

PLANNING PROPOSAL

**Minimum Lot Size Controls
for
“Cessnock Civic”
Vincent Street, Cessnock
18/2011/6/1**

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Planning Proposal – Minimum Lot Size Controls for “Cessnock Civic” Vincent Street, Cessnock

Part 1 - Objective

The objective of the Planning Proposal is to remove the minimum lot size restriction over land to be zoned B7 Business Park at a location commonly known as “Cessnock Civic”. The subject land is currently subject to a 40 ha minimum lot size provision.

Part 2 - Background

This Planning Proposal seeks to remove the 40 hectare minimum lot size restriction over land zoned B7 Business Park on Lot 251 DP 606348, Lot 21 DP845986, Lot 22 DP 845986, Part Lot 23 DP 845986, Part Lot 1 DP 1036300, Lot1 DP 608084, Lot2 DP 608084, and Lot 3 DP 608084 (see locality plan in Figure 1).

At its meeting held on 19 January 2012, the Cessnock Planning Panel resolved to:-

Submit to the Department of Planning and Infrastructure for a gateway determination a Planning Proposal to:-

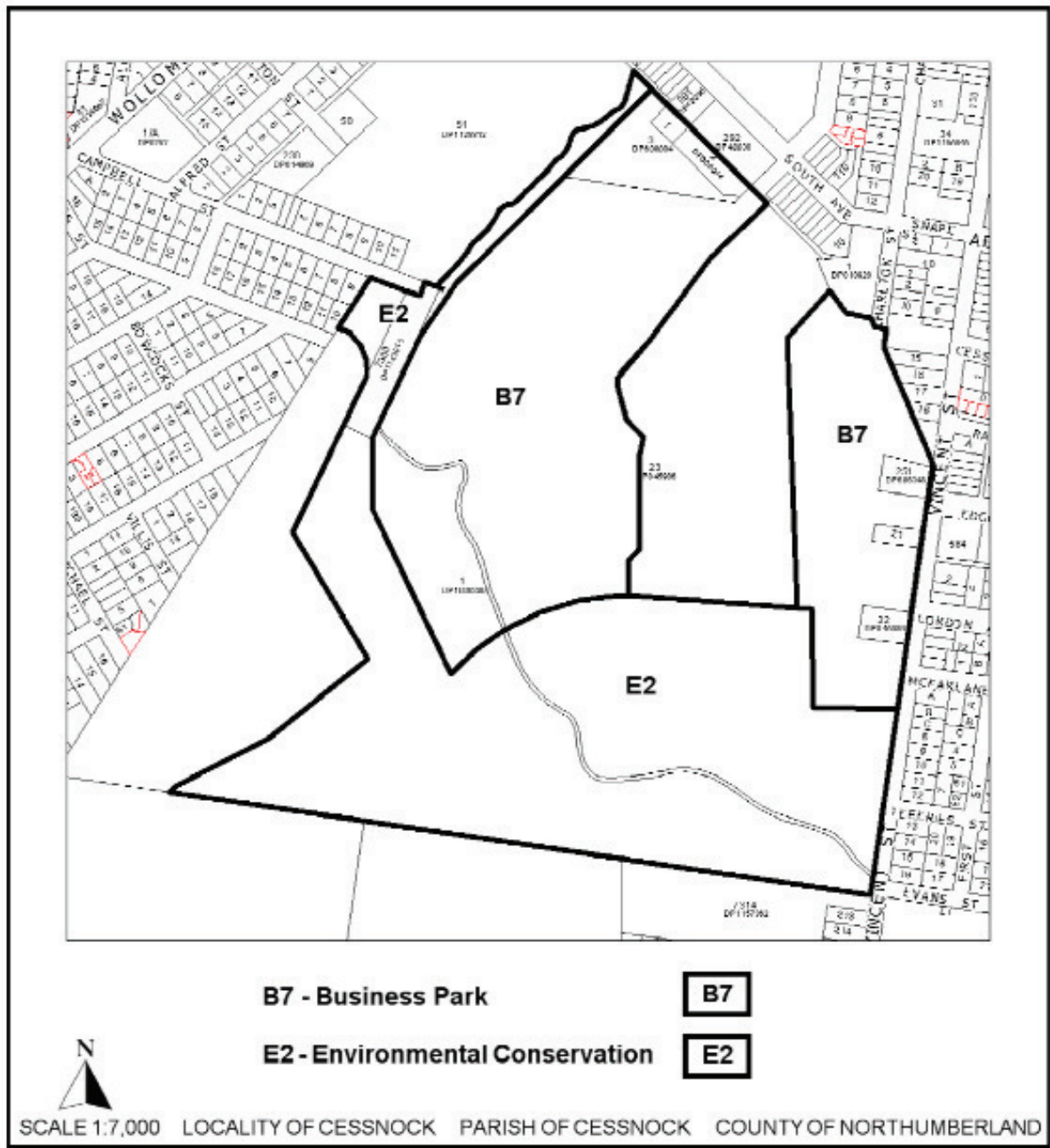
- (a) *amend the Lot Size map of the Cessnock Local Environmental Plan 2011 by deleting the minimum lot size applying to land zoned B7 Business Park at Cessnock Civic shown in the map at **Figure 1**;*
- (b) *include an additional clause in the Plan to provide more flexibility in the minimum lot size for split zoned lots which include an E2 or E3 zone.*

This Planning Proposal aims to implement resolution (a) of the above decision from the Planning Panel.

Part 3 - Location

This Planning Proposal (minimum lot size) affects those lands zoned B7 Business Park in Figure 1 below.

Figure 1: Locality of the Subject Land (Part (a))



Part 4 - Explanation of the Provisions

The Planning Proposal seeks to amend the Minimum Lot Size Map of the Cessnock Local Environmental Plan 2011 by showing the B7 Business Park zoned land at Cessnock Civic with no minimum lot size. It currently has a 40 hectare minimum lot size which is an historical legacy of its former rural zoning. The proposed change will facilitate the viable and practical development of the land by permitting lot sizes smaller than 40 hectares.

Part 5 - Justification

Section A - Need for the Planning Proposal

On 19 January 2012, the Cessnock Planning Panel was of the view that, in common with the Cessnock City Centre and light industrial areas in Cessnock LGA, there is no need for a minimum lot size to apply to the land zoned B7 Business Park.

A 40 ha minimum lot size currently applies to the subject land because it has been inadvertently carried through to the Cessnock Local Environmental Plan 2011 from the rural zone that previously applied to the land.

The Planning Proposal to rezone the land to B7 Business Park was developed when the Cessnock Local Environmental Plan 1989 applied to the land. Under the 1989 Plan the 40 ha minimum lot size that applied to the previous 1(a) Rural zone would automatically no longer apply upon rezoning of the land to B7 Business Park. As a result, the matter of minimum lot size was not discussed in that Planning Proposal because there was no need to take any specific action on the matter. However, due to the structure of the new Cessnock Local Environmental Plan 2011, the matter of minimum lot size needs to be explicitly addressed because it is assigned to space (the Lot Size Map) not to specific land use zones.

This Planning Proposal seeks to correct the inadvertent inclusion of the subject land in a 40 ha minimum lot size designation in the Cessnock Local Environmental Plan 2011 Lot Size Map that resulted from the changeover between the 1989 and the 2011 Cessnock Local Environmental Plans, by removing this restriction.

Section B - Relationship to Strategic Planning Framework

Consistency with Objectives and Actions within Regional Strategies

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy identifies Cessnock City Centre as a regional centre and projects significant employment increases. The development of Cessnock Civic seeks to increase economic activity and employment in the Cessnock regional centre. A 40ha minimum lot size significantly reduces the suitability of the B7 zoned land for Business Park uses.

Consistency with Council's Community Strategic Plan or other Local Strategic Plan

Community Strategic Plan - Our People, Our Place, Focus on Our Future

The Planning Proposal progresses *Objective 2.1 – Diversifying Local Business Options* and *Objective 2.2 Achieving More Sustainable Employment Opportunities*.

The development of Cessnock Civic is identified as an action in the Cessnock City Wide Settlement Strategy.

Consistency with State Environmental Planning Policies

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

The Planning Proposal is limited in scope as it deals with minimum lot sizes on specific land at Cessnock Civic. It is consistent with all SEPPs and/or the provisions of SEPPs are “not applicable” in so far as they are not affected by, or interact with, this Planning Proposal.

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP No. 1 - Development Standards	Makes development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary.	This SEPP does not apply to Cessnock Local Government Area following the gazettal of the Cessnock Local Environmental Plan 2011.
SEPP No. 4 - Development without Consent and Miscellaneous Complying Development	Allows relatively simple or minor changes of land or building use and certain types of development without the need for formal development applications. The types of development covered in the policy are outlined in the policy.	Not applicable.
SEPP No. 6 - Number of Storeys in a Building	Sets out a method for determining the number of storeys in a building, to prevent possible confusion arising from the interpretation of various environmental planning instruments	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP No. 10 - Retention of Low Cost Rental Accommodation	Requires the local council's consent, and the Director General of the Department of Planning's concurrence, to demolish, alter or change the use of a boarding house. Consent is also required to strata-subdivide a low-cost residential flat building or boarding house.	Not applicable.
SEPP No. 14 - Coastal Wetlands	Ensures coastal wetlands are preserved and protected for environmental and economic reasons.	Not applicable.
SEPP No. 15 - Rural Land-Sharing Communities	Makes multiple occupancy permissible, with Council consent, in rural and non-urban zones, subject to a list of criteria in clause 9(1) of the policy. Multiple occupancy is defined as the collective management and sharing of unsubdivided land, facilities and resources.	Not applicable.
SEPP No. 19 -	Protects bushland in public open	Not applicable.

SEPP	Relevance	Consistency and Implications
Bushland in Urban Areas	space zones and reservations, and to ensure that bush preservation is given a high priority when local environmental plans for urban development are prepared.	
SEPP No. 21 - Caravan Parks	Ensures that where caravan parks or camping grounds are permitted under an environmental planning instrument, movable dwellings, as defined in the Local Government Act 1993, are also permitted. The specific kinds of movable dwellings allowed under the Local Government Act in caravan parks and camping grounds are subject to the provisions of the Caravan Parks Regulation.	Not applicable.
SEPP No. 22 - Shops and Commercial Premises	Permits within a business zone, a change of use from one kind of shop to another or one kind of commercial premises to another, even if the change of use is prohibited under an environmental planning instrument.	Not applicable.
SEPP No. 26 - Littoral Rainforests	Applies to 'core' areas of littoral rainforest as well as a 100 metre wide 'buffer' area surrounding these core areas, except for residential land and areas to which SEPP No. 14 - Coastal Wetlands applies.	Not applicable.
SEPP No. 30 - Intensive Agriculture	Requires development consent for cattle feedlots having a capacity of 50 or more cattle or piggeries having a capacity of 200 or more pigs.	Not applicable.
SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land)	Sets out guidelines for the Minister to follow when considering whether to initiate a Regional Environmental Plan (REP) to make particular sites available for consolidated urban redevelopment. Where a site is rezoned by a REP, the Minister will be the consent authority.	Not applicable.

SEPP	Relevance	Consistency and Implications
SEPP No. 33 - Hazardous and Offensive Development	Provides new definitions for 'hazardous industry', 'hazardous storage establishment', 'offensive industry' and 'offensive storage establishment'. The definitions apply to all planning instruments, existing and future. The new definitions enable decisions to approve or refuse a development to be based on the merit of proposal. The consent authority must carefully consider the specific case, the location and the way in which the proposed activity is to be carried out. The policy also requires specified matters to be considered for proposals that are 'potentially hazardous' or 'potentially offensive' as defined in the policy.	Not applicable.
SEPP No. 36 - Manufactured Home Estates	To enable the immediate development of estates, the policy allows MHEs to be located on certain land where caravan parks are permitted. There are however, criteria that a proposal must satisfy before the local council can approve development. The policy also permits, with consent, the subdivision of estates either by community title or by leases of up to 20 years.	Not applicable.
SEPP No. 44 - Koala Habitat Protection	Encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range. The policy applies to 107 local government areas. Local councils cannot approve development in an area affected by the policy without an investigation of core koala habitat.	Not applicable.
SEPP No. 50 - Canal Estates	Bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	Not applicable.
SEPP No. 55 – Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination.	Not applicable.

SEPP	Relevance	Consistency and Implications
SEPP No. 60 - Exempt and Complying Development	Provides a more efficient and effective approval process for certain classes of development. The policy is an essential part of the reforms introduced to the development assessment system in July 1998. It applies to areas of the State where there are no such provisions in the council's local plans.	Not applicable.
SEPP No. 62 – Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from rezoning of land and is of relevance for the site specific rezoning proposals.	Not applicable.
SEPP No. 64 _ Advertising and Signage	Aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	Not applicable.
SEPP No. 65 - Design Quality of Residential Development	Raises the design quality of residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	Not applicable.
SEPP No. 71 - (Coastal Protection)	Ensures that development in the NSW coastal zone is appropriate and suitably located, to ensure that there is a consistent and strategic approach to coastal planning and management and to ensure there is a clear development assessment framework for the coastal zone.	Not applicable.
SEPP Housing for Seniors or people with a Disability 2004	Encourages the provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	Not applicable.
SEPP (Building Sustainability Index: BASIX) 2004	Ensures consistency in the implementation of BASIX throughout the State by overriding competing provisions in other environmental planning instruments and development control plans, and specifying that SEPP 1 does not apply in relation to any development standard arising under BASIX.	Not applicable.

SEPP	Relevance	Consistency and Implications
SEPP (Major Development) 2005	Defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by joint regional planning panels (JRPPs) and classes of regional development to be determined by JRPPs.	Not applicable.
SEPP (Temporary Structures)	Provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity.	Not applicable.
SEPP Infrastructure 2007	Wide ranging. Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	Not applicable.
SEPP Mining, Petroleum Production and Extractive Industries 2007	Provides for the proper management of mineral, petroleum and extractive material resources and ESD.	Not applicable.
SEPP (Rural Lands) 2008	Facilitates economic use and development of rural lands, reduce land use conflicts and provides development principles.	Not applicable.
SEPP (Exempt and Complying Development Codes) 2008	Provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP (Affordable Rental Housing) 2009	Increases the supply and diversity of affordable rental and social housing in NSW.	Not applicable.

Consistency with s.117 Ministerial Directions for Local Plan Making

An assessment of relevant s.117 Directions against the Planning Proposal is provided in the table below. The Planning Proposal is consistent with these Directions.

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implication
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	The Planning Proposal does not propose to change the zoning of the land. The Planning Proposal seeks to encourage development by removing an unreasonably large minimum lot size restriction from land at Cessnock Civic.
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	Planning Proposal not affected by this direction.
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Planning Proposal not affected by this direction.
1.4 Oyster Aquaculture	Not applicable.	Not applicable.
1.5 Rural lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.	Planning Proposal not affected by this direction.
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	Not applicable.
2.2 Coastal Protection	Not applicable.	Not applicable.
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Planning Proposal not affected by this direction.
2.4 Recreation Vehicle Areas	The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>).	Planning Proposal not affected by this direction.
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new	Planning Proposal not affected by this direction.

Ministerial Direction	Aim of Direction	Consistency and Implication
	housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	
3.2 Caravan parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.	Planning Proposal not affected by this direction.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Planning Proposal not affected by this direction.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	Planning Proposal not affected by this direction.
3.5 Development Near Licensed Aerodromes	The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses.	Planning Proposal not affected by this direction.
3.6 Shooting Ranges	The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issues that must be addressed when rezoning land adjacent to an existing shooting range.	Planning Proposal not affected by this direction.
4. HAZARD AND RISK		
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	Planning Proposal not affected by this direction.
4.2 Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	The land is affected by Mine Subsidence. Relevant investigations have been undertaken and measures to manage mine subsidence risk will be applied to future development proposals. However, this Planning Proposal does not impact on associated risks.
4.3 Flood Prone	The objectives of this direction are to	Part of the land is within the

Ministerial Direction	Aim of Direction	Consistency and Implication
Land	ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.	1:100 year flood zone. Notwithstanding, the Planning Proposal is not seeking to rezone flood prone land or increase risks associated with flood hazards.
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	Planning Proposal not affected by this direction.
5. REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The Planning Proposal will enable a constrained site utilised for its intended commercial purpose. This will assist in the achievement of the LHRS 2006 objectives by maximizing economic opportunities and job growth within an existing centre.
6. LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Planning Proposal not affected by this direction.
6.2 Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Planning Proposal not affected by this direction.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The Planning Proposal removes an unnecessarily restrictive minimum lot size which would otherwise apply to the land.

Section C - Environmental, Social and Economic Impact

The Planning Proposal is unlikely to have a significant impact other than permitting the land to be developed for its intended purpose, or conserved in a practical manner, by removing a restriction on the subdivision of the land, namely a 40 hectare minimum lot size.

Section D - State and Commonwealth Interests

The Hunter Regional Office of the Department of Planning has been consulted in regard to the merits of progressing this Planning Proposal.

Part 6 - Community Consultation

Community consultation will be undertaken in accordance with Council's guidelines and any specific requirements made by the Department of Planning and Infrastructure during the gateway determination.

If the Gateway determination directs Council to have a public exhibition of the proposal, the consultation process will include Council's usual notification procedures and inviting submissions during the exhibition period.

It should be noted that in the report to the Planning Panel, the report recommended that no public exhibition of this Planning Proposal be required as it reflects intended policy settings and is a correction to an administrative error.

Attachment 1: Minimum Lot Size Map

