

SUBJECT: *PLANNING PROPOSAL TO REZONE LAND AT GINGERS LANE, SAWYERS GULLY*

RESPONSIBLE OFFICER: *Senior Strategic Planner - Robert Corken
Strategic Planning Manager - Martin Johnson*

SUMMARY

Council has received a planning proposal to rezone land at Gingers Lane, Sawyers Gully from RU2 Rural Landscape to R5 Large Lot Residential, R2 Low Density Residential and E3 Environmental Management.

The area is part of the broader Sawyers Gully Investigation Area identified in the recently adopted Urban Growth Management Plan (UGMP). The UGMP calculates the amount of existing, zoned residential land across Cessnock and sets out a process and principles to rezone the nominated investigation areas.

The main criterion is that land supply in the category is at or below 15-years. This supply level is reviewed and published each year. The current supply levels for the Established Urban category is 18-years. Therefore, the rezoning of the site is not supported at this stage. However, when the threshold for the Established Urban category reaches 15-years, the investigation of the entire area will be supported.

Application number	18/2021/2/1
Proposal	Sawyers Gully Planning Proposal
Property description	Lot 2721, DP1104897 Lot 276, DP 755231 Lot 277, DP 755231 Lot 275, DP 755231 Lot 274, DP 755231 Lot 2732, DP 884423 Lot 2731, DP 884423 Lot 2722, DP 1104897 Lot 1, DP 308003 Lot 2, DP 314641 Lot 1, DP 371151 Lot 1, DP 663726 Lot 1, DP 345294 Lot 10, DP 710071 Lot 11, DP 710071 Lot 280, DP 755231 Lot 281, DP 755231 Lot 282, DP 755231 Lot 283, DP 755231
Property address	156 Frame Drive; 19, 59, 71, 101, 107, 131 & 133 Metclafe Lane; 15, 27, 37 & 43 Sawyers Gully Lane; and 40, 52, 60, 72, 102, 152 & 176 Gingers Lane, Sawyers Gully, NSW
Proponent	Perception Planning

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Current Zone	RU2 Rural Landscape
Proposed Zone	R5 Large Lot Residential, R2 Low Density Residential and E3 Environmental Management.

RECOMMENDATION

1. That Council does not support the planning proposal to rezone land at Gingers Lane, Sawyers Gully at this time.
2. That Council invite the proponents to recommence investigation of the Sawyers Gully Investigation Area in accordance with the UGMP Principles once the published threshold for the Established Urban category reaches 15-years.

BACKGROUND

On 22/06/2021, Council received a Planning Proposal to rezone the listed lots from RU2 Rural Landscape to R5 Large Lot Residential, R2 Low Density Residential and E3 Environmental Management. The lots affected by the Planning Proposal are identified in **Figure 1**.

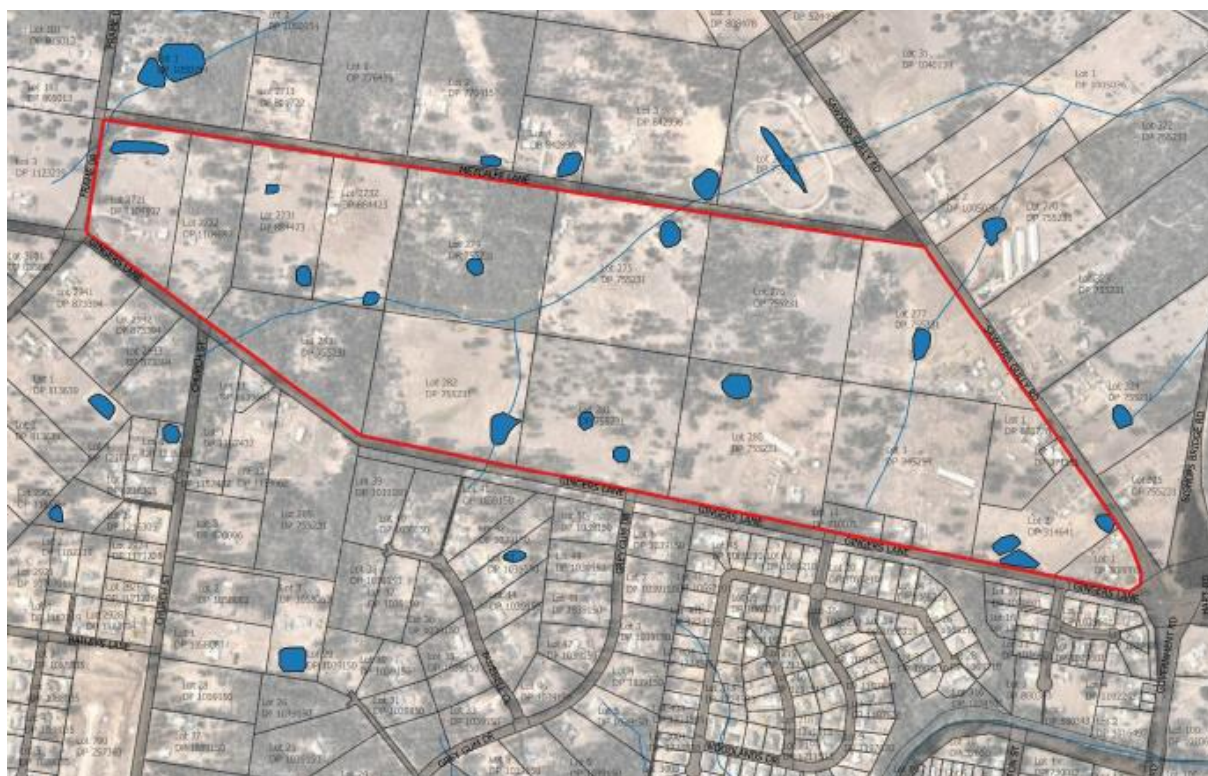


Figure 1: Approximate land application area of the Planning Proposal.

Council adopted the Urban Growth Management Plan (UGMP) in March 2021. The purpose of the UGMP is to quantify the amount of existing zoned, residential land currently available across Cessnock and to provide a mechanism for new land reserves to be brought online in a logical, sequential manner. This process encourages a more efficient provision and funding of infrastructure; it provides certainty to the development industry about the timing and location

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of new land reserves and ensures that Council continues to provide new areas to house its growing population.

The UGMP accommodates different lifestyle aspirations across the Local Government Area (LGA) by defining three lifestyle categories:

1. Established Urban (the areas between Bellbird and Kurri Kurri along the Cessnock Road Corridor)
2. Commuter Urban (the areas along the Hunter Expressway) and
3. Village Lifestyle (areas of large lot residential and the extension of certain villages).

Council has committed to maintain a 10-15 year supply in each of these categories and has nominated investigation areas in each. The 10-15 year supply threshold ensures that supply pipeline remains active with sufficient time to investigate, rezone and deliver new land supplies in different areas across the LGA.

The supply thresholds are published in the Annual Monitoring Report each financial year. This iterative approach allows Council and the development industry to monitor how supply and demand changes from year-to-year and allows Council and the development industry to respond very quickly to changes in demand and/or supply.

The events of the last 18 months and the growth spike that proceeded the pandemic may be indicative of a new long-term trend or it may be an aberration. Even if this trend is sustained, the UGMP can accommodate increased demand through the annual review process. Each year thresholds will be recalculated and if the supply in the Established Urban Category falls below 15 years, the UGMP supports the immediate investigation of new supplies to meet that demand.

The revised thresholds for 2020/2021 are:

Lifestyle Category	Years of supply
Established Urban	18 years
Commuter Urban	21 years
Village Lifestyle	12 years

The supply threshold for the Established Urban category has dropped by 2-years from 20 to 18 years of supply in less than 12-months and in the Commuter Urban category by 1.5 years. This illustrates that the higher demand is being reflected in the revised thresholds. Where demand is greater, the threshold will be reached more quickly. Where demand is lower, the threshold will take longer. The UGMP is therefore working as intended in that it is responsive – within the context of land supply and development timeframes – to changing market conditions.

REPORT/PROPOSAL

The purpose of the Planning Proposal is to amend the *Cessnock Local Environmental Plan 2011* (the LEP) to rezone the area from RU2 Rural Landscape to R5 Large Lot Residential, R2 Low Density Residential and E3 Environmental Management.

Section 3.3 of the *Environmental Planning and Assessment Act 1979* outlines the requirements to be included in a planning proposal and the justification for the proposal. This includes 'whether the proposed instrument will give effect to the Council's Local Strategic Planning Statement'. The documentation submitted by the proponent has been reviewed against key

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strategies adopted by Council including the Local Strategic Planning Statement and the UGMP. The proposal is inconsistent with three principles in the UGMP.

The UGMP lists 8 principles that must be satisfied by a proposal before it is advanced to a rezoning application (planning proposal). The first principle requires that the land supply, as calculated and published by Council, is at or below 15-years within that category. The subject site is within the Established Urban category within which there is currently 18-years of supply. Once Council reports in its Annual Monitoring Report that the supply level is at or below 15-years, the investigation of the nominated investigation areas may commence.

The proponent has employed REMPLAN, a demographic and economic consultancy to argue against DPIE's population projections and demonstrate that the supply of land is below the 15-year threshold. Key to REMPLAN's argument is that:

1. The 2020 Estimated Residential Population (ERP) of Cessnock was greater (+2,192 persons) than DPIE's forecast for 2021 which is 60,064.
2. The growth in Cessnock has been 0.4% greater than forecast 1.4% over the past 10 years.

REMPPLAN have then used the 2020 ERP with the higher growth rate (1.8%) and extrapolated the forecast forward to 2036 to arrive at a new forecast population. On this basis, they are arguing that land supply is less than the 15-year threshold.

The basis for the projections applied in the UGMP is the NSW Department of Planning, Industry and Environment's (DPIE) population projections. These projections have been independently developed by demographers incorporating best practice population projections methods. The primary method used is the Cohort-Component Method. This is widely considered the international gold standard for population projections. Furthermore, DPIE's population projections are based on analysis of historical trends from a range of data sources, any announced policies and local intelligence gained from consultation with regional local councils. They have consistently delivered long term reliabilities of plus or minus 3 percent for Regional NSW.

There is no doubt that the growth that has occurred in the Lower Hunter including Cessnock over the past couple of years is higher than has occurred in the preceding years. However, the unprecedented events that have occurred illustrates how important it is to rely on a longer term trends. It is not known if this is a new trend or an aberration.

Regardless of the differing forecasts, the UGMP can accommodate greater growth from year to year. Each year Council assesses the development that has occurred in the previous 12-months and deducts this from the existing land supply in each of the categories. A revised threshold is calculated and published each year. If growth is higher, the time it takes to reach the 15-year supply threshold is less. If growth in one or more categories is lower, the time to reach the trigger to investigate new reserves is longer.

The REMPLAN report also raises a number of other issues about the supply of land. These have been comprehensively discussed in the UGMP; however they are summarised again below.

One argument proposed is that despite land being zoned it may not necessarily mean that it is brought to market meaning that that supply is less. One of the objectives of the UGMP is to work with the development industry to overcome some of the challenges in bringing the existing land resources online. This is considered a more responsive and effective means to ensure

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land supply than simply rezoning additional quantities of land on the assumption that some of it may not get developed.

Another argument put forward by REMPLAN is that the UGMP is based on 600m² lots when the market is delivering lots that are greater than this. They quote that between 2015 – 2020 an estimated 78.9% of properties in Cessnock were larger than 600sqm. However, subdivision data from Council shows that in the 2020-2021 financial year, 46% of new lots were less than 600m² and a further 16% were between 600-800m².

The final arguments put forward by REMPLAN and the proponent are the previous local and State Government actions that support the rezoning of the site. They cite:

- the inclusion of the site in the former City Wide Settlement Strategy 2010 as an investigation area;
- the identification of the site in the Draft Lower Hunter Special Infrastructure Contributions Area map (SIC);
- Upgrade of the Hunter Waste Water Treatment Plant.

In response to these, the City Wide Settlement Strategy 2010 has been replaced by the LSPS, the final SIC document did not include the site. The upgrade of the Hunter Waste Water Treatment plant will mean that when the site is rezoned that this infrastructure issue will not be a constraint.

As discussed with the applicant on several occasions, the site has significant merit because it enjoys good access to infrastructure such as Gingers Lane, the Hunter Expressway and it adjoins an existing urban area. Therefore, it is likely to be the first stage of the larger Sawyers Gully Investigation Area to be rezoned in the future. The UGMP supports the future zoning of the site, it is a matter of timing however now is not the appropriate time. If growth in the established urban area remains high, then the time it takes to reach the 15-year threshold will be less and the proposal can then be considered.

The supply threshold is the primary reason for refusing the planning proposal. However, the proposal has not satisfied other important requirements of the UGMP. Principle 6 of the UGMP requires proponents to prepare a detailed structure plan for the entire investigation area. The principle requires that the structure plan address clause 6.3(3) of the *Cessnock Local Environmental Plan 2011* in sufficient detail to:

- inform the layout and logical sequencing of the infrastructure within the investigation area,
- inform a preliminary contributions framework to fund infrastructure and facilities, and
- consult with affected landowners, and
- publicly exhibit the structure plan in order to capture the views of the Sawyers Gully Community.

The proponents have submitted a structure plan but it does not satisfy the detail required by this UGMP principle. The structure plan is very high level and does not provide a sound basis to support the rezoning of the site or the precinct. There are requirements to provide:

- an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,

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- an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
- a network of passive and active recreational areas,
- detailed urban design controls for significant development sites,
- measures to encourage higher density living around transport, open space and service nodes,
- measures to accommodate and control appropriate neighbourhood commercial and retail uses, and
- suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.

None of the above requirements have been provided in sufficient detail to inform the holistic planning of the Sawyers Gully Urban Investigation Area. As an example; one significant omission from the structure plan is the lack of holistic planning relating to transport and traffic. The structure plan states that a traffic impact assessment will need to accompany each individual proposal. The Sawyers Gully Investigation Area is a highly dynamic area with changing conditions along Gingers Lane, its proximity to the Hunter Expressway and Loxford Interchange, the existing impacts on intersections with Cessnock Road and the development of the Hydro site. These are all issues that need to be comprehensively understood at the Urban Investigation Area level and not left to individual sites or precincts.

The planning proposal is supported by the following reports and studies:

- Preliminary ecological report
- Preliminary cultural heritage
- Contamination Assessment
- Bushfire assessment
- Traffic assessment
- Odour Report
- Drainage and Civil investigation.

These studies only relate to the Gingers Lane Precinct. Again, many of these studies need to consider the Gingers Lane Precinct within the context of the larger Sawyers Gully Investigation Area. Biodiversity, traffic and transport, recreation and open space and infrastructure all need to be considered for the whole of Sawyers Gully and should not be considered on a site by site basis. It is also an inefficient use of resources for all parties to carry out these studies on the basis of site ownership as most of the issues impact across the whole investigation area rather than being limited by ownership.

Finally, the draft Hunter Expressway Strategy (HEX Strategy) that was exhibited earlier this year identifies the Kurri Kurri and Loxford Interchanges as a regionally significant growth areas. The draft HEX Strategy requires development around the interchanges to be supported by a local strategy. No such local strategy exists for the interchange.

The future investigation and rezoning of the Sawyers Gully Investigation Area is strongly supported by Council's existing Strategic Planning Policy Framework when the 15 year supply threshold is reached and published in the Annual Monitoring Report. The comprehensive planning of the Sawyers Gully Urban Investigation Area may commence once this threshold is reached and supporting studies consider the entire investigation area. The Gingers Lane Precinct has significant merit as one of the first stages to be rezoned.

OPTIONS

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NIL

CONSULTATION

The area subject to the proposal contains almost 20 properties. The proponent owns a single parcel but has interests in several other properties.

A letter was sent to all affected property owners notifying them of the proposal and inviting them to contact council or to submit a response. This was not a formal consultation process. Most of the residents who provided submissions, supported the proposal. However several did not.

STRATEGIC LINKS

a. Delivery Program

3.1.1 Finalise Cessnock City Planning Strategy and commence implementation.

b. Other Plans

The following strategic planning documents are relevant to this proposal.

- Local Strategic Planning Statement 2036
- Urban Growth Management Plan
- Housing Strategy

Each of these strategies support the future investigation and rezoning of the Sawyers Gully Investigation Area for urban and other purposes. However, the UGMP requires that the supply for land within the established urban category is at or below the 15-year threshold before the proposal is supported by Council.

IMPLICATIONS

a. Policy and Procedural Implications

The adopted UGMP sets out the policy and procedure for commencing investigation of the investigation areas identified in the plan. The proposal is inconsistent with the UGMP. When the published supply threshold reaches 15-years, the proponent may recommence investigation the Sawyers Gully Investigation Area.

b. Financial Implications

Fees for the planning proposal have been charged in accordance with Council's Fees and Charges Schedule.

c. Legislative Implications

The proponent is entitled to request that an independent body review the decision of Council.

d. Risk Implications

This is the first application to challenge the adopted procedure for advancing investigation areas as set out in the Urban Growth Management Plan. If this application is supported, it will

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undermine the integrity of the Plan and provide precedence for other investigation areas to be advanced ahead of the procedure and supply thresholds being reached.

It is important that Council decision are consistent with adopted strategies and policies such as the UGMP and Local Strategic Planning Statement to maintain the integrity of the documents and provide certainty to developers that applications will be assessed in accordance with Council adopted strategies and policies.

e. Environmental Implications

NIL

f. Other Implications

NIL

CONCLUSION

The subject site has significant merit and is identified as an investigation area in the adopted UGMP. However, the UGMP sets out a procedure for when investigation of these nominated areas are commence. Each year, Council will report through its Annual Monitoring Report the supply thresholds for each of the three lifestyle categories. When the supply of existing zoned land reaches or is below the 15-year threshold, Council should consider advancing these investigation areas. The supply threshold for the established urban category is currently at 18 years. This is the primary reason for not supporting the planning proposal at this time. In addition, the proponents have not prepared an adequate structure plan and they have not undertaken a Social Impact Assessment. Therefore, the advancement of this planning proposal should not proceed at this time.

ENCLOSURES

- 1 Planning Proposal - Rezoning of land at Gingers Lane, Sawyers Gully (Provided Under Separate Cover)