



Gateway determination report – PP-2024-868

Rezone part of Lot 245 DP 1271509, 1823 Wine Country Drive,
Cessnock from Zones B1 and R1 to Zone SP2 (0 homes, 0
jobs)

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 - Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal for gateway determination (July 2024)
Supporting information for proposed SP2 rezoning (Apr 2024)
Bushfire threat assessment, Huntlee Stage 1 release area, modification 21 (Jun 2023)
Survey plan (Dec 2023)
Updated Traffic impact assessment, Huntlee Stage 1 release area, modification 21 (Jun 2023)
Stormwater Management Strategy, Huntlee Stage 1 release area, modification 21 (Mar 2023)
Aboriginal objects due diligence assessment addendum, Huntlee Stage 1 release area, modification 21 (Mar 2023)
Huntlee Stage 1 development area plans (Nov 2022)
Ecological advice, Huntlee Stage 1 release area, modification 21 (July 2022)
Phase 1 Environmental site assessment, proposed Huntlee development (Nov 2017)

1 Planning proposal

1.1 Overview

Table 2 - Planning proposal details

LGA	Cessnock
PPA	Cessnock City Council
NAME	Rezone part of Lot 245 DP 1271509, 1823 Wine Country Drive, North Rothbury, from Zones R1 and MU1 to Zone SP2 (0 homes, 0 jobs)
NUMBER	PP-2024-868
LEP TO BE AMENDED	Cessnock Local Environmental Plan 2011
ADDRESS	1823 Wine Country Drive, North Rothbury
DESCRIPTION	Lot 245 DP 1271509
RECEIVED	10/07/2024
FILE NO.	IRF24/90330
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to rezone approximately 7,800 square metres (sqm) of land within Lot 245 DP 1271509, 1823 Wine Country Drive, North Rothbury to enable the delivery of a second wastewater treatment plant to support future development of the Huntlee New Town stage 1 urban release area.

The objective and intended outcomes of this planning proposal are clear and adequate. However, the property description should be corrected throughout from Lot 695 DP 1263808 to Lot 245 DP 1271509 and is recommended as a condition of the Gateway determination.

1.3 Explanation of provisions

The planning proposal seeks to amend the Cessnock Local Environmental Plan 2011 Land Zone Map (LZN_005A) to change the zoning applying to the subject site from part R1 General Residential and MU1 Mixed Use to SP2 Infrastructure - sewerage system. There are no other development standards applying to the site.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

Located within the north western corner of the Huntlee stage 1 New Town urban release area (**Figure 1**) the site is approx. 7,800sqm comprising woodland and has been identified as an 'infrastructure, community and education' lot under modification 21 to the stage 1 Huntlee development approval (**Figure 2**). The proposal for a second wastewater treatment plant to service the area will complement an existing wastewater treatment plant operating in the locality (**Figure 3**).

The western boundary and part of the northern boundary of the site adjoin the proposed Huntlee Stage 2 urban release area and part of the site's northern boundary also adjoins road reserve of the M15 Hunter Expressway. As part of the Huntlee Stage 1 release, vegetated lands to the south are identified for future open space, and to the east for mixed use development.

The site contains high environmental values (**Figure 4**), is shown on the Biodiversity Values Map (**Figure 5**) and is mapped as category 1 bushfire prone land (**Figure 6**). The planning proposal notes that the site is also within proximity to the catchments of Anvil Creek and Black Creek.



Figure 1 – subject site
(source: Planning proposal)



Figure 2 – Site in context of development approval modification 21
(source: Planning proposal)



Figure 3: Existing Huntlee wastewater treatment plant (source: Planning proposal)



Figure 4: High environmental value land (source: DPHI Hunter and Central Coast viewer)



Figure 5: Biodiversity Values Map (source: DPHI Hunter and Central Coast viewer)



Figure 5: Category 1 bushfire prone land (source: DPHI Hunter and Central Coast viewer)

1.5 Mapping

The proposal includes existing and proposed land zone maps which are considered to be generally suitable for community consultation.

Mapping that complies with the Standard Technical Requirements for Standard Instrument LEP Maps will need to be prepared prior to finalisation of the LEP amendment.

1.6 Background

The Huntlee New Town site straddles the local government areas of Cessnock and Singleton and was gazetted as a State significant site on 9 January 2009.

Development standards for Huntlee New Town stage 1 were originally set out under Schedule 3 of State Environmental Planning Policy (SEPP) (Major Development) 2005. A separate Development Control Plan (DCP) was also adopted for Huntlee by the then Director-General of the Department of Planning and Infrastructure. The Huntlee DCP came into force on 12 June 2013.

On 5 March 2015, the provisions of SEPP Major Development relating to Huntlee were transferred to the Cessnock LEP 2011 by the then Department of Planning and Environment.

Under the current planning provisions, Huntlee New Town Stage 1 is local development and council is the consent authority. As previously noted, modification 21 to the development approval has identified the site as an 'infrastructure, community and education' lot.

1.7 Need for the planning proposal

The planning proposal is not a result of a specific study or an endorsed local strategic planning statement or approved local strategy, study, or report.

The proposal has been initiated by the landowner and is supported by Council to enable the delivery of a second wastewater treatment plant to support ongoing development of the stage 1 Huntlee New Town urban release area. The SP2 Infrastructure Zone is a prescribed zone under SEPP (Transport and Infrastructure) 2021 and will provide certainty to the community on the current and future location of essential infrastructure.

Furthermore, the planning proposal is supported by various reports, plans and specialist studies, as listed in Table 1, and is considered to be the best means of achieving the objective and intended outcome.

*Note - reference to 'RU1 General Residential' in the planning proposal under Section A question 1 should be corrected to 'R1 General Residential' and forms a condition of the Gateway determination.

2 Strategic assessment

2.1 Regional Plan

The Hunter Regional Plan 2041 adopts an infrastructure first, place-based approach to the rezoning of land. The planning proposal is considered to be consistent with the vision, objectives, and overall intent of the regional plan in ensuring that infrastructure can be provided to allow for the ongoing development of the stage 1 Huntlee urban release area.

2.2 Metropolitan Plan

The proposal is considered to be consistent with the Greater Newcastle Metropolitan Plan 2036 and in particular, strategy 17: *Unlock housing supply through infrastructure coordination and delivery* by enabling coordinated delivery of essential infrastructure to align with housing growth in the stage 1 Huntlee urban release area.

2.3 Local

The proposal states that it is consistent with the Cessnock Local Strategic Planning Statement 2036 by providing appropriate infrastructure and services to support future growth and meet community and industry needs, which also aligns with key objectives and priorities of Council's Community Strategy Plan 2036, Urban Growth Management Plan 2021, Housing Strategy 2021 and Jobs Strategy 2023.

2.4 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant section 9.1 Directions, except as discussed below:

Table 3 - section 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.3 Planning for Bushfire Protection	Unresolved	<p>This direction is relevant to the proposal as the land is mapped as bushfire prone (Figure 5).</p> <p>A report assessing the risk of bushfire submitted in support of the proposal recommends a temporary Asset Protection Zone (APZ) west of the site due to its location adjoining the stage 2 Huntlee release area, and a variable APZ on the northern boundary, with final design to be determined at development application stage.</p> <p>This direction requires that Council must consult with the Commissioner of the NSW Rural Fire Service (RFS). Until this consultation has occurred, the inconsistency of the proposal with this direction remains unresolved.</p>
6.1 Residential Zones	Justifiably inconsistent	<p>This direction seeks to encourage a variety and choice of housing types for existing and future housing needs. The planning proposal is inconsistent with this direction as it will rezone land from R1 to SP2.</p> <p>This inconsistency is considered to be of minor significance as the area of the proposed zone change reflects the intended outcomes of the approved stage 1 Huntlee New Town release and remaining R1 land is anticipated sufficient to provide for the number of dwellings expected in the locality.</p>
7.1 Business and Industrial Zones	Justifiably inconsistent	<p>The planning proposal is inconsistent with this direction as it reduces existing employment land by rezoning MU1 land to SP2.</p> <p>This inconsistency is considered to be of minor significance as the area of the proposed reduction in MU1 zoning reflects the intended outcomes of the approved stage 1 Huntlee New Town release to ensure future employment land viability. Also, the remaining MU1 land is anticipated sufficient to cater for employment needs in the locality for the foreseeable future.</p>

2.5 State environmental planning policies (SEPPs)

The planning proposal is considered to be generally consistent with all relevant SEPPs.

3 Site-specific assessment

3.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 4 - Environmental assessment

Directions	Consistent/ Not Applicable
Biodiversity	<p>The site is currently occupied by and surrounded by bushland, however the proposal confirms that the broader Huntlee New Town development including the site, is certified under Clause 34A(4) of the Biodiversity Conservation (Savings and Transitional) Regulation 2017 with a Biodiversity Exemption Certificate granted by the Office of Environment and Heritage on 25 October 2018, which certified that:</p> <ul style="list-style-type: none"> - the Huntlee New Town Development is part of a relevant planning arrangement for which the biodiversity impacts of the proposed development have been satisfactorily assessed before 25 August 2017, and - conservation measures to offset the residual impact of the proposed development on biodiversity values after the measures required to be taken to avoid or minimise those impacts have been secured into the future. <p>The proposal states all impacts from the approved clearing of the site have therefore been adequately considered. It is recommended that the proposal be referred to the NSW Department of Climate Change, Energy, the Environment and Water – Biodiversity Conservation and Science to confirm the proposal is compliant and satisfactory.</p>
Bushfire	<p>A bushfire hazard assessment has been submitted in support of the proposal. The assessment has considered bushfire risk and has recommended appropriate mitigation measures that are able to be applied as conditions of consent at the development application stage. As previously noted, consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unable to be resolved until consultation with the NSW RFS has occurred and forms a condition of the Gateway determination.</p>
Land contamination	<p>The planning proposal notes that land contamination has been assessed as part of the original rezoning of the site to MU1 and R1 and as such Council is satisfied that the site is suitable for a proposed SP2 zone.</p>
Air quality and odour	<p>A background report submitted in support of the proposal includes an odour impact assessment which concludes that odours from the proposed wastewater treatment plant may occasionally be detected up to approximately 100m downwind of the site, however, it is unlikely that they would be for a duration or magnitude such that significant nuisance impacts would be experienced.</p> <p>The planning proposal also notes that the proposed wastewater treatment plant will mimic the existing plant in the area which has been in operation for at least 5 years and not resulted in any odour complaints. While no significant adverse impact is anticipated, it is considered appropriate that the NSW Environment Protection Authority be consulted.</p>

Noise

The proposed wastewater treatment plant will be enclosed in a low-scale, single level building within an open space setting. Potential noise impacts are expected to be nil to negligible. The supporting background information includes an assessment of noise impact and recommends mitigation measures through building modifications to ensure acceptable levels of noise for the operation of the proposed wastewater treatment plant.

3.2 Social and economic

The proposal is not considered likely to create any adverse social or economic impacts. Rezoning the subject site to SP2 is expected to assist in avoiding the potential for land use conflict when preparing and assessing future development applications for nearby land. Also, the information submitted with the proposal indicates that the site is not of cultural or heritage significance.

Furthermore, the proposed use of the site for the efficient delivery of a wastewater treatment plant is considered likely to have a positive economic impact in allowing for the continued growth of the stage 1 Huntlee New Town urban release area.

3.3 Infrastructure

The planning proposal states that no additional public infrastructure will be required as a result of the proposal.

4 Consultation

4.1 Community

Council specifies that community consultation will be undertaken in accordance with the Department's LEP Making Guideline, the Cessnock Community Participation Plan and the Gateway determination.

An exhibition period of 20 working days is considered appropriate, consistent with the Department's LEP Making Guideline (Aug 2023) for a standard LEP and forms the conditions of the Gateway determination.

4.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Hunter Water
- NSW Department of Climate Change, Energy, the Environment and Water - Biodiversity Conservation and Science
- NSW Environmental Protection Authority
- NSW Rural Fire Service

5 Timeframe

The LEP Plan Making Guidelines (August 2023) establish maximum benchmark timeframes for planning proposal by category. As this planning proposal is categorised as a standard proposal LEP completion within 9 months of the date of the Gateway determination is recommended, noting that there is no issue should Council finalise the proposal earlier than this time frame.

6 Local plan-making authority

Council has advised that it wishes to exercise its functions as a local plan-making authority.

As the planning proposal is of local significance, and generally consistent, or justifiably inconsistent with the State, regional and local planning framework, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

7 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- the proposal is consistent or justifiably inconsistent with all relevant section 9.1 directions and SEPPs, the Hunter Regional Plan 2041, the Greater Newcastle Metropolitan Plan 2036; and the Cessnock Local Strategic Planning Statement;
- the proposal is consistent with the stage 1 Huntlee New Town development approval; and
- the proposal will support future development of the stage 1 Huntlee New Town urban release area with minimal environmental impacts.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- correct the property description throughout from Lot 695 DP 1263808 to Lot 245 DP 1271509; and
- under Section A question 1, change 'RU1 General Residential to 'R1 General Residential'.

8 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 6.1 Residential Zones and 7.1 Business and Industrial Zones are minor or justified; and
- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated prior to agency and community consultation to:
 - correct the property description throughout from Lot 695 DP 1263808 to Lot 245 DP 1271509; and
 - under Section A question 1, change 'RU1 General Residential to 'R1 General Residential'.
2. Consultation is required with the following public authorities and given 30 working days to comment:
 - Hunter Water
 - NSW Department of Climate Change, Energy, the Environment and Water – Biodiversity Conservation and Science
 - NSW Environmental Protection Authority
 - NSW Rural Fire Service

3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
4. Given the nature of the planning proposal, Council should be authorised to be the local plan-making authority.
5. The proposal should be completed within 9 months of the date of the Gateway determination.



31/7/24

(Signature)

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06/08/24

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