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Australia's property industry

## Creating for Generations

10 August 2021

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Dear Ms Jackson

### Draft Environmental Zoning Framework

The Property Council of Australia welcomes the opportunity to provide the following comments to Cessnock City Council's Draft Environmental Zoning Framework (the Framework).

The Property Council of Australia is the leading advocate for Australia's biggest industry – property. It champions the interest of more than 2,200-member companies representing a broad cross section of the property industry.

The Property Industry represents 13% of Australia's GDP and employs more than 1.4 million Australians. Our members are the nation's major investors, owners, managers and developers of properties of all asset classes. They create landmark projects, revitalised urban precincts and communities where people can live, work, shop and play. The property industry shapes the future of our cities and has a deep long-term interest in seeing them prosper as productive and sustainable places.

We welcome acknowledge and appreciate Council's engagement around this Framework and offer the following comments for consideration.

The Property Council supports a balanced planning framework that promotes sustainability and provides protection to vulnerable environmental areas. Providing certainty around property development is assisted when the industry understands those areas that are considered to have special or significant environmental features.

Providing an Environmental Zoning framework is a difficult issue for any LGA especially when it impacts on private property and there is a perception that development rights are eroded. It is therefore important the stakeholders are properly consulted throughout the process.

The Property Council supports the model that Cessnock City Council adopted in establishing a community reference group in relation to developing an Environmental Zoning framework. The staged process that Council has also used in developing a landuse matrix to form the basis of a future landuse framework, that incorporates a model for respective Conservation zones, is also supported as it will ensure consistency and certainty.

While the Property Council is generally supportive of the Environmental Zone Land Use Matrix placed on exhibition, there are a number of submissions we would like to make.

1. The E3 Environmental Management Zone and the E4 Environmental Living Zone should permit a broader range of tourist related land uses. The recently adopted **Cessnock Jobs Strategy** has identified the following 'Job Creation Opportunities':
  - 6.4 Investigate and prioritise options to diversify the Hunter Valley tourism offering.
  - 6.11 Encourage and assist in expanding offerings in heritage tourism, cultural tourism and agritourism.
  - 14.4 Investigate the viability of establishing an outdoor adventure centre for the purpose of facilitating nature-based tourism, cultural tourism, heritage tourism and other complementary activities.
  - 14.5 Review the permissible uses within the environmental and rural land use zones to ensure economic activities associated with nature-based tourism are included.
  - 14.6 Assist and encourage indigenous groups and tourism businesses to develop bush tucker and cultural experiences within the Cessnock LGA.
  - 14.7 Collaborate with government and industry to establish an outdoor adventure centre within the Cessnock LGA.
  - 14.8 Fund a Biodiversity Officer to support biodiversity stewardship agreements, biodiversity management and other nature based economic activities.
  
2. The **Local Strategic Planning Statement** also supports diversification of the tourist industry, including nature-based tourism and related development within natural environments of the Cessnock LGA:
  - *Planning Priority 10: Our City encourages a variety of niche tourism opportunities.* The region's tourism industry will be encouraged to strengthen and diversify. To achieve this, it is important that the planning framework is proactive and is able to adapt to enable new and innovative tourism opportunities. Allowing flexibility for diversification of tourism will assist in building a resilient and competitive economy and generate growth. To encourage the growth of new tourism industries, services and infrastructure needs to be provided in locations suitable for tourism uses. Relevant Planning Principles are as follows:
    - 1. Diverse and innovative tourism industries are encouraged.
    - 2. Tourism operations are compatible with the character of the surrounding area.
    - 3. Tourism activities are supported by essential infrastructure that is appropriately funded.
  
  - *Planning Priority 26: Nature-based and recreational tourism is facilitated and promoted.* Cessnock is home to significant mountain ranges, national parks, expansive bushland, vast rural landscapes and quality recreational facilities. These assets provide a range of tourist opportunities. Nature and recreational tourism also have the added benefit of improved health and wellbeing, both for residents and visitors.

3. **Hunter Region Plan** also supports nature-based tourism. Action 9.2 Of Direction 9: Grow tourism in the region, states: Encourage tourism development in natural areas that support conservation outcomes.
4. The **Greater Newcastle Metropolitan Plan** also applies to the natural areas of the Cessnock LGA and also supports nature-based tourism initiatives. It states at Action 6.2 “increase flexibility for new tourism proposals (buildings, hotels, spaces, and activities) within strategic centres, ..... and rural and environmental areas in the metro frame that do not affect the environmental features, viticulture or other agricultural industries, or natural amenity”.

There is consequently a clear ‘line of sight’ through the strategic planning framework applying to the Hunter Region and Cessnock LGA that supports a broadening and growth of the tourism industry including a growth in nature-based tourism. Therefore, the Environmental Strategy must ensure that the Environmental Zoning framework facilitates appropriate forms of tourist development.

Examples of Tourism-related uses which should be considered for inclusion as permissible with consent in these zones are highlighted below.

## Environmental Zone Land Use Matrix – Current and Proposed

Based on the Cessnock Local Environmental Plan 2011						
Legend	Environmental Conservation (Existing)	Environmental Conservation (Proposed)	Environmental Management (Existing)	Environmental Management (Proposed)	Environmental Living (Existing)	Environmental Living (Proposed)
	E2	E2	E3	E3	E4	E4
<ul style="list-style-type: none"> <li>o permitted without consent</li> <li>c permitted with consent</li> <li>x prohibited</li> <li>A permitted under SEPP (Affordable Rental Housing) 2009</li> <li>I permitted under SEPP (Infrastructure) 2007</li> <li>E permitted under SEPP (Educational Establishments &amp; Child Care Facilities) 2017</li> </ul>						
<ul style="list-style-type: none"> <li><span style="background-color: yellow;">■</span> mandated under the Standard Instrument (SI)</li> <li><span style="background-color: purple;">■</span> public infrastructure permitted under a SEPP.</li> </ul>						
* Denotes a proposed change						
Is the zone used? (please select Y/N for each zone)	Y	Y	Y	Y	Y	Y
<b>(LAND USE terms WITHIN tourist and visitor accommodation group term)</b>						
tourist and visitor accommodation	c	x*	x	x	x	x
backpackers' accommodation	c	x*	x	x	x	x
bed & breakfast accommodation	c	c	x	c*	c	c
farm stay accommodation	c	x*	x	x	x	x
hotel or motel accommodation	x	x	x	x	x	x
serviced apartments	c	x*	x	x	x	x
<b>(LAND USE terms OUTSIDE tourist and visitor accommodation group term)</b>						
camping grounds	x	x	x	x	c	x*
caravan parks	x	x	x	x	c	x*
eco-tourist facilities	x	c*	x	c*	x	x

(Other LAND USE terms relating to community infrastructure)						
early education & care facilities [eg TAFE establishment etc.]	x	x	x	x	x	x
centre-based child care facilities	x	x	x	x	c	x*
home-based child care	c	x*	x	x	o	x*
school-based child care	x	x	x	x	E	E
community facilities	x	c*	x	c*	c	x*
correctional centres	x	x	x	x	x	x
emergency services facilities	x	c*	x	c*	c	x*
industrial training facilities	x	x	x	x	x	x
information and education facilities	x	x	c	x*	c	x*
places of public worship	x	x	x	x	x	x
public administration building	x	x	x	x	x	x
research stations	x	x	x	x	c	x*
respite day care centres	x	x	x	x	c	x*

## Environmental Zone Land Use Matrix – Current and Proposed

Based on the Cessnock Local Environmental Plan 2011						
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	E2	E2	E3	E3	E4	E4
<ul style="list-style-type: none"> <li>o permitted without consent</li> <li>c permitted with consent</li> <li>x prohibited</li> <li>A permitted under SEPP (Affordable Rental Housing) 2009</li> <li>I permitted under SEPP (Infrastructure) 2007</li> <li>E permitted under SEPP (Educational Establishments &amp; Child Care Facilities) 2017</li> </ul> <p> <span style="display: inline-block; width: 10px; height: 10px; background-color: yellow; border: 1px solid black; margin-right: 5px;"></span> mandated under the Standard Instrument (SI)  <span style="display: inline-block; width: 10px; height: 10px; background-color: purple; border: 1px solid black; margin-right: 5px;"></span> public infrastructure permitted under a SEPP.         </p> <p>* Denotes a proposed change</p>						
Is the zone used? (please select Y/N for each zone)	Y	Y	Y	Y	Y	Y
<b>(LAND USE terms WITHIN commercial premises group term)</b>						
commercial premises	x	x	x	x	x	x
business premises [eg. banks, post offices, hairdressers, etc.]	x	x	x	x	x	x
funeral homes	x	x	x	x	x	x
office premises	x	x	x	X	x	x
retail premises	x	x	x	x	x	x
cellar door premises	x	x	x	x	x	x
food & drink premises	x	x	x	x	x	x
pubs	x	x	x	x	x	x
restaurants or cafes	x	x	x	x	x	x
take-away food & drink premises	x	x	x	x	x	x
small bars	x	x	x	x	x	x
garden centres	x	x	x	x	x	x
hardware & building supplies	x	x	x	x	x	x
kiosks	x	x	c	c	x	x
landscaping material supplies	x	x	x	x	c	x*
markets	x	x	x	x	x	x
plant nurseries	x	x	x	x	c	x*
roadside stalls	x	x	x	c*	c	x*
rural supplies	x	x	x	x	x	x
shops	x	x	x	x	x	x
neighbourhood shops	x	x	x	x	c	x*
neighbourhood supermarkets	x	x	x	x	x	x
specialised retail premises	x	x	x	x	x	x
timber yards	x	x	x	X	x	x
vehicle sales or hire premises	x	x	x	x	x	x
<b>(LAND USE terms OUTSIDE commercial premises group term)</b>						
amusement centres	x	x	x	x	x	x
entertainment facilities	x	x	x	x	x	x
function centres	x	x	x	x	x	x
highway service centres	x	x	x	x	x	x
industrial retail outlets	x	x	x	x	x	x

Figure 1. Environmental Zone Landuse considerations

The following table provides an outline of LGAs with similar characters to the Cessnock LGA's permissible uses within the E3 Environmental Management and E4 Environmental Living zones:

### E3 Environmental Management Zone Landuse Comparison

Local Government Area	T&V Accom	Eco-tourist/ Info & Edu	Commercial	Recreation
<b>Cessnock LGA (Draft)</b>	- Bed & breakfast accom	- Eco-tourist facilities - Enviro facilities	- Roadside stalls - Kiosks - Dairies	- Community facilities
<b>Bega Valley</b>	- Bed & Breakfast - Camping Grounds - Farm stay accom	- Eco-tourist facilities - Info & edu	- Cellar Doors - Viticulture	- Community facilities - Function Centres - Recreation areas
<b>Bellingen</b>	- Tourist and Visitor Accom	- Environmental Facilities		
<b>Blue Mountains</b>	- Bed & breakfast - Camping grounds - Farm-stay accommodation - Hotel or motel accommodation	- Eco-tourist facilities - Info & edu facilities	- Centre-based childcare - Educational establishments - Kiosks - Animal Boarding & Training	- Recreation areas - Recreation facilities indoor & outdoor
<b>Byron Bay</b>	- Bed and Breakfast - Camping grounds - Farm stay accom	- Eco-tourist facilities		- Community facilities
<b>Clarence Valley</b>	- Bed and Breakfast - Camping grounds - Farm stay accom	- Eco-tourist Facilities	- Animal Boarding & Training	- Recreation areas
<b>Coffs Harbour</b>	- Bed and breakfast - Camping grounds	- Eco-tourist facilities		- Community facilities
<b>Cowra</b>	- Bed and Breakfast - Camping grounds - Farm stay accom	- Eco-tourist facilities - Info & edu facilities	- Animal Boarding & Training - Kiosks	- Community facilities - Recreation areas - Recreation facilities indoor & outdoor
<b>Gloucester</b>	- Backpackers' accom - Bed and breakfast - Camping grounds - Caravan Parks - Farm stay accom	- Eco-tourist facilities	- Animal Boarding & Training - Cellar door premises	
<b>Hawkesbury</b>	- Camping grounds - Caravan Parks - Visitor & tourist accom	- Eco-tourist facilities	- Educational establishments - Health consulting rooms - Helipads - Registered clubs	- Community facilities - Entertainment facilities - Hospitals - Recreation areas & facilities

<b>Lake Macquarie</b>	- Bed & breakfast - Farm stay accom	- Eco-tourist facilities - Info & edu facilities	- Educational establishments - Funeral homes - Kiosks	- Community facilities - Recreation facilities
<b>Lismore</b>	- Bed & breakfast - Camping grounds - Caravan Parks - Farm stay accom	- Eco-tourist facilities - Environmental facilities - Info & edu facilities	- Cellar door premises - Dairies - Kiosks - Neighbourhood shops	- Community facilities - Recreation areas
<b>Newcastle</b>	- Bed & breakfast - Camping grounds - Caravan parks	- Info & edu facilities	- Animal boarding & training - Centre-based childcare facilities - Educational Establishments	- Community facilities - Recreation area - Recreation facilities outdoor
<b>Port Stephens</b>	- Bed & breakfast	- Eco-tourist facilities - Info & edu facilities	- Animal boarding & training - Crematoria - Funeral homes	- Community facilities - Recreation areas
<b>Upper Hunter</b>	- Bed & breakfast - Farm stay accom	- Eco-tourist facilities		- Recreation areas

The above table shows that the proposed draft Environmental Zoning framework for the E3 Environmental Management zone in the Cessnock LGA is far more restrictive in terms of permissible landuses when compared against the LEPs of most other LGAs.

In terms of what the Property Council recommends as permissible landuses in the E3 Environmental Management zone for the Cessnock LGA, this is then consistent with the approach most other Councils have taken.

The Property Council would also like to encourage Council to seek clarification from DPIE as to why *artisan food and drink industries* are prohibited in the E3 Environmental Management Zone through the Stand Instrument. These types of developments are typically boutique style operations, of a modest scale, and for LGAs like Cessnock trying to encourage tourist infrastructure in natural areas, these types of uses are considered as appropriate in the zone subject to a merits based approach to issues, such as design and environmental impacts.

The Property Council is also of the view that the following uses should be permissible with consent in the E3 Environmental Management zone:

- *Farm buildings* – land zoned E3 is likely to be used where privately owned for rural purposes still, and landowners should be allowed to build a farm building to support their operation.
- *Secondary dwellings* – these are restricted in size and are important for extended families supporting older family members, or younger generation who cannot afford a home, and should be permitted with consent.
- *Home industry* – these occur within the confines of the home, are small scale and allowed to only occur within a 50m<sup>2</sup> floor area (Clause 5.4(3)) and are controlled by the following provision – not involve the “*interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise*”. This type of use is unlikely to conflict with the zone objectives.
- *Signage* – if tourist related businesses and other uses are going to be permitted in the zone, signage must be permitted also.

- *Recreation areas* – this includes a “reserve” under the definition which would include a natural area and should be permissible with consent.
- *Recreation facilities (outdoor)* – this will entail outdoor walking trails through natural areas, and other outdoor recreation activities that don’t have environmental impacts, but support tourism.

The Property Council also encourages the following uses should be permissible with consent in the E4 Environmental Living zone:

- *Bee keeping* – this is typically a low scale activity, and it is difficult to comprehend why such an activity would be inconsistent with the intended outcomes of the zone.
- *Viticulture* – while it is granted that there is unlikely to be a demand for viticulture within an E4 zone, it is currently permitted with consent, and if it were to occur, it would likely be a small-scale operation primarily for domestic or hobby purposes. This provision unnecessarily restricts private landowners’ ability to use their property for reasonable purposes, and any potential impacts can be dealt with via a merits-based assessment.
- *Animal boarding or training establishments* – These types of landuses are best located in a low-density environment, screened from adjoining sensitive landuses. Again, the use for this purpose can be adequately managed through a merits-based assessment.
- *Farm buildings* – land zoned E4 can be used for rural and agricultural purposes, and landowners should be allowed to build a farm building to support their operation.
- *Dual Occupancies (detached)*
- *Secondary dwellings* - these are restricted in size and are important for extended families supporting older family members, or younger generation who cannot afford a home, and should be permitted with consent.
- *Home industry* – these occur within the confines of the home, are small scale and allowed to only occur within a 50M<sup>2</sup> floor area (Clause 5.4(3)) and are controlled by the following provision – not involve the “*interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise*”. This type of use is unlikely to conflict with the zone objectives.
- *Signage* – if businesses are permitted in the zone, signage must be permitted also.

The Property Council encourages implementation of a conservation strategy aimed at establishing biodiversity reserves and corridors. We would also suggest that these corridors and reserves be given ‘rubber-band’ boundaries. By this, we mean that these boundaries should be made adjustable to enable careful and considered development by granting opportunities to offset areas potentially affected by then conserving other areas on the property. See below an example of this in practice:



Figure 2 demonstrates an example of land that might be categorised as a biodiversity reserve and its associated boundary.



Figure 2. Example of area on lot identified as a biodiversity reserve.

Figure 3 demonstrates how a 20m rubber boundary may be implemented on the site, with the boundary to be pushed back 20m in the orange area (say to enable satisfactory setbacks for an ancillary building to the primary residence). The green area indicated below represents an area which would then take the place of the area removed (equal in size to the orange) from the biodiversity reserve. The offset green area would then require revegetation by the proponent with species eminent to the subject biodiversity reserve. The yellow line below shows how the boundary would be adjusted.



Figure 3. 'Rubber-band' boundary example.

**Conclusion**

The Property Council and our members are grateful for the opportunity to provide feedback on this draft Framework.

We appreciate Council's engagement and invite you to contact us on 0439 253 710 should you have any questions regarding this submission.

Yours sincerely

A handwritten signature in black ink that reads "Anita Hugo". The signature is written in a cursive, flowing style.

**Anita Hugo**  
**Regional Director Hunter**  
**Property Council of Australia**