



**PLANNING PROPOSAL**

**AMENDMENT TO THE CESSNOCK LOCAL ENVIRONMENTAL PLAN 2011**

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LGA Wide

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#### Revision History

Revision	Description	Date
1	Draft for Gateway Determination	20 December 2024
2	Draft for Public Exhibition	29 January 2025

Application No.: 18/2024/3/1  
Proposal: Administrative Amendments  
Parcel: LGA Wide  
Ext Ref: PP-2024-2769  
Proponent: Cessnock City Council

## **PART 1: OBJECTIVES AND OUTCOMES**

The objective of this planning proposal is to resolve minor amendments within the Cessnock LEP 2011 (CLEP).

This will allow minor anomalies to be resolved and allow for better planning and land use outcomes for land owners.

## PART 2: EXPLANATION OF PROVISIONS

List of amendments:

### 1. Employment Lands Reforms

During the Employment Lands reforms in 2023 there was an error in zone transitions.

The Employment Zones reform was mandated by the NSW State Government (the Department) and came in force on the 26<sup>th</sup> April 2023. The employment zones framework consolidated the former B5 Business Development, B6 Enterprise Corridor and B7 Business Park zones to E3 Productivity Support and former IN1 General Industrial and IN2 Light Industrial zones to E4 General Industrial, unless an alternative zone was specifically requested and justification provided to the Department. Council did not request an alternative zone for IN2 and therefore the direct translation was applied.

As part of this transition, it is noted that ‘storage premises’ has moved from a permissible use under IN2 to a prohibited use under the E4 General Industrial Zone. Schedule 1 of the Standard Instrument LEP Order provides a Savings and Transitional (S&T) Provision. Land uses that were previously permissible under a former Industrial zone but are no longer permitted under an Employment zone remain permissible under the S&T provision until 26 April 2025. The intent of the S&T provision is to enable the continued operation of valid land uses under the former zone as well as giving time for the new zones/land uses to settle in. Where the planning permissibility/controls are not delivering council’s strategic intent, the S&T provision provides time for councils to prepare planning proposals for any needed amendments.

The sites that transitioned from IN2 to E4 have lost “storage premises” as a permissible land use, this has had a negative impact on landowners. The S&T Provision will soon be null and void and therefore it is essential “storage premises” is reinserted to the E4 zone to ensure landowners in the E4 zone can retain their land uses. Within the LGA there are currently “storage premises” operating in the E4 zone with landowners showing interest in expanding. To ensure the landowners in the E4 zone can expand operations efficiently, it is essential “storage premises” is inserted into the CLEP 2011 Land Use Table as “Permitted with consent”.

### 2. Rezoning from RU2 Rural Landscape to C2 Environmental Conservation

An anomaly in mapping has caused a parcel of land to be zoned RU2 Rural Landscape instead of the surrounding C2 Environment Conservation zoning. The site and the land surrounding the site is Crown land and adjoins Kurri Kurri Cemetery which is managed by Cessnock City Council. Lot 328 DP: 755231, on Hospital Road Weston, as outlined below in red, should be rezoned to C2 Environmental Conservation for consistency with the surrounding land.

As part of the 2023 Special Purposes Planning Proposal 18/2020/3/1, Kurri Kurri Cemetery was rezoned from RU2 Rural Landscape to SP Infrastructure (Cemetery). As Lot 328 DP: 755231 is not part of the cemetery it was not rezoned. This has resulted in an isolated parcel of RU2 zoned land, which does not align with its current use. C2 Environmental Conservation aligns with the current use of the site as vacant bushland; therefore, it should be rezoned.

To ensure the site is consistent with C2 Environmental Conservation land within the LGA, the site’s Minimum Lot Size (MLS) Map should be updated. Currently the MLS is 40ha. This should be updated to 80ha to align with Council’s Environmental Zoning Framework 2021.





Figure 1. Existing Land Zoning Map Lot 328 DP755231

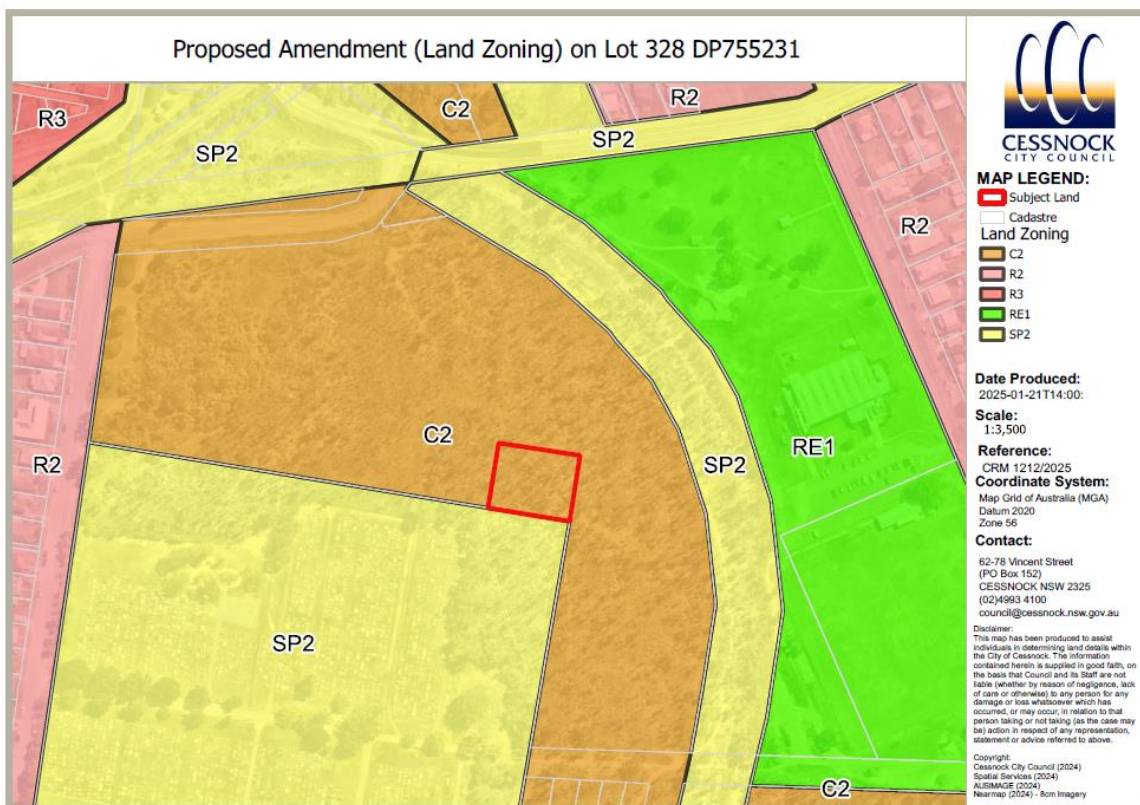


Figure 2. Proposed Land Zoning Map Lot 328 DP755231



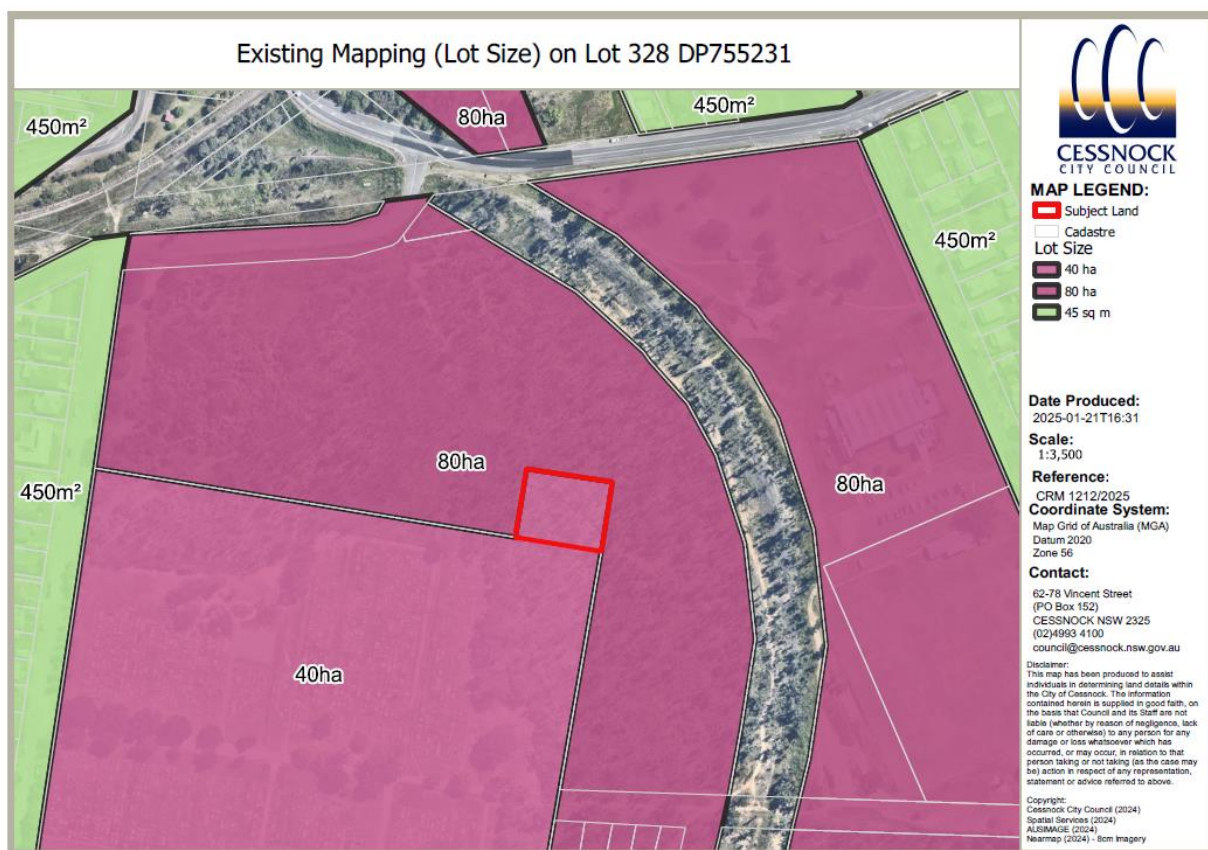


Figure 3. Existing Lot Size Map Lot 328 DP755231

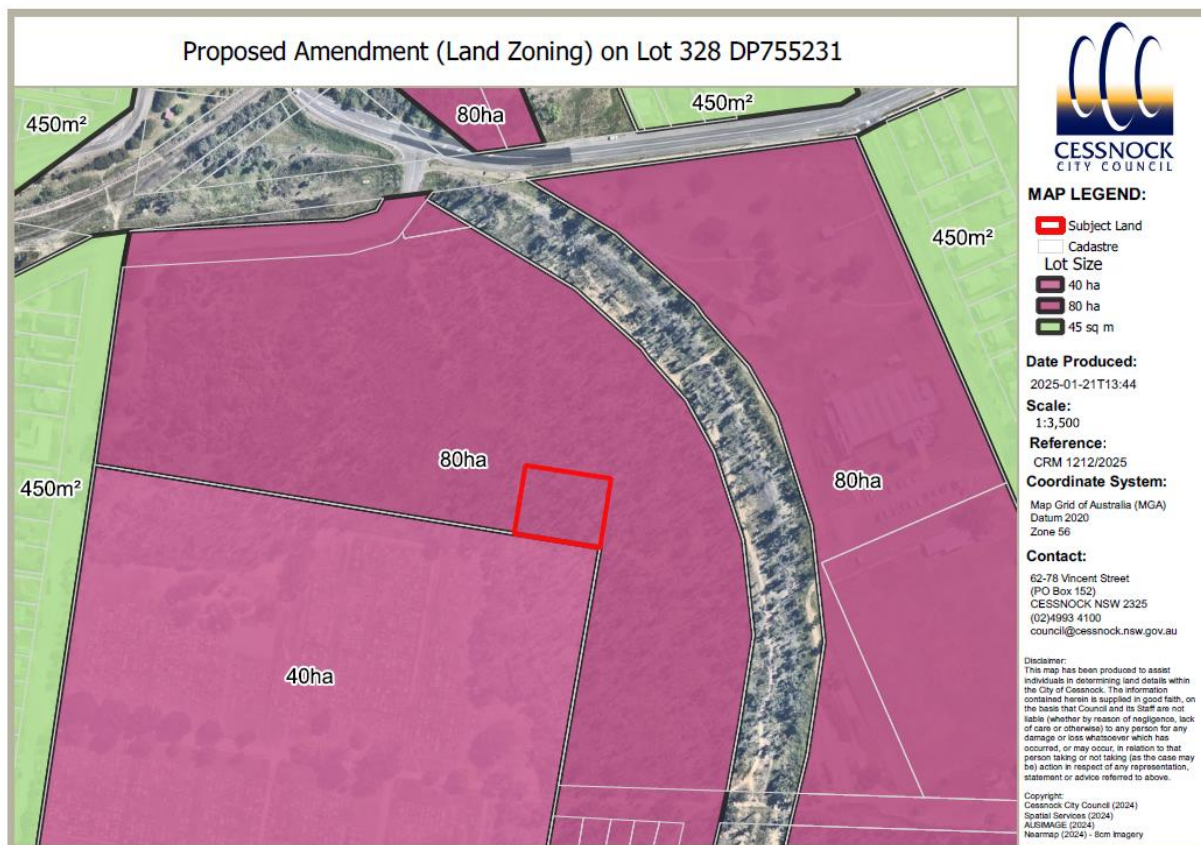


Figure 4. Proposed Lot Size Map Lot 328 DP755231



### 3. Minimum Lot size should be removed from MU1 and E1 zone in Weston Town Centre

In the Cessnock LEP it is common practice to have no minimum lot size applying to employment zones. The only employment zone that has a minimum lot size is part of the Weston Town Centre. To ensure consistency, the minimum lot size should be removed from the areas zoned MU1 and E1 in the Weston Town Centre. This will ensure planning controls are consistent with the rest of the LGA, such as the areas zoned MU1 and E1 in Cessnock CBD, which do not have a minimum lot size applied. The areas that are highlighted blue and purple in Figure 6 are zoned MU1 Mixed Use and E1 Local Centre.

The minimum lot size is also applied inconsistently within the Weston Town Centre. As seen in Figure 5 the western side of Station Street does not have a minimum lot size applied, despite both sides of Station Street being zone E1 Local Centre.



Figure 5. Current Minimum Lot Size Map of Weston Town Centre





Figure 6. Current Land Zoning Map of Weston Town Centre



Figure 7. Proposed Minimum Lot Size

List of sites that will have the Minimum Lot Size removed:

- LOT: 4 SEC: 2 DP: 979187
- LOT: 1 DP: 741048
- LOT: 1 DP: 741818
- LOT: 21 DP: 235852

- LOT: 22 DP: 235852
- LOT: 23 DP: 235852
- LOT: 1 DP: 155121
- LOT: A DP: 529130
- LOT: B DP: 529130
- LOT: 6 SEC: C DP: 5367
- LOT: 25 SEC: C DP: 5367
- LOT: 5 SEC: C DP: 5367
- LOT: 26 SEC: C DP: 5367
- LOT: 1 DP: 313707
- LOT: 2 DP: 313707
- LOT: 1 DP: 304653
- LOT: 2 DP: 304653
- LOT: 2 SEC: C DP: 5367
- LOT: 1 SEC: C DP: 5367
- LOT: 61 DP: 504318
- LOT: 62 DP: 504318
- LOT: 7 DP: 661025
- LOT: 1 DP: 970480c
- LOT: 8 DP: 656586
- LOT: 1 DP: 300141
- LOT: A DP: 378736
- LOT: B DP: 378736
- LOT: 4 SEC: B DP: 5366
- LOT: A DP: 313353
- LOT: B DP: 313353
- LOT: 2 SEC: B DP: 5366
- LOT: 1 SEC: B DP: 5366
- LOT: 12 DP: 1097359
- LOT: 11 DP: 1097359

#### **4. Amendment to wording of Clause 4.1E of CLEP 2011**

Clause 4.1E reads as:

##### **4.1E Subdivision of land not serviced by sewage reticulation system**

(1) Development consent must not be granted to the subdivision of land that will not be serviced by a sewage reticulation system following registration of the plan of subdivision unless the consent authority is satisfied—

(a) each resulting lot will be—

(i) 4,000m<sup>2</sup>, or

(ii) if the minimum lot size shown on the [Lot Size Map](#) for the land is more than 4,000m<sup>2</sup>—the minimum lot size shown on the map, and

(b) all resulting lots are suitable for on-site sewage management.

(2) This clause prevails over clauses 4.1, 4.1AA and 4.2B in the case of an inconsistency.

Clause 4.1E part 1 (i) should be edited from “4000m<sup>2</sup>” to read as “not less than 4000m<sup>2</sup>”. This will align it with best practice as the lot does not have to exactly be “4000m<sup>2</sup>” it must be 4000m<sup>2</sup> or larger for the Clause to apply. Therefore Clause 4.1E should read as:



#### **4.1E Subdivision of land not serviced by sewage reticulation system**

(1) Development consent must not be granted to the subdivision of land that will not be serviced by a sewage reticulation system following registration of the plan of subdivision unless the consent authority is satisfied—

(a) each resulting lot will be—

(i) not less than 4000m<sup>2</sup>, or

(ii) if the minimum lot size shown on the [Lot Size Map](#) for the land is more than 4,000m<sup>2</sup>—  
the minimum lot size shown on the map, and

(b) all resulting lots are suitable for on-site sewage management.

(2) This clause prevails over clauses 4.1, 4.1AA and 4.2B in the case of an inconsistency.

#### **5. Huntlee New Town Urban Release Area**

Areas of the state significant Huntlee New Town site in Rothbury/North Rothbury are not identified as Urban Release Area in the mapping that accompanies the *Cessnock Local Environmental Plan 2011*. It is unclear why these areas, shaded green in Figure 8, have been excluded as they have been identified for (predominantly) residential development. Council is seeking to amend the relevant URA maps to identify these additional areas, associated with Stage 1 and Stage 2 of the development, as URA.

Updating the map will allow future rezonings and subdivisions that align with the approved master plan to run smoothly as it will correlate to the URA Map. This is seen in the larger area to be added to the map in North Rothbury. It is currently zoned SP2 but is proposed to be residential development as per Stage 2 Major Projects Approval for Huntlee. Having all the areas that are included as part of the major projects approval for Huntlee New Town is important for planning consistency for the site.

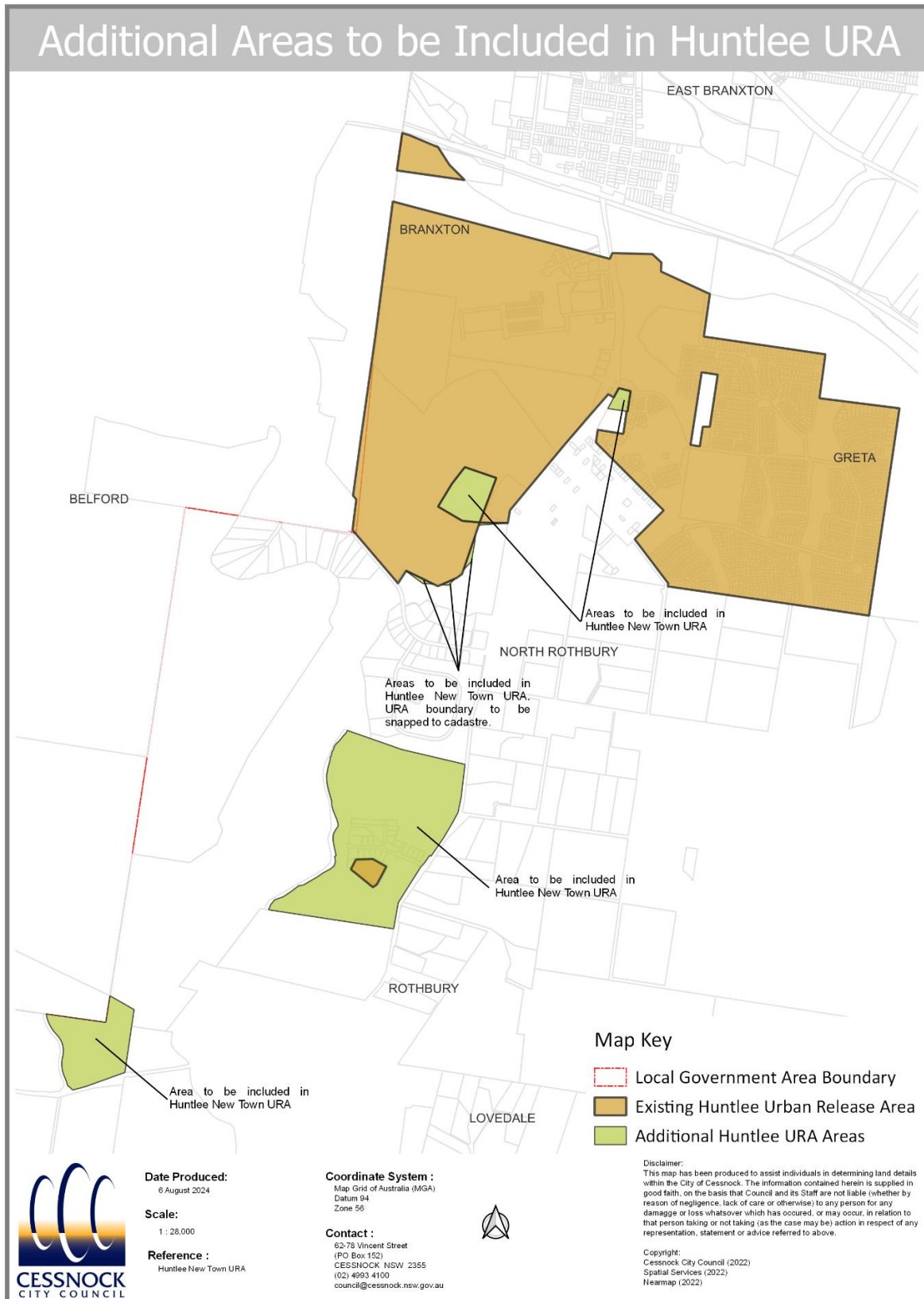


Figure 8. Huntlee New Town URA and additional URA to be included

## **PART 3: JUSTIFICATION**

In accordance with the Department of Planning and Environment's "Guide to Preparing Planning Proposals", this section provides a response to the following issues:

- Section A: Need for Proposal;
- Section B: Relationship to Strategic Planning Framework;
- Section C: Environmental, Social and Economic Impact; and
- Section D: State and Commonwealth Interests

### **Section A: Need for the Planning Proposal**

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

The Planning Proposal is not the result of an endorsed LSPS, strategic study or report. The Planning Proposal is a result of reviewing Cessnock LEP. The anomalies were found as a result of reviews and feedback from both affected landowners and the strategic planning team.

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

Yes, a Planning Proposal is the only means of making this amendment to Cessnock Local Environment Plan 2011.



## Section B: Relationship to Strategic Planning Framework

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

#### Hunter Regional Plan 2041

The Hunter Regional Plan (HRP) provides the overarching strategic framework to guide development, investment and planning within the Hunter region to 2041. The HRP sets the following regionally focused goals:

- The leading regional economy in Australia
- A biodiversity-rich natural environment
- Thriving communities
- Greater housing choice and jobs
- Infrastructure-first and place-based delivery framework

The Planning Proposal supports the objectives of the HRP 2041 by ensuring the planning controls in Cessnock LGA are consistent and align with current practice. This provides an environment that supports development within the LGA.

#### Greater Newcastle Metropolitan Plan

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

The Planning Proposal supports the objectives of the Greater Newcastle Metropolitan Plan by ensuring the planning controls in Cessnock LGA are consistent and align with current practice. This provides an environment that supports development within the LGA.

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

#### Cessnock Local Strategic Planning Statement 2036 (LSPS)

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

The following planning priorities and principles are relevant to the proposal.

- Planning Priority 3: The character and vitality of our town centres and villages is protected and enhanced.  
Amendment 3: By removing the minimum lot size from Weston town centre it ensures the controls are consistent with other town centres in Cessnock LGA.

Amendment 4: Ensuring the minimum lot size of “Not Less than 4000m<sup>2</sup>” is accurately stated ensures the many isolated villages without reticulated water systems within the LGA have clear and consistent planning controls.

- Planning Priority 6: Rural residential, large lot residential development and environmental living are considered in limited and appropriate locations.  
Ensuring the minimum lot size of “Not Less than 4000m<sup>2</sup>” is consistently stated ensures the many isolated villages without reticulated water systems within the LGA have clear and consistent planning controls.
- Planning Priority 13: Our industrial land is developed in an orderly manner and meets future development needs.  
The planning proposal will support the development and optimal use of employment lands in the LGA.
- Planning Priority 14: Our industrial land fosters economic growth, business diversity, and employment opportunities.  
The planning proposal will support the development and optimal use of employment lands in the LGA.

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

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

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

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

- 2.1.4 We attract investment and innovation from government, business, and industry. This Planning Proposal creates consistent planning controls which will encourage investment in the LGA.

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

### **A 20-year Economic Vision for Regional NSW**

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

The planning proposal is consistent with the principles of this strategy as the consistent controls will allow for more efficient development related economic growth.

### **State Emergency Management Plan (EMPLAN)**

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

The planning proposal is consistent with the principles of this strategy as the updated planning controls will allow for better planning during emergencies.

## **6 Is the planning proposal consistent with applicable SEPPs?**

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

Table 1: Relevant State Environmental Planning Policies

SEPP	Consistency and Implications
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Not Applicable to the functioning of this SEPP.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Not Applicable to the functioning of this SEPP.
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Not Applicable to the functioning of this SEPP.
State Environmental Planning Policy (Housing) 2021	Not Applicable to the functioning of this SEPP.
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	Not Applicable to the functioning of this SEPP.
State Environmental Planning Policy (Planning Systems) 2021	Not Applicable to the functioning of this SEPP.
State Environmental Planning Policy (Primary Production) 2021	Not Applicable to the functioning of this SEPP.
State Environmental Planning Policy (Resilience and Hazards) 2021	Not Applicable to the functioning of this SEPP.
State Environmental Planning Policy (Resources and Energy) 2021	Not Applicable to the functioning of this SEPP.
State Environmental Planning Policy (Transport and Infrastructure) 2021	Not Applicable to the functioning of this SEPP.

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

An assessment of relevant Section 117 Directions against the planning proposal is provided in the table below.

Table 2: Relevant Section 117 Ministerial Directions

Ministerial Direction		Consistency and Implications
Planning Systems		
1.1	Implementation of Regional Plans	Consistent.
1.3	Approval and Referral Requirements	Consistent.
1.4	Site Specific Provisions	Consistent.
Planning Systems – Place-based		
Design and Place		
Biodiversity and Conservation		
3.1	Conservation Zones	Consistent.
3.2	Heritage Conservation	Consistent.
3.5	Recreation Vehicle Areas	Consistent.
Resilience and Hazards		
4.1	Flooding (c) permit development for the purposes of residential accommodation in high hazard areas,	Consistent. Amendment 1: Employment Zones There are areas of the E2 zone that are located within flood prone areas. The planning proposal will add an additional use in this zone. But due to the type of developments that are already permissible in the zone, 'storage



		premises' is considered consistent with the intensity and type of land uses.
4.2	Coastal Management	Not applicable.
4.3	Planning for Bushfire Protection	Consistent.  Amendment 1: Employment Zones There are areas of the E2 zone that are located within flood prone areas. The planning proposal will add an additional use in this zone. But due to the land uses that are already permissible in the zone, 'storage premises' is considered consistent as it is still permissible under the savings and transitional provision. Additional to this listing the land use as permissible does not automatically mean a development application would be approved. Site specific requirements and hazards would also be considered.
4.4	Remediation of Contaminated Land	Not applicable.
4.5	Acid Sulfate Soils	Not applicable.
4.6	Mine Subsidence and Unstable Land	Consistent. The planning proposal impacts land that is within mine subsidence districts but the amendments will not impact the intensity of land use.
Transport and Infrastructure		
5.1	Integrating Land Use and Transport	Consistent.
5.2	Reserving Land for Public Purposes	This Planning Proposal does not affect the functioning of this direction.
5.3	Development Near Regulated Airports and Defence Airfields	Not applicable.
5.4	Shooting Ranges	Not applicable.
Housing		
6.1	Residential Zones	Consistent.
6.2	Caravan Parks and Manufactured Home Estates	Not applicable.
Industry and Employment		
7.1	Employment Zones	Consistent.
Resources and Energy		
8.1	Mining, Petroleum Production and Extractive Industries	Not applicable.
Primary Production		
9.1	Rural Zones	Not applicable.
9.2	Rural Lands	Consistent.
9.3	Oyster Aquaculture	Not applicable.

## **Section C: Environmental, Social and Economic Impact**

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

There will be no impact to critical habitat or threatened species populations.

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

There will be no environmental effects as a result of the Planning Proposal.

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

The Planning Proposal will have a positive social and economic effect. The planning proposal will allow “storage premises” to be inserted back into the Land Use Table. Which will allow the optimal economic development of E2 land, especially due to storage premises already functioning within the zone. Allowing the growing consumer demands of the Cessnock LGA to be met.

Making the various other minor amendments will allow for better planning and consistent controls, which will have a positive economic impact when assessing developments on these sites.

## **Section D: Infrastructure (Local, State and Commonwealth)**

### **11 Is there adequate public infrastructure for the planning proposal?**

This Planning Proposal does not require any changes to public infrastructure.

## **Section E: State and Commonwealth Interests**

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

As per the Gateway Determination the Planning Proposal will be referred to NSW Crown Lands and NSW Rural Fire Service.



## **PART 5: COMMUNITY CONSULTATION**

Community consultation will be conducted in accordance with the NSW Local Environmental Plan Making Guidelines, Cessnock Community Participation Plan and the Gateway Determination.

## PART 6: PROJECT TIMELINE

Table 3: Indicative project timeline.

Stage	Timeframe and/or date
Council Memo	December
Gateway determination	January
Pre-exhibition	January
Commencement and completion of public exhibition period	February-March
Consideration of submissions	March
Post-exhibition review and additional studies	April-May
Council endorsement	June
Submission to the Department for finalisation (where applicable)	July
Gazettal of LEP amendment	August

## Appendix 1: Council Support

As per Cessnock City Council's Planning Proposal Policy, Planning Proposals supported by the Strategic Planning Team and consistent with the Planning Proposal Policy can be forwarded to the State Planning body without being reported to the Council. Councillors are instead sent a memo and can request the Planning Proposal go to a Council Meeting. Planning Proposals are reported to Council for final consideration post public exhibition to allow Councillors to make an informed decision with community feedback.

Council's Planning Proposal Policy can be found on Council's website at:

<https://www.cessnock.nsw.gov.au/Council/Forms-and-documents/Policies/Planning-Proposal-Policy>