



PLANNING PROPOSAL

Amendment to the

Cessnock Local Environmental Plan 2011

Special Purposes (Various)

Version 1

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Part 1: Objectives and Intended Outcomes

Background

The Cessnock Local Environmental Plan (LEP) and Development Control Plan (DCP) are arguably the most important regulatory documents for Council. The LEP provides the statutory framework that establishes land-use permissibility and principal development standards and the DCP provides non-statutory controls to guide development outcomes.

In 2006, the NSW State Government introduced the Standard Instrument which provided a standard template for all NSW Council's LEPs. Council's LEP was converted to the new format in 2011. As with most NSW councils, the LEP was mainly a conversion with very few improvements. The existing land-use terms and zones were converted from the existing set to those in the Standardised LEP. Similarly, the DCP received only a very minor treatment. Since that time, these documents have been incrementally and sporadically amended to respond to issues that have arisen, new development areas or administrative amendments. However, neither document has been comprehensively reviewed or updated.

Officers have adopted a theme-based approach to undertake this very large and complex project. This planning proposal is required to implement the changes to the Special Purposes (SPx) zones.

Objectives

The objective of this planning proposal is to implement the changes to the Special Purposes (SPx) zones.

Part 2: Explanation of Provisions

The objectives of this Planning Proposal will be achieved by amending the Cessnock LEP 2011 in the following manner:

Revised regulatory framework for ‘the Vintage’ and ‘Pokolbin Integrated Tourist Development’ (former Golden Bear)

The following changes are proposed to revise the local regulatory framework for these two integrated tourist developments. The key initiatives are to replace SP3 Tourist zone with the SP1 Special Activities zone. This is considered a more appropriate zone for these unique developments. It will also liberate the SP3 Tourist zone for use elsewhere. There are two definitions for ‘integrated tourist development’ in the LEP. It is intended to rationalise these and put that definition into the Dictionary and remove it from the inline definition in clauses 7.11 and 7.11A. It is also proposed to integrate APU(9) into the land-use table from the SP1 zone and delete APU(9). Finally, Council does not have development controls for ‘serviced apartments’. This is one of the uses that is permitted in the existing SP3 Tourist and future SP1 Special Activities zone. It is intended that ‘serviced apartments’ will be assessed against SEPP 65 and the Apartment Design Guide. To facilitate this, clause (4)(4) of the SEPP 65 Design Quality of Residential Apartment Development requires a local clause to be inserted in the LEP.

- Replace the current application of the SP3 Tourist Zone (the Vintage and Pokolbin Integrated Tourist Development) with the SP1 Special Activities zone.
- To add an additional local objective to the objectives of the SP1 Special Activities zone to describe that the zone is being applied to the two integrated tourist developments:
“To define limited areas for development that integrate both tourism and permanent residential areas.”
- Include a new and consistent definition in the Dictionary for ‘Integrated Tourist Development’ that will apply to the clauses 7.11 and 7.11A. The proposed definition is:
“Integrated tourist development means a development that contains a mix of both permanent residential dwellings and one or more of the following uses: tourist and visitor accommodation; tourist-oriented land uses such as outdoor recreation facilities (e.g. golf courses); food and drink premises; function centres; including any development that is ordinarily incidental or ancillary to development for that purpose.
- Remove the inline definitions for ‘integrated tourist development’ in clauses 7.11 and 7.11A.
- Integrate the land uses listed in Schedule 1 Additional Permitted Uses (9)(2) into the SP1 Special Activities zone.
- Delete Schedule 1(9).
- Insert a new local clause that requires that ‘Serviced apartments’ be assessed against the Apartment Design Guide in accordance with clause (4)(4) of the SEPP 65 Design Quality of Residential Apartment Development.

Administrative corrections

- Remove ‘group homes’ from the SP2 Infrastructure zone.
- Rename SP2 Infrastructure (Aged Care Facility) to SP2 Infrastructure (Residential Care Facility).
- Rename SP2 Infrastructure (Correctional Facility) to SP2 Infrastructure (Correction Centre).
- Rezone property identification no: 508937 (no lot/DP description) Wermol Street from IN2 and SP2 to SP2 Railway.

- Rezone LOT: 7309 DP: 1139379 Hospital Road, Weston from RE1/SP2 Railway to RE1 Public recreation.
- Rezone LOT: 2 SEC: D DP: 6814 and LOT: 1 SEC: D DP: 6814, 20 and 22 Scott Street WESTON from SP2 Railway to B4 Mixed Use.
- Rezone LOT: 7316 DP: 1167390, 242 Neath Road KEARSLEY and LOT: 261 DP: 257585, 202 Neath Road KEARSLEY from RU2 Rural Landscape and SP2 Railway to RU2 Rural Landscape.
- Rezone LOT: 4 DP: 1266107 Maitland Road CESSNOCK from RU2 Rural Landscape and SP2 Railway to RU2 Rural Landscape.
- Rezone LOT: 1 DP: 947792, New England Highway BRANXTON from RU2 Rural Landscape and SP2 Railway to SP2 Railway.
- Rezone LOT: 606 DP: 1141526, 1903 Wine Country Drive BRANXTON and LOT: 605 DP: 1141526, 1894 Wine Country Drive BRANXTON from SP2 Classified Road and RU2 Rural Landscape to SP2 Classified Road.
- Remove reference of SP3 from Clause 4.1AA.
- Rezone LOT: 3 DP: 1078864, 19 Wine Country Drive from SP2 Infrastructure (Correctional centre) and R2 Low Density Residential to R2 Low Density Residential.
- Rezone
 - LOT: 8 DP: 13203, View Street Cessnock,
 - LOT: 11 DP: 882585 Jurd Street Cessnock,
 - LOT: B DP: 103664, Foster Street Cessnock,
 - LOT: 2 SEC: 20 DP: 5442, 19 Foster Street Cessnock,
 - LOT: 10 SEC: 20 DP: 5442, 24 View Street Cessnock,
 - LOT: 1 DP: 254743, Foster Street Cessnock and
 - LOT: 7 DP: 13203 View Street Cessnock from R3 Medium Density Residential to SP2 Infrastructure (Health Care Facility).
- Rezone:
 - LOT: 1 DP: 1173784, 41 Jurd Street CESSNOCK
 - LOT: 2 DP: 1173784, View Street CESSNOCK
 - LOT: 1 DP: 103663, View Street CESSNOCK from SP2 Infrastructure (Cessnock Hospital) to SP2 Infrastructure (Health Services Facility).
- Rezone LOT: 102 DP: 1184645 Bowditch Avenue LOXFORD and LOT: 101 DP: 1184645 2A Bowditch Avenue LOXFORD from RU2 Rural Landscape and SP2 Railway to RU2 Rural Landscape.

Cemeteries

All operation cemeteries will be zoned SP2 Infrastructure (Cemetery). Historic, non-operational cemeteries in rural context will retain their existing zone and be acknowledged as a heritage item. There are no changes to existing historic, non-operational cemeteries proposed as part of this planning proposal.

- Rezone (Branxton Cemetery):
 - LOT: 9 SEC: 2 DP: 758153, Maitland Street EAST BRANXTON,
 - LOT: 7005 DP: 93471, Lindsay Street EAST BRANXTON,
 - LOT: 10 SEC: 3 DP: 758153 Dalwood Road EAST BRANXTON
 - LOT: 1 SEC: 3 DP: 758153 Lindsay Street EAST BRANXTON from R2 Low Density Residential to SP2 Cemetery.
- Rezone (Ellalong Cemetery) LOT: 1 DP: 650540 and LOT: 7006 DP: 93602 Helena Street ELLALONG from RU5 to SP2 Cemetery.
- Rezone (Cessnock Cemetery)
 - LOT: 7302 DP: 1140342
 - LOT: 7301 DP: 1140342
 - LOT: 2 DP: 784394 and
 - LOT: 1 DP: 784394 Wine Country Drive Cessnock from RU2 Rural Landscape to SP2 Cemetery.

- Rezone (Aberdare Cemetery) LOT: 7305 DP: 1135483, 134 Greta Street ABERDARE from RU2 to SP2 Cemetery.
- Rezone (Greta Cemetery)
 - LOT: 2 DP: 1053666, PT: 2 SEC: 27 DP: 758474 and PT: 2 DP: 1053666 Wyndham Street GRETA
 - LOT: 7300 DP: 1146320, LOT: 11 SEC: 27 DP: 758474, and LOT: 10 SEC: 27 DP: 758474 Evans Street GRETA
 - LOT: 7 SEC: 27 DP: 758474, LOT: 1 DP: 1122415, LOT: 7301 DP: 1146320, LOT: 1 DP: 1121234, LOT: 6 SEC: 27 DP: 758474, LOT: 8 SEC: 27 DP: 758474, and LOT: 9 SEC: 27 DP: 758474 Hunter Street GRETA from R2 Low Density Residential to SP2 Cemetery.
- Rezone (Kurri Kurri Cemetery) LOT: 7014 DP: 1029148 Hospital Road WESTON from RU2 Rural Landscape to SP2 Cemetery.
- Rezone (Millfield Cemetery) LOT: 7001 DP: 93001 and LOT: 7005 DP: 93000 Crump Street MILLFIELD from RU2 Rural Landscape to SP2 Cemetery
- Rezone (Wollombi Cemetery) LOT: 2 DP: 1168190 and LOT: 1 DP: 1142814 Maitland Road WOLLOMBI from RU2 Rural Landscape and C2 Environmental Conservation to SP2 Cemetery.

Educational Establishments

Education establishments that are in a non-urban context will be rezoned SP2 Infrastructure (Educational Establishment). Educational establishments that are within an urban or village context will not be changed.

The following educational establishments are proposed to be rezoned from RU2 Rural Landscape to SP2 Infrastructure (Educational Establishment).

- Rezone (St Phillips)
 - LOT: 518 DP: 837571, 210 Wine Country Drive NULKABA
 - LOT: 2 DP: 600895 and LOT: 1 DP: 744377, Wine Country Drive NULKABA
 - LOT: 1 DP: 126765 10 Lomas Lane NULKABA from RU2 Rural Landscape to SP2 Educational Establishment.
- Rezone (Laguna School) LOT: 1 DP: 840395 3738 Great North Road LAGUNA from RU2 Rural Landscape to SP2 Educational Establishment.
- Rezone (Congewai School) LOT: 1 DP: 795298 and LOT: 1 DP: 122731, 605 and 613 Congewai Road CONGEWAI from RU2 Rural Landscape to SP2 Educational Establishment.

Part 3: Justification

Section A: Need for Planning Proposal

1 *Resulting from an endorsed LSPS, Strategic Study or Report?*

The comprehensive review of the Cessnock Local Environmental Plan is a listed action in the following Council strategies:

- Local Strategic Planning Statement
- Housing Strategy

None of the above strategies, statements or plans have any specific implications for the Special Purposes Zones other than to encourage an simple, efficient, robust local regulatory system. However, the LSPS and the HS both have specific actions to comprehensively review the LEP and the DCP.

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

There is always a better way than colouring in maps and going through the gateway process but alas, here we are. Council's overarching intention for the comprehensive LEP and DCP project, is to simplify as much as possible its local regulatory system and to encourage a robust and efficient local assessment system.

This planning proposal makes a number of changes and adjustments to the SPx zones. The only significant change is the rezoning of the Vintage and Pokolbin Integrated Tourist Development (former 'Golden Bear') from SP3 Tourist to SP1 Special Activities. This is an opportunity to repurpose the SP3 Tourist zone elsewhere for tourism purposes and to acknowledge the special nature of these two integrated tourist (and residential) developments using the SP1 Special Activities zone.

This planning proposal is also an opportunity recognise the infrastructure status of some items, e.g. educational establishments in rural areas and ensures that the rural zones are not undermined by their use as *default* zones.

Most of the remaining items are administrative corrections to the maps and minor mapping changes.

Until there is a whole reform of the NSW Planning System, the planning proposal and gateway process is the best means of achieving the objectives and intended outcomes.

Section B: Relationship to Strategic Planning Framework

3 *Consistency with Objectives and Actions within Regional Strategies*

Draft Hunter Regional Plan 2041

This PP is essentially an administrative amendment that applies to the SPx zones. There are no relevant objectives and actions within the Draft Hunter Regional Plan 2041.

Hunter Regional Plan 2036

This PP is essentially an administrative amendment that applies to the SPx zones. There are no relevant objectives and actions within the Hunter Regional Plan 2036.

Greater Newcastle Metropolitan Plan (GNMP)

This PP is essentially an administrative amendment that applies to the SPx zones. There are no relevant objectives and actions within the Greater Newcastle Metropolitan Plan.

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

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

This PP is essentially an administrative amendment that applies to the SPx zones. There are no relevant objectives and actions within the Community Strategic Plan.

Cessnock Local Strategic Planning Statement.

There are many actions related to the comprehensive review of the Cessnock Local Environmental Plan in the LSPS. None specifically relate to the SPx zones.

5 *Consistency with State Environmental Planning Policies*

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

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
Transport and Infrastructure SEPP	<p>This SEPP contains planning provisions:</p> <ul style="list-style-type: none"> for infrastructure in NSW, such as hospitals, roads, railways, emergency services, water supply and electricity delivery. for child-care centres, schools, TAFEs and Universities. 	Where appropriate the SP2 Infrastructure zone has been applied to infrastructure.

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		Consistency and Implications
Planning Systems		
1.1	Implementation of Regional Plans	Consistent. See B(3) above
1.3	Approval and Referral Requirements	Consistent. See D(11) below.
1.4	Site Specific Provisions	Consistent. The purpose of the planning proposal is address the need to comprehensively review the Cessnock Local Environmental Plan including to minimise any site specific requirements.
Biodiversity and Conservation		
3.1	Conservation Zones	Not applicable.
3.2	Heritage Conservation	Not applicable. The proposal does not change the heritage conservation status or heritage item mapping the CLEP.
Resilience and Hazards		
4.1	Flooding	Not applicable. No change to the flood mapping is proposed.
4.2	Coastal Management	Not applicable.
4.3	Planning for Bushfire Protection	Not applicable. The proposal does not change the bushfire mapping or change the permissibility of uses in a bushfire affected area.
4.4	Remediation of Contaminated Land	Consistent. The proposal does not relate to contaminated land.
4.5	Acid Sulfate Soils	Consistent. The proposal does not relate to ASS land.
4.6	Mine Subsidence and Unstable Land	Consistent. The proposal does change the permissibility of development on subsidence affected land.
Transport and Infrastructure		
5.1	Integrating Land Use and Transport	Consistent. This proposal is essentially an administrative amendment to the CLEP relating to SPx zones. It does not have any impact on transport.
5.2 Reserving Land for Public Purposes		
5.3	Development Near Regulated Airports and Defence Airfields	Not applicable. No change to the Cessnock Airport.
5.4	Shooting Ranges	Not applicable.
Housing		
6.1	Residential Zones	Not applicable. This amendment does not apply to residential land.
6.2	Caravan Parks and Manufactured Home Estates	Not applicable.
Industry and Employment		
7.1	Business and Industrial Zones	Not applicable. This amendment does not apply to employment lands.
Resources and Energy		

8.1	Mining, Petroleum Production and Extractive Industries	Not applicable. This amendment does not apply to Mining, Petroleum Production and Extractive Industries.
Primary Production		
9.1	Rural Zones	This proposal makes certain amendments to rural land to change these to SPx zones. The RU2 Rural Landscape zone has often been used as a 'default' zone. There are several site-based amendments that change the zone from RU2 to SP2 Infrastructure. For example; the use of RU2 over rural schools. Schools are inconsistent with the RU2 zone, therefore these have been changed to SP2 Infrastructure (Educational Establishments) to reinforce the importance of the RU2 Rural Landscape zone.
9.2	Rural Lands	See above.
9.3	Oyster Aquaculture	Not applicable.

Section C: Environmental, Social and Economic Impact

7 *Impact on Threatened Species*

This PP is essentially an administrative amendment that applies to the SPx zones. There will be no impact on threatened species as a result of this planning proposal.

8 *Environmental Impact*

This PP is essentially an administrative amendment that applies to the SPx zones. There will be no environmental impact as a result of this planning proposal.

9 *Social and Economic Impacts*

This PP is essentially an administrative amendment that applies to the SPx zones. There will be no social or economic impacts as a result of this planning proposal.

Section D: State and Commonwealth Interests






10 Adequate Public Infrastructure







This PP is essentially an administrative amendment that applies to the SPx zones. There will be no impact on public infrastructure. Some public infrastructure has been zoned to SP2 and some references have been updated to align with Standard Instrument definitions.






11 Consultation with State and Commonwealth Authorities







Council will consult with any State or Commonwealth agencies in accordance with the Gateway Determination. However, It is not expected that referral to any State Authority will be required.

Part 4: Mapping

Mapping Item #	Parcel ID	Planning Considerations	Zoning		Subject Land
			Current	Proposed	
1.	505113	Nominated SP2 – Correctional Centre but it is adjacent to the SP2 Aged Care Facility and the ownership is Allandale Aged Care Facility. It is separated from the Aged Care Facility by flooding. The site is partly R2 Low Density Residential and it adjoins an existing R2 zoned area. Therefore, it is proposed to rezone this land to R2 Low Density Residential.	R2/SP2 - Correctional Centre	R2	
2.	Various lots	There are 7 lots attached to the hospital that are zoned R3 Medium Density Residential and owned by Health Administration Corporation. These lots may be more appropriately zoned SP2 Health Care Facilities or Cessnock Hospital.	R2/R3	SP2 Cessnock Hospital or Health Services Facility.	
3.	509208/509209	Split zone on private property.	RU2/SP2 Railway	RU2	 
4.	508937	Crossing at Wermol Street is IN2.	IN2	SP2	

Mapping Item #	Parcel ID	Planning Considerations	Zoning		Subject Land
			Current	Proposed	
5.	507664	Slither of land outside of infrastructure corridor	RE1/SP2	RE1	
6.	10778/10779	Childcare centre	SP2 Railway	B4 Mixed Use	
7.	514973	Split zone	SP2/RU2	RU2	
8.	Various	Wine Country Drive, Huntlee	B4	SP2 – Classified Road	
9.	504031 513792 508616 508620		RU2	SP2 Railway	
10.	508621 513793 508617	This is land that adjoins the Hunter Expressway and is partially zoned SP2 Classified Road.	RU2	SP2 Classified Road	

Mapping Item #	Parcel ID	Planning Considerations	Zoning		Subject Land
			Current	Proposed	
11.	26713 11309 26715 26714	Branxton Cemetery	R2	SP2 - Cemetery	
12.	26082 26081	Ellalong Cemetery	RU5	SP2 - Cemetery	
13.	24761 507708 24760 507727	Cessnock Cemetery	RU2	SP2 - Cemetery	
14.	507519	Aberdare Cemetery	RU2	SP2 - Cemetery	
15.	507990 504346* 506970* 507991 17267 17265 17264 17263 17262 16986 16987 *May be in private ownership	Greta Cemetery	R2	SP2 Cemetery	

Mapping Item #	Parcel ID	Planning Considerations	Zoning		Subject Land
			Current	Proposed	
16.	507551	Kurri Kurri Cemetery	RU2	SP2 Cemetery	
17.	27408 27409	Millfield Cemetery	RU2	SP2 Cemetery	
18.	14351 507873	Wollombi Cemetery - This site is partially flood affected and has an E2 zoning.	C2/RU2	SP2 Cemetery	
19.	26037 19494 21505 25869	St Phillips School	RU2	SP2 Educational Establishment	
20.	26129	Laguna Public School	RU2 Rural Landscape	SP2 Educational Establishment	
21.	24803 18938	Congewai Public School	RU2 Rural Landscape	SP2 Educational Establishment	

Part 5: Community Consultation

Community consultation will be undertaken in accordance with the Gateway Determination and Council Community Engagement Strategy. Exhibition will occur over a 28 day period, with material available on Council's website and at the Administrative Building and Council Libraries.

Part 6: Project Timeline

	May 2022	Jun 2022	Jul 2022	Aug 2022	Sep 2022	Oct 2022	Nov 2022	Dec 2022
STAGE 1 Submit to DPIE – Gateway Panel consider Planning Proposal								
STAGE 2 Receive Gateway Determination								
STAGE 3 Preparation of documentation for Public Exhibition								
STAGE 3a Council resolutions to exhibit								
STAGE 4 Public Exhibition								
STAGE 5 Review/consideration of submission/s received								
STAGE 6 Report to Council								
STAGE 7 Make amendment or request amendment to be made by DPIE								

Appendix 1: Council Report and Minutes (dates)

To be added once report and resolution are available.

Appendix 2: Comprehensive CLEP Review – Special Purposes Issues Paper

The Special Purposes Issues Paper provides an comprehensive consideration of each issue in this planning proposal. Please note that many of the items discussed in this paper have not been included in this planning proposal for one reason or another.