

PLANNING PROPOSAL
Amendment to the
Cessnock Local Environment Plan 2011

Dwelling Entitlement
Nash Road, Quorrobolong

Version 2.0
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PART 1: OBJECTIVES

Objective

The intended outcome of this Planning Proposal is to provide the opportunity for affected landowners to act on a dwelling entitlement on each of the following allotments:

- a. Lot 1 DP 873717, 94 Nash Road Quorrobolong
- b. Lot 2 DP 873717, 45 Nash Road Quorrobolong
- c. Lot 96 755254, 116 Nash Road Quorrobolong
- d. Lot 54 755254, 46 Nash Road Quorrobolong

Following an “Independent Peer Review” prepared by CityPlan Strategy and Development (November 2011) into a long standing planning matter associated with dwelling entitlement, Council resolved on 21 March 2012 to amend the Cessnock Local Environmental Plan 2011 to address planning errors and regularise a dwelling entitlement on each of these allotments

The proposal does not provide for amendment to the Cessnock Local Environmental Plan 2011 Lot Size Maps and so does not affect the subdivision potential of these allotments.

The subject land is shown in the locality plan as **Map 1**.

PART 2: EXPLANATION of PROVISIONS

Through this Planning Proposal, Council is seeking an amendment to the Dwelling Entitlements Map, enabling the permissibility of a single dwelling house on each of the following lots:

- a. Lot 1 DP 873717, 94 Nash Road Quorrobolong
- b. Lot 2 DP 873717, 45 Nash Road Quorrobolong
- c. Lot 96 755254, 116 Nash Road Quorrobolong
- d. Lot 54 755254, 46 Nash Road Quorrobolong

To achieve the intent of the Planning Proposal, it is proposed to amend Dwelling Entitlement Map – Sheet DWD_006D_040_20111128, as shown in **Map 2**.

This amendment will make a dwelling house on the subject land(s) permissible with development consent with no further subdivision.

PART 3: JUSTIFICATION

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

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

Section A: Need for Proposal

1. Resulting from a Strategic Study or Report

In November 2011, Cityplan Strategy and Development Pty Limited, carried out an Independent Peer Review on Council's behalf into a long standing planning matter associated with the following lots:

- a. Lot 1 DP 873717, 94 Nash Road Quorrobolong
- b. Lot 2 DP 873717, 45 Nash Road Quorrobolong
- c. Lot 96 755254, 116 Nash Road Quorrobolong
- d. Lot 54 755254, 46 Nash Road Quorrobolong

At its meeting of 21 March 2012, Council resolved to endorse the recommendations of the independent peer review, and prepare a Planning Proposal to amend the Cessnock Local Environmental Plan 2011 to regularise a dwelling entitlement on each of these lots.

This Planning Proposal reflects Council's resolution in this matter to legitimise the dwelling entitlement of the subject lots given the long standing planning history and systemic planning errors. However, given the unique circumstances associated with these allotments, the same dwelling entitlement criteria could not be applied to other undersized allotments, pending a City Wide review into dwelling entitlement provisions, as foreshadowed in the City Wide Settlement Strategy (2010).

A copy of the Council report and the supporting Independent Peer Review undertaken by Cityplan Strategy and Development Pty Limited is attached to this Planning Proposal.

Please note that the information provided was dealt with in a closed session of the Council meetings and the reports and attachments are confidential and have not been made public. Council releases this information for the purposes providing background information to the Planning Proposal.

Finally, the site has limited class 4 agricultural capability. There is also a grouping of lots less than 40 ha in this area which is in fragmented ownership in addition to a high percentage of existing dwellings. There are no significant constraints that would preclude additional dwellings in this area.

2. Planning Proposal as best way to achieve to objectives

To give effect to Council's resolution, a Planning Proposal is required to make the proposed changes to the Dwelling Entitlement Map of the Cessnock Local Environmental Plan 2011.

3. Net Community Benefit

The Planning Proposal seeks to address past planning errors and regularise a dwelling entitlement on each of the four (4) lots identified in the "Independent Peer Review" prepared by CityPlan Strategy and Development (November 2011).

Section B: Relationship to Strategic Planning Framework

4. Consistency with Objectives and Actions within Regional Strategies

Lower Hunter Regional Strategy

It is considered that the Planning Proposal is not inconsistent with the Lower Hunter Regional Strategy.

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

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

Council's Community Strategic Plan includes 5 key directions related to community, economy, environment, services and leadership, with Objectives and Actions related to each key direction.

The Planning Proposal is consistent with the future direction of Council's Community Strategic Plan.

6. Consistency with State Environmental Planning Policies

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 6 - Number of Storeys in a Building	The SEPP clarifies the reference to storey, floors and levels.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 15 - Rural Land Sharing 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 affects the aims and provisions of this SEPP.
SEPP 21 -Caravan Parks	The SEPP provides for development for caravan parks.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 22 - Shops and commercial premises	The SEPP provides for the change of use of commercial premises.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Nothing in this Planning Proposal affects the aims and provisions 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 affects the aims and provisions of this SEPP.
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Nothing in this Planning Proposal affects the aims and provisions 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 affects the aims and provisions of this SEPP.
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 affects the aims and provisions of this SEPP.
SEPP 50 - Canal Estates	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
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 affects the aims and provisions of this SEPP.
SEPP 62 - Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from the rezoning of land and is of relevance for site specific rezoning proposals.	Nothing in this Planning Proposal affects the aims and provisions 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 affects the aims and provisions of this SEPP.
SEPP 65 - Design Quality of Residential Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
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 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	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.

	functions that may be carried out by Joint Regional Planning Panels and classes of regional development to be determined by JRPPs.	
SEPP Infrastructure 2007	The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	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.	The Planning Proposal does not propose to change zoning that would affect the permissibility of mining on the subject lands.
SEPP Temporary Structures 2007	The SEPP provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity.	Nothing in this Planning Proposal affects 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 Rural Lands 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	It is not proposed to alter the Rural zoning provisions. The acknowledgement of dwelling entitlement will not contribute to loss of prime agricultural land nor will it see any likelihood of land use conflicts due to inadequate buffer separation to adjoining or nearby land. The recognition of dwelling entitlement will contribute to the social and economic welfare of the local community as the land owner can seek to construct a dwelling house or sell the property with dwelling entitlement.
SEPP Affordable Rental Housing 2009	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels to determine DAs.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP.

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

The Proposal is inconsistent with some of the relevant directions for the reasons given against each direction in the Table below. The inconsistencies have been considered against the relevant criteria and it has been determined that there is justification for some of the inconsistencies.

Table 2: Relevant Section 117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implication
1. EMPLOYMENT AND RESOURCES		
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	It is not proposed to amend the zoning of any land currently affected by a rural zone or provide for an increase in land density. It is considered that the Planning Proposal is consistent with this Direction.
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	The Planning Proposal does not propose to change zoning that would affect the permissibility of mining on the subject lands. It is considered that the Planning Proposal is consistent with this Direction
1.5 Rural Lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.	The Planning Proposal is consistent with the rural planning principles specified in the Rural Land SEPP. It is not proposed to alter zoning provisions. CI3(b) is not applicable as it is not proposed to amend the existing minimum lot size provisions.
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	The Planning Proposal does not seek to alter any existing zones that protect and conserve environmentally sensitive areas. The Planning Proposal is not inconsistent with this 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.	No studies have been undertaken to identify specific heritage or Aboriginal objects within this area. The Cessnock LEP 2011 contains provisions that

		facilitate the conservation of items of heritage significance. Aboriginal heritage is protected under the National parks and Wildlife Act 1974. It is considered that the Planning Proposal is justifiably inconsistent with this Direction.
2.4 Recreation Vehicle Areas	The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>).	Nothing in this Planning Proposal affects the aims and provisions of this Direction
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	The Planning Proposal is not inconsistent with this Direction.
3.2 Caravan parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.	The Planning Proposal does not seek to rezone land to provide for caravan parks or manufactured home estates, further there are no existing caravan parks within the study area. It is considered that the Planning Proposal is consistent with this Direction.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Home occupations are permitted without consent in the proposed R2 Zone. The Planning Proposal is consistent with this Direction.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	The Planning Proposal does not seek to alter any land use zoning provisions. It is considered that the Planning Proposal is not inconsistent with this Direction.
3.5 Development Near Licensed Aerodromes	The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	Planning Proposal not affected by this direction.

3.6 Shooting Ranges	The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issues that must be addressed when rezoning land adjacent to an existing shooting range.	Planning Proposal not affected by this direction.
4. HAZARD AND RISK		
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils	Planning Proposal not affected by this direction.
4.2 Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Underground Mining is approved and occurs below the subject site. The site is not, however, a proclaimed subsidence district. Chapter C.4 of Cessnock DCP 2010 requires that dwellings shall not be constructed in areas identified as currently being utilised for underground mining. Council will refer any development application for a dwelling house to the Mine Subsidence Board and Austar Coalmine for comment. It is considered that the Planning Proposal is not inconsistent with this Direction.
4.3 Flood Prone Land	The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.	Planning Proposal not affected by this direction.
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	Although the subject land is mapped as Bushfire Prone Land, (See Map 3) there is no proposed rezoning or amendment of lot size provisions. The Planning Proposal seeks to recognise dwelling entitlement provisions.

		Detailed bushfire controls will need to be submitted and assessed at the development application stage to ensure compliance with Planning for Bushfire Protection Guidelines and Rural Fires Act. It is considered that the Planning Proposal is not inconsistent with this Direction.
5. REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The Lower Hunter Regional Strategy is relevant. The Planning Proposal seeks recognition of dwelling entitlement for four (4) properties. It is considered that the Planning Proposal is not inconsistent with this Direction.
6. LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal does not propose amendments which require concurrence, consultation or referral of development applications to the Minister. The Planning Proposal does not identify any development as designated development. It is considered that the Planning Proposal is consistent with this Direction.
6.2 Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Planning Proposal not affected by this direction.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The Planning Proposal does not propose to contain any development standard or requirement in addition to those contained in the Cessnock LEP 2011

Section C: Environmental, Social and Economic Impact

8. Impact on Threatened Species

The site contains four (4) vegetation communities, being:

- Central Hunter Riparian Forest;
- Hunter Lowland Redgum Forest;
- Central Hunter Spotted Gum – Iron bark Forest; and
- Cleared/Mainly Cleared Land.

The Central Hunter Riparian Forest; Hunter Lowland Redgum Forest and Central Hunter Spotted Gum – Iron bark Forest are listed as Endangered Ecological Communities under the *TSC Act (1995)* as shown in **Map 4**.

Fauna species are considered typical of the habitats present on the site and in the vicinity. Species recorded in the area are predominantly restricted to common avifauna, although several species of native and introduced mammals are also known to be in the area.

The Planning Proposal does not automatically confer a right to establish a dwelling house and matters, including the effect on critical habitat and / or threatened species, populations of ecological communities, or their habitat are subject to an assessment of significance in accordance with Section 5A of the EPA Act and the 'Threatened Species Assessment Guidelines' issued by the Department of Environment and Climate Change.

9. Environmental Impact

The Planning Proposal is a recognition of dwelling entitlement only. Council will consider the lodgement of future development applications for a dwelling house that has regard to a number of matters including:

- Siting / orientation of dwelling house;
- Relationship with adjoining / adjacent development, including underground mining activity;
- Natural environment;
- Bushfire Protection; and
- On site sewerage management.

10. Social and Economic Impacts

The Planning Proposal will allow the current and future owners of the subject lands the certainty that there exists a dwelling entitlement and that subject to a detailed environmental investigation and assessment, that a future dwelling or alterations and additions to existing dwellings may be possible.

This will also lessen the emotional and financial uncertainties to the owners of these allotments who presently do not have a dwelling entitlement recognised under the Cessnock Local Environmental Plan 2011.

Section D: State and Commonwealth Interests

11. Adequate Public Infrastructure

The subject lands are generally serviced by road, electricity and telecommunications infrastructure. As the Planning Proposal aims to recognise dwelling entitlements that existed prior to Cessnock Local Environmental Plan 2011, it can be said that there is no ostensible increase in the demand for public infrastructure.

12. Consultation with State and Commonwealth Authorities

It is not proposed to consult with any authorities due to the minor nature of this Planning Proposal.

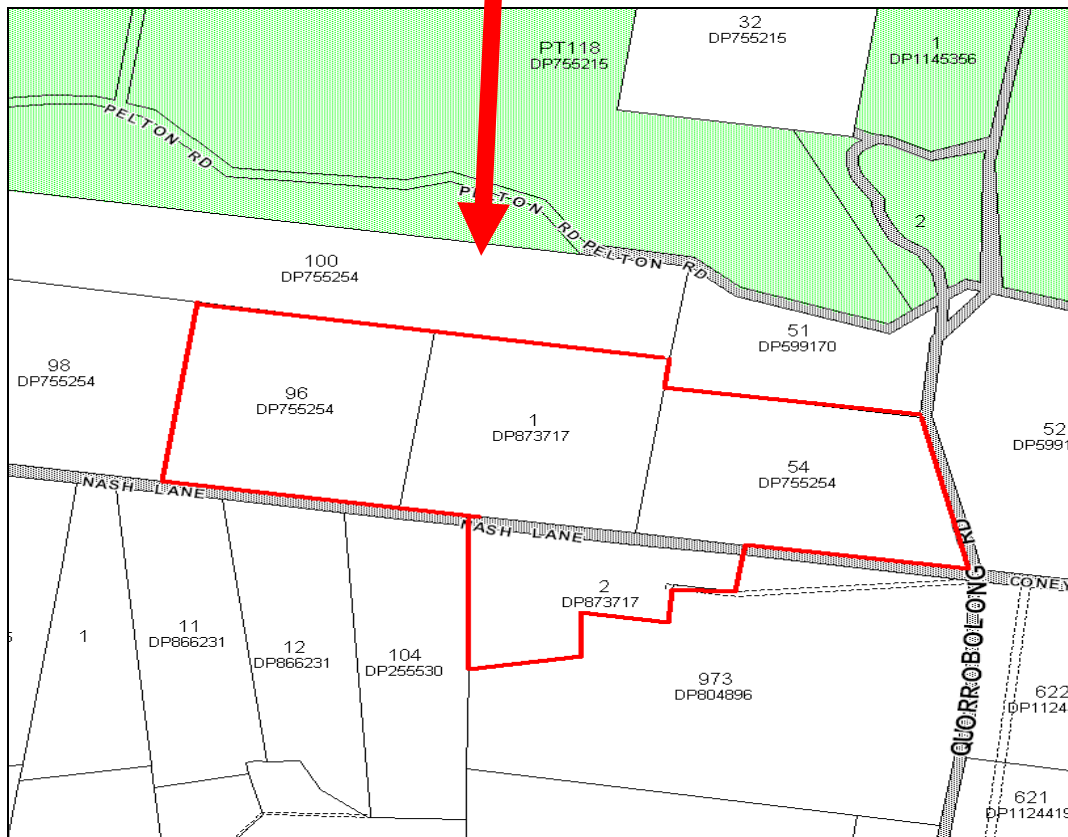
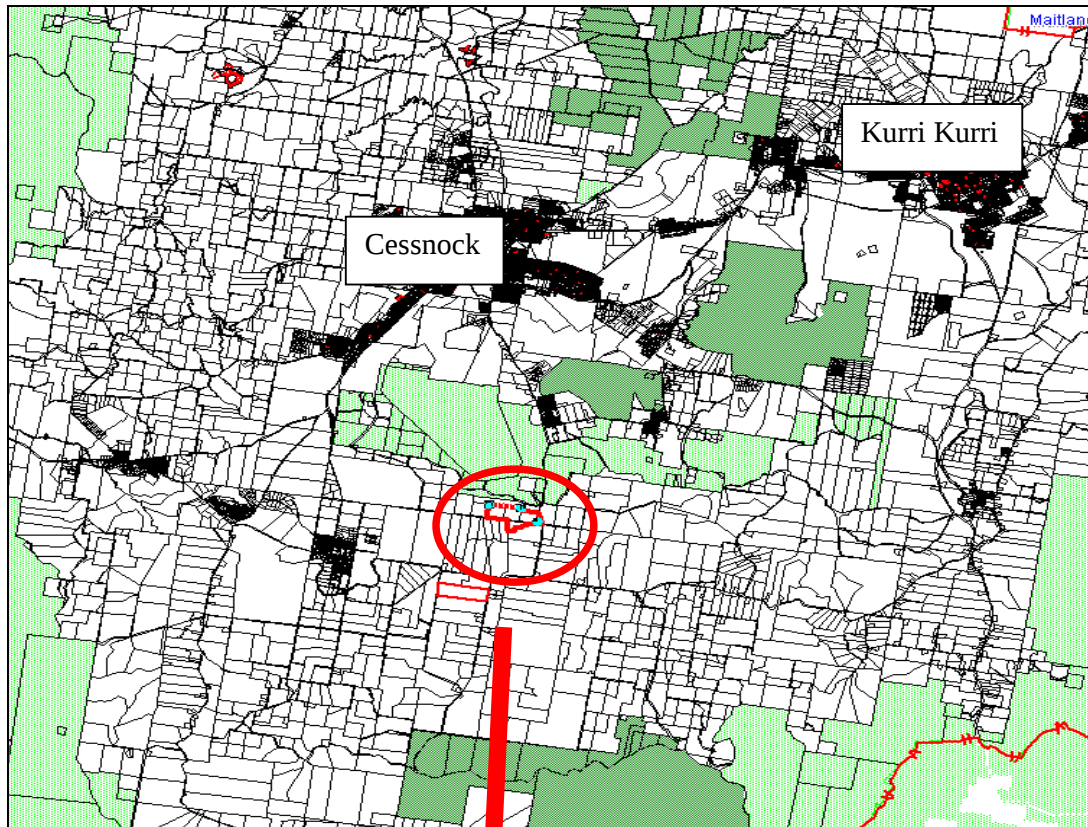
When considering future development, Council will have regard to a number of matters including:

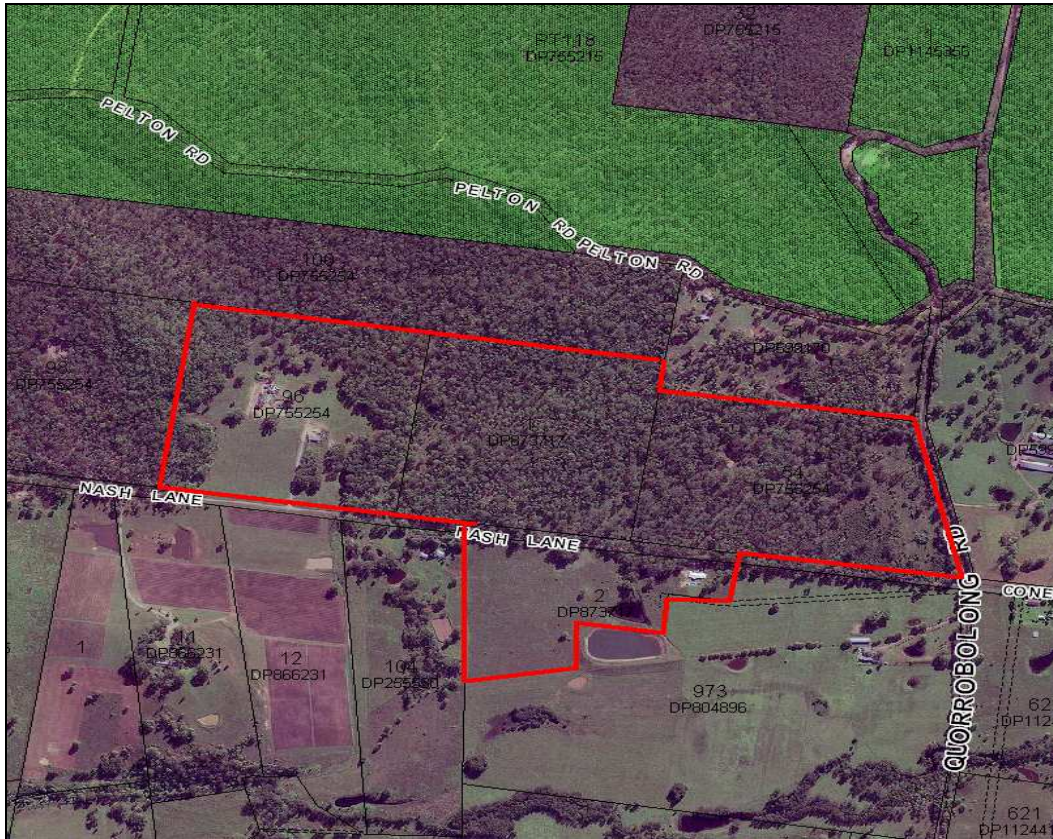
- Siting / orientation of dwelling house;
- Relationship with adjoining / adjacent development, including underground mining activity;
- Natural environment;
- Bushfire Protection; and
- On site sewerage management.

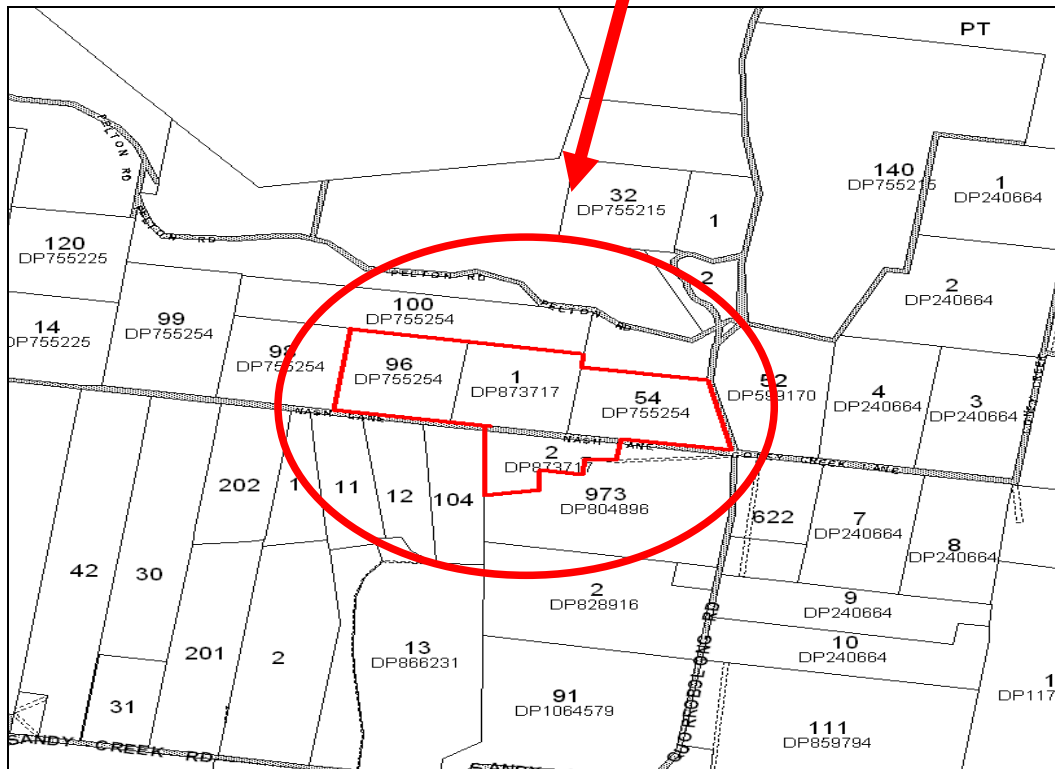
PART 4: MAPPING

The Planning Proposal seeks to amend the Dwelling Entitlement Map – Sheet DWD_006D_040_20111128 of the Cessnock Local Environmental Plan 2011 as shown on **Map 2**.

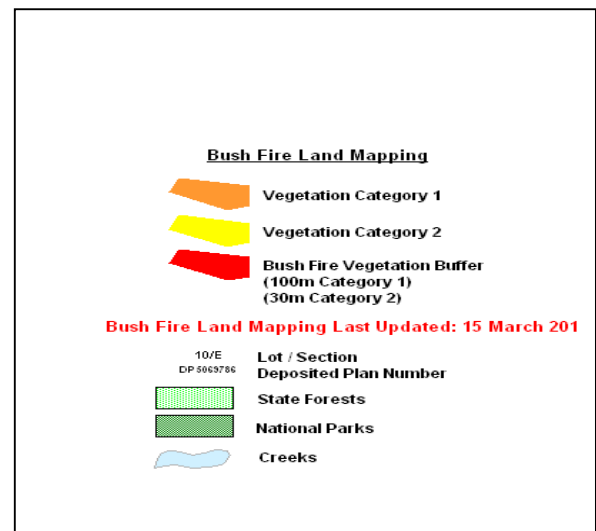
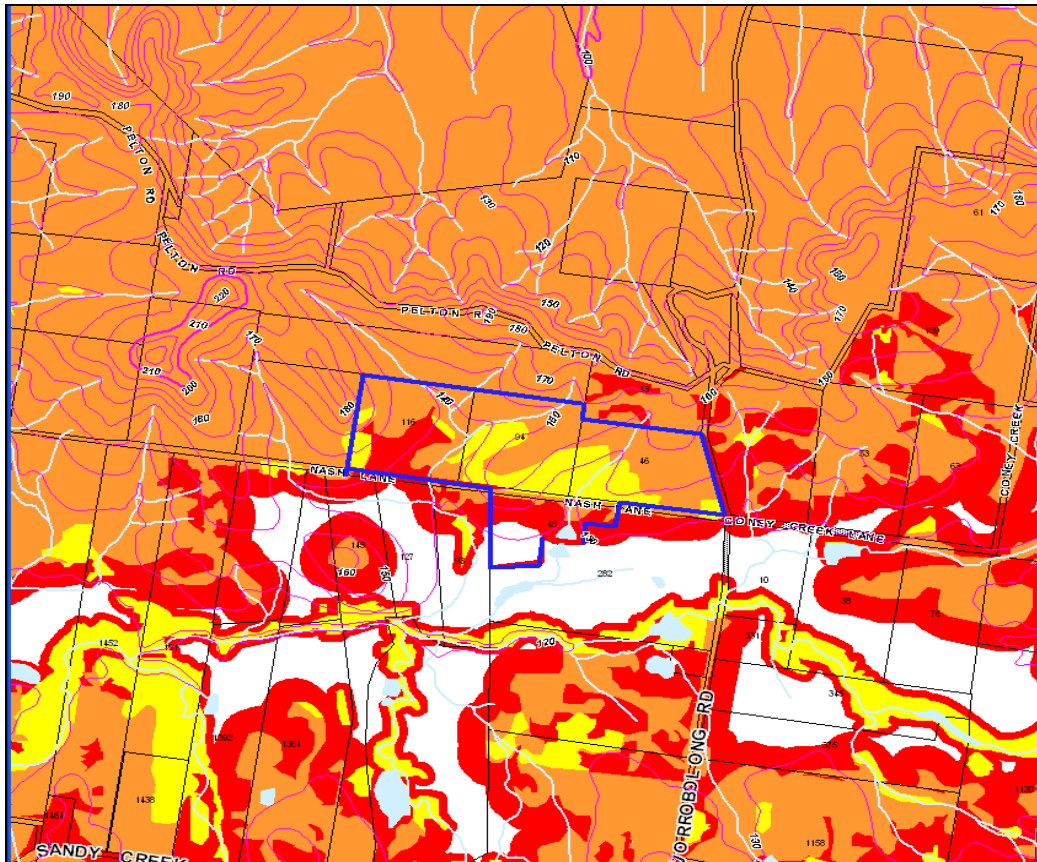
Map 1: Location Plan



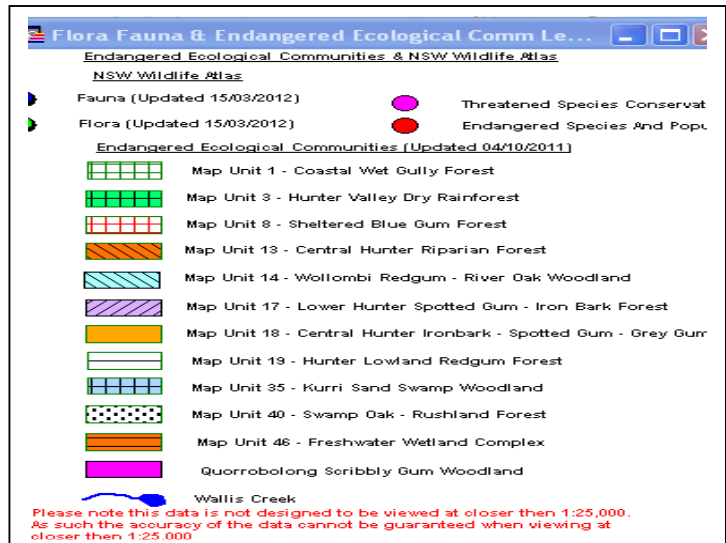
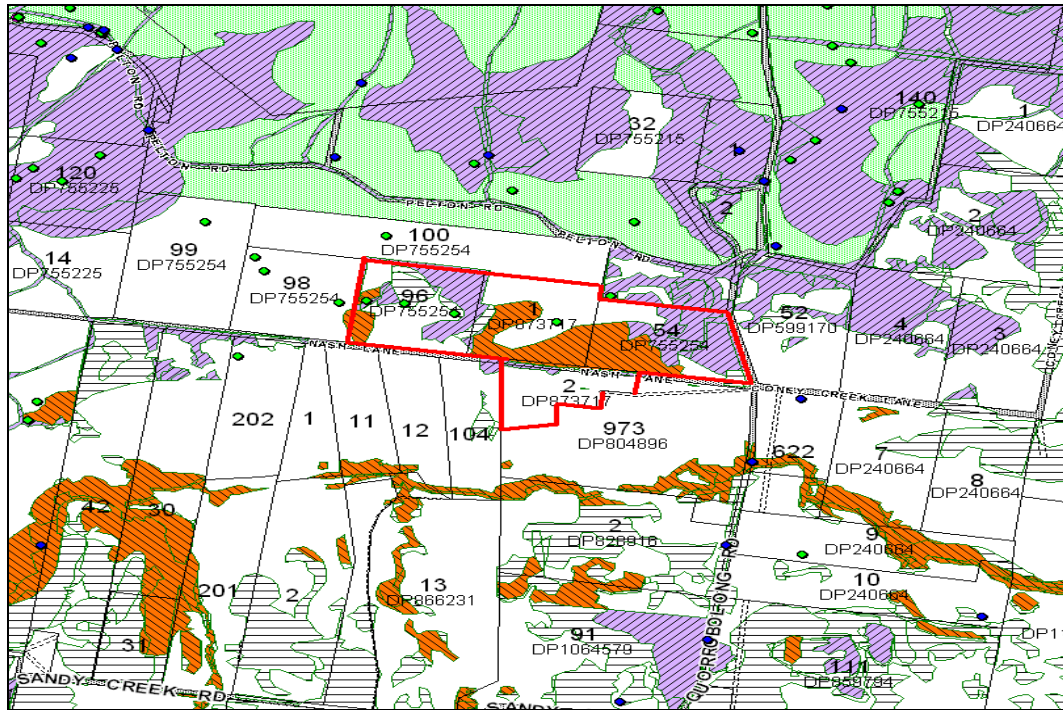




Map 3: Bushfire Prone Mapping



Map 4: Vegetation Mapping



PART 5: COMMUNITY CONSULTATION

Council proposes that the exhibition of the Planning Proposal will be undertaken in accordance with Council's guidelines, and any specific requirements made by the Department of Planning and Infrastructure during the gateway determination.

It is considered that the Planning Proposal is a 'low impact Planning Proposal' requiring a minimum exhibition period of fourteen (14) days. Public notification of the exhibition will include a notice in the local newspaper and a notice in Council's website.

Given the minor nature of the Planning Proposal it is not intended to directly notify any State or Commonwealth agencies.

During the exhibition period, the Planning Proposal, gateway determination and other relevant documentation will be available in Council's website and hard copies will be available at Council's administration building and public libraries.

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 this amendment to the Cessnock Local Environmental Plan 2011 will be completed by October 2013.

Technical Studies have not been identified as a component of the Planning Proposal. The DoP&I Gateway Determination may make prescriptions relating to technical studies and this may impact on the estimated completion date.

PROJECT TIMELINE

	April 2013	May 2013	June 2013	July 2013	Aug 2013	Sept 2013	Oct 2013	Nov 2013
STAGE 1 Submit to DoP&I – Gateway Panel consider Planning Proposal								
STAGE 2 Receive Gateway Determination								
STAGE 3 Preparation of documentation for Public Exhibition								
STAGE 4 Public Exhibition								
STAGE 5 Review/consideration of submission received								
STAGE 6a Council/ Briefing								
STAGE 6b Report to Council								
STAGE 7 Forward Planning Proposal to DoP&I with request the amendment is made								

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