



PLANNING PROPOSAL

Amendment to the *Cessnock Local Environmental Plan 2011*

Rezoning

Lot 1552 DP1046610 – 8 Kerlew Street, Nulkaba

Lot 31 & 32 DP1253404 - 39 Pinchen Street, Nulkaba

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Table of Contents

Part 1: Objectives and Outcomes.....	3
Part 2: Explanation of Provisions	4
Part 3: Justification	9
Section A: Need for Proposal.....	9
1 Resulting from a Strategic Study or Report.....	9
2 Planning Proposal as best way to achieve to objectives	9
Section B: Relationship to Strategic Planning Framework	10
3 Consistency with Objectives and Actions within Regional Strategies.....	10
4 Consistency with Council’s Community Strategic Plan or other Local Strategic Plan	11
5 Consistency with State Environmental Planning Policies	16
6 Consistency with Section 9.1 Ministerial Directions for Local Plan Making	23
Section C: Environmental, Social and Economic Impact.....	30
7 Impact on Threatened Species.....	30
8 Environmental Impact.....	31
9 Social and Economic Impacts.....	35
Section D: State and Commonwealth Interests.....	36
10 Adequate Public Infrastructure	36
11 Consultation with State and Commonwealth Authorities	36
PART 4: MAPPING.....	37
Part 5: Community Consultation.....	38
Part 6: Project Timeline.....	39

Tables

Table 1: Consistency with State Environmental Planning Policies.....	16
Table 2: Relevant Section 9.1 Ministerial Directions.....	23

Appendices

Appendix 1:.....	41
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Part 1: Objectives and Outcomes

The objective of the Planning Proposal is to amend the *Cessnock Local Environmental Plan 2011* (the LEP) to achieve the following outcomes:

1. Rezone part of Lot 1552 DP 1046610 and part of Lot 31 and 32 DP 1253404, known as 8 Kerlew Street and 39 Pinchen Street Nulkaba, from R5 Large Lot Residential to RU5 Village.
2. Amend the associated minimum lot size from 2,000m² to 750m².

Part 2: Explanation of Provisions

This Planning Proposal has been prepared to enable part of the subject land to be rezoned from R5 Large Lot Residential to RU5 Village and to amend the minimum lot size of the land from 2,000m² to 750m²

Affected Land

The affected land is identified as part of Lot 31 and 32 DP1253404 and part of Lot 1552 DP 1046610 (see **Figure 1**).

- Lot 32 DP1253404 is located immediately to the north of Lot 1552, and forms a development holding in combination with the adjoining Lot 31 to the west, which is rectangular in shape and has a land area of 3.11 hectares.
- Lot 1552 DP 1046610 is a square shaped allotment with a land area of 2 hectares.

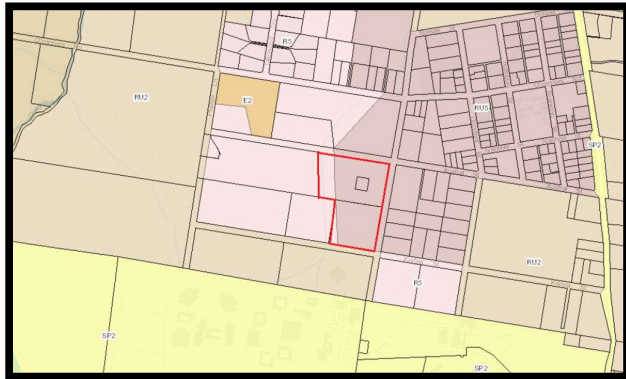


Figure 1: The site



Figure 2: Land subject to the amendment

The site is located at the intersection of Kerlew Street and Pinchen Street, on the western fringe of the Nulkaba Village and is located 3 kilometres to the north of Cessnock and 6 kilometres to the south of Cessnock Airport.

The site contains a dwelling, sheds and open paddocks. The surrounds land uses are residential village and large lots and cleared paddocks. Part of the site is subject to minor flooding (see **Figure 4**).

Previous vegetation at the site would have comprised of spotted gum, narrow-leaved ironbark, grey box, grey gum, grey iron bark and turpentine. Shrubs are likely to have included silver stemmed wattle, forest oak, coffee bush, gorse bitter pea, peach heath, large mock olive, narrow-leaved geebung and muttonwood. Past fauna is likely to have included kangaroos, possums, gliders, reptiles and birds, and, would have provided food resources for Aboriginal people.

Nulkaba is located within the Cessnock river-plains (specifically bordered by an ephemeral 2nd order stream on its western border) at an approximately 80m Australian Height Datum. The land has a relatively flat terrain.

Major waterways near the site include Black Creek which is 1.5km to the east, Oaky Creek 1km west-north-west, and, the Hunter River, 15km to the northeast.

Areas to the north and east are zoned RU5 Village with plots containing residential dwellings and cleared land, to the south is a 6.5 hectare area of native remnant bushland zoned RU2

Rural Landscape. To the west are lots zoned R5 Large Lot Residential consisting of residential dwellings and cleared land.

Issue

The site is currently split zoned, which presently does not support an orderly approach to residential subdivision.

The minor western portion of the site is zoned R5 Large Lot Residential and the majority eastern portion of the site is zoned RU5 Village (see **Figures 1 and 2**). Presently, the RU5 Village zoned portion of the site has development approval to create residential allotments of between 898m² and 1,135m².

The R5 and RU5 Zones have differing objectives and permissible uses. However, it is considered that the inconsistency is not to the extent whereby this proposed amendment would significantly alter the land uses permitted both on the site and the within the locality. Specifically, both zones allow for residential development within a rural setting.

The RU5 Village zone objectives are:

- *To provide for a range of land uses, services and facilities that are associated with a rural village.*
- *To ensure that development is compatible with the amenity, functioning and scale of a rural village.*

The R5 Large Lot Residential zone objectives are:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The Planning Proposal will remove the split zoning currently imposed on the site to achieve a consistent zoning and minimum lot size across the entire site. This will ensure consistency with the predominant and approved subdivision pattern of the site and Nulkaba Village (see **Figure 3**).

The proposal will also enable development of the site for urban residential purposes and will ensure that future development will satisfy the housing/allotment targets set for the Nulkaba Urban Release Area, which is transitioning from a larger lot residential area to a residential village area (see **Figure 8**).

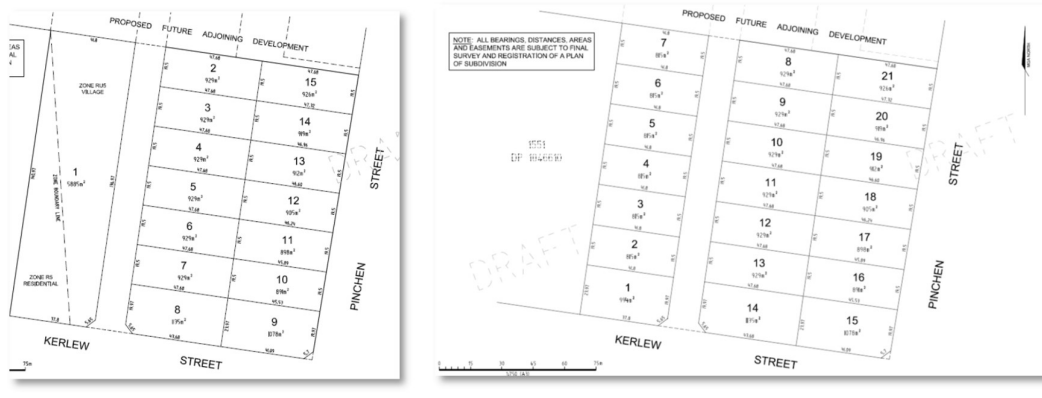


Figure 3: Approved (left) and future indicative subdivision plan (right) post rezoning to RU5 Village

The proposal is considered to have merit; however, Council flood mapping shows the site is subject to minor flooding.

The flood affected part is on the western boundary across six (6) approved lots and two (2) drainage easements (see **Figure 4**). The affected part of the site is 6 metres wide. This allows 35.8m to locate a dwelling.

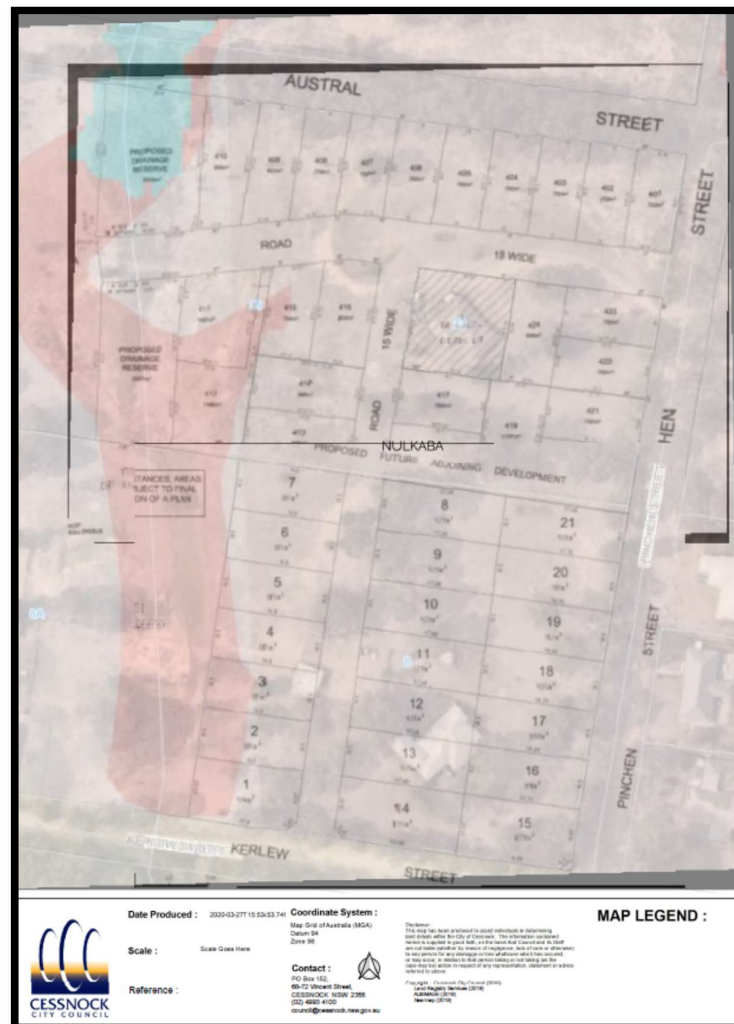


Figure 4: Council flood study (1993) shows part of the site is subject to minor flooding

This planning proposal request also seeks to align/correct the zone boundary (40m setback) for Lot 32 from a 'first order water course'.

The NSW Officer of Water Guidelines (guideline) requires a 10m 'Vegetated Riparian Zone' width (formerly 'Core Riparian Zone') to first order water courses, not a 40m 'Vegetated Riparian Zone'.

The guideline permits realignment of first order water courses. In this circumstance, it is considered that a 40m buffer to a first order watercourse is an inefficient and uneconomic use of land, and that a more rational boundary location is that with Lot 1552.

Council's Engineers have advised that it is likely that any flooding impact would be upstream from the site, and, the flood level and constraints across the site will be in line with the 1% AEP flood extent plan. Notwithstanding this, rezoning to intensify residential development is contingent upon a flood study.

It is recommended that Council forward the Planning Proposal to DPIE seeking a 'Gateway determination' and flood study (to be a condition of the Gateway determination). DPIE has indicated its support for this approach.

This issue is further discussed below in Part 3 Section B Consistency with Section 9.1 Ministerial Directions for Local Plan Making.

Recommendation

Rezone part of property from R5 Large Lot Residential to RU5 Village, and, amend the LEP Land Zoning Map (LZM_006) (see **Figure 5**).

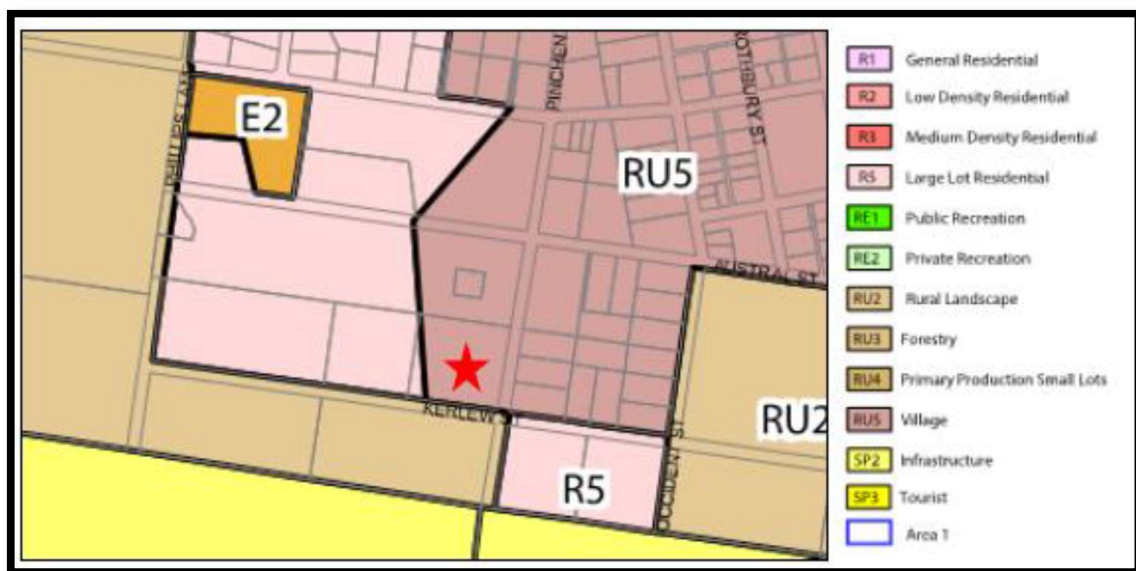


Figure 5: Proposed LEP Land Zoning Map (LZM_006)

1. Amend the LEP Minimum Lot Size Map to facilitate a residential subdivision pattern with 750m² allotments.

Subject Land

This amendment relates to the subject site identified in **Figure 1**.

Issue

Presently, the minimum lot size for the R5 Large Residential part of the subject site is 2000m². This is significantly inconsistent with the minimum lot size range of approved on the remainder of the site which is between 898m² and 1135m² within the RU5 Village Zone.

Recommendation

Amend the LEP Minimum Lot Size Map to facilitate a residential subdivision pattern to reflect the RU5 Village Zone allotment sizes of 750m² (see **Figure 6**).

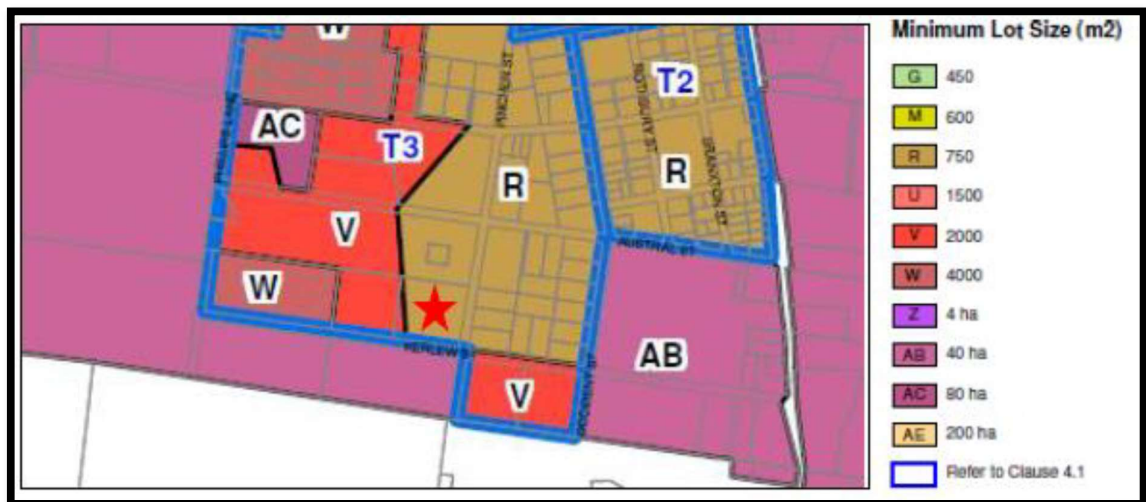


Figure 6: Proposed LEP Land Zoning Map (LSM_006)

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 site is within an urban release area first identified in the *Cessnock City Wide Settlement Strategy 2003* (CWSS 2003), which has been superseded by the *Cessnock City Wide Settlement Strategy 2010* (CWSS 2010).

The CWSS 2010 Nulkaba Urban Release Area Structure Plan provides development principles to guide village scale development around Nulkaba Village in order to yield an additional 400 'village style' allotments (see **Figures 7 and 8**).

Council's current strategic document is the draft *Local Strategic Planning Statement 2036* (LSPS) which has been informed by a number of studies including the CWSS 2010. The proposal is consistent with the strategic vision for the village.

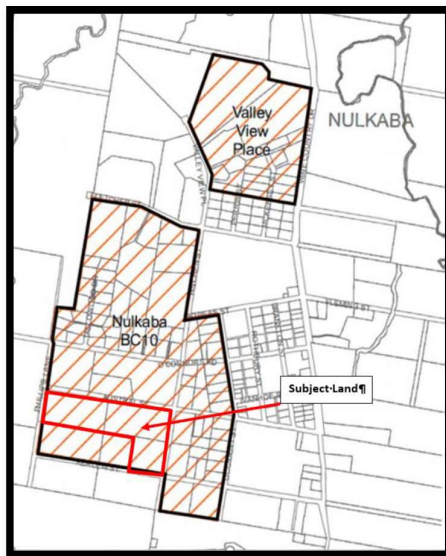


Figure 7: Nulkaba Urban Release Area



Figure 8: Nulkaba Structure Plan

2 Planning Proposal as best way to achieve to objectives

Having regard to the objects of the EP&A Act 1979, a Planning Proposal is considered to be the only means of achieving the intended outcomes.

A variation to the minimum lot size pursuant to Clause 4.6 of the LEP 2011 would be contrary to the objectives of the R5 Village Zone and therefore difficult to justify in this circumstance.

Realigning the existing boundary between the R5 Large Lot Residential and RU5 Village zones will unlock development potential of the subject site which presently is constrained to a minimum lot size of 2000m² land.

The amendment will achieve subdivision for residential purposes in a manner consistent with the Nulkaba Release Area Structure Plan.

The minimum recommended lot size of 750m² is consistent with the minimum lot sizes of the land fronting Pinchen Street, Austral Street and O'Connors Road to the north and east of the site.

The Planning Proposal will therefore facilitate the most efficient and economical use of the subject site, will reflect the character of the neighbouring development, and, is considered to be the best means of achieving the intended outcome for the site.

Section B: Relationship to Strategic Planning Framework

3 Consistency with Objectives and Actions within Regional Strategies

Greater Newcastle Metropolitan Plan 2036

The Metropolitan Plan provides the strategies and actions to deliver on the vision, create great places across Greater Newcastle and align infrastructure and services in catalyst areas. The Planning Proposal is consistent with *Strategy 16 - Prioritise the delivery of infill housing opportunities within existing urban areas* and *Strategy 18 - Deliver well-planned rural residential housing areas*. The outcomes of the amendment will achieve efficient use of land for housing and enable more affordable housing within Nulkaba Village locality.

Hunter Regional Plan 2036

The Hunter Regional Plan (HRP) provides the overarching framework to guide the NSW Government's land use planning priorities and decisions to 2036. The Planning Proposal is consistent with *Direction 21: Create a compact settlement* by reducing the minimum lot size from 2000m² to 750m² consistent with the remainder of site, and, intentions of the Nulkaba BC10 Urban Release Area which aims to provide village size allotments in close proximity to jobs, services, reticulated water and sewer infrastructure.

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

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

There are no strategic directions or themes within the Community Strategic Plan that relate to housing.

City Wide Settlement Strategy (2010) (CWS)

There is no inconsistency between the Planning Proposal and Council's City Wide Settlement Strategy which has informed the draft Local Strategic Planning Statement 2036 (draft LSPS). Fundamentally, the urban footprint of the Cessnock LGA is to be contained and residential intensification is supported for identified villages including the Nulkaba Urban Release Area.

Draft Local Strategic Planning Statement (2036) (draft LSPS)

The Nulkaba Village is considered an investigation area for potential infill housing within existing R5 and RU5 Zones (if servicing can be achieved). The proposal is consistent with the draft LSPS development objectives for the management of urban growth.

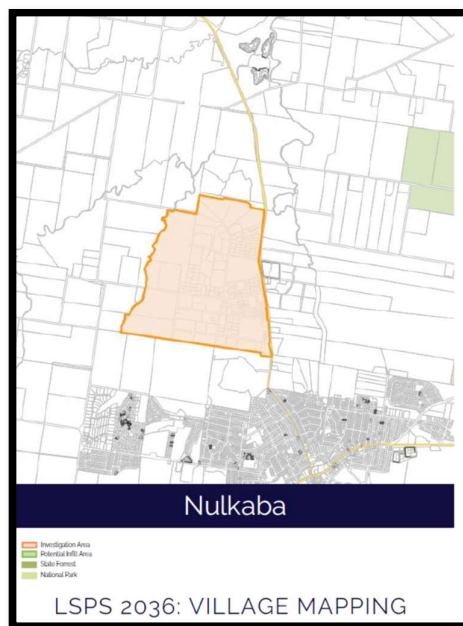


Figure 9: Draft LSPS indicated Nulkaba as an 'Investigation Area' for residential growth

The relevant draft LSPS Priorities are discussed below.

Planning Priority 1: Urban areas are compact

The planning principles relevant to the proposal are:

- *Medium density residential development is encouraged in and around our centres.*
- *Our urban areas are compact and fully serviced.*

The site is split into two zones; R5 Large Lot Residential and RU5 Village. The site has access to reticulated water and sewer, infrastructure and services of the Nulkaba rural village. The site is able to provide a variety of housing types within a rural residential environment, compatible with the amenity, functioning and scale of a rural village.

Planning Priority 2: Housing is diverse, adaptable and affordable and our urban areas facilitate affordable living.

The planning principles relevant to the proposal are:

- *Settlements are designed, located and appropriately serviced to reduce living costs, support affordable living and provides adaptable housing.*
- *The capacity of existing services and infrastructure is maximised.*

The proposal will provide affordable housing within a rural residential village environment.

Planning Priority 3: The character and vitality of our town centres and villages is protected and enhanced.

The planning principles relevant to the proposal are:

- *The revitalisation of our town centres and villages is prioritised.*

The land immediately adjoining Nulkaba is identified as good pasture and horticulture. Nulkaba is located on the east of the RU4 Primary Production zone which is the Vineyards District. There are pockets of fragmented RU2 Rural Landscape land located in Nulkaba.

A review of the use of the RU5 Village and R5 Large Lot Residential zones and associated minimum lot sizes used within the village is a high priority. Any development to occur at Nulkaba would be best suited to infill in the existing R5 and RU5 areas if servicing can be achieved.

The subject site is part zoned R5 Large Lot Residential and part zoned R5 Village and is well serviced by infrastructure and facilities.

The proposal to rezone the site to R5 Village will allow for development of residential allotments consistent in size with the surrounding Nulkaba village contributing the revitalisation and flow on benefits for the local economy.

Planning Priority 5: Infrastructure and services meet the needs of the community and area appropriately funded

The planning principles relevant to the proposal are:

- *Infill development within our established urban areas is encouraged.*
- *Rezoning land for urban purposes will be prioritised in areas where existing infrastructure capacity exists.*

The proposal will allow for infill residential development consistent with that of the surrounding Nulkaba village area, and the remainder of the subject site.

The site currently has a narrow rural vehicular access to Kerlew Street at the western boundary and is already serviced by infrastructure and facilities such as sewer, reticulated water.

Wine Country Drive in the vicinity of the site is a classified state road (MR 220) under the care and control of the NSW Roads and Maritime Services (RMS). As a sub-arterial road its main function is to provide access to the closest arterial road (Hunter Expressway M15) for towns and villages along its length.

Wine Country Drive provides a single travel lane in each direction with a sealed shoulder on the east side and kerb & gutter on the west side. A 70 km/h speed zoning applies in the vicinity of the site.

Kerlew Street is a local road (no through road) under the care and control of Cessnock City Council. As a local road its main function is to provide vehicular access to properties along its length.

Kerlew Street provides a single travel lane in each direction with unsealed shoulders and longitudinal table drains along both sides and in the vicinity of the site is both sealed and unsealed but unsealed along the site frontage. A 50 km/h speed zoning applies in the vicinity of the site.

A new road running from the 18m wide road connecting with Pinchen Street to the southern boundary of the property with Lot 1552 DP 1046610 and a concept stormwater management plan have been approved under DA 8/2017/438/2 for Lot 32 DP1253404.

A Traffic Impact Assessment (TIA) prepared by Intersect Traffic Pty Ltd was submitted in support of this planning proposal. The assessment concluded that a total of 7 additional residential lots would contribute to an additional peak traffic generation of:

- Daily vehicle trips = $7 \times 7.4 = 52$ vtpd
- Morning peak hour vehicle trips = $0.85 \times 7 = 6$ vtph
- Evening peak hour vehicle trips = $0.9 \times 7 = 7$ vtph

These trip generation is insignificant and alone would not alter the impact upon local or state road network.

The TIA concluded that the existing road network has sufficient mid-block two-way road capacity to cater for the planning proposal which would allow an additional 7 residential lots on the site.

Further assessment of on-site car parking will be required at development application stage for developments on the new allotments and any future development would require infrastructure developer contributions in accordance with the Nulkaba Contributions Plan, which will be repealed and replaced by the comprehensive City Wide Contributions Plan once adopted.

The existing public transport services to the site and locality are considered satisfactory.

Planning Priority 6: Opportunities for rural, large lot and environmental living are provided in appropriate locations.

The planning principles relevant to the proposal are:

- *Large lot residential development may be supported where it provides a transition from urban to rural land uses.*
- *Large lot residential areas will only be supported where services and infrastructure exists (e.g. sewer, water) or these utilities can be reasonably extended or provided.*

Deleting the large lot residential zone for part of the subject site is not considered unreasonable given that the proposal will align the site zone/minimum lot size allowing for a more rational and economic approach to future development of the site as village sized allotments, consistent with the surrounding Nulkaba village area.

Planning Priority 7: Urban development is encouraged in areas with existing infrastructure.

The planning principles relevant to the proposal are:

- *Infill development is encouraged in established urban areas.*
- *Our urban areas are compact and well serviced.*
- *New growth is integrated with the existing residential areas and adequately serviced.*

The site is already serviced by local village infrastructure and facilities and amenities and the subject site already benefits from sewer, reticulated water and roads.

A new road running from the 18m wide road connecting with Pinchen Street to the southern boundary of the property with Lot 1552 DP 1046610 and a concept stormwater management plan have been approved under DA 8/2017/438/2 for Lot 32 DP1253404.

Planning Priority 12: Our City has a defined hierarchy of commercial centres.

The planning principles relevant to the proposal are:

- *Our centres exist in a logical hierarchy that reflects the catchment that they serve.*
- *Our centres meet local retail and service needs, without reducing the viability of other centres nearby.*
- *Development is consistent with the objectives of the land use zone and consistent with the commercial centre hierarchy.*

It is estimated that an additional 6,350 dwellings will be needed in Cessnock by 2036. The plan focuses on providing land and infrastructure to meet this requirement through infill developments in established areas and greenfield urban release areas.

Directions for housing opportunities in locations with established services and infrastructure close to existing towns and villages form an integral part to planning the Cessnock Local Government Area (LGA).

The delivery of existing Urban Release Areas, including Nulkaba is a specific priority for housing in the LGA. The proposal is consistent with the hierarchy of centres which is defined by planning 'zones'. Development standards relevant to each of these zones help guide the scale, type and form of development that may occur.

The site is part zoned and surrounded by RU5 Village. The proposal will allow for development consistent with its surrounding environment and that of the hierarchy of centres.

Planning Priority 23: Developments are suitable, minimise environmental impact and respond to environmental characteristics.

The planning principles relevant to the proposal are:

- *The sustainable use of resources is encouraged.*

- *Our urban areas are compact.*
- *Quality sustainable design outcomes are encouraged.*
- *Opportunities to capture and reuse stormwater and wastewater are maximised.*
- *Development will continue to be assessed in accordance with Planning for Bushfire Prone Land. Mine subsidence will continue to be considered in the rezoning and development of land.*

The proposal provides an opportunity for infill residential housing that minimises impact on the environment, be designed to address environmental hazards whilst reflecting the local area character of the Nulkaba village surrounds.

The site is within the Nulkaba BC 10 Urban Release Area. The proposal will provide additional housing opportunities (approximately 7 additional lots) within an existing urban housing release area, in close proximity to jobs and services.

The proposal will contribute to the notion of 'compact cities' which minimise the cost of infrastructure and maximise its capacity and will be supported by a new road running from the 18m wide road connecting with Pinchen Street to the southern boundary of the property with Lot 1552 DP 1046610, and, a concept stormwater management plan has also been approved under DA 8/2017/438/2 for Lot 32 DP1253404.

Planning Priority 24: The rural landscape of the area is retained and enhanced.

The planning principles relevant to the proposal are:

- *The rural character and amenity of the land is preserved and enhanced.*
- *Dwellings located in rural areas and areas of high environmental value are sited and designed to minimise the visual impact.*
- *The interface between urban areas and rural land or environmental land is managed to minimise visual impacts.*

This Planning Proposal encompasses land that forms part of an identified urban release area and provides the requisite studies to support the rezoning process.

Presently, the subject site is part zoned R5 Large Lot Residential and part zoned RU5 Village. The proposal will retain the rural village identity consistent with the surrounding RU5 development to the west of the site.

DA 8/2017/438/2 approved for Lot 32 DP1253404 requires a street tree planting plan is to be submitted to Council for approval.

This will establish an attractive and green canopy. Street trees shall be of quality stock which will grow into healthy and mature specimens. This will contribute to the rural landscape character of the streetscape.

5 Consistency with State Environmental Planning Policies

An assessment of the Planning Proposal against the relevant SEPPs is provided in Table 1 below.

Table 1: Consistency with 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.	Consistent Nothing in the Planning Proposal impacts upon the operation of this SEPP.
SEPP 14 – Coastal Wetlands	Not applicable to the LGA.	N/A
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 the Planning Proposal impacts upon the operation of this SEPP.
SEPP 19 – Bushland in Urban Areas	Not applicable to the LGA.	N/A
SEPP 21 - Caravan Parks	The SEPP provides for development for caravan parks.	Consistent Nothing in the Planning Proposal impacts upon the operation of this SEPP.
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Consistent Nothing in the Planning Proposal impacts upon the operation of this SEPP.
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Consistent Nothing in the Planning Proposal impacts upon the operation of this 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 the Planning Proposal impacts upon the operation of this SEPP.
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.	Cessnock LGA is listed in Schedule 1 of the SEPP. At the DA stage, the SEPP requires that the relevant planning authority consider whether that land is a potential koala habitat and/or core koala habitat. A Flora and Fauna Assessment was carried out by Anderson E&P in November 2018 in respect to 8 Kerlew Street.

		<p>This report makes the following observations with respect to Koala Habitat: <i>No sign of species during fieldwork and only two Atlas records exist within 10km of the site. Lack of suitable habitat. Considered unlikely to occur.</i></p> <p>In respect to 39 Pinchen Street, the land the subject to this Planning Proposal is cleared land and has been approved for subdivision consistent with the outcomes of this Planning Proposal.</p>
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.	<p>Consistent</p> <p>Nothing in the Planning Proposal impacts upon the operation of this SEPP.</p>
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	<p>Consistent</p> <p>The existing and previous uses of the subject land is related to a rural residential use which is not classified under schedule 1 of the SEPP as a potentially contaminating use.</p> <p>There is no evidence of the land being utilised for purposes which may have resulted in land contamination.</p> <p>In respect to No. 39 Pinchen Street, Council has approved for a residential subdivision which is consistent with the outcomes of this Planning Proposal.</p>
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.	<p>Consistent</p> <p>Nothing in the Planning Proposal impacts upon the operation of this SEPP.</p>
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 residential flat development.	<p>Consistent</p> <p>Nothing in the Planning Proposal impacts upon the operation of this SEPP.</p>

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 the Planning Proposal impacts upon the operation of this SEPP.
SEPP (Aboriginal Land) 2019	The aims of this Policy are: (a) to provide for development delivery plans for areas of land owned by Local Aboriginal Land Councils to be considered when development applications are considered, and (b) to declare specified development carried out on land owned by Local Aboriginal Land Councils to be regionally significant development.	Consistent Nothing in the Planning Proposal impacts upon the operation of this SEPP. An Aboriginal Due Diligence report prepared by Heritage Now concluded that from a review of the Aboriginal Heritage Information Management System (AHIMS), no Aboriginal sites were registered for the subject site. The site inspection of the Study Area was undertaken with Jason Brown from Mindaribba Local Aboriginal Land Council. The site is located within 50m of a first order drainage line which has been dammed (on neighbouring property). The site is thinly covered in grass with approximately 20% exposed ground near stables and other areas subject to erosion. The landscape is of cultural importance to Aboriginal people as travelling stock routes and songlines in and around the Nulkaba area. However, no Aboriginal objects, places or specific cultural areas were identified from the site inspection of the site.
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,	Consistent Nothing in the Planning Proposal impacts upon the operation of this SEPP.

	<p>(c) to facilitate the retention and mitigate the loss of existing affordable rental housing,</p> <p>(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,</p> <p>(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,</p> <p>(f) to support local business centres by providing affordable rental housing for workers close to places of work,</p> <p>(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.</p>	
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	Consistent Nothing in the Planning Proposal impacts upon the operation of this SEPP.
SEPP (Educational Establishments and Child Care Facilities) 2017	<p>The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State by:</p> <p>(a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and</p> <p>(b) simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and</p> <p>(c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care</p>	Consistent Nothing in the Planning Proposal impacts upon the operation of this SEPP.

	<p>facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and</p> <p>(d) allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and</p> <p>(e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and</p> <p>(f) aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and</p> <p>(g) ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and</p> <p>(h) encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.</p>	
SEPP Exempt and Complying Development Codes 2008	<p>The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development</p>	<p>Consistent Nothing in the Planning Proposal impacts upon the operation of this SEPP.</p>

	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 the 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 Nothing in the Planning Proposal impacts upon the operation of this SEPP. Future subdivision of the site will not exceed the traffic generation thresholds in the SEPP due to the low lot yield.
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 the 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 the Planning Proposal impacts upon the operation of this SEPP.
SEPP (Primary Production and Rural Land) 2019	The aims of this Policy are as follows: (a) to facilitate the orderly economic use and	Consistent Nothing in the Planning Proposal impacts upon the operation of this SEPP.

	<p>development of lands for primary production,</p> <p>(b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,</p> <p>(c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,</p> <p>(d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,</p> <p>(e) to encourage sustainable agriculture, including sustainable aquaculture,</p> <p>(f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,</p> <p>(g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.</p>	
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 the Planning Proposal impacts upon the operation of this SEPP.
SEPP (State Significant Precincts) 2005	<p>The aims of this Policy are as follows:</p> <p>(a), (b) (Repealed)</p> <p>(c) to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or</p>	Consistent Nothing in the Planning Proposal impacts upon the operation of this SEPP.

	<p>social significance to the State so as to facilitate the orderly use, development or conservation of those State significant precincts for the benefit of the State,</p> <p>(d) to facilitate service delivery outcomes for a range of public services and to provide for the development of major sites for a public purpose or redevelopment of major sites no longer appropriate or suitable for public purposes.</p> <p>(e), (f) (Repealed)</p>	
SEPP Vegetation in Non-Rural Areas 2017	<p>The aims of this Policy are:</p> <p>(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and</p> <p>(b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.</p>	<p>Consistent</p> <p>Nothing in the Planning Proposal impacts upon the operation of this SEPP.</p> <p>If any of the land containing native vegetation is developed, requirements of the <i>Biodiversity Conservation Act 2016</i> will need to be considered at the development application stage, including the provision of offsets, if applicable.</p> <p>This is particularly true in relation to those sites identified as containing EEC.</p>

6 Consistency with Section 9.1 Ministerial Directions for Local Plan Making

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

Table 2: Relevant Section 9.1 Ministerial Directions

Ministerial Direction	Objective of Direction	Consistency and Implication
1. Employment and Resources		
1.1. Business and Industrial Zones	<p>The objectives of this direction are to:</p> <p>(a) encourage employment growth in suitable locations,</p> <p>(b) protect employment land in business and industrial zones, and</p> <p>(c) support the viability of identified strategic centres.</p>	<p>Consistent</p> <p>Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.</p>
1.2. Rural Zones	<p>The objective of this direction is to protect the agricultural production value of rural land.</p>	<p>Consistent</p> <p>Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.</p>

Ministerial Direction	Objective of Direction	Consistency and Implication
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 the Planning Proposal is contrary to the objectives of the Ministerial Direction.
1.4. Oyster Aquaculture	The objectives of this direction are: (a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, (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.	Consistent. Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
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 Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
2. The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. Environment and Heritage		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	Consistent Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
2.2 Coastal Protection	The objective of this direction is to protect and manage coastal areas of NSW.	Consistent Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
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 Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
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 Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
3. Housing, Infrastructure and Urban Development		

Ministerial Direction	Objective of Direction	Consistency and Implication
3.1 Residential Zones	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> (a) to encourage a variety and choice of housing types to provide for existing and 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. 	<p>The proposal is consistent with Direction 3.1.</p> <p>The Planning Proposal encourages a compact settlement by reducing the subject site minimum lot size of 2000m² to 750m² to be consistent with that permissible within an RU5 Village Zone (the remainder of the subject site).</p> <p>The site is currently split into two zones. The proposed realignment of the R5 Large Lot Residential and RU5 Village zone boundary has merit. The amendment will facilitate the development of the subject site for urban residential purposes consistent with the intent of the Nulkaba BC10 Urban Release Area which aims to provide village size allotments.</p> <p>The Planning Proposal will allow for the provision of infill development, estimated to be seven (7) additional lots of 750m² within an existing urban release area.</p>
3.2 Caravan Parks and Manufactured Home Estates	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates. 	<p>Consistent</p> <p>Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.</p>
3.3 Home Occupations	<p>The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.</p>	<p>Consistent</p> <p>The proposal is consistent with Direction 3.3.</p> <p>The proposal seeks to apply the RU5 Village zone to the subject land, under the Cessnock LEP 2011. The RU5 Village zone already permits home occupations without consent.</p>
3.4 Integrating Land Use and Transport	<p>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:</p> <ul style="list-style-type: none"> (a) improving access to housing, jobs and services 	<p>Consistent</p> <p>The proposal is consistent with Direction 3.4.</p>

Ministerial Direction	Objective of Direction	Consistency and Implication
	<p>by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>	
<p>3.5 Development Near Licensed Aerodromes</p>	<p>The objectives of this direction are:</p> <p>(a) to ensure the effective and safe operation of aerodromes, and</p> <p>(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</p> <p>(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.</p>	<p>Consistent</p> <p>Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.</p>
<p>3.6 Shooting Ranges</p>	<p>The objectives are:</p> <p>(a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,</p> <p>(b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,</p> <p>(c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.</p>	<p>Consistent</p> <p>Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.</p>

Ministerial Direction	Objective of Direction	Consistency and Implication
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 sulfate soils.	Consistent. Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
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. Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.
4.3 Flood Prone Land	The objectives of this direction are: (a) to ensure that development of flood prone land is 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.	Consistent Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction. The proposal is considered to have merit; however, Council flood mapping shows the site is subject to minor flooding. Rezoning to intensify residential development is contingent upon a flood study. It is recommended that Council forward the Planning Proposal to DPIE seeking a 'Gateway determination' and flood study (to be a condition of the Gateway determination). DPIE has indicated its support for this approach. Considering the age of the Council's draft study an updated flood assessment will demonstrate whether the residential intensification can be achieved in situ.
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 proposal is consistent with the Ministerial Direction 4.4. The land south of the site is mapped as "Bushfire Prone Land – Vegetation Category 1". The subject land itself is mapped as "Bushfire Prone Land – Vegetation Category 3". A bushfire hazard assessment has considered the future subdivision of Lot 1552 as well as the access and egress to the whole site. All lots of the proposed development will

Ministerial Direction	Objective of Direction	Consistency and Implication
		<p>have access to Kerlew and Pinchen Streets.</p> <p>The site is capable of maintaining compliance with respect to evacuation, safe haven zones and firefighting logistics.</p> <p>The NSW Rural Fire Service (RFS) has previously raised no objections to a DA approved for Lot 32. Presently, measures to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building are outlined as suitable Asset Protection Zones (APZ).</p> <p>Any future DA for the site will require a comprehensive assessment to ensure that adequate APZ/BAL are established in accordance with updated requirements of the NSW Rural Fire Service (NSW RFS) published <i>Planning for Bush Fire Protection</i> 2019 (PBP 2019) on 2 December 2019 (legislatively enacted on 1 March 2020) as well as <i>AS3959:2018 Construction of buildings in bushfire-prone areas</i> came into effect on 1 March 2020.</p>
5. Regional Planning		
5.10 Implementation of Regional Plans	The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	<p>Consistent</p> <p>The Planning Proposal is consistent with Ministerial Direction 5.10.</p> <p>The proposal is consistent with Hunter Regional Plan 2036 and will facilitate residential development within the Cessnock Strategic Centre and the Nulkaba BC 10 Urban Release Area.</p>
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.	<p>Consistent</p> <p>Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction.</p>

Ministerial Direction	Objective of Direction	Consistency and Implication
		No additional provisions will be included in the LEP 2011.
6.2 Reserving Land for Public Purpose	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.	Consistent Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction. The planning proposal does not impact upon land reserved for public purpose.
6.3 Site Specific Provision	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent Nothing in the Planning Proposal is contrary to the objectives of the Ministerial Direction. No site specific provisions are proposed.
Metropolitan Planning		
Implementation of <i>A Plan for Growing Sydney</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 <i>A Plan for Growing Sydney</i> .	N/A

Section C: Environmental, Social and Economic Impact

7 Impact on Threatened Species

Previous development applications for residential subdivision (DA 8/2017/438/2 (Lot 32 at No. 39 Pinchen Street) and DA 8/2018/864/1 (Lot 1552 at No. 8 Kerlew Street) have been investigated for potential impacts on fauna and flora.

Anderson Environment and Planning (AEP) previously undertook a detailed fauna and flora assessment for Lot 1552 (see **Figure 10**). An Assessment of Significance (the 7 Part Test) under s5A of the EP&A Act 1979 was undertaken in 2018.

Field work undertaken as part of these investigations in accordance with the Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities Working Draft (DEC 2004), and as well as Amphibians (DECC 2009) and Threatened Plants (OEH 2016).

The site area, type of native vegetation and habitats remaining, the status of existing and proposed surrounding land use, and the level and type of habitat linkages to proximate bushland areas were considered in formulating the methodology employed by AEP.

The subject site consists of scattered native canopy trees, principally *Corymbia maculate* (Spotted Gum) and *Eucalyptus fibrosa* (Broad-leaved Ironbark). Despite having a managed understorey, the vegetation present constitutes a disturbed example of the Lower Hunter Spotted Gum – Ironbark Forest Endangered Ecological Community (EEC) under the NSW BC Act.

The assessment found that the property contains remnant vegetation with connectivity to an area of habitat to the south-west. The remainder of the lot is a mosaic of cleared grassland and exotic gardens.

Part of Lot 1552 is cleared grassland environment currently grazed upon by domestic horses. The remaining land demonstrated fauna and flora and fauna species typical to the locality.

Five threatened Microbat species (Little Bent-winged Bat, Eastern Freetail-bat, Southern Myotis, Yellow-bellied Sheath-tail-bat and Greater Broad-nosed Bat) were recorded on site, as was the threatened Squirrel Glider. Five of these species may utilise the site for roosting and all will forage within the site, likely using it as part of a larger home range.

The site also provides a vegetation corridor allowing movement by these species to disperse throughout the locality. Recommendations have been made to maintain this connectivity for the movement of Squirrel Gliders and Microbats through the site, including however not limited to retaining the trees on the southern and eastern borders of the site.

Council concluded that the residential subdivision (DA 8/2017/438/2) did not contain critical habitat, threatened species, populations or ecological communities or their habitat. The environment is described as cleared grassland.



Figure 10: Vegetation, Habitat Feature and Survey Effort Map

8 Environmental Impact

Flooding

The site is partly flood affected.

The site comprises two privately owned allotments. The land could potentially be developed further in the future, subject to planning controls.

A flood study, referred to as the Draft Nulkaba Drainage Study 1993, indicates that part of Lot 1552, that is subject to this Planning Proposal, is affected by flooding during the 1% AEP flood event.

The part of the site which is flood affected is located on the western boundary and includes three (3) lots within Lot 1552 DP 1046610, and, three (3) lots and the two (2) drainage easements within Lot 31 & 32 DP 1253404 (see **Figure 11**). The flood affected part is at its widest point 6m. This allows 35.8m to locate a dwelling which is considered an adequate area.

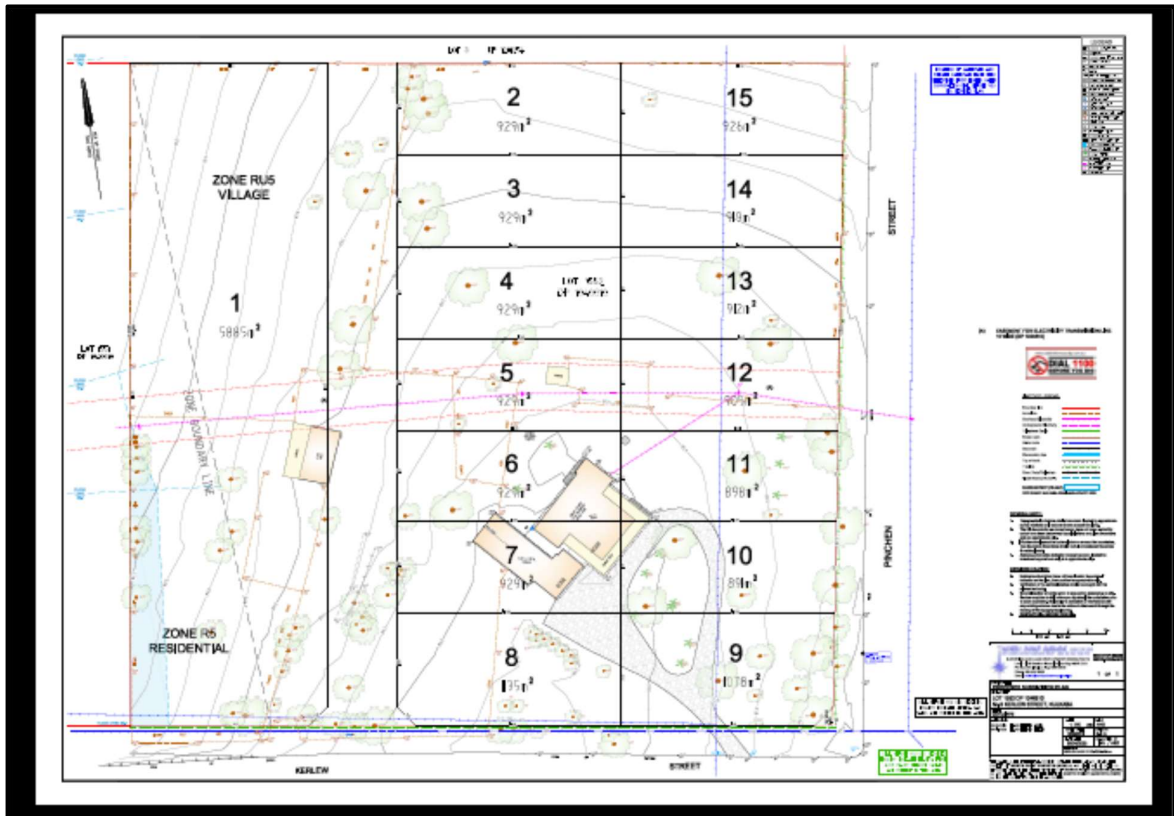


Figure 11: Site plan showing the flood affected area of 8 Kerlew Street.

The hydrological environment of the subject land is characterised by a first order stream at the top of the Black Creek Catchment at Nulkaba.

Both Lot 32 (39 Pinchen Street) and Lot 1552 (8 Kerlew Street) are subject to minor flooding from this watercourse.

Council flood engineer has advised that the 1%AEP flood level along the property boundary at Kerlew Street is approximately 83.0m AHD, with the Flood Planning Level likely to be at 83.5m AHD in this location.

Determining the likely flood level and constraints across the lot to Kerlew Street will require some interpretation.

Information provided in the draft Nulkaba Drainage Study 1993 does not provide an upstream flood level at Kerlew Street. It is likely that the flooding would impact further upstream to Kerlew Street in line with the 1% AEP flood extent plan, and, it is expected that the flood level at Kerlew Street would be higher than 83.0m AHD.

A Flood Study was undertaken for Lot 32 as part of the development application process for this site with the approved lots located outside the flood effected area of Lot 32. Consequently, it is not proposed to rezone the flood affected part of Lot 32 to the RU5 Village zone; the area

of Lot 32 that is proposed to be rezoned from R5 Large Lot Residential to the RU5 Village zone is not flood prone land.

The likely future subdivision layout will see allotments with a depth in the order of 40 metres (see **Figure 3**). Conceptually, this will provide opportunity to incorporate building envelopes which are flood free or require piers and bearer's construction or minimal filling.

It is noted that applying an RU2 Rural Landscape Zone to control the type and extent of development that can be carried out within the portion of the site which is flood affected is not Council's preferred approach.

On 15 November 2017, Council adopted a specific Development Control Plan (DCP) Chapter addressing development on flood prone land. The Chapter provides information and controls needed to prepare and assess development applications on flood prone land.

Council's Flood Prone Land DCP Chapter is consistent with the requirements of the NSW Flood Prone Land Policy and NSW Floodplain Development Manual 2005. The Chapter requires the submission of specific information to support applications for development on flood prone land. The information required by the DCP and the controls adopted are scaled in line with proposed use and known flood risk.

Developments that are significantly impacted by flooding must be supported by a major flood assessment report. Sensitive land uses may be deemed unsuitable in high hazard classifications.

Council staff worked closely with OEH and SES to prepare the Flood Prone Land DCP Chapter. Both organisations are members of Council's Flood Plain Management Committee. The DCP Chapter was reviewed by OEH and comprehensive comments on the draft chapter were provided in November and December of 2016.

Chapter C.9: Development on Flood Prone Land of the Cessnock DCP is available at the following link:

<http://www.cessnock.nsw.gov.au/planning-and-development/DevelopmentControlPlan>

The development application process is considered a more appropriate process to control development of the site for the following reasons:

- The character of the land, its size, location and existing use is considered to be more closely aligned with a residential zoning.
- The current zone is inconsistent with the application of zoning across the site, being a spilt zone.
- The proposed zoning will reflect that of the surrounding Nulkaba Village area.
- Certain residential land uses may be appropriate within the land despite the flood risk.
- A large portion of the flood affected area is identified as drainage easement.
- Controls contained in Council's Flood Prone Land DCP Chapter will make it extremely difficult for inappropriate development to be approved on flood prone land.

A flood study will be required to confirm the likely flood impacts, and considering the age of the Council's draft study, an updated flood assessment will demonstrate whether the residential intensification can be achieved in situ.

Bushfire

The site and surrounds occur within the Greater Hunter region, with existing vegetation subsequently classified with a Fire Danger Index (FDI) of 100. The land to the south of the site is mapped as "Bushfire Prone Land – Vegetation Category 1". The subject land itself is mapped as "Bushfire Prone Land – Vegetation Category 3" (**Figure 12**).

A Bushfire Threat Assessment accompanied a development application (8/2017/438/2) for a subdivision of Lot 32. The NSW Rural Fire Service (RFS) raised no objections to the DA. A bushfire hazard assessment has considered the future residential subdivision of Lot 1552 as well as the access and egress to the whole site.

The site is capable of maintaining compliance with respect to evacuation, safe haven zones and firefighting logistics.

Presently, measures to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building are outlined as suitable Asset Protection Zones (APZ).

Any future DA for the site will require a comprehensive assessment to ensure that adequate APZ/BAL are established in accordance with updated requirements of the NSW Rural Fire Service (NSW RFS) published *Planning for Bush Fire Protection* 2019 (PBP 2019) on 2 December 2019 (legislatively enacted on 1 March 2020) as well as *AS3959:2018 Construction of buildings in bushfire-prone areas* came into effect on 1 March 2020.



Figure 12: Cessnock City Council Bush Fire Prone Land Mapping

Archaeology and Heritage

While heritage conservation is covered by a compulsory clause in the Standard Instrument (Local Environmental Plans) Order 2006, and the CLEP 2011 has adopted the Standard Instrument provisions with respect to heritage conservation, an investigation has been undertaken in accordance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* with respect to Lot 1552.

The purpose of the due diligence assessment (Heritage Now 2019) was firstly to identify whether there are Aboriginal objects or places present in the Study Area and/or whether there

are specific Aboriginal cultural constraints on the Study Area. The second aim was to identify whether the proposed activity will impact the Aboriginal heritage identified.

The investigations undertaken by Heritage Now included:

- Reviewing the Aboriginal Heritage Information Management System (AHIMS) database;
- Reviewing CLEP Mapping;
- Consideration of the landscape features and environmental context of the site and surrounds;
- Inspection of the site with a representative from the Mindaribba Local Aboriginal Land Council.

The investigations found that there were no Aboriginal objects or places under the National Parks and Wildlife Act 1974 are present in the Study Area and found that there are no heritage constraints to rezoning the heritage area. In conclusion, the report finds that the proposed rezoning will not affect the heritage significance of the area. In doing so, the report has fulfilled the requirements under the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*.

Urban capability

The site is considered suitable for development. There are no particular constraints to the types of structures that would be considered appropriate for the site.

Guidelines are provided to ensure future designs are prepared having regard to the conditions of the site. It is considered unlikely that acid sulphate soils would be present at the site. Similarly, the proposed development presents a low risk of disturbance of acid sulphate soils (test results indicate the area is non-saline).

Contamination

The site has a history of residential rural land uses and it is considered that the site is suitable for the proposed residential development.

Mine subsidence

Mine Subsidence does not apply to the site.

9 Social and Economic Impacts

The Planning Proposal is unlikely to have any significant adverse social or economic impacts.

The proposed rezoning will maximise the development potential of the land and provide additional housing opportunities within an existing urban release area, thereby reducing demand to rezone non-urban land for urban purposes.

Improved linkages in the local road network and additional contributions towards the provision of community facilities are some of the positive social and economic effects of the proposal.

Section D: State and Commonwealth Interests

10 Adequate Public Infrastructure

The Planning Proposal wholly relates to serviced land. The Proposal is not of a scale that would create a significant additional burden on existing reticulated services.

Part 6 of the CLEP 2011 requires Nulkaba Urban Release Area BC10 to ensure that satisfactory arrangements are made with respect to designated State public infrastructure and public utility infrastructure. As such, for the purpose of this Planning Proposal, provisions within the CLEP 2011 ensure that satisfactory arrangements will be made with respect to public infrastructure prior to the approval of urban development.

11 Consultation with State and Commonwealth Authorities

Council will undertake consultation with public authorities and the community as determined by the Department of Planning, Industry and Environment.

It is anticipated that the NSW Office of Environment and Heritage (OEH), NSW Roads and Maritime Services (RMS), Hunter Water Corporation (HWC) and Mindaribba Local Aboriginal Land Council (LALC) would be consulted in relation to this Planning Proposal.

PART 4: MAPPING

The following maps are required to be amended to achieve the intent of the Planning Proposal:

Lot Size Map Sheets

- LSM_006C

Land Zoning Map

- LZN_006C

Part 5: Community Consultation

Community consultation will be undertaken in accordance with a Gateway determination.

Part 6: Project Timeline

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. Council is committed to the reducing the time taken to complete LEPs. It is estimated that the proposed amendment to the Cessnock Local Environmental Plan 2011 will be completed by May 2021.

PROJECT TIMELINE

	May 2020	Jul 2020	Sep 2020	Nov 2020	Jan 2021	Mar 2021	May 2021
STAGE 1 Submit to DOPE – 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 DOPE with request the amendment be made							

Appendix 1:

Council Report and Minutes (dates)

Report to Ordinary Meeting of Council – 20 May 2020

Minutes of Ordinary Meeting of Council – 20 May 2020

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