

## SECTION 59 PLANNING REPORT

### Planning proposal details:

PP\_2015\_CESSN\_001\_00

### Planning proposal summary:

The objective of the Planning Proposal is to provide certainty for the long term use of part of Lot 2 DP 809377, 1151 George Booth Drive, Richmond Vale as a 'Technical 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 'Technical Centre and Explosive Research and Production Facility'.

### Date of Gateway determination:

16 February 2015 (Amended 1 October 2015 and 17 March 2016)

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## 1.0 SUMMARY

The Planning Proposal seeks to amend the *Cessnock Local Environmental Plan 2011* (CLEP 2011) in the following manner:

- Include an Additional Permitted Use (APU) in Schedule 1 of the LEP 2011 to accommodate the approved and existing use of the site as a 'Technical Centre and Explosives Research and Production Facility'. The APU will apply to the central portion of the site.

## 2.0 GATEWAY DETERMINATION

A Gateway Determination was issued by the Department of Planning and Environment on 16 February 2015, allowing 12 months to complete the Amendment. The Gateway Determination was subsequently amended on 1 October 2015 and 17 March 2016.

A request to amend the *Cessnock Local Environmental Plan 2011* was made to Parliamentary Counsel on 12 August 2016. Parliamentary Counsel Opinion was received on 26 August 2016.

All conditions of the Gateway determination have been complied with.

## 3.0 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 raised concerns that the proposed Additional Permitted Use (APU) would extend to adjoining land, including the submitter's land, which is not owned by Orica. It was explained to the adjoining property owner that the Planning Proposal only relates to Lot 2 DP 809377, which is wholly owned by Orica.

#### **4.0 VIEWS OF PUBLIC 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.

##### **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*.'

##### **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.

#### **5.0 CONSISTENCY WITH S.117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS**

An assessment of relevant Section 117 Directions is provided in the attached Planning Proposal.

#### **6.0 PARLIAMENTARY COUNSEL OPINION**

Council sought an opinion of Parliamentary Counsel on 12 August 2016. Parliamentary Counsel's Opinion was given on 26 August 2016.

#### **7.0 OTHER RELEVANT MATTERS**

There are no additional matters that are relevant considerations for the making of the plan.

## 8.0 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\_20160811
- 1720\_COM\_APU\_009A\_040\_20160811

## 9.0 RECOMMENDATION

Council recommends that the *Cessnock Local Environmental Plan 2011* (Amendment 23) be made as per the attached Parliamentary Counsel Opinion and associated Maps.

### **Attachments:**

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|--------------|------------------------------------------------------------------------------------------------|
| Attachment 1 | Cover Letter                                                                                   |
| Attachment 2 | Section 59 Planning Report;                                                                    |
| Attachment 3 | Planning Proposal – Schedule 1 Additional Permitted Use – Orica Site;                          |
| Attachment 4 | Gateway determination (PP_2015_CESSN_001_00);                                                  |
| Attachment 5 | Delegated Plan Making Reporting Requirements sheet; and                                        |
| Attachment 6 | Parliamentary Counsel Opinion – Proposed Cessnock Local Environmental Plan 2011 (Amendment 23) |
| Attachment 7 | Voluntary Planning Agreement                                                                   |