



PLANNING PROPOSAL

Amendment to the

Cessnock Local Environmental Plan 2011

Special Purposes (Various)

Version 6

2 March 2023

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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:

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: 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 and internal road reserve 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.
- Rezone (Millfield Public School) LOT 2 DP782779 and LOT 7 DP1034925,105 -107 Wollombi Road, MILLFIELD 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 a 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?

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.

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.

Section B: Relationship to Strategic Planning Framework

3 *Consistency with Objectives and Actions within Regional Strategies*

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 Hunter Regional Plan 2041.

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 <i>Section B(3): Relationship to Strategic Planning Framework</i> .
1.3	Approval and Referral Requirements	Consistent. See <i>Section D: State and Commonwealth Interests</i> .
1.4	Site Specific Provisions	Consistent. The purpose of the planning proposal is to 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	Consistent. Map item #18 relates to the Wollombi Cemetery. The cemetery adjoins a contained, isolated waterbody (dam). The cemetery is zoned RU2 Rural Landscape and C2 Environmental Conservation. The C2 zone extends into the cemetery as a buffer to this waterbody. This direction requires that a LEP must not reduce the conservation standards that apply to the land. The cemetery is owned by Council and the Catholic Church. The rezoning from C2 to SP2 – Cemetery will not reduce the conservation standards of the site or the waterbody.
3.2	Heritage Conservation	Consistent. Various lots identified are heritage listed including various cemeteries and the Cessnock Hospital. The proposal does not change the heritage conservation status or heritage item mapping the CLEP. There are no implications for these sites as a result of this amendment.
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	Consistent. Many of the sites are bushfire affected but the proposal does not change the bushfire mapping or change the permissibility of uses in a bushfire affected area. Any future development on the sites will have to address bushfire requirements.
4.4	Remediation of Contaminated Land	Not applicable. The proposal does not relate to contaminated land.
4.5	Acid Sulfate Soils	Not applicable. The proposal does not relate to ASS land.

4.6	Mine Subsidence and Unstable Land	Not applicable. The proposal does not change the permissibility of development on subsidence affected land.
Transport and Infrastructure		
5.1	Integrating Land Use and Transport	Not applicable. 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	Consistent. There is a single proposal on Lot 7309 DP1139379 to amend the CLEP from SP2 to RE1. That proposal makes consistent the zoning on the adjoining land and removes the SP2 Railway designation.
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	Consistent. There are several items that amend the CLEP to apply a SPx zone to existing residential sites. However, these have only been used to make the zoning consistent with the existing and persistent land use on the site (e.g. Branxton Cemetery, Cessnock Hospital) or to assume the dominant zoning on the site (Lot 3 DP1078864). Therefore, it is considered to be of minor significance.
6.2	Caravan Parks and Manufactured Home Estates	Not applicable.
Industry and Employment		
7.1	Business and Industrial Zones	Consistent. There is a single item that proposes to amend the CLEP from an SP2 Railway Zone to B4 Mixed Use zone. This item is to make the lots consistent with the existing commercial use of the site and consistent with the adjoining B4 Mixed Use zone.
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	Consistent. 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. Therefore, it is considered to be of minor significance.

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

The Gateway Determination required Council to consult with the RFS. The RFS responded with the following:

“The New South Wales Rural Fire Service (NSW RFS) has reviewed the proposal with regard to Section 4.4 of the directions issued in accordance with Section 9.1 of the Environmental Planning and Assessment Act 1979.

Based upon an assessment of the information provided, NSW RFS raises no issues to the proposal subject to a requirement that any future development on bush fire prone land complies with Planning for Bush Fire Protection (PBP) 2019.

It is noted that a number of the sites, subject to amendments, relate to Special Fire Protection Purpose (SFPP) developments including schools, hospitals and where cemeteries are involved, buildings for the purpose of gatherings on land mapped as bush fire prone. Any future development within these sites for SFPP will be required to comply with Chapter 6 of PBP 2019 and buildings used for public assembly need to consider the provisions under section 8.3.11 of PBP 2019.”

Transport for NSW






Consultation with TfNSW was not required as a condition of the Gateway Determination. However, TfNSW was notified as the landowner of some of the affected lots which prompted their submission.







TfNSW requested that certain surplus land that was acquired for the construction of the Hunter Expressway to be rezoned from SP2 Infrastructure ‘Classified Road’ to their adjoining zoning. There would also be a requirement to remove the land reservation acquisition layer and include a minimum lot size.






This was not the intent of this planning proposal. Most of the sites identified in the submission can be noted on Council’s anomalies register and dealt with through a future ‘miscellaneous’ planning proposal. However, Lot 507 DP1141525 will require additional consideration and investigation to inform an appropriate zone or combination of zones. This may require its own planning proposal with the appropriate studies to inform a land-use outcome.







TfNSW has been notified of this.

Part 4: Mapping

Mapping Item #	Parcel ID	Lot/DP	Planning Considerations	Zoning		Subject Land
				Current	Proposed	
1.	505113	LOT: 3 DP: 1078864	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	LOT: 7 DP: 13203 LOT: 8 DP: 13203 LOT: 11 DP: 882585 LOT: B DP: 103664 LOT: 2 SEC: 20 DP: 5442 LOT: 1 DP: 254743 LOT: 10 SEC: 20 DP: 5442	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	LOT: 101 DP: 1184645 LOT: 102 DP: 1184645	Split zone on private property.	RU2/SP2 Railway	RU2	 
4.	508937	-	Crossing at Wermol Street is IN2.	IN2	SP2	

Mapping Item #	Parcel ID	Lot/DP	Planning Considerations	Zoning		Subject Land
				Current	Proposed	
5.	507664	LOT: 7309 DP: 1139379	Slither of land outside of infrastructure corridor	RE1/SP2	RE1	
6.	10778/10779	LOT: 2 SEC: D DP: 6814 LOT: 1 SEC: D DP: 6814	Childcare centre	SP2 Railway	B4 Mixed Use	
7.	514973	LOT: 4 DP: 1266107	Split zone	SP2/RU2	RU2	
8.	508621 513793 508617	LOT: 1 DP: 947792 (SP2 Railway) LOT: 606 DP: 1141526 (SP2 – Classified Road) LOT: 605 DP: 1141526 (SP2 – Classified Road)	Wine Country Drive, Huntlee	RU2	SP2 – Classified Road SP2 – Railway	
9.	504031 513792 508616 508620	Lot:1 DP:947792 (Remaining lots do not have a Lot/DP description)		RU2	SP2 Railway	
10.	26713 11309 26715 26714	LOT: 9 SEC: 2 DP: 758153 LOT: 7005 DP: 93471 LOT: 1 SEC: 3 DP: 758153 LOT: 10 SEC: 3 DP: 758153	Branxton Cemetery	R2	SP2 - Cemetery	

Mapping Item #	Parcel ID	Lot/DP	Planning Considerations	Zoning		Subject Land
				Current	Proposed	
11.	26082 26081	LOT: 7006 DP: 93602 LOT: 1 DP: 650540	Ellalong Cemetery	RU5	SP2 - Cemetery	
12.	24761 507708 24760 507727	LOT: 1 DP: 784394 LOT: 2 DP: 784394 LOT: 7302 DP: 1140342 LOT: 7301 DP: 1140342 Including the road reserve within the parcels	Cessnock Cemetery	RU2	SP2 - Cemetery	
13.	507519	LOT: 7305 DP: 1135483	Aberdare Cemetery	RU2	SP2 - Cemetery	
14.	507990 507992 504346 506970 507991 17267 16986 16987 17262 17265 17263 17264	LOT: 7300 DP: 1146320 LOT: 2 DP: 1053666 PT: 2 DP: 1053666 LOT: 1 DP: 1121234 LOT: 7301 DP: 1146320 LOT: 1 DP: 1122415 LOT: 11 SEC: 27 DP: 758474 LOT: 10 SEC: 27 DP: 758474 LOT: 9 SEC: 27 DP: 758474 LOT: 6 SEC: 27 DP: 758474 LOT: 8 SEC: 27 DP: 758474 LOT: 7 SEC: 27 DP: 758474	Greta Cemetery	R2	SP2 Cemetery	
15.	507551	LOT: 7014 DP: 1029148	Kurri Kurri Cemetery	RU2	SP2 Cemetery	

Mapping Item #	Parcel ID	Lot/DP	Planning Considerations	Zoning		Subject Land
				Current	Proposed	
16.	27408 27409	LOT: 7001 DP: 93001 LOT: 7005 DP: 93000	Millfield Cemetery	RU2	SP2 Cemetery	
17.	14351 507873	LOT: 2 DP: 1168190 LOT: 1 DP: 1142814	Wollombi Cemetery - This site is partially flood affected and has an E2 zoning.	C2/RU2	SP2 Cemetery	
18.	26037 19494 21505 25869	LOT: 518 DP: 837571 LOT: 2 DP: 600895 LOT: 1 DP: 126765 LOT: 1 DP: 744377	St Phillips School	RU2	SP2 Educational Establishment	
19.	26129	LOT: 1 DP: 840395	Laguna Public School	RU2 Rural Landscape	SP2 Educational Establishment	
20.	24803 18938	LOT: 1 DP: 122731 LOT: 1 DP: 795298	Congewai Public School	RU2 Rural Landscape	SP2 Educational Establishment	
21.	18304 503392	LOT 2 DP782779 Lot 7 DP1034925	Millfield Public School	RU2 Rural Landscape	SP2 Educational Establishment	

Part 5: Community Consultation

Community consultation was undertaken between 02/02/2023 and 02/03/2023.

The planning proposal was placed on the Council's Have Your Say Page and advertised in the Cessnock Advertiser. Affected landowners were notified of the proposed changes.

No submissions were received.

Part 6: Project Timeline

	May 2022	Oct 2022	Nov 2022	Dec 2022	Jan 2023	Mar 2023	Apr 2023	May 2023
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.

The Council resolution dated 20 April 2023 did not require a further report if no unresolved objections were received during the exhibition period. No submissions were received therefore Council requests that the Department make the necessary amendments to the Cessnock Local Environmental Plan 2011.

General Manager's Unit
Report No.
Planning and Environment



SUBJECT: *PLANNING PROPOSAL 18/2020/3/1 - COMPREHENSIVE LEP REVIEW - SPECIAL PURPOSE ZONES*

RESPONSIBLE OFFICER: *Senior Strategic Planner - Robert Corken*

SUMMARY

The purpose of this report is to provide an overview of the proposed amendments contained in the 'special purposes theme' of the comprehensive *Cessnock Local Environmental Plan 2011* (CLEP) review and seek Council endorsement to forward the Planning Proposal to the NSW Department of Planning and Environment (DPE) for gateway determination.

RECOMMENDATION

1. That Council requests a gateway determination for the Special Purposes Planning Proposal from the NSW Department of Planning and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.
2. That Council requests authorisation under Section 3.31 of the *Environmental Planning and Assessment Act 1979* to act as the local plan-making authority to make the Local Environmental Plan.
3. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination.
4. That Council receives a report back on the Planning Proposal if unresolved written objections are received during consultation with the community, otherwise, forwards the Planning Proposal to the Department of Planning, Industry and Environment requesting that the Plan be made.

BACKGROUND

The CLEP 2011 is Council's primary planning instrument and came into force on 23 December 2011. The LEP 2011 contains provisions that manage development on land in the Cessnock Local Government Area. At the time, the CLEP was a conversion of the former LEP into the new standard format. The instrument has not been comprehensively reviewed.

Council's Strategic Planning Team is carrying out 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 Regional and District Strategies; and
- addresses the outcomes of endorsed local strategies, such as the Cessnock 2027 Community Strategic Plan (CSP), Local Strategic Planning Statement (LSPS) 2036, Urban Growth Management Plan and Housing Strategy.

Council has also made a commitment to simplify its local regulatory system as much as possible.

General Manager's Unit

Report No.

Planning and Environment



Due to the complexity of the project, the comprehensive LEP review is planned to be progressed in seven themes, as follows:

- employment land;
- environmental land;
- residential land;
- recreation land;
- rural land;
- special purposes; and
- miscellaneous matters

Each theme will be subject to a separate planning proposal, which will examine and make recommendations regarding amendments to relevant zone objectives, permissible land uses, clauses and land-use mapping. Relevant sections of the Cessnock Development Control Plan (DCP) 2010 will also be amended concurrently, where possible.

REPORT/PROPOSAL

This report, the attached issuespaper and planning proposal relate to the 'special purposes' theme of the comprehensive LEP 2011 review. There are three special purpose zones in the CLEP. These are:

1. SP1 Special Activities (currently not used in the CLEP)
2. SP2 Infrastructure
3. SP3 Tourist (used only at the Vintage and the Pokolbin Integrated Tourist Development (former Golden Bear)).

The Planning Proposal recommends various amendments to the zones, the land use tables, two local clauses, 1 additional permitted use and the LEP 2011 maps.

The Vintage and the Pokolbin Integrated Tourist Development

The most significant amendment relates to the revised regulatory framework for 'the Vintage' and 'Pokolbin Integrated Tourist Development'. However, the proposed changes are largely administrative and will have no impact on the existing uses at the Vintage.

At present, both of these developments are zoned SP3 Tourist. Both developments are unique in that they provide a combination of both permanent residential and tourist-related uses. The planning proposal replaces the SP3 Tourist zone over these two sites with the SP1 Special Activities zone. This zone is better suited for unique developments such as these and it will free up the SP3 Tourist zone for use elsewhere. The following additional objective will be added to the SP1 Special Activities zone acknowledging its application over these integrated tourist developments:

"To define limited areas for developments that integrate both tourism and permanent residential areas."

Schedule 1 - Additional permitted uses (APUs) allow prohibited uses to the permitted on a specific site in rare exceptions. APU(9) allows certain additional uses on the Vintage site. These uses are also considered appropriate for the Pokolbin Integrated Tourist Development site. Therefore, the planning proposal adds these uses to the SP1 Special Activities zone and deletes APU(9).

There are two definitions for 'integrated tourist development' in the CLEP. One consolidated definition is proposed to be inserted into the Dictionary section of the CLEP.

General Manager's Unit

Report No.

Planning and Environment



"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."

Serviced apartments

Tourist and visitor accommodation (including serviced apartments) are permitted with consent at the Vintage and the Pokolbin Integrated Tourist Development. Council does not currently have controls to assess this type of development. As serviced apartments are commonly constructed as apartments or residential flat buildings, the regulations allow Council to assess these developments against the State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development) and State Government's Apartment Design Guide. To achieve this, an additional local clause in the LEP is required.

This clause will be drafted by Parliamentary Counsel.

Proposed LEP 2011 Land Use Table Amendments

There is a single amendment to the land use tables; that is to remove 'group homes' from the SP2 Infrastructure zone. This is not mandated and is an unusual inclusion.

Cemeteries

Cemeteries assume the adjoining zone. However, they are more appropriately recognised as infrastructure. Therefore, this planning proposal proposes to zone all operational cemeteries SP2 Infrastructure (Cemeteries). Historic cemeteries, will retain the existing zone.

It is not necessary for cemeteries to be rezoned to SP2 Infrastructure; however many are zoned RU2 Rural Landscape. The use of the RU2 Rural Landscape as a default zone is inappropriate and undermines the value and objectives of this zone.

Educational Establishments (Schools)

Schools generally assume the adjoining zone. In an urban setting this is appropriate; however in a rural setting it is inconsistent with the objectives of the RU2 Rural Landscape zone. Therefore, three schools are proposed to be rezoned to SP2 Infrastructure (Educational Establishment). These are:

- Congewai Primary School
- St Phillips School
- Laguna Primary School

The Kurri TAFE site has not been included in this exercise. This is because there is a significant area of the site that is vegetated and this vegetated area will probably be rezoned for conservation purposes as part of the conservation planning proposal.

Proposed LEP 2011 Map Amendments

The remaining items in this planning proposal are amendments to the mapping. Please refer to the attached Issues paper for a comprehensive list of sites. The maps were systematically reviewed to identify various errors or anomalies that need correction. Most of these are administrative and minor such as changes to labelling and mismatch between cadastral boundaries and the zones.

General Manager's Unit

Report No.

Planning and Environment



Historic railways

There are many disused, historic railways that are zoned SP2 Infrastructure (Railway). These serve no infrastructure purpose and where they have heritage value, they are represented on the LEP heritage layer. The intention is to remove the SP2 zone over these railways; however many exist in environmental and rural contexts. For many of these areas, it is likely that they will be rezoned for conservation purposes as part of the conservation/environmental lands theme. Therefore, these have been omitted from this planning proposal.

OPTIONS

CONSULTATION

To ensure the range of issues relevant to Special Purposes zoned land in the LGA were identified and considered in the Planning Proposal, an issues paper was prepared and circulated to relevant internal stakeholders for review and feedback. Relevant internal stakeholders consulted in relation to the issues paper included Council's Open Space and Recreation Team, Community Planning Team, and Development Services Team.

Formal public consultation regarding the Planning Proposal will be carried out in accordance with Gateway determination and Community Participation Plan should Council resolve to endorse the recommendation of this report. Targeted consultation will be undertaken with the owners of private recreation facilities, such as golf courses, included in the Planning Proposal.

STRATEGIC LINKS

a. Delivery Program

The Planning Proposal is consistent with the following themes and objectives of the Cessnock 2027 Community Strategic Plan (CSP):

- Objective 3.1 – Protecting and enhancing the natural environment and rural character of the area
- Objective 3.2 – Better utilisation of existing open space
- Objective 5.2 – involving more community participation in decision making

b. Other Plans

Cessnock Local Strategic Planning Statement 2036

The Cessnock Local Strategic Planning Statement 2036 (LSPS) sets out the 20-year vision for land use in the local area. The LSPS acknowledges the need to comprehensively review Council's local regulatory framework including the CLEP. This planning proposal is consistent with that objective.

IMPLICATIONS

a. Policy and Procedural Implications

The status of the Planning Proposal is identified in the following process flow chart.

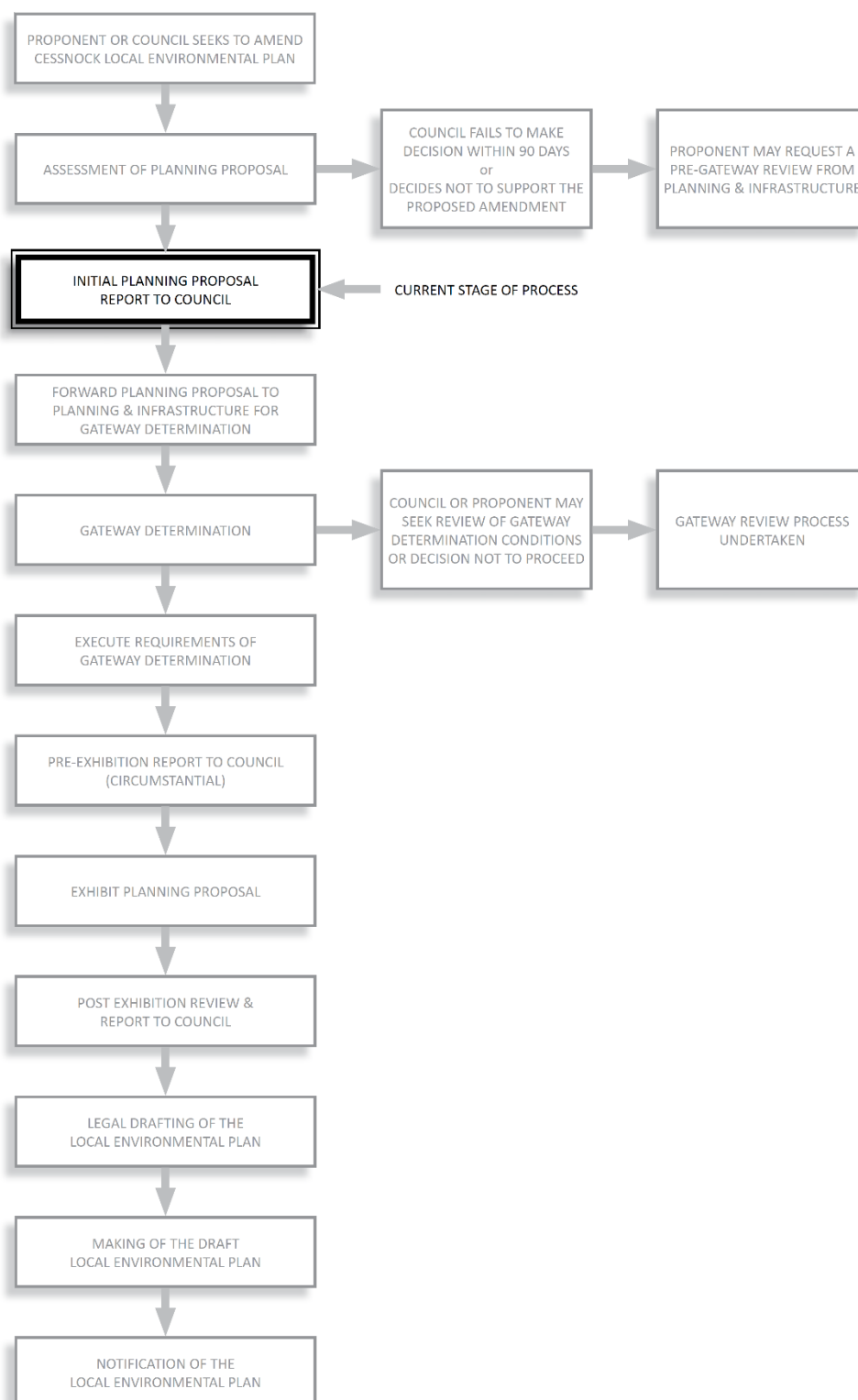
General Manager's Unit

Report No.

Planning and Environment



PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN

**b. Financial Implications**

The cost of the Planning Proposal will be funded from Council's Strategic Land Use Planning budget. This is because the Planning Proposal has been initiated by Council and is related to the broader comprehensive LEP review.

General Manager's Unit

Report No.

Planning and Environment



c. Legislative Implications

The Planning Proposal has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the Department of Planning and Environment's Guide to Preparing a Planning Proposal.

d. Risk Implications

The proposed changes will remove potential problems and / or delays for planned or possible future development.

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

This report and the associated planning proposal relate to the special purposes theme of the comprehensive LEP 2011 review. It is recommended that forward the Planning Proposal to the NSW Department of Planning and Environment (DPIE) for Gateway determination.

ENCLOSURES

There are no enclosures for this report.

PLANNING AND ENVIRONMENT NO. PE26/2022

**SUBJECT: PLANNING PROPOSAL 18/2020/3/1 - COMPREHENSIVE LEP
REVIEW - SPECIAL PURPOSE ZONES**

Councillor Jurd left the meeting, the time being 7.30pm

MOTION **Moved:** Councillor Burke **Seconded:** Councillor Grine
77

RESOLVED

1. That Council requests a gateway determination for the Special Purposes Planning Proposal from the NSW Department of Planning and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.
2. That Council requests authorisation under Section 3.31 of the *Environmental Planning and Assessment Act 1979* to act as the local plan-making authority to make the Local Environmental Plan.
3. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination.
4. That Council receives a report back on the Planning Proposal and draft local planning framework, following public exhibition.

FOR

AGAINST

Councillor Suvaal
Councillor Moores
Councillor Burke
Councillor Grine
Councillor Sander
Councillor Hill
Councillor Hawkins
Councillor Watton
Total (8)

Total (0)

CARRIED UNANIMOUSLY

Appendix 2: Comprehensive CLEP Review – Special Purposes Issues Paper

The Special Purposes Issues Paper provides a 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.

The change to the regulatory framework for the Vintage and the Pokolbin Integrated Tourist Development is considered in another planning proposal.

CESSNOCK LOCAL ENVIRONMENTAL PLAN AND DEVELOPMENT CONTROL PLAN COMPREHENSIVE REVIEW

INTRODUCTION	2
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Issues paper – Special purpose zones

INTRODUCTION

Council is currently undertaking a comprehensive review of the Cessnock Local Environmental Plan 2011 (CLEP 2011) and Cessnock Development Control Plan 2010 (CDCP 2011). This is the first comprehensive review of these documents. The bulk of the review will occur in 6 themes:

1. Environment
2. Recreation
3. Residential lands
4. Employment
5. Special purposes
6. Rural

This paper examines the use of the SPx Special Purpose zones. There are 3 special purpose zones available to Council in the Standard Instrument (Local Environmental Plan) Order 2006 (SILEP).

1. SP1 Special Activities
2. SP2 Infrastructure
3. SP3 Tourist

Council employs the SP2 Infrastructure and the SP3 Tourist zones in the CLEP 2011. There is no current application of the SP1 Special Activities zone in the CLEP 2011.

SPX ZONES

SP1 Special Activities

Land-use zone objectives set out the overarching intent for development within each zone and provide guidance regarding forms of development that are appropriate and compatible with the intent of the zone. The SILEP lists mandated objectives for each zone; however, additional local objectives may be included if, in Council's opinion, the mandated objectives do not satisfactorily address the local intent of the zone.

The objectives of the SP1 zone are:

- To provide for special land uses that are not provided for in other zones (mandated).
- To provide for sites with special natural characteristics that are not provided for in other zones (mandated).
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land (mandated).

The only mandated land use is *aquaculture*. All remaining 'permitted with consent' uses are defined by "*The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose*".

SP2 Infrastructure

The mandated objectives for the SP2 Infrastructure zone are:

- To provide for infrastructure and related uses (mandated).
- To prevent development that is not compatible with or that may detract from the provision of infrastructure (mandated).

The following are additional local objectives for the SP2 Infrastructure zone:

- NIL

The SP2 infrastructure zone is for the purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose. Across the LGA, the SP2 Infrastructure Zone is applied to:

- classified roads
- air transport facility
- aged care facility (this should be renamed to residential care facility consistent with the SILEP definition)
- emergency services facility
- correctional centre
- railway

The only mandated permitted uses are *aquaculture* and *roads*. All remaining permitted with consent uses are defined by “*The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose*”.

Council has included *group homes*, as permitted with consent. This is not a mandated use and inconsistent with the application of the SP2 zone. Therefore, it is recommended to remove this.

No amendments are proposed for the objectives of the SP2 zone. There are some infrastructure that should be included for example: Active cemeteries. This is discussed elsewhere in this paper.

SP3 Tourist

Objectives

The SP3 Tourist zone has been exclusively applied to the Vintage and Golden Bear Integrated Tourist Developments. *Integrated tourist development* is not a SILEP definition and there are two definitions for integrated tourist development in the CLEP 2011:

1. Vintage – ‘integrated tourist development’ means *development that is predominantly tourist and visitor accommodation and tourist facilities in combination with other uses permissible on the land.*
2. Golden Bear – ‘integrated tourist development’ means *development carried out on a single parcel of land for the purposes of major tourist facilities that include an 18-hole golf course.*

The mandated objectives for the SP3 Tourist zone are:

- To provide for a variety of tourist-oriented development and related uses.

The following are additional local objectives for the SP3 Tourist zone:

- To allow for integrated tourist development.

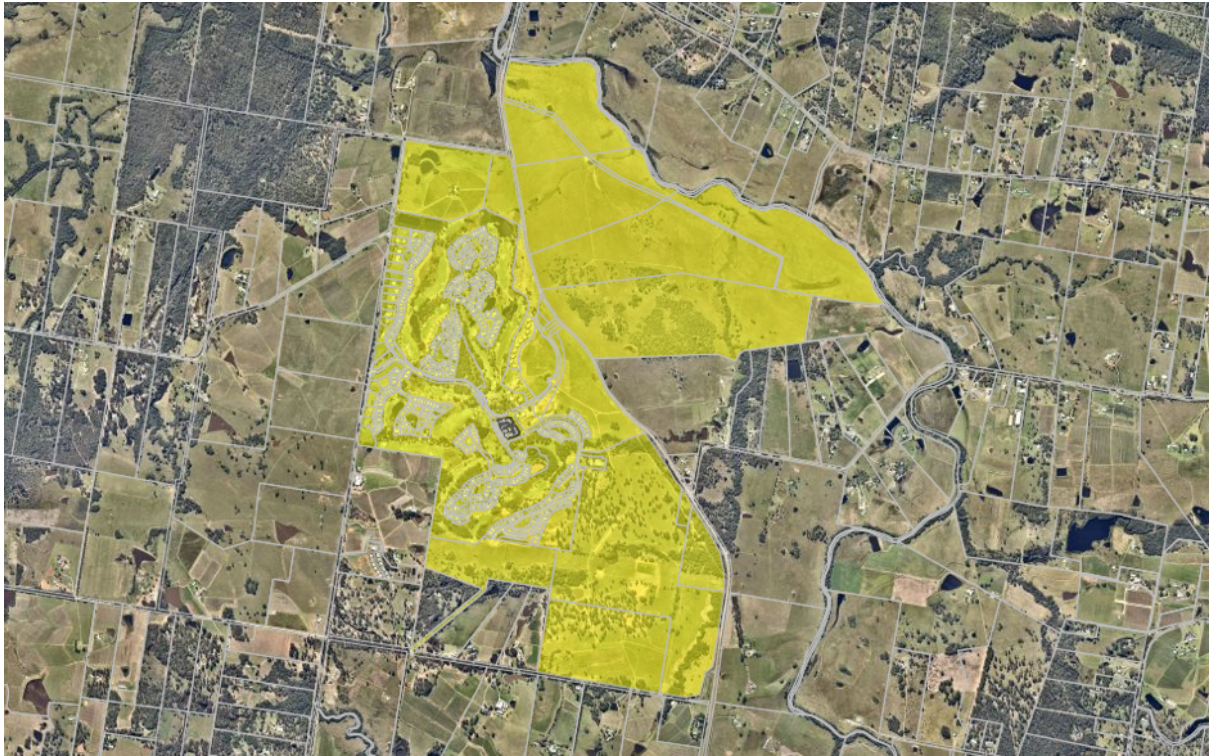


Figure 1: Vintage and Golden Bear Developments.

Land-uses

The land-use table for the SP3 Tourist zone in the CLEP is:

Mandated

- Aquaculture
- Food and drink premises
- Tourist and visitor accommodation

Currently Permitted

- Attached dwellings
- Building identification signs
- Business identification signs
- Cellar door premises
- Centre-based childcare facilities
- Dwelling houses
- Entertainment facilities
- Environmental protection works
- Exhibition homes
- Flood mitigation works
- Function centres
- Home businesses
- Home industries
- Home occupations
- Horticulture
- Information and education facilities
- Kiosks
- Markets
- Neighbourhood shops
- Recreation facilities (indoor)
- Recreation facilities (outdoor)
- Registered clubs
- Respite day care centres
- Roads
- Semi-detached dwelling

Currently prohibited

- Any development not otherwise specified

- Sewerage treatment plans
- Viticulture
- Water recycling facilities
- Water reticulation systems
- Water storage systems
- Water treatment facilities

Local clauses

There is a local clause for each site. The local clauses provide greater detail about what is permitted at each site.

Golden Bear

7.11 Integrated tourist development at Wine Country Drive, Pokolbin

- (1) *This clause applies to land at Wine Country Drive, Pokolbin, being Lots 2–4, DP 869651 and Lot 11, DP 1187663.*
- (2) *Development consent must not be granted to any development on land to which this clause applies unless—*
 - (a) *the consent authority is satisfied that the development is integrated tourist development, and*
 - (b) *the total number of permanent residential dwellings on that land does not exceed 300, and*
 - (c) *the total number of serviced apartments and hotel or motel accommodation units used for the purposes of tourist and visitor accommodation on that land does not exceed 300, and*
 - (d) *the total number of permanent residential dwellings does not exceed the total number of serviced apartments and hotel or motel accommodation units on that land used for the purposes of tourist and visitor accommodation at any time.*
- (3) *In this clause ‘integrated tourist development’ means development carried out on a single parcel of land for the purposes of major tourist facilities that include an 18-hole golf course.*

The Vintage

7.11A Integrated tourist development at Wine Country Drive, Palmers Lane and McDonalds Road, Rothbury

- (4) *This clause applies to the following land—*
 - a) *Lot 2411, DP 1060722, McDonalds Road, Rothbury,*
 - b) *Lot D, DP 182933, Palmers Lane, Rothbury,*
 - c) *Lot 106, DP 1038043, Lots 1–48 and 50–103, DP 270293, Lots 1–23 and 25–30, DP 270292, Lots 1–38 and 40–48, DP 270295, Lots 1–44 and 46–60, DP 270343, Lots 1–39, 42–67 and 69–86, DP 270372, Lots 1–10, DP 270384, Lots 1–3, DP 270340, Lots 1–11, DP 270479, SP 76654, Lots 1–24, DP 270459, Lots 1–4, DP 270636, Lots 1–17, DP 270688, Lots 1–10, DP 270721, Lots 1–38, DP 270929, Lots 1601, 1603 and 1605, DP 1142579, Lots 1503, 1504 and 1506, DP 1110274, Lot 2151, DP 1185744, Lot 12, DP 1187633, Lot 2202, DP 1167247, Lot 12, DP 1187663, Lots 1901–1904, DP 1202101 and Lots 21–23, DP 1044459, Wine Country Drive, Rothbury.*
- (5) *Development consent must not be granted to any development on land to which this clause applies unless—*
 - a) *the consent authority is satisfied that the development is integrated tourist development, and*
 - b) *the total number of dwellings on the land does not exceed 1,022, and*

- c) *the total number of serviced apartments and hotel or motel accommodation units used for the purposes of tourist and visitor accommodation on that land does not exceed 995, and*
- d) *the total number of residential lots or dwellings does not exceed 822 until at least 344 serviced apartments and hotel or motel accommodation units on the land have been issued with occupation certificates, and*
- e) *the total gross floor area of shops on the land, not including neighbourhood shops, will not exceed 1,000 square metres.*

Schedule 1 – Additional Permitted Uses (APU)

Two additional permitted use provisions apply to the Vintage site – one provides a list of additional permissibilities and the other to allow residential flat buildings. Typically, APUs provide a means of permitting development on the land that is not zoned for that purpose.

[APU] 9 Use of certain land at Wine Country Drive, Palmers Lane and McDonalds Road, Rothbury

- (1) *This clause applies to the following land—*
 - a) *Lot 2411, DP 1060722, McDonalds Road, Rothbury.*
 - b) *Lot D, DP 182933, Palmers Lane, Rothbury,*
 - c) *Lot 106, DP 1038043, Lots 1–48 and 50–103, DP 270293, Lots 1–23 and 25–30, DP 270292, Lots 1–38 and 40–48, DP 270295, Lots 1–44 and 46–60, DP 270343, Lots 1–39, 42–67 and 69–86, DP 270372, Lots 1–10, DP 270384, Lots 1–3, DP 270340, Lots 1–11, DP 270479, SP 76654, Lots 1–24, DP 270459, Lots 1–4, DP 270636, Lots 1–17, DP 270688, Lots 1–10, DP 270721, Lots 1–38, DP 270929, Lots 1601, 1603 and 1605, DP 1142579, Lots 1503, 1504 and 1506, DP 1110274, Lot 2151, DP 1185744, Lot 12, DP 1187633, Lot 2202, DP 1167247, Lot 12, DP 1187663, Lots 1901–1904, DP 1202101 and Lots 21–23, DP 1044459, Wine Country Drive, Rothbury.*
- (2) *Development for the following purposes is permitted with development consent—*
 - a) *dual occupancies,*
 - b) *exhibition villages,*
 - c) *health services facilities,*
 - d) *multi dwelling housing,*
 - e) *places of public worship,*
 - f) *shops.*

[APU] 12 Use of certain land at Wine Country Drive and Claret Ash Drive, Pokolbin

- (1) *This clause applies to the following land identified on the Additional Permitted Uses Map—*
 - a) *Lot 1503, DP 1110274, 1 Claret Ash Drive, Pokolbin,*
 - b) *part of Lot 1601, DP 1142579 and part of Lot 2202, DP 1167247, 963 Wine Country Drive, Pokolbin.*
- (2) *Development for the purposes of residential flat buildings with a maximum height of 14 metres is permitted with development consent.*

Issues

There are several related issues with the application of the SPx zones, the application of local clauses and the use of Schedule 1 – Additional Permitted Uses.

Issue 1: SP3 Tourist – appropriateness/need of using SP3 Tourist zone for ‘integrated tourist developments’	
Issue Summary	<p>Both, the Vintage and Golden Bear developments are unique developments that include both tourist accommodation uses and permanent residential uses. In addition to the inclusion of the sites in the SP3 zone, there is a local clause (7.11&7.11A) for each and the Vintage has two Schedule 1 APUs.</p> <p>Arguably, this level of complexity is not necessary or desirable.</p> <p>The SP3 Tourist zone contains a list of permissible (with consent) land uses, some of which are inconsistent with the local clauses and the APU. For example, the local clause for Golden Bear limits the development to residential uses, tourist accommodation and a golf course but the land-use table for SP3 includes a list of other uses.</p> <p>The Vintage local clause describes the residential and tourist uses and limits the area of neighbourhood shops but then the land use table for SP3 applies and in addition the APU includes another list of permissible uses and a further APU includes Residential Flat Buildings.</p> <p>The final point is that council is investigating the nomination of an area around the emerging Pokolbin Village Centre as a tourist centre and to concentrate tourist accommodation and facilities in that area. The application of the SP3 zone over that area is an option that is being explored.</p>
Consideration	<p>In the interest of regulatory simplicity a number of options are available to regulate the Vintage and Golden Bear developments.</p> <ol style="list-style-type: none"> 1. Return area to RU4 Primary Production Small Lots and rely on the Schedule 1 and/or the local clauses to regulate development on the sites. 2. Integrate the local clause/s or the APU and remove one or the other 3. Change the SP3 zone for the two sites to SP1 Special Activities zone and nominate on the land zoning map a reference to the APU and/or the local clause.
Recommendation	<ol style="list-style-type: none"> 1. Adopt the SP1 Special Activities zone and integrate the local clauses and APU's for the Golden Bear and the Vintage sites. 2. Revise the permissibilities and objectives of the SP3 zone for potential use in the Pokolbin Village Centre.

Issue 2: Use of both the Local Clause and the Additional Permitted Use	
Issue Summary	<p>Both, the Vintage and Golden Bear developments have local clauses that define the use of the site but the Vintage also has two additional permitted uses that further regulate development. Using both mechanisms is confusing, unnecessary and complex.</p>

Issue 2: Use of both the Local Clause and the Additional Permitted Use	
Consideration	<p>There are three options.</p> <ol style="list-style-type: none"> 1. Maintain the status-quo. 2. To omit the additional permitted uses and integrate the APUs for the Vintage into the local clauses. 3. Remove the local clauses and integrate in to the APU. <p>The purpose of APUs is to provide permissibility of a land use on a site where the permissibility isn't established by the land-use table or other mechanism. This appears to be the most appropriate option for the Vintage and Golden Bear sites.</p>
Recommendation	Remove clauses 7.11 and 7.11A of the CLEP and replace with a combination of SP1 land-use permissibilities and APUs.

Issue 3: Two different definitions of 'integrated tourism development'	
Issue Summary	<p>Both, the Vintage and Golden Bear developments local clauses provide a definition of 'integrated tourism development'. These definitions are not in the standard LEP dictionary and they are inconsistent in the CLEP.</p> <p>Clause 7.11 (Golden Bear) - integrated tourist development means development carried out on a single parcel of land for the purposes of major tourist facilities that include an 18-hole golf course.</p> <p>Clause 7.11 (Vintage) - integrated tourist development means development that is predominantly tourist and visitor accommodation and tourist facilities in combination with other uses permissible on the land.</p>
Consideration	These are consecutive clauses in the LEP that apply to adjoining sites. It is inappropriate to have two definitions for the same item. The two sites have similarities but they are clearly different. The definition should either be consolidated into a single definition, or omitted.
Recommendation	<p>Delete the sub-definition of 'integrated tourist development' and integrate a description of the intended purpose in the local clause or the APU. Add Golden Bear to Schedule 1 APU.</p> <p>"Integrated tourist development" is a development than contains a mix of both permanent residential dwellings and tourist and visitor accommodation with additional tourist oriented land uses such as golf courses.</p>

Issue 4: Recording, tracking and reporting on development thresholds	
Issue Summary	Both the Vintage and Golden Bear local clauses contain thresholds for residential and tourist development; however there is no formal register that is maintained that records this.
Consideration	<p><u>Golden Bear</u></p> <p>...</p> <p>(2) Development consent must not be granted to any development on land to which this clause applies unless—....</p> <p>(b) the total number of permanent residential dwellings on that land does not exceed 300, and</p>

Issue 4: Recording, tracking and reporting on development thresholds	
	<p>(c) the total number of serviced apartments and hotel or motel accommodation units used for the purposes of tourist and visitor accommodation on that land does not exceed 300, and</p> <p>(d) the total number of permanent residential dwellings does not exceed the total number of serviced apartments and hotel or motel accommodation units on that land used for the purposes of tourist and visitor accommodation at any time.</p> <p><u>The Vintage</u></p> <p>...</p> <p>(2) Development consent must not be granted to any development on land to which this clause applies unless—</p> <p>(b) the total number of dwellings on the land does not exceed 1,022, and</p> <p>(c) the total number of serviced apartments and hotel or motel accommodation units used for the purposes of tourist and visitor accommodation on that land does not exceed 995, and</p> <p>(d) the total number of residential lots or dwellings does not exceed 822 until at least 344 serviced apartments and hotel or motel accommodation units on the land have been issued with occupation certificates, and</p> <p>(e) the total gross floor area of shops on the land, not including neighbourhood shops, will not exceed 1,000 square metres.</p>
Recommendation	A development register is established, maintained and monitored to ensure that the development thresholds meet the requirements of the local clauses.

Proposed regulatory framework for the Vintage and Golden Bear

The combination of the above recommendations would result in the following regulatory framework for the Vintage and Golden Bear developments.

LEP land-use zone

Adopt the SP1 Special Activities zone for the Golden Bear and Vintage sites.

SP1 Special Activities

1 Objectives of zone

- *To provide for special land uses that are not provided for in other zones. (mandated)*
- *To provide for sites with special natural characteristics that are not provided for in other zones. (mandated)*
- *To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land. (mandated)*
- *To define limited areas for developments that integrate both tourism and permanent residential areas. (Additional)*

2 Permitted without consent

Roads

3 Permitted with consent

Aquaculture; Attached dwellings; Building identification signs; Business identification signs; Cellar door premises; Centre-based child care facilities; Dual occupancies; Dwelling houses; Entertainment facilities; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Food and drink premises; Function centres; Health services facilities; Home businesses; Home industries; Home occupations; Horticulture; Information and education facilities; Kiosks; Markets; Multi dwelling housing; Neighbourhood shops; Places of Public Worship; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Roads; Semi-detached dwellings; Sewage treatment plants; Shops; Tourist and visitor accommodation; Viticulture; Water recycling facilities; Water reticulation systems; Water storage facilities; Water treatment facilities; The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; The purpose described in Schedule 1 including any development that is ordinarily incidental or ancillary to development for that purpose.

4 Prohibited

Any other uses.

LEP maps



Figure 2: Proposed LEP LZN map.

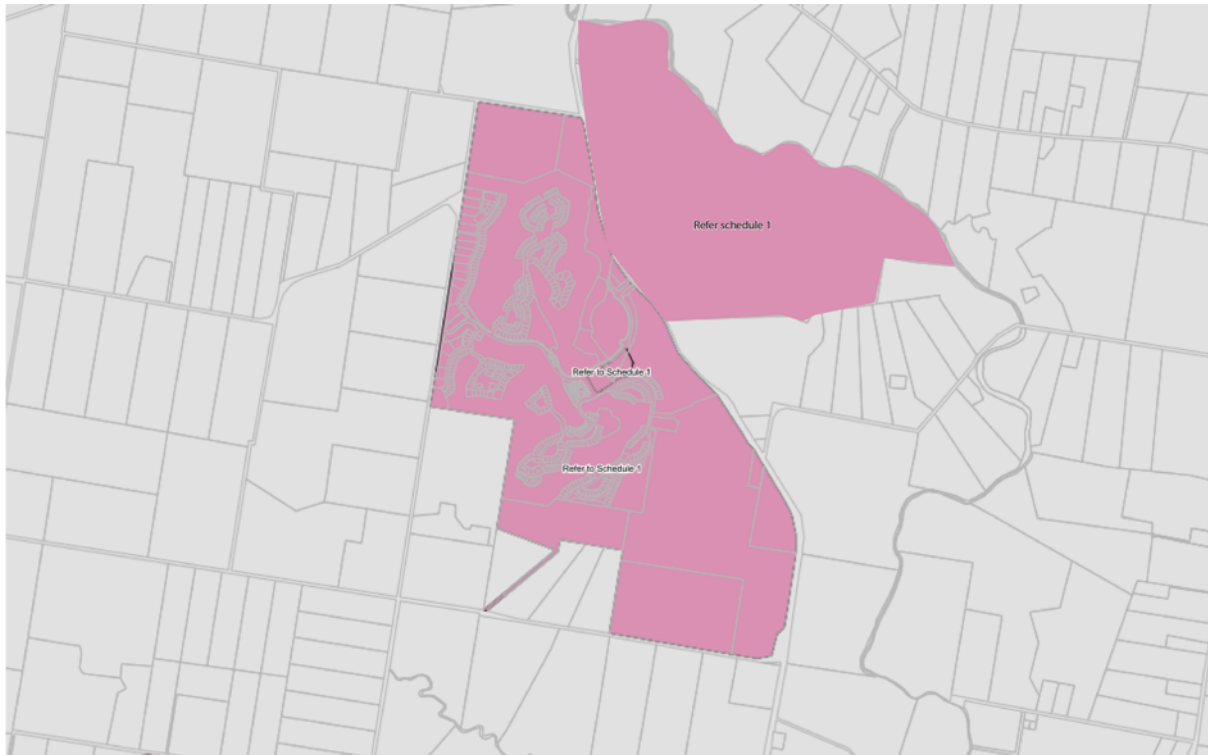


Figure 3: Proposal LEP APU map.

Local Clauses

Clause 7.11 - deleted

Clause 7.11A – deleted

Schedule 1 – Additional Permitted UsesNew APU – Golden Bear

[9] Use of certain land at at Wine Country Drive, Pokolbin, being Lots 2–4, DP 869651 and Lot 11, DP 1187663.

(1) This clause applies to land being Lots 2–4, DP 869651 and Lot 11, DP 1187663 at Wine Country Road, Pokolbin, known as Golden Bear and identified on the Additional Permitted Uses Map and Land Zoning Map.

(2) Development for the purposes of an integrated tourist development comprising of:

- a) An 18-hole golf course; and*
- b) a maximum total number of 300 permanent residential dwellings on the land, and*
- c) a maximum total number of 300 serviced apartments and hotel or motel accommodation units used for the purposes of tourist and visitor accommodation on that land, is permitted with development consent; and*
- d) the total number of permanent residential dwellings does not exceed the total number of serviced apartments and hotel or motel accommodation units on that land used for the purposes of tourist and visitor accommodation at any time.*

Revised APU – The Vintage

(1) This clause applies to the following land—

- a) Lot 2411, DP 1060722, McDonalds Road, Rothbury.*
- b) Lot D, DP 182933, Palmers Lane, Rothbury,*
- c) Lot 106, DP 1038043, Lots 1–48 and 50–103, DP 270293, Lots 1–23 and 25–30, DP 270292, Lots 1–38 and 40–48, DP 270295, Lots 1–44 and 46–60, DP 270343, Lots 1–39, 42–67 and 69–86, DP 270372, Lots 1–10, DP 270384, Lots 1–3, DP 270340, Lots 1–11, DP 270479, SP 76654, Lots 1–24, DP 270459, Lots 1–4, DP 270636, Lots 1–17, DP 270688, Lots 1–10, DP 270721, Lots 1–38, DP 270929, Lots 1601, 1603 and 1605, DP 1142579, Lots 1503, 1504 and 1506, DP 1110274, Lot 2151, DP 1185744, Lot 12, DP 1187633, Lot 2202, DP 1167247, Lot 12, DP 1187663, Lots 1901–1904, DP 1202101 and Lots 21–23, DP 1044459, Wine Country Drive, Rothbury, and known as The Vintage and identified on the Additional Permitted Uses Map and Land Zoning Map*

(2) Development for the purposes of an integrated tourist development comprising of:

- a) A maximum total number of 1022 dwellings, and*
- b) the maximum total number of 995 serviced apartments and hotel or motel accommodation units used for the purposes of tourist and visitor accommodation, and*

- c) the total number of residential lots or dwellings does not exceed 822 until at least 344 serviced apartments and hotel or motel accommodation units on the land have been issued with occupation certificates, and*
- d) the total gross floor area of shops on the land, not including neighbourhood shops, will not exceed 1,000 square metres.*

ADDITIONAL ISSUES

Issue 5: Application of the SP3 Tourist zone to Pokolbin Village Centre	
Issue Summary	Council is currently undertaking a comprehensive review of the planning framework across the Vineyards District. One of the considerations is the concentration of large scale tourist and visitor accommodation and other related activities in the Pokolbin Village Centre.
Consideration	<p>One option is to retain the RU4 Primary Production Small Lots and defer to precinct character statements to inform the appropriateness of development in that area. An alternative approach is to rezone the area an appropriate zone such as SP3 Tourist.</p> <p>If the Vintage and Golden Bear are rezoned to SP1 Special Activities and regulated through Schedule 1 amendments, then the SP3 Tourist zone is freed up for application in the Pokolbin Village Precinct.</p>
Recommendation	To apply the SP3 Tourist zone to the Pokolbin Village Centre and nominate uses appropriate for the zone.

Issue 6: Existing LEP Clauses	Recommendation
4.1 Minimum lot sizes	No minimum lots sizes currently apply to SPx zones. This is not expected to change.
4.1AA Minimum subdivision lot size for community title schemes	No minimum lots sizes currently apply to SPx zones. This is not expected to change. Remove reference to SP3 from clause 4.1AA of the CLEP.
4.3 Height of buildings	<p>HOB/FSR controls do not currently apply to SPx zones.</p> <p>At present, the Vintage has detailed design controls in the DCP and the Architectural and Landscaping Guidelines. These provide adequate design guidance for these developments. The APU for RFB's limits the height in that location to 14.0m.</p> <p>There may be merit in considering introducing HOB controls for certain SPx zones or incidences i.e. Airport, Golden Bear, Pokolbin Village Centre. However, this will need to be supported by design studies as part of a future project for these sites.</p>
4.4 Floor space ratio	
5.1 Relevant acquisition authority	There are SP2 Infrastructure zoned sites that are identified for acquisition
5.21 Flood planning	There is significant flooding on the Golden Bear site and some flooding of the Vintage site. Any development on either site will be required to address this clause.
Part 6 Urban Release Areas	Golden Bear and part of the Vintage are nominated as URAs, therefore this part applies.
7.4 Airspace operations	The airport is an SP2 Infrastructure zone.
7.5 Development in areas subject to airport noise	
7.11 Integrated tourist development at Wine Country Drive, Pokolbin	Discussed above. The recommendation is to remove this and defer to the Schedule 1 APU.

Issue 6: Existing LEP Clauses	Recommendation
7.11A Integrated tourist development at Wine Country Drive, Palmers Lane and McDonalds Road, Rothbury	Discussed above. The recommendation is to remove this and defer to the Schedule 1 APU.

CESSNOCK DEVELOPMENT CONTROL PLAN 2011

The CDCP 2011 also contain provisions that are relevant to the application of the SPx zones.

Issue 7: DCP Design Requirements – Chapter E2 The Vintage	
Issue Summary	The Vintage DCP is has recently been reviewed and a new version adopted.
Consideration	The DCP may require a further administrative review to ensure any reference to the land use zone reflects the decision about the use of the ongoing application of the SP3 zone.
Recommendation	To note.

Issue 8: DCP Design Requirements – Golden Bear	
Issue Summary	Golden Bear is an Urban Release Area and will require a DCP before proceeding.
Consideration	To note.
Recommendation	To note.

Issue 9: DCP Design Requirements – Cessnock Airport	
Issue Summary	The Cessnock Airport DCP has recently been revised and adopted. The performance of this DCP should be monitored.
Consideration	To note.
Recommendation	To note.

LOCAL STRATEGIES



Cessnock City Council Documents/Strategies		
Council Document	Action/issue to be addressed in theme	Recommendation
Airport Master Plan	<p>The Airport Master Plan includes an action (2.2.3) to <i>“Review land-use approval pathways (exempt and/or complying development) to improve approval processing”</i>.</p> <p>The option to provide an exempt development pathway under clause 3.1 of the CLEP 2011 is not considered appropriate. There should be some level of oversight for this highly sensitive site and an important gateway in the Vineyards District.</p> <p>The option to provide a complying development pathway under clause 3.2 of the Cessnock LEP with development standards regulating the outcome is possible but it is a significant amount of work to achieve this amendment for so few developments.</p> <p>Council has recently adopted a revised DCP chapter for the Cessnock Airport. The development provisions for development at the airport for hangars and equivalent development is clear and should support more efficient processing of applications for these uses.</p>	<p>This has been discussed with the Airport Manager and a Development Assessment Team representative. They have agreed that the revised DCP may satisfy this action of the Master Plan.</p>




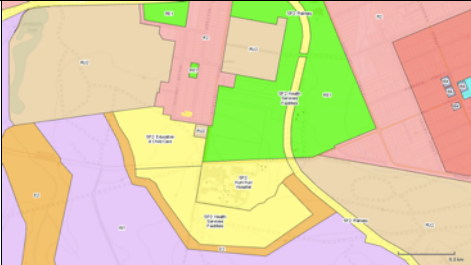
LEP MAP SHEET ANOMALIES







There are a number of site specific issues with the application of the SPx zones across Cessnock.







There are a couple of additional issues that apply to the wider application of the SPx zone.




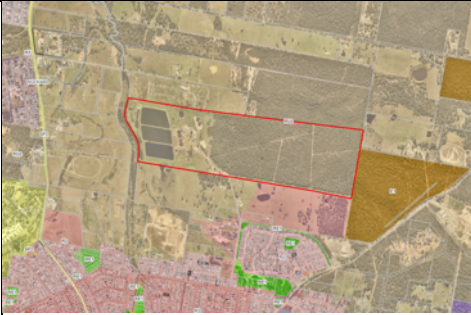


1. The application of the SP2 Infrastructure – Railway zone over historic rail lines that no longer exist. It would be beneficial to retain some acknowledgement of this historic infrastructure through the heritage layer, but the SP2 is unnecessary. Not all train lines are heritage listed.
2. The application of the SP2 Infrastructure Zone over Hunter Water operations. No HW operational sites are identified as SP2. While they are permitted to use the site for their purposes, it is beneficial to acknowledge the land uses as infrastructure zones to help understand potential impacts on these operations. E.g. buffers.
3. The application of SP2 Infrastructure Zone over Ausgrid sites (Alpha Distribution Ministerial Holding Corporation). None of the Ausgrid sites are zoned SP2 Electricity Infrastructure. This should be reviewed and considered. (Note: One site in the NUIA is proposed to be zoned as Ex environmental).
4. Cemeteries are not zoned for infrastructure purposes.

Mapping Item #	Parcel ID	Planning Considerations	Zoning		Subject Land
			Current	Proposed	
	505113	Nominated SP2 – Correctional Centre but it is adjacent to the SP2 Aged Care Facility and the ownership is Allandale Aged Care Facility. Need to seek clarification that SP2 Correctional Facility is correct and if is required for an infrastructure purpose. If not, R2 might be suitable.	R2/SP2 - Correctional Centre	R2	
	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 Care Facilities	








Mapping Item #	Parcel ID	Planning Considerations	Zoning		Subject Land
			Current	Proposed	
	505678	Small area of SP2 Railway that is disconnected from the rest of the former railway. This line will be part of the Richmond Vale Trail. Should it be connected to the rest of the line in that location? Should it be relabelled as SP2 – Future Regional Recreation(?) Should it be zoned RE1 Public Recreation?	SP2 Railway	SP2 Regional Recreation (?)	
	507761	This is a section between two SP2 Railway zones and will form part of the Richmond Vale Bike Trail. Uses will need to be consistent with those permitted under the National Parks and Wildlife Act 1974.	E1 National Park	E1 National Park	
		Various Properties – Richmond Vale Railway misalignment with cadastre.	SP2 Infrastructure – Railway / RU2 Rural Landscape	SP2 Infrastructure – Railway / RU2 Rural Landscape	
		South Weston – Various Lots. Significant vegetation sites for Health Service Facilities and Education and Child care. Seems to be a labelling of railway as Health Service Facilities.	SP2 Health Service Facilities / Education and Childcare	E2 Environmental Conservation / SP2 Railway	



Mapping Item #	Parcel ID	Planning Considerations	Zoning		Subject Land
			Current	Proposed	
		Various lots. Historic railway lines that have cadastre/no cadastre / no longer any use for railway.			  
	509208/509209	Split zone on private property.	RU2/SP2 Railway	RU2	 
	508937	Crossing at Wermol Street is IN2.	IN2	SP2	

Mapping Item #	Parcel ID	Planning Considerations	Zoning		Subject Land
			Current	Proposed	
	511665	Electricity generating works – should be SP2. It is permitted under SEPP Infrastructure. However, should these be represented in the CLEP.	IN3	SP2 – Electricity Generating works	
	7701	SP2 Classified road.	SP2	?	
	507664	Slither of land outside of infrastructure corridor	SP2	RE1	
	10778/10779	Childcare centre	SP2 Railway	B4 Mixed Use	
	507897	Needs to be considered in the context of disused railway corridors.	SP2	E2/RU2?	
	27618/21594	As above.	SP2/RU2	RU2	

Mapping Item #	Parcel ID	Planning Considerations	Zoning		Subject Land
			Current	Proposed	
	514973	Split zone	SP2/RU2	RU2	
	23339	Crown land between two SP2 Corridors	SP2	RU2/E3?	
	511464	Transport for NSW owned parcel. Strange application of SP2 zone.	SP2/RU2	SP2/RU2	
	23506	Hunter Water-owned site. RU2 zoned. Implications for all HW operations.	RU2	SP2 – Sewerage /E2 Environmental Conservation	
	Various	Wine Country Drive, Huntlee	B4	SP2 – Classified Road	
	504031 513792 508616 508620		RU2	SP2 Railway	

Mapping Item #	Parcel ID	Planning Considerations	Zoning		Subject Land
			Current	Proposed	
	508621 513793 508617		RU2	SP2 Classified Road	
	26713 11309 26715 26714	Branxton Cemetery	R2	SP2 - Cemetery	
	26082 26081	Ellalong Cemetery	RU5	SP2 - Cemetery	
	24761 507708 24760 507727	Cessnock Cemetery	RU2	SP2 - Cemetery	
	507699	Glemore Cemetery	RU4	SP2 - Cemetery	

Mapping Item #	Parcel ID	Planning Considerations	Zoning		Subject Land
			Current	Proposed	
	507519	Aberdare Cemetery	RU2	SP2 - Cemetery	
	507990 504346* 506970* 507991 17267 17265 17264 17263 17262 16986 16987 *May be in private ownership	Greta Cemetery	R2	SP2 Cemetery	 
	507551	Kurri Kurri Cemetery	RU2	SP2 Cemetery	
	27408 27409	Millfield Cemetery	RU2	SP2 Cemetery	
	502794	Rothbury Cemetery Despite the previous recommendation that cemeteries are zoned SP2 Cemetery, this site is no longer an active cemetery and it is mapped as a heritage item. Therefore, in this instance it is recommended to remain as RU4.	RU4	RU4	 

Mapping Item #	Parcel ID	Planning Considerations	Zoning		Subject Land
			Current	Proposed	
	14351 507873	Wollombi Cemetery - This site is partially flood affected and has an E2 zoning.	E2/RU2	SP2 Cemetery	
	14353	State Classified Road is partially identified as E2 Environmental Conservation.	E2	SP2 Road	

The end