



12 October 2021

To All Councillors

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993, that the next Ordinary Meeting of Council will be held via ZOOM on Wednesday, 20 October 2021 at 6.30 pm, for the purposes of transacting the undermentioned business.

The meeting is to be held electronically as per the COVID-19 Legislation Amendment (Emergency Measures) Bill 2020 and the meeting will be closed to the public. The public may view the meeting via a link on Councils website. Councillors will need to attend the meeting via teleconference.

AGENDA:

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- (1) **OPENING PRAYER**
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- (3) **RECEIPT OF APOLOGIES**
- (4) **CONFIRMATION OF MINUTES OF PREVIOUS MEETING**
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- (8) **CONSIDERATION AND ADOPTION OF ALL REPORTS BY ENGLOBO OR INDIVIDUALLY WITH NOMINATED EXCEPTIONS**
- (9) **NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL SESSION**
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‡ - Denotes that Report is for notation only.



Principles for Local Government

Exercise of functions generally

The following general principles apply to the exercise of functions by Councils:

- a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- e) Councils should work co-operatively with other Councils and the State government to achieve desired outcomes for the local community.
- f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- g) Councils should work with others to secure appropriate services for local community needs.
- h) Councils should act fairly, ethically and without bias in the interests of the local community.
- i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

Council's Values

- Integrity
- Accountability
- Respect
- Excellence
- Teamwork

Our Community's Vision

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

Cessnock – thriving, attractive and welcoming.

Our Community's Desired Outcomes

- A connected, safe and creative community.
- A sustainable and prosperous economy.
- A sustainable and healthy environment.
- Accessible infrastructure, facilities and services.
- Civic Leadership and effective governance.



Council Model Code of Conduct

Council adopted its current Code of Conduct on 16 September 2020. This Code provides details of statutory requirements and gives guidance in respect of the way in which pecuniary and conflict of interest issues must be disclosed.

Generally, the Code outlines the following issues:

1. Councillors are under an obligation at law to disclose any interest they may have in any matter before the Council and to refrain from being involved in any consideration or to vote on any such matter
2. Councillors must disclose any interest in any matter noted in the business paper prior to or at the opening of the meeting
3. The nature of the interest shall be included in the notification
4. Councillors shall immediately and during the meeting disclose any interest in respect of any matter arising during the meeting which is not referred to in the business paper
5. All declarations of interest shall be recorded by the General Manager
6. All disclosures of interest shall as far as is practicable be given in writing
7. Any member having a pecuniary or non-pecuniary significant conflict of interest shall leave the meeting and remain absent while the subject of the interest is being considered by Council
8. The meeting shall not discuss any matter in which a Councillor has a pecuniary or non-pecuniary significant conflict of interest while the Councillor is present at the meeting



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**MINUTES OF ORDINARY COUNCIL MEETING OF THE CESSNOCK CITY COUNCIL
HELD IN COUNCIL CHAMBERS ON WEDNESDAY, 22 SEPTEMBER 2021,
COMMENCING AT 6.30 PM**

PRESENT: His Worship the Mayor, Councillor R Pynsent (in the Chair) and Councillors Olsen, Doherty, Dunn, Fagg, Stapleford, Suvaal, Fitzgibbon, Gray, Burke, Sander and Lyons.

IN ATTENDANCE: General Manager
Director Planning and Environment
Director Corporate and Community Services
Director Works and Infrastructure
Economic Development & Tourism Manager
Chief Finance and Administration Manager
Management Accountant
Corporate Governance Officer

APOLOGY: Nil

MINUTES:

MOTION **Moved:** Councillor Dunn
 Seconded: Councillor Gray

1807

RESOLVED that the Minutes of the Ordinary Meeting of Council held on 18 August 2021, as circulated, be taken as read and confirmed as a correct record.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (0)

CARRIED UNANIMOUSLY

DISCLOSURES OF INTEREST

DISCLOSURES OF INTEREST NO. DI8/2021

SUBJECT: DISCLOSURES OF INTEREST

RECOMMENDATION

That Councillors now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

WI68/2021 – Weston Bears Park Masterplan - Councillor Olsen declared a Non Pecuniary Less Than Significant conflict for the reason that he has three grandsons playing for Weston. Councillor Olsen advised that he would remain in the chamber and participate in discussion and voting as the conflict has not influenced him in carrying out his public duty because there are no guarantees the boys will stay at Weston and this is a long term project.

BN26/20221 – Relocation of Entrance to Cessnock Correction Centre – Councillor Suvaal declared a Non Pecuniary Less Than Significant conflict for the reason that his sister is an employee of Justice Health working at the Cessnock Correctional Centre. Councillor Suvaal advised that he would remain in the chamber and participate in discussion and voting as the conflict has not influenced him in carrying out his public duty because it has no impact on her employment.

BN25/2021 – Banners – Councillor Burke declared a Non Pecuniary Less Than Significant conflict for the reason that Cessnock Chamber of Commerce were part of the original program. Councillor Burke advised that he would remain in the chamber and participate in discussion and voting as the conflict has not influenced him in carrying out his public duty.

BN23/2021 – Tourism Related Activities – Councillor Fagg declared a Pecuniary Interest for the reason that he owns holiday accommodation. Councillor Fagg advised that he would leave the meeting and take no part in discussion and voting.

PETITIONS

NIL

ADDRESS BY INVITED SPEAKERS

NIL

CONSIDERATION AND ADOPTION OF ALL REPORTS BY ENGLOBE OR INDIVIDUALLY WITH NOMINATED EXCEPTIONS

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Suvaal
1808

RESOLVED

that having read and considered the reports in the agenda related to items

GMU14/2021	Service NSW Partnership Agreement.....	42
GMU15/2021	Minutes of the Audit and Risk Committee meeting held 31 August 2021	67
‡ CC69/2021	Bi-Annual Complaint Handling Report - 1 January to 30 June 2021	192
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‡ CO14/2021	Gas Fired Power Station - Report BN31/2020	307
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Council adopt the recommendations as printed for those items.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (0)

CARRIED UNANIMOUSLY

Councillor Fagg joined the meeting, the time being 6.34pm

MAYORAL MINUTES

MAYORAL MINUTES NO. MM9/2021

SUBJECT: VACCINATION RATES

MOTION **Moved:** Councillor Pynsent **Seconded:** Councillor Suvaal
1809
RESOLVED

1. That the General Manager writes to the NSW Premier, Deputy Premier and Health Minister outlining Council's concerns at the relative low rates of vaccinations in the Cessnock LGA.
2. That Council writes to the Prime Minister and Minister for Health, Greg Hunt MP requesting the urgent release of Pfizer vaccine to the Cessnock LGA, to prepare the Cessnock community for the imminent tourism boom as outlined in the road map.
3. That Council requests that the NSW Department of Health urgently establishes a mass vaccination facility in the Cessnock LGA.
4. That priority be given to essential workers in the Cessnock LGA in preparation of Regional NSW opening and tourism.
5. That Council acknowledges the collaboration between Federal Member for Hunter, Joel Fitzgibbon MP, Federal Member for Patterson Meryl Swanson MP and State Member for Cessnock Clayton Barr MP, in establishing the mass vaccination centre and vaccine availability.
6. That the Mayor and Deputy Mayor continue discussions with the Federal Member for Hunter, Joel Fitzgibbon MP, Federal Member for Patterson Meryl Swanson MP and State Member for Cessnock Clayton Barr, to obtain a solution to the vaccination issue in the Cessnock LGA.

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Fagg
Councillor Stapleford
Councillor Suvaal
Councillor Fitzgibbon
Councillor Gray
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent
Total (12)

Total (0)

CARRIED UNANIMOUSLY

MAYORAL MINUTES NO. MM10/2021

SUBJECT: MOLLY WORTHINGTON NETBALL COURTS

MOTION **Moved:** Councillor Pynsent **Seconded:** Councillor Doherty
1811
RESOLVED

That Council notes that between the August and September 2021 Council meetings the Mayor under delegated authority exercised the following decision of Council:

1. That the General Manager enacts resolution WI30/2021 as a matter of urgency.
2. That the General Manager presents a report to the October meeting of Council outlining the progress of the resolution WI30/2021 since it was adopted by Council on 19 May 2021.
3. That the General Manager presents a report to the October meeting outlining the progress of resolution WI52/2021 which was adopted by Council on 21 July 2021.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

MOTIONS OF URGENCY

MOTIONS OF URGENCY NO. MOU8/2021

SUBJECT: MOTIONS OF URGENCY

RECOMMENDATION

That Councillors now indicate if there are any matters of urgency which they believe should be conducted at this meeting of Council.

Councillor Suvaal

That the General Manager take all necessary steps to allow Cessnock pool to reopen in a COVID safe way from Monday 27 September 2021 in accordance with advice in the NSW Public Health Orders. That the General Manager also take the necessary steps to ensure Branxton pool can reopen in a COVID safe way at its original scheduled opening date.

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Fagg
Councillor Stapleford
Councillor Suvaal
Councillor Fitzgibbon
Councillor Gray
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent
Total (12)

Total (0)

The Urgency Motion as **PUT** and **CARRIED** and will be dealt with at the conclusion of the listed matters on the Business Paper.

GENERAL MANAGER'S UNIT

GENERAL MANAGER'S UNIT NO. GMU14/2021

SUBJECT: SERVICE NSW PARTNERSHIP AGREEMENT

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Suvaal
1812

RESOLVED

1. That Council endorses the creation of a partnership agreement with Service NSW to assist with supporting small business within the Cessnock local government area; and
2. That Council delegates authority to the General Manager to enter into an agreement with Service NSW.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (0)

CARRIED UNANIMOUSLY

GENERAL MANAGER'S UNIT NO. GMU15/2021

SUBJECT: MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD 31 AUGUST 2021

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Suvaal
1813

RESOLVED

That the Minutes of the Audit and Risk Committee Meeting held 31 August 2021 be adopted as a resolution of the Ordinary Council.

FOR	AGAINST
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Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	

Total (11)

Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT

PLANNING AND ENVIRONMENT NO. PE45/2021

SUBJECT: STRATEGIC PLANNING ANNUAL MONITORING REPORT

MOTION **Moved:** Councillor Dunn **Seconded:** Councillor Suvaal
1814
RESOLVED

1. That Council notes the information contained within this report being an overview of residential development activity, land supply and progress of key planning Strategies for the 2020-2021 financial year.
2. That Council notes the above average uptake of land sales in the three lifestyle categories of land supply, specifically since the projected figures adopted in the The Cessnock Local Strategic Planning Statement 2036, the Cessnock Urban Growth Management Plan and Housing Strategy, and the impact of the Covid 19 pandemic.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

PLANNING AND ENVIRONMENT NO. PE46/2021

SUBJECT: PROPOSED ACQUISITION OF LAND FOR THE PURPOSE OF PUBLIC DOMAIN IMPROVEMENTS.

MOTION **Moved:** Councillor Suvaal **Seconded:** Councillor Stapleford
1815

RESOLVED

1. That Council confirms its intent to acquire LOT: H DP: 384894, LOT: G DP: 347929 LOT: F DP: 354733 47-49 Vincent Street, LOT: E DP: 384895 0 Wollombi Road, LOT: D DP: 339311 217A Wollombi Road and LOT: 1 DP: 1114018, 219 Wollombi Road, for the purposes of public recreation and local road.
2. That Council commences pre-acquisition investigations to acquire LOT: H DP: 384894, LOT: G DP: 347929 LOT: F DP: 354733 47-49 Vincent Street, LOT: E DP: 384895 0 Wollombi Road, LOT: D DP: 339311 217A Wollombi Road and LOT: 1 DP: 1114018, 219 Wollombi Road,
3. That Council receives a further report that details the costs associated with purchase and any other issues that are revealed during the pre-acquisition process.

FOR

Councillor Doherty
Councillor Dunn
Councillor Fagg
Councillor Stapleford
Councillor Suvaal
Councillor Fitzgibbon
Councillor Gray
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent

Total (11)

AGAINST

Councillor Olsen

Total (1)

CARRIED

CORPORATE AND COMMUNITY

CORPORATE AND COMMUNITY NO. CC64/2021

SUBJECT: LOCAL GOVERNMENT NSW 2021 ANNUAL CONFERENCE - VOTING DELEGATES

MOTION **Moved:** Councillor Suvaal **Seconded:** Councillor Burke
1816
RESOLVED

1. That Council determines voting delegates for the 2021 Local Government NSW Annual Conference as Mayor Pynsent, Councillor Gray , Councillor Suvaal and Councillor Burke.
2. That Council notes the previously endorsed motion seeking an increase in the NSW Stormwater Levy for submission to the 2022 Local Government NSW Special Conference.
3. That Council considers any other motions for submission to the 2022 Local Government NSW Special Conference.

FOR	AGAINST
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (1)

CARRIED

CORPORATE AND COMMUNITY NO. CC65/2021

SUBJECT: TENDER T2021-12 CONCRETE CONSTRUCTION FOOTPATH AND KERBS

MOTION **Moved:** Councillor Stapleford **Seconded:** Councillor Suvaal
1817
RESOLVED

1. That Council accepts the Tender panel of suppliers in no order of preference:
 - All Kerbs & Concrete Pty Ltd
 - Alpha Pacific Pty Ltd t/a Alpha Kerbs
 - Bolla Kerb Contracting Pty Limited
 - Hunter Rail & Civil
 - Elite Concreting Group/ McDougall Concreting
 - O'Mara Concreting
 - Planet Civil Pty Ltd
 - GLC Civil/ Starcon Group Pty Ltd
 - State Civil Pty Ltdfor T2021-12 – Concrete Construction Footpaths and Kerbs.
2. That Council notes the contract term for T2021-12 – Concrete Construction Footpaths and Kerbs is 23 September 2021 to 23 September 2024 (3 years) with an option for 2 x 1 year extensions based on satisfactory contractor performance.

FOR	AGAINST
Councillor Doherty	Councillor Olsen
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (1)

CARRIED

CORPORATE AND COMMUNITY NO. CC66/2021

SUBJECT: JUNE 2021 REVIEW OF THE 2017-21 DELIVERY PROGRAM

MOTION **Moved:** Councillor Suvaal **Seconded:** Councillor Burke
1818
RESOLVED

That Council notes the progress in implementing the 2017-21 Delivery Program as at 30 June 2021.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC67/2021

**SUBJECT: FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2021 -
REFERRAL FOR AUDIT AND COUNCIL CERTIFICATION**

MOTION **Moved:** Councillor Suvaal **Seconded:** Councillor Gray
1819
RESOLVED

1. That Council receive the draft Financial Statements for the year ended 30 June 2021 and refer them to Council's external auditor, the Audit Office of NSW, to provide an opinion and report to Council.
2. That Council authorise the Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer to sign the Statement by Councillors and Management for the General Purpose Financial Statements for the year ended 30 June 2021.
3. That Council authorise the Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer to sign the Statement by Councillors and Management for the Special Purpose Financial Statements for the year ended 30 June 2021.
4. That Council fix the date of 17 November 2021 as the date for the public meeting to present the audited Financial Statements and the Audit Reports for the year ended 30 June 2021, and that Council's external auditor be requested to present to answer questions.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC68/2021

SUBJECT: FINANCIAL ASSISTANCE GRANT 2021-22

MOTION **Moved:** Councillor Suvaal **Seconded:** Councillor Sander
1820

RESOLVED

1. That Council receives and notes the correspondence from the Local Government Grants Commission.
2. That the additional financial assistance grant funds to be received for roads and bridges (\$165,836) be allocated to RRL-2021-009 Mitchell Avenue, Kurri Kurri in the 2021-22 Operational Plan.
3. That the additional general purpose component of the financial assistance grant be retained to improve Councils unrestricted cash position and as a buffer against future unexpected expenditure requirement such as planning legal expenses or similar.
4. That Council approved the budget variations to reflect the above resolutions.

FOR

AGAINST

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Fagg
Councillor Stapleford
Councillor Suvaal
Councillor Fitzgibbon
Councillor Gray
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent

Total (12)

Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC69/2021

**SUBJECT: BI-ANNUAL COMPLAINT HANDLING REPORT
1 JANUARY TO 30 JUNE 2021**

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Suvaal
1821
RESOLVED

That Council notes the Bi-annual Complaint Handling Report for the period 1 January to 30 June 2021, and that of the 19 complaints received four were substantiated.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC70/2021

SUBJECT: DISCLOSURES OF INTERESTS IN WRITTEN RETURNS

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Suvaal
1822

RESOLVED

That Council notes the tabling of the Annual Disclosures of Interests in written returns received from designated persons and Councillors within 3 months of 30 June 2021 by the General Manager in accordance with Council's Code of Conduct.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC71/2021

SUBJECT: INVESTMENT REPORT - AUGUST 2021

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Suvaal
1823
RESOLVED

That Council receives the Investment Report for August 2021 and notes that:

- Investments are held in accordance with Council's Investment Policy, which accords with the Ministerial Investment Order.
- Council's month end cash and investments balance was \$62,355,538 with August interest earned of \$28,719 and year to date interest earned of \$45,694.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (0)

CARRIED UNANIMOUSLY

CORPORATE AND COMMUNITY NO. CC72/2021

SUBJECT: RESOLUTIONS TRACKING REPORT

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Suvaal
1824
RESOLVED

That Council receives the report and notes the information in the Resolutions Tracking Report.

FOR	AGAINST
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Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	

	Total (0)
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CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE

WORKS AND INFRASTRUCTURE NO. WI68/2021

SUBJECT: WESTON BEARS PARK MASTERPLAN

Councillor Olsen declared a Non Pecuniary Less than Significant conflict for the reason that he has three grandsons playing for Weston. Councillor Olsen remained in the chamber and participated in discussion and voting.

MOTION **Moved:** Councillor Sander **Seconded:** Councillor Suvaal
1825

RESOLVED

That Council notes the information contained within the report in regards to ramifications on the Weston Bears Park Masterplan with Weston Junior Football Club no longer relocating to Weston Bears Park.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI69/2021

SUBJECT: ADOPTION OF OFF LEASH DOG EXERCISE AREA PLAN

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Suvaal
1826

RESOLVED

1. That Council adopts the draft Off Leash Dog Exercise Area Plan.
2. That the General Manager notifies those who made submissions during the public exhibition of Council's decision.
3. That Council makes provisions for the implementation of the Off Leash Dog Exercise Plan in consideration of future Operational Plans and available resources, including grant funding and development contributions.

FOR

AGAINST

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Stapleford
Councillor Suvaal
Councillor Fitzgibbon
Councillor Gray
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent

Total (11)

Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI70/2021

SUBJECT: USE OF JACOBS PARK PELAW MAIN BY PELAW MAIN PUBLIC SCHOOL.

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Suvaal
1827

RESOLVED

That Council notes the information contained within the report regarding use of Jacobs Park Pelaw Main by Pelaw Main Public School.

FOR

AGAINST

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Stapleford
Councillor Suvaal
Councillor Fitzgibbon
Councillor Gray
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent

Total (11)

Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI71/2021

SUBJECT: BRANXTON TO GRETA SHARED PATHWAY

MOTION **Moved:** Councillor Sander **Seconded:** Councillor Suvaal
1828

RESOLVED

1. That Council endorses the updated alignment on the south side of the shared pathway which seeks to improve safety, improve efficiency and avoid unnecessary disturbance to ecological environments and essential public utilities.
2. That a report be provided to Council after further investigations are undertaken on the south side alignment.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

WORKS AND INFRASTRUCTURE NO. WI72/2021

**SUBJECT: MINUTES OF THE CESSNOCK LOCAL TRAFFIC COMMITTEE
MEETING HELD 16 AUGUST 2021**

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Suvaal
1829
RESOLVED

That the Minutes of the Cessnock Local Traffic Committee Meeting of 16 August 2021 be adopted as a resolution of the Ordinary Council.

1. **TC35/2021 - That Council authorises the temporary regulation of traffic for the Winery Running Festival on Lovedale Road, Wilderness Road, and Talga Road, Lovedale in accordance with Various Roads Lovedale _ Winery Running Festival TCP's.**
2. **TC36/2021 - That Council notes that the Broke & McDonalds Road, Pokolbin temporary regulation of traffic for the Grapevine Gathering / Red Hot Summer event has been withdrawn.**
3. **TC37/2021 - That Council authorises the installation of regulatory parking signage and line marking on the unnamed road off Frame Drive, Abermain, in accordance with the enclosed Frame Drive Abermain _ Signage & Line Marking Diagram.**
4. **TC38/2021 - That Council authorises installation of regulatory parking and intersection controls on various roads within Huntlee, in accordance with various updated Roads Huntlee - Signage & Line Marking Diagrams.**
5. **TC39/2021 - That Council authorises the installation of signage and line marking for a Channelised Right Turn (Short) treatment at the intersection of Wollombi Road and Abbottsford Street, Bellbird, in accordance with the enclosed Wollombi Road Bellbird _ Signage & Line Marking Diagrams.**

FOR

AGAINST

Councillor Olsen
Councillor Doherty
Councillor Dunn
Councillor Stapleford
Councillor Suvaal
Councillor Fitzgibbon
Councillor Gray
Councillor Burke
Councillor Sander
Councillor Lyons
Councillor Pynsent
Total (11)

Total (0)

CARRIED UNANIMOUSLY

BUSINESS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN

BUSINESS WITH NOTICE NO. BN22/2021

SUBJECT: REQUEST FOR ADDITIONAL MENTAL HEALTH FUNDING FOR REGIONAL AREAS

MOTION **Moved:** Councillor Suvaal **Seconded:** Councillor Burke
1830
RESOLVED

1. That Council notes the impact the current lockdowns can have on mental health, especially young people trying to manage the isolation.
2. That Council requests the General Manager write to the Federal Minister for Health Greg Hunt and the NSW Minister for Mental Health Bronnie Taylor seeking more funding for regional mental health services in the Cessnock LGA, given that our community is currently in lockdown.
3. That Council requests the General Manager send a copy of the letter to Member for Hunter Joel Fitzgibbon, Member for Paterson Meryl Swanson and Member for Cessnock Clayton Barr to seek their support in advocating for increased mental health funding for our local area.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

BUSINESS WITH NOTICE NO. BN23/2021

SUBJECT: TOURISM RELATED ACTIVITIES

Councillor Fagg declared a Pecuniary Interest for the reason that he owns holiday accommodation. Councillor Fagg left the meeting and took no part in discussion and voting.

Councillor Fagg left the meeting, the time being 7.40pm

MOTION **Moved:** Councillor Fitzgibbon **Seconded:** Councillor Doherty
1831

RESOLVED

1. That the General Manager bring an annual report to Council, listing the projects and the amounts, funded by the \$97,600 allocated for Tourism Related Activities within the Operation Plan.
2. That any unspent money from the Tourism Related Activities be carried forward and added to the next years allocated allowance.
3. That a workshop be organised to develop guidelines for determining the tourism projects suitable for this funding.
4. That the General Manager provide a report on why the workshop wasn't carried out 5 years ago.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (0)

CARRIED UNANIMOUSLY

Councillor Fagg returned to the meeting, the time being 7.43pm

BUSINESS WITH NOTICE NO. BN24/2021

SUBJECT: ALLANDALE ROAD BARRIER FENCING

MOTION **Moved:** Councillor Fitzgibbon **Seconded:** Councillor Sander
1832
RESOLVED

1. That the General Manager write to TfNSW asking for an update on their investigations on design concepts and funding for pedestrian safety barrier fencing on Allandale Road, Cessnock referred to in written correspondence to Council from TfNSW (our ref D0000/633352 received December 2012).
2. That a copy of the letter be sent to Clayton Barr MP, State Member for Cessnock.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

BUSINESS WITH NOTICE NO. BN25/2021

SUBJECT: BANNERS

Councillor Burke declared a Non Pecuniary Less Than Significant conflict for the reason that the Chamber was involved in banners originally. Councillor Burke remained in the chamber and participated in discussion and voting.

MOTION **Moved:** Councillor Fitzgibbon **Seconded:** Councillor Suvaal
1833

RESOLVED

That the General Manager bring a report back to Council outlining:-

- **Council's annual schedule for the raising and removal of banners on the banner poles across the Local Government Area.**
- **The current budget for the replacement and purchase of new banners.**
- **Identify funding options for the replacement and purchase of new banners.**

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

BUSINESS WITH NOTICE NO. BN26/2021

SUBJECT: RELOCATION OF ENTRANCE TO CESSNOCK CORRECTIONAL CENTRE

Councillor Suvaal declared a Non Pecuniary Less Than Significant conflict for the reason that his sister is an employee of Justice Health working at the Cessnock Correctional Centre. Councillor Suvaal remained in the chamber and participated in discussion and voting.

MOTION **Moved:** Councillor Suvaal **Seconded:** Councillor Sander
1834
RESOLVED

That the General Manager organise a Councillor Briefing prior to the October Council meeting to update Councillors on the progress of the relocation of the entrance to the Cessnock Correctional Centre including any current or planned community consultation.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Fagg	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (12)	Total (0)

CARRIED UNANIMOUSLY

QUESTIONS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN

**QUESTIONS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN NO.
QWNG2/2021**

SUBJECT: DISABILITY ACCESS TO CESSNOCK POOL GROUNDS

FOR COUNCIL'S INFORMATION

CORRESPONDENCE

CORRESPONDENCE NO. CO14/2021

SUBJECT: GAS FIRED POWER STATION - REPORT BN31/2020

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Suvaal
1835
RESOLVED

That Council notes the correspondence forwarded by the Office of the Hon Matthew Kean MP, Minister for Energy and Environment, from the Hon. Ben Franklin MLC, Parliamentary Secretary for Energy and the Arts regarding the gas-fired power station project near Kurri Kurri.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (0)

CARRIED UNANIMOUSLY

CORRESPONDENCE NO. CO15/2021

SUBJECT: MOTION OF URGENCY - COVID19

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Suvaal
1836
RESOLVED

That Council notes the correspondence from the Public Health Response Branch, NSW Health on behalf of the Minister for Health and the correspondence from Mark Taylor MP, Parliamentary Secretary for Police and Justice, on behalf of the Minister for Police and Emergency Services.

FOR	AGAINST
Councillor Olsen	
Councillor Doherty	
Councillor Dunn	
Councillor Stapleford	
Councillor Suvaal	
Councillor Fitzgibbon	
Councillor Gray	
Councillor Burke	
Councillor Sander	
Councillor Lyons	
Councillor Pynsent	
Total (11)	Total (0)

CARRIED UNANIMOUSLY

NIL

MATTER OF URGENCY

<i>Moved:</i>	Councillor Suvaal
<i>Seconded:</i>	Councillor Fitzgibbon

1837

1. That the General Manager take all necessary steps to allow Cessnock pool to reopen in a COVID safe way from Monday 27 September 2021 in accordance with advice in the NSW Public Health Orders.
2. That the General Manager also take the necessary steps to ensure Branxton pool can reopen in a COVID safe way at its original scheduled opening date.
3. What consideration is going to be given by NSW Health in relation to the timing of the reopening of public indoor pools.

CARRIED UNANIMOUSLY

The Meeting Was Declared Closed at 7.59pm

CONFIRMED AND SIGNED at the meeting held on 20 October 2021

.....**CHAIRPERSON**

.....**GENERAL MANAGER**

Disclosures Of Interest

Report No. DI9/2021

Corporate and Community Services



SUBJECT: *DISCLOSURES OF INTEREST*

RESPONSIBLE OFFICER: *Chief Finance and Administration Manager - Matthew Plumridge*

RECOMMENDATION

That Councillors now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

SUMMARY

The provisions of Chapter 14 of the Local Government Act, 1993 regulate the way in which Councillors and nominated staff of council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions, voting on that matter, and require that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

ENCLOSURES

There are no enclosures for this report.

Notice of Intention to Deal With Matters in Confidential Session

Report No. NI7/2021

Corporate and Community Services



SUBJECT: *NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL SESSION.*

REPORT NO. CC79/2021 - TENDER T2022-02 SALE DEVELOPMENT OF VINEYARD GROVE ESTATE

REPORT NO. WI80/2021 – SOUTH CESSNOCK - ACCEPTANCE OF GRANT FUNDING

RESPONSIBLE OFFICER: *Chief Finance and Administration Manager - Matthew Plumridge*

RECOMMENDATION

1. That Council considers in Confidential Session the following matters in accordance with Sections 10A (2) (c), (di) of the *Local Government Act 1993*:

Report No. CC79/2021 – Tender T2022-02 Sale of Development of Vineyard Grove Estate as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business; AND commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it.

Report No. WI80/2021 – South Cessnock – Acceptance of Grant Funding for the reasons that it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

2. That Council requests the Mayor in accordance with Clause 14.21 of Councils Code of Meeting Practice to report on these matters to the meeting in Open Session following completion of the Confidential Session.

SUMMARY

It is necessary for the Council to adopt a resolution to formalise its intention to deal with certain matters in Confidential Session. The reports are incorporated in the “Confidential” business paper which has been circulated to Councillors.

The Local Government Act, 1993 requires the General Manager to identify those matters listed on the business paper which may be categorised as confidential in terms of Section 10A of the Local Government Act, 1993.

ENCLOSURES

There are no enclosures for this report.

Motions of Urgency

Report No. MOU9/2021

Corporate and Community Services



SUBJECT: *MOTIONS OF URGENCY*

RESPONSIBLE OFFICER: *Chief Finance and Administration Manager - Matthew Plumridge*

RECOMMENDATION

That Councillors now indicate if there are any matters of urgency which they believe should be conducted at this meeting of Council.

SUMMARY

Under Clause 10.5 of Council's Code of Meeting Practice, business may be transacted at a meeting of Council even *though* due notice of the business has not been given to the Councillors. This can only happen if a motion is passed to have the business transacted at the meeting, the Mayor rules that the business is of great urgency and the business notified in the agenda for the meeting has been disposed of.

Only the mover of such a motion can speak to the motion before it is put.

ENCLOSURES

There are no enclosures for this report.

General Manager's Unit
Report No. GMU16/2021
General Manager's Unit



SUBJECT: *PROPOSAL TO CLOSE COUNCIL OFFICES BETWEEN CHRISTMAS AND NEW YEAR*

AUTHOR: *Human Resource Manager - Darrylen Allan*

SUMMARY

Council Offices, including Libraries, have traditionally closed between Christmas and New Year, with staff available for emergency situations.

RECOMMENDATION

1. That Council notes its offices, including Libraries will close from 12 noon Friday, 24 December 2021 and reopen on Tuesday, 4 January 2022.
2. That Council notes that the Cessnock Performing Arts Centre will close from Thursday, 23 December 2021 and re-open on Monday, 10 January 2022.

BACKGROUND

Council has traditionally closed its offices, including Libraries, between Christmas and New Year, with staff available for emergency situations.

REPORT

It is proposed that Council Offices, including Libraries, close from 12 noon Friday, 24 December 2021 and that the office and Libraries re-open on Tuesday, 4 January 2022 and the Performing Arts Centre close from Thursday, 23 December 2021 and re-open on Monday, 10 January 2022.

Listed below is a breakdown of applicable Public Holidays and Office closure dates:

Saturday, 25 December 2021	Christmas Day
Sunday, 26 December 2021	Boxing Day
Monday, 27 December 2021	Christmas Day (Public Holiday)
Tuesday, 28 December 2021	Boxing Day (Public Holiday)
Wednesday, 29 December 2021	Office Closed
Thursday, 30 December 2021	Office Closed
Friday, 31 December 2021	Office Closed
Saturday 1 January 2022	New Year's Day
Monday, 3 January 2022	New Year's Day (Public Holiday)

Council will notify members of the Community of the Council Christmas closure by way of notices in local print media, on Council's website and all Council's social media outlets. In addition notices will be posted in Council's Administration Building, Cessnock Library and Kurri Kurri Library.

General Manager's Unit
Report No. GMU16/2021
General Manager's Unit



OPTIONS

Nil

CONSULTATION

N/A

STRATEGIC LINKS

a. Delivery Program

This report links to the community's desired outcome outlined of *Civic Leadership and Effective Governance*.

N/A

b. Other Plans

N/A

CONCLUSION

It is proposed that Council Offices, including Libraries, close from 12 noon Friday, 24 December 2021 and re-open on Tuesday, 4 January 2022 and that the Cessnock Performing Arts Centre, close from Thursday, 23 December 2021 and re-open on Monday, 10 January 2022.

ENCLOSURES

There are no enclosures for this report.

General Manager's Unit
Report No. GMU17/2021
General Manager's Unit



SUBJECT: *REPORT BACK - SUPPORT SECURE LOCAL JOBS*

RESPONSIBLE OFFICER: *Human Resource Manager - Darrylen Allan*

SUMMARY

On 21 July 2021 Council resolved that the General Manager bring back a report to Council on how Council could update its policies to better protect local jobs, including ensuring no forced redundancies of Council's local workforce due to the use of contractors.

RECOMMENDATION

That Council notes the information contained within the report.

BACKGROUND

At its ordinary meeting of 21 July 2021 Council resolved:

- 1. That Council notes the need for more secure, stable jobs in our community, especially during the current Covid-19 pandemic, so that people can choose to live and work in our LGA;**
- 2. That Council requests the General Manager to continue to actively apply for grant funding for local projects, which creates extra work in our LGA;**
- 3. That Council notes the high quality of works undertaken recently by our local work teams on recent projects like the Bridges Hill Park and the Gingers Lane / Hart Road projects and the value that having a strong local workforce brings to our community;**
- 4. That Council notes Council's Procurement Policy which states "Council prefers to buy from local suppliers and contractors where possible, as this supports Council's local economic development initiatives";**
- 5. That the General Manager continue to hold and promote "Doing business with Council" programs to ensure local businesses are aware of Council's tender process and how they can apply to undertake work for Council; and**
- 6. That the General Manager bring back a report to Council within 4 months on how Council could update its policies to better protect local jobs, including ensuring no forced redundancies of Council's local workforce due to the use of contractors.**

This report has been prepared in response to Item 6 of the above resolution.

General Manager's Unit

Report No. GMU17/2021

General Manager's Unit



REPORT/PROPOSAL

Council does not have a policy to protect local jobs however, in relation to Council staff, the terms and conditions of employment at Cessnock City Council are primarily covered by two industrial instruments being the *Local Government (State) Award 2020* (the Award) and the *Cessnock City Council Enterprise Agreement 2018* (the Agreement) (currently under negotiation).

The Award contains a number of provisions relevant to this resolution. The promotion of job security is one of the measures committed to by the parties to the Award and expressly provided for in Clause 2 Statement of Intent (**Enclosure 1**).

The Award provides detailed provisions in Clause 29 Labour Hire (**Enclosure 2**) relating to the use of Labour Hire staff or contractors. The clause requires Council to ensure that labour hire staff not be engaged on a permanent basis in work functions that are ordinarily filled by permanent employees. Further, there are new requirements under the Award introduced in July 2020 that require Council to review the use of labour hire services on an annual basis.

Other relevant provisions includes clauses that state that a casual employee shall not replace an employee on a permanent basis and/or be engaged on a permanent basis nor will they be offered to work overtime in a position held by a permanent employee if such permanent employee is available to work that overtime.

The Award also provides detailed provisions in Clause 41 Workplace Change and Clause 42 Termination of Employment and Redeployment and Redundancy (**Enclosure 3**) that already impose an obligation on Council to explore alternatives to redundancy and to mitigate the adverse effects of workplace change which may include consideration of re-training opportunities, redeployment, recruitment advice, voluntary redundancy, provision of additional notice, access to employee assistance program, financial advice and such other assistance as may be reasonable available.

Further, Council has an historic operational Redeployment and Voluntary Redundancy protocol that provides for above Award entitlements in the event of voluntary redundancy. This Protocol is due for periodic review as part of the 2021/2022 Operational Plan and the review will take place with input from Council's Executive Leadership and Management team and Council's Staff Consultative Committee.

OPTIONS

Nil

CONSULTATION

- General Manager

General Manager's Unit
Report No. GMU17/2021
General Manager's Unit



STRATEGIC LINKS

a. Delivery Program

Operational Plan 2021-22 - Action Item 5.3.8d *Create or review and update all policies that have been identified as required or are due for review. Place all policies where there are material changes on public exhibition* - d_12 Review the Redeployment and Voluntary Redundancy Protocol.

b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

Nil

c. Legislative Implications

Nil

d. Risk Implications

Nil

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

That the information contained in the report be noted as to the extensive provisions contained in the *Local Government (State) Award 2020* (the Award) in relation to labour hire and redundancy provisions.

ENCLOSURES

- [1](#) Clause 2 - Statement of Intent
- [2](#) Clause 29 - Labour Hire
- [3](#) Clause 41 & 42 - Workplace Change and Termination of Employment

ENCLOSURE 1 – Clause 2

2. STATEMENT OF INTENT

The parties to the Award are committed to co-operating positively to increase the productivity, structural efficiency and financial sustainability of Local Government and to provide employees with access to more fulfilling, varied and better-paid work by providing measures to, for instance:

- improve skill levels and establish skill-related career paths;
- eliminate impediments to multi-skilling;
- broaden the range of tasks which a worker may be required to perform;
- achieve greater flexibility in workplace practices;
- eliminate discrimination;
- establish rates of pay and conditions that are fair and equitable;
- work reasonable hours;
- promote job security;
- ensure and facilitate flexibility for work and family responsibilities;
- ensure the delivery of quality services to the community and continuous improvement;
- encourage innovation;
- promote cooperative and open change management processes; and
- promote the health and safety of workers and other people in the workplace.

ENCLOSURE 2 – Clause 29

29. LABOUR HIRE

- (i) Labour hire staff employed by a labour hire business shall not be engaged on a permanent basis in work functions ordinarily filled by permanent employees of the employer. In ensuring that labour hire staff are not engaged on a permanent basis the employer shall review the use of labour hire services on an annual basis.
- (ii) This clause does not apply to the employment of apprentices and/or trainees by a group training business.
- (iii) For the purpose of this clause:
 - (a) a “labour hire business” is a bona fide labour hire business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which supplies staff employed or engaged by it to the employer on an on-hire basis for the purpose of such staff performing work or services for that employer. Provided that a business is not a labour hire business if:
 - (1) the staff of that business are not performing the specific duties of a position(s) covered by the employer’s organisation structure;
 - (2) the business is providing professional business services which cannot reasonably be fulfilled by the employer’s employees, for a specified period of time or for a specific task (for example, legal, financial or accounting services);
 - (3) the business is a bona fide contractor providing both equipment and employees to the employer; or
 - (4) the business is another entity covered by this Award.
 - (b) a “group training business” is a bona fide group training business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply apprentices and/or trainees to the employer for the purpose of such staff performing work or services as an apprentice or trainee for that employer.
- (iv) Notwithstanding the provisions of subclause (i), the employer and the relevant union may agree in writing that the employer may replace an employee of the employer on a permanent basis with the employee of a labour hire business.

ENCLOSURE 3 – Clause 41 and 42

41. WORKPLACE CHANGE

(i) Definitions

(a) In this clause:

“*Significant effects* include:

- termination of employment; or
- major changes in the composition, operation or size of the employer's workforce or in the skills required; or
- the loss of or reduction in, job or promotion opportunities or job tenure; or
- the alteration of hours of work; or
- the need for employees to be retrained or transferred to other work or locations; or
- job restructuring.

Provided that where the Award makes provision for the alteration of any of the matters referred to above such an alteration shall be deemed not to have significant effect.

(ii) Pre-Proposal Stage

(a) An employer may consult with relevant employees and/or unions, where appropriate, when developing options for proposed workplace change.

(b) Consultation under subclause (ii)(a) does not need to occur in writing.

(iii) Proposal Stage

(a) **Employer's duty to notify a proposed workplace change that is likely to have significant effects** – Subject to the exceptions identified at subclause (v) of this clause, where the employer proposes a workplace change that is likely to have significant effects, the employer shall provide notice in writing and transmitted electronically (where available), to the employees who may be affected by the proposed change and the unions to which they belong at least twenty-eight (28) days prior to making a definite decision.

(b) Notice of proposed workplace change under subclause (ii)(a) shall include:

- (1) the nature of the proposed change;
- (2) the reasons for the proposed change;
- (3) the positions likely to be affected; and
- (4) such other information as is reasonable in the circumstances.

(b) **Employer's duty to discuss proposed workplace change** – The employer shall discuss with the employees likely to be affected and the unions to which they belong, what effects

the proposed change is likely to have on the employees and any alternative proposals. The employer shall give prompt consideration to matters raised by the employees and their unions in relation to the proposed change. These discussions shall commence as early as practicable.

(d) The employer shall provide all relevant information to the employees and the union to which they belong.

(e) The employer may reconsider the original proposed workplace change.

(f) **Competitive tendering** – Where employees who are adversely affected by the proposed changes request the employer's assistance to submit an in-house bid and the employer refuses that request, the employer shall provide the reasons in writing.

(iv) Decision and Implementation Stage

(a) **Employer's duty to notify a definite decision that has significant effects** – Subject to the exceptions identified at subclause (v) of this clause, where the employer has made a definite decision to introduce major workplace change that has significant effects on employees, the employer shall provide notice in writing and transmitted electronically (where available), to the employees who will be affected by the change and the unions to which they belong at least seven (7) days before a definite decision is implemented.

(b) The purpose of the Decision and Implementation Stage is for the employer to discuss with affected employees and the unions to which they belong, measures to minimise or mitigate the adverse effects of the definite decision. At this Stage the employer is not bound to give any further consideration to matters raised by the employees and their unions in relation to the proposed workplace change.

(c) Notice of a definite decision under subclause (iv)(a) shall include (where applicable):

- (1) the nature of the definite change;
- (2) the reasons for the definite change;
- (3) the positions to be affected;
- (4) in the case of termination of employment
 - The number and category of employees whose employment is to be terminated; and
 - The period over which the terminations are likely to be carried out;
- (5) such other information as is reasonable in the circumstances.

(d) **Employer's duty to discuss** – The employer shall discuss with the employees affected and the unions to which they belong, measures to avert or mitigate any adverse effects of the change

on employees and shall give prompt consideration to matters raised by employees and their unions.

(e) The discussions shall take place as soon as practicable after the employer has made a definite decision and shall cover measures to avoid or minimise any adverse effects on the employees. Measures to mitigate adverse effects on employees may include, consideration of re-training opportunities; redeployment (including redeployment into positions occupied by casual and labour hire staff); recruitment advice; the payment of relocation allowances; provision of additional notice; access to an employee assistance program; financial advice and such other assistance as may be reasonably available.

(f) **Implementation** – Subject to subclause (v) of this clause, the employer shall not implement a definite decision to introduce major workplace change that has significant effects on employees until the obligations under subclauses (iv)(a) and (iv)(d) of this clause have been met.

(v) Exceptional circumstances

(a) Notwithstanding the provisions of subclauses (iii) and (iv) of this clause, workplace change may be implemented in accordance with the timelines in column B that relate to the circumstances set out in column A in the table below:

A	B
If affected employees consent to workplace change	Immediately
If all unions with coverage of the affected employees consent to the workplace change	Immediately
Exceptional Circumstances	14 days after the provision of Written Notice

(b) For the purpose of this subclause Exceptional Circumstances refers to workplace change that is the result of something that is unexpected and beyond the employer's control that results in a significant loss of funding for positions or no useful work for employees in the foreseeable future.

(c) For the purpose of this subclause Written Notice means notification that is in writing and transmitted electronically (where available) to the employees affected by the change and the unions to which they belong. The Written Notice shall include (where applicable):

- (1) the nature of the definite change;
- (2) the reasons for the definite change;
- (3) the positions to be affected;

(4) in the case of termination of employment:

- The number and category of employees whose employment is to be terminated; and
- The period over which the terminations are likely to be carried out;

(5) such other information as is reasonable in the circumstances.

42. TERMINATION OF EMPLOYMENT AND REDEPLOYMENT DUE TO REDUNDANCY

(i) Notice of Termination

(a) Where the employer terminates an employee's employment due to redundancy, the employer shall provide the employee with notice of termination as following:

(1) Subject to subclause (i)(a)(2) of this clause, five (5) weeks' notice to terminate or pay in lieu thereof; or

(2) Where the employee's employment is terminated because of the introduction of technology, three (3) months' notice to terminate or pay in lieu thereof,

provided that the employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

(b) Notice or payment of notice under this paragraph shall be deemed to be service with the employer for the purposes of calculating leave entitlements under this Award.

(ii) Notice to Centrelink

Where a decision has been made to terminate fifteen (15) or more employees for reasons of an economic, technological, structural or similar nature, or for reasons including such reasons, the employer shall notify Centrelink as soon as possible giving relevant information as provided at section 530 of the *Fair Work Act 2009* (Cth).

(iii) Severance Pay

(a) This subclause shall apply where an employee is terminated due to redundancy except where the employee concerned has been offered, but has refused to accept, an alternative position within the employer's organisation structure of comparable skill and accountability levels and remuneration no less than the position previously held by the employee.

(b) In addition to any required period of notice, and subject to subclause (i) of this Clause, the employee shall be entitled to severance pay as follows:

COMPLETED YEARS OF SERVICE WITH THE EMPLOYER	ENTITLEMENT
Less than 1 year	Nil
1 year and less than 2 years	5 weeks pay
2 years and less than 3 years	9 weeks pay
3 years and less than 4 years	13 weeks pay
4 years and less than 5 years	16 weeks pay
5 years and less than 6 years	19 weeks pay
6 years and less than 7 years	22 weeks pay
7 years and less than 8 years	25 weeks pay
8 years and less than 9 years	28 weeks pay
9 years and less than 10 years	31 weeks pay
10 years and thereafter	34 weeks pay

- (iv) An employee who resigns during the period of notice is entitled to the same redundancy payments provided in this clause as if they had remained in the employer's employment until the expiry of the notice period.
- (v) During a period of notice of termination given by the employer, an employee shall be allowed up to one day off without loss of pay during each week of notice for the purpose of seeking other employment. Where required by the employer the employee shall provide proof of attendance at an interview.
- (vi) A redundant employee shall be entitled to the payment of a job search allowance of up to the rate set out in Table 2 of Part B of this Award to meet expenses associated with seeking other employment subject to proof of expenditure or on production of an invoice, and/or other appropriate documentation. The employee's entitlement to claim the job search allowance is limited to a period of up to 12 months from their termination of service with the employer or until the employee secures alternative employment, whichever is the sooner.
- (vii) If the employee agrees to be redeployed by the employer into a lower paid position, the employee's existing salary and conditions shall be maintained for a period equivalent to the amount of notice and severance pay that the employee would be entitled to under this Award. Provided that should the employee resign during the period of salary maintenance, as provided for by this subclause, the balance of any notice and severance pay that the employee would have been entitled to for the remainder of the period of salary maintenance shall be paid on termination.

- (viii) The employer shall, upon receipt of a request from an employee to show employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification or the type of work performed by the employee.
- (ix) The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form required by the Department of Human Services.
- (x) In the event that the employer determines that a position is redundant, the employer where practicable, shall firstly offer such redundancy on a voluntary basis.
- (xi) Nothing in this Award shall be construed so as to require the reduction or alteration of more advantageous benefits or conditions which an employee may be entitled to under any existing redundancy arrangement, taken as a whole, between the industry unions and the employers bound by this Award.
- (xii) Subject to an application by the employer and further order of the Industrial Relations Commission of New South Wales, the employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause (iii) above if the employer obtains acceptable alternative employment for an employee.
- (xiii) Nothing in this clause shall restrict an employee with ten years' service or more and the employer from agreeing to further severance payments.
- (xiv) Nothing in this clause restricts the elected council and/or general manager from exercising their right under the *Local Government Act 1993* (NSW) to determine and/or re-determine the organisation structure from time to time, and to implement such determinations.

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SUBJECT: *DEVELOPMENT APPLICATION 8/2020/20604/1 PROPOSING CONSTRUCTION OF A MULTI-DWELLING HOUSING/MANUFACTURED HOME ESTATE.*

22, 26 BIRKDALE BOULEVARD, 37 PORTRUSH AVENUE, STONEBRIDGE DRIVE, CESSNOCK

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2020/20604/1
PROPOSAL:	Construction of a multi-dwelling housing/manufactured home estate comprising: 301 manufactured home sites, associated recreational and community facilities, alterations and additions to existing golf club and golf course, utility services, clearing, earthworks, internal road network, carparking and signage
PROPERTY DESCRIPTION:	Lots: 401 & 402 DP: 1172037, Lot: 500 DP: 1213196 and Lots: 1000 & 1009 DP: 1234890
PROPERTY ADDRESS:	0, 22, 26 Birkdale Boulevard, 37 Portrush Avenue, 0 Stonebridge Drive, Cessnock
ZONE:	RE2 Private Recreation and R2 Low Density Residential
OWNER:	Cessnock Golf Club Ltd
APPLICANT:	Principle Living

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2020/20604/1 proposing construction of a multi-dwelling housing/manufactured home estate comprising: 301 manufactured home sites, associated recreational and community facilities, alterations and additions to existing golf club and golf course, utility services, clearing, earthworks, internal road network, carparking and signage at the property address listed above, be approved pursuant to Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, subject to the conditions contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is consistent with the relevant provisions contained within *State Environmental Planning Policy No. 36 Manufactured*

Home Estates and Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021.

- The proposal is a permitted land use in the RE2 Private Recreation Zone and the R2 Low Density Residential Zone under *Cessnock Local Environmental Plan 2011*.
- The proposal is consistent with objectives of the RE2 Private Recreation Zone and the R2 Low Density Residential Zone.
- The subject development is designed in a manner that takes into account the constraints of the site and proposes measures to minimise any impacts on the natural and built environments.
- The development, in the manner proposed, is suitable for the site.
- The development provides a form of housing that will add to the diversity of housing stock in the area.
- The development provides a social benefit and serves in the public interest by contributing to housing affordability.

(iii) In considering community views, the following is relevant:

- The issues and concerns raised by the community regarding traffic impacts, environmental impacts, social impacts, construction impacts and amenity impacts are matters that can be suitably managed.
- The development has been designed to take into account the site constraints and there are no site constraints that are of such significance to warrant refusal of the development.
- The development in the manner proposed is suitable for approval and subject to the conditions, will result in acceptable environment impact.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the *Environmental Planning and Assessment Act 1979*.

- 2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.**

REASON FOR REPORT

Development Application No. 8/2020/20604/1 is being referred to Council for determination as objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications.

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EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2020/20604/1 seeking approval for construction of a multi-dwelling housing/manufactured home estate comprising: 301 manufactured home sites, associated recreational and community facilities, alterations and additions to existing golf club and golf course, utility services, clearing, earthworks, internal road network, carparking and signage at the property address listed above.

The Development Application has been assessed against the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulations 2000*, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The proposal complies with the relevant planning controls, most notably those contained within *State Environmental Planning Policy No. 36 - Manufactured Home Estates, Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*, *Cessnock Local Environmental Plan 2011* and the *Cessnock Development Control Plan 2010*.

The development application was publicly exhibited on two (2) occasions. On the first occasion, seventeen (17) submissions were received, representing 4.5% of the 380 properties notified. On the second occasion, nine (9) submissions were received which primarily reiterate previously expressed concerns. In addition, three (3) submissions were received outside the second exhibition period. The issues and concerns raised in the submissions are addressed in the following report.

Whilst the site is subject to certain physical constraints, the constraints are not of such significance to be a barrier to the development. In this regard, the development has been designed around the constraints. In addition, it is considered that suitable management of the development will be achieved by the recommended conditions of consent. Overall, the site is considered suitable for the proposed development.

The development is capable of being serviced by available infrastructure and will visually appear as an extension of the existing residential area. The development design respects the amenity and character of adjoining existing development.

The social benefits of the proposed development are associated with the provision of diversity in housing. The development is orientated towards affordable housing, with a particular emphasis on providing for low maintenance residential sites and associated facilities.

The development has the potential to impact on surrounding properties, however such impacts are capable of being managed and accordingly, do not warrant refusal of the application.

Based on the assessment, it is recommended that the Development Application be approved subject to the conditions of consent included in this report.

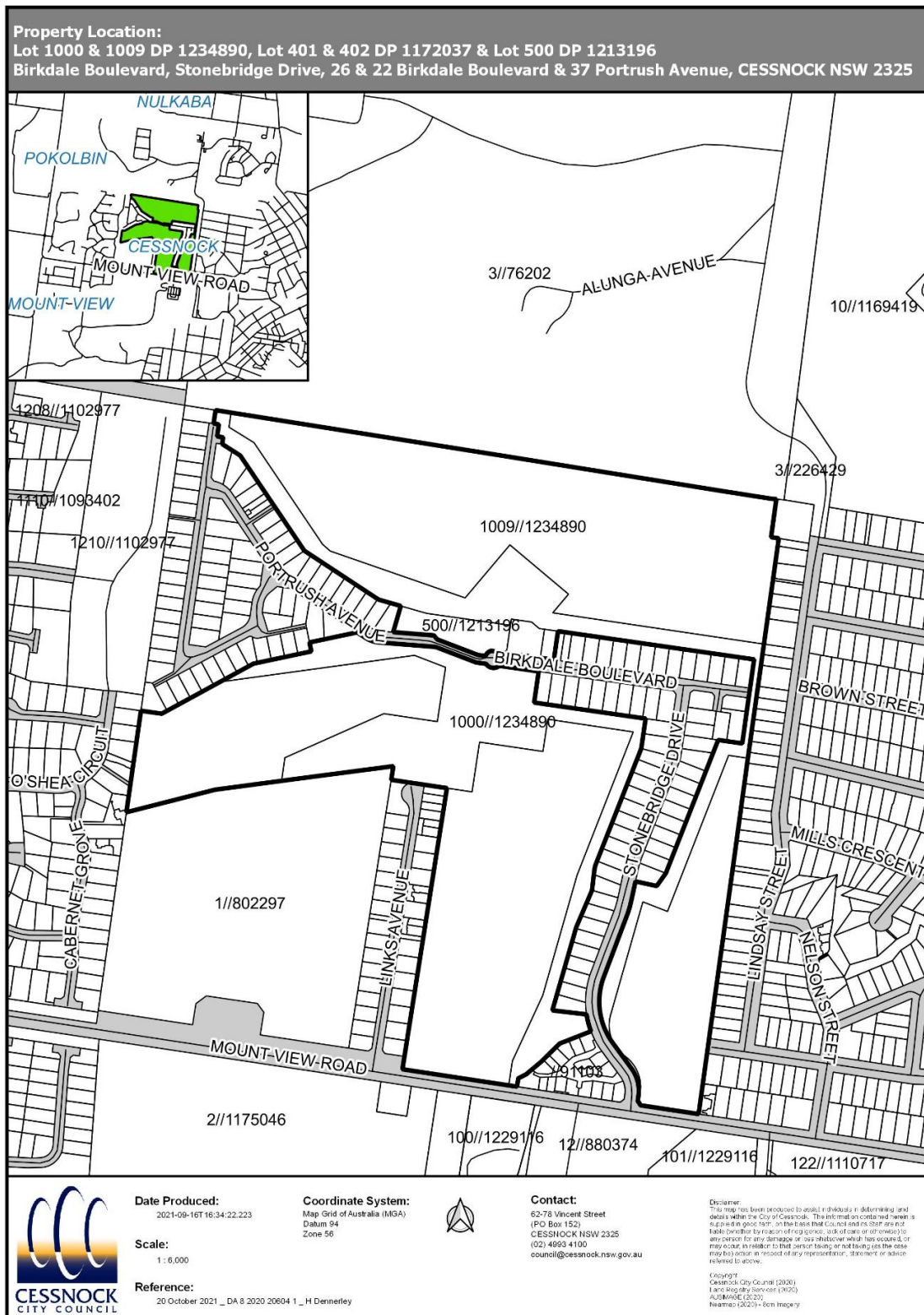
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LOCATION MAP



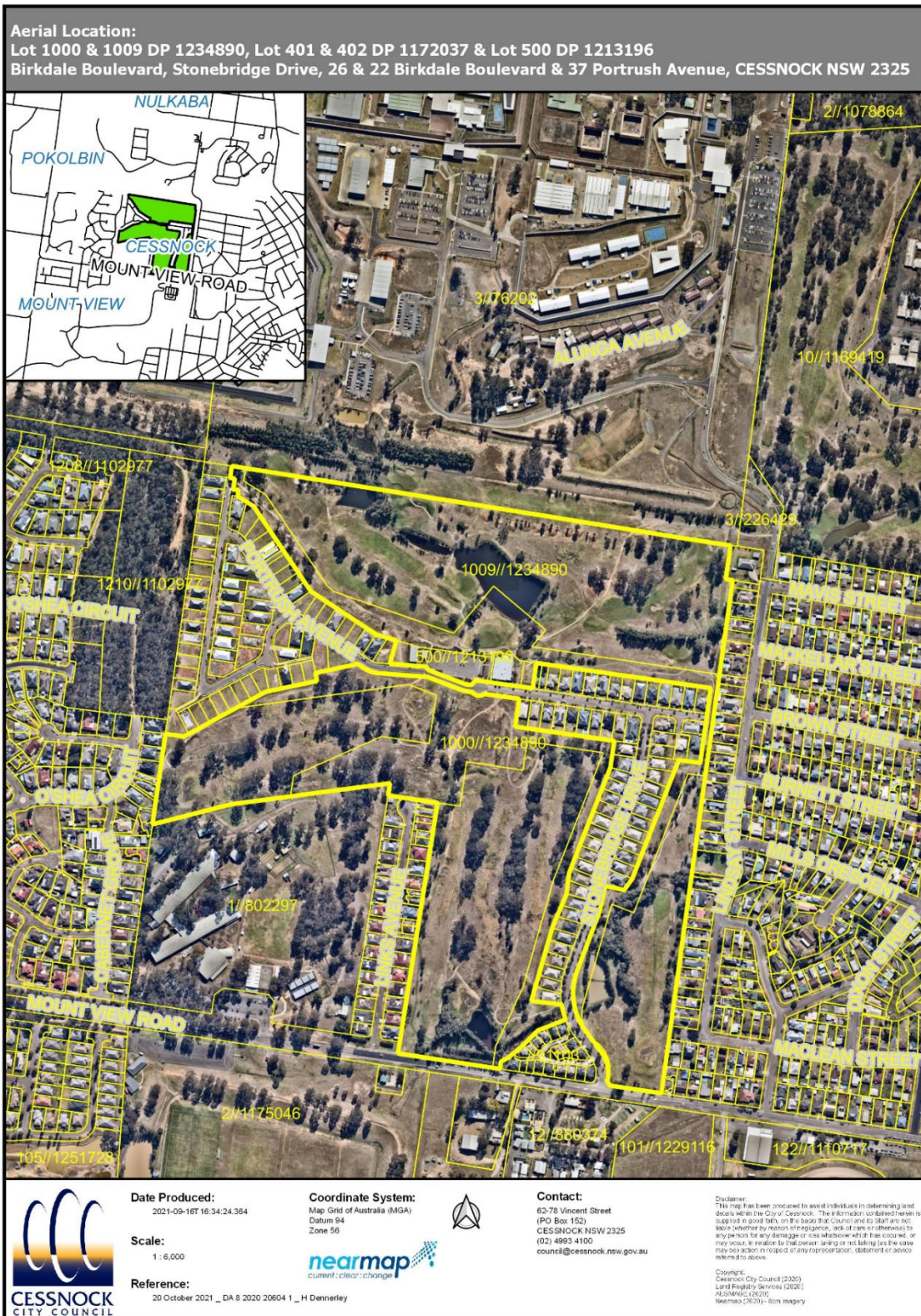
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AERIAL



SITE DESCRIPTION AND LOCALITY

The subject site comprises five (5) lots commonly known as 0, 22, 26 Birkdale Boulevard, 37 Portrush Avenue, 0 Stonebridge Drive, Cessnock, and is legally described as Lot 401 & Lot 402 DP 1172037, Lot 500 DP 1213196, Lot 1000, and Lot 1009 DP 1234890.

The subject site is located within the former Cessnock Golf Course on the northern side of Mount View Road, and has an area of approximately 37.68 hectares. The site consists of managed/unmanaged landscape areas. The golf clubhouse and associated infrastructure including the parking lot remain on the site.

The site is located approximately 1.5 kilometers from the Cessnock Central Business District. The land is bound by low-density residential development to the east, Cessnock Correctional Complex to the north and Mount View High School/low-density residential development to the west. Ingenia Caravan Park and the Mount View public recreation area are located to the south of the site.

Vehicular access to the site is available from Stonebridge Drive and Birkdale Boulevard.

The site contains a golf course including a club house and recreational facilities, and has been developed with ribbon residential housing that has been subdivided as a golf course residential estate. The subject site, topographically mildly undulates and is sparsely vegetated. In most parts of the development area, the vegetation consists mainly of mature trees with grassy ground cover.

The site is partially mapped as bushfire prone land and flood prone land. Two unnamed watercourses traverse the site, one in the north which is a first-order stream connecting some of the four man-made dams throughout the golf course fairways, and one in the south which is a second-order stream.

Relevant development consents issued in relation to the property include:

DA No.	Description	Determination
DA8/2010/136/1 and subsequent amendment	Redevelopment of the Oaks Golf Course and Country Club into an integrated residential golf course	Approved 7/10/2010
DA8/2009/342/1 and subsequent amendments	Bulk earthworks associated with site regrading and development of twelve (12) golf holes and ancillary works	Approved 13/07/2010
DA8/2011/735/1	Fencing, landscaping, signage and associated earthworks	Approved 28/02/2012
DA8/2013/656/1 and subsequent amendments	Subdivision of land in three phases comprising: Phase 5 – 36 residential lots, Phase 6 – 29 residential lots and Phase 7 – one development lot with ancillary 95 space carpark for clubhouse and associated road construction	Approved 17/02/2014
DA8/2014/401/1 and subsequent amendments	Subdivision of land in four phases comprising: Phase 1 (referred to as 8) – One (1) Lot; Phase 2 – (referred to as 9) – One (1) lot; Phase 3 (referred to as 10) – eight (8) Residential lots; Phase 4 (referred to as 1) – Amalgamation of land into Golf Course	Approved 09/04/2015

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DA8/2014/271/1	Clubhouse Building	Approved 20/08/2014
DA8/2015/388/1	New golf pro shop and alterations and extensions to existing golf club house	Approved 02/12/2015

There have also been two (2) Planning Proposals in respect to the Stonebridge Golf Club redevelopment project, as follows:

Planning Proposal 18/2006/5/1 – Cessnock Local Environmental Plan 1989 (Amendment No. 129)

Amendment 129 was published on the NSW legislation website on 9 October 2009. The purpose of the Planning Proposal was to:

1. Rezone part of the land from Zone No 6 (a) (Open Space Zone) to Zone No 2 (a) (Residential “A” Zone) (to permit development of up to 170 dwellings), and
2. Permit the carrying out of development on the other land to which this Plan applies for the following purposes:
 - (i) a motel and shops,
 - (ii) the extension to a golf course (6 holes),
 - (iii) the extension to a golf course (1 hole).

Planning Proposal 18/2011/3/1 – Cessnock Local Environmental Plan 2001 (Amendment No. 9) - Stonebridge Golf Club

Amendment 9 was published on the NSW legislation website on 9 May 2014. The purpose of the Planning Proposal was to:

1. Rezone land (part Lot 400 and Lot 401 in DP 1172037) to RE2 Private Recreation to enable a registered club (i.e. golf club), recreation facility (outdoor) (bowling greens and practice golf putting green); and associated carparking to be permitted uses with Council consent.
2. Adjust the zone boundaries to align with a finalised Masterplan of the estate, resulting in a 7.33ha of land primarily being rezoned from R2 - Low Density Residential to RE2 - Private Recreation and 2064m² of land zoned RE2 - Private Recreation to R2 - Low Density Residential allowing an additional 5 allotments.

A pre-lodgement meeting was held with Council on 29 November 2019 to discuss the key considerations relating to the proposed development, following which, formal minutes were issued to the applicant.

HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
29 November 2019	Pre-DA meeting with Council to discuss proposed development.
16 September 2020	Application formally lodged with Council.

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21 September 2020	Application referred to the following Council departments: Flooding Engineer, Development Engineer, Building Surveyor, Traffic Engineer, Ecologist, Environmental Health, Environmental and Waste Services, Heritage Advisor, Community Planning, Contributions, and Community Services (Parks and Recreation). Application referred to the following external agencies: Ausgrid, Natural Resource Access Regulator, Transport for NSW, NSW Rural Fires Service, Hunter Water and NSW Police.
29 September 2020	Council requests minor changes to lodgement documents to enable exhibition.
7 October 2020	Application supported subject to conditions by Community Services (Parks and Recreation).
12 October 2020	Referral response received from Ausgrid raising no objection to the application.
21 October 2020	Referral response received from Transport for NSW raising no objection to the application.
22 October 2020	Applicant provides additional information in response to Council's request.
5 November 2020 to 3 December 2020	Application placed on public exhibition.
27 November 2020	Natural Resources Access Regulator request additional information.
23 December 2020	Hunter Water issue Notice of Formal Requirements.
24 December 2020	NSW Rural Fire Service request additional information.
5 January 2021	Final outstanding referral response received from NSW Police raising no objection to the application.
18 January 2021	Request for additional information issued by Council incorporating referral comments received from Building Surveyor, Ecologist, Environmental Health, Environmental and Waste Services, Community Planning and Development Engineer (including comments from Flood and Traffic Engineers). The letter also made reference to the additional information sought by Natural Resources Access Regulator and the NSW Rural Fire Service.
29 April 2021	Applicant provides additional information in response to Council's request.
6 May 2021	Application re-referred back to relevant internal officers and external agencies for consideration of additional information provided by applicant.
15 May 2021	Application supported subject to conditions by Heritage Advisor.
19 May 2021	Applicant uploads additional documents in response to Council's request for information.
22 June 2021	General Terms of Approval issued by NRAR.
25 June 2021	General Terms of Approval issued by NSW RFS.
28 June 2021	Application supported subject to conditions by Building Surveyor.
9 July 2021	Supplementary request for information letter issued by Council incorporating referral comments from Development Engineer, Ecologist, Environmental Health and Community Planning.
9 July 2021	Application referred to independent traffic consultant to review traffic implications of the proposed development.

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19 July 2021	Applicant provides additional information in response to Council's letter and requests meeting with Council to discuss outstanding issues.
20 July 2021	Conditions of consent provided by Community Planning.
22 July 2021	Meeting held with applicant to discuss outstanding issues. Final request for information issued by Council to address outstanding issues raised by Development Engineering and Ecologist relating to traffic, flooding and ecological impacts.
10 August 2021	Applicant provides additional information in response to Council's request.
16 August 2021	Conditions of consent provided by Environmental and Waste Services.
18 August 2021 to 27 September 2021	Application placed on public exhibition and re-referred to Environmental Health, Development Engineer, Community Planning and Ecologist.
20 July 2021	Response received from independent traffic consultant regarding traffic implications of the development.
3 September 2021	Application supported subject to conditions by Ecologist.
17 September 2021	Application supported subject to conditions by Environmental Health.
21 September 2021	Conditions of consent provided by Contributions.
22 September 2021	Final outstanding internal referral completed by Council's Development Engineer.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2020/20604/1 seeks approval for construction of a multi-dwelling housing/manufactured home estate comprising: 301 manufactured home sites, associated recreational and community facilities, alterations and additions to existing golf club and golf course, utility services, clearing, earthworks, internal road network, carparking and signage. Specifically, the proposed development involves:

- 301 manufactured home sites that will be leased on a long-term basis;
 - Sites vary in size from 260m² to 390m² to accommodate a manufactured home, parking, private open space and landscaping.
 - Indicative floor plans provide for a range of manufactured home types of two (2) and three (3) bedrooms per dwelling.
- Community centre comprising the following facilities (for estate residents only);
 - Pool
 - Activities room for yoga and pilates
 - Library
 - Billiards room
 - Lounge area
 - Management and sales office
 - Dining area, bar and kitchen
 - Toilets, storage and plant room
 - Alfresco areas
 - Outdoor tennis courts will also be provided opposite the community centre

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- Alterations and additions to the existing golf clubhouse and golf course (open to the general public and estate residents);
 - Minor amendments to the internal layout and external façade of the existing golf club;
 - Reconfigure golf course to operate as a 12-hole facility.
- New bowling green (open to the general public and estate residents);
- Services and utilities;
- Clearing and earthworks;
- Internal road network;
- Extensive landscaping including dog exercise park and walking trails;
- Visitor car parking spaces comprising;
 - Car park 1 - 34 spaces
 - Car park 2 - 25 spaces
 - Car park 3 - 70 spaces
- Caravan and trailer storage area catering for up to 51 vehicles;
- External boundary fencing and internal site fencing;
- Boom gate providing security access to Stage 1-8 and Stages 9 and 10;
- Provision of a community bus providing a daily service to and from the Cessnock CBD;
- On-site managers residence;
- New entrance signage and community centre building identification signage; and
- Leasehold subdivision of each manufactured home site.

The development is proposed to be constructed over ten (10) phases, as follows:

- Stage 1: 44 manufactured home sites (including managers residence), signage, golf course and internal refurbishment of golf club
- Stage 2: 25 manufactured home sites, community centre, tennis court and bowling green
- Stage 3: 34 manufactured home sites, caravan and boat storage area
- Stage 4: 16 manufactured home sites and dog exercise park
- Stage 5: 30 manufactured home sites
- Stage 6: 30 manufactured home sites and nature walk
- Stage 7: 30 manufactured home sites
- Stage 8: 30 manufactured home sites
- Stage 9: 26 manufactured home sites
- Stage 10: 36 manufactured home sites

Manufactured homes will be erected on each of the 301 manufactured home sites in the future. Separate approval will be required to be obtained for the installation of the manufactured homes under the *Local Government Act 1993* and the *Local Government (Manufactured Homes Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*. This is discussed in further detail below.

The proposed development is intended to operate as an over 50's lifestyle village but has not been submitted under the State Environmental Planning Policy that applies to seniors living, being *State Environmental Planning Policy (Housing for Seniors of People with a Disability) 2004*.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters prescribed within s4.15 of the *Environmental Planning and Assessment Act 1979*, as are of relevance to the development the subject of the development application:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. *State Environmental Planning Policy No 55 – Remediation of Land*
2. *State Environmental Planning Policy (Infrastructure) 2007*
3. *State Environmental Planning Policy (Koala Habitat Protection) (2019)*
4. *State Environmental Planning Policy 64 – Advertising and Signage*
5. *State Environmental Planning Policy No 36 – Manufactured Home Estates*
6. *Cessnock Local Environmental Plan 2011*

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. *State Environmental Planning Policy No 55 – Remediation of Land*

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

A Preliminary Site Investigation (Contamination) (prepared by Douglas Partners, dated March 2020) and *Contamination Status Report* (prepare by Cardno, dated 23 April 2021) was submitted in support of the application.

The Contamination Status Report provides a comprehensive overview of all previous contamination investigations and assessments previously undertaken on the site by a range of consulting firms. The report concludes that *“Based on the Site history, current Site inspection, past assessments, clearance certificates and previous works undertaken, in accordance with the State Environmental Planning Policy No 55 (SEPP 55) the Site is considered to be low risk of potential contamination and can be rendered suitable for the proposed use.*

The application has been reviewed by Council’s Environmental Health section and is considered a low risk of potential contamination. Based on the information submitted, the site is suitable for the proposed use in accordance with SEPP 55.

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2. State Environmental Planning Policy (Infrastructure) 2007

The application triggers the referral process to Transport for NSW (TfNSW) in accordance with Clause 104 Traffic-Generating Development as the development is specified in Schedule 3 Column 2 of the SEPP, being residential accommodation of 300 or more dwellings.

TfNSW provided a response on 21 October 2020 advising that *“As Council have the ability to levy a contribution from the development towards its impact on the classified road network, TfNSW raises no objection to the subject development”*. No specific requirements or conditions of consent were recommended by TfNSW.

Accordingly, the application is considered consistent with the requirements of *SEPP (Infrastructure) 2007*.

3. State Environmental Planning Policy (Koala Habitat Protection) 2019

The development application was lodged with Council on 16 September 2020 prior to the commencement of *SEPP (Koala Habitat Protection) 2021*, which commenced on the 17 March 2021. Savings provision in *SEPP (Koala Habitat Protection) 2021* states that a development application made in relation to land, but not finally determined before this Policy applied to the land, must be determined as if this Policy had not commenced (Part 4 Savings and Transitional Provisions, Clause 18 Existing Development Application). Accordingly this assessment must be made under State Environmental Planning Policy (*Koala Habitat Protection*) 2019.

Council's Ecologist has undertaken an assessment of the application and determined that field surveying revealed that the onsite vegetation does not comprise 15% or greater of feed tree species and therefore, the site does not constitute 'potential' koala habitat. As the site does not constitute potential koala habitat, there are no further provisions of the SEPP that apply.

4. State Environmental Planning Policy 64 – Advertising and Signage

Under this SEPP, a consent authority must not grant consent to signage unless satisfied that the signage is consistent with the objective of the Policy (Clause 3(1)(a)) and satisfies the assessment criteria specified in Schedule 1.

An assessment against the relevant provisions of SEPP 64 has been undertaken in relation to the proposed new entrance signage and the new building identification signs attached to the community facility. The assessment has determined that the proposed signage complies with the provisions of SEPP 64.

5. State Environmental Planning Policy No 36 – Manufactured Home Estates

State Environmental Planning Policy No. 36 Manufactured Home Estates (SEPP 36) applies to the proposed development. An assessment against the relevant provisions of SEPP 36 is provided below:

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REQUIREMENT	COMMENT
Clause 2 Aims and strategies	
The aims of SEPP 36 are as follows:	
(a) to facilitate the establishment of manufactured home estates as a contemporary form of medium density residential development that provides an alternative to traditional housing arrangements, and	The development proposes a contemporary form of affordable housing through the provision of small home sites which provide an alternative to traditional housing arrangements.
(b) to provide immediate development opportunities for manufactured home estates on the commencement of this Policy, and	Approval of the application will enable development of a manufactured home estate on the subject site.
(c) to encourage the provision of affordable housing in well designed estates, and	A range of well-designed indicative manufactured home designs have been submitted with the application that comply with the provisions of the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021</i> .
(d) to ensure that manufactured home estates are situated only in suitable locations and not on land having important resources or having landscape, scenic or ecological qualities that should be preserved, and	The site is subject to some physical constraints, however, the development footprint is not impeded and the constraints managed by the imposition of suitable conditions of consent. The site is therefore considered suitable for the proposed development.
(e) to ensure that manufactured home estates are adequately serviced and have access to essential community facilities and services, and	Hunter Water Corporation and Ausgrid have confirmed that the development can be adequately serviced. Furthermore, the proposal provides access to essential community services on-site and within close proximity of the site.
(f) to protect the environment surrounding manufactured home estates, and	The proposal has been reviewed by Council's Ecologist who has concluded that the proposed development will not result in an adverse impact on the environment surrounding the manufactured home estate subject to appropriate conditions of consent.
(g) to provide measures which will facilitate security of tenure for residents of manufactured home estates.	Security of tenure for residents will be provided through suitable lease arrangements.
Clause 3 – Land to which this Policy applies	
Clause 3 prescribes that the SEPP does not apply to land described in Schedule 1 or land	The site/ Cessnock LGA is not listed within Schedule 1 of the SEPP or within 18km of the Siding Spring Observatory.

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less than 18km for the Siding Spring Observatory.	
4 Relationship to other environmental planning instruments	
(1) In the event of an inconsistency between this Policy and any other environmental planning instrument whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.	Clause 1 is relevant to the RE2 Private Recreation zoned portion of the site that would otherwise prohibit this form of development under the Cessnock Local Environmental Plan 2011. This is discussed in further detail later in this report.
(2) Nothing in State Environmental Planning Policy No 21—Caravan Parks prevents development consent from being granted pursuant to this Policy for the use of land for the purposes of a manufactured home estate.	
5 Definitions	
<p>installation means—</p> <p>(a) in relation to a manufactured home, the process of connecting the major sections of the manufactured home, and any associated structures forming part of the manufactured home, and attaching them to footings, or</p> <p>(b) in relation to an associated structure, the process of constructing or assembling the components of the associated structure, and (where appropriate) attaching them to footings, and includes the connection to the home or associated structure of gas, electricity, telephone, water, sewerage and drainage services.</p>	<p>The applicant has advised the following to demonstrate consistency with the relevant definitions:</p> <p><i>“The manufactured homes will be constructed within the builder’s factory in sections, transported and assembled on site. This will involve the sections of each villa being attached to a slab footing that will be constructed on each of the 301 sites in sections.</i></p> <p><i>Services will be connected to each site, and then the process of assembling the components of the respective villas will include then connecting to water, sewer, electricity, gas and the NBN.”</i></p>
<p>manufactured home means a self-contained dwelling (that is, a dwelling that includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling—</p> <p>(a) that comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and</p> <p>(b) that is not capable of being registered under the Traffic Act 1909, and includes any associated structures that form part of the dwelling.</p>	<p>The applicant has advised the following to demonstrate consistency with the relevant definitions:</p> <p><i>“Each manufactured home will have a kitchen, at least one bathroom, 2 or 3 bedrooms, living and dining areas, a toilet, and laundry facilities as well as a garage.</i></p> <p><i>Each villa will be constructed off site and delivered for assembly on site and connection to the slab footings in a number of sections.</i></p> <p><i>The manufactured homes will not be capable of being registered under the Traffic Act 1909.”</i></p>
<p>manufactured home estate means land on which manufactured homes are, or are to be, erected.</p>	<p>The applicant has advised the following to demonstrate consistency with the relevant definitions:</p>

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	<i>"The manufactured home estate will consist of 301 dwelling sites on which manufactured homes are erected".</i>
6 Where development for the purposes of a manufactured home estate may be carried out	
Development for the purposes of a manufactured home estate may be carried out pursuant to this Policy on any land on which development for the purposes of a caravan park may be carried out, except:	A caravan park is permitted with consent on the RE2 Private Recreation zoned portion of the site, however, they are not permitted on the R2 Low Density Residential zoned portion. Therefore, the Manufactured Home Estate (MHE) provisions only apply to the part of the site zoned RE2.
(a) land within one or more of the categories described in Schedule 2, or	An assessment against the provisions of Schedule 2 has been undertaken below.
(b) land dedicated or reserved under the National Parks and Wildlife Act 1974 , or	The subject land is not dedicated or reserved under the National Parks and Wildlife Act 1974.
(c) land within a Crown reserve.	The subject land is not within a Crown Reserve.
Clause 7 - Development consent required for manufactured home estates	
(1) Development for the purposes of a manufactured home estate permitted to be carried out by this Policy may be carried out only with the development consent of the council.	The subject development application seeks consent for the purpose of a manufactured home estate on the RE2 Private Recreation zoned portion of the site.
(2) A council must not consent to any such development unless it imposes, as a condition of the consent, a requirement that an approval to operate a manufactured home estate on the land on which the development is to be carried out must be obtained under Part 1 of Chapter 7 of the Local Government Act 1993.	A condition of consent has been imposed requiring that an approval to operate a manufactured home estate must be obtained under Part 1 of Chapter 7 of the Local Government Act 1993.
(3) Nothing in this Policy requires a separate development consent to authorise the placing of each manufactured home within a manufactured home estate.	The application does not seek consent for the placing of each manufactured home within the manufactured home estate.
Clause 8 - Subdivision of manufactured home estates	
(1) Land on which development for the purposes of a manufactured home estate may be lawfully carried out (whether or not because of a development consent granted pursuant to this Policy) may be subdivided— (a) under section 289K of the Local Government Act 1919 for lease purposes, or	The application seeks consent for subdivision to create each of the manufactured home sites for lease purposes. An appropriate condition of consent has been imposed in this regard.

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(b) under the Community Land Development Act 1989, only with the development consent of the council.	
(2) A council must not grant a development consent for such a subdivision if any of the lots intended to be created by the proposed subdivision would contravene a requirement of the <i>Local Government (Manufactured Home Estates) Transitional Regulation 1993</i> .	<p><i>The Local Government (Manufactured Home Estates) Transitional Regulation 1993</i> has been repealed and replaced by the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Ground and Moveable Dwellings) Regulation 2021</i>.</p> <p>An assessment of the application against the requirements of the Regulation has been undertaken below and the application has been found to be consistent with the provisions of the Regulation.</p>
(3) Any prohibition or restriction on the subdivision of land imposed by any other environmental planning instrument (whether made before or after this Policy) does not apply to such a subdivision.	Minimum lot size provisions of the <i>Cessnock Local Environmental Plan 2011</i> do not apply in this instance.
(4) This Policy does not allow the subdivision of land within a Crown reserve.	The subject land is not within a Crown Reserve.
Clause 9 - Matters to be considered by Councils	
<p>Council may grant development consent for the purpose of a manufactured home estate only if it is satisfied:</p> <p>(a) that each of the sites on which a manufactured home is or will be installed within the manufactured home estate is or will be adequately provided with reticulated water, a reticulated sewerage system, drainage and electricity, and</p>	<p>Hunter Water Corporation and Ausgrid have been consulted regarding infrastructure requirements and upgrading works, and standard processes will apply to the development should a consent be issued. In addition, drainage controls are considered satisfactory by Councils Development Engineer.</p>
(b) that the manufactured home estate is or will be provided with adequate transport services, and	<p>The site is located 620m walking distance of a bus stop on Mount View Road which provides a daily service to Cessnock. It is noted that this is not considered to be adequate given the distance exceeds 400m.</p> <p>To address this matter, the development application includes provision of a community bus which will provide a daily service to and from the Cessnock CBD. This can be used by residents in the event they do not have access to a private vehicle. A taxi service is also available within the area.</p>

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<p>(c) that sufficient community facilities and services, whether situated within or outside the estate, are or will be available and reasonably accessible to the residents of the manufactured home estate, and</p>	<p>A range of community facilities will be provided within the site including a bowling green, tennis court, dog exercise park, and golf course, as well as a community centre containing a pool, exercise and dining/socialising areas.</p> <p>The site is also within close proximity to the services and facilities provides within the Cessnock CBD which is approximately 2km from the site.</p>
<p>(d) that the development will not have an adverse effect on any—</p> <ul style="list-style-type: none"> • conservation area • heritage item • waterway or land having special landscape, scenic or ecological qualities, <p>which is identified in an environmental planning instrument applicable to the land concerned.</p>	<p>As detailed in the relevant sections of this report, the development will not have an adverse impact on any conservation area, heritage item, waterway or land having special landscape, scenic or ecological qualities. The application has been supported subject to conditions by Council's Heritage Advisor and Ecologist.</p>
<p>(2) A Council may grant a development consent pursuant to this Policy allowing development for the purposes of a manufactured home estate only after it has considered the following:</p> <p>(a) the cumulative impact of the proposed development and other manufactured home estates in the locality,</p>	<p>'Ingenia' operate a manufactured home estate on the opposite side of Mount View Road. Council has considered the cumulative impact of two (2) manufactured home estates operating within close proximity to each other, and it has been concluded that there would be no negative cumulative impact as the operational aspects of the sites are different, and no adverse environmental impacts are envisaged. In addition, no concerns were raised by Council's Principal Community Planner in respect of this consideration.</p>
<p>(b) any relevant guidelines issued by the Director,</p>	<p>There are no relevant guidelines issued by the Director. A review of the planning and approval process for manufactured home estates has commenced, however has not progressed past the review of submissions.</p>
<p>(c) the provisions of the Local Government (Manufactured Home Estates) Transitional Regulation 1993.</p>	<p>As per above, this regulation was repealed. An assessment under the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021</i>, is provided below.</p>
<p>Schedule 1 Land to which this Policy does not apply</p>	
<p>Not Applicable.</p>	
<p>Schedule 2 Categories of excluded land</p>	

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<p>1 Land which the council, after taking into account the principles set out in the Coastline Management Manual published by the New South Wales Government in September 1990, considers is unsuitable for residential development because of coastal erosion, tidal inundation, slip, dunal movement or any other risk of a similar nature.</p>	<p>The subject site is not subject to of coastal erosion, tidal inundation, slip, dunal movement or any other risk of a similar nature.</p>
<p>2 Land which the council, after taking into account the principles set out in the Floodplain Development Manual published by the New South Wales Government in December 1986, considers is unsuitable for residential development because of flooding.</p>	<p>The site is partially affected by flooding.</p> <p>The fundamental principle of the Floodplain Development Manual 2005 is to assess development applications within a strategic framework of a floodplain risk management plan and not in isolation. The relevant sections are included within Chapter C.9 Development Of Flood Prone Land of the Cessnock Development Control Plan 2010, and Council's Principal Engineer has assessed the application against each relevant provision.</p> <p>Overall, it is considered that the site is suitable for residential development and that the flood affectation does not preclude a development of this scale and nature from being supported by Council.</p>
<p>3 Land which is within a water catchment area identified by a water supply authority.</p>	<p>The subject land is not within a water catchment area.</p>
<p>4 Land which, in the opinion of the council, is affected to an unacceptable level by an offensive or hazardous industry or any form of pollution.</p>	<p>The subject land is not affected to an unacceptable level by an offensive or hazardous industry or any form of pollution.</p>
<p>5 Land which is identified in an environmental planning instrument, or in any planning strategy of the Department or the council approved for the time being by the Director, by words which are cognate with or a description consistent with any one or more of the following—</p> <ul style="list-style-type: none"> • extractive resources, • services corridors, • airport/industry buffer area, • habitat corridor, • containing significant remnant vegetation, • littoral rainforest, • water catchment, • wetlands. 	<p>The subject land is not identified in any environmental planning instrument or planning strategy by words cognate with, or a description, consistent with any of the above.</p>
<p>6 Land which under any environmental planning instrument is within an area or zone</p>	<p>The subject land is partly zoned RE2 Private Recreation, which is excluded from</p>

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identified in that instrument by the description— • open space, other than open space (private recreation) • environmental protection • scenic protection • rural (where the land is not adjacent to or adjoining land zoned for urban use).	the provision, i.e., only land zoned open space (<i>other than private recreation</i>) is precluded.
7 Land that is within the following coastal local government areas...	The subject land is not located within any of the coastal LGAs identified in subclause 7.
8 Land that is within any of the following local government areas...	The subject land is not located within any of the LGAs identified in subclause 8.
9 Flood liable land as defined in Murray Regional Environmental Plan No 2—Riverine Land .	The subject land is not Flood Liable Land as defined in Murray Regional Environmental Plan No 2 – Riverine Land.
10 Land comprising the Williams River catchment upstream of the Seaham Weir.	The subject land is not land comprising the Williams River catchment upstream of Seaham Weir.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021

In accordance with Clause 8 of *SEPP 36 Manufactured Home Estates*, an assessment of the proposed development against the relevant requirements of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*, has been undertaken below:

REQUIREMENT	COMMENT
Division 3 Manufactured home estates	
Subdivision 1 Land and dwelling site requirements	
12 Minimum size of estate	
A manufactured home estate must not have an area of less than one hectare or, if a lesser area is permitted by a relevant environmental planning instrument, that lesser area.	The site has an area of approximately 37 hectares.
13 Community amenities	
(1) Of the total land area of a manufactured home estate— (a) at least 10 per cent, or (b) such lesser proportion (but not less than 6 per cent) as the approval for the manufactured home estate may allow, must be reserved for recreation or other communal activities.	The total land area reserved for recreation or other communal activities is approximately 55% of the manufactured home estate.
(2) In deciding whether to allow a lesser proportion, the council must have regard to the type and range of amenities to be	Not applicable.

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provided and to such other matters as it considers relevant.	
14 Size of dwelling sites	
A dwelling site must have an area of at least 130 square metres.	The size of the dwelling sites range from 260m ² to 390m ² .
15 Site identification	
(1) A dwelling site must be numbered or identified and its site boundaries clearly delineated. (2) The site identification must be easily recognised.	Plans have been provided which clearly identify each site and its site boundaries.
Subdivision 2 Setbacks	
16 Dwelling sites to have road frontage	
A dwelling site must have vehicular access to an access road.	All dwelling sites have vehicular access to an access road.
17 Setbacks of community buildings	
(1) A community building must not be located closer than 10 metres to the boundary of a manufactured home estate, or to the boundary of a dwelling site (2) The Council may allow a lesser distance of at least 2 metre if satisfied the community building has been or will be properly screened, fenced, enclosed or otherwise treated.	The closest dwelling site to a community building (being the proposed community centre) is Site 120, located approximately 10.2m away. The landscape plan indicates that the areas around the community centre will be suitably landscaped to screen the building and other facilities from dwelling sites within the estate.
18 Setbacks of dwelling sites from road frontages	
(1) A dwelling site must not be located closer than 10 metres to a public road or 3 metres to any other boundary of the manufactured home estate (2) The Council may allow a lesser distance if satisfied that the dwelling site has been or will be properly screened, fenced, enclosed or otherwise treated.	Sites closest to a public road (Portrush Avenue), are Sites 63 and 64. These sites are located approximately 12m from the road. Site 143 is closest to the boundary. The submitted engineering report certifies that all proposed dwelling sites are more than 3m from nearby boundaries.
19 Use of buffer zones	
Nothing in this Part prevents land within a buffer zone arising from the setbacks required by this Subdivision from being used— (a) for community amenities, access roads, car parking spaces, footpaths or landscaping, or (b) for any similar purpose allowed by the approval for the manufactured home estate.	Noted.
Subdivision 3 Roads	
20 Entrance and exit roads	

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<p>(1) A road that forms an entrance to or exit from a manufactured home estate must be at least 8 metres wide.</p> <p>(2) In the case of a divided road, the width of the sealed portion of the road on either side of the median strip must be at least 5 metres.</p> <p>(3) The Council may specify, in an approval, the way in which an entrance or exit road must meet the sealed portion of other access roads.</p>	<p>Birkdale Boulevard and Stonebridge Drive are 8 metres in width and satisfy this requirement.</p>
<p>21 Width of roads</p>	
<p>(1) The width of the road reserve must be—</p> <p>(a) at least 8.5 metres for a major access road, and</p> <p>(b) at least 6 metres for a minor access road.</p> <p>(2) The width of the sealed portion of an access road must be—</p> <p>(a) at least 6 metres for a major access road, and</p> <p>(b) at least 4 metres for a minor access road.</p> <p>(3) If a minor access road exceeds 80 metres in length, a passing bay or bays must be provided within the road reserve.</p> <p>(4) Passing bays must be provided at intervals of not more than 100 metres.</p> <p>(5) The width of the sealed portion of an access road at any point at which there is a passing or parking bay must be—</p> <p>(a) at least 8.5 metres for a major access road, and</p> <p>(b) at least 6 metres for a minor access road.</p>	<p>Complies.</p> <p>All road reserve widths to be 12m.</p> <p>Sealed portion of all roads 6m width. Therefore no passing bays required.</p>
<p>22 Speed restrictions as part of road design</p>	
<p>Access roads must be so designed as to limit the speed at which vehicles may travel on them to—</p> <p>(a) 30 kilometres per hour for major access roads, and</p> <p>(b) 15 kilometres per hour for minor access roads.</p>	<p>A condition has been imposed in this regard.</p>
<p>23 Visitor parking</p>	
<p>(1) A manufactured home estate must contain no fewer visitor parking spaces than the following—</p> <p>(a) 8 spaces for a manufactured home estate containing not more than 35 sites,</p>	<p>The subject development contains 301 sites which generates the need for 43 visitor parking spaces. The proposal provides 59 visitor spaces and complies with this requirement.</p>

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<p>(b) 12 spaces for a manufactured home estate containing more than 35 sites but not more than 70 sites, (c) 16 spaces for a manufactured home estate containing more than 70 sites but not more than 105 sites, (d) 20 spaces for a manufactured home estate containing more than 105 sites, plus one additional space for each additional 7 sites (or part of a site) over 140. (2) Each parking space is to have, at minimum, dimensions of— (a) 5.4 metres by 2.5 metres, in the case of angle parking, and (b) 6.1 metres by 2.5 metres, in any other case. (3) Visitor parking spaces must be clearly identified as such.</p>	<p>Detail design of car parking areas will be subject to condition of consent.</p>
<p>24 Visitor parking for people with disabilities</p>	
<p>(1) A manufactured home estate must contain at least one visitor parking space for people with disabilities. (2) A manufactured home estate that contains more than 100 sites must contain at least one visitor parking space for people with disabilities for each 100 sites or fraction of 100 sites. (3) (a) Such parking is to be provided in accordance with AS/NZS 2890.1:2004, <i>Parking facilities—Off street parking</i>. (b) clearly identified as a disabled parking space (4) A disabled parking space may be counted as a visitor parking space.</p>	<p>The carparking area includes three (3) accessible parking spaces and therefore complies with this requirement.</p>
<p>25 Road surfaces</p>	
<p>All access roads, including all passing and parking bays, must have an all-weather sealed or other surface finish specified in the approval for the manufactured home estate, and must be adapted to the topography to allow for adequate drainage and to eliminate excessive grades.</p>	<p>A condition has been imposed in this regard.</p>
<p>26 Lighting</p>	
<p>All access roads must be adequately lit between sunset and sunrise.</p>	<p>A condition has been imposed in this regard.</p>
<p>Subdivision 4 Utility Services</p>	

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27 Water supply	
(1) A manufactured home estate— (a) must be connected to a mains water supply, or (b) must be provided with an alternative water supply service as specified in the approval for the manufactured home estate.	Hunter Water Corporation provided a Notice of Formal Requirements on 23 December 2021, requiring the developer to extend water mains to provide every lot with water frontage and a water point of connection. A condition has been imposed in this regard.
(2) A dwelling site— (a) must be connected to the water supply service for the manufactured home estate, and (b) must be provided with a separate water meter and a separate water service isolating valve.	
(3) The water supply service must comply with— (a) the Plumbing and Drainage Act 2011 and any regulations under that Act, and (b) the requirements of any relevant statutory body.	A condition has been imposed in this regard.
(4) The water supplied for human consumption or domestic purposes must comply with the <i>Australian Drinking Water Guidelines</i> published in 2004 by the National Health and Medical Research Council.	A condition has been imposed in this regard.
28 Sewerage	
(1) A manufactured home estate— (a) must be connected to a main sewer, or (b) must be provided with an alternative sewage disposal system as specified in the approval for the manufactured home estate.	Hunter Water Corporation advised that there is sufficient capacity in the current system to service the development at this stage.
(2) A dwelling site must be connected to the sewage disposal system for the manufactured home estate.	A condition has been imposed in this regard.
(3) The sewage disposal system must comply with— (a) the Plumbing and Drainage Act 2011 and any regulations under that Act, and (b) the requirements of any relevant statutory body.	A condition has been imposed in this regard.
29 Drainage	
(1) A manufactured home estate must be provided with a stormwater drainage system as specified in the approval for the manufactured home estate.	The MHE will be connected to a stormwater drainage system as per the civil plans and report. This has been reviewed by Council's Development Engineer and is considered

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	adequate to accommodate stormwater on the site.
(2) A dwelling site— (a) must be connected with the stormwater drainage system for the manufactured home estate, or (b) must be provided with an on-site stormwater drainage system.	A condition has been imposed in this regard.
(3) A stormwater drainage system must comply with— (a) the Plumbing Code of Australia, and (b) the requirements of any relevant statutory body.	A condition has been imposed in this regard.
30 Electricity supply	
(1) A dwelling site must be supplied with electricity from a reticulated electricity service by means of an electrical circuit connected to a separate electricity meter.	Ausgrid provided a response to the development under clause 45(2) of the SEPP (Infrastructure) 2007 indicating that adequate capacity exists to connect to the reticulated electricity service. A condition has been imposed to comply with Regulation 2005.
(2) The electrical circuit must be installed in accordance with the Australian/New Zealand Wiring Rules.	As above.
(3) Any such electrical circuit must be installed in accordance with the requirements of AS/NZS 3000:2000, <i>Electrical Installations</i> (known as the Australian/New Zealand Wiring Rules) as in force on 1 September 2005, except that the maximum capacity of the electrical circuit supplying a dwelling site need not be greater than 32 amperes if the site is provided with gas, whether by means of a reticulated gas service or by means of on-site gas containers.	As above.
(4) If a dwelling site is provided with electricity otherwise than by way of direct connection to the local electricity supply authority's electricity main, the maximum amount that may be charged for the supply of electricity during a particular period is the amount that the standard retail electricity supplier for the relevant district would have charged under a standard form customer supply contract for that supply during that period.	This is a matter for consideration during the operational phase of the development.
31 Telephone lines	
Telephone services, if available, must be provided in such a manner that a telephone	All dwellings sites will be connected to telecommunications services.

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connection is available to each dwelling site within the manufactured home estate.	Condition to comply with Regulation 2005.
32 Common trenches	
A common trench may be used for the installation of services in accordance with guidelines provided in AMCORD.	Noted. Development proposes to utilise common trenching for installation of services.
Subdivision 5 General	
33 Garbage removal	
Arrangements specified in the approval for the manufactured home estate must be instituted and maintained for the removal of garbage and for the maintenance of garbage receptacles in a clean and sanitary condition.	Garbage collection will be undertaken by a private contractor. All dwelling sites will be serviced with a 140L general waste, recycling and green bins. Each of the recreational facilities will be provided with an independent waste storage/management area. The on-site manager and golf club manager will be responsible for the maintenance of the site including the keeping of garbage receptacles in a clean and sanitary condition
34 Fire hydrants	
(1) No part of a dwelling site or community building within a manufactured home estate may be situated more than 90 metres from a fire hydrant.	A condition has been imposed in this regard.
(2) Any fire hydrant located within a manufactured home estate must— (a) be a double-headed pillar-type fire hydrant, and (b) be maintained to the standard specified in the approval for the manufactured home estate.	A condition has been imposed in this regard.
35 Buildings	
(1) A building must not be erected on a manufactured home estate unless the approval for the manufactured home estate so allows.	Application proposes establishment of a manufactured home estate. Complies.
(2) The approval for the manufactured home estate is to allow only the following kinds of buildings to be erected on a manufactured home estate— (a) community buildings, (b) brick or masonry walls in the form of separating walls between adjoining manufactured homes or in the form of external facades to manufactured homes.	As defined under the Regulation 2005 a community building <i>means a building (such as a shower block, toilet block or laundry block) that is used or intended to be used in connection with a community amenity, and includes a building that is to be used as a manager's or caretaker's office or residence.</i> Proposed buildings ancillary to the manufactured home estate are considered to fall within the definition of <i>community building</i> .

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<p>(3) The approval for a manufactured home estate is to allow the erection of a brick or masonry wall in the form of an external facade to a manufactured home only—</p> <p>(a) if the dwelling site on which the manufactured home is situated is a neighbourhood lot, and</p> <p>(b) the owner of the manufactured home is also the proprietor of the neighbourhood lot.</p> <p>Note—</p> <p>The erection of a building (including a community building or brick or masonry wall) may require development consent under the Environmental Planning and Assessment Act 1979.</p>	<p>N/A.</p>
<p>36 Use of manufactured home estates</p>	
<p>(1) A manufactured home estate must not be used—</p> <p>(a) for any commercial purpose other than a manufactured home estate or an associated purpose, or</p> <p>(b) for the manufacture, construction or reconstruction of moveable dwellings.</p>	<p>Condition that requires compliance with the Regulation 2005 will address this restriction.</p> <p>Note: The golf club (existing) and new bowling green do not form part of the approval for the manufactured home estate and will be open to the general community.</p>
<p>(2) Nothing in this clause prevents a manufactured home from being used for exhibition purposes.</p>	<p>Noted.</p>
<p>(3) This clause does not prevent the carrying out of work on a manufactured home that is installed in a manufactured home estate for the purpose of its renovation, maintenance or repair.</p>	<p>Noted.</p>
<p>37 Community map</p>	
<p>The person who holds the approval to operate a manufactured home estate must provide the council with a copy of the current community map—</p> <p>(a) as soon as practicable after any amendment is made to the map, and</p> <p>(b) at such other times as the council may reasonably require.</p>	<p>As lodged, the application does not seek s68 approval to operate a manufactured home estate. This will be addressed through s68 application in due course.</p>
<p>38 Access to approval and community map</p>	
<p>The holder of an approval to operate a manufactured home estate must ensure that copies of the following documents must be readily available for inspection without cost by any person in a location in the manufactured home estate specified in the approval for the manufactured home estate—</p>	<p>As lodged, the application does not seek s68 approval to operate a manufactured home estate. This will be addressed through s68 application in due course.</p>

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- (a) the approval for the manufactured home estate,
 (b) the current community map,
 (c) this Regulation.

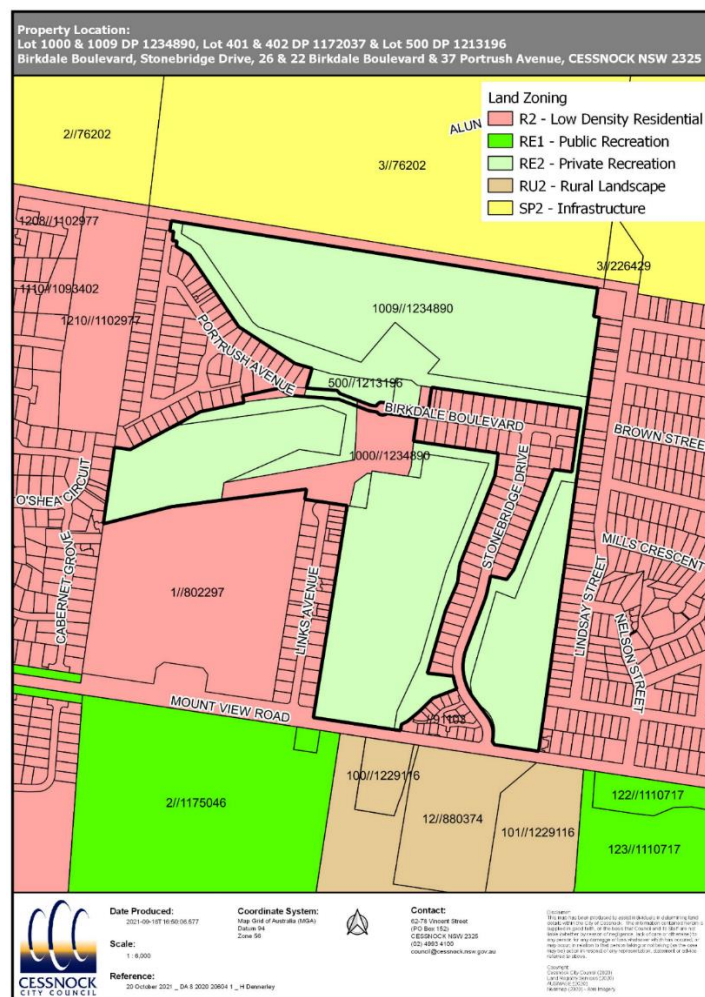
Division 4 Manufactured homes and associated structures

The requirements of Division 4 relate to the construction, installation and placement of the future manufactured homes. The DA does not seek s68 approval to install the manufactured homes and associated structure. These provisions will be addressed at s68 stage, and a condition has been imposed to comply with the Regulation 2005 in this regard. Notwithstanding, it is noted that the design of the MHE enables a compliant home design to be installed on each site.

6. Cessnock Local Environmental Plan 2011**6.1 Permissibility**

The subject site is zoned part RE2 Private Recreation and part R2 Low Density Residential under the provisions of *Cessnock Local Environmental Plan (CLEP) 2011* (CLEP 2011).

Figure 1 – Zoning Map



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Landuse Characterisation

Prior to the submission of the application, the proponent consulted with Council staff in respect to the development, including a Pre-DA meeting held on 29 November 2019.

The consultation included consideration of precedence established under *TMT Devco Pty Ltd v Cessnock City Council (2016) NSWLEC 1161*, along with a legal opinion submitted by the applicant in conjunction with the application.

In order for the development to proceed, the applicant was required to demonstrate that the proposal was permitted in the two different zones that apply to the site. Such exercise requires a review of the characteristics of the development to ensure that it is possible for the proposal to fit into two definitions, each of which is permissible in the respective zones.

On the basis of the discussions and taking into account the advice submitted, it was determined that the development may proceed on the basis of the following:

- It is possible to utilise two different definitions for the proposed development and that two separate Environmental Planning Instruments (EPIs) may be relied upon for the development proposal;
- In the 'Devco' matter, the Commissioner accepted that the manufactured housing estate was defined as 'multi-dwelling housing'. This principle may be applied in this particular circumstance because the definition relates to the CLEP 2011, *rather than State Environmental Planning Policy No 36 – Manufactured Home Estates*;
- Whilst 'multi-dwelling housing' is nominantly prohibited in the R2 zone, due to the operation of Item 5 of Schedule 1 of the CLEP 2011, 'multi-dwelling housing' is permitted on this particular site as an 'additional permitted use' (refer to discussion below);
- In consideration of the above, the development in this instance is considered to be permissible in both the RE2 and R2 zones, utilising two stated EPI's.

RE2 Private Recreation zone

In reference to the part of the site zoned RE2 Private Recreation, *multi-dwelling housing* is prohibited in the RE2 Land Use Table of the CLEP 2011.

However, Clause 6 of *SEPP 36 Manufactured Home Estates* enables development for the purposes of a manufactured home estate to be carried out on any land on which development for the purposes of a caravan park may be carried out. *Caravan parks* are permitted with consent in the RE2 Private Recreation zone.

It is noted that SEPP 36 overrides the provisions of CLEP 2011 in accordance with Clause 4 of SEPP 36 which states:

4 Relationship to other environmental planning instruments

(1) In the event of an inconsistency between this Policy and any other environmental planning instrument whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.

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Accordingly, the proposed manufactured home estate and ancillary facilities are permitted with consent on the RE2 zoned portion of the site under the provisions of *SEPP 36 Manufactured Home Estates*.

It is noted that the application also proposes reconfiguration of the golf course and alterations/additions to the golf club house which are proposed to be used by the general community. Consent has previously been granted for both the golf course and golf clubhouse, and the proposed alterations/additions are permitted with consent in the RE2 zone.

R2 Low Density Residential Zone

As outlined above, the proposed development can be appropriately defined as *multi-dwelling housing*.

Multi-dwelling housing is a prohibited land use in the R2 zone. However, pursuant to Clause 2.5 – Additional Permitted Use for Particular Land of the CLEP 2011, *multi-dwelling housing* is permitted. The subject site is listed under Schedule 1 as follows:

5 Use of certain land at Mount View Road, Cessnock

(1) *This clause applies to land being Lot 181, DP 1144404 at Mount View Road, Cessnock, known as The Stonebridge Golf Club and identified on the Additional Permitted Uses Map.*

(2) *Development for the purpose of **multi dwelling housing** is permitted with development consent.*

Accordingly, the proposed development is permitted with consent on the R2 zoned portion of the site.

6.2 Objectives

RE2 Private Recreation Zone

The objectives of the RE2 Private Recreation Zone are as follows:

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

The proposed development will reconfigure the existing golf course to operate as a 12-hole facility as well as provide a new bowling green which will be open for use by the general community. A range of private open space areas and recreational facilities will also be available to residents of the manufactured housing estate within the proposed community centre.

A Biodiversity Development Assessment Report has been submitted in support of the application. The development is considered to protect and enhance the natural environment for recreational purposes and has been supported by Council's Ecologist subject to conditions of consent.

The application is therefore considered consistent with the objectives of the RE2 zone.

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R2 Low Density Residential Zone

The objectives of the R2 Low Density Residential Zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The development proposes a contemporary form of affordable housing through the provision of small home sites which provide an alternative to traditional housing arrangements. The development will also provide a range of recreational uses and services to the meet the day to day needs of residents and the general community.

The application is therefore considered consistent with the objectives of the R2 zone.

6.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 2.5 – Additional Permitted Use for Particular Land

As outlined in detail above, Clause 2.5 – Additional Permitted Use for Particular Land of CLEP 2011, applies to the subject site and permits development for the purpose of *multi-dwelling housing*, with development consent.

- Clause 5.21 Flood Planning

An assessment has been undertaken in accordance with Clause 5.21 of the Cessnock LEP 2011 as follows:

Control	Compliance
<p><i>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</i></p> <p><i>(a) is compatible with the flood hazard of the land, and</i></p>	<p>As depicted in the Figures below, the subject site is identified as being flood prone land, and is affected by the 1% Annual Exceedance Probability (AEP) and (Probable Maximum Flood) (PMF). The applicant proposes to fill and lift lots that are affected by the 1% AEP.</p> <p>The flood hazard at the site ranges from H1 to H5 as per Figure 5. The proposed development has been sited in accordance with the requirements outlined in Council's development control plan. This includes positioning the proposed lots outside the extent of H2 flood hazard during the 1% AEP design storm event. No development is proposed in the high hazard areas.</p>

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	The proposal is therefore compatible with the flood hazard of the land.
<i>(b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</i>	The application proposes selective filling of the subject land. The information submitted in the bulk earthworks plan in respect to the volume and depth of filling is sufficient to determine that the filling will not result in detrimental increases in the potential flood affectation of other development or properties.
<i>(c) incorporates appropriate measures to manage risk to life from flood, and</i>	The application proposes evacuation off-site through a flood free pedestrian link to the local evacuation centre located adjacent to the subject site (within the grounds of Mount View High School). Mount View High School is identified as an evacuation centre for the general public in the Black Creek Floodplain Risk Management document. The proposed evacuation plan complies with the requirements of Council's Flood chapter in the Cessnock Development Control Plan 2010 (DCP), and has been nominated as a condition of consent in the draft notice of determination.
<i>(d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</i>	The proposal is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.
<i>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</i>	The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

Accordingly, it is considered that the proposed development is consistent with the provisions of Clause 5.21.

Figure 3: 1 in 100 AEP Flood Extent



Figure 4: Probable Flood Extent (PMF)

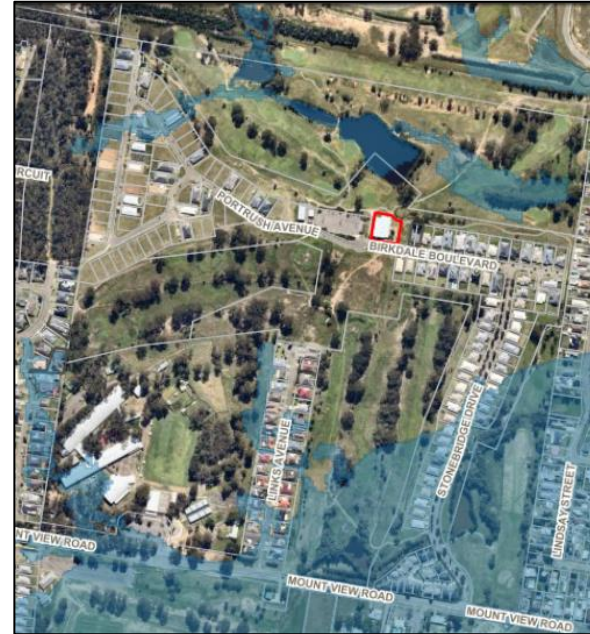


Figure 5: 1% Hazard Categories

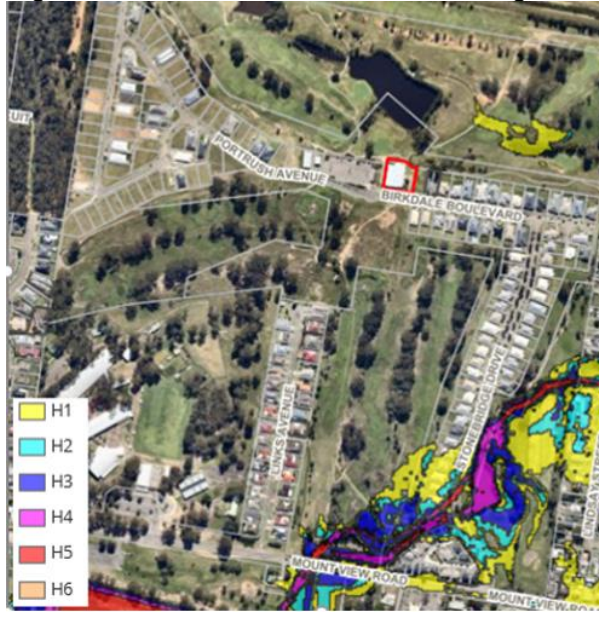
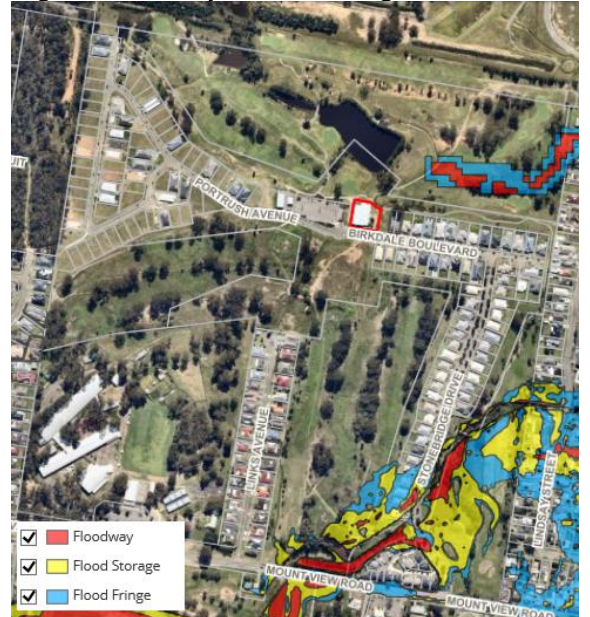


Figure 6: 1% Hydraulic Categories



- Clause 5.3 Development near zone boundaries

As depicted in Figure 2 below, the application proposes to construct a new bowling green on the subject land for use by the general community. In this regard, the bowling green cannot be considered as ancillary development to the manufactured home estate.

The bowling green is located in a split zone, being the RE2 Private Recreation Zone and the R2 Low Density Residential Zone. Bowling greens can be appropriately characterised under the Cessnock LEP 2011 as a recreation facility (outdoor), defined as:

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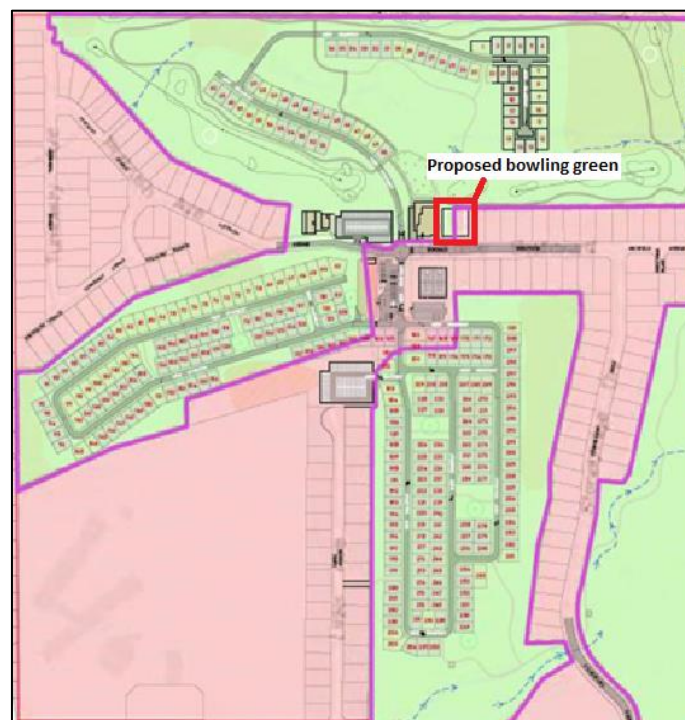
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recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

Figure 2: Land Use Zoning



Recreation facilities (outdoor) are permitted with consent in the RE2 zone, however, are prohibited in the R2 zone.

Clause 5.3 provides flexibility where the investigation of a site and its surroundings reveal that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

An assessment has been undertaken in accordance with Clause 5.3 of the Cessnock LEP 2011, and the following is noted:

Control	Compliance
This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.	Complies. The development is located in both the RE2 and R2 zones, and is compliant with the relevant distance specified.
(3) This clause does not apply to—	Complies. The development is not: (a) located within the referenced zones,

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<p>(a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or (b) land within the coastal zone, or (c) land proposed to be developed for the purpose of sex services or restricted premises.</p>	<p>(b) land within the coastal zone, (c) land proposed to be developed for the purpose of sex premises or restricted premises.</p>
<p>(4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that— (a) the development is not inconsistent with the objectives for development in both zones, and (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.</p>	<p>Complies. The proposed development is not inconsistent with the objectives of both zones, as previously addressed.</p> <p>The new bowling green is compatible with the surrounding development and will provide additional recreational facilities to support the residents of the manufactured home estate and the general community.</p>
<p>This clause does not prescribe a development standard that may be varied under this Plan.</p>	<p>Noted.</p>

In consideration of the assessment above, the proposed bowling green is permitted with consent on the subject land.

- Clause 7.2 Earthworks

The objectives of this Clause are to ensure that earthworks will not detrimentally impact the surrounding environment, neighbouring uses, or items having cultural or heritage value.

Civil Engineering Plans (prepared by Northrop, dated March 2021) were lodged in conjunction with the development application and include a bulk earthworks plan which illustrates the depth of cut and fill across the site. Earthworks are proposed as part of the application to create suitable building platforms and to facilitate the inclusion of roads, service reticulation, stormwater reticulation and utilities throughout the development.

These works will not result in any detrimental impact upon existing drainage patterns or soil stability, future use or redevelopment of the land, quality of excavated material, and amenity of adjoining properties.

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In consideration of the above, the application is consistent with the requirements of Clause 7.2 and the works will be appropriately managed via the imposition of conditions of consent.

- Clause 7.4 Airspace Operations

The objectives of this Clause are to provide for the effective and ongoing operation of the Cessnock Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport, and to protect the community from undue risk from that operation.

The site is mapped on the Obstacle Limitation Surface map, thereby requiring referral of the application if the development exceeds 120m AHD.

The highest part of the site will not exceed 100m AHD. No buildings are proposed which exceed 20m in height, therefore the application complies with the requirements of Clause 7.4.

- Clause 7.14 - Essential Services

This Clause requires that development consent must not be granted unless essential services are available or that adequate arrangements have been made to make them available, when required.

As outlined previously, the development site and individual manufactured home sites are capable of being provided with reticulated sewer, reticulated water, drainage and electricity. Conditions of consent have been imposed on the draft notice of determination in this regard.

In consideration of the above, the application is consistent with the requirements of this Clause.

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

The proposed *Remediation of Land SEPP* is intended to repeal and replace *SEPP 55 – Remediation of Land*. The Draft SEPP was exhibited from 25 January to 13 April 2018 and is currently under consideration.

The proposed SEPP seeks to provide a state-wide planning framework to guide the remediation of land, including outlining provisions that require consent authorities to consider the potential for land to be contaminated when determining development applications; clearly listing remediation works that require development consent; and introducing certification and operational requirements for remediation works that may be carried out without development consent.

Consideration has been given to the suitability of the site with respect to potential land contamination under SEPP 55, as discussed earlier in this report.

In respect to the consideration of this application, the Draft SEPP does not propose requirements that warrant further investigation regarding site contamination or remediation.

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(a)(iii) *The Provisions of any Development Control Plan*

The following is an assessment of the proposal's compliance with the relevant numerical standards in Cessnock Development Control Plan 2010:

Chapter C.1 Parking and Access

Council's car parking requirements for manufactured home estates specify that one (1) space per manufactured home site and one (1) space per 10 sites for visitors parking, must be provided on-site. This equates to a requirement for 301 resident parking spaces and 31 visitor on-site parking spaces.

Each manufactured home site will have a minimum of one (1) parking space, and the application is therefore compliant with this requirement. With regard to visitor parking, three (3) separate visitor parking bays will be provided at the entrance to the site, at the community centre, and at the western end of the site, as follows:

- Car park 1 - 34 spaces (community centre)
- Car park 2 - 25 spaces
- Car park 3 - 70 spaces

The total number of visitor parking spaces provided by the development, including parking generated by the recreation facilities, totals 129 parking spaces. Furthermore, the development proposal incorporates a separate area for the parking of estate residents' caravans and trailers and caters for 51 vehicles.

The proposed parking and access arrangements comply with the requirements of the DCP, and this component of the proposal is supported by Council's Principal Development Engineer subject to conditions of consent.

Chapter C.3 Contaminated Land

The requirements of this development in respect to contamination are discussed previously in this report (refer to consideration of SEPP 55). The contaminated land chapter in the DCP has been prepared in accordance with the requirements of SEPP 55 and the proposed development is consistent with the contaminated land related requirements in the DCP.

Chapter C.4 Land Use Conflict and Buffer Zones

The purpose of Chapter C.4 is to provide consistent development guidelines for the consideration of applications for development which:

- may conflict with existing developments or environmentally sensitive areas because of emission of an odour, noise, vibration, visual impact or other nuisance and may therefore require a separation or other means of reducing the conflict to an acceptable level;
- is proposed in a location where there is an existing development which adversely affect it and may therefore need to provide its own separation or other means of reducing or removing the conflict in order to minimise land use conflicts between potentially incompatible land uses.

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An assessment of the development firstly requires that the land use be defined and that adjoining development also be categorized. In this case, the proposed development is defined as a Category A Sensitive Land Use, i.e., a use which warrants protection from amenity reducing off-site effects from other land uses.

Consideration of adjoining land uses has identified a Category B development in proximity to the manufactured home estate, being a correctional facility. The DCP requires a minimum separation of 500m from a correctional facility and the nearest manufactured home site is located approximately 300m from the correctional facility.

The DCP states that *“Potential conflicts depend largely upon the nature of the facility, and include: visual impact; light spillage; and to a large degree, adverse public perception.”*

The applicant has provided the following justification in reference to the areas of potential conflict:

- *There is a large, vegetated mound located along the northern boundary of the golf course site and the correctional facility is actually not visible from this part of the site. It is visible from areas at higher elevation such as dwellings location along Birkdale Boulevard and areas to the west of the existing residential estate. The areas of the MHE are at low elevations, and while the facility will be visible, it will not be a predominant view within the view corridor.*
- *Light spillage from the facility is not an issue with the local community.*
- *In terms of public perception, the facility has recently gone through a major upgrade, and while that has caused some angst within the broader community, it is generally acknowledged that the facility provides significant employment to the local area. If people choose to move into this village, they will be aware that it is located next to the Cessnock correctional facility.*

The applicant's justification is supported. The planting proposed in the Vegetation Management Plan for the Squirrel Glider Corridor will also provide vegetation screening to assist with visual impacts and light spillage. The applicant also provided a noise report to address a further potential issue of conflict with noise, and this is addressed later in this report.

Chapter C.5 Waste Management and Minimisation

A Waste Minimisation and Management Plan has been submitted with the application. Waste management services during the initial construction phase and during the operation of the manufactured home estate and golf club, will be provided by a commercial waste service contractor.

During the construction phase, waste will be separated by building contractors on site and an area set aside on site for the storage of bins. Operationally, the estate has been designed to allow garbage trucks to circulate throughout the site to pick up domestic waste bins, and each site will have a kerb side pickup of waste, food waste and recycling bins. The on-site manager and golf club manager will be directly responsible for the on-going management of the waste generated within the community centre and associated recreational facilities. Each of the facilities will be provided with an independent waste storage/ management area which will be serviced by the commercial waste contractor.

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All waste generated during construction and operation of the proposed development will be managed in accordance with the submitted waste minimisation and management plan, and in accordance with the conditions of consent imposed by Council's Environmental and Waste Services department.

C.8 Social Impact Assessment and CPTED Guidelines

Chapter C.8 specifies that manufactured home estates require a Social Impact Assessment (SIA). Crime Prevention through Environmental Design (CPTED) principles must also be considered as part of the application.

A SIA (prepared by Aigis Group, dated June 2020) and a CPTED report (prepared by James Marshall and Co, dated November 2020), were submitted in support of the application.

The SIA assessed the existing environment; expected consequences from the development including social impacts; and the capacity of existing services, facilities and infrastructure to service the development. It is noted that community consultation was carried out for the purpose of developing the SIA in accordance with the DCP.

The key findings of the SIA are summarised below:

- *Population projections indicate that the ageing of the local population in the immediate area of Cessnock will continue over the coming decades.*
- *There is a relative lack of housing diversity within the existing housing stock and there are evolving preferences for alternative forms of flexible housing options. The proposed development will introduce additional, smaller housing stock which may be appropriate for older households wishing to downsize.*
- *The likelihood of direct, negative impacts on the broader local community may, on balance, be at the most, modest. This is principally a consequence of the relatively small population change that the project would stimulate, and the concentration of many of the potential effects within the immediate surrounds of the site.*
- *The application proposes to progressively develop the estate over approximately 10 years. Consequently, effects of the project will also eventuate gradually. This will tend to reduce the magnitude of effects, by distributing them over the period. This will also serve to allow communities and the regional economy to absorb the population increase over time, making this process more manageable. This is relevant to effects such as traffic and access to services and public infrastructure, for example.*
- *On balance, the project will produce positive outcomes for future residents and the surrounding communities of Cessnock and the LGA more broadly.*

As outlined, a CPTED assessment for the site was also submitted in support of the application. The CPTED incorporates recommendations with respect to managing the potential for site design elements to facilitate illicit activity. The key recommendations identified in the CPTED have been adopted to ensure that site design plays an effective role in risk minimisation.

Council's Principal Community Planner reviewed the application, including the SIA and CPTED. Additional information was requested on 18 January 2020, 14 May 2021 and 9 July 2021 seeking further details on the submitted Operational Plan and Construction Management Plan. Clarification was also sought in relation to communication and complaints handling; site access and security; frequency of the community bus service; and availability of community facilities to residents at each stage of the development.

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The applicant submitted additional information in response to Council's request and the following comments were provided by Council's Principal Community Planner on 20 July 2021:

The additional information supplied by the applicant adequately addresses the outstanding issues raised by community planning in referral completed 14 May 2021. Elements to consider conditioning if development consent is granted:

1. *Community bus provision - scheduled daily shopping runs and for other purposes as reasonable needed.*
2. *On-site management – the village will have an onsite live-in manager who will be at the property outside of business hours, available 24 hours.*
3. *Key CPTED recommendations (in line with CPTED Report):*
 - *installation of boundary fence*
 - *directional signage*
 - *residential house numbers clearly displayed*
 - *lighting of pedestrian pathways, carparks and caravan storage area*
 - *CCTV of caravan storage area and club house*
 - *Rapid repair of graffiti and malicious damage*

The application is supported from a community planning perspective as the information provided by the applicant confirms that the manufactured home estate will be provided with adequate transport services and sufficient community facilities and services.

Based on the referral comments above, the application meets the requirements of Chapter C.8 of the DCP, and is supported by Council's Principal Community Planner. Social impacts and potential for crime and anti-social behavior will be effectively managed through the measures proposed in the Plan of Management, Social Impact Assessment, CPTED Report and the recommended conditions of consent.

C.9 Development on Flood Prone Land

Cessnock DCP Part C Chapter 9 Table 3 indicates that the site has a "B" development classification. An assessment against the relevant provisions of the DCP has been undertaken below:

Requirement	Compliance
3.2 General Requirements (New Development)	
1. All habitable finished floor levels are to be no lower than the Flood Planning Level.	The Flood Planning Level for the purposes of this development is classified as the 1% AEP +500mm. All habitable finished floor levels will be no lower than the Flood Planning Level.
2. Non-Habitable floor levels are to be no lower than the 1% AEP flood.	All non-habitable floor levels will be no lower than the 1% AEP flood.
3. Parts of the building constructed at or below the Flood Planning Level are to be constructed with materials identified as	Noted and conditioned.

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'suitable' in the Flood Compatible Building Guidelines.	
4. Electrical fixtures such as power points, light fittings and switches are sited above the Flood Planning Level unless they are on a separate circuit (with earth leakage protection) to the rest of the building.	Noted and conditioned.
5. Any hazardous material is to be stored above the Flood Planning Level.	Noted and conditioned.
3.3 Evacuation	
1. If intensifying development that incorporates a habitable use on flood prone it must be demonstrated that users of the development are able to safely self-evacuate to an area outside of the floodplain in the event of a flood without traversing flood waters of a higher hazard classification.	<p>Two locations have been identified by the applicant as potential evacuation facilities.</p> <p>Option 1 relies on residents evacuating to the proposed on-site community facility located in the central portion of the site. It is noted that on-site flood refuges are not supported by Council or the State Emergency Service. This option is therefore non-compliant with the requirements of the DCP and is not an acceptable evacuation plan.</p> <p>Option 2 involves evacuation off-site through a flood free pedestrian link to the local evacuation centre located adjacent to the subject site (within the grounds of Mount View High School). Mount View High School is identified as an evacuation centre for the general public in the Black Creek Floodplain Risk Management document. Accordingly, this option is supported and has been imposed as a condition of consent in the draft notice of determination.</p>
3.5 Car Parks	
1. The floor level of car parks are to be no lower than the 1:20 ARI flood level. Hydraulic controls in section 3.9 must also be considered, particularly in relation to on site fill.	All carparks are proposed to be sited above the 1:20yr ARI. Basement or below ground carparks are not proposed as part of this development.
3.9 Hydraulic Controls	
Council's Hydraulic Category Maps identify the existence of a floodway, flood storage and flood fringe on the subject site, as depicted in Figure 6 above.	
<p>3.9.1 Flood Storage:</p> <p>1. Up to 20% of the area of any development site in a flood storage area may be filled. The remaining 80% is un-developed allowing for</p>	As previously noted, the applicant proposes to fill and lift lots that are affected by the 1% AEP. This includes some minor filling in the flood storage area on the eastern side of the

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underfloor storage of floodwater by the use of suspended floor techniques such as pier and beam construction	existing dam in the northern portion of the site. It is proposed to provide approximately 500mm of fill across these lots to provide freeboard to the adjacent stormwater overland flow path that is directed from the dam toward the stormwater outlet to the east. The fill proposed is minor and represents significantly less than 20% maximum specified in the DCP.
<p><u>3.9.2 Floodway:</u></p> <p>1. No building or structure is to be erected on land identified as a floodway on the Hydraulic Category Maps.</p>	The proposed development complies with this requirement as no building or structure is proposed to be sited within the defined floodway.
<p>2. No land fill by way of deposition of any material is to occur within an area identified as a floodway except for minor alterations to ground levels which do not significantly alter the fundamental flow patterns for:</p> <ul style="list-style-type: none"> a. Roads b. Parking c. Below ground structures d. Landscaping 	No filling is proposed within any areas identified as a floodway.
<p>3. New development is to be designed to avoid fences in floodways. Where dividing fences across floodways are unavoidable, they are to be constructed only of open type fencing that does not restrict the flow of water.</p>	<p>No new fences are proposed in the floodway.</p> <p>A condition has been imposed to reiterate this requirement.</p>
<p>4. Flood mitigation works are to meet the requirements of the relevant Flood Risk Management Plan.</p>	It is considered that the works proposed meet the requirements of the relevant Flood Risk Management Plan.

Overall, the majority of the development site is unaffected by flooding and only a small portion of the site is located in either the floodway, flood storage or the flood fringe.

The small amount of fill proposed within flood affected areas of the site will not result in any adverse impacts on adjoining land. Further consideration of flood hazards confirm that the part of the site which is flood affected, and where minor components of the development are proposed to be located, is categorised as H1, with this category generally being safe for vehicles, buildings and people.

On the basis of the above, it is considered that the proposed development is consistent with the requirements of Chapter C.9.

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D.5 Outdoor Signage

An assessment against the relevant provisions of Chapter D.5 Outdoor Signage has been undertaken in relation to the proposed new entrance signage and the new building identifications signs attached to the community facility.

The assessment has identified that that the proposed signage is generally consistent with the requirements of Chapter C.9.

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

Flora and Fauna

A Biodiversity Development Assessment Report (BDAR) (prepared by AEP, 6 May 2021) has been submitted in support of the application and considered by Council's Ecologist. The report has been prepared to meet the requirements of the Biodiversity Assessment Method 2017 (BAM) established under Section 6.7 of the *Biodiversity Conservation Act 2016* (NSW).

Two Plant Community Types (PCT) were identified onsite including *Swamp Oak Open Forest on River flats of the Cumberland Plain and Hunter Valley (PCT 1800)* and *Spotted Gum – Red Ironbark – Narrow-leaved Ironbark – Grey Box Shrub-grass Open Forest of the Lower Hunter (PCT 1600)*. Within these communities, seven hollow-bearing trees containing nine hollows were recorded. This is in addition to four existing nest boxes installed within the subject site.

The proposal involves the removal of 3.26 ha of native vegetation to accommodate the proposed development. This triggers the Biodiversity Offset Scheme, given that the minimum lot size is less than 1 ha and clearing exceeds 0.25 ha. The clearing comprises of the removal of 3.15 ha of PCT 1600 and 0.1 ha of PCT 1800.

To offset the impact of clearing, 48 ecosystem credits have been generated for PCT 1600, whilst 1 ecosystem credit has been generated for PCT 1800. The BDAR indicates that the proposal will retain significant areas of habitat, placing value on the retention of large remnant trees and habitat corridors. Retained vegetation will be managed under an approved Vegetation Management Plan.

No threatened flora species were observed during field surveys. The following threatened fauna species were recorded onsite and in close surrounds; Square-tailed Kite (*Lophoictinia isura*), Little Lorikeet (*Glossopsitta pusilla*), Swift Parrot (*Lathamus discolor*), Grey-crowned Babbler (*Pomatostomus temporalis temporalis*), Squirrel Glider (*Petaurus norfolcensis*), Grey-

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headed Flying Fox (*Pteropus poliocephalus*), Eastern Coastal Free-tailed Bat (*Micronomus norfolkensis*), Little Bent-winged Bat (*Miniopterus australis*) and Greater Broad-nosed Bat (*Scoteanax rueppellii*). Grey-crowned Babbler nests were also recorded onsite. However, nests are located in priority retention areas, outside of the development footprint. Of the species recorded, four are listed as species credit species. However, only one generates species credits under the application (Squirrel Glider x 50 credits) given the lack of suitable habitat onsite for the remaining species.

The BAM Credit Report includes potential offset variations that are deemed applicable to the proposal. Under Section 6.2 of the *Biodiversity Conservation Regulation 2017*, the variation rule can be applied only if the proponent has demonstrated to the decision maker that they have been unable to find like-for-like credits after following reasonable steps in accordance with the following document: *Ancillary rules: Reasonable steps to seek like-for-like biodiversity credits*. This has not been demonstrated in the BDAR. Therefore, like-for-like credits are required and have been conditioned in the draft notice of determination.

Serious and Irreversible Impact (SAIL) was considered under the BDAR. PCT 1600 and PCT 1800 are not listed SAIL entities and although the Regent Honeyeater and Swift Parrot are, the site does not contain breeding habitat and therefore no further consideration is required.

Having regard for Section 1.7 of the *Environmental Planning and Assessment Act 1979*, which requires consideration of Part 7 of the *Biodiversity Conservation Act 2016*, Council's Ecologist has determined that the proposal will not significantly affect threatened species or their habitat. The proposed development is not considered to be a threatening process or likely to result in serious or irreversible impacts.

In consideration of the above, Council's Ecologist has supported the application subject to conditions of consent which have been imposed in the draft notice of determination.

Aboriginal Archaeology

An Aboriginal Cultural Heritage Assessment Report (ACHAR) (prepared by Extent Heritage, April 2021), has been submitted in support of the application.

The ACHAR identified existing sites of Aboriginal cultural heritage significance in the vicinity of the site and also identified eight (8) new Aboriginal sites within the subject site. The ACHAR makes a series of recommendations regarding the need to obtain further permits, unexpected finds protocols, site inductions and ongoing monitoring during excavation works.

The findings of the report were considered by Council's Heritage Adviser who provided the following comments on 15 May 2021:

"Overall, the proposal is considered satisfactory from a heritage perspective, subject to the full and satisfactory implementation of the recommendations made in the ACHAR and conditions of consent are recommended accordingly below."

The recommended conditions of consent have been imposed in the draft determination.

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Noise

As the manufactured home estate will operate similarly to a residential housing development, the noise impacts are expected to be similar in nature and in respect to impacts.

The applicant submitted an Operational Plan in conjunction with the application that contains measures to address and control noise impacts. In addition, conditions of consent have been imposed on the draft notice of determination in respect of hours of operation for the associated community centre, recreational facilities and reception. In this regard, the approved hours of operations for these facilities will be as follows:

Community centre

- 9:00am to 9:00pm Monday to Saturday
- 10:00am to 5:00pm Sundays and Public Holidays
- The swimming pool and gymnasium may operate from 8:00am – 5:00pm Monday to Sunday

Tennis Court and bowling greens

- 8:00am to 5:00pm Monday to Sunday

Further to the above, a condition of consent has been imposed on the draft notice of determination prescribing that the community facilities (excluding the golf course and bowling green), are only to be used by residents and their guests.

In addition to the above prescribed hours of operation, the proposed facilities will be required to comply with the noise criteria specified under the *Protection of the Environment Operations Act 1997*, at all times. With regard to noise impacts from the nearby Correctional Facility, a Noise Impact Assessment (prepared by Reverb Acoustic, March 2021) has been submitted in support of the application.

As previously noted, the applicant provided a Noise Assessment which considered the noise impact from nearby developments, in particular the Cessnock Correctional Facility, within habitable spaces of the development and to ensure that noise levels comply with the requirements of the Department of Planning, Industry and Environment (DPIE), NSW Environment Protection Authority (EPA) and Cessnock City Council (CCC).

The report concludes that:

“providing the recommendations given in this report are implemented, noise emanating from the Cessnock Correctional Centre will comply with the requirements of the EPA, DPIE and CCC within habitable spaces of the proposed development. We therefore see no acoustic reason why the proposal should be denied”.

The only recommendation within the report is for *“the existing acoustic mound located along the north boundary of the Stonebridge Lifestyle Village to be maintained to ensure ongoing compliance with criteria.”* The recommendation has been supported by Council’s Environmental Health officer and has been imposed as a condition of consent in the draft notice of determination.

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Visual impact

The proposed development will create a visual impact with the construction of a form of residential development and ancillary facilities on land previously used as a golf course.

The density of the development when compared to the surrounding 'traditional' residential subdivision and development is considered high, however the visual impact of the development on the locality is considered to be reasonable in consideration of the following:

- The development is proposed over generally low land and there are limited opportunities to view the site from public places in the locality.
- Existing and proposed vegetation will assist in mitigating any adverse visual impact of the development, specifically:
 - Existing established vegetation located along Mount View Road appropriately screens the development site from the south. This vegetation is located parallel to the road reserve and will not be removed.
 - As detailed in the Tree Retention Plan (prepared by AEP, dated October 2020), the majority of the existing established vegetation on the interface of the proposed development and the surrounding residential development will be retained.
 - Further, the Landscape Plan (prepared by Studio 26 Urban Design, dated March 2021), incorporates "vegetation zones" and planting of native trees, shrubs and grasses ("native forest") on the interface between existing residential areas and the estate, in order to ensure a high quality landscape environment is provided.
- A significant portion of the site (approximate 55%) will be reserved for recreation or communal activities. These areas of the site will remain largely undeveloped and incorporate substantial landscape treatment including walking tracks, reconfigured golf course, vegetation zone, existing ponds, and a dog exercise park.
- The proposed development does not include any buildings of significant height. The proposed community centre will be single-storey and the indicative dwelling designs will provide for the establishment of single-storey homes on sites within a managed estate setting.
- Fencing, development setbacks and landscaped buffers will give the estate the appearance of an extension to the existing residential area.
- The proposal maintains the overall impression of detached residential housing, with a road network consistent to that of the adjoining development.
- No caravans or more traditional mobile homes are proposed to be located on the residential sites. Each site will contain a slab on ground, villa style manufactured home.

Overall, the proposal is considered an appropriate and logical extension of the surrounding residential development. The proposed landscaping and open space areas of the site will soften the built form, and the visual impact of the increased density of development will be appropriately mitigated.

Privacy

Privacy concerns are relevant within and external to the development site. Privacy fencing and gates for each manufactured home will be required within the estate. The dwelling design, placement and setback requirements specified in the *Local Government (Manufactured Home*

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Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021, will further aid in the provision of privacy within the estate.

The Regulation sets out general design standards that apply on and between dwelling sites and to site boundaries. In the event that consent is granted, applications for the installation and operation of the manufactured home estate will be required to demonstrate compliance with the design requirements prescribed in the Regulation. It is noted that the Regulation allows for buffer areas created from setbacks to be used for community amenities, access roads, car parking spaces, footpaths, landscaping or any similar purpose.

Acoustic privacy concerns are addressed by setbacks, fencing and landscaping, and a requirement for air conditioners and heat pumps for hot water systems to comply with the *Protection of the Environment Operations Act 1997*. Construction/transportation noise associated with installation of the estate are also subject to standard requirements.

Stormwater

The application has been supported by a Civil Engineering Report (prepared by Northrop, dated 30 September 2020) and Flood Assessment Report (prepared by Northrop, dated 18 September 2020), to address stormwater quality and quantity.

The proposed stormwater concept involves modification to the existing dam spillway and surrounding infrastructure as well as the addition of new bioretention basins on site to manage stormwater flows from the proposed development. Stormwater is then proposed to be released to the pre-developed discharge points and conveyed downstream.

The stormwater management system for the site has been reviewed by Council's Principal Development Engineer and is supported subject to conditions of consent.

Traffic

Existing traffic conditions

A Traffic Impact Assessment including SIDRA analysis (prepared by Intersect Traffic, dated August 2021) was submitted in conjunction with the application. As part of the assessment, Northern Transport Planning and Engineering (NTPE) were engaged on behalf of Intersect Traffic to conduct manual traffic counts to obtain an indication of existing traffic numbers. In summary, the following traffic volumes exist:

Eastbound:

- Peak hour traffic-617 vehicle trips per hour (PM)
- Daily Traffic-4826 vehicle trips per day

Westbound:

- Peak hour traffic-539 vehicle trips per hour (AM)
- Daily Traffic-4677 vehicle trips per day

Development Traffic Generation Rates

The *RMS Guide to Traffic Generating Developments* does not nominate a traffic generation rate for manufactured home estates. However, the updated traffic survey figures found in *RTA Technical Direction TDT 2013/04a* suggests specific traffic generation rates for seniors living,

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which have a traffic generation of 0.4 trips per dwelling per peak hour (vtph) and 4 vehicle trips per day (vtpd).

The traffic generation rates were considered by Council's Traffic Engineer and an independent traffic consultant, and it was determined that the proposal should be considered as a form of medium density development. Therefore, a generation rate of 0.5vtph for a 3 bedroom house should be applied. The applicant amended the Traffic Impact Assessment accordingly and based on 301 dwelling sites, the following traffic generation potential is estimated:

- AM Peak = 151 vehicle trips per hour
- PM Peak = 151 vehicle trips per hour
- Total Daily Generation = 1505 vehicle trips per day

Development Distribution

Based on existing traffic counts, the distribution rates were determined for each intersection and the same percentage rates applied to development traffic. Development traffic was considered as:

- AM Peak 60% outgoing 40% incoming
- PM Peak 40% outgoing 60% incoming

The directional percentage rates for each intersection were as follows:

Stonebridge Avenue/ Mount View Road:

- 85% Eastbound towards CBD
- 15% Westbound

Mount View Road/Wollombi Road:

- 95% Northbound
- 5% Southbound

Mount View Road/Barrett Avenue:

- 30% of traffic on Mount View road (assumed)

Mid-Block Capacity

The road network was assessed for its technical mid-block two-way capacity and environmental capacity for development impacts and continued growth through to 2031. It is noted that the environmental capacity is applied to urban residential local streets such as Stonebridge Drive. Stonebridge Drive would be classified as the collector road within the environmental classification.

The Traffic Impact Assessment identifies the likely 2021 AM and PM mid-block peak hour traffic volumes on Wollombi Road, Mount View Road and Stonebridge Drive as follows:

- Wollombi Road near Mount View Road – 1,300 vtph AM and 1,510 vtph PM;
- Mount View Road near Wollombi Road – 570 vtph AM and 610 vtph PM;
- Mount View Road near site – 1,080 vtph AM and 850 vtph PM; and
- Stonebridge Drive – 70 vtph AM and 80 vtph PM.

The predicted 2031 AM and PM peak hour traffic volumes are:

- Wollombi Road near Mount View Road – 1,580 vtph AM and 1,840 vtph PM;

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- Mount View Road near Wollombi Road – 690 vtpm AM and 740 vtpm PM;
- Mount View Road – 1310 vtpm AM and 1,040 vtpm PM; and
- Stonebridge Drive – 85 vtpm AM and 100 vtpm PM

The assessment undertaken by Council's Principal Development Engineer confirms that there is spare capacity for the mid-block assessment and environmental capacity assessment.

Intersection Capacity

Traffic from the site has numerous route options through the local road network, and surveys carried out by the applicant identified that filtering through the local streets to avoid queues and delays at major intersections, was common.

The results of the SIDRA analysis show that the post-development level of service at all three (3) intersections, being Stonebridge Drive/Mount View Road; Wollombi Road/Mount View Road; and Barret Avenue/Mount View Road, will continue to operate satisfactorily post development through to 2031:

Stonebridge Drive/Mount View Road:

This intersection operates as a CHR/AUL intersection treatment. As shown in the table below the intersection can function through to 2031.

Table 2 – Sidra Results - Mount View Road/Stonebridge Drive T-intersection

Scenario	Worst LoS	Worst Delay (seconds)	95 % Back of Queue Length (veh)
2021 AM peak (3 % additional)	B	17.6	0.2
2021 PM peak (3 % additional)	A	14.2	0.2
2021 AM peak + development + 3%	B	19.6	0.7
2021 PM peak + development + 3 %	B	16.2	0.6
2031 AM peak + development + 3 %	B	25.3	0.8
2031 PM peak + development + 3 %	B	20.1	0.8

Wollombi Road/Mount View Road:

This intersection operates as a seagull intersection treatment. As shown in the table below the intersection can function through to 2031 and Level of Service remains at A.

Table 3 – Sidra Results – Wollombi Road / Mount View Road Urban Seagull

Scenario	Worst LoS	Worst Delay (seconds)	95 % Back of Queue Length (veh)
2021 AM peak	A	9.3	0.6
2021 PM peak	A	10.6	0.6
2021 AM peak + development	A	9.3	0.7
2021 PM peak + development	A	9.4	0.9
2031 AM peak + development	A	11.1	1.3
2031 PM peak + development	A	11.2	1.5

Barret Avenue/Mount View Road:

This intersection is a standard T intersection and as shown below, queuing of vehicles is already occurring. The development however only contributes to an additional 0.2 vehicle queue lengths and Level of Service remains at B through to 2031.

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The Traffic Impact Assessment demonstrates that the warrant for a CHR already exists. The traffic generated from the development does not alter the existing requirements and no nexus exists for this development to upgrade the intersection. The development traffic contributes to 23 vph which would represent approximately 7% of the total traffic turning right.

The findings of the Traffic Impact Assessment are supported by Council's Principal Development Engineer and no upgrades to the intersection are required.

Table 4 – Sidra Results – Mount View Road / Barrett Avenue Stop intersection

Scenario	Worst LoS	Worst Delay (seconds)	95 % Back of Queue Length (veh)
2021 AM peak	B	15.5	2.1
2021 PM peak	B	16.2	2.5
2021 AM peak + development	B	16.2	2.3
2021 PM peak + development	B	16.8	2.7
2031 AM peak + development	B	23.5	4.3
2031 PM peak + development	B	24.5	5.1

Overall, the analysis demonstrates that the existing road infrastructure has adequate capacity for servicing the development, and in this regard, no upgrade to the three (3) intersections identified, is required. Notwithstanding, the development will be contributing towards roads and traffic works identified in the *Cessnock City Wide Contributions Plan 2020*, including upgrades to the Barrett Street/Mt View Road intersection.

The community buildings and facilities are ancillary to the estate and are primarily intended for use by estate residents and invited visitors/guests. The additional traffic generation from the golf course and bowling green is expected to be minimal, and any additional vehicle trips resulting from such visitors will be adequately catered for by the surplus capacity of the road network.

Pedestrian/cycling paths

Pedestrian paths are available on the west side of Stonebridge Drive, north side of Mount View Road and north side of Birkdale Boulevard allowing for pedestrian connectivity to Wollombi Road.

Separate cycling paths/shared paths are not available. However, a parking lane and wide shoulder exist on Mount View Road to allow opportunities for on road cycling. It is noted that the development will also be contributing towards pedestrian and cycling facilities identified in the *Cessnock City Wide Contributions Plan 2020*, including a new off-road path on Mount View Road - Wollombi Road to the Cessnock Civic Indoor Sports Centre (CW 43).

Social Impacts, Crime and Anti-Social Behaviour

Social impacts, including potential for crime and anti-social behavior, have been addressed previously in this report under Chapter C.8 of the DCP.

In summary, it is considered that the development is likely to result in a positive social impact within the locality by providing increased housing choice; opportunities for downsizing; provision of affordable, low maintenance housing; and increased housing supply in Cessnock.

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The provision of the communal open spaces and facilities within the estate will create a positive space for social interaction and bonding among residents.

Further to the assessment provided under Chapter C.8, the application was referred to NSW Police to consider the potential crime risks associated with the development. NSW Police provided a response on 2 October 2020 advising that no objection is raised to approval of the application and recommendations were provided for inclusion in the draft notice of determination in respect of lighting and sensors, CCTV, graffiti removal, street numbering, signage, gate controls, fencing, letter boxes and landscaping maintenance.

It is also noted that the requirement for an on-site live-in manager has been imposed as a condition of consent to ensure that the development will have a member of staff available 24 hours a day to assist with any security issues which may arise at the site.

The application is supported by Council's Principal Community Planner subject to the conditions contained in this report.

Economic Impacts

It is considered that the proposed development will have positive economic impacts within the Cessnock LGA and wider area. The development will provide employment during the construction of the estate which the applicant has estimated to be in the vicinity of 138 jobs based on the estimated value of the development, being \$22,163,159. Furthermore, it is estimated that 16 full-time employment opportunities will be created in relation to the maintenance and ongoing management of the development.

Negative social and economic impacts of the development include increased demand for local services; increased traffic; and noise and amenity impacts which have been previously addressed in this report. On balance, the adverse impacts of the development are outweighed by the positive contribution the development will make to the locality, and any negative impacts are able to be effectively mitigated through conditions of development consent.

(c) The suitability of the site for the development

The subject site presents a number of environmental constraints, all of which have been considered during assessment of the application. Below is a discussion of the key issues:

Contamination

A *Preliminary Site Investigation (Contamination)* (prepared by Douglas Partners, dated March 2020) and *Contamination Status Report* (prepared by Cardno, dated 23 April 2021), was submitted in support of the application.

The Preliminary Site Investigation (PSI) identified potential issues with asbestos containing materials in structures, imported fill material and disposal of building materials from onsite structures. These areas were located primarily at the site of the former golf clubhouse and from the demolition sites of the onsite structures. These areas have been subject to previous investigations and clearances and have since been remediated or removed from site.

The Contamination Status Report provides a comprehensive overview of all previous contamination investigations and assessments previously undertaken on the site by a range

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of consulting firms. The report concludes that *“Based on the Site history, current Site inspection, past assessments, clearance certificates and previous works undertaken, in accordance with the State Environmental Planning Policy No 55 (SEPP 55) the Site is considered to be low risk of potential contamination and can be rendered suitable for the proposed use.*

Review of the past data and assessments indicate that asbestos within fill material is the predominate Contaminate of Potential Concern (CoPC). Further reviews of documentation indicate that majority of asbestos fragments within fill materials have been identified and remediated and as such it is considered to be not grossly contaminated. On the basis that the past reports and clearances indicate that majority of the areas were identified and remediated, and the CoPC identified was limited to asbestos, it is considered that the potential asbestos contamination on Site could be dealt with by an Unexpected Finds Protocol (UFP) during construction phase”.

Subsequently, the applicant provided an *Unexpected Finds Protocol (prepared by Cardno, dated 10 August 2021)*, which provides guidance and procedures for dealing with any unexpected finds that may be encountered during the disturbance works carried out on the site.

Council’s Environmental Health officer considered the history of the site and previous contamination investigations and remediation work undertaken to date. Having regard to SEPP 55, the application has been supported subject to the removal of the stockpiles previously identified as contaminated, and compliance with the recommendations of the Unexpected Finds Protocol. Appropriate conditions of consent have been imposed in the draft notice of determination in this regard.

Bushfire Hazard

A small portion of the western and southern boundaries of the site is mapped as bushfire prone land (buffer) and the development is for a Special Fire Protection Purpose as defined in Section 100B of the *Rural Fires Act 1997*. As such, Council is required to obtain General Terms of Approval from the NSW Rural Fire Service (RFS), prior to approving the application.

A bushfire hazard assessment report was submitted in conjunction with the application and the report was referred to the NSW RFS for comment. General Terms of Approval were provided (dated 25 June 2021).

Flooding

Flooding considerations have been addressed previously in this report.

Watercourses

Two unnamed watercourses traverse the site, one in the north which is a first-order stream connecting some of the four man-made dams throughout the golf course fairways, and one in the south which is a second-order stream.

The application proposes construction of a road to provide access to Stage 9 of the development. The proposed road traverses a first order watercourse in the north of the site. Under s.91 of the *Environmental Planning and Assessment Act 1979*, a Controlled Activity

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Approval is required from the Natural Resources Access Regulator (NRAR) for the carrying out of building work on waterfront land, being land within 40 metres of a watercourse. As the proposed works are located within 40m of a watercourse, the application was referred to NRAR for comment. General Terms of Approval were provided (dated 22 June 2021).

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited on two (2) occasions, as follows:

- On the first occasion, the application was exhibited from 5 November 2020 to 3 December 2020. Seventeen (17) submissions were received, representing 4.5% of the 380 properties notified of the proposal. All submissions were in objection to the proposal, with the exception of one (1) submission which was in support of the application.
- As a result of the submission of additional information by the applicant, the application was re-exhibited from 18 August 2021 to 27 September 2021. The re-exhibition enabled residents to comment on the additional documentation submitted in response to matters raised by Council during the assessment of the application. A total of nine (9) submissions were received, which primarily reiterate previously expressed concerns. An additional three (3) submissions were received outside the second exhibition period, all of which raised issues which had been raised by other objectors and are therefore addressed in this report.

The following table outlines the issues raised in the submissions lodged with Council, along with a response to each matter:

Issue/s	Comment/s
Environmental/Ecological	
The development will have a significant impact on flora and fauna.	The ecological impact of the development has been discussed in the body of the report. The application has been assessed and supported by Council's Ecologist subject to conditions of consent included in the draft notice of determination.
The submitted ecological studies do not adequately consider the impact on wildlife in the area.	
Amendments to the development could enable the retention of many healthy trees.	
Traffic and access	
A second access road is required to service the development.	The traffic impact of the development has been discussed in the body of the report. The analysis demonstrates that the existing road infrastructure has adequate capacity for servicing the development, and in this regard, no road upgrades are required.
Request for the intersection of Stonebridge Drive and Mount View Road to be upgraded to a roundabout if the development proceeds.	
	Notwithstanding, the development will be contributing towards roads and traffic works identified in the <i>Cessnock City Wide Contributions Plan 2020</i> , including

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	upgrades to the Barrett Street/Mt View Road intersection.
Traffic impact assessment does not accurately consider current traffic, future traffic in the area, or nearby developments.	The traffic impacts of the development have been considered and the adequacy of the traffic reports assessed by Council's Principal Development Engineer and an independent traffic consultant that Council engaged.
Traffic impacts associated with construction /truck movements.	The Traffic Impact Assessment was found to adequately assess and consider likely traffic impacts associated with the proposed development.
Traffic Impact Assessment undertaken at inappropriate times/days.	Additional traffic counts have been undertaken by the applicant in response to Council's request for additional information. The timing/recording of revised counts is considered appropriate by Council's Principal Development Engineer.
Traffic impact assessment should not utilise seniors housing development rates.	Rates used within the Traffic Impact Assessment were revised in accordance with Council's request for further information. Medium density rates for a 3 bedroom dwelling have subsequently been applied.
Stonebridge Drive is narrow and cannot accommodate the additional traffic generated by the proposed development.	Road widths associated with the development comply with the requirements of the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021</i> .
The risk of fire and accessibility of emergencies services.	The development has been supported by the NSW Rural Fire Service and Council's Principal Development Engineer subject to conditions.
Pedestrian safety concerns associated with Stonebridge Drive.	Pedestrian paths are available on the west side of Stonebridge Drive, north side of Mount View Road and north side of Birkdale Boulevard, thereby allowing for pedestrian connectivity to Wollombi Road.
Request for a stop sign at intersection of Birkdale Boulevard and Stonebridge Drive and for a reduction in speed limit.	This matter is not relevant to assessment of this application, rather relates to an existing traffic situation. Accordingly, this

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	submission has been referred to Council's Traffic Department for consideration.
Social Impacts	
Support for the proposed development as it will act as a stimulus to further promote positive investor sentiment in the region.	Noted.
Application will support the growing population as well as illustrating strategy and forethought to the upcoming demand of the local community.	Noted.
Loss of use of the golf course.	<p>The development will reconfigure the existing golf course to operate as a 12-hole facility. The golf course will be available for use by the general community and will not be restricted to residents of the manufactured home estate.</p> <p>In any event, this is not a valid planning consideration.</p>
Bus services from the development site are inadequate.	<p>The site is located 620m walking distance of a bus stop on Mount View Road which provides a daily service to Cessnock. It is noted that this is not considered to be adequate given the distance exceeds 400m.</p> <p>To address this matter, the development application includes provision of a community bus which will provide a daily service to and from the Cessnock CBD. This can be used by residents in the event they do not have access to a private vehicle.</p> <p>A taxi service is also available within the area.</p>
Crime risks associated with the development.	This matter is discussed elsewhere in this report. The application is accompanied by a Social Impact Assessment, CPTED Report and Plan of Management. The proposal has been considered by Council's Principal Community Planner and NSW Police and is supported, subject to conditions.
Concern that access to health services and infrastructure in Cessnock is inadequate.	Community infrastructure/services provision is demand driven and the subsequent increase in population from the development

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	<p>will encourage investment in current infrastructure and services to cater for the growth. The development is to be phased which will allow community infrastructure and community services to grow gradually with the increase in population.</p> <p>The development is consistent with the directions of the Hunter Regional Plan 2036 to provide additional dwelling houses for the future in the Lower Hunter broadly and more specifically, in the Cessnock Local Government Area. The increase in growth resulting from the proposal will act as a trigger for the planning and provision of infrastructure and services in support of such population growth.</p>
Stormwater and flooding	
Concerns regarding water and flooding.	Stormwater management and flood impacts associated with the development have been discussed in the body of the report. The application has been assessed and supported by Council's Principal Development Engineer subject to conditions of consent included in the draft notice of determination.
DA does not appear to adequately consider the integrity of the current dams, and the risk posed from water run-off from the new dwellings, as well as the surrounding areas.	
The golf course (second tee) is likely to cause issues with drainage and storm water management.	
Community Engagement Process	
Ability to lodge submission hindered by accessibility and technological difficulties.	Submissions accepted via alternative means including email and hand written letters.
A month lead up to Christmas is not adequate time to prepare a submission.	Length of exhibition period in accordance with legislative requirements.
Unsatisfactory stakeholder consultation undertaken with the community in development of the masterplan.	Council was not involved in the stakeholder consultation and community drop-in days which were held by the applicant during development of the master plan. However, the concerns raised within the submissions have been considered and addressed within this report.

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Overdevelopment of the site.	<p>The <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021</i>, requires each dwelling site to have an area of at least 130 square metres. Furthermore, a minimum of 10% of the total land area of a manufactured home estate must be reserved for recreation or other communal activities.</p> <p>The subject application proposes dwelling sites ranging from 260m² to 390m² and the total land area reserved for recreation or other communal activities is approximately 55% of the manufacture home estate.</p> <p>The development significantly exceeds the requirements prescribed in the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021</i>.</p>
Proposed dwelling design inconsistent with existing development character and resulting visual impacts.	<p>Visual impacts associated with the development have been considered in the body of this report. The density of the development when compared to the surrounding 'traditional' residential subdivision and development is considered high, however the visual impact of the development on the locality is considered to be reasonable. The proposal is considered an appropriate and logical extension of the surrounding residential development. The proposed landscaping and open space areas of the site will soften the built form, and the visual impact of the increased density of development will be appropriately mitigated.</p> <p>The applicant has provided indicative dwelling designs for single-storey two and three bedroom dwellings, and it is considered that the overall impression of detached residential housing in the direct locality will be maintained. However, it is noted that this application only facilitates the establishment of the manufactured home sites. The manufactured homes will be assembled on-site via a separate approval</p>

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	process. Therefore, issues relating to the visual impact of the manufactured homes will be considered during assessment of future applications.
Size of lots significantly less than minimum lot size of 450qm.	The minimum lot size requirements of the <i>Cessnock Local Environmental Plan 2011</i> do not apply to the subject development.
Noise impacts from additional traffic, construction and community facilities.	<p>Noise impacts from the development have been considered in the body of this report and are not expected to be significant.</p> <p>The manufactured home estate will operate similarly to a residential subdivision and therefore the additional traffic movements generated from the development are not envisaged to result in unacceptable noise impacts on the surrounding development.</p> <p>Noise impacts associated with construction phase and operational phase will be managed via appropriate conditions of consent, as well as compliance with the Construction Management Plan and Operational Plan.</p> <p>Furthermore, the proposed development will be required to comply with the noise criteria specified under the <i>Protection of the Environment Operations Act 1997</i>, at all times.</p>
Request to retain rear vehicle access to properties from golf course land.	The referenced land is not public land or a dedicated public road. Therefore, Council cannot require the land owner to retain the land for private use by adjoining land owners.
Construction impacts	
Objection to construction on Saturdays.	<p>Construction hours have been restricted to 7:00am and 5:00pm on Monday to Saturday inclusive. Work is prohibited on Sundays and Public Holidays.</p> <p>A condition has been imposed on the draft notice of determination requiring noise arising from works to comply with the noise criteria specified under the <i>Protection of the Environment Operations Act 1997</i>, at all times.</p>

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Objection to building phase occurring over ten years.	The timing of the development is a matter for the developer. Requirements have been imposed on each stage of the delivery to ensure the amenity of the area during the completion of the estate.
Landscaping	
Landscape plan creates bushfire risk, crime risk and is inconsistent with existing character of the area.	<p>NSW RFS have supported application subject to conditions of consent regarding landscaping.</p> <p>Application supported by Council's Principal Community Planner and NSW Police with regard to crime risks.</p> <p>Landscape plan considered consistent with the existing character of the area, and has been conditioned to utilise plant species endemic to the area.</p>
Request for earthen mounds and planting of tall trees at the Southern end of the Northern Precinct Housing development.	The landscape plan indicates that "native forest" will be provided in this area. Native forest includes planting of native trees, shrubs and grasses and is considered to provide adequate screening of the development from the surrounding residential areas. Notwithstanding, a condition of consent has been imposed on the draft notice of determination to ensure 'native forest' plantings are provided along the southern boundaries of Stages 9 and 10.
Request to remove landscaping from northern portion of dwellings along Birkdale Boulevard so views of the golf course can be retained.	This has been imposed as a condition of consent on the draft notice of determination.
Other matters	
The development will impact on the current residents of Stonebridge who bought their properties to live on a golf course.	<p>The zoning of the site and the regulations for manufactured home estates permit development of this kind in such areas.</p> <p>The individual circumstances of surrounding property owners, i.e., their reason as for purchasing their sites initially, are not a valid planning consideration.</p>

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	Notwithstanding the above, the development will retain a portion of the existing golf course, which is proposed to operate as a 12-hole facility.
The proposed bowling green is not sufficient in size to allow a full sized competition standard bowling green.	There are no legislative requirements or planning controls which require the proposed bowling green to be of competition size or standard. This is not a valid planning consideration.
Loss of property value.	There is no evidence to suggest that development of the site will adversely impact property values in the locality. This is not a valid planning consideration.
Proposed 6-hole golf course is unlikely to be used.	The management of the proposed golf course is not a matter for Council. This is not a valid planning consideration.
Request controls be put in place to ensure golf course and parklands retained in the long term.	Council's assessment recommends approval of the application subject to conditions of consent. If approved, any future changes to the development would be subject to Council consideration and approval.
How will contamination on the site be remediated.	Contamination has been considered in the body of this report and conditions of consent have been imposed in the draft notice of determination to address issues pertaining to contamination. The application has been supported by Council's Environmental Health division subject to the removal of the stockpiles previously identified as containing contaminated material/s, and compliance with the recommendations of the Unexpected Finds Protocol. Appropriate conditions of consent have been imposed in the draft notice of determination in this regard.
The external boundary fencing plan contains errors. Specifically, the 1800mm boundary fence does not exist on the eastern side of	The errors in the plan are noted. The external boundary fencing plan does not propose to construct an 1800mm boundary

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<p>Links Avenue, eastern side of the development, or western boundary of the site on O'Shea Circuit.</p> <p>Concern that an additional 1800mm fence will be provided adjacent to existing boundary fences.</p> <p>Objection to the proposed 1800mm high fencing.</p>	<p>fence adjacent to existing fence lines. The term 'as existing' within the plan indicates that the existing fencing in these areas would remain. All fencing that is existing will remain.</p> <p>In areas where no existing boundary fencing is provided, a condition has been imposed on the draft notice of determination requiring the external boundary to be fenced with an open style fence (school fencing) of a height to prevent scaling, except where agreement on alternative fencing (materials and height) has been reached with adjoining private landowners prior to issue of any Activity Approval.</p>
<p>Request to relocate boat and caravan storage area further away from the residential properties at Links Avenue.</p>	<p>The applicant has agreed to increase the setback of the boat and caravan storage area from the residential properties at Links Avenue and establish a landscape strip at the interface to provide screening and visual privacy. This has been imposed as a condition of consent in the draft Notice of Determination.</p>
<p>Location of golf tee on the second hole of the golf course will require removal of trees which are nominated for retention under the submitted Tree Retention Plan. Request to relocate the tee.</p>	<p>Council's assessment recommends approval of the application in accordance with the information provided within the Tree Retention Plan. Should any changes be required to the Tree Retention Plan in future to accommodate the proposed second golf tee, the development application would need to be modified.</p>
<p>Likely damage to properties along Lindsay Street and personal injury resulting from stray golf balls.</p>	<p>This is a common concern of properties which adjoin golf courses. This is a matter that the golf course will manage.</p>
<p>Inappropriate and anti-social behavior of golfers.</p>	<p>This is not a planning consideration and will be managed by the Golf Club and/or Police.</p>

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, Environmental Planning Instruments and Council Policies.

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The development proposal is considered to satisfy the public interest as it will provide a varied form of housing, thereby increasing housing choice within the locality. Furthermore, assessment of the proposal has demonstrated that the development will not result in adverse impacts on nearby residents or the wider locality.

Based on the above assessment, it is considered that the proposed development is consistent with the public interest.

SECTION 7.11 CONTRIBUTIONS

In the event the application is approved, Section 7.11 Contributions will be payable in accordance with the *Cessnock City Wide Contributions Plan 2020*.

The contributions plan enables a 50% reduction in contribution rates for manufactured homes of 1 or 2 bedrooms as it is anticipated that the occupancy rate is 50% of a standard dwelling. The application proposes a mix of two and three bedroom manufactured homes, however, the proposed number of two and three bedroom manufactured homes has not been defined. Therefore, the development has been assessed at the full lot/dwelling rate.

A five lot credit has been given in this assessment, thus reducing the overall calculation to a 296 dwelling/lot rate. The site falls under the Cessnock District Catchment area in the *City Wide Infrastructure Contributions Plan 2020* and the following contributions rates are applicable:

Phase	Calculation
1	Section 7.11 rate applied to 44 lots (5 lot credit) x 3 bedroom dwellings. Total (based on current indexation) = \$431,702.12
2	Section 7.11 rate applied to 25 lots x 3 bedroom dwellings. Total (based on current indexation) = \$276,732.13
3	Section 7.11 rate applied to 34 lots x 3 bedroom dwellings. Total (based on current indexation) = \$376,355.69
4	Section 7.11 rate applied to 16 lots x 3 bedroom dwellings. Total (based on current indexation) = \$177,108.56
5	Section 7.11 rate applied to 30 lots x 3 bedroom dwellings. Total (based on current indexation) = \$332,078.55
6	Section 7.11 rate applied to 30 lots x 3 bedroom dwellings. Total (based on current indexation) = \$332,078.55
7	Section 7.11 rate applied to 30 lots x 3 bedroom dwellings. Total (based on current indexation) = \$332,078.55
8	Section 7.11 rate applied to 30 lots x 3 bedroom dwellings. Total (based on current indexation) = \$332,078.55
9	Section 7.11 rate applied to 26 lots x 3 bedroom dwellings. Total (based on current indexation) = \$287,801.41
10	Section 7.11 rate applied to 36 lots x 3 bedroom dwellings. Total (based on current indexation) = \$398,494.27

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Total contribution payable over 10 phases	\$3,276,508.41 (based on current indexation)
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INTERNAL REFERRALS

The Development Application was referred to the following Council officers for comment:

Officer	Comment
Development Engineer	No objection raised to the proposal, subject to relevant conditions of consent.
Building Surveyor	No objection raised to the proposal, subject to relevant conditions of consent.
Ecologist	No objection raised to the proposal, subject to relevant conditions of consent.
Flooding Engineer	Flooding information was provided for assessment by Council's Development Engineer. All matters relating to flooding impacts have been addressed and the application is supported by Council's Principal Development Engineer subject to conditions.
Environmental Health	No objection raised to the proposal, subject to relevant conditions of consent.
Traffic Engineer	Traffic information was provided for consideration by Council's Development Engineer. All matters relating to traffic impacts have been addressed and the application is supported by Council's Principal Development Engineer subject to conditions.
Environmental and Waste Services	Outstanding matters addressed via imposition of conditions of consent.
Community Planning	No objection raised to the proposal, subject to relevant conditions of consent.
Community Services (Parks and Recreation)	No objection raised to the proposal, subject to relevant conditions of consent.
Heritage	No objection raised to the proposal, subject to relevant conditions of consent.
Contributions	No objection raised to the proposal, subject to relevant conditions of consent.

EXTERNAL REFERRALS

The Development Application was referred to the following external agencies for comment:

Agency	Comment
NSW Rural Fires Service (NSW RFS)	NSW RFS provided General Terms of Approval.
Natural Resource Access Regulator (NRAR)	NRAR provided General Terms of Approval.
Transport for NSW (TfNSW)	TfNSW provided comment and raised no objection to the subject development. No specific requirements or conditions of consent were recommended by TfNSW.

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Hunter Water Corporation	Hunter Water Corporation raised no objection to the proposal and provided a Notice of Formal Requirements which has been integrated in the draft notice of determination.
Ausgrid	Ausgrid raised no objection to the proposal and provided recommendations that have been integrated into the draft notice of determination.
NSW Police	NSW Police raised no objection to the proposal and provided recommendations in relation to crime security, safety and crime prevention that have been integrated into the draft notice of determination.

CONCLUSION

The Development Application has been assessed against the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulations 2000*, relevant Environmental Planning Instruments and Council policies.

The proposal is generally compliant with the relevant planning controls, most notably those contained within *State Environmental Planning Policy No. 36 - Manufactured Home Estates, Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*, *Cessnock Local Environmental Plan 2011* and the *Cessnock Development Control Plan 2010*.

The development application was publicly exhibited on two (2) occasions. A total of 26 submissions were received in response to the two exhibition periods. The issues and concerns raised in the submissions are addressed in this report.

It is considered that the manufactured home estate has been designed to have regard to the natural and built environments, and is sympathetic to existing residential development within the direct locality.

It is considered that the site is suitable for the proposed development, and that the addition of a manufactured home estate within the locality will result in positive social benefits as it will provide an alternative affordable housing choice.

Based on the assessment, it is recommended that Development Application No 8/2020/20604/1 be approved, subject to the conditions of consent included in this report.





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ENCLOSURES

- 1  Enclosure 1 - Masterplan
- 2  Enclosure 2 - Community Centre Architectural Plans
- 3  Enclosure 3 - Public Submission (Confidential) - *This matter is considered to be confidential under Section 10A(2) (j) of the Local Government Act, as it deals with Council Policy.*
- 4  Enclosure 4 - Public Submissions Exhibition Period 2 (Confidential) - *This matter is considered to be confidential under Section 10A(2) (j) of the Local Government Act, as it deals with Council Policy.*

CONDITIONS OF CONSENT

The conditions of consent referenced within the Notice of Determination are applicable to the following stage/phase of the development:

Stage	Development Works	Condition Reference
All stages	All development works	1 – 46 and 73 - 151
Stage 1	44 manufactured home sites and associated servicing, landscaping and infrastructure works (including managers residence, signage, golf course reconfiguration and internal refurbishment of golf club)	1 – 49, and 73 - 151
Stage 2	25 manufactured home sites and associated servicing, landscaping and infrastructure works (including community centre, tennis court and bowling green)	1 – 46, 50 - 53 and 73 - 151
Stage 3	34 manufactured home sites and associated servicing, landscaping and infrastructure works (including caravan and boat storage area)	1 – 46, 54 - 58 and 73 - 151
Stage 4	16 manufactured home sites and associated servicing, landscaping and infrastructure works (including dog exercise park)	1 – 46, 59 – 60 and 73 - 151
Stage 5	30 manufactured home sites and associated servicing, landscaping and infrastructure works	1 – 46, 61 - 62 and 73 - 151
Stage 6	30 manufactured home sites and associated servicing, landscaping and infrastructure works (including nature walk)	1 – 46, 63 – 64 and 73 - 151
Stage 7	30 manufactured home sites and associated servicing, landscaping and infrastructure works	1 – 46, 65 – 66 and 73 - 151
Stage 8	30 manufactured home sites and associated servicing, landscaping and infrastructure works	1 – 46, 67 - 68 and 73 - 151
Stage 9	26 manufactured home sites and associated servicing, landscaping and infrastructure works	1 – 46, 69 – 70 and 73 - 151
Stage 10	36 manufactured home sites and associated servicing, landscaping and infrastructure works	1 – 46 and 71 - 151

SCHEDULE 1

TERMS OF CONSENT

DEFERRED COMMENCEMENT

1. The following deferred commencement conditions must be complied with to the satisfaction of Council within 12 months from the date of this determination notice in order to obtain an operational Development Consent.
 - a) The applicant must provide evidence of permission from the NSW Minister for Correctional Services for the use of land identified as East – West Squirrel Glider Connectivity (as shown in Figure 7 of the Biodiversity Development Assessment Report (Revision 3) by Anderson Environment & Planning dated 6 May 2021) for the purpose of fulfilling an approved Vegetation Management Plan over a five (5) year period.
 - b) The applicant must provide evidence of permission from the NSW Minister for Correctional Services endorsing the use of a suitable 88B instrument on land identified as East – West Squirrel Glider Connectivity (as shown in Figure 7 of the Biodiversity Development Assessment Report (Revision 3) by Anderson Environment & Planning dated 6 May 2021) to protect in perpetuity native vegetation retained and enhanced under an approved Vegetation Management Plan.
 - c) The Landscape Plan (Revision 2) by Studio 26 Urban Design dated 11 March 2021 must be updated to:
 - i. Utilise only local native species of local provenance grown by a specialist native plant nursery are used for landscaping. Native species are to be characteristic of Lower Hunter Spotted Gum - Ironbark Forest EEC.
 - ii. Provide landscape details demonstrating effective screening of the caravan and boat storage area from the adjoining residential properties on Links Avenue.
 - iii. Provide landscape details for the southern boundaries of Phase 9 and 10 demonstrating effective screening of these development phases when viewed from the existing residential properties along Portrush Avenue and Birkdale Boulevard.
 - iv. Provide landscape details for the interface of the golf course with the existing residential properties on the northern boundary of Birkdale Boulevard and Portrush Avenue. The landscaping details must incorporate plant species of low height to enable retention of views of the golf course from these properties.

The following conditions of consent, including any other conditions that may arise from resolution of matters listed in the above condition, will be included in an operational Development Consent.

The consent shall become operational once Council has notified the applicant in writing that the information submitted in response to the deferred commencement conditions, are acceptable.

SCHEDULE 2

CONDITIONS OF CONSENT APPLICABLE AFTER SATISFACTION OF DEFERRED COMMENCEMENT CONDITIONS IN SCHEDULE 1

CONDITIONS OF CONSENT

1. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No.8/2020/20604/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Plan Reference/ Drawing No.	Drawn By	Dated
Overall Lot Plan and Residential Precincts	SGC-02	Integrated Site Design	March 2021
Northern Residential Precinct Plan	SGC-03	Integrated Site Design	May 2021
Western Residential Precinct Plan	SGC-04	Integrated Site Design	May 2021
Southern Residential Precinct Plan	SGC-05	Integrated Site Design	May 2021
Community Facility Plan Package	Drawing No. 01 to 06	Brown Commercial Building	16 September 2020
Civil DA Engineering Package	C01.00DA C02.00DA C02.50DA C03.00DA C03.01DA C03.02DA C03.03DA C03.20DA C03.10DA C04.00DA C04.10DA	Northrop	9 March 2021
Civil DA Engineering Package	C05.00DA C05.01DA C05.02DA C05.03DA C05.04DA C05.05DA C05.06DA	Northrop	29 September 2020
Civil DA Engineering Package	C06.01DA C06.01DA C06.02DA	Northrop	24 February 2021

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Proposed Alts and Adds to Clubhouse Plan Package	Drawing No. S-01 to S-06	Brown Commercial Building	16 September 2020
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Document Title	Prepared By	Dated
Traffic Impact Assessment	Intersect Traffic	August 2021 Revision G
Bushfire Threat Assessment	AEP	February 2021 Revision 3
Operational Management Plan	Enliven	July 2021 Revision 5
Unexpected Finds Protocol	Cardno	10 August 2021 Revision 2
Construction Sequencing Plan	Principle Living Pty Ltd	April 2021
Construction Management Plan	Principle Living Pty Ltd	March 2021
Waste Minimisation and Management Plan	Principle Living Pty Ltd	February 2021 Revision 2
Complaints and Disputes Policy and Procedures	Enliven	July 2021
Noise Impact Assessment	Reverb Acoustics	March 2021
Statement of Environmental Effects	Insite Planning Services	29 April 2021 Revision 4
Aboriginal Cultural Heritage Assessment	Extent Heritage Pty Ltd	May 2021 (final)
Contamination Status Report	Cardno	23 April 2021
Biodiversity Development Assessment Report	AEP	6 May 2021 Revision 3
Tree Retention Plan	AEP	October 2020
Concept Engineering Design	Northrop	30 September 2020 Revision C
Social Impact Assessment	AIGIS Group	September 2020
Disability Access Report	Lindsay Perry Access	14 September 2020 Revision 1
Arborist Assessment	AEP	September 2020
Major Flood Assessment Report	Northrop	18 September 2020 Revision C
Preliminary Site Investigation (Contamination)	Douglas Partners	March 2020
CPTED Assessment	James Marshall & Co	June 2020
Geotechnical Investigation	Douglas Partners	March 2020

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

2. General Terms of Approval

All General Terms of Approval issued shall be complied with prior, during and at the completion of the development, as required.

The General Terms of Approval include the following:

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- a) New South Wales Rural Fire Service
- b) Natural Resources Access Regulator

A copy of the General Terms of Approval are attached to this determination notice.

3. Phasing of Development

Development consent is granted for the development to be undertaken in ten (10) phases in accordance with the approved Construction Sequencing Plan (prepared by Principle Living Pty Ltd, dated April 2021).

The on-site manager's residence and reconfiguration of the golf course are to be provided at Phase 1 of the development.

4. Phasing Sequence Approved

The development must sequentially follow the phasing proposed. Phase 2 to follow Phase 1, Phase 3 to follow Phase 2, Phase 4 to follow Phase 3, Phase 5 to follow Phase 4, Phase 6 to follow Phase 5, Phase 7 to follow Phase 6, Phase 8 to follow Phase 7, Phase 9 to follow Phase 8, and Phase 10 to follow Phase 9. Undertaking two or more phases at the same time is permitted but only if the phases are in sequence and all conditions that apply to all relevant phases are complied with.

5. Local Government Act 1993 Section 68 Approval Application Required

Prior to issue of a Notice of Completion and occupancy of the first dwelling in Phase 1, an approval to operate a manufactured home estate must be obtained under Chapter 7, Part 1, Section 68 of the Local Government Act 1993. The application will be subject to a fee as listed in Council's adopted Fees and Charges, inspection and assessment.

6. Local Government (Manufactured Homes Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021.

- a) The proposed development (for each phase) shall be designed, constructed maintained and operated in accordance with the requirements of Division 3 of the *Local Government (Manufactured Homes Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*.
- b) All manufactured homes proposed to be located within the manufactured home estate must comply with the provisions of Division 4 of the *Local Government (Manufactured Homes Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*.
- c) Prior to occupation and use of any manufactured home, the holder of an approval to operate a manufactured home estate must provide Council with written "Notice of Completion". Council will then consider the issue of a Certificate of Completion as

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detailed in Clause 68 and 69 of *Local Government (Manufactured Homes Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*.

7. Documents Availability

The holder of the approval to operate the manufactured home estate must ensure that copies of the following documents must be readily available for inspection (without cost) by an occupant of the manufactured home estate:

- (a) the approval for the manufactured home estate,
- (b) the current community map,
- (c) *the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*.

8. Subdivision

This consent permits the subdivision of land for lease purposes in accordance with the provisions in Clause 8 in State *Environmental Planning Policy 36 – Manufactured Home Estates*.

9. CC, PC & Notice Required

In accordance with the provisions of Section 6.6 and 6.7 (cf previous Section 81A) of the *EP&A Act 1979* construction works approved by this consent must not commence until:

- a) A *CC* has been issued by a Certifier (being Council or a registered certifier); and
- b) A *PC* has been appointed by the person having benefit of the development consent; and
- c) If Council is not the *PC*, notify Council no later than two (2) days before building work commences as to who is the appointed *PC*; and
- d) At least two (2) days before commencement of building work, the person having benefit of the development consent is to notify Council as to the intention to commence building work.

10. BCA Compliance

Pursuant to Section 4.17(11) (cf previous s 80A) of the *EP&A Act 1979* all building work must be carried out in accordance with the requirements of the *BCA*.

11. Requirements of Electricity Supply Authority

The applicant must comply with the requirements specified by the Electricity Supply Authority, Ausgrid, as detailed within their correspondence date 12/10/2020 Reference: 2017/12/22.

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12. Requirements of Hunter Water Corporation

The applicant must comply with the requirements specified by Hunter Water Corporation as detailed within their Notice of Formal Requirements dated 23/12/2020. Reference: 2019-1722.

13. Swimming Pools and Spas

The approved swimming pool/ spa must comply with the *Swimming Pools Act 1992* and relevant standards. Pool filters, pumps and related plant must only operate in accordance with the *Protection of the Environment Operations Act 1997*.

14. Community Building and Noise Restrictions

The use and activities within or associated with the operation of the community building and recreational facilities must not unreasonably interfere with the amenity of the neighbourhood by reason of emission of noise and shall not give rise to an 'offensive noise' as defined under the provisions of the *Protection of the Environment Operations Act 1997*. Noisy activities audible at any adjacent residential premises must not occur between the hours 10.00pm to 7.00am.

15. Design Guidelines Requirements

Design guidelines are to be developed for prospective manufactured home site purchasers for each phase which offer a visual mix of varied manufactured home designs in order to avoid sameness in adjoining manufactured homes in the estate. These guidelines will address at a minimum:

- street elevations;
- variety in materials and external colour scheme without jeopardy to the requirements of the Local Government Regulation;
- no primary colours, highly reflective or zincalume roofing; and,
- landscaping plan.

A copy of the Design Guidelines are to be provided to Council prior to the issue of the Activity Approval.

16. Lighting Design Requirements

Lighting is to be designed to not impact on adjoining development and to be in accordance with the Australian and New Zealand Lighting Standards, particularly Australian and New Zealand Lighting Standard 1158.1 – Pedestrian.

17. Disabled Access and Facilities

The buildings (excluding manufactured homes) are to be provided with access and facilities for people with disabilities in accordance with the provisions of the Disability (Access to Premises-Buildings) Standard 2010.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE (ALL PHASES)

The following conditions are to be complied with, to the satisfaction of the Certifying Authority, prior to issue of a Construction Certificate.

18. Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a CC.

19. Security for Cost of Damage and Completion of Public Work

Prior to issue of a CC authorising the carrying out of any work in accordance with this development consent, the applicant must provide security to the Council for the payment of the cost of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which the consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,
- c) remedying any defects in any such public work that arise within six (6) months after the work is completed.

The security is to be for an amount that is the greater of \$5000 or 5% of the estimated cost of carrying out the development and may be provided by way of:

- a) cash deposit with the Council, or
- b) an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred above and on application being made to the Council by the person who provided the security, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the security within six (6) years of the date of issue of the OC or SC for the development the Council may pay the balance to the Chief Commissioner of State Revenue under the *Unclaimed Money Act 1995*.

20. Retaining Wall

Where a retaining wall is in excess of 600mm in height and/or within 900mm of a property boundary, separate detailed drawings are to be submitted in conjunction with the CC, specifying wall heights, heights of retaining walls, proposed mounding and stabilisation treatment, and landscaping for the elevations of the building.

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The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

21. Car Parking - Residential

The design of the vehicular access and off street parking facilities must comply with AS 2890.1:2004 *Parking Facilities – Off-Street Car Parking*. Details demonstrating compliance with this Standard are to be included on the plans submitted in association with a CC application.

A design certificate satisfying these requirements is to be issued by a suitably qualified professional engineer and submitted to the Certifier prior to the issue of a CC.

22. Parking – Delivery Vehicles

A separate off-street loading/unloading facility with capacity to accommodate the largest delivery vehicle likely to deliver goods to and from the premises shall be provided for all loading and unloading of vehicles wholly within the property. Such facility shall be constructed clear of the car parking area and driveways.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

23. Road - Fees

The applicant shall lodge payment of fees and contributions as follows:-

Based on a road length, final fee amounts will be levied on accurate dimensions contained within the engineering plans.

- a) Road fees - engineering plan checking and construction certification.

The fees shall be payable prior to the issue of a CC for the Civil Works and shall be in accordance with Council's adopted fees and charges current at the time of payment.

24. Stormwater – Detailed Design Requirements

A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property, and connection to the existing drainage system in accordance with Council's 'Engineering Requirements for Development' (available at Council's offices). Such layout shall include existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

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25. Flood Risk Management Report

A Flood Risk Management Report, prepared by a qualified practising Civil Engineer and satisfying all the following requirements must be provided to the Certifier prior to the issue of a CC. The report must be prepared / amended to make provision for the following:

- a) The report must be generally in accordance with the recommendations of the Major Flood risk Assessment Report NL193270 prepared by Northrop and dated 16 September 2020.
- b) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The precautions to include, but not be limited, to the following:
 - i) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris
 - ii) Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections
 - iii) Flood warning signs / depth indicators for areas that may be inundated
 - iv) A flood evacuation strategy
 - v) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- c) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

The design must make provision for the structural integrity of all structures from immersion and/or impact of velocity and debris and waterproofing works where applicable.

26. Flooding – Downstream Impacts

Prior to the issue of a CC, the applicant shall provide evidence to the Certifier that the development will not increase the limits of upstream and downstream flooding for floods over the range of 1 in 1 year, to the 1 in 100 year Average Recurrence Interval (ARI) storm events, by the inclusion of onsite stormwater detention controls. A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property. Details shall include onsite storage, the method of controlled release from the site, and connection to an approved drainage system in accordance with Council's "Engineering Requirements for Development".

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Detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development, shall be prepared by an engineer suitably qualified and experienced in the field of hydrology and hydraulics. The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

27. Flooding – Floor Level (500mm above 1-in-100)

The applicant shall ensure that the floor level of the proposed building is at least 500mm above the area of inundation for a 1 in 100 year flood. Evidence to support the determination of the flood level shall be supplied by a suitably qualified professional.

Details submitted in association with the CC application are to demonstrate compliance with this requirement. The details are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

28. Dilapidation Report – Council Property

A dilapidation report on the visible and structural condition of the following public infrastructure must be provided to Council prior to the issue of a CC:

- a) Mount View Road/Stonebridge Drive Intersection
- b) Stonebridge Drive
- c) Stonebridge Drive/Birkdale Boulevard Intersection.
- d) Birkdale Boulevard

The dilapidation report is to be prepared by a practising Structural / Civil Engineer agreed to by both the applicant and Council. All costs incurred in achieving compliance with this condition shall be borne by the applicant.

The liability of any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition, will be borne by the applicant.

29. Exterior Lighting Generally

Prior to the issue of a CC, submit to Council for approval a proposed exterior lighting plan. Design and position all exterior/outdoor lighting, to minimise and detrimental impact upon the amenity of other premises, adjacent dwellings and the road reserve, and in accordance with the relevant provisions of:-

- AS 4282:1997 Control of the obtrusive effects of outdoor lighting.

30. Section 50 – Hunter Water Act 1991

Evidence shall be submitted to Council that the registered proprietors of the land on whose behalf the application was made have complied with the requirements of Section 50 of the *Hunter Water Act 1991*. Such evidence shall be submitted to Council prior to the issue of the CC.

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31. Water Quality

Prior to the issue of a CC, the applicant shall provide evidence to the CA that the development meets the criteria for water quality targets as outlined in the Australian Runoff Quality ARQ. Evidence such as MUSIC modelling technique such shall be submitted to Council prior to the issue of the CC.

32. Earthworks

Prior to the issue of a CC, earthwork construction drawings are to be submitted to the CA for approval. All earthworks are to be constructed in accordance with Australian Standard 3798-2007, "Guidelines on Earthworks for Commercial and Residential Developments".

Any alterations to existing surface levels on the site shall be undertaken in such a manner as to ensure that no additional surface water is drained onto or impounded on adjoining properties.

If engineered fill is to be placed on the site in accordance with Council's Development Engineering Specifications and Australian Standard AS 3798 'Guidelines on Earthworks for Commercial and Residential Developments'.

The finished level of any building area to be designed to ensure a minimum surface grading of 1.5% oriented in the direction of the drainage system designed to cater for its catchment.

33. Food Premises

The construction and operation of the food premises to comply with all applicable legislation, regulation and standards including:

- a) *Food Act 2003*
- b) *Food Regulation 2015*
- c) *Food Standards Australia and New Zealand – Food Standards Code 2003*
- d) AS 4674-2004 for Design, Construction and Fit out of Food Premises
- e) AS 1668.2-2002 – The use of ventilation and air conditioning in buildings
- f) *BCA*.

Details submitted in association with the CC application are to demonstrate compliance with this requirement, and shall include the following:

- a) a separate floor and sectional plan detailing:
 - i) the kitchen/cafe area floor, wall, and ceiling surface finishes
 - ii) location of the required handwash basin/s and cleaning sinks/s
 - iii) location of dry and cold storage areas,
 - iv) fit-out details for the kitchen and servery, including proposed refrigeration and cooking equipment
 - v) designated cupboard or locker for the storage of staff clothing and personal belongings

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- vi) location of the bar area.

The details are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

34. Mechanical Exhaust System

Details of any proposed mechanical exhaust systems, detailing compliance with the relevant requirements of Clause F4.12 of the *BCA* and *AS 1668 Parts 1 and 2* (including exhaust air quantities and discharge location points) are to be provided to the Certifier prior to the issue of a CC.

35. Kitchen/food preparation area

A detailed floor plan with sectional views of the kitchen/food preparation area shall be provided prior to the issue of the CC. The plan is to give details of the location of all fittings and fixtures such as wash-up sink, cleaner's sink, greasy drainage lines, hand wash basin/s, dishwasher (if applicable), glass washer (bar area) and the cooking array.

36. Bin Storage Area

The door from the bin storage area is not to open directly into the kitchen/food preparation area to prevent the potential for contamination by dirt, dust, fumes and other contaminants.

37. Commercial Waste Storage

Commercial waste storage areas are to be constructed to the following:

- i) Floors must be graded and drained to a sewer with an approved drainage fitting.
- ii) The floors and walls must be finished to a smooth and impervious surface that enables easy cleaning.
- iii) A supply of hot and cold water mixed through a centralised mixing valve must be provided to each bin storage area
- iv) Must be constructed in a manner to prevent the entry of vermin.
- v) Be provided with adequate light and ventilation.

38. Vegetation Management Plan

Prior to the issue of any CC, the applicant must prepare, submit to Council and obtain approval for a Vegetation Management Plan (VMP) for the area to be revegetated with native shrubs and small trees. The VMP must be prepared by a suitably qualified and experienced Ecologist. The VMP must be for a minimum of (five) years. The primary objective of the plan must be weed management, regeneration of native vegetation and if necessary replanting. Implementation of the VMP must commence immediately following issue of the CC. In preparing and implementing the VMP the following criteria must be addressed:

- a. A suitably qualified and experienced professional bush regeneration contractor must be engaged to carry out any revegetation planting, restoration and maintenance weed control specified in the VMP. The minimum qualifications and

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experience required for the bush regeneration contractor are a TAFE Certificate IV in Conservation and Land Management (or equivalent) and three years demonstrated experience (for site supervisor) and a TAFE Certificate 2 in Conservation and Land Management and one year demonstrated experience (for other personnel).

- b. A site plan must be prepared at an appropriate scale, clearly showing the area to which the VMP applies, existing vegetation and extent of dominant weed infestations.
- c. A description of existing native vegetation, assessment of ability to regenerate and rehabilitation methods must be provided.
- d. A schedule of works must be prepared detailing the sequence and duration of works necessary for the regeneration, any revegetation and maintenance works. All primary weed control must be undertaken in the first year following commencement of the VMP, with secondary weed control undertaken in the second year following commencement of the VMP. Maintenance weed control must continue for the duration of the VMP. If natural regeneration has not occurred within one (1) year of implementation of the VMP then replanting must occur. Replanting density is to be 1 tree per 10 m², 1 shrub or small tree per 3 m² and 3 ground cover plants per 1m². A minimum of 90% survival rate of plantings is required, with replacement planting to occur if required to achieve this.
- e. Targets for primary, secondary and maintenance phases of the VMP for exotic cover, native canopy cover, native midstorey cover and native ground cover must be at least:

Maintenance Phase	Exotic cover	Native canopy cover	Native midstorey cover	Native ground cover
Primary	Less than 25%	At least 10% or replanting is required	At least 10% or replanting is required	At least 40%
Secondary	Less than 10%	At least 15% or replanting is required	At least 15% or replanting is required	At least 50% cover
Maintenance	Less than 5%	At least 20% or replanting is required	At least 20% or replanting is required	At least 50% cover

If targets are not met by the end of the maintenance phase, additional works are required so that targets are achieved before works can progress to the next maintenance phase.

- f. The location and type of fencing or other suitable method of restricting access of livestock into the area to which the VMP applies must be identified if livestock are to be kept on the lot.

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- g. Photo monitoring points, details of plan survival, occurrence of natural regeneration and weed density must be used as part of the monitoring of the area and included in each monitoring report.

39. Nest Boxes

Nest boxes must be installed if hollow bearing trees or nest boxes are removed, at a ratio of at least 2 boxes per hollow. Nest boxes must be installed in mature retained trees in land marked Priority Retention and Flood Affected as shown in Figure 7 of the Biodiversity Development Assessment Report (Revision 3) by Anderson Environment & Planning dated 6 May 2021. Evidence that this has occurred must be provided to Council's Ecologist for approval prior issue of a CC.

40. Ecosystem credit retirement conditions

- a) Prior to issue of CC the class and number of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development.
- b) The requirement to retire credits in (a) may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator¹.
- c) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of (a) must be provided to the consent authority prior to CC.

Table 1 Ecosystem credits required to be retired – like for like

Impacted plant community type	Number of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
PCT 1600: Spotted Gum - Red Ironbark - Narrow-leaved Ironbark - Grey Box Shrub - Grass open forest of the lower Hunter.	48	Hunter, Ellerston, Karuah Manning, Kerrabee, Liverpool Range, Peel, Tomalla, Upper Hunter, Wyong and Yengo. Or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Lower Hunter Spotted Gum – Ironbark Forest in the Sydney Basin Bioregion. This includes PCT's 1590, 1592, 1593, 1600 and 1602.
PCT 1800: Cumberland Swamp Oak riparian forest.	1	Hunter, Ellerston, Karuah Manning, Kerrabee, Liverpool Range, Peel, Tomalla, Upper Hunter, Wyong and Yengo. Or	Coastal Floodplain Wetlands. This includes PCT's 780, 828, 835, 1234, 1235, 1386, 1651, 1720, 1727, 1728 and 1800.

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		Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	
PCT 1600: Spotted Gum - Red Ironbark - Narrow-leaved Ironbark - Grey Box Shrub - Grass open forest of the lower Hunter.	48	Hunter, Ellerston, Karuah Manning, Kerrabee, Liverpool Range, Peel, Tomalla, Upper Hunter, Wyong and Yengo. Or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Lower Hunter Spotted Gum – Ironbark Forest in the Sydney Basin Bioregion. This includes PCT's 1590, 1592, 1593, 1600 and 1602.

¹ Note that prices of credits in the Biodiversity Offsets Payment Calculator are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.

41. Species credit retirement conditions

- Prior to issue of CC the class and number of species credits in Table 2 must be retired to offset the residual biodiversity impacts of the development.
- The requirement to retire credits in (a) may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Offsets Payment Calculator¹.
- Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 2 requirements must be provided to the consent authority prior to CC.

Table 2 Species credits required to be retired – like for like

Impacted species credit	Number of species credits	IBRA sub-region
Petaurus norfolcensis/Squirrel Glider	50	Anywhere in NSW.

¹ Note that prices of credits in the Biodiversity Offsets Payment Calculator are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment

42. Protection and Management of Aboriginal Cultural Heritage

All recommendations of the *Aboriginal Cultural Heritage Assessment – Stonebridge Lifestyle Village Cessnock* (prepared by Extent Heritage, dated April 2021) shall be fully implemented to the satisfaction of Council's Heritage Advisor prior to the issue of any CC/Activity Approval.

PRIOR TO ISSUE OF AN ACTIVITY APPROVAL UNDER SECTION 68 (PART A1) OF THE LOCAL GOVERNMENT ACT 1993 FOR ALL PHASES – GENERAL CONDITIONS

The following general conditions are to be complied with, to the satisfaction of the Council, prior to issue of an Activity Approval under Section 68 (Part A1) of the Local Government Act, 1993.

43. Civil Works to be completed

Civil works for all phases are to be completed prior to issue of the Activity Approval for each phase.

44. Section 68 (Part A1) Activity Approval Required

Works associated with the dwelling houses (being manufactured homes) approved by this consent must not commence until an Activity Approval under Section 68 (Part A1) of the Local Government Act 1993 has been issued by Council for installation of manufactured homes on the land for each phase.

45. Parking – Minimum Requirement

Onsite car parking shall be provided for each manufactured home site and such being set out generally in accordance with Council's Development Control Plan. The car parking spaces are to be provided as follows:

- Two (2) vehicle spaces for manufactured homes of 3+ bedrooms
- One (1) vehicle space for a 2 bedroom manufactured home

46. Street Numbers

The manufactured home site numbers must be prominently displayed at the front of manufactured home sites to comply with the Local Government Act or must be painted on the street kerb outside the manufactured home site to assist emergency services and visitors to locate the manufactured home site. The number is to be a minimum height of 120mm above ground if signposted and be visible at night.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE - PHASE 1

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of a Construction Certificate

47. Road Internal Access Construction

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to issue of a CC for the civil works.

- a) Road ID MC04, MC07, MC08 Construct a road pavement in accordance with the approved plans to serve Stage 1.

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- b) Construct kerb and gutter
- c) Place two (2) coat hot bitumen seal on new works
- d) Construct drainage works as necessary.
- e) Construct a temporary turning head at the end of truncated roads adjoining future stages.

PRIOR TO ISSUE OF AN ACTIVITY APPROVAL UNDER SECTION 68 (PART A1) OF THE LOCAL GOVERNMENT ACT 1993 - PHASE 1

The following conditions are to be complied with, to the satisfaction of the Council, prior to issue of an Activity Approval under Section 68 (Part A1) of the Local Government Act, 1993.

48. Fencing Requirements

The entirety of the external boundary of the site is to be fenced with an open style fence (school fencing) of a height to prevent scaling except where agreement on alternative fencing (materials and height) has been reached with adjoining private landowners. This condition does not apply to areas with existing boundary fencing.

Erection of the fencing is to be in accordance with the provisions of the *Dividing Fences Act 1991*.

49. Cessnock City Wide Development Contributions Plan (44 manufactured homes – 5 lot credit)

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of any CC/Activity Approval:

Fee Type Code	Contribution Type	Amount Payable
800	Cessnock – Open Space and recreation facilities	\$258,297.32
801	Cessnock – Community Facilities	\$68,596.00
802	Cessnock – Cycleway Facilities	\$54,415.58
803	Cessnock – Roads and Traffic	\$44,019.55
804	Cessnock – Plan Administration	\$6,373.67
	Total	\$431,702.12

A copy of the *Cessnock City Wide Infrastructure Contributions Plan* may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan. This amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE - PHASE 2

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of a Construction Certificate

50. Road Internal Access Construction

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to issue of a CC for the civil works.

- a) Road ID, MC07, MC08 Construct a road pavement in accordance with the approved plans to serve Stage 2 works.
- b) Construct kerb and gutter
- c) Place two (2) coat hot bitumen seal on new works
- d) Construct drainage works as necessary.
- e) Construct a temporary turning head at the end of truncated roads adjoining future stages

51. Disabled Car Parking Spaces

A total of four (4) car parking spaces for use by persons with a disability must be provided as part of the total car parking requirements.

Plans demonstrating compliance with this requirement and the following Australian Standards are to be submitted to, and approved by, the Certifier prior to the issue of a CC.

- * AS/NZS 2890.1:2004 Parking Facilities – Off street car parking
- * AS/NZS 1428.1:2009 Design for access and mobility – General requirements for access – New building work
- * AS/NZS 1428.4.1:2009 Design for access and mobility – Means to assist the orientation of people with vision impairment – Tactile ground surface indicators.

52. Parking – Minimum Requirement

Onsite car parking shall be provided for a minimum of 59 vehicles and such being set out generally in accordance with Council's Development Control Plan.

The car parking spaces are to be provided as follows:

- Car park 1- Thirty four (34) Vehicle spaces associated with the community centre
- Car park 2- Twenty Five (25) spaces associated with the tennis courts

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The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

PRIOR TO ISSUE OF AN ACTIVITY APPROVAL UNDER SECTION 68 (PART A1) OF THE LOCAL GOVERNMENT ACT 1993 - PHASE 2

The following conditions are to be complied with, to the satisfaction of the Council, prior to issue of an Activity Approval under Section 68 (Part A1) of the Local Government Act, 1993.

53. Cessnock City Wide Development Contributions Plan (25 manufactured homes)

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of any CC/Activity Approval:

Fee
Type
Code
800
801
802
803
804

Contribution Type	Amount Payable
Cessnock – Open Space and recreation facilities	\$165,575.20
Cessnock – Community Facilities	\$43,971.80
Cessnock – Cycleway Facilities	\$34,881.78
Cessnock – Roads and Traffic	\$28,217.66
Cessnock – Plan Administration	\$4,085.69
Total	\$276,732.13

A copy of the *Cessnock City Wide Infrastructure Contributions Plan* may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan. This amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE - PHASE 3

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of a Construction Certificate

54. Road Internal Access Construction

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to issue of a

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CC for the civil works.

- a) Road ID, MC08, MC04 Construct a road pavement in accordance with the approved plans to serve Stage 3 works.
- b) Construct kerb and gutter
- c) Place two (2) coat hot bitumen seal on new works
- d) Construct drainage works as necessary.

55. Disabled Car Parking Spaces

A total of two (2) car parking spaces for use by persons with a disability must be provided as part of the total car parking requirements.

Plans demonstrating compliance with this requirement and the following Australian Standards are to be submitted to, and approved by, the Certifier prior to the issue of a CC.

- * AS/NZS 2890.1:2004 Parking Facilities – Off street car parking
- * AS/NZS 1428.1:2009 Design for access and mobility – General requirements for access – New building work
- * AS/NZS 1428.4.1:2009 Design for access and mobility – Means to assist the orientation of people with vision impairment – Tactile ground surface indicators.

56. Parking – Minimum Requirement

Onsite car parking shall be provided for a minimum of 121 vehicles and such being set out generally in accordance with Council's Development Control Plan.

The car parking spaces are to be provided as follows:

- o Car park 3- Seventy (70) vehicle spaces
- o Fifty One (51) caravan spaces

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

PRIOR TO ISSUE OF AN ACTIVITY APPROVAL UNDER SECTION 68 (PART A1) OF THE LOCAL GOVERNMENT ACT 1993 - PHASE 3

The following conditions are to be complied with, to the satisfaction of the Council, prior to issue of an Activity Approval under Section 68 (Part A1) of the Local Government Act, 1993.

57. Caravan and Boat Storage Buffer

The caravan & boat storage area located on the southern boundary with Links Avenue is to be setback a minimum of 5m from the boundary with 34 Links Avenue. A 3m landscape strip is then to be established between the property boundary and the pathway

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and planted with a suitable native hedge that will grow to 2m. Details are to be provided in an amended Landscape Plan to be submitted and approved by Council prior to the issue of the Activity Approval that include the caravan & boat storage area in stage 3.

58. Cessnock City Wide Development Contributions Plan (34 manufactured homes)

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of any CC/Activity Approval:

Fee Type Code	Contribution Type	Amount Payable
800	Cessnock – Open Space and recreation facilities	\$225,182.28
801	Cessnock – Community Facilities	\$59,801.64
802	Cessnock – Cycleway Facilities	\$47,439.23
803	Cessnock – Roads and Traffic	\$38,376.01
804	Cessnock – Plan Administration	\$5,556.53
	Total	\$376,355.69

A copy of the *Cessnock City Wide Infrastructure Contributions Plan* may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan. This amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE - PHASE 4

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of a Construction Certificate

59. Road Internal Access Construction

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to issue of a CC for the civil works.

- Road ID, MC04, MC05, MC07 Construct a road pavement in accordance with the approved plans to serve Stage 4.
- Construct kerb and gutter
- Place two (2) coat hot bitumen seal on new works
- Construct drainage works as necessary.
- Construct a temporary turning head at the end of truncated roads adjoining future stages

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PRIOR TO ISSUE OF AN ACTIVITY APPROVAL UNDER SECTION 68 (PART A1) OF THE LOCAL GOVERNMENT ACT 1993 - PHASE 4

The following conditions are to be complied with, to the satisfaction of the Council, prior to issue of an Activity Approval under Section 68 (Part A1) of the Local Government Act, 1993.

60. Cessnock City Wide Development Contributions Plan (16 manufactured homes)

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of any CC/Activity Approval:

Fee Type Code	Contribution Type	Amount Payable
800	Cessnock – Open Space and recreation facilities	\$105,968.13
801	Cessnock – Community Facilities	\$28,141.95
802	Cessnock – Cycleway Facilities	\$22,324.34
803	Cessnock – Roads and Traffic	\$18,059.30
804	Cessnock – Plan Administration	\$2,614.84
	Total	\$177,108.56

A copy of the *Cessnock City Wide Infrastructure Contributions Plan* may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan. This amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE - PHASE 5

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of a Construction Certificate

61. Road Internal Access Construction

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to issue of a CC for the civil works.

- Road ID, MC05, MC06, MC07 Construct a road pavement in accordance with the approved plans to serve Stage 5.
- Construct kerb and gutter
- Place two (2) coat hot bitumen seal on new works
- Construct drainage works as necessary.

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- e) Construct a temporary turning head at the end of truncated roads adjoining future stages

PRIOR TO ISSUE OF AN ACTIVITY APPROVAL UNDER SECTION 68 (PART A1) OF THE LOCAL GOVERNMENT ACT 1993 - PHASE 5

The following conditions are to be complied with, to the satisfaction of the Council, prior to issue of an Activity Approval under Section 68 (Part A1) of the Local Government Act, 1993.

62. Cessnock City Wide Development Contributions Plan (30 manufactured homes)

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of any CC/Activity Approval:

Fee Type Code	Contribution Type	Amount Payable
800	Cessnock – Open Space and recreation facilities	\$198,690.24
801	Cessnock – Community Facilities	\$52,766.16
802	Cessnock – Cycleway Facilities	\$41,858.14
803	Cessnock – Roads and Traffic	\$33,861.19
804	Cessnock – Plan Administration	\$4,902.82
	Total	\$332,078.55

A copy of the *Cessnock City Wide Infrastructure Contributions Plan* may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan. This amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE - PHASE 6

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of a Construction Certificate

63. Road Internal Access Construction

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to issue of a CC for the civil works.

- a) Road ID, MC04, MC06 Construct a road pavement in accordance with the approved plans to serve Stage 6.

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- b) Construct kerb and gutter
- c) Place two (2) coat hot bitumen seal on new works
- d) Construct drainage works as necessary.
- e) Construct a temporary turning head at the end of truncated roads adjoining future stages

PRIOR TO ISSUE OF AN ACTIVITY APPROVAL UNDER SECTION 68 (PART A1) OF THE LOCAL GOVERNMENT ACT 1993 - PHASE 6

The following conditions are to be complied with, to the satisfaction of the Council, prior to issue of an Activity Approval under Section 68 (Part A1) of the Local Government Act, 1993.

64. Cessnock City Wide Development Contributions Plan (30 manufactured homes)

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of any CC/Activity Approval:

Fee Type Code	Contribution Type	Amount Payable
800	Cessnock – Open Space and recreation facilities	\$198,690.24
801	Cessnock – Community Facilities	\$52,766.16
802	Cessnock – Cycleway Facilities	\$41,858.14
803	Cessnock – Roads and Traffic	\$33,861.19
804	Cessnock – Plan Administration	\$4,902.82
	Total	\$332,078.55

A copy of the *Cessnock City Wide Infrastructure Contributions Plan* may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan. This amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE - PHASE 7

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of a Construction Certificate

65. Road Internal Access Construction

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to issue of a

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CC for the civil works.

- a) Road ID, MC04, MC06 Construct a road pavement in accordance with the approved plans to serve Stage 7.
- b) Construct kerb and gutter
- c) Place two (2) coat hot bitumen seal on new works
- d) Construct drainage works as necessary.
- e) Construct a temporary turning head at the end of truncated roads adjoining future stages

PRIOR TO ISSUE OF AN ACTIVITY APPROVAL UNDER SECTION 68 (PART A1) OF THE LOCAL GOVERNMENT ACT 1993 - PHASE 7

The following conditions are to be complied with, to the satisfaction of the Council, prior to issue of an Activity Approval under Section 68 (Part A1) of the Local Government Act, 1993.

66. Cessnock City Wide Development Contributions Plan (30 manufactured homes)

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of any CC/Activity Approval:

Fee Type Code	Contribution Type	Amount Payable
	800 Cessnock – Open Space and recreation facilities	\$198,690.24
	801 Cessnock – Community Facilities	\$52,766.16
	802 Cessnock – Cycleway Facilities	\$41,858.14
	803 Cessnock – Roads and Traffic	\$33,861.19
	804 Cessnock – Plan Administration	\$4,902.82
	Total	\$332,078.55

A copy of the *Cessnock City Wide Infrastructure Contributions Plan* may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan. This amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE - PHASE 8

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of a Construction Certificate

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**67. Road Internal Access Construction**

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to issue of a CC for the civil works.

- a) Road ID, MC06, MC07 Construct a road pavement in accordance with the approved plans to serve Stage 8.
- b) Construct kerb and gutter
- c) Place two (2) coat hot bitumen seal on new works
- d) Construct drainage works as necessary.

PRIOR TO ISSUE OF AN ACTIVITY APPROVAL UNDER SECTION 68 (PART A1) OF THE LOCAL GOVERNMENT ACT 1993 - PHASE 8

The following conditions are to be complied with, to the satisfaction of the Council, prior to issue of an Activity Approval under Section 68 (Part A1) of the Local Government Act, 1993.

68. Cessnock City Wide Development Contributions Plan (30 manufactured homes)

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of any CC/Activity Approval:

Fee Type Code	Contribution Type	Amount Payable
	Cessnock – Open Space and recreation facilities	\$198,690.24
	Cessnock – Community Facilities	\$52,766.16
	Cessnock – Cycleway Facilities	\$41,858.14
	Cessnock – Roads and Traffic	\$33,861.19
	Cessnock – Plan Administration	\$4,902.82
800	Total	\$332,078.55

A copy of the *Cessnock City Wide Infrastructure Contributions Plan* may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan. This amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

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**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE - PHASE 9**

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of a Construction Certificate

69. Road Internal Access Construction

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to issue of a CC for the civil works.

- a) Road ID, MC01 Construct a road pavement in accordance with the approved plans to serve Stage 9.
- b) Construct kerb and gutter
- c) Place two (2) coat hot bitumen seal on new works
- d) Construct drainage works as necessary.

PRIOR TO ISSUE OF AN ACTIVITY APPROVAL UNDER SECTION 68 (PART A1) OF THE LOCAL GOVERNMENT ACT 1993 - PHASE 9

The following conditions are to be complied with, to the satisfaction of the Council, prior to issue of an Activity Approval under Section 68 (Part A1) of the Local Government Act, 1993.

70. Cessnock City Wide Development Contributions Plan (26 manufactured homes)

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of any CC/Activity Approval:

Fee Type Code	Contribution Type	Amount Payable
	Cessnock – Open Space and recreation facilities	\$172,198.21
	Cessnock – Community Facilities	\$45,730.67
	Cessnock – Cycleway Facilities	\$36,277.06
	Cessnock – Roads and Traffic	\$29,346.36
	Cessnock – Plan Administration	\$4,249.11
	Total	\$287,801.41

A copy of the *Cessnock City Wide Infrastructure Contributions Plan* may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan. This amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

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Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE - PHASE 10

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of a Construction Certificate

71. Road Internal Access Construction

The registered proprietor of the land shall construct the following in accordance with Council's 'Engineering Requirements for Development' and set out on a set of plans, four (4) copies of which are to be submitted to, and approved by, Council prior to issue of a CC for the civil works.

- a) Road ID MC03 Construct a road pavement in accordance with the approved plans to serve Stage 10.
- b) Construct kerb and gutter
- c) Place two (2) coat hot bitumen seal on new works
- d) Construct drainage works as necessary.
- e) Construct a drainage crossing to facilitate stormwater flows up to the PMF level as identified within the Flood risk Management report.

PRIOR TO ISSUE OF AN ACTIVITY APPROVAL UNDER SECTION 68 (PART A1) OF THE LOCAL GOVERNMENT ACT 1993 - PHASE 10

The following conditions are to be complied with, to the satisfaction of the Council, prior to issue of an Activity Approval under Section 68 (Part A1) of the Local Government Act, 1993.

72. Cessnock City Wide Development Contributions Plan (36 manufactured homes)

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of any CC/Activity Approval:

Fee
Type
Code
800
801
802
803
804

Contribution Type	Amount Payable
Cessnock – Open Space and recreation facilities	\$238,428.29
Cessnock – Community Facilities	\$63,319.39
Cessnock – Cycleway Facilities	\$50,229.77
Cessnock – Roads and Traffic	\$40,633.43
Cessnock – Plan Administration	\$5,883.39
Total	\$398,494.27

A copy of the *Cessnock City Wide Infrastructure Contributions Plan* may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

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The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan. This amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

PRIOR TO COMMENCEMENT OF WORKS (ALL PHASES)

The following conditions are to be complied with prior to the commencement of works on the subject site/

73. Construction and Traffic Management Plan

The applicant must prepare a Construction Management and Traffic Management Plan incorporating the following matters. The plan must be submitted to and approved by the PC as satisfying these matters prior to the commencement of works.

- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane, concrete pump, truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An onsite parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.

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- x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer.
- b) During excavation, demolition and construction phases, noise generated from the site must be controlled.
- c) All site works must comply with the work health and safety requirements of SafeWork NSW.
- d) During excavation, demolition and construction phases, toilet facilities are to be provided on site, at the rate of one (1) toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.
- e) All traffic control plans must be in accordance with the TfNSW publication *Traffic Control Worksite Manual* and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of six (6) weeks prior to the proposed activity being undertaken.

74. Soil and Water Management Plan

The applicant must prepare a Soil and Water Management Plan, being compatible with the Construction Management and Traffic Management Plan referred to in this Development Consent and incorporating the following matters. The plan must be submitted to and approved by the PC as satisfying these matters prior to the commencement of works.

- a) Minimise the area of soils exposed at any one time
- b) Conservation of top soil
- c) Identify and protect proposed stockpile locations
- d) Preserve existing vegetation. Identify revegetation technique and materials
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner
- f) Control surface water flows through the site in a manner that:
 - i) Diverts clean-runoff around disturbed areas
 - ii) Minimises slope gradient and flow distance within disturbed areas
 - iii) Ensures surface run-off occurs at non erodible velocities
 - iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences
- h) Materials are not tracked onto the road by vehicles entering or leaving the site.
- i) Details of drainage to protect and drain the site during works.

75. Public Liability Insurance

Any person or contractor undertaking works on public property must take out Public Risk insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within, public property. The Policy is to note, and provide protection for Cessnock City Council as an interested party, and a copy of the Policy

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must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property. The insurance shall also note the location and the risk.

76. S138 Roads Act Approvals

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, or public road reserve be required, a S138 Roads Act Approval will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The S138 application is to be submitted to, and approved by, Council prior to works commencing.

77. Soil and Water Management Plan Implemented

The requirements of the Soil and Water Management Plan shall be in place prior to the commencement of demolition works and/or construction works and shall be maintained throughout the demolition and/or construction process.

78. Relocation of Services

The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. In the event that existing services are required to be relocated the proprietor shall make application to obtain any necessary approval from the relevant service authority prior to commencement of any works.

79. Over mass size approval

Obtain and comply with over mass over size (OMOS) approval from the National Heavy Vehicle Regulator for delivery and removal of manufactured homes. Include OMOS requirements in the Construction Traffic Management and Traffic Control Plans.

80. Trade Waste

Prior to construction, Hunter Water is to be contacted to advise on the installation of a suitably sized grease trap and to enter into a Trade Waste Agreement for disposal of trade waste to sewer.

81. Soft-felling of Hollow Bearing/Habitat Trees

A hollow bearing/habitat tree survey must be undertaken by a fauna ecologist in the week prior to the felling of any trees. During the survey, the ecologist is to tap the tree, by banging the base of each tree with a mallet or using a similar method, to encourage any fauna to vacate. An observation period of at least 5 minutes per tree is required to observe the emergence of any fauna, and observations must be noted. All hollow bearing/habitat trees must be marked as part of the survey.

All surrounding trees that are not hollow bearing or habitat trees must be cleared at least one day prior to felling of any hollow bearing/habitat trees.

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Equipment used to fell hollow bearing or habitat trees must be capable of slowly lowering the trees to the ground. A qualified fauna ecologist must be present during the felling of the trees. The fauna ecologist must have the appropriate skills and equipment to perform euthanasia if necessary. Immediately prior to felling, each hollow bearing/habitat tree should be tapped or gently shaken with the equipment followed by an observation period of at least one minute to watch for the emergence of any fauna. The tree should be tapped again, followed by a second observation period of at least one minute. If fauna appear during the observation period, the ecologist should encourage the fauna to relocate. If no fauna appear, the tree is to be lowered to the ground slowly and gently. The hollows of the felled tree should be inspected for fauna by the ecologist after it has settled.

82. Care of Native Fauna Found in Felled Trees

Any uninjured fauna should be relocated to nearby bushland. Any nocturnal fauna should be kept in a suitable cage in a shaded location until dusk, and then released into nearby bushland. If juvenile fauna are discovered in hollows after a tree is felled, they are to be taken into the care of an organisation such as the Native Animal Trust Fund.

Injured fauna should be assessed by the ecologist, and euthanised if their injuries are such that the ecologist considers that they are unlikely to survive. If injured fauna are likely to survive, they should be taken to a vet for treatment. After treatment, fauna should be taken to an organisation such as the Native Animal Trust Fund for care until they can be released.

83. Boundaries of Priority Retention and Flood Affected Area

Prior to any clearing or construction works commencing, the boundaries of the land marked Priority Retention and Flood Affected as shown in Figure 7 of the Biodiversity Development Assessment Report by Anderson Environment & Planning (Revision 3) dated 6 May 2021 are to be clearly delineated using brightly coloured tape and temporary fencing. The boundaries are to be appropriately signposted to ensure that clearing, construction and development activities do not encroach or impact these areas. The temporary fencing used to delineate the boundary of these areas and the area to be cleared must not prevent or restrict fauna movement from the area to be cleared into the area of native vegetation to be retained. The tape, temporary fencing and signs are to remain in place until works are completed.

84. Tree Survey

Prior to any clearing or construction works commencing, a survey of any trees to be cleared must be undertaken by a qualified and experienced ecologist to determine whether any nests are present and if so, what species are occupying the nests.

85. Tree Protection Fencing and Signage

Any trees to be retained within 10m of the development footprint must be fenced prior to construction works beginning. The fencing is to encompass the maximum possible area within the drip line of the canopy. Tree protection signage must be attached to the fencing surrounding the retained trees.

DURING WORKS (ALL PHASES)

The following conditions are to be complied with during works.

86. Tree Protection Fencing and Signage

All tree protection fencing and signage must remain in place until completion of construction works.

87. Clearing of Trees

Any clearing of trees with nests on the site must be done under the supervision of a qualified and experienced ecologist to minimise the risk of any fauna species being injured. Any trees with nests must be slowly and carefully lowered to the ground. Any native fauna present must be taken to a vet for treatment if required and then to an organisation such as the Native Animal Trust until they can be released.

88. Hollows

Hollows from felled trees must be placed within the land marked Priority Retention and Flood Affected as shown in Figure 7 of the Biodiversity Development Assessment Report (Revision 3) by Anderson Environment & Planning dated 6 May 2021.

89. Construction Hours

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. Work is not to be carried out on Sundays and public holidays.

90. Site is Securely Fenced

The site must be appropriately secured and fenced at all times during works.

91. Approved Plans Kept On Site

A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.

92. Excavations and Backfilling

All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a professional engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- a) Preserve and protect the building from damage

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- b) If necessary, underpin and support the building in a manner certified by a professional engineer.
- c) Give at least seven (7) days' notice to the adjoining owner before excavating, of the intention to excavate

The principal contractor, owner builder, or any person who needs to excavate and undertake building work, must first contact "Dial Before You Dig" and allow a reasonable period of time for the utilities to provide locations of their underground assets.

93. Construction Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment and Heritage *Noise Guide for Local Government*.

94. Location of Council Pipes

During all phases of demolition, excavation and construction, it is the full responsibility of the applicant and their contractors to:

- a) Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works;
- b) Take measures to protect the in-ground Council stormwater drainage pipeline associated pits;
- c) Ensure dedicated overland flow paths are satisfactorily maintained through the site.

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage, and the like). All proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

If the Council pipeline is uncovered during construction, all work must cease, and the PC and Council must be contacted immediately for advice. Any damage caused to the Council stormwater drainage system must be immediately repaired in full as directed, and at no cost to Council.

95. Construction Vehicles

Construction material and vehicles shall not be placed on public footpaths. The use of footpaths or roadways shall be undertaken in accordance with the prevailing kerbside restrictions, the Australian Road Rules and Council's Parking Code.

96. Virgin Fill To Be Used

All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste, and which has been excavated from areas of land that are not contaminated with human made chemicals as

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a result of industrial, commercial, mining or agricultural activities, and which do not contain sulphate ores or soils.

97. Road – Obstruction of Footpath Restriction

No obstruction is to be caused to Council's footpaths, roads and/or other public areas during construction of the development.

No spoil, building materials, excavated or demolition material from the site shall be stored or deposited on the public road, footpath, public place or Council owned property, without prior approval of Council.

98. Implementation of Soil and Water Management Plan

The requirements of the Soil and Water Management Plan must be maintained at all times during the works, and any measures required by the Soil and Water Management Plan shall not be removed until the site has been stabilised.

Materials from the site are not to be tracked into the road by vehicles entering or leaving the site. At the end of each working day, any dust/dirt or other sediment shall be swept off the road and contained on the site, and not washed down any stormwater pit or gutter.

The sediment and erosion control measures are to be inspected daily, and defects or system failures are to be repaired as soon as they are detected.

99. Erosion and Sediment Controls

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's "Engineering Requirements for Development", and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks, and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

100. Stormwater Runoff

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

101. Dam Proposed

The dam and overflow spillway must be designed by a suitably qualified person. The overflow spillway is not to directly discharge on to any neighbouring property, other than through an existing watercourse.

The materials used for the banks of the dam are to be comprised of material excavated from the site if suitable. If materials are to be imported from other sites, the applicant is to notify Council of the origin of the fill.

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The site surface levels are to be designed so that site surface stormwater is deflected away from buildings and neighbours' boundary fences, and does not cause nuisance or flooding of those areas for storm events less than 1% AEP.

To ensure stability of the dam embankment, exposed soil embankments are to be stabilised using appropriate grass species, to the satisfaction of Council. Trees or shrubs are not to be planted on the embankment, as roots may provide a seepage path for water, and weaken the dam wall.

The dam must be designed to handle storm flows, and the dam walls are to be sufficiently compacted to prevent seepage or slumping.

The dam wash is not to direct flows onto the downstream top of wall of the dam.

The dam is to have a cut off trench that is to be taken down a minimum of 30mm into impervious soil and backfilled with suitable impervious material.

The toe of all proposed fill batters is to be at least 3 metres clear of all lot boundaries.

The dam is to be maintained in a condition free of noxious aquatic weeds, and in a manner that minimises the breeding of mosquitoes.

102. Floor Level Certification

The floor level of any proposed building shall be certified by a registered surveyor as being not less than 500mm above the 100 year Average Recurrence Interval (ARI) flood level as determined by the flood assessment undertaken by Northrop.

The evidence shall be submitted to the *PC* prior to construction works proceeding beyond floor level stage.

103. Removal of Contaminated Soil

Any soil proposed to be disposed of off-site must be classified, removed and disposed of in accordance with the New South Wales Environment and Heritage *Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-liquid Wastes 1999* and the *Protection of the Environment Operations Act 1997*.

Any soil which fails to meet the criteria is not to be disposed of off-site unless agreed to in writing by the Environment Protection Authority. Results of testing are to be forwarded to Cessnock Council for acknowledgement before any off-site disposal, and before proceeding with any construction works.

104. Stockpiles

The stockpiles, previously identified as contaminated, must be removed as part of redevelopment and as such will require assessment of the quality of individual stockpiles and suitability of re-use. Documentation concerning assessment of the quality of materials removed from these stockpiles must be submitted to Council.

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105. Unexpected Finds Protocol

The recommendations and actions specified in the Unexpected Finds Protocol prepared by Cardno Pty Ltd in file reference 81021056-002.0 and dated 23 April 2021 must be enacted and a copy of any documentation in relation to unexpected finds must be forwarded to Council.

106. Clearing of Development Footprint

Vegetation must be cleared from the periphery of vegetated areas first, progressing from east to west, to enable resident fauna to relocate to adjacent areas to be retained for conservation purposes.

107. Clearing of Development Footprint

During construction works all vehicles must be washed before entering the site to prevent the spread of exotic species.

108. Priority Retention and Flood Affected Land

Stockpiling or storage or mixing of materials (including soil), vehicle parking, disposal of liquids, machinery repairs, refuelling and the siting of any new offices or sheds must not occur within land marked Priority Retention and Flood Affected as shown in Figure 7 of the Biodiversity Development Assessment Report (Revision 3) by Anderson Environment & Planning dated 6 May 2021 during any stage of the development.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE (ALL PHASES)

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of an Occupation Certificate (as specified within the condition):

109. Roads – Concrete Crossing

The registered proprietors shall construct and maintain a concrete access crossing from the kerb and gutter within the internal roads to each property boundary, in accordance with Council's "Engineering Requirements for Development" and AS 2890.1.

110. All Services Provided

Certification that all services as required (eg water supply, gas, electricity, telephone, sewer), are available to the site, shall be submitted to the *PC* prior to issue of an *OC*.

111. Second Dilapidation Report

A second Dilapidation Report, including a photographic survey, must be submitted after the completion of works. A copy of this Dilapidation Report, together with the accompanying photographs, must be given to the property owners referred to in this Development Consent. A copy must be lodged with Council and the *PC* prior to the issue of an *OC*. Any remediation works required due to damage identified is to be completed prior to the issue of an *OC*.

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112. Food Premises

Prior to the issue of an OC, an inspection of the completed premises is to be conducted by the PC certifying that the food premises has been constructed in accordance with the approved plans.

113. Completion of Landscape Works

All landscape works, including the removal of all noxious weed species, are to be undertaken in accordance with the approved landscape plan and conditions of Development Consent, prior to the issue of an OC.

114. Parking – Completion

Car parking areas shall be completed prior to the issue of an OC.

115. Parking – Loading Facility Requirement

Loading/unloading facilities shall be constructed prior to the issue of an OC.

116. Disabled Access/Parking

The proposed development shall be provided with vehicular access and parking for the disabled in accordance with AS 1428.1 and AS 2890.6. The access shall be provided prior to issue of an OC.

117. Internal Road – Access Completion

The access road to serve each phase of the development shall be completed in accordance with Council's 'Engineering Requirements for Development' prior to the issue of an OC.

118. Road – Signage (Access)

The vehicular entrance and exit driveways, and the direction of traffic movement within the site, shall be clearly indicated by means of reflective signs and pavement markings prior to issue of an OC.

119. Positive Covenant – OSD

Prior to the issue of an OC, a positive covenant must be created under Section 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to maintain the onsite detention and onsite retention/re-use facilities on the property.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

- a) The proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the onsite stormwater detention facilities ("OSD").

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- b) The proprietor shall have the OSD inspected annually by a competent person.
- c) The Council shall have the right to enter upon the land referred to above, at all reasonable times, to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures which comprise the OSD, or which convey stormwater from the said land, and recover the costs of any such works from the proprietor.
- d) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD, or failure to clean, maintain and repair the OSD.

The proprietor, or successor, must bear all costs associated with the preparation of the subject 88E instrument. Proof of registration with the NSW Department of Lands must be submitted to, and approved by, the *PC* prior to the issue of an *OC*.

120. 88B Certificate Required

The areas managed under the approved Vegetation Management Plan must be protected in perpetuity by entering into an 88B instrument prior to the issue of an *OC*. The 88B instrument must state that these areas are not to be grazed or cleared (as defined under Section 60C of the Local Land Services Act 2013). Evidence of this is to be submitted to and approved by Council's Ecologist prior to issue of an *OC*.

121. Drainage Works

All drainage works required to be undertaken in accordance with this consent shall be completed prior to issue of an *OC* for the development.

122. Flood Mitigation Works

All flood mitigation works required to be undertaken in accordance with this consent shall be completed prior to issue of an *OC* for the development.

123. Stormwater – Plan of Management

The registered proprietor of the land shall prepare a Plan of Management for the OSD facilities within the development. The plan shall set out all design and operational parameters for the detention facilities, including design levels, hydrology and hydraulics, inspection and maintenance requirements, and time intervals for such inspection and maintenance. The plan shall be submitted to the *PC* for approval prior to the issue of an *OC*.

124. Flood Risk Management Plan

Prior to the issue of an *OC*, the *PC* is to receive from a suitably qualified and practising professional engineer, a certificate of compliance certifying that all aspects of the flood risk management plan have been completed in accordance with the approved design and relevant AS.

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125. Provision of Utilities

The applicant shall submit to Council evidence that the requirements of an energy supplier and telecommunications authority have been met in regard to the provision of these services to each lot within the approved subdivision. Such evidence shall be submitted to Council prior to release of the OC.

126. Flooding – Evacuation Management Plan

The applicant shall prepare a flood emergency evacuation and management plan for the proposed development. The plan should advise occupants of flood evacuation procedures and emergency contact telephone numbers. The management plan should avoid the use of the onsite facilities during periods of flood emergency or when flood warnings are issued. The applicant should contact Council and the State Emergency Service for advice in the preparation of the management plan.

The evacuation procedures should be permanently fixed to all community buildings in a prominent location, and kept up to date at all times.

The management plan shall be submitted to, and approved by, Council prior to the issue of an OC.

127. Connection to the Reticulated Water and Sewer System

The subject development will be serviced by an independent water and sewer utility operator. Prior to issue of an OC and use of the dwelling, the PC is to be provided with evidence from the independent water and sewer utility operator that the development has been connected to and has approval for use of the reticulated water and sewer system.

128. Certification of Fire Services

The community buildings must comply with the fire safety provisions applicable to the approved use. The applicant shall provide Council and the Fire Commissioner with a copy of the Final Fire Safety Certificate and the Fire Safety Schedule relating to the required fire safety measures, in accordance with Division 4 of the *Environmental Planning and Assessment Regulation 2000* prior to occupation of the building or issue of an OC.

The Final Fire Safety Certificate and the Fire Safety Schedule are to be prominently displayed in the building.

129. Fire Hydrants

No part of a dwelling site or a community building within the manufactured home estate shall be situated more than 90 metres from a fire hydrant. Any fire hydrant located within the estate must be a double –headed pillar type fire hydrant and be listed in the Fire Safety Schedule for the property as an essential fire safety measure. A final Fire Safety Certificate including installation certification documentation shall be submitted to Council upon installation and prior to occupation of any affected building.

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130. Swimming Pools / Spa

The swimming pool shall not be filled with water until such time as the safety fencing and gates have been completed in accordance with the approved plans and specifications.

Note: It is the applicant's responsibility to ensure that all excavations and incomplete pools have appropriate safety fencing, or are otherwise protected.

131. Gate Controls

The entrance/exit points to the development site are to be fitted with electronic gates to control access to the site during the night by vehicles and pedestrians.

The design and management of the entrance/exit gates are to allow entrance for any emergency vehicles.

ONGOING USE

The following conditions are to be complied with as part of the ongoing use of the premises.

132. Community and Recreation Facilities

The approved community and recreation facilities are to be used by residents of the manufactured home estate and their guests only, with the exception of the golf course/club and the bowling green.

133. Hours of Operation

The property is to be used for the purpose approved only within the following hours, as specified in the approved Operational Plan:

Community centre

- 9:00am to 9:00pm Monday to Saturday
- 10:00am to 5:00pm Sundays and Public Holidays
- The swimming pool and gymnasium may operate from 8:00am – 5:00pm Monday to Sunday

Tennis Court and bowling greens

- 8:00am to 5:00pm Monday to Sunday

134. Outdoor Lighting

All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and road reserve, and must comply with, where relevant, *AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance and design requirements* and *AS 4282:1997 Control of the obtrusive effects of outdoor lighting*.

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135. Road – Advice

The applicant is advised that Council will not accept responsibility for the road access. In this respect, the care, control and maintenance thereof, is the sole responsibility of the user/s, in perpetuity.

136. Maintenance of Landscaping

Landscaping shall be maintained in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the development.

If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

An annual report shall be submitted to Council, for the three (3) years following issue of the OC, certifying that the landscaping works have been satisfactorily maintained.

137. Surveillance Landscaping Maintenance

A landscaping maintenance program is to be implemented to ensure that surveillance opportunities are not hindered due to neglected landscaping areas, especially on the perimeter of the development.

138. Use of Swimming Pool

The swimming pool shall not be used for commercial or professional purposes without separate approval from Council.

Access gates are to be self-closing and self-latching, and shall open outwards from the pool area. The occupier of any premises in or on which a swimming pool is situated must ensure that gates providing access to the swimming pool are kept securely closed at all times when they are not in actual use.

Pool plant (i.e. filter) shall be sited and operated so as not to cause a noise nuisance to adjoining neighbours. Provisions of the *Protection of the Environment Operations Act* include restrictions relating to noise levels.

The occupier of the property in or on which a swimming pool is situated must ensure that there is at all times a sign complying with the requirements of clause 10 of the *Swimming Pools Regulation 2018*, prominently displayed and permanently fixed in the vicinity of the swimming pool.

139. Registration of Swimming Pool

Prior to use Council is to be contacted to register the installation of a public swimming pool to enable the pool to be regularly tested and checked by Council Officers.

140. Food Business Notification

Prior to opening, the operator of the food business is to provide Notification to Council of the commencement of a food business.

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141. Waste Management

- All waste and recycling storage is to be wholly located within the dedicated bin storage areas.
- The bin collection points are to be level, free of obstructions and with sufficient height clearance to enable safe collection and serving of garbage bins.
- Waste collection must be carried out at sufficient intervals to ensure that the facility is kept in a safe and healthy condition.
- Waste service collection must be provided by a commercial waste service contractor.
- Problem and bulky waste is to be managed by the proprietor.

142. Operational Plan

The development must be managed and operated in accordance with the approved Operational Plan (prepared by Enliven, dated July 2021).

143. Estate Incident Book and Accident Injury Register

An estate incident book and accident injury register is to be regularly maintained and is required to be made available on request by NSW Police or Council officers.

144. Complaints Register

Complaints and disputes must be managed in accordance with the approved Complaints and Disputes Policy (prepared by Enliven, dated July 2021). A complaints register is to be kept in the event that complaints are received from the general public on the estate. Full details of the complaint are to be recorded including date, name, address, nature of the complaint and the outcome of the complaint. The register is to be made available on request by NSW Police or Council officers.

145. Graffiti Resistant Materials and Graffiti Removal

Graffiti resistant materials are to be used in fencing and ground floor areas and graffiti is to be removed within forty-eight (48) hours.

146. Private Contractor – Waste Collection

A private contractor is to be engaged for waste collection including general waste, recycling, green waste and regular bulk waste collection.

147. Community Bus

A community bus must be available to residents of the manufactured home estate and provide scheduled daily shopping runs and for other purposes as reasonably needed in accordance with the approved Operational Plan (prepared by Enliven, dated July 2021).

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148. On-site Manager

The development must have an on-site live-in manager who will be at the property outside of business hours and available 24 hours.

149. Crime Prevention Through Design

The Crime Prevention Through Environmental Design (CPTED) principles recommended in the approved CPTED Assessment (prepared by James Marshall & Co, dated June 2020) must be incorporated into the development, including (but not limited to):

- a) installation of external boundary fencing
- b) directional signage
- c) residential house numbers clearly displayed
- d) lighting of pedestrian pathways, car parks and caravan storage area
- e) CCTV of caravan storage area and golf club house
- f) Rapid repair of graffiti and malicious damage

150. Noise Assessment Recommendations

In accordance with the recommendations of the approved Noise Impact Assessment (prepared by Reverb Acoustics, dated March 2021), the existing acoustic mound located along the north boundary of the development site is to be retained to ensure ongoing compliance with noise criteria.

151. Air Conditioning Units/ Hot Water Storage Units

Any individual air conditioning unit and heat pump for hot water storage units on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997*.

ADVISORY NOTES

A. Disability Inclusion Act

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Inclusion Act 2014*. The applicant/owner is responsible for ensuring compliance with this, and other, anti-discrimination legislation. The *Disability Inclusion Act 2014* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *AS 1428.1 - Design for Access and Mobility*. *AS1428 Parts 2, 3 & 4* provide the most comprehensive technical guidance under the *Disability Inclusion Act 2014* currently available in Australia.

B. "DIAL BEFORE YOU DIG" DIAL 1100

Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au

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C. Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.

D. Other Approvals and Permits

The applicant shall apply to Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, and/or any other approvals under *Section 68 (Approvals)* of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

E. Responsibility for Other Consents/Agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

F. Site Contamination Issues During Construction

Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination, Council must be immediately notified by the applicant, and works must cease. Works must not recommence on site until approval is granted by Council.

G. Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Relics

If any archaeological relics are uncovered during the course of the work, all works shall cease immediately in that area, and the OEH Heritage Branch shall be contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *NSW Heritage Act 1977*, may be required before further works can continue in that area.

H. Aboriginal Heritage

As required by the *National Parks and Wildlife Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from the Heritage Division of the OEH.

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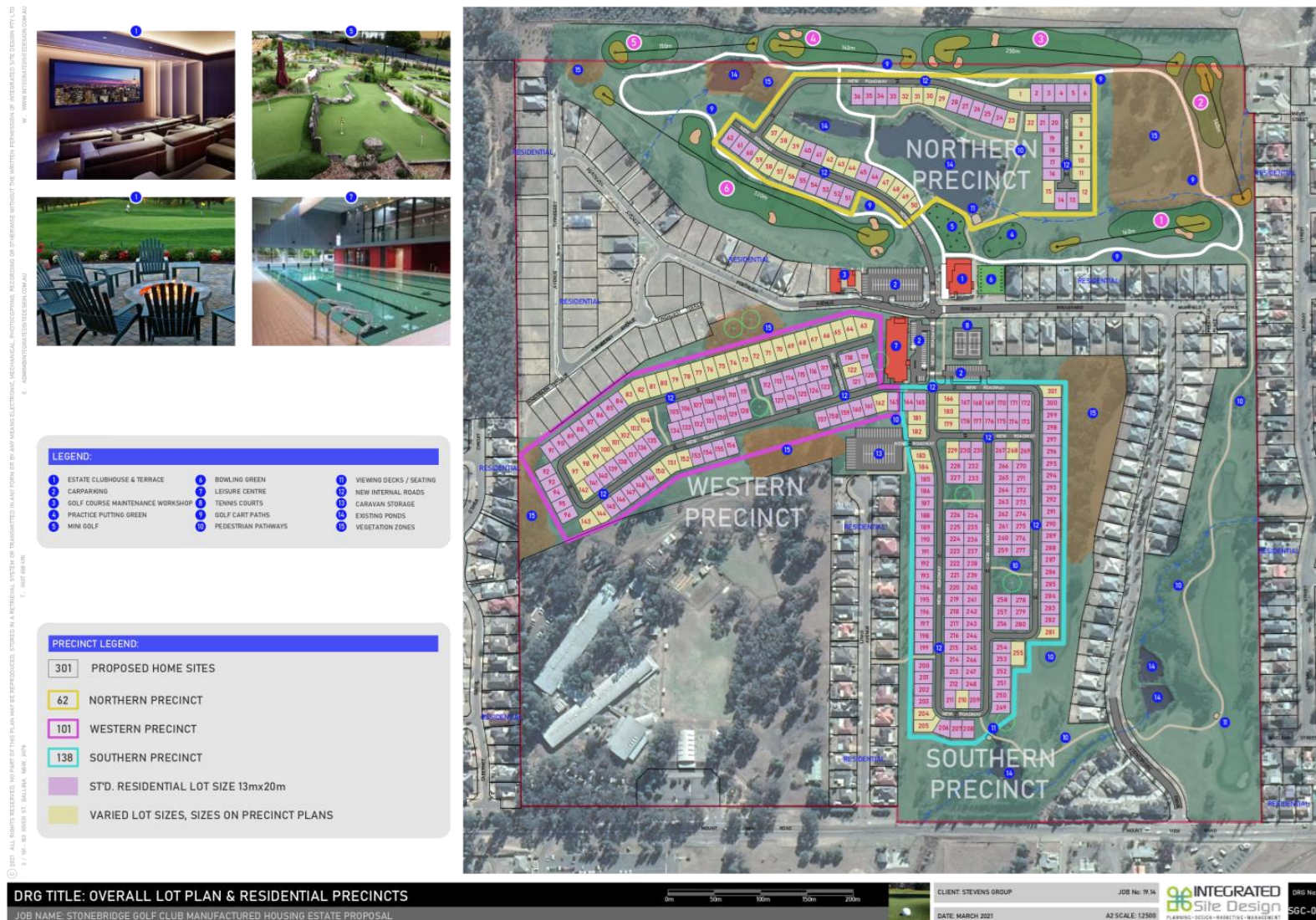
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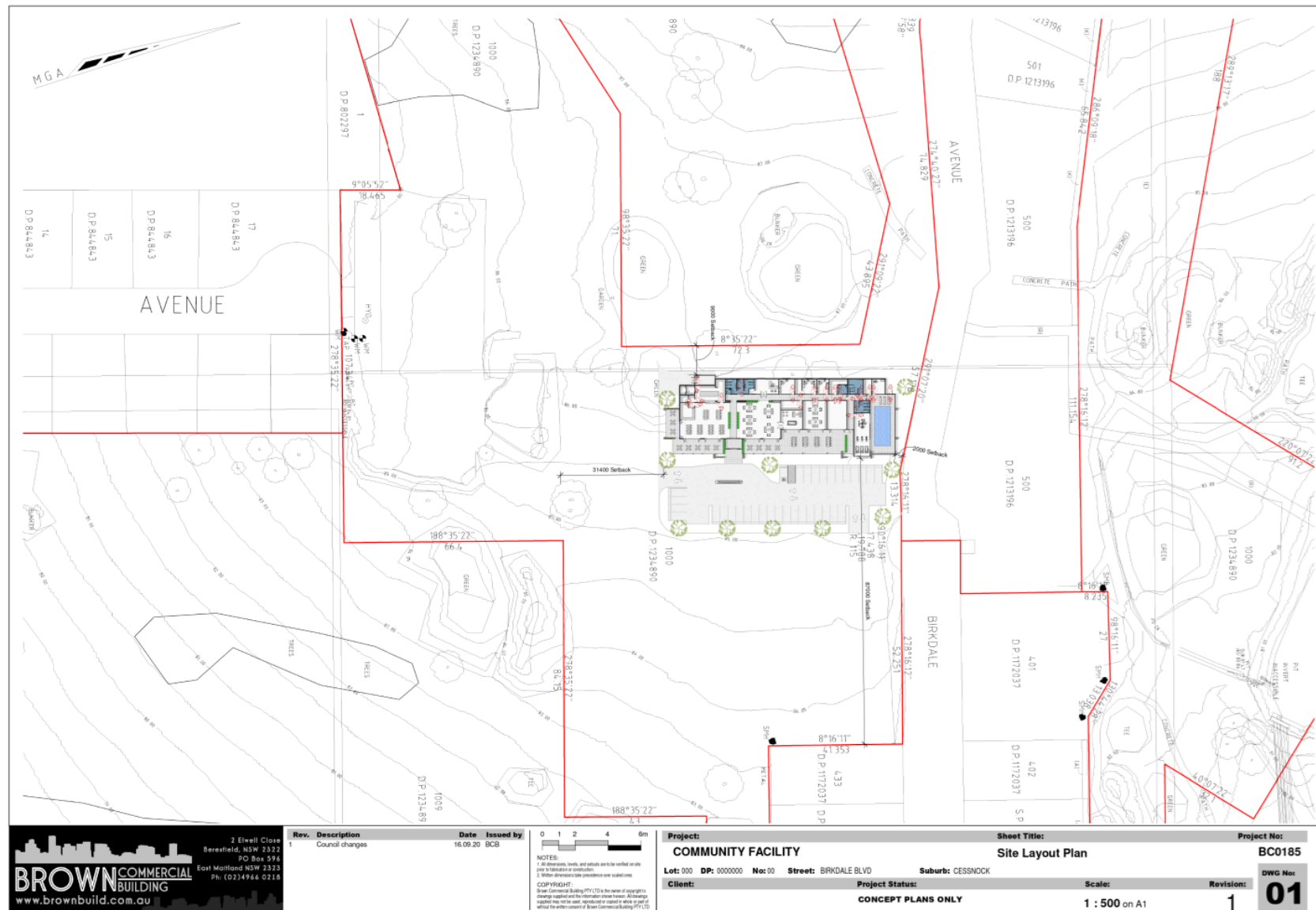


Note: The *National Parks and Wildlife Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and/or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

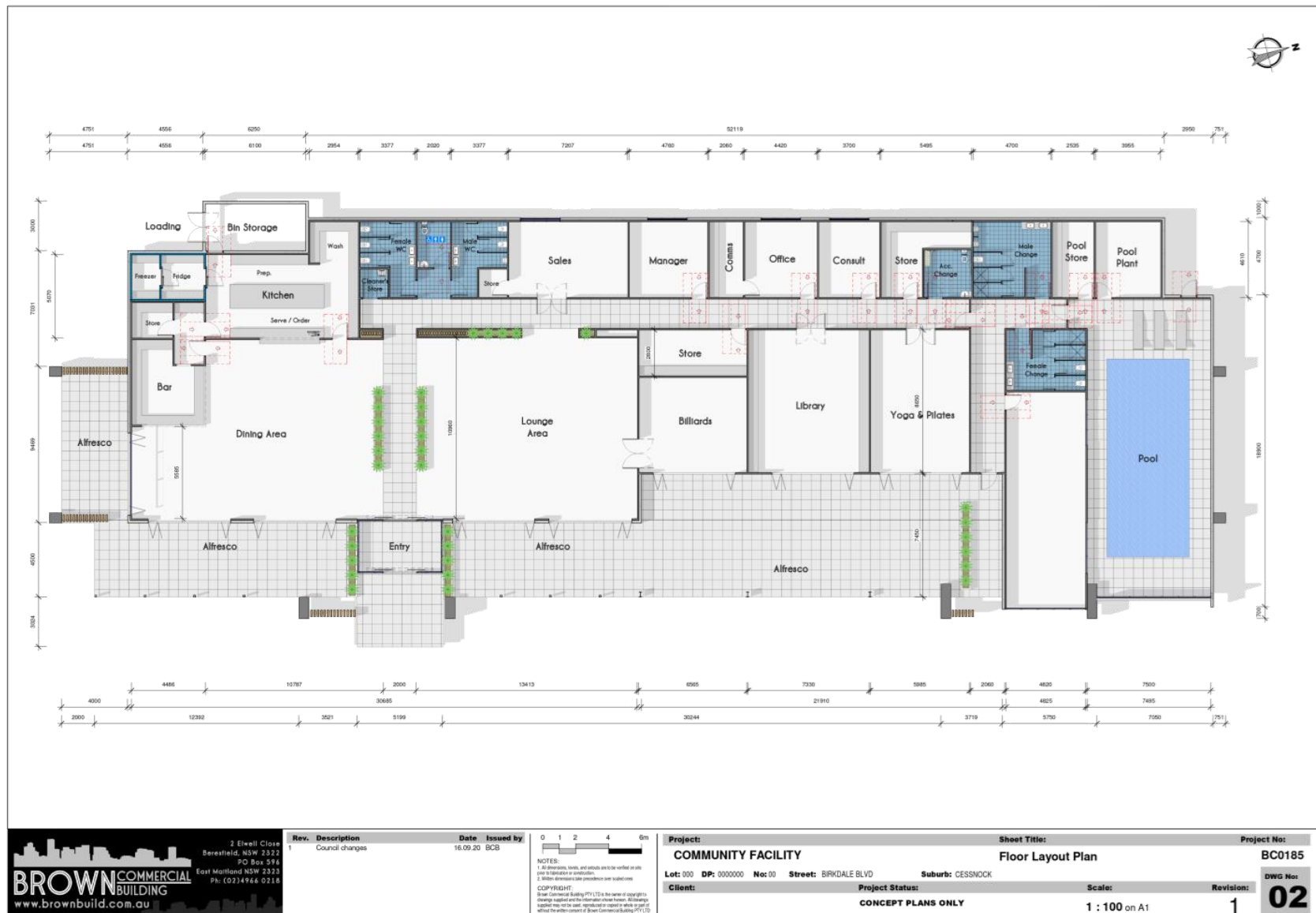
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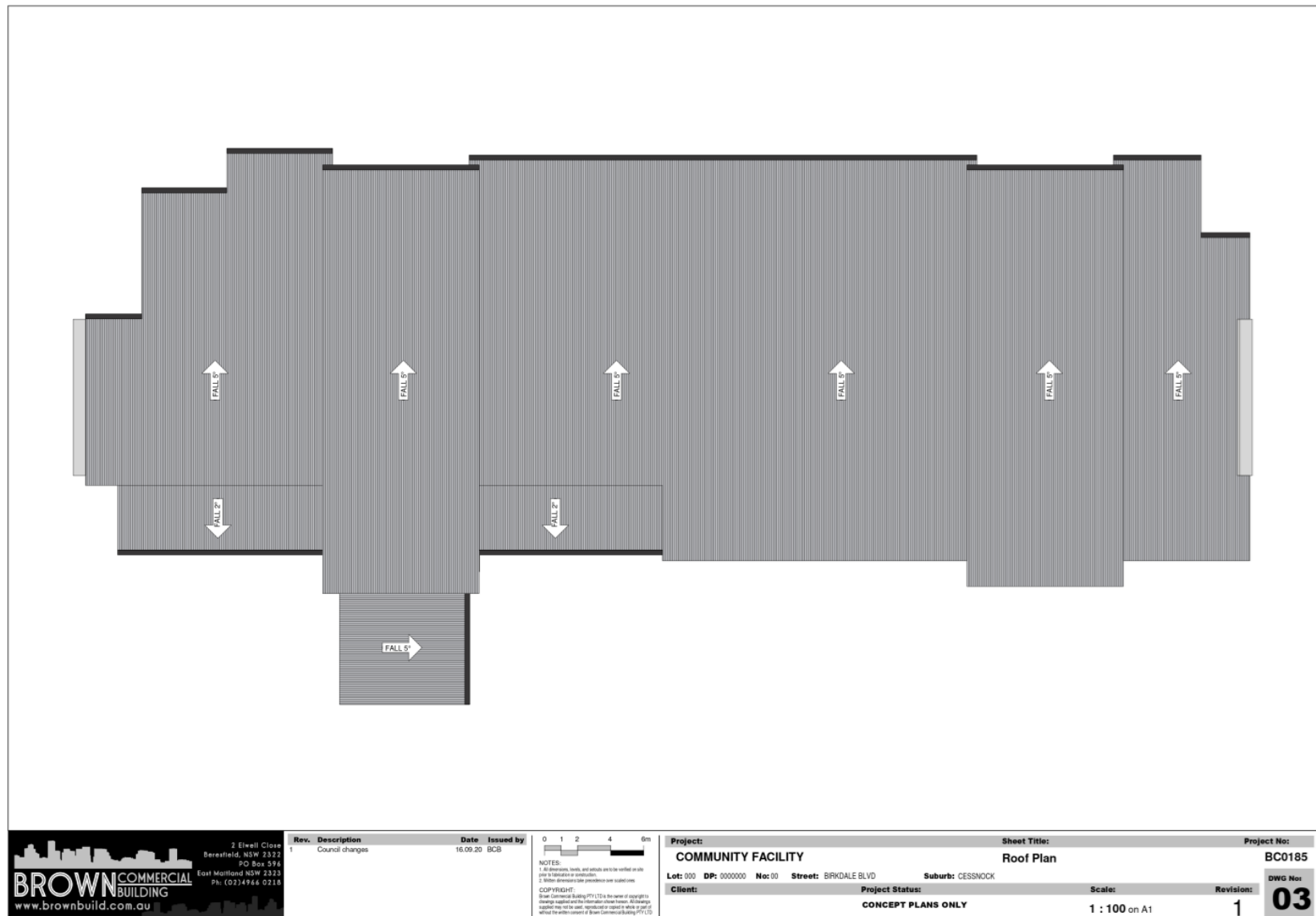
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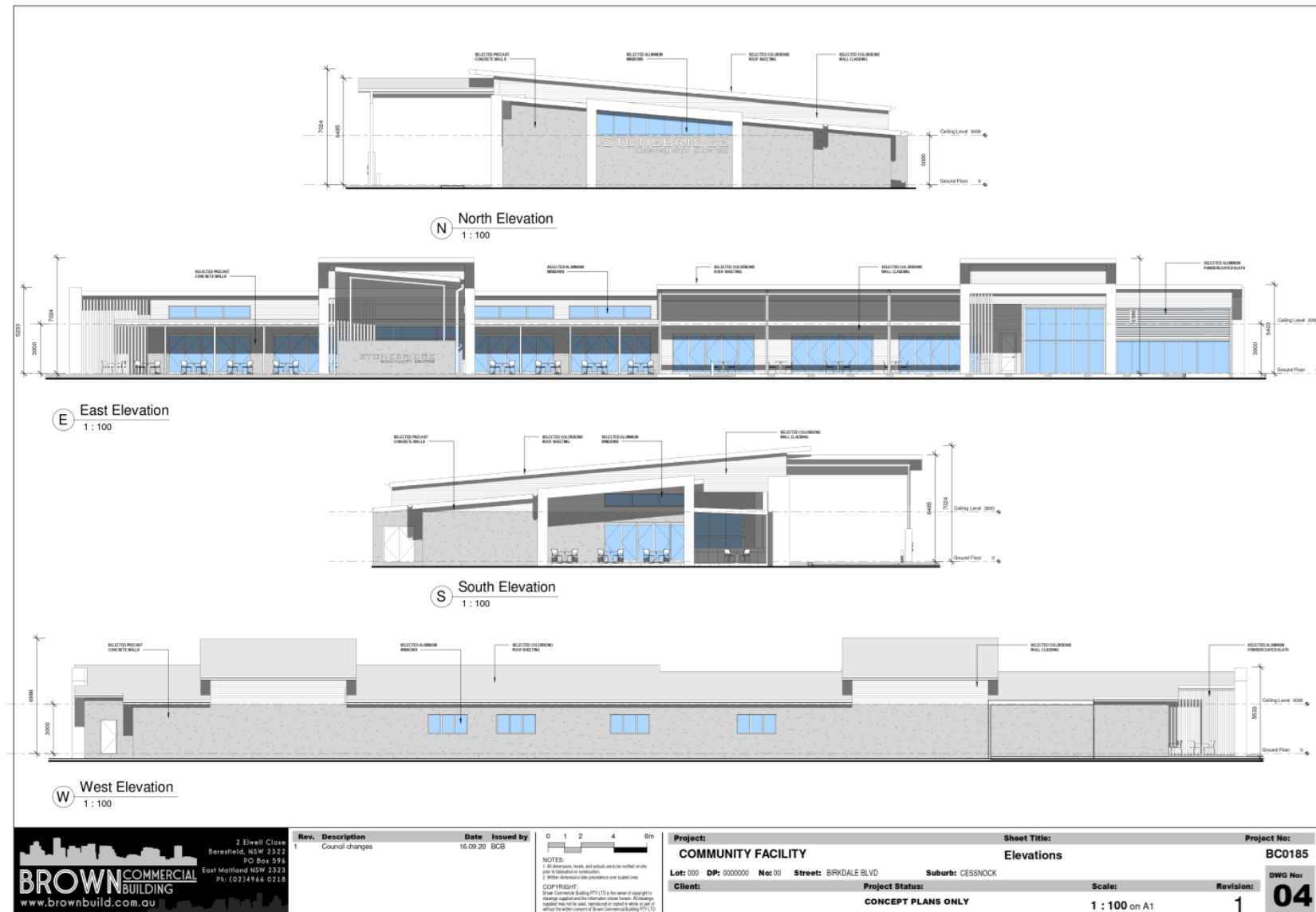
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Rev.	Description	Date	Issued by
1	Council changes	16.09.20	BCS

NOTES:
1. All dimensions, levels, and details are to be verified on site prior to fabrication or construction.
2. Before construction, please consult the relevant local council.
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Project:		Sheet Title:		Project No:	
COMMUNITY FACILITY		3d Perspectives		BC0185	
Lot: 000	DP: 0000000	No: 00	Street: BIRKDALE BLVD	Suburb: CESSNOCK	
Client:	Project Status:	Scale:	Revision:	DWG No:	
	CONCEPT PLANS ONLY	on A1	1	06	

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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2021/21041/1
PROPOSING CONSTRUCTION OF A DWELLING HOUSE*

12 QUORROBOLONG ROAD, CESSNOCK

RESPONSIBLE OFFICER: *Development Services Manager – Janine Maher*

APPLICATION NUMBER:	8/2021/21041/1
PROPOSAL:	Construction of a Dwelling House
PROPERTY DESCRIPTION:	Lot 508, DP 755215
PROPERTY ADDRESS:	12 Quorrobolong Road, Cessnock
ZONE:	RU2 Rural Landscape
OWNER:	Mr. L & Mrs. A Harris
APPLICANT:	Mr. Grant Mascini Care of Advantage NSW Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2021/21041/1 proposing construction of a dwelling house at Lot 508, DP755215, 12 Quorrobolong Road Cessnock, be refused pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, subject to the reasons contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The measures proposed for the disposal of waste water from the dwelling are contrary to the provisions contained within the Environment and Health Protection Guidelines: On-site Sewage Management for Single Households (DLG Guidelines), pursuant to Clause 29 of the *Local Government Regulation 2005*, as the application proposes a pump out waste water disposal service.
 - The proposal does not provide certainty regarding the likely future impacts of the development on the natural and built

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environments, and the social and economic impact on future residents. In this regard, satisfactory operation of the waste water system relies upon the financial capability of future occupants to maintain a full pump out waste water disposal service.

- The site is considered unsuitable for the development as the design, scale and siting of the proposed dwelling does not have due regard for the constraints of the land, and does not proposed to accommodate a sustainable on-site waste water system commensurate with the dwelling proposed.
- Approval of a pump out waste water disposal service is not considered to be in the public interest.

(iii) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

REASON FOR REPORT

Development Application No. 8/2021/21041/1 is being referred to Council for determination as the application is recommended for refusal and the refusal is considered to be merits-based.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2021/21041/1 proposing construction of a dwelling house at 12 Quorrobolong Road, Cessnock. Reticulated sewer is not available to the site, therefore, the application is required to demonstrate how waste water associated with the dwelling will be disposed of. The application proposes a pump out waste water disposal system.

The Development Application has been assessed against the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulations 2000*, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was not required to be publicly exhibited under the Cessnock Community Participation Plan. The subject site is constrained by the size of the lot (1050m²), the extent of the 1:100 year ARI flood affectation, and proximity to bush fire prone vegetation to both the east and west of the proposed dwelling location.

Council raised the need for the dwelling to be designed and sited in such a way to ensure that a suitable waste water disposal system with a land application area set aside for on-site disposal, could be provided on the site. Potential modifications to the current proposal which could assist in accommodating a suitable on-site waste water disposal system (including

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reducing the size of the dwelling, reducing the number of bedrooms in the dwelling, redesigning the dwelling, and repositioning the front setback), were discussed with the applicant.

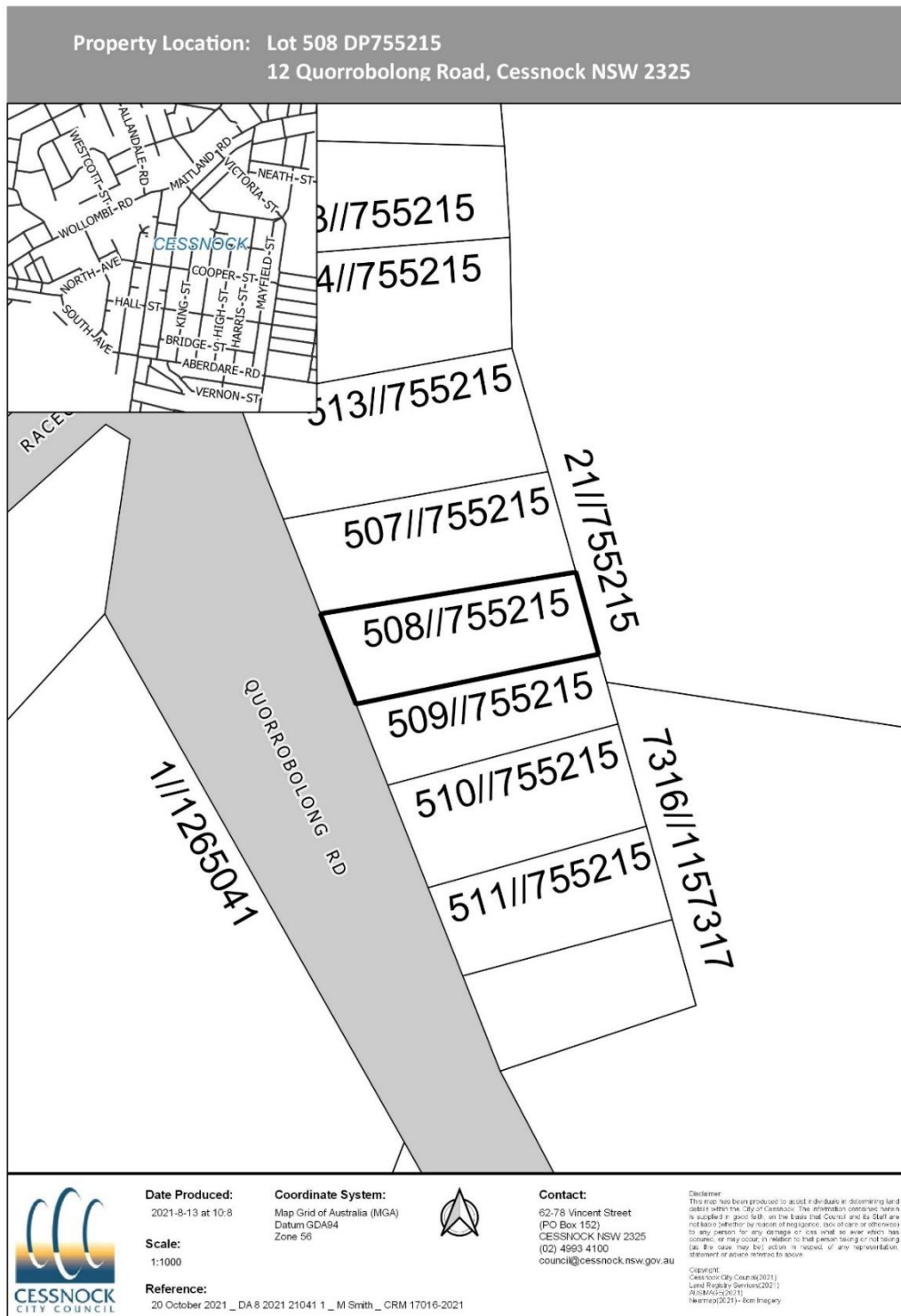
The proposal was supported by a wastewater management report (Decentralised Water Consulting, 28 June 2021) which included options for both on-site disposal and a pump out system. However, the applicant curtailed evaluation of on-site disposal options in favour of a pump out system based on lower installation costs.

In assessing the option put forward, the Environment and Health Protection Guidelines: On-site Sewage Management for Single Households (DLG Guidelines) were considered under the *Local Government Regulation 2005*. The guideline states that pump out systems should only be considered as a last resort, where existing systems are failing and no alternative or connection to sewer is possible. None of these circumstances are relevant in this case.

The proper use and maintenance of pump-out systems are largely subject to the diligence and financial capability of the occupant to maintain the system. The storage of a large volume of untreated waste water on site poses a risk to the environment, human health and amenity if regular servicing is not maintained.

Based on the assessment, it is recommended that the Development Application be refused subject to the reasons for refusal included in this report.

LOCATION MAP



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 12 Quorrobolong Road, Cessnock, and is legally described as Lot 508, Deposited Plan 755215.

The subject site is located on the eastern side of Quorrobolong Road. The site has a frontage of 20.861m to Quorrobolong Road, a depth of 55.643m and an overall site area of 1050m². Vehicular access to the site is available from the Quorrobolong Road frontage. The site is bordered by a heavily vegetated allotment to the east which is Crown Land.

The subject site is currently vacant land. The surrounding properties are also undersized RU2 allotments, characterised by low-density residential development being primarily single-storey dwelling houses.

There are no recent development consents issued in relation to the property.

HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
12 January 2021	Development Application lodged with Council.
19 February 2021	Flooding referral completed. Environmental Health referral completed – application not supported as pump out system provided in lieu of on-site waste water disposal system.
03 March 2021	Request for additional information issued – two (2) extensions were provided for the applicant to submit the requested information.
15 March 2021	Development engineering referral complete – application supported.
15 May 2021	Meeting held with applicant to discuss outstanding information, site constraints and potential design alterations which may assist in addressing site constraints.
21 May 2021	Final request for additional information issued – one (1) extension was provided for the applicant to submit the requested information.
09 July 2021	Additional Information provided by the applicant.
27 July 2021	Environmental Health referral complete – application not supported as pump out system provided in lieu of on-site waste water disposal system.
03 August 2021	Seven (7) day request for the application to be withdrawn issued to the applicant.
27 August 2021	Correspondence received from 'SWS Lawyers' on behalf of the Applicant.
23 September 2021	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2021/21041/1 seeks approval for the construction of a dwelling house.

Specifically, the proposed development involves:

- Construction of a single storey, four (4) bedroom dwelling; and
- Use of a complete pump out system for waste water disposal.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters prescribed within s4.15 of the *Environmental Planning and Assessment Act 1979*, as are of relevance to the development the subject of the development application:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. *State Environmental Planning Policy Building Sustainability Index: BASIX 2004*
2. *State Environmental Planning Policy No. 55 (Remediation of Land)*
3. *Cessnock Local Environmental Plan 2011*

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. *State Environmental Planning Policy Building Sustainability Index: BASIX 2004*

The aim of this policy is to encourage sustainable residential development.

A BASIX certificate has been submitted as part of this application. The certificate number is 1149167S and it meets the requirements in regards to water, thermal comfort and energy.

In the event the application is approved, the BASIX certificate will form part of the approval, and provided the development is undertaken in accordance with the certificate, the proposed development will be consistent with this SEPP.

2. *State Environmental Planning Policy No. 55 (Remediation of Land)*

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of the SEPP, is relevant to the assessment of this Development Application.

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Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The subject site has historically been vacant.

No evidence of contamination was observed during inspection of the site. As there is no historical evidence of the site being previously used for a purpose which would result in the land being contaminated, further testing of the site in respect of contamination is not warranted in this instance.

3. Cessnock Local Environmental Plan 2011

3.1 Permissibility

The subject site is zoned RU2 Rural Landscape under the provisions of the *Cessnock Local Environmental Plan (CLEP) 2011*.

The proposed development is categorised as a 'dwelling house' under CLEP 2011, which is defined as follows:

'Dwelling house means a building containing only one dwelling'.

The development satisfies the above definition, as the development comprises one, four (4) bedroom dwelling.

Development for the purpose of dwelling house is a permitted land use in the RU2 Rural Landscape Zone, with consent.

3.2 Objectives

The objectives of the RU2 Zone, and a statement in response to each, is provided in the table below:

Objective	Statement in response
<i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base</i>	The site and locality are not engaged in primary production, therefore no adverse impact is predicted.
<i>To maintain the rural landscape character of the land</i>	The proposed development is consistent with the existing use of land in the locality and is therefore consistent with the character of the area.
<i>To provide for a range of compatible land uses, including extensive agriculture</i>	Not considered relevant in this instance.
<i>To enable other forms of development that are associated with rural activity and require an isolated location or support tourism and recreation</i>	Not considered relevant in this instance.
<i>To ensure that the type and intensity of development is appropriate in relation to the</i>	The measures proposed for the disposal of waste water have not been designed with

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<i>rural capability and suitability of the land, the preservation of the agricultural, mineral and extractive production potential of the land, the rural environment (including scenic resources) and the costs of providing services and amenities</i>	due regard for the suitability of the land. In this instance, the proposal does not meet this objective.
<i>To maintain and enhance the scenic character of the land</i>	No adverse impact is predicted.
<i>To ensure that development does not create unreasonable or uneconomic demands for the provision or extension of services</i>	The proposal may create a demand for intervention to rectify unsatisfactory performance of the waste water system proposed.
<i>To minimise the visual impact of vegetation clearing in order to be consistent with the rural character of the locality</i>	No adverse impact is predicted.
<i>To minimise disturbance to the landscape from development through clearing, earthworks, access roads and construction of buildings</i>	The proposed dwelling is consistent with the landscape character of the location which comprises dwellings with frontage to Qurrobolong Road, Cessnock.
<i>To ensure development does not intrude into the skyline when viewed from a road or other public place</i>	No adverse impact is predicted.

3.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 4.2A – Erection of dwelling houses on land in certain residential, rural and environmental protection zones.

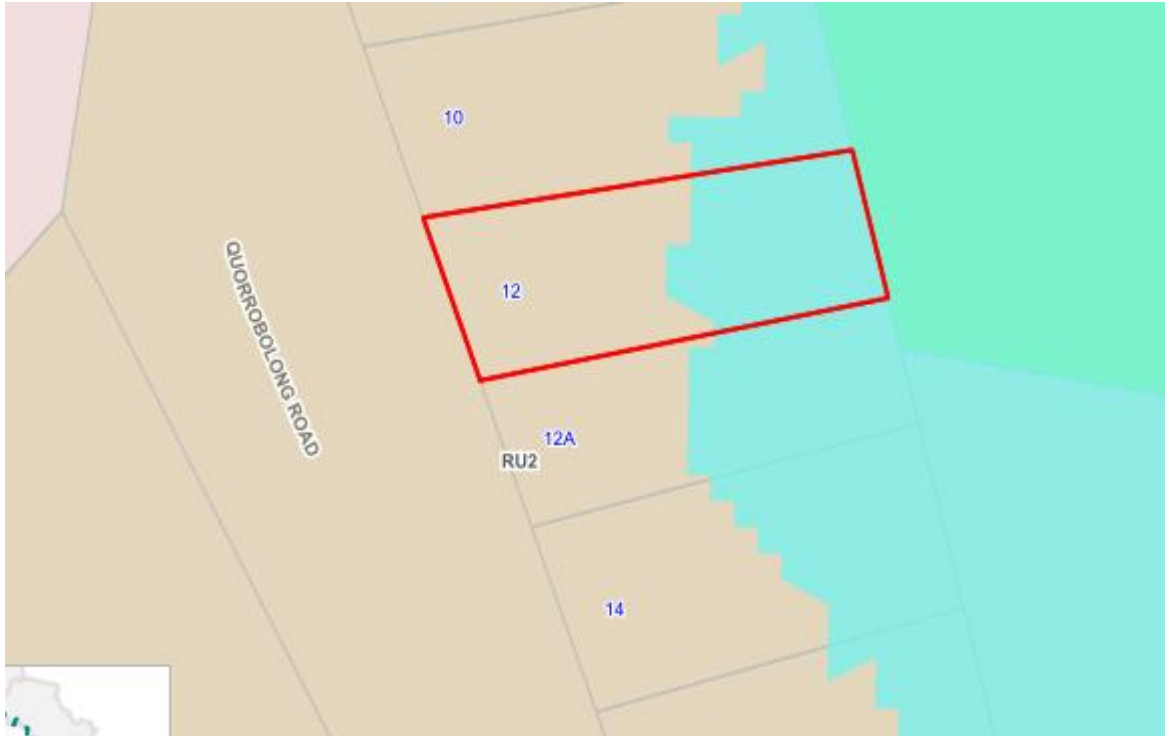
This clause applies to the erection of a dwelling house on land zoned as RU2, RU4, R5, E2 or E3. The subject land is an existing holding and is afforded a dwelling entitlement on the basis of 4.2A (d). Therefore, the proposed development meets the requirements of Clause 4.2A.

- Clause 5.21 – Flood Planning

Clause 5.21 seeks to ensure that approved development is compatible with the flood characteristics of the site in order to minimise risk to life and property.

The subject land is identified by Council's records as being subject to flood inundation, as identified in the below map:

Figure 1: Extent of 1:100 ARI Flooding



Extent of 1:100 ARI Flooding

The 1% AEP flood level is RL 76.14 m AHD. Subsequently, the Flood Planning level is RL 76.64 m AHD.

Existing ground levels range from a maximum of approximately 77.35 m AHD near Quorrobolong Road to 75.25m AHD at the rear of the site.

The proposed dwelling is positioned outside of the area identified as being affected by the 1:100 ARI flood event. Notwithstanding, the following is noted:

- as outlined above, the identified flood planning level on-site is 76.64.
- the proposed finished floor level of the dwelling is 77.00, and the proposed finished floor level of the garage is 76.98, both of which are above the flood planning level.

The level of fill required to satisfy flood level requirements for the intended use is minimal and does not result in adverse impacts on the surrounding environment or adjoining properties.

The proposal has also been considered with respect to Clauses 5.21(2) and (3), and is deemed to satisfy the provisions of these clauses.

- Clause 7.2 – Earthworks

Clause 7.2 seeks to ensure that any earthworks do not result in an adverse impact on the environment, neighbouring properties or heritage items.

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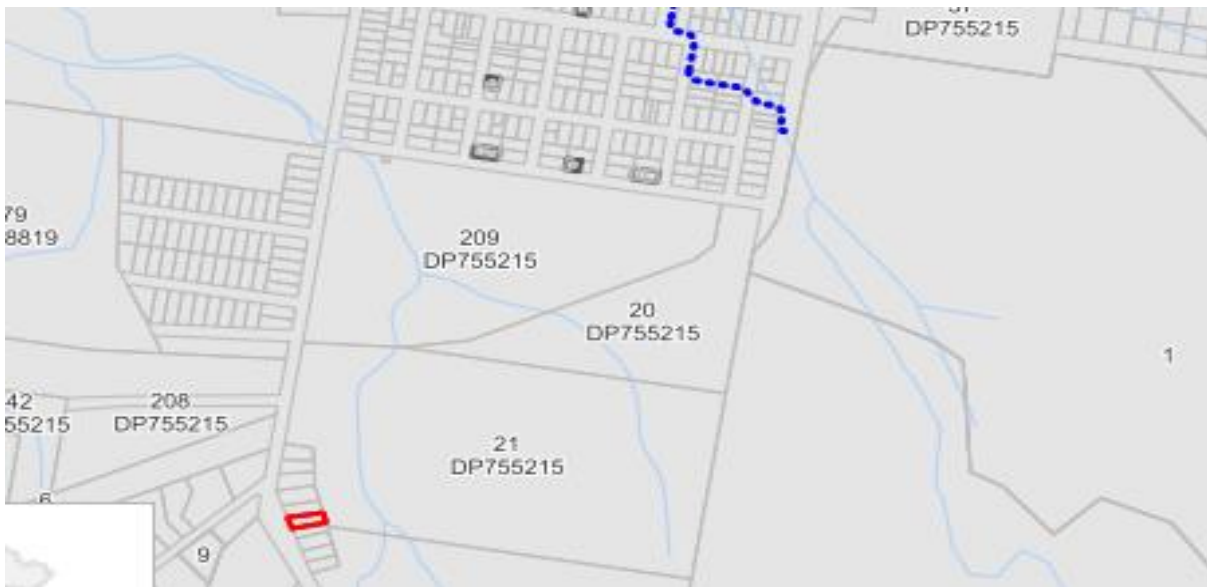
As outlined above, the extent of fill proposed in conjunction with construction of the dwelling is considered minor/reasonable, and will not result in any detrimental impact upon the surrounding environment.

- Clause 7.14 – Essential Services

Clause 7.14 aims to ensure that essential services are available or that adequate provision has been made to facilitate development within the RU2 zone. Reticulated water, electricity and telecommunications are available to the site.

Reticulated sewer is not available to the site. The closest connection point is located in Sixth Street, Cessnock, which is approximately 1.3 km to the north-east of the subject land.

Figure 2: Location of nearest Hunter Water Corporation reticulated sewer main (blue dotted line).



The application has not demonstrated that a suitable on-site waste water disposal system (OSSM) can be provided. In this regard, the Waste Water Report prepared by Decentralised Water Consulting dated 28 June 2021, recommended provision of a pump out system, however the Environment and Health Protection Guidelines: On-site Sewage Management for Single Households (DLG Guidelines) required to be considered by Council under the *Local Government Regulation 2005*, outlines that pump out systems should only be considered as a last resort, where existing systems are failing and no connection to sewer is possible. Neither of these circumstances is relevant in this case.

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In consideration of the above, the pump out system proposed does not satisfactorily address the requirements of Clause 7.14.

- Clause 7.15 – Groundwater Vulnerability

This clause aims to ensure that development on land zoned RU2 does not impact upon the groundwater system by means of depletion or contamination.

It is considered that the proposed development will not result in the contamination of the ground water system as a result of the use of the land or the development proposed. Furthermore, the development will not impact upon groundwater dependent ecosystems within the vicinity of the site. The overall cumulative impact of the development will not have a significant impact upon groundwater quality or supply.

(a)(ii) *The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).*

The proposed *Remediation of Land SEPP* is intended to repeal and replace *SEPP 55 – Remediation of Land*. The Draft *Remediation of Land SEPP* (Draft SEPP) was exhibited from 25 January to 13 April 2018 and is currently under consideration.

The Draft SEPP seeks to provide a state-wide planning framework to guide the remediation of land, including outlining provisions that require consent authorities to consider the potential for land to be contaminated when determining development applications; clearly listing remediation works that require development consent; and introducing certification and operational requirements for remediation works that may be carried out without development consent.

Consideration has been given to the suitability of the site with respect to potential land contamination under SEPP 55, as discussed earlier in this report.

In respect to the consideration of this application, the Draft SEPP does not propose requirements that warrant further investigation regarding site contamination or remediation.

(a)(iii) *The Provisions of any Development Control Plan*

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant numerical standards in Cessnock Development Control Plan 2010.

Part C: General Guidelines			
Chapter 1: Parking Guidelines			
Provision	Required	Provided	Complies?
1.4.1 Access to the site	Access to the site must be provided in accordance with the	A 3.5m bitumen access crossover has been proposed.	Yes

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	standards and provisions listed in 1.4.1 and shown in Tables 1 & 2 to achieve an appropriate and safe design.	Due to cross fall toward the south a detailed design will be required. It is considered that this matter can be reasonably addressed via recommended conditions of consent, should the application be approved.	
1.4.2 Car Parking Design	This section outlines the minimum design requirements to be designed in accordance with the Australian Standards, enable adequate site maneuvering	The proposal requires a total of two (2) car parking spaces; the development is inclusive of one (1) space within the single garage and one (1) stacked parking space.	Yes
1.4.6 Construction Materials	Outlines that all parking areas and accessways shall be constructed in accordance with Council's Engineering Requirements for development	Should the application be approved, a condition will be imposed ensuring that all parking areas and accessways are constructed accordingly.	Yes

Part C: General Guidelines

Chapter 3: Contaminated Lands

Provision	Required	Provided	Complies?
C.3	As the DCP has been prepared in accordance with the requirements of SEPP 55, satisfaction of SEPP 55 is taken to be consistent with the provisions of Chapter C.3	The proposed development is consistent with the requirements of this chapter as discussed previously in this report (refer to consideration of SEPP 55).	Yes

Part C: General Guidelines

Chapter 5: Waste Management and Minimisation

Provision	Required	Provided	Complies?
5.2 Key Features	A waste management plan is to be completed by the applicant	The applicant has provided an appropriate waste management plan.	Yes

Part C: General Guidelines**Chapter 9: Development on Flood Prone Land**

Provision	Required	Provided	Complies?
3.1 Control Matrix	<p>The subject site has a Flood Hazard Category of H1 and a hydraulic category of Floodway. In accordance with Section 3.1 and Table 3 the following requirements are relevant:</p> <ul style="list-style-type: none"> • Dwelling House: Development Generally Suitable with Category A controls being applicable • Critical Infrastructure including sewerage systems are to be located outside of the floodplain 	<p>The proposed dwelling is positioned outside of the area affected by the 1:100 year ARI, and is considered to be suitably sited.</p> <p>The application has not proposed an on-site wastewater disposal system. As no on-site waste water system is proposed, these provisions are not triggered.</p>	<p>Yes</p> <p>N/A</p>
3.2 General Requirements (new development)	<ol style="list-style-type: none"> 1. All habitable floor levels are to be no lower than the Flood Planning Level 2. Non Habitable floor levels are to be no lower than the 1% AEP flood 3. Parts of the building constructed at or below the Flood Planning Level are to be constructed of materials identified as 'suitable' in the 	<p>The proposed dwelling is positioned outside of the area identified as being affected by the 1:100 ARI.</p> <p>The identified flood planning level on-site is 76.64. The proposed floor level of the dwelling is 77.00, and the proposed floor level of the garage is 76.98, both of which are above the flood planning level.</p>	Yes

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	<p>Flood Compatible Building Guidelines</p> <p>4. Electrical Fixtures are to be above the Flood Planning Level unless they are on a separate circuit to the rest of the building</p> <p>5. Any hazardous material is to be stored above the Flood Planning Level</p>		
3.6 On-site Waste Water Management	<ul style="list-style-type: none"> All Components of the on-site waste water management system are to be located above the 1:100 ARI event The land application area must be above the 1:20 ARI The AHD levels at the site of the on-site waste water management facility are to be determined by a registered surveyor. 	The application has not proposed an on-site wastewater disposal system. As no on-site waste water system is proposed, these provisions are not triggered.	N/A
3.9.2 Floodway	This clause restricts development within land identified as floodway.	<p>The proposed dwelling is located outside of the area identified as being affected by the 1:100 ARI, and categorised as floodway.</p> <p>The application is considered to be consistent with the requirements of this clause.</p>	Yes

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(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

As demonstrated by the above assessment, the proposal does not provide certainty regarding the likely future impacts of the development on the natural and built environments, and the social and economic impact on future residents. In this regard, satisfactory operation of the waste water system relies upon the financial capability of future occupants to maintain a full pump out waste water service. In considering the likely impacts of the development, Council must consider those impacts over the life of the development, which extends beyond the intended first occupants of the dwelling.

As outlined by the Environment and Health Protection Guidelines: On-site Sewage Management for Single Households (DLG Guidelines), which are required to be considered by Council under the *Local Government Regulation 2005*, pump out systems are not considered a viable disposal system in the long term due to their capacity for misuse. Proper use of pump-out systems is considered to be largely dependent on the owner/occupant's financial capacity to maintain their servicing requirements. For example, servicing costs are subject to change (i.e., they may increase over time); the financial stability of an applicant is subject to change; and the occupant of the proposed development (and their ability to manage this cost) is subject to change.

(c) The suitability of the site for the development

As demonstrated by the above assessment, the site is considered to be unsuitable for the proposed development. Specifically, it is considered that the dwelling has not been designed and sited to respond to the distinct nature and context of the site and its constraints, and accordingly, an appropriate on-site waste water disposal system has not been proposed.

The subject site is constrained by the size of the lot 1050m², the extent of the 1:100 year ARI flood affectation, and proximity to bush fire prone vegetation to both the east and west of the proposed dwelling location.

Council raised the need for the dwelling to be designed and sited in such a way to ensure that a suitable waste water disposal system with a land application area set aside for on-site disposal, could be provided on the site. Potential modifications to the current proposal which could assist in accommodating a suitable on-site waste water disposal system (including reducing the size of the dwelling, reducing the number of bedrooms in the dwelling, redesigning the dwelling, and repositioning the front setback), were discussed with the applicant.

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The table below indicates a summary of site constraints discussed with the applicant during the meeting held on 5 May 2021:

Table of site constraints discussed with the applicant			
Site constraints	Description of constraint	Council's position	Applicant's response
Flooding	<p>The site is flood affected by the 1:100 year flood event.</p> <p>Council is required to consider the application with regard to Clause 5.21 of <i>Cessnock Local Environmental Plan 2011</i>, Chapter C.9 of <i>Cessnock Development Control Plan 2010</i>, and the <i>Local Government Regulations and Guidelines</i>.</p>	<p>Council discussed with the applicant the inherent need for any proposed dwelling to be appropriately sited, scaled and designed to respond to each individual site constraint.</p> <p>Council expressed concern that the proposal was an overdevelopment of the site, and was not specifically designed to consider the nature and context of the site and its surrounds.</p> <p>Council recommended that the size of the development be reduced (number of bedrooms) or that the design be modified (from single-storey to two-storey) to create additional land area which could be utilized for the purpose of waste water disposal.</p>	<p>The applicant acknowledged the site constraints and their impact, however indicated that they were required to continue to design the development in consideration of the clients/owner's personal requirements.</p> <p>The applicant expressed that the personal requirements of the owner removed the ability to consider the design modifications suggested by Council.</p>
Bush Fire	<p>The site is bush fire prone land and is subject to assessment under Section 4.14 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>In accordance with Section 4.14 (b) of the Act, the application has been supported by a Bush Fire Report which</p>	<p>Council discussed with the applicant the potential to relocate the dwelling further to the east (rear) of the site, and modify the design to result in the dwelling being constructed on piers. These modifications were discussed with a view to potentially enabling an on-site wastewater</p>	<p>The applicant expressed they did not believe that repositioning the dwelling further east resulted in a positive impact on the amenity of the area.</p> <p>The applicant has also expressed that it would be difficult to accommodate</p>

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	<p>has been certified by a BPAD Accredited Consultant.</p> <p>The Bush Fire Report requires that the entire site be maintained as an Inner Protection Area and is constructed to BAL-29 to the North, East and South, and BAL-19 to the West (in addition to other requirements).</p>	<p>disposal area to be suitably positioned within the front setback, outside of the flood prone portion of the land.</p> <p>Council acknowledged that this would result in an inconsistency in the building line within the streetscape, however noted the variation was able to be considered in order to enable the site to be developed.</p> <p>Council also highlighted the impact such relocation would have on the development in terms of the impact of the bush fire threat i.e., a relocation to the east would result in the dwelling being increasingly constrained in terms of the bush fire impact/higher BAL level. Accordingly, such proposal would require referral to NSW RFS.</p>	<p>accessibility requirements of the owner within the context of a design which would result in the dwelling being constructed on piers.</p> <p>Further, the Applicant expressed that the cost of increased BAL requirements were likely to be cost prohibitive.</p>
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The applicant has advised Council officers that the dwelling must be designed in a certain way due to the specific needs of the client/owner of the land. In this regard, the applicant has confirmed that limitations exist in their ability to modify the design and siting of the dwelling due to these specific needs. Such needs are in part noted in the table below, as expressed by the applicant at the meeting held on 5 May 2021:

Table of applicant specific design considerations outlined within the meeting held on 5 May 2021	
Applicant needs	Council response
One of the current owners of the property was in a serious motor vehicle accident and requires the dwelling to be designed in consideration of accessibility requirements.	Whilst Council acknowledges the personal requirements of the owner, and how these requirements translate into design, construction and siting limitations, personal matters are not specified as a relevant consideration under Section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> .

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Four bedrooms are required to be provided in order for all members of the family to be suitably accommodated within the dwelling.	As above.
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Whilst the circumstances of the owner/s are noted, it is considered that the proposal is an overdevelopment of the site and has not been revised, sited or scaled to reflect the nature of the constraints of the subject land.

Further to the matters outlined above, Council received correspondence from 'SWS Lawyers' dated 27 August 2021, submitted on behalf of the applicant. This correspondence outlines a number of matters pertaining to the proposal which are addressed in the table below:

Table of response to matters raised within 'SWS Lawyers' correspondence dated 27 August 2021		
Item No.	Matter Described	Council Response
3	There are a number of existing dwellings adjoining the property	Council acknowledges that there are existing dwellings within the immediate vicinity of the subject site. One recently constructed dwelling (built in 2017), is located in the vicinity of the subject land at 8 Quorrobolong Road. The dwelling was approved via DA No. 8/2016/503/1, and was subject to installation of an on-site waste water disposal system. It is noted that the site at 8 Quorrobolong Road is not constrained by flooding to the rear of the allotment.
4, 8, 9	The land was previously Council owned land. By contract dated 25 September 2021, the current owners entered into a contract for the sale of the property with Council.	Noted and not identified as being relevant to the assessment of the subject application, as per the matters for consideration under Section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> .
5, 6, 7	'the property is no more adversely flood affected than any of the existing developed neighboring properties'	This statement does not acknowledge the age of development on adjoining properties, or the difference in applicable legislation at the time those developments were constructed as opposed to current planning controls.

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10	At all material times, the current owners were led to believe a dwelling could be erected on the property, notwithstanding that a connection to a reticulated sewage system was not available.	<p>At no time has Council indicated that a dwelling cannot be constructed on the site.</p> <p>Rather, Council's position is that any dwelling on this site needs be sited, scaled and designed to respond to the individual constraints of the site.</p> <p>It is further considered that an alternate dwelling design (reduced size, alternate design or siting), may enable the provision of a suitable on-site waste water disposal system. In this regard, the need for a pump out waste water disposal system is a direct result of the dwelling design nominated by the applicant/owner.</p>
11, 12, 16	Development Application and Section 68 Applications were lodged with Council.	Noted.
13,	Council advised that 'any proposal for the development to rely on a pump out system is not supported and the applicant should consider the suitability of the site for the proposed development'	<p>Development on any site is required to be sited, scaled and designed to respond to individual site constraints.</p> <p>As outlined above, the need for a pump out waste water disposal system is a direct result of the dwelling design nominated by the applicant/owner. An alternate dwelling design (reduced size, alternate design or siting), may enable the provision of a suitable on-site waste water disposal system.</p>
14, 15	Findings of the Wastewater Report prepared by Decentralised Water Consulting dated 28 June 2021. This correspondence outlined that the wastewater	The Wastewater Report submitted in support of the application is restricted by the specific criteria set by the client, and the nature of the proposed development.

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	report concluded a pump-out system was the only viable option.	<p>The report did not fully evaluate any option other than a pump-out waste water storage system.</p> <p>The report discusses the potential for significant remedial works to be undertaken to raise the level of a waste water land application area to enable flood-free land application, however the option was precluded on cost grounds.</p> <p>The report identifies a range of factors which influence the ability to provide an on-site waste water disposal system, including the nature of the proposed development. The report gives no consideration to adjusting the nature of the proposed development to respond to the individual site constraints.</p>
17	Backyard Granny's have met with staff to seek a resolution but the health staff remain firm in their rejection of the 'pump out system'	The constraints of the site and the fundamental need for the development to be scaled, sited and designed to respond to the constraints in a manner which enabled the provision of an on-site wastewater system was communicated to the applicant early in the assessment process.
18, 19, 20, 21, 22, 23, 24, 25	Relevance of consideration of the Environmental & Health Protection Guidelines: On-Site Management for Single Households' (1998).	When considering the suitability of a wastewater system, Clause 29 and Clause 43 of the <i>Local Government (LG) Regulation 2005</i> requires that Council must consider any guidelines or directions issued by the Director-General in relation to matters listed in Clause 29 of the LG Regulation.

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		<p>The Environment & Health Protection Guidelines: On-Site Sewage Management for Single Households (DLG Guidelines) are a “guideline” for the purposes of Clause 29 of the LG Regulation.</p> <p>Accordingly, Council must consider any matter specified in the DLG Guidelines in relation to the environmental and health protection matters specified in Clause 29 of the LG Regulation.</p> <p>Section 5.5.3 of the DLG Guideline relates specifically to pump-out systems and must be adequately addressed.</p> <p>The guidelines do not contradict themselves as stated. They clearly delineate new development relying on pump-out from other circumstances. That is, new development relying on a pump-out system is not supported, and outside of this, is only supported in exceptional circumstances. Further guidance in relation to exceptional circumstances is outlined below.</p>
26, 27	<p>Provision of reticulated sewerage services not known to be proposed within the immediate future.</p> <p>‘Our Clients have no choice, where an on-site treatment/disposal option is not available, to seek approval for a pump-out system and incur the cost of that option until such times as the critical mass of dwelling/other uses reaches</p>	<p>There are no known plans for the provision of reticulated sewer services at the subject site in the future.</p> <p>It is not agreed that there are no alternatives available to a pump out system; suitable alternatives may be provided by way of modifying the proposed development (size, scale or siting), or further investigating the potential to</p>

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	an economic tipping point in favor of an extension of the Hunter Waters reticulated system'.	provide a flood free waste water disposal area on site.
28	Council will not give any approval for a dwelling because they do not support the only viable wastewater collection system	<p>At no time has Council indicated that a dwelling cannot be constructed on the site.</p> <p>Rather, Council's position is that any dwelling on this site needs be sited, scaled and designed to respond to the individual constraints of the site.</p> <p>It is further considered that an alternate dwelling design (reduced size, alternate design or siting), may enable the provision of a suitable on-site waste water disposal system. In this regard, the need for a pump out waste water disposal system is a direct result of the dwelling design nominated by the applicant/owner.</p>
29, 30	<p>Council have effectively 'enticed' a purchaser to enter into a contract for the sale of land, allowed the new owners to expend funds in preparing and lodging a development application/section 68 approval applications and supporting documents, in circumstances where such efforts now seem blatantly doomed to fail.</p> <p>This is simply not a case of caveat emptor (let the buyer beware). This wasn't a private land sale. It was a land sale by Council (a public authority) and one that all members of the public would expect its</p>	The sale of the land is not a relevant matter for consideration under Clause 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> .

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	actions to be exercised in utmost good faith.	
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(d) Any submissions made in accordance with this Act or the regulations

The Development Application was not required to be publicly exhibited in accordance with the requirements of the Cessnock Community Participation Plan.

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is contrary to the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 Contributions are not payable for the proposal.

INTERNAL REFERRALS

The Development Application was referred to the following Council officers for comment:

Officer	Comment
Flooding	19 February 2021 – information provided to inform Development Engineering referral.
Development Engineering	15 March 2021 – DA supported.
Environmental Health	26 February 2021 – DA not supported.
Environmental Health	27 July 2021 – DA not supported.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

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CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulations 2000*, relevant Environmental Planning Instruments and Council policies.

Whilst the circumstances of the owner/s are acknowledged, it is considered that the proposal is an overdevelopment of the site and has not been revised, sited or scaled to reflect the nature of the constraints of the subject land. Accordingly, the application proposes a pump out waste water disposal system in lieu of an on-site waste water disposal system.

It is noted that options have been put forward by Council officers which would permit an on-site waste water disposal system to be provided. Notwithstanding, the applicant has not amended the plans to reflect these options, as they remain of the view that the personal circumstances of the owner/s do not permit such design changes to be made.

The Environment and Health Protection Guidelines: On-site Sewage Management for Single Households (DLG Guidelines), required to be considered by Council under the *Local Government Regulation 2005*, outlines that pump out systems should only be considered as a last resort, where existing systems are failing and no connection to sewer is possible. Neither of these circumstances is relevant in this case.

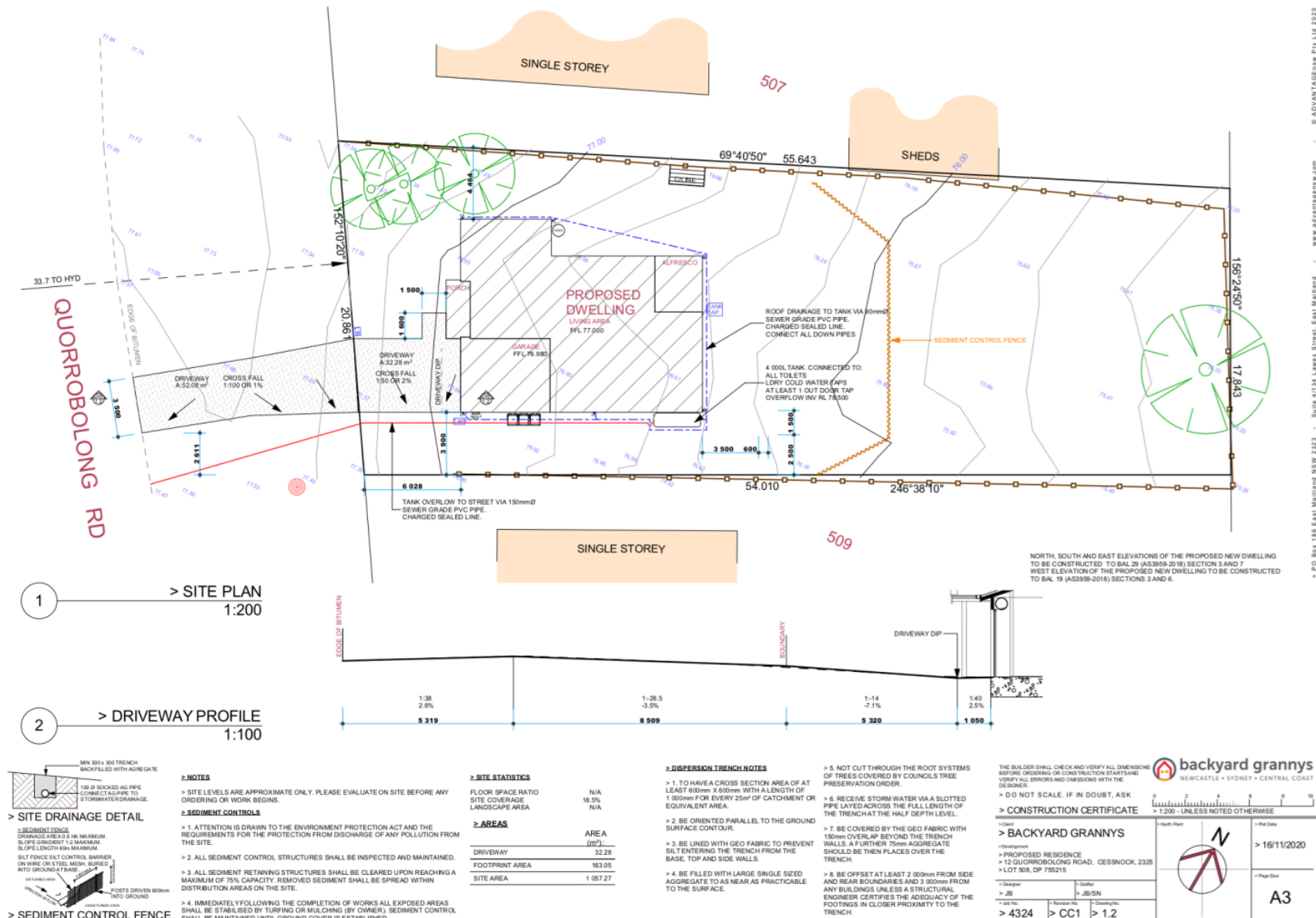
Based on the assessment, it is recommended that Development Application No. 8/2021/21041/1 be refused, subject to the reasons for refusal included in this report.

ENCLOSURES

1 [📄](#) Site Plan

REASONS FOR REFUSAL

1. The development is contrary to the provisions of the Environment and Health Protection Guidelines: On-site Sewage Management for Single Households (DLG Guidelines), pursuant to Clause 29 of the *Local Government Regulation 2005*, as the application proposes a pump out waste water disposal service (*Section 4.15 (1)(a) (iv) of the Environmental Planning and Assessment Act 1979*).
2. The development does not provide certainty regarding the likely future impacts of the development on the natural and built environments, and the social and economic impact on future residents. In this regard, satisfactory operation of the waste water system relies upon the financial capability of future occupants to maintain a full pump out waste water disposal service (*Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979*).
3. The site is considered unsuitable for the development as the design, scale and siting of the proposed dwelling does not have due regard for the constraints of the land, and does not propose to accommodate a sustainable on-site waste water system commensurate with the dwelling proposed (*Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979*).
4. Approval of a pump out waste water disposal service is not considered to be in the public interest (*Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979*).



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SUBJECT: *DEVELOPMENT APPLICATION NO. 8/2020/20600/1
PROPOSING CONSTRUCTION OF A TWO-STOREY
DETACHED DUAL OCCUPANCY AND ANCILLARY TWO-
STOREY STUDIO AND STORE ROOM*

3718 GREAT NORTH ROAD, LAGUNA

RESPONSIBLE OFFICER: *Development Services Manager - Janine Maher*

APPLICATION NUMBER:	8/2020/20600/1
PROPOSAL:	Construction of a two-storey detached dual occupancy and ancillary two-storey studio and store room
PROPERTY DESCRIPTION:	Lot 10 DP 584943 and Lot 3 DP 822122
PROPERTY ADDRESS:	3718 Great North Road, Laguna
ZONE:	RU2 Rural Landscape Zone
OWNER:	Great North Road Pty Ltd
APPLICANT:	Hill Top Planners Pty Ltd

RECOMMENDATION

1. That:

- (i) Development Application No.8/2020/20600/1 proposing the construction of a two (2) storey detached dual occupancy and ancillary two (2) storey studio and store room at Lot 10, DP 584943 & Lot 3, DP 822122, 3718 Great North Road Laguna be approved pursuant to Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, subject to the conditions contained in this report.
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:
 - The proposal is a permitted land use in the RU2 Rural Landscape Zone under the *Cessnock Local Environmental Plan 2011*;

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- The proposal is consistent with the objectives of the RU2 Rural Landscape Zone under the *Cessnock Local Environmental Plan 2011*;
- The proposal is consistent with the relevant State Environmental Planning Policies;
- The proposal is compliant with the relevant provisions under the Cessnock Development Control Plan 2010;
- The proposal incorporates adequate measures to ensure the development does not result in any adverse impacts on the natural and built environment;
- The proposal will not result in any adverse social or economic impacts;
- The site is considered suitable for the proposed development; and
- The proposal is considered to maintain the public interest.

(iii) In considering community views, the following is relevant:

- The development is a permitted land use in the RU2 Rural Landscape Zone.
- The development proposed will have an acceptable impact on the amenity of the area.
- Environmental impacts have been assessed as acceptable and suitable conditions of consent have been imposed accordingly.

(iv) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the *Environmental Planning and Assessment Act 1979*.

2. That Council notify in writing the persons who made a submission with regard to the proposed development, of Council's decision.

REASON FOR REPORT

Development Application No. 8/2020/20600/1 is being referred to Council for determination as objections were received in response to the public exhibition period, and it is considered such objections constitute 'significant objection' in accordance with the provisions of Development Practice Note G3 – Delegations for Determination of Development Applications.

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2020/20600/1 proposing construction of a two-storey detached dual occupancy and ancillary two-storey studio and store room, at 3718 Great North Road, Laguna.

The Development Application has been assessed against the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

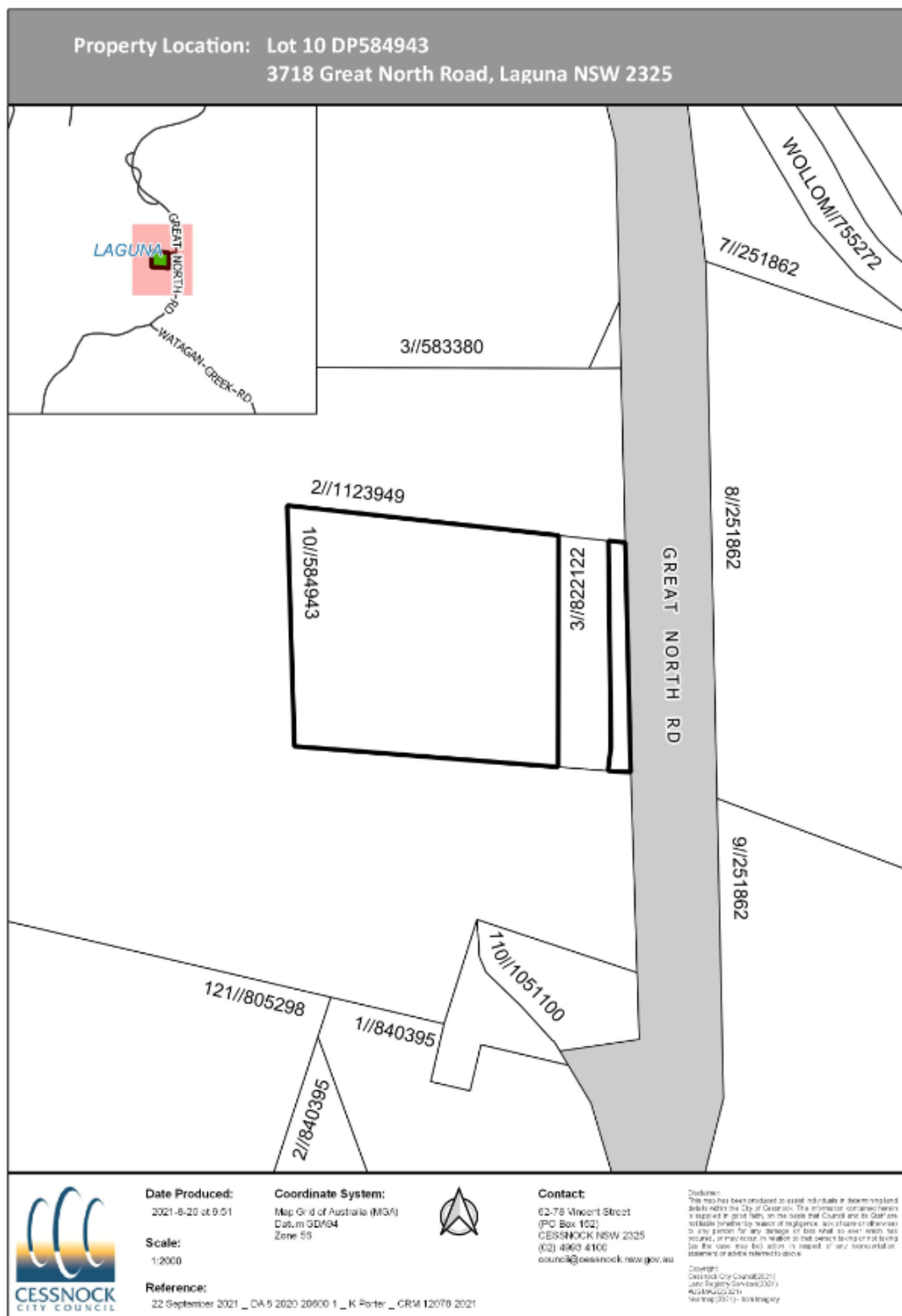
The Development Application was publicly exhibited with five (5) submissions received objecting to the proposal. The issues and concerns raised in the submissions are addressed in the following report.

The development is consistent with the objectives of the RU2 Rural Landscape Zone under the *Cessnock Local Environmental Plan 2011* (CLEP 2011), and satisfies the requirements of the Cessnock Development Control Plan 2010.

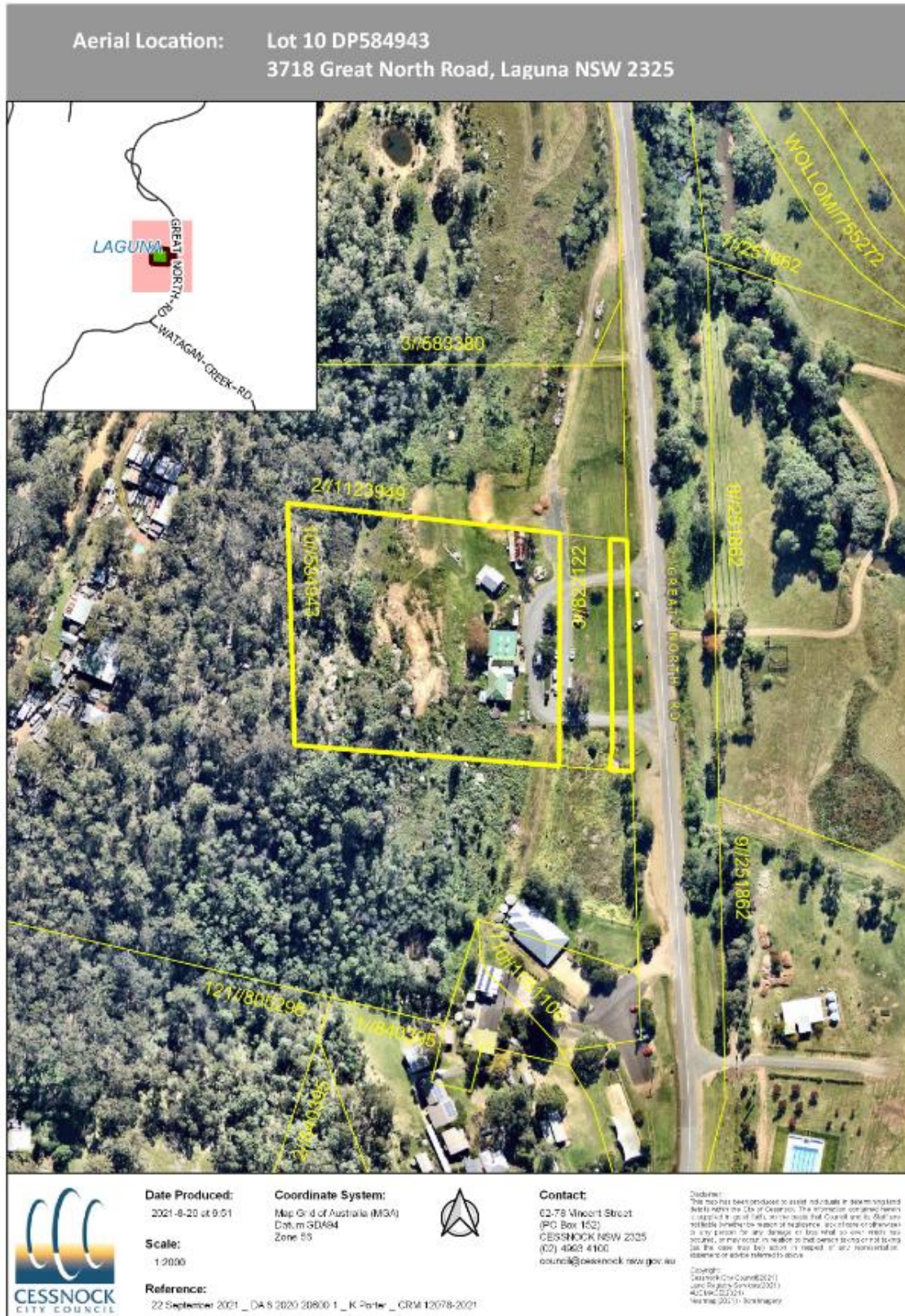
The proposal does not result in any significant adverse impacts on the surrounding natural or built environment, and suitable conditions of consent have been recommended to address issues raised during the public notification period.

The site is considered suitable for the development, and approval of the proposal is not contrary to the public interest.

Based on the assessment, it is recommended that the Development Application be approved, subject to the conditions of consent included in this report.



AERIAL



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 3718 Great North Road Laguna, and is legally described as Lot 10 DP 584943 and Lot 3 DP 822122. The site comprises two (2) allotments, one of which accommodates existing structures, and the other being a separate parcel containing an earlier road alignment.

The subject site is located on the western side of Great North Road, a regional road with historic significance having been the initial passage between the Hunter Valley and Sydney.

The site has a frontage of 95m and a depth of 148m, which provides for an overall combined site area of 1.4 hectares. Vehicle access to the site is obtained directly off Great North Road, with a loop driveway providing northern and southern entries to the property.

The site currently accommodates a pub, neighbourhood shops, a restaurant, an entertainment area, a petrol bowser and informal parking. The existing buildings are sited along a benched platform, maintaining a prominent setting above the adjoining Great North Road.

The surrounding locality is characterised by detached dwellings on rural holdings utilised for light grazing and agricultural pursuits with areas ranging from 10 to 400 hectares.

A public school, community hall, church and rural fire station are located nearby.

The following is a history of recent development consents issued in relation to the property:

DC No.	Description	Determination
118/695/256	Restaurant and outdoor eating area	Approved under delegation 6 February 1996
8/2014/320/1	Alterations and additions to an existing premises to be used as a neighborhood shop and pub	Approved under delegation 6 January 2015
8/2014/320/2	Modification to amend condition 5 to require 37 sealed parking spaces and 11 all weather gravel parking spaces and amend condition 9 to remove the requirement for the construction of a BAR/BAL intersection	Approved by Council 9 December 2015

The works associated with the restaurant and outdoor eating area approved under Development Consent 118/695/256 in 1996 did not lawfully commence, and this matter was therefore investigated by Council's Compliance Officers.

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Consent 8/2014/320/1 (and its subsequent modification 8/2014/320/2) for alterations and additions to the existing premises for the purpose of a pub and neighbourhood shop, included use of the unauthorised works associated with the 1996 approval (118/695/256).

A Construction Certificate was issued on 22 November 2017 for the works associated with Development Consent 8/2014/320/1, and works associated with the car parking area are currently underway.

HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
24 August 2020	Development Application lodged with Council.
7 September 2020	Application referred internally to various sections and externally to NSW RFS.
10 September 2020 – 24 September 2020	Application publicly notified to neighbouring properties.
10 September 2020	Council's Ecologist referral and assessment completed, and additional information required.
14 September 2020	Council's Engineering referral completed and application supported subject to conditions.
15 September 2020	Council's Environmental Health referral completed and additional information required on waste water disposal.
16 September 2020	General Terms of Approval issued by NSW RFS.
28 September 2020	Applicant requested to lodge additional information on waste water disposal and ecology.
7 October 2020	Council's Heritage referral completed and application supported subject to conditions.
25 November 2020	Additional information lodged by applicant on waste water disposal and referred to Council's Environmental Health Officer for assessment
11 December 2020	Council's Environmental Health referral completed on waste water disposal and additional information required from applicant.
15 December 2020	Applicant requested to lodge additional waste water information.

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3 February 2021	Applicant requested to provide Council with an update on the status of the additional waste water information requested on 15 December 2020.
15 February 2021	Applicant requested to provide the additional waste water information requested on 15 December 2020 within 14 days.
23 February 2021	Additional information lodged by applicant on waste water disposal and referred to Council's Environmental Health Officer for assessment.
9 March 2021	Council's Environmental Health referral completed and the application is not supported due the inadequacy of the submitted waste water disposal report.
18 March 2021	The applicant is advised the development is not supported due to waste water disposal issues as a result of site constraints. The applicant is requested to withdraw the application.
14 April 2021	The applicant is requested to withdraw the application or the application will be refused due to the inadequacy of the waste water disposal report.
29 April 2021	Applicant advised that if the application is not withdrawn within 14 days the application will be reported to Council for refusal.
5 May 2021	The applicant requests an extension of time to provide an amended waste water report.
10 May 2021	The applicant is advised by Council officers that an extension of time will not be granted to provide additional information given the length of time the application has been under assessment by Council and the delay in providing the requested information. The applicant is again requested to withdraw the application.
30 June 2021	Additional information lodged by applicant on waste water disposal and ecology and referred to Council's Environmental Health Officer and Ecologist for assessment.
8 July 2021	Council's Ecology referral completed and additional information is required. Applicant requested to lodge additional ecology information.
15 July 2021	Council's Environmental Health referral completed and waste water details are now satisfactory and application supported subject to conditions.
2 August 2021	Additional ecology information lodged by the applicant and referred to Council's Ecologist for assessment.

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17 August 2021	Council's Ecologist referral completed and the additional information provided is satisfactory and application supported subject to conditions.
15 September 2021	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2020/20600/1 seeks approval for the construction of a two-storey detached dual occupancy and ancillary two-storey building comprising a studio and store room.

The proposed buildings will be located at the rear of the existing development on the site. One of the dwellings is proposed to be occupied by the owner of the property while the second (smaller) dwelling is proposed to be occupied by the manager of the site. The ancillary building comprising a store room and studio is for the owners' personal use.

Specifically, the buildings are described as follows:

- Owner's dwelling – the dimensions of this building are as follows: 21 metres long, 6.0 metres wide and 6.4 metres high. The ground floor will comprise 2 bedrooms, 3.5 bathrooms, kitchen, dining and lounge area. The first floor will comprise 2 bedrooms, a study, sitting area and 2 bathrooms. Balconies are proposed off the bedrooms and study on the first floor level with views to the north and east. The total approximate floor area of this building will be 256m².
- Manager's dwelling - the dimensions of this building are as follows: 9.5 metres long, 7.5 metres wide and 6.4 metres high. The ground floor will comprise the kitchen, dining and lounge room and the first floor will comprise 2 bedrooms and 2 bathrooms. Balconies are also proposed off the bedrooms on the first floor with views to the north and east. The total approximate floor area of this building will be 142m².
- Ancillary storage/studio building – the dimensions of this building are as follows: 8 metres long, 5.5 metres wide and 6.4 metres high. The ground floor will consist of an open storage area with a 3 metre wide roller door and the first floor will comprise a studio room with a bathroom and balcony. The application states that this building will be used by the owner of the property for storage and personal recreation purposes (i.e., studio, gymnasium). The total approximate floor area of this building will be 88m².

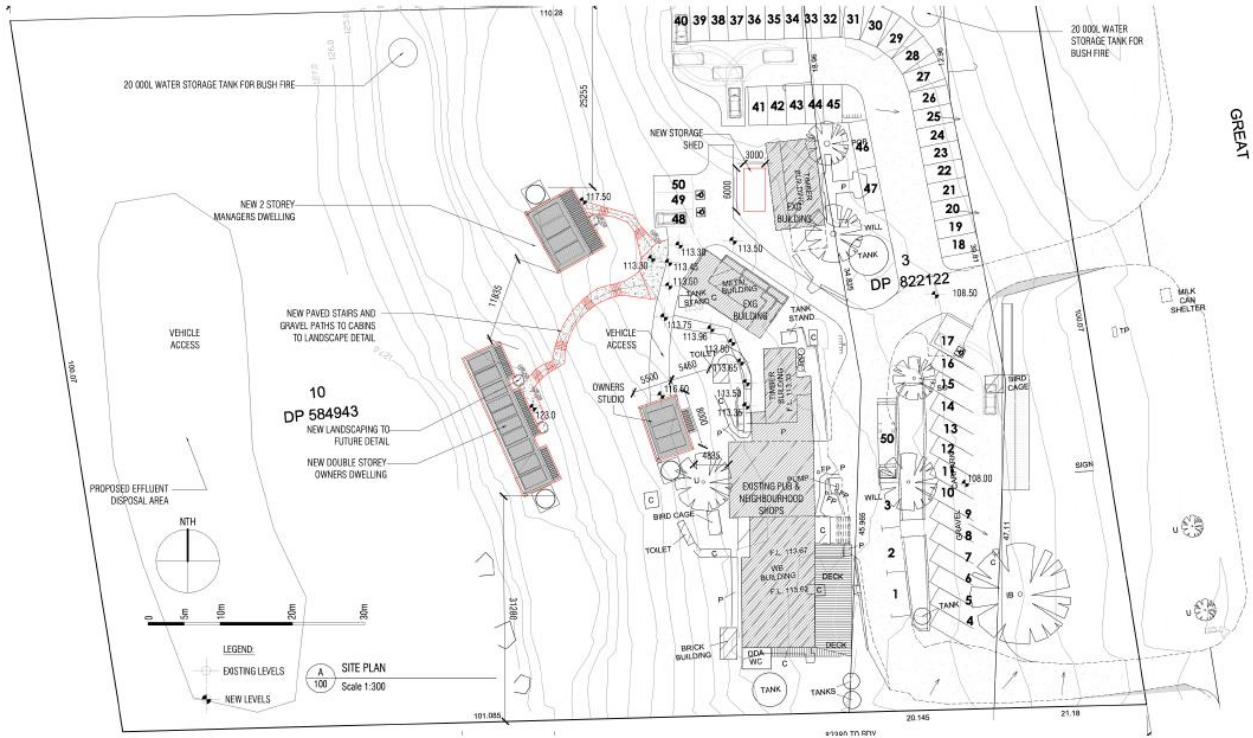
The dwellings will be connected to the existing parking area (associated with the pub and neighbourhood shops), via pedestrian walkways.

All three (3) buildings will be constructed in the same material consisting of matt finished 'colorbond' cladding (dark toned – monument) with dark toned aluminium framed doors and windows (colour – monument), 'colorbond' metal deck roofing (colour – monument), timber balcony decking, timber balcony handrails and timber privacy screens on balconies.

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The proposed development is depicted in the following plan and images:





ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters prescribed within s4.15 of the *Environmental Planning and Assessment Act 1979*, as are of relevance to the development the subject of the development application:

(a)(i) *The Provisions of any Environmental Planning Instrument*

The Environmental Planning Instruments that relate to the proposed development are:

1. *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
2. *State Environmental Planning Policy No.55 – Remediation of Land*
3. *Cessnock Local Environmental Plan 2011*

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

1. *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

The aim of this policy is to encourage sustainable residential development and compels the submission of a BASIX certificate with a development application. A BASIX certificate has been submitted in accordance with the requirements of the *SEPP (Building Sustainability Index: BASIX) 2004*.

In the event the application is approved, the BASIX certificate will form part of the approval, and provided the development is undertaken in accordance with the certificate, the proposed development will be consistent with this SEPP.

2. *State Environmental Planning Policy No. 55 (Remediation of Land)*

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. Clause 7(1) of SEPP 55 is relevant to the assessment of this Development Application.

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Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The subject site is located within a rural area and has historically been used for a mixture of commercial and residential purposes.

A preliminary site contamination assessment was undertaken in 2014 at the front of the site within the vicinity of the fuel bowser and underground fuel storage tanks. The finding of this report identified the absence of gross contamination, with only localized evidence of fuel spill within the vicinity of the bowsers.

The proposed development is located at the rear of the site which is vacant and has not been used in the past by any contaminating activities. No evidence of contamination was observed during inspection of the site.

The proposal is considered acceptable and consistent with the provisions of SEPP 55.

3. Cessnock Local Environmental Plan 2011

3.1 Permissibility

The subject site is zoned RU2 Rural Landscape under the provisions of *Cessnock Local Environmental Plan (CLEP) 2011*. The proposed construction of a detached dual occupancy is permissible in the RU2 Rural Landscape Zone, with consent.

The definition of dual occupancy (detached) is as follows:

“dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling”

The proposed development is consistent with the above definition.

3.2 Objectives

The objectives of the RU2 Zone, and a statement in response to each, is provided in the table below:

Objective	Statement in response
<i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base</i>	The site has an area of only 1.5ha and is constrained by slope and rock outcrops and is not conducive to sustainable primary production pursuits. Whilst the development does not encourage sustainable primary industry, it does not prevent the attainment of the above objective.
<i>To maintain the rural landscape character of the land</i>	The development has been designed to blend with the rural landscape, and the colours and materials selected are dark

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	toned to ensure the buildings do not dominate the site, nor detract from the rustic character of the existing structures on the property.
<i>To provide for a range of compatible land uses, including extensive agriculture</i>	The site is occupied by a mixture of commercial uses including a pub, neighbourhood shops and restaurant. The proposal will introduce a residential component to the existing development on the site. Given the small size of the property and site constraints due to slope and rocky outcrops, extensive agriculture is not a suitable land use.
<i>To enable other forms of development that are associated with rural activity and require an isolated location or support tourism and recreation</i>	The proposed development will provide residential accommodation for the owner and manager of the site which provides a service to the local community and tourists. The site is not suitable for rural activities given the small size of the property and slope constraints.
<i>To ensure that the type and intensity of development is appropriate in relation to the rural capability and suitability of the land, the preservation of the agricultural, mineral and extractive production potential of the land, the rural environment (including scenic resources) and the costs of providing services and amenities</i>	Due to its small size the site is not a viable agricultural holding. The intensity of the development is considered appropriate and suitable in that it provides residential accommodation for the owner and manager of the site to support the commercial operations currently being undertaken on the land. All essential services are currently available to the site and the development has been designed to respect the scenic character of the surrounding rural landscape.
<i>To maintain and enhance the scenic character of the land</i>	As previously stated, the development has been designed to blend with the rural landscape, and the colours and materials selected are dark toned to ensure the buildings do not dominate the site, nor detract from the rustic character of the existing structures on the property. It is considered that the scenic character of the locality will not be compromised by the development as it will blend with the colours and tones of the background landscape.
<i>To ensure that development does not create unreasonable or uneconomic demands for the provision or extension of services</i>	All essential services are currently available to the site which support the current activities being undertaken on the land and as such, the development will not create any significant additional demands with regards to the extension of services.
<i>To minimise the visual impact of vegetation clearing in order to be consistent with the rural character of the locality</i>	The site has previously been disturbed by clearing and earthwork activities and the development will not require any additional

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	significant disturbance associated with vegetation clearing.
<i>To minimise disturbance to the landscape from development through clearing, earthworks, access roads and construction of buildings</i>	As previously stated, the site has been disturbed by past clearing and earthwork activities and the development will not require any additional significant disturbance to accommodate the development.
<i>To ensure development does not intrude into the skyline when viewed from a road or other public place</i>	The development has been designed to blend with the natural landscape tones of the site, and the buildings will sit below the ridgeline which forms the backdrop to the property. As such, the development will not intrude into the skyline when viewed from the road.

3.3 Relevant Clauses

The following clauses of the CLEP 2011, are relevant in the assessment of the application:

- *Clause 5.10 Heritage Conservation*

Clause 5.10 (5) of the *CLEP 2011* states that the consent authority may require the applicant to provide a heritage management document for development on land that is within the vicinity of a heritage item or heritage conservation area, to assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area of concern.

The subject site is located within the vicinity of listed items of heritage significance, including 'The Great North Road' (Item No. I127) and 'Laguna Public School; cottage style classroom building' at 3738 Great North Road, Laguna (Item No.I134).

Consistent with Clause 5.10, a heritage impact statement (HIS) was lodged with the application addressing the likely impacts of the proposed development on the heritage qualities of the locality.

The application and accompanying HIS were referred to Council's Heritage Officer for assessment who has assessed the development as being satisfactory with the following comments made:

The subject site comprises the Great North Road Trading Post site (c1879), however is not presently identified as a listed item of heritage significance. It nonetheless, provides an important contribution to the significance and setting of the Great North Road and is an important site for its evidence of the continued development and occupation of land along the Great North Road and in the Laguna locality.

The proposal involves the construction of two (2) dwellings and a separate building for use as a studio and storage by the owner. All three (3) structures are double storey. The buildings are to be positioned to the rear of the existing built structures on the site and as such, the proposal will not involve any material affectation to the existing buildings, retaining the character and immediate setting of the existing structures.

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Part of the original alignment of the Great North Road also traverses the site, which is known as the 'Abandoned Laguna Loop' and is described as a 'Major Item' in the description of this section of the roadway on its State Heritage Register Listing inventory sheet, as follows:

Abandoned loop at Laguna shop:

'An unsealed section of earlier road, about 250m in length situated west of the modern day sealed road alignment. Few construction features are evident. The older alignment appears to pass below a recently erected community "hall" structure then re-emerges passing in front of the general store/wine bar, before re-joining the current road-line.'

The proposed development will not obscure the original road alignment, allowing for the continued appreciation of this abandoned section of the road.

The proposed dwellings have been positioned on the site in such manner that will involve minimal intervention to the natural landform. They adopt a contemporary architectural form, which is considered to be of a quality design and with a palette of high quality materials and colour finishes which will assist in visually integrating the buildings harmoniously into the natural landscape.

The contemporary form and language provides a positive contrast to the landscape and will be clearly distinguished as new work. The materials and finishes have been deliberately chosen to blend with the colours and textures of the natural environment and the photomontages submitted demonstrate that the scale of the buildings, enhanced by the tactile palette of colours and finishes, will not become visually dominant within the landscape. While they will be visible from the Great North Road, they provide a pleasant backdrop that will not detract from the low-scale rural characteristics of the landscape.

Overall, the proposal is supported on heritage grounds, subject to conditions.

On the basis of the above comments from Council's Heritage Officer, it is considered that the requirements of Clause 5.10 have been satisfied.

- *Clause 7.2 - Earthworks*

The proposed buildings will be situated on existing benched platforms which were established as a result of previous unauthorised excavation works. While some additional earthworks will be required to accommodate the development, the extent of cut and fill required will not exceed one (1) metre. These works have been determined to be satisfactorily and meet the requirements of this clause.

- *Clause 7.13 – Dual Occupancies on land in Zone RU2*

The objective of this clause is to preserve the rural character of the area and requires Council not to grant consent to development for the purpose of a dual occupancy on RU2 zoned land unless it can be satisfied of the following matters:

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- (a) the dwellings are designed and sited to give the appearance of being a single development

Comment - The dwellings are located within 12 metres of each other and between 5 and 23 metres from the existing buildings located on the site. When viewed from Great North Road, the new buildings will appear as forming part of the existing cluster of buildings on the property, giving the appearance of a single development.

- (b) the dwellings will use shared facilities such as a common driveway, fire breaks and essential services, and

Comment - The dwellings will share the existing access driveway, bushfire asset protection zones (APZ's) and essential services.

- (c) any ancillary buildings and structures will be situated within close proximity to the dwellings, and

Comment - The proposed ancillary storage/studio building will be positioned central to the existing and proposed new buildings on the site and maintain the appearance of a single clustered development.

- (d) the dwellings are designed and sited to avoid significant adverse environmental impacts, and

Comment - The buildings have been designed to respect the environmental constraints of the site and the application has been supported by a Biodiversity Assessment Report, Heritage Impact Statement and Waste Water Disposal Report demonstrating minimal environmental impacts.

- (e) the dwellings are designed and sited to avoid significant adverse impacts on the agricultural potential and capability of the land.

Comment - Due to the small size of the property and constraints associated with slope and rock outcrops, the site is not suitable for agricultural production and is currently used for commercial purposes.

Given the development has demonstrated compliance with the requirements of Clause 7.13, it is considered that the underlying objective of this clause has been met in that the development will preserve the existing rural character of the area.

- *Clause 7.14 – Essential Services*

This clause applies to land zoned RU2 Rural Landscape and requires Council not to grant consent to development in this zone unless the following essential services are available, or that adequate arrangements have been made to make them available:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

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The application has demonstrated that the required essential services are available to the proposed development.

(a)(ii) *The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).*

The proposed *Remediation of Land SEPP* is intended to repeal and replace *SEPP 55 – Remediation of Land*. The Draft *Remediation of Land SEPP* (Draft SEPP) was exhibited from 25 January to 13 April 2018 and is currently under consideration.

The Draft SEPP seeks to provide a state-wide planning framework to guide the remediation of land, including outlining provisions that require consent authorities to consider the potential for land to be contaminated when determining development applications; clearly listing remediation works that require development consent; and introducing certification and operational requirements for remediation works that may be carried out without development consent.

Consideration has been given to the suitability of the site with respect to potential land contamination under SEPP 55, as discussed earlier in this report.

In respect to the consideration of this application, the Draft SEPP does not propose requirements that warrant further investigation regarding site contamination or remediation.

(a)(iii) *The Provisions of any Development Control Plan*

Cessnock Development Control Plan 2010

The Cessnock Development Control Plan 2010 (CDCP) applies to the land. The applicable parts and their chapters, as well as their relevance to the assessment of the application, are considered below.

Chapter C.3 - Contaminated Lands

This chapter of the CDCP has been prepared to reinforce and compliment the requirements of *SEPP 55*. As discussed earlier in this report, the proposed development is consistent with the requirements of *SEPP 55* and there are no inconsistencies with the contaminated lands chapter of the CDCP.

Chapter D.2 – Urban Housing

The development has been assessed against the provisions of Chapter D.2 of the CDCP 2010 (Urban Housing) and the following table summarises the provisions and requirements of the plan and compliance:

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Part D: Specific Development

Chapter 2: Urban Housing

Provision	Required	Provided	Complies?
Section 2.3.3 Site Planning and Layout	To achieve a coherent site layout that provides a pleasant, attractive, manageable and resource efficient living environment	The development demonstrates good site layout and the dwellings are provided with adequate privacy, amenity, parking, private open space and solar access.	Yes
Section 2.3.4 Streetscape	Scale and appearance of new development is to be compatible and sympathetic to existing development in the locality.	The development has been designed to visually integrate with the natural landscape and will not visually dominant the landscape. While the buildings will be visible from the Great North Road, they provide a pleasing backdrop that will not detract from the low-scale rural characteristics of the neighbourhood.	Yes
Section 2.3.4 Front Setback	Setbacks from the street to be consistent with those of adjoining development, though not necessarily identical.	The development will sit behind existing structures on the site and will not encroach on the established building setback.	Yes
Section 2.3.5 Private Open Space	2 bedrooms = 50m ² 3 bedrooms = 70m ² Principal Area = 4m x 4m Good solar access	A minimum of 70m ² of private open space area has been provided for each dwelling and the orientation of the development ensures adequate solar access.	Yes
Section 2.4.2 External Appearance	New development must consider the existing scale, character and massing of development in the immediate area	The scale of the development respects the existing scale of development located on the site and this has been discussed previously in this report.	Yes

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		<p>The surrounding locality is characterised by detached dwellings on rural holdings utilised for light grazing and agricultural purposes.</p> <p>The subject site is unique in that it provides a commercial service to the local neighbourhood and tourist visitors to the area, and has an established commercial built form in contrast to the surrounding rural environment.</p> <p>The scale and massing of the proposed buildings is appropriate within its current setting and the sensitive material and colour palette proposed by the development ensures the rural character of the area is not compromised.</p>	
Section 2.4.3 Building Height and Scale	Building maximum height - 7.2m (calculated from natural ground level to the underside of the ceiling in the uppermost habitable room)	The buildings will have a maximum height of 6.4 metres from natural ground level.	Yes
2.4.4 Side and rear setbacks	Minimum setback 1m - for walls up to 3m high then an additional 300m for every metre above 3m.	The dwellings are compliant with the minimum setback requirements from boundaries (between 25 and 31 metres from side boundaries)	Yes
2.4.5 Energy Conservation	The provision of adequate solar access to courtyards and living areas.	Both dwellings have been oriented to ensure adequate solar access to indoor living areas and outdoor spaces.	Yes
2.4.6 Views and Privacy	To encourage the sharing of views and provide	The proposed dwellings will enjoy significant views to the north and the	Yes

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	visual and acoustic privacy	east and the siting of the dwellings ensure visual and acoustic privacy can be achieved.	
2.4.7 Fencing and Walls	Front fences to be a maximum of 1.2m, if solid.	No front fencing is proposed.	N/A
2.4.8 Carparking	Minimum of 1 parking space per 2 bedroom dwelling and 2 parking spaces per 3 bedroom dwelling	A total of 3 parking spaces have been provided in accordance with the DCP requirements	Yes
2.5.2 Landscape Design	Landscaping to enhance the development, improve streetscape and assist in privacy	The development sits within an established rural landscape with existing background vegetation. Notwithstanding, a landscape plan has been provided with species appropriate in relation to bushfire risk.	Yes

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

The proposed development is located within a rural area and the development has been designed to minimise environmental impacts on the subject land and the surrounding rural neighborhood. The visual impact of the development has been adequately addressed through good design and respecting the visual sensitivity of the land. As such, the proposal will be compatible with surrounding land uses.

Traffic generated by the development is considered acceptable and consistent with traffic generation from surrounding rural development in the locality.

As demonstrated by the above assessment, the proposed development is unlikely to have a significant impact on both the natural and built environments, and the social and economic conditions of the locality.

(c) The suitability of the site for the development

As demonstrated by the above assessment, the site is considered to be suitable for the proposed development. Specifically, the development has been designed to respect the constraints of the site and the visual sensitivity of the land. The development is considered to be in keeping with the character of the surrounding rural landscape.

(d) Any submissions made in accordance with this Act or the regulations

The Development Application was publicly exhibited between 10 and 24 September 2020.

A total of five (5) submissions were received during the exhibition period in objection to the proposal. The submissions received represent 100% of notified households.

The following table outlines the issues raised in the submissions lodged with Council, along with a response to each matter:

Issue	Comment
The development is prohibited in the RU2 Rural Landscape Zone under the CLEP 2011.	The development is defined as a “dual occupancy (detached)” and is permitted with consent in the RU2 Rural Landscape zone under the provisions of the CLEP 2011.
The development is contrary to the objectives of the RU2 Rural Landscape Zone.	The development has been assessed as satisfying the objectives of the RU2 Rural Landscape zone and these objectives have been discussed previously in this report.
The proposal is an overdevelopment of the site and is not in keeping with the scale and character of development currently on the site.	<p>The scale of the development respects the existing scale of development located on the site, and this has been discussed previously in this report.</p> <p>The scale and massing of the proposed buildings is appropriate within its current setting, and the sensitive material and colour palette proposed by the development ensures the character of the existing buildings on the site is not compromised.</p> <p>Council’s Heritage Officer has assessed the design of the buildings and has concluded that the development respects the character of the existing development on the site (refer to previous Heritage Officer’s comments).</p>
The development will have an unacceptable visual impact on the locality, particularly when viewed from	The development has been designed to visually integrate with the natural landscape and will not visually dominant the site. While the buildings will be visible from the Great North Road, they provide a

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Great North Road which is heritage listed.	<p>pleasant backdrop that will not detract from the low-scale rural characteristics of the neighbourhood.</p> <p>The applicant has lodged a Heritage Impact Statement (prepared by a suitably qualified consultant) and this has been assessed by Council's Heritage Officer as being satisfactory. Council's Heritage Officer's comments have been outlined previously in this report.</p>
The site is unable to accommodate on site waste water disposal for the proposed development due to the presence of rock outcrops over the property.	The applicant has submitted a waste water disposal report prepared by a suitably qualified consultant, and such report has been assessed by Council's Environmental Health Officer as being satisfactory, thereby demonstrating that the site can accommodate a site waste water disposal to service the development.
The development will result in an unacceptable level of additional traffic generation.	The development will provide accommodation for the owner and manager of the site and as such, will generate minimal traffic associated with a residential use.
The development will impact on the Aboriginal heritage qualities of the site.	<p>The applicant has undertaken a search of the Aboriginal Heritage Information Management System (AHIMS) where an Aboriginal site was recorded in the locality and one report has been referenced identifying nearby sites:</p> <ul style="list-style-type: none"> Report No. 98217 (Stockyard creek and part of the South Arm of Wollombi Brook). <p>This site is located approximately 6 km away from the subject land and as such there are no recorded sites directly affecting the subject land.</p> <p>Notwithstanding, the proposed development will occupy an existing disturbed area of the site and no additional excavation is proposed outside of this disturbed building footprint.</p>
There will be inadequate parking on the site for both the existing development and proposed development.	The development is required to provide a total of 3 parking spaces in accordance with the CDCP 2010 and these have been provided on the site. These spaces are in addition to the existing parking area servicing the commercial operations currently being undertaken from the property.
The development will be used for tourist accommodation.	The applicant does not seek approval for the buildings to be used for the purpose of tourist accommodation. Council cannot make assumptions

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	on any potential for the buildings to be used for any unauthorised purpose in the future.
The owner has undertaken illegal clearing and earthworks on the property prior to gaining development approval.	This is a separate compliance issue which has been investigated by Council's Compliance Officers. This issue is not relevant to assessment of the current application.

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is consistent with the public interest.

SECTION 7.11 CONTRIBUTIONS

In accordance with the provisions of the City Wide Infrastructure Contribution Plan 2020 (Section 7.11 contribution plan), contributions are payable for the development totalling \$14,428.92 as detailed in the following table:

Contribution	\$
Open Space and Recreation Facilities	\$7,978.80
Community Facilities	\$1,064.11
Cycleway Facilities	\$4,046.96
Roads and Traffic	\$1,125.78
Plan Administration	\$213.27
Total Contribution	\$14,428.92

INTERNAL REFERRALS

The Development Application was referred to the following Council officers for comment:

Officer	Comment
Development Engineer	No objection has been raised to the proposal, subject to the imposition of suitable engineering conditions in the development consent.
Environmental Health (Waste Water Disposal)	No objection has been raised to the proposal, subject to the imposition of suitable conditions in the development consent relating to on-site waste water disposal.

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Heritage Officer	As previously discussed, Council's Heritage Officer has concluded that the proposed development is satisfactory in terms of heritage impacts, subject to the imposition of suitable conditions of consent.
Ecology Officer	No objection has been raised to the proposal in relation to ecology, subject to the imposition of suitable conditions in the development consent.

EXTERNAL REFERRALS

The Development Application was referred to the following external authority for comment:

Authority	Comment
NSW Rural Fire Service	No objection has been raised to the proposal, subject to the imposition of suitable conditions in the development consent.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, relevant Environmental Planning Instruments and Council policies.

The development is consistent with the objectives of the RU2 Rural Landscape Zone under *CLEP 2011*. The design and layout of the development exhibits a high standard of amenity, and is considered to be visually acceptable in respect of its impact on the surrounding rural landscape.

The proposal does not result in any significant adverse impacts to the surrounding natural or built environment and the site is considered suitable for the proposed development. The development is not contrary to the public interest.

Based on the assessment, it is recommended that the Development Application be approved, subject to the conditions of consent included in this report.

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ENCLOSURES

- [1](#) Development Plans
- [2](#) Submissions - *This matter is considered to be confidential under Section 10A(2) (j) of the Local Government Act, as it deals with Council Policy.*

CONDITIONS OF CONSENT

TERMS OF CONSENT

1. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2020/20600/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Drawing No: DA000 Rev- B Cover Page	Spacecraft	5 August 2020
Drawing No: DA001 Rev- B BASIX Report	Spacecraft	5 August 2020
Drawing No: DA100 Rev- B Site Plan	Spacecraft	5 August 2020
Drawing No: DA101 Rev- B Floor Plans Owners Residence	Spacecraft	5 August 2020
Drawing No: DA102 Rev- B Floor Plans Manager's Dwelling	Spacecraft	5 August 2020
Drawing No: DA103 Rev- B Roof Plans Owners and Manager's Dwelling	Spacecraft	5 August 2020
Drawing No: DA104 Rev- B Floor Plans Owners Studio	Spacecraft	5 August 2020
Drawing No: DA105 Rev- B Landscape Plan	Spacecraft	5 August 2020
Drawing No: DA201a	Spacecraft	5 August 2020

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Rev- B Elevations Owner's Dwelling		
Drawing No: DA201b Rev- B Elevations Owner's Dwelling	Spacecraft	5 August 2020
Drawing No: DA202 Rev- B Elevations Manager's Dwelling	Spacecraft	5 August 2020
Drawing No: DA203 Rev- B Elevations Office and Store	Spacecraft	5 August 2020
Drawing No: DA301 Rev- B Sections Owner's Dwelling	Spacecraft	5 August 2020
Drawing No: DA302 Rev- B Sections Manager's Dwelling and Owner's Studio	Spacecraft	5 August 2020
Drawing No: DA600 Rev- B Window and Door Schedule	Spacecraft	5 August 2020
Drawing No: DA601 - 603 Rev- B Exterior Finishes	Spacecraft	5 August 2020
Drawing No: DA604 Rev- B Exterior Finishes Schedule	Spacecraft	5 August 2020
Drawing No: DA605 Rev- B Photomontage	Spacecraft	5 August 2020

Document Title	Prepared By	Dated
Biodiversity Assessment Report	Peak Land Management	August 2021

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**2. General Terms of Approval**

All General Terms of Approval issued by NSW Rural Fire Service in letter dated 16 September 2020 shall be complied with prior, during and at the completion of the development, as required.

A copy of the General Terms of Approval is attached to this determination notice.

3. Storage Shed

The proposed storage shed identified on the site plan (Drawing No: DA100 Rev- B dated 5 August 2020) does not form part of this approval and will be subject to a separate development application.

4. CC, PCA & Notice Required

In accordance with the provisions of Section 81A of the *EP&A Act 1979* construction works approved by this consent must not commence until:

- a) A CC has been issued by the consent authority, Council or an accredited certifier; and
- b) A PCA has been appointed by the person having benefit of the development consent in accordance with Section 109E of the *EP&A Act 1979*; and
- c) If Council is not the PCA, notify Council no later than two (2) days before building work commences as to who is the appointed PCA; and
- d) At least two (2) days before commencement of building work, the person having benefit of the development consent is to notify Council as to the intention to commence building work.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of the CC:

5. Section 7.11 Contributions Payable

A contribution pursuant to the provisions of Section 7.11 of the *EP&A Act 1979* for the services detailed and for the amount detailed must be made to Council prior to the issue of a CC:

Fee Type Code	Contribution Type	Amount Payable
	Open Space and Recreation Facilities	\$7,978.80
	Community Facilities	\$1,064.11
	Cycleway Facilities	\$4,046.96
	Roads and Traffic	\$1,125.78
	Plan Administration	\$213.27
	Total	\$14,428.92

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A copy of Council's City Wide Infrastructure Contributions Plan 2020 may be inspected at Council's Customer Services Section, Administration Building, Vincent Street, Cessnock or can be accessed on Council's website at www.cessnock.nsw.gov.au.

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

6. Section 68 Approval

Application shall be made to Council under Section 68 of the *Local Government Act 1993* to Install, Construct or Alter an Onsite System of Sewage Management.

The application shall be accompanied by the required documentation, as specified under Clause 26 of the *Local Government (General) Regulation 2005*. The design of the onsite sewage management system shall be in accordance with the Environmental Health Protection Guidelines and AS/NZS 1547-2012 (The application form and further information is available on Council's website www.cessnock.nsw.gov.au).

The Section 68 application shall be considered and approved by Council prior to the release of a CC for the development.

The grey-water produced from the showers shall be directed to a collection point and disposed of on site in a manner which will not create a nuisance or will pollute the environment. This is to be addressed within the Section 68 Application required for the composting toilet.

7. Marking of Wombat Burrow

The wombat burrow (as shown in Figure 7 of the Biodiversity Assessment Report prepared by Peak Land Management, dated August 2021) must be clearly delineated using brightly coloured tape, at a minimum distance of 5 metres in all directions surrounding the burrow. The area is to be appropriately signposted to ensure that construction and development activities do not encroach or impact the area. Evidence that this has occurred must be provided to Council's Ecologist for approval prior to the issue of a CC.

8. Landscaping

The Landscape Plan by Spacecraft dated 5 August 2020 (revision B) must be updated so that only local native species of local provenance grown by a specialist native plant nursery are used for landscaping. Native species are to be characteristic of Hunter Ranges Grey Gum. Evidence of this must be submitted to and approved by Council's Ecologist prior to issue of a CC.

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9. Temporary Marking of Asset Protection Zone

Evidence that boundaries of the Asset Protection Zone have been marked using temporary protective fencing or brightly coloured tape must be provided to Council's Ecologist prior to issue of a CC.

10. Heritage Interpretation Strategy

Prior to the issue of any CC, a Heritage Interpretation Strategy shall be submitted to Council and approved by Council's Heritage Advisor.

The Heritage Interpretation Strategy is to be prepared by a suitably qualified heritage specialist and is to be developed in consultation with Council's Heritage Advisor and the Convict Trail Project (CTP) and provide a suitable strategy for the interpretation of the significance of the Great North Road Trading Post site, the abandoned loop of the Great North Road and the Convict Trail Project.

11. Conservation Management Plan

Prior to the issue of a CC, a Conservation Management Plan shall be prepared for the site in accordance with the Heritage Council of NSW guidelines and following the methodology as specified in J.Semple Kerr's '*A Conservation Management Plan*', and submitted to Council.

The Conservation Management Plan shall be prepared by a suitably qualified heritage specialist and include a strategy for the implementation of the conservation policies and recommendations of the plan, together with a schedule of conservation/cyclical maintenance works. This plan is to be submitted to Council and approved by Council's Heritage Advisor.

12. Parking

Three (3) parking spaces are to be provided on site for the dual occupancy, totalling fifty-one (51) spaces for the site. The design and layout of the parking area is to be in accordance with the approved development plans and Council's Development Control Plan 2010 (Chapter C.1 – Parking and Access).

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

13. Stormwater Design

A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property, and connection to the existing drainage system in accordance with Council's 'Engineering Requirements for Development' (available at Council's offices). Such layout shall include existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

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14. Internal Access Road

The registered proprietors shall provide details of an all-weather access road from the property boundary to the proposed dwellings in accordance with the approved development plans. The access road will need to be constructed to a width of 4m, 100mm thick pavement with 1m wide clear verges either side. All works are to be in accordance with Council's 'Engineering Requirements for Development' and NSW Rural Fire Service 'Planning for Bushfire Protection' to serve the proposed development.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

PRIOR TO THE COMMENCEMENT OF WORKS

The following conditions are to be complied with prior to any works commencing:

15. Prior to Tree Removal

Trees to be removed within the effluent management area located east of the Asset Portection Zone (as shown in Figure 2 of the Biodiversity Assessment Report by Peak Land Management dated August 2021) must be clearly marked prior to any tree removal to avoid additional trees being mistakenly removed or damaged.

16. Public Liability Insurance

Any person or contractor undertaking works on public property must take out Public Risk insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within, public property. The Policy is to note, and provide protection for Cessnock City Council as an interested party, and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property. The insurance shall also note the location and the risk.

17. S138 Roads Act Approvals

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, or public road reserve be required, a S138 Roads Act Approval will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The S138 application is to be submitted to, and approved by, Council prior to works commencing.

DURING WORKS

The following conditions are to be complied with during works.

18. Construction Hours

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. Work is not to be carried out on Sundays and public holidays.

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19. BCA Compliance

Pursuant to Section 80A (11) of the *EP&A Act 1979* all building work must be carried out in accordance with the requirements of the *BCA*.

20. Approved Plans Kept On Site

A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.

21. Construction Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment and Heritage *Noise Guide for Local Government*.

22. Erosion and Sediment Controls

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's "Engineering Requirements for Development", and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks, and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

23. Stormwater Runoff

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

24. Waste Management

Rubbish generated from the development is to be suitably contained on site at all times. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown off site.

25. Clearing of Vegetation

Clearing of native vegetation and all development activities must only occur within the approved Asset Protection Zone and effluent management area (as shown in Figure 2 of the Biodiversity Assessment Report by Peak Land Management dated August 2021). All native vegetation (including understorey) outside of the nominated development envelope must be retained.

26. Tree Clearing – Effluent Management Area

The clearing of trees within the effluent management area located east of the Asset Protection Zone (as shown in Figure 2 of the Biodiversity Assessment Report by Peak Land Management dated August 2021) must be undertaken in a manner that avoids damaging adjacent vegetation to be retained.

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27. Protection of Wombat Burrow

The tape and sign required to identify the wombat burrow must remain in place until works are completed.

28. Temporary Marking of Asset Protection Zone

The fencing or tape marking the boundaries of the Asset Protection Zone must remain in place until completion of construction works.

29. Clearing of Development Footprint

During construction works all vehicles must be washed before entering the site to prevent the spread of exotic species.

30. Roads – Bitumen Crossing

The registered proprietors shall construct and maintain a bitumen sealed access crossing from the edge of the road formation on Great North Road to the property boundary, in accordance with Council's "Engineering Requirements for Development" and AS 2890.1. A S138 Roads Act Approval is required from Council prior to any construction commencing within the road reserve. The access crossing is required to be constructed prior to the issue of an OC.

Construction of the crossing will require inspections to be undertaken by Council. The applicant shall pay Council engineering site supervision fees in accordance with Council's current Fees & Charges, prior to the inspections being undertaken.

The initial fee will facilitate approval of the application and one (1) construction inspection (gravel in place but prior to sealing of the crossing).

A final inspection will be required upon completion of the driveway and restoration of all disturbed footway areas. (A separate fee will be required to be paid when the final inspection is booked.). Should further inspections become necessary as a result of unsatisfactory or defective works, additional inspection fees will be charged in accordance with Council's current Fees & Charges.

The applicant is to advise Council at least 48 hours prior to inspection of works within the footpath and/or road reserve.

31. Parking – Completion

Car parking areas shall be completed prior to the issue of an OC.

32. Road – Access Completion

Construction of all access roads, road works (including the removal and restoration of redundant vehicular crossings, etc), driveways, access corridors, car parking areas and loading bays, including the provision of appropriate line marking and other traffic management devices, are to be completed prior to issue of an OC.

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33. Drainage Works

All drainage works required to be undertaken in accordance with this consent shall be completed prior to issue of an OC for the development.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of either an Interim or Final Occupation Certificate (as specified within the condition):

34. Inspection for On-Site Sewage Management

Prior to the use of the premises for the purposes approved by this consent, and prior to the issue of an OC, a satisfactory final inspection report from the Council must be received by the PCA, verifying the associated on-site wastewater management system has been supplied and installed in accordance with the approval under Section 68 of the *Local Government Act 1993*.

35. Finish of Excavated &/or Filled Areas Around Site

Prior to issue of a Final OC, the excavated and/or filled areas of the site are to be stabilised and drained, to prevent scouring onto adjacent private or public property. The finished ground around the perimeter of the building is to be graded to prevent ponding of water, and to ensure the free flow of water away from the building and adjoining properties.

36. Marking of Asset Protection Zone

The boundaries of the Asset Protection Zone must be permanently delineated using fencing, posts, bollards or similar. Evidence that this has occurred must be provided to Council's Ecologist prior to issue of the OC.

37. Landscaping

All landscape works, including the removal of all noxious weed species, are to be undertaken in accordance with the approved landscape plan and conditions of development consent, prior to the issue of the OC.

38. Lots To Be Consolidated

All allotments involved in this proposal must be consolidated into one allotment. Evidence of registration shall be submitted to Council or the PC prior to the issue of an OC.

ON-GOING USE

39. Use of On-site Bore

The onsite bore shall not be used for potable or domestic purposes.

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40. Retention of Native Vegetation

All native vegetation on the site outside of the approved Asset Protection Zone and effluent management area (as shown in Figure 2 of the Biodiversity Assessment Report by Peak Land Management dated August 2021) must be retained in a natural state, not cleared, picked (as defined in the Biodiversity Conservation Act 2016) or disturbed in any way and allowed to regenerate in perpetuity.

41. Fencing

All fencing using wire must be constructed with plain wire. Barbed wire must not be used in any fencing on the site. Fencing must be designed and erected so that native fauna movement is not impaired or restricted to reduce the chance of native fauna being injured.

42. Restraint of Cats and Dogs

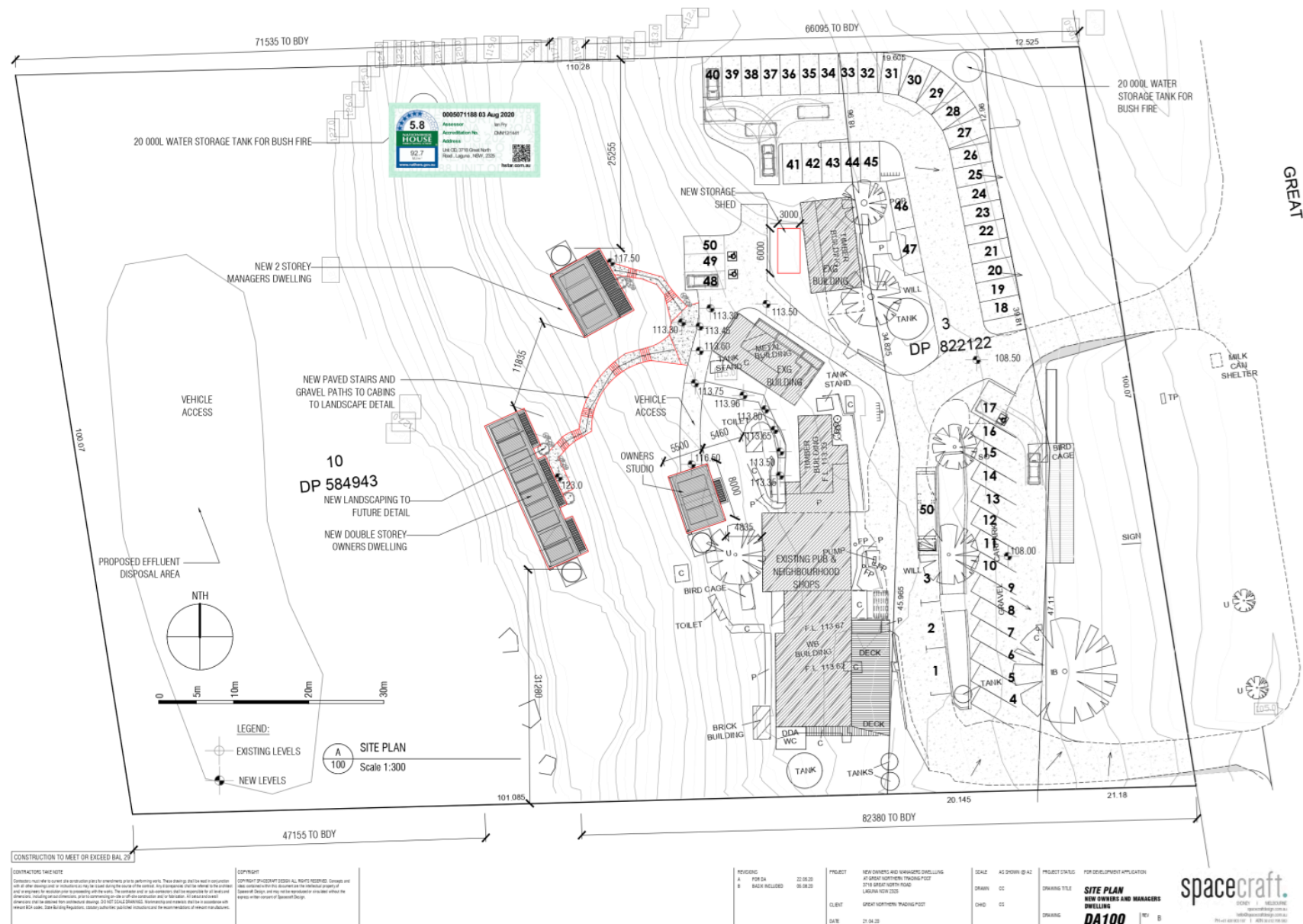
Any cats on the property must be kept indoors at all times to protect the native fauna on the site. Any dogs must be kept within a securely fenced area. Fences must be able to prevent the dogs from entering areas of native vegetation on the site.

43. Weeds Listed in Biosecurity Regulation

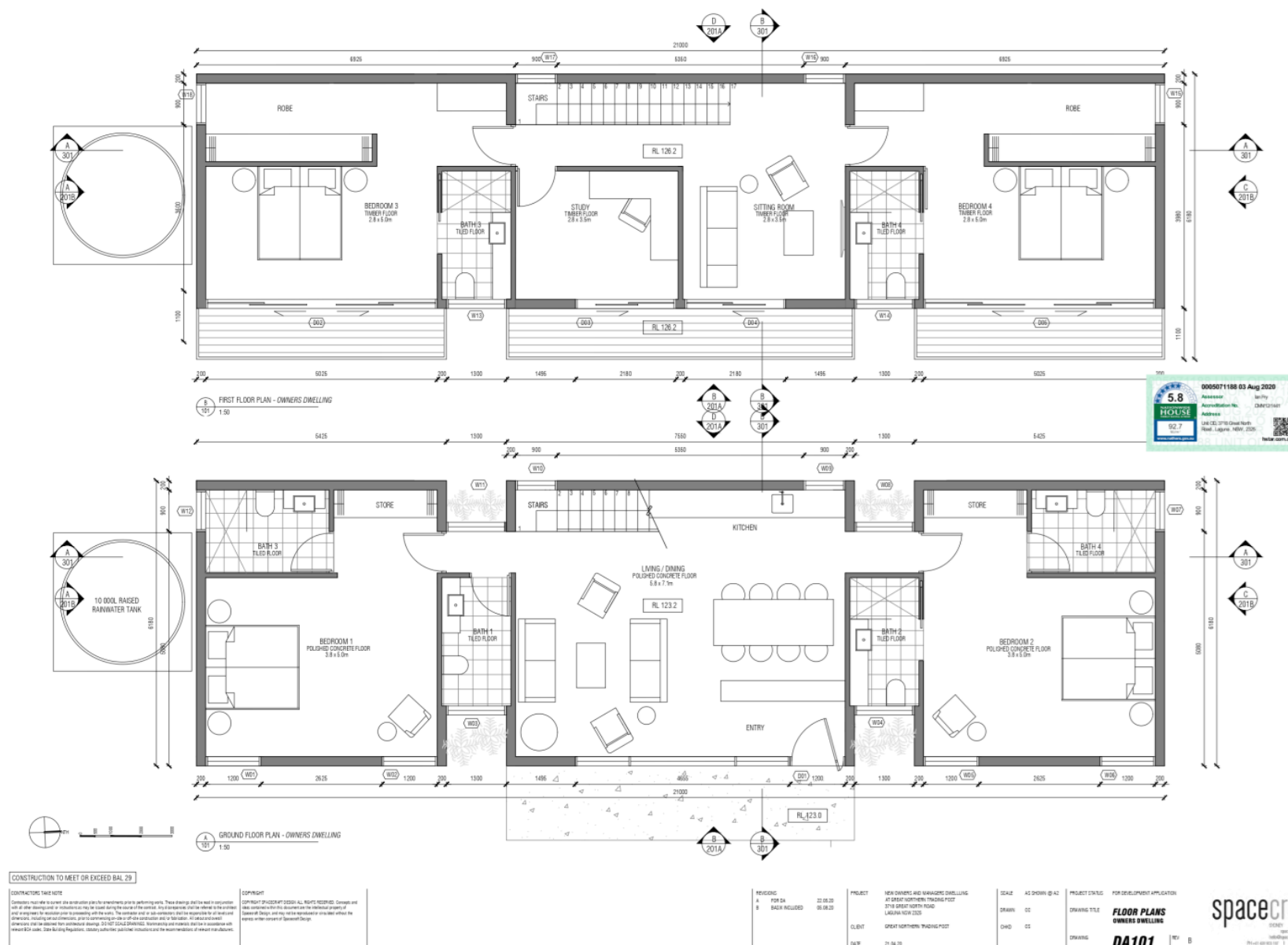
The weeds *Cestrum parqui* (Green Cestrum), *Rubus anglocandicans* (Blackberry) and *Gleditsia triacanthos* (Honey Locust) on the site must be removed on an on-going basis for the life of the development.

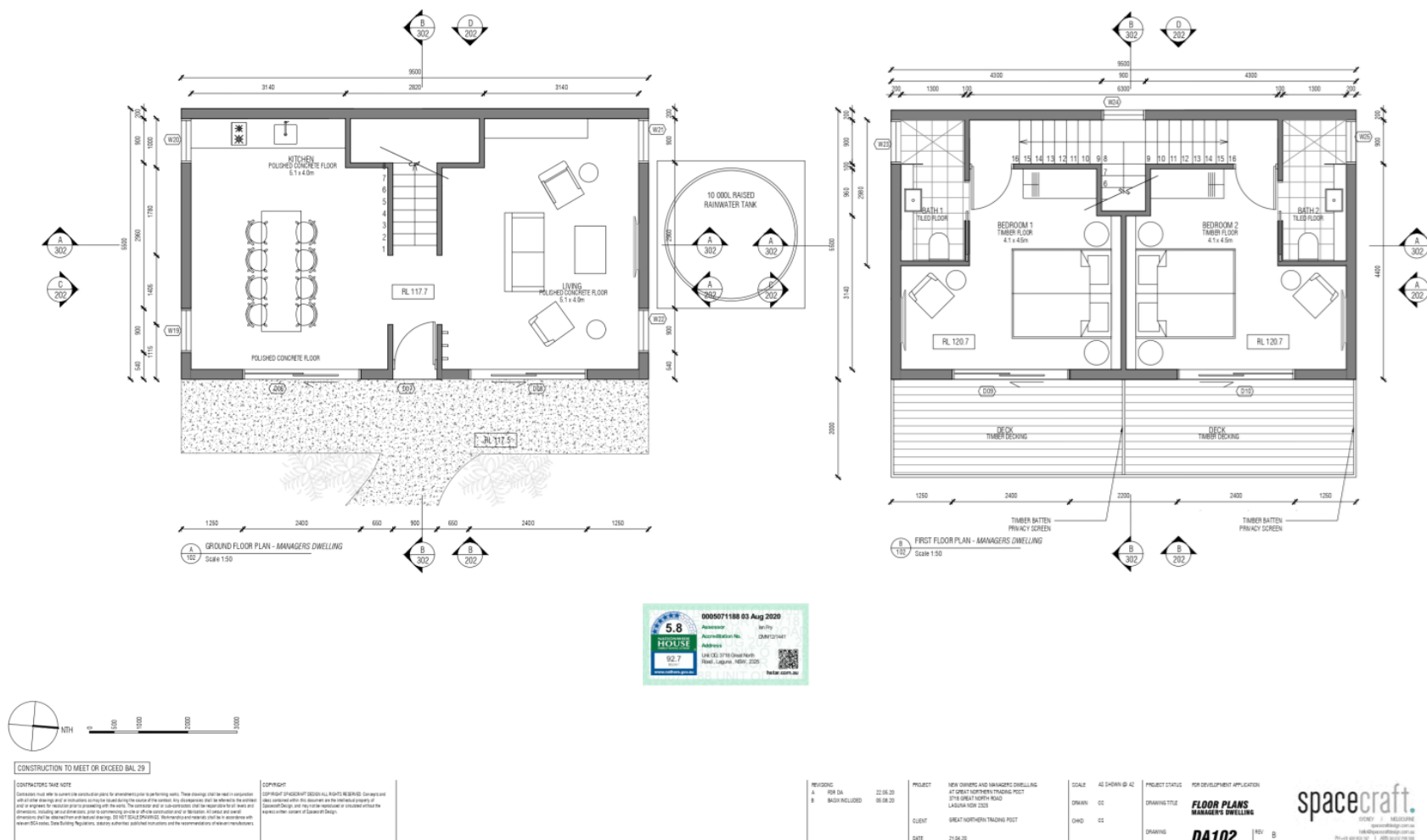
44. Outdoor Lighting

All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and road reserve, and must comply with, where relevant, *AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance and design requirements* and *AS 4282:1997 Control of the obtrusive effects of outdoor lighting*.

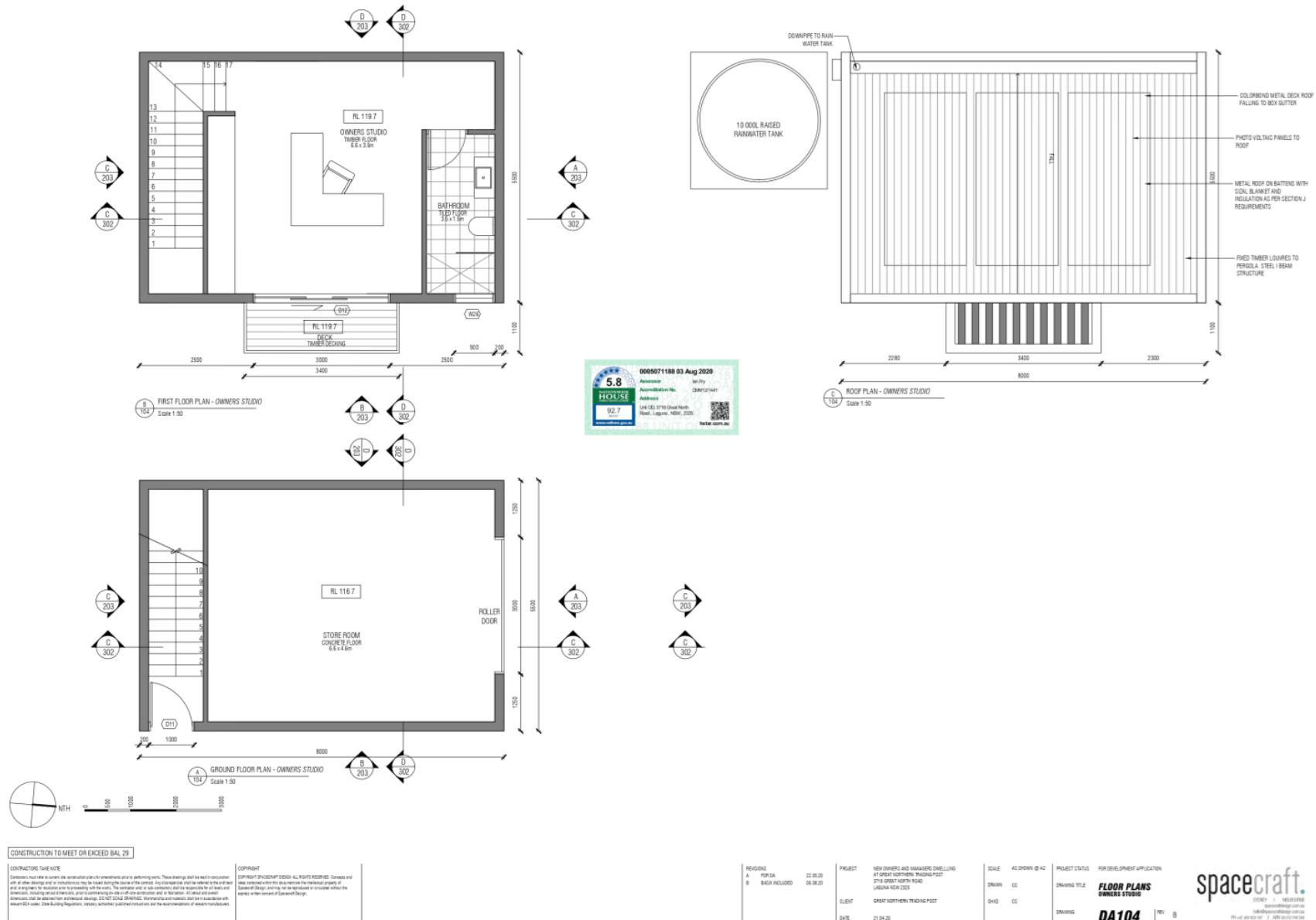


3718 Great North Road, Laguna







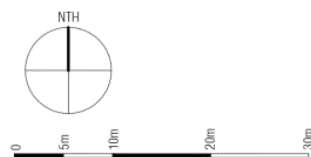


3718 Great North Road, Laguna

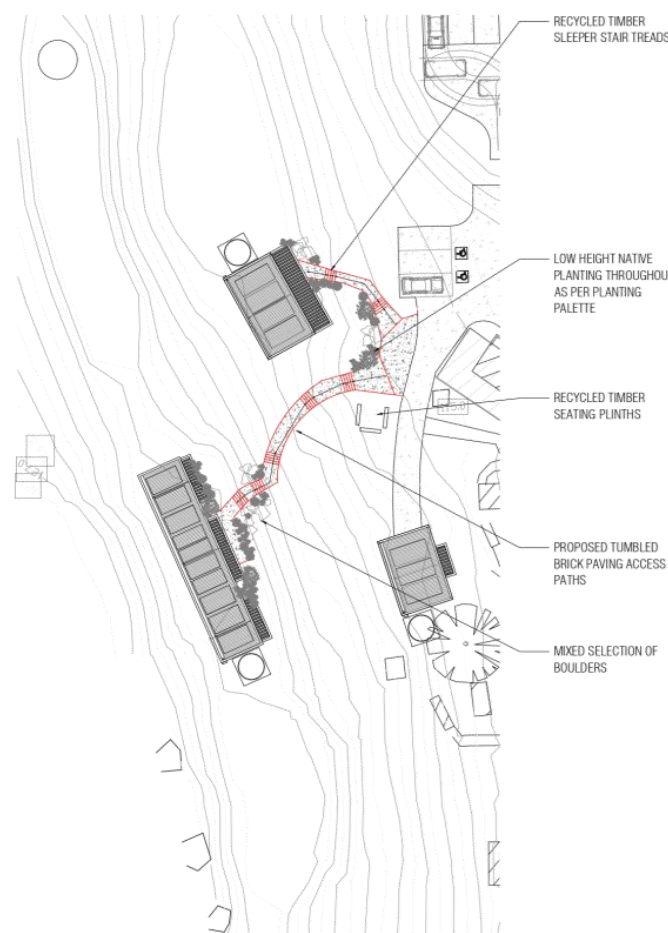
PLANTING SCHEDULE

LATIN NAME	COMMON NAME	WIDTH	HEIGHT
Pennisetum alopecuroides	Purple Lea	900mm	900mm
Pennisetum alopecuroides	Natray	600mm	600mm
Pennisetum alopecuroides	Pennstripe	450mm	450mm
Correa alba	White Correa	1000mm	1500mm
Grevillea rosmarinifolia	Crimson Villea	800mm	800mm
Lomandra longifolia	Katrinus Deluxe	700mm	700mm
Kangaroo Paw	Gold-Velvet	400mm	600mm
Kangaroo Paw	Ruby Velvet	400mm	600mm
Lepidosperma	Twilight Green	500mm	500mm
Dianella caerulea	Lucia	300mm	400mm
Chryscephalum apiculatum	Yellow buttons	300mm	500mm
Eremophila glabra prostrate	Blue horizon	1500mm	1000mm
Grevillea juniperina	Gold cluster	300mm	1000mm
Rhagodia spinescens	Aussie flat bush	300mm	1000mm

PLANTING PALETTE



LANDSCAPE PLAN
Scale 1:300



DESIGN IMAGES



CONSTRUCTION TO MEET OR EXCEED BAL 29

CONTRACTORS TAKE NOTE

Contractors must refer to current site plan and plan for construction prior to performing work. These drawings and the work to be constructed must be approved by the Council prior to construction. Any work not approved by the Council prior to construction is a breach of the Development Application and may result in the Council taking action to enforce the Development Application. Any work not approved by the Council prior to construction is a breach of the Development Application and may result in the Council taking action to enforce the Development Application.

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REVISIONS

1	FOR SET	22.08.20
2	FOR REVIEW	26.08.20

PROJECT

NEW DWELLING AND MANAGER'S DWELLING
3718 GREAT NORTH ROAD
LAGUNA, VIC 3225

CLIENT

GREAT NORTHERN TRADING POST

DATE

21.04.20

SCALE

AS SHOWN @ A2

DRAWN

CC

CHECKED

CC

PROJECT STATUS

FOR DEVELOPMENT APPLICATION

DRAWING TITLE

LANDSCAPE PLAN

DRAWING

DA105

REV

B



CONSTRUCTION TO MEET OR EXCEED BAL 29

LEARNING OBJECTIVES

Contractors must refer to current site construction plans for amendments prior to performing works. These drawings shall be read in conjunction with all other drawings and/or instructions as they may be issued during the course of the contract. Any discrepancies shall be referred to the engineer and/or engineer-in-charge prior to proceeding with the works. The contractor and sub-contractors shall be responsible for all work and dimensions, including cut-and-fill dimensions, prior to commencing on-site or off-site construction and/or habitation. Materials and overall dimensions shall be obtained from architectural drawings. DO NOT SCALE DRAWINGS. Workmanship and materials shall be in accordance with relevant BCA code, State Building Regulations, industry authorities' published instructions and the recommendations of relevant manufacturers.

Lesson

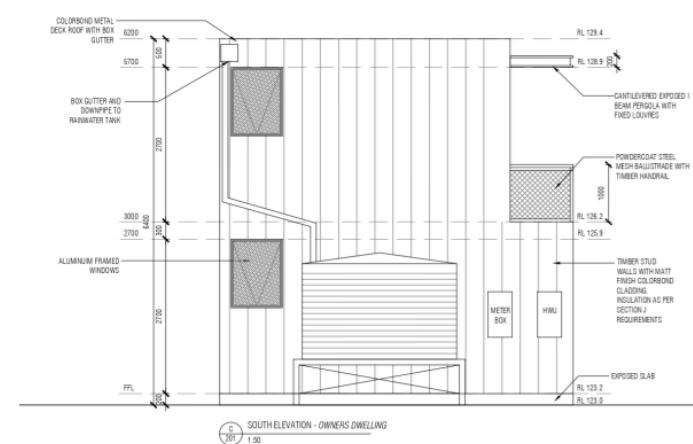
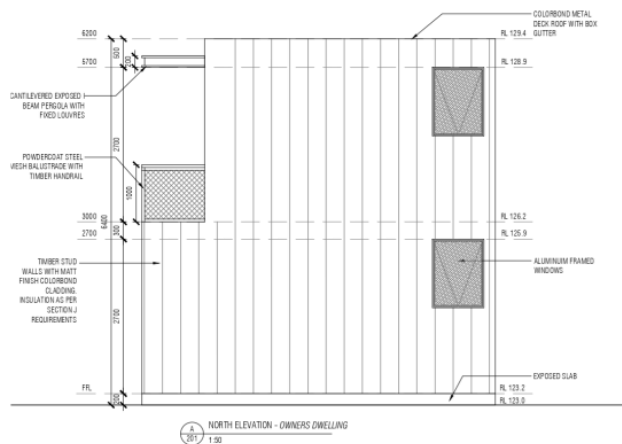
REVISING		
A	FOR DA	20
B	BACK INCLUDED	05

PROJECT	NEW DWAIN'S AND MANAGER'S DWELLINGS AT GREAT NORTHERN TRADING POST 3718 GREAT NORTH ROAD LAGUNA NICH 2325
CLIENT	GREAT NORTHERN TRADING POST
DATE	21.04.20

SCALE	AS SHOWN @ 1/4"
DRAWN	CC
CHECKED	CC

PROJECT STATUS FOR DEVELOPMENT APPLICATION
DRAWING TITLE **ELEVATIONS**
OWNERS DWELLING
DRAWING **DA201a** REV

spacecraft.
DONEY | MELBOURNE
spacecraftdesign.com.au
hello@spacecraftdesign.com.au
PH +61 48 903 1187 | AIN 30 012 788 965



CONSTRUCTION TO MEET OR EXCEED BAL 29

CONTRACTORS TAKE NOTE

Contractors are to ensure the construction plans for the building are to be performed in accordance with the Building Act 2011 and the Building Regulations 2012. The contractor is to ensure the construction is in accordance with the Building Act 2011 and the Building Regulations 2012. The contractor is to ensure the construction is in accordance with the Building Act 2011 and the Building Regulations 2012. The contractor is to ensure the construction is in accordance with the Building Act 2011 and the Building Regulations 2012.

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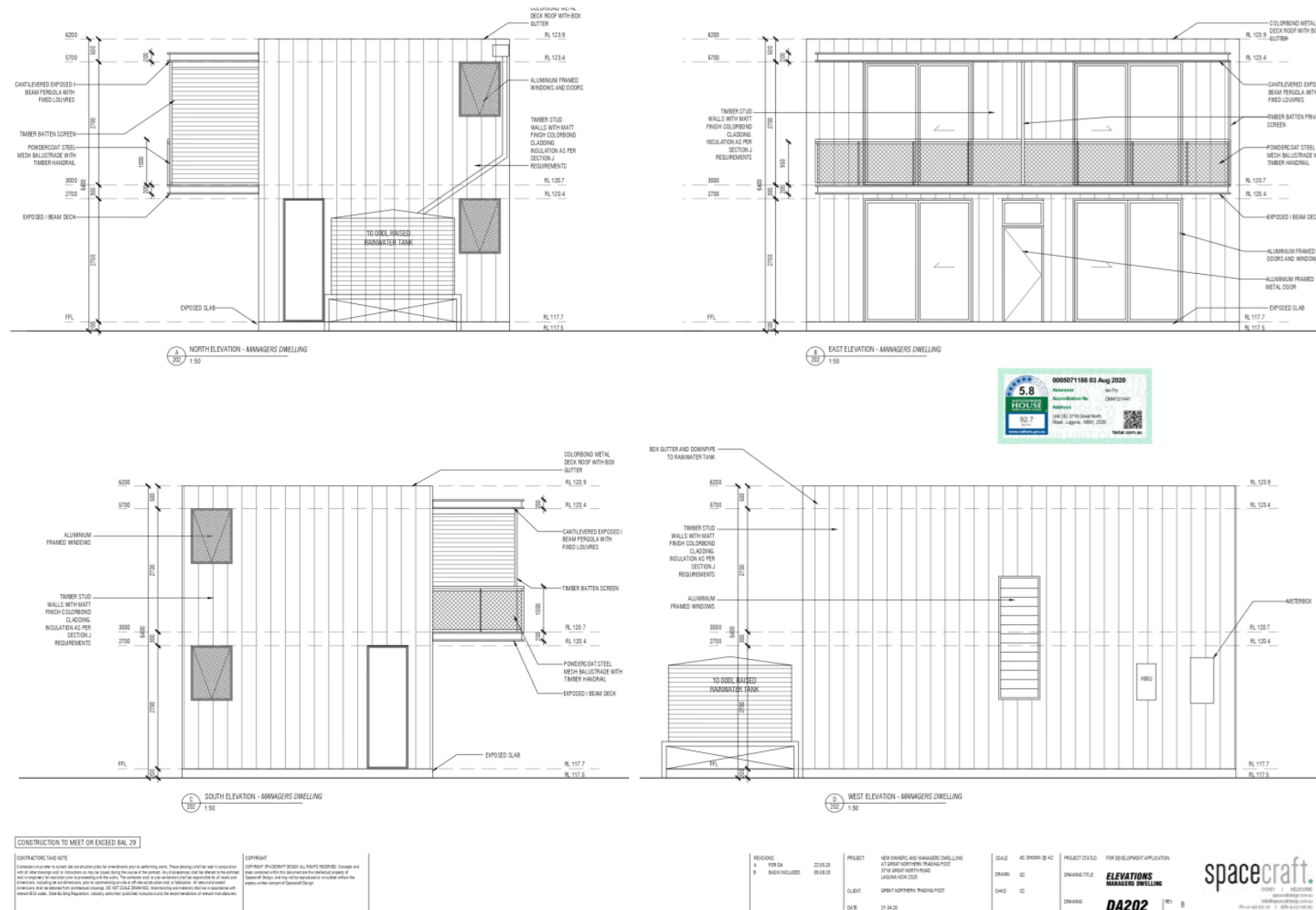
REVISIONS	DATE	BY
A	22/04/20	FOR DA
B	05/04/20	BACK REVISION

PROJECT	NEW DWELLING AND MANAGER'S DWELLING AT GREAT NORTHERN TRADING POST 3718 GREAT NORTH ROAD, LAGUNA VIC 3223
CLIENT	GREAT NORTHERN TRADING POST
DATE	21/04/20

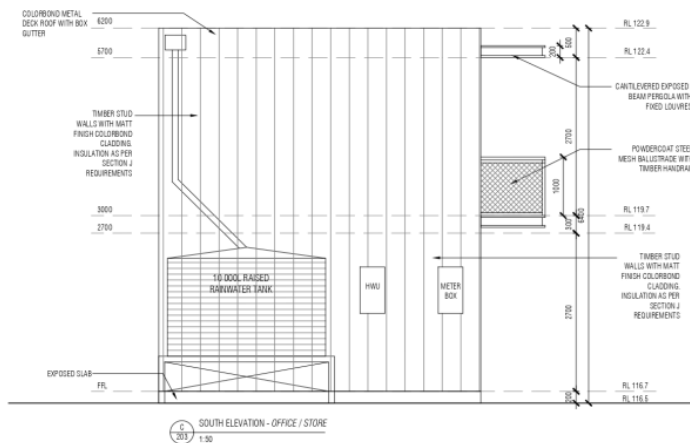
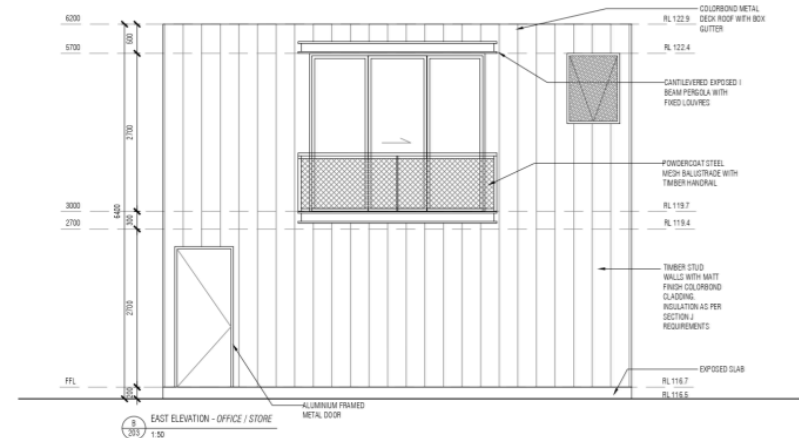
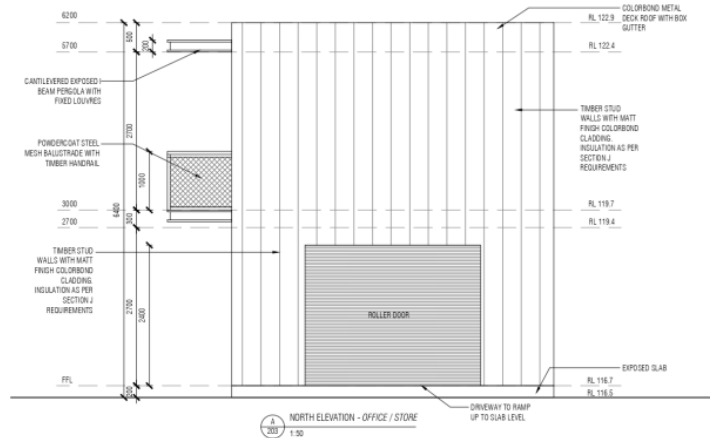
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DRAWN	CC
CHECKED	CC

PROJECT STATUS	FOR DEVELOPMENT APPLICATION
DRAWING TITLE	ELEVATIONS OWNERS DWELLING
DRAWING	DA201b
REV	B





3718 Great North Road, Laguna



CONSTRUCTION TO MEET OR EXCEED BAL 29

CONTRACTOR'S NOTE

Contractor must refer to current site plan and plans for construction prior to performing work. These drawings shall be read in conjunction with all other drawings and specifications and shall be used as a guide only. The contractor shall be responsible for obtaining all necessary permits and approvals, including but not limited to, prior to commencing work on site. The contractor shall be responsible for obtaining all necessary permits and approvals, including but not limited to, prior to commencing work on site. The contractor shall be responsible for obtaining all necessary permits and approvals, including but not limited to, prior to commencing work on site.

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REVISIONS	PROJECT	SCALE	PROJECT STATUS
1. FOR DA	NEW DWELLING AND MANAGER'S DWELLING	AS SHOWN @ A2	FOR DEVELOPMENT APPLICATION
2. BACK INCLUSIVE	47 GREAT NORTHERN TRADING POST		
	3718 GREAT NORTH ROAD		
	LAGUNA NSW 2225		
CLIENT	UPBET NORTHERN TRADING POST	DRAWING TITLE	ELEVATIONS OFFICE AND STORE
DATE	21/04/20	DRAWING	DA203



3718 Great North Road, Laguna



3718 Great North Road, Laguna



CONSTRUCTION TO MEET OR EXCEED BAL 29

CONTRACTOR'S NOTE

Construction shall adhere to current City Council standards for all aspects of the project. These drawings shall be used in conjunction with all other drawings and specifications during the construction of the project. The contractor shall be responsible for all work and materials, including but not limited to, the design, construction, and installation of the project. The contractor shall be responsible for all work and materials, including but not limited to, the design, construction, and installation of the project. The contractor shall be responsible for all work and materials, including but not limited to, the design, construction, and installation of the project.

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REVISIONS
A. FOR PDA
B. BATH INCLUDED

PROJECT
NEW DANCER AND MANAGER'S DWELLING
AT GREAT NORTHERN TRADING POST
3718 GREAT NORTH ROAD
LAGUNA NSW 2232

CLIENT
GREAT NORTHERN TRADING POST

DATE
21/04/20

SCALE
AC CHYRN @ 42
DRAWN
CC
CHD
CC

PROJECT STATUS
RPA DEVELOPMENT APPLICATION
DRAWING TITLE
EXTERIOR FINISHES

DRAWING
DA602
REV 8

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DESIGN / BUILDERS
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(04) 40 400 000 1 800 66 110 000

3718 Great North Road, Laguna



CONSTRUCTION TO MEET OR EXCEED BAIL 29

CONTRACTOR TAKE NOTE

Contractor must refer to current site control plan for amendments prior to performing works. These drawings shall be used in conjunction with all other drawings and specifications to be used during the construction of the proposed building. Any discrepancies shall be referred to the architect and/or engineer for resolution prior to commencing work. The contractor and/or subcontractors shall be responsible for all levels and dimensions, including ground dimensions, prior to commencing work. All dimensions shall be in accordance with the Australian Standard AS/NZS 4600:2018. The building Regulations shall be used for all other purposes not covered by the specifications or drawings.

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REVISIONS		
A	FOR DCA	22.08.20
B	WORK INCLUDED	15.08.20

PROJECT	NEW DINING AND KITCHEN DWELLING AT GREAT NORTHERN TRADING POST 3718 GREAT NORTH ROAD LAGUNA NSW 2225
CLIENT	GREAT NORTHERN TRADING POST
DATE	21.04.20

SCALE	AS SHOWN @ A1
DRAWN	CC
CHECKED	CC

PROJECT STATUS	FOR DEVELOPMENT APPLICATION
DRAWING TITLE	EXTERIOR FINISHES
DRAWING	DA603
REV	8





CONSTRUCTION TO MEET OR EXCEED BAL 29

LEAD CONTRACTORS TAKE NOTE

Contractor must identify current life construction plans for amendments prior to performing work. These drawings shall be used in conjunction with all other drawings and/or instructions that may be issued during the course of the contract. Any discrepancies shall be referred to the architect and is agreement for resolution prior to proceeding with the work. The contractor and/or sub-contractor shall be responsible for all levels and dimensions, including vertical dimensions, prior to commencing work on a life construction and/or fabrication. All sizes and small dimensions shall be obtained from architectural drawings. DO NOT SCALE DRAWINGS. Workmanship and materials shall be in accordance with

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REVISIONS		
A	FOR DA	22-06-16
B	BADM INCLUDED	06-06-16

PROJECT	NEW OWNERS AND MANAGERS OWELLING AT GREAT NORTHERN TRADING POST 3718 GREAT NORTH ROAD LAGUNA NOV 2325
CLIENT	GREAT NORTHERN TRADING POST

CLIENT	OPREAT NO
DATE	27 04 20

SCALE	AS SHOWN ON
DRAWN	CC
CHD	CC

CHD	CS
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PROJECT STATUS: FOR DEVELOPMENT APPLICATION

11/06/2017 10:44:00 AM 11/06/2017 10:44:00 AM

DRIVING TITLE **EXTERIOR FINISHES**

EXTERIOR FINISHES

SCHEDULE

NAME: **D1004** ID: _____spacecraft
STATION • WIRELESS

general@kings.com
help@general@kings.com

Enclosure 1



NORTH ASPECT



EAST ASPECT



SOUTH ASPECT

CONSTRUCTION TO MEET OR EXCEED BAL 29

CONTRACTORS TAKE NOTE
Contractors must refer to current code with all other drawing and/or in and/or in engineers for resolution of dimensions. Including but not limited to dimensions shall be drawn to meet SCA codes, State Building

| conver-

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REVENUE		
A	FOR DA	22.08.20
B	BACK INCLUDED	05.08.20

PROJECT	NEW OWNERS AND MANAGERS OVERVIEW AT GREAT NORTHERN TRADING POST 3718 GREAT NORTH ROAD LAGUNA NSW 2305
CLIENT	GREAT NORTHERN TRADING POST
DATE	21.04.20

SCALE	AS SHOWN
DRAWN	CC
CHWD	CC

PROJECT STATUS	FOR DEVELOPMENT APPLICATION
DRAWING TITLE	PHOTO MONTAGE
DRAWING	DA605

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Planning and Environment

Report No. PE50/2021

Planning and Environment



SUBJECT: *DEVELOPMENT APPLICATION 8/2021/21668/1 - SINGLE STOREY DWELLING AND ATTACHED GARAGE*

28 ELEVENTH STREET, MILLFIELD

RESPONSIBLE OFFICER: *Compliance Services Manager - Warren Murphy*

APPLICATION NUMBER:	8/2021/21668/1
PROPOSAL:	Single storey dwelling and attached garage
PROPERTY DESCRIPTION:	Lot 91, DP 1272564
PROPERTY ADDRESS:	28 Eleventh Avenue, Millfield
ZONE:	RU5
OWNER:	Mr R R Powell
APPLICANT:	Miss E Melia

RECOMMENDATION

1. That:

- (i) Development Application No. 8/2021/21668/1 proposing construction of a single storey dwelling at Lot 91, DP1272564, 28 Eleventh Avenue, Millfield be approved pursuant to Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979 subject to the conditions contained in this report.**
- (ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:**

 - a) The proposal is a permitted land use in the R5 Large Lot Residential zone under Cessnock Local Environmental Plan 2011;**
 - b) The proposal is consistent with the objectives of the R5 Large Lot Residential zone under Cessnock Local Environmental Plan 2011;**
 - c) The proposal is consistent with the relevant State Environmental Planning Policies;**

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- d) The proposal is generally compliant with the relevant provisions under Cessnock Development Control Plan 2010, with the variations considered to be minor in nature;
 - e) The proposal incorporates adequate measures to ensure the development does not result in any adverse impacts on the natural and built environment;
 - f) The proposal will not result in any adverse social or economic impacts;
 - g) The site is considered suitable for the proposed development; and
 - h) The proposal is considered to maintain the public interest.
- (iii) The details contained above be publicly notified pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the Environmental Planning and Assessment Act 1979.

REASON FOR REPORT

Development Application No. 8/2021/21668/1 is being referred to Council for determination because the land is owned by a Council employee and the proposal does not relate to the employee's principal place of residence

Under the provisions of Council's Policy - Lodgement of a Development Application, Section 96 Application, Section 82A Application and/or other Application by a Council Official, the application must be assessed by an independent town planning consultant and referred to Council for consideration and determination.

REPORT PREPARED BY INDEPENDENT TOWN PLANNING CONSULTANT

The following report has been prepared by Thomas Mithen of 'Plandev Urban Planning'

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 8/2021/21668/1 seeking approval for construction of a single dwelling at 28 Eleventh Avenue, Millfield.

The Development Application has been assessed against the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulations 2000*, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was not required to be publicly exhibited.

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The proposed development is consistent with the objectives of the R5 Large Lot zone under *Cessnock Local Environmental Plan 2011* (CLEP 2011) and the environmental considerations applicable to the Millfield Large Lot Residential Area under Cessnock Development Control Plan.

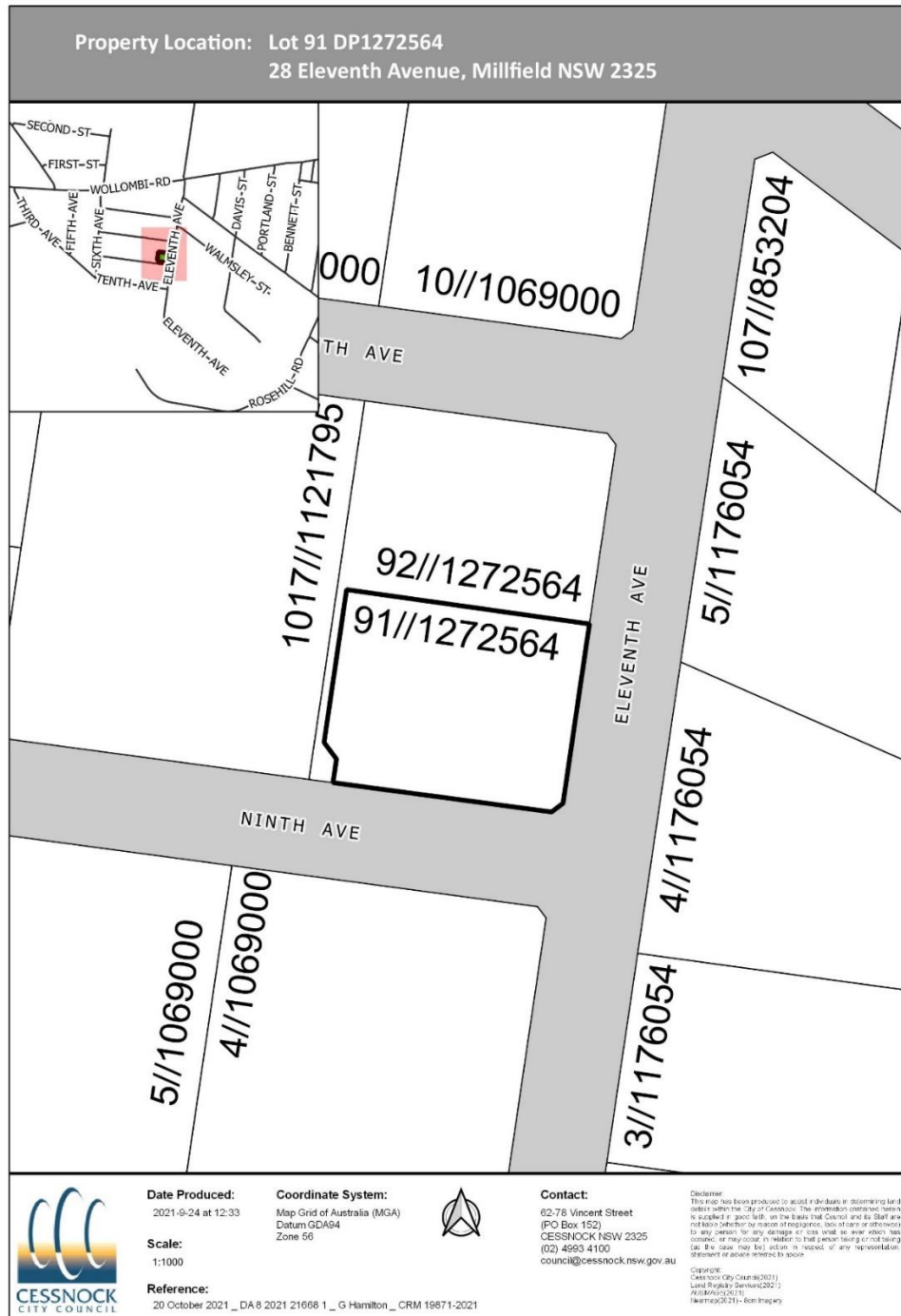
The proposal would not detract from the existing visual amenity and rural character of the area.

The proposal does not result in any significant adverse impacts to the surrounding natural or built environment and the site is suitable for the proposed development. The development is not contrary to the public interest.

Based on the assessment, it is recommended that the Development Application be approved, subject to the conditions of consent included in this report.



LOCATION MAP



SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 28 Eleventh Avenue, Millfield and is legally described as Lot 91 DP1272564.

The subject site is located on the northern corner of Eleventh Avenue and Ninth Avenue, Millfield. The site has a frontage of 38m to Eleventh Avenue, a depth of 46m (along Ninth Avenue) and an overall site area of 2,062.5m². Vehicular access to the site is available from the Eleventh Avenue frontage.

The site slopes down from Eleventh Avenue to the rear boundary with a slope of approximately 8%. The site is currently vacant. A retaining wall extends across the middle part of the site and the site is currently accessed via a gravel driveway entry at Eleventh Avenue. Refer to a photo of the site at **Annexure 1**.

The surrounding properties are characterised by single dwellings on large lots surrounding the Millfield village.

There are no recent development consents issued in relation to the property.

HISTORY

The history of the subject Development Application is summarised in the following table:

Date	Action
12 August 2021	Development Application lodged with Council
27 August 2021	Independent planning consultant engaged to assess the application
23 September 2021	Consultant assessment report received by Council

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2021/21668/1 seeks approval for construction of a single storey dwelling containing an open plan living, kitchen and dining area, four bedrooms, media room and a double garage. The proposed dwelling will have a gross floor area of 144m². The dwelling will be located in the northern portion of the site. Some cut and fill will be required to establish a level house pad. The existing gravel driveway access will be retained.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application on the subject property:

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(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
2. State Environmental Planning Policy No.55 – Remediation of Land
3. Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted in accordance with the requirements of the SEPP (Building Sustainability Index: BASIX) 2004.

State Environmental Planning Policy (Remediation of Land)

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. Clause 7(1) of SEPP 55 is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The site is located within Millfield Village in a large lot residential area approved by Council in 2003 and deemed suitable for residential use at the time. The site has not been used for any known potentially contaminating activities. As there is no historical evidence of the site being previously used for a purpose which would result in the land being contaminated, no further investigation is warranted. The proposal is therefore acceptable in terms of the requirements under SEPP 55.

2. Cessnock Local Environmental Plan 2011

2.1 Permissibility

The subject site is zoned R5 Large Lot under the provisions of CLEP 2011. The proposed development is a permitted land use in the R5 zone.

2.2 Objectives

The objectives of the R5 zone are as follows:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*

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- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The proposed development is consistent with the objectives, as it will: add to the stock of housing within a large lot residential area; not place undue demand on existing public services or facilities; and is compatible with adjoining residential properties.

2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

4.2A Erection of dwelling houses on land in certain residential, rural and environmental protection zones

A minimum lot size of 2,000sqm applies to the site in accordance with the Lot Size Map. The site has an area of 2,062.5sqm. The proposal does not involve subdivision as the lot has already been approved. Notwithstanding, it satisfies the minimum lot size for the erection of a dwelling house.

5.21 Flood planning

Council's Flood Mapping shows a small portion of the northwestern corner of the site is flood affected due to overland flow from a first order stream. The proposed works are not in a floodway and the proposed fill is categorized as a flood fringe area. The proposal would not cause any significant increase in flood levels and/or a significant redistribution of flood flow affecting other areas. The proposal is therefore acceptable in terms of flooding.

7.2 Earthworks

The proposed development requires earthworks to be carried out on the site to establish a level house pad. The proposed cut/fill of generally around 1m would not result in unreasonable structural, visual or stormwater impacts to the surrounding area.

(a)(ii) The Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

No Draft Environmental Planning Instruments are relevant to the application.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the relevant numerical standards in Cessnock Development Control Plan 2010. Discussion of any variations to the standards is provided after the compliance table:

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C.3 Contaminated Lands

The Contaminated Lands Chapter in the DCP has been prepared in accordance with the requirements of SEPP 55. As discussed earlier in this report, the proposed development is consistent with the requirements of SEPP 55.

Part E9: Millfield Large Lot Residential Area			
Chapter 9.2: General Development Considerations			
Provision	Required	Provided	Complies?
9.2.1 Flora and Fauna			
	All applications are to comply with the requirements of Section 9.2.5: Soil and Water Management.	The proposal complies with these requirements (see below).	Yes
	All boundaries with adjoining land containing wetlands are to be fenced to a standard acceptable to Council, which prevents access to the wetlands by stock, domestic animals or persons. All fences located below the 1 in 100 year ARI flood level are to comply with the requirements of Section 9.2.8. Full details of proposed fencing are to be submitted for Council's approval with development applications.	The adjoining land is used for residential purposes and road and does not contain a wetland.	Yes
9.2.2 Aboriginal Archaeology	Dwelling houses and other structures are to be sited as far as possible from Congewai Creek and the associated wetland.	The site is located 650m to the northwest of Congewai Creek and 300m from its associated wetland.	Yes
	Access from residential lots to Congewai Creek and the associated wetland is prohibited without the written consent of the owner.	The site does not have access to Congewai Creek and the associated wetland.	Yes
	Fencing of lot boundaries adjoining Congewai Creek and the associated wetland is to comply with the requirements of	The site does not adjoin Congewai Creek and its associated wetland.	Yes

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	Section 9.2.1: Flora and Fauna.		
9.2.3 Setbacks			
	The minimum setback of dwelling houses and other buildings from roads is 12 metres.	The proposed dwelling will be setback 9.5m to Ninth Avenue and 30m to Eleventh Avenue	Partial Refer to discussion below.
	Buildings on lots within 100 metres of the adjoining wetland are to be sited as far from the wetland as practicable, with a minimum setback of 30 metres to the wetland.	The site is not within 100m of the wetland system associated with Congewai Creek.	Yes
	<p>Variations to the minimum building setbacks may be considered for lots located within 100 metres of the adjoining wetland, where Council is satisfied that:</p> <ul style="list-style-type: none"> - a reduction in the minimum setback is required to enable the dwelling house to comply with a minimum floor level 500mm clear of the 1 in 100 year ARI flood level; or - the reduced setback will minimise the need for cut and fill on the site; and - the proposed location will not adversely impact on the privacy or outlook for adjoining or adjacent residents; and - the proposed location will not disrupt established or desirable streetscape patterns. 	As stated above, the land is not within 100m of the wetland system associated with Congewai Creek.	Yes

Building Design Principles			
Construction Materials	Building elevations are to contain at least 2 materials or finishes, in a ratio of not less than 20:80 of the elevation wall area. Glazing is not	The external walls will comprise of an appropriate mix of horizontal cladding and face brick.	Yes

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	included in this calculation.		
	Glazing shall be not more than 40% of an elevation wall area.	The glazing will constitute less than 40% of the elevation wall area.	Yes
Building Heights	A point on a roof of a building shall be not more than 9 metres above natural ground level, measured vertically at any point over the footprint of the building.	The proposed dwelling is single storey and well below 9m in height.	Yes
Building Form & Appearance	All site improvements shall be erected within a contiguous building envelope, defined by perpendicular lines, of not more than 800m ² . This building envelope is to have external dimensions of not less than 15 metres and not more than 40 metres.	The dimensions of the building envelope range between 12m x 25 m	Partial Refer to discussion below.
	Building elevations are to be not less than 1.0 metre and not more than 8.0 metres long, between variations of not less than 1.0 metre horizontally in the outermost face of the elevation.	The building elevations range between 3.5m to 7m in length.	No Refer to discussion below.
	Garage or carport openings shall consist of not more than 30% of the visible width of building/s on the site, viewed from any point on a street boundary.	The double garage will be 20% of the width of the dwelling.	Yes
Roof Form	Roofs to enclosed spaces shall consist of one or more planes of a constant pitch, of not less than 18° and not more than 45°.	The pitch of the roof plane is not more than 45 degrees.	Yes
Sun Control	Between October 17th and February 26th, all vertical glazing facing within 45° of true north shall be fully shaded from 11:00 am until 1:00 pm.	The north facing living room window will be shaded from northern sun by the projecting roof above the alfresco area. The roof overhang	Yes

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		will also provide adequate sun control to the dining room and kitchen window.	
Landscaping	The maximum impermeable site coverage is to be not more than 60% of the building envelope.	The site coverage equates to approximately 12%.	Yes
Colour	Colours are to be natural, non-reflective hues that complement the colours of the Millfield landscape.	The proposal includes custom orb roof sheeting, light coloured cladding and face brick.	Yes
9.2.5 Soil and Water Management			
	All applications for development involving a site disturbance of up to 2,500m ² , are to be accompanied by a Preliminary Erosion and Sediment Control Plan.	A preliminary Erosion and Sediment Control Plan was not submitted with the application.	Yes, subject to condition.
	Applications for the development of land within 50 metres of the wetland must be accompanied by a Stormwater Management Plan demonstrating that stormwater can be disposed of in a manner that minimises impact on the wetland. This plan must address quality control measures and means to eliminate point discharges.	The site is located 300m from the wetlands.	Yes
	Surface runoff from lots adjoining the Congewai Creek wetlands is to be collected in a grassed swale or similarly approved diversion and directed to a gross pollutant trap, prior to discharge into the wetlands at approved locations.	The subject lot does not adjoin Congewoi Creek.	Yes
9.2.6 Bushfire Hazard Control			
	General Requirements	Council's bushfire map shows a narrow strip of	Yes

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	A bushfire threat assessment must form part of all development applications for new dwelling houses, or modification of existing dwelling houses in a Bushfire Prone Area.	the site along Eleventh Avenue affected by a category 3 vegetation buffer. The proposed dwelling is located outside the vegetation buffer. The proposed dwelling is more than 140m from the nearest grassland hazard (noting BAL rating only applies to grassland hazard within 50m). Therefore, no further assessment is warranted in relation to bushfire protection.	
<i>9.2.7 Management of Domestic Sewage and Wastewater</i>			
	The Hunter Water Corporation (HWC) has confirmed with Council that certain land at Millfield will not be serviced under the Priority Sewerage Program and that the HWC does not have plans to construct reticulated sewer services within this area. However, the sewerage system includes allowance for flows from anticipated development within the designated area at Millfield and properties may still connect to the reticulated sewerage system after it has been constructed. The full cost of connecting to the sewerage scheme would be borne by the owners.	The local sewer network in the vicinity of the development is a low pressure sewer system. The previous subdivision of the parent lot into two lots was approved on the basis that a connection would be made to this system in accordance with the Hunter Water Sewer Planning and Design Guidelines and the Pressure Sewer Code of Australia. An agreement will be required with Hunter Water Corporation to install and maintain a low pressure sewer unit within the property to manage all effluent waste from the dwelling.	Yes
<i>9.2.8 Flooding</i>			
	The minimum floor level of any habitable space in a dwelling house is RL 111.1 metres AHD.	The proposed dwelling is located outside the flood affected area. Refer to discussion in Section 2.3 of this report.	Yes

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	<p>Any portion of a building or structure at or below the 1 in 100 year ARI flood level is to be constructed of flood compatible materials.</p> <p>Development applications for buildings or structures located at or below the 1 in 100 year ARI flood level, must be accompanied by a detailed report from an appropriate consulting structural engineer, demonstrating that the building or structure can withstand the force of flowing flood waters, including debris and buoyancy forces, as appropriate.</p>	The proposal is not located at or below the 1 in 100 yr ARI flood level.	Yes
	Filling on lots at or below the 1 in 100 year ARI flood level is to be confined to the perimeter of the residential building on that lot.	As above	Yes
	All fencing located at or below the 1 in 100 year ARI flood level is to be constructed in a manner that does not unduly impede the movement of floodwaters. Full details of proposed fencing are to be submitted with development applications.	As above	Yes
9.2.9 Road Construction			
	All road and drainage works within the site are to be carried out in accordance with Council's 'Engineering Requirements for Development'. Full design plans are to be	No new roads are proposed.	Yes

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Planning and Environment



	submitted, prior to issue of a Construction Certificate for the works.		
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Setback

A minimum setback of 12m to the road applies to the site. The proposed dwelling will be setback 9.5m to its secondary frontage along North Avenue, which represents a variation of 2.5m. Notwithstanding the variation, the proposal is consistent with the objectives of the control in that there would be no amenity impacts to the adjoining properties and maintains an appropriate streetscape outcome, noting the dwelling will have a 30m setback along its primary street frontage in Eleventh Avenue.

Building Form and Appearance

The building form is required to have external dimensions of not less than 15m and not more than 40m and elevations are to be not less than 8m long with variations to break up the visual mass. The dimensions of the building envelope range between 12m x 25 m and the elevations range between 3.5m to 7m in length, which represents a minor variation to the building form controls. Notwithstanding the variation, the overall design incorporates sufficient articulation in the form of staggered wall planes and window openings to minimise the visual impact of the building within the rural landscape.

(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of this application.

(a)(iv) The provisions of the regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

The proposed development is not expected to result in any significant impacts on the natural and built environment, or detrimental social or economic impacts in the locality. There are no additional impacts anticipated outside of those already addressed elsewhere in this report. The proposal is consistent with the established development pattern in the area.

(c) The suitability of the site for the development

The land is not subject to any environmental constraints which would make it unsuitable for the proposed development. The site is considered suitable for the type, scale and nature development and is not overly constrained. The development can be integrated into the locality without any significant adverse impacts. The site is therefore considered suitable for the proposed development.

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(d) Any submissions made in accordance with this Act or the regulations

The Development Application was not required to be publicly exhibited.

(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is consistent with the public interest.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 Contributions are not payable for the proposal.

INTERNAL REFERRALS

The Development Application was not required to be referred internally to Council officers.

EXTERNAL REFERRALS

The Development Application was not required to be referred to any external agencies for comment.

CONCLUSION

An assessment of the application has been carried out in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. The proposed development is considered satisfactory in terms of the matters for consideration under the Act. Based on the assessment, it is recommended that Development Application No. 8/2021/21668/1 be approved, subject to the conditions of consent included in this report.

ENCLOSURES

- 1 View of Site looking West from Eleventh Avenue
- 2 Architect Plans

CONDITIONS OF CONSENT

STATEMENT OF REASONS:

Pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the *Environmental Planning and Assessment Act 1979*, the reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:

- The proposal is permitted in the R5 Large Lot Residential zone pursuant to Clause 2.3 of the Cessnock Local Environmental Plan 2011.
- The proposal is consistent with the objectives of the R5 Large Lot Residential zone under the Cessnock Local Environmental Plan 2011.
- The proposal is generally consistent with the objectives and controls of Part E9: Millfield Large Lot Residential Area of Cessnock Development Control Plan 2010, with the variations to the building form considered to be minor in nature.
- The proposal incorporates adequate measures to ensure the development does not result in any adverse impacts in respect of natural hazards.

SCHEDULE 1

TERMS OF CONSENT

CONDITIONS OF CONSENT

1. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2021/21668/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Site setout Plan WD02	Hunter Homes	01.06.2021
Floor Plan WD04	Hunter Homes	01.06.2021
Elevations WD05	Hunter Homes	01.06.2021
Elevations WD06	Hunter Homes	01.06.2021
Section A-A WD07	Hunter Homes	01.06.2021
Stormwater Plan WD08	Hunter Homes	01.06.2021

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

2. BCA Compliance

Pursuant to Section 4.17(11) (cf previous s 80A) of the EP&A Act 1979 all building work must be carried out in accordance with the requirements of the BCA

PRIOR TO COMMENCEMENT OF WORKS

The following conditions are to be complied with prior to the commencement of works on the subject site/

3. PC Signage and contact Details

Prior to the commencement of works, a sign must be erected in a prominent position on the site on which the proposal is being carried out. The sign must state:

- a) Unauthorised entry to the work site is prohibited
- b) The name of the principal contractor (or person in charge of the site) and a telephone number on which that person may be contacted at any time for business purposes and including outside working hours
- c) The name, address and telephone number of the *PC* for the work

Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

4. Home Building Act

Pursuant to Section 4.17(11) of the EP&A Act 1979, where the development involves residential building work for which the Home Building Act 1989 requires a contract of insurance to be in force in accordance with Part 6 of that Act, building work authorised by this consent must not commence until such a contract of insurance has been obtained and is in force.

Residential building work must not be carried out unless the PC for the development to which the work relates (not being the council) has given the council written notice of the following information:

- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act
- b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information required by (a) or (b) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates has given the council written notice of the updated information.

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This condition does not apply in relation to Crown building work that is certified, in accordance with Section 6.28 of the Act, to comply with the technical provisions of the State's building laws.

5. Road Opening Permit

Under Section 138 of the Roads Act 1993, should any work on the verge, footpath, public road reserve, or public reserve (open space) be required, a "Road Opening Permit" will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The Permit application is to be submitted to, and approved by, Council prior to works commencing.

6. Toilet Facilities

Toilet facilities are to be provided prior to works commencing, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be a sewage management facility approved by the NSW Department of Health and/or Council, and operate in an environmentally responsible manner, free of nuisance or offence, and be appropriately serviced.

7. Relocation of Services

The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. In the event that existing services are required to be relocated the proprietor shall make application to obtain any necessary approval from the relevant service authority prior to commencement of any works.

DURING WORKS

The following conditions are to be complied with during works.

8. Construction Hours

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. Work is not to be carried out on Sundays and public holidays.

9. Approved Plans Kept on Site

A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.

10. Construction Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment and Heritage *Noise Guide for Local Government*.

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11. BASIX Certificate

Development shall be undertaken strictly in accordance with all commitments specified in the current BASIX certificate.

12. Erosion and Sedimentation Controls

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's "Engineering Requirements for Development", and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks, and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

13. Building materials on-site

All building materials, plant and equipment are to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves, etc.

14. Securing Excavations

All associated excavations and backfilling associated with the development must be executed safely and in accordance with the appropriate professional standards, and must be properly guarded and protected to prevent them from being dangerous to life or property.

15. Finish of Excavated &/or Filled Areas Around Site

The excavated and/or filled areas of the site are to be stabilised and drained, to prevent scouring onto adjacent private or public property. The finished ground around the perimeter of the building is to be graded to prevent ponding of water, and to ensure the free flow of water away from the building and adjoining properties.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of an Occupation Certificate (as specified within the condition):

16. Roof Stormwater – Street Gutter

Roof water from the dwelling shall be conducted to the water storage tank in accordance with the BASIX requirements. Any additional roof water, and overflow from the water storage tank, shall be conducted to the street table drain by means of a sealed pipeline having a minimum diameter of 90mm, prior to issue of an OC. The stormwater outlet point within the road reserve is to be adequately protected from damage by vehicles and not located so as to present a trip hazard for pedestrians.

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17. BASIX Requirements & Certification

In accordance with Clause 154B of the Environmental Planning & Assessment Regulation 2000, a Certifying Authority must not issue an Occupation Certificate for this development, unless it is satisfied that any relevant BASIX commitments and requirements have been satisfied.

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Principal Certifying Authority and Council upon issuing an Occupation Certificate.

18. Roads Bitumen Crossing

The registered proprietors shall construct and maintain a bitumen sealed access crossing from the edge of the road formation in Eleventh Avenue to the property boundary, in accordance with Council's "Engineering Requirements for Development" and AS 2890.1. A S138 Roads Act Approval is required from Council prior to any construction commencing within the road reserve. The access crossing is required to be constructed prior to the issue of an OC.

Construction of the crossing will require inspections to be undertaken by Council. The applicant shall pay Council engineering site supervision fees in accordance with Council's current Fees & Charges, prior to the inspections being undertaken.

The initial fee will facilitate approval of the application and one (1) construction inspection (gravel in place but prior to sealing of the crossing).

A final inspection will be required upon completion of the driveway and restoration of all disturbed footway areas. (A separate fee will be required to be paid when the final inspection is booked.) Should further inspections become necessary as a result of unsatisfactory or defective works, additional inspection fees will be charged in accordance with Council's current Fees & Charges.

The applicant is to advise Council at least 48 hours prior to inspection of works within the footpath and/or road reserve.

19. Section 50 – Hunter Water Act 1991

Evidence shall be submitted to Council that the registered proprietors of the land on whose behalf the application was made have complied with the requirements of Section 50 of the Hunter Water Act 1991. Such evidence shall be submitted to Council prior to issue of an OC in respect of the building.

20. Retaining Walls and Drainage

All retaining walls and associated drainage shall be installed and completed prior to issue of an OC in respect of the building.

ONGOING USE

The following conditions are to be complied with as part of the ongoing use of the premises.

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21. Driveways to be Maintained

All access crossings and driveways shall be maintained in good order for the life of the development.

ADVISORY NOTES

A. “DIAL BEFORE YOU DIG” DIAL 1100

Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables.
www.dialbeforeyoudig.com.au

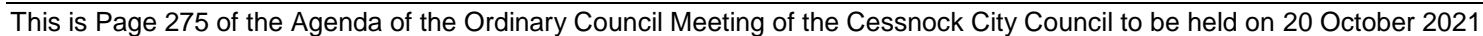
B. Other Approvals and Permits

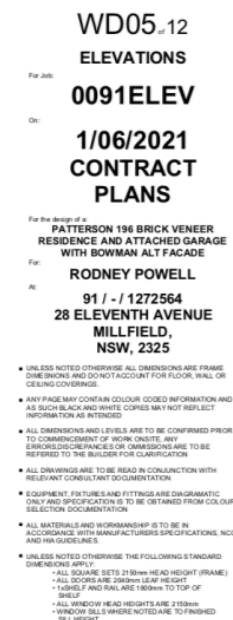
The applicant shall apply to Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, and/or any other approvals under *Section 68 (Approvals)* of the *Local Government Act 1993* or *Section 138 of the Roads Act 1993*.

28 Eleventh Street, Millfield



28 Eleventh Street, Millfield





NOTE: BRICK SILLS ARE TO BE PROVIDED TO WINDOWS AS PER BELOW;

- ALL WINDOWS FACING OUTDOOR LIVING AREAS (ALFRESCO) SNAP HEADER
- SPLASHBACK WINDOWS SNAP HEADER
- ALL OTHER CASES RAKED SILL

Wine Classification:	Salt Classification:
N2	H1
Mine Subsidence:	Acid Sulphate Soil:
Yes/No	Class/No
Acoustic Requirements:	Mains Power:
No	Yes
Mains Water Available:	Mains Gas Available:
Yes	Yes/No
Mains Sewer Available:	Stormwater Drainage:
Yes	Kerb/Pit
>1m to Breaking Surf:	>100m to Salt Water:
No	No
Rock:	Flood Min RL:
No	No
Bushfire Requirements:	
BAL/No	

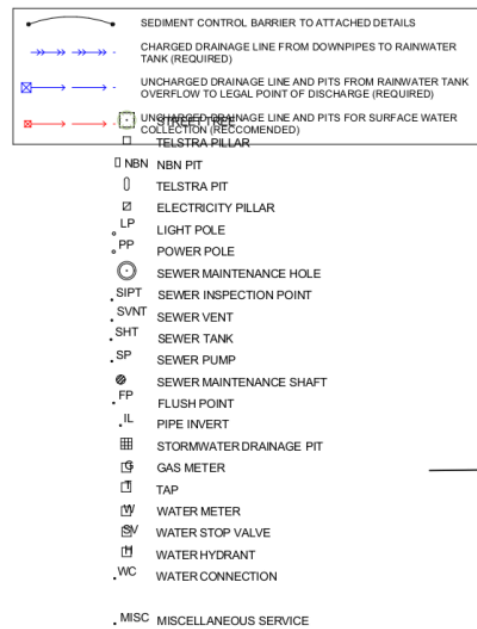


No.	DETAIL
1. KD	CONTRACT PLANS ISSUED
2. KD	DWELLING RELOCATED & SERVICE NOTES

DATE Hunter Homes Pty Ltd Builders Lr. 296183C
19/05/2021 10/05/2021
31/05/2021
Website: www.hunterhomes.com.au Email: info@hunterhomes.com.au
As Phone: 021 4987 4069 Asn: 08 133 867 566
All information, concepts and ideas contained herein are the property of Hunter Homes and may not be distributed, altered, reproduced without express permission from Hunter Homes. It is the responsibility of the builder to check and verify all dimensions on-site prior to the commencement of building works and to notify Hunter Homes of any errors and omissions. **DO NOT SCALE DRAWING.** Do not use drawing for construction purposes unless issued by Hunter Homes.

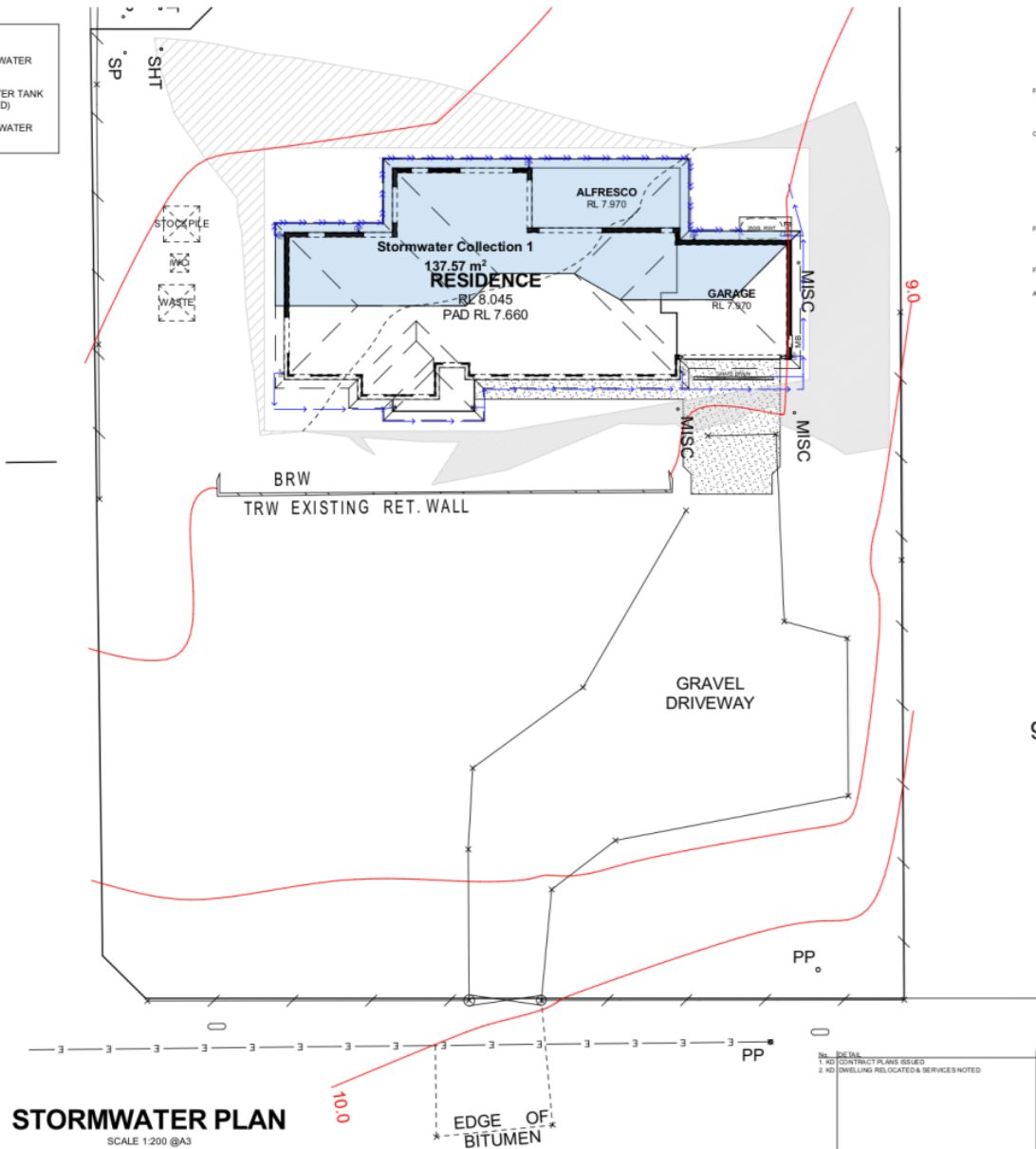
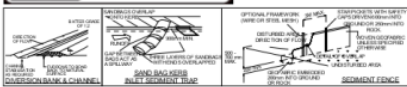


28 Eleventh Street, Millfield



TRW DENOTES EXISTING TOP OF RETAINING WALL
BRW DENOTES EXISTING BOTTOM OF RETAINING WALL

- ALL BATTERS SHOWN ARE 1% UNLESS NOTED OTHERWISE
- CONTIGUOUS SHOWN ARE BASED ON COMPUTER INTERPRETATION OF POINT LEVELS. CARE SHOULD BE TAKEN IN EXTRAPOLATING
- SERVICES LOCATED HEREIN ARE APPROXIMATE ONLY AND TAKEN FROM INFORMATION AVAILABLE AT THE TIME OF DRAFTING. CONSULT DCA, BEFORE YOU DIG TO ESTABLISH EXACT DETAILS AT THE COMMENCEMENT OF WORKS
- ALL EROSION AND SEDIMENTATION CONTROLS ARE TO BE WITHIN THE ALLOTMENT BOUNDARIES
- ALL EROSION AND SEDIMENTATION CONTROLS ARE TO BE INSPECTED AND MAINTAINED BY SITE SUPERVISOR REGULARLY AND CLEARED UPON REACHING 50% CAPACITY. FOOTPATHS, DRIVEWAYS AND ROADS SHOULD BE TREATED SIMILARLY
- ALL STORMWATER MUST BE CONNECTED TO LEGAL POINT OF DISCHARGE AS SOON AS PRACTICAL DURING CONSTRUCTION



STORMWATER PLAN

SCALE 1:200 @A3

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SUBJECT: ***PUBLIC EXHIBITION OF DRAFT CESSNOCK PLANNING PROPOSAL POLICY***

RESPONSIBLE OFFICER: ***Strategic Planning Manager - Martin Johnson***

SUMMARY

The purpose of this report is to seek Council's endorsement to place the Draft Cessnock Planning Proposal Policy (the draft Policy) on public exhibition in line with Council's Community Participation Plan.

RECOMMENDATION

1. **That Council places the draft Cessnock Council Planning Proposal Policy 2021 on public exhibition for a period of 28 days.**
2. **That a further report be presented to Council following the public exhibition period for consideration of submissions and adoption of the Policy.**

BACKGROUND

The *Cessnock Local Environmental Plan 2011* (LEP 2011) is Council's primary planning instrument. The LEP 2011 contains provisions that manage development on land in the Cessnock Local Government Area (LGA). Periodically, amendments are undertaken to the LEP 2011 in the form of planning proposals. Planning proposal can be submitted by an external proponent or Council initiated.

In early 2021 the Department of Planning, Industry and Environment (DPIE) mandated that planning proposals are to be submitted via the NSW Government Planning portal. The Planning portal gives Council staff three options when a planning proposal is lodged:

- Accept;
- Reject; or
- Request further information

There is no clear policy position from DPIE or Council that outlines on what grounds staff can accept or reject a planning proposal and also when planning proposals have to be reported to Council for consideration.

It is considered that a policy, detailing how planning proposals are to be dealt with by Council, would assist potential applicants and the community in understanding the process involved in determining how to proceed when applications are received.

REPORT/PROPOSAL

The objectives of the draft policy (**Enclosure 1**) are to:

- Ensure planning proposals are processed in a consistent, transparent, timely and efficient manner.

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- Ensure the community and proponents are aware of the factors Council considers when reviewing planning proposals.
- Ensure planning proposals to amend the LEP 2011 are consistent with Local and Regional Planning strategies

The draft Policy outlines the criteria that planning proposals must meet in order to be accepted in the portal by Council for further assessment. If a planning proposal does not meet these criteria it would be rejected. The draft Policy requires all planning proposals to be consistent with key strategies and policies adopted by Council and the relevant State Government Strategies prepared by DPIE.

It is important to note that accepting a planning proposal in the portal does not automatically mean it is supported by Council. Accepting a planning proposal in the portal allows Council to charge an applicant a fee and undertake a detailed assessment, before determining if the proposal is supported and referred to DPIE requesting a Gateway determination.

Currently, planning proposals are reported to Council prior to seeking a Gateway determination and post exhibition. The draft Policy proposes to change this. Under the draft Policy planning proposals that are consistent with the criteria outlined in the policy will be forwarded to DPIE for a Gateway determination under staff delegation, i.e. without a Council resolution. All planning proposals will be reported to Council post exhibition for Council to make a final determination before the LEP is made. Additionally, Councillors will also have the option to 'call up' a planning proposal for determination. It is expected that this change will deliver efficiencies of at least one month in the assessment time and associated staff costs.

Councillors will be notified of all planning proposal lodged in the portal via a Councillor memo, regardless of whether the proposal is accepted, rejected or further information requested.

OPTIONS

Council has the following options:

1. Council resolve to support the recommendations of this report and place the draft Policy on public exhibition. ***This is the recommended option.***
2. Council amend the draft Policy prior to public exhibition.
3. Council not support the preparation of a draft policy.

CONSULTATION

The draft Policy has been prepared by Strategic Planning. Councils Governance Team was consulted in relation to the draft Policy to ensure it conforms with the expected requirements of Council's standard policy template. Councillors were briefed on the draft Policy in October.

It is proposed to place the draft Policy on exhibition for 28 days.

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STRATEGIC LINKS

a. Delivery Program

The draft Policy is consistent with the following objective of the Cessnock 2027 Community Strategic Plan (CSP):

- Objective 5.3 Making Council more responsive to the community. The draft Policy will ensure Council process of assessing planning proposal is efficient and transparent as proponents will be aware of Councils requirements.

b. Other Plans

Nil

IMPLICATIONS

a. Policy and Procedural Implications

The draft Policy will inform the process for accepting planning proposals to amend the Cessnock LEP 2011. The draft Policy outlines when planning proposals are reported to Council for determination and how Councillors are notified of planning proposals.

b. Financial Implications

Under the draft Policy, applicants of planning proposals will continue to be charged a fee in accordance with Councils Fees and Charges Schedule.

c. Legislative Implications

Planning proposals are assessed in accordance with the *Environmental Planning and Assessment Act 1979* and associated regulations. This Policy will not alter this.

The Local Government Act 1993 specifies the role of Councillors and the General Manager. S335 outlines that the role of the General Manager is (in part) 'to conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council'. The draft Policy requires Council staff to assess planning proposals in accordance with the key strategies that have been adopted by Council, consistent with the *Local Government Act 1993*.

d. Risk Implications

Nil

e. Environmental Implications

Nil

f. Other Implications

Nil

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CONCLUSION

This report recommends that Council place the Draft Cessnock Planning Proposal Policy on public exhibition for a period of 28 days in line with Councils Community Participation Plan. Having an adopted policy will ensure that planning proposals are processed in a consistent, transparent, timely and efficient manner and that the community are aware of the factors Council considers when reviewing planning proposals.

ENCLOSURES

[1](#) Draft Cessnock Planning Proposal Policy



Cessnock City Council Planning Proposal Policy

Date Adopted: **xx/xx/xxxx** Revision: **1**

1. POLICY OBJECTIVES

1.1. The objectives of the Policy are to:

- 1.1.1. Ensure planning proposals are processed in a consistent, transparent, timely and efficient manner.
- 1.1.2. Ensure the community and proponents are aware of the factors Council considers when reviewing planning proposals.
- 1.1.3. Ensure planning proposals to amend the *Cessnock Local Environmental Plan 2011* (LEP) are consistent with Local and Regional Planning strategies.

2. POLICY SCOPE

2.1. This Policy applies to all planning proposals to amend the Cessnock LEP that are submitted to Council. This includes:

- a) Council staff when reviewing planning proposals that have been lodged via the NSW Planning Portal.
- b) Applicants when lodging planning proposals via the NSW Planning Portal.

3. REQUIREMENTS FOR PLANNING PROPOSALS

3.1. Prior to submitting a planning proposal via the NSW Planning Portal applicants must have a preliminary planning proposal meeting with Council within the three months prior.

3.2. All planning proposals to amend the Cessnock LEP must be submitted via the NSW Planning Portal.

3.3. Planning proposals must be consistent with key strategies and policies prepared by Council and the State Government. These include (but not limited to):

3.3.1. Council documents

- a) Cessnock Local Strategic Planning Statement 2036 (LSPS)
- b) Cessnock Urban Growth Management Plan (UGMP)
- c) Town Centres Strategic / Masterplans



3.3.2. State Government documents:

- a) Hunter Regional Plan 2036
- b) Greater Newcastle Metropolitan Plan 2036
- c) Draft Hunter Expressway Land Use Strategy

3.4. Planning Proposals must be consistent with and address the principles in the LSPS.

3.5. Planning Proposals for a new residential zone must be within an investigation area identified in the UGMP.

3.6. Planning Proposals for investigation areas identified in the UGMP must include a structure plan / master plan for the entire investigation area.

3.7. Planning Proposals for residential land must not be submitted until the land supply for the relevant category is at or below the 15-year supply threshold for that lifestyle category as published in Council's annual monitoring report.

3.8. Planning proposals must contain all necessary supporting studies to justify the proposal. This will depend on the site constraints and the complexity of the proposal.

3.9. Supporting studies must be prepared by appropriately qualified specialists.

4. PROCESSING PLANNING PROPOSALS

4.1. Planning proposals that meet Part 3 of this Policy will be accepted via the NSW Planning Portal for consideration.

4.2. Planning proposals that do not meet Part 3 of this Policy will be rejected via the NSW Planning Portal.

4.2.1 *Note:* Where Council has indicated that it does not support a planning proposal applicants can request a pre-gateway review through the Department of Planning, Industry and Environment.

4.3. Despite clause 4.2 the Director of Planning and Environment and the Manager Strategic Planning can at their discretion, accept a proposal via the NSW planning portal where there is a non-compliance with Part 3.

4.4. Further information will be requested via the NSW Planning Portal, regardless of meeting Part 3 of this Policy, if supporting studies do not contain sufficient information or are outdated.

4.5. Planning proposals that are accepted in accordance with clause 4.1 will be charged a fee in accordance with Council's Fees and Charges Schedule. A detailed assessment of the planning proposal will not be undertaken until the fee has been paid.

5. NOTIFICATION AND DETERMINATION

5.1. Planning proposals that are accepted for consideration in accordance with clause 4.1 will not be reported to Council for determination. These Planning proposals will be assessed by staff under delegation and if supported, forwarded to DPIE for a Gateway determination.



5.2. Despite clause 5.1, the Director Planning and Environment and the Strategic Planning Manager may, at their discretion, determine that a planning proposal should be reported to Council for determination.

5.3. Despite clause 5.1, if three or more Councillors formally request that a proposal be reported to Council the planning proposal will be reported to Council for determination.

5.4. Councillors will be notified of all planning proposals that have been submitted in the NSW Planning Portal via a Councillor Memo.

5.5. All planning proposals to amend the Cessnock LEP will be reported to Council for final determination post exhibition once all gateway conditions have been met.

6. RESPONSIBILITIES

6.1. Compliance, monitoring and review

General Manager

6.1.1. The General Manager is responsible for the implementation of this policy

Director and Managers:

6.1.2. Directors and Managers are responsible for supporting Council staff to apply the policy statements listed in this policy and ensuring compliance with this policy.

Council staff are responsible for:

6.1.3. Familiarising themselves with this policy

6.1.4. Assessing planning proposals in accordance with this policy.

6.1.5. This policy aligns with relevant legislation, government policy and/or Council's requirements/strategies/values.

6.2. Reporting

6.2.1. No additional reporting is required

6.3. Records Management

6.3.1. Staff must maintain all records relevant to administering this policy in accordance with Council's Records Management Policy.

7. POLICY DEFINITIONS

Act	means the <i>Local Government Act 1993</i> (NSW)
Council	means Cessnock City Council
NSW Planning Portal	means the website with the URL of www.planningportal.nsw.gov.au , or any other website, used by the Planning Secretary to provide public access to documents or other information in the NSW planning database.
Planning proposal	Means the enabling document to amend the Cessnock LEP.



8. POLICY ADMINISTRATION

Business Group	Planning and Environment
Responsible Officer	Manager Strategic Planning
Associated Procedure (if any, reference document(s) number(s))	Nil
Policy Review Date	Three years from date of adoption unless legislated otherwise
File Number / Document Number	DOC2021/146461
Relevant Legislation (reference specific sections)	This policy supports Council's compliance with the following legislation: <ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Act 1979</i> • <i>Environmental Planning and Assessment Regulations 2000</i> • <i>Cessnock Local Environmental Plan 2011</i>
Relevant desired outcome or objectives as per Council's Delivery Program	5. Civic leadership and effective governance <ul style="list-style-type: none"> • Objective 5.1 Fostering and supporting community leadership • Objective 5.2 Encouraging more community participation in decision making • Objective 5.3 Making Council more responsive to the community
Related Policies / Protocols / Procedures / Documents (reference document numbers)	<ul style="list-style-type: none"> ▪ Records Management Policy (DOC2019/038769)

9. POLICY AUTHORISATIONS

No.	Authorised Function	Authorised Business Unit / Role(s)
TBA	<ul style="list-style-type: none"> • Review applications in the NSW Planning Portal. • Accept, reject, and request further information for planning proposals in the NSW Planning Portal. 	Director Planning & Environment Manager Strategic Planning Principal Strategic Planner Senior Strategic Planner

10. POLICY HISTORY

Revision	Date Approved / Authority	Description Of Changes
1	13 September 2021	Draft for exhibition

SUBJECT: *PLANNING PROPOSAL TO REZONE LAND AT GINGERS LANE, SAWYERS GULLY*

RESPONSIBLE OFFICER: *Strategic Planning Manager - Martin Johnson*

SUMMARY

Council has received a planning proposal to rezone land at Gingers Lane, Sawyers Gully from RU2 Rural Landscape to R5 Large Lot Residential, R2 Low Density Residential and E3 Environmental Management.

The area is part of the broader Sawyers Gully Investigation Area identified in the recently adopted Urban Growth Management Plan (UGMP). The UGMP calculates the amount of existing, zoned residential land across Cessnock and sets out a process and principles to rezone the nominated investigation areas.

The main criterion is that land supply in the category is at or below 15-years. This supply level is reviewed and published each year. The current supply levels for the Established Urban category is 18-years. Therefore, the rezoning of the site is not supported at this stage. However, when the threshold for the Established Urban category reaches 15-years, the investigation of the entire area will be supported.

Application number	18/2021/2/1
Proposal	Sawyers Gully Planning Proposal
Property description	Lot 2721, DP1104897 Lot 276, DP 755231 Lot 277, DP 755231 Lot 275, DP 755231 Lot 274, DP 755231 Lot 2732, DP 884423 Lot 2731, DP 884423 Lot 2722, DP 1104897 Lot 1, DP 308003 Lot 2, DP 314641 Lot 1, DP 371151 Lot 1, DP 663726 Lot 1, DP 345294 Lot 10, DP 710071 Lot 11, DP 710071 Lot 280, DP 755231 Lot 281, DP 755231 Lot 282, DP 755231 Lot 283, DP 755231
Property address	156 Frame Drive; 19, 59, 71, 101, 107, 131 & 133 Metclafe Lane; 15, 27, 37 & 43 Sawyers Gully Lane; and 40, 52, 60, 72, 102, 152 & 176 Gingers Lane, Sawyers Gully, NSW
Proponent	Perception Planning

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Current Zone	RU2 Rural Landscape
Proposed Zone	R5 Large Lot Residential, R2 Low Density Residential and E3 Environmental Management.

RECOMMENDATION

1. That Council does not support the planning proposal to rezone land at Gingers Lane, Sawyers Gully at this time.
2. That Council invite the proponents to recommence investigation of the Sawyers Gully Investigation Area in accordance with the UGMP Principles once the published threshold for the Established Urban category reaches 15-years.

BACKGROUND

On 22/06/2021, Council received a Planning Proposal to rezone the listed lots from RU2 Rural Landscape to R5 Large Lot Residential, R2 Low Density Residential and E3 Environmental Management. The lots affected by the Planning Proposal are identified in **Figure 1**.

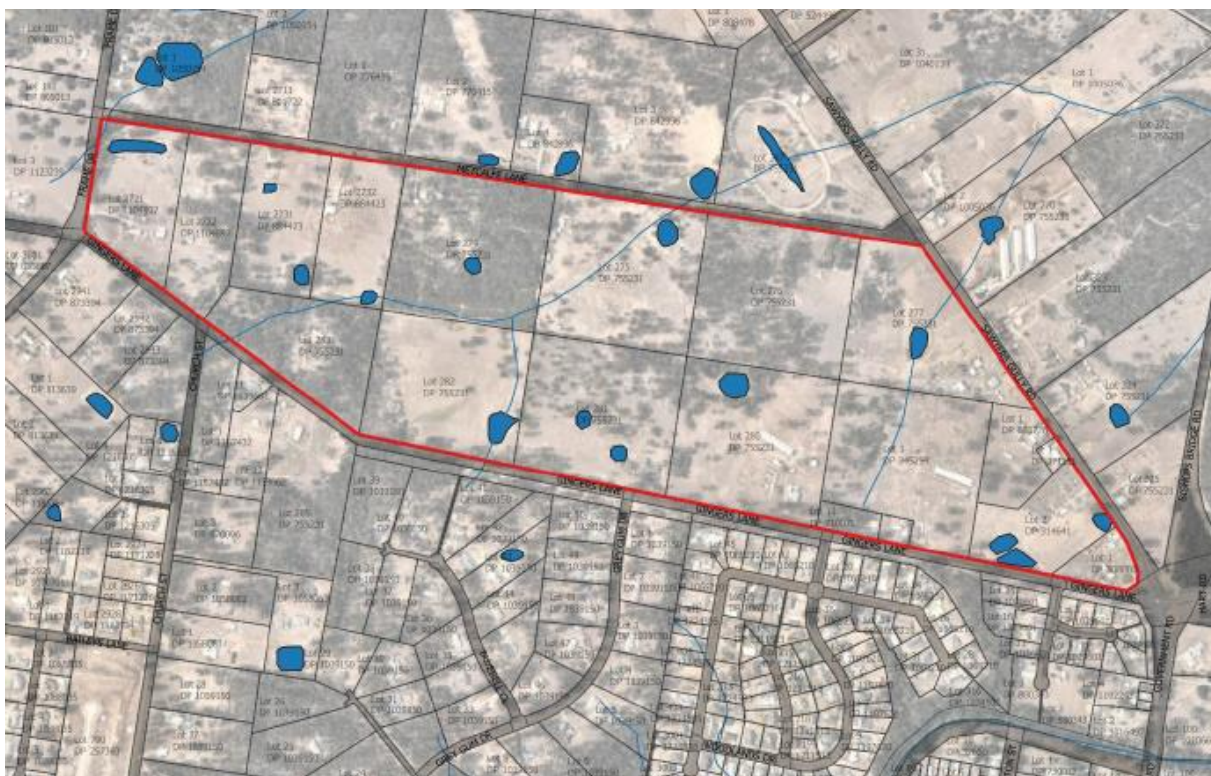


Figure 1: Approximate land application area of the Planning Proposal.

Council adopted the Urban Growth Management Plan (UGMP) in March 2021. The purpose of the UGMP is to quantify the amount of existing zoned, residential land currently available across Cessnock and to provide a mechanism for new land reserves to be brought online in a logical, sequential manner. This process encourages a more efficient provision and funding

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of infrastructure; it provides certainty to the development industry about the timing and location of new land reserves and ensures that Council continues to provide new areas to house its growing population.

The UGMP accommodates different lifestyle aspirations across the Local Government Area (LGA) by defining three lifestyle categories:

1. Established Urban (the areas between Bellbird and Kurri Kurri along the Cessnock Road Corridor)
2. Commuter Urban (the areas along the Hunter Expressway) and
3. Village Lifestyle (areas of large lot residential and the extension of certain villages).

Council has committed to maintain a 10-15 year supply in each of these categories and has nominated investigation areas in each. The 10-15 year supply threshold ensures that supply pipeline remains active with sufficient time to investigate, rezone and deliver new land supplies in different areas across the LGA.

The supply thresholds are published in the Annual Monitoring Report each financial year. This iterative approach allows Council and the development industry to monitor how supply and demand changes from year-to-year and allows Council and the development industry to respond very quickly to changes in demand and/or supply.

The events of the last 18 months and the growth spike that proceeded the pandemic may be indicative of a new long-term trend or it may be an aberration. Even if this trend is sustained, the UGMP can accommodate increased demand through the annual review process. Each year thresholds will be recalculated and if the supply in the Established Urban Category falls below 15 years, the UGMP supports the immediate investigation of new supplies to meet that demand.

The revised thresholds for 2020/2021 are:

Lifestyle Category	Years of supply
Established Urban	18 years
Commuter Urban	21 years
Village Lifestyle	12 years

The supply threshold for the Established Urban category has dropped by 2-years from 20 to 18 years of supply in less than 12-months and in the Commuter Urban category by 1.5 years. This illustrates that the higher demand is being reflected in the revised thresholds. Where demand is greater, the threshold will be reached more quickly. Where demand is lower, the threshold will take longer. The UGMP is therefore working as intended in that it is responsive – within the context of land supply and development timeframes – to changing market conditions.

REPORT/PROPOSAL

The purpose of the Planning Proposal is to amend the *Cessnock Local Environmental Plan 2011* (the LEP) to rezone the area from RU2 Rural Landscape to R5 Large Lot Residential, R2 Low Density Residential and E3 Environmental Management.

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Section 3.3 of the *Environmental Planning and Assessment Act 1979* outlines the requirements to be included in a planning proposal and the justification for the proposal. This includes 'whether the proposed instrument will give effect to the Council's Local Strategic Planning Statement'. The documentation submitted by the proponent has been reviewed against key strategies adopted by Council including the Local Strategic Planning Statement and the UGMP. The proposal is inconsistent with three principles in the UGMP.

The UGMP lists 8 principles that must be satisfied by a proposal before it is advanced to a rezoning application (planning proposal). The first principle requires that the land supply, as calculated and published by Council, is at or below 15-years within that category. The subject site is within the Established Urban category within which there is currently 18-years of supply. Once Council reports in its Annual Monitoring Report that the supply level is at or below 15-years, the investigation of the nominated investigation areas may commence.

The proponent has employed REMPLAN, a demographic and economic consultancy to argue against DPIE's population projections and demonstrate that the supply of land is below the 15-year threshold. Key to REMPLAN's argument is that:

1. The 2020 Estimated Residential Population (ERP) of Cessnock was greater (+2,192 persons) than DPIE's forecast for 2021 which is 60,064.
2. The growth in Cessnock has been 0.4% greater than forecast 1.4% over the past 10 years.

REMPPLAN have then used the 2020 ERP with the higher growth rate (1.8%) and extrapolated the forecast forward to 2036 to arrive at a new forecast population. On this basis, they are arguing that land supply is less than the 15-year threshold.

The basis for the projections applied in the UGMP is the NSW Department of Planning, Industry and Environment's (DPIE) population projections. These projections have been independently developed by demographers incorporating best practice population projections methods. The primary method used is the Cohort-Component Method. This is widely considered the international gold standard for population projections. Furthermore, DPIE's population projections are based on analysis of historical trends from a range of data sources, any announced policies and local intelligence gained from consultation with regional local councils. They have consistently delivered long term reliabilities of plus or minus 3 percent for Regional NSW.

There is no doubt that the growth that has occurred in the Lower Hunter including Cessnock over the past couple of years is higher than has occurred in the preceding years. However, the unprecedented events that have occurred illustrates how important it is to rely on a longer term trends. It is not known if this is a new trend or an aberration.

Regardless of the differing forecasts, the UGMP can accommodate greater growth from year to year. Each year Council assesses the development that has occurred in the previous 12-months and deducts this from the existing land supply in each of the categories. A revised threshold is calculated and published each year. If growth is higher, the time it takes to reach the 15-year supply threshold is less. If growth in one or more categories is lower, the time to reach the trigger to investigate new reserves is longer.

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The REMPLAN report also raises a number of other issues about the supply of land. These have been comprehensively discussed in the UGMP; however they are summarised again below.

One argument proposed is that despite land being zoned it may not necessarily mean that it is brought to market meaning that that supply is less. One of the objectives of the UGMP is to work with the development industry to overcome some of the challenges in bringing the existing land resources online. This is considered a more responsive and effective means to ensure land supply than simply rezoning additional quantities of land on the assumption that some of it may not get developed.

Another argument put forward by REMPLAN is that the UGMP is based on 600m² lots when the market is delivering lots that are greater than this. They quote that between 2015 – 2020 an estimated 78.9% of properties in Cessnock were larger than 600sqm. However, subdivision data from Council shows that in the 2020-2021 financial year, 46% of new lots were less than 600m² and a further 16% were between 600-800m².

The final arguments put forward by REMPLAN and the proponent are the previous local and State Government actions that support the rezoning of the site. They cite:

- the inclusion of the site in the former City Wide Settlement Strategy 2010 as an investigation area;
- the identification of the site in the Draft Lower Hunter Special Infrastructure Contributions Area map (SIC);
- Upgrade of the Hunter Waste Water Treatment Plant.

In response to these, the City Wide Settlement Strategy 2010 has been replaced by the LSPS, the final SIC document did not include the site. The upgrade of the Hunter Waste Water Treatment plant will mean that when the site is rezoned that this infrastructure issue will not be a constraint.

As discussed with the applicant on several occasions, the site has significant merit because it enjoys good access to infrastructure such as Gingers Lane, the Hunter Expressway and it adjoins an existing urban area. Therefore, it is likely to be the first stage of the larger Sawyers Gully Investigation Area to be rezoned in the future. The UGMP supports the future zoning of the site, it is a matter of timing however now is not the appropriate time. If growth in the established urban area remains high, then the time it takes to reach the 15-year threshold will be less and the proposal can then be considered.

The supply threshold is the primary reason for refusing the planning proposal. However, the proposal has not satisfied other important requirements of the UGMP. Principle 6 of the UGMP requires proponents to prepare a detailed structure plan for the entire investigation area. The principle requires that the structure plan address clause 6.3(3) of the *Cessnock Local Environmental Plan 2011* in sufficient detail to:

- inform the layout and logical sequencing of the infrastructure within the investigation area,
- inform a preliminary contributions framework to fund infrastructure and facilities, and
- consult with affected landowners, and
- publicly exhibit the structure plan in order to capture the views of the Sawyers Gully Community.

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The proponents have submitted a structure plan but it does not satisfy the detail required by this UGMP principle. The structure plan is very high level and does not provide a sound basis to support the rezoning of the site or the precinct. There are requirements to provide:

- an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
- an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
- a network of passive and active recreational areas,
- detailed urban design controls for significant development sites,
- measures to encourage higher density living around transport, open space and service nodes,
- measures to accommodate and control appropriate neighbourhood commercial and retail uses, and
- suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.

None of the above requirements have been provided in sufficient detail to inform the holistic planning of the Sawyers Gully Urban Investigation Area. As an example; one significant omission from the structure plan is the lack of holistic planning relating to transport and traffic. The structure plan states that a traffic impact assessment will need to accompany each individual proposal. The Sawyers Gully Investigation Area is a highly dynamic area with changing conditions along Gingers Lane, its proximity to the Hunter Expressway and Loxford Interchange, the existing impacts on intersections with Cessnock Road and the development of the Hydro site. These are all issues that need to be comprehensively understood at the Urban Investigation Area level and not left to individual sites or precincts.

The planning proposal is supported by the following reports and studies:

- Preliminary ecological report
- Preliminary cultural heritage
- Contamination Assessment
- Bushfire assessment
- Traffic assessment
- Odour Report
- Drainage and Civil investigation.

These studies only relate to the Gingers Lane Precinct. Again, many of these studies need to consider the Gingers Lane Precinct within the context of the larger Sawyers Gully Investigation Area. Biodiversity, traffic and transport, recreation and open space and infrastructure all need to be considered for the whole of Sawyers Gully and should not be considered on a site by site basis. It is also an inefficient use of resources for all parties to carry out these studies on the basis of site ownership as most of the issues impact across the whole investigation area rather than being limited by ownership.

Finally, the draft Hunter Expressway Strategy (HEX Strategy) that was exhibited earlier this year identifies the Kurri Kurri and Loxford Interchanges as a regionally significant growth areas.

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The draft HEX Strategy requires development around the interchanges to be supported by a local strategy. No such local strategy exists for the interchange.

The future investigation and rezoning of the Sawyers Gully Investigation Area is strongly supported by Council's existing Strategic Planning Policy Framework when the 15 year supply threshold is reached and published in the Annual Monitoring Report. The comprehensive planning of the Sawyers Gully Urban Investigation Area may commence once this threshold is reached and supporting studies consider the entire investigation area. The Gingers Lane Precinct has significant merit as one of the first stages to be rezoned.

OPTIONS

NIL

CONSULTATION

The area subject to the proposal contains almost 20 properties. The proponent owns a single parcel but has interests in several other properties.

A letter was sent to all affected property owners notifying them of the proposal and inviting them to contact council or to submit a response. This was not a formal consultation process. Most of the residents who provided submissions, supported the proposal. However several did not.

STRATEGIC LINKS

a. Delivery Program

3.1.1 Finalise Cessnock City Planning Strategy and commence implementation.

b. Other Plans

The following strategic planning documents are relevant to this proposal.

- Local Strategic Planning Statement 2036
- Urban Growth Management Plan
- Housing Strategy

Each of these strategies support the future investigation and rezoning of the Sawyers Gully Investigation Area for urban and other purposes. However, the UGMP requires that the supply for land within the established urban category is at or below the 15-year threshold before the proposal is supported by Council.

IMPLICATIONS

a. Policy and Procedural Implications

The adopted UGMP sets out the policy and procedure for commencing investigation of the investigation areas identified in the plan. The proposal is inconsistent with the UGMP. When the published supply threshold reaches 15-years, the proponent may recommence investigation the Sawyers Gully Investigation Area.

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b. Financial Implications

Fees for the planning proposal have been charged in accordance with Council's Fees and Charges Schedule.

c. Legislative Implications

The proponent is entitled to request that an independent body review the decision of Council.

d. Risk Implications

This is the first application to challenge the adopted procedure for advancing investigation areas as set out in the Urban Growth Management Plan. If this application is supported, it will undermine the integrity of the Plan and provide precedence for other investigation areas to be advanced ahead of the procedure and supply thresholds being reached.

It is important that Council decision are consistent with adopted strategies and policies such as the UGMP and Local Strategic Planning Statement to maintain the integrity of the documents and provide certainty to developers that applications will be assessed in accordance with Council adopted strategies and policies.

e. Environmental Implications

NIL

f. Other Implications

NIL

CONCLUSION

The subject site has significant merit and is identified as an investigation area in the adopted UGMP. However, the UGMP sets out a procedure for when investigation of these nominated areas are commence. Each year, Council will report through its Annual Monitoring Report the supply thresholds for each of the three lifestyle categories. When the supply of existing zoned land reaches or is below the 15-year threshold, Council should consider advancing these investigation areas. The supply threshold for the established urban category is currently at 18 years. This is the primary reason for not supporting the planning proposal at this time. In addition, the proponents have not prepared an adequate structure plan and they have not undertaken a Social Impact Assessment. Therefore, the advancement of this planning proposal should not proceed at this time.

ENCLOSURES

- 1 [📄](#) Planning Proposal - Rezoning of land at Gingers Lane, Sawyers Gully (Provided Under Separate Cover)

Placeholder for Enclosure 1

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Planning Proposal - Rezoning of land at Gingers Lane,
Sawyers Gully (Provided Under Separate Cover)

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SUBJECT: ***ENVIRONMENTAL ZONING FRAMEWORK - PUBLIC EXHIBITION OUTCOMES AND PLANNING PROPOSAL 18/2021/6/1 - ENVIRONMENTAL ZONE LAND USES AND OBJECTIVES***

RESPONSIBLE OFFICER: ***Strategic Planning Manager - Martin Johnson***

SUMMARY

The purpose of this report is to advise Council of the outcome of the public exhibition of the Draft Environmental Zoning Framework and seek Council's adoption of the Framework, as amended following community consultation.

The report also seeks Council's endorsement to forward the *Environmental Zone Land Uses and Local Objectives* (18/2021/6/1) Planning Proposal to the Department of Planning, Industry and Environment (DPIE) seeking a 'gateway determination' to implement the Environmental Zoning Framework.

RECOMMENDATION

1. That Council adopts the Environmental Zoning Framework as amended.
2. That Council notifies in writing the persons who made a submission with regard to the draft framework, of Council's decision.
3. That Council requests a Gateway determination for the Planning Proposal – Environmental Zone Land Uses and Local Objectives (18/2021/6/1) from the Department of Planning, Industry and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.
4. That Council requests authorisation under Section 3.31 of the *Environmental Planning and Assessment Act 1979* to act as the local plan-making authority to make the Local Environmental Plan.
5. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination.

BACKGROUND

The Environmental Lands Study (the Study) is being undertaken to identify lands of high environmental value and develop an environmental zoning framework for the future. The Study is being undertaken in 2 Phases. Phase 1 of the Study is documented in the Environmental Zoning Framework Report. Phase 2 of the Study is largely a mapping exercise and will involve:

- Analysis of spatial layers;
- Documentation of the environmental values of the LGA;

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- Mapping of the proposed environmental zones for the LGA according to the endorsed criteria and principles;
- Providing recommendations on appropriate minimum lot sizes;
- Continued community and stakeholder engagement activities;
- A final recommendations report for public exhibition; and
- Implementation via planning proposals to amend the Cessnock Local Environmental Plan 2011.

The study area includes all land within the Cessnock LGA, excluding National Parks, Nature Reserves and State Forests. This is because Council has a limited role in applying the statutory provisions for these lands or their management.

The objectives for the Study are to:

- identify and document the environmental values of land within the Cessnock Local Government Area;
- ensure that environmental zones are appropriately applied, reflecting the true environmental value and importance of the environmental attribute;
- ensure adequate protection of environmentally significant lands and areas of high biodiversity;
- ensure that Council is applying NSW legislation as intended;
- recommend environmental zone objectives, land uses and lot sizes for inclusion in the Cessnock Local Environment Plan (LEP); and
- develop environmental zone principles and criteria to guide the future application of environmental zones.

REPORT/PROPOSAL

At the Council meeting on the 16 June 2021, Councillors resolved to place the draft Environmental Zoning Framework (Framework) on public exhibition for a period of 28 days. The draft Framework was placed onto public exhibition between the 28 June 2021 and the 6 August 2021.

Twelve (12) written submissions were received during the exhibition period and there was one (1) late submission. A total of seven (7) submissions outlined broad support for the draft Environmental Zoning Framework. One (1) submission objected to lands being zoned for environmental purposes and the Framework. Three (3) submissions commended Council for our approach to community and stakeholder engagement throughout the Study. A selection of other key issues raised in the submissions include (but not limited to):

- 4 submissions - stressed the importance/significance of the natural environment within Cessnock (e.g. old growth forests, key threatened species habitat and biodiversity corridors);
- 3 submissions - supported the Criteria;
- 2 submissions – questioned why there was no Criteria for the E4 zone;
- 2 submissions - supported the Principles ;
- 2 submissions - supported the local Objectives;
- 4 submissions – supported the use of ‘split zones’;
- 3 submissions - made comments on minimum lot sizes even though no changes to minimum lot sizes have been proposed;

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- 2 submissions - supported the use of overlay maps for certain attributes;
- 3 submissions - wanted the E3/E4 zones to be used as a buffer to areas of high environmental value;
- 2 submissions – concerned that ‘offset sites’ that had been established previously but not yet zoned environmental would not be captured by the criteria;
- 2 submissions wanted ‘Dwelling houses’ not to be permitted with consent in the E2 zone;
- 3 submissions wanted ‘Extensive Agriculture’ not to be permitted within the E3 zone;
- 1 submission - wanted many of the proposed permitted land uses removed including some of the mandatory land uses;
- 1 submission - wanted many additional land uses added.

A summary of all the submissions and Council’s responses can be viewed in **Enclosure 1**. The amended Framework (**Enclosure 2 – provided under separate cover**) includes environmental zone objectives and land uses, which have been amended in response to community consultation. The minor amendments are shown in **Enclosure 2**. The minor amendments include some proposed additional land uses being permitted. These additional land uses are proposed on the understanding that robust controls will need to be developed for the Development Control Plan, to manage impacts such as vegetation clearing/retention, development scale and design. No changes have been proposed to the criteria and principles contained within the Framework. The mapping in Phase 2 of the Study will be guided by these criteria and principles.

The Environmental Zone Land Uses and Local Objectives Planning Proposal (**Enclosure 3 – provided under separate cover**) will amend the land uses and objectives in the Cessnock Local Environment Plan 2011 to implement the Environmental Zoning Framework Report. The planning proposal seeks to amend the land uses and objectives within the E2, E3 and E4 zones. No mapping changes are proposed as part of this planning proposal. Additional community and stakeholder engagement will be undertaken in accordance with the Gateway determination. Subsequent planning proposal/s are likely to be required after the completion of Phase 2 of the Study.

OPTIONS

Nil

CONSULTATION

Consultation prior to Exhibition

In developing the Environmental Zoning Framework report, Council staff considered community values, community and stakeholder feedback and NSW planning and legislative requirements. Extensive community and stakeholder engagement was undertaken throughout Phase 1 of the Study, including:

- Have your say webpage;
- Community reference groups (3 workshops held to date);
- Councillors workshops/briefings (3 workshops/briefings to date);
- Community values survey;
- Interactive map; and
- Targeted stakeholder consultation.

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Further details on the feedback from each of these items is included in the appendices of the Environmental Zoning Framework report (refer to **Enclosure 2 – provided under separate cover**).

Workshops were held with Council's Strategic Planning Team and Development Services Team in late April 2021. On the 11 May 2021, a workshop was held with the Community Reference Group on the draft environmental zoning framework. On 12 May 2021, Councillors were briefed on the draft Framework.

Consultation during Public Exhibition

The draft Framework was placed on exhibition from 28 June to 6 August, 2021. Copies of the documents were available on Council's website, at the Cessnock and Kurri Kurri Libraries, and at Council's Administration Office. Community drop-in sessions were held at Kurri Kurri Library and Wollombi Community Hall with 16 people attending. A forum for the development industry was held with 10 attendees and a session was held with the Young Parents Group at CYCOS. Council also made telephone session available so that the community could speak to a planner one-on-one about the draft Framework. Council staff also offered to meet with key stakeholders during the exhibition process.

The community were notified that the Framework was on exhibition via a range of communication methods, including:

- Media release;
- Digital advertisement in Cessnock Advertiser received 14,640 impressions;
- Article in Cessnock City News Rates Newsletter;
- Cessnock City eNews article;
- Social media posts, including:
 - Advertising via Facebook and Instagram received 58,878 impressions
 - Facebook – 2 posts with 6,211 reached and 212 post engagements
 - Instagram – 120 accounts reached
 - Twitter – 141 accounts reached
- Email/letters to stakeholder groups, including:
 - Community Reference Group Members;
 - Local Aboriginal Land Councils;
 - Individuals that signed up for updates;
 - Development Industry;
 - Chambers of Commerce;
 - Community, Environmental and Heritage Groups;
 - Cessnock Youth Ambassadors; and
 - State Government Agencies.

Future Consultation

Formal public consultation regarding the Planning Proposal will be carried out in accordance with Gateway determination and Community Participation Plan.

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STRATEGIC LINKS

a. Delivery Program

The Planning Proposal is consistent with the following themes and objectives of the Cessnock 2027 Community Strategic Plan (CSP):

- Objective 3.1: *Protecting & enhancing the natural environment & the rural character of the area of the CSP.*
- Objective 5.2 – involving more community participation in decision making

b. Other Plans

The Cessnock Local Strategic Planning Statement 2036 (LSPS) sets out the 20-year vision for land use in the local area. It establishes the special character and values of the LGA that are to be preserved and how change will be managed into the future. The LSPS identified the Environmental Lands Study as an immediate action. The report aligns with the following priorities of the LSPS:

- Planning Priority 17: Our lands of environmental value are protected and enhanced.
- Planning Priority 18: Our areas of biodiversity and biodiversity corridors are enhanced and protected.
- Planning Priority 19: Our waterways are healthy, and water quality and water security are improved.
- Planning Priority 20: Our community adapts to climate change and builds climate resilience.
- Planning Priority 21: Developments minimise environmental impacts and respond to site environmental characteristics and natural hazards.

IMPLICATIONS

a. Policy and Procedural Implications

The Environmental Zoning Framework report will inform amendments to the *Cessnock Local Environmental Plan 2011*.

The status of the Planning Proposal is identified in the following process flow chart.

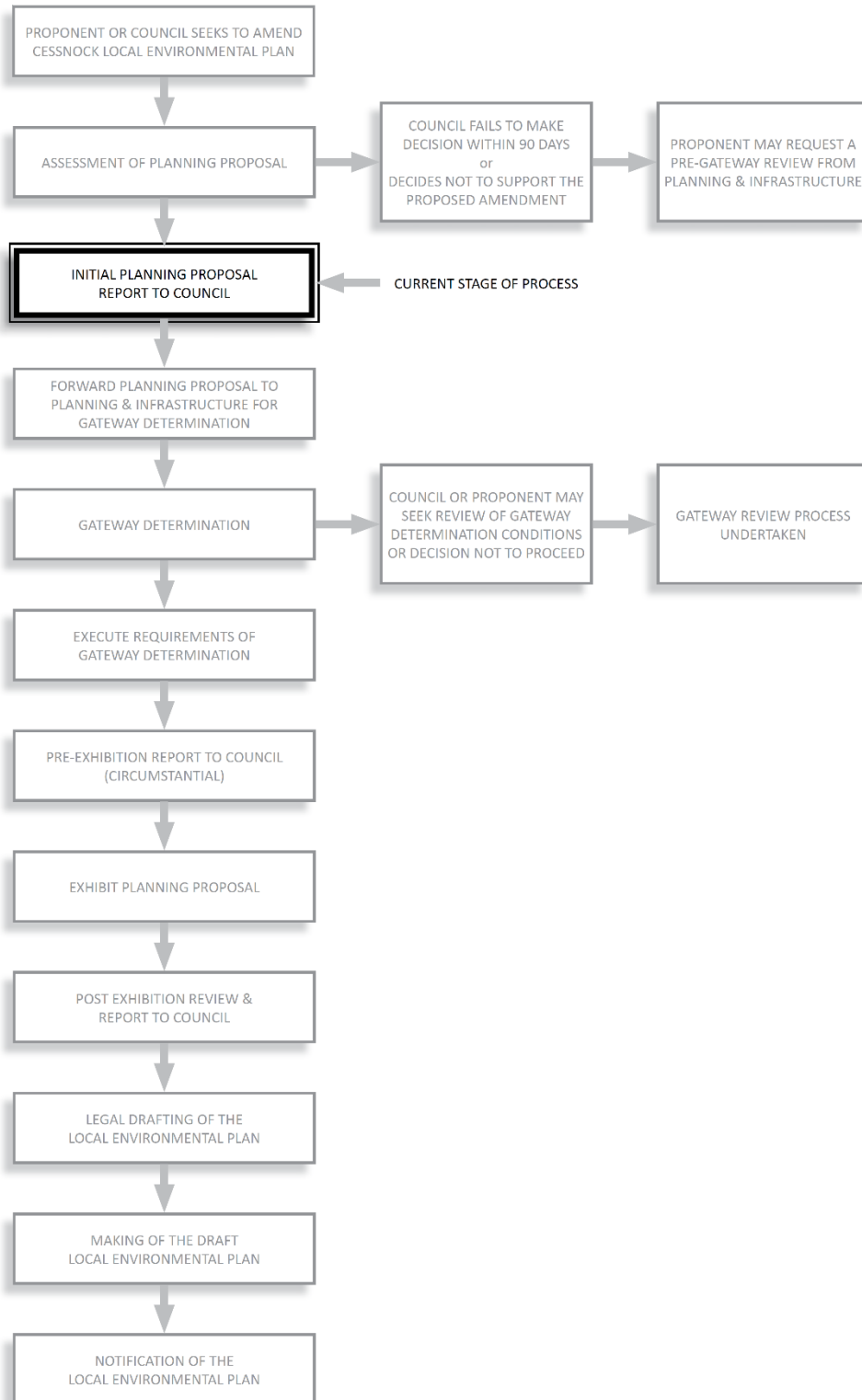
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PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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b. Financial Implications

The costs of the Study, including community engagement have been undertaken within the Strategic Planning Budget. The cost of the Planning Proposal will be funded from Council's Strategic Land Use Planning budget. This is because the Planning Proposal has been initiated by Council and is related to the broader comprehensive LEP review.

c. Legislative Implications

The Study is being guided by the Northern Councils E Zone Review Final Recommendations Report (Northern Councils Report) and the Planning Practice Note 09-002 Environmental Protection Zones (Practice Note).

The Environmental Zoning Framework report informs amendments to the *Cessnock Local Environmental Plan 2011*. The Planning Proposal has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the Department of Planning Industry and Environment's Guide to Preparing a Planning Proposal.

d. Risk Implications

Nil

e. Environmental Implications

Once implemented, the proposed framework will ensure that environmental zones in Cessnock are consistently applied and that environmentally significant lands are recognised and managed appropriately. The framework will provide certainty for landowners and developers.

f. Other Implications

Nil

CONCLUSION

It is recommended that Council adopt the Environmental Zoning Framework, as amended following community consultation and notify people that made a submission in writing of Council's decision. It is also recommended that council seek a Gateway determination for the *Environmental Zone Land Uses and Local Objectives* Planning Proposal to implement the Framework.

ENCLOSURES

- [1](#) Summary of Submissions
- [2](#) Environmental Zoning Framework - Provided Under Separate Cover
- [3](#) Draft Planning Proposal - Environmental Zone Land Uses and Objectives (Provided Under Separate Cover)

59/2020/1/1 – Draft Environmental Zoning Framework – Summary of Submissions Received During Exhibition Period

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Support for environmental zoning framework	The submissions outlined broad support for the draft Environmental Zoning Framework and indicated it would be beneficial and support significant biodiversity outcomes for the Cessnock Local Government Area.	7	DOC2021/117544 DOC2021/117851 DOC2021/117950 DOC2021/118021 DOC2021/119761 DOC2021/120966 DOC2021/116463	Noted
Commended for learnings	The submission commended Council for incorporating learnings from the previous review and update of the Cessnock LEP.	1	DOC2021/118021	Noted
Support for staged approach	The submission supported the staged process that Council used in developing the land use matrix to form the basis of the framework, which incorporates the model for respective conservation zones. This is supported, as it will ensure consistency and provide certainty.	1	DOC2021/120966	Noted
Support for stakeholder engagement	The submissions outlined general support for stakeholder engagement and establishing a community reference group.	3	DOC2021/117950 DOC2021/118021 DOC2021/120966	Noted

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Stakeholder engagement approach	The submission outlined that 'Likes' on the interactive map is a poor indicator of community views. Not scientific approach.	1	DOC2021/117849	The interactive map was designed to identify areas of environmental significance to the community. Not intended to be a scientific approach. The community identified 33 areas, which generated a total of 70 'Likes' and 0 'Dislikes'. The areas identified have common traits and these were considered in the development of draft criteria. A range of other engagement methods were also used.
Stakeholder engagement approach	The submission indicated there were a limited number of survey responses, only 137 responses out of the LGA.	1	DOC2021/119103	A comprehensive engagement and communication plan has been implemented. A wide range of engagement opportunities were, and will continue to be provided throughout the Environmental Lands Study. The engagement results are one of many considerations used to inform the development of the draft Environmental Zoning Framework.
Certainty for property development	The submission commented that knowing where areas of significant environmental features are provides certainty to the development industry.	1	DOC2021/120966	Noted

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Need for consultation throughout the project	The submission outlined the difficulty in environmental zoning projects due to impacts on private property and the perception that development rights would be eroded. Important that stakeholders are properly consulted throughout the process.	1	DOC2021/120966	Noted. Council will continue to engage with all stakeholders throughout the Study.
Council controlling privately owned land	The submission questions why Council is determined to acquire 'control' of privately owned lands with possible environmental zoning. The submission indicated that this would be discrimination against private landowners and stated that landowners should be able to manage their properties as they see fit. Do not want to 'lock up' lands or exacerbate bushfire risk.	1	DOC2021/119103	Council's role is to implement and apply the NSW planning legislation; this includes providing lands with the correct zones. Council is seeking to develop a fair, consistent and consultative approach to the zoning of environmental lands for the future. Council is not proposing to acquire or take 'control' of any privately owned land as part of this Study. Council is not proposing to 'lock up' lands, accordingly a wide range of appropriate land uses have been proposed for the environmental zones. Even in environmental zones, landowners would continue to be able to manage bushfire risk via the 10/50 rule and other bushfire regulations.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Land use for agricultural purposes	The submission questioned why land used primarily for agricultural purposes is now under threat of an environmental zone.	1	DOC2021/119103	Draft Principle 1 - 'An environmental zone may be applied if the primary use of the land is for environmental purposes and it meets one or more of the environmental criteria' that means if land is primarily used for agricultural purposes then it is not intended to be zoned environmental.
Protection of environment for future generations	The unique environmental features of the LGA should be preserved for the enjoyment of future generation and the long-term benefit of Cessnock	1	DOC2021/117941	Noted
Importance of Cessnock Natural Environment	The submissions outlined the significance of the natural environment within the Cessnock LGA. Including that the Cessnock LGA is biologically diverse, containing over 120 threatened plants, animals and ecological communities and significant environmental assets such as portions of the Greater Blue Mountains World Heritage Area. Cessnock contains strategically important habitat for woodland bird species including the critically endangered Regent Honeyeater and Swift Parrot.	4	DOC2021/112194 DOC2021/117544 DOC2021/117851 DOC2021/118021	Noted. Old growth forests are identified within the draft criteria for the E2 Environmental Conservation zone along with 'key threatened species habitat'.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Inadequacy of Council's current land use controls to protect biodiversity	The current management interventions and land use controls are not adequate to protect the natural and biodiversity values of Cessnock. NSW Govt policy recognizes that biodiversity cannot be achieved by relying on a system of reserved lands alone, and that conservation outcomes also need to be attained on private land partially or primarily used for other purposes. The strategic planning process, through appropriate zoning and other environmental protection measures provides for a landscape based approach that can support biodiversity outcomes.	1	DOC2021/118021	Noted
Provision and Analysis of Environmental Data	BCD will continue to work with council in the provision or analysis of environmental data to help inform any decision making in applying the environmental zoning framework to land within the LGA.	1	DOC2021/118021	Noted. Council will continue to engage with BCD to ensure high quality data informs decision-making for the Study.
Support for draft criteria	The submissions outline broad support of the draft criteria. Including that the criteria in Table 3 and Table 4 are clear and concise and reflect the intent to protect lands of high environmental value in the future. Support for protection of Important environmental areas that provide habitat for endangered species.	3	DOC2021/112194 DOC2021/116463 DOC2021/118021	Noted. 'Key threatened species habitat' is identified within the draft criteria for the E2 Environmental Conservation Zone.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to draft criteria	The submission outlined that the following change be made to the 7.2 Environmental Zone Criteria. Specifically, amend the first paragraph under the heading E2 Environmental Conservation Zone to read <i>'the E2 Environmental Conservation Zone is intended to protect land that has high conservation values and prevent development and/or actions that could damage, destroy or adversely affect its value'</i> .	1	DOC2021/117851	Draft Framework report amended to reflect this change.
Changes to draft criteria	The submission outlined that the following change be made to the 7.2 Environmental Zone Criteria. Move the Criteria <i>'Wildlife habitat connectivity / biodiversity corridors'</i> from Table 4 to Table 3.	1	DOC2021/117851	This proposed change would move biodiversity corridors from the E3 zone criteria to the E2 zone criteria. Corridors fit better within the E3 zone criteria as riparian corridors can also act as biodiversity corridors. Including corridors in the E3 zone still reflects the importance of biodiversity corridors. No changes required.
Changes to draft criteria	The submissions questioned why there are no criteria for the E4 Environmental Living Zone.	2	DOC2021/117849 DOC2021/117950	As outlined in the Framework report, Council proposes to apply the E4 zone to land that contains attributes that are consistent with the Planning Practice Note 09-002.
Support for draft Principles	The submissions outline support for the draft principles listed in the Framework.	2	DOC2021/117950 DOC2021/118021	Noted

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Supportive of Split Zone Principle	The submissions outlined support for the use of 'Split Zones' as outlined in draft Principle 3 of the Framework. Reasons included ensuring the integrity of the E2 zone is retained, maintenance of zoning hierarchies. For properties with existing agriculture, but also areas of special ecological, scientific, cultural or aesthetic attributes, a split zone would give continuation of existing land use but also protect what needs protection.	4	DOC2021/117941 DOC2021/117950 DOC2021/118021 DOC2021/117950	Noted
Changes to Draft Principles	The submission suggested that draft Principle 1 should be amended to: 1. An environmental zone must be applied if: a) It meets the criteria for E2 Environmental Conservation Zone or; If the primary use of the land is for environmental purposes and it meets one or more of the environmental criteria.	1	DOC2021/117851	This change would result in an E2 zone being applied to areas that contain one or more of the E2 criteria, regardless of the primary use of the land. This is contradictory to the State planning guidance. No changes required.
Comments on Draft Principles	b) The submission outlined that Principle 8 is about considering 'adjoining land uses when recommending an environmental zone' however the zoning of adjoining lands also needs to consider the potential impacts on nearby environmental zones.	1	DOC2021/117950	Noted. Impacts of zoning changes are considered during the assessment of planning proposals and Impacts of particular developments are assessed at the development application stage.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Comments on Draft Principles	The submission questions why public land could be zoned environmental despite being inconsistent with the criteria as outlined in principles 5 & 6.	1	DOC2021/117941	Principle 5 relates to public land. Public land is land owned by Council/Crown and this principle gives Council the necessary flexibility to zone public lands to the most appropriate zone.
Support for draft Objectives	The submissions outlined support for the draft objectives, stating that the additional local objectives proposed for the environmental zones (Tables 5-7) are reasonable.	2	DOC2021/118021 DOC2021/117950	Noted
Removal of Draft Objective ' <i>To provide for low impact agricultural land uses on land with productive value</i> '	The submissions stated that the draft objective ' <i>To provide for low impact agricultural land uses on land with productive value</i> ' contradicts the other objectives of the E3 Environmental Management Zone and it should be removed.	2	DOC2021/117849 DOC2021/117941	Inclusion of Extensive Agriculture in the E3 zone is consistent with state planning guidance. No amendments required.
Support for ' <i>Protect, manage and restore</i> ' being included in Draft Objectives	The submissions outlined support for ' <i>To protect, manage and restore</i> ' being included in all three zones, particularly with reference to Biodiversity corridors. It also acknowledges the effort required to manage environmental land and suggested Council could consider how they can support landowners in this task.	2	DOC2021/117941 DOC2021/117950	Noted

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Inclusion of 'to protect, manage and restore Aboriginal Cultural Heritage' in local objectives for all environmental zones	The submission insists that the obligation "to protect manage and restore Aboriginal cultural heritage" be an obligation under all three environmental zone.	1	DOC2021/119761	The standard objectives for both the E2 and E3 zone reference 'cultural' areas. The Framework has been amended to include 'to protect manage and restore Aboriginal cultural heritage' within the local objectives for the E3 zone.
Comments on Standard Objectives	E2 environmental Conservation zoning is intended to protect land assessed as having "... high ecological ,scientific, cultural or aesthetic attributes", where as E3 Environmental Management zoning applies to land with "... special ecological, scientific, cultural or aesthetic values' or land that is 'constrained by environmental hazards'. Presumably, the basis for categorizing environmental land values as high vs special will detailed during Phase 2 of the study.	1	DOC2021/117950	'high' and 'special' are terms used in the standard objectives for the E2 and E3 zones respectively. These are set by the NSW Government and cannot be changed. Council is proposing that 'high' ecological, scientific, cultural or aesthetic values are those identified by the draft criteria of the E2 zone. 'Special' would be those identified by the draft Criteria for the E3 zone.
Changes to Lot sizes	The submission recommends that the lot sizes be reduced from 80 to 40 hectares for the E2 Environmental Conservation Zone and from 40 to 20 hectares for the E3 Environmental Management zone.	1	DOC2021/118021	Noted. Minimum lot sizes will be considered during phase 2 of the Study.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Comments on Lot sizes	The submission questioned why a lot has to be larger in an E2 zone than it in an E3 zone. It also questioned why there are minimum lot sizes. The submission questions why land that contains important environmental values cannot be zoned environmental just because it is under the minimum lot size.	1	DOC2021/117849	The lot sizes shown in the document are the current minimum lot sizes for the environmental zones. Minimum lot sizes will be considered during phase 2 of the Study. Council is able to rezone land even if it does not meet the minimum lot size.
Changes to Lot sizes	The submission outlined there should be clear guidelines about the portion of an E4 block that can be developed.	1	DOC2021/117950	Noted. Minimum lot sizes will be considered during phase 2 of the Study.
Zoning of Offset Sites	The submissions suggest that 'offset sites' that were set aside in the past but were not formally rezoned to an environmental zone should be captured by the framework.	2	DOC2021/117941 DOC2021/117950	Table 3 includes draft criteria for the E2 zone that says ' <i>Lands that will be protected in perpetuity for the purposes of environmental conservation</i> '. In the description for the criteria it includes offset sites, stewardship sites and set aside areas. The draft criteria is intended to capture any offset areas that were established in the past (regardless of their zone) along with any future ones.
DCP Controls for Offset Sites	How any conservancy, biodiversity stewardship, or offset provisions are facilitated also needs to be carefully specified in Council's planning/zoning requirements and Development Control Plans.	1	DOC2021/117950	Noted. DCP controls will be considered at a later stage.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Protection of Biodiversity Corridors	The submission outlined support for biodiversity corridors being recognized within the framework. Biodiversity corridors being rapidly thinned/cleared and would like to see restoration of these corridors.	1	DOC2021/112194	Noted. Biodiversity corridors are identified as one of the draft criteria within the E3 Environmental Management Zone and are specifically referenced within the draft local objectives.
Biodiversity Reserves and Corridors	The submission outlined support for the implementation of a conservation strategy aimed at establishing biodiversity reserves and corridors.	1	DOC2021/120966	Noted
Protection of Ellalong Lagoon	The submissions outline that Ellalong Lagoon is an important site that provides habitat for threatened species and it requires greater protection including an environmental zone.	2	DOC2021/116463 DOC2021/117544	Noted
Protection of Tomalpin Woodlands	The submission outlined key areas of habitat for the Regent Honeyeater and Swift Parrot, which include the Tomalpin Woodlands, the Austar holdings in the vicinity of Pelton/Ellalong/Paxton and bushland south of Ellalong Lagoon. Council should conserve these areas.	1	DOC2021/117851	Noted
Protections for Ridgelines	The submission raised concern about environmental protections for the ridgelines of the northern sections of the Sugarloaf Range (including within Black Hill and Buttai). As an interim measure a default environmental zoning should be applied (e.g. E3) for lands that exceed a certain gradient, and then environmental zoning could be adjusted following specific studies.	1	DOC2021/117950	The draft criteria for the E3 zone includes lands that are over 18 degrees gradient. Mapping of the criteria will occur during Phase 2 of the Study.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Buffers to areas of high environmental value	The submissions outlined that the E3 or E4 zones should be used as a buffer/transition to high value environmental lands such as E1/E2 zoned land. One of the submissions suggests the E3 zone may be appropriate for parts of the LGA including parts of the Wollombi Valley.	3	DOC2021/117950 DOC2021/118021 DOC2021/117950	Including buffers as a criteria, was considered during the development of the Framework. Zoning land purely because it sits adjacent to a high value area potentially undermines the integrity of the E3 zone. Buffers were considered by the NSW Government in the Northern Councils review and ultimately excluded from the environmental zone criteria. Also creates complexity with split zones. No amendments required.
Considering Impacts from Adjacent Zones	The submission outlines the need to consider adjacent uses to a specific zone e.g. allowing trail bike activity 100m from an endangered rock wallaby home will guarantee the loss of wallabies due to noise disturbance.	1	DOC2021/117849	Noted. Developments go through a merit based assessment process.
Recommended LEP Clause	The submission recommends that Council consider a clause in the Local Environmental Plan (LEP) which allows for smaller lot sizes for environmental offsets, such as that provided in the Lake Macquarie LEP 2014.	1	DOC2021/118021	Noted. Council will consider whether a similar clause is appropriate for inclusion in the Cessnock LEP during Phase 2.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Use of Overlay Maps	The submissions recommend that where environmental zoning outcomes cannot be achieved, that an LEP clause and map overlay be appropriate for certain attributes such as biodiversity corridors.	2	DOC2021/117941 DOC2021/118021	Noted. This is consistent with draft principle 4 in the Framework.
Mapping Issue	The submission questions whether Council has a comprehensive list of the existing national parks, reserves, forests, conservation areas, corridors and offset lands that fall within the LGA. Two State Conservation Areas are not identified on figures within the document.	1	DOC2021/117950	Noted. Mapping will be reviewed in detail during Phase 2.
Language in Document	The submission questions the use terms such as 'low-impact' and 'adverse effect'. These are mother-hood terms. Need specific definitions included. No vague terms but actual numbers.	1	DOC2021/117849	The language is appropriate for a high-level strategic document.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Significant Landowner	<p>The submission outlines that the NSW Aboriginal Land Rights Act (ALRA) allows Local Aboriginal Land Councils (LALCs) to claim ownership of vacant Crown Land, the NSW ALRA also place specific obligations on LALC's to:</p> <ol style="list-style-type: none"> 1. Protect Aboriginal Culture and Heritage 2. Create benefits to the Aboriginal community 3. Protect the Environment 4. Create an economic return. <p>The only asset available to LALC's to achieve such outcomes is the land that they own. Our LALC is a significant landowner within the region.</p>	1	DOC2021/119761	Noted
Zoning of Local Aboriginal Land Council Owned Land	The submission outlines that to meet our obligation to 'create benefits for the Aboriginal community' under the ALRA it is essential that not all LALC land is not all zoned as environmental by Council.	1	DOC2021/119761	Noted
Development Opportunities for Local Aboriginal Land Councils	The submission outlines that there are many opportunities to partner with Cessnock Council to release land for residential, commercial and industrial growth into the future. A large portion of LALC owned land is located on the urban fringe.	1	DOC2021/119761	Noted
Consultation with LALC	The submissions seeks Council's assurance that their next steps are taken in close, and detailed consultation with the LALC.	1	DOC2021/119761	Council will continue to engage with the LALC during Phase 2 of the Study.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Climate Change	The submission questions why climate change has not considered in the Framework. The submission also outlines that established eucalypt forests are a good carbon sink and could bring income into the LGA by offsetting carbon.	1	DOC2021/112194	The draft environmental zoning framework does consider climate change by recognizing biodiversity corridors and lands with environmental hazards as criteria for the E3 zone.
Bushfire Risk	The submission outlines that some regions of the LGA are highly susceptible to bushfires. The protection of highly valuable ecosystems needs to consider fire risk/protection.	1	DOC2021/112194	There is existing legislation and guidelines to address bushfire risk.
Impact on Wildlife Volunteers	The submission states that there is no assessment/consideration for the cost to wildlife volunteers in the area of any increased 'adverse effects'?	1	DOC2021/117849	This is a high-level strategic document that has little direct impact on the important work of wildlife volunteers.
Zoning of Trails	The submissions outlines that part of the proposed Richmond Vale Rail Trail falls within the Cessnock LGA. There are many current and future trails identified in Cessnock's Trails Strategy, which will also require associated environmental zoning protections.	1	DOC2021/117950	Large trails such as the Richmond Vale Rail Trail will likely be zoned RE1 as the primary purpose is for public recreation. Smaller trails may be provided with the adjoining land use zones but this will be considered as part of the comprehensive LEP review.
Concerned over housing developments	The submission outlines that there have been many recent housing. Our precious bushland and threatened species both plants and animals will be lost if we encroach onto their homes.	1	DOC2021/118379	Noted. The draft environmental zoning framework will not result in new residential urban release areas being established.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Victoria Park Reclassification	The submission suggests that Victoria Park should be retained and turned into community garden/cultural area/recreation area	1	DOC2021/112194	Noted. Victoria Park is no longer proposed for reclassification as part of a separate planning proposal.
Human Mental Health	The submission states that human mental health is intrinsically linked to the natural environment	1	DOC2021/112194	Noted
Future of Coal Mining	The submission questions what will happen following the closure of coalmines in the area. Who is responsible for clean-up/rehabilitation of these areas and what is the zoning/use of former coalmines.	1	DOC2021/112194	Usually the mining company is responsible for rehabilitating sites in accordance with NSW government approvals. The zoning of former mine sites will be considered as part of the Comprehensive LEP review.
Support for draft land uses	The submission is supportive of the proposed environmental zone land uses (Section 7.4), including the removal of some inappropriate land uses to ensure greater consistency with the Standard Instrument directions and objectives.	1	DOC2021/118021	Noted
Growth of Tourism Industry	There is a clear strategic planning framework applying to the Hunter Region and Cessnock LGA that supports a broadening and growth of the tourism industry including a growth in nature-based tourism. The Environmental Zoning Framework should facilitate appropriate forms of development.	1	DOC2021/120966	Council has proposed to include a number of low-impact, tourism related land uses that are consistent with the objectives of the environmental zones.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	The proposed Land Uses for the E3 Environmental Management zone in the Cessnock LGA is far more restrictive in terms of permissible land uses when compared against the LEPS of most other LGAs.	1	DOC2021/120966	The proposed land uses have been developed in consultation with stakeholders (including the community reference group), with consideration to the state planning guidance and considering what other councils have done. The land uses proposed are consistent with the objectives and intent of the environmental management zone.
Changes to Land Uses	'Bed and breakfast accommodation' is not appropriate within the E2 Environmental Conservation Zone.	2	DOC2021/117849 DOC2021/117950	This land use is low-impact, generally occurs within existing dwellings, and encourages heritage/nature based tourism. No change required.
Changes to Land Uses	The land use 'Community facilities' is not appropriate within the E2 Environmental Conservation Zone.	1	DOC2021/117849	These facilities are consistent with encouraging low impact heritage/nature based tourism. No change required.
Changes to Land Uses	The land use 'Dwelling houses' is not appropriate within the E2 Environmental Conservation Zone.	2	DOC2021/117849 DOC2021/117950	The inclusions/exclusion of dwelling houses was considered in detail. The Community Reference Group and other stakeholders agreed that it should be included subject to Council developed robust DCP controls regulating clearing in the environmental zones. No change required.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	The land use 'Eco-tourist facilities' is not appropriate within the E2 Environmental Conservation Zone.	1	DOC2021/117849	Eco-tourist facilities are low impact and facilitate heritage/nature based tourism. These sorts of developments generally foster protection of the heritage/natural values that people are coming to see. No change required.
Changes to Land Uses	The land use 'Home businesses' is not appropriate within the E2 Environmental Conservation Zone.	2	DOC2021/117849 DOC2021/117950	Noted. However, if dwelling houses are permitted it is appropriate to permit home businesses. No change required.
Changes to Land Uses	The land use 'Home occupations' is not appropriate, as it does not meet the objectives of the E2 Environmental Conservation Zone. Too much environmental impact/impact on fauna and flora.	2	DOC2021/117849 DOC2021/117950	Noted. However, if dwelling houses are permitted it is appropriate to permit home occupation. No change required.
Changes to Land Uses	The land use 'Oyster aquaculture' is not appropriate within the E2 Environmental Conservation Zone.	1	DOC2021/117849	Oyster aquaculture is a land use that is mandated by the State Government. Council must include this land use.
Changes to Land Uses	The land use 'Roads' is not appropriate within the E2 Environmental Conservation Zone.	1	DOC2021/117849	Roads are important infrastructure and it is important that these be permissible. No change required.
Changes to Land Uses	The land use 'Emergency service facilities' is acceptable within the E2 Environmental Conservation Zone. Should include wildlife emergency facilities.	1	DOC2021/117849	Noted
Changes to Land Uses	The land use 'Environmental facilities' is acceptable within the E2 Environmental Conservation Zone.	1	DOC2021/117849	Noted

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	The land use 'Environmental protection works' is acceptable within the E2 Environmental Conservation Zone.	1	DOC2021/117849	This is a land use that is mandated by the State Government. Council must include this land use.
Changes to Land Uses	The land use 'flood mitigation works' is acceptable within the E2 Environmental Conservation Zone.	1	DOC2021/117849	Noted
Changes to Land Uses	The land use 'Bed and breakfast accommodation' is not appropriate within the E3 Environmental Management Zone.	1	DOC2021/117849	This land use is low-impact, generally occurs within existing dwellings, and encourages heritage/nature based tourism. No change required.
Changes to Land Uses	The land use 'community facilities' is not appropriate within the E3 Environmental Management Zone.	1	DOC2021/117849	These facilities are consistent with encouraging low impact heritage/nature based tourism. No change required.
Changes to Land Uses	The land use 'dwelling houses' is not appropriate within the E3 Environmental Management Zone.	1	DOC2021/117849	Dwelling houses is a land use that is mandated by the State Government within this zone. Council must include this land use.
Changes to Land Uses	The land use 'eco-tourist facilities' is not appropriate within the E3 Environmental Management Zone.	1	DOC2021/117849	Eco-tourist facilities are low impact and facilitate heritage/nature based tourism. These sorts of developments generally foster protection of the heritage/natural values that people are coming to see. No change required.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	How is 'flood mitigation works' managed against criteria 3.	1	DOC2021/117849	Flood mitigation works means work designed and constructed for the express purpose of mitigating flood impacts. It is important that this be permissible, subject to relevant approvals.
Changes to Land Uses	The land use 'home businesses' is not appropriate within the E3 Environmental Management Zone.	1	DOC2021/117849	Given that 'dwelling houses' are a mandated land use in this zone, it is appropriate to allow home businesses.
Changes to Land Uses	The land use 'home occupations' is not appropriate within the E3 Environmental Management Zone.	1	DOC2021/117849	Given that 'dwelling houses' are a mandated land use in this zone, it is appropriate to allow home occupations.
Changes to Land Uses	The land use 'Kiosks' is not appropriate within the E3 Environmental Management Zone.	1	DOC2021/117849	Kiosks are relatively low impact and are consistent with encouraging heritage/nature base tourism. No Changes required.
Changes to Land Uses	The land use 'Roadside stalls' is not appropriate as it does not meet the objectives of the E3 Environmental Management Zone.	1	DOC2021/117849	Roadside stalls are relatively low impact and are consistent with encouraging heritage/nature base tourism. No Changes required.
Changes to Land Uses	The land use 'Oyster aquaculture' is not appropriate within the E3 Environmental Management Zone.	1	DOC2021/117849	Oyster aquaculture is a land use that is mandated by the State Government within this zone. Council must include this land use.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	The land use 'Extensive agriculture' does not belong in the E3 zone. It is not appropriate, as it does not meet the objectives of the E3 Environmental Management Zone. Results in significant environmental/ fauna impacts. Including 'extensive agriculture' in the E3 zone potentially weakens protection. Including extensive agriculture in the E3 zones will most likely lead to an expansion of clearing for agriculture.	3	DOC2021/117849 DOC2021/117941 DOC2021/117950	Including 'extensive agriculture' within the E3 zone is consistent with state planning guidance. Robust DCP controls will be implemented to minimize any environmental impacts. No change required.
Changes to Land Uses	Requested that bee keeping be permitted in the E3 and E4 zones. Zone, bee-keeping could be permitted.	3	DOC2021/117849 DOC2021/117950 DOC2021/120966	Bee keeping to be added as permitted with consent in the E4 zone.
Changes to Land Uses	The land use 'Roads' is not appropriate within the E3 Environmental Management Zone.	1	DOC2021/117849	Roads is a land use that is mandated by the State Government within the zone. Council must include this land use.
Changes to Land Uses	The land use 'emergency service facilities' is acceptable within the E3 Environmental Management Zone.	1	DOC2021/117849	Noted
Changes to Land Uses	'Environmental facilities' should be permitted in the E3 zone.	1	DOC2021/117849	Noted
Changes to Land Uses	The land use 'environmental protection works' is acceptable within the E3 Environmental Management Zone	1	DOC2021/117849	Environmental protection works is a land use that is mandated by the State Government within the zone. Council must include this land use.
Changes to Land Uses	The land use 'Bed and breakfast accommodation' is not appropriate within the E4 Environmental living Zone.	1	DOC2021/117849	Given that 'dwelling houses' are a mandated land use in this zone, it is appropriate to allow bed and breakfast accommodation.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	The land use 'Dwelling house' is not appropriate within the E4 Environmental living Zone.	1	DOC2021/117849	Dwelling houses is a land use that is mandated by the State Government within this zone. Council must include this land use.
Changes to Land Uses	The land use 'Home business' is not appropriate within the E4 Environmental living Zone.	1	DOC2021/117849	Given that 'dwelling houses' are a mandated land use in this zone, it is appropriate to allow home businesses.
Changes to Land Uses	The land use 'Home occupation' is not appropriate within the E4 Environmental living Zone.	1	DOC2021/117849	Given that 'dwelling houses' are a mandated land use in this zone, it is appropriate to allow home occupations.
Changes to Land Uses	The land use 'Roads' is not appropriate within the E4 Environmental living Zone.	1	DOC2021/117849	Roads is a land use that is mandated by the State Government within the zone. Council must include this land use.
Changes to Land Uses	The land use 'Oyster aquaculture' is not appropriate within the E4 Environmental living Zone.	1	DOC2021/117849	Oyster aquaculture is a land use that is mandated by the State Government within this zone. Council must include this land use.
Changes to Land Uses	Acquaculture land uses are not appropriate within the E4 Environmental living Zone.	1	DOC2021/117849	Pond-based aquaculture, tank-based aquaculture and oyster aquaculture are land uses that are mandated by the State Government within this zone. Council must include these land uses.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	The <i>Environmental Zone Land Use Matrix</i> – <i>Current and Proposed</i> table shows a reasonable tightening of the permitted Land Uses within E4 zoned land – for example, excluding extensive and intensive agriculture, secondary dwellings, shops etc. Supportive of the narrower range of land uses proposed for the E4 zone.	1	DOC2021/117950	Noted. Some inappropriate land uses are proposed to be removed from the E4 zone, suitable land uses have been proposed.
Changes to Land Uses	Why is 'home-based childcare' prohibited in all the environmental zones.	1	DOC2021/117941	Home based child-care must meet strict requirements in relation to addressing risk from natural hazards, which may result in excessive clearing. No changes required.
Changes to Land Uses	When referring to walking trails being allowed in environmental zones, there is no indication of whether this refers to people alone or people with unrestrained dogs.	1	DOC2021/117849	This refers to a comment made by a member of the public as part of the community wide survey. This is the opinion of that person.
Changes to Land Uses	The E3 Environmental Management Zone and the E4 Environmental Living Zone should permit a broader range of tourist related land uses.	1	DOC2021/120966	Council has proposed to include a range of low-impact, tourism related land uses that are consistent with the objectives of the environmental zones.
Changes to Land Uses	'Bed and Breakfast Accommodation' should be considered for inclusion as permissible in the E3 Environmental Management Zone.	1	DOC2021/120966	Agreed. Already proposed to be included as permissible with consent.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	'Farm Stay Accommodation' should be considered for inclusion as permissible in the E3 Environmental Management Zone.	1	DOC2021/120966	Farm Stay Accommodation could be permissible subject to robust DCP controls around density and clearing. Document amended to include in the E3 zone.
Changes to Land Uses	'Farm Stay Accommodation' should be considered for inclusion as permissible in the E4 Environmental Living Zone.	1	DOC2021/120966	This land use is contradictory to the objectives and intent of the E4 zone. No changes required.
Changes to Land Uses	'Camping Grounds' should be considered for inclusion as permissible in the E3 Environmental Management Zone.	1	DOC2021/120966	This land use would encourage tourism and given that there is unlikely to be demand for a large number of this type of land use, it may be appropriate subject to robust DCP controls around density and retention of vegetation. Document amended to include In the E3 zone.
Changes to Land Uses	'Eco-Tourist Facilities' should be considered for inclusion as permissible in the E4 Environmental Living Zone.	1	DOC2021/120966	'Eco-tourist facilities' could be permissible within the E4 zone, subject to DCP controls. Document amended to include in the E4 zone.
Changes to Land Uses	'Information and Education Facilities' should be considered for inclusion as permissible in the E3 Environmental Management Zone.	1	DOC2021/120966	Document amended to include as permissible within the E3 zone subject to robust DCP controls.
Changes to Land Uses	'Information and Education Facilities' should be considered for inclusion in the E4 Environmental Living Zone.	1	DOC2021/120966	This land use is contradictory to the objectives and intent of the E4 zone. No changes required.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	'Restaurants or Cafes' should be considered for inclusion as permissible in the E4 Environmental Living Zone.	1	DOC2021/120966	'Restaurants or cafes' are not appropriate as they are contradictory to the intent and objectives of the E4 Environmental Living Zone. No change required.
Changes to Land Uses	'Garden Centres' should be considered for inclusion as permissible in the E4 Environmental Living Zone.	1	DOC2021/120966	'Garden Centres' are not appropriate as they are contradictory to the intent and objectives of the E4 Environmental Living Zone. No change required.
Changes to Land Uses	'Kiosks' should be considered as permissible in the E4 Environmental Living Zone.	1	DOC2021/120966	This land use is contradictory to the intent and objectives of the E4 zone.
Changes to Land Uses	'Landscaping material supplies' should be considered for inclusion as permissible in the E4 Environmental Living Zone.	1	DOC2021/120966	'Landscaping material supplies' are not appropriate as they are contradictory to the intent and objectives of the E4 Environmental Living Zone. No change required.
Changes to Land Uses	'Plant nurseries' should be considered as permissible in the E4 Environmental Living Zone.	1	DOC2021/120966	'Plant nurseries' are not appropriate as they are contradictory to the intent and objectives of the E4 Environmental Living Zone. No change required.
Changes to Land Uses	'Roadside Stalls' should be considered as permissible in the E4 Environmental Living Zone.	1	DOC2021/120966	This land use is low impact and consistent with the objectives of the E4 zone. Document amended to include.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	'Function centres' should be considered as permissible in the E3 Environmental Management Zone.	1	DOC2021/120966	'Function centres' are not appropriate as they are contradictory to the intent and objectives of the E3 Environmental Management Zone. No change required.
Changes to Land Uses	'Function centres' should be considered as permissible in the E4 Environmental Living Zone.	1	DOC2021/120966	'Function centres' are not appropriate as they are contradictory to the intent and objectives of the E4 Environmental Living Zone. No change required.
Changes to Land Uses	Council should seek clarification from DPIE as to why ' <i>artisan food and drink industries</i> ' are prohibited in the E3 Environmental Management Zone.	1	DOC2021/120966	Noted. This is a matter for the State Government.
Changes to Land Uses	The land use 'Farm buildings' should be permissible with consent in the E3 Environmental Management Zone.	1	DOC2021/120966	Council's preference is for farm buildings to occur on already cleared rural lands. However, given that 'extensive agriculture' is proposed to be permitted, including 'farm buildings' would be appropriate. Document amended to include within the E3 zone.
Changes to Land Uses	The land use 'Secondary dwellings' should be permissible with consent in the E3 Environmental Management Zone.	1	DOC2021/120966	Secondary dwellings are not appropriate, as they are contradictory to the intent and objectives of the E3 Environmental Management Zone. No change required.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	The land use 'Home industry' should be permissible with consent in the E3 Environmental Management Zone.	1	DOC2021/120966	Home industry is a type of 'industry' so would not be appropriate within the E2 zone. It is appropriate within the E3 zone subject to DCP controls.
Changes to Land Uses	The land use 'signage' should be permissible with consent in the E3 Environmental Management Zone.	1	DOC2021/120966	Business identification sign and Building identification sign are appropriate within the E3 zone, subject to DCP controls. Document amended to include these land uses within the E3 zone.
Changes to Land Uses	The land use 'recreation areas' should be permissible with consent in the E3 Environmental Management Zone. This includes 'reserve' under the definition, which would include natural area and should be permissible with consent.	1	DOC2021/120966	Recreation areas are zoned RE1 or RE2. Council is the provider of public parks. The definition of 'Recreation areas' includes children's playgrounds, areas for sporting activities and public parks. Recreation areas are not appropriate within the E3 zone. No change required.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	The land use 'Recreation facilities (outdoor)' should be permissible with consent in the E3 Environmental Management Zone. This will entail outdoor walking trails through natural areas, and other outdoor recreation activities that do not have environmental impacts but support tourism.	1	DOC2021/120966	While this land use may allow outdoor walking trails, it also includes things like gold courses, golf driving ranges, tennis courts, paint-ball centres, lawn bowling greens, outdoor swimming pools etc. This land use is contradictory to the intent and objectives of the E3 zone. There are walking trails within the National Parks and State Forests. Environmental facilities are proposed to be permitted and this land use would allow for walking trails etc. No change required.
Changes to Land Uses	The land use 'Viticulture' should be permissible with consent in the E4 Environmental Living Zone.	1	DOC2021/120966	Viticulture is not an appropriate land use for the E4 environmental living zone. Commercial viticulture is already permitted in large parts of the LGA . No change required.
Changes to Land Uses	The land use 'Animal boarding or training establishments' should be permissible with consent in the E4 Environmental Living Zone.	1	DOC2021/120966	'Animal boarding or training establishments' are not appropriate as they are contradictory to the intent and objectives of the E4 Environmental Living Zone. Create noise, odour and amenity issues on smaller lots. No change required.
Changes to Land Uses	The land use 'Farm buildings' should be permissible with consent in the E4 Environmental Living Zone.	1	DOC2021/120966	The land use Farm buildings is not an appropriate land use within the E4 zone. No change required.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Changes to Land Uses	The land use 'Dual Occupancies (detached)' should be permissible with consent in the E4 Environmental Living Zone.	1	DOC2021/120966	'Dual Occupancies (detached)' are not appropriate, as they are contradictory to the intent and objectives of the E4 Environmental Living Zone. No change required. They are not appropriate in any of the environmental zones.
Changes to Land Uses	The land use 'Secondary Dwellings' should be permissible with consent in the E4 Environmental Living Zone.	1	DOC2021/120966	Secondary dwellings increase clearing requirements on smaller lots and can result in the removal of all environmental values. No change required.
Changes to Land Uses	The land use 'Home industry' should be permissible with consent in the E4 Environmental Living Zone.	1	DOC2021/120966	Home industry is a type of 'industry' so would not be appropriate within the E2 zone. It is appropriate within the E4 zone subject to DCP controls.
Changes to Land Uses	The land use 'Signage' should be permissible with consent in the E4 Environmental Living Zone.	1	DOC2021/120966	Business identification sign and Building identification sign are appropriate within the E4 zone, subject to DCP controls. Document amended to include these land uses within the E4 zone.
LATE SUBMISSION				
General support for community and stakeholder engagement approach	The submission thanked council for providing a community liaison and meetings to more fully inform community on proposed changes.	1	DOC2021/128855	Noted

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Comments on Draft Principles	The submission questioned what evidence/criteria will you use to determine that ' <i>the primary use of the land is for environmental purposes</i> '? what are environmental purposes? We submit that the "The primary use of the land is defined as the main use for which the land has been used for the last 5 years ' not 2.	1	DOC2021/128855	In accordance with the state planning guidance, determining the primary use of the land will occur at the planning proposal stage. 2 years is appropriate. No change required.
Interactive Map	The submission questioned whether the interactive map identifying 33 areas of environmental significance accessible by the general community to inform in more detail these 33 areas? On this map Wollombi village is nominated as an area of environmental significance however the village is currently and most appropriately Zoned RU5 (rural village) and is also protected under a Heritage Conservation Area.	1	DOC2021/128855	The map is still publicly available on councils webpage. These are areas put forward by the community. Just to help council understand what areas/attributes the community values. No proposed changes to current village zoning of Wollombi.
Interactive Map	The submission noted that there are no other areas of environmental significance identified over other privately owned land in the Wollombi Valley region.	1	DOC2021/128855	These are areas put forward by the community. Just to help council understand what areas/attributes the community values. Although there may not be a comment on the map, this does not mean that there are no important environmental values in the Wollombi region.

Submission Summary		Number of Times Raised	HPRM Ref	Planning Response & Resulting Amendment
Comments on Spilt Zones	The submission objected to the use of more than one zone (i.e. split zones) being applied to properties. Propose that properties with a total area of less than 50ha be exempt from this provision.	1	DOC2021/128855	Split zones are consistent with the state planning guidance and are appropriate for use in rural/environmental zones. Environmental values do not necessarily follow cadastral boundaries. A lot size exemption would not be appropriate or fair. No change required.
Comments on Draft Criteria	Opposed to the E3 criteria relating to the Riparian vegetation i.e. <i>'the watercourse plus 40m form the top of bank for 3rd order streams or larger'</i> where this would result in split zoning for individual properties.	1	DOC2021/128855	This is consistent with the State planning guidance. Council took the pragmatic approach and proposed to apply it to 3 rd order or larger streams only. Community and stakeholder feedback supported this approach. No changes required.
Comments on Draft Criteria	E3 Zone criteria 2 – we would apply the same logic as above when considering the criteria relating to floodways and lands with steep slopes (over 18 degrees) and would suggest additional criteria relating to Lot Size.	1	DOC2021/128855	E3 zone criteria 2 is appropriate and consistent with state planning guidance. Community and stakeholder feedback supported this approach. No changes required.
Comments on E4 zone application	There are areas of the Wollombi Valley region suitable for an E4 zone such as Burralong Valley Estate and the Will 'O Wyn Estate, both located in the Murrays Run Valley. Will 'O Wyn contains significant wetlands.	1	DOC2021/128855	Noted

Placeholder for Enclosure 2

Planning and Environment No.

Environmental Zoning Framework - Provided Under
Separate Cover

Placeholder for Enclosure 3

Planning and Environment No.

Draft Planning Proposal - Environmental Zone Land
Uses and Objectives (Provided Under Separate Cover)

Planning and Environment

Report No. PE54/2021

Planning and Environment



SUBJECT: *PLANNING PROPOSAL 18/2019/1/1 - RECLASSIFICATION AND REZONING OF COUNCIL LAND*

RESPONSIBLE OFFICER: *Strategic Planning Manager - Martin Johnson*

SUMMARY

The purpose of this report is to advise Council of the outcome of the public exhibition of Planning Proposal 18/2019/1/1 – Reclassification and Rezoning of Council Land and seek Council's endorsement to forward an amended Planning Proposal to the Department of Planning, Industry and Environment (DPIE) with a recommendation to make the local environmental plan.

APPLICATION NUMBER:	18/2019/1/1
PROPOSAL:	Reclassification and Rezoning of Council Land
PROPERTY DESCRIPTION:	<ul style="list-style-type: none"> • Lot 8 DP 255269 – 10 Redgrove Court East Branxton • Lot 20 Section D DP 1846 – 45 Yates Street East Branxton • Lot 9 DP 253077 – 1A Lee-Ann Crescent Cessnock • Lot 1 DP 382568 – 10 Embelton Avenue Weston
PROPONENT:	Cessnock City Council

RECOMMENDATION

1. That Council notes the outcome of community consultation for Planning Proposal 18/2019/1/1 – Reclassification and Rezoning of Council Land.
2. That Council forwards the amended Planning Proposal for Reclassification and Rezoning of Council Land to the Minister for Planning and Public Spaces with a recommendation that the plan be made pursuant to Section 3.36 of the *Environmental Planning and Assessment Act 1979*.
3. That Council notifies submission makers of the Minister's decision.

BACKGROUND

Council resolved on 4 July 2018 and 15 May 2019, to proceed with the recommendations of the Strategic Property and Community Facilities Committee to reclassify and rezone several properties in the Cessnock Local Government Area (LGA). The Planning Proposal 18/2019/1/1 initially included eight sites:

1. 10 Redgrove Court East Branxton;
2. 45 Yates Street East Branxton;
3. 9 Abermain Street Pelaw Main (known as Jacobs Park);
4. 1A Lee-ann Crescent Cessnock;
5. 10 Embelton Avenue Weston;
6. 85 Swanson Street Weston (known as Varty Park);
7. 101 Maitland Street and 107 Lang Street Kurri Kurri (known as Molly Worthington Netball Courts); and

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8. 35 Water Street, Greta (known as Victoria Park).

On 10 November 2020, DPIE issued a Gateway determination in respect of the Planning Proposal. The Gateway determination required Council to exclude the proposal to rezone and reclassify Molly Worthington Netball Courts, undertake government agency consultation and place the updated Planning Proposal on public exhibition for a minimum of 28 days.

The updated Planning Proposal was placed on public exhibition on 26 April 2021. The exhibition period was subsequently extended by two weeks, until 7 June 2021, to provide additional time for the community to comment on the proposal.

In response to submissions received during the public exhibition period, Council resolved to exclude three additional sites from the Planning Proposal. Jacobs Park, Victoria Park and Varty Park were excluded from the Planning Proposal on 19 May, 19 June and 21 July 2021, respectively.

REPORT/PROPOSAL

At the conclusion of public exhibition period, the Planning Proposal was amended to reflect the exclusion of the additional sites and respond to government agency feedback and public submissions. The amended Planning Proposal is provided as **Enclosure 1** to this report.

The amended planning proposal seeks to:

- reclassify the following sites from 'community' to 'operational':
 - Lot 8 DP 255269 – 10 Redgrove Court, East Branxton;
 - Lot 20 Section D DP 1846 – 45 Yates Street, East Branxton; and
 - Lot 9 DP 253077 – 1A Lee-Ann Crescent, Cessnock.
 - Lot 1 DP 382568 – 10 Embelton Avenue, Weston.
- rezone the following property from RE1 Public Recreation to R3 Medium Density Residential and apply a minimum lot size of 450m² to the land:
 - Lot 1 DP 382568 – 10 Embelton Avenue, Weston.

OPTIONS

1. Not proceed with the Planning Proposal for the following reasons:

(To be provided by Council).

2. Proceed with an amended Planning Proposal (**Enclosure 1**). *This is the recommended option.*

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CONSULTATION

The Planning Proposal was placed on public exhibition on 26 April 2021. The exhibition period was initially scheduled to end on 24 May 2021; however, the exhibition period was extended by two weeks until 7 June 2021 to provide additional time for the community to comment on the proposal.

Council received 199 submissions in response to the Planning Proposal. A detailed summary and response to the key issues raised during the exhibition period is provided as **Enclosure 2** to this report.

In accordance with the *Environmental Planning and Assessment Act 1979*, *Local Government Act 1993* and the LEP Practice Note, PN 16-001 "Classification and Reclassification of Public Land through a Local Environmental Plan", a public hearing was held following the completion of the public exhibition period. The independent public hearing occurred in two sessions on 10 and 12 August 2021. The hearing was conducted by an independent facilitator, as required by the legislation. One member of the public and one Council staff member attended the public hearing. The independent facilitator's report is included as **Enclosure 3** to this Report

Consultation occurred with the following public authorities in accordance with the Gateway determination:

Subsidence Advisory NSW

A referral was forwarded to Subsidence Advisory NSW (SA NSW) on 4 May 2021. SA NSW advised on 15 June 2021 that Jacob's Park (Lot 7 DP 1177000, 9 Abermain Street, Pelaw Main) is undermined by historical mine workings within the upper split of the Holmesville Coal Seam. Furthermore that mine voids of up to 6m in thickness are located at between 20m and 35m below the surface of the subject lot. SA NSW has assigned a Guideline 1 (Surface Development Guideline) to the property. Guideline 1 is applied to properties identified as having a sinkhole (pothole) risk.

It is noted that Council resolved on 19 May 2021 to exclude the proposed rezoning and reclassification of Jacobs Park from the Planning Proposal.

SA advised that the other sites subject to the planning proposal are not located in a mine subsidence district (MSD), are not undermined, and have no risk of mine subsidence. SA NSW approval is not required for development on the remaining lots outlined in the planning proposal.

Rural Fire Service

A referral was forwarded to NSW Rural Fire Service (NSW RFS) on 4 May 2021. NSW RFS advised on 27 August 2021 that it has no concerns or issues in relation to bush fire.

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STRATEGIC LINKS

a. Delivery Program

The Planning Proposal is consistent with Objective 3.2 - Better utilisation of existing open space, of the Cessnock 2027 Community Strategic Plan. It is anticipated that the Planning Proposal will encourage opportunities for infill housing and business and employment for the growing Cessnock population.

The Planning Proposal will also assist Council meet its financial sustainability initiatives, developed to secure Council's long term fiscal future through better utilisation of assets into sustainable, revenue-generating assets and reduce the reliance on rate generated income.

b. Other Plans

Hunter Regional Plan 2036

The Planning Proposal seeks to make amendments to the Cessnock LEP to reclassify and rezone certain properties which will facilitate infill development consistent with the priorities of the Hunter Regional Plan. In particular, the reclassification and potential development of these sites for housing purposes is consistent with the following directions in the Regional Plan:

- Direction 21 - Create a compact settlement
- Direction 22 - Promote housing diversity

Greater Newcastle Metropolitan Plan

The Planning Proposal is consistent with the following strategies in the Greater Newcastle Metropolitan Plan:

- Strategy 16 - Prioritise the delivery of infill housing opportunities within existing urban areas
- Strategy 17 - Unlock housing supply through infrastructure coordination and delivery

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

The Planning Proposal seeks to make amendments to the Cessnock LEP 2011, these amendments are not inconsistent with the Council's Community Strategic Plan.

Cessnock Local Strategic Planning Statement 2036

The Cessnock Local Strategic Planning Statement 2036 sets out the 20-year vision for land use in the local area. It establishes the special character and values of the LGA that are to be preserved and how change will be managed into the future. The Planning Proposal is consistent with the planning priorities and principles of the endorsed LSPS, including:

- Priority 1 - Our urban areas are compact
- Priority 2 - Housing is diverse, adaptable and affordable and our urban areas facilitate affordable living
- Priority 7 - Urban development is encouraged in areas within existing infrastructure
- Priority 29 - Our villages retain their unique qualities that reflect their histories

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- Priority 30 - Growth of our villages occurs in a way that protects their character and setting in the rural and environmental landscape and responds to risk of bushfire and flooding

IMPLICATIONS

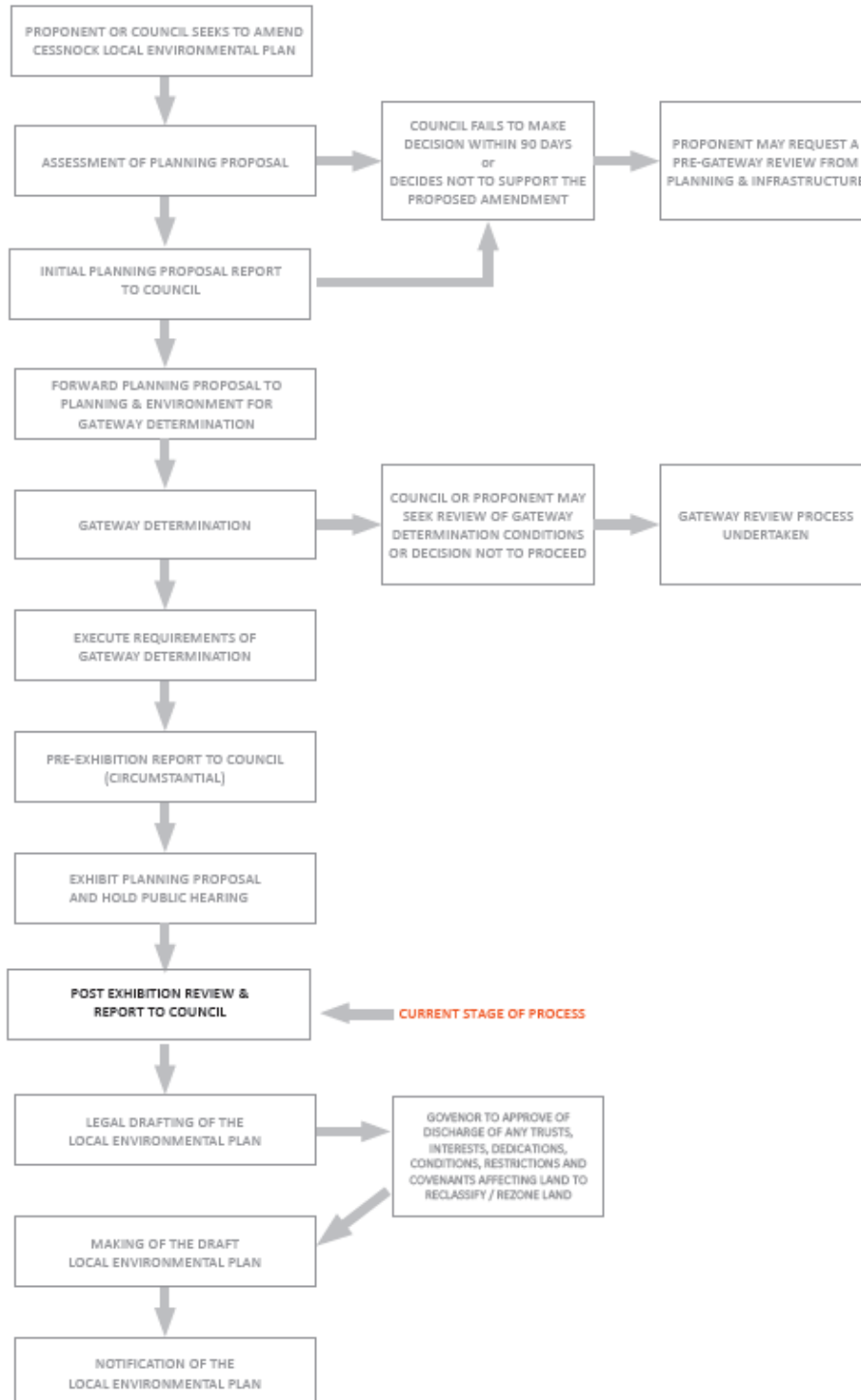
a. Policy and Procedural Implications

The status of the Planning Proposal is identified in the following process flow chart.

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PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN FOR RECLASSIFICATION



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b. Financial Implications

Council has endorsed a Financial Sustainability Initiative that includes a Strategic Property Review. The intent of the review is to ensure the community's needs are met by a balanced portfolio of land that provides services as well as sustainable, revenue-generating opportunities. The properties to which this Planning Proposal relate have been deemed surplus to Council requirements. The Planning Proposal will enable Council to sell and/or develop these properties in the future.

c. Legislative Implications

The amendment has been undertaken in accordance with the *Environmental Planning and Assessment Act 1979* (Section 3.4) and the *Local Government Act 1993* (Sections 27-34).

d. Risk Implications

The risk implications are considered to be low as the Planning Proposal has been progressed in accordance with relevant legislation and procedures and Council's strategic planning framework.

e. Environmental Implications

The Planning Proposal will have minimal environmental impact.

f. Other Implications

Nil

CONCLUSION

The Planning Proposal seeks to reclassify and rezone several properties that are deemed surplus to Council requirements. Reclassifying and rezoning these properties will enable Council to sell and/or develop them. It is anticipated that the Planning Proposal will also result in opportunities for infill housing and business and employment for the growing Cessnock population.

The proposal has been progressed in accordance with relevant legislation and Council's strategic planning framework, including government agency and public consultation. Therefore, it is recommended Council forward the amended Planning Proposal to DPIE with a recommendation to make the local environmental plan.

ENCLOSURES

- 1 [↓](#) Planning Proposal - Reclassification of Council Land (Provided Under Separate Cover)
- 2 [↓](#) Summary of Submissions Received During the Exhibition Period
- 3 [↓](#) Independent Public Hearing Report

Placeholder for Enclosure 1

Planning and Environment No.

Planning Proposal - Reclassification of Council Land
(Provided Under Separate Cover)

18/2019/1/1 – Reclassification and Rezoning of Council Owned Land - Summary of Submissions Received During the Exhibition Period

Submission Summary	# of Times Raised	Planning Response & Resulting Amendment
<u>The Planning Proposal Generally</u>	4	The submission is noted.
<ul style="list-style-type: none"> Objection to overall planning proposal Submission of support for planning proposal 	1	The submission is noted.
<u>Site 1 – 10 Redgrove Court, East Branxton</u>	1	The submission is noted.
<ul style="list-style-type: none"> Submission of support and interest in the proposed rezoning of the site. Concerns raised regarding the absence of site fencing and future development impacts due to a very large tree within the site. 	1	The matters raised in the submission are capable of being addressed at the development application stage, which would be subject to separate Council resolution and assessment.
<u>Site 2 – 45 Yates Street, East Branxton</u>	1	The matters raised in the submission are capable of being addressed at the development application stage, which would be subject to separate Council resolution and assessment.
<ul style="list-style-type: none"> Request for existing driveway crossover to be relocated to the other side of the street frontage to prevent headlight intrusion within premises at 42 Yates Street. 		
<u>Site 3 – 9 Abermain Street, Pelaw Main (Jacobs Park)</u>	24	The issues raised in the submissions are noted. Council resolved on 19 May 2021 to exclude the proposed rezoning and reclassification of Jacobs Park from the planning proposal.
<ul style="list-style-type: none"> The site is used by the school and local community. The site has historical value. 	19	
<ul style="list-style-type: none"> Traffic congestion occurs in Abermain Street on school days at student pick up times. Developing the site will intensify this issue and may impact pedestrian safety. 	8	
<ul style="list-style-type: none"> Future development within the site will impact the amenity of the broader area. 	7	
<ul style="list-style-type: none"> Notification of the proposal did not reference 'Jacobs Park'. 	6	
<ul style="list-style-type: none"> The site is dangerously undermined. Substantial remediation work will be required before any residential development may occur. 	5	
<ul style="list-style-type: none"> General objection to rezoning and reclassification of Jacobs Park. 	2	
<ul style="list-style-type: none"> Centenary Park is not an alternative to Jacobs Park for the local school, due to its distance from the school. 	2	
<ul style="list-style-type: none"> Only a handful of people were notified of the planning proposal in relation to the site. 	2	
<ul style="list-style-type: none"> Pelaw Main needs more parks, not less. 	2	

Submission Summary	# of Times Raised	Planning Response & Resulting Amendment
<ul style="list-style-type: none"> The local public school will not be able to cater for the population increase associated with the rezoning of the site. Council has neglected to maintain Jacobs Park, which is why it is now not 'fit for purpose'. 	1	
	1	
Site 4 – 1A Lee-ann Crescent, Cessnock <ul style="list-style-type: none"> Property owner will lose a safe rear access to property, which will reduce accessibility and property value. 	5	The planning proposal does not relate to the unformed road to the south of 1A Lee-ann Crescent, Cessnock. Should Council seek to develop or sell the road reserve in the future, the decision would be subject to a separate process and Council resolution.
<ul style="list-style-type: none"> Property owner was told that nothing would be built on the site in the future. 	2	The submission is noted.
<ul style="list-style-type: none"> The extra traffic created by any type of housing would be a problem for cars exiting from Moore Street on to Lightfoot Street. 	2	The potential traffic generated by any future development of 1A Lee-ann Crescent, Cessnock would be minimal. Notwithstanding this, any future development of the site would be subject to a separate process and Council resolution.
<ul style="list-style-type: none"> Property owner would like to see their allotment at 1 Lee-ann Crescent 'squared up' into a regular shape. 	1	The submission is noted.
<ul style="list-style-type: none"> Site should be zoned R2 Low Density Residential. 	1	The site is already zoned R2 Low Density Residential. The planning proposal does not seek to amend the existing zoning.
<ul style="list-style-type: none"> Consideration should be given to the existing water and sewer infrastructure and potential for flooding. 	1	The submission is noted. The existing sewer main(s) that traverse the site are capable of being relocated. Any future development within the site will need to consider Council's Flood Prone Land Development Control Plan.
Site 5 – 10 Embleton Street Weston <ul style="list-style-type: none"> Developer asserts that the property will be relied upon in their proposed residential subdivision nearby as 'park land' and that a Voluntary Planning Agreement (VPA) had been entered into with Council to embellish the land with playground equipment. 	1	While there has been some preliminary discussion with the developer regarding a possible planning proposal to rezone an area of land to the west of 10 Embleton Street Weston, Council has not received a formal planning proposal to achieve this. Council is unable to locate a VPA between Council and the developer in relation to the land. No amendment to the planning proposal is required to address the submission.
<ul style="list-style-type: none"> The property is a nesting site for red tail, yellow tail and white tail, black cockatoos. 	1	The submission is noted. Further investigation of the potential impact on threatened flora and fauna species will be undertaken at the development application stage.
Site 6 – 85 Swanson Street, Weston (Varty Park) <ul style="list-style-type: none"> The residents of Weston will be disadvantaged by the loss of space to provide soccer programs to members of the community. 	67	The issues raised in the submissions are noted. Council resolved on 21 July 2021 to exclude the proposed rezoning and reclassification of Varty Park from the planning proposal.
<ul style="list-style-type: none"> The site is important to the local community as it encourages healthy lifestyles among children. 	61	
<ul style="list-style-type: none"> Weston does not need further housing development, it requires more services to improve the local community's quality of life. 	58	

Submission Summary	# of Times Raised	Planning Response & Resulting Amendment
<ul style="list-style-type: none"> Weston Junior Football Club currently utilise the Varty Park site. While Council plans to relocate the club to the Weston Bears' sportsground, there will be insufficient capacity/space/facilities for the club at that location. Community and NPL football should be kept on separate grounds for the safety and protection of the children. The masterplan for Weston Bears identifies the need to sell Varty Park before the redevelopment of Weston Bears Park. Where does Weston Junior Football Club relocate to during this transition? The site has historical value. Concerns raised in relation to noise, dust, anti-social behaviour generated by trail bike riders and others who gain access to the land. The proposed zoning of the site (R2 Low Density Residential) is not consistent with the lot size on either side of Grey Gum Close (R5 Large Lot Residential). Concern raised in relation to the future potential for the site to be used for government housing. Historical committees of Weston Junior Football Club have been hesitant to invest in the club and its infrastructure due to the proposal to move to Weston Bears Park. Weston Junior Football Club has invested in the site, including by installing CCTV. Infrastructure in the area will be negatively impacted as a result of an increase of people to the area due to future development of the site. Rezoning and future development within the site will negatively impact the amenity of the area. Rezoning the site will reduce the value of properties nearby. The site lacks appropriate access for emergency services. 	<div>28</div> <div>7</div> <div>2</div> <div>2</div> <div>2</div> <div>2</div> <div>1</div> <div>1</div> <div>1</div> <div>1</div> <div>1</div> <div>1</div>	
<p>Site 8 – 35 Water Street Greta (Victoria Park)</p> <ul style="list-style-type: none"> The proposal will negatively impact amenity and infrastructure in the area and reduce the community's access to open space and community facilities and overall community health and well-being. 	59	The issues raised in the submissions are noted. Council resolved on 19 June 2021 to exclude the proposed rezoning and reclassification of Victoria Park from the planning proposal.

Submission Summary	# of Times Raised	Planning Response & Resulting Amendment
<ul style="list-style-type: none"> The site has historical value and is the last passive green space in the township. There are other areas nearby that have been zoned for residential development. The proposal will result in environmental impacts, including impacts on native flora and fauna. The site is impacted by flooding/stormwater and is not suitable for residential development. The proposal will have a negative impact on crime, due to the associated population increase within the township. Victoria Park is an emergency evacuation point for the Greta community. For example, it was used by the community in the 2019 bushfire season. General objection to the proposed reclassification of Victoria Park. Concern raised in relation to lack of communication about planning proposal. Objection on the basis the Branxton Greta Community Mens' Shed have previously expressed an interest in utilising part of the site. Council has no real plan in place for the practical use of the land. Council has neglected to maintain Victoria Park, which is why it is now not 'fit for purpose'. 	52	
	48	
	47	
	46	
	45	
	10	
	3	
	1	
	1	
	1	



PUBLIC HEARING REPORT AND RECOMMENDATION

FOR PROPOSED RE-CLASSIFICATION FOR

CESSNOCK CITY COUNCIL

13 AUGUST 2021

Prepared by Alexandra Joy
UQ Power
3226 Great North Road Wollombi 2325
0415 843 654

1



INTRODUCTION

Alexandra Joy as principal of UQ Power has been engaged by Cessnock City Council to conduct and chair a Public Hearing into the proposed re-classification and Rezoning of Council Owned Land - Summary of Submissions Received During the Exhibition Period and to prepare a subsequent report back to Council.

This report provides an assessment of the issues arising from the meetings and submissions received pertaining to the re-classification of the defined land.

1.0 Purpose of a public hearing

- (1) In this section, public hearing means any public hearing required to be arranged under this Part.
- (2) The person presiding at a public hearing must not be
 - (a) a councillor or employee of the council holding the public hearing,
 - or (b) a person who has been a councillor or employee of that council at any time during the 5 years before the date of his or her appointment.
- (3) Not later than 4 days after it has received a report from the person presiding at the public hearing as to the result of the hearing, the council must make a copy of the report available for inspection by the public at a location within the area of the council. For the purposes of Section 47G of the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979, Alexandra Joy has not been an employee of Cessnock City Council within the last 5 years. Further, Alexandra Joy, has never been a Councillor at Cessnock City Council.

1.1 Purpose of the report

This public hearing report has been prepared under Section 29 of the Local Government Act 1993 (LG Act) and Section 1 Environmental Planning and Assessment Act 1979 (EP&A Act). The purpose of this report is to provide Cessnock City Council with information and advice as to the submissions made in relation to a public hearings held on 10 and 12 August 2021 regarding the proposed re-classification and rezoning of Council owned land.

1.2 Agenda for Public Hearings

The following agenda was followed for the Public Hearings

TIME	ACTION ITEM
6.00pm	Community representatives join zoom call Welcome and Acknowledgement of Country
6.05pm	Housekeeping and outline of the independent public hearing tonight and use of zoom and use zoom chat box for questions or comment that I will unmute them to speak. Due to the current public health orders in place in NSW, the face-to-face independent public hearings could no longer take place, hence why we are meeting online, the agenda and the format remain the same.



POWER

	<p>In accordance with the relevant legislation, these independent public hearings are being held in relation to the planning proposal. Tonight's public hearing will provide an opportunity for you to expand on your written submission (where it relates to any of the remaining items) and discuss your concerns with myself – Alexandra Joy, as an independent person in a public forum.</p> <p>Under Section 29 of the Local Government Act 1993, Councils are required to hold a public hearing into the proposed re-classification of community land and the resulting amendment to respective POM's. Public Hearings need to be conducted by an independent chairperson under Section 47G of the Act. I can confirm I have no affiliation with anyone at Council and am acting as an independent facilitator in this instance.</p> <p>Following these public hearings I will be preparing a written report under Section 29 of the Local Government Act 1993 (LG Act) and Section 1 Environmental Planning and Assessment Act 1979 (EP&A Act). The purpose of this report will to provide Cessnock City Council with information and advice as to the submissions made in relation to a public hearings this week regarding the proposed re-classification of land currently listed.</p>
6.12pm	<p>Invite participants to put in the chat box what suburb they are from to ensure they can use the chat function correctly.</p> <p>Mention that the call will be recorded only for the benefit of writing the report and not submitted to council nor made public. Confirm people are happy for this to occur.</p>
6.17pm	<p>Overview</p> <p>Council received over 199 submissions in relation to the planning proposal. As a result of the submissions, the elected Council resolved to exclude the three most contentious sites from the planning proposal these include:</p> <ul style="list-style-type: none"> 1 - Site 3 (Jacobs Park), 2 - Site 6 (Varty Park) and 3 - Site 8 (Victoria Park) <p>Also Site 7 was Molly Worthington Netball courts removed from the planning proposal also much earlier on.</p>
6.15pm	<p>Invitation for comment on the remaining items:</p> <ul style="list-style-type: none"> Site 1 – 10 Redgrove Court, East Branxton Site 2 – 45 Yates Street, East Branxton Site 4 – 1A Lee-ann Crescent, Cessnock Site 5 – 10 Embleton Street Weston
6.50pm	<p>CONCLUSION</p> <p>Summary of outcomes and next steps. Thank you to participants for time.</p>



1.3 Reclassification and Rezoning of Council Owned Land – Matters raised as part of the Public Hearings

Public Hearing 1

Held on 10 August 2021 Via Zoom online from 6-7pm

No members of the general public appeared to provide comment or feedback

Public Hearing 2

Held on 12 August 2021 Viz Zoom online from 6-7pm

One member of the general public appeared representing another citizen who couldn't be present on the night for the public hearing. The representative indicated they would speak at the hearing were invited to address the meeting.

Comments raised by them were all in relation to site 4 – 1a Lee-ann Crescent, Cessnock. The representative raised that his friend had also raised their issues via a letter submission to Council as part of the reclassification process. It was noted from the document provided by Cessnock City Council that this letter had been received and the comments had been noted and included.

Comments raised by the representative were the same as those listed in the letter and included:

- Citizen is the land owner of an adjoining block – lot 1 Lee-ann Crescent, Cessnock.
- Citizen raised concerns about ensuring he does not lose safe rear access to his property which could reduce accessibility and value.
- Citizen raised that should the land be reclassified and then put up for sale that they be given an opportunity to 'square up' their land of Lot 1 into a regular rather than irregular shape.
- The citizen raised that consideration should be given to the existing sewer infrastructure and lines to ensure no issues are created.
- The citizen also requested how they would be notified of the progress of the submission and were informed:
 - That all information, concerns and support would be summarised into a response.
 - That everyone who commented would receive a letter about the outcome.
 - It was suggested by the Council representative present at the Public Hearing – Iain Rush – Senior Strategic Planner – that to stay abreast of any updates it was recommended the citizen do so via:
 - Speaking to local representative councillors
 - Keeping an eye on Council Meeting Agendas for when the land reclassification would be discussed on the agenda (potentially around September or October 2021).
 - Contacting Cessnock City Council Department of Planning and informing them that you would like to be kept up to date of any changes to that land and its classification.



The representative indicated they were happy with the opportunity to present the viewpoints and were satisfied with the information and responses required. The independent facilitator thanked the representative for their time and comments.

The Independent Facilitator thanked all participant for their attendance and input to the Public Hearing and explained that an independent report of the Hearing would now be prepared by her company UQ Power and provided to Council for its consideration along with all previous submissions when the Planning Proposal is reported to Council for a decision.

It was confirmed that the report would be made available to all attendees and that the Regulation requires that Council make the report available within 4 business days of its receipt from the independent facilitator. The representative said thank you and then departed the zoom call.

The Public Hearing Zoom Call was kept open until 7.00pm in case of any late arrivals, however no other respondents came online. The Public Hearing was then closed at 7.02pm.

RECOMMENDATIONS

In conclusion, after consideration of the issues surrounding the reclassification of the subject land - Site 4 – 1A Lee-ann Crescent, Cessnock it has been determined that, having regard to the circumstances and merits of the case, the proposed reclassification appears is appropriate.

No further comment can be provided into the other sites due to lack of community representation about these at the Public Hearings.

It is also recommended that Council makes available a copy of this report to the general public within four (4) business days in accordance with Section 47(G)(3) of the Local Government Act 1993.

Signed

Alexandra Joy

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SUBJECT: *PLANNING PROPOSAL 18/2020/3/1 - COMPREHENSIVE LEP REVIEW - RECREATION ZONES*

RESPONSIBLE OFFICER: *Strategic Planning Manager - Martin Johnson*

SUMMARY

The purpose of this Report is to provide an overview of the proposed amendments contained in the 'recreation land theme' of the comprehensive *Cessnock Local Environmental Plan 2011* (the 'LEP 2011') review and seek Council endorsement to forward the Planning Proposal (distributed under separate cover) to the NSW Department of Planning, Industry and Environment (DPIE) for Gateway determination.

RECOMMENDATION

1. That Council requests a Gateway determination for the Recreation Planning Proposal from the NSW Department of Planning, Industry and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.
2. That Council requests authorisation under Section 3.31 of the *Environmental Planning and Assessment Act 1979* to act as the local plan-making authority to make the Local Environmental Plan.
3. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination.
4. That Council receives a report back on the Planning Proposal if unresolved written objections are received during consultation with the community, otherwise, forwards the Planning Proposal to the Department of Planning, Industry and Environment requesting that the Plan be made.

BACKGROUND

The LEP 2011 is Council's primary planning instrument and came into force on 23 December 2011. The LEP 2011 contains provisions that manage development on land in the Cessnock Local Government Area (LGA); however, the instrument has not been comprehensively reviewed since 2011.

Council's Strategic Planning Team is carrying out a comprehensive review of the LEP 2011, which involves reviewing the instrument to ensure it:

- is current and accurate;
- is responsive to emerging forms of development;
- reflects the objectives contained in the Hunter Regional Plan 2036 and Greater Newcastle Metropolitan Plan 2036; and

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- addresses the outcomes of endorsed local strategies, such as the Cessnock 2027 Community Strategic Plan (CSP) and Local Strategic Planning Statement (LSPS) 2036.

Due to the complexity of the project, the comprehensive LEP review is planned to be progressed in seven themes, as follows:

- employment land;
- environmental land;
- residential land;
- recreation land;
- rural land;
- special purpose land; and
- miscellaneous matters

Each theme will be subject to a separate planning proposal, which will examine and make recommendations regarding amendments to relevant zone objectives, permissible land uses, clauses and land use mapping. Relevant sections of the Cessnock Development Control Plan (DCP) 2010 will also be amended concurrently, where possible.

REPORT/PROPOSAL

This report and associated planning proposal (distributed under separate cover) relate to the 'recreation land theme' of the comprehensive LEP 2011 review. The Planning Proposal recommends various amendments to the Cessnock RE1 Public Recreation Zone and RE2 Private Recreation Zone land use tables and LEP 2011 maps.

Proposed LEP 2011 Land Use Table Amendments

The RE1 and RE2 Zone land use tables list the various forms of development that are considered to be compatible with the objectives of the zone and therefore permitted with or without consent. The land use tables also list development that is not compatible with the objectives of the zones and these are listed as prohibited development.

The SILEP mandates certain land uses as permissible or prohibited in each zone. Additional land uses may be included if, in Council's opinion, the mandated uses do not satisfactorily address the local intent of the zone.

The recreation land Planning Proposal recommends the following amendments to the RE1 and RE2 Zone land use tables and LEP maps.

- Amend the RE1 Public Recreation Zone Land Use Table to:
 - **permit** emergency services facilities, entertainment facilities, function centres, information and education facilities, markets, restaurants or cafes and signage; and

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- **prohibit** heliports and respite day care centres.
- Amend the RE2 Private Recreation Zone Land Use Table to:
 - **permit** amusement centres, building identification signs, business identification signs, entertainment facilities, function centres, information and education facilities, markets, restaurants or cafés; and
 - **prohibit** helipads.
- Amend the LEP 2011 Land Use Zone Map, Minimum Lot Size Map and Land Reservation Acquisition Map in relation to various parcels of land in the LGA.

The proposed RE1 Public Recreation Zone and RE2 Private Recreation Zone land use table amendments will enable greater flexibility for compatible employment generating development to occur within the recreation zones, while prohibiting uses that are considered incompatible with the zone objectives.

Proposed LEP 2011 Map Amendments

The Planning Proposal includes 66 LEP 2011 map amendments, which relate to various properties either zoned recreation, or proposed to be zoned recreation. The mapping amendments relate to one or more of the following themes:

- apply a RE1 Public Recreation Zone to an existing park, playground or open space in the LGA;
- apply an environmental zone to recreation land containing known Endangered Ecological Communities, consistent with Council's current E-Zone review;
- address the historical use of the RE1 Zone as a default zone to sterilise land, e.g. buffer land and/or waterways;
- rectify the incorrect application of the RE1 Zone to private properties;
- apply a RE2 Zone to private golf courses and other private outdoor recreation facilities; and
- apply or remove the acquisition designation from various parcels of land in accordance with Council's adopted Recreation and Open Space Strategic Plan.

The LEP 2011 mapping amendments will reinforce the role of recreation and open space in Cessnock's towns and villages by applying a consistent zoning regime and broadening the scope of permissible development in open space land in the LGA.

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OPTIONS

Council has the following options:

1. Council resolve to support the recommendations of this report and submit the Planning Proposal to the Department of Planning, Industry and Environment for a Gateway determination. ***This is the recommended option.***
2. Request changes to the Planning Proposal. This option may delay the proposed amendments.
3. Not support the recommendation of this Report for the following reasons:

(To be provided by Council).

CONSULTATION

To ensure the range of issues relevant to recreation zoned land in the LGA were identified and considered in the Planning Proposal, an issues paper was prepared and circulated to relevant internal stakeholders for review and feedback. Relevant internal stakeholders consulted in relation to the issues paper included Council's Open Space and Recreation Team, Community Planning Team, Development Services Team, Building Team and Council's Senior Environmental Planner.

Formal public consultation regarding the Planning Proposal will be carried out in accordance with Gateway determination and Community Participation Plan should Council resolve to endorse the recommendation of this report. Targeted consultation will be undertaken with the owners of private recreation facilities, such as golf courses, included in the Planning Proposal.

STRATEGIC LINKS

a. Delivery Program

The Planning Proposal is consistent with the following themes and objectives of the Cessnock 2027 Community Strategic Plan (CSP):

- Objective 3.1 – Protecting and enhancing the natural environment and rural character of the area
- Objective 3.2 – Better utilisation of existing open space
- Objective 5.2 – involving more community participation in decision making

Objective 3.1 and 3.2 of the CSP focus on the conservation and preservation of the natural environment while balancing the impact of development to ensure a sustainable and healthy community. The Planning Proposal seeks to apply appropriate land use zones to protect our environmental amenity, waterways and green corridors, which connect our open space areas.

Objective 5.2 of the CSP focuses on involving the community in decision making processes affecting their future. Consultation is an important component of the Planning Proposal

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process and ensures outcomes align with the community's expectations in relation to recreation and open space areas and the environment.

b. Other Plans

Hunter Regional Plan 2036

The Planning Proposal is consistent with the following directions of the Hunter Regional Plan (HRP) 2036:

- Direction 14 - protect and connect natural areas; and
- Direction 18 - enhance access to recreational facilities and connect open spaces

Direction 14 of the HRP 2036 identifies the need to strengthen biodiversity corridors. Many of the proposed amendments contained in the Planning Proposal relate to land that contains important environmental characteristics, including significant vegetation, threatened species or endangered ecological communities. To this land, the Planning Proposal is seeking to apply an environmental zone, consistent with Council's comprehensive environmental zone review.

Direction 18 of the HRP 2036 outlines the need for Council's to expand on the recreational facilities that already exist to create a 'green grid' across the Hunter Region. The first step in this process is to accurately reflect (through the LEP) the correct location of public and private open space in the Cessnock Local Government Area.

Greater Newcastle Metropolitan Plan 2036

The Planning Proposal is consistent with the following strategies of the Greater Newcastle Metropolitan Plan (GNMP) 2036:

- Strategy 7 – respond to the changing land use needs of the new economy;
- Strategy 10 – create better buildings and great places; and
- Strategy 11 – create more great public spaces where people come together.

Strategy 7 of the GNMP 2036 identifies the need to build capacity for new jobs in areas well serviced by public transport and close to established centres. The proposed RE1 Public Recreation Zone and RE2 Private Recreation Zone land use table amendments will enable greater flexibility for compatible employment generating development to occur within the zones, while prohibiting uses that are considered incompatible. Employment generating uses that are considered compatible with the recreation zones include: entertainment facilities, function centres, information and education facilities, markets and restaurants or cafes.

Strategy 10 of the GNMP 2036 identifies the need to improve the amenity of our centres and urban renewal corridors through place making initiatives that strengthen the connection between people and the places they share. The Planning Proposal will reinforce the role of recreation and open space in Cessnock's towns and villages by applying a consistent zoning regime and broadening the scope of permissible development in open space land throughout the LGA.

Strategy 11 of the GNMP 2036 identifies the need to create and activate public spaces in strategic centres that are suitable for community events like markets, festivals, commemorations and assemblies. The proposed RE1 Public Recreation Zone and RE2 Private Recreation Zone land use table amendments will enable greater flexibility for community events, markets and assemblies to occur by permitting entertainment facilities,

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function centres, information and education facilities, markets and restaurants or cafes in the recreation zones.

Cessnock Local Strategic Planning Statement 2036

The Cessnock Local Strategic Planning Statement 2036 (LSPS) sets out the 20-year vision for land use in the local area. It establishes the special character and values of the LGA that are to be preserved and how change will be managed into the future. The planning proposal is consistent with the planning priorities and principles of the endorsed LSPS, notably Action 5, which outlines the need to review the LEP 2011 to bring about the following outcomes:

- To provide flexibility for new tourism development in suitable locations.
- To ensure permitted development is consistent with the objectives of each zone.
- To examine the urban release areas and rezone riparian corridors to an appropriate environmental zone.
- To ensure significant riparian corridors and water bodies are zoned to an appropriate environmental zone.
- To ensure that the zoning and land-uses for land that is significantly affected by natural hazards (e.g. flooding and bushfire) reflect the risk.
- To ensure major events are permitted in strategic centres and other suitable locations.
- To enable land-uses that support events, such as tourist and visitor accommodation, function centres, to be permissible in strategic centres and other suitable locations.

IMPLICATIONS

a. Policy and Procedural Implications

The status of the Planning Proposal is identified in the following process flow chart.

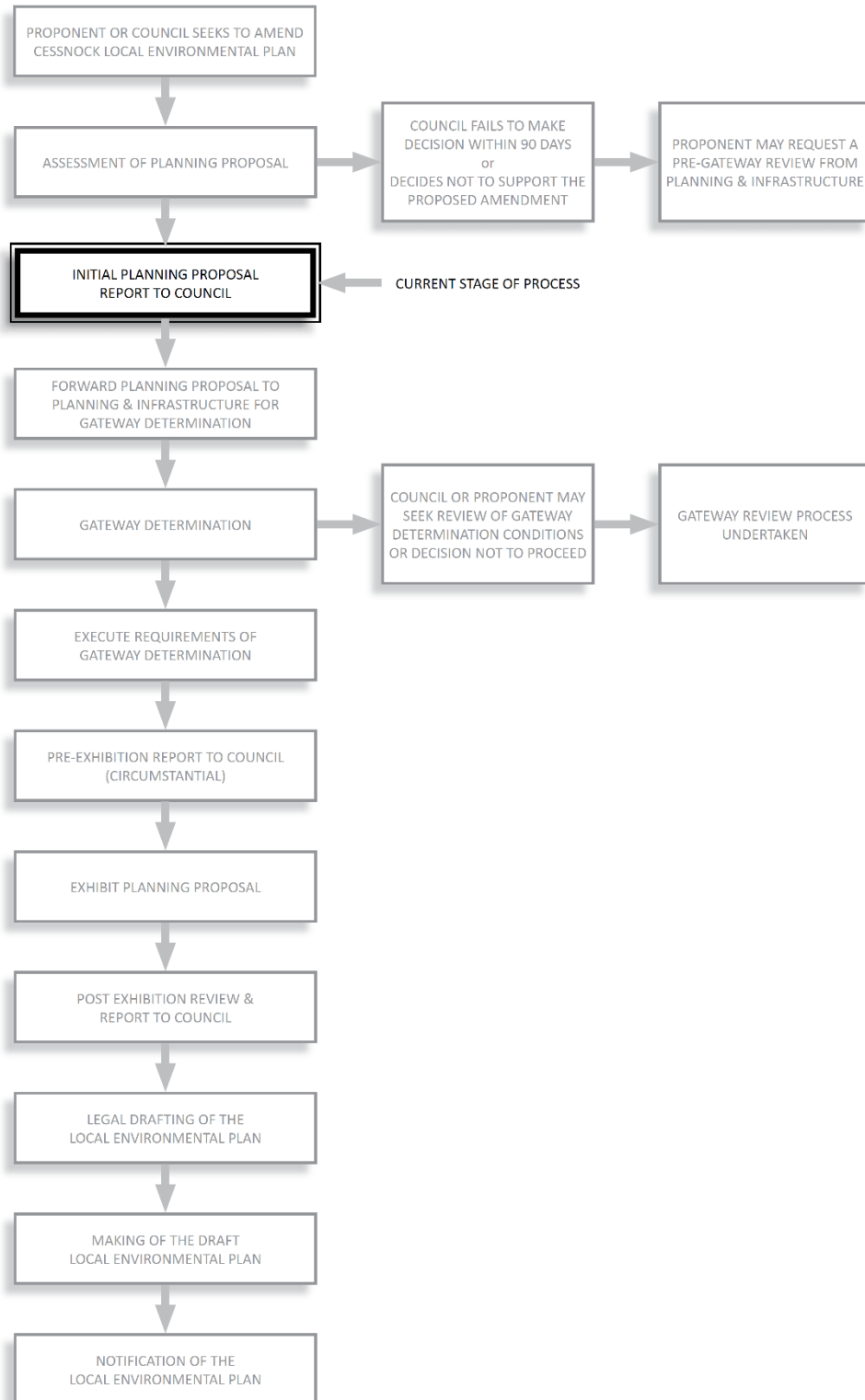
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PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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b. Financial Implications

The cost of the Planning Proposal will be funded from Council's Strategic Land Use Planning budget. This is because the Planning Proposal has been initiated by Council and is related to the broader comprehensive LEP review.

c. Legislative Implications

The Planning Proposal has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the Department of Planning Industry and Environment's Guide to Preparing a Planning Proposal.

d. Risk Implications

The proposed changes will remove potential problems and / or delays for planned or possible future development.

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

This report and the associated planning proposal relate to the recreation land theme of the comprehensive LEP 2011 review. The Planning Proposal recommends various amendments to the Cessnock RE1 Public Recreation Zone and RE2 Private Recreation Zone land use tables and LEP 2011 maps. It is recommended that forward the Planning Proposal to the NSW Department of Planning, Industry and Environment (DPIE) for Gateway determination.

ENCLOSURES

- 1 [Recreation Planning Proposal - Provided Under Separate Cover](#)

Placeholder for Enclosure 1

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Recreation Planning Proposal - Provided Under
Separate Cover

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SUBJECT: *LOCAL ENVIRONMENTAL PLAN OPTIONAL CLAUSE 5.22 - SPECIAL FLOOD CONSIDERATIONS*

RESPONSIBLE OFFICER: *Strategic Planning Manager - Martin Johnson*

SUMMARY

This report seeks Council's endorsement to advise the Department of Planning, Industry and Environment (DPIE) that it would like to 'opt in' to optional Local Environmental Plan (LEP) Clause 5.22 (optional cl.5.22) of the *Standard Instrument (Local Environmental Plans) Order 2006* (the Standard LEP). Optional cl.5.22 has been prepared by DPIE to assist councils to better regulate sensitive and hazardous development that is proposed between the Flood Planning Area (FPA) and the Probable Maximum Flood (PMF).

This report also seeks Council's endorsement to place an amended version of the Cessnock Flood Prone Land Development Control Plan (DCP) chapter on public exhibition for 28 days. The Flood Prone Land DCP chapter has been amended to ensure it is consistent with optional cl.5.22 and better align the plan with DPIE's Flood Prone Land Package.

RECOMMENDATION

1. **That Council advises the Department of Planning, Industry and Environment that it would like to 'opt in' to optional clause 5.22 of the Standard Instrument (Local Environmental Plans) Order 2006.**
2. **That Council pursuant to clause 18 of the Environmental Planning and Assessment Regulation 2000, exhibits the proposed amendments to the Flood Prone Land Development Control Plan Chapter for a period of 28 days.**
3. **That Council receives a further report following public exhibition of the Flood Prone Land Development Control Plan Chapter.**

BACKGROUND

The NSW Government's new flood-prone land package commenced on 14 July 2021. The package introduced several new and amended guidelines and statutory documents to assist councils to better regulate development in the floodplain. The key documents and guidelines associated with the flood-prone land package include:

- a revised s9.1 Local Planning Direction regarding flooding;
- planning circular PS21-006, '*considering flooding in land use planning: guidance and statutory requirements*';
- DPIE Guideline, '*considering Flooding in Land Use Planning (2021)*';
- *Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021*, which includes a new mandatory LEP 'flood planning' clause (cl.5.21) and a new optional LEP 'special flood considerations' clause (cl.5.22) that councils can nominate to opt into;

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- *Environmental Planning and Assessment Amendment (Flood Planning) Regulation 2021*, which includes new s.10.7 planning certificate notations to advise of flood-related development controls up to the FPA, or between the FPA and the PMF; and
- *State Environmental Planning Policy Amendment (Flood Planning) 2021*, which revokes councils' existing flood planning LEP clause and replaces it with the mandatory Standard Instrument flood planning clause, cl.5.21.

On 14 July 2021, mandatory 'flood planning' clause 5.21 was inserted in the *Cessnock Local Environmental Plan 2011* (the LEP 2011) by DPIE. Mandatory cl.5.21 replaced cl.7.3, 'Flood planning', of the LEP 2011. Cl.5.21 relates to development within the FPA.

On 6 August 2021, DPIE commenced targeted engagement with councils regarding optional cl.5.22, 'special flood considerations'. The purpose of optional cl.5.22 is to enable councils to better regulate sensitive or hazardous development that is proposed between the FPA and the PMF. For the purpose of cl.5.22, 'sensitive or hazardous development' means any development from the following list that Council elects to include in sub-clause 5(a).

- boarding houses,
- caravan parks,
- correctional centres,
- early education and care facilities,
- eco-tourist facilities,
- educational establishments,
- emergency services facilities,
- group homes,
- hazardous industries,
- hazardous storage establishments,
- hospitals,
- hostels,
- information and education facilities,
- respite day care centres,
- seniors housing,
- sewerage systems,
- tourist and visitor accommodation,
- water supply systems.

REPORT/PROPOSAL

On 26 August 2021, DPIE wrote to Council seeking a formal resolution as to whether it would like to 'opt in' to optional cl.5.22 in the LEP 2011. For councils seeking to 'opt in' to the clause, DPIE has requested a formal resolution before each council's caretaker period begins.

Optional cl.5.22, as provided by DPIE, is outlined below:

5.22 Special flood considerations

(1) The objectives of this clause are as follows—

- (a) to enable the safe occupation and evacuation of people subject to flooding,

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- (b) to ensure development on land is compatible with the land's flood behaviour in the event of a flood,
 - (c) to avoid adverse or cumulative impacts on flood behaviour,
 - (d) to protect the operational capacity of emergency response facilities and critical infrastructure during flood events,
 - (e) to avoid adverse effects of hazardous development on the environment during flood events.
- (2) This clause applies to—
- (a) for sensitive and hazardous development—land between the flood planning area and the probable maximum flood, and
 - (b) for development that is not sensitive and hazardous development—land the consent authority considers to be land that, in the event of a flood, may—
 - (i) cause a particular risk to life, and
 - (ii) require the evacuation of people or other safety considerations.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—
- (a) will not affect the safe occupation and efficient evacuation of people in the event of a flood, and
 - (b) incorporates appropriate measures to manage risk to life in the event of a flood, and
 - (c) will not adversely affect the environment in the event of a flood.
- (4) A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.
- (5) In this clause—

Considering Flooding in Land Use Planning Guideline—see clause 5.21(5).
flood planning area—see clause 5.21(5).

Floodplain Development Manual—see clause 5.21(5).

probable maximum flood has the same meaning as it has in the Floodplain Development Manual.

sensitive and hazardous development means development for the following purposes—

- (a) [*list land uses*]

Direction—

Only the following land uses are permitted to be included in the list—

- (a) boarding houses,
- (b) caravan parks,

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- (c) correctional centres,
- (d) early education and care facilities,
- (e) eco-tourist facilities,
- (f) educational establishments,
- (g) emergency services facilities,
- (h) group homes,
- (i) hazardous industries,
- (j) hazardous storage establishments,
- (k) hospitals,
- (l) hostels,
- (m) information and education facilities,
- (n) respite day care centres,
- (o) seniors housing,
- (p) sewerage systems,
- (q) tourist and visitor accommodation,
- (r) water supply systems.

In accordance with sub-clause (5)(a) of optional cl.5.22, Council may specify the sensitive and hazardous land uses to which the clause applies. At this early stage, it is unclear what other councils in the Hunter Region intend to 'opt in' to optional cl.5.22. It is recommended that at this stage, Council opt into all land uses. DPIE has advised that it will establish an appropriate review mechanism, including seeking external views, to assist both Council and the Department evaluate whether the adoption of the clause in the LEP is appropriate and to further refine the sensitive and hazardous uses to which the clause applies.

Following the external review by DPIE and any feedback obtained, Council will have the opportunity to refine the list of sensitive and hazardous land uses. Furthermore, to remove the requirement for Council to prepare a separate planning proposal to adopt optional cl.5.22, DPIE has stated that it will prepare a separate amendment to update councils' LEPs. However, this is not anticipated to be completed by DPIE before the end of March 2022.

It is recommended that Council advise DPIE that it would like to 'opt in' to optional cl.5.22, as set out in the recommendation section of this report. Optional cl.5.22 applies more broadly to the Cessnock Local Government Area and is more flexible than the development standards in the Cessnock Development Control Plan 2010 (DCP 2010). Optional cl.5.22 also holds greater legislative weight to assist councils regulate sensitive and hazardous developments between the FPA and the PMF.

Electing to 'opt in' to optional cl.5.22 will allow Council to apply flood standards more fairly in places like Wollombi Valley, where there is a large difference between the 1% Annual Exceedance Probability (AEP) and PMF events. Optional cl.5.22 will enable Council to better protect the public against rare floods, which are likely to occur in greater frequency due to the impacts of climate change.

Opting in to optional cl.5.22 requires minor amendments to the Cessnock Flood Prone Land DCP chapter to ensure it is consistent with optional cl.5.22. The required amendments have been drafted and the updated DCP chapter is provided as an enclosure to this report. Staff have taken this opportunity to also make other minor amendments to the Flood Prone Land DCP chapter to better align the document with DPIE's Flood Prone Land Package. The amendments include minor changes in terminology and clarification that a 1 metre freeboard applies in

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respect of land to which the Cessnock City Wide Flood Study applies. The 1 metre freeboard is a response to the level of uncertainty in the flood study, as previously reported to Council.

Importantly, it is recommended that the amended Flood Prone Land DCP chapter is placed on public exhibition regardless of whether Council resolve to 'opt in' to optional cl.5.22 or not, as any further inconsistencies between the LEP and DCP are capable of being addressed prior to the matter being re-reported to Council following public exhibition.

OPTIONS

1. Support the recommendation to advise DPIE that Council would like to 'opt in' to optional cl.5.22, as set out in the recommendation section of this report and proceed to place the amended Cessnock Flood Prone Land Development Control Plan chapter on public exhibition for 28 days. ***This is the recommended option.***
2. Advise DPIE that Council would like to 'opt in' to optional cl.5.22, but that it should only apply to some of the sensitive and hazardous developments listed in sub-clause 5 (*to be provided by Council*), and proceed to place the amended Cessnock Flood Prone Land Development Control Plan chapter on public exhibition for 28 days.
3. Not support the recommendation to 'opt in' to optional cl.5.22 for the following reasons, but proceed to place the amended Cessnock Flood Prone Land Development Control Plan chapter on public exhibition for 28 days.

(To be provided by Council).

CONSULTATION

In preparing this report, consultation occurred with Council's Strategic Planning, Development Services and Infrastructure sections. DPIE has advised that it will establish an appropriate review mechanism, including seeking external views, to assist both Council and the Department evaluate whether the adoption of the clause in the LEP is appropriate. As the draft clause will be progressed and implemented by DPIE it will not require public exhibition by Council.

STRATEGIC LINKS

a. Delivery Program

A Sustainable and Healthy Environment: Objective 3.1 Protecting and Enhancing the Natural Environment and the Rural Character of the Area.

b. Other Plans

Cessnock Local Strategic Planning Statement

The report aligns with the following priorities of the Cessnock Local Strategic Planning Statement 2036 (the Cessnock LSPS):

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- Planning Priority 21: Developments minimise environmental impacts and respond to site environmental characteristics and natural hazards.

IMPLICATIONS

a. Policy and Procedural Implications

This report has regard to the provisions of:

- *The Environmental Planning and Assessment Act 1979 and associated Regulations;*
- *Section 9.1 Local Planning Direction 4.3 – Flooding;*
- *Planning circular PS21-006, ‘considering flooding in land use planning: guidance and statutory requirements’;*
- *Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021; and*
- *Environmental Planning and Assessment Amendment (Flood Planning) Regulation 2021.*

b. Financial Implications

Nil

c. Legislative Implications

If Council elects to ‘opt in’ to optional cl.5.22 it will be relied upon to regulate sensitive and hazardous development within the floodplain.

d. Risk Implications

Including optional LEP clause 5.22 will reduce the potential risks associated with sensitive and hazardous development located within the floodplain.

e. Environmental Implications

Electing to ‘opt in’ to optional cl.5.22 will help to ensure developments minimise environmental impacts and respond to site environmental characteristics and natural hazards, in accordance with Priority 21 of the Cessnock LSPS.

f. Other Implications

Nil

CONCLUSION

Optional cl.5.22 has been prepared by DPIE to assist councils regulate sensitive and hazardous development that is proposed between the FPA and PMF. Optional cl.5.22 applies more broadly and is more flexible than the development standards in the Cessnock DCP 2010. The optional clause also holds greater legislative weight than the controls in the DCP relating to sensitive and hazardous development. It is recommended that Council advise DPIE that it would like to ‘opt in’ to optional cl.5.22, as set out in the recommendation section of this report, and place the amended Flood Prone Land DCP chapter on public exhibition for 28 days.

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ENCLOSURES

- [1↓](#) Optional Clause 5.22 Special Flood Considerations
- [2↓](#) Draft DCP Chapter - Development on Flood Prone Land

9/24/21, 9:59 AM

Standard Instrument—Principal Local Environmental Plan (2006 EPI 155a) - NSW Legislation



NSW legislation

Standard Instrument—Principal Local Environmental Plan (2006 EPI 155a)

Current version for 14 July 2021 to date (accessed 24 September 2021 at 9:59)

[Part 5](#) > Section 5.22

5.22 Special flood considerations [optional]

- (1) The objectives of this clause are as follows—
 - (a) to enable the safe occupation and evacuation of people subject to flooding,
 - (b) to ensure development on land is compatible with the land's flood behaviour in the event of a flood,
 - (c) to avoid adverse or cumulative impacts on flood behaviour,
 - (d) to protect the operational capacity of emergency response facilities and critical infrastructure during flood events,
 - (e) to avoid adverse effects of hazardous development on the environment during flood events.
- (2) This clause applies to—
 - (a) for sensitive and hazardous development—land between the flood planning area and the probable maximum flood, and
 - (b) for development that is not sensitive and hazardous development—land the consent authority considers to be land that, in the event of a flood, may—
 - (i) cause a particular risk to life, and
 - (ii) require the evacuation of people or other safety considerations.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—
 - (a) will not affect the safe occupation and efficient evacuation of people in the event of a flood, and
 - (b) incorporates appropriate measures to manage risk to life in the event of a flood, and
 - (c) will not adversely affect the environment in the event of a flood.
- (4) A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.
- (5) In this clause—

Considering Flooding in Land Use Planning Guideline—see clause 5.21(5).

flood planning area—see clause 5.21(5).

Floodplain Development Manual—see clause 5.21(5).

probable maximum flood has the same meaning as it has in the Floodplain Development Manual.

<https://legislation.nsw.gov.au/view/html/inforce/current/epl-2006-155a#sec.5.22>

1/2

9/24/21, 9:59 AM

Standard Instrument—Principal Local Environmental Plan (2006 EPI 155a) - NSW Legislation

sensitive and hazardous development means development for the following purposes—

(a) [*list land uses*]

Direction—

Only the following land uses are permitted to be included in the list—

- (a) boarding houses,
- (b) caravan parks,
- (c) correctional centres,
- (d) early education and care facilities,
- (e) eco-tourist facilities,
- (f) educational establishments,
- (g) emergency services facilities,
- (h) group homes,
- (i) hazardous industries,
- (j) hazardous storage establishments,
- (k) hospitals,
- (l) hostels,
- (m) information and education facilities,
- (n) respite day care centres,
- (o) seniors housing,
- (p) sewerage systems,
- (q) tourist and visitor accommodation,
- (r) water supply systems.

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HAZARDS

Development on Flood Prone Land

Preamble

The purpose of this chapter is to provide information and development controls needed to prepare and assess development applications on Flood Prone Land.

Application

This Chapter applies to all land in the Cessnock Local Government Area (LGA) that is Flood Prone Land¹.

Flood Hazard Classifications

The flood hazard classifications listed in Table 1 apply to this chapter.

Table 1: Flood hazard classifications (reference Table 6.7.3 Australian Rainfall and Runoff 2019).

Hazard Vulnerability Classification	Description
H1	Generally safe for vehicles, people and buildings.
H2	Unsafe for small vehicles.
H3	Unsafe for vehicles, children and older persons.
H4	Unsafe for vehicles and people.
H5	Unsafe for vehicles and people. All buildings are vulnerable to structural damage. Some less robust buildings are subject to failure.
H6	Unsafe for vehicles and people. All building types considered vulnerable to failure.

Definitions and Flood Planning Concepts

All terms used in this DCP chapter have the same meaning as defined in the *Cessnock Local Environmental Plan 2011*, the NSW Floodplain Development Manual 2005 and the DPIE guideline, 'Considering Flooding in Land Use Planning', unless specified below, or elsewhere in this DCP chapter.

Defined Flood Event	means Council's adopted 1% AEP flood event.
Flood Planning Level	means the combination of the flood level from the defined flood event plus 0.5 metre freeboard, unless an alternative definition is provided elsewhere in this DCP chapter.
Flood Planning Area	means the area of land at or below the flood planning level .
Flood Prone Land	means land susceptible to flooding by the PMF event.
Low hazard overland flooding	means land that is identified in Council's online mapping as being subject to low hazard overland flooding.

¹ Council's flood mapping is available online at www.cessnock.nsw.gov.au

Additional supporting information is available in the following fact sheets:

- [Fact Sheet 1: Flood Planning Concepts](#)
- [Fact Sheet 2: Flood Compatible Building Guidelines](#)

Development provisions

Land Use and Hazard Control Matrix

Table 2 classifies land-use types into Development Categories according to the sensitivity of each land use type to flooding. The table uses a combination of development categories and hazard classification to class developments as either class A, B, C or X. Where the footprint of the proposed building and/or access covers more than one hazard classification, the higher classification shall apply.

- A** means the development will be impacted by flooding; however the land use is generally suitable to the hazard classification and group A controls apply to the development
- B** means the development will be impacted by flooding and group B controls apply to the development. A merit assessment may need to be undertaken for these developments and additional justification may be needed.
- C** means that the development will be significantly impacted by flooding. If designed appropriately the development may be suitable in the hazard classification. A merit assessment will need to be undertaken for these developments and additional justification may be needed.
- X** means the land use is generally not suitable in the hazard classification.

Objective/s	Development Controls
To ensure that development is compatible for the flood hazard that is present at the site.	Development is consistent with Table 2.
To ensure that development is responsive to the flood characteristics present at the site.	

Table 2: Development classification for the Flood Hazard Classification.

Development	Land Use Type	Based on the defined flood event					
		H1	H2	H3	H4	H5	H6
Ancillary structures type 1	• Fences (open)	A	A	A	A	C	C
Ancillary structures type 2	• Fence (solid) • Detached garage • Temporary structure • Shed • Carport (open) • Farm building	A	A	B	B	X	X
Carpark	• Carpark	A	A	B	B	X	X
Single Residential	• Dwelling house • Exhibition home • Exhibition villages • Home business • Home industry • Home occupation • Home occupation (sex service) • Rural worker's dwelling	A	A	B	B	X	X
Dual Occupancies, Attached Dwellings and Secondary Dwellings	• Attached dwelling • Dual occupancy (attached) • Dual occupancy (detached) • Secondary dwelling, Semi-detached dwelling	A	A	B	B	X	X

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Development	Land Use Type	Based on the defined flood event					
		H1	H2	H3	H4	H5	H6
Multi Residential	<ul style="list-style-type: none"> • Multi dwelling housing • Residential flat building • Shop top housing 	A	A	B	×	×	×
Tourism Development	<ul style="list-style-type: none"> • Eco-tourist facilities • Backpacker's accommodation • Bed and breakfast accommodation • Farm stay accommodation • Hotel or motel accommodation • Serviced apartments • Camping Grounds 	A	A	B	×	×	×
Commercial Development type 1	<ul style="list-style-type: none"> • Animal boarding or training establishment • Veterinary hospital • Medical Centres • Health consulting rooms 	A	A	B	×	×	×
Commercial Development type 2	<ul style="list-style-type: none"> • Business premise • Funeral home • Office premise • Retail premise • Cellar door premises • Food and drink premises • Pubs • Restaurant or café • Takeaway food and drink premises • Small bar • Sex service premises • Industrial retail outlets • Registered clubs • Restricted premises • Wholesale suppliers • Kiosks • Shop • Neighbourhood shop • Timber yard • Vehicle sales or hire premises • Specialised retail premises • Garden centres • Hardware and building supplies • Landscape material supplies • Markets • Plant nurseries • Roadside stalls • Rural supplies • Function centre • Amusement centres • Entertainment facilities • Self-storage units • Warehouse and distribution centre • Place of public worship • Public administration building 	A	A	B	B	C	×
Industrial Development	<ul style="list-style-type: none"> • Light industry • High technology industries • General industries • Rural industries • Agricultural produce industries • Livestock processing industries • Sawmill or log processing industries • Stock and sale yards • Vehicle body repair workshop • Vehicle repair station • Depots • Transport depot • Truck depot • Freight transport facility 	A	A	B	B	×	×
Agricultural Development	<ul style="list-style-type: none"> • Aquaculture • Extensive agriculture • Bee keeping 	A	A	B	B	C	C

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Development	Land Use Type	Based on the defined flood event					
		H1	H2	H3	H4	H5	H6
	<ul style="list-style-type: none"> Dairy (pasture-based) Intensive livestock agriculture Feed lots Dairies (restricted) Intensive plant agriculture Horticulture Viticulture Turf farming Forestry 						
Recreation type 1	<ul style="list-style-type: none"> Recreation Facility (indoor) Recreation facility (major) 	A	A	B	B	C	*
Recreation type 2	<ul style="list-style-type: none"> Recreation facilities (outdoor) Recreation area 	A	A	B	B	C	C
Earth works	<ul style="list-style-type: none"> Extractive industries Mining Roads Drainage works 	A	A	B	B	C	C
Potentially Polluting activities	<ul style="list-style-type: none"> Service station Highway service centers Heavy Industries Hazardous industries Offensive industries Heavy industrial storage establishments Hazardous storage establishments Liquid fuel depots Offensive storage establishment 	A	A	B	*	*	*
Event	<ul style="list-style-type: none"> Music or art festival 	A	A	B	B	C	C
Infrastructure	<ul style="list-style-type: none"> Water reticulation systems Water storage facilities Water treatment facilities 	A	A	B	B	C	C
Subdivision	<ul style="list-style-type: none"> See subdivision section of this DCP chapter for additional controls Subdivision must be able to demonstrate that the proposed lots will be able to accommodate the uses permitted in the zone. 	A *	A *	B *	B *	C *	C *
Sensitive uses and facilities type 1	<ul style="list-style-type: none"> Community facility (not considered a critical use), Home based childcare 	B	*	*	*	*	*
<p>Note 1: Where development does not fit within the categories outlined above, Council will determine which land use category the proposal fits into based on the documentation provided to Council.</p> <p>Note 2: Land use types are those as defined in Cessnock LEP 2011, unless otherwise specified.</p> <p>Note 3: Other factors may also need to be taken into consideration when determining the hazard classification, such as access to safe evacuation facilities and the available warning times.</p>							

Sensitive and Hazardous Development

Sensitive and hazardous development is development that is vulnerable to greater impact from natural hazards because of the particular type of land use or the characteristics of people that are typically associated with that land use. Sensitive development also includes critical infrastructure, the temporary loss of which is likely to cause significant disruption.

Objective/s	Development Controls
To enable the safe occupation and evacuation of people subject to flooding.	Development consent must not be granted to development listed in Table 3 unless Council is satisfied that the development—
To ensure development on land is compatible with the land's flood behaviour in the event of a flood.	(a) will not affect the safe occupation and efficient evacuation of people in the event of a flood, and

<p>To avoid adverse or cumulative impacts on flood behaviour.</p> <p>To protect the operational capacity of emergency response facilities and critical infrastructure during flood events.</p> <p>To avoid adverse effects of hazardous development on the environment during flood events.</p>	<p>(b) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(c) will not adversely affect the environment in the event of a flood.</p>
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Table 3: Sensitive and Hazardous development, including critical infrastructure.

Development	Land Use Type
Sensitive uses and facilities type 2	<ul style="list-style-type: none"> • airport, • boarding houses, • caravan parks, • Community facility (which provides an important contribution to the notification or evacuation of the community during flood events), • correctional centres, • early education and care facilities, • eco-tourist facilities, • educational establishments, • electricity generating works, • emergency services facilities, • group homes, • hazardous industries, • hazardous storage establishments, • heliport, • hospitals, • hostels, • information and education facilities, • Manufactured home • Manufactured home estates • respite day care centres, • seniors housing, • sewerage systems, • telecommunications facilities, • tourist and visitor accommodation, • waste or resource management facilities, • water supply systems.
<p>Note 1: Where development does not fit within the categories outlined above, Council will determine which land use category the proposal fits into based on the documentation provided to Council.</p> <p>Note 2: Land use types are those as defined in Cessnock LEP 2011, unless otherwise specified.</p> <p>Note 3: Other factors may also need to be taken into consideration when determining the hazard classification, such as access to safe evacuation facilities and the available warning times.</p>	

Detailed Survey

The following control applies to all development that is proposed within the flood planning area.

Objective/s	Development Controls
To ensure that the potential impacts of flooding are considered when assessing development within the flood planning area.	All applications for development within the flood planning area shall be supported by a development site plan that incorporates a detailed survey, drafted by a registered surveyor.

Flood Assessment Report

A FAR provides information on existing flood risk for a catchment and outlines how the proposed development is consistent with the requirements of this DCP. A FAR is to be consistent with the NSW Floodplain Development Manual 2005. Depending on the scale of the development either a Minor or Major FAR is required to be submitted with the application.

Objective/s	Development Controls
To ensure that the potential impacts of flooding are considered when assessing development on flood prone land.	<p>A Minor FAR will <i>generally</i> be required where:</p> <ul style="list-style-type: none"> the development is considered to be of a minor scale; and the development is seeking to vary the relevant freeboard that applies to the land. <p>OR</p> <ul style="list-style-type: none"> flood data is not available and the site: <ul style="list-style-type: none"> a. is within 10 metres (horizontally) of a public trunk drainage system; natural watercourse, local overland flood path or drainage easement; or b. has a history of flooding. <p>OR</p> <ul style="list-style-type: none"> Flood data is available but requires updating, interpolation, extrapolation, or refinement to greater detail.
To ensure that the potential impacts of flooding are considered when assessing development on flood prone land	<p>A Major FAR will be required where Council considers the development to be at a scale that exceeds that specified by a minor FAR, will result in intensification of development on flood prone land and/or result in an increased risk due to potential affectation by flooding.</p> <p>A Major FAR will <i>generally</i> be required where:</p> <ul style="list-style-type: none"> development is not considered to be of a minor scale; and the property is impacted (or potentially impacted) by riverine or overland flooding; and the development incorporates habitable floor space, or a commercial or industrial (or similar) function; and the development is seeking to vary the relevant freeboard that applies to the land. <p>OR</p>

Objective/s	Development Controls
	<ul style="list-style-type: none"> flood data is not available and the site: <ol style="list-style-type: none"> is within 10 metres (horizontally) of a public trunk drainage system; natural watercourse, local overland flood path or drainage easement; or has a history of flooding. <p>OR</p> <ul style="list-style-type: none"> flood data is available but requires updating, interpolation, extrapolation, or refinement to greater detail; and/or the development relates to a residential use of land that is hazard classification H4 or above.

General Requirements (New Development)

The following controls apply to development class **A, B or C**.

Objective/s	Development Controls
To reduce risk to life and property resulting from floods by controlling development within the flood planning area.	<p>All habitable finished floor levels are to be at or above the Flood Planning Level.</p> <p>Alternatively, development will be assessed on its merits against the flood planning provisions of the <i>Cessnock Local Environmental Plan 2011</i>.</p> <p>Non-Habitable floor levels are to be at or above the defined flood event, except for Ancillary Structures Type 1 and Ancillary Structures Type 2 (see Table 2).</p>
To ensure that development within the flood planning area does not place an unacceptable financial burden on landowners or the community.	Parts of the building constructed at or below the Flood Planning Level are to be constructed with materials identified as 'suitable' in Fact Sheet 2: Flood Compatible Building Guidelines
To ensure that all land uses and essential services are appropriately sited and designed in recognition of all potential floods.	Electrical fixtures such as power points, light fittings and switches are to be sited above the Flood Planning Level unless they are on a separate circuit (with earth leakage protection) to the rest of the building.
To protect the integrity of the flood plain, including riparian vegetation, fluvial geomorphologic environmental processes and water quality.	All hazardous chemicals are to be stored above the Flood Planning Level.

Evacuation

The following controls apply to development in **Group B and C**.

Objective/s	Development Controls
To reduce risk to life and property resulting from floods by controlling development on flood prone land.	If intensifying development that incorporates a habitable use on flood prone land, it must be demonstrated that, in the event of a flood, users of the development are able to safely self-evacuate to land that is not flood prone land and do so without the need to traverse flood waters of a higher hazard classification.
To ensure that development does not have a significant impact on flood behaviour, people's safety, surrounding properties and structures and the natural environment.	A structural assessment is required by a suitably qualified engineer to demonstrate that structures in hazard category H5 or H6 will be safe to withstand hydraulic loads (including debris) in a defined flood event.

Flow of Water

The following controls apply to development in **Group C**.

Objective/s	Development Controls
To ensure that development does not have a significant impact on flood behaviour, people's safety, surrounding properties and structures and the natural environment.	Any development with a hazard classification of H5 or H6 must have open structures so that the flow of water is not restricted. All fences are to allow passage of a defined flood event under or through the fence.

Car Parks

The following controls apply to developments that include car parks.

Objective/s	Development Controls
To ensure that development on flood prone land does not place an unacceptable financial burden on landowners or the community.	The floor level of car parks are to be no lower than the 5% AEP flood level ² .
To ensure that future use of flood prone land does not cause undue stress to individuals or unduly increase potential flood liability to individuals or the community.	Basement or below ground car parks will only be supported where all potential water entry points are at or above the flood planning level. Where it is demonstrated that this cannot be achieved the following requirements are to be met: <ul style="list-style-type: none"> a. The basement is designed so that the structural integrity of the building is not compromised if the basement is either partially or fully inundated during a flood. b. All exit points below the Flood Planning Level are able to be closed and locked to prevent access during floods.

² Hydraulic controls must also be considered, particularly in relation to on site fill.

Objective/s	Development Controls
	<ul style="list-style-type: none"> c. Electrical and water fixtures are sited above the Flood Planning Level unless they are on a separate circuit (with earth leakage protection) to the rest of the building. d. At least one stairwell from the basement is to extend to at least the Flood Planning Level. The door for this exit is to be readily openable without a key from the inside (i.e. the side facing egress). The handle is to be a single downwards pushing action such as a lever. e. The owner(s) of the building are to consult with the State Emergency Services to determine the most appropriate mechanisms for evacuation/management of the basement car park where the projected flood level would result in inundation.

On-Site Wastewater Management

The following controls apply to on-site wastewater management

Objective/s	Development Controls
To protect the integrity of the flood plain, including riparian vegetation, fluvial geomorphologic environmental processes and water quality.	All components of the on-site waste water management system (including vents and inspection opening) are to be located above the defined flood event.
	The land application area must be above the 5% AEP flood level.
	The Australian Height Datum (AHD) levels at the site of the on-site waste water management facility are to be determined by a Registered Surveyor.

Subdivision

The following controls apply to applications to subdivide land within the flood planning area

Objective/s	Development Controls
<p>To reduce risk to life and property resulting from floods by controlling development within the flood planning area.</p> <p>To ensure that development within the flood planning area does not place an unacceptable financial burden on landowners or the community.</p>	<p>Subdivision of land within the flood planning area must:</p> <ul style="list-style-type: none"> a. Consist of a single development application containing: <ul style="list-style-type: none"> i. The subdivision of land into two or more lots, and

Objective/s	Development Controls
<p>To ensure that future use of land within the flood planning area does not cause undue stress to individuals or unduly increase potential flood liability to individuals or the community.</p> <p>To protect the integrity of the flood plain, including riparian vegetation, fluvial geomorphologic environmental processes and water quality.</p>	<p>ii. The erection of an dwelling house on each lot resulting from the subdivision that does not contain an existing dwelling and meets the requirements of this DCP Chapter; or,</p> <p>b. be on land that is in an Urban Release Area identified in the <i>Cessnock Local Environmental Plan 2011</i> prior to this DCP Chapter being adopted; or</p> <p>c. demonstrate that the size and design of the proposed lots are able to accommodate the uses permissible in the zone if the subdivision is in a zone other than a residential zone.</p> <p>d. demonstrate that all components of an on-site waste water management system (including vents and inspection opening) are capable of being located above the flood planning level on each lot within the subdivision.</p>

Land to which the Cessnock City Wide Flood Study Applies

The following controls apply to land to which the Cessnock City Wide Flood Study Applies

Objective/s	Development Controls
<p>To ensure that future use of land within the flood planning area does not cause undue stress to individuals or unduly increase potential flood liability to individuals or the community.</p>	<p>For land to which the Cessnock Citywide Flood Study applies, the flood planning level is taken to be the defined flood event plus 1 metre freeboard.</p> <p>Note: Any applications that seek to vary the 1 metre freeboard must be accompanied by a FAR.</p>

Properties impacted by Low Risk Overland Flooding

The following controls apply to properties affected by low risk overland flooding

Objective/s	Development Controls
<p>To ensure that future use of land within the flood planning area does not cause undue stress to individuals or unduly increase potential flood liability to individuals or the community.</p>	<p>For properties impacted by low risk overland flooding, the flood planning level is the defined flood event plus 0.3 metre freeboard, or 0.6 metre freeboard if the Cessnock City Wide Flood Study applies to the land.</p>

	<p>Alternatively, development will be assessed on its merits against the flood planning provisions of the <i>Cessnock Local Environmental Plan 2011</i>.</p> <p>Note: Any applications that seek to vary the 0.3 metre freeboard must be accompanied by a FAR.</p>
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Hydraulic Controls

Flood Storage

Objective/s	Development Controls
To ensure that development does not have a significant impact on flood behaviour, people's safety, surrounding properties and structures and the natural environment.	<p>Up to 20% of the development footprint in a flood storage area may be filled.</p> <p>Despite clause 1 if more than 20% of the site is to be filled a flood study must demonstrate that the fill does not have a negative impact on neighbouring properties, overland flow and/or the environment.</p>

Floodway

Objective/s	Development Controls
To reduce risk to life and property resulting from floods by controlling development on flood prone land.	No building or structure is to be erected on land identified as floodway on the Hydraulic Category Maps.
To ensure that development does not have a significant impact on flood behaviour, people's safety, surrounding properties and structures and the natural environment.	<p>No land fill by way of deposition of any material is to occur within an area identified as a floodway except for minor alterations to ground levels which do not significantly alter the fundamental flow patterns for:</p> <ol style="list-style-type: none"> Roads Parking Below ground structures Landscaping <p>New development is to be designed to avoid fences in floodways. Where dividing fences across floodways are unavoidable, they are to be constructed only of open type fencing that does not restrict the flow of water. The fencing design is to be resistant to blockage or designed to be collapsible under heavy flood loadings.</p>
To ensure that development on flood prone land is consistent with the NSW Flood Prone Land Policy and NSW Floodplain Development Manual 2005.	Flood mitigation works are to meet the requirements of the relevant Flood Risk Management Plan.

House Raising and Flood Proofing

The following controls apply to house raising and/or flood proofing.

Objective/s	Development Controls								
To ensure that development within the flood planning area does not place an unacceptable financial burden on landowners or the community.	<p>Development is required to meet the 'general requirements (new development)' in the following circumstances:</p> <ol style="list-style-type: none"> Following a flood event where there has been inundation of the dwelling necessitating the removal and replacement of external and/or internal cladding material; or Following a flood event where there has been structural compromise to the dwelling which requires remediation; or, There is a proposal to increase the enclosed habitable floor area of the building by more than: <table border="1"> <thead> <tr> <th>Existing building area</th><th>Minor addition limit</th></tr> </thead> <tbody> <tr> <td><250m²</td><td>50m²</td></tr> <tr> <td>250m²-750m²</td><td>75m²</td></tr> <tr> <td>>750m²</td><td>100m²</td></tr> </tbody> </table> <p>or,</p> <ol style="list-style-type: none"> There is a proposal to undertake major renovations to the dwelling; or, The proposed works have the potential to impact on flood behaviours. 	Existing building area	Minor addition limit	<250m ²	50m ²	250m ² -750m ²	75m ²	>750m ²	100m ²
Existing building area	Minor addition limit								
<250m ²	50m ²								
250m ² -750m ²	75m ²								
>750m ²	100m ²								

Additions and Renovations

In deciding whether to support an application for additions and/or renovations of the existing floor area below the Flood Planning Level, Council will consider whether the renovations, alterations or additions are likely to add to the life span of any development within the flood affected area of the property and its exposure to future flood impacts.

Objective/s	Development Controls
To reduce risk to life and property resulting from floods by controlling development within the flood planning area.	<p>Additions and renovations are not supported where the habitable floor level of the addition is below the 5% AEP flood level.</p> <p>Additions and renovations are to be completed in accordance with the Fact Sheet 2: Flood Compatible Building Guidelines</p>

	Any additions and/or renovations are to meet the requirements of this DCP Chapter if the floor areas is increased by more than: <table border="1"> <tr> <th>Existing building area</th><th>Minor addition limit</th></tr> <tr> <td><250m²</td><td>50m²</td></tr> <tr> <td>250m²-750m²</td><td>75m²</td></tr> <tr> <td>>750m²</td><td>100m²</td></tr> </table>	Existing building area	Minor addition limit	<250m ²	50m ²	250m ² -750m ²	75m ²	>750m ²	100m ²
Existing building area	Minor addition limit								
<250m ²	50m ²								
250m ² -750m ²	75m ²								
>750m ²	100m ²								
To ensure sensitive uses and facilities and critical infrastructure are not impacted by flood events.	Alterations or additions to critical infrastructure are not located on flood prone land.								
To ensure sensitive uses and facilities and critical infrastructure are not impacted by flood events.	Additions and renovations to sensitive uses and facilities are to be located on land with a hazard classification of H1.								
To ensure that development does not have a significant impact on flood behaviour, people's safety, surrounding properties and structures and the natural environment.	A structural assessment is required by a suitably qualified engineer to demonstrate the structure would be safe to withstand hydraulic loads (including debris) in a defined event if the development has a hazard classification of H5 or above.								

Branxton Commercial Precinct

The Branxton commercial area is located on land within the flood planning area, a large portion of which is Hazard Category H5 or H6. Typically some types of commercial development are not supported on land with this hazard category; however Branxton has a number of unique factors that mean that flooding needs to be considered on a case by case basis in the Branxton commercial area.

Objective/s	Development Controls
To ensure that future use of land within the flood planning area does not cause undue stress to individuals or unduly increase potential flood liability to individuals or the community.	<p>The Flood Planning Level for land within the Branxton Flood Planning Area (see Figure 1) is 34.2m AHD, which includes a 0.7m freeboard.</p> <p>Alternatively, development will be assessed on its merits against the flood planning provisions of the <i>Cessnock Local Environmental Plan 2011</i>.</p> <p>Note: Any applications that seek to vary the 0.7 metre freeboard must be accompanied by a FAR.</p>

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Figure 1: Branxton Flood Planning Area.

Planning and Environment

Report No. PE57/2021

Planning and Environment



SUBJECT: *AMENDMENT TO THE CESSNOCK DEVELOPMENT CONTROL PLAN 2011 - VEGETATION MANAGEMENT*

RESPONSIBLE OFFICER: *Strategic Planning Manager - Martin Johnson*

SUMMARY

Council at its 21 July 2021 Council meeting resolved to exhibit the draft Vegetation Management chapter of the Cessnock Development Control Plan 2010 for a period of 28 days. This draft chapter relates to controls for vegetation management in non-rural areas and new controls for environmental areas, heritage items and significant trees.

The draft chapter was placed on public exhibition for 28 days and no submissions were received. To finalise these amendments, Council needs to notify the amendments in accordance with the *Environment Planning and Assessment Regulation 2000*.

RECOMMENDATION

That Council pursuant to clause 21 of the Environmental Planning and Assessment Regulation 2000, adopts the amended Vegetation Management Chapter of the Cessnock Development Control Plan 2010.

BACKGROUND

Council is undertaking a comprehensive review of the DCP. The review is expected to take some time to complete. Therefore, updates to the remaining chapters will occur incrementally to ensure that they reflect current legislation and policies and meet Council's commitment to provide a responsive and robust local policy framework for the assessment of development applications.

REPORT/PROPOSAL

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 allows Council to nominate the types of vegetation that require a permit to damage or remove in all zones other than in the RU2 Rural Landscape zone. Approval for the damage or removal of vegetation in the RU2 zone is undertaken by the Local Land Services. The damage or removal of vegetation that is above the Biodiversity Offset Scheme (BOS) threshold requires approval under the *Biodiversity Conservation Act 2016*.

Vegetation Management in non-rural areas (other than environmental zones)

The proposed controls in the draft DCP chapter require a permit for the removal or pruning of the following vegetation:

1. Vegetation higher than 3 metres; and
2. Vegetation with a branch spread of 3 metres.

However, no permit is required where:

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- It is within a NSW 10/50 Rural Fire Zone area and clearing is undertaken in accordance with those requirements; or
- It is subject to a current approved development consent; or
- It requires pruning for ornamental purposes in accordance with Australian Standard AS 4373 Pruning of Amenity Trees; or
- It is within 3 metres of an existing approved structure; or
- It is a biosecurity matter (i.e. a weed) under the Biosecurity Act 2015.
- The tree poses an imminent threat to human life or property.

Vegetation Management (Environmental Lands)

On land zoned E2 Environmental Conservation, E3 Environmental Management or E4 Environmental Living, the removal of any native vegetation requires a permit. The same exemptions listed above apply to the removal of native vegetation in these zones.

Vegetation Management (Heritage Items or Significant Trees)

The removal or pruning of vegetation that is a heritage item (none currently listed) or on the site of a heritage item requires a development approval under Part 4 of the Environmental Planning and Assessment Act 1979 unless pruning is required for ornamental or health purposes and is carried out in accordance with [AS4373 Pruning of Amenity Trees](#).

Council currently does not hold a significant tree register. However, there are trees and stands of trees and vegetation that contribute to the character and amenity of the area. It is intended to develop a register in the future. Therefore, controls have been drafted in anticipation of this.

OPTIONS

Nil

CONSULTATION

These controls have been developed with Council's Vegetation and Civic Spaces Coordinator, Senior Environmental Planner and Ecologist.

Consultation was undertaken in accordance with the *Environmental Planning and Assessment Regulation 2000* and Councils Community Consultation Plan.

The document was available for viewing on Councils webpage and at the Cessnock and Kurri Kurri Library for 28 days with submissions closing on 30 August. No submissions were received.

STRATEGIC LINKS

a. Delivery Program

Objective 3.1 - Protecting and enhancing the natural environment and the rural character of the area

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b. Other Plans

The Comprehensive Review of the DCP is an action in the:

- Local Strategic Planning Statement
- Housing Strategy
- Urban Growth Management Plan.

IMPLICATIONS

a. Policy and Procedural Implications

These provisions are consistent with Council's policies relating to tree and vegetation management. The comprehensive review of the DCP will have immediate and direct improvements on Council regulatory framework.

b. Financial Implications

Fees for tree permit applications and development applications will be charged in accordance Council's adopted Fees and Charges.

c. Legislative Implications

These provisions meet the requirements under SEPP (Vegetation in non-rural areas) 2017. The amendment has been undertaken in accordance with the *Environmental Planning and Assessment Regulation 2000*.

d. Risk Implications

If Council does not identify trees and vegetation that require a permit under SEPP (Vegetation in non-rural areas) 2017, the clearing of vegetation in urban areas would be unregulated.

e. Environmental Implications

If Council does not identify trees and vegetation that require a permit under SEPP (Vegetation in non-rural areas) 2017, the clearing of vegetation in environmental areas would be unregulated below the BOS threshold.

f. Other Implications

Nil

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CONCLUSION

These controls are required under SEPP (Vegetation in non-rural areas) 2017. Once adopted they will provide a robust means to protect significant vegetation in urban areas with adequate provision for the routine clearing and maintaining of domestic gardens.

The additional provisions for environmental lands, heritage items and sites and significant trees will ensure that council assesses the impact of the damage or loss of these items.

The draft chapter has now been publicly exhibited and no submissions were received. As such it is recommended that the draft chapter of the DCP be adopted by Council.

ENCLOSURES

[1](#) Comprehensive DCP _ Issue-based Provisions _ Vegetation management _ Final

Vegetation Management in non-rural areas

Preamble

Vegetation is an important part of urban and natural landscapes. Vegetation contributes to the identity of urban areas, reduces the impacts of heat, and provides shelter and habitat.

Under Part 3 of the [State Environmental Planning Policy \(Vegetation in Non-Rural Areas\) 2017](#), Council issues permits for the removal or pruning of declared vegetation on land other than rural land¹. The clearing of vegetation on rural land is regulated under the [Local Land Services Act 2013](#) and clearing that is above the Biodiversity Offset Scheme Threshold in any zone is regulated under the [Biodiversity Conservation Act 2016](#).

Application

These provisions apply to a request² for a permit to remove vegetation on non-rural¹ land under Part 3 of the [State Environmental Planning Policy \(Vegetation in Non-Rural Areas\) 2017](#). They do not apply to the removal or pruning of vegetation that;

1. Is on Council's Significant Tree Register.
2. Is a heritage item listed under [Schedule 5](#) of the Cessnock Local Environmental Plan 2011.
3. Is on the site of a heritage item listed under [Schedule 5](#) of the Cessnock Local Environmental Plan 2011.
4. Does not meet the Biodiversity Offset Scheme Threshold (BOS) under the [Biodiversity Conservation Act 2016](#).
5. Regulated under any other statute.

Supporting information

Additional information is available at: www.cessnock.nsw.gov.au

Development controls

Vegetation Management in non-rural areas (other than environmental zones)

These provisions apply to permits to prune or remove vegetation in land-use zones other than RU2 Rural Landscape, RU4 Primary Production Small Lots, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living.

¹ The provisions apply to all land other than land zoned RU2 Rural Landscape and RU4 Primary Production Small Lots.

² A permit request can be submitted to Council on 02 4993 4100 or council@cessnock.nsw.gov.au

Objective/s	
<p>To protect and preserve the biodiversity values and amenity of trees and vegetation across the Cessnock Local Government Area.</p> <p>To maintain trees in urban areas that contribute to the amenity and identity of those areas.</p> <p>To declare vegetation where clearing and activities affecting vegetation require a vegetation permit for the purposes of clause 9 of the State Environmental Planning Policy (Vegetation in Non-rural Areas) 2017.</p> <p>To identify other approval pathways and exemptions for the removal or pruning of vegetation.</p> <p>To allow the reasonable pruning of ornamental trees.</p>	<p>The removal or pruning of the following vegetation requires a permit:</p> <ul style="list-style-type: none"> • Is on land other than rural land¹; and • Is vegetation higher than 3 metres; and • Is vegetation with a branch spread of 3 metres. <p>Despite the above, no approval is necessary for the removal or pruning of vegetation where:</p> <ul style="list-style-type: none"> • It is within a NSW 10/50 Rural Fire Zone area and clearing is undertaken in accordance with those requirements; or • It is subject to a current approved development consent; or • It requires pruning for ornamental purposes in accordance with Australian Standard AS 4373 Pruning of Amenity Trees; or • It is within 3 metres of an existing approved structure; or • It is a biosecurity matter (i.e. a weed) under the <i>Biosecurity Act 2015</i>³.
<p>To allow for the reasonable clearing of vegetation for safety or hazard reasons and where environmental impacts from the clearing would be minimal.</p> <p>To ensure the clearing of vegetation for safety or hazard reasons is adequately justified.</p>	<p>A permit request to remove or prune a dead, dying or dangerous tree that is a risk to human life or property⁴ and is not required as the habitat of native animals⁵ will require verification from a Level 5 qualified Arborist.</p>

³ More information on weeds is available at: www.weeds.dpi.nsw.gov.au or contact Council's Weeds Officers on 02 4993 4100 or at council@cessnock.nsw.gov.au

⁴ Where there is an imminent threat to human life from a dead, dying or dangerous tree, no permit is required. However, Council may require evidence that the tree was a risk to human life or property.

⁵ Council may require verification from a qualified Ecologist that the vegetation is not required as habitat of native animals.

Objective/s	
To minimise the loss of habitat for native animals.	<p>A permit request to remove or prune a dying or dead tree that is required as the habitat of native animals will require written justification from a qualified Ecologist.</p> <p>Where vegetation provides habitat for native animals, council may refuse the request or impose conditions on:</p> <ul style="list-style-type: none"> • The timing of removal or pruning • Compensatory planting • Offsetting for the loss of habitat • Installation and maintenance of nest boxes or • Any other matter to mitigate the loss of habitat.
To provide a means to offset the loss of habitat for native animals.	
To reduce the impact of habitat destruction on native animals.	
To provide foraging opportunities for native fauna.	Where council requires compensatory or replacement planting, preference will be given to native, endemic species.

Vegetation Management (Environmental Lands)

These provisions apply to the pruning or removal of native vegetation in zones: E2 Environmental Conservation, E3 Environmental Management or E4 Environmental Living that does not meet the biodiversity offsets scheme (BOS) threshold⁶.

Objective/s	
To protect and preserve the biodiversity values and amenity of trees and vegetation across the Cessnock Local Government Area.	<p>The removal or pruning of the following vegetation requires a permit:</p> <ul style="list-style-type: none"> • All native vegetation in zones E2 Environmental Conservation, E3 Environmental Management or E4 Environmental Living that does not meet the biodiversity offsets scheme (BOS) threshold.

⁶ Applications to clear native vegetation that exceed the BOS threshold require approval under [Part 4 of the SEPP \(Vegetation\) 2017](#).

Objective/s	
	<p>Despite the above, no approval is necessary for the removal or pruning of vegetation where:</p> <ul style="list-style-type: none"> • It is within a NSW 10/50 Rural Fire Zone area and clearing is undertaken in accordance with those requirements; or • It is subject to a current approved development consent; or • It requires pruning for ornamental purposes in accordance with Australian Standard AS 4373 Pruning of Amenity Trees; or • It is within 3 metres of an existing approved structure; or • It is a biosecurity matter (i.e. a weed) under the Biosecurity Act 2015.
<p>To minimise the loss of habitat for native animals.</p> <p>To provide a means to offset the loss of habitat for native animals.</p> <p>To reduce the impact of habitat destruction on native animals.</p>	<p>The removal or pruning of native vegetation in an environmental zone will require written justification from a qualified Ecologist.</p> <p>Where vegetation provides habitat for native animals, council may refuse the request or impose conditions on:</p> <ul style="list-style-type: none"> • The timing of removal or pruning • Compensatory planting • Offsetting for the loss of habitat • Installation and maintenance of nest boxes or • Any other matter to mitigate the loss of habitat.
<p>To provide foraging opportunities for native fauna.</p>	<p>Where council requires compensatory or replacement planting, preference will be given to native, endemic species.</p>

Vegetation Management (Heritage Items or Significant Trees)

Preamble

Vegetation that is identified as a heritage item or is located on the site of a heritage item contributes to the cultural and heritage significance of the area or the amenity or integrity

of a heritage item. Similarly, a tree listed on Council's significant tree register⁷ has been identified as contributing to the cultural integrity or amenity of a site or area.

Application

These provisions apply to development applications to damage, prune or remove vegetation that is;

1. On Council's Significant Tree Register.
2. A tree that is listed as a heritage item listed under [Schedule 5](#) of the Cessnock Local Environmental Plan 2011.
3. Trees or vegetation on the site of a heritage item listed under [Schedule 5](#) of the Cessnock Local Environmental Plan

Objective/s	
To conserve the environmental heritage of Cessnock.	The damage, pruning or removal of trees and/or vegetation on that is a heritage item or on the site of a heritage item must be supported by a heritage impact assessment.
To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	The heritage impact assessment must be prepared by an appropriately qualified person.
To allow for the reasonable clearing of vegetation for safety or hazard reasons and where environmental, amenity and heritage impacts from the clearing would be minimal.	
To maintain significant trees in urban areas that contribute to the amenity and identity of those areas.	The damage or removal of significant trees must be supported by a landscape and visual impact assessment.
To ensure the clearing of vegetation is adequately justified.	Council may require verification from a Level 5 qualified Arborist that the clearing of vegetation is justified.
To allow the reasonable pruning of ornamental trees that are identified as heritage items, or within a heritage conservation area or significant trees.	Pruning for ornamental purposes may be permitted where such pruning is a normal accepted practice or necessary for the health of the tree and is carried out in accordance with AS4373 Pruning of Amenity Trees .

⁷ More information on Council's Significant Tree Register is available on 02 4993 4100 or at council@cessnock.nsw.gov.au.

Definitions

Tree – means a woody perennial plant with one or relatively few main stems with potential to grow to a height of greater than 5 metres.

Native vegetation – has the same meaning in the *Biodiversity Conservation Act 2016*.

Vegetation – means a tree or other vegetation, whether or not it is native vegetation.

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SUBJECT: ***MOLLY WORTHINGTON NETBALL COURT PLANNING PROPOSAL***

RESPONSIBLE OFFICER: ***Strategic Planning Manager - Martin Johnson***

SUMMARY

The purpose of this report is to update the Council on the status of the planning proposal seeking to reclassify the Molly Worthington Netball Courts Site.

RECOMMENDATION

That Council notes the content of this report and the status of the planning proposal to reclassify the Molly Worthington Netball Courts Site from Community Land to Operational Land.

BACKGROUND

The Molly Worthington Netball Courts site was identified by Council's Strategic Property Committee and Community Facilities Committee for review and was subsequently tabled for reclassification and rezoning at the Ordinary meeting of Council on 15 May 2019. The resolution stated:

"That the reclassification and rezoning of the Kurri Kurri netball courts, known as Lot 5 and Lot 7 DP 1140055, Maitland Street, Kurri Kurri, be continued and run concurrently with the search for a suitable alternative netball site."

A planning proposal was subsequently forwarded to the Department of Planning, Industry and Environment (DPIE) on 24 July 2020. The proposal included the reclassification and rezoning of the Molly Worthington Netball Courts site along with several other sites identified by Council for reclassification and rezoning.

A Gateway determination was issued for the planning proposal on 10 November 2020, PP_2020_CESSN_003_00. However, condition 1(a) of the Gateway determination required Council to remove the Molly Worthington Netball Courts site from the planning proposal. In the letter supporting the Gateway determination, DPIE advised that the reclassification of the Molly Worthington Netball Courts site was considered premature. Furthermore, DPIE advised that the proposal for the Molly Worthington Netball Courts site was inconsistent with Practice Note PN 16-001 and that an alternative site for the public open space facilities should be secured prior to progressing with any reclassification and rezoning of the land.

In response, at the Ordinary meeting of Council on 19 May 2021 (W130/2021) Council resolved to endorse Booth Park, at 37 Hopetoun Street Kurri Kurri, as the alternative location for the netball courts and proceed to lodge a new planning proposal with DPIE to reclassify the Molly Worthington Netball Courts site.

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Further, Council at the Ordinary meeting of Council on 15 September 2021 resolved:

That Council notes that between the August and September 2021 Council meetings the Mayor under delegated authority exercised the following decision of Council:

- 1. That the General Manager enacts resolution WI30/2021 as a matter of urgency.***
- 2. That the General Manager presents a report to the October meeting of Council outlining the progress of the resolution WI30/2021 since it was adopted by Council on 19 May 2021.***
- 3. That the General Manager presents a report to the October meeting outlining the progress of resolution WI52/2021 which was adopted by Council on 21 July 2021.***

This report addresses the September 2021 resolution of Council.

The resolution referred to above in regards to WI30/2021 is as follows:

- 1. That Council notes the information contained within the report in regards to the Councillor workshop and consultation with Kurri Kurri Netball Association on the relocation of Molly Worthington Netball Courts to Booth Park at Kurri Kurri.**
- 2. That Council endorses Booth Park as the alternate location for the relocation of the Kurri Kurri Netball Courts.**
- 3. That Council prepares a planning proposal and request a Gateway determination from the Department of Planning, Industry and Environment pursuant to the provisions of the Environmental Planning and Assessment Act 1979 seeking the reclassification of Lot 5 and Part of Lot 7 DP1140055 – 101 and 107 Maitland St, Kurri Kurri – from Community to Operational Land.**
- 4. That Council requests authorisation under section 3.31 of the Environmental Planning and Assessment Act 1979 to act as the local plan-making authority to make the Local Environmental Plan.**
- 5. That the General Manager investigates the development of a concept plan and associated estimated cost for the establishment of new netball courts at Booth Park Kurri Kurri and a further Report comes back to Council for the July meeting.**

REPORT/PROPOSAL

In regard to WI30/2021 points 3 and 4, a planning proposal to reclassify the site was prepared and forwarded to DPIE requesting a Gateway determination on 19 August 2021. The request also sought authorization under section 3.31 of the Environmental Planning and Assessment Act 1979 to act as the local plan-making authority to make the Local Environmental Plan.

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On 8th September DPIE requested additional information in relation to '*Practice Note PN 16-001 Classification and reclassification of public land through a local environmental plan*'. The information was forwarded to DPIE on 17 September 2021. On 21 September DPIE also requested copies of all Council resolutions and reports that related to Molly Worthington Netball Courts, clarification regarding if a zoning amendment was sought as part of the proposal and if any information on the timing the detailed design and concept plan for Booth Park was known. This information was provided on the same day, 21 September.

Subject to Council receiving a Gateway determination from DPIE, and Council addressing any conditions attached thereto, the planning proposal will then be publically exhibited for a minimum 28 days.

In regards to WI30/2021 point 5 to develop concept plan and cost estimate, report WI52/2021 was presented to Council on 21 July 2021 to address this decision.

In respect to Council resolution WI52/2021, Council is awaiting confirmation of funding via the Resources for Regions Round 8 grant program in regards to the development of a business case, concept plan and detailed designs for the Booth Park Netball Facility.

Announcements are anticipated to be made in October 2021, should funding be confirmed a consultant will be engaged to commence works. At this stage the consideration of 12 courts will be included in the scope of works to be investigated for Council to understand the impact on the site and costs of a 12 court complex vs an 8 court complex.

OPTIONS

N/A

CONSULTATION

N/A

STRATEGIC LINKS

a. Delivery Program

The Planning Proposal is consistent with Objective 3.2 - Better utilisation of existing open space, of the Cessnock 2027 Community Strategic Plan.

b. Other Plans

NIL

IMPLICATIONS

a. Policy and Procedural Implications

NIL

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b. Financial Implications

NIL

c. Legislative Implications

The amendment will be undertaken in accordance with the *Environmental Planning and Assessment Act 1979* and the *Local Government Act 1993*.

d. Risk Implications

N/A

e. Environmental Implications

N/A

f. Other Implications

NIL

CONCLUSION

This report provides an update on the progress of the planning proposal to reclassify the Molly Worthington Netball Courts site from “community” to “operational” land.

ENCLOSURES

There are no enclosures for this report

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SUBJECT: ***TENDER T2021-11 CESSNOCK AIRPORT RUNWAY AND TAXIWAY RENEWAL WORKS***

RESPONSIBLE OFFICER: ***Chief Finance and Administration Manager***

SUMMARY

The purpose of this report is for Council to consider Tender No. 2021-11 – Cessnock Airport Runway and Taxiway Renewal Works.

RECOMMENDATION

1. That Council accepts Fulton Hogan Industries Pty Ltd's tender for T2021-11 Cessnock Airport Runway and Taxiway Renewals for the lump sum amount of \$7,953,403 (including GST).
2. That Council delegates the General Manager to negotiate the contractual terms of the contract with Fulton Hogan Industries Pty Ltd.
3. That Council delegates the General Manager to enter into the agreed contract with Fulton Hogan Industries Pty Ltd once negotiations have concluded.

BACKGROUND

In March 2019 Council applied for grant funding under the Restart NSW Growing Local Economies Fund and was advised in April 2020 that its application for funding was successful. The purpose of the project is to undertake significant infrastructure upgrades to Cessnock Airport, to unlock business investment growth.

Council engaged GHD to assist with the management of the project, largely the tenders and contracts awarded for the major runway, taxiway, water and sewer infrastructure.

REPORT

Request for Tender

The Request for Tender (RFT) documents were prepared by GHD, and reviewed by Council staff before tenders were called. The form of contract selected was Contract AS 4300-1995 5 Design & Construct (D&C) Contract amended to include various special conditions. The RFT called for a lump sum tender for the upgrade to the existing pavements, aeronautical ground lighting (AGL), stormwater drainage as well as an extension of the stormwater and sewer system to the western precinct of the airport.

Invitation

Tenders were invited on 25 June 2021 on Council's e-tender portal, Vendor Panel and advertised on Council's website; in the Newcastle Herald on Saturday 26 June 2021; and in the Sydney Morning Herald on 28 June 2021.

Addenda

No addenda were issued during the invitation period.

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Closure

Tenders closed 2pm Tuesday 24 August 2021.

Evaluation of Tenders

Tender Evaluation Team: In accordance with CCC Procurement Procedure, a Tender Evaluation Team (TET) was formed by GHD with the following members:

Role	Title	Business unit
Chairperson	Open Space & Community Facilities Manager	Open Space & Community Facilities
Member 1	Works & Operations Manager	Works & Operations
Member 2	Tender Evaluation Administrator	GHD Pty Ltd
Member 3	Finance Operations & Administration Coordinator	Financial Services

Evaluation Process: The evaluation was conducted according to the following process:

1. Assessment of receipt
2. Assessment of conformance
3. Shortlisting of tenders
4. Weighted evaluation
5. Due diligence checks on preferred tenderers
6. Determine evaluation result
7. Independent review of the tender selection process

The evaluation criteria and their weightings were documented in the Contract Preparation Checklist, reviewed by the Team Leader Contracts and Tendering and GHD prior to tenders being invited.

1. Assessment of Receipt

Tenders were received and assessed against the first threshold criteria:

Threshold Criteria	
Criterion 1	Submission on time

The following tenders were received and are listed in alphabetical order.

Tender	Tenderer	Business Address	Criterion 1
1	Downer EDI Works Pty Ltd	Melbourne	On time
2	Ford Civil Contracting Pty Ltd	Arncliffe	On time
3	Fulton Hogan Industries Pty Ltd	Rutherford	On time
4	Symal Infrastructure Pty Ltd	Newcastle	On time

All four tenders were received on time and met threshold Criterion 1.

2. Assessment of Conformance

The tenders were then assessed for conformance with the remaining threshold criteria:

Threshold Criteria	
Criterion 2	Conformance with Request for Tender documents
Criterion 3	Satisfactory financial capacity.

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All tenders included a number of qualifications that were subsequently clarified.

All tenders were considered conforming in threshold Criteria 2 and 3 and were progressed to the next stage of evaluation, subject to the financial capacity of those tenderers, found to be in contention, to be confirmed at the Due Diligence stage of evaluation.

3. Shortlisting

With four competitive tenders received, shortlisting was not considered necessary. All tenders were progressed to the next stage of evaluation.

4. Weighted Evaluation

Tenders were evaluated using the following weighted evaluation criteria:

Criterion 5	Lump sum tender amount
Criterion 6	Experience and past performance
Criterion 7	Value for money in the proposed design
Criterion 8	Work Health & Safety performance
Criterion 9	Environmental management performance
Criterion 10	Quality management performance.
Criterion 11	Program

To assess tenders against the evaluation criteria, the TET used information obtained from the tender documents. A Weighted Evaluation Matrix, containing full details of the tender amounts and weighted evaluation is provided as confidential **Enclosure 1**.

Tender 3 scored highest for the tendered amount, as well as scoring competitively on all other weighted criteria. With the highest score, Tender 3 from Fulton Hogan Industries Pty Ltd was identified as the preferred tender.

5. Due Diligence

Referees, provided by the preferred tenderer, were contacted and positive comment on past performance was received. Performance on other known work was also considered.

Equifax Australasia Credit Ratings Pty Ltd was engaged to independently assess the preferred tenderers' financial capacity. The assessment confirmed conformance with threshold Criterion 3, having current financial capacity to satisfactorily complete the work.

6. Evaluation Result

Following steps 1 to 5 of the evaluation process, the TET found that Tender 3 from Fulton Hogan Industries Pty Ltd met the requirements of the RFT and recommended acceptance of Tender 2021-11 – Cessnock Airport Runway and Taxiway Renewal Works.

7. Independent Review

The evaluation process and recommendations were reviewed by the TET and determined to be in accordance with relevant documents and legislation:

- Cessnock City Council Procurement Policy,
- Cessnock City Council Procurement Procedure,

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- *Local Government Act 1993, and*
- *Local Government (General) Regulation 2005.*

TIME FRAME

The program considers an eight month duration with a Contract Award date of 27 October 2021, a Project Completion date of 1 July 2022 and two shutdowns of the airport main runway as follows: –

- Early Works Shutdown: 03 Feb 2022 – 10 Feb 2022 (7 days)
- Planned Stage 2 Shutdown: 20 April 2022 – 03 June 2022 (44 days)

Project completion is June 2022 in the funding deed between Council and Restart NSW.

LOCAL CONTENT

Fulton Hogan Industries Pty Ltd have asphalt laying, civil works, splay sealing services and workshops based in Rutherford and some of the works will be carried out by Rutherford based crews.

OPTIONS

Option 1:

- That Council accepts Fulton Hogan Pty Ltd's tender for T2021-11 Cessnock Airport Runway and Taxiway Renewals for the lump sum amount of \$7,953,403 (including GST).
- That Council delegates the General Manager to negotiate the contractual terms of the contract with Fulton Hogan Industries Pty Ltd.
- That Council delegates the General Manager to enter into the agreed contract with Fulton Hogan Industries Pty Ltd once negotiations have concluded.

This is the preferred option.

Option 2: Decline to accept any tenders as per Legislation Part 7 Division 4,178 part (b). and negotiate with other service providers. This option is not recommended as it will negatively impact on the project program.

CONSULTATION

Members of Council's Contracts and Tendering team as well as members of the Cessnock Airport Upgrade Project Control Group (PCG) were consulted. The PCG has membership from the General Manager's Unit, Works and Infrastructure Directorate and the Corporate and Community Directorate. External advice was provided by GHD and an airport pavement engineering specialist.

Due to the complexity of the project, an in-house legal review of the contract has been undertaken. The advice received will inform future contract negotiations with Fulton Hogan Industries Pty Ltd.

A KMS (Knowledge Management System) has been prepared for Customer Service Staff who may field telephone or counter enquiries on the project and a communication plan has been developed and will be implemented once this report has been considered by Council. The project will also be added to the Major Works section of the website and promoted on Council's

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social media platforms. Airport tenants are aware of the project and will be engaged to discuss the program of works and how it affects their operation with the view to mitigate disruptions as much as possible.

STRATEGIC LINKS

a. Delivery Program

Acceptance of the tender will contribute to achieving Objective 4.1.6: Continue Implementation of the Cessnock Airport Strategic Plan. The project is also included in the 2021-2022 Airport Construction Program.

b. Other Plans

The Cessnock Airport upgrade will deliver on directions from the Hunter Region Plan 2036:

- Direction 9: Grow tourism in the region
- Direction 20: Revitalise existing communities
- Direction 26: Deliver infrastructure to support growth and communities

The Cessnock Airport upgrade will deliver on the Hunter Regional Economic Development Strategy 2018-2022 vision as follows:

- Improve inter and intra-connectivity of the Region to boost business opportunities in the 'engine' industries of
- Agriculture, Mining and Manufacturing, and
- Improve infrastructure, services and amenities to fully realise and sustain the Region's growth potential.

The project directly supports the following objectives identified in the Cessnock 2027 Community Strategic Plan:

- Objective 2.1 – Diversifying local business options
- Objective 2.2 – Achieving more sustainable employment opportunities
- Objective 2.3 – Increasing tourism opportunities

IMPLICATIONS

a. Policy and Procedural Implications

The tender process has been carried out in accordance with:

- *Cessnock City Council Procurement Policy,*
- *Cessnock City Council Procurement Procedure,*
- *Tendering Guidelines for NSW Local Government 2009, and*
- *NSW Government – Code of Practice for Procurement 2005.*

b. Financial Implications

The total airport upgrade project budget is \$8,848,197 (ex GST) inclusive of contingencies and is made up of a Restart NSW grant of \$6,636,100 and Council contributions of \$2,212,097.

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While this tender is under the total budget there are also other projects associated with the project budget that are not included in this tender. At this stage with all the works included, the project is expected to come in on budget.

c. Legislative Implications

The tender process has followed the legislative provisions, referenced in *Cessnock City Council Procurement Policy* and *Cessnock City Council Procurement Procedure*, as follows:

- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*

In particular, reference is made to Part 7, Division 4, Clause 178 of the *Local Government (General) Regulation 2005 (Acceptance of tenders)*:

1. After considering the tenders submitted for a proposed contract, the Council must either:
 - (a) accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or
 - (b) decline to accept any of the tenders.
2. A Council must ensure that every contract it enters into as a result of a tender accepted by the Council is with the successful tenderer and in accordance with the tender (modified by any variation under clause 176). However, if the successful tender was made by the Council (as provided for in section 55 (2A) of the Act), the Council is not required to enter into any contract in order to carry out the requirements of the proposed contract.
3. A Council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:
 - (a) postpone or cancel the proposal for the contract,
 - (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,
 - (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,
 - (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,
 - (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,
 - (f) carry out the requirements of the proposed contract itself.
4. If a Council resolves to enter into negotiations as referred to in sub clause (3) (e), the resolution must state the following:
 - (a) the Council's reasons for declining to invite fresh tenders or applications as referred to in sub clause (3) (b)–(d),
 - (b) the Council's reasons for determining to enter into negotiations with the person or persons referred to in sub clause (3) (e).

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d. Risk Implications

To minimise Council's exposure to business risks, the RFT required:

- Satisfactory financial capacity, and
- Adequate levels of insurances.

The authenticity of the Contractor's certificates of currency for the following insurance policies will be verified:

- Workers Compensation,
- Public Liability (\$20M or greater),
- Comprehensive Motor Vehicle,
- Professional Indemnity, and
- Insurance of the Works.

e. Other Implications

Nil

CONCLUSION

The tender from Fulton Hogan Industries Pty Ltd, for the lump sum amount of \$7,953,403 (including GST) offers the best value for money for the upgrade to the existing pavements, aeronautical ground lighting (AGL), stormwater drainage as well as an extension of the stormwater and sewer system to the western precinct of the airport. The contract sum and contingency are fully funded from the available project budget identified in this report.

ENCLOSURES

- 1** T2021-11 Cessnock Airport Runway and Taxiway Renewal Works evaluation matrix - *This matter is considered to be confidential under Section 10A(2) (dii) of the Local Government Act, as it deals with commercial information of a confidential nature that would, if disclosed (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret.*

Corporate and Community

Report No. CC74/2021

Corporate and Community Services



SUBJECT: *DECEMBER 2021 LOCAL GOVERNMENT ELECTIONS - CARETAKER PROVISIONS*

AUTHOR: *Director Corporate and Community Services - Robert Maginnity*

SUMMARY

Council is required to enter into caretaker mode prior to the Local Government Elections scheduled for 4 December 2021. There is one scheduled Council meeting during this period and any decisions must be made in accordance with the legislated caretaker provisions.

RECOMMENDATION

That Council notes that the caretaker period prior to the 2021 Local Government elections commences Friday 5 November 2021 and ends Saturday 4 December 2021.

BACKGROUND

Pursuant to the *Local Government (General) Regulation 2005*, Council is required to go into caretaker mode during the election period to ensure that major decisions are not made which would limit the actions of an incoming Council.

REPORT/PROPOSAL

The four week caretaker period for the December 2021 Local Government elections commences on Friday 5 November 2021 and ends on Saturday 4 December 2021. During this period major decisions are not to be made by Council or the General Manager.

The *Local Government (General) Regulation 2005*, clause 393B *Exercise of council functions during caretaker period* provides:

- (1) The following functions of a council must not be exercised by the council, or the general manager or any other delegate of the council (other than a Joint Regional Planning Panel or the Central Sydney Planning Committee), during a caretaker period—
 - (a) entering a contract or undertaking involving the expenditure or receipt by the council of an amount equal to or greater than \$150,000 or 1% of the council's revenue from rates in the preceding financial year (whichever is the larger),
 - (b) determining a controversial development application, except where—
 - (i) a failure to make such a determination would give rise to a deemed refusal under the *Environmental Planning and Assessment Act 1979*, or
 - (ii) such a deemed refusal arose before the commencement of the caretaker period,
 - (c) the appointment or reappointment of a person as the council's general manager (or the removal of a person from that position), other than—
 - (i) an appointment of a person to act as general manager under section 336(1) of the Act, or

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- (ii) a temporary appointment of a person as general manager under section 351(1) of the Act.
- (2) Despite subclause (1), such a function may be exercised in a particular case with the consent of the Minister.
- (3) In this clause—
 - caretaker period** means the period of 4 weeks preceding the date of an ordinary election.
 - controversial development application** means a development application under the *Environmental Planning and Assessment Act 1979* or which at least 25 persons have made submissions under that Act by way of objection.

There is one scheduled Council meeting during the caretaker period on 17 November 2021 and decisions of Council must be in accordance with the legislated provisions.

OPTIONS

N/A

CONSULTATION

Governance Coordinator

STRATEGIC LINKS

a. Delivery Program

This report is linked to the Community's Desired Outcome Objective 5 "Civic Leadership and Effective Governance".

b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

N/A

c. Legislative Implications

Clause 393B of the *Local Government (General) Regulation 2005* limits the ability to exercise some functions in the four weeks preceding an election (the caretaker period).

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d. Risk Implications

N/A

e. Other Implications

N/A

CONCLUSION

The caretaker period for the September 2021 Ordinary Local Government elections commences on 5 November 2021 and ends on 4 December 2021. During this period major decisions are not to be made by the incumbent Council. Councils are expected to assume a “caretaker” role during election periods to ensure that major decisions are not made which would limit the actions of an incoming Council.

ENCLOSURES

There are no enclosures for this report.

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Report No. CC75/2021

Corporate and Community Services



SUBJECT: *DECEMBER 2021 LOCAL GOVERNMENT ELECTIONS - ELECTORAL MATTER & USE OF COUNCIL RESOURCES*

RESPONSIBLE OFFICER: *Director Corporate and Community Services - Robert Maginnity*

SUMMARY

The purpose of this report is to outline the obligations of Councillors, staff and candidates in relation to the use of Council resources and electoral material in the lead up to the December 2021 Local Government Elections.

RECOMMENDATION

That Council notes the obligations of Councillors, staff and candidates in relation to the use of Council resources and electoral material in the lead up to the December 2021 Local Government Elections.

BACKGROUND

The Office of Local Government has released Circular 21-30 *Pre election guide*, which includes information in relation to electoral matter, use of council resources prior to local government elections and Council publications.

The “regulated period” is the period commencing 40 days before the election in which rules regulating “electoral material” as defined by the Regulation come into effect. The regulated period for the 4 December 2021 elections commences 25 October 2021 and ends 4 December 2021.

Council officials must not use Council resources, property (including intellectual property), and facilities for the purposes of assisting their election campaign or the election campaign of others unless the use is lawfully authorised and proper payment is made where appropriate.

Council needs to consider whether any publications could amount to an “electoral matter”.

REPORT/PROPOSAL

This report provides a reminder of the obligations of Council officials in relation to the use of Council resources and the potential for Council publications to be considered “electoral material” in the lead up to the local government elections.

Council officials must use Council resources lawfully, ethically, effectively and carefully keeping in mind Council’s code of conduct and other policies such as the policy on the payment of expenses and the provision of facilities to mayors and councillors.

“Electoral matter” is defined under clause 356A of the *Local Government (General) Regulation 2005*, and broadly includes any matter that is intended or likely to affect voting in an election. The name, photograph and likeness of a candidate fall within the definition of “electoral matter”.

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Council publications that promote the achievements of the council may also potentially fall within the definition of “electoral matter”. Consideration of these type of documents needs to be made on a case by case basis. It is noted that the End of Term Report and the Annual Report, both of which are required to be completed and published during the regulated period, are reports which could potentially be captured under this restriction and care will be required to ensure that these documents do not inadvertently expose Council to the risk of being captured as “electoral matter”.

The key points relating to this report are that:

- Under the Model Code of Conduct for Local Councils in NSW, the following **must not** be used for the purpose of assisting anyone’s election campaign:
 - council resources, property or facilities (unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility); and
 - council letterhead, council crests and other information that could give the appearance it is official council material.
- Breaches of a council’s code of conduct may result in disciplinary action.
- Councils and council officials should be mindful of the need to maintain community confidence in the integrity of the performance of the council’s functions and activities in the lead-up to elections. Councils should be mindful of how the community may perceive any of their activities or actions during this time.

A copy of the circular and the Pre Election Guide are provided at **Enclosures 1 and 2**.

OPTIONS

N/A

CONSULTATION

General Manager
Governance Coordinator

STRATEGIC LINKS

a. Delivery Program

This report is linked to the Community’s Desired Outcome Objective 5 “Civic Leadership and Effective Governance”.

b. Other Plans

N/A

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IMPLICATIONS

a. Policy and Procedural Implications

Misuse of Council resources may constitute a breach of Council's Code of Conduct and result in disciplinary action under the Code or action by the Office of Local Government and/or other regulatory agencies.

b. Financial Implications

Nil

c. Legislative Implications

Publications that promote the current elected Council's Policies or emphasises the achievements of an elected member or group may potentially fall within the definition of "electoral material" under clause 356A of the *Local Government (General) Regulation 2005*.

d. Risk Implications

N/A

e. Other Implications

N/A

CONCLUSION

The report provides a reminder of the obligations of Council officials in relation to the use of Council resources and the potential for Council publications to be considered "electoral material" in the lead up to the 2021 Local Government elections.

ENCLOSURES

- [1](#) Circular 21-30
- [2](#) Pre Election Guide for Councils



Office of
Local Government

Circular to Councils

Circular Details	21-30 / 5 October 2021 / A784861
Previous Circular	21-20 Postponement of the local government elections to 4 December 2021
Who should read this	Councillors / General Managers / All council staff
Contact	Council Governance Team / 02 4428 4100 / olg@olg.nsw.gov.au
Action required	Councils to Implement

Pre-Election Guide for Councils

What's new or changing

- The Office of Local Government (OLG) has prepared a *Pre-Election Guide for Councils*.
- The Guide provides updated and comprehensive guidance to councils on key tasks that need to be completed prior to the council election. The Guide also provides guidance to councils on the rules, restrictions and other considerations that apply to the decisions councils make and the way they exercise their functions in the lead up to the election.

What this will mean for your council

- Councils' elections will be held on **4 December 2021**.
- The Guide provides guidance on the following:
 - the preparation and confirmation of non-residential rolls
 - the use of council resources for election purposes
 - staff political activities in the lead up to the elections
 - council publications during the "regulated period" in the 40 days prior to the election
 - publication of the end of term report
 - attendance by the mayor and councillors at council and community events prior to the election
 - media comment by the mayor and councillors prior to the election
 - caretaker restrictions in the 4 weeks preceding election day
 - planning for the first council meeting following the election
 - delegations to the general manager during the election period.

Where to go for further information

- The *Pre-Election Guide for Councils* is available on the 2021 Local Government Elections webpage on OLG's website [here](#).
- For further information, contact the Council Governance Team on 4428 4100 or olg@olg.nsw.gov.au.

Kiersten Fishburn
Coordinator General, Planning Delivery and Local Government

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Pre-election guide

for councils

2021



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Introduction

This Guide provides guidance to councils on key tasks that need to be completed prior to the council election. The Guide also provides guidance to councils on the rules, restrictions and other considerations that apply to the decisions councils make and the way they exercise their functions in the lead up to the election.

Preparation and confirmation of non-residential electoral rolls

Under the *Local Government Act 1993* (the Act), all non-resident owners, occupiers and ratepaying lessees of rateable land in each local government area are eligible to vote at council elections. These electors are referred to below as 'non-residential electors'.

There are two non-residential rolls:

- the roll of non-resident owners of rateable land, and
- the roll of occupiers and rate-paying lessees.

These are referred to below as the non-residential rolls.

After each election, the non-residential rolls lapse and the general manager must prepare new rolls for the next election and keep them updated.

Councils need to ensure that everyone eligible to vote at their elections, including non-residential electors, can do so.

Councils should provide information, including eligibility criteria and the process for making a

claim for inclusion on the non-residential rolls on their websites.

Councils should also make their customer service staff aware of this so that they can assist any person wishing to make a claim for inclusion on the rolls.

The non-residential rolls must include the names of the persons who:

- have applied, at any time, for the inclusion of their name in the relevant roll, and
- on the closing date (40 days prior to the election) are, in the opinion of the general manager, qualified for inclusion in that roll.

This means that when preparing the non-residential rolls, the general manager must:

- include the names of all persons who have previously applied for enrolment, and
- check that those persons continue to be eligible to be enrolled.

Forty days before election day, general managers must finalise the non-residential rolls.

In the case of council elections administered by the Electoral Commissioner, the general manager must certify each roll as being, in the general manager's opinion, a roll of the persons who on the closing date are qualified for inclusion in the roll. The Commissioner must confirm the non-residential rolls after they are certified by the general manager.

In the case of council elections administered by a provider other than the NSW Electoral Commissioner, the general manager must confirm each roll if, in the general manager's opinion, the roll contains the names of the persons who on the closing date are qualified for inclusion in the roll.

Further information about the preparation of non-residential rolls is available at the NSW Electoral Commission's website at www.elections.nsw.gov.au.

Use of council resources, council publications and other activities prior to the elections

Councils and all council officials should be mindful of the need to maintain community confidence in the integrity of the performance of the council's functions and activities in the lead-up to elections.

Councils also need to be mindful of how the community may perceive any of their activities or actions during this time.

Use of council resources for election purposes

Council resources (including council information) are public resources and must be used ethically, effectively, efficiently and carefully.

The rules governing the use of council resources for election purposes are prescribed under the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct) and councils' codes of conduct. There are two key obligations:

- Cause 8.17: This provides that council resources (including council staff), property or facilities must not be used for the purpose of assisting anyone's election campaign unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- Cause 8.18: This provides that council letterhead, council crests, council email or social media or other information that

could give the appearance it is official council material must not be used for the purpose of assisting anyone's election campaign.

Councils and all council officials should consider the following matters to ensure compliance with clauses 8.17 and 8.18:

- council "resources" include council ICT (including phones, social media sites, phone, email addresses), intellectual property, staff and council facilities
- council resources including intellectual property should not be used by candidates in such a way to suggest they are supported or endorsed by the council
- the prohibition on the use of council resources does not only apply to each councillor's election campaign – it also applies to the election campaigns of others including other candidates
- the prohibition on the use of council resources also applies to council staff campaigning for election to another council or council staff supporting the election campaign of other candidates
- it is permissible to use council facilities but on the same terms as all other candidates including the payment of any advertised fee for use
- breaches by councillors and staff are grounds for disciplinary action.

Staff political activities

There is no outright ban on staff participation in candidates' campaigns under the Model Code of Conduct.

This is in recognition of the implied freedom of political communication under the Australian Constitution. This provides that legislation cannot impermissibly burden political communication (including participation in political activities) other than for a legitimate public purpose and only in a way that is proportionate to that purpose.

However, clause 7.5(b) of the Model Code of Conduct places an obligation on staff to

ensure that any participation in political activities outside the service of the council does not interfere with the performance of their official duties.

Risks to manage in relation to staff participation in political activities include the following:

- staff do not participate in campaigning activities during work time
- staff do not use council resources for campaigning purposes (see clauses 8.17 and 8.18)
- managing interactions between staff and councillors whose campaigns they are supporting
- managing community perceptions arising from council staff participation in councillors' campaigns.

Council publications during the "regulated period"

To keep elections fair, and ensure voters are not misled, there are strict rules about the information that candidates and their supporters can publish or distribute.

These rules are prescribed under the *Local Government (General) Regulation 2021* (the Regulation) and are enforced by the relevant election manager.

These rules apply during what is known as the "regulated period". The "regulated period" starts when the electoral rolls close 40 days before election day and ends on election day.

The key requirement is that all "electoral material" published or distributed during the "regulated period" must contain the name and address of the person who authorised the material and the name and address of the printer.

This is an important electoral integrity measure which is designed to ensure electors can verify the bona fides of electoral material that is printed, published, distributed, or publicly

displayed for campaigning purposes during the "regulated period".

The key definitions are contained in clause 356A of the Regulation.

"Electoral material" is defined very broadly under the Regulation. It means anything, including without limitation a 'how-to-vote' card, poster or advertisement, containing "electoral matter" (whether in a tangible or an electronic form).

"Electoral matter" is in turn defined to include:

- any matter that is intended or calculated or likely to affect or is capable of affecting the result of any election held or to be held or that is intended or calculated or likely to influence or is capable of influencing an elector in relation to the casting of his or her vote at any election, or
- the name of a candidate at any election, the name of the party of any such candidate, the name or address of the committee rooms of any such candidate or party, the photograph of any such candidate, and any drawing or printed matter that purports to depict any such candidate or to be a likeness or representation of any such candidate.

Councils need to be aware that their publications may contain "electoral matter" and may therefore be inadvertently captured within the definition of "electoral material".

Whether a council publication constitutes "electoral material" is an assessment that needs to be made by each council on a case-by-case basis.

A council publication that makes no reference to the mayor or councillors who are candidates and does not carry their images or statements will not constitute "electoral material" if it is not intended or likely to affect voting at the election.

However, council publications that promote the achievements of the council may potentially have this effect and therefore may

constitute "electoral material" even if they do not carry the images or statements of the mayor or councillors.

Affected publications may include:

- the mayoral column where the mayor is a candidate
- any publication or material carrying the name and/or images of the mayor or councillors who are candidates
- the end of term report – because this identifies the activities and achievements of the council over its preceding term, it has the potential to impact on voting at the election (further information on this is provided below).

The requirements that apply to council publications published or distributed during the "regulated period" containing "electoral matter" can be easily satisfied by including in it the name and address of the general manager and the printer of the publication.

However, the perceptions that this may give rise to, including that the council is a participant in the election and that council resources may be seen to have been utilised to support the campaigns of the incumbent mayor and councillors, are not as easily addressed.

Mitigation strategies to address this risk may include:

- publishing the mayoral column in the 40 days preceding the election as a generic council column
- deferring issuing potentially affected publications until after the election.

Publication of the end of term report

Under the currently applicable (March 2013) *Integrated Planning and Reporting Guidelines for Local Government in NSW*, a report on the progress of implementation of the Community Strategic Plan (the end of term report) must be presented at the final meeting of an outgoing

council.

Because the end of term report identifies the activities and achievements of the council over its preceding term it may potentially constitute "electoral material" for the purposes of the Regulation because of its potential to impact on voting at the election.

The provisions in the Regulation relating to "electoral material" do not prevent the end-of-term report being presented to the council or from being published on a council's website as part of the business papers of the meeting.

However, councils should be mindful of the requirements of the Regulation relating to "electoral material" when issuing the end of term report as a publication during the "regulated period".

Attendance at community events

Mayors and councillors will continue to need to exercise their official functions in the lead up to the election. This is both permissible and appropriate.

Mayors or councillors who are candidates may continue to attend or preside over council-arranged or community events in the lead up to the election in an official capacity.

However, mayors or councillors who are candidates must not use council arranged events that they attend in an official capacity to actively campaign for re-election.

Media comment

There is nothing to prevent the mayor or councillors who are candidates from offering media comment, provided that comment is not made in an advertisement, newspaper column, or a radio or television broadcast paid for by the council or produced by the council or with council resources.

When making media and any other public comment, mayors and councillors should continue to comply with the council's adopted media policy.

Council decision-making

Caretaker restrictions

Under the Regulation, councils are required to assume a "caretaker" role in the four weeks preceding the election day (see clause 393B).

The caretaker restrictions are designed to prevent outgoing councils from making major decisions that will bind the new council or limit its actions.

The caretaker period for the 4 December 2021 local government elections commences on Friday 5 November 2021 and ends on Saturday 4 December 2021.

During the caretaker period, councils, general managers and other delegates of councils (other than a joint regional planning panel, a local planning panel or the Central Sydney Planning Committee) must not exercise the following functions:

- enter into any contract or undertaking involving an expenditure or receipt by the council of an amount equal to or greater than \$150,000 or 1% of the council's revenue from rates in the preceding financial year (whichever is the larger)
- determine a "controversial development application", except where a failure to make such a determination would give rise to a deemed refusal, or such a deemed refusal arose before the commencement of the caretaker period, or
- appoint or reappoint the council's general manager (except for temporary appointments).

"Controversial development application" means a development application for designated development under section 4.10 of the *Environmental Planning and Assessment Act 1979* for which at least 25 persons have made submissions during community consultation.

Councils should plan ahead to avoid the need to make these types of decisions during the caretaker period.

In certain circumstances, these functions may be exercised with the approval of the Minister.

Timing of the first meeting of the new council following the election

In response to changing postal delivery services, on the advice of the NSW Electoral Commission, the time for the receipt of postal votes has been extended to 13 days after election day.

This change has been made to provide a greater opportunity for valid postal votes to be received and counted.

This change will mean that the council elections held on 4 December 2021 are not likely to be declared before 21 December 2021.

Councils should schedule the timing of their first meetings following the election on this basis.

Councils that elect their mayor must hold a mayoral election within 3 weeks of the declaration of the ordinary election and are required to schedule a meeting for this purpose within 3 weeks of the declaration of the election.

When scheduling the first meeting following the election, councils will also need to factor in the Christmas/New Year period.

Delegations during the election period

Under the Act, all current councillors and mayors elected by the councillors cease to hold their civic offices on election day 4 December 2021.

This means that councils will be without a governing body from 4 December 2021 until the declaration of the election between 21 and 23 December 2021 at the earliest.

Because the declaration of council elections will coincide with the Christmas/New Year period, it is possible that some councils may not meet for some time after election day.

As noted above, councils that elect their mayor will be required to meet within 3 weeks of the declaration of the ordinary election to hold a mayoral election.

Prior to the election, councils should ensure that appropriate delegations are in place for their general managers so that they can continue to exercise the functions of the council as required in the period between election day and the first meeting of the council following the election.

Councils may wish to consider delegating all delegable functions to the general manager at the last meeting before the election for the period between election day and the first meeting of the council following the election.

Councils that elect their mayors will not have a mayor in the period between election day and the first meeting after the election when the mayoral election is held.

There is nothing to prevent councils from authorising the general manager to exercise the civic and ceremonial functions normally exercised by the mayor during this period in the absence of a mayor.

The Office of Local Government is aware that some councils that elect their mayors have expressed a preference that the outgoing

mayor should continue to exercise the functions of mayor in the period between election day and the holding of the mayoral election after the election.

There is nothing to prevent councils from authorising the outgoing mayor to continue to exercise the civic and ceremonial functions normally exercised by the mayor during this period in the absence of a mayor should they wish to do so, (even though the outgoing mayor will have ceased to hold any civic office in the council as of the day of the election).

Given the possibility that the outgoing mayor may not be re-elected at the election and may therefore cease to be accountable to the council and the community, councils should refrain from making any delegations to the outgoing mayor.



Corporate and Community

Report No. CC76/2021

Corporate and Community Services



SUBJECT: ***ANNUAL UNREASONABLE CUSTOMER CONDUCT REPORT***

RESPONSIBLE OFFICER: ***Chief Finance and Administration Manager - Matthew Plumridge***

SUMMARY

The purpose of this report is to present the Annual Unreasonable Customer Conduct Report for the period 1 October 2020 to 30 September 2021 (Reporting Period) as per the Unreasonable Customer Conduct (UCC) Policy.

RECOMMENDATION

That Council notes the Annual Unreasonable Customer Conduct report for the period 1 October 2020 to 30 September 2021, and that five individuals were deemed to have displayed unreasonable behaviour as defined in the Policy.

BACKGROUND

The UCC Policy was adopted by Council on 18 September 2019 and this report is provided in accordance with clause 21.1 of the Guideline which provides:

21.1 An information report will be presented to the elected Council annually detailing the number of persons deemed to have behaved unreasonably, why they were deemed unreasonable and how Council is handling/managing each Customer in response to their behaviour, including any restrictions imposed and the review date.

REPORT/PROPOSAL

For the Reporting Period the UCC Register showed that five individuals were deemed to have displayed unreasonable behaviour as defined in the Policy.

There were eight people who had previously been deemed unreasonable prior to the adoption of the UCC Policy and this reporting period, two of which have since had their restrictions lifted and six which have no expiry date for various reasons.

Due to the ongoing and serious nature of the unreasonable persistence and unreasonable arguments of these six UCCs, Council has imposed restrictions to the effect that correspondence/enquiries in relation to that specific matter will be noted with no action to be taken and this has no expiry date at this stage. This is to ensure Council can manage the UCC in a manner that is safe for staff and other customers. Those affected by ongoing restrictions have the ability to request a review of the restriction; however it would need to be supported by an extended period of exemplary behaviour in accordance with the UCC Policy.

The UCC Policy outlines the following restrictions that Council may impose when Unreasonable Conduct has been established:

6.1. Changing or Restricting a Customer's Access to Council Services or Facilities

6.1.1. *Incidents involving Unreasonable Customer Conduct will generally be managed by limiting or adapting the ways that Council interacts with and/or delivers services to Customers by restricting:*

- i. *Who they have contact with – e.g. limiting a Customer to a sole contact person/Council Official.*
- ii. *What they can raise with Council – e.g. restricting the subject matter of communications that Council will consider and respond to.*
- iii. *When they can have contact – e.g. limiting a Customer's contact with Council to a particular time, day, or length of time, or curbing the frequency of their contact with Council.*
- iv. *Where they can make contact – e.g. limiting the locations where Council will conduct face-to-face interviews to secured facilities or areas of the office.*
- v. *How they can make contact – e.g. limiting or modifying the forms of contact that the Customer can have with Council. This can include modifying or limiting face-to-face interviews, telephone and written communications, prohibiting access to Council premises, contact through a representative only, taking no further action or terminating Council services altogether.*

6.1.2. *When using the restrictions provided in this section, Council recognises that discretion will need to be used to adapt them to suit a Customer's personal circumstances, level of competency, literacy skills, etc. In this regard, Council also recognises that more than one strategy may need to be used in individual cases to ensure their appropriateness.*

Categories of Behaviour:

As per the UCC Policy the following are the behaviour categories:

- Unreasonable persistence;
- Unreasonable demands outside the scope of Council's scope and capacity for provision of services;
- Unreasonable lack of cooperation;
- Unreasonable arguments; and
- Unreasonable behaviours.

Table 1 shows the number of UCCs dealt with in the current and previous reporting periods.

Table 1 – UCC Comparative

Behaviour Category	Current Period (1 Oct 20 – 30 Sept 2021)	Previous Period (19 Sept 19 – 30 Sept 2020)
Unreasonable arguments	0	1
Unreasonable behaviours	5	7
Total	5	8

Restrictions:

Most restrictions have a 12 month review date at which time the customer is invited to outline any reasons to support their restriction being lifted.

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In the reporting period the Public Officer imposed various types of restrictions including contacting Council in writing only, restricted access to Council facilities, restricted to contact with one contact officer only or that their correspondence in relation to a particular matter will be filed and noted with no response (unless new matters are raised).

- Two people were restricted to contact in writing only to the Public Officer for unreasonable behaviour regarding their matter, they were given a 12 month restriction with a review to remove or extend after 12 months.
- One was advised that their actions would be noted and a warning was given and the customer was advised if the unreasonable behaviour continued, further actions would be implemented.
- Two were expelled from Council recreational facilities for unreasonable behaviour, both with a 12 month restriction from entering the specific facility.

One person was given a warning letter for aggressive behaviour however they did not progress to a restriction compared to 3 people in the last period.

Table 2 – Restriction Summary

Restriction Imposed	Current Period (1 Oct 20 – 30 Sept 2021)	Previous Period (19 Sept 19 – 30 Sept 2020)
Warning Issued only	1	3
In writing to the Public Officer	2	1
Noted / No Action	0	1
Restricted from using Council Recreational Facility	2	2
Restricted contact at all Council facilities	0	1
Total	5	8

Restrictions Reviewed in previous 12 months:

When the Public Officer reviews any restrictions imposed the customer is invited to provide reasons to support their restriction being lifted. The table below shows the number of restrictions reviewed in the reporting period, with four restrictions reviewed of which one was restricted prior to the UCC Policy being adopted in September 2019.

Table 3 – Restrictions Reviewed

Review Date	Type of Behaviour	Type of Restriction	Review Outcome
1/10/2021	Unreasonable behaviours	Pool Expulsion	Restriction Removed
1/10/2021	Unreasonable behaviours	Pool Expulsion	Restriction Removed
29/10/2020	Unreasonable behaviours	Restrict contact at all Council facilities	Restriction Removed
25/03/2021	Unreasonable arguments	Noted / No Action	Restriction Removed

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There are five outstanding restrictions due for review in the next 12-month reporting period, all for unreasonable behaviours.

Table 4 – Restrictions Remaining

Review Date	Type of Behaviour	Type of Restriction
01/10/2021	Unreasonable behaviours	Recreation Facility expulsion
01/10/2021	Unreasonable behaviours	Recreation Facility expulsion
14/11/2021	Unreasonable behaviours	Libraries expulsion
30/11/2021	Unreasonable behaviours	In writing to the Public Officer only
23/03/2022	Unreasonable behaviours	In writing to the Public Officer only

OPTIONS

N/A

CONSULTATION

Executive Leadership Team
Governance Team

STRATEGIC LINKS

a. Delivery Program

Council's Unreasonable Customer Conduct Policy and Guidelines are consistent with the community's desired outcome of *Civic Leadership and Effective Governance* and in particular Objective 5.3 *Making Council more responsive to the community*.

b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

This report is provided in accordance with clause 21.1 of the Guidelines of the Unreasonable Customer Conduct Policy, which requires an annual report to Council on customers deemed to be exhibited unreasonable conduct in accordance with the Policy.

b. Financial Implications

N/A

c. Legislative Implications

N/A

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d. Risk Implications

The appropriate management of Unreasonable Customer Conduct assists to ensure the safety of Council employees and users of Councils facilities, and outlines the expected standards of behaviour for both Council officials and Customers.

e. Environmental Implications

N/A

f. Other Implications

N/A

CONCLUSION

This report is provided to Council on customers deemed to be exhibited unreasonable conduct in accordance with the Policy.

ENCLOSURES

There are no enclosures for this report

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SUBJECT: *INVESTMENT REPORT - SEPTEMBER 2021*

RESPONSIBLE OFFICER: *Chief Finance and Administration Manager - Matthew Plumridge*

SUMMARY

Section 625 of the *Local Government Act 1993*, Clause 212 of the *Local Government (General) Regulation 2005* and Council's Investment Policy requires a monthly report to Council detailing all money invested.

RECOMMENDATION

That Council receives the Investment Report for September 2021 and notes that:

- **Investments are held in accordance with Council's Investment Policy, which accords with the Ministerial Investment Order.**
- **Council's month end cash and investments balance was \$61,651,441.**

BACKGROUND

The *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and Council's Investment Policy requires a monthly report to Council detailing all money invested.

REPORT

Statement by the Responsible Accounting Officer

The Responsible Accounting Officer has certified that this report is produced in accordance with Clause 212 of the *Local Government (General) Regulation 2005* and that all investments have been made in accordance with the *Local Government Act 1993*, *Local Government (General) Regulation 2005* and Council's Investment Policy.

General Investment Commentary

Council monitors and manages its cash and investment portfolio by taking into consideration credit ratings of financial institutions; interest rates offered for periods of investment; counterparty exposures; and cash flow requirements.

Following assessment of projected cash flow requirements, surplus funds are invested in accordance with Council's Investment Policy. Investment cash returns of the portfolio to the end of September 2021 was 0.37%, exceeding the benchmark of 0.02% of the Investment Policy.

Interest rates remain at historical lows, with current investment rates being below 1.00% p.a. consistent with the official cash rate of the Reserve Bank of Australia (RBA) which has been held at 0.10% since November 2020. Returns will continue to be monitored and any adjustment to budgeted income will be reported in future quarterly budget reviews.

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Investment Portfolio Information

Table 1 Total cash and investments held by Council as at 30 September 2021

Invest No	Financial Institution Investment Held With	Invest Type	Interest Coupon Term	Maturity / Next Coupon Date	Current Coupon Rate	Par Value \$'000
	Commonwealth Bank	CASH			0.00%	5,110
	Commonwealth Bank	At Call			0.01%	41
1243	AMP Bank	At Call			0.50%	500
1341d	AMP Bank	TD	365	10-Nov-21	0.75%	1,000
1358d	National Bank	TD	330	25-May-22	0.36%	1,000
1361c	AMP Bank	TD	405	19-Jan-22	0.75%	1,000
1362c	AMP Bank	TD	419	08-Feb-22	0.75%	1,000
1369c	National Bank	TD	367	20-May-22	0.37%	1,000
1371c	Members Equity Bank	TD	388	11-Mar-22	0.45%	1,000
1381b	Macquarie bank	TD	360	01-Apr-22	0.40%	1,000
1384b	Macquarie bank	TD	282	27-Jan-22	0.40%	1,000
1405b	Suncorp Bank	TD	231	22-Oct-21	0.30%	1,000
1407b	Commonwealth Bank	TD	219	28-Oct-21	0.35%	1,000
1409a	National Bank	TD	275	16-Dec-21	0.33%	1,000
1410b	National Bank	TD	442	15-Dec-22	0.40%	1,000
1417b	Commonwealth Bank	TD	309	08-Dec-21	0.38%	1,000
1432	Westpac Bank	TD	371	19-Oct-21	0.70%	1,000
1433	National Bank	TD	365	03-Nov-21	0.55%	1,000
1434A	Macquarie bank	TD	365	22-Sep-22	0.40%	1,000
1435a	National Bank	TD	392	06-Oct-22	0.40%	1,000
1436a	National Bank	TD	400	20-Oct-22	0.40%	1,000
1437	National Bank	TD	310	06-Oct-21	0.50%	1,000
1438	National Bank	TD	317	13-Oct-21	0.50%	1,000
1441	Suncorp Bank	TD	336	12-Jan-22	0.35%	1,000
1443a	Suncorp Bank	TD	289	02-Jun-22	0.33%	1,000
1445b	Commonwealth Bank	TD	350	09-Jun-22	0.41%	1,000
1446a	Suncorp Bank	TD	378	08-Sep-22	0.35%	1,000
1447	Suncorp Bank	TD	233	18-Nov-21	0.30%	1,000
1448	Macquarie bank	TD	358	07-Apr-22	0.40%	1,000
1449a	Commonwealth Bank	TD	364	07-Jul-22	0.42%	1,000
1450	National Bank	TD	371	12-May-22	0.37%	1,000
1451	Commonwealth Bank	TD	199	16-Dec-21	0.34%	1,000
1452	Commonwealth Bank	TD	206	23-Dec-21	0.34%	1,000
1453a	Commonwealth Bank	TD	286	14-Apr-22	0.40%	1,000
1454a	Commonwealth Bank	TD	293	21-Apr-22	0.40%	1,000
1455	Bank of Queensland	TD	199	06-Jan-22	0.40%	1,000
1456	Bank of Queensland	TD	241	17-Feb-22	0.40%	1,000
1457	Macquarie bank	TD	360	16-Jun-22	0.40%	1,000
1458a	Commonwealth Bank	TD	357	23-Jun-22	0.42%	1,000
1459a	Commonwealth Bank	TD	363	29-Jun-22	0.42%	1,000
1460	Macquarie bank	TD	369	29-Jun-22	0.40%	1,000
1461	Macquarie bank	TD	302	28-Apr-22	0.40%	1,000
1462	Bank of Queensland	TD	278	04-May-22	0.40%	1,500

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Invest No	Financial Institution Investment Held With	Invest Type	Interest Coupon Term	Maturity / Next Coupon Date	Current Coupon Rate	Par Value \$'000
1463	TCorp	Growth Fund			-5.15%	4,000
1464	Macquarie bank	TD	329	14-Jul-22	0.40%	1,000
1465	Macquarie bank	TD	217	24-Mar-22	0.40%	1,000
1466	National Bank	TD	329	14-Jul-22	0.32%	1,000
1467	Suncorp Bank	TD	364	18-Aug-22	0.35%	1,500
1468	Commonwealth Bank	TD	198	17-Mar-22	0.35%	1,000
1469	Commonwealth Bank	TD	324	21-Jul-22	0.39%	1,000
1470	Macquarie bank	TD	378	22-Sep-22	0.40%	1,000
1471	Macquarie bank	TD	392	06-Oct-22	0.40%	1,000
1472	AMP Bank	TD	735	14-Sep-23	0.75%	1,000
1473	National Bank	TD	399	20-Oct-22	0.40%	2,000
TOTAL						61,651

Table 2 Level of funds held and the percentage invested with financial institutions

Financial Institution	Rating	Maximum Counterparty	Amount \$'000	% of Portfolio
Commonwealth Bank	A1+	25%	12,000	21.25%
Westpac Bank	A1+	25%	1,000	1.77%
National Bank	A1+	25%	13,000	23.01%
Suncorp Bank	A1	25%	6,500	11.50%
Macquarie Bank	A1	25%	11,000	19.47%
AMP Bank	A2	10%	4,500	7.96%
Members Equity Bank	A2	10%	1,000	1.77%
Bank of Queensland	A2	10%	3,500	6.19%
TCorp	Unrated	10%	4,000	7.08%
TOTAL			56,500	100.00%

In accordance with the current Investment Policy, figures in Table 2 above exclude cash balances in Council's main operating account held with Commonwealth Bank of Australia.

Investment in NSW Treasury Corporation (TCorp)

During the month of August, Council invested an amount of \$4M in TCorp's Investment Management (TCorIM) Medium Term Growth Fund, in line with Council's Investment Policy. TCorIM Funds are specifically designed to meet the needs of NSW public sector clients. The fund strategy is to provide a balanced exposure to growth and defensive assets, with medium return potential over the medium term and with moderate risk of negative annual returns. The minimum suggested timeframe for investment in the fund is 3-7 years however Council may redeem its investment at any time.

TCorp operates pooled funds, whereby its clients' investments are comingled with those of other investors. This pool is used to buy investments that are managed on behalf of all investors in the fund. TCorIM Funds are unit trusts. Upon investing in a fund, investors are allocated units in the fund. The value of an investment in the fund will vary as the fund's daily unit price changes to reflect increases or decreases in the market value of the fund's underlying assets.

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Distributions are made annually and are automatically reinvested into the fund to buy additional units.

Council had a -1.23% (-\$49K) return for September against +0.31% (+\$13K) return in the month of August. Rates of return will fluctuate each month and possibly be negative from time to time with the medium term investment horizon. The fund performance summary as at 31 August 2021 is below. The September data was not yet available at the time of preparing this report. The benchmark used by TCorp is CPI + 2.00% p.a. (over rolling 7 years).

Table 3 NSW Treasury Corporation Performance Summary

	10 year	7 year	3 year	1 year	FYTD	1 month
	(% p.a.)	(% p.a.)	(% p.a.)	%	%	%
TCorplM Medium Term Growth Fund	6.18	5.26	5.40	9.58	2.42	0.86
Benchmark: CPI + 2.0% p.a. (over rolling 7 years)	3.99	3.81	3.75	3.99	0.67	0.33
Return above benchmark p.a.	2.19	1.45	1.65	5.59	1.75	0.53

Table 4 Investment types, risk assessment, amount and percentage invested compared to the total

Investment Type	Risk Assessment		Amount	% of
	Capital	Interest	\$'000	Portfolio
Term Deposits	Low	Low	52,000	84.35%
Cash/At Call Deposits	Low	Low	5,651	9.16%
Capital Growth Fund	Medium	Medium	4,000	6.49%
TOTAL			61,651	100.00%

Table 5 Comparison of interest rates, earnings and balances this year to last year

Performance Measures	This Year	Last Year
Portfolio Average Interest Rate (year to date)	0.37%	1.07%
BBSW Average Interest Rate (year to date) *	0.02%	0.10%
Actual Investment Interest Earned (for the month)	\$17,889	\$37,809
Actual Investment Interest Earned (year to date)	\$51,270	\$119,224
Budget Investment Interest (year to date)	\$52,500	\$81,249
Original Budget Investment Interest (annual)	\$210,000	\$325,000
TCorp unrealised movement (year to date)	-0.90%	-

Investment and Cash Balances (Par Value)	This Year	Last Year
Opening Balance as at 1 July	\$54,388,548	\$47,140,822
Month End Balance as at 30 September	\$61,651,441	\$49,129,057

* BBSW 90 day Bank Bill Reference Rate (performance measure as per Council's Investment Policy)

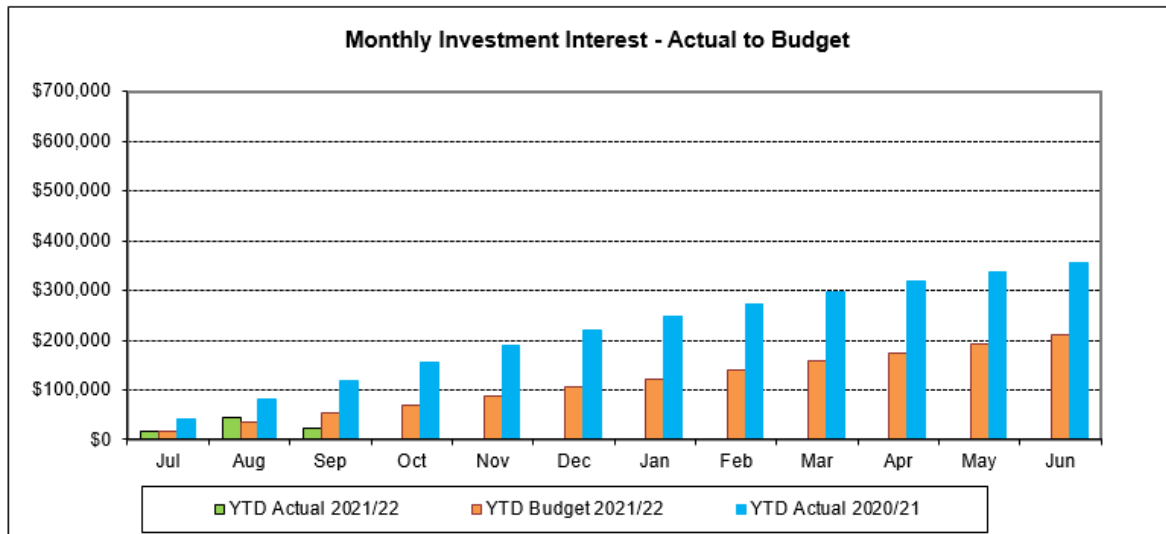
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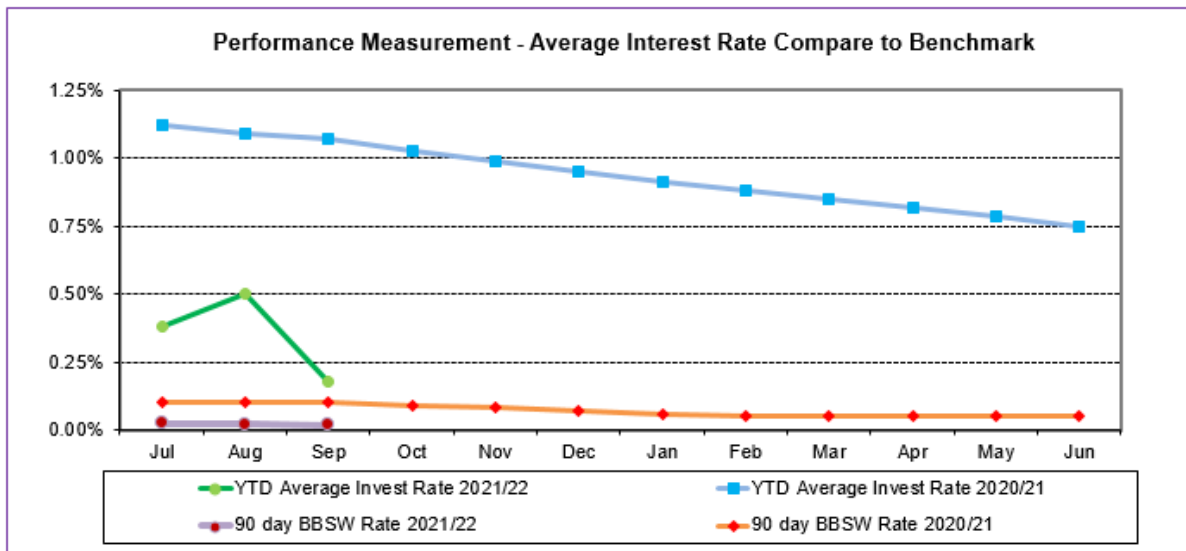
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Graph 1 Actual interest earned compared to budget for this year and last year



Graph 2 Current year portfolio performance to prior year performance



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**Table 6** Internal and external restrictions over cash and investments held

Month End Totals \$'000	Sep 2021	Aug 2021	Jul 2021	Jun 2021*	May 2021	Apr 2021
Developer contributions	18,868	18,688	17,853	16,748	15,810	15,645
Committed developer contributions	2,716	2,717	2,721	2,793	1,464	1,439
RMS contributions	1,231	1,436	1,437	1,454	1,625	1,711
Specific purpose unexpended grants	3,613	3,157	2,094	1,489	6,762	3,966
Domestic waste management reserve	430	430	430	430	430	430
Stormwater management	315	219	234	236	323	365
External Restrictions	27,173	26,647	24,769	23,150	26,414	23,556
Month End Totals \$'000	Sep 2021	Aug 2021	Jul 2021	Jun 2021*	May 2021	Apr 2021
Plant and vehicle replacement	2,879	2,548	2,548	2,525	1,707	1,580
Employees leave entitlement	2,892	2,974	2,974	2,974	2,891	2,891
Carry over works	1,483	1,300	1,573	1,573	814	940
Bridge replacement	679	687	672	672	1,120	519
Financial Assistance Grant in Advance	-	-	-	3,753	-	-
Insurance provisions	1,301	1,301	1,301	1,242	1,089	1,092
Miscellaneous and property	169	169	169	386	349	349
Grant Fund Leverage	179	179	189	0	294	560
Operations and programs	688	412	412	452	627	404
Property investment fund	345	356	246	389	2,342	2,351
Rezoning fees	-	-	-	-	85	85
Civil Works	1,796	1,883	1,901	1,825	1,060	1,137
Waste depot and rehabilitation	6,833	6,833	6,833	6,833	5,218	5,218
Unexpended loan funds	769	963	1,229	1,235	1,178	1,163
Committed projects (SRV)	1,479	1,186	1,236	1,549	720	731
Security deposits and bonds	3,623	3,645	3,467	3,560	3,136	3,043
Internal Restrictions	25,115	24,436	24,750	28,968	22,630	22,063
Unrestricted	9,363	11,273	3,580	2,648	2,864	2,003
Total Cash & Investments	61,651	62,356	53,099	54,766	51,908	47,622

* June figures reported in Table 6 above have been updated to represent closing balances for the draft 2020-21 Annual Financial Statements being audited in September 2021.

Externally restricted funds increased by \$0.5M during September due to additional income collected related to grants.

Internally restricted fund balances increased slightly during September by \$0.7M primarily as a result of transfers in for the Special Rate Variation to align with collection of rates income.

It is worth noting again that Unrestricted cash increased by \$7.7m from July to August directly as a result of income received from the general rates and annual charges instalment that was due on 31 August 2021. Council levies rates up front in July with the option of quarterly payments due at the end of August, November, February and May, driving higher levels of cash balances at those times.

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The overall level of cash and investments generally remains relatively stable with increases during months when rate instalments are due (August, November, February and May). Monthly expenditure is relatively static throughout the year, with the exception where major payments are made for such things as contracts, insurances or other significant items.

Restrictions over cash and investments are subject to change and will only be final once audited and published in the annual financial statements.

CONSULTATION

Director Corporate and Community Services
Chief Finance and Administration Manager
Management Accountant
Financial Accountant

STRATEGIC LINKS

a. Delivery Program

Investment returns are an integral part of funding sources for future services and community expectations within the Delivery Program and Operational Plan. This report is a part of the organisation's governance framework – providing feedback on the progress against the investment policy and budget adopted by Council. This is in line with the community's desired outcome of: "*Civic Leadership and Effective Governance*" and more specifically links to strategic direction:

5.3.7: Continue to educate staff on statutory compliance obligations.

5.3.8: Carry out governance functions to comply with legislation and best practice.

IMPLICATIONS

a. Policy and Procedural Implications

Investments are held in accordance with Council's Investment Policy.

b. Financial Implications

Investment returns are included in Council's Delivery Program and Operational Plan. Amendments are effected through the Quarterly Budget Review process. Investment portfolio performance is detailed within the report with comparisons to prior year and budget.

A portion of the portfolio and its associated investment income is restricted as it relates to funds from developer contributions, payments in advance for grant projects, Domestic Waste Management, and stormwater management income to be applied to specific purposes and not available for general operational projects.

c. Legislative Implications

This report meets Council's statutory obligations under the *Local Government (General) Regulation 2005* and the *Local Government Act 1993*.

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d. Risk Implications

Investment risks are detailed within this report.

e. Other Implications

There are no environmental, community, consultative or other implications to this report.

CONCLUSION

The report details investments held at month end and meets Councils reporting obligations.

ENCLOSURES

There are no enclosures for this report.

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SUBJECT: *RESOLUTIONS TRACKING REPORT*

RESPONSIBLE OFFICER: *Chief Finance and Administration Manager - Matthew Plumridge*

SUMMARY

The enclosure contains pending actions from previous meetings as well as completed actions for period 14 September 2021 to 11 October 2021.

RECOMMENDATION

That Council receives the report and notes the information in the Resolutions Tracking Report.

ENCLOSURES

- [1](#) Completed Actions
- [2](#) Outstanding Actions

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 15/07/2020	Rush, Iain	Planning Proposal: Reclassification and rezoning of Council owned land.	28/01/2022	17/07/2020	8/10/2021
PE26/2020 1345		Mickleson, Peter				
<p>27 Jul 2020 9:50am McCauley, Hannah 1. Planning Proposal sent to the DPIE on 24 July 2020 seeking Gateway determination. , 2. Staff are working on briefing. Currently assessing Strategic Planning workload and prioritising tasks.</p> <p>26 Oct 2020 10:04am McCauley, Hannah 1. Councillor Briefing was held on 14 October 2020. , 2. Gateway determination not yet received.</p> <p>27 Jan 2021 5:33pm McCauley, Hannah Gateway determination received. Staff working to satisfy Gateway conditions.</p> <p>03 Jun 2021 3:34pm Rush, Iain Public exhibition of the planning proposal commenced on 26 April 2021 with an initial end date of 24 May 2021. However, the exhibition period was extended by two weeks to allow further time for the public to comment on the Planning Proposal. The exhibition period will now end at 5:00pm on Monday 7 June 2021. Council moved a Notice of Motion on 19 May 2021 to exclude the proposed rezoning and reclassification of 9 Abermain Street Pelaw Main, known as Jacobs Park. Upon completion of the exhibition period, the planning proposal will be amended and, in accordance with Section 3.35 of the Act, a revised planning proposal will be forwarded to DPIE. DPIE has been contacted to clarify its consultation requirements for the planning proposal, in accordance with Section 3.35(3) of the Act and in consideration of Council's resolution to exclude Jacobs Park from the planning proposal.</p> <p>30 Jun 2021 7:51am Brown, Keren Public exhibition has concluded. Public Hearing currently being organised.</p> <p>27 Jul 2021 7:52am Rush, Iain - Target Date Revision Target date changed by Rush, Iain to 28 January 2022 - Public hearings scheduled for 10 and 12 August 2021 at Branxton and Weston. Following the public hearing a Council report will be prepared for the October or November Council meeting outlining the outcomes of exhibition and the public hearing.</p> <p>08 Oct 2021 12:36pm Rush, Iain - Completion Report prepared for 20 October Ordinary Council meeting Action completed by Larsen, Robyn</p>						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 16/06/2021	McDermott, Emma	Exhibition of Draft Environmental Zoning Framework Report	31/10/2021	18/06/2021	8/10/2021
PE34/2021 1711		Mickleson, Peter				
<p>18 Jun 2021 12:08pm McDermott, Emma - Target Date Revision Target date changed by McDermott, Emma from 14 July 2021 to 31 August 2021 - Draft Report will be placed on public exhibition from the 28 June until the 6 August.</p> <p>29 Jul 2021 9:11am McDermott, Emma - Target Date Revision Target date changed by McDermott, Emma from 31 August 2021 to 30 September 2021 - Exhibition of the draft document is expected to end of the 6th August 2021. Depending on the number/complexity of submissions and changes required to the report, further report will be sent to Council in September.</p> <p>13 Sep 2021 8:30am McDermott, Emma - Target Date Revision Target date changed by McDermott, Emma from 30 September 2021 to 31 October 2021 - Council report is being prepared for the October 2021 Council meeting.</p> <p>08 Oct 2021 12:50pm McDermott, Emma - Completion Report prepared for 20 October Ordinary Council meeting Action completed by Larsen, Robyn</p>						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/07/2021	Corken, Robert	Amendment to the Cessnock Development Control Plan 2011 - Tree Management	18/10/2021	23/07/2021	30/09/2021
PE39/2021 1747		Mickleson, Peter				
<p>26 Jul 2021 4:44pm Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 18 August 2021 to 18 October 2021 - Awaiting exhibition period.</p> <p>27 Aug 2021 1:24pm Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 18 October 2021 to 18 October 2021 - Amended DCP to be notified.</p> <p>27 Aug 2021 1:44pm Corken, Robert - Target Date Revision</p>						

Target date changed by Corken, Robert from 18 October 2021 to 18 October 2021 - Currently on exhibition. Exhibition ends 30/08/2021

30 Sep 2021 1:24pm Corken, Robert - Completion

Action completed by Corken, Robert

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/07/2021	Chadwick, Tony	Economic Growth Agenda - Infrastructure Priorities	17/09/2021	23/07/2021	16/09/2021
WI47/2021		Jackson, Lotta				
<p>27 Jul 2021 4:44pm Chadwick, Tony The Infrastructure Priorities Advocacy Agenda has been completed (refer DOC2021/128537). The agenda has been printed in hardcopy and given to the Executive Assistant to the General Manager for distribution. The agenda has been placed on Councils website along side the Jobs Strategy.</p> <p>27 Jul 2021 4:46pm Chadwick, Tony - Target Date Revision Target date changed by Chadwick, Tony from 18 August 2021 to 27 August 2021 - The content and graphic design of the document cannot be completed by the original date.</p> <p>30 Aug 2021 8:37am Chadwick, Tony - Target Date Revision Target date changed by Chadwick, Tony from 27 August 2021 to 17 September 2021 - Final review required before printing can occur.</p> <p>16 Sep 2021 4:15pm Chadwick, Tony - Completion Action completed by Chadwick, Tony</p>						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/07/2021	Allan, Darrylen	Supporting Secure Local Jobs	29/10/2021	23/07/2021	8/10/2021
BN17/2021 1774		Jackson, Lotta				
<p>26 Jul 2021 2:37pm Hottes, Kylie - Reallocation Action reassigned to Allan, Darrylen by Hottes, Kylie - Please see point 6 in this resolution for your action.</p> <p>31 Aug 2021 3:30pm Allan, Darrylen Report to be prepared for the October 2021 Council meeting.</p> <p>31 Aug 2021 3:33pm Allan, Darrylen - Target Date Revision Target date changed by Allan, Darrylen from 18 August 2021 to 29 October 2021 - Report to be prepared for the October 2021 Council meeting to address dot point 6 of this resolution.</p> <p>08 Oct 2021 12:16pm Allan, Darrylen - Completion Action completed by Larsen, Robyn</p>						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/07/2021	Harris, Kate	Cessnock Netball Complex	20/10/2021	23/07/2021	8/10/2021
BN18/2021 1775		Moloney, David				
<p>29 Jul 2021 8:28am Benson, Nicole - Reallocation Action reassigned to Harris, Kate by Benson, Nicole Report being prepared.</p> <p>16 Sep 2021 11:01am Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 18 August 2021 to 18 August 2021 - A report is being prepared for the October 22 Council meeting. Staff were awaiting the completion of a condition audit report for the courts outlining scope and costs involved.</p> <p>08 Oct 2021 12:23pm Harris, Kate - Completion Action completed by Larsen, Robyn</p>						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 18/08/2021	Corken, Robert	Amendment to the Cessnock Development Control Plan 2010 - Various Controls - Post exhibition report	15/09/2021	23/08/2021	30/09/2021
PE42/2021 1783		Mickleson, Peter				
27 Aug 2021 1:45pm Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 15 September 2021 to 15 September 2021 - Awaiting notification. 30 Sep 2021 1:23pm Corken, Robert - Completion Action completed by Corken, Robert						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 18/08/2021	Forsyth, Karen	City Wide Local Infrastructure Plan, Planning Agreements and Contributions Register	15/09/2021	23/08/2021	5/10/2021
PE44/2021 1785		Mickleson, Peter				
30 Aug 2021 11:21am Forsyth, Karen - Completion Action completed by Forsyth, Karen 30 Aug 2021 12:19pm Forsyth, Karen Draft register being finalised and working with Communications to upload the document onto the website. Next report regarding contributions will be made in the November meeting 05 Oct 2021 8:41am Forsyth, Karen - Completion Action completed by Larsen, Robyn						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Jackson, Lotta	Vaccination Rates	20/10/2021	27/09/2021	27/09/2021
MM9/2021 1809		Jackson, Lotta				
27 Sep 2021 5:32pm Lorenzen, Cherie All correspondence sent as per resolution. 27 Sep 2021 5:33pm Jackson, Lotta - Completion Action completed by Lorenzen, Cherie						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Harris, Kate	Molly Worthington Netball Courts	20/10/2021	27/09/2021	11/10/2021
MM10/2021 1811		Moloney, David				
11 Oct 2021 7:48am Harris, Kate 1. Noted, 2. Complete - A report has been prepared for the October meeting, 3. Complete - A report has been prepared for the October meeting 11 Oct 2021 7:50am Harris, Kate - Completion Action completed by Harris, Kate						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Pople, Alena	Service NSW Partnership Agreement	20/10/2021	27/09/2021	29/09/2021
GMU14/2021 1812		Jackson, Lotta				
29 Sep 2021 4:03pm Lorenzen, Cherie All action items completed per the resolution by Economic Development Team.						

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29 Sep 2021 4:04pm Pople, Alena - Completion

Action completed by Lorenzen, Cherie

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Corken, Robert	Proposed Acquisition of land for the purpose of public domain improvements.	20/10/2021	27/09/2021	30/09/2021
PE46/2021 1815		Mickleson, Peter				
30 Sep 2021 1:24pm Corken, Robert - Completion Action completed by Corken, Robert						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Maginnity, Robert	Local Government NSW 2021 Annual Conference - Voting Delegates	20/10/2021	27/09/2021	29/09/2021
CC64/2021 1816		Maginnity, Robert				
29 Sep 2021 4:57pm Maginnity, Robert - Completion Action completed by Keegan, Robyn 29 Sep 2021 5:18pm Keegan, Robyn Resolved at Council Meeting 22/9/21.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	McGowan, Kelly	Tender T2021-12 Concrete Construction Footpath and Kerbs	30/09/2021	27/09/2021	28/09/2021
CC65/2021 1817		Maginnity, Robert				
28 Sep 2021 11:29am McGowan, Kelly - Completion Action completed by McGowan, Kelly						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Ladmore, Donna	June 2021 Review of the 2017-21 Delivery Program	20/10/2021	27/09/2021	28/09/2021
CC66/2021 1818		Maginnity, Robert				
28 Sep 2021 1:16pm Ladmore, Donna - Completion Action completed by Ladmore, Donna						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Maginnity, Robert	Financial Assistance Grant 2021-22	20/10/2021	27/09/2021	29/09/2021
CC68/2021 1820		Maginnity, Robert				
29 Sep 2021 4:58pm Maginnity, Robert - Completion Action completed by Keegan, Robyn 29 Sep 2021 5:21pm Keegan, Robyn Resolved at Council Meeting 22/9/21. Budget items will be captured in the September review.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Harris, Kate	Adoption of Off Leash Dog Exercise Area Plan	20/10/2021	27/09/2021	1/10/2021

WI69/2021 1826 01 Oct 2021 12:15pm Harris, Kate 1. Noted., 2. Complete - Those who lodged submissions have been notified., 3. Noted. 01 Oct 2021 12:16pm Harris, Kate - Completion Action completed by Harris, Kate	Moloney, David
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Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Wyburn, Linda	Branxton to Greta Shared Pathway	20/10/2021	27/09/2021	30/09/2021
WI71/2021 1828 30 Sep 2021 2:06pm Wyburn, Linda From the resolution of the September Council meeting, detailed site investigations are programmed to commence from today for up to 4 weeks on the southern corridor route option of the Branxton to Greta shared pathway including a detailed survey (a requirement for the design and for Transport for NSW assessment), a Review of Environmental Factors, and a more detailed utility investigation of the non-metallic conduit locations. Preliminary Design can commence as soon as survey data is available. 30 Sep 2021 2:17pm Wyburn, Linda - Completion Action completed by Wyburn, Linda		Moloney, David				

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Jackson, Lotta	Request for additional Mental Health funding for regional areas	20/10/2021	27/09/2021	29/09/2021
BN22/2021 1830 29 Sep 2021 11:12am Lorenzen, Cherie All correspondence sent as per the resolution. 29 Sep 2021 3:49pm Jackson, Lotta - Completion Action completed by Lorenzen, Cherie		Jackson, Lotta				

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Moloney, David	Allandale Road Barrier Fencing	20/10/2021	27/09/2021	5/10/2021
BN24/2021 1832 05 Oct 2021 3:44pm Moloney, David - Reallocation Action reassigned to Moloney, David by Moloney, David - Director is drafting letter for the GM with the Change over in Infrastructure Manager 05 Oct 2021 3:45pm Moloney, David - Completion Action completed by Moloney, David		Moloney, David				

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Jeffery, Warren	Relocation of Entrance to Cessnock Correctional Centre	20/10/2021	27/09/2021	8/10/2021
BN26/2021 1834 29 Sep 2021 11:30am Lorenzen, Cherie - Reallocation Action reassigned to Jeffery, Warren by Lorenzen, Cherie - Reassigned for actioning 08 Oct 2021 12:59pm Larsen, Robyn Councillor Briefing has been arranged for 13 October 2021. 08 Oct 2021 12:59pm Jeffery, Warren - Completion Action completed by Larsen, Robyn		Moloney, David				

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Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Moloney, David	Matter of Urgency	20/10/2021	27/09/2021	5/10/2021
1837 28 Sep 2021 8:42am Meyers, Kristy Met onsite at the pools to discuss the risk assessment and a COVID safety plan along with operational requirements for opening the pool. 05 Oct 2021 3:41pm Moloney, David - Completion Action completed by Moloney, David						

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Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Moloney, David	Matter of Urgency	20/10/2021	27/09/2021	
1837 28 Sep 2021 8:42am Meyers, Kristy Met onsite at the pools to discuss the risk assessment and a COVID safety plan along with operational requirements for opening the pool.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/07/2021	Allan, Darrylen	Supporting Secure Local Jobs	29/10/2021	23/07/2021	
BN17/2021 1774 26 Jul 2021 2:37pm Hottes, Kylie - Reallocation Action reassigned to Allan, Darrylen by Hottes, Kylie - Please see point 6 in this resolution for your action. 31 Aug 2021 3:30pm Allan, Darrylen Report to be prepared for the October 2021 Council meeting. 31 Aug 2021 3:33pm Allan, Darrylen - Target Date Revision Target date changed by Allan, Darrylen from 18 August 2021 to 29 October 2021 - Report to be prepared for the October 2021 Council meeting to address dot point 6 of this resolution.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/07/2021	Harris, Kate	Cessnock Netball Complex	20/10/2021	23/07/2021	
BN18/2021 1775 29 Jul 2021 8:28am Benson, Nicole - Reallocation Action reassigned to Harris, Kate by Benson, Nicole Report being prepared. 16 Sep 2021 11:01am Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 18 August 2021 to 18 August 2021 - A report is being prepared for the October 22 Council meeting. Staff were awaiting the completion of a condition audit report for the courts outlining scope and costs involved. 16 Sep 2021 11:02am Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 18 August 2021 to 20 October 2021						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/07/2021	Jeffery, Warren	East Branxton Footpath Cycleway Project	29/10/2021	23/07/2021	
BN19/2021 1776 23 Jul 2021 1:54pm Moloney, David - Reallocation Action reassigned to Kerr, Katrina by Moloney, David - Hi Katrina, Can you please action the resolution for the footpath. David 05 Aug 2021 10:03am Cocking, Tracey Item 1 - Scheduled 2 reports to Ordinary meeting of Council for September 2021 in response to the 2 petitions tabled at July's Ordinary meeting relating to pathway at Branxton and East Branxton. 03 Sep 2021 8:48am Cocking, Tracey Item 1 - Progressed 2 reports in response to 2 petitions in line with available resources.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 18/08/2021	Benson, Nicole	Retaining Wall Chinaman's Hollow Weston	15/09/2021	23/08/2021	
BN20/2021 23 Aug 2021 8:23am Larsen, Robyn - Reallocation Action reassigned to Kerr, Katrina by Larsen, Robyn						

27 Sep 2021 9:28am Larsen, Robyn - Reallocation

Action reassigned to Benson, Nicole by Larsen, Robyn

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 18/08/2021	Jeffery, Warren	Pedestrian Access Elizabeth Street, Abermain	29/10/2021	23/08/2021	
BN21/2021 1799		Moloney, David				
03 Sep 2021 9:08am Cocking, Tracey						
Item 1 - Commenced investigation in preparation of consultation.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Chadwick, Tony	Tourism Related Activities	20/10/2021	27/09/2021	
BN23/2021 1831		Jackson, Lotta				

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Benson, Nicole	Allandale Road Barrier Fencing	20/10/2021	27/09/2021	
BN24/2021 1832		Moloney, David				

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Harris, Kate	Banners	26/11/2021	27/09/2021	
BN25/2021 1833		Moloney, David				
01 Oct 2021 12:16pm Harris, Kate - Target Date Revision						
Target date changed by Harris, Kate from 20 October 2021 to 26 November 2021 - A report is being prepared for the November meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Jeffery, Warren	Relocation of Entrance to Cessnock Correctional Centre	20/10/2021	27/09/2021	
BN26/2021 1834		Moloney, David				
29 Sep 2021 11:30am Lorenzen, Cherie - Reallocation						
Action reassigned to Jeffery, Warren by Lorenzen, Cherie - Reassigned for actioning						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 18/11/2020	Benson, Nicole	Laneway Access to Units/Granny Flats etc	31/12/2021	23/11/2020	
BN33/2020 1514		Moloney, David				
23 Nov 2020 11:38am Blake, Yvonne - Reallocation						
Action reassigned to Kerr, Katrina by: Blake, Yvonne for the reason: This report relates to Council Policy D5.3 - Development Applications Adjacent to Rear Lanes, which is the responsibility of the Roads, Bridges & Drainage Manager in W&I.						
30 Nov 2020 11:50am Kerr, Katrina						
Commenced drafting report to Council.						
13 Apr 2021 9:28am Bates, Kelly						
Item 1 - Commenced drafting report to Council.						

10 Aug 2021 9:30am Bates, Kelly - Target Date Revision

Target date changed by Bates, Kelly from 30 June 2021 to 31 December 2021 - due to the Principal Engineer Road leaving the organisation.

27 Sep 2021 9:27am Larsen, Robyn - Reallocation

Action reassigned to Benson, Nicole by Larsen, Robyn

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/04/2021	Waghorn, Peter	Authorisation For Sale Of Land; 62 -76 Cessnock Street, Aberdare (8 Lots) - Details of Implications of Proposed Capital Works	17/12/2021	23/04/2021	
CC24/2021 1647		Maginnity, Robert				
28 Apr 2021 10:34am Rathborne, Michael - Target Date Revision Target date changed by Rathborne, Michael from 19 May 2021 to 30 November 2021 - Design and construct plans being prepared for final tender of works and acceptance of quote.						
19 May 2021 12:14pm Rathborne, Michael - Target Date Revision Target date changed by Rathborne, Michael from 30 November 2021 to 30 November 2021 - Council works department cannot do the work. Scope of works being finalised for Tender of Work.						
25 Jun 2021 12:31pm Keegan, Robyn Awaiting quote from Public Works Advisory for Design & Construct project management of road infrastructure works.						
29 Jul 2021 5:17pm Keegan, Robyn Public Works Advisory engaged to undertake detailed design 13 July 2021. Per submitted program schedule, PWA design tender will be awarded and design works are scheduled to commence 27 September 2021.						
02 Sep 2021 3:13pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 30 November 2021 to 17 December 2021 - Public Works Advisory design tender has closed and the successful consultants have commenced geo-technical investigations. The design phase is one week behind the submitted program timeline and delivery of a detailed design for kerb, gutter and drainage works is scheduled for 15 November.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 1/05/2019	Waghorn, Peter	Acquisition of land for road widening - Sandy Creek Road, Mt Vincent	29/10/2021	6/05/2019	
CC30/2019 893		Maginnity, Robert				
04 Jun 2019 11:44am Brinkworth, Susanne - Target Date Revision Revised Target Date changed by: Brinkworth, Susanne From: 29 May 2019 To: 28 Jun 2019, Reason: Awaiting advice from landowner						
09 Aug 2019 9:04am Brinkworth, Susanne - Target Date Revision Revised Target Date changed by: Brinkworth, Susanne From: 31 Jul 2019 To: 30 Aug 2019, Reason: Owner has agreed to compensation. Deed of agreement prepared and surveyor engaged to prepare plan of subdivision						
03 Sep 2019 9:23am Brinkworth, Susanne - Target Date Revision Revised Target Date changed by: Brinkworth, Susanne From: 30 Aug 2019 To: 21 Sep 2019, Reason: Awaiting owner to execute agreement to lodge plan of subdivision						
09 Mar 2020 3:41pm Rathborne, Michael - Target Date Revision Revised Target Date changed by: Rathborne, Michael From: 31 Oct 2019 To: 31 Mar 2020, Reason: waiting on amendments to plans						
12 Mar 2020 11:01am Rathborne, Michael Email sent to Solicitor for owners requesting owners consent, and agreement to be returned to CCC.						
08 Apr 2020 10:17am Rathborne, Michael Still awaiting response from land owner. Additional letter sent to their solicitor 6.4.2020						
08 Apr 2020 10:50am Keegan, Robyn - Target Date Revision Revised Target Date changed by: Keegan, Robyn From: 31 Mar 2020 To: 30 Jun 2020, Reason: Still awaiting response from land owner. Additional letter sent to their solicitor 6.4.2020.						
27 Apr 2020 12:38pm Rathborne, Michael - Target Date Revision Revised Target Date changed by: Rathborne, Michael From: 30 Jun 2020 To: 30 Jun 2020, Reason: waiting on surveyors to identify the land in question so that the easement can be completed.						
28 May 2020 3:21pm Rathborne, Michael - Target Date Revision Revised Target Date changed by: Rathborne, Michael From: 30 Jun 2020 To: 30 Jun 2020, Reason: Requested plans from surveyor to finalise the matter.						
25 Jun 2020 11:53am Keegan, Robyn - Target Date Revision						

Revised Target Date changed by: Keegan, Robyn From: 30 Jun 2020 To: 30 Sep 2020, Reason: Still waiting on Surveyor for the plans to create the acquisitions. Will follow up again 25/6/20.

04 Aug 2020 1:27pm Rathborne, Michael - Target Date Revision

Revised Target Date changed by: Rathborne, Michael From: 30 Sep 2020 To: 30 Sep 2020, Reason: MR contacted by owners who want this matter finalised. Surveyor has been contacted to respond asap.

05 Aug 2020 10:43am Keegan, Robyn

Owner has contacted Council this week and wants to finalise this matter. Surveyor has been contacted to move ASAP.

31 Aug 2020 12:27pm Keegan, Robyn

CCC Property Officer has spoken with the solicitor for the owners of the land we are to acquire last week and he has an issue with probate over the land ownership. Apparently when this matter commenced the site was owned by mother and son, after the passing of the father. Now, more recently, like late 2019, mother has passed and there are issues with the ownership transfer, which he is resolving now. Once this is in the son's name we can finalise the acquisition.

30 Sep 2020 9:18am Larsen, Robyn

still pending resolution of ownership before we can proceed to finalise acquisition. I spoke with the solicitor for the "owners" this morning again and he believes the matter should be resolved within a week.

28 Oct 2020 2:46pm Keegan, Robyn - Target Date Revision

Revised Target Date changed by: Keegan, Robyn From: 30 Sep 2020 To: 27 Nov 2020, Reason: Awaiting on ownership to be finalised by their Solicitor.

25 Nov 2020 4:25pm Keegan, Robyn - Target Date Revision

Revised Target Date changed by: Keegan, Robyn From: 27 Nov 2020 To: 26 Mar 2021, Reason: Owners solicitors have not responded to sorting out their ownership issues, due to probate and death of a party some time back.

19 Jan 2021 11:48am Keegan, Robyn - Target Date Revision

Revised Target Date changed by: Keegan, Robyn From: 26 Mar 2021 To: 30 Apr 2021, Reason: Solicitor for the owners is still working through complex probate issues.

23 Feb 2021 10:22am Rathborne, Michael - Target Date Revision

Target date changed by Rathborne, Michael from 30 April 2021 to 30 April 2021 - Email sent to Mark Gibbs lawyer today as a follow up.

24 Mar 2021 4:45pm Keegan, Robyn - Target Date Revision

Target date changed by Keegan, Robyn from 30 April 2021 to 30 May 2021 - Awaiting response from Solicitor. Will follow up again.

28 Apr 2021 10:26am Rathborne, Michael - Target Date Revision

Target date changed by Rathborne, Michael from 30 May 2021 to 30 June 2021 - No response from clients solicitor after repeated requests to complete the matter. Letter being sent directly to client.

24 May 2021 3:25pm Larsen, Robyn - Reallocation

Action reassigned to Waghorn, Peter by Larsen, Robyn

25 Jun 2021 12:27pm Keegan, Robyn - Target Date Revision

Target date changed by Keegan, Robyn from 30 June 2021 to 31 August 2021 - As at 27 May 2021, the lack of response from the parties is understood to be due to disputed ownership of the property to be acquired and there has still been no response to correspondence and other attempts to contact the solicitor or their client. W&I project managers advised accordingly.

02 Sep 2021 3:09pm Keegan, Robyn - Target Date Revision

Target date changed by Keegan, Robyn from 31 August 2021 to 29 October 2021 - Peter Waghorn advised that there is no further update.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/07/2021	Waghorn, Peter	Vineyard Grove Estate - Stage 8 Development and Minutes of the Strategic Property & Community Facilities Committee Meeting held 5 May 2021	17/12/2021	23/07/2021	
CC55/2021 1741		Maginnity, Robert				
	02 Sep 2021 3:15pm Keegan, Robyn - Target Date Revision					
	Target date changed by Keegan, Robyn from 18 August 2021 to 17 December 2021 - Documentation is complete and invites have been issued to all respondents to the EOI campaign conducted in February this year. A Selective Tender is scheduled to open Monday 6 September for a 21 day period and invites the selected parties to submit unconditional offers for englobo purchase of Council-owned DA-approved residential development land at O'Shea Circuit Cessnock.					

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
CC67/2021 1819	Ordinary Council 22/09/2021	Futcher, Kim	Financial Statements for the Year Ending 30 June 2021 - Referral for Audit and Council Certification	20/10/2021	27/09/2021	
		Maginnity, Robert				

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
GMU15/2021 1813	Ordinary Council 22/09/2021	Varghese, Arun	Minutes of the Audit and Risk Committee meeting held 31 August 2021	20/10/2021	27/09/2021	
		Jackson, Lotta				

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
MM10/2021 1811	Ordinary Council 22/09/2021	Harris, Kate	Molly Worthington Netball Courts	20/10/2021	27/09/2021	
		Moloney, David				

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
PE21/2021 1642	Ordinary Council 21/04/2021	Dennerley, Heath	Development Application No. 8/2020/20870/1 proposing extension of trading hours at an existing service station and food and drink premises to 24 hours, 7 days per week	17/11/2021	23/04/2021	
		Mickleson, Peter	247 Wine Country Drive, Nulkaba			
<p>28 Apr 2021 2:26pm Dennerley, Heath Points 1 and 2 addressed - objectors have been notified of Councils decision to refuse the application. , Points 3 and 4 are being progressed.</p> <p>30 Apr 2021 10:35am Blake, Yvonne - Target Date Revision Target date changed by Blake, Yvonne from 19 May 2021 to 31 May 2021 - Points 1 and 2 addressed - objectors have been notified of Councils decision to refuse the application. , Points 3 and 4 are being progressed.</p> <p>18 Jun 2021 2:07pm Blake, Yvonne - Target Date Revision Target date changed by Blake, Yvonne from 31 May 2021 to 31 August 2021 - Matter still under consideration.</p> <p>25 Jun 2021 11:56am Maher, Janine The issues outlined in Points 3 and 4 are being investigated and progressed. Once complete, a report will be referred to a meeting of Council.</p> <p>03 Aug 2021 3:39pm Dennerley, Heath - Target Date Revision Target date changed by Dennerley, Heath from 31 August 2021 to 18 October 2021 - Legal advice received regarding potential PCA breach of condition. Currently preparing lodgement of complaint to NSW Fair Trading. Council report to be prepared once complaint finalised.</p> <p>28 Sep 2021 1:30pm Maher, Janine Complaint lodged with NSW Fair Trading on 8 September 2021. Report to be referred to Council's meeting of 17 November 2021.</p> <p>28 Sep 2021 1:31pm Maher, Janine - Target Date Revision Target date changed by Maher, Janine from 18 October 2021 to 17 November 2021</p>						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 15/07/2020	Rush, Iain	Planning Proposal: Reclassification and rezoning of Council owned land.	28/01/2022	17/07/2020	
PE26/2020 1345		Mickleleson, Peter				
27 Jul 2020 9:50am McCauley, Hannah 1. Planning Proposal sent to the DPIE on 24 July 2020 seeking Gateway determination. , 2. Staff are working on briefing. Currently assessing Strategic Planning workload and prioritising tasks. 27 Jul 2020 9:53am McCauley, Hannah - Target Date Revision Revised Target Date changed by: McCauley, Hannah From: 12 Aug 2020 To: 30 Nov 2020, Reason: Date revised to allow for processing times at the DPIE. 26 Oct 2020 10:04am McCauley, Hannah 1. Councillor Briefing was held on 14 October 2020. , 2. Gateway determination not yet received. 26 Oct 2020 10:06am McCauley, Hannah - Target Date Revision Revised Target Date changed by: McCauley, Hannah From: 31 Dec 2020 To: 31 Mar 2021, Reason: The Gateway determination has not been received yet. 27 Jan 2021 5:33pm McCauley, Hannah Gateway determination received. Staff working to satisfy Gateway conditions. 27 Jan 2021 5:34pm McCauley, Hannah - Target Date Revision Revised Target Date changed by: McCauley, Hannah From: 31 Mar 2021 To: 28 Jan 2022, Reason: Extended in line with project timeframe. 03 Jun 2021 3:34pm Rush, Iain Public exhibition of the planning proposal commenced on 26 April 2021 with an initial end date of 24 May 2021. However, the exhibition period was extended by two weeks to allow further time for the public to comment on the Planning Proposal. The exhibition period will now end at 5:00pm on Monday 7 June 2021. Council moved a Notice of Motion on 19 May 2021 to exclude the proposed rezoning and reclassification of 9 Abermain Street Pelaw Main, known as Jacobs Park. Upon completion of the exhibition period, the planning proposal will be amended and, in accordance with Section 3.35 of the Act, a revised planning proposal will be forwarded to DPIE. DPIE has been contacted to clarify its consultation requirements for the planning proposal, in accordance with Section 3.35(3) of the Act and in consideration of Council's resolution to exclude Jacobs Park from the planning proposal. 30 Jun 2021 7:51am Brown, Keren Public exhibition has concluded. Public Hearing currently being organised. 27 Jul 2021 7:52am Rush, Iain - Target Date Revision Target date changed by Rush, Iain to 28 January 2022 - Public hearings scheduled for 10 and 12 August 2021 at Branxton and Weston. Following the public hearing a Council report will be prepared for the October or November Council meeting outlining the outcomes of exhibition and the public hearing.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 19/05/2021	Brown, Keren	18 2020 2 _ Administrative Planning Proposal to Amend Various Aspects of the Cessnock Local Environmental Plan 2011	16/12/2021	24/05/2021	
PE27/2021 1682		Mickleleson, Peter				
24 Jun 2021 11:55am Brown, Keren - Target Date Revision Target date changed by Brown, Keren from 16 June 2021 to 16 December 2021 - Part 1 and 2 of the resolution complete. Gateway determination requested from DPIE. Part 3 and 4 of the resolution waiting on Gateway Determination						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 16/06/2021	McDermott, Emma	Exhibition of Draft Environmental Zoning Framework Report	31/10/2021	18/06/2021	
PE34/2021 1711		Mickleleson, Peter				
18 Jun 2021 12:08pm McDermott, Emma - Target Date Revision Target date changed by McDermott, Emma from 14 July 2021 to 31 August 2021 - Draft Report will be placed on public exhibition from the 28 June until the 6 August. 29 Jul 2021 9:11am McDermott, Emma - Target Date Revision Target date changed by McDermott, Emma from 31 August 2021 to 30 September 2021 - Exhibition of the draft document is expected to end of the 6th August 2021. Depending on the number/complexity of submissions and changes required to the report, further report will be sent to Council in September.						

10 Sep 2021 10:43am Larsen, Robyn - Email

Hi Emma, can you please put an updated comment on this action as the last one referred to a report going to the September meeting.

13 Sep 2021 8:30am McDermott, Emma - Target Date Revision

Target date changed by McDermott, Emma from 30 September 2021 to 31 October 2021 - Council report is being prepared for the October 2021 Council meeting.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/10/2020	Corken, Robert	Amended Planning Proposal for the Cessnock Commercial Precinct	17/12/2022	23/10/2020	
PE36/2020 1456		Mickleson, Peter				
03 Nov 2020 10:35am Corken, Robert Sent to DPIE 27/10 for revised gateway determination. 06 Nov 2020 3:55pm Larsen, Robyn - Target Date Revision Revised Target Date changed by: Larsen, Robyn From: 18 Nov 2020 To: 21 Apr 2021 04 Mar 2021 4:20pm Brown, Keren Still awaiting Gateway Determination 09 Mar 2021 10:39am Corken, Robert Addressing issues including flooding in CBD. 23 Mar 2021 12:16pm Brown, Keren Discussions regarding flooding continuing with DPIE 24 May 2021 11:04am Corken, Robert The DoPE has withdrawn the current gateway determination for the planning proposal and will reissue a new gateway determination because the planning proposal is substantially different from the original planning proposal. The implications of the new gateway, when issued, will be assessed in terms of this action and this action will be updated accordingly. 21 Jun 2021 10:56am Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 21 June 2021 to 21 August 2021 - We have not received the revised gateway determination from the Department of Planning, Infrastructure and Environment. 26 Jul 2021 4:32pm Corken, Robert Still negotiating with DIPE on matters of flooding. 04 Aug 2021 8:50am Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 21 August 2021 to 19 November 2021 - Still negotiating with DPIE re: flooding. 27 Aug 2021 1:20pm Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 19 November 2021 to 17 December 2021 - Still negotiating with DPIE and BCD over flood concerns. 30 Sep 2021 1:21pm Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 17 December 2021 to 17 December 2022 - DPIE will be issuing a revised gateway determination. It is anticipated that they will place a 12 month time limit on the revised gateway.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 18/08/2021	Corken, Robert	Amendment to the Cessnock Development Control Plan 2010 - The Vintage	28/10/2022	23/08/2021	
PE41/2021 1782		Mickleson, Peter				
27 Aug 2021 1:24pm Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 15 September 2021 to 28 October 2021 - Currently on exhibition. 30 Sep 2021 1:22pm Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 28 October 2021 to 28 October 2022 - Several submissions were received during the exhibition period. These will need to be addressed before it goes back to Council for adoption. Once adopted it will take 4-6 weeks to notify the DCP.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 9/12/2020	Rush, Iain	18 2020 5 - Planning Proposal to Grant a Dwelling Entitlement for Lot 686 DP 619758, Known as 58 Taylors Road Black Hill	31/03/2022	14/12/2020	
PE45/2020 1522		Mickleson, Peter	<p>19 Jan 2021 8:36am Corken, Robert - Target Date Revision Revised Target Date changed by: Corken, Robert From: 6 Jan 2021 To: 06 May 2021, Reason: Because the first resolution of the council reports defers the further actions until after a policy is completed.</p> <p>04 Mar 2021 3:57pm Brown, Keren Interim dwelling entitlement guidelines adopted at Council meeting on 17 Feb 2021. Application 18/2020/5 now being assessed against the guidelines</p> <p>22 Mar 2021 12:58pm Corken, Robert Letter sent to applicant requesting additional information.</p> <p>22 Mar 2021 1:00pm Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 06 May 2021 to 06 May 2021 - Awaiting additional information from applicant.</p> <p>28 Apr 2021 9:11am Corken, Robert - Target Date Revision Target date changed by Corken, Robert from 06 May 2021 to 01 August 2021 - Waiting for additional information from proponent.</p> <p>03 Jun 2021 3:22pm Rush, Iain Awaiting submission of further information from proponent to address matters outlined in the adopted Guidelines for Planning Proposals requesting a dwelling entitlement.</p> <p>27 Jul 2021 7:49am Rush, Iain - Target Date Revision Target date changed by Rush, Iain from 01 August 2021 to 31 March 2022 - Awaiting submission of further information from proponent to address matters outlined in the adopted Guidelines for Planning Proposals requesting a dwelling entitlement. Following submission of additional information the matter will be further considered.</p>			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 9/12/2020	Gambotto, Daniela	18 2020 4 - Planning Proposal to Rezone Part of Lot 10 DP 1085485, known as 261 Averys Lane Buchanan	17/05/2022	14/12/2020	
PE46/2020 1520		Mickleson, Peter	<p>14 Dec 2020 2:22pm Gambotto, Daniela Commencing resolved actions.</p> <p>14 Dec 2020 2:24pm Gambotto, Daniela - Target Date Revision Revised Target Date changed by: Gambotto, Daniela From: 6 Jan 2021 To: 31 Mar 2021, Reason: DPIE administrative process.</p> <p>18 Jan 2021 2:44pm Gambotto, Daniela - Target Date Revision Revised Target Date changed by: Gambotto, Daniela From: 31 Mar 2021 To: 31 Mar 2021, Reason: Planning Proposal sent to DPIE for Gateway Determination on 23/12/21.</p> <p>04 Mar 2021 11:40am Brown, Keren - Target Date Revision Target date changed by Brown, Keren from 31 March 2021 to 01 November 2021 - Target date revised to reflect anticipated gateway timeframe</p> <p>04 Mar 2021 11:46am Gambotto, Daniela Recommendations 1 and 2 complete. Recommendations 3 and 4 pending subject to Gateway Determination being issued by DPIE.</p> <p>31 May 2021 2:27pm Gambotto, Daniela - Target Date Revision Target date changed by Gambotto, Daniela from 01 November 2021 to 17 May 2022 - DPIE requested further information and resubmittal of planning proposal. 12 month deadline to resubmit.</p> <p>30 Jun 2021 7:46am Brown, Keren - Target Date Revision Target date changed by Brown, Keren from 17 May 2022 to 17 May 2022 - Resolution 1 and 2 complete. DPIE requested further information. Resolution 3 cannot be completed until the additional information is provided by the proponent.</p>			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 19/02/2020	Rush, Iain	Heddon Greta and Cliftleigh Urban Corridor Masterplan Project Update	30/12/2021	20/02/2020	
PE7/2020 1164		Mickleson, Peter				
<p>06 Mar 2020 3:11pm Taylor, Holly - Target Date Revision Revised Target Date changed by: Taylor, Holly From: 18 Mar 2020 To: 01 Jun 2020</p> <p>06 Mar 2020 3:11pm Taylor, Holly Movement and Place Workshop scheduled. Exhibition anticipated to occur mid year</p> <p>01 Jun 2020 12:11pm Blake, Yvonne - Target Date Revision Revised Target Date changed by: Blake, Yvonne From: 1 Jun 2020 To: 30 Sep 2020, Reason: Delays relating to Covid</p> <p>28 Jul 2020 8:24am Taylor, Holly Report to Council once reviewed in accordance with the TfNSW regional corridor strategy. This has been delayed, however, revised release is for early October</p> <p>29 Sep 2020 12:33pm Taylor, Holly Revised Target date due to additional modelling work being undertaken. Will be publically available in early 2021</p> <p>30 Nov 2020 9:25am Taylor, Holly - Completion Action completed by: Taylor, Holly, Matter on hold (revised target date set). TfNSW MR195 Corridor Plan has not yet been finalised. Update project once this is complete (anticipated early 2021)</p> <p>05 Mar 2021 8:23am Blake, Yvonne - Reallocation Action reassigned to Rush, Iain by Blake, Yvonne - Assigned to Senior Strategic Planner to oversee. Awaiting information from TfNSW to move forward with report</p> <p>05 Mar 2021 8:24am Blake, Yvonne - Target Date Revision Target date changed by Blake, Yvonne from 30 March 2021 to 30 June 2021 - Awaiting information from TfNSW to move forward with report</p> <p>03 Jun 2021 3:37pm Rush, Iain Progress on the Cliftleigh Corridor Strategy is contingent on traffic modelling that is presently being carried out by Transport for NSW for MR195 and the HEX/Hart Road Interchange. The Strategy is also contingent on the HEX Strategy, which has not yet been finalised by DPIE. The absence of this information has delayed the preparation of the Strategy. TfNSW's final modelling report is anticipated to be released in June 2021. It is unclear when the final HEX Strategy will be published.</p> <p>30 Jun 2021 7:50am Brown, Keren - Target Date Revision Target date changed by Brown, Keren from 30 June 2021 to 30 December 2021 - Progress on the Cliftleigh Corridor Strategy is contingent on traffic modelling that is presently being carried out by Transport for NSW for MR195 and the HEX/Hart Road Interchange. The Strategy is also contingent on the HEX Strategy, which has not yet been finalised by DPIE. The absence of this information has delayed the preparation of the Strategy. TfNSW's final modelling report is anticipated to be released in June 2021. It is unclear when the final HEX Strategy will be published.</p> <p>27 Jul 2021 7:54am Rush, Iain Progress on the Cliftleigh Corridor Strategy is contingent on traffic modelling that is presently being carried out by Transport for NSW for MR195 and the HEX/Hart Road Interchange. The Strategy is also contingent on the HEX Strategy, which has not yet been finalised by DPIE. The absence of this information has delayed the preparation of the Strategy. TfNSW's draft modelling report for HEX/Hart Road was released in July 2021. It is unclear when the final HEX Strategy will be published.</p>						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Harris, Kate	Disability Access to Cessnock Pool Grounds	20/10/2021	27/09/2021	
QWNG2/2021		Moloney, David				
<p>29 Sep 2021 11:28am Lorenzen, Cherie - Reallocation Action reassigned to Harris, Kate by Lorenzen, Cherie - Reassigned for actioning.</p>						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 17/03/2021	Benson, Nicole	Stanford Road Heddon Greta - Transfer from Council to Crown Lands	20/08/2021	19/03/2021	
WI13/2021 1625		Moloney, David				
<p>12 Apr 2021 2:34pm Waugh, Vivian - Target Date Revision</p>						

Target date changed by Waugh, Vivian from 14 April 2021 to 22 April 2021 - Investigation being undertaken

03 May 2021 10:38am Waugh, Vivian - Target Date Revision

Target date changed by Waugh, Vivian from 22 April 2021 to 30 June 2021 - Drafting letter to Crown Lands

10 Aug 2021 10:28am Waugh, Vivian

Letter drafted for review

10 Aug 2021 10:29am Waugh, Vivian - Target Date Revision

Target date changed by Waugh, Vivian from 30 June 2021 to 20 August 2021 - Letter drafted for review

13 Sep 2021 12:12pm Larsen, Robyn - Reallocation

Action reassigned to Kerr, Katrina by Larsen, Robyn

27 Sep 2021 9:27am Larsen, Robyn - Reallocation

Action reassigned to Benson, Nicole by Larsen, Robyn

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 7/03/2018	Harris, Kate	Options for Cessnock Pool	26/11/2021	12/03/2018	
W118/2018 441		Moloney, David				
<p>19 Mar 2018 3:19pm Bailey, Rebecca Work on upgrade to current location has commenced. Work on scope design, and cost for relocation to Turner Park is presently unfunded. Report to Council on these matters scheduled for late 2018., Item 1: Complete, Item 2: Pending budget allocation, Item 3: Noted, Item 4: Cessnock Pool Masterplan has been adopted. Detailed designs for the splashpad currently being prepared , Item 5: Reliant on resolution 4 to be finalised</p> <p>14 Jun 2018 9:52am Meyers, Kristy Ongoing.</p> <p>31 Oct 2018 10:48am McCloy, Natalie - Target Date Revision Revised Target Date changed by: McCloy, Natalie From: 1 Nov 2018 To: 06 Mar 2019, Reason: Design Brief currently being developed with a view to finalise in November 2019</p> <p>05 Mar 2019 11:44am Stovell, Vickie - Target Date Revision Revised Target Date changed by: Stovell, Vickie From: 6 Mar 2019 To: 29 Mar 2019, Reason: Design brief advertised and closes on 22 March 2019. Once a consultant has been engaged the timeframes will be added.</p> <p>17 Apr 2019 12:43pm McCloy, Natalie - Target Date Revision Revised Target Date changed by: McCloy, Natalie From: 29 Mar 2019 To: 19 Apr 2019, Reason: Design brief closed. Consultant to be engaged.</p> <p>07 Jun 2019 8:40am McCloy, Natalie - Target Date Revision Revised Target Date changed by: McCloy, Natalie From: 19 Jun 2019 To: 19 Jun 2019, Reason: Facility Design Group has been engaged. Community engagement has commenced.</p> <p>10 Jul 2019 9:17am Benson, Nicole Item 3: Complete, Item 4: Works underway and report to Council due September</p> <p>03 Sep 2019 12:20pm Benson, Nicole Item 4: Council briefed on 28 August and report to be considered on 18 September</p> <p>15 Oct 2019 7:22am Harris, Kate Item 4: Draft Cessnock Pool Masterplan placed on Public Exhibition. Exhibition period closes on 22 October 2019.</p> <p>03 Nov 2019 10:25am Harris, Kate Item 4: Draft Cessnock Pool Masterplan placed on Public Exhibition. Submissions currently being collated with a view to report to Council before the end of the year.</p> <p>03 Nov 2019 10:26am Harris, Kate - Target Date Revision Revised Target Date changed by: Harris, Kate From: 31 Oct 2019 To: 06 Dec 2019, Reason: Masterplan has not yet been adopted by Council</p> <p>21 Jan 2020 2:40pm Stovell, Vickie - Target Date Revision Revised Target Date changed by: Stovell, Vickie From: 31 Mar 2020 To: 31 Mar 2020, Item 4: Cessnock Pool Masterplan has been adopted. Detailed designs for the splashpad currently being prepared.</p> <p>02 Apr 2020 10:58am Harris, Kate Item 4: Cessnock Pool Masterplan has been adopted. Construction plans and estimate delayed by consultant until April 2020. Report continues to be drafted inclusive of funding options.</p> <p>02 Apr 2020 11:00am Harris, Kate - Target Date Revision Revised Target Date changed by: Harris, Kate From: 31 Mar 2020 To: 04 May 2020, Reason: Detailed designs are currently being finalised.</p> <p>02 Apr 2020 11:11am Harris, Kate - Target Date Revision</p>						

Revised Target Date changed by: Harris, Kate From: 4 May 2020 To: 30 Jun 2020, Reason: Awaiting consultants to complete detailed designs

28 May 2020 3:13pm Benson, Nicole

Item 4: Cessnock Pool Masterplan has been adopted. Construction plans and estimate reviewed by staff and back with consultants for final changes. Report continues to be drafted inclusive of funding options for July meeting.

03 Aug 2020 6:54am Harris, Kate

Item 4: Cessnock Pool Masterplan has been adopted. Construction plans and estimate are complete. A report was provided to Council outlining funding options in July 2020 and was deferred pending a Councillor briefing. A further report will be provided to Council in September following the briefing.

03 Aug 2020 6:57am Harris, Kate - Target Date Revision

Revised Target Date changed by: Harris, Kate From: 31 Jul 2020 To: 30 Sep 2020, Reason: A councillor briefing is required.

09 Oct 2020 11:56am Benson, Nicole - Target Date Revision

Revised Target Date changed by: Benson, Nicole From: 30 Sep 2020 To: 30 Oct 2020, Reason: Councillor briefing scheduled for 14 October and report included in 21 October Ordinary Council meeting agenda to address Item 4.

29 Oct 2020 12:14pm McCloy, Natalie - Target Date Revision

Revised Target Date changed by: McCloy, Natalie From: 30 Oct 2020 To: 31 Dec 2020, Item 4: Complete, Item 2: Reliance on resourcing and workloads, Item 5: Reliance on resourcing and workloads

06 Nov 2020 1:48pm Benson, Nicole

2 Reliant on a dedicated budget and additional resources, 5 Reliant on a dedicated budget and additional resources

18 Jan 2021 11:15am Benson, Nicole

2 Reliant on a dedicated budget and additional resources, 5 Reliant on a dedicated budget and additional resources

09 Mar 2021 7:31am Harris, Kate

2 Reliant on a dedicated budget and additional resources, 5 Reliant on a dedicated budget and additional resources

09 Mar 2021 7:34am Harris, Kate - Target Date Revision

Target date changed by Harris, Kate from 26 February 2021 to 30 April 2021 - Completion of outstanding items is reliant upon additional budget and resourcing.

28 Apr 2021 11:36am Benson, Nicole

2 Reliant on a dedicated budget and additional resources, 5 Reliant on a dedicated budget and additional resources

28 Jun 2021 1:30pm Harris, Kate

Item 2: Reliance on resourcing and workloads, Item 5: Reliance on resourcing and workloads

28 Jun 2021 1:32pm Harris, Kate - Target Date Revision

Target date changed by Harris, Kate from 30 June 2021 to 26 November 2021 - Completion of outstanding items is reliant upon additional budget and resourcing.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 17/02/2021	Waghorn, Peter	Sale of Land to Bellbird Bowling Club	31/12/2021	19/02/2021	
WI2/2021 1571		Maginnity, Robert				
	<p>04 Mar 2021 11:58am Benson, Nicole - Reallocation</p> <p>Action reassigned to Rathborne, Michael by Benson, Nicole - Michael please commence the actions as per the resolution. Liaise with my team if required. Thanks</p> <p>24 Mar 2021 4:49pm Keegan, Robyn - Target Date Revision</p> <p>Target date changed by Keegan, Robyn from 17 March 2021 to 30 June 2021 - Information sent to surveyor for the club to prepare and lodge forms,</p> <p>29 Mar 2021 4:04pm Rathborne, Michael - Target Date Revision</p> <p>Target date changed by Rathborne, Michael from 30 June 2021 to 30 August 2021 - Surveyor preparing documents for registration.</p> <p>28 Apr 2021 10:33am Rathborne, Michael - Target Date Revision</p> <p>Target date changed by Rathborne, Michael from 30 June 2021 to 30 September 2021 - Pending survey and documentation being prepared by surveyor.</p> <p>25 Jun 2021 12:30pm Keegan, Robyn - Target Date Revision</p> <p>Target date changed by Keegan, Robyn from 30 September 2021 to 31 December 2021 - Bellbird Park Bowling Club has taken responsibility for survey registration. Further work by Council Property Services to effect the transfer of land is deferred pending Strategic Property obtaining Council approval for a site-specific planning proposal to reclassify the land.</p> <p>02 Sep 2021 3:11pm Keegan, Robyn - Target Date Revision</p> <p>Target date changed by Keegan, Robyn from 31 December 2021 to 31 December 2021 - Peter Waghorn advised that there is no further update.</p>					

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/04/2021	Donnelly, Patricia	Electricity Supply Contracts	30/11/2021	23/04/2021	
WI24/2021 1663		Moloney, David				
30 Apr 2021 1:24pm Donnelly, Patricia Hunter and Central Coast Councils - Renewable Energy Buyers Group have been advised of Councils resolution to participate in their process to secure new electricity supply contracts. , Stage 1 - Request for Information (RFI) process is the first phase of this initiative, is currently open through Lake Macquarie Council's Tenderlink Portal (closing 7 May 2021). , Stage 2 - the formal tender process is planned for release in August following assessment of the stage 1 process. 25 May 2021 11:34am Donnelly, Patricia 26 responses received in Request for Information process which are currently being reviewed by the group. 06 Jul 2021 2:01pm Donnelly, Patricia Preparing tender documents for opening in September 09 Sep 2021 11:12am Donnelly, Patricia Tender released 7 September and closes 29 September 2021. 29 Sep 2021 2:42pm Donnelly, Patricia 9 quotes received in response to RFT. Assessment being undertaken with selection by mid-October planned.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 19/05/2021	Rush, Iain	Molly Worthington Netball Courts	31/12/2021	24/05/2021	
WI30/2021 1696		Mickleson, Peter				
25 May 2021 12:40pm McCloy, Natalie 1. Copy of report and resolution provided to the Kurri Kurri Netball Association via email on 25 May 2021. 5. Report drafted for July meeting. 29 Jul 2021 8:37am Benson, Nicole Resolutions 1, 2 & 5 complete. Report WI52/2021 was considered by Council at the July meeting. 29 Jul 2021 8:39am Benson, Nicole - Reallocation Action reassigned to Johnson, Martin by Benson, Nicole - Hi Martin - for your actions to resolutions 3 & 4. 29 Jul 2021 8:57am Johnson, Martin - Target Date Revision Target date changed by Johnson, Martin from 16 June 2021 to 31 December 2021 29 Jul 2021 8:57am Johnson, Martin - Reallocation Action reassigned to Rush, Iain by Johnson, Martin						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/07/2021	Jeffery, Warren	Cessnock CBD Bypasses - Reprioritisation of Operational Plan 2021-22	26/11/2021	23/07/2021	
WI56/2021 1766		Moloney, David				
03 Sep 2021 8:57am Cocking, Tracey Item 1 - Noted, Item 2 - Noted, Item 3 - Recorded request for review of Strategy and preparation of Concept Plan for inclusion in future 1/4ly review., Item 4 - Recorded request to allocation funding of \$132,000 and \$793,000 for inclusion in future 1/4ly review., Item 5 - Drafted letter to invite liaison.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/07/2021	Conner, Martin	Minutes of the Floodplain Management Committee Meeting held 2 June 2021	22/12/2021	23/07/2021	
WI62/2021 1772		Moloney, David				
30 Jul 2021 11:58am O'Hara, Rachael						

Item 1 - Noted, Item 2 - FLOCLM11/2021, (i) Drafted letter. , (ii) Drafted letter., (iii) Prepared memo., Item 3 - FLOCLM13/2021, (i) Adopted Study. , (ii) Updated flood mapping., (iii) Preparing for a Floodplain Management grant in 2022 for an overland flood study to replace the Cessnock City Wide Flood Study in urban catchments., Item 4 - FLOCLM15/2021, (i) Investigating flood marker signage requirements for bridges and culverts., (ii) Allocated funding., (iii) Drafted a report., Item 5 - FLOCLM16/2021, (i) Consulted Governance., (ii) Rescheduled meeting to 3 November 2021., (iii) Noted

10 Sep 2021 2:44pm O'Hara, Rachael

Item 2 - FLOCLM11/2021, (i) Progressed letter. , (ii) Progressed letter., (iii) Internal memo sent. , Item 3 - FLOCLM13/2021, (iii) Preparing for a Floodplain Management grant in 2022 for an overland flood study to replace the Cessnock City Wide Flood Study in urban catchments., Item 4 - FLOCLM15/2021, (i) Investigating flood marker signage requirements for bridges and culverts., (iii) Drafted a report.

28 Sep 2021 11:59am Conner, Martin

Item 2 - FLOCLM11/2021 (i) Sent letter 28.09.21 (DOC2021/138456); (ii) Drafted letter (DOC2021/034613); (iii) Prepared motion and obtained approval to submit (DOC2021/139099), Item 3 - FLOCLM13/2021 (iii) Preparing for a Floodplain Management Grant in 2022 for an overland flood study to replace the Cessnock City Wide Flood Study in urban locations., Item 4 - FLOCLM15/2021 (i) Preparing RFQ to investigate flood marker signage requirements, (ii) Added to log of proposed changes for Q1 budget review; (iii) Undertake action following completion of consultancy (i)., Item 5 - FLOCLM16/2021 (i) Deferred action until after December 2021 council elections; (ii) Extraordinary FMC meeting scheduled for 20.10.21 to align with Council ordinary meeting schedule.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/07/2021	Conner, Martin	Confidential Minutes of the Floodplain Management Committee Meeting held 2 June 2021	15/12/2021	23/07/2021	
WI63/2021 1742		Moloney, David				
30 Jul 2021 12:03pm O'Hara, Rachael						
Item 1 - Noted. , Item 2 - FLOCLM9/2021, (i) Drafted letter. , Item 3 - FLOCLM10/2021, (i) Drafted letter. , (ii) Drafted letter. , (iii) Noted.						
10 Sep 2021 2:43pm O'Hara, Rachael						
Item 2 - FLOCLM9/2021, (i) Progressed letter. , Item 3 - FLOCLM10/2021, (i) Funding Agreement received.						
28 Sep 2021 11:57am Conner, Martin						
Item 2 (i) Drafted letter (DOC201/138359) (ii) Drafted letter (DOC2021/138407)						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 22/09/2021	Goodbun, Nathan	Minutes of the Cessnock Local Traffic Committee Meeting held 16 August 2021	20/10/2021	27/09/2021	
WI72/2021 1829		Moloney, David				

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 16/09/2020	Benson, Nicole	Shared Pathways and Trails	30/06/2022	21/09/2020	
WI74/2020 1446		Moloney, David				
23 Sep 2020 12:33pm Kerr, Katrina						
Item 1 - Noted, Item 2 - Noted, Item 3 - Requested allocation of funding., Item 4 - Listed Feasibility Study of Trails for inclusion in 2021-22 Operational Plan. , Item 5 - Commenced draft report for completion in financial year 2021-22.						
18 Jan 2021 11:09am Benson, Nicole						
Item 5 - Report to be prepared once feasibility studies are complete.						
09 Mar 2021 9:58am Benson, Nicole - Target Date Revision						
Target date changed by Benson, Nicole from 14 October 2020 to 30 June 2021 - Tasks to be completed in line with Operational Plan timeframes.						
29 Apr 2021 9:56am Benson, Nicole						
Item 4 - Feasibility Study of Trails has been included in the draft 2021-22 Operational Plan. , Item 5 - Commenced draft report for completion in financial year 2021-22.						
06 Jul 2021 3:04pm McCloy, Natalie - Target Date Revision						
Target date changed by McCloy, Natalie from 30 June 2021 to 15 July 2021 - Item 4 - Complete						
29 Jul 2021 8:22am Benson, Nicole						
Item 4 - Complete - Feasibility Study of Trails has been included in the draft 2021-22 Operational Plan. , Item 5 - Commenced draft report for completion in financial year 2021-22.						

29 Jul 2021 8:23am Benson, Nicole - Target Date Revision

Target date changed by Benson, Nicole from 15 July 2021 to 30 June 2022 - Date in line with resolution 4.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 21/10/2020	Harris, Kate	Multipurpose Half Courts and Outdoor Exercise Equipment in Council Open Space	1/12/2021	23/10/2020	
WI78/2020 1469		Moloney, David				
09 Nov 2020 11:20am Harris, Kate 1. Noted, 2. A response has been drafted , 3. To be completed when the 2021-22 Recreation Facilities Renewal Program has been drafted, 4. To be completed when the 2021-2022 Operational Plan has been drafted, 5. To commence following the completion of item 4. 10 Dec 2020 2:24pm Harris, Kate 2. A response has been provided to the organiser of the petition (DOC2020/191234) 19 Feb 2021 3:02pm Harris, Kate 5. To commence following the completion of item 4. 28 Apr 2021 11:48am Benson, Nicole 5. To commence following the completion of item 4. 28 Jun 2021 1:26pm Harris, Kate 5. To commence following the completion of item 4. 28 Jun 2021 1:29pm Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 30 June 2021 to 24 September 2021 - The action is unable to commence until the 2021/2022 financial year in line with the 2021/2022 operational plan. 29 Jul 2021 8:43am Benson, Nicole 1. Noted. , 2. Complete., 3. Complete. , 4. Complete. , 5. To be scheduled. 16 Sep 2021 10:58am Harris, Kate - Target Date Revision Target date changed by Harris, Kate from 24 September 2021 to 01 December 2021 - Due to internal resourcing constraints, this project is not due to commence until December 2021.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 18/11/2020	Waghorn, Peter	New England Highway, Greta - Easement for Stormwater	29/10/2021	23/11/2020	
WI86/2020 1509		Maginnity, Robert				
30 Nov 2020 9:43am O'Hara, Rachael Action to be transferred to Senior Property Officer for execution of documents. 19 Jan 2021 11:48am Keegan, Robyn - Target Date Revision Revised Target Date changed by: Keegan, Robyn From: 16 Dec 2020 To: 30 Mar 2021, Reason: Documents with owners being signed. 24 Mar 2021 4:46pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 30 March 2021 to 30 May 2021 - Documents with solicitors, for the owners pending return. 29 Mar 2021 4:02pm Rathborne, Michael - Target Date Revision Target date changed by Rathborne, Michael from 30 May 2021 to 30 July 2021 - Pending signature from owners, then registration 28 Apr 2021 10:28am Rathborne, Michael - Target Date Revision Target date changed by Rathborne, Michael from 31 May 2021 to 31 May 2021 - 88b instrument amended 26.4.2021 for client signature and completion. 19 May 2021 12:13pm Rathborne, Michael - Target Date Revision Target date changed by Rathborne, Michael from 31 May 2021 to 30 June 2021 - Awaiting invoice and plan registration. 25 Jun 2021 12:28pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 30 June 2021 to 31 August 2021 - Awaiting invoice and plan registration. 02 Sep 2021 3:10pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 31 August 2021 to 29 October 2021 - Waiting on plan registration and invoice						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 18/11/2020	Waghorn, Peter	Paynes Crossing Bridge - Acquisition of Land	29/10/2021	23/11/2020	
WI90/2020		Maginnity, Robert				
<p>30 Nov 2020 11:52am Kerr, Katrina Item 1 – Progressed acquisition., Item 2 – Awaited acquisition to execute documents.</p> <p>01 Apr 2021 5:19pm Leayr, Renae - Email Action Item - Paynes Crossing Bridge - Acquisition of Land</p> <p>28 Apr 2021 10:29am Rathborne, Michael - Target Date Revision Target date changed by Rathborne, Michael from 17 March 2021 to 30 June 2021 - Easement documentation sent to client for signature after final plans provided.</p> <p>25 Jun 2021 12:28pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 30 June 2021 to 31 August 2021 - Survey requirements for private land acquisition deferred until W&I project managers establish if land acquisition or consent is required for works planned on a portion of existing road situated on land owned by Rail Authority.</p> <p>02 Sep 2021 3:11pm Keegan, Robyn - Target Date Revision Target date changed by Keegan, Robyn from 31 August 2021 to 29 October 2021 - Requirement for land acquisition/consent for works planned on Rail Authority land not yet determined.</p>						

Works and Infrastructure
Report No. WI73/2021
Works and Infrastructure



SUBJECT: *KERLEW STREET, NULKABA - CESSNOCK
CORRECTIONAL CENTRE ACCESS*

RESPONSIBLE OFFICER: *Acting Infrastructure Manager - Nicole Benson*

SUMMARY

The purpose of this report is to provide the outcome of community consultation and the proposed final design for upgrade of the intersection of Kerlew and Occident Streets, Nulkaba to accommodate the revised access to Cessnock Correctional Complex.

RECOMMENDATION

1. That Council notes the outcome of the community consultation regarding the proposed final design option for the upgrade of the intersection of Kerlew and Occident Streets, Nulkaba.
2. That Council approves Option 3 as the final design for Occident/Kerlew St intersection and a report be prepared for the Cessnock Local Traffic Committee for design.
3. That Council allocates an addition \$219,000 from the Civil Works reserve for the construction of the intersection of Kerlew and Occident Streets, Nulkaba.

BACKGROUND

At its Extraordinary Meeting of 5 August 2020, Council considered a Mayoral Minute and resolved:

1. *That the General Manager consult with Nulkaba residents during the design process for the Kerlew/Occident Street intersection. The consultation involve traffic calming, signage and road closures and the isolation of the traffic network in Nulkaba;*
2. *That the General Manager provide a briefing to Council outlining the results of the community consultation; and*
3. *That the General Manager provide a report to Council with the final design for Council's approval.*

REPORT/PROPOSAL

This report provides:

- the proposed Concept Design for the intersection of Kerlew and Occident Streets;
- details of the community consultation undertaken; and
- a proposed way forward to progress the upgrade of the intersection.

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COMMUNITY CONSULTATION

On the 23 September 2021, Council held a community engagement session for the residents of Nulkaba over the intersection of Kerlew and Occident Streets in Nulkaba. The community was consulted as follows:

- Three concept designs for intersection Kerlew and Occident Streets and formed the foundation of the public consultation.
- In accordance with the resolution a letterbox drop was undertaken in the Nulkaba area inviting residents to the online consultation.
- Residents, land owners and interested parties were invited to an information session where they were shown a presentation from both Corrective Services NSW and Council.
- 56 residents, interested parties and staff attended the online information session with the chat function used to answer questions on the night.
- A Question and Answer sheet responding to the main questions asked by attendees at the information session was emailed to participants. Please see Enclosure 1.
- Participants were asked to complete a survey monkey form indicating their preferred option and comments relating to the Council component of the joint presentation.
- The survey was open from 23 to 30 September 2021.
- Subsequently 210 submissions were received and of those who completed the survey 91% were local residents and 9% interested stakeholders.

As shown in **Figure 1** below 75% of respondents preferred Option 3.

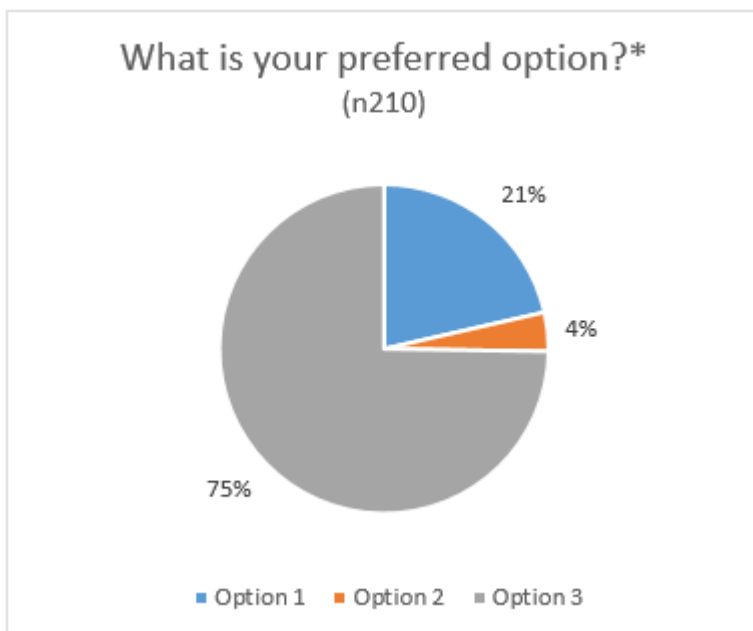


Figure 1 - Kerlew & Occident Streets, Nulkaba – Outcome of Consultation

FINAL DESIGN

In response to feedback from the consultation, the option referred to for the purposes of the consultation as “Option 3” was overwhelmingly preferred by the public.

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Option 3 satisfies the parameters as resolved by Council at its Extraordinary Meeting of 5 August 2020 which prescribed ... *road closures and the isolation of the traffic network in Nulkaba.*

As shown in **Figure 2** below; Option 3 involves the closure of the western leg of Kerlew Street at its intersection with Occident Street and the closure of northern leg of Occident Street at its intersection with Kerlew Street. This treatment will preclude north/south movements on Occident Street through the intersection and east/west on movements on Kerlew Street through the intersection, thereby achieving the mandated separation of correctional centre traffic movements from general local traffic movements.

Since this was the preferred option, Council Officers have undertaken some further detailed analysis on the preferred design options and site taking into the account the need to accommodate some heavy vehicle movements which indicates that some minor land acquisitions need to be undertaken.

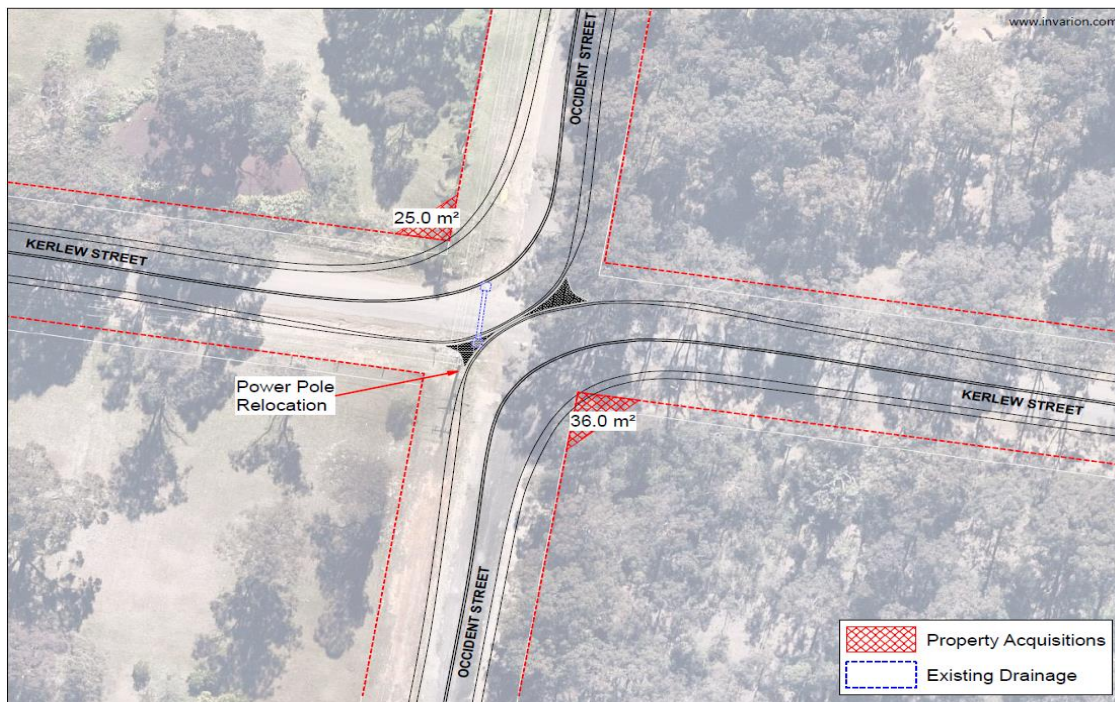


Figure 2 - Kerlew & Occident Streets, Nulkaba – Concept Design for Upgrade of Intersection

NEXT STEPS

In accordance with the Delegation to Councils for the Regulation of Traffic, the next step is to report the chosen option to the Cessnock Local Traffic Committee seeking a recommendation for the installation of the statutory traffic control devices proposed and then a further resolution from Council authorising such installation.

It is anticipated that the works will align with the construction of the new access road connecting the existing internal Correctional Centre road network at the eastern site boundary to Occident St Nulkaba to be undertaken on behalf of Corrective Services NSW.

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The construction is planned to coincide with Correction NSW work and to start construction sometime in this financial year.

OPTIONS

N/A

CONSULTATION

Internal Consultation: This report has been prepared with internal consultation with the following Council officers:

- Engineering Officer, Traffic & Transport Team, Infrastructure Unit;
- Principal Engineer, Design & Project Management Team, Infrastructure Unit;
- Members of Council's Road Infrastructure Team; and
- Members of Council's Strategic Planning Team.

In addition, an internal discussion on the matter took place on 19 January 2021 including staff from the Strategic Planning Unit, being Acting Strategic Planning Manager, Senior Strategic Planner, Strategic Planners, Senior Environmental Planner, Senior Infrastructure Contributions Planner, and Community Engagement Officer.

External Consultation: Extensive external consultation took place as reported above. See detailed consultation report: **Enclosure 2**, and a summary of the detailed report **Enclosure 3**.

STRATEGIC LINKS

a. Delivery Program

Delivery Program 2017-2021: The recommendation of this report is consistent with the following strategic objectives;

- 1.3: Promoting safe communities;
- 4.1: Better transport links;
- 4.2: Improving the road network;
- 5.2: Encouraging more community participation in decision making; and
- 5.3: Making Council more responsive to the community.

b. Other Plans

Cessnock City Council - Road Safety Strategic Plan 2020-2024: The recommendation of this report is consistent with the following strategic objectives:

- 4.1.2 Ensure Council's road infrastructure works comply with Austroads Design Guidelines, Australian Standards and Transport for NSW Technical Directions
- 5.2.1 Ensure compliant road design that delivers safe and efficient road and transport infrastructure that meets demand;
- 5.2.2 Ensure design and construction of new or upgraded road and transport infrastructure associated with development is processed through Local Traffic

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Committee and Local Development Committee (Traffic) to facilitate mandatory compliance with Austroads Design Guidelines, Australian Standards and Transport for NSW Technical Directions; and

- 5.3.1 Review, assess and respond to road safety concerns brought to Council's notice from members of the community.

IMPLICATIONS

a. Policy and Procedural Implications

Council's authority to approve the installation of traffic control devices on the relevant lengths of public roads is provided by the Delegation to Council for the Regulation of Traffic [TfNSW].

b. Financial Implications

Currently \$314,958 is allocated for the upgrade of the subject intersection under the under the Traffic Facilities Program. An Opinion of Probable Cost for Option 3 has been developed with the project estimated to be \$534,000.

This means there is a \$219,000 shortfall in funding for this project. It is recommended that the \$219,000 be funded from the Civil Works Reserve.

c. Legislative Implications

The following legislation is relevant to the matters addressed in this report:

- *Environmental Planning and Assessment Act 1979* - Part 4 Development assessment and consent;
- *State Environmental Planning Policy (Infrastructure) 2007* - Part 3 – Development controls - Division 2 – Correctional centres and correctional complexes;
- *Roads Act 1993* – Section 5 – Right of passage along public road by members of public;
- *Roads Act 1993* – Section 6 – Right of access to public road by owners of adjoining land;
- *Road Rules 2014* – Part 7 – Giving Way; and
- *Civil Liability Act 2002* – Part 5 – Liability of Public and Other Authorities.

d. Risk Implications

Safety and Financial Risk:

The temporary closure of the existing Correctional Centre access off Lindsay Street in October 2019 forced vehicles to access the Centre off Kerlew Street. Council's Traffic & Transport Team took this opportunity to deploy traffic classifiers on Kerlew Street (50 metres east of Occident Street) to obtain traffic data whilst the road acted as the main access to the Centre.

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On the week commencing Monday 21 October 2019 the measured traffic volumes were as follows:

- Average Daily Volume over an entire week: – 1456 (95.5% light vehicles);
- Average Daily Volume – Weekdays: - 1555 (94.8% light vehicles); and
- Average Daily Volume – Weekend: - 1209 (98.2% light vehicles).

These are significant traffic volumes for a road of the character and quality of Kerlew Street and it is reasonable to seek a solution that isolates such movements from local traffic.

It is anticipated that with the expansion of the Correctional Centre, the 2019 measured volumes would likely be exceeded today, if measured without COVID-19 travel restrictions.

The proposed intersection treatment (Option 3) provides the best intersection safety of the three options considered as it delivers separation from conflicting travel movements and is not dependent on road users complying with the *Road Rules 2014* - Give Way rules.

Conversely, Option 3 has the intended consequence of precluding use of the eastern end of Kerlew Street for all non-correctional Centre traffic which will force additional traffic onto Occident, Pinchen and Austral Streets, all of which will likely need significant upgrades to safely accommodate such usage and potentially require an upgraded intersection treatment at the intersection of Austral Street and Wine Country Drive (State Road – MR220).

A 48 lot subdivision (Treesbank Fields) is currently under construction on the southwestern corner of Pinchen and Austral Streets. Approval has been obtained for a 21 lot subdivision on the opposite side of Treesbank Fields on the northwestern corner of the Kerlew/Pinchen Streets intersection.

Additional subdivisions in the area are anticipated. The traffic generated by these developments will predominantly impact on Austral Street and should Option 3 be installed this traffic will be precluded from splitting and accessing Wine Country Drive via Kerlew Street.

Reputational Risk: From the many responses received in the course of the community consultation it is clear that a section of the Nulkaba community indicated they would like there to be effective separation between the correctional Centre access and the local Nulkaba streets, to address perceived amenity, safety and social considerations.

Conceivably the residents of Occident, Pinchen and Austral Streets may not appreciate the additional traffic attributable to the intersection closure (Option 3), however these residents would also benefit from the separation from the correctional Centre which Option 3 would provide.

e. Environmental Implications

Works would necessarily be subject to a Review of Environmental Factors (REF) under Part 5 of the *Environmental Planning and Assessment Act 1979*.

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f. Other Implications

In addition to a general survey monkey response, Rover Coaches provided a written submission to Council on this matter, supporting Option 2, explaining that the alternate Options 1 and 3 would require re-routing of school bus services – Please see **Enclosure 4**.

CONCLUSION

The proposed Nulkaba access to the expanded Cessnock Correctional Complex, via the intersection of Kerlew and Occident Streets will provide long awaited relief from the social, safety and amenity concerns experienced by residents of the more densely populated Lindsay and Mavis Streets and adjacent connecting streets, whom have borne the many and increasing impacts of the Centre since its opening in 1972.

The new access is an example of the utilitarian principle of doing the greatest good for the greatest number. Council can mitigate the impacts of the changed arrangements on the residents of Nulkaba. Having considered their comments Option 3 in the communities view the best means of accomplishing this outcome.

ENCLOSURES

- 1 [↓](#) Cessnock Correctional Centre Access Road Information Session Q and A
- 2 [↓](#) Kerlew and Occident Street Nulkaba _ Survey Report Summary
- 3 [↓](#) Cessnock Correctional Centre Intersection Treatment Feedback _ Rover Coaches
- 4 [↓](#) Kerlew and Occident Street Nulkaba _ Survey Report Full _ 01-10-21 - *This matter is considered to be confidential under Section 10A(2) (j) of the Local Government Act, as it deals with Council Policy.*



Cessnock Correctional Centre Complex Access Road Information Session Q&A

Q. Has the new Corrective Services access road been approved?

A. An agreement was reached and resolved in August 2020 on the access road. See Report to Council on 5 August 2020 – [GMU16/2020](#) – and the minutes containing the [resolution](#).

Q. Who will use the new Correctional Centre Complex access road on Occident Street?

A. The new entry road will be the main entry to the Complex and used for security controlled general Correctional Centre Complex access.

Q. What is the purpose of the Correctional Centre Complex access point off Kerlew Street?

A. The 'Tank Farm' is located off Kerlew Street and has the Hydrant Booster / Gas Main / Water pumps etc for the Cessnock Correctional Centre Complex. It is accessed through the gate located on the western end of Kerlew Street and is accessed by:

- Fire Brigade
- Hunter Water
- Jemena Gas Services
- Tippers/ Excavators when required to access the tank farm or northwest zone of the site
- CSI Pantek Trucks for access to the 2nd Cross Dock when required.
- Hiab Flatbed Truck for the removal of pumps

All above are serviced from Kerlew Street on a security controlled "as required basis". This is consistent with the current usage of this access. The estimated use of this access is less than 10 days per year.

Q. What are the plans for the Lindsay Street Access?

A. The Lindsay Street Access will be closed and locked for security purposes, but will remain available for controlled emergency access and egress if required.

Q. Will Wine Country Drive be upgraded to accommodate the increased traffic movements?

A. Council has been in discussions with Transport for NSW in regards to the impact on the intersection at Wine Country Drive but there are no plans at this stage to upgrade that intersection.

Q. Will there be sufficient lighting for the intersection Kerlew Street and Occident Street?

A. During the design process, an assessment against the current standards for Public Lighting will be undertake and if required by the standard lighting will be installed.

Q. How can I provide feedback?

A. We are seeking feedback until 30 September 2021 via www.surveymonkey.com/r/kerlew-occident

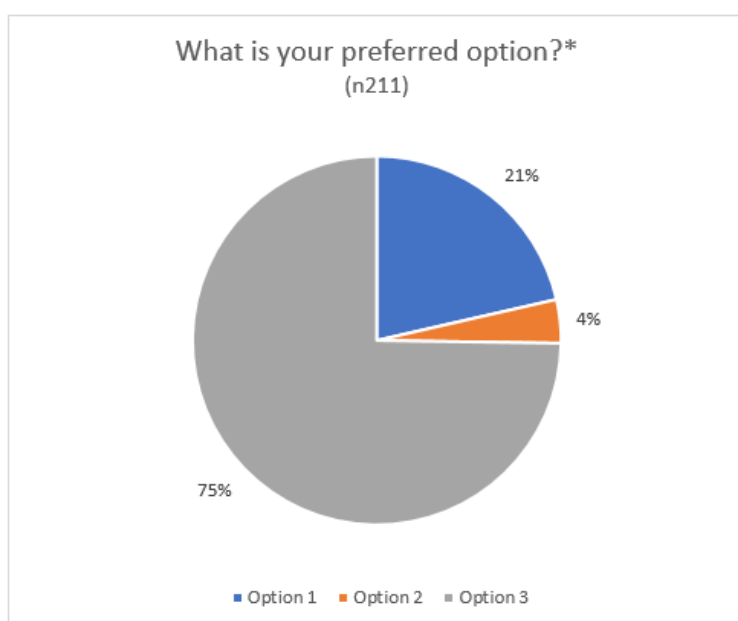
An information session regarding the Correctional Centre access road and design of the Kerlew & Occident Streets intersection at Nulkaba was held on 23 September 2021.

An invitation was letterbox dropped to Nulkaba residents on 16 September 2021. Other key stakeholders were informed via email and telephone.

Fifty-two (52) participants registered for the information session. Three concept design options were presented. Following the information session a link to a survey and a Q&A document outlining key questions and answers from the information session was provided to registered participants. A number of residents also provided individual feedback.

The survey was open from 23 to 30 September 2021 with 211 surveys completed. Of those who completed the survey 91% were local residents and 9% interested stakeholders.

Option 3 is the preferred design.



Insights regarding option 1

The key reasons for choosing option 1 were:

- Reduces access to local roads
- Safety
- Clear wayfinding

The key reasons respondents chose option 1 over the other options were:

- Less impact on residents
- Provides clear access to the correctional centre

Other key considerations raised were:

- Prioritising the safety and views of local residents and school children
- Rename the roads
- Pedestrian access

- Design considerations including fencing, lighting and CCTV
- Upgrade local roads
- Consider another access road for the correctional centre
- Safety of the intersection of Kerlew Street and Wine Country Drive

Insights regarding option 2

The key reasons for choosing option 2 were:

- Provides local residents some access to Kerlew St for vehicles (including buses), pedestrians and bikes
- Allows bus access/routes to continue

The key reasons respondents chose option 2 over the other options were:

- Provides limited access to local roads, including limited need to reroute existing bus services
- Less impact on residents

Other key considerations raised were:

- Upgrading local roads to address increased traffic movements
- Current bus routes and access
- Pedestrian access
- Other developments occurring in Nulkaba and their impacts
- Safety of people attending funerals and weddings at St Patrick's Church

Insights regarding option 3

The key reasons for choosing option 3 were:

- Stops access to local roads
- 'Safest' option regarding traffic movements, parking on local streets by Correctional Centre staff and visitors, and anti-social behaviour in local streets
- It is what Council promised
- Allows for installation of fencing to protect local residents
- Minimises maintenance of roads

The key reasons respondents chose option 3 over the other options were:

- Less impact on residents, including traffic movements and safety
- Provides clear access to the correctional centre

Other key considerations raised were:

- Prioritising the safety and views of local residents and school children

- Fencing to provide safety and eliminate foot traffic into local streets
- Other design considerations eg lighting, traffic calming etc
- Consider another access road for the Correctional Centre
- Corrective Services NSW should have to consider and address impacts just like any other development
- Safety of the intersection of Kerlew Street and Wine Country Drive

** It should be noted that during analysis of the data there were indications of attempts to influence the results with some IP addresses completing the survey several times. An IP address is a unique string of characters that identifies each device using the internet. Although this did have some bearing on the results Option 3 remains the preferred design, even after taking this into account.*



Rover Motors Pty. Limited trading as Rover Coaches | ABN 30 000 018 486

Mr Warren Jeffery
Principal Engineer traffic &
transport infrastructure
Cessnock City Council
28th September 2021

Dear Mr Jeffery

I am writing to you on behalf of Rover Motors Pty Ltd in regard to the new development into Cessnock Correction Centre via Kerlew St Nulkaba.

I have responded to the survey monkey response website noting our preferred option which is **Option 2**. Reasons being Rover Motors have School Services which travel via O'Connors Road left into Occident Street and then left into Kerlew Street in both directions. We have hail and ride for Students along this route as there is not adequate Pedestrian infrastructure for Students to board the School Buses at any designated Bus stops **Option 1** Cul-de-sac, would render the Southern end of Occident Street inadequate for buses to turn around and routes would have to be re-routed. **Option 3** is just not an option for Rover Motors.

Rover Motors are requesting Cessnock City Council take our response into consideration before a final decision is made.

Awaiting a favorable response

Richard Ingall JP OAM

Work Health & Safety Manager

Rover Motor Pty Ltd

231 Vincent Street, Cessnock NSW 2325
PO Box 39, Cessnock NSW 2325
p 02 4990 1699
f 02 4990 1681
e Administration: admin@rovercoaches.com.au
e Tours & Charter: coaches@rovercoaches.com.au



www.rovercoaches.com.au

Works and Infrastructure
Report No. WI74/2021
Works and Infrastructure



SUBJECT: *ADOPTION OF BUS SHELTERS POLICY*

RESPONSIBLE OFFICER: *Acting Infrastructure Manager - Nicole Benson*

SUMMARY

This report seeks Council adoption of the draft Bus Shelters Policy following public exhibition for a period of twenty-eight days. During the public exhibition period, Council received no community submissions.

RECOMMENDATION

That Council adopts the Bus Shelters Policy.

BACKGROUND

To facilitate acceptance of a new bus shelter design, the current Bus Shelter Design policy has been updated and renamed as the "Bus Shelters Policy". This new draft policy required public exhibition for a period of 28 days prior to being considered by Council.

So far as is relevant, at its ordinary meeting of 16 June 2021, Council resolved WI43/2021:

- 1. *That Council adopts the proposed Bus Shelter Concept design as shown in Enclosure 1.***
- 2. *That Council authorises the public exhibition of the Draft Bus Shelters Policy.***

The purpose of this report is to update Council of the results of the public exhibition of the draft Bus Shelter Policy.

REPORT/PROPOSAL

The draft Bus Shelters Policy was placed on public exhibition from 2 July 2021 to 1 August 2021. During the public exhibition period, copies of the draft documents were made available for viewing on Council's Website.

Council received no formal public submissions.

Accordingly, it is proposed that Council adopts the publicly exhibited Bus Shelters Policy, as shown in **Enclosure 1**.

OPTIONS

Nil

Works and Infrastructure

Report No. WI74/2021

Works and Infrastructure



CONSULTATION

The draft Bus Shelters Policy was placed on public exhibition from 2 July 2021 to 1 August 2021. During the exhibition period, copies of the draft documents were made available for viewing on Council's Website.

Council received no formal public submissions.

Internal Consultation: Internal consultation on this matter has occurred with Council officers as follows:

- Principal Engineer - Traffic & Transport, Infrastructure;
- Principal Engineer – Design & Project Management, Infrastructure;
- Building Projects Coordinator; and
- Engineering Officer, Traffic & Transport.

External Consultation: External consultation on this matter has occurred as follows:

- Public transport providers; and
- Transport for NSW.

STRATEGIC LINKS

a. Delivery Program

Cessnock 2027 Community Strategic Plan: The recommendation of this report aligns with *Section 4 Accessible infrastructure, services and facilities*:

Objective - 4.1 *Better transport links,*
4.2 *Improving the road network.*

Delivery Program 2017- 21: The recommendation of this report aligns with the following objectives:

Objective 1.3: Promoting Safe Communities – Our roads are safe for motorists and pedestrians
1.3.5 Improve the safety of the road network

Objective 4.1: Better transport links

4.1.1: Advocate for increased road, public and community transport and associated infrastructure funding.

4.1.1a: Prepare applications for available grant funding to improve commuter, freight and tourism transport links.

Objective 4.2: Improving the road network

4.2.1 Develop prioritised capital works programs in line with adopted asset management plans.

4.2.2 Deliver prioritised on-ground capital works and maintenance programs.

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b. Other Plans

2021-22 Operational Plan: The recommendation of this report aligns with the following objectives:

Section 4 Better transport links

- 4.1.1 Advocate for increased road, public and community transport and associated infrastructure funding.*
- 4.1.1a Prepare applications for available grant funding to improve commuter, freight and tourism transport links.*
- 4.1.1.b Continue upgrade of Public Transport stops to DDA compliance and apply for available funding in accordance with grant funding guidelines.*
- 4.1.2 Commence implementation of the Traffic & Transport Strategy.*
- 4.1.2a Continue investigation and design of the high priority upgrade of Wollombi Road, Cessnock as per the Cessnock LGA Traffic & Transport Strategy.*
- 4.1.3 Commence implementation of the Pedestrian Access & Mobility Plan.*
- 4.1.4 Commence implementation of the Cycling Strategy.*
- 4.2.1a Develop prioritised capital works programs in line with adopted Asset management Plans.*

IMPLICATIONS

a. Policy and Procedural Implications

The existing Bus Shelter Design Policy requires amendment to accommodate the proposed shelter design. A draft Bus Shelters Policy has been prepared and requires Council approval following the expiration of the 28 day public exhibition period.

b. Financial Implications

The installation of shelters is to be funded by a combination of Country Passenger Transport Infrastructure Grants Scheme (CPTIGS) funding, Council's General Funds, development contributions, or directly by developers.

c. Legislative Implications

The following legislation, standards and guidelines have application to the matters dealt with in this report:

- *Disability Discrimination Act 1992;*
- *Disability Standards for Accessible Public Transport 2002 (Part 33) (DSAPT)*

The *DSAPT* came into force on 15 August 2002 and from that date all newly constructed infrastructure was required to comply with the Standards (Part 32.1).

Similarly, if an associated piece of transport infrastructure, used by passengers in conjunction with travelling on a public transport service, such as a new bus shelter, was being built at an existing bus stop after the Standards commencement date, such infrastructure must comply with the requirements of the Standards.

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Notably, all existing bus stops are required to comply with the Standards at target dates specified as below:

- 31 December 2007 - 25% of bus stops
- 31 December 2012 - 55% of bus stops
- 31 December 2017 - 90% of bus stops
- 31 December 2022 - 100% of bus stops

d. Risk Implications

Reputational Risk: There is potential for reputational risk, should Council fail to upgrade to the proposed contemporary style shelter, given that Council and developers are currently installing additional shelters throughout the LGA.

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

The installation of bus shelters is an ongoing process due to the continuing growth of the LGA.

To ensure new installations are consistent with the appearance of other Council infrastructure as installed as part of the Cessnock LGA Signage Strategy, it is prudent to adopt a new, contemporary design for bus shelters for the future.

Establishing an operational guide/policy ensures that Council can adapt quickly to minor legislative changes, relevant standards and/or operational requirements without having to obtain Council approval.

ENCLOSURES

[1](#) Council Policy _ Bus Shelters Policy _ DRAFT



Cessnock City Council Bus Shelters

Date Adopted **XX-XX-XX** Revision: **3**

POLICY OBJECTIVES

1.1. The objectives of this policy are to:

- 1.1.1. Outline Councils standard bus shelter design, to ensure a safe, consistent and cost effective approach to bus shelter selection.
- 1.1.2. Specify the process applicable to the installation of bus shelters, to ensure a safe, consistent and transparent approach to the selection of shelter locations.

POLICY SCOPE

- 2.1. This policy applies to the installation of bus shelters within the road reserve by Council, developers, or other entities, throughout the Cessnock LGA.
- 2.2. This policy applies to bus shelter installations for the purposes of providing a Regular Bus Service.

3. POLICY STATEMENT

- 3.1. Council supports the provision of bus shelters at existing and new bus stops within the Cessnock LGA.
- 3.2. Council will, in consultation with public transport providers, install bus shelters at new and existing bus stops as necessary, to meet the needs of the travelling public, based on applicable guidelines.
- 3.3. Council will, in consultation with public transport providers, condition development consents to require the installation of bus shelters at new and existing bus stops as necessary, to meet the needs of the travelling public, based on applicable guidelines.

4.1.2. BUS SHELTER DESIGN

4.1.3. Design Objectives

- 4.1.4. Shelters give best possible protection from rain, wind and sun.
- 4.1.5. Shelters and seats are consistent in appearance with other structures specified in the Cessnock LGA Signage Strategy.
- Shelters and seats are of a design that minimises bulk and opacity when they are placed in front of residential properties.
- Shelters and seats are durable and vandal resistant.
- Shelters are of a design that does not attract the accumulation of rubbish underfoot or encourage littering.



Shelters are not of a design which is conducive to graffiti.

Shelters do not have deep footings which are likely to interfere with or damage public utilities found in footpaths.

Standard Design

- 4.1.6. The standard bus shelter design is shown in Council's Public Transport Stops
- 4.1.7. Standard Drawings.

4.2. Non-Standard Designs

- 4.2.1. Any proposal to install a non-standard shelter design requires the approval of the General Manager, and would be considered for such reasons as:
 - 4.3. a) Spatial restrictions precluding installation of the standard shelter.
 - 4.3.1. b) Passenger volumes (actual or anticipated) exceeding the capacity of the standard shelter.
 - c) Heritage or other considerations requiring a design more sympathetic to surrounding architectural styles.

5. BUS SHELTER INSTALLATION

Installation Guidelines

- 5.1. Shelters and seats are installed according to a programme, which gives highest priority to locations of greater need.
 - 5.1.1. That safety be the paramount consideration in determining the location of shelters and seats.
 - 5.1.2. Bus routes and pedestrian patterns be reviewed where necessary before investment in shelters and seats is made.
 - 5.1.3. The most effective and equitable source of funding is identified by considering the use of Council funds, grant funding and development contributions.
 - 5.1.4. Council approach is seen to be efficient and systematic, so that users and the community recognise and understand the rationale for initiatives taken by Council.
 - 5.1.5. Any negative impact on residential, commercial and rural property is minimised or eliminated through sensible planning and consultation with owners.
- 6.1.

6.2. BUS SHELTER ADVERTISING

- Council will not enter into any commercial arrangements for the display of advertising materials on bus shelters.
- 7.1. Council's community service notices may be displayed on suitably equipped bus shelters with General Manager's approval.
 - 7.1.1.

7. RESPONSIBILITIES

General Manager

Approval of a proposal to install a non-standard shelter design.



Approval of community service notices to be displayed on suitably equipped bus shelters.

Principal Engineer, Traffic & Transport Infrastructure and Infrastructure Manager

Authorising the installation of bus shelters.

Compliance, monitoring and review

- 7.1.2. The General Manager is responsible for the implementation of this policy and is responsible for ensuring this policy:
- 7.2.
- 7.2.1. a) aligns with relevant legislation, government policy and / or Council's requirements / strategies / values;
- 7.3.
- 7.3.1. b) is implemented and regularly monitored; and
- c) is reviewed to evaluate its continuing effectiveness.

Reporting

No additional reporting is required.

7.4. Records management

- 7.4.1. Staff must maintain all records relevant to administering this policy in accordance with Council's [Records Management Policy](#).
- 7.5.
- 7.5.1.

7. POLICY DEFINITIONS

Council	means Cessnock City Council
General Manager	Means the General Manager of Council
Regular Bus Service	means any regular passenger service conducted by bus.



POLICY ADMINISTRATION

Business Group	Works and Infrastructure
Responsible Officer	Infrastructure Manager
Associated Procedure (if any)	Nil
Policy Review Date	Three years from date of adoption unless legislated otherwise
File Number / Document Number	DOC2020/021022
Relevant Legislation (reference specific sections)	<p>Section 138, <i>Roads Act 1993 (NSW)</i></p> <p>Section 104, <i>Passenger Transport (General) Regulations 2017 (NSW)</i></p> <p>Section 16, <i>State Environmental Planning Policy No. 64 – Advertising and Signage 2001 (NSW)</i></p> <p>Part 2, <i>Disability Discrimination Act 1992 (Commonwealth)</i></p> <p>Part 33, <i>Disability Standards for Accessible Public Transport 2002 (Commonwealth)</i></p>
Relevant desired outcome or objectives	<p>A connected, safe and creative community</p> <ul style="list-style-type: none"> Objective 1.3: Promoting safe communities <p>Accessible infrastructure, services and facilities</p> <ul style="list-style-type: none"> Objective 4.1: Better transport links Objective 4.2: Improving the road network
Related Policies / Protocols / Procedures	<ul style="list-style-type: none"> Cessnock LGA Signage Strategy (DOC2019/125674) Public Transport Stops Standard Drawings (DOC2021/146329 Records Management Policy (DOC2019/038769))

9. POLICY AUTHORISATIONS

No.	Authorised Function	Authorised Business Unit / Role(s)
TBA	Authorising the installation of bus shelters	<p>The role(s) authorised to perform the said function:</p> <ul style="list-style-type: none"> Principal Engineer, Traffic & Transport Infrastructure Manager, Infrastructure
TBA	Approval of community service notices to be displayed on suitably equipped bus shelters	<p>The role(s) authorised to perform the said function:</p> <ul style="list-style-type: none"> General Manager
TBA	Approval of any proposals to install a non-standard shelter design	<p>The role(s) authorised to perform the said function:</p> <ul style="list-style-type: none"> General Manager

**10. POLICY HISTORY**

Revision	Date Approved / Authority	Description Of Changes
1	3 June 1992 (MCS-W&S-2/1992)	New policy adopted
2	21 August 2002 (DC&RS 96/2002 – 661)	Periodic Review
3	TBA	Periodic Review

11. Appendices

DRAFT

Works and Infrastructure

Report No. WI75/2021

Works and Infrastructure



SUBJECT: *RE-ESTABLISHMENT OF ALCOHOL FREE ZONES IN CESSNOCK, KURRI KURRI AND WESTON CBDS*

RESPONSIBLE OFFICER: *Acting Infrastructure Manager - Nicole Benson*

SUMMARY

The purpose of this report is to seek approval for re-establishment of Alcohol Free Zones (AFZs) in the Cessnock, Kurri Kurri and Weston, Central Business Districts for four years.

RECOMMENDATION

1. That Council re-establishes the Alcohol Free Zones within specific locations as advertised in the Cessnock, Kurri Kurri and Weston, Central Business Districts for a period of four years, commencing 1 November 2021 and expiring 31 October 2025;
2. That Council reviews and updates the signage in accordance with the Ministerial Guidelines on Alcohol-Free Zones, February 2009;
3. That Council advertises the renewal of the Alcohol Free Zones in accordance with the Local Government Act, 1993.

BACKGROUND

At its Ordinary Meeting of 18 August 2021, Council considered (Report WI67/2021), and resolved the following:

1. *That Council notes the action taken on community consultation about Alcohol-Free Zones in the Cessnock, Kurri Kurri and Weston CBDs.*
2. *That Council prepares a proposal for the re-establishment of Alcohol Free Zones in the Cessnock, Kurri Kurri and Weston CBDs, including the changes requested by NSW Police, and undertakes the necessary advertising and consultation.*

Three Alcohol Free Zones (AFZs) were previously established in Cessnock, Kurri Kurri and Weston Central Business Districts for a period of four years from 1 October 2017 to 31 October 2021. Information and maps of the AFZs remain available on Council's website.

REPORT/PROPOSAL

Alcohol Free Zones aim to improve public safety as part of a "whole of community" approach in eliminating recognised and documented disorderly, anti-social behaviour caused by the consumption of alcohol in public areas. The zones are one element of, and supplement a range of harm minimisation measures implemented in the target areas.

Locations: AFZ can be established over public roads, footpaths and carparks. The Ministerial Guidelines on Alcohol-Free Zones, February 2009 state that:

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“The drinking of alcohol is prohibited in an alcohol-free zone that has been established by a council. Public places that are public roads, footpaths or public carparks may be included in a zone. Alcohol-free zones promote the use of these roads, footpaths and carparks in safety and without interference from irresponsible street drinkers.”

AFZ cannot be established over public parks, recreation areas or reserves. These spaces may however be subject to the provisions of the *Local Government Act, 1993* for Alcohol Prohibited Areas. AFZ cannot be established over privately owned property such as homes, business premises or privately owned car parks because the *Local Government Act, 1993* applies only to land controlled by Council.

In the course of consultation on this matter, as a primary stakeholder, the NSW Police Force – Hunter Valley Police District Command requested an extension of AFZs to additional streets in Cessnock and Kurri Kurri town centres. The additional locations requested are areas, which have required frequent Police attendance due to antisocial behaviour associated with alcohol consumption in and around the subject public streets.

The additional locations to AFZs requested by Hunter Valley Police District Command are listed below:

1. Cumberland Street, Cessnock, from Aberdare Road to Yango Street.
2. Yango Street and Victoria Street near Bridges Hill Park (requested by a community member).
3. Darwin Street and North Avenue, Cessnock.
4. Wollombi Road, Cessnock, from Alexander Street to Westcott Street.
5. Sections of Lang, Barton and Victoria Streets in Kurri Kurri Town Centre.
6. Unnamed lane between and parallel to Lang and Maitland Street, Kurri Kurri, for the block between Mitchell Avenue and Merthyr Street.

In addition, Police requested that the AFZ in Vernon Street, Cessnock, from Allan Street to Quarrybylong Street not be re-established upon its expiry on 31 October 2021, as this AFZ is no longer considered necessary, given the closure of the neighbouring former Cessnock City Bowling Club.

Consultation regarding establishment of AFZ, including these proposed changes has now been completed, with no objections received (see ‘Consultation’, page 3 of this report).

Maps showing the AFZs to be established / reestablished, incorporating the requested additions, are presented in **Enclosure 1**.

Procedure: The procedures for the establishment of AFZ have been undertaken in accordance with Chapter 16, Part 4 of the *Local Government Act 1993*, the *Ministerial Guidelines on Alcohol – Free Zones* (February 2009), the resolution of the Ordinary Meeting of Council on 16 June 2021 (WI44/2021 and the resolution of the Ordinary Meeting of Council 18 August 2021 (WI67/2021).

Enforcement: Properly instituted AFZ may be enforced by any officer of the NSW Police Force or an authorised Council enforcement officer. Council currently has no officers with such authorisation.

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Option 1: Re-establish the AFZ within specific locations outlined in **Enclosure 1** at Cessnock, Kurri Kurri and Weston Central Business Districts for a period of four years, commencing 1 November 2021 and expiring 31 October 2025. This is the preferred option;

Option2: Not re-establish the AFZ; remove the existing associated signage after 31 October 2021 and advise stakeholders. This is not the preferred option as there is support for the zones and Council has a role in promoting safe communities as per the adopted Delivery Program; Crime Prevention Plan; and Social & Cultural Plan.

CONSULTATION

In accordance with the Chapter 16, Part 4 of the *Local Government Act 1993* and the *Ministerial Guidelines on Alcohol – Free zones (February 2009)* extensive consultation was undertaken. This included:

- Consultation with NSW Police Force - Hunter Valley Police District Command;
- Advertising in the Cessnock Advertiser on 24 August 2021;
- Public exhibition on Council's website; and
- Direct email / mail-out to all liquor licensees of registered licenced premises within the three proposed AFZs and other organisations and agencies, as prescribed in the Ministerial Guidelines, including:
 - Mr. Clayton Barr, State Member (MP) for the Electorate of Cessnock
 - Mr. Joel Fitzgibbon, Federal Member (MP) for the Hunter
 - Cessnock Chamber of Commerce
 - Kurri Kurri Chamber of Commerce
 - Towns with Heart
 - Mindaribba LALC
 - Samaritans Information and Neighbourhood Centre
 - Cessnock Community Health Service
 - Cessnock Liquor Accord
 - Advance Greater Cessnock partners (tabled at meeting)
 - Vernon Street owners and residents
 - Council's Business Development, Community Planning and Open Space and Community Facilities Teams.

The public exhibition and period for public submission ran for 30 days and closed on 24 September 2021. Information and links were provided on Council's website. Interested persons and organisations that wished to make a submission or comment were asked to forward these in writing.

Council's consultation on this matter illustrated that the re-establishment of the three AFZ has the support of the local community, business-houses, Cessnock City Liquor Accord, and NSW Police Force – Hunter Valley Police District Command.

Hunter Valley Police District Command expressed support in their response letter:

"The previous Alcohol-Free zones were successful in the reduction of crimes. Police have found that malicious damage incidents, assaults and theft are noticeably reduced

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when Alcohol Free Zones are implemented and particularly enforced.....[AFZs] are a proactive way to address community safety....

The community feel safe knowing that the area is 'protected' by Council and Police which demonstrates a cohesion between the parties and community perception of solidarity and belonging....

The current Alcohol Free Zones should all remain in effect as these locations still have licenced premises operating and are central congregation points for community socialisation...."

Similarly, there were no objections to the AFZs received from the local community, rather positive responses regarding aspects of the AFZ were received.

As detailed in **Table 1** below, three responses were received from the community; two in writing and one by telephone. The consultation page on Council's website was viewed 41 times. One email was received from Council's Principal Community Planner.

Table 1: Community Submissions:

Comment	Response
Comment supporting the AFZs: I note that the Cessnock Council is recommending that additional areas be added to existing alcohol-free zones. I applaud Council with their initiative. [Resident 1]	The support for the AFZs is welcomed.
Comment 1 about service of alcohol in a street dining area: "[Local hotels]..... are requesting that alcohol be served with meals in their proposed outside dining area. I remind Council that outside dining with the availability of alcohol is common in most of Europe, and in fact, in many towns in Australia. Kurri Kurri is in desperate need of uplifting the atmosphere of the business centre..... Outside dining would add a degree of sophistication that the town sadly needs. I request that Council place strict conditions to allow this to happen. This could be monitored and if successful then it could be applied to other venues as well." [Resident 1]	The <i>Ministerial Guidelines on Alcohol Free Zones (2009)</i> makes provision for the co-existence of AFZ and approved street dining / footway restaurants, requiring separation and delineation of the area where alcohol will be consumed within the approved dining area, under Responsible Service of Alcohol (RSA) management by the Licensee. The Liquor Licencee is able to seek approval for.....serving alcohol within a

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<p>Comment 2 about service of alcohol in a street dining area:</p> <p>"We need to rethink how businesses can continue to operate and remain financial. It has taken a while for the in town entertainment culture to develop and we really want it to continue to grow. We have some great old pubs with character but unfortunately the internal designs are small. Let's get the outdoor options up to date. As an area with a continuous flow of visitors who readily visit our beautiful vineyardswe need to encourage them to spend time in town supporting the local businesses. Street eating/drinking utilising our streets and alleyways is a sure way to encourage visitors to stop in town. We have so much potential for growth of new business to share the street. Jazz and tapas bar, dance nights, live outdoor music, markets, high tea, paint and sip are just a few thoughts. Let's put our towns on the tourist must visit spots for more than just vineyards and concerts."</p> <p>[Resident 2]</p>	<p>street dining area outside their venue by contacting Hunter Valley Police District's Licencing Officers regarding the terms of the liquor licence, to seek approval for Responsible Service of Alcohol within a street dining area, AND, by lodging a Section 125 application through the NSW Planning Portal.</p> <p>This is a legislated requirement throughout NSW.</p> <p>Note: Development consent associated with a food and drink premises (e.g. restaurant and café) does not require development consent however from 1 November 2021 a DA would be required if the outdoor dining is associated with a pub or small bar (Some exceptions have been made for COVID).</p>
<p>Comment 3 about service of alcohol in a street dining area:</p> <p>A phone call was also received from an owner of a local Licenced Venue. The information about the process to apply for permission to serve alcohol in a street dining area was provided to the caller.</p> <p>[Resident 3]</p>	
<p>I had reviewed the proposed alcohol free zones and am supportive of the proposed changes. I think the inclusion of the AFZ on Yango and Victoria Streets is great.</p> <p>[Council's Principal Community Planner]</p>	<p>The support for the AFZs is welcomed.</p>

The re-establishment of the three AFZs has the support of the local community, business-houses, Cessnock City Liquor Accord, and NSW Police Force - Hunter Valley Police District Command. Reasons for support include the success of the previous zones in achieving a reduction in unacceptable street drinking and the community's improved perceptions of safety in the areas.

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STRATEGIC LINKS

a. Delivery Program

Delivery Program 2017-21: The recommendations of this report align with the following objectives of the Program:

- Promoting Safe Communities – 1.3.2 Carry out regulatory and education programs to protect residential amenity and community health and safety.

Operational Plan 2021-22: The recommendations of this report align with the following objectives of the Plan:

- 1.3.2.a Assess requests for additional, changes to existing and special event alcohol free zones.

b. Other Plans

Cessnock 2027 – Community Strategic Plan: The recommendations of this report align with the following objectives of the Plan:

- *Objective 1.3: Promoting safe communities Strategic Directions:*
- Our residents and visitors feel safe in the Cessnock Local Government Area.
- Our CBD areas are safe at night.
- Our roads are safe for motorists and pedestrians.

Cessnock City Council Health and Wellbeing Plan (2017 – 2021): The recommendations of this report align with the following objectives of the Plan:

- 1.7 Safer Communities:
 - Strategic Direction 1.7 (d) Key outdoor public spaces are safer places for people to engage with.

IMPLICATIONS

a. Policy and Procedural Implications

In Cessnock, as with other areas of NSW, the enforcement of AFZ continues to be a matter for the NSW Police Force and effectiveness of the AFZ will be reviewed on a quarterly basis during Community Safety Precinct Committee Meetings (a meeting chaired by the Hunter Valley Police District Command and attended by Cessnock City Council representatives).

b. Financial Implications

Cost to the Community

Advertising Costs: The estimated cost of newspaper advertising is \$1,000 to be met from the Infrastructure Unit operational budget.

Signage Costs: The estimated cost of date decals for existing AFZ signs and new signs for expanded zones would be \$2,500. Sign post and sign erection costs will be dependent on

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whether the new signs can be affixed to the rear of existing parking signage on the nominated streets, or whether the supply and erection of new posts will be required.

c. Legislative Implications

Local Government Act 1993: Proposals for AFZs, public consultation on AFZs and operation of AFZs are regulated under Part 4 of Chapter 16 of the *Local Government Act 1993*.

Ministerial Guidelines on Alcohol Free Zones (2009): Proposals and public consultation are also required to be conducted in accordance with the Guidelines. The Ministerial Guidelines, require targeted consultation on proposals to specifically establish/re-establish AFZs.

Relevantly, Part 4 of Chapter 16 of the *Local Government Act 1993* and the *Ministerial Guidelines* provide that although there is no provision for AFZ to be extended, areas comprising AFZ may be included in a proposal to re-establish AFZ immediately following the cessation of the existing zone or at any future time.

Following the results of initial consultation process presented in this report, the targeted consultation required by the Ministerial Guidelines, which proposes specifically to reestablish the AFZs, will now take place.

d. Risk Implications

Reputational Risk: Council may be exposed to reputational risk and community criticism, should antisocial behaviour and alcohol related crime increase in the relevant areas, in the event that it is resolved not to pursue the reestablishment of AFZ. Council's role in establishing AFZ is part of our ongoing excellent relationship with Cessnock Police.

Safety Risk: Similarly, Council's positive and harmoniously relationship with Police in jointly striving for the reduction of crime and general improvements in public safety may be jeopardised should Council not resolve to re-establish AFZ, thereby denying a vital proactive policing tool for reducing street offences.

e. Environmental Implications

Social Environment: AFZs aim to improve public safety as part of a "whole of community" approach in eliminating recognised and documented disorderly, anti-social behaviour caused by the consumption of alcohol in public areas.

The suspension of existing AFZ, and creation of Special Event AFZ can occur as appropriate, to accommodate major local community events such as the STOMP Festival, and the Australian Postie Bike Grand Prix.

Built Environment: AFZ are an important tool for police in dealing with public area alcohol consumption and disorderly behavior in public spaces, including malicious damage to the built environment such as property damage and vandalism.

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f. Other Implications

NSW Police Force: Generally, AFZ serve to enable police to manage alcohol consumption and associated behaviour in selected areas. In the exercise of their office, police use appropriate discretion in the enforcement of AFZ and may initially warn transgressors prior to taking any punitive action.

Importantly, NSW Police Force – Licensing Officers can work with operators of licensed premises and Liquor and Gaming NSW to facilitate and regulate the service and consumption of alcohol in association with approved street dining in AFZ, in accordance with the provisions of the *Ministerial Guidelines on Alcohol – Free Zones (February 2009)*.

The suspension of existing AFZ, and creation of Special Event AFZ can occur as appropriate, to accommodate major local events such as the STOMP Festival, and the Australian Postie Bike Grand Prix.

CONCLUSION

AFZs are a mechanism to improve public safety as part of a “whole of community” approach in eliminating recognised and documented disorderly, anti-social behaviour caused by the consumption of alcohol in public areas.

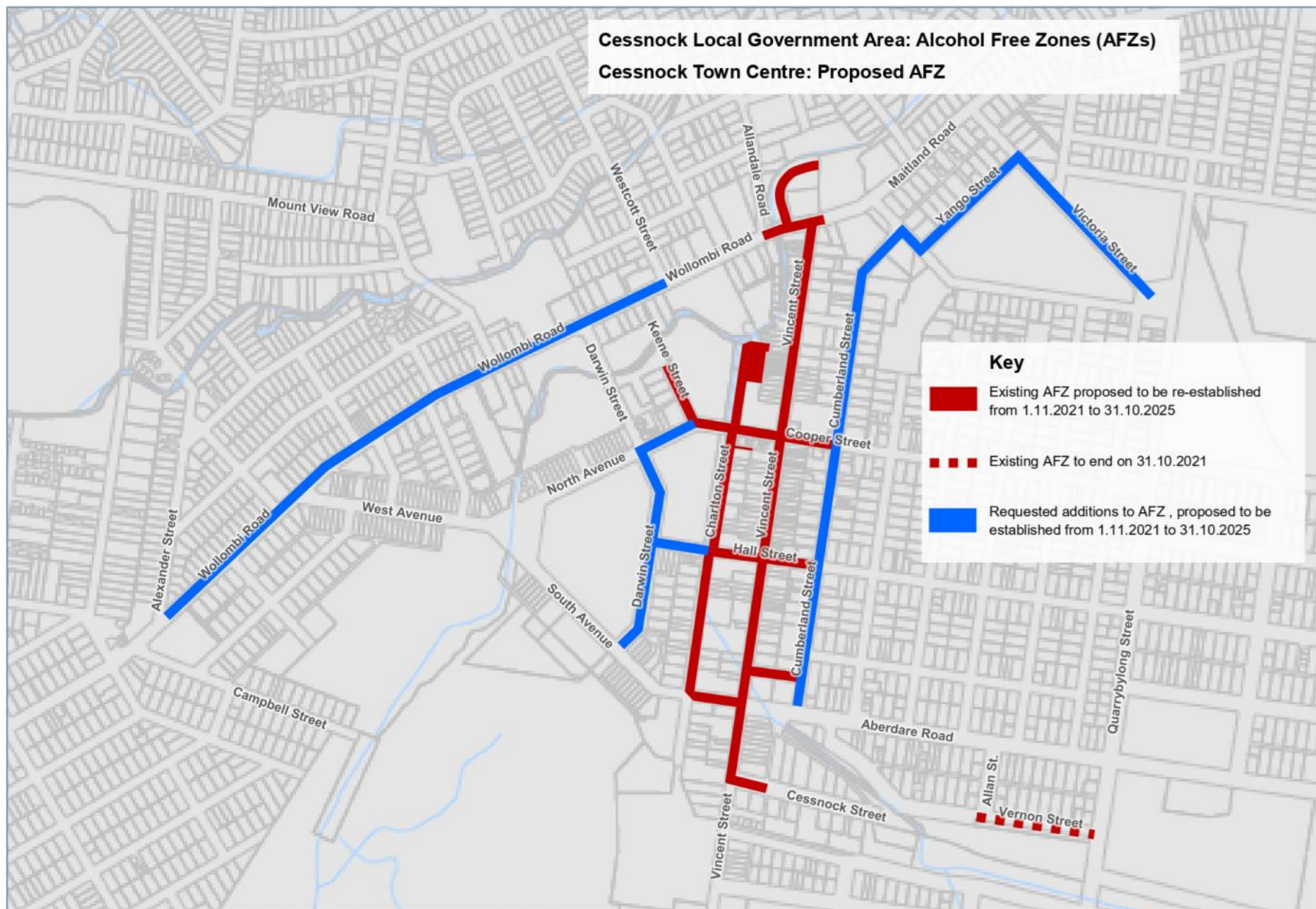
The consultation process has engaged members of the community and key stakeholders. The consultation process showed that AFZs are regarded as an important initiative in tackling anti-social behaviour and alcohol-related violence in our community.

The general community, business community, local police and liquor licensees’ favourably view AFZs in the City of Cessnock as having been successful in the past. Working towards re-establishment of the AFZs is a worthwhile social initiative.

Importantly, direct consultation with local police acknowledged the effectiveness of existing zones and the need for additional zones in the in the LGA.

ENCLOSURES

[1](#) AFZ Maps Cessnock, Kurri Kurri and Weston _ 2021- 2025





Works and Infrastructure
Report No. WI76/2021
Works and Infrastructure



SUBJECT: *MINUTES OF THE CESSNOCK LOCAL TRAFFIC COMMITTEE MEETING HELD 20 SEPTEMBER 2021*

RESPONSIBLE OFFICER: *Acting Infrastructure Manager - Nicole Benson*

RECOMMENDATION

That the Minutes of the Cessnock Local Traffic Committee Meeting of 20 September 2021 be adopted as a resolution of the Ordinary Council.

1. TC40/2021 - That Council authorises the removal of Bus Zone signage on Barton Street, Kurri Kurri, to be replaced with a 2 Hour Timed Parking zone, in accordance with the Barton Street Kurri Kurri _ Signage Diagram.
2. TC41/2021 - That Council authorises installation of signage, line marking and pedestrian refuges on Ferguson Street and Doyle Street, Cessnock, in accordance with the Ferguson & Doyle Streets Cessnock _ Signage & Line Marking Diagram.

MINUTES OF LOCAL TRAFFIC COMMITTEE MEETING OF CESSNOCK CITY COUNCIL HELD VIA ZOOM ON MONDAY, 20 SEPTEMBER 2021

OPENING: The meeting was opened at 9.31am
PRESENT: Councillor Darrin Gray (in the Chair)
Mr John Markulin – Transport for NSW
Senior Constable Amy Sweeney – NSW Police Force

IN ATTENDANCE: Tracey Cocking – Technical Support Officer (Minute Taker)
Nathan Goodbun – Engineering Officer - Traffic & Transport
Mr Richard Ingall – Rover Coaches
Warren Jeffery – Principal Engineer, Traffic & Transport
Mrs Katrina Kerr – Infrastructure Manager
Ray McCarthy – Ranger Team
Ms Alison Shelton – Road Safety Officer
Ms Catherine Waerner – Engineering Officer, Traffic & Transport

APOLOGIES

RESOLVED that the apologies tendered for unavoidable absence be accepted on behalf of:

Mr Clayton Barr MP – NSW State Member for Cessnock

CONFIRMATION OF MINUTES

NOTED that the Minutes of the Local Traffic Committee held on 16 August 2021, as circulated, were previously confirmed as a true and correct record.

DISCLOSURES OF INTEREST

NIL

BUSINESS ARISING FROM PREVIOUS MINUTES

NIL

MOTIONS OF URGENCY

NIL

LISTED MATTERS

SUBJECT: ***BARTON STREET KURRI KURRI
BUS ZONE REMOVAL AND PROPOSED INSTALLATION OF 2
HOUR TIMED PARKING***

REPORT NO.: ***TC40/2021***

REFERENCE.: ***DOC2021/116750***

MATTER: Recent correspondence from Rover Coaches advised that the Bus Zone located on Barton Street, Kurri Kurri, northeast of the intersection with Hampden Street, is an unauthorised Bus Zone which is not utilised by any route service buses.

Rover Coaches requested the removal of the subject Bus Zone. It is noted that the bus route is adequately serviced by the adjacent bus zone on Hampden Street 300 metres to the northwest.

DISCUSSION: The matter was described as per the report.

It was noted that the proposed regulatory parking change was a favourable solution providing additional timed parking consistent with the surrounding area which minimises driver confusion.

RECOMMENDATION

That Council authorises the removal of Bus Zone signage on Barton Street, Kurri Kurri, to be replaced with a 2 Hour Timed Parking zone, in accordance with the Barton Street Kurri Kurri _ Signage Diagram.

SUPPORT: Majority

Works and Infrastructure

Report No. WI76/2021

Works and Infrastructure



SUBJECT: *FERGUSON & DOYLE STREETS, CESSNOCK
INTERSECTION UPGRADE*

REPORT NO.: *TC41/2021*

REFERENCE.: *110/2021/29/1*

MATTER: Development consent (8/2017/461/2) has been granted for a residential subdivision off Ash Street, Cessnock. Relevant conditions of consent are:

The applicant shall submit with the application for a Section 138 Roads Act Approval a detailed design, in accordance with Austroads, Council's Engineering Requirements for Development, RMS Technical Directions, including the RMS Guide to Road Design – Part 4A Unsignalised and Signalised Intersections and all relevant Australian Standard's for the following:

- a) a local area traffic management (LATM) scheme delivering a change of intersection priority at the intersection of Ferguson Street and Doyle Street, providing route priority for the western leg of Ferguson Street, and the southern leg of Doyle street, with suitable controls for the other intersection legs, as per AS1742.2 Manual of Uniform Traffic Control Devices;

DISCUSSION: The matter was described as per the report, and discussed as follows (written comments provided by State Member):

It was noted that:

- Significant levels of non-compliance with the existing 4-Way STOP sign intersection priority controls has been observed by numerous residents, Councillors, Police and Council officers;
- The proposed change in intersection priority, coupled with the installation of pedestrian refuges is designed to provide traffic calming to increase compliance, enhancing safety and amenity;
- The change in priority provides the major route priority of movement through the intersection as required by the Australian Standard;
- The installation of a roundabout at the location is not suitable due to spatial insufficiency and the inability to construct a roundabout to the relevant standard;
- Signage will be implemented prior to, during, and post works to advise of changes in traffic conditions. This will be accompanied by media and social media articles.

It was noted after the completion of the meeting that the State Member had provided written comment regarding this matter.

The State Member raised concerns by residents primarily related to a lack of awareness of these proposed works.

Considerable consultation has occurred between Council's Traffic & Transport Team and various residents, Councillors, and NSW Police over a number of years regarding the operation of the intersection, particularly the non-compliance with the existing regulatory controls.

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Specific consultation regarding the Development Consent may not have encompassed all interested residents. To address these concerns, Council will provide written advice and a copy of the concept plan to residents in the immediate vicinity of the intersection.

RECOMMENDATION

That Council authorises installation of signage, line marking and pedestrian refuges on Ferguson Street and Doyle Street, Cessnock, in accordance with the Ferguson & Doyle Streets Cessnock _ Signage & Line Marking Diagram.

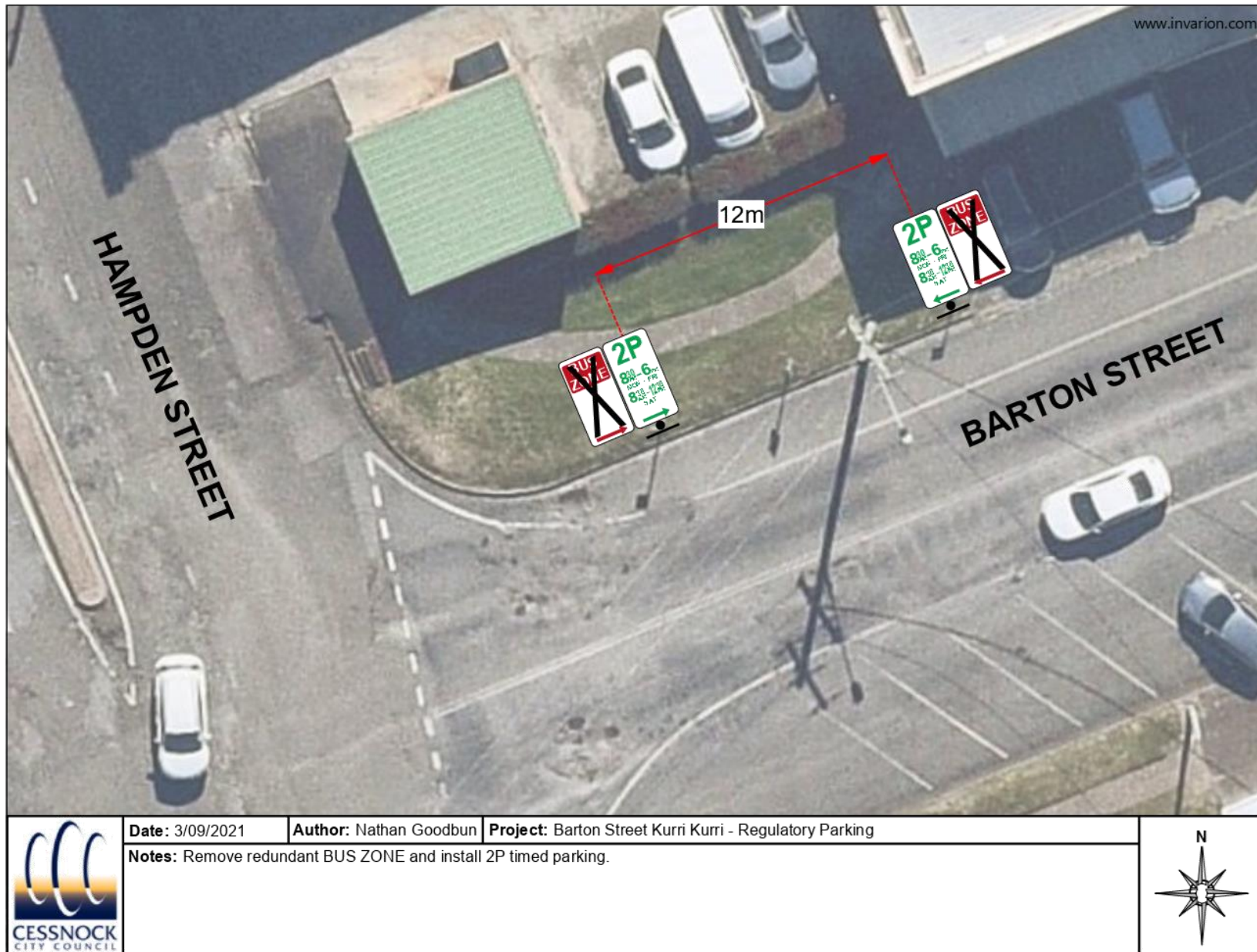
SUPPORT: Majority

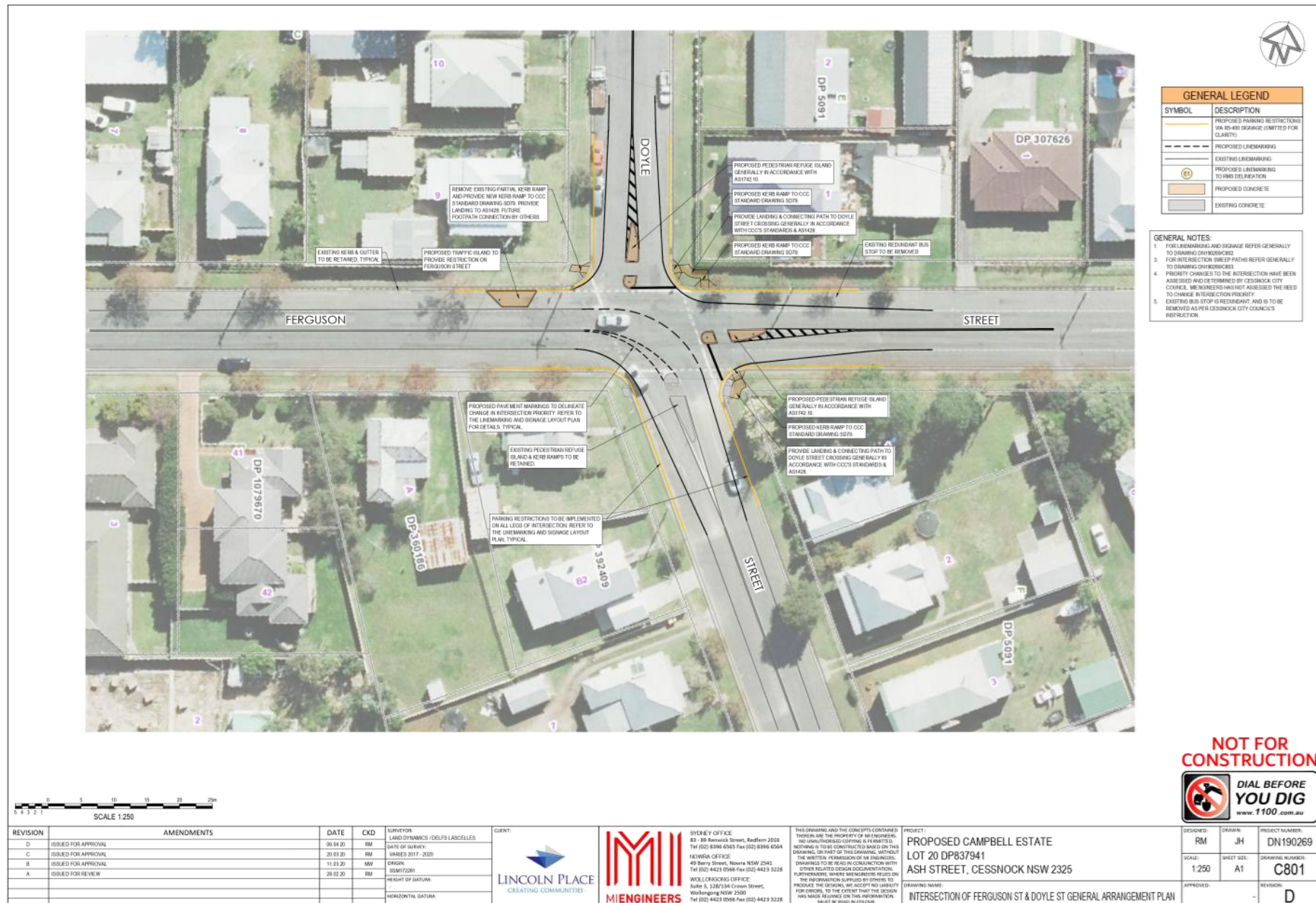
CLOSURE

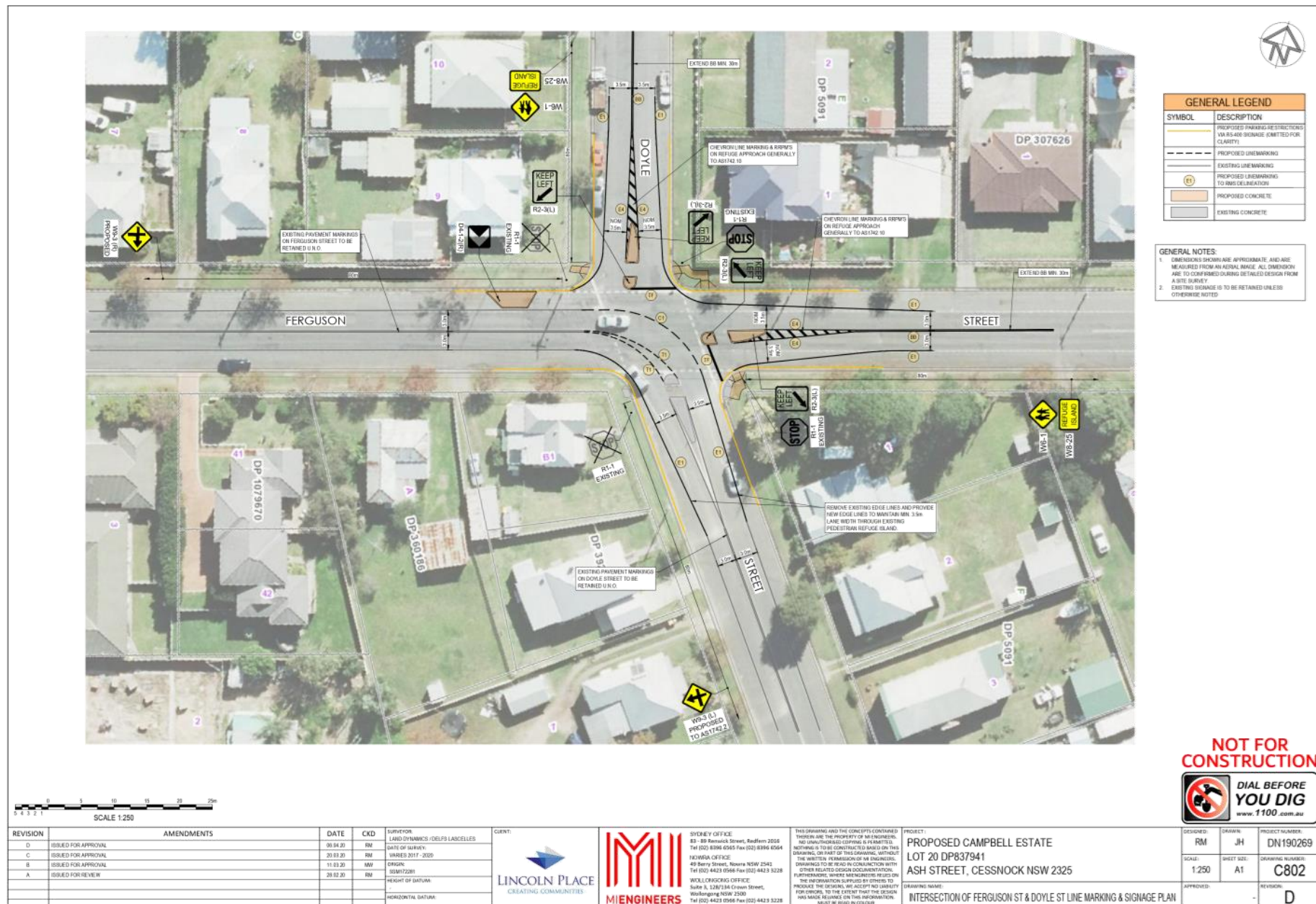
The Meeting was declared closed at 10.04am.

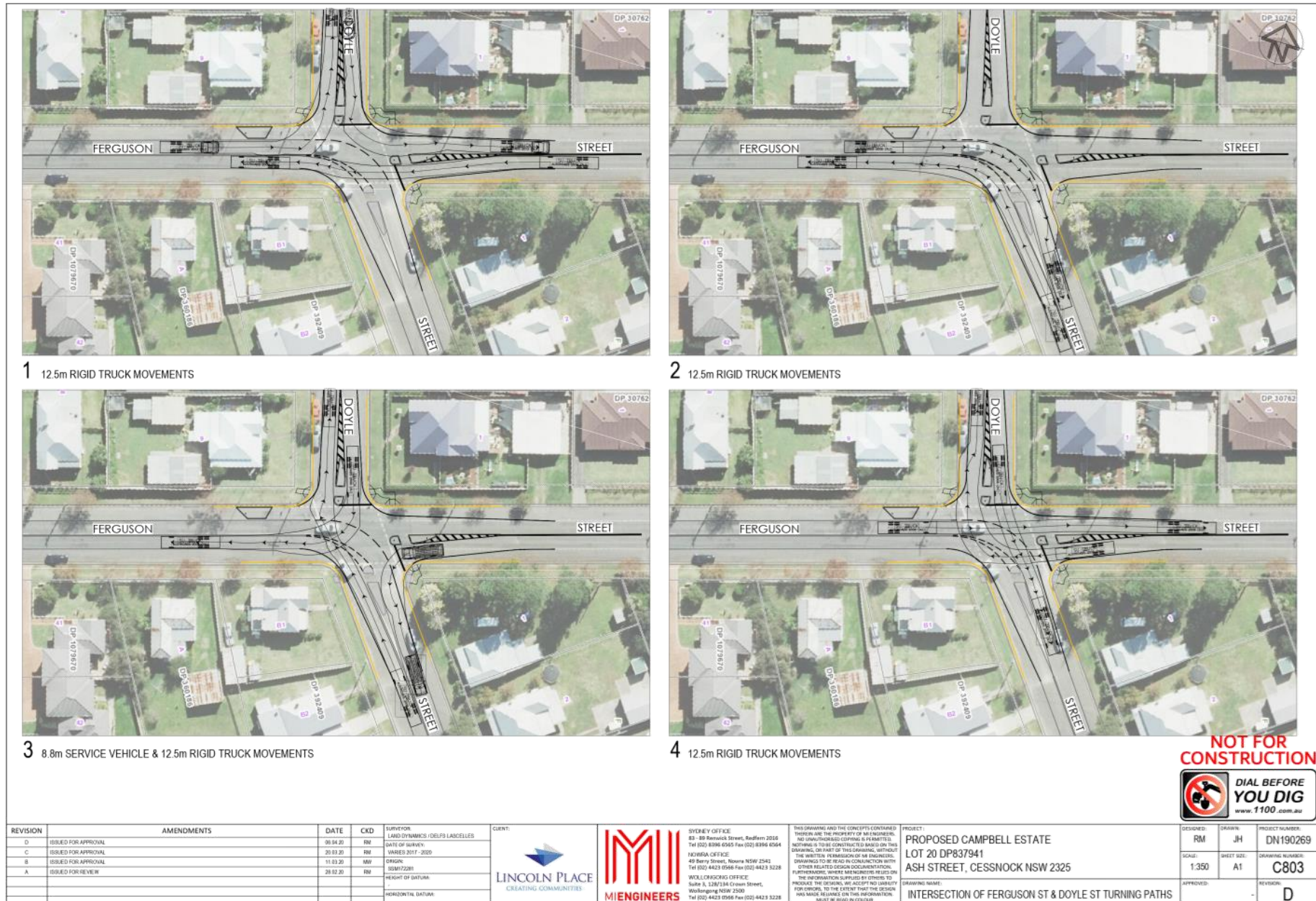
ENCLOSURES

- [1](#) Barton Street Kurri Kurri _ Signage Diagram
- [2](#) 110 2021 29 _ Ferguson & Doyle Streets Cessnock _ Signage & Line Marking Diagram _ Lincoln Place MHE









Works and Infrastructure

Report No. WI77/2021

Works and Infrastructure



SUBJECT: *MINUTES OF ROADS REVIEW COMMITTEE MEETING
HELD ON 13 AUGUST 2021*

RESPONSIBLE OFFICER: *Director Works and Infrastructure - David Moloney*

RECOMMENDATION

That the Minutes of the Roads Review Committee Meeting held on 13 August 2021 be adopted as a resolution of the Ordinary Council.

**MINUTES OF ROADS REVIEW COMMITTEE MEETING OF CESSNOCK CITY COUNCIL
HELD VIA ZOOM ON FRIDAY, 13 AUGUST 2021, COMMENCING AT 4:00PM**

PRESENT: The Mayor Councillor Pynsent (in the Chair)
Councillor Dunn
Councillor Sander
Councillor Stapleford

IN ATTENDANCE: Councillor Doherty
Councillor Fitzgibbon
Ms Lotta Jackson, General Manager
Mr David Moloney, Director Works & Infrastructure
Ms Katrina Kerr, Infrastructure Manager
Mr Warren Vandermeer, Principal Engineer – Roads Infrastructure
Ms Vivian Waugh – Minute Taker

INVITEES: Mr Paul Taylor, Asset Engineer

APOLOGIES

Nil

ACKNOWLEDGEMENT OF COUNTRY

The Mayor acknowledged the traditional custodians of this land the meeting was held on.

CONFIRMATION OF MINUTES

Nil

OFFICER'S REPORTS

REPORTS NO. RRCOR3/2021

SUBJECT: REGISTER OF PUBLIC ROADS

MATTER: The report addresses WI20/2021 from the Ordinary Meeting of Council on 21 April 2021 regarding a proposal to create a comprehensive Register of Public Roads.

DISCUSSION: The Infrastructure Manager introduced the report and the proposal to create a Roads Register.

- The format proposed is based on that used by sample Victorian local Councils in response to the requirements of the Victorian *Road Management Act 2004*.
- The Register would cover roads that are confirmed as Council roads.
- Council has adopted fees and charges for researching and addressing road ownership enquiries.
- Due to current resources road ownership is confirmed on an ad hoc basis.

Noted that the position of Council, in terms of the scope of work to be done, the funding needed and struggles with resources needed to manage roads, is now better understood as a benefit of the work of this Committee over the last two years.

Considering Council's long-term goals, the recommendation of the report was discussed in terms of future commitment of funding and resources, particularly towards a better schedule of maintenance.

It was advised that the Asset Management Plan performs that function and that the Register of Public Roads was just to let people know who owns a road and who to go to with enquiries. It was noted that in its infancy, this may be the best way to use the Register.

Officers were thanked for the report, which seeks to move Council in the right direction.

It was confirmed that the point of the Register is to make information available. Roads that Council maintains could be indicated on the Register, alternatively a link provided to give customers ready access to Council's Schedule of Maintenance will minimise opportunity for any conflicting info.

It was pointed out the benefits of reviewing the Register annually and requested that this requirement be added to the recommendation.

Works and Infrastructure

Report No. WI77/2021

Works and Infrastructure



MOTION **Moved:** Councillor Stapleford **Seconded:** Councillor Sander
RECOMMENDATION

The Committee recommends:

- 1. That Council notes the proposed content of the Register of Public Roads.**
- 2. That Council reviews the Roads Register annually**

CARRIED UNANIMOUSLY

CLOSURE The Meeting was declared closed at 4:17pm

ENCLOSURES

There are no enclosures for this report.

SUBJECT: *FORMER WASTE SITES UPDATE - REMEDIATION ACTION PLANS*

RESPONSIBLE OFFICER: *Environmental & Waste Services Manager - Michael Alexander*

SUMMARY

The purpose of this report is to provide an update on the progress of the investigation and development of remediation action plans for orphan waste sites that Council previously operated as landfills or sanitary depots.

The report also provides a financial estimate that will assist in the development of longer term financial planning for the remediation of the sites.

RECOMMENDATION

That Council notes the information contained in this report regarding the progress of the investigation and development of remediation action plans for orphan waste sites, and notes the associated financial estimates longer term.

BACKGROUND

Investigations to determine the remediation requirements associated with Council's six priority former waste sites has progressed to preparing the remediation action plans (RAP) and cost estimates.

The identified sites have historically been used as part of Council's waste management operations as either landfills or night soil disposal sites. As a consequence of the historical activities undertaken, it was identified that there was a potential that contamination of land and groundwater may have occurred.

Under, *Contaminated Land Managing Act 1997* Council is responsible for any contamination resulting from legacy activities.

Report WI74/2019 of 23 October, 2019 approved the appointment of consultants, Progressive Risk Management (PRM) via tender T1920-02 – Investigation of Potential Contamination of Council's Former Waste Sites. The key milestones of the contract included:

1. Detailed site investigations, including installation of groundwater and gas monitoring wells and sampling and analysis of one monitoring event, for the six high risk sites.
2. Ongoing monitoring, including sampling and analysis of two additional monitoring events for groundwater, surface water and gas monitoring at the six high risk sites.
3. Development of Remediation Action Plan (RAP), including an estimated costing of remediation works, for the Former Sanitary Depot at Kurri Kurri.
4. Validation of remedial works at the Former Sanitary Depot at Kurri Kurri.

Council has also engaged an NSW EPA accredited auditor from GHD to review and provide interim site audits on each of the key stages of the project.

Works and Infrastructure

Report No. WI78/2021

Works and Infrastructure



The investigation of the sites has been undertaken in a methodical order as prescribed by the NSW EPA Contaminated Land Guidelines – Consultants Reporting on Contaminated Land.

The main stages of investigation and associated reporting are as follows

- Preliminary Site Investigation (PSI)
- Sampling and Analysis Quality Control Plan (SAQP)
- Detailed Site Investigation (DSI)
- Ongoing Monitoring
- Remediation Action Plan (RAP)
- Remediation & Validation
- Environmental Management Plan
- Ongoing Site Monitoring
- Site Audit Statement & Report

Table 1 demonstrates the main components of the project and progress made to date at each of the sites.

Table 1: Site Progress

	PSI	SAQP	Sampling	DSI	Ongoing Monitoring	RAP	Remediation & Validation	EMP	Ongoing Monitoring	Site Audit
Cessnock	✓	✓	✓	✓	Ongoing					
Abermain	✓	✓	Ongoing							
Paxton	✓	✓	✓	✓	✓	✓				
Kurri Kurri	✓	✓	✓	✓	✓	✓				
Heddon Greta	✓	✓	✓	✓	Ongoing					
Greta	✓	✓	✓	✓	✓	Ongoing				

With the exception of Paxton (owned by Council), the remainder of the sites are Crown Land with smaller components of the sites owned by TfNSW and National Parks.

A further complication identified during the investigation, is that Council does not have care or control of Kurri Kurri, Abermain, Greta and only partial care and control of Heddon Greta. It was recommended in Report PE38/2018 (20 June 2018), Council resigns as corporate manager of these sites due to the commencement of the Crown Management Act 2016.

However, during the investigation questions were raised around responsibility, access and rehabilitation by the landowner. To clarify the position around access and responsibility legal advice has been sought.

Works and Infrastructure

Report No. WI78/2021

Works and Infrastructure



REPORT/PROPOSAL

As the project has progressed, it has allowed cost estimates to be prepared that will assist Council developing a long term financial plan for this project.

To develop a remediation estimate for each of the sites, a RAP is required and a supportive site audit statement from a NSW EPA accredited site auditor. PRM were engaged by Council to deliver a RAP for the Kurri Kurri site however, in order to understand the potential costs for the other sites, PRM were further tasked to provide an initial scoping document with preliminary cost estimates for the other sites.

They were further requested to provide revised costing for each of the sites once;

- Council had further developed remediation goals and expectations with the sites landowners.
- Each site had a RAP
- The site specific RAP had a Site Audit review and general support

In June 2021, PRM provided Council an initial scoping document outlining an estimated remediation cost for each of the sites. PRM engaged a remediation contractor Rare Environmental to complete the initial remediation estimate.

Table two provides the initial estimate for each of the sites. It should be noted that additional contingency cost have included potential variations that the auditor or landowner may require i.e. a thicker cap, synthetic liner or construction of a temporary site road. It is possible that all or none of the contingencies maybe required however have been included for budgeting purposes.

In the absence of all sites having completed RAP's (which remains work in-progress) the estimated remediation cost and contingency has been provided. It should be noted that these estimates will be refined as the RAP's are completed.

OPTIONS

Nil

CONSULTATION

Consultation has been carried out with the following stakeholders

- Council's NSW EPA auditor
- Council's consultants, PRM
- Landowners, including NSW National Parks, Crown Land & RMS
- Council's Finance Department

It is critical that further consultation is carried out with landowners to determine remediation goals and future land uses for the site.

Depending on the outcomes of the individual investigations, Council may need to liaise further with:

Works and Infrastructure

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Works and Infrastructure



- The NSW EPA,
- Neighbouring landowners & communities

STRATEGIC LINKS

a. Delivery Program

3.1.1 Protecting & Enhancing the Environment.

b. Other Plans

State Plan – NSW 2021

The Hunter Regional Plan 2016

IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

Council should note that hazardous waste disposal is forecast to increase significantly in the near future. Further, the longer these projects are delayed the cost will increase due to factors like CPI, EPA Levy, etc.

In regards to funding for these remediation works, the waste reserve provides for the longer term operational funding ie: plant and equipment in addition to the long term development of future site(s) and the closure/rehabilitation.

The sites under investigation have not been covered by reserve funding and will likely rely upon borrowed funding to deliver the RAP's. The full financial implications will not be known until the RAP's are finalised.

c. Legislative Implications

In accordance with Section 6 of the *Contaminated Land Managing Act 1997* Council is the owner of and therefore legally responsible for, any contamination resulting from legacy activities.

Should a pollution event occur or has potential to occur as a result of these sites, Council may be regulated by the NSW EPA, under the *Protection of the Environment Operations Act 1997*.

Whilst Council has responsibility for the contamination (and its remediation), questions have been raised in relation to access and the undertaking of works to remediate these sites by the landowner.

It is recommended that Council seek legal advice in relation to these concerns and any potential liabilities in readiness should the current landowners object.

Works and Infrastructure

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Works and Infrastructure



d. Risk Implications

It is likely that these implications pose a reputational risk to Council, should community perceive that the sites are not being adequately managed.

The community may not understand the significant threat these sites pose to the environment or the significant rehabilitation costs associated with these legacy sites.

Once remediation and validation of the sites has occurred, it is likely that Council will have no further responsibility or involvement over the impacted land. The details around future management and responsibility should be determined at the time the property is handed back to the owner.

e. Environmental Implications

Contaminated sites pose both a physical threat to human health and to the environment. Contaminated land and contaminants of concerns are continuously evolving with emerging contaminants being identified and impacts such as climate change. Due to the nature of the sites, it is imperative that Council carries out regular visual inspections and carries out any immediate safe guards to prevent any potential pollution events from occurring.

Due to the unsightly nature of some of the sites and the known links between unsightly areas and antisocial behavior such as arson or illegal dumping, it is likely that the subject sites will become further degraded and impacted by anti-social activities. Environmental Impacts of these activities in the past have resulted in asbestos being illegally disposed of on site and the use of firefighting retardants to control fires (a known polluting substance).

f. Other Implications

The *Contaminated Land Management Act 1997* establishes a legal framework that gives the EPA powers to require the assessment and remediation of sites where contamination is significant enough to warrant regulation. Under Section 60 of the *Contaminated Land Management Act 1997*, anyone whose activities have contaminated land or an owner of the land that has been contaminated are required to notify EPA as soon as practical after they become aware of the contamination. The NSW EPA *Guidelines on the Duty to Report Contamination under the Contaminated Land Management Act 1997* set out the notification triggers.

CONCLUSION

This project is a legacy of past activity that has not been completed to a standard that will mitigate the possibility of environmental degradation.

Remediation of the sites mitigates risk and returns land to landowners in a condition that is conducive to future land uses and characteristic to the local area.

ENCLOSURES

- 1** Estimated Remediation Costs - *This matter is considered to be confidential under Section 10A(2) (c) of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

Works and Infrastructure

Report No. WI79/2021

Works and Infrastructure



SUBJECT: *CESSNOCK NETBALL COMPLEX*

RESPONSIBLE OFFICER: *Acting Open Space & Community Facilities Manager - Kate Harris*

SUMMARY

The purpose of this report is to outline the current condition of Cessnock Netball Courts, required upgrades and repairs including costs and potential funding opportunities to complete the works.

RECOMMENDATION

That Council notes the information provided in regards to the condition of Cessnock Netball Courts including upgrades and repairs, costs associated with these works and potential funding options.

BACKGROUND

At its ordinary meeting of 21 July 2021 Council resolved that the General Manager report back to Council on:

- 1. *The condition of the Cessnock Netball Complex, including identified upgrades and repairs.***
- 2. *The cost of the identified upgrades and repairs.***
- 3. *Potential funding options including grant opportunities to complete the works.***

This report has been prepared in response to these items.

By way of background, Cessnock Netball Complex is located at 23 Vernon Street Cessnock and contains 12 asphalt netball courts, an amenities building and carparking. Cessnock District Netball Association operate and manage the netball facility on behalf of Council via a licence agreement which has been in place for a number of years.

For the 2021 winter season, the association had 423 registered members with 41 teams and 8 divisions. The association also had five representative netball teams (under 12's, 13's, 14's, 15's and 17's) training for the NSW State Titles. Due to COVID-19 only senior teams (15's and 17's) were able to attend the titles with the under 15's placing second overall in their division.

For the 2022 netball season the association anticipate approximately 500 registered members and 45 teams. The association also anticipate running a summer twilight competition which has not been able to occur since 2019 due to the pandemic.

Aside from training and competition, the courts are also utilised for umpire classes, specialised training programs (Sam Poolman's Aspire program), hosting a minimum of two carnivals each

Works and Infrastructure

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Works and Infrastructure



season as well as school events such as the Primary Schools Cup and Primary School Sports Association (PSSA) competition games.

REPORT/PROPOSAL

Condition of Courts

The site is split into two court complexes, Court 1-8 and 9-12 (**Enclosure 1**). The condition of courts 1- 8 are exhibiting a number of age-related effects. The court surfaces are very coarse indicating loss of asphalt binder and fine particles. As a result this could lead surface conditions that could leads falls causing serious abrasion injuries. This could be mitigated by measures implemented prior to playing on the courts. There are a number of cracks throughout the court surface which can only be repaired in the short term. The drainage of the courts is another area requiring attention due to the current grading of the courts causing water to pool in areas after storm events.

The condition of courts 9-12 have been identified as having an asphalt pavement that is old and coarse, with no suitable maintenance activity identified to prolong or improve the pavement by way of coating systems. There is also minor seam splitting, some edge cracking and minor ponding, although not as extensive as on courts 1-8.

In addition to the poor condition of the courts, the existing courts do not conform to the current Netball Australia Standards, particularly in regards to the distance between the courts. Any future upgrades would need to consider extending the width of courts 1-8 and 9-12 ensure the standeards are met. This will also have flow on effects to the existing floodlights requiring a new design and potential removal, relocation and/or additional floodlighting required.

Upgrades Required

Based on the current condition the following activities would need to be undertaken:

- Design for floodlighting, drainage and pavement including
 - Widening of the courts;
 - Assessment of the current and future floodlighting and drainage
- Resurfacing courts 1-12;
- Install/relocate floodlights to suit revised dimensions of the courts;
- Upgrades to vehicular entry to the courts; and
- New drainage, concrete pathways and landscaping.

The costs associated with the above works are discussed in further detail within the financial implications section of this report however works are anticipated to be in the order of \$1.7M.

Potential Funding Options and Grant Opportunities

Following a site meeting with Council Officers and the executive of Cessnock District Netball Association on Monday 22 March 2021, Council staff have been actively assisting the association to develop documents to support a grant application. This includes:

- Supporting the completion of the condition report with Council funding the geotechnical report.

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- Funding the development of a Site Plan for Cessnock Netball Courts (**Enclosure 2**). The site plan outlines future upgrades and aims to give strength to grant applications submitted by the association.

At the time of writing this report, Council is in discussions with the association in regards to applying for a grant via the NSW Office of Sport Regional Sport Facility fund Round 2 (with applications closing on 8 October 2021). Council staff are currently confirming ways in which the association's application can be supported including clarifying the scope of works, assistance with addressing grant questions, providing a letter of support, landowner consent etc. The association will be looking at a staged project as the maximum grant able to be applied for through this grant scheme is \$1M, should applications exceed this a 25% contribution is required.

Further grant opportunities that may be available to assist in completing the required upgrade works to the courts include the Stronger Country Communities Fund and Resources for Regions Program which are anticipated to be open in June 2022.

The surface costing systems for required upgrades to the netball courts will be recommended for inclusion in the review of the City Wide Infrastructure Contributions Plan 2020, however there is no Section 7.11 funding available to assist with funding the project at this time.

OPTIONS

Nil

CONSULTATION

In developing this report internal engagement was held with:

- Acting Parks & Reserves Coordinator
- Manager for Open Space & Community Facilities
- Principal Recreation and Community Facilities Planner
- Recreation and Open Space Community Facilities Planner
- Asset Engineering Officer (Buildings)

External Engagement has been held with:

- Cessnock District Netball Association
- Court Craft
- Douglas Partners

STRATEGIC LINKS

a. Delivery Program

This report aligns with Objective 1.2 – strengthening community culture, and Objective 3.2 – better utilisation of existing open space.

Works and Infrastructure

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Works and Infrastructure



b. Other Plans

- Site Plan for Cessnock Netball Courts 2021
- Recreation and Open Space Strategic Plan 2019

IMPLICATIONS

a. Policy and Procedural Implications

Nil

b. Financial Implications

Provided below are the opinion of probable costs to complete the required upgrades to Cessnock Netball Courts as identified within the condition report. These would need to be clarified and refined as detailed design is undertaken.

Table 1: Cost to Upgrade Cessnock Netball Courts 1-8

Works	Cost
Design and pre tender costs and project establishment/disestablishment	\$25,000
Drainage/stormwater works and concrete kerbs	\$382,500
Relocation of floodlights to suit new court sizes, additional allowance to upgrade lighting system if required	\$92,000
Pavement overlay, spray seal and netball pavement	\$545,000
Pavement preparation, plexipave surface and new goalposts and rings	\$146,000
Turfing and reinstatement of seating	\$34,000
Rail to the northern and western perimeter and new footpath on the northern side	\$31,700
Total	\$1,256,200

Works and Infrastructure

Report No. WI79/2021

Works and Infrastructure

Table 2: Cost to Upgrade Cessnock Netball Courts 9-12

Works	Cost
Project establishment/disestablishment	\$14,500
Drainage line, concrete edge beam and dish drain	\$92,000
Excavation to achieve correct court sizes, Relocation of floodlights to suit new court sizes, additional allowance to upgrade lighting system if required	\$65,000
Pavement overlay, spray seal and netball pavement	\$257,000
Pavement preparation, plexipave surface and new goalposts and rings	\$77,600
Turfing and reinstatement of seating	\$22,000
Upgrade to vehicular access	\$15,360
Total	\$543,460

The total value of works to be completed at the site is \$1,799,660.

c. Legislative Implications

Nil

d. Risk Implications

Whilst not providing an immediate high risk to netball participants, continued deterioration of the courts if not upgraded could result in player injuries.

e. Environmental Implications

Nil

f. Other Implications

Nil

CONCLUSION

The condition report completed for Cessnock Netball Courts identified a number of required upgrades. Council staff will continue to work with Cessnock District Netball Association in identifying grant funding opportunities.

ENCLOSURES

[1](#)↓

Enclosure 1: Cessnock Netball Courts - Site Aerial

[2](#)↓

Enclosure 2: Site Plan for Cessnock Netball Courts

Enclosure 2: Cessnock Netball Courts - Aerial of Site



CESSNOCK NETBALL COURTS: UPGRADE TO FACILITIES

Site plan

- 01 Existing buildings (possible future upgrades)
- 02 Upgrades to existing netball courts (4)
- 03 Upgrades to existing netball courts (8)
- 04 Future netball court expansion (4)
- 05 Existing parking area formalised
- 06 Shade tree planting to new car park
- 07 New pedestrian entry from car park
- 08 New covered seating to netball courts
- 09 Additional seating to netball courts
- 10 New floodlighting to netball courts
- 11 New bin storage area
- 12 Informal car parking

0 10 20 40 60

Scale 1:1,000 @ A3

Pg 1

Cessnock Netball Courts: Upgrade to facilities
For: Cessnock City Council







Detail plan, sheet 2 (east)

- | | | | |
|--|--|--|-------------------------|
| 01 Existing buildings (possible future upgrades) | 03 Existing parking area formalised | 06 New covered seating to netball courts | 09 New bin storage area |
| 02 Upgrades to existing netball courts (8) | 04 Shade tree planting to new car park | 07 Additional seating to netball courts | |
| | 05 New pedestrian entry from car park | 08 New floodlighting to netball courts | |
- 0 5 10 20 30
Scale 1:500 @ A3

Notices Of Motion

Report No. BN27/2021

General Manager's Unit



NOTICES OF MOTION No. BN27/2021

SUBJECT: *CESSNOCK HOSPITAL UPGRADE AND RESOURCES*

COUNCILLOR: *Anthony Burke*

MOTION

1. That Council acknowledges the local GPs, Nurses and Health staff who work tirelessly at Cessnock Hospital to care for our community.
2. That Council acknowledges the current and expected population growth within the Cessnock LGA that is and will have an impact on community services.
3. That Council acknowledges the briefing held with Council with Hunter New England Health relating to Maitland Hospital, Kurri Kurri Hospital and an upgrade to Cessnock Hospital.
4. That the General Manager writes to the Premier of NSW The Hon Dominic Perrottet, Minister for Health The Hon Brad Hazzard and the Chief Executive of Hunter New England Health Mr Michael DiRienzo, requesting that:
 - a. The NSW State Government review and priorities an upgrade to Cessnock Hospital.
 - b. That a timeline and outline of an upgrade to Cessnock Hospital be provided.
 - c. That more staffing and resources be urgently provided to Cessnock Hospital to support current staff and the Cessnock Community.
 - d. Recognises the growth of Cessnock Correctional Centre and the impacts and challenges it is having on Cessnock Hospital.
 - e. That the services offered at Cessnock Hospital be reviewed.
 - f. Consideration be given for services that the Cessnock Community have to leave our area for.
5. That correspondence be copied into State Member for Cessnock Clayton Barr and The Hon Joel Fitzgibbon member for Hunter for their support.

It is my intention to move the above motion at the next Ordinary Meeting of Council on 20 October 2021.

RATIONALE

In 2014 the Emergency Department of Cessnock Hospital was upgraded which was much needed. The rest of Cessnock of Hospital is in much need of upgrading. Not only is there wear and tear in the hospital, the resources available to staff is lacking and there is not enough staff at the hospital to service our community. From the surgical theatres, wards, carpark,

Notices Of Motion

Report No. BN27/2021

General Manager's Unit



waiting rooms, amenities and much more, desperately need urgent attention to service our community and the workforce who work at Cessnock Hospital.

In 2020 Hunter New England Health briefed council in advising that the Cessnock Hospital is in line for an upgrade, this motion is to ensure that the Cessnock Community stay a high priority for Hunter New England Health and the NSW State Government.

There are many services that the Cessnock Community need to leave the area for, we desperately need the State Government to review the services currently offered at Cessnock Hospital and increase the services to match our growing population needs.

SOURCE OF FUNDING:

N/A

DELIVERY PROGRAM:

N/A

Sgd: Anthony Burke

Date: 11 October 2021

ENCLOSURES

There are no enclosures for this report

Answers to Questions of which Written Notice has been given

Report No. AQWN2/2021

Works and Infrastructure



SUBJECT: *DISABILITY ACCESS TO CESSNOCK POOL*

RESPONSIBLE OFFICER: *Acting Open Space & Community Facilities Manager - Kate Harris*

Detail:

What is the current process to enter the Cessnock pool grounds for those people using the disability carpark adjacent to the pool and are there any proposed improvements to the process?

Response:

The current process for accessible entry into Cessnock Swimming Pool is outlined below:

- There are a few regular patrons (lap swimmers) who attend the pool and staff meet them at the gate adjacent to the accessible car park to let them in.
- Where the staff are unavailable or do not see the person at the gate the person telephones the pool to request access and the gate is opened.

Due to the heritage status of the building and the scale of modifications required to the main entry it is not possible to fully meet accessibility requirements under DDA compliance and the above process is utilised. There are no major improvements planned to this process however the installation of signage at each entry point is planned to be updated with the access information for new customers.

FOR COUNCIL'S INFORMATION

ENCLOSURES

There are no enclosures for this report

Correspondence

Report No. CO16/2021

Corporate and Community Services



SUBJECT: *GAS FIRED POWER STATION - REPORT BN31/2020*

RESPONSIBLE OFFICER: *Director Corporate and Community Services - Robert Maginnity*

RECOMMENDATION

That Council notes the correspondence forwarded by the member for Cessnock Clayton Barr MP, regarding the gas-fired power station project near Kurri Kurri.

At its Ordinary Meeting of 21 October 2020 Council considered Report No. BN31/2020 – Gas Fired Power Station and resolved:

1. ***That the General Manager write to the Prime Minister, The Hon Scott Morrison MP, Federal Minister for Energy, The Hon Angus Taylor MP, the Premier of NSW, The Hon Gladys Berejiklian MP, the Minister for Energy and Environment NSW, The Hon Matthew Kean MP, Cessnock State Member, Clayton Barr MP, Federal Member for Hunter, The Hon Joel Fitzgibbon MP and Meryl Swanson MP, Federal Member for Paterson and ask that they show their support for a gas-fired power generator in Kurri Kurri.***
2. ***As part of the letter Cessnock City Council highlights the economic, employment, social and environmental benefits this project will bring to the Hunter in particular the Cessnock Local Government Area.***

Correspondence has been received from the member for Cessnock, Clayton Barr MP, regarding a response to representations made to the Hon Matt Kean, MP, NSW Minister for Energy and Environment regarding the gas-fired power station project near Kurri Kurri.

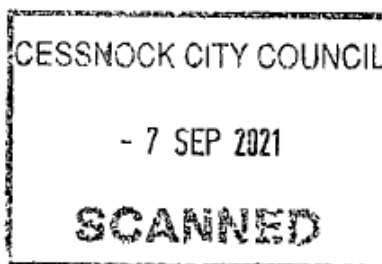
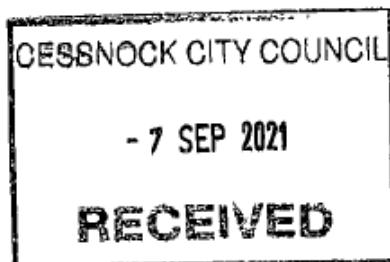
A copy of the correspondence is attached to this report.

Council has previously noted correspondence in relation to this matter as follows:

- Council Meeting 17 February 2021:
 - o Member for Cessnock Clayton Barr, MP
 - o David Blowers, Acting General Manager, Electricity Markets Branch
- Council Meeting 22 September 2021:
 - o the office of the Hon Matt Kean, MP, NSW Minister for Energy and Environment
 - o the Hon. Ben Franklin MLC, Parliamentary Secretary for Energy and the Arts

ENCLOSURES

[1](#) Member for Cessnock, Clayton Barr MP



30 August 2021

For your information

Forwarded With The Compliments Of

A handwritten signature in dark ink, appearing to read "Clayton Barr" with a stylized flourish at the end.

CLAYTON BARR, MP
STATE MEMBER FOR THE
ELECTORATE OF CESSNOCK

Electorate Office:
PO Box 242
Cessnock NSW 2325

Phone: (02) 4991-1466
or 1300 550 114

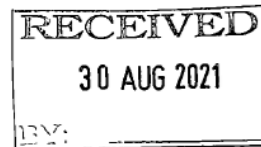


The Hon. Ben Franklin MLC
Parliamentary Secretary for Energy and the Arts

Your ref. CB2-CessnockCityCouncil-Enr-20201113
Our ref: MD20/8906

Mr Clayton Barr MP
Member for Cessnock

Email: cessnock@parliament.nsw.gov.au



Dear Mr Barr *Clayton*,

This is to advise you that the Hon Matt Kean MP, Minister for Energy and Environment, has responded to Cessnock City Council's Resolution on the proposed Kurri Kurri gas powered fired power station in its correspondence of the 6 November 2020.

A copy of the response is attached.

Thank you for taking the time to bring this matter to the Government's attention.

Yours sincerely

A handwritten signature in black ink, appearing to be "Ben Franklin", written over a horizontal line.

The Hon. Ben Franklin MLC
Parliamentary Secretary for Energy and the Arts

Encl. Copy of response to Cessnock City Council (MD20/8150)

23/8/21



The Hon. Ben Franklin MLC
Parliamentary Secretary for Energy and the Arts

Your ref: DOC 2020/174153
Our ref: MD20/8150

Mr Robert Maginnity
Acting General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Dear Mr Maginnity

Thank you for your letter about the proposed Kurri Kurri Power Station to the Minister for Energy and Environment, Matt Kean MP. I have been asked to respond on his behalf. I apologise for the delay in my response.

The NSW Government is committed to securing a reliable, affordable and clean energy future for households and businesses in NSW. Gas fired generation is a technology that supports peak energy demand in the energy market and provides energy security to support increasing levels of renewable energy generation.

Kurri Kurri Power Station was declared as Critical State Significant Infrastructure (CSSI) given its significant economic potential for the Hunter and importance for future energy supply. The proponent, Snowy Hydro Limited, has lodged a scoping report, which is available at www.planningportal.nsw.gov.au/major-projects/project/40951.

The project is in the initial phase of the planning process and the proponent has not lodged an application and Environmental Impact Statement (EIS) for the project. Therefore, the assessment process has not commenced.

The Department of Planning, Industry and Environment (the Department) will assess the proposal in accordance with the *Environmental Planning and Assessment Act 1979* and other relevant policies and guidelines.

As four of our five coal-fired power stations will come to their scheduled end of life in the next 15 years, we need to get moving now to ensure we have the next generation of energy infrastructure in place to keep our grid cheap and reliable. Our priority is doing that in a way that creates jobs, stimulates the economy, supports our regions and protects NSW consumers.

Replacing electricity infrastructure doesn't happen overnight. It takes time, and it takes careful planning. That is why we have released the NSW Electricity Infrastructure Roadmap which sets out our 20-year plan to deliver the generation, storage, firming and transmission infrastructure we need to power NSW into the future.

The Roadmap will:

- support the private sector to bring 12 gigawatts of renewable energy and two gigawatts of storage, such as pumped hydro, online by 2030
- give industry and investors the certainty they need to invest in the infrastructure we need, with more than \$32 billion of private sector investment to be injected into the NSW economy by 2030
- help to create the jobs of the future, with 9,000 direct jobs by 2030 and more than 23,000 indirect jobs – mostly in the regions – in the next decade
- see \$1.5 billion in lease payments go to farmers and regional landowners that host new energy infrastructure by 2042
- power what BlueScope Global CEO Mark Vassella described as “a manufacturing renaissance in NSW” with some of the cheapest, most reliable electricity in the OECD.

The Roadmap is enabled by the *Electricity Infrastructure Investment Act 2020*, which passed Parliament on 27 November 2020 and became law on 2 December 2020. The legislation sets out the delivery framework, prescribes critical consumer protection mechanisms and enables us to put the right regulatory settings in place to create the competitive market that will deliver cheap, reliable electricity to NSW homes and businesses.

You may be aware that the *Electricity Infrastructure Investment Act 2020* also creates:

- a NSW renewable energy sector board which will prepare a plan to maximise the use of locally produced and supplied goods and services and the employment of suitable, qualified local workers, and to foster opportunities for apprentices and trainees
- an electricity infrastructure jobs advocate to advise on strategies and incentives to encourage investment, development, workforce development, employment, education and training in the regions where the Renewable Energy Zones (REZs) are located.

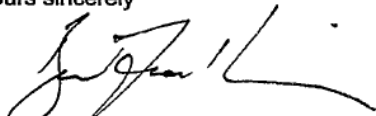
The jobs advocate will work hand-in-hand with industry to advise the Minister for Energy and Environment on strategies to encourage workforce development, employment and training in the key regions of the Hunter and Central Coast, New England, Illawarra, Far West and Central-West regions of NSW. The jobs advocate will also advise the Minister on the road, rail and port infrastructure required in the regions to promote export opportunities for generation, storage and network technology.

The Roadmap has been developed with KPMG, Aurora Energy and NAB, in consultation with the independent Australian Energy Market Operator (AEMO). In fact, AEMO's former CEO Audrey Zibelman has described the Roadmap as a “well-considered” policy which could be a “template for adoption across the national electricity market”.

For more information and to view the Roadmap, visit www.energy.nsw.gov.au/electricity-infrastructure-roadmap.

If you have any more questions about this matter, please contact Ms Colette Grigg, Director National Energy Markets at the Department on 8275 1914 or at colette.grigg@planning.nsw.gov.au.

Yours sincerely



The Hon. Ben Franklin MLC
Parliamentary Secretary for Energy and the Arts

23/8/21