

PLANNING PROPOSAL

Proposed amendment to Cessnock Local Environmental Plan 2011
Rezoning of Gingers Lane Precinct, Sawyers Gully, NSW, 2326

FILE NUMBERS

Council: To be provided following lodgement.

Department: To be provided at Gateway Determination.

SUMMARY



The Site:	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 (the site) (FIGURE 1) .
Legal Description:	A table is provided as (ATTACHMENT 1) .
Proponent:	Newquest Pty Ltd C/-Perception Planning Pty Lt
Proposed changes:	<ul style="list-style-type: none">• Amend the land-use zone from RU2 – Rural Landscape to:<ul style="list-style-type: none">▪ R5 – Large Lot Residential;▪ R2 – Low Density Residential; and▪ E2 – Environmental Conservation.• Amend the minimum lot size from 40ha to:<ul style="list-style-type: none">▪ 1,500sqm for the land to be zoned R5 – Large Lot Residential;▪ 450sqm for the land to be zoned R2 – Low Density Residential; and▪ 40ha for the land to be zoned E2 – Environmental Conservation• Identify the site as an Urban Release Area.
Area of land:	96 hectares (approximate)
Lot yield:	374 lots (ATTACHMENT 2)

BACKGROUND

The planning proposal seeks to amend the land-use zoning and minimum lot size to enable residential subdivision and environmental conservation.

The site is identified in the Cessnock Housing Strategy and Urban Growth Management Plan (UGMP) as an 'Future Investigation Area – Established Urban Release Areas'. The Cessnock Housing Strategy and the UGMP were adopted by Cessnock City Council on 17 March 2021.

The Cessnock Urban Growth Management Plan identifies eight planning principles that will need to be satisfied in order for an investigation area to be progressed (p.15). These principles and a brief response in relation to this planning proposal are provided under Part 3 - Justification. In short:

1. The RemPlan Report identifies that the land supply is below the 15-year supply threshold. 
2. The site is identified within the 'Future Investigation Area - Established Urban Release Areas' at Sawyers Gully.
3. Consistency of the proposal with the relevant priorities and principles of the Cessnock Local Strategic Planning Statement (LSPS) is provided later in this document under Part 3 – Justification.
4. The site is located in the Maitland Growth Corridor as identified in the Greater Newcastle Metropolitan Plan.
5. This planning proposal has been prepared with consideration to servicing advice provided by Hunter Water (**ATTACHMENT 4**).
6. Perception Planning has previously prepared a Precinct Plan for the wider Sawyers Gully locality in direct response to logue and correspondence from Council Officers.
7. A comprehensive Social Impact Assessment can be prepared once feedback is provided from Council on the Precinct Plan.
8. The site is not identified in the lifestyle village category under the Cessnock Urban Growth Management Plan, rather, it is identified as a 'Future Investigation Area – Established Urban Release Area'.

Consistency with these eight planning principles provides strategic justification for the planning proposal. Demonstration of land-use suitability is provided by the following attachments to this planning proposal:

1. Rezoning, Minimum Lot Size and Subdivision Plan (**ATTACHMENT 2**);
2. RemPlan Report - Land Supply, Demand & Needs Assessment (**ATTACHMENT 3**);
3. Hunter Water Advice (**ATTACHMENT 4**);
4. Council Correspondence about Precinct Plan (**ATTACHMENT 5**);
5. Drainage Strategy and Civil Plans (**ATTACHMENT 6**);
6. Odour Assessment (**ATTACHMENT 7**);
7. Traffic Assessment Report (**ATTACHMENT 8**);
8. Preliminary Contamination Report (**ATTACHMENT 9**);
9. Bushfire Assessment Report (**ATTACHMENT 10**); and
10. Preliminary Cultural Heritage Report (**ATTACHMENT 11**); and
11. Preliminary Ecological Assessment (**ATTACHMENT 12**);

The majority of these studies are preliminary and so once a gateway determination is received, the following reports will be required:

1. Biodiversity Development Assessment Report (BDAR);
2. Koala Habitat Investigations;
3. Aboriginal Due Diligence for lots covered by Preliminary Assessment;
4. Servicing Strategy – Water and Sewer;
5. Cultural Heritage Report; and
6. Contamination Report (Phase 2 – Detailed Site Investigation).

Once these studies are completed, the site can be determined as suitable to be rezoned for the identified residential and environmental zones. This rezoned land would then enable a Development Application for subdivision, which the Indicative Subdivision Plan identifies a potential for 374 lots.

SITE

The site is a made-up of 20 individual lots, which are bordered by Metclafe Lane to the north, Sawyers Gully Road to the east, Gingers Lane to the south and Frame Drive to the west. The site has a total area of 96 hectares.

The site is currently zoned RU2 – Rural Landscape. The eastern lots have a minimum lot size of 40ha, and the western lots have a minimum lot size of 4ha, which means some of the western lots have underutilised subdivision potential. The eastern lots have no subdivision potential.

The site is located 8km or a 10-minute drive to the north-west of Kurri Kurri and 42km or a 49-minute drive to the regional city of Newcastle. It is located in the Maitland to Cessnock growth corridor as identified in key strategic land-use planning documents as the Hunter Regional Plan.

The site has a history of peri-urban land-uses, such as poultry sheds and detached dwellings on large residential lots. The land immediately to the south has been subdivided for more intense rural residential development on lots ranging from 2,000sqm to 10,000sqm. Three remaining poultry sheds are operating in the locality with one located within 1km to the east of the site.

The site is less 1km from the south bound acceleration lane and north bound deceleration lane to and from the Hunter Expressway (Loxford Interchange), which is a dual laneway carriageway connecting the site to the regional city of Newcastle and the Greater Sydney Metropolitan Area.

Key site attributes include:

1. Bushfire Prone Land (Category 1 and 3);
2. Remnant Vegetation (Lower Hunter Spotted Gum);
3. High Biodiversity Values
4. Watercourses (1st and 2nd Order);
5. Flat Terrain (Slope not greater than 5 degrees);
6. Reticulated Water and Sewer (Gingers Lane);
7. Local Aboriginal Land Council (Mindaribba)

(FIGURE 1) illustrates some of the key attributes described above.

(FIGURE 2) illustrates the site's identification as a 'Future Investigation Area - Established Urban Release Areas' within the Cessnock UGMP.

(FIGURE 3) identifies the site within the Maitland Growth Corridor within the Hunter Regional Plan

FIGURE 1 – Site Map

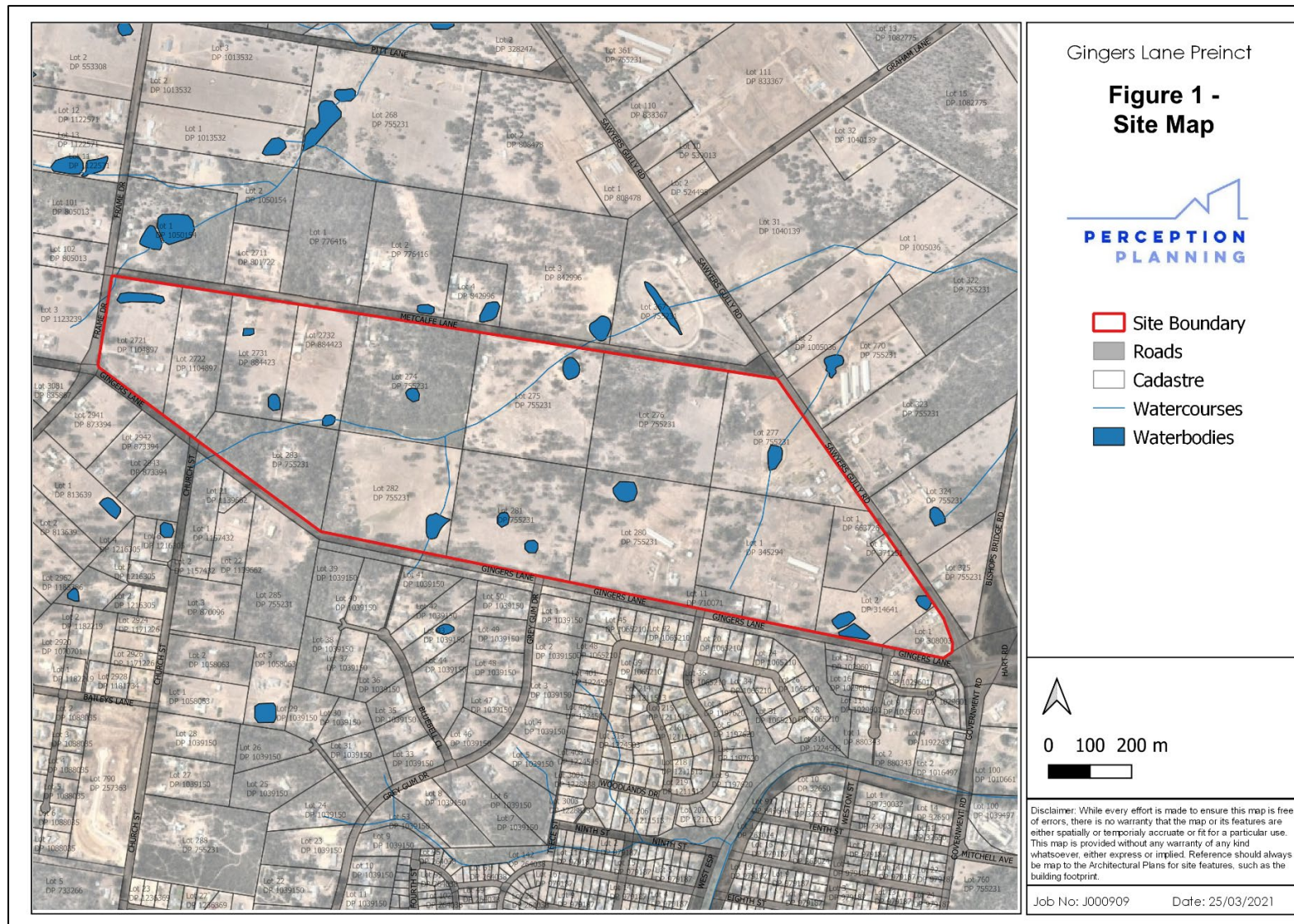


FIGURE 2 – Site's Identification as a Future Investigation Area – Established Urban Release Area in the Cessnock UGMP

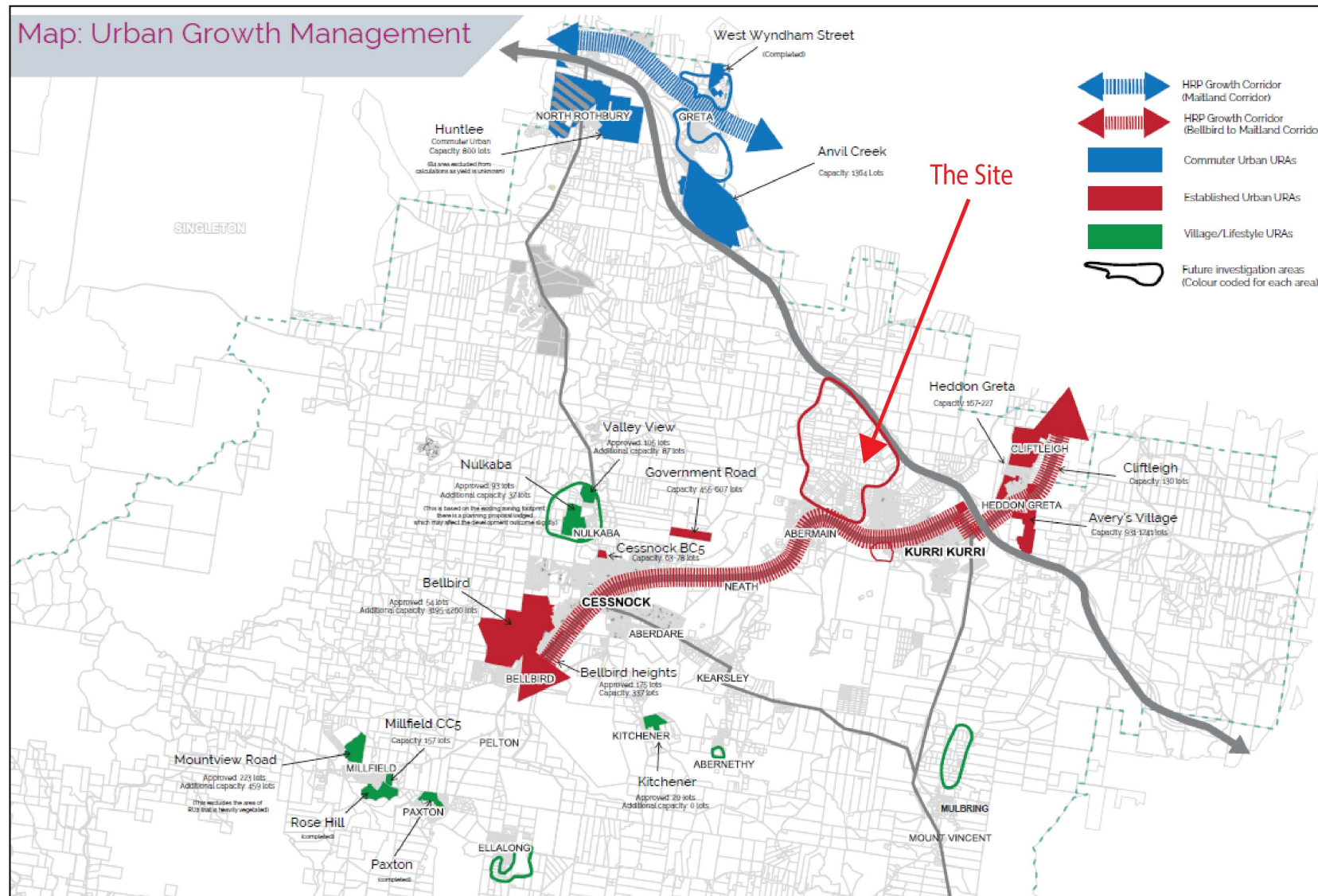
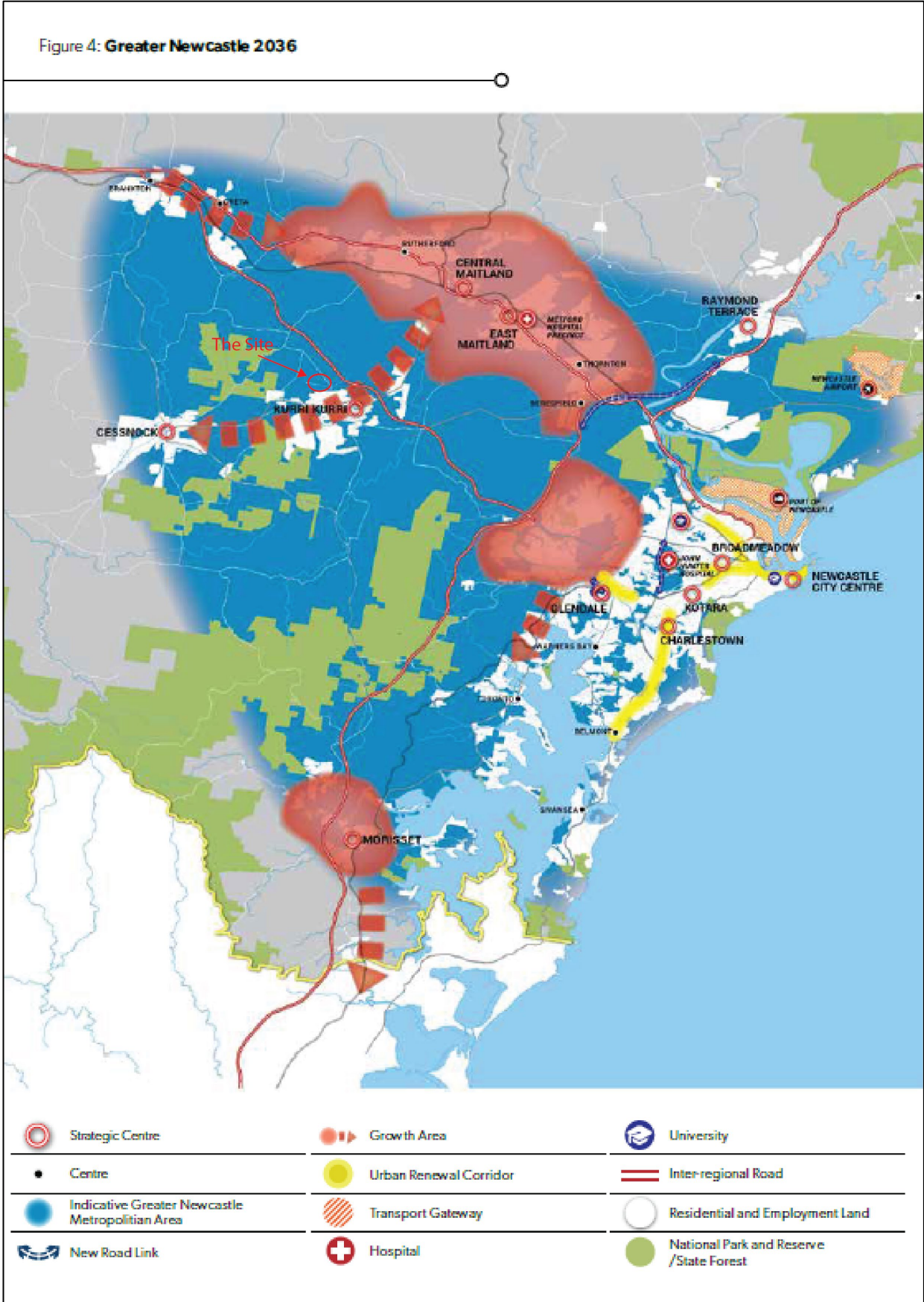


FIGURE 3 – Site’s Identification within the Maitland Growth Corridor within GNMP



PART 1 – Objectives or intended outcomes

The planning proposal seeks to amend the land-use zoning and minimum lot size to enable residential subdivision and environmental conservation.

PART 2 – Explanation of provisions

The objectives of the planning proposal will be achieved by the following amendments to the Cessnock Local Environmental Plan 2011 (the LEP):

- Amend Land Zoning Map Sheet LZN_009A for Lots within the Gingers Lane Precinct (**ATTACHMENT 1**) from RU2 – Rural Landscape to R5 Large Lot Residential, R2 – Low Density Residential and E2 – Environmental Conservation in accordance with (**ATTACHMENT 2**).
- Amend Lot Size Map Sheet LSZ_009A for Lots within the Gingers Lane Precinct (**ATTACHMENT 1**) from 4ha and 40ha to 1,500sqm for the lots to be zoned R5 – Large Lot Residential and 450sqm for the land to be zoned R2 – Low Density Residential in accordance with (**ATTACHMENT 2**). The land to be zoned E2 – Environmental Conservation would continue to allow for 101 Metcalfe Lane to achieve a 1 into 2 lot subdivision.
- Amend Urban Release Area Sheet URA_009A to identify the Gingers Lane Precinct (**ATTACHMENT 1**) as an Urban Release Area in accordance with (**ATTACHMENT 2**).

PART 3 – Justification

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the result of the site's identification in the Cessnock Housing Strategy and UGMP as an 'Future Investigation Area – Established Urban Release Areas'. The Cessnock Housing Strategy and the UGMP were adopted by Cessnock City Council on 17 March 2021.

The Cessnock Urban Growth Management Plan identifies eight planning principles that will need to be satisfied in order for an investigation area to be progressed (p.15). These principles and a brief response in relation to this planning proposal is provided under Part 3 - Justification.

The proposed zoning and minimum lot size described above have informed an Indicative Subdivision Plan (**ATTACHMENT 2**). The Subdivision Plan has been informed by the following key considerations:

1. Existing urban settlement pattern to the south, which consists of detached housing on rural residential lots ranging from 2,000sqm to

10,000 sqm. The proposed Minimum Lot Size of 450sqm and 1,500sqm seeks to provide a transition from these larger lots while efficiently using the land provided it will be connected sewer and water;

2. Connection to reticulated sewer means that a minimum of 4,000sqm for on-site effluent disposal is not required and so the lots can be less than 4,000sqm;
3. Retention of lots with the most significant vegetation on the basis of a strategy to avoid, minimise and offset, while also allowing for biodiversity corridors throughout the precinct as identified in the Precinct Plan, which was informed by the Sawyers Gully/Abermain/Weston Conservation Plan;
4. Perimeter roads between future unmanaged vegetation and new residential lots to enable future dwellings to achieve 29KW/sqm or less in accordance with the document titled 'Planning for Bushfire Protection';
5. All roads are through roads for connectivity and permeability. Any roads that are not through roads are less than 200m in length in accordance with the document titled 'Planning for Bushfire Protection'; and
6. Siting and sizing of detention basins throughout the subdivision to accommodate additional flows from increased non-permeable surfaces that result from residential subdivision.

The above matters are important to understand because the rezoning is starting with the end subdivision in mind. The LEP changes that are sought seek to achieve an objective of residential subdivision and environmental conservation with the end product being the Plan that has been provided.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. Amending the land zoning and minimum lot size maps within the Local Environmental Plan (LEP) is the only means of enabling rural residential subdivision at the site. The following alternative means were considered:

- **Alternative Option 1:** Amend the zoning for the entire site to be R2 – Low Density Residential and a minimum lot size of 450sqm. The intended outcome -- to enable residential subdivision and environmental conservation ---can be achieved by amending the zoning to R2 – Low Density Residential as opposed to R5 – Large Lot Residential, but this approach would not be consistent with the established settlement pattern to the south and the Precinct Plan.

The land to the immediate south is zoned and has been subdivided for rural residential purposes on lots ranging from 2,000sqm to

10,000sqm, while the precinct plan shows a continuation of these larger rural residential lots to the south around the periphery of Sawyers Gully with more intensive urban development towards the centre, which would be to the north of the site. Some smaller lots have been proposed in the middle of the site in order to achieve higher residential targets identified in the Cessnock UGMP, while not being in contrast to the surrounding existing settlement pattern.

The site is a 40-minute drive from Newcastle and so purchasers are seeking larger residential lots, which is currently reflected in the lots currently being subdivided and sold at Bellbird Heights. The Land Supply Analysis that has informed the analysis completed by RemPlan **(ATTACHMENT 3)** identified that developers are creating lots greater than the minimum lot size because this is the market for a region that is located towards the north western periphery of the Greater Newcastle Metropolitan Area **(FIGURE 3)**.

- **Alternative Option 2: Seniors Living Development**

The State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the SEPP) provides a pathway to achieve residential development on land that is zoned for rural purposes.

The SEPP does not provide a pathway to achieve seniors living on this site because it does not adjoin land primarily used for urban purposes under Clause 4 – Land to which this Policy applies.

- **Alternative Option 3: LEP Schedule 1 – Additional permitted uses.**

An additional permitted use for the site could enable subdivision and subsequent dwelling entitlements. However, this approach is not preferred because the NSW Government Draft Practice Note advises that LEP (Schedule 1) should only be used in exceptional circumstances. This is not considered to be an exceptional circumstance in accordance with this Practice Note.

Section B – Relationship to strategic planning framework

Q3. Will the planning proposal give effect to the objectives and actions of the Hunter Regional Plan or Greater Newcastle Metropolitan Plan (or any exhibited draft plans that have been prepared to replace these)?

Hunter Regional Plan 2036

Yes. The planning proposal will give effect to the Hunter Regional Plan 2036 (HRP) whose stated role is to guide the NSW Government's land use planning priorities and decisions over the next 20 years (p.4).

Direction 22 of the HRP identifies the need to promote housing diversity and Action 22.2 states 'Encourage housing diversity, including studios and one two-bedroom dwellings, to match forecast changes in household sizes' (p.56).

The planning proposal supports this Direction and Action by encouraging residential development in proximity to the established town centre of Kurri Kurri. The site is also within commuting distance of other major centres for services, being Cessnock, Maitland, and Newcastle.

The HRP does not directly address or identify Sawyers Gully but does identify the nearby town centre of Kurri Kurri as a Strategic Centre (p.58). In terms of priorities, it states the following for Kurri Kurri:

- *Retain a retail and service function for surrounding communities;*
- *Leverage its proximity to the Hunter Expressway and existing significant industrial land;*
- *Investigate opportunities for urban renewal of the town centre and new housing opportunities;*
- *Develop and implement a masterplan for Kurri Kurri CBD; and*
- *Develop the Kurri Kurri Corridor.*

Without a specific identification in the Plan, more general guidance can be applied to the site through the discussing the revelation actions, such as Action 22.5 stating:

'Include guidance in local land use strategies for expanding rural villages and rural-residential development so that such developments will:

- *Not impact on strategic or important agricultural land, energy, mineral or extractive resource viability or biodiversity values;*
- *Not impact on drinking water catchments;*
- *Not result in greater natural hazard risk;*
- *Occur on land that is unlikely to be needed for urban development;*
- *Contribute to the conservation of important biodiversity values or the establishment of important corridor linkages; and*

- *Facilitate expansion of existing and new tourism development activities in agricultural or resource lands and related industries across the region (p.56).*

The Cessnock Housing Strategy and UGMP has been prepared in response to this Action and the Precinct Plan for Sawyers Gully has then been prepared in response to guidance provided by Council Officers. Based on this, the proposal can be seen to be consistent with the HRP.

Great Newcastle Metropolitan Plan 2036

Yes. The planning proposal will give effect to the Greater Newcastle Metropolitan Plan 2036 (GNMP) whose stated role is to help achieve the vision set in the Hunter Regional Plan 2036, that the Hunter is to be the leading regional economy in Australia (p.5).

Strategy 19 of the GNMP identifies the need to prepare local strategies to deliver housing. More specifically, Action 19.1 states that:

‘Greater Newcastle councils will prepare a local strategy within two years that:

- *Reflects the priority to delivery infill housing opportunities within existing urban areas.*
 - *Identifies new residential release areas if there is less than 15-year supply of land to meet dwelling projections.*
 - *Achieves a minimum residential density of 15 dwellings per hectare in housing release areas, with 25% of lots capable of providing small lot or multi-dwelling housing types.*
 - *Identifies individual councils greenfield and infill housing targets that deliver the overall 40% greenfield and 60% infill housing split across Greater Newcastle by 2036.*
- Is prepared in consultation with State agencies, industry, and the community.*
- Ensures social and affordable housing requirements for Aboriginal people, and low and very low-income households are met (in consultation with Department of Family and Community Services) (p.45).*

The Cessnock Housing Strategy and UGMP has been prepared in response to this Action and the Precinct Plan for Sawyers Gully has then been prepared in response to previous guidance provided by Council Officers. Based on this, the proposal can be seen to be consistent with the GNMP.

Hunter Expressway Strategy

The Hunter Expressway – Draft Strategy was released in December 2020. It states that its purpose is to provide direction for infrastructure investment and land use planning in the vicinity of the Hunter Expressway (p.3).

The closest interchange to the site is the Loxford Interchange, which is discussed in the Draft Strategy along-side the Kurri Kurri Interchange as:

‘By combining and consolidating development around the Kurri Kurri and Loxford interchanges they become a regionally significant area, creating critical mass and trading hub building on the complementary nature of the two development precincts. In addition, the interchanges incorporate renewal and repurposing of the former Hydro aluminium smelter and links the existing Urban Release Areas in the Kurri Kurri Corridor situated in proximity to the interchange’ (p.11).

‘The upgrade to Loxford interchange to a full interchange will likely be required as future development occurs nearby’ (p.11).

The planning proposal has the potential to create 374 lots. The Traffic Assessment Report that accompanies this planning proposal does not identify the need for the Loxford interchange to be upgraded.

Assessment Criteria

a) Does the proposal have strategic merit?

The proposal has strategic merit because it is seeking to give effect to the HRP, GNMP, Cessnock Housing Strategy and Cessnock UGMP.

The Cessnock Housing Strategy and UGMP have not been endorsed by the NSW Department of Planning, Industry and Environment. However, we understand that Cessnock Council will be seeking this endorsement. If these strategies are not endorsed, they still provide the best guidance for planning proposals within the Cessnock Local Government Area given that they have been placed on public exhibition and adopted by Council.

b) Does the proposal have site-specific merit, having regard to the following?

- **the natural environment (including known significant environmental values, resources, or hazards); and**
- **the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal; and**
- **the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.**

If the proposal did not already have strategic merit through the hierarchy of strategic planning documents, then the proposal would still have site-specific merit because of the following:

- The site is relatively unconstrained as it is flat land that has historically been used for rural purposes and detached rural residential housing. The sub-consultant reports demonstrate the suitability of the site.

- The land directly adjoins an existing urban area to the south and the Precinct Plan identifies that the land to the north, east, and west will be developed for urban purposes in the future. The need for this land to provide additional housing is supported by the RemPlan Report.
- The site can be serviced by reticulated water and sewer as identified by the Hunter Water Advice (**ATTACHMENT 4**). A servicing strategy can be completed post gateway to provided further detail.

Q4. Will the planning proposal give effect to a council’s endorsed local strategic planning statement, or another local strategy or strategic plan?

Cessnock Council does not have an endorsed local strategic planning statement, housing strategy or urban growth management plan. However, it is understood that they will be seeking endorsement for the Cessnock Housing Strategy and UGMP that were adopted by Council on 17 March 2021. Based on this, these are the most relevant strategic land-use planning documents for Council, so they are discussed in relation to the planning proposal below.

Cessnock Local Strategic Planning Statement

Yes. The planning proposal will give effect to the Cessnock Local Strategic Planning Statement (LSPS), which sets out clear planning priorities, principles, and actions to accommodate future population growth (p.7).

The LSPS does not make specific mention of Sawyers Gully but discusses the role of Kurri Kurri throughout the document. The LSPS is a high-level action document that lists a number of priorities under the themes of liability, productivity, sustainability, and uniqueness (p.11). The most relevant actions to the planning proposal are considered to be Actions 1 and 2.

Action 1 of the LSPS states:

‘Prepare a Local Housing Strategy that-

- *Analyses local housing needs and housing preferences.*
- *Responds to the spectrum of housing types and needs across the local government area.*
- *Prioritises the delivery of infill housing within existing urban areas.*
- *Meets social and affordable housing requirements for low and very low-income households.*
- *Considers the extent of the existing R3 Medium Density Residential zone in Cessnock, Kurri Kurri, Weston, and Branxton.*
- *Considers opportunities for medium-density development along the Cessnock to Maitland Growth Corridor.*

Action 2 of the LSPS states:

‘Prepare an Urban Growth Management Strategy including a sequencing strategy for future development’ (p.22).

The Cessnock Housing Strategy and UGMP have since been prepared in response to these Actions. Based on this, consistency with the Cessnock Housing Strategy and UGMP can see to achieve consistency with the LSPS.

Before moving onto the Cessnock Housing Strategy and UGMP, it must be reinforced that a planning proposal for the Gingers Lane Precinct was previously considered by Council and reached gateway determination, however, due to the Global Financial Crisis (GFC) was halted. The opening of the Hunter Expressway, upgrades to local services and continued growth in the Lower Hunter has seen reactivation of this proposal.

The previous Cessnock City Wide Settlement Strategy (2010) identified the Gingers Lane Precinct as a location to provide additional housing. This former Strategy also referenced the need for a Precinct Plan by stating:

'Prepare a draft LEP to consider rezoning land from 1(a) Rural 'A' and 1(c2) Rural (Small Holdings) to Residential Lifestyle. Local studies and master planning required to justify rezoning. Prepare concurrent DCP and s94 Contributions Plan to accompany draft LEP'.

The identification of the site for housing in the former Cessnock City Wide Settlement Strategy (2010) is illustrated by **(FIGURE 4)**. This site was also identified in the State Government Land-Use Planning document at the time, being the Lower Hunter Regional Strategy (2006), which led to the site's identified in the Special Infrastructure Contributions Plan (2011) **(FIGURE 5)**.

Cessnock Housing Strategy

Yes. The planning proposal will give effect to the Cessnock Housing Strategy whose stated vision is to ensure the community's housing needs are met, and lifestyle aspirations achieved by a diverse, affordable local housing market and a supported community housing sector (p.6).

The Cessnock Housing Strategy does not make specific mention of Sawyers Gully but discusses the role of Kurri Kurri throughout the document. It also includes a number of objectives relating to housing diversity, compact urban centres, affordable living, and market-based housing. The Housing Strategy is considered to be more a commentary and information document, whereas the UGMP provides the detail in terms of identifying land, staging and criteria that a planning proposal should consider. The UGMP is now discussed.

Cessnock Urban Growth Management Plan (UGMP)

Yes. The planning proposal will give effect to the UGMP by directly responding to the Urban Growth Management Plan Principles that are listed in this document. These principles are described as 'a set of values that will help guide Council's assessment of future planning proposals, as well as identify where a site may fall within the hierarchy of investigation areas' (p.15).

FIGURE 4 – Site's Identification within the Cessnock City Wide Settlement Strategy (2010)

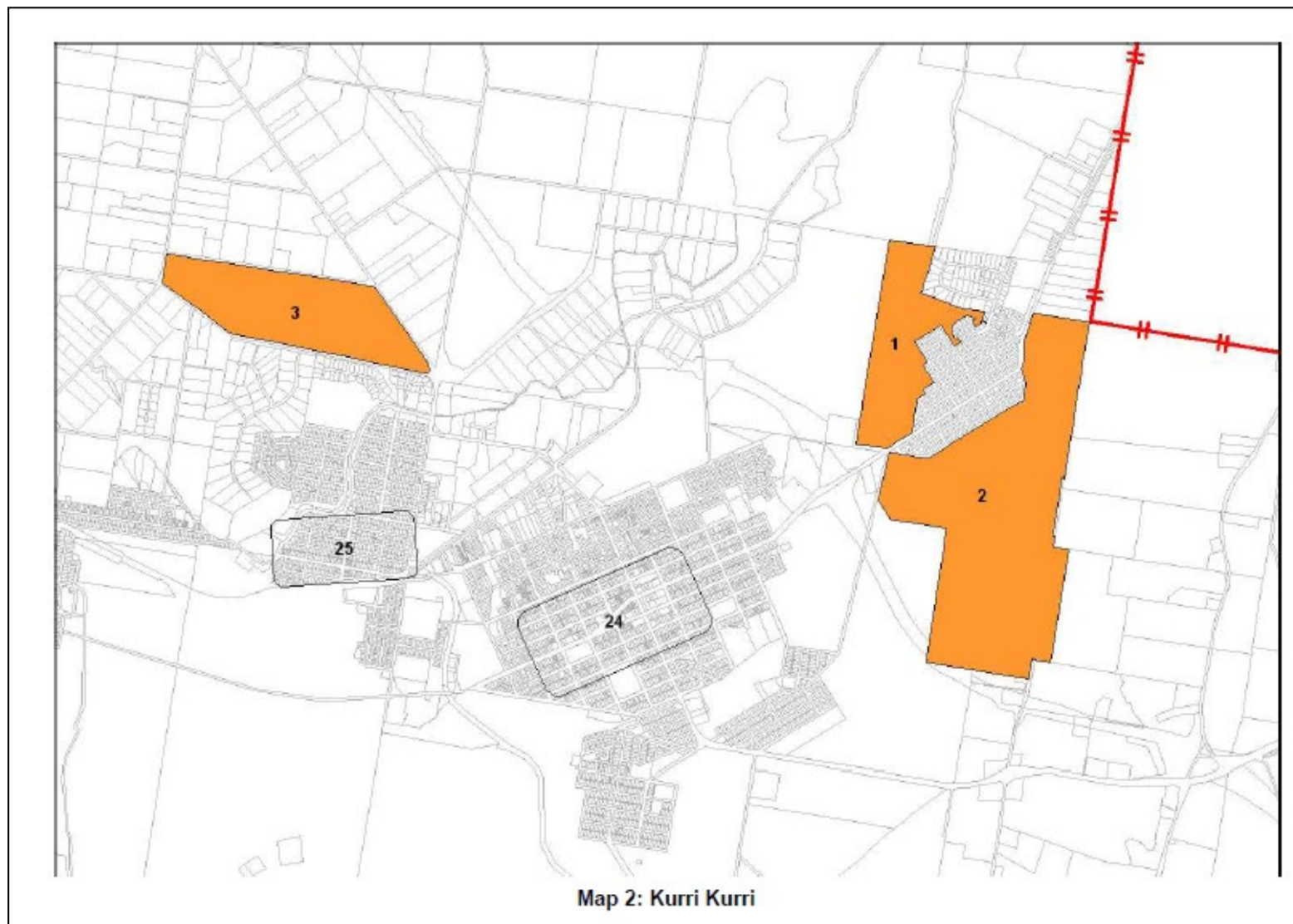
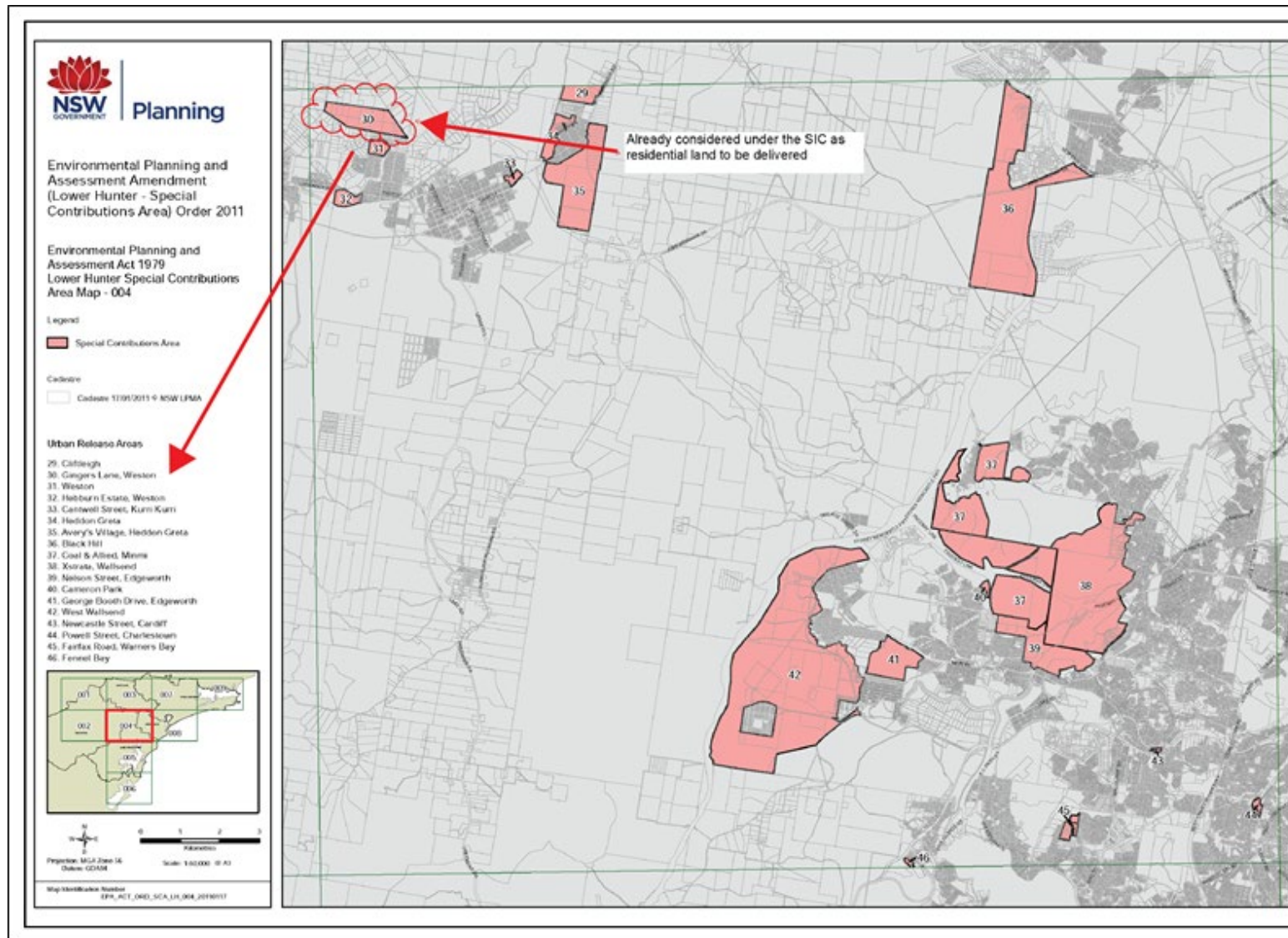


FIGURE 5 – Site's Identification in the Draft Special Infrastructure Contributions Plan (2010)



As previously identified, the site is located within the 'Future Investigation Area – Established Urban Release Areas' (p.16). The UGMP states that the eight principles need to be satisfied in order for an investigation area to be progressed. Those eight principles are listed below and an appropriate response in regard to the planning proposal is provided.

TABLE 1 – Urban Growth Management Plan Principles

No	Principle	Response	Consistent
1	Land supply must be at or below the 15-year supply threshold for that lifestyle category as published in Council's annual monitoring report.	The RemPlan Report (ATTACHMENT 3) identifies that the land supply is below the 15-year supply threshold.	Yes.
2	The proposal must be within an investigation area identified on Map 1: Urban Growth Management Plan.	The site is identified within the 'Future Investigation Area - Established Urban Release Areas' at Sawyers Gully (FIGURE 2) .	Yes.
3	The proposal must address and be consistent with the LSPS planning priorities and principles.	(TABLE 2) demonstrates the consistency of the proposal with the relevant priorities and principles in provided later in this document under Part 3 – Justification.	Yes.
4	As the 15-year supply threshold is reached in the commuter urban and established urban lifestyle categories, rezoning land for urban purposes will be prioritised along the Maitland Growth Corridor and the Bellbird to Maitland Growth Corridor, in accordance with the growth areas identified in the Hunter Regional Plan.	The site is located in the Maitland Growth Corridor (FIGURE 3) .	Yes.
5	Within each investigation area priority will be given to	The southern boundary of the site adjoins Gingers Lane. Land to the south of	Yes.

	those areas immediately adjoining serviced urban areas and where services can be reasonably extended and funded by the developer.	Gingers Lane is serviced by reticulated water and sewer. This planning proposal has been prepared with consideration to servicing advice provided by Hunter Water (ATTACHMENT 5) .	
6	<p>All planning proposals require a structure plan for the entire investigation area. The structure plan must address the criteria listed in clause 6.3(3) of the Cessnock Local Environmental Plan in sufficient detail to:</p> <ul style="list-style-type: none"> • Inform the layout and logical sequencing of the infrastructure within the investigation area, • Inform a preliminary contributions framework to fund infrastructure and facilities, • Consult affected landowners, and • Exhibit the structure plan. <p>Where there are multiple landowners in an investigation area, Council will commission an independent consultant to prepare a structure plan for the entire investigation area. Full cost recovery for the preparation and exhibition of the structure plan will be</p>	<p>Perception Planning has previously prepared a Precinct Plan in direct response to the guidance previously provided by Council Officers (ATTACHMENT 4).</p> <p>Perception Planning is now waiting on feedback from the Council Officers in order to finalise this Precinct Plan, which can then be updated to address the matters raised by this principle.</p> <p>Given that Perception Planning was acting on previous advice provided by Council Officers, the inconsistency with this principle that the 'Precinct Plan was not prepared by an independent consultant' is justified. The Precinct Plan provided clearly identifies that this planning proposal for Gingers Lane can proceed without undermining the wider Sawyers Gully Urban Investigation Area.</p>	Yes.

	achieved in accordance with Council's Fees and Charges and borne by the proponent.		
7	All investigation areas require a comprehensive social impact assessment that is undertaken by a qualified Social Impact Assessment professional and prepared in accordance with Council's DCP Chapter 3.8: Social Impact Assessment and Crime Prevention Through Environmental Design Guidelines for a proposed development.	A comprehensive Social Impact Assessment can be prepared once feedback is provided by Council on the Precinct Plan. Completing this Assessment without input from Council will result in unnecessary rework for both Council and consultants.	Able to Comply.
8	For those investigation areas identified in the lifestyle village category, additional analysis and justification will be required to satisfy the LSPS planning principles relating to protecting the village structure and character, rural amenity, environmental lands and biodiversity, hazards, land-use conflict, and infrastructure provision.	The site is not identified in the lifestyle village category.	Not Applicable.

TABLE 2 – LSPS Planning Priorities and Principles

Liveable			
No	Principle	Response	Consistent
1	Our urban areas are compact.	The Sawyers Gully Precinct adjoins an existing urban area.	Yes.
2	Housing is diverse, adaptable, and	Housing is proposed to be diverse, adaptable, and	Yes.

	affordable and our urban areas facilitate affordable living.	affordable by the Precinct Plan identifying a range of land-use zones and lot sizes.	
3	The character and vitality of our town centres and villages is protected and enhanced.	The Precinct Plan does not seek to undermine existing town centres or villages.	Yes.
4	Our community is safe, healthy, and active.	The development of this land will contribute to safe, healthy, and active communities.	Yes.
5	Infrastructure and services meet the needs of our community and are appropriately funded.	Any rezoning will be contributing to infrastructure contributions that will fund infrastructure that is required from an increase in population growth.	Able to Comply
6	Rural residential large lot residential development and environmental living are considered in limited and appropriate locations.	Sawyers Gully is not identified as a Village/Lifestyle URA, but rather an Established Urban URA.	Not Applicable.
7	Urban development is encouraged in areas with existing infrastructure.	Sawyers Gully is not identified as a Village/Lifestyle URA, but rather an Established Urban URA.	Yes.
Productive			
No	Principle	Response	Consistent
8	Our rural land is protected from incompatible development.	No Comment.	Not Applicable.
9	Our wine tourism industry is supported and enhanced.	No Comment.	Not Applicable.
10	Our City encourages a variety of niche tourism opportunities.	No Comment.	Not Applicable.

11	Our City has a defined hierarchy of commercial centres.	No Comment.	Not Applicable.
12	Our town centres are the focus of local commerce.	No Comment.	Not Applicable.
13	Our industrial land is developed in an orderly manner and meets future development needs.	No Comment.	Not Applicable.
14	Our industrial land fosters economic growth, business diversity and employment opportunities.	No Comment.	Not Applicable.
15	Key infrastructure is leveraged to support economic growth.	The Draft Precinct Plan includes a Staging Plan, which identifies the Gingers Lane Sub-Precinct as the first stage given that it immediately adjoins an existing urban area and we understand that there is servicing capacity, subject to advice being received back from Hunter Water.	Yes.
16	Our City embraces technology and innovation.	No Comment.	Not Applicable.
Sustainable			
No	Principle	Response	Consistent
17	Our lands of environmental value are protected and enhanced.	The Precinct Plan identifies that land of environmental value should be zoned an appropriate environmental zone.	Yes.
18	Our areas of biodiversity and biodiversity corridors	The Precinct Plan identifies previously identified biodiversity corridors to be	Yes.

	are enhanced and protected.	zoned an appropriate environmental zone.	
19	Our waterways are health, and water quality and water security are improved.	The Precinct Plan identifies certain waterways to be zoned an appropriate environmental zone.	Yes.
20	Our community adapts to client change and builds client resilience.	No comment.	Yes.
21	Developments minimise environmental impacts and respond to site environmental characteristics and natural hazards.	The Precinct Plan has considered flooding and bushfire. Other natural hazards are largely dealt with through the building code within the NSW Planning System.	Yes.
Unique			
No	Principle	Response	Consistent
22	Our rural landscape is retained and enhanced.	No Comment.	Not Applicable.
23	The scenic and rural landscape of our Vineyards District is preserved.	No Comment.	Not Applicable.
24	Our Aboriginal cultural heritage is protected and celebrated.	The Precinct Plan has considered Aboriginal Cultural Heritage.	Yes.
25	Heritage-based tourism is facilitated and promoted.	No Comment.	Not Applicable.
26	Nature-based and recreational tourism is facilitated and promoted.	No Comment.	Not Applicable.
27	Our region is intentionally acclaimed for its events, festivals, and hosting functions.	No Comment.	Not Applicable.

28	Our commercial centres and villages are tourist destinations in their own right.	No Comment.	Not Applicable.
29	Our villages retain their unique qualities that reflect their histories.	No Comment.	Not Applicable.
30	Growth of our villages occurs in way that protects their character and setting in the rural and environmental landscape and responds to risk of bushfire and flooding.	No Comment.	Not Applicable.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

An assessment of the relevant State Environmental Planning Policies against the planning proposal is provided in the table below.

TABLE 3– State Environmental Planning Policies

No	SEPP	Consistency and Implications	Consistent
1	SEPP 55 – Remediation of Land	<p>SEPP 55 requires that consideration be given to whether the land is contaminated as part of a planning proposal. The planning proposal applies to land on which development for agricultural activities is known to have been carried out and is therefore potential contaminated.</p> <p>A Preliminary Contamination Investigation in accordance with the contaminated land planning guidelines has identified that ‘Given the potentially minor contamination identified at the site, further assessment should be undertaken on a stage-by-stage basis to determine</p>	Able to Comply

		<p>the need for any isolated remedial works as part of the development to render the site suitable for the proposed development' (p.16)</p> <p>The planning proposal is consistent with SEPP 55.</p>	
2	SEPP (Koala Habitat Protection) 2020	<p>SEPP (Koala Habitat Protection) 2020 came into force in November 2020 and repealed the previous SEPP (Koala Habitat Protection) 2019 while a new policy is developed.</p> <p>This Policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.</p> <p>The preliminary investigation completed by Anderson Environment and Planning did not locate listed Schedule 2 Koala Fee Trees on the site. The preliminary surveys did not locate the presence of koalas within the site; however, further investigations would be required to determine if the site contains Potential or Core Koala Habitat. The Koala SEPP has potential to impact site development, particularly if signs of Koala usage are found on site.</p> <p>Further investigations post gateway determination is required to determine if the planning proposal is consistent with SEPP (Koala Habitat Protection) 2020.</p>	Able to Comply
3	SEPP (Primary Production and Rural Development) 2019	<p>The Primary Production and Rural Development SEPP relates specifically to State significant agricultural land, artificial water bodies, livestock industries and aquaculture and no longer contains the Rural Planning Principles that</p>	Yes.

		<p>provide broad strategic direction for all rural land.</p> <p>The Rural Planning Principles were transferred to Ministerial Direction 1.5 – Rural Lands and therefore are addressed in response Question 6.</p> <p>Notwithstanding, the objectives of Primary Production and the Rural Development SEPP include the facilitation of orderly economic use and development of lands for primary production, and to reduce land use conflict by balancing primary production, residential development and the protection of native vegetation, biodiversity, and water resources.</p> <p>The planning proposal is consistent with SEPP (Primary Production and Rural Development) 2019.</p>	
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Q6. Is the planning proposal consistent with applicable Ministerial Directions?

An assessment of relevant Ministerial Directions against the planning proposal is provided in the table below.

TABLE 4– Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implications	Consistent
1. EMPLOYMENT AND RESOURCES			
1.2 Rural Zones	The Direction provides for the protection of the agricultural production values of rural land by requiring planning proposals to be justified by a relevant strategy or study if they seek to rezone rural land to a residential,	The site has limited agricultural value due to its proximity to existing urban development, soils, and small lot areas. Any inconsistency with this direction is of minor significance.	Yes.

Ministerial Direction	Aim of Direction	Consistency and Implications	Consistent
	business, industrial, village or tourist zone or increase the permissible density of rural (except RU5) zoned land.	<p>The planning proposal will be referred to the NSW Department of Primary Industries (Agriculture) for comment following a gateway determination.</p> <p>The planning proposal is justifiably inconsistent with Ministerial Direction 1.2.</p>	
1.5 Rural Lands	<p>This Direction applies to planning proposals relating to land where the SEPP (Primary Production and Rural Development) 2019 applies by requiring consistency with the rural planning principles of the SEPP or justification under a relevant strategy. The Direction seeks to protect agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.</p>	<p>The proposal has considered the potential for land use conflict through the provision of an Odour Assessment, which has identified an appropriate buffer to the eastern poultry operation.</p> <p>Once the land is rezoned, any Development Application for subdivision can be appropriately staged to limit odour impacts or more detailed investigations can be carried out to identify mitigation measures and/or more clearly define the odour buffer.</p>	Yes.

Ministerial Direction	Aim of Direction	Consistency and Implications	Consistent
		The planning proposal is justifiably inconsistent with Ministerial Direction 1.5.	
2. ENVIRONMENT AND HERITAGE			
2.1 Environment Protection Zones	This Direction applies to all planning proposals. It provides for the protection and conservation of environmentally sensitive areas by ensuring that planning proposals do not reduce the environmental protection standards applying to such land unless it is suitably justified by a relevant strategy or study or is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	<p>The planning proposal seeks to rezone two of the twenty lots that are the most vegetated as E2 – Environmental Conservation. The MLS of 1,500sqm for the land to be zoned R5 – Large Lot Residential will also allow for the retention of some trees within future lots.</p> <p>A BDAR and further koala habitat investigations will be completed post-gateway to determine consistency with this Direction.</p> <p>Further investigations post gateway determination is required to determine if the planning proposal is consistent with Direction 2.1 – Environment Protection Zones.</p>	Able to Comply

Ministerial Direction	Aim of Direction	Consistency and Implications	Consistent
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.	<p>No heritage items listed under the Cessnock Local Environmental Plan 2011 (Schedule 5 – Environmental Heritage) are located on the site.</p> <p>An Aboriginal Heritage Due Diligence Assessment has identified no previously recorded Aboriginal site within the searched coordinates and no objects were identified during visual inspection on 12 March 2021.</p> <p>Further investigations post gateway determination on the lots where site access could not be achieved is required to determine if the planning proposal is consistent with Direction 2.3 – Heritage Conservation.</p>	Able to Comply
2.6 Remediation of Contaminated Land	This Direction applies to land on which development for agricultural activities is known to	A Preliminary Contamination Investigation in accordance with the contaminated	Able to Comply

Ministerial Direction	Aim of Direction	Consistency and Implications	Consistent
	have been carried out and is therefore potentially contaminated.	land planning guidelines has identified that 'Given the potentially minor contamination identified at the site, further assessment should be undertaken on a stage-by-stage basis to determine the need for any isolated remedial works as part of the development to render the site suitable for the proposed development' (p.16) The planning proposal is consistent with this Direction 2.6 – Remediation of Contaminated Land.	
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT			
3.1 Residential Zones	<p>This Direction applies to proposals that will affect land within a proposed residential zone.</p> <p>A planning proposal is to encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and</p>	The planning proposal will provide land that new housing can be constructed on, which broadens the building types available in Sawyers Gully. It will make use of water, sewer, electricity, and road infrastructure, while forming a logical extension of the existing urban	Yes.

Ministerial Direction	Aim of Direction	Consistency and Implications	Consistent
	services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	<p>settlement pattern. The proposal will allow for the more efficient use of this land, which is currently predominately used for large lot residential housing.</p> <p>The planning proposal is consistent with this Direction 3.1 – Residential Zones.</p>	
3.4 Integrating Land Use and Transport	<p>This Direction requires planning proposals, which seek to create, alter, or remove a zone or provision relating to urban land to consider the statement documents.</p> <p>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.</p>	<p>The site is located within walking distance of bus services and is consistent with the Precinct Plan, which over time will see the development of this locality occur in a coordinated way. As previously mentioned, the site is within a short driving distance of Kurri Kurri and then centres such as Cessnock, Maitland, and Newcastle, which provide those higher order services.</p> <p>If any inconsistency with this Direction could be identified, then this inconsistency</p>	Yes.

Ministerial Direction	Aim of Direction	Consistency and Implications	Consistent
		<p>is of minor significance because the proposal is in accordance with the HRP, GNMP and Council's strategies.</p> <p>The planning proposal is consistent with this Direction 3.4 – Integrating Land Use and Transport.</p>	
4. HAZARD AND RISK			
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.	<p>The site is not located in within a Mine Subsidence District under the Coal Mine Subsidence Compensation Act 2017 according to the NSW Planning Portal.</p> <p>The majority of the Tomalpin Mine Subsidence District (MSD) is located to the south of the site.</p> <p>The planning proposal is consistent with this Direction 4.2 – Mine Subsidence and Unstable Land.</p>	Yes.
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property, and the environment	The site is mapped as Bushfire Prone Land (Category 1 and 3). Because of	Yes.

Ministerial Direction	Aim of Direction	Consistency and Implications	Consistent
	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.	<p>this a Bushfire Assessment Report, which addresses the document 'Planning for Bushfire Protection (Part 4 – Strategic Planning and Part 5 – Residential and Rural Residential Subdivision) and this Ministerial Direction is provided as (ATTACHMENT 10).</p> <p>A Contamination Report (Phase 2) can be provided post-gateway.</p> <p>The planning proposal is consistent within this Direction 4.4 – Planning for Bushfire Protection.</p>	
5. REGIONAL PLANNING			
5.10 Implementation of Regional Plans	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes, and actions contained in regional plans.	<p>The planning proposal is consistent with the HRP, GNMP and Council's endorsed strategic planning documents as described throughout this planning proposal.</p> <p>The planning proposal is consistent with Direction 5.10 – Implementation</p>	Yes.

Ministerial Direction	Aim of Direction	Consistency and Implications of Regional Plans.	Consistent
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.	<p>The planning proposal does not propose provisions that require the concurrence, consultation, or referral of development applications to a Minister or public authority and does not identify development as designated development.</p> <p>The planning proposal is consistent with Direction 6.1 – Approval and Referral Requirements.</p>	Not Applicable.
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.	<p>The planning proposal is not seeking to reserve land for public purposes.</p> <p>The planning proposal is consistent with Direction 6.2 – Reserving Land for Public Purposes.</p>	Not Applicable.

Section C – Environmental, social, and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The Preliminary Ecological Assessment (**ATTACHMENT 12**) concludes:

'The vegetation on site is in varying condition, with areas subject to disturbance throughout. Further investigation to carry out a rezoning would be required in order to obtain approvals for the planning proposal.

This would include carrying a Biodiversity Assessment and associated seasonal surveys for threatened species such as frogs, snakes, mammals, birds, microbats, and flora. Considering that the area is mapped as an Important Area for Swift Parrot and the Regent Honeyeater, targeted seasonal surveys or utilising an expert report should be undertaken to discount those species occurring on site' (p.12).

A Biodiversity Development Assessment Report (BDAR) will be completed post-gateway, which will include seasonal surveys.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Yes. The planning proposal will enable residential subdivision, which will result in vegetation loss. This vegetation loss will be quantified by the BDAR that will be completed post gateway. This vegetation loss has sought to be minimised by the proposed environmental zone and larger residential lots which will allow for the retention of some existing trees.

The eastern part of the site is within 1km of an operating poultry sheds and so an Odour Assessment (**ATTACHMENT 7**) has been prepared that identified the need for a separation distance of 255 metres may be required. Once the land is rezoned, any Development Application for subdivision can be appropriately staged to limit odour impacts or more detailed investigations can be carried out to identify mitigation measures and/or more clearly define the odour buffer.

Q9. Has the planning proposal adequately addressed any social and economic effects?

Yes. The rezoning of the land for residential purposes will have positive social and economic effects. In particular, the development of this land for housing will assist Council in meeting its regional dwelling targets identified within the GNMP. The community benefit associated with future development will be found in the provision of additional housing to service the future population needs of the Cessnock Local Government Area.

A comprehensive Social Impact Assessment can be prepared once feedback is provided by Council on the Precinct Plan. Completing this Assessment

without input from Council will result in unnecessary rework for both Council and consultants.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

Yes. Connection to reticulated water and sewer is available.

Preliminary Servicing Advice (**ATTACHMENT 4**) has been received from Hunter Water. This Advice identifies the need for developer funded servicing strategies to be developed post-gateway for the review and approval of Hunter Water to ensure that adequate services can be provided to the site.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation with relevant State and Commonwealth agencies can be undertaken following a Gateway Determination. It is envisaged that the following agencies will be consulted with:

- NSW Rural Fire Service;
- Department of Primary Industries – Agriculture;
- Department of Primary Industries – Water;
- Department of Planning, Industry and Environment – Environment Energy and Science Group;
- Local Aboriginal Land Council; and
- Hunter Water Corporation.

The gateway determination will specifically identify which government agencies are to be consulted.

PART 4 – Mapping

Proposed land use zoning and minimum lot size map changes are provided as (**ATTACHMENT 2**). Maps will be prepared in accordance with the Department of Planning, Industry and Environment's 'Standard technical requirements for spatial datasets and maps' once a gateway determination is received from the NSW Department of Planning, Industry and Environment.

PART 5 – Community consultation

Community consultation will be undertaken in accordance with the Gateway determination.

Notice of the public exhibition period will be placed on Council's website. The exhibition material will be on display at the Cessnock City Council Administration Building – 68-72 Vincent St, Cessnock, NSW, 2325 -- during

normal business hours. The planning proposal will also be available on Council's website.

PART 6 – Project timeline

The additional technical information, studies and investigations identified in the planning proposal will be completed within the timeframes identified by **(TABLE 5)** should the planning proposal receive a Gateway determination

TABLE 5– Project Timeline

	May 21	Jun 21	Jul 21	Aug 21	Sep 21	Oct 21	Nov 21	Dec 21	Jan 22	Feb 22	Mar 22	Apr 22	May 22	Jun 22
Planning Proposal Lodged														
Council Report														
Seasonal Surveys														
Gateway Determination														
Further Studies and Draft Planning Agreements														
Agency Consultation														
Public Exhibition														
Review of Submissions														
Council Report														
Parliamentary Counsel														

ATTACHMENT 1 – LEGAL DESCRIPTION

No	Address	Lot/DP	Name	Restriction
1	156 Frame Drive	Lot 2721, DP 1104897	Ruth P	-
2	19 Metclafe Lane	Lot 276, DP 755231	Shirley H	-
3	59 Metclafe Lane	Lot 277, DP 755231	Malcolm S	-
4	71 Metclafe Lane	Lot 275, DP 755231	Newpro Pty Ltd	-
5	101 Metclafe Lane	Lot 274, DP 755231	Joseph K	-
6	107 Metclafe Lane	Lot 2732, DP 884423	Anthony B	88b – Easement for Electricity – 15m Wide
7	131 Metclafe Lane	Lot 2731, DP 884423	Patrick C	-
8	133 Metclafe Lane	Lot 2722, DP 1104897	Chad J	88b – Building Envelope.
9	15 Sawyers Gully Lane	Lot 1, DP 308003	Sonia P	-
10	27 Sawyers Gully Lane	Lot 2, DP 314641	Owen J	-
11	37 Sawyers Gully Lane	Lot 1, DP 371151	Dearne M	-
12	43 Sawyers Gully Lane	Lot 1, DP 663726	Marlene S	-
13	40 Gingers Lane	Lot 1, DP 345294	Dennis M	-
15	52 Gingers Lane	Lot 10, DP 710071	Douglas W	-

16	60 Gingers Lane	Lot 11, DP 710071	Douglas W	-
17	72 Gingers Lane	Lot 280, DP 755231	Peter R	-
18	102 Gingers Lane	Lot 281, DP 755231	Stephen & Julie P	-
19	152 Gingers Lane	Lot 282, DP 755231	Newpro16 Pty Ltd	-
20	176 Gingers lane	Lot 283, DP 755231	Lee W	-

ATTACHMENT 2– PROPOSED ZONING, MINIMUM LOT SIZE AND SUBDIVISION PLAN

ATTACHMENT 3– REMPLAN REPORT

ATTACHMENT 4– HUNTER WATER ADVICE

ATTACHMENT 5 – COUNCIL CORRESPONDENCE ABOUT PREINCT PLAN APPROACH

ATTACHMENT 6– DRAINAGE AND CIVIL PLANS

ATTACHMENT 7 – ODOUR ASSESSMENT

ATTACHMENT 8 – TRAFFIC ASSESSMENT REPORT

ATTACHMENT 9 – PRELIMINARY CONTAMINATION REPORT

ATTACHMENT 10 – BUSHFIRE ASSESSMENT REPORT

ATTACHMENT 11 – PRELIMINARY CULTURAL HERITAGE REPORT

ATTACHMENT 12 – PRELIMINARY ECOLOGICAL ASSESSMENT