

**ORDINARY COUNCIL MEETING
18 DECEMBER 2012**

**CCL 18/12/12
AMENDMENT TO THE NEWCASTLE LOCAL ENVIRONMENTAL PLAN
2012 - 505 MINMI ROAD FLETCHER**

Attachment A - Planning Proposal

Planning Proposal - 505 Minmi Road Fletcher

Summary of Proposal

Proposal	Rezone land from E4 Environmental Living to R2 Low Density Residential and E2 Environmental Conservation
Property Details	505 Minmi Road Fletcher Lot 1 DP 844711
Applicant Details	ADW Johnson 7/335 Hillborough Road Warners Bay NSW 2282

Background

Council has received an application for the preparation of a draft local environmental plan to rezone land at Lot 1 DP 844711, 505 Minmi Road Fletcher, to allow future low density residential development and appropriate environmental conservation areas.

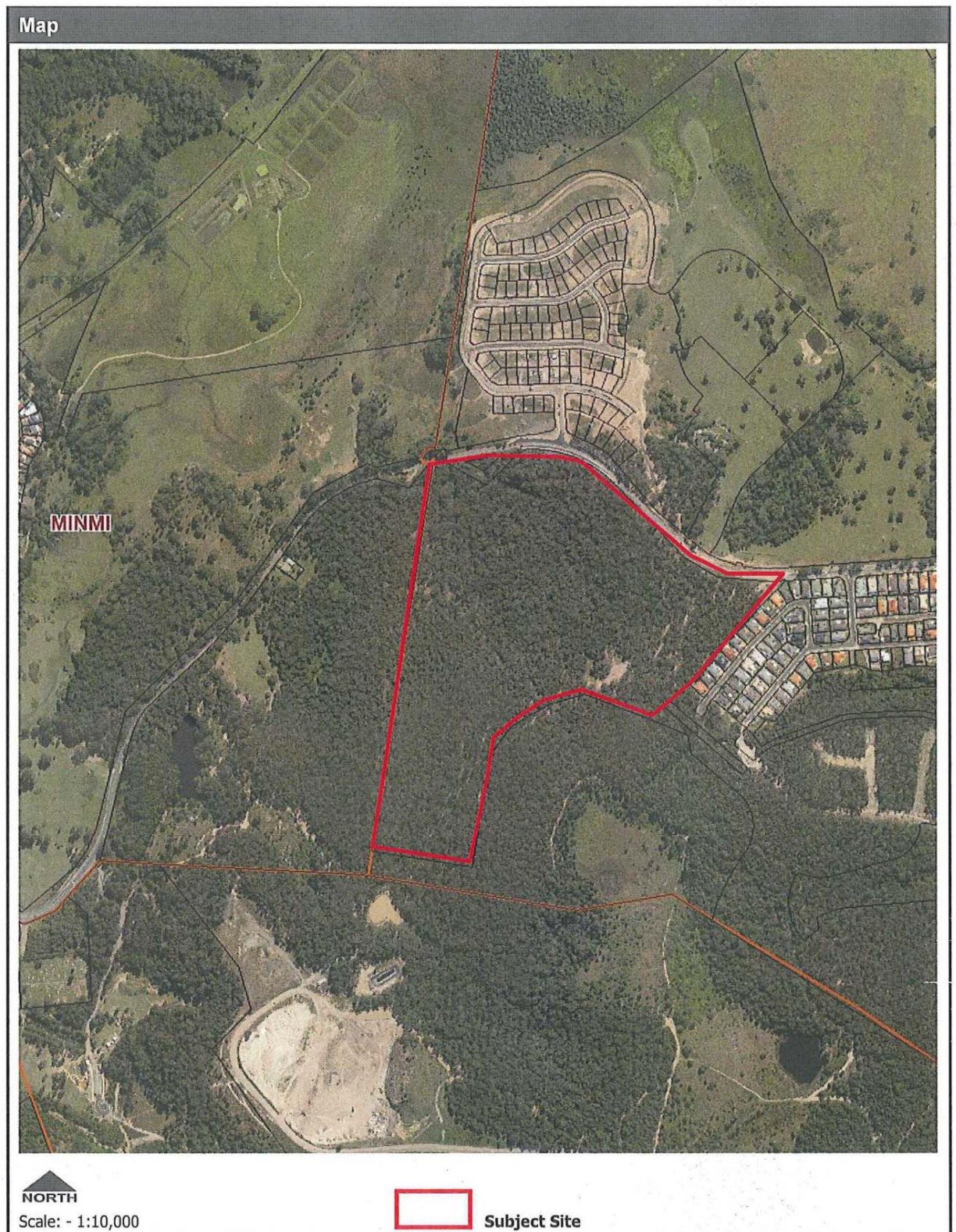
The planning proposal was previously sent to the Minister for Planning for Gateway Determination on 18 December 2009. The planning proposal did not proceed through the gateway. A copy of the Gateway Determination is attached at **Appendix 1**. Council was advised to undertake consultation with Government Agencies in particular the Department of Environment and Climate Change, Catchment Management Authority – Hunter Central Rivers and the NSW Rural Fire Service to facilitate appropriate Asset Protection Zones and biodiversity offsets.

The consultation has now been undertaken with the Office of Environment and Heritage, the Catchment Management Authority and Rural Fire Service regarding a biodiversity offsets package and asset protection zones. Agreement has been reached in relation to the key issues and the planning proposal is now being resubmitted to the Minister for Planning and Infrastructure for Gateway Determination.

Site

The proposal consists of one lot approximately 26.4 hectares in size which is currently zoned E4 Environmental Living. The adjoining sites are zoned R2 Low Density Residential and E4 Environmental Living. The site has not previously been developed. **Figure 1** shows an aerial photo of the subject site.

Figure 1: Aerial Photo of Subject Land



Part 1 - Objectives or Intended Outcomes

To enable low density residential development on the land, while maintaining appropriate bushland to provide habitat linkages and achieve environmental conservation outcomes.

The development of the site will also facilitate alternate access to and from existing residential land to the east, and provide for the development that is compatible with proposed residential development adjoining the site to the west.

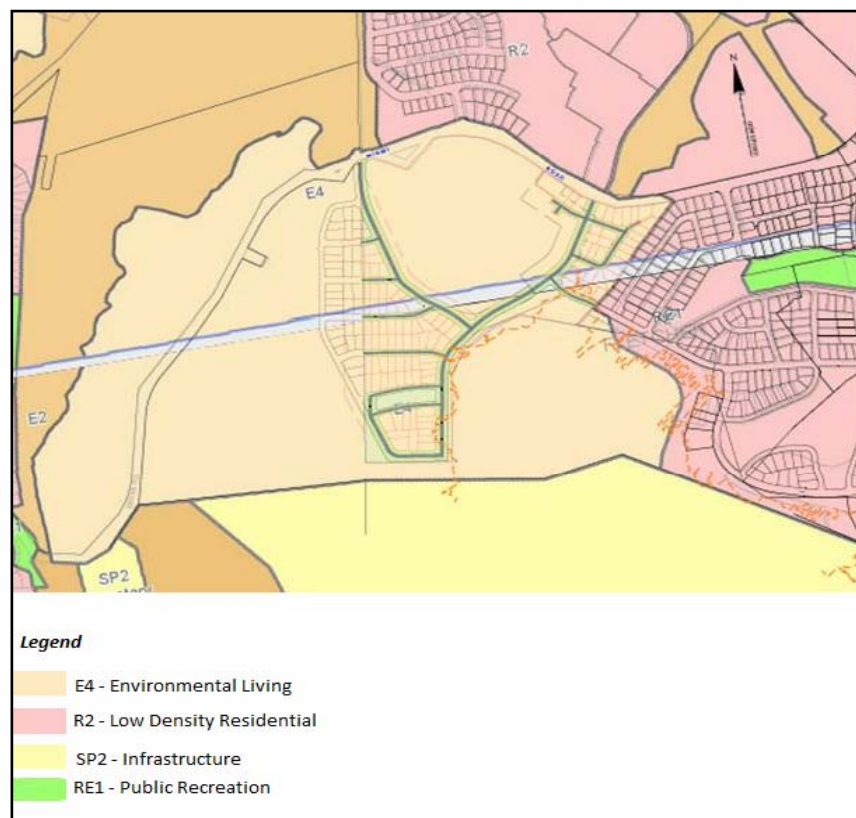
Part 2 - Explanation of Provisions

To rezone Lot 1 DP 844711, 505 Minmi Road Fletcher to part R2 Low Density Residential and part E2 Environmental Conservation to allow low density residential development while ensuring that significant environmental land is preserved to limit the impact of future development on riparian corridors and flora and fauna. The following amendments are proposed to be made to the Newcastle Local Environmental Plan 2012 Maps:

Map No.	Name of Map	Current	Proposed
1B & 2A	Land Zoning Map	E4 Environmental Living	R2 Low Density Residential E2 Environmental Conservation
1B & 2A	Height of Buildings	NIL*	8.5 metres to R2 zoned land*
1B & 2A	Floor Space Ratio	NIL*	0.6:1 to R2 zoned land*
1B & 2A	Minimum Lot Size	40 hectares	450 m ² to R2 zoned land

** building height limits and floor space ratios are not applied to the E2 zone*

Figure 2: Current zoning of the site showing indicative subdivision layout



Part 3 – Justification

Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

The subject site is identified as having potential for urban development within the Maryland Minmi Structure Plan (1994) and Maryland Integrated Local Area Plan (1996). Both of these plans discuss the framework and structure for future urban development within the area. The Blue Gum Hills area has developed generally in accordance with these strategies over the last 10-15 years and there is an expectation that the site would be developed for housing. The site has been identified as residential investigation in the Newcastle/Lake Macquarie Western Corridor Planning Strategy.

The site is bound to the north and east by residential development and a concept plan for a 3,300 lot residential subdivision (MP_08/0125 and MP10/0090 Link Road North and South) has been lodged under part 3A of the Environmental Planning and Assessment Act 1979 for the land to the south and west.

Development is already under construction, approved for development or under assessment to the north, west and east of the site. The future development of 505 Minmi Road is consistent with this development and land use planning strategies for the area.

A plan showing approved and proposed development within the Fletcher and Minmi area is included in **Appendix 2**.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The proposed rezoning is the best means of achieving the objectives and intended residential and environmental outcomes.

A planning proposal was previously considered for the land but was rejected by the LEP Panel pending resolution of biodiversity and bushfire issues. These issues have now been resolved and the planning proposal is being submitted to the Minister for Planning and Infrastructure for Gateway Determination.

Section B - Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Lower Hunter Regional Strategy (2006)

The Lower Hunter Regional Strategy projects an additional 5800 dwellings within new release areas within the Newcastle local government area. The dwellings will be provided within Blue Gum Hills (Minmi, Maryland and Fletcher), Elmore Vale and Wallsend.

The planning proposal is consistent with the Lower Hunter Regional Strategy, particularly with the following action:

Councils will revise their local environmental plans to be consistent with the dwelling capability projects for their local government area as identified in Table 5 (dwelling capacity projections)

The planning proposal will allow the continued release of additional dwellings within Council's new release areas.

Newcastle-Lake Macquarie Western Corridor Planning Strategy (2010)

The planning strategy anticipates the Western Corridor area will cater for 8000 dwellings, the strategy (specifically map 4) identifies three main types of preferred future uses within the western corridor:

- Residential
- Employment lands
- Conservation/vegetation buffer

The subject site has been nominated as residential investigation and therefore the planning proposal is consistent with the draft strategy.

4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Council adopted the Newcastle 2030 Community Strategic Plan in February 2011. The planning proposal primarily aligns to the strategic direction 'Open and Collaborative Leadership' identified within the Newcastle Community Strategic Plan 2030.

Compliance with the LEP amendment process, in particular section 57 – community consultation of the *Environmental Planning and Assessment (EP&A) Act 1979*, will assist in achieving the strategic objective; "Consider decision-making based on collaborative, transparent and accountable leadership" and the identified strategy 7.2b, which states: "Provide opportunities for genuine and representative community engagement in local decision making".

The outcomes for the natural, built and social environments resulting from the proposed LEP amendment will also have strong synergies with the remaining strategic directions of the Newcastle Community Strategic Plan 2030

5. Is the planning proposal consistent with applicable state environmental planning policies?

The proposal is consistent with the applicable State Environmental Planning Policies (refer to **Appendix 3**)

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The planning proposal is consistent with Section 117 directions (refer to **Appendix 4**).

Section C - Environmental, social, and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The indicative subdivision plan (**Appendix 5**) estimates 14.47 hectares of Coastal Foothills Spotted Gum Ironbark Forest will be removed from the site to facilitate future urban development. The habitat quality varies across the study area with the majority being of medium quality. Low numbers of tree hollows, past grazing pressure from goats, erosion caused by uncontrolled vehicle access and loss of biomass from firewood collection are the main factors affecting habitat quality. Flora and fauna surveys were conducted by Ecobiological and found that the site contains the following:

Flora

129 plant species (121 native and 8 weed species) exist on the site. None of the flora species detected are listed as threatened species under the *NSW Threatened Species Conservation Act 1995* or the *Environment Protection and Conservation Biodiversity Act 1999*.

Forty five hollow bearing trees were identified within the study area containing 90 hollows. The majority of these were medium sized hollows associated with mature *Eucalyptus punctata* and *Angophora costata* trees occurring near the northern boundary of the site.

Fauna

76 species of fauna were located, six of which are listed as 'Vulnerable' under the *Threatened Species Conservation Act* and one species is also listed as 'Vulnerable' under the *Environment Protection and Conservation Biodiversity Act 1999*.

Assessment of Significance (7 Part Test)

An assessment of significance consistent with section 5A of the *Environmental Planning and Assessment Act 1979*, was conducted for the thirty one (31) threatened species (9 flora, 22 fauna) for which actual or potential habitat occurred within the subject site.

An assessment was also conducted to determine whether the proposal would have a significant impact on four threatened species and seven migratory bird species listed under the *Environment Protection and Conservation Biodiversity Act 1999* for which actual or potential habitat occurred within the subject site.

The assessments of significance found that the threatened species most likely to be impacted by the proposal are the Squirrel Glider (*Petaurus norfolcensis*) and Powerful Owl (*Ninox strenua*). However, the expected impacts were considered unlikely to place any local populations at the risk of extinction.

Onsite and Offsite Biodiversity Offsets

Approximately 12% of the site is proposed to be retained as bushland. The retained bushland although not the highest quality vegetation observed on the site does provide links to other vegetated areas, linking habitat from east to west from the Wentworth Creek catchment through to bushland west and south of the site within the Summerhill Waste Management Facility site and Blue Gum Hills Regional Park.

Flora and fauna investigations have been undertaken on the site and consultation has occurred with NSW Office of Environment and Heritage (OEH) who have agreed to the following offset package. Copies of the correspondence from the Office of Environment and Heritage are included in **Appendix 6**.

On site conservation (505 Minmi Road Fletcher) – 12 hectares (45%) of the site is proposed to be zoned E2 Environmental Conservation to ensure the land is protected, improved and maintained in perpetuity for conservation purposes. Council, the proponent and the Office of Environment and Heritage will enter into a Planning Agreement under section 93F of the *The Environmental Planning and Assessment Act 1979* to ensure appropriate long term management of the land is secured. The proponent has been advised Council will not accept the dedication or long term management of the conservation land and is therefore looking at other alternatives such as a community title development.

Offsite conservation (Part Lot 23 DP95675 Booral Washpool Road, Stroud) – Due to the applicant being unable to secure a suitable offset site in the Newcastle local government area, a 68.5 hectare site at Stroud has been found that provides similar vegetation and habitat to 505 Minmi Road Fletcher and has been identified by the Office of Environment and Heritage as containing significant environmental values. The site is proposed to be retained in private ownership and a conservation agreement established under the *National Parks and Wildlife Act 1974*. A conservation agreement is an agreement between the Minister for the Environment and the landowner that ensures the permanent protection of the land. The conservation agreement once completed will be registered on the title of the land to ensure if the land is sold the agreement and management requirements remain in place.

To manage the delivery of offset lands at the appropriate stage of development the following is proposed.

Gateway	LEP	Development application	Construction certificate	Subdivision certificate
Commitment from applicant to enter into planning agreement or conservation agreement. OEH concurrence obtained in relation to acceptability of offset strategy. On site offsets to be managed under a vegetation management plan and covenant and offsite offsets to be under Conservation Agreement under NPW Act.	LEP amendment to provide for E2 conservation zoning over conservation lands. Applicant to provide evidence of agreement with land owner to enter into conservation agreement if development of land proceeds. Formal endorsement of Minister required to offset strategy. Council, Landowner and Minister for the Environment enter into Voluntary Planning Agreement Land zoned R2 and E2	Applicant to provide vegetation management plans for both offset sites as part of DA documentation. Deferred commencement requested to include consent condition requiring evidence of formal conservation agreement being established before any consent becoming operational.	Deferred commencement condition to be satisfied prior to issue of CC. Trust account to be established to fund conservation works prior to issue of CC.	Initial conservation works to be implemented prior to issue of subdivision certificate for initial stage of development.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Mine Subsidence

The Mine Subsidence Board (MSB) has indicated that the site has been undermined around the south/eastern boundary of the property. The MSB has indicated they would oppose any development over these areas unless the risk of subsidence can

be eliminated. The indicative subdivision plan does not propose the creation of residential lots on these parts of the site. Further geotechnical investigation would need to be carried out, prior to lodging a development application for these areas. However the majority of the site is not affected and areas with shallow workings located on the southern edge of the site can be rehabilitated. No residential development is proposed over existing mine workings.

Hydrology and Water Management

There are a number of gullies and creek lines that run through the site that will be considered as water front land under the Water Management Act 2000. The concept plan preserves the creek lines as part of the open space system. Any works within 40 meters of a creek line require a controlled activity approval. Any future development application would be assessed as integrated development.

Bushfire

The site is located within a category 1 bushfire protection zone and as such a Bush Fire Threat Assessment has been undertaken by the applicant and referred to the Rural Fire Service (RFS) for Assessment in May 2012. The RFS provided advice in respect of required asset protection zones and bushfire attack level (BAL) construction standards to be incorporated into future development. It also raised concerns with the indicative subdivision layout in terms of the provision of asset protection zones on the western boundary and a possible “pinch point” between the two residential precincts. Further consultation will need to be undertaken with the Rural Fire Service for any future development applications.

The applicant has had ongoing discussions with Coal and Allied, as the adjoining site to the west is covered by the Coal and Allied concept plan application for 3,300 lots. The development of these two sites can be co-ordinated to ensure temporary asset protection zones can be provided otherwise Asset Protection Zones will need to be provided within the respective development sites.

The RFS will not support subdivisions that cannot guarantee their own Asset Protection Zones within their property unless supported by an 88B easement being registered pursuant to section 88b of the Conveyancing Act 1979. The RFS correspondence is provided at **Appendix 7**.

Heritage

Aboriginal sites have been recorded within the surrounding region and study area. A grinding groove has been located in the creek line to the west of the site on adjoining land and an isolated single artefact has also been recorded.

An archaeological assessment of the site was undertaken in 2003. The assessment notes that there is potential for high concentrations of artefacts to occur along the unnamed drainage channel that runs through the south west corner of the study area.

An Aboriginal Heritage Impact Permit will be required to enable further Investigations to be undertaken. Adjoining land has been developed with an appropriate level of heritage assessment with provisions being made for the collection and preservation of cultural heritage values. Similar principles can be applied to this site.

The concept plan shows an indicative layout over the adjoining land. While the layout is not consistent with that currently proposed in the Coal and Allied development once the development footprint is determined an efficient layout suitable to both parties can be determined. Preliminary discussions have been held between the parties involved.

9. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal will enable development of the site for low density residential development, providing for additional housing in the Newcastle Local Government Area. Development Contributions will be collected prior to construction of any new dwellings which will be used by Council to provide public amenities and facilities as outlined in Development Contribution Plan 1, 2005 and Development Contributions Plan 4, 2006 for the Blue Gum Hills area. Facilities being provided in adjoining developments (particularly The Sanctuary Estate) including local parks, sports fields and community buildings will be accessible from the proposed development.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

The development is situated along Minmi Road which is a sub-arterial road that links Minmi to Wallsend. The subdivision has been designed to use the intersection proposed to serve "The Outlook" residential development (on the northern boundary) as the primary point of access. A road link is also proposed to the Hidden waters development to the east. This link has been designed to function as a bus route and provides a secondary access point for the development area to the east. Refer to **Appendix 2** Approved and Proposed Development for locations of the Outlook and Hidden Waters Estates.

Public utility services including telecommunications, gas, electricity and water will be available to serve any new development on the site. Sewer is also available and a preliminary servicing strategy has been approved by Hunter Water Corporation, confirmation from Hunter Water is provided in **Appendix 8**.

Community infrastructure will not be provided as part of the proposal although development contributions collected from any future development on the site and other projects within the Blue Gums Hills area will contribute to the provision of community infrastructure for the area. The facilities being provided within the Sanctuary development will be easily accessible from the proposed development. Convenient access to schools and local shopping facilities will also be available.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Consultation has occurred with the, NSW Office of Environment and Heritage, Rural Fire Service, Hunter Water and the Catchment Management Authority as part of the previous Gateway Determination. These agencies have identified issues to be addressed in the planning proposal and in future development of the site (see **Appendices 6 – 9** for copies of this advice). Further consultation will be undertaken with State and Commonwealth Public Authorities as directed by the Gateway Determination.

Part 4 – Mapping

Figure 1 - Current Site Zoning – E4 Environmental Living

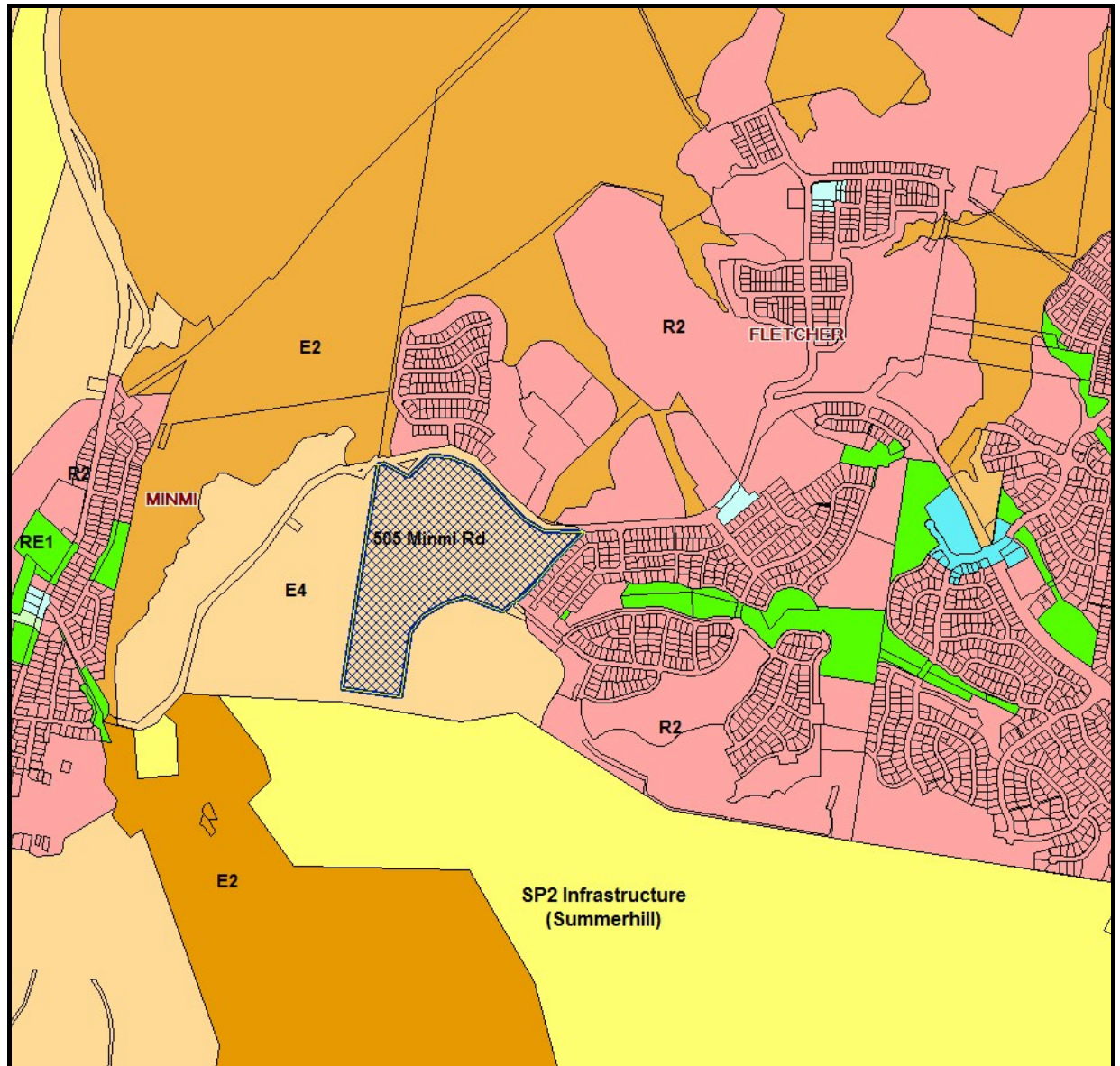
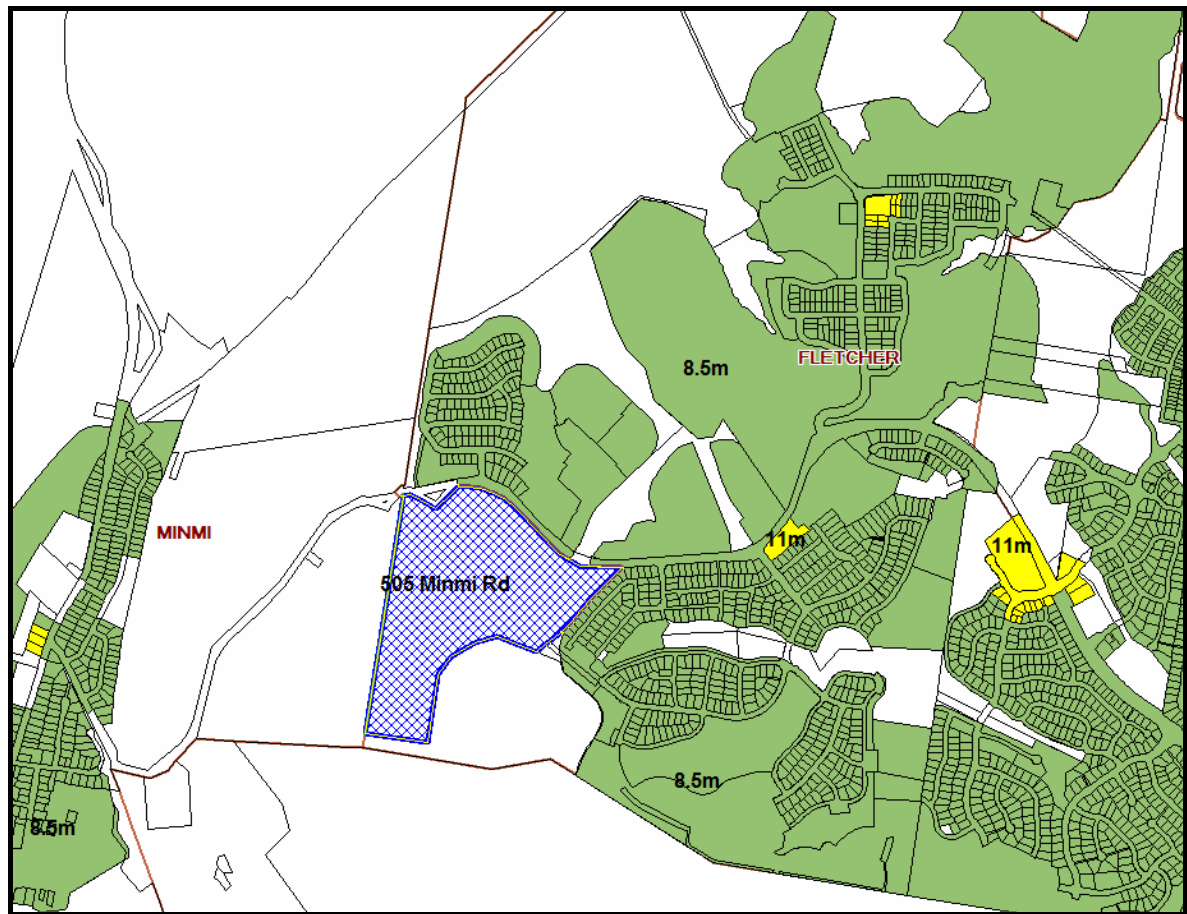


Figure 2 – Proposed Zoning

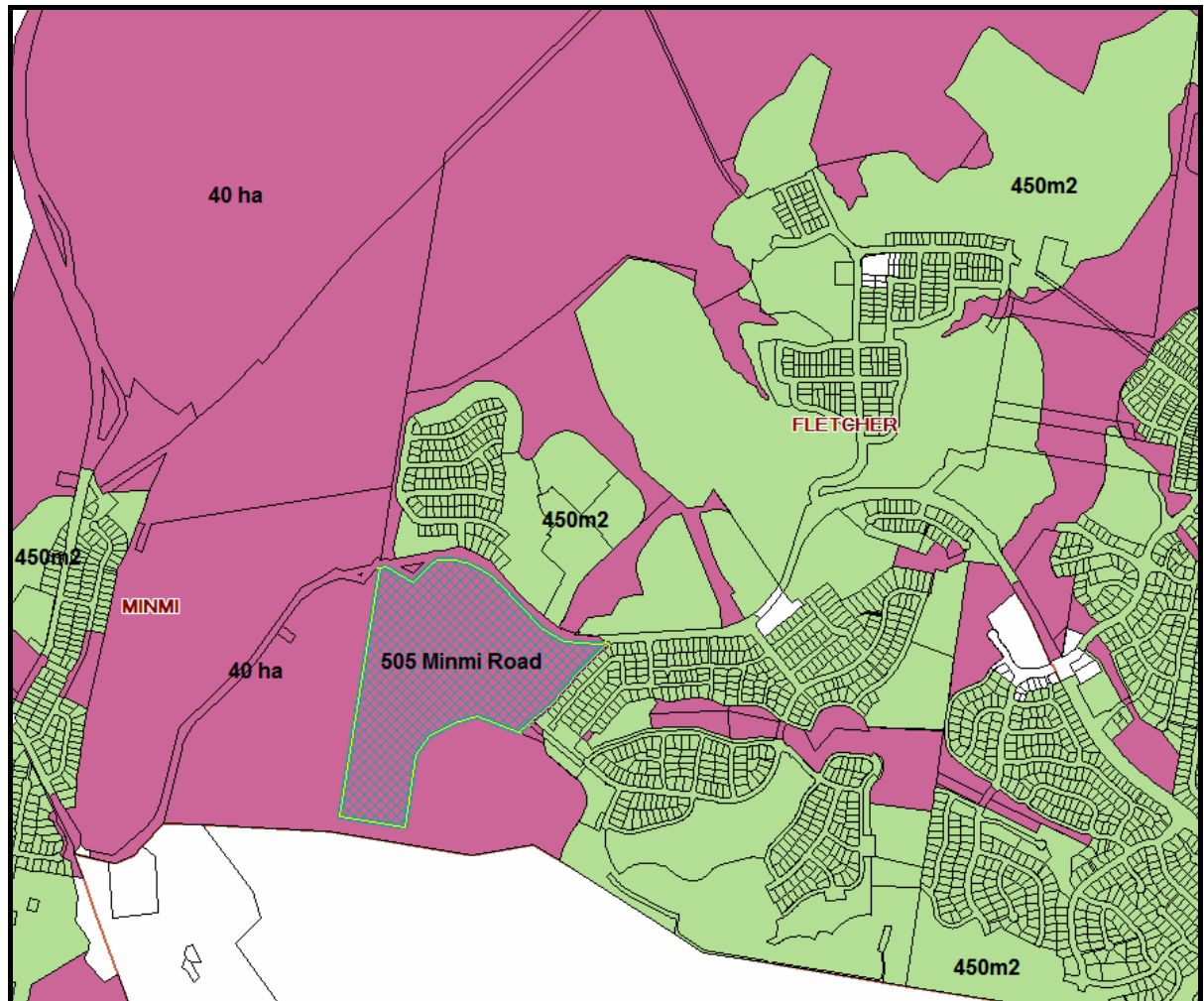


Figure 3 - Maximum Building Height – Adjacent Sites



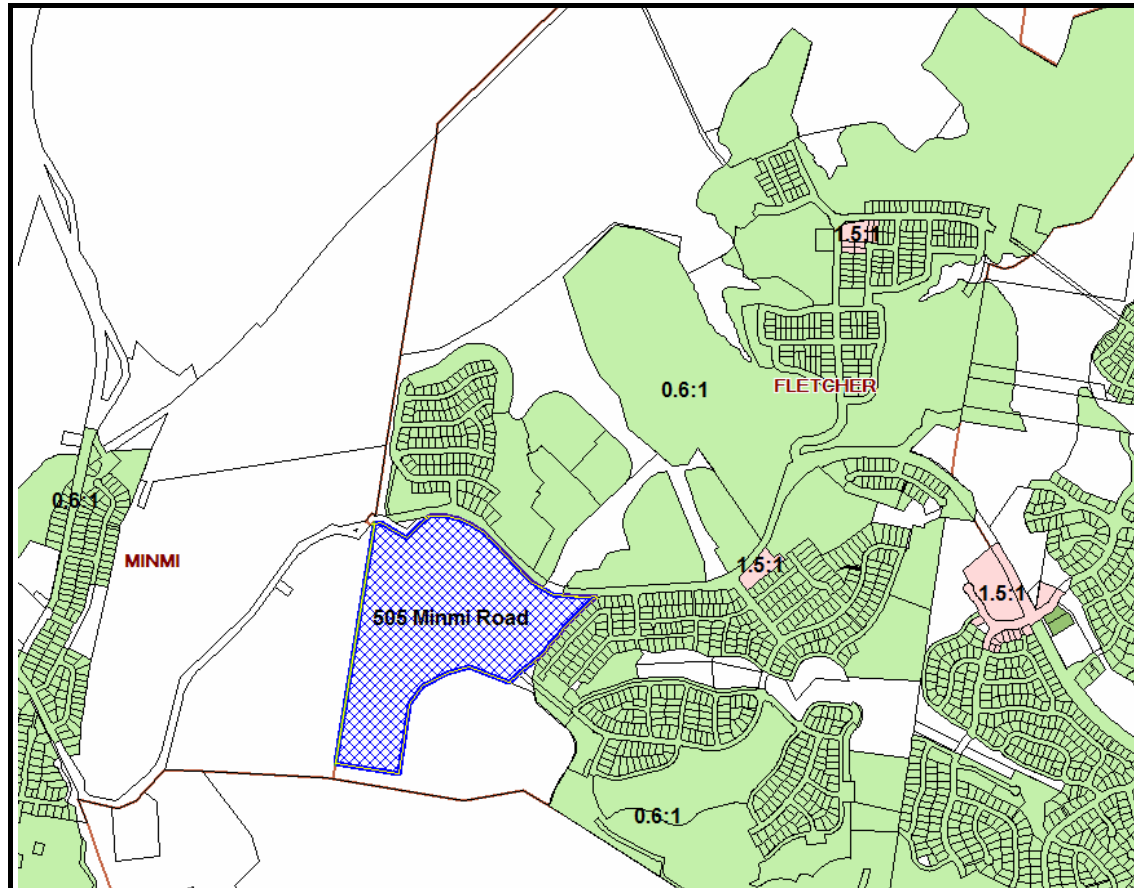
***Proposed for 505 Minmi Road – 8.5m for the part of the site zoned R2 Low Density Residential. No building height limit set for that part of the site within the E2 Environmental Conservation Zone**

Figure 4 - Minimum Lot Size – Current Standards for 505 Minmi Road and Adjacent Sites



***Proposed for 505 Minimi Road - 40 hectares in that part of the site zoned E2 Environmental Conservation and 450m² in the part of the site zoned R2 Low Density Residential**

Figure 5 – Maximum floor space ratio – Adjacent Sites



Proposed for 505 Minmi Road – 0.6:1 within the R2 Low Density Residential Zone. No floor space ratio set for the part of the site within the E2 Environmental Conservation

Part 5 – Community Consultation

The planning proposal, technical studies and planning agreements will be exhibited as required in the Gateway Determination.

Part 6 – Project Timeline

The project is expected to be completed within 12 months from Gateway Determination. The following timetable is proposed:

Task	Planning Proposal Timeline											
	Mar 13	Apr 13	May 13	Jun 13	Jul 13	Aug 13	Sep 13	Oct 13	Nov 13	Dec 13	Jan 14	Feb 14
Issue of Gateway Determination												
Drafting and assessment of Planning Agreement with Minister for Environment and Landowner												
Planning agreement reported to Council												
Exhibition of planning agreement, planning proposal and technical studies												
Review of submissions and preparation of report to Council												
Report to Council following exhibition												
Planning Proposal sent back to Department requesting that the draft LEP be prepared												

Appendix 1 – Previous Gateway Determination, issued



Planning



qB136650
10/02504

Department Generated Correspondence (Y)

Contact: Trent Wink
Phone: (02) 4904 2700
Fax: (02) 4904 2701
Email: Trent.Wink@planning.nsw.gov.au
Postal: PO Box 1226, Newcastle NSW 2300

Our ref: PP_2010_NEWCA_001_00 (09/04973)

Ms Lindy Hyam
General Manager
The City of Newcastle
PO Box 489
NEWCASTLE NSW 2300

Dear Ms Hyam,

Re: Planning Proposal to rezone land at 505 Minmi Road, Fletcher (Lot 1 DP 844711) from 7(c) Environmental Investigation to part Residential and Part Environmental Conservation

I am writing in response to your Council's letter dated 18 December 2009 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ('EP&A Act') in respect of the planning proposal to amend Newcastle Local Environmental Plan 2003 to rezone land at 505 Minmi Road, Fletcher (Lot 1 DP 844711) from 7(c) Environmental Investigation to part Residential and Part Environmental Conservation.

As delegate of the Minister for Planning, I have determined that the planning proposal should not proceed at this stage. Council should carry out consultation with government agencies, in particular the Department of Environment and Climate Change, Catchment Management Authority – Hunter/Central Rivers and the NSW Rural Fire Service, to provide guidance on possible environmental offsets and the maintenance of habitat corridors which will be a determining factor in identifying the extent of any residential development.

While I am not in a position to grant a positive Gateway Determination at this point, I encourage Council to pursue the matter, as it appears likely that the land does have some potential for residential redevelopment.

Should you have any queries in regard to this matter, please contact Trent Wink of the Regional Office of the Department.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'T Gellibrand', with a date '8/2/10' written below it.

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal



Planning

Gateway Determination

Planning Proposal (Department Ref: PP_2010_NEWCA_001_00): To rezone land at 505 Minmi Road, Fletcher (Lot 1 DP 844711) from 7(c) Environmental Investigation to part Residential and Part Environmental Conservation.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment of the Newcastle Local Environmental Plan 2003 to rezone land at 505 Minmi Road, Fletcher (Lot 1 DP 844711) from 7(c) Environmental Investigation to part Residential and Part Environmental Conservation **should not proceed** for the following reasons:

1. The proposal is premature given that detailed negotiations need to be carried out with Government Agencies to determine whether, or to what extent, residential development is suitable on this site.
2. The issue of possible environmental off-sets still needs to be determined following liaison with the Department of Environment and Climate Change.

Dated

8th

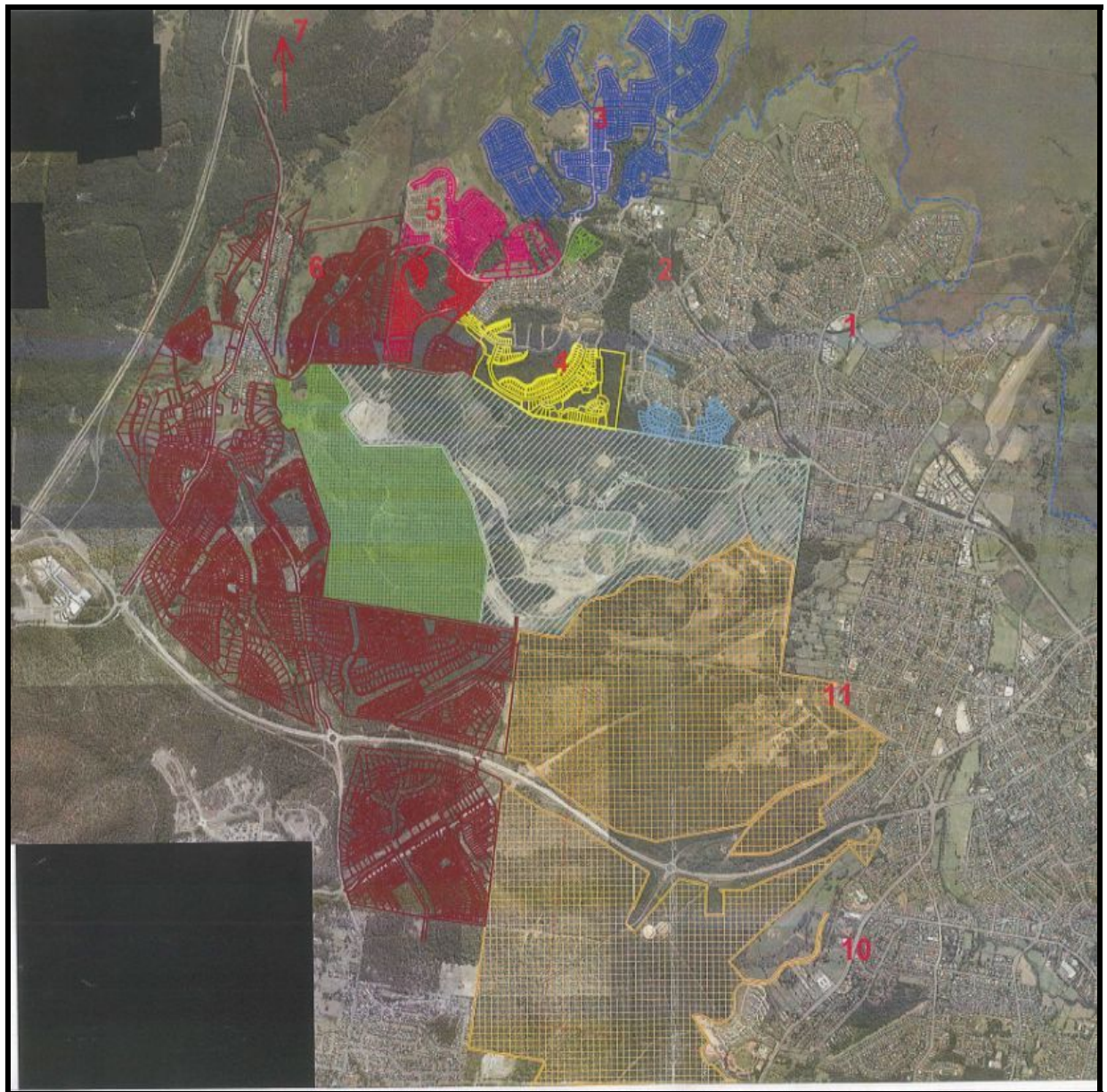
day of

February

2010.

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate for the Minister for Planning

Appendix 2 – Approved and proposed development in Fletcher and Minmi



1	Maryland Shops
2	Approved Coles Supermarket
3	Sanctuary Estate (Landcom)
4	Hidden Waters (Mirvac)
5	The Outlook (The Dan Land – State Significant Development)
6	Minmi – Coal and Allied Development (State Significant Development)
7	Black Hill – Existing Rural/Residential Estate and proposed Industrial
8	Freeway South (Coal and Allied)
9	Freeway North (Coal and Allied)
10	Xstrata Coal Land Holdings from Lake Road
11	Xstrata Coal Land Holdings from Weller Ridge Estate Wallsend

Appendix 3 – Compliance with State Environmental Planning Policies

SEPP	Applicable	Consistent	Reason for inconsistency
State Environmental Planning Policy No 1—Development Standards	No		
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	No		
State Environmental Planning Policy No 6—Number of Storeys in a Building	No		
State Environmental Planning Policy No 14—Coastal Wetlands	No		
State Environmental Planning Policy No 15—Rural Landsharing Communities	No		
State Environmental Planning Policy No 19—Bushland in Urban Areas	No		
State Environmental Planning Policy No 21—Caravan Parks	No		
State Environmental Planning Policy No 22—Shops and Commercial Premises	No		
State Environmental Planning Policy No 26—Littoral Rainforests	No		
State Environmental Planning Policy No 29—Western Sydney Recreation Area	No		
State Environmental Planning Policy No 30—Intensive Agriculture	No		
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	No		
State Environmental Planning Policy No 33—Hazardous and Offensive Development	No		
State Environmental Planning Policy No 36—Manufactured Home Estates	No		
State Environmental Planning Policy No 39—Spit Island Bird Habitat	No		
State Environmental Planning Policy No 41—Casino Entertainment Complex	No		

SEPP	Applicable	Consistent	Reason for inconsistency
State Environmental Planning Policy No 44—Koala Habitat Protection	Yes	Yes	No Koalas were recorded in the study area. Limited habitat is available on the site.
State Environmental Planning Policy No 47—Moore Park Showground	No		
State Environmental Planning Policy No 50—Canal Estate Development	No		
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No		
State Environmental Planning Policy No 53—Metropolitan Residential Development	No		
State Environmental Planning Policy No 55—Remediation of Land	Yes	No	No
State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area	No		
State Environmental Planning Policy No 60—Exempt and Complying Development	No		
State Environmental Planning Policy No 62—Sustainable Aquaculture	No		
State Environmental Planning Policy No 64—Advertising and Signage	No		
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	No		
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	No		
State Environmental Planning Policy No 71—Coastal Protection	No		
State Environmental Planning Policy (Affordable Rental Housing) 2009	No		
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No		
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No		
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No		

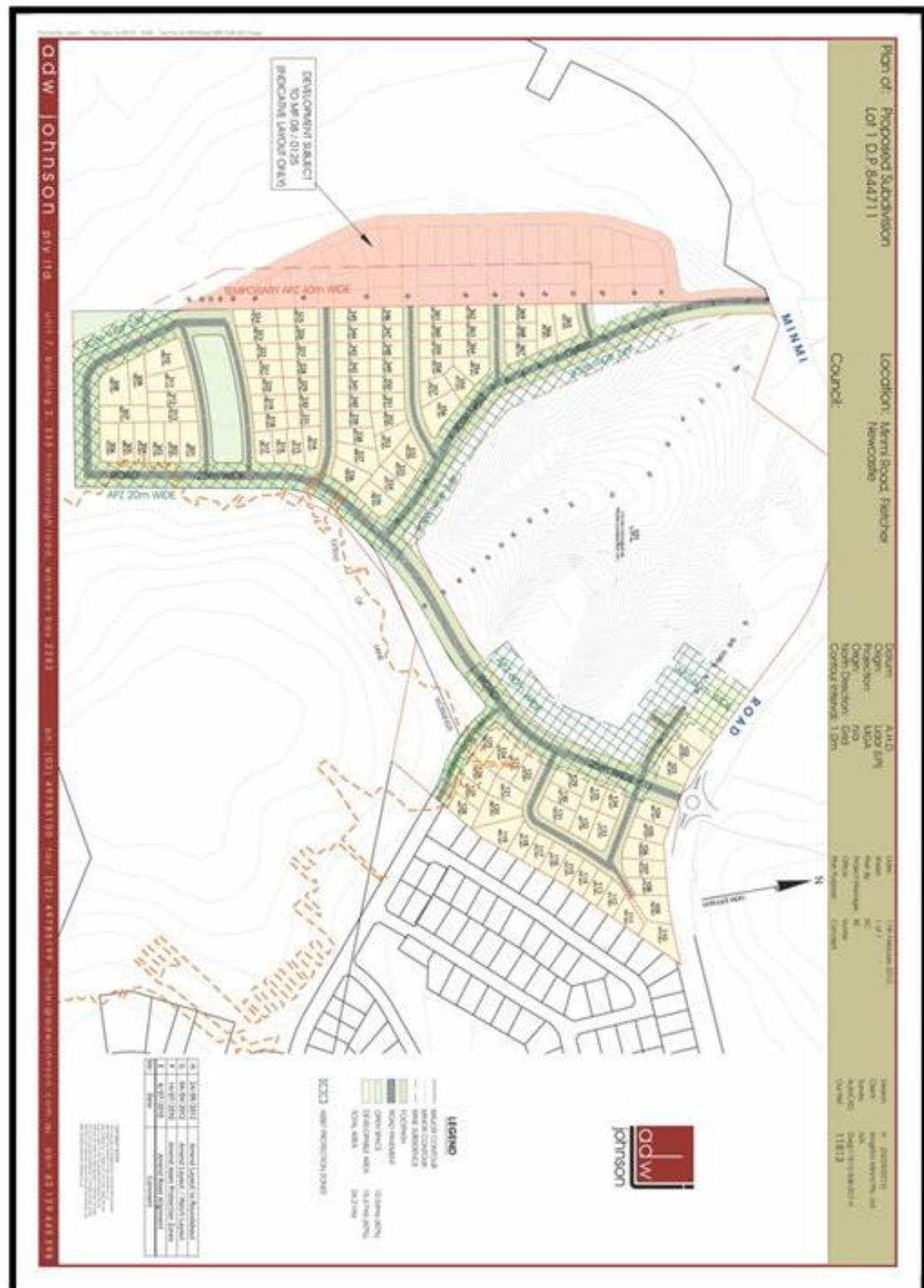
SEPP	Applicable	Consistent	Reason for inconsistency
State Environmental Planning Policy (Infrastructure) 2007	No		
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	No		
State Environmental Planning Policy (Major Development) 2005	No		
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	No		
State Environmental Planning Policy (Rural Lands) 2008	No		
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No		
State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007	No		
State Environmental Planning Policy (Western Sydney Parklands) 2009	No		
State Environmental Planning Policy (State and Regional Development) 2011	No		

Appendix 4– Compliance with S117 Directions

S117 Direction	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	No	
1.2 Rural Zones	No	
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	No	
2. Environment and Heritage		
2.1 Environment Protection Zones	Yes	Yes, part of the land is proposed to be zoned E2 Environmental Conservation to protect sensitive environmental land.
2.2 Coastal Protection	No	
2.3 Heritage Conservation	Yes	Yes, Aboriginal Heritage objects have been recorded on site and will be conserved as outlined with this direction and other relevant legislation.
2.4 Recreation Vehicle Areas	No	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	Yes	Yes
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	Yes	Yes
3.4 Integrating Land Use and Transport	Yes	Yes
3.5 Development Near Licensed Aerodromes	No	
3.6 Shooting Ranges	No	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	No	
4.2 Mine Subsidence and Unstable Land	Yes	Yes, consultation with the Mine Subsidence Board has previously been undertaken regarding future development on the site.
4.3 Flood Prone Land	No	

S117 Direction	Applicable	Consistent
4.4 Planning for Bushfire Protection	Yes	Yes, the RFS has previously been consulted and further consultation will take place following Gateway Determination.
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	The proposal is consistent with the Lower Hunter Regional Strategy and Newcastle/Lake Macquarie Western Corridor Strategy
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.8 Second Sydney Airport: Badgerys Creek	No	
6. Local Plan Making		
6.1 Approval and Referral Requirements	Yes	Yes, in principle concurrence has been received from the Office of Environment and Heritage regarding the Biodiversity Offset Package.
6.2 Reserving Land for Public Purposes	No	
6.3 Site Specific Provisions	Yes	Yes, the LEP is not proposed to contain any unnecessarily over-restrictive planning controls
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	No	

Planning Proposal – 505 Minmi Road, Fletcher



Appendix 6 – Correspondence from the Office of Environment and Heritage



Office of Environment & Heritage

Our reference: DOC12/35830, FIL12/6739
Contact: Lucas Grenadier, 4908 6820

Mr Brett Stein
Senior Planner
ADW Johnson
Unit 7/335 Hillsborough Road
WARNERS BAY NSW 2282

Dear Mr Stein

RE: PROPOSED BIODIVERSITY OFFSET LOT 23 DP95675 BOORAL-WASHPool ROAD, STROUD

I refer to the biodiversity offset measures being sought for the proposal to rezone land at 505 Minmi Road Fletcher and the discussions to date on these matters. As noted in OEH's correspondence of 3 July 2012 (Document Reference: DOC12/26539) your proposal to place a Conservation Agreement under the *National Parks and Wildlife Act 1974* (NPW Act) over a portion of Lot 23 DP95675 required further assessment by the Office of Environment and Heritage (OEH), including a site inspection of the land. This site inspection occurred on 26 July 2012 between OEH staff, ecological consultants (Kleinfelder-Ecobiological), and the landholder.

OEH can now confirm that Lot 23 DP95675 contains significant environmental values and that the placement of a Conservation Agreement under the NPW Act or the entering into of a BioBanking Agreement under Part 7A of the *Threatened Species Conservation Act 1995* (TSC Act) is a suitable conservation measure for the land. This is subject to the following qualifications:

1. Formal endorsement by the Minister administering the NPW Act. This endorsement has not been obtained at this point, and as this conservation measure is proposed as part of a biodiversity offset package for a proposed urban rezoning at 505 Minmi Road Fletcher. It is envisaged that once the planning proposal and proposed planning agreement under the *Environmental Planning and Assessment Act 1979* (EP&A Act) have sufficiently progressed, OEH will seek this endorsement.
2. Agreement of the landowner. A Conservation Agreement under the NPW Act is a conservation covenant that is attached to the land title and is a joint agreement between the Minister administering the NPW Act and the landholder. Further information on Conservation Agreements can be found at: www.environment.nsw.gov.au/cpp/ConservationAgreements.htm
3. Requirement to manage the conservation area in perpetuity. The land contains several ongoing management issues, such as significant weed infestations (e.g. Lantana) which will require initial and follow-up control measures to ensure that the conservation values of the land are improved or maintained. The requirement to manage the conservation area in perpetuity (e.g. weed and pest control, controlling grazing, revegetation, etc) is an essential component of any conservation agreement and potentially has ongoing financial implications for the landholder.

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ABN 30 841 387 271
www.environment.nsw.gov.au

Given the condition of the land and its inherit management issues any conservation agreement entered into by the Minister would require the landholder to commit to ongoing management of the land, including ongoing compliance monitoring and adaptive management of the conservation area.

On this basis, and as noted above, OEH advises that the entering into of a BioBanking Agreement under the TSC Act provides an alternative conservation measure to allow for the ongoing management of the land, as it allows for landowners to receive ongoing management payments from the BioBanking Trust Fund. For further information in this regard please refer to: www.environment.nsw.gov.au/biobanking/biobankframework.htm

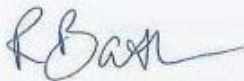
4. Initial conservation area establishment works. Given the land currently contains a number of land management issues such as significant weed infestations, the initial conservation area establishment works (i.e. first 3-5 years) would need to be agreed between OEH and the proponent / landholder, and committed to and secured both within the Conservation Agreement and the proposed planning agreement. This may require the development of a Vegetation Management Plan (or similar) which can be included as an annexure to the Conservation Agreement and planning agreement.
5. Boundaries / size of the conservation area. Currently the conservation area (as shown in biodiversity offset strategy (Ecobiological, May 2012) comprises a 68.5 hectare portion of Lot 23 DP95675. Following the subsequent site inspection and discussions with the landholder on 26 July 2012, there is some potential to have the area subject to the Conservation Agreement increased. Any increase in the conservation area would (in-part) address the credit shortfall (i.e. deficiency from achieving an 'improve or maintain' outcome for biodiversity values) noted in the biodiversity offset strategy.

As previously noted the legal mechanism to the deliver and secure any proposed biodiversity offsets should be through a planning agreement under section 93F of the EP&A Act. OEH understands that the proponent is willing to enter into a planning agreement at the land rezoning stage to deliver and secure a biodiversity offset package. It is envisaged that it could include a clause which requires a conservation covenant to be entered into over Lot 23 DP95675 prior to the gazettal of the Local Environmental Plan (LEP) amendment for 505 Minmi Road Fletcher (or alternative timeframe linked to the LEP or subsequent development applications).

However, prior to progressing with the proposed planning agreement and planning proposal, several outstanding issues as noted in OEH's correspondence of 3 July 2012 remain outstanding, including resolution of the longer-term ownership and management of the on-site conservation area (i.e. Lot 1 DP844711 Minmi Road, Fletcher) and endorsement of the proposed biodiversity offset measures by Newcastle City Council.

If you have any enquiries concerning this advice, please contact Lucas Grenadier, Conservation Planning Officer, on 4908 6820.

Yours sincerely



29 AUG 2012

RICHARD BATH
Head – Hunter Planning Unit
Conservation and Regulation, North East



Office of
Environment
& Heritage

Our reference: DOC12/14849, FIL06/924-08
Contact: Lucas Grenadier, 4908 6820

Mr Brett Stein
Senior Planner
ADW Johnson
Unit 7/335 Hillsborough Road
WARNERS BAY NSW 2282

Dear Mr Stein

**RE: BIODIVERSITY ISSUES REGARDING PROPOSAL TO REZONE LAND AT 505 MINMI ROAD
FLETCHER (LOT 1 DP844711)**

I refer to the urban development and conservation outcomes being sought for the above mentioned planning proposal and the discussions to date on these matters. Under the Newcastle Local Environmental Plan 2012 the land is currently zoned E4 Environmental Living, however an R2 Low Density Residential zone is sought over part of the site.

The Office of Environment and Heritage (OEH) understands that the site has been subject to a gateway determination by the delegate of the Minister of Planning and Infrastructure on 8 February 2010 which stated that the planning proposal should not proceed until, amongst other factors, further consultation is undertaken with OEH regarding this issue of biodiversity offsets. As you may be aware, OEH has also previously provided advice to Newcastle City Council on this proposal, including letter dated 11 August 2011 (Doc Ref: DOC11/35536).

As part of this consultation process, OEH was provided with a biodiversity offset strategy (Ecobiological, May 2012a) and a revised flora, fauna and threatened species assessment (Ecobiological, May 2012b). These reports identify a potential urban outcome for Lot 1 DP DP844711, assess the biodiversity impacts of the proposed development and outline a potential biodiversity mitigation/offset strategy. OEH has undertaken a review of these reports and provides the following advice herein.

OEH also understands that the proponent/landholder has offered to provide a biodiversity offset package at the land rezoning stage, and to enter into a planning agreement under section 93F of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to deliver and secure these offsets.

A. Outline of proposed conservation measures

Two biodiversity offsets are currently proposed, including:

- On-site conservation area - 'Fletcher offset site': comprising the residual land not developed for urban purposes within Lot 1 DP844711 Minmi Road, Fletcher. This land would be considered by OEH as a biodiversity offset for the proposed development if the land is protected and managed in perpetuity for conservation purposes.

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ABN 30 841 387 271
www.environment.nsw.gov.au

A suitable conservation measure for this parcel of land is yet to be identified. However, I can confirm that dedication of the land to the NSW National Park estate or the placement of a conservation agreement under the *National Parks and Wildlife Act 1974* (NPW Act) are unlikely to be accepted by OEH. This is mainly due to the size and location of the land (being disjunct from existing reserves including Blue Gum Hills Regional Park) and the increased resources required to potentially manage the high urban interface.

Several other conservation measures are potentially available to protect and manage this land, and these are outlined in Section 126L of the *Threatened Species Conservation Act 1995* (TSC Act), and discussed further below.

- Off-site conservation area – 'Stroud offset site': comprising a 68.5 hectare portion of Lot 23 DP95675 Booral-Washpool Road, Stroud, within the Great Lakes Local Government Area. This land is proposed to be retained in private ownership and a conservation agreement under the NPW Act entered into over the land.

Initial discussions with staff from OEH's Landscapes and Ecosystems Conservation Branch indicate that they may consider the placement of a conservation agreement over the land. However, prior to a formal endorsement of this conservation measure a site inspection by OEH officers would be required to confirm the environmental values of the land and identify any potential on-going management issues, such as significant weed infestations.

Any required management actions over the land would need to be committed to and secured as part of the proposed planning agreement. In this regard, and as a basis for further negotiation, it is noted that a number of management actions over the land are recommended in Section 3.3.2 of Ecobiological, May 2012a.

B. Review of proposed conservation measures

OEH has undertaken an initial review of the conservation measures outlined in the biodiversity offset strategy (Ecobiological, May 2012a), and provides the following advice:

1. The conservation measures outlined in the biodiversity offset strategy have the potential to secure important conservation outcomes for the region and therefore are considered by OEH to have merit. However, several issues/short-comings in the strategy have been identified and these are discussed in the following clauses.
2. The studies confirm that Lot 1 DP844711 Minmi Road, Fletcher contains significant biodiversity values, including habitat for a number of threatened species listed under the TSC Act. Hence, OEH is of the view that the proposed on-site conservation area warrants formal protection and that a legally enforceable conservation measure should be found and implemented as part of the planning proposal.

It is noted that the proponent's preferred option is to dedicate the land to Newcastle City Council. In this regard, it should be noted that Section 126L of the TSC Act lists adoption of a plan of management for land under Division 2 of Part 2 of Chapter 6 of the *Local Government Act 1993* as a potential conservation measure. OEH recommends that the proponent negotiates directly with Newcastle City Council over this potential dedication.

Further, as part of the ongoing assessment of the planning proposal, OEH would recommend that the residual conservation land within Lot 1 DP844711 is zoned E2 Environmental Conservation.

3. At the request of OEH, the Biobanking Assessment Methodology has been used to determine what would be an acceptable offset package for the proposal. This methodology is a useful quantitative tool developed by the NSW Government which can be used to quantify the biodiversity values and impacts of the proposed development and conservation outcomes, and

establish the offsets that would be required if the proposal is to meet an 'improve or maintain' outcome.

Having used the Biobanking Assessment Methodology the biodiversity offset strategy (Ecobiological, May 2012a) identifies that there is a credit shortfall of 408 (or approx 40% deficiency from achieving an 'improve or maintain' outcome for biodiversity values). This credit deficiency poses several issues for OEH and the relevant planning authorities (i.e. Newcastle City Council and the Department of Planning and Infrastructure) to consider, including whether additional conservation measures should be sought as part of the planning proposal and the potential flow-on effects for threatened species assessments of subsequent development applications under Part 4 of the EP&A Act.

The biodiversity offset strategy requests that this deficiency be considered in light of the positive conservation outcomes of the offset proposal. In this regard OEH concurs with the landscape features and biodiversity values which enhance the suitability of the Stroud offset site. These include:

- its strategic location in a broad wildlife corridor that links the Barrington range to Karuah – Port Stephens and Myall Lakes;
- the locality is identified as a priority area for conservation and restoration within the draft Mid North Coast Regional Conservation Plan;
- the site supports habitat for a similar suite of threatened species that will be impacted by the proposed urban development.

Provided that a suitable conservation measure can be found for the Fletcher offset site, then additional benefits of conserving 'like for like' vegetation and habitat for threatened species within the Minmi - Newcastle Link Road vegetation remnant could also be achieved.

C. Planning agreement to deliver and secure biodiversity offsets

The legal mechanism to deliver and secure any proposed biodiversity offsets should be through a planning agreement under section 93F of the EP&A Act. OEH understands that the proponent/landholder is willing into a planning agreement at the land rezoning stage to deliver and secure a biodiversity offset package.

It is OEH's preferred practice that the relevant Council should be a party to any planning agreement (along with the Minister for the Environment) in connection with a rezoning or a development application where significant conservation outcomes are to be achieved, such as dedication of land to the NSW National Park reserve system. This helps both from a practical perspective and to ensure that Council is involved in the process and generally satisfied with the offsets being proposed.

Clause 25 of the Environmental Planning & Assessment Regulation 2000 states that in the case of a planning agreement that is to be entered into in connection with the amendment of an environmental planning instrument, public notice of the proposed planning agreement should be given at the same time and in the same manner as the planning proposal for the amendment of the environmental planning instrument. Otherwise, it should be given as soon as possible thereafter. Section 93G of the EP&A Act requires a copy of the proposed agreement, amendment or revocation to be made available for inspection by the public for a period of not less than 28 days.

I also take this opportunity to highlight that despite the proposed contributions, further threatened species assessments under the EP&A Act would be required at the subsequent development application stages of the project. Further, section 93F(9) of the EP&A Act provides that a planning agreement cannot impose an obligation on a planning authority to grant development consent. However, any planning agreement which has been entered into or any draft planning agreement which a developer has offered to enter into will form one of the matters which a consent authority

must take into consideration in determining a development application under section 79C of the EP&A Act.

Some flexibility can be provided within the planning agreement to ensure that the proposed contributions are delivered and secured in a manner which is acceptable to all parties.

D. Endorsement of Newcastle City Council

OEH has undertaken an initial review of the biodiversity offset strategy and considers that the proposed conservation measures have the potential to provide an adequate conservation outcome for the planning proposal.

However, in OEH's previous advice to Newcastle City Council (letter dated 11 August 2011) it was requested that the proposed urban outcome be considered in light of an assessment of cumulative impacts on biodiversity from surrounding development. Several additional outstanding issues identified herein would also need to be resolved to ensure that the proposed biodiversity offset strategy can be implemented in a timely manner as part of the planning proposal. This includes finding of a suitable conservation measure for the residual conservation area within Lot 1 DP844711 (e.g. dedication to Newcastle City Council), and a decision made by Council on whether it is willing to be a party to the proposed planning agreement along with the Minister for the Environment and the proponent/landholder.

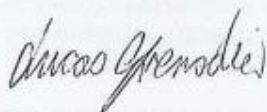
During the ongoing assessment of the planning proposal, Newcastle City Council will need to satisfy itself that the proposed contributions are adequate for the purposes of protecting areas of high conservation value, maintaining wildlife corridors and offsetting additional biodiversity impacts from urban development. Therefore in this regard, it is recommended that the revised ecological reports (i.e. Ecobiological, May 2012a, and Ecobiological, May 2012b) are forwarded to Council for its review.

Should a decision be made and endorsed by the gateway process, OEH will be in a position to provide further formal comments and advice on the planning proposal and if appropriate seek the endorsement of the Minister for the Environment to enter into a planning agreement.

In the interim period a site inspection of the proposed Stroud offset site can be arranged with OEH staff to confirm whether a conservation agreement under the NPW Act is suitable for this site.

If you have any enquiries concerning this advice, please contact me on 4908 6820.

Yours sincerely



- 3 JUL 2012

LUCAS GRENADIER
A/Head – Hunter Planning Unit
Conservation and Regulation, North East

cc: Shannon Turkington, Senior Urban Planner, Newcastle City Council

Appendix 7– Correspondence from NSW Rural Fire Service

All communications to be addressed to:

Headquarters
NSW Rural Fire Service
Locked Mail Bag 17
GRANVILLE NSW 2142

Telephone: 1300 NSWRFSS
e-mail: csc@rfs.nsw.gov.au

Headquarters
NSW Rural Fire Service
15 Carter Street
LIDCOMBE NSW 2141

Facsimile: (02) 8741 5550



The General Manager
Newcastle City Council
PO Box 489
NEWCASTLE NSW 2300



Your Ref: 3763767

Our Ref: L10/0006

ATTENTION: Shannon Turkington

13 June 2012

Dear Sir / Madam,

Re: Planning proposal to rezone land at 505 Minmi Road, Fletcher (Lot 1 DP 844711).

I refer to your letter dated 17 May 2012 seeking the NSW Rural Fire Service advice for the rezoning proposal at the above address.

Based upon the additional information received for the proposal, the RFS raises the following matters in relation to bush fire for the proposed rezoning. The RFS still has concerns with access between the two precincts of residential areas creating a pinch point that would be unsafe during a bush fire event.

Based upon the information provided the proposed asset protection zones (APZ) required for the southern elevations of Lots 129 to 132 will require a minimum 20 metres to ensure BAL 29 construction standards. In addition, proposed Lot 132 will be flame zone from the proximity of the unmanaged vacant lot behind it in Stirling Crescent.

The temporary APZ on the western boundary is not supported by any information to suggest it will be provided in perpetuity other than to propose the APZ will be provided by a concept plan for an adjoining subdivision. The RFS does not support subdivisions that cannot guarantee their own APZs within their property unless supported by an 88b easement being registered pursuant to section 88B of the *Conveyancing Act 1919*.

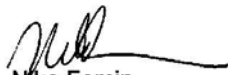
Future residential or special fire protection purpose developments on Bush Fire Prone Land must satisfy the requirements of *Planning for Bush Fire Protection 2006*. The RFS raises no other concerns with proposal to rezone this site.

1 of 2

TechnologyOne ECM Document Number: 3839442

For any enquiries regarding this correspondence please contact Mark Hawkins on 8741 5555.

Yours faithfully,

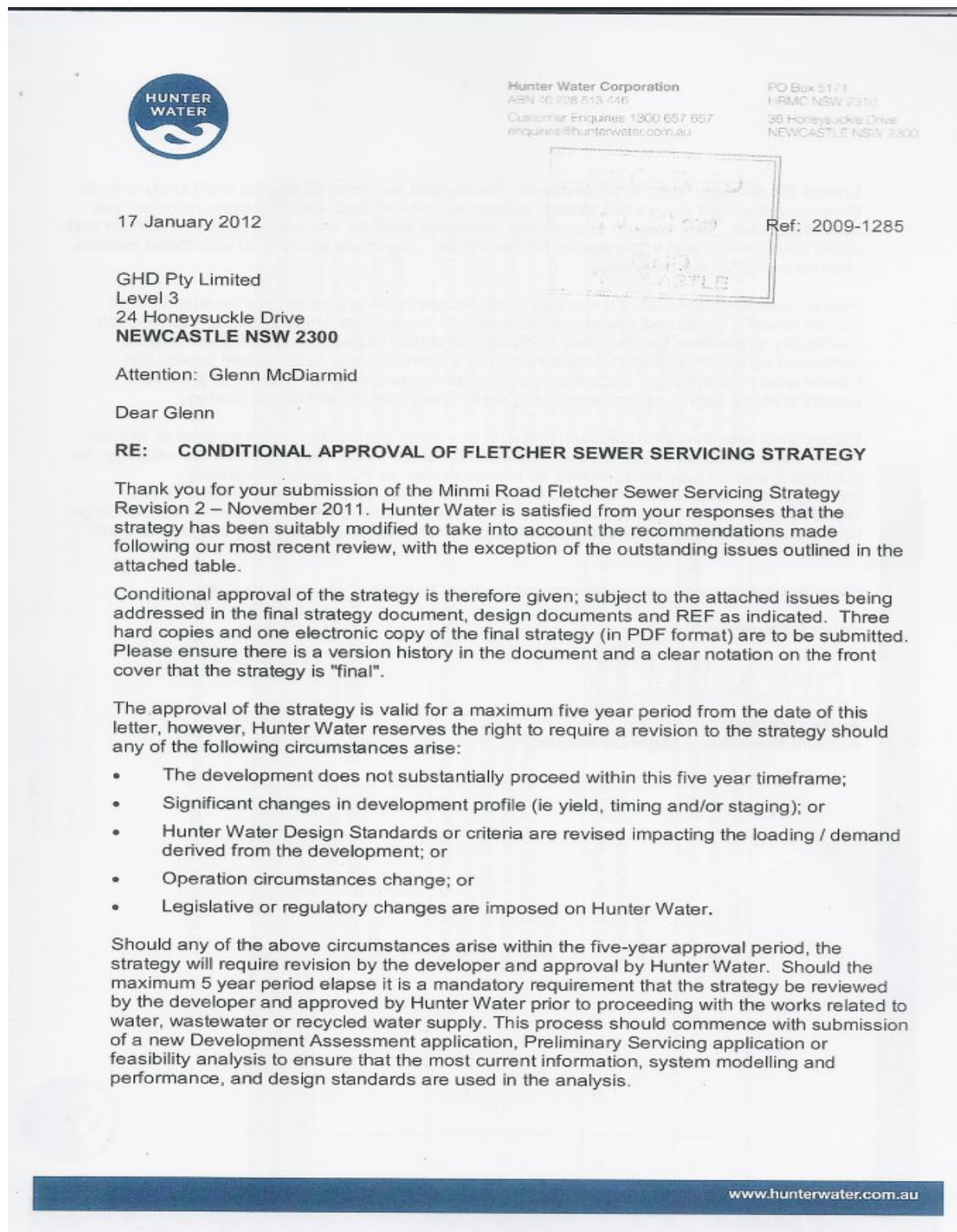


Nika Fomin

Team Leader, Development Assessment

The RFS has made getting additional information easier. For general information on 'Planning for Bush Fire Protection 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection 2006'.

Appendix 8 – Correspondence from Hunter Water



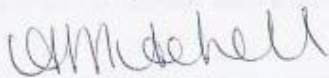
Should the strategy need to be reviewed, the revised servicing strategies shall apply only to those development stages not already completed, or for which detail designs have not yet been approved. The revision of servicing strategies shall be completed by the developer and again be reviewed and approved by Hunter Water. Any costs associated with these reviews shall be borne by the developer.

Please note that approval of a strategy is not an approval to connect the development to Hunter Water's water and sewerage systems, nor does it guarantee capacity / connection availability at the time it is required. Connection and/or capacity availability will only be confirmed by submission and determination of a Development Assessment application. Please also note the legal disclaimer attached at Appendix A with respect to the use of Hunter Water's Servicing Strategy Template for the development of this strategy.

Please also note that all intellectual property in a servicing strategy as submitted to Hunter Water vests in Hunter Water on submission and Hunter Water can distribute the strategy, as submitted, and as may be approved by Hunter Water, to third parties (including developer/consultants and members of the public under freedom of information laws). Hunter Water will use reasonable endeavours not to disclose private personal information or information which is commercial in confidence when providing a servicing strategy to third parties.

If you have any questions, please do not hesitate to contact me on 4979 9545.

Yours faithfully



Amber Mitchell
Account Executive – Major Development

Appendix 9– Correspondence from Hunter Central Rivers – Catchment Management Authority



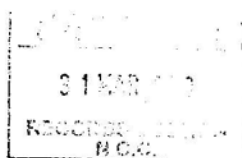
Contact: Trevor Cameron
Phone: 4937 4938
Fax: 4930 1013
Email: trevor.cameron@cma.nsw.gov.au

File: LVDA 027

Shannon Turkington
Strategic Planner
Newcastle City Council
PO Box 489
NEWCASTLE NSW 2300

Your Ref: 2821185
Our Ref: A351340

25 March 2010



Dear Shannon

Subject Planning Proposal to Rezone Land at 505 Minmi Road, Fletcher (Lot 1 DP 844711) from 7(C) Environmental Investigation Zone to part Residential and part Environmental Conservation

Thank you for your letter dated 17 February 2010 requesting guidance from the CMA on possible environmental offsets and the maintenance of habitat corridors for the above proposal. The Hunter-Central Rivers Catchment Management Authority (CMA) has reviewed the information provided and has the following comments for your consideration.

You would be aware that the CMA attended an agency workshop and provided comments on the Draft Standard LEP 2011 in correspondence to Council on 16 November 2009. I have attached a copy of the correspondence as it is relevant to this current request for information and guidance.

The CMA is of the view that this proposal be part of the overall assessment process that precedes the development of the draft standard Newcastle LEP. It is unclear why this rezoning proposal needs to be brought forward and treated separately from the Draft Standard LEP review outlined above.

Native Vegetation

The CMA administers the *Native Vegetation Act, 2003* (NV Act). Under the NV Act clearing can only be approved where it 'improves or maintains environmental outcomes' as set out in the *Native Vegetation Regulation 2005* (NV Regulation) and *Environmental Outcomes Assessment Methodology* (EOAM).

The CMA notes that the proposed rezoning would ultimately result in the removal of a significant amount of remnant native vegetation. Whilst it is acknowledged that rezoning alone does not require approval under the NV Act, and that the Act does not apply to Newcastle LGA, the CMA requests that the objects of the NV Act be applied to the proposal. In particular the 'improve or maintain' principle should be incorporated into the assessment and preparation of the proposed rezoning.

The mechanism of approval for clearing native vegetation under the NV Act is generally a Property Vegetation Plan (PVP) but can also be a development application. The method for assessing the 'improves or maintains environmental outcomes' principle is set down in the EOAM that prescribes certain circumstances where clearing cannot be approved. This includes the proposed clearing of remnant native vegetation that is not in "low condition" as defined by the NV Regulation if that vegetation is either:

- an over-cleared vegetation type or is in an over-cleared landscape (as defined in the EOAM); or
- is a listed Endangered Ecological Community (EEC) (within the meaning of the *Threatened Species Conservation Act 1995*).

Otherwise any clearing of native vegetation will generally require offsets to meet the 'improves or maintains environmental outcomes' test. The rules for determining offsets can result in offset requirements at a ratio of 10 to 1, or higher of similar vegetation and habitat to the cleared vegetation.

816 Tocal Road PATERSON, NSW, 2421 Private Bag 2010 PATERSON, NSW, 2421
Telephone (02) 4930 1030 Facsimile (02) 4930 1013 Website hcr.cma.nsw.gov.au

The offsets must be normally secured under a PVP Registered on Title and managed in perpetuity for conservation outcomes as the impact of vegetation clearing is generally permanent.

Hunter-Central Rivers Catchment Action Plan (CAP)

Certification of environmental planning instruments is intended to be a collaborative process and to this end, the Hunter-Central Rivers Catchment Action Plan (CAP) and associated CAP targets should be considered in deliberations and/or studies preceding the development of this proposal and the draft standard Newcastle LEP.

The CAP is a whole-of government approach to natural resource management which has been endorsed by the NSW Government. It is a regional plan that provides a roadmap to ensure that natural resources are protected and enhanced for the enjoyment and viability of future generations.

The CAP includes management targets and guiding principles. The guiding principles are statements that outline how natural resources should be managed in the Hunter-Central Rivers region. They provide direction for all natural resource managers to achieve ecologically sustainable development and allow organisations to align their activities so that they are compatible with the CAP. This will ensure that the whole community (including government) can work towards a common goal. The CAP is available at <http://www.hcr.cma.nsw.gov.au>.

The CMA requests that the CAP guiding principles be considered during the assessment of this re-zoning proposal and in the preparation of the draft standard Newcastle LEP, in particular the land use guiding principles (see page 55 - 57). The following is a list of those guiding principles with particular relevance to this proposal.

1. New release areas for residential and industrial development should be restricted to lands without significant natural resource constraints, including those areas already cleared of native vegetation (including significant native grassland), areas outside rural resource land, areas with less than 20% slope or those not comprising highly erodible soils, including acid sulfate soils).
2. Residential development should be consolidated and in higher densities in existing centres, and around existing transport infrastructure, to reduce the demand for new 'greenfield' release areas;
 - a. The impact of development or landuse change should be minimised on natural landscapes that have significance for Aboriginal people;
 - b. The impact of the greenhouse effect on biodiversity should be taken into consideration in landuse planning;
 - c. The cumulative impacts of development activities on our natural resources should be taken into consideration in landuse planning.
3. The habitat of threatened species, communities and populations should be protected and, where possible, improved. Key threatening processes should be considered in planning landuse change.
4. Where practical, future development should be restricted to primarily cleared land. Where loss of vegetation is unavoidable, native vegetation offsets should be used.
5. Local environment plans should aim to manage native vegetation to be consistent with a regional approach to biodiversity management which coordinates policies from the Native Vegetation Act 2003 and other relevant legislation.
6. Local environment plans should ensure there is no growth in access to Basic Rights water, as a result of land subdivision, especially for sensitive or vulnerable ground or surface water sources.
7. The implementation of local environment plans should be based on the principle of integrated water cycle management including managing the demand for water, reusing water and current best practice stormwater management.
8. A co-ordinated approach to biodiversity management should ensure consistency between the CAP and Regional Conservation Plans (RCP) in identifying priority areas for offsets.

The Guiding Principle for Landuse Planning in the CMA's Catchment Action Plan (CAP) outlines that Local Environment Plans (LEPs) should aim to manage native vegetation to be consistent with a regional approach to biodiversity management. This includes the creation of biodiversity linkages and corridors.

The current proposal clearly does not meet this guiding principle as it proposes the clearing of significant remnant vegetation that contributes to the connectivity of the regional green corridor between Stockton Bight, Kooragang Island and Hexham Swamp in the north through Minmi to Mt Sugarloaf and the Watagan Ranges in the south.

The CMA is concerned that this and other adjacent land in the 'Western Corridors' currently zoned 7(c) *Environmental Investigation* is under consideration for conversion to E4 *Environmental Living* in the absence of any detailed mapping to determine ecological significance.

The CMA is of the view that land currently zoned 7(c) should be subject to detailed ecological assessment prior to any rezoning to ensure that the decision making process is properly informed. The CMA recommends that Council undertake the required ecological assessment to ensure that areas of land with ecological significance are included in the most appropriate environmental protection zone including E1 *National Parks and Reserves*, E2 *Environmental Conservation* and E3 *Environmental Management*. This principle will apply to all areas that are zoned 7(c) throughout the LGA and other areas that have environmental assets that have not been fully investigated.

Proposed Subdivision Layout

The proposed subdivision layout offers little opportunity for realising the required off-set areas for native vegetation and is not conducive to the creation of biodiversity linkages and corridors. It has a high 'edge to area ratio', thereby increasing potential edge effects and decreasing the longer-term viability of the site as habitat for threatened species and vegetation communities. Further offsets or mitigation measures would be required to achieve an 'improve or maintain' outcome for native vegetation.

If you require any further information please do not hesitate to contact Callaghan Cotter on 4938 4935 or Trevor Cameron, Catchment Officer, Projects on 4938 4937.

Yours sincerely



Dean Chapman
for Fiona Marshall
General Manager