



PLANNING PROPOSAL

Amendment to the *Cessnock Local Environmental Plan 2011*

Cessnock Commercial Precinct

Version 4

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Background

This planning proposal is substantially different from the originally submitted proposal. Irresolvable objections by Roads and Maritime Services and the *former* Office of Environment and Heritage agencies have driven Council to shift its approach to some items. In addition, Council has resolved to omit several items from this planning proposal.

The following table lists the original items and provides an indication of the status of each.

Original planning proposal	Revised planning proposal	Reason
Rezone B4 Mixed Use to B3 Commercial Core – Lot 22 DP 579269, Lot 4, 7 & 8 DP 38740, Lot 56 DP 614109, Lot 1 DP 112703, Lot 1 DP 721821, Lot 1 DP 979574, part of Lot 1 DP 1097308 and part of Lot 1 DP 340072	Remove this component from planning proposal.	This is an area of B4 along Wollombi Road. There are few differences in land-use permissibility between the B4 and B3 zones and many of these are inconsequential. There is no advantage to rezone this to B3 Commercial Core from the B4 Mixed Use zone.
Rezone RE1 Public Recreation to B4 Mixed Use – Lot 16 DP 48151 and Lot 261 DP 666805	Remove from planning proposal.	<p>According to the Black Creek Stage 1 Flood Study the site is flood affected and there is no flood free access to the site. Hazard categories range from H1 (generally safe for vehicles, people and buildings) to H3 (Unsafe for vehicles, children and the elderly).</p> <p>Ministerial Direction 4.3(5) states: “A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.” A planning proposal may be inconsistent with this direction if the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005.</p> <p>If this item was retained in the planning proposal there is risk that it will significantly delay the proposal. If Council wishes to pursue the rezoning of this site then a detailed site flood study will be undertaken and a site specific planning proposal submitted for this site. Therefore, this item has been removed.</p>
B3 Commercial Core to RE1 Public Recreation – Part of Lot 1 DP 450874, part of Lot 11 DP 613614, part of Lot 1 DP 1114018, part of	Remove all components from planning proposal except Sternbeck Park.	The lots highlighted in yellow are lots adjoining the drainage channel and the proposed extension of Charlton Street to Wollombi Road.

Original planning proposal	Revised planning proposal	Reason
Lot H DP 384894, part of Lot G DP 347929, part of Lot F DP 354733, part of Lot D DP 339311, part of Lot E DP 384895, part of Lot 2 DP 1114018, part of Lot 41 DP 617668, part of Lot 30 DP 1013326, part of Lot 2 DP 1013378, part of Lot 1 DP 1100097 and Lot 1 DP 1013378	B3 Commercial Core to RE1 Public Recreation – Part of Lot 1 DP 450874 (Sternbeck Park).	<p>There is not enough information about the final design of the road extension in this location at this stage. This will ultimately affect the area of land to be rezoned as RE1 Public Recreation. This has been reconsidered and it is premature to pursue this at this stage.</p> <p>Similarly, the proposed rezoning of land (in part) owned by Lederer Group (Lederer Plaza) and Hunter Valley Investments (Coles)(in green) to RE1 Private Recreation was included to reflect the Cessnock Commercial Precinct Master Plan <i>town square</i> concept. However, these elements have not been designed in detail at this stage and it is likely that the ultimate footprint will change. Therefore these have been omitted from this planning proposal and subject to a future planning proposal when detailed design for these spaces is completed. Furthermore, these items have not been discussed with the landowners and it is likely that they will raise significant objection to these proposals as this proposal also identifies part of these lots for acquisition.</p>
B4 Mixed Use to RE1 Public Recreation – part of Lot 1 DP577260 and Lot 7009 DP 1030585 (TAFE site).	Remain in planning proposal.	
Amend the Floor Space Ratio Map pertaining to land within the precinct from a Floor Space Ratio of 1.5:1 or no Floor Space Ratio to a Floor Space Ratio of 1.5:1, 2.0:1 and 2.5:1	Remove all components from planning proposal and defer to controls already in the DCP.	OEH have objected to this (and other) provisions where they infer a higher development potential. However, these provisions already exist in the DCP. Therefore, these have been removed from the planning proposal and assessment will be undertaken in accordance with the existing provisions in the development control plan.
Amend the Height of Building Map pertaining to land within the precinct from a 12m or no Height of Building control to a Height of Building control of 12m, 15m, 18m and 21m;	See above	See above
Amend the Land Reserved for Acquisition Map to include Land Reserved for Acquisition within the precinct for the purposes of	Remove the Snape to James Street extension from planning proposal.	There are three items nominated in the planning proposal for acquisition that are proposed to be removed.

Original planning proposal	Revised planning proposal	Reason
Classified Road (SP2) and Local Open Space (RE1).		<ol style="list-style-type: none"> 1. RMS is nominated as the acquisition authority for a road link between James Street and Snape Street. RMS has stated that they will not be the authority for this item. Council could become the acquisition authority; however, if council wishes to achieve the link then it could be conditioned on the DA. 2. The areas proposed on both the Lederer Group and Hunter Valley Investments land that are also proposed to be rezoned to RE1 Private Recreation. For the reasons described above these areas have been omitted from the planning proposal.
Permit with consent, residential flat buildings (RFBs) in Zone B3 Commercial Core.	Remove from planning proposal.	OEH have argued that RFBs should not be included in the B3 Commercial Core zone because most of the B3 zone in Cessnock City Centre is flood affected. RFBs risk introducing higher intensity residential uses in a flood affected area. Council would be justified to argue this further as there are areas that are not affected by flooding that could accommodate RFBs. However, shop-top housing is already permitted in the B3 zone and is a more appropriate, higher-density, residential outcome as the residential component must be above commercial or retail premises.
Introduce a new clause to require all residential flat buildings in zone B3 Commercial Core to be developed only as part of a mixed use development.	Remove from planning proposal.	This would be a redundant clause because it equates to shop-top housing if the uses are vertically stacked. The Cessnock City Centre is surrounded by an extensive area of the B4 Mixed Use zone. It is appropriate that alternate mixed-use typologies occur in this zone.
Introduce a new clause to encourage design excellence on key sites identified within the Cessnock Commercial Precinct.	Remove from planning proposal and amend the existing 'catalyst sites' controls in the Cessnock Development Control Plan – E16 – Cessnock Commercial Precinct to reflect the proposed 'Design Excellence' clause .	<p>A design excellence clause is a nice aspiration for Cessnock. However, the modest development climate coupled with a proactive Council is unlikely to provide the conditions necessary for these concessions to be taken up.</p> <p>It is also argued that there is sufficient rigour in the existing assessment system to encourage good development outcomes, particularly where residential flat</p>

Original planning proposal	Revised planning proposal	Reason
		<p>buildings/shop-top housing is proposed.</p> <p>The Cessnock Commercial Precinct DCP already identifies 'Catalyst sites' and additional design guidance for these sites, and other sites. Rather than burdening the LEP with additional local clauses, it is proposed to accommodate the requirements in the DCP. This will save having to read between the two documents.</p> <p>Additional local clauses and development controls increase the complexity of the local regulatory system. This needs to be balanced against the anticipated benefits of the additional controls.</p>
Introduce Key Sites mapping in association with the introduction of the design excellence clause.	Remove from planning proposal.	<p>This would no longer be necessary if the design excellence clause is moved from the proposed LEP to the DCP. The catalyst sites are already listed in the DCP including those listed as key sites and subject to the proposed design excellence clause.</p>

PART 1: OBJECTIVES and OUTCOMES

The objectives of the proposed LEP are:

- To grow the Cessnock Commercial Precinct as the strategic centre and major gateway to the vineyards district;
- To allow and encourage appropriate medium-density, mixed-use development within Cessnock Commercial Precinct;
- To achieve a high standard of quality for future buildings within the Cessnock Commercial Precinct;
- To promote urban growth within the Cessnock Commercial Precinct that does not adversely impact its heritage character; and
- To provide a simple and effective regulative framework for development in the Cessnock Commercial Precinct.

PART 2: EXPLANATION of PROVISIONS

The objective of this Planning Proposal will be achieved by amending the Cessnock LEP 2011 in the following manner:

1. Rezone from:
 - B3 Commercial Core to RE1 Public Recreation – Part of Lot 1 DP 450874 (Sternback Park)
 - B4 Mixed Use to RE1 Public Recreation – part of Lot 1 DP 577260 (TAFE Park) and Lot 7009 DP 1030585.
2. Remove the maximum floor space ratio mapping controls for the Cessnock Commercial Centre from the Cessnock Local Environmental Plan;
3. Remove the maximum height of buildings mapping controls for the Cessnock Commercial Precinct from the Cessnock Local Environmental Plan;
4. Amend the Land Reserved for Acquisition Map to include Land Reserved for Acquisition within the precinct for the purposes of Local Road (SP2) and Local Open Space (RE1);

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 Proposal

1 Resulting from a Strategic Study or Report

The planning proposal is the result of strategic investigations into Cessnock City's role as regionally significant strategic centre.

The strategic studies and reports leading to this planning proposal are:

- Hunter Regional Plan
- Greater Newcastle Metropolitan Plan
- Cessnock CBD Masterplan
- Cessnock Commercial Precinct Background Report.

Hunter Regional Plan

The Hunter Regional Plan identifies Cessnock City as a regionally significant strategic centre seeking concentrated growth in a mix of uses that will support economic and population growth.

More specifically, the Hunter Regional Plan prioritises the following for the Cessnock strategic centre:

- the investigation of opportunities to leverage the heritage character of the centre, and the growth of wine tourism in Pokolbin; and
- implementation of the Cessnock CBD masterplan.

Greater Newcastle Metropolitan Plan (GNMP)

The GNMP places Cessnock in the metro frame. The GNMP states that Cessnock "...will provide local housing and jobs opportunities...", and acknowledges the role of the TAFE and vineyards to the continued success of Cessnock.

It also recognises that Cessnock has adopted place-based strategies for urban renewal and revitalisation focussed on bringing people together.

This planning proposal seeks to implement the strategies.

Cessnock CBD Masterplan

Council adopted the Cessnock CBD Masterplan on 12 December 2012. The Masterplan outlines a strategy towards revitalising the Cessnock CBD through improved liveability, aesthetics and investment opportunities. It recommends urban infrastructure

improvements such as key road realignments, improved pedestrian links and optimised public car parking, along with economic promoting initiatives such as higher densities along Vincent Street, and the promotion of weekend markets and events to draw new visitors to the CBD.

Cessnock Commercial Precinct Background Report

The Cessnock Commercial Precinct Background Report underpins a Development Control Plan and Public Domain Plan for the Cessnock Commercial Precinct that implements actions identified in the Cessnock CBD Masterplan. The report recommends detailed improvements to the Cessnock Commercial Precinct, including height of building controls, building setbacks, street activation and catalyst site land uses. These recommendations were informed by a review of development options for the precinct based on development supply, demand and feasibility.

2 Planning Proposal as best way to achieve to objectives

This planning proposal is substantially different from that originally lodged. The proposed changes significantly simplify the proposal; however, still achieves the objectives of the proposal.

Council is committed to maintaining a simple and effective regulatory framework. In revising this planning proposal, Council has employed other mechanisms to achieve the outcomes of the original planning proposal or omitted those elements that are premature or no longer required.

Additional planning support for the precinct is provided by the Cessnock Commercial Precinct Development Control Plan, Public Domain Plan and Section 7.12 Plan. Together these provide a comprehensive suite of development guidelines and strategies to reinforce Cessnock as a major regional centre.

Shop-top housing verses Residential Flat Buildings

The original planning proposal sought to introduce residential flat buildings (RFBs) to the permitted with consent uses in the B3 Commercial Core zone. OEH's objection to this item has caused Council to reassess the merit of including this item in the zone when shop-top housing is already permitted with consent. Council had also intended to introduce a local clause that required RFBs to be developed as mixed use developments to activate the streetscape with commercial floor space.

Shop-top housing is already permitted in the B3 Commercial Core zone and is considered a more appropriate residential built form in the zone because it requires the residential component to be built over retail or business premises. Thereby achieving the residential land use and the mixed-use purpose of the proposed additional local clause.

Built Form

Council's existing Cessnock Commercial Precinct DCP Chapter already contains development controls for heights of building (HOB) and floor space ratio (FSR). These are currently inconsistent with the controls contained in the LEP.

OEH's objection to increasing intensity of development within the precinct because of flooding concerns has caused Council to reconsider the merit of including these controls in the LEP when they already exist in the DCP. The purpose of the FSR and HOB

controls is to guide development and provide certainty about built form outcomes. It is argued that retaining these controls in the DCP provides a commensurate level of guidance and certainty for development in the Cessnock Commercial Precinct. The benefit of this approach is that it removes OEHS objection pathway and will allow Council to continue to determine development outcomes on merit.

Development Incentives and Design Excellence

A recent floor space survey undertaken by SGS Economics in 2016 identified that the Commercial Floor Space within the Cessnock Commercial Precinct was assessed to be in oversupply in 2016 with 171,960 m² of commercial floor space supplying a demand of 157,106 m². With a projected demand of 194,505 m² in 2041, the commercial floor space currently supplied within the Cessnock commercial precinct is sufficient to supply demand until approximately 2026.

There is limited feasibility for higher density development in the Cessnock Commercial Precinct, evidenced by the lack of uptake on achievable development densities. Major constraints to higher density development include the fragmentation of existing land or the cost of acquiring land and its existing improvements. A detailed review of individual sites throughout the precinct identified catalyst sites that would improve the density and quality of development throughout the broader precinct. In order to incentivise development on these sites council has included car parking concessions in the DCP.

The original planning proposal proposed to include a local clause in the LEP to further incentivise development. Because it is proposed to maintain the HOB and FSR controls for the Cessnock Commercial Centre in the DCP rather than amend the LEP it is more appropriate to include in the DCP with the other incentive clauses.

Road Network

The original planning proposal referenced three road extensions in the Cessnock Commercial Precinct. All of these will require the acquisition of land. Council is identified as the acquisition authority for Keene Street and Charlton Street extensions. RMS was identified as the acquisition authority for the Snape Street to James Street connection.

RMS have stated that they will not be the acquisition authority for the link. Therefore, if council wishes to pursue this link then they will have to be the acquisition authority or alternatively condition any development application to provide the link. The preferred option is to amend the development control plan to include the link and condition any future development application to provide the link. Therefore, it is proposed to remove the link from the land acquisition maps of the LEP.

The remaining items, Keene and Charlton Street extensions will remain in the planning proposal.

Other land acquisition items

In addition to the road extensions there are two other items identified for acquisition. Each of these affect land owned by the Lederer Group (Lederer) and Hunter Valley Investments (Coles). The land is required to fully create the town square. While the town square is illustrated in the adopted Cessnock Commercial Centre Master Plan and Public Domain Plan, detailed design for this project and negotiations with the landowners has not yet been undertaken. Therefore, it is considered premature to pursue these items. Given the sensitivity of rezoning and flagging acquisition of part of these properties, it is considered that these would be more appropriately pursued during

the detailed design of the project in negotiation with the affected landowners. Therefore, it is proposed to remove these two items from the planning proposal.

Section B: Relationship to Strategic Planning Framework

3 *Consistency with Objectives and Actions within Regional Strategies*

Hunter Regional Plan

This planning proposal will contribute to Cessnock City's role as a strategic centre, providing for concentrated growth in a mix of uses that will support economic and population growth.

More specifically, the planning proposal will implement a series of actions identified in the Cessnock CBD masterplan and seek to leverage from the heritage character of the centre, and the growth of wine tourism in Pokolbin.

Greater Newcastle Metropolitan Plan (GNMP)

The GNMP places Cessnock in the metro frame. The GNMP states that Cessnock "...will provide local housing and jobs opportunities..", and acknowledges the role of the TAFE and vineyards to the continued success of Cessnock.

It also recognises that Cessnock has adopted place-based strategies for urban renewal and revitalisation focussed on bringing people together.

This planning proposal seeks to implement the strategies.

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

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

Cessnock City Council's Community Strategic Plan (Our People, Our Place, Our Future), was developed by Council following extensive local community consultation. This planning proposal is consistent with the following objectives of the plan:

Objective 2.1 - Diversifying local business options:

- Our local government area is attractive and supportive of business.
- We have a diversity of business and industries across the local government area.
- Our planning controls provide for adequate industrial and commercial land.

Objective 2.2 - Achieving more sustainable employment opportunities:

- We have learning opportunities for people of all ages.
- We have employment opportunities in the local government area.

Objective 2.3 - Increasing tourism opportunities and visitation in the area:

- We have a range of diverse visitor experiences across the entire local government area.
- Our local government area is attractive to visitors.

Objective 3.2 - Better utilisation of existing open space:

- Our open spaces are distributed where people live.
- We have green corridors connecting our open space areas.
- Our open spaces have suitable amenities and plenty of shade.

Objective 4.1 – Better Transport Links

- We have access to a range of public and community transport within the local government area.
- We have access to a range of public and community transport beyond the local government area.

Objective 4.2 – Improving the Road Network

- We have a high quality road network.

Cessnock City Wide Settlement Strategy (2010)

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

The Cessnock City Wide Settlement Strategy identifies the city of Cessnock as the major regional centre for the LGA. This Planning proposal supports the Cessnock City Wide Settlement Strategy's vision for Cessnock.

5 Consistency with State Environmental Planning Policies

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

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 1 - Development Standards	The SEPP makes development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 14 – Coastal Wetlands	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 15 - Rural Land Sharing Communities	The SEPP provides for multiple occupancy development, with council consent, in rural and non-urban zones, subject to a list of criteria in the policy.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 19 – Bushland in Urban Areas	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

SEPP	Relevance	Consistency and Implications
SEPP 21 - Caravan Parks	The SEPP provides for development for caravan parks.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 26 – Littoral Rainforests	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 29 – Western Sydney Recreation Area	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 36 - Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 39 – Spit Island Bird Habitat	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 44 - Koala Habitat Protection	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 47 – Moore Park Showground	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 50 - Canal Estate Development	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 52 – Farm Dams and Other works in Land and Water Management Plan Areas	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

SEPP	Relevance	Consistency and Implications
SEPP 55 - Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 59 – Central Western Sydney Regional Open Space and Residential	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 62 - Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from the rezoning of land and is of relevance for site specific rezoning proposals.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 64 - Advertising and Signage	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 65 - Design Quality of Residential Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	This planning proposal is consistent with the aims and provisions of this SEPP. In addition, the planning proposal will introduce design excellence to key sites within the Cessnock Commercial Precinct that will act as catalysts for high quality design in residential flat buildings. Approvals for development on key sites will require review and approval from a design review panel involving 3 or more experts in architecture, urban design or landscape architecture.
SEPP 70 – Affordable Rental Housing (Revised Schemes)	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 71 – Coastal Protection	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP Affordable Rental Housing 2009	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	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.

SEPP	Relevance	Consistency and Implications
	<p>rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,</p> <p>(c) to facilitate the retention and mitigate the loss of existing affordable rental housing,</p> <p>(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,</p> <p>(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,</p> <p>(f) to support local business centres by providing affordable rental housing for workers close to places of work,</p> <p>(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.</p>	
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	This planning proposal is consistent with the aims and provisions of this SEPP.
SEPP Exempt and Complying Development Codes 2008	The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.

SEPP	Relevance	Consistency and Implications
SEPP Housing for Seniors or People with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Infrastructure 2007	The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	This planning proposal is consistent with the aims and provisions of this SEPP. Further, the planning proposal is supported by a public domain plan that provides a framework for delivering improvements to public domain infrastructure.
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Kurnell Peninsula) 1989	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP Major Development 2005	The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels (JRPPs) and classes of regional development to be determined by JRPPs.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Miscellaneous Consent Provisions 2007	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,	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.

SEPP	Relevance	Consistency and Implications
	(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 carried out except with development consent.	
SEPP Penrith Lakes Scheme 1989	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP Rural Lands 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 53 Transitional Provisions 2011	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP (Sydney Drinking Water Catchment 2011)	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP Sydney Region Growth Centres 2006	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Three Ports_ 2013	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Urban Renewal) 2010	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Western Sydney Employment Area) 2009	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Western Sydney Parklands) 2009	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

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

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

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Objective of Direction	Consistency and Implication
1. EMPLOYMENT AND RESOURCES		
a. 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.	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.
b. Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.
c. 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.	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.
d. Oyster Aquaculture	<i>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.</i>	<i>Not Applicable to LGA</i>
e. Rural lands	The objectives of this direction are to:	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.

Ministerial Direction	Objective of Direction	Consistency and Implication
	<p>(a) protect the agricultural production value of rural land,</p> <p>(b) facilitate the orderly and economic development of rural lands for rural and related purposes.</p>	
2. ENVIRONMENT AND HERITAGE		
a. Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.
b. Coastal Protection	<i>The objective of this direction is to implement the principles in the NSW Coastal Policy.</i>	<i>Not Applicable to LGA</i>
c. Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.
d. Recreation Vehicle Areas	The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
a. Residential Zones	<p>The objectives of this direction are:</p> <p>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>(c) to minimise the impact of residential development on the environment and resource lands.</p>	This planning proposal is in support of the objectives of this Ministerial Direction.
b. Caravan parks and Manufactured Home Estates	<p>The objectives of this direction are:</p> <p>(a) to provide for a variety of housing types, and</p>	The Planning Proposal is considered to be consistent with this direction.

Ministerial Direction	Objective of Direction	Consistency and Implication
	(b) to provide opportunities for caravan parks and manufactured home estates.	
c. Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Home occupations are permitted without consent in the proposed B3 zone.
d. Integrating Land Use and Transport	<p>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:</p> <ul style="list-style-type: none"> (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 viable operation of public transport services, and (e) providing for the efficient movement of freight. 	<p>This Planning Proposal supports the objectives of this direction, seeking to improve the transport network for vehicles, pedestrians and cyclists.</p> <p>This Planning Proposal aims to:</p> <ul style="list-style-type: none"> • Encourage pedestrian through site links at strategic locations within the city; • Enable a bypass route for vehicles travelling east/west and wishing to bypass Cessnock city; • Alleviate cumulative traffic impacts along Wollombi Road with the proposed city bypass route; • Reduce travel demand with the strategic location of higher urban densities in well serviced locations; • Reduce vehicle dependency by encouraging and prioritising pedestrian movement in the city; and • Improve the city's overall traffic network.
e. Development Near Licensed Aerodromes	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> (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 	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.

Ministerial Direction	Objective of Direction	Consistency and Implication
	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.	
f. 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.	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.
4. HAZARD AND RISK		
a. 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	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.
b. Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	The land is partially within the Tomalpin Mine Subsidence District. This District was proclaimed in 1 July 2017. Consultation regarding mine subsidence and unstable land has been undertaken with the Subsidence Advisory NSW in line with the Gateway determination. While the majority of the planning proposal is outside the District, development in some areas would be likely subject to geotechnical investigations and engineering mitigation measures. The planning proposal does not seek to increase development in areas subject to the Mine Subsidence District, but rather limit development by way of

Ministerial Direction	Objective of Direction	Consistency and Implication
		height and floor space ratio controls. The only exception is that part of the affected land is proposed to be zoned SP2 Infrastructure for acquisition for the purpose of an alternate regional route to facilitate traffic movement through the city centre.
c. Flood Prone Land	The objectives of this direction are: (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 (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.	The proposal to rezone Lot 264 DP666805 from RE1 Public Recreation to B4 Mixed Use has been removed from this Planning Proposal. Therefore, this planning proposal is now consistent with this ministerial direction.
d. Planning for Bushfire Protection	The objectives of this direction are: (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 (b) to encourage sound management of bush fire prone areas.	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.
5. REGIONAL PLANNING		
a. Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes, and actions contained in regional strategies.	This Planning Proposal will reinforce Cessnock as Strategic Centre providing higher density commercial and residential development that supports but does not dominate or hinder the City from functioning as a higher order commercial / service centre.
b. Sydney Drinking Water Catchment	<i>The objective of this Direction is to protect water quality in the Sydney drinking water catchment.</i>	<i>Not Applicable to LGA</i>

Ministerial Direction	Objective of Direction	Consistency and Implication
c. <i>Farmland of State and Regional Significance on the NSW Far North Coast</i>	<p><i>The objectives of this direction are:</i></p> <ul style="list-style-type: none"> <i>(a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre,</i> <i>(b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and</i> <i>(c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.</i> 	<i>Not Applicable to LGA</i>
d. <i>Commercial and Retail Development along the Pacific Highway, North Coast</i>	<p><i>The objectives for managing commercial and retail development along the Pacific Highway are:</i></p> <ul style="list-style-type: none"> <i>(a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route;</i> <i>(b) to prevent inappropriate development fronting the highway</i> <i>(c) to protect public expenditure invested in the Pacific Highway,</i> <i>(d) to protect and improve highway safety and highway efficiency,</i> <i>(e) to provide for the food, vehicle service and rest needs of travellers on the highway, and</i> <i>(f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.</i> 	<i>Not Applicable to LGA</i>
e. <i>Development in the vicinity of Ellalong, Paxton and Millfield</i>	<i>(Revoked 18 June 2010)</i>	<i>No longer applicable to the LGA.</i>

Ministerial Direction	Objective of Direction	Consistency and Implication
(Cessnock LGA)		
f. Sydney to Canberra Corridor	(Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable to LGA
g. Central Coast	(Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable to LGA
h. Second Sydney Airport: Badgerys Creek	The objective of this direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.	Not Applicable to LGA
i. North West Rail Link Corridor Strategy	The objectives of this direction are to: (a) promote transit-oriented development and manage growth around the eight train stations of the North West Rail Link (NWRL) (b) ensure development within the NWRL corridor is consistent with the proposals set out in the NWRL Corridor Strategy and precinct Structure Plans.	Not Applicable to LGA
j. Implementation of Regional Strategies	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>This Planning Proposal will reinforce Cessnock as a regionally significant strategic centre seeking concentrated growth in a mix of uses that will support economic and population growth.</p> <p>More specifically, this Planning Proposal implements actions identified in the Cessnock CBD Masterplan in accordance with the priorities of the Hunter Regional Plan.</p>
6. LOCAL PLAN MAKING		
a. Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.
b. Reserving Land for Public Purposes	The objectives of this direction are: (a) to facilitate the provision of public services and facilities	Nothing in this Planning Proposal is inconsistent with the objectives of this direction.

Ministerial Direction	Objective of Direction	Consistency and Implication
	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.	
c. Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	This revised planning proposal seeks to remove the unnecessarily restrictive site specific planning controls that were originally proposed including: <ul style="list-style-type: none"> • The local clause requiring RFBs to be part of a mixed use development. The same outcome can be achieved by shop-top housing which is already permitted with consent in the B3 and B4 zone. • The local design excellence clause is also proposed to be included in the DCP rather than the LEP. • It is proposed to completely remove the FSR and HOB controls for the centre from the LEP and maintain these controls (that are already) in the DCP.
7. Metropolitan Planning		
a. <i>Implementation of A Plan for Growing Sydney</i>	<i>The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.</i>	<i>Not Applicable to LGA</i>

Section C: Environmental, Social and Economic Impact

7 Environmental Impact

This Planning Proposal applies to a highly urbanised area of Cessnock. Consequently, the Planning Proposal would not result in the isolation, fragmentation or removal of any areas of habitat for significant or threatened species.

8 Social and Economic Impacts

Social and economic benefits of the Planning Proposal include:

- Short term construction employment for construction of the development;
- Ongoing viability of Cessnock Commercial Precinct because of greater vibrancy, patronage and offer.

Section D: State and Commonwealth Interests

9 Adequate Public Infrastructure

There is adequate public infrastructure in the Cessnock City Centre to accommodate anticipated growth and development facilitated by the planning proposal.

10 Consultation with State and Commonwealth Authorities

The gateway determination required council to consult with the following agencies before exhibition:

1. Roads and Maritime Services,
2. the former Office of Environment and Heritage, and
3. the Mines Subsidence Authority.

OEH and RMS have raised significant issues that have been largely addressed in this planning proposal.

Roads and Maritime Services

RMS made the following comments about the planning proposal and the accompanying traffic and transport report prepared by Bitzios. Most of RMS' comments relate to future works and approvals. The planning proposal simply seeks to identify land for potential acquisition for the purpose of *Clause 5.1 Relevant acquisition authority* of the Cessnock Local Environmental Plan 2011. It does not propose to construct new roads. Therefore, many of RMS' comments are irrelevant to this planning proposal and should be addressed at some later stage if Council intends to construct these road links.

- *The first assumption made in the report is that a number of new roads will be in place including a ring road around the CBD along with a bypass of Weston and a new interchange on the Hunter Expressway. I am not aware of any RMS involvement in the investigation into these new roads and what impact that they would have on traffic through Cessnock. No detail has been provided as to how these road would be funded – if they are not funded, it would not be appropriate to investigate other changes on the assumption this infrastructure would already be in place.*
- *Given the above, the modelling would need to be amended to reflect current traffic conditions before we would consider commenting further. We would also want to ensure the base model is calibrated correctly before proceeding to investigate alternate arrangements.*
- *The changes for Phases 1 to 4 are all on local roads. However, the intersections of Vincent Street with Cooper Street and Hall Street should be modelled without all of the previously mentioned assumptions to ensure there is no negative impact on the State road network.*
- *Phase 5 creates another leg at a highly congested / highly constrained part of the network. Very little justification has been provided for proposing this new link. The modelling (even with the above assumptions in place) indicates a significant decrease in performance for some of the movements on the State road network. It is unlikely that this proposal would be supported by Roads and Maritime due to the impacts on the State road network.*

Response: The planning proposal does not bypass any requirement for Council to seek approval from RMS for any works that affect the State Road Network. Any future approvals for road works that affect the State Road Network will be sought in consultation with RMS.

- *Phase 6 is the proposed southern bypass link. This proposal would be a local road which is not likely to significantly impact on the State road network. The intersection of Vincent Street and Aberdare Road/Snape Street should be modelled without all of the previously mentioned assumptions to ensure there is no negative impact on the State road network.*

Response: Council has removed this component of the planning proposal.

Office of Environment and Heritage

OEH has raised some significant issues around flooding in the Cessnock City Centre and in particular the potential intensification of residential uses. The issues raised by OEH are listed below and italics.

- *The Cessnock CBD is highly flood constrained as shown in the Black Creek (Cessnock City) Floodplain Risk Management Study and Plan 2015. Flooding has recently occurred in the areas subject to the planning proposal with high hazard flooding in 2007, 2013 and 2015.*

The planning proposal is not supported on flooding grounds because it is inconsistent with the objectives of the section 117 directions. The planning proposal has not taken into account the flood hazard or flood impacts and the proposed changes to the LEP are not compatible with the existing flood hazard in this area. Council is advised that due consideration of flood constraints must underpin proposals of this type. OEH cannot support planning proposals which would result in increased risk to life and/or increase in flood damages.

- *Rezoning of RE1 land to B4 zoning is not supported. (The Pool site)*

Response: This item has been removed from the planning proposal.

- *The proposed increase in residential use of the flood affected area is not supported and the proposed increase in floor space ratio [FSR] and building height [HOB] is also not supported.*

Response: There are three components to this planning proposal that relate to increasing residential development in the town centre.

1. The first is the proposed addition of residential flat buildings (RFBs) to the permitted with consent use of the B3 Commercial Core land-use table. Council is no longer pursuing this component of the planning proposal. Shop-top housing (STH) is already a permitted with consent use in the B3 Commercial Core zone and is considered an appropriate residential land use in the Cessnock City Centre. In addition, much of the land surrounding the commercial core is zone B4 Mixed use where both RFBs and STH are permitted with consent. Any development in flood affected areas for either of these land-uses will be subject to the relevant flooding considerations.
2. The other two components, the proposed increased FSR and HOB, have been omitted from this planning proposal. These controls *already exist* in the Cessnock Commercial Precinct Development Control Plan and will provide the necessary *guidance* to direct

development in the city centre. The planning proposal has been amended to remove all FSR and HOB controls from the LEP that apply to the Cessnock City Centre. Any development in flood affected areas will be subject to the relevant flooding considerations.

- *Increased development within the proposal area should be undertaken in a manner that it doesn't result in increased government spending on flood mitigation measures.*

Response: Noted. Any development in flood affected areas will be subject to the relevant flooding considerations that will be assessed as part of any development application in the Cessnock City Centre.

- *New development on existing commercial sites must be consistent with the level of flood risk and not increase the level of flooding.*

Response: Noted. Any development in flood affected areas will be subject to the relevant flooding considerations.

- *Development in floodways is not permitted. Consideration should be given to rezoning of floodways to E3 – Environmental management to ensure that their essential function is not changed.*

Response: Adequate controls exist to ensure that incompatible development does not occur in floodways without zoning the floodway E3 Environmental Management.

- *Any proposed changes to infrastructure or removal of flood storage must be supported by hydraulic modelling. No adverse flood impacts on other properties should occur as a result of the proposal.*

Response: Noted.

- *Increased density of development can only be supported where flood free access can be demonstrated.*

Response: Noted. Any development in flood affected areas will be subject to the relevant flooding considerations.

- *OEH recommend that an Aboriginal cultural heritage assessment be undertaken to adequately capture any Aboriginal cultural heritage constraints that may be relevant to this planning proposal.*

Response: The planning proposal applies to the Cessnock Commercial Centre that is highly urbanised. The revised planning proposal does not rezone any additional urban land. Furthermore, the area originally identified for SP2 State Road has been removed.

Therefore, it is considered that there is no justification to undertake an Aboriginal cultural assessment for this planning proposal.

- *Council should assess the potential impacts of future development on native vegetation and threatened species habitat (particularly in areas to be rezoned to SP2) at the rezoning stage and commit to providing offsets at the rezoning stage if offsetting is required.*

Response: There will be no impact on native vegetation and threatened species habitat. The planning proposal applies to the Cessnock Commercial Centre that is highly urbanised. The revised planning proposal does not rezone any additional urban land. Furthermore, the area originally identified for SP2 State Road has been removed.

- *Further information on the corridors, open spaces and biodiversity reserve should be provided to inform the planning proposal.*

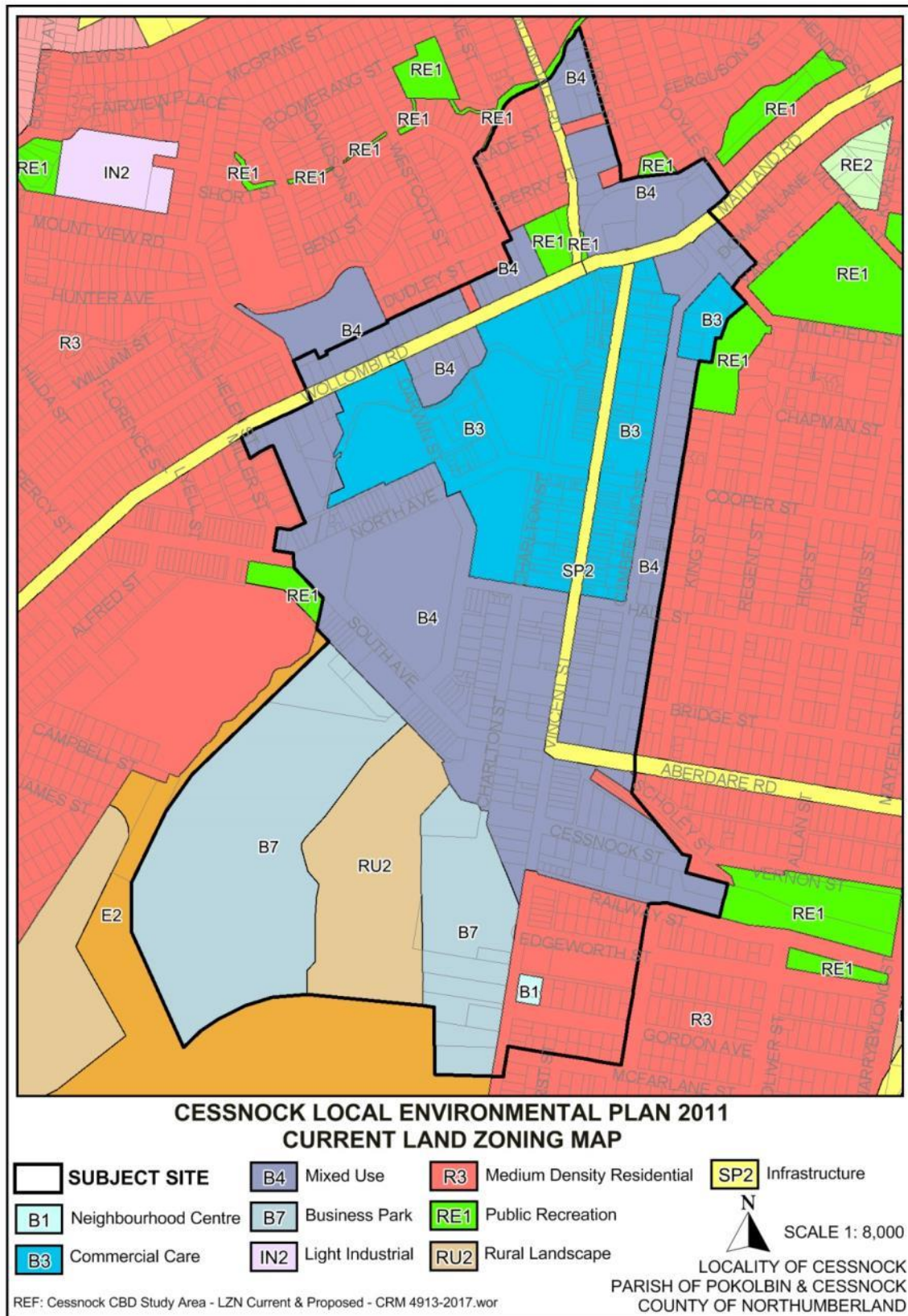
Response: Council argues that the revised planning proposal does not justify the provision of this information.

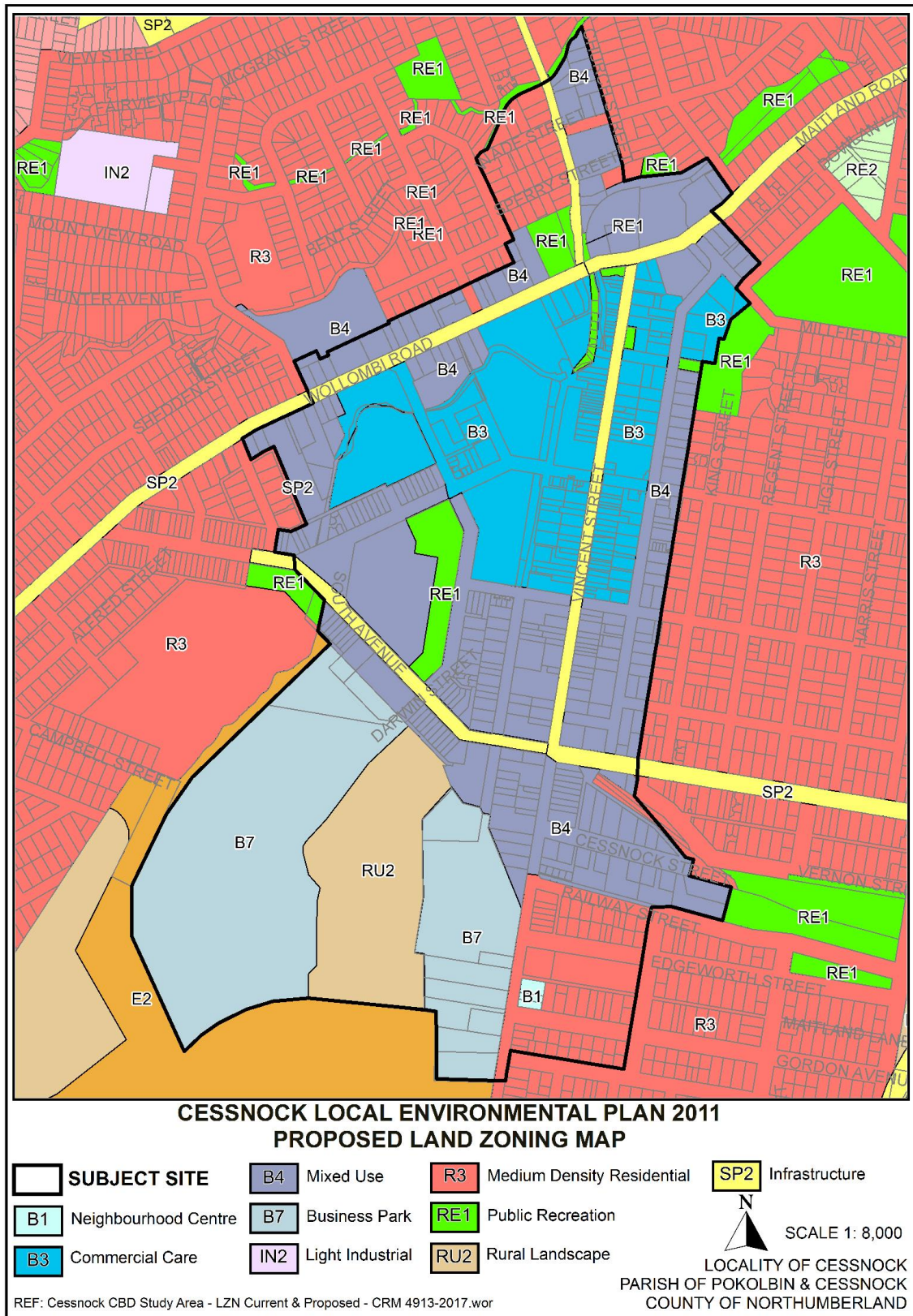
Mine Subsidence

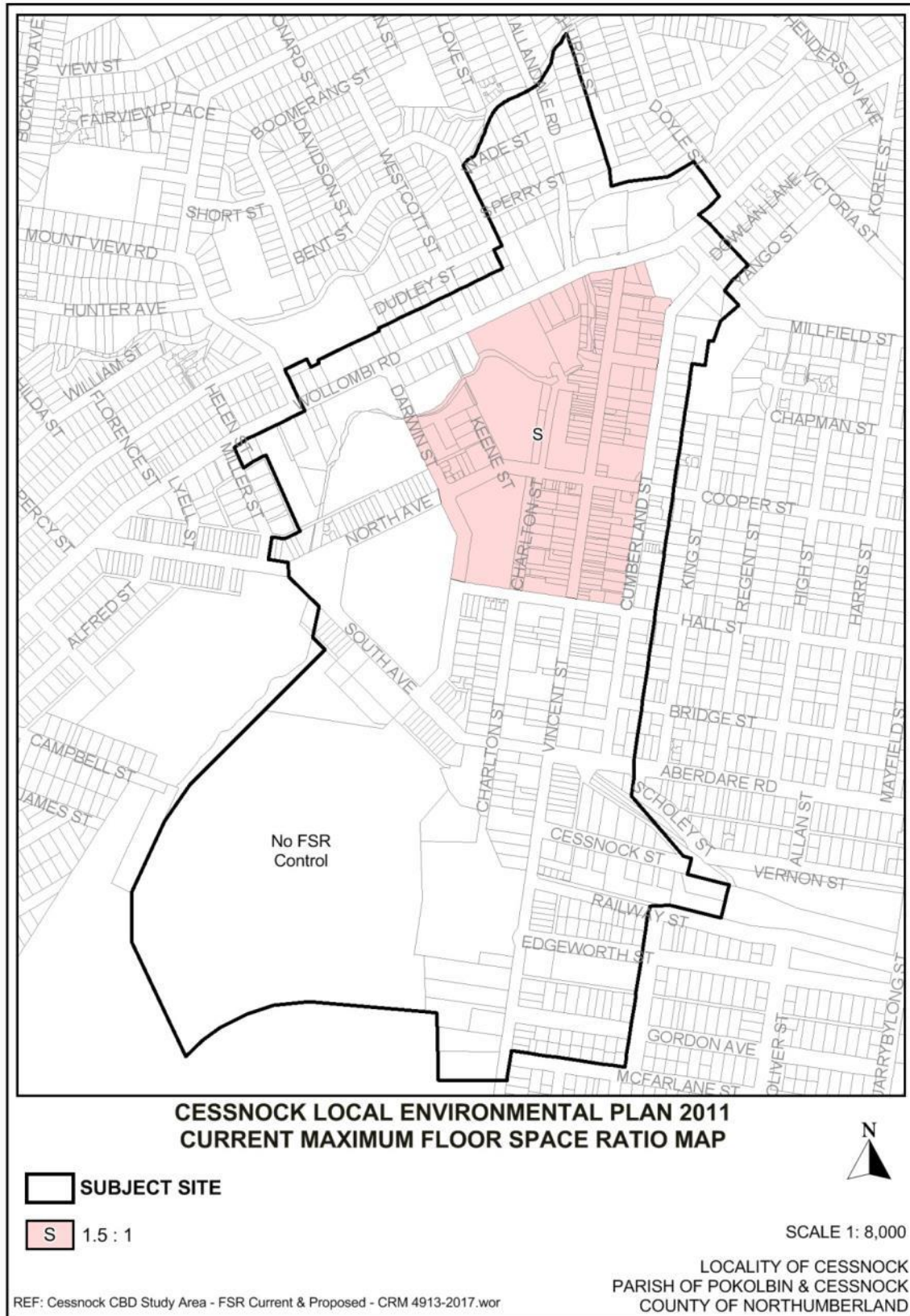
Consultation with Subsidence Advisory NSW (SA NSW) notes that the land is partially within the Tomalpin Mine Subsidence District. This District was proclaimed on 1 July 2017. Subsidence Advisory NSW has stated that while the majority of the planning proposal is outside the District, development in some areas would be likely subject to geotechnical investigations and engineering mitigation measures. Subsidence Advisory NSW opposes the 12m building height that has been proposed on part of the area of the planning proposal.

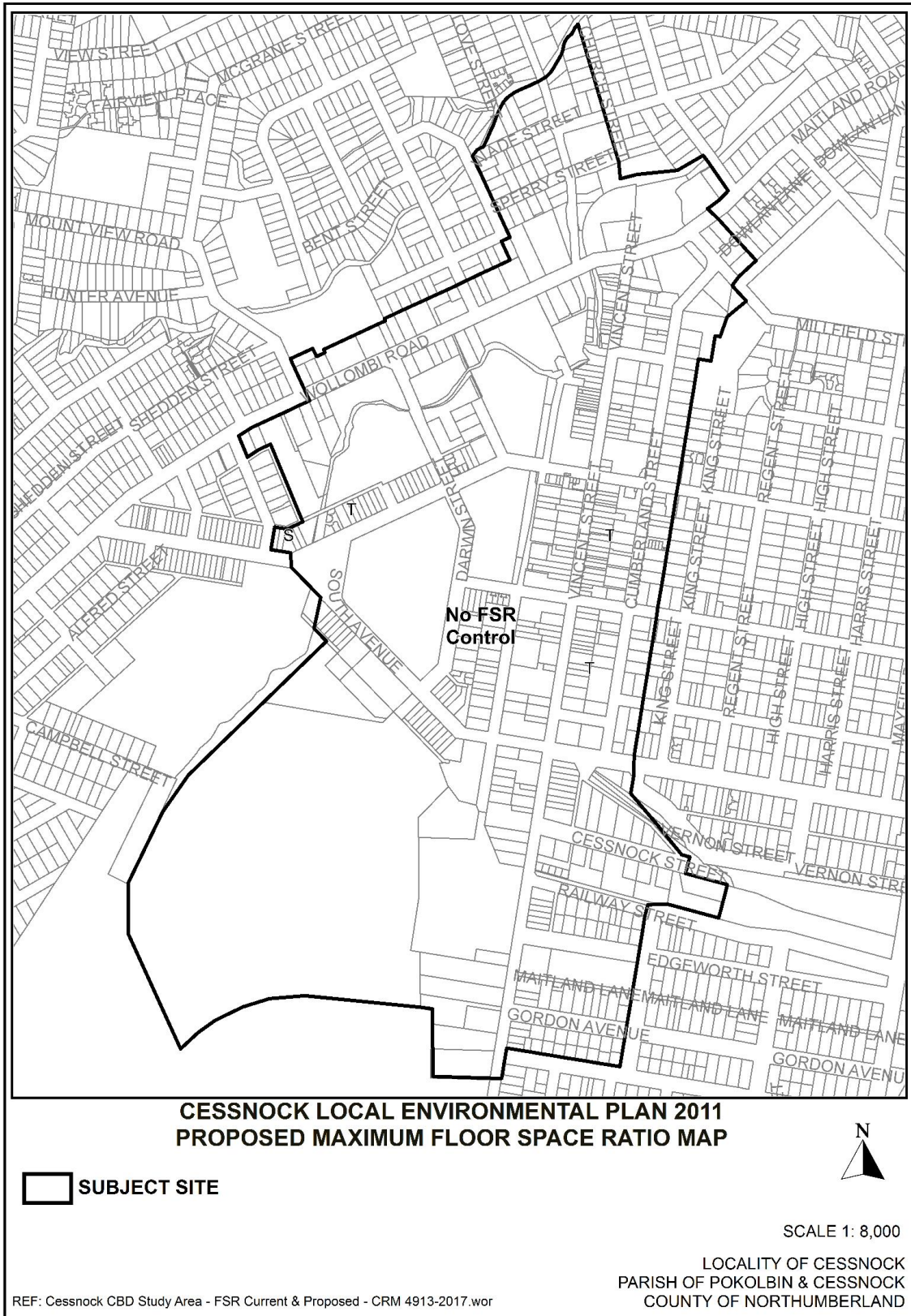
The revised planning proposal removes the FSR and HOB controls from the Cessnock Commercial Precinct and defers to the controls in the development control plan. Therefore, this objection pathway has been removed. However, Council will update the Cessnock Commercial Precinct DCP to include the advice from SA NSW so that additional geotechnical investigation is required to support any development on those areas identified by SA NSW.

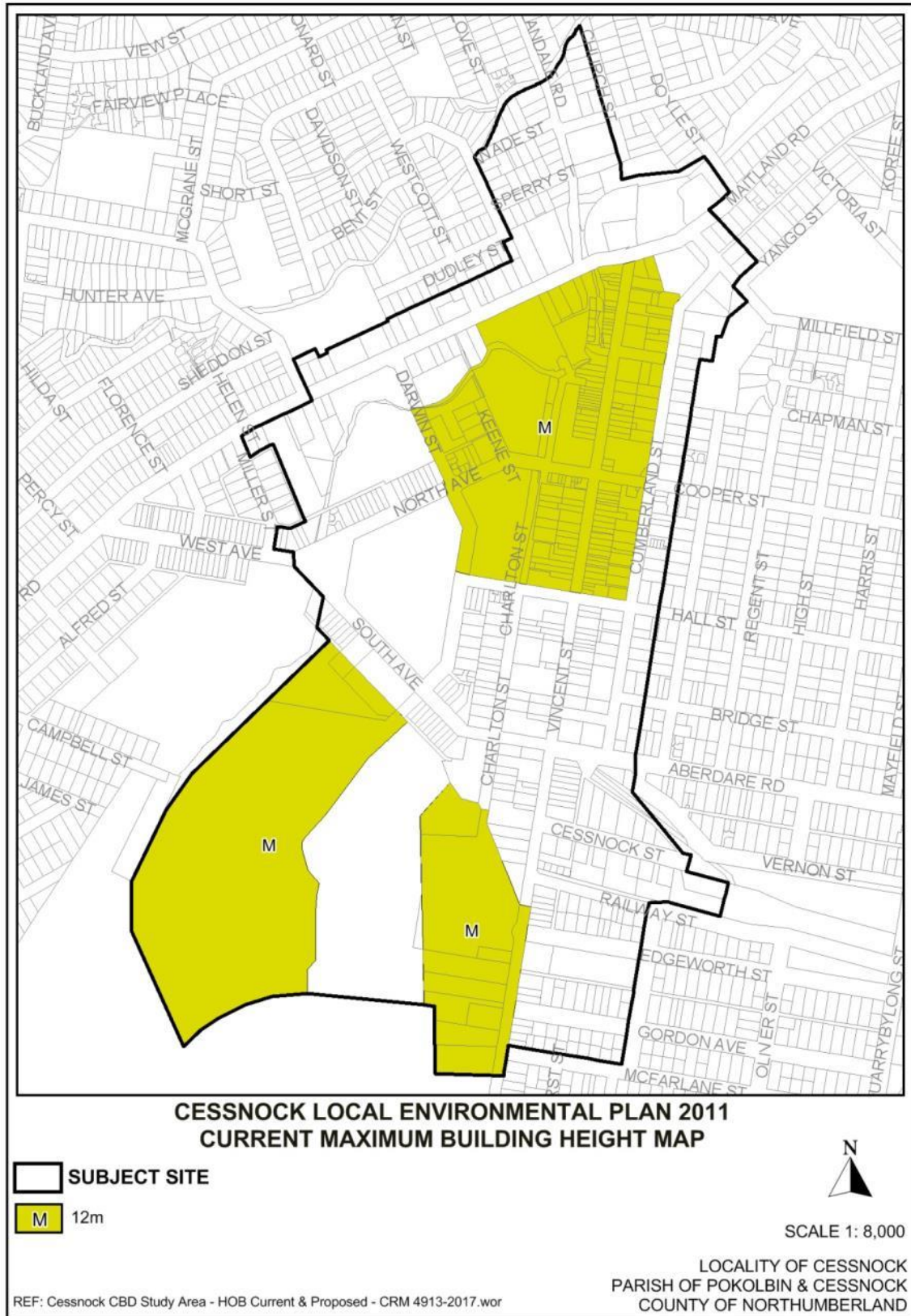
PART 4: MAPPING

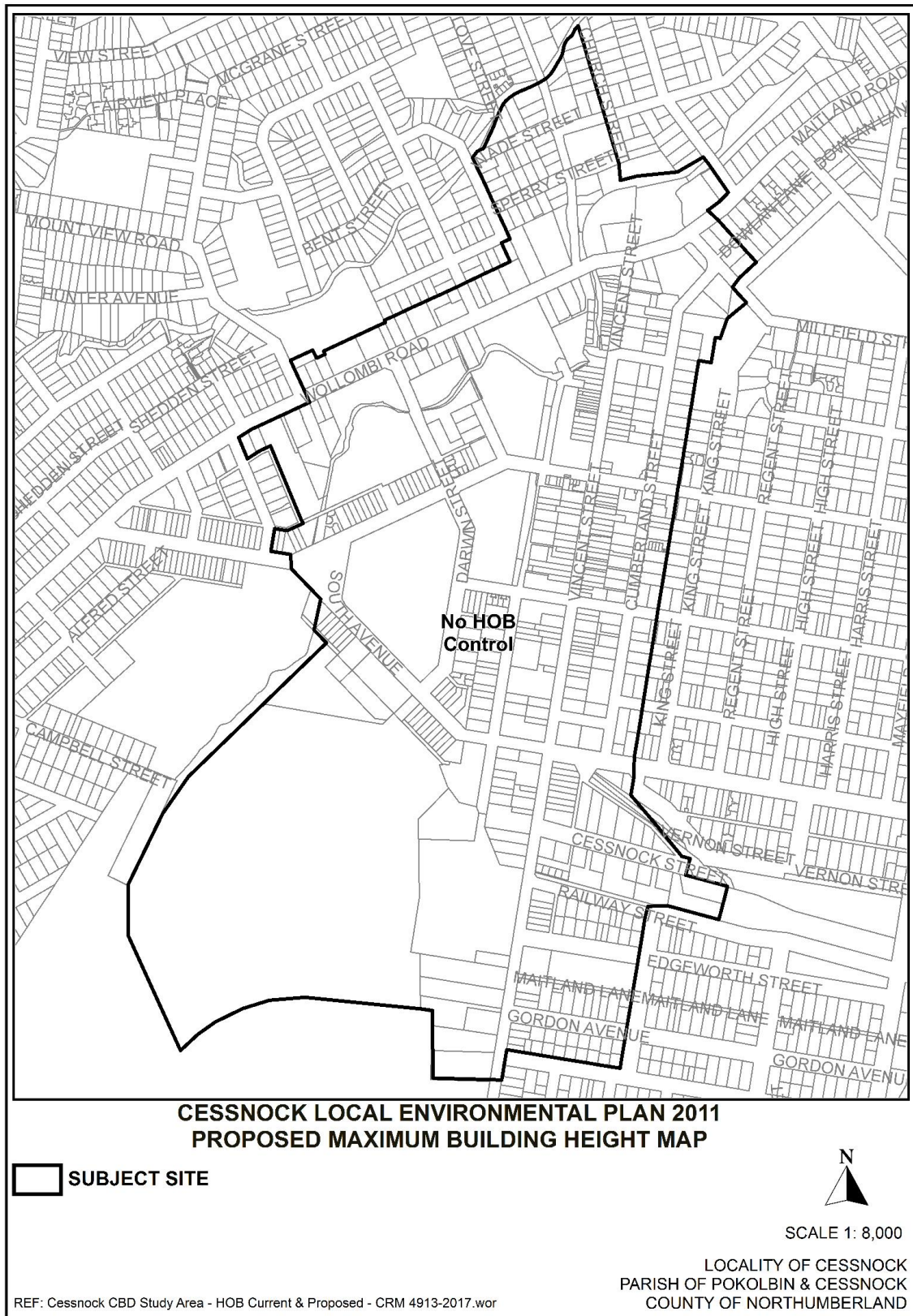




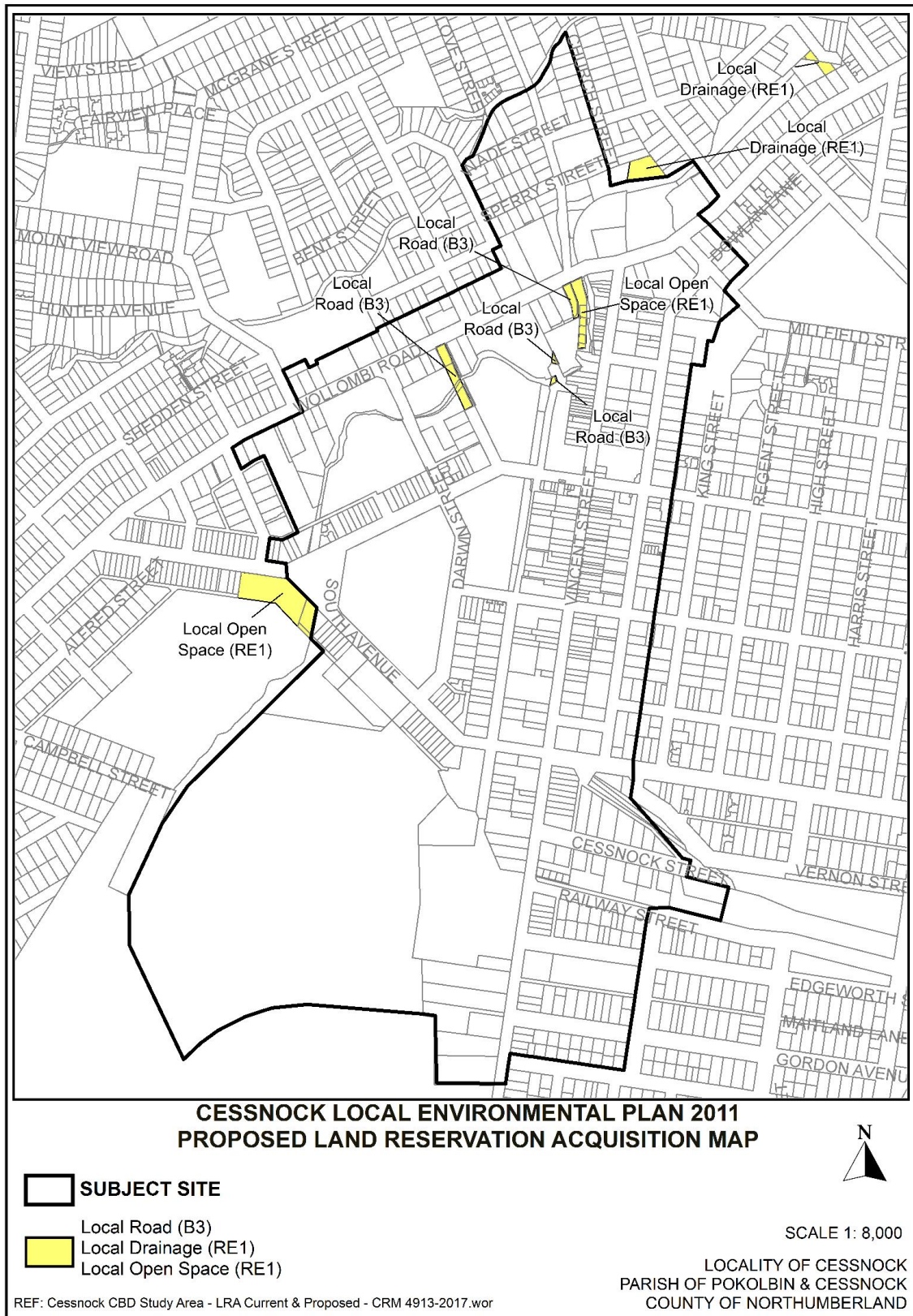












PART 5: COMMUNITY CONSULTATION

This Planning Proposal forms a component of a larger Cessnock Commercial Precinct Project. The Cessnock Commercial Precinct Project is a continuation of the Cessnock CBD Masterplan, whereby significant consultation with the community was undertaken. Key components of the Masterplan, commensurate with the community's vision, have been brought forward into the Cessnock Commercial Precinct Project.

Further community consultation specific to the Cessnock Commercial Precinct Project was also undertaken in the form of:

- Online and intercept surveys with local businesses and residents (87 completed);
- Interactive mapping in the form of online mapping and a large printed map placed in the foyer of Council's Administration Building and Cessnock Library (135 comments);
- Community workshop (29 attendees); and
- Council staff workshop

Valuable information from the community was gathered during the consultation phases and used to inform this Planning Proposal.

It is expected that this Planning Proposal will be publicly exhibited for a minimum period of 28 days. The exhibition period would be advertised in local newspapers, notification letters will be sent to property owners within and adjoining the precinct to advise them of the exhibition, and the exhibition material will be made available at the following locations:

- Cessnock City Council's Administration Building
- Cessnock Public Library
- Kurri Kurri Public Library; and
- Cessnock City Council's Website at www.cessnock.nsw.gov.au

PART 6: PROJECT TIMELINE

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. It is estimated that the proposed amendment to the Cessnock Local Environmental Plan 2011 will be completed by March 2019.

PROJECT TIMELINE

	Apr 2017	Sept 2017	Oct 2020	Dec 2020	Feb 2021	Mar 2021	Sept 2021
STAGE 1 Submit to DoP&E – Gateway Panel consider Planning Proposal							
STAGE 2 Receive Gateway Determination							
STAGE 1a Submit to DPIE – Gateway Panel consider revised Planning Proposal							
STAGE 2a Receive revised Gateway Determination							
STAGE 3 Preparation of documentation for Public Exhibition							
STAGE 4 Public Exhibition							
STAGE 5 Review/consideration of submission/s received							
STAGE 6 Report to Council							
STAGE 7 Make amendment or request amendment to be made by DPIE							

Appendix 1: Council Reports and Minutes

PLANNING AND ENVIRONMENT

PLANNING AND ENVIRONMENT NO. PE36/2020

SUBJECT: AMENDED PLANNING PROPOSAL FOR THE CESSNOCK COMMERCIAL PRECINCT

MOTION **Moved:** Councillor Gray **Seconded:** Councillor Fitzgibbon
1456
RESOLVED

1. That Council requests an amended Gateway determination from the Department of Planning, Industry and Environment for the Planning Proposal – Cessnock Commercial Precinct.
2. That Council undertakes consultation with public authorities and the community as determined by the Department of Planning, Industry and Environment's amended Gateway determination.
3. That Council receives a report back on the Planning Proposal if unresolved written objections are received during consultation with the community; otherwise forward the Planning Proposal to the Department of Planning, Industry and Environment requesting the Plan be made.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

SUBJECT: *AMENDED PLANNING PROPOSAL FOR THE CESSNOCK COMMERCIAL PRECINCT*

RESPONSIBLE OFFICER: *Acting Strategic Planning Manager - Iain Rush*

SUMMARY

Council submitted the Cessnock Commercial Precinct Planning Proposal to the former Department of Planning and Environment (now Planning, Industry and Environment) in April 2017. A conditional Gateway determination was subsequently issued requiring Council to obtain agreement for various ministerial directions relating to flooding, mine subsidence and reserving land for public purposes. It also required Council to consult with the former Roads and Maritime Services (now Transport for NSW), the former Office of Environment and Heritage (now Environment, Energy and Science) and Subsidence Advisory (SA).

Environment, Energy and Science (EES) have objected to various aspects of the Planning Proposal due to flood impacts. These items are unlikely to be resolved, at least in the medium term, and may jeopardise any further progress of the Planning Proposal. As a result, the Planning Proposal has been significantly revised to remove the opportunities for EES to object, while still achieving the intent of the original Planning Proposal.

Transport for NSW (TfNSW) has declined to be the acquisition and road authority for the proposed road extension from Snape Street to James Street. This item has been removed as there are alternative solutions to achieve this future link, if required.

A number of other items have been removed from the original proposal as they require further discussion with landowners, they are no longer necessary, or there are alternative means to achieve the same outcome.

APPLICATION NUMBER:	18/2017/1/1
PROPOSAL:	Cessnock Commercial Precinct Planning Proposal
PROPERTY DESCRIPTION:	Cessnock CBD
PROPONENT:	Cessnock City Council

RECOMMENDATION

1. That Council requests an amended Gateway determination from the Department of Planning, Industry and Environment for the Planning Proposal – Cessnock Commercial Precinct.
2. That Council undertakes consultation with public authorities and the community as determined by the Department of Planning, Industry and Environment's amended Gateway determination.
3. That Council receives a report back on the Planning Proposal if unresolved written objections are received during consultation with the community; otherwise forward the Planning Proposal to the Department of Planning, Industry and Environment requesting the Plan be made.

Planning and Environment

Report No. PE36/2020

Planning and Environment



BACKGROUND

Council has undertaken comprehensive strategic planning to guide development and growth in the Cessnock Commercial Precinct. The following documents, adopted in September 2017, are the result of these strategic planning exercises:

- Cessnock Commercial Centre Master Plan;
- Cessnock Public Domain Plan and Implementation Plan; and
- Cessnock Commercial Precinct Development Control Plan.

The objective of the original Planning Proposal submitted to the Department of Planning, Industry and Environment was to amend the *Cessnock Local Environmental Plan 2011* (the LEP) to implement these strategies. The proposed amendments to the LEP included:

- changes in land use zoning;
- the introduction of residential flat buildings into the B3 Commercial Core Zone;
- changes to the permissible height of buildings and floor space ratios;
- introduction of a design excellence clause and development incentives for catalyst sites; and
- identification of land to be acquired for future roads and public space.

Council submitted the Cessnock Commercial Precinct Planning Proposal to the Department of Planning, Industry and Environment in April 2017. A conditional Gateway determination was issued requiring Council to obtain agreement on various ministerial directions relating to flooding, mine subsidence and reserving land for public purposes through consultation with Transport for NSW (TfNSW), Environment, Energy and Science (EES) and Subsidence Advisory (SA).

EES have objected to various elements of the Planning Proposal relating to flooding. These are unlikely to be resolved, at least in the medium term, and may jeopardise any further progress of the Planning Proposal. In addition, TfNSW has refused to be the acquisition and road authority for the proposed road extension from Snape Street to James Street.

The Planning Proposal (**Enclosure 1**) has been significantly revised to address the issues raised by TfNSW, EES and SA. Furthermore, a number of other items have been removed from the original proposal as they require further discussion with landowners, they are no longer necessary, or there are alternative means to achieve the same outcome.

Chronology

Date	Action
19 April 2017	Council resolved to request a Gateway determination in relation to Planning Proposal – Cessnock Commercial Precinct
3 May 2017	Council requested a Gateway determination from the Department of Planning, Industry and Environment

Planning and Environment

Report No. PE36/2020

Planning and Environment



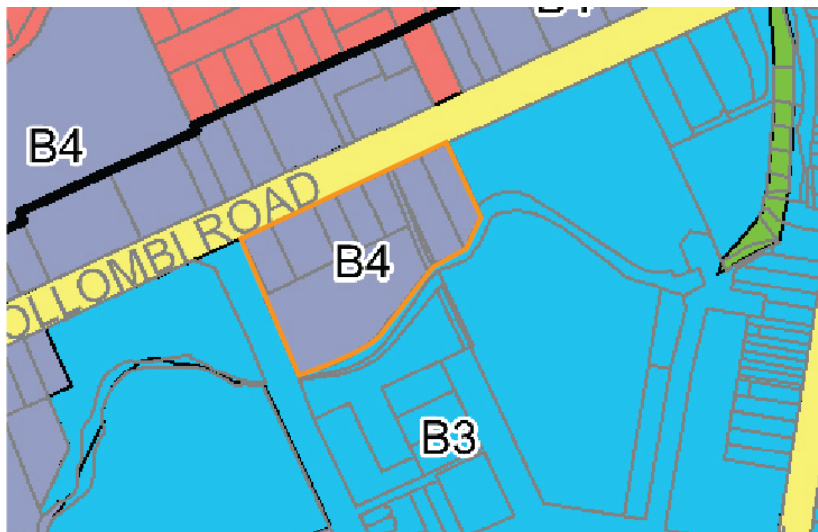
25 September 2017	Council received a conditional Gateway determination requiring Ministerial Direction sign-off and consultation with government agencies.
22 November 2017	Council consulted TfNSW, EES and SA.
7 November 2018	Final agency response received from TfNSW.

REPORT/PROPOSAL

The Planning Proposal originally submitted to the Department of Planning and Environment dealt with a number of items in the Cessnock Commercial Precinct. The following discussion lists each of the items for which an amendment is proposed and provides a recommendation to simplify the Planning Proposal, or to address the concerns of EES and TfNSW.

Rezone from B4 Mixed Use to B3 Commercial Core –Properties affected:

Lot 22 DP 579269, Lot 4, 7 & 8 DP 38740, Lot 56 DP 614109, Lot 1 DP 112703, Lot 1 DP 721821, Lot 1 DP 979574, part of Lot 1 DP 1097308 and part of Lot 1 DP 340072 (*Various lots along Wollombi Road*) – See below.

Issue:

This is an existing area of B4 Mixed Use along Wollombi Road (including the Cessnock Vet Clinic and the Cessnock Leagues Club). There are very few differences in land-use permissibility between the B4 and B3 zones, with many of these being inconsequential. Mixed use is a good fit for the existing uses and it will allow a mixture of appropriate uses in the future, including shop-top housing and residential flat buildings. This amendment will also simplify the zones within the Cessnock CBD.

Recommendation:

Remove item 1A from the Planning Proposal and retain the lots as B4 Mixed Use.

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Rezone from RE1 Public Recreation to B4 Mixed Use

Properties affected:

Lot 16 DP 48151 and Lot 261 DP 666805 (*the pool site*) – See below.



Issue:

This is the pool site on the corner of Allandale Road and Wollombi Road. According to the Black Creek Stage 1 Flood Study the site is flood affected and there is no flood free access to the site. Hazard categories range from H1 (generally safe for vehicles, people and buildings) to H3 (Unsafe for vehicles, children and the elderly).

Ministerial Direction 4.3(5) states: “A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.”

A planning proposal may be inconsistent with this direction if the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005.

If Council wishes to pursue the rezoning of this site then a detailed site flood study will be required. If this item is retained in the current Planning Proposal there is a high risk that it will significantly delay the proposal further.

Recommendation:

Remove item 1B and if Council wishes to pursue this item, to do this as a separate planning proposal after a site specific flood study is complete.

Amend the Floor Space Ratio (FSR) Map pertaining to land within the precinct from a FSR of 1.5:1 or no FSR to a FSR of 1.5:1, 2.0:1 and 2.5:1; and Amend the Height of Building (HOB) Map pertaining to land within the precinct from a 12m or no HOB control to a HOB control of 12m, 15m, 18m and 21m;

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Issue:

OEH have objected to changes in the FSR and HOB provisions where those controls infer a higher development potential in flood affected areas of the city centre. However, these FSR and HOB controls already exist in the DCP and these DCP controls can guide development outcomes in the centre. It is unlikely that OEH will remove their objections. Therefore, it is proposed to remove all floor space ratio and height of building controls for the Cessnock Commercial Precinct from the LEP and defer to the existing provisions in the DCP. This approach will remove OEH's opportunity to object.

Recommendation:

Remove all floor space ratio and height of building controls for the Cessnock Commercial Precinct from the LEP and defer to the existing provisions in the DCP.

Amend the Land Reserved for Acquisition Map to include Land Reserved for Acquisition within the precinct for the purposes of Classified Road (SP2) and Local Open Space (RE1).

Issue:

There are seven items nominated for acquisition in the Planning Proposal, three are proposed to be removed, as follows.

Acquisition Site 1 (for removal): RMS (now TfNSW) is nominated as the acquisition authority for a future road link between James Street and Snape Street. TfNSW has stated that it will not be the acquisition or the road authority for this item. Council could become the acquisition authority; however, if Council wishes to achieve the link then it could be conditioned on a future development consent.



Recommendation: Remove Acquisition Site 1 (future road link between James and Snape Street) from the Planning Proposal and amend the DCP to show the road link so that it can be considered in any DA for the site.

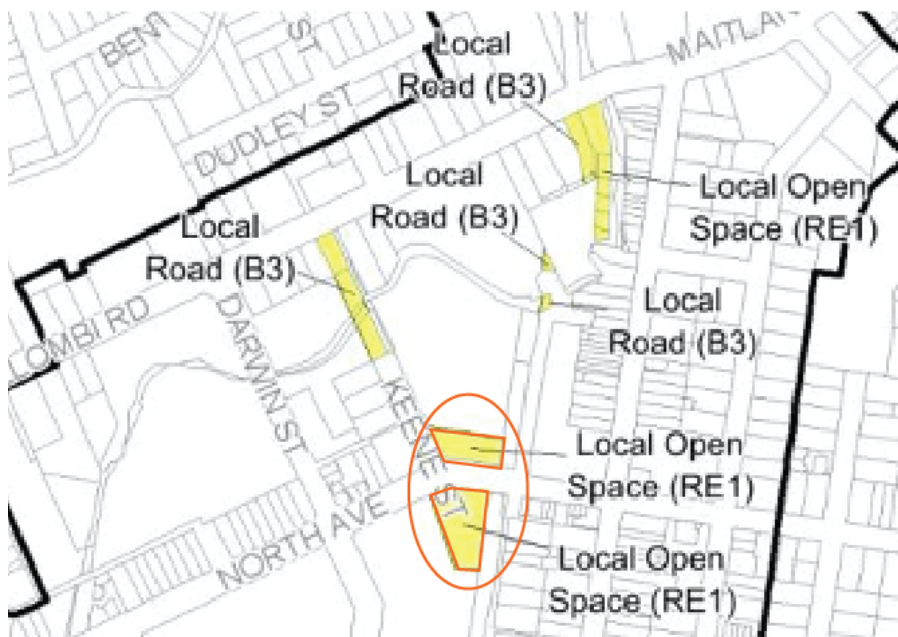
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Acquisition Sites 2 and 3 (for removal): The areas proposed on both the Lederer Group (Lederer Plaza) and Hunter Valley Investments properties (Coles/Target) (highlighted in orange) are also identified for acquisition and rezoning to RE1 Public Recreation. Detailed design for these items has not been undertaken and therefore the exact footprint for the land acquisition is not known. Negotiation with the affected land owners has not been undertaken at this stage and car parking offset arrangements are not in place to compensate for the loss of onsite car parking. As a result, there is no certainty regarding the extent of the acquisition area for sites 2 and 3 at this point in time.



The remaining acquisition items (to accommodate the extension of Keene Street and Charlton Street) will remain in the planning proposal. Council officers have already commenced discussions with Leagues Club (owners of the Keene Street extension sites).

Recommendation:

Remove Acquisition sites 2 and 3 (Lederer Plaza and Hunter Valley Investments' property) from the Planning Proposal and pursue these items at a later date when the design is further advanced, car parking is addressed and negotiations with the landowners have commenced.

Enable residential flat buildings (RFBs) to be permitted with consent within the B3 Commercial Core zone.

Issue:

OEH have argued that RFBs should not be included in the B3 Commercial Core Zone because most of the B3 Zone in the Cessnock City Centre is flood affected. OEH argues that RFBs risk introducing higher density residential uses and therefore more people in a flood affected area.

Council would be justified to argue this further as there are areas that are not affected by flooding that could accommodate RFBs. However, shop-top housing is already permitted in the B3 Zone and is a more appropriate, higher-density, residential outcome than RFBs, as the residential component must be above commercial or retail premises.

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Recommendation:

Remove item 4 from the Planning Proposal.

Introduce a new clause to require all residential flat buildings in zone B3 Commercial Core to be developed only as part of a mixed-use development.

Issue:

This would be a redundant clause because it is the same as shop-top housing, which is already permitted with consent in the B3 Commercial Core Zone. Shop-top housing is defined as: 'one or more dwellings located above ground floor retail premises or business premises'.

Recommendation:

Remove item 5 from the Planning Proposal.

Introduce a new clause to encourage design excellence on key sites identified within the Cessnock Commercial Precinct.

Issue:

A design excellence clause is an admirable aspiration for Cessnock; however, the city's modest development climate, is unlikely to provide the conditions necessary for these concessions to be taken up.

It is also argued that there is sufficient rigour in the existing assessment system to encourage good development outcomes, particularly where residential flat buildings / shop-top housing is proposed, as these development types need to be designed in accordance with the *State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development* and the Department of Planning and Environment's Apartment Design Guidelines.

The Cessnock Commercial Precinct DCP already identifies 'catalyst sites' and additional design guidance for these sites and other sites. Rather than burdening the LEP with additional local clauses, it is proposed to defer to the requirements in the DCP. This will save having to read between the two policy documents.

Additional local clauses and development controls increase the complexity of the local regulatory system. This needs to be balanced against the anticipated benefits of the additional controls. It is argued that at this time, the additional LEP clause is unlikely to derive any significant benefits over the provisions that already exist in the DCP.

Recommendation:

To remove item 6 from the Planning Proposal.

Introduce Key Sites mapping in association with the introduction of the design excellence clause.

Issue:

This would no longer be necessary if the design excellence clause is removed from the proposed LEP. The catalyst sites are already listed in the DCP including those listed as key sites.

Recommendation:

To remove item 7 from the Planning Proposal.

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In summary, if the recommendations of this Report are adopted, the amended proposal should address the concerns of OEH and RMS and the proposal will be significantly simplified to the following items:

1. Rezone from:
 - B3 Commercial Core to RE1 Public Recreation – Part of Lot 1 DP 450874 (Sternback Park)
 - B4 Mixed Use to RE1 Public Recreation – part of Lot 1 DP 577260 (TAFE Park) and Lot 7009 DP 1030585 (Council-owned car park on Cumberland Street).
2. Remove the maximum floor space ratio mapping controls for the Cessnock Commercial Centre from the LEP
3. Remove the maximum height of buildings mapping controls for the Cessnock Commercial Precinct from the LEP
4. Amend the Land Reserved for Acquisition Map to include Land Reserved for Acquisition within the precinct for the purposes of Local Road (SP2) and Local Open Space (RE1).

OPTIONS

1. Support the recommendation of this report to request an amended Gateway determination from the Department of Planning, Industry and Environment for the Planning Proposal – Cessnock Commercial Precinct. *This is the recommended option.*
2. Not support the recommendation to amend the Planning Proposal for the following reasons:

(To be provided by Council).

This option is not recommended as it would significantly impact the timeframe for finalising the Planning Proposal and will not address the issues raised by TfNSW and EES.

CONSULTATION

Extensive consultation has been undertaken on the Cessnock Commercial Precinct Project, which includes the Cessnock Commercial Precinct Master Plan, Development Control Plan and Public Domain and Implementation Plan.

Pre-exhibition consultation has been undertaken with RMS, OEH and SA as required by the Gateway determination. It is anticipated that the amended proposal will be sent to these agencies for further consideration as part of the revised Gateway determination.

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Public exhibition of the Planning Proposal will be undertaken in accordance with the requirements of the Gateway determination. Landowners directly affected by the proposal will be notified and the Planning Proposal will be available at the Administration Building and libraries and on Council's website.

STRATEGIC LINKS

Delivery Program

A Sustainable and Healthy Environment: Objective 3.1 Protecting and Enhancing the Natural Environment and the Rural Character of the Area.

Other Plans

Cessnock Commercial Precinct Master Plan 2017
Cessnock Development Control Plan 2011 – E16 Cessnock Commercial Precinct
Cessnock Public Domain Plan and Implementation Plan 2017

IMPLICATIONS

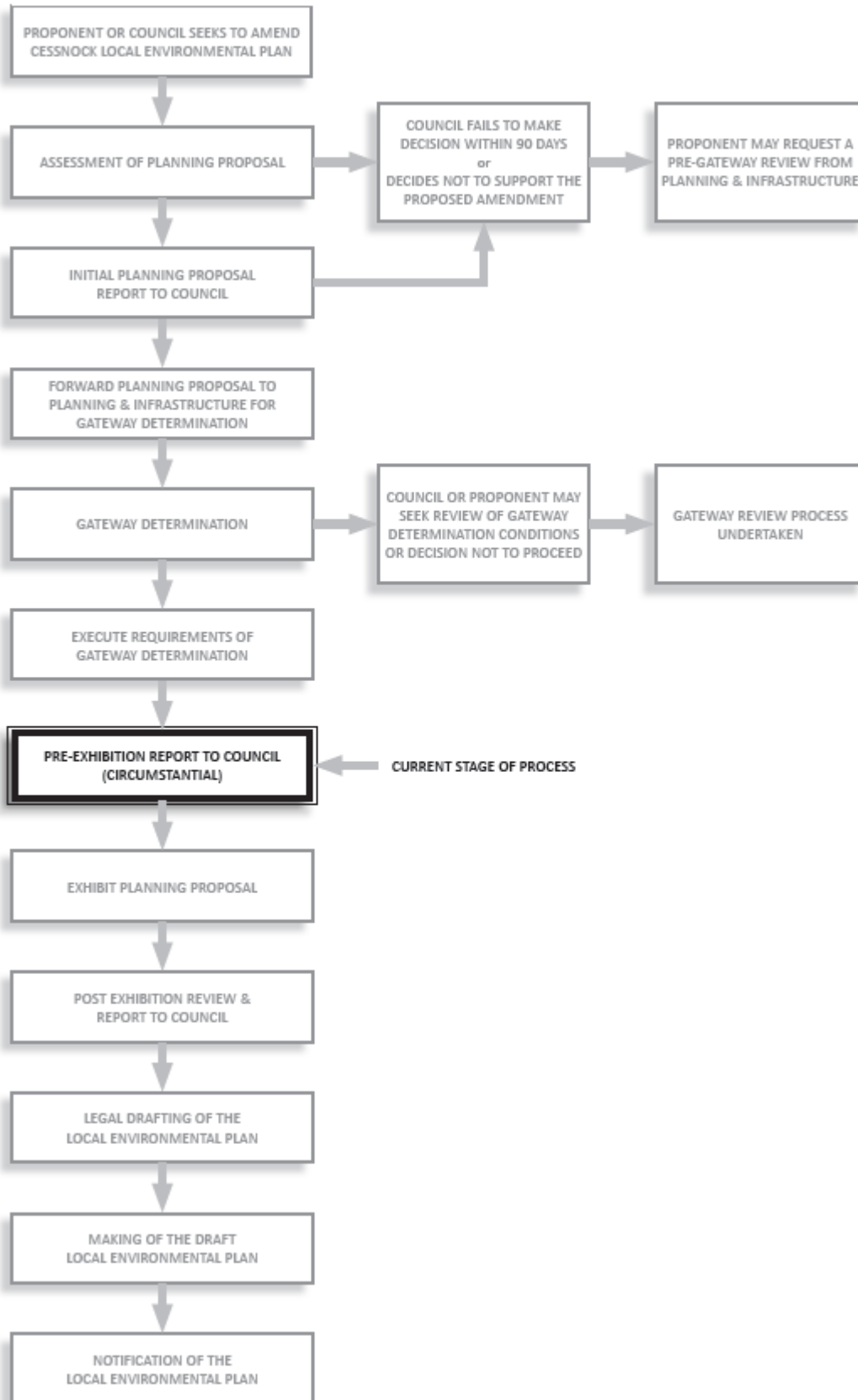
a. Policy and Procedural Implications

The proposal has direct implications for the Cessnock Local Environmental Plan 2011 and the Cessnock Development Control Plan 2011.

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PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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b. Financial Implications

Nil

c. Legislative Implications

Amendments to the *Cessnock Local Environmental Plan 2011* will be undertaken in accordance with the *Environmental Planning and Assessment Act 1979* and its regulation.

d. Risk Implications

If the Planning Proposal is not amended to address the objections of EES and TfNSW, there is a risk that significant further delays will occur with the progress of the Planning Proposal.

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

The proposed amendments to the original Planning Proposal will address the concerns that have been raised by OEH and RMS. The proposed amendments will simplify the passage of this Planning Proposal through the process while still achieving the intent of the original Planning Proposal.

If no further objections are raised by these agencies, the Planning Proposal will be exhibited for a period of 28 days.

It is recommended that, if no unresolvable objections are raised during the exhibition period, the Planning Proposal be adopted and the changes to the LEP be undertaken. If unresolvable objections are received during the exhibition process a further report will be brought back to Council for consideration.

ENCLOSURES

- 1 [↓](#) Revised Planning Proposal - Provided Under Separate Cover

Appendix 2: Flood Mapping

Flood Hazard Levels



Flood Hydraulic Categories

