



# **PLANNING PROPOSAL**

**Amendment to the**  
***Cessnock Local Environmental Plan 2011***

## **Kurri Kurri District Strategy** **Consequential LEP Amendments**

Version 1.0

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## **REQUEST FOR AUTHORISATION TO ACT AS LOCAL PLAN-MAKING AUTHORITY**

Council requests authorisation under Section 3.31 of the *Environmental Planning and Assessment Act 1979* to act as the local plan-making authority to make the Local Environmental Plan.

### **BACKGROUND**

The Kurri Kurri District Strategy was adopted by Council on 21 March 2018 and forms the basis for this Planning Proposal.

The purpose of the District Strategy is to ensure that Kurri Kurri and Weston are well-positioned to benefit from major regional infrastructure and future urban growth and infill development. The Strategy outlines several directions and actions relating to the Kurri Kurri District, including the following, which are relevant to the Planning Proposal:

#### ***Directions***

- Create a compact settlement
- Minimise 'out of centre' commercial development
- Grow the Kurri Kurri Industrial Precinct
- Encourage housing diversity, density and affordability

#### ***Actions***

- A.3.5.12** Review the IN2 Light Industrial Zone Land Use Table with a view of encouraging a wider range of industrial related land uses.
- A.3.6.1** Investigate planning provisions that encourage greater diversity of residential accommodation in the District.
- A.3.6.3** Encourage increased density in accessible and unconstrained areas of the District.

The objective of the Planning Proposal is to amend the *Cessnock Local Environmental Plan 2011* (LEP 2011) to respond to the abovementioned directions and actions of the Kurri Kurri Strategy.

The Planning Proposal encourages greater use of the Cessnock LGA's IN2 Light Industrial Zone by permitting a greater range of compatible land uses, including *landscaping material supplies, plant nurseries* and *vehicle sales and hire premises*, while removing incompatible land uses, *pubs* and *hotel and motel accommodation*.

The Proposal encourages increased residential density and dwelling diversity in accessible areas around urban centres by deleting onerous LEP provisions relating to the subdivision of residential zoned land designated 'T1' in the LEP maps. The existing 'T1' provision severely inhibits infill development and is inconsistent with other development standards in the LEP and DCP.

The Proposal seeks to rectify several minor mapping anomalies to ensure the application of consistent land use zoning in the Kurri Kurri District. To achieve this, several spot rezonings have been identified and are detailed in the Proposal.

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## **PART 1: OBJECTIVES and OUTCOMES**

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The objective of the Planning Proposal is to amend the *Cessnock Local Environmental Plan 2011* (the 'LEP 2011') to achieve the following outcomes:

- Delete subclause 4.1(4A)(a) – 'T1' lot size restrictions – from the LEP 2011 and amend the relevant lot size maps.
- 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.
- Rectify minor mapping anomalies identified within the Kurri Kurri District.

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## PART 2: EXPLANATION of PROVISIONS

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This Planning Proposal has been prepared to enable the following amendments to be made to the LEP 2011 instrument and maps. The LEP 2011 was gazetted on 23 December 2011 and came into effect on that date.

### 1. Amendment to the IN2 Light Industrial Zone Land Use Table

#### Affected Land

This amendment relates to all land in the Cessnock LGA zoned IN2 Light Industrial.

#### Issue

Council's Strategy for the Kurri Kurri District 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.

Redefining the range of permissible land uses in the IN2 Light Industrial Zone will provide greater flexibility for development and encourage utilisation of the LGA's light industrial land. It will also ensure the ongoing viability of the LGA's commercial centres, which are highly sensitive to competing areas of commercial development.

A number of 'large floorplate' retail land uses are already permitted in the IN2 Light Industrial Zone, including *garden centres* and *hardware and building supplies*. These land uses are mandated in the Zone under the Standard Instrument Principal LEP. However, several other 'large floorplate' land uses are also considered compatible with the objectives of the IN2 Zone. These include, *landscaping material supplies*, *plant nurseries* and *vehicle sales and hire premises*, each of which typically require larger allotments for the storage of stock and are less sensitive to the impacts of industrial development.

Conversely, the land uses, *pubs* and *hotel or motel accommodation*, which are currently permissible in the IN2 Light Industrial Zone, are considerably more compatible within commercially zoned land.

#### Recommendation

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.

## **2. Amend the LEP 2011 by deleting the ‘T1’ lot size restrictions, sub-clause 4.1(4A)(a)**

### Affected Land

This amendment relates to land designated ‘T1’ in the LEP 2011 lot size maps.

Approximately 95 percent of land designated ‘T1’ in the Cessnock Local Government Area (LGA) is zoned R2 Low Density Residential or R3 Medium Density Residential. The remaining 5 percent of land designated ‘T1’ relates to the following zones; however, this is primarily due to anomalies in the mapping.

- E2 Environmental Conservation
- R5 Large Lot Residential
- RE1 Public Recreation
- RU2 Rural Landscape
- RU5 Village
- SP2 Infrastructure

### Issue

Sub-clause 4.1(4A)(a) of the LEP 2011 specifies a minimum lot size of 600m<sup>2</sup> for battle-axe allotments on land designated ‘T1’ on the Lot Size Map. The Clause was originally included in the LEP 2011 to maximise developable area in battle-axe allotments for a dwelling. It was envisaged that the Clause would prevent a situation from occurring whereby a battle-axe allotment could technically be created to meet the minimum lot size; however, have much of its area taken up by access handle.

Controls specifying lot size and shape are included in Section D.1 of the Cessnock Development Control Plan (DCP) 2010. The DCP controls have very similar effect to the ‘T1’ provisions of the LEP 2011. The controls limit the length of battle axe handles in the R2 Low Density Residential Zone and R3 Medium Density Residential Zone to 60 metres with a minimum width of 3.5 metres. The DCP controls ensure adequate developable area in a battle-axe allotment is available.

In addition, in 2016, Amendment 20 to the LEP 2011 introduced Clause 4.1C, exemptions to minimum lot sizes for certain residential development. Clause 4.1C provides greater flexibility to subdivide residential allotments to a minimum size of 300m<sup>2</sup> for new or existing dual occupancy development. The Amendment applies to land in the R2 Low Density Residential and R3 Medium Density Residential zones and considers the impact of access handles on the size of the resulting allotments.

The introduction of Clause 4.1C to the LEP 2011 together with the existing ‘lot size and shape’ provisions of the Cessnock Development Control Plan 2011, has brought into question the ongoing need to designate land ‘T1’ under Clause 4.1 of the LEP 2011. Clause 4.1C is considered a superior way of addressing subdivision of land in the R2 Low Density Residential Zone and R3 Medium Density Residential Zone that create battle-axe allotments. Clause 4.1C and the DCP controls have effectively made the ‘T1’ provisions of the LEP 2011 redundant.

Broadly 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.

The ‘T2’ and ‘T3’ provisions, outlined under sub-clause 4.1(4A)(b) and (c) of the LEP 2011 respectfully, are not proposed to be deleted. The provisions are still relevant in instances where rural allotments cannot be serviced by a reticulated water and sewer system.

Recommendation

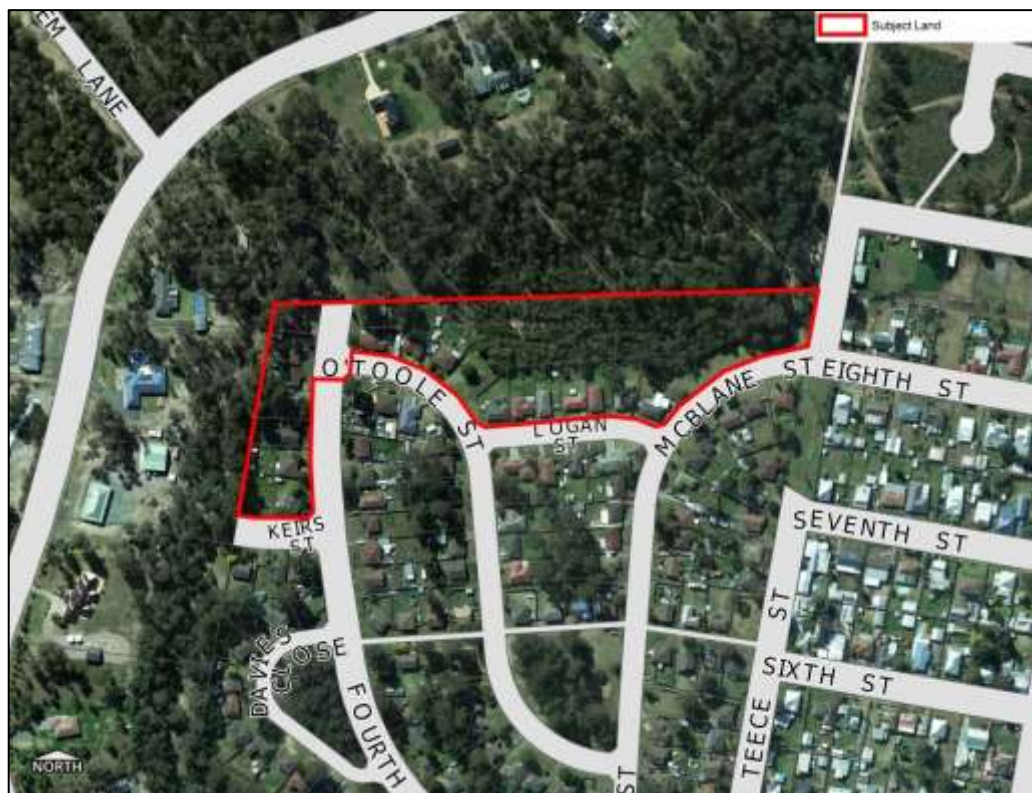
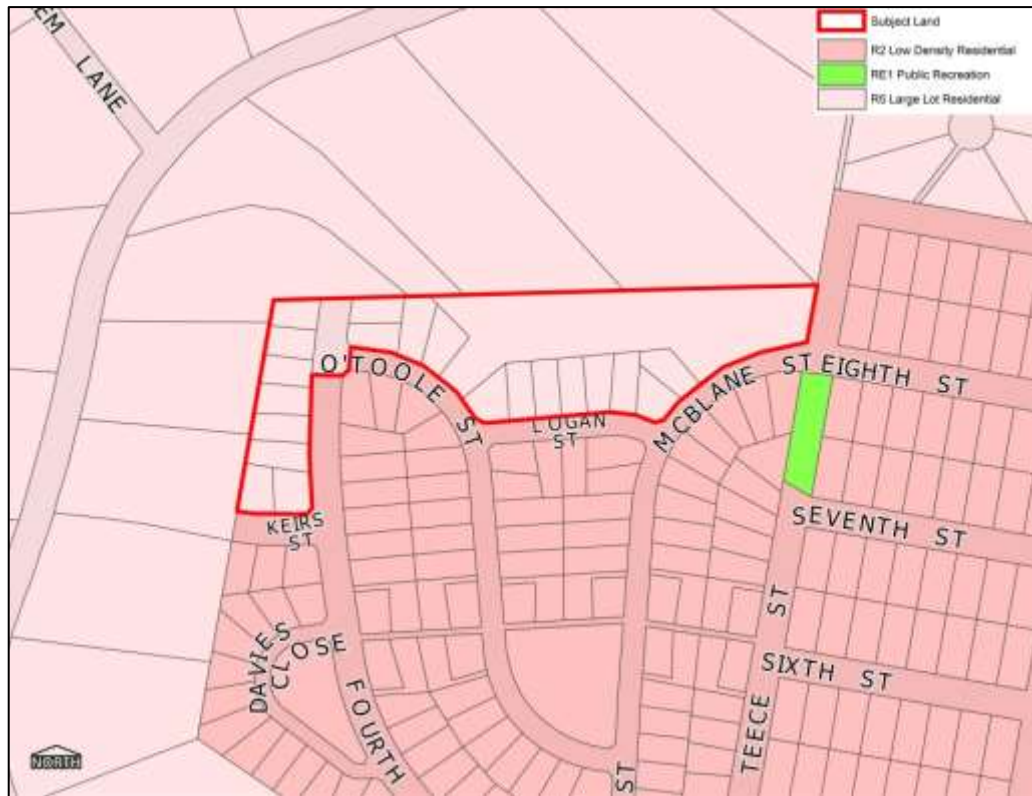
Delete sub-clause 4.1(4A)(a) from the LEP 2011 and amend the relevant lot size maps.

### 3. Rectify various minor mapping anomalies

#### (a) Rezone certain land at Weston from R5 Large Lot Residential Zone to R2 Low Density Residential Zone

##### Subject Land

Lots 57 to 64, 85 to 96 and 142 in DP 264038.





Issue

The Subject Land was previously zoned 2(a) Residential 'A' under the Cessnock LEP 1989. The Land was rezoned R5 Large Lot Residential upon gazettal of the LEP 2011. It is unclear why the 'low density' residential zoning was not carried into the current LEP.

The subdivision pattern of the Land is consistent with the subdivision pattern of land to the immediate south, zoned R2 Low Density Residential. The minimum lot size of the Land is 450m<sup>2</sup>, which is also consistent with land to the south, zoned R2 Low Density Residential.

The Land is identified as bushfire prone; however, this is not inconsistent with the adjoining R2 Low Density Residential Zone; large parts of which are also identified as bushfire prone. The Subject Land is not impacted by flooding or mine subsidence and has access to reticulated water and sewer.

It is considered that the existing and intended character of the Subject Land is more closely aligned with the R2 Low Density Residential Zone and should therefore reflect this Zone.

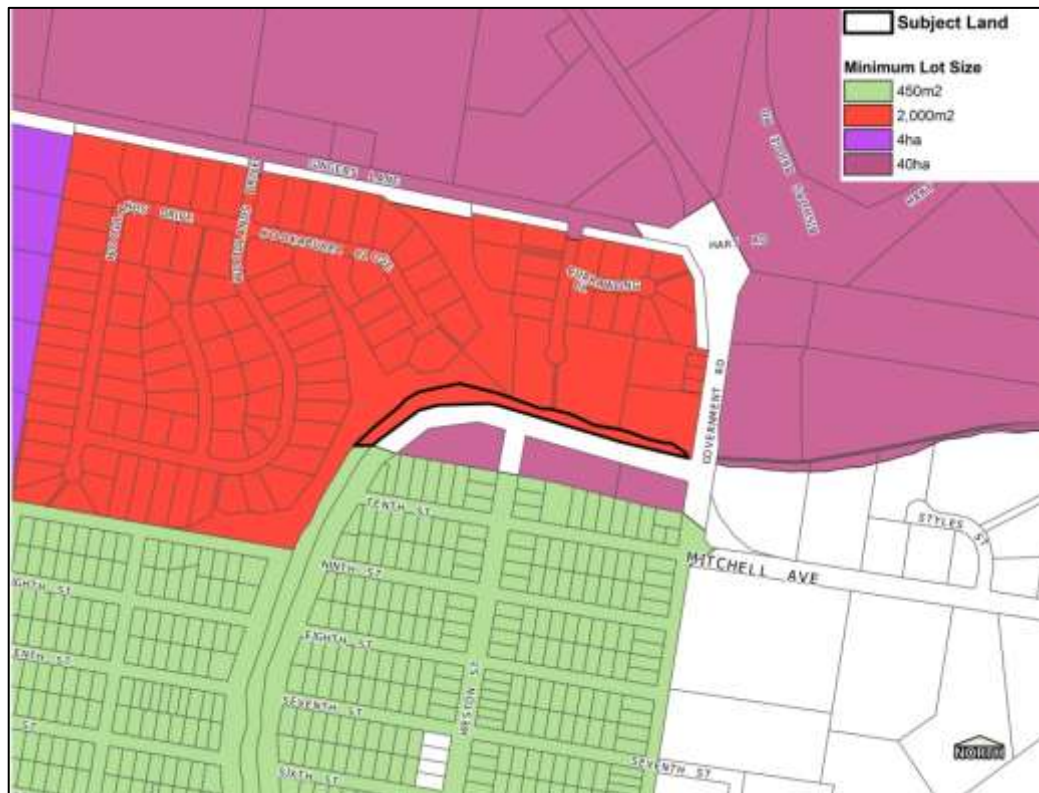
Recommendation

Rezone the Subject Land from R5 Large Lot Residential Zone to R2 Low Density Residential Zone.

**(b) Amend the lot size of certain land at Weston from 2,000m<sup>2</sup> to 450m<sup>2</sup>**

Subject Land

Part of Swamp Creek, Weston



Issue

The Subject Land was identified as 'unzoned' land under the Cessnock LEP 1989. The Land was zoned R2 Low Density Residential upon gazettal of the LEP 2011. The Land contains Swamp Creek.

The lot size that presently applies to the Land (2,000m<sup>2</sup>) is inconsistent with the lot size applied to Swamp Creek further south (450m<sup>2</sup>). The amendment will rectify this inconsistency.

The proposed amendment is considered in conjunction with proposed amendment 3(c) on the following page.

Recommendation

Amend the lot size of the Land from 2,000m<sup>2</sup> to 450m<sup>2</sup>



**(c) Rezone certain land at Weston from RU2 Rural Landscape Zone to R2 Low Density Residential Zone and amend the Lot Size Map**

Subject Land

Lot 10 Sec 46 DP 3265, Lot 1 DP 730032, Lot 14 Sec 45 DP 32650



Issue

The Subject Land was previously zoned 1(a) Rural 'A' under the Cessnock LEP 1989. This was primarily due to the identified risk of flooding over part of the Land. The rural zoning was carried into the current LEP as RU2 Rural Landscape Zone. This was a result of a straight conversion of zones.

The Land has access to reticulated water and sewer and is not impacted by mine subsidence. The Land is identified as bushfire prone (buffer). However, this is not inconsistent with the adjoining R2 Low Density Residential Zone; large parts of which are also identified as bushfire prone.

On 15 November 2017, Council adopted a specific Development Control Plan Chapter relating to development on flood prone land. The Chapter provides information and development controls needed to prepare and assess development applications on flood prone land. The adoption of the flood chapter of the DCP has negated the need for the rural zoning over the Land.

The existing and intended character of the Subject Land is more closely aligned with the R2 Low Density Residential Zone.

Recommendation

Rezone the Subject Land from RU2 Rural Landscape Zone to R2 Low Density Residential Zone and amend the minimum lot size to 450m<sup>2</sup>.



**(d) Rezone certain land at Kurri Kurri from RU2 Rural Landscape Zone to R2 Low Density Residential Zone and amend the Lot Size Map**

Subject Land

Pt Lot 763 DP 755231



Issue

The Subject Land was previously zoned 1(a) Rural 'A' under the Cessnock LEP 1989. The rural zoning was carried into the current LEP as RU2 Rural Landscape Zone. This was a result of a straight conversion of zones.

The Land is vacant and is identified by Council as road reserve. The existing and intended future character of the Subject Land is more closely aligned with the R2 Low Density Residential Zone.

The land is not impacted by mine subsidence, but is identified as bushfire prone (buffer). However, this is not inconsistent with the adjoining R2 Low Density Residential Zone; large parts of which are also identified as bushfire prone.

Recommendation

Rezone the Subject Land from RU2 Rural Landscape Zone to R2 Low Density Residential Zone.

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## PART 3: JUSTIFICATION

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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 Proposal

#### ***1 Resulting from a Strategic Study or Report***

The proposed amendments are an outcome of the Kurri Kurri District Strategy, which was adopted by Council on 21 March 2018.

The purpose of the Strategy is to ensure that Kurri Kurri and Weston are well-positioned to benefit from major regional infrastructure and future urban growth and infill development, which are anticipated to occur in the wider District. The Strategy outlines a number of directions and actions relating to the District and these primarily form the basis for the Planning Proposal. Relevant to the Planning Proposal are the following key directions and actions of the Strategy.

##### Directions

- Create a compact settlement
- Minimise 'out of centre' commercial development
- Grow the Kurri Kurri Industrial Precinct
- Encourage housing diversity, density and affordability

The Proposal seeks to rectify several minor mapping anomalies to ensure the application of consistent land use zoning in the Kurri Kurri District and broader LGA. To achieve this, several spot rezonings have been identified and are detailed in the Proposal.

##### Actions

- A.3.5.12** Review the IN2 Light Industrial Zone Land Use Table with a view of encouraging a wider range of industrial related land uses.
- A.3.6.1** Investigate planning provisions that encourage greater diversity of residential accommodation in the District.
- A.3.6.3** Encourage increased density in accessible and unconstrained areas of the District.

#### ***2 Planning Proposal as best way to achieve to objectives***

A Planning Proposal is required to make the proposed changes to the LEP 2011.



## **Section B: Relationship to Strategic Planning Framework**

### **3 *Consistency with Objectives and Actions within Regional Strategies***

#### **Hunter Regional Plan 2036**

The Planning Proposal is consistent with the objectives and actions of the Hunter Regional Plan 2036. The Hunter Regional Plan provides the overarching framework to guide the NSW Government's land use planning priorities and decisions to 2036.

Relevant to the Planning Proposal are the directions of the Hunter Regional Plan to revitalise existing communities, create compact settlements and promote housing diversity. The Planning Proposal will achieve these outcomes by removing restrictive residential lot size controls in the LEP 2011, rectify mapping anomalies and expand the range of compatible of land uses in the IN2 Light Industrial Zone.

### **4 *Consistency with Council's Community Strategic Plan or other Local Strategic Plan***

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

There is no inconsistency between Council's Community Strategic Plan and the Planning Proposal.

The Cessnock 2023 Community Strategic Plan was endorsed by Council on 6 February 2013 and provides an outline of what the community has told Council it would like the LGA to look like by the year 2023.

The Community Strategic Plan establishes the following vision for the future of the Cessnock LGA:

*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.*

#### **City Wide Settlement Strategy (2010)**

There is no inconsistency between Council's City Wide Settlement Strategy and the Planning Proposal.

The City Wide Settlement Strategy 2010 sets out strategic directions that were used to inform the preparation of the Cessnock Local Environmental Plan 2011 and implement a number of the outcomes and actions arising from the former Lower Hunter Regional Strategy 2006. A fundamental action of the City Wide Settlement Strategy is the need to contain the urban footprint of the Cessnock LGA to that identified in the former Lower Hunter Regional Strategy 2006.

#### **Kurri Kurri District Strategy (2018)**

The proposed amendments are an outcome of the Kurri Kurri District Strategy, which was adopted by Council on 21 March 2018.

## 5 Consistency with State Environmental Planning Policies

An assessment of the Planning Proposal against the relevant SEPPs is provided in Table 1 below.

**Table 1: Relevant State Environmental Planning Policies**

SEPP	Relevance	Consistency and Implications
<b>SEPP 14 – Coastal Wetlands</b>	The aim of the SEPP is to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP 21 - Caravan Parks</b>	The SEPP provides for development for caravan parks.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP 30 - Intensive Agriculture</b>	The SEPP provides considerations for consent for intensive agriculture.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP 33 - Hazardous &amp; Offensive Development</b>	The SEPP provides considerations for consent for hazardous & offensive development.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP 36 - Manufactured Homes Estates</b>	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP 44 - Koala Habitat Protection</b>	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP 50 - Canal Estate Development</b>	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP 55 - Remediation of Land</b>	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP 62 - Sustainable Aquaculture</b>	The SEPP relates to development for aquaculture and to development arising from the rezoning of land and is of relevance for site specific rezoning proposals.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP 64 -</b>	The SEPP aims to ensure that	<b>Consistent.</b> Nothing in the

SEPP	Relevance	Consistency and Implications
<b>Advertising and Signage</b>	outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP 65 - Design Quality of Residential Development</b>	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP 70 – Affordable Rental Housing (Revised Schemes)</b>	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP Affordable Rental Housing 2009</b>	The aims of this Policy are as follows: (a) to provide a consistent planning regime for the provision of affordable rental housing, (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards, (c) to facilitate the retention and mitigate the loss of existing affordable rental housing, (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing, (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing, (f) to support local business centres by providing affordable rental housing for workers close to places of work, (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP Building Sustainability Index: BASIX 2004</b>	The SEPP provides for the implementation of BASIX throughout the State.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.

SEPP	Relevance	Consistency and Implications
<b>SEPP (Educational Establishments and Child Care Facilities) 2017</b>	The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP Exempt and Complying Development Codes 2008</b>	The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP Housing for Seniors or People with a Disability 2004</b>	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP Infrastructure 2007</b>	The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP Mining, Petroleum Production and Extractive Industries 2007</b>	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP Miscellaneous Consent Provisions 2007</b>	The aims of this Policy are as follows: (a) to provide that the erection of temporary structures is permissible with consent across the State, (b) to ensure that suitable provision is made for ensuring the safety of persons using temporary structures, (c) to encourage the protection of the environment at the location, and in the vicinity, of temporary structures by specifying relevant matters for consideration, (d) to provide that development comprising the subdivision of land, the erection of a building or the demolition of a building, to the extent to which it does not already require development consent under another environmental planning instrument, cannot be	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.

SEPP	Relevance	Consistency and Implications
	carried out except with development consent.	
<b>SEPP Rural Lands 2008</b>	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP State and Regional Development 2011</b>	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.
<b>SEPP Vegetation in Non-Rural Areas 2017</b>	The aims of this Policy are: (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.	<b>Consistent.</b> Nothing in the Planning Proposal impacts upon the operation of this SEPP.  If any of the land containing native vegetation is developed, requirements of the <i>Biodiversity Conservation Act 2016</i> will need to be considered at the development application stage, including the provision of offsets, if applicable. This is particularly true in relation to those sites identified as containing EEC.

## 6 Consistency with Section 117 Ministerial Directions for Local Plan Making

An assessment of the Planning Proposal against the relevant Section 117 Directions is provided in the table below.

**Table 2: Relevant Section 117 Ministerial Directions**

Ministerial Direction	Objective of Direction	Consistency and Implication
<b>1 EMPLOYMENT AND RESOURCES</b>		
1.1 Business and Industrial Zones	The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
1.2 Rural Zones	The objective of this direction is	<b>Inconsistent.</b> The Planning

Ministerial Direction	Objective of Direction	Consistency and Implication
	to protect the agricultural production value of rural land.	Proposal seeks to rezone several parcels of rural land; however, this is considered to be of minor significance as the affected rural land contains little or no primary production value given its size and proximity to urban area.
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
1.4 Oyster Aquaculture	The objectives of this direction are: (a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, (b) to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
1.5 Rural lands	The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes.	<b>Inconsistent.</b> The Planning Proposal seeks to rezone several parcels of rural land; however, this is considered to be of minor significance as the affected rural land contains little or no primary production value given its size and proximity to urban area.
<b>2 ENVIRONMENT AND HERITAGE</b>		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
2.4 Recreation Vehicle Areas	The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.

Ministerial Direction	Objective of Direction	Consistency and Implication
	from recreation vehicles.	
<b>3 HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</b>		
3.1 Residential Zones	The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
3.2 Caravan parks and Manufactured Home Estates	The objectives of this direction are: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.

Ministerial Direction	Objective of Direction	Consistency and Implication
	viable operation of public transport services, and (e) providing for the efficient movement of freight.	
3.5 Development Near Licensed Aerodromes	The objectives of this direction are: (a) to ensure the effective and safe operation of aerodromes, and (b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
3.6 Shooting Ranges	The objectives are: (a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
<b>4 HAZARD AND RISK</b>		
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
4.2 Mine Subsidence and Unstable	The objective of this direction is to prevent damage to life,	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to



Ministerial Direction	Objective of Direction	Consistency and Implication
Land	property and the environment on land identified as unstable or potentially subject to mine subsidence.	the objectives of the Ministerial Direction.
4.3 Flood Prone Land	<p>The objectives of this direction are:</p> <p>(a) 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, and</p> <p>(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p>	<p><b>Inconsistent.</b> The Planning Proposal seeks to rezone rural land in a flood planning area to residential. However, the inconsistency is considered minor and can be addressed through the development application process.</p> <p>Council has recently adopted a specific Development Control Plan Chapter relating to development on flood prone land. The Chapter provides information and development controls needed to prepare and assess development applications on flood prone land.</p>
4.4 Planning for Bushfire Protection	<p>The objectives of this direction are:</p> <p>(a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) to encourage sound management of bush fire prone areas.</p>	The Planning Proposal seeks to rezone land that is identified as bushfire prone. Consultation will occur with the NSW Rural Fire Service in relation to the Planning Proposal.
<b>5 REGIONAL PLANNING</b>		
5.10 Implementation of Regional Plans	The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	<p><b>Consistent.</b> The Hunter Regional Plan 2036 is applicable to the Cessnock LGA. The Hunter Regional Plan provides the overarching framework to guide the NSW Government's land use planning priorities and decisions to 2036.</p> <p>Relevant to the Planning Proposal are the directions of the Hunter Regional Plan to revitalise existing communities, create compact settlements and promote housing diversity. The Planning Proposal will achieve these outcomes by removing conflicting residential lot size controls in the LEP 2011, rectifying mapping anomalies and</p>

Ministerial Direction	Objective of Direction	Consistency and Implication
		expand the range of compatible of land uses in the IN2 Light Industrial Zone.
<b>6 LOCAL PLAN MAKING</b>		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
6.2 Reserving Land for Public Purposes	The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	<b>Consistent.</b> Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.

## Section C: Environmental, Social and Economic Impact

### 7 *Impact on Threatened Species*

According to information available to Council, none of the land to which the Planning Proposal relates contains threatened species.

### 8 *Environmental Impact*

#### Flooding

- Proposed amendment 3(b) seeks to rezone certain Land at Weston from RU2 Rural Landscape Zone to R2 Low Density Residential Zone and amend the Lot Size Map. The extent of the flood planning area is indicated in the map below:



Site 3(b) is located on the fringe of the flood planning area; however, flood risk should not necessarily preclude the application of a residential zone if a plan exists to manage and control development within that land and it is considered that the character of the land, given its location, is more closely aligned with a residential zoning.

On 15 November 2017, Council adopted a specific Development Control Plan Chapter relating to development on flood prone land. The Chapter provides information and development controls needed to prepare and assess development applications on flood prone land.

#### Bushfire Risk

The Planning Proposal seeks to rezone land that is identified as bushfire prone. Consultation will occur with the NSW Rural Fire Service in relation to the Planning Proposal in accordance with Ministerial Direction 4.4.

## **9 Social and Economic Impacts**

The Planning Proposal is not of a scale that will create any significant adverse social impacts.

## **Section D: State and Commonwealth Interests**

### **10 Adequate Public Infrastructure**

The Planning Proposal wholly relates to serviced land. The Proposal is not of a scale that would create a significant additional burden on existing reticulated services.

### **11 Consultation with State and Commonwealth Authorities**

Formal consultation with government agencies and the community will be undertaken as directed by the Gateway determination. Consultation is recommended with the following statutory authorities and agencies:

<b>Statutory Authority or Agency</b>	<b>Reason</b>
NSW Aboriginal Land Council	To determine whether any of the land identified in the Planning Proposal contains significant items of Aboriginal heritage value.
NSW Rural Fire Services	The Planning Proposal seeks to rezone land that is identified as bushfire prone. Consultation must occur with the NSW Rural Fire Service in accordance with Ministerial Direction 4.4.

## **PART 4: MAPPING**

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

### **Lot Size Map Sheets**

- 1720\_COM\_LSZ\_005A\_020\_20150518
- 1720\_COM\_LSZ\_006C\_040\_20160408
- 1720\_COM\_LSZ\_006CA\_010\_20160121
- 1720\_COM\_LSZ\_006D\_040\_20150518
- 1720\_COM\_LSZ\_009A\_040\_20150518
- 1720\_COM\_LSZ\_009AA\_010\_20141215

### **Land Zoning Map**

- 1720\_COM\_LZN\_009A\_040\_20150318
- 1720\_COM\_LZN\_009AA\_010\_20141215

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## **PART 5: COMMUNITY CONSULTATION**

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

The proposed consultation strategy for this Planning Proposal includes:

- Direct notification of affected landowners of the public exhibition;
- Notification in the Cessnock Advertiser, locally circulated newspaper;
- Hard copy display at Council's Administration Building (Help & Information Centre); and Cessnock and Kurri Kurri Public Library; and
- Web based notification on Council's website at [www.cessnock.nsw.gov.au](http://www.cessnock.nsw.gov.au)

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## **PART 6: PROJECT TIMELINE**

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The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. It is estimated that the proposed amendment to the Cessnock Local Environmental Plan 2011 will be completed by December 2018.

## PROJECT TIMELINE

	Apr 2018	May 2018	Jun 2018	Jul 2018	Sep 2018	Nov 2018	Dec 2018
<b>STAGE 1</b> Submit to DoP&E – Gateway Panel consider Planning Proposal							
<b>STAGE 2</b> Receive Gateway Determination							
<b>STAGE 3</b> Preparation of documentation for Public Exhibition							
<b>STAGE 4</b> Public Exhibition							
<b>STAGE 5</b> Review/consideration of submission received							
<b>STAGE 6</b> Report to Council							
<b>STAGE 7</b> Forward Planning Proposal to DoP&E with request the amendment be made							



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## **Appendix 1: Council Report and Minutes (dates)**

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All Council reports and minutes are accessible from Council's website:  
<http://www.cessnock.nsw.gov.au/council/meetings>.

### **Report to Ordinary Meeting of Council – 4 April 2018**

[https://www.cessnock.nsw.gov.au/resources/file/Agendas/2018/OC\\_04042018\\_AGN\\_2449.PDF](https://www.cessnock.nsw.gov.au/resources/file/Agendas/2018/OC_04042018_AGN_2449.PDF)

### **Minutes of Ordinary Meeting of Council – 4 April 2018**

[https://www.cessnock.nsw.gov.au/resources/file/Minutes/2018/OC\\_04042018\\_MIN\\_2449.PDF](https://www.cessnock.nsw.gov.au/resources/file/Minutes/2018/OC_04042018_MIN_2449.PDF)