

Planning and Environment

Report No. PE9/2017

Planning and Environment



SUBJECT: ***CESSNOCK LOCAL ENVIRONMENTAL PLAN 2011 - CITY WIDE ADMINISTRATIVE AMENDMENTS - 2017***

RESPONSIBLE OFFICER: ***Coordinator Strategic Land Use Planning - Bo Moshage***

APPLICATION NUMBER:	18/2017/2
PROPOSAL:	City Wide Administrative Amendment 2017
PROPERTY DESCRIPTION:	Applies to the LGA
PROPERTY ADDRESS:	Applies to the LGA
ZONE: (CURRENT)	Applies to multiple zones
ZONE (PROPOSED)	Applies to multiple zones
OWNER:	This Planning Proposal applies to the LGA
PROPONENT:	Cessnock City Council

SUMMARY

This Report proposes administrative amendments to the Cessnock Local Environmental Plan (LEP) 2011.

The amendment proposes changes that:

- Rezone land recently added to the National Parks Estate in the Cessnock LGA from RU2 - Rural Landscape and RU3 - Forestry to E1 - National Parks and Nature Reserves;
- Resolve a mapping anomaly in the B3 - Commercial Core Zone in Cessnock;
- Amend the IN2 - Light Industrial Zone Land Use Table to permit 'General industry' with Council consent;
- Resolve issues relating to minimum lot sizes for subdivision for RU5 - Village and R5 - Large Lot Residential split zones; and
- Streamline the approvals process for certain forms of 'low impact' signage development, including A-frame signage and real estate directional signage.

The Planning Proposal contains five amendments, which have been individually identified, mapped and listed to illustrate the extent and purpose of each amendment.

This Report seeks Council's endorsement to forward a Planning Proposal to the Department of Planning and Environment, to seek a Gateway determination to commence the LEP making process and to commence a consultation program as required by the Gateway determination.

RECOMMENDATION

- 1. That Council support the preparation of a Planning Proposal for an**

administrative amendment to the Cessnock LEP 2011.

2. That Council requests a Gateway determination from the Department of Planning and Environment pursuant to the Environmental Planning and Assessment Act 1979, in relation to the Planning Proposal in Attachment 1.
3. 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.
4. That Council undertake a consultation program with public authorities and the community as determined by the Department of Planning and Environment "Gateway" Determination.
5. If no public submissions are received during the exhibition period, a report be prepared, under delegation of the General Manager, and forwarded to the Minister to make the Plan.

BACKGROUND

The purpose of this Planning Proposal is to make an administrative amendment to Cessnock Local Environmental Plan (LEP) 2011.

This Planning Proposal is the sixth in a series of amendments to the Cessnock LEP. Administrative amendments are typically made periodically to comprehensive LEPs to address issues that arise through the use of the Plan.

It has been 12 months since the last City Wide LEP amendment was made to the comprehensive Cessnock LEP, and it is an appropriate time to address a number of issues that have been identified.

The issues identified in this administrative amendment rectify anomalies with the land use tables and maps supporting LEP 2011 as well as resolve issues relating to lot sizes in split RU5 - Village and R5 - Large Lot Residential zones.

In addition, the Planning Proposal seeks to streamline the approvals process for A-frame signage and real estate directional signage for lawfully established businesses.

REPORT/PROPOSAL

It is proposed that Council resolves to prepare and support an administrative amendment to Cessnock LEP 2011. In summary, the Planning Proposal seeks to make the following amendments.

Amendment 1 - Mapping

Issue

The Office of Environment and Heritage (OEH) have advised Council of five significant additions to the National Parks Estate in the Cessnock LGA.

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The E1 - National Parks and Nature Reserves zone is for existing national parks, nature reserves and conservation areas and new areas proposed for reservation that have been identified and agreed by the NSW Government.

Corresponding amendments to the minimum lot size mapping layer are also proposed to change the minimum lot size from 40ha to 200ha.

Amendment 1(a)

The purpose of this amendment is to rezone land recently added to the Werakata State Conservation Area as part of a compensatory offset package for the construction of the Hunter Expressway from RU2 - Rural Landscape to E1 - National Parks and Nature Reserves.

Affected Land

The land affected by the amendment is identified in Figure 1 and contains 342.16ha, being Lot 8 DP1114318, Lot 30 DP1177041, Lot 1000 and Lot 1002 DP1142529 at Buchanan.



Figure 1

Recommendation

- Land Zoning Map (LZN 009A) and Minimum Lot Size Map (LSZ 009A) be amended to zone Lot 8 DP1114318, Lot 30 DP1177041, Lot 1000 and Lot 1002 DP1142529 from RU2 - Rural Landscape to E1 - National Parks and Nature Reserves zone and from 40ha to 200ha minimum lot size respectively.

Amendment 1(b)

The purpose of this amendment is to rezone land recently added to the Yengo National Park as part of voluntary acquisition from RU2 - Rural Landscape to E1 - National Parks and Nature Reserves.

Affected Land

The land affected by the amendment is identified in Figure 2 and contains 215ha, being Lots 67, 91, 140, 179, 180, 193, 194, 207 DP755272 and Lot 19 DP755213 at Paynes Crossing.

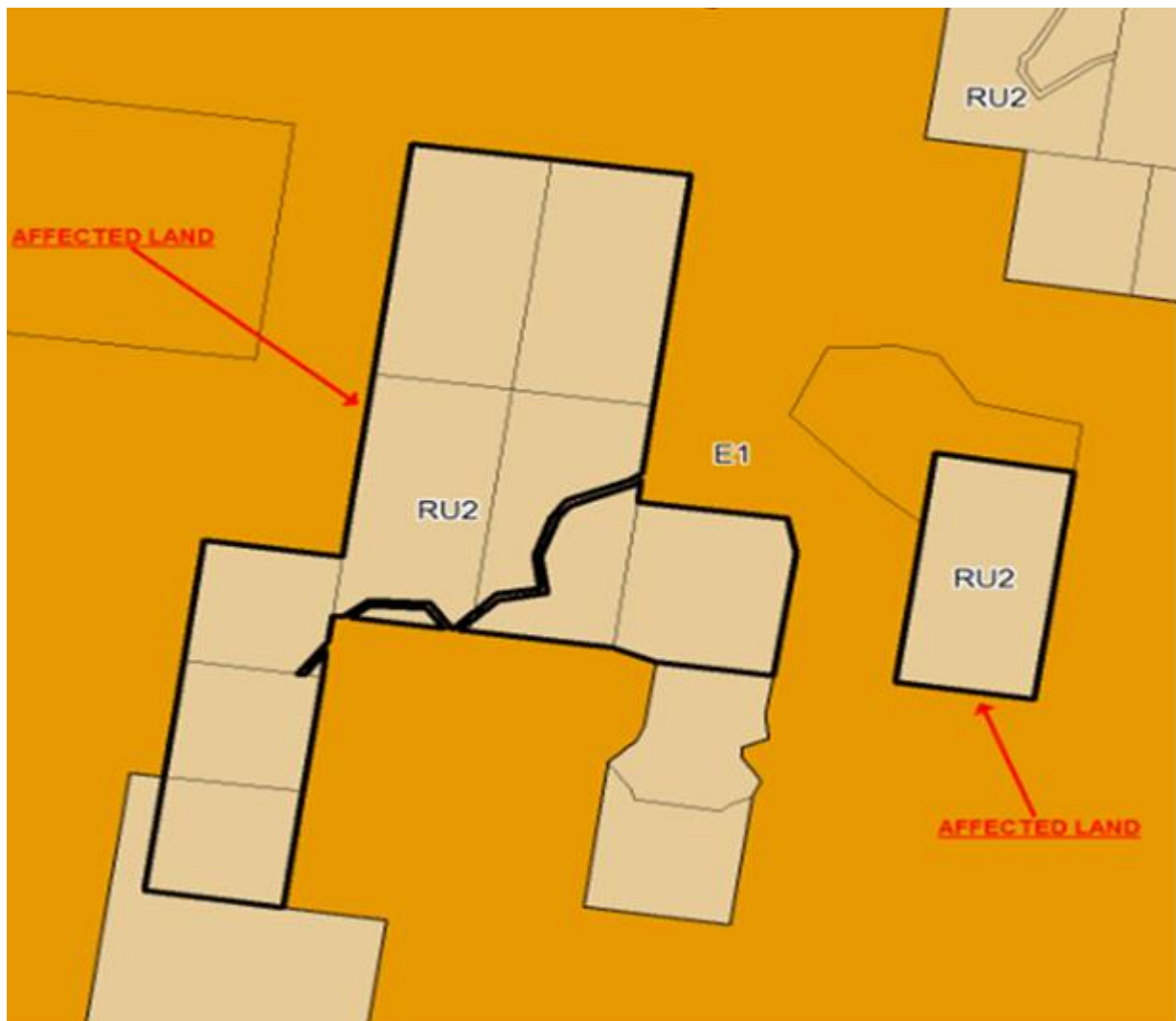


Figure 2

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Recommendation

- Land Zoning Map (LZN 003 and LZN 004) and Minimum Lot Size Map (LSZ 003 and LSZ 004) be amended to zone Lots 67, 91, 140, 179, 180, 193, 194, 207 DP755272 and Lot 19 DP755213 from RU2 - Rural Landscape to E1 - National Parks and Nature Reserves zone and from 40ha to 200ha minimum lot size respectively.

Amendment 1(c)

The purpose of this amendment is to rezone land recently added to the Yengo National Park as part of a compensatory offset package from RU2 - Rural Landscape to E1 - National Parks and Nature Reserves.

Affected Land

The land affected by the amendment is identified in Figure 3 and contains 235ha, being Lot 24, 32, 43, 46, 64 DP755213 and Lot 126 DP 755272 at Yengo.

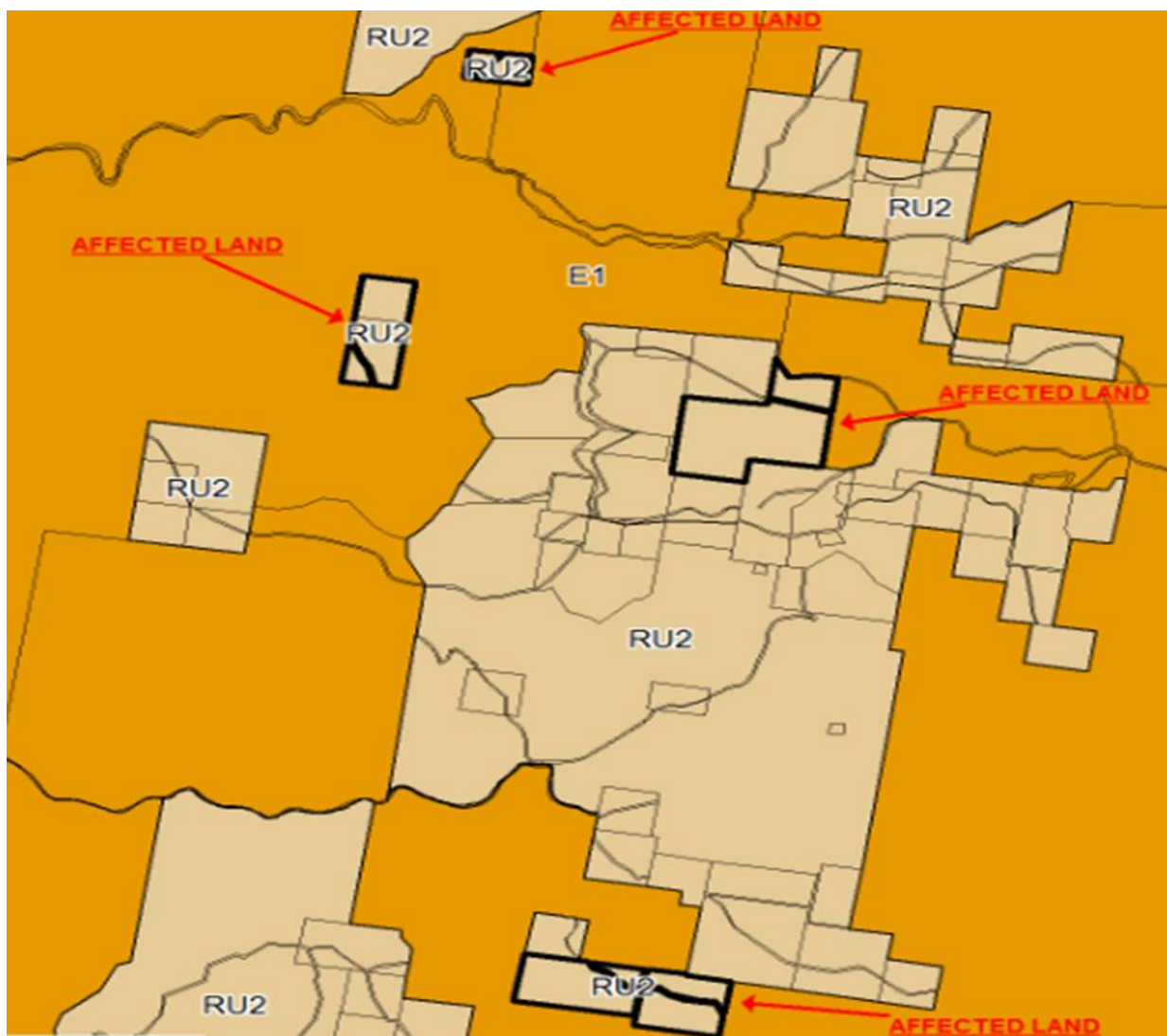


Figure 3

Recommendation

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- Land Zoning Map (LZN 003 and LZN 004) and Minimum Lot Size Map (LSZ 003 and LSZ 004) be amended to zone Lots 24, 32, 43, 46, 64 DP755213 and Lot 126 DP 755272 from RU2 - Rural Landscape to E1 - National Parks and Nature Reserves zone and from 40ha to 200ha minimum lot size respectively.

Amendment (d)

The purpose of this amendment is to rezone land to be added to the National Park Estate as part of a compensatory habitat for development offsets from RU2 - Rural Landscape to E1 - National Parks and Nature Reserves.

Affected Land

The land affected by the amendment is identified in Figure 4 and contains 640.08ha, being Lot 181 DP 755241, Lot 63 DP755217 at Cedar Creek and Sweetmans Creek.

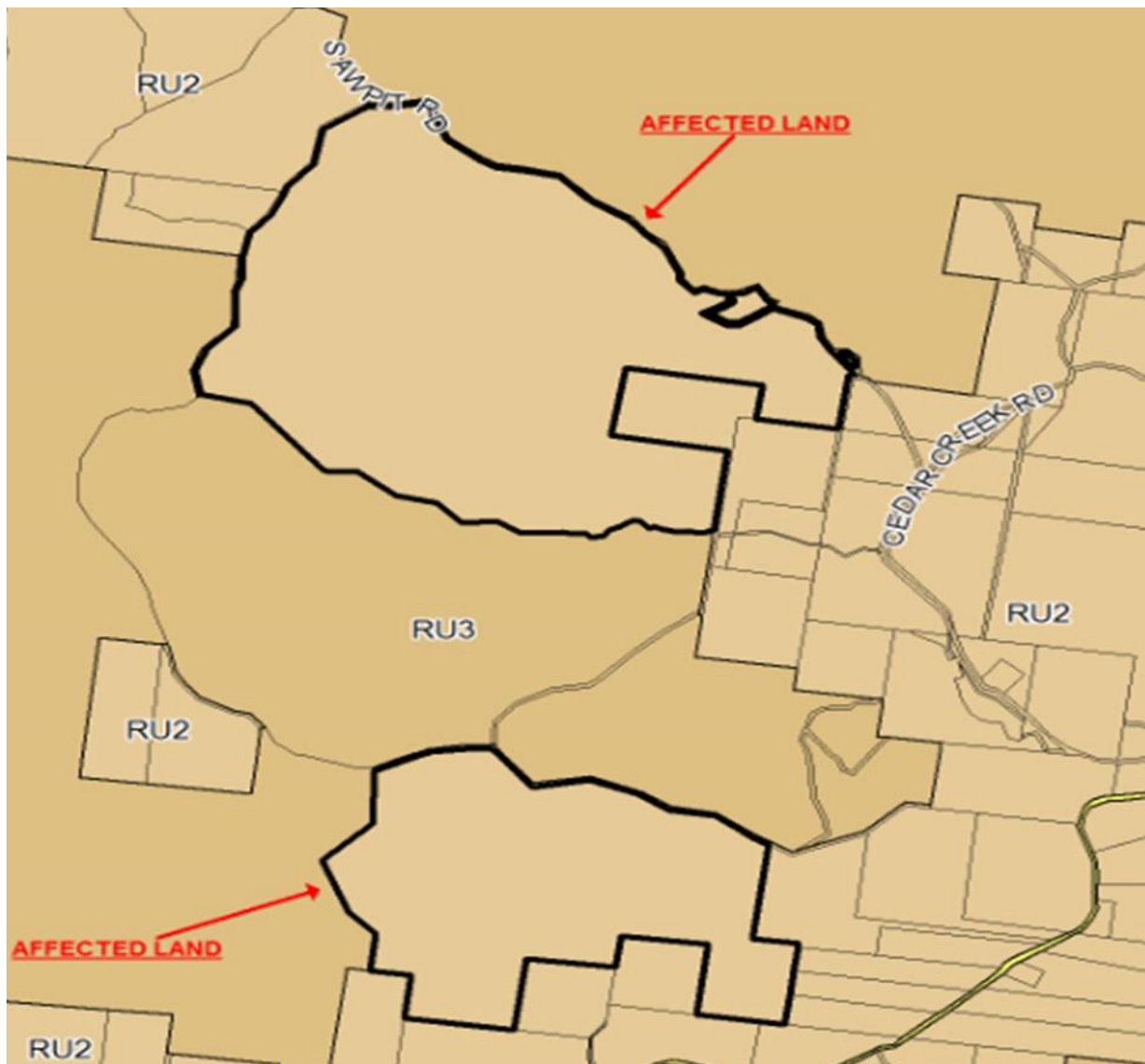


Figure 4

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Recommendation

- Land Zoning Map (LZN 006A and LZN 006B) and Minimum Lot Size Map (LSZ 006A and LSZ 006B) be amended to zone Lot 181 DP 755241, Lot 63 DP755217 from RU2 - Rural Landscape to E1 - National Parks and Nature Reserves zone and from 40ha to 200ha minimum lot size respectively.

Amendment 1(e)

The purpose of this amendment is to rezone land to be added to the National Park Estate as part of a compensatory habitat for development offsets from RU2 - Rural Landscape and RU3 - Forestry to E1 - National Parks and Nature Reserves.

Corresponding amendments to the minimum lot size mapping layer are also proposed to change the minimum lot size from 40ha to 200ha.

Affected Land

The land affected by the amendment is identified in Figure 5 and contains 547.60ha, being Lot 165 DP755219 and Lot 220 DP755230 at Corrabare and Watagan Creek.

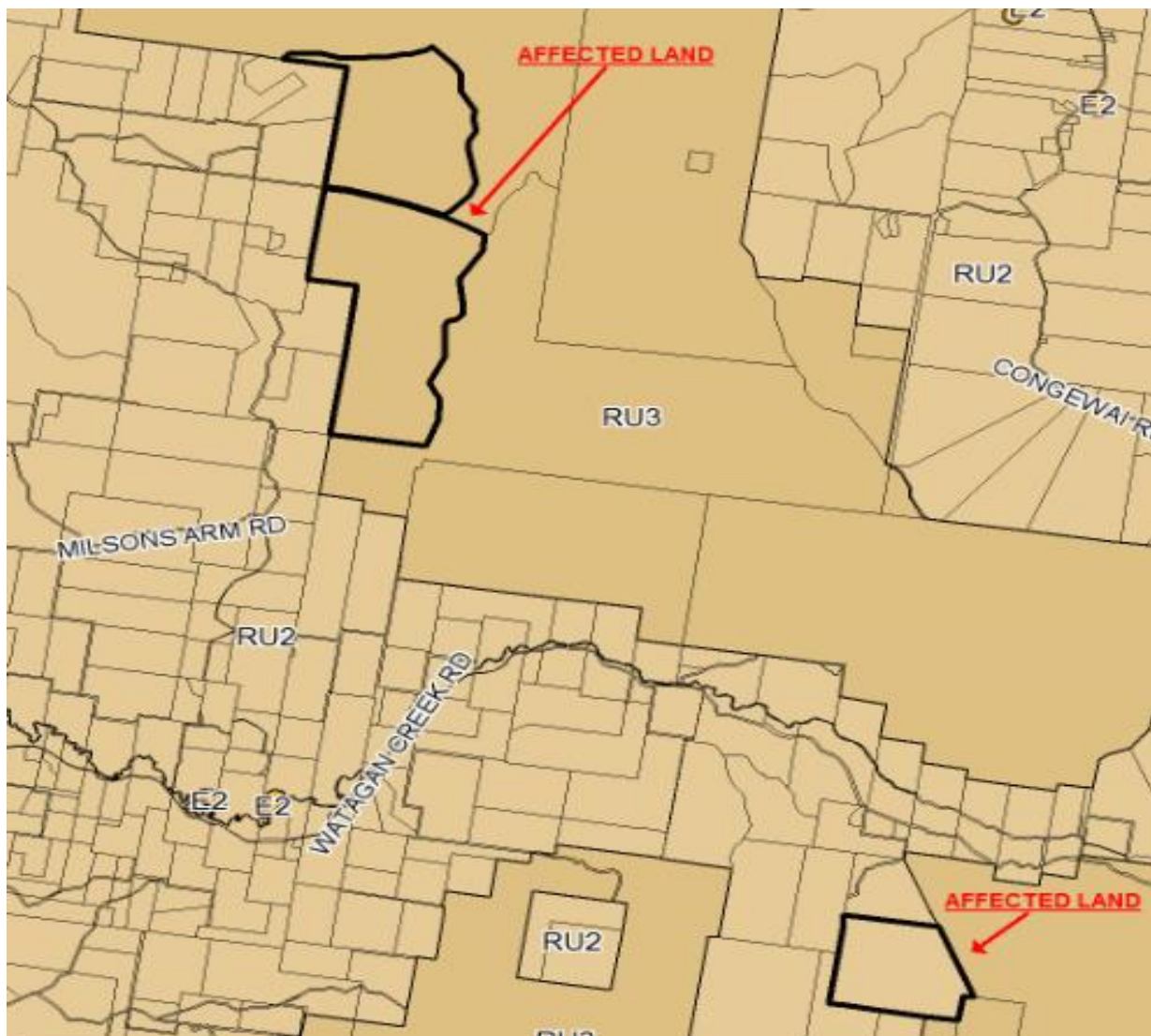


Figure 5

Recommendation

- Land Zoning Map (LZN 006B and LZN 007) and Minimum Lot Size Map (LSZ 006B and LSZ 007) be amended to zone Lot 165 DP755219 and Lot 220 DP755230 from RU2 - Rural Landscape and RU3 - Forestry to E1 - National Parks and Nature Reserves zone and from 40ha to 200ha minimum lot size respectively.

Amendment 2 - Mapping

Issue

The purpose of this amendment is to rectify a mapping anomaly that unintentionally zoned part the Big W complex at Cessnock a B4 - Mixed Use rather than B3 - Commercial Core zone. Rezoning this small part of the lot will make the zone consistent with the balance of the site.

Affected Land

The land affected by the amendment is identified in Figure 6, being Lot 1 DP1097308.



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Figure 6

Recommendation

- Land Zoning Map (LZN 006CA) be amended to zone that part of Lot 1 DP1097308 from B4 - Mixed Use to B3 - Commercial Core.

Amendment 3 - Land Use Tables

Issue

The purpose of this amendment is to provide consistency in the application of the IN2 - Light Industrial zone.

As reported to Council on 2 November 2016, to maintain consistency between the Cessnock and Newcastle LGAs in the application and use of the IN2 zone particularly in the Black Hill area and ensure the zone structure supports the intent of the zone, it was recommended that the IN2 be supported with the addition to the land use table of 'general industry'.

***'General industry'** means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.*

The inclusion of **general industry** in the land use tables as permitted with consent in the IN2 zone is considered compatible with the zone objectives.

Affected Land

This amendment is not specific to any one location, but will affect the IN2 - Light Industrial land use zones across the Cessnock LGA. Adding this use to the IN2 zone not only improves consistency of application of the zone with the Newcastle LGA, but provides clarity for developers regarding the intended use of the IN2 industrial areas within the Cessnock LGA.

Recommendation

- The land use table for the IN2 - Light Industrial zone be amended to remove 'General Industrial' from the prohibited list, making this uses permitted with consent in this zone.

Amendment 4 - Local Provision

Issue

The purpose of this amendment is to resolve development constraints relating to land with an RU5 - Village and R5 - Large Lot Residential split zoning.

Council resolved on 17 August 2016 in its consideration of Report PE60/2016 to prepare a Planning Proposal to amend the Cessnock LEP 2011 to resolve development constraints relating to lot size anomalies between the RU5 - Village and R5 - Large Lot Residential zones.

The current controls contained in *Clause 4.1B - Minimum lot size for certain split zones* is proposed to be amended to permit subdivision of land in the RU5 - Village zone (subject to

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the minimum lot size) while not creating any additional dwelling entitlements on R5 - Large lot residential zoned land, which must be wholly contained in a residue allotment.

This will prevent the creation of multiple lots with urban and rural zonings while facilitating the subdivision of land within the RU5 - Village zone.

Affected Land

The amendment is not specific to any one location, but will apply to land with a split RU5 - Village and R5 - Large Lot Residential zone in the Cessnock Local Government Area.

Recommendation

- Amend Clause 4.1B – Minimum lot size for certain split zones by adding RU5 - Village and R5 - Large Lot Residential zones to land affected by this clause.

Amendment 5 - Schedule 2 – Exempt Development

Issue

The purpose of this amendment is to streamline the approvals process for certain forms of 'low impact' signage development, including A-frame signage and real estate directional signage.

Council resolved on 5 October 2016 in its consideration of BN7/2016 to investigate the issues of illegal signage in the LGA. Report PE8/2017, which is also being reported to the 15 March 2017 Council meeting, notes that exemptions for specific types of 'low impact' signage development, including A-frame signage and real estate directional signage, are recommended as a component of the next housekeeping amendment to the Cessnock LEP 2011.

Presently, A-frame signage and real estate directional signage that are erected in the road reserve require both development consent under the Environmental Planning and Assessment Act 1979 and consent under Section 138 of the Roads Act 1993.

Adding these forms of signage to Schedule 2 – Exempt Development would eliminate the need for a person to obtain multiple consents when satisfying a prescribed list of criteria.

Council, as the roads authority for local roads, will still maintain a measure of control over the signage under the Roads Act 1993.

A development consent is required if any one of the exempt development criteria relating to A-frame signage and real estate directional signage is unable to be satisfied.

Affected Land

The amendment is not specific to any one location, applying to all lawfully established businesses in the Cessnock Local Government Area.

Recommendation

- Amend Schedule 2 – Exempt Development of the LEP to add exempt development criteria relating to A-frame signage and real estate directional signage.

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A copy of the Planning Proposal is provided in **Attachment 1**.

OPTIONS

1. Council resolve to support the recommendations contained in this Report and submit a Planning Proposal to the Department of Planning and Environment for a Gateway determination. This is the recommended option.
2. Request changes to the Planning Proposal. This option may delay the proposed amendments.
3. Not support the recommendation of this Report. This is not the preferred option and will not assist the improvement in the operation of the LEP 2011.

CONSULTATION

The Planning Proposal is proposed to be publicly exhibited for a minimum of 28 days in accordance with Council's Advertising and Notification Requirements and the Department's LEP Guide "A guide to preparing local environmental plans".

The exhibition material will be available from the following locations:

- Council's administration building (Help and Information Counter);
- Cessnock Public Library
- Kurri Kurri Public Library; and
- Council's Website at www.cessnock.nsw.gov.au

It is proposed to consult with the Roads and Maritime Services and the Office of Environment and Heritage on the content of this Planning 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

Cessnock Local Environmental Plan 2011

The Planning Proposal will amend Cessnock LEP 2011 as outlined in this Report.

State Environmental Planning Policies

The proposal is considered to be consistent with the relevant State Environmental Planning Policies (SEPPs). An assessment of relevant SEPPs against the Planning Proposal is provided in the accompanying Planning Proposal.

Section 117 Ministerial Directions

Section 117(2) of the *Environmental Planning and Assessment Act 1979* enables the Minister for Planning and Environment to issue directions that Council must address when preparing planning proposals to amend a Local Environmental Plan. An assessment of

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relevant s.117 Directions is provided in the accompanying Planning Proposal. The Proposal is considered to be consistent with the relevant Ministerial Directions.

IMPLICATIONS

a. Policy and Procedural Implications

Following Council's endorsement, a Planning Proposal will be submitted to the Department of Planning and Environment for a Gateway determination.

The Planning Proposal's status is indicated in the process map below.

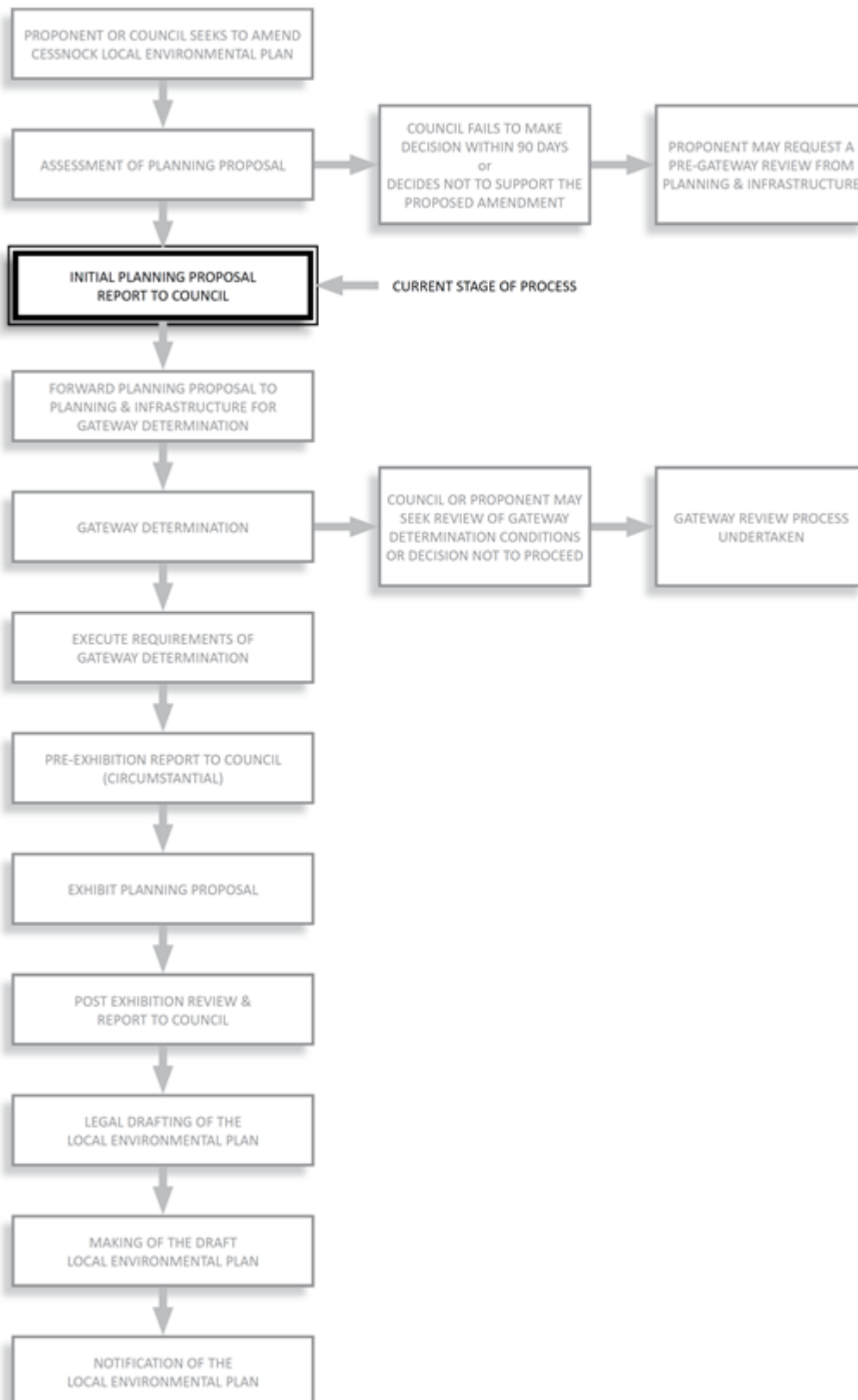
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PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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b. Financial Implications

The cost of this project is funded from Council's Strategic Land Use Planning budget. The Cessnock Local Environmental Plan 2011 will, however, continue to require strategic planning and mapping resources.

c. Legislative Implications

This Report has regard to the provisions of the Environmental Planning and Assessment Act and its Regulations and the Standard Instrument (Local Environmental Plans) Order 2006 (as amended).

d. Risk Implications

There are considered to be minimal risk implications to Council with processing this amendment arising from the recommendation of this Report.

e. Environmental Implications

Nil.

f. Other Implications

Nil.

CONCLUSION

The administrative amendments to Cessnock LEP 2011 are essential to ensure Council's intent for its planning instrument is maintained and has been prepared in accordance with the requirements of the Department of Planning and Environment.

It is recommended that Council commence this amendment, being the sixth in a series of administrative amendments to the Cessnock LEP 2011 and request a Gateway determination for the subject Planning Proposal.

ENCLOSURES

[1](#) Planning Proposal - Cessnock LEP Administrative Amendments 2017