



PLANNING PROPOSAL

Amendment to the

Cessnock Local Environmental Plan 2011

Planning Proposal to reclassify properties at Cessnock and East Branxton and rezone and reclassify a property at Weston.

Version 3

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Revision History

Revision	Description	Date
1	Draft for Council Endorsement	02.07.20
2	Post Gateway Amendments	25.03.21
3	Post Exhibition Amendments	01.09.21

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Part 1: Objectives and Outcomes

The objective of the planning proposal is to reclassify, and reclassify and rezone, various Council owned properties at Cessnock, East Branxton and Weston.

The Planning Proposal is required as a result of Council resolutions of 4 July 2018 (PE39/2018) and 15 May 2019 (PE48/2019) that resolved to proceed with the recommendations of the Strategic Property review that was undertaken via the Strategic Property and Community Facilities Committee. The Council resolutions can be found at <https://www.cessnock.nsw.gov.au/Council/Council-meetings/Minutes-agendas>.

The 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.

NOTE: In response to submissions received during public exhibition, Council resolved to not proceed with the proposed rezoning and reclassification of 9 Abermain Street Pelaw Main (known as Jacobs Park), 35 Water Street Greta (known as Victoria Park) and 85 Swanson Street Weston (known as Varty Park) on 19 May, 19 June and 21 July 2021, respectively. The proposed rezoning and reclassification of Molly Worthington Netball Courts at Kurri Kurri was excluded from the planning proposal in accordance with the Gateway determination.

Part 2: Explanation of Provisions

The provisions of the planning proposal will amend the *Cessnock Local Environmental Plan 2011* (the LEP 2011) as outlined in **Table 1** below.

Table 1: Explanation of Provisions

Item Number and Property Description.	Explanation of Provisions
Item 1: Drainage Address: 10 Redgrove Court, East Branxton Title: Lot 8 DP 255269 Internal ID: 10757 Note: This property was vested as a public reserve by registration of DP 255269 on 27 September 1977.	Reclassify the site from Community to Operational land. Site currently zoned R2 Low Density Residential.
Item 2: Drainage Address: 45 Yates Street, East Branxton Title: Lot 20 Section D DP 1846 Internal ID: 11580 Note: The property was purchased on 19 January 1996.	Reclassify the site from Community to Operational land. Site currently zoned R2 Low Density Residential.
Item 3: Excluded by Council on 19 May 2021	Council resolved on 19 May 2021 to exclude the proposed rezoning and reclassification of Jacobs Park from the planning proposal.
Item 4: Public Reserve Address: 1A Lee-ann Crescent, Cessnock Title: Lot 9 DP 253077 Internal ID: 5090 Note: The property was vested to Council by registration of DP 253077 on 15 August 1978.	Reclassify the site from Community to Operational land. Site currently zoned R2 Low Density Residential.
Item 5: Public Reserve Address: 10 Embelton Avenue, Weston Title: Lot 1 DP 382568 Internal ID: 9855 Note: The property was vested to Council by registration of Folio Plan 382568 on 10 October 1952.	Reclassify the site from Community to Operational land. Rezone from RE1 Public Recreation to R3 Medium Density Residential. Include in the Cessnock LEP 2011 Minimum Lot Size map with a 450m ² control. <u>Justification of proposed residential zone</u> Council proposes to rezone the land to R3 Medium Density Residential on the basis of the size of the site and its proximity to the established town centre of Weston. The Cessnock Local Strategic Planning Statement 2036 (the LSPS) identifies the commercially zoned land within Weston as a

	Neighbourhood Centre. Rezoning the site to R3 Medium Density Residential provides the opportunity for residential development of an increased density, and for that development to occur in a location that is proximate to an established B2 Local Centre Zone. This satisfies both the LSPS Planning Priorities for infill development and the Draft Cessnock Housing Strategy's goal to deliver more affordable housing by providing for housing diversity and compact urban centres.
Item 6: Excluded by Council on 21 July 2021	Council resolved on 21 July 2021 to exclude the proposed rezoning and reclassification of Varty Park from the planning proposal.
Item 7: Excluded by Gateway determination	Molly Worthington Netball Courts site was excluded from the planning proposal in accordance with the Gateway determination.
Item 8: Excluded by Council on 19 July 2021	Council resolved on 19 June 2021 to exclude the proposed rezoning and reclassification of Victoria Park from the planning proposal.

Part 3: Justification

In accordance with the Department of Planning, Industry and Environment's 'Guide to Preparing Planning Proposals' and the LEP Practice Note PN 16-001 'Classification and reclassification of public land through a local environmental plan', this section provides a response to the following issues:

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

Section A: Need for Proposal

1 *Resulting from a Strategic Study or Report*

The planning proposal stems from a review of Council's property assets, known as the Strategic Property Review. The review of these properties was undertaken in 2018/2019. The purpose of the review is to ensure that Council's land assets continue to meet community needs and are fit for purpose. The review has considered the outcomes of the [Recreation and Open Space Strategic Plan \(ROSSP\)](#) as revised in November 2019. Most of the properties have been identified as surplus to Council's requirements by internal review. The properties have been identified as not being well located or suited for open space and recreation purposes in line with future community needs, and therefore surplus to need.

The following properties are identified as surplus to need by the *Recreation and Open Space Strategic Plan*:

- Item 1: Drainage
 - 10 Redgrove Court, East Branxton
 - Lot 8 DP 255269
- Item 4: Public Reserve
 - 1A Lee-ann Crescent, Cessnock
 - Lot 9 DP 253077
- Item 5 – Public Reserve
 - 10 Embleton Street, Weston
 - Lot 1 DP 382568

The Strategic Property Review process was a review of Council owned properties to ensure that they are fit for purpose and continue to meet community needs. As a result, the following properties were identified as suitable for disposal:

- Item 2: Drainage
 - 45 Yates Street, East Branxton
 - Lot 20 Section D DP 1846

An investigation was undertaken to determine how each property was acquired and the appropriateness for reclassification and rezoning (where applicable). The outcomes of these investigations and the justification for the proposed amendments is outlined below.

Item 1: 10 Redgrove Court, East Branxton

This property was vested as a public reserve by registration of DP 255269 on 27 September 1977. The site is approximately 810m² in area. The property is known as Dalwood Road Park and is identified by the

Recreation Open Space Strategic Plan (ROSSP) as surplus to needs. It is proposed to reclassify the site from Community to Operational land and remove the public reserve status.

Justification

Despite the proposed reclassification, there is sufficient recreation land in the immediate area to meet future demand for open space and recreation needs. For example, Brunner Park (Local Park - ROSSP) is located within 500m of the site.

Item 2: 45 Yates Street, East Branxton

The property was purchased by Council on 19 January 1996. The site is approximately 810m² in area. The property is vacant and was flagged to function as a drainage easement.

Justification

The site was identified in Council's Strategic Property Review as being surplus to needs and is no longer required for drainage purposes.

Item 4: 1A Lee-ann Crescent, Cessnock

The property was vested to Council as a public reserve by registration of DP 253077 on 15 August 1978. The site is approximately 1429m² in area. The land is known as Lee-Ann Crescent Park and is identified by the ROSSP as surplus to needs. It is proposed to reclassify the site from Community to Operational land and remove the public reserve status.

Justification

Despite the proposed reclassification, there is sufficient recreation land in the immediate area to meet future demand for open space and recreation needs. For example, Manning Park – East (Passive - ROSSP), Michael Drain Oval (Local Sportsground – ROSSP) and North Cessnock Playground are all located within 300m of the site.

Item 5: 10 Embelton Street, Weston

The property was vested to Council as a public reserve by registration of Folio Plan 382568 on 10 October 1952. The site is approximately 2.5ha in area. The property is vacant and is identified by the ROSSP as surplus to needs. It is proposed to reclassify the site from Community to Operational land, remove the public reserve status and to rezone it from RE1 Public Recreation to R3 Medium Density Residential. The current and proposed zoning and minimum lot size maps are provided in **Figures 8 to 11** in Part 4 of this planning proposal.

Justification

Despite the proposed reclassification and rezoning, there is sufficient recreation land in the immediate area to meet future demand for open space and recreation needs. For example, Ernie Dunlop Park (Local Park - ROSSP) and a significant area of recreationally zoned Crown Land are located within 250m of the site.

Council proposes to rezone the land R3 Medium Density Residential on the basis of its proximity (and walkability) to the Weston town centre. Rezoning the site R3 Medium Density Residential provides the opportunity for residential development of an increased density. This satisfies both the LSPS Planning Priorities for infill development and the Draft Housing Strategy's goal to deliver more affordable housing by providing for housing diversity and compact urban centres.

2 Planning Proposal as best way to achieve the objectives

The intended outcomes relate to amendments to the LEP 2011. The Planning Proposal is to reclassify certain properties from community to operational. The proposal also aims to rezone and amend the lot size map/s for Item 3, Item 5, and Item 6. The proposal is considered to be the best way to ensure that Council delivers a balance of infill development while maintaining fit for purpose assets, ensuring that the community needs are met.

3 Assessment against PN 16-001 “Classification and reclassification of public land through a local environmental plan

This assessment was provided to the Department of Planning, Industry and Environment through the assessment of the application for Gateway determination and has been added to the planning proposal to address the practice note. Note: Item 7 has been removed as per the condition of Gateway determination.

	Item 1: Drainage <ul style="list-style-type: none"> 10 Redgrove Court, East Branxton Lot 8 DP 255269 	Item 2: Drainage <ul style="list-style-type: none"> 45 Yates Street, East Branxton Lot 20 Section D DP 1846 	Item 4: Public Reserve <ul style="list-style-type: none"> 1A Lee-ann Crescent, Cessnock Lot 9 DP 253077 	Item 5 – Public Reserve <ul style="list-style-type: none"> 10 Embelton Street, Weston Lot 1 DP 382568
Any trusts or interests (other than public reserve status which has been provided)?	No trusts or interests.	No trusts or interests.	There are no trusts or interests other than the public reserve.	There are no trusts or interests other than the public reserve.
Any existing or proposed lease agreements?	Nil.	Nil.	Nil.	Council has just terminated an agistment agreement, this is not being renewed.
Councils intent to sell the land, and outline the number of estimated additional dwellings?	The sale of the land will be managed in accordance with Council's Property Investment and Development Policy. See attached, also available from Council's website: https://www.cessnock.nsw.gov.au/Council/Forms-documents/Policies			
	The lot is approximately 810.55 sq.m, based on Council's existing planning controls and the configuration of the lot it is estimated that the property would be able to accommodate a single dwelling. It is imperative to note that there are no concrete decisions or approvals for how this land will be developed.	The lot is approximately 810.65 sq.m, based on Council's existing planning controls and the configuration of the lot it is estimated that the property would be able to accommodate a dual occupancy development. It is imperative to note that there are no concrete decisions or approvals for how this land will be developed.	The lot is approximately 1429.46 sq.m, based on the 450m ² minimum lot size of the site it is estimated that the lot yield of this site would be approximately 2 lots. The formula used to calculate this is: $\text{Lot Yield} = (\text{Area} \times 0.8) / 450$ 0.8 is the provision of land for infrastructure. 450 is the proposed MLS. It is imperative to note that there are no concrete decisions or approvals for how this land will be developed.	The lot is approximately 25,215.80 sq.m, based on the proposed minimum lot size of 450m ² it is estimated that the lot yield of this site would be approximately 44 lots. The formula used to calculate this is: $\text{Lot Yield} = (\text{Area} \times 0.8) / 450$ 0.8 is the provision of land for infrastructure. 450 is the proposed MLS. It is imperative to note that there are no concrete decisions or approvals for how this land will be developed.
How council will benefit financially and how these funds will be used?	The funds from the sale of the properties will be held in Council's Property Investment Fund and will be managed in accordance with Council's Property Investment and Development Policy. See attached, also available from Council's website: https://www.cessnock.nsw.gov.au/Council/Forms-documents/Policies			
If the funds are being re-invested into open space, how this will it be ensured?	This property is part of Council's Property Investment Fund.	This property is part of Council's Property Investment Fund.	This property is part of Council's Property Investment Fund.	This property is part of Council's Property Investment Fund.

Planning Proposal – Reclassification of Council Land

File No. 18/2019/1/1

	Item 1: Drainage <ul style="list-style-type: none"> • 10 Redgrove Court, East Branxton • Lot 8 DP 255269 	Item 2: Drainage <ul style="list-style-type: none"> • 45 Yates Street, East Branxton • Lot 20 Section D DP 1846 	Item 4: Public Reserve <ul style="list-style-type: none"> • 1A Lee-ann Crescent, Cessnock • Lot 9 DP 253077 	Item 5 – Public Reserve <ul style="list-style-type: none"> • 10 Embelton Street, Weston • Lot 1 DP 382568
	The funds from the sale of the properties will be held in Council's Property Investment Fund and will be managed in accordance with Council's Property Investment and Development Policy.	The funds from the sale of the properties will be held in Council's Property Investment Fund and will be managed in accordance with Council's Property Investment and Development Policy.	The funds from the sale of the properties will be held in Council's Property Investment Fund and will be managed in accordance with Council's Property Investment and Development Policy.	The funds from the sale of the properties will be held in Council's Property Investment Fund and will be managed in accordance with Council's Property Investment and Development Policy.
Were any of the sites purchased using section 94 contributions?	No. The property was vested as a public reserve by registration of DP 255269 on 27 September 1977.	<p>The property was purchased on 19 January 1996.</p> <p>Council's Management Accountant has advised that this property was purchased within the annual Drainage Program which was mostly funded from external loan funding.</p>	No. The property was vested to Council by registration of DP 253077 on 15 August 1978.	No. The property was vested to Council by registration of Folio Plan 382568 on 10 October 1952.

Section B: Relationship to Strategic Planning Framework

4 *Consistency with Objectives and Actions within Regional Strategies*

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 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.

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

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 (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:

- Planning Priority 1: Our urban areas are compact.
 - Planning Principles:
 - 1. Medium density residential development is encouraged in and around our centres.
 - 5. Our urban areas are compact and fully serviced.
- Planning Priority 2: Housing is diverse, adaptable and affordable and our urban areas facilitate affordable living.
 - Planning Principles:
 - Settlements are designed, located and appropriately serviced to reduce living costs, support affordable living and provides adaptable housing.
 - 3. Affordable and adaptable housing and seniors' living is provided in well-connected urban centres.
 - 4. Ageing in place is facilitated by good access to transport, services and community facilities.
 - 5. The capacity of existing services and infrastructure is maximised. 6. Social infrastructure is concentrated in existing and emerging urban centres

- Planning Priority 5: Infrastructure and services meet the needs of our community and are appropriately funded.
 - Planning Principles:
 - 2. Infill development within our established urban areas is encouraged.
 - 4. Rezoning land for urban purposes will be prioritised in areas where existing infrastructure capacity exists.
- Planning Priority 7: Urban development is encouraged in areas within existing infrastructure.
 - Planning Principles:
 - 1. Infill development is encouraged in established urban areas.
 - 2. Our urban areas are compact and well serviced.
 - 3. Residential development is supported in unconstrained areas of the Cessnock to Maitland Growth Corridor.
 - 4. New growth is integrated with the existing residential areas and adequately serviced.
- Planning Priority 29: Our villages retain their unique qualities that reflect their histories.
 - Planning Principles:
 - 3. The growth of our villages preserves their key features
- Planning 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.
 - Planning Principles:
 - 4. Infill development that occurs in villages helps fund infrastructure and support local facilities, shops and venues.
 - 5. Infill development within the existing village zones maximises existing sewer and water infrastructure

6 Consistency with State Environmental Planning Policies

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

Table 2: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 21 - Caravan Parks	The SEPP provides for development for caravan parks.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP 36 - Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP 50 - Canal Estate Development	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP 55 - Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination	Consistent. These sites have not been identified by Council as being contaminated sites. Nothing in the Planning Proposal impacts on the operation of this SEPP.
SEPP 64 - Advertising and Signage	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP 65 - Design Quality of Residential Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP 70 – Affordable Rental Housing (Revised Schemes)	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP Affordable Rental Housing 2009	The aims of this Policy are as follows: (a) to provide a consistent planning regime for the provision of affordable rental housing, (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards, (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,	Nothing in this Planning Proposal impacts on the operation of this SEPP.

SEPP	Relevance	Consistency and Implications
	<p>(d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,</p> <p>(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,</p> <p>(f) to support local business centres by providing affordable rental housing for workers close to places of work,</p> <p>(g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.</p>	
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP (Coastal Management) 2018	<p>The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—</p> <p>(a) managing development in the coastal zone and protecting the environmental assets of the coast, and</p> <p>(b) establishing a framework for land use planning to guide decision making in the coastal zone, and</p> <p>(c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.</p>	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP (Concurrences and Consents) 2018		Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP (Educational Establishments and Child Care Facilities) 2017	<p>The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State by:</p> <p>(a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and</p> <p>(b) simplifying and standardising planning approval pathways for educational establishments and</p>	Nothing in this Planning Proposal impacts on the operation of this SEPP.

SEPP	Relevance	Consistency and Implications
	<p>early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and</p> <p>(c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and</p> <p>(d) allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and</p> <p>(e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and</p> <p>(f) aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and</p> <p>(g) ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and</p> <p>(h) encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.</p>	
SEPP Exempt and Complying Development Codes 2008	<p>The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of</p>	<p>Nothing in this Planning Proposal impacts on the operation of this SEPP.</p>

SEPP	Relevance	Consistency and Implications
	complying development that may be carried out in accordance with a complying development certificate.	
SEPP Housing for Seniors or People with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP Infrastructure 2007	The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP (Koala Habitat Protection) 2019	This Policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP Miscellaneous Consent Provisions 2007	The aims of this Policy are as follows: (a) to provide that the erection of temporary structures is permissible with consent across the State, (b) to ensure that suitable provision is made for ensuring the safety of persons using temporary structures, (c) to encourage the protection of the environment at the location, and in the vicinity, of temporary structures by specifying relevant matters for consideration, (d) to provide that development comprising the subdivision of land, the erection of a building or the demolition of a building, to the extent to which it does not already require development consent under another environmental planning instrument, cannot be carried out except with development consent.	Nothing in this Planning Proposal impacts on the operation of this SEPP.
SEPP (Primary Production and Rural Land) 2019	The aims of this Policy are as follows: (a) to facilitate the orderly economic use and development of lands for primary production, (b) to reduce land use conflict and sterilisation of rural land by balancing primary production,	Nothing in this Planning Proposal impacts on the operation of this SEPP.

SEPP	Relevance	Consistency and Implications
	<p>residential development and the protection of native vegetation, biodiversity and water resources,</p> <p>(c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,</p> <p>(d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,</p> <p>(e) to encourage sustainable agriculture, including sustainable aquaculture,</p> <p>(f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,</p> <p>(g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.</p>	
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.	Nothing in this Planning Proposal impacts on the operation of this SEPP.the operation of this SEPP.
SEPP (State Significant Precincts) 2005	<p>The aims of this Policy are as follows:</p> <p>(a), (b) (Repealed)</p> <p>(c) to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant precincts for the benefit of the State,</p> <p>(d) to facilitate service delivery outcomes for a range of public services and to provide for the development of major sites for a public purpose or redevelopment of major sites no longer appropriate or suitable for public purposes.</p>	Nothing in this Planning Proposal impacts on the operation of this SEPP.

SEPP	Relevance	Consistency and Implications
	(e), (f) (Repealed)	

7 Consistency with Section 9.1 Ministerial Directions for Local Plan Making

An assessment of relevant Section 9.1 Directions against the planning proposal is provided in the table below.

Table 3: Relevant Section 9.1 Ministerial Directions

Ministerial Direction	Objective of Direction	Consistency and Implication
1. Employment and Resources		
1.1. Business and Industrial Zones	The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres.	N/A
1.2. Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	N/A
1.3. Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Consistent. The Planning Proposal will not hinder the achievement of the objectives of this direction.
1.5. Rural Lands	The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes.	N/A
2. The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. Environment and Heritage		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	N/A
2.2 Coastal Protection	The objective of this direction is to protect and manage coastal areas of NSW.	Not applicable to LGA
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent. The Planning Proposal will not hinder the achievement of the objectives of this direction.
2.4 Recreation Vehicle Areas	The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	N/A

Ministerial Direction	Objective of Direction	Consistency and Implication
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	Consistent. The Planning Proposal will not hinder the achievement of the objectives of this direction.
3.2 Caravan Parks and Manufactured Home Estates	The objectives of this direction are: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates.	N/A
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	N/A
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	N/A
3.5 Development Near Licensed Aerodromes	The objectives of this direction are: (a) to ensure the effective and safe operation of aerodromes, and (b) to ensure that their operation is not compromised by development that constitutes	N/A

Ministerial Direction	Objective of Direction	Consistency and Implication
	<p>an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and</p> <p>(c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</p>	
3.6 Shooting Ranges	<p>The objectives are:</p> <p>(a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,</p> <p>(b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,</p> <p>(c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.</p>	N/A
4. Hazard and Risk		
4.1 Acid Sulfate Soils	<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>	N/A
4.2 Mine Subsidence and Unstable Land	<p>The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</p>	Consistent. The Planning Proposal will not hinder the achievement of the objectives of this direction.
4.3 Flood Prone Land	<p>The objectives of this direction are:</p> <p>(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</p> <p>(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p>	<p>Consistent.</p> <p>Item 4: 1A Lee-ann Crescent, Cessnock (Lot 9 DP 253077) is considered a flood control lot. The site is not affected by a floodway at the 1% AEP flood event and is it unlikely that permitting development on the land will result in significant flood impacts at the 1% AEP flood event. Evacuation is considered possible in the event of a 1% AEP flood event at the site. The Planning Proposal is not permitting development to be carried out without development consent.</p> <p>The Planning Proposal is generally consistent with the Direction. Further development may be carried out on the sites in accordance with the Cessnock LEP 2011 and Cessnock Development Control Plan 2010 with specific reference to Part C – Chapter 9 Development of Flood Prone Land.</p>

Ministerial Direction	Objective of Direction	Consistency and Implication
4.4 Planning for Bushfire Protection	<p>The objectives of this direction are:</p> <p>(a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) to encourage sound management of bush fire prone areas.</p>	<p>Item 5, 10 Embelton Street, Weston is partially affected by Bush Fire vegetation.</p> <p>The proposal was forwarded to the NSW Rural Fire Service for comment during the exhibition period; however, no objections to the proposal were raised.</p>
5. Regional Planning		
5.10 Implementation of Regional Plans	<p>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p>	N/A
6. Local Plan Making		
6.1 Approval and Referral Requirements	<p>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p>	N/A
6.2 Reserving Land for Public Purpose	<p>The objectives of this direction are:</p> <p>(a) to facilitate the provision of public services and facilities by reserving land for public purposes, and</p> <p>(b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p>	<p>In accordance with Clause 8(b), the inconsistency with this direction is considered to be of minor significance.</p> <p>The properties that have been identified in this proposal for reclassification from community to operational and rezoning are viewed as surplus to Council's requirements. The properties have been identified as not well located or suited for future open space and recreation purposes in line with future community needs.</p> <p>Clause 4 of this direction requires approval from the relevant public authority and the Director-General. Council approval has been obtained via Council resolution. Approval from the Director General will be sought by DPIE in its finalisation of the Planning Proposal.</p>
6.3 Site Specific Provision	<p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.</p>	N/A

Section C: Environmental, Social and Economic Impact

8 *Impact on Threatened Species*

Item 3: 9 Abermain Street, Pelaw Main is mapped as containing Endangered Ecological Community (EEC) and REMS vegetation of Lower Hunter Spotted Gum Iron Bark Forest. Despite this EEC mapping, the site is very sparsely vegetated.

9 *Environmental Impact*

The reclassifications, and reclassification and rezoning's are proposed to have minimal environmental impact. None of the sites are affected by acid sulfate soils.

Item 4: 1A Lee-Ann Crescent, Cessnock is mapped as affected by flood and is considered a flood control lot.

10 *Social and Economic Impacts*

The properties that have been identified in the proposal for reclassification from community to operational (and reclassification/rezoning) are viewed as surplus to Council's requirements. The properties have also been identified as not well located or suited for future open space and recreation purposes in line with future community needs. Other recreation needs of the community will be met in the most effective way. Possible sale of the properties by Council following the reclassification process will result in additional funds for investment being available in improved recreation and other facilities in the region.

Section D: State and Commonwealth Interests

11 Adequate Public Infrastructure

The Planning Proposal will not generate demand for additional public infrastructure. Possible sale of the properties following the reclassification process will result in additional funds for Council for investment in improved facilities in the region. Future residential development on these sites will allow for minor residential infill development in the region which can be serviced through existing infrastructure.

12 Consultation with State and Commonwealth Authorities

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.

A copy of SA NSW's referral response is enclosed, see **Figure 1**.

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 raises no concerns or issues in relation to bush fire.

A copy of NSW RFS's referral response is enclosed, see **Figure 2**.

Figure 1: Subsidence Advisory NSW Referral Response



Subsidence Advisory

117 Bull Street, Newcastle West, NSW, 2302

T: (02) 4908 4300 | 24 Hour Emergency Service: 1800 248 083 (Free Call)

Iain Rush
Senior Strategic Planner
Cessnock Council
Email: iain.rush@cessnock.nsw.gov.au

Dear Iain,

RE: DRAFT PLANNING PROPOSAL (PP_2020_CESSN_003_00) 18/2019/1/1 CESSNOCK COUNCIL - VARIOUS LOTS (OUR REF EREZ21-00006)

This letter contains Subsidence Advisory NSW (SA NSW), comments on the draft planning proposal referred to above. It is understood that the proposal is to reclassify seven (7) council owned properties from 'community' to 'operational' land. This will allow divestment of the properties for future development.

Records indicate that the property located at Lot 7 DP 1177000, 9 Abermain Street, Pelaw Main, is undermined by historical mine workings within the upper split of the Holmesville Coal Seam. Records also indicate mine voids of up to 6m in thickness are located at between 20m and 35m below the surface of the subject lot.

A (Surface Development Guideline) Guideline 1 has been assigned to the property. Guideline 1 is allocated to properties identified as having a sinkhole (pothole) risk. SA NSW operate a 24 hr "elimination of danger" service to mitigate the public safety risk from mine subsidence sinkholes when they occur. Records indicate that the risk of a sinkhole was removed on the subject land in 1988.

A subdivision application that is consistent with the proposal would be conditionally approved under SA NSW subdivision assessment policy. The policy will require remediation of the sinkhole risk by the injection of a fly-ash / cementitious grout mix into the mine voids.

It is recommended that council obtain more detailed advice from a suitably qualified geotechnical engineer with experience in mine subsidence prior to developing the subject land.

The other properties listed below 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 and listed below.

- 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 1-21 Section 29 DP 758474 – 35 Water Street, Greta;
- Part of Lot 260 DP 1160174 – 85 Swanston Street Weston.
- Lot 1 DP 382568 – 10 Embelton Avenue, Weston.



If you would like more information, please contact Subsidence Advisory NSW on 49084300 or subsidedevelopment@customerservice.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read "Kieran Black".

Kieran Black
Technical Specialist
15 June 2021

Figure 2: NSW Rural Fire Service Referral Response

		NSW RURAL FIRE SERVICE
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Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Your reference: PP_2020_CESSN_003_00
Our reference: SPI20210512000062

ATTENTION: Tyler Borowiec

Date: Friday 27 August 2021

Dear Sir/Madam,

**Strategic Planning Instrument
Rezoning**

Planning proposal (Department Ref: PP_2020_CESSN_003_00): to reclassify eight items of council owned land from "community" to "operational, rezoning and amending the lot size map for three of the items.

I refer to your correspondence dated 05/05/2021 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and subsequently raise no concerns or issues in relation to bush fire.

For any queries regarding this correspondence, please contact Craig Casey on 1300 NSW RFS.

Yours sincerely,

Nika Fomin
**Manager Planning & Environment Services
Built & Natural Environment**


Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au



Part 4: Mapping

The following maps from the Cessnock LEP 2011 are required to be amended to achieve the intent of the Planning Proposal.

Zoning Maps

- LZN_009A

Lot Size Maps

- LSZ_009A

The LEP maps need to be updated to change the zoning of the following property from RE1 Public Recreation to R3 Medium Density Residential and apply a minimum lot size of 450m²:

- Lot 1 DP 382568 – 10 Embelton Avenue, Weston.

The properties to be rezoned by this Planning Proposal are identified in Figures 3 to 6, over.

Figure 3: Item 5, 10 Embelton Street Weston - Existing Land Use Zone

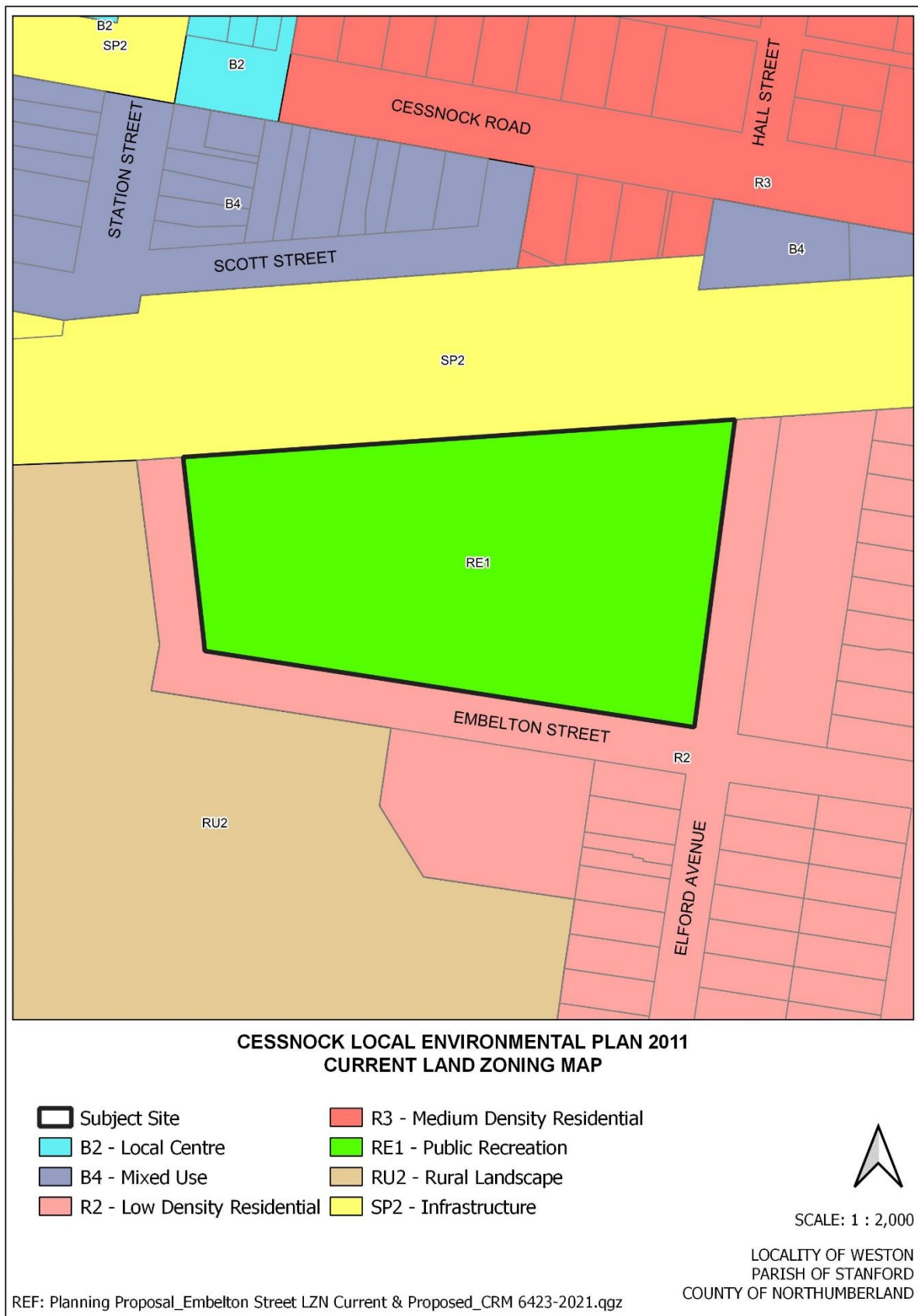


Figure 4: Item 5, 10 Embelton Street Weston - Proposed Land Use Zone

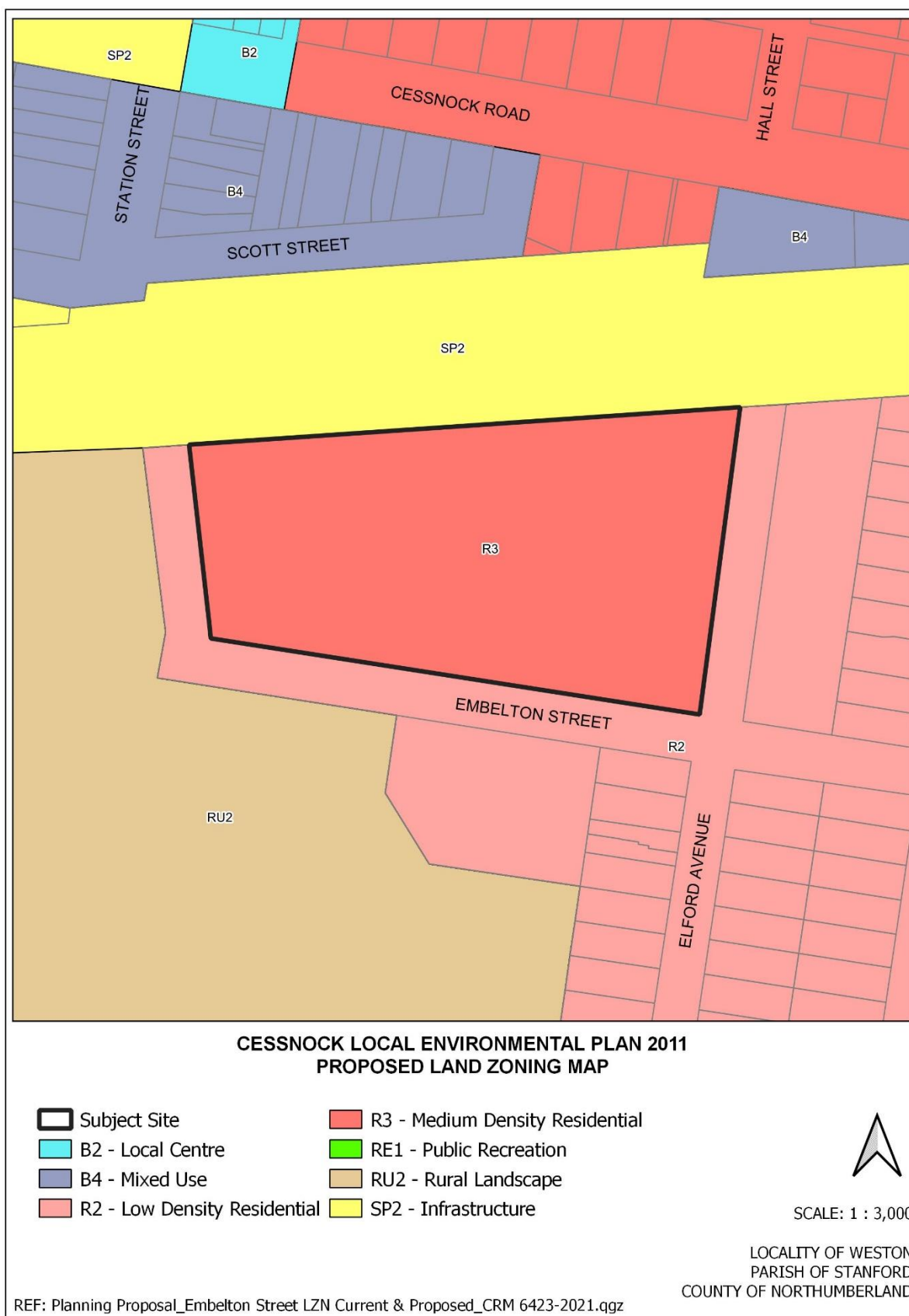


Figure 5: Item 5, 10 Embelton Street Weston - Existing Minimum Lot Size

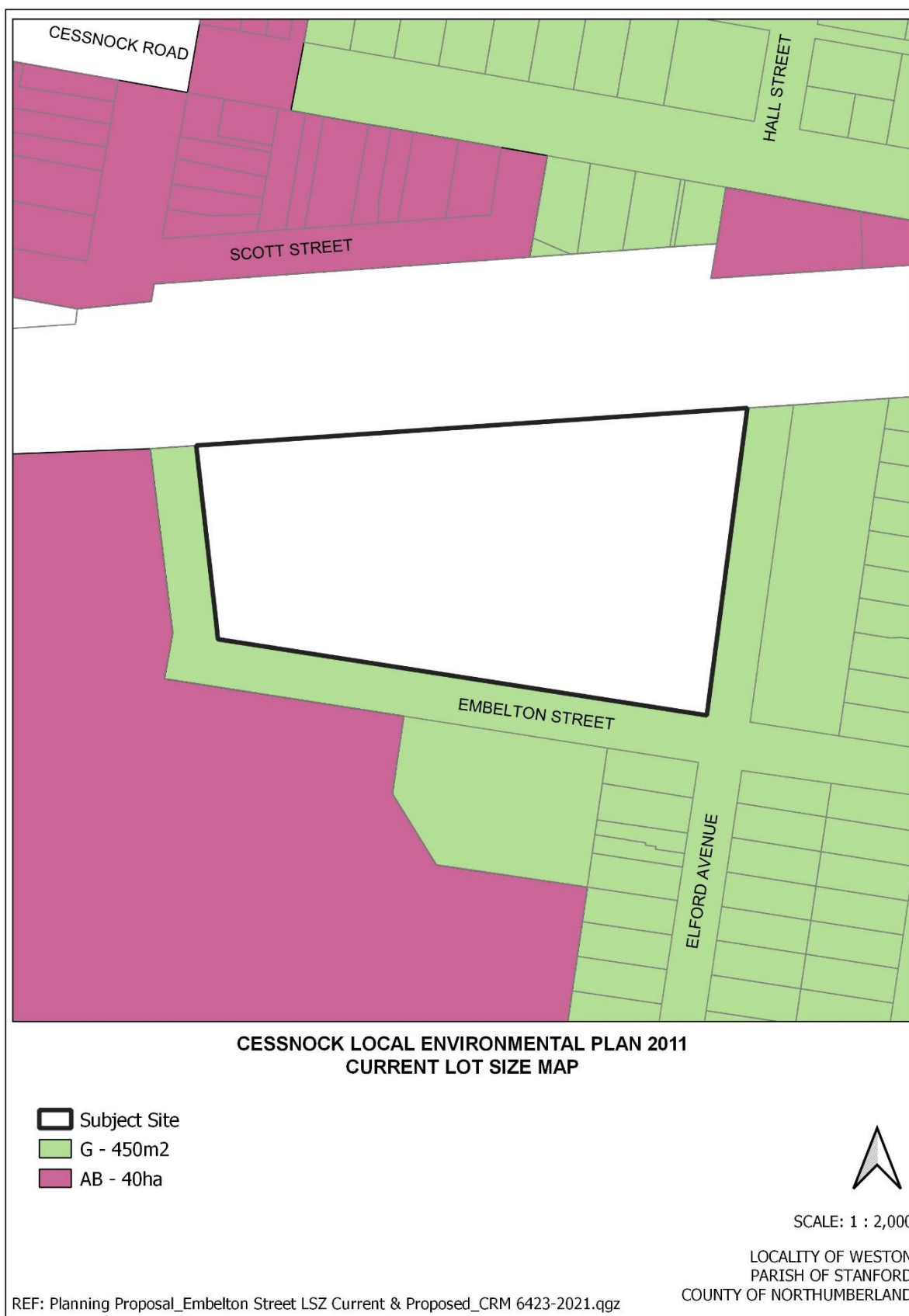
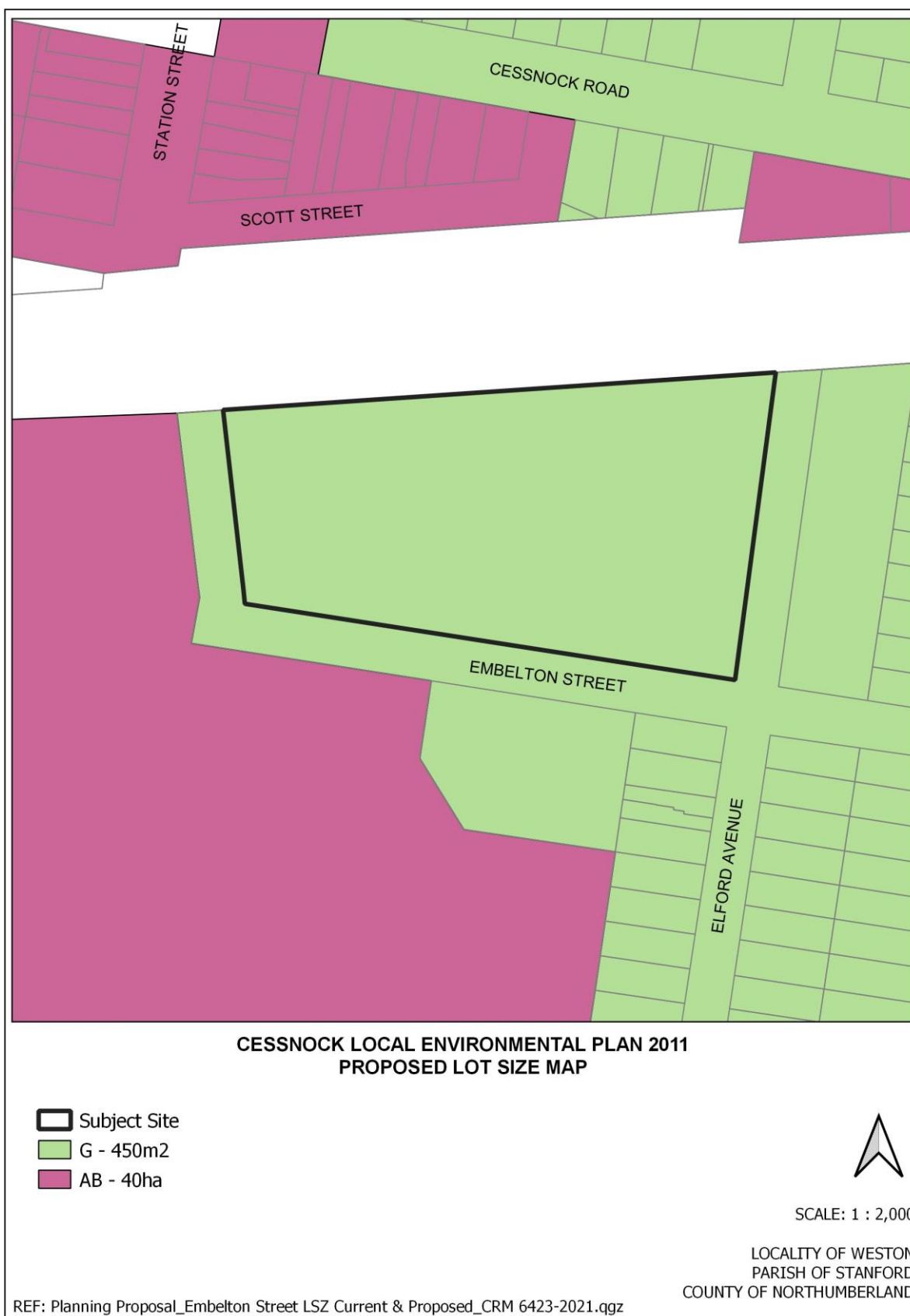


Figure 6: Item 5, 10 Embelton Street Weston - Proposed Minimum Lot Size



Part 5: Community Consultation

The Planning Proposal was exhibited between 26 April and 24 May 2021, being 28 days in accordance with the Gateway determination. The exhibition period was extended for a further two weeks, until 7 June 2021, to allow further time for the community to comment on the proposal. 199 submissions were received. A summary of submissions is provided as a separate enclosure to this planning proposal.

In response to the submissions, Council resolved to not proceed with the proposed rezoning and reclassification of 9 Abermain Street Pelaw Main (known as Jacobs Park), 35 Water Street Greta (known as Victoria Park) and 85 Swanson Street Weston (known as Varty Park) on 19 May, 19 June and 21 July 2021, respectively.

In line with the requirements for the reclassification of land from community to operational, a public hearing was held (EP&A Act s3.34 & Local Government Act s29) at the completion of the public exhibition on 10 and 12 August 2021. An independent facilitator was engaged to undertake the public hearing and 21 days' notice was provided after completion of the public exhibition period. Only one person attended the independent public hearing.

The independent public hearing outcomes report is provided as a separate enclosure to this planning proposal.

Part 6: Project Timeline

The proposed amendment to the LEP is anticipated to be completed within 12 months from the date of the Gateway determination.

The following stages of the LEP amendment have been completed:

Stage 1 – Report to Council to seek Gateway determination – **Completed on 15 July 2020**

Stage 2 – Request to DPIE for Gateway determination – **Completed on 24 July 2020**

Stage 3 – Gateway determination issued – **Completed on 10 November 2020**

The Gateway determination states:

1. Public exhibition of the planning proposal must commence within 9 months from the date of the Gateway determination, i.e. **10 August 2021**.
2. The planning proposal must be completed within 24 months following the date of the Gateway determination, i.e. **10 November 2022**.

The estimated timeframe for completion of the LEP amendment is detailed below:

	Mar 2021	April 2021	May 2021	Jun 2021	Jul 2021	Aug 2021	Sep 2021	Oct 2021	Nov 2021	Dec 2021	Jan 2022	Feb 2022
STAGE 4: Preparation of documentation for Public Exhibition and undertake Agency Consultation (if any stipulated).												
STAGE 5: Public Exhibition (At least 28 days)												
STAGE 6: Public Hearing (21 days' notice)												
STAGE 4: Review/consideration of submissions received												
STAGE 5: Report to Council												
STAGE 6: Forward Planning Proposal to DOPE with request the amendment be made												
STAGE 7: Governor's approval												