

Protection of the Lower Hunter Freight Corridor

Explanation of Intended Effects on the proposed
amendment to State Environmental Planning Policy
(Major Infrastructure Corridors) 2020

JULY 2021





Acknowledgement of Country

The Department of Planning, Industry and Environment acknowledges the traditional custodians of the land and pays respect to Elders past, present and future.

We recognise Australian Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to place and their rich contribution to society.

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Introduction

Lower Hunter Freight Corridor

Transport for NSW has released a recommended alignment for the Lower Hunter Freight Corridor for public comment. The exhibition material identifies the recommended future location of a freight rail line. If the recommended corridor is adopted, it is proposed that it is appropriately zoned under the planning system to protect the land for its future use. This will advise the community of the location and potential future operation of the freight rail and will safeguard the corridor for infrastructure delivery.

If adopted, the corridor will support a dedicated freight rail line between Fassifern and Hexham. At present, the Main North Railway Line through Newcastle is a shared passenger and freight line. The corridor will allow future freight services to bypass inner suburbs of Newcastle and alleviate pressure on the Main North Railway Line between Sydney and Newcastle.

The corridor has an identified width of 60 metres, excluding sections in tunnel. The design of the future infrastructure will be subject to further development assessment under the NSW planning system. This Explanation of Intended Effects describes the proposed protection of the recommended alignment under *State Environmental Planning Policy (Major Infrastructure Corridors) 2020*.

Corridor protection

Corridor protection involves the early identification and protection of land for future infrastructure. The term 'protection' refers to a planning intervention (such as a rezoning or application of development controls) so that the future delivery of infrastructure is not compromised as a result of land being 'built out' or the

alignment being no longer suitable due to incompatible land uses in or around the corridor.

When an infrastructure corridor is protected, land uses that were permitted under the former zoning remain permissible subject to development consent and consideration of the compatibility of the development with the future infrastructure. Through the development assessment process, corridor protection seeks to manage any new development so that it is compatible with future infrastructure. The intention is to provide greater certainty and enhanced planning outcomes for infrastructure agencies and the community. Protecting corridors also aims to minimise social disruption when infrastructure is delivered in developed areas.

The process of corridor protection involves collaboration between infrastructure and planning systems to manage land uses around road and rail to optimise infrastructure use and avoid land use conflicts. Three major infrastructure corridors in Greater Sydney have been protected under *State Environmental Planning Policy (Major Infrastructure Corridors) 2020*. This Explanation of Intended Effects proposes the protection of the Lower Hunter Freight Corridor under this SEPP in a similar manner to the existing protected corridors in Greater Sydney.

Corridor protection is a separate planning phase to the infrastructure delivery. The infrastructure delivery phase involves detailed design and engineering work, allowing a detailed assessment of the impacts associated with construction and operation of the infrastructure. The future delivery of the Lower Hunter Freight Line will be subject to a future State Significant Infrastructure development approvals process under the NSW planning system.



KEY

Short List Option

- Pink Option
- Tunnel

Environment

- NSW National Park and Wildlife Service Estate
- Lands acquired under National Parks and Wildlife Act
- Other Parks

Infrastructure

- Existing Rail Network
- Freight Sidings
- Major Road Network
- Proposed M1 Pacific Motorway extension to Raymond Terrace
- Disused Richmond Vale Railway

Note: Stylised representation, corridor widths may not be to scale

Figure: Transport for NSW Recommended Alignment. Source: Transport for NSW, 2021

About the proposed SEPP amendment

The proposed amendment to *State Environmental Planning Policy (Major Infrastructure Corridors) 2020* will:

- Identify the Lower Hunter Freight Corridor to be protected and the land that will be affected
- Reserve land within the corridor for a future infrastructure corridor through the rezoning of land
- Change the planning controls that apply to the land within the corridor, including identifying development that will be permissible within the corridor
- Maintain the structural integrity of the land for future infrastructure by requiring additional consideration for certain excavation works on adjacent land.
- Identify Transport for NSW as the relevant authority to acquire any land within the future infrastructure corridor, if the land is required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991.

About this Explanation of Intended Effects

This Explanation of Intended Effects sets out the proposed protection of the Lower Hunter Freight Corridor and identifies the proposed amendments to State Environmental Planning Policy (Major Infrastructure Corridors) 2020. This will allow the public to provide feedback and comment on the proposed changes to development controls in and adjacent to the recommended alignment.

Part A describes the strategic importance of protecting the corridor for future freight infrastructure and identifies the proposed alignment. Part B explains the objectives and the intended effect of the proposed amendments to the SEPP. The Explanation of Intended Effects also details next steps and provides a map of the recommended corridor proposed by Transport for NSW.



Part 1 – Protecting land for the Lower Hunter Freight Corridor

Supporting growing demand for freight services

The freight network underpins our access to essential goods, including food, fuel, everyday products and construction supplies. Efficient freight services ensure that everyday products are stocked in our local shops and that home deliveries arrive efficiently.

Freight is also a vital industry within our economy. At a state level, freight activities contribute \$66 billion to the NSW economy each year, equating to 13% of the Gross State Product.¹ The freight transport industry directly employs 200,000 workers across the state.

Within the Hunter Region, the number of weekly rail freight services transporting coal on the existing shared freight and passenger corridor has grown by approximately 150% since 2013.² The Hunter Regional Plan 2036 highlights the importance of freight to the Hunter's economy and establishes a direction to enhance interregional linkages to support economic growth. The Hunter Regional Plan 2036 maps the Lower Hunter Freight Corridor as a freight rail bypass under investigation. The Lower Hunter Freight Corridor will play an important role in supporting the operations of Newcastle Port, which is Australia's third largest port by trade volume.³ Connectivity to the State's three main ports— Port Botany, Port Kembla and Port of Newcastle – and to the wider freight network will facilitate quick, safe and cost-effective freight movements.

Once the infrastructure is delivered, the number of freight services travelling

through urban areas of Newcastle will be significantly reduced. This will improve urban amenity in built up areas surrounding the existing Main North Rail Line.

The recommended alignment

The recommended alignment has been identified by Transport for NSW and is on public exhibition. Alongside the maps identifying the recommended alignment, a draft Strategic Environmental Assessment report, prepared by Transport for NSW, provides the justification for the identification of the recommended alignment. The report identifies the original corridor study area and the opportunities and constraints of this area. It also provides an account of the assessment outcomes of the short-listed corridor options.



¹ Transport for NSW 2018, NSW Freight and Ports Plan 2018-2023

² Transport for NSW 2021, Strategic Environmental Assessment Report

³ Transport for NSW 2018, Greater Newcastle Future Transport Plan

Part 2 – About the proposed SEPP amendment

Purpose

The proposed amendment to *State Environmental Planning Policy (Major Infrastructure Corridors) 2020* will identify land required for the future delivery of the Lower Hunter Freight Corridor and reserve that land for a public purpose as per section 3.14(1) (c) of the *Environmental Planning and Assessment Act 1979* (the Act). The land proposed by Transport for NSW to be reserved by the *State Environmental Planning Policy (Major Infrastructure Corridors) 2020*, is identified in Attachment A of this Explanation of Intended Effects.

Once the corridor is finalised by Transport for NSW and the amendment to the SEPP is made, land will be rezoned SP2 Infrastructure – Future Infrastructure Corridor and new planning controls will apply. This will ensure that new development will not inhibit the delivery of the freight line in the future.

In doing so, the proposed amendments will apply a land use planning framework that will:

- identify the land for the future freight line
- allow landowners to continue to use their land as they do now and lodge development applications for uses that are permissible under the zoning in place prior to the application of the SP2 Infrastructure – Future Infrastructure Corridor zone, provided that the proposed development does



- not compromise or interfere with the future use of the land for infrastructure
- manage development within the vicinity of the corridors so that future delivery of infrastructure is not compromised, and supportive land uses are encouraged, for example, locating freight-related services close to future freight infrastructure corridors
- identify the land acquisition authority for land in the reserved infrastructure corridors



Proposed provisions of the SEPP Amendment

Land zoning

Land within the Lower Hunter Freight Corridor is to be rezoned to SP2 Infrastructure – Future Infrastructure Corridor, as shown in **Attachment A**.

Permissible land uses

Under the proposed amendment, development that is currently permissible on land within the identified future infrastructure corridor will continue to be permitted with consent. For example,

works relating to an existing dwelling, such as construction of a pool or granny flat, will remain permissible where the works were permissible under the previous zoning subject to a requirement for development consent.

However, when assessing a development application for development within the SP2 Infrastructure – Future Infrastructure Corridor, the consent authority must consider whether the proposed development will compromise, restrict or otherwise prevent the future use of the land for infrastructure.



The proposed amendment will require any development over a capital investment value of \$200,000 to be subject to concurrence from Transport for NSW. The capital investment value of a development is defined under the *Environmental Planning and Assessment Regulation 2000* and relates to all project costs, including design and construction. In providing a concurrence, Transport for NSW must consider:

- The nature and context of the proposed development, including the need to carry out the proposed development
- The timing of carrying out the proposed development and the proposed timing for constructing infrastructure
- The likely additional costs of delivering the infrastructure in the future resulting from the carrying out of the proposed development.

Under some complying development codes within *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, complying development cannot be undertaken on land reserved for a public purpose, such as land within the SP2 Infrastructure – Future Infrastructure Corridor. Therefore, such works that could once be undertaken as complying development, would require a development application within the corridor.

Prohibited development

The proposed amendment will not allow subdivision of land within the protected corridor as this could hinder infrastructure delivery and increase the number of landowners that will be impacted by the delivery of the future infrastructure. However, changes to property boundaries such as minor corrections to boundary alignments, may still be permitted with consent within and adjacent to the protected infrastructure corridor if Transport for NSW confirms that the changes will not result in any additional landowners being affected by the corridor.

Excavation within and adjacent to the corridor

To protect land in the SP2 Infrastructure – Future Infrastructure Corridor, the proposed amendment will require the consent authority to refer any development application or modification application to Transport for NSW that involves the penetration of ground to a depth of two or more metres below the existing ground level on land:

- within a reserved infrastructure corridor; or
- within 25 metres, measured horizontally, of a reserved infrastructure corridor.

In deciding whether to grant concurrence, Transport for NSW must consider the potential effects of the proposed development on the safety, structural integrity and operation of the future infrastructure. Where appropriate, Transport for NSW may include conditions for excavation similar to those in effect through the *State Environmental Planning Policy (Infrastructure) 2007* for rail corridors.

Acquisition authority

Land within the Lower Hunter Freight Corridor may need to be acquired at some point in the future. The proposed amendment will include a land acquisition map that identifies the land to be acquired. Transport for NSW will be nominated as the acquisition authority.

Under Division 3 of Part 2 of the [Land Acquisition \(Just Terms Compensation\) Act 1991](#), landowners may initiate a request for acquisition in cases of hardship. Any questions regarding land acquisitions should be directed to Transport for NSW.

Surrounding land uses

As well as the proposed amendment, additional guidance on appropriate land use surrounding the corridors will be provided, likely through future strategic plans such as the Hunter Regional Plan 2036 and its future update. This will make sure that potential impacts from the future infrastructure are considered when new land uses are being planned adjacent to the corridors – meaning that future infrastructure integrates with its surrounds.

Mitigation of potential future operational impacts

The assessment of proposals to rezone land surrounding the corridor for sensitive uses (for example, residential uses) is to consider the future infrastructure and apply best practise planning principles to mitigate future operational impacts. Development applications and planning proposals should be prepared with consideration to compatible land uses, site planning, building orientation, room layout and acoustic treatments to mitigate against noise and vibration impacts. The Department of Planning, Industry and Environment will consult with local councils, the community and relevant stakeholders regarding this requirement as it is developed.

Other issues

Relationship to existing environmental plans and policies

The proposed amendment will supersede relevant controls and land use zones stipulated in the relevant local environmental plans.

Next Steps

The Department of Planning, Industry and Environment will consider any feedback, comments or submissions provided regarding the proposed amendments to the State Environmental Planning Policy (Major Infrastructure Corridors) 2020 received through the exhibition period.

Once Transport for NSW has finalised the alignment for the Lower Hunter Freight Corridor, a formal request will be made to the Minister for Planning and Public Spaces to protect the corridor.

The Department will consider this request, review the Strategic Environmental Assessment and provide a recommendation to the Minister, and if required, an amendment to State Environmental Planning Policy (Major Infrastructure Corridors) 2020.

Transport for NSW will then notify relevant landowners of the protection of the Lower Hunter Freight Rail Corridor.



Have your say

For the ease of landowners and the community, submissions can be made through the one portal on the Transport for NSW website. Visit the website for more information on the recommended Transport for NSW corridor transport.nsw.gov.au/LHFC including an interactive online map to see the location of the corridor and to provide your feedback.

Attend an online community information session to be hosted by Transport for NSW, with Department representatives attending, on the 28 July 2021. The link can be found on the Transport for NSW website.



Email: **corridors@transport.nsw.gov.au**



Write:

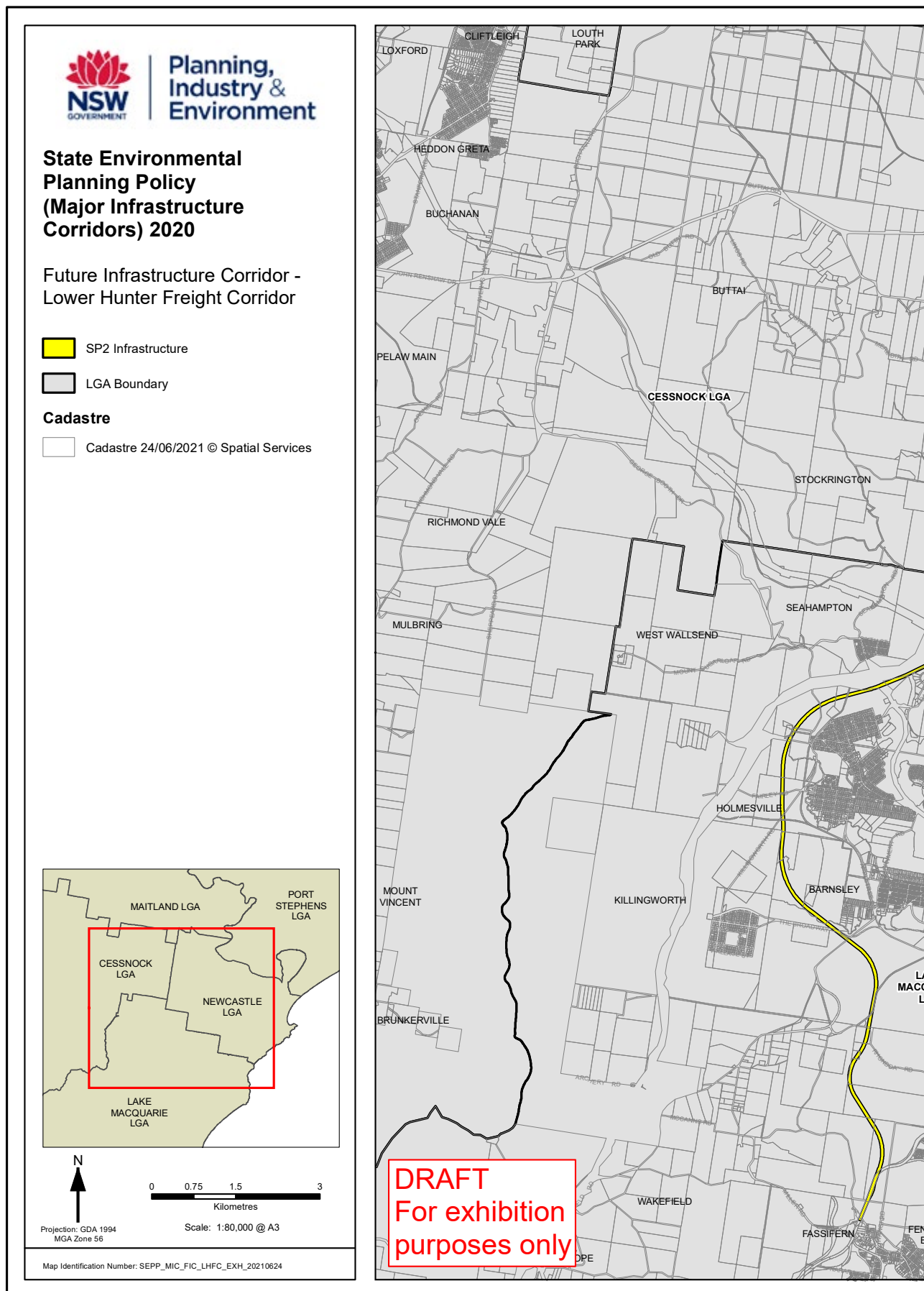
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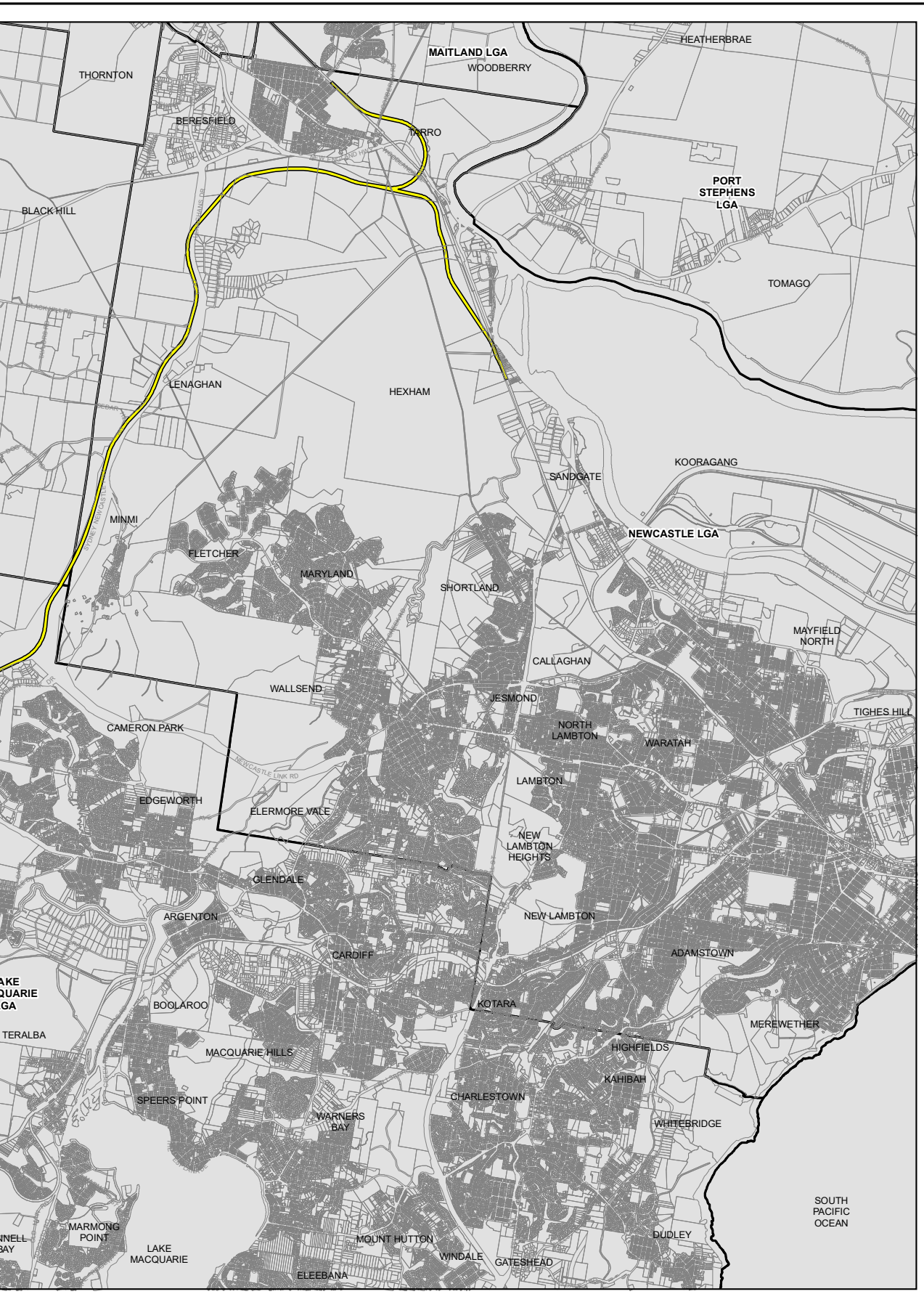


To speak to a member of the Transport for NSW team call
1800 837 511



Attachment A: Proposed Future Infrastructure Corridor Map







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