



PLANNING PROPOSAL

Amendment to the *Cessnock Local Environmental Plan 2011*

Schedule 1 Additional Permitted Use – Orica Site

**1151 George Booth Drive, Richmond Vale
LOT 2 DP 809377**

Version 2.2

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Summary of Proposal

APPLICATION NUMBER:	18/2014/4
PROPOSAL:	Planning Proposal – Orica
PROPERTY DESCRIPTION:	Part of Lot 2 DP 809377
PROPERTY ADDRESS:	1151 George Booth Drive Richmond Vale
ZONE: (CURRENT)	RU2 Rural Landscape under the <i>Cessnock Local Environmental Plan (LEP) 2011</i>
ZONE (PROPOSED)	Not applicable – an Additional Permitted Use is proposed
OWNER:	Orica (Australia) Pty Ltd
PROPONENT:	Urbis Pty Ltd

Background

Orica has operated an explosive research and development facility at Richmond Vale since 1991. Until 2010, the facility operated under three development consents issued by Council. At the time the consents were issued, the site was zoned 1(a) Rural “A” and the use was permissible pursuant to Schedule 5 of the LEP 1989, being development for certain additional purposes, as follows:

explosives research and production facility involving:

- (a) the construction and use of offices, laboratories and workshops for the purposes of research into, and development of, explosives and associated manufacturing processes, methods of application of explosives, related advanced engineering processes and blasting physics, and*
- (b) the production, storage and testing of explosives.*

In July 2010, the then Minister for Planning granted approval to the Orica Ammonium Nitrate Emulsion Project under the now repealed Part 3A major infrastructure and other projects provisions of the *Environmental Planning and Assessment Act 1979*. The Minister’s Project Approval enabled the continuation of Orica’s existing facility and the manufacture of up to 250,000 tonnes per annum of ammonium nitrate emulsion to be sold primarily to the mining industry for use as an explosives precursor.

Since the Major Project Approval was granted, Council prepared the *Cessnock Local Environmental Plan (LEP) 2011* and this was made in December 2011. Under the LEP 2011, the site was zoned in part, RU2 Rural Landscape Zone, which applied over the developed footprint of the site. The remainder of the site, including an expansion of the facility under the State Government Major Project Approval No. 09_0090, was identified as ‘deferred matter’ and maintained a 1(a) Rural “A” Zone under the LEP 1989.

The Additional Permitted Use specified in Schedule 5 of the LEP 1989 for the site, being ‘explosives research and production facility’, was not carried to the LEP 2011 during its preparation, principally due to Departmental policy at the time. This has resulted in reliance on existing use rights provisions for Orica’s continuing operation of the facility at Richmond Vale.

In August 2014, Orica Limited lodged a Planning Proposal with Council to seek a zoning over the central portion of the site to SP1 Special Activities Zone to enable future operations without having to rely on existing use rights. The balance of the land was to be zoned E2 Environmental Conservation. The Planning Proposal was reported to Council in December 2014 and Council resolved to proceed with the amendment by forwarding the Planning Proposal to the Department of Planning and Environment (DoPE) for Gateway determination. The Gateway determination was issued on 16 February 2015 and required the agreement of the NSW Office of Environment and Heritage regarding environmental conservation outcomes.

In the months that elapsed since the original Gateway determination was issued by DoPE, significant discussion has occurred between Orica, Council, and the NSW Office of Environment and Heritage to develop a preferred planning approach to ensure environmental conservation and allow for the ongoing viability of Orica's facility at Richmond Vale. As a result of these discussions, the Planning Proposal was amended in early 2016 to apply an Additional Permitted Use to part of the site to accommodate Orica's existing facility and allow for limited expansion in the future. The amended Proposal reflects the provisions that formally applied to the entire site under the LEP 1989. An amended Gateway determination was issued in respect of the amended Proposal on 17 March 2016.

On 1 April 2016, Amendment No. 16 to the LEP 2011 was notified and had the effect of formalising the zoning of the 'Deferred Matter' sites in the Local Government Area under the LEP 2011. Consequently, the land formally identified as 'Deferred Matter' within Lot 2 DP 809377 was converted to RU2 Rural Landscape Zone.

Figure 1: Subject Land, 1151 George Booth Drive Richmond Vale



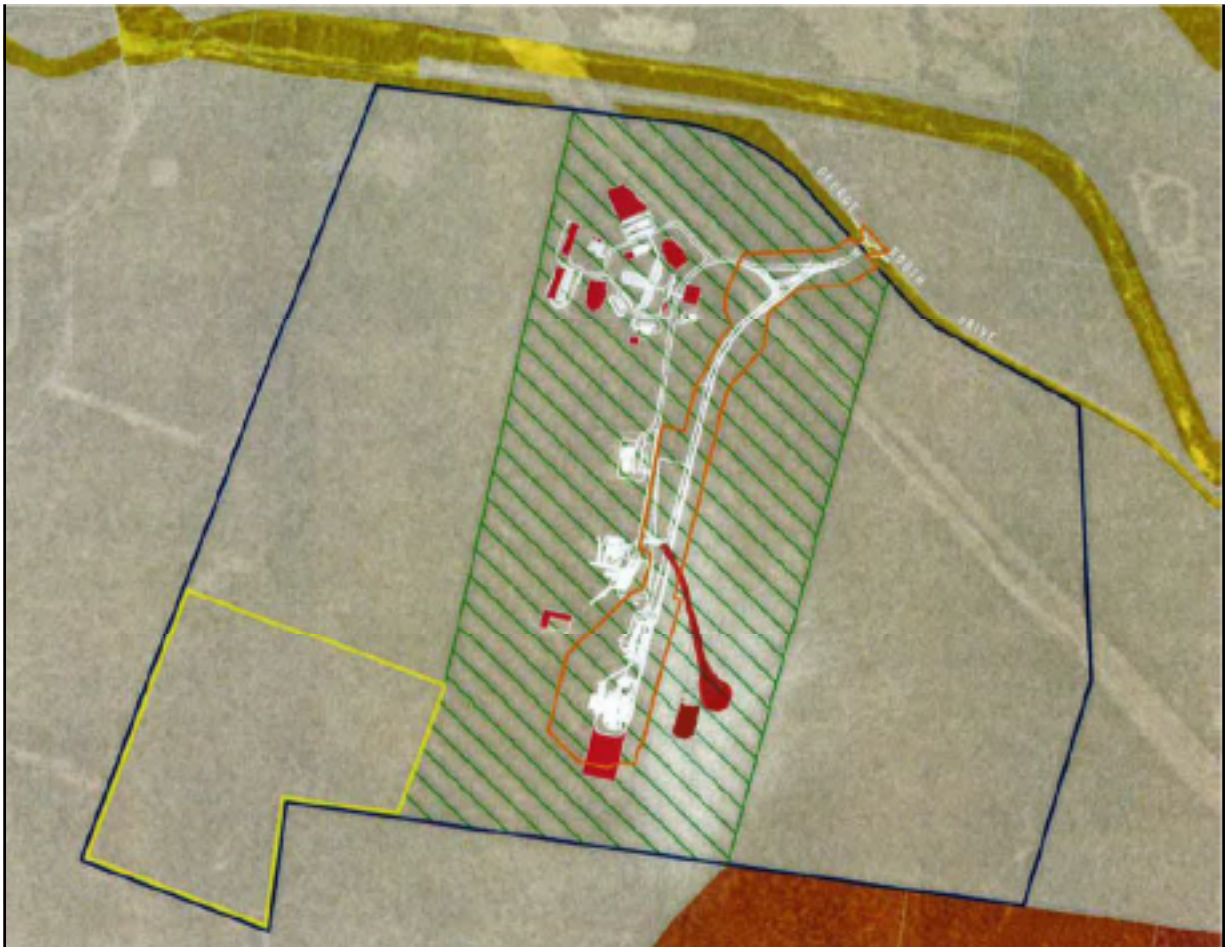
PART 1: OBJECTIVES and OUTCOMES

The objective of the Planning Proposal is to provide certainty for the long term use of the site as a 'Technology Centre and Explosive Research and Production Facility'. The Proposal also seeks to enable limited expansion of existing operations in the site whilst facilitating environmental conservation outcomes. The outcome of the Planning Proposal will be the inclusion of an Additional Permitted Use (APU) to Schedule 1 of the Cessnock Local Environmental Plan (LEP) 2011 on part of the site, being 'Technology Centre and Explosive Research and Production Facility'.

PART 2: EXPLANATION of PROVISIONS

The Planning Proposal seeks to incorporate an Additional Permitted Use (APU) in Schedule 1 of the LEP 2011 to accommodate the approved and existing use of the site as a 'Technology Centre and Explosives Research and Production Facility'. The APU will apply to the central portion of the site, as hatched in green in Figure 2.

Figure 2: Area Subject to Proposed Additional Permitted Use Provision



The Proposal reflects provisions that formally applied to the entire site under the LEP 1989. The Proposal will allow for limited expansion of existing operations whilst facilitating environmental conservation outcomes over the majority of the site. The Proposal does not seek to rezone the subject site, as originally proposed.

On 1 April 2016, Amendment No. 16 to the LEP 2011 was notified and had the effect of formalising the zoning of the 'Deferred Matter' sites in the Local Government Area under the LEP 2011. Consequently, the land formally identified as 'Deferred Matter' within Lot 2 DP 809377 was converted to RU2 Rural Landscape Zone.

The Proponent has offered to enter into a Voluntary Planning Agreement (VPA) to bring about the environmental conservation outcomes required by the NSW Office of Environment and Heritage in relation to the Proposal. The VPA will provide for offsets based upon the bio-banking methodology and credit retired under the *Threatened Species Conservation Act*

The Planning Proposal is supported by the NSW Department of Planning and Environment and NSW Office of Environment and Heritage. It is considered that the Planning Proposal will provide greater certainty regarding the extent of future development within the site and of site

clearing, which will be limited to a maximum of 12 hectares, as opposed to a potential 100 hectares under the original Planning Proposal.

Recommendation:

It is recommended that the following amendments are made to the LEP 2011:

1. Amend Schedule 1 of the Plan to include the following additional permitted use:

Use of certain land at George Booth Drive, Richmond Vale

- (1) This clause applies to land being part of Lot 2 DP 809377 at 1151 George Booth Drive, Richmond Vale and identified on the Additional Permitted Uses Map.
- (2) Development for the purpose of a *Technology Centre and Explosive Research and Production Facility*, involving:
 - (a) *the construction and use of offices, laboratories and workshops for the purposes of research into, and development of, explosives, precursors and associated manufacturing processes, methods of application of explosives, related advanced engineering processes and blasting physics, and*
 - (b) *the production, storage and testing of explosives and their precursors*

is permitted with development consent.

2. Amend the Additional Permitted Uses Map that accompanies the LEP 2011 to identify that part of Lot 2 DP 809377 at 1151 George Booth Drive, Richmond Vale to which the APU applies, as hatched in green in Figure 2.

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 not the result of a strategic study or report. The Planning Proposal will provide planning certainty for the existing and future operations on site and facilitate environmental conservation outcomes.

The Proposal will ensure that the Orica operation will be permissible under the provisions of the *Cessnock Local Environmental Plan (LEP) 2011* and not operate under existing use rights provisions of the *Environmental Planning and Assessment Act 1979*.

2 Planning Proposal as best way to achieve to objectives

It is considered that a Planning Proposal is the best way to achieve the objectives for the subject site.

Without the inclusion of the site in Schedule 1 of the LEP 2011 with an Additional permitted use, the current operations and future expansion or redevelopment works, including minor matters would be restricted to existing use rights provisions. The provisions have the potential to significantly limit the extent of physical and operational expansion of non-conforming uses in the future.

The Proposal will facilitate environmental conservation outcomes over the majority of the site through a bio-banking agreement. Currently, there is a biodiversity off-set arrangement in place for the south-western corner of the site adjacent to the Sugarloaf Conservation area. Similar offsets are proposed under the subject Proposal through a VPA to maintain an appropriate area for biodiversity conservation. This VPA has been the subject of lengthy discussions between the applicant and officers of Council and the NSW Office of Environment and Heritage.

Section B: Relationship to Strategic Planning Framework

3 Consistency with Objectives and Actions within Regional Strategies

Lower Hunter Regional Strategy 2006

The Lower Hunter Regional Strategy (LHRS) highlights mining as one of the region's economic strengths and its contribution towards the region's future diverse economic base, skilled workforce and nationally significant infrastructure, such as the world's largest coal exporting port. The LHRS emphasises that *"building on these important economic assets will further enhance the capacity of the region to provide continued economic growth."*

The Proposal aligns with NSW Government's priority, as it will provide a level of certainty to expand Orica operations within a designated area of the site to cater for the long term growth of Australia's largest regional economy.

Relative to the identified actions of the LHRS the Planning Proposal is consistent with this strategic document for the reasons provided below:

- The proposed inclusion of a designated area within the site in Schedule 1 to accommodate an additional permitted use for a "Technology Centre and Explosive Research and Production Facility" will enable the future expansion of a facility that already employs approximately 310 staff at the site and with future growth associated with potential expansion plans.
- The balance of the site will be zoned RU2 under Council's draft LEP amendment No.16. This will preserve the existing landscape character of the site.
- The site is situated north of the Watagan to Stockton Corridor however the planning proposal will facilitate biodiversity offsets through a VPA between the applicant and Council that will retain in perpetuity biodiversity offsets.
- The Planning Proposal will not impact on access to mineral resource lands.
- The site is not recognised by State Government as regionally significant agricultural land and therefore the use of a limited area on the site for explosives research and production facility will not impact on the region's agricultural industry.

Draft Hunter Regional Plan

The draft Hunter Regional Plan (HRP) provides the strategic overarching framework to guide development and investment in the Hunter region up to 2036. The NSW Government's vision is:

The Hunter region will capitalise on its diversity and connectivity to capture growth, using its natural resources and amenity, economic strengths, and its communities, to actively manage change and attract investment. It will offer an array of quality lifestyles within sustainable and healthy environments.

The four goals underpinning the draft HRP are to:

- GOAL 1 Grow Australia's next major city.
- GOAL 2 Grow the largest regional economy in Australia.
- GOAL 3 Protect and connect natural environments.
- GOAL 4 Support robust regional communities.

The matters to be addressed within this planning proposal relate to the relevant draft HRP Goals and respective directions and actions specific to growing the Hunter region's economy and protecting the natural environment.

This is discussed in Table 1 below.

Table 1: Relevant draft Hunter Regional Plan Goals

Draft HRP Goals	Response to the Goals and associated Directions and Actions
Goal 2 Grow the largest regional economy in Australia	The Planning Proposal will contribute towards the Hunter as an <i>"innovative, competitive and resilient"</i> region by facilitating future expansion of a facility that provides critical support to the region's mining industry. The draft HRP notes that <i>"Land use planning can help industries foster innovative and sustain economies of scale. It can also affect how efficiently infrastructure can be delivered."</i> This Planning Proposal will enable Orica Limited to continue to research and develop new and innovative products to service the mining industry. This Planning Proposal seeks to put in place a transparent statutory planning framework for the site to support current and future research and development and production activities on site to meet future demands of the Hunter's mining industry as they arise. The site is strategically located in close proximity to the regional road network and the NSW Government will commit to deliver corridor strategies to support the long term management and operation of State roads in the Hunter. The NSW Government has introduced a Draft Strategic Release Framework to release new areas for coal and petroleum exploration, reflecting the State's commitment to plan for the ongoing productive use of extractive resource lands. Orica Limited will be instrumental in the long term production of extractive industries and therefore highlighting the importance of this Planning Proposal relative to NSW's broader goals.
Goal 3 – Protect and Connect Natural Environments	The Planning Proposal will limit the 'explosives research and production facility' to a general designated area to accommodate existing, future development and required buffer areas as shown on Figure 5. The remainder of the site will not be permitted to accommodate these activities. A VPA between Orica Limited and Council will deliver biodiversity offsets to enable the protection of highly valued areas on the site that are not to be developed. This will provide the certainty and

Draft HRP Goals	Response to the Goals and associated Directions and Actions
	management of the highly valued ecological areas in the remainder of the site in perpetuity. The Planning Proposal provides a balanced outcome of accommodating lands to support the region's mining industry whilst delivering environmental outcomes in conserving and enhancing biodiversity values.

Lower Hunter Regional Conservation Plan

The Lower Hunter Regional Conservation Plan details a 25 year program to direct and drive conservation planning and efforts in the Lower Hunter Valley. The Plan:

- analyses the impacts of the urban development scenarios in the LHRS;
- presents a biodiversity investment guide that identifies areas that could be targeted for public or private land conservation or restoration;
- identifies mechanisms for biodiversity conservation through investment in the Lower Hunter (at a landscape level);
- provides a guide for local government authorities to plan for biodiversity protection, conservation and management, and local environmental planning instruments.

The Planning Proposal is supported in principle by the NSW Department of Planning and Environment and NSW Office of Environment and Heritage. It is considered that the Planning Proposal will provide greater certainty regarding the extent of future development within the site and of site clearing, which will be limited to a maximum of 12 hectares, as opposed to a potential 100 hectares under the original Planning Proposal.

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

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

The Cessnock Community Strategic Plan 2023 was prepared in 2013 and identifies the community's main priorities and expectations for the future and ways to achieve these goals. A range of strategic directions are provided which relate to the social, environmental and economic health, sustainability and prosperity of the Cessnock LGA. The objectives and associated strategic directions relevant to the Planning Proposal relate to "*Diversifying local business options*"; "*Achieving more sustainable employment opportunities*", and "*Protecting & enhancing the natural environment & the rural character of the area*". The Planning Proposal is consistent with these objectives by:

- The proposed inclusion of the central portion of the site in Schedule 1 of CLEP2011 to accommodate an additional permitted use for a "Technology Centre and Explosive Research and Production Facility" will provide a level of certainty to a major mining related operator that will facilitate a range of employment opportunities.
- The separate amendment to the LEP 2011 to retain the rural zoning of the 'deferred matter' area of the land from 1(a) Rural "A" Zone to RU2 Rural Landscape Zone will not carry over the Additional Permitted Use of production,

storage and testing of explosives into this part of the site. The Additional Permitted Use will be restricted to the central portion of the site under Schedule 1. This will provide further certainty that the site's *Rural Landscape* and sensitive environmental lands will be maintained over the majority of the site.

City Wide Settlement Strategy (2010)

The City Wide Settlement Strategy (CWSS) was prepared in 2010 to establish Council's strategic directions for the preparation of the CLEP 2011. The CWSS recognises that employment land within the Lower Hunter is required not only to accommodate its own projected economic growth, but also to contribute towards meeting the employment land needs of the broader Sydney metropolitan region.

It is projected that an additional 72 – 192 ha of general purpose industrial land is required to ensure sufficient zoned land up to 2031 as per the employment capacity projections outlined in the Lower Hunter Regional Strategy.

The CWSS further notes that the Cessnock LGA is a relatively small component of the regional industrial land market and that the competitiveness Cessnock's local service-based land supply is undermined by the lack of suitable supply, with businesses locating to adjoining local government areas such as Maitland and Newcastle.

This Planning Proposal will contribute towards strengthening Cessnock's economic role in the Lower Hunter by:

- Enabling the future expansion of an existing significant industrial facility without impacting on the current supply of existing industrial zoned land; and
- The expansion plans will provide for up to an additional 10 - 50 staff, which will be drawn from the local and regional population catchment such as Cessnock, Maitland and Lake Macquarie.

5 Consistency with State Environmental Planning Policies

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

Table 2: 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.	Pursuant to Clause 1.9 of the <i>Cessnock Local Environmental Plan 2011</i> , the SEPP does not apply to the subject land.
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.	Consistent. Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP 19 – Bushland in Urban	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

SEPP	Relevance	Consistency and Implications
Areas		
SEPP 21 – Caravan Parks	The SEPP provides for development for caravan parks.	Consistent. 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.	Consistent. 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.	The SEPP does not apply to the subject land as it is zoned rural.
SEPP 33 – Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Consistent. The SEPP requires the preparation of a preliminary hazard analysis (PHA) as part of any future development works or storage that is potentially hazardous or offensive. This Planning Proposal does not require the preparation of a PHA as no development works are proposed at this stage. However, any future development application seeking consent for works is required to address the provisions of the 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.	Consistent. 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.	Consistent. The Cessnock LGA is subject to SEPP No.44; however, previous ecological studies for the approved ANE Production Facility identified that the survey area did not include core koala habitat. It was further noted that a koala has not been recorded in the subject site. It was concluded that there was no potential for significant impact on this species.
SEPP 47 – Moore Park Showground	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

SEPP	Relevance	Consistency and Implications
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.	Consistent. 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 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	Consistent. Clause 6 of SEPP No.55 requires a planning proposal to consider potential contamination of a site. The planning proposal seeks to utilise additional areas of the site to accommodate Orica's future operating plans. At this stage, no site contamination investigations have been undertaken but as the site is largely undisturbed, it is unlikely the site will be contaminated. Future DAs for additional works will be required to address the provisions of SEPP No.55.
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.	Consistent. 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.	Consistent. 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	Consistent. Nothing in this Planning Proposal impacts upon the operation of this SEPP.

SEPP	Relevance	Consistency and Implications
	residential flat development.	
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.	Consistent. Nothing in this Planning Proposal impacts upon the operation 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 rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards, (c) to facilitate the retention and mitigate the loss of existing affordable rental housing, (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing, (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing, (f) to support local business centres by providing affordable rental housing for workers close to places of work, (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.	Consistent. Nothing in this Planning Proposal impacts upon the operation of this SEPP.
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	Consistent. Nothing in this Planning Proposal impacts upon the operation 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	Consistent. Nothing in this Planning Proposal impacts upon the operation of this SEPP.

SEPP	Relevance	Consistency and Implications
	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.	
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.	Consistent. Nothing in this Planning Proposal impacts upon the operation 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.	Consistent. The SEPP is the primary planning instrument addressing the provision and operation of infrastructure across the State. Consideration of service facilities to cater for Orica's future plans will be considered at future DA stage. Referral to the NSW Roads and Maritime Services (RMS) is also required for traffic generating development. At this stage, the planning proposal does not propose works or parking provision. Recent traffic counts have been prepared and are compared to February 2009 traffic counts. This demonstrates that the daily traffic counts in George Booth Drive are significantly less following the opening of the Hunter Expressway. As this amended Planning Proposal does not change traffic generation related considerations to the previously considered Planning Proposal, any previous comments from Council's internal traffic engineers or RMS would equally apply.
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	Consistent. Nothing in this Planning Proposal impacts upon the operation of this SEPP.

SEPP	Relevance	Consistency and Implications
	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.	
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Consistent. Nothing in this Planning Proposal impacts upon the operation 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, (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.	Consistent. Nothing in this Planning Proposal impacts upon the operation of this SEPP.
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.	Consistent. The introduction of an additional permitted use over the central portion of the site will not adversely affect Cessnock LGA's overall capacity of current or future rural and agricultural opportunities as this will apply to an area that is partly developed for industrial

SEPP	Relevance	Consistency and Implications
		development and not suitable for rural land use.
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.	Consistent. Nothing in this Planning Proposal impacts upon the operation 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 3: Relevant s.117 Ministerial Directions

Ministerial Direction	Objective of Direction	Consistency and Implication
1 EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres.	Consistent. The Planning Proposal does not relate to business and industrial zones.
1.2 Rural Zones	The objective of this direction is to protect the agricultural	Consistent. The Planning Proposal does not seek to rezone the

Ministerial Direction	Objective of Direction	Consistency and Implication
	production value of rural land.	subject land.
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.	Consistent. Nothing in this Planning Proposal prohibits or restricts development of resources, or proposes a land use that may create a conflict with such development.
1.4 Oyster Aquaculture	<i>The objectives of this direction are:</i> <i>(a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal,</i> <i>(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>	Not Applicable to LGA
1.5 Rural lands	The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes.	Consistent. The Planning Proposal does not seek to rezone the subject land, but will accommodate an additional permitted use over the central portion of the site that includes land already developed and will enable the maintenance and future expansion of operations. It is considered that the Proposal will not adversely affect Cessnock LGA's overall capacity of current or future rural and agricultural opportunities. The site is currently not utilised as a rural land use and is not recognised by State Government as regionally significant agricultural land.
2 ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	Consistent. The Planning Proposal will facilitate the protection and conservation of environmentally sensitive areas through a BioBanking Agreement with the NSW Office of Environment and

Ministerial Direction	Objective of Direction	Consistency and Implication
		Heritage. The requirement for the land owner to enter into the BioBanking Agreement will be stipulated in a Planning Agreement with Council. On 24 May 2016, OEH provided advice that it is satisfied that the associated Planning Agreement is appropriately worded to ensure conservation of the retained environmental lands, can and will occur, and will therefore ensure that the Proposal will achieve an 'improve or maintain' biodiversity outcome.
2.2 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>
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.	Consistent. This planning proposal does not seek to amend existing provisions relating to the conservation of European or Aboriginal heritage items, places, buildings, works, relics, moveable objects or precincts. The site is not identified as a heritage item in the CLEP 2011. An Aboriginal Cultural Heritage Assessment was prepared for the Major Project Application in relation to the approved ANE facility; however, it is understood that survey work related only to a portion of the site that was relevant to the Major Project Application. Any future DA that involves works to areas beyond the previously surveyed areas will require investigations.
2.4 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.	Consistent. The Planning Proposal does not relate to recreation vehicle areas.
3 HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and	Consistent. The Planning Proposal does not relate to a residential zone.

Ministerial Direction	Objective of Direction	Consistency and Implication
	future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	
3.2 Caravan parks and Manufactured Home Estates	The objectives of this direction are: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates.	Consistent. The Planning Proposal does not relate to Caravan parks and Manufactured Home Estates.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Consistent. The Planning Proposal will not change the permissibility of home occupations.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	Consistent. The Planning Proposal does not seek to create, alter or remove a zone or a provision relating to urban land.
3.5 Development Near Licensed Aerodromes	The objectives of this direction are: (a) to ensure the effective and safe operation of	Consistent. The Planning Proposal does not relate to land near licensed aerodromes.

Ministerial Direction	Objective of Direction	Consistency and Implication
	aerodromes, and (b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	
3.6 Shooting Ranges	The objectives are: (a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	Consistent. The Planning Proposal does not relate to land near a shooting range.
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	Consistent. The site is not identified in the Cessnock LEP as having acid sulphate soils.
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.	Consistent. The site is not within a mine subsidence district. Notwithstanding, any impacts from mine subsidence may be assessed during future development applications.
4.3 Flood Prone Land	The objectives of this direction are: (a) to ensure that development of flood prone land is	Consistent. The site is not subject to flooding.

Ministerial Direction	Objective of Direction	Consistency and Implication
	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.	
4.4 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.	Consistent. The site is classified as a bushfire prone area. No development is proposed at this stage, but any future development application will be designed to include the required Asset Protection Zone (APZ) as well as other fire prevention and fire fighting measures for bushfire protection as required under the <i>"Planning for Bushfire Protection 2006."</i> The previous major project approval for the ANE Production Facility provides APZs; adoption of appropriate building construction materials; provision of emergency response service access; provision of fire fighting measures such as water tanks; and evacuation routes. Similar measures will be considered in future development applications.
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 Planning Proposal is consistent with the Lower Hunter Regional Strategy for the reasons provided below: • The proposed inclusion of a designated area within the site in Schedule 1 of the LEP 2011 to accommodate an additional permitted use for a "Technology Centre and Explosive Research and Production Facility" will enable the future expansion of a facility that already employs approximately 310 staff at the site and with future growth associated with potential

Ministerial Direction	Objective of Direction	Consistency and Implication
		expansion plans. ✦ The balance of the site will be zoned RU2 under Council's draft LEP amendment No.16. This will preserve the existing landscape character of the site. ✦ The site is situated north of the Watagan to Stockton Corridor however the Planning Proposal seeks to facilitate biodiversity offsets through a VPA between the applicant and Council that will retain in perpetuity biodiversity offsets. ✦ The Planning Proposal will not impact on access to mineral resource lands. ✦ The site is not recognised by State Government as regionally significant agricultural land and therefore the use of a limited area on the site for explosives research and production facility will not impact on the region's agricultural industry.
5.2 Sydney Drinking Water Catchment	<i>The objective of this Direction is to protect water quality in the Sydney drinking water catchment.</i>	Not Applicable to LGA
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	<i>The objectives of this direction are:</i> <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>	Not Applicable to LGA
5.4 Commercial and Retail Development along the	<i>The objectives for managing commercial and retail development along the Pacific Highway are:</i>	Not Applicable to LGA

Ministerial Direction	Objective of Direction	Consistency and Implication
<i>Pacific Highway, North Coast</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; (b) to prevent inappropriate development fronting the highway (c) to protect public expenditure invested in the Pacific Highway, (d) to protect and improve highway safety and highway efficiency, (e) to provide for the food, vehicle service and rest needs of travellers on the highway, and (f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.	
5.5 <i>Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)</i>	(Revoked 18 June 2010)	No longer applicable to the LGA.
5.6 <i>Sydney to Canberra Corridor</i>	(Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable to LGA
5.7 <i>Central Coast</i>	(Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable to LGA
5.8 <i>Second Sydney Airport: Badgerys Creek</i>	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
5.9 <i>North West Rail Link Corridor Strategy</i>	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

Ministerial Direction	Objective of Direction	Consistency and Implication
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.	No new concurrence provisions are proposed.
6.2 Reserving Land for Public Purposes	The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	No new land reservation provisions are proposed.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent. The Planning Proposal seeks to reintroduce an Additional Permitted Use over part of the site to accommodate the existing Orica facility and enable limited expansion with development consent. The Proposal will ensure that the Orica operation will be permissible under the provisions of the <i>Cessnock Local Environmental Plan (LEP) 2011</i> and not operate under existing use rights provisions of the <i>Environmental Planning and Assessment (EP&A) Act 1979</i> .
7 Metropolitan Planning		
7.1 <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 *Impact on Threatened Species*

Umwelt (Australia) Pty Limited has undertaken comprehensive ecological investigations for the site as part of the previous and current amended Planning Proposal. The investigations identify that the site accommodates extensive native vegetated areas. The site comprises 289 hectares of predominantly open forest vegetation, of which 11.7 hectares is currently occupied by the Technology Centre operations and 31.8 hectares (plus 1.7 hectares of buffer land) is occupied by an existing Biodiversity Offset Area in the far south-western corner of the site.

To accommodate Orica Limited's targeted development plans, the land that will be subject to the additional permitted uses schedule will amount to some 115 hectares but this will not be utilised in its entirety. This area of land will enable the flexibility in future site planning and account for legislative requirements in providing buffer and separation distances between activities on the site. The actual extent of development footprint forecasted over a 20 year period is estimated to amount to approximately 4 hectares with approximately 1.6 hectares to accommodate asset protection zone areas. As such, the extent of potential ecological impact is approximately less than 5% of the area proposed for inclusion into the Additional Permitted Uses Schedule. Regardless, investigation into offsetting the potential biodiversity impacts has been undertaken by Orica Limited as part of this Planning Proposal process.

To determine the most appropriate biodiversity off-setting approach, Orica's project team has undertaken considerable consultation with Council and the NSW Office of Environment and Heritage (OEH) on the agreed pathway. The most appropriate outcome is to enter into a biobanking agreement with OEH which would involve registering the site as a "BioBank site", excluding that part of the site to be included in the Additional Permitted Uses Schedule and the existing Biodiversity Offset Area. This will provide OEH and Council with certainty regarding the potential offsetting suitability of the site.

The preliminary BioBanking Assessment by Umwelt Environmental Consultants has shown that approximately 12 hectares of disturbance associated with the future development of the Orica Richmond Vale site can be adequately offset in an on-site BioBank site. The BioBanking Agreement will relate to the disturbance and offsetting of the following Biometric Vegetation Types (BVT) and species:

- HU806 Spotted Gum – Red Ironbark – Grey Gum Shrub – Grass Open Forest of the Lower Hunter;
- HU833 Smooth-barked Apple – Red Bloodwood – Brown Stringybark – Hairpin Banksia Heathy Open Forest of Coastal Lowlands;
- *Tetratheca juncea*; and
- *Grevillea parviflora* subsp. *Parviflora*

The proposed on-site Biobank site, which will form the eastern and western portions of the site, exclusive of the existing offset area will provide more than sufficient credits to offset the impact of planned future development on the above BVTs and species.

The requirement for Orica Limited to enter into a biobanking agreement will be facilitated through a Voluntary Planning Agreement (VPA) between Orica Limited and Cessnock Council (refer to copy of the VPA letter of offer). This VPA will also provide:

- A time period for registration of the site as a “BioBank” site;
- Identify that no Development Application will be lodged until biobanking is executed.

In the meantime, the land will continue to be passively managed as per Orica’s current management practices.

8 Environmental Impact

Future Development Applications will address in detail a range of environmental considerations including:

- Amenity effects on neighbouring properties such as noise. An assessment of noise generated by future works will be provided and prepared in accordance with the NSW Industrial Noise Policy;
- Preliminary hazards analysis (PHA). Future development proposals on the site that will involve potentially hazardous or offensive works or storage of items of this nature will be subject to a PHA;
- Aboriginal Cultural Heritage Assessment. An Aboriginal Cultural Heritage Assessment was prepared for the Major Project Application in relation to the approved ANE facility, however it is understood that survey work related only to a portion of the site that was relevant to the Major Project Application. Any future DA that involves works to areas beyond the previously surveyed areas will be investigated;
- Contamination. Mitigating measures prevent contamination of the land will be identified for any future expansion of the site involving potential contaminant materials;
- Stormwater impacts of the development, ensuring the design does not create any offsite environmental effects and satisfies Council’s standards; and
- Potential visual impacts. Future proposed building structures will be considered in terms of their potential visual impacts upon the scenic quality of the area, including the rural landscape character.

Detailed traffic count surveys were undertaken between 9th and 16th May 2014 along George Booth Drive, as attached in Appendix B. The results provide for:

- Two way average weekly (5 day) volumes together with the proportion of heavy vehicles;
- Two way average 7 day volumes together with proportion of the heavy vehicles; and
- Average weekday (5 day) volumes by direction.

February 2009 figures were analysed to demonstrate the difference in traffic volumes as a result of the opening of the Hunter Expressway. The results indicate that traffic volumes are now significantly less along George Booth Drive since the opening of the Hunter Expressway. For example, the northern most survey location along George Booth Drive experienced in 2009 an average weekday volume (5 day average) of 7187 vehicles in comparison to the current traffic volume of 2,587 vehicles.

Whilst future development proposals for the site will require detailed traffic impact assessment, future traffic generation is likely to be satisfactorily accommodated within George Booth Drive.

9 Social and Economic Impacts

The Planning Proposal will provide added certainty for the potential to expand the Orica Limited's facility in the future to meet projected increase in servicing the regional and global mining industry.

Global demands for mineral commodities, including demand for Hunter Valley coal have been forecasted to continue resulting in future expansions of mining operations and infrastructure activity in Eastern Australia. This demand in turn increases demand for mining support operations such as those offered by Orica at the subject site.

The previously approved ANE Production Facility was established to accommodate increase in demand for ANE in the Hunter Valley and broader south-east region of Australia, however the proposed Planning Proposal will provide security for the company to further invest at the site creating regional and state economic benefits through both income and job creation.

Expansion plans for the site will require a temporary construction workforce and additional operational workforce. As per the previous ANE Production Facility, the construction workforce is expected to be sourced from companies based in the local area and region; whilst operational personnel could be sourced from other Orica operations and new personnel from the existing and regional population. The extent of construction and operational workforces are unlikely to result in a notable increase in population to the local area or region such that demands on existing social infrastructure and services would not be expected to change.

Section D: State and Commonwealth Interests

10 Adequate Public Infrastructure

The site is well positioned with close access to regional road networks that connect George Booth Drive to John Renshaw Drive and the Hunter Expressway. This strategic location is instrumental in Orica's long term considerations for consolidating its operations to the site to function as a regional distribution hub. The site is already serviced with utility infrastructure and further consideration to infrastructure needs will be considered with each future development application.

11 Consultation with State and Commonwealth Authorities

Consultation was undertaken with the following agencies in accordance with the Gateway Determination:

NSW Office of Environment and Heritage (OEH)

On 24 May 2016, OEH provided advice that it is satisfied that the associated Planning Agreement is appropriately worded to ensure conservation of the retained environmental lands, can and will occur, and will therefore ensure that the Proposal will achieve an 'improve or maintain' biodiversity outcome. A copy of the OEH response is provided at **Appendix 3**.

NSW Rural Fire Service (RFS)

On 30 May 2016, RFS provided advice that it 'raises no objections to the Planning Proposal subject to a requirement that future proposals for the expansion of the facility appropriately address bush fire risks and comply with *Planning for Bush Fire Protection 2006*.' A copy of the RFS response is provided at **Appendix 3**.

Planning Comment:

No development is proposed at this stage, but any future development application will be designed to include the required Asset Protection Zone (APZ) as well as other fire prevention and fire fighting measures for bushfire protection as required under the "*Planning for Bushfire Protection 2006*." The previous major project approval for the ANE Production Facility provides APZs; adoption of appropriate building construction materials; provision of emergency response service access; provision of fire fighting measures such as water tanks; and evacuation routes. Similar measures will be considered in future development applications.

Transport for NSW – Roads and Maritime Services (RMS)

On 15 April 2016, the RMS provided advice that it has no objections to the Proposal to amend the Cessnock LEP 2011 to recognise the current land use on the site and to permit the future expansion of the Orica operations. A copy of the RMS response is provided at **Appendix 3**.

PART 4: MAPPING

To achieve the intent of the Planning Proposal, it is proposed to include the following map sheets:

Additional Permitted Uses Map

- 1720_COM_APU_009_080_ YYYYMMDD
- 1720_COM_APU_009A_040_ YYYYMMDD

A copy of the proposed map sheets are provided at **Appendix 2**.

PART 5: COMMUNITY CONSULTATION

The Planning Proposal and Planning Agreement were exhibited concurrently between 1 June 2016 and 28 June 2016, being 28 days in accordance with the Gateway determination. The exhibition period resulted in one submission from an adjacent property owner. The submission raises concerns that the proposed Additional Permitted Use (APU) will extend to adjoining land, including the submitter's land, which is not owned by Orica. The concerns raised in the submission were discussed with the adjoining property owner, who appears to have misinterpreted the extent of land to which the Planning Proposal relates. It was explained that the Planning Proposal only relates to Lot 2 DP 809377, which is wholly owned by Orica.

PART 6: PROJECT TIMELINE

It is estimated that this proposed amendment to the LEP 2011 will be completed by February 2017, following receipt of an amended Gateway Determination from the Department of Planning and Environment in March 2016 (i.e. twelve (12) months).

PROJECT TIMELINE

	Feb 2016	Mar 2016	Apr 2016	Jul 2016	Aug 2016	Nov 2016	Feb 2017
STAGE 1 Submit to DoP&E – 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 6 Report to Council							
STAGE 7 Forward Planning Proposal to DoP&E with request the amendment be made							

Appendix 1: Pre Gateway Council Report and Minutes

ADDRESS BY INVITED SPEAKERS

Clare Brown of Urbis, representing Orica was available for questions from Councillors – PE1/2016.

PLANNING AND ENVIRONMENT NO. PE1/2016

SUBJECT: 18/2014/4: REVISED PLANNING PROPOSAL - ORICA

MOTION **Moved:** Councillor Smith **Seconded:** Councillor Stapleford
1537
RESOLVED

1. That Council request an amended Gateway determination for the revised Planning Proposal from the Department of Planning and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.
2. That Council request authorisation to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* to make the Local Environmental Plan.
3. That Council undertake consultation with public authorities and the community as determined by the Department of Planning and Environment Gateway determination.
4. That Council support in principle the proponent's 'Heads of Agreement' relating to environmental conservation, attached as Enclosure 2, and prepare and exhibit a draft Planning Agreement with the Planning Proposal.
5. That the Planning Proposal and draft Planning Agreement be reported back to Council following community consultation.

FOR	AGAINST
Councillor Gibson	Councillor Ryan
Councillor Troy	
Councillor Doherty	
Councillor Olsen	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Parsons	
Councillor Pynsent	
Total (10)	Total (1)

CARRIED

This is page 5 of the Minutes of the Ordinary Council Meeting held on 3 February 2016 confirmed on 17 February 2016

.....General ManagerChairperson



SUBJECT: 18/2014/4: REVISED PLANNING PROPOSAL - ORICA

RESPONSIBLE OFFICER: Strategic Landuse Planning Manager - Martin Johnson

APPLICATION NUMBER:	18/2014/4
PROPOSAL:	Revised Planning Proposal – Orica
PROPERTY DESCRIPTION:	Lot 2 DP 809377
PROPERTY ADDRESS:	1151 George Booth Drive Richmond Vale
ZONE: (CURRENT)	1(a) Rural "A" (deferred matter) under LEP 1989; and RU2 Rural Landscape under LEP 2011.
ZONE (PROPOSED)	Not applicable – an Additional Permitted Use is proposed
OWNER:	Orica (Australia) Pty Ltd
PROPONENT:	Urbis Pty Ltd

SUMMARY

The purpose of this Report is to obtain Council's endorsement to submit a revised Planning Proposal to the Department of Planning and Environment in respect of Orica's land at Lot 2 DP 809377, known as 1151 George Booth Drive, Richmond Vale ('the site').

The Proposal, as originally endorsed by Council in December 2014, sought to rezone the site a combination of SP1 Special Activities Zone and E2 Environmental Conservation Zone to accommodate Orica's existing use of the site as a 'Technology Centre and Explosives Research and Production Facility'. The rezoning also sought to enable future expansion of Orica's activities within the site.

The revised Planning Proposal no longer involves rezoning the land, but seeks to include an Additional Permitted Use (APU) over part of the site to accommodate the existing facility and enable limited expansion with development consent. The revised Proposal reintroduces a provision that formally applied to the entire site under the *Cessnock Local Environmental Plan (LEP) 1989* that enabled the land use with development consent. The Proposal will continue to facilitate environmental conservation outcomes over the majority of the site through a Bio-banking Agreement with the NSW Office of Environment and Heritage.

The revised Planning Proposal will ensure that Orica's facility at Richmond Vale will be permissible under the provisions of the *Cessnock Local Environmental Plan (LEP) 2011* and not operate under existing use rights provisions of the *Environmental Planning and Assessment (EP&A) Act 1979*.

RECOMMENDATION

1. That Council request an amended Gateway determination for the revised Planning Proposal from the Department of Planning and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.
2. That Council request authorisation to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* to make the Local Environmental Plan.
3. That Council undertake consultation with public authorities and the community as determined by the Department of Planning and Environment Gateway determination.
4. That Council support in principle the proponent's 'Heads of Agreement' relating to environmental conservation, attached as Enclosure 2, and prepare and exhibit a draft Planning Agreement with the Planning Proposal.
5. That the Planning Proposal and draft Planning Agreement be reported back to Council following community consultation.

Chronology

Date	Brief Description
Early 1990s	Use of the site for the purpose of 'explosive research and development' commences under building and development approvals issued by Council.
Jul 2010	Minister for Planning grants approval to the Orica Ammonium Nitrate Emulsion Project at the site under the now repealed Part 3A, major infrastructure and other projects provisions of the EP&A Act 1979.
Dec 2011	The developed footprint of the site is zoned RU2 Rural Landscape as a component of the LEP 2011. As a result, Orica's ongoing use of the existing facilities becomes dependent on existing use rights provisions of the EP&A Act 1979. The remainder of the site is identified as deferred matter under the new Plan.
Aug 2014	Planning Proposal lodged with Council to seek a zoning over the entire site with a view of removing the need for future operations to rely on existing use rights provisions.
Dec 2014	The Planning Proposal is supported by Council.
Feb 2015	Gateway determination issued by the Department of Planning and Environment in respect of the Planning Proposal.
March 2015 - November 2015	Extensive discussions between Orica, Council, and the NSW Office of Environment and Heritage to develop a preferred planning approach to ensure environmental conservation and allow for the ongoing viability of Orica's facility at Richmond Vale.
Dec 2015	Orica lodge a revised Planning Proposal seeking inclusion of an Additional Permitted Use over part of the site.



BACKGROUND

Orica has operated an explosive research and development facility at the site since the early 1990s. The site is considered a suitable location for Orica's facility due to the separation distance between activities occurring on site and nearby development. The site also has good access to the local and classified road network, including George Booth Drive and the newly constructed Hunter Expressway.

Until 2010, the facility operated under several building and development consents issued by Council. At the time the consents were issued, the site was zoned 1(a) Rural "A" and the use permissible pursuant to Schedule 5 of the LEP 1989, being development for certain additional purposes, as follows:

explosives research and production facility involving:

- (a) the construction and use of offices, laboratories and workshops for the purposes of research into, and development of, explosives and associated manufacturing processes, methods of application of explosives, related advanced engineering processes and blasting physics, and*
- (b) the production, storage and testing of explosives.*

In July 2010, the then Minister for Planning granted approval to the Orica Ammonium Nitrate Emulsion Project under the now repealed Part 3A, major infrastructure and other projects provisions of the EP&A Act 1979. The Minister's Major Project Approval No. 09_0090 enabled the continuation of Orica's existing facility and the manufacture of up to 250,000 tonnes per annum of ammonium nitrate emulsion to be sold primarily to the mining industry for use as an explosives precursor.

Since the Major Project Approval was granted, Council prepared the *Cessnock Local Environmental Plan (LEP) 2011* and this was gazetted in December 2011. Under the LEP 2011, the site was zoned in part RU2 Rural Landscape Zone, which applies over the developed footprint of the site. The remainder of the site, including an expansion of the facility under the Major Project Approval, is identified as 'deferred matter' and is zoned 1(a) Rural "A" under the LEP 1989.

The Additional Permitted Use (APU) specified in Schedule 5 of the LEP 1989 for the site, being 'explosives research and production facility', was not carried to the LEP 2011 during its preparation, principally due to Departmental policy at the time. This has resulted in reliance on existing use rights provisions for Orica's continuing operation of the facility at Richmond Vale.

In August 2014, Orica Limited lodged a Planning Proposal with Council to seek a zoning over the central portion of the site to SP1 Special Activities Zone to remove the need for future operations to rely on existing use rights provisions. The balance of the land was to be zoned E2 Environmental Conservation. The Planning Proposal was reported to Council in December 2014 and Council resolved to proceed with the amendment by forwarding the Planning Proposal to the Department of Planning and Environment (DPE) for Gateway determination.

Planning and Environment

Report No. PE1/2016

Planning and Environment



The Gateway determination was issued on 16 February 2015 and required the agreement of the NSW Office of Environment and Heritage regarding environmental conservation outcomes.

In the months that have elapsed since the Gateway determination was issued by DPE, there have been several meetings between Orica, Council, and the NSW Office of Environment and Heritage to develop a preferred planning approach to ensure environmental conservation and allow for the ongoing viability of Orica's facility at Richmond Vale. As a result of these discussions, it is now proposed to revise the Planning Proposal to achieve an outcome suitable to all stakeholders. The alternative Proposal seeks to apply an Additional Permitted Use to part of the site to accommodate Orica's existing facility and allow for limited expansion. The revised Proposal reintroduces a provision that formally applied to the entire site under the LEP 1989 that enabled the land use with development consent.

Figure 1 – Subject Site, 1151 George Booth Drive Richmond Vale





PROPOSAL

The revised Planning Proposal seeks to incorporate an Additional Permitted Use (APU) in Schedule 1 of the LEP 2011 to accommodate the approved and existing use of the site as a 'Technology Centre and Explosives Research and Production Facility'. The APU will apply to the central portion of the site, as hatched in green in Figure 2.

The APU will identify that development for the purpose of a *Technology Centre and Explosive Research and Production Facility*, involving:

- (a) *the construction and use of offices, laboratories and workshops for the purposes of research into, and development of, explosives, precursors and associated manufacturing processes, methods of application of explosives, related advanced engineering processes and blasting physics, and*
- (b) *the production, storage and testing of explosives and their precursors*

is permitted with development consent in that part of the site identified in Figure 2.

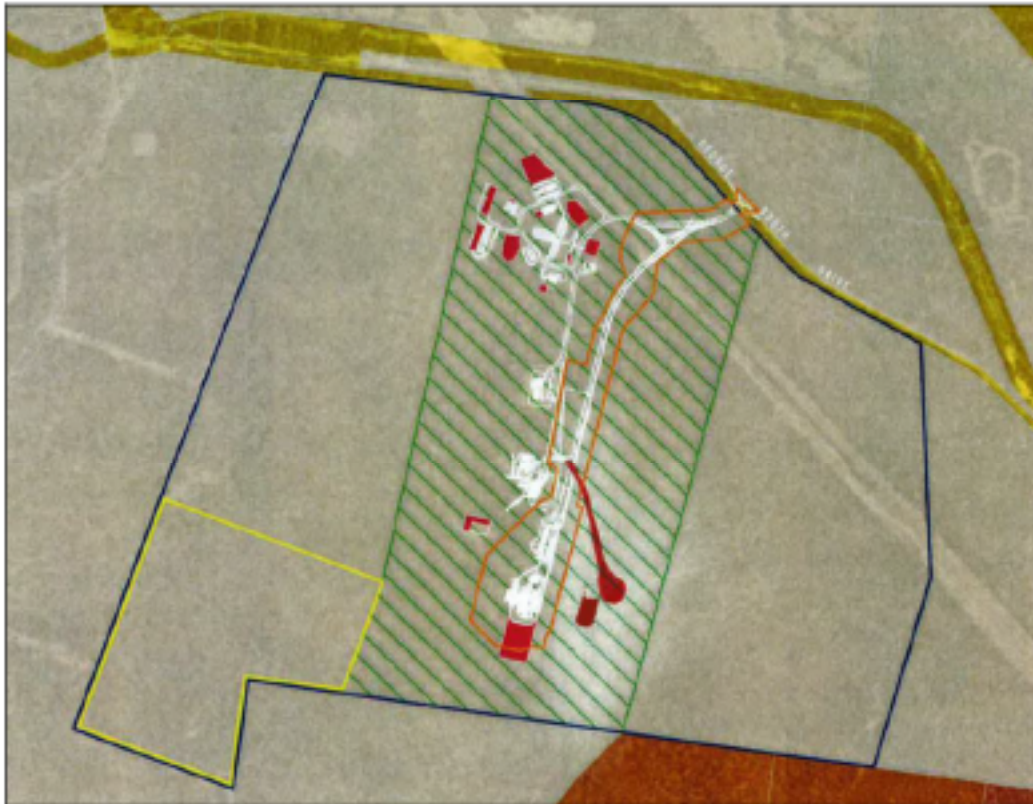
The revised Proposal reflects provisions that formally applied to the entire site under the LEP 1989. The revised Proposal will allow for limited expansion of Orica's existing development, while facilitating environmental conservation outcomes over the majority of the site. The alternative proposal does not seek to rezone the site, as was originally proposed. Council is progressing a separate amendment to the LEP 2011 to retain the rural zoning of the 'deferred matter' area of the land from 1(a) Rural "A" Zone to RU2 Rural Landscape Zone. It is anticipated that the LEP amendment will be made shortly.

The Proponent has offered to enter into a Planning Agreement to bring about the environmental conservation outcomes required by the NSW Office of Environment and Heritage in relation to the Proposal. The Planning Agreement will specify that the proponent is to enter into a bio-banking agreement within 12 months of gazettal of the LEP amendment, and that required offsets will be calculated in accordance with the bio-banking methodology and credit retired under the *Threatened Species Conservation Act 1995* as part of each future development application or major project relating to the site. A copy of the proponent's Heads of Agreement is provided as an enclosure to this Report.

The revised Planning Proposal is supported in principle by the NSW Department of Planning and Environment and NSW Office of Environment and Heritage. It is considered that the revised Planning Proposal will provide greater certainty regarding the extent of future development within the site and of site clearing, which will be limited to approximately 12 hectares, as opposed to a potential 100 hectares under the original Planning Proposal.

This Report recommends that Council request an amended Gateway determination in respect of the revised Planning Proposal and that Council support in principle the proponent's Heads of Agreement and prepare and exhibit a draft Planning Agreement with the revised Planning Proposal.

Figure 2 – Area Subject to Proposed Additional Permitted Use Provision (Hatched Green)



OPTIONS

1. Council resolve to support the recommendations of this Report and request an amended Gateway determination in respect of the revised Planning Proposal. This is the recommended option.
2. Request changes to the Planning Proposal. This option will delay the proposed amendments.
3. Not support the recommendation of this Report for the following reasons:

(To be provided by Council).

Planning and Environment

Report No. PE1/2016

Planning and Environment



CONSULTATION

Formal consultation with selected statutory agencies and the wider community will be undertaken following and as directed by, the Gateway determination. Should the revised Planning Proposal be supported by the Department of Planning and Environment, it is recommended that consultation occur with the following statutory authorities and agencies:

- Roads and Maritime Service;
- Office of Environment and Heritage; and
- NSW Rural Fire Services.

It is noted that extensive discussions have already been held with the NSW Department of Planning and Environment and the NSW Office of Environment and Heritage in relation to the proposal.

STRATEGIC LINKS

a. Delivery Program

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

b. Other Plans

The Planning Proposal is consistent with the Lower Hunter Regional Strategy, draft Hunter Regional Plan, Lower Hunter Regional Conservation Plan, Cessnock Community Strategic Plan, Cessnock City Wide Settlement Strategy, relevant State Environmental Planning Policies, and Section 117 Ministerial Directions. An assessment of the Planning Proposal against these Plans is provided in the attached Planning Proposal.

IMPLICATIONS

a. Policy and Procedural Implications

The current status of the Planning Proposal is identified in the following process.

PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



Planning and Environment

Report No. PE1/2016

Planning and Environment



b. Financial Implications

The finalisation of the Planning Proposal will be met through rezoning fees.

c. Legislative Implications

The process underway to develop and finalise the Planning Proposal is consistent with Council's statutory responsibilities under the *Environmental Planning and Assessment Act 1979*.

d. Risk Implications

It is considered that there are minimal risk implications arising from the recommendation of this Report.

e. Other Implications

Nil

CONCLUSION

The revised Planning Proposal seeks to incorporate an Additional Permitted Use (APU) in Schedule 1 of the LEP 2011 to accommodate the approved and existing use of the site as a 'Technology Centre and Explosives Research and Production Facility'. The revised Proposal reintroduces a provision that applied to the entire site under the LEP 1989 that enabled the land use with development consent.

The revised Proposal will ensure that the Orica operation will be permissible under the provisions of the LEP 2011 and not operate under existing use rights provisions of the *Environmental Planning and Assessment Act 1979*. The Proposal will continue to facilitate environmental conservation outcomes over the majority of the site through a bio-banking agreement with the NSW Office of Environment and Heritage.

It is recommended that Council request an amended Gateway determination in respect of the revised Planning Proposal and that Council support in principal the proponent's Heads of Agreement and place the draft Planning Agreement on public exhibition with the revised Planning Proposal.

ENCLOSURES

- [1](#) Revised Planning Proposal
- [2](#) Heads of Agreement

Appendix 2: Post Exhibition Council Report and Minutes

PLANNING AND ENVIRONMENT NO. PE54/2016

SUBJECT: 18/2014/4: PLANNING PROPOSAL - ORICA

MOTION **Moved:** Councillor Smith **Seconded:** Councillor Doherty
1764

RESOLVED

1. That Council endorse the Planning Proposal as an amendment to the *Cessnock Local Environmental Plan 2011* to accommodate the approved and existing use of the site as a 'Technology Centre and Explosives Research and Production Facility'.
2. That Council delegate authority to the General Manager to execute the associated Planning Agreement.

FOR	AGAINST
Councillor Gibson	Councillor Ryan
Councillor Troy	
Councillor Doherty	
Councillor Olsen	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Parsons	
Councillor Pynsent	
Total (10)	Total (1)

CARRIED

This is page 36 of the Minutes of the Ordinary Council Meeting held on 3 August 2016 confirmed on 17 August 2016

.....General ManagerChairperson

Planning and Environment

Report No. PE54/2016

Planning and Environment

**SUBJECT:** 18/2014/4: PLANNING PROPOSAL - ORICA**RESPONSIBLE OFFICER:** Strategic Land Use Planner - Iain Rush
Strategic Land Use Planning Manager - Martin Johnson

APPLICATION NUMBER:	18/2014/4
PROPOSAL:	Planning Proposal – Orica
PROPERTY DESCRIPTION:	Lot 2 DP 809377
PROPERTY ADDRESS:	1151 George Booth Drive Richmond Vale
ZONE: (CURRENT)	RU2 Rural Landscape under LEP 2011.
ZONE: (PROPOSED)	Not applicable – an Additional Permitted Use is proposed
OWNER:	Orica Australia Pty Ltd
PROPONENT:	Urbis Pty Ltd

SUMMARY

The purpose of this Report is to advise Council of the outcome of the public exhibition of the Orica Planning Proposal and seek Council's endorsement to make the proposed amendment to the *Cessnock Local Environmental Plan 2011* (LEP 2011). Council has been delegated the authority to exercise the functions of the Minister for Planning and Environment to make the proposed amendment to the LEP 2011. The Report also seeks Council's endorsement of the associated Planning Agreement and to delegate the function of executing the Agreement to the General Manager.

RECOMMENDATION

1. That Council endorse the Planning Proposal as an amendment to the *Cessnock Local Environmental Plan 2011* to accommodate the approved and existing use of the site as a 'Technology Centre and Explosives Research and Production Facility'; and
2. That Council delegate authority to the General Manager to execute the associated Planning Agreement.

BACKGROUND

The Planning Proposal was originally supported by Council in December 2014, at which time it was proposed to rezone the site a combination of SP1 Special Activities Zone and E2 Environmental Conservation Zone to accommodate the existing use of the site as a 'Technology Centre and Explosives Research and Production Facility'. A Gateway determination was issued in respect of the original Planning Proposal in February 2015.

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Following the issue of the Gateway determination, extensive discussions took place between Orica, Council and the NSW Office of Environment and Heritage (OEH) to develop a preferred planning approach that would ensure both environmental conservation and the ongoing viability of Orica's facility at Richmond Vale. The outcome of these discussions was a revised Planning Proposal to introduce an Additional Permitted Use (APU) over part of the site, rather than rezone the equivalent area SP1 Special Activities Zone. The revised Planning Proposal provides greater certainty regarding the extent of future development within the site and of vegetation clearing, which will be limited to approximately 12 hectares, as opposed to a potential 100 hectares under the original Planning Proposal.

The amended Planning Proposal was reported to the meeting of Council on 3 February 2016 where it was resolved:

1. *That Council request an amended Gateway determination for the revised Planning Proposal from the Department of Planning and Environment pursuant to the Environmental Planning and Assessment Act 1979.*
2. *That Council request authorisation to exercise the functions of the Minister for Planning under section 59 of the Environmental Planning and Assessment Act 1979 to make the Local Environmental Plan.*
3. *That Council undertake consultation with public authorities and the community as determined by the Department of Planning and Environment Gateway determination.*
4. *That Council support in principle the proponent's 'Heads of Agreement' relating to environmental conservation, attached as Enclosure 2, and prepare and exhibit a draft Planning Agreement with the Planning Proposal.*
5. *That the Planning Proposal and draft Planning Agreement be reported back to Council following community consultation.*

An amended Gateway determination was issued by the Department of Planning and Environment (DoPE) on 17 March 2016. The amended determination supported the revised approach and Council's request for delegated authority to exercise the functions of the Minister for Planning and Environment to make the amendment to the LEP 2011.

On 25 May 2016, the proponent submitted a draft Planning Agreement to Council in relation to biodiversity conservation. The Planning Proposal and draft Planning Agreement were subsequently placed on public exhibition for 28 days, between 1 June 2016 and 28 June 2016. The exhibition period resulted in one submission from an adjacent property owner and this is addressed in the consultation section of this Report. No objections to the Planning Proposal or Planning Agreement were raised by public authorities.



Chronology

Date	Brief Description
Early 1990s	Use of the site for the purpose of 'explosive research and development' commences under building and development approvals issued by Council.
Jul 2010	Minister for Planning grants approval to the Orica Ammonium Nitrate Emulsion Project at the site under the now repealed Part 3A, major infrastructure and other projects provisions of the EP&A Act 1979.
Dec 2011	The developed footprint of the site is zoned RU2 Rural Landscape as a component of the LEP 2011. As a result, Orica's ongoing use of the existing facilities becomes dependent on existing use rights provisions of the EP&A Act 1979. The remainder of the site was identified as deferred matter under the new Plan.
Aug 2014	Planning Proposal lodged with Council to seek a zoning over the entire site with a view of removing the need for future operations to rely on existing use rights provisions.
Dec 2014	The Planning Proposal is supported by Council.
Feb 2015	Gateway determination issued by the Department of Planning and Environment in respect of the Planning Proposal.
March 2015 - November 2015	Extensive discussions between Orica, Council, NSW Office of Environment and Heritage and NSW Department of Planning and Environment to develop a preferred planning approach to ensure environmental conservation and allow for the ongoing viability of Orica's facility at Richmond Vale.
Dec 2015	Orica lodge an amended Planning Proposal seeking inclusion of an Additional Permitted Use over part of the site.
Feb 2016	Amended Planning Proposal is supported by Council.
March 2016	Amended Gateway determination issued by the Department of Planning and Environment in respect of the Planning Proposal.
May 2016	Draft Planning Agreement submitted to Council in relation to biodiversity conservation.
1 Jun 2016 to 28 Jun 2016	Public exhibition of Planning Proposal and Planning Agreement, resulting in one submission from an adjacent property owner. No objections to the Planning Proposal or Planning Agreement were raised by public authorities.

Aerial Location Plan : Lot 2 DP 809377

OVERVIEW MAP

BUCHANAN
RICHMOND VALE
MULBRING

Subject Land

MURRES PRESTRESSWAY

GEORGE BOOTH DRIVE

Lake Macquarie LGA

Data Produced : 30 Oct 2014
Designed By : Cassinock City Council
Scale : 1:16,500
Reference : 10 Dec 2014

Coordinate System : Map Grid of Australia (MGA)
 Datum 94
 Zone 56

Imagery : nearmap
 2014 Data Imagery
 Copyright Nearmap
 (2014)

Contact : PO Box 152,
 68-71 Vincent St,
 CASSINOCK 2325
 Ph: +61 (0) 4993 4100
 Fax: +61 (0) 4993 4100

DISCLAIMER
 This map has been produced in accordance with the provisions of the Survey Act 1958 and the provisions of the Land Use Planning and Development Act 1997. It is not a guarantee of title or a statement of fact. It is a representation of the information available at the time of production. It is not a substitute for a professional survey or a statement of fact. It is a representation of the information available at the time of production. It is not a substitute for a professional survey or a statement of fact.

REPORT/PROPOSAL

The Planning Proposal seeks to incorporate an Additional Permitted Use (APU) in Schedule 1 of the LEP 2011 to accommodate the approved and existing use of the site as a 'Technology Centre and Explosives Research and Production Facility'. The APU will apply to the central portion of the site, as hatched in **Figure 2**.

The APU will identify that development for the purpose of a *Technology Centre and Explosive Research and Production Facility*, involving:

- (a) *the construction and use of offices, laboratories and workshops for the purposes of research into, and development of, explosives, precursors and associated manufacturing processes, methods of application of explosives, related advanced engineering processes and blasting physics, and*
- (b) *the production, storage and testing of explosives and their precursors*

is permitted with development consent.

Figure 2 – Area Subject to Proposed APU Provision (Hatched)



The Planning Proposal reflects provisions that formally applied to the entire site under the LEP 1989. The Proposal will allow for limited expansion of Orica's existing development while facilitating environmental conservation outcomes over the majority of the site.

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The Proponent has offered to enter into a Planning Agreement to bring about the environmental conservation outcomes required by the NSW Office of Environment and Heritage in relation to the Proposal. The Planning Agreement specifies that the proponent will enter into a bio-banking agreement within 12 months of gazettal of the LEP amendment, and that required offsets will be calculated in accordance with the bio-banking methodology and credit retired under the *Threatened Species Conservation Act 1995* for each future development application or major project relating to the site. A copy of the Planning Proposal and Planning Agreement are provided at **Enclosure 1** and **Enclosure 2**, respectively.

The Planning Proposal and Planning Agreement were placed on public exhibition between 1 June and 28 June 2016, being 28 days in accordance with the Gateway determination. The exhibition period resulted in one submission and this is addressed in the consultation section of this Report.

In accordance with the requirements of the Gateway determination, the Planning Proposal was updated following public exhibition to reflect the outcome of community and public agency consultation. Minor amendments have also been made to the wording of the Planning Agreement following public exhibition to clarify certain clauses of the document. However, the changes have not altered the intent of the Agreement, which is to ensure that the land owner commits to entering into a Biobanking Agreement with the NSW Office of Environment and Heritage to secure environmental offsets and retire biodiversity credits for each future development application or major project relating to the site.

OPTIONS

Council has the following options:

1. Submit the Planning Proposal to the Department of Planning and Environment as an amendment to the *Cessnock Local Environmental Plan 2011*. This is the recommended option.
2. Not proceed with the Planning Proposal for the following reasons:

(To be provided by Council).

CONSULTATION

The Planning Proposal and Planning Agreement were exhibited concurrently between 1 June 2016 and 28 June 2016, being 28 days in accordance with the Gateway determination. The exhibition period resulted in one submission from an adjacent property owner. The submission raises concerns that the proposed Additional Permitted Use (APU) will extend to adjoining land, including the submitter's land, which is not owned by Orica. The concerns raised in the submission were discussed with the adjoining property owner, who has misinterpreted the extent of land to which the Planning Proposal relates. It was explained that the Planning Proposal only relates to Lot 2 DP 809377, which is wholly owned by Orica and that the proposed APU will only apply to that land hatched in **Figure 2**. No objections to

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the Planning Proposal or Planning Agreement were raised by public authorities. A copy of the public authority submissions are contained within **Enclosure 1**.

STRATEGIC LINKS

a. Delivery Program

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

b. Other Plans

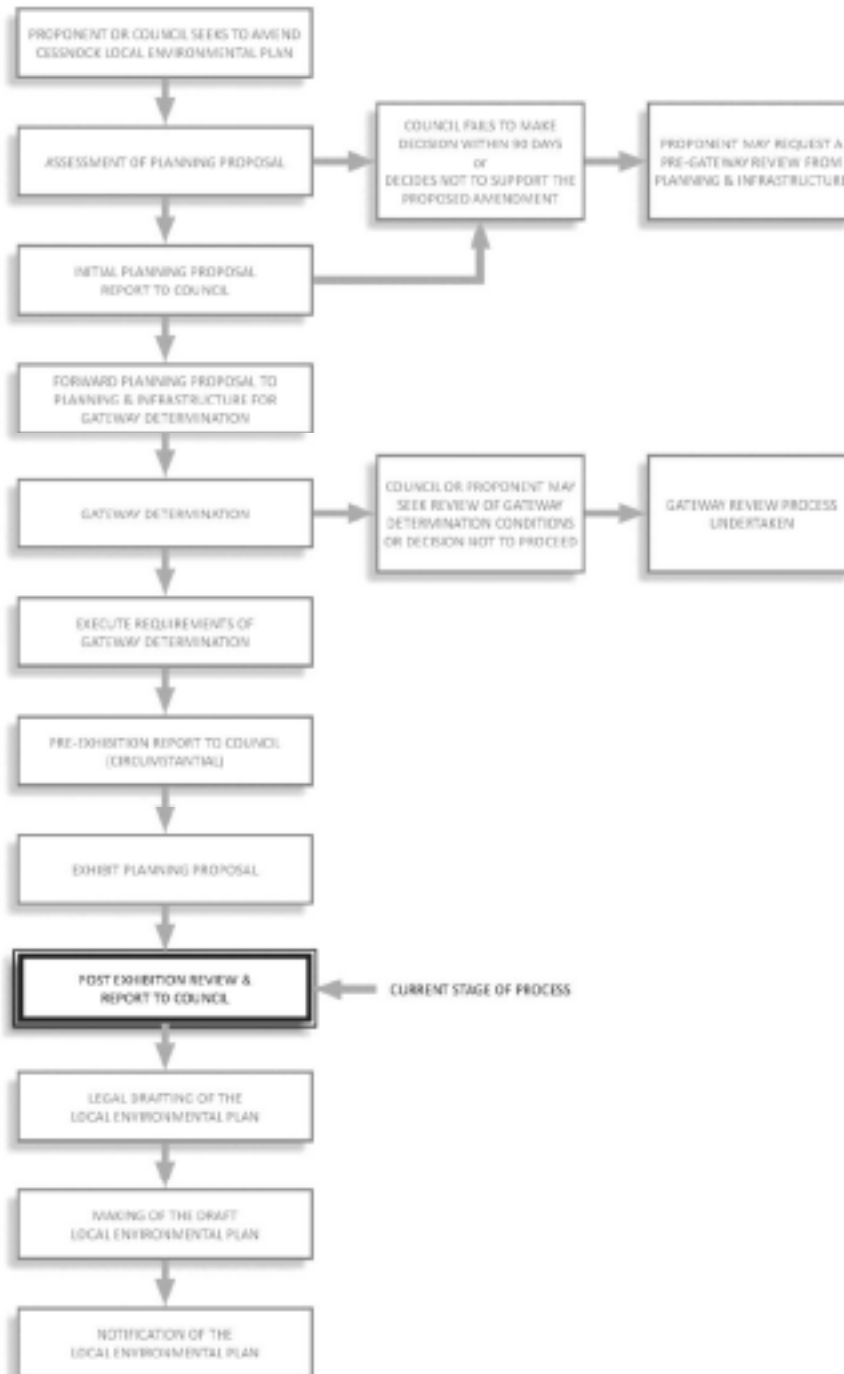
The Planning Proposal is considered to be consistent with relevant State Environmental Planning Policies and Section 117 Ministerial Directions.

IMPLICATIONS

a. Policy and Procedural Implications

This Report has regard to the provision of the Environmental Planning and Assessment Act 1979 and associated Regulations. The current status of the planning proposal is identified in the following process.

PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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b. Financial Implications

The cost of finalising the Planning Proposal and Planning Agreement will be met through rezoning fees. This Planning Proposal is considered to be a Category B rezoning application and attracts a Phase 1 fee of \$4,305 and Phase 2 fee of \$9,170.

c. Legislative Implications

The process underway to develop and finalise the Planning Proposal is consistent with Council's statutory responsibilities under the Environmental Planning and Assessment Act 1979.

d. Risk Implications

The Planning Proposal will provide certainty for the long term use of the site as a 'Technology Centre and Explosive Research and Production Facility'. The Proposal also enable limited expansion of existing operations in the site while facilitating environmental conservation outcomes.

e. Other Implications

NIL

CONCLUSION

The Planning Proposal will introduce an Additional Permitted Use (APU) over part of Lot 2 DP 809377 to enable limited expansion of the existing use of the site as a 'Technology Centre and Explosives Research and Production Facility' and will facilitate environmental conservation outcomes over the majority of the site. The Proposal reflects provisions that formally applied to the entire site under the LEP 1989.

The Planning Proposal and associated Planning Agreement were placed on public exhibition for 28 days in accordance with the Gateway determination. One submission from an adjacent property owner was received and this is addressed in the body of this Report. Public authorities consulted raised no objections to the Planning Proposal.

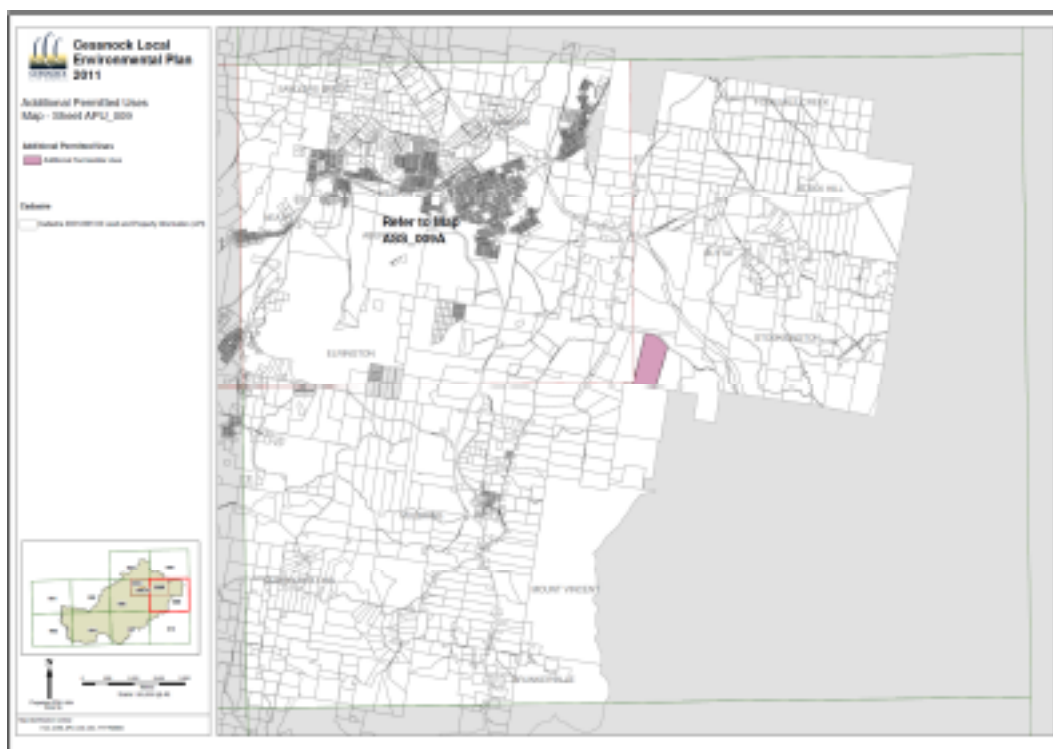
It is recommended that Council now endorse the Planning Proposal as an amendment to the *Cessnock Local Environmental Plan 2011* and delegate the function of executing the associated Planning Agreement to the General Manager.

ENCLOSURES

- 1 Planning Proposal
- 2 Planning Agreement
- 3 Submission

Appendix 3: Mapping Amendments

Proposed Map Sheets



Appendix 4: Agency Consultation



Transport
Roads & Maritime
Services

15 April 2016

CR2016/001268
SF2012/009480
MJ

General Manager
Cessnock Council
PO Box 152
CESSNOCK NSW 2325

Attention: Iain Rush,

GEORGE BOOTH DRIVE (MR527): PLANNING PROPOSAL 2015_CESSN- 001_00, AMEND CESSNOCK LEP 2011 TO INCLUDE ADDITIONAL PERMITTED USE OVER PART OF THE SITE TO PERMIT EXPANSION OF EXISTING TECHNOLOGY CENTRE, EXPLOSIVES RESEARCH AND PRODUCTION FACILITY – LOT 2 DP 809377, 1151 GEORGE BOOTH DRIVE, RICHMOND VALE

Reference is made to Council's email dated 21 March 2016, regarding the abovementioned Planning Proposal, referred to Roads and Maritime Services (Roads and Maritime) for comment.

Roads and Maritime understands that Council has received a Gateway Determination from the Department of Planning and Environment pursuant to Section 56(2)(d) of the *Environmental Planning and Assessment Act 1979* in respect of the subject Planning Proposal. The delegate of the Minister for Planning and Environment has directed Council to consult with Roads and Maritime in relation to the Planning Proposal.

Roads and Maritime understands that since the gazettal of the Cessnock LEP 2011 Orica has been operating under existing uses rights of the *Environmental Planning and Assessment Act 1979*. The subject planning proposal involves rezoning 292 Ha of land at Richmond Vale to SP1 Special Activities (116 Ha) and E2 *Environmental Conservation* (176 Ha) to accommodate the existing uses of the Orica Technology Centre and the Explosives Research and Production Facility, allow for future expansion of these operations, and facilitate conservation outcomes on the site.

Roads and Maritime Services

Level 1, 59 Darby Street, Newcastle NSW 2300 |
Locked Bag 2030, Newcastle NSW 2300 |

www.rms.nsw.gov.au | 13 22 13

Roads and Maritime response

Roads and Maritime has reviewed the information provided and has no objections to the proposal to amend the Cessnock LEP 2011 to recognise the current land use on the site and to permit the future expansion of the Orica operations.

It should be noted that Roads and Maritime and Council have agreed to the reclassification of George Booth Drive (between John Renshaw Drive and the Lake Macquarie Council boundary) from a state road to a local road as a result of the opening of the Hunter Expressway.

On gazettal of the amendment to the Cessnock LEP 2011 please forward a copy to Roads and Maritime for record purposes. Should you require further information please contact Hunter Land Use on (02) 4924 0688 or by email at development.hunter@rms.nsw.gov.au

Yours sincerely



David Collaguazo
A/ Manager Land Use Assessment
Hunter Region



NSW RURAL FIRE SERVICE



The General Manager
Cessnock Council
PO Box 152
Cessnock NSW 2325

Your reference: 2015_CESSN_001_00
Our reference: LEP/0025-06
30 May 2016

Attention: Iain Rush

Dear Sir/Madam,

Planning Proposal – Orica Kurri Kurri – 1151 George Booth Drive, Richmond

Reference is made to Council's correspondence dated 21 March 2016 seeking comments in relation to the above planning proposal which seeks to include an additional permitted use to permit the expansion of the existing technology centre, explosive research and production facility.

The New South Wales Rural Fire Service has reviewed the proposal and raises no objections subject to a requirement that future proposals for the expansion of the facility appropriately address bush fire risks and comply with *Planning for Bush Fire Protection 2006*.

If you have any queries regarding this advice, please contact Jason Maslen on 1300 NSW RFS.

Yours sincerely,

Nika Fomin
Manager, Planning and Environment Services (East)

Postal address
NSW Rural Fire Service
Records Management
Locked Bag 17
GRANVILLE NSW 2141

Street address
NSW Rural Fire Service
Planning and Environment Services (East)
42 Lamb Street
GLENDENNING NSW 2761

T 1300 NSW RFS
F (02) 6741 5433
E psc@rfs.nsw.gov.au
www.rfs.nsw.gov.au



Office of
Environment
& Heritage

Our reference: DOC16/237040-2
Contact: Ziggy Andersons, 4927 3151

Mr Stephen Glen
General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Attention: Iain Rush

Dear Mr Glen

RE: PLANNING PROPOSAL – ORICA KURRI KURRI DRAFT PLANNING AGREEMENT AND RESTRICTIVE COVENANT

The Office of Environment and Heritage (OEH) understands that Cessnock City Council is seeking comments in relation to the draft planning agreement for the above planning proposal. Comments are required pursuant to section 56 (2)(d) of the *Environmental Planning and Assessment Act 1979*, and as required by the amended Gateway Determination dated 17 March 2016.

OEH has undertaken a review of the draft planning agreement for the Orica Kurri Kurri planning proposal and provides the following comments. Please note that as OEH is not a signatory to the planning agreement a legal review of the document has not been undertaken. As such, OEH's comments are restricted to whether or not the planning agreement ensures the actions agreed to by all the parties will be implemented and is worded in a way that it would not restrict the application of the conservation mechanisms available.

OEH is satisfied that the planning agreement is appropriately worded to ensure conservation of the retained environmental lands, can and will occur, and will therefore ensure that the proposal will achieve an 'improve or maintain' biodiversity outcome.

If you have any enquiries concerning this advice, please contact Ziggy Andersons, Conservation Planning Officer, on 4927 3151.

Yours sincerely



24 MAY 2016

RICHARD BATH
Senior Team Leader Planning, Hunter Central Coast Region
Regional Operations

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