



Vincent Street
CESSNOCK

4 December 2024

ORDINARY MEETING OF COUNCIL

WEDNESDAY, 11 DECEMBER 2024

ENCLOSURES

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Cessnock LGA

Aboriginal Cultural Heritage Management Plan

Prepared for Cessnock City Council

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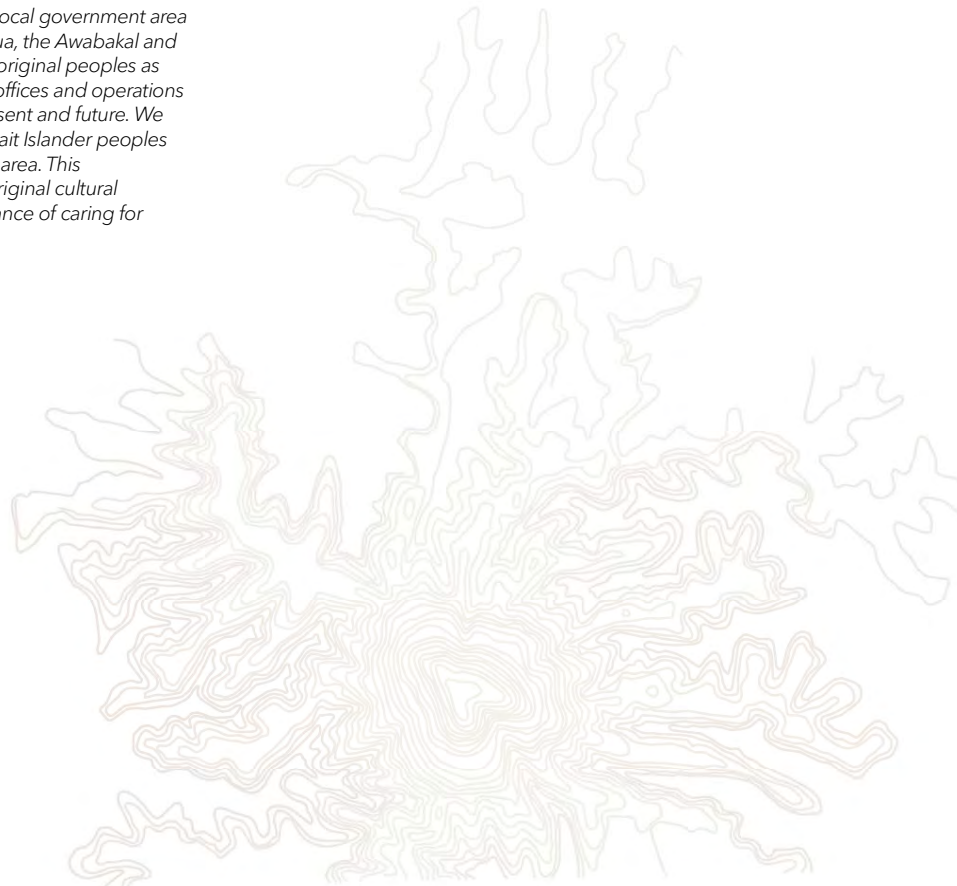
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All queries related to the content, or to any use of this report must be addressed to Dr Mary-Jean Sutton.

ACKNOWLEDGEMENT

Cessnock City Council acknowledges that within its local government area boundaries are the Traditional Lands of the Wonnarua, the Awabakal and the Darkinjung peoples. We acknowledge these Aboriginal peoples as the Traditional Custodians of the land on which our offices and operations are located, and pay our respects to Elders past, present and future. We also acknowledge all other Aboriginal and Torres Strait Islander peoples who now live within the Cessnock local government area. This management study is compiled with respect to Aboriginal cultural heritage and connection to Country and the importance of caring for Country.



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MAYOR'S MESSAGE

Dan Watton

Aboriginal cultural heritage is of great significance and connects us with this Country in a profound way, and this is something Cessnock City Council places great value upon.

Aboriginal culture is the oldest surviving continuous human culture and can teach us about the very nature and evolution of our country and how to adapt in response to the challenge of a changing world. This cultural knowledge should be respected and protected. Historically, failing to understand the importance of Aboriginal cultural heritage has resulted in the loss and devaluing of this knowledge. While there is continued competing pressures on Aboriginal cultural heritage, it should not be left solely to the Aboriginal community to fight for their culture. We all have a duty to protect and celebrate these incredible cultural areas and artefacts that reflect the rich history of our country.

While this Aboriginal Cultural Heritage Management Plan is only a small step, it represents a commitment to change. Through collaborative effort we can work to ensure the preservation of Aboriginal cultural heritage in our local area. Whether this is through increased representation of Aboriginal cultural heritage in the planning system, through Council processes, or the dual naming of culturally significant sites or areas, the plan aims to ensure our local community celebrates and understands, together, the amazing cultural history and significance of this area.



GLOSSARY AND ABBREVIATIONS

Abbreviation/Word	Term / Meaning
Aboriginal	An Aboriginal person is a person of Aboriginal descent and may or may not be a Traditional Custodian or an Aboriginal Party.
Aboriginal area	Lands dedicated as an Aboriginal area under the <i>NPW Act</i> .
Aboriginal object	"Any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains" under the <i>NPW Act</i> .
Aboriginal Place	Any place declared to be an Aboriginal Place under section 84 of the <i>NPW Act</i> .
Aboriginal place of heritage significance	An Aboriginal place of heritage significance is defined in the Cessnock Local Environmental Plan 2011 as an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the Heritage Map, that is– (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of

Abbreviation/Word	Term / Meaning
	the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.
Aboriginal remains	The body or the remains of the body of a deceased Aboriginal person, but does not include: a) a body or the remains of a body buried in a cemetery in which non Aboriginal persons are also buried, or b) a body or the remains of a body dealt with or to be dealt with in accordance with a law of the State relating to medical treatment or the examination, for forensic or other purpose, of the bodies of deceased persons.
ACH	Aboriginal cultural heritage
ACHA	Aboriginal cultural heritage assessment
ACHMP	Cessnock Council Aboriginal Cultural Heritage Management Plan
Activity	The meaning of activity is defined by cl.110 of the <i>EP&A Act</i> and includes such matters as: (a) the use of land, and (b) the subdivision of land, and (c) the erection of a building, and (d) the carrying out of a work, and (e) the demolition of

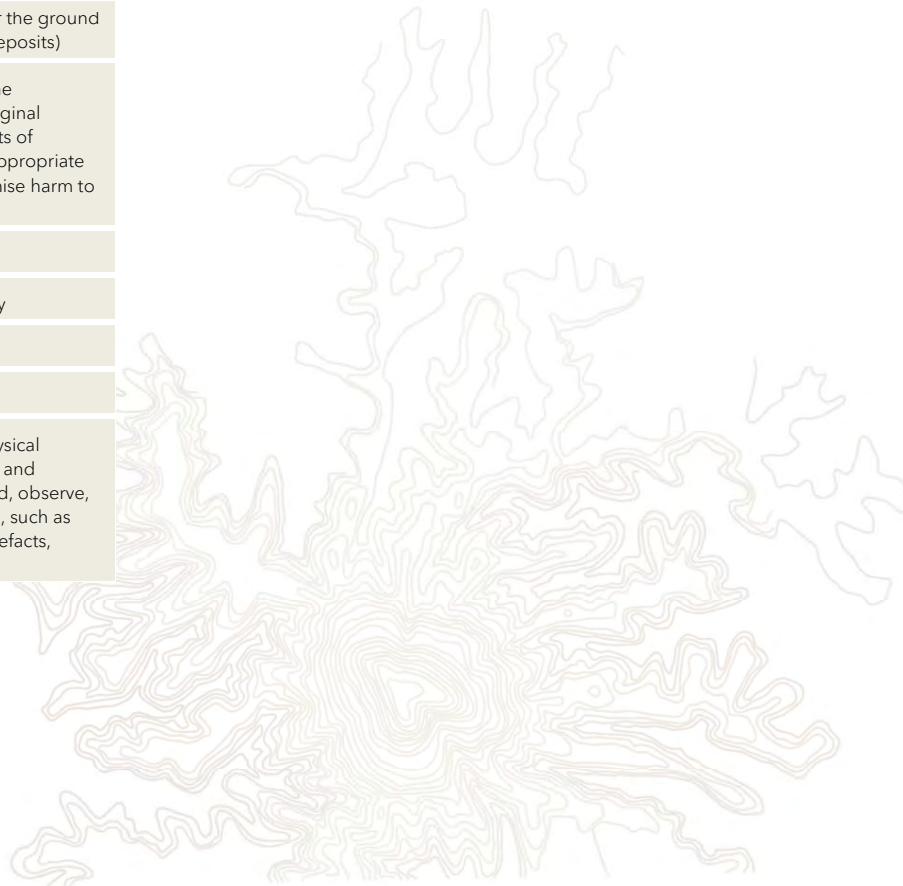
Abbreviation/Word	Term / Meaning
	a building or work, but does not, for example, include matters for which development consent under Part 4 is required or has been obtained.
AHD	Australian Heritage Database
AHLA	Aboriginal Heritage Licensing Agreement
AHIMS	Aboriginal Heritage Information Management System is a database of registered Aboriginal objects and places managed by the NSW Department of Planning, Industry and Environment to meet obligations under the <i>NPW Act</i> .
AHIP	Aboriginal Heritage Impact Permit (<i>National Parks and Wildlife Act 1974</i>) - A permit issued under Division 2 of Part 6 of the <i>NPW Act</i> by the Chief Executive of Heritage NSW for harm to an Aboriginal object or Aboriginal Place that cannot be avoided.
<i>ALR Act</i>	The NSW <i>Aboriginal Land Rights Act 1983</i>
Council	Cessnock City Council
Code of Practice	The Code of Practice refers to the Heritage NSW publication, <i>The Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales</i> (2010) which is a requirement that sets out archaeological conduct for investigations, recording and impact assessment reports that inform an Aboriginal Heritage Impact Permit.

Abbreviation/Word	Term / Meaning
DECCW	The former Department of Environment, Climate, Conservation and Water, whose responsibilities now largely fall within the DPE.
DCP	Development Control Plan - a document developed by Council which contains specific controls to guide certain types of development and achieve, development outcomes within certain areas.
DPC	Department of Premier and Cabinet. Between 2019-2022, some functions of Heritage NSW fell within the jurisdiction of the DPC.
DPE	Department of Planning and Environment, also formerly known as the Department of Planning, Industry and Environment (DPIE).
Environment and Heritage Group	As of 1 April 2022, the Environment and Heritage Group form part of the Department of Planning and Environment and includes, but is not limited to Heritage NSW, the National Parks and Wildlife Service and the NSW Environment Protection Authority,
EES	Environment Energy and Science Group, which between 2019 and 1 April 2022 included the former Office of Environment and Heritage (2011-2019, the functions of which are now fulfilled by Heritage NSW) and the NSW Environment Protection Authority
<i>EP&A Act</i>	<i>Environmental Planning and Assessment Act 1979</i>

Abbreviation/Word	Term / Meaning
EPI	Environmental Planning Instrument
Heritage NSW	Heritage NSW is a branch of the Environment and Heritage Group in the Department of Climate Change, Energy, the Environment and Water which is responsible for the protection of the State's cultural heritage, particularly Aboriginal cultural heritage.
Intangible cultural heritage	Intangible cultural heritage is defined in UNESCO's Convention for the Safeguarding of the Intangible Cultural Heritage. The "intangible cultural heritage" means the practices, representations, expressions, knowledge, skills - as well as the instruments, objects, artefacts, and cultural spaces associated therewith - that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity. It can include ' destroyed ' sites and landscapes, a national example of such would be the rock shelter at Juukan Gorge, in Western Australia that was destroyed and now sparked a national outrage and inquiry into heritage, and other places destroyed by warfare and natural disasters, that are subject of trauma and deep

Abbreviation/Word	Term / Meaning
	emotional connection and mourning. In the Cessnock LGA, this may include places destroyed by mining or development as already articulated by some Aboriginal stakeholders.
LEP	Local Environmental Plan - an instrument developed by Council under the EP&A Act which enables a local council to regulate development in the local government area.
LGA	Local Government Area
NAIDOC	National Aborigines and Islanders Day Observance Committee
Native Title	Native Title is a property right to land, the tenure of which has not been extinguished by other forms of tenure, which reflects a relationship to land that is the foundation of a Traditional Custodian's religion, culture, and wellbeing.
Native Title Act	<i>Native Title Act 1983</i>
NPW Act	<i>National Parks and Wildlife Act 1974</i>
Potential archaeological deposit / area of potential / area where Aboriginal objects are likely to occur	The <i>Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales</i> defines a Potential Archaeological Deposit, as areas where it can be inferred that, although not visible, material traces or evidence of Aboriginal land use have

Abbreviation/Word	Term / Meaning
	a likelihood of being present under the ground surface (potential archaeological deposits)
Precautionary Principle	To take a cautionary approach to the assessment of risk or harm to Aboriginal cultural heritage ensuring all aspects of potential risk are considered and appropriate steps are applied to avoid or minimise harm to Aboriginal cultural heritage.
REF	Review of Environmental Factors
SEPP	State Environmental Planning Policy
SHR	State Heritage Register
SHI	State Heritage Inventory
Tangible heritage	Tangible heritage relates to the physical evidence, the places, objects, sites, and material culture that can be touched, observe, quantified, and physically recorded, such as monuments, architecture, stone artefacts, middens, and rock shelters.



1. INTRODUCTION

1.1 Overview

This Aboriginal Cultural Heritage Management Plan (ACHMP) provides guidance and a framework to proactively manage and promote the protection of cultural heritage values and sets out an implementation plan for future works. The ACHMP will assist landowners, council staff, applicants and developers in understanding their risk of harming Aboriginal objects and places, outlines legislative obligations and clarifies the level of assessment required with any application for development or potential disturbance. It will also act as a tool to assist the Wonnarua, Awabakal and Darkinjung peoples in meeting their obligations to Care for Country.

Cessnock City Council (Council), in consultation with the local Aboriginal community through:

- Cessnock City Aboriginal and Torres Strait Islander Advisory Committee;
- Awabakal Local Aboriginal Land Council;
- Biraban Local Aboriginal Land Council;
- Darkinjung Local Aboriginal Land Council;
- Metropolitan Local Aboriginal Land Council;
- Mindaribba Local Aboriginal Land Council;
- Wanaruah Local Aboriginal Land Council and,

with assistance of the NSW Department of Environment and Planning (DPE), has prepared this ACHMP to promote awareness and protection of Aboriginal cultural heritage in the Cessnock Local Government Area (LGA).

The ACHMP will assist and support Council in meeting the planning principles and actions identified in its Local Strategic Planning Statement 2036 (Cessnock City Council 2018) as well as the principles outlined in Council's Heritage Policy (Cessnock City Council 2020).

1.2 How to use the ACHMP and relationship to legislation

The structure of the ACHMP has been guided by the requirements of Heritage NSW's *Declared Aboriginal Places Guidelines for Developing Management Plans* (OEH 2017) and is provided below in **Table 1**.

Table 1 Aboriginal Cultural Management Plan structure.

Section	Description of Contents within the ACHMP
Section 1	Identifies the area to which this ACHMP applies, provides an overview of the intent, principles, aims, objectives of this ACHMP, and provides background as to why the management plan has been prepared. Summarises consultation undertaken and acknowledges contributors in the preparation of the ACHMP and outlines a number of key limitations to the ACHMP
Section 2	Outlines what Aboriginal cultural heritage means, intangible and tangible cultural heritage definitions and definitions of values and place and how these meanings are defined in the ACHMP. Highlights key risks to Aboriginal cultural values within the LGA.
Section 3	Summarises Commonwealth and State legislation as well as local development controls, policies and the strategic planning framework to the ACHMP.
Section 4	Sets out consultation protocols, contacts, and requirements for Aboriginal cultural heritage (ACH) management.
Section 5	Provides guidance on several key actions and assessments that are required for Aboriginal cultural heritage management.
Section 6	Sets out the ACH assessment processes associated with planning approval pathways under the Environmental Planning and Assessment Act 1979 (EP&A Act).
Section 7	Provides a summary of management recommendations and a timeframe and implementation plan. It also identifies a number of opportunities to progress the planning strategies, principles, policies, decisions and on the ground activities of Council.

It is important to note that ACHMP is not a replacement for legislative requirements for the protection and assessment of Aboriginal cultural heritage values including, but not limited to, the Environmental Planning and Assessment Act 1979 (EP&A Act), Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), National Parks and Wildlife Act 1979 (NPW Act) or their supporting regulation and guidelines. The ACHMP provides guidance on the ACH planning framework and additional steps within the Cessnock LGA to proactively manage and promote the protection of cultural heritage values. It is intended to assist with better understanding of Commonwealth and State legislation as well as local planning controls which protect Aboriginal cultural heritage.

1.3 Cessnock Local Government Area

The land to which this ACHMP applies is the Cessnock LGA (Figure 1). The Cessnock LGA covers approximately 1,950 square kilometres of the Hunter Valley of New South Wales (NSW). It is home to distinctive lands, waters, parks, reserves, towns and villages steeped in history and culture. Given the uniqueness of its natural assets and biodiversity, one third of the area is recognised as a United Nations Educational, Scientific, and Cultural Organisation (UNESCO) World Heritage Listed Area (Cessnock City Council 2022).

The Cessnock LGA is part of the traditional Country of the Wonnarua, Awabakal and Darkinjung Aboriginal nations. It is home to numerous Aboriginal people, stories, objects and places. Many of its towns, villages, and localities bear Aboriginal names, for example:

- Kurri Kurri (meaning “the beginning” or “the first”),
- Wollombi (“meeting place” or “meeting of the waters”)
- Congewai,
- Nulkaba
- Laguna
- Kalingo.

Mount Yengo, located in Yengo National Park, and Wollombi Valley are two examples of areas of particular significance to Aboriginal peoples. It's surrounding areas are home to many important sites of Aboriginal spiritual and cultural association. Aboriginal business and creative opportunities continue to grow and include exemplars in the areas of mine rehabilitation, honey manufacture, cultural tourism, bush tucker products and biodiversity management (Cessnock City Council 2022).

1.4 ACHMP background context

Caring for Country

Caring for Country has for millennia and always will be a critical cultural responsibility of Wonnarua, Awabakal and Darkinjung peoples. This responsibility drives community to protect and conserve cultural heritage within Country, to renew attachments, to understand changes in the world and respond to their implications, and to learn and share cultural practice and knowledge within families and younger generations. Sharing cultural practices and knowledge continues for Wonnarua, Awabakal and Darkinjung peoples today, and connects people to family and to historical and ancestral Aboriginal Australians that also called the Cessnock region home. Awabakal, Wonnarua and Darkinjung peoples as nations of First Australians have survived enormous environmental and societal change and retain links to some of the oldest spiritual belief systems in the world, dating back more than 65,000 years. Like many Aboriginal and Islander peoples, identity, memory and culture are intertwined with Country. Everything in the landscape can have special meaning for Aboriginal people - from individual plants and animals to ecosystems, all form an integral connection to being. The land and waterways are associated with Dreaming stories and cultural learning that links Aboriginal people with who they are and where they belong.

Aboriginal cultural knowledge is traditionally communicated from generation to generation through oral practice (for example, through song, story, art, language, and dance). Cultural places and landscapes embed these stories, and protection of these places and landscapes is key to the long-term survival of these stories in Aboriginal culture.

In the 2021 Australian Census, 64,000 people called the Cessnock LGA home with 10% of the population identifying as Aboriginal and Torres Strait Islander. In the next twenty years, Council forecasts the overall population to grow by 40%. This rapid growth and development can create significant risks and pressures to the long-term survival of Aboriginal cultural heritage. Therefore, planning and management is critical to protect the unique Aboriginal cultural heritage values of the Cessnock LGA.

NSW Planning Framework

The Hunter Regional Plan 2041 identifies land use planning priorities for the next 20 years within the Hunter Valley. This includes key directives and objectives to identify and protect Aboriginal cultural heritage in the region and to support the right of Aboriginal residents to economic self-determination. These objectives include initiatives to form new pathways to promote economic self-determination, to form more meaningful recognition and respect of Traditional Custodians, to create true connections to Country and integrate Aboriginal cultural knowledge and practice into urban design and planning.

At a local level, flowing on from their statutory responsibilities under the EP&A Act, *Local Government Act 1993* and other legislation, Council as a land use manager and consent authority, is responsible for a range of strategies, policies, decisions and on ground activities which have the potential to influence and impact on the Aboriginal cultural heritage of the LGA.

Similarly, the Local Aboriginal Land Councils (LALC) in the Cessnock LGA including:

- Awabakal Local Aboriginal Land Council;
- Biraban Local Aboriginal Land Council;
- Darkinjung Local Aboriginal Land Council;

- Metropolitan Local Aboriginal Land Council;
- Mindaribba Local Aboriginal Land Council;
- Wanaruah Local Aboriginal Land Council

have recognised statutory responsibility under the *Aboriginal Land Rights Act 1983* to take action to protect Aboriginal cultural heritage and promote awareness within the LGA.

Council's Aboriginal cultural heritage planning framework

Council is committed to recognising, protecting, enhancing and promoting Aboriginal cultural heritage in the Cessnock LGA (Cessnock City Council 2020). To support this commitment and to inform its strategic plans, policies and decision making, Council has progressively completed a number of documents (see Summary Chart). This Phase 3 ACHMP seeks to build upon the work undertaken for the Phase 1 and Phase 2¹. Aboriginal Cultural Heritage Studies.



Aboriginal Heritage Study (AHMS 2014)

This included a literature review and thematic history of the LGA including a desktop predictive model.



Aboriginal Heritage Study (Virtus Heritage 2021)

This included an Aboriginal community consultation, land holder and land manager consultation and cultural mapping workshops (see Appendix D)

The community-driven consultation and cultural mapping workshops undertaken as part of the Phase 2 Aboriginal Cultural Heritage Study provided an opportunity to identify(1):

- A summary of Aboriginal sites and places in the LGA
- A map of Aboriginal sites, places and areas of cultural heritage values
- A list and description of identified cultural heritage values
- Key risks to cultural heritage values in the LGA
- Some key issues and common themes regarding the management of Aboriginal cultural heritage in the LGA
- Recommendations for key management actions and a draft implementation plan to manage the Aboriginal cultural heritage values identified in the LGA.



Aboriginal Cultural Heritage Management Plan (this document)

One of the key management actions from the Phase 2 Aboriginal Cultural Heritage study was for the preparation of an Aboriginal Cultural Heritage Management Plan (ACHMP). This Phase 3 ACHMP seeks to build upon the work undertaken for the Phase 1 and Phase 2 Aboriginal Cultural Heritage Studies.

Summary of Project Phases

1.5 Aims and objectives

The ACHMP will meet the general principles for the management of Aboriginal Heritage within the Cessnock LGA established in the Phase 1 and 2 Studies and its Heritage Policy (Cessnock City Council 2022).

The aims and objectives of the ACHMP are to:

- acknowledge and respect cultural values and Aboriginal perspectives;
- contribute to greater awareness, understanding and respect of cultural heritage significance in Cessnock LGA;
- undertake collaborative consultation with Aboriginal community of Cessnock LGA to provide input into the ACHMP;
- Aboriginal cultural heritage is appropriately considered and assessed for applications under the Environmental Planning and Assessment Act 1979;
- ensure appropriate best practice consultation with the local Aboriginal community is being undertaken during assessment of development applications;
- recommend how Aboriginal cultural heritage can be better recognised within the local planning framework within Cessnock LGA;
- continue to foster strong relationships with the local Aboriginal community; and
- develop effective systems and frameworks for the protection, conservation, and management of Aboriginal cultural heritage.

Council will strive to meet these principles and aims by:

- Actively engaging the Cessnock community on matters of Aboriginal cultural heritage;
- Recognising, acknowledging, and empowering the individual LALCs within the LGA in their role as a key conduit for engagement with the Aboriginal community and historical Aboriginal families within the region;

- Establishing a framework for the consideration, assessment and management of Aboriginal cultural heritage in strategic planning, planning proposals, developments, and activities;
- Preparing and maintaining policy, rules, and development controls that will facilitate best practice Aboriginal cultural heritage management in all aspects of Council's service delivery, considering both intangible and tangible cultural heritage values;
- Reviewing the ACHMP cultural mapping and management recommendations to ensure long term management of cultural heritage in the LGA; and
- Maintaining ongoing consultation with LALCs, Council's Aboriginal & Torres Strait Islander Committee and Aboriginal Knowledge Holders (represented in some cases through other corporations, organisations and families) to ensure the ACHMP aligns with Aboriginal community's cultural heritage goals and aspirations and reflects their cultural heritage values.

1.6 Consultation undertaken in the preparation of this ACHMP

The following organisations have been invited to engage with the preparation of this ACHMP:

- Cessnock City Aboriginal and Torres Strait Islander Committee (ATSIC).
- Awabakal Local Aboriginal Land Council
- Biraban Local Aboriginal Land Council
- Darkinjung Local Aboriginal Land Council
- Metropolitan Local Aboriginal Land Council
- Mindaribba Local Aboriginal Land Council
- Wanaruah Local Aboriginal Land Council

We note there are several key organisations with Council's ATSIC, including representatives from Kiray Putjung Aboriginal Corporation and Barkuma Neighbourhood Centre. Several other Aboriginal

corporations/community-based organisations, including those with Native Title interests are also registered stakeholders for the ACHMP:

- Awabakal Traditional Owner Aboriginal Corporation
- Awabakal Descendants Traditional Owner Aboriginal Corporation
- Wonnarua Nation Aboriginal Corporation
- Culturally Aware
- Ungooroo Aboriginal Corporation
- Wonnarua Elders Council
- Wonn1 Contracting

Several other key individuals with interests/or cultural knowledge have also registered as stakeholders for the project through previous project phases. We note that in some cases several parties are listed in more than one organisation, for example, they may be running a corporation, on a board of another organisation or representing their own business or family and/or a member of a native title organisation as well as a member of a LALC.

An important part of this ACHMP and its objectives is having a Memorandum of Agreement (MOA) in place between the key parties of the Council, the LALCs of Cessnock LGA and Virtus Heritage. The purpose of the Memorandum of Agreement is to formalise:

- the outcomes and deliverables of the ACHMP.
- the roles, responsibilities of the parties involved.
- the communication and engagement protocols.
- confidentiality, cultural safety and general access protocols.
- appropriate data usage.

A Memorandum of Agreement is also a critical mechanism to allow for the management of Aboriginal cultural heritage in the Cessnock LGA. A draft Memorandum of Agreement has been prepared and is currently under

consultation with relevant parties. Some of the draft actions and recommendations in this ACHMP may not be feasible without a suitable Memorandum of Agreement in place.

Consultation is ongoing for this project with LALCs for the draft MOA.

1.7 Acknowledgements

Cessnock City Council acknowledges the traditional custodians of the land, the Wonnarua, Awabakal, and Darkinjung people, who have cared for this land since time immemorial. We pay our respects to their elders, past, present, and emerging, and commit ourselves to a future with reconciliation and renewal at its heart.

This ACHMP was prepared by Virtus Heritage in partnership with the Cessnock City Council and Council's ATSIC.

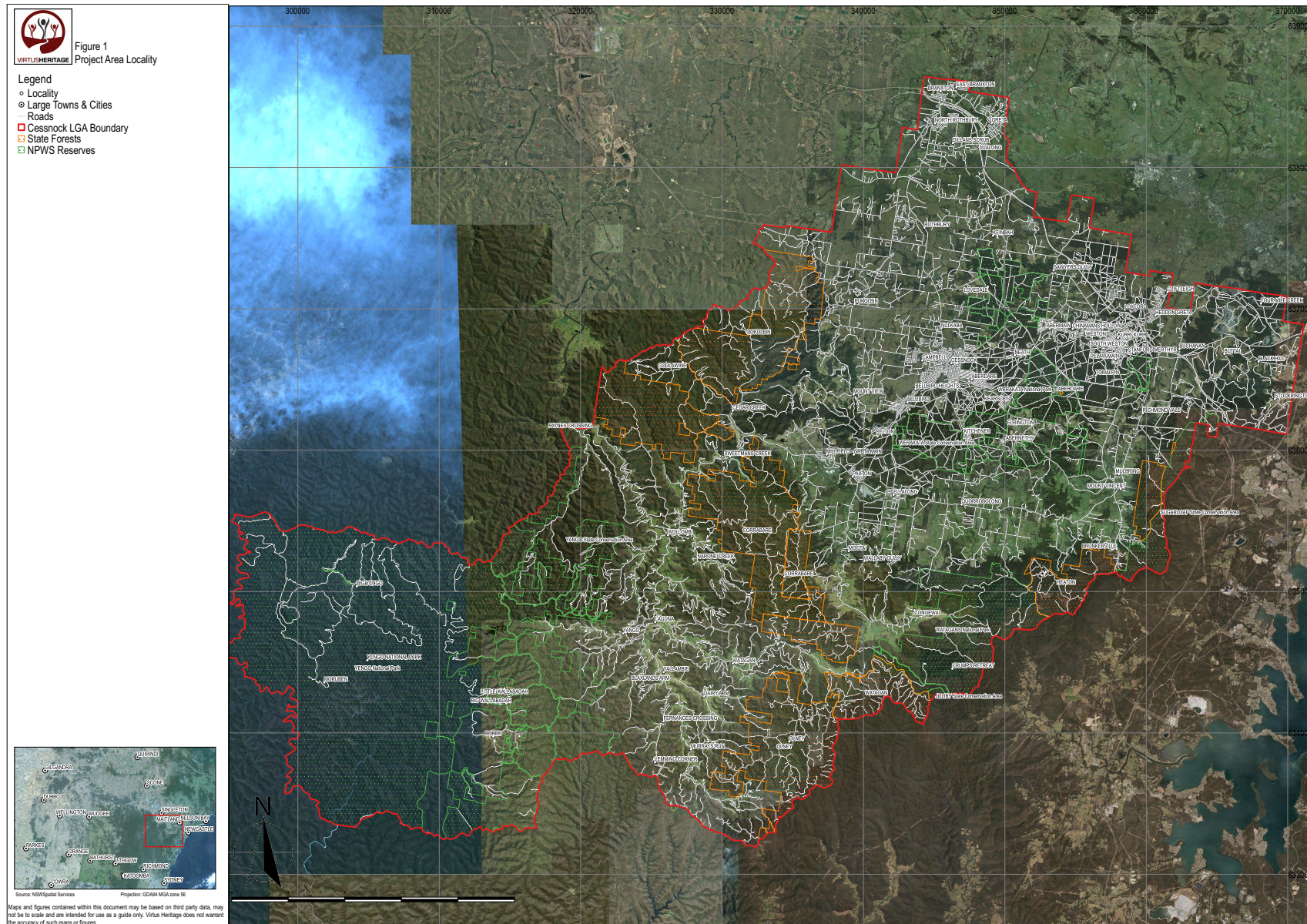
1.8 Project limitations

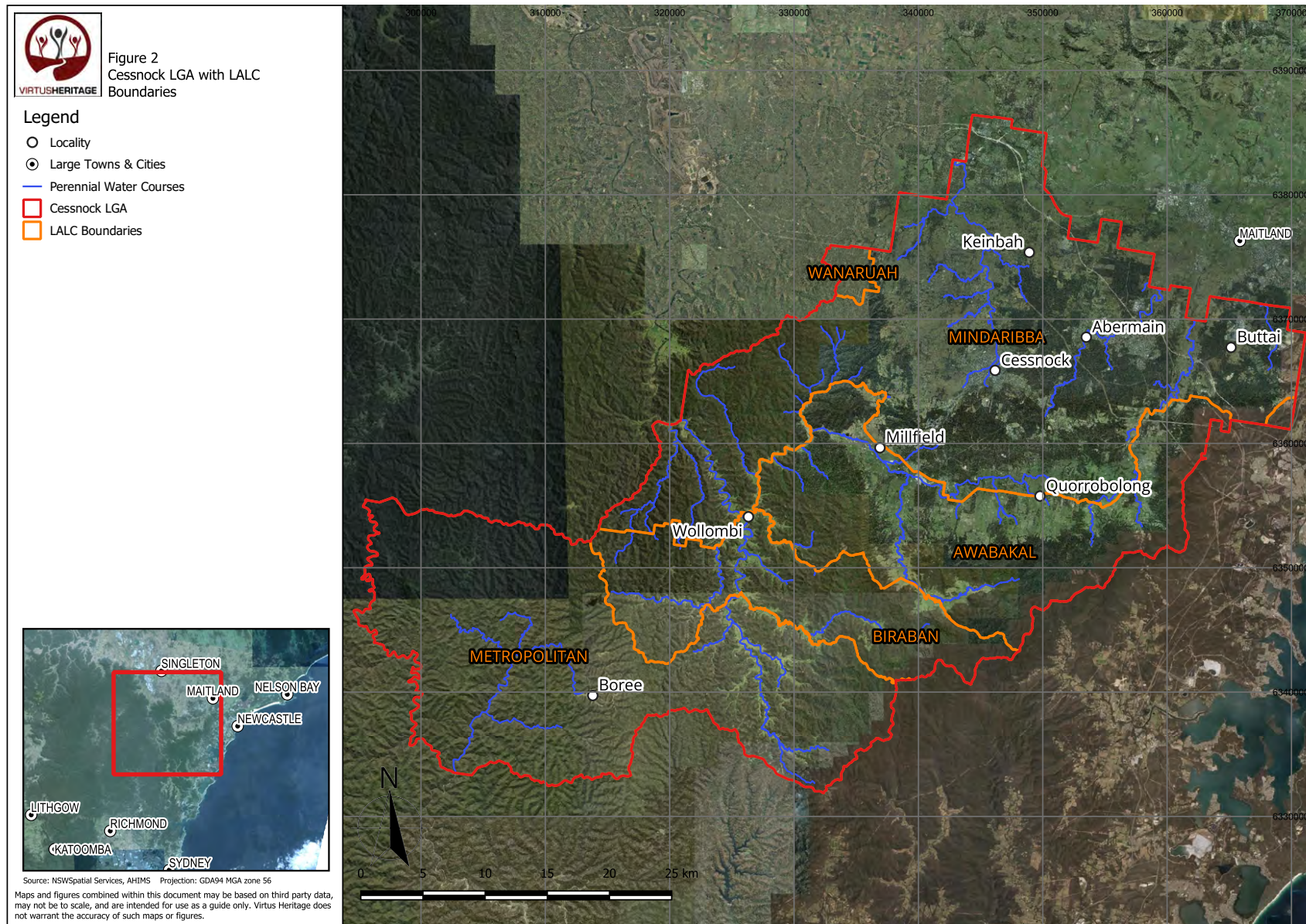
The ACHMP is dynamic and will require updating over time, and is based on the limitations of funding, timing, and access at the time of its commissioning. Changes to the cultural and legislative environments of the Cessnock LGA and NSW will be considered in future updates to this document.

Searches for Aboriginal heritage within the Cessnock LGA for of the Aboriginal Heritage Information Management System (AHIMS), the NSW State Heritage Register (SHR), the Australia Heritage Database (AHD), the NSW State Heritage Inventory (SHI), and the Cessnock Local Environment Plan (LEP) were undertaken in February 2020 for the purposes of this project only. Individuals must undertake their own searches and licencing agreements with Heritage NSW in accordance with NPW legislation, regulation and Heritage NSW guidelines.

Additionally, it should be noted that as part of the reform process for the NPW Act (which has provided specific protection for Aboriginal objects and declared Aboriginal Place) the NSW Government has proposed a new

system for managing and conserving Aboriginal cultural heritage, which will be supported by a new legal framework that respects and conserves Aboriginal cultural heritage in NSW. In February 2018, the NSW Government released the *draft Aboriginal Cultural Heritage Bill 2018* for public comment. While the feedback showed there is much support for the reforms, some submissions, including from Aboriginal communities, raised issues that would benefit from further development. To that end, the NSW Office of Environment and Heritage (OEH - now Heritage NSW) and Aboriginal Affairs intended to carry out additional targeted consultations to gain feedback to refine the draft Bill. The NSW Government will consider the draft Bill following those consultations. When the reforms process is complete and legislative changes made, this ACHMP will require a review and update to take these changes into account.





2. ABORIGINAL CULTURAL HERITAGE

2.1 Cultural heritage and its meaning

Aboriginal cultural heritage is a living heritage – one of the most ancient living cultures around the world. There are several meanings given to cultural heritage which are reiterated here from Commonwealth and State documents.

At the Commonwealth level, Aboriginal cultural heritage means:

Indigenous cultural heritage exists throughout the lands and waters of Australia and all aspects of the landscape may be important to Indigenous people as part of their heritage. The rights and interests of Indigenous people in their heritage arise from their spirituality, customary law, original ownership, custodianship, developing Indigenous traditions and recent history.

The effective protection and conservation of this heritage is important in maintaining the identity, health, and wellbeing of Indigenous people. Maintaining Indigenous heritage should also ensure a continuing role for these people in caring for Country, something that benefits everyone. Indigenous heritage is a central element in Indigenous spirituality and customary law.

Its conservation ensures continued respect for Indigenous ancestors and ancestral beings who shaped the land and waterways. Many Indigenous groups have a relationship of mutual obligation with certain animals or plants. This spiritual relationship is an important aspect of Indigenous cultural heritage that should not be overlooked. Indigenous heritage places are also part of the story of Indigenous people including their recent history of resistance, survival, and cultural revival (AHC 2001:5).

At the State level, Heritage NSW define Aboriginal cultural heritage as:

Aboriginal people have lived in Australia for over 60,000 years (Clarkson et al 2017). The Australian Aboriginal culture is the oldest living culture in the world. Aboriginal cultural heritage consists of places, traditions, beliefs, customs, values, and objects that represent the living history of past Aboriginal generations and are of important cultural and heritage significance to Aboriginal people.

Aboriginal cultural knowledge provides crucial links between the past and present and represents an essential part of the identities of Aboriginal people and all Australians.

Aboriginal cultural heritage includes tangible and intangible values, such as Song Lines, Dreaming stories and ceremonies passed from generation to generation, as well as physical objects and places. These important objects and places provide evidence of the diverse values, activities and knowledge of Aboriginal people who co-existed with the natural environment by living in harmony with the land they cherish and, which the Aboriginal communities now manage and protect for future generations (Department of Planning and Environment Website, About Aboriginal Cultural Heritage Webpage).

2.2 Values and places

The Burra Charter, produced by ICOMOS, is the national heritage charter developed in Australia for providing guidance for the conservation and management of places of cultural significance (cultural heritage places) (ICOMOS 2013). Council identifies that the Articles of the Australia ICOMOS Burra Charter (2013) should underpin its approach to heritage conservation and management (Principle 4.1, Cessnock City Council 2020).

Conservation is an integral part of the management of places of cultural significance and is an ongoing responsibility. The Charter sets a standard of practice for those who provide advice, make decisions about, or

undertake works to places of cultural significance, including owners, managers, and custodians. The Burra Charter provides a definition of cultural significance as “aesthetic, historic, scientific or social value for past, present or future generations” (ICOMOS 2013:2). Cultural significance is defined in the Burra Charter as being “embodied in the place itself, its fabric, setting, use, associations, meanings, records, related places and related objects” (ICOMOS 2013:2). Cultural value is synonymous with social value, although fairly recently ICOMOS has separated social and spiritual values. However, we recognise that for many First Nations People across the world, these values are intricately interconnected.

Cessnock City Council respects the right of Aboriginal people to pursue their own values and culture and recognises that they are the primary determinants of the significance of their heritage. Aboriginal cultural heritage sites have been considered under the following categories of significance developed under the Burra Charter, in consultation with the Aboriginal community (see **Appendix A**):

- Social or cultural value
- Spiritual value
- Historical value
- Scientific/archaeological value
- Aesthetic value.

Cultural heritage includes both tangible and intangible heritage.

2.2.1 Tangible cultural heritage

Tangible cultural heritage relates to the physical evidence, the places, objects, sites, and material culture that can be touched, observed, quantified, and physically recorded.

Within the Cessnock LGA, tangible heritage includes many forms of

evidence of material culture from Aboriginal occupation including art sites and petroglyphs, scarred trees, shell middens, artefact sites, grinding grooves, rock shelters with evidence of occupation, art, burials, wells or waterholes, as well as natural locations with potential for resource gathering or occupation such as marshes and wetlands, hanging swamps, sandstone outcrops and rock shelters, as well as the potential for material culture within buried deposits (potential archaeological deposits). Tangible heritage sites and places can also have intangible values.

For further information on tangible heritage values, please refer to **Appendix A**. For further guidance on tangible heritage values likely to be found within the Cessnock LGA please refer to **Appendix C**.

2.2.2 Intangible cultural heritage

Intangible cultural heritage refers to the “practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage” (UNESCO 2003). Intangible heritage includes destroyed places that are remembered and valued. Intangible heritage values relate to the stories, knowledge, cultural practices, and attachments evoked from this cultural place. Values which include the views and vistas to connected cultural features and aesthetics and sensory aspects of a place or cultural landscape.

Intangible heritage values relate to the stories, knowledge, cultural practices, and attachments evoked from cultural places within Cessnock LGA. Values which include continued connection to culture, cultural stories and knowledge, songlines and travel routes, views, and vistas to connected cultural features and aesthetics and sensory aspects of places. Intangible heritage values are also linked to places with tangible heritage values and the two are not mutually exclusive. Intangible heritage values are assessed by the Aboriginal community, and these values have been summarised

from the information provided by knowledge holders through the consultation process, cultural mapping workshops and field surveys. The entire Cessnock LGA has very high cultural significance and value to Aboriginal people in the Cessnock LGA.

The key intangible heritage values of the Cessnock LGA through a series of consultation and cultural mapping workshops undertaken by Virtus with key Aboriginal stakeholders during the Phase 2 Heritage Study is presented in **Appendix C** for further guidance on intangible cultural heritage please refer to **Appendix A**.

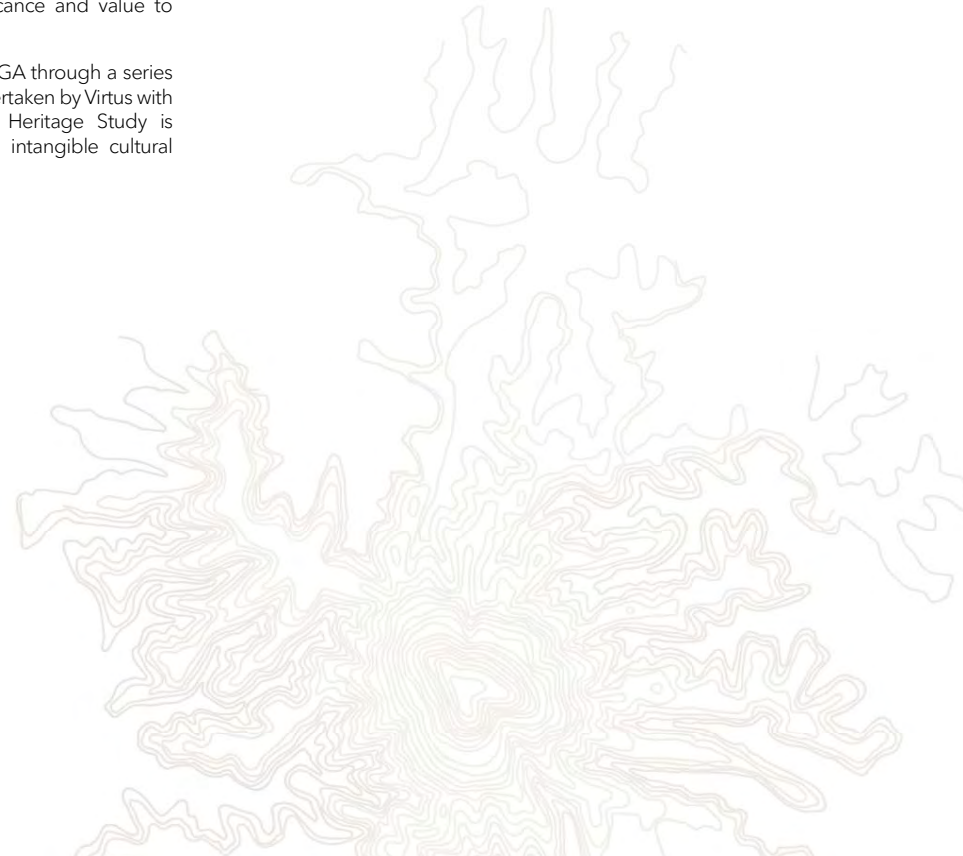


Table 2: Summary of key Aboriginal cultural heritage sites associated with tangible and intangible cultural heritage values*.

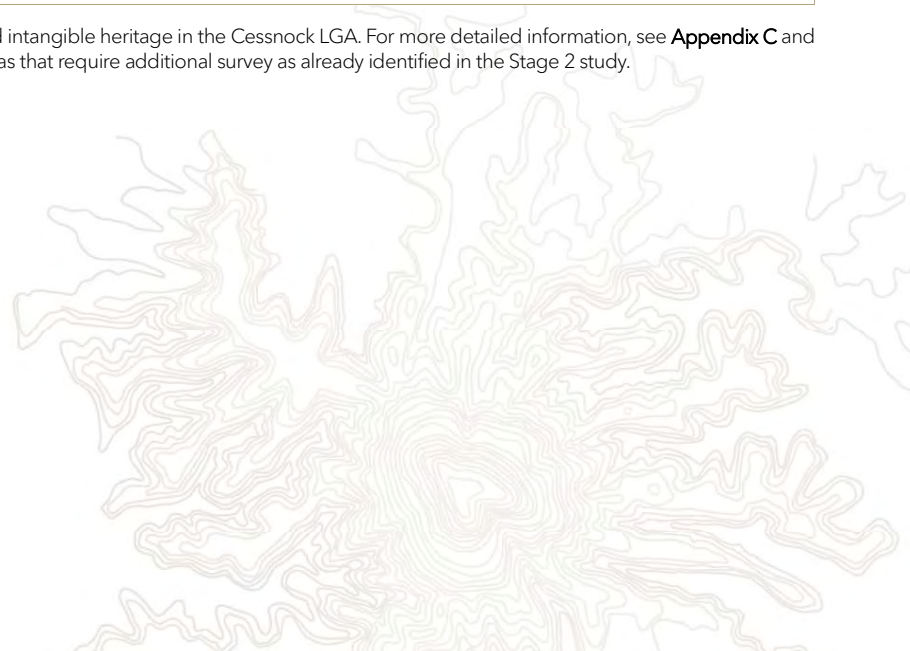
Feature	Key site names	Description of value
Social or cultural values		
All sites and places in the Cessnock LGA	Mt Yengo; Finchley Aboriginal Place; Mount Tomalpin; Pelaw Main Learning Place; Richmond Vale Cultural landscape; Tiddalik cultural site	All Aboriginal sites and places in the Cessnock LGA, including the cultural landscape of the entire LGA has social and cultural value to the Aboriginal community. The sites, objects and places provide both tangible and intangible links to their culture and heritage. Continued connection to culture associated with the Cessnock LGA include the continued visitation to traditional sites for sharing and learning cultural knowledge and engaging in traditional practices.
Spiritual value		
Ceremonial sites, story places, art sites, songlines, views and vistas, cultural landscapes	Tiddalik the Frog, Mount Yengo, Finchley Aboriginal Area (including map site), Wollombi, and outside the LGA, including, Baiame Cave, Lizard Rock, Calga Aboriginal Cultural Landscape and Mount Sugarloaf Natural features including watercourses, ridgelines and travel corridors such as Government Railway Corridor and Brunkerville Gap. Sandstone features in Corrabare State Forest.	Ceremonial sites, story places, cultural landscapes and art sites both inside Cessnock LGA including sites and stories associated with Tiddalik the Frog, Mount Yengo, Finchley Map Site, Wollombi, and outside the LGA, including, Baiame Cave, Lizard Rock, Calga Aboriginal Cultural Landscape and Mount Sugarloaf have spiritual value to the Aboriginal community. These places have spiritual value associated with ceremony, knowledge and learning. Songlines and travel routes in the Cessnock LGA have spiritual value linked to cultural and ceremonial sites and places and include natural features such as watercourses and ridgelines as well as travel corridors which have continued to be used today such as the Government Railway Corridor and Brunkerville Gap. Views and vistas from and to Mount Yengo and Finchley Aboriginal Place (including the map site), from Mount Vincent to Tiddalik the Frog and Tiddalik. Mountain site and from sandstone outcrops in Corrabare State Forest, as well as from Mount Sugarloaf and Baiame Cave (outside the LGA) have spiritual value associated with aesthetics and links to ceremonial and story places including Finchley Aboriginal Area and Wollombi.
Historic value		
Post contact and sites of continued connection.	Kurri Kurri Cemetery; Pelaw Main Learning Place;	Post contact sites in the Cessnock LGA include the continued visitation of traditional sites for sharing and learning culture and knowledge and cultural renewal activities. These sites include places where community

Feature	Key site names	Description of value
	Richmond Vale Cultural landscape and Learning place; Greta Migrant Camp; Booth St House; Kurri Kurri Cemetery family burials; Watagan Ranges Mens Camp (Finchley Map Site); Lang St Kurri Kurri Family Homes; Cessnock Gaol; PCYC; Legal Aid; Police; St Vincent De Paul; Kurri Kurri Anglican Church & Sunday School; Kurri Kurri Primary School; Bellbird Colliery; J & A Brown Colliery Vineyards (workplaces); Finchley Lookout, Map site Learning Place Mens Camp; Tiddalik cultural site complex	engage in traditional practices such as ceremonial places and resource gathering areas. Post contact places also include contemporary places which have cultural value for the Aboriginal community, such as places of work, schooling and worship and other institutions, family homes and family graves. These places are integral to the formation of community identity and valuing and creating attachment to place within the LGA.
Scientific/archaeological value		
Archaeological sites including artefacts, burials, art sites, ceremonial rings, grinding grooves, hearth sites, scarred trees, midden sites, quarry sites and potential archaeological deposits.	Finchley Aboriginal Area Additionally, all previous site recordings of tangible heritage have scientific significance. There were 1,392 AHIMS sites identified within the LGA. With the majority of them being artefact sites (888).	Finchley Aboriginal Area is described with the Register of National Estate (RNE) as <i>"This site is the most northerly known example of the Sydney style of Aboriginal rock engravings. It is likely that it indicates a tribal boundary area. It is a major site, containing 100 figures, which though badly vandalised, retain their archaeological significance in terms of form, character and geographic location, even if details of technique have been obliterated by modern interference."</i> Rarity & Representativeness: There are known rare site types in the Cessnock LGA, including ceremonial rings, art sites and stone arrangements, as well as scarred trees, however the known archaeological sites in the LGA are consistent with and representative of archaeological sites in the wider Hunter Valley region. Scientific dating of sites at Mount Yengo rock shelter, YC/1 (McDonald 2008) dated to 6,000-4,600 BP ka to 50 years ago, Oaks Golf Course (central Cessnock) dated to 1,200 BP (AHMS 2010), and Paynes Crossing hearths dated to less than 3,000 BP (Williams and Smith 2013), which are within the same Holocene (last 11.7ka) time period that the majority of sites dated in the Hunter Valley are dated to. However, the prevalence of relatively young dates is likely due to archaeological dating biases and survival of occupation deposits rather than an indication

Feature	Key site names	Description of value
		<p>of the timing of actual occupation. There is potential for rare Pleistocene aged sites to occur in the Cessnock LGA as shown in archaeological investigations of Wollombi Brook & Warkworth sand sheet, just outside the LGA (Kuskie 2002; Scarp 2009).</p> <p>Integrity: Cessnock LGA has been the subject of numerous archaeological studies and previous Aboriginal heritage surveys and research for private and commercial developments. This includes work undertaken for mining and infrastructure projects and also for areas of National Park and conservation areas, including Mount Yengo National Park, Finchley Aboriginal Area and Sugarloaf State Conservation Area. There are known intact sites from these investigations, some of which are protected within conservation areas.</p> <p>Cumulative impact from development and mining may have impacted this value on private, developed land.</p> <p>Connectedness: The Cessnock LGA is a cultural landscape with numerous known archaeological sites. These sites are connected by the cultural landscape, including travel routes and songlines and natural features such as waterways, ridgelines and mountain tops, and sandstone outcrops. Development and interruption of this landscape may have impacted the values associated with these features including but not limited to views and vistas and aesthetic and sensory values which all feed back into the connectedness of places and sites within the cultural landscape.</p> <p>Complexity: The previous archaeological research has shown that there are known, complex sites in the Cessnock LGA. Over 200 years of cumulative impacts to archaeological sites in the Cessnock LGA may have impacted this value.</p> <p>Potential archaeological deposit: There is potential for archaeological deposits to occur throughout the Cessnock LGA, associated with known sites and sensitive landforms. European land use in the LGA has impacted this value, however archaeological deposits can occur, even in disturbed contexts</p>
Aesthetic value		
Views and vistas, natural cultural features, including mountains, high points and ridgelines, alluvial river plains and valleys, stone outcrops, vegetation, waterways, wetlands,	Mt Yengo Finchley Lookout, Tiddalik cultural site complex Baiaame Cave, Lizard Rock, Calga Aboriginal Cultural Landscape and Mount	Mt Yengo is a prominent landform within the LGA, is a significant place within the Aboriginal cultural landscape within the LGA and is a prominent feature within Yengo National Park. It is recognised as an Aboriginal Place. Mt Yengo is visually and aesthetically beautiful. The aesthetic and visual values of the landscape are connected to its social values and cultural significance. Aesthetic and sensory features of the Cessnock LGA vary throughout the LGA, may apply to different Aboriginal sites and places, and have been impacted by European land use. Such features include wetlands and the many watercourses which flow through the LGA and access to these watercourses, areas of remnant

Feature	Key site names	Description of value
marches and hanging swamps.	Sugarloaf Natural features including watercourses, ridgelines and travel corridors such as Government Railway Corridor and Brunkerville Gap. Sandstone features in Corrabare State Forest.	native vegetation, variable landforms including rolling and steep hills, with peaks, ridgelines and stone outcrops with opportunities for views and vistas, and lower elevation river valleys providing access to creeks and rivers. These features are also intrinsically associated with resources in the LGA. These features, as well as the natural beauty of the location, are favourable for Aboriginal occupation and are culturally significant. European land use has impacted on these values in some portions of the LGA. Places such as Finchley Lookout, Baiame Cave, Lizard Rock, Calga Aboriginal Cultural Landscape and Mount Sugarloaf, natural features including watercourses, ridgelines and travel corridors such as Government Railway Corridor and Brunkerville Gap, sandstone features in Corrabare State Forest. and Tiddalik cultural site complex are also indicative of these aesthetic values within the LGA.

*This table does not represent a complete list of tangible and intangible heritage in the Cessnock LGA. For more detailed information, see **Appendix C** and the limitations of this ACHMP. Noting that there are many areas that require additional survey as already identified in the Stage 2 study.



2.2.3 Predictive Aboriginal heritage

As noted in the above section, there is the potential for further Aboriginal objects, archaeological deposits and Aboriginal cultural heritage values that may not yet have been documented. Archaeological research in the Cessnock region and Lower Hunter Valley, including the Cessnock LGA (ERM 2003, McCardle 2004, Stedinger Associates 2005 summarised in Umwelt 2011, and AHMS 2014) has identified the following predictive statements regarding the region:

- Former occupation sites (artefact scatters and isolated finds demonstrating evidence of occupation) are the most common site type, and that these sites can occur in all landform contexts. However, studies have also identified that both site and artefact density increase with proximity to creek lines, and that sites are most commonly found within 50 metres of permanent or semi-permanent streams with higher stream order water courses having higher densities of artefacts and evidence of Aboriginal occupation, indicating more focused occupation.
- The majority of the LGA retains a low density of artefacts (a background scatter) in all landforms and environments (AHMS 2014). AHMS data identifies 695 (63%) of the sites for AHMS Phase 1 study for the LGA as consisting of artefacts in nature but was unable to assess the frequency of higher density areas.
- The excavations and stone artefact assemblages in proximity to higher order streams/drainage lines also show evidence of a variety of tool types and repeated occupation over time whereas the stone artefact assemblages in sites near low order drainage are less varied (as well as less in number) and appear to indicate more transient and casual occupation. The scale of occupation near high order drainage lines has been attributed to the greater number of resources in these areas.
- High densities of artefacts have been principally found on lower slopes, alluvial floodplains next to high order streams (such as the Hunter River and often buried by alluvial and colluvial deposits, meaning archaeological deposits are not visible often on the ground but during erosion become exposed) and on middle to upper ridges. Some of these high-density sites show evidence of knapping (stone tool making) activities.
- Low density artefact scatters have been found on the surface of all landforms including creek banks, creek terraces, flats, lower and upper slopes, elevated spurs, crests, and ridge tops. Small artefact scatters and isolated finds may also be found in areas of elevation and low gradient such as along spur crests that are not necessarily closely associated with reliable water. These results are indicative of a 'background scatter' of occupation occurring across the region with sporadic areas of intensive or repeat usage.
- Regardless of landform, it has also been shown that elevation is a more important determining factor in the location of archaeological sites than aspect.
- Several excavations revealed artefacts made from a raw material from a known quarry (such as Nobbys Tuff), even though it was far from the site of the excavation (AHMS 2014). AHMS surmised that Aboriginal people used a number of raw material sources for toolmaking (most notably silcrete, quartzite, tuff, and indurated mudstone) and that preferred tools/materials were carried where people went (AHMS 2014).
- Analysis indicates that local availability of raw materials is also a key factor in Aboriginal occupation and site distribution. In an overview of Hunter Valley lithic (stone artefact) assemblages Baker (1992 in Moore 2000), has observed that artefacts are generally made from indurated mudstone and silcrete, with Nobby's Tuff common in the coastal zone. Baker also notes that high quality raw materials at Hunter River gravel point bars, generally result in abundant flaking debris on the sides of

watercourses with a stream order of two or higher. Such locations were important sources of raw material for stone artefact manufacture.

- Artefact assemblages recorded within the broader Lower Hunter region have been found to generally consist of flakes, broken flakes, retouched flakes, flaked pieces and cores. The dominant raw material is generally indurated mudstone and silcrete with porcellanite, silicified sandstone, hornfels, basalt, quartz, quartzite, and chert commonly making up a minor component of the larger assemblages.
- Within what AHMS (2014) refer to as the Yengo sub-bioregion of the LGA, shelters with deposits, rock art and grinding grooves are the most common site types.
- On the Hawkesbury sandstone formations along the river and its feeder creeks, the most common site types were Aboriginal art and occupation sites. These were located within sandstone overhangs or shelters (AHMS 2014).
- Sheltered, painted art/occupation sites tend to occur more frequently above valley floors or below ridge tops. There appears a general preference for northerly or north-westerly aspects.
- Attenbrow (1981) found that any overhang or rock shelter with reasonable head room, a level dry floor and a depth offering protection from extremes of sun, wind and rain could have been occupied by Aboriginal people in the past. Attenbrow (1981) also demonstrated that 70% of potential archaeological deposits (PAD) recorded within shelters are Aboriginal sites.
- Open artefact scatters are less common due to the lack of open flat areas in the steep sandstone country. However, these site types may still occur and are most likely to be situated on flat terraces adjacent to higher order streams.
- Axe grinding grooves are commonly found in creek beds, at the tops of valleys, above or along watercourses and also around rock pools or

ridge tops near aquifers.

- Aboriginal burial sites may be located in rock shelter occupation deposits or within soft dry deposits such as sand bodies (AHMS 2014).

These predictive statements provide an indication of the archaeological characteristics of the region and may assist in due diligence processes outlined in **Section 5**.



2.2.4 Key risks to Aboriginal cultural values

Key risks to cultural heritage values within the Cessnock LGA were identified as part of the Phase 2 Aboriginal Cultural Heritage Study (Virtus Heritage 2021) and are included in the table below.

Table 3 Key Risks to Cultural Heritage Values in the Cessnock LGA

Risk Code	Risk and harm
R1	Uncontrolled access to public land: This can result in impacts to Aboriginal sites, through erosion or ground disturbance from use of vehicles (such as 4WD and motorbikes) or walking over known artefact sites. Uncontrolled or unauthorised use of areas can also reduce the aesthetics or amenity of a place.
R2	Cumulative impacts from development and infrastructure: Shown by AHIMS searches and review of mapping to have impacted Aboriginal sites, such as the large number of sites recorded at residential development at Huntlee, the Hunter Employment Zone, the Hunter Expressway Corridor and mines in the region (such as the soon to be closed Austar Mine). There is also potential for further development/infrastructure in the LGA which may impact on known and unknown Aboriginal sites and places.
R3	Bushfires and other impacts associated with climate change: This can result in increased erosion, lower water flows and/or potential flooding in waterway cultural landscapes.
R4	Inappropriate infrastructure or other development (such as services, interpretation for tourists and memorials): Can impact and affect the cultural, social, and scientific values of Aboriginal Places and sites. It can also reduce the aesthetics or amenity of a place.
R5	Lack of public awareness about Aboriginal Cultural Heritage: This can result in neglect, damage or destruction of sites and cultural values in the Cessnock LGA, particularly where these sites, places and values occur on private property.
R6	Incomplete recognition of known Aboriginal heritage values on heritage registers and planning instruments: This can lead to ineffective protection for known objects, places and values
R7	Lack of funding and resources for LALCs, Knowledge Holders, and Councils to resource and capacity build personnel: This is necessary to undertake consultation, specialist assessment and works to assist with protection and conservation, as well as, where needed, salvage of cultural heritage sites and places. This issue is also relevant to the storage and repatriation of cultural materials and objects back to Country within the LGA, which also relates to the absence of a keeping place or Museum within the LGA to date
R8	Neglect of cultural sites due to loss of knowledge over time concerning management processes and/or conflict over land tenure and responsibility for management and/or lack of funding: This can result in indirect (increased erosion potential, spread of invasive weeds, and decay of known sites over time) and potential direct damage (as outlined above inappropriate development) to sites.
R9	Misuse of cultural knowledge and information provided by knowledge holders, or lack of consultation with knowledge holders regarding the cultural values of Cessnock LGA: This can result in harm to sites and cultural values in the LGA.

An example of the key risks is presented below.

Cessnock LGA has number of highly significant locations with known intangible cultural heritage values which are not currently effectively represented in planning instruments.

Identified Council Action: Consideration should be given to include key Aboriginal sites within the Cessnock Local Environmental Plan (LEP) (see Table 2, Section 2.2). Consideration should also be given for elements of the Tidalik storyline to be nominated as Aboriginal Places within the NPW Act in consultation with LALC(s).

Identified Council Action: Aboriginal cultural heritage values have been identified in association with items on the State Heritage Register, the listings for these places should be updated on the State Heritage Register, and they include:

Greta Migrant Camp (Cessnock LEP - Local Significance);

Kurri Kurri General Cemetery (Cessnock LEP - Local Significance);

Government Railway (Maitland LEP - Local Significance);

Kurri Kurri Courthouse & Police Station Group (Cessnock LEP - Local Significance);

Collieries of the South Maitland Coalfields/Greta Coal Measures Group (Neath Colliery) (Cessnock LEP - Local Significance);

Great North Road (SHR - State Significance); and

Wollombi Village Heritage Conservation Area (SHR - State Significance).

Actions to help manage the risks above are proposed in Section 4, Section 5 and Section 7.



Figure 3: AHIMS registered sites within Cessnock LGA (this image has been removed for public exhibition)

3. LEGISLATIVE CONTEXT

3.1 Commonwealth

3.1.1 Aboriginal and Torres Strait Islander Heritage Protection Act 1984

The Aboriginal and Torres Strait Islander Heritage Protection Act 1984, enables the federal government to extend protection to Aboriginal areas or objects that are under threat and not adequately protected by state laws.

3.1.2 Environment Protection and Biodiversity Conservation Act 1999

The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) is the Australian Government's environment and heritage legislation. The EPBC Act protects a number of matters of national environmental significance (MNES). These include:

- World Heritage properties
- National Heritage places

The EPBC Act also protects Commonwealth Heritage places overseas and the environment from actions by Commonwealth agencies or on Commonwealth land.

Cessnock LGA includes part of the Greater Blue Mountains World Heritage Area. A comprehensive assessment of Indigenous cultural heritage values is yet to be undertaken for the Greater Blue Mountains World Heritage Area, but heritage values are known to be present.

Assessment under the EPBC Act

Proposals within the Cessnock LGA with the potential to impact MNES or Commonwealth land must consider the relevant assessment guidelines

under the EPBC Act. More information about these matters is available through the federal Department of Climate Change, Energy, the Environment and Water and in policy statements such as *Significant Impact Guidelines 1.1 - Matters of National Environmental Significance* (MNES). The EPBC Act works on a self-assessment and referral process. If you intend on taking an action which might impact a Commonwealth Heritage Place you should undertake a self-assessment to determine whether there will be a significant impact on the "environment" (including heritage values) or any other MNES. If you believe, after a self-assessment, that your action potentially impacts upon one or more MNES, or the environment on Commonwealth land, you are required to refer the project to the Department. You may also make a referral if you are unsure if your project will have significant impacts. The purpose of the referral process is to determine whether or not a proposed action will need formal assessment and approval under the EPBC Act. Going through the referral process is the only way to ensure legal coverage under the EPBC Act.

Offences under the EPBC Act

Failure to refer the action for the approval of the Minister for the Environment (the Minister) could result in a number of outcomes including substantial civil and criminal penalties, additional penalties, orders for additional actions and remediation of the activity.

3.2 New South Wales

3.2.1 National Parks and Wildlife Act 1974

Under the provisions of the *NPW Act*, all Aboriginal objects in NSW are protected regardless of their significance or land tenure. Aboriginal objects are defined as:

'any deposit, object or material evidence (not being a handicraft made for sale) relating to Aboriginal habitation of the area that comprises NSW,

being habitation before or concurrent with the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains'.

Aboriginal objects under this definition are therefore limited to physical evidence and may also be referred to as 'Aboriginal sites', 'relics' or 'cultural material'. Aboriginal objects can include pre-contact features such as scarred trees, middens and artefact scatters, as well as physical evidence of post-contact use of the area such as Aboriginal built fencing or stockyards and missions or places of incarceration.

There are over 1,392 Aboriginal sites containing Aboriginal objects registered in the Aboriginal Heritage Information Management System (AHIMS) in the Cessnock LGA.

The *NPW Act* also protects Aboriginal Places, which are defined as

'a place that is or was of special significance to Aboriginal culture. It may or may not contain Aboriginal objects'.

Aboriginal Places can only be declared by the Minister administering the *NPW Act*.

The Cessnock LGA has one registered Aboriginal Place - Mount Yengo.

Offences for harm

The *NPW Act* protects Aboriginal objects and Aboriginal Places in NSW. Under the *NPW Act*, including the 2010 amendments, it is an offence to harm an Aboriginal object:

- which the person knows is an Aboriginal object (a 'knowing offence'); and
- whether or not a person knows it is an Aboriginal object (a 'strict liability offence').

The *NPW Act* provides specific protection for Aboriginal objects and

declared places by making it an offence to harm them. Harm includes destroy, deface or damage of an Aboriginal object or Aboriginal Place, and in relation to an object, move the object from the land on which it has been situated. This legislation is supported by the *National Parks and Wildlife Regulation 2019* and guidelines and processes to identify, assess and manage any potential impact or harm. This is reinforced and guided through many levels of State legislation and local planning instruments.

Part 6 of the *NPW Act* provides specific protection for Aboriginal objects and places by making it an offence to harm them. On 1 October 2010, the maximum penalty for a knowing offence is \$550,000 for an individual or \$1.1 million for a corporation and a 2-year gaol term. The maximum penalty for a strict liability offence is \$110,000 for an individual or \$220,000 for a corporation (DECCW 2010:5). A person or organisation who exercises due diligence in determining that their actions would not harm Aboriginal objects has a defence against prosecution for the strict liability offence if they later unknowingly harm an object without an AHIP (DECCW 2010:5).

The due diligence defence is not available for activities which harm Aboriginal Places. The *National Parks and Wildlife Regulation 2019* identifies a number of due diligence codes of practice which, when followed, will satisfy the due diligence requirement (for example DECCW 2010). If a person or company can demonstrate that they exercised due diligence and determined that it was unlikely that Aboriginal objects would be harmed, then they have a defence to prosecution under the strict liability offence under Section 86(2) of the *NPW Act* (DECCW 2010:5).

Under Section 86 of the *NPW Act*, it is an offence for a person to destroy, deface, damage, or desecrate an Aboriginal object or Aboriginal place without the prior issue of an Aboriginal Heritage Impact Permit, outlined in Division 2 Section 90 of the *NPW Act*. If harm to Aboriginal objects and places is anticipated an Aboriginal Heritage Impact Permit (AHIP) is required.

Aboriginal objects as shown by the Aboriginal sites, objects and places recorded during the cultural mapping project and previously recorded have been identified throughout the Cessnock LGA (refer to 4, see also Appendix C).

Therefore, under the provisions of the *NPW Act*, an AHIP must be obtained from Heritage NSW for these sites and objects prior to any activities considered harm under the *NPW Act*. The AHIP is required prior to the proposed works proceeding, with appropriate archaeological and cultural mitigation undertaken.

Requirements for notifying Heritage NSW of known sites

Under Section 89A of the *NPW Act*, Heritage NSW must be informed upon the identification of all Aboriginal objects. Failure to do this within reasonable time is an offence under the Act. AHIMS provides a record of notified Aboriginal objects in NSW.

Stop work orders and emergency site protection

The *NPW Act* also provides for stop-work orders under Section 91A if an action is likely to significantly affect an Aboriginal object or Aboriginal Place. The order may require that an action is to cease or that no action is carried out in the vicinity of the Aboriginal object or Aboriginal Place for a period of up to 40 days.

Guidelines

- *Due Diligence Code of Practice for Protection of Aboriginal Objects in NSW* (DECCW 2010)
- *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* (OEH 2011)
- *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010)

- *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW 2010)
- *Applying for an Aboriginal Heritage Impact Permit: Guide for Applicants* (OEH 2011)
- *Guide to Completing the Aboriginal Heritage Information Management System Site Recording Form* (OEH 2012)
- Aboriginal Places Policy (OEH 2011)
- *Declared Aboriginal Places Guidelines for Developing Management Plans* (OEH 2017)

3.2.2 Heritage Act 1977

The *Heritage Act 1977* (as amended in 2009) protects and aims to conserve the environmental heritage of NSW. Environmental heritage is broadly defined under Section 4 of the *Heritage Act* as consisting of "those places, buildings, works, relics, moveable objects, and precincts, of State or local heritage significance" (Heritage Branch, DoP 2009:4). Aboriginal Places or objects that are recognized as having high cultural value (potentially of local and State significance) can be listed on the State Heritage Register and protected under the provisions of the *Heritage Act* (http://www.heritage.nsw.gov.au/06_subnav_01.htm). Mt Yengo Aboriginal Place is listed on the State Heritage Register and Finchley Aboriginal Area is listed on the LEP within Cessnock LGA. Some heritage items may also identify Aboriginal heritage and Aboriginal heritage values in their listings.

Additional assessment and approval requirements apply to items under the *Heritage Act*. Heritage items (or elements within those items) with dual registrations under the *NPW Act* and *Heritage Act* or heritage items containing Aboriginal objects will require concurrent assessment, applications and approvals (for example Finchley Aboriginal Area, Mount Yengo).

3.2.3 Environmental Planning and Assessment Act 1979

The EP&A Act establishes the planning and development system for NSW. It enables the creation of environmental planning instruments, primarily State Environmental Planning Policies (SEPPs) and Local Environmental Plans (LEPs). It also identifies the nine planning approval pathways and environmental assessment requirements for land use in NSW.

The objects of the EP&A Act in Clause 1.3 include:

- f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)*

The planning process under the EP&A Act includes three key parts that relate to assessment of development or activities. These parts range from assessment of development at a strategic level to assessment of individual applications for a specific purpose. However, all three parts require appropriate assessment of Aboriginal cultural heritage.

Part 3 Strategic Planning

Section 9.1(2) Direction 2.3 - Heritage Conservation (Item 4) relates to when a Council prepares a Local Environment Plan (LEP) or amendment to an LEP, such as a planning proposal to rezone land. This section requires that:

A planning proposal must contain provisions that facilitate the conservation of:

- a) *items, places, buildings, works, relics, moveable objects, or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural, or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area;*
- b) *Aboriginal objects or Aboriginal places that are protected under the*

NPW Act; and

- c) *Aboriginal areas, Aboriginal objects, Aboriginal places, or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.*

Part 4 Development Assessment

Section 4.15 of the EP&A Act specifies the matters that must be considered in the determination of development applications. Matters of relevance to ACH assessment arise from the need to consider:

- a) provisions contained in environmental planning instruments:
- i. any proposed instrument that has been the subject of public consultation;
 - ii. any development control plans;
 - iii. any planning agreements; and
 - iv. the regulations
- b) the likely impacts of that development, including environmental impacts on both the natural and built environment, and social and economic impacts on the locality;
- c) the suitability of the site for development;
- d) any submissions made in accordance with the EP&A Act and Regulations; and
- e) the public interest.

Section 4.4 relates to integrated development. Integrated development is development that requires development consent and an approval under

one or more of the Acts specified in this section. The *NPW Act* is specified and references s.90, granting of an Aboriginal Heritage Impact Permit (AHIP) as integrated development.

Further information: Refer to the Heritage NSW website for further information related to integrated development

The assessment is required to be undertaken with consideration of environmental planning instruments, which include State Environmental Planning Policies and LEPs.

State Environmental Planning Policies (SEPP)

State Environmental Planning Policies (SEPPs) are developed by the state government to support and provide guidance on a range of development and environmental matters.

Each of the SEPPs addresses Aboriginal cultural heritage in a slightly different manner. A number of SEPPs refer to Aboriginal cultural heritage "as identified in an environmental planning instrument", via a range of definitions.

Identified Council Action: Liaise with the State Government agencies for the standardisation of Aboriginal definitions across the suite of SEPPs and other relevant Planning Policy to ensure consistency with LEP

SEPP (Planning Systems) 2021 - Chapter 3 Aboriginal Land

Chapter 3: Aboriginal land in SEPP (Planning Systems) 2021 applies to land owned by an Aboriginal Land Council (ALC).

The SEPP provides for the preparation and publication of development delivery plans which are approved by the Minister. Development Delivery Plans (DDPs) promote strategic and independent planning decisions for

ALCs, and consider regional strategic plans as well as the ALC's community, land and business priorities.

Local councils and other planning authorities then use these DDPs to help assess Aboriginal land council planning proposals and development applications. ALCs are encouraged to work with councils to progress planning proposals for their land before going through a review process.

An Aboriginal Land Planning Framework has been developed by the NSW Government, including an Aboriginal Land SEPP Guideline which provides support for:

- how to nominate land for inclusion in the Aboriginal Land SEPP.
- what a development delivery plan (DDP) is and how to prepare one.
- guidance on whether the Aboriginal Land SEPP is the most appropriate development pathway for a community.
- support to help Aboriginal land councils navigate the planning system.

Further information about the Aboriginal Land Planning Framework can be viewed on the NSW Department of Planning website.

Cessnock Local Environment Plan 2011

Development is controlled throughout the Cessnock LGA by *Cessnock Local Environment Plan 2011* and contains standardised and mandatory heritage provisions within Clause 5.10.

The relevant provisions of Clause 5.10 are as follows:

(1)(c) to conserve archaeological sites; and

(1)(d) to conserve Aboriginal objects and Aboriginal Places of heritage significance.

Aboriginal Place of heritage significance means an area of land, the

general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the Heritage Map, that is—

(a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or

(b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

Note: The term may include (but is not limited to) places that are declared under section 84 of the NPW Act to be Aboriginal places for the purposes of that Act.

Relevant to ACH Clause 5.10 provides requirements for:

- When development consent is required (Clause 5.10(2));
- When consent may not be required (Clause 5.10(3));
- Requirements for the consideration of archaeological sites (Clause 5.10(7));
- Consideration of the impact/effect of proposed development on an Aboriginal place or object either known or reasonably likely to be located at the place by means of adequate investigation and assessment and consultation with the local Aboriginal communities (Clause 5.10(8); and
- Conservation incentives (Clause 5.10(10)).

The Cessnock LEP 2011 identifies one place (Finchley Aboriginal Area) within Schedule 5 (Environmental Heritage) of the Cessnock LEP 2011 as being a heritage item that has Aboriginal cultural heritage significance. This heritage item, as required under the LEP, will need any proposed impacts considered by further impact assessment. Impacts to heritage items would require consents such as AHIPs and Section 140/60 consents from Heritage NSW, depending on site and type of values being impacted) and the identified curtilage of this item is also protected. It should also be recognised that all Aboriginal sites identified through AHIMS should be considered places of Aboriginal heritage significance and treated as thus.

Cessnock Development Control Plan 2010

A Development Control Plan provides detailed planning and design guidelines to support the planning controls in the Local Environmental Plan.

Part 5 Infrastructure and Environmental Impact Assessment

This part of the EP&A Act outlines environmental impact assessment requirements for infrastructure projects and state significant development and infrastructure.

3.2.4 Commonwealth Native Title Act 1993 and NSW Native Title Act 1994

Native title is the legal recognition of the individual or communal rights and interests which Aboriginal people have in land and water, where Aboriginal people have continued to exercise their rights and interests in accordance with traditional law and custom since before the British asserted sovereignty over Australia.

As part of an Aboriginal Cultural Heritage Assessment, you may consult with Native Title organisations (see **Section 4**).

Note: Native Title is different to the management of Aboriginal Cultural Heritage. The outcomes and recommendations of this ACHMP do not affect ownership or title of land.

3.2.5 Aboriginal Land Rights Act 1983

The NSW Aboriginal Land Rights Act 1983 (*ALR Act*), administered by the Minister of the NSW Department of Aboriginal Affairs, establishes the NSW Aboriginal Land Council (NSWALC) and Local Aboriginal Land Councils (LALCs). The Act requires these bodies to:

- take action to protect the culture and heritage of Aboriginal persons in the council's area, subject to any other law; and
- promote awareness in the community of the culture and heritage of Aboriginal persons in the council's area.

These requirements recognise and acknowledge the statutory role and responsibilities of NSWALC and LALCs. The *ALR Act* also establishes the registrar whose functions include, but are not limited to, maintaining the Register of Aboriginal Land Claims and the Register of Aboriginal Owners.

3.2.6 Local Government Act 1993 and Ecologically Sustainable Development

Council has a statutory responsibility, under the *Local Government Act 1993* and is committed to plan and implement actions that put the principles of ecologically sustainable development (ESD) into practice. Council is working towards conservation of natural, social, and cultural values, as well as economic values in its decisions. Aboriginal cultural heritage values, including tangible and intangible cultural heritage values have been damaged since European settlement and many sites already destroyed and heavily impacted and continue to be threatened by other societal values and ignorance.

The principles of ESD, the Precautionary Principle and Principle of Intergenerational Equity are critical to the sustainable management of Aboriginal cultural heritage resources and there is urgency to protect Council's remaining cultural heritage and ACH values. Protecting and supporting Aboriginal cultural heritage values can be considered to contribute to each of the main aspects of sustainability. Management recommendations for the ACHMP recognise concerns and comments raised during consultation to protect and support cultural heritage values through ESD and intergenerational equity and consider the cumulative impact of development on Cessnock's Aboriginal heritage.

3.3 Strategic planning framework and policies

Strategic plans, strategies and policies assist in decision-making processes and guiding the long-term land use of an area, as well as provide opportunities to reflect and inform and update these to address community needs. Part 3 of the EP&A Act provides the legislative framework for the making, amendment and repeal of Environmental Planning Instruments (EPIs), which includes Local Environmental Plans (LEPs) and State Environmental Planning Policies (SEPPs), but does not include Development Controls Plans (DCPs) despite Part 3 prescribing a framework for their making, amendment or repeal. Both LEPs and DCPs are principally the planning policies of councils.

Figure 4 provides an overview of some of the strategic planning framework for the Hunter Region and the Cessnock LGA. These in turn have guided more detailed policies and plans around the management of Aboriginal heritage values in the Cessnock LGA.



Figure 4: Strategic planning framework from the Hunter Regional Plan 2041

3.3.1 Hunter Regional Plan 2041

The Hunter Regional Plan 2041 identified specific actions to be led by the Department of Planning and Environment, updated through a review process, and strategies to be incorporated into local strategic plans and planning proposals.

One of the key objectives of the Hunter Regional Plan 2041 is to support the right of Aboriginal residents to economic self-determination. This includes initiatives to form new pathways to promote economic self-determination, more meaningful recognition and respect Traditional Custodians, create true connections to Country and integrate Aboriginal cultural knowledge and practice into urban design and planning.

<p>Action 2.1</p> <p>The department will:</p> <ul style="list-style-type: none"> work with the Purrawa-Toroi, Fomah, Komah, Woroi, Murrumbidgee, Awakool, Bakkabak, Biraban and Wanniah Local Aboriginal Land Councils to identify priority sites that can create a pipeline of potential projects identify landholdings and map the level of constraint at a strategic scale for each site to develop options for the potential use of the land 	<p>Action 2.2</p> <p>The department will work with registered native title claimants and holders to strategically assess native title landholdings and identify opportunities to improve property rights</p>	<p>Strategy 2.1</p> <p>Local strategic planning will align with the Aboriginal land planning outcomes identified in any development delivery plan within the LGA to:</p> <ul style="list-style-type: none"> account for local Aboriginal community interests and aspirations in strategic planning decision-making further partnerships with Aboriginal communities and build the delivery capacity of LALCs maximise the flow of economic, social and cultural benefits generated by land ownership to Aboriginal residents streamline assessment processes for LALCs
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As noted in the aims and objectives of this ACHMP, this ACHMP is one tool to assist in more meaningful recognition and respect of Traditional Custodians and to integrate Aboriginal cultural knowledge into urban design and planning by providing guidance and a framework to proactively manage and promote the protection of cultural heritage values.

This ACHMP acknowledges changes to Aboriginal land planning in the SEPP (Planning Systems) Chapter 3 Aboriginal Land in Section 3.2.9, aligning with the outcomes of the Hunter Regional Plan 2041.

Opportunities to further integrate Aboriginal cultural knowledge and practice into urban design and planning can be explored through the:

- NSW Government Architects Connecting with Country Framework: Good practice guidance on how to respond to Country in the planning, design and delivery of built environment projects in NSW

3.3.2 Community Strategic Plan 2036

A strategic direction of the Cessnock Community Strategic Plan 2036 is to continue to build unity and respect between Aboriginal and Torres Strait Islander peoples and other Australians: working together to achieve reconciliation and create better futures.

3.3.3 Local Strategic Planning Statement 2036 and Implementation and Action Plan

The LSPS is part of a hierarchy of strategic planning documents and is a mandated requirement of NSW State Government under section 3.9 of the EP&A Act. The LSPS seeks to implement the actions of the HRP and the Council's own priorities as set out in the Community Strategic Plan along with other adopted strategies and actions. The LSPS outlines how Council will implement its planning functions. As such it has a direct influence on the following planning documents:

- local environmental plan
- development control plan
- local contributions plan/s
- community participation plan
- strategies
- policies

Relevant planning themes and priorities identified in the LSPS are summarised in **Table 4**.

3.3.4 Community Participation Plan

The Community Participation Plan (CPP) sets out how Council engages with the community as a planning authority. The CPP is aimed at making it easier for the community to understand when they can get involved in planning matters.

3.3.5 Cessnock City Council Heritage Policy

The Council Heritage Policy states that:

Council is committed to recognising, protecting, enhancing and promoting European and Aboriginal cultural heritage in the Cessnock LGA. This includes heritage items, heritage conservation areas (HCA), archaeological sites and places of Aboriginal and cultural heritage significance, together with associated fabric, settings and views. It outlines key principles to guide Council decision-making.

These include:

- The Articles of the Australia ICOMOS Burra Charter (2013), which underpin Council's approach to heritage conservation and management.
- Council recognises the importance of European and Aboriginal cultural heritage in creating, defining and reinforcing the identity, character and sense of place within the Cessnock LGA.
- Council is committed to identifying, protecting, promoting and enhancing European and Aboriginal cultural heritage in the Cessnock LGA.
- Council recognises and respects the importance that both Aboriginal and European cultural heritage contributes to our collective history and sense of place.
- Council will establish and review existing methods of managing heritage matters that align with current legislative requirements and best practice in heritage management and conservation practice.
- Long term planning for the Cessnock LGA considers the importance and value of heritage.
- Council acknowledges the importance of consultation with relevant Aboriginal Communities and Heritage Groups.
- Good heritage management and practice encourages the adaptive and compatible reuse of heritage buildings and places.

- Heritage management recognises the contribution heritage makes to increasing tourism opportunities and visitation to the area.
- Council will actively seek grant funding to assist in recognising, protecting, enhancing and promoting European and Aboriginal cultural heritage in the Cessnock LGA.
- Council will advocate for the protection and promotion of European and Aboriginal cultural heritage in the Cessnock LGA, including supporting conservation and management of heritage items and places, including those privately owned and 'heritage listed' through the Cessnock Local Environmental Plan 2011.

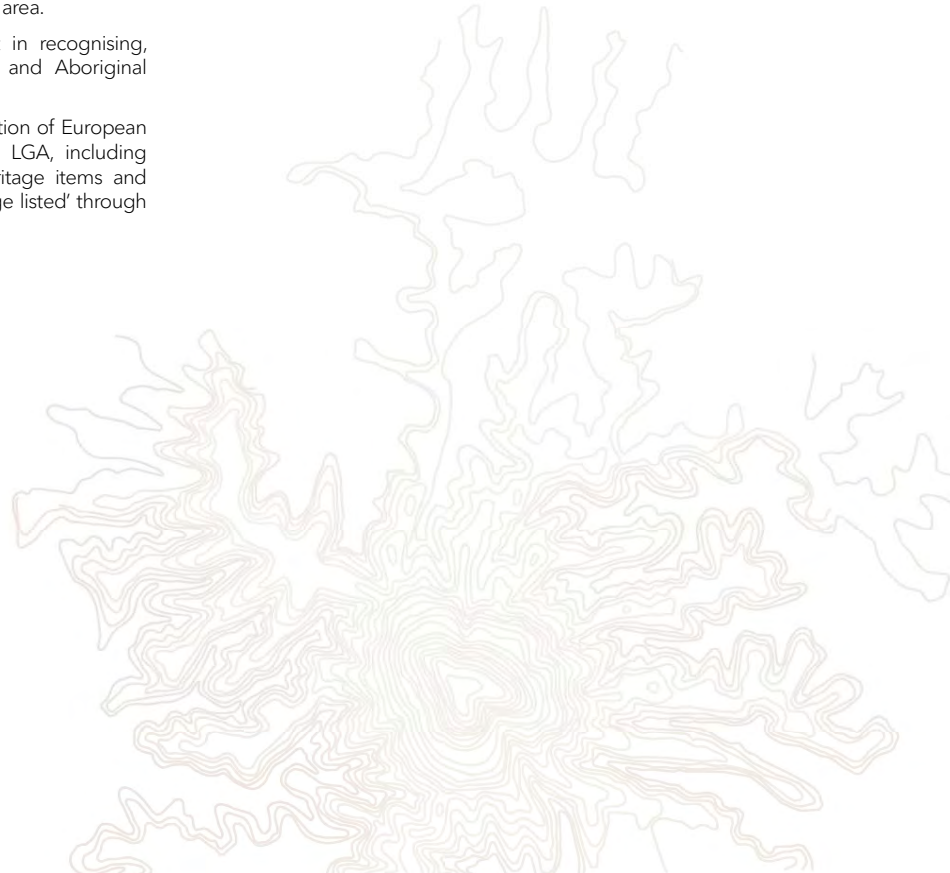


Table 4: Planning priorities, principals and actions for the Cessnock LSPS 2036 and Implementation and Action Plan

Planning Priority	Planning Principle	Actions
Planning Priority 20: Our community adapts to climate change and builds climate resilience.	3. Embrace traditional Aboriginal land management practices.	No specific actions identified.
Planning Priority 24: Our Aboriginal cultural heritage is protected and celebrated.	1. The heritage significance of Aboriginal places, objects and sites is identified, protected and celebrated. 2. Our city embraces its Indigenous heritage and culture. 3. Aboriginal cultural heritage is respected as a fundamental part of our identity. 4. Council's heritage planning documentation relating to Aboriginal cultural heritage is clear, accurate and up to date. 5. There is a strong, collaborative relationship between Council and the local Aboriginal people and groups.	5. Review the Cessnock Local Environment Plan- <ul style="list-style-type: none"> To ensure heritage items and heritage conservation areas are appropriately identified and protected. To consider how Aboriginal cultural heritage and cultural landscapes can be protected; and To recognise heritage as it relates to the character of an area -considering ways to identify clusters of places and items which contribute to the significant character of a place. 6. Review the Cessnock Development Control Plan- <ul style="list-style-type: none"> To include controls for development in heritage conservation areas. 63. Prepare an Aboriginal Cultural Heritage Management Strategy in consultation with local Aboriginal people and groups. 64. Undertake Phase 2 of the Aboriginal Heritage Study (completed, see Virtus Heritage 2021). 65. Continue to apply for funding to continue the local heritage small grants program and heritage advisory service.
Planning Priority 25: Heritage-based tourism is facilitated and promoted.	1. Places of heritage significance are identified and protected. 2. Public heritage items are accessible. 3. Heritage items are adaptively reused. 4. The heritage significance of items and areas is recognised and celebrated. 5. Maintenance of heritage items is encouraged.	6. Review the Cessnock Development Control Plan- <ul style="list-style-type: none"> To provide guidance on developing heritage items and in conservation areas, including provisions for adaptive reuse and disabled access. 66. Prepare a Heritage Strategy- <ul style="list-style-type: none"> To recognise, protect, enhance, and promote heritage items and heritage conservations areas. To promote key heritage attractions. Investigate the merit of a heritage interpretation plan to provide guidance and strategies on communicating the significance of heritage items and heritage conservation areas to the local community and visitors. 67. Continue to apply for funding to continue the Cessnock City Council Local Heritage Small Grants program and heritage advisory service.

4. CONSULTATION

Consultation requirements for Aboriginal cultural heritage management are discussed in this section, including a sensitivity protocol.

4.1 Aboriginal community consultation

Consultation with the Aboriginal community should aim to understand the type and scale of development proposed as well as understanding the Aboriginal cultural knowledge relevant to the project area. Effective consultation with the Aboriginal community:

- should occur in the early stages of project or development planning;
- involve a shared understanding of how the Aboriginal knowledge may be accurately reflected to inform the project/development design or decision-making processes and timeframes;
- should show how the information provided by the Aboriginal people contributed to the final outcome; and
- adhere to strict cultural restrictions (i.e. men's business should only be discussed with men, and women's business with women, avoiding significant cultural calendar events, such as NAIDOC, National Apology Memorial Day and sorry business).

The first point of contact for the Aboriginal community is through Council and the LALCs. The LALCs have the responsibility under the *ALR Act* to take action to protect ACH and promote awareness within the Council's area and will represent and liaise with the wider Aboriginal community. The LALCs are also recognised within Heritage NSW's consultation requirements as organisations that must be consulted with along with several other agencies as part of the notification process of the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010a) to provide guidance to proponents on cultural knowledge holders

within their area. The LALCs will provide the appropriate course of action and contact details for any relevant community groups or representatives, and cultural knowledge holders.

Contact details for the groups are provided in **Appendix D: Aboriginal community contact details**. In the course of the Phase 1 and Phase 2 Aboriginal Heritage Studies and this ACHMP, a number of other knowledge holders have been identified and may hold valuable information regarding the values and management of an area.

Defining Community and Rights Holders

The Enhancing Our Heritage Toolkit 2.0 by UNESCO provides clarification and definitions in terms of community and stakeholders and those who hold rights for heritage (Preserving Legacies Program 2024). These definitions include:

1. Rights-holders are those who have legal or customary rights to the heritage place. Indigenous peoples are inheritors and practitioners of unique cultures and ways of relating to people and the environment. They have retained social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live.
2. Local communities are groups of people who possess a direct connection to the heritage place. They may range from Indigenous or traditional peoples to groups of local peoples who live or work in the heritage place, or who hold associations with it. That connection may be tangible as well as intangible or spiritual and has often endured over time.

When consultation is undertaken, it should be included in the assessment report and, when included, must be accurately depicted. Cessnock City Council is developing information to assist consultants and proponents

undertaking Aboriginal community consultation to enhance ownership for effective and meaningful consultation.

Note: The Aboriginal community hold cultural knowledge and or/historical connection or contemporary cultural connection to country/places in the LGA. The United Nations Declaration on the Rights of Indigenous Peoples states that Indigenous peoples have the right to free, prior and informed consent before approval of any project affecting their lands or territories and other resources.

Only the Aboriginal community can provide comment on the intangible and cultural and spiritual values of Aboriginal cultural heritage and must be consulted to provide cultural information. Planning or legislative advice or information should be sought from Council, Planning, Legal and/or Heritage expert/consultant. A heritage expert/consultant can also assist in the assessment of other heritage values including scientific, aesthetic and historical values for heritage places and objects.

4.2 Sensitivity protocol

It is important to note that Aboriginal sites are often instilled with spiritual significance or are fragile and are sometimes subject to deliberate destruction. Therefore, revealing the location and/or details of some Aboriginal sites can be subject to cultural sensitivity and/or may cause distress to Aboriginal people. Protocols should be put in place so that sensitive information will only be released subject to the authorisation of the Aboriginal community, through the appropriate knowledge holder. This may be, for example, LALC, a representative organisation or the knowledge holder identified on an AHIMS site registration. Examples where care should be taken include but are not limited to publications (print, digital, internet), the public exhibition of development applications and supporting Aboriginal Cultural Heritage Assessments and social media.

4.2.1 Registration of Aboriginal objects

Discovery of Aboriginal objects and/or places are required to be notified to Heritage NSW as soon as practicable in a reasonable timeframe (within 30 days) and are registered to the Aboriginal Heritage Information Management System (AHIMS) under section 90 of the NPW Act.

Any documentation illustrating or describing the location(s) of Aboriginal cultural sites, objects or places should not be published where the Aboriginal people request non-disclosure of the site information. With AHIMS site records, Aboriginal people can restrict access of this cultural information during the site recording process.

In these instances, and when advised, it is sufficient to acknowledge the presence of an Aboriginal cultural object(s) or place(s) without including further detail of the nature of the object or place. In this scenario, the Knowledge Holder for a site should be documented and the LALC would be the conduit to contact Knowledge Holders on behalf of a proponent if they did not want to be contacted directly.

A Knowledge Holder should not be a non-Aboriginal person. We stress that if non-Aboriginal people are provided knowledge of Aboriginal cultural information and sites, that this information is not kept or withheld from communities as it is unethical (refer to AHC 2001 and AIATSIS charters and codes) and illegal in the case of not documenting Aboriginal sites on AHIMS, as it breaches the NPW Act, 1974.

This sensitivity protocol is to apply to all forms of development and respects traditional Aboriginal beliefs that certain sites and locations may need to remain culturally confidential.

4.3 Consultation requirements

The level of consultation required will vary with the cultural assessment required to avoid or to justify harm. Engaging with the Aboriginal

community early in the planning process for any proposal ensures good heritage and project outcomes and often can lead to ways in which harm can be avoided and project costs and efficiencies can also be achieved. A good guide to consultation is the former Australian Heritage Commission's (2001) *Ask First: A Guide to respecting Indigenous heritage places and values*. Where harm cannot be avoided, statutory consultation requirements apply, specifically Heritage NSW's *Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010a)* and

must be met (refer

Table 5). This process is also recommended by Heritage NSW wherever there is any uncertainty a proposed activity could potentially harm any Aboriginal objects or places and the proponent is required to undertake a cultural heritage assessment (see *Guide to investigating, assessing and reporting on Aboriginal Cultural heritage in NSW (OEH 2011)*, p.2)

Table 5: Consultation requirements summary

Action	Scale of assessment	Who may undertake the assessment	Aboriginal community consultation requirements currently	Statutory requirements and/or reference material
Exercise Due Diligence (see Section 5.3)	Desktop or combined desktop with site inspection review of information (Section 5.2 and 5.3)	A person with sufficient knowledge and understanding of the legislative requirements – preferably a qualified archaeologist (if a determination for an AHIP is required at a later date) or a Cultural Knowledge Holder/Sites Officer.	Recommended to inform any tangible and intangible cultural values.	May be considered a defence against prosecution for harm under the strict liability offence under the ancillary provisions of 2010 of the NPW Act 1974 if completed in accordance with <i>Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW 2010)</i> or other code identified by the NPW Regulation 2019.
Avoiding or justifying harm to ACH (see Section 5.4)	Investigation, assessment, and documentation that harm can be avoided (see Section 5.2 and Section 5.4, Steps 1,2a, 2b, 3a, 3c)	Preferably a suitably qualified or experienced archaeologist (if a determination for an AHIP is required at a later date). It is acknowledged that in some cases, where cultural collection only is required, this may be undertaken by a Cultural Knowledge Holder/Sites Officer under an AHIP.	Required to inform any intangible and tangible cultural values and to assist with site survey and knowledge. <ul style="list-style-type: none"> ▪ May include a request for sites officer. ▪ May include request for cultural information 	May be considered a defence against prosecution for harm under the strict liability offence under the ancillary provisions of 2010 of the NPW Act 1974 if completed in accordance with the <i>Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW 2010)</i> , or other code identified by the NPW Regulation 2019. See also <i>Guide to investigating,</i>

Action	Scale of assessment	Who may undertake the assessment	Aboriginal community consultation requirements currently	Statutory requirements and/or reference material
				<i>assessing and reporting on Aboriginal Cultural heritage in NSW</i> (OEH 2011)
	If test excavation is required that can be undertaken as Heritage NSW's Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010c). (an AHIP is required for test excavations within a defined distance of midden, post contact or burial site or other site types stated within Requirement 14 of the Code of Practice) (see Section 5.4, Step 3b)	Suitably qualified or experienced archaeologist, with expertise in ACH as per Heritage NSW's Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010c).	<p>Consultation must be undertaken as set out in the NPW Regulation and completed to the stage described in Section 60(1)-(7) of the National Parks and Wildlife Regulation 2019 i.e. Stages 1-3 of the consultation requirements for proponents</p> <p>Statutory consultation is required for:</p> <ul style="list-style-type: none"> ▪ notification of proposal and call for interested (registered) parties (minimum 14 days); ▪ Presentation of project information (no minimum timeframe) ▪ review of methodology with test excavation sampling strategy (minimum 28 days); ▪ sampling strategy (to be included in the final report) - minimum; and ▪ notification to Heritage NSW - minimum 14 days prior to commencement of test excavations; 	Section 60 (1-7) of the NPW Regulation 2019 and as permitted under Heritage NSW's Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010c) (Requirement 14, 15,16, 17) and as outlined in Heritage NSW's Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010a)
	Investigation, assessment and documentation where harm cannot be avoided (see Section 5.4, Step 2a, 2c, 3a, 3d)	Suitably qualified or experienced archaeologist, with expertise in ACH as per Heritage NSW's Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010c), It is acknowledged that in some cases, where cultural salvage only is required, this may be undertaken by a Cultural	<p>Consultation must be undertaken as set out in the NPW Regulation and completed to the stage described in Section 60(1)-(7) of the National Parks and Wildlife Regulation 2019 i.e. Stages 1-4 of the consultation requirements for proponents</p> <p>Statutory consultation is required for:</p>	<p>Section 80C of the NPW Regulation. Heritage NSW's <i>Aboriginal Cultural Heritage Consultation Requirements for Proponents</i> (DECCW 2010a).</p> <p>See also:</p> <ul style="list-style-type: none"> ▪ Guide to investigating, assessing and reporting on Aboriginal Cultural heritage in NSW (OEH

Action	Scale of assessment	Who may undertake the assessment	Aboriginal community consultation requirements currently	Statutory requirements and/or reference material
		Knowledge Holder/Sites Officer under an AHIP.	<ul style="list-style-type: none"> ▪ notification of proposal and call for interested (registered) parties (minimum 14 days); ▪ Presentation of project information ▪ review of methodology (minimum 28 days); ▪ gathering information and providing the opportunity to visit the project site; ▪ review of draft Aboriginal heritage assessment report (minimum 28 days); and ▪ provision of final report and AHIP 	2011) <ul style="list-style-type: none"> ▪ Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010). ▪ Applying for an Aboriginal Heritage Impact Permit: Guide for Applicants (OEH 2011) ▪ Aboriginal Places Policy (OEH 2011) ▪ Heritage NSW's website regarding Integrated Development requirements
AHIP Application (see Section 5.5)	Permit to harm	Suitably qualified or experienced archaeologist, with expertise in ACH as per Heritage NSW's <i>Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW</i> (DECCW 2010c).	Consultation must be undertaken as set out in the NPW Regulation and completed to the stage described in Section 60(1)-(7) of the National Parks and Wildlife Regulation 2019 i.e. Stages 1-4 of the consultation requirements for proponents Statutory consultation is required for: <ul style="list-style-type: none"> ▪ notification of proposal and call for interested (registered) parties (minimum 14 days); ▪ review of methodology and presentation of information (minimum 28 days); ▪ gathering information and site visits; ▪ review of draft Aboriginal heritage assessment report (minimum 28 days); and 	Section 80C of the NPW Regulation. Heritage NSW's <i>Aboriginal Cultural Heritage Consultation Requirements for Proponents</i> (DECCW 2010a). See also: <ul style="list-style-type: none"> ▪ Guide to investigating, assessing and reporting on Aboriginal Cultural heritage in NSW (OEH 2011) ▪ Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010). ▪ Applying for an Aboriginal Heritage Impact Permit: Guide for Applicants (OEH 2011)

Action	Scale of assessment	Who may undertake the assessment	Aboriginal community consultation requirements currently	Statutory requirements and/or reference material
			<ul style="list-style-type: none"> ▪ provision of final report and AHIP 	<ul style="list-style-type: none"> ▪ Aboriginal Places Policy (OEH 2011)



5. KEY ACTIONS USED IN THIS ACHMP

The first step when planning or undertaking any development is to determine if the proposed activity could impact Aboriginal cultural heritage and the type of care, due diligence or assessment you should undertake. Key actions apply to planners, developers, landowners and land managers.

This section provides guidance on several key actions and assessments that, as legislated under the *EP&A Act* and *NPW Act*, are required.

provides a framework for the steps required when proponents are undertaking ACH investigation for any development.

It is important to remember that it is an offence under Section 86 of the *NPW Act* to harm or desecrate Aboriginal objects and Aboriginal Places. There are substantial penalties including fines and in some circumstances imprisonment for harming an Aboriginal object or Place (see **Section 3.2.1**).

5.1 Identify the type of Aboriginal heritage assessment required

5.1.1 Identify if the activity will disturb the ground surface or mature vegetation

Where the activity will not impact the ground surface or mature vegetation which might be culturally modified or scarred, works can proceed with caution. Where it is possible that the works will impact the ground surface or mature vegetation that could be culturally modified or scarred, a process of due diligence should be undertaken in accordance with the *NSW Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW 2010)*.

5.1.2 Identify if the activity is exempt from *NPW Act* and *Regulations*

Exemptions under section 87A of the *NPW Act* for certain activities include:

- Work for the conservation or protection of an Aboriginal object or place that is carried out by an authorised officer under Section 156b of the *NPW Act*, appointed under Chapter 7 of the *Protection of the Environment Operations Act 1997*, or a person under the direction of such an officer.
- Any emergency firefighting act or bush fire hazard reduction work within the meaning of the *Rural Fires Act 1997* that is authorised or required to be carried out under that Act.
- Anything authorised by or under the *State Emergency and Rescue Management Act 1989* in relation to an emergency (within the meaning of that Act) and that was reasonably necessary in order to avoid an actual or imminent threat to life or property,
- Anything specifically required or permitted under the express terms of a conservation agreement entered into under Division 12 of Part 4 of the *NPW Act* (being an agreement that was entered into or modified after the commencement of this section).

Exemptions under section 87B of the *NPW Act* for Aboriginal cultural activities include:

- The object of this section is to exempt Aboriginal people from the provisions of section 86 that prohibit the harming of an Aboriginal object or place.
- Aboriginal people are exempt from the provisions of section 86 (1), (2) and (4) to the extent to which those provisions would, but for this section, prohibit Aboriginal people from carrying out traditional cultural activities (except commercial activities).
- This section applies to and in respect of any dependants (whether

Aboriginal or not) of Aboriginal people in the same way as it applies to and in respect of Aboriginal people.

Some exemption processes may have industry requirements are exercising due care and caution and still require individuals to notify Heritage NSW of the location of Aboriginal objects. See industry specific codes.

5.1.3 Identify if the activity will involve harm that is trivial or negligible in accordance with the definitions of the NPW Act and Regulations?

Actions which have minimal impact on the environment may proceed with caution. "Trivial or negligible acts" will not significantly disturb the ground surface and so will not cause harm to Aboriginal objects. Examples of what may be "trivial or negligible acts" given in the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW 2010)* are:

- picking up and replacing a small stone artefact.
- Accidentally breaking a small Aboriginal object when you are gardening.
- Accidentally crushing a small Aboriginal object when you walk on a track, picnicking, camping or other similar recreational activities.

Examples provided in the *NSW Minerals Industry Due Diligence Code of Practice for the Protection of Aboriginal Objects* include:

- might be walking or driving along an existing track
- most activities involved with geological mapping.

5.1.4 Identify the planning assessment and approval pathway under the EP&A Act or EPBC Act

Further guidance on the NSW planning framework is provided in

Section 6.

Not all projects and assessment processes will have an easy 'fit' within the NSW planning framework. Advice should be sought from qualified specialists, such as but not limited to the regulators, legal practitioners, environmental planners, Council and heritage specialists. This ACHMP identifies some of the common planning pathways.

Identifying the planning assessment and approval pathway can assist in identifying the level of Aboriginal cultural heritage assessment required to support planning proposals, environmental assessments and development applications.



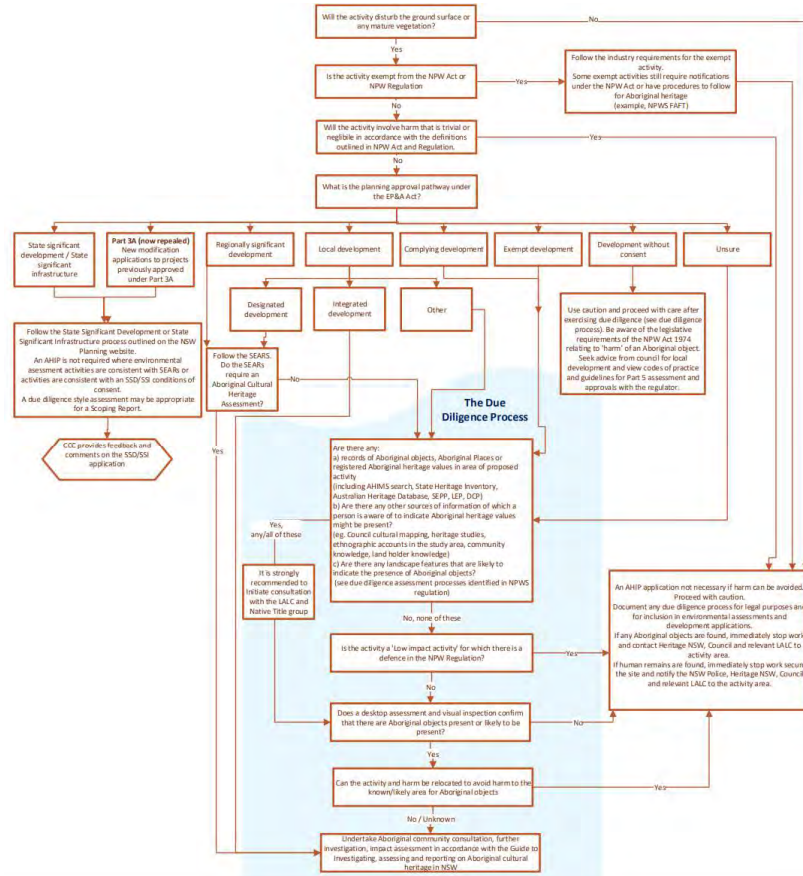


Figure 5 Overview of steps for proponents undertaking Aboriginal cultural heritage investigation prior to submitting a development application.

Note: Not all projects and assessment processes will fit within the framework in the above Figure. Advice should be sought from qualified specialists, such as but not limited to the regulators, legal practitioners, environmental planners, Council and heritage specialists.

5.2 Identify if there are any known Aboriginal objects, places or Aboriginal heritage values in or adjacent the activity area or are they likely?

The first key steps in the assessment process are to

- Undertake a search of the Aboriginal Heritage Information Management System (AHIMS) database and other heritage register searches including the Australian Heritage Database (AHD), State Heritage Inventory (SHI) which includes the State Heritage Register (SHR) and s.170 registers, HHIMS, SEPP and LEP.

Draft ACHMP Opportunity: - Where a memorandum of understanding or agreement is in place regarding access and appropriate use of cultural mapping, there is the opportunity for applicants, council and certifiers to

- Check known Aboriginal Cultural Heritage mapping layers of the ACHMP (mapped as "Aboriginal Places of Heritage Significance")

This would improve consideration of mapped areas with tangible and intangible cultural heritage values and direct applicants to consult with any identified knowledge holders.

An AHIMS search is undertaken online through the Heritage NSW website. As a minimum a basic search is required and an extensive search when Aboriginal objects and places are identified in the basic search. Additional searches should also be undertaken of the other existing heritage databases (as recommended in Heritage NSW's *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW 2010b), to consult 'other sources of information' including, AHD, SHR, SHI SEPP, LEP, HHIMS).

Note 1: Proponents, applicants, Council/ certifiers/ consultants are advised to check heritage registers for any site listings in the vicinity of the proposal. A minimum 3km radius search area centred on the subject property is strongly recommended and a minimum 5km search from the project boundary for larger proposals. This will assist proponents in identifying heritage items adjacent the property that might be impacted and assist heritage specialists and regulators in meeting the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010).

Note 2: All searches should be current and no older than 12 months. Searches older than 12 months are not considered valid to demonstrate due diligence by Heritage NSW

Note 3: As heritage registers are constantly updated, a new search must be undertaken for any proposal to ensure the currency of the registered sites information and to ensure that data use agreements with AHIMS are up to date.

Where Aboriginal objects, Aboriginal places or areas likely to contain Aboriginal objects, as defined by the NPW Act, or Aboriginal heritage places of significance as defined by the LEP, are known:

- An assessment of any potential impact or harm is required under Part 6 of the NPW Act. The level of assessment varies based on where the project sits in the planning and assessment framework.
- Under Clause 5.10(8) Aboriginal Place of Heritage Significance of the applicable LEP, Council is required to:
 - consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve

- consideration of a heritage impact statement), and
- o notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

Council defines adequate investigation and assessment as the level of assessment defined by the *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW* (OEH 2011) and the *NSW Heritage Manual*.

Draft ACHMP opportunity

An *Aboriginal Place of Heritage Significance* on the ACH map will generally include one or more registered sites (as it is also noted any Aboriginal Place of heritage significance must be registered on AHIMS to comply with Section 90 of the NPW Act). Any development or works within an Aboriginal Place of heritage significance on the ACH map should undertake an Aboriginal Cultural Heritage Assessment

5.2.1 Procedure

Where known Aboriginal objects, Aboriginal places or areas likely to contain Aboriginal objects, as defined by the NPW Act, or Aboriginal heritage places of significance as defined by the LEP, are identified on the subject property:

- Follow the Avoiding or Justifying Harm to Aboriginal Cultural Heritage and Consultation requirements of **Table 6**.
- It is desirable at this early planning stage that potential harm will be avoided through redesign of the proposal.

If harm cannot be avoided:

- If harm cannot be avoided follow the Heritage NSW 's *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* (OEH 2011) and undertake consultation consistent with the Heritage NSW's *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW, 2010a).
- If harm cannot be avoided:
 - o For SSD/SSI projects, follow the SSD/SSI assessment and approval process. In addition to an ACHA, this may also require a specific Aboriginal Cultural Heritage Management Plan for the development.
 - o For all other assessment and approval pathways, an AHIP or further investigation and testing will be required at the development application stage. Where Aboriginal objects are or likely to be present, this can trigger an Integrated Development application.

If there is uncertainty or no known Aboriginal objects, Aboriginal places or areas likely to contain Aboriginal objects, as defined by the NPW Act, or Aboriginal heritage places of significance as defined by the LEP, on the subject property:

- Proceed through steps in follow the process outlined in **Section 5.3**.

If human remains or objects are revealed:

- Enact Stop Work procedures immediately (refer to Appendix B).
- There is a legal requirement for new Aboriginal objects or places be registered on the AHIMS database. Information must also be provided to Council to update the mapping and to the respective LALCs Cultural Heritage Unit within the Cessnock LGA.

5.3 Exercise Due Diligence

The *NPW Act* provides that a person who exercises due diligence in determining their actions will not harm Aboriginal objects has a defence against prosecution for the strict liability offence if they later *unknowingly* harm an object without an AHIP. It is important to note that the due diligence is not an ACH assessment, rather it is a defence against prosecution against one form of harm.

Heritage NSW *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW 2010) provides a framework to assist individuals and organisations to understand what exercising due diligence means when carrying out development or activities.

The mapping developed as part of the Phase 2 Aboriginal Heritage Study has identified areas of known (*Aboriginal Place of Heritage Significance*) and predictive ACH. These mapped areas will require ACH assessment (Appendix C).

In addition to requirements to search registers and consider other sources of information, Heritage NSW *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW 2010) identifies landforms that are sensitive to Aboriginal occupation including:

- within 200m of waters; or
- located on a sand dune system; or
- located on a ridgetop, ridgeline, or headland; or
- located within 200m below or above a cliff face; or
- within 20m of, or in a cave, rock shelter or a cave mouth.

A proponent that is undertaking an activity that may harm Aboriginal

objects, if they are present within these landforms (most likely ground disturbing works), is to exercise due diligence. The due diligence assessment identifies triggers for undertaking site inspections to support the desktop assessment and determine the presence, absence or likelihood of Aboriginal objects. The proponent may choose to have a site inspection with an Aboriginal sites officer and qualified archaeologist for the site inspection.

Exercising due diligence is a recommended action for all development and especially those developments that do not otherwise require an ACH assessment as part of the local development approvals process. Consultation with the relevant Local Aboriginal Land Councils within the Cessnock LGA is an important requirement as well as written documentation of all steps completed following this process (refer to **Figure 6**) below for a summary of the due diligence process).

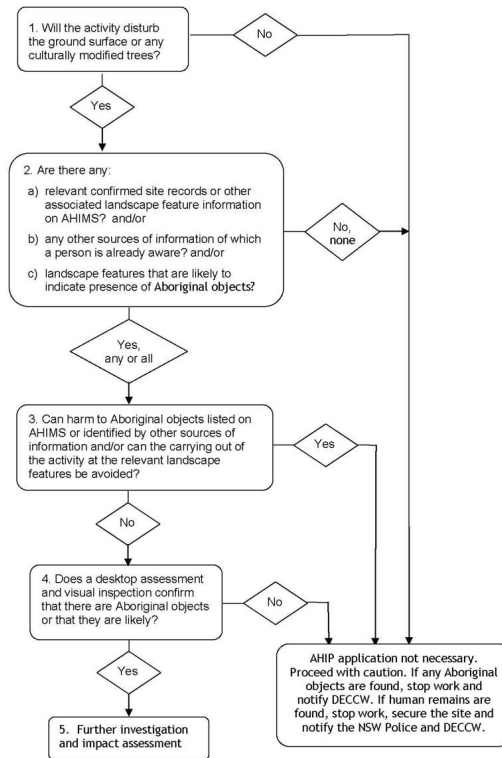


Figure 6: Due Diligence assessment process

5.4 Avoiding or Justifying Harm to ACH

ACH assessment is used to describe the processes undertaken to assess the potential for harm to ACH values and to identify impacts that are avoidable and those that are not. The *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW 2010), the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010b), the *Guide to investigating, assessing and reporting on Aboriginal Cultural heritage in NSW* (OEH 2011) and the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* (DECCW 2010c) identifies a recognized process to do this.

The process comprises of a sliding scale of investigation and assessment to determine:

- the potential of ACH value.
- the location and extent of any cultural heritage object or place and their significance.
- potential for harm to those values.
- whether potential harm can be avoided.
- where impacts cannot be avoided, to provide context and justification for why the harm is acceptable and developing appropriate mitigation.

One of the key risks identified to the long-term management of Aboriginal cultural heritage values in the LGA is the lack of recognition and consideration of cultural values in development, both tangible and intangible values (Section 2.2.4, R9). Council has developed a process to avoid or justify harm to ACH which considers both tangible and intangible cultural values. The process for avoiding or justifying harm to ACH is outlined in **Table 6** below.

Table 6 Avoiding or justifying harm to ACH (within a Known ACH Site or Predictive ACH Site in the ACHMP or any other type of Aboriginal Object or Place/ Aboriginal Places of Heritage Significance) assessment process.

Step	ACH Pathway	Actions and documentation
1	Initial consultation	Undertake consultation with the Aboriginal community through the LALCs to determine the nature of ACH (intangible cultural heritage or Aboriginal objects).
2	If the consultation, due diligence process, review of registers or cultural mapping identifies the area as containing intangible ACH values	<p>2a) document the <i>intangible ACH values</i> as derived from consultation and/or other sources.</p> <p>Note: that Heritage NSW's <i>Guide to investigating, assessing and reporting on Aboriginal Cultural heritage in NSW (OEH 2011)</i> must be adhered to and any other NSW Heritage Act, 1977 requirements considered as some items with intangible value are listed on other statutory heritage registers which require further consideration and assessment.</p> <p>Note: The Connecting with Country Framework (GANSW 2023) may assist in the process of considering ACH values in planning and design.</p> <p>2b) <i>if all harm to intangible ACH can be avoided:</i></p> <ul style="list-style-type: none"> i) design the proposal to respond to those values and avoid harm to all intangible ACH values ii) undertake and document consultation to determine the views of the Aboriginal community about the intangible ACH and the proposal iii) provide documentation to the planning consent or determining authority outlining the consultation undertaken, its outcomes, and how the proposal has responded to avoid harm to intangible ACH values (2a and 2b). <p>2c) <i>if some or all harm to intangible ACH values cannot be avoided:</i></p> <ul style="list-style-type: none"> i) justify why the proposal cannot be designed to completely avoid harm to the intangible ACH values based on planning, design, environmental, social and/or economic grounds ii) design the proposal to minimise harm to intangible ACH values and where necessary, develop an appropriate mitigation strategy for any values still being harmed iii) demonstrate how, where possible, the proposal has been designed to minimise harm to intangible ACH values through further impact assessment and additional reporting which will be required iv) identify the areas where the proposal will harm ACH values v) provide a literature review / contextual information to understand the ACH values proposed to be harmed and whether, or not, this heritage is protected elsewhere vi) provide evidence of the consultation with, and the views of, the relevant Aboriginal cultural knowledge holders about the intangible ACH proposed to be harmed and the proposal vii) characterise the scientific and cultural importance of the intangible ACH proposed to be harmed viii) Provide documentation to the planning consent or determining authority for the harm proposed to intangible ACH by documenting 1, 2a) and 2c) i - vii above

Step	ACH Pathway	Actions and documentation
3	If the consultation and/or mapping identifies the areas as containing or likely to contain Aboriginal objects	<p>3a) undertake a site analysis and field survey to identify the locations of Aboriginal objects, likely locations of Aboriginal objects and the nature and extent of Aboriginal objects in accordance with the <i>Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW 2010)</i>, the <i>Code of Practice for Archaeological Investigation of Aboriginal Objects in New South (DECCW 2010)</i> and the <i>Guide to investigating, assessing and reporting on Aboriginal Cultural heritage in NSW (OEH 2011)</i></p> <p>3b) Where appropriate, additional site analysis may involve further investigations such as, for example, further field survey, test excavation in accordance with the Heritage NSW 's <i>Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010)</i>, the <i>Guide to investigating, assessing and reporting on Aboriginal Cultural heritage in NSW (OEH 2011)</i>, and consultation consistent with the Heritage NSW's <i>Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW, 2010a)</i> to determine the nature, extent and significance of the Aboriginal objects and area.</p> <p>3c) <i>if all harm to ACH and Aboriginal objects can be avoided:</i></p> <ul style="list-style-type: none"> i) design the proposal to avoid harm to ACH and Aboriginal objects. ii) undertake and document consultation to determine the views of the Aboriginal community about the ACH and Aboriginal objects and the proposal. iii) provide documentation to the planning consent or determining authority outlining the consultation undertaken, its outcomes, the fieldwork undertaken, a map showing the locations of Aboriginal objects and their extent and how the proposal has responded to avoid harm to ACH and Aboriginal objects. <p>Note, that Heritage NSW's <i>Guide to investigating, assessing and reporting on Aboriginal Cultural heritage in NSW (OEH 2011)</i> must be adhered to and any other NSW Heritage Act, 1977 requirements considered as some ACH objects are listed on other statutory heritage registers which require further consideration and assessment.</p> <p>3d) <i>if all harm to ACH objects cannot be avoided</i>, follow the <i>Guide to investigating, assessing and reporting on Aboriginal Cultural heritage in NSW (OEH 2011)</i>, and undertake consultation consistent with the Heritage NSW 's Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW, 2010a). An Aboriginal Cultural Heritage Assessment will need to accompany any development application to Council. As part of this process:</p> <ul style="list-style-type: none"> i) justify why the proposal cannot be designed to completely avoid harm to Aboriginal objects based on planning, design, environmental, social and/or economic grounds. ii) design the proposal to minimise harm to Aboriginal objects. iii) demonstrate how, where possible, the proposal has been designed to minimise harm to Aboriginal objects and where necessary, develop an appropriate mitigation strategy for any values still being harmed. iv) identify the areas where the proposal will harm Aboriginal objects. v) provide a literature review / contextual information to understand the Aboriginal objects proposed to be harmed and whether, or not, this heritage is protected elsewhere. vi) provide evidence of the consultation with, and the views of, the relevant Aboriginal cultural knowledge holders about the Aboriginal objects proposed to be harmed and the proposal. vii) characterise the scientific and cultural importance of the Aboriginal objects proposed to be harmed.

Step	ACH Pathway	Actions and documentation
		<p>viii) provide a case to the planning consent or determining authority for the harm proposed to Aboriginal objects by documenting 1, 3a) and 3c) i - vii above.</p> <p>Note: Heritage NSW's requirements must be undertaken when harm cannot be avoided including the <i>Guide to investigating, assessing and reporting on Aboriginal Cultural heritage in NSW</i> (OEH 2011) and undertake consultation consistent with the Heritage NSW's <i>Aboriginal Cultural Heritage Consultation Requirements for Proponents</i> (DECCW, 2010a). These requirements must be met for a Heritage NSW to issue general terms of approval for an Integrated Development and for an AHIP to be determined successfully.</p>

The proponents may wish to consider and opt into the:

- GANSW 2023, Connecting with Country Framework
- Dual Naming Policy NSW - Dual naming policy (Geographic Names Board) Please note this policy applies to NSW only. www.gnb.nsw.gov.au/aboriginal_place_naming/dual_naming

The above guidelines are separate to the established Aboriginal Cultural Heritage Assessment processes (ACHAR and AHIP) under the National Parks and Wildlife Act 1974 but can act to compliment and build upon existing legislation requirements and can assist in the identification and integrating of ACH values into planning and design.

5.5 Aboriginal Heritage Impact Permit (AHIP)

Where an ACH assessment finds that harm to ACH (either directly or indirectly), (an object or place or in some cases, area of potential archaeological deposit) cannot be avoided, the level of ACH assessment must be consistent with the requirements and documentation for an AHIP application.

For SSD and SSI projects, proponents should refer to the SEARs and conditions of consent.

Where the harm to ACH that cannot be avoided for local development, this will trigger the need for an integrated development application in many cases.

Integrated development will require that an ACHA, including a supporting Archaeological Assessment, in accordance with the *Guide to investigating, assessing and reporting on Aboriginal Cultural heritage in NSW* (OEH 2011) , *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* (DECCW 2010) and , *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010) to

be submitted as part of a development application to allow for the issue of general terms of approval by Heritage NSW. The development consent will then be required to accompany any future AHIP application.

An AHIP must be applied for, and approval granted prior to commencement of works that may harm Aboriginal objects.

An AHIP permit is issued by the Heritage NSW under s90 of the *NPW Act*. The *Heritage NSW Guide to Aboriginal Heritage Impact Permit Processes and Decision making* (2011) provides further information on this process.

This will require input from a suitably qualified or experienced archaeologist, with expertise in ACH (as per Heritage NSW's *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW*, DECCW 2010c).

5.6 Supporting documentation required for development

5.6.1 Place Strategies/Structure Plans and Planning proposals

Part 3 of the EP&A Act provides the legislative framework for the making, amending and repeal of environmental planning instruments including LEPs (Planning Proposals) and SEPPs, but does not include Development Control Plans (DCPs). Both LEPs and DCPs are principally the planning policies of Councils. Council's role to guide development relies on the preparation of these plans and any considerations that may influence existing and new SEPPs or other strategic planning policy of State government agencies or departments.

Land with Aboriginal objects, Aboriginal places or land mapped as Aboriginal Place of Heritage Significance should be considered at all levels of strategic policy planning at both the policy design phase as well as ensuring that an appropriate level of assessment is undertaken on planning proposals (rezoning etc.) where the strategic planning change would allow for an intensification of the use or occupation of that land.

There are two overarching types of strategic policy decisions including:

- Discriminate – Framework and controls which respond specifically to a development proposal on identifiable land(s) and;
- Indiscriminate – Strategic decision making relating to an issue or matter to a wider land area or region.

For the purposes of this Plan ‘high Aboriginal cultural significance’ (as used in SEPPs and Clause 3.3 of the applicable LEP) has the same meaning as Aboriginal place of heritage significance.

Note: Aboriginal Place of heritage significance means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the Heritage Map, that is–

- a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

The term may include (but is not limited to) places that are declared under section 84 of the NPW Act to be Aboriginal places for the purposes of that Act.

Strategic planning in all its forms presents the greatest opportunity for the

long-term management and protection of ACH through a combination of early engagement with the Aboriginal community and ACH identification, appropriately tailored policy response and in some cases the avoidance of policy that has the potential to lead land use into conflict with ACH.

It also provides the opportunity to consider ‘intangible’ ACH through the early consultation with the local Aboriginal community. Early consultation at the policy level with the local Aboriginal community will assist policy developers and proponents to understand the presence of and approaches for its assessment and consideration.

Assessment requirements

DPE Requirements

The Local Environmental Plan Making Guideline (NSW Department of Planning and Environment 2023) identifies that for standard and complex planning proposals, an Aboriginal heritage archaeological and landscape assessment may or likely be required in greenfield or urban infill where there is or a potential to be impacts on areas, objects, places or landscapes of heritage significance to Aboriginal cultural and landscapes (Figure 7).

	Basic	Standard	Complex
<p>Heritage</p> <p>A European heritage assessment and impact study may be needed when a planning proposal may impact on a local or state item, or impact a heritage conservation area, or as defined in heritage legislation.</p> <p>An Aboriginal heritage archaeological and landscape assessment may be required in greenfield or urban infill where there is, or a potential to be, impacts on areas, objects, places or landscapes of heritage significance to Aboriginal culture and landscape.</p>			
<p>Non-Indigenous Heritage</p> <ul style="list-style-type: none"> Preliminary Heritage impact statement, which: <ul style="list-style-type: none"> identifies all local, State, National or World listed heritage items, archaeological sites and/or conservation areas on or within the vicinity of the site (including ground truthing items) provides a high-level assessment of the potential impacts of the proposal including concept plan, building envelope or use in respect of a heritage item or conservation area on or within the vicinity of the site provides a justification if new items are proposed to be listed <p>Note: A Preliminary Heritage impact statement generally would not be required for a basic proposal unless it impacts a local heritage item. A heritage interpretation strategy is not required at the planning proposal stage.</p>	May be required	May be required	Likely to be required
<p>Aboriginal Cultural Heritage</p> <ul style="list-style-type: none"> Aboriginal Heritage Archaeological Assessment including: <ul style="list-style-type: none"> Identification of potential areas, objects, places or landscapes of heritage significance to Aboriginal culture and people that may potentially constrain future land-use planning Background research and an archaeological field survey preliminary consultation with the relevant Local Aboriginal Land Council assessment of the archaeological potential of the study area impact assessment (based on indicative concept plan) The assessment should be undertaken in accordance with the following: <ul style="list-style-type: none"> Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (OEH 2010) Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 (DECCW 2010) Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010) 	Not required	May be required	Likely to be required

Figure 7: Department of Planning and Environment's Local Environmental Plan Making Guidelines for heritage assessment for planning proposals

Heritage NSW Requirements

A due diligence assessment is not considered appropriate by Heritage NSW to support planning proposal or major projects (Heritage NSW website 8 December 2022). In these instances, and where Aboriginal

objects are present, Heritage NSW states you must conduct an Aboriginal Cultural Heritage Assessment.

The Aboriginal Heritage Assessment requires a range of relevant disciplines and components, and it cannot be assumed that any one practitioner will have the full range of skills required. Early engagement with the LALC and cultural knowledge holders is recommended in the first instance.

Council requirements

Follow the Avoiding or Justifying Harm to Aboriginal Cultural Heritage requirements of **Table 6**.

It is desirable at this early planning stage that potential harm will be avoided through redesign of the proposal.

A suitably qualified ACH expert/archaeologist is required to document Avoiding or Justifying Harm to Aboriginal Cultural Heritage (**Section 5.4**). Council should first consult the LALC and cultural knowledge holders for these skills, and as a first step to attempt avoiding harm with the proposal by discussing it with LALC. Where harm cannot be avoided or an AHIP would be required is required, the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW 2010c) stipulates the minimum qualifications required.

To assist Cessnock City Council with meeting regional and local strategies and objectives, proponents may wish to consider and opt into the:

- GANSW 2023, Connecting with Country Framework
- Dual Naming Policy NSW - Dual naming policy (Geographic Names Board) Please note this policy applies to NSW only. www.gnb.nsw.gov.au/aboriginal_place_naming/dual_naming

The above guidelines are separate to the established Aboriginal Cultural

Heritage Assessment processes (ACHAR and AHIP) under the National Parks and Wildlife Act 1974 but can act to compliment and build upon existing legislation requirements.

Case Study: Western Sydney Aerotropolis - Recognise Country Guidelines for development in the Aerotropolis: NSW Department of Planning and Environment November 2022

Note: The focus may need to take into consideration a wider landscape beyond the physical property boundary (for example, vibration from construction access points and impacts on views and vistas). Consultation with the Aboriginal community and ensuring consistency with the Heritage NSW requirements will enable a determination about whether further ACH assessment is or is not required

5.6.2 Development applications

- Undertake an AHIMS Search and other statutory searches to determine the presence and location of any other registered objects or places.
- Undertake consultation with the LALC to understand any intangible cultural heritage and to document and identify any areas requiring further assessment and consideration as part of the planning process.

If mapped as Aboriginal Place of heritage significance

An Aboriginal Cultural Heritage Assessment requires a range of relevant disciplines and components, and it cannot be assumed that any one practitioner will have the full range of skills required. Early engagement with the LALC and cultural knowledge holders is recommended in the first instance. A suitably qualified ACH expert/archaeologist is required to document Avoiding or Justifying Harm to Aboriginal Cultural Heritage. Council should first consult the LALC and cultural knowledge holders for

these skills, and as a first step to attempt avoiding harm with the proposal by discussing it with LALC. Where harm cannot be avoided or an AHIP would be required is required, the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW 2010c) stipulates the minimum qualifications required.

- Use the Avoiding or Justifying Harm to Aboriginal Cultural Heritage requirements to guide an appropriate level of assessment.
- It is desirable at this early planning stage that potential harm will be avoided through early consultation with the Aboriginal community.

If NOT mapped as Aboriginal Place of heritage significance:

Applicants are advised to be aware of the NPW Act requirements relating to harm and to exercise due diligence following the DPE's *Due Diligence Code of Practice for Protection of Aboriginal Objects in NSW* (DECCW 2010b). If Aboriginal objects are present or likely to be present, follow the requirements and procedures set in **Table 6** Avoiding or Justifying Harm to Aboriginal Cultural Heritage (**Section 5.4**).

If harm cannot be avoided

- Document the requirements of Avoiding or Justifying Harm to Aboriginal Cultural Heritage required where development application is required.
- Follow the Heritage NSW guidelines including:
 - Due Diligence Code of Practice for Protection of Aboriginal Objects in NSW (DECCW 2010)
 - Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW (OEH 2011)
 - Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010)

- Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010)
- If harm cannot be avoided an AHIP will be required at the development application stage. This may be undertaken as Integrated Development.

Integrated development applications

Certain development application under Part 4 of the *Environmental Planning and Assessment Act 1979* need input from an NSW Government agency (approval body) before a determination can be made by the local council (consent authority). These applications are called integrated development. It is an efficient way to assess proposals that require:

- a permit under the National Parks and Wildlife Act 1974 for harm to Aboriginal objects and places and/or
- an approval under the Heritage Act 1977 for impacts to an item listed on the State Heritage Register or subject to an interim heritage order that has not been imposed by the local council, and
- development consent issued by a local council under the Environmental Planning and Assessment Act 1979.
- In these instances, a development application can become an integrated development application (IDA).

Some IDAs are placed on public exhibition. The local council decides if the IDA involving the Aboriginal cultural heritage will be exhibited. All IDAs involving State Heritage Register listed items will be exhibited.

Heritage NSW requirements for Integrated Development

Heritage NSW requirements for integrated development can be found on their website:

<https://www.environment.nsw.gov.au/topics/heritage/apply-for-heritage-approvals-and-permits/integrated-development>

5.6.3 Land declared a Place under NPW Act or in the vicinity of a Declared Place

Places of special significance with respect to Aboriginal culture may be declared under the *NPW Act* Section 84.

Any Aboriginal object or Aboriginal Place on any land reserved under the *NPW Act* is protected from harm or desecration without the prior approval of a Heritage NSW issued Aboriginal Heritage Impact Permit and is required to have proper care, preservation, and protection; and/or proper restoration of land which may have been disturbed or excavated in accordance with the AHIP.

A curtilage of 100 m may be applied around the declared place and is considered to be “in the vicinity of a declared place”.

Land which is a ‘Declared Place’ under the *NPW Act* will in most instances be captured within the mapped Aboriginal Place of heritage significance mapping layer on the LEP. A ‘Declared Place’ may not be found within the mapped Aboriginal Place of heritage significance mapping layer if the Place has recently been declared and the mapping not as yet updated.

Generally, a ‘Declared Place’ is within the ownership of, and managed by, an Aboriginal community.

Procedure

If the development is within or in the vicinity of a Declared Place:

- Document the requirements of Avoiding or Justifying Harm to Aboriginal Cultural Heritage required where development consent is required.

- Follow the Heritage NSW guidelines including:
 - Due Diligence Code of Practice for Protection of Aboriginal Objects in NSW (DECCW 2010)
 - Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW (OEH 2011)
 - Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010)
 - Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010)
 - Aboriginal Places Policy (OEH 2011)
 - Declared Aboriginal Places Guidelines for Developing Management Plans (OEH 2017)

and LALC to update the mapping.

If the development area is neither a Declared Place nor within the Vicinity of a Declared Place:

- Proceed through steps in **Section 5.3**.

5.7 Stop Work Procedures

It is an offence to harm an Aboriginal object or place under the *NPW Act 1974* and *Heritage Act 1977*. Immediate Stop Work procedures are to be implemented when an activity or works reveal any Aboriginal object or remains so as to avoid harm (definition of harm referred to in Glossary). Stop work procedures are detailed in **Appendix B**.

If human remains or objects are revealed:

- Enact Stop Work procedures immediately and follow protocols set out in Appendix B.
- There is a legal requirement for new objects or places be registered to the AHIMS database. Information must also be provided to Council

6. PLANNING FRAMEWORK

The Environmental Planning and Assessment Act 1979 (EP&A Act) provides the framework planning and approval of development in NSW. The planning framework under the EP&A Act can be divided into two distinct sections:

1. Strategic planning includes the preparation of larger regional plans and Local Strategic Planning Statements for Local Government Areas (LGA). Regional Plans and Local Strategic Planning Statements provide context for structure planning and development of specific areas while planning proposals assess rezoning of land for specific development.

Strategic planning also includes the preparation of Environmental Planning Instruments (EPIs) including:

- a) State Environmental Planning Policies (SEPP) that can govern development types, approvals required and assessment issues across NSW
- b) Local Environment Plans (LEP) that outline land uses, development that can be undertaken and approvals required within individual LGAs.

Strategic planning also involves the preparation of development control plans that provide criteria and standards for development when being assessed for approval.

2. Development assessment includes the issuing of consent for development based on the requirements of the above EPIs and relevant development control plans. Development assessment is based on a three-tier structure that includes:

- a) Development that does not need consent - Includes activities or development that are deemed 'permitted without consent' and exempt development identified in an EPI

- b) b) Development with consent - Includes development 'permitted with consent' or complying development identified in an EPI
- c) c) Prohibited development includes development that cannot be undertaken as identified in an EPI

6.1 Strategic land use planning

Part 3 of the EP&A Act provides the legislative framework for strategic land use planning. Regional strategic plans are prepared by the NSW State Government with Local Strategic Planning Statements prepared by local Councils. These overarching plans inform the preparation and changes to EPIs, including both SEPPs and LEPs.

LEPs are the principal environmental planning instrument for Councils and this section applies to Council's preparation and assessment of planning proposals for changes to a LEP and assessment of master plans. This section will also provide guidance to Council's response or submissions regarding changes to SEPPs or other strategic planning documents prepared by NSW State Government departments or agencies.

6.1.1 Aboriginal cultural heritage strategic planning

The Cessnock LGA is located within the area of the Hunter Regional Plan 2041. The Hunter Regional Plan 2041 considers Aboriginal cultural heritage within the following strategies:

- Strategy 6.6: Local strategic planning will ensure all known places, precincts, landscapes and buildings of historical, scientific, cultural, social, archaeological, architectural and aesthetic significance to the region are identified and protected in planning instruments.
- Strategy 6.7: Local strategic planning will consider Aboriginal cultural and community values in future planning and management decisions.

Cessnock City Council's Local Strategic Planning Statement includes Planning Priority 24 which seeks to protect and celebrate Aboriginal cultural heritage. This Planning Priority includes the following actions:

- Action 5: Review the Cessnock Local Environment Plan
 - To consider how Aboriginal cultural heritage and cultural landscapes can be protected.
- Action 63: Prepare an Aboriginal Cultural Heritage Management Strategy in consultation with local Aboriginal people and groups (this Plan).

When undertaking an assessment of changes to the Cessnock LEP 2011 Council is required to consider Local Planning Directions issued by the Minister under s9.1(2) of the EP&A Act. Direction 3.2 relates to heritage conservation and requires planning proposals to contain provisions that facilitate the conservation of:

- Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974
- Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal people and culture.

6.1.2 Assessment of Aboriginal cultural heritage in strategic planning

The strategic land use planning framework under the EP&A Act allows for two levels of assessment of decision-making

1. Proposals that operate strategically on an issue or matter to a wider land area or region

2. Proposals which respond specifically to development on an identified land area. This level relates to planning proposals (including rezoning of land) where a strategic planning change would allow for an intensification of the use of the land.

The assessment of cultural heritage needs to be responsive to the level of proposal e.g. a planning proposal seeking a specific planning outcome may necessitate a level of detailed assessment that a wider policy, such as a sub-regional plan, may not.

Preparation of Structure Plans and Rezoning (Place Strategies and Planning Proposals)

To assist Cessnock City Council with meeting regional and local strategies and objectives, proponents may wish to consider and opt into the:

- GANSW 2023, Connecting with Country Framework
- Dual Naming Policy NSW - Dual naming policy (Geographic Names Board) Please note this policy applies to NSW only. www.gnb.nsw.gov.au/aboriginal_place_naming/dual_naming

The above guidelines are separate to the established Aboriginal Cultural Heritage Assessment processes (ACHAR and AHIP) under the National Parks and Wildlife Act 1974 but can act to compliment and build upon existing legislation requirements.

Case Study: Western Sydney Aerotropolis - Recognise Country Guidelines for development in the Aerotropolis: NSW Department of Planning and Environment November 2022

The Local Environmental Plan Making Guideline (NSW Department of Planning and Environment 2023) identifies that for standard and complex planning proposal, an Aboriginal heritage archaeological and landscape

assessment may or likely be required in greenfield or urban infill where there is or a potential to be impacts on areas, objects, places or landscapes of heritage significance to Aboriginal cultural and landscapes.

A due diligence assessment is not considered appropriate by Heritage NSW to support planning proposal or major projects (Heritage NSW website 8 December 2022). In these instances, and where Aboriginal objects are present, Heritage NSW states you must conduct an Aboriginal Heritage Assessment.

6.1.3 *Aboriginal cultural heritage assessment requirements for strategic planning*

Table 7 What is required for strategic planning?

Type of strategic/policy	What is required
a) Local Government Area wide LEP amendment	<ul style="list-style-type: none"> ▪ Follow the Avoiding or Justifying Harm to Aboriginal Cultural Heritage requirements of Table 5. ▪ It is desirable at this early planning stage that potential harm will be avoided through redesigning the proposal. <p>For standard and complex planning proposals, an Aboriginal Heritage Archaeological Assessment is likely required and should include:</p> <ul style="list-style-type: none"> ▪ Preliminary consultation with the relevant Local Aboriginal Land Council to understand intangible cultural heritage and identify areas requiring further assessment or consideration. ▪ Identification of potential areas, objects, places or landscapes of heritage significance to Aboriginal culture and people that may potentially constrain future land-use planning: <ul style="list-style-type: none"> ▫ Undertake an AHIMS search to determine the
b) Strategic land use plan or policy	
c) Localised site specific LEP amendment	
d) Localised planning proposal	
e) Masterplan	

Type of strategic/policy	What is required
	<ul style="list-style-type: none"> ▫ presence and location of any registered Aboriginal objects or places ▫ Background research and an archaeological field survey ▫ assessment of the archaeological potential of the study area ▫ impact assessment (based on indicative concept plan) <p>The assessment should be undertaken in accordance with the following:</p> <ul style="list-style-type: none"> ▪ Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (OEH 2010) ▪ Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 (DECCW 2010) ▪ Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010)

6.2 Development without consent

6.2.1 Is my proposal 'exempt' development?

Planning background

Development with minor impacts may be considered 'exempt' and does not require consent under Part 4 of the EP&A Act. The development is required to meet specific standards and land requirements to be considered 'exempt'. These requirements are outlined in various EPIs including:

- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP (Exempt and Complying))
- State Environmental Planning Policy (Housing) 2021 (SEPP(Housing))
- State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP (Transport and Infrastructure))
- Schedule 2 of the Cessnock Local Environment Plan 2011 (Cessnock LEP 2011)

If the proposal cannot meet the development standards outlined in the relevant EPI for the development type, then an approval is required (See **Section 6.3.1** Complying Development or **Section 6.3.2** for Development with Consent).

Exempt development and Aboriginal cultural heritage assessment

There remains variation in the planning terminology when referring to Aboriginal cultural heritage. SEPP (Exempt and Complying) refers to 'environmentally sensitive areas' as

- Land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance (s 1.5)

The Cessnock LEP 2011, in relation to Aboriginal heritage conservation, refers to Aboriginal place of heritage significance as:

- An area of land, the general location which is identified in an Aboriginal heritage study adopted by the Council after public exhibition, and may be shown on a heritage map, that is:
 - a) The site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and scared trees and sharpening grooves or
 - b) A natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

For the purposes of this management plan 'high Aboriginal cultural significance' (as part of environmentally sensitive areas) has the same meaning as 'Aboriginal place of heritage significance'.

The application of Aboriginal cultural heritage assessment varies for 'exempt' development depending on the EPI used or, in the case of SEPP (Exempt and Complying), the development code type. For example, Subdivision 16 Earthworks, retaining walls and structural support is excluded as 'exempt' development if located in an environmentally sensitive area while Subdivision 24 Landscaping structures is not excluded as 'exempt' development if located in an environmentally sensitive area. However, the exempt provisions of SEPP (Transport and Infrastructure) and SEPP (Housing) do not refer to Aboriginal cultural heritage unless they are a listed State or local heritage item (which can be found in the Cessnock

LEP).3

Therefore, it is necessary to carefully read the environmental planning instrument for appropriate interpretation.

Table 8 What is required for exempt development?

The proposal meets the development standard of the EPI	What is required
Yes	The development is low impact and Council does not require development consent or an Aboriginal cultural assessment.
	The proponent should exercise caution by undertaking due diligence in accordance with Section 5.3 of this plan. Exercising due diligence provides a defense against prosecution if the person unknowingly harms an Aboriginal object
No	Development consent is required (See Section 6.3.1 Complying Development or Section 6.3.2 for Development with Consent)

6.2.2 Is my proposal 'permitted without consent'?

Planning background

Part 4 - Environmental Planning and Assessment Act 1979

Development prescribed as low impact is identified in EPIs and do not require an approval from a consent authority under Part 4 of the EP&A Act. These low-impact development types are subject to specific development standards and are identified 'permitted without consent' within an EPI. The EPIs that identify these are

- Cessnock Local Environment Plan 2011 (Cessnock LEP 2011): The

Land Use Table outlines specific land uses for each zone that are 'permitted without consent'.

- State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP (Transport and Infrastructure)): Development types are outlined with specific parts of the development type identified as 'permitted without consent'. SEPP (Transport and Infrastructure) is specific as to whether the identified 'development permitted without consent' can be undertaken by any person or by a public authority. If the development type is undertaken by a public authority the activity is subject to Part 5 of the EP&A Act (see below).

If the development meets the development standards of the EPI and is undertaken by any person, other than a public authority, a development consent is not required under Part 4 of the EP&A Act.

Part 5 Environmental Planning and Assessment Act 1979 - Public authority activities

Part 5 of the EP&A Act generally applies to activities undertaken by public authorities or NSW Government departments. Like Part 4 public authorities can undertake activities 'permitted without consent'. These activities are identified in EPIs including:

- SEPP (Transport and Infrastructure): If the activity type is identified as 'permitted without consent' by a public authority then a Review of Environmental Factors (REF) under Part 5 of the EP&A Act is required to be undertaken;
- State Environmental Planning Policy (Housing) 2021 (SEPP (Housing)): Identifies specific development for Aboriginal Housing Office and Land and Housing Corporation as 'permitted without consent'.

Activities undertaken by a public authority without consent can be self-determined by the same public authority. A REF is relied upon by the determining authority in reaching its decision regarding whether to allow

the proposed activity to be undertaken.

Part 5 Environmental Planning and Assessment Act 1979 - Significant infrastructure

Large or complex infrastructure projects may be 'significant' to the State of NSW. Infrastructure can be identified or declared as either State significant infrastructure (s5.12 of the EP&A Act) or Critical State significant infrastructure (s5.13 of the EP&A Act). If the infrastructure project is identified as 'significant' assessment is undertaken as 'permitted without consent' under Part 5 of the EP&A Act. The EPI that identifies this is

- State Environmental Planning Policy (Planning Systems) 2021
 - State Significant Infrastructure development types - Schedule 3
 - State significant infrastructure specific sites - Schedule 4
 - Critical State significant infrastructure - Schedule 5

The Minister for Planning may also declare projects to be State significant or Critical State significant infrastructure. Significant infrastructure projects are determined by the Minister for Planning under the EP&A Act and generally require the submission of an Environmental Impact Statement.

Development 'permitted without consent' and Aboriginal cultural heritage

Part 4 of the Environmental Planning and Assessment Act 1979

If the proposal by a private proponent meets the land use for the zone under the Cessnock LEP 2011 or the specific development standards under SEPP (Transport and Infrastructure) no further assessment of Aboriginal cultural heritage is required.

Part 5 of the Environmental Planning and Assessment Act 1979

Part 5 of the EP&A Act 1979 requires public authorities/government

departments to consider the impacts from their activities and operations. This consideration is required to be documented in a REF as outlined in the issued guidelines or under s171 of the Environmental Planning and Assessment Regulation 2021.

The environmental factors relevant to the assessment of Aboriginal cultural heritage include:

- Reduction of the aesthetic, recreational, scientific or other environmental quality or value of the locality
- The effects on any locality, place or building that has
- Aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific, or social significance
- Other special value for present or future generations

While these factors are generalized, there is an obligation to consider the impact on Aboriginal cultural heritage when undertaking an activity.

Table 9 Summary of Planning provisions and heritage requirements

Part 4	The proposal meets the criteria of the EPI	What is required
	Yes	<p>The development does not require development consent or an Aboriginal cultural assessment.</p> <p>The proponent should exercise caution by undertaking due diligence in accordance with Section 5.3. Exercising due diligence provides a defence against prosecution if the person unknowingly harms an Aboriginal object</p>
	No	Development consent is required (See Section 6.3.1 Complying Development or Section 6.3.2 for Development with Consent)
Part 5 Public authorities	Yes	<p>A Review of Environmental Factors (REF) is required to be prepared and approved by the public authority.</p> <p>The REF will require an assessment of Aboriginal cultural heritage with due diligence assessment and consideration of intangible cultural heritage (See Section 5.2) included as a minimum.</p>
	No	Development consent is required (See Section 6.3.1 Complying Development or Section 6.3.2 for Development with Consent)
Significant Infrastructure	Yes	Secretary Environmental Assessment Requirements will be issued outlining requirements for Aboriginal cultural heritage assessment.
	No	Development consent is required (Section 6.3.2 for Development with Consent)

6.3 Development with consent

6.3.1 Is my proposal 'complying' development?

Planning background

A proposal may be considered 'complying' development if it can meet specific development standards outlined in an EPI. These EPIs include:

- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP (Exempt and Complying))
- State Environmental Planning Policy (Housing) 2021 (SEPP (Housing))
- State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP (Transport and Infrastructure))
- Schedule 3 of the Cessnock Local Environment Plan 2011 (Cessnock LEP 2011)

If the proposal can meet the development standards outlined in the relevant EPI for the development type, then approval can be obtained by a complying development certificate (CDC). A CDC can be assessed and determined by a certifying authority (Council or a private accredited certifier) without the need for a full development application.

If the proposal cannot meet the development standards outlined in the relevant EPI for the development type, then development consent is required (See **Section 6.3.2** for Development with Consent).

Complying development and Aboriginal cultural heritage

While there is variation in planning terminology in relation to Aboriginal cultural heritage (See **Section 6.2.1** above) SEPP (Exempt and Complying) does not allow for complying development to be undertaken on 'environmentally sensitive areas' (s1.19). However specific development types may be undertaken on 'environmentally sensitive land' such as

Waterway structures (s4A.11).

SEPP (Housing) reflects the same principle as SEPP (Exempt and Complying) in that development on 'environmentally sensitive areas' cannot be undertaken as complying development.

SEPP (Transport and Infrastructure) does not provide an overarching exclusion for complying development for 'environmentally sensitive areas'. Specific development types can be undertaken on 'environmentally sensitive areas' as complying development subject to stop work procedures under the National Parks and Wildlife Act 1974 if Aboriginal objects are discovered. Specific development types cannot be undertaken as 'complying' development if undertaken on a heritage item (which can be found in the Cessnock LEP).

Therefore, it is necessary to carefully read the environmental planning instrument for appropriate interpretation.

Table 10 What is required?

The proposal meets the development standard of the EPI	What is required
Yes	The development is subject to the conditions of the issued Complying Development Certificate and no Aboriginal cultural assessment is required. The proponent should exercise caution by undertaking due diligence in accordance with Section 5.3 Exercising due diligence provides a defence against prosecution if the person unknowingly harms an Aboriginal object The proponent should also adhere to stop work procedures as outlined in the conditions of the CDC.
No	Development consent is required (See Section 6.3.2 for Development with Consent)

6.3.2 Is my proposal 'permitted with consent'?

Planning background

Various land use and development types require approval from a consent authority under Part 4 of the EP&A Act. EPIs identify land uses and development types that are 'permitted with consent'. These EPIs include:

- Cessnock Local Environment Plan 2011 (Cessnock LEP 2011): The Land Use Table outlines specific land uses for each zone that are 'permitted with consent'.
- State Environmental Planning Policy (Housing) 2021 (SEPP (Housing)): Identifies specific types of housing, including secondary dwellings and seniors housing, that require consent.
- State Environmental Planning Policy (Industry and Employment) 2021: Identifies requirements for signage that needs consent.
- State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP (Transport and Infrastructure)): Development types are identified with specific parts of the type identified as 'permitted with consent'.

Larger or more complex development, while requiring consent, may be identified as 'significant' to the State of NSW or a specific region of NSW. These developments are declared under s4.36 of the EP&A Act with the criteria outlined in

- State Environmental Planning Policy (Planning Systems) 2021
 - State significant development types - Schedule 1
 - State significant development in specific areas - Schedule 2
 - Regionally significant development - Schedule 6

Development 'permitted with consent' and Aboriginal cultural heritage

The EP&A Act requires a consent authority to consider several matters when evaluating a development application. These include the likely impact of the development on the environment, both natural and built, and the social and economic impacts in the locality (s4.15).

S5.10(8) of the Cessnock LEP requires the consent authority, if a development is carried out in an Aboriginal place of heritage significance to:

- a) Consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by the means of an adequate investigation and assessment
- b) Notify the local Aboriginal communities, in writing or in such manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

The key objective of any Aboriginal cultural assessment is to ensure an appropriate level of investigation, including consultation with the Aboriginal community, is undertaken.

Table 11 Type of Development and Heritage Requirements

Type of development	What is required
Local development - Development application submitted to Council	<ul style="list-style-type: none"> ▪ Section 5.2 - Identify if there are any known Aboriginal objects and/or places of heritage significance: <ul style="list-style-type: none"> ◦ Exercise Due Diligence (Section 5.3) and/ or ◦ Follow the Avoiding and Justifying Harm to ACH in

Type of development	What is required
State significant or regionally significant development	<p style="text-align: center;">Section 5.4</p> <p>Environmental Assessment Requirements (SEAR) will be issued by the NSW Department of Planning. The SEARs will outline the required process for investigating Aboriginal cultural heritage.</p>

Exceptions

Section 5.10(3) of the Cessnock LEP makes provision for works of a minor nature for heritage conservation to be undertaken without development consent. Development consent is not required if:

- a) The applicant has notified the consent authority of the proposed development, and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development
 - i. Is of a minor nature or is for the maintenance of a heritage item, Aboriginal object, Aboriginal place of heritage significance or archeological site or a building, work, relic, tree or place within the heritage conservation area and
 - ii. Would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance, archaeological site or heritage conservation area

Any notification to Council under Section 5.10(3) of the Cessnock LEP would be required to be supported by appropriate information to support there is no impact to an Aboriginal item or place of heritage significance.

Further information

If you have further questions regarding the permissibility of development contact Cessnock City Council or a suitably qualified planning consultant. If you have further questions regarding Aboriginal cultural heritage and its assessment in relation to development, please contact the appropriate Local Aboriginal Land Council as outlined in Appendix D or contact Cessnock City Council for further advice.

Note: Changes are made to EPIs or new EPIs may come into force from time to time. The general application of this management plan applies but proponents need to be aware of changes. If unsure, please contact Cessnock City Council.

7. MANAGEMENT RECOMMENDATIONS

The following management recommendations for the ACHMP were developed with consideration of the following:

- tangible and intangible ACH and associated cultural (social), spiritual, scientific, historic, aesthetic, and natural values within the LGA;
- comments of Aboriginal community during the development of the Phase 2 Aboriginal Heritage Study and ACHMP;
- requirements of the legislative framework, specifically the *NPW Act*;
- *Collaborate NSW 2017* which set out the obligations and commitments of Councils to Aboriginal people;
- Australian ICOMOS 2013. *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*, the national best heritage practice charter;
- *Hunter Regional Plan 2041*;
- *Cessnock City Council Local Environment Plan, 2011*;
- Cessnock City Council 2022. *Cessnock Community Strategic Plan 2036*.
- Cessnock City Council 2021. *Cessnock City Council Urban Growth Management Plan, 2036*.
- Cessnock City Council 2020. Implementation and Action Plan. *Cessnock Local Strategic Planning Statement 2036*
- Cessnock City Council 2020. *Cessnock City Council Heritage Policy 2020 Revision 2*.

Cessnock City Council 2018. *Cessnock Local Strategic Planning Statement*

2036.

These management recommendations also include a number of opportunities:

- for the recognition of the Aboriginal community's sense of identity: its beginnings, present and potential in the future,
- education programs which assist the Elders to educate and pass on knowledge;
- capacity building and funding to assist with achieving some of the management recommendations within the ACHMP,
- recognition of the significance of Aboriginal cultural heritage throughout the wider community,
- future protection and conservation of highly significant cultural places within existing legislative frameworks,
- opportunities for forging greater partnerships within Cessnock community to protect cultural heritage values, including views and vistas and intangible heritage, such as song lines; and,
- management strategies, processes and procedures for the Aboriginal community, Council staff and the wider community to refer to in relation to the assessment and management of ACH.

7.1 ACH Management Planning

In order to implement the ACHMP and its key actions, the following management recommendations and actions are made for ACH management planning:

Table 12: Recommended actions and implementation plan

Item	Action	Responsibility	Priority	Timeframe
Aboriginal Cultural Heritage Management Plan				
1.	Development of an Aboriginal Cultural Heritage Commitment Statement / Policy by Council.	Council Elected Councillors	High	Immediate
2.	Review of the Memorandum of Agreement (MOA) for ongoing management of ACH between the MOA parties.	LALCs Council	High	Immediate
3.	Review and update current procedures for the consideration and assessment of ACH in development assessment guidelines (where relevant), applications, strategic planning and Part 5 activities, including report templates and processes, including internal guidelines for planning proposals.	Council	High	Immediate
4.	Understand and address the resourcing implications of the ACHMP on Council.	Council Heritage NSW	High	Immediate
5.	Understand and facilitate assistance of the resourcing implications of the ACHMP on the LALCs within the Cessnock LGA.	Council LALCs Heritage NSW	High	Immediate 12 months
6.	Develop a service agreement between Council and LALC(s) for the assessment, management, and referral of ACH.	Council LALCs	High	Immediate and Ongoing
7.	Amendment to the Cessnock Council LEP (2011) to consider the ACHMP actions and recommendations.	Council	Moderate	Short
8.	Development of ACH assessment procedures for internal works and development assessment.	Council	High	Immediate and Ongoing
9.	Council assist the LALC(s) with resourcing and explore opportunities for capacity building.	Council	High	Immediate

Item	Action	Responsibility	Priority	Timeframe
		LALCs		
10.	Training of key staff on the implementation and use of the ACHMP.	Council	Moderate	Immediate
11.	Development of Council Aboriginal Cultural Heritage Mitigation Measures - Standard Working Procedures.	Council	Moderate	Immediate
12.	Development of standard conditions of consent.	Council	Moderate	Immediate
13.	Process for record keeping of ACH assessments as a resource, including processes around cultural restrictions, intellectual property (for example during GIPA/Freedom of information requests).	Council	Moderate	3 months
14.	Incorporate ACHMP requirements into DCP section	Council	Moderate	Medium
ACH Registration and Mapping				
15.	Where a Memorandum of Agreement can be reached to allow for the use of cultural mapping and licensing of AHIMS:	Council, LALCs	High	Immediate
	a) Ensure the mapping of known Aboriginal cultural heritage sites is recognised under Clause 5.10(8) of the applicable LEP.	Council	Moderate	Short
	b) Review interaction of LEP provisions with other planning legislation and policy, i.e. SEPP	Council	Moderate	Short
16.	Collaborate with the State Government agencies for the standardisation of Aboriginal definitions across the suite of SEPPs and other relevant Planning Policy.	Council Heritage NSW Relevant Government Departments	Moderate	Short
17.	Develop a standardised interpretation of definitions, clauses, and mapping standards for proceeding with 'known' and 'predictive' mapping layers as identified in the ACHMP.	Council Heritage NSW Relevant Government Departments	Moderate	Short
18.	Advocating for integration with the E-Planning framework. Ongoing updating of cultural mapping with new sites as they are found and recorded with	Council Heritage NSW	Moderate	Short and Ongoing

Item	Action	Responsibility	Priority	Timeframe
	Council.	Relevant State Government Departments		
19.	Development of mapping procedures and processes for maintaining currency and sensitivity of mapping data in hard and/or electronic versions.	Council	High	Short
20.	Development of mapping procedures for the sharing of new mapping information (currency of information) between Council and LALC(s).	Council	Moderate	Short
21.	Ongoing registration of sites as ACH is updated with Heritage NSW AHIMS, including additional survey of areas where access has been granted by landholders to register new sites.	Council, LALC's, Aboriginal interest groups, DPE	High	Immediate and Ongoing
22.	Consideration to include key Aboriginal sites within the Cessnock Council LEP (2011), such as Tidalik Rock and Mount Yengo for nomination as Aboriginal Places within the NPW Act in consultation with LALC(s).	Council, LALCs, Knowledge Holders	Moderate	Short
23.	Consider, for large clusters of Aboriginal sites which were focal points for Aboriginal occupation to be included in future listing as Heritage Conservation Areas within Schedule 5 of the LEP in the area's future planning and development.	Council, LALCs, Knowledge Holders	Moderate	Medium
24.	Review LEP and SHR listings which are already listed for historical and natural heritage values and including sites identified in thematic history and consultation for ACHMP as having ACH significance.	Council, LALCs, Knowledge Holders	Moderate	Medium
25.	Education, Training and Resourcing			
26.	Incorporate Cultural awareness training into Council-wide induction training.	Council, LALCs, Knowledge Holders	High	Immediate and Ongoing
27.	Incorporate Cultural awareness training into new Councillor training.	Council, LALCs, Knowledge Holders	High	Immediate and Ongoing

Item	Action	Responsibility	Priority	Timeframe
28.	Develop and run (annually) ACH training at appropriate levels for staff that includes content for: <ul style="list-style-type: none"> ▪ Cultural awareness training, management and assessment for Executive level and Managers ▪ Understanding of ACH, procedures and legislative requirements, risk to ACH management and assessment requirements for internal works ▪ Development assessment ACH awareness, identification and management processes for outdoor and works staff. 	Council, LALCs Knowledge Holders	Moderate	Short and Ongoing
29.	Support the role of the LALC(s) with additional assistance from ACHMP commitments including: <ul style="list-style-type: none"> ▪ assistance with liaison with the community and applicants, ▪ manage the ACH management and assessment program, ▪ assist with grant and funding applications for ACH management, ▪ create partnerships between community and Council, consultants, government agencies and businesses for long term ACH management and capacity building to assist LALC(s) and Aboriginal community for resourcing ACH management. 	Council LALCs Knowledge Holders	High	Short and Ongoing
Promotion, Collaboration, Recognition and Engagement				
30.	Educative awareness campaign for the Cessnock LGA community and the development industry.	Council ATSI Committee LALCs	High Advisory	Short
31.	Encourage the historical themes and sites/places identified during the earlier phases of the Aboriginal Heritage Study in the thematic history (Appendix A) to be utilised and developed further within other divisions of Council and community projects. Develop themes and history further with research and community consultation for displays, and opportunistic interpretation projects that may also have overlapping research and use of the thematic history.	Council	Moderate	Medium
32.	Encourage the promotion of oral history with the Aboriginal community.	Council	Moderate	Ongoing
33.	Ensure cultural and intellectual property of cultural knowledge resides with Knowledge Holders and cultural restrictions to knowledge are respected.	Council	High	Ongoing

Item	Action	Responsibility	Priority	Timeframe
34.	Capacity building for cultural tourism and education programs within existing Aboriginal organisations within the LGA. Any cultural tourism programs would need to be developed by, or in consultation with, the local Aboriginal community, following culturally sensitive and appropriate engagement procedures.	Council ATSI Committee, LALCs	Advisory High	1-6 months
35.	During NAIDOC week, National Reconciliation Week and National Archaeology Week, Council, the LALC(s), and the ATSI Committee could consider culturally appropriate stories told by Elders and promotion of cultural heritage management with some ACH sites within the LGA during these events through website material, radio and local media interviews or by placing information on Council and/or individual LALCs websites and social media accounts (Facebook, Twitter and Instagram). These opportunities may assist in connecting stories, people and places and renewing and creating new attachments to these places. During National Archaeology Week, archaeological sites, and places such as Tidilick Rock and Mount Yengo may be appropriate places to highlight and promote in partnership with local archaeologists/heritage consultants, LALC(s) and Heritage NSW.	Council ATSI Committee LALCs	Advisory High	1-6 months
36.	Consider supporting initiatives such as those run by local Landcare groups and Hunter Local Land Services and LALCs to encourage private landholders to provide access for future cultural heritage surveys and to develop relationships with Aboriginal community organisations and LALCs to record sites on country.	Council ATSI Committee LALCs	Advisory Moderate	1-6 months
Respecting and Protecting Intangible Heritage Values				
37.	Plan for ample open spaces and parklands, and conservation of native flora and fauna which is integral to Aboriginal cultural landscapes. Aboriginal Places and customs were associated with the resources and form of the natural landscape. Aboriginal Elders within the Cessnock LGA retain important knowledge of how Aboriginal people used and managed the resources, landscapes including native fauna and flora.	Council ATSI Committee, LALCs	Advisory Moderate	Short
38.	Consider Aboriginal Place-naming and street naming to pay homage to Aboriginal languages and the Aboriginal heritage of certain areas and towns.	Council ATSI Committee, LALCs	Advisory High	Ongoing
39.	Consider the adoption of Aboriginal dual names for geographic features within the area that already have names.	Council ATSI Committee,	Advisory High	Ongoing

Item	Action	Responsibility	Priority	Timeframe
		LALCs		
40.	Develop materials to promote and celebrate Aboriginal cultural heritage values where appropriate in landscapes, particularly interpretative signage at parks, and tourism and information centres, utilising Aboriginal language, artwork and cultural knowledge where culturally appropriate.	Council ATSI Committee LALCs	Advisory High	Ongoing
41.	Protect the vistas and views of identified cultural sites as visual connections to place, which are a critical part of their cultural, historical, spiritual, natural, and aesthetic values. The value of both archaeological sites and cultural places is enhanced when intact landscape context is present.	Council ATSI Committee LALCs	Advisory High	Ongoing
42.	Promote and assist with negotiating and creating access to cultural sites for Aboriginal Elders and families. Elders can continue to teach young people about cultural traditions and values, when they are located in places that have good access. Good accessibility involves locations on public land, or on Aboriginal land, or access agreements with private landholders, as well as suitable vehicle, pedestrian and/or disabled access for the elderly.	Council ATSI Committee, LALCs	Advisory High	Ongoing
43.	Celebrate where culturally appropriate the achievements of ACH management and Aboriginal community achievements and connections to place within the Cessnock Council LGA. Sustainable management of Aboriginal cultural heritage values requires a mixture of measures to facilitate and celebrate continuity of cultural diversity and measures to protect and conserve examples of features, or objects that cannot be replaced.	Council ATSI Committee LALCs	Advisory High	Ongoing
44.	Protect and consider cumulative impacts of development on the natural environment and cultural landscape of the Cessnock Council LGA.	Council and Heritage NSW, ATSI Advisory Committee, LALCs	High	Ongoing
Compliance Monitoring and Reporting Ongoing Management, Review/Monitoring Processes				
45.	Set up an ongoing mapping review process to ensure currency of the information, particularly the cultural mapping.	Council	High	Short
46.	Enter into Aboriginal Heritage Licensing Agreements with the LALC(s) to ensure that all AHIMS data pertaining to the Cessnock Council LGA is shared appropriately.	Council LALCs	High	Ongoing and immediate
47.	Assess framework and legal status of approved development consents with assessment undertaken with pre-2011 heritage legislation and applicability of commencement or minor	Council	High	Medium

Item	Action	Responsibility	Priority	Timeframe
	commencement of approval.			
48.	Explore alternate legal frameworks/formats for collaborative agreements between parties for heritage data/documentation	Council, Committee	ATSI Moderate	Short
49.	Set up project monitoring and review process to ensure minimisation of delays and monitor the effectiveness of the ACHMP.	Council LALCs ATSI AC	Moderate	After ACHMP is finalised Short
50.	Develop a strategy to empower the Aboriginal community as custodians partnering (with Council as the consent authority) in the management of ACH.	Council	High	Short and Ongoing
51.	Encourage greater representation of the Aboriginal community on any consultative committee or review of the mapping and ACHMP, which includes women (particularly as any sites close to water are generally women's sites), younger generations of Aboriginal people (in order to ensure new places of attachment for ACH are included) and Elders.	Council	High	Ongoing
52.	Develop a checklist for reviewing Aboriginal Cultural Heritage assessments, with controls to assist that community consultation has been undertaken with correct Traditional Owners consulted, and feedback is recorded accurately, this may be achieved by proponents and consultants submitted a checklist or declaration that consultation has occurred to this effect.	Council	High	After ACHMP is finalised Short

Table 13: Timeframe definitions for management recommendations

Immediate	0-2 Years
Short Term	3-5 Years
Medium Term	5-10 Years
Long Term	10+ Years
Ongoing	For actions that will continue to be implemented for the lifespan of the LSPS.

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APPENDIX A

TANGIBLE AND INTANGIBLE HERITAGE

CARING FOR INTANGIBLE HERITAGE

Management Principles for Intangible Cultural Heritage Places and Values

CULTURAL STORIES AND KNOWLEDGE

Protect and record key cultural stories and knowledge connected to cultural places and landscapes



Prioritise recording cultural stories from Knowledge Holders and connections to places including songlines into cultural mapping. Protect key cultural places through Local Environmental Plan, Aboriginal Place and other heritage nominations where culturally appropriate. Capacity build Aboriginal organisations and assist with funding and resourcing where needed.

VIEWS AND VISTAS - CULTURAL LANDSCAPE

Protecting views and vistas and manage cumulative impacts



Protect the vistas and views of cultural sites as visual connections to place, which are a critical part of their cultural, historical, spiritual, natural and aesthetic values. The value of both archaeological sites and cultural places is enhanced when intact landscape context is present. Protect and consider cumulative impacts of development on the natural environment and cultural landscape of the Cessnock Local Government Area. Plan for ample open spaces and parklands, and conservation of native flora and fauna which is integral to Aboriginal cultural landscapes and important cultural values.

CELEBRATE AND ACKNOWLEDGE - EVOKING ATTACHMENT

Celebrating and Acknowledging Cultural Knowledge and Values and Evoking Attachment



Celebrate and acknowledge values where culturally appropriate with Aboriginal place-naming and street naming opportunities to acknowledge and interpret the Aboriginal history and heritage of certain areas and towns and geographic features. Develop materials to promote and celebrate Aboriginal cultural heritage values in landscapes, particularly interpretative signage at parks, coastal walkways and tourism and information centres, utilising Aboriginal language, artwork and cultural knowledge if culturally appropriate.

RESPECT AND COMMEMORATION

Show respect, acknowledge commemorate past places and traumatic history



Assist with negotiating and creating access to cultural sites for Aboriginal Elders and families. Elders can continue to teach young people about cultural traditions and values, when they are located in places that have good access. Commemorate past places and cultural sites, the narratives of Elders past and cultural stories, where culturally appropriate and where commemoration is respectful and can contribute meaningfully to reconciliation.

Tangible Heritage

"Relates to the physical evidence, the places, objects, sites and material culture that can be touched, observed, quantified and physically recorded"



Culturally Modified Trees
(Scarred Trees)



Aboriginal Axe Grinding Grooves

APPENDIX B

UNEXPECTED FINDS AND STOP WORKS PROTOCOL

Standard Stop Work Procedure for Aboriginal Objects or Places

Heritage and archaeological assessments may fail to identify a heritage issue, and this normally relates to potential (buried) archaeological resources or those that could not be located due to site or survey constraints.

NOTE: That any works which may reveal or disturb archaeological resources require an AHIP from Heritage NSW.

If Aboriginal objects or places are discovered during works, the following procedure should be followed:

ACTION	DETAILS OF ACTIONS
STOP WORK	Stop work immediately. Secure the area
CONTACT AND NOTIFY	<ol style="list-style-type: none"> 1. Contact your field supervisor and/or project officer within Council. 2. Contact relevant Local Aboriginal Land Council/s for the works area, if not on site already. 3. Contact a suitably qualified archaeologist/heritage consultant to assist, if not on site already. 4. Notify Heritage NSW (02) 9873 8500 and email heritagemailbox@environment.nsw.gov.au. 5. Where a potential breach of the NPW Act or a condition of consent of an approval document may have occurred, also contact the Enviroline 131 555 and email heritagemailbox@environment.nsw.gov.au.
ASSESS	The LALC/s, qualified archaeologist/heritage consultant and Heritage NSW will advise on a course of action based on the significance of the resource, which will follow: <ul style="list-style-type: none"> ▪ Record the Aboriginal objects or places and register in AHIMS within 30 days; ▪ Protect and avoid (The area will need to be cordoned off to prevent access and to protect the object. Construction workers and operational personnel will comply with the instructions of the qualified Aboriginal Sites Officer from the relevant LALC/s and/or experienced cultural professional (archaeologist). ▪ Construction may be able to continue at an agreed distance away from the site where no harm can occur to identified or potential Aboriginal objects. Noting that no Aboriginal objects can be moved without an Aboriginal Heritage Impact Permit in place as this constitutes harm under the NPW Act, 1974 and potential prosecution to any party including the Aboriginal Sites Officer.; or ▪ Investigate, excavate, record, and preserve in accordance with legislative and regulatory requirements. An Aboriginal cultural heritage assessment of the object and surrounding locality is to be undertaken.

ACTION	DETAILS OF ACTIONS
	<ul style="list-style-type: none"> ▪ A written report of the archaeologist's findings and recommendations is to be provided to registered Aboriginal parties and the Heritage NSW for their consideration.
APPLY	Apply to Heritage NSW for an AHIP if necessary, with the advice of a suitably qualified archaeologist, heritage
RECOMMENCE	<p>When Heritage NSW and the relevant LALC has approved a course of action in writing, works can recommence.</p> <p>No further works or development may be undertaken at the location until the required investigations have been completed and AHIP permits or approvals obtained as required by the NPW Act and receipt of written authorisation by the relevant area within Heritage NSW. Upon further advice, construction may be able to continue at an agreed distance away from the site.</p>

Please note in the case of the discovery of human remains or suspected human remains, the following actions must also be undertaken.

Standard Stop Work Procedure for Discovery of Human Remains or Suspected Human Remains

ACTION	DETAILS OF ACTIONS
STOP WORK	<p>Stop work immediately</p> <p>The Police must be notified, and all personnel and contractors on site should be advised that it is an offence under the Coroners Act to interfere with the material/remains.</p> <p>If necessary, an appropriately qualified person with expertise in the identification of Aboriginal human remains is to be notified (for example a qualified Aboriginal Sites Officer, forensic anthropologist, archaeologist) if not already present at the location. The area is to be cordoned off to access and to protect the remains. Construction workers and operational personnel will comply with the instructions of the qualified person.</p>
CONTACT AND NOTIFY	<ol style="list-style-type: none"> 1. Contact your field supervisor and/or project officer. 2. ? 3. Contact and notify Heritage NSW and Enviroline 131 555 and Council on 02 4993 4100 and the relevant Local Aboriginal Land Council.
ASSESS	<p>The relevant LALC and Heritage NSW will advise on a course of action based on the significance of the resource, which will follow:</p> <ul style="list-style-type: none"> ▪ ?

ACTION	DETAILS OF ACTIONS
	<ul style="list-style-type: none"> ▪ Protect and avoid. ▪ Record and protect; or <p>Investigate, excavate, record, and preserve in accordance with legislative and regulatory requirements.</p> <p>An Aboriginal cultural heritage assessment of the remains and surrounding locality is to be undertaken.</p> <p>A written report of the archaeologist/forensic anthropologist's findings and recommendations is to be provided to registered Aboriginal parties and the Heritage NSW for their consideration.</p>
APPLY	Apply to Heritage NSW for an AHIP if necessary
RECOMMENCE	<p>When Heritage NSW, NSW Police and Coroner (if required) has approved a course of action in writing, works can recommence.</p> <p>No further works or development may be undertaken until the required investigations have been completed by NSW Police, Coroner (if required) and Heritage NSW and permits or approvals obtained</p>

Procedure for recording new Aboriginal objects

Registration of any new Aboriginal objects (including human remains if deemed an Aboriginal burial) is required under Section 91 of the NPW Act, 1974 and to comply with the ACHMP. If any new Aboriginal objects are identified on Country, this procedure should be followed to comply with DPC's AHIMS site recording procedures using an AHIMS site card (accessible see link and/or via the recording the digital recording app - <https://www.environment.nsw.gov.au/licences/DECCAHIMSSiteRecordingForm.htm>):

- A photograph of the overview of the location of the artefacts is provided with a flag or object used as a marker
- A photograph of a close up of the artefact (if a stone artefact front and back surface (ventral and dorsal) in its location with a scale (IFRAO scale or measured scale - if not on hand, coin, key, or pen))
- GPS recording of the artefact and site (Latitude and Longitude or grid system (MGA) and grid coordinates - easting and northing taken)
- A description made including the following information:
 - Locational information (closest landmarks, distance from nearby road and how to get to location, where the artefacts are found)
 - Number of artefacts
 - Type of material artefacts are made of
 - Possible age of artefacts
 - Any information known by community and Elders about the artefacts
 - If found in eroded area the approximate extent (length/width) of erosion scour or of the possible site.
- a) Notify LALC/s if artefacts are found to undertake the recording for the find (as above) and email where possible. The Cultural Heritage Officer should also note if there is any restricted cultural information on the artefacts/site and ensure this information is protected/restricted for access in consultation with Traditional Owners/Knowledge Holders within the LALC/s. Information should also be entered into the relevant LALC/s cultural sites database and mapping database considering any access requirements and cultural restrictions.
- The LALC/s Cultural Heritage Officer will liaise with relevant Traditional Owners/Knowledge Holders in the LALC/s regarding future site management and if necessary, Heritage NSW.
- The recording as outlined above including the location of where any material is moved to must be lodged with AHIMS database utilising an AHIMS site card - see link to AHIMS site card at 02 9585 6345 or ahims@environment.nsw.gov.au and Aboriginal Heritage Information Management System NSW Department of Planning and Environment. Knowledge that is culturally restricted can be made on the AHIMS site card as restricted and only permissible and accessible to the public once the Knowledge Holder of the site card provides permission.

APPENDIX C

PHASE 2 ABORIGINAL HERITAGE STUDY (VIRTUS HERITAGE 2021)

This document contains restricted information and has been removed for public exhibition.

APPENDIX D

ABORIGINAL COMMUNITY CONTACT DETAILS

Table 14 Cessnock LGA Local Aboriginal Land Councils.

LALC	Contact Details
Metropolitan LALC	Address: 72 Renwick Street, Redfern NSW 2016. Phone: (02) 8394 9666 Fax: (02) 8394 9733 Website: www.metrolalc.org.au Email: metrolalc@metrolalc.org.au
Mindaribba LALC	Address: 1A Chelmsford Drive, Metford NSW 2323 Postal Address: PO Box 401 East Maitland NSW 2323 Phone: (02) 4015 7000 Website: www.alc.org.au/land_council/mindaribba/ Email: admin@mindaribbalalc.org
Awabakal LALC	Address: 127 Maitland Road, Islington NSW 2296 Postal Address: PO Box 101, Islington NSW 2296 Phone: (02) 4965 4532 Website: www.awabakallalc.com.au Email: culture@awabakallalc.com.au
Darkinjung LALC	Address: 168 Pacific Hwy, Watanobbi NSW 2259 Phone: (02) 4351 2930 Website: www.darkinjung.com.au Email: darkinjung@dlalc.org.au
Biraban LALC	Address: 93-97 Main Road, Speers Point NSW 2284 Postal Address: PO Box 143, Boolaroo NSW 2284 Phone: (02) 4950 4806 Website: www.birabanlalc.com.au Email: info@birabanlalc.com.au
Wanaruah LALC	Address: 17-19 Maitland Street, Muswellbrook NSW 2333 Postal Address: PO Box 127, Muswellbrook NSW 2333 Phone: (02) 6543 1288 Website: www.alc.org.au Email: wanaruah@bigpond.net.au



CESSNOCK LGA
2025 

COMMUNITY ENGAGEMENT STRATEGY



CESSNOCK CITY COUNCIL



Journey Through Time, created by local school students and artist Steven Campbell.

Acknowledgement of Country

Cessnock City Council acknowledges that within its local government area boundaries are the traditional lands of the Wonnarua people, the Awabakal people and the Darkinjung people. We acknowledge these Aboriginal peoples as the traditional custodians of the land on which our offices and operations are located, and pay our respects to Elders past and present. We also acknowledge all other Aboriginal and Torres Strait Islander people who now live within the Cessnock Local Government Area.

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About this strategy

Introduction

We work with our community in a meaningful way, making sure they are at the centre of everything we do. It is our responsibility to support our community's right to access information, be consulted, and actively take part in Council's planning and decisions.

Positive and purposeful communication and engagement with our community brings many benefits, like strengthening relationships, gaining support, and increasing awareness and participation in our programs, projects, activities, and services.

The Community Engagement Strategy (the Strategy) outlines our commitment to community engagement and sets a strategic direction to increase opportunities for meaningful participation.

We want our community to know that we are here with them, making decisions and implementing plans for the future of our community.

This Strategy supports us in undertaking effective community engagement and being more responsive to our community. Our goal is to deliver strategies, services, projects, and programs that help achieve our community's aspirations for the Cessnock Local Government Area.

The Strategy provides a framework to support the development of our strategies, including our Community Strategic Plan, which identifies the community's main priorities and aspirations for the future and identifies ways of achieving these goals.

The Strategy incorporates objectives, actions, and guidelines to ensure continual improvement of our practices. Informed by our community, this Strategy reflects our commitment to communicate and engage in ways that best suit the diverse communities that call the Cessnock Local Government Area home.



What is Community Engagement?

Community engagement is about involving people in the decisions that impact their lives and surroundings. It's an ongoing and proactive process that promotes open discussion and opportunities for participation and influence in decisions. Engaging the community can take many forms, ranging from providing information to actively involving people in decision-making processes.

Council believes that everyone has the right to be informed and have a say on projects that matter to them or affect their daily lives. Effective community engagement helps Council understand community views and values better, leading to more informed decision-making and improved services.

By working together, we can create a more inclusive and responsive local government, reflecting the needs and aspirations of our community.



Integrated planning & reporting



The framework

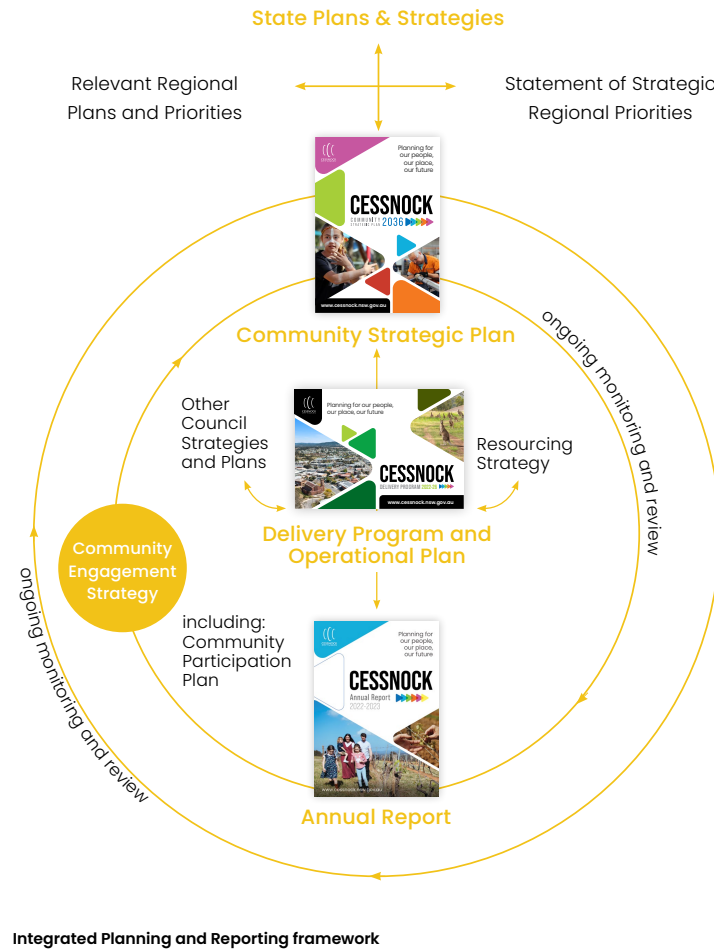
When we communicate and engage with our community, we do so within a strategic planning framework (see page 11) that guides how we plan and deliver services. This framework, called the *Integrated Planning and Reporting Framework*, is established by the Office of Local Government.

This framework ensures that our daily activities align with our community's long-term goals and aspirations. It also helps to ensure that resources are allocated appropriately and that the community receives regular, transparent updates on our progress.

Legislative requirements

The *Local Government Act 1993* requires Council to establish and implement a Community Engagement Strategy for consulting the local community when developing plans, policies, and programs, and for determining its activities, excluding routine administrative matters.

The *Environmental Planning and Assessment Act 1979* also mandates that councils outline how and when the community will be engaged in planning functions, such as policy-making and assessments.





What our community told us



64k
visits to Together Cessnock
(All time July 2022 –
November 2024)



13.9%
Online
engagement rate



49
Engagement Pop ups and
events for face to face
conversations in 2024



Throughout 2024, Council engaged extensively with the Cessnock community as part of our work on the Together Cessnock 2035 Community Strategic Plan. During this engagement, the community shared how they would like Council to involve them in our projects.

I do not feel that the community concerns are taken on board.

I think the walk and talk idea is awesome! Sometimes it's hard to clearly explain what your concern is. By getting Council staff out in the community with residents it can help explain challenges better and means better outcomes can be achieved.

You need to demonstrate how the community has influenced the decisions.

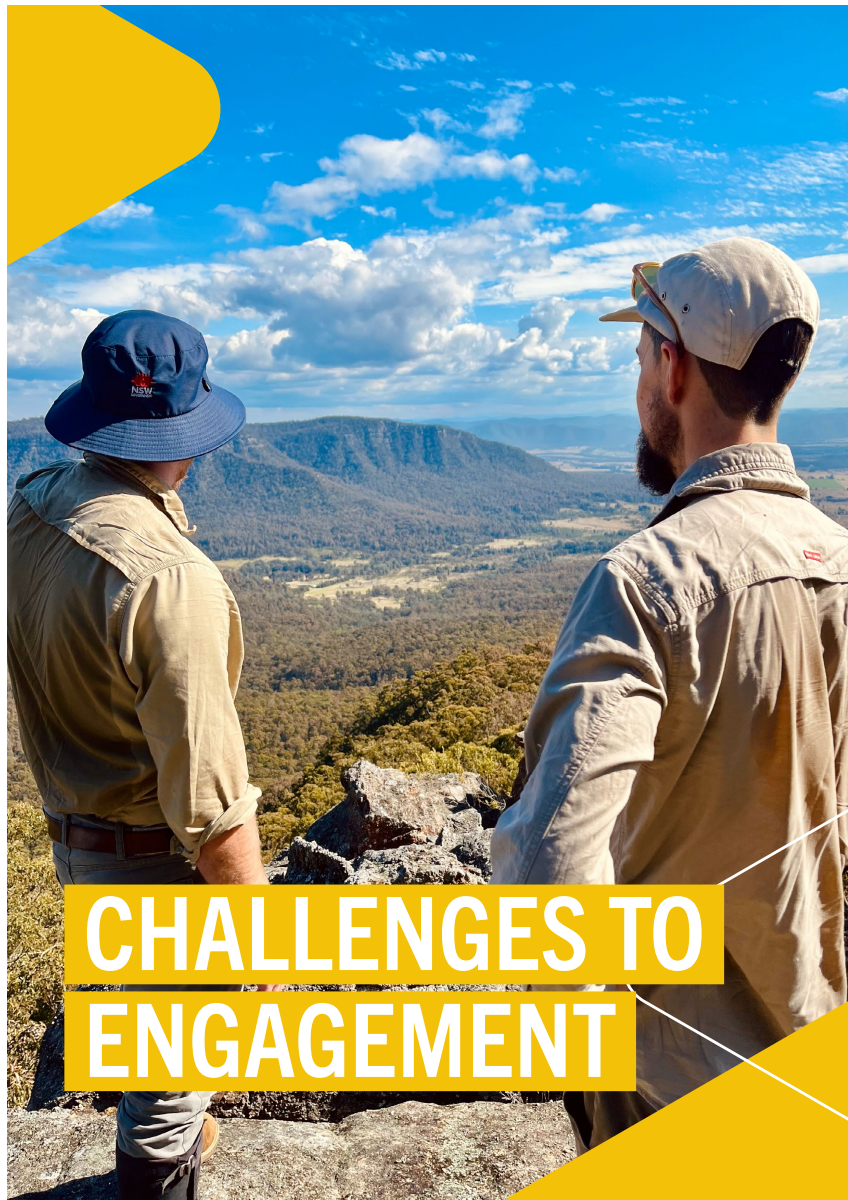
The opportunities that I have seen offered for community engagement have been at very short notice.

Very good posters and maps.

Improved transparency and a commitment to truly listening to residents would go a long way in building trust and ensuring that Council actions reflect the needs and desires of the community.

Unless you are signed up to this site you don't always hear about things.





Challenges to engagement

These challenges came to light through conversations with our community during the Community Strategic Plan engagement, input from Council staff, and lessons learned from past projects. They highlight areas we can improve to make engagement more effective and meaningful for everyone.

Lack of trust

What we'll do: Be transparent, provide timely and accurate information, and close the loop on engagement projects so stakeholders know we're listening and understand how their input is used.

Engagement fatigue

What we'll do: Stagger engagement, or coordinate engagement activities for projects sharing audiences, where possible, to reduce the risk of the community and key stakeholders feeling saturated.

Inclusive, accessible & available

What we'll do: Ensure communication is clear, easily accessible, and user-friendly. Conduct engagement in accessible locations using both online and offline methods to reach a wider audience.

Setting and meeting expectations

What we'll do: Provide clear context and scope for engagement activities to help manage community expectations and clearly define engagement goals.

Internal engagement

What we'll do: Initiate early and have ongoing discussions with Council staff about engagement opportunities to foster collaboration and internal support.



Stakeholders

In our community engagement process, it is central to identify and understand the key stakeholders who could be impacted by or have an interest in a decision. These stakeholders play an essential role in participatory decision-making, shaping the places where we live, work, play, and create. There are roles for both Council and the community in initiating, leading, participating in, and delivering engagement activities.

We are committed to ensuring that the voices of Aboriginal and Torres Strait Islander people are included in our engagement process. Engagement with these communities will be undertaken in line with our Aboriginal and Torres Strait Islander Community Action Plan and guided by our Aboriginal and Torres Strait Islander Committee.

Key stakeholders

RESIDENTS AND RATEPAYERS	Individuals who live in and/or pay rates in the Cessnock Local Government Area.
COUNCILLORS	Elected representatives who serve the Cessnock community at a local level.
LOCAL ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITIES	Including local Aboriginal land councils, elders, representative bodies and Aboriginal and Torres Strait Islander Organisations.
STATE AND FEDERAL MEMBERS	Elected representatives who serve the community at state and federal levels.
GOVERNMENT AGENCIES	Including relevant departments such as the Department of Planning, Housing and Infrastructure, Department of Climate Change, Energy, the Environment and Water, Transport for NSW, Department of Communities and Justice, NSW Health, Office of Local Government, Destination NSW, Create NSW, and NSW Office of Sport.
COMMUNITY-CENTERED COMMITTEES AND ADVISORY PANELS	Such as youth advisors, access and inclusion panels, and other groups that provide insights and advice on community matters.
LOCAL BUSINESS COMMUNITY	Business owners, Business chambers, associations, development industry, investors and networks active in the Cessnock Local Government Area.



COMMUNITY, SPORTING, CULTURAL, VOLUNTEER, AND ENVIRONMENTAL GROUPS	Organisations with a specific interest or involvement in local activities and services.
SCHOOLS AND EDUCATIONAL SERVICES	Including local schools, TAFE, and other educational institutions.
HEALTH AND WELLBEING SERVICES	Organisations providing health and wellbeing services to the community.
NEIGHBOURING COUNCILS AND REGIONAL BODIES	Collaboration with neighbouring councils and regional organisations.
VISITORS AND TOURISTS	Individuals and groups who visit the Cessnock Local Government Area.
LOCAL MEDIA	Media organisations that report on and inform the community about local issues and events.
OUR EMPLOYEES	Council staff who play a critical role in delivering services and engaging with the community.



Roles and responsibilities

Council staff

All Council staff play a vital role in identifying opportunities for community engagement within their work areas. They are responsible for actively seeking the views of stakeholders who are affected by or interested in projects, and considering this input impartially in their decision-making processes. Council staff must also ensure that participants are informed about how their feedback was used and the final outcomes of the process. A toolkit is available to help staff design effective engagement processes.

Community Engagement Team

The Community Engagement Team leads the planning, coordination, and delivery of engagement activities across Council. They support staff by providing resources, guidance, and training on best practices in community engagement. The team also monitors the effectiveness of engagement strategies and ensures that feedback is collected, analysed, and communicated back to the community.

Councillors

The role of each Councillor in implementing the Strategy is to represent the interests of ratepayers and residents, facilitate open communication between the community and Council, and thoughtfully consider the results of community engagement processes when making decisions at Council meetings.

Community

The community is encouraged to actively participate in engagement opportunities, staying informed about these chances to contribute. Community members should carefully consider the information provided, engage respectfully in activities, share their views, and offer feedback to Council on the engagement process.

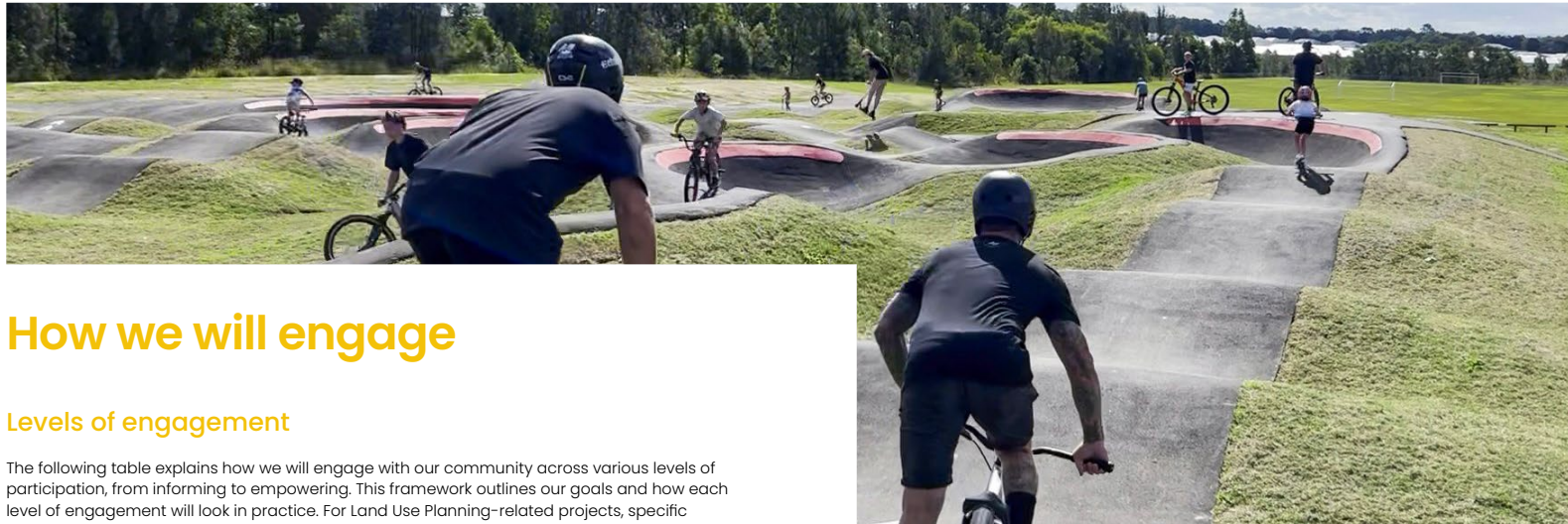
General Manager

The General Manager is responsible for overseeing the preparation of the Community Strategic Plan and Integrated Planning and Reporting documents, ensuring they are endorsed by the elected Council. It is also their duty to make sure that community members have the necessary information to participate meaningfully in the Integrated Planning and Reporting process.



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How we will engage

Levels of engagement

The following table explains how we will engage with our community across various levels of participation, from informing to empowering. This framework outlines our goals and how each level of engagement will look in practice. For Land Use Planning-related projects, specific exhibition timeframes are outlined in the Community Participation Plan.

PURPOSE	INFORM	INVOLVE	COLLABORATE	EMPOWER
OUR GOAL	We will keep you informed	We will listen to, acknowledge and consider your concerns	We will look to you for advice and innovation and incorporate this in decisions as much as possible	We will implement what you decide
COMMUNITY'S ROLE	Keep in touch and seek out information on items of interest	Contribute ideas and feedback based on your experiences and interests	Participate in the engagement process by sharing ideas, concerns and aspirations and collaborating with us to implement agreed decision	
HOW IT LOOKS	<ul style="list-style-type: none"> • Letterbox drops • Postcards Posters/signage Social • Media Posts • Websites • Newsletters (physical/digital) • Project Updates (physical/digital) 	<ul style="list-style-type: none"> • Town Hall Meetings (physical/digital) • Polls • Surveys • Digital Mapping • Pop up stalls • Formal submissions • Interviews • Project walk and talks • Call centre hold cue survey 	<ul style="list-style-type: none"> • Polls • Surveys • Digital Mapping • Pop up stalls • Formal submissions • Workshops • Digital Forums • Working groups Advisory committees 	<ul style="list-style-type: none"> • Polls • Surveys • Digital Mapping • Pop up stalls • Formal submissions • Workshops • Digital Forums • Working groups • Project Steering Groups



How we listen and get back to you

After gathering input, our staff carefully consider your feedback and recommend the next steps or outcomes. To ensure transparency and keep you informed, we'll take the following actions to close the loop:

Project page updates

We'll update the project page on the Together Cessnock website with a summary of the engagement outcomes and outline the next steps.

Direct communication

If you've provided feedback, we'll send you an email with the consultation outcomes and a link to the project page.

Reporting back

When a matter has been out for community consultation or public exhibition and results in a report to the Council, the report will include a summary of the community engagement, detailing the methods used, participation statistics, and key feedback received. An attachment summarising submissions and providing staff responses will also be included.

For strategies, masterplans, and other projects that are endorsed by the General Manager rather than being reported to Council, outcomes and feedback will still be communicated to the community. This will be done via updates on the Council website, emails to participants, newsletters, or other appropriate channels to ensure transparency and close the loop with stakeholders.

Outcome notifications

Following a decision being made, we'll notify everyone who provided feedback about the outcome. We'll also update the project page and include the results in our community engagement newsletter, ensuring you stay informed every step of the way.

Evaluation

To ensure that our community engagement efforts are effective and meaningful, we evaluate them by considering several key factors:

Participation levels

We look at how many people took part in engagement activities, taking into account the nature and scope of the project.

Community feedback

We gather verbal and written feedback from the community on how effective our engagement activities have been.

Relevance of feedback

We assess the relevance and depth of the responses we receive in relation to the program or project at hand.

Achievement of objectives

We measure how well we've met the engagement principles and objectives outlined in this strategy.

Appropriateness of methods

We evaluate whether the engagement methods used were suitable for the stakeholders involved.

Inclusivity

We assess whether our engagement represented the diversity of our community.



Action Plan

To continue to improve how we engage with our community, and based on the feedback we have received, we have set four objectives to guide us.

Engagement culture:

Support a culture of community engagement within the Council, emphasising the importance of community input in decision-making.

- Encourage teams across Council to plan and budget for community engagement as part of their activities.
- Provide staff with support and training in the IAP2 framework, ensuring they have the skills to engage effectively.
- Implement a system for regularly collecting feedback from staff and community members on engagement activities, and use this feedback to improve future practices.
- Develop a recognition program to celebrate staff who demonstrate excellence in community engagement.
- Embed engagement into the planning phases of projects to ensure community input is considered for all projects with high community impact.
- Ensure senior leadership communicates the importance of community engagement and leads by example through active participation.
- Create and support a message board for internal staff to share insights experience, tools, and best practices.
- Develop case studies of successful engagement projects to share through internal communications, highlighting effective strategies and lessons learned.



Honest conversations

Facilitate honest and open conversations with the community, promoting mutual respect and understanding.

- Develop and maintain transparent communication channels, such as the Together Cessnock Platform, where community members can ask questions and receive honest, timely responses.
- Publish reports on community engagement activities, detailing what the community said, and how it influenced Council decisions.
- Schedule dedicated engagement sessions focused on specific issues or projects, enabling in-depth discussions and honest feedback.
- Clearly communicate any limitations or constraints on Council's actions and decisions to manage expectations and build understanding.
- Continue to conduct the customer satisfaction survey every 2 years to gather insights on community perceptions and engagement effectiveness.
- Regularly communicate the connection between Council operations and the Community Strategic Plan, ensuring community understanding of Council's broader objectives.

Relationship building

Strengthen and build positive relationships with the community, fostering trust and collaboration.

- Provide easy-to-understand FAQs for engagement projects, ensuring clarity and accessibility of information.
- Use a diverse range of engagement methods, combining digital and face-to-face interactions where appropriate, to reach a broader audience.
- Increase the use of video content, featuring staff explaining projects and processes in a relatable way.
- Implement a regular customer service stall at community events to engage directly with residents and answer questions.
- Identify projects requiring engagement in the Operational Plan and ensure they include community consultation.
- Include community engagement requirements during the project design phase to capture public insights early.
- Clearly outline the engagement process for each project, including defined timeframes, so participants know what to expect.
- Work closely with hard-to-reach communities to ensure engagement methods are tailored to their needs, encouraging wider participation.
- Identify and address access barriers for people with disability, ensuring engagement is inclusive and accessible to all.



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Insight and learning

Enhance community understanding of Council's decision-making through clear communication, and use feedback and data to drive continuous improvement.

- Use social media platforms to regularly update the community on Council's decision-making processes, ensuring transparency.
- Provide information in plain language that is easy to understand, making Council decisions and processes clearer for all.
- Use visual content (e.g., infographics, charts, videos) where appropriate to simplify technical information and make it more engaging.
- Conduct interactive webinars where Council members and staff explain recent decisions, share updates, and answer community questions.
- Ensure that all information necessary for understanding decision-making processes is readily available and accessible to the community.
- Consider accessibility needs when planning written communication, and communicate our ability to provide alternative formats when requested to accommodate all residents.
- Develop and share responses to frequently asked questions on key topics, ensuring consistent understanding across the community.
- Continuously gather feedback on the clarity of Council communications and use this data to refine engagement approaches.
- Regularly evaluate engagement projects, measuring factors such as participation levels, community satisfaction, and the impact of feedback on decision-making. Use these insights to refine future engagement approaches and ensure continuous improvement.

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Community participation plan

We firmly believe the community has a right to be informed about planning matters that affect them. Wherever possible, we encourage opportunities for meaningful and effective community participation in land use planning.

Our community participation plan outlines our requirements under planning legislation. It's designed to make it clearer and easier for the community to understand how to participate in planning decisions.

The chapter 'Community Participation Plan for land use planning' includes information on strategic planning, development assessments and how to engage with us on land use planning matters.

Community participation in planning matters is central to the creation of thriving communities through a shared vision.



What is the Community Participation Plan?

The Community Participation Plan (CPP) sets out how and when Cessnock City Council (CCC) will undertake community participation as part of its planning functions.

The CPP has been developed in accordance with the requirements of the [Environmental Planning and Assessment Act 1979 No 203](#) (EP&A Act, 1979), the Local Government Act, 1993 (LG Act, 1993) and Council's Community Strategic Plan 2036.

The CPP identifies legislated public exhibition and notification requirements set out in [Schedule 1 Community Participation Plans](#) of the EP&A Act, 1979 and additional requirements set by Council where planning matters may have a broader community impact. Council may meet these requirements via:

- Written notice to individual landowners or occupiers
- Council's Development Application Tracker
- Announcement on Council's [Together Cessnock](#) website
- Availability of information and documents online or in public places eg Council's administration building, library etc

Where does the CPP apply?

The CPP applies to the whole CCC Local Government Area and to activities under the [Environmental Planning and Assessment Act 1979 No 203](#) that are being assessed by CCC. All other NSW planning authorities are required to prepare their own CPP.

The CPP is supported by Council's Community Engagement Strategy, which may be used to enhance the minimum requirements set out in this Plan.



What planning matters are covered by the CPP?

The CPP covers planning matters including policy, plan making, planning agreements, development controls and assessments, as defined below.

Community Participation Plan (this document) outlines how and when Council engages with the community on land use planning matters.

Complying Development is a combined planning and construction approval for straightforward development that meets the pre-specified requirements and are eligible for fast-track approval, without the need for a full development application.

Contributions Plans are prepared by councils to levy new development to fund additional or improved local, public services and infrastructure needed by the development and used by the whole community.

Council-related development means development for which the Council is the applicant developer (whether lodged by or on behalf of Council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority.

Development Application is a formal request for consent under the EP&A Act, 1979. It is required to change the use of land, subdivide land, carry out building, landscaping and other work unless what is proposed is considered exempt development.

Development Assessment is the evaluation of an application proposing new development in the Cessnock Local Government Area.

Development Control Plans are guidelines prepared by councils that describe the preferred way to undertake development that is enabled by a Local Environmental Plan to get good planning and design outcomes and manage impacts.

Local Environmental Plans are the local planning laws prepared by councils but approved by the NSW Government. They set out what development can take place where, the maximum height and density of development, and what places need to be protected for their heritage value. They are amended by preparing a Planning Proposal.

Local Strategic Planning Statement sets a vision for the planning direction of the Cessnock Local Government Area for 20 years. The planning priorities outlined within the planning statement reflect future land use directions based on the themes: liveable, productive, sustainable and unique.

Planning Agreement a voluntary legal agreement between a developer and a planning authority and is usually negotiated when a developer is submitting a development application or planning proposal.

Planning Proposal is a document and supporting information that explains the intended effect and justification of a proposed Local Environmental Plan or an amendment to a Local Environmental Plan.

Strategic Planning includes long term policy and plan making.

Structure Plans/Place Strategies provide guidance and principles for the future development of an area by coordinating strategic planning objectives, staging requirements and delivery of essential infrastructure in line with the vision and goals of the area.

Important things to consider

Privacy

Council is committed to safeguarding the privacy of individuals and handling of personal information in accordance with the [Privacy and Personal Information Act 1998](#) (NSW) and [Information Privacy Principles](#), the [Health Records and Information Privacy Act 2002](#) (NSW) and [Health Privacy Principles](#), and any subordinate legislation.

Submissions are not kept confidential. Council releases submissions when a request is made in accordance with the relevant provisions under the Government Information (Public Access) Act 2009. When a submission is released by law, Council routinely withholds names, contact numbers, email addresses and signatures.

Should you wish for all personal details or any information that may identify you to be withheld from the public, this should be clearly stated in your submission. The supply of personal information with your submission is voluntary, however the submission will not be considered for Development Assessment purposes.

Copies of submissions may be forwarded to the applicant or proponent seeking that they address the issues raised in the submissions, by way of comments or amendments to the proposed application or plan. Submission may be shared with other government agencies associated with the project. Personal information will be kept in Council's Information Management System in accordance with the relevant legislation. If making a submission through Council's webpage, your information will also be held by EngagementHQ and Council recommends you read their privacy statement.

The information collected will be used for the purpose outlined in the notification, related administrative functions, compliance and complaint handling, internal auditing, and in accordance with Council's [Privacy Management Plan](#) and [Privacy Statement](#) which can be found on Council's website. The intended recipients of the personal information are relevant Council officers and submission may be included, with personal information redacted, in a council report that will be published in the public domain.

To access, correct or update personal information:

- Visit [Council's website](#);
- Contact Council's Privacy Contact Officer on **4993 4100**, or
- Email council@cessnock.nsw.gov.au.

For more information about Council's obligations regarding personal information or personal rights, contact the [Information and Privacy Commission](#) or visit their website ipc.nsw.gov.au.



Making a submission

Any individual or organisation can make a submission during the public exhibition period. Submissions must be made in writing, include the address or application number or the name of the exhibited planning matter and submitted to Council via:

Mail: PO Box 152, CESSNOCK NSW 2325; or

Email: council@cessnock.nsw.gov.au; or

Dropped into the Cessnock City Council Administrative building: 62-78 Vincent Street, Cessnock NSW 2325; or

Have your Say Webpage: <https://together.cessnock.nsw.gov.au/>; or

Via the Application tracker (Development Applications only): <http://datracker.cessnock.nsw.gov.au/>; or

Via the NSW Planning Portal: <https://www.planningportal.nsw.gov.au/>

The submission must contain the author's name and address, and their contact details, including a return email or postal address. This will allow acknowledgement letters to be sent.

If you require assistance with your submission, Council's Customer Service Team can assist at the front counter.

Objections Vs Submissions

There is a difference between a submission and an objection. However whether supporting or objecting to a proposal, the following minimum standards apply to all submissions:

- It must be received within the designated public exhibition period, and
- It must include the author's name and address.
- Must include clear reasons as to why the author objects to the proposed development; or alternatively, must include clear reasons as to why the author supports the proposed development.

What is an Objection?

An objection must contain clear reasons as to why the author objects to the proposed development or plan. An objection is NOT:

- A submission that only seeks clarification in respect of a proposal;
- A submission that is in support of a proposal;
- An anonymous submission; or
- A submission that is indifferent to a proposal

How are Objections counted / considered?

- Multiple submissions from one household are considered one objection.
- One petition is considered one objection, notwithstanding the number of individual signatures contained in the petition.
- In the event multiple submissions in the form of pro-forma letters are lodged, each pro-forma letter is considered one objection, but only if the submission clearly addresses the other requirements prescribed in this section of the CPP.

Petitions

Where a petition is received, the person who submits the petition to Council will be acknowledged as the point of contact for all future correspondence on the progress of the application/project.



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Important public exhibition information

- Timeframes for all public exhibition are in calendar days and include weekends, exclusive of Planning Proposals which are in working days.
- If the nominated exhibition period is due to close on a weekend or public holiday Council will extend the exhibition to finish on the first available work day, this will be explained in all correspondence relating to the exhibition.
- The period between 20 December and 10 January (inclusive) is excluded from the calculation of a period of public exhibition.
- A public authority is not required to make available for public inspection any part of an Environmental Impact Statement whose publication would, in the opinion of the public authority, be contrary to the public interest because of its confidential nature or for any other reason.

Conflict of Interest in Council-related Development Applications

- A council-related development application must be accompanied by a management strategy, being a statement specifying how CCC will manage conflicts of interest that may arise in connection with the application because the council is the consent authority, or a statement that the council has no management strategy for the application.
- A council-related development application must not be determined by the consent authority unless the council has adopted a conflict of interest policy and considers the policy in determining the application.



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Minimum exhibition / notification periods and formats – Strategic Planning

Table 1 below identifies the minimum timeframes for the public exhibition of Strategic Planning matters. The timeframes for matters denoted by an asterisk (*) are legislated by the EP&A Act, 1979. The remaining matters are considered best practice timeframes for public exhibitions.

Table 1 also outlines how Council will notify the community of the commencement of the exhibition period.

Table 1: Minimum public exhibition periods for plans

PLANNING MATTER	PUBLIC EXHIBITION TIMEFRAME	EXHIBITION/NOTIFICATION FORMAT
Draft Community Participation Plans*	28 days	Council's <i>Have Your Say</i> website - Together Cessnock
Draft Local Strategic Planning Statements*	28 days	Council's <i>Have Your Say</i> website - Together Cessnock
Planning Proposals* for local environmental plans subject to a Gateway determination	<p>a. If the Gateway determination for the proposal specifies a period of public exhibition—the period so specified, or</p> <p>b. If the Gateway determination for the proposal specifies that no public exhibition is required because of the minor nature of the proposal—no public exhibition, or</p> <p>c. Otherwise—28 days.</p>	Council's <i>Have Your Say</i> website - Together Cessnock , NSW Planning Portal, in writing to affected and adjoining landowners where practicable
Draft Development Control Plans*	28 days	Council's <i>Have Your Say</i> website - Together Cessnock
Draft Contribution Plans*	28 days	Council's <i>Have Your Say</i> website - Together Cessnock

PLANNING MATTER	PUBLIC EXHIBITION TIMEFRAME	EXHIBITION/NOTIFICATION FORMAT
Draft Planning Agreements*	28 days	Council's <i>Have Your Say</i> website - Together Cessnock
Reclassification of land*	<p>28 days or</p> <p>a. If a different period of public exhibition is specified in the Gateway determination for the proposal—the period so specified, or</p> <p>b. If the Gateway determination specifies that no public exhibition is required because of the minor nature of the proposal—no public exhibition, and a public hearing to occur after the conclusion of the public exhibition</p>	Council's <i>Have Your Say</i> website - Together Cessnock , NSW Planning Portal
Draft policies or guidelines	28 days	Council's <i>Have Your Say</i> website - Together Cessnock
Public Domain Plans, Masterplans and similar plans for urban renewal, structure plans, place strategies	28 days	Council's <i>Have Your Say</i> website - Together Cessnock
Re-exhibition of any matter referred to above	As per the original exhibition period.	Council's <i>Have Your Say</i> website - Together Cessnock

Notwithstanding the timeframes above, Council may choose to extend the public exhibition period relating to any proposal should the scope of the project be determined to require it, or should the elected representatives resolve to do so.

Additionally, Council may use other optional exhibitions/notification formats such as newspaper/written media, hardcopy viewing at other venues, social media, drop in consultation sessions, workshops and community meetings, advisory panels or reference groups or others, determined at the discretion of Council staff and based on the scale of the planning matter.



Minimum exhibition / notification periods and formats – Development Assessment

Council is not the only consent authority for development applications in the Cessnock Local Government Area. Regional development is determined by the Hunter and Central Coast Regional Planning Panel. State Significant Development and state significant infrastructure is assessed by the New South Wales Minister for Planning or delegate.

In addition, Private Certifiers are able to approve certain types of development as **Complying Development** under the *State Environmental Planning Policy (Exempt and Complying Development) Code 2008*.

Where Development Applications are assessed by Council, notification is sent in writing to adjoining landowners and additional properties at Council discretion / where practicable.

Table 2 identifies the minimum timeframes for the public exhibition of Development matters. The timeframes for matters denoted by an asterix (*) are legislated by the EP&A Act, 1979. The remaining matters are considered best practice timeframes.

Where a development type is not addressed in Table 2, Council will defer to Schedule 1 Community Participation Plans of the EP&A Act, 1979 and the associated EP&A Regulations.

Any development application that is amended under section 37 of the Environmental Planning and Assessment Regulation 2021, that requires re-exhibition under section 23 of the EP&A Act 1979, must be exhibited in accordance with Table 2. The regulations may specify the circumstances in which a plan or other matter is required or not required to be re-exhibited. Re-exhibition is not required if the environmental impact of the development has been reduced or not increased.

Table 2 also outlines how Council will notify the community of the commencement of the exhibition period.

Table 2: Minimum public exhibition periods for development applications and other matters where CCC is the consent authority

Table 2: Minimum public exhibition periods for development applications and other matters where CCC is the consent authority

APPLICATION TYPE	LEGISLATED TIMEFRAMES	EXHIBITION/NOTIFICATION FORMAT
Application for development consent other than for a complying development certificate, for designated development, for nominated integrated development, for threatened species development or for State significant development	14 days	Notification in writing (discretionary), Council Development Application Tracker
Council-related development	28 days	Notification in writing (discretionary), Council Development Application Tracker
Application for development consent for Designated Development	28 days	Notification in writing (discretionary), Council Development Application Tracker , site notice, viewing at other venues (where practicable)
Application for modification of development consent that is required to be publicly exhibited by the regulations	14 days	Notification in writing (discretionary), Council Development Application Tracker
Environmental impact statement obtained under Division 5.1	28 days	Council Website (including application tracker)
Threatened Species Development	28 days	Council Website (including application tracker)
Nominated Integrated Development	28 days	Notification in writing (discretionary), Council Development Application Tracker
Complying Development	Only where required by relevant provisions in the EP&A Regulations	

Development Assessment not requiring exhibition

[Schedule 1 Community Participation Plans](#) of the EP&A Act, 1979 allows Council to identify types of development applications that will not require public exhibition.

Public exhibition will not be carried out for the following development types, except where the development application proposes a variation to a development standard under Clause 4.6 of Cessnock Local Environmental Plan 2011 (CLEP), or is for works on a **heritage item** or in a **heritage conservation area** as outlined by the CLEP.

1. The application is for a **temporary use** as outlined in clause 2.8 of Cessnock Local Environment Plan 2011 in cases where the number of participants and spectators is less than 2000 people.
2. The application is for subdivision for the purpose of:
 - a. Boundary adjustments; or
 - b. A dual occupancy under Clause 4.1C of the Cessnock Local Environment Plan 2011; or
 - c. A strata subdivision; or
 - d. A subdivision of no more than two (2) lots in a residential zone; or
 - e. A subdivision of no more than five (5) lots in an employment zone.
3. Development is for a new **dwelling house** and additions to a dwelling house, provided that the development:
 - a. Is a maximum of two storeys;
 - b. Is a maximum height of 8.5m from the existing ground level; and
 - c. Is setback a minimum of 900mm from the property boundary.*
4. Ancillary development,** excluding outbuildings exceeding the height of the equivalent Complying Development standard.
5. Development is for a **dual occupancy** or **secondary dwelling** and is located within the R1 General Residential, R2 Low Density, R3 Medium Density or MUI Mixed Use zones, provided that the development:
 - a. Is a maximum of two storeys;
 - b. Is a maximum height 8.5m from the existing ground level; and
 - c. Is setback 900mm from the boundary.*
6. **Commercial premises** and **shop-top housing** in employment zones where the site does not directly adjoin land in a residential zone.
7. Permissible land-uses in employment zones where the site does not directly adjoin land in a residential zone.
8. Development is for **extensive agriculture**, or development that is ancillary to the rural use of the land including but not limited to **farm buildings**, dams etc.
9. Internal works to buildings, where there is no change to the external configuration of the building.
10. Demolition works.
11. Development for the purpose of advertising signage.

* **Note 1:** Notification / exhibition will not be required when the development has a shared boundary with a property owned by the applicant, despite having a setback of less than 900mm from that boundary.

** **Note 2:** As defined in the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Note 3: Notwithstanding any other provision of the CPP, Council may elect to notify or exhibit any proposed development if, in the opinion of Council, it is in the public interest to do so.





Model Code of Conduct Complaints Statistics 2023-24 Cessnock City Council			
Number of Complaints			
1	The total number of complaints received in the reporting period about councillors and the General Manager (GM) under the code of conduct from the following sources:		
i	Community	0	
ii	Other Councillors	3	
iii	General Manager	0	
iv	Other Council Staff	0	
2	The total number of complaints finalised about councillors and the GM under the code of conduct in the following periods:		
i	3 Months	2	
ii	6 Months	0	
iii	9 Months	1	
iv	12 Months	0	
v	Over 12 months	0	
Overview of Complaints and Cost			
3	a	The number of complaints finalised at the outset by alternative means by the GM or Mayor	2
	b	The number of complaints referred to the Office of Local Government (OLG) under a special complaints management arrangement	0
	c	The number of code of conduct complaints referred to a conduct reviewer	1
	d	The number of code of conduct complaints finalised at preliminary assessment by conduct reviewer	0
	e	The number of code of conduct complaints referred back to GM or Mayor for resolution after preliminary assessment by conduct reviewer	0
	f	The number of finalised code of conduct complaints investigated by a conduct reviewer	1
	g	Cost of dealing with code of conduct complaints via preliminary assesment	1,464
	h	Progressed to full investigation by a conduct reviewer	1
	i	The number of finalised complaints investigated where there was found to be no breach	1
	j	The number of finalised complaints investigated where there was found to be a breach	0
	k	The number of complaints referred by the GM or Mayor to another agency or body such as the ICAC, the NSW Ombudsman, OLG or the Police	

i	ICAC	0
ii	NSW Ombudsman	0
iii	OLG	0
iv	Police	0
v	Other Agency (please specify)	0
	<input type="text"/>	
l	The number of complaints being investigated that are not yet finalised	0
m	The total cost of dealing with code of conduct complaints within the period made about councillors and the GM including staff costs	8,378

Preliminary Assessment Statistics		
4	The number of complaints determined by the conduct reviewer at the preliminary assessment stage by each of the following actions:	
a	To take no action (clause 6.13(a) of the 2020 Procedures)	0
b	To resolve the complaint by alternative and appropriate strategies (clause 6.13(b) of the 2020 Procedures)	0
c	To refer the matter back to the GM or the Mayor, for resolution by alternative and appropriate strategies (clause 6.13(c) of the 2020 Procedures)	0
d	To refer the matter to another agency or body such as the ICAC, the NSW Ombudsman, OLG or the Police (clause 6.13(d) of the 2020 Procedures)	0
e	To investigate the matter (clause 6.13(e) of the 2020 Procedures)	1
f	Other action (please specify)	0
	<input type="text"/>	
Investigation Statistics		
5	The number of investigated complaints resulting in a determination that there was no breach , in which the following recommendations were made:	
a	That the council revise its policies or procedures	0
b	That a person or persons undertake training or other education (clause 7.40 of the 2020 Procedures)	0
6	The number of investigated complaints resulting in a determination that there was a breach in which the following recommendations were made:	
a	That the council revise any of its policies or procedures (clause 7.39 of the 2020 Procedures)	0
b	In the case of a breach by the GM, that action be taken under the GM's contract for the breach (clause 7.37(a) of the 2020 Procedures)	0
c	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 (clause 7.37(b) of the 2020 Procedures)	0
d	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 and that the matter be referred to OLG for further action (clause 7.37(c) of the 2020 Procedures)	0
7	Matter referred or resolved after commencement of an investigation (clause 7.20 of the 2020 Procedures)	0

Categories of misconduct		
8	The number of investigated complaints resulting in a determination that there was a breach with respect to each of the following categories of conduct:	
a	General conduct (Part 3)	<input type="text" value="0"/>
b	Non-pecuniary conflict of interest (Part 5)	<input type="text" value="0"/>
c	Personal benefit (Part 6)	<input type="text" value="0"/>
d	Relationship between council officials (Part 7)	<input type="text" value="0"/>
e	Access to information and resources (Part 8)	<input type="text" value="0"/>
Outcome of determinations		
9	The number of investigated complaints resulting in a determination that there was a breach in which the council:	
a	Adopted the independent conduct reviewers recommendation	<input type="text" value="0"/>
b	Failed to adopt the independent conduct reviewers recommendation	<input type="text" value="0"/>
10	The number of investigated complaints resulting in a determination where:	
a	The external conduct reviewers decision was overturned by OLG	<input type="text" value="0"/>
b	Council's response to the external conduct reviewers recommendation was overturned by OLG	<input type="text" value="0"/>
11	Date Code of Conduct data was presented to council	<input type="text" value="11-Dec-24"/>

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	Committee:		Date To:
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Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 20/11/2024	Walters, Lorna	Quarterly Budget Review Statement - Quarter 1, 30 September 2024	18/12/2024	22/11/2024	26/11/2024
CC65/2024 54		Maginnity, Robert				
26 Nov 2024 10:51am Anderson, India - Completion Completed by Anderson, India on behalf of Walters, Lorna (action officer) on 26 November 2024 at 10:51:15 AM - Report presented and noted by Council. Budget uploaded. No further action.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 20/11/2024	Taylor, Paul	North Rothbury and Branxton Locality Change	18/12/2024	22/11/2024	26/11/2024
CC64/2024 53		Maginnity, Robert				
26 Nov 2024 2:13pm Taylor, Paul - Completion Completed by Taylor, Paul (action officer) on 26 November 2024 at 2:13:24 PM - Council endorsed the motion to proceed with the locality amendment of North Rothbury and Branxton. NSW Geographical Names Board (GNB) advised via email 26-11-2024 that they will proceed to advertise to seek community feedback.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 20/11/2024	Honeyman, Michelle	Child Safe Policy	18/12/2024	22/11/2024	25/11/2024
GMU9/2024 47		Liddell, Ken				
25 Nov 2024 11:43am Honeyman, Michelle Child Safe Policy Adopted. Response to Question on Notice provided to Cherie Lorenzen on 25/11/24. 25 Nov 2024 11:46am Honeyman, Michelle - Completion Completed by Honeyman, Michelle (action officer) on 25 November 2024 at 11:46:31 AM - All actions completed. 25/11/24.						

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	Officer:		Printed: Tuesday, 3 December 2024 10:15:41 AM	

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
CC32/2024	Ordinary Council 15/05/2024	Plumridge, Matthew	Corporate and Community	Minutes of the Confidential Strategic Property & Community Facilities Committee meeting held on 1 May 2024	31/12/2024	
763 MOTION 763 RESOLVED	Moved:	Maginnity, Robert Councillor Hill	Seconded:	Councillor Paynter		
That Council:						
<ol style="list-style-type: none"> Undertakes an Expression of Interest process to determine potential uses for lot 31 DP 594396 and lot 2 DP 716009, being Council-owned operational land comprising the former Richmond Main Colliery land and buildings, that outlines the community benefit of the future proposed use of the site. Requests the Expression of Interest results be provided to the Strategic Property and Community Facilities Committee for consideration and advice to Council. 						
<p>12 Jun 2024 11:50am Anderson, India - Target Date Revision Target date changed by Anderson, India from 12 June 2024 to 31 December 2024 - The EOI process has commenced.</p> <p>29 Jul 2024 2:42pm Hooper, Carolyn Initial planning commenced on EOI process.</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
MM5/2024	Ordinary Council 17/07/2024	Drage, Natalie	Mayoral Minutes	Domestic and Family Violence and Homelessness	3/02/2025	
790 MOTION 790 RESOLVED	Moved:	Maginnity, Robert Councillor Suvaal				
<ol style="list-style-type: none"> That Council communicates to the Hunter Domestic Violence consortium, our willingness to participate in a round table discussion to address the prevention of Domestic and Family Violence, and to identify the support services required for those who work in the Domestic and Family Violence sector to eradicate this growing social issue; That Council consider the development of a Domestic and Family Violence Prevention strategy; That Council consider the development of a process to fast-track Development Application's relating to affordable housing; That Council engage a service provider to conduct training for community facing staff in the matters of responding to homelessness and Domestic and Family Violence disclosures. 						
<p>23 Jul 2024 4:32pm Lorenzen, Cherie 1. Completed., 2. Reassigned to Community & Cultural Development team., 3. Affordable housing Development Application's will be defined with a priority status., 4. Further investigation is required into providers and courses that will meet the objectives for training our frontline staff in Domestic and Family Violence and Homelessness. After investigation concludes Council will ensure the chosen training course aligns with the corresponding actions from the action sheet and identify a priority list for those staff requiring the training. Currently there are five (5) staff in the organisation who are trained in Domestic Violence Response which helps to support our staff. In May 2024 a free training resource was sent to all staff in the organisation from Are You Safe at Home.</p>						

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23 Jul 2024 4:34pm Lorenzen, Cherie - Reallocation
 Action reassigned to Drage, Natalie by Lorenzen, Cherie - Response required for dot point 2.

29 Jul 2024 10:00am Drage, Natalie - Target Date Revision
 Target date changed by Drage, Natalie from 14 August 2024 to 01 November 2024 - An action to prepare a Domestic and Family Violence Prevention strategy will be considered when developing the next operational plan. In the meantime, consultation on the resolution of Council will occur with the Cessnock Anti Violence Network.

26 Nov 2024 11:44am Anderson, India - Target Date Revision
 Target date changed by Anderson, India from 01 November 2024 to 03 February 2025 - Continuing consultation with the Cessnock Anti Violence Network and key stakeholders. Domestic and Family Violence Prevention strategy to be considered in development of actions for the next operational plan. Target date changed from 01 November 2024 to 03 February 2024 to allow for development of actions for next operational plan.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
CC58/2024	Ordinary Council 23/10/2024	Waghorn, Peter	Corporate and Community	Land Acquisition - South Cessnock Bund Wall	31/12/2024	
33 MOTION 33 RESOLVED	Moved:	Maginnity, Robert Councillor Jurd	Seconded:	Councillor Hill		
1.	That Council authorise purchase of land owned by White Energy Company Limited by voluntary agreement, the land being a portion of Lot 1 DP 1145540 as identified in the report and required for the South Cessnock Flood Mitigation Scheme Bund Wall project;					
2.	That Council delegates authority to the General Manager to purchase the land at the assessed market value for the sum of \$235,000 and compensate the landowner for reasonably incurred valuation and legal costs on presentation of paid invoices;					
3.	That Council delegates authority to the General Manager to execute all relevant documentation to affect the transaction; and					
4.	On transfer of ownership, Council resolves to classify the land as operational land.					
27 Nov 2024 4:36pm Waghorn, Peter - Email Council's lawyers have been instructed to prepare sale contracts for review and exchange						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
CC66/2024	Ordinary Council 20/11/2024	Dupille, Belinda	Corporate and Community	September 2024 Review of the 2022-26 Delivery Program	18/12/2024	
55 MOTION 55 RESOLVED	Moved:	Maginnity, Robert Councillor Pascoe	Seconded:	Councillor Harrington		
1.	That Council notes the progress in implementing the 2022-26 Delivery Program as at 30 September 2024.					
2.	That Council approves changes to the Operational Plan actions and targets as outlined in the report.					

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Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
W12/2021	Ordinary Council 17/02/2021	Waghorn, Peter	Works and Infrastructure	Sale of Land to Bellbird Bowling Club	31/01/2025	
1571 MOTION 1571 RESOLVED	Moved:	Maginnity, Robert Councillor Dunn	Seconded:	Councillor Fitzgibbon		
1.	That Council authorises the General Manager to undertake the process to reclassify the seven metre strip of land along the southern boundary of the Bellbird Park Bowling Club from Community to Operational.					
2.	That Council agrees to sell the subject parcel of land once reclassified to Bellbird Park Bowling Club at the nominal cost of one dollar (\$1.00) provided the Bellbird Park Bowling Club fund associated costs for the land transfer.					
3.	That Council authorises the General Manager to execute documents related to the reclassification and transfer of land between Cessnock City Council and the Bellbird Park Bowling Club.					
04 Mar 2021 11:58am Benson, Nicole - Reallocation						
Action reassigned to Rathborne, Michael by Benson, Nicole - Michael please commence the actions as per the resolution. Liaise with my team if required. Thanks						
24 Mar 2021 4:49pm Keegan, Robyn - Target Date Revision						
Target date changed by Keegan, Robyn from 17 March 2021 to 30 June 2021 - Information sent to surveyor for the club to prepare and lodge forms.						
29 Mar 2021 4:04pm Rathborne, Michael - Target Date Revision						
Target date changed by Rathborne, Michael from 30 June 2021 to 30 August 2021 - Surveyor preparing documents for registration.						
28 Apr 2021 10:33am Rathborne, Michael - Target Date Revision						
Target date changed by Rathborne, Michael from 30 June 2021 to 30 September 2021 - Pending survey and documentation being prepared by surveyor.						
25 Jun 2021 12:30pm Keegan, Robyn - Target Date Revision						
Target date changed by Keegan, Robyn from 30 September 2021 to 31 December 2021 - Bellbird Park Bowling Club has taken responsibility for survey registration. Further work by Council Property Services to effect the transfer of land is deferred pending Strategic Property obtaining Council approval for a site-specific planning proposal to reclassify the land.						
02 Sep 2021 3:11pm Keegan, Robyn - Target Date Revision						
Target date changed by Keegan, Robyn from 31 December 2021 to 31 December 2021 - Peter Waghorn advised that there is no further update.						
26 Oct 2021 2:19pm Keegan, Robyn - Target Date Revision						
Target date changed by Keegan, Robyn from 31 December 2021 to 21 January 2022 - Advised by Chief Financial & Administration Officer no update was available but will investigate.						
25 Jan 2022 10:12am Waghorn, Peter						
In accordance with the resolution, Bellbird Park Bowling Club management are responsible for organising and registering the survey of land to be acquired but are yet to do so. A registered plan and reclassification of the land are required before the land transfer can be transacted.						
29 Mar 2022 7:55am Boughton-Ingham, Petra						
28 Mar 2022 Peter Waghorn, [Confidential]: BPBC's Secretary Manager was contacted with an offer of assistance and advised that the club had not sought quotes for land survey work to date due to their financial situation. As the cost of a partial survey is not anticipated to be high, Council Officers contacted a local surveyor on the club's behalf and was told that the previous Board had engaged Marshall Scott Surveyors to prepare a plan and the draft was sent to the club last year. MSS is following up directly with club management.						
12 Apr 2022 10:21am Keegan, Robyn - Target Date Revision						
Target date changed by Keegan, Robyn from 21 January 2022 to 15 June 2022 - The Bellbird Park Bowling Club Secretary Manager was contacted with an offer of assistance and advised that the club had not sought quotes for land survey work due to a recent change of voluntary board membership. Council Officers contacted a local surveyor on the club's behalf and were advised that the previous Board had engaged Marshall Scott Surveyors to prepare a plan and the draft was sent to the club last year. Principal of Marshall Scott Surveyors is following up with the new club management directly.						
28 Apr 2022 3:32pm Waghorn, Peter						
Mark Scott of Marshall Scott Surveyors is still following up with the new club Secretary Manager regarding a survey plan previously prepared and sent to the Club in draft for their review.						

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<p>26 May 2022 9:22am Waghorn, Peter Bellbird Park Bowling Club officials have confirmed that Marshall Scott Surveyors were engaged by the previous Board to prepare a plan of acquisition. Once the draft plan is provided to Council for review and verification, the process to reclassify the identified portion of Bellbird Park can be commenced. Transfer of the land to the Club can only be effected on gazettal of the reclassification.</p> <p>26 May 2022 9:50am Waghorn, Peter - Target Date Revision Target date changed by Waghorn, Peter from 15 June 2022 to 30 December 2022 - The planning proposal to amend the LEP and reclassify a portion of Bellbird Park is a lengthy process and yet be commenced. Transferring ownership to the Club is deferred pending gazettal of the land reclassification for Community to Operational land.</p> <p>30 Jun 2022 3:12pm Waghorn, Peter An LEP amendment request to reclassify the portion of Bellbird Park the Club requires has been scheduled with Strategic Planning.</p> <p>28 Jul 2022 2:49pm Waghorn, Peter A survey plan prepared by Marshall Scott Surveyors on behalf of Bellbird Park Bowling Club has been provided to Strategic Planning. A planning proposal requesting amendment of the Cessnock LEP land classification of the nominated portion of Bellbird Park is in progress.</p> <p>31 Aug 2022 4:46pm Keegan, Robyn Further updates are subject to progression of a planning proposal to amend the Cessnock LEP and change the community land classification of the nominated portion of Bellbird Park.</p> <p>25 Nov 2022 3:47pm Waghorn, Peter Internal Property staff followed up with Marshall Scott Surveyors 24/11/2022 and were advised that the survey plan detailing the area to be acquired by the club and prepared by their firm on behalf of Bellbird Park Bowling Club is yet to be lodged with Land Registry Services for assessment. Council staff actions are deferred pending plan registration and gazettal of the proposed land reclassification.</p> <p>16 Jan 2023 12:12pm Waghorn, Peter Property staff visited BPBC on 4/1/2023 to enquire with management as to the status of survey plan approval and were advised that they will follow up with Marshall Scott Surveyors. As at 16/1/2023, Mark Scott of MSS has not been contacted by BPBC.</p> <p>16 Jan 2023 12:21pm Waghorn, Peter - Target Date Revision Target date changed by Waghorn, Peter from 30 December 2022 to 31 March 2023 - Delayed pending Bellbird Park Bowling Club approval of draft survey plan of acquisition and the outcome of a Council request to reclassify the relevant portion of Carmichael Park to be acquired</p> <p>03 Apr 2023 10:44am Waghorn, Peter The Strategic Planning unit has scheduled a report seeking approval to submit the LEP amendment required to reclassify the portion of Bellbird Park the Club requires. Reclassification to operational land is required to facilitate any transfer of council community land. The report will be considered at the April 2023 Ordinary Council Meeting. .</p> <p>03 Apr 2023 11:11am Waghorn, Peter - Target Date Revision Target date changed by Waghorn, Peter from 31 March 2023 to 30 June 2023 - The report seeking approval to submit an LEP amendment to reclassify the required portion of Bellbird Park is scheduled for the April 2023 OCM. Reclassifications necessarily involve state planning departments and completion of that process cannot be accurately determined at this time.</p> <p>26 May 2023 3:16pm Waghorn, Peter - Target Date Revision Target date changed by Waghorn, Peter from 30 June 2023 to 31 March 2024 - A planning proposal to amend the Cessnock LEP community land classification of a portion of Carmichael Oval adjoining Bellbird Park Bowling Club was approved for submission to Dept. of Planning & Environment (DPE) on 19 April 2023. Subject to obtaining a DPE Gateway determination to reclassify the land from community to operational use, consultation will be undertaken with public authorities and the community. Unresolved objections must be submitted to Council for consideration before DPE is requested to make the Plan and publish LEP changes in the Government Gazette. This process is anticipated to take six to nine months. On completion, Property staff will prepare contract documentation to transfer the required land.</p> <p>25 Sep 2023 3:37pm Waghorn, Peter - Email On 15 September, Officers arranged for surveyors to attend and mark the site, allowing a partially installed fence to be completed along the new boundary with a lockable pedestrian access. Illegal private vehicular use of CCC community land is understood to have been occurring and neighbouring residents will be notified prior to erection of the final stage of fencing. Formal transfer of the land portion to BPBC is subject to land reclassification and the revised target date is still projected as March 2024.</p> <p>24 Nov 2023 9:41am Waghorn, Peter No further updates from Property Services pending completion of land reclassification process and subsequent land transfer</p> <p>28 Mar 2024 11:17am Waghorn, Peter - Target Date Revision Target date changed by Waghorn, Peter from 31 March 2024 to 30 May 2024 - Council's Strategic Planning unit advise the planning proposal seeking to amend the LEP land classification is currently being reviewed by the relevant state government planning department.</p>

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25 Jun 2024 10:52am Waghorn, Peter - Target Date Revision
 Target date changed by Waghorn, Peter from 30 May 2024 to 29 November 2024 - On 29/5/2024 Council's Strategic Planner advised Planning proposal PP-2023-1296 to amend Cessnock Local Environmental Plan 2011 (LEP) has received Gateway determination. The advice refers to issues remaining to be addressed and requires the amending LEP to be finalised on or before 6 months of the Gateway determination date.

27 Nov 2024 4:33pm Waghorn, Peter - Target Date Revision
 Target date changed by Waghorn, Peter from 29 November 2024 to 31 January 2025 - Department Planning Housing and Infrastructure has endorsed the Planning Proposal to rezone and reclassify the strip of land at Bellbird Park Bowling Club for finalization. Once the public reserve status is removed from title, the portion required by the club can be excised from Carmichael Park and transferred to the Club in accordance with the resolution.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE25/2024	Ordinary Council 20/11/2024	Lewis-Curnoe, Olivia	Planning and Environment	Planning Proposal 18 2024 1 1 - Huntlee Local Water Centre 2 - Post Exhibition	15/01/2025	
51 MOTION 51 RESOLVED	Moved:	Chrystal, Peter Councillor Pascoe	Seconded:	Councillor Suvaal		
1.	That Council note the outcomes of community consultation for Planning Proposal 18/2024/1/1 - Huntlee Local Water Centre 2					
2.	That Council forwards the Planning Proposal for Huntlee Local Water Centre 2 to the Minister for Planning and Public Spaces with a recommendation that the plan be made pursuant to Section 3.36 of the Environmental Planning and Assessment Act 1979.					
26 Nov 2024 9:43am Lewis-Curnoe, Olivia - Target Date Revision Target date changed by Lewis-Curnoe, Olivia from 18 December 2024 to 15 January 2025 - Liasing with PC for finalisation.						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE22/2024	Ordinary Council 20/11/2024	Ryl, Julia	Planning and Environment	Development Application No. 8/2024/178/1 Proposing a Phased Development: Phase 1 - Two (2) Lot Subdivision Phase 2 - Dual Occupancy Phase 3 - Strata Subdivision of Dual Occupancy 65 Rawson Street, Aberdare	18/12/2024	
48 MOTION 48 RESOLVED	Moved:	Chrystal, Peter Councillor King	Seconded:	Councillor Palmowski		
1.	That:					
(i)	Development Application No. 8/2024/178/1 proposing development in three (3) phases: Phase 1 consisting of a two (2) lot subdivision, Phase 2 consisting of a dual occupancy (attached), and Phase 3 consisting of the strata title subdivision of the dual occupancy, at 65 Rawson Street Aberdare be approved pursuant to Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979 subject to the conditions contained in this report.					

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(ii) The reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:

- The proposal is a permitted land use in the R2 Low Density Residential zone under the *Cessnock Local Environmental Plan 2011*;
- The proposal is consistent with the objectives of the R2 Low Density Residential zone under the *Cessnock Local Environmental Plan 2011*;
- The proposal is consistent with the relevant State Environmental Planning Policies;*
- The proposal is generally compliant with the relevant provisions under the Cessnock Development Control Plan 2010, with any variation considered to be justified;*
- The proposal incorporates adequate measures to ensure the development does not result in any adverse impacts on the natural and built environment;*
- The proposal will not result in any adverse social or economic impacts;*
- The site is considered suitable for the proposed development; and*
- The development proposal is considered to be in the public interest.*

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

25 Nov 2024 11:40am Ryl, Julia
Determination requested to be prepared as per Council Resolution.

26 Nov 2024 3:59pm Ryl, Julia
Determination documentation reviewed.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE26/2024	Ordinary Council 20/11/2024	Worthing, Alex	Planning and Environment	Planning Proposal 18 2024 6 1 - Reclassification of part Lot 312 DP 566724 Old Maitland Road Cessnock	18/12/2024	
52 MOTION 52 RESOLVED	Moved:	Chrystal, Peter Councillor Harrington	Seconded:	Councillor Hill		
1.	That Council resolves to reclassify part Lot 312 DP 566724 (Old Maitland Road, Cessnock) from Community Land to Operational Land pursuant to Section 30 of the <i>Local Government Act, 1993</i> ;					
2.	That Council requests a Gateway determination for a Planning Proposal from the NSW Department of Planning, Housing and Infrastructure pursuant to Section 3.34 of the <i>Environmental Planning and Assessment Act 1979</i> to Reclassify part of Lot 312 DP 566724 (Old Maitland Road, Cessnock) from Community Land to Operational land;					
3.	That Council requests authorisation under Section 3.31 of the <i>Environmental Planning and Assessment Act 1979</i> to act as the local plan-making authority to make the Local Environmental Plan;					

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4.	That Council undertakes consultation with public authorities and the community as determined by the Gateway Determination;
5.	That Council undertake the necessary Public Hearing and public notification requirements for the proposed reclassification of Council owned land, pursuant to the provisions of Sections 29 and 34 of the <i>Local Government Act, 1993, and;</i>
6.	That Council receives a report back on the outcomes of the community consultation and findings of the Public Hearing and any submissions received in response to the notification of the reclassifications.
<p>22 Nov 2024 9:54am Worthing, Alex Reclassification Planning Proposal submitted to the Planning Portal 21/11/2024. DPHI ref# PP-2024-2550. Awaiting response</p>	

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE24/2024	Ordinary Council 20/11/2024	Lewis-Curnoe, Olivia	Planning and Environment	Planning Proposal 18 2022 6 1 - Reclassification and Rezoning of Council Land - Post exhibition	15/01/2025	
50 MOTION 50 RESOLVED	Moved:	Chrystal, Peter Councillor Hill	Seconded:	Councillor Pascoe		
1.	That Council note the outcomes of community consultation for Planning Proposal 18/2022/6/1 - Reclassification and Rezoning of Land at Bellbird and Abermain.					
2.	That Council forwards the Planning Proposal for Reclassification and Rezoning of Council Land to the Minister for Planning and Public Spaces with a recommendation that the plan be made pursuant to Section 3.36 of the <i>Environmental Planning and Assessment Act 1979</i> .					
3.	That Council remove the Public Reserve Status from Part of Lot 3 DP 624793.					
<p>26 Nov 2024 9:43am Lewis-Curnoe, Olivia - Target Date Revision Target date changed by Lewis-Curnoe, Olivia from 18 December 2024 to 15 January 2025 - Liasing with PC for finalisation.</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE23/2024	Ordinary Council 20/11/2024	Ryl, Julia	Planning and Environment	Development Application No. 8/2024/144/1 proposing a Phased Development: Phase 1 - Two (2) Lot Subdivision and Demolition Phase 2 - Dual Occupancy Phase 3 - Strata Subdivision of Dual Occupancy 37 Railway Street Kurri Kurri	18/12/2024	
49 MOTION 49 RESOLVED	Moved:	Chrystal, Peter Councillor Hill	Seconded:	Councillor Lea		
<p>That Development Application No. 8/2024/144/1 proposing development in three (3) phases: Phase 1 consisting of a two (2) lot subdivision and demolition of outbuilding, Phase 2 consisting of a dual occupancy (attached), and Phase 3 consisting of the strata title subdivision of the dual occupancy, at 37 Railway Street Kurri Kurri be refused pursuant to Section 4.16 of the <i>Environmental Planning and Assessment Act 1979</i>, subject to the following reasons for refusal:</p>						

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1.	The proposed development is inconsistent with the objectives of the R2 Low Density Residential zone of the <i>Cessnock Local Environmental Plan 2011</i> , resulting in a development which is considered to be of a medium density scale (Section 4.15(1)(a)(i) <i>Environmental Planning and Assessment Act 1979</i>).
2.	The proposed development is inconsistent with Clause 4.6 Exceptions to development standards of the <i>Cessnock Local Environmental Plan 2011</i> , for the following reasons:- <ul style="list-style-type: none"> a. The proposed development is inconsistent with the objective of the clause and will result in an undesirable outcome with regard to the density being inconsistent with the character of development within the local area, and b. The application fails to satisfy the provisions of Cause 4.6(3)(a) in that the applicant has failed to demonstrate that non-compliance is reasonable and necessary (Section 4.15(1)(s)(i) <i>Environmental Planning and Assessment Act 1979</i>).
3.	The subject site is not considered suitable, resulting in an overdevelopment of the site (section 4.15(1) (c) <i>Environmental Planning and Assessment Act 1979</i>).
4.	The proposed development is not considered to be in the public interest (section 4.15(1)(e) <i>Environmental Planning and Assessment Act 1979</i>)
25 Nov 2024 10:09am Ryl, Julia Determination documentation requested to be prepared as per Council resolution.	
26 Nov 2024 3:57pm Ryl, Julia Determination documentation reviewed.	

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE13/2024	Ordinary Council 19/06/2024	Rush, Iain	Planning and Environment	Cessnock City Wide Infrastructure Contribution Plan 2020 - Review and Options Paper	28/02/2025	
<u>773</u> MOTION 773 RESOLVED	Moved:	Chrystal, Peter Councillor Hill	Seconded:	Councillor Burke		
That Council endorse:						
1.	The refined Works Schedule for residential development; and					
2.	Option 1D of the Local Infrastructure Contributions Plan Options Paper, as the basis for the preparation of a new infrastructure contributions framework for residential development in the Cessnock LGA, generally involving: <ul style="list-style-type: none"> <input type="checkbox"/> An amendment to Council's existing s.7.12 Levy Contribution Plan to include the tourist related infrastructure projects, proposed to be transferred from the existing City Wide Infrastructure Contributions Plan Works Schedule; <input type="checkbox"/> The preparation of a new s.7.11 Infrastructure Contribution Plan for residential development in the major urban release areas of Cessnock; and <input type="checkbox"/> The preparation of a new 2% s.7.12 contributions plan, for residential development in the existing urban areas of Cessnock. 					
3.	Council notes that a revised Local Infrastructure Contributions Plan or Plans will be drafted on the principles of Recommendation 1 and 2 above, and be reported to Council prior to any such Plan or Plans being placed on Public Exhibition.					
26 Jun 2024 1:48pm Rush, Iain - Target Date Revision						

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Target date changed by Rush, Iain from 17 July 2024 to 17 August 2024 - Strategic Planning staff are preparing the new contributions plans in accordance with framework endorsed at the June Council meeting. When drafted, the new plans will be reported to Council for exhibition.

30 Jul 2024 1:56pm Rush, Iain - Target Date Revision
Target date changed by Rush, Iain from 17 August 2024 to 30 August 2024 - Report prepared for the August Council meeting seeking exhibition of the draft contributions plans.

09 Oct 2024 8:44am Blake, Yvonne - Target Date Revision
Target date changed by Blake, Yvonne from 30 August 2024 to 28 February 2025 - Awaiting final comments from Department of Planning

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE26/2023	Ordinary Council 19/07/2023	Worthing, Alex	Planning and Environment	Comprehensive DCP Review - Tourist Accommodation on Rural and Environmental Lands - Draft for Exhibition	20/12/2024	
528 MOTION	Moved:	Chrystal, Peter Councillor Hill	Seconded:	Councillor Grine		
528 RESOLVED						
1.	That Council exhibits the draft DCP Chapter: 'Tourist and Visitor Accommodation in Rural and Environmental Lands' in accordance with clause 13 of the Environmental Planning and Assessment Regulation 2021 and for a period of 28 days.					
2.	That a further report is brought to Council for determination after the exhibition period is concluded.					
26 Jul 2023 12:33pm Corken, Robert - Target Date Revision						
Target date changed by Corken, Robert from 16 August 2023 to 16 November 2023 - Exhibition will be undertaken in August.						
18 Aug 2023 1:48pm Blake, Yvonne - Reallocation						
Action reassigned to Mewing, Jenny by Blake, Yvonne - Officer resigned from Council. Transferred to Acting Principal Strategic Planner for re-allocation to another Strategic Planning Officer.						
31 Aug 2023 2:15pm Blake, Yvonne - Reallocation						
Action reassigned to Worthing, Alex by Blake, Yvonne - Transferred to officer as original officer has resigned.						
08 Sep 2023 3:32pm Worthing, Alex - Target Date Revision						
Target date changed by Worthing, Alex from 16 November 2023 to 04 October 2023 - Preparing post exhibition report for Council						
26 Oct 2023 11:16am Blake, Yvonne - Target Date Revision						
Target date changed by Blake, Yvonne from 04 October 2023 to 22 December 2023 - Report to be tabled at December Council meeting.						
18 Dec 2023 3:18pm Worthing, Alex - Target Date Revision						
Target date changed by Worthing, Alex from 22 December 2023 to 20 June 2024 - On hold pending Vineyards project with DPE						
26 Jun 2024 1:35pm Brown, Keren - Target Date Revision						
Target date changed by Brown, Keren from 20 June 2024 to 01 December 2024 - On hold pending Vineyards project with DPE. The DCP and the Vineyards project should be exhibited concurrently						
30 Oct 2024 3:37pm Worthing, Alex - Target Date Revision						
Target date changed by Worthing, Alex from 01 December 2024 to 20 December 2024 - This chapter is being revised with other DCP chapters to finalise at the same time. Dependent on completion of all						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE24/2022	Ordinary Council 20/04/2022	Rush, Iain	Planning and Environment	Draft Local Planning Framework for the Cessnock LGA Vineyards District	31/12/2024	
75 MOTION	Moved:	Chrystal, Peter Councillor Burke	Seconded:	Councillor Grine		

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<p>75 RESOLVED</p> <ol style="list-style-type: none"> That Council requests a Gateway determination in respect of the Cessnock Vineyards District Planning Proposal from the NSW Department of Planning and Environment, pursuant to the <i>Environmental Planning and Assessment Act 1979</i>. That Council requests authorisation under Section 3.31 of the <i>Environmental Planning and Assessment Act 1979</i> to act as the local plan-making authority to make the Local Environmental Plan. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination. That Council exhibits the Draft Cessnock Vineyards District Local Character Statement and Development Control Plan with the Planning Proposal. That Council receives a report back on the Planning Proposal and draft local planning framework, following public exhibition. <p>27 Apr 2022 12:10pm Rush, Iain - Target Date Revision Target date changed by Rush, Iain from 18 May 2022 to 30 December 2022 - Preparing documentation for submission to DPE for Gateway determination.</p> <p>21 Jun 2022 3:52pm Rush, Iain Planning Proposal submitted for Gateway determination on 10 May 2022. Currently reviewing quotations for 'Tourism Centre' Economic Feasibility Assessment.</p> <p>01 Sep 2022 4:24pm Rush, Iain Planning Proposal submitted for Gateway determination on 10 May 2022. Hill PDA engaged to prepare 'Tourism Centre' Economic Feasibility Assessment. Work on the Economic Assessment is progressing steadily.</p> <p>31 Oct 2022 10:23am Rush, Iain Planning Proposal submitted for Gateway determination on 10 May 2022. Hill PDA have provided Draft 'Tourism Centre' Economic Feasibility Assessment to Council for review.</p> <p>22 Nov 2022 2:17pm Blake, Yvonne - Target Date Revision Target date changed by Blake, Yvonne from 31 January 2023 to 28 February 2023 - Target date revised to allow sufficient time for exhibition and consideration of public submissions. Preparation of materials for public exhibition commenced.</p> <p>20 Feb 2023 9:08am Cocking, Tracey HRP 2041 requires preparation of Place Strategy. Existing PP and Place Strategy requirements being discussed with DP&E.</p> <p>20 Feb 2023 9:09am Cocking, Tracey - Target Date Revision Target date changed by Cocking, Tracey from 28 February 2023 to 31 December 2023 - HRP 2041 requires preparation of Place Strategy. Existing PP and Place Strategy requirements being discussed with DP&E.</p> <p>24 May 2023 3:52pm Blake, Yvonne - Reallocation Action reassigned to Mewing, Jenny by Blake, Yvonne - Transferred to Jenny Mewing to continue with and finalise the matter.</p> <p>24 May 2023 4:08pm Mewing, Jenny Vineyards Place Strategy endorsed by the Urban Development Program Committee (1 May 2023) for the establishment of a Place Delivery Group. Further details from DPE to be obtained to commence this process., Amendments being made to Planning Proposal to reflect requirements of "resubmit" Gateway Determination received in December 2022.</p> <p>21 Jun 2023 10:03am Mewing, Jenny Meeting held with DPE to discuss relationship between Planning Proposals and Place Strategy. Agreed outcomes and actions pending confirmation with DPE</p> <p>21 Jul 2023 7:27am Mewing, Jenny Amendments to Planning Proposal being prepared for resubmission to the DPE prior to 31 July 2023. Draft Principles for the Place Strategy are being prepared concurrently for consideration/endorsement by the DPE.</p> <p>31 Aug 2023 1:16pm Mewing, Jenny Revised Planning Proposal resubmitted to DPE for Gateway Determination (26/7/23)., Place Strategy meeting with DPE requested.</p> <p>31 Aug 2023 2:15pm Blake, Yvonne - Reallocation Action reassigned to Rush, Iain by Blake, Yvonne - Transferred to officer as original officer has resigned.</p>
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30 Oct 2023 2:47pm Rush, Iain
 HRP 2041 requires the preparation of Place Strategy for the Cessnock Vineyards District. The structure and content of the Place Strategy is to be determined with input from a Department of Planning and Environment Place Delivery Group (PDG). Draft land use principles prepared for discussion with PDG, which should occur in early November.

16 Jan 2024 9:19am Rush, Iain - Target Date Revision
 Target date changed by Rush, Iain from 31 December 2023 to 30 June 2024 - Meeting with Planning Delivery Unit (PDU) occurred with relevant state agencies in December 2023. Awaiting further information/requirements from DPE to progress Place Strategy, including release of Planning State Environmental Assessment Requirements (PSEARS).

26 Jun 2024 1:53pm Rush, Iain - Target Date Revision
 Target date changed by Rush, Iain from 30 June 2024 to 30 July 2024 - Initial Vineyards Place Strategy Project Delivery Group meeting held with State agencies on 30 November 2023. DPHI has recently advised that it will not be able to provide PSEARs to Council due to staffing changes and resourcing issues at DPHI; furthermore, that it will be unable to manage the Vineyards PDG and Place Strategy process moving forward. Council staff will proceed with the preparation of the Draft Place Strategy for the Vineyards District and make a recommendation as to whether the Vineyards Planning Proposal should still proceed.

30 Jul 2024 1:47pm Rush, Iain - Target Date Revision
 Target date changed by Rush, Iain from 30 July 2024 to 31 October 2024 - Consultation commenced with DPHI on Draft Place Strategy.

29 Oct 2024 1:14pm Rush, Iain - Target Date Revision
 Target date changed by Rush, Iain from 31 October 2024 to 31 December 2024 - Place Strategy is presently being formatted by Council's Communications Team. Draft Place Strategy will be reported to Council with Draft Vineyard's DCP once formatted and consultation has occurred with Vineyard's Reference Group.

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE18/2024	Ordinary Council 23/10/2024	Manning, Mark	Planning and Environment	Draft Waste Management Development Control Plan	28/02/2025	
25 MOTION 25 RESOLVED	Moved:	Chrystal, Peter Councillor Hill	Seconded:	Councillor Jurd		
1.	That Council place the draft Waste Management DCP and draft Cessnock DCP Dictionary amendments for waste on public exhibition for a minimum period of 28 days.					
2.	That Council receive a further report following the public exhibition period if unresolved objections are received or significant amendment to the draft Waste Management DCP are made post exhibition. Where there are no unresolved objections nor significant amendments proposed post exhibition, the draft Waste Management DCP be adopted by Council pursuant to the Environmental Planning and Assessment Regulation.					
3.	That if Council receive 20% or more of submissions opposing the Draft Waste Management DCP during the public exhibition period the matter be referred back to Council for a briefing to assess the feedback and determine any necessary changes.					
29 Oct 2024 12:50pm Blake, Yvonne - Target Date Revision	Target date changed by Blake, Yvonne from 20 November 2024 to 28 February 2025 - As per Council resolution at the Ordinary Council Meeting held 23 October 2024, Management Plan to go on exhibition for 28 days					

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
PE17/2024	Ordinary Council 21/08/2024	Manning, Mark	Planning and Environment	Draft Aboriginal Cultural Heritage Management Plan - Public Exhibition	28/02/2025	
810 MOTION RESOLVED	Moved:	Chrystal, Peter Councillor Hill	Seconded:	Councillor Sander		

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- That Council place the draft Aboriginal Cultural Heritage Management Plan on public exhibition for a period of 90 days.
 - That Council receives a further report following the public exhibition of the draft Aboriginal Cultural Heritage Management Plan.
- 27 Aug 2024 10:00am Manning, Mark
Public exhibition of draft Aboriginal Cultural Heritage Management Plan commenced on 23 August 2024
- 09 Oct 2024 11:06am Manning, Mark
Public exhibition of draft Aboriginal Cultural Heritage Management Plan to close on 21 November 2024
- 29 Oct 2024 12:44pm Blake, Yvonne - Target Date Revision
Target date changed by Blake, Yvonne from 18 September 2024 to 28 February 2025 - As per Council resolution at the Ordinary Council Meeting held 23 October 2024, Management Plan to go on exhibition for 90 days

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
WI26/2024	Ordinary Council 20/11/2024	Le Quesne, Greg	Works and Infrastructure	Tender: EOI T2024-21 - Wollombi Road Upgrade Project - Construction - Stage 1	18/12/2024	
62 MOTION 62 RESOLVED	Moved:	McLachlan, Paul Councillor Hill	Seconded:	Councillor Lea		
1.	That Council accepts the Tender (EOI T2024-21) Wollombi Road Upgrade Project – Construction Stage 1 from Symal Infrastructure Pty Ltd – Alternative Offer for the lump sum of \$38,950,524.93 (excluding GST), subject to Council entering into a Deed of Agreement with Hunter Water to facilitate their contribution of funds towards the construction contract and asset upgrades.					
2.	That Council authorises the General Manager to execute the Deed of Agreement with Hunter Water.					
3.	That Council delegates authority to the General Manager to approve tender variations within the project budget.					

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
WI25/2024	Ordinary Council 20/11/2024	Beattie, Emma	Works and Infrastructure	Revocation of Interim Kerb and Gutter requirements (WI72/2018)	18/12/2024	
60 MOTION 60 RESOLVED	Moved:	McLachlan, Paul Councillor Hill	Seconded:	Councillor Pascoe		
	That Council revokes the Interim Kerb and Gutter Requirements (WI72/2018).					

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Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
BN6/2024	Ordinary Council 19/06/2024	Donnelly, Patricia	Business With Notice	Bin Collection	30/04/2025	
784 MOTION 784 RESOLVED	Moved:	McLachlan, Paul Councillor Hawkins	Seconded:	Councillor Grine		
<ol style="list-style-type: none"> That Council bring forward the review/update of the Waste and Resources Recovery Strategy 2020–2025 and that the updated Strategy be endorsed by the elected Council prior to the implementation of the State Government Mandated FOGO Scheme, expected in 2025. That Council prioritise the review of options for standard collections in Part 3.4 of Section 6 Action Plan of the Strategy and report back to Council on the benefits and costs. That existing collection services remain unchanged until the newly elected Council endorse the updated Waste and Resources Strategy and State Government mandated FOGO services are potentially introduced in 2025. <p>24 Jun 2024 4:58pm Donnelly, Patricia Review of Waste and Resource Recovery Strategy 2020-25 has been moved forward into 2024-25 Operational Plan. Gathering of bin data and community engagement on service levels will be undertaken in October 2024. A Briefing to Council on options for waste bin collection post FOGO will be held in November 2024. The draft 2026-30 Waste and Resource Recovery Strategy will then be developed for community exhibition in February 2025 for adoption by Council in March 2024.</p> <p>24 Jun 2024 5:00pm Donnelly, Patricia - Target Date Revision Target date changed by Donnelly, Patricia from 17 July 2024 to 30 April 2025 - As per notes including timeframes required to prepare this.</p>						

Type	Meeting	Officer/Director	Section	Subject	Est. Compl.	Completed
W175/2022	Ordinary Council 14/12/2022	Dennis, Johanna	Works and Infrastructure	Cessnock LGA Hall Booking/Management	31/12/2024	
383 MOTION 383 RESOLVED	Moved:	McLachlan, Paul Councillor Watton	Seconded:	Councillor Burke		
<ol style="list-style-type: none"> That Council notes the information contained within the report with regard to the implications and resourcing requirements required to overhaul the current practices has adopted relating to hall bookings, maintenance and potential promotions; That Council completes a hall booking trial using the Bookeasy system at four community halls; and That if the hall booking trial is successful, that Council implements the Bookeasy system at all community halls in consultation with the s355 volunteer management committees as resources allow. <p>16 Jan 2023 4:28pm Eveleigh, Nathan - Target Date Revision Target date changed by Eveleigh, Nathan from 11 January 2023 to 30 June 2023 - Test webpage and platform completed for Bellbird Hall. Officers liaising with BookEasy on some minor amendments required for regular bookings., Additional halls will come online after testing is completed with Bellbird Community Hall as per the Council report.</p> <p>02 Mar 2023 9:41am Eveleigh, Nathan BookEasy set-up in final testing phase for Bellbird Community Hall before going live.</p>						

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<p>27 Mar 2023 11:56am Eveleigh, Nathan Bellbird Community Hall Bookeasy portal went live on 20/3/2023. Will roll out 3 additional facilities following initial trials and feedback.</p> <p>28 Jun 2023 11:36am Eveleigh, Nathan Hunter Valley VIC staff have commenced work on Ellalong & Millfield Community Halls following successful roll-out of the BookEasy online bookings at Bellbird Community Hall for 3 months.</p> <p>28 Jun 2023 11:40am Eveleigh, Nathan - Target Date Revision Target date changed by Eveleigh, Nathan from 30 June 2023 to 30 September 2023 - 2 additional halls being set-up. A 4th hall will be added once these two halls are online in the coming months.</p> <p>25 Aug 2023 8:36am Eveleigh, Nathan - Target Date Revision Target date changed by Eveleigh, Nathan from 30 September 2023 to 20 December 2023 - VIC staff working on 2nd & 3rd hall in consultation with open Space staff and s355 committee's.</p> <p>01 Mar 2024 11:29am McNally, Kate 1. Noted, 2. The Bookeasy system is in place for Bellbird Hall. Ellalong and Millfield Hall are ready to go live following training and engagement with the s355 committees., 3. To be completed after item 2.</p> <p>01 Mar 2024 11:31am McNally, Kate - Target Date Revision Target date changed by Harris, Kate from 30 April 2024 to 28 June 2024 - Training must be undertaken with S355 Committee members prior to online bookings progressing.</p> <p>24 Jun 2024 1:26pm McNally, Kate 1. Noted, 2. The Bookeasy system is in place for Bellbird Hall with Millfield Hall coming on line by the end of July 2024. Ellalong Hall will be the next facility to provide online bookings., 3. To be completed after item 2.</p> <p>24 Jun 2024 1:29pm McNally, Kate - Target Date Revision Target date changed by Harris, Kate from 28 June 2024 to 30 August 2024 - Council Officers are in the process of transitioning community halls to the online booking system. Millfield Hall will be complete by the end of July and then moving to Ellalong Hall.</p> <p>30 Oct 2024 1:00pm Dennis, Johanna Council staff undertook system training with Millfield Hall s355 committee volunteers in August and the booking system has been set up and will go live in November.</p> <p>30 Oct 2024 1:05pm Dennis, Johanna - Target Date Revision Target date changed by Dennis, Johanna from 30 August 2024 to 31 December 2024 - AGM being held for Ellalong s355 Committee 18 November. New committee will be trained on booking system before implementation.</p> <p>02 Dec 2024 12:24pm Dennis, Johanna Booking system for Millfield Hall has gone live and is being utilised.</p>
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Evaluation of Tenders

Tender Evaluation Team: In accordance with *CCC Procurement Guidelines*, a Tender Evaluation Team (TET) was formed with the following members:

- Senior Open Space Project Officer, Works & Infrastructure
- Open Space & Community Facilities Manager, Works & Infrastructure
- Contracting Project Manager, Works & Infrastructure
- Acting Infrastructure Manager, Works & Infrastructure
- Procurement Administration Officer, Corporate & Community

Evaluation Process: The evaluation was conducted according to the following process:

1. Assessment of receipt
2. Assessment of conformance
3. Shortlisting of tenders
4. Weighted evaluation
5. Due diligence checks on preferred tenderers
6. Determine evaluation result
7. Independent review of the tender selection process

The evaluation criteria and their weightings were documented in the Contract Preparation Checklist and Tender Evaluation Plan, reviewed by the Open Space & Community Facilities Manager prior to tenders being invited.

1. Assessment of Receipt

Tenders were received and assessed against the first threshold criteria:

Threshold Criteria	
Criterion 1	Submission on time

The following tenders were received and are listed in alphabetical order.

Tender	Tenderer	Business Address	Criterion 1
1	Baker Build Pty Ltd	Erina, NSW	On time
2	Boulus Construction	Armidale, NSW	On time
3	Byrne Pipe and Civil Pty Ltd	Berkley Vale, NSW	On time
4	Connex Management & Construction Pty Ltd	Somersby, NSW	On time
5	Eire Constructions Pty Ltd	Carrington, NSW	On time
6	Glascott Landscape and Civil Pty Ltd	Lane Cove West, NSW	On time
7	Jibraltar Pty Ltd	Mona Vale, NSW	On time
8	Precise Build Pty Ltd	Deniliquin, NSW	On time
9	RTC Construction NSW Pty Ltd	Beresfield, NSW	On time

10	Sports Build Pty Ltd	Armidale, NSW	On time
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All 10 tenders were received on time and met threshold Criterion 1.

2. Assessment of Conformance

The tenders were then assessed for conformance with the remaining threshold criteria:

Threshold Criteria	
Criterion 2	Acceptable legal entity
Criterion 3	Conformance with the RFT
Criterion 4	financial capacity to satisfactorily complete the work

All 10 tenders included a number of qualifications that were subsequently clarified.

All 10 tenders were considered conforming in threshold Criteria 2, 3 and 4. All 10 tenders were progressed to the next stage of evaluation, subject to the financial capacity of those tenderers, found to be in contention, to be confirmed at the Due Diligence stage of evaluation.

All 10 tenders attended the mandatory pre tender site meeting.

3. Shortlisting

With 10 competitive tenders received, shortlisting was not considered necessary. All tenders were progressed to the next stage of evaluation.

4. Weighted Evaluation

Tenders were evaluated using the following weighted evaluation criteria:

Criterion 5	Total Tendered Price
Criterion 6	Contract Program
Criterion 7	Previous Experience
Criterion 8	WHS
Criterion 9	Project Methodology & Capacity to Service the Contract

To assess tenders against the evaluation criteria, the TET used information obtained from the tender documents. A Weighted Evaluation Matrix, containing full details of the tender amounts and weighted evaluation is provided as confidential **Enclosure 1**.

With the highest score, Tender 6 from Glascott Landscape & Civil Pty Ltd was identified as the preferred tender.

5. Due Diligence

Referees, provided by the preferred tenderer, were contacted and positive comment on past performance was received. Performance on other known work was also considered.

Equifax Australasia Credit Ratings Pty Ltd was engaged to independently assess the preferred tenderers' financial capacity. The assessment confirmed conformance with threshold Criterion 4, having current financial capacity to satisfactorily complete the work.

6. Evaluation Result

Following steps 1 to 5 of the evaluation process, the TET found that Tender 6 from Glascott Landscape & Civil Pty Ltd met the requirements of the RFT and recommended acceptance of Tender 6.

7. Independent Review

The evaluation process and recommendations were reviewed by the TAP and determined to be in accordance with relevant documents and legislation:

- *Cessnock City Council Procurement Policy,*
- *Cessnock City Council Procurement Guidelines,*
- *Local Government Act 1993, and*
- *Local Government (General) Regulation 2021.*