

Mr Robert Maginnity
A/General Manager
Cessnock City Council
PO Box 152
Cessnock NSW 2325

Our ref: IRF22/1952

Dear Mr McGinnity

Planning proposal PP-2022-1725 to amend *Cessnock Local Environmental Plan 2011*

I am writing in response to the planning proposal Council forwarded to the Minister for Planning and Homes under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) and additional information received on 13 May 2022 in respect of the planning proposal to rezone part 259 and 261 Averys Lane, Buchanan to enable residential development.

As delegate of the Minister for Planning and Homes, I have determined the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the inconsistency of the planning proposal with applicable directions of the Minister under section 9.1 of the Act, 3.2 Heritage Conservation; 5.1 Integrated Land Use and Transport; 8.1 Mining, Petroleum Production and Extractive Industries, 9.1 Rural Zones; and 9.2 Rural Lands are justified in accordance with the terms of the directions. No further approval is required in relation to the directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant applicable directions of the Minister under section 9.1 of the Act, 3.1 Conservation Zones, 4.3 Planning for Bushfire Protection and 4.4 Remediation of Contaminated Land.

The Gateway determination has been conditioned to include preparation of a preliminary contamination report. Under the relevant Ministerial direction council (as the planning proposal authority) must obtain and have regard to this report before including any land to which the direction applies in a particular zone.

While not a final plan, the Department has completed an assessment of the planning proposal against the draft Hunter Regional Plan 2041. In particular, assessing the merits against the objectives to create a 15-minute region and nimble neighbourhoods of diverse housing.

While there is a new residential subdivision being developed to the west and north of the site, this developing urban release area is totally zoned R2 Low Density Residential. The nearest business zoned location is around 4kms away in Kurri Kurri Local Centre. Google maps indicates it would be a 53-minute walk and 16-minute cycle from the site to the Kurri Kurri Local Centre. Without some form of cycle infrastructure, the development of the site for residential purposes would likely constitute additional car-dependent communities in the area. This is inconsistent with the intention of the draft Hunter Regional Plan 2041.

It is noted the R2 Low Density Residential zone under the *Cessnock Local Environmental Plan 2011* include permissible uses (with consent) of health consulting rooms; home-based child care; home businesses; home industries; hospitals; and neighbourhood shops. These uses, if developed, would support the site (and surrounding R2 Low Density Residential zoned areas) in meeting the everyday needs of future residents without having to be reliant on private car use.

The draft regional plan also recognises that in order to achieve the many public interest intentions of the draft plan, new developments will have to be different. There needs to be greater diversity of housing to improve affordability. Given the proposed minimum lot size of 450m² is the same as the adjoining R2 Low Density Residential zoned areas, it is a missed opportunity to consider how more diverse housing could be provided adjacent to the Averys Rise Urban Release Area. It is noted dual occupancies are permitted with consent in the R2 Low Density Residential zone and this would provide an opportunity for housing diversity on the site.

Considering the nature of the planning proposal I have determined that Council may exercise local plan-making authority functions in relation to the planning proposal.

The proposed local environmental plan (LEP) is to be finalised on or before 15 May 2023. Should Council seek to make a proposed LEP, the request to draft the LEP should be made directly to Parliamentary Counsel's Office well in advance of the date the LEP is projected to be made. A copy of the request should be forwarded to the Department of Planning and Environment.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the Gateway determination.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2021) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Mr Mark Parker Principal Planning Officer, Central Coast and Hunter Region, to assist you. Mr Parker can be contacted on 9995 5286.

Yours sincerely



2 August 2022

Dan Simpkins
Director, Central Coast and Hunter
Planning and Land Use Strategy

Encl: Gateway determination