



IRF25/1190

## Plan finalisation report – PP-2021-2262

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Newcastle Local Environmental Plan 2012 (Map  
Amendment No. 4) – 505 Minmi Road, Fletcher

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# Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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# 1 Introduction

## 1.1 Overview

### 1.1.1 Name of draft LEP

Newcastle Local Environmental Plan 2012 (Map Amendment No 4)

### 1.1.2 Site description

**Table 1 Site description**

Site Description	The planning proposal (Attachment A-A12) applies to land at 505 Minmi Road, Fletcher.
Type	Site
Council / LGA	City of Newcastle (Council)
LGA	Newcastle LGA

The land is identified as Lot 23 DP 1244350, is known as 505 Minmi Road, Fletcher (the site) (**Figure 1**). The site is 26.2ha in area and is surround by residential development and protected bushland corridors to the north, east and west. The Summerhill Waste Management Centre and bushland is located to the south.

The area surrounding the site includes low and medium density residential development, a waste management centre, neighbourhood centres and recreational areas.

To the north of the site is the Hunter Wetlands National Park and to the south the Blue Gum Hills Regional Park (**Figure 1**).



**Figure 1: Aerial photo of the site (highlighted red) and surrounding area (source: Nearmaps 2025)**

### 1.1.3 Purpose of plan

The planning proposal seeks to rezone land at 505 Minmi Road, Fletcher (Lot 23 DP 1244350) to facilitate a low-density residential development with conservation land.

**Table 2** below outlines the current, exhibited and Department recommended post-exhibition changes for the LEP.

**Table 2 Current and proposed controls**

Control	Current	Exhibited	Post-exhibition changes recommended by Department
Zone	C4 Environmental Living	R2 Low Density Residential (R2) – total of 13.34ha (approx. 51% of site area).  C2 Environmental Conservation (C2) – total of 12.98ha (approx. 49% of site area).	R2 – total of 3.63 ha (approx. 13% of site area).  C2 – total of 22.7ha (approx. 87% of site area).
Maximum height of the building	N/A	R2 – 8.5m  C2 – N/A	R2 – 8.5m  C2– N/A
Minimum lot size	40ha	R2: 300m <sup>2</sup> and 450m <sup>2</sup>  C2: 40ha	R2: 300m <sup>2</sup>  C2: 40ha
Urban Release Area (incl. requirement for site specific DCP prior to development consent)	N/A	R2 – Yes  C2 – No	R2 – Yes  C2 – No
Number of dwellings	None existing	140	39

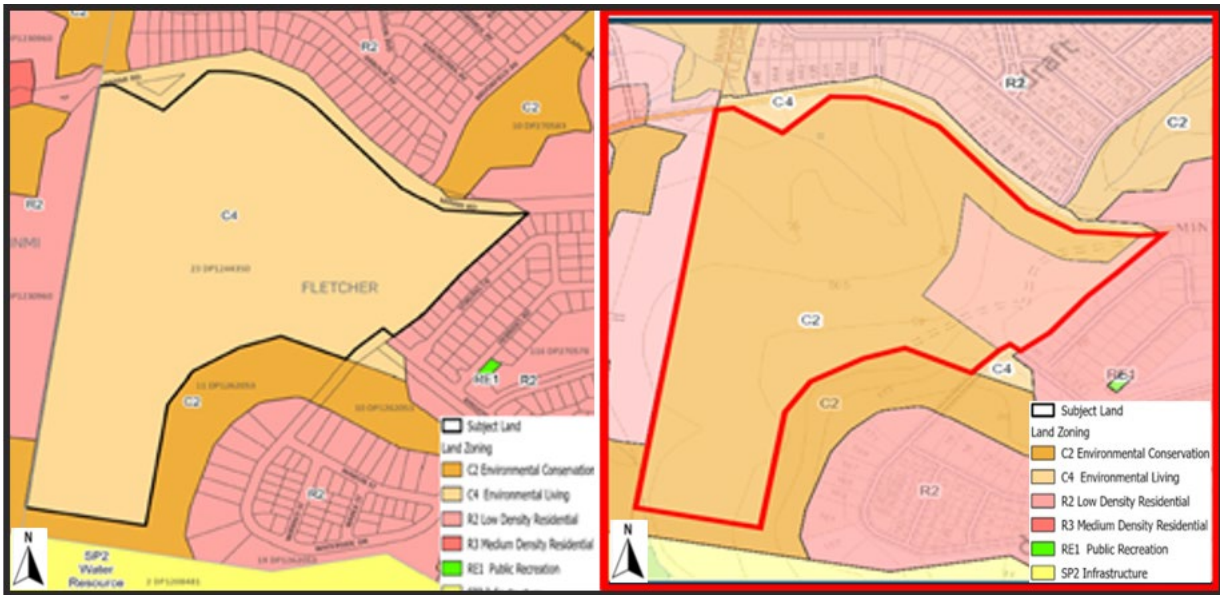
To facilitate this proposal, the following maps are proposed to be amended:

- Land Zone Map
- Height of Building Map (Tile 001B & 002A)
- Minimum Lot Size Map (Tile 001B & 002A)
- Urban Release Area Map (Tile 001B & 002A)

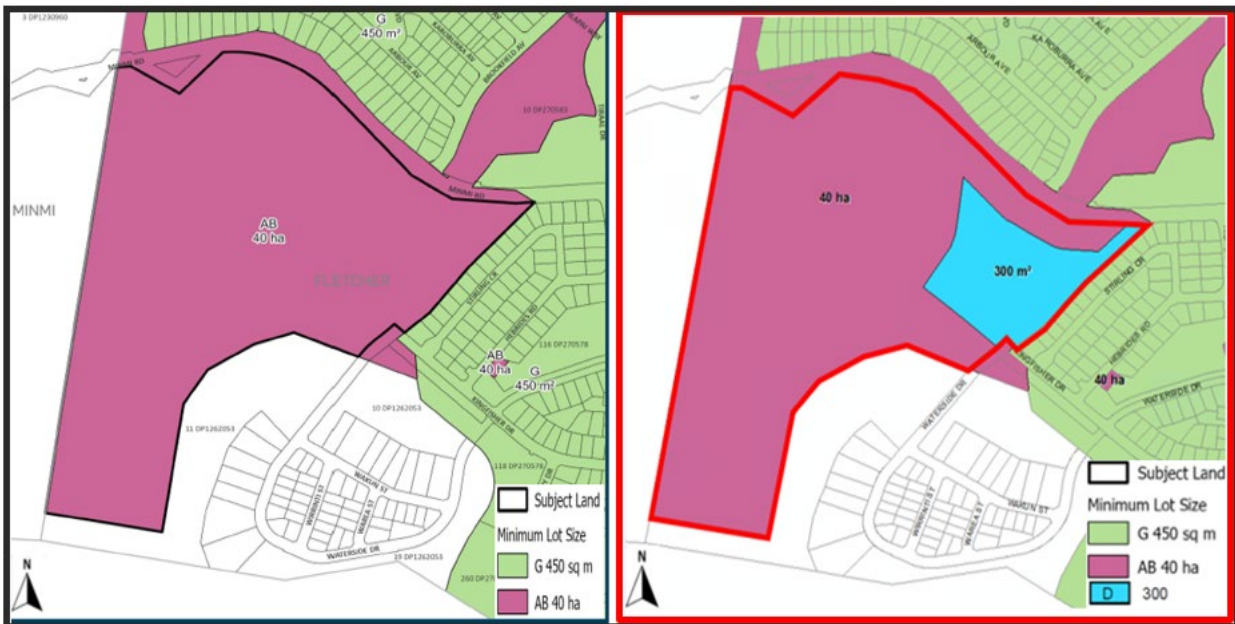
A complete set of the current, exhibited and post-exhibition LEP mapping changes can be found at **Attachment Map Comparison**.

The current and post exhibition change land zoning (**Figure 2**) and lot size (**Figure 3**) maps can be found below:





**Figure 2: Current and post-exhibition change zoning maps (source: NSW Department of Planning, Housing and Infrastructure)**



**Figure 3: Current and post-exhibition change minimum lot size maps (source: NSW Department of Planning, Housing and Infrastructure)**

#### 1.1.4 State electorate and local member

The site falls within the Wallsend state electorate. Sonia Hornery MP is the State Member.

The site falls within the Newcastle federal electorate. Sharon Claydon MP is the Federal Member.

To the team's knowledge, neither MP has made any formal written submissions regarding the proposal.

MP Sonia Hornery has written to DPHI on behalf of constituents who have made submissions to the proposal, including:

- requests to delay to the Independent Planning Commission Gateway review process
- updates on the planning proposal; and

- forwarding the concerns of community members with the proposal. These are issues in keeping with those raised in submissions.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 2 Gateway determination, Gateway alterations and Gateway review

### Gateway Determination – 10 January 2023

On 10 January 2023, the Gateway determination was issued (**Attachment B**) determining that the proposal should proceed subject to conditions.

In December 2023, the proponent wrote to DPHI requesting the Minister appoint an alternative planning proposal authority due to its belief that Council had not carried out their role in a satisfactory manner.

In January 2024, the City of Newcastle Council wrote to DPHI requesting the Gateway determination for the planning proposal be altered to not proceed. Council advised limited progress has been made by the proponent in addressing the conditions of the Gateway determination issued in January 2023.

### Gateway Determination Alteration to Extend LEP Completion – 22 March 2024

On 22 March 2024, a Gateway alteration (**Attachment C**) was issued to extend the time for completion to 23 November 2024. The Gateway alteration required Council to commence exhibition by 30 April 2024. The planning proposal was placed on public exhibition from 22 April to 21 May 2024.

On 27 May 2024, the NSW Environmental Protection Authority (EPA) made a submission on the proposal, raising several issues including the need to prepare a preliminary site investigation. This NSW EPA submission is discussed further in **Section 3.2.1 of this report** notes:

- the site's proximity to the Summerhill Waste Management Centre (SWMC)'s landfill and resource recovery facility;
- the letter also noted that the planning proposal did not consider the risks associated with sub-surface landfill gases generated by SWMC along with gasses from local coal mine operations; and
- the NSW EPA recommended an updated preliminary site investigation for contamination be prepared.

In response, on 8 July 2024 Council wrote again to the Department requesting the Gateway determination be altered to not proceed due to the time required to prepare a preliminary site investigation report.

### Do not proceed Gateway Alteration – 28 July 2024

On 28 July 2024, the Gateway was altered to not proceed (**Attachment D**) due to the potential risk to human health associated with land contamination and uncertainty over the timeframe that would be required to address this issue by the proponent.

On 15 August 2024, in response to this Gateway alteration, the proponent submitted a Gateway review request.

### Gateway review – 4 December 2024

On 4 December 2024, after considering the Gateway review request, the Independent Planning Commission (IPC) issued its recommendation (**Attachment E**) that the Gateway be altered to

proceed with a completion date of 30 June 2025, because:

- the planning proposal has strategic merit;
- the additional site investigations to support the planning proposal and meet the NSW EPA's requirements are essential to minimise risks to human health and the environment particularly as the proposal involves introducing residential land uses on the site; and
- extending the LEP completion timeframe to 30 June 2025 would allow the site to contribute to housing the Newcastle region more efficiently compared to restarting the planning proposal process.

The IPC also noted that:

- no further extension of time should be granted; and
- that appointing an alternative PPA under *Section 3.32 of the Environmental Planning and Assessment Act 1979* (the Act) and the Local Environmental Plan Making Guidelines is appropriate, for reasons including the perceived conflict of interest stemming from Council's role as the owner and operator of the SWMC.

### **Council Resolution – 10 December 2024**

On 10 December 2024, Council considered a Notice of Motion in response to the IPC's Gateway review recommendation. Council's subsequent resolution included that Council:

- recognise 505 Minmi Road as one of the last remaining parts of our city's Green Corridor;
- requests that the Lord Mayor and City of Newcastle urgently writes to the Premier, the Minister of Planning, the Environment Minister, local MPs and the Department of Planning, Housing and Infrastructure seeking to ensure:
  - City of Newcastle retains its planning powers over 505 Minmi Road, and all land in the LGA;
  - A comprehensive report on submissions to the Gateway process and IPC is presented to the duly elected Council; and
  - That 505 Minmi Road retains zoning as C4 Environmental land until it is protected in perpetuity by being incorporated into the National Parks Estate.
  - Significant inaccuracies in the IPC's report be corrected, including incorrect statements about Council's LSPS.
- requests the Lord Mayor and the City of Newcastle considers any action necessary, including legal responses, to protect the planning powers of the democratically elected City of Newcastle Council, including its LEP and planning functions with respect to 505 Minmi Road.

### **Gateway Altered to Proceed and Appointment of Alternate PPA – 12 February 2025**

On 12 February 2025, the Gateway determination was altered to proceed (**Attachment F**) in response to the IPC's 4 December 2024 Gateway review recommendation, including:

- the requirement for an updated site contamination investigation that is verified by an EPA accredited Environmental Auditor; and
- to extend the LEP completion date to 30 June 2025.

In accordance with Section 3.32 of the Act the Planning Secretary was also appointed as the PPA. The Department's Planning Proposal Authority Team (PPA Team) is assisting the Planning Secretary to perform the role of PPA.

The proposal is to be finalised by 30 June 2025 in accordance with the Gateway determination (as altered).



On 7 March 2025, the proponent provided the latest version of the planning proposal (**Attachment A-A12**) which included minor amendments to the exhibited planning proposal seeking to response to community, agency and IPC feedback.

On 7 March 2025, Council provided all relevant planning proposal documents to the PPA Team, including a letter where Council identified the outstanding matters it considered needed to be resolved – this is discussed further in **Section 3.2.2 of this report**.

### **Council Resolution – 25 February 2025**

On 25 February 2025, Council considered a Notice of Motion in response to the alteration of the Gateway determination and appointment of the Secretary as PPA. Council's resolution included that Council:

- requests the Lord Mayor and CEO City of Newcastle write to the Director Hunter and Northern, and Deputy Secretary DPHI, and NSW Minister for Planning, requesting:
  - Any proposed re-zoning and that is inconsistent with the City of Newcastle not be allowed to go ahead;
  - City of Newcastle remains PPA for 505 Minmi Road; and if not met;
  - Action as per the 10 December 2024 resolution of Council to begin legal action to acquire 505 Minmi Road to protect it in perpetuity as environmental land; and
- requests updates City of Newcastle's Section 7.11 Contributions Plan 2013 to reflect adopted zoning changes in the City of Newcastle DCP (2023) and LSPS (2020) that protect the health, biodiversity, environmental, and community value of 505 Minmi Road.

## **3 Public exhibition and post-exhibition changes**

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 22 April to 21 May 2024.

A total of 336 community submissions were received, all objecting or raising concerns with the proposal. The community submissions can be found in **Attachment G**.

### **3.1 Community Submissions during exhibition**

#### **3.1.1 Community submissions objecting to and/or raising issues about the proposal**

There were 336 community submissions received from individuals and organisations which all raised concerns or objected to the planning proposal.

The Department received 31 email objections on the proposal after the exhibition period closed. These 31 emails were sent by 1 unique submitter, who also made a formal submission during the exhibition period. The issues raised in these emails were similar to those received during the formal exhibition period and therefore have been addressed in the overall response to submissions.

The issues raised in submissions (**Attachment G**) included:

- Traffic and infrastructure (76%);
- Biodiversity (46%);
- Urban Design (6%);
- Impacts on quality of life (4%); and
- Other concerns (1%), including local character, privacy impacts, waste management, decline in property value and noise pollution.

The community's concerns relating to traffic and infrastructure, biodiversity and urban design are discussed below. All issues raised by the community's submissions can be found in **Attachment H – Community Submissions Table**.

It should be noted the proponent's response below is related to the exhibition proposal not the post-exhibition changes by the Department.

**Table 3 Summary of Key Issues**

Issue raised	Submissions (%)	Department response
Traffic and Transport concerns, impacts on traffic and existing infrastructure	76%	<p>The Department considers that the post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings adequately addresses concerns raised in community submissions relating to traffic and infrastructure concerns, because:</p> <ul style="list-style-type: none"> <li>TfNSW has been satisfied that the exhibited dwelling yield would not have detrimental impacts on the existing traffic and infrastructure conditions.</li> <li>The post-exhibition changes provide less dwelling yield than the exhibited scheme to provide protection for key biodiversity corridors on the site. To this point, the scheme proposed for finalisation will deliver a lesser impact on the traffic and infrastructure than what was considered acceptable by TfNSW in the exhibited scheme.</li> </ul>
Biodiversity – concerns over the potential adverse biodiversity impacts	46%	<p>The Department considers that the post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings adequately addresses concerns raised in community and CPHR submissions relating to biodiversity, because:</p> <ul style="list-style-type: none"> <li>the post-exhibition changes sufficient buffers to the wildlife corridors on site, specifically 350m buffers for Koala habitat and 50m for squirrel gliders habitat;</li> <li>the provision of C2 Environmental Conservation zoned land has increased from the exhibited planning proposal;</li> <li>key habitat for endangered species is protected through the C2 zoning;</li> <li>the revised planning proposal package confirms the site is not flood affected;</li> <li>the proposal responds to requests for housing in appropriate areas that do not detrimentally impact the environment.</li> </ul>

Issue raised	Submissions (%)	Department response
Urban Design – concerns relating to urban sprawl and that density should be focused in existing established residential areas; and that the development should match the low density residential zoning of the surrounding area.	6%	<p>The Department considers the proponent's response adequate, with the post-exhibition changes discussed further in <b>Section 3.3.2</b> of the finalisation report, including:</p> <ul style="list-style-type: none"> <li>the proposed urban design can achieve the optimal housing density in accordance with the Hunter Regional Plan 2041; and</li> <li>permitting housing up to four storeys on this site is not in character with the existing urban landscape. Height of up to four storeys (~12m) is connected to E1 Local Centre zones or R3 Medium Density Residential connected with a local centre, noting that the maximum building height for these zones is restricted to 11m. The height suggested by the submissions is not consistent with the proposed R2 zoning.</li> </ul>

## 3.2 Advice from agencies

### 3.2.1 Agency Consultation undertaken by Council during Public Exhibition

In accordance with the Gateway determination, Council was required to consult with agencies listed in the Gateway determination, including:

- Transport for NSW;
- Biodiversity, Conservation and Division (now Conservation Programs, Heritage and Regulation);
- Ausgrid;
- Heritage NSW;
- NSW Rural Fire Service;
- Subsidence Advisory NSW;
- Awabakal Local Aboriginal Land Council; and
- Department of Education.

Council also undertook consultation with the NSW Environment Protection Authority in response to other Gateway conditions. The agency submissions received during public exhibition can be found at **Attachment I**.

NSW Environment Protection Authority and Conservation Programs, Heritage and Regulation are discussed further below, with all agency submissions and responses discussed in **Attachment J**.

#### NSW Environment Protection Authority (NSW EPA)

The NSW EPA in their submission on the exhibited proposal raised the following matters and required additional information, including:

- Land uses be informed by current and future operations of the Summerhill Waste Management Centre (SWMC).
- Noise and vibration assessment should be prepared.
- Air quality and impact assessments should be prepared.

- An updated contaminated land assessment:
  - a. The EPA understands that a preliminary contamination assessment completed for the Proposal found that it would be suitable for residential development. However, the assessment is over 10 years old, and it did not consider the risks associated with sub-surface landfill gases generated by SWMC and gases associated with coal mine workings.
  - b. Submit an updated preliminary site investigation.
  - c. be written by, or reviewed and approved by, a consultant certified by either the Environment Institute of Australia and New Zealand Certified Environmental Practitioner (Site Contamination) (CEnvP (SC)) or Soil Science Australia - Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) schemes.
- Water management strategy should be prepared.

### Department Response

Following appointment of the Planning Secretary as the PPA, additional agency consultation was undertaken to ensure the issues raised by the NSW EPA have been adequately resolved. The outcomes of this additional consultation are discussed in **Section 3.2.3 of this report**.

### **Conservation Programs, Heritage and Regulation (CPHR)**

CPHR in their submission on the planning proposal raised concerns with the proposal, including:

- The planning proposal should address how the proposed rezoning includes provisions which facilitate the protection and conservation of environmentally sensitive areas pursuant to Ministerial Direction 3.1.
- The planning proposal should be amended to be consistent with BIR dated December 2021.
- The planning proposal should display further avoidance of Biodiversity Conservation Act 2016 (BC Act) listed endangered ecological community (EEC) Lower Hunter Spotted Gum Ironbark Forest in the Sydney Basin and NSW North Coast Bioregions.
- Provide adequate justification in accordance with the determination made by the Threatened Species Committee to exclude BC Act Listed EEC Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion from assessment.
- All threatened species surveys should be conducted in accordance with relevant guidelines and Threatened Biodiversity Data Collection (TBDC). Justification must be provided for excluding species from targeted survey efforts.
- Additional evidence such as photography or genetic report required to confirm presence of sugar glider (*Petaurus breviceps*) and absence of squirrel glider (*Petaurus norfolcensis*).
- Further information should be provided regarding habitat features in accordance with section 3 and section 4 of BAM 2020.
- It is recommended habitat connectivity between vegetation north and south of the proposal site is considered as per section 6.1.3 and section 8.2 of BAM 2020.
- The proposed C2 zone should be protected and managed through a secondary mechanism such as a Biodiversity Stewardship Agreement.
- The proponent has not demonstrated that the proposal is consistent with Ministerial Direction 4.1 Flooding.

### Department Response

Following appointment of the Planning Secretary as the PPA, additional agency consultation was undertaken to ensure the issues raised by the CPHR have been adequately resolved. The outcomes of this additional consultation is discussed in **Section 3.2.3 of this report**.

### 3.2.2 Further Council Consultation - March 2025

Following appointment of the Planning Secretary as PPA, on 7 March 2025 Council provided all relevant planning proposal documents to the PPA team. This documentation included a letter where Council identified the outstanding matters it considered needed to be resolved (**Attachment K**), including:

- **Updated site contamination investigations** - must align with EPA guidelines and be verified by an EPA-accredited Environmental Auditor to ensure high standards of accuracy and public safety;
- **Biodiversity and environmental protection** - the proposal fails to adequately avoid or minimise impacts on high-value biodiversity areas, particularly the Endangered Ecological Community (EEC) of Lower Hunter Spotted Gum Ironbark Forest;
- **Zoning and land use efficiency** - zoning boundaries have been drawn based on engineering feasibility rather than ecological considerations;
- **Dwelling yield and infrastructure capacity** - The proposed 170-lot development exceeds the planned infrastructure capacity, which was based on a 110-dwelling assumption in Council's Western Corridor Development Contributions Plan 2020;
- **Traffic and access** - the removal of the proposed east-west road through conservation land;
- **Flooding risks** - the flood study lacks sufficient modelling—a full analysis of Probable Maximum Flood events is required in accordance with condition of gateway determination; and
- **Buffer to Summerhill Waste Management Centre** - The proposed residential zoning encroaches on recommended buffer areas, raising significant concerns about future land-use conflicts.

### 3.2.3 Post-Exhibition Agency Consultation Following Appointment of Planning Secretary as PPA

Following the appointment of the Planning Secretary as PPA, additional consultation was undertaken with agencies following review of the outstanding issues the planning proposal needed to address in the Gateway assessment/determination, public exhibition, agency consultation, Council and the Gateway review process. The agency submissions received post-exhibition can be found at **Attachment L**.

CPHR, NSW EPA and NSW RFS post-exhibition submissions are discussed further below, with all agency submissions and responses discussed in **Attachment J**.

#### Conservation Programs Heritage and Regulation

On 2 April 2025, CPHR provided a response to the planning proposal that identified outstanding biodiversity and flooding issues (**Attachment M**), including:

- the BCAR does not satisfy the requirements of the Biodiversity Assessment Method 2020 (BAM) which creates uncertainty around the extent of high biodiversity values within the site due to lack of sufficient survey effort, consideration of connectivity and adequacy of avoidance;
- CPHR advised that the proposed rezoning would result in a reduction in environmental protection that would have high environmental impacts upon important biodiversity values within the site and wider landscape;
- although amendments to the footprint had occurred throughout the process, the amendments did not adequately address protection and conservation of environmentally sensitive areas and areas of High Environmental Values (HEV) in accordance with the Ministerial Direction 3.1 Conservation Zones and the Hunter Regional Plan 2041. CPHR considered that it is possible to avoid these impacts through design refinement. The refined concept scheme



would need to avoid HEV and respond to biodiversity corridor buffer requirements of 350m for koala habitation and 50m for squirrel glider habitation; and

- the planning proposal had not demonstrated that the proposal is consistent with Ministerial Direction 4.1 Flooding.

The response to this submission and these issues is discussed further below.

### Flooding

In response, the proponent provided a Flood Assessment (FA) prepared by BMT dated 8 April 2025 (**Attachment N**). This was subsequently referred to CPHR and DPHI's Chief Engineer for assessment.

On 15 April 2025, CPHR confirmed that the FA adequately resolved the outstanding flooding concerns (**Attachment O**). On 9 May 2025, DPHI's Chief Engineer confirmed that the Flood Impact Assessment satisfied the requirements of Section 9.1 Ministerial Direction 4.1 Flooding.

### *Department response*

Flooding impacts have been adequately resolved which is discussed further in **Section 4.1.2 of this report**.

### Biodiversity

In response to CPHR's 2 April 2025 request for information letter, the proponent responded on 8 April 2025 (**Attachment P**) and 17 April 2025 (**Attachment Q**) outlining that the exhibited BCAR was considered to adequately justify the extent of the proposed rezoning. The responses questioned the consistency of the biodiversity corridors identified in CPHR's letter with the regional biodiversity corridors identified in the Hunter Regional Plan 2041. The letters detailed consistency with Ministerial Direction 3.1 Conservation Zones stating that the proposed C2 zone preserved ecologically sensitive land and maintained the exhibited zoning scheme.

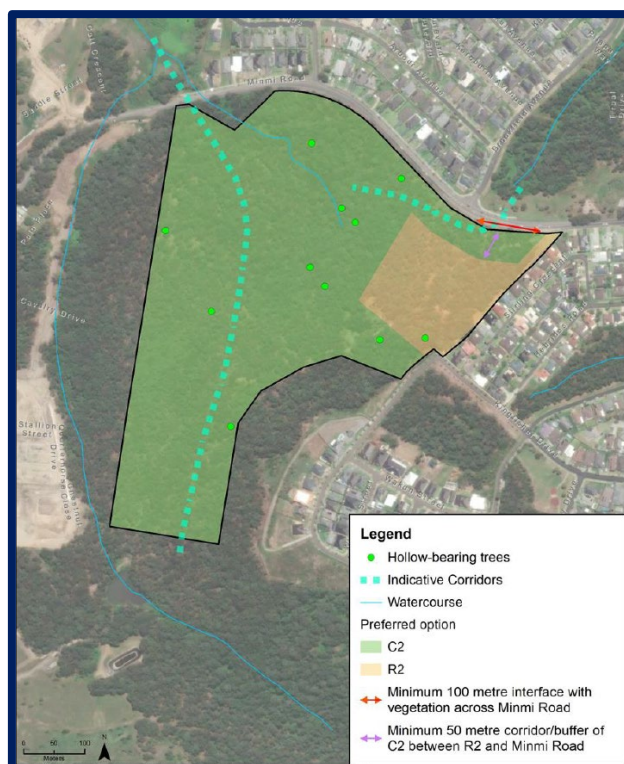
On 9 May 2025, CPHR provided comments (**Attachment R**) confirming their issues remained outstanding and included a recommended indicative zoning scheme (**Figure 4**) for the site that would address their outstanding issues. The exhibited scheme identified approximately 49% of the site as C2 zoning. CPHR's revised indicative zoning scheme identifies approx. 87% of the site as C2 zoning.

The proponent was required to confirm whether they would amend the proposal in accordance with CPHR's revised indicative zoning scheme.

On 13 May 2025, the proponent confirmed they agreed the post-exhibition changes that would result in a reduction of the dwelling yield on the site to approximately 39 dwellings to align with CPHR's recommended indicative zoning scheme.

### *Department response*

The Department considers the proponent's agreed post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings to align with CPHR's recommended indicative zoning scheme adequately addresses the biodiversity issues with the proposal – this is discussed further in **Section 3.3.2 of this report**. This consultation with CPHR occurred under Section 3.25 of the Act.



**Figure 4: CPHR recommended indicative zoning scheme (source: Conservation Programs, Heritage and Regulation)**

### NSW Environmental Protection Authority

In response to NSW EPA's submission during exhibition and subsequent IPC's Gateway review recommendation, the proponent provided:

- a Preliminary Site Investigation (**Attachment S**);
- a Detailed Site Investigation Report reviewed by a NSW EPA Accredited Auditor (**Attachment T**);
- a Noise and Vibration Assessment (**Attachment U**);
- a Air Quality and Impact Assessments (**Attachment V**); and
- a Water Management Strategy (**Attachment W**).

### Land Contamination Site Investigation

The NSW EPA reviewed the Preliminary Site Investigation and the Detailed Site Investigation and accompanying Site Audit Statement and Site Audit Report. The EPA confirmed in their advice (**Attachment X**) that further investigation can occur at the development application stage, including the auditor also outlines the following remains necessary before the land is suitable for the proposed use:

- Preparation of a Remediation Action Plan (RAP) and unexpected finds protocol (UFP) for the remediation/management of the contamination identified. The RAP and UFP should be prepared following finalisation of the development details and implemented during the site remediation and development works.
- Undertake remediation of former mine shafts/entries and voids (via grouting or excavation) such that the pathways are removed, or significantly reduced.
- Review of ground gas risk assessment once development details are known. If the mine workings are not remediated, a CS2 classification would require consideration, potentially including gas protection design.

- Preparation of a validation report documenting the revised ground gas risk assessment and successful remediation of the site.
- Preparation of a Section A Site Audit Statement by an NSW EPA accredited site auditor confirming the suitability of the site for the intended use prior to occupation of any development.

On 23 May 2025, Council provided comments on the Detailed Site Investigation Report (**Attachment Y**) Council noted that gas protection measures should be avoided if possible, as they would impose an additional cost on each residential development (both in terms of application assessment and installation) as well as increasing liabilities and risks for Council and future owners/occupiers. Council also outlined that further consideration may include:

- confirmation that mine workings remediation can mitigate ground gas risks; and
- confirmation from an environmental consultant with site auditor signoff that residual risks are low enough to avoid gas protection measures.

On 23 May 2025, responded to Council confirming its previous advice remained accurate and did not require revision.

#### *Department's Response*

Noting NSW EPA's advice, the Department is satisfied that the planning proposal has adequately resolved these issues which can be adequately resolved through the development application process – see **section 4.1.2 of this report** for further discussion.

#### Noise and Vibration Assessment and Water Management Strategy

In response to the noise and vibration assessment, the air quality and impact assessments and the water management strategy the EPA provided a further response, including:

*'Before approving to amend the NLEP, consult with Council about the future use of the approved non-putrescible landfill cell closest to the Proposal area and its remaining capacity in tonnes to receive waste.*

*If Council is proposing to use the non-putrescible landfill cell in the future, the EPA recommends completing the following noise, vibration and air quality assessments (the air quality assessment should include air dispersion modelling) using noise and air emission data from similar size non-putrescible landfills to:*

- *consider impacts from existing SWMC including the approved non-putrescible landfill cell*
- *on the Proposal area; and*
- *inform buffer distances, design choices and mitigation measures.'*

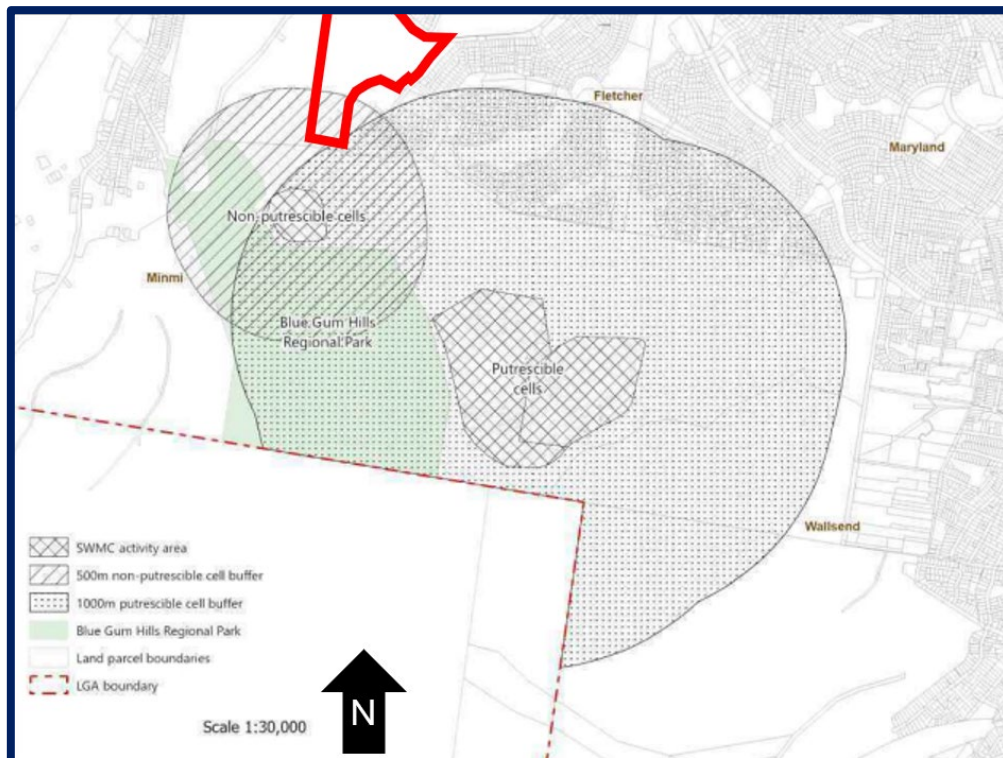
On 24 April 2025, Council confirmed:

- that the non-putrescible landfill cell is highly likely to be used within the medium to longer term as part of broader waste management operations; and
- that to reduce the potential land use conflict that potentially limits future operations, Council's DCP establishes a 500-metre buffer zone around the non-putrescible landfill cell.

Council does not support any additional residential development from encroaching within the buffer zone (**Figure 5**).

#### *Department's Response*

The Department considers that the proponent's agreed post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings (see **Section 3.3.2 of this report**) adequately resolves outstanding noise and odour issues with the proposal residential development beyond the 500m non-putrescible landfill buffer zone of the SWMC.



**Figure 5: Council's DCP – 500m Non-Putrescible Cell Buffer – the site highlighted red (source: Council's Development Control Plan 2012).**

### NSW Rural Fire Service

In response to the post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings, an updated bushfire risk assessment report (**Attachment Z**) was prepared by the proponent.

Additional consultation was undertaken with the NSW Rural Fire Service (RFS) to confirm compatibility with bushfire hazards.

On 20 June 2025, the RFS provided a submission (**Attachment L**) confirming that bushfire risks could be further considered and adequately resolved through the development application process - see section **4.1.2 of this report** for further discussion.

## 3.3 Post-exhibition changes

### 3.3.1 Proponent's agreed changes

On 7 March 2025, the proponent provided the latest version of the planning proposal (**Attachment A-A12**) which included minor amendments to the exhibited planning proposal seeking to respond to community, agency and IPC feedback.

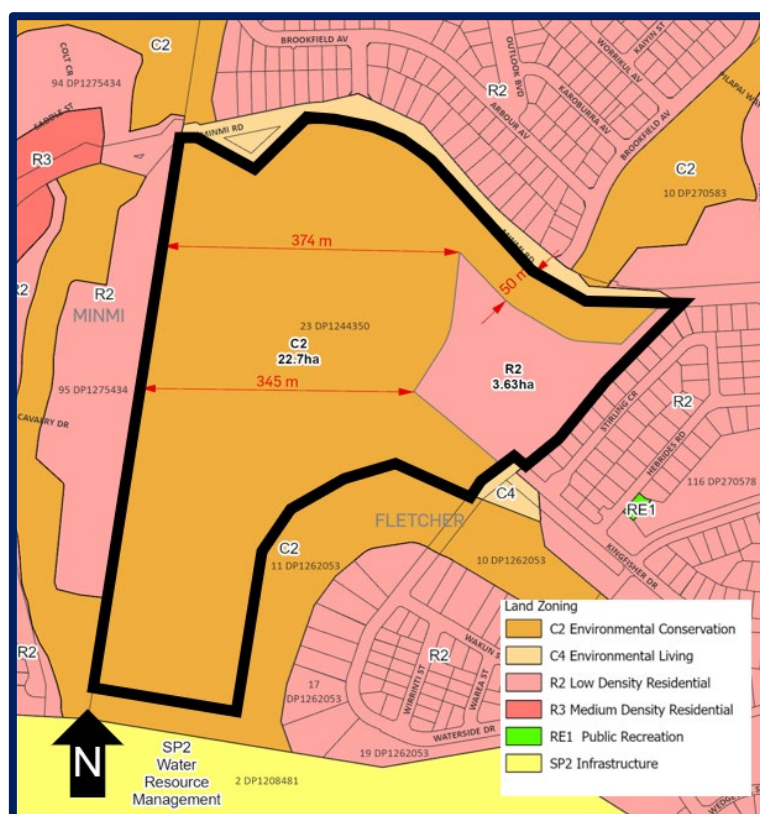
### 3.3.2 The Department's recommended changes

On 13 May 2025, the proponent agreed to proceed with post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings in accordance with the recommended changes by CPHR (**Figure 6**), including:

- removing the proposed western R2 zoning and replacing with a C2 zoning;
- retaining the eastern residential land but providing a 50m wide wildlife corridor along the northern portion of the site immediately adjoining Minmi Road; and
- removing the proposed east/west link road.



On 20 May 2025, CPHR confirmed that the revised zoning map reflecting the post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings (**Figure 6**) adequately addresses their recommended indicative zoning scheme.



**Figure 6: Revised zoning map reflecting post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings with biodiversity buffer dimensions (source: Barr Planning)**

### 3.3.3 Justification for post-exhibition changes

The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwelling are appropriate, with the proposal not requiring re-exhibition, because:

- they appropriately respond to issues raised in community and agency submissions, including the additional post-exhibition consultation – see **Sections 3.2 and 3.3 of this report** for further assessment;
- they responds to outstanding matters identified in the Gateway determination – see **Section 4.1 of this report** for further assessment; and
- they do not result in additional environmental impacts than the exhibited planning proposal, including by:
  - reducing the dwelling yield from approximately 140 dwellings to approximately 39 dwellings;
  - increasing the proposed C2 zoned area from 12.98ha (approx. 49% of site area) to 22.7ha (approx. 87% of the site area); and
  - retaining the exhibited built form planning controls that support the R2 zoning to be retained.



## 4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination community and agency consultation and post-exhibition agency consultation.

The following reassesses the post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

The Gateway assessment identified issues that remained outstanding, including:

- Potential land use conflicts with current and future operations of the SWMC
- Unresolved biodiversity issues.
- Unresolved Section 9.1 Ministerial Directions.
- Feedback from government agencies.

The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings recommended for finalisation by the Department are:

- consistent with the Gateway Determination conditions.
- consistent with the regional and district plans relating to the site.
- consistent with the Council's Local Strategic Planning Statement.
- consistent with all relevant Section 9.1 Directions.
- consistent with all relevant SEPPs.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1

**Table 3 Summary of strategic assessment**

	Consistent with Gateway determination report Assessment	
Regional Plan	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1

**Table 4 Summary of site-specific assessment**

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

## 4.1 Detailed assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

### 4.1.1 Consistency with Hunter Regional Plan 2041

The Gateway Determination report noted that consistency was yet to be demonstrated with certain objectives of the Hunter Regional Plan 2041 (the plan) and that the planning proposal needed to be updated to include assessment against the plan.

The relevant objectives and strategies which were considered unresolved during the Gateway assessment (as altered) are discussed in further in **Table 5** below:

**Table 5 Summary of unresolved Hunter Regional Plan 2041 objectives and strategies**

Hunter Regional Plan 2041 section	Assessment
Strategy 3.1: Planning proposals that propose a residential, local centre or commercial centre zone will not prohibit certain uses.	The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings seeks to zone part of the site R2 – utilising the existing zoning in the NLEP 2012. Though this zone does prohibit certain land uses identified in the Plan, this is justified to ensure the permitted land uses are consistent with surrounding residential development.
Strategy 6.3: Planning proposals will ensure the biodiversity network is protected within an appropriate zone unless an alternative zone is justified following application of the avoid, minimise offset hierarchy.	<p>The Gateway assessment (as altered) identified consistency with this strategy remained unresolved subject to further consultation with Biodiversity Conservation Division (now CPHR).</p> <p>As discussed in <b>Section 3.2 of this report</b> - consultation during and post-exhibition was undertaken with Biodiversity Conservation Division (now CPHR) to ensure the proposal adequately responded to biodiversity impacts and the avoid, minimise, offset hierarchy.</p> <p>The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings responds to this consultation by increasing the C2 zoning from approx. 49% to approx. 87% on the site, protecting ecologically significant biodiversity and wildlife corridors on the site – see <b>Section 4.1.2 of this report</b> for further discussion.</p>
Strategy 6.4: Planning proposals should promote enterprises, housing and other uses that complement the biodiversity, scenic and water quality outcomes of biodiversity corridors. Particularly, where they can help	<p>As discussed in <b>Section 3.2 of this report</b> - consultation during and post-exhibition was undertaken with Biodiversity Conservation Division (now CPHR) to ensure the proposal adequately responded to biodiversity impacts and the avoid, minimise, offset hierarchy.</p> <p>The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings are consistent with Strategy 6.4 of the Plan because, this change responds to this consultation with</p>

Hunter Regional Plan 2041 section	Assessment
safeguard and care for natural areas on privately owned land.	<p>CPHR by increasing the C2 zoning from approx. 49% to approx. 87% of the site's area, protecting ecologically significant biodiversity and wildlife corridors on the site – see <b>Section 4.1.2 of this report</b> for further discussion.</p> <p>The proposed residential density on the site is appropriate in its surrounding context of residential development, ecologically significant land and nearby SWMC. The residential development facilitates a community title management arrange for the C2 zoned land or an acquisition of this land by Council as expressed in its February 2025 resolution.</p>
Strategy 7.5: Planning proposals will protect sensitive land uses from sources of air pollution, such as major roads, railway lines and designated freight routes, using appropriate planning and development controls and design solutions to prevent and mitigate exposure and detrimental impacts on human health and wellbeing.	<p>The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings is now consistent with Strategy 7.5 of the Plan, because they remove parts of the site that were proposed during exhibition to be zoned R2 which were within buffer zones to the SWMC – see <b>Section 4.1.2 of this report</b> for further discussion.</p>
Optimal Density - The Plan is seeking a mix of densities in terms of the urban and suburban context, and has proposed minimum and desired dwelling density targets within urban and suburban contexts that will be implemented through local strategic planning. As such, this optimal density is not mandated for planning proposals.	<p>The Gateway determination required that further consideration be given to appropriate zone boundary configuration and development controls to achieve a more optimal density and diversity of housing typologies up to four stories if this will lead to an increase in the amount of the site reserved for conservation.</p> <p>In response to consultation with agencies during and post-exhibition, the post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings increase the C2 zoning from approx. 49% to approx. 87% of the site's area.</p> <p>The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings are consistent with this aspiration of the Plan, because:</p> <ul style="list-style-type: none"> <li>• the 300m<sup>2</sup> minimum lot size on this part of the site was exhibited;</li> <li>• the R2 zoning provides for a diversity of residential development typologies including dual occupancies and semi-detached dwellings;</li> <li>• the supporting development standards for the R2 zoning respond appropriately to the onsite biodiversity significance and surrounding residential zoned land; and</li> <li>• were these standards to be increased the need to re-exhibit the proposal would likely be necessary with the Gateway LEP completion date recommended by the IPC not being satisfied.</li> </ul>

It is noted that at the time of the lodgement of the planning proposal, the site was identified as a housing release area by the Newcastle Local Strategic Planning Statement (LSPS 2020). A Council resolution in December 2020 resulted in an amendment to the LSPS in 2021 to identify the subject land for environmental and open space purposes. The land continues to be identified for residential purposes by the Plan.

#### 4.1.2 Consistency with Section 9.1 Ministerial Directions

As part of the Gateway assessment (as altered), the proposal's consistency with certain Section 9.1 Ministerial Directions was unresolved and requiring justification, including:

- 1.1 Implementation of Regional Plans
- 3.1 Conservation Zones
- 3.2 Heritage Conservation
- 4.1 Flooding
- 4.3 Planning for Bushfire Protection
- 4.4 Remediation of Contaminated Lands
- 4.6 Mine Subsidence and Unstable Land
- 5.1 Integrating Land Uses and Transport
- 6.1 Residential Zones

The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings are consistent with these unresolved Section 9.1 Ministerial Directions as discussed in further detail below:

##### 1.1 Implementation of Regional Plans

The Gateway Determination report noted that consistency was yet to be demonstrated requiring an assessment against the Hunter Regional Plan 2041.

The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings are consistent with Ministerial Direction 1.1 Implementation of Regional Plans, because the planning proposal dated March 2025 includes an assessment against the Hunter Regional Plan and gives effect to the objectives of this plan, including:

- Strategy 3.1: Planning proposals that propose a residential, local centre or commercial centre zone will not prohibit certain uses; and
- Strategy 6.4: Planning proposals should promote enterprises, housing and other uses that complement the biodiversity, scenic and water quality outcomes of biodiversity corridors. Particularly, where they can help safeguard and care for natural areas on privately owned land.

This consistency with the Plan is discussed further in **Section 4.1.1 of this report**.

##### 3.1 Conservation Zones

The objective of this direction is to protect and conserve environmentally sensitive areas and applies when preparing a proposal.

This direction requires a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.

The Gateway Determination report noted that consistency was yet to be demonstrated and that consistency could be assessed following consultation with CPHR.

The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings are consistent with Direction 3.1 Conservation Zones, because they align with CPHR's recommended indicative zoning scheme which increases the provision of land to be protected by a C2 zoning from approx. 49% to approx. 87% of the site's area, which allows for:

- protecting the site's functions as an important sub-regional corridor linking Blue Gum Hills Regional Park and the Hexham Wetlands National Park and other local conservation reserves to the Sugarloaf State Conservation Area, including for Koalas and Squirrel Gliders;
- providing adequate corridor widths to support the site's functions as a sub-regional corridor, including to adequately mitigate edge effects that can degrade the condition and integrity of the corridor;

- adequately avoiding and minimising impacts to high ecological value land, including the Endangered Ecological Community (EEC) Lower Hunter Spotted Gum Ironbark Forest;
- facilitating the future biodiversity certification of the site; and
- continuing to allow Council to pursue the acquisition of the C2 zoned land through appropriate mechanisms as identified in its February 2025 resolution and its subsequent letter dated 7 March 2025.

Alternatively, appropriate private management mechanisms can be suitably explored and appropriately regulated through the development application process.

### 3.2 Heritage Conservation

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance and applies when preparing a proposal.

This direction requires a planning proposal must contain provisions that facilitate the conservation of Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority.

The Gateway Determination report noted that consistency was yet to be demonstrated noting that Heritage NSW and Awabakal Local Aboriginal Land Council (LALC) be consulted and an updated Aboriginal cultural heritage assessment be prepared to account for changing legislation or circumstances.

The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings are consistent with Ministerial Direction 3.2 Heritage Conservation, because:

- though no response has received from Awabakal LALC, the Aboriginal Cultural Heritage Report (ACHR) was prepared in collaboration with the Awabakal LALC with Heritage NSW raising no objections;
- the ACHR concludes:
  - that based on the archaeological results and associated heritage values, there is no impediment to the Project Area being rezoned;
  - aboriginal sites AFT-02, 'Area 2', AFT-03, 'Area 3' and 38-4-0555 area located in the proposed C2 zoning; and
  - a Potential Archaeological Deposit located on site is within the proposed C2 zoned land.
- it is also noted that Heritage NSW requested an Aboriginal Heritage Impact Permit (AHIP) be required prior to ground disturbance. This request for an AHIP can be appropriately addressed through the development application process.

### 4.1 Flooding

The objectives of this direction are to:

- ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
- ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.

This direction requires a planning proposal must include provisions that give effect to and are consistent with the NSW Flood Planning Framework.

The Gateway Determination report noted that consistency was yet to be demonstrated noting the Department was not in a position to determine consistency with this direction until the proposal had been updated to consider the findings of the 2022 NSW Flood Inquiry.



The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings are consistent with Ministerial Direction 4.1 Flooding, because the proponent's FA, which has been reviewed by CPHR and DPHI's Chief Engineer with no outstanding flooding concerns raised, adequately demonstrates the proposals compatibility with flood hazards, including:

- flooding affectation of the proposed residential development at the Probable Maximum Flood as being a flood hazard category of H1. The NSW Flood Planning Framework identifies no restrictions or risks to development or people at a H1 category.  
It is noted that limited areas of higher hazards are mapped in localised areas within the residential land, however these are contained to areas where post development model assumptions may have created artificial trapped low points which can be resolved through the development application process; and
- stormwater detention basin attenuation is capable of adequately addressing the resulting increase in runoff from additional impervious areas through the development application process.

#### **4.3 Planning for Bushfire Protection**

The objectives of this direction include to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas.

This direction includes requirements that a planning proposal must have regard to Planning for Bushfire Protection 2019 and introduce controls that avoid placing inappropriate developments in hazardous areas.

The Gateway Determination report noted that consistency was yet to be demonstrated requiring consultation with the RFS.

The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings are consistent with Ministerial Direction 4.3 Planning for Bushfire Protection, because the RFS has not raised any objections with further matters to be addressed during the development application process.

It is noted that the proposal was not referred following Gateway and prior to exhibition to RFS for comment. Nonetheless, this inconsistency is considered justifiable with the terms of this direction because the RFS has been consulted during and post-exhibition with no objections raised.

#### **4.4 Remediation of Contaminated Lands**

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

This direction requires a PPA must not include in a particular zone any land to which this direction applies if the inclusion of the land in that zone would permit a change of use of the land, unless:

- the planning proposal authority has considered whether the land is contaminated, and
- if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and
- if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.

In order to satisfy itself as to paragraph 1(c), the planning proposal authority may need to include certain provisions in the local environmental plan.

The Gateway Determination required an update land contamination report to be prepared by an EPA accredited Environmental Auditor.

As noted in **Section 3.2 of this report**, the proponent has now prepared additional land contamination investigations, including a Detailed Site Investigation Report reviewed by a NSW EPA Accredited Auditor.

The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings are consistent with Ministerial Direction 4.4 Remediation of Contaminated Lands, for reasons including:

- the site auditor has concluded that these investigations were appropriate and in compliance with current regulations and guidelines, demonstrating appropriate conclusions including:
  - the site can be made suitable for the intended residential use subject to the preparation of a Remediation Action Plan (RAP) and unexpected finds protocol (UFP) for the remediation/management of the contamination identified.

The RAP and UFP should be prepared following finalisation of the development details and can be appropriately regulated through the development application process with implemented during development works;

- undertake remediation of former mine shafts/entries and voids (via grouting or excavation) such that the pathways are removed, or significantly reduced.
- the NSW EPA hasn't raised any concerns with the investigations nor required any site specific LEP provisions to ensure adequate remediation of the site. Further consultation with NSW EPA was undertaken and it was confirmed that these matters can be adequately addressed prior to development.

It is also noted that these site auditor conclusions were reviewed by the NSW EPA with no concerns raised.

- the proposal applies existing Urban Release Area LEP clause which requires a DCP prior to development consent. This clause requires such a DCP to address '*amelioration of natural and environmental hazards, including bush fire, flooding and site contamination...*'.

Council is responsible for preparing this DCP and would have control over the extent of remediation required in the context of the *Contaminated Land Management Act 1997*, *State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land* and existing EPA Guidelines. This existing provision would give visibility to any specific remediation works required for the site which can then be addressed through the development application process.

This can include adequately addressing potential ground gas risks and resolve the appropriateness of any gas protection measures if necessary;

- the *Contaminated Land Management Act 1997*, *State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land* and existing EPA Guidelines provide adequate safeguards to ensure the remediation required for the site is appropriately undertaken; and
- the former mine workings and shafts are found on a limited southern portion of the proposed residential zoned land.

#### 4.6 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.

Requirements of this direction include:

- consult Subsidence Advisory NSW to ascertain if Subsidence Advisory NSW has any objection to the draft local environmental plan;

- incorporate provisions into the draft Local Environmental Plan that are consistent with the recommended scale, density and type of development, and
- include a copy of any information received from Subsidence Advisory NSW prior to undertaking community consultation.

The Gateway Determination report noted that consistency was yet to be demonstrated requiring a referral to Subsidence Advisory NSW.

The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings are consistent with Ministerial Direction 4.6 Mine Subsidence and Unstable Land, because:

- Subsidence Advisory NSW was consulted and identified that any mine remediation works can be resolved at the development application stage. This will include further consultation with Subsidence Advisory NSW on further geotechnical investigations; and
- Subsidence Advisory NSW advice was included as part of the proposal's exhibition package.

### **5.1 Integrating Land Use and Transport**

The objectives of this direction include improving access to housing, jobs and services by walking, cycling and public transport.

The Gateway Determination report noted that consistency was yet to be demonstrated requiring a referral to Transport for NSW.

The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings are consistent with Ministerial Direction 5.1 Integrating Land Use and Transport, because TfNSW was consulted confirming that modification to the signal phasing at the Minmi Road / Woodford Street intersection is proposed to mitigate development traffic. Augmentation of these works is to be undertaken through a Works Authorisation Deed (WAD) process associated with any future development application for subdivision.

### **6.1 Residential Zones**

The objectives of this direction include encouraging a variety and choice of housing types to provide for existing and future housing needs.

This direction includes a requirement that a planning proposal contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).

The Gateway Determination report noted that consistency was yet to be demonstrated however, it noted that the proposed R2 zoning provides flexibility in housing choice

The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings are consistent with Ministerial Direction 6.1 Residential Zones, because:

- relevant utility and infrastructure providers were consulted and did not raise concerns with the proposal; and
- the revised proposal facilitates a residential development below the 110 lots/dwellings anticipated in Council's contributions plans for the site.

## **4.1.3 Consistency with State Environmental Planning Policies**

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The Gateway Determination report noted that consistency was yet to be demonstrated with State Environmental Planning Policy (Biodiversity and Conservation) 2021. The Gateway Determination Report noted that further consultation should be undertaken with CPHR, focusing on the location of the proposed zoning boundaries and connectivity of the conservation land with the surrounding area.

As discussed in **Section 3 of this report**, the post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings have been prepared in accordance with CPHR's revised scheme.

The revisions in response to CPHR's feedback adequately address the requirements of State Environmental Planning Policy (Biodiversity and Conservation) 2021 for reasons including those discussed in **Section 4.1.2 of this report**.

### **State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land**

The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land.

As discussed in **Section 4.1.2 of this report**, the land contamination investigations supporting the proposal consider the site can be made suitable for the intended residential use subject to remediation works.

Chapter 4 includes detailed provisions regulating the assessment and remediation of contaminated land through the development application process. It is considered that a future development application for residential development on the site will be required to demonstrate adequate remediation will occur which can be regulated through a development consent in accordance with the SEPP's and other relevant legislation's requirements. This remediation can then be implemented through the development works processes in accordance with relevant conditions of consent issued by the consent authority.

#### **4.1.4 Consistency with Environmental Impacts**

The Gateway Determination report required further consistency to be demonstrated with the Environmental Protection and Biodiversity Act 1999 and to provide assessment against possible noise, odour and water quality impacts associated with the proposal.

As discussed in **Section 3.2.3 of this report**, updated assessment reports against noise, odour and water quality were provided during the post-exhibition period to NSW EPA for review. The Department is satisfied that the proposal now satisfies the requirements of the Gateway Determination report.

#### **4.1.5 Consistency with Gateway Conditions**

The post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwelling adequately addressed all Gateway conditions (as altered) which is discussed in **Attachment AA – Gateway conditions 1f, 2 and 4** are discussed in further detail below:

##### **Consistency with Gateway Condition 1f – include an updated site contamination investigation that is verified by an EPA accredited Environmental Auditor**

The Department considers this condition of Gateway Determination to be resolved, because an updated land contamination investigation package that is verified by an EPA accredited Environmental Auditor has been provided which adequately demonstrates the site can be made suitable for the intended residential uses - see **Section 4.1.2 of this report** for further discussion.

##### **Consistency with Gateway Condition 2 – Prior to approving for finalisation, the planning proposal should clarify the probable maximum flood event peak flood depths and level contours as well as peak flood velocities and volumetric check analysis of potential loss of flood storage where fill is proposed**

The Department considers this condition of Gateway Determination to be resolved, because the proponent submitted a FA that adequately demonstrates the post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings compatibility with flooding on the site - see **Section 4.1.2 of this report** for further discussion.

**Consistency with Gateway Condition 4 – Following consultation with relevant public authorities listed in Condition 3, consider an appropriate zone boundary configuration and development controls to achieve a more optimal density and diversity of housing typologies up to four stories if this will lead to an increase in the amount of the site reserved for conservation.**

The Department considers this condition of Gateway determination to be resolved, because:

- the post-exhibition changes to reduce the dwelling yield on the site to approximately 39 dwellings increases the amount of land protected by the C2 zoning from approx. 49% at exhibition to approx. 87% in response to CPHR's submissions;
- the exhibited 300m<sup>2</sup> minimum lot size on this R2 part of the site has been retained;
- the R2 zoning provides for a diversity of residential development typologies including dual occupancies and semi-detached dwellings;
- the supporting development standards for the R2 zoning respond appropriately to the onsite biodiversity significance and surrounding residential zoned land; and
- were these standards to be increased the need to re-exhibit the proposal would likely be necessary with the Gateway LEP completion date recommended by the IPC not being satisfied.

## 5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

**Table 6 Consultation following the Department's assessment**

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Four maps ( <b>Attachment LEP</b> ) have been prepared by the Department's ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Planning Secretary	On 13/06/2025, Planning Secretary has been consulted on the draft instrument as the PPA in accordance with section 3.36 of the Act.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

## 6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP as amended under clause 3.36(2)(a) of the Act because:

- the draft LEP has strategic merit being consistent with the Hunter Regional Plan 2041 and Section 9.1 Ministerial Directions;
- it has resolved outstanding issues identified in the Gateway determination; and
- issues raised during consultation have been addressed, including no outstanding agency objections.





Alexander Galea  
Manager, Planning Proposal Authority  
Date: 16 June 2025



Louise McMahon  
Director, Planning Proposal Authority  
Date: 17 June 2025

Assessment officer

Pat Connor  
Senior Planning Officer, Planning Proposal  
Authority  
8275 1191

## Attachments

Attachment	Document
LEP	LEP Maps – June 2025
Map Comparison	Mapping (Existing, Exhibited and Post-Exhibition Changes)
A-A12	Planning Proposal – March 2025
B	Gateway Determination – January 2023
C	Gateway Determination Alteration LEP Completion Extension – March 2024
D	Gateway Determination Alteration Do Not Proceed – July 2024
E	Independent Planning Commission Recommendation – December 2024
F	Gateway Determination Alteration Proceed – February 2025
G	Community submissions (redacted)
H	Response to Community Submissions
I	Agency submissions received during public exhibition
J	Response to Agency Submissions (during and post-exhibition)
K	Council Letter – 7 March 2025
L	Agency feedback post-exhibition

Attachment	Document
M	CPHR Response to Planning Proposal – 2 April 2025
N	Proponent Flood Impact Assessment Report – 8 April 2025
O	CPHR Response to Flood Impact Assessment Report – 15 April 2025
P	Proponent Response to CPHR Request for Information – 8 April 2025
Q	Proponent Response to CPHR Request for Information – 17 April 2025
R	CPHR Final Comments on Planning Proposal – 9 May 2025
S	Preliminary Site Investigation – March 2025
T	Detailed Site Investigation – April 2025
U	Noise and Vibration Assessment – April 2025
V	Air Quality and Impact Assessments – April 2025
W	Water Management Strategy – April 2025
X	Council comments and EPA Advice on Land Contamination Report – May 2025
Y	Council Comments on Detailed Site Investigation Report – 23 May 2025
Z	Updated Bushfire Risk Assessment Report – May 2025
AA	Assessment against Gateway conditions
AB	CPHR Confirmation of Indicative Zoning Scheme – 20 May 2025