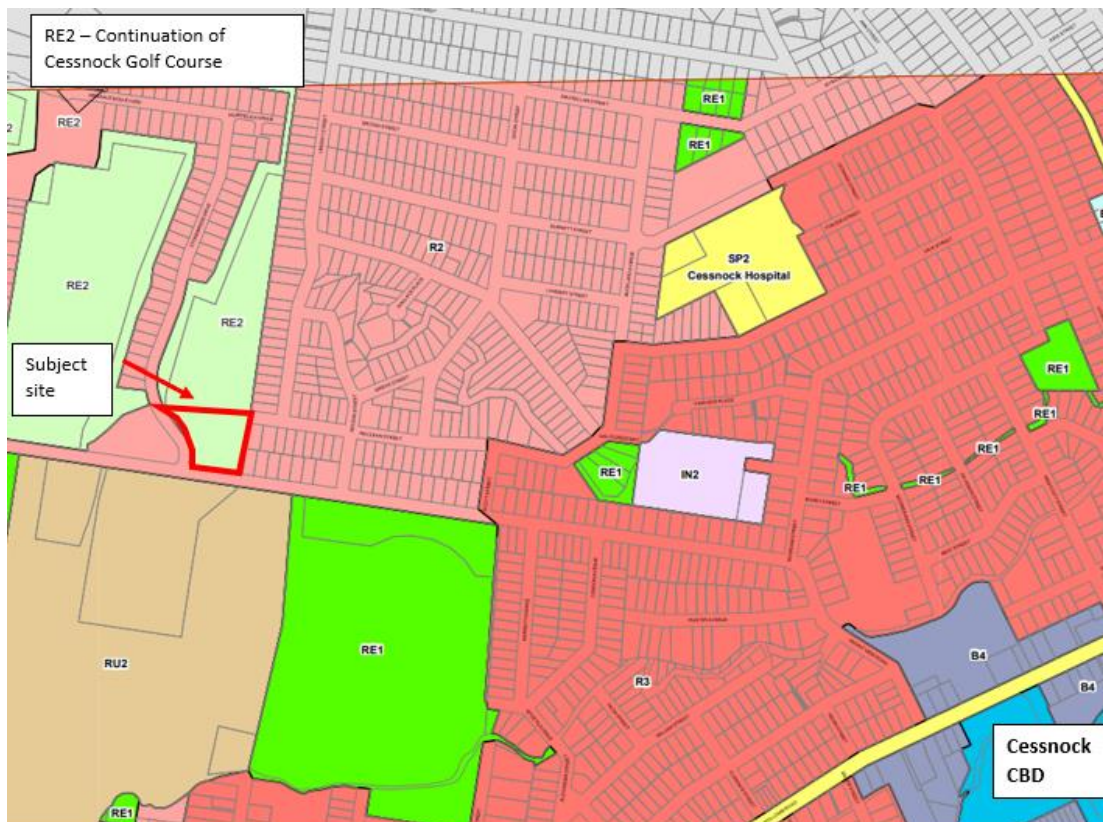


Figure 2: Zoning and surrounding land use context (source: Legislation NSW)

## 2. PROPOSAL

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### 2.1 Objectives or intended outcomes

The planning proposal sets clear objectives for proposed rezoning the site for residential development and ensuring the continuing operation of the golf course.

### 2.2 Explanation of provisions

The planning proposal sets out clear provisions for amending the local environmental plan, including mapping amendments.

There are also changes proposed to Schedule 1 - Additional Permitted Uses. However, these could be clarified by referring the specific items in Schedule 1 being amended (i.e. Items 5 and 6).

### 2.3 Mapping

Given the proposed residential use, the site should be mapped as an urban release area.

## 3. NEED FOR THE PLANNING PROPOSAL

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The planning proposal is not the result of a strategic study or report. However, the planning proposal is consistent with Cessnock Council's *City Wide Settlement Strategy 2010*, the objectives of the *Hunter Regional Plan 2036* and the *Greater Newcastle Metropolitan Plan 2036*.

The planning proposal will enable the continuation of the operation of the Cessnock Golf Course.

The site has existing residential development on its eastern and western boundaries, both zoned R2 Low Density Residential. However, the residential land to the west has been developed as medium density housing in a small enclave at the entrance into the Golf Club consistent with the additional permitted use over the site, being 'Development for the purpose of multi-dwelling housing is permitted with development consent' (Item 5 of Schedule 1 to the LEP). It is proposed to enable a similar type of entry development on the eastern side over the subject site.

While an R3 Medium Density Residential zone maybe appropriate to achieve this specific development outcome, the R3 zone permits other types of residential uses that Council considers not appropriate in this location, such as serviced apartments. The site is also outside the 1,000 meter radius of the Cessnock commercial precinct, which is identified in the *City Wide Settlement Strategy 2010* as the most appropriate location for medium density development.

As a result, the R2 zone is preferred with the inclusion of 'Multi dwelling housing' as an additional permitted use to provide greater certainty for the intended development outcome and be consistent with land adjoining to the west of the site. This approach also reflects the importance of the entry statement/appearance into the Golf Course when accessed from this direction.

The whole of Lots 1000 and 1009 DP 1234890 include an existing additional permitted use for hotel or motel accommodation (Item 6 of Schedule 1 to the LEP) which is not considered appropriate over this particular site as it would compete with the existing facilities of the golf course.

The intent of the proposal is to encourage a similar development outcome to that on the western side of Stonebridge Drive. Hence, the planning proposal includes the



removal of the hotel or motel accommodation additional permitted use over this part of the land.

The removal of the additional permitted use of hotel or motel accommodation on the site will protect the economic viability of the existing golf club and direct this type of development to the central business district where it is more appropriate.

## **4. STRATEGIC ASSESSMENT**

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The planning proposal provides opportunities for housing diversity (18-25 dwellings) while protecting the intent of the golf course and its continued operations. It has been assessed against the following strategic frameworks and documents.

### **4.1 State**

The planning proposal states that the site and surrounding land is identified as Strategic Agricultural Land under *State Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* as Critical Industry Cluster Land (Viticulture).

The site and surrounding area is not utilised as a vineyard or in close proximity to wine processing land uses.

### **4.2 Regional**

#### *Hunter Regional Plan 2036*

The planning proposal is consistent with Goal 3 – Thriving Communities and Goal 4 – Greater Housing Choice and Jobs, including these specific Directions:

- Direction 20 – Revitalise existing communities
- Direction 21 – Create a compact settlement
- Direction 22 – Promote housing diversity
- Direction 23 – Grow centres and renewal corridors

Further consultation with Biodiversity Conservation Division will consider consistency with Direction 16 to increase resilience to hazards and climate change, particularly flooding risk.

#### *Newcastle Greater Metropolitan Plan 2036*

The proposal is consistent with Outcome 3 – Deliver Housing Close to Jobs and Services. Specifically, Strategy 16 – Prioritise the delivery of infill housing opportunities within existing urban areas.

Further consultation with Biodiversity Conservation Division will consider consistency with Strategy 14 to improve resilience to natural hazards, particularly flooding risk.

### **4.3 Local**

Cessnock Council states the planning proposal is consistent with the Community Strategic Plan, noting consistency with its five key themes of:

- Connected, safe and creative community, developing safe and connected neighbourhoods; and
- A sustainable and health environment: promoting a sustainable balance between development and preserving our natural environment.

The proposal is consistent with Council's *City Wide Settlement Strategy 2010* as it proposes development within the existing town urban boundaries. Council is currently reviewing the Strategy.

The planning proposal was initially prepared before Council adopted the Local Strategic Planning Statement. The planning proposal should be updated to include an assessment against this strategic document prior to exhibition.

#### **4.4 Section 9.1 Ministerial directions**

The planning proposal does not address 9.1 Direction 2.6 – Remediation of Contaminated Land that was introduced in April 2020. It is recommended as a condition of Gateway that the proposal is updated to address this condition.

##### 1.3 Mining, Petroleum Production and Extractive Industries

The site is identified as strategic agricultural land (viticulture). However, given its current urban land use and surrounding built environment, Cessnock Council does not anticipate that the planning proposal will have a significant impact.

The site and surrounding area is not utilised as a vineyard or in close proximity to wine processing land uses.

##### 2.6 Remediation of Contaminated Land

The site is not mapped as being contaminated or potentially contaminated. Despite this, the planning proposal does not contain an assessment against the direction.

##### 4.3 Flood Prone Land

Cessnock Council has provided a flood study to accommodate the planning proposal that included risk analysis of the dam further upstream. The study confirms the flood risks are satisfactory. Despite this, Council will consult with the Biodiversity and Conservation Division to confirm that the inconsistency can be justified as either:

- (a) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the *Floodplain Development Manual 2005*, or
- (b) the provisions of the planning proposal that are inconsistent are of minor significance.

The planning proposal states that development on the site would be subject to Cessnock Council's Development Control Plan, including restrictions to building in a floodway and limits of filling in the flood storage area to 20 per cent.

No masterplan has been provided for the proposed development.

Following consultation, consistency or justified inconsistency with this direction may then be determined.

##### 4.4 Planning for bushfire protection

The site is in proximity to land mapped as bushfire prone land.

Consultation with NSW Rural Fire Service is required. Following this consultation, further consideration of consistency or justified inconsistency with this direction will be made.

### 6.3 Site specific provisions

The planning proposal is inconsistent with this direction as multi-dwelling housing is permissible with consent in the R1 General Residential and R3 Medium Density Residential zones in the *Cessnock Local Environmental Plan 2011*.

The site has residential development on its eastern and western boundaries, both zoned R2 Low Density Residential. However, the residential land to the west has been developed as medium density housing as an additional permitted use for multi dwelling housing (being item 5 of Schedule 1 to the LEP).

Applying an R1 General Residential or R3 Medium Density zone in this location would permit other land uses, such as serviced apartments. Other areas zoned R3 in Cessnock are located closer to the central business district of Cessnock, consistent with Council's *City Wide Settlement Strategy 2010*.

As a result, the R2 Low Density Residential zone is preferred by Council in this location with the inclusion of 'Multi-dwelling housing' as an additional permitted use to provide greater certainty for the intended development outcome and to be consistent with land adjoining to the west of the site.

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

The planning proposal will shorten the length of a hole on the golf course by around 70 metres. Cessnock Council advised will not impact on the integrity of the course.

More housing diversity opportunities will be provided through the proposed changes to the LEP. The proposal takes advantage of the existing level of infrastructure available to the site, noting there is unlikely to be any need for major upgrades to the infrastructure network.

### **5.2 Environmental**

Cessnock Council's mapping indicates there are endangered ecological communities of Lower Hunter Spotted Gum – Ironbark Forest and Hunter Lowland Redgum Forest present on the site. The planning proposal states that very minimal vegetation exists on the site and it is unlikely that critical habitat, threatened species or ecological communities will be adversely impacted by the proposal.

#### Bushfire

A small portion of the south eastern corner of the subject site is identified as being Bushfire Prone Land – Buffer (see Figure 4). Bushfire risk on any future development will be assessed consistent with the objectives of Section 9.1 Ministerial direction 4.4 Planning for Bushfire Protection during the Development Application process.

#### Flooding

The north west section of the site is identified as within the 1% flood event, with Council's flood mapping information further identified it as being in the flood fringe.

The planning proposal is supported by a flood study which has identified the flood being a fast peak that subsides within 5 hours. The study further models the flood impacts, including the impact of on other land of providing fill on the site and also recommends an overland flow path solution to manage on-site flood impacts (Figure 3). The study also included risk analysis of the dam breaking further upstream.

Further consideration of flooding can be made at Development Application stage.



Figure 3: Flooding solutions (source: Cardno 2020)

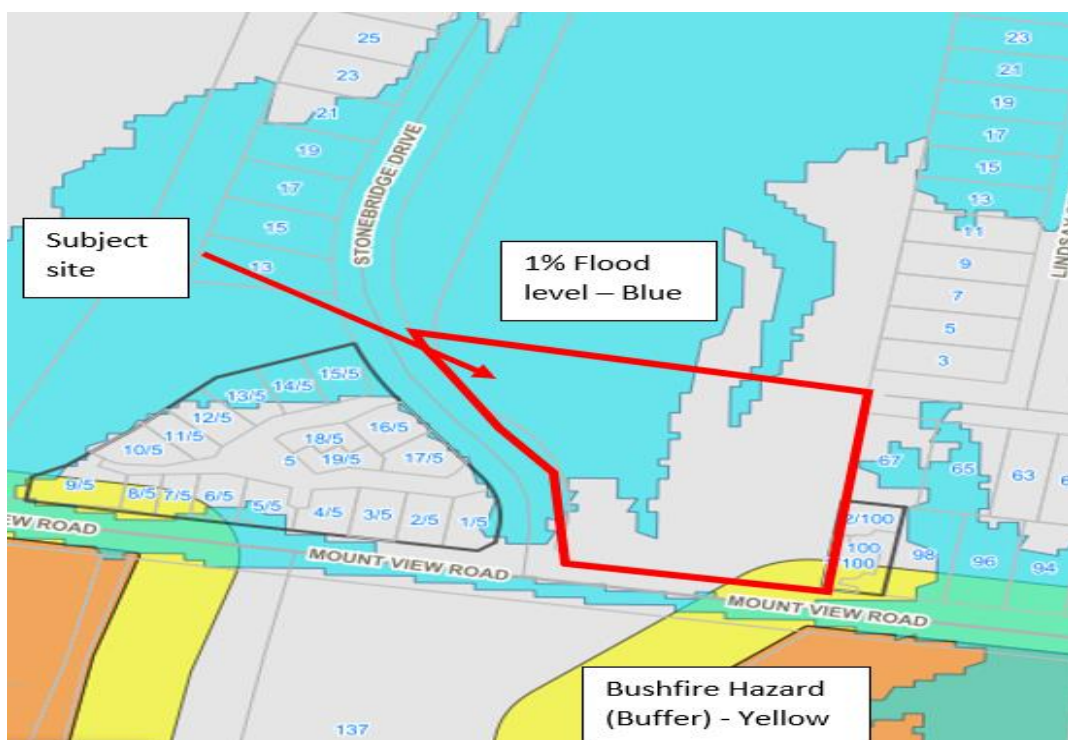


Figure 4: Flooding and Bushfire (source: Cessnock online mapping)

### Other

The site is not mapped as being contaminated or potentially contaminated. Despite this, the planning proposal does not contain an assessment against

### **5.3 Economic**



The proposal will provide local construction jobs and is unlikely to have any detrimental economic impacts for the community or local economy.

#### 5.4 Infrastructure

The site is currently zoned RE2 Private Recreation and the proposed change to a residential zone triggers the need to map the site as an urban release area, thus requiring a contribution towards state infrastructure.

### 6. CONSULTATION

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#### 6.1 Community

Cessnock Council propose a 28 day exhibition period.

#### 6.2 Agencies

Cessnock Council did identify proposal to consult with NSW Rural Fire Service. Consultation with Biodiversity Conservation Division is also required.

### 7. TIME FRAME

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Cessnock Council has suggested a 9 month timeframe.

### 8. LOCAL PLAN-MAKING AUTHORITY

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Cessnock Council has requested to be the local plan-making authority. This is recommended as the planning proposal is of minor nature and does not involve any Council land.

### 10. RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. **agree** that any inconsistency with section 9.1 Ministerial direction 6.3 Site specific provisions is justified in accordance with the terms of the direction; and
2. **note** that any inconsistency with section 9.1 Ministerial directions 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection remains unresolved until further justification has been provided.


It is recommended that the delegate of the Minister determine the planning proposal should proceed subject to the following conditions:

1. Update the planning proposal prior to public exhibition to:
  - (a) specifically note in the Explanation of provisions (d) Item 5 of Schedule 1 of Cessnock LEP 2011;
  - (b) include the key findings and implications of the flood study;
  - (c) include an assessment against the adopted Local Strategic Planning Statement;
  - (d) include an assessment against section 9.1 Direction 2.6 – Remediation of Contaminated Land; and
  - (e) include mapping the site as an urban release area in the LEP.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and



Environment 2016) and must be made publicly available for a minimum of **28 days**; and

- (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
3. Consultation is required with the following public authorities:
- NSW Rural Fire Service
  - Biodiversity Conservation Division
  - Department of Primary Industries
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
  - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.
6. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.



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