

Planning and Environment

Report No. PE27/2021

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SUBJECT: *18 2020 2 _ ADMINISTRATIVE PLANNING PROPOSAL TO AMEND VARIOUS ASPECTS OF THE CESSNOCK LOCAL ENVIRONMENTAL PLAN 2011*

RESPONSIBLE OFFICER: *Principal Strategic Planner - Keren Brown
Strategic Planning Manager - Martin Johnson*

SUMMARY

The purpose of this Report is to provide an overview of the Planning Proposal (distributed under separate cover) which seeks to make various minor amendments to the Cessnock Local Environmental Plan 2011 (LEP), and seek Council endorsement to forward the Planning Proposal to the NSW Department of Planning, Industry and Environment (DPIE) for Gateway determination.

RECOMMENDATION

1. That Council requests a Gateway determination for the Planning Proposal (Distributed under separate cover) from the NSW Department of Planning, Industry and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.
2. That Council requests authorisation under Section 3.31 of the *Environmental Planning and Assessment Act 1979* to act as the local plan-making authority to make the Local Environmental Plan.
3. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination.
4. That Council receives a report back on the Planning Proposal if unresolved written objections are received during consultation with the community, otherwise, forwards the Planning Proposal to the Department of Planning, Industry and Environment requesting that the Plan be made.

BACKGROUND

It is necessary over time to make minor amendments to the Cessnock LEP to ensure it remains current and reflective of the intended use of land. The amendments included in this planning proposal are minor corrections that have been requested by NSW State Government Agencies (National Parks and Wildlife), identified by Council staff or pointed out by property owners.

REPORT/PROPOSAL

The Planning Proposal consists of 11 minor amendment to the Cessnock LEP 2011. The amendments aim to:

- Recognise additional properties that have been acquired by the Office of Environment and Heritage.
- Correct property descriptions and address of heritage items in schedule 5 of the Cessnock LEP

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- Alter heritage mapping to reflect subdivisions that have occurred
- Allow for a boundary adjustment for a lot that is intersected by the Hunter Expressway
- Correct mapping anomalies

Table 1 provides a brief summary of each of the amendments that are included in the Planning Proposal (**Distributed under separate cover**). Further information is provided in the Planning Proposal:

Table 1: A brief summary of the amendments included in the Planning Proposal.

Amendment number	Property	Proposal	Reason
Am1	Various lots in Yengo National Park	Rezone lots from RU2 Rural Landscape to E1 National Park and apply corresponding minimum lot size of 200ha	The properties have been acquired by National Parks and Wildlife and added to Yengo National Park
Am 2	Compensatory habitat for development offsets	Rezone lots from RU2 Rural Landscape to RU3 Forestry and apply corresponding minimum lot size of 200ha	The properties have been acquired by National Parks and Wildlife for compensatory habitat and added to State Forest.
Am 3	Various Properties in Yango State Conservation Area	Rezone the properties from RU3 Forestry to E1 National Park and Nature Reserve from RU3 Forestry.	The land has been revoked from Yango State Forest and reserved as a new reserve Yango State Conservation Area.
Amt 4	Lot 784 DP 755231, Lot 472 DP 755231, Lot 329 DP 755231 Cessnock Road Abermain and 298 Cessnock Road Abermain,	Rezone the subject properties from RE1 Public Recreation and SP2 Infrastructure to B1 Neighbourhood Centre	<p>Lot 748 and 472 are zoned for public recreation purposes which does not reflect the current use of the sites. The site currently has consent for a Community Facility.</p> <p>Lot 329 is currently a Fire and Rescue Station.</p> <p>To the left of the subject properties is Jefferies Park which is owned by Council and publicly used. It is likely that the Public Recreation zone on Jefferies Park has been incorrectly carried over to the subject lots. Given the location of the lots, on Cessnock Road are directly opposite the Abermain neighbourhood centre and the current and previous uses the properties should be rezoned to B1 Neighbourhood Centre, consistent with the commercial properties across the road.</p>

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Amendment number	Property	Proposal	Reason
Am 5	Lot 10 DP 1137569, Lot 26 and 27 DP 879254 North Rothbury	Rezone part of Lot 10 DP 1137569 from R5 large lot residential to RU2 rural landscape and rezone all of Lot 26 and 27 DP 879254 to R5 large lot residential.	There is an error in the alignment of a portion of RU2 land and the cadastra at North Rothbury. The RU2 portion of land is currently located on Lot 26 and 27 DP 879254. Going off the shape of the RU2 portion of land and the lot size the RU2 portion should be on Lot 10 DP 1137569.
Am 6	LOT: 131 DP: 1213509 80 Stockyard Creek Road Payne's Crossing	Amendment to property description in schedule 5 and associated map	Schedule 5 of the Cessnock LEP lists heritage Item I163 Two Storey House as being located at 80 Stockyard Creek Road Paynes Crossing, Lot 13 DP 755272. In 2005 a subdivision was approved to subdivide 80 Stockyard Creek Road into 3 properties. 76 (Lot 133 DP 1213509) and 78 (Lot 132 DP 1213509) Stockyard Creek Road were created in the subdivision and the lot and DP for 80 Stockyard Creek Road was amended. Councils Heritage Advisor attended the site and advised that the item of heritage significance (the Two storey house) is solely located on 80 Stockyard Creek Road. The newly created 76 and 78 Stockyard Creek Road do not contain any heritage items and are visually separated from number 80 due to the distance and topography.
Am 7	LOT: 671 DP: 1201787 and LOT: 672 DP: 1201787 2881 and 2881A Wollombi Road, Wollombi	Amendment to schedule 5 and associated map	Schedule 5 of the Cessnock LEP lists Heritage Item 203 Wollombi Cottage at 2883 Wollombi Road Wollombi, Lot 6, Section 1, DP 759103. The Heritage Inventory sheet mentions the significance of the cottage, a water well and gravestone on the property. A subdivision in 2008 resulted in a different lot and DP for the property. Council's Heritage Advisor has confirmed that Lot 671 (the front allotment) contains the listed cottage and associated outbuildings, and, Lot 672 (the rear allotment) contains a grave site. Therefore both lots should be listed as Heritage items.

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Amendment number	Property	Proposal	Reason
			Map sheet HER_006B currently shows half of both LOT: 671 DP: 1201787 and LOT: 672 DP: 1201787 being heritage listed. The map sheet should be amended to include all of LOT: 671 DP: 1201787 and LOT: 672 DP: 1201787 The correct lot and DP that should be listed in the LEP is LOT: 671 DP: 1201787 and LOT: 672 DP: 1201787 and property address of 2881 and 2991A Wollombi Road Wollombi
Am 8	LOT: 101 DP: 1162970 2 Kerlew Street Nulkaba LOT: 1 DP: 662149 67 Wine Country Drive Nulkaba St Patrick's Roman Catholic Church	Amendment to Schedule 5 and associated map	Heritage Item I158 St Patricks Roman Catholic church is listed in schedule 5 of the CLEP as being on Lot 1 DP 662149, 67 Wine Country Drive Nulkaba. The map sheet also shows the heritage item on LOT: 1 DP: 662149 (67 Wine Country Drive Nulkaba). This is incorrect and St Patricks Roman Catholic Church is located on Lot 101 DP 1162970, 2 Kerlew Street Nulkaba
Am 9	Lot 201 DP 1099068 and Lot 165 DP 755204 1026 Lovedale Road Allendale	Amend Part 7 additional local provisions of the Cessnock LEP to insert the following clause: <i>7.17 Subdivision of land at 1026 Lovedale Road, Allendale.</i> <i>(1) This clause applies to Lot 201 DP 1099068 and Lot 165 DP 755204, being 1026 Lovedale Road, Allendale</i> <i>(2) Development consent may be granted to a subdivision that results in that part of Lot 201 DP1099068 that is north of the Hunter Expressway becoming a separate lot provided the residue</i>	Lot 201 DP 1099068 has been dissected by the Hunter Expressway corridor (HEX) and is physically separated as two parcels of land with a total area of 59.42ha. The adjoining lot 165 DP 755204 is in the same ownership and has an area of 32.3ha. The additional local clause use will allow lot amalgamation/subdivision to create one lot at the south of the HEX of approximately 59.44ha and one to the north of the HEX of approximately 32.96ha.

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Amendment number	Property	Proposal	Reason
		<i>of Lot 201 DP 1099068 is consolidated with Lot 165 DP 755204</i>	
Am 10	LGA Wide Inclusion of Plant Nursery as permitted with consent in the RU2 Primary Production zone	Amend the land use table to Insert 'Plant Nursery' as permitted with consent in the RU2 Primary Production zone.	<p>Plant Nursery is currently prohibited in the RU2 Primary production zone. It is considered that the permissibility of a plant nursery is consistent with the objectives of the RU2 zone. The permissibility of plant nurseries will also increase employment opportunities in the LGA.</p> <p>Allowing a plant nursery as permissible with consent will create consistency within the RU2 Primary Production zone in neighbouring local government areas including Maitland City Council and Singleton Council.</p>
Am 11	LGA Wide Amend clause 4.2A	<p>Amendment clause 4.2A to</p> <ul style="list-style-type: none"> - remove the word 'residential' from the heading - delete clause 4.2A (2(c)) 'Zone R5 Large Lot Residential' - renumber the clause 4.2A (2) accordingly. 	<p>The objective of clause 4.2A is to minimise unplanned rural residential development. Given that R5 Large Lot Residential is a residential zone it is expected that a dwelling would be constructed on the land. The R5 Large Lot Residential zone is predominantly located at villages such as Elrington, Nulkaba, Abermain, Greta, Millfield, Kearsley, Paxton, Mulbring and a small area near Huntlee/North Rothbury. The R5 zone has various minimum lot sizes. The majority of the R5 land has a minimum lot size of 2000m² however other areas have a minimum lot size of 4ha.</p> <p>The clause will continue to apply to the RU2 Rural Landscaped, RU4 Primary Production Small Lot, E2 Environmental Conservation and E3 Environmental Management zones.</p>

OPTIONS

Council has the following options:

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1. Endorse the recommendation of this report and forward the Planning Proposal to the Department of Planning, Industry and Environment for Gateway determination. *This is the preferred option.*
2. Not endorse the recommendations of this report. This would mean that the Planning Proposal will not progress.

CONSULTATION

Formal consultation regarding the Planning Proposal will be carried out in accordance with Gateway determination and Community Participation Plan should Council resolve to endorse the recommendation of this report.

STRATEGIC LINKS

a. Delivery Program

The Draft Planning Proposal generally aligns with the following themes and objectives of the Cessnock 2027 Community Strategic Plan (CSP):

- A sustainable and prosperous Economy
 - Objective 2.1 Diversifying local business options
- A sustainable and Healthy Environment
 - Objective 3.1 Protecting and enhancing the natural environment and rural character of the area
- Civic leadership and effective governance
 - Objective 5.2 involving more community participation in decision making

b. Other Plans

Hunter Regional Plan

The Planning Proposal is consistent with the Hunter Regional Plan. Key directions which the planning proposal is consistent with include Direction 14 protect and connect natural areas and Direction 19 identify and protect the regions heritage.

Direction 14 identifies the need to strengthen biodiversity corridors. Amendment 1, 2 and 3 of the Planning Proposal are additional properties to existing conservation areas and support this direction. The Hunter Regional Plan recognises the role that heritage plays in tourism and the local community. Direction 19 of the Plan aims to identify and protect the region's heritage. This Planning Proposal will implement this direction by ensuring that the Schedule 5 and the associated map of the Cessnock LEP is current. This will allow Council and the community to easily identify items of heritage significance and ensure they are protected.

Draft Hunter Expressway Strategy

The Draft Hunter Expressway (HEX) Strategy was publicly exhibited in December 2020. The strategy identifies the types of land uses that will be suitable for each area and will enable the DPIE, Transport for NSW and councils to streamline the assessment process to ensure development opportunities are optimised at each of the interchanges. Amendment number 9 is located immediately adjoining the Allendale Interchange. The HEX strategy states the focuses on the role of the Greta Migrant Camp at the Allendale Interchange and the rural

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amenity of the interchange. The proposed amendment will not affect the functioning of the Greta Migrant Camp and should not impact the rural setting of the interchange as the property will continue to be zoned RU2.

Cessnock Local Strategic Planning Statement 2036

The LSPS sets out the 20-year vision for land use in the local area. It establishes the special character and values of the LGA that are to be preserved and how change will be managed into the future.

The Planning Proposal is consistent with the following Planning Priorities in the Local Strategic Planning Statement:

- Planning Priority 11: Our city has a defined commercial hierarchy
- Planning Priority 17: Our lands of environmental value are protected and enhanced
- Planning Priority 18: Our areas of biodiversity and biodiversity corridors are enhanced and protected
- Planning Priority 25: Heritage based tourism is facilitated and promoted

The Planning Proposal is consistent with the following Planning Principles in the Local Strategic Planning Statement:

- Our centres exist in a logical hierarchy that reflects the catchment that they serve.
- Our centres meet local retail and service needs, without reducing the viability of other centres nearby.
- Natural assets and lands of environmental value are identified and protected.
- Areas of high biodiversity are identified and conserved.
- Environmental lands will be protected by appropriate environmental zones.
- Places of heritage significance are identified and protected.

IMPLICATIONS

a. Policy and Procedural Implications

The status of the Planning Proposal is identified in the following process flow chart.

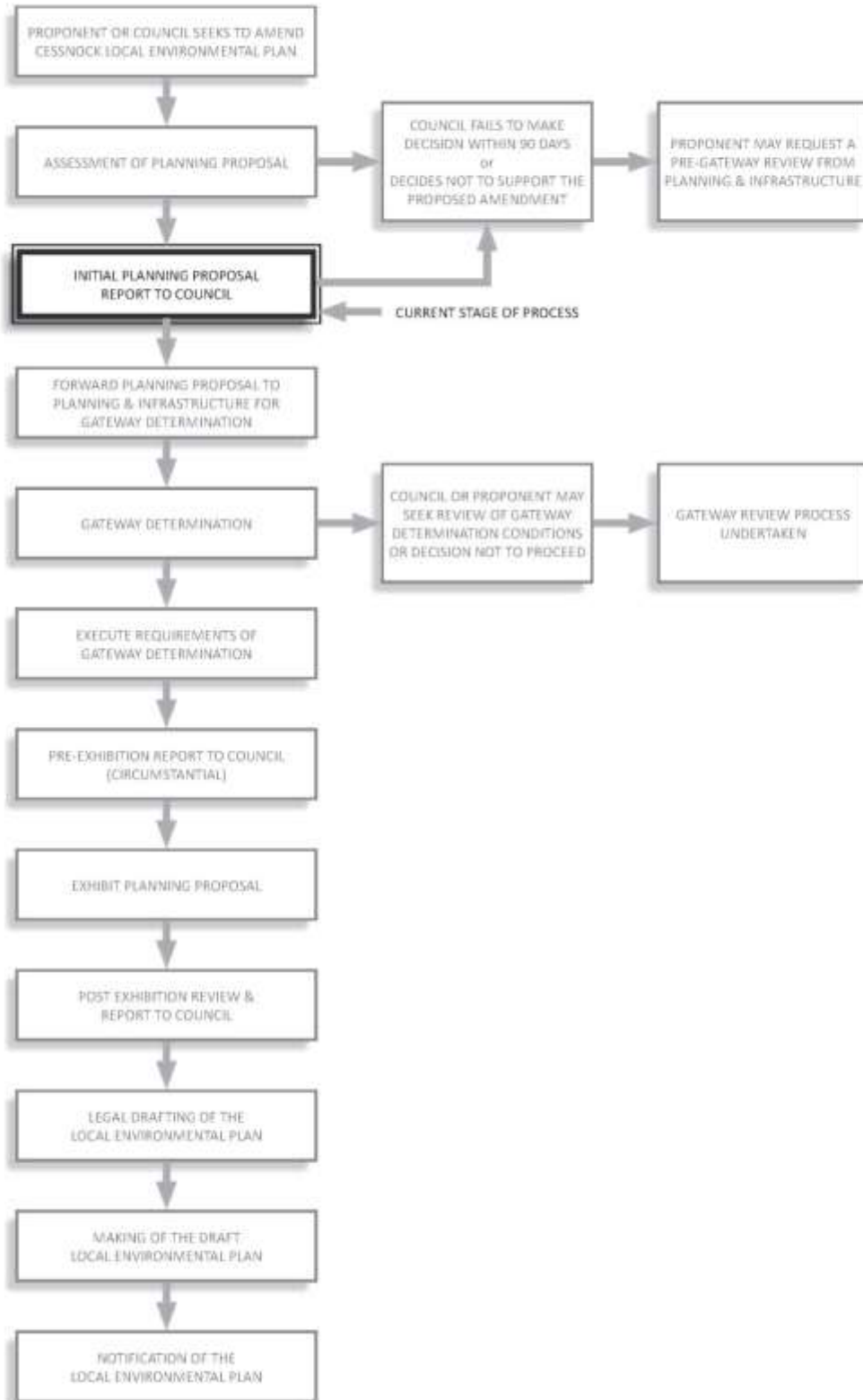
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PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



b. Financial Implications

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As the Planning Proposal is an administrative Planning Proposal correcting a number of minor anomalies and not being driven by a single applicant, fees have not been charged. Instead the cost of the Planning Proposal such as public exhibition will be covered from the existing Strategic Planning budget.

c. Legislative Implications

The Planning Proposal has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the Department of Planning Industry and Environment's Guide to Preparing a Planning Proposal.

d. Risk Implications

Nil

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

The Planning Proposal is addressing a number of anomalies in the Cessnock LEP and will ensure that the LEP remains current.

ENCLOSURES

- 1 Planning Proposal - provided under Separate Cover