



Vincent Street
CESSNOCK

27 May 2016

ORDINARY MEETING OF COUNCIL

WEDNESDAY, 1 JUNE 2016

ENCLOSURES

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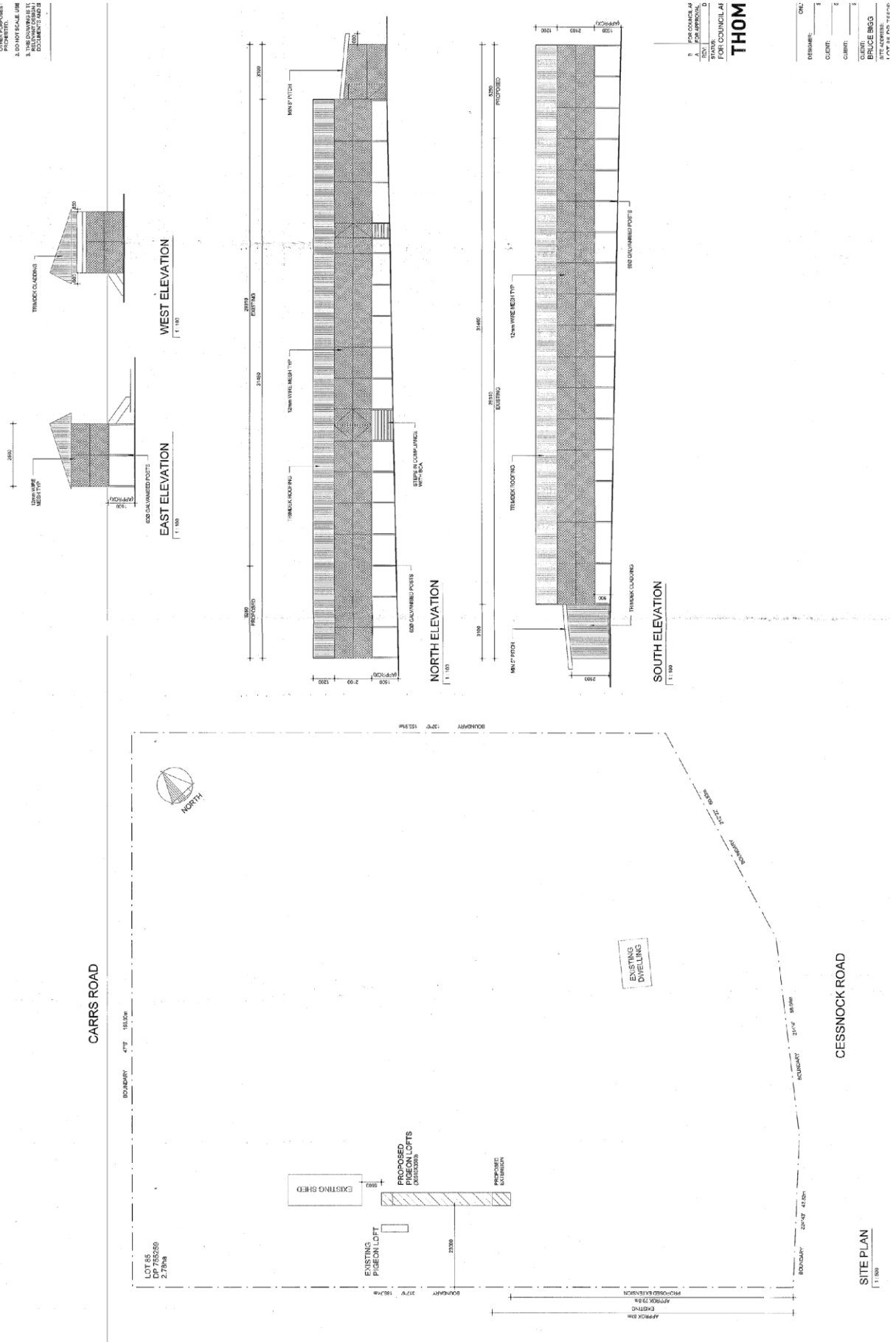
**CO1/2016 Local Government NSW - Contribution to Legal
Assistance for Bathurst Regional Council**

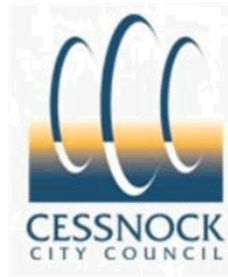
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PLANNING PROPOSAL
Amendment to the
Cessnock Local Environment Plan 2011

Removal of Minimum Lot Size
LOT: 112 DP: 1205440
141 Main Rd 195 HEDDON GRETA

Version 1.0

20 May 2016

Contact: Mr B Moshage

Strategic Land Use Planning Coordinator

Telephone: 02 4993 4121

Email: bo.moshage@cessnock.nsw.gov.au

Planning Proposal – Kurri Kurri: Removal of minimum lot size (MLS)

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PART 1: OBJECTIVES and OUTCOMES

The objective of the Planning Proposal is to allow subdivision of Lot 112 DP1205440, specifically to enable uses currently existing on the land (service station and food and drink premises) and those proposed (additional food and drink premises) to be subdivided and held in separate ownerships.

Food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

Note. Food and drink premises are a type of retail premises.

Service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

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PART 2: EXPLANATION of PROVISIONS

The objective of the Planning Proposal will be achieved by amending the Cessnock Local Environmental Plan 2011 by:

Amendment proposed to Cessnock	Provision
Lot Size Map	Remove the 40 ha minimum lot size from Lot 112 DP 1205440

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PART 3: JUSTIFICATION

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

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

Section A: Need for Proposal

1 Resulting from a Strategic Study or Report

The Planning Proposal is not the result of a strategic study or report. However, the subject land is in transition as a result of the completion of the Hunter Expressway and the sites' proximity to the Kurri Kurri Interchange, less than 500 metres from the residential areas of Kurri Kurri and Heddon Greta. Council approved under DA 8/2014/51/1 the construction of a service station and two (2) ancillary food and drink premises, signage and associated carparking over part of the subject land. The existing and future development will service both local residents and the travelling public, reducing distances travelled

'Service station' are a permitted land use in the RU2 - Rural Landscape zone. However, 'commercial premises' which includes 'food & drink premises', which also includes 'takeaway food & drink premises', are prohibited but were approved as an 'ancillary' development to the service station.

An additional food and drink premises is proposed to be constructed on the land in the future. A Development Application for this purpose is currently being prepared.

The subject land has an area of 4.165 ha. An amendment to the Minimum Lot Size Map to allow the various development components, both existing and proposed, over this site to be able to be subdivided and held in separate ownership

2 Planning Proposal as best way to achieve to objectives

The Planning Proposal is the best means of achieving the objectives and intended outcomes of permitting future development on the site.

Under the existing minimum lot size controls in the Cessnock LEP 2011, subdivision of the approved land uses are not achievable. Therefore, a change to the minimum lot sizes will provide flexibility in terms of location of these facilities with the final subdivision layout.

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Section B: Relationship to Strategic Planning Framework

3 Consistency with Objectives and Actions within Regional Strategies

Lower Hunter Regional Strategy 2006

The subject land is within the area covered by the Lower Hunter Regional Strategy 2006 (LHRS). The primary objective of the strategy is to ensure housing and employment needs for the region over the next 25 years are met. There are no matters specifically contained within the Lower Hunter Regional Strategy in relation to the subject land. The proposal is however consistent with the Cessnock LEP (2011) in so far as it does not propose to amend the range of uses permissible within the subject zone but merely to allow subdivision to occur.

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

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

The Proposal is considered to be consistent with the objectives of Council's Community Strategic Plan, specifically Objective 3.1, Protecting and Enhancing the Natural Environment and the Rural Character of the Area.

City Wide Settlement Strategy (2010)

The subject land is in transition as a result of the completion of the Hunter Expressway and the sites' proximity to the Kurri Kurri Interchange, less than 500 metres from the residential areas of Kurri Kurri and Heddon Greta. Council approved under DA 8/2014/51/1 the construction of a service station and two (2) ancillary food and drink premises, signage and associated carparking over part of the subject land. The existing and future development will service both local residents and the travelling public, reducing distances travelled

'Service station' are a permitted land use in the RU2 - Rural Landscape zone. However, 'commercial premises' which includes 'food & drink premises', which also includes 'takeaway food & drink premises', are prohibited but were approved as an 'ancillary' development to the service station.

An additional food and drink premises is proposed to be constructed on the land in the future. A Development Application for this purpose is currently being prepared.

The subject land has an area of 4.165 ha. An amendment to the Minimum Lot Size Map to allow the various development components, both existing and proposed, over this site to be able to be subdivided and held in separate ownership.

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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

SEPP	Relevance	Consistency and Implications
SEPP 14 – Coastal Wetlands	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 15 - Rural Land Sharing Communities	The SEPP provides for multiple occupancy development, with council consent, in rural and non-urban zones, subject to a list of criteria in the policy.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 19 – Bushland in Urban Areas	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 21 - Caravan Parks	The SEPP provides for development for caravan parks.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 26 – Littoral Rainforests	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 29 – Western Sydney Recreation Area	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
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.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 39 – Spit Island Bird Habitat	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 44 - Koala Habitat Protection	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living	Nothing in this Planning Proposal affects the aims and provisions of this SEPP

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SEPP	Relevance	Consistency and Implications
	populations will be maintained over their present range.	
SEPP 47 – Moore Park Showground	<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.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 52 – Farm Dams and Other works in Land and Water Management Plan Areas	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
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	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 59 – Central Western Sydney Regional Open Space and Residential	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP 62 - Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from the rezoning of land and is of relevance for site specific rezoning proposals.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
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 locations and is of high quality design and finish.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
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.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
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.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP 71 – Coastal Protection	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP Affordable	The aims of this Policy are as	Nothing in this Planning Proposal

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SEPP	Relevance	Consistency and Implications
Rental Housing 2009	<p>follows:</p> <ul style="list-style-type: none"> (a) to provide a consistent planning regime for the provision of affordable rental housing, (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, (c) to facilitate the retention and mitigate the loss of existing affordable rental housing, (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, (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing, (f) to support local business centres by providing affordable rental housing for workers close to places of work, (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. 	affects the aims and provisions of this SEPP
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
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	Nothing in this Planning Proposal affects the aims and provisions of this SEPP

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SEPP	Relevance	Consistency and Implications
	be carried out in accordance with a complying development certificate.	
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.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
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.	<p>Main Road is a Classified Road managed by the Roads and Maritime Services (RMS), therefore the potential traffic impacts of the proposal on the immediate road infrastructure must be considered.</p> <p>The existing and proposed development is and will be left in/left out access only, to ensure the impacts of the proposed development on the Main Road traffic environment are ameliorated. The RMS Guide to Traffic Generating Development provides that approximately 30% (40% given the high frequency transport interchange proximity) of traffic generated by service stations and fast food outlets originate from existing motorists. As such existing and future development will not be detrimental to the traffic environment on Main Road.</p> <p>Any potential issues with future development can be dealt with via appropriate conditions of consent at DA stage.</p> <p>Further, a Traffic Impact Assessment will be undertaken should the Planning Proposal proceed to Gateway.</p>
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Kurnell Peninsula) 1989	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP Major Development 2005	The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental	Nothing in this Planning Proposal affects the aims and provisions of this SEPP

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SEPP	Relevance	Consistency and Implications
	Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels (JRPPs) and classes of regional development to be determined by JRPPs.	
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP Miscellaneous Consent Provisions 2007	The aims of this Policy are as follows: (a) to provide that the erection of temporary structures is permissible with consent across the State, (b) to ensure that suitable provision is made for ensuring the safety of persons using temporary structures, (c) to encourage the protection of the environment at the location, and in the vicinity, of temporary structures by specifying relevant matters for consideration, (d) to provide that development comprising the subdivision of land, the erection of a building or the demolition of a building, to the extent to which it does not already require development consent under another environmental planning instrument, cannot be carried out except with development consent.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP Penrith Lakes Scheme 1989	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP Rural Lands 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	The subject land is zoned RU2 - Rural Landscape under LEP 2011. The land however does not exhibit characteristics consistent with this zoning. The land is not considered suitable for agricultural production due to the size, shape and location

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SEPP	Relevance	Consistency and Implications
		of the land on the Expressway. Further, the land is constrained by overhead power lines and has been partially developed for commercial purposes.
SEPP 53 Transitional Provisions 2011	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
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.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP
SEPP (Sydney Drinking Water Catchment 2011)	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP Sydney Region Growth Centres 2006	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Three Ports_ 2013	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Urban Renewal) 2010	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Western Sydney Employment Area) 2009	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>
SEPP (Western Sydney Parklands) 2009	<i>Not Applicable to LGA</i>	<i>Not Applicable to LGA</i>

6 Consistency with s.117 Ministerial Directions for Local Plan Making

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

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Objective of Direction	Consistency and Implication
1 EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of	The Planning Proposal does not propose to change the zoning of the land. The Planning Proposal seeks to encourage development by removing the 40ha minimum lot size to allow the subdivision of the subject land, specifically to enable uses currently existing on the land (service station and food outlets)

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Ministerial Direction	Objective of Direction	Consistency and Implication
	identified strategic centres.	and those proposed (additional food and drink premises) to be subdivided and held in separate ownerships.
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	The subject land is zoned RU2 - Rural Landscape under LEP 2011. The land however does not exhibit characteristics consistent with this zoning. The land is not considered suitable for agricultural production due to the size, shape and location of the land on the Expressway. Further, the land is constrained by overhead power lines and has been partially developed for commercial purposes.
1.3 Mining, Petroleum Production and Extractive Industries	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.	Planning Proposal not affected by this direction.
1.4 Oyster Aquaculture	<i>The objectives of this direction are:</i> <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> <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>	<i>Not Applicable to LGA</i>
1.5 Rural lands	The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes.	As noted above, the land is zoned RU2-Rural Landscape however its use does not reflect the zoning. The site has been developed for a service station and food and drink premises with further development proposed in the future. Amendment of the Minimum lot size map is requested to facilitate the orderly and economic development of the land by allowing the land to be subdivided

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Ministerial Direction	Objective of Direction	Consistency and Implication
		and the various approved uses to be held in separate ownerships.
2 ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	Planning Proposal not affected by this direction.
2.2 Coastal Protection	<i>The objective of this direction is to implement the principles in the NSW Coastal Policy.</i>	<i>Not Applicable to LGA</i>
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The Heritage listed South Maitland Railway corridor - I212 runs through the site, the extent of which is mapped on the heritage layer. An assessment of the heritage significance will be undertaken to determine to best preserve this on site.
2.4 Recreation Vehicle Areas	The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Planning Proposal not affected by this direction.
3 HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	Planning Proposal not affected by this direction.
3.2 Caravan parks and Manufactured Home Estates	The objectives of this direction are: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home	Planning Proposal not affected by this direction.

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Ministerial Direction	Objective of Direction	Consistency and Implication
	estates.	
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Planning Proposal not affected by this direction.
3.4 Integrating Land Use and Transport	<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"> (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight. 	<p>The land has been developed for fuel and food services to cater for the needs of both local residents in Kurri Kurri and Heddon Greta as well as passing traffic and traffic utilising the expressway. Approximately 40% of all traffic visiting the site will be drawn from passing traffic. The proposal therefore complies with this direction by reducing travel demand and vehicle trips as well as distances travelled by motorists.</p>
3.5 Development Near Licensed Aerodromes	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> (a) to ensure the effective and safe operation of aerodromes, and (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 (c) to ensure development for residential purposes or human occupation, if situated on land 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. 	Planning Proposal not affected by this direction.

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Ministerial Direction	Objective of Direction	Consistency and Implication
3.6 Shooting Ranges	The objectives are: (a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	Planning Proposal not affected by this direction.
4 HAZARD AND RISK		
4.1 Acid Sulfate Soils	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	Planning Proposal not affected by this direction.
4.2 Mine Subsidence and Unstable Land	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.	The site is not affected by Mine Subsidence.
4.3 Flood Prone Land	The objectives of this direction are: (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 (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.	The land is not Flood Prone.
4.4 Planning for Bushfire Protection	The objectives of this direction are: (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of	The land is located within a Vegetation Buffer Zone. Any future subdivision of the land will be required to address Section 100B of the Rural Fires Act 1997.

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Ministerial Direction	Objective of Direction	Consistency and Implication
	incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas.	
5 REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes, and actions contained in regional strategies.	Planning Proposal not affected by this direction.
5.2 Sydney Drinking Water Catchment	<i>The objective of this Direction is to protect water quality in the Sydney drinking water catchment.</i>	<i>Not Applicable to LGA</i>
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	<i>The objectives of this direction are: (a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre, (b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and (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>	<i>Not Applicable to LGA</i>
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	<i>The objectives for managing commercial and retail development along the Pacific Highway are: (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; (b) to prevent inappropriate development fronting the highway (c) to protect public expenditure invested in the Pacific Highway, (d) to protect and improve highway safety and</i>	<i>Not Applicable to LGA</i>

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Ministerial Direction	Objective of Direction	Consistency and Implication
	<p>highway efficiency,</p> <p>(e) to provide for the food, vehicle service and rest needs of travellers on the highway, and</p> <p>(f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.</p>	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	(Revoked 18 June 2010)	No longer applicable to the LGA.
5.6 Sydney to Canberra Corridor	(Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable to LGA
5.7 Central Coast	(Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable to LGA
5.8 Second Sydney Airport: Badgerys Creek	The objective of this direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.	Not Applicable to LGA
5.9 North West Rail Link Corridor Strategy	<p>The objectives of this direction are to:</p> <p>(a) promote transit-oriented development and manage growth around the eight train stations of the North West Rail Link (NWRL)</p> <p>(b) ensure development within the NWRL corridor is consistent with the proposals set out in the NWRL Corridor Strategy and precinct Structure Plans.</p>	Not Applicable to LGA
5.10 Implementations of Regional Plans	The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	Not Applicable to LGA
6 LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Planning Proposal not affected by this direction.
6.2 Reserving Land for Public	The objectives of this direction are:	Planning Proposal not affected by this direction.

Planning Proposal – Kurri Kurri: Removal of minimum lot size (MLS)

File No. 18/2015/8/1

Ministerial Direction	Objective of Direction	Consistency and Implication
Purposes	(a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Planning Proposal not affected by this direction.
7 Metropolitan Planning		
7.1 Implementation of A Plan for Growing Sydney	<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>

Planning Proposal – Kurri Kurri: Removal of minimum lot size (MLS)

File No. 18/2015/8/1

Section C: Environmental, Social and Economic Impact

7 *Impact on Threatened Species*

The site has been previously cleared of vegetation.

8 *Environmental Impact*

The site can be developed and serviced without any adverse environmental effect.

9 *Social and Economic Impacts*

The proposal will have a positive social and economic effect as a result of allowing approved and future commercial developments to be held in separate ownerships to reflect the different tenants operating from the site.

Planning Proposal – Kurri Kurri: Removal of minimum lot size (MLS)

File No. 18/2015/8/1

Section D: State and Commonwealth Interests

10 Adequate Public Infrastructure

The site is located on a main road and all services are available to the area and or can be augmented to meet the future requirements of development if needed.

11 Consultation with State and Commonwealth Authorities

Formal consultation with selected statutory agencies, including with the wider community, will be undertaken as directed by the Gateway determination.

Should the Planning Proposal progress through the Gateway, Council will seek to consult with the Roads and Maritime Services (RMS) and any others statutory authorities and agencies specified in the Gateway determination.

It is recommended that the Planning Proposal be exhibited for a minimum period of fourteen (14) days.

Planning Proposal – Kurri Kurri: Removal of minimum lot size (MLS)

File No. 18/2015/8/1

PART 4: MAPPING

The Planning Proposal seeks to amend the mapping of the Cessnock Local Environmental Plan 2011 as follows:-

Minimum Lot Size Map

Amendment of the Minimum Lot Size Map Sheet 1720_COM_LSZ_009A_040_20150518 by removing the 40ha minimum lot size from Lot 112 DP 1205440 identified on the Locality Map.

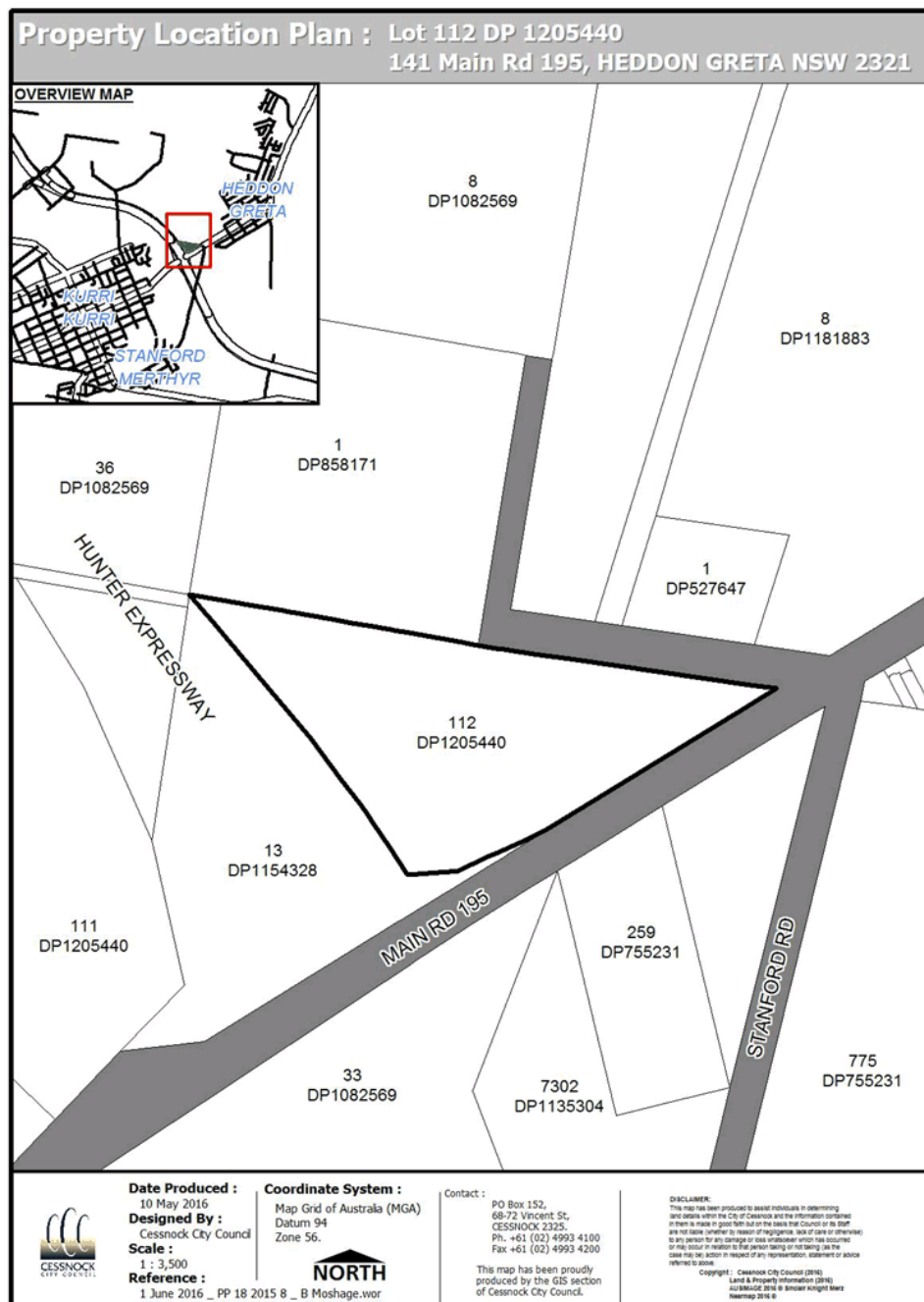
The subject land is shown in the locality plan as Map1.

An indicative proposed minimum lot size map is shown as Map 5.

Planning Proposal – Kurri Kurri: Removal of minimum lot size (MLS)

File No. 18/2015/8/1

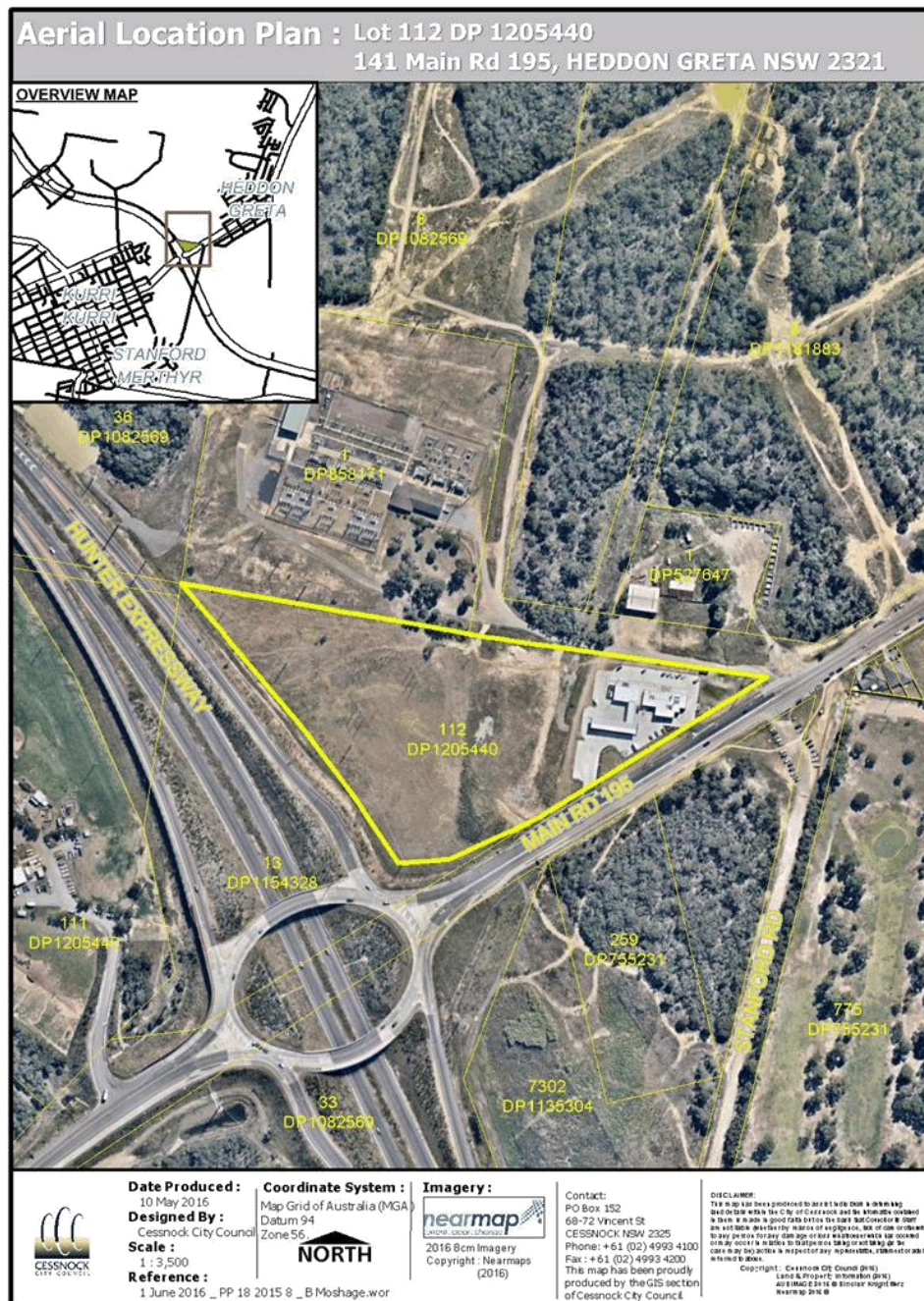
Map 1: Location Map



Planning Proposal – Kurri Kurri: Removal of minimum lot size (MLS)

File No. 18/2015/8/1

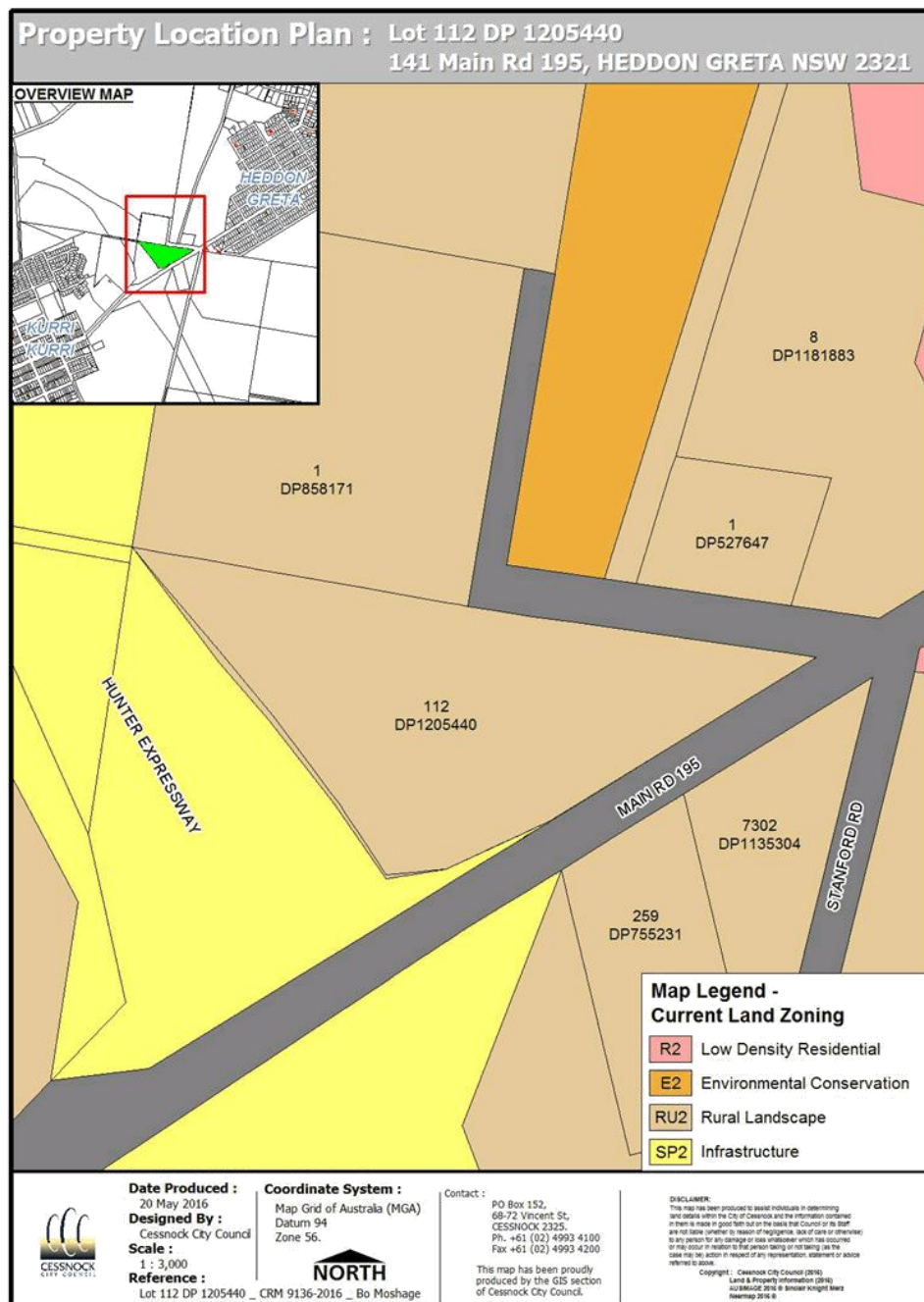
Map 2: Aerial Location Map



Planning Proposal – Kurri Kurri: Removal of minimum lot size (MLS)

File No. 18/2015/8/1

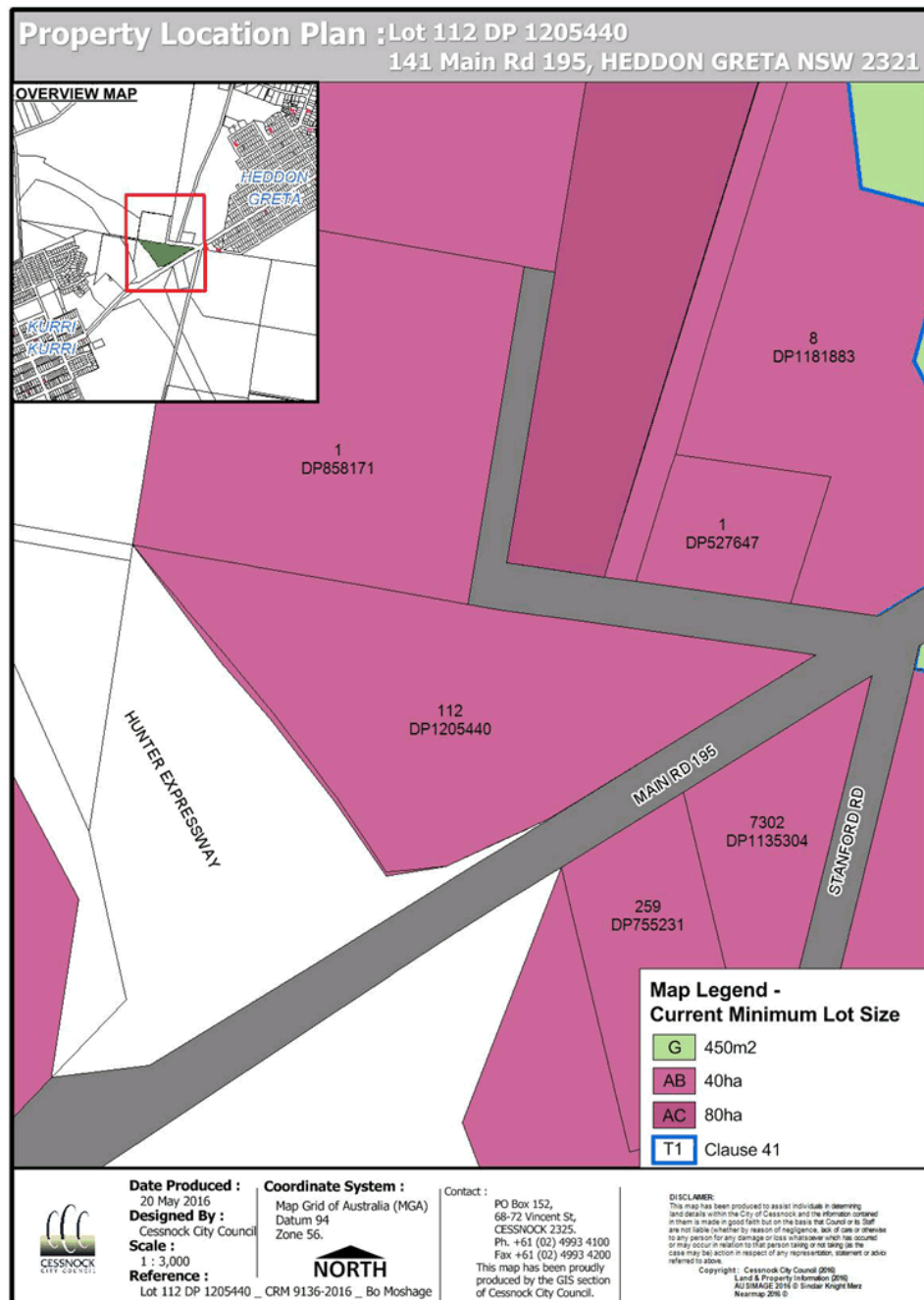
Map 3: Existing Zoning Layout



Planning Proposal – Kurri Kurri: Removal of minimum lot size (MLS)

File No. 18/2015/8/1

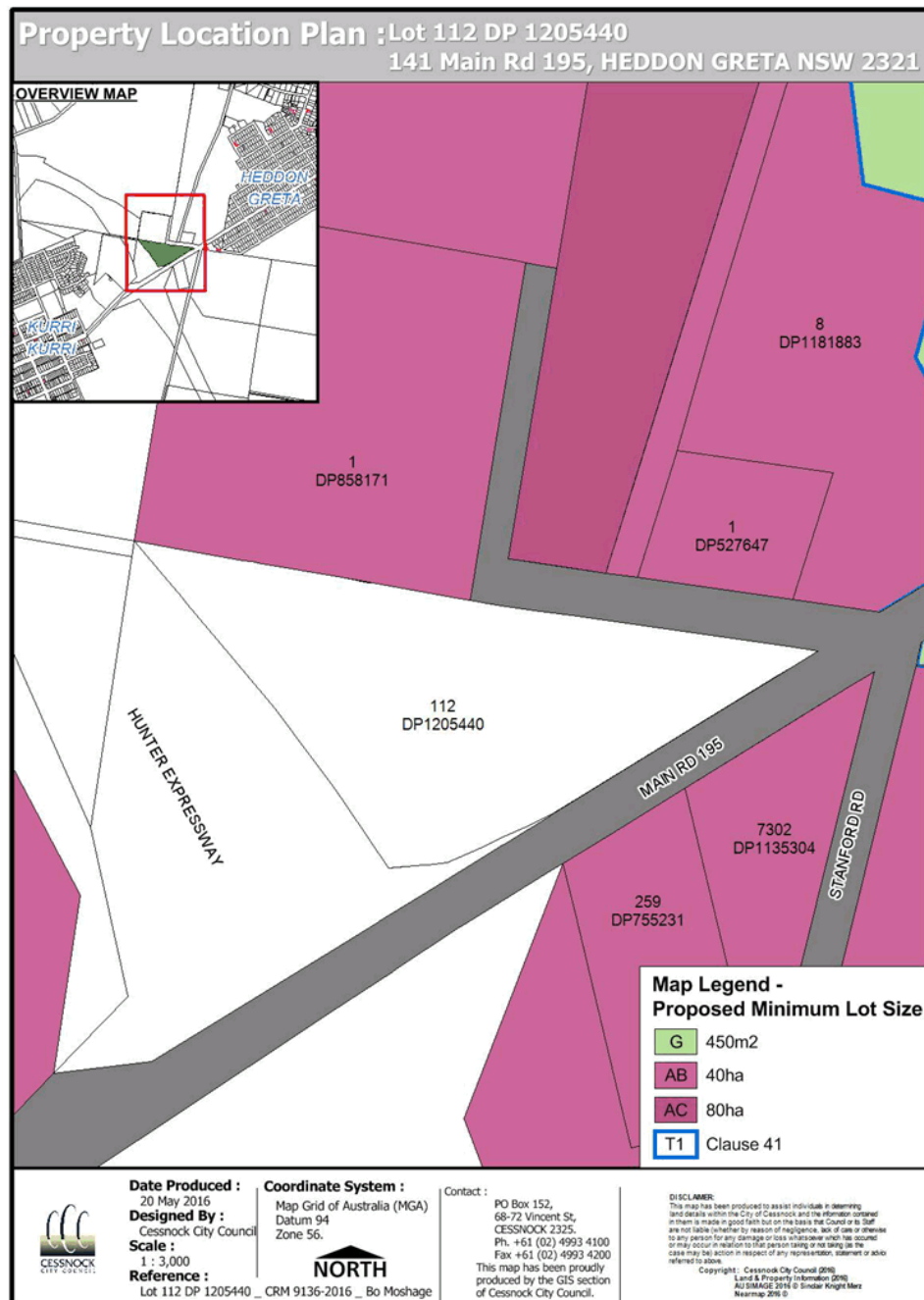
Map 4: Existing Minimum Lot Size Layout



Planning Proposal – Kurri Kurri: Removal of minimum lot size (MLS)

File No. 18/2015/8/1

Map 5: Proposed Minimum Lot Size Layout



Planning Proposal – Kurri Kurri: Removal of minimum lot size (MLS)

File No. 18/2015/8/1

PART 5: COMMUNITY CONSULTATION

Community consultation will be undertaken in accordance with Council's guidelines and any specific requirements made by the Department of Planning and Environment during the gateway determination.

Council will seek to consult with the following statutory authorities and agencies:

- Roads and Maritime Services (RMS)

It is recommended that the Planning Proposal be exhibited for a minimum period of fourteen (14) days.

Planning Proposal – Kurri Kurri: Removal of minimum lot size (MLS)

File No. 18/2015/8/1

PART 6: PROJECT TIMELINE

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval.

The project is expected to be completed within nine (9) Months from the Gateway Determination. The following timeframe is proposed.

	June 2016	July 2016	August 2016	Sept 2016	Oct 2016	Nov 2016	Dec 2016	Feb 2017	March 2017
STAGE 1 Submit Planning Proposal to Planning & Infrastructure									
STAGE 2 Anticipated commencement date (Gateway Determination)									
STAGE 3 Consult with required State Agencies									
STAGE 4 Public Exhibition Period									
STAGE 5 Review / consideration of submissions									
STAGE 6 Report to Council									
STAGE 7 Report to Planning and Environment to notify the LEP									

Appendix 1: Council Report and Minutes

To be added following Council Resolution.

Placeholder for Enclosure 1

Works and Infrastructure No. WI31/2016.DOC

Draft Cycling Strategy - Under Separate Cover

0 Pages

Enclosure 2

Cycling Strategy Submission Table

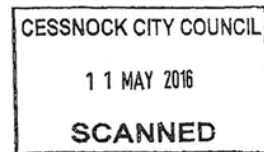
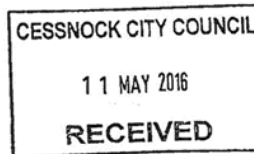
No.	Details	Council's Comments
1	No reference is made to the 'Testers Hollow' section of Main Street or Cessnock Road. This is a significant cycling link with Maitland and is very constrained. Consider including an action to work with RMS to provide off-road cycleway when raising road.	The draft Strategy has been amended to identify the existing constraint of crossing Tester's Hollow. The NSW Roads and Maritime Services has been identified as a key partner in implementing the draft Strategy and will be consulted on matters relating to Tester's Hollow and other relevant works identified in the action program.
2	The works program does not appear to take into consideration costs relating to lighting and road upgrades which results in some works being significantly underestimated.	<p>The costs provided in the works program are only indicative to assist Council in broadly understanding the capital required to implement the proposed works. It also provides a comparable measure between projects to assist in determining appropriate priorities. The provision of lighting, road upgrades and other required infrastructure would be considered during subsequent planning and design stages and provided for through Council's budgetary processes.</p> <p>To reduce the ambiguity of the intended purpose of the cost estimates, project values have been replaced with '\$' symbols to represent if a project is low, medium or high cost. Sub totals and totals have been retained to assist in communicating the estimated financial resources required to implement the works.</p>
3	No mention is made of State Route B68 (John Renshaw Drive) within Cessnock LGA. While generally provisioned with adequate shoulders, there is a 1.5km section east of the Hunter Expressway Buchanan Interchange. This section has high traffic volumes, speed and heavy vehicle usage. However the shoulder is narrow, variable in width and of generally poor condition.	<p>The draft Strategy identifies a district cycleway along John Renshaw Drive linking the Hunter Expressway to Kurri Kurri, however it is noted that no consideration has been given to a cycleway along John Renshaw Drive linking the Hunter Expressway to Beresfield.</p> <p>The draft Strategy has been amended to identify a district cycleway along John Renshaw Drive from the Hunter Expressway to Beresfield in the Newcastle local government area.</p>
4	The priority of the proposed shared path on Maitland Road (Cessnock to Neath) – Gallagher St to Duffie Dr is questioned, as the shoulders on Maitland Road are generally wide and high quality pavement. Improvement to the shoulder on both sides for about 300m east of Gallagher St would be desirable.	An off-road cycleway on Maitland Road between Gallagher Street and Duffie Drive is proposed with consideration to anticipated cyclists types (i.e. primary school, secondary school and recreation), sign posted speed limits (80km/h) and anticipated use (high - regional connection). It is noted that existing road conditions are conducive to on-road cycling (particularly experienced cyclist types) resulting in the proposed cycleway being assigned a low priority.

No.	Details	Council's Comments
5	The priority of the new shared path on Mulbring and Boundary Streets, Kurri Kurri is questioned, as these roads, while not having marked shoulders, are wide, have fair pavement quality, 50km/h speed limit and load limited offer reasonably safe on road cycling conditions.	A shared off-road pathway is proposed along Mulbring and Boundary Streets, Kurri Kurri as this connection is a link between the Richmond Vale Rail Trail and recreation facilities at Margaret Johns Park including Kurri Kurri Aquatic and Fitness Centre. Due to the anticipated use from recreational riders and varying skill and experience levels, an off road pathway of medium priority is considered appropriate to improve safety and usability for all rider types.
6	Higher priority should be assigned to local cycleways connecting Bellbird to West Cessnock over the proposed off-road cycleway on Cumberland Street, Cessnock. Particularly sealing of short sections of gravel shoulder on Wollombi Road (appears not to be mentioned in the Strategy).	<p>The cycleway along Cumberland Street is a local cycleway that provides a key connection between Maitland Road and Aberdare Road, allowing cyclists to travel the length of the CBD with adequate separation from pedestrians, other cyclists and motorists. The connection forms part of a larger network servicing both secondary and primary schools, regional recreation facilities and commercial operations. In recognition of its anticipated demand and user type, the cycleway on Cumberland Street has been awarded a high priority.</p> <p>The local cycleway linkages that service the residents of West Cessnock, Bellbird and Bellbird Heights provide connections to nearby recreational and community facilities and have been awarded a medium priority in anticipation of the increased demand largely borne from the Bellbird North and Bellbird Heights developments over the next 5 to 10 years.</p> <p>Prioritising and identifying road upgrades such as sealing shoulders are beyond the scope of the draft Strategy.</p>
7	No mention is made of the lack of shared path connection from the Huntlee shared pathway network to the nearby Branxton Rail Station (about 500m from nearest proposed shared path).	The draft Strategy proposes an on-road cycleway along Railway Street, Branxton connecting the existing shared pathway on Bridge Street which is an extension of the Huntlee shared pathway network via Wine Country Drive shared pathway. On-road is considered appropriate as Railway Street is a local road with generous verges, 50km/h speed limit and anticipated users predominantly being commuters and secondary school students which are considered to have a reasonable awareness of traffic conditions.
8	In the section on Regional Opportunities, Richmond Vale Rail Trail (RVRT) is identified and is progressing as part of a regional push for rail trail development. We wish to reinforce the importance of the RVRT in the regional and local cycling contexts, and advise that it has significant community support.	Council has supported the project since inception and allocated \$30,000 to the progression of environmental impact assessment and concept design. Council will continue to support the Richmond Vale Rail Trail project in consideration of competing priorities and available resources.

No.	Details	Council's Comments
9	RVRT Inc would like to be included in the Stakeholders listed and occupy a leading role in a stakeholder resource group to help oversee cycling development in the Cessnock LGA.	Noted. The document has been updated to recognise RVRT Inc as a stakeholder. An expression of interest will be advertised for interested community representatives to participate in a working group during the ongoing implementation of the draft Strategy.
10	The proposed works program is unrealistic and offers no prospect of Council ever delivering it.	<p>The Works Program has been developed to assist Council in understanding the priority of works identified in the Strategy and planning for the resources required to deliver these priorities. The program will be used as a reference when drafting development contribution plans to equitably levy new development to fund the construction of the proposed cycleways. It will also be utilised as a reference when applying to State and Federal Government for funding through various grant programs.</p> <p>The priority and associated delivery times are indicative and have been developed to give Council guidance on where resources should be directed in the preparation and implementation of its capital works program.</p>
11	The proposed ranking of the cycleway along Kearsley Road, Abernethy as a medium priority appears to not take into consideration the money raised towards the project.	<p>Priorities of works have been developed in consideration of their potential to address the planning principles of coherence, directness, safety, attractiveness, comfort and cost benefit. Whilst the proposed cycleway along Kearsley Road, Abernethy addresses these principles, Council considers other proposed cycleway links strategically justified to be awarded a higher priority.</p> <p>Council recognises the efforts of community raised funds for the bridge crossing on Kearsley Road. Council has assisted the project through progressing the establishment of a Reserve Trust over Crown Land along the proposed alignment and raising \$27,000 in funding to complete localised environmental and engineering investigations.</p> <p>Despite generous community contributions towards the project, there remains significant shortfall in funding that is yet to be accounted for and Council will continue to work with the community in progressing the project in consideration of competing priorities and available resources.</p>
12	It would be beneficial for Council to visit other LGAs to understand the potential of cycleways.	Opportunities to investigate cycling related initiatives in other local government areas will be considered and actioned as resources allow.

No.	Details	Council's Comments
13	The prioritisation of cycleways in the Vineyards Region over Abernethy/Kitchener Area is unfounded – particularly in regards to improving safety, servicing populations and taking advantage of the tourist economy.	The prioritisation of cycleways is determined in consideration of the degree to which the works address the planning principles. Key considerations include anticipated cyclists types, existing crash data, the existing cycling environment, distance between trip generators, current and future populations, proximity to disadvantaged populations and economic potential. Each of these considerations are weighted and aggregated to identify if works should be awarded a high, medium or low priority. Based on this method, some cycleways within the Vineyard Region were determined to be a higher priority than those in the Abernethy/Kitchener Area.
14	Consideration of mountain bike trails in the draft Strategy is lacking.	<p>The scope of the draft Strategy is to identify the barriers to cycling and overcome these barriers in an attempt to get people on a bike and get active. Council has identified that due to the lack of existing networks, focus should be on connecting existing developed areas and completing existing cycling networks.</p> <p>After consulting with the community and other stakeholders, including Crown Lands and National Parks and Wildlife, it soon became apparent there was an extensive mountain bike trail network that would require planning and coordination between multiple stakeholders. Mountain bike trails present a unique set of challenges and Council determined a dedicated strategic planning document for trail riding is the most suitable approach. To support this commitment, the draft Strategy has been amended to elevate the preparation of a Trails Strategy from medium to high priority.</p>
15	Being prepared by a local interest group, the motivation and interests behind the document <i>Cycle Tourism in the Hunter Region</i> are questionable.	<i>Cycling Tourism in the Hunter Valley</i> is a non-government document commissioned by the Hunter Cycling Network. Whilst not a government document, it was prepared in partnership with the NSW Roads and Traffic Authority and the NSW Department of State and Regional Development as well as having input from local government organisations including Cessnock City Council. The draft Strategy has been updated to better reflect the relevance and status of <i>Cycle Tourism in the Hunter Valley</i> .
16	More consideration is needed of alternative funding opportunities.	As part of the scope of the Strategy funding opportunities to implement the recommended actions were identified. The intent of this section is to draw attention to tried and tested funding sources that may be used for funding cycling infrastructure and related activities. The suitability of non-conventional methods of funding may be explored outside of the content of the draft Strategy.

No.	Details	Council's Comments
17	Our organisation has concerns over some of the proposed routes (including the Richmond Vale Rail Trail) and their impact on future rail infrastructure projects.	<p>The impacts of proposed rail infrastructure and cycleways may be addressed and managed through appropriate design. The draft Strategy provides guidelines on appropriate treatment of railway crossings for cyclists.</p> <p>The Richmond Vale Rail Trail is currently being progressed through the environmental impact assessment and concept design phase by Newcastle City Council. As part of this process, extensive consultation will take place with stakeholders to ensure all concerns are considered and addressed. Copies of relevant submissions to the draft Strategy have been forwarded to the Richmond Vale Rail Trail project lead (Newcastle City Council) for consideration in the scoping of the consultative process.</p>



Our ref Out - 24746

6 May 2016

Mr Stephen Glen
General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Dear Mr Glen

Request for Legal Assistance approved

The Local Government New South Wales (LGNSW) Board approved an application made by Bathurst Regional Council for legal assistance under the LGNSW Legal Assistance Policy & Guidelines in August 2015. The matter has now been resolved in the courts. The LGNSW Board considered the matter to be of importance to local government throughout the State, as the proceedings related to the ability of councils to enter into contracts that include fees for services.

Bathurst Regional Council defended the matter before the NSW Court of Appeal. The proceedings challenged Council's jurisdiction to fix fees for services under long-term contracts. The NSW Court of Appeal found against Bathurst Regional Council, identifying that

'even when the Local Government Act confers a power in terms upon councils to reach an agreement or arrangement with a landowner, the price it can charge for work performed by it remains subject to Part 10 of Chapter 15. To that extent at least, the 'general power to contract' cannot permit a Council to escape the statutory restrictions upon it'

LGNSW is considering the implications of this decision for NSW councils, and is likely to seek feedback from councils in the future to enable the issue to be adequately addressed in the next phase of the review of the *Local Government Act 1993*.

Financial contributions are now sought from councils as the costs of the proceedings have been determined as set out in the **enclosed** invoice.

You are reminded that there is no obligation for a council to provide assistance.

Please do not hesitate to contact me on (02) 9242 4125 if you have any questions on this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Donna Rygate'.

Donna Rygate
Chief Executive

LOCAL GOVERNMENT NSW
GPO BOX 7003 SYDNEY NSW 2001
L8, 28 MARGARET ST SYDNEY NSW 2000
T 02 9242 4000 F 02 9242 4111
LGNSW.ORG.AU LGNSW@LGNSW.ORG.AU
ABN 49 853 913 882