

Ms Lotta Jackson
General Manager
Cessnock City Council
PO BOX 152
Cessnock NSW 2325

Dear Ms Jackson

Planning proposal PP-2021-7357 to amend *Cessnock Local Environmental Plan 2011*

I am writing in response to the planning proposal Council has forwarded to the Minister for Planning and Homes under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to amend the conservation zone framework applying to C2 Environmental Conservation, C3 Environmental Management and C4 Environmental Living zoned land.

As delegate of the Minister, I have determined the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

While the objectives of this planning proposal are clear and generally adequate, references to an environmental zone within the planning proposal must be updated to reference a conservation zone in accordance with the *Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021*.

The Department recommends 'extensive agriculture' be permitted with consent in the C2 Environmental Conservation and permitted without consent in C3 Environmental Management zones. Not permitting 'extensive agriculture' in conservation zones may significantly affect current and future agricultural activities. Such an effect could occur where agriculture is being conducted on land which is zoned C2 Environmental Conservation and C3 Environmental Management. If 'extensive agriculture' is not permitted in the zones, landowners would have to rely on existing use rights to continue their farming practices.

Further justification is required to progress with the intention to amend the permissibility of 'extensive agriculture' in C2 Environmental Conservation and C3 Environmental Management zones. As such, the planning proposal must be amended to remove the proposed changes to the permissibility of 'extensive agriculture' in the *Cessnock Local Environmental Plan 2011*. The Department welcomes further consideration of this matter if additional justification can be provided in line with the Northern Councils E Zone Review recommendations.

I note this planning proposal comprises Phase 1 of Council's program. Council has advised Phase 2 will include implementation of the new framework to land within Cessnock Local Government Area. It is recommended Phase 2 includes a verification methodology, which is consistent with the Northern Councils E Zone Review recommendations. The recommendations state a C2 Environmental Conservation and C3 Environmental Management zone or other mapped planning controls cannot be applied to land, unless the attributes meet that relevant zones criteria and have been verified on that land. The review sets out the methodology for verification that must be undertaken.

While the intention is supported, additional justification in the planning proposal is required regarding proposed changes to 'recreation areas', 'camping grounds', 'tourist and visitor accommodation', 'eco-tourism facilities' and 'water reticulation systems' prior to public exhibition. Further detail is also required in the planning proposal regarding State Environmental Planning Policies and relevant strategies. The Department's Gateway determination report can be used as a guide in this regard.

Council needs to obtain the agreement of the Secretary to comply with the requirements of relevant applicable directions of the Minister under section 9.1 of the Act in relation to directions 4.1 Flooding, 4.3 Planning for Bushfire Protection, 4.4 Remediation of Contaminated Land, 4.5 Acid Sulfate Soils, 4.6 Mine Subsidence and Unstable Land, and 6.2 Caravan Parks and Manufactured Home Estates. Council should ensure this occurs prior to public exhibition.

I note implementation of the revised conservation zone framework is to be supported by a development control plan. Whilst this isn't a Gateway condition, the development control plan should be adopted by Council prior to finalisation of the draft local environmental plan amendment to ensure that relevant controls are in place to support the revised framework.

I have considered the nature of Council's planning proposal and have determined not to authorise Council to be the local plan-making authority. This is due to the Council being the owner of land subject to the planning proposal.

The proposed local environmental plan is to be finalised on or **before 3 April 2023**.


Council should commence the exhibition of the planning proposal **before 14 July 2022**. Council's request for the Department of Planning and Environment to draft and finalise the local environmental plan should be made eight weeks in advance of the date the plan is projected to be made.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2021) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

The NSW Government has committed to reduce the time taken to complete local environmental plans. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the gateway determination.

Should you have any enquiries about this matter, I have arranged for Ms Tegan Harris, Senior Planner, Central Coast and Hunter Region to assist you. Ms Harris can be contacted on 02 4927 3241.

Yours sincerely



12/05/2022
Dan Simpkins
Director, Central Coast and Hunter Region
Planning and Land Use Strategy

Encl: Gateway determination