

**PLANNING PROPOSAL
for
ELRINGTON COLLIERY (site of former), ELRINGTON**

PART 1 – OBJECTIVES & INTENDED OUTCOMES

Objective

To allow for the subdivision of approximately thirty two (32) large residential lots and the adaptive re-use of the significant heritage buildings of the former Elrington Colliery.

PART 2 – EXPLANATION OF PROVISIONS OF PROPOSED LEP:

The land is currently zoned 1(a) Rural "A" Zone under the Cessnock Local Environmental Plan 1989. Under the LEP 1989, the land would be rezoned to the 1(c) Rural Residential / Rural (small holdings) Zone. However, this Planning Proposal will amend the comprehensive Cessnock Local Environmental Plan (once gazetted) by rezoning the site from RU2 Rural Landscape to the R5 Large Lot Residential Zone.

Attachment 1: Illustrates the proposed zone delineations.

PART 3 – JUSTIFICATION

Section A: Need for the planning proposal

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

In 2002, Council received a rezoning request for the site. This submission was prepared following investigations into the suitability of the land for rural residential development and contains a number of site specific studies. The proposal to rezone the subject land for large lot residential development is being considered as a mechanism for securing heritage conservation of the former buildings of the Elrington Colliery under the provisions of the Hunter REP (Heritage) 1989 and the draft Cessnock Local Environmental Plan 2010. These plans contain provisions that allow a consent authority to consider any proposal for land on which an item of heritage significance is located, which may otherwise be inconsistent with any other policy, where it can be demonstrated that the proposal will promote conservation of the heritage item. A lot yield of approximately 32 lots is anticipated.

As detailed below, the site is not identified in the City Wide Settlement Strategy or the Lower Hunter Regional Strategy as an investigation area for further development.

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

Under the existing zoning controls, the proposed large lot subdivision is not achievable as the land has a minimum lot size of 40 hectares.

Previous development applications for the use of the buildings for industrial purposes, including a metal foundry, have not been supported due to the potential impact on surrounding rural residential development. Despite the suitability of the buildings for such industrial purposes, given the surrounding land uses, the re-use of the buildings for residential purposes is considered to be the most appropriate use and mechanism for securing the conservation of the buildings. The ability of the buildings to be adapted for residential use is supported by the Conservation Management Plan.

It is anticipated that a Voluntary Planning Agreement will be entered into in order to ensure that the adaptive re-use of the buildings occurs in accordance with the CMP and in a timely manner. This will be further negotiated throughout the rezoning assessment.

3. Is there a net community benefit?

A Net Community Benefit test has not been undertaken for the proposal. However, it is considered that securing heritage is beneficial to the community as a whole as it helps the community to recognise, preserve and enhance the identity and characteristics of the local area.

The Elrington Colliery represents a medium sized coal mine of the South Maitland Coal Fields and is particularly significant as it was the first fully mechanised electric-powered mine with underground loco haulage and the first colliery owned by BHP.

Coal mining is significant to the development of Cessnock, and by conserving these colliery buildings, the historical link to coal mining is maintained for the community.

Section B: Relationship to strategic planning framework

4. 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?)

The Planning Proposal is not consistent with the Lower Hunter Regional Strategy which seeks to provide increased residential densities centred around existing urban areas and minimise the fragmentation of rural land for rural-residential subdivision.

Notwithstanding, the LHRS also promotes the conservation of significant heritage sites through the planning process. Given that the intention of this proposal is to secure the conservation of the heritage items, the planning proposal is considered to satisfy the LHRS.

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

The site is not identified in the Citywide Settlement Strategy as an area suitable for future rural- residential development.

However, the CWSS recognises the importance of local heritage. In particular, it recognises that there is much scope to increase the recognition of the area's unique mining heritage. This planning proposal will ensure that the buildings of the former Elrington Colliery are adequately conserved and do not continue to fall into disrepair.

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

NO.	SEPP Title	Consistency of Planning Proposal
55	Remediation of land	A contamination assessment has been undertaken for the site and identified shallow fill material present within the investigated areas which contains elevated concentrations of TPH and arsenic at a level that exceeds the adopted protection of human health guidelines. It further identified concentrations of copper and zinc which exceed protection of the environment guidelines. Notwithstanding, the assessment concludes that the level of contamination should not preclude development of the site and recommends that a Remedial Action Plan be prepared to outline the procedures and measures for the remediation of the isolated TPH, metals and asbestos contamination identified.
60	Exempt and Complying Development	Consistent.
64	Advertising and Signage	Consistent
	SEPP (Housing for Seniors or People with a Disability) 2004	A future development application for senior's living would be required to comply with DoP requirements, including the provision of a site compatibility certificate.
	BASIX (Building Sustainability Index: BASIX) 2004	The provisions of this SEPP will be considered in the assessment of any future residential development upon part of the subject site.
	Infrastructure 2007	Clause 104 of the SEPP requires developments of a certain size identified within Schedule 3 to be referred to the RTA. It is anticipated that the RTA will be consulted with in the assessment of the planning proposal. Future development applications will be assessed in accordance with provisions of this SEPP.

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

Review of consistency of the Planning Proposal with the relevant Ministerial Directions for LEPs under s.117 of the Environmental Planning & Assessment Act 1979:

1. Employment and Resources

No.	Title	Comment
1.2	Rural Zones	The Planning Proposal seeks to rezone rural land – currently zoned 1(a) – Rural ‘A’ Zone to accommodate large lot residential development. While it may be possible to use the site for low-scale agricultural production, due to the historical use of the site and the significant heritage buildings located on the site, it is considered that the proposal will have minimal impact on agricultural production value of rural land. The Planning Proposal is considered to be consistent with this Direction.
1.3	Mining, Petroleum and Extractive Industries	Due to historical mining of the site, there is unlikely to be a significant coal resource affected by this proposal. Notwithstanding, it is anticipated that the Department of Industry and Investment will be consulted with in the assessment of the planning proposal to ensure that the proposal will not impact on a significant coal resource.

2. Environment and Heritage

No.	Title	Comment
2.3	Heritage Conservation	The aim of this planning proposal is to provide opportunity for the conservation of the buildings associated with the former Elrington Colliery. The Conservation Management Plan provides details relating to the conservation of these buildings, in particularly the adaptive re-use of the items for residential purposes. In order to ensure conservation outcomes, Council will enter into a Voluntary Planning Agreement with the proponent which will detail how the buildings are to be adaptively re-used. There are no registered archaeological sites on the land and due to the past use of the site for intensive mine operations, past disturbance of any Aboriginal archaeological sites is likely to be significant. Notwithstanding, it is anticipated that the Local Aboriginal Land Council will be

		consulted with on this proposal. The proposal is considered to be consistent with this Direction.
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3. Housing, Infrastructure and Urban Development

No.	Title	Comment
3.1	Residential Zones	Rural-residential development is generally inconsistent with this Direction as it does not make sufficient use of existing infrastructure and is relatively isolated from existing services. However, the proposal is being considered under the incentives contained within the Hunter REP (Heritage) 1989 and the draft Cessnock LEP 2010 as a mechanism for the heritage conservation of significant buildings located on the site. It is anticipated that the Heritage Office will be consulted with during the rezoning process on this matter.
3.2	Caravan Parks and Manufactured Home Estates	The Planning Proposal seeks to zone the land to the R5 Large Lot Residential Zone. Caravan Parks are a permitted land use within this zone. The Planning Proposal is considered to be consistent with this Direction.
3.3	Home Occupations	Home occupations are permitted without consent in the proposed zone. The Planning Proposal is considered to be consistent with this Direction.
3.4	Integrating Land Use and Transport	The planning proposal is not consistent with this Direction. Due to the isolated and dispersed nature of rural-residential development, it will create car-dependant development. However, the proposal is being considered under the incentives contained within the Hunter REP (Heritage), 1989 as a mechanism for the heritage conservation of significant buildings located on the site. It is anticipated the RTA will be consulted with during the rezoning process.

4. Hazard and Risk

No.	Title	Comment
4.2	Mine Subsidence and Unstable Land	A geotechnical assessment undertaken over the site indicates that the historic underground mine workings pose no threat to future development of

		the site. It is anticipated that the Mine Subsidence Board will be consulted with during the rezoning process.
4.3	Flood Prone Land	The site is affected by an ephemeral watercourse, which floods during major storm events. Notwithstanding, the concept subdivision layout retains the watercourse within the larger residue lots which contain the existing structures. The proposed developable lands are therefore flood free. The Planning Proposal is considered to be consistent with this Direction.
4.4	Planning for Bushfire Protection	The site is identified as being bushfire prone land. However, a bushfire report, prepared for the site indicates that bushfire should not be a hindrance to development of the site. It is anticipated that the Rural Fire Service will be consulted with during the rezoning process. The Planning Proposal is considered to be consistent with this Direction.

5. Regional Planning

No.	Title	Comment
5.1	Implementation of Regional Strategies	The planning proposal is not consistent with the Lower Hunter Regional Strategy, which seeks to provide increased residential densities centred around existing urban areas and minimise the fragmentation of rural land for rural-residential subdivision. Notwithstanding, the LHRS promotes the conservation of significant heritage sites through the planning process. Given that the intention of this proposal is to secure the conservation of the heritage items, it is considered that the planning proposal is considered to satisfy the LHRS.

6. Local Plan Making

No.	Title	Comment
6.1	Approval and Referral Requirements	The Planning Proposal does not include concurrence, consultation or referral provisions and does not identify any development as designated development. The Planning Proposal is considered to be consistent with this Direction.

Section C: Environmental, social and economic impact

8. 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?

A flora and fauna assessment undertaken for the site revealed that the site contains threatened ecological communities comprising of the Lower Hunter Spotted Gum Ironbark Forest and Hunter Lowland Redgum Forest. The report notes that both of these assemblages are significantly disturbed with sparse canopy and introduced understorey pasture species. The planning proposal seeks to retain the majority of vegetation on site and is therefore unlikely to adversely affect the extent of adversely modify the composition of these communities.

During field surveys, no threatened flora species were found to be present on the site, despite the existence of suitable habitat for several species. However, given the disturbed nature of the site, the majority of available habitat was considered marginal.

Three threatened Fauna species, *Myotis adversus* (Large-footed Myotis), *Mormopterus norfolkensis* (Eastern Freetail-bat) and *Pomatostomus temporalis* ssp. *temporalis* (Grey-crowned Babbler), were recorded on the site during targeted surveys.

Habitat for the *Myotis adversus*, being the dams and ephemeral drainage lines are likely to be retained on site and will still provide hunting habitat for the species within the proposal. Any habitat trees that may require removal, can be replaced by bat nest boxes. The proposed re-use of the buildings on site, may impact on this species, as these buildings provide ideal roosting habitat. It is therefore recommended that the buildings be inspected prior to removal / alteration to determine whether any bat colonies are present. Should any colonies be discovered, a management plan detailing protection methods is appropriate.

A group of Grey-crowned Babblers were recorded on the site and observed in the trees on site. Given that the proposal seeks minimal vegetation removal, it is unlikely to impact on habitat for the species. Notwithstanding, there is potential for domestic cats to have an adverse impact on the species. As such, cats should be prohibited from the site by means of a restriction on the title of the proposed lots.

Given that the proposal seeks to preserve existing trees, and considering the open nature of the site and lack of native understorey, it is unlikely that a significant amount of habitat will be removed as a result of the proposal.

It is anticipated that the Department of Environment, Climate Change and Water will be consulted with on this matter during the rezoning process.

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

It is anticipated that, in accordance with the site contamination assessment undertaken on the site, a Remedial Action Plan be prepared to outline the procedures and measures for the remediation of the isolated TPH, metals and asbestos contamination identified.

A bushfire risk assessment will be required at the development application stage to address requirements under the Environmental Planning and Assessment Act 1979 and the Rural Fires Act 1997.

A land capability assessment undertaken for the site concluded that the future lots are of sufficient size and the soil type is suitable for on-site sewerage disposal.

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

A social and economic impact assessment has not been undertaken for the proposal. However it is anticipated that future development of the site will have a positive balance of impacts, particularly in regards to the conservation of significant heritage buildings. The likely negative impacts include those associated with increased residential densities such as increased noise. Furthermore, given the isolated nature of the site, there may be impacts / requirements for infrastructure improvements as a result of the proposal.

The Archaeological Assessment undertaken for the site concludes that there were no Aboriginal objects found within the study area.

Section D: State and Commonwealth interests

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

Traffic and Road Works

A traffic study undertaken for the site indicates that the road network is able to adequately cater for the additional demand resulting from future development of the site.

Reticulated Water and Reticulated Waste Water Servicing Strategies

Reticulated water is available to the land with an extension of reticulation possible. It is anticipated that Hunter Water Corporation will be consulted with to determine requirements for connection.

Reticulated sewer is not available to the site and on site disposal for each site is proposed. The proposed lots have sufficient area, being greater than 1 hectare to accept on site irrigation. The alluvial soils provide sufficient depth of topsoil and water holding capabilities for on site irrigation.

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

It is anticipated that the following agencies would need to be consulted with during the rezoning process:

- Heritage Office (HO);
- Department of Environment, Climate Change and Water (DECC&W);
- Roads and Traffic Authority (RTA);
- Mine Subsidence Board (MSB);
- Hunter Water Corporation (HWC)
- Rural Fire Service (RFS); and

- Department of Industry and Investment (DI&I).

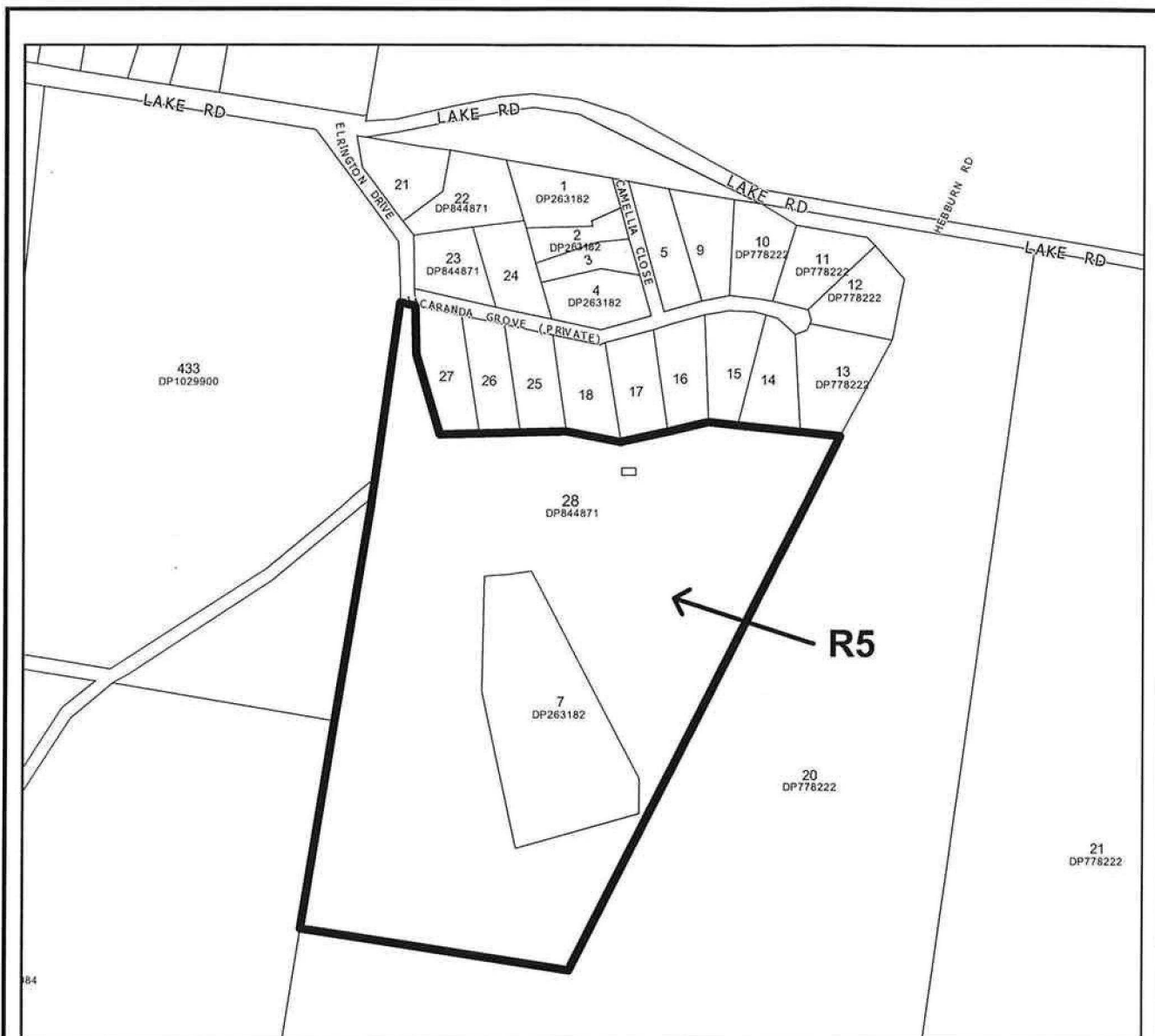
Part 4 – COMMUNITY CONSULTATION

It is anticipated that the proposal will be publically exhibited for a period of twenty-eight (28) days as this planning proposal is not considered to meet the criteria for 'low impact planning proposal'.

ATTACHMENTS:

ATTACHMENT 1: PROPOSED ZONING MAP

ATTACHMENT 2: CD CONTAINING BACKGROUND REPORT and STUDIES



SCALE 1: 9,000



**LARGE LOT
RESIDENTIAL ZONE**

LOCALITY OF ELRINGTON

PARISH OF STANFORD

COUNTY OF NORTHUMBERLAND

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

CESSNOCK CITY COUNCIL DRAFT LOCAL ENVIRONMENTAL PLAN 2010 ELRINGTON PLANNING PROPOSAL

DRAWN BY: E.MITCHELL DATE:22.09.2010
PLANNING OFFICER: S.MCMILLAM
COUNCIL FILE NO. 18/2002/2/1
DEPT. FILE NO.
CERT. PLAN NO.
CERTIFICATE ISSUED
UNDER SEC. 65 E.P.A. ACT DATED:
GOVT. GAZETTE OF

STATEMENT OF RELATIONSHIP WITH OTHER PLANS:

AMENDS CESSNOCK L.E.P. 2010

CERTIFIED IN ACCORDANCE
WITH THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT
1979, AND REGULATIONS.

PREPARED BY CESSNOCK CITY COUNCIL

GENERAL MANAGER

DATE