



PLANNING PROPOSAL

*Amendment to the
Cessnock Local Environment Plan 2011*

ROSE HILL, MILLFIELD
Part of Lot 12 DP 1181682

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PART 1: BACKGROUND and OBJECTIVES

Background

The subject site is part of a previous rezoning proposal known as Sanctuary Villages. In January 2006, a request to the Minister for Planning requested that the Sanctuary Villages planning proposal be considered as a State Significant Site and Part 3A Major Project under the Environmental Planning and Assessment Act.

Consideration of the planning proposal was deferred pending review and finalisation of the Lower Hunter Regional Strategy (October 2006) and discussions with the Department of Planning (now known as the Department of Planning and Infrastructure) and the Department of Environment and Conservation (now known as Office of Environment and Heritage) regarding a suitable environmental offset scheme on 22 December 2006.

On 18 June 2007, the Minister for Planning agreed to consider land adjacent to "Sanctuary Villages" as a State Significant Site for listing in Schedule 3 of the State Environmental Planning Policy (Major Projects 2005) and was placed on exhibition from 3 September 2008 until 6 October 2008.

In October 2009 the Planning Assessment Commission of New South Wales recommended approval based on a merit assessment of a Concept Plan and Stage 1 Project Plan for the "Sanctuary Villages" development. Subsequent legal opinion and advice from the Department of Planning in December 2009 advised that the Minister for Planning had no power to determine the application as a result of the decision in the Land and Environment Court (Gwandalan Summerland Point Action Group Inc v Minister for Planning 2009).

The Part 3A application was subsequently discontinued.

Objectives

The objective of the Planning Proposal is to enable large residential lots on the subject land, connecting the large lot residential precinct of Paxton with the large lot residential precinct of Millfield, by amending the Cessnock Local Environmental Plan 2011 to allow for up to 100 residential allotments with a minimum lot size of 4,000m².

PART 2: EXPLANATION of PROVISIONS

The objective of this Planning Proposal will be achieved by amending the Cessnock Local Environmental Plan 2011 and introducing a site specific chapter to the Cessnock Development Control Plan 2010.

Cessnock Local Environmental Plan 2011

The Cessnock Local Environmental Plan 2011 is proposed to be amended in the following ways:

1. Rezone part of Lot 12 DP 1181682 from RU2 Rural Landscape to R5 Large Lot Residential.
2. Amend the Minimum Lot Size Map for part of Lot 12 DP 1181682 from a minimum lot size of 40 hectares to a minimum lot size of 4,000m².

Cessnock Development Control Plan 2010

Supporting studies to the Planning Proposal illustrate that more than 100 lots require additional traffic and sewer infrastructure. The proposed amendment to the minimum lot size provisions in the Cessnock Local Environmental Plan 2011 enables the subdivision of up to 128 lots, dependant of the resultant subdivision pattern. An amendment to Cessnock DCP (2010) will be required to limit the proposed development to a maximum of 100 lots. This plan will be prepared in consultation with all relevant public authorities and following the completion of the required supporting studies.

Local Infrastructure Plan

Supporting studies to the Planning Proposal identify the need to upgrade existing infrastructure to support the proposed development. A section 94 contributions plan and / or development of a Voluntary Planning Agreement for local infrastructure will be required to support the proposed development. The section 94 plan or planning agreement will be prepared in consultation with all relevant public authorities and following the completion of the required supporting studies.

PART 3: JUSTIFICATION

In accordance with the Department of Planning's "Guide to Preparing Planning Proposals", this section provides a response to the following issues:

- Section A: Need for Proposal;
- Section B: Relationship to Strategic Planning Framework;
- Section C: Environmental, Social and Economic Impact; and
- Section D: State and Commonwealth Interests

Section A: Need for Proposal

1. Resulting from a Strategic Study or Report

The Rose Hill Precinct is identified in the Lower Hunter Regional Strategy and Council's City Wide Settlement Strategy (2010) as a new urban area.

The inclusion of the subject site as a New Urban Area in the Lower Hunter Regional Strategy was predicated on the Part 3A application described in the background section of this Planning Proposal as "Sanctuary Villages" accommodating 700 dwellings at Paxton and Millfield. New Urban Areas, as defined in the Lower Hunter Regional Strategy, are required to meet a targeted density yield of 12 dwellings per hectare and comply with the requirements of the Neighbourhood Planning Principles stipulated by the strategy. This Planning Proposal seeks to amend the Cessnock Local Environmental Plan as a transitional arrangement to achieving the longer term objective of the Lower Hunter Regional Strategy. It is noted that the objectives of the proposed R5 Large Lot Residential zoning include requirements to ensure the large residential lots do not hinder the proper and orderly development of urban areas in the future.

2. Planning Proposal as best way to achieve objectives

The most effective way to achieve the objectives of this Planning Proposal is to amend the zoning and minimum lot size provisions within the Cessnock Local Environmental Plan 2011, and provide additional controls in the form of a site specific chapter within the Cessnock Development Control Plan to limit the maximum number of lots to 100.

An alternative to providing a site specific chapter to the Development Control Plan would be to introduce an additional minimum lot size provision to the Cessnock Local Environmental Plan 2011. This option is considered to impose a regulatory burden on the Local Environmental Plan as the minimum lots size provision would require only a minor variation to current provisions available and would not be expected to be used in instances outside the confines of the subject site.

The combination of the Local Environmental Plan amendment and the site specific chapter to the Development Control Plan are considered to be the most efficient and effective way of achieving the objectives of the Planning Proposal within the provisions offered by the current planning system.

3. **Net Community Benefit**

A Net Community Benefit test has been undertaken and provided below.

Table 1: Net Community Benefit

Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800m of a transit node)?	Yes. The land is identified as a New Urban Area in both the Lower Hunter Regional Strategy and the Cessnock City Wide Settlement Strategy. The proposal provides a transitional arrangement to the strategic objectives for the land.
Will the LEP be consistent with agreed centres and sub-regional planning policy for development in the area?	Yes. Future urban development of the site is capable of meeting the requirements of the Lower Hunter Regional Strategy with regard to the provisions of community facilities and services and rezoning the land for urban purposes.
Is the LEP located in a regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?	Yes. The proposal is consistent with the Lower Hunter Regional Strategy, which identifies the Rose Hill site as a new release area, forming an extension to the adjacent urban footprint.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Yes. The proposed rezoning will provide for employment generating opportunities (through construction stages), and will underpin the local economy by building on the existing residential population and urban infrastructure. The rezoning will not result in the loss of employment lands.
Is the existing public infrastructure capable of servicing the proposed site?	Yes. It is anticipated that a site specific Contributions Plan and / or Voluntary Planning Agreement will include contributions for Council's community assets, roads, drainage and traffic infrastructure. Such contributions would address required upgrades of community facilities and transport infrastructure.
Will the LEP facilitate the provision of public transport?	Yes. It is expected that the additional population will increase the demand for public transport, in turn increasing the demand for a more frequent service to the area.
Will the LEP implement studies and strategic work consistent with State and regional policies?	Yes. The proposal provides a transitional arrangement consistent with the Lower Hunter Regional Strategy.

Section B: Relationship to Strategic Planning Framework

4. Consistency with Objectives and Actions within Regional Strategies

Lower Hunter Regional Strategy 2006

The Lower Hunter Regional Strategy, currently under review by the Department of Planning and Infrastructure, identifies the subject land as a proposed urban area and specifies that New Release Areas are to be based on Neighbourhood Planning Principles accommodating a lot yield of approximately 12 dwellings per hectare.

This Planning Proposal is inconsistent with the targeted density yield of 12 dwellings per hectare and objectives of the Neighbourhood Planning Principles. However, it is considered that inconsistencies of the planning proposal with the Lower Hunter Regional Strategy are justified in terms that the proposal is a logical connection of the large lot residential precinct of Paxton with the large lot residential precinct of Millfield; the objectives of the proposed R5 Large Lot Residential zoning include requirements that ensure the large residential lots do not hinder the proper and orderly development of urban areas in the future; and the planning proposal contributes to the character, economy and social fabric of the area.

Additional to the large lot residential development adjacent to the subject site is low density residential development. It is considered that extending the existing low density residential development pattern across the subject site would place exceeding demand on existing infrastructure and services, however extending the large lot residential development pattern across the subject site, with minor infrastructure upgrades, is considered by the supporting studies to be able to be accommodated by existing infrastructure and services.

This planning proposal provides a transitional arrangement for the longer term vision of urban density housing proposed by the Lower Hunter Regional Strategy, making efficient use of the existing infrastructure available to the area, and maintaining the future potential of the subject site to meet housing targets identified in the Lower Hunter Regional Strategy.

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

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

The Community Strategic Plan (Our People, Our Place, Our Future), was developed by Council following extensive local community consultation. The Plan establishes the following goals:

1. To promote and provide quality services and facilities which focus on the needs of the community;
2. To protect, enhance and promote our natural, developed and cultural environment;
3. To actively foster the creation of employment and sustainable development opportunities acceptable to community and environmental standards;
4. To be a professionally managed and customer focused organisation which provides leadership through partnerships with the community; and

5. To identify needs, share information and provide opportunities for active participation and community consultation.

This Planning Proposal is considered to make efficient use of existing recreational and community infrastructure. However, the cumulative impact of the planning proposal and nearby urban release areas in the Millfield precinct will require the need to upgrade existing recreational and community facilities servicing Millfield to meet current standards. Therefore, it is recommended that a social impact assessment be undertaken following gateway determination. It is expected that any requirements to upgrade or embellish existing community or recreational infrastructure identified in the social impact assessment will be funded through the establishment of either a Section 94 Contribution Plan or Voluntary Planning Agreement.

City Wide Settlement Strategy (2010)

Following the release of the Lower Hunter Regional Strategy in 2006, the Cessnock City Wide Settlement Strategy 2003 was reviewed to coordinate with the Lower Hunter Regional Strategy forming what is now known as the Cessnock City Wide Settlement Strategy 2010.

The Cessnock City Wide Settlement Strategy identifies land referred to as Sanctuary Villages as a New Release Area having potential for increased development opportunities. Rezoning of Sanctuary Villages is required by the City Wide Settlement Strategy to have site specific studies supporting the rezoning process. This planning proposal encompasses land that forms part of the Sanctuary Villages land and provides studies supporting the rezoning process.

6. Consistency with State Environmental Planning Policies

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

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 1 - Development Standards	The SEPP makes development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary.	This SEPP does not apply to Cessnock Local Government Area following the gazettal of the Cessnock Local Environmental Plan 2011.
SEPP 4 - Development without Consent and Miscellaneous Complying Development	The SEPP allows relatively simple or minor changes of land or building use and certain types of development without the need for formal development applications. The types of development covered in the policy are outlined in the policy.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 6 - Number of Storeys in a Building	The SEPP clarifies the reference to storey, floors and levels.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 15 - Rural Land Sharing	The SEPP provides for multiple occupancy development, with council	<i>Not Applicable</i>

Communities	consent, in rural and non-urban zones, subject to a list of criteria in the policy.	
SEPP 21 -Caravan Parks	The SEPP provides for development for caravan parks.	<i>Not Applicable</i>
SEPP 22 - Shops and commercial premises	The SEPP provides for the change of use of commercial premises.	<i>Not Applicable</i>
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	<i>Not Applicable</i>
SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.	<i>Not Applicable</i>
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	<i>Not Applicable</i>
SEPP 36 - Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	<i>Not Applicable</i>
SEPP 44 - Koala Habitat Protection	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	SEPP 44 encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure the permanent free-living populations will be maintained over their present range. Under SEPP 44, potential koala habitat is defined as areas of native vegetation where the trees listed in Schedule 2 of the SEPP constitute at least 15% of the total number of trees in the upper or lower strata of the tree component. An ecological assessment was prepared for the wider study area of the "Sanctuary Villages" project. The area subject to this proposal has no endangered species, given its predominantly cleared nature and current use as grazing land. The area contains only a small patch of remnant trees. Consequently the site as a whole does not constitute 'Potential Koala Habitat'. As such no further provisions of the policy would apply to the site.

SEPP 50 - Canal Estates	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	<i>Not Applicable</i>
SEPP 55 - Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination	The objective of this Policy is to provide a state wide approach to the remediation of contaminated land. Clause 6 of the policy is applicable to the consideration of contamination and remediation in relation to rezoning proposals. Council is required to consider whether there is the possibility that the land may be contaminated due to past land uses, and if so, whether the land is suitable for its proposed use in its current or remediate state. A preliminary environmental assessment indicates that the majority of the site would not contain contamination likely to impact on potential future residential usage. No further assessment is considered to be required prior to rezoning the land for large lot residential purposes.
SEPP 62 - Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from the rezoning of land and is of relevance for site specific rezoning proposals.	<i>Not Applicable</i>
SEPP 64 - Advertising and Signage	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 65 - Design Quality of Residential Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	<i>Not Applicable</i>
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	The provisions of this SEPP will be considered in the assessment of any future residential development upon the site.
SEPP Housing for Seniors or People with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	The provisions of this SEPP will be considered in the assessment of any future residential development upon the site.
SEPP Major	The SEPP defines certain	<i>Not Applicable</i>

Development 2005	developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels (JRPPs) and classes of regional development to be determined by JRPPs.	
SEPP Infrastructure 2007	The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	The provisions of this SEPP require development applications for subdivisions creating greater than 200 lots to be referred to the Roads and Maritime Services (RMS) for comment. This proposal is for up to 100 lots, therefore does not trigger referral with RMS.
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	<i>Not Applicable</i>
SEPP Temporary Structures 2007	The SEPP provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity.	<i>Not Applicable</i>
SEPP Exempt and Complying Development Codes 2008	The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Rural Lands 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	<i>Not Applicable</i>
SEPP Affordable Rental Housing 2009	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.	<i>Not Applicable</i>

7. Consistency with s.117 Ministerial Directions for Local Plan Making

An assessment of relevant s.117 Directions against the planning proposal is provided in the table below.

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implication
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	<i>Not Applicable</i>
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	This direction states (in part) that a draft Local Environmental Plan shall not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. The subject site is identified for future urban development in the Lower Hunter Regional Strategy and, as such, is considered to be consistent with this direction.
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	<i>Not Applicable</i>
1.5 Rural lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.	<i>Not Applicable</i>
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	The planning proposal is considered to be consistent with this direction as the subject site is significantly denuded of vegetation.
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.	An Aboriginal scar tree is located on the subject site. The scar tree is registered on the certificate of title via a positive covenant and will remain protected. Therefore the planning proposal is considered to be consistent with this direction.
2.4 Recreation Vehicle Areas	The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>).	<i>Not Applicable</i>
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing	This direction states that a planning proposal must:

	and future housing needs, make efficient use of existing infrastructure and 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.	<i>contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).</i> Utilities and Infrastructure The planning proposal proposes to be serviced by reticulated water, electricity, telecommunication and reticulated sewer via a pressure sewer system. Details pertaining to the pressure sewer system are proposed to be resolved through the planning proposal process in consultation with Council and Hunter Water. It is acknowledged that the planning proposal complies with Hunter Water's requirements under the <i>Water & Sewer Design Manual – Section 6 – Alternative Sewer Systems</i> as a development suitable for investigation. Recreational Infrastructure The subject site is currently serviced by an existing local playing field. It is considered that with further embellishment, the planning proposal would make efficient and effective use of this infrastructure. Recreational infrastructure upgrades could be accommodated through developer contributions either via a Voluntary Planning Agreement or Section 94 Contributions Plan. The planning proposal is considered to be consistent with this direction.
3.2 Caravan parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.	The planning proposal seeks to zone the land from RU2 Rural Landscape to R5 Large Lot Residential. Caravan Parks are a permitted land use in the RU2 zoning and prohibited in the R5 zoning.

		It is considered that the proposed change in land use is inconsistent with the direction. However, the inconsistency is justified by the identification of the subject site in the Lower Hunter Regional Strategy as a future urban release area for residential development.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Home occupations are permitted without consent in the proposed R5 Large Lot Residential Zone. The planning proposal is considered to be consistent with this direction.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	A Traffic Assessment was undertaken for the site by Parsons Brinckerhoff for the wider "Sanctuary Villages" development. The assessment concluded that Millfield's surrounding roads will continue to operate at satisfactory levels up to and including 100 lots. The traffic assessment was undertaken in May 2008 and does not take into account the cumulative affect of two urban release areas located within 1 kilometre of the subject site and identified in the Cessnock Local Environmental Plan 2011. A new Traffic Assessment will need to be undertaken that is specific to the development proposal and considers the cumulative effect of nearby urban release areas.
3.5 Development Near Licensed Aerodromes	The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	<i>Not Applicable</i>
3.6 Shooting Ranges	The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issues that must be addressed when rezoning land adjacent to an existing shooting range.	<i>Not Applicable</i>
4. HAZARD AND RISK		
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of	The area is characterized by undulating hills with elevations ranging from 110m – 140m AHD. The soil types present on

	containing acid sulphate soils	the site, the mapped soil pH levels (5.5 – 5.6) and the depth of the water table suggests that acid sulphate soils are unlikely to develop as a result of the development.
4.2 Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	The area is not located within a Mine Subsidence District, and there are currently no known plans to dedicate this area as a district.
4.3 Flood Prone Land	The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.	Flood modelling by Parsons Brinckerhoff indicates that the majority of the proposed development site is free of the 1% Annual Exceedance Probability, except for minor drainage lines within the site. Further detailed analysis and assessment of constraints, including the placement of any fill, will be required before final designs at the development application stage.
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	The majority of the site is not mapped as bush fire prone land. A bush fire assessment has been undertaken and concludes the site can be developed to meet requirements of the <i>Planning for Bushfire Protection 2006</i> . The proposal will need to comply with the provisions of <i>Planning for Bushfire Protection Guidelines</i> and the <i>Rural Fires Act 1997</i> .
5. REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The planning proposal is inconsistent with the Neighbourhood Planning Principles and dwelling density requirements of the Lower Hunter Regional Strategy. Deviation of the planning proposal from the Lower Hunter Regional Strategy is justified in terms that the proposal is a logical connection of the large lot residential precinct of Paxton with the large lot residential precinct of Millfield; and the planning proposal contributes to the character, economy and social fabric of the area. Furthermore, the planning

		proposal provides a transitional arrangement for the longer term vision of urban density housing proposed by the Lower Hunter Regional Strategy, and makes efficient use of existing infrastructure available to the area.
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.	The planning proposal does not include concurrence, consultation or referral provisions and does not identify any development as designated development. The planning proposal is considered to be consistent with this direction.
6.2 Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	<i>Not Applicable</i>
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The planning proposal is to enable urban development of up to 100 large lot residential allotments, however the proposal of a 4,000m² minimum lot size enables up to 128 lots. Furthermore, the planning proposal is not consistent with the density yield of 12 dwellings per hectare intended by the Lower Hunter Regional Strategy. It is considered that site specific planning controls are required to: a) Restrict development to a maximum of 100 lots in order to be consistent with the planning proposal; and b) Encourage a subdivision pattern that will not jeopardise the intended purpose of the Lower Hunter Regional Strategy in achieving a density yield of 12 dwellings per hectare on the subject site at future time A site specific chapter in Council's Development Control Plan will need to be prepared to

		support the amendment to the Cessnock Local Environmental Plan 2011. The site specific provisions are considered necessary in supporting the planning proposal.
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Section C: Environmental, Social and Economic Impact

8. Impact on Threatened Species

The subject land is predominantly denuded of vegetation containing only a small patch of remnant trees and is currently used as grazing land. An ecological assessment entitled "Ecological Inventory" completed by Harper Somers O'Sullivan and dated July 2005 was prepared for the wider Sanctuary Villages project encompassing the subject land, which identified that there are no endangered ecological communities or endangered species within the subject area of this planning proposal.

The Ecological Inventory is required to be updated and made specific to the planning proposal following gateway determination.

9. Environmental Impact

A small portion of the subject site is affected by bushfire prone land mapping. A bushfire risk assessment will be required at the development application stage to address requirements under the *Environmental Planning and Assessment Act 1979* and *Rural Fires Act 1997*.

A majority of the subject site perimeter is affected by the 1% Annual Exceedance Probability (AEP) flood level, however the large majority of the subject site is predominantly higher than the 1% AEP flood level. Surface runoff quality and flow rates will be adequately managed in conjunction with Council's development standards during the development application process.

An alternate reticulated sewer system is proposed to service effluent disposal. Consultation with Hunter Water Corporation is required to determine the capacity and feasibility of this system following gateway determination.

10. Social and Economic Impacts

This Planning Proposal is considered to make efficient use of existing recreational and community infrastructure, and provide employment during the various construction stages of development. However, there are two urban release areas within the suburb of Millfield that have not been considered in the assessment of impacts associated with this planning proposal. It is recommended that a social impact assessment be undertaken following gateway determination to determine any requirements to upgrade or embellish existing community or recreational infrastructure. Any required infrastructure upgrades or embellishments identified will be funded through the establishment of either a Section 94 Contribution Plan or Voluntary Planning Agreement.

Section D: State and Commonwealth Interests

11. Adequate Public Infrastructure

The Traffic and Accessibility Assessment prepared by Parsons Brinckerhoff dated May 2008 covered the broader Sanctuary Villages area. The assessment refers to the Rose Hill (Millfield Precinct) area specifically and states that up to 100 lots can be accommodated by the current intersection arrangements at the northern end of Millfield Road.

The assessment continues to recommend that:

- *Road works and/or intersection upgrades may be required when more than 100 lots are developed in the Millfield Precinct. Additional analysis should be undertaken at the time of future project applications for the future stages of development.*

The Traffic and Accessibility Assessment dated May 2008 is considered to be outdated and is provided in isolation from two Urban Release Areas identified in the Cessnock Local Environmental Plan 2011. Referred to as Mount View Road and Millfield CC5, the two urban release areas are located within 1km of the subject site and are expected to accommodate an additional 405 lots. The cumulative impact on infrastructure produced by the proposal in combination with the two urban release areas has not been considered in the planning proposal.

A new Traffic and Accessibility Assessment will need to be undertaken that is specific to the proposed development and considers the cumulative effect of the Mount View Road and CC5 urban release areas identified in the Cessnock Local Environmental Plan 2011.

Furthermore, it is expected that upgrades to existing recreational and community infrastructure will be required to bring the facilities up to current standards and accommodate the accumulation of population those facilities will provide for.

The preparation of a Contributions Plan and / or a Voluntary Planning Agreement is required to be undertaken to accommodate the adequate provision of local infrastructure.

12. Consultation with State and Commonwealth Authorities

Council will seek consultation with Hunter Water Corporation to resolve any concerns surrounding alternate reticulated sewer systems in accordance with Hunter Water Corporation's Water and Sewer Design Manual.

PART 4: MAPPING

The following maps are required to be amended to achieve the intent of the Planning Proposal:

Land Zone Map – Rezone the subject area from RU2 – Rural Landscape to R5 – Large Lot Residential

Land Zone Map	LZN_006B	1720_COM_LZN_006B_040_20111214
Land Zone Map	LZN_006D	1720_COM_LZN_006D_040_20111214

Minimum Lot Size Map – Amend the minimum lot size map in relation to the subject site from a minimum lot size of 40 hectares to a minimum lot size of 4,000m².

Land Size Map	LZN_006B	1720_COM_LSZ_006B_040_20111215
Land Size Map	LZN_006D	1720_COM_LSZ_006D_040_20111220

PART 5: COMMUNITY CONSULTATION

Community consultation will be undertaken in accordance with Council's guidelines, requiring a minimum of twenty eight (28) days exhibition, and any specific requirements made by the Department of Planning and Infrastructure during the gateway determination.

The proposed consultation strategy for this Planning Proposal includes:

- Notification in the Cessnock Advertiser, locally circulated newspaper;
- Hard copy display at Council's Administration Building (Help & Information Centre); and Cessnock Public Library; and
- Web based notification on Council's website at www.cessnock.nsw.gov.au

It is also intended to consult with the adjoining land owners and community members who have previously made a submission in regard to this development.

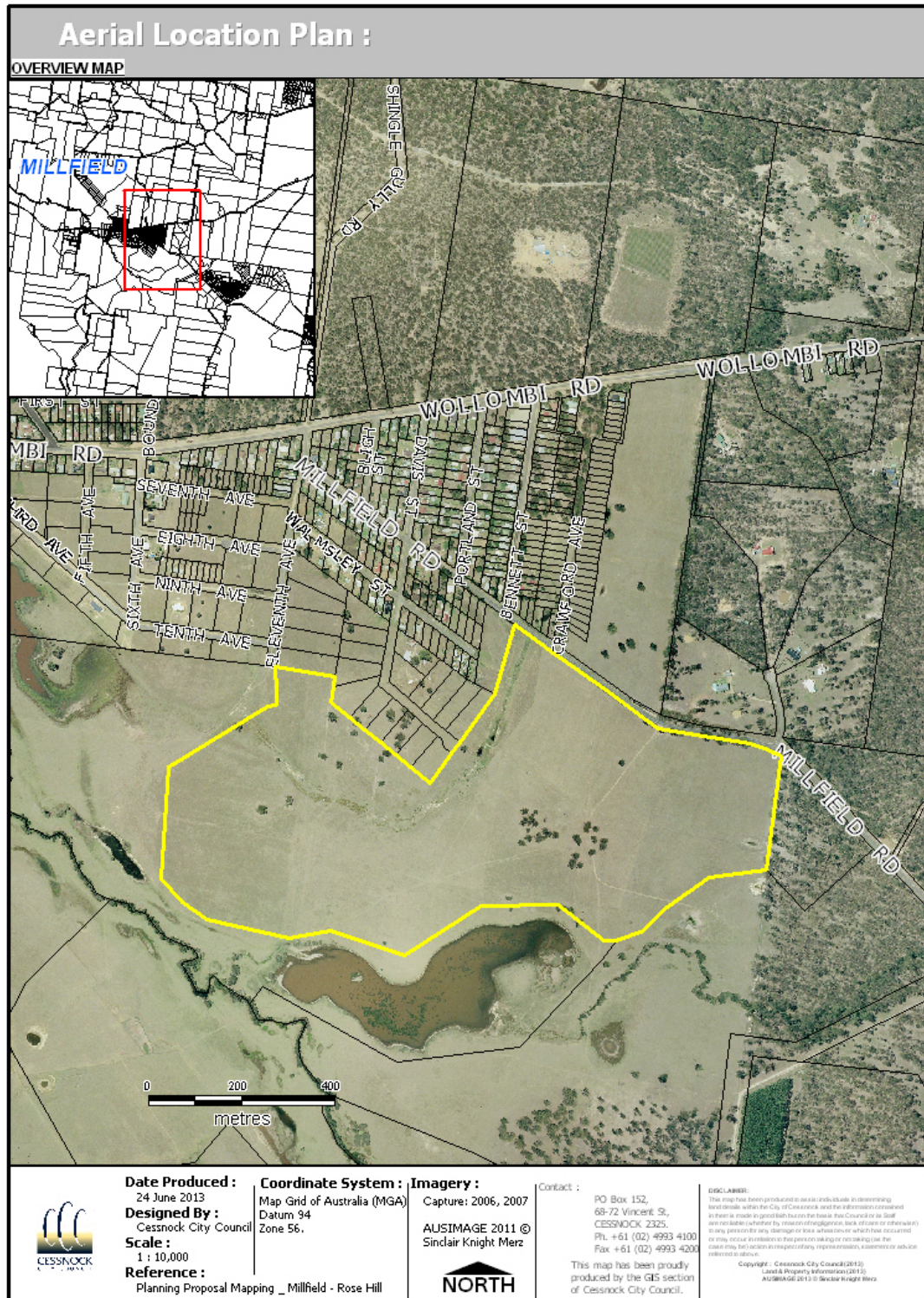
PART 6: PROJECT TIMELINE

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. It is estimated that the proposed amendment to the Cessnock Local Environmental Plan 2011 will be completed by May 2014.

PROJECT TIMELINE

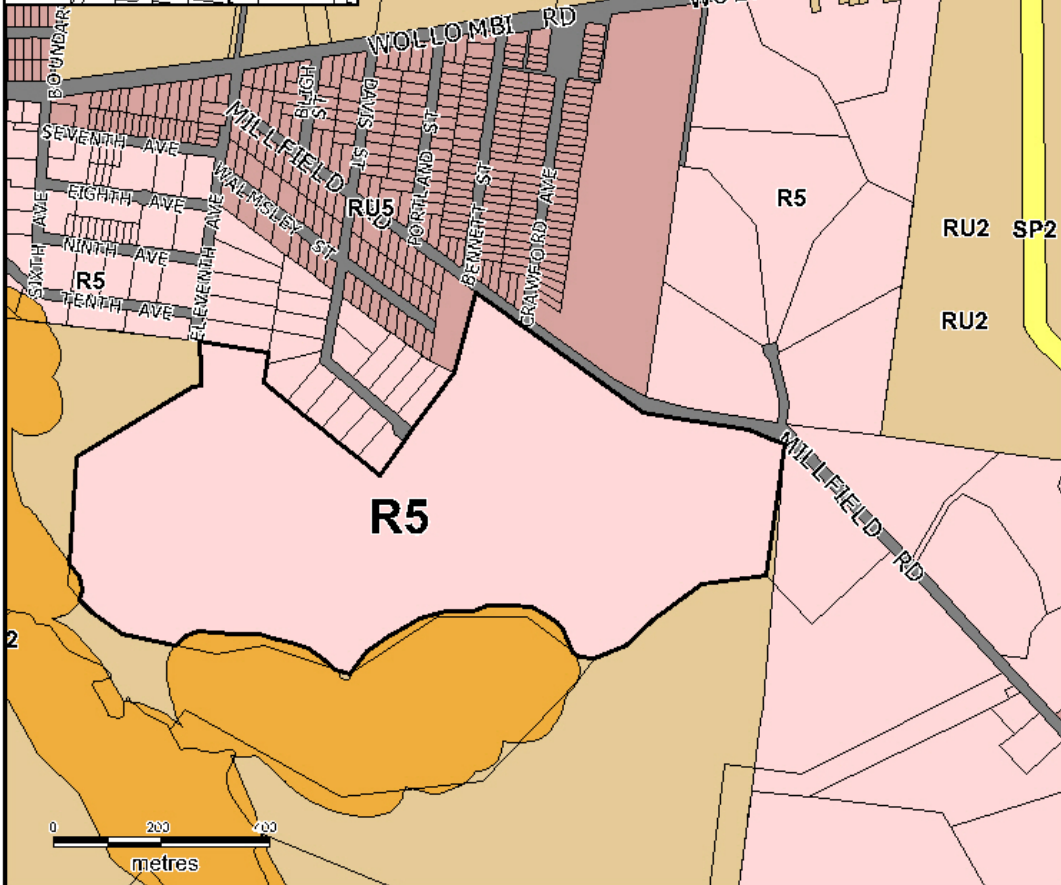
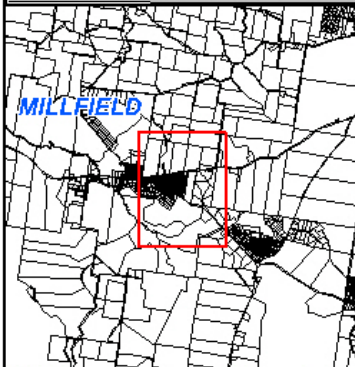
	June 2013	July 2013	Aug 2013	Sept 2013	Oct 2013	Nov 2013	Dec 2013	Jan 2014	Feb 2014	March 2014	April 2014	May 2014	June 2014
STAGE 1 Submit Planning Proposal to Department of Planning & Infrastructure													
STAGE 2 Anticipated commencement date (Gateway Determination)													
STAGE 3 Anticipated timeframe for the completion of required technical studies: - Social Impact Assessment - Ecological Study - Flora and Fauna Assessment - Archaeological Survey and Constraints Study - Traffic and Accessibility Assessment - Environmental Site Assessment - Flooding Drainage and Stormwater Management - Preliminary Geotechnical and Hydro-geological Study													
Preparation (Draft) Development Control Plan													
Preparation (Draft) Section 94 Contributions Plan													
STAGE 4 Public Exhibition Period													
STAGE 5 Reviewal / consideration of submissions to public exhibition													
STAGE 6 Report to Council													
STAGE 7 Forward Planning Proposal to Department of Planning & Infrastructure to finalise the Local Environmental Plan													

Appendix 1: Location Plan



Proposed Zoning Plan :

OVERVIEW MAP



Date Produced :

24 June 2013

Designed By :

Cessnock City Council

Scale :

1 : 10,000

Reference :

Planning Proposal Mapping - Millfield - Rose Hill

Coordinate System :

Map Grid of Australia (MGA)

Datum 94

Zone 56.



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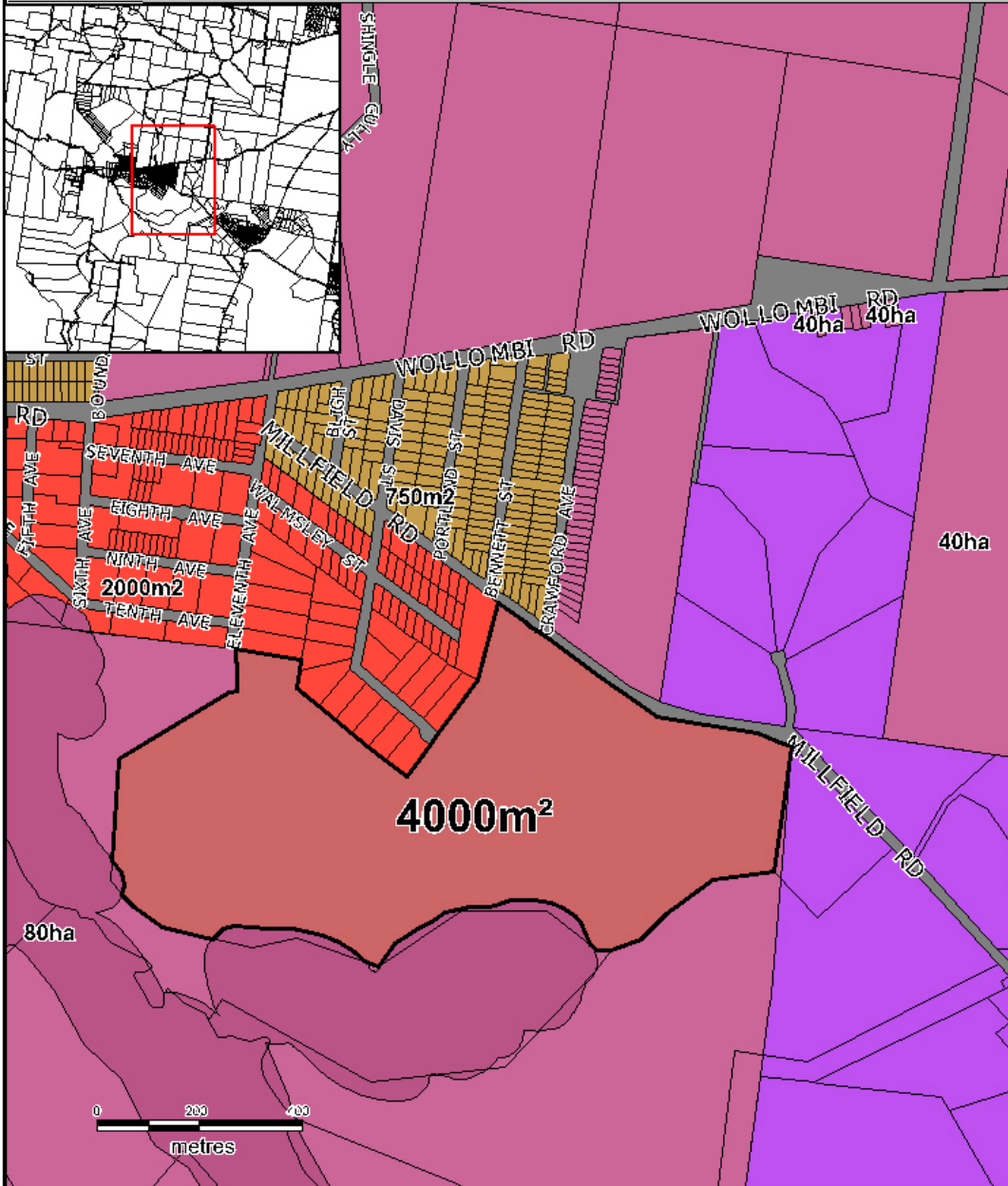
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Land & Property Information (2013)

AUSIMAG 2013 to December 2013

Proposed Minimum Lot Size Plan :

OVERVIEW MAP



Date Produced :

24 June 2013

Designed By:

Cessnock City Council

Scale :

1 : 10,000

Reference:

Planning Proposal Mapping - Millfield - Rose Hill

Coordinate System:

Map Grid of Australia (MGA)

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Appendix 2: Council Report and Minutes

Our Natural, Developed and Cultural Environment

Report No. EE32/2013

Strategy and Sustainability



SUBJECT: *PLANNING PROPOSAL - ROSE HILL, MILLFIELD*

RESPONSIBLE OFFICER: *Strategic Landuse Planning Manager - Peter Mann*

APPLICATION NUMBER:	18/2011/6/1
PROPOSAL:	ROSE HILL, MILLFIELD
PROPERTY DESCRIPTION:	LOT 12, DP 1181682
PROPERTY ADDRESS:	MILLFIELD ROAD, MILLFIELD
ZONE (CURRENT):	RU2 RURAL LANDSCAPE
ZONE (PROPOSED):	R5 LARGE LOT RESIDENTIAL
OWNER:	FAME COVE THREE PTY LTD
APPLICANT:	HARDIE HOLDINGS

SUMMARY

The purpose of this report is to provide an overview of a planning proposal known as "Rose Hill" located at Millfield Road and Eleventh Ave, Millfield. The planning proposal is for a maximum of 100 lots and proposes to rezone land from RU2 Rural Landscape with a minimum lot size of 40 hectares to R5 Large Lot Residential with a minimum lot size of 4,000m².

RECOMMENDATION

That Council:

1. Forward a Planning Proposal to the Department of Planning and Infrastructure under s.56 (1) of the *Environmental Planning and Assessment Act 1979* seeking a gateway determination to:
 - a) rezone the subject site from RU2 Rural Landscape to R5 Large Lot Residential; and
 - b) amend the Minimum Lot Size Map for the subject site from 40 hectares to 4,000m².
2. Require the applicant to update the following studies as a minimum to specifically address the Planning Proposal:
 - a) Ecological Inventory;
 - b) Flora & Fauna Assessment;
 - c) Archaeological Survey and Constraints Study;

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- d) Traffic and Accessibility Assessment;**
- e) Environmental Site Assessment;**
- f) Preliminary Geotechnical and Hydro-geological Study; and**
- g) Flooding, Drainage and Stormwater Management.**

BACKGROUND

The subject site is part of a previous rezoning proposal known as Sanctuary Villages. In January 2006, a request to the Minister for Planning requested that the Sanctuary Villages planning proposal be considered as a State Significant Site and Part 3A Major Project under the Environmental Planning and Assessment Act.

Consideration of the planning proposal was deferred pending review and finalisation of the Lower Hunter Regional Strategy (October 2006) and discussions with the Department of Planning (now known as the Department of Planning and Infrastructure) and the Department of Environment and Conservation (now known as Office of Environment and Heritage) regarding a suitable environmental offset scheme on 22 December 2006.

The planning proposal was reported to Council on 5 July 2006 (Report No. 88/2006) as being inconsistent with the Lower Hunter Regional Strategy and requiring a Deed of Agreement with the NSW Government outlining over 12,000 hectares of conservation land dedication in return for the recognition of the development potential of 3280 hectares in an Environmental Land Offset Scheme across the Lower Hunter.

On 18 June 2007, the Minister for Planning agreed to consider land adjacent to "Sanctuary Villages" as a State Significant Site for listing in Schedule 3 of the State Environmental Planning Policy (Major Projects 2005) and was placed on exhibition from 3 September 2008 until 6 October 2008.

In October 2009 the Planning Assessment Commission of New South Wales recommended approval based on a merit assessment of a Concept Plan and Stage 1 Project Plan for the "Sanctuary Villages" development. Subsequent legal opinion and advice from the Department of Planning in December 2009 advised that the Minister for Planning had no power to determine the application as a result of the decision in the Land and Environment Court (Gwandalan Summerland Point Action Group Inc v Minister for Planning 2009).

The Part 3A application was subsequently discontinued.

REPORT/PROPOSAL

The purpose of this report is to consider a planning proposal for part of Lot 12 DP 1181682 (part of former Sanctuary Villages site) located at Millfield Road and Eleventh Ave, Millfield to rezone the land from RU2 Rural Landscape with a minimum lot size of 40 hectares to R5 Large Lot Residential with a minimum lot size of 4,000 m². Figure 1 below illustrates the location of the subject site (outlined in heavy solid line labelled "SITE") and former Sanctuary Villages site (outlined in heavy dashed line labelled "SANCTUARY VILLAGES").

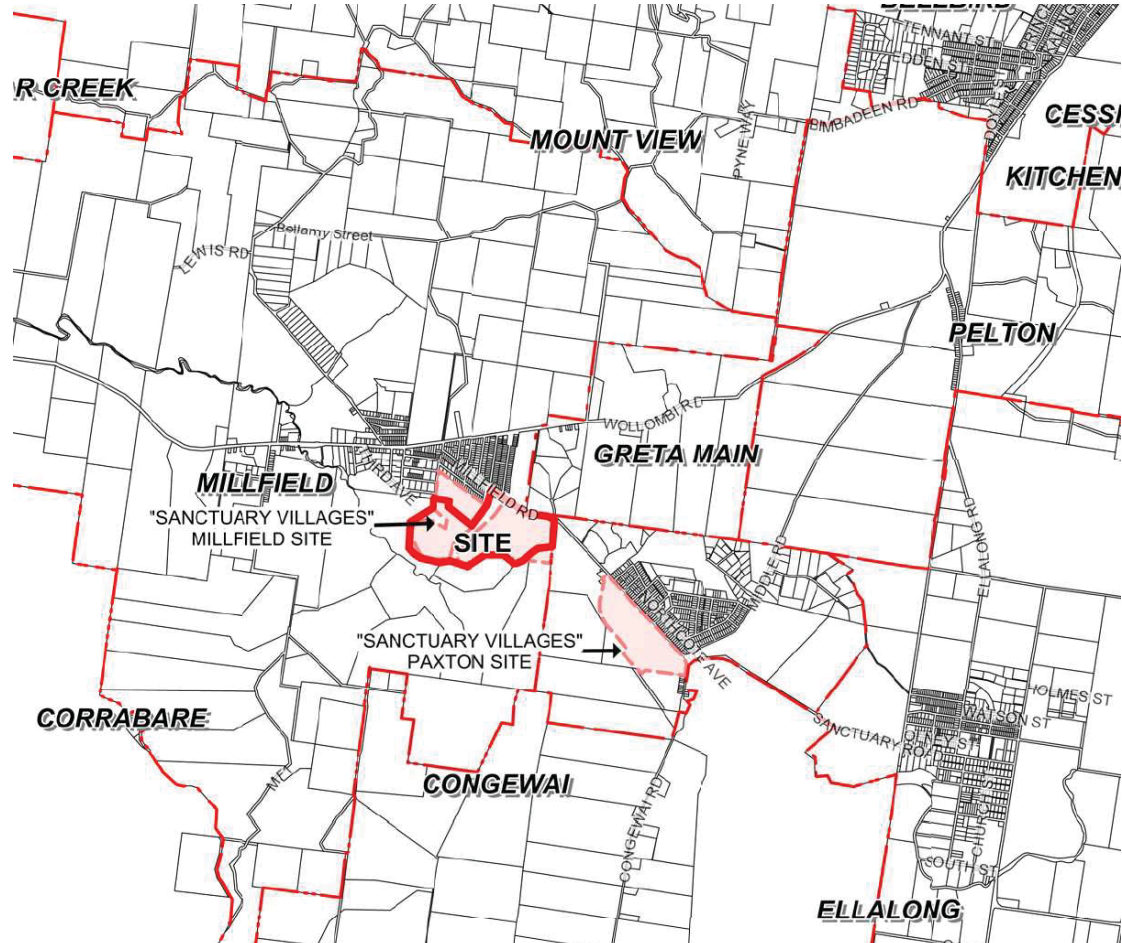


Figure 1: Subject Site

The Site

The site is located more than 12 vehicle kilometres from Cessnock Central Business District, encompassing approximately 56 hectares of land bounded by Millfield Road to the north-west, large lot residential development to the north, a natural lagoon to the south-west, and rural lands to the east, west and south.

The subject site is irregular in shape with a frontage of approximately 650 meters to Millfield Road and 20 meters to Eleventh Avenue. The land is predominately cleared with a small cluster of trees towards the centre of the site and a strip of trees along the Millfield Road Boundary. A Development Application (DA 8/2004/370) has been approved for a 20 lot subdivision adjoining the northern boundary of the subject site.

The subject site is also located within close proximity to two urban release areas identified in the Cessnock Local Environmental Plan 2011 Urban Release Area Map. One of the urban release areas "CC5" is located directly adjacent to the subject site on the northern side of Millfield Road and is expected to accommodate approximately 125 lots, whilst the other

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urban release area "Mount View Road" is located less than 1km to the north-east of the subject site and is expected to accommodate approximately 280 lots.

The Proposal

The proposal involves amending the Cessnock Local Environmental Plan 2011 zoning and minimum lot size provisions for the subject land. Currently zoned RU2 Rural Landscape with a minimum lot size provision of 40ha, the planning proposal proposes to rezone the land to R5 Large Lot Residential with a minimum lot size provision of 4,000 m².

Included in the planning proposal is a Proposed Zone Plan illustrating an indicative subdivision pattern accommodating 98 lots (refer Figure 2 below).



Figure 2: Proposed Zone Plan

The planning proposal is supported by the following documentation:

- Ecological Inventory prepared by Harper Somers O'Sullivan dated July 2005;
- Flora & Fauna Assessment & Seven Part Test of Significance prepared by Environmental Assessments dated July 2011;
- Archaeological Survey and Constraints Study prepared by Myall Coast Archaeological Services dated July 2005;
- Traffic and Accessibility Assessment prepared by Parsons Brinckerhoff dated May 2008;
- Environmental Site Assessment prepared by Parsons Brinckerhoff dated May 2008
- Preliminary Geotechnical and Hydro-geological Study prepared by Parsons Brinckerhoff dated May 2008;
- Flooding, Drainage and Stormwater Management prepared by Parsons Brinckerhoff dated May 2008;

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- Proposed Rural Residential Subdivision Flood Level Comparison drawing prepared by GCA Engineering Solutions dated January 2012; and
- Bushfire Assessment prepared by Firebird Ecosultants dated July 2011

Strategic Context

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy was prepared by the New South Wales Government and identifies the subject land as a proposed urban area. The Strategy specifies that New Release Areas are to be based on Neighbourhood Planning Principles and are to accommodate a lot yield of approximately 12 dwellings per hectare.

The inclusion of the subject site as a New Release Area in the Lower Hunter Regional Strategy was predicated on the Part 3A application known as "Sanctuary Villages" accommodating 700 dwellings at Paxton and Millfield. As described in the background of this report, the Part 3A project was discontinued.

Although the subject site is identified in the Lower Hunter Regional Strategy as a New Urban Area, it is noted that the planning proposal is inconsistent with the Strategy. More specifically, the planning proposal does not meet the requirements of the Neighbourhood Planning Principles or targeted density yield of 12 dwellings per hectare stipulated by the Lower Hunter Regional Strategy for new urban areas. The Lower Hunter Regional Strategy is currently under review by the New South Wales Government.

It is considered that inconsistencies of the planning proposal with the Lower Hunter Regional Strategy are justified in terms that the proposal is a logical connection of the large lot residential precinct of Paxton with the large lot residential precinct of Millfield; the objectives of the proposed R5 Large Lot Residential zoning include requirement that ensure the large residential lots do not hinder the proper and orderly development of urban areas in the future; and the planning proposal contributes to the character, economy and social fabric of the area.

Additional to the large lot residential development adjacent to the subject site is low density residential development. It is considered that extending the existing low density residential development pattern across the subject site would place exceeding demand on existing infrastructure and services, however extending the large lot residential development pattern across the subject site, with minor infrastructure upgrades, is considered by the supporting studies to be able to be accommodated by existing infrastructure and services.

Finally, the planning proposal provides a transitional arrangement for the longer term vision of urban density housing proposed by the Lower Hunter Regional Strategy, making efficient use of the existing infrastructure available to the area, and maintaining the future potential of the subject site to meet housing targets identified in the Lower Hunter Regional Strategy.

Cessnock City Wide Settlement Strategy

Following the release of the Lower Hunter Regional Strategy in 2006, the Cessnock City Wide Settlement Strategy 2003 was reviewed to coordinate with the Lower Hunter Regional Strategy forming what is now known as the Cessnock City Wide Settlement Strategy 2010.

The Cessnock City Wide Settlement Strategy identifies land referred to as Sanctuary Villages as a New Release Area having potential for increased development opportunities. Rezoning

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of Sanctuary Villages is required by the City Wide Settlement Strategy to have site specific studies supporting the rezoning process. This planning proposal encompasses land that forms part of the Sanctuary Villages land and provides studies supporting the rezoning process.

Consistency with State Environmental Planning Policies

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

Table 1: Relevant State Environmental Planning Policies (SEPPs)

SEPP	Relevance	Consistency and Implications
SEPP 1 - Development Standards	The SEPP makes development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary.	This SEPP does not apply to Cessnock Local Government Area following the gazettal of the Cessnock Local Environmental Plan 2011.
SEPP 4 - Development without Consent and Miscellaneous Complying Development	The SEPP allows relatively simple or minor changes of land or building use and certain types of development without the need for formal development applications. The types of development covered in the policy are outlined in the policy.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 6 - Number of Storeys in a Building	The SEPP clarifies the reference to storey, floors and levels.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP No. 14 - Coastal Wetlands	Ensures coastal wetlands are preserved and protected for environmental and economic reasons.	<i>Not Applicable</i>
SEPP 15 - Rural Land Sharing Communities	The SEPP provides for multiple occupancy development, with council consent, in rural and non-urban zones, subject to a list of criteria in the policy.	<i>Not Applicable</i>
SEPP No. 19 - Bushland in Urban Areas	Protects bushland in public open space zones and reservations, and to ensure that bush preservation is given a high priority when local environmental plans for urban development are prepared.	<i>Not Applicable</i>
SEPP 21 - Caravan Parks	The SEPP provides for development for caravan parks.	<i>Not Applicable</i>
SEPP 22 - Shops and commercial premises	The SEPP provides for the change of use of commercial premises.	<i>Not Applicable</i>
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	<i>Not Applicable</i>

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SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.	<i>Not Applicable</i>
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	<i>Not Applicable</i>
SEPP 36 - Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	<i>Not Applicable</i>
SEPP 44 - Koala Habitat Protection	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	SEPP 44 encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure the permanent free-living populations will be maintained over their present range. Under SEPP 44, potential koala habitat is defined as areas of native vegetation where the trees listed in Schedule 2 of the SEPP constitute at least 15% of the total number of trees in the upper or lower strata of the tree component. An ecological assessment was prepared for the wider study area of the "Sanctuary Villages" project. The area subject to this proposal has no endangered species, given its predominantly cleared nature and current use as grazing land. The area contains only a small patch of remnant trees. Consequently the site as a whole does not constitute 'Potential Koala Habitat'. As such no further provisions of the policy would apply to the site.
SEPP 50 - Canal Estates	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	<i>Not Applicable</i>
SEPP 55 - Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination	The objective of this Policy is to provide a state wide approach to the remediation of contaminated land. Clause 6 of the policy is applicable to the consideration of contamination and remediation in relation to rezoning proposals. Council is required to consider whether there is the

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		possibility that the land may be contaminated due to past land uses, and if so, whether the land is suitable for its proposed use in its current or remediate state. A preliminary environmental assessment indicates that the majority of the site would not contain contamination likely to impact on potential future residential usage. No further assessment is considered to be required prior to rezoning the land for large lot residential purposes.
SEPP 60 – Exempt and Complying Development	The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 62 - Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from the rezoning of land and is of relevance for site specific rezoning proposals.	<i>Not Applicable</i>
SEPP 64 - Advertising and Signage	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 65 - Design Quality of Residential Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	<i>Not Applicable</i>
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	The provisions of this SEPP will be considered in the assessment of any future residential development upon the site.
SEPP Housing for Seniors or People with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	The provisions of this SEPP will be considered in the assessment of any future residential development upon the site.

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SEPP Major Development 2005	The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels (JRPPs) and classes of regional development to be determined by JRPPs.	<i>Not Applicable</i>
SEPP Infrastructure 2007	The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	The provisions of this SEPP require development applications for subdivisions creating greater than 200 lots to be referred to the Roads and Maritime Services (RMS) for comment. This proposal is for up to 100 lots, therefore does not trigger referral with RMS.
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	<i>Not Applicable</i>
SEPP Temporary Structures 2007	The SEPP provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity.	<i>Not Applicable</i>
SEPP Rural Lands 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	<i>Not Applicable</i>
SEPP Affordable Rental Housing 2009	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.	<i>Not Applicable</i>

Ministerial Section 117 Directions

Section 117(2) of the *Environmental Planning & Assessment Act 1979* enables the Minister for Planning and Infrastructure to issue directions that Council must address when preparing planning proposals to amend a Local Environmental Plan. Relevant Section 117 Directions to this planning proposal are:

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- a) Rural Zones;
- b) Environment Protection Zones;
- c) Heritage Conservation;
- d) Residential Zones;
- e) Caravan Parks and Manufactured Home Estates;
- f) Home Occupations;
- g) Integrating Land Use and Transport;
- h) Acid Sulphate Soils;
- i) Mine Subsidence and Unstable Land;
- j) Flood Prone Land;
- k) Planning for Bushfire Protection;
- l) Implementation of Regional Strategies;
- m) Approval and Referral Requirements; and
- n) Site Specific Provisions

Further comments are provided in Table 2 below. Directions not included in Table 2 are considered not to be applicable to the planning proposal.

Table 2: Section 117 Directions

Direction	Comment
1.2 Rural Zones The objective of this direction is to protect the agricultural production value of rural land.	This direction states (in part) that a draft Local Environmental Plan shall not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. The subject site is identified for future urban development in the Lower Hunter Regional Strategy and, as such, is considered to be consistent with this direction.
2.1 Environment Protection Zones The objective of this direction is to protect and conserve environmentally sensitive areas.	The planning proposal is considered to be consistent with this direction as the subject site is significantly denuded of vegetation.
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.	An Aboriginal scar tree is located on the subject site. The scar tree is registered on the certificate of title via a positive covenant and will remain protected. Therefore the planning proposal is considered to be consistent with this direction.
3.1 Residential Zones The objective of this direction is to establish a range of housing types that make efficient and effective use of existing infrastructure and services whilst minimising the impact on the environment and resource lands.	This direction states that a planning proposal must: <i>contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).</i> Utilities and Infrastructure The planning proposal proposes to be serviced by reticulated water, electricity, telecommunication and reticulated sewer via a pressure sewer system. Details pertaining to the pressure sewer system are proposed to be resolved through the planning proposal process in consultation with Council and Hunter Water. It is acknowledged that the planning proposal complies

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Direction	Comment
	with Hunter Water's requirements under the <i>Water & Sewer Design Manual – Section 6 – Alternative Sewer Systems</i> as a development suitable for investigation. Recreational Infrastructure The subject site is currently serviced by an existing local playing field. It is considered that with further embellishment, the planning proposal would make efficient and effective use of this infrastructure. Recreational infrastructure upgrades could be accommodated through developer contributions either via a Voluntary Planning Agreement or Section 94 Contributions Plan. The planning proposal is considered to be consistent with this direction.
3.2 Caravan Parks and Manufactured Home Estates The objective of this direction is to provide for a variety of housing types including opportunities for caravan parks and manufactured home estates.	The planning proposal seeks to zone the land from RU2 Rural Landscape to R5 Large Lot Residential. Caravan Parks are a permitted land use in the RU2 zoning and prohibited in the R5 zoning. It is considered that the proposed change in land use is inconsistent with the direction. However, the inconsistency is justified by the identification of the subject site in the Lower Hunter Regional Strategy as a future urban release area for residential development.
3.3 Home Occupations The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Home occupations are permitted without consent in the proposed R5 Large Lot Residential Zone. The planning proposal is considered to be consistent with this direction.
3.4 Integrating Land Use and Transport The objective of this direction is to ensure that urban development achieves improved access to housing, jobs and services through a variety of means including walking, cycling and public transport, minimises the reliance on private vehicle use, and supports the efficient and viable operation of public transport.	A Traffic Assessment was undertaken for the site by Parsons Brinckerhoff for the wider "Sanctuary Villages" development. The assessment concluded that Millfield's surrounding roads will continue to operate at satisfactory levels up to and including 100 lots. The traffic assessment was undertaken in May 2008 and does not take into account the cumulative affect of two urban release areas located within 1 kilometre of the subject site and identified in the Cessnock Local Environmental Plan 2011. A new Traffic Assessment will need to be undertaken that is specific to the development proposal and considers the cumulative effect of nearby urban release areas.
4.1 Acid Sulphate Soils The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	The area is characterized by undulating hills with elevations ranging from 110m – 140m AHD. The soil types present on the site, the mapped soil pH levels (5.5 – 5.6) and the depth of the water table suggests that acid sulphate soils are unlikely to develop as a result of the development.
4.2 Mine Subsidence and Unstable Land	The area is not located within a Mine Subsidence

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Direction	Comment
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.	District, and there are currently no known plans to dedicate this area as a district.
4.3 Flood Prone Land The objective of this direction is to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and to ensure that the provisions of a Local Environmental Plan on flood prone land is commensurate with flood hazard.	Flood modelling by Parsons Brinckerhoff indicates that the majority of the proposed development site is free of the 1% Annual Exceedance Probability, except for minor drainage lines within the site. Further detailed analysis and assessment of constraints, including the placement of any fill, will be required before final designs at the development application stage.
4.4 Planning for Bushfire Protection The objective of this direction is to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas and implementing sound management of bush fire prone areas.	The majority of the site is not mapped as bush fire prone land. A bush fire assessment has been undertaken and concludes the site can be developed to meet requirements of the <i>Planning for Bushfire Protection 2006</i> . The proposal will need to comply with the provisions of <i>Planning for Bushfire Protection Guidelines</i> and the <i>Rural Fires Act 1997</i> .
5.1 Implementation of Regional Strategies The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The planning proposal is inconsistent with the Neighbourhood Planning Principles and dwelling density requirements of the Lower Hunter Regional Strategy. Deviation of the planning proposal from the Lower Hunter Regional Strategy is justified in terms that the proposal is a logical connection of the large lot residential precinct of Paxton with the large lot residential precinct of Millfield; and the planning proposal contributes to the character, economy and social fabric of the area. Furthermore, the planning proposal provides a transitional arrangement for the longer term vision of urban density housing proposed by the Lower Hunter Regional Strategy, and makes efficient use of existing infrastructure available to the area.
6.1 Approval and Referral Requirements The objective of this direction is to ensure that Local Environmental Plan provisions encourage the efficient and appropriate assessment of development.	The planning proposal does not include concurrence, consultation or referral provisions and does not identify any development as designated development. The planning proposal is considered to be consistent with this direction.
6.3 Site Specific Provisions The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The planning proposal is to enable urban development of up to 100 large lot residential allotments, however the proposal of a 4,000m ² minimum lot size enables up to 128 lots. Furthermore, the planning proposal is not consistent with the density yield of 12 dwellings per hectare intended by the Lower Hunter Regional Strategy.

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Direction	Comment
	It is considered that site specific planning controls are required to: a) Restrict development to a maximum of 100 lots in order to be consistent with the planning proposal; and b) Encourage a subdivision pattern that will not jeopardise the intended purpose of the Lower Hunter Regional Strategy in achieving a density yield of 12 dwellings per hectare on the subject site at future time A site specific chapter in Council's Development Control Plan will need to be prepared to support the amendment to the Cessnock Local Environmental Plan 2011. The site specific provisions are considered necessary in supporting the planning proposal.

Key issues for consideration:

The key issues considered in the assessment of this planning proposal are:

1. Planning Proposal Inconsistencies;
2. Split Zone Lots;
3. Traffic, Transport and Accessibility;
4. Recreation and Community Facilities;
5. Minimum Lot Size;
6. Subdivision Pattern; and
7. Supporting studies.

Comments regarding the key issues are provided following:

Planning Proposal Inconsistencies

There are two inconsistencies in the planning proposal relating to the site boundary and development yield that are considered to be pertinent in the analysis of the proposal. Comments regarding these inconsistencies are provided following:

Site Boundary

As illustrated in Figure 3 below, a portion of the proposed site overlaps with land zoned E2 Environmental Conservation under the Cessnock Local Environmental Plan 2011. This land also maintains a minimum lot size provision of 80 ha.

The planning proposal does not recognise the E2 zoned land as part of the rezoning proposal as Shown in Figure 3 below. It is therefore considered that the planning proposal excludes the land zoned E2 Environmental Conservation and does not apply to it. Should the Planning Proposal be supported by Council, the boundary of the proposal will be adjusted to include only land within the subject site currently zoned RU2 Rural Landscape before progressing the Planning Proposal to the Department of Planning and Infrastructure for Gateway Determination.

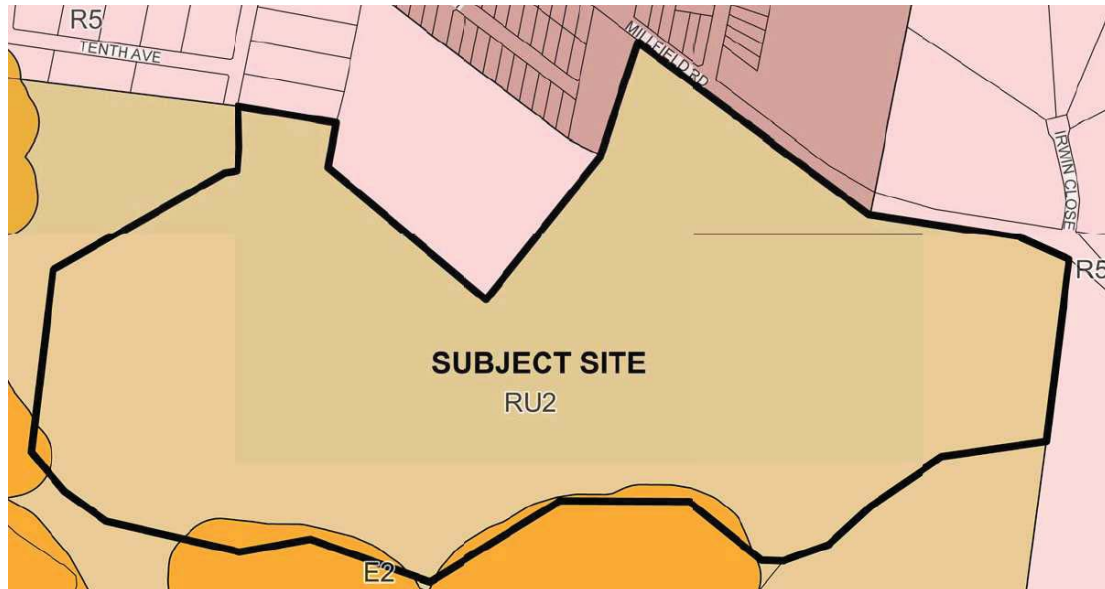


Figure 3: Land Use Zoning Map - Cessnock Local Environmental Plan 2011

Development Yield

The planning proposal is for a maximum of 100 lots with a minimum lot size of 4,000m². The approximate area of the subject site is 56ha. Depending on resolved subdivision patterns, and allowing for 2.5km of roadway, the subject site has the potential to produce a yield of approximately 128 lots.

Development of the subject land beyond 100 lots will trigger the requirement for traffic infrastructure upgrades and will not comply with Hunter Water's guidelines for pressure sewer systems stipulated by the *Water & Sewer Design Manual – Section 6 – Alternative Sewer Systems*.

A site specific chapter to the Cessnock Development Control Plan 2010 will be required to be prepared to restrict the subdivision layout to a maximum of 100 lots.

Split Zone Lots

The resultant zoning and minimum lot size proposed by the planning proposal requires the subdivision of land containing more than one zone, namely RU2 Rural Landscape and E2 Environmental Conservation. Under the current Cessnock Local Environmental Plan 2011, subdivision for the intended purpose of the planning proposal is not permissible. The issue of subdivision in split zone lots affects the whole of Cessnock Local Government Area. It is therefore considered prudent that this matter be resolved as part of Council's house keeping amendments to the Cessnock Local Environmental Plan 2011. An upcoming report to Council on the Stage 3 house keeping amendments to Cessnock Local Environmental Plan 2011 will address this issue. This however does not prevent the planning proposal progressing to the Gateway at this time. It is noted that subdivision will not be able to occur until the split zone lot amendments are made to the Cessnock Local Environmental Plan 2011, or a boundary realignment is undertaken with the intent of removing E2 Environmental Conservation zoned land from the subject lot.

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Supporting Studies

Many of the studies provided by the applicant in support of the planning proposal were recycled from the Sanctuary Village proposal previously reported to Council. While aspects of these generally apply to the subject Planning Proposal, certain studies and investigations need to be updated or clarified in a form that specifically addresses the land subject of this planning proposal. This will ensure that all detailed technical issues are clearly addressed and documentation is transparent for the purpose of public exhibition. These studies can be updated as required after the submission of the planning proposal to the Gateway.

It is required that the following studies be updated following the Department of Planning and Infrastructure's Gateway Determination:

- Ecological Inventory prepared by Harper Somers O'Sullivan dated July 2005;
- Flora & Fauna Assessment & Seven Part Test of Significance prepared by Environmental Assessments dated July 2011;
- Archaeological Survey and Constraints Study prepared by Myall Coast Archaeological Services dated July 2005;
- Traffic and Accessibility Assessment prepared by Parsons Brinckerhoff dated May 2008;
- Environmental Site Assessment prepared by Parsons Brinckerhoff dated May 2008
- Preliminary Geotechnical and Hydro-geological Study prepared by Parsons Brinckerhoff dated May 2008; and
- Flooding, Drainage and Stormwater Management prepared by Parsons Brinckerhoff dated May 2008.

Traffic, Transport and Accessibility

The Traffic and Accessibility Assessment prepared by Parsons Brinckerhoff dated May 2008 covered the broader Sanctuary Villages area. The assessment refers to the Rose Hill (Millfield Precinct) area specifically and states that up to 100 lots can be accommodated by the current intersection arrangements at the northern end of Millfield Road.

The assessment continues to recommend that:

- *Road works and/or intersection upgrades may be required when more than 100 lots are developed in the Millfield Precinct. Additional analysis should be undertaken at the time of future project applications for the future stages of development.*

The Traffic and Accessibility Assessment dated May 2008 is considered to be outdated and is provided in isolation from two Urban Release Areas identified in the Cessnock Local Environmental Plan 2011. Referred to as Mount View Road and Millfield CC5 (refer Figure 4 below), the two urban release areas are located within 1km of the subject site and are expected to accommodate an additional 405 lots. The cumulative impact on infrastructure produced by the proposal in combination with the two urban release areas has not been considered in the planning proposal.

A new Traffic and Accessibility Assessment will need to be undertaken that is specific to the proposed development and considers the cumulative effect of the Mount View Road and CC5 urban release areas identified in the Cessnock Local Environmental Plan 2011.

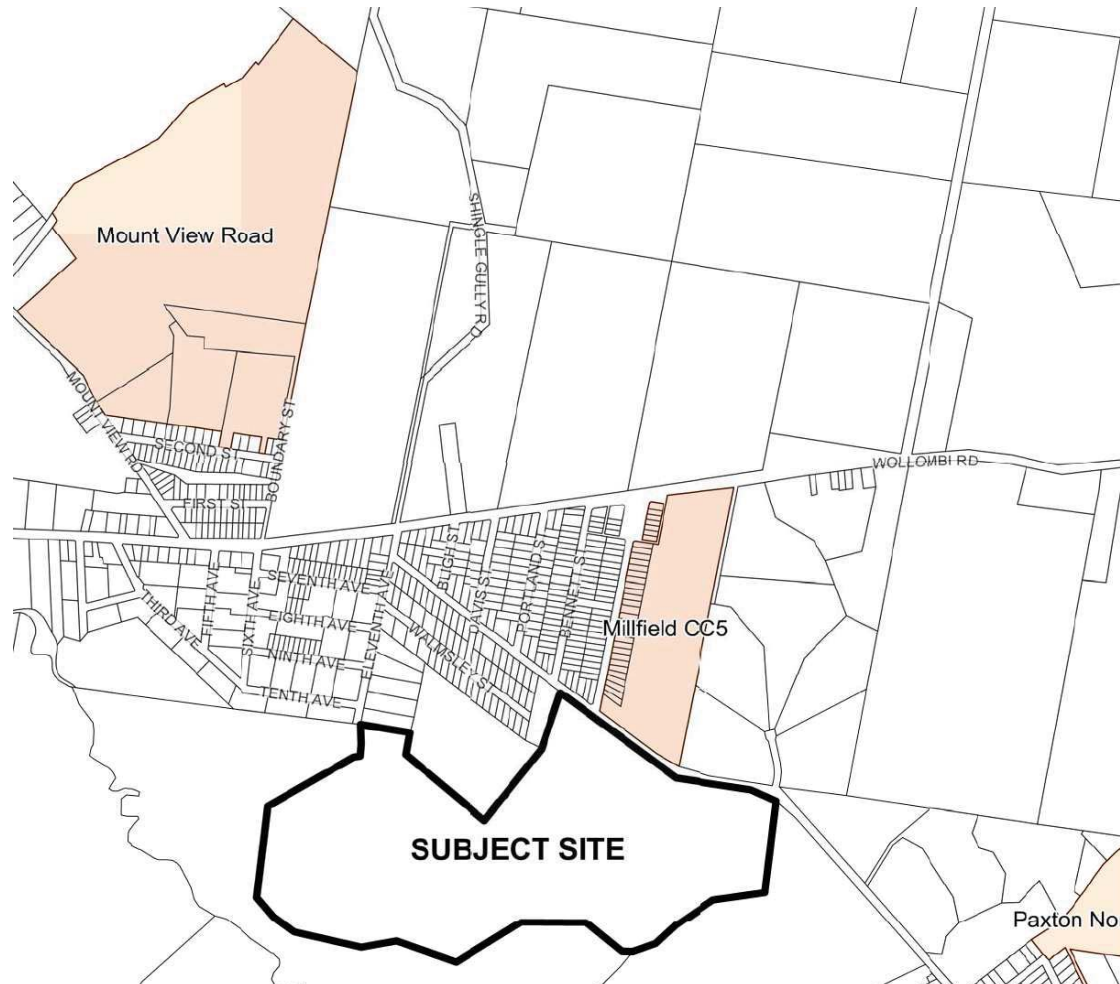


Figure 4: Urban Release Area Map - Cessnock Local Environmental Plan 2011

Recreation and Community Facilities

The cumulative impact of the planning proposal and nearby urban release areas in the Millfield precinct will require the need to upgrade existing recreational and community facilities servicing Millfield to meet current standards.

Minimum Lot Size

The Lower Hunter Regional Strategy anticipates the average density yield within new urban release areas to achieve a density of 12 dwellings per hectare. With a proposed yield of 100 lots over 56ha, the planning proposal is expected to produce a yield of approximately 1.8 dwellings per hectare.

Subdivision Pattern

It is considered that the indicative subdivision provided at Figure 2 will not be the final subdivision pattern. However, concern is raised regarding the ability for further subdivision in the future in relation to achieving the urban density of 12 dwellings per hectare intended for urban release areas by the Lower Hunter Regional Strategy. In particular, the road layout

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illustrated in Figure 7 below sterilises the subject site from achieving a 12 dwellings per hectare density.



Figure 7: Minimum Lot Size Map - Cessnock Local Environmental Plan 2011

To prevent sterilising the subject site from an urban density envisaged by the Lower Hunter Regional Strategy, a Development Control Plan is required guiding a subdivision pattern that is conducive to a future density of approximately 12 dwellings per hectare.

OPTIONS

The Council has the following options.

1. Progress the Planning Proposal to the Department of Planning and Infrastructure for 'Gateway' determination under s.56 (1) of the *Environmental Planning and Assessment Act 1979* as recommended by this report.
2. Not proceed with the Planning Proposal for the following reasons:

(To be provided by Council).

CONSULTATION

- Manager Strategic Asset Planning
- Executive Manager Natural Environment Planning
- Group Leader Strategy and Sustainability

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STRATEGIC LINKS

a. Delivery Program

N/A

b. Other Plans

The inconsistencies of the Planning Proposal with the Lower Hunter Regional Strategy are justified in the body of this report. The Planning Proposal is considered to be consistent with relevant State Environmental Planning Policies and Section 117 Ministerial Directions. Further detail pertaining to the State Environmental Planning Policies and Section 117 Ministerial Directions are provided in the body of this report.

IMPLICATIONS

a. Policy and Procedural Implications

The subject site is identified as an urban release area in both the Cessnock City Wide Settlement Strategy 2010 and the Lower Hunter Regional Strategy.

b. Financial Implications

The Planning Proposal is considered to be a Category C rezoning application and attracts a fee of \$34,875.00.

c. Legislative Implications

Councils are required to exercise their plan-making functions under Divisions 4 and 5 of Part 3 of the *Environmental Planning and Assessment Act 1979* in accordance with the relevant Section 117 Ministerial Directions. The planning proposal is considered to be consistent with the relevant Section 117 Ministerial Directions.

d. Risk Implications

NIL

e. Other Implications

Nil

CONCLUSION

Inconsistencies of the Planning Proposal with the Lower Hunter Regional Strategy are considered to be justified in terms that the Planning Proposal provides a transitional arrangement for land identified as a New Release Area in the Lower Hunter Regional Strategy, makes efficient and effective use of existing infrastructure and is considered to be a logical connection of the large lot residential precinct of Paxton with the large lot residential precinct of Millfield.

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The planning proposal presented for Councils consideration represents a transitional development arrangement that suites the character of the subject site's location, while maintaining the provision for future housing at urban density. Provided the development is managed through a suitably formulated development control plan to maintain future subdivision potential, the proposal is considered satisfactory for progressing to the Department of Planning and Infrastructure for Gateway Determination. In this regard, the proposal:

- a. offers Council flexibility in considering future development of the land;
- b. is consistent with being able to meet housing densities identified in the LHRS at a future date; and
- c. allows for possible policy changes under the new Lower Hunter Regional Strategy to be prepared in 2013.

Therefore, the proposal to rezone the subject land from RU2 Rural Landscape to R5 Large Lot Residential, and amend the Minimum Lot Size from 40 hectares to 4,000m² under the Cessnock Local Environmental Plan 2011 is considered satisfactory as it is identified in the Lower Hunter Regional Strategy as a New Release Area and strategically justified in terms of the inconsistencies with the Lower Hunter Regional Strategy.

Should Council determine to support the proposal, a planning proposal will be forwarded to the Department of Planning and Infrastructure for Gateway Determination. The Gateway Determination is likely to contain conditions that will need to be satisfied before exhibition can commence. Once the planning proposal is exhibited for public comment it will be reported back to Council for determination.

ENCLOSURES

There are no enclosures for this report.

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SUBJECT: PLANNING PROPOSAL - ROSE HILL, MILLFIELD

MOTION **Moved:** Councillor Maybury **Seconded:** Councillor Parsons
366

RESOLVED

That the report be DEFERRED and a site inspection carried out.

FOR	AGAINST
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Councillor Gibson	
Councillor Doherty	
Councillor Olsen	
Councillor Ryan	
Councillor Stapleford	
Councillor Hawkins	
Councillor Campbell	
Councillor Parsons	
Councillor Maybury	
Councillor Pynsent	
Total (10)	Total (0)

CARRIED UNANIMOUSLY

DEFERRED BUSINESS

DEFERRED BUSINESS NO. EE32/2013

SUBJECT: PLANNING PROPOSAL - ROSE HILL, MILLFIELD

MOTION **Moved:** Councillor Campbell **Seconded:** Councillor Maybury

That Council:

1. **Forward a Planning Proposal to the Department of Planning and Infrastructure under s.56 (1) of the *Environmental Planning and Assessment Act 1979* seeking a gateway determination to:**
 - a) **rezone the subject site from RU2 Rural Landscape to R5 Large Lot Residential; and**
 - b) **amend the Minimum Lot Size Map for the subject site from 40 hectares to 4,000m².**
2. **Require the applicant to update the following studies as a minimum to specifically address the Planning Proposal:**
 - a) **Ecological Inventory;**
 - b) **Flora & Fauna Assessment;**
 - c) **Archaeological Survey and Constraints Study;**
 - d) **Traffic and Accessibility Assessment;**
 - e) **Environmental Site Assessment;**
 - f) **Preliminary Geotechnical and Hydro-geological Study; and**
 - g) **Flooding, Drainage and Stormwater Management.**

AMENDMENT **Moved:** Councillor Ryan **Seconded:** Councillor Olsen

That the Rosehill Planning Proposal is refused for the following reasons:-

1. **Council cannot in all conscience send the proposal to the Gateway process without it being satisfied that it is a meritorious application.**
2. **The impact of this development and its potential to reach 700 dwellings is unacceptable and there is insufficient documentation supplied with it to allow Council to send to the Gateway process.**
3. **It is not in public interest to continue to forward planning applications to gateway process when they have been put into the Lower Hunter Strategy without merit and without planning justification.**

FOR

Councillor Burcham
 Councillor Olsen
 Councillor Ryan
 Councillor Stapleford
 Councillor Parsons

Total (5)

AGAINST

Councillor Gibson
 Councillor Doherty
 Councillor Wrightson
 Councillor Hawkins
 Councillor Smith
 Councillor Campbell
 Councillor Maybury
 Councillor Pynsent

Total (8)

The Amendment was **PUT** and **LOST**.

The Motion was then **PUT** and **CARRIED**.

MOTION

Moved: Councillor Campbell

Seconded: Councillor Maybury

383

RESOLVED

That Council:

1. Forward a Planning Proposal to the Department of Planning and Infrastructure under s.56 (1) of the *Environmental Planning and Assessment Act 1979* seeking a gateway determination to:
 - a) rezone the subject site from RU2 Rural Landscape to R5 Large Lot Residential; and
 - b) amend the Minimum Lot Size Map for the subject site from 40 hectares to 4,000m².
3. Require the applicant to update the following studies as a minimum to specifically address the Planning Proposal:
 - a) Ecological Inventory;
 - b) Flora & Fauna Assessment;
 - c) Archaeological Survey and Constraints Study;
 - d) Traffic and Accessibility Assessment;
 - e) Environmental Site Assessment;
 - f) Preliminary Geotechnical and Hydro-geological Study; and
 - g) Flooding, Drainage and Stormwater Management.

FOR

Councillor Gibson
Councillor Doherty
Councillor Wrightson
Councillor Hawkins
Councillor Smith
Councillor Campbell
Councillor Maybury
Councillor Pynsent

Total (8)**AGAINST**

Councillor Burcham
Councillor Olsen
Councillor Ryan
Councillor Stapleford
Councillor Parsons

Total (5)***CARRIED***