



PLANNING PROPOSAL

AMENDMENT TO THE CESSNOCK LOCAL ENVIRONMENTAL PLAN 2011

Comprehensive LEP Review

Amending RU2 and RU5 Land Use Tables, Local Objectives, Clauses and Mapping Anomalies
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Revision History

Version	Description	Date
1	Draft for Council Consideration	20/04/2022
2	Public exhibition copy	14/09/2022

Note:

Changes to the Planning Proposal originally endorsed by Council (Version 1) have been made in accordance with the conditions of Gateway determination issued by the Department of Planning and Environment. As a result of the Gateway determination, amendments are no longer proposed for the RU3 Forestry zone. The requirements of the Gateway determination can be found in Appendix 3 of this proposal.

PART 1: OBJECTIVES AND OUTCOMES

The *Cessnock Local Environmental Plan 2011* (LEP 2011) and Cessnock Development Control Plan 2010 (DCP 2010) contain provisions that guide development.

Cessnock City Council's Strategic Planning Team is completing a comprehensive review of the LEP 2011, which involves reviewing the instrument to ensure it:

- is current and accurate;
- is responsive to emerging forms of development;
- reflects the objectives contained in the Hunter Regional Plan 2036 and Greater Newcastle Metropolitan Plan 2036; and
- addresses the outcomes of endorsed local strategies, such as the Cessnock 2027 Community Strategic Plan (CSP) and Local Strategic Planning Statement (LSPS) 2036.

This Planning Proposal examines and makes recommendations regarding amendments to relevant zone objectives, permissible land uses, clauses and land-use mapping, relating to the following zones:

RU2 Rural Landscape Zone

RU5 Village Zone

Note: This Planning Proposal also applies to any land that is not serviced by reticulated sewer [see Item 3(a)]

This Planning Proposal follows the recommendations of the Rural Lands Issues Paper completed by Cessnock City Council's Strategic Planning Team. This Paper was the result of a detailed review of the provisions contained in the LEP 2011 as they apply to rural lands, and the alignment of these with the strategic framework, to ensure consistency with the relevant priorities and principles for land contained in the Cessnock Local Strategic Planning Statement (LSPS) 2036 and other relevant local and regional plans and strategies.

PART 2: EXPLANATION of PROVISIONS

Item 1: Amendments to LEP 2011 RU2 and RU5 Zone Objectives

Zone objectives establish the purpose of the zones and reflect the intended strategic land use direction of Cessnock Local Government Area (LGA). Mandatory zone objectives are included in the Standard Instrument (SI) to ensure consistency in how zones are applied across NSW. Zone objectives are used by Council to help determine if a development application is consistent with the strategic planning aims for the Cessnock area.

Additional local zone objectives are necessary when the mandatory objectives do not cover all major land use issues for land within the zone. Additional local objectives are also necessary when locality specific or relating to a major activity node or other land use that has major environmental impacts on the activities and amenity of the resident and/or working population within the particular zone.

The following amendments to Land Use Objectives are proposed to better address local planning issues and to align with the strategic planning framework for the Cessnock LGA.

a) It is proposed to amend the following RU2 Rural Landscape Zone objectives as follows:

Existing (M) = Mandatory	Proposed green = new text red = to be removed	Reason
To encourage sustainable primary industry production by maintaining and enhancing the natural resource base (M).	To encourage sustainable primary industry production by maintaining and enhancing the natural resource base (M).	<i>No change – this is a mandatory objective</i>
To maintain the rural landscape character of the land (M).	To maintain the rural landscape character of the land (M).	<i>No change – this is a mandatory objective</i>
To provide for a range of compatible land uses, including extensive agriculture (M).	To provide for a range of compatible land uses, including extensive agriculture (M).	<i>No change – this is a mandatory objective</i>
To enable other forms of development that are associated with rural activity and require an isolated location or support tourism and recreation.	To enable other compatible forms of development that are associated with rural activity and require an isolated location or support tourism and recreation.	Stand-alone tourist uses in the RU2 zone are inconsistent with LSPS planning priorities 8, 11, 12 & 22. The use has the potential to intensify land use conflict on rural land. Smaller scale secondary uses including bed and breakfast accommodation, farm stay accommodation and tourist cabins are proposed to be permissible in this zone.

To ensure that the type and intensity of development is appropriate in relation to the rural capability and suitability of the land, the preservation of the agricultural, mineral and extractive production potential of the land, the rural environment (including scenic resources) and the costs of providing services and amenities.	To ensure that the type and intensity of development is appropriate in relation to the rural capability and suitability of the land. and the preservation of the agricultural mineral and extractive production potential of the land, the rural environment (including scenic resources) and the costs of providing services and amenities.	Repetition of other objectives is removed
To maintain and enhance the scenic character of the land.	To maintain and enhance the scenic character of the land.	<i>No change</i>
To ensure that development does not create unreasonable or uneconomic demands for the provision or extension of services.	To ensure that development does not create unreasonable or uneconomic demands for the provision or extension of services or infrastructure by public authorities.	Clarification of intent. Recognition that the level of infrastructure provision in RU2 zone may be incompatible with some land uses.
To minimise the visual impact of vegetation clearing in order to be consistent with the rural character of the locality.	<i>Delete objective.</i>	This is a repetition of other objectives
To minimise disturbance to the landscape from development through clearing, earthworks, access roads and construction of buildings.	To minimise disturbance to the landscape from development through vegetation clearing, earthworks, access roads and construction of buildings.	Clarification
To ensure development does not intrude into the skyline when viewed from a road or other public place.	To ensure development does not intrude into the skyline when viewed from a road or other public place.	<i>No change</i>

b) It is proposed to amend the following RU5 Village Zone objectives as follows:

Existing (M) = Mandatory	Proposed	Reason
To provide for a range of land uses, services and facilities that are associated with a rural village (M).	To provide for a range of land uses, services and facilities that are associated with a rural village (M).	<i>No change – this is a mandatory objective</i>
To ensure that development is compatible with the amenity, functioning and scale of a rural village.	To ensure that development is compatible with the amenity, functioning character and scale of a rural village.	This is to promote consistency with LSPS Planning Priority 3: <i>The character and vitality of our town centres and villages is protected and enhanced</i>

Item 2: Amendments to LEP 2011 RU2 and RU5 Zone Land Use Tables

The LEP 2011 land use tables list the various forms of development that are considered to be compatible with the objectives of the rural zones and therefore permitted with or without consent. The land use tables also list development that is not compatible with the objectives of the zones and these are listed as prohibited development.

The Standard Instrument LEP mandates certain land uses as permissible or prohibited in each zone across NSW. Additional land uses may be included if, in Council's opinion, the mandated uses do not satisfactorily address the local intent of the zone. The proposed land use table amendments below will enable greater flexibility for compatible development to occur within the rural zones, while prohibiting uses that are incompatible with the objectives of the zone. Refer to **Appendix 2: Rural Lands Issues Paper** for a detailed explanation of the proposed amendments to the Land Use Tables.

- a) It is proposed to amend the RU2 Rural Landscape Zone Land Use Table as follows:

Amend the RU2 Rural Landscape Zone Land Use Table to:

Permit

Secondary dwellings, Plant nurseries,

Prohibit

Advertising structures, Amusement centres, Backpackers' accommodation, Boat launching ramps, Boat sheds, Caravan parks, Centre-based child care facilities, Correctional centres, Development which cannot be characterised into any land uses defined in the SI, Dual occupancies, Function centres, Health consulting rooms, Hospitals, Hotel or motel accommodation, Jetties, Local distribution premises, Neighbourhood shops, Places of public worship, Port facilities, Pubs, Public administration buildings, Registered clubs, Respite day care centres, Restaurants or cafes, Rural supplies, Self-storage units, Service stations, Serviced apartments, Veterinary hospitals.

The *current* RU2 Land Use Table is provided below with mandated uses ***bolded and italicised***.

2	Permitted without consent <i>Extensive agriculture; Home occupations</i> , Horticulture
3	Permitted with consent <i>Aquaculture</i> , Cellar door premises; Dual occupancies; <i>Dwelling houses; Environmental protection works; Farm buildings</i> ; Health consulting rooms; Home industries; Hospitals; Neighbourhood shops; Pubs; Restaurants or cafes; <i>Roads</i> ; Roadside stalls; Rural supplies; Self-storage units; Any other development not specified in item 2 or 4
4	Prohibited

Boat building and repair facilities; Car parks; Charter and tourism boating facilities; Commercial premises; Depots; Entertainment facilities; Exhibition homes; Exhibition villages; Freight transport facilities; Health services facilities; Heavy industrial storage establishments; Heliports; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Moorings; Mortuaries; Passenger transport facilities; Recreation facilities (indoor); Residential accommodation; Restricted premises; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Wharf or boating facilities; Wholesale supplies

The *proposed* RU2 Land Use Table is provided below with mandated uses ***bolded and italicised***:

2 Permitted without consent
<i>Extensive agriculture; Home occupations;</i> Horticulture
3 Permitted with consent
<i>Agriculture,</i> Airports, Airstrips, Animal boarding or training establishments, Bed and breakfast accommodation, Building identification signs, Business identification signs, Camping grounds, Cellar-door premises, Cemeteries, Community facilities, Crematoria, <i>Dwelling houses,</i> Eco tourist facilities, Educational establishments, Electricity generating works, Emergency services facilities, Environmental facilities, <i>Environmental protection works,</i> Extractive industries, <i>Farm buildings,</i> Farm stay accommodation, Flood mitigation works, Forestry, Helipads, Home-based child care, Home business, Home industries, Home occupations, Information and education facilities, Intensive plant agriculture, Open cut mining, Plant nurseries, Recreation areas, Recreation facilities (major), Recreation facilities (outdoor), Research stations, <i>Roads,</i> Roadside stalls, Rural industries, School-based child care, Secondary dwellings, Sewerage systems, Tourist and visitor accommodation, Waste or resource management facilities, Water supply systems
4 Prohibited
Backpackers' accommodation, Hotel or motel accommodation, Serviced apartments, any development not specified in item 2 or 3.

Note: It is proposed to list the RU2 Zone as a closed zone whereby all land uses not listed as either permissible with consent or permissible without consent, will be prohibited. See the Land Use matrix in **Attachment 2** for full details on the proposed permissibility of all land uses within the rural zones.

b) It is proposed to amend the RU5 Village Zone Land Use Table as follows:

Amend the RU5 Village Zone Land Use Table to:

Permit

Building identification signs, Business identification signs, Early education and care facilities, Home-based child care, Water supply systems,

Prohibit

Boarding houses, Extensive agriculture, High technology industries, Intensive plant agriculture.

The *current* RU5 Land Use Table is provided below with mandated uses ***bolded and italicised***:

2 Permitted without consent
<i>Home occupations</i>
3 Permitted with consent
Bed and breakfast accommodation; Boarding houses; Business premises; Cemeteries; <i>Centre-based child care facilities; Community facilities</i> , Crematoria; <i>Dwelling houses</i> , Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Food and drink premises; Home-based child care; Home businesses; Horticulture; Hotel or motel accommodation; Information and education facilities; Light industries; Mortuaries; <i>Neighbourhood shops; Oyster aquaculture</i> , Passenger transport facilities; <i>Places of public worship, Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor)</i> , Registered clubs; <i>Respite day care centres</i> , Roads; Roadside stalls; Rural supplies; <i>Schools</i> , Secondary dwellings; Semi-detached dwellings; Seniors housing; Service stations; Sewerage systems; Shops; <i>Tank-based aquaculture</i> , Vehicle repair stations; Veterinary hospitals
4 Prohibited
Any other development not specified in item 2 or 3

The *proposed* RU5 Land Use Table is provided below with mandated uses ***bolded and italicised***:

2 Permitted without consent
<i>Home occupations</i>
3 Permitted with consent
Bed and breakfast accommodation; Building identification signs, Business identification signs, Business premises; Cemeteries; <i>Centre-based child care facilities; Community facilities</i> , Crematoria; <i>Dwelling houses</i> , Early education and child care facilities, Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Food and drink premises; Home-based child care; Home businesses; Hotel or motel accommodation; Information and education facilities; Light industries; Mortuaries; <i>Neighbourhood shops; Oyster aquaculture</i> , Passenger transport facilities; <i>Places of public worship, Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor)</i> , Registered clubs; <i>Respite day care centres</i> , Roads; Roadside stalls; Rural supplies; <i>Schools</i> , Secondary dwellings; Semi-detached dwellings; Seniors housing; Service stations; Sewerage systems; Shops; <i>Tank-based aquaculture</i> , Vehicle repair stations; Veterinary hospitals, Water supply systems
4 Prohibited
High technology industries, Any other development not specified in item 2 or 3

Item 3: Amendments to LEP 2011 clauses

- a) It is proposed to amend the following clause as follows:

Revise clause 4.1 Minimum Lot Size (Delete subclause 4A and replace with clause 4.1 (E))

From

4.1 (4A) Despite subclause (3), a lot resulting from the subdivision of the following land must not be less than the minimum size specified below in relation to the land—

(a) (Repealed)

(b) if the lot is on land identified as "T2" on the Lot Size Map and the subdivision will result in the creation of lots that are not able to be serviced by a reticulated water and reticulated sewerage system—2,000 square metres,

(c) if the lot is on land identified as "T3" on the Lot Size Map and the subdivision will result in the creation of lots that are not able to be serviced by a reticulated water and reticulated sewerage system—2 hectares.

To

4.1 (E) Minimum subdivision lot size for land that is not serviced by reticulated sewer

(1) Despite clause 4.1(3), Development consent must not be granted to subdivide land that is not serviced by a reticulated sewer service, unless:

the size of each resulting lot is not less than 4,000m², or the minimum size shown on the Lot Size Map in relation to that land, whichever is greater, and

The consent authority is satisfied that all resulting lots are suitable for onsite wastewater management.

(2) This clause applies despite clause 4.1AA and 4.2B

The proposed amendment is in response to concerns over unsafe environmental health outcomes arising from inadequate on-site waste water management systems (septic systems) on undersized or otherwise incompatible lots. This will result in the areas identified as 'T2' and 'T3' being deleted from the Lot Size Maps.

The proposed amendment will have the effect of changing the minimum lot size for land that is currently identified as 'T2' or 'T3' on the Lot Size Maps to 4000 square metres, *or* the existing minimum lot size shown on the Lot Size Map in relation to that land, whichever is larger.

Additionally, subdivision will only be permitted when the consent authority is satisfied the resulting lots will be suitable for onsite wastewater management. The proposed clause will ensure that subdivision and subsequent development of land may only occur where land is of a sufficient size to safely accommodate on-site waste water management systems.

b) It is proposed to amend the following clause as follows:

Delete clause.7.13:

7.13 Dual occupancies on land in Zone RU2

(1) This clause applies to land in the following zones—

(a) Zone RU2 Rural Landscape,

(b) Zone RU4 Primary Production Small Lots,

(c) Zone E2 Environmental Conservation, but only if the land is also identified as "Bow Wow Creek Gorge Catchment and Habitat Corridor" on the Habitat Corridors Map.

(2) Development consent must not be granted for development on land to which this clause applies for the purposes of tourist and visitor accommodation unless the lot on which the development is to be carried out has an area of at least 10 hectares.

(3) Development consent must not be granted for development on land referred to in subclause (1)(a) or (c) unless a dwelling house is permitted to be erected on the land under clause 4.2A(3).

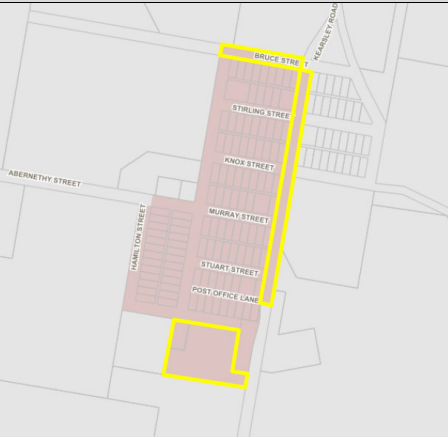
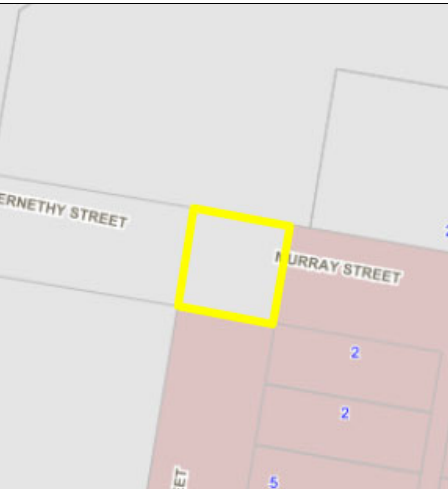
This clause establishes additional conditions under which dual occupancies may be approved in the RU2, RU4 and C4 zone. Amendments to the land use table proposed under the planning proposal include prohibiting dual occupancies in the RU2 Rural Landscape zone, as they are inconsistent with a number of planning priorities outlined in Council's LSPS and have potential to increase land use conflicts on rural land. The land use is currently prohibited in the RU4 and C4 Zones. This clause will no longer have any application in the event of a prohibition of this land use within the RU2 zone.

Item 4: Administrative amendments to LEP 2011 mapping

The following LEP 2011 map administrative amendments will correct anomalies to ensure the most appropriate zone and lot size is applied to the land.

A number of proposed amendments apply to roads. These are administrative changes and are not intended to alter the development potential of these roads. It is established practice to refer to the zoning of adjoining land when seeking to establish an appropriate zoning for roads (see NSW Department of Planning LEP Practice Note PN 10-001).

Similarly, proposed changes to minimum lot sizes are administrative and are intended to apply a standard minimum lot size to adjoining land within the same zone.

No.	Lot / Sec / DP	Planning Considerations	LEP Map		Subject Land
			Current	Proposed	
1	Part 2 / 840845 1 / 840845	<p>Address: 83 Ferguson Street Abernethy 20 Munn Street Abernethy Ferguson Street Road Reserve Bruce Street Road Reserve</p> <p><u>Reason for LEP Amendment:</u> To apply standard 750m² lot size to Zone RU5 land.</p> <p>Note: Land is not serviced by reticulated sewer and will be subject to new lot size clause for un-serviced land (See Issue 3a).</p> <p><u>Map Sheet:</u> LSZ_006D</p>	<p>LZN: RU5</p> <p>MLS: 40ha</p>	<p>LZN: RU5</p> <p>MLS: 750m²</p>	
2	NA	<p>Address: Murray Street Road Reserve Abernethy</p> <p><u>Reason for LEP Amendment:</u> To apply standard 40Ha lot size to Zone RU2 land.</p> <p><u>Map Sheet:</u> LSZ_006D</p>	<p>LZN: RU2</p> <p>MLS: 750m²</p>	<p>LZN: RU2</p> <p>MLS: 40Ha</p>	

No.	Lot / Sec / DP	Planning Considerations	LEP Map		Subject Land
			Current	Proposed	
5	NA	<p>Address: Boreas Street Nulkaba Austral Street Nulkaba</p> <p>Reason for LEP Amendment: To apply standard 750m² lot size to Zone RU5 land.</p> <p>Note: Land is serviced by reticulated sewer.</p> <p>Map Sheet: LSZ_006C</p>	<p>LZN: RU5</p> <p>MLS: 40ha</p>	<p>LZN: RU5</p> <p>MLS: 750m²</p>	
6	NA	<p>Address: Averys Lane Heddon Greta</p> <p>Reason for LEP Amendment: To apply consistent zoning of road.</p> <p>Map Sheet: LZN_009A LSZ_009A</p>	<p>LZN: RU2</p> <p>MLS: 40ha</p>	<p>LZN: R2</p> <p>MLS: 450m²</p>	

PART 3: JUSTIFICATION

Rural zones apply to many of the villages in Cessnock, pasture and grazing land, areas of important scenic value, and state forest in the Cessnock Local Government Area (LGA).

The *LEP 2011* is the primary planning instrument that guides development on rural land in Cessnock LGA. However, the provisions of this instrument are dated and must be reviewed to ensure consistency with relevant rural priorities and principles contained in the Cessnock Local Strategic Planning Statement (LSPS) 2036 and other applicable local and regional plans and strategies.

This Planning Proposal seeks to amend the Zone Objectives, Land Use Tables and associated clauses and Mapping to ensure they are current and accurate, responsive to new forms of development and respond to objectives contained in regional plans and endorsed local strategies. The intended outcomes of this Planning Proposal are based on the findings of the Cessnock Rural Lands Issues paper. This Paper was the result of a detailed review of the provisions contained in the LEP 2011 as they apply to rural lands, and the alignment of these with the strategic framework applying to Cessnock LGA. 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 the Planning Proposal

1 Is the planning proposal a result of an endorsed LSPS, strategic study or report?

This Planning Proposal is required to address the following Priorities of the Cessnock Local Strategic Planning Statement 2036

Planning Priority 1:	Our urban areas are compact.
Planning Priority 3	The character and vitality of our town centres and villages is protected and enhanced.
Planning Priority 5:	Infrastructure and services meet the needs of our community and are appropriately funded.
Planning Priority 6:	Rural residential, large lot residential development and environmental living are considered in limited and appropriate locations
Planning Priority 7:	Urban development is encouraged in areas with existing infrastructure.
Planning Priority 8:	Our rural land is protected from incompatible development.

Planning Priority 12:	Our town centres are the focus of local commerce.
Planning Priority 22:	Our rural landscape is retained and enhanced.
Planning Priority 28:	Our commercial centres and villages are tourist destinations in their own right.
Planning Priority 29:	Our villages retain their unique qualities that reflect their histories.
Planning Priority 30:	Growth of our villages occurs in a way that protects their character and setting in the rural and environmental landscape and responds to risk of bushfire and flooding.

2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The objective of this Planning Proposal is to amend the LEP 2011 RU2 Rural Landscape Zone and RU5 Village land use tables and the maps accompanying the LEP in respect of various parcels of land in the LGA. A planning proposal is the only way for Council to achieve these objectives.

Section B: Relationship to Strategic Planning Framework

3 Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

Hunter Regional Plan 2036

The Hunter Regional Plan (HRP) provides the overarching strategic framework to guide development, investment and planning within the Hunter region to 2036. The HRP sets the following regionally focused goals:

- The leading regional economy in Australia
- A biodiversity-rich natural environment
- Thriving communities
- Greater housing choice and jobs

The Planning Proposal is consistent with the following directions and/or actions of the HRP:

- Direction 10: Protect and enhance agricultural productivity
- Direction 13: Plan for greater land use compatibility

Direction 10 of the HRP identifies the need to protect locations that can accommodate agricultural enterprises from incompatible development. Many of the proposed amendments contained in this Planning Proposal apply to productive rural lands and seek to reinforce their productivity through protection from incompatible development.

Direction 13 of the HRP 2036 identifies the potential for compatibility issues to arise as a result of the continued growth of the Hunter region. This Planning Proposal seeks to amend the rural zone objectives land use tables of the LEP 2011, to prevent land uses which are likely to cause conflict in the rural zones and their surrounds.

Draft Hunter Regional Plan 2041

The draft Hunter Regional Plan was on public exhibition until 4 March 2022 and the planning proposal is required to consider the document.

The Planning Proposal is consistent with the following Strategies and Priorities of the draft Hunter Regional Plan 2041:

- Strategy 4.9: Dwellings on rural lands that are not a primary residence or associated with agriculture should be limited to avoid conflicts with agricultural activities
- Rural land should principally facilitate agriculture, given its importance to the regional economy.

Greater Newcastle Metropolitan Plan

The Greater Newcastle Metropolitan Plan (GNMP) sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens, which together make up Greater Newcastle. The plan also helps to achieve the vision set in the Hunter Regional Plan 2036 for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart.

The Planning Proposal is consistent with the following strategies and/or actions of the Greater Newcastle Metropolitan Plan:

- Strategy 13: Protect rural amenity outside urban areas
- Strategy 16: Prioritise the delivery of infill housing opportunities within existing urban areas

Strategy 13 recognises the importance of rural areas for agricultural production and highlights the need to protect these from urban development to sustain long-term agricultural viability. This Planning Proposal aligns with the Actions of the GNMP, by seeking to enable the growth of the agricultural sector by directing urban development away from rural areas and managing the number of new dwellings in rural areas.

Strategy 16 of the GNMP identifies the need to focus the delivery of housing within existing urban areas, where capacity already exists for substantial population growth. By limiting uses of a higher intensity in rural areas, this Planning Proposal encourages increased levels of development in our town centres and established urban areas.

4 Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Cessnock Local Strategic Planning Statement 2036 (LSPS)

The Cessnock Local Strategic Planning Statement 2036 (LSPS) establishes a 20-year vision for land use planning in the Cessnock LGA. The LSPS sets out the important character and values, which are to be preserved and establishes planning principles to manage land use planning in the future.

The planning proposal is consistent with the planning priorities and principles of the endorsed LSPS, notably Action 5, which outlines the need to review the LEP 2011 to bring about the following outcomes:

- To ensure that land-uses are compatible with the rural landscape.

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

The Cessnock Community Strategic Plan 2036 (CSP) was prepared in 2022 and identifies the community's main priorities and expectations for the future and ways to achieve these goals. The vision of the CSP is:

Cessnock will be a cohesive and welcoming community living in an attractive and sustainable rural environment with a diversity of business and employment opportunities supported by accessible infrastructure and services which effectively meet community needs.

A range of strategic directions are provided which relate to the social, environmental and economic health, sustainability and prosperity of the Cessnock LGA. The Planning Proposal is consistent with the following themes of the CSP:

- Objective 3.1 – Protecting and enhancing the natural environment and rural character of the area
- Objective 5.2 – Encouraging more community participation in decision making

Objective 3.1 of the CSP focuses on the conservation and preservation of the natural environment and rural character while balancing the impact of development to ensure a sustainable and healthy community. The Planning Proposal seeks to apply appropriate land use zones to protect the character of our rural areas.

Objective 5.2 of the CSP focuses on involving the community in decision making processes affecting their future. Consultation is an important component of the Planning Proposal process and ensures outcomes align with the community's expectations in relation to recreation and open space areas and the environment.

5 Is the planning proposal consistent with any other applicable State and regional studies or strategies?

A 20-year Economic Vision for Regional NSW

The Economic Vision for Regional NSW seeks to drive sustainable, long term economic growth in regional NSW

The planning proposal is consistent with the principles of this strategy, notably:

- Principle 6: Recognising each region's strengths and underlying endowments
- Principle 7: Regulation and planning to promote commercial opportunities
- Principle 8: Sustainable economies and communities are better able to recover from shocks

State Emergency Management Plan (EMPLAN)

The State Emergency Management Plan (EMPLAN) provides a coordinated and comprehensive approach to emergency management in NSW. The Plan identifies the importance of land use planning in prevention of impacts of hazards on the community.

6 Is the planning proposal consistent with applicable SEPPs?

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

Table 1: Relevant State Environmental Planning Policies

SEPP	Consistency and Implications
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Housing) 2021	This Planning Proposal seeks to limit inappropriate forms of housing in rural areas, thereby promoting the planning and delivery of housing in urban locations where it will make good use of existing and planned infrastructure and services
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Planning Systems) 2021	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Primary Production) 2021	A key aim of this Planning Proposal is to reduce conflict between primary production and rural development, supporting sustainable agriculture. This Planning Proposal is supportive of the provisions of the Primary Production SEPP
State Environmental Planning Policy (Resilience and Hazards) 2021	Nothing in this Planning Proposal impacts on the operation of this SEPP

SEPP	Consistency and Implications
State Environmental Planning Policy (Resources and Energy) 2021	Nothing in this Planning Proposal impacts on the operation of this SEPP
State Environmental Planning Policy (Transport and Infrastructure) 2021	Nothing in this Planning Proposal impacts on the operation of this SEPP

7 Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

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		Consistency and Implications
Planning Systems		
1.1	Implementation of Regional Plans	Consistent. This Planning Proposal facilitates the implementation of the Hunter Regional Plan 2036.
1.2	Development of Aboriginal Land Council land	N/A
1.3	Approval and Referral Requirements	Consistent
1.4	Site Specific Provisions	N/A
Planning Systems – Place-based		
Design and Place		
Biodiversity and Conservation		
3.1	Conservation Zones	N/A
3.2	Heritage Conservation	N/A
3.5	Recreation Vehicle Areas	N/A
Resilience and Hazards		
4.1	Flooding	Consistent
4.2	Coastal Management	N/A
4.3	Planning for Bushfire Protection	Consistent
4.4	Remediation of Contaminated Land	Consistent
4.5	Acid Sulfate Soils	Consistent
4.6	Mine Subsidence and Unstable Land	Consistent
Transport and Infrastructure		
5.1	Integrating Land Use and Transport	Consistent
5.2	Reserving Land for Public Purposes	N/A
5.3	Development Near Regulated Airports and Defence Airfields	N/A
5.4	Shooting Ranges	Consistent
Housing		
6.1	Residential Zones	N/A
6.2	Caravan Parks and Manufactured Home Estates	Consistent. Caravan parks in RU2 zone are inconsistent with the zone objectives, the objectives contained in the Hunter Regional Plan 2036, Greater Newcastle Metropolitan Plan 2036, Draft Hunter Regional Plan 2041 and Cessnock LSPS. Caravan Parks and/or Manufactured

		Home Estates as a form of low cost housing are better suited in urban areas within proximity to existing centres, services and facilities. These are appropriately provided within other zones in the LGA.
Industry and Employment		
7.1	Business and Industrial Zones	N/A
Resources and Energy		
8.1	Mining, Petroleum Production and Extractive Industries	Consistent
Primary Production		
9.1	Rural Zones	Consistent. This Planning Proposal aligns with the objective of this direction, to protect the agricultural production value of rural land.
9.2	Rural Lands	Consistent. This Planning Proposal aligns with the following objectives of this direction: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic use and development of rural lands for rural and related purposes, (c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State, (d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses, (e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land, (f) support the delivery of the actions outlined in the NSW Right to Farm Policy.
9.3	Oyster Aquaculture	N/A

Section C: Environmental, Social and Economic Impact

8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

The Planning Proposal will have no impact on threatened species or endangered ecological communities (EEC).

9 Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

The Planning Proposal will have no impact on environmentally sensitive land or endangered ecological communities (EEC).

10 Has the planning proposal adequately addressed any social and economic effects?

The planning proposal is unlikely to have any significant adverse social or economic impacts. This Planning Proposal seeks to facilitate the conduct of lawful agricultural practices without conflict or interference arising from complaints from neighbours and other land users, thereby strengthening the long term viability of agricultural enterprise and economic activity.

Although not included in this Planning Proposal, Cessnock City Council is opting in to clause 5.24 created under draft *Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021*.

These amendments were created to support the economic recovery of regional communities and provide future resilience after years of challenges, including prolonged drought, bushfire and impacts arising from COVID-19, such as travel and trade restrictions, cancellation of regional events and temporary closure of local businesses.

Once enacted, clause 5.2 will permit agritourism with consent in Zone RU2 Rural Landscape and Zone RU4 Primary Production Small Lots.

The objectives of this clause as exhibited are –

- (a) To allow for small scale tourism and related commercial uses on land used for primary production without adversely affecting the principal use of the land for primary production.
- (b) To balance the impact of tourism and related commercial uses with the use of the land for primary production, the environment, scenic values, infrastructure and adjoining land uses.

Clause 5.2 will be complimentary to this planning proposal as a means for enabling appropriate small-scale tourism and commercial uses related to primary production that will facilitate sustainable long term economic growth in rural zones. If the wording of this clause changes post-exhibition, Council may review its position on this clause.

Section D: Infrastructure (Local, State and Commonwealth)

11 Is there adequate public infrastructure for the planning proposal?

The Planning Proposal will not generate additional demands on public infrastructure and includes provisions to restrict higher intensity residential land uses in rural areas, thereby encouraging the planning and delivery of housing in urban locations where it will make good use of existing and planned infrastructure and services.

Section E: State and Commonwealth Interests

12 What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Council will undertake consultation with the following public authorities and the community as required by the Gateway determination:

- Mining, Exploration and Geoscience; and
- Department of Primary Industries.

PART 4: MAPS

The following LEP map sheets will be required to be amended as a result of the Planning Proposal

Note:

Map sheets marked with '^' are proposed to be amended as a result of Item 3(a) – proposed removal of areas known as T2 and T3 from Lot Size Maps. See Appendix 4 for identification of land affected by this Item.

Map sheets marked with '#' are proposed to be amended as a result of Item 4 - proposed mapping administrative amendments. See Item 4 on page 11 for identification of affected land.

Land Zoning Map

- LZN_003 #
- LZN_006B #
- LZN_009A #

Lot Size Map

All Cessnock LEP 2011 Lot Size Maps are proposed to be amended to remove reference to Clause 4.1 from the map legend. The following Lot Size Maps are proposed to be further amended, as noted above:

- LSZ_003 ^#
- LSZ_005 ^
- LSZ_005A ^
- LSZ_006B ^
- LSZ_006C ^#
- LSZ_006CA ^
- LSZ_006D ^#
- LSZ_008 ^
- LSZ_009 ^
- LSZ_009A ^#

PART 5: COMMUNITY CONSULTATION

Community consultation will be undertaken in accordance with the Gateway determination. This includes newspaper advertising and a Have Your Say engagement page on Council's website. The Planning Proposal will also be available for viewing in hard-copy at:

- Council's Administrative Building (Customer Service Section);
- Cessnock Public Library; and
- Kurri Kurri Public Library

The public exhibition period for this proposal will last for 28 business days. Any views expressed in written submissions during the exhibition period will be considered by Council before a final decision is made on whether or not the draft plan should be made.

PART 6: PROJECT TIMELINE

It is estimated that the proposed amendment to the LEP 2011 will be completed by May 2023. Additional time has been added to the timeline taking into consideration the Christmas period and scheduling of Council meetings.

Table 3: Indicative project timeline.

Plan Making Stage		May 2022	June 2022	July 2022	Aug 2022	Sep 2022	Oct 2022	Nov 2022	Dec 2022	Jan 2023	Feb 2023	Mar-2023	Apr 2023	May 2023
STAGE 1	Submit to DPIE for Gateway Determination													
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 DPIE with request the amendment be made													

Appendix 1: Council Report and Minutes (dates)

Report to Ordinary Meeting of Council – *20 April 2022*

Minutes of Ordinary Meeting of Council – *20 April 2022*

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

Appendix 2: Rural Lands Issues Paper

Appendix 3: Gateway Determination – Department of Planning and Environment

Appendix 4: Lot Size Map Sheets affected by Item 3(a) - proposed removal of areas known as T2 and T3