



**PLANNING PROPOSAL**  
**Amendment to the**  
***Cessnock Local Environment Plan 2011***

**Rezoning of Lot 1 DP873220**  
**No. 71 Branxton Street, Greta**

Version 2.0

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## Background

On 6 June 2018, Council endorsed a recommendation that Planning Proposal (18/2017/6/1) for Lot 1 DP 873220 known as 71 Branxton Street, Greta be forwarded to the Department of Planning, Industry and Environment (DPIE) for a Gateway determination (see Appendix 1: Council Report and Minutes).

On 19 March 2020, DPIE requested additional information and further clarification of the proposal. The modified Planning Proposal addresses the issues raised by the DPIE request for further information including:

- A Strategic Justification for the Planning Proposal
  - Branxton Sub Regional Strategy – Settlement Directions; and
  - Branxton Sub Regional Strategy – Supply/Demand.
- Revised consideration of the SEPPs
- Flooding Impacts
- Threatened Species/Biodiversity Conservation Act

The purpose of this modified report dated 14 July 2020 is to outline the details of the amended Planning Proposal in order to forward the Planning Proposal to the Department of Planning, Industry and Environment for a 'Gateway determination' (Appendix 3: Gateway Determination).

It is considered that the Planning Proposal (as modified) is unlikely to have any significant adverse social or economic impacts. The proposal seeks a rezoning from RU2 Rural Landscape to part R2 Low Density Residential. The flood affected part of the site will remain RU2 Zone.

On 28 August 2020 a revised gateway determination was received from the Department of Planning, Industry and Environment. The revised gateway required the following amendment be made to the planning proposal before it was publicly exhibited for 14 days.

*Prior to community consultation the planning proposal should be updated to:*

*(a) map the site as an urban release area;*

*(b) reflect the adopted local strategic planning statement;*

*(c) refer to the relevant State Environmental Planning Policies (several identified in the planning proposal have been repealed);*

*(d) detail the assessment undertaken which informs the planning proposal's view that the site contains no known items of historical, Aboriginal or archaeological significance and update section 9.1 Ministerial direction 2.3 accordingly;*

*(e) detail the assessment undertaken against section 9.1 Ministerial direction 4.1; and*

*(f) include maps that show the existing and proposed planning controls for the site in the context of the site's surrounds.*

The amendments have been made to the planning proposal apart from Ministerial Direction 4.1 which relates to Acid Sulphate Soil. The site is not mapped as affected by ASS.

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## **PART 1: OBJECTIVES and OUTCOMES**

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The objective of the Planning Proposal is to amend the *Cessnock Local Environmental Plan 2011* (the 'LEP 2011') to achieve the following outcomes:

- Rezone part of the site from RU2 Rural Landscape to R2 Low Density Residential, and amend the correlating LEP 2011 land zoning map.
- Amend the LEP 2011 minimum lot size map to facilitate development of the site for residential purposes consistent with the indicative residential subdivision pattern with minimum lot sizes of 450m<sup>2</sup> (R2 Zone).
- Amend the Urban Release Area map 05 to include the site as an urban release area.

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## **PART 2: EXPLANATION of PROVISIONS**

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This Planning Proposal has been prepared to enable the following amendments to be made to the LEP 2011 instrument and maps. The LEP 2011 was gazetted on 23 December 2011 and came into effect on that date.

1. Rezone the lot from RU2 Rural Landscape to RU2 Rural Landscape (in part) and R2 Low Density Residential Zone,
2. Amend the LEP and Minimum Lot Size maps from 40ha to 40ha (in part) and 450m2.
3. Amend the URA map 05 to include the site as an urban release area.

### Affected Land

The site is part of Lot 1 DP873220 (see Figure 1 and Figure 1).

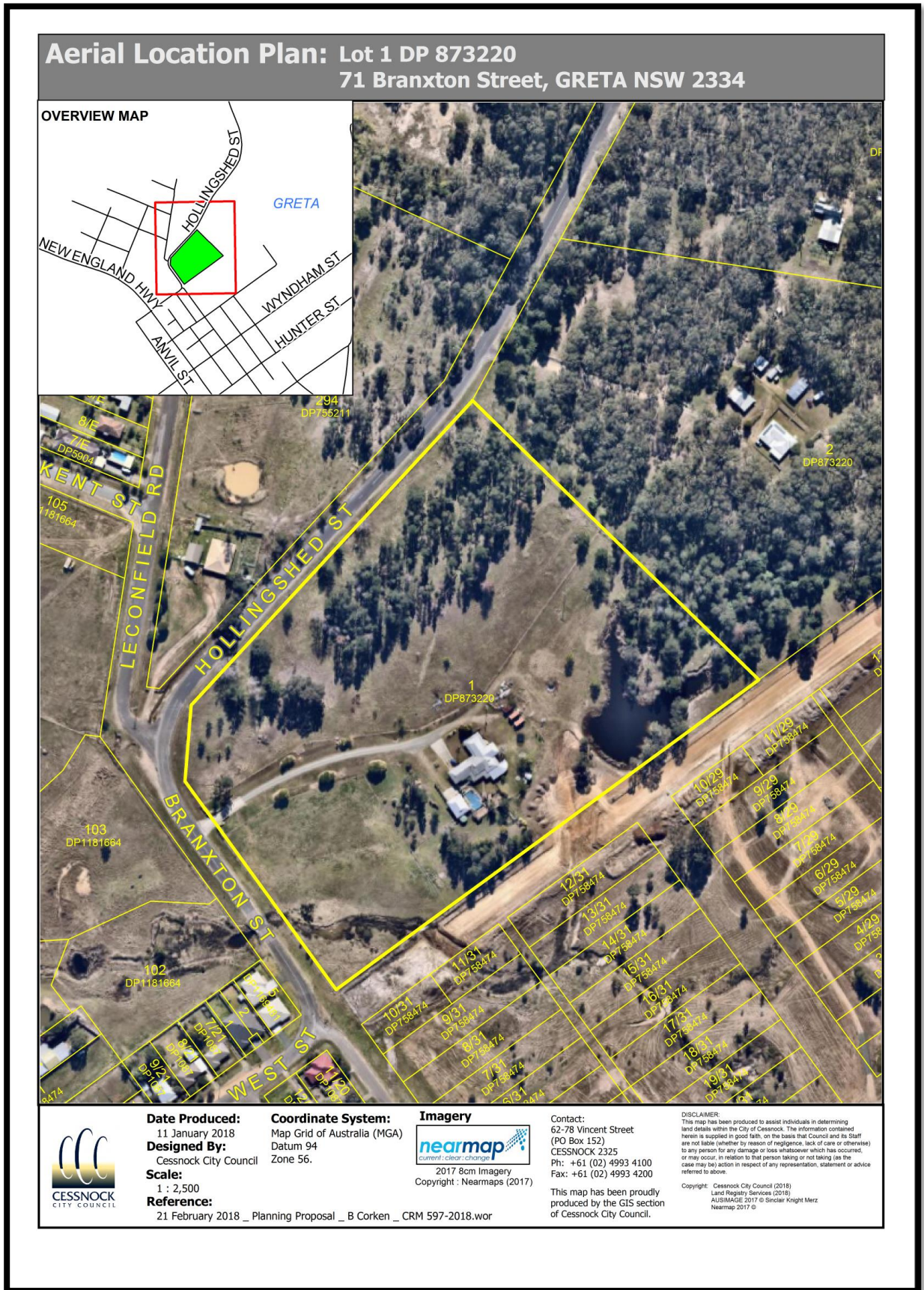


Figure 1: Aerial map of the site.

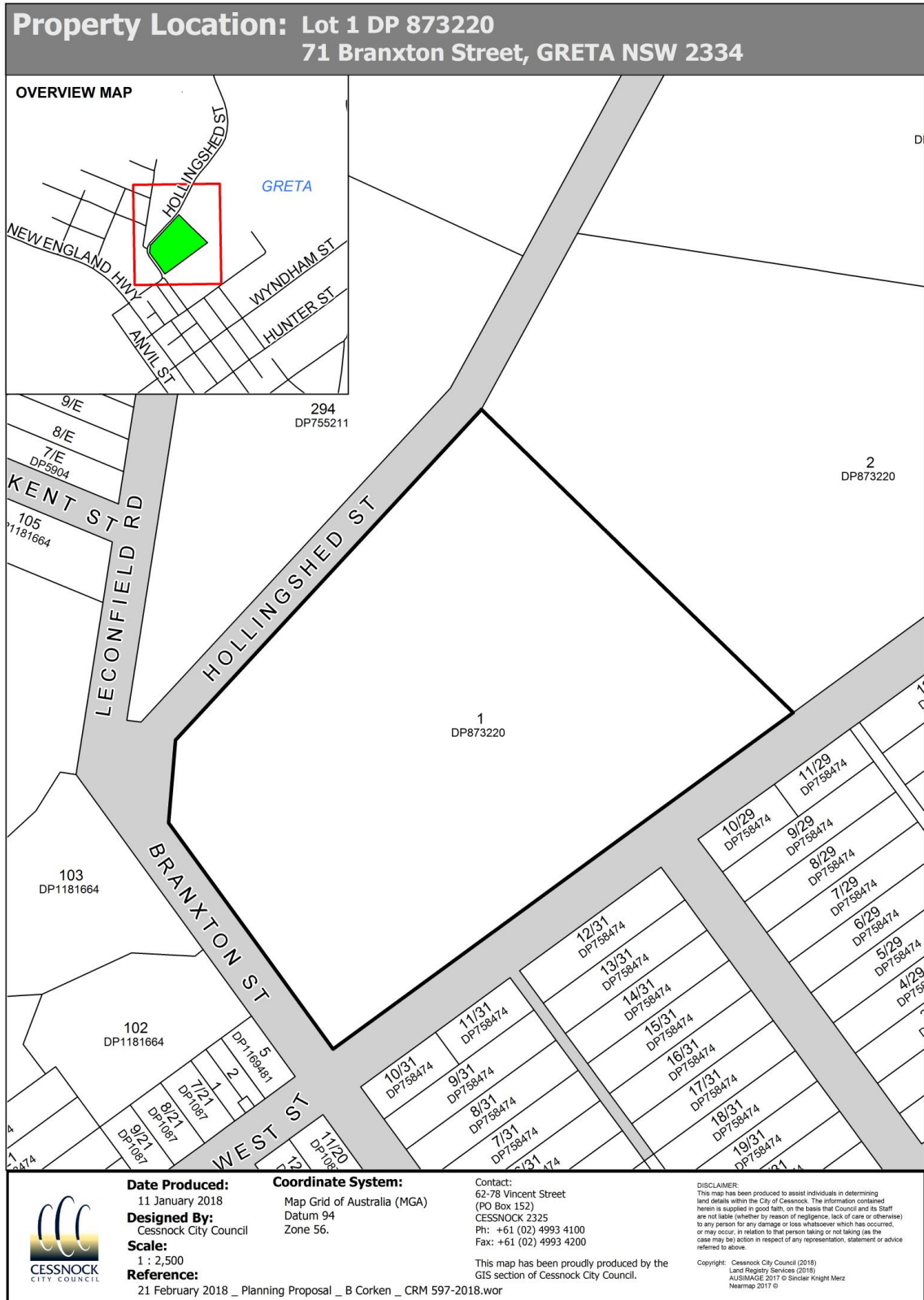


Figure 2: Site map.

### Issue

The planning proposal seeks to amend the CLEP 2011 to achieve approximately 40 lots by rezoning part of the site from RU2 Rural Landscape to R2 Low Density Residential and reducing the minimum lot size from 40Ha to 450m<sup>2</sup>.



The proposal is considered to have merit.

- The proposal will enable development of the site for urban residential purposes and will ensure that future development will satisfy the housing/allotment targets set for the LSPS.
- The site is located generally within the existing town extents of Greta and close to the Greta Town Centre.
- The site has a frontage to the newly constructed West Street that services the Wyndham Road development and is close in proximity to open space, i.e. Victoria Park.
- Council flood mapping shows the site is subject to minor flooding; however, the portion affected is not proposed to be rezoned.
- There is limited future potential to support rural activities.
- Sites within the immediate vicinity may be suitable for residential intensification:
  - Victoria Park (zoned RU2 Rural Landscape) could be rezoned to reflect its recreation purpose;
  - Two hectares of Crown land and an equal area of land owned by the Mindaribba Aboriginal Land Council opposite the site that is zoned RU2 Rural Landscape.
  - There are undeveloped Crown road reserves that may be suitable for rationalisation.
  - There are undeveloped areas to the north-west and west of the site.

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## **PART 3: JUSTIFICATION**

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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 Proposal**

#### **1 *Resulting from a Strategic Study or Report***

##### **Branxton Sub-Regional Land Use Strategy 2016**

The Branxton Sub-Regional Land Use Strategy 2016 (BSLUS) outlines a vision, objectives and benchmarks for land use planning and development within the Subregion to 2041. It is supported by a Structure Plan providing more detailed considerations for specific growth areas and an indicative program to guide the servicing and release of lands for development in the coming years.

The Strategy seeks to facilitate infill residential development to encourage greater housing choice such as shop top housing; seniors housing within 400m walking radius of the village centre or by intensifying residential uses on lands currently zoned for large lot residential where the land can be adequately serviced. However, the proposal does not meet these criteria.

Section 7.1 of the BSLUS provides directions relating to development in the subregion.

##### **Section 7.1 Settlement Directions**

The Branxton Sub Regional Strategy (Strategy) addresses the need to maintain an adequate supply of land zoned and serviced for development in and around the Sub-region's settlement areas to accommodate the anticipated demands to 2041.

The planning proposal has been assessed against the Directions of the Strategy, with particular importance placed on Direction 3: Identifying lands suitable for development.

##### **Direction 1 - Settlement pattern**

Direction 1 sets out the broad structure/pattern for the sub-region. In doing so it defines the boundaries and articulates the roles and a hierarchical order of each of the areas within the sub-region.

The proposal seeks to rezone a parcel of land that is wedged between two areas of residentially zoned land to the east, south and west. The intent for Greta is for the village to accommodate smaller centres providing a mix of uses catering to the demands of surrounding local communities and passing trade. In doing so the Rural and heritage characteristics are protected. The proposal is consistent with the description and key functions and as such is consistent with this policy.

The proposal is infill in nature in that it is a parcel of Rural zoned land wedged between residentially zoned land. The wedge is located within the existing urban area of Greta and as such would not impact on the breaks that exist between settlements. Located within 400m of the existing Village Centre, the site provides an opportunity for additional land within the Settlement Areas. As such, it is considered that the proposal is consistent with this policy.

## **Direction 2 - Maintaining Land Supplies**

Direction 2 seeks to establish a framework which will ensure the supply of land going forward. This is done both by understanding the demand and reviewing additional opportunity sites.

The forecasts contained within the Strategy envisage that the Greta area will have demand that would be relatively low over the initial 5 years with the population growth reflecting this. As discussed later there has been growth in excess of demand and therefore there is a need to consider additional land/dwellings to cater for population growth in the near term. As such it is considered that the proposal is consistent with this policy.

The site has the capacity to be services immediately with the potential for lot/dwelling production within the nominated 5 year servicing window. As such it is considered that the proposal is consistent with this policy.

The site is not nominated in the Structure Plan as an “Investigation Area”. It is, however, also noted that the nominated “Investigation Area” sites have not progressed at this stage. The location of the subject site ‘within’ Greta provides a number of advantages in regards to access to services and facilities over the nominated sites. As such it is considered that the proposal is justifiably not inconsistent with this policy.

## **Direction 3 – Identifying lands suitable for development**

Direction 3 sets objectives for which additional land can be considered and rezoned. These objectives are consistent with good urban development practices such as walkability, affordability, protection of the existing environment and maintaining the areas character.

The site is located within the existing urban area of Greta and there are recent residential developments occurring on sites immediately adjacent area. Infrastructure exists in the immediate area.

As noted previously the proposal is infill in nature in that it is a parcel of Rural zoned land wedged between residentially zoned land. The wedge is located within the existing urban area of Greta and therefore would not impact on the breaks that existing between settlements. Located within 400m of the existing Village Centre, the site provides an opportunity for additional land within the Settlement Areas.

As such, it is considered that the proposal is consistent with highest priority land policy.

The area surrounding the subject site has within it all the required services including reticulated water, sewer, power and NBN. Preliminary investigations indicated that these would require extensions rather than upgrading. This can be confirmed subject to Gateway Approval. As such it is considered that the proposal is consistent with this policy.

While zoned rural the subject site is not productive land. The size and location of the site make it unsuitable for agricultural uses. Further to this the site is not in the vicinity of any productive land and therefore any potential rezoning would not create any conflicts. As such, it is considered that the proposal is consistent with this policy.

The Assessment concluded that while there was some evidence of pot holing and further work would be required, with appropriate geotechnical investigations and remediation works, the area would be considered suitable for development. As such, it is considered that the proposal is consistent with this policy. In general, the proposal is considered not inconsistent with Direction 3 and has merit.

The proposal satisfies this requirement of the strategy. In addition it is consistent with several of the overarching policies informing development across the subregion and the following location specific priorities:

- Maintaining a rural break between East Branxton and Greta, including to retain visual amenity and rural character. This will include protecting and enhancing the rural character area along the New England Highway at the village's eastern and western approaches.
- Supporting the ongoing success of the village centre.
- Protecting and enhancing the heritage character of the village.
- Encouraging walking and cycling by improving local connectivity between and within Greta's neighbourhoods and broader links to East Branxton and Branxton's Town Centre.
- Staged development to provide residential uses in existing release areas to the north of the village.

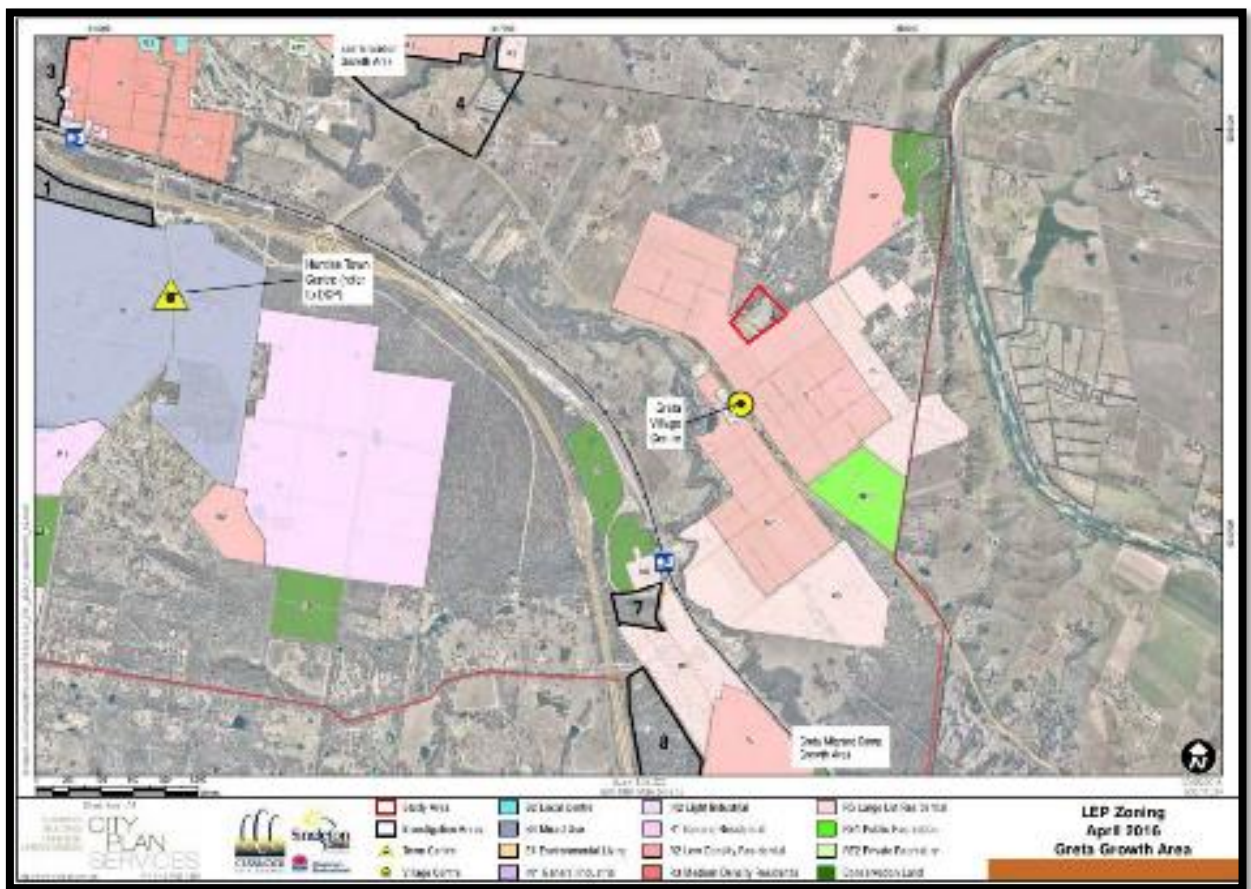


Figure 3: Greta Growth Area Overview from the BSLUS. The site is nominated in red.

## 2 Planning Proposal as best way to achieve to objectives

The current LEP controls prevent the subdivision of lots less than 40Ha on the site and the proposed use is inconsistent with RU2 Rural Landscape Zone. Therefore, to allow for urban housing an amendment to the LEP is required.

## **Section B: Relationship to Strategic Planning Framework**

### **3 Consistency with Objectives and Actions within Regional Strategies**

#### **Hunter Regional Plan 2036**

The Hunter Regional Plan (HRP) will guide the NSW Government's land-use planning priorities and decisions over the next 20 years in the Hunter Region. The plan contains four goals that are underpinned by 27 directions. The area is located in the indicative Greater Newcastle Metropolitan Area in the Hunter Regional Plan 2036 and just outside the Maitland Corridor growth area. The following direction is relevant to the current proposal.

#### Direction 21: Create a compact settlement.

The site adjoins an existing urban area that is zoned R2 Low Density Residential. The site is within 250 metres of the Greta Main Street and 500 metres from a local park. Reticulated sewer and water infrastructure are available in Reginald Street and Kent Street. The site is adjacent to a 59 lot subdivision that is currently being developed. When completed this subdivision will further extend infrastructure to the immediate area.

#### **Greater Newcastle Metropolitan Plan (GNMP) 2036**

The 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 site is located at Greta which is in the metropolitan frame. The Plan contains four goals and 23 strategies. The following strategies are relevant to the proposal.

#### Strategy 16: Prioritise the delivery of infill housing opportunities within existing urban areas

This strategy seeks to deliver housing in existing urban areas within strategic centres and along urban renewal corridors in the metro core. Greta is not a strategic centre or along an urban renewal corridor in the metro core. However, it could be argued that the proposal will deliver housing adjacent to an existing urban area.

### **4 Consistency with Council's Community Strategic Plan or other Local Strategic Plan**

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

There is no strategic direction provided in Council's Community Strategic Plan regarding housing.

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

On 17 June 2020, Council adopted the Local Strategic Planning Statement 2036 (LSPS). Council had previously deferred consideration of the site until the draft LSPS was exhibited. In its resolution, council agreed to advance the planning proposal for the site once it was nominated as an investigation area in the draft Strategy. The site was identified as an investigation area in the draft Strategy.

The merit of the proposal is that it is located with the existing urban area of Greta and there are recent residential developments occurring on sites immediately adjoining the proposed investigation area. Infrastructure exists in the immediate area.

The following priorities and principles are relevant to the proposal.

Planning Priority 1: Urban areas are compact.

The relevant planning principles are:

- Our urban areas are compact and fully serviced.

The site adjoins an existing urban area that is zoned R2 Low Density Residential. The site is within 250 metres of the Greta Main Street and 500 metres from a local park. Reticulated sewer and water infrastructure are available in Reginald Street and Kent Street. The site is adjacent to a 59 lot subdivision that is currently being developed. When completed this subdivision will further extend infrastructure to the immediate area.

Planning Priority 5: Infrastructure and services meet the needs of the community and are appropriately funded.

The relevant planning principles are:

- Rezoning land for urban purposes will be prioritised in areas where existing infrastructure capacity exists.
- Recreation facilities are located in areas with strong connections to surrounding residential areas and good access to cycle ways and road networks.

The site is already serviced by reticulated sewerage and water. Reginald Street has recently been upgraded and a 2.5m shared path has been constructed to connect the newly developed Wyndham Ridge Estate with the Greta village centre.

Planning Priority 7: Urban development is encouraged in areas with existing infrastructure.

The relevant planning principles are:

- Infill development is encouraged in established urban areas.
- Our urban areas are compact and well serviced.
- New growth is integrated with the existing residential areas and adequately serviced.

As above.

Planning Priority 24: The rural landscape of the area is retained and enhanced.

The relevant planning principle is:

- The rural character and amenity of the land is preserved and enhanced.

The site is zoned RU2 Rural Landscape; however the area immediately surrounding the site is predominantly urban.



Figure 4: The site is located within an investigation area in the Draft LSPS.

## 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

State Environmental Planning Policies	Relevance	Consistency and Implications
SEPP (Aboriginal Land) 2019	Not applicable to LGA	Not applicable to LGA
SEPP (Activation Precincts) 2020	Not applicable to LGA	Not applicable to LGA

State Environmental Planning Policies	Relevance	Consistency and Implications
<i>SEPP 19 – Bushland in Urban Areas</i>	<i>Not applicable to LGA</i>	<i>Not applicable to LGA</i>
SEPP Affordable Rental Housing 2009	<p>The aims of this Policy are as follows:</p> <p>(a) to provide a consistent planning regime for the provision of affordable rental housing,</p> <p>(b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,</p> <p>(c) to facilitate the retention and mitigate the loss of existing affordable rental housing,</p> <p>(d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,</p> <p>(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,</p> <p>(f) to support local business centres by providing affordable rental housing for workers close to places of work,</p> <p>(g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.</p>	Not applicable
SEPP 21 - Caravan Parks	The SEPP provides for development for caravan parks.	Not applicable.
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Not applicable.
SEPP 36 - Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	Not applicable.



State Environmental Planning Policies	Relevance	Consistency and Implications
<i>SEPP 47 – Moore Park Showground</i>	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 50 - Canal Estate Development	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	Not applicable
SEPP 55 - Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination	<p>A preliminary contamination assessment, geotechnical assessment and mind subsidence design assessment was undertaken in support of the proposal. The report concluded: “Based on the site history and site inspection, it is considered that the site is suitable for the proposed residential development, providing the following is completed:</p> <ul style="list-style-type: none"> <li>• The stockpiles of waste materials (concrete, timber, brick, metals etc) are removed and disposed off-site to appropriately licensed recyclers or waste facilities;</li> <li>• Due to the presence of waste materials, small fill mounds, and the former mining on the northwest portion of the site, an Unexpected Finds Procedure should be prepared and implemented during earthworks. The Unexpected Finds Procedure would provide guidance on identifying potentially contaminated materials, and procedures for handling and management of potentially contaminated materials.”</li> </ul> <p>It is anticipated that a detailed contamination report will be required at gateway.</p>
SEPP 64 - Advertising and Signage	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable	Not applicable.

State Environmental Planning Policies	Relevance	Consistency and Implications
	locations and is of high quality design and finish.	
SEPP 65 - Design Quality of Residential Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	Not applicable.
SEPP 70 – Affordable Rental Housing (Revised Schemes)	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	Not applicable.
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	Not applicable.
SEPP Exempt and Complying Development Codes 2008	The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.	Not applicable.
SEPP (Coastal management) 2018	<p>The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:</p> <p>(a) managing development in the coastal zone and protecting the environmental assets of the coast, and</p> <p>(b) establishing a framework for land use planning to guide decision-making in the coastal zone, and</p> <p>(c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions</p>	Not applicable to LGA

State Environmental Planning Policies	Relevance	Consistency and Implications
	in the Coastal Management Act 2016.	
SEPP (Concurrences and Consents) 2018		Not applicable
SEPP (Education Establishments and Childcare Facilities) 2017	The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State.	Not applicable.
SEPP Housing for Seniors or People with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	Not applicable.
SEPP Infrastructure 2007	The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	Not applicable.
<i>SEPP (Koala Habitat Protection) 2019</i>	This Policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.	<p>One species of tree listed in Schedule 2 of the SEPP as a 'Koala Feed Tree Species' occurs on the Study Area, being <i>Eucalyptus tereticornis</i> (Forest Red Gum). Only a small number of individuals of this species were found widely scattered over pasture, and nowhere on site does it persist in densities of &gt;15% of a woodland and as such would not constitute 'Potential Koala Habitat' as defined under the SEPP.</p> <p>At no point were Koala feed trees observed on Site at &gt;15% or more of the total tree cover.</p> <p>Additionally, investigations did not detect Koalas or signs of Koalas within the Site. Therefore, the vegetation on the Site does not constitute Potential or Core Koala Habitat.</p>
<i>SEPP (Kosciuszko National Park – Alpine Resorts) 2007</i>	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
<i>SEPP (Kurnell Peninsula) 1989</i>	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Major Infrastructure Corridors) 2020	The aims of this Policy are: (a) to identify land that is intended to be used in the future as an infrastructure corridor,	<i>Not applicable to LGA</i>

State Environmental Planning Policies	Relevance	Consistency and Implications
	<p>(b) to establish appropriate planning controls for the land for the following purposes:</p> <p>(i) to allow the ongoing use and development of the land until it is needed for the future infrastructure corridor,</p> <p>(ii) to protect the land from development that would adversely impact on or prevent the land from being used as an infrastructure corridor in the future.</p>	
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Not applicable.
<i>SEPP Penrith Lakes Scheme 1989</i>	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
State Environmental Planning Policy (Primary Production and Rural Development) 2019	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	<p>This proposal seeks to rezone the land from RU2 to R2 and as such remove the opportunity for a range of agricultural land uses.</p> <p>It is noted that the SEPP would continue to apply to the site and would, subject to development consent, still allow for some agricultural uses but not all.</p> <p>Over the past several decades the land has not been used for an agriculture purpose.</p> <p>Further to this, the area to the east south and west all contain land zoned R2 Low Density Residential. The potential for the site to be 'productive' in the future is considered limited due to its size and the proposed land uses surrounding the site.</p>
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.	Not applicable
<i>SEPP (Sydney Drinking Water Catchment 2011)</i>	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
<i>SEPP (Sydney Region Growth Centres) 2006</i>	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

<b>State Environmental Planning Policies</b>	<b>Relevance</b>	<b>Consistency and Implications</b>
<i>SEPP (Three Ports) 2013</i>	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
<i>SEPP (Urban Renewal) 2010</i>	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
<i>SEPP (Western Sydney Employment Area) 2009</i>	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
<i>SEPP (Western Sydney Aerotropolis) 200</i>	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
<i>SEPP (Vegetation in Non-rural areas) 2017</i>	The aims of this Policy are: (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and  (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.	<i>Not applicable to LGA.</i>
<i>SEPP (Western Sydney Parklands) 2009</i>	<i>Not applicable to LGA.</i>	<i>Not applicable to LGA.</i>

## **6 Consistency with s.9.1 Ministerial Directions for Local Plan Making**

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

On 17 April 2020, new **Ministerial Direction 2.6** became effective. The Direction relates to the remediation of contaminated land. Specifically the objective of the direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

The Direction applies to

- (a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
- (c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:
  - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
  - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

Given the proposal is related to rural land which may have previously been used for agricultural/horticultural activities as listed in Table 1 to the contaminated land planning guidelines it is considered that this Direction is applicable.

Given this potential use of the site, a Preliminary Site Assessment was undertaken as part of the preparation of the Planning Proposal.

The Assessment concluded that based on the site history and site inspection, it is considered that the site is suitable for the proposed residential development, providing the following is completed:

- The stockpiles of waste materials (concrete, timber, brick, metals etc) are removed and disposed off-site to appropriately licensed recyclers or waste facilities;
- Due to the presence of waste materials, small fill mounds, and the former mining on the northwest portion of the site, an Unexpected Finds Procedure should be prepared and implemented during earthworks. The Unexpected Finds Procedure would provide guidance on identifying potentially contaminated materials, and procedures for handling and management of potentially contaminated materials.

As such it is considered that the proposal is consistent with the Ministers direction as the potential impacts of contamination have been assessed and subject to minor works/strategy the site is suitable for its proposed use.

Table 2: Relevant Ministerial Directions

Ministerial Direction	Objective of Direction	Consistency and Implication
<ul style="list-style-type: none"> <li>• EMPLOYMENT AND RESOURCES</li> </ul>		
<ul style="list-style-type: none"> <li>○ Business and Industrial Zones</li> </ul>	The objectives of this direction are to: <ul style="list-style-type: none"> <li>(a) encourage employment growth in suitable locations,</li> <li>(b) protect employment land in business and industrial zones, and</li> <li>(c) support the viability of identified strategic centres.</li> </ul>	Not applicable.
<ul style="list-style-type: none"> <li>○ Rural Zones</li> </ul>	The objective of this direction is to protect the agricultural production value of rural land.	Clause 4(a) states that a planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. The site adjoins an urban area and is the greater area is predominantly residential. It does have a previous use as a small scale market garden; however, this use was abandoned and it has been used primarily as a rural residential property. The site is identified as an investigation area in the draft Cessnock LSPS. For these reasons it is considered of minor significance.
<ul style="list-style-type: none"> <li>○ Mining, Petroleum Production and Extractive Industries</li> </ul>	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Not applicable.

Ministerial Direction	Objective of Direction	Consistency and Implication
<ul style="list-style-type: none"> <li>○ Oyster Aquaculture</li> </ul>	<p><i>The objectives of this direction are:</i></p> <p><i>(a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal,</i></p> <p><i>(b) to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.</i></p>	<p><i>Not Applicable to LGA</i></p>
<ul style="list-style-type: none"> <li>○ Rural lands</li> </ul>	<p>The objectives of this direction are to:</p> <p>(a) protect the agricultural production value of rural land,</p> <p>(b) facilitate the orderly and economic development of rural lands for rural and related purposes.</p>	<p>Clause 4(a) states that a planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. The site adjoins an urban area and is the greater area is predominantly residential. It does have a previous use as a small scale market garden; however, this use was abandoned and it has been used primarily as a rural residential property. The residential use of the site will not affect the right to farm of any rural properties in the area. The site is identified as an investigation area in the draft Cessnock LSPS. For these reasons it is considered of minor significance.</p>
<ul style="list-style-type: none"> <li>• ENVIRONMENT AND HERITAGE</li> </ul>		
<ul style="list-style-type: none"> <li>○ Environmental Protection Zones</li> </ul>	<p>The objective of this direction is to protect and conserve environmentally sensitive areas.</p>	<p>Not applicable.</p>
<ul style="list-style-type: none"> <li>○ Coastal Protection</li> </ul>	<p><i>The objective of this direction is to implement the principles in the NSW Coastal Policy.</i></p>	<p><i>Not Applicable to LGA</i></p>
<ul style="list-style-type: none"> <li>○ Heritage Conservation</li> </ul>	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>	<p>The site does not contain, nor is it located in the vicinity of, any items of heritage significance. The proponent undertook a search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) that has indicated that there are no aboriginal sites, or places, recorded on the subject property.</p>
<ul style="list-style-type: none"> <li>○ Recreation Vehicle Areas</li> </ul>	<p>The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.</p>	<p>Not applicable.</p>
<ul style="list-style-type: none"> <li>• HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</li> </ul>		

Ministerial Direction	Objective of Direction	Consistency and Implication
<ul style="list-style-type: none"> <li>○ Residential Zones</li> </ul>	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</li> <li>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</li> <li>(c) to minimise the impact of residential development on the environment and resource lands.</li> </ul>	<p>The site adjoins an existing urban area and it serviced by reticulated sewer and water infrastructure. Reginald Street has recently been upgraded to service the Wyndham Ridge residential development.</p>
<ul style="list-style-type: none"> <li>○ Caravan parks and Manufactured Home Estates</li> </ul>	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(a) to provide for a variety of housing types, and</li> <li>(b) to provide opportunities for caravan parks and manufactured home estates.</li> </ul>	<p>Not applicable.</p>
<ul style="list-style-type: none"> <li>○ Home Occupations</li> </ul>	<p>The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.</p>	<p>Not applicable.</p>
<ul style="list-style-type: none"> <li>○ Integrating Land Use and Transport</li> </ul>	<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> <li>(d) supporting the efficient and viable operation of public transport services, and</li> <li>(e) providing for the efficient movement of freight.</li> </ul>	<p>The proposal adjoins an existing urban area. It has excellent access to Reginald Street, the Greta Village Centre and the New England Highway. A 2.5m share way has been constructed along Reginald Street between the site and a local park. A bus service (routes 179/180) operated by Hunter Valley Buses runs along the New England Highway. The site is 2km from the Greta Train Station.</p>
<ul style="list-style-type: none"> <li>○ Development Near Licensed Aerodromes</li> </ul>	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(a) to ensure the effective and safe operation of aerodromes, and</li> <li>(b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and</li> <li>(c) to ensure development for residential purposes or human occupation, if situated on land</li> </ul>	<p>Not applicable.</p>



Ministerial Direction	Objective of Direction	Consistency and Implication
	<p>within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</p>	
<ul style="list-style-type: none"> <li>○ Shooting Ranges</li> </ul>	<p>The objectives are:</p> <ul style="list-style-type: none"> <li>(a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,</li> <li>(b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,</li> <li>(c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.</li> </ul>	<p>Not applicable.</p>
<ul style="list-style-type: none"> <li>• HAZARD AND RISK</li> </ul>		
<ul style="list-style-type: none"> <li>○ Acid Sulfate Soils</li> </ul>	<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils</p>	<p>Not applicable. The site is not affected by Acid Sulphate Soils as demonstrated by the absence of the LEP map for ASS affecting the area.</p>
<ul style="list-style-type: none"> <li>○ Mine Subsidence and Unstable Land</li> </ul>	<p>The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</p>	<p>The site is located within a proclaimed district. A Mine Subsidence Desktop Assessment was completed by Regional Geotechnical Solutions. Based on information provided in the mine subsidence report, the north-western portion of the site was historically mined for coal. The mines were the New Greta Colliery and the Whitburn Colliery, which worked the Greta Coal Seam. The assessed maximum depth of the Greta Coal Seam beneath the site's ground level is 16m to 20m, and the thickness of the seam was 1.86m. The former mine workings appeared to be present under the north-western half of the site, based on the observed pothole and depression features observed during the site walkover for the mine subsidence assessment. The record tracings did not indicate that surface infrastructure associated with the former collieries were located on the site.</p> <p>Due to the presence of pothole subsidence features at the site, further investigation works will be required to identify the lateral extent and depth of the workings.</p>

Ministerial Direction	Objective of Direction	Consistency and Implication
		<p>The report recommends that further works at the site involve both test pit investigations and drilling investigations. The investigations should be undertaken in the north eastern portion of the site which show the subsidence features. It should be noted that while further work will need to be undertaken to investigate the site to assess the extent of workings. It is considered that with appropriate geotechnical investigations and remediation works, the area would be considered suitable for development.</p>
<ul style="list-style-type: none"> <li>○ Flood Prone Land</li> </ul>	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</li> <li>(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</li> </ul>	<p>The site has been identified as having areas subject to flooding. The flood mapping has indicated the north-east and south-east areas of Lot 1 are affected by the 1:100 year Average Recurrence Interval (ARI) flood event. A preliminary Stormwater Management Plan has been developed to consider these issues. The preliminary subdivision does not adequately respond to the flooding issue as filling is proposed to accomplish the flood planning level on three proposed lots. This will have to be addressed as part of any future application for subdivision. However, the concept plan does illustrate that a residential subdivision can be accomplished on the site.</p>
<ul style="list-style-type: none"> <li>○ Planning for Bushfire Protection</li> </ul>	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</li> <li>(b) to encourage sound management of bush fire prone areas.</li> </ul>	<p>The Council's bushfire mapping identifies areas of category 1 bushfire vegetation and bushfire buffer areas on the site. The assessment demonstrates that the proposed subdivision is able to satisfy the performance criteria for bushfire management as stipulated in PBP and AS 3959-2009. It is therefore considered that having regard to the Bushfire Threat Assessment, the subject site is suitable for subdivision.</p> <p>The following recommendations are made for the compliance of the proposal with the relevant legislative requirements:</p> <ul style="list-style-type: none"> <li>• An APZ of 25m is to be provided along the north-eastern boundary of the site. Ongoing maintenance of the APZ will be required to reduce fuel loads.</li> <li>• The landscaping of the site is to comply with the</li> </ul>

Ministerial Direction	Objective of Direction	Consistency and Implication
		<p>requirements of Appendix 5 of PBP 2006.</p> <ul style="list-style-type: none"> <li>• This assessment does not deal with the level of construction or specifications for dwellings on individual lots. Separate assessments are to be undertaken for infill development at the DA stage.</li> <li>• The road network and utilities / services shall meet the fire fighting and management requirements as outlined in PBP 2006.</li> </ul>
<p>• REGIONAL PLANNING</p>		
<ul style="list-style-type: none"> <li>○ Implementation of Regional Strategies</li> </ul>	<p>The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes, and actions contained in regional strategies.</p>	<p>An assessment against the Hunter Regional Plan and Greater Newcastle Metropolitan Plan has been provided in Section B of this report.</p>
<ul style="list-style-type: none"> <li>○ Sydney Drinking Water Catchment</li> </ul>	<p><i>The objective of this Direction is to protect water quality in the Sydney drinking water catchment.</i></p>	<p><i>Not Applicable to LGA</i></p>
<ul style="list-style-type: none"> <li>○ Farmland of State and Regional Significance on the NSW Far North Coast</li> </ul>	<p><i>The objectives of this direction are:</i></p> <ul style="list-style-type: none"> <li><i>(a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre,</i></li> <li><i>(b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and</i></li> <li><i>(c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.</i></li> </ul>	<p><i>Not Applicable to LGA</i></p>
<ul style="list-style-type: none"> <li>○ Commercial and Retail Development along the Pacific Highway, North Coast</li> </ul>	<p><i>The objectives for managing commercial and retail development along the Pacific Highway are:</i></p> <ul style="list-style-type: none"> <li><i>(a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route;</i></li> <li><i>(b) to prevent inappropriate development fronting the highway</i></li> <li><i>(c) to protect public expenditure invested in the Pacific Highway,</i></li> <li><i>(d) to protect and improve highway safety and highway efficiency,</i></li> <li><i>(e) to provide for the food, vehicle service and rest needs of travellers on the highway, and</i></li> <li><i>(f) to reinforce the role of retail and commercial development in</i></li> </ul>	<p><i>Not Applicable to LGA</i></p>

Ministerial Direction	Objective of Direction	Consistency and Implication
	<i>town centres, where they can best serve the populations of the towns.</i>	
<ul style="list-style-type: none"> <li>○ <i>Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)</i></li> </ul>	<i>(Revoked 18 June 2010)</i>	<i>Not Applicable to LGA</i>
<ul style="list-style-type: none"> <li>○ <i>Sydney to Canberra Corridor</i></li> </ul>	<i>(Revoked 10 July 2008. See amended Direction 5.1)</i>	<i>Not Applicable to LGA</i>
<ul style="list-style-type: none"> <li>○ <i>Central Coast</i></li> </ul>	<i>(Revoked 10 July 2008. See amended Direction 5.1)</i>	<i>Not Applicable to LGA</i>
<ul style="list-style-type: none"> <li>○ <i>Second Sydney Airport: Badgerys Creek</i></li> </ul>	<i>The objective of this direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.</i>	<i>Not Applicable to LGA</i>
<ul style="list-style-type: none"> <li>○ <i>North West Rail Link Corridor Strategy</i></li> </ul>	<i>The objectives of this direction are to:</i> <i>(a) promote transit-oriented development and manage growth around the eight train stations of the North West Rail Link (NWRL)</i> <i>(b) ensure development within the NWRL corridor is consistent with the proposals set out in the NWRL Corridor Strategy and precinct Structure Plans.</i>	<i>Not Applicable to LGA</i>
<ul style="list-style-type: none"> <li>● LOCAL PLAN MAKING</li> </ul>		
<ul style="list-style-type: none"> <li>○ <i>Approval and Referral Requirements</i></li> </ul>	<i>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</i>	<i>No additional LEP provisions will be included in the CLEP2011.</i>
<ul style="list-style-type: none"> <li>○ <i>Reserving Land for Public Purposes</i></li> </ul>	<i>The objectives of this direction are:</i> <i>(a) to facilitate the provision of public services and facilities by reserving land for public purposes, and</i> <i>(b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</i>	<i>No public land is anticipated to be reserved for public purposes.</i>
<ul style="list-style-type: none"> <li>○ <i>Site Specific Provisions</i></li> </ul>	<i>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.</i>	<i>No site specific provisions are proposed.</i>
<ul style="list-style-type: none"> <li>● Metropolitan Planning</li> </ul>		
<ul style="list-style-type: none"> <li>○ <i>Implementation of A Plan for Growing Sydney</i></li> </ul>	<i>The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.</i>	<i>Not Applicable to LGA</i>

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

### **7 Impact on Threatened Species**

The Planning Proposal was lodged with Council on 23 November 2017. At this time the Biodiversity Conservation Act had not yet come into effect. As such, the Proposal was prepared having regard to the Threatened Species Conservation Act, and the associated requirements.

MJD Environmental was engaged by the applicant to prepare an Ecological Assessment to accompany a rezoning application for a residential subdivision at Lot 1 DP873220, 71 Branxton Street, Greta.

The ecological impact assessment considered whether the removal of vegetation and cleared areas on site would constitute a significant impact on known threatened species, populations and ecological communities from the locality such that a local extinction may occur.

Based on a comprehensive desktop review of threatened species databases and vegetation mapping coupled with a field validation survey, the ecological assessment found:

A total of four vegetation communities within the site being:

1. MU 19 Hunter Lowlands Redgum Forest (Low condition);
2. Pasture with scattered trees
3. Dam and degraded creekline
4. Managed landscape

No threatened flora species were detected during field surveys. Two threatened species, specifically the Little Bent-wing Bat (*Miniopterus australis*) and Eastern Bent-winged Bat (*Miniopterus schreibersii oceanensis*) listed as Vulnerable under the TSC Act, were recorded on site during the field validation survey. No additional threatened species were confidently recorded within the study area.

Assessment under SEPP 44 found that no 'Potential Koala Habitat' occurs within the Site and no further assessment under SEPP 44 was required.

At the time the planning proposal was lodged, transitional arrangements had been established for several LGA areas across the state including Cessnock. The implementation of these arrangements would be delayed initially for 6 months and then a further 6 months. As such the Biodiversity Conservation Act would not come into effect within the Cessnock LGA until 25 November 2018.

In regard to Planning Proposals it is noted that the Biodiversity Conservation (Savings and Transitional) Regulation 2017 is silent in this instance. Never the less, it would stand to reason that an application lodged with Council, 12 months prior to new legislation coming into effect could not be required to assess the impacts against said legislation.

The proposal is considered unlikely to have an impact on the threatened entities assessed and therefore, from an ecological perspective, there would be no impediment to development consent being granted for subdivision of this land.

If required, further assessment may be undertaken in accordance with the Biodiversity Conservation Act, as a condition of gateway determination.

## 8 Environmental Impact

### Flooding

The site has been identified as having areas subject to flooding. The flood mapping has indicated the north-east and south-east areas of Lot 1 are affected by the 1:100 year Average Recurrence Interval (ARI) flood event. The concept subdivision plan does not adequately respond to the flooding issue as filling is proposed to accomplish the flood planning level on three proposed lots. This will have to be addressed as part of any future application for subdivision. However, the concept plan does illustrate that a residential subdivision can be accomplished on the site.

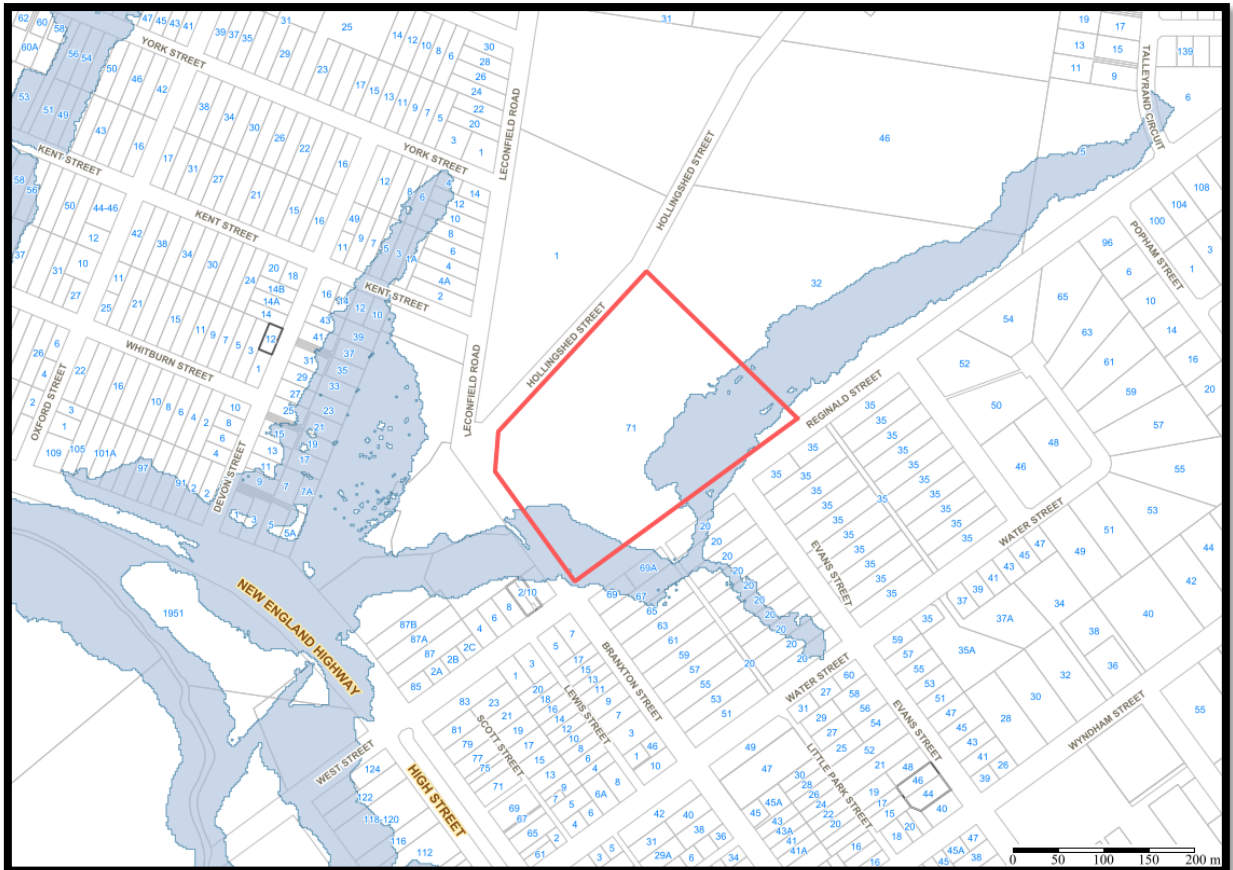


Figure 6: Site and Flood Planning Level

The planning proposal is supported by a Stormwater Management Plan. The Stormwater Management Plan concludes:

- All proposed new lots have adequate flood free building envelopes for up to, and including, the 100yr ARI flood event (as identified by Peter Sullivan and Associates 1995 report) from the existing watercourse;
- Attenuation of peak stormwater runoff from the post-development catchment to be comparable to the pre-development (existing) catchment runoff for the 10yr and 100yr ARI design event; and
- Potential water quality issues are considered and recommended treatment measures to reduce urban water pollutants resulting from the increased hardstand areas.

The design strategy is conceptual in nature and does not include detailed design or detailed stormwater modelling. However, for the purpose of recognising overall implications and management, the strategy provides broad quantities and recommendations. Detailed design will accompany any future subdivision application.

The likely future subdivision layout will provide opportunity to incorporate building envelopes which are flood free or require piers and bearer's construction or minimal filling.

It is noted that applying an RU2 Rural Landscape Zone to control the type and extent of development that can be carried out within the portion of the site which is flood affected is not Council's preferred approach. Hence, the flood affected part of the site is not proposed to be rezoned.

On 15 November 2017, Council adopted a specific Development Control Plan (DCP) Chapter addressing development on flood prone land. The Chapter provides information and controls needed to prepare and assess development applications on flood prone land.

Council's Flood Prone Land DCP Chapter is consistent with the requirements of the NSW Flood Prone Land Policy and NSW Floodplain Development Manual 2005. The Chapter requires the submission of specific information to support applications for development on flood prone land. The information required by the DCP and the controls adopted are scaled in line with proposed use and known flood risk.

Developments that are significantly impacted by flooding must be supported by a major flood assessment report. Sensitive land uses may be deemed unsuitable in high hazard classifications.

Council staff worked closely with OEH and SES to prepare the Flood Prone Land DCP Chapter. Both organisations are members of Council's Flood Plain Management Committee. The DCP Chapter was reviewed by OEH and comprehensive comments on the draft chapter were provided in November and December of 2016.

Chapter C.9: Development on Flood Prone Land of the Cessnock DCP is available at the following link:

<http://www.cessnock.nsw.gov.au/planning-and-development/DevelopmentControlPlan>

The development application process is considered a more appropriate process to control development of the site for the following reasons:

- The character of the land, its size, location and existing use is considered to be more closely aligned with a residential zoning.
- The proposed zoning will reflect that of the surrounding area.
- Certain residential land uses may be appropriate within the land despite the flood risk.
- Controls contained in Council's Flood Prone Land DCP Chapter will make it extremely difficult for inappropriate development to be approved on flood prone land.

A flood study will be required to confirm the likely flood impacts, and considering the age of the Council's draft study, an updated flood assessment will demonstrate whether the residential intensification can be achieved in situ.

### Bushfire

The property is identified as being bushfire prone in Council's Bushfire mapping; any future residential development on the site will therefore be subject to consideration under Section 100B of the Rural Fires Act and *Planning for Bush Fire Protection 2006 (or the equivalent)*.

A Bushfire Threat Assessment accompanies the planning proposal and identifies the bushfire hazards associated with the site and examines the ability of the future subdivision to accommodate bushfire protection measures in accordance with *Planning for Bushfire Protection 2006*. It is noted that any future subdivision application will need to comply with *Planning for Bush Fire Protection 2019*.

The following recommendations are made for the compliance of the proposal with the relevant legislative requirements:

- An APZ of 25m is to be provided along the north-eastern boundary of the site including an 18m road reserve and setback. Ongoing maintenance of the APZ will be required to reduce fuel loads.
- The landscaping of the site is to comply with the requirements of Appendix 5 of PBP 2006.
- The assessment did not deal with the level of construction or specifications for dwellings on individual lots. Separate assessments will be undertaken for development at the DA stage.
- The road network and utilities / services shall meet the fire fighting and management requirements as outlined in PBP 2006.

### Geotechnical

Greta and its surrounds have a history of mining as well as agricultural land uses; as such a detailed assessment was made of the geotechnical conditions on the site. This included:

- Urban Capability (Qualtest Laboratory NSW);
- Preliminary Contamination Assessment (Qualtest Laboratory NSW); and
- Mine Subsidence Investigation (Regional Geotechnical Solutions).

A copy of each of the above is attached to this planning proposal. A brief summation of the conclusions of the reports is provided below.

### Urban capability

- The site is considered suitable for development.
- There is no evidence of slope instability.
- There are no particular constraints to the types of structures that would be considered appropriate for the site.
- Guidelines are provided to ensure future designs are prepared having regard to the conditions of the site.
- It is considered unlikely that acid sulphate soils would be present at the site.
- Similarly, the proposed development presents a low risk of disturbance of acid sulphate soils.
- Test results indicate the area is non-saline.

### Preliminary contamination

- Based on the site history and site inspection, it is considered that the site is suitable for the proposed residential development.
- Due to the presence of waste materials, small fill mounds, and the former mining on the northwest portion of the site, an Unexpected Finds Procedure should be prepared and implemented in associating with any future development of the site.

### Mine subsidence

A Mine Subsidence Desktop Study was provided with the draft planning proposal. The study provided an assessment of the extent and nature of workings beneath the site, including assessment of the stability of typical coal pillars remaining (if applicable to pillar crushing subsidence). The assessment was based on record tracings based on the as surveyed plans of the workings undertaken in the Greta Seam underlying the site. The report concludes:

Due to the presence of pothole subsidence features at the site, further investigation works will be required to identify the lateral extent and depth of the workings. The report author



recommends that further works at the site involve both test pit investigations and drilling investigations. The investigations should be undertaken in the north eastern portion of the site which show the subsidence features.

The report states that while further work will need to be undertaken to investigate the site to assess the extent of workings. It is considered that with appropriate geotechnical investigations and remediation works, the area would be considered suitable for development.

### Heritage

The site does not contain, nor is it located in the vicinity of, any items of heritage significance. The proponent undertook a search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) that has indicated that there are no aboriginal sites, or places, recorded on the subject property.

## **9 Social and Economic Impacts**

### Supply and Demand

The social and economic impacts are likely to be neutral. There are small number of moderately sized lots proposed. The development will contribute to a minor level of employment during development phase and the additional population may make an ongoing minor contribution to local economy.

### **Branxton Sub Regional Strategy – 13 Indicative Land Release Program**

The Branxton Sub-regional Plan as part of its consideration looked at demand/capacity for residential land across the sub-region and within the various locations within.

The analysis was brought together in the form of desired future character (by 2041) statements, Location specific recommendations and Staging plans. This was then linked to the Indicative Land Release Program (Section 13).

A summaries version of the table is provided below in regards to Greta. The Strategy noted that there was sufficient supply of land for residential housing over the life of the plan, based on the proposed rates of development.

In seeking to establish what has occurred over the current period (2016-2021) a review of Council's DA Tracker has been undertaken to seek to establish an initial understanding of the current state of supply and how has demand matched that forecast over the past 4/5 years.

Several key metrics were reviewed to determine the level of activity/demand in the area.

They were:

- DA/CC Subdivision Approval
- DA Dwelling Approval
- OC Issued (for a dwelling)

From this several key elements were identified

- Wyndham Ridge – Subdivision approval and construction complete.
- Wyndham Ridge - Dwellings are presently being constructed onsite with a significant proportion having been completed
- Greta Camp – No application to further progress the 2005 approval have been made.

The review, while only preliminary, indicates that there has been:

- Significantly more demand for housing in the Greta area;
- The Wyndham Ridge development has come online sooner than forecast.
- The subdivision is complete with all lots registered.
- Based on the applications made, approximately 30% of the dwellings have been completed.
- It is considered highly likely that all dwellings will be completed by 2022; and
- Greta Camp on the other hand does not appear to have progressed at all. There is no indication that the proposal is moving forward to CC stage at this point. Collectively these two sites were to deliver 720 lots over the next 20 years.

While the potential for Greta Camp will be retained, it has now been over a decade since the approval was issued. In the unlikely event that Greta Camp can be brought to market, the development of Wyndham Ridge in such a short period of time shows both the increase demand and loss of future supply.

Based on the forecast demand there will be an undersupply of residential land within Greta over the next 10 years of 120 dwellings without accounting for the recent increased demand. With demand outstripping supply, new land must be identified, such as the subject site which can be brought only relatively quickly to meet this demand.

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

### **10 Adequate Public Infrastructure**

Water and sewer infrastructure are located in Reginald Street, and Leconfield Road. Reginald Street has recently been upgraded and includes a 2.6m shared way along the full length of Reginald Street.

The site is adequately serviced.

### **11 Consultation with State and Commonwealth Authorities**

The consultant preparing the planning proposal contacted various agencies and service providers although no formal responses were included in the report. Formal engagement will be required in accordance with the gateway determination.

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## **PART 4: MAPPING**

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**Lot Size Map Sheets**

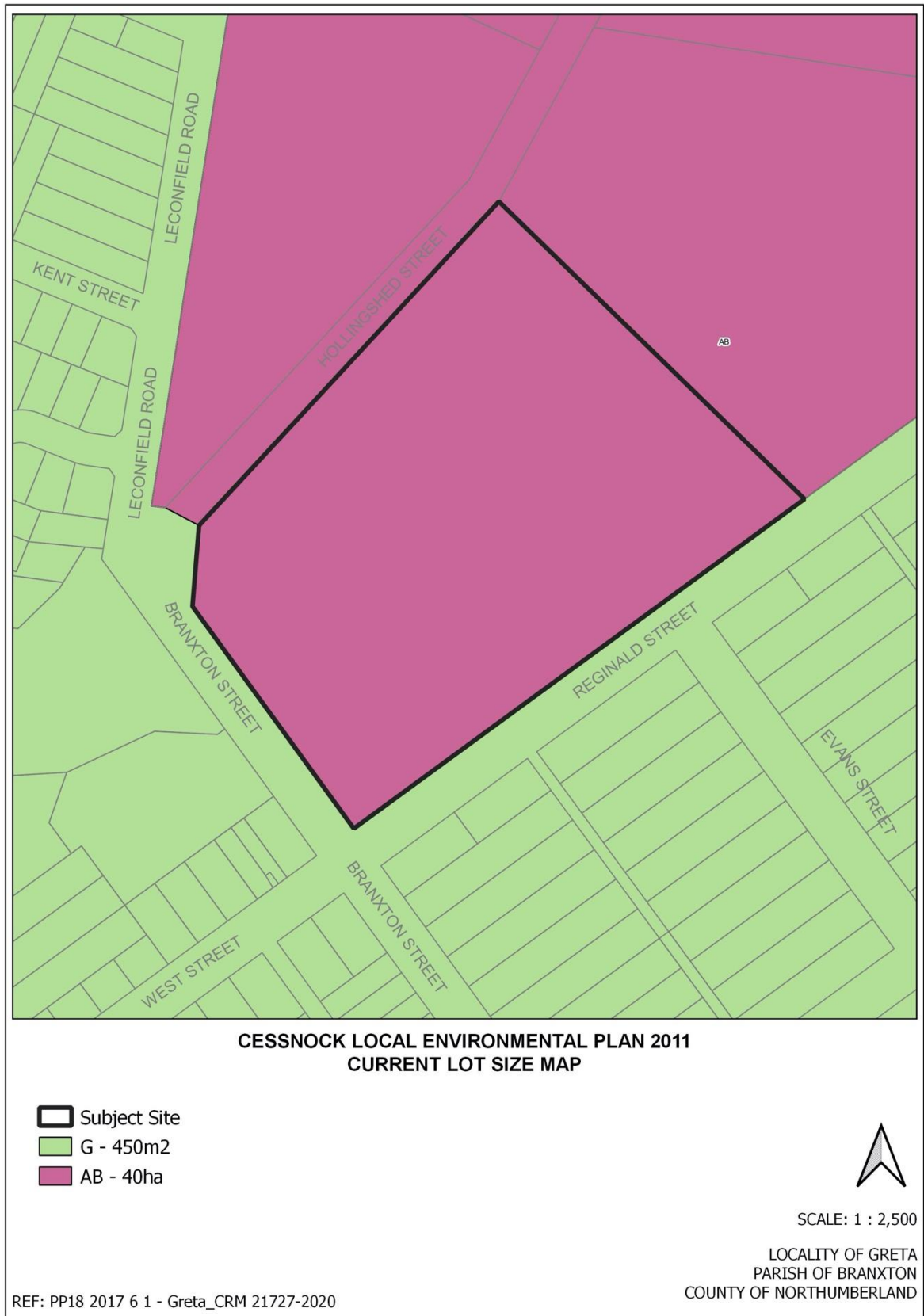


Figure 5: Current lot size map.

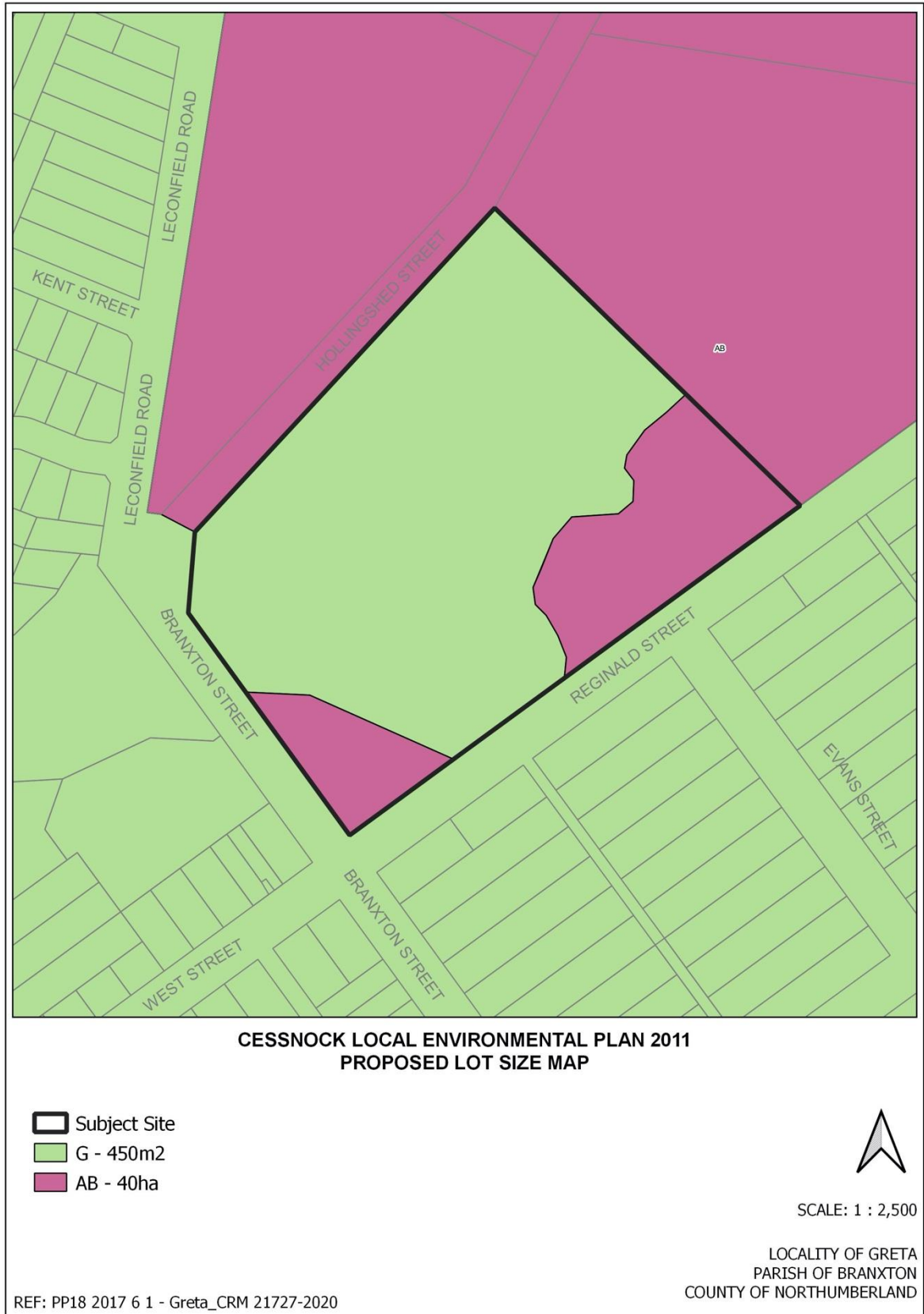


Figure 6: Proposed Lot size map.

**Land Zoning Map**

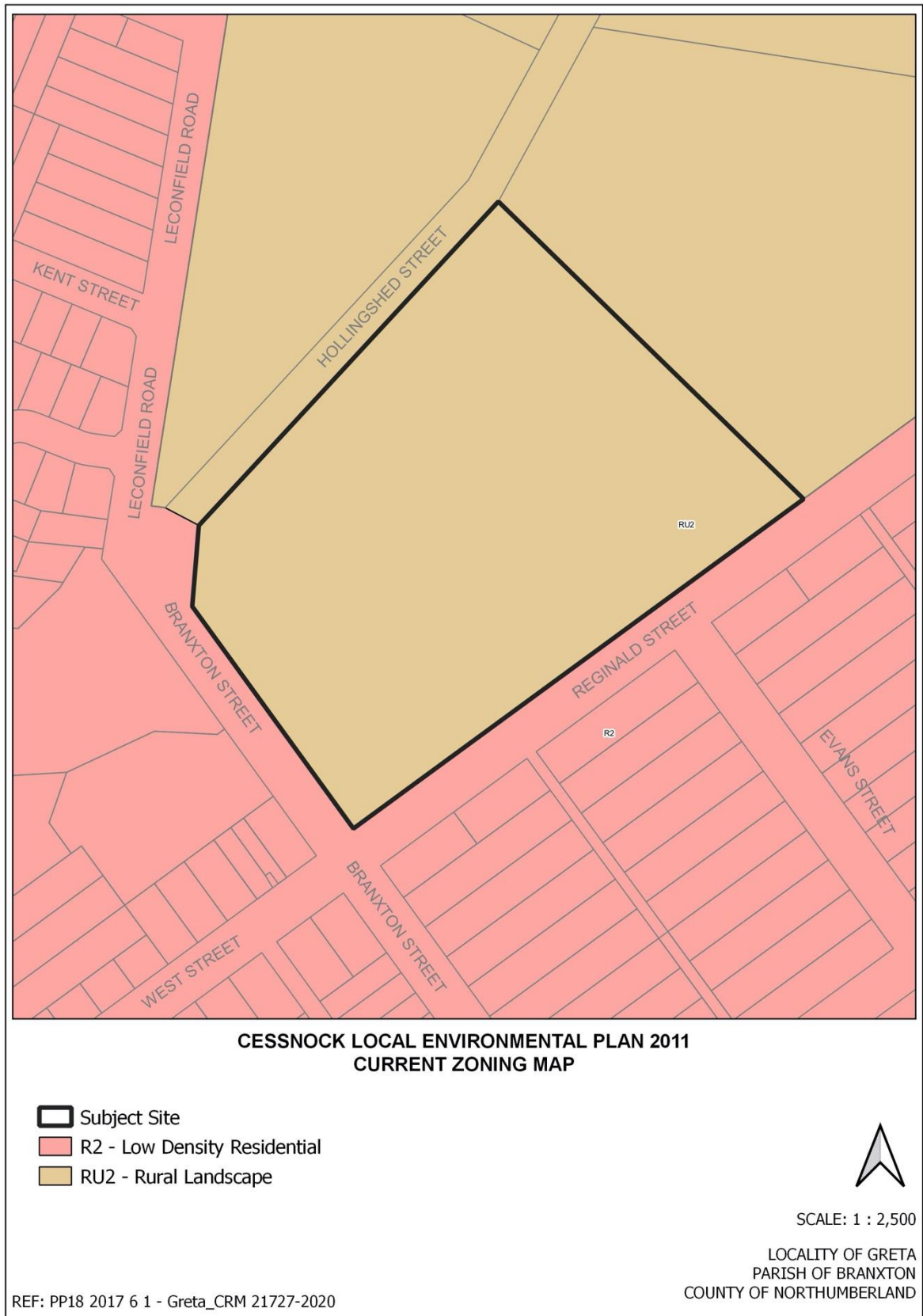


Figure 7: Current land zoning map.

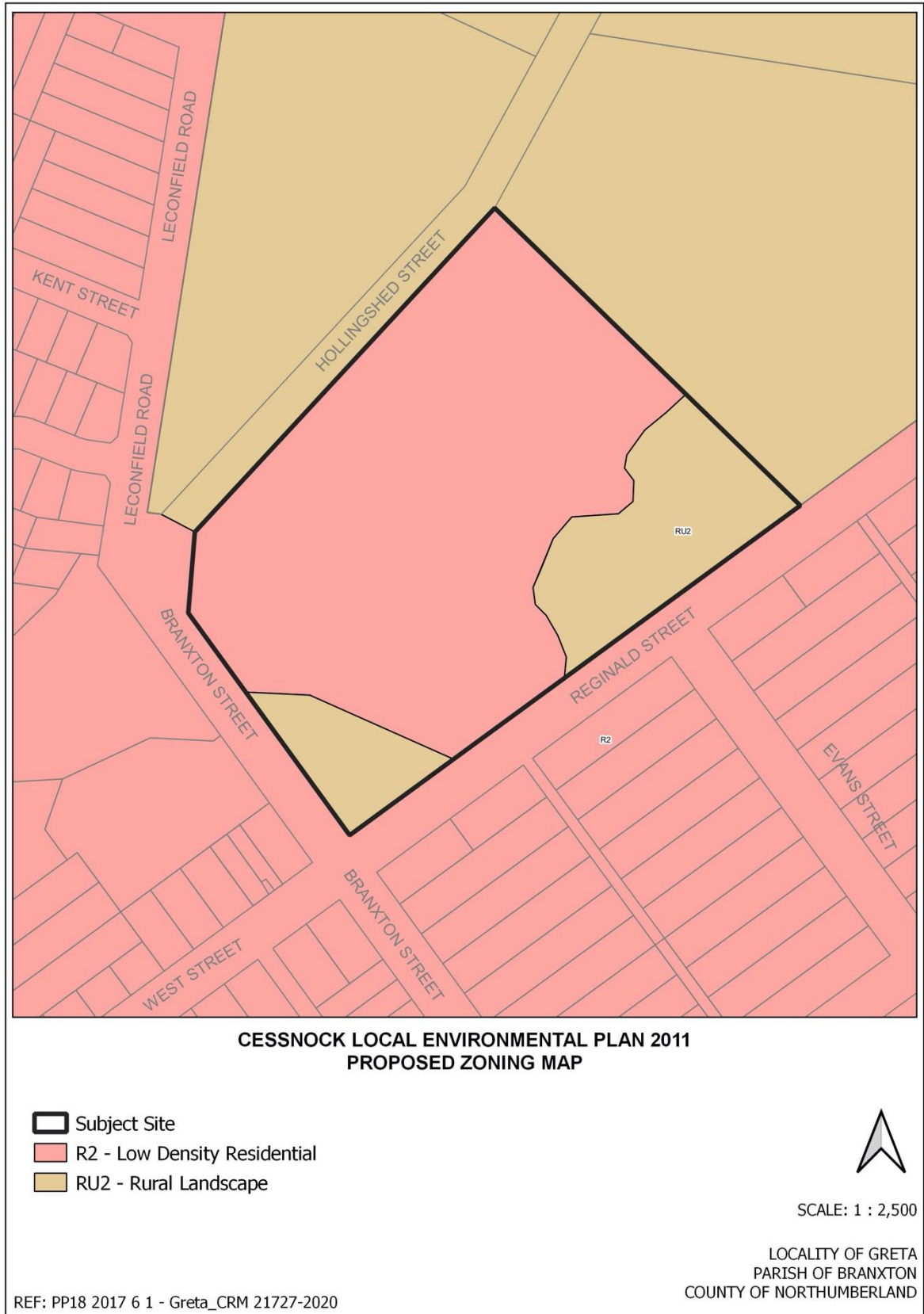


Figure 8: Proposed land zone map.

**Urban Release Area Map**

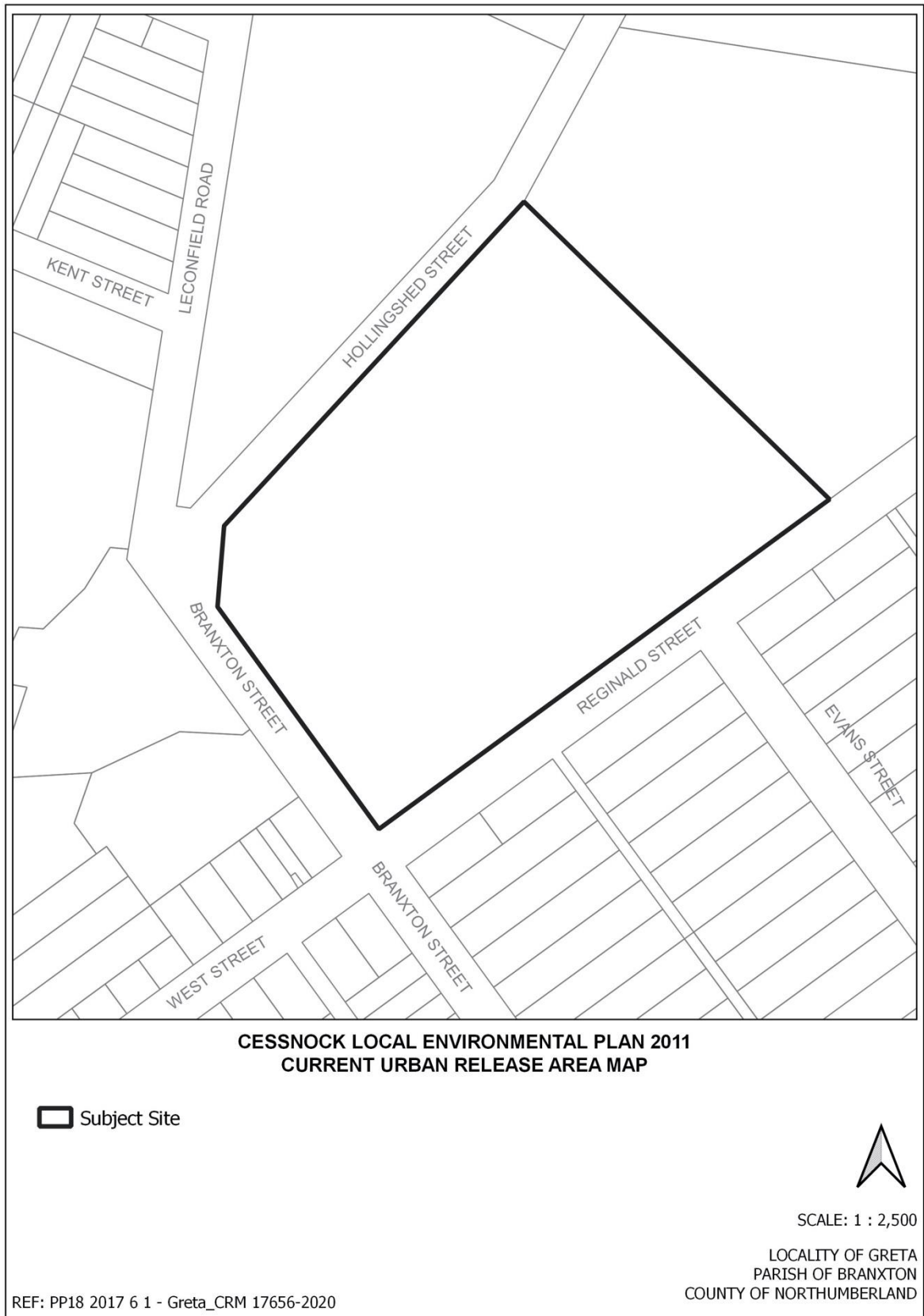


Figure 9: Existing URA Map.



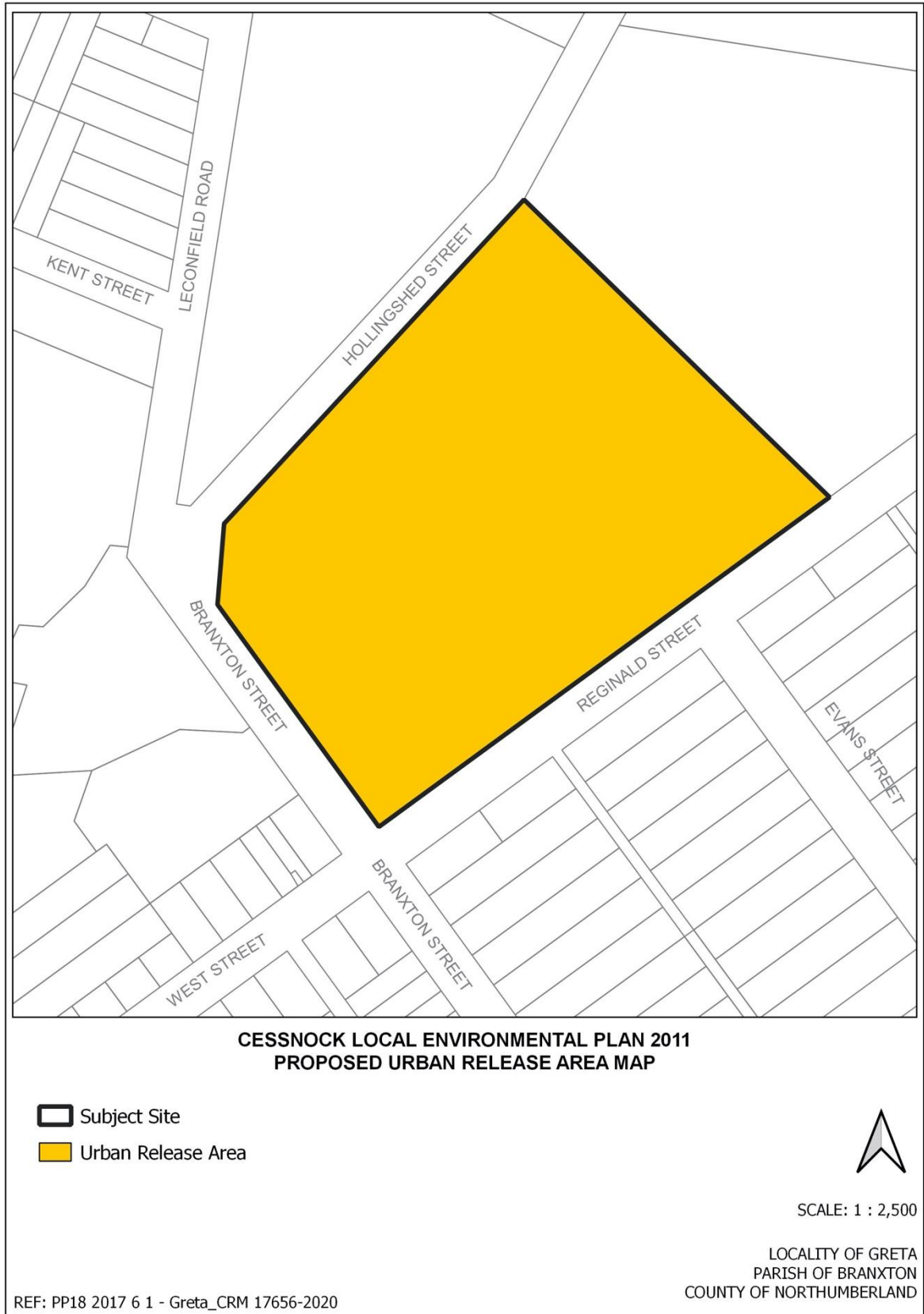


Figure 10: Proposed URA Map.

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## **PART 5: COMMUNITY CONSULTATION**

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Community consultation will be undertaken in accordance with the gateway determination.

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## **PART 6: PROJECT TIMELINE**

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Obviously these are completely arbitrary dates as there is no way to accurately determine how this planning proposal will progress. Council is committed to the reducing the time taken to complete LEPs. However, there are too many variables to accurately predict the passage of this planning proposal.

<b>Milestone</b>	
<b>STAGE 1</b> Submit to DOPE – Gateway Panel consider Planning Proposal – <b>July 2020</b>	
<b>STAGE 2</b> Receive Gateway Determination – <b>August 2020</b>	
<b>STAGE 3</b> Preparation of documentation for Public Exhibition – <b>September 2020</b>	
<b>STAGE 4</b> Public Exhibition – <b>October 2020</b>	
<b>STAGE 5</b> Review/consideration of submission received - <b>November 2020</b>	
<b>STAGE 6</b> Report to Council – <b>January 2021</b>	
<b>STAGE 7</b> Forward Planning Proposal request to DPIE to amend the LEP - <b>May 2021</b>	



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## Appendix 1: Council Report and Minutes

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**SUBJECT:** ***CESSNOCK LOCAL ENVIRONMENTAL PLAN 2011 - PLANNING PROPOSAL TO REZONE LAND AT 71 BRANXTON STREET, GRETA FROM RU2 RURAL LANDSCAPE TO R2 LOW DENSITY RESIDENTIAL AND TO REDUCE THE MINIMUM LOT SIZE FROM 40HA TO 450M2.***

**RESPONSIBLE OFFICER:** ***Strategic Planning Manger – Martin Johnson***

<b>APPLICATION NUMBER:</b>	18/2017/6/1
<b>PROPOSAL:</b>	Planning Proposal – 71 Branxton Street, Greta
<b>PROPERTY DESCRIPTION:</b>	Lot 1 DP873220
<b>PROPERTY ADDRESS:</b>	71 Branxton Street, Greta
<b>ZONE: (CURRENT)</b>	RU2 Rural Landscape
<b>ZONE: (PROPOSED)</b>	R2 Low Density Residential
<b>OWNER:</b>	Mr K H Waeger
<b>PROPONENT:</b>	HDB Town Planning and Design

**SUMMARY**

Council has received a planning proposal to rezone land at 71 Branxton Street, Greta from RU2 Rural Landscape to R2 Low Density Residential and to reduce the minimum lot size from 40ha to 450m<sup>2</sup>.

Council’s existing strategic policy framework does not support the proposal. However, the proposal does have merit in that it is located close to Greta township, it has access to utilities and other services available, it has limited potential for rural activities, it is accessible from the newly constructed extension to West Street and it is opposite Victoria Park.

Council is currently undertaking a comprehensive review of the Cessnock City Wide Settlement Strategy. As there is adequate land available in the immediate area to satisfy residential development needs in the medium-long term, it is recommended that the area bounded by Branxton and Water Streets and Leconfield Road be considered for inclusion as an investigation area in the new city wide planning strategy. Consideration of this larger area will encourage a more holistic and integrated land use outcome.

**RECOMMENDATION**

- 1. That Council include the area bounded by Branxton and Water Streets and Leconfield Road, Greta as an area for investigation within the new Cessnock City Wide Planning Strategy.**
- 2. That Council, subject to the inclusion of the site in the new draft Cessnock City Wide Planning Strategy, sends the draft Planning Proposal to the Department of Planning and Environment requesting a Gateway determination.**



**BACKGROUND**

The site at 71 Branxton Street, Greta is zoned RU2 Rural Landscape with a minimum lot size of 40Ha. The draft Planning Proposal submitted by HDB Town Planning and Design seeks to amend Cessnock Local Environmental Plan 2011 (CLEP 2011) to rezone the site to R2 Low Density Residential and reduce the minimum lot size to 450m<sup>2</sup>. The proposal is supported by an indicative subdivision plan that illustrates a yield of around 40 residential lots.

In November 2014, Council received a preliminary planning proposal to rezone the land. At that time, the applicant was advised that the Hunter Regional Plan 2036 and the Cessnock Settlement Strategy did not support the rezoning of the land and therefore there was no strategic justification or priority for Council to support an amendment to the CLEP 2011 for the site.

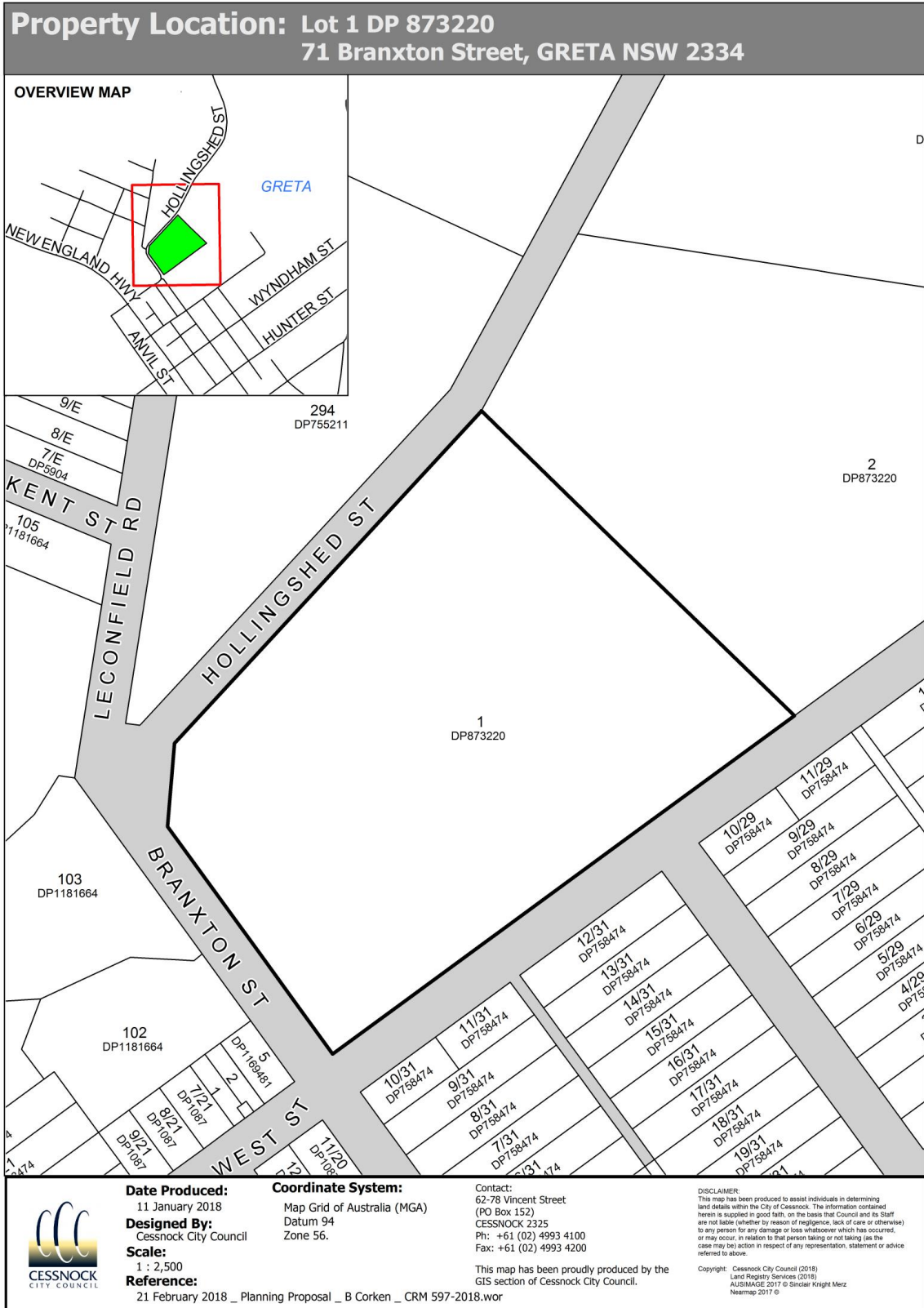
Since that time, Council has adopted the Branxton Subregion Land Use Strategy and Structure Plan 2016. The plan provides long-term direction for the sub-region’s settlement pattern including residential lands. However, the site is not identified in the Strategy as a growth area and it does not meet the policy parameters to be considered as infill development.

Council is currently preparing a comprehensive land use strategy for the entire local government area. The strategy will provide a revised policy context to inform decisions about the future growth across the local government area.

Date	Task
17 June 2014	Council advised HDB Town Planning and Design that there is no strategic basis to consider an amendment to the Cessnock Local Environmental Plan 2011 for the site.
7 November 2014	Council received planning proposal request to rezone the site.
22 January 2015	Council advised HDB Town Planning and Design that a city wide strategic land use study was being prepared to provide direction for the review of the Cessnock City Wide Settlement Strategy.
7 October 2015	Council calls for expressions of interest for sites to be considered as future development sites in the City Planning Strategy Project.
24 March 2016	Council acknowledges an expression of interest from HDB Town Planning and Design and advises of the timeframe (> 2 years).
24 November 2017	Council received planning proposal from HDB Town Planning and Design.
10 January 2018	Council acknowledges receipt of planning proposal.

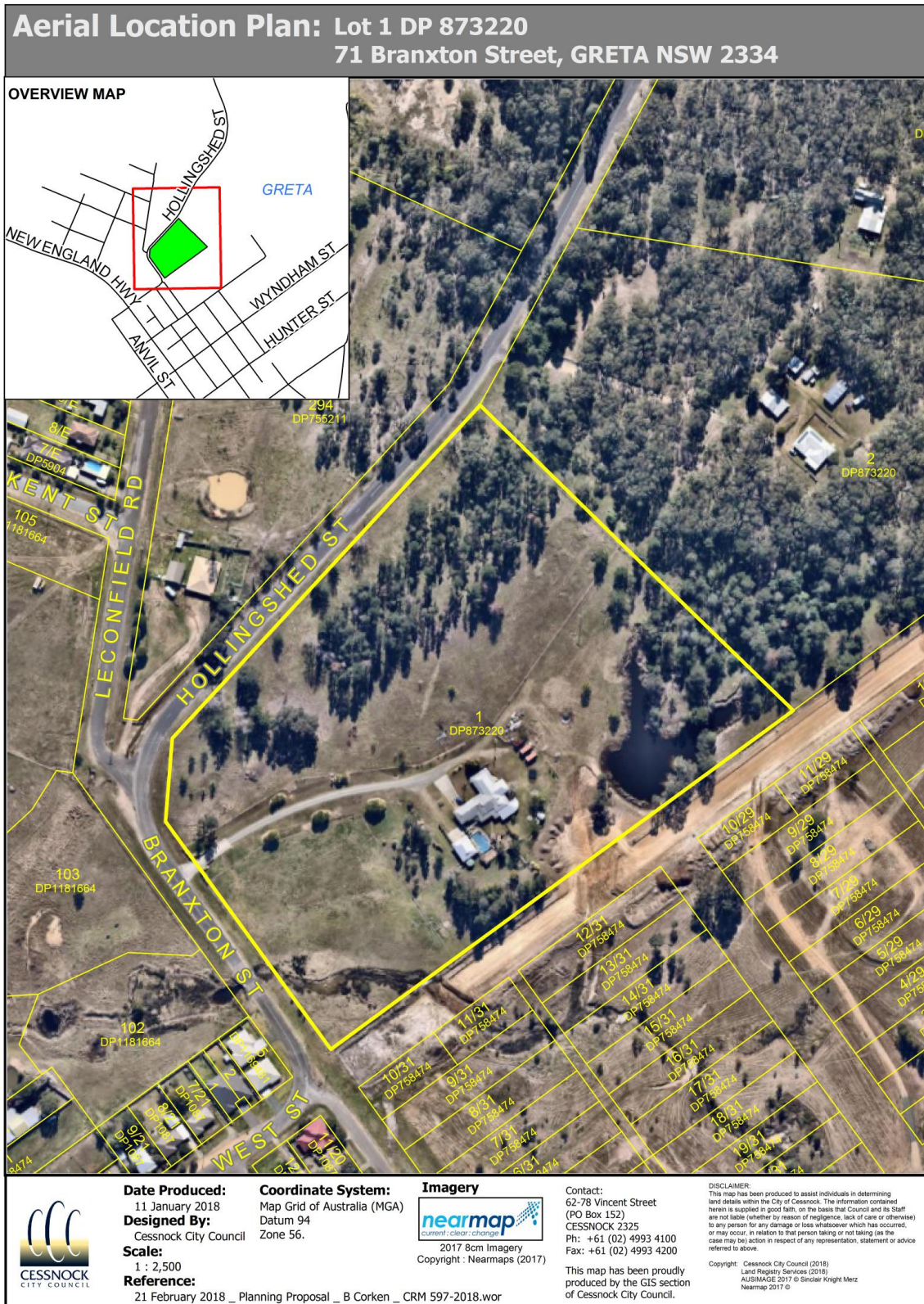


Location map





Aerial map







**REPORT/PROPOSAL**

The draft planning proposal seeks to amend the CLEP 2011 to achieve approximately 40 lots. The proposed changes include rezoning the land from RU2 Rural Landscape to R2 Low Density Residential and reducing the minimum lot size to 450m<sup>2</sup>.

The existing strategic policy framework provided by the Hunter Regional Plan 2036, City Wide Settlement Strategy 2010, the Branxton Subregion Land Use Strategy and Structure Plan 2016 does not support this proposal. Despite this, the proposal does have merit as the site:

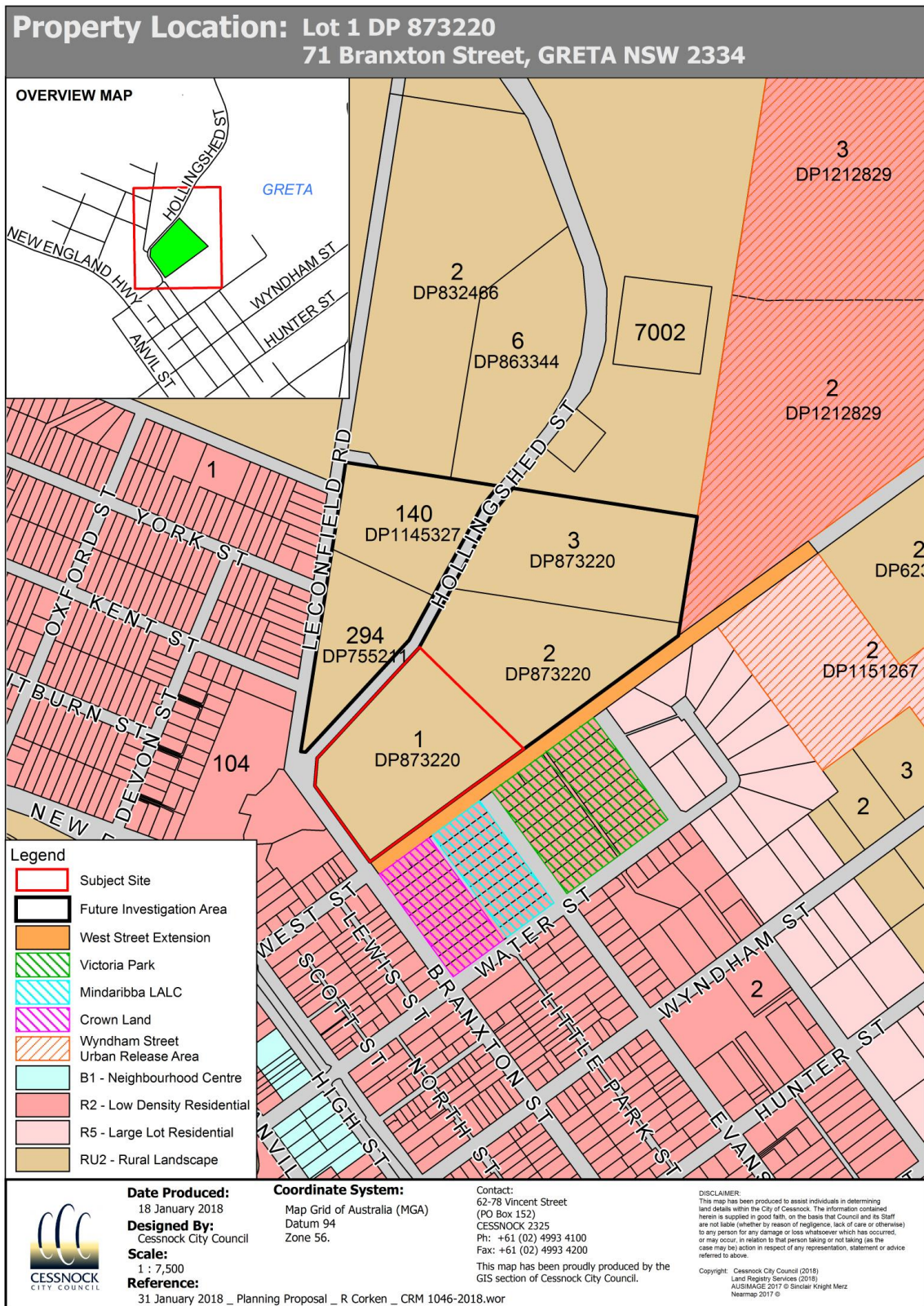
- is located generally within the existing town extents of Greta;
- is close to the Greta Town Centre;
- has frontage to the newly constructed West Street that services the Wyndham Road development;
- is close to open space, i.e. Victoria Park; and
- has limited potential to support rural activities.

There are a number of other sites in the immediate vicinity of the subject site that may also be suitable for consideration for future development and/or rezoning. For example:

- Victoria Park is currently zoned RU2 Rural Landscape and could be rezoned to reflect its recreation purpose.
- There is a two hectare area of Crown land and an equal area of land owned by the Mindaribba Aboriginal Land Council opposite the site that is zoned RU2 Rural Landscape.
- There are undeveloped Crown road reserves that may be suitable for rationalisation.
- There are undeveloped areas to the north-west and west of the site.



Surrounding development and proposed investigation area



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**Report No. PE34/2018**

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Given the number of sites that may be suitable for development and/or rezoning, the area would benefit from a strategic, rather than a site specific investigation to encourage a holistic and integrated approach to development in the area. Therefore, it is proposed that the area be considered as an area for investigation in the future Cessnock City Wide Planning Strategy.

**OPTIONS**

Council has the following options:

1. To not proceed with the proposal at this time to rezone the land and to consider the area bounded by Branxton and Water Streets and Leconfield Road, Greta as an investigation area in the new City Wide Planning Strategy. This would allow Council to consider rezoning the area at an appropriate future stage. This is the preferred option
2. To support the draft Planning Proposal and seek a Gateway determination from the Department of Planning and Environment to proceed with rezoning the site.

**CONSULTATION**

An officer of the Department of Planning and Environment was contacted to discuss the proposal and to gauge the level of support for the draft Planning Proposal. The officer advised that if there was no strategic policy basis for consideration of the draft planning proposal then it was unlikely that the Department would support it. However, the officer acknowledged that the site had merit and could be considered in the review of the Cessnock City Wide Settlement Strategy.

**STRATEGIC LINKS**

**a. Delivery Program**

The Draft Planning Proposal aligns with the following objectives of the Cessnock 2027 Community Strategic Plan:

A sustainable and Healthy Environment:

- Objective 3.1, Protecting and Enhancing the Natural Environment and the Rural Character of the Area.

**b. Other Plans**

City Wide Settlement Strategy 2010 (CWSS)

The CWSS is Councils primary strategic planning policy. The CWSS directs growth across the local government area and informs any changes to the Cessnock Local Environmental Plan.

Part 5 of the CWSS refers to the provision of residential land. Section 5.3 and 5.4 identify specific areas of infill residential development. The site is not identified as an infill or a development site.

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Part 6 of the CWSS provides direction for the growth of villages including Greta. Section 6.2 specifically excludes additional development in any villages other than Ellalong, Paxton, Millfield and Kitchener. However, this is on the basis that access to a fully reticulated sewer system was not available when the CWSS was drafted.

**Branxton Sub-regional Land Use Strategy and Structure Plan 2016**

The Council adopted the Branxton Sub-regional Land Use Strategy and Structure Plan in June 2016. That Strategy covers the areas in and around Greta including the subject site. The Strategy identifies two specific investigation sites in Greta.

1. Greta Growth Area – this area is expected to provide around 250 new dwellings and around 70 new rural residential dwellings to 2041.
2. Greta Migrant Camp – this area has an ultimate capacity to provide around 1,350 residential dwellings to 2041.

The subject site is not identified as an investigation site in Branxton Sub-regional Land Use Strategy and Structure Plan.

The Strategy seeks to facilitate infill residential development to encourage greater housing choice such as shop top housing; seniors housing within 400m walking radius of the village centre or by intensifying residential uses on lands currently zoned for large lot residential where the land can be adequately serviced. However, the proposal does not meet these criteria.

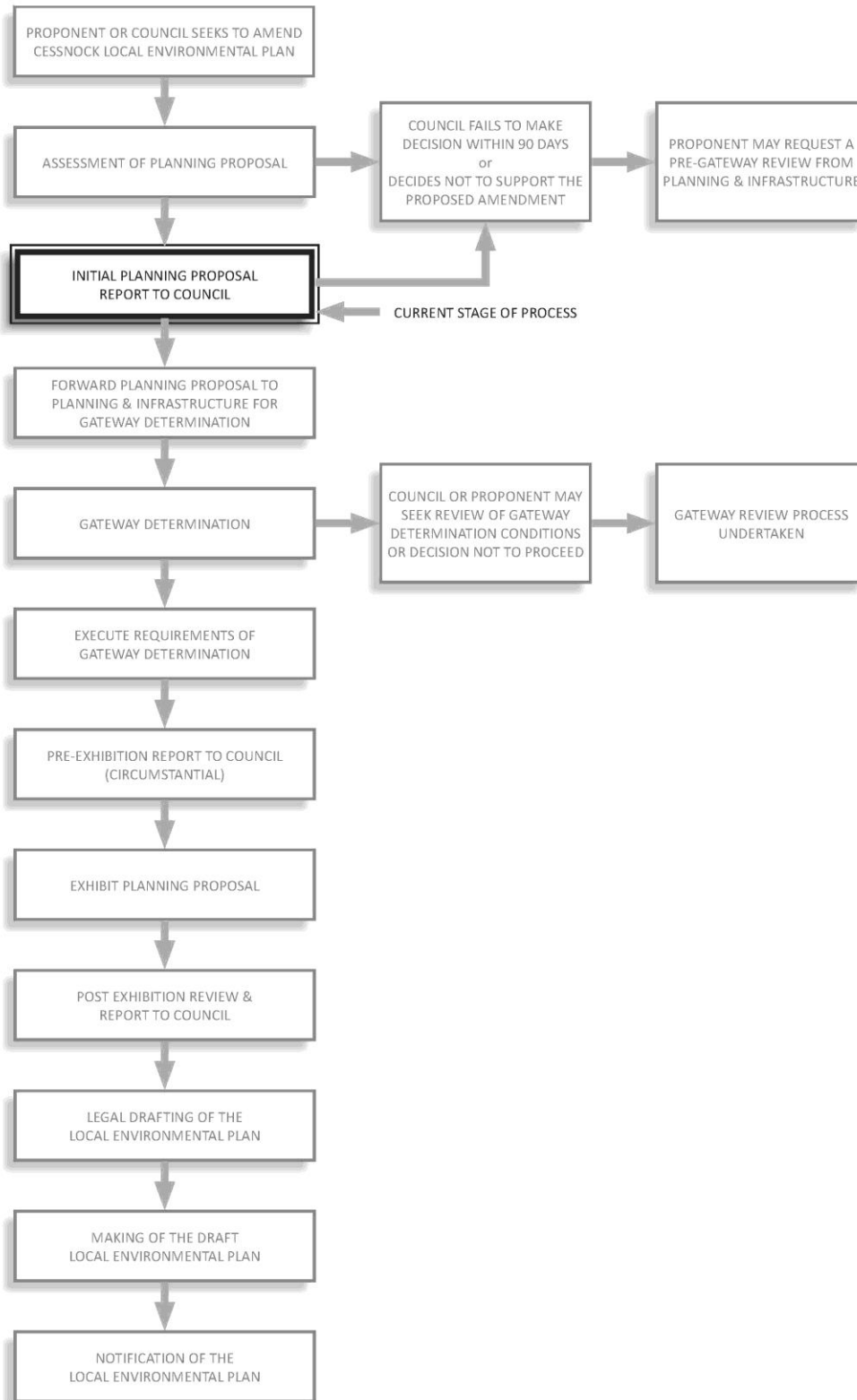
***IMPLICATIONS***

**a. Policy and Procedural Implications**

The status of the planning proposal is identified in the following process flow chart.



PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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**b. Financial Implications**

There are no financial implications if Council does not proceed with the Planning Proposal, as per the recommendation of the Report.

If Council resolves to proceed with the draft Planning Proposal the proponent will be charged fees in accordance with Council's adopted Fees and Charges.

**c. Legislative Implications**

NIL

**d. Risk Implications**

Allowing this planning proposal to advance without a supportive strategic policy framework may undermine the rigour of Council's strategic planning framework.

There is also a high risk that the Department of Planning and Environment will not support the draft Planning Proposal

**e. Environmental Implications**

There are a number of environmental constraints on the site and design considerations that would need to be resolved before advancing any planning proposal to rezone the site.

Hunter Lowerlands Redgum Forest Ecologically Endangered Community

There is a small area of Hunter Lowerlands Redgum Forest Ecologically Endangered Community (EEC) on the site. The value of this EEC needs to be understood and if required, actions to protect the EEC taken.

Riparian corridor

A second order stream traverses the site. The zoning of the site will need to ensure the value of the corridor is protected.

Flooding

The site is partly affected by flooding in a 1% Annual Exceedance Probability (AEP) event. The zoning of the land must reflect the flooding constraint unless it is determined to be of minor significance.

Stormwater management

Stormwater management and specifically the design, location and management of the proposed detention basin would have to be considered by Council.

**f. Other Implications**

NIL

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***CONCLUSION***

The rezoning of the site for residential purposes has merit. However, Council's existing strategic land use policy framework does not support the proposal. Council is undertaking a comprehensive review of its current Settlement Strategy due for completion 2018/2019.

There are a number of sites around the subject site that could be considered for rezoning for residential and other purposes. An investigation of the larger area would encourage an integrated development outcome. To achieve this, it is proposed to consider the area bounded by Branxton and Water Streets and Leconfield Road as an area for investigation in the new settlement strategy.

***ENCLOSURES***

There are no enclosures for this report

## **PLANNING AND ENVIRONMENT**

### **PLANNING AND ENVIRONMENT NO. PE34/2018**

**SUBJECT: CESSNOCK LOCAL ENVIRONMENTAL PLAN 2011 - PLANNING PROPOSAL TO REZONE LAND AT 71 BRANXTON STREET, GRETA FROM RU2 RURAL LANDSCAPE TO R2 LOW DENSITY RESIDENTIAL AND TO REDUCE THE MINIMUM LOT SIZE FROM 40HA TO 450M2.**

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**MOTION**      **Moved:** Councillor Burke      **Seconded:** Councillor Sander  
508

#### **RESOLVED**

1. That Council include the area bounded by Branxton and Water Streets and Leconfield Road, Greta as an area for investigation within the new Cessnock City Wide Planning Strategy.
2. That Council, subject to the inclusion of the site in the new draft Cessnock City Wide Planning Strategy, sends the draft Planning Proposal to the Department of Planning and Environment requesting a Gateway determination.

<b>FOR</b>	<b>AGAINST</b>
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Dagg	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
<b>Total (12)</b>	<b>Total (0)</b>

**CARRIED UNANIMOUSLY**



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## Appendix 2: Supporting documents

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Planning proposal supplementary information in response to DPIE prepared by HDB consultants. (See enclosures).

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## Appendix 3: Gateway Determination

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## Gateway Determination

***Planning proposal (Department Ref: PP\_2020\_CESSN\_001\_00): to amend the Cessnock Local Environmental Plan 2011 to rezone part of 71 Branxton Street, Greta to R2 Low Density Residential.***

I, the Director, Central Coast and Hunter Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the *Cessnock Local Environmental Plan 2011* to rezone part of 71 Branxton Street, Greta from RU2 Rural Landscape to R2 Low Density Residential should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal should be updated to:
  - (a) map the site as an urban release area;
  - (b) reflect the adopted local strategic planning statement;
  - (c) refer to the relevant State Environmental Planning Policies (several identified in the planning proposal have been repealed);
  - (d) detail the assessment undertaken which informs the planning proposal's view that the site contains no known items of historical, Aboriginal or archaeological significance and update section 9.1 Ministerial direction 2.3 accordingly;
  - (e) detail the assessment undertaken against section 9.1 Ministerial direction 4.1; and
  - (f) include maps that show the existing and proposed planning controls for the site in the context of the site's surrounds.
  
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018) and must be made publicly available for a minimum of **14 days**; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).

3. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Ministerial directions:

- NSW Rural Fire Service
- Subsidence Advisory NSW
- Biodiversity Conservation Division of the Department of Planning, Industry and Environment
- NSW Department of Primary Industries
- Ausgrid
- Hunter Water

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:

- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
- (b) the planning proposal is consistent with section 9.1 Ministerial directions or the Secretary has agreed that any inconsistencies are justified; and
- (c) there are no outstanding written objections from public authorities.

6. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 28<sup>th</sup> day of August 2020.



**Dan Simpkins**  
**Director, Central Coast and Hunter**  
**Region**  
**Department of Planning, Industry and**  
**Environment**

**Delegate of the Minister for Planning**  
**and Public Spaces**