

Planning Services

Gateway Determination Report

LGA	Cessnock
PPA	Cessnock City Council
NAME	Kurri Kurri District Strategy - Consequential (Housekeeping) LEP Amendments (additional homes estimated to be between 50-100)
NUMBER	PP 2018 CESSN 002 00
LEP TO BE AMENDED	Cessnock Local Environmental Plan 2011
ADDRESS	Various
DESCRIPTION	Changes to battle axe block lot size provisions, IN2 light industrial permissible land uses and correcting mapping anomalies.
RECEIVED	2 May 2018 (final additional information 26 June 2018)
FILE NO.	EF18/5148
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

The proposal seeks to make changes to the Cessnock LEP 2011:

1. to remove the lot size provisions specific to the T1 mapped area in relation to battle axe handle blocks;
2. to make changes to the permissible land uses in the IN2 Light Industrial zone; and
3. correct mapping anomalies for four sites in Kurri Kurri and Weston.

Site description

1. The T1 mapped area that applies to battle axe blocks covers various locations of the LGA (see **Attachment A**). T1 lot size areas typically cover parts of the LGA's towns and villages zoned R2 Low Density Residential or R3 Medium Density Residential.

2. The IN2 Light Industrial proposal applies to all IN2 zoned areas of the LGA which are located in Cessnock, Kurri Kurri, Weston, Black Hill and Branxton (see map – **Attachment B**).
3. Mapping anomalies on four sites as described in the table under in the Kurri Kurri District (see Figure 1 over for locations).

<u>Site</u>	<u>Land</u>	<u>Current provisions</u>
A	Land off O'Toole and Mcblane Streets, Weston	R5 Large Lot Residential 450 m2 minimum lot size
B	Part of Swamp Creek, Weston	2000 m2 minimum lot size
C	Land south of Swamp Creek, Weston	R5 Large Lot Residential 450 m2 minimum lot size
D	Coronation Street, Kurri Kurri	RU2 Rural Landscape 40ha minimum lot size

Summary of recommendation

The proposal has three separate planning outcomes and is recommended to proceed subject to conditions that the planning proposal be updated to:

- remove site A to reflect the lack of information and certainty regarding flora and fauna impacts and likelihood of delay to the remainder of the proposal if it remains included; and
- update the planning proposal to include mapping and additional information provided to the Department as part of the assessment process.

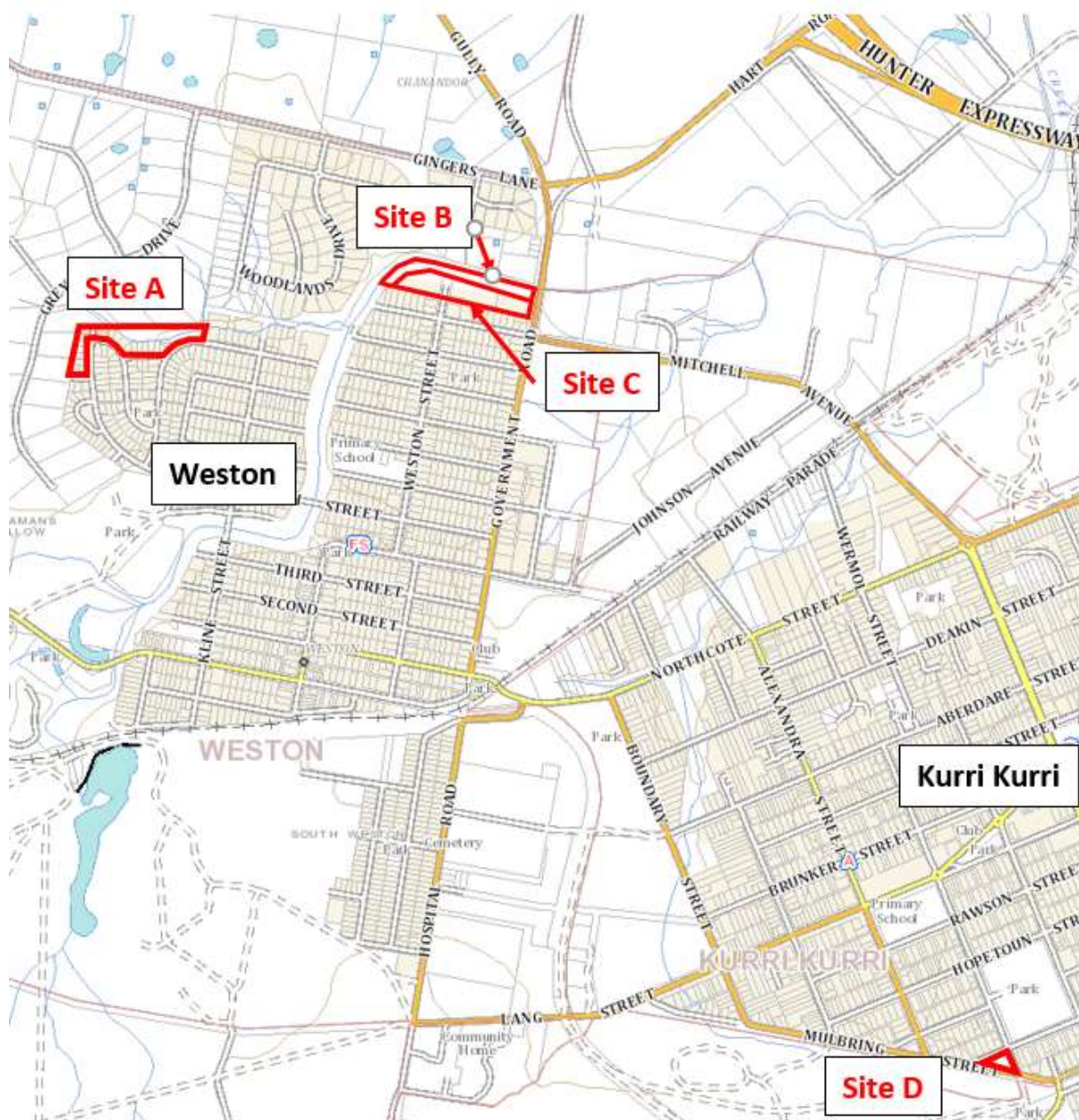


Figure 1: Site locations in context of Kurri Kurri and Weston

PROPOSAL

Objectives or intended outcomes

The objectives of the proposal are clear and align with the explanation of provisions and evidence to support the changes. They include:

1. Delete subclause 4.1(4A)(a) – ‘T1’ lot size restrictions from the LEP 2011 which will remove the additional lot size provisions applying to battle axe blocks. The intended planning outcome is to rely on the existing lot size map and DCP provisions to achieve residential development outcomes for battle axe blocks.
2. Amend the IN2 Light Industrial Zone Land Use Table by including *landscaping material supplies, plant nurseries and vehicle sales or hire premises* as permissible with consent and *pubs and hotel or motel accommodation* as

prohibited. This will expand the permissible land uses to those that have similar development characteristics (size, traffic generation etc) and to have *pubs and hotel or motel accommodation* located in the town centre within the retail and business precinct.

3. Rectify mapping anomalies identified within the Kurri Kurri District. The intended planning outcome is to correct Council identified mapping anomalies from the conversion of the previous LEP (1989) to the Standard template in 2011.

Explanation of provisions

1. T1 Lot size provisions.

Sub-clause 4.1(4A)(a) of the LEP 2011 (see under) specifies a minimum lot size of 600sq/m for battle-axe allotments on land designated 'T1' on the Lot Size Map.

4.1 Minimum subdivision lot size

(4A) Despite subclause (3), a lot resulting from the subdivision of the following land must not be less than the minimum size specified below in relation to the land:

(a) if the lot is on land is identified as "T1" on the [Lot Size Map](#) and the subdivision will result in the creation of a battle-axe lot—600 square metres,

The proposal intends to delete clause 4.1(4A)(a) of the LEP so that the minimum lot size map will be the only provision applying to the subdivision of battle axe blocks.

2. IN2 Light Industrial.

It is proposed to amend the IN2 Light Industrial Zone Land Use Table by including 'landscaping material supplies', 'plant nurseries' and 'vehicle sales or hire premises' as permissible with consent, and 'pubs' and 'hotel or motel accommodation' as prohibited.

3. Mapping anomalies.

A) Land off O'Toole and Mcblane Streets, Weston. Rezone the site from R5 Large Lot Residential to R2 Low Density Residential consistent with the previous Cessnock LEP 1989 zoning. The existing 450m² lot size provisions remain unchanged.

B) Part of Swamp Creek, Weston. Amend the lot size map from having a minimum lot size of 2,000 m² to 450 m².

C) Land near Swamp Creek, Weston. Rezone the site from R5 Large Lot Residential to R2 Low density residential and amend the minimum lot size of 40 hectares to 450 m² consistent with surrounding areas.

D) Coronation Street, Kurri Kurri. Rezone the site from RU2 Rural Landscape to R2 Low density residential and amend the minimum lot size of 40 hectares to 450 m² consistent with surrounding areas.

Mapping

The proposal will require LEP mapping amendments for the following outcomes:

- Removal of T1 mapped areas on six minimum lot size maps;
- Correction of mapping anomalies as outlined in the section above.

The planning proposal has not included the proposed LEP maps. These will be required to be added to the proposal prior to community consultation.

NEED FOR THE PLANNING PROPOSAL

The Planning Proposal outlines the issues the proposal is seeking to address and how the proposed changes to the LEP will achieve these. The planning proposal is the best way to achieve these objectives.

The proposal implements specific outcomes of the Kurri Kurri District Strategy which aims to ensure that Kurri Kurri and Weston are well positioned to benefit from major regional infrastructure and future urban growth and infill development.

1. T1 Lot size provisions.

Sub-clause 4.1(4A)(a) of the LEP 2011 was introduced in 2011 to maximise the amount of land available for development by specifying the minimum lot size of battle-axe allotments.

Since the introduction of clause 4.1(4A)(a), controls have been included in Council's Development Control Plan (DCP) to facilitate development outcomes on small lots down to 300 m². In addition, in 2016 Council introduced clause 4.1C into the LEP to enable the subdivision of residential land down to 300 m². These changes are in conflict with the intention behind the provisions of sub-clause 4.1(4A)(a) and ambiguous.

Council has concluded that "designating land 'T1' has the effect of restricting the subdivision of a considerable number of allotments in the R2 Low Density Residential Zone and R3 Medium Density Residential Zone that would otherwise be permitted in accordance with the minimum lot size provisions that apply to that land".

Removing the T1 provisions would facilitate greater density of development and is consistent with the directions of the Hunter Regional Plan and draft Greater Newcastle Metropolitan Plan.

2. IN2 Light Industrial.

Council's Kurri Kurri District Strategy (2018) outlines the benefit of expanding the range of compatible land uses in the IN2 Light Industrial Zone while reducing the negative impact of 'out of centre' commercial land uses. It is proposed to amend the IN2 Light Industrial Zone - Land Use Table by including 'landscaping material supplies', 'plant nurseries' and 'vehicle sales or hire premises' as permissible with consent, and 'pubs and hotel or motel accommodation' as prohibited.

The proposed changes introduce similar large floorplate developments to 'Garden centres' & 'Hardware and building supplies' that are already permitted in the zone. These changes are consistent with the existing zone objectives and are likely to have similar development characteristics and local amenity and traffic impacts to the existing permissible uses.

The change for 'pubs' and 'hotel or motel accommodation' as permissible development to prohibited is also supported as it implements the intentions of the

Kurri Kurri District Strategy to “Minimise ‘out of centre’ commercial development”, and focuses this type of land use in the existing business zones to assist in activating town centres.

The Regional Team have assessed the potential land use conflict implications against the location of the IN2 zones within the LGA and support the proposed changes.

3. Mapping anomalies (four sites)

A) Land off O’Toole and Mcblane Streets, Weston.

The subject site was previously zoned 2(a) Residential ‘A’ under the Cessnock LEP 1989 as shown on the LEP map under (see Figure 2). The site consists of 20 low density residential lots with 19 existing houses, and one large undeveloped lot.

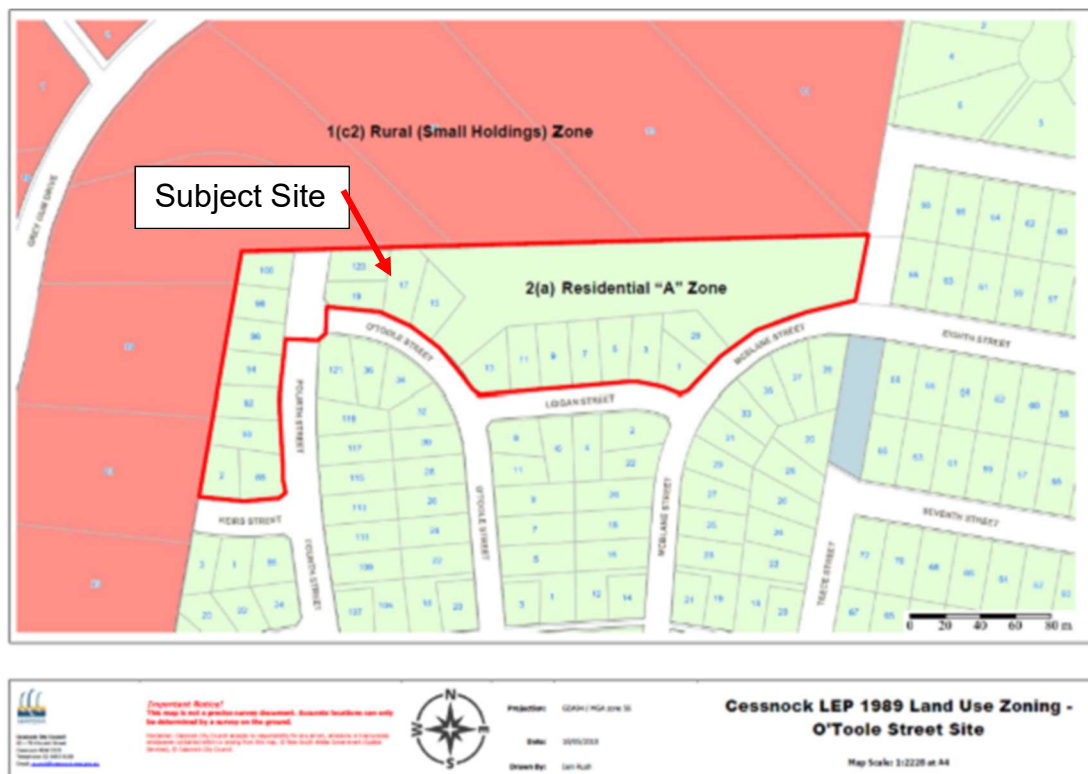


Figure 2 - previous 1989 zoning map

The site was rezoned R5 Large Lot Residential upon gazettal of the LEP 2011. The existing minimum lot size of the Land is 450m², which is consistent with land to the south, zoned R2 Low Density Residential.

Council considers the land as being more closely aligned in character to the R2 Low density residential zone. Council considers that the zoning of the land was incorrectly translated in the mapping conversion to the standard LEP and consider an R2 zone more appropriate.

The site is mostly developed with one large parcel remaining undeveloped. This vacant parcel has land use constraints that may limit its development potential for

typical low density residential development and may be more in line with the objectives of the existing R5 Large Lot Residential zone. These constraints include:

- Flooding
- Bushfire
- Biodiversity

Flooding – This site is outside the 1% flood extent of Swamp Creek, however contains a local minor tributary of Swamp Creek which may be a constraint to further development. No flooding data is available for this minor tributary.

Bushfire – Contains vegetation Category 1 which is considered the highest risk for bushfire and is typically given a 100m buffer (see Figure 3).

Biodiversity – the vacant lot includes around 7,000 m² of vegetation and forms part of a larger patch of vegetation to the north as shown on the aerial photo (Figure 3).

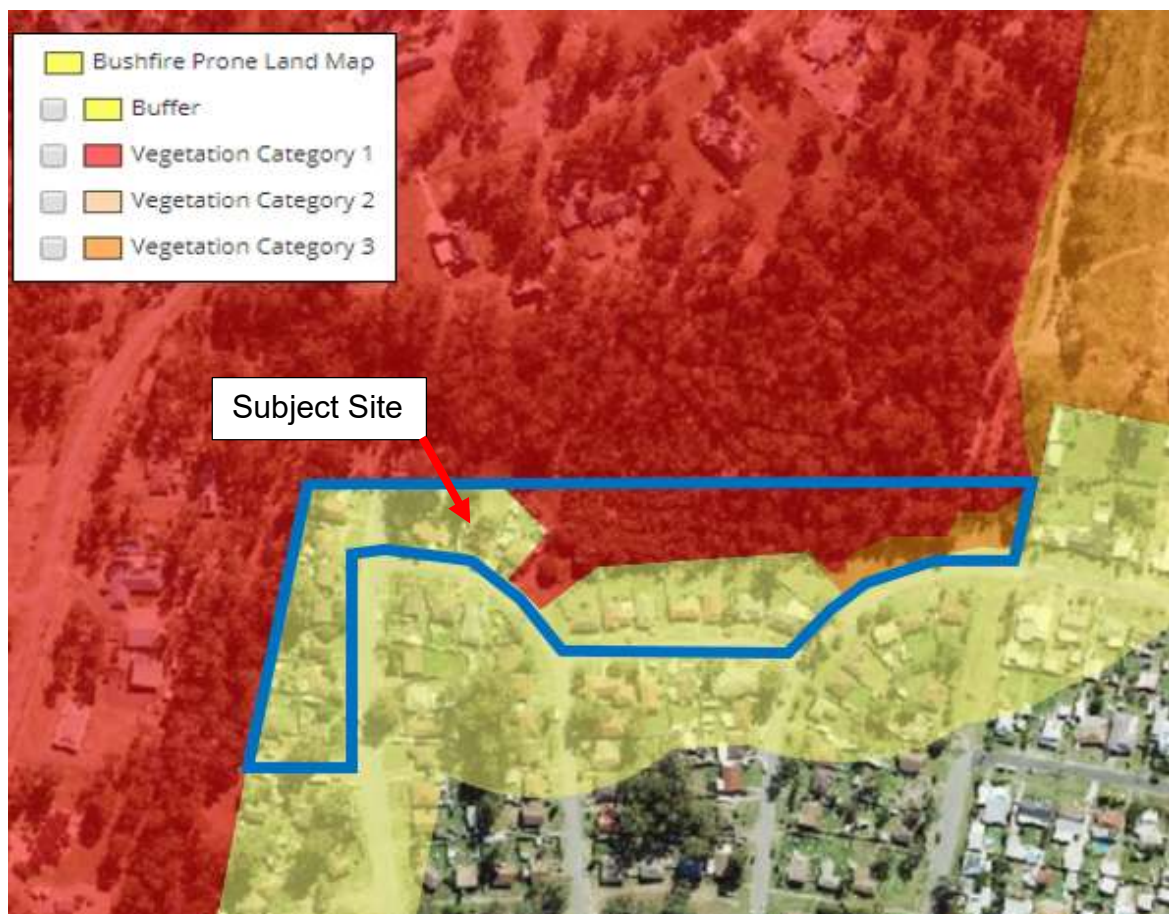


Figure 3 – surrounding bushland and bushfire prone land

Land to the immediate north has been recognised as having Kurri Sand Swamp Woodland and areas of Hunter Lowland Redgum Forest Endangered Ecological Community (EEC's).

The Planning Proposal does not include any information on the condition and biodiversity significance of the vegetation, hence the suitability of this site for more intensive residential development is unclear.

In addition, there is no commitment from the proponent to undertake the required biodiversity studies to provide the level of certainty required to assess the significance of the vegetation.

It is considered that the objectives of the existing R5 Large Lot Residential zone better reflect the level of potential development constraints on the vacant parcel of land and its likely biodiversity significance. In the absence of further assessment, it is considered reasonable to condition the Gateway to remove this parcel of land from the Planning Proposal. Council recognises that this will limit further delays to the remainder of the proposal proceeding.

B) Part of Swamp Creek, Weston.

The site is currently zoned R2 Low Density Residential. The site forms part of the creek bed and banks of Swamp Creek. It is flood affected (high hazard) as outlined as site B on the flooding map (see figure 5) and is highly unlikely to be developed in the future. The proposal to amend the lot size map from having a minimum lot size of 2,000 m² to 450 m².

The main outcome of correcting this map anomaly is to provide a more consistent mapping outcome of lot sizes in the R2 zone and along Swamp Creek. Figure 4 identifies the current lot sizes applying to sites B and C. It is noted that this land is adjacent to land zoned IN3 Heavy Industrial. It is considered that the existing R2 low density residential development in proximity to the IN3 land already constrains its use and that the rezoning of sites B and C will not significantly exacerbate this.

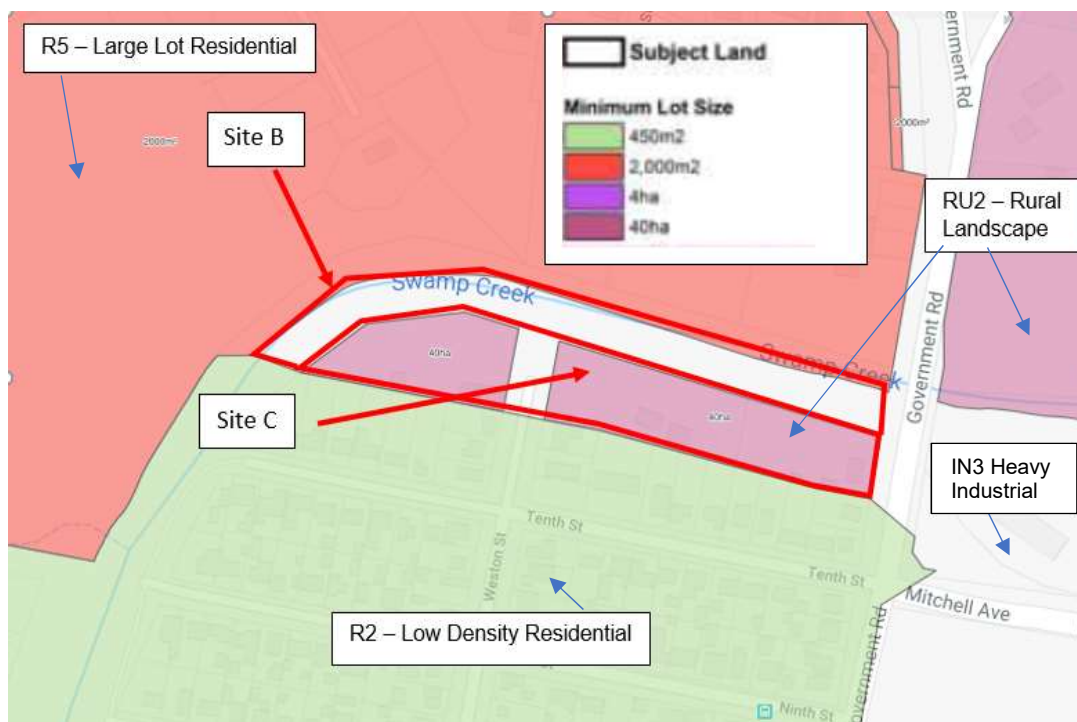


Figure 4 – Lot size map and surrounding land use zones

C) Land south of Swamp Creek, Weston.

Figure 4 (above) identifies site C and the surrounding urban land use zones. The current RU2 Rural Landscape zoning reflects the previous 1(a) Rural 'A' zoning under the 1989 LEP. Site C is proposed to be rezoned to R2 Low Density

Residential and also have a minimum lot size of 450m², thus providing a consistent planning approach.

Part of the site is flood affected and bushfire prone and the current zoning reflects the previous zoning approach to flood prone land.

Council propose to rezone the site from RU2 Rural Landscape to R2 Low density residential and amend the minimum lot size of 40 hectares to 450 m² consistent with surrounding areas. Council justifies this approach by referring to the mechanisms in place to manage flooding and bushfire risk at the Development Application stage.

Flooding

Section 9.1 Direction 4.3 – Flood Prone Land applies to this site as the planning proposal proposes to zone flood affected land to R2 Low density residential.

Changes to the flooding controls in the Cessnock Development Control Plan (DCP) in 2017 introduced provisions to prepare and assess development applications over flood prone land providing for more flexibility and consideration of development opportunities.

Council advise that the DCP Chapter is consistent with the requirements of the NSW Flood Prone Land Policy and NSW Floodplain Development Manual 2005. Figure 5 provides a flood map extract from the DCP.

Council also advised that they worked closely with OEH and SES to prepare the Flood Prone Land DCP Chapter, including a review by OEH in late 2016. The site has direct access onto the flood free public road network, thus consultation with SES is not necessary in this instance.

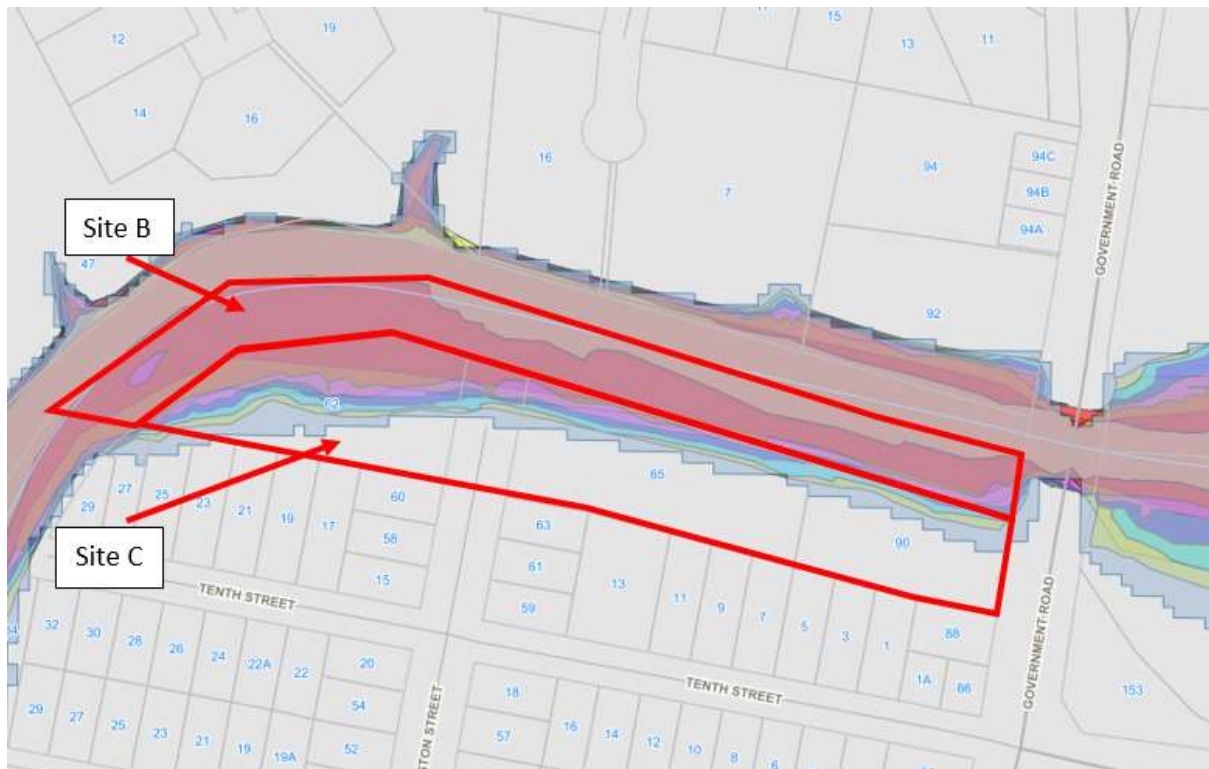


Figure 5 – Flooding hazard, showing areas in ‘brown’ as highest risk and ‘light blue’ lowest risk

Council are confident that their existing flooding controls are adequate to assess any development of the site. Consultation with OEH (Flooding) under this Direction will provide advice on the merits of this proposal.

Bushfire

Section 9.1 Direction 4.4 Planning for Bushfire Protection also applies to the site. Figure 6 identifies part of the site as being in the bush fire hazard 'buffer' zone.

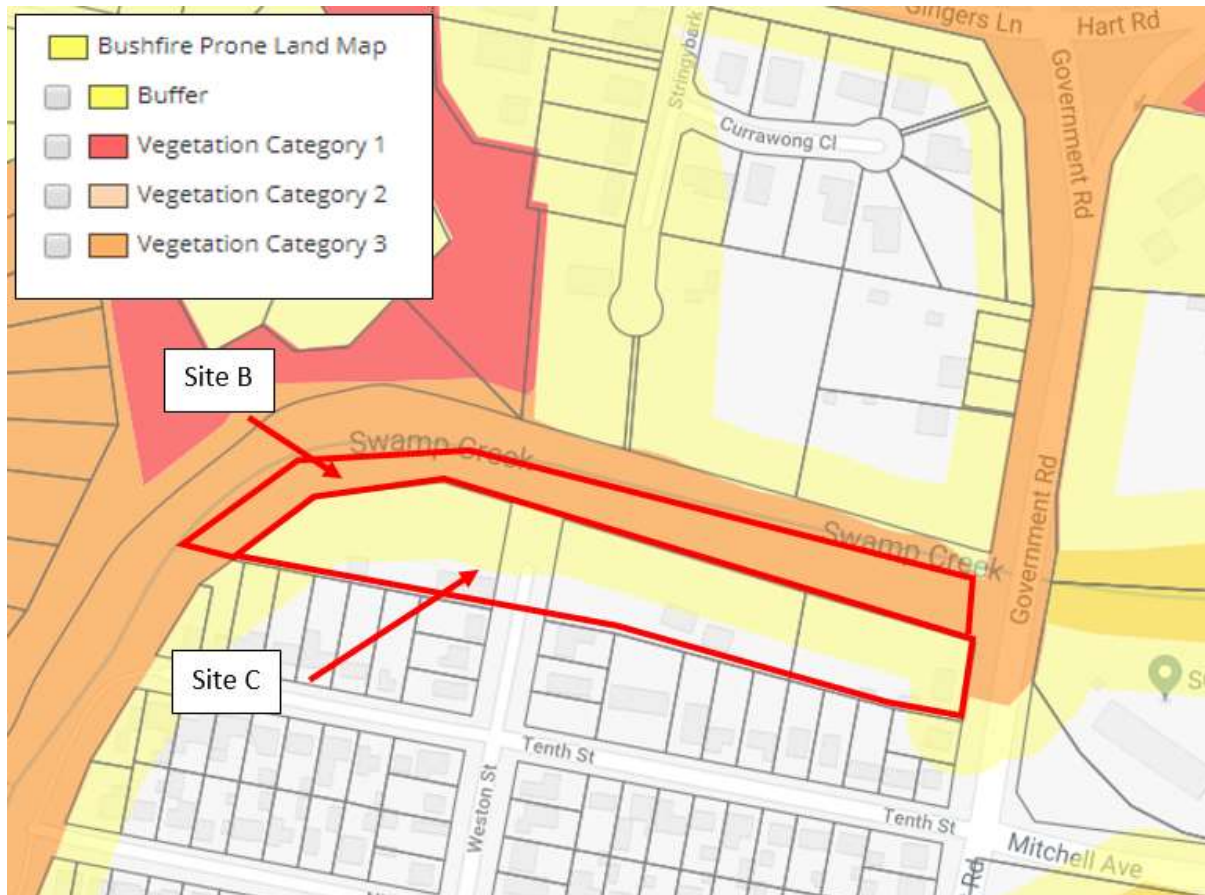


Figure 6 - Bushfire hazard

While not all the site is likely to be developed for urban development, the site is in three large holdings in separate ownership and the development potential and constraints of the site are recognised. Council assessed that much of the site is suitable for residential development and in character with the surrounding R2 zoned land.

DPE assessment concludes that subject to bushfire and flooding constraints being addressed, the proposal will enable a balanced and appropriate development outcome for minor infill residential development in this location.

D) Coronation Street, Kurri Kurri.

The Subject Land was previously zoned 1(a) Rural 'A' under the Cessnock LEP 1989 and the rural zoning was carried into the current 2011 LEP as RU2 Rural Landscape Zone.

The land is a triangular shaped road reserve of around 1600m², is vacant and is a logical extension of the urban footprint of Kurri Kurri (see figure 7). The existing and intended future character of the subject land is more closely aligned with the adjoining R2 Low Density Residential Zone to the north and east.

The designation of the site as a road reserve limits the sites development potential, however the change in zoning will reflect the future development intent of the site.



Figure 7 – location and zoning map

STRATEGIC ASSESSMENT

State

The proposal has three separate parts and is considered relatively minor. With the exception of the potential conflict with the Biodiversity Conservation Act 2016 for part of site A, the remaining components of the proposal are consistent with the state strategic planning framework.

Regional / District

Hunter Regional Plan 2036

Council have recognised the following two Directions as being relevant to this proposal:

Direction 21 – “Create a compact settlement” in relation to the rezoning of infill areas to residential zones and removal of the battle axe block lot size requirement for the T1 areas. The proposal also reduces the potential for out of centre commercial development such as *pubs* and *hotel and motel development*; and

Direction 24 – “Protect the economic functions of employment lands” in relation to the changes made to the land use table for the IN2 Light Industrial zone:

- permitting a greater range of compatible land uses and
- removing inappropriate land uses to promote the activation to the town centre.

DPE staff recognise that Direction 14 – “Protect and connect natural areas” is potentially relevant to site A at O’Toole and Mcblane Streets Weston. The site has vegetation of unknown significance that connects to a nearby local vegetation corridor/network that may contain EEC’s. The Gateway determination will recommend that this large undeveloped site be removed from the planning proposal.

Draft Greater Newcastle Metropolitan Plan

The proposal is considered consistent with the draft Greater Newcastle Metropolitan Plan in relation to Strategy 3.2 as it unlocks “supply in priority housing release areas and strategic centres”.

The proposal encourages greater residential density by deleting onerous LEP provisions that inhibits infill development. It also identifies infill development opportunities within the existing urban footprint.

Local

Council has provided an assessment against its Community Strategic Plan and City Wide Settlement Strategy 2010 (which has not been endorsed by DPE) and concludes that the proposal is consistent.

The proposal implements some of the outcomes of the 2018 Kurri Kurri District Strategy, including the following directions:

- Create a compact settlement;
- Minimise out of centre commercial development;
- Grow the Kurri Kurri industrial precinct;
- Encourage housing diversity, density and affordability.

Section 9.1 Ministerial Directions

The proposal is consistent with most of the relevant Directions. The following Directions are either inconsistent or require further assessment or justification.

Direction 1.1 Business and Industrial Zones – states that a planning proposal must:

- be consistent with the objectives of the policy, such as encourage employment growth in suitable locations and support the viability of identified strategic centres; and
- “not reduce the total potential floor space for industrial uses in industrial zones”.

The intention of the Planning Proposal is to minimise ‘out of centre’ commercial development by including *landscaping material supplies, plant nurseries and vehicle sales or hire premises* as permissible with consent. It also prohibits *pubs and hotel or motel accommodation* from the IN2 zone, focusing them into town centres. This intent is consistent with the objectives of this Direction, noting Kurri Kurri is an identified strategic centre in the Hunter Regional Plan 2016.

While the proposal makes changes to the IN2 Light Industrial land use table, it is consistent with the objectives of the Direction, and does not reduce the total potential floor space for industrial uses in the IN2 Light Industrial zone.

The proposal is considered to be CONSISTENT with this direction.

Direction 1.2 Rural zones and Direction 1.5 Rural lands – The proposal includes the rezoning from rural to residential for site C - land south of Swamp Creek, Weston and site D - Coronation Street, Kurri Kurri. The two sites contain four separate parcels of land ranging in size from around 7,500 to 3,000 m².

The sites adjoin existing residential areas, have no realistic primary production potential and are considered to be within the existing urban settlement boundary.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency with Direction 1.2 Rural Zones and Direction 1.5 Rural lands is of minor significance.

Direction 2.1 Environment Protection Zones – This Direction includes a provision that a “planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive lands.”

Site A, Lot 142 DP264038, Mcblane Street, Weston is recommended to be removed from this Planning Proposal as this site has the most potential to impact on the environment as it contains potential EEC's.

The remaining components of this planning proposal are considered to be CONSISTENT with this direction due to the lack of environmentally sensitive land.

4.3 Flood prone land – The Planning Proposal seeks to rezone rural land to residential in a flood planning area for site C - land south of Swamp Creek, Weston. Council consider the DA process more appropriate to consider flooding impacts for this site as the existing DCP controls are extensive. Council consider the inconsistency with this Direction is being minor.

Council adopted a specific in DCP in 2017 addressing development on flood prone land. Council advised that while they do not have written evidence from OEH to confirm that the work was done consistent with the NSW Flood Prone Land Policy and NSW Floodplain Development Manual 2005, they worked closely with OEH during its preparation, including the whole DCP Chapter being reviewed by OEH. While Council are confident that there is consistency with the NSW Policy (and hence consistency with this Direction), consultation will be required with OEH (Flooding) to confirm this.

The proposal is potentially INCONSISTENT with this direction and will require consultation with the Office of Environment and Heritage (Flooding) for the site C – land south of Swamp Creek, Weston.

Direction 4.4 Planning for Bushfire Protection – the proposal is INCONSISTENT with this direction for the following sites (see Figure 1 location map) are mapped as bush fire prone and no consultation with the NSW Rural Fire has occurred.

Site A – land recommended to be removed from the planning proposal is mostly vegetation category 1, being the highest bushfire risk. The remaining parts of this site have a vegetation category 3 being the lowest bushfire risk, noting there is only one vacant lot within the remaining land.

Site B – the site, being the creek is mapped as vegetation category 2, being of moderate bushfire risk.

Site C – includes land in the bush fire prone buffer area

RECOMMENDATION: The Secretary will need to be satisfied that the requirements of the Direction have been met. A condition should be included in the Gateway determination that consultation should be undertaken with the NSW Rural Fire Service for these three specific sites in accordance with the Direction.

State environmental planning policies

The proposal is consistent with all relevant SEPP's, noting the following SEPP's are either inconsistent or have required closer assessment of justification.

SEPP - Rural Lands 2008. The proposal includes the rezoning from rural to residential for site C - land south of Swamp Creek, Weston and site D - Coronation Street, Kurri Kurri. The two sites contain four separate parcels of land ranging in size from around 7,500 to 3,000 m².

Clauses 7 and 8 of the SEPP provides principles for Rural Planning and Rural Subdivision that include such matters as: protection of agricultural production lands and natural resources recognition of the changing agricultural trends; opportunities for rural lifestyle; impacts on services and infrastructure for rural housing; minimise rural land fragmentation and land use conflicts; consideration of constraints and opportunities of land; amongst other things.

The above principles are aimed for more traditional rural zoned land, rather than rural zoned land in an urban setting. While the proposal may be considered inconsistent with some of these principles, the inconsistency is considered minor and justified in the urban setting.

SEPP – Vegetation in Non-Rural Areas 2017. As Lot 142 DP264038, Mcblane Street, Weston The O'Toole and Mcblane Streets, Weston is being removed from the Planning Proposal, this SEPP no longer applies.

SITE-SPECIFIC ASSESSMENT

Social

There are no significant social impacts associated with this proposal. Correcting the residential zoning anomalies will create more opportunities for infill development consistent with the settlement principles of creating compact settlements.

The risks associated with development near flood prone land is more appropriate to consider at DA stage when the development outcome is more certain.

The changes to IN2 Light Industrial land use zone will provide for a broader range of activities to be undertaken in the zone, noting that pubs and hotel and motel development will be removed and focussed in existing business zones.

Environmental

The environmental implications from changes to the permissible land uses for the IN2 zone and removal of the T1 lot size controls are unknown but expected to be addressed through development assessment. There may be more development

opportunities as a result of these changes, noting that the underlying zone has not changed. Any environmental impacts will continue to be assessed at DA stage.

Lot 142 DP264038, Mcblane Street, Weston is recommended to be removed from this Planning Proposal as this site has the most potential to impact on the environment as it contains potential EEC's.

Bushfire and flooding impacts have been previously discussed in this report. For the other sites included in the mapping corrections, the potential environmental impact from the potential development is considered appropriate to be fully considered at DA stage.

Economic

The proposal includes provisions to better manage 'out of centre' business in the IN2 Light Industrial zone by removing 'pubs' and 'hotel and motel development' as there is sufficient zoned business land to accommodate the projected demand for commercial floor space until at least 2041 as evidenced by council's assessment (SGS Economics and Planning, 2017).

There are no other significant economic impacts recognised or anticipated with this proposal.

Infrastructure

There are no significant infrastructure implications for both state and local infrastructure providers associated with this proposal considering:

- the site specific changes are considered minor and can be easily accommodated into the existing network; and
- the changes to the IN2 Light Industry permissible uses and removal of lot size provisions for T1 areas will not result in any significant intensity of development, but is likely to be scattered throughout the LGA and can also be accommodated into the existing network.

CONSULTATION

Community

Council proposed a 28 day exhibition period for this proposal. The three key components of this proposal (Lot size provisions, IN2 Light Industrial zone land use table changes and mapping anomalies) are all consistent with the strategic framework, hence this proposal is considered to be low impact and should have an exhibition period of 14 days.

Agencies

Consultation with Office of Environment and Heritage (Flooding) is required to address 9.1 Direction 4.3 Flood Prone Land for Sie 3, being land south of Swamp Creek, Weston.

Consultation with NSW Rural Fire Service is required to address 9.1 Direction 4.4 Planning for Bushfire Protection for sites A, B and C (see Figure 1).

TIME FRAME

Council has proposed a 12 month timeframe for the proposal. Given the nature of the consultation required with OEH (flooding), a 15 month timeframe is considered more realistic.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority. Council does not own any land included in the site specific component of the proposal other than being the road authority for the road reserves, and there are no significant implications for Council's owned land in the T1 lot size zoned land and IN2 Light Industrial land.

It is recommended that Council should be authorised to be the local plan-making authority for this proposal.

CONCLUSION

The preparation of the planning proposal is supported to proceed with conditions as it:

- removes the restriction on battle axe lots to achieve greater compact settlement densities;
- better manage 'out of centre' business in the IN2 Light Industrial zone by removing 'pubs' and 'hotel and motel development' and promoting street activation by focusing these uses in centres;
- increases the types of permitted uses in the IN2 Light Industrial zone; and
- corrects minor mapping anomalies for sites in Kurri Kurri and Weston that will increase consistency in zoning and lot size provisions.

Two of the sites have potential biodiversity and flooding constraints. The recommendation to remove Lot 142 DP264038, Mcblane Street, Weston from the planning proposal recognises this potential biodiversity impact.

The flooding constraint for site C (land south of Swamp Creek, Weston) is considered suitable for further investigation.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural zones and 1.5 Rural lands are minor or justified; and
2. note that the consistency with section 9.1 Directions 4.3 Flood prone land (for Land south of Swamp Creek, Weston) and 4.4 Planning for Bushfire Protection (for sites A, B and C) is unresolved.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be updated prior to community consultation to address the following matters:
 - (a) include the proposed changes to the LEP maps suitable for public exhibition;
 - (b) include the additional information provided by Council on 15 and 18 May 2018 regarding council ownership of land, flooding, history of the land; and
 - (c) remove Lot 142 DP264038, Mcblane Street, Weston from the planning proposal.
2. The planning proposal should be made available for community consultation for a minimum of 14 days.
3. Consultation is required with the following public authorities for site - Land south of Swamp Creek, Weston:
 - Office of Environment and Heritage (Flooding) - 9.1 Direction 4.3 Flood Prone Land
 - NSW Rural Fire Service – Section 9.1 Direction 4.4 Planning for Bushfire Protection
4. The time frame for completing the LEP is to be **15 months** from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority to make this plan.



9 July 2018
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