



Draft Planning Proposal

**Amendments to Penrith Local
Environmental Plan 2010 and
Penrith Local Environmental Plan
(Environmental Heritage
Conservation) 2011**

TABLE OF CONTENTS

Introduction	2
Part 1 – Objectives or Intended Outcomes	2
Part 2 – Explanation of Provisions	2
Part 3 – Justification	14
Section A – Need for the Planning Proposal	14
1. Is the planning proposal a result of any strategic study or report?	14
2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	14
3. Is there a net community benefit?	14
Section B – Relationship to strategic planning framework	14
4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?	14
5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?	14
6. Is the planning proposal consistent with applicable state environmental planning policies?	15
7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?	15
Section C – Environmental, social and economic impact	18
8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?	18
9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	18
10. How has the planning proposal adequately addressed any social and economic effects?	18
Section D – State and Commonwealth interests	18
11. Is there adequate public infrastructure for the planning proposal?	18
12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?	18
Part 4 – Community Consultation	18

Introduction

This Planning Proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* (the Act) and relevant Department of Planning guidelines including “*A Guide to Preparing Local Environmental Plans*” and “*A Guide to Preparing Planning Proposals*”.

A Gateway Determination under section 56 of the Act is requested.

Part 1 – Objectives or Intended Outcomes

The objectives of this Planning Proposal are:

1. To clarify the relationship between *Penrith Local Environmental Plan 2010* and *Sydney Regional Environmental Plan No.25 – Orchard Hills*;
2. To clarify the minimum lot size requirements in *Penrith Local Environmental Plan 2010* when land is subdivided under a community title scheme;
3. To address various minor discrepancies relating to a flood planning term, land use terms, Schedules 1, 2 and 5, and the clause application, land zoning and heritage maps for *Penrith Local Environmental Plan 2010*; and
4. To transfer the listing for the adopted heritage item on land known as 1 Bundarra Road, Regentville, from *Penrith Local Environmental Plan 2010* to *Penrith Local Environmental Plan (Environmental Heritage Conservation) 2011*.

Part 2 – Explanation of Provisions

A number of amendments are proposed to *Penrith Local Environmental Plan 2010* (LEP 2010) and are described below:

No.	Amendment:	Explanation of provision:
Clauses		
1.	<u>Add New Subclause to Clause 1.9 Application of SEPPs:</u> Insert the following at the end of clause 1.9(2): <i>Sydney Regional Environmental Plan No 25 – Orchard Hills</i>	Following the publication of LEP 2010, it was intended that all land within <i>Sydney Regional Environmental Plan No.25 – Orchard Hills</i> (SREP 25), with the exception of one site, would be subject to the provisions of LEP 2010. The exception is a site, known as “The Knoll”, being part of Lot 21, DP 1151724, Nos.17-53 Caddens Road, Kingswood and identified as a deferred matter on Tile 13 of the Land Zoning Map. As SREP 25 was to only apply to this one site, it was not repealed. Council’s legal advice indicates

No.	Amendment:	Explanation of provision:
		that the consequence of not repealing SREP 25 is that it continues to apply to all land in Orchard Hills and prevails in the event of an inconsistency between SREP 25 and LEP 2010. A new subclause is to be inserted in LEP 2010 to clearly indicate that SREP 25 does not apply to any land in LEP 2010 with the exception of the one site referred to above.
2.	<u>Add New Clause:</u> 4.1AA Minimum subdivision lot size for community titles schemes (1) The objectives of this clause are as follows: (a) to ensure that subdivisions under community title schemes maintain minimum lot sizes, (b) to ensure that lot sizes are compatible with the environmental capabilities of the land, and the character and density of development in the area, (c) to ensure that lot sizes and dimensions allow developments to be sited to protect natural or cultural features and to have a minimal impact on the amenity of neighbouring properties. (2) This clause applies to a subdivision of land (being land under a community title scheme and shown on the Lot Size Map) that requires development consent and is carried out after the commencement of this Plan. Note. Part 6 of <i>State Environmental Planning Policy (Exempt and Complying Development) Codes 2008</i> provides that the strata subdivision of a building in certain circumstances is specified as complying development. (3) The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising	The Department has recently advised Council that the effect of clause 4.1(4) of LEP 2010 is “that the Minimum Lot Size Map does not apply to land that is subdivided under a strata plan or community title scheme”. This means that land, including land zoned for rural or environmental purposes in LEP 2010, may be subdivided into lots less than the minimum size shown on the Lot Size Map where those lots are proposed in a community title scheme. This was not the intent of the subdivision provisions of LEP 2010, particularly in rural and environmental zones. A new clause is to be inserted in LEP 2010 to ensure that land subdivided under a community title scheme does not result in lots that are less than the minimum lot size shown on the Lot Size Map for that land. The new clause is the same as ‘Clause 4.1AA Minimum subdivision lot size for community titles schemes’ of the <i>Standard Instrument (Local Environmental Plans)</i>

No.	Amendment:	Explanation of provision:
	association property within the meaning of the <i>Community Land Development Act 1989</i>) is not to be less than the minimum size shown on the Lot Size Map in relation to that land. Direction. An exception to the minimum size shown on the Lot Size Map may be provided in certain circumstances, for example, in the case of land that is to be used for attached dwellings.	<i>Amendment Order 2011</i> published on 25 February 2011. The objectives of the new clause seek to ensure that subdivision of land under a community title scheme does not undermine the objectives of clause 4.1 Minimum subdivision lot size of LEP 2010 and a consistent approach is applied to subdivisions.
3.(a)	Amend Clause 6.3 Flood Planning - The reference to <i>average recurrent interval</i> is to be corrected to <i>average recurrence interval</i> in subclause (7).	This amendment is to clarify the definition of <i>flood planning level</i>. This amendment ensures that the clause is consistent with the NSW Government's <i>Floodplain Development Manual</i> published in 2005.
Land Use Table		
3.(b)	RU1 Primary Production (3) – remove the term <i>Turf farming</i>	It is intended to continue to permit turf farming with consent in Zone RU1, but remove the term <i>Turf farming</i> as it is part of the group term <i>Agriculture</i>.
3.(c)	RU4 Rural Small Holdings (3) – remove the term <i>Horticulture</i>	It is intended to continue to permit horticulture with consent in Zone RU4, but remove the term <i>Horticulture</i> as it is part of the group term <i>Agriculture</i>.
3.(d)	RE1 Public Recreation (4) – remove the term <i>Retail premises</i>	It is intended to remove <i>Retail premises</i> as it is not a term mandated in the Standard Instrument and is captured by <i>Any other development nor specified in item 2 or 3</i>.
Schedules		
3.(e)	Schedule 1 – Item 5(1) to read: “... <i>being Lot 23, DP 1142130</i>”.	The property description is to be updated following a consolidation of the lots.
3.(f)	Schedule 2 – Signage (building identification signs) (1) – amend 30m² to 3.0m².	It is intended to insert a missing decimal point in (1) to ensure that the maximum area of a

No.	Amendment:	Explanation of provision:
		building identification sign under exempt development provisions is 3.0m ² not 30m ² .
3.(g)	Schedule 5 – Item No. 2260261C (Castlereagh Road) – amend <i>Castlereagh Road</i> to <i>Castlereagh Road Alignment</i> and amend <i>State</i> to <i>Local</i> .	The heritage significance of the item is to be corrected to <i>Local</i> significance as the item is not listed on the State Heritage Register. The item name is to be corrected to <i>Castlereagh Road Alignment</i>, consistent with Item No. 2260261A.
3.(h)	Schedule 5 – (Luddenham Road) – amend <i>Luddenham Road</i> to <i>Luddenham Road Alignment</i> and insert <i>Local</i> and 2260843.	The item name is to be corrected to <i>Luddenham Road Alignment</i>. The significance is to be listed as <i>Local</i>. The item number is to be inserted as 2260843.
3.(i)	Schedule 5 – Item No. 2260844 (Former Mulgoa Road Alignment) - amend <i>State</i> to <i>Local</i> .	The heritage significance of the item is to be corrected to <i>Local</i> significance as the item is not listed on the State Heritage Register.
3.(j)	Schedule 5 – Item No. 2260126 (St Thomas' Anglican Church & Cemetery) – add <i>and Lot 1, DP 1035490</i> .	The property description is to be expanded to Lot 1, DP 996994 and Lot 1, DP 1035490.
3.(k)	Schedule 5 – Item No. 2260138 (Winbourne) – amend <i>43-119 St Thomas Road</i> to <i>1315 Mulgoa Road</i> and <i>Lot 1, DP 996994; Lot 1, DP 1035490</i> to <i>Lot 4, DP 854076</i> .	The address is to be corrected to <i>1315 Mulgoa Road</i>. The property description is to be corrected to <i>Lot 4, DP 854076</i>.
3.(l)	Schedule 5 – Item No. 2260125 (The Cottage) – add <i>and 2-24 St Thomas Road</i> and amend <i>Lots 3-4, DP 241971</i> to <i>Lots 2, 3 & 4 DP 241971</i> .	The address is to be expanded to 1012-1046 Mulgoa Road and 2-24 St Thomas Road. The property description is to be corrected to <i>Lots 2, 3 & 4 DP 241971</i>.
3.(m)	Schedule 5 – Item No. 2260276 (Regentville Workers' Terrace) – remove this item.	The item is to be removed from LEP 2010 as it is located outside of the land identified on the Land Application Map. It is to be

No.	Amendment:	Explanation of provision:
		transferred to <i>Penrith Local Environmental Plan (Environmental Heritage Conservation) 2011</i> (see below).
LEP Maps		
3.(n)	Clause Application Map – 6350_COM_CAP_002_080_20100721 – remove <i>Waterside Corporate</i> label.	The <i>Waterside Corporate</i> label in the grey area, as shown in Figure 1 , is to be removed as it is unnecessary.
3.(o)	Land Zoning Map – 6350_COM_LZN_006_020_20100616 – amend <i>SP2 Classified road</i> and <i>SP2 Local road</i> labels.	The <i>SP2 Classified road</i> label along Mulgoa Road, Jamisontown, as shown in Figure 2, is to be amended to <i>SP2 Local road</i>. The <i>SP2 Local road</i> label along Mulgoa Road, Jamisontown, as shown in Figure 2, is to be amended to <i>SP2 Classified road</i>.
3.(p)	Land Zoning Map – 6350_COM_LZN_013_020_20100625 – amend boundaries of deferred matters.	The boundary of the deferred matter in the vicinity of the Great Western Highway, as shown in Figure 3, is to be moved to include Market Street. The zones for the deferred matter are included in the draft Planning Proposal for Stage 2 of the Penrith City-wide LEP. Further, the extent of the deferred matter to the north of Caddens Road, as shown in Figure 4, is to be reduced to only that area within SREP 25 Orchard Hills. The zone for the deferred matter is included in the draft Planning Proposal for Stage 2 of the Penrith City-wide LEP.
3.(q)	Land Zoning Map – 6350_COM_LZN_019_020_20100616 – amend E2 zone boundary.	The boundary of the E2 zone in the vicinity of Barker and Hall Streets, St Marys, as shown in Figure 5 , is to be amended to correspond with the boundary of the deferred matter.

No.	Amendment:	Explanation of provision:
3.(r)	Land Zoning Map – 6350_COM_LZN_021_020_20100423 – extend E2 zone boundary.	The E2 zone along the road reserve to the west of Clifton Avenue, Kemps Creek, as shown in Figure 6 , is to be extended to include all of the road reserve to Clifton Avenue.
3.(s)	Heritage Map – 6350_COM_HER_005_020_20100723 – amend 2260261 label to 2260261C.	The label on heritage item 2260261 (Castlereagh Road, Castlereagh), as shown in Figure 7 , is to be amended to 2260261C consistent with the written instrument.
3.(2)	Land Reservation Acquisition Map - 6350_COM_LRA_006_020_20100512 - amend <i>Classified Road (SP2)</i> and <i>Local Road (SP2)</i> labels.	The <i>Classified Road (SP2)</i> label along Mulgoa Road, Jamisontown, as shown in Figure 8, is to be amended to <i>Local Road (SP2)</i>. The <i>Local Road (SP2)</i> label along Mulgoa Road, Jamisontown, as shown in Figure 8, is to be amended to <i>Classified Road (SP2)</i>.

Two amendments are proposed to *Penrith Local Environmental Plan (Environmental Heritage Conservation) 2011* (the Heritage LEP) and are described below. The Heritage LEP was submitted to the Department in December 2009 with a request that the Minister make the plan. It is expected to be finalised shortly.

No.	Amendment:	Explanation of provision:
Schedules		
4.(a)	Schedule 5 – Add <i>Regentville Workers' Terrace</i> as a new heritage item.	This item is to be included in the Heritage LEP as it is located within the land identified on the Land Application Map for that LEP. The suburb is <i>Regentville</i>. The item name is <i>Regentville Workers' Terrace</i>. The address is <i>1 Bundarra Road</i>. The property description is <i>Lots 1,</i>

No.	Amendment:	Explanation of provision:
		<i>2 and 19, DP 165400.</i> The significance is <i>Local</i>. The item number is <i>I2260276</i>.
LEP Maps		
4.(b)	Heritage Map – 6350_COM_HER_006_020_20110207 – include the above item on the Heritage Map.	The above item is to be included on Tile No.6 of the Heritage Map as <i>I2260276</i> . See Figure 9 .

Figure 1: Clause Application Map – Tile 2

Remove the Waterside Corporate label (located at 23.5cm from left margin and 2cm from top margin)

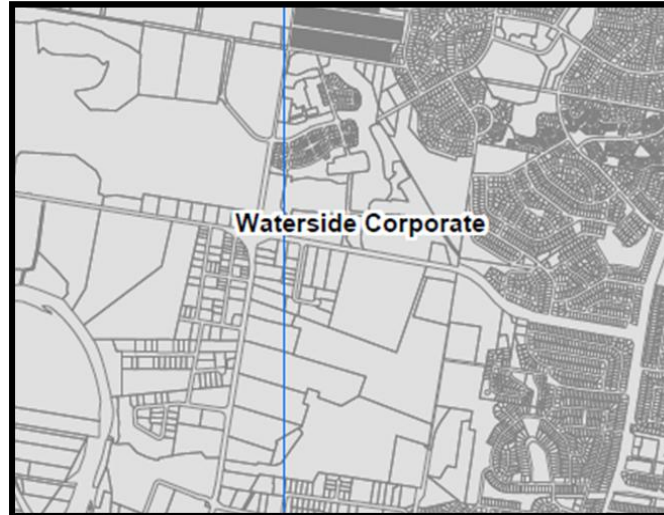


Figure 2: Land Zoning Map – Tile 6

Swap the *SP2 Classified road* label (located at 31cm from left margin and 10 cm from top margin) with the *SP2 Local road* label (located at 29.5cm from left margin and 12.5cm from top margin)

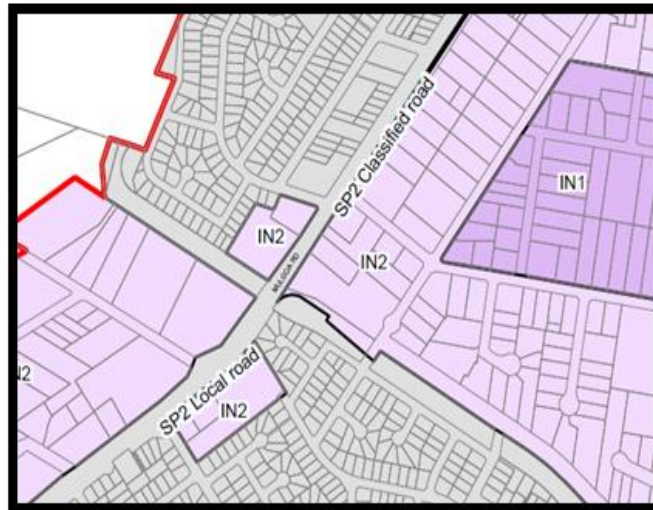


Figure 3: Land Zoning Map – Tile 13

Amend south-eastern boundary of 'Deferred Matter' (located at 35cm from left margin and 11cm from top margin) to include Market Street

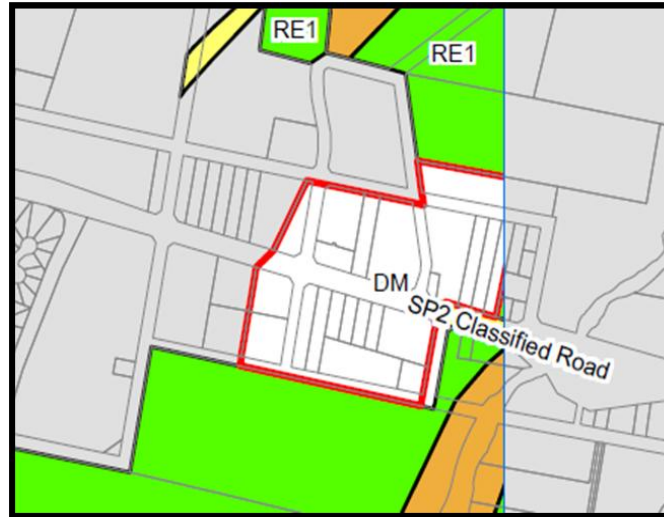


Figure 4: Land Zoning Map – Sheet 13

Amend east and west boundaries of 'Deferred Matter' (located at 18.5cm from left margin and 13.5cm from top margin) to include only that area within Sydney Regional Environmental Plan No.25 – Orchard Hills.

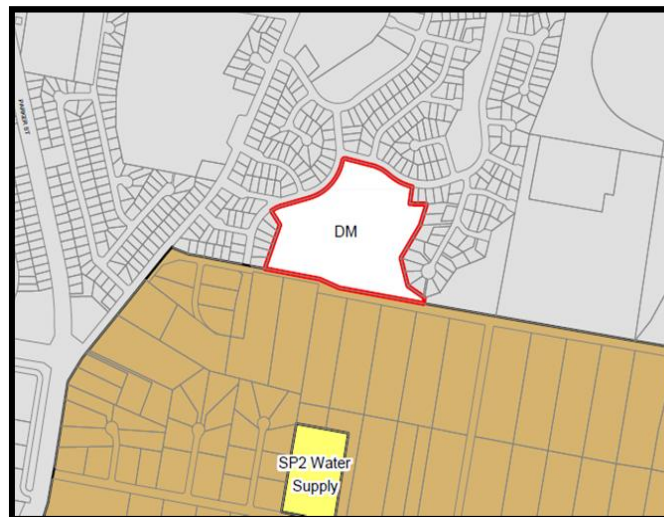


Figure 5: Land Zoning Map – Tile 19

Amend E2 Environmental Conservation zone boundary (located at 11.5cm from left margin and 18cm from top margin) to match boundary of 'Deferred Matter'

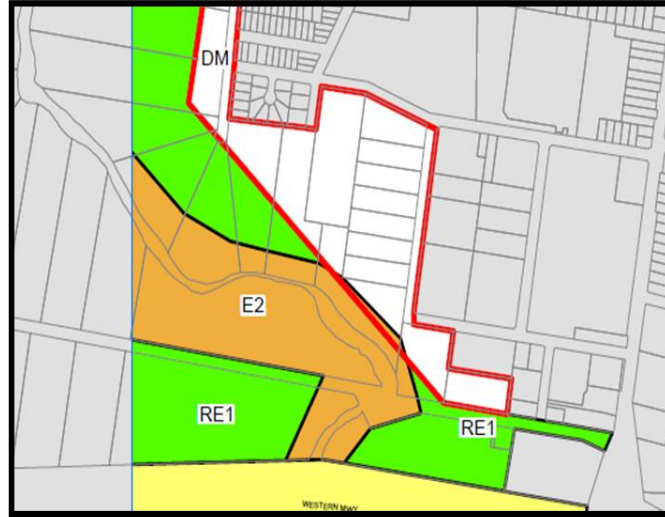


Figure 6: Land Zoning Map – Tile 21

Extend current E2 Environmental Conservation zone across road reserve to Clifton Avenue (located at 19.5cm from left margin and 14.2cm from top margin)

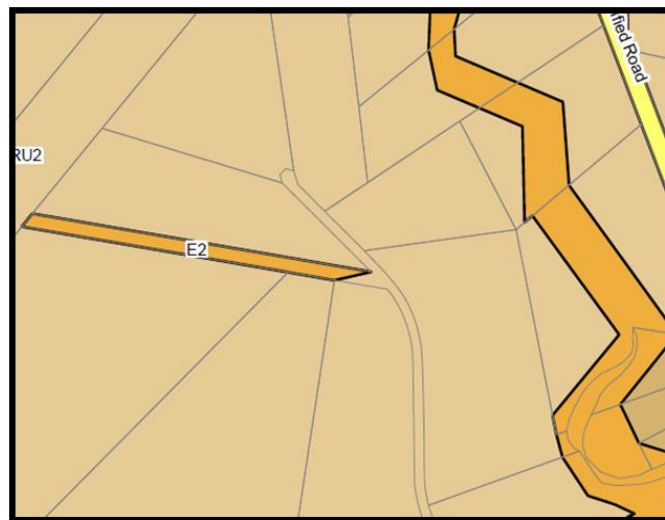


Figure 7: Heritage Map – Tile 5

Add post-fix 'C' to Heritage Item 2260261 (located at 36cm from left margin and 15.2cm from top margin)

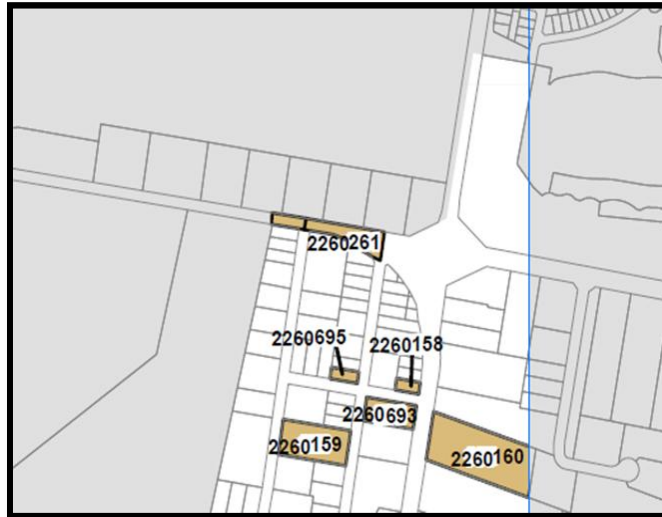


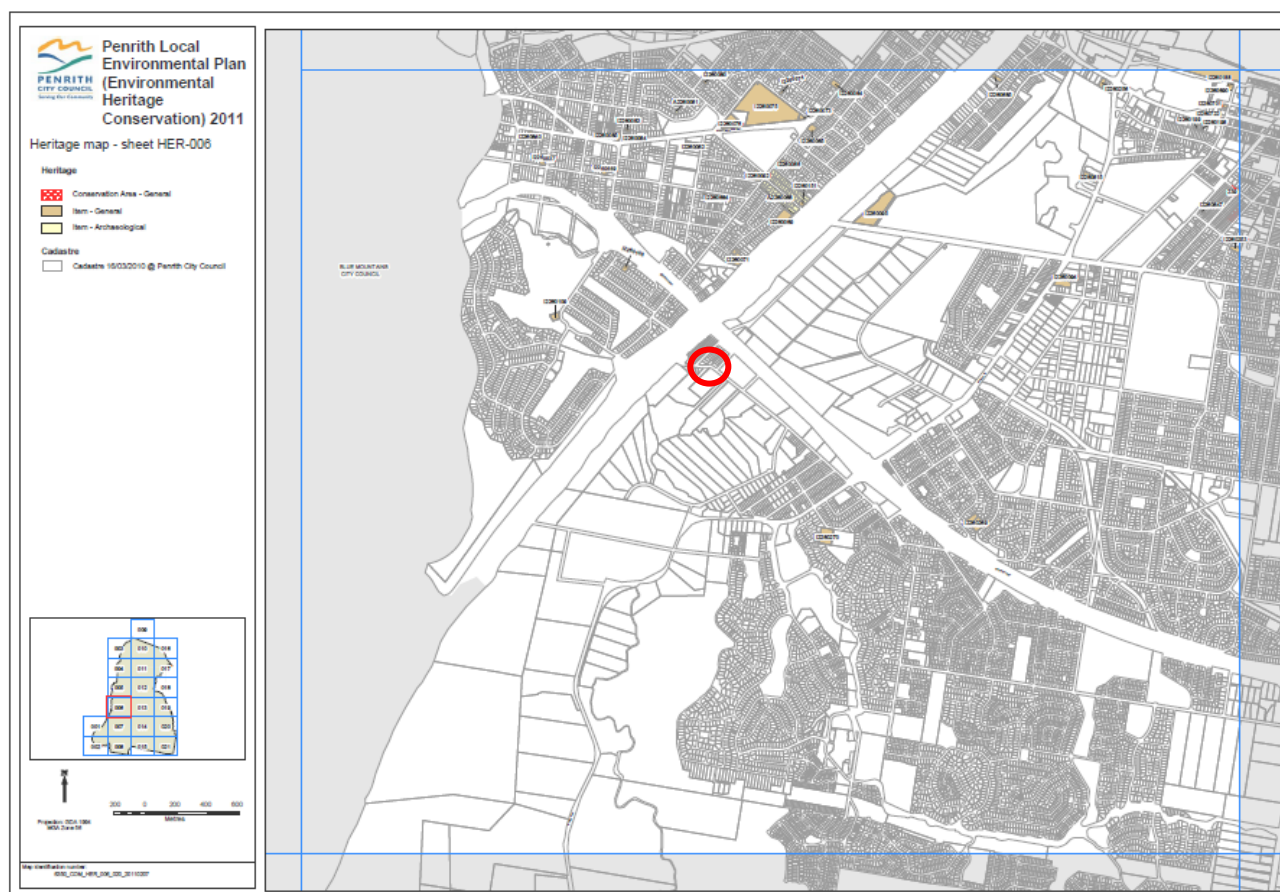
Figure 8: Land Reservation Acquisition Map – Tile 6

Swap the *SP2 Classified road* label (located at 31cm from left margin and 10 cm from top margin) with the *SP2 Local road* label (located at 29.5cm from left margin and 12.5cm from top margin)



Figure 9: Heritage Map – Tile 6 of draft Penrith LEP 2011

Include Heritage Item I2260276 (located at 22cm from left margin & 11cm from top margin)



Part 3 – Justification

Section A – Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

The Planning Proposal is not the result of any strategic study or report. The amendments included in this Planning Proposal have been identified primarily by Council staff, as well as other stakeholders, following publication and initial implementation of PLEP 2010. The amendments are considered to be minor in nature.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The main objective of this Planning Proposal is to ensure that the intent of PLEP 2010 is achieved by clarifying the relationship between PLEP 2010 and SREP 25, and the minimum subdivision lot size requirements when land is subdivided under a community title scheme. The opportunity has also been taken to address various minor discrepancies to ensure the written instrument and maps for PLEP 2010 and draft PLEP 2011 are accurate. Council, in consultation with the Department of Planning's regional team, considers that this Planning Proposal is the most appropriate and timely way of achieving these outcomes.

3. Is there a net community benefit?

The Planning Proposal will clarify which land is subject to LEP 2010 and which is subject to SREP 25. It will also clarify the requirements for minimum subdivision lot sizes, where land is proposed to be subdivided under a community title scheme. This will ensure that the land is not fragmented and the character and density of development within an area are retained. It will also ensure a consistent approach to the subdivision of land. These amendments will result in a net community benefit by providing certainty to landowners, the community and proponents.

The remaining amendments in the Planning Proposal will ensure that LEP 2010 and the Heritage LEP are accurate. They will also result in a net community benefit by providing certainty to landowners, the community and proponents.

Section B – Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Planning Proposal is consistent with the objectives and actions in the Metropolitan Plan for Sydney 2036 and the draft North West Subregional Strategy.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The Planning Proposal is consistent with Penrith's Community Strategic Plan, *Penrith Regional City Strategic Plan 2031*.

6. Is the planning proposal consistent with applicable state environmental planning policies?

The Planning Proposal is consistent with the applicable state environmental planning policies.

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Planning Proposal is consistent with the following applicable Ministerial Directions (s.117 directions):

Ministerial Direction		Objective	Consistency	
1. Employment and Resources				
1.2	Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	Y	The Planning Proposal is consistent with this direction. The proposed clause on ‘minimum subdivision lot size for community title scheme’ is to ensure land is not fragmented by subdivision and the character and density of development within an area are retained.
2. Environment and Heritage				
2.1	Environment Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	Y	The Planning Proposal is consistent with this direction and does not reduce any environmental protection standards that apply to the land.
2.3	Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Y	The Planning Proposal is consistent with this direction as it proposes to amend the Heritage Schedules and Maps for both LEP 2010 and the Heritage LEP to ensure heritage items are identified accurately.
2.4	Recreation Vehicle Areas	The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Y	The Planning Proposal does not enable land to be developed for the purpose of a recreation vehicle area.
3. Housing, Infrastructure and Urban Development				
3.2	Caravan Parks and Manufactured Home Estates	The objectives of this direction are: to provide for a variety of housing types, and	Y	The Planning Proposal does not alter any provisions relating to caravan parks and manufactured home estates.

Ministerial Direction		Objective	Consistency	
		to provide opportunities for caravan parks and manufactured home estates.		
3.3	Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Y	The Planning Proposal does not alter any provisions relating to home occupations.
4. Hazard and Risk				
4.3	Flood Prone Land	The objectives of this direction are: - to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>, and - to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Y	The Planning Proposal is consistent with this direction and proposes to correct the reference to <i>average recurrent interval</i> to <i>average recurrence interval</i> .
4.4	Planning for Bushfire Protection	The objectives of this direction are: - to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and - to encourage sound	Y	The Planning Proposal does not alter any provisions relating to bushfire protection.

Ministerial Direction		Objective	Consistency	
		management of bush fire prone areas.		
5. Regional Planning				
5.8	Second Sydney Airport: Badgerys Creek	The objective of this direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.	Y	The Planning Proposal does not contain provisions that could hinder the potential for development of a Second Sydney Airport.
6. Local Plan Making				
6.1	Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Y	The Planning Proposal is consistent with this direction and does not alter any concurrence, consultation or referral requirements.
6.2	Reserving Land for Public Purposes	The objectives of this direction are: - to facilitate the provision of public services and facilities by reserving land for public purposes, and - to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Y	The Planning Proposal does not alter any provisions relating to the zoning or reservation of land for public purposes.
7. Metropolitan Planning				
7.1	Implementation of the Metropolitan Plan for Sydney 2036.	The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.	Y	The Planning Proposal is consistent with the Metropolitan Plan for Sydney 2036.

Section C – Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The proposed amendments are unlikely to affect critical habitat or threatened species, populations or ecological communities, or their habitats. The Planning Proposal will not alter the provisions in LEP 2010 relating to the 'preservation of trees or vegetation' or 'development on natural resources sensitive land'.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No other environmental effects are anticipated as a result of the Planning Proposal.

10. How has the planning proposal adequately addressed any social and economic effects?

It is considered that the Planning Proposal will have minimal social and economic effects.

Section D – State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

The Planning Proposal does not warrant changes to the delivery of public infrastructure.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Any requirements to consult with State and Commonwealth public authorities will be undertaken if directed by the Department. The proposal to amend the *SP2 Classified road* and *SP2 Local road* labels on the Land Zoning Map and the *Classified Road (SP2)* and *Local road (SP2)* labels on the Land Reservation Acquisition Map are mapping errors and have been confirmed with the Roads and Traffic Authority.

Part 4 – Community Consultation

No consultation has been carried out with State and Commonwealth public authorities. Consultation will occur with relevant public authorities identified as part of the gateway determination, if required.

In accordance with the Department's guideline '*A guide to preparing local environmental plans*', the Planning Proposal type is a 'low impact planning proposal', requiring an exhibition period of 14 days. Written notice and display materials will be provided in accordance with the guideline. However, it is not proposed to write to all landowners within LEP 2010, given the minor nature of the amendments.

A report on submissions will be presented to Council for its consideration following the exhibition period.