



**PLANNING PROPOSAL**

**AMENDMENT TO THE CESSNOCK LOCAL ENVIRONMENTAL PLAN 2011**

**Comprehensive LEP Review**

Amending C2, C3, C4 Zone Land Use Tables and Local Objectives

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Version 2

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**Revision History**

Version	Description	Date
1	Draft for Council Endorsement	17/11/2022
2	Public Exhibition	31/08/2022

**Note:**

Changes to the Planning Proposal originally endorsed by Council (Version 1) have been made in accordance with the conditions of Gateway determination issued by the Department of Planning and Environment. The requirements of the Gateway determination can be found in Appendix 3 of this proposal.

## PART 1: OBJECTIVES AND OUTCOMES

The *Cessnock Local Environmental Plan 2011* (LEP 2011) and Cessnock Development Control Plan 2010 (DCP 2010) contain provisions that guide development.

Cessnock City Council's Strategic Planning Team is completing a comprehensive review of the LEP 2011, which involves reviewing the instrument to ensure it:

- is current and accurate;
- is responsive to emerging forms of development;
- reflects the objectives contained in the Hunter Regional Plan 2036 and Greater Newcastle Metropolitan Plan 2036; and
- addresses the outcomes of endorsed local strategies, such as the Cessnock 2027 Community Strategic Plan (CSP) and Local Strategic Planning Statement (LSPS) 2036.

This Planning Proposal ensures alignment of relevant LEP provisions with the strategic framework, to ensure consistency with the relevant priorities and principles for land contained in the Cessnock Local Strategic Planning Statement (LSPS) 2036 and other relevant local and regional plans and strategies.

Recommendations for amendments to relevant zone objectives and permissible land uses relate to the following zones:

### **C2 Environmental Conservation Zone**

### **C3 Environmental Management Zone**

### **C4 Environmental Living Zone**

This Planning Proposal implements the recommendations of the *Cessnock City Council Environmental Zoning Framework* (the Framework) adopted by Council in 2021. Extensive community consultation was undertaken during the development of the Framework (see Appendix 2).

The Framework followed the methodology and principles applied in the *Northern Councils E Zone Review*, which defined a set of criteria for the application of then E2 and E3 (now C2 and C3) zones across five Local Government Areas (LGAs) in northern NSW. This established a process for identifying environmental zones and a method for verifying these, based on attributes such as usage history and environmental conditions. While the Framework closely followed the principles and methodology of the *Northern Councils E Zone Review*, the outcomes presented by the Framework correspond to the attributes of Cessnock LGA.

A Development Control Plan (DCP) will be implemented prior to finalisation of this proposal. This will contain detailed provisions to guide development in the Conservation zones.

## PART 2: EXPLANATION of PROVISIONS

### **Item 1: Amendments to LEP 2011 C2, C3 and C4 Zone Objectives**

Zone objectives establish the purpose of zones and reflect the intended strategic land use direction of Cessnock Local Government Area (LGA). Mandatory zone objectives included in the Standard Instrument (SI) are applied across all LGAs in NSW. Zone objectives are used by Council to help determine if a development application is consistent with the strategic planning for the Cessnock area.

Additional local zone objectives are necessary when the mandatory objectives do not cover all major land use issues for land within the zone. Additional local objectives are also necessary when locality specific or relating to a major activity node or other land use that has major environmental impacts on the activities and amenity of the resident and/or working population within the particular zone.

The following amendments to Land Use Objectives are proposed to better address local planning issues and to align with the strategic planning framework for the Cessnock LGA.

- a) It is proposed to amend the following **C2 Environmental Conservation** Zone objectives as follows:

Existing (M) = Mandatory	Proposed green = new text	Reason
To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values. (M)	To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values	No change – this is a mandatory objective
To prevent development that could destroy, damage or otherwise have an adverse effect on those values. (M)	To prevent development that could destroy, damage or otherwise have an adverse effect on those values.	No change – this is a mandatory objective
	To protect, manage and restore Aboriginal cultural heritage, threatened ecological communities, key threatened species habitat, biodiversity corridors and important ecosystems.	This objective is included to expand on the intent of the first mandated objective (above). Community consultation supported the inclusion of this wording particularly given the specific reference to biodiversity corridors and Aboriginal Cultural Heritage. The additional objective also further aligns LEP objectives with the criteria for mapping Conservation Lands.

	To encourage activities that meet the conservation objective of the zone	This objective is included to provide a more positive approach to managing land within this zone and clarify that the Cessnock C2 Zone will protect important cultural and environmental values and support activities that are consistent with the zone objectives.
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- b) It is proposed to amend the following **C3 Environmental Management** Zone objectives as follows:

Existing (M) = Mandatory	Proposed green = new text	Reason
To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values. (M)	To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.	No change – this is a mandatory objective
To provide for a limited range of development that does not have an adverse effect on those values. (M)	To provide for a limited range of development that does not have an adverse effect on those values.	No change – this is a mandatory objective
	To protect, manage and restore Aboriginal cultural heritage, water quality, riparian and estuarine vegetation, biodiversity corridors and important ecosystems	This objective is included to expand on the intent of the first mandated objective (above). Community consultation supported the inclusion of this wording particularly given the specific reference to protection of riparian and estuarine habitats. The additional objective also further aligns LEP objectives with the criteria for mapping Conservation Lands
	To recognise lands with environmental hazards in order to protect community and environmental health	This objective is included to make specific reference to lands that are impacted upon by natural hazards. Incorporating reference to this will reinforce the need to manage hazards within land carrying this zoning.

	To provide for low impact agricultural land uses on land with productive value.	The ability of the LEP to permit agricultural land uses on lands zoned C3 is considered to be a significant issue for both the community and Council. For this reason, it was determined this should be reflected in the objectives.
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c) It is proposed to amend the following **C4 Environmental Living Zone** objectives as follows:

Existing (M) = Mandatory	Proposed green = new text	Reason
To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values. (M)	To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.	No change – this is a mandatory objective
To ensure that residential development does not have an adverse effect on those values. (M)	To ensure that residential development does not have an adverse effect on those values.	No change – this is a mandatory objective
	To protect, manage and restore biodiversity corridors and facilitate species movement.	This objective identifies the importance of biodiversity corridors within the C4 zone. This was not captured by the mandated objectives.

## Item 2: Amendments to LEP 2011 C2, C3 and C4 Zone Land Use Tables

The LEP 2011 land use tables list the various forms of development that are considered to be compatible with the objectives of the conservation zones and therefore permitted with or without consent. The land use tables also list development that is not compatible with the objectives of the zones and these are listed as prohibited development.

The Standard Instrument LEP mandates certain land uses as permissible or prohibited in each zone throughout NSW. Additional land uses may be included if, in Council's opinion, the mandated uses do not satisfactorily address the local intent of the zone. The proposed land use table amendments (see below) will enable greater flexibility for compatible development to occur within Conservation zones, while prohibiting uses that are considered incompatible. Refer to **Appendix 2: Cessnock City Council Environmental Zoning Framework** for background information on the proposed changes.

- a) It is proposed to amend the C2 Environmental Conservation Zone Land Use Table as follows:

Amend the C2 Environmental Conservation Zone Land Use Table to:

***Permit with consent:***

Bed and breakfast accommodation, Building identification signs, Business identification signs, Community facilities, Eco-tourist facilities, Emergency services facilities, Flood mitigation works, Home businesses, Home Occupations.

***Prohibit***

Home based childcare, Secondary Dwellings, Tourist and Visitor Accommodation.

The **current** C2 zone Land Use Table is provided below with mandated permissible uses ***bolded and italicised***. Mandated land uses that must be either permitted without consent or permitted with consent are ***bolded and underlined***

Home occupations
Dwelling houses; Environmental facilities; <b><i><u>Environmental protection works</u></i></b> ; Extensive agriculture; Home-based child care; <b><i><u>Oyster aquaculture</u></i></b> ; Recreation areas; Roads; Secondary dwellings; Tourist and visitor accommodation
<b><i><u>Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Pond-based aquaculture; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Tank-based aquaculture; Warehouse or distribution centres; Any other development not specified in item 2 or 3</u></i></b>

The **proposed** C2 zone Land Use Table is provided below with mandated permissible uses ***bolded and italicised***. Mandated landuses that must either permitted without consent or permitted with consent are ***bolded and underlined***

Home occupations
Bed and breakfast accommodation; Building identification signs; Business identification signs; Community facilities; Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; <b><i><u>Environmental protection works</u></i></b> ; Extensive agriculture, Flood mitigation works; Home businesses; Home Occupations; <b><i><u>Oyster aquaculture</u></i></b> ; Recreation areas; Roads
<b><i><u>Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Pond-based aquaculture; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Tank-based aquaculture; Warehouse or distribution centres; Any other development not specified in item 2 or 3</u></i></b>

- b) It is proposed to amend the C3 Environmental Management Zone Land Use Table as follows:

Amend the C3 Environmental Management Zone Land Use Table to:

***Remove from permitted without consent:***



## Environmental Protection Works

***Permit with consent:***

Bed and breakfast accommodation, Building identification signs, Business identification signs, Camping grounds, Community facilities, Eco-tourist facilities, Emergency services facilities, Environmental protection works, Extensive agriculture, Farm buildings, Farm stay accommodation, Home businesses, Roadside stalls, Tourist and Visitor Accommodation

***Prohibit:***

Backpackers' accommodation, Hotel or motel accommodation, Serviced apartments.

The **current** C3 zone Land Use Table is provided below with mandated permissible uses ***bolded and italicised***. Mandated land uses that must either permitted without consent or permitted with consent are **bolded and underlined**. Uses that may (but need not) be included as permitted with consent are **bolded and highlighted**

<b><i>Environmental protection works, Home occupations</i></b>
<b><i>Dwelling houses</i></b> , Environmental facilities; Flood mitigation works; <b>Home industries</b> ; Information and education facilities; <b>Kiosks</b> ; <b><i>Oyster aquaculture; Pond-based aquaculture</i></b> ; Recreation areas; <b><u>Roads</u></b> ; <b><i>Tank-based aquaculture</i></b>
<b><i>Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3</i></b>

The **proposed** C3 zone Land Use Table is provided below with mandated permissible uses ***bolded and italicised***. Mandated land uses that must either permitted without consent or permitted with consent are **bolded and underlined**. Uses that may (but need not) be included as permitted with consent are **bolded and highlighted**

<b><i>Home occupations</i></b>
Bed and breakfast accommodation; Building identification signs; Business identification signs; Camping grounds; Community facilities; <b><i>Dwelling houses</i></b> ; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Farm buildings; Farm stay accommodation; Flood mitigation works; Home businesses; <b>Home industries</b> ; Information and education facilities; <b>Kiosks</b> ; <b><i>Oyster aquaculture; Pond-based aquaculture</i></b> ; Recreation areas; <b><u>Roads</u></b> ; Roadside stalls; <b><i>Tank-based aquaculture</i></b> ; Tourist and Visitor Accommodation
Backpackers' accommodation; Hotel or motel accommodation; <b><i>Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations</i></b> ; Serviced apartments; <b><i>Warehouse or distribution centres; Any other development not specified in item 2 or 3</i></b>

- c) It is proposed to amend the C4 Environmental Living Zone Land Use Table as follows:

Amend the C4 Environmental Living Zone Land Use Table to:

**Remove from *permitted without consent*:**

Environmental Protection Works, Home based child care.

***Permit with consent:***

Eco Tourist Facilities, Environmental Protection Works.

***Prohibit:***

Animal boarding or training establishments; Camping grounds; Caravan parks; Centre-based child care facilities; Community facilities; Emergency services facilities; Environmental facilities; Farm buildings; Information and education facilities; Home based child care; Landscaping material supplies; Neighbourhood shops; Passenger transport facilities; Plant nurseries; Research stations; Respite day care centres; Secondary dwellings

The **current** C4 zone Land Use Table is provided below with mandated permissible uses ***bolded and italicised***. Mandated land uses that must either permitted without consent or permitted with consent are **bolded and underlined**. Uses that may (but need not) be included as permitted with consent are **bolded and highlighted**

<b><u>Environmental protection works</u></b> , Home-based child care; <b><i>Home occupations</i></b>
Agriculture; Animal boarding or training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Centre-based child care facilities; Community facilities; <b><i>Dwelling houses</i></b> ; Emergency services facilities; Environmental facilities; Farm buildings; Flood mitigation works; Home businesses; <b>Home industries</b> ; Information and education facilities; Landscaping material supplies; Neighbourhood shops; <b><i>Oyster aquaculture</i></b> ; Passenger transport facilities; Plant nurseries; <b><i>Pond-based aquaculture</i></b> ; Recreation areas; Research stations; Respite day care centres; <b><u>Roads</u></b> ; Roadside stalls; Secondary dwellings; <b><i>Tank-based aquaculture</i></b> ; Water reticulation systems
<b><i>Industries</i></b> ; Intensive livestock agriculture; <b><i>Service stations</i></b> ; <b><i>Warehouse or distribution centres</i></b> ; <b><i>Any other development not specified in item 2 or 3</i></b>

The **proposed** C4 zone Land Use Table is provided below with mandated permissible uses ***bolded and italicised***. Mandated land uses that must either permitted without consent or permitted with consent are **bolded and underlined**. Uses that may (but need not) be included as permitted with consent are **bolded and highlighted**

<b><i>Home occupations</i></b>
Bed and breakfast accommodation; Building identification signs; Business identification signs; <b><i>Dwelling houses</i></b> ; Eco Tourist Facilities; <b><u>Environmental protection works</u></b> ; Extensive agriculture; Flood mitigation works; Home businesses; <b>Home industries</b> ; <b><i>Oyster aquaculture</i></b> ; <b><i>Pond-based aquaculture</i></b> ; Recreation areas; <b><u>Roads</u></b> ; Roadside stalls; <b><i>Tank-based aquaculture</i></b> ; Water reticulation systems
<b><i>Industries</i></b> ; <b><i>Service stations</i></b> ; <b><i>Warehouse or distribution centres</i></b> ; <b><i>Any other development not specified in item 2 or 3</i></b>

## PART 3: JUSTIFICATION

### Section A: Need for the Planning Proposal

#### **1 Is the planning proposal a result of an endorsed LSPS, strategic study or report?**

The Planning Proposal is required to address Action 22 of the Cessnock Local Strategic Planning Statement 2036 (the LSPS) which identifies the need to undertake an Environmental Lands Study. Further, Action 5 of the Cessnock LSPS outlines the need to review the LEP 2011 to bring about the following outcomes in relation to Conservation Zoned Lands:

- To review the land-uses in the C4 Environmental Living zone.
- To investigate the use of conservation zones.
- To ensure the land-uses permissible in each of the conservation zones are consistent with the objectives of the zone.
- To investigate the introduction of planning controls to reduce land-use conflict for lands of high conservation value
- To ensure significant riparian corridors and water bodies are zoned to an appropriate conservation zone.
- To ensure that the zoning and land-uses for land that is significantly affected by natural hazards (e.g. flooding and bushfire) reflect the risk.

Additionally, the LSPS recognises the significant contribution of tourism to our economy. A number of priorities within the LSPS identify the need to promote compatible opportunities for tourism in Cessnock LGA. In particular, *Planning Priority 10: Our City encourages a variety of niche tourism opportunities* includes the following actions:

1. Diverse and innovative tourism industries are encouraged.
2. Tourism operations are compatible with the character of the surrounding area.
3. Tourism activities are supported by essential infrastructure that is appropriately funded.
4. Local produce is promoted as part of the tourism experience in the Hunter.

A number of further actions relating to niche tourist opportunities are also relevant to the Conservation zones:

- Review the Cessnock Local Environmental Plan – To provide flexibility for new tourism development in suitable locations
- Our area is a leader of wine tourism, eco-tourism and agri-based tourism in NSW
- Our City encourages a variety of niche tourism opportunities.
- Nature-based and recreational tourism is facilitated and promoted.

On the basis of the above, extensive community feedback was sought on appropriate tourism land uses in Conservation zones (see Appendix 2, Cessnock City Council Environmental Zoning Framework), together with a review of the permissibility of tourist uses in Conservation Zones of surrounding LGAs. The resulting amendments include the proposed permissibility of low impact tourist uses including camping grounds, bed and breakfast accommodation, farm stay accommodation and eco-tourist facilities in Conservation zones.

## **2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The objective of the Planning Proposal is to amend the LEP 2011 C2 Environmental Conservation, C3 Environmental Management and C4 Environmental Living zone objectives and land use tables. A planning proposal is the only way for Council to achieve these objectives.

## Section B: Relationship to Strategic Planning Framework

### 3 Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

#### Hunter Regional Plan 2036

The Hunter Regional Plan (HRP) provides the overarching strategic framework to guide development, investment and planning within the Hunter region to 2036. The HRP sets the following regionally focused goals:

- The leading regional economy in Australia
- A biodiversity-rich natural environment
- Thriving communities
- Greater housing choice and jobs

The Planning Proposal seeks to make amendments to the Cessnock LEP to add zone objectives and amend land use tables for the C2 Environmental Conservation, C3 Environmental Management and C4 Environmental Living zones which will facilitate a biodiversity rich natural environment consistent with the Hunter Regional Plan. In particular the amendments are consistent with the following Directions in the Regional Plan:

- Direction 14 - Protect and connect natural areas;
- Direction 16 - Increase resilience to hazards and climate change.

#### Draft Hunter Regional Plan 2041

The draft Hunter Regional Plan was on public exhibition until 4 March 2022 and the planning proposal is required to consider the document. The Planning Proposal is consistent with the following relevant Strategies in the draft Hunter Regional Plan 2041:

- Strategy 5.6 - Strategic land use planning should identify and take account of the location and extent of areas of high environmental value
- Strategy 5.7 - Responding to biodiversity values in new development areas should occur at the early stages of the planning process
- Strategy 5.9 - Development proposals should aim to strengthen biodiversity corridors as places for priority biodiversity offsets

#### Greater Newcastle Metropolitan Plan

The Greater Newcastle Metropolitan Plan (GNMP) sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens, which together make up Greater Newcastle. The plan also helps to achieve the vision set in the Hunter Regional Plan 2036 for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart.

The Planning Proposal is consistent with the following strategies and/or actions of the Greater Newcastle Metropolitan Plan:

- Strategy 12 – Enhance the Blue and Green Grid and the urban tree canopy
- Strategy 14 – Improve resilience to natural hazards
- Strategy 18 – Deliver well-planned rural residential housing areas



#### **4 Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?**

##### **Cessnock Local Strategic Planning Statement 2036 (LSPS)**

The Cessnock Local Strategic Planning Statement 2036 (LSPS) establishes a 20-year vision for land use planning in the Cessnock LGA. The LSPS sets out the important character and values, which are to be preserved and establishes planning principles to manage land use planning in the future.

The following planning priorities and principles are relevant to the proposal.

- Planning Priority 6: Rural residential, large lot residential development and environmental living are considered in limited and appropriate locations.
- Planning Priority 10: Our City encourages a variety of niche tourism opportunities.
- Planning Priority 17: Our lands of environmental value are protected and enhanced.
- Planning Priority 18: Our areas of biodiversity and biodiversity corridors are enhanced and protected.
- Planning Priority 19: Our waterways are healthy, and water quality and water security are improved.

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

The Cessnock Community Strategic Plan 2027 (CSP) was prepared in 2013 and identifies the community's main priorities and expectations for the future and ways to achieve these goals. The vision of the CSP is:

*Cessnock will be a cohesive and welcoming community living in an attractive and sustainable rural environment with a diversity of business and employment opportunities supported by accessible infrastructure and services which effectively meet community needs.*

A range of strategic directions are provided which relate to the social, environmental and economic health, sustainability and prosperity of the Cessnock LGA. The Planning Proposal is consistent with the following themes of the CSP:

- Objective 3.1: Protecting & enhancing the natural environment & the rural character of the area

After the submission of this draft Planning Proposal for Gateway determination in 2021, Council adopted an update of the CSP, the Cessnock Community Strategic Plan 2036. The Planning Proposal remains consistent with the vision and directions of the updated CSP.

#### **5 Is the planning proposal consistent with any other applicable State and regional studies or strategies?**

##### **A 20-year Economic Vision for Regional NSW**

The Economic Vision for Regional NSW seeks to drive sustainable, long term economic growth in regional NSW

The planning proposal is consistent with the principles of this strategy, notably:

- Principle 6: Recognising each region's strengths and underlying endowments

- Principle 7: Regulation and planning to promote commercial opportunities
- Principle 8: Sustainable economies and communities are better able to recover from shocks

## State Emergency Management Plan (EMPLAN)

The State Emergency Management Plan (EMPLAN) provides a coordinated and comprehensive approach to emergency management in NSW. The Plan identifies the importance of land use planning in prevention of impacts of hazards on the community.

This planning proposal is consistent with the principles of this strategy.

## Northern Councils E Zone Review

The NSW Government (Department of Planning & Environment) released The Northern Councils E Zone Review Final Recommendations Report (Northern Councils Report) in October 2015. The Northern Councils Report defined a set of criteria for the application of then E2 and E3 (now C2 and C3) zones across five Local Government Areas (LGAs) in northern NSW. This established a process for identifying environmental (now conservation) zones and a method for verifying this, based on attributes such as usage history and environmental conditions. The Cessnock City Council Environmental Zoning Framework which informed the land use tables within this Planning Proposal followed the methodology of the Northern Councils E Zone Review.

It is important to note that while the Environmental Zoning Framework closely followed the principles and methodology of the Northern Councils E Zone Review, the outcomes presented by this Framework correspond to the attributes of Cessnock LGA.

## 6 Is the planning proposal consistent with applicable SEPPs?

An assessment of relevant SEPPs against the planning proposal is provided in the table below.

Table 1: Relevant State Environmental Planning Policies

SEPP	Consistency and Implications
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Housing) 2021	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Planning Systems) 2021	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Primary Production) 2021	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Resilience and Hazards) 2021	Nothing in this Planning Proposal impacts on the operation of this SEPP

SEPP	Consistency and Implications
State Environmental Planning Policy (Resources and Energy) 2021	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Transport and Infrastructure) 2021	Nothing in this Planning Proposal impacts on the operation of this SEPP

## 7 Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

An assessment of relevant Section 9.1 Directions against the planning proposal is provided in the table below.

Table 2: Relevant Section 9.1 Ministerial Directions

Ministerial Direction		Consistency and Implications
Planning Systems		
1.1	Implementation of Regional Plans	Consistent. This Planning Proposal facilitates the implementation of the Hunter Regional Plan 2036 and Draft Hunter Regional Plan 2041.
1.2	Development of Aboriginal Land Council land	N/A
1.3	Approval and Referral Requirements	Consistent
1.4	Site Specific Provisions	N/A
Planning Systems – Place-based		
Design and Place		
Biodiversity and Conservation		
3.1	Conservation Zones	Consistent. This Planning Proposal seeks to make amendments to the Cessnock LEP Conservation zones that facilitate the protection and conservation of environmentally sensitive areas.
3.2	Heritage Conservation	Consistent. The amended land use tables and zone objectives will facilitate the conservation of historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, with specific consideration to enhanced protection for Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes.
3.5	Recreation Vehicle Areas	Consistent. The planning proposal does not enable land to be developed for the purpose of a recreation vehicle area, within the meaning of the Recreation Vehicles Act 1983.
Resilience and Hazards		
4.1	Flooding	Consistent. Land impacted by the planning proposal is mapped as flood prone land. The amended land use tables are unlikely to increase flood risk through intensification of land use and any future development application will be required to demonstrate consistency with clause 5.21 – Flood Planning of Cessnock Local Environmental Plan 2011 and Part C9 of Cessnock Development Control Plan 2010.

		Notwithstanding, due to the scope of the proposed changes to the land use tables, the planning proposal will be referred to Biodiversity Conservation Division to determine consistency with the direction.
4.2	Coastal Management	Consistent. The planning proposal does not seek to enable increased development or more intensive land-use on any land impacted by this direction. The planning proposal gives effect to the objects of the Coastal Management Act 2016 and does not raise any issues that conflict with the NSW Coastal Management Manual and associated toolkit or the NSW Coastal Design Guidelines 2003. Council are undertaking a separate project to meet their obligations under this framework.
4.3	Planning for Bushfire Protection	Consistent. The planning proposal seeks to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas. Land impacted by the planning proposal is mapped as bush fire prone land and will be impacted via the amended land use tables. Consultation will be undertaken with the NSW Rural Fire Service to determine consistency with this direction.
4.4	Remediation of Contaminated Land	Consistent. The planning proposal applies to Conservation zones across the entire LGA. Site specific investigations will be applied at the Development Application stage where required. If the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, Council is satisfied that the land will be so remediated before the land is used for that purpose.
4.5	Acid Sulfate Soils	Consistent. The planning proposal does not propose any specific use on land identified as having a probability of containing acid sulfate soils. Any future Development Application on land identified as having a probability of containing acid sulfate soils must be accompanied by a report to determine the appropriate acid sulfate soil management response, is to be prepared by a suitably qualified person.
4.6	Mine Subsidence and Unstable Land	Consistent. The planning proposal seeks to amend land use tables to alter development permissibility for low impact uses on land that may apply to land in a declared mine subsidence district. Consultation with Subsidence Advisory NSW should be undertaken to determine consistency with this direction.
Transport and Infrastructure		
5.1	Integrating Land Use and Transport	Consistent
5.2	Reserving Land for Public Purposes	N/A
5.3	Development Near Regulated Airports and Defence Airfields	N/A
5.4	Shooting Ranges	Consistent

Housing		
6.1	Residential Zones	N/A
6.2	Caravan Parks and Manufactured Home Estates	Consistent. Caravan parks in C4 zone are inconsistent with the zone objectives, the objectives contained in the Hunter Regional Plan 2036, Greater Newcastle Metropolitan Plan 2036, Draft Hunter Regional Plan 2041 and Cessnock LSPS. Caravan Parks and/or Manufactured Home Estates as a form of low cost housing are better suited in urban areas within proximity to existing centres, services and facilities. These are appropriately provided within other zones in the LGA.
Industry and Employment		
7.1	Business and Industrial Zones	N/A
Resources and Energy		
8.1	Mining, Petroleum Production and Extractive Industries	N/A
Primary Production		
9.1	Rural Zones	Consistent
9.2	Rural Lands	Consistent. This Planning Proposal seeks to permit <i>Extensive agriculture</i> with consent in the C3 Environmental Management Zone, facilitating the right to farm and the establishment of sustainable agricultural activities in this zone. This expands upon current permissibility in the Cessnock LEP which presently prohibits <i>Extensive agriculture</i> in the C3 Zone
9.3	Oyster Aquaculture	N/A



## **Section C: Environmental, Social and Economic Impact**

### **8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?**

The Planning Proposal will have a positive impact on threatened species and endangered ecological communities (EEC). The Planning Proposal seeks to prevent negative impacts on threatened species and EECs through the application of appropriate conservation land use controls.

### **9 Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?**

The Planning Proposal seeks to prevent negative impacts on threatened species and EEC by applying an appropriate conservation land use controls to that land. Strengthening protection over these lands will lead to long term improved biodiversity protection and resilience.

### **10 Has the planning proposal adequately addressed any social and economic effects?**

The planning proposal is unlikely to have any significant adverse social or economic impacts. The Planning Proposal will not generate demand for additional public infrastructure.

## **Section D: Infrastructure (Local, State and Commonwealth)**

### ***11* Is there adequate public infrastructure for the planning proposal?**

The Planning Proposal will have no impact on public infrastructure.

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

### **12 What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?**

Council will undertake further consultation with public authorities and the community as required by the Gateway determination. The following agencies will be consulted with concurrently during the public exhibition of this Planning Proposal:

- The Biodiversity Conservation Division (BCD) of DPE
- Hunter Water Corporation (HWC)
- Subsidence Advisory (SA)
- Mindaribba Local Aboriginal Land Council
- NSW Rural Fire Service
- NSW Local Land Services

Any agency views expressed in written submissions during the exhibition period will be considered by Council before a final decision is made on whether or not the draft plan should be made.

## **PART 4: MAPS**

No changes to LEP Maps are proposed by this planning proposal.

## PART 5: COMMUNITY CONSULTATION

Council undertook considerable consultation with the local community on the background study that informed this planning proposal (see Appendix 2). This included the establishment of a Community Reference Group and community values surveys. The following groups have also been heavily consulted through targeted stakeholder engagement:

- Mindaribba Local Aboriginal Land Council
- Council's Development Consultation Forum
- Council's Aboriginal and Torres Strait Island Committee
- Council staff - including workshops with the Development Services Team and Strategic Planning Team
- Councillors
- Department of Planning, Industry and Environment, and,
- Local Land Services

Further community consultation will be undertaken in accordance with the Gateway determination. This includes newspaper advertising and a Have Your Say engagement page on Council's website. The Planning Proposal will also be available for viewing in hard-copy at:

- Council's Administrative Building (Customer Service Section);
- Cessnock Public Library; and
- Kurri Kurri Public Library

The public exhibition period for this proposal will last for 30 business days. Any views expressed in written submissions during the exhibition period will be considered by Council before a final decision is made on whether or not the draft plan should be made





## PART 6: PROJECT TIMELINE

Table 3: Indicative project timeline.

Plan Making Stage	Dec 2021	Jan 2022	Feb 2022	Mar 2022	Apr 2022	May 2022	June 2022	July 2022	Aug 2022	Sept 2022	Oct 2022	Nov 2022	Dec 2022	Jan 2023	Feb 2023	March 2023	April 2023
<b>STAGE 1</b> Submit to DPE – Gateway																	
<b>STAGE 2</b> Receive Gateway																	
<b>STAGE 3</b> Agency Consultation																	
<b>STAGE 4</b> Preparation of documentation for Public																	
<b>STAGE 5</b> Public Exhibition																	
<b>STAGE 6</b> Consideration of submissions																	
<b>STAGE 7</b> Report to Council																	
<b>STAGE 8</b> Forward Planning Proposal to DPE with request the amendment be made																	

## PART 7: LAND USE TABLE AMENDMENTS

All Standard Instrument LEP defined land uses are listed in the table below and were reviewed for their compatibility with the C2 Environmental Conservation, C3 Environmental Management and C4 Environmental Living Zone objectives. Land uses outlined **RED** in the table below are recommended changes to the land use matrix.

Based on the Cessnock Local Environmental Plan 2011							
<b>Legend</b> o permitted without consent c permitted with consent x prohibited A permitted under SEPP (Affordable Rental Housing) 2009 I permitted under SEPP (Infrastructure) 2007 E permitted under SEPP (Educational Establishments & Child Care Facilities) 2017  mandated under the Standard Instrument (SI)  public infrastructure permitted under a SEPP. Land use permissibility outlined <b>RED</b> denotes a proposed change		Environmental Conservation (Existing)	Environmental Conservation (Proposed)	Environmental Management (Existing)	Environmental Management (Proposed)	Environmental Living (Existing)	Environmental Living (Proposed)
		C2	C2	C3	C3	C4	C4
Is the zone used? (please select Y/N for each zone)		Y	Y	Y	Y	Y	Y
(LAND USE terms WITHIN agriculture group term)							
agriculture		x	x	x	x	c	x
aquaculture		x	x	x	x	c	x
Oyster aquaculture		c	c	c	c	c	c
Pond-based aquaculture		x	x	c	c	c	c
Tank-based aquaculture		x	x	c	c	c	c
extensive agriculture [eg. grazing of livestock, cropping etc.]		c	c	x	c	c	c
bee keeping		c	c	x	c	c	c
dairy (pasture-based)		c	c	x	c	c	c
intensive livestock agriculture		x	x	x	x	x	x
feedlots		x	x	x	x	x	x
dairies (restricted)		x	x	x	x	x	x
pig farm		x	x	x	x	x	x
poultry farm		x	x	x	x	x	x
intensive plant agriculture [eg. cultivation of irrigated crops]		x	x	x	x	c	x
horticulture		x	x	x	x	c	x
turf farming		x	x	x	x	c	x
viticulture		x	x	x	x	c	x
(LAND USE terms OUTSIDE agriculture group term)							
animal boarding or training establishments		x	x	x	x	c	x
farm buildings		x	x	x	c	c	x

forestry	x	X	x	x	x	x
(LAND USE terms WITHIN residential accommodation group term)						
residential accommodation						
attached dwellings	x	X	x	x	x	x
boarding houses	x	X	x	x	x	x
dual occupancies	x	X	x	x	x	x
dual occupancies (attached)	x	X	x	x	x	x
dual occupancies (detached)	x	X	x	x	x	x
dwelling houses	c	C	c	c	c	c
group homes	x	X	x	x	x	x
group homes (permanent)	x	X	x	x	x	x
group homes (transitional)	x	X	x	x	x	x
hostels	x	X	x	x	x	x
multi dwelling housing	x	X	x	x	x	x
residential flat buildings	x	X	x	x	x	x
rural worker's dwellings	x	X	x	x	x	x
secondary dwellings	c	x	x	x	c	x
semi-detached dwellings	x	X	x	x	x	x
seniors housing	x	X	x	x	x	x
residential care facilities	x	X	x	x	x	x
shop top housing	x	X	x	x	x	x
(LAND USE terms OUTSIDE residential accommodation group term)						
home business	x	c	x	c	c	c
home occupations	o	c	o	o	o	o
home occupation (sex services)	x	X	x	x	x	x
(LAND USE terms WITHIN tourist and visitor accommodation group term)						
tourist and visitor accommodation	c	x	x	x	x	x
backpackers' accommodation	c	x	x	x	x	x
bed & breakfast accommodation	c	c	x	c	c	c
farm stay accommodation	c	x	x	c	x	x
hotel or motel accommodation	x	X	x	X	x	x
serviced apartments	c	x	x	X	x	x
(LAND USE terms OUTSIDE tourist and visitor accommodation group term)						
camping grounds	x	X	x	c	c	x
caravan parks	x	X	x	x	c	x
eco-tourist facilities	x	c	x	c	x	c
(LAND USE terms WITHIN commercial premises group term)						
commercial premises	x	X	x	x	x	x
business premises [eg. banks, post offices, hairdressers, etc.]	x	X	x	x	x	x
funeral homes	x	X	x	x	x	x
office premises	x	X	x	X	x	x
retail premises	x	X	x	x	x	x
cellar door premises	x	X	x	x	x	x
food & drink premises	x	X	x	x	x	x
pubs	x	X	x	x	x	x

	restaurants or cafes	x	X	x	x	x	x
	take-away food & drink premises	x	X	x	x	x	x
	small bars	x	X	x	x	x	x
	garden centres	x	X	x	x	x	x
	hardware & building supplies	x	X	x	x	x	x
	kiosks	x	X	c	c	x	x
	landscaping material supplies	x	X	x	x	c	x
	markets	x	X	x	x	x	x
	plant nurseries	x	X	x	x	c	x
	roadside stalls	x	X	x	c	c	x
	rural supplies	x	X	x	x	x	x
	shops	x	X	x	x	x	x
	neighbourhood shops	x	X	x	x	c	x
	neighbourhood supermarkets	x	X	x	x	x	x
	specialised retail premises	x	X	x	x	x	x
	timber yards	x	X	x	X	x	x
	vehicle sales or hire premises	x	X	x	x	x	x
<b>(LAND USE terms OUTSIDE commercial premises group term)</b>							
	amusement centres	x	X	x	x	x	x
	entertainment facilities	x	X	x	x	x	x
	function centres	x	X	x	x	x	x
	highway service centres	x	X	x	x	x	x
	industrial retail outlets	x	X	x	x	x	x
	registered clubs	x	X	x	x	x	x
	restricted premises	x	X	x	x	x	x
	service stations	x	X	x	x	x	x
	sex services premises	x	X	x	x	x	x
	veterinary hospitals	x	X	x	x	x	x
	wholesale supplies	x	X	x	x	x	x
<b>(LAND USE terms WITHIN rural industry group term)</b>							
	<b>rural industries</b> [eg. use of composting facilities and works]	x	X	x	x	x	x
	agricultural produce industries	x	X	x	x	x	x
	livestock processing industries	x	X	x	x	x	x
	sawmill or log processing industries	x	X	x	x	x	x
	stock & sale yards	x	X	x	x	x	x
<b>(LAND USE terms WITHIN industry group term)</b>							
	<b>Industries</b>	x	X	x	x	x	x
	heavy industries	x	X	x	x	x	x
	hazardous industry	x	X	x	x	x	x
	offensive industry	x	X	x	x	x	x
	light industries	x	X	x	x	x	x
	artisan food and drink industry	x	X	x	x	x	x
	creative industries	x	x	x	x	x	x
	high technology industries	x	X	x	x	x	x
	data centre	x	x	x	x	x	x
	home industry	x	X	c	c	c	c
	general industries	x	X	x	x	x	x
<b>(LAND USE terms OUTSIDE industry group term)</b>							

	boat building and repair facilities	x	X	x	x	x	x
	vehicle body repair workshops	x	X	x	x	x	x
	vehicle repair stations	x	X	x	x	x	x
(LAND USE terms WITHIN heavy industrial storage establishment group term)							
	<b>heavy industrial storage establishments</b>	x	X	x	x	x	x
	hazardous storage establishments	x	X	x	x	x	x
	liquid fuel depots	x	X	x	x	x	x
	offensive storage establishments	x	X	x	x	x	x
(LAND USE terms WITHIN storage premises group term)							
	<b>storage premises</b>	x	X	x	x	x	x
	self storage units	x	X	x	x	x	x
(LAND USE terms OUTSIDE storage premises group term)							
	depots	x	X	x	x	x	x
	<b>warehouse or distribution centres</b>	x	X	x	x	x	x
	Local distribution premises	x	X	x	x	x	x
(LAND USE terms WITHIN sewerage system group term)							
	<b>sewerage systems</b>	x	X	x	x	x	x
	biosolids treatment facilities	x	X	x	x	x	x
	sewage reticulation systems	I	I	I	I	I	I
	sewage treatment plants	x	X	x	x	x	x
	water recycling facilities	x	X	x	x	x	x
(LAND USE terms WITHIN waste or resource management facility group term)							
	<b>waste or resource management facilities</b>	x	X	x	x	x	x
	resource recovery facilities	x	X	x	x	x	x
	waste disposal facilities	x	X	x	x	x	x
	waste or resource transfer stations	x	X	x	x	x	x
(LAND USE terms WITHIN water supply system group term)							
	<b>water supply systems</b>	x	X	x	x	x	x
	water reticulation systems	x	X	x	x	c	c
	water storage facilities	x	X	x	x	x	x
	water treatment facilities	x	X	x	x	x	x
(LAND USE terms WITHIN air transport facility group term)							
	<b>air transport facilities</b>	x	X	x	x	x	x
	airport	x	X	x	x	x	x
	heliport	x	X	x	x	x	x
(LAND USE terms OUTSIDE air transport facility group term)							
	airstrip	x	X	x	x	x	x
	helipad	x	X	x	x	x	x
(Other LAND USE terms relating to infrastructure)							
	car parks	x	X	x	x	x	x
	electricity generating works	x	X	x	x	x	x
	freight transport facilities	x	X	x	x	x	x
	passenger transport facilities	x	X	x	x	c	x
	port facilities	x	x	x	x	x	x
	roads	c	c	c	c	c	c
	transport depots	x	x	x	x	x	x

truck depots	x	x	x	x	x	x
wharf or boating facilities	x	x	x	x	x	x
(LAND USE terms WITHIN educational establishment group term)						
educational establishments [eg. TAFE establishment, etc.]	x	x	x	x	E	E
schools	x	x	x	x	E	E
(LAND USE terms WITHIN health services facility group term)						
health services facilities	x	x	x	x	x	x
hospitals	x	x	x	x	x	x
medical centres	x	x	x	x	x	x
health consulting rooms	x	x	x	x	x	x
(Other LAND USE terms relating to community infrastructure)						
early education & care facilities	x	x	x	x	x	x
centre-based child care facilities	x	x	x	x	c	x
home-based child care	c	x	x	x	o	x
school-based child care	x	x	x	x	E	E
community facilities	x	c	x	c	c	x
correctional centres	x	x	x	x	x	x
emergency services facilities	x	c	x	c	c	x
industrial training facilities	x	x	x	x	x	x
information and education facilities	x	x	c	c	c	x
places of public worship	x	x	x	x	x	x
public administration building	x	x	x	x	x	x
research stations	x	x	x	x	c	x
respite day care centres	x	x	x	x	c	x
(LAND USE terms WITHIN signage group term)						
signage	x	x	x	x	x	x
advertising structure	x	x	x	x	x	x
building identification sign	x	c	x	c	c	c
business identification sign	x	c	x	c	c	c

(LAND USE terms relating to recreation)						
boat launching ramps	x	x	x	x	x	x
boat sheds	x	x	x	x	x	x
charter & tourism boating facilities	x	x	x	x	x	x
environmental facilities	c	c	c	c	c	x
jetties	x	x	x	x	x	x
marinas	x	x	x	x	x	x
mooring	x	x	x	x	x	x
mooring pens	x	x	x	x	x	x
recreation areas	c	c	c	c	c	c
recreation facilities (indoor)	x	x	x	x	x	x
recreation facilities (major)	x	x	x	x	x	x
recreation facilities (outdoor)	x	x	x	x	x	x
water recreation structures	x	x	x	x	x	x
(Other miscellaneous LAND USE terms)						
cemetery	x	x	x	x	x	x

crematorium	x	x	x	x	x	x
environmental protection works	c	c	o	c	o	c
exhibition homes	x	x	x	x	x	x
exhibition villages	x	x	x	x	x	x
extractive industries	x	x	x	x	x	x
flood mitigation works	x	c	c	c	c	c
mortuaries	x	x	x	x	x	x
open cut mining	x	x	x	x	x	x
(OTHER LAND USES)						
development which cannot be characterised into any land uses defined in the SI	x	x	x	x	x	x

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

Report to Ordinary Meeting of Council – 17 November 2021

Minutes of Ordinary Meeting of Council – 17 November 2021

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



## **Appendix 2: Cessnock Environmental Zoning Framework**

**Appendix 3: Gateway Determination** -  
**Department of Planning & Environment**