



PLANNING PROPOSAL
AMENDMENT TO THE CESSNOCK LOCAL ENVIRONMENTAL PLAN 2011

Iain Rush

Hydro Kurri Kurri

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Revision 3

22 June 2022

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Revision History

Revision	Description	Date
1	Draft for Council Endorsement	11.11.15
2	Exhibition	27.10.20
3	Post exhibition and finalisation	06.04.22

PART 1: OBJECTIVES AND OUTCOMES

The Planning Proposal relates to the land identified in Figure 1 and described in Appendix 2. The land is owned by Hydro Aluminium Kurri Kurri Pty Ltd and previously contained an aluminium smelter and buffer land. The vast majority of the Hydro land is located in the Cessnock Local Government Area (LGA) and is the subject of this Planning Proposal. The remainder of the Hydro land is located in the Maitland LGA and is the subject of a separate (although interrelated) planning proposal with Maitland City Council.

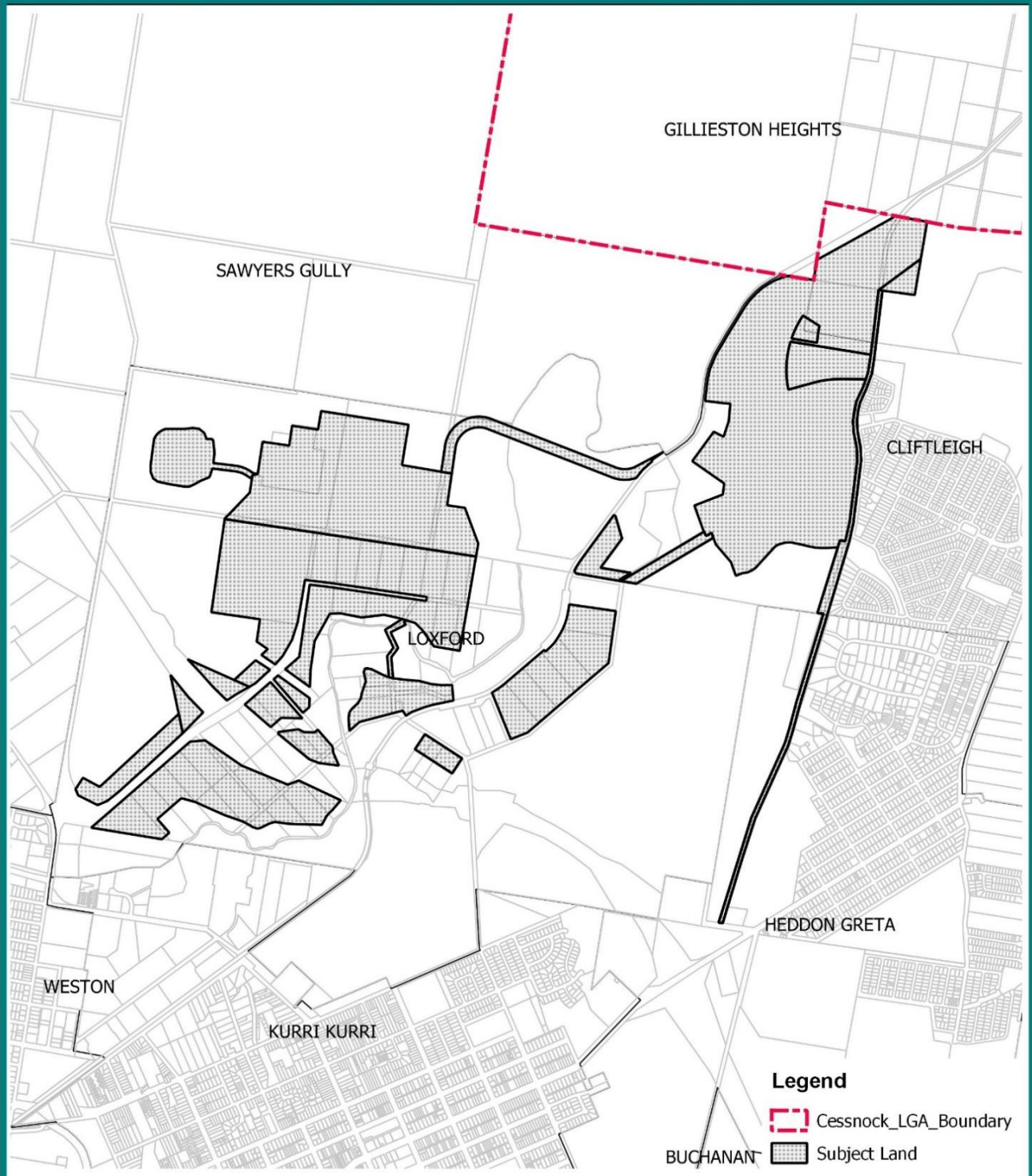
The objectives of the Planning Proposal are:

- to rezone certain land, as shown in Figure 1 and described in Appendix 2, comprising of the former Hydro Aluminium Smelter and surrounding buffer land in the Loxford area to permit employment, industrial and residential development;
- to manage the interface between the land-uses;
- to minimise the fragmentation of the residual rural and environmental land;
- to preserve Council's defined hierarchy of commercial centres; and
- to respond to the environmental constraints on the site.

A site-specific Development Control Plan (DCP) will be prepared for the subject land. The site-specific DCP will address the design, conservation and management measures to reduce negative impacts relating to future development on the land.

Supporting studies to the Planning Proposal identify the need to upgrade existing infrastructure to support the proposed development. State road infrastructure will be upgraded under a separate agreement between the future developer of the land and Transport for NSW (TfNSW). Local infrastructure will be upgraded in accordance with a site-specific DCP and through conditions of consent at the development application stage. Amendments to the Cessnock Section 7.11 Contributions Plan for local infrastructure will also be required to support future development within the land. These matters will be addressed following the finalisation of the LEP amendment.

Land Subject to Planning Proposal



Date Produced:
2022-05-25T11:23:20.022

Scale:
1:25000

Reference :
Planning Proposal Subject Land

Coordinate System :
Map Grid of Australia (MGA)
Datum 94
Zone 56

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Disclaimer:
This map has been produced to assist individuals in determining land details within the City of Cessnock. The information contained herein is supplied in good faith, on the basis that Council and its Staff are not liable (whether by reason of negligence, lack of care or otherwise) to any person for any damage or loss whatsoever which has occurred, or may occur, in relation to that person taking or not taking (as the case may be) action in respect of any representation, statement or advice referred to above.

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Newmap (2021)

Figure 1 - Land Subject to Planning Proposal

PART 2: EXPLANATION of PROVISIONS

The objective of the Planning Proposal will be achieved by amending the *Cessnock Local Environmental Plan 2011* ('the LEP') as set out below.

Item 1 – Amendments to the LEP Maps

The Planning Proposal will result in the following amendments to the LEP maps. Maps of the existing and proposed zoning are included in Part 4 of this Planning Proposal.

LEP Map	Provision
Land Zoning Map	<p>Rezone the land from RU2 Rural Landscape Zone and C2 Environmental Conservation Zone to a combination of:</p> <p>B1 Neighbourhood Centre, B7 Business Park, IN1 General Industrial, IN3 Heavy Industrial, R2 Low Density Residential, RE1 Public Recreation, and SP2 Infrastructure.</p>
Lot Size Map	<p>Corresponding changes to the Minimum Lot Size Map to be made:</p> <ul style="list-style-type: none"> • A minimum lot size of 450m² will be applied to land that is proposed to be zoned R2 Low Density Residential • No minimum lot size will apply to the following zones: <ul style="list-style-type: none"> - B1 Neighbourhood Centre, - B7 Business Park, - IN1 General Industrial, - IN3 Heavy Industrial, - RE1 Public Recreation, and - SP2 Infrastructure.
Land Reservation Acquisition Map	<p>Amend the Land Reservation Acquisition Map to apply an acquisition layer to part of the former rail corridor for the future construction of a cycleway. The acquisition layer will apply to Lot 1 DP 998275, Lots 16-17 DP 1102156, Lot 1 DP 937613 and part of Lot 5 DP 62332.</p>
Urban Release Area Map	<p>The rezoning footprint will be identified on the Urban Release Area Map.</p>

Note: The Department of Planning and Environment (DPE) has commenced a comprehensive review of the employment zones in the Standard Instrument Local Environmental Plan (SILEP). The reforms will have implications for the LEP as any change to the SILEP will change the LEP. The following table illustrates the translation of the current zones into the new zones (as proposed).

Existing SILEP zones used in CLEP	Proposed SILEP zones in CLEP
B1 Neighbourhood Centre	E1 Local Centre
B7 Business Park	E3 Productivity Support
IN1 General Industry	E4 General Industry
IN3 Heavy Industry	E5 Heavy Industry

Item 2 – Local Clause – B1 Neighbourhood Centre Zone Total Gross Floor Area Cap

A local clause is proposed to limit, to 2,000m², the total gross floor area of **retail premises** in the proposed B1 Neighbourhood Centre Zone. The purpose of the floor area cap is to ensure that the centre does not perform a role greater than that of a neighbourhood centre.

The **retail premises** floor area cap is a recommendation of the Hydro Planning Proposal B1 and B7 Economic Assessment Review, prepared by SGS Economics and Planning and dated June 2017.

Item 3 – Local Clause – B7 Business Park Zone Total Gross Floor Area Cap

A local clause is proposed to limit, to 20,000m², the total gross floor area of **specialised retail premises** in the proposed B7 Business Park Zone. The purpose of the floor area cap is to prevent the precinct developing into a major regional cluster, which would draw a significant volume of trade away from the Cessnock Town Centre, and potentially other centres in the broader region.

The **specialised retail premises** floor area cap is a recommendation of the Hydro Planning Proposal B1 and B7 Economic Assessment Review, prepared by SGS Economics and Planning and dated June 2017.

PART 3: JUSTIFICATION

In accordance with the Department of Planning and Environment'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 the Planning Proposal

1 Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The Planning Proposal is a consequence of the land owner's decision to close the Kurri Kurri Aluminium Smelter and opportunities that have arisen to redevelop the site for employment and residential purposes. Hydro has been a long standing economic driver and employer within the community, with the proposed employment land providing long term replacement of job losses that resulted from the closure of the smelter.

As part of the closure decision Hydro commenced a range of strategic planning studies in 2013 to determine land-use capability within the site. Key elements in the initial land use assessment were:

- infrastructure;
- transport;
- flooding;
- industrial land supply; and
- urban design.

The initial assessment found the site was well located within the Lower Hunter, had good connections to key infrastructure and would provide opportunities to facilitate future development. There are areas within the site that are suited to urban purposes (being employment and residential development), for future conservation purposes and land that will remain rural.

The Planning Proposal is consistent with actions of the Hunter Regional Plan 2036 ('the HRP'), strategies within the Greater Newcastle Metropolitan Plan 2036 ('the GNMP') and planning priorities in the Cessnock Local Strategic Planning Statement 2036 ('the LSPS'). The Hydro site has access to reticulated services and is ideally situated within the Cessnock to Maitland Growth Area, identified in the HRP and the LSPS. The establishment of an industrial precinct with direct access to the Hunter Expressway, South Maitland Railway and employment areas at Kurri Kurri and Maitland is supported by these local and regional plans and strategies.

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

The Planning Proposal is the only means of achieving the objectives and intended outcomes outlined in Part 2 of this proposal. This Planning Proposal is consistent with Council's strategic management of similar proposals within the Cessnock LGA.

Section B: Relationship to Strategic Planning Framework

3 Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

Hunter Regional Plan 2036

The HRP provides the overarching strategic framework to guide development, investment and planning within the Hunter region to 2036. The HRP sets the following regionally focused goals:

- The leading regional economy in Australia
- A biodiversity-rich natural environment
- Thriving communities
- Greater housing choice and jobs

The proposed rezoning is consistent with the HRP and is identified on Figure 11 of that plan as a 'Gateway Determination Site'.

The proposal is consistent with and/or implements the following HRP Actions:

HRP Action	Consistency
4.8 - Enable development that relies on access to the Hunter Expressway interchanges, provided it encourages efficiencies to the inter-regional transport network.	The proposal contains employment lands either side of the Hunter Expressway with access to the Expressway via the Hart Road interchange. The location of employment lands in these locations aligns with Direction 4 of the HRP: Enhance inter-regional linkages to support economic growth.
14.1 - Identify terrestrial and aquatic biodiversity values and protect areas of high environmental value to sustain the lifestyle, economic success and environmental health of the region. 18.2 - Deliver connected biodiversity-rich corridors and open space areas for community enjoyment.	The proposal recognises the process of the Biodiversity Conservation Assessment Report for the land west of Cessnock Road which will enable an assessment of the biodiversity impacts of this land and potential offsets via a large and contiguous stewardship site. This process is being undertaken in a separate but related process to the assessment of this proposal. The stewardship site will be a long-term biodiversity offsetting outcome that will be established and maintained over time.
16.1 - Manage the risks of climate change and improve the region's resilience to flooding, sea level rise, bushfire, mine subsidence, and land contamination. 16.2 - Review and consistently update floodplain risk and coastal zone management plans, particularly where urban growth is being investigated.	The proposal has considered the outcomes of various specialist reports on flooding, bushfire, mine subsidence, and preliminary reports on land contamination. The proposal satisfies a condition to provide a flood free access strategy which has a broader community benefit beyond the development site.
18.1 - Facilitate more recreational walking and cycling paths including planning for the Richmond Vale Rail Trail and expanded inter-	The proposal will enable the creation of a recreation corridor (cycleway) linking Maitland and Kurri Kurri through this site. This opportunity is consistent with:

regional and intra-regional walking and cycling links, including the NSW Coastal Cycleway.	
<p>21.2 – Focus development to create compact settlements in locations with established services and infrastructure, including the Maitland Corridor growth area; Newcastle–Lake Macquarie Western Corridor growth area; the emerging growth area around Cooranbong, Morisset and Wyee; and in existing towns and villages and sites identified in an endorsed regional or local strategy.</p> <p>21.4 - Create a well-planned, functional and compact settlement pattern that responds to settlement planning principles and does not encroach on sensitive land uses, including land subject to hazards, on drinking water catchments or on areas with high environmental values.</p> <p>21.6 - Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and greenfield locations.</p> <p>21.7 - Promote new housing opportunities in urban areas to maximise the use of existing infrastructure</p>	<p>The proposal comprises the rezoning of land for residential purposes, which will enable greater housing choice. Greater housing choice is a specific aim of the HRP under Goal 4 – Greater housing choice and jobs. The proposal will enable Council to release 1,435 new housing lots. These new housing areas will have access to local community and retail facilities in the existing Gillieston Heights centre.</p>
<p>26.1 - Align land use and infrastructure planning to maximise the use and capacity of existing infrastructure and the efficiency of new infrastructure.</p> <p>26.4 - Coordinate the delivery of infrastructure to support the timely and efficient release of land for development, including working with councils and service providers on inter-regional infrastructure and service delivery issues between growing areas.</p> <p>26.5 - Ensure growth is serviced by enabling and supporting infrastructure.</p>	<p>The proposal includes consideration of existing infrastructure planning work and consultation with infrastructure providers.</p>

Draft Hunter Regional Plan 2041

The Draft Hunter Regional Plan 2041 (the Draft HRP) was on public exhibition until 4 March 2022. The proposed rezoning of the former Hydro Aluminium land at Loxford is acknowledged in the Draft HRP and the Planning Proposal is consistent with objectives of the Draft HRP in relation to the supply of land for new industry, business and residential development.

Greater Newcastle Metropolitan Plan

The Greater Newcastle Metropolitan Plan (GNMP) sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens, which together make up Greater Newcastle. The plan also helps to achieve the

vision set in the HRP for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart.

The Planning Proposal is consistent with the following strategies of the GNMP.

GNMP Strategy	Consistency
Strategy 9 – Plan for jobs closer to homes in the Metro frame	The proposal is consistent with this Strategy as it will provide convenient access to jobs for the rapidly expanding surrounding community and Kurri Kurri Strategic Centre.
Strategy 11 – Create more great public spaces where people come together	The planning proposal is consistent with this Strategy as it proposes a centrally located district park with combined open space facilities.
Strategy 12 – Enhance the Blue and Green Grid and the urban tree canopy.	The proposal is consistent with this Strategy as it provides improved access to open space and recognises and appropriately zones the local open space and biodiversity corridors.
Strategy 14 – Improve resilience to natural hazards.	The proposal has considered the outcomes of various specialist reports on flooding, bushfire and mine subsidence. The proposal satisfies a condition to provide a flood free access strategy which has a broader community benefit beyond the development site. The proposal includes preliminary reports on land contamination, noting more work on land contamination is required to assess consistency with this Strategy and SEPP 55.
Strategy 20 – Integrate land use and transport planning.	The proposal has considered the preliminary outcomes of the MR195 Cessnock Road Corridor Strategy (TfNSW) in the consideration of appropriate zones and other development controls to be considered in an associated Development Control Plan. The proposal also includes opportunities to improve the active transport network consistent with this Strategy.
Strategy 23 – Protect major freight corridors	While the private railway line to the west of Cessnock Road is not a major freight corridor, the DCP includes controls to for noise and vibration to manage amenity and land use conflict issues, in the event the heavy rail line is repurposed for freight or passenger transport in the future. The proposal includes employment lands adjoining the Hunter Expressway. The development of employment lands in this location is appropriate and consistent with the Hunter Expressway Principles in the GNMP and the draft Hunter Expressway Strategy. The draft Hunter Expressway Strategy is expected to be exhibited concurrently with this planning proposal and the Department has advised that the planning proposal is consistent with the draft Strategy.

4 Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Cessnock Local Strategic Planning Statement 2036 (LSPS)

The Cessnock Local Strategic Planning Statement 2036 ('the LSPS') establishes a 20-year vision for land use planning in the Cessnock LGA. The LSPS sets out the important character and values, which are to be preserved and establishes planning principles to manage land use planning in the future.

The recommendations of this Planning Proposal are consistent with the following priorities of the Cessnock Local Strategic Planning Statement.

LSPS Planning Priority	Consistency
Planning Priority 1 – Our urban areas are compact.	The land is located in a growth area, identified in the HRP and LSPS, and has access to existing infrastructure and services. Council will be seeking the inclusion of planning controls to increase housing variety and density around the proposed B1 Neighbourhood Centre. The Planning Proposal will broaden the choice of building types and locations available in the local housing market.
Planning Priority 5 – infrastructure and services meet the needs of the community and are appropriately funded.	Supporting studies to the Planning Proposal identify the need to upgrade existing infrastructure to support the proposed development. State road infrastructure will be upgraded under a separate agreement between the future developer of the land and TfNSW. Local infrastructure will be upgraded in accordance with a site-specific DCP and through conditions of consent at the development application stage. Amendments to the Cessnock Section 7.11 Contributions Plan for local infrastructure may also be required to support future development within the land. These matters will be addressed following the finalisation of the LEP amendment.
Planning Priority 7 – urban development is encouraged in areas with existing infrastructure.	The land is located in a growth area, identified in the HRP and LSPS, and has access to existing infrastructure and services.
Planning Priority 13 – industrial land is developed in an orderly manner and meets future development needs.	The proposal is supported by a comprehensive economic study by SGS Economics and Planning. A local clause is proposed to introduce a floor space cap of 20,000m ² in relation to the proposed B7 Business Park Zone to prevent the precinct developing into a major regional cluster, which would draw significant volumes of trade away from the Cessnock Town Centre (and potentially other centres in the broader region).
Planning Priority 14 – our industrial land fosters economic growth, business diversity, and employment opportunities.	The proposal is consistent with this principal as it will provide convenient access to jobs for the rapidly expanding surrounding community and Kurri Kurri Strategic Centre.

Planning Priority 15 – key infrastructure is leveraged to support economic growth.	The proposal contains employment lands either side of the HEX with access to the Expressway via the Hart Road interchange. The proposal will provide convenient access to jobs for the rapidly expanding surrounding community and Kurri Kurri Strategic Centre and within a regional growth area.
Planning Priority 21 – developments minimise environmental impact and respond to environmental characteristics and natural hazards.	The proposal has considered the outcomes of various specialist reports on flooding, bushfire, mine subsidence, and preliminary reports on land contamination. The proposal satisfies a condition to provide a flood free access strategy which has a broader community benefit beyond the development site.

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

The Cessnock Community Strategic Plan 2027 (CSP) was prepared in 2013 and identifies the community's main priorities and expectations for the future and ways to achieve these goals. The vision of the CSP is:

Cessnock will be a cohesive and welcoming community living in an attractive and sustainable rural environment with a diversity of business and employment opportunities supported by accessible infrastructure and services which effectively meet community needs.

A range of strategic directions are provided which relate to the social, environmental and economic health, sustainability and prosperity of the Cessnock LGA. The Planning Proposal is consistent with the following themes of the CSP:

A Sustainable and Prosperous Economy:

- Objective 2.1 – Diversifying local business options; and
- Objective 2.2 – Achieving more sustainable employment opportunities.

A Sustainable and Healthy Environment:

- Objective 3.1 – Protecting and enhancing the natural environment and rural character of the area.

Adequate Accessible infrastructure, services and facilities:

- Objective 4.1 – Better transport links; and
- Objective 4.2 – Improving the road network.

5 Is the planning proposal consistent with any other applicable State and regional studies or strategies?

A 20-year Economic Vision for Regional NSW

The Economic Vision for Regional NSW seeks to drive sustainable, long term economic growth in regional NSW. The Planning Proposal is consistent with the principles of this strategy, notably:

- Principle 5: A skilled labour force for current and future needs of the regions
- Principle 6: Recognising each region's strengths and underlying endowments
- Principle 7: Regulation and planning to promote commercial opportunities

State Emergency Management Plan (EMPLAN)

The State Emergency Management Plan (EMPLAN) provides a coordinated and comprehensive approach to emergency management in NSW. The Plan identifies the importance of land use planning in prevention of impacts of hazards on the community. The Planning Proposal is not contrary to the objectives of the EMPLAN.

6 Is the planning proposal consistent with applicable SEPPs?

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

Table 1: Relevant State Environmental Planning Policies

SEPP	Consistency and Implications
State Environmental Planning Policy (Biodiversity and Conservation) 2021	<p>While the Planning Proposal does not specifically rezone land to an environmental conservation zone, a parallel process is occurring under the <i>Biodiversity Conservation Act 2016</i> to certify the rezoning footprint. This process will involve the conferring of a Biodiversity Certification Assessment Report (BCAR) in relation to the site.</p> <p>The BCAR includes details of how the land owner proposes to compensate for the clearing of land for future development. These measures may include creating and maintaining a large stewardship site over much of the adjoining areas of significant conservation land.</p> <p>The details of this process, assessment results and proposed mitigation measures will be included in the associated BCAR.</p> <p>BCD provided advice on 5 April 2022 that it will not be requesting any further avoidance of impacts that relate to swift parrot and regent honeyeater or their habitat and that the Biodiversity Conservation Division is not aware of any other biodiversity issues that would require changes to the proposed zone boundaries.</p>
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Nothing in this Planning Proposal affects the aims and provisions of these SEPPs.
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	
State Environmental Planning Policy (Housing) 2021	
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	
State Environmental Planning Policy (Planning Systems) 2021	

SEPP	Consistency and Implications
State Environmental Planning Policy (Primary Production) 2021	<p>An assessment has identified that the Planning Proposal does not include any regionally significant agricultural land. Only a small part of the rezoning footprint could be considered suitable for agriculture, with the entire site located within a regionally significant growth area in the Hunter Regional Plan 2036.</p> <p>This land is classified 3, 4, and 5 by the former NSW Department of Agriculture. Under these classifications the land is suitable for “cropping but not continuous cultivation”, “grazing but not cultivation”, or “not suitable for agriculture or only light grazing”, respectively.</p> <p>This area includes the grazing land and poultry sheds that have historically been located within the Hydro Land as part of the ‘Wangara’ landholding, and while not significant agricultural land, will provide scenic amenity as identified within the Hunter Regional Plan 2036 and Cessnock Local Strategic Planning Statement 2036.</p>
State Environmental Planning Policy (Resilience and Hazards) 2021	<p>The proposal is considered to be consistent with this SEPP, although it is noted that BCD has provided final comments for Council’s consideration regarding flooding and these are addressed in Section E of this Planning Proposal.</p> <p>The planning proposal has predominately been designed to avoid the 1% AEP Hunter River backflow flood event with some minor flood prone areas nominated within the central residential precinct (including the community recreational land and pockets near the South Maitland Railway). However, it has been demonstrated through a flood assessment that filling these areas of land to allow development to occur will have no more than a negligible impact on the floodplain.</p> <p>A detailed assessment has been undertaken to ensure that development of flood prone land is consistent with the NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.</p> <p>This study indicates the site has flood free road and rail access and that the land can be developed without adversely affecting surrounding properties, and not expose life or property on the subject land to excessive flood risk.</p> <p>The NSW Rural Fire Service provided advice on 13 September 2021 that it has considered the applicant’s Strategic Bush Fire Study and on the basis of the recommendations in the study being complied with, has no objection to the Planning Proposal.</p>
State Environmental Planning Policy (Resources and Energy) 2021	<p>Nothing in this Planning Proposal affects the aims and provisions of this SEPP.</p> <p>The Planning Proposal does not cover any area that is known to have existing resources. Nor is the land located within the vicinity</p>

SEPP	Consistency and Implications
	<p>of an established mine, petroleum production facility, or extractive industry.</p> <p>It is noted that agency consultation with the NSW Department of Industry – Resources and Energy is a requirement of the Gateway determination and that no objections were raised by that agency during consultation.</p>
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p>The Planning Proposal is considered to be consistent with this SEPP, having consideration to future development adjacent to rail corridors and main roads.</p> <p>It is noted that Transport for NSW provided advice on 8 November 2021 that it supports the progression of the Hydro Planning Proposal within the Cessnock Local Government Area, subject to the requirements outlined in its correspondence of the same date, and as agreed to between the parties. For a copy of the agency advice, including its requirements, refer to Appendix 3 of the Planning Proposal.</p>

7 Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

An assessment of relevant Section 9.1 Directions against the planning proposal is provided in the table below.

Table 2: Relevant Section 9.1 Ministerial Directions

Ministerial Direction		Consistency and Implications
Planning Systems		
1.1	Implementation of Regional Plans	<p>Consistent</p> <p>The Planning Proposal is consistent with the relevant regional plans and implements aspects of these plans where relevant. Refer to Council's response to question 3 of Section B of this Planning Proposal for a detailed commentary on the consistency of the proposal with relevant regional plans.</p>
1.3	Approval and Referral Requirements	<p>Not Applicable</p>
1.4	Site Specific Provisions	<p>Inconsistent</p> <p>The Direction states that any land uses that are permitted on the land must not impose any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>The Planning Proposal seeks to include a local clause in the LEP to limit, to 2,000m², the total gross floor area of <i>retail premises</i> in the proposed B1 Neighbourhood Centre Zone (to be drafted by Parliamentary Counsel). The Planning Proposal also seeks to include a local clause in the LEP to limit, to 20,000m², the total</p>

		<p>gross floor area of <i>specialised retail premises</i> in the proposed B7 Business Park Zone (to be drafted by Parliamentary Counsel).</p> <p>An Economic Land Study (Hydro Planning Proposal B1 and B7 Economic Assessment Review dated June 2017) has been prepared by SGS, which indicates the site is strategically located and could be attractive to footloose, regionally focussed businesses not accounted for in the demand and supply analysis undertaken for the SGS employment lands study, which focussed more on identified future LGA based economic activity and employment. If the site attracted these uses the flow on impacts for centres in Cessnock (and Maitland) are likely to be positive, albeit unquantifiable at this stage.</p> <p>The SGS study provides information on the impact of the employment land on the existing centres of Kurri Kurri and Weston. The study recommends that:</p> <ul style="list-style-type: none"> • <i>Council should consider a floor space cap of 20,000sqm for bulky goods retail to prevent the precinct from developing into a major regional cluster which would draw significant volumes of trade away from Cessnock Town Centre (and potentially other centres in the broader region).</i> • <i>A bulky goods retail cluster of a sub-regional scale is supported for this location.</i> • <i>There is sufficient industrial, B4 and B7 zoned land elsewhere in the Cessnock LGA to accommodate projected future demand for other service industry and businesses. However, the site is strategically located and could be attractive to footloose, regionally focussed businesses not accounted for in the demand and supply analysis</i> <p>The inclusion of a floor space cap of 20,000sqm is supported as it will ensure the ongoing viability of the proposed B7 land, together with other existing centres in the Cessnock LGA.</p> <p>In order to ensure that the B1 Neighbourhood Centre Zone does not perform a role greater than a neighbourhood centre, a retail floor area cap of 2,000m² (which is the general maximum size of a walkable centre before it becomes more of a supermarket anchored centre) is to be implemented, as per the recommendations of the supporting Economic Study.</p>
Biodiversity and Conservation		
3.1	Conservation Zones	<p>Consistent</p> <p>While the Planning Proposal does not specifically rezone land to an environmental conservation zone, a parallel process is occurring under the <i>Biodiversity Conservation Act 2016</i> to certify the rezoning footprint. This process will involve the conferring of a Biodiversity Certification Assessment Report (BCAR) in relation to the site.</p> <p>The BCAR includes details of how the land owner proposes to compensate for the clearing of land for future development. These measures may include creating and maintaining a large</p>

		<p>stewardship site over much of the adjoining areas of significant conservation land.</p> <p>The details of this process, assessment results and proposed mitigation measures will be included in the associated BCAR.</p> <p>BCD provided advice on 5 April 2022 that it will not be requesting any further avoidance of impacts that relate to swift parrot and regent honeyeater or their habitat and that the Biodiversity Conservation Division is not aware of any other biodiversity issues that would require changes to the proposed zone boundaries.</p>
3.2	Heritage Conservation	<p>Consistent</p> <p>The Planning Proposal is consistent with this Direction as the provisions of the LEP and relevant Sections of the <i>National Parks and Wildlife Act 1974</i> both serve to adequately protect the heritage significance of heritage items/places.</p> <p>An Aboriginal Cultural Heritage Assessment has been submitted with the Planning Proposal (AECOM, 12 December 2014) and raises no objection to rezoning the land to residential, provided further assessment is undertaken at the development stage.</p> <p>The site contains an item of local heritage significance, known as the South Maitland Railway System (Item 212). The continued interpretation of the rail corridor and its alignment will be managed through a site-specific Development Control Plan for the Hydro site.</p>
3.5	Recreation Vehicle Areas	<p>Consistent</p> <p>This Planning Proposal does not seek to enable land to be developed for the purpose of a recreation vehicle area within the meaning of the <i>Recreation Vehicles Act 1983</i>.</p>
Resilience and Hazards		
4.1	Flooding	<p>Inconsistent</p> <p>The proposal is inconsistent with this Direction on the basis that it seeks to rezone land within a flood planning area from a rural zone to residential, business or industrial zone.</p> <p>Notwithstanding the inconsistency, the Proposal has predominately been designed to avoid the 1% AEP Hunter River backflow flood event with some minor flood prone areas nominated within the central residential precinct (including the community recreational land and pockets near the South Maitland Railway). Despite this, the applicant has demonstrated that filling parts of the rezoning footprint that are located below the 1% AEP Hunter River backflow will have a negligible impact on the floodplain.</p> <p>Two current flood studies are applicable to the site, i.e. the Wallis and Swamp Fishery Creek Flood Study Flood Study (WMA Water, February 2019) and the Branxton to Green Rocks Flood Study (WMA Water, September 2010). Both studies have been</p>

		<p>prepared in accordance with the Floodplain Development Manual 2005 and have been adopted by Council.</p> <p>The studies indicate that a flood free access from the Hydro northern residential precinct to Gillieston Heights is capable of being achieved via the development internal spine road. A flood free evacuation route is capable of being achieved via Ridgeview Drive Cliftleigh through to Main Road 195. For the Hydro southern residential precinct, a flood free evacuation route is capable of being achieved through Bowditch Avenue and McLeod Road.</p> <p>The applicant's Egress Plan, which considers the probable maximum flood, demonstrates flood free access and egress from the site.</p>
4.3	Planning for Bushfire Protection	<p>Consistent</p> <p>The NSW Rural Fire Service provided advice on 13 September 2021 that it has considered the applicant's Strategic Bush Fire Study and on the basis of the recommendations in the study being complied with, has no objection to the Planning Proposal. The recommendations of the Strategic Bush Fire Study are to be embedded in a site specific DCP, prior to development occurring within the land.</p>
4.4	Remediation of Contaminated Land	<p>Consistent</p> <p>Areas of the site to be used for urban purposes are located close to the former aluminium smelter site. Some residual contamination may be present as a result of the activities of the smelter, thus in accordance with Clause 2 of the Direction, preliminary investigation of the land has been carried out and the land has been deemed suitable for its intended use, subject to some remedial actions. These remedial actions are to be embedded in a site specific DCP for the former aluminium site, prior to development occurring within the land.</p>
4.5	Acid Sulfate Soils	<p>Inconsistent</p> <p>The rezoning footprint is wholly located outside land identified as containing acid sulfate soils. The exception is an area of land, which is proposed to be rezoned R2 Low Density Residential, that will contain a future road. That land is identified as containing class 3 acid sulfate soils. However, the inconsistency with the direction is considered to be of minor significance on the basis the land will not contain residential development.</p>
4.6	Mine Subsidence and Unstable Land	<p>Not applicable</p> <p>Consultation with Subsidence Advisory NSW has been undertaken and no concerns were raised as the land is not identified within a mine subsidence district, undermined or within a mining lease.</p>
Transport and Infrastructure		
5.1	Integrating Land Use and Transport	<p>Consistent</p> <p>The Planning Proposal includes areas of local business to service the new population and also a large employment land release with interchange access to the Hunter Expressway. This Direction</p>

		<p>requires the proposal to give effect to and be consistent with the aims, objectives and principles of:</p> <p>(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001),</p> <p>(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</p> <p><u>Improving Transport Choice – Guidelines for planning and development</u></p> <p>The proposal is consistent, or potentially consistent, with the accessible development principles of the guidelines, subject to the finalisation of a site specific DCP for the land. Refer to the assessment against the guidelines in Table 4.3, below.</p> <p><u>The Right Place for Business and Services – Planning Policy</u></p> <p>The planning proposal is generally consistent with the policy as the employment lands are located on a major transport route, being well located for the service catchment. The proposal will establish Cessnock's second bulky goods retail cluster, Cessnock being the first (24ha in a B7 Zone).</p> <p>The guidelines require that bulky goods proposals consider:</p> <ul style="list-style-type: none"> • The economic and social impact on existing and planned centres • The demand for the amount of floor space for trading bulky goods and the potential impact any oversupply would have on existing centres • The degree and potential of short and long term accessibility by public transport • The effect on the demand for travel and impact of increased traffic to the arterial road network • Where industrial areas are proposed to be used, the operational and access needs of existing and future industry and the impact on property prices for industrial development <p>The Planning Proposal will support the regional centre of Cessnock and town centre of Kurri Kurri with economic growth from employment and housing. The provision of a small neighbourhood centre, for convenience goods and local services, will not undermine the overall centre hierarchy within the Strategy. The local neighbourhood centre was considered in the SGS Economics study that accompanies the Planning Proposal and is consistent with the objectives of this Direction.</p> <p>An Economic Land Study (Hydro Planning Proposal B1 and B7 Economic Assessment Review dated June 2017) has been prepared by SGS, which indicates the site is strategically located and could be attractive to footloose, regionally focussed businesses not accounted for in the demand and supply analysis undertaken for the SGS employment lands study, which focussed more on identified future LGA based economic activity and employment. If the site attracted these uses the flow on impacts for centres in Cessnock (and Maitland) are likely to be positive, albeit unquantifiable at this stage.</p>
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		<p>The SGS study provides information on the impact of the employment land on the existing centres of Kurri Kurri and Weston. The study recommends that:</p> <ul style="list-style-type: none"> • <i>Council should consider a floor space cap of 20,000sqm for bulky goods retail to prevent the precinct from developing into a major regional cluster which would draw significant volumes of trade away from Cessnock Town Centre (and potentially other centres in the broader region).</i> • <i>A bulky goods retail cluster of a sub-regional scale is supported for this location.</i> • <i>There is sufficient industrial, B4 and B7 zoned land elsewhere in the Cessnock LGA to accommodate projected future demand for other service industry and businesses. However, the site is strategically located and could be attractive to footloose, regionally focussed businesses not accounted for in the demand and supply analysis</i> <p>The inclusion of a floor space cap of 20,000sqm is supported as it will ensure the ongoing viability of the proposed B7 land, together with other existing centres in the Cessnock LGA.</p> <p>In order to ensure that the B1 Neighbourhood Centre Zone does not perform a role greater than a neighbourhood centre, a retail floor area cap of 2,000m² (which is the general maximum size of a walkable centre before it becomes more of a supermarket anchored centre) is to be implemented, as per the recommendations of the supporting Economic Study.</p>
5.2	Reserving Land for Public Purposes	<p>Inconsistent</p> <p>This direction includes a provision that a planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General.'</p> <p>The proposal includes approximately 8.4 hectares area of land that is to be zoned RE1 Public Recreation. It is anticipated the land will contain district recreation facilities. The need for the land is outlined in Council's Open Space and Recreation Plan.</p> <p>A linear recreation corridor along the former South Maitland Railway is also proposed to be zoned RE1 Public Recreation. The land has been identified for the purpose of a regional cycleway link and will be subject to acquisition.</p> <p>The Planning Proposal seeks confirmation from the Director-General (or delegate) that inconsistency with this direction is justified and of minor significance.</p>
5.3	Development Near Regulated Airports and Defence Airfields	<p>Not applicable</p>

5.4	Shooting Ranges	<p>Consistent</p> <p>This Planning Proposal does not seek to create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.</p>
Housing		
6.1	Residential Zones	<p>Consistent</p> <p>The Planning Proposal seeks to rezone part of the site to Zone R2 Low Density Residential.</p> <p>Council will be seeking the inclusion of planning controls to increase housing variety/density around the proposed B1 Neighbourhood Centre Zone.</p> <p>It is expected that this Planning Proposal will broaden the choice of building types and locations available in the local housing market.</p> <p>The Planning Proposal is supported by a range of environmental assessments, including a water servicing strategy and sewer servicing strategy to understand existing capacity and to ensure that the site is able to be serviced. A traffic and transport study has assessed potential impacts on the existing traffic network.</p>
6.2	Caravan Parks and Manufactured Home Estates	<p>Consistent</p> <p>Nothing in this Planning Proposal affects the aims and provisions of this direction.</p>
Industry and Employment		
7.1	Business and Industrial Zones	<p>Consistent</p> <p>The proposal is consistent with this direction. Consistency is supported by the assessment against Section 9.1 Direction 5.1 Integrating Land Use and Transport and the HEX Principles outlined in the Greater Newcastle Metropolitan Plan.</p> <p>The Planning Proposal does not affect existing business or industrial zones. It will increase the population catchment of the Kurri Kurri town centre and will increase the viability of the neighbourhood retail. The proposal will also provide for new industrial zoned areas and is located in an area previously used for industrial purposes.</p> <p>The Planning Proposal will support the regional centre of Cessnock and town centre of Kurri Kurri with economic growth from employment and housing. The provision of a small neighbourhood centre, for convenience goods and local services will not undermine the overall centre hierarchy in Cessnock. The local neighbourhood centre was considered in the SGS study and is consistent with the objectives of this direction.</p> <p>An Economic Land Study (Hydro Planning Proposal B1 and B7 Economic Assessment Review dated June 2017) has been prepared by SGS, which indicates the site is strategically located and could be attractive to footloose, regionally focussed businesses not accounted for in the demand and supply analysis undertaken for the SGS employment lands study which focussed</p>

		<p>more on identified future LGA based economic activity and employment. If the site attracted these uses the flow on impacts for centres in Cessnock (and Maitland) are likely to be positive, albeit unquantifiable at this stage.</p> <p>The SGS study provides information on the impact of the employment land on the existing centres of Kurri Kurri and Weston. The study recommends that:</p> <ul style="list-style-type: none"> • <i>Council consider should consider a floor space cap of 20,000sqm for bulky goods retail to prevent the precinct from developing into a major regional cluster which would draw significant volumes of trade away from Cessnock Town Centre (and potentially other centres in the broader region).</i> • <i>A bulky goods retail cluster of a sub-regional scale is supported for this location.</i> • <i>There is sufficient industrial, B4 and B7 zoned land elsewhere in the Cessnock LGA to accommodate projected future demand for other service industry and businesses. However, the site is strategically located and could be attractive to footloose, regionally focussed businesses not accounted for in the demand and supply analysis</i> <p>The inclusion of a floor space cap of 20,000sqm is supported as it will ensure the ongoing viability of the proposed B7 land, together with other existing centres in the LGA.</p> <p>The local neighbourhood centre proposed in the residential area was also part of the SGS study and is consistent with the objectives of this Direction.</p>
Resources and Energy		
8.1	Mining, Petroleum Production and Extractive Industries	<p>Consistent</p> <p>The residential and employment zonings would have the effect of prohibiting the mining of coal and other minerals, production of petroleum and winning/obtaining of extractive materials from the site.</p> <p>The Planning Proposal does not cover any area that is known to have existing resources. Nor is the land located within the vicinity of an established mine, petroleum production facility, or extractive industry.</p> <p>It is noted that agency consultation with the NSW Department of Industry – Resources and Energy is a requirement of the Gateway determination and that no objections were raised by that agency during consultation.</p>
Primary Production		
9.1	Rural Zones	<p>Inconsistent</p> <p>The Planning Proposal seeks to rezone land from a rural zone to industrial, employment and residential zones.</p> <p>While the proposal is inconsistent with this direction, the inconsistency is justified, as the proposal to rezone the land for urban purposes is identified in the Greater Newcastle</p>

		<p>Metropolitan Plan 2036 and Cessnock Local Strategic Planning Statement 2036. The land is also within a regionally significant growth area in the Hunter Regional Plan 2036.</p> <p>An assessment has identified that the Planning Proposal does not include any regionally significant agricultural land. Only a small part of the rezoning footprint could be considered suitable for agriculture</p> <p>The Hydro land is classified 3, 4, and 5 by the former NSW Department of Agriculture. Under these classifications the land is suitable for “cropping but not continuous cultivation”, “grazing but not cultivation”, or “not suitable for agriculture or only light grazing”, respectively.</p> <p>The former Hydro facility was also established on rural land, whereby the proposed industrial zoning is more reflective of the existing infrastructure (water supply pipelines and electricity transmission lines) and contaminated state of the site.</p> <p>The Planning Proposal seeks confirmation from the Director-General (or delegate) that inconsistency with this direction is justified and of minor significance.</p>
9.2	Rural Lands	<p>Inconsistent</p> <p>The Planning Proposal seeks to rezone land from a rural zone to industrial, employment and residential zones. The proposal will also reduce the minimum lot size of the land.</p> <p>While the proposal is inconsistent with this direction, the inconsistency is justified in accordance with Clause 4 of the Direction, as:</p> <ul style="list-style-type: none"> (a) the proposal is identified in the GNMP and Cessnock LSPS. The land is also identified within a ‘growth area’ in the HRP. (b) the site is not identified as having high agricultural production value. The Hydro land is classified 3, 4, and 5 by the former NSW Department of Agriculture. Under these classifications the land is suitable for “cropping but not continuous cultivation”, “grazing but not cultivation”, or “not suitable for agriculture or only light grazing”, respectively. (c) The proposal will be supported by a BCAR and lands of significant environmental or heritage value will be protected through this process. (d) – (g) The land is within an identified ‘growth area’ in the HRP. <p>The land is not identified as having high agricultural production value. The land is classified 3, 4, and 5 by the former NSW Department of Agriculture, now the NSW Department of Primary Industries - Agriculture.</p> <p>Under these classifications the land is suitable for “cropping but not continuous cultivation” (3), “grazing but</p>

		<p>not cultivation" (4) or "not suitable for agriculture or only light grazing" (5), respectively.</p> <p>(h) The site is not mapped as State significant agricultural land</p> <p>(i) The social and economic benefits of the proposal are outlined in Section 9 of the Planning proposal.</p> <p>This Planning Proposal seeks confirmation from the Director-General (or delegate) that any inconsistency with this direction is justified and of minor significance for the reasons set out above.</p>
9.3	Oyster Aquaculture	Not Applicable

Table 4.3: Improving Transport Choice – Guidelines for planning and development

Principle	Summary	Comment on Consistency
<u>Principle 1</u> Concentrate in centres	Develop concentrated centres containing the highest appropriate densities of housing, employment, services and public facilities within an acceptable walking distance — 400 to 1000 metres — of major public transport nodes, such as railway stations and high frequency bus routes with at least a 15-minute frequency at peak times.	The proposal is consistent principles 1 to 4 of the guidelines. Opportunities for medium density housing will continue to be encouraged in and immediately surrounding the Kurri Kurri and Weston centres, which have good access to existing services, noting that public transport options in the wider Kurri Kurri District are limited to busses.
<u>Principle 2</u> Mix uses in centres	Encourage a mix of housing, employment, services, public facilities and other compatible land-uses, in accessible centres.	The size and activity within the existing centres is proportional to their regional context and the provision of public transport.
<u>Principle 3</u> Align centres within corridors	Concentrate high density, mixed use, accessible centres along major public transport corridors within urban areas.	Opportunities for higher density housing types will also be provided in the area immediately surrounding the proposed B1 Neighbourhood Centre within the Planning Proposal site.
<u>Principle 4</u> Link public transport with land use strategies	Plan and implement public transport infrastructure and services in conjunction with land use strategies to maximise access along corridors, and to and from centres.	The proposed employment lands (bulky goods) will be located between 2.5 and 4km from the existing Kurri Kurri and Weston centres. The employment land has immediate access to these existing centres and the HEX.
<u>Principle 5</u> Connect streets	Provide street networks with multiple and direct connections to public transport services and efficient access for buses.	The Planning Proposal is potentially consistent with these principles (5 to 10), subject to the finalisation of a site specific DCP for the land.
<u>Principle 6</u> Improve pedestrian access	Provide walkable environments and give greater priority to access for pedestrians, including access for people with disabilities.	Concept plans for the land demonstrate that it can be developed with a high degree of internal connectivity. Therefore, the proposal is considered to be consistent with the aims, objectives and principles of improving access to housing, jobs and services by walking, cycling and public transport.
<u>Principle 7</u>	Maximise cyclists' accessibility to centres, services, facilities and employment locations.	

Improve cycle access		<p>The provision of car parking will be consistent with the requirements of Council's existing DCP, unless otherwise stated in the forthcoming site specific DCP for the land.</p> <p>Specific urban design objectives and controls will be considered in the site specific DCP for the land, including: traffic calming, road layout, building orientation, setbacks, streetscape and access to public transport.</p>
<u>Principle 8</u> Manage parking supply	Use the location, supply and availability of parking to discourage car use.	
<u>Principle 9</u> Improve road management	Improve transport choice and promote an integrated transport approach by managing road traffic flow and priority of transport modes.	
<u>Principle 10</u> Implement good urban design	Design with an emphasis on the needs of pedestrians, cyclists and public transport users.	

Section C: Environmental, Social and Economic Impact

8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

The Site contains areas of native vegetation, disturbed native vegetation and modified grazing land. Previously the vegetation within the site was managed as buffer land to the operational smelter, with management activities including weed eradication, pest control and livestock agistment.

While the Planning Proposal does not specifically rezone land to an environmental conservation zone, a parallel process is occurring under the *Biodiversity Conservation Act 2016* to certify the rezoning footprint. This process will involve the conferring of a Biodiversity Certification Assessment Report (BCAR) in relation to the site.

The BCAR includes details of how the land owner proposes to compensate for the clearing of land for future development. These measures may include creating and maintaining a large stewardship site over much of the adjoining areas of significant conservation land.

The details of this process, assessment results and proposed mitigation measures will be included in the associated BCAR.

BCD provided advice on 5 April 2022 that it will not be requesting any further avoidance of impacts that relate to swift parrot and regent honeyeater or their habitat and that the Biodiversity Conservation Division is not aware of any other biodiversity issues that would require changes to the proposed zone boundaries.

9 Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

The Planning Proposal has assessed a range of environmental constraints to determine appropriate land use outcomes. The following specialist reports were prepared and informed the Planning Proposal.

- Aboriginal Cultural Heritage Assessment
- Stormwater Impact Assessment
- Servicing Strategy
- Agricultural Land Suitability and Capability Study
- Flood Study
- Geotechnical Assessment
- Heritage Impact Assessment
- Contamination Assessment Report
- Economic Assessment Report
- Noise and Vibration Impact Assessment
- Traffic and Transport Study

Table 8.1: Environmental Considerations

Environmental Consideration	Outcomes and Control Measures
Traffic and Transport	Necessary upgrades to the state road network have been identified through the Planning Proposal process. Transport for NSW provided advice on 8 November 2021 that it supports the progression of the Hydro Planning Proposal within the Cessnock Local Government Area, subject

	<p>to the requirements outlined in its correspondence of the same date, and as agreed to between the parties.</p> <p>An upgrade of William Tester Drive, including indented bus bays and car parking, and the provision of a pedestrian refuge and crossing have been recommended through Council's assessment of the Proposal. A further Traffic Impact Assessment will be required at the development subdivision stage to address traffic impacts from the future development within the land. It is appropriate to prepare the study at the development subdivision stage when further information is available regarding subdivision layout and detailed design.</p>
Contamination	<p>Areas of the site to be used for urban purposes are located close to the former aluminium smelter site. Some residual contamination may be present as a result of the activities of the smelter, thus a preliminary investigation of the land has been carried out and the land has been deemed suitable for its intended use, subject to some remedial actions. These remedial actions are to be embedded in a site specific DCP for the former aluminium site, prior to development occurring within the land.</p>
Biodiversity	<p>While the Planning Proposal does not specifically rezone land to an environmental conservation zone, a parallel process is occurring under the Biodiversity Conservation Act 2016 to certify the rezoning footprint. This process will involve the conferring of a Biodiversity Certification Assessment Report (BCAR) in relation to the site.</p> <p>The BCAR includes details of how the land owner proposes to compensate for the clearing of land for future development. These measures may include creating and maintaining a large stewardship site over much of the adjoining areas of significant conservation land.</p> <p>The details of this process, assessment results and proposed mitigation measures will be included in the associated BCAR.</p> <p>BCD provided advice on 5 April 2022 that it will not be requesting any further avoidance of impacts that relate to swift parrot and regent honeyeater or their habitat and that the Biodiversity Conservation Division is not aware of any other biodiversity issues that would require changes to the proposed zone boundaries.</p>
Acoustic Impacts	<p>The recommendations of the submitted Noise Impact Assessment to address acoustic impacts from the South Maitland Railway and HEX are to be embedded in a site specific DCP for the former aluminium site, prior to development occurring within the land.</p>
Economic	<p>The planning proposal incorporates the recommendations of the SGS Economics & Planning B1 and B7 Economic Assessment Review dated December 2016.</p>
Flooding	<p>The proposal is considered to have satisfactorily addressed potential flood impacts, although it is noted that BCD has provided final comments for Council's consideration regarding flooding and these are addressed in Section E of this Planning Proposal.</p> <p>The planning proposal has predominately been designed to avoid the 1% AEP Hunter River backflow flood event with some minor flood prone areas nominated within the central residential precinct (including the community</p>

	<p>recreational land and pockets near the South Maitland Railway). However, it has been demonstrated through a flood assessment that filling these areas of land to allow development to occur will have no more than a negligible impact on the floodplain.</p> <p>A detailed assessment has been undertaken to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.</p> <p>This study indicates the site has flood free road and rail access and that the land can be developed without adversely affecting surrounding properties, and not expose life or property on the subject land to excessive flood risk.</p>
Bushfire	<p>The NSW Rural Fire Service provided advice on 13 September 2021 that it has considered the applicant's Strategic Bush Fire Study and on the basis of the recommendations in the study being complied with, has no objection to the Planning Proposal. The recommendations of the Strategic Bush Fire Study are to be embedded in a site specific DCP for the former aluminium site, prior to development occurring within the land.</p>

The environmental issues and mitigation measures associated with the detailed design and construction of the future employment land and residential subdivisions will be addressed in the supporting Development Control Plan.

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

The Planning Proposal has considered both social and economic impacts. The principal economic effects of future development in the site are listed below.

- Approximately 6,900 jobs, comprising 3,840 blue collar jobs and 3,060 white collar jobs (full-time, part-time and casual direct jobs).
- 13,160 direct construction jobs and 20,710 indirect supplier jobs, for a total construction phase employment benefit of 33,870 jobs (full-time, part-time and casual jobs).
- Expansion of ongoing jobs will result in an additional \$448.6 million worker income per annum.
- The expansion in population from the delivery of new housing and subsequent population growth is expected to expand local retail spend by \$58.4 million at full development.

The Planning Proposal has considered the social impact on the community that may result from the proposed rezoning of the site and it is considered that there is a positive net community benefit as a result of the Planning Proposal.

Identified benefits of the proposal for the local community include:

- Enabling the provision of new housing stock (an anticipated residential lot yield of 1,435 is anticipated) in a range of sizes, styles and price points, which will directly contribute to the NSW government target for new housing, as well as state government and Council policies for new housing.
- A subdivision layout that extends, consolidates and links into, existing communities rather than creating new, stand-alone, isolated residential areas.
- Provision of new community infrastructure and open space, which will support an active community and encourage healthy lifestyles.

- The potential for much needed local employment opportunities and economic growth through the inclusion of areas zoned as business park, general industry and heavy industry, and through the subsequent construction of the proposed developments.
- Planning will support a community with a unique sense of place.
- Permeability between these new communities and surrounding areas.
- A site layout that will be accessible to people of all ages and abilities and a range of income groups.
- Road layout that will be accessible for buses.
- Design principles that support creation of a socially sustainable community.

It is considered that the Planning Proposal has adequately addressed any social and economic impacts of the rezoning.

The Planning Proposal is supported by an Economic Study, which supports the inclusion of the employment zones and confirms the zones are well suited to the strategic location adjacent to the Hunter Expressway.

In order to ensure that the B1 Neighbourhood Centre Zone does not perform a role greater than a neighbourhood centre, a retail floor area cap of 2,000m² (which is the general maximum size of a walkable centre before it becomes more of a supermarket anchored centre) is to be implemented, as per the recommendations of the supporting Economic Study.

Overall, the strategic location of the B7 Business Park Zone will attract regionally focussed businesses previously not considered in the demand and supply analysis for employment lands. If the site attracted such uses, the flow on impacts for centres in Cessnock (and Maitland) are likely to be positive, albeit unquantifiable at this stage.

Section D: Infrastructure (Local, State and Commonwealth)

11 Is there adequate public infrastructure for the planning proposal?

The Hydro Kurri Kurri Planning Proposal has considered site capability, including the provision of infrastructure. A Servicing Strategy has been prepared to support the Planning Proposal. The Servicing Strategy demonstrates that a connection to utility services is achievable for future development within the site. Key elements of the Servicing Strategy are provided as follows:

Water: The supply of potable water to future development would be achieved in stages to provide security of supply in the short-term and adequate main sizes for the projected development yield;

Sewerage: Sewerage will be subject to conventional gravity mains draining to a series of Waste Water Pump Stations and ultimately to the Kurri Kurri Waste Water Treatment Works.

Electricity: Electricity will be delivered to the development through underground cables located in common shared trenching in road reserves. Underground cabling will extend the Ausgrid feeder network at higher voltages to a series of above-ground kiosk substations that distribute the electricity in the low-voltage network.

Gas: Connection to the gas network will be available and connected in stages. An assessment of the connection methods will be determined by Jemena Gas Networks once the first subdivision application is made.

Communications: Telecommunication connections will be available and determined by the National Broadband Network (NBN Co.) once the first subdivision application is made.

It is concluded that the site is adequately serviced by existing infrastructure, with a Detailed Servicing Strategy provided as part of the rezoning application. Future development may require augmentation of existing services and this will be subject of agreement between the developer and service provider.

Local road infrastructure: An upgrade of William Tester Drive, including indented bus bays and car parking, and the provision of a pedestrian refuge and crossing have been recommended through Council's assessment of the Proposal. A further Traffic Impact Assessment will be required at the development subdivision stage to address traffic impacts from the future development within the land. It is appropriate to prepare the study at the development subdivision stage when further information is available regarding subdivision layout and detailed design.

State road Infrastructure: State road infrastructure is capable of supporting the development, subject to infrastructure upgrades. Transport for NSW provided advice on 8 November 2021 that it supports the progression of the Hydro Planning Proposal within the Cessnock Local Government Area, subject to the requirements outlined in its correspondence of the same date, and as agreed to between the parties. For a copy of the agency advice, including its requirements, refer to Appendix 3 of the Planning Proposal.

Section E: State and Commonwealth Interests

12 What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Agency consultation occurred in two rounds. The first round of consultation occurred between 24 February 2020 and 16 March 2020. The second round of agency consultation occurred between 15 December 2020 and 1 February 2021. The following agencies were consulted:

- NSW Rural Fire Service
- Office of Environment and Heritage (now BCD)
- Transport for NSW – Roads and Maritime Services
- NSW Aboriginal Land Council - Mindaribba Local Aboriginal Land Council
- NSW Mine Subsidence Board
- NSW Department of Primary Industries – Agriculture
- NSW Department of Industry – Resources and Energy
- NSW TAFE
- Hunter Water Corporation
- South Maitland Railways
- Maitland City Council
- NSW State Emergency Service

A copy of the final advice from public agencies is provided at Appendix 3 of the Proposal.

Responses received from the NSW Mine Subsidence Board (now Subsidence Advisory NSW), NSW Department of Industry (Resources and Energy) and Maitland City Council raised no objections to the Planning Proposal. A formal response to agency consultation was not received from TAFE NSW, NSW State Emergency Service or the Natural Resources Access Regulator (NRAR) of the Department of Primary Industries.

Crown Lands

Crown Lands provided advice on 2 March 2020 noting that several Crown roads exist within the area subject to the Planning Proposal. Crown lands recommended Council assess whether public road access is required to service present and future access needs or whether roads can be closed and replaced with a private right of carriageway where access is required.

Council response: Road access and potential transfer of Crown roads will be considered during the assessment of future development within the site.

Transport for NSW

Transport for NSW provided advice on 8 November 2021 that it supports the progression of the Hydro Planning Proposal within the Cessnock Local Government Area, subject to the requirements outlined in its correspondence of the same date and as agreed to between the parties.

Biodiversity Conservation Division of DPE (comments regarding biodiversity)

BCD's response to the Hydro Planning Proposal was received by Council on 17 November 2021. In relation to its response, BCD provided further advice to the applicant on 5 April 2022 that it will not be requesting any further avoidance of impacts that relate to swift parrot and regent honeyeater or their habitat and that the Biodiversity Conservation Division is not aware of any other biodiversity issues that would require changes to the proposed zone boundaries.

Notwithstanding this advice, BCD recommended that biodiversity assessments for biocertification are completed prior to a Gateway determination being sought and that exhibition of planning proposals and biocertification applications is aligned

Council response: The advice of BCD regarding biodiversity was confirmed by Council on 29 April 2022 and is considered sufficient to allow the Planning Proposal to proceed to finalisation.

It is noted that while the Planning Proposal does not specifically rezone land to an environmental conservation zone, a parallel process is occurring under the Biodiversity Conservation Act 2016 to certify the rezoning footprint. This process will involve the conferring of a Biodiversity Certification Assessment Report (BCAR) in relation to the site.

The BCAR includes details of how the land owner proposes to compensate for the clearing of land for future development. These measures may include creating and maintaining a large stewardship site over much of the adjoining areas of significant conservation land.

The details of this process, assessment results and proposed mitigation measures will be included in the associated BCAR.

Regarding the exhibition of the Proposal and the BCAR concurrently, on the basis of the advice provided by BCD on 5 April 2022 and confirmed by Council on 29 April, the risk of the zone boundary not being supported by BCD through the BCAR process is considered low.

Biodiversity Conservation Division of DPE (comments regarding flooding)

The following comments were provided by the Water Floodplains and Coast team of BCD on 16 May 2022:

1. The Environment and Heritage Group (EHG) agrees that flood planning levels are likely to be based on the backwater levels produced by Hunter river flooding because this creates the higher planning levels in the backwater impacted areas of the development.
2. The development proposal has not assessed local flooding and at present is proposing that residential zoning be extended across local waterways including local floodways. No flood impact assessment has been provided to assess if filling of these areas produces higher flood levels off site or will result in higher local planning levels.
3. Filling of floodway areas is inconsistent with local planning direction 9.1 (2) Part 4.1 clause (3)(a) to (d) and may also have adverse offsite impacts.
4. The figures provided by council show the Hunter River 1% AEP levels and assumed flood free access routes. The map does not demonstrate that proposed development will have flood free access (up to the PMF) as required by condition 1(b) of the gateway determination. The applicant should demonstrate flood free access proof of concept in the final planning proposal.
5. The required flood assessment should be included in the final planning proposal to ensure that unreasonable expectations of developable area are not created. Alternatively the waterways and flood planning area may be retained as a more flood compatible land use zone such as a conservation zone which would enable the remaining land to be rezoned as residential or industrial use.

Council response: Point 1 is noted. Regarding point 2 and 3, an assessment of local flooding is considered to be a matter for the development application stage when comprehensive information is available regarding the subdivision layout and detailed design. BCD requesting this information at a planning proposal stage is considered premature.

The portion of the residential zoning that extends over the floodway is to contain a local road. It is appropriate to consider the design of the road (and whether or not it is located on fill) at the development application stage. Furthermore, it is considered that there are engineering solutions available to a future developer to minimise the impact of the road on the floodway, for example, a bridge or culverts, which would also elevate the road.

Regarding point 4, a new Gateway determination was issued by DPE in respect of the Hydro Planning Proposal on 1 December 2020. BCD's response refers to a condition in the original Gateway determination that no longer applies to the Planning Proposal.

Notwithstanding this, a flood free access from the Hydro northern residential precinct to Gillieston Heights is capable of being achieved via the development internal spine road. A flood free evacuation route is capable of being achieved via Ridgeview Drive Cliftleigh through to Main Road 195. For the Hydro southern residential precinct, a flood free evacuation route is capable of being achieved through Bowditch Avenue and McLeod Road.

The applicant's Egress Plan, which considers the probable maximum flood, demonstrates flood free access and egress from the site. The applicant has also demonstrated that filling parts of the site located below the 1% AEP Hunter River backflow, will have a negligible impact on the floodplain.

Regarding point 5. As above, it is appropriate for the local flood assessment to be carried out at the development application stage, when greater detail is available regarding subdivision layout.

NSW Rural Fire Service

The NSW Rural Fire Service provided advice on 13 September 2021 that it has considered the applicant's Strategic Bush Fire Study and on the basis of the recommendations in the study being complied with, has no objection to the Hydro Planning Proposal.

Council response: The recommendations of the Strategic Bush Fire Study and the requirements of Planning for Bushfire Protection 2019 should be considered in the preparation of the Development Control Plan for the land and in relation to future development applications within that land.

Hunter Water Corporation

Hunter Water Corporation provided advice on 14 May 2020 that it does not object to the proposed B7 Business Park or IN1 General Industrial zoning within the Hydro site, but that it does object to the R2 Low Density Residential Zone within the Kurri Kurri Wastewater Treatment Plant buffer area.

Further advice was provided by Hunter Water Corporation on 25 May 2022 that it no longer objects to the Proposal subject to upgrades of the Kurri Kurri Wastewater Treatment Plant and the retention of an odour buffer between the Hydro residential land and Hunter Water Corporation's public wastewater treatment facility at Kurri Kurri. Hunter Water has requested that no land is to be rezoned residential beyond 90 metres to the south west of McLeod Road.

Council response: The boundary of the R2 Low Density Residential Zone to the south west of McLeod Road has been amended to address the requirements of Hunter Water.

Mindaribba Local Aboriginal Land Council

Mindaribba LALC provided the following comments in relation to the Planning Proposal on 31 March 2020:

1. The Planning Proposal includes several parcels of Crown land, which are proposed to be rezoned E2 Environmental Conservation. These parcels of land are the subject of a land claim by Mindaribba LALC. Mindaribba LALC does not agree to the rezoning of this land to environmental conservation.
2. In response to the heritage investigations undertaken by AECOM, it is necessary to undertake a revised and more rigorous Aboriginal culture and heritage investigation that include the impacts this development has on the cultural landscape; particularly in relation to the areas of Black Waterholes, Black Creek and Swamp Creek which are highly significant features of the Cultural Landscape for Local Wonnarua People.
3. The Mindaribba LALC has concerns regarding the implications of bio-certification of the rezoning footprint on the socio-economic future of Aboriginal Peoples within the Cessnock and Maitland

LGA's. The Mindaribba LALC would like to be consulted with during the preparation and finalization of any Biodiversity Certification report prepared over this area.

Council response: In response to points 1 and 2, the land that was originally proposed to be rezoned E2 Environmental Conservation no longer forms part of the Planning Proposal.

In response to point 3, the exhibition of the BCAR will be facilitated by the Biodiversity Conservation Division of DPE. Mindaribba LALC will be provided an opportunity to comment on the BCAR during the consultation period.

South Maitland Railway

South Maitland Railway provided the following comments in relation to the Planning Proposal on 31 March 2020:

1. A comprehensive Noise and Vibration Assessment shall be completed
2. Security fencing along the full length of the rail corridor
3. Development must not compromise or diminish the ability to utilise the rail corridor
4. Revised Historic Heritage Assessment and Statement of Heritage Impact.
5. Sensitive design along heritage item
6. SMR's rail corridors as asset protection zones are not supported unless a separate agreement is reached with the developer.
7. Wangara Bridge considerations

Council response: In response to point 1, the Noise and Vibration Assessment submitted with the Planning Proposal is considered acceptable based on the existing rail and road environment and likely future intensification of the railway, noting there are currently no known arrangements to increase capacity of this line. The Planning Proposal does not interfere with the operations of the South Maitland Railway.

In respect to point 2, 3, 4 and 5 it is appropriate to address the following matters in the DCP for the Hydro land:

- *recommendations of the acoustic report;*
- *territorial ownership through the implementation of boundary fencing; and*
- *heritage interpretation strategy (see below).*

The delivery of flood immunity access through the northern portion of the site was deemed critical as it is a requirement of the Gateway determination. Given that the provision of vehicular access would truncate the disused rail spur, the corridor is unable to be preserved in its entirety. Council's Heritage Officer acknowledges this requisite and has requested that a Heritage Interpretation Strategy be considered as part of the DCP. An acquisition layer is proposed on the remainder of the corridor to support the adaptive reuse of the railway for the purposes of a cycleway. Controls will be implemented to acknowledge sensitive urban design requirements for development within proximity to the heritage item.

In relation to point 6, asset protection zones are not supported by Council on adjoining land. The applicant prepared a Strategic Bushfire Assessment Report and this was provided to Council in July 2021. The Strategic Bushfire Assessment Report indicates that the APZ areas contained within the Hydro site boundaries and that no constraints to achieving this criteria is apparent.

In relation to point 7, access concerns relating to Wangara Bridge are only relevant to Maitland City Council's planning proposal.

PART 4: MAPS

The Hydro Kurri Kurri Planning Proposal seeks to amend the maps that accompany the *Cessnock Local Environmental Plan 2011* in the following manner.

Land Zoning Map (Refer to Map 1 and Map 2 below)

Amendment Applies to	Provision
1720_COM_LZN_008_080_20140711 1720_COM_LZN_009A_040_20190611	<p>Rezone the land from RU2 Rural Landscape Zone and C2 Environmental Conservation Zone to a combination of:</p> <ul style="list-style-type: none"> • B1 - Neighbourhood Centre, • B7 - Business Park, • IN1 - General Industrial, • IN3 - Heavy Industrial, • R2 - Low Density Residential, • RE1 - Public Recreation; and • SP2 - Infrastructure.

Minimum Lot Size Map (Refer to Map 3 and Map 4 below)

Amendment Applies to	Provision
1720_COM_LSZ_008_080_20140911 1720_COM_LSZ_009A_040_20190611	<p>Replace the 40ha minimum lot size with 450m² for that area zoned R2 - Low Density Residential.</p> <p>There is no minimum lot size applicable to the following zones:</p> <ul style="list-style-type: none"> • B1 - Neighbourhood Centre, • B7 - Business Park, • IN1 - General Industrial, • IN3 - Heavy Industrial, • RE1 - Public Recreation; and • SP2 - Infrastructure. <p>Remove the 40ha minimum lot size for these areas.</p>

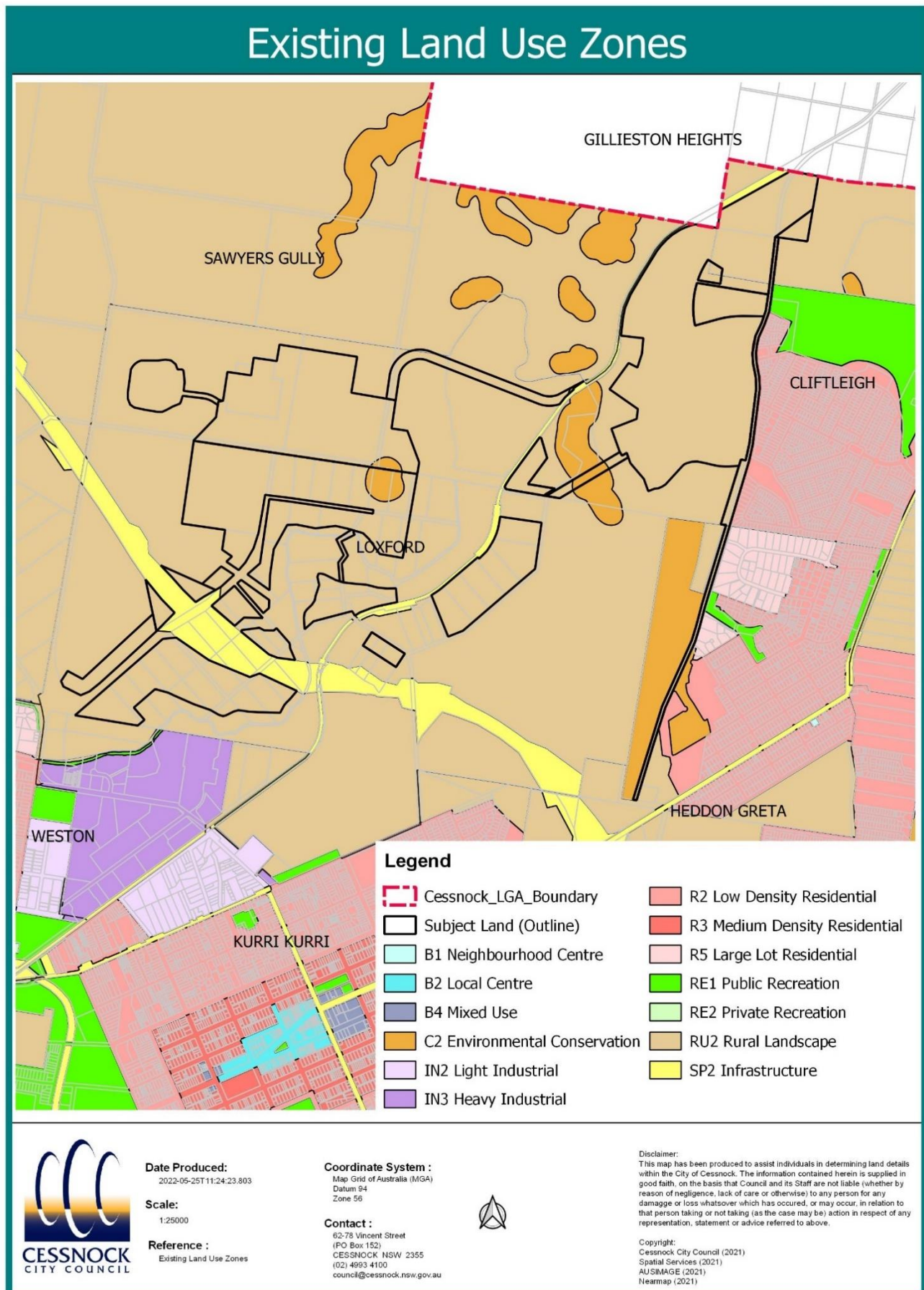
Land Reservation Acquisition Map (Refer to Map 5 below)

Amendment Applies to	Provision
1720_COM_LRA_008_080_20111128 1720_COM_LRA_009A_040_20111128	<p>Apply an acquisition layer to part of the former rail corridor for the future construction of a cycleway. The acquisition layer will apply to Lot 1 DP 998275, Lots 16-17 DP 1102156, Lot 1 DP 937613 and part of Lot 5 DP 62332.</p>

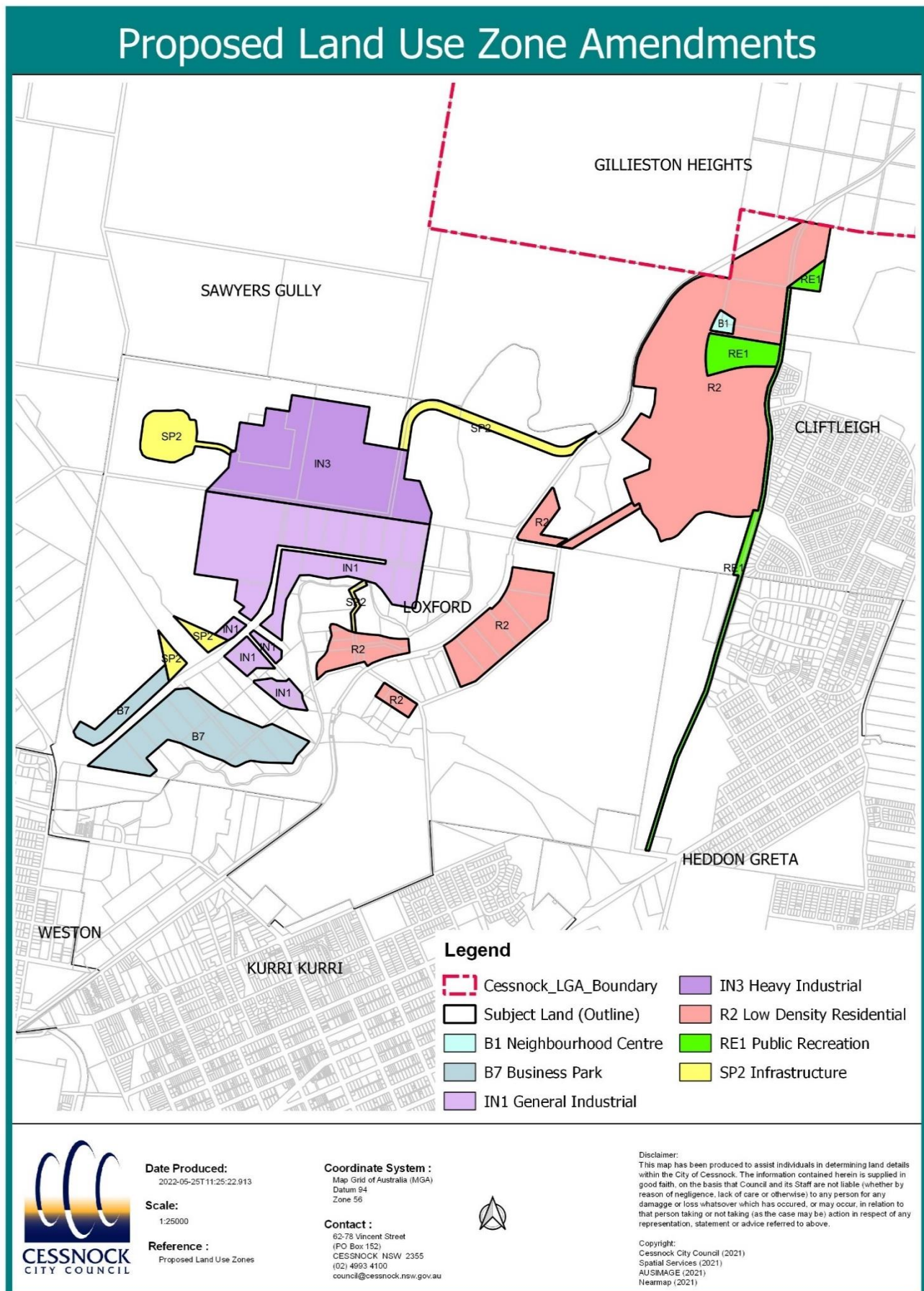
Urban Release Area Map (Refer to Map 6 below)

Amendment Applies to	Provision
1720_COM_URA_008_080_20140711 1720_COM_URA_009A_040_20150518	<p>Identify the rezoning footprint as an urban release area.</p>

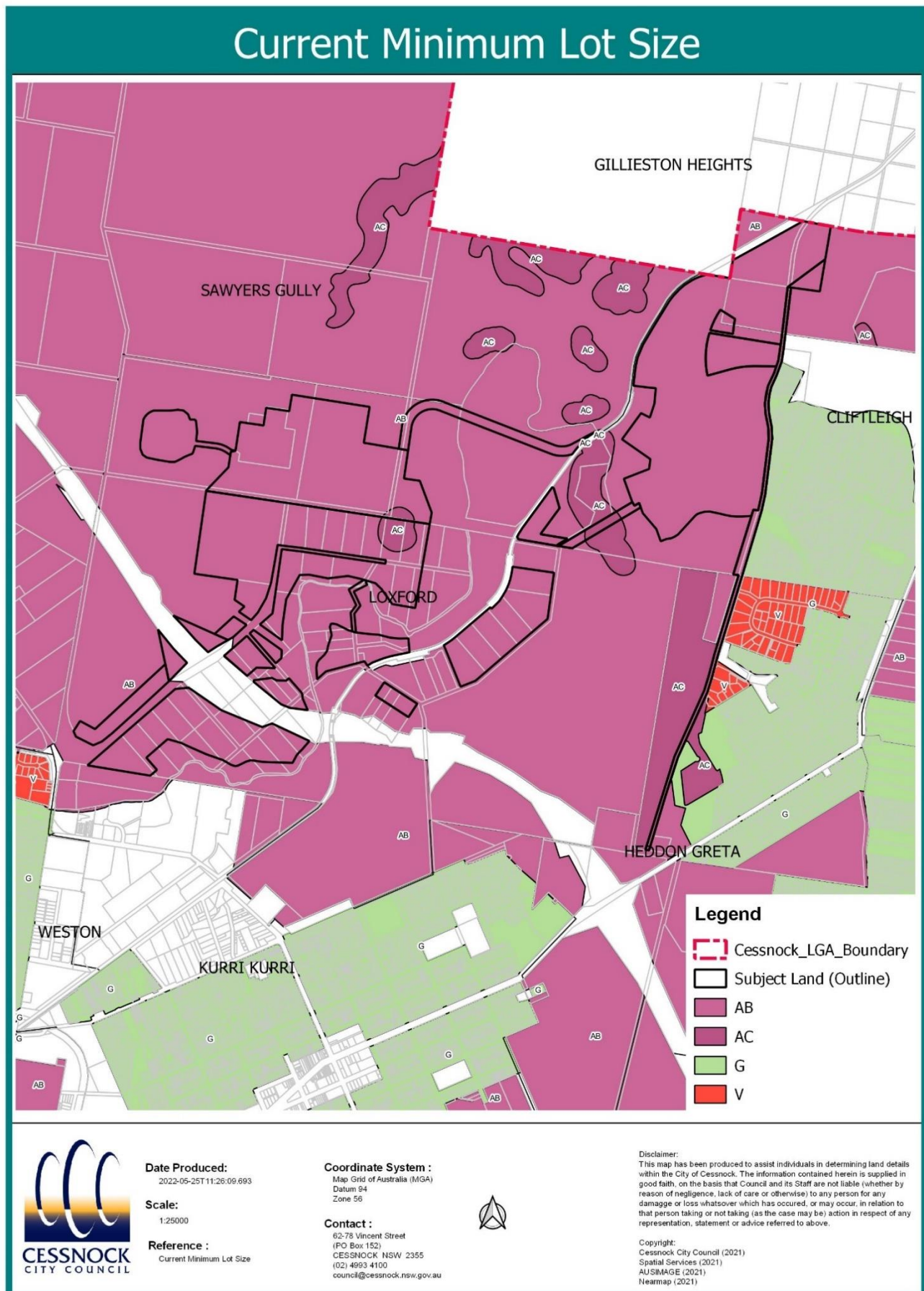
Map 1: Existing Zoning Map



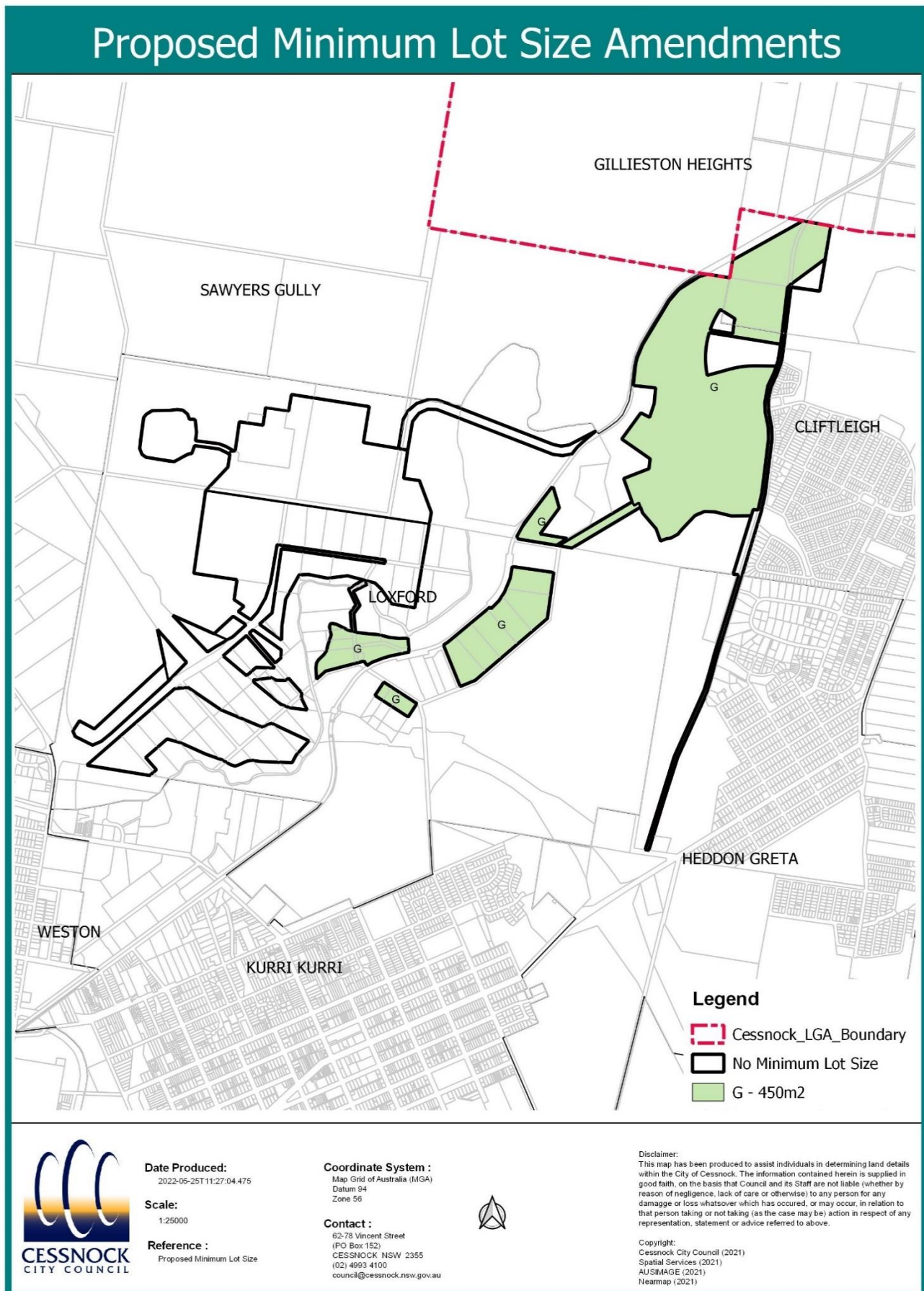
Map 2: Proposed Zoning Map



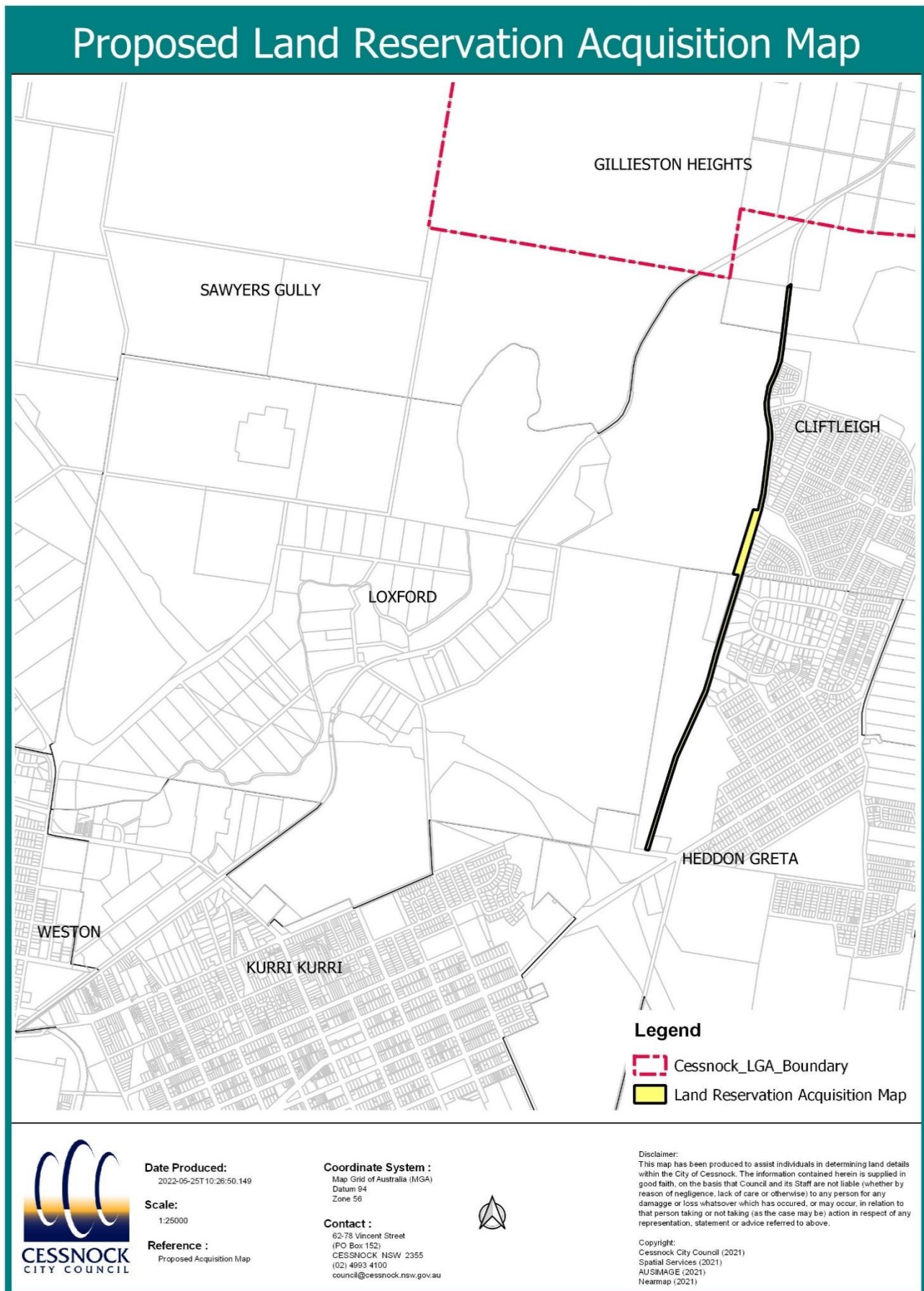
Map 3: Existing Minimum Lot Size Map



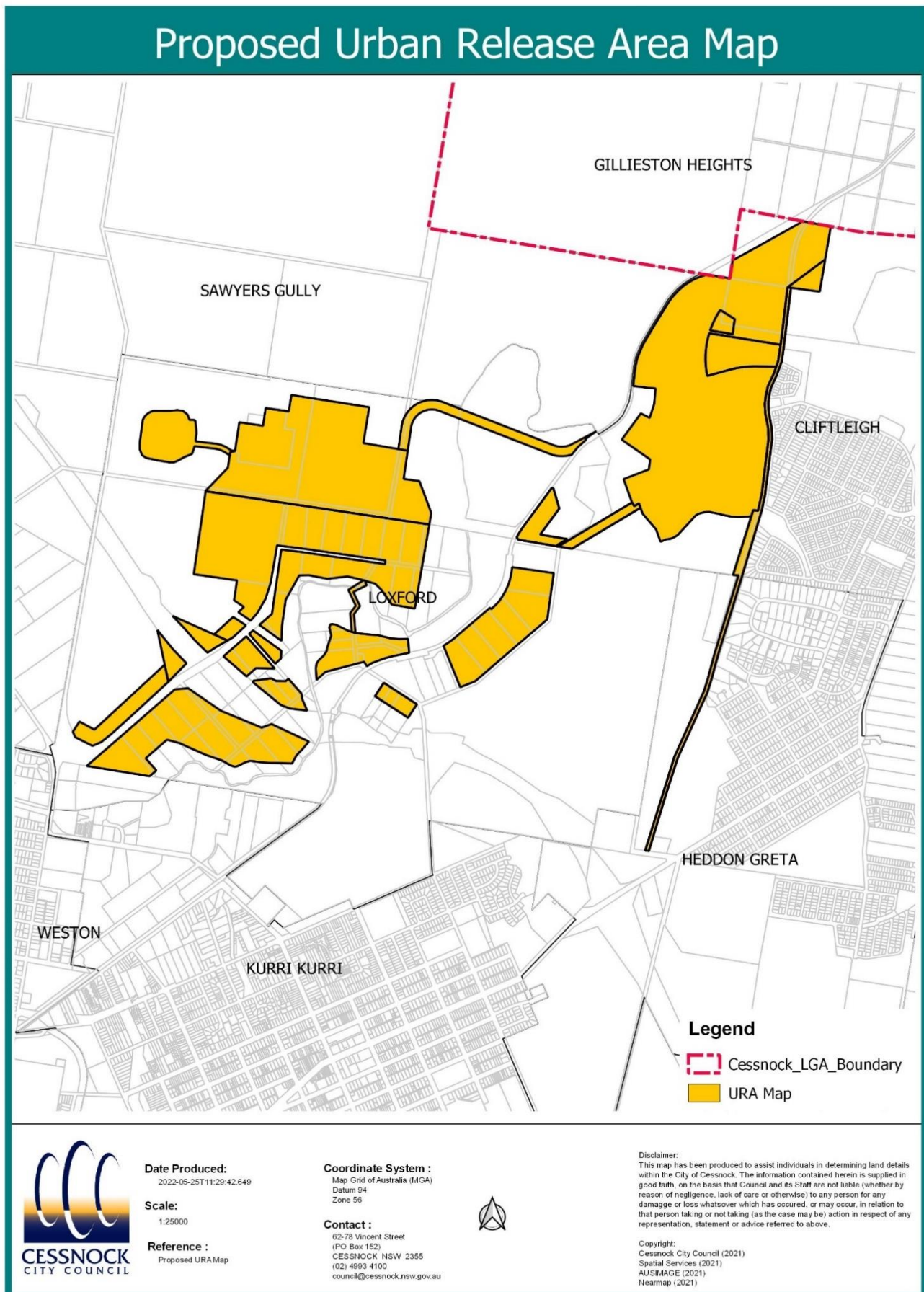
Map 4: Proposed Minimum Lot Size Map



Map 5: Proposed Land Reservation Acquisition Map



Map 6: Proposed Urban Release Area Map



PART 5: COMMUNITY CONSULTATION

Community consultation was undertaken in accordance with Council's Community Participation Plan and the requirements of the Department of Planning and Environment, as specified in the Gateway determination. The Planning Proposal was exhibited between 15 December 2020 and 1 February 2021. Four submissions were received in response to the exhibition period, with the key issues summarised below.

Issue	Comment/s	Response
Impact on rural character of the area	<ul style="list-style-type: none"> The region is rural and should retain this feel and outlook. The R5 Large Lot Residential Zone should be considered in lieu of the R2 Low Density Residential Zone. 	<p>The land that is subject to the Planning Proposal is located within a regionally significant Growth Area, identified in the Hunter Regional Plan 2036.</p> <p>An assessment has identified that the proposal does not include any regionally significant agricultural land and only a small part of the rezoning footprint could be considered suitable for agriculture.</p> <p>The Hydro land is classified 3, 4, and 5 by the former NSW Department of Agriculture. Under these classifications the land is suitable for "cropping but not continuous cultivation", "grazing but not cultivation", or "not suitable for agriculture or only light grazing", respectively.</p> <p>The application of a R5 Large Lot Residential Zone to the land is inappropriate in consideration of:</p> <ul style="list-style-type: none"> - the zoning of other urban release land in the Growth Area nearby, - the principles of the HRP to create compact centres and promote housing diversity. - The availability of infrastructure within the Growth Area to support a more intense use of the land.
Cycleway safety measures	<ul style="list-style-type: none"> There is a statistical increase in crime associated with the provision of cycleways. What additional security measures does council propose for this area? 	<p>The Planning Proposal nominates land within the former rail corridor for acquisition and rezoning for a possible cycleway connection in the future.</p> <p>Cyclist and pedestrian safety and possible security measures are matters for consideration at the detailed design stage for any future cycleway within the land.</p>

Issue	Comment/s	Response
Impact on native flora, fauna and corridors	<ul style="list-style-type: none"> The increase of land for low density housing in the area will decrease the area available for native flora and fauna. The environmental conservation areas do not link to each other. As a minimum a corridor linking these conservation areas should be provided. 	<p>The Planning Proposal does not specifically rezone land to an environmental conservation zone, a parallel process is occurring under the <i>Biodiversity Conservation Act 2016</i> to certify the rezoning footprint. This process will involve the conferring of a Biodiversity Certification Assessment Report (BCAR) in relation to the site.</p> <p>The BCAR includes details of how the land owner proposes to compensate for the clearing of land for future development. These measures may include creating and maintaining a large stewardship site over much of the adjoining areas of significant conservation land.</p> <p>The details of this process, assessment results and proposed mitigation measures will be included in the associated BCAR, which will be publically exhibited.</p>
Road upgrades to address increased traffic	<ul style="list-style-type: none"> There will be no road upgrades to respond to the extra traffic development within the site will produce. Will there be on/off ramps added to Hart Road for traffic to access both directions? 	<p>Necessary upgrades to the local and state road network have been identified through the Planning Proposal process by Council and Transport for NSW. One of the state road upgrades identified is the need for north facing ramps at the Hunter Expressway and Hart Road Interchange.</p>
Outdated studies	<ul style="list-style-type: none"> If this planning proposal is not based on up-to-date information, we will wind up with another empty industrial area. 	<p>A parallel process is occurring under the <i>Biodiversity Conservation Act 2016</i> to certify the rezoning footprint. This process will involve the conferring of a Biodiversity Certification Assessment Report (BCAR) in relation to the site.</p> <p>The BCAR includes details of how the land owner proposes to compensate for the clearing of land for future development. These measures may include creating and maintaining a large stewardship site over much of the adjoining areas of significant conservation land.</p> <p>The details of this process, assessment results and proposed mitigation measures will be included</p>

Issue	Comment/s	Response
		in the associated BCAR, which will be publically exhibited.
Electricity generation infrastructure (Gas)	<ul style="list-style-type: none"> The proposed gas fired power station will not solve Kurri Kurri's higher unemployment rates. If the Hydro industrial area is to survive and thrive into the future, the focus needs to be on renewable energy, not gas, low emissions intensity processes and industries of the future, not the past. 	The proposed gas fired power station is subject to a separate application with the Department of Planning and Environment and is not a matter for consideration in this Planning Proposal.
Provision of reticulated gas	<ul style="list-style-type: none"> Given we are in a climate emergency, perhaps it is time to stop supplying gas domestically? The ACT no longer requires new suburbs to have gas connections, giving residents the opportunity to reduce their CO² emissions and their utility bills. 	
Development offsets	<ul style="list-style-type: none"> How do we know that the land proposed as a stewardship site will be sufficient to offset future development? 	<p>A parallel process is occurring under the <i>Biodiversity Conservation Act 2016</i> to certify the rezoning footprint. This process will involve the conferring of a Biodiversity Certification Assessment Report (BCAR) in relation to the site.</p> <p>The BCAR includes details of how the land owner proposes to compensate for the clearing of land for future development. These measures may include creating and maintaining a large stewardship site over much of the adjoining areas of significant conservation land.</p> <p>The details of this process, assessment results and proposed mitigation measures will be included in the associated BCAR, which will be publically exhibited.</p>
Cycleway links	<ul style="list-style-type: none"> Anything that promotes active transport is to be commended. However, it would be good to see where the cycleway links up to. 	The Planning Proposal nominates land within the former rail corridor for acquisition and rezoning for a possible cycleway connection in the future. Further information regarding cycleway connectivity will be available at the detailed design stage, should the cycleway proposal proceed.

Issue	Comment/s	Response
Land-uses in B1 Neighbourhood Centre	<ul style="list-style-type: none"> Has Council considered a café in the B1 Neighbourhood Zone that also sells bread, milk, eggs, honey and local produce? 	Neighbourhood shops are permissible in the B1 Neighbourhood Centre Zone.
Bulky goods area will not accommodate a full range of stores	<ul style="list-style-type: none"> A bulky goods centre that doesn't have a full range of stores is unlikely to be well patronised. 	Specialised retail premises (bulky goods retail) are permissible in the B7 Business Park Zone.
Proposal is inconsistent with the Cessnock Local Strategic Planning Statement	<ul style="list-style-type: none"> LSPS Planning Priority 1 – Our urban areas are compact. It is difficult to see the proposed residential area is 'compact' given it is 2.5km from the Kurri Kurri centre. LSPS Planning Priority 7 – Urban development is encouraged in areas with existing infrastructure. The documentation supporting the planning proposal states that it will cost \$5,794,630 to provide water to the residential area and \$17,710,000 to provide sewer. Clearly this is not an area with existing infrastructure. 	The land that is subject to the Planning Proposal is located within a regionally significant Growth Area identified in the Hunter Regional Plan 2036. The land is proposed to be rezoned from RU2 Rural Landscape and E2 Environmental Conservation to a range of urban and employment zones. The broader Growth Area includes land at Heddon Greta, Cliftleigh and Avery Village, which has been serviced with infrastructure.
Site remediation	<ul style="list-style-type: none"> How will Council ensure that all the contaminated areas within the site have been identified and removed or remediated? 	Areas of the site to be used for urban purposes are located close to the former aluminium smelter site. Some residual contamination may be present as a result of the activities of the smelter, thus in accordance with Clause 2 of the Direction, preliminary investigation of the land has been carried out and the land has been deemed suitable for its intended use, subject to some remedial actions. These remedial actions are to be embedded in a site specific DCP for the former aluminium site, prior to development occurring within the land.
Inclusion of affordable housing	<ul style="list-style-type: none"> Will affordable housing opportunities be included within the new residential area? 	This will ultimately be a consideration for the site specific DCP that will support future development within the urban release area. It is premature at the planning proposal stage to consider opportunities for affordable housing, which will be subject to separate development approval.

PART 6: PROJECT TIMELINE

Table 3: Indicative project timeline.

Stage	Timeframe and/or date
Consideration by council	June to November 2015
Council decision	18 November 2015
Gateway determination	Original – 23 March 2016 Amended – 10 September 2019 Current – 1 December 2020 Amended – 23 December 2021
Pre-exhibition	December 2020
Commencement and completion of public exhibition period	15 December 2020 and 1 February 2021
Consideration of submissions	February – March 2021
Post-exhibition review and additional studies	February – May 2022
Submission to the Department for finalisation (where applicable)	July 2022 (Proposed)
Gazettal of LEP amendment	August 2022 to December 2022 (Proposed)

Appendix 1: Council Report and Minutes (dates)

Report to Ordinary Meeting of Council	18 November 2015 (PE89/2015) – Initial Report
	18 November 2020 (PE41/2020) – Pre-Exhibition Report
	15 June 2020 (TBC) – Post Exhibition Report

All Council reports and minutes are accessible from Council's website:

<http://www.cessnock.nsw.gov.au/council/meetings>.

Appendix 2: Land Lot Schedule

Lot	DP
Whole of Lot 19, 20, 21, 22 Part of Lots 10, 11, 12, 14, 15, 16, 17, 18	DP 1082569
Part of Lot 16	DP 1082775
Part of Lots 2 and 3	DP 233125
Part of Lots 1 and 2	DP 502196
Part of Lot 10	DP 553542
Part of Lot 1	DP 589169
Whole of Lot 1	DP 71130
Whole of Lot 411, 412, 413, 414, 415, 416, 417, 434, 458, 459, 460, 461, 462, 463, 536, 682 Part of Lot 318, 418, 420, 421, 422, 423, 424, 425, 427, 428, 429, 435, 436, 437, 438, 439, 447, 448, 449, 451, 453, 454, 456	DP 755231
Part of Lot 1	DP 998540
Whole of Lot 2, 3, 5	DP 62332
Part of Lot 1 and 2	DP 1276814
Whole of Lot 2 and 3 Part of Lot 1	DP 456769
Whole of Lot 1	DP 998275
Whole of Lot 16 and 17	DP 1102156
Whole of Lot 1	DP 937613

Appendix 3: Agency Comments



NSW RURAL FIRE SERVICE

Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Your reference: PP_2020_CESSN_006_00
Our reference: SPI20210829000140

ATTENTION: Iain Rush

Date: Monday 13 September 2021

Dear Sir/Madam,

**Strategic Planning Instrument
Other - Planning Proposal**

Review of Strategic Planning Bushfire Assessment for Former Hydro Aluminium Site at Kurri Kurri.

I refer to your correspondence dated 29/08/2021 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

After reviewing the supporting documents:

- *Strategic Bush Fire Study Hydro Landholdings Kurri Kurri NSW*, prepared by Kleinfelder, Ref: NCA21R126385, V2, dated July 2021.

The proposal is approved with no objections subject to compliance with the recommendations in the the document *Strategic Bush Fire Study Hydro Landholdings Kurri Kurri NSW*, prepared by Kleinfelder, Ref: NCA21R126385, V2, dated July 2021.

Any future development must be demonstrated to comply with *Planning for Bush Fire Protection 2019* and where applicable Section 5 Residential and Rural Residential Subdivisions.

For any queries regarding this correspondence, please contact Joshua Calandra on 1300 NSW RFS.

Yours sincerely,

Kalpana Varghese
**Supervisor Development Assessment & Plan
Built & Natural Environment**

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Locked Bag 17
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NSW Rural Fire Service
4 Murray Rose Ave
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T (02) 8741 5555
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www.rfs.nsw.gov.au



Our ref: DOC20/1043054-11

Your ref: PP_2020_CESSN_006_00

Iain Rush

Senior Strategic Planner
Cessnock City Council
PO Box 152
Cessnock NSW 2325
Iain.Rush@cessnock.nsw.gov.au

Dear Mr Rush

Re: 18/2015/2 – Planning Proposal – Hydro Kurri Kurri – Hart Road, Loxford

I refer to your email of 21 October 2021 in which you requested comment from the Biodiversity and Conservation Division (BCD) of the Department of Planning, Infrastructure and Environment (the Department) regarding the planning proposal for the Hydro Kurri Kurri site at Hart Road, Loxford, Cessnock Road, Cliftleigh and Bowditch Avenue Loxford.

BCD has reviewed the planning proposal and Biodiversity Certification Assessment Report (BCAR, prepared for Hydro Aluminium Kurri Kurri Pty Ltd by GHD Pty Limited) provided for the 'Hydro Land', with respect to biodiversity and flooding matters. This planning proposal relates to the part of the Hydro project site, which is in the Cessnock Local Government Area. BCD notes the following main issues to be considered by Council.

Biodiversity

BCD provided the proponent's (Hydro Aluminium Kurri Kurri Pty Ltd) consultants with preliminary comments on the 'Hydro Land' BCAR on the 3 September 2021. Following this advice, BCD considers it likely that there will be changes to the BCAR and to the development footprint. These changes to the BCAR have the potential to require changes to this planning proposal. A copy of our letter to the proponent's consultant is attached (DOC21/402593-1 dated 3 September 2021).

Flooding

BCD's recommendations regarding flooding issues are provided in **Attachment A** and detailed comments are provided in **Attachment B**. If you require any further information regarding this matter, please contact Steven Crick, Senior Team Leader Planning on 02 4927 3248 or via email at rog.hcc@environment.nsw.gov.au

Yours sincerely

Joe Thompson
Director Hunter Central Coast Branch
Biodiversity and Conservation Division



Enclosure: Attachments A and B

cc. BCD Letter - Preliminary assessment of Hydro Aluminium Biodiversity Certification Assessment Report
(DOC21/402593-1 and dated 3 September 2021).

BCD's recommendations

18/2015/2 – Planning Proposal – Hydro Kurri Kurri – Hart Road, Loxford

1. BCD advises Council to review the proposed rezoning plan and undertake further agency consultation on the flood risk to the Hydro-owned land in accordance with updated flood information and planning directions prior to the rezoning being allowed to proceed.
2. Wallis and Swamp Fishery Creek Flood study should be updated to include the proposed rezoned area and local waterways. This will provide details on the impact of increased impervious area, required filling to permit land use and flood information for local waterways and road access in accordance with Gateway conditions 1 c and 1 d. Flood impact assessment must ensure that the proposed land uses do not increase flood impacts on existing developments in this area.
3. Identified floodways should be retained as watercourses and not rezoned to higher land use. E3 zoning for watercourses and associated riparian areas is recommended.
4. The proposed extent of rezoning will require revision to remove those areas of land which are not able to meet the minor inconsistency provisions of Section 9.1(2) Part 4.3.
5. BCD recommends that Council provides a strategy that facilitates flood free access for the proposed residential development, as required by Condition 1(b) of the Gateway determination. The strategy must consider safety up to the PMF event.
6. BCD recommends that the capacity of Hunter expressway culvert will need to be considered in the detailed design when determining the need for on-site detention for the proposed Business Development zone B5.

BCD's detailed comments

18/2015/2 – Planning Proposal – Hydro Kurri Kurri – Hart Road, Loxford

Flooding and flood risk

1. BCD does not support the current extent of rezoning shown in the planning proposal

The planning proposal shows rezoning of rural land RU2 to a variety of land uses including residential, industrial, business and infrastructure. Significant portions of the land which is proposed to be rezoned is flood prone.

The extent of rezoning proposed is inconsistent with the following requirements with respect to management of floodprone land.

- Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021 which commenced on 14th July 2021
- Local Planning directions, Section 9.1(2) of the *Environmental Planning and Assessment Act 1979*, Section 4.3 Flooding
- NSW Floodplain Development Manual 2005

The inconsistency is not considered to be of minor significance.

Recommendation 1

BCD advises Council to review the proposed rezoning plan and undertake further agency consultation on the flood risk to the Hydro-owned land in accordance with updated flood information and planning directions prior to the rezoning being allowed to proceed.

2. Flooding and stormwater impacts have not been assessed for the proposed rezoning

Council has not met the Gateway determination condition 1(c) that flood modelling be carried out to accurately demonstrate the impact of flooding, including local flooding on the land to be rezoned and all existing and proposed access roads. Gateway condition 1(d) also required a strategy to be provided to facilitate flood free access for all proposed residential land.

Council has not undertaken adequate flooding and stormwater impact assessment as required by the Gateway determination. The provided Flooding and Stormwater report by PCB, 'Hydro Aluminium Flooding and Stormwater Impact Assessment' was prepared in 2014 and does not contain updated flooding information consistent with Cessnock City Council's current flood studies:

- Hunter River: Branxton to Green Rocks Flood Study, 2010, WMAwater
- Wallis and Swamp-Fishery Creek Flood Study, 2019, WMAwater.
- Cessnock City wide rapid flood assessment

The extent of the proposed rezoning encroaches on areas shown within these studies to be significantly flood impacted. The proposed B5 zone contains a significant floodway, the SP2 zone is located entirely within the flood extent and portions of both the industrial zone and the low-density residential area are located within the current 1% AEP flood extent. Parts of the area to be rezoned appear to be within high hazard floodway. These areas would require substantial modification via filling, piping of watercourses and diversion of watercourses and

as such may have adverse impacts on the existing residential areas in Weston and Kurri Kurri. The impact of flooding on the subject land has been given some assessment however there has been no assessment of the impact of the proposed land use on existing flooding regimes.

The studies which are currently available to Council have not yet assessed the local flooding on the land to be rezoned in sufficient detail for flood planning purposes. Limited information is provided via the Cessnock City-Wide rapid flood assessment however this is not adequate to support rezoning to a higher land use.

Recommendation 2

Wallis and Swamp Fishery Creek Flood study should be updated to include the proposed rezoned area and local waterways. This will provide details on the impact of increased impervious area, required filling to permit land use and flood information for local waterways and road access in accordance with Gateway conditions 1 c and 1 d. Flood impact assessment must ensure that the proposed land uses do not increase flood impacts on existing developments in this area.

3. The rezoning proposal includes development of land located within a floodway and local catchment flooding has not been considered

The development proposes rezoning of areas which are currently shown as watercourses. This would be promoting development within a floodway and would make future development of the land inconsistent with Clause 5.21 (2) (a) of the standard instrument and Local planning direction 9.1(2) Part 4.3 clause 6(a).

Piping and filling of minor watercourses may be permitted under the *Water Management Act 2000* however this can only occur if offsite impacts can be managed and the area is no longer required as a floodway. Filling of land and piping of a watercourse is also likely to adversely impact flood behaviour and result in detrimental increases in potential flooding of other properties (Clause 5.21(2)(b)).

The planning proposal shows that part of the subject land will be retained as RU2 Rural landscape because of environmental constraints, including mine subsidence, EECs and threatened species. However, local catchment flooding, that occurs as a result of intense rainfall on the catchment, has not been identified as a constraint to development. Future management of the RU2 zones has not been disclosed.

The current zoning map has included some flood extent within the residential zones however has not mapped the full extent of the waterways.

This is inconsistent with commitments made in the flooding and stormwater report by PCB and has not provided any protection to riparian areas. Without an appropriate consideration of local catchment flooding, residential dwellings, businesses, industrial development and critical infrastructure may be located in high hazard floodways.

BCD considers that rezoning to a higher land use is not appropriate along the creek lines. If piping of some 1st order streams is proposed as part of the rezoning the impact of filling and removal of the waterway must be considered.

The existing waterway areas and riparian corridor areas should be rezoned as E3 Environmental Management to preserve the floodway function of the creek lines and to honour commitments made in the flooding and stormwater report.

E3 Environmental Management zoning will enable the following:

- Preclude future development from the creek lines and preserve floodways.
- Provide space to locate stormwater treatment and on-site detention devices.
- Provide easement for ongoing care and maintenance.
- Provide drainage entitlements for developed areas.

Recommendation 3

Identified floodways should be retained as watercourses and not rezoned to higher land use. E3 zoning for watercourses and associated riparian areas is recommended.

4. The planning proposal includes rezoning of rural land to Residential, Business, Industrial and Special Purpose zones which is inconsistent with the Local Planning directions for flood prone land.

Local planning direction Section 9.1(2) Part 4.3 (5) and (6) specifically prohibit rezoning of flood prone land in the manner proposed by this planning proposal. These provisions state that “A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Environmental Protection Zones to a Residential, Business, Industrial or Special Purpose Zones” and “A planning proposal must not contain provisions that apply to the flood planning area which (a) permit development in floodway areas, (c) permit a significant increase in the development and/or dwelling density of the land”.

Recommendation 4

The proposed extent of rezoning will require revision to remove those areas of land which are not able to meet the minor inconsistency provisions of Section 9.1(2) Part 4.3.

5. Council has not assessed the flood emergency response of the community

Council has not demonstrated that the proposed residential development will have flood free access, as required by Condition 1(b) of the Gateway determination.

This assessment will also need to include how Condition 1(b) could be satisfied if the proposed Hydro land development does not go ahead. The proposal relies on the Hydro land release to provide an alternative access route to the Hunter Expressway and township of Kurri Kurri that is above the 1:100 ARI. However, if the site is rezoned for residential development and the proposed Hydro land release does not go ahead, then residential properties will become isolated in moderate flood events.

Cessnock Road is cut off at Testers Hollow during moderate flood events, isolating several thousand residents in Gillieston Heights. It is understood that Transport for NSW proposals in this area include an upgrade of Cessnock road to a 5% AEP level, 1.5m higher than the existing roadway. The April 2015 flood event resulted in the isolation of the town for more than a week, and the death of a driver whose car was washed off Cessnock Road at Mount Dee. Increasing the population in this area without providing flood free access will further increase the isolation flood risks.

Recommendation 5

BCD recommends that Council provides a strategy that facilitates flood free access for the proposed residential development, as required by Condition 1(b) of the Gateway determination. The strategy must consider safety up to the PMF event.

6. The adequacy of the drainage under the Hunter Expressway has not been considered

The proposed development will significantly increase peak flows off the site in the B5 Business development area. The primary discharge point is the culvert under the Hunter Expressway. The capacity of this culvert will need to be considered in the detailed design when determining the need for on-site detention. If flows in excess of the design capacity are generated by this development impacts may occur to the rezoned area or to existing residential areas of Western or Kurri Kurri.

Recommendation 6

BCD recommends that the capacity of Hunter Expressway culvert will need to be considered in the detailed design when determining the need for on-site detention for the proposed Business Development zone B5.

Biodiversity Conservation Division of DPE (comments regarding biodiversity)

BCD's response to the Hydro Planning Proposal was received by Council on 17 November 2021. In relation to its response, BCD provided further advice to the applicant on 5 April 2022 (see below) that it will not be requesting any further avoidance of impacts that relate to swift parrot and regent honeyeater or their habitat and that the Biodiversity Conservation Division is not aware of any other biodiversity issues that would require changes to the proposed zone boundaries.

Email from BCD to Applicant on 5 April 2022

From: Steven Crick <Steven.Crick@environment.nsw.gov.au>
Sent: Tuesday, 5 April 2022 2:32 PM
To: Shannon Sullivan <shannon@essaustralia.com.au>; Robin Ward <robin.ward@planning.nsw.gov.au>
Cc: Joe Thompson <joe.thompson@environment.nsw.gov.au>; Karen Thumm <Karen.Thumm@environment.nsw.gov.au>
Subject: RE: Hydro Rezoning Footprint

Hi Shannon

Following up on the email below and our recent conversation – I confirm that we will not request any further avoidance of impacts that relate to swift parrot and regent honeyeater or their habitat. I am not aware of any other biodiversity issues that would require changes to the proposed zone boundaries at this stage either.

Please be aware that BCD raised issues relating to flooding in the attached letter that may affect the proposed zone boundaries (refer to recommendations 3 and 4). We have not had a response from council about this issues.

Regards

Steven Crick
Senior Team Leader – Planning
Hunter Central Coast Branch
Biodiversity & Conservation Division
Department of Planning & Environment
6 Stewart Avenue, Newcastle, 2300
Locked Bag 1002, Dangar, 2309
T 02 4927 3248
M 0402 279 129

The advice of BCD regarding biodiversity was confirmed by Council on 29 April 2022 and is considered sufficient to allow the Planning Proposal to proceed to finalisation.

Email from BCD to Council on 29 April 2022

From: Steven Crick <Steven.Crick@environment.nsw.gov.au>
Sent: Friday, 29 April 2022 5:58 PM
To: Iain Rush <Iain.Rush@cessnock.nsw.gov.au>
Cc: Keren Brown <Keren.Brown@cessnock.nsw.gov.au>; James Shelton <James.Shelton@planning.nsw.gov.au>; Robin Ward <robin.ward@planning.nsw.gov.au>
Subject: RE: PP_2020_CESSN_006_00 _ Hydro Kurri Kurri Planning Proposal

Hi Iain

Regarding biodiversity, your understanding of our position on avoidance and the proposed zone boundaries is correct. Please be aware that BCD recommends that biodiversity assessments for biocertification are completed prior to a gateway determination being sought and that exhibition of planning proposals and biocertification applications is aligned, as outlined in the attached fact sheet.

Regarding flooding, I have forwarded this on to our Water, Floodplains and Coast team and asked them to respond directly to you on this. Neil Kelleher is their team leader and his contact details are below:

Neil Kelleher (He/Him)
Senior Team Leader, Water Floodplains and Coast
Biodiversity and Conservation | Department of Planning and Environment
T 02 4320 4206 | M 0424 953 222 | E Neil.Kelleher@environment.nsw.gov.au
Level 2, 32 Mann Street, Gosford NSW 2251
www.dpie.nsw.gov.au

Regards

Steven Crick
Senior Team Leader – Planning
Hunter Central Coast Branch
Biodiversity & Conservation Division
Department of Planning & Environment
6 Stewart Avenue, Newcastle, 2300
Locked Bag 1002, Dangar, 2309
T 02 4927 3248
M 0402 279 129

Biodiversity Conservation Division of DPE (comments regarding Flooding)

BCD's response to flooding and the Hydro Planning Proposal was received by Council on 17 November 2021. In relation to its response, the following comments were provided to BCD by Council on 2 May 2022.

Response from Council to BCD on 2 May 2022

Recommendation 1

BCD advises Council to review the proposed rezoning plan and undertake further agency consultation on the flood risk to the Hydro-owned land in accordance with updated flood information and planning directions prior to the rezoning being allowed to proceed.

Filling areas of the development that are below the 1% Hunter River Back Water level (9.73m AHD) to the north of the Hunter Expressway, is the most efficient way to address the concerns raised by BCD regarding flood risk. Council is of the opinion that filling those areas that are below the 1% Hunter River Back Water level will have a negligible impact on the floodplain and that any inconsistency with s.9.1 Planning Direction 4.3 is of minor significance. Note: Prior to the finalisation of the Planning Proposal by the Department of Planning and Environment, the applicant will need to submit evidence that filling those areas of the development footprint that are below the 1% Hunter River Back Water level will have a negligible impact on the floodplain.

Recommendation 2

Wallis and Swamp Fishery Creek Flood study should be updated to include the proposed rezoned area and local waterways. This will provide details on the impact of increased impervious area, required filling to permit land use and flood information for local waterways and road access in accordance with Gateway conditions 1 c and 1 d. Flood impact assessment must ensure that the proposed land uses do not increase flood impacts on existing developments in this area.

As above, Council is of the opinion that filling those areas that are below the 1% Hunter River Back Water level will have a negligible impact on the floodplain and that any inconsistency with s.9.1 Planning Direction 4.3 is of minor significance. Further flood information will be required at the development application phase to inform the final subdivision layout and respond to local waterways and flood free road access. Note: Prior to the finalisation of the Planning Proposal by the Department of Planning and Environment, the applicant will need to submit evidence that filling those areas of the development footprint that are below the 1% Hunter River Back Water level will have a negligible impact on the floodplain.

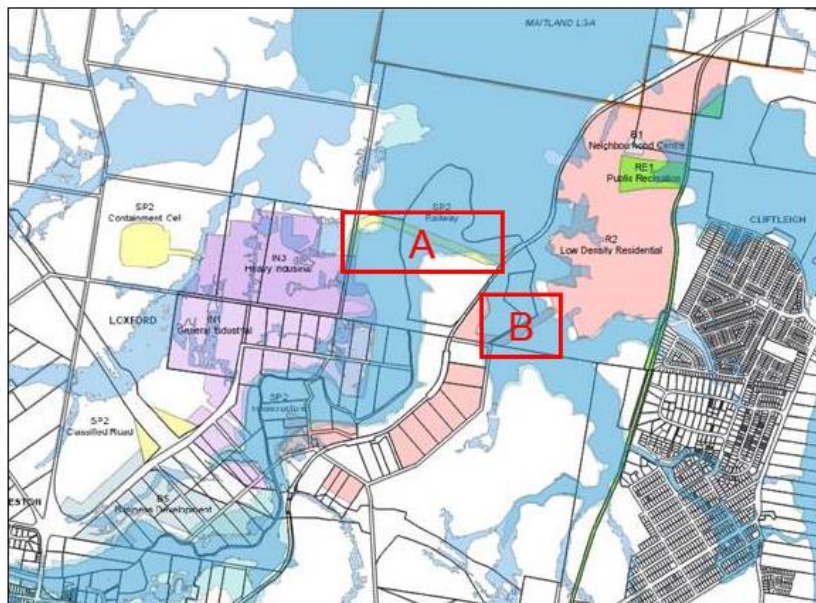
Recommendation 3

Identified floodways should be retained as watercourses and not rezoned to higher land use. E3 zoning for watercourses and associated riparian areas is recommended.

The Hydro Masterplan indicates that:

- the area identified as "A", which is to be rezoned SP2 Infrastructure, may contain a future train line spur to provide for diversity of business functions; and
- the area "B", which is to be rezoned R2 Low Density Residential, will contain part of the development spine road.

In respect of "A", Council is of the view that the SP2 Infrastructure Zone is the most appropriate zone for the proposed train line spur ("A"). Any impact of rail infrastructure on the flood way, is capable of being considered at the development application phase. In respect of "B", the Zone R2 land will contain the development spine road and potentially a bridge. Any inconsistency with s.9.1 Planning Direction 4.3 is considered to be of minor significance.



Recommendation 4

The proposed extent of rezoning will require revision to remove those areas of land which are not able to meet the minor inconsistency provisions of Section 9.1(2) Part 4.3.

As above, Council is of the opinion that filling those areas that are below the 1% Hunter River Back Water level will have a negligible impact on the floodplain and that any inconsistency with s.9.1 Planning Direction 4.3 is of minor significance. Further flood information will be required at the development application phase to inform the final subdivision layout and respond to local waterways and flood free road access. Note: Prior to the finalisation of the Planning Proposal by the Department of Planning and Environment, the applicant will need to submit evidence that filling those areas of the development footprint that are below the 1% Hunter River Back Water level will have a negligible impact on the floodplain.

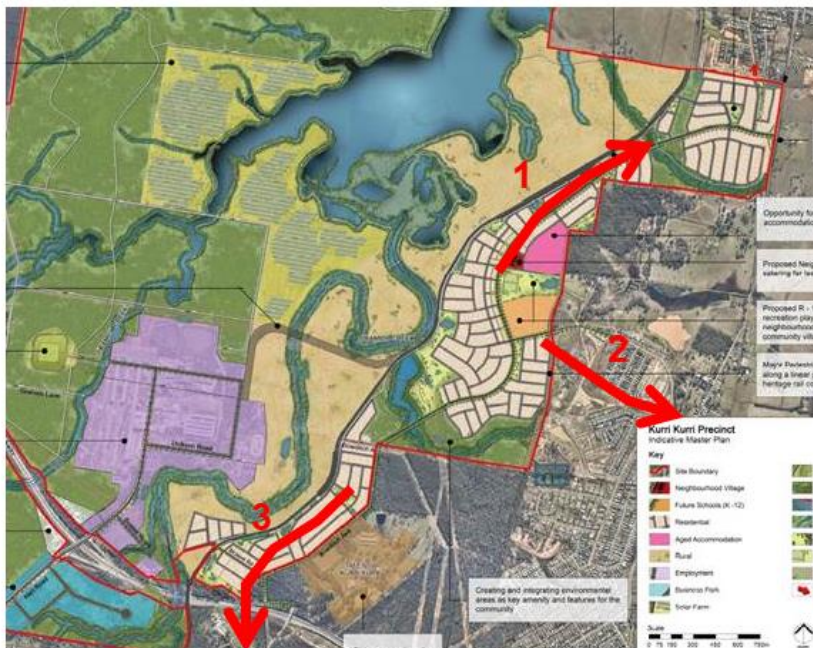
Recommendation 5

BCD recommends that Council provides a strategy that facilitates flood free access for the proposed residential development, as required by Condition 1(b) of the Gateway determination. The strategy must consider safety up to the PMF event.

Access from the Hydro northern residential precinct to Gillieston Heights is capable of being achieved via the development internal spine road (See arrow "1" in the figures below). A flood free evacuation route may be capable of being achieved via Ridgeview Drive Cliftleigh through to Main Road 195 (See arrow "2" in the figures below).

For the Hydro southern residential precinct, a flood free evacuation route is capable of being achieved through Bowditch Avenue and McLeod Road (See arrow "3" in the figures below).

This matter is capable of being managed through the Development Control Plan for the Hydro development.



Recommendation 6

BCD recommends that the capacity of Hunter expressway culvert will need to be considered in the detailed design when determining the need for on-site detention for the proposed Business Development zone B5.

Future development in the proposed Zone B5 land to the south of the Hunter Expressway may have an impact on the Hunter Expressway culvert. The catchment for the Hunter Expressway culvert is quite small and the proposed Zone B5 will increase the impervious catchment area. Council is of the view that this matter is capable of being addressed at the development application phase and through stormwater controls in the Cessnock Development Control Plan.

Council's timeframe to finalise the Planning Proposal is short; therefore, we would appreciate a response to the matters raised in this email as soon as possible.

Further comments were provided by the Water Floodplains and Coast Team of BCD on 16 May 2022, as follows.

Further comments from BCD on 16 May 2022

Hi Iain

Water Floodplains and Coast staff have reviewed your email response to our original submission (our ref: DOC20/1043054-11) and provide the following comments *without prejudice* for your consideration.

- The Environment and Heritage Group (EHG) agrees that flood planning levels are likely to be based on the backwater levels produced by Hunter river flooding because this creates the higher planning levels in the backwater impacted areas of the development.
- The development proposal has not assessed local flooding and at present is proposing that residential zoning be extended across local waterways including local floodways. No flood impact assessment has been provided to assess if filling of these areas produces higher flood levels off site or will result in higher local planning levels.
- Filling of floodway areas is inconsistent with local planning direction 9.1 (2) Part 4.1 clause (3)(a) to (d) and may also have adverse offsite impacts.
- The figures provided by council show the Hunter River 1% AEP levels and assumed flood free access routes. The map does not demonstrate that proposed development will have flood free access (up to the PMF) as required by condition 1(b) of the gateway determination. The applicant should demonstrate flood free access proof of concept in the final planning proposal.
- The required flood assessment should be included in the final planning proposal to ensure that unreasonable expectations of developable area are not created. Alternatively the waterways and flood planning area may be retained as a more flood compatible land use zone such as a conservation zone which would enable the remaining land to be rezoned as residential or industrial use.

I trust that the above information is of assistance. Please contact myself or Phillip Buchanan, Senior Natural Resource Officer (Floodplain) @ Phillip.Buchanan@environment.nsw.gov.au if you wish to discuss these matters further

Warm regards

Neil Kelleher (He/Him)
Senior Team Leader, Water Floodplains and Coast

Biodiversity and Conservation | Department of Planning and Environment
T 02 4320 4206 | M 0424 953 222 | E Neil.Kelleher@environment.nsw.gov.au
Level 2, 32 Mann Street, Gosford NSW 2251
www.dpie.nsw.gov.au



The following responses were provided by Council to BCD on 17 May 2022:

- The Environment and Heritage Group (EHG) agrees that flood planning levels are likely to be based on the backwater levels produced by Hunter river flooding because this creates the higher planning levels in the backwater impacted areas of the development.

Noted.

- The development proposal has not assessed local flooding and at present is proposing that residential zoning be extended across local waterways including local floodways. No flood impact assessment has been provided to assess if filling of these areas produces higher flood levels off site or will result in higher local planning levels.

As assessment of local flooding is considered to be a matter for the development application stage when comprehensive information is available regarding the subdivision layout and detailed design. Requesting this information at a planning proposal stage is considered premature. The portion of the residential zoning that extends over the floodway (referenced as 'B' in my email below) will contain a local road. It is appropriate to consider the design of the road (and whether or not it is located on fill) at the development application stage. In saying this, I am aware there are engineering solutions available to minimise the impact of the road on the floodway (e.g. a bridge or culverts), which would also elevate the road above the PMF.

- Filling of floodway areas is inconsistent with local planning direction 9.1 (2) Part 4.1 clause (3)(a) to (d) and may also have adverse offsite impacts.

As above.

- The figures provided by council show the Hunter River 1% AEP levels and assumed flood free access routes. The map does not demonstrate that proposed development will have flood free access (up to the PMF) as required by condition 1(b) of the gateway determination. The applicant should demonstrate flood free access proof of concept in the final planning proposal.

A new Gateway determination was issued by DPE in respect of the Hydro Planning Proposal on 1 December 2020. A copy of the Gateway determination is attached. BCD's response refers to a condition in the original Gateway determination that no longer applies to the Planning Proposal.

Notwithstanding this, and as mentioned below, a flood free access from the Hydro northern residential precinct to Gillieston Heights is capable of being achieved via the development internal spine road (See arrow "1" in the figures below). A flood free evacuation route is capable of being achieved via Ridgeview Drive Cliftleigh through to Main Road 195 (See arrow "2" in the figures below). For the Hydro southern residential precinct, a flood free evacuation route is capable of being achieved through Bowditch Avenue and McLeod Road (See arrow "3" in the figures below).

I have also attached a copy of the applicant's Egress Plan, which demonstrates flood free access and egress from the site.

- The required flood assessment should be included in the final planning proposal to ensure that unreasonable expectations of developable area are not created. Alternatively the waterways and flood planning area may be retained as a more flood compatible land use zone such as a conservation zone which would enable the remaining land to be rezoned as residential or industrial use.

As above, it is appropriate for the local flood assessment to be carried out at the development application phase, when greater detail is available regarding subdivision layout.

It is considered that the concerns of BCD have been satisfactorily addressed.

8 November 2021

General Manager
Cessnock City Council
62-78 Vincent Street
Cessnock NSW 2325

Attention: Iain Rush

**HUNTER EXPRESSWAY (M15) AND MAIN ROAD (MR195)
HYDRO PLANNING PROPOSAL (PP_2020_CESSN_006_00)**

I am pleased to advise TfNSW supports the progression of the Hydro Planning Proposal (PP_2020_CESSN_006_00) within the Cessnock Local Government Area (LGA) based on the following requirements as agreed between the parties;

1. Design and construction of north facing ramps at Hunter Expressway (HEX) and Hart Road Interchange, at no cost to TfNSW, prior to 0% development on site OR prior to any occupation certificate for any approved development on site, including;
 - a. Priority controlled intersections between Hart Road and the future and existing HEX on/off ramps
 - b. Future proofing of the intersections, for the installation of traffic signals, by the installation of footings, conduits, etc to the satisfaction of TfNSW

With regards to the timing for provision of north facing ramps, TfNSW has modelled 0%, 25%, 50% and 100% development scenarios for the employment lands as part of the MR195 Corridor Master Plan, which includes the additional Hunter Expressway (HEX) and Hart Road Interchange work (HEX/Hart Road model).

Based on the TfNSW modelling work, it has been identified that the north facing ramps are required prior to 25% development of the Hydro employment land. Should the developer wish to model other development scenarios to more accurately identify the timing of when the north facing ramps are required, then the developer would need to update the HEX/Hart Road model for these development scenarios.

Subject to the developer and TfNSW entering into a Deed to provide access to the HEX/Hart Road model, TfNSW will provide the developer the HEX/Hart Road model to allow these development scenarios to be modelled.

Following updating the model the developer would be required to prepare a Traffic Impact Assessment (TIA) to justify the timing for delivery of the north facing ramps to the agreement of TfNSW.

2. Commitment to construction of a future local road link between the employment and residential lands within the Cessnock Hydro Planning Proposal, prior to 50% development on site, to support redistribution of traffic on the State road network and to mitigate local traffic volumes on HEX.

The current MR195 study identifies the link as being required somewhere between 50% and 100% development of the Hydro employment lands. The developer may wish to model other development scenarios to more accurately identify the timing of when the future local link road is required.

Subject to the developer and TfNSW entering into a Deed to provide access to the HEX/Hart Road model, TfNSW will provide the developer the HEX/Hart Road model to allow these development scenarios to be modelled.

Following updating the model the developer would be required to prepare a Traffic Impact Assessment (TIA) to justify the timing for delivery of the future link road to the agreement of TfNSW.

3. Commitment to the Special Infrastructure Contributions (SIC) as per DPIE requirements, including;
 - a. SIC contributions for the residential component ~\$13M (TBC)
 - b. Proposed draft SIC contributions for the employment lands ~\$4.5M (TBC)

These contributions will be in the way of a Transport Infrastructure Contribution (TIC) Deed between the developer and TfNSW.

4. A fundamental input to HEX/Hart Road model, and therefore the traffic mitigation requirements and contributions, is the site extents as identified in Hydro Kurri Kurri Rezoning Master Plan (attached). Should the proposed zoning areas change prior to gazettal, then the abovementioned requirements and contributions will need to be reassessed.

Should you require further information please contact Liz Smith, Manager Development Services North on 0411 149 655 or by emailing development.north@transport.nsw.gov.au.

Yours sincerely

Liz Smith

Manager Development Services North

31ST March 2020

Ms Holly Taylor
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325
Email: Holly.Taylor@cessnock.nsw.gov.au

Dear Ms Taylor,

PLANNING PROPOSAL AMENDMENT TO THE CESSNOCK LOCAL ENVIRONMENT PLAN 2011 "HYDRO KURRI KURRI" HART ROAD LOXFORD, CESSNOCK ROAD CLIFBLEIGH AND BOWDITCH AVENUE LOXFORD - SUBMISSION BY MINDARIBBA LOCAL ABORIGINAL LAND COUNCIL

Mindaribba Local Aboriginal Land Council has reviewed the Planning Proposal Amendment to the Cessnock Local Environment Plan 2011 and respond accordingly. We ask that Council take the comments herein into consideration.

Before proceeding into specific comments in relation to the "Hydro Kurri Kurri" Planning Proposal to amend the Cessnock LEP 2011, we consider it relevant to provide some background on policy relevant to Aboriginal people in NSW.

BACKGROUND TO ABORIGINAL LAND RIGHTS IN NSW

In 1983 the New South Wales Government established the NSW Aboriginal Land Rights Act (ALRA).

The then Aboriginal Affairs and Minister for Housing, Mr Frank Walker, explained the dual purpose of land rights in addressing both the cultural importance of land to Aboriginal people, as well as the use of land as a remedy for Aboriginal economic deprivation: "The Government has made a clear, unequivocal decision that land rights for Aborigines are the most fundamental initiative to be taken for the regeneration of

Aboriginal culture and dignity, and at the same time laying basis for a self-reliant and more secure economic future for our continent's Aboriginal custodians."

Whilst the NSW ALRA permits Local Aboriginal Land Councils (LALCs) to claim ownership of vacant Crown Land, the NSW ALRA also places a number of specific obligations on LALC's to:

1. Protect Aboriginal Culture and Heritage;
2. Create benefits to the Aboriginal community;
3. Protect the Environment; and
4. Create an economic return.

The only asset available to LALC's to achieve such outcomes is the land that they own.

MINDARIBBA LOCAL ABORIGINAL LAND COUNCIL

Mindaribba LALC was formed in 1996 under the provisions of the NSW ALRA. It is located in NSW's lower Hunter Valley. Its boundaries encompass a land area of 1,672 km².

Mindaribba's boundaries take in areas within Cessnock City Council and Maitland City Council as well as four (4) other local government areas. The 2016 Census reported that Cessnock City Council has a total population of 76,641. 6.7% of this total population, or 5,160 persons, whilst Maitland City Council has a total population of 83,200. 5.3% of this total population or 4,410 persons have registered as being of Aboriginal or Torres Strait Islander descent. These percentages are well above the NSW State average of 2.9% and national average of 2.8%. It is to these communities that Mindaribba is required to fulfil their obligations under the ALRA.

Since establishment, Mindaribba has been successful in numerous Aboriginal Land Claims made under the provisions of the ALRA, and now holds approximately 270 parcels of land over 4900 hectares within the Cessnock LGA and approximately 1500 hectares within the Maitland LGA. There is also vast areas of land that have also been granted to Mindaribba under the ALRA. This land will transfer to the LALC's ownership in due course.

The area of land under Mindaribba's ownership is expected to grow over the coming years as further Land Claims are determined. There are also currently over 690 Aboriginal Land Claims that remain undetermined. The combination of land that Mindaribba LALC currently owns, the land that has already been granted to them but has not yet transferred on title and the land that will be granted to them in the future will make Mindaribba a 'significant' landowner within the region.

Mindaribba has taken a strong leadership position and has developed a good understanding of the challenges Aboriginal communities face in achieving social, cultural and economic outcomes for its community and members. Mindaribba has developed several social programs to service the Aboriginal community. Currently offering social support services such as early intervention, family youth workers, education and youth drop in center's, elders support and activities and pre-school services and operate a gymnasium and perform cultural tours within both the Maitland and Cessnock LGAs. The provision of social programs is reliant on funding. The only asset available to Mindaribba that can achieve a financial return is its land.

AGENCY CONSULTATION REQUEST FOR COMMENT

The Mindaribba LALC holds freehold land adjacent to the LEP amendment area along with the provision of a number of land claims within the area that will be affected or have the potential to be affected by inappropriate and unconsulted rezoning.

DOCUMENT INCONSISTENCIES

Map 5 : Identified as the "Original Zoning Map (Hydro Cessnock Rezoning Plan)" identifies a number of lots of Crown Land Under Current Claim to Mindaribba LALC as E2 Environmental Conservation Land. This land is, under the current 2011 Cessnock LEP zoned RU2: Rural Landscape. The Mindaribba LALC do not agree to zone changes within the LEP to Environmental Conservation being made over lands within Aboriginal Land Claims- ALC 2315 (various lots and dp's), Lot 351 DP 755231 (ALC 2312), Lot 352 DP 755231 (ALC 2313), Lot 353 DP 755231 (ALC 2314), Lot 11 DP2775 (ALC 2637) and Lot 356 Lot 755231 (ALC 2636).

MINISTERIAL DIRECTION

HERITAGE CONSERVATION

Section 6- Consistency with Section 9.1 Ministerial Directions for Local Plan Making. Point 2. Environment and Heritage. Section 3 Heritage Conservation. The objective of the direction is to conserve items, areas, objects and places of environmental significance and Indigenous heritage significance. States that an Indigenous Heritage assessment has been undertaken and raises no objection to rezoning the land to residential, providing further assessment is undertaken at development stage.

The Mindaribba LALC as per our comments in relation the 2014/15 heritage investigations undertaken by AECOM remain committed to the necessity to undertake a revised and more rigorous Aboriginal culture and heritage investigation that include the impacts this development has on the cultural landscape; particularly in relation to the areas of Black Waterholes, Black Creek and Swamp Creek which are highly significant features of the Cultural Landscape for Local Wonnarua Peoples.

STATE ENVIRONMENTAL PLANNING POLICY (ABORIGINAL LAND) 2019

In February 2019, the NSW State Government introduced State Environmental Planning Policy (Aboriginal Land) 2019. This was the first move in in many years to “... *align the planning system more sympathetically with the ALR Act, stimulating improved governance, empowerment, strategic planning and more efficient land use.*”

The SEPP is accompanied by a suite of documents including a Ministerial Direction and Planning Circular (PS19-003).

The aims of the policy are:

- “(a) to provide for development delivery plans for areas of land owned by Local Aboriginal Land Councils to be considered when development applications are considered, and
- (b) to declare specified development carried out on land owned by Local Aboriginal Land Councils to be regionally significant development”.

The SEPP allows planning applications made on behalf of LALCs to be considered by the Minister for Planning and Environment rather than local government.

Although there is no land within the Cessnock LGA identified on the Land Application Map of SEPP (Aboriginal Land) 2019 and the Mindaribba LALC has preferred to work directly with local government, Council's failure to engage with Mindaribba in the future may force the Mindaribba LALC to make application for approval of a development delivery plan as stipulated in the SEPP, to realise the potential of their landholdings therefore, this SEPP is definitely applicable to both the Cessnock and Maitland LGA's.

SECTION C - BIODIVERSITY SOCIAL AND ECONOMIC IMPACTS

ENVIRONMENTAL IMPACT (BIODIVERSITY)

The Mindaribba LALC has concerns regarding the implications of bio-certification of the rezoning footprint on the socio-economic future of Aboriginal Peoples within the Cessnock and Maitland LGAs. The Mindaribba LALC would like to be consulted with during the preparation and finalization of any Biodiversity Certification report prepared over this area.

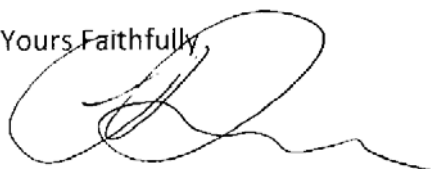
SOCIAL AND ECONOMIC IMPACTS

As previously identified the Aboriginal population within the Cessnock LGA is more than double the national average and it is disappointing that the rezoning has not identified the benefits that this rezoning will have on the social and economic outcomes of Aboriginal Peoples within the Cessnock LGA in relation to employment opportunities for local Aboriginal Peoples.

The Mindaribba LALC looks forward to working closely with this project in the future to provide better outcomes and employment opportunities for Aboriginal Peoples. We also look forward to discussing further achievable social obligations under the provision of Mindaribba's social and affordable housing scheme and a way that we can work together to ensure that the rezoning and development of this area does not negatively influence anti-social behaviours and impact on lands owned by or under claim to the Mindaribba LALC.

We invite you to contact the writer on Ph 4015 7000 to discuss this submission further.

Yours Faithfully,



Tara Dever

Chief Executive Officer



117 Bull Street, Newcastle West, NSW, 2302

T: (02) 4908 4300 | **24 Hour Emergency Service:** 1800 248 083 (Free Call)

Holly Taylor
Strategic Planning Officer
Cessnock City Council
Email: holly.taylor@cessnock.nsw.gov.au

Dear Ms Taylor

Planning Proposal – “Hydro Kurri Kurri” – EREZ20-00007

Thank you for your letter (ref: **18/2015/2/1**) dated 24 February 2020 providing Subsidence Advisory NSW (SA NSW) the opportunity to comment on the “Hydro Kurri Kurri” Planning Proposal (PP_2015_CESSN_006_01).

SA NSW notes the areas identified in the Planning Proposal within the Cessnock City Council Local Government Area are not within a proclaimed mine subsidence district.

SA NSW records indicate the areas identified in the Planning Proposal within the Cessnock City Council Local Government Area are not undermined or within a mining lease.

Shallow mine workings exist to the east of the Planning Proposal.

As such, SA NSW has no objection to the Planning Proposal within the Cessnock City Council LGA.

Yours sincerely



Shane McDonald
Senior Risk Engineer

18 March 2020

Iain Rush

From: Peter Draper <peter.draper@crownland.nsw.gov.au>
Sent: Monday, 2 March 2020 4:11 PM
To: Sandra Richardson
Subject: 18 2015 2 _ Planning Proposal - Hydro Aluminium Kurri Kurri _ Agency Consultation _ DPI Agriculture
Attachments: 18 2015 2 _ Hydro Planning Proposal _ Agency Consultation _ DPI Agriculture.pdf; 1. 18 2015 2 _ Hydro Planning Proposal _ Applicant Letter.pdf; 2. 18 2015 2 _ Council report 18 November 2015.pdf; 3. 18 2015 2 _ Hydro Aluminium Kurri Kurri _ MASTER Planning Proposal.pdf; 4. Objective Connect _ Participant Summary Procedure.DOCX

Hi Sandra,

The Department of Planning, Industry & Environment – Crown Lands has reviewed the planning proposal and notes several Crown roads are within the subject area. The Department offers the following comments for consideration in relation to these roads:

- The Department recommends that Council strategically identify and evaluate the access requirements to service the planning proposal, including the identification and potential use of all Crown roads within the proposal area. The aim would be to assess whether public road access is required to service present and future access needs or whether roads can be closed and replaced with a private right of carriageway where access is required.
- If the identified Crown roads are to remain part of the public road network, road transfer to Council will be required to service future development. The Department is not positioned to manage any Crown road identified to service past, present or future development.

Regards,
Peter

Peter Draper
Natural Resource Management Project Officer - Hunter Area
Crown Lands | Department of Planning, Industry and Environment
T 02 4937 9311 | E peter.draper@crownland.nsw.gov.au
516 High Street | Maitland NSW 2320
PO Box 2185 Dangar NSW 2309
www.dpie.nsw.gov.au



**Planning,
Industry &
Environment**

The Department of Planning, Industry and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

From: Melanie Osborne
Sent: Thursday, 27 February 2020 9:28 AM



Holly Taylor
Strategic Planning Officer
Cessnock City Council
P.O Box 152
Cessnock NSW 2325

Our ref: DOC20/174183

Your ref: 18/2015/2/1

Emailed: holly.taylor@cessnock.nsw.gov.au.

17 March 2020

Dear Mrs Taylor

Subject: Planning Proposal – “Hydro Kurri Kurri” – Hart Road Loxford, Cessnock Road Cliftleigh & Bowditch Avenue Loxford– PP_2015_CESSN_006_01.

Thank you for your email of 25 February 2020. This is a response from the NSW Department of Planning, Industry & Environment – Division of Resources & Geoscience – Geological Survey of New South Wales (GSNSW).

GSNSW has no resource concerns to raise regarding the Planning Proposal.

GSNSW notes that within the report titled *Planning Proposal - Hydro Aluminium Kurri Kurri Landholding - Appendix C - Key Biodiversity Findings*, that threatened species have been identified within the subject site and GSNSW further understands that Council is seeking Biocertification over the project area. Additionally, GSNSW note that surrounding environmentally sensitive lands in Hydro's ownership (former buffer land) is intended to form part of a stewardship site, thus generating onsite environmental offsets.

However, GSNSW recommend that if Biocertification is not conferred over the area by the Minister, and biodiversity offsets offsite become required, the Division requests to be consulted in relation to the proposed location of any biodiversity offset areas or any supplementary biodiversity measures to ensure there is no consequent reduction in access to prospective land for mineral exploration, or potential for sterilisation of mineral or extractive resources.

Queries regarding the above should be directed to the Division of Resources & Geoscience - Land Use team at landuse.minerals@geoscience.nsw.gov.au.

Yours sincerely,

Steven Palmer
Manager, Land Use Assessment
Geological Survey of NSW, Division of Resources & Geoscience



Hunter Water Corporation
ABN 46 228 513 446

PO Box 5171
HRMC NSW 2310
36 Honeysuckle Drive
NEWCASTLE NSW 2300
1300 657 657 (T)
(02) 4979 9625 (F)
hunterwater.com.au

15 June 2022

Our Ref: 2019-786/4.013

The General Manager
Cessnock City Council
via email
ian.rush@cessnock.nsw.gov.au

Dear Ian

Revised Hunter Water Submission – 18/2015/2 – Planning Proposal - Hydro Kurri Kurri – Hart Road Loxford, Cessnock Road Cliftleigh & Bowditch Avenue Loxford

I refer to Cessnock City Council's correspondence dated 24 February 2020 requesting Hunter Water's submission for the Hydro rezoning proposal and Hunter Water's Submission dated 11 March 2020, and wish to provide Council an update on our objections raised in the Submission. This revised Submission includes reference to attached:

- Figure 1: Proposed Development in Kurri Kurri Wastewater Treatment Works (WWTW) Buffer Zone; and
- Figure 2: Revised R2 Residential Rezoning Buffer Zone.

In response to representations from the Proponent, Hunter Water arranged for an independent assessment and preparation of an Odour Report to determine the potential impacts of the development on future property owners. This review included mitigation measures that could be delivered to ensure any impacts were consistent with the NSW Government Planning draft guideline *NSW Best Practice Odour Guideline*, April 2010 (the Guideline).

The Odour Report indicated that there is adequate clearance between the Kurri Kurri WWTW and the B7 Business Park rezoning area to minimise potential impacts and as such, Hunter Water no longer objects to the B7 rezoning (refer to Figure 1).

The Guideline states that WWTW are compatible with IN1 General Industrial Zones. Hunter Water no longer objects to the proposed IN1 rezoning (refer to Figure 1).

The Odour Report identified improvements that could be delivered to reduce the potential impacts on the proposed R2 Low Density Residential rezoning area. Hunter Water intends to deliver some improvements over the next price path. As such, Hunter Water would now support the rezoning proposal if it was amended to specifically limit R2 Residential rezoning to that parcel of land defined by a fixed offset of 90m southwest from McLeod Road (refer to Figure 2). Hunter Water will now amend the Kurri Kurri WWTW buffer zone to accord with this 90m offset from McLeod Rd.

In summary, subject to the above requirements being made to the Rezoning Proposal, Hunter Water has no objections to the Rezoning proceeding.

Yours faithfully

BARRY CALDERWOOD
Account Manager Major Development

Tel: 02 4979 9721
Email: barry.calderwood@hunterwater.com.au

Figure 1: Proposed Development in Kurri Kurri WWTW Buffer Zone.

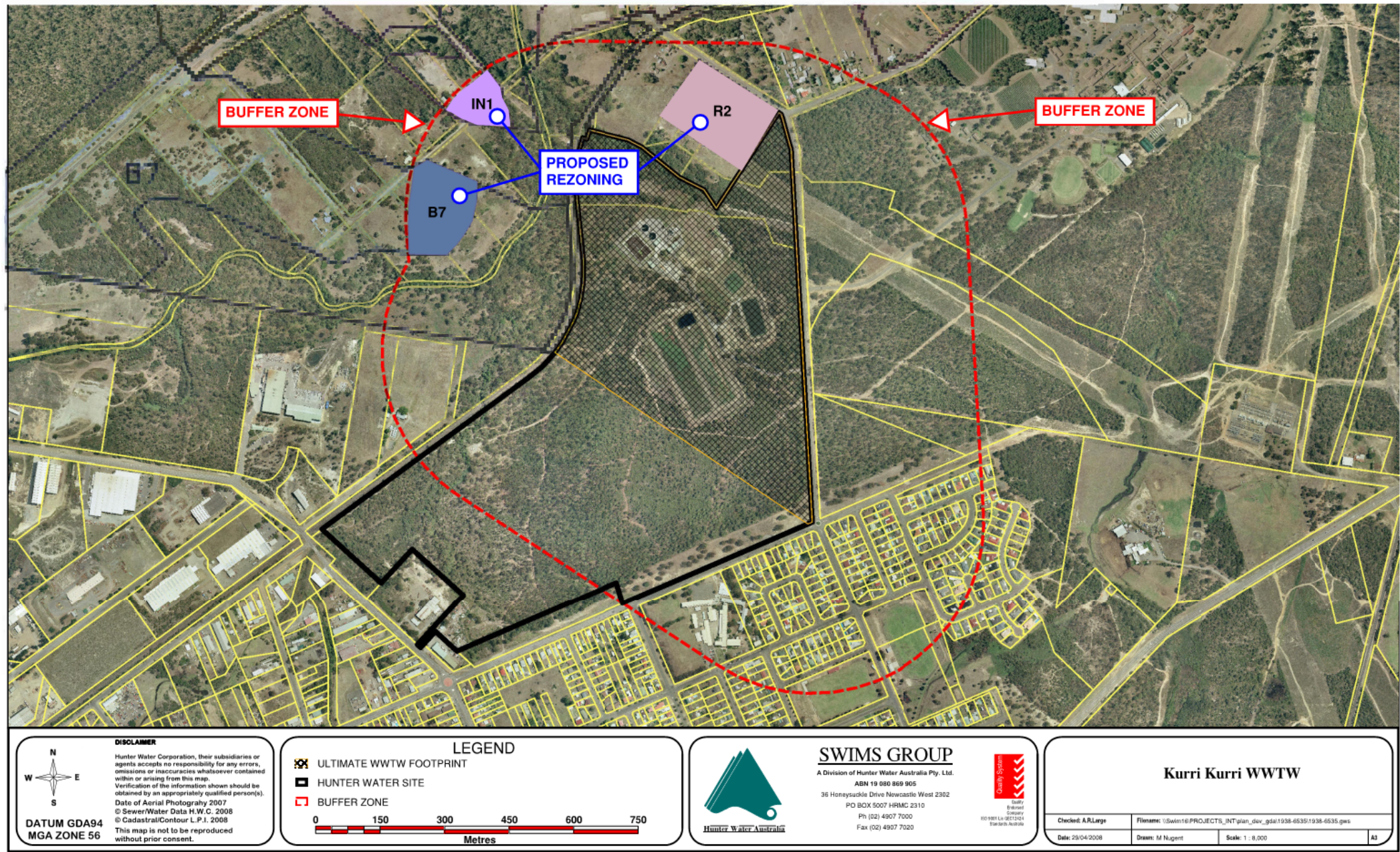
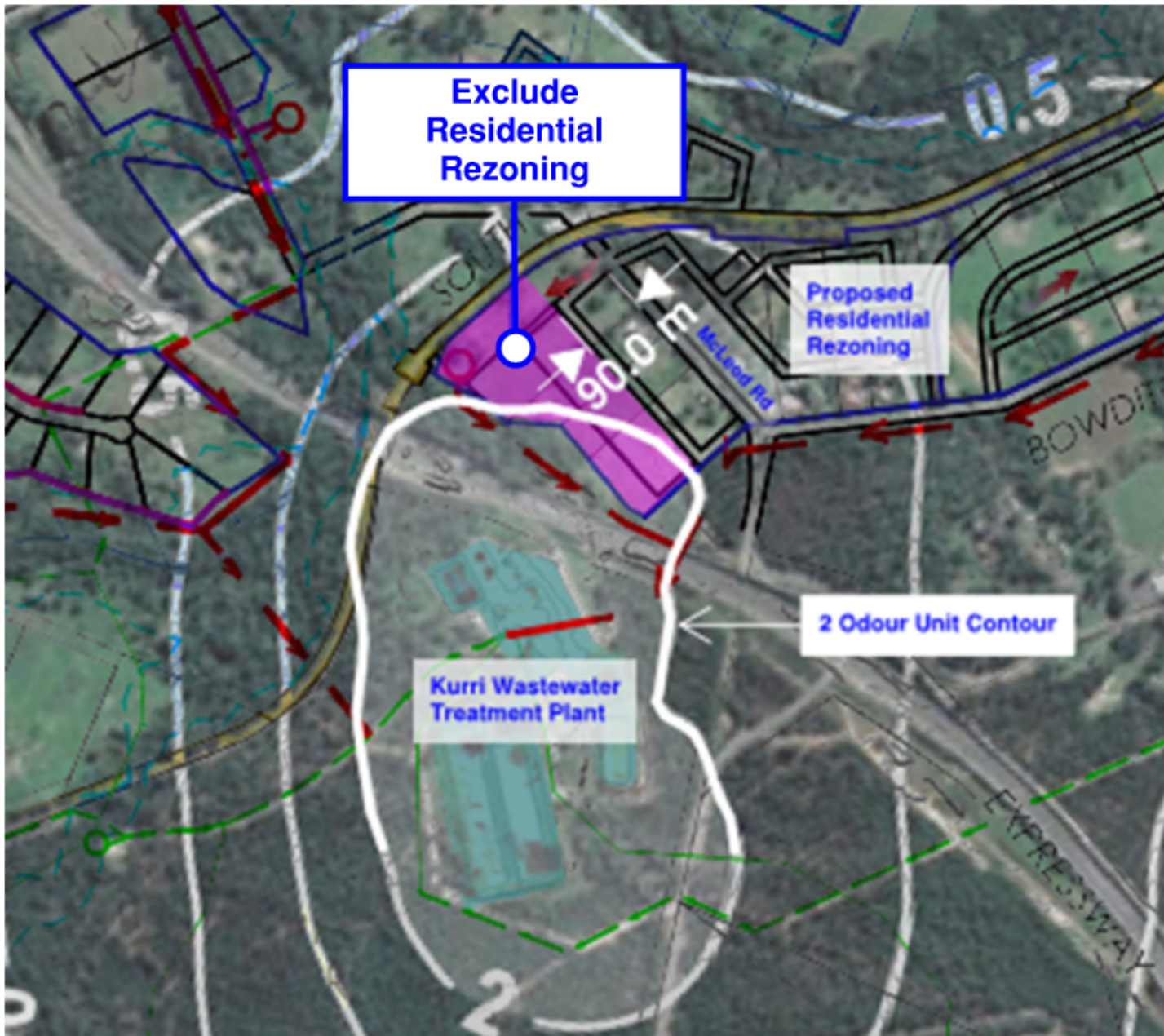


Figure 2: Revised R2 Residential Rezoning Buffer Zone.





South Maitland Railways Pty Ltd
PO Box 83, Maitland NSW 2320
ph: 02 4932 8351 **fax:** 02 4932 8352
e: admin@hmmholdings.com.au
w: www.southmaitlandrailways.com.au
ABN 61 000 008 015

7 January 2021

The General Manager
Cessnock City Council

per email: holly.taylor@cessnock.nsw.gov.au
council@cessnock.nsw.gov.au

Attention: Holly Taylor. Strategic Planning Officer, Planning and Environment

Dear Holly,

RE: Planning Proposal, 18/2015/2 – Hydro Kurri Kurri Planning Proposal

South Maitland Railways Pty Limited (SMR) are the owners of land comprising both the existing and former railway corridors that sits within the Planning Proposal area. We note that a previous submission was provided to Cessnock City Council dated 18 March 2020. We are of the view that issues raised in our previous submission remain relevant and reinforced in this submission.

Following a review of the exhibition material, the following issues and concerns are raised:

1. Acoustic Impacts

It is considered critical that appropriate consideration of noise and vibration impacts associated with the operation of rail corridor be considered as part of the planning proposal.

The NSW government publication "Development Near Rail Corridors and Busy Roads – Interim Guideline" assists in the planning, design and assessment of development in, or adjacent to, rail corridors and busy roads. It supports specific rail and road provisions of the State Environmental Planning Policy (Infrastructure) 2007 (the 'Infrastructure SEPP'). The key objectives of these provisions are to:

- protect the safety and integrity of key transport infrastructure from adjacent development; and
- ensure that adjacent development achieves an appropriate acoustic amenity by meeting the internal noise criteria specified in the Infrastructure SEPP.

The guideline identifies that as part of taking a strategic planning approach, noise and air quality issues should be considered at the strategic level to avoid or minimise the need to address them at the site specific stage.

The planning proposal documentation includes a Noise Impact Assessment, prepared by VIPAC (dated March 2015). The report recognises that there is a potential for rail noise impact on future residential properties that may be located in proximity to the SMR line, it does state that "based on the existing frequency of use of the rail line, it is not anticipated that the potential rail impacts would impede significantly on the proposed Land Rezoning Masterplan."

Whilst the report identifies that it will be necessary to conduct an acoustic assessment for any future residential dwellings that may be constructed on lots located in close proximity to the rail line, it is SMR's view that consideration needs to be given to both the existing and future potential use of the rail corridor to ensure that SMR operations now and into the future are not detrimentally compromised by the planning proposal or future development across the site. This requirement is further reinforced by the proposal to provide a rail spur connecting to the IN3 Heavy Industry

zoned land which, when developed would likely generate additional rail movements impacting on the rail corridor adjacent to proposed residential zone land.

To appropriately manage potential noise and vibration impacts arising from the SMR active rail corridor, SMR require that:

- a) a comprehensive Noise and Vibration Assessment be completed prior to the determination of the planning proposal to establish appropriate development parameters for future lot layouts and dwelling design and inform the final rezoning layer.

2. Public safety

It is critical that the planning proposal and subsequent development will not result in an increase in risk to public safety.

Any growth in population adjacent the active rail corridor has potential to result in an increase in risk to public safety unless appropriate measures are implemented to restrict access to the rail corridor. Further, the infrequency of rail movements along the corridor can lead to complacency, further increasing risk to public safety.

To appropriately manage risk to public safety, SMR require:

- a) Installation of security fencing along the full length of the rail corridor within the planning proposal area.
- b) Construction of the security fencing must be carried out early in the development process to appropriately manage risk to public safety.
- c) Responsibility for the installation and ongoing maintenance should not burden SMR now or into the future.

3. Ongoing operational security of the active rail corridor

SMR is fully accredited to operate on its rail line all forms of rollingstock including heavy freight, passenger and track machines. The SMR Rail Corridor comprises a single rail line that is currently configured to run trains up to 19 tonne axle loads with maximum speeds of 30 km/hr. Existing operational capacity allows the rail line to carry up to 4.5 coal trains, or nine movements per day. It is noted that under existing operational arrangements, the number of wagons has been limited to 39. The number of train movements, speed and the nature of operation can change dependant on customer requirements.

To appropriately maintain operational security, SMR require that:

- a) The planning proposal and any resulting development must not compromise or diminish the ability to utilise the rail corridor to its fullest extent now or into the future.

4. Disused railway

The site contains an item of local heritage significance, known as the South Maitland Railway System (Item 212). This item comprises both the active and disused rail corridors owned by SMR. The disused rail corridor is partially impacted by the planning proposal, with the current draft zoning layer and masterplan proposing the rezone a portion of land between the 'Residential Central' and 'Residential Northern' precincts to R2 Low Density Residential. The remainder of the disused corridor is proposed to be zoned RE1 Public Recreation and is identified for future land acquisition on the Land Reservation Acquisition Map.

It is SMR's view that careful consideration needs to be given to the strategic and heritage value of the whole of the disused rail corridor.

The planning proposal report advises that *"Council has informed the proponent to revise the subdivision layout between the 'Residential Central' and 'Residential Northern' precinct to incorporate the rail corridor, allowing for the continued interpretation of the rail corridor and its alignment. An amended masterplan will therefore be considered in the draft DCP, however, will have no significant implications on the rezoning outcome"*.

The planning proposal documentation includes a Historic Heritage Assessment and Statement of Heritage Impact prepared by RPS (dated March 2015). The report recognises the heritage value of the SMR rail corridors however it does identify 'nil impact' on the South Maitland Railway. This is understood to be incorrect based on the current planning proposal.

To appropriately manage the heritage and strategic value of the disused rail corridor, SMR request that the planning proposal and masterplan be amended in consultation with SMR to achieve the following:

- a) Provide opportunity for development within the proposed R2 zoned land.
- b) Provide opportunity for connectivity to neighbouring residential zoned land.

SMR are open to discussions regarding the long-term use of the disused rail corridor and any resulting amendments to the planning proposal and masterplan should be reflected in an updated Historic Heritage Assessment and Statement of Heritage Impact.

5. Installation of railway level crossings within the precinct.

It is understood the proponent has expressed an interest in the installation of new level crossings over the active rail corridor.

To appropriately maintain operational security, SMR advise that that it is open to discussions regarding the installation of new level crossings over the active rail corridor subject to:

- a) Commitment that all costs (installation and ongoing maintenance) now and into the future are not the responsibility of SMR;
- a) Relevant regulatory approvals being attained; and
- b) The planning proposal and any resulting masterplan and future development must not compromise the ability to utilise the rail corridor to its allowable capacity now or into the future.

6. Extension of rail infrastructure

The rezoning will facilitate direct connection of the employment land to the South Maitland Railway via a proposed SP2 Infrastructure corridor and installation of a rail spur line.

SMR do not object to the installation of a rail spur line to service the proposed industrial area, subject to:

- a) Appropriate commercial agreement(s) be entered into; and
- b) Relevant regulatory approvals being attained.

7. Managing Bushfire Threat

The planning proposal documentation includes a Bushfire Threat Assessment prepared by Kleinfelder (dated February 2015). Section 4 of the report provides Recommendations and Conclusions which identify measures that are recommended to be incorporated into any future

subdivision design to mitigate the risk of bushfire on the future or subsequent residential development.

We note that the report assessment gave consideration to compliance with Planning for Bush Fire Protection 2006 and suggested that a revised bushfire assessment be carried out that gives consideration to Planning for Bush Fire Protection 2019.

We also note that the report identifies that exceptional circumstances for asset protection zones (APZ) will include easements such as roads, powerlines or any easement specific for bushfire mitigation; potentially South Maitland Rail Corridor. To date, no arrangements have been entered into with SMR that place it in a position to support the inclusion of its rail corridors (both active and inactive) as APZ's.

To appropriately manage risk to bushfire threat and unreasonable financial and maintenance burdens, SMR advise that:

- a) The inclusion of SMR's rail corridors as asset protection zones are not supported unless a separate agreement is reached with the developer, or following the sale or acquisition of the land.

8. Wangara Bridge (private)

Whilst it is acknowledged that Wangara Bridge sits outside the Cessnock LGA, SMR notes the following:

To appropriately manage rail safety and avoid any unreasonable financial or maintenance burdens, SMR advise that:

- a) Clarification is requested to confirm the future use of land located on the western side of the rail corridor that is currently accessed via the Wangara Bridge;
- b) Use of the bridge to cross the operational rail corridor is not supported at this point in time, unless appropriate agreement can be reached relating to its use, upgrade and ongoing maintenance; and
- c) The planning proposal must not result in an increase in traffic movements across Wangara Bridge. This includes construction related traffic.

Should you wish to discuss the above matter further, please do not hesitate to contact me on 4932 8351 or warren@hmholdings.com.au, or our planning consultant Marion Lourens at ADW Johnson on 4978 5100 or marionl@adwjohnson.com.au.

Yours faithfully,



Warren Hedley
Manager
South Maitland Railways Pty Ltd.

26 March 2020

Our Ref: RZ14/002
Your Ref: 18/2015/2/1

Phone Enquiries: 4934 9784
Carolyn Maginnity

General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Attention: Holly Taylor

Dear Holly,

RE: PLANNING PROPOSAL TO AMEND THE CESSNOCK LEP 2011 – HYDRO KURRI KURRI –
PP_2015_CESSN_006_01 - AGENCY CONSULTATION

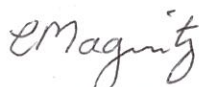
Thank you for the opportunity to comment on the above planning proposal seeking an amendment to the *Cessnock Local Environmental Plan 2011* to accommodate the following:

1. To rezone certain lands consisting of the former Hydro Aluminium Smelter and surrounding buffer land in the Loxford area to permit employment, industrial and residential development;
2. To manage the interface between the land uses;
3. To minimise the fragmentation of the residual land;
4. To preserve Council's defined hierarchy of commercial centres;
5. To maintain and enhance the conservation value within the site; and
6. To respond to the constraints of the site.

Maitland City Council raises no objection to the planning proposal, including the proponent's request for an amended zoning plan.

Should you require any further information please don't hesitate to contact the undersigned on (02) 4934 9784 or at Carolyn.Maginnity@maitland.nsw.gov.au.

Yours faithfully,



Carolyn Maginnity
Strategic Town Planner