

PLANNING PROPOSAL
Amendment to the
Cessnock Local Environment Plan 2011

Minor Housekeeping Amendments
Cessnock
Local Environmental Plan 2011

Version 1.0
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Contact:
Mr Bo Moshage
Coordinator Strategic Land Use Planning
Telephone: 02 4993 4241
Email: bo.moshage@cessnock.nsw.gov.au

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PART 1: OBJECTIVES and INTENDED OUTCOMES

The amendments proposed to Local Environmental Plan 2011 by this Planning Proposal are to correct a number of minor mapping and land use table anomalies as well as address inconsistencies in local planning provisions to ensure Council's intent in relation to these planning controls are achieved.

Other more substantial amendments to the Cessnock Local Environmental Plan 2011, including the consideration of the planning controls that apply to land identified as 'Deferred Matters' will be subject to separate Planning Proposals, given the potentially different consultation requirements.

The Department of Planning and Infrastructure has previously agreed that this is the most appropriate and timely way of achieving these amendments, recommending that this 'minor housekeeping amendment' Planning Proposal be kept separate from Planning Proposals needed to rectify more substantial amendments to the Cessnock Local Environmental Plan 2011, including addressing the 'Deferred Matters' at Wollombi and Mulbring, given the potentially different consultation requirements.

PART 2: EXPLANATION of PROVISIONS

This Planning Proposal has been prepared to enable the following amendments to be made to the Cessnock Local Environmental Plan 2011, which was published (gazetted) on 23 December 2011 and came into effect on that date.

Mapping

Ellalong

The purpose of this amendment is to remove the 40ha minimum lot size for subdivision for the RU5 - Village zone in Ellalong as shown in **Figure 1**.

Comment

With the Hunter Water Corporation confirming the provision of sewer and water being extended to these areas in late 2011, this restriction is no longer required.

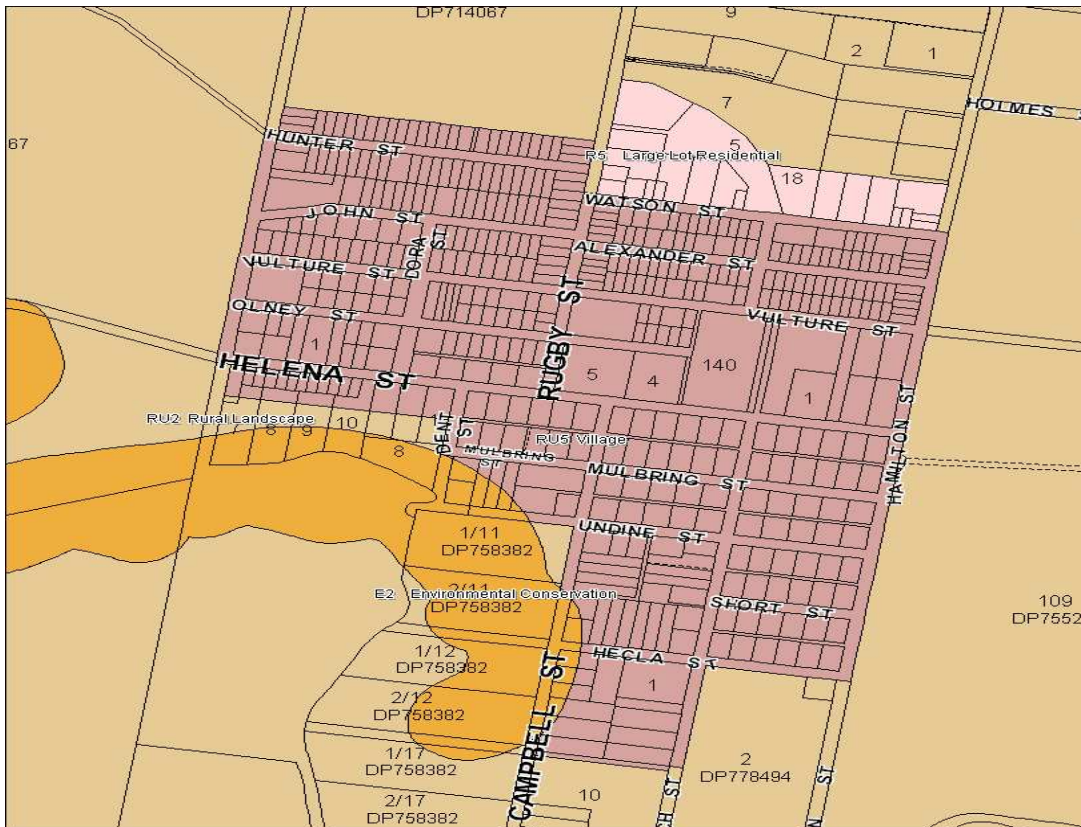
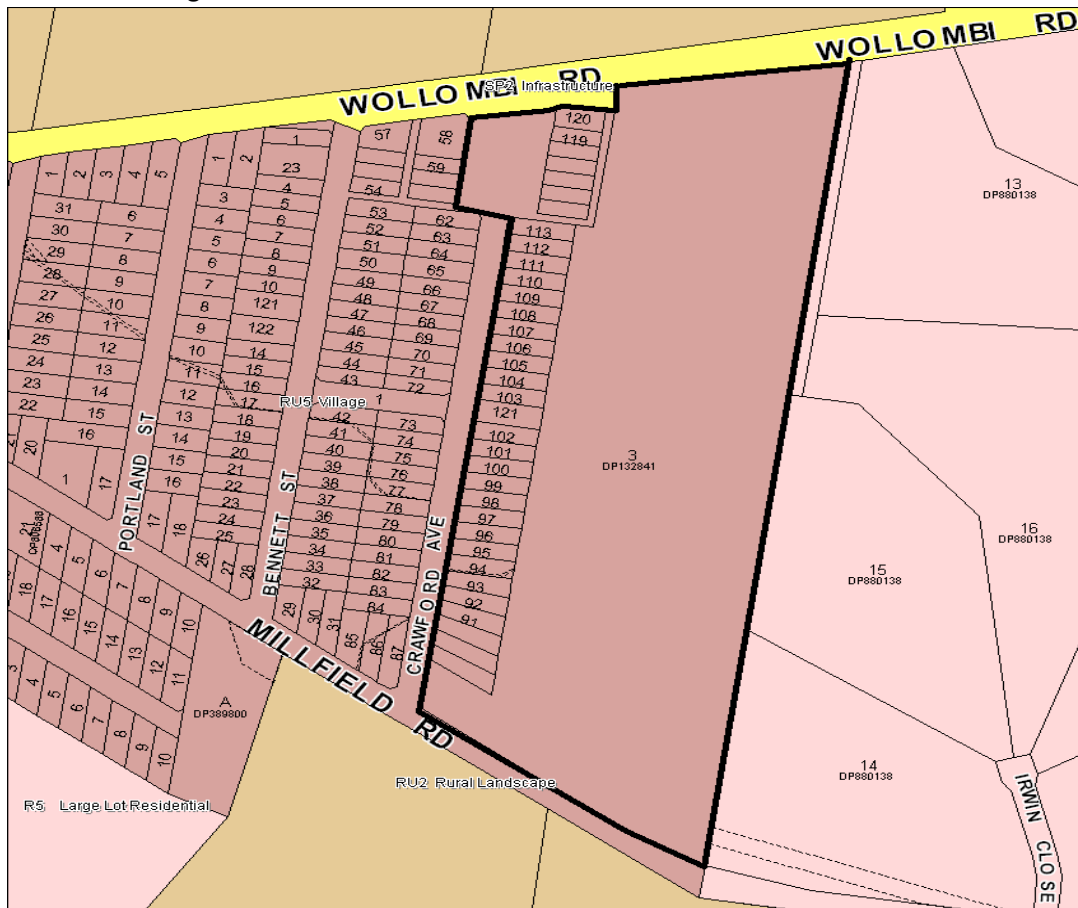


Figure 1

Recommendation

- The Minimum Lot Size Map (1720_COM_LSZ_006D_040_20111220) corresponding to the RU5 - Village zone at Ellalong be changed from AB - 40Ha to U - 1500m².

The purpose of this amendment is to rectify a drafting error that unintentionally and inadvertently, retained a minimum lot size of 40ha for the RU5 - Village zone in Millfield as shown in **Figure 2**.



Recommendation

- Amend the Minimum Lot Size Map (1720_COM_LSZ_006B_040_20111214) and (1720_COM_LSZ_006D_040_20111220) corresponding to land zoned RU5 - Village at Millfield from AB - 40Ha to R - 750m².

The purpose of this amendment is to rectify a drafting error that unintentionally placed heritage item, I200 on Lot 23 DP 248431; I202, I203, I205 and I206 on Lot 41 DP 716227, I30 on Lot 2 DP 120482 and I8 on John Rose Avenue.

- Heritage Map Sheet 1720_COM_HER_007_080_20111128 be amended to remove reference to heritage item I200 from Lot 23 DP 248431, I202, I203, I205 and I206 from Lot 41 DP 716227.
- Heritage Map Sheet 1720_COM_HER_009A_040_20111128 be amended to remove reference to heritage item I30 from Lot 2 DP 120482.
- Heritage Map Sheet 1720_COM_HER_005A_020_20111120 be amended to replace reference to heritage item I8 with I30 for John Rose Avenue.

Land Use Tables

The purpose of this amendment is to ensure that Council's intent in relation to the following Land Use Tables of Local Environmental Plan 2011 are achieved.

Zone RU2 - Rural Landscape

'Bee keeping' and 'Eco-tourist facilities' are newly defined land uses introduced to the Standard Instrument Local Environmental Plan template with the Standard Instrument Order (2006) amendments that commenced on 25 February 2011.

Comment

These land uses, while not exhibited with the (then) draft Local Environmental Plan as being permissible with consent, are consistent with the objectives of the of the RU2 - Rural Landscape zone to provide for a range of compatible land uses, including extensive agriculture and to enable other forms of development that are associated with rural activity and require an isolated location or support tourism and recreation respectively.

Recommendation

- The land use table for the RU2 - Rural Landscape zone be amended to remove 'Bee keeping' from the prohibited list, making this use permitted without consent in this zone as a subset of 'extensive agriculture'.
- The land use table for the RU2 - Rural Landscape zone be amended to remove 'Eco-tourist facilities' from the prohibited list, making this use permitted with consent in this zone.

The following land uses were intended to be prohibited in the RU2 - Rural Landscape zone as either an individual land use or as part of a 'group term' under the (then) draft Local Environmental Plan:

- 'Truck depot' (as part of 'Freight transport facility') but is now separately defined;
- 'Warehouse or distribution centres' (as part 'Storage premises') but is now separately defined;
- 'Garden centres'; 'Hardware and building supplies'; 'Landscaping material supplies'; 'Plant nurseries'; 'Timber yards'; 'Vehicle sales or hire premises' (as part of 'Retail premises'), but are now separately defined as a subset of the newly created 'Commercial premises' group term.

Comment

Council's endorsed City Wide Settlement Strategy (2010) adopts a clear and definable commercial and industrial hierarchy providing certainty to stakeholders including Council, developers, traders and the community in general.

The hierarchy defines the level and type of service provision which can be used as a tool to assist the planning process by identifying the levels of service to be provided in different size centres across the Cessnock LGA.

Permitting these land uses in the RU2 - Rural Landscape zone will not enhance the ongoing viability of existing commercial and /or industrial precincts by maintaining a spatial link to existing areas. The rationale / justification is, that by co-locating retailing and commercial activities, the critical mass of the primary centre is strengthened and the service provisions in the area are centralised, thereby optimising the use of existing infrastructure.

Recommendation

- The land use table for the RU2 - Rural Landscape zone be amended to remove 'Garden centres'; 'Hardware and building supplies'; 'Landscaping material supplies'; 'Plant nurseries'; 'Timber yards'; 'Truck depot'; and 'Vehicle sales or hire premises' from the permitted with consent list, making these uses prohibited in this zone.

Zone R3 - Medium Density Residential

The following land uses are newly defined or were intended to be prohibited in the R3 - Medium Density zone as part of a 'group term' under the (then) draft Local Environmental Plan, but have been made newly permissible with consent:

- 'Public administration building' (as part of 'Office premises') is now separately defined;
- 'Research station';
- 'Warehouse or distribution centres' (as part 'Storage premises') is now separately defined.

Comment

These land uses are inconsistent with the objectives of the R3 - Medium Density Land Use zone, to provide for the housing needs of the community within a medium density residential environment.

Recommendation

- The land use table for the R3 - Medium Density zone be amended to prohibit 'Public administration building', 'Research station'; and 'Warehouse or distribution centres'.

Zone R5 - Large Lot Residential

The following land uses are newly defined or intended to be prohibited in the R5 - Large Lot Residential zone as part of a 'group term' under the (then) draft Local Environmental Plan, but have been made newly permissible with consent:

- 'Public administration building' (as part of 'Office premises') is now separately defined;
- 'Research station';
- 'Warehouse or distribution centres' (as part 'Storage premises') is now separately defined.

Comment

These land uses are inconsistent with the objectives of the R5 - Large Lot Residential Land Use zone, to provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.

Recommendation

- The land use table for the R5 - Large Lot Residential zone be amended to prohibit 'Public administration building', 'Research station'; and Warehouse or distribution centres'.

Zone B1 - Neighbourhood Centre and Zone B2 - Local Centre

'Warehouse or distribution centres' was intended to be prohibited in both the B1 - Neighbourhood Centre and B2 - Local Centre zones as part 'Storage premises' under the (then) draft Local Environmental Plan, but has been made newly permissible with consent.

Comment

This land use is inconsistent with the objectives of the B1 - Neighbourhood Centre Land Use zone, to provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood and the B2 - Local Centre Land Use zone, to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.

Recommendation

- The land use table for the B1 - Neighbourhood Centre zone and the B2 - Local Centre zone be amended to prohibit 'Warehouse or distribution centres'.

Zone IN1 - General Industrial

In addition to 'Camping ground', 'Caravan park' and 'Respite day care centre' the following land uses were intended to be prohibited in the IN1 - General Industrial zone through the prohibition of 'Retail premises', but are now separately defined as a subset of the newly created 'Commercial premises' group term and permissible with consent:

- 'Hardware and building supplies';
- 'Landscaping material supplies';
- 'Plant nurseries'; and
- 'Public administration building'.

Comment

These land uses are inconsistent with the objectives of the IN1 - General Industrial zone, to support and protect industrial land for industrial uses.

Recommendation

- The land use table for the IN1 - General Industrial zone be amended to prohibit 'Camping ground' and 'Caravan park', 'Hardware and building supplies'; 'Landscaping material supplies'; 'Plant nurseries'; 'Public administration building'; and 'Respite day care centre'.

Zone IN2 - Light Industrial and Zone IN3 - Heavy Industrial

The following land uses were intended to be prohibited in both the IN2 - Light Industrial and IN3 - Heavy Industrial zones through the prohibition of 'Retail premises', but are now separately defined as a subset of the newly created 'Commercial premises' group term and permissible with consent:

- 'Garden centres;
- 'Hardware' and building supplies';
- 'Landscaping material supplies';
- 'Plant nurseries';
- 'Public administration building';
- 'Respite day care centre'; and
- 'Vehicle sales or hire premises'.

Comment

Council's endorsed City Wide Settlement Strategy (2010) recognises that industrial land is limited in the Cessnock LGA and restricts land uses that compete with industrial activity like bulky goods retailing and business premises from all industrial zones.

Recommendation

- The land use table for the IN2 - Light Industrial zone and IN3 - Heavy Industrial zone be amended to prohibit 'Garden centres'; 'Hardware' and building supplies'; 'Landscaping material supplies'; 'Plant nurseries'; 'Public administration building'; 'Respite day care centre' and 'Vehicle sales or hire premises'.

Standard Instrument Clause

Clause 5.9 - Vegetation

The purpose of this amendment is to clarify the provisions as to which zones the clearing of native vegetation without the need for consent should apply under the Native Vegetation Act.

Comment

With the amendments to the Standard Instrument Order (2006) that commenced on 25 February 2011, provisions were made that require development consent for the clearing of native vegetation on land zoned R5 - Large Lot Residential, E2 - Environmental Conservation, E3 - Environmental Management or E4 - Environmental Living.

Recommendation

- Amend Miscellaneous Provision 5.9 by adding Subclause (9) (below):

Subclause (8)(a)(ii) does not apply in relation to land in Zone R5 Large Lot Residential, E2 Environmental Conservation, E3 Environmental Management or E4 Environmental Living.

Eco-tourist facilities

The purpose of this amendment is to make provisions for Eco-tourist facilities in the RU2 – Rural landscape zone.

Comment

With the amendments to the Standard Instrument Order (2006) that commenced on 25 February 2011, Local Provision relating to Eco-tourist facilities was added.

The objectives of this local provision are to:

- (a) Maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out, and
- (b) Provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.

This clause is a compulsory Local Provision and will need to be added to the Cessnock Local Environmental Plan with the introduction of Eco-tourist facilities as a permitted land use with development consent in the RU2 - Rural Landscape zone.

Recommendation

- The Cessnock Local Environmental Plan 2011 be amended to include the standard Local Provision Clause 5.13 Eco-tourist facilities.

The Vintage

The purpose of this amendment is to rectify a drafting error that unintentionally and inadvertently removed the ability to subdivide land at 'The Vintage', which was lost in translating the (then) draft Local Environmental Plan into the Standard Instrument.

Recommendation

Clause 7.9 - Subdivision of land at Pokolbin, be added to the Local Environmental Plan:

- a) This clause applies to the land known as 'The Vintage', at Wine Country Drive, Pokolbin, as identified on the Additional Permitted Uses Map.
- b) Despite clauses 4.1, development consent may be granted for the subdivision of land to which this clause applies to create lots of any size for the purposes of development for the following purposes;
 - Entertainment facility – Amphitheatre.
 - Exhibition home
 - Place of public worship

- Pub
- Residential accommodation including attached dwellings, dual occupancy, dwelling houses, residential flat buildings and multi-dwelling housing
- Recreation facility (outdoor) – Golf course
- Registered club

Schedule 5 – Environmental Heritage

Memorial Gates – Sawyers Gully

The purpose of this amendment is to amend the heritage schedule and associated heritage mapping to include the Memorial Gates at Sawyers Gully as an item of environmental heritage.

Comment

The Memorial Gates - Sawyers Gully were identified in the city wide heritage review undertaken by Council in support of the Cessnock Local Environmental Plan 2011. However, the Sawyers Gully Memorial Gates were unintentionally omitted from the final (draft) Environmental Heritage Schedule.

This oversight was brought to Council's attention by the Abermain Heritage Preservation Society, who raised concerns about the lack of preservation for the Sawyers Gully Memorial Gates.

Listing is supported by both the Department of Veterans Affairs and Council's heritage consultant, recommending heritage protection through inclusion on the Council's Local Environmental Plan heritage schedules.

Recommendation

- The Heritage Schedule and associated heritage mapping be amended to include the Memorial Gates at Sawyers Gully as an item of environmental heritage.

PART 3: JUSTIFICATION

In accordance with the Department of Planning'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

At its meeting of 16 August 2006, Council resolved to prepare a new Local Environmental Plan to implement the outcomes of the City Wide Settlement Strategy.

The Planning Proposal reflects this resolution, by correcting a number of minor mapping and land use table anomalies as well as address inconsistencies in local planning provisions, to ensure Council's intent in relation to these planning controls are achieved.

2. Planning Proposal as best way to achieve to objectives

A Planning Proposal is required to make the proposed change to the Cessnock Local Environmental Plan 2011.

3. Net Community Benefit

The proposed amendments to Cessnock Local Environmental Plan 2011 are essential to ensure Council's intent for Local Environmental Plan 2011 is achieved.

Section B: Relationship to Strategic Planning Framework

4. Consistency with Objectives and Actions within Regional Strategies

Lower Hunter Regional Strategy 2006

The applicable regional strategy is the Lower Hunter Regional Strategy.

There is no inconsistency with the objectives or actions of the Lower Hunter Regional

5. Consistency with Council's Community Strategic Plan or other Local Strategic Plan

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

There is no inconsistency with Council's Strategic Plan and the Planning Proposal.

6. Consistency with State Environmental Planning Policies

There is no inconsistency with any applicable SEPP or draft SEPP.

7. Consistency with s.117 Ministerial Directions for Local Plan Making

There is no inconsistency with any s.117 Ministerial Direction.

Section C: Environmental, Social and Economic Impact

8. Impact on Threatened Species

There is no likelihood of adverse impact on threatened species, populations, ecological communities or critical habitat as a result of this Planning Proposal.

9. Environmental Impact

There is no likelihood of adverse environmental impact as a result of this Planning Proposal.

10. Social and Economic Impacts

There is no likelihood of adverse social or economic impact as a result of this Planning Proposal.

Section D: State and Commonwealth Interests

11. Adequate Public Infrastructure

The Planning Proposal will not generate demand for additional public infrastructure.

12. Consultation with State and Commonwealth Authorities

The Department of Planning and Infrastructure advised that this 'minor housekeeping amendment' Planning Proposal should be kept separate from the Planning Proposals needed to rectify more substantial amendments to the Cessnock Local Environmental Plan 2011, including addressing the 'Deferred Matters', given the potentially different consultation requirements.

No other State or Commonwealth authorities have been consulted with regard to this Planning Proposal.

It is not proposed to consult with any authorities due to the minor nature of this Planning Proposal

PART 4: COMMUNITY CONSULTATION

This Planning Proposal is classed as a 'low impact planning proposal', being consistent with Council's strategic planning framework. As such, a fourteen (14) day public exhibition period is proposed in accordance with the community consultation requirements as document in "*A guide to preparing local environmental plans*".

Other more substantial amendments to the Cessnock Local Environmental Plan 2011, including the consideration of the planning controls that apply to land identified as 'Deferred Matters' will be subject to separate Planning Proposals, given the potentially different consultation requirements.

The Department of Planning and Infrastructure has previously agreed that this is the most appropriate and timely way of achieving these amendments, recommending that this 'minor housekeeping amendment' Planning Proposal be kept separate from Planning Proposals needed to rectify more substantial amendments to the Cessnock Local Environmental Plan 2011, including addressing the 'Deferred Matters' at Wollombi and Mulbring, given the potentially different consultation requirements.

Appendix 1: Council Report and Minutes



Acrobat Document

Report



Acrobat Document

Minutes



Acrobat Document

Rescission

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