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The Mayor, Alison Davey  
Cessnock City Council.  

10th April 2012  

Reimbursement of Legal costs  

The Councillors who have signed this letter request Council to reimburse legal costs. These costs were incurred in relation to the defence of the injunction initiated by yourself in relation to the Notice of Motion relative to the continued employment of the General Manager.  

As you are aware, the proceedings were initiated by you without reference to the Council. You had the opportunity to call a Special Meeting to consider the matter, but, for reasons known only to you, you chose to proceed on your own initiative.  

We, the undersigned, were given no alternative other than to defend our rights to carry out our civic duty in relation to this matter. If we had initiated the proceedings without a decision of Council, the situation would have been different and there would have been no grounds to seek reimbursement.  

Your actions in this matter resulted in a denial of the rights of the elected Council to carry out their responsibilities on behalf of ratepayers.  

We note that 2.2.17(a) (Council’s Expenses and Facilities Policy) provides that Council shall cover legal expenses resulting from “Defending an action arising from the performance in good faith of a function under the Act.”  

If you require legal advice in this matter we urge you to seek such advice from Sparke Helmore who have had no role in this matter and can provide an unbiased opinion. We will not accept the advice of the solicitors you instructed in relation to the injunction proceedings.  

Signed,  

Cllr Burcham  
Cllr Pynsent  
Cllr Troy  
Cllr Maybury  
Cllr McCudden  
Cllr Smith  
Cllr Gorman  
Cllr Hawkins
Ms Lea Rosser
General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Dear Ms Rosser

Planning Proposal PP_2010_CESSN_001_00 Wyndham Street Greta – Gateway Determination Extension

I refer to your request on 10 January 2012 seeking an extension of time to complete the Planning Proposal PP_2010_CESSN_001_00, to facilitate residential development at Wyndham Street Greta.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the Environmental Planning and Assessment Act, 1979, to amend the Gateway Determination dated 8 August 2011 for PP_2010_CESSN_001_00.

The Gateway Determination is amended by extending the time for the re-submission of the Planning Proposal by an additional three months. The Planning Proposal is now due to be re-submitted to the Department by 22 March 2012.

If you have any questions in relation to this matter, please contact Katrine O’Flaherty, of the Department of Planning and Infrastructure’s Newcastle office on 02 4904 2707.

Yours sincerely

[Signature]

Tom Gellibrand
Deputy Director General
Plan Making and Urban Renewal

[Stamp: CESSNOCK CITY COUNCIL - 1 FEB 2012]
[Stamp: RECEIVED]
[Stamp: CESSNOCK CITY COUNCIL - 1 FEB 2012]
[Stamp: SCANNED]
PLANNING PROPOSAL
Amendment to the
Cessnock Local Environment Plan 2011

Wyndham Street, Greta

Version 1.0
18 April 2012

Contact:
Mr Bo Moshage
Coordinator Strategic Land Use Planning
Telephone: 02 4993 4241
Email: bo.moshage@cessnock.nsw.gov.au
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PART 1: OBJECTIVES and BACKGROUND

Objective

The objective of the planning proposal is to enable an expansion of the settlement of Greta by rezoning additional land for residential and large lot residential use. This land is adjacent to the existing residential areas and is generally to the north and north-west of the existing settlement.

In addition, land of high biodiversity significance is proposed to be placed in a conservation zone. The ownership and management of this land is currently being negotiated between the Proponent and the Environmental Protection Agency (EPA). The transfer of this land to Council is not supported. While the ownership and management arrangements for the offset land are not in place at this time, it is considered acceptable to process the Planning Proposal as negotiations between the Proponent and the EPA are ongoing. The resolution of ownership and management issues can be undertaken in parallel to the processing of the Planning Proposal.

Background

The rezoning proposal for the Wyndham Street Precinct was lodged with Council in December 2006, following the release of the Lower Hunter Regional Strategy, which identifies the precinct as a “proposed urban area”.

At its meeting held on 7 February 2007, Council resolved to commence the rezoning process of the Wyndham Street Precinct.

Following consultation with Government Agencies, Council resolved to exhibit the Wyndham Street rezoning on 21 May 2008. However, the Department of Planning advised that a S 65 Certification would not be issued but that the rezoning should be incorporated into the draft comprehensive Local Environmental Plan.

As such, Wyndham Street spot-rezoning proposal was exhibited, in conjunction with the draft Comprehensive Local Environmental Plan, between 27 July 2009 and 11 December 2009. During the exhibition period, 379 pro-forma letters objecting to the proposal were received.

The matter was reported to Council on 23 June 2010. Council resolved to defer ongoing considerations of the proposal to review the suitability of the site for residential development.

On 22 December 2010, the Planning Proposal was transitioned into the ‘Gateway’, subject to further consideration of the following matters:

- Zones / minimum lot sizes;
- Zone boundaries – consideration of boarder, potentially developable land at Greta, as identified in CWSS;
- Consideration of surrounding and future land uses;
- Contamination;
- Preparation of VPA / s94 Plan; and
- Resolution of bio-diversity issues.
On 17 January 2011 correspondence was sent to the Proponent requesting additional information on the outstanding matters. This was followed by further correspondence on 14 March 2011.

Following ongoing meetings and discussion, the Proponent submitted supplementary reports and a revised allotment layout on 28 June 2011 addressing the above issues, which are the subject of this revised Planning Proposal.
PART 2: EXPLANATION of PROVISIONS

The Planning Proposal seeks to amend the Cessnock LEP 2011 by rezoning the subject land from RU2 - Rural Landscape Zone to:

- R2 - Low Density Residential;
- R5 - Large Lot Residential; and
- E2 - Environmental Conservation.

The subject land is shown in the map at Figure 1, which provides an indicative zoning and minimum lot size plan.

The Urban Release Areas Map that supports the Cessnock Local Environmental Plan (2011) will also need to be amended to show the area corresponding to the Wyndham Street Precinct.
PART 3: JUSTIFICATION

In accordance with the Department of Planning’s “Guide to Preparing Planning Proposals”, this section provides a response to the following issues:

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

Section A: Need for Proposal

1. Resulting from a Strategic Study or Report

The Wyndham Street Precinct is identified in the Lower Hunter Regional Strategy and Council's City Wide Settlement Strategy (2010) as a future urban area with an anticipated yield of 316. However, the yield for the Wyndham Street Precinct has been revised down to 193.

The change in lot size provisions is considered to be appropriate in this regard following a review of on-site constraints, which included consideration of the maintenance of the character and role of the existing Greta village area. Increases in potential yields from other candidate areas with improved servicing availability will help to offset the reduction in lot yield from this site.

2. Planning Proposal as best way to achieve the objectives

Under the existing zoning controls in the Cessnock LEP 2011, the proposed increased residential densities are not achievable. Therefore, a change to the zoning and minimum lot sizes is required to enable additional residential subdivision of the subject land and to implement the directions of the City Wide Settlement Strategy and the Lower Hunter Regional Strategy.

Placing land use and minimum lot size provisions in Council's Local Environmental Plan, in conjunction with the existing subdivision controls in Council's DCP, is considered to be the most appropriate method for managing subdivision and land use on the locality.

3. Net Community Benefit

A Net Community Benefit test has been undertaken and provided below.

<p>| Will the LEP be compatible with agreed State and Regional strategic direction for development in the area (eg land release, strategic corridors, development within 800m of a transit node)? | Yes. The land identified as the Wyndham Street Precinct is consistent with the settlement principles identified in the CWSS and is identified in the LHRS as a ‘proposed urban area’. |
| --- |
| Will the LEP be consistent with agreed centres and sub-regional planning policy for development in the area? | Yes. Future urban development of the site is capable of meeting the requirements of the Hunter Regional Environmental Plan (the REP) with regard to the provisions of community facilities and services and the |</p>
<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is the LEP located in a regional city, strategic centre or corridor</td>
<td>Yes. The proposal is consistent with the Metropolitan Strategy or other regional/sub-regional strategy?</td>
</tr>
<tr>
<td>identified within the Metropolitan Strategy or other regional/sub-</td>
<td>identifies the Wyndham Street Precinct as a new release area, forming an extension to the existing urban footprint.</td>
</tr>
<tr>
<td>regional strategy?</td>
<td></td>
</tr>
<tr>
<td>Will the LEP facilitate a permanent employment generating activity or</td>
<td>Yes. The proposed rezoning will provide for employment generating opportunities (through construction stages), and will underpin the local economy of Greta and Branxton by building on the existing residential population and urban infrastructure.</td>
</tr>
<tr>
<td>result in a loss of employment lands?</td>
<td>The rezoning will not result in the loss of employment lands.</td>
</tr>
<tr>
<td>Is the existing public infrastructure capable of servicing the</td>
<td>No. Council is currently reviewing the preliminary Voluntary Planning Agreement lodged by the Propo</td>
</tr>
<tr>
<td>proposed site?</td>
<td>nent on 24 August 2011.</td>
</tr>
<tr>
<td></td>
<td>It is anticipated that the final Voluntary Planning Agreement will include contributions for Council’s community assets, roads, drainage and traffic infrastructure, in addition to monetary contributions towards Greta Central Park and Hunter River Reserve. Such contributions would address additional sporting facilities, parks and gardens, playgrounds and cycle ways.</td>
</tr>
<tr>
<td></td>
<td>Ongoing discussions with the Propo</td>
</tr>
<tr>
<td></td>
<td>nent will be required prior to this matter being reported, considered and endorsed by Council.</td>
</tr>
<tr>
<td></td>
<td>Satisfactory arrangements through the S - niard Instrument have been made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.</td>
</tr>
<tr>
<td>Will the LEP facilitate the provision of public transport??</td>
<td>Yes. Existing bus services in the vicinity of the site are minimal. However, it is expected that the additional population will underpin an extension of existing services.</td>
</tr>
<tr>
<td>Will the LEP implement studies and strategic work consistent with State</td>
<td>Yes. The proposal is consistent with the Lower Hunter Regional Strategy.</td>
</tr>
<tr>
<td>and regional policies?</td>
<td></td>
</tr>
</tbody>
</table>

Section B: Relationship to Strategic Planning Framework

4. Consistency with Objectives and Actions within Regional Strategies

Lower Hunter Regional Strategy 2006

The Lower Hunter Regional Strategy identifies Cessnock LGA as a location of substantial residential growth (21700 dwellings), of which a high proportion (19,700) are projected in new release locations, such as at Wyndham Street, Greta.

The Planning Proposal will contribute to the implementation of the housing targets identified in this Strategy by providing additional housing opportunities at Greta.

5. Consistency with Council’s Community Strategic Plan or other Local Strategic Plan

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

Goal: Protect, enhance and promote the natural, developed and cultural environment.

Objectives: Continue to develop residential development controls.

Outcome: Council’s assessment and consideration of the subject Planning Proposal addresses the aims of Council’s Community Strategic Plan.

City Wide Settlement Strategy

In order to implement Ministerial Direction No. 5.1 – Implementation of Regional Strategies, the Wyndham Street Precinct is identified in the City Wide Settlement Strategy (2010) as a future urban area with an anticipated yield of 316. However, following a review of on-site constraints, and in order to maintain the character and role of the existing Greta village area, the yield for Wyndham Street Precinct has been revised down to 193.

6. Consistency with State Environmental Planning Policies

There are no existing or draft SEPPs that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant SEPPs against the planning proposal is provided in the table below.

Table 1: Relevant State Environmental Planning Policies

<table>
<thead>
<tr>
<th>SEPP</th>
<th>Relevance</th>
<th>Consistency and Implications</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPP 6 – Number of Storeys in a Building</td>
<td>Clarifies the reference to storey, floors and levels.</td>
<td>Nothing in this planning proposal affects the aims and provisions of this SEPP.</td>
</tr>
<tr>
<td>SEPP 21 - Caravan Parks</td>
<td>The SEPP provides for development for caravan parks.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>SEPP 22 – Shops and commercial premises</td>
<td>The SEPP provides for the change of use of commercial premises.</td>
<td>Nothing in this planning proposal affects the aims and provisions of this SEPP.</td>
</tr>
<tr>
<td>SEPP 30 –</td>
<td>The SEPP provides considerations for</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>SEPP</td>
<td>Relevance</td>
<td>Consistency and Implications</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Intensive Agriculture</td>
<td>consent for intensive agriculture.</td>
<td></td>
</tr>
<tr>
<td>SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)</td>
<td>The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.</td>
<td>Nothing in this planning proposal affects the aims and provisions of this SEPP.</td>
</tr>
<tr>
<td>SEPP 33 – Hazardous &amp; Offensive Development</td>
<td>The SEPP provides considerations for consent for hazardous and offensive development.</td>
<td>Nothing in this planning proposal affects the aims and provisions of this SEPP.</td>
</tr>
<tr>
<td>SEPP 36 – Manufactured Homes Estates</td>
<td>The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>SEPP 44 – Koala Habitat Protection</td>
<td>This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.</td>
<td>The site contains one tree species listed in Schedule 2 of SEPP 44, being Eucalyptus punctata (Grey Gum). Eucalyptus punctata occurs as a scattered species predominantly on Lot 2 of the site. This species does not occur at a density greater than 15%. As such, the site as a whole does not constitute “Potential Koala Habitat” as defined in the SEPP. Therefore, nothing in this planning proposal affects the aims and provisions of this SEPP.</td>
</tr>
<tr>
<td>SEPP 55 – Remediation of Land</td>
<td>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.</td>
<td>A Phase 2 Contamination Report confirms that the site is suitable for residential development.</td>
</tr>
<tr>
<td>SEPP 62 – Sustainable Aquaculture</td>
<td>The SEPP relates to development for aquaculture and to development arising from rezoning of land and is of relevance for the site specific rezoning proposals.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>SEPP 64 – Advertising and Signage</td>
<td>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.</td>
<td>Nothing in this planning proposal affects the aims and provisions of this SEPP.</td>
</tr>
<tr>
<td>SEPP Housing for Seniors or people</td>
<td>The SEPP aims to encourage provision of housing for seniors,</td>
<td>Nothing in this planning proposal affects the aims and</td>
</tr>
<tr>
<td>SEPP</td>
<td>Relevance</td>
<td>Consistency and Implications</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>with a Disability 2004</td>
<td>including residential care facilities. The SEPP provides development standards.</td>
<td>provisions of this SEPP.</td>
</tr>
<tr>
<td>SEPP Infrastructure 2007</td>
<td>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.</td>
<td>Clause 104 of the SEPP requires developments of a certain size identified within Schedule 3 to be referred to the RTA. Council has undertaken consultation with the RTA who advised that they will rely on the provisions of the LEP, which facilitate the satisfactory arrangements for the provision of State public infrastructure are made prior to the subdivision of land in an urban release area.</td>
</tr>
<tr>
<td>SEPP Mining, Petroleum Production and Extractive industries 2007</td>
<td>The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.</td>
<td>Nothing in this planning proposal affects the aims and provisions of this SEPP.</td>
</tr>
<tr>
<td>SEPP (Rural Lands) 2008</td>
<td>The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provide development principles.</td>
<td>Nothing in this planning proposal affects the aims and provisions of this SEPP.</td>
</tr>
</tbody>
</table>

7. **Consistency with s.117 Ministerial Directions for Local Plan Making**

There is no s.117 Ministerial Direction that the Planning Proposal is inconsistent with. An assessment of relevant s.117 Directions against the Planning Proposal is provided in the table below.

**Table 2: Relevant s.117 Ministerial Directions**

<table>
<thead>
<tr>
<th>Ministerial Direction</th>
<th>Aim of Direction</th>
<th>Consistency and Implication</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. EMPLOYMENT AND RESOURCES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.1 Business and Industrial Zones</td>
<td>Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.</td>
<td>Planning proposal not affected by this direction.</td>
</tr>
<tr>
<td>1.2 Rural Zones</td>
<td>The objective of this direction is to protect the agricultural production value of rural land.</td>
<td>The Wyndham Street, Greta Precinct is identified for future urban development in the Lower Hunter Regional Strategy and is therefore considered to be consistent with this Direction.</td>
</tr>
</tbody>
</table>

Planning Proposal – Wyndham Street, Greta

File No. 18/2006/91
<table>
<thead>
<tr>
<th>Ministerial Direction</th>
<th>Aim of Direction</th>
<th>Consistency and Implication</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.3 Mining, Petroleum Production and Extractive Industries</td>
<td>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.</td>
<td>Planning proposal not affected by this direction.</td>
</tr>
<tr>
<td>1.4 Oyster Aquaculture</td>
<td>Not applicable.</td>
<td></td>
</tr>
<tr>
<td>1.5 Rural lands</td>
<td>The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.</td>
<td>The Wyndham Street, Greta Precinct is identified for future urban development in the Lower Hunter Regional Strategy and is therefore considered to be consistent with this Direction.</td>
</tr>
<tr>
<td>2. ENVIRONMENT AND HERITAGE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1 Environmental Protection Zones</td>
<td>The objective of this direction is to protect and conserve environmentally sensitive areas.</td>
<td>Planning proposal not affected by this direction.</td>
</tr>
<tr>
<td>2.2 Coastal Protection</td>
<td>Not applicable.</td>
<td></td>
</tr>
<tr>
<td>2.3 Heritage Conservation</td>
<td>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</td>
<td>Planning proposal not affected by this direction.</td>
</tr>
<tr>
<td>2.4 Recreation Vehicle Areas</td>
<td>The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983).</td>
<td>Planning proposal not affected by this direction.</td>
</tr>
<tr>
<td>3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.1 Residential Zones</td>
<td>Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.</td>
<td>Provisions in the Cessnock LEP 2011 facilitate the arrangements for the provision of State infrastructure and public utility infrastructure before the subdivision of land in an urban release area to satisfy the needs that arise from development of the land.</td>
</tr>
<tr>
<td>3.2 Caravan parks and Manufactured Home Estates</td>
<td>The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.</td>
<td>Planning proposal not affected by this direction.</td>
</tr>
<tr>
<td>Ministerial Direction</td>
<td>Aim of Direction</td>
<td>Consistency and Implication</td>
</tr>
<tr>
<td>-----------------------</td>
<td>------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td><strong>3.3 Home Occupations</strong></td>
<td>The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.</td>
<td>Home occupations are permitted without consent in the proposed R2 and R5 Zones. The planning proposal is consistent with this Direction.</td>
</tr>
<tr>
<td><strong>3.4 Integrating Land Use and Transport</strong></td>
<td>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve sustainable transport objectives.</td>
<td>The RTA has advised they will rely on the provisions of the Cessnock LEP 2011 which facilitate the satisfactory arrangements for the provision of State public infrastructure is made prior to the subdivision of land in an urban release area. Local infrastructure requirements will be facilitated through a Voluntary Planning Agreement.</td>
</tr>
<tr>
<td><strong>3.5 Development Near Licensed Aerodromes</strong></td>
<td>The objectives of this direction is to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses.</td>
<td>Planning Proposal not affected by this direction.</td>
</tr>
<tr>
<td><strong>3.6 Shooting Ranges</strong></td>
<td>The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issues that must be addressed when rezoning land adjacent to an existing shooting range.</td>
<td>Planning Proposal not affected by this direction.</td>
</tr>
</tbody>
</table>

### 4. HAZARD AND RISK

<p>| <strong>4.1 Acid Sulphate Soils</strong> | The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils. | Planning Proposal not affected by this direction. |
| <strong>4.2 Mine Subsidence and Unstable Land</strong> | 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. | Planning Proposal not affected by this direction. |
| <strong>4.3 Flood Prone Land</strong> | The objectives of this direction are 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 that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the Part of the land is likely to be within the 1:100 year flood zone. Notwithstanding, the planning proposal is not seeking to rezone flood prone land. |</p>
<table>
<thead>
<tr>
<th>Ministerial Direction</th>
<th>Aim of Direction</th>
<th>Consistency and Implication</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>4.4 Planning for Bushfire Protection</strong></td>
<td>The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas.</td>
<td>The subject land is bushfire prone. A Bushfire Assessment undertaken in June 2011 states that 10m Asset Protection Zones are suitable for the proposed R2 land while 20m will be required for the R5 land. Consultation to confirm that the proposal is able to meet the requirements of Planning for Bushfire Protection Guidelines 2006 will be undertaken as part of the assessment of this Planning Proposal.</td>
</tr>
</tbody>
</table>

**5. REGIONAL PLANNING**

| 5.1 Implementation of Regional Strategies | The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies. | The Lower Hunter Regional Strategy (LHRS) 2006 is relevant. The planning proposal will enable a constrained site within an existing centre to be consolidated with adjoining land and utilized for its intended commercial purpose. This will assist in the achievement of the LHRS 2006 objectives by maximizing economic opportunities and job growth within an existing centre. |

**6. LOCAL PLAN MAKING**

| 6.1 Approval and Referral Requirements | The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. | Planning proposal not affected by this direction. |
| 6.2 Reserving Land for Public Purposes | The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition. | Planning proposal not affected by this direction. |
| 6.3 Site Specific Provisions         | The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. | Planning proposal not affected by this direction. |
Section C:  Environmental, Social and Economic Impact

8. **Impact on Threatened Species**

A flora and fauna assessment was undertaken on the site in November 2006 by Harper Somers O’Sullivan where it was established that:

- The site contains three (3) vegetation communities, namely:
  - Central Hunter Ironbark – Spotted Gum – Grey Box Forest (CHISGGBF)
  - Managed / Regenerating Vegetation
  - Disturbed Lands

The CHISGGBF is not listed as an Endangered Ecological Community (EEC) in the Threatened Species Conservation Act, 1995.

The site contains four (4) threatened species as listed in the TSC Act, 1995, being:

- *Pomatostomus temporalis* (Grey-Crowned Babbler)
- *Petaurus norfolcensis* (Squirrel Glider)
- *Miniopterus australis* (Little Bent-Wing Bat)
- *Miniopterus schreibersii* (Large Bent-Wing Bat)

This site was subject to an Memorandum of Understanding (MoU) between the land holder, the Department of Planning and the Department of Environment and Climate Change regarding the environmental offsets. However, following decisions in the Land and Environment Court, the MoU was declared invalid. As a result, further investigations and negotiations are required to offset vegetation removal on the site.

On 24 October 2011, Council received preliminary comments from Eco Logical Australia, on behalf of the Proponent, to document bio-diversity offsets that meet the “improve or maintain” outcome as requested by the Office of Environment and Heritage.

Included in the proposed offset package is the transfer of approximately 7.9 ha of originally vegetated land to the Crown Reserve (Hunter River Reserve), which is managed by Council. This would have financial implications for Council and further discussions with the Proponent, Office of Environment and Heritage and the Crown Lands Division will need to be undertaken prior to the Planning Proposal being finalised. It is understood that the Proponent is negotiating ownership and future management arrangements with the EPA.

9. **Environmental Impact**

The Planning Proposal will have a positive environmental impact by conserving land of bio-diversity significance in an E2 - Environmental Conservation zone. It is proposed that ownership of this land will be transferred to the State Government and amalgamated with adjacent conservation lands. The Proposal will have a negative environmental impact because most residents will need to travel for employment. It is highly likely that many will travel by motor vehicle because of the dispersed nature of employment opportunities.
10. **Social and Economic Impacts**

A social and economic impact assessment was undertaken for the Planning Proposal. The investigation indicates a positive balance of impacts; however, the study acknowledges that there are negative impacts associated with increased residential densities, such as increased noise and amenity issues. It is considered that area improvements will result from the development through the preparation/implementation of a Voluntary Planning Agreement.

The Archaeological Assessment undertaken for the site concludes that there are no Aboriginal objects found within the study area.

There are no items of European heritage significance located within the Precinct.
Section D: State and Commonwealth Interests

11. Adequate Public Infrastructure

The preparation of a Voluntary Planning Agreement will be undertaken to ensure the adequate provision of local infrastructure (including the impacts of additional traffic on the local road network generated by future residential development, contributions to local open space and community facilities and drainage works).

Stormwater and Flooding Considerations

A comprehensive Stormwater Management Plan will be considered in the preparation of a detailed subdivision design when the lot layout is finalised, including the location of stormwater capture and treatment works and the like.

Traffic and Road Works

Council is currently reviewing the preliminary Voluntary Planning Agreement lodged by the Proponent on 24 August 2011.

It is anticipated that the final Voluntary Planning Agreement will include contributions for Council’s community assets, roads, drainage and traffic infrastructure, in addition to monetary contributions towards Greta Central Park and Hunter River Reserve. Such contributions would address additional sporting facilities, parks and gardens, playgrounds and cycle ways.

Ongoing discussions with the Proponent will be required prior to this matter being reported, considered and endorsed by Council.

Satisfactory arrangements through the Standard Instrument have been made for the provision of designated State public infrastructure, before the subdivision of land in an urban release area, to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.

Reticulated Water and Reticulated Waste Water Servicing Strategies

HWC advised that there were some deficiencies in the system to cater for the proposed development. However, augmentation work can be undertaken to ensure the proposal can be adequately serviced.

Water Supply: The development is located in the Maitland North Rothbury Water Supply System, which currently has insufficient pressure to service the proposed development. HWC has plans for regional augmentations in the area, including 905m of 250mm water main between Nelson Street and West Street along the New England Highway. The development may be required to connect to this main to meet minimum pressure requirements and security of supply will need to be satisfied when development commences.

Wastewater Transportation: The development site drains to Branxton No.3 WWPS. Sections of the downstream gravity system need upgrading to handle theoretical loads. These are expected to have been complete by 2012. Confirmation of these works will need to be clarified with the Hunter Water Commission. Branxton No.3 WWPS is currently deficient to service theoretical loads, and upgrades will be required.
Wastewater Treatment: The proposed development is located within the Branxton WWTW catchment. This WWTW does not currently have sufficient capacity to service this and other proposed developments in Branxton catchment area. However, HWC is currently in the planning phase for a wastewater treatment plant upgrade, which should be commissioned in 2012 - 2013.

Comment: A servicing strategy has been undertaken by the Proponents in consultation with HWC. The assessment identifies some current deficiencies in the Greta/Branxton area. However, the assessment concludes that the Wyndham St Precinct can be economically serviced with sewer and water. The Proponent further sought comments from HWC under S.50 and the Proponent has made amendments to reflect the recommendations; the amended proposal has been forwarded by the Proponent to HWC.

Gas: Natural gas is available in the vicinity and could be extended to supply the site. It is Alinta's policy to extend gas mains to all developments where possible, depending upon economic viability.

Electricity: Energy Australia advises that, while there are no works proposed for this site, there are no major constraints to providing the required infrastructure.

Telephone: Telstra advise Council that they have an obligation to provide services to developments and are generally able to provide the services given enough lead time to plan, design and construct the network.

Bushfire: It is noted that APZs are to be provided in accordance with Planning for Bushfire Protection Act 2006. Further, provision for water for fire fighting and construction requirements in addition to on site provisions will need to be addressed.

On 8 August 2011 a supplementary bushfire assessment report, undertaken by Firebird Ecologists Pty Ltd, was submitted with Council.

Ongoing discussions with the Rural Fire Service (RFS) will be undertaken and it is anticipated that the response will include comments on the following:

- Level of hazard for each site;
- The proposal's consistency with the guidelines contained in “Planning for Bushfire Protection”;
- APZs and levels of construction required for future development of each site; and
- The demand each proposal will have on existing fire fighting services.

Council will seek to consult formally with the Rural Fire Service on these matters as part of the revised Planning Proposal.

12. **Consultation with State and Commonwealth Authorities**

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

- Rural Fire Service (RFS);
- Office of Environment and Heritage (OEH);
- Hunter & Central Rivers Catchment Management Authority (CMA).
• Crown Lands Division (CL);
• Hunter Water Corporation (HWC); and
• Roads and Maritime Services (RMS).
PART 4: COMMUNITY CONSULTATION

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

Given the changes made to the form of the Planning Proposal since the initial exhibition, it is intended that the Planning Proposal be re-exhibited for a period of 28 days in accordance with Council’s Notification Policy.

It is also intended that previous submission makers in addition to landowners in and adjoining the nominated area will also be notified of the proposal.
Appendix 1: Location Plan
Appendix 2: Proposed Zoning Map
Appendix 3: Council Report and Minutes
TRIM Ref: 11/12454

Office of Environment & Heritage
Attn: Lucas Grenadier
Conservation Planning Officer
PO Box 488G
NEWCASTLE NSW 2300

Dear Mr Grenadier

RE: Proposed formal offset strategy for Avery’s Village residential development, Heddon Greta

The documentation associated with the above proposal has been reviewed by Catchments and Lands (Crown Lands) and we now provide the following information:

- Crown Lands (formerly a division of the Land & Property Management Authority) is a signatory to the Kurri Sand Swamp Recovery Plan and as such is committed to the preparation and implementation of management statements for land known to support Kurri Sand Swamp Woodland (KSSW).
- The proposed addition of 38ha of KSSW to the Stanford Merthyr Environmental Protection Reserve together with another 6ha of various Endangered Ecological Communities would commit Crown Lands to the requirements of a planning agreement to monitor, evaluate and achieve positive biodiversity outcomes for the site.
- Crown Lands currently has inadequate resources to commit to further rehabilitation programs and the funds being offered by the proponent are insufficient to address specific issues such as access management, bush regeneration, habitat restoration, weed and feral pest control and ongoing maintenance strategies.
- Crown Lands question the claim made by the proponent that transfer of the land to the Crown will effectively complement existing government programs. The current rehabilitation project being undertaken in partnership with the Hunter Central Rivers Catchment Management Authority does not immediately adjoin the proposed on-site offset at Heddon Greta. The rehabilitation project, together with the bulk of the Crown Reserve, is located south west of the proposed offset site and will be permanently separated from the Avery’s Village proposal by the Hunter Expressway.
Crown Lands acknowledge the biodiversity and conservation value of the proposed on-site offset land however, given the rehabilitation, remediation, ongoing management and maintenance requirements of the site there is little benefit to Crown Lands accepting the proposed offset land at Heddon Greta under the terms offered.

Crown lands formally decline the offer of in-situ offset land comprising part Lots 12 and 13 DP 755231 and part Lot 5 DP 1082569 at Heddon Greta.

Please contact Anne Swan on 4937 9363 or at Anne.Swan@lands.nsw.gov.au if you have any questions regarding this matter.

Melanie Osborne
Group Leader Natural Resources & Property Services
Catchments and Lands

4 November 2011
Ms Lea Rosser  
General Manager  
Cessnock City Council  
PO Box 152  
CESSNOCK NSW 2325  
Attention: Louise Gee  

Dear Ms Rosser  

RE: BIODIVERSITY OFFSET MEASURES FOR AVERY'S VILLAGE PRECINCT, HEDDON GRETA AND WYNDHAM STREET PRECINCT, GRETA PLANNING PROPOSALS  

I refer to the urban development and conservation outcomes being sought for the above mentioned planning proposals and the discussions to date on these matters. Both planning proposals are in a similar situation in regards to proposed environmental protection and biodiversity offset measures, and as such are jointly referred to in this correspondence.  

The Environment Protection Authority (EPA) and the proponent / landholder of each site, being Hunter Land Pty Ltd - Buchanan Joint Venture (Avery’s Village, Heddon Greta) and Hardie Holdings Pty Ltd (Wyndham Street, Greta) are negotiating a development / conservation arrangement that would identify areas suitable for urban development and conservation / biodiversity offsetting. The proponents are seeking to have these conservation offsets achieved as part of the rezoning process, and acknowledged and inputted into a streamlined development assessment process.  

Both Hunter Land Pty Ltd - Buchanan Joint Venture and Hardie Holdings Pty Ltd have written to the EPA offering to provide a biodiversity offset package at the land rezoning stage, and to enter into a planning agreement under section 93F of the Environmental Planning and Assessment Act 1979 (EP&A Act) to deliver and secure these offsets.  

EPA has undertaken a review of both biodiversity offset proposals and considers they have the potential to provide for adequate conservation outcomes for each respective planning proposal. A copy of the biodiversity offset assessment reports is provided in Attachments 1 (Avery’s Village Precinct) and 2 (Wyndham Street Precinct). It is recommended that Cessnock City Council review these assessment reports, and satisfy itself that the proposed contributions are adequate for the purposes of protecting areas of high conservation value and offsetting additional biodiversity impacts from urban development.  

An outline of each biodiversity offset proposal is provided below:  

Avery’s Village Precinct, Heddon Greta  

Two biodiversity offsets are proposed, that include:  

PO Box 486G Newcastle NSW 2300  
157 Bull Street, Newcastle West NSW 2302  
Tel: (02) 4908 6800  Fax: (02) 4908 6810  
ABN 30 841 387 271  
www.environment.nsw.gov.au
• **On-site conservation area** - comprising the land proposed to be zoned E2 Environmental Conservation within the draft zoning map. The E2 zoned land would be considered by EPA as a biodiversity offset for the proposed development if the land is protected and managed in perpetuity for conservation purposes.

A suitable conservation measure for this parcel of land is yet to be identified. Initially it was proposed to dedicate these lands to the NSW Government (Department of Primary Industries, Crown Land Division) for addition to the existing Stanford Merthyr Crown Land Conservation Reserve. However, this offer has been declined by the Department of Primary Industries. A copy of this correspondence is provided in **Attachment 3**.

Several other conservation measures are potentially available to protect and manage this land, and this issue is discussed in further detail below.

• **Off-site conservation area** – comprising Lot 119 DP752445 (40 hectares), within the Port Stephens Local Government Area (LGA). This land is proposed to be dedicated to the NSW Government for addition to Columbey National Park.

The Minister for the Environment has formally agreed to accept and reserve this land under the *National Parks and Wildlife Act 1974* (NPW Act), subject to the provision of a $30,000 financial contribution to cover reserve establishment costs. The proponent has agreed to provide the requested financial contribution.

**Wyndham Street Precinct, Greta**

Two biodiversity offsets are proposed, that include:

• **On-site conservation area** - comprising the land proposed to be zoned E2 Environmental Conservation within the draft zoning map. The E2 zoned land would be considered by EPA as a biodiversity offset for the proposed development if the land is protected and managed in perpetuity for conservation purposes.

A suitable conservation measure for this parcel of land is yet to be identified. Initially it was proposed to dedicate these lands to the NSW Government (Department of Primary Industries, Crown Land Division) for addition to the existing Hunter River Reserve. However, this offer has also been declined by the Department of Primary Industries. A copy of this correspondence is provided in **Attachment 4**.

Several other conservation measures are potentially available to protect and manage this land, and this issue is discussed in further detail below.

• **Off-site conservation area** – comprising Lots 9, 102 and 207 DP753817 (297 hectares). The land is an in-holding within the existing Wolleni National Park and is located within the Singleton LGA. This land is proposed to be dedicated to the NSW Government for addition to Wolleni National Park.

EPA is currently seeking endorsement from the Minister for the Environment to accept and reserve this land under the NPW Act.

**Planning agreements to deliver and secure biodiversity offsets**

The legal mechanism to deliver and secure any biodiversity offsets should be through a planning agreement under section 93P of the EP&A Act. Hunter Land Pty Ltd - Buchanan Joint Venture and Hardie Holdings Pty Ltd have written to EPA offering to enter into a planning agreement at the land rezoning stage, and following recent consultation with Cessnock City Council, it is understood that Council is willing to be a party to the planning agreement(s).
It is EPA’s preferred practice that the relevant Council and the Minister for the Environment should both be parties to a planning agreement in connection with a rezoning or a development application where land is proposed to be transferred to the NSW National Park reserve system. This helps both from a practical perspective and to ensure that Council is involved in the process and generally satisfied with the offsets being proposed.

Clause 25 of the Environmental Planning & Assessment Regulation 2000 states that in the case of a planning agreement that is to be entered into in connection with the amendment of an environmental planning instrument, public notice of the proposed planning agreement should be given at the same time and in the same manner as the planning proposal for the amendment of the environmental planning instrument. Otherwise, it should be given as soon as possible thereafter. Section 93G of the EP&A Act requires a copy of the proposed agreement, amendment or revocation to be made available for inspection by the public for a period of not less than 28 days.

I also take this opportunity to highlight that despite the proposed contributions, further threatened species assessments under the EP&A Act would be required at the subsequent development application stages of the project. Further, section 93F(9) of the EP&A Act provides that a planning agreement cannot impose an obligation on a planning authority to grant development consent. However, any planning agreement which has been entered into or any draft planning agreement which a developer has offered to enter into will form one of the matters which a consent authority must take into consideration in determining a development application under section 79C of the EP&A Act.

Given the above mentioned legislative requirements and in order to progress concurrently with the planning proposal(s) and planning agreement(s), a resolution to the on-site conservation measures is required.

**Potential measures to secure on-site conservation areas**

As outlined above, despite efforts to date, a suitable conservation measure for the on-site conservation areas at Avery’s Village and Wyndham Street Precincts has not been identified. These on-site conservation areas contain high biodiversity values including habitat for a number of endangered ecological communities, and threatened flora and fauna species listed under the *Threatened Species Conservation Act 1995* (TSC Act). EPA is of the view that the on-site conservation areas warrant formal protection and that a legally enforceable conservation measure should be found and implemented as part of each planning proposal.

Several measures are potentially available to conserve these lands including (but not limited to):

- entering into a biobanking agreement under Part 7A of the TSC Act
- entering into a conservation agreement under the NPW Act
- entering into a trust agreement under the *Nature Conservation Trust Act 2001*
- entering into a planning agreement under the EP&A Act (being an agreement that directly imposes measures to conserve or enhance the natural environment).

It is in the interest of all parties to identify and implement a suitable conservation measure for the E2 zoned lands as soon as possible and preferably prior to the drafting of the proposed planning agreements. However, in order to avoid further delays and allow sufficient time for a suitable conservation mechanism to be found for the on-site conservation areas, one of the following three options may need to be implemented:

1. The inclusion of a clause/schedule within the Local Environmental Plan (LEP) written instruments, which states that a legally enforceable mechanism is to be in place (by the land subdivision / development application stage) for the ongoing management and protection of the part of the land within Zone E2 Environmental Conservation. This approach has been undertaken previously by Great Lakes Council with the endorsement of the Department of Planning and Infrastructure
(through gazettel of the Great Lakes LEP Amendments containing this clause / schedule). The clause/schedule can be worded as such:

"Schedule - Consent to development subject to special requirements: A legally enforceable conservation mechanism is in place, to the satisfaction of the Council (and the EPA), to ensure the ongoing management and protection of the part of the land within Zone E2 Environmental Conservation."

2. The inclusion of the above mentioned clause within the proposed planning agreement(s) which states that a legally enforceable conservation mechanism is to be in place (by the land subdivision / development application stage) for the ongoing management and protection of the part of the land within Zone E2 Environmental Conservation.

3. The proposed planning agreement itself can directly impose measures to conserve or enhance the natural environment. In this approach the land is retained in private ownership and the planning agreement contains measures to ensure that the landowner manages and protects an area of environmental offset land in perpetuity (i.e. the land to be zoned E2 Environmental Conservation) in accordance with a vegetation management plan (or similar endorsed plan). This approach was recently undertaken by Council for the Cessnock Civic precinct draft planning agreement.

Whilst there are relative merits and disadvantages to all of the above mentioned options, EPA would be supportive of any option being implemented, subject to the agreement of the relevant parties.

Endorsement of Council

It is now requested that Council provide EPA with a formal endorsement to the proposed conservation outcomes and be a party to the two proposed planning agreements along with the Minister for the Environment, as outlined in this correspondence.

I also take this opportunity to re-confirm EPA's commitment to work collaboratively with Council and the other parties to resolve the outstanding matters and deliver the proposed conservation outcomes as part of each planning proposal.

I have also been made aware that EPA (formerly the Department of Environment, Climate Change and Water) has not previously provided Council with its comments under the former provisions of section 62 of the EP&A Act for Avery's Village Precinct. This advice is provided in Attachment 5.

If you have any enquiries concerning this advice, please contact Lucas Grenadier, Conservation Planning Officer, on 4908 6820.

Yours sincerely

RICHARD BATH
Head - Hunter Planning Unit
Environment Protection Authority

Enclosure (CD containing):
Attachment 1 – Biodiversity Offset Proposal / Assessment Avery’s Village Precinct
Attachment 2 – Biodiversity Offset Proposal / Assessment Wyndham Street Greta Precinct
Attachment 3 – Crown Lands correspondence Avery’s Village Precinct
Attachment 4 – Crown Lands correspondence Wyndham Street Greta Precinct
Attachment 5 – section 62 consultation Avery’s Village Precinct

Page 4
Telstra have lodged DA application with you (05/12 2011) for the construction of a mobile phone tower. Recently we have received correspondence from the agent "Aurecon" outlining their Proposal. Having read the Proposal, we wish to raise the following concerns:

1) The brochure states that the facility is to be located at 40 Francis St Bellbird - when in fact it is to be located directly behind my property (within 30 metres of my back fence) at 61 Keelend Rd Bellbird Heights - if they have misted us on the exact location then why should we believe them on any of the other data that they have presented.

2) My major concern is myself and my wife along with probably 90% of the Australian population are not convinced (and will never be) that emissions (electromagnetic) from these facilities are not dangerous to humans, although they have been trying to convince us for years. Authorities are still trying to figure if mobile phones cause cancer so how can they be sure that something of this size cannot harm us?

3) Another major concern that we have is the devaluation of my property, as prospective buyers would have the same concerns that we have regarding emissions from these facilities as well as the visual impact.

4) The photos that have included in the brochure should have included a photo from over my back fence so we all can see what a major visual eyesore that we will actually see and not the "this doesn't look that bad" photos that they have included. Everything looks a lot better from a kilometre away.

We are not against the upgrading of the supply to the Bellbird area but surely in an area as big as Cessnock and with the amount of uninhabited land that surrounds the city that a safer location that would still provide the required upgrade could be found away from any residential areas.

Regards,
Sant: Thursday, 16 February 2012 6:36 PM
To: Allison Davey
Subject: Proposed Telecommunications Facility

Cr Allison Davey,

As you may or may not be aware Telstra (through the agent "Aurecon") have lodged a DA application with Cessnock City Council to erect a new telecommunications tower at Bellbird Heights. We have received an informative brochure from them and after reading the material supplied we would like to raise a couple of objections/concerns as to the proposed location of this new facility.

1) The brochure states that the facility is to be located at 40 Francis St Bellbird - when in fact it is to be located directly behind our property (within 30 metres of our back fence). - If Aurecon have misled us on the exact location then why should we believe them on any of the other data that they have presented.

2) My major concern is, myself and my wife along with probably 80% of the Australian population are not convinced (and will never be) that emissions (electromagnetic) from these facilities are not dangerous to humans, although many so-called experts have been trying to convince us for years that they are in fact harmless. Authorities are still trying to figure out if mobile phones cause cancer so how can anyone be sure that something of this size cannot harm us?

3) Another major concern that we have is the devaluation of my property as prospective buyers would have the same concerns that we have regarding emissions from these facilities as well as the visual impact.

4) The photos that were included in the brochure should have included a photo from our back fence so we all can see what a major visual eyesore that we will actually see and not the "this doesn’t look that bad photos that have been included. Everything looks a lot better from a kilometre away.

We are not against the upgrading of the supply to the Bellbird area but surely in an area as big as Cessnock and with the amount of uninhabited land that surrounds the city that a safer location, that would still provide the required upgrade, could be found away from any residential areas.

If there is anything that you could do in regards to our concerns about the proposed location of this facility it would be very much appreciated.
Dear Sir/Madam,

DEVELOPMENT APPLICATION NO 8/2011/815/1
PROPERTY: LOT: 1 DP: 1164534, 40 FRANCIS STREET CESSNOCK

I would like to strongly object to the establishment of a mobile phone transmission tower on the above property.

I consider this location totally inappropriate from a visual and health perspective and that it will destroy the overall character of the area.

The tower would be about 40 meters from my back window from which I spend a lot of time reading and watching the bird life. The parcel of land would become an eyesore and I have great concerns for the decrease in value of my and my neighbors' properties.

The surrounding area is populated by families and an abundant of wild life, especially birds. My concern is the health risks from long term exposure to the electromagnetic radiation emissions from the tower. Many years ago scientists were considered a good thing, who will be responsible if in many years from now we find out that the tower that I am objecting to has caused health problems from the radiation emissions.

I would like all scientists to ask themselves and answer honestly would you like this tower outside your back door? I am sure your answer would be the same as mine and that is a resounding NO.

Yours faithfully
Dear Sir/Madam

Re: DA 8/2011/815/1

I am writing this letter to strongly protest about the proposed 30 metre Mobile telephone tower that is stated to be situated at 40 Francis Street Cessnock, but in fact directly on the back fence of 61 Keelondi Road Bellbird Heights.

My reasons for objecting to this proposal are as follows:

- These phone towers emit radiation also known as EME but Telstra would like you to believe that these radiation levels are harmless, however there is documented information that states that the possibility of harm cannot be ruled out. The testing for this is ongoing which indicates that the results are still unknown, so why take unnecessary risks with the placement of these facilities.
- The towers are ugly and I believe will be blight to the amenity of this beautiful area.
- I believe this facility will greatly devalue all of the properties in this vicinity.
- I am sure that anyone that would be interested in purchasing any of the properties in this area would be greatly discouraged after discovering the closeness of this tower.
- These towers emit a humming sound when phone-computer use is at a high level.
- My property according to Telstra’s radiation levels scale is in the HIGHEST EXPOSURE LEVEL AREA, however it is unclear that the level stated are for three aerials as originally proposed or the additional nine that are to be installed at a later date.

In closing I ask the people that are to be involved in the approval of this proposal if they would like this tower hovering over these properties.

There is no good reason why this Tower has to be placed in the middle of all these residences.

These facilities should be located in remote areas where they can do no harm.

Yours sincerely
Dear Alison,

RE: Proposed Erection Of Telstra Tower - 40 Francis Street Cessnock NSW 2325 - Letter of Protest

I am writing this letter to voice my sincere displeasure, concern and above all to strongly protest the above issue at heart.

Firstly I find it completely falsifying in relation to the information provided to residents of this suburb that may be directly affected by the above proposal, that Aurecon have submitted documentation advising that the direct location of the proposed thirty meter tower is to be situated at 40 Francis Street Cessnock, when in actual fact the tower is to be situated in very close proximity to that of the rear boundary fence of 61 Keelend Rd, Bellbird Heights. The fact that the location is not entirely clear to residents is a concern itself to the overall honesty of the situation on Telstra's part.

The other reasons I have for strongly protesting against the erection of this tower are the following:

* It has been said that these towers emit radiation (sometimes referred to as EME), however Telstra (AURECON) follow the perception that these towers are harmless as far as radiation is concerned. The fact that they overlook the possibility of this I find completely concerning being the only thought in their mind is how they can make their next dollar at the expense of others.

In this case and I am sure in many other cases throughout this country/state, I find it absolutely irresponsible of this well-known company to overlook this issue and the effects that this could possibly incur to nearby residents. With the amount of studies being carried out today and various health organisations stating that a lot more testing needs to be done in this concern due to various health issues being raised in relation to cancers etc., this in itself should ring alarm bells in relation to site locations with regards to the potential health hazards of those in direct proximity to these towers.

There have been various complaints throughout the country form those situated in close proximity with regards to increased cases of cancer’s, issues with DNA and the list goes on. I would like those who feel this tower is ok to erect in very close proximity to residents of Keelendi Rd and surrounding streets (those being families, small children, residents young and old), to ask themselves how they would feel having such a thing situated close to their family members, friends or kids, knowing that there is a possibility that these levels of radiation could cause harm to their loved ones. If they answer yes, to it being ok, in my opinion they seriously need to adjust their humane values.

* In my opinion and I’m sure in many others opinions in this street, these towers are eyes sores so to speak and I believe this would have an effect on the overall aspect of the tranquil environment that we are surrounded by in this area.

* I currently work in Real Estate (and have done so for the last 9 years) as an Investment Manager & also a Property Sales Consultant, and I can personally guarantee you that the erection of this tower will grossly de-value the houses in this area and in most cases make it very difficult for residents to sell their homes or possibly even rent them due to the close proximity of this tower.

* Not only do these towers emit radiation, it has been said they produce a humming sound when phone & internet use is at a high level. That in itself I see as direct noise pollution to this built up residential area and a hazard and inconvenience to those surrounding the tower.

* Lastly, the property that I reside in (one that my parents have worked so hard to gain over the years) according to Telstra’s radiation levels scale is in the highest exposure zone. However, it is unclear in terms of the levels stated as to whether these levels are for the three aerials as originally proposed or the additional nine to be installed at an unspecified time. Either way, the fact that Telstra has a radiation scale is of course an admission to the fact that these towers do emit radiation and safe levels of distance must be taken into account, being my point exactly.

In short, I understand that Telstra most likely wish to erect this tower in this location as a means of improving reception to the area. I also realise that they most likely have chosen this location as a means of cutting costs in relation to erecting one in a more remote location, like on top of the mountain for instance. However, since when have phone reception and cutting costs come at the expense of resident’s health in an area, or at the expense of damaging their housing values which, this blue coloured community have worked so hard to create for their families.

2
I strongly protest to the erection of this tower and I would ask that you being the person I have had
enough faith in to help appoint as not only my spokesman for what is believed to be fair and right, but as
the person who I trust to do right thing for Cessnock families abroad, relay the objections, not only mine,
but of those who I know have submitted documentation also, to the correct persons in relation to this
most important issue.

We are not asking for the world, and we are not asking that it be passed on to some other poor street or area,
we are asking that everything be done to ensure that this tower and the other proposed nine towers, do
not potentially cause harmful issues to the residents of this town. Even if this tower was going to be
located at Abordare for instance, I would have no hesitation in writing this letter on behalf of those
residents or signing their petition, because I do feel so strongly about this issue.

Again, to those involved with the locating of this tower, I ask them again to put themselves in our shoes
and ask themselves this question ..., "how would I feel if it was my house or my family"?

Thank you sincerely for your time and I do thank you sincerely in advance for paying attention to this
important issue. Should you need to contact me, please do not hesitate to email me at
Good morning Vanessa,

I am writing to you on behalf of my family. I must say we are incredibly concerned about the lack of early communication and input we have in regards to this tower construction. There are several inconsistencies with dates throughout your publication which date back to 2010, why were we not informed at an early stage?

We received your publication dated February 3rd approximately February 8th and discussion or feedback in regards to this proposal closes February 17th, giving the community and the affected residents a small window of opportunity for group discussion. This information should be provided to the entire area not just a select few residences with ample time for discussion.

Furthermore, it concerns us that your emissions level submission with the telstra logo on it, has the address of Crossing street Bellbird all through it, which is conflicting to the 40 Francis st on the opening page. Which in addition is incorrect as the water reservoir is in fact on Keelendi road and the locality map you have provided is indicating the proposed tower placed in extreme close proximity to 61 Keelendi Road Bellbird.

We are extremely concerned and require clarification on the proposed levels of EME emission, as the initial proposal is for tower with 3 antennas. We are residing in the maximum exposure zone. Can you clarify what the emissions will be when the additional 9 antennas will be active; making that 12 in total and what will the exposure rate be when living in direct proximity for 24 hours a day and over years of exposure. Moreover, we want your company’s guarantee that we will not have any negative health ailments due to our exposure to these ‘so called’ low emissions.

If your company is adamant there will be no negative repercussion to our health being exposed to this tower (our home is directly across the street from this tower) your company should provide us with written documentation that offers us recourse to the contrary. Will this become a future class action alike asbestos debacle in 40 years or so? We have 4 children and are EXTREMELY concerned for their and our future wellbeing. We will be in CONSTANT exposure to these emissions everyday for years on end. We have read extensive research in regards to health implications and majority of findings establish that negative impacts or possibilities CANNOT be ruled OUT and that further research will be more conclusive after long term studies can be conducted. Which will be too late for the residents in the maximum exposure radius.

Additionally, I have just read your suggested website www.arpana.gov.au which was updated yesterday 14.2.2012 they also state in several sections of there findings that POSSIBILITY OF HARM CANNOT BE RULED OUT!!!

We are in total support of upgrading our mobile service, we are probably amongst the worst in the Cessnock area for mobile coverage, but at what cost of providing ‘good mobile coverage’ is it?? Our health? Our children's health?? Not! We are all in agreement that a better option should and can be sourced out of the harms way of EVERYONE. We have defunct mining land in close proximity, or attaching to the current radio towers on the Mt Bimbadgen range that has existing power supply also. We cannot emphasize strongly enough at how against this proposal we are. We and our children are not accepting being put at risk, and we ask you to ask yourselves the question would you????
Dear Mr Sandell,

In the response to the proposed submission of the tower situated in the Bellbird Heights residential area.

Our concern centres around the health and wellbeing issues of radiation emissions. Firstly this area of Cessnock, is an old established area of town with many houses having the same residents for many years, as well as young families moving or living in the area. We are disappointed that many young families currently building family homes in this area were unaware of the tower being placed in close proximity to their new homes, where they intend to stay for a lifetime.

The proposal of the tower has been rushed through with residents knowing little about it and a majority not knowing anything about it, many residents have just returned from the Christmas break to find your letter with little or no time to take action against this proposal.

The area of Bellbird/West Cessnock has a high growth of young families moving into this area, the proposed location of the tower is within not only established family homes and bushland full of habitat, it is also located near three preschools, two primary schools and various family day care homes.

There have been studies from all over the world which have been continually ignored, of the extreme dangers and risks towers have on children and adults. The increase of brain tumours is rising at a terrible rate, this could be helped by moving the proposed location away from residents.

There are studies which show that children who live near towers have impairment of learning and memory, physical performance and sleep. These residents will face 24 hours of radiation per day. The area already has high health needs and this will further impact on the statistics and associated health agencies.

We trust the council will carry out further research into the diverse effects the tower will have on their residents, and this should be considered before making a formal decision. Please help us improve the current state of health and wellbeing of this town. As we have always endeavoured to create an awareness of health and wellbeing, through access to organic breads, food and continuation of Qi gong, yoga programs and sustainable living, with local families.

Thank you,

Yours sincerely,
Natural Steps Preschool.
Enclosure 2 - Submissions

Concerned Residents of Koolundi Rd.

Yours sincerely,

Concerned Residents of Koolundi Rd.
NOTICE OF OBJECTION

THIS COMMUNITY IS A RESIDENTIAL COMMUNITY - NOT AN INDUSTRIAL SITE COMMUNITY!

We wish to register in the strongest terms our objections to the above DA lodged by Telstra to erect a Mobile Phone Transmission Tower at the above mentioned location.

The erection of these dangerous and environmentally concerning structures has raised the awareness of many concerned community groups over many years. And for very good reasons!

So much so that it has required elected members of parliament to raise Bills to be presented to parliamenters to create further controls on Telecommunications Organisations in relation to the siting of these towers.

It has been shown that these towers do present serious concerns to many communities relating to the Electromagnetic Radiation that they cause. These communities are sick and tired of the vast floodtail of electromagnetic effects that these mobile network structures have on their families and particularly their children.

Yet we are expected to accept that this structure is to be located in the immediate vicinity of residential houses and childcare facilities where children of various ages will be exposed to this danger.

Among the main concerns of these communities has been "... the emerging evidence that chronic long term health effects of mobile phones and EMR present ... and there is growing acknowledgment that prolonged exposure to EMR is likely to increase the incidence of tumors after a period of ten or more years, even at very low levels...". Even "... extremely low frequency EMR from these towers... can damage DNA." The consequence of prolonged exposure to children, "... whose nervous systems continue to develop until late adolescence, is unknown at this time... But the body of evidence suggest that biological effects and health effects can and do occur even at low exposure levels...".

These issues and other concerns are constantly raised against the telco industry by other concerned communities. Yet the telco industry seem to place their concerns for profit and shareholders gains, above the concerns of the communities of concerned parents and their families. The telco industry continues to meet secretly with various government representatives with vested interests but not our interests. Their vested interests represent a standard that has always designed to be protective of human health and does not take into account already, cumulative exposure... only short term acute effects!!

Telstra invariably uses a lot of "assumptions" in its "proposals" !, in it's Environmental Assessments lodged by Aurecon. However, Telstra cannot get away from its obvious overriding priority of servicing its profit gains and shareholders self interests first. The aspect of Environmental Assessments are still an irritable inconvenience that it has to overcome, but to the residents of the immediate community OF THIS PROPOSED monstrosity, the environment is there for their well being and their children. It is also there for future residents and their families. That is what protection of the environment is all about. THIS COMMUNITY! The people that actually live there - not conglomerates that sell and five chambers!!

That's why we strongly object to this council giving due attention to these telco industry self interests over the concerns of the community and its concerned citizens.

We strongly object to this DA and the proposed location of this Mobile Phone Transmission Tower at the above location. In accordance with Environmental Planning and Assessment Act 1979 none of the attached signatures have made any political donations or gifts to Counsellors or Councillor employers during the previous two years prior to the submission.

Yours sincerely,

Concerned Residents of Reelen Rd.
Concerned Residents and Parents

KELLENDI ROAD

RECEIVED

BELLEBIRD HEIGHTS NSW 2325

As you are now no doubt aware, Telstra Australia have through their agent Aurecon, lodged with Cessnock City Council a D.A. for the placement of a Mobile Phone Tower.

Although the D.A indicates location at 40 Francis Street Cessnock, the actual location is behind 61 Keelendi Road Bellebird Heights.

Whether you are in agreement with this D.A, or like the majority located nearby to this location, against this D.A, it is important that you are aware of the concerns that have been raised at many other communities that have been confronted with this issue.

This included information might seem extensive, but not as extensive as that being presented by Aurecon on Telstra’s behalf.

We would like you to provide some time to read this material and make up your own mind on whether you agree or object to this D.A. If you do object, you need to notify CCC, asap!!!

It should be noted that the protest group are not against progress, but we do not believe that it should be progress at any price. Particularly, when there are concerns about the general health impacts on the community and especially, the future generations of this community.

ALL HEALTH CONCERNS SHOULD BE TOTALLY RESOLVED BEFORE ANY INSTALLATIONS CAN PROCEED!!!
Proposing the Subdivision of One (1) Lot into Two (2) Lots

Enclosure 1 - Development Plans

Enclosure 1 - Development Plans Page 50

Report EE32/2012 - Development Application
Lot Into Two (2) Lots
General Manager  
Cessnock City Council

RE 2 lot subdivision of 7 Redgum Rd, Paxton  DA 84-2011-438-1

I am the owner of the property opposite this subdivision proposal I wish to lodge an objection to the land being subdivided into two 3,000 sq mt lots on the following grounds:

1. Current council requirement is a minimum lot size of 4,000 sq mt per lot.
2. Land currently has a building envelope and was applied due to previous environmental concerns and flooding from stormwater.
3. Council delayed the sub-division of Watagan Rise Estate for many months and resumed a large part of this original parcel of land for environmental concerns, to create a corridor for fauna and protect Red gums and vegetation. This original parcel of land had a deposit on it and the owners lost the land and were financially ruined by council resuming this land and not then being able to buy land at the same price in the area after selling their property 12 months earlier and waiting for development to be approved. Council was determined then that no future development into smaller lots would be allowed yet today it is considering just that yet the environmental issues have not changed.
4. Council has not informed, nor advertised to all property owners within the Watagan Rise Estate that this development is being proposed and how the changes will effect everyone.
5. Watagan Rise Estate was set up as a small acreage rural development and this proposal goes against the intention of the subdivision.
6. If approved other land holders will begin subdividing and we will see a total loss of the rural aspect that owners have sort in their property when purchasing.
7. The sold sign has just been placed on this land and immediately DA has been lodged so no-one is aware of what is happening.

A Council officer explained to me when phoning that this DA was preemtting the future LEP changes. I appreciate that council wishes to see subdivision occur where water and sewer are available and time changes needs but ALL owners within estate should be consulted and the environmental issues are unchanged. Council has already allowed owners to completely remove all trees from lots when building so the stress on remaining vegetation, flora and fauna is greater than ever before. Council required us to have an environmental impact study and fire reports before we were allowed to build or subdivide what are these 2011 reports saying about this subdivision?

I am lodging this objection as the owner of 3 lots of land in Redgum Rd, and hope that council take into consideration my concerns before approval is granted.

Please advise me of your decision.

Yours truly.
Enclosure 1 - Letter from the Department of Planning and Infrastructure dated 19 April 2012

Ms Lea Rosser
General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

19 April 2012

Attention: Ms Louise Gee (Director of Planning)

HUNTLEE STAGE 1 PROJECT APPLICATION – COMMUNITY REFERENCE GROUP

I am writing to you concerning the Project Application for Stage 1 of the Huntlee development. This application was publicly exhibited in early 2011 and was effectively placed on hold pending the outcome of the Land and Environment Court proceedings against the rezoning of the site.

As the Court proceedings have now concluded and the rezoning of the site has been upheld, the Department has recommenced its assessment of the Stage 1 application. The proponent is preparing a Preferred Project Report in response to submissions. The Preferred Project Report will be publicly exhibited and I anticipate this will occur in the second half of 2012.

In the meantime, the Department is establishing a Community Reference Group for this project. The CRG membership will include representatives from local business, community and environmental groups and other stakeholders with an interest in the proposal.

It is envisaged the CRG would meet on at least two occasions. The first meeting would likely be held in May 2012 and the second meeting would take place once the Preferred Project Report has been submitted.

The Department requests that Council nominate up to two representatives and provide a list of any stakeholders that in its view should be included. It would be appreciated if you could provide contact details for nominees by Friday 27 April 2012.

Should you have any further queries, please contact Simon Bennett, Team Leader – Strategic Assessment on 8228 6573.

Yours sincerely

Michael File
A/Executive Director, Urban Renewal and Major Sites

Head Office 23-33 Bridge Street, Sydney GPO Box 30 Sydney NSW 2001
Phone (02) 8228 6111 Fax (02) 8228 6450 Website planning.nsw.gov.au
Dear Sir/Madam

CESSNOCK CITY COUNCIL – SUBMISSION TO DRAFT POLICY STATEMENT ON PLAN-MAKING AND DELEGATIONS

I refer to the recent public exhibition of the above mentioned Draft Policy Statement. The proposed changes to the plan making process and transfer of delegations to Councils in general and Cessnock City Council in particular have significant implications for the:

- overall planning system;
- effective operation of the Local Environmental Plan (LEP) plan making system;
- operations of Local Government; and
- operations and resourcing of Cessnock Council.

The following is Cessnock City Council’s submission to the public exhibition of the Draft Policy Statement.

Objectives
The stated aims of the Draft Policy Statement are to improve efficiency, accountability, transparency and create certainty with respect to the planning system. The draft policy statement presents two main ideas, being:

- delegating the plan making functions for “routine” Local Environmental Plans (LEPS) to local Councils; and
- allowing for the “independent review” of Council and Departmental decisions with respect to planning proposals at different stages in the plan making process.

Delegations
It is proposed that delegations be given to Councils for the making of what have been termed “routine” LEPs after a “Gateway” determination has been granted. Routine LEPs as identified in the press release associated with the Draft Policy Statement Include:

- Spot rezonings consistent with an endorsed strategy;
- Reclassifications of land supported by an open space study;
- Heritage LEPs supported by an endorsed study;
- Section 73(a) matters - amending references to documents and agencies, minor errors and anomalies etc; and
- Mapping alterations and corrections.
Under the proposed delegations the DoPI would not play any part in the plan making process for “routine” LEPs post “Gateway”, with Councils being responsible for the making the plan. This will relate primarily to Councils dealing directly with the Parliamentary Counsellor Office. Councils would therefore take over the Departments administrative responsibilities for what is routine plan making.

Delegating the making of routine LEPs amounts to the transferral of the DoPI’s administrative duties to Council. Under the proposed arrangements Council will also be responsible for reporting the progress of LEPs at various stages of the plan making process to the DoPI. This will increase Councils administrative workloads and responsibilities. It is highly questionable if this would improve the efficiency of the planning system or allow Councils to better manage their planning responsibilities.

Routine Local Environmental Plans
Heritage LEPs are not routine matters and should not be included in the changes proposed under the Draft Policy Statement. The DoPI needs to consider the overall implications of this proposed change.

Local Environmental Plans for mapping alterations and corrections are proposed to be managed by Councils. The current administration of LEP maps is one of the most contentious issues facing the planning system at this time because of issues of data ownership and technical problems relating to mapping systems and file compatibility issues between the DoPI and Councils. Effective mapping is the central to the functioning to the planning system. Until this issue is resolved no changes to the planning system should be contemplated.

Independent Reviews
The “Draft Policy Statement on Plan-making and Delegations” supports the introduction of additional review mechanisms for planning proposals. It is proposed that a independent review of planning proposal might occur at:

1. Pre-Gateway - The draft policy would provide a proponent an opportunity to have the Joint Regional Planning Panel (JRPP) review a planning proposal before it is forwarded for “Gateway” determination if a Council decides not to agree to send a planning proposal to the Department, or where the Council fails to make a decision on the proponent’s request within 60 days.

2. Gateway Review - The draft policy would allow a review of a planning proposal to be requested by Council or proponent after a “Gateway” Determination. The review would have to happen within 40 days of the Gateway determination but prior to the public exhibition of the planning proposal.

General
The proposed independent review process prior to or at the “Gateway” is likely to:

- indirectly undermine the role of Council decision making within the already established “Gateway” process and thereby reduce transparency;
- increase poorly founded review requests irrespective of any fees that may be required;
- allow more than one review of any given planning proposal - in effect reviews on reviews;
- duplicate the existing “Gateway” by permitting in effect up to three gateway type assessments to be made on planning proposal in addition to Councils assessment role;
- any independent review of a planning proposal would need appropriate additional information to be provided to the JRPP. In a Councils case additional information may
also be sought later by the JRRP to complete the review. This has major cost, time and resourcing impacts for Council and the Department;

- allows for review decisions that are further removed from local government which would could interpreted as being less transparent by local communities;
- reduce transparency with local communities and undermine community acceptance of planning decisions and acceptance of the “Gateway” system;
- lead to increased delays rather than resolving delays in the planning process by unnecessarily increasing complexity. Setting minimum processing times will not resolve this.

Issues of the Planning System
Sufficient checks and balances exist within the new planning system for ensuring transparency and accountability. By definition independent reviews of planning proposals are already undertaken by both Council Planning Officers and the Officers of the DoPI. Adding additional “independent review” opportunities will therefore result in

- Potential tripping of assessments and reviews;
- Undermine the assessment role of State and local government planners who already assess planning proposals independently and professionally, and
- Undermine the founding principles of the newly introduced “Gateway” process.

The existing “Gateway” system is transparent and accountable. Issues of efficiency in the processing of planning proposals should not be resolved through providing additional review opportunities. Perceived and actual delays are a reflection of:

- resourcing levels in government;
- teething issues with the introduction of the “Gateway” system; and
- better defining information requirements for justifying planning proposals.

Improvements in the operation of the system can address these issues without the changes proposed in the Draft Policy Statement.

Review Criteria
If the Draft Policy Statement is progressed further, any additional review mechanisms introduced, which could be instigated by an applicant or other parties would have to be subject to a strict criteria. The proposed review mechanisms should not be able to be used to generally reassess every planning proposal at the instigation of a third party and should only be applied under exceptional circumstances. Key criteria needed to ensure effectiveness and probity includes:

- Not allowing proponents or their consultants directly addressing a JRRP or contacting members of the panel in the review process; and
- restricting reviews to matters of state and regional significance.

As stated above introducing these additional review mechanisms in the context of the existing system would appear to be unnecessary provided additional non-statutory mechanisms to support and facilitate the “Gateway” system are introduced. These might include:

- practice notes; and
- community education.
Alternative Approach
An alternative approach would be to allow the already existing “Gateway” system to bed itself in prior to making changes that will undermine it. The “Gateway” system in and of itself has checks and balances within it. Rather than adding to the established system greater efficiencies can be achieved through appropriate use of the existing processes. This might be achieved easily through investing in community education and training.

The key issues facing the operation of the LEP plan making system are establishing informed decision making by Councils and the Joint Regional Planning Panels and the provision of the right sort of information for effective decision making at the key stages in the overall assessment process. This can be addressed through guidelines and practice notes for minimum documentation requirements. Current local government practice indicates that key issues revolve around the community’s perceived validity of planning documents, the role they play in supporting planning proposals and the operation of the new plan making system.

Independent Review of the Planning System
The State Government is currently overseeing an independent review of the NSW planning system. The reduction in efficiency that the planning system has suffered over the last few years has been a direct result of numerous minor changes to processes and procedures outside of a systematic understanding, analysis and review of the overall planning system. Changes of the type being proposed in the “Draft Plan-making and Delegations Policy Statement” should not be considered until the findings of the independent planning review have been completed.

Implications for Council
The stated aims of the proposed changes to the plan making system are to streamline the plan making process, make it more transparent and accountable and thereby achieve efficiencies in terms of reliability and processing time. While these objectives are laudable the approach being put forward by the DoPI does not take into account key administrative and logistical issues facing Councils across NSW and Cessnock Council in particular. Under current staffing arrangements Council could not absorb these additional duties and responsibilities. The proposed changes would therefore have a significant cost to Cessnock Council.

State Government Responsibilities
Over the last few years Local Government has absorbed what have historically been State roles and responsibilities under the banner of greater accountability and transparency. Many of these additional responsibilities, like the ones being proposed in the Draft Policy Statement, from a systems management perspective can and should remain the role of the DoPI without any real impact on the operation of the planning system.

Local Environmental Plan Processing Times
The draft Policy provides 60 Day processing times for planning proposals. This will require the necessary resourcing to be provided by each Council. Without extra resourcing smaller and medium sized Councils are unlikely to be able to fulfill their strategic planning and policy development responsibilities. It is important to allow Councils to strategically plan their communities. Increasing administrative roles and imposing the administration deadlines for processing planning proposals will result in the diversion of resources from important forward planning tasks. This would be an indirect, but negative outcome of the changes proposed under the Draft Policy Statement which will have a cumulative impact for local government and planning across the state.
Conclusion
The DoPi’s "Draft Policy Statement on Plan -making and Delegations" is aimed at increasing efficiency, transparency and accountability by streamlining planning processes. There is however a high probability that the changes proposed in the draft policy will not allow these objectives to be met. The practical affect of increasing Council delegations and adding further review mechanisms is likely to overburden the plan making system in a way that will increase overall plan making times.

The NSW planning system is currently being independently reviewed with the aim of producing a new planning system that meets the community’s expectations and eliminates uncertainty from the development process. Council has limited resources without having to take on the administrative process normally undertaken by the DoPi. Any changes to the existing planning processes should not be undertaken prior to this review being completed.

Should you wish to discuss any of the above, please contact me on telephone 02 4993 4229.

Yours faithfully

PETER MANN
MANAGER, STRATEGIC LAND USE PLANNING
More local, more accountable plan making

The purpose of this document is to seek the views of councils, industry and the community on proposals to make the way local environmental plans are made more local and accountable.

Introduction

One important goal of NSW 2021, the State’s 10 year plan to drive change, is to restore confidence and integrity in the NSW planning system.

This requires timely decision making and greater certainty for investors and communities. It also means that planning powers should be returned to local communities when they are best placed to carry out those roles.

An independent review of the NSW planning system is currently underway and, when completed, promises to deliver a planning system that is modern, transparent and provides clarity for investors.

In the meantime, there are ways to make plan making more local and accountable by changing current procedures. These changes will increase transparency, provide greater certainty, and increase councils’ roles and responsibilities in plan making, by:

- delegating the making of routine local environmental plans (LEPs) to councils, and
- allowing for independent reviews of some council and departmental decisions in the plan making process.

These two proposals are set out below.

LEPs to be routinely delegated

The following types of LEPs will routinely be delegated to councils to prepare and make following a Gateway determination that the planning proposal can proceed:

- Mapping alterations/corrections that do not alter strategy endorsed development standards;
- Section 73A matters e.g. amending references to documents/agencies, minor errors and anomalies;
- Reclassifications of land consistent with a strategy/supported by an adopted Open Space study.
- Heritage LEPs supported by an Office of Environment and Heritage endorsed study.
- Spot rezoning consistent with an endorsed strategy or surrounding zones or in accordance with broader Government policy.

Issue of delegations

The department will write to all councils advising that plan making powers are to be delegated under section 23 of the Act, which allows the Minister and Director-General to delegate functions to a council and/or an officer or employee of a council.

Councils will be asked to nominate the relevant officers (usually the general manager and/or planning director of the council) to whom the delegations may be given.

Councils are reminded that Section 381 of the Local Government Act 1993 requires that such functions cannot be delegated to:

a) the general manager, except with the approval of the council; or
b) an employee of the council, except with the approval of the council and the general manager.

The department will issue a Written Authorisation to Exercise Delegation in respect of any draft LEP when the relevant council has written accepting the delegations and providing the name and position of any officer or employee to whom the delegations will also be granted.
Procedural matters for delegated LEPs

Under section 59(1) of the Act the department currently requests the Office of the Parliamentary Counsel (PCO) to draft the legal instrument that gives effect to a planning proposal. This process will continue. However, the council will deliver its instructions in the same form as currently provided to the department directly to PCO electronically and concurrently copy the instructions to the department for monitoring and reporting purposes. The council will then deal directly with PCO to negotiate and agree to the final wording of the instrument, prior to making the LEP.

When a plan is made, the department currently requests PCO to ‘notify’ the plan on the NSW Legislation web page, and the day it is notified on that web page is the day the LEP becomes effective. This process will continue. When a council has made an LEP it will be forwarded to the department. The department’s function at this stage is administrative only. The department does not review the legal instrument or review the council’s decision to make the LEP. The department will request notification through PCO and will record the dates of making by the council and notification on the NSW Legislation web page.

The process for delegated LEPs is illustrated at Attachment A.

Many LEP amendments rely on maps for their implementation. Councils must ensure that any necessary maps are prepared in accordance with the Standard technical requirements for LEP maps and Standard requirements for LEP GIS data, available on the department’s website at:


Adequate maps are required for the Gateway to make a determination, and technically correct maps and GIS data are required before an Opinion can be issued by PCO.

Reporting requirements

Councils will be required to report to the department on processing times for delegated LEPs e.g. date of receipt of Gateway Determination and Written Authorisation to Exercise Delegation, exhibition dates, and dates of council resolution and/or delegated decisions to proceed with the planning proposal after exhibition, request for drafting, making of plan, and forwarding to the department to arrange notification.

Templates for quarterly reporting of this information will be sent to council with the formal delegation documents when names and positions of relevant council personnel have been received by the department.

The purpose of this reporting is to provide advice on on-going improvements to the system in light of experience.

Independent Reviews

The second proposal to improve plan-making procedures is to formalise the existing practice of seeking independent reviews for some rezoning proposals.

This proposal sets out how proponents and councils to request an independent review of decisions made in relation to a planning proposal before the Minister makes an LEP under Part 3 of the Act.

The plan making reviews are:

- **Pre-gateway reviews** – which may be requested by a proponent before a planning proposal has been forwarded for Gateway determination;
- **Gateway reviews** – which may be requested by a council or proponent following a Gateway determination, but before community consultation on the planning proposal has commenced.

The procedures outlined in this circular allow for plan-making decisions to be reviewed at key stages of the plan making process with the benefit of independent advice from a Joint Regional Planning Panel (regional panel) or the Planning Assessment Commission (PAC). These reviews do not change the existing statutory process for making LEPs. For information about the plan making process see PS 09-015, the Guide to Preparing LEPs and the Guide to Preparing Planning Proposals.

**Pre-gateway reviews**

If a proponent (e.g., developer, landowner) has requested that a council (as the ‘relevant planning authority’ (RPA)) prepare a planning proposal, there are two situations where the proponent may ask for a regional panel review:

a) the council has decided to not prepare a planning proposal; or
b) the council has not made a decision after 60 days of receiving the proponent’s request.

**Proposals must meet eligibility requirements**

Each proposal will need to pass a strict assessment by the department to determine whether it is eligible for a regional panel review.

To be eligible for review, a proponent will need to demonstrate clearly that the proposal meets the following criteria:

a) will achieve appropriate orderly planning outcomes, such that the proposal:
   - will utilise existing capacity in infrastructure networks subject to the agreement of service providers, or can be provided for with essential infrastructure ‘out of sequence’ subject to cost recovery and the agreement of essential service providers; and
   - will be adequately integrated with existing public transport networks in a
timely manner to ensure there is not an undue reliance on private vehicle trips; and
- is likely to be supported by agreement from key environmental agencies, that appropriate environmental management outcomes can be achieved; and
- will not detrimentally impact on the viability of identified centres in endorsed regional and/or sub-regional strategies (in addition to the strategic considerations listed below); and

b) is consistent with or supports the outcomes and actions of:
   - an endorsed local strategy; or
   - the relevant regional or sub-regional strategy; or
   - other relevant regional or State strategic plans or policies.

Proposals that do not reasonably meet the above eligibility criteria will not qualify for the review mechanism.

When is there a review?
When a council makes a decision to not prepare a planning proposal, the council is to notify the proponent of its decision and the reasons for its decision. The proponent then has 40 days to seek a review of the council’s decision by requesting a pre-gateway review.

Where the council has not made a decision within 60 days, proponents may also seek a review within 40 days of the end of the 60 day period. These periods will be extended over the Christmas and New Year period.

Further details about preparing a planning proposal and the information to be provided may be found in the department’s document Guide to Preparing Planning Proposals.

Pre-gateway reviews are intended to give proponents an opportunity to have an independent regional panel review the merits of proposals to make a new LEP or change an existing LEP, which may include a change to the zoning of particular land, and provide the Minister with regional panel advice about whether such proposals have merit to be submitted for Gateway determination (under section 56 of the Act).

In some cases the Minister may request the Planning Assessment Commission (PAC) to conduct such a review rather than a regional panel, including where there is no regional panel as in the City of Sydney.

Steps for seeking pre-Gateway review
Attachment B sets out the steps in the pre-Gateway review.

A proponent may request a pre-Gateway review by writing to the department and providing all relevant information (see supporting information below). An online lodgment form will also be made available.

Once all relevant information has been provided, the department will check whether the proponent’s proposed rezoning is eligible to be reviewed by the regional panel.

For eligible proposals, the department will prepare and forward a report to the regional panel on the planning proposal. The department will then notify council that it has sought independent advice from the regional panel, and will place the proponent’s review request and the department’s eligibility assessment on the department’s website within five days.

The regional panel will review the proposed instrument, giving consideration to the department’s report and any additional submissions provided to it from the council and proponent including:
- council’s grounds for not proceeding (or, in the case of a delayed proposed instrument, the reasons the proposed instrument has not progressed)
- Proponent’s justification for the proposed instrument including a response to council’s concerns;
- How the planning proposal is consistent with, or supports the outcomes and actions of:
  - an approved local strategy
  - the relevant regional or sub-regional strategy
  - other relevant State strategic plans and policies (eg, new or emerging State or regional plans or policies that relate to the proposed instrument)
  - other information to justify the proposed instrument.

The regional panel will then advise the Minister on whether or not the proposed instrument should be submitted to the Gateway for determination. The regional panel’s advice then will be placed on the department’s website within five days.

If the regional panel has recommended that the proposed instrument be submitted for Gateway determination, and where a pre-Gateway review was sought by a proponent due to a council delay, the Minister may request the council to submit a planning proposal on the proposed instrument to the Gateway within 40 days.

The Minister may also decide to appoint an alternate RPA after consulting with the council. In most instances this would be the Director-General.

Alternatively, if the regional panel considers that the proposed instrument should not proceed to Gateway then the Minister will not progress the matter any further.
Supporting information
Proponents requesting a regional panel review must provide the department with the following:

- a copy of the proponent’s request for the council to prepare and submit a planning proposal for Gateway determination
- a copy of all additional information and documentation provided by the proponent to the council (NB: section 55 of the Act sets out what information a planning proposal is to include)
- all correspondence from the council in relation to the proposed instrument including a copy of the council’s advice detailing why the council did not proceed with preparing a planning proposal
- proponent’s justification for why a review of the council’s decision is warranted
- if relevant, disclosure of reportable political donations under section 147 of the Act.
- fees

Gateway reviews
Gateway determinations may also be reviewed in certain circumstances. The council or proponent may request the Minister, or delegate, to alter a Gateway determination, when a Gateway determination is made that:

a) the planning proposal should not proceed

b) the planning proposal should be resubmitted to the Gateway, or

C) imposes requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered

These post-Gateway reviews are intended to give the council and proponents an opportunity to have the Gateway determination reconsidered, but only if the original determination was made by a delegate of the Minister.

If the Gateway determination is either to not proceed or to resubmit the planning proposal, the council or proponent has 40 days from being notified by the department to request a review.

If the Gateway determination is to proceed with the planning proposal but imposes conditions that the council or proponent considers inappropriate, the council or proponent has 14 days from being notified by the department to request a review. This timeframe will prevent any unnecessary delay in proceeding to community consultation on the planning proposal.

Steps for seeking Gateway review
Attachment C sets out the steps in the Gateway review process.

A council or proponent may request a Gateway review by writing to the department and providing all relevant information (see supporting information below). An online lodgement form will also be made available.

The department may prepare and forward a report to the next most senior Gateway delegate (i.e., the Minister for Planning and Infrastructure or the Director-General of the Department of Planning and Infrastructure).

The Minister or Director-General will request advice from the PAC before making a decision to alter the Gateway determination. The subject of the review. In addition to the advice of the PAC, the Minister may consider:

- Gateway delegate’s reasons for its original Gateway determination
- Submissions from the council or proponent including why the Gateway determination should be altered
- other matters not considered by the original decision maker including strategic planning considerations (e.g., emerging State or regional plans or policies relevant to the planning proposal)

The Minister or Director-General may alter the Gateway determination and decide the planning proposal should proceed (in accordance with any revised conditions), at which point the council and proponent will be notified of the altered determination and post-Gateway consultation on the planning proposal can commence.

Alternatively, if the Minister or Director-General considers that the planning proposal should not proceed past the Gateway, the proponent and council are to be notified and provided with reasons for the decision.

Following a Gateway review where the Minister or Director-General alters the determination, the usual process post-Gateway determination commences, including community consultation on the planning proposal.

Supporting information
Councils or proponents requesting a Gateway review must provide the department with the following:

- a copy of the planning proposal as submitted to the Gateway
- a copy of all additional information and documentation provided to the Gateway
- justification for why an alteration of the Gateway determination is warranted, including, where relevant, responses to issues raised by the original Gateway decision maker
- if relevant, disclosure of reportable political donations under section 147 of the Act.
- fees
Attachment A – Process to make a delegated local environmental plan

1. Planning proposal (PP) prepared by proponent or Council

2. Planning proposal (PP) considered by regional team

3. PP forwarded to LEP Review Panel/Gateway

4. Gateway determination: Gateway delegates plan making powers to the Council

5. PP returned to Council for progress under delegation

6. Community Consultation

7. The Plan is notified on the legislation website

8. Council makes the Plan under delegation of the Minister

9. Council consults by PC on final draft and Opinion is issued

10. Council forwards proposal to Parliamentary Counsel for legal drafting

11. Council finalises proposal

Council forwards the Plan to the Department to arrange notification
Attachment B

Pre-Gateway Review

Where council makes decision not to proceed with rezoning, proponent must be notified

Where RPA has not made a decision after 60 days of receiving a planning proposal with all required documentation attached

Proponent may forward planning proposal to Department (within 40 days) & request JRPP to review

Department checks whether planning proposal is eligible for review (ie. criteria)

Yes

For eligible proposals, Department completes report and forwards planning proposal to JRPP

JRPP meets with council, Department and proponent as required

JRPP advises whether planning proposal should be submitted to Gateway and forwards advice to Minister

Minister determines whether to proceed further with the planning proposal (and who the RPA should be)

No

Proprietor notified that planning proposal is not eligible for pre-Gateway review

Yes

Proprietor and Council notified of the decision & reasons for the decision

Gateway
**Gateway review**

- **Where Gateway determination is not to proceed further with the planning proposal**
  - Council or proponent may forward planning proposal to Department (within 40 days) to request ministerial review

- **Where Gateway determination is to resubmit proposal**
  - Department completes report and forwards with the planning proposal to the Minister*
    - Minister requests additional advice from the PAC. Minister has regard to Department and PAC advice

- **Where Gateway determination imposes requirements that the council or proponent thinks are inappropriate**
  - Minister determines whether to proceed further with the planning proposal
    - No — Proponent and Council notified of the decision & reasons for the decision
    - Yes — Minister forwards decision to the Council for further action

  - Post-Gateway public consultation on planning proposal commences

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* Reference to Minister in this diagram is also a reference to the Director General if the Gateway decision being reviewed was originally made by a delegate of the Minister that was not the Director General.
Expressions of Interest Conduct Review Panel

CESSNOCK CITY COUNCIL is seeking to appoint suitably qualified and independent persons to become members of the Conduct Review Panel as per S12, 13 and 14 of the Model Code of Conduct for Local Councils in NSW and to provide review services on an as required basis for this role.

Applicants are invited to submit their CV’s and an expression of interest addressing the following criteria:

- Independent, with no conflicts of interest with this role
- Qualifications and experience in dispute resolution, conducting high level and sensitive reviews, investigations, and mediation
- Thorough knowledge of Local Government the Code of Conduct and related legislation, Codes and guidelines.
- Understanding of governance issues relevant to Local Government
- Indicative hourly rate including GST and expenses

For Further information, please contact Sue Morrison Administration Services Manager by phone 49934184 or email sue.morrison@cessnock.nsw.gov.au or submit your application marked “Confidential: Conduct Review Panel “ to General Manager PO Box 152, CESSNOCK 2325.

Applications close Friday 13 April 2012 @ 5pm.
It has been a while since we sent out our last Newsletter and a lot has happened since our last October newsletter.

As you are all aware Dreamsafe is no more and we have very quickly transferred over to our ASIC registered company Landsavers Pty Ltd. I would like to thank everyone for their support during the Months since our transition.

Working with and thanks to Out Of The Square Media we have a new identity. If you want something done right the first time and on time then I can highly recommend OOTS. They designed our

- Company Logo
- Business cards
- Point Of Sale material such as retail in store cards, A5 posters and promotion vouchers
- Web site at www.landsavers.com.au If you have not been there please go and visit.
- Developed branding for “The Landsaver” our refurbished mattress product for our charity partners. This included new labels and POS posters

We have started working with Hawkesbury City Council who were left without a solution for the recycling of their mattresses when Dreamsafe went into liquidation. We hope to work with other Sydney Councils in the future.

We have done another mattress muster with Maitland City Council. This was the fifth muster and again went very well.

We have now processed in excess of 25,000 mattresses and bases. You will see more detailed data in the following pages which I am sure will be very interesting.

The Great Western Motel in Gosford recently engaged us to take away their beds from their recent refurbishment of their rooms. Great Western join The Mantra at Ettalong, Avoca Palms, and Citi gate Motel at Mayfield in our tourist market segment. We will be looking to work with more Motels and resorts this Year.

We also now have Snooze Central Coast using our services since December 2011. Snooze Central Coast needed a reliable service so they changed to Landsavers. Cheapest is not always best, customer service is our number one priority and we deliver what we promise.

We are continuing to visit all the local bedding retailers to ensure they are happy with our service and if not using our service we are trying to engage with them.

Mattress disposal in Sydney through Sita is now $50.00 per mattress or $935.00 per tonne as of March 1st 2012. A sign of things to come for our waste going into the future.

We are continually growing and offering opportunities to local people for work. We have employed another full time person and often take on casual people in our busy times.

We use The Salvation Army Employment Plus program for our staff recruitment.

We look forward to working with you all in the future. Please do not hesitate to call us if you require any further information.

Please go and visit our web site, we will continue to build the information there. We will place as much information as we can including some statistics.

Paul and Stuart Wardale
The chart and table above shows all collections from Councils, bedding retailers, the public, hospitality companies and charities that have contacted us. These are totals from the beginning December 2009 although our Council partners started to come onboard from July 2010 (Lake Macquarie) with Cessnock Maitland and Wyong starting in August and September 2010.

Lake Macquarie City Council At the time of this newsletter we have processed 11611 mattresses and bases. If we add the units collected from the public and others that takes the total to 12178. This equates to approximately 8524 cubic meters of space used.

This is quite an impressive total for Lake Macquarie.

Wyong City Council: Total collections from the Wyong shire is 2716 units which includes Council and all end user collections. A saving of approximately 1900 cubic meters of landfill.

Cessnock City Council: Total collections are 1920 units which is a saving of 1344 cubic meters.

Maitland City Council: Total collections are an impressive total 5254 units which is a saving of 3677 cubic meters of landfill. For the population of Maitland this is a very large total.

Gosford values 1395 collections are virtually all from end users, tourist, retailers and charities so not a bad total.

Newcastle values 1025 are increasing all the time. There are lots coming from the Council website recycling link pointing to our website and then people are using our new web booking system. Makin Mattresses at Sandgate also boost the numbers for Newcastle.

Port Stephens people are commended for their recycling of mattresses. It seems we are getting more and more calls from that region.

Singleton shire is still quite but we have had a few calls from that region.

Hawkesbury is new since December but averaging 50 units per month as you will see later.

The landfill saving is based on an average of 0.7 cubic meters per mattress. This is the average from a single to a King size mattress.

The Charities column are quantities we have taken away from St Vincent De Paul and The Salvation Army at no charge as we have been able to refurbish.
The top graph above shows the Monthly Council only collections and the average per month.

The middle graph shows totals and averages per Month.

The lower graph shows end user collections. Collections are steadily growing. If you look at Jan Feb and March figures this is the third such period and you can see the increase from 2010, 2011 to 2012.
Retail Collections

We are very pleased with our consistent increasing numbers from the public via our retail partners. We have supplied our
• New Landsaver in store cards
• Point Of Sale material including posters
• Gift voucher that can be used by any retailer as we can insert their logo and promotion specific text.

We will continue to work with OOTS to increase our market awareness. This will continue to increase the number we can collect from the public before they enter the Councils waste streams.
Reycled material and refurbished Product

The adjacent top graph shows the amount of recycled material we have sent to our recycling partners.

Not huge figures from a tonnage aspect but when you look at the volume of landfill saved from the mattresses and bases then these figures are very good.

The bottom graph shows the actual residue that goes to landfill.

The numbers are based on the actual number of 3 cubic meter waste bins we have had taken away by Veolia 2100 units.

Then I used the total number of mattresses collected within the region plus 3187 we recycled from Sydney (Dreamsafe) to bring a total of 28611 which if we use 0.7 as an average gives us 20027.7 cubic meters that would have gone to landfill. This is approximately 9% of the original product.

We will continue to maintain and improve this number as we go forward.

We are currently working with a local consultant to obtain ISO 14000 certification so all of our statistics we have gathered has assisted us with this.

We will keep you all updated as this is rather a long process.
Charity Partners

We continue to work with our charity partners, The Salvation Army and St. Vincent De Paul.

We have started supplying St Vincent De Paul’s Brookvale warehouse with our products and services.

We hope to be able to extend our services to other sections of St. Vincent De Paul and the Salvation Army, plus other local charities.

With the introduction of the Landsaver refurbished mattress we have been able to supply more refurbished product to the charities. We also continue to clean and sanitise their donated mattresses.

The ability to supply more to our existing charities and any future ones depends on us getting more good clean dry products that we can clean and sanitise.

The graph adjacent shows the number of mattresses we have:

- Cleaned and sanitised donated mattresses in store at each charity.
- Provided clean and sanitised

- Supplied Landsaver product.

The clean and sanitised in store number of 1196 units if they were sent to Landfill would have contributed approximately 837 cubic meters.

Landsaver contacts

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