

Planning Services

Gateway Determination Report

LGA	Cessnock
RPA	Cessnock City Council
NAME	Cessnock Civic
NUMBER	PP_2017_CESSN_002_00
LEP TO BE AMENDED	Cessnock LEP 2011
ADDRESS	Various
DESCRIPTION	Various
RECEIVED	24/8/2017
FILE NO.	17/06459
QA NUMBER	Not applicable
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

The planning proposal seeks to amend the Cessnock LEP to rezone subject lands within the Cessnock Commercial Precinct to allow and encourage medium density mixed use development, promote urban growth, and to introduce a town square or plaza.

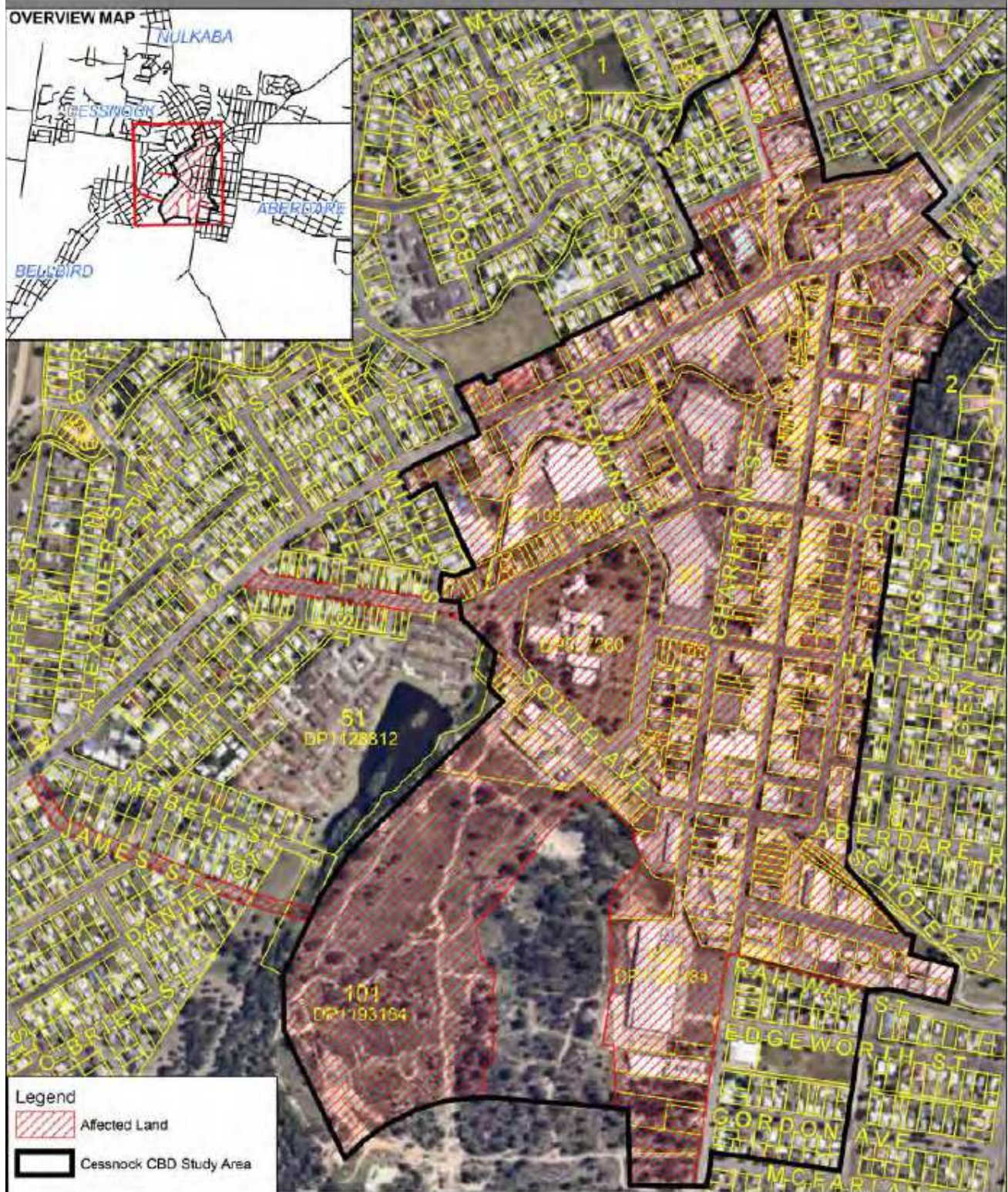
The proposal would also amend the floor space ratio, height of buildings planning controls, amend the Land Reserved for Acquisition Map, introduce a new key sites map for land within the precinct, and introduce new clauses to the Cessnock LEP to encourage design excellence on the five mapped key sites.

Site Description

The Planning Proposal covers much of the Cessnock CBD area, as shown on the map over.

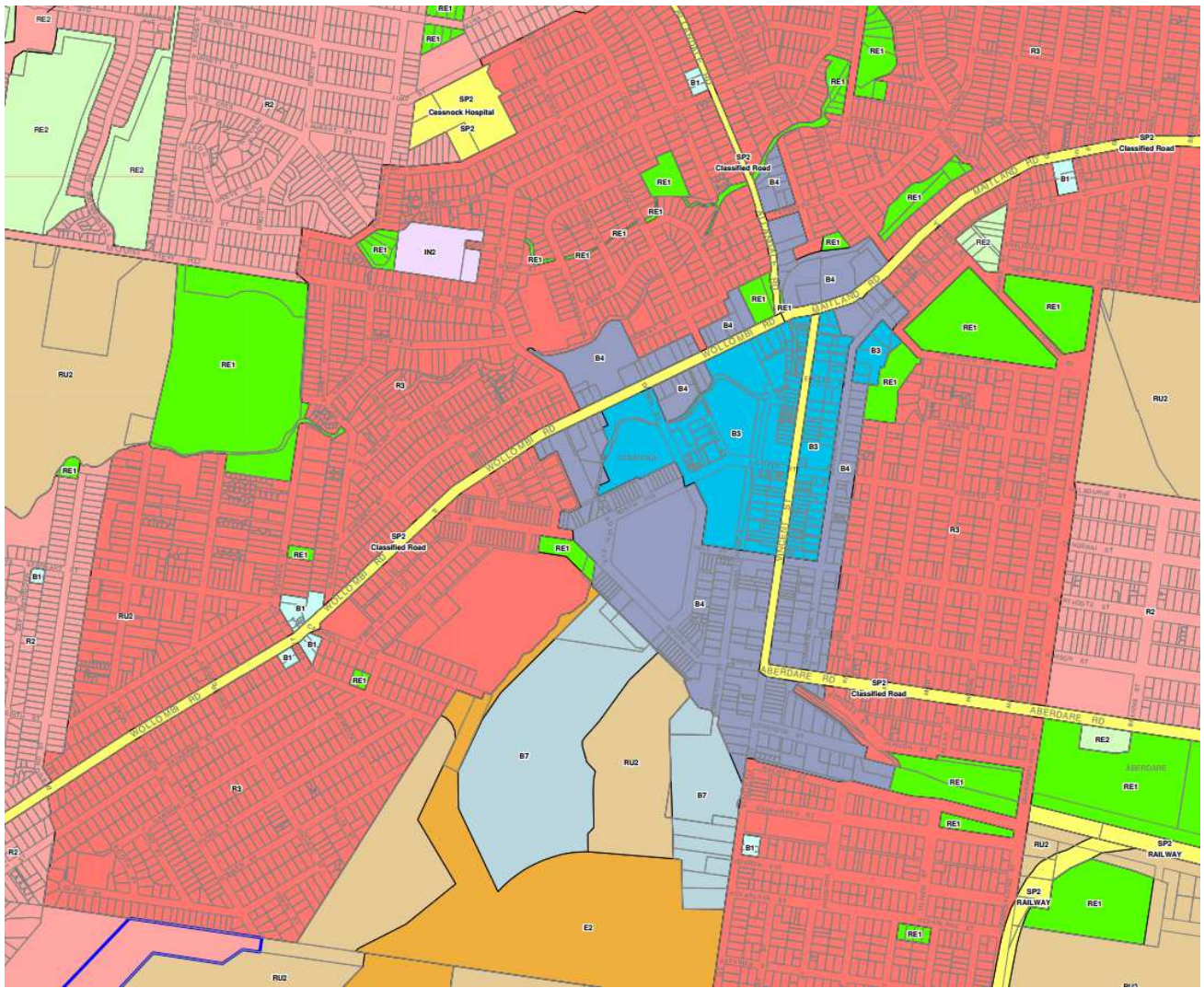
The boundaries of the planning proposal correspond with the previous background reports, being: Cessnock CBD and Master Planning, and Cessnock Commercial Precinct Background Report.

Aerial Location Plan: Cessnock Commercial Precinct Study Area

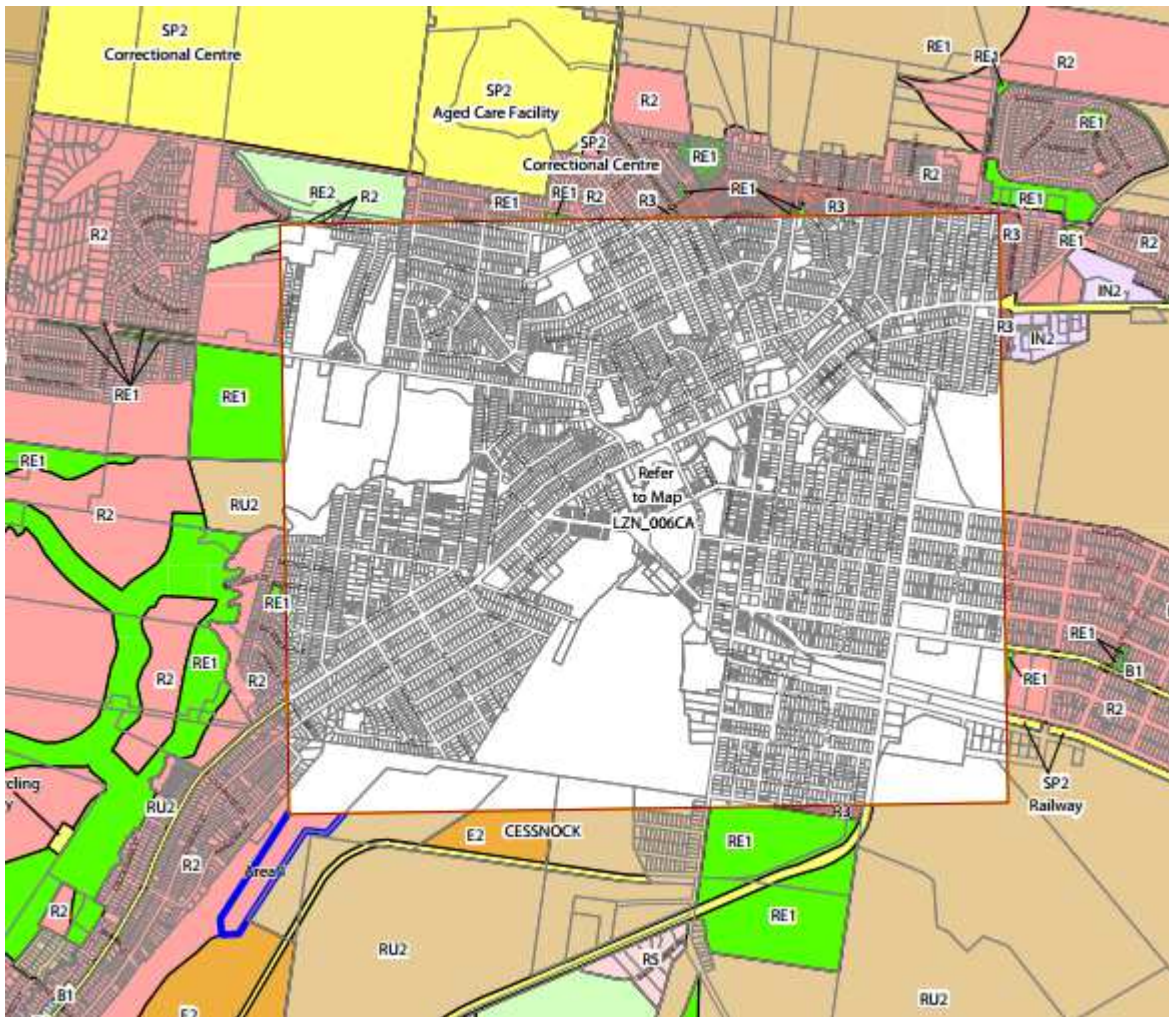


Surrounding Area

The surrounding area is characterised by low density residential development on the fringe of the CBD with pockets of medium density development. The two zoning plans under provide an overview of the surrounding land uses close to the CBD and a broader view.



Cessnock LEP Land Use Zone map 006CA



Cessnock LEP Land Use Zone map 006C

Summary of Recommendation

The planning proposal has merit and is supported to proceed with conditions for the following reasons:

- it is consistent with the Hunter Regional Plan;
- it reinforces Cessnock as a Regional Centre;
- implements changes consistent with the Cessnock Commercial Master Plan that:
 - o propose improvements to the road network and pedestrian activity;
 - o provide incentives to encourage growth and improve the amenity, liveability and safety of the CBD, including the creation of a town square/plaza; and
 - o encourage residential development design through incentives for greater density and higher standards in building design.

PROPOSAL

Objectives or Intended Outcomes

The proposal will amend the Cessnock LEP to rezone certain lands within the Cessnock Commercial Precinct, change floor space ratio and increase the permissible height of land within the precinct, and add new sites to the Land Acquisition Map. It will also introduce new provisions, being:

1. to encourage design excellence and development incentives for five key sites within the precinct, and
2. to introduce Key Sites mapping in association with the introduction of the design excellence clause.

The outcomes will promote urban development of a high standard, introduce a town square or plaza and enable Cessnock City to grow as a regional strategic centre and gateway to the vineyards district. This is in line with broader state and council initiatives for Cessnock and the Hunter Region.

The objectives of the proposal are clear and are supported by appropriate maps and supporting justification. While the recommendation is for the PP to be resubmitted prior to public exhibition seeking sign-off of Section 117 Directions, the planning objectives are sound and unlikely to be amended as a result.

Explanation of Provisions

The explanation of provisions to amend the Cessnock LEP are as follows:

1) Rezone from:

B4 Mixed Use to B3 Commercial Core –

Lot 22 DP 579269, Lot 4, 7 & 8 DP 38740, Lot 56 DP 614109, Lot 1 DP 112703, Lot 1 DP 721821, Lot 1 DP 979574, part of Lot 1 DP 1097308 and part of Lot 1 DP 340072;

RE1 Public Recreation to B4 Mixed Use –

Lot 16 DP 48151 and Lot 261 DP 666805;

B3 Commercial Core to RE1 Public Recreation –

Part of Lot 1 DP 450874, part of Lot 11 DP 613614, part of Lot 1 DP 1114018, part of Lot H DP 384894, part of Lot G DP 347929, part of Lot F DP 354733, part of Lot D DP 339311, part of Lot E DP 384895, part of Lot 2 DP 1114018, part of Lot 41 DP 617668, part of Lot 30 DP 1013326, part of Lot 2 DP 1013378, part of Lot 1 DP 1100097 and Lot 1 DP 1013378;

B4 Mixed Use to RE1 Public Recreation –

part of Lot 1 DP 577260 and Lot 7009 DP 1030585.

2) Introduce a new clause to encourage design excellence on key sites identified within the Cessnock Commercial Precinct; and

3) Introduce Key Sites mapping in association with the introduction of the design excellence clause.

The LEP amendments are clear and are supported by appropriate maps, explanations and supporting justification.

Mapping

The Planning Proposal include existing (current) maps and proposed maps that propose to implement the objectives. These mapping changes include:

- Amend the Floor Space Ratio Map pertaining to land within the precinct from a Floor Space Ratio of 1.5:1 or no Floor Space Ratio to a Floor Space Ratio of 1.5:1, 2.0:1 and 2.5:1;

- Amend the Height of Building Map pertaining to land within the precinct from a 12m or no Height of Building control to a Height of Building control of 12m, 15m, 18m and 21m;
- Amend the Land Reserved for Acquisition Map to include Land Reserved for Acquisition within the precinct for the purposes of Classified Road (SP2) and Local Open Space (RE1);

Consultation with agencies prior to exhibition may require some changes to maps.

NEED FOR THE PLANNING PROPOSAL

The proposal aims to promote the growth of the Cessnock City as a major regional centre and gateway to the Hunter vineyards region. This is to be achieved through an increase in development density, transport and pedestrian changes, well located open space, and improvement of build design and public amenity. The current built form and character of the Cessnock CBD does not meet Council and community expectations and the proposed LEP provisions will put in place positive steps to revitalise the CBD.

The proposed LEP provisions target specific actions consistent with the outcomes of three strategic studies and reports on the CBD that form part of the supporting documentation, including the Cessnock Commercial Precinct Background Report which forms Appendix 4 of the Planning Proposal. Council staff have undertaken economic and market analysis of the proposed LEP provisions and have confirmed that they have merit and are feasible.

Changes to Council's DCP to support the revitalisation have already been adopted by Council, as has the CBD Masterplan to further guide development and change.

An amendment to the Cessnock LEP through mapping and land use table changes, and the introduction of new clauses is considered the most effective way of achieving both the local objectives and implement the Hunter Regional Plan's Direction 20: Revitalise existing communities.

The proposed intention of using key sites and design excellence as an incentive for change has been assessed in the context of determining if there is a better or alternative way achieve the planning objectives.

Key sites – Council advised that:

Following a review of all sites within the Cessnock Commercial Precinct and their potential to provide significant and positive change in shaping its future, five “key sites” were selected as catalyst sites for development incentives where the development demonstrates design excellence. The key sites referenced in the design excellence clause have been selected on the basis that they present one or more of the following characteristics:

- *They are strategically located to provide specific built form or public domain improvements; and / or*
- *They are larger and / or vacant sites that could feasibly be developed as a high quality mixed use development; and / or*
- *They can feasibly accommodate an increased yield or density in a way that does not undermine the character of the precinct; and / or*
- *They present opportunities as a marquee gateway development for vehicles entering the city centre, or exiting the city centre as they travel to the vineyards district.*

Appendix 4 of the Planning Proposal (Cessnock Commercial Precinct Background Reports) provides greater details of the selection process for the five key sites. The methodology included identifying 13 potential catalyst sites due to their location, size and function and

assess their ability to positively shape the future of Cessnock. The process and criteria used to select the five key sites is considered to be appropriate in the context of the limited Cessnock CBD real estate market and Council's ability to influence design.

An incentive provision has been drafted to encourage catalyst developments at these strategic locations (key sites) within the precinct. Accompanied by reduced car parking requirements in the Development Control Plan, the floor space ratio (additional 20%) and height of building (additional 3m) incentives in the proposed design excellence clause (Appendix 2) would enable developers to achieve higher residential yields and reduced car parking requirements where they are willing to deliver a design that:

- Exhibits design excellence;
- Achieves a 5 Star Green Star rating;
- Achieves a minimum Floor Space Ratio that is 80% of the maximum Floor Space Ratio;
- Is designed by a registered Architect; and
- Satisfies certain site specific design criteria.

Additional car parking incentives are offered in the Cessnock Commercial Precinct Development Control Plan to offset the cost of implementing 5 star green star rated building practices. The car parking offsets relate only to commercial development and do not impact on residential development. A reduction of 25% in car parking is offered increasing to 50% where the development includes residential floor space equal to or greater than 50% of the total floor space of the development.

The proposed LEP local provision clause 3(b) identifies a 5 Star Green Star rating. The Green star rating is an Australia wide rating system, however it is not recognised in legislation. To this extent, it is proposed to consider using "heads of consideration" terms such as "a high level of building efficiency including..." in the clause to assess design excellence, which would be further explained in Council's DCP.

Design Excellence – The proposed design excellence clause requires development applications to be reviewed by a Design Review Panel containing experts in architecture and urban design, who will assess the quality of a proposed development and provide recommendations in relation to urban design, architecture and landscape architecture. It is likely that Council will utilise an existing Committee from a neighbouring Council as this clause only applies to five sites.

It is considered that the mix of LEP and DCP provisions are the best approach to implementing the intended outcomes of the proposal.

STRATEGIC ASSESSMENT

State

Section 117(2) Ministerial Directions

1.1 Business and Industrial Zones

The planning proposal is INCONSISTENT with this direction as it reduces the total potential floor space area for employment uses and related public services in business zones.

Council identify a current surplus of business zoned land in the CBD. The proposal intends to rezone certain lands from a business zone to RE1 Public Recreation. The land in

question is currently used as a car park and private open space, and the purpose of rezoning the land is to create a town plaza. The proposal overall is seeking to increase the quality and availability of development on the business zoned land, through increased density of floor space and increased maximum height limits, and is considered consistent with the provisions and objectives of this direction.

The table under outlines the proposed change in land uses zones in hectares to provide the context of the significance of the changes.

Existing Zone Areas		Proposed Changes		Proposed Total	
Zone	ha	Zone	ha	Zone	ha
B3	21.14	From B3 to RE1	0.66	B3	21.62 Net gain 0.48 or 2.27%
B4	41.43	From B4 to B3 From B4 to RE1	1.14 1.58	B4	39.40 Net loss 2.03 or 4.90%
RE1	0.99	From RE1 to B4	0.69	RE1	2.54 Net gain 1.55 or 257%

RECOMMENDATION – That the Secretary can be satisfied that the INCONSISTENCY is both justified by a study that gives consideration to the objectives of this Direction, and is of minor significance.

3.1 Residential Zones

The planning proposal includes around 10ha of land within the R3 Medium Density Residential Zone. While no changes are being made to the existing land use provisions within the R3 zone, incentives for the development of shop top housing in a B3 zoned land will encourage a variety of housing types and makes efficient use of existing infrastructure and services. The proposal is considered to be CONSISTENT with this direction

3.2 Caravan Parks and Manufactured Home Estates

The planning proposal is considered to be CONSISTENT with this direction.

3.3 Home Occupations

The proposal is considered to be INCONSISTENT with this direction as it does not permit home occupations to be carried out in dwelling houses without the need for development consent.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency is of minor significance.

3.4 Integrating Land Use and Transport

This direction applies to the planning proposal as it will alter zones relating to urban land. The proposal includes a number of provisions aimed at encouraging pedestrian activity through site linkages. It also seeks to enable an alternative route for vehicles wishing to bypass Cessnock city in order to make the city more pedestrian friendly.

The proposal is considered to be CONSISTENT with this Direction.

4.2 Mine subsidence and Unstable Land

The relevant planning authority has not consulted with the Mine Subsidence Board (MSB), therefore the proposal is considered to be potentially INCONSISTENT with this direction.

Following consultation with the MSB, consistency with this direction will be reassessed.

4.3 Flood Prone Land

The proposal is considered to be INCONSISTENT with this direction as it rezones land within the flood planning area from Recreation to a Residential zone.

Following consultation with the OEH (flooding team), consistency with this direction will be reassessed.

5.10 Implementation of Regional Plans

This Direction applies to the planning proposal as the Hunter Regional Plan has been released by the Minister for Planning. The proposal is considered to be CONSISTENT with this direction as it implements actions to revitalise existing communities as outlined under the heading of Regional/District in this assessment.

6.2 Reserving Land for Public Purposes

This Direction applies to the planning proposal as it alters existing zoning and reservations of land for public purposes and requires the approval of the relevant public authority.

The relevant planning authority has consulted with the Roads and Maritime Services, however has not received confirmation that RMS accept the reservation responsibility. Therefore, the proposal is considered to be potentially INCONSISTENT with this direction.

Council's intention is to seek confirmation of the RMS that they accept the reservation responsibility prior to public exhibition. This would require the Gateway to condition Council to seek sign off on this direction prior to public consultation.

It is considered that this approach is acceptable in the circumstances.

State Environmental Planning Policies

SEPP 65 – Design Quality of Residential Apartment Development applies to the proposal as shop top housing is an existing permissible use in the B3 zone. The planning proposal is consistent with the SEPP as it acknowledges the need for a Design Review Panel and seeks to improve the design standards of new buildings in the CBD, aligning with the SEPP objectives.

The proposal is also seeking to encourage best practice design at the five mapped key sites to influence other development proposals into the future. Council has modelled the proposed design excellence provisions and incentives and considers the provisions to be feasible, with strong development interest in one site already.

SEPP (BASIX) 2004

The proposal is consistent with this SEPP.

SEPP (Infrastructure) 2007

The proposal is consistent with this SEPP

Regional / District

The Hunter Regional Plan 2036 (HRP) identifies Cessnock City as a regionally significant strategic centre with a variety of land uses. The Local Government Narratives within the HRP state that Council should implement the Cessnock CBD master plan, provide additional housing in the adjoining town, and investigate opportunities to leverage off the heritage character of the centre.

The Planning proposal is consistent with the HRP and planning proposal provisions for the revitalisation of the Cessnock CBD implementing Direction 20: Revitalise existing communities.

Local

The Cessnock CBD Master Plan was adopted by Council in 2012, and outlines the overarching strategy for revitalising the CBD through improved liveability, aesthetics and investment opportunities. A number of infrastructure and development improvements are suggested, including key road realignments, improved pedestrian links, potential parkland/open space and higher densities along Vincent Street.

The planning proposal is consistent with Master Plan, as it looks to improve aesthetics and liveability by promoting good design and creating spaces for public recreation (with lots to be rezoned to RE1 Public Recreation near the TAFE and at Wollombi Road and Vincent Street identified as potential public space areas in the Plan), and higher density incentives to encourage investment opportunities.

The Planning Proposal is consistent with the local strategic planning framework.

SITE SPECIFIC ASSESSMENT

Social

The current characteristics of the Cessnock CBD do not encourage visitors or residents to enjoy the outdoor areas of the CBD. The planning proposal introduces a public town square into the CBD that will have positive community benefits stemming from improvements to safety, shade, and revitalisation through design, such as passive surveillance by having more residents residing in the CBD and better pedestrian accessibility and safety. The town square concept will provide a focal point for the community and for economic activity.

The identification of key sites at two significant gateway entry and exit points of the CBD will also provide opportunities for landmark development to assist in branding and marketing the CBD and establishing its links to the Vineyards districts.

The proposal will generate positive community benefits and will implement the intentions of the Hunter Regional Plan (Directions 20 and 23) in revitalising the CBD and will emphasise Cessnock as a Regional Centre.

Environmental

Environmental Impacts from this proposal will typically be considered on a site by site basis when development applications are lodged with Council. However, the implications of the proposed road improvements can be considered now. These are considered acceptable, having regard to:

- improved travel times
- less congestion
- greater use of active transport options
- more efficient public transport routes
- construction impacts will be considered by Council before the proposed works commence

The proposal involves some minor changes to Business and Public recreation zones, whereby environmental and hazard impacts such as flooding and mine subsidence will be further considered through consultation with key agencies to address relevant Section 117 Directions.

Economic

The planning proposal is likely to have an impact on the local economy in three separate and distinct ways:

Commercial Floor Space - Cessnock Commercial area is currently over-supplied with employment floor space and therefore the minor reduction in land zoned for business in this context is not considered to be significant.

Town Square – Provides a focal point in a central location to the three major shopping centres that will add vibrancy to the CBD and support retail activity.

Public Domain works – are proposed along streets and in the proposed town square in three phases (0-5 years, 6-15 years and 15 plus years). The proposal provides details of the economic benefits resulting from these expenditure phases in both direct employment and value added flow-on effects.

The upgrades to public domain infrastructure is intended to meet the needs of the anticipated additional public activity within the Centre as well as improve the shopping environment to capture expenditure.

Infrastructure

The proposal includes the reservation of land for a bypass to relieve CBD traffic congestion and create a more pedestrian friendly environment. This bypass is intended to be the responsibility of NSW Roads and Maritime Services (RMS). RMS has yet to confirm that this proposal is acceptable. Resolution of this issue will enable community expectations to be managed, hence this will need to be resolved prior to public exhibition.

The proposal does not anticipate the creation of any more dwellings or jobs. It is likely that augmentations of existing service infrastructure will be needed in the future. Council advise that they intend on consulting with utility service providers as part of the exhibition, noting that this is not a proposed condition of Gateway.

CONSULTATION

Community

Council has previously undertaken community consultation on the Masterplan and DCP that support this proposal, albeit some years ago. Council propose a minimum 28 day public exhibition period for this proposal which is considered appropriate.

Agencies

Council advise that they have been in contact with RMS regarding the proposed traffic and road network changes associated with this proposal. Council acknowledge that while the “consultation has not been conclusive”, the proposal reflects the outcomes to date.

Further targeted consultation will be required with RMS prior to public exhibition to confirm if they will be the responsible acquisition authority. It is considered that there is enough certainty regarding the planning outcomes associated with traffic changes to continue with the proposal to gateway, conditioning the proposal to be returned to the department seeking sign off on S117 Direction 6.2 prior to exhibition.

Consultation with Mine Subsidence Board regarding s117 Directions 4.2 and Office of Environment and Heritage, regarding s117 Direction 4.3 will also be required.

TIMEFRAME

Council outline a 12 month timeframe which appears to include little room for unexpected delays. Considering the state consultation requirements, it is recommended that an 18 month timeframe will be more realistic and reflect the complexity of this proposal.

DELEGATION

Council has requested authorisation to exercise plan making delegations for this proposal. The proposal is consistent with regional and local strategic directions for the CBD, therefore the Department recommends that Council be given Written Authorisation to Exercise Delegation.

CONCLUSION

The planning proposal has merit and is supported to proceed with conditions for the following reasons:

- it is consistent with the Hunter Regional Plan;
- it reinforces Cessnock as a Regional Centre;
- implements changes consistent with the Cessnock Commercial Master Plan that include:
 - o improvements to the road network and pedestrian activity;
 - o the creation of a town square/plaza;
 - o provides incentives to encourage growth and improve the amenity, liveability and safety of the CBD;

- o encourage residential development design; and
- o incentives for greater density and higher standards in building design.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree that any inconsistency with section 117 Directions 1.1 Business and Industrial Zones and 3.3 Home Occupations is justified in accordance with the terms of the Directions; and
2. Note that the inconsistency with section 117 Directions 4.2 Mine Subsidence, 4.3 Flood Prone Land and 6.2 Reserving Land for Public Purposes remains unresolved until further justification has been provided.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - o Mine Subsidence Board in relation to s117 Direction 4.2 Mine subsidence and unstable land
 - o Office of Environment and Heritage in relation to s117 4.3 Flood Prone Land
 - o Roads and Maritime Services in relation to s117 Direction 6.2 Reserving Land for Public Purposes.
3. Council is to resubmit a revised Planning Proposal to the Department seeking sign off on the following Section 117 Directions prior to public exhibition:
 - (a) 4.2 Mine subsidence and unstable land
 - (b) 4.3 Flood Prone Land
 - (c) 6.2 Reserving Land for Public Purposes
4. Council should be authorised to exercise delegation to make this plan.
5. The timeframe for completing the LEP is to be 18 months from the date of the Gateway determination.



25/9/2017

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