



PLANNING PROPOSAL

FOR

**BATHURST REGIONAL (INTERIM) LOCAL
ENVIRONMENTAL PLAN 2005
AMENDMENT No 8
(20.00250)**

GATEWAY ENTERPRISE PARK

Lot	DP	Address
2	1079829	207 Sydney Road, Kelso
21	137352	209 Sydney Road, Kelso
22	137352	209 Sydney Road, Kelso
23	1133685	213 Sydney Road, Kelso
1	1093933	Sydney Road, Kelso

Table of Contents

Schedule of Maps	3
List of Attachments.....	4
Relevant Planning Authority Details.....	5
Introduction	6
Part 1 Objectives or intended outcomes	8
1.1 Introduction.....	8
1.2 The subject land	8
Part 2 Explanation of Provisions	10
2.1 Introduction.....	10
PART 3 Justification.....	12
Section A – Need for the Planning Proposal	12
1. <u>Is the Planning Proposal a result of any strategic study or report?</u>	12
2. <u>Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?</u>	16
Section B – Relationship to strategic planning framework	17
3. <u>Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?</u>	17
4. <u>Is the Planning Proposal consistent with a Council's local strategy or other local strategic Plan?</u>	18
5. <u>Is the Planning Proposal consistent with applicable State Environmental Planning Policies?</u>	19
6. <u>Is the Planning Proposal consistent with applicable Ministerial Directions (s. 117 directions)?</u>	22
Section C – Environmental , social and economic impact	32
7. <u>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?</u>	32
9. <u>Has the Planning Proposal adequately addressed any social and economic effects?</u>	34
Section D State and Commonwealth interests.....	35
10. <u>Is there adequate public infrastructure for the Planning Proposal?</u>	35
11. <u>What are the views of State and Commonwealth Public Authorities consulted in accordance with the Gateway Determination?</u>	36
Part 4 Mapping.....	37
Part 5 Community Consultation	38
Part 6 Project timeframe	39

Schedule of Maps

Map Number	Map Name	Version
1	The land subject to the Planning Proposal	A
2	Current land use zone of the land	A
3	Proposed alternative land use zone of the land	A
4	Urban Release Area map	A

List of Attachments

Attachment Number	Name
1	Council report & minute – 21 Nov 2012
2	Bathurst Region Urban Strategy (2007)
3	Bathurst CBD and Bulky Goods Business Development Strategy (2011)
4	Supporting Environmental Assessments (2005 and 2008)

Relevant Planning Authority Details

Relevant Planning Authority:	Bathurst Regional Council
Contact Person:	Mr David Shaw Director, Environmental Planning and Building Services
Contact Phone Number:	02 6333 6213
Contact email address:	david.shaw@bathurst.nsw.gov.au

Introduction

Council received a request from the landowners to consider a Planning Proposal of the site to:

- (a) rezone the subject land from 1(a) - Inner Rural to 3(b) - Service Business pursuant to the Bathurst Regional (Interim) Local Environmental Plan 2005;
- (b) include Freight Transport Terminal (Intermodal Transport Terminal), warehouses and industry uses in Schedule 4 of the Bathurst Regional (Interim) Local Environmental Plan 2005; and
- (c) prepare a Development Control Plan amendment for the site.

Council, at its Ordinary Meeting held 21 November 2012, resolved to proceed with an amended Planning Proposal from that proposed by the landowners to:

- (a) prepare a planning proposal to:
 - (i) rezone the subject land 3(b) - Service Business excluding the 50 metre wide Raglan Creek corridor which will be zoned 6(a) – Local Recreation;
 - (ii) include a provision in the Bathurst Regional (Interim) Local Environmental Plan 2005 to:
 - 1) permit Freight Transport Facilities on part of the land as shown on the preliminary DCP map (see attachment 4 of the Council report);
 - 2) enable Warehouses or Distribution Centres and Industries on part of the land as shown on the preliminary DCP map (see attachment 4 of the Council report) only in conjunction with Freight Transport Facilities; and
 - 3) define Freight Transport Facilities and Warehouses or Distribution Centres for the purposes of the provision;
 - (iii) amend the definition of Bulky Goods Salesroom or Showroom under the Bathurst Regional (Interim) Local Environmental Plan 2005;
- (b) prepare a concurrent amendment to the Bathurst Regional (Interim) Development Control Plan 2011 generally in accordance with the preliminary DCP map outlined in the report that provides buffers to the great Western Highway, neighbouring properties and Raglan Creek;
- (c) forward the Planning Proposal to the Department of Planning and Infrastructure seeking a gateway approval;
- (d) notify the proponents of Council's resolution; and
- (e) call a division.

A copy of the report to Council and minute are provided at **attachment 1**.

If the Planning Panel so determines, Council will accept the delegated functions offered to it pursuant to Section 59 of the Environmental Planning and Assessment Act 1979.

The Planning Proposal has been prepared in accordance with Section 55 of *the Environmental Planning and Assessment Act 1979* (the Act) and the relevant Department of Planning Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

Part 1 Objectives or intended outcomes

1.1 Introduction

The Gateway Enterprise Park Planning Proposal involves an amendment to the Bathurst Regional (Interim) Local Environmental Plan 2005 ("the LEP"), to:

- (i) rezone the subject land 3(b) - Service Business, excluding the Raglan Creek corridor;
- (ii) rezone the 50 metre wide Raglan Creek corridor on Lot 1 DP 1093933 6(a) – Local Recreation;
- (iii) include an additional provision in the LEP to:
 - 1) permit Freight Transport Facilities on part of the land as shown on the accompanying maps (see attachment #);
 - 2) enable Warehouses or Distribution Centres and Industries on part of the land as shown on the accompanying maps (see attachment #) only in conjunction with Freight Transport Facilities; and
 - 3) define Freight Transport Facilities and Warehouses or Distribution Centres for the purposes of the provision;
- (iv) amend the definition of Bulky Goods Salesroom or Showroom under the LEP (as recommended by the Bathurst CBD & Bulky Goods Business Development Strategy 2011).

Concurrently, Council intends to prepare and publically exhibit an amendment to the Bathurst Regional (Interim) Development Control Plan 2011 which will provide the development standards and building design standards applying to the future development of the site.

The Planning Proposal aims to:

- a) respond to a request for rezoning by GSA Planning on behalf of the landowners Gateway Land Corporation Pty Ltd; and
- b) implement the recommendations of the Bathurst CBD & Bulky Goods Business Development Strategy 2011.

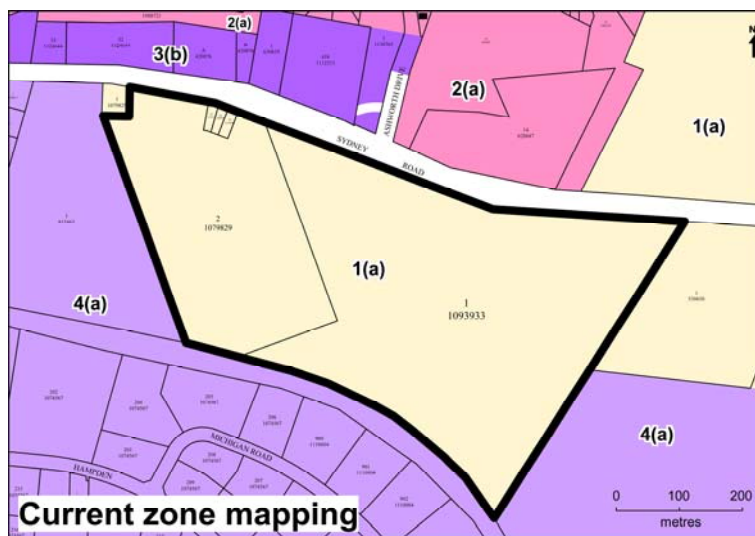
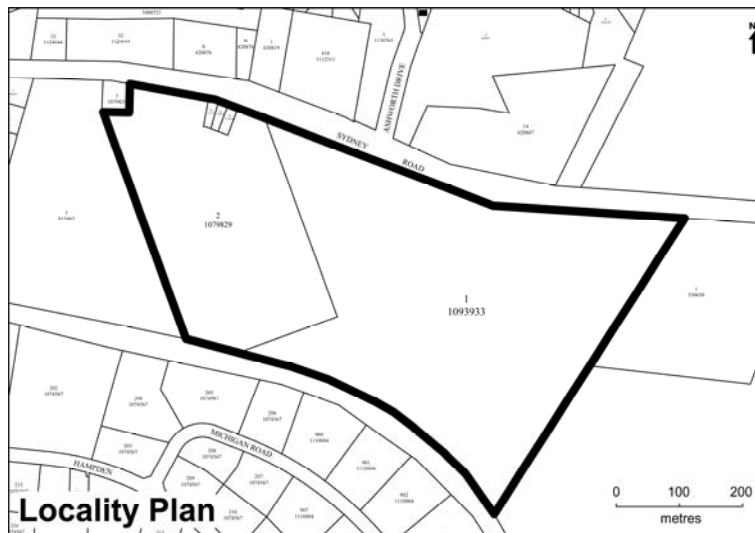
1.2 The subject land

The subject land comprises the following allotments, which are legally known as Lot 1 DP 1093933, Lot 2 DP 1079829, Lots 21 and 22 DP 137352 and Lot 23 DP 1133685, 207-213 Sydney Road, Kelso. The site has an area of 29.47 hectares.

The site is dissected by Raglan Creek and a tributary of Raglan Creek. Raglan Creek runs from the south-eastern corner to the middle of the site's Great Western Highway frontage. The tributary is located adjacent to the Great Western Highway and joins the main watercourse at approximately the middle of the site.

The site is currently zoned 1(a) Inner Rural pursuant to the LEP and is generally vacant land.

The site is located on the eastern gateway to Bathurst, approximately 4km east of the Bathurst CBD.



Part 2 Explanation of Provisions

2.1 Introduction

The provisions of the Planning Proposal involve the amendment of the LEP to:

- a) rezone the subject land 3(b) - Service Business, excluding the Raglan Creek corridor;
 - b) rezone the 50 metre wide Raglan Creek corridor on Lot 1 DP 1093933, 6(a) – Local Recreation;
 - c) Insert a new Clause 22A – Gateway Enterprise Park, including a definition for **Freight Transport Facilities** for the purposes of the clause. Council anticipates that the intent of Clause 22A will be to:
 - i) permit warehouses or distribution centres, industries and/or freight transport facilities on the land which is hatched blue on Map 3 of the Planning Proposal;
 - ii) allow permissible uses of the 3(b) Service Business zone on all land, including the land hatched blue on Map 3 of the Planning Proposal;
 - iii) only permit warehouses or distribution centres and industries in conjunction with the freight transport terminal;
 - iv) prohibit the subdivision of the land containing warehouses or distribution centres or industries from the land containing the freight transport facility.
 - v) define freight transport facility as listed below
- freight transport facility** means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved.
- d) Delete the current definition of **Bulky Goods Salesroom or Showroom** in the definitions under the Bathurst Regional (Interim) Local Environmental Plan 2005 and insert instead:

bulky goods salesroom or showroom means:

A building or place used primarily for the sale by retail or auction, or the hire or display, of:

- a) *Automotive parts and accessories*
- b) *camping, outdoor and recreation goods;*
- c) *electric light fittings;*
- d) *animal supplies including equestrian and pet goods;*
- e) *floor and window coverings;*

- f) *furniture, bedding, furnishings, fabric and manchester and homewares;*
- g) *household appliances, household electrical goods and home entertainment goods;*
- h) *party supplies;*
- i) *swimming pools;*
- j) *office equipment and supplies;*
- k) *baby and children's goods, children's play equipment and accessories;*
- l) *sporting , cycling, leisure, fitness goods and accessories; or*
- m) *goods and accessories which:*
 - i. *require a large area for handling, display and storage of goods;*
or
 - ii. *require direct vehicle access to the building by customers for the purpose of loading or unloading goods into or from their vehicles after purchase or hire.*

but does not include a building or place used primarily for the sale of food, clothing and footwear unless ancillary to the primary use

It should be noted that it is not intended to define freight transport terminal in the definitions to the Plan as this would require further amendments to other zoning tables with respect to their permissibility.

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 supported by the Bathurst Region Urban Strategy (2007) and the Bathurst CBD and Bulky Goods Business Development Strategy 2011. Council resolved to proceed with the Planning Proposal at its meeting held 21 November 2012.

Bathurst Region Urban Strategy

Council adopted the Bathurst Region Urban Strategy in 2007 (see **attachment 2**). The Strategy was endorsed by the Department of Planning in 2008. The following summarises relevant aspects of the Strategy as it relates to the subject site.

Section 5.2 Retail/Business

The Urban Strategy identified four areas within Bathurst with potential for expanding the city's Service Business zone. The subject site was identified and it was recommended that the land be rezoned as part of the Comprehensive LEP.

An extract of the Urban Strategy is provided below:

Site 1 - Sydney Road (29 ha)

Constraints and Opportunities	Comments
<i>History and proximity to bulky goods (retail) development.</i>	- A Development Application for a regional rail freight terminal has been approved on this site by the Department of Planning: - The proposal includes: Containerised goods storage - hardstand areas. Regional terminal warehousing and support facilities. Bulky goods (retail) development. Service Station. - adjoining Kelso industrial estate and opposite existing bulky goods (retail) development (including the Harvey Norman development site).
<i>Flooding/environmental considerations.</i>	- Flood free. - Traversed by Raglan Creek from south east to north west. Opportunity to enhance and protect this section of Raglan Creek as an open space corridor between Raglan and Kelso. Any development of land would need to consider appropriate buffering from industrial lands to the west.
<i>Transport and access.</i>	- Direct access to State Highway Network. - Adjoins rail corridor to the south.
<i>Gateways.</i>	- Any development of land would need to consider the significance of the eastern gateway approach to the City. - Sufficient area would need to be made available adjacent to the road reserve for future tree planting and landscape enhancement.
<i>Agricultural Suitability.</i>	- Urban.

This site provides a logical expansion of the existing bulky goods (retail) development fronting Sydney Road. Development pressure to develop this site for urban uses is evident from the substantial Regional Rail Freight Terminal application recently approved by the Department of Planning. **Recommendation of the Bathurst Regional Urban Strategy is to rezone Site 1 service business in 2008.**

The Urban Strategy identified both this site and land off Lee Street (behind Bunnings) as being suitable for rezoning to 3(b) - Service Business. The Strategy therefore identified a total of 34 hectares as being suitable for service business use (approximately 29 hectares of the subject land and approximately 5 hectares of the Lee Street site). The Strategy indicated that this might be an oversupply of service business land but that it would enhance the consolidation of these precincts and reduce further spot developments along the Great Western Highway.

Section 5.3.2 - Rail infrastructure and service opportunities

Council's Urban Strategy made a recommendation to:

"Protect and retain the rail corridor and ancillary holdings in light of potential urban passenger usage and the establishment of a regional rail transport terminal within the City"

Recommended Actions

- a) *Plan for the protection of the rail corridor and ancillary holdings through the retention of the existing industrial zoning of the rail corridor and ancillary holdings.*
- b) *Do not permit residential rezonings in close proximity to the rail corridor.*
- c) *Ensure that rail freight terminals remain a permissible use in the **industrial zone**.*

It is important to note that the recommended action is that the rail freight terminals remain permissible in the industrial zone. The applicant has sought to zone the subject land service business and also permit a rail freight terminal on the land.

This is contrary to this section of the Urban Strategy.

Section 6.6 - Rural vistas, views, landscapes and scenic gateways.

Council's Urban Strategy made a recommendation to:

Create a significant eastern gateway into Bathurst that enhances the rural vistas, provides unity amongst many discordant visual effects and reflects the heritage values of the City.

Recommended Actions:

- a) *Avoid the use of structures along the eastern approach, such as feature walls and small gardens that are not in keeping with the historical character of the City and become outdated.*
- b) *Implement the eastern gateway approach recommendations of the Bathurst Vegetation Management Plan into relevant planning documents including the following:*

	Eastern Gateway Approach Development Control Provision
<i>Raglan to O'Connell Road (prior to future highway)</i>	<i>Southern side development:</i> • <i>Landscaping design should consider infrastructure constraints and drainage lines. No trees should be planted in constrained areas.</i> • <i>Landscaping design of sites in proximity to Raglan Creek bridge should include poplars.</i>

This recommendation of the Bathurst Region Urban Strategy will assist Council in developing the development standards for the subject land should the rezoning proceed. In this regard the rezoning should not proceed without a Development Control Plan (DCP) amendment to establish appropriate detailed development controls for the site.

Bathurst CBD and Bulky Goods Business Development Strategy 2011

Council adopted the Bathurst CBD & Bulky Goods Business Development Strategy in December 2011 (see **attachment 3**). The Strategy identifies the site as being able to satisfy the demand for bulky goods needs of the Bathurst region into the future. The Strategy (page 226) identifies the site's role as *"The primary bulky goods precinct catering for the long term requirements of the City and its Regional catchment area."*

The Strategy indicates (page 226) that the site will need to be able to accommodate bulky goods and associated retail floor space amounting to about 43,310 m² of gross building area. A minimum site requirement of 12.7 hectares is recommended by the Strategy. Such a site would satisfy the City's expected bulky goods building area requirements to 2036.

The Strategy also makes recommendations in relation to the lot dimensions, location of buildings and car parking. Those recommendations will contribute to the design elements and development standards located in the DCP amendment which will be required to support this Planning Proposal.

The Strategy likewise recommends that the subject land should be developed as a bulky goods precinct ie a 3(b) Service Business zone under the LEP. **The Strategy does not include any comment in relation to the associated use of the site as an intermodal freight terminal other than to comment that such approval was granted by the DoP.**

Irrespective of the progression of this Planning Proposal at this time, Council proposes to zone the land as such under its future Comprehensive LEP which is currently being prepared.

The landowners have previously had Department of Planning approval to operate a regional rail freight terminal, although the consent has subsequently lapsed. Council has considered the landowners request to include the intermodal rail freight terminal on the site. The rear portion of the site has been identified as being suitable for this additional use, together with the ancillary uses of industries and warehousing. This option ensures an area of approximately 12.7 hectares (as identified in the CBD & Bulky Goods Business Development Strategy) will be retained for use primarily for the permissible bulky goods uses of the 3(b) Service Business Zone.

The rear section of the site, set aside for the intermodal terminal, is also proposed to be zoned 3(b) Service Business and does not need to be used exclusively for the rail freight terminal, warehousing or distribution centres or the industrial uses. It is Council's intention to enable all uses to occur on the rear portion of the site.

Bulky goods salesroom or showroom definition under the Bathurst Regional (Interim) Local Environmental Plan 2005

A key recommendation of the Bathurst CBD and Bulky Goods Business Development Strategy is that Council amend the definition of Bulky Goods Salesroom or Showroom to enable further types of businesses which need larger floor areas, but are traditionally not bulky goods such as JB Hi Fi, Spotlight and the like.

It is proposed to amend the definition of Bulky Goods Salesroom or Showroom as part of this Planning Proposal.

The definition of Bulky Goods Salesroom or Showroom pursuant to the Bathurst Regional (Interim) LEP 2005 is:

bulky goods salesroom or showroom means a building or place used primarily for the sale by retail or auction, or the hire or the display, of items (whether goods or materials) that are of such size, shape or weight as to require:

- (a) a large area for handling, storage or display, or
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading items into their vehicles after purchase or hire,

but does not include a building or place used primarily for sale of foodstuffs or clothing.

It is proposed that the definition will be amended to:

bulky goods salesroom or showroom means:

A building or place used primarily for the sale by retail or auction, or the hire or display, of:

- n) Automotive parts and accessories
- o) camping, outdoor and recreation goods;
- p) electric light fittings;
- q) animal supplies including equestrian and pet goods;
- r) floor and window coverings;
- s) furniture, bedding, furnishings, fabric and manchester and homewares;
- t) household appliances, household electrical goods and home entertainment goods;
- u) party supplies;
- v) swimming pools;
- w) office equipment and supplies;
- x) baby and children's goods, children's play equipment and accessories;
- y) sporting , cycling, leisure, fitness goods and accessories; or
- z) goods and accessories which:
 - iii. require a large area for handling, display and storage of goods; or
 - iv. require direct vehicle access to the building by customers for the purpose of loading or unloading goods into or from their vehicles after purchase or hire.

but does not include a building or place used primarily for the sale of food, clothing and footwear unless ancillary to the primary use.

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

The Planning Proposal is the best means of achieving the development and intended outcomes of the Planning Proposal. The proposed rezoning will ensure Bathurst has sufficient land in reserve that is zoned to enable growth of the Region's bulky

goods developments without the continual loss and fragmentation of its rural zoned land within close proximity to the Bathurst CBD. Further it will provide the land in a consolidated precinct which was a strongly recommended outcome of the Bathurst CBD & Bulky Goods Business Development Strategy.

Section B – Relationship to strategic planning framework

3. Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The following table addresses the evaluation criteria for the consistency with the regional and sub-regional strategies, as required by the guidelines for preparing a Planning Proposal.

Evaluation criteria	Y/N	Comment
Does the proposal have strategic merit and: ◇ Is consistent with a relevant local strategy endorsed by the Director General; or ◇ Is consistent with the relevant regional strategy or Metropolitan Plan; or ◇ Can it demonstrate strategic merit, giving consideration to the relevant section 117 directions applying to the site and other strategic considerations (e.g. proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc)	Yes	The Planning Proposal is consistent with the Bathurst Region Urban Strategy (2007) and the Bathurst CBD & Bulky Goods Business Development Strategy (2011). The site has been identified by both strategies to be zoned 3(b) Service Business to support the ongoing growth of Bulky Goods development within the Bathurst Region in a consolidated precinct. There are no relevant regional strategies relevant to the Bathurst Regional LGA. The Planning Proposal is consistent with the relevant Section 117 directions of the Minister. They are explained later in this Planning Proposal.
Does the proposal have site specific merit and is it compatible with the surrounding land uses, having regard to the following: ◇ The natural environment (including known significant environmental values, resources or hazards) and ◇ The existing uses, approved uses and likely future uses of the land in the vicinity of the proposal; and ◇ The services and	Yes	The Planning Proposal is consistent with the surrounding land uses. Within the vicinity of the site, there are a number of businesses, industrial and agricultural uses. Council proposes to include appropriate land use buffers on the boundaries to the agricultural uses to reduce potential land use conflicts. The site has previously had Ministerial approval as a Part 3A State Significant Development for

infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.		an Intermodal freight terminal development. The Planning Proposal seeks to protect Raglan Creek by zoning the riparian corridor 6(a) Local recreation. The site fronts The Great Western Highway (Sydney Road). It is therefore considered to have adequate access to road infrastructure. The Planning Proposal will improve the delivery of bulky goods development in the City by providing a consolidated site.
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4. Is the Planning Proposal consistent with a Council's local strategy or other local strategic Plan?

The Planning Proposal is consistent with the Bathurst Region Urban Strategy (2007) and the Bathurst CBD & Bulky Goods Business Development Strategy (2011).

The Bathurst Region Urban Strategy recommended the land be rezoned in 2008, that was the then anticipated date for the Bathurst Region Comprehensive LEP. The site provides a logical expansion of the existing bulky goods (retail) development fronting Sydney Road. Development pressure to develop this site for urban uses is evident from the substantial Regional Rail Freight Terminal application previously approved by the Department of Planning.

The Bathurst CBD & Bulky Goods Business Development Strategy identifies the site as being able to satisfy the demand for bulky goods needs of the Bathurst region into the future. The Strategy (page 226) identifies the site's role as *"The primary bulky goods precinct catering for the long term requirements of the City and its Regional catchment area."*

The Bathurst CBD & Bulky Goods Business Development Strategy indicates (page 226) that the site will need to be able to accommodate bulky goods and associated retail floor space amounting to about 43,310 m² of gross building area. A minimum site requirement of 12.7 hectares is recommended by the Strategy. Such a site would satisfy the City's expected bulky goods building area requirements to 2036.

As such, Council supports the rezoning of the land to 3(b) Service Business and 6(a) Local Recreation.

Note that the Planning Proposal is also supported by various documentation (environmental analysis) undertaken by the applicant and landowner. These documents are located at **attachment 4**.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

Council has undertaken a review to determine whether or not the Planning Proposal is consistent with the State Environmental Planning Policies.

State Environmental Planning Policy (SEPP)	Compliance (Yes/No or Not Relevant)
SEPP No 1 – Development Standards	Not Relevant
SEPP No 4 - Development without consent and miscellaneous Exempt and Complying Development	Not Relevant
SEPP No 6 – Number of Storeys in a building	Not Relevant
SEPP No 14 – Coastal Wetlands	Not Relevant
SEPP No 15 – Rural Landsharing Communities	Not Relevant
SEPP No 19 – Bushland in Urban Areas	Not Relevant
SEPP No 21 – Caravan Parks	Not Relevant
SEPP No 22 – Shops and Commercial Premises	Not Relevant
SEPP No 26 – Littoral Rainforests	Not Relevant
SEPP No 29 – Western Sydney Recreation Area	Not Relevant
SEPP No 30 – Intensive Agriculture	Not Relevant
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	Not Relevant
SEPP No 33 – Hazardous and Offensive Development	Not Relevant
SEPP No 36 – Manufactured Home Estates	Not Relevant
SEPP No 39 – Spit Island Bird Habitat	Not Relevant
SEPP No 41 – Casino Entertainment Complex	Not Relevant
SEPP No 44 – Koala Habitat Protection	Yes. See below.
SEPP No 47 – Moore Park Showground	Not Relevant
SEPP No 50 – Canal Estate Development	Not Relevant
SEPP No 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	Not Relevant
SEPP No 55 – Remediation of Land	Yes. See below.
SEPP No 59 – Central Western Sydney Regional Open Space and Residential	Not Relevant
SEPP No 60 – Exempt and Complying Development	Not Relevant
SEPP No 62 – Sustainable Aquaculture	Not Relevant

SEPP No 64 – Advertising and Signage	Not Relevant
SEPP No 65 – Design Quality of Residential Flat Development	Not Relevant
SEPP No 70 – Affordable Housing (Revised Schemes)	Not Relevant
SEPP No 71 – Coastal Protection	Not Relevant
SEPP (Affordable Rental Housing) 2009	Not Relevant
SEPP (Building Sustainability Index: BASIX) 2004	Not Relevant
SEPP (Exempt and Complying Development Codes) 2008	Not Relevant
SEPP (Housing for Seniors or People with a Disability) 2004	Not Relevant
SEPP (Infrastructure) 2007	Not Relevant
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	Not Relevant
SEPP (Kurnell Peninsula) 1989	Not Relevant
SEPP (Major Development) 2005	Not Relevant
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not Relevant
SEPP (Penrith Lakes Scheme) 1989	Not Relevant
SEPP (Rural Lands) 2008	Not Relevant
SEPP (SEPP 53 Transitional Provisions) 2011	Not Relevant
SEPP (State and Regional Development) 2011	Not Relevant
SEPP (Sydney Water Drinking Catchment) 2011	Not Relevant
SEPP (Sydney Region Growth Centres) 2006	Not Relevant
SEPP (Temporary Structures) 2007	Not Relevant
SEPP (Urban Renewal) 2010	Not Relevant
SEPP (Western Sydney Employment Area) 2009	Not Relevant
SEPP (Western Sydney Parklands) 2009	Not Relevant

SEPP No 44 – Koala Habitat Protection

The subject land is vacant of any tree species. SEPP 44 outlines the process in identifying whether the site contains potential Koala habitat. The assessment is outlined below:

1. the presence of Koala food trees
The site is vacant of any trees, and therefore does not contain any of the feed tree species outlined in Schedule 2 of SEPP 44.
2. historical or recent Koala records;
Council records and the NPWS Wildlife Atlas do not indicate the presence or sighting of Koala within the vicinity of the subject land.
3. the presence under trees of Koala faecal pellets (scats);

The Flora and Fauna survey which was prepared by Geolyse, dated July 2005, did not identify that any scats were found during the field surveys.

4. the presence of Koala scratches on trees.
The site is vacant of trees, therefore no tree scratchings were identified.

The Flora and Fauna report dated July 2005 concluded that the site was unlikely to provide any long term resources favourable or preferred for threatened fauna species (pg 14).

There is nothing contained in the supporting documentation or SEPP 44 – Koala Habitat Protection which would preclude the Planning Proposal proceeding.

SEPP No 55 – Remediation of Land

Preliminary land contamination reports have been prepared for the site by Central West Enviroseer dated December 2005 with an addendum dated November 2008.

The conclusions of the investigations are outlined in the following table:

Lot	DP	Conclusion
2	1079829	Recommendations: Nil Conclusions: ◇ Negligible contamination arising from organochlorine pesticides ◇ Negligible contamination arising from organophosphate pesticides ◇ Very low levels of heavy metals typically associated with orchard production
1	1093933	Recommendations: 1) Test 27/0.1 & 28/0.1 and groundwater from the adjacent well for nitrogen, phosphate, cations and heavy metals; 2) Test 08/0.2 and 15/0.1 for nitrates, CEC and heavy metals; 3) Mechanical turning of soil from Pit 1 during soil works to increase aeration facilitating further reduction in hydrocarbon residues; 4) Test Pit 5, 6, 7, 12 & 14 (soil) for heavy metals 5) Test Pit 5 & 6, collect representative soil samples of profiles with evidence of asbestos. Analyse the sub-samples for asbestos fibres; 6) Test Pit 5 & 6, assess the volume of fill and quantify compaction. Design removal or remediation strategies. Conclusions: ◇ Low risk of contamination in soils of adjacent grazing land; ◇ Moderately low risk of contamination risk associated with Ingersoles abattoir; and

		◇ Moderate contamination risk associated with the former Kelso gravel quarry.
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Council is satisfied that the subject land will be suitable for its intended purposes with or without remediation. Relevant provisions can be included in the DCP amendment in respect of the additional testing recommended for lot 1 DP 1093933.

Council is satisfied that the Planning Proposal is consistent with the requirements of the SEPP and despite some further investigations and possible remediation required, Council is confident that the land can be used for business/industrial purposes within the allotted timeframe for the planning proposal.

6. Is the Planning Proposal consistent with applicable Ministerial Directions (s. 117 directions)?

Council has undertaken a review to ensure the planning proposal is consistent with all relevant Section 117 Ministerial Directions issued by the Minister for Planning to relevant planning authorities under section 117(2) of the *Environmental Planning and Assessment Act 1979*.

All relevant Section 117 Ministerial Directions are considered in the following table.

Section 117 Ministerial Direction	Consistency
1. Employment and resources	
1.1 Business and Industrial Zones	The Planning Proposal will rezone approximately 29 hectares of land for the purpose of business use. The proposal does not: ◇ reduce areas or locations of existing business and industrial zones, ◇ reduce total potential floor space area for employment uses, related public services or industry, and ◇ reduce the total potential floor space area for industrial uses in industrial zones. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
1.2 Rural Zones	The Planning Proposal seeks to rezone land from 1(a) Inner Rural to 3(b) Service Business and 6(a) Local Recreation. The Bathurst Region Urban

Section 117 Ministerial Direction	Consistency
	Strategy (2007) and the Bathurst CBD and Bulky Goods Business Development Strategy (2011) give consideration to the objectives of this direction. Both strategies have identified the subject land as being able to satisfy Bathurst's needs for Bulky Goods land into the future and support its conversion to urban purposes. Council recognises that a rezoning of the site would result in the loss of Class 3 agricultural land. This agricultural land is classified as having moderate agricultural capability however the current agricultural productivity of the land is limited due to land fragmentation and proximity to existing business developments. The site represents a small proportion of the total area of land within the wider Bathurst Region classified as Class 3 agricultural lands. The loss of this agricultural land would therefore not have a significant impact on agriculture within the Bathurst Region and a well planned Business Trade Centre would not compromise the objectives of the direction. The implementation of appropriate land use buffers on the subject site, as proposed, will reduce any potential for rural-urban land use conflicts and provide opportunities for increased agricultural production of remaining land to the east. Council acknowledges that the planning proposal will convert rural land for urban development. However the Planning Proposal is justified and supported by the Bathurst Region Urban Strategy which has been endorsed by the Department of Planning and Infrastructure.
1.3 Mining, Petroleum Production and Extractive Industries	The proposal does not identify any developments associated with Mining, Petroleum Production and Extractive Industries as exempt or complying developments. The proposal does not prohibit mining, production of petroleum, or winning or obtaining of extractive materials, or restrict the potential development of resources of coal, other minerals, petroleum or extractive materials of state or regional significance by permitting incompatible development.

Section 117 Ministerial Direction	Consistency				
	Council is satisfied that the planning proposal is consistent with the requirements of the direction.				
1.4 Oyster Aquaculture	Not applicable. The Bathurst Region includes no Priority Oyster Aquaculture Areas. Council is satisfied that the planning proposal is consistent with the requirements of the direction.				
1.5 Rural Lands	The proposal alters existing rural zone boundaries. In this regard, the following table outlines the Planning Proposals consistency with the Rural Planning Principles in the SEPP as required by Part 4(a) of the Direction. <table> <tr> <th>Rural Planning Principle</th><th>Comment on how this is addressed by the Planning Proposal</th></tr> <tr> <td> The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas. </td><td> The Planning Proposal will result in a loss of approximately 30 hectares of rural land. This loss represents a very small portion of the total land area of land within the wider Bathurst Region classified as Class 3 agricultural lands. Further, whilst this land is classified as having moderate agricultural capability, its current agricultural productivity is limited due to land fragmentation and proximity to existing business and industrial establishments. Finally, the implementation of appropriate land use buffers around the subject site as proposed will </td></tr> </table>	Rural Planning Principle	Comment on how this is addressed by the Planning Proposal	The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas.	The Planning Proposal will result in a loss of approximately 30 hectares of rural land. This loss represents a very small portion of the total land area of land within the wider Bathurst Region classified as Class 3 agricultural lands. Further, whilst this land is classified as having moderate agricultural capability, its current agricultural productivity is limited due to land fragmentation and proximity to existing business and industrial establishments. Finally, the implementation of appropriate land use buffers around the subject site as proposed will
Rural Planning Principle	Comment on how this is addressed by the Planning Proposal				
The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas.	The Planning Proposal will result in a loss of approximately 30 hectares of rural land. This loss represents a very small portion of the total land area of land within the wider Bathurst Region classified as Class 3 agricultural lands. Further, whilst this land is classified as having moderate agricultural capability, its current agricultural productivity is limited due to land fragmentation and proximity to existing business and industrial establishments. Finally, the implementation of appropriate land use buffers around the subject site as proposed will				

Section 117 Ministerial Direction	Consistency	
		reduce existing and future rural-urban land use conflicts and provide opportunities for increased agricultural production of remaining land to the east. Council is satisfied that the Planning Proposal is consistent with this principle.
	• Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State. • Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development. • In planning for rural lands, to balance the social, economic and environmental interests of the community.	Not applicable. The loss of approximately 30 hectares of rural land is not significant enough to impact on these principles.
	• The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land. • The provision of opportunities for	Supporting documentation for the Planning Proposal considered a range of environmental issues as they related to the minor loss of agricultural land and concluded that they would be adequately managed by the proposed rezoning. The Planning Proposal proposes to

Section 117 Ministerial Direction	Consistency	
	rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities. • The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing.	zone the Raglan Creek riparian corridor 6(a) Local Recreation in order to protect this important water course. Council is satisfied that the Planning Proposal is consistent with these principles.
	• Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.	Not applicable. There is no regional strategy for the Bathurst Region. The Bathurst Region Urban Strategy supports the rezoning and has been adopted by Council and endorsed by the Department.
	Council is satisfied that the planning proposal is consistent with the requirements of the direction.	
2. Environment and Heritage		
2.1 Environment Protection Zones	The Planning Proposal includes provisions that facilitate the protection and conservation of environmentally sensitive areas. It is proposed to zone a 50 metre wide riparian corridor over Raglan Creek as 6(a) Local Recreation. The proposal does not apply to land within an environmental protection zone. Council is satisfied that the planning proposal is consistent with the requirements of the direction.	
2.2 Coastal Protection	Not applicable. The direction applies to the coastal zone only. Council is satisfied that the planning proposal is consistent with the requirements of the direction.	
2.3 Heritage Conservation	A cultural heritage assessment, which considered European and aboriginal heritage, was prepared by the landowners. It concluded that there were no	

Section 117 Ministerial Direction	Consistency
	archaeological or Aboriginal archaeological items identified on the site during the site visit. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
2.4 Recreation Vehicle Areas	Not applicable. The proposal does not include any land within an environmental protection zone or land comprising a beach or dune adjacent to or adjoining a beach. Further, existing or proposed exempt and complying development provisions do not address recreation vehicle areas. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Not applicable. The proposal does not include any land proposed to be zoned Residential. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
3.2 Caravan Parks and Manufactured Home Estates	Not applicable. The proposal does not address caravan parks or manufactured home estates. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
3.3 Home Occupations	Not applicable. The purpose of the Planning Proposal is to rezone the land for business purposes. Therefore the provisions relating to home occupation do not apply. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
3.4 Integrating Land Use and Transport	The proposal expands a business zone. In a regional context this rezoning is considered minor and therefore the implications of this direction are considered minimal. Notwithstanding the following comments are made. It is noted that the integrated land use and transport policy approach (including the policy documents <i>Improving Transport Choice – Guidelines for Planning and Development</i> and <i>The Right Place for Business and Services</i>) aims to encourage the location of trip generating development which provides important services in places that: ◇ Help reduce reliance on cars and moderate the demand for car travel. ◇ Encourage multi-purpose trips.

Section 117 Ministerial Direction	Consistency
	◇ Encourage people to travel on public transport, walk or cycle. ◇ Provide people with equitable and efficient access. ◇ Minimise dispersed trip-generating development that can only be accessed by cars. ◇ Ensure that a network of viable, mixed use centres closely aligned with the public transport system accommodates and creates opportunities for business growth and service delivery. ◇ Protect and maximise community investment in centres, and in transport infrastructure and facilities. ◇ Encourage continuing private and public investment confidence in centres, and ensure that they are well designed, managed and maintained. ◇ Foster growth, competition, innovation and investment confidence in centres, especially in the retail and entertainment sectors through consistent and responsive decision making. The intent of the integrated land use and transport policy approach is consistent with metropolitan settings, and in a regional context the CBD provides the core business centre of the City of Bathurst. Further, mixed use development common to metropolitan planning remains inconsistent with protecting the CBD as the core business/retail precinct of the City. In the context of the Planning Proposal, existing bus shelters supported by the City's private bus operator will continue to provide sufficient infrastructure to cater for the public transport needs of the community. Further the open space areas included in the proposal will be supported by improved walkway and cycleway networks within the City and connecting to the existing network towards the City itself which will provide better access at a community level. In regard to the provision of adequate retail facilities to service the expansion of the Bathurst Region, the recently adopted Bathurst CBD & Bulky Goods Business Development Strategy 2011 identified the need to provide for future bulky goods development. The rezoning of the site will create adequate land stock for the expansion of the Region's bulky goods development for approximately 25 years. Council is satisfied that the Planning Proposal is consistent with the requirements of this direction.
3.5 Development Near Licensed Aerodromes	The proposal does not alter or remove a provision relating to land in the vicinity of a licensed aerodrome. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
3.6 Shooting Ranges	The proposal does not affect land adjacent or adjoining an existing shooting range. Council is satisfied that the planning proposal is consistent with the requirements of the direction.

Section 117 Ministerial Direction	Consistency
4. Hazard and Risk	
4.1 Acid Sulfate Soils	The Bathurst Region does not include any land identified on Acid Sulfate Soils Planning maps held by the Department. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
4.2 Mine Subsidence and Unstable Land	The Bathurst Region does not include any land identified as within a Mine Subsidence District proclaimed under the Mine Subsidence Compensation Act 1961. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
4.3 Flood Prone Land	The Planning Proposal does not include any land which is identified as being flood liable land as identified either by Council's computer based flood model or the Bathurst Floodplain Management Policy. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
4.4 Planning for Bushfire Protection	The Planning Proposal does not include any land which is identified as being Bushfire Prone Land. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
5. Regional Planning	
5.1 Implementation of Regional Strategies	No regional or sub-regional strategy applies to the Bathurst Region. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
5.2 Sydney Drinking Water Catchments	The Bathurst Region is outside the identified Sydney Drinking Water Catchment area. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
5.3 Farmland of State and Regional Significance on the NSW Far	Does not apply to the Bathurst Region. No farmland of State or Regional significance is located within the Bathurst Region. Council is satisfied that the planning proposal is consistent with the requirements of the direction.

Section 117 Ministerial Direction	Consistency
North Coast	
5.4 Commercial and Retail; Development along the Pacific Highway, North Coast	Does not apply to the Bathurst Region. No regional or sub-regional strategy applies to the Bathurst Region. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to the Bathurst Region. No regional or sub-regional strategy applies to the Bathurst Region. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
6. Local Plan Making	
6.1 Approval and referral Requirements	The Planning Proposal does not affect development application provisions. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
6.2 Reserving land for Public Purposes	Council proposes to zone a portion of the subject land as part 6(a) – Local Recreation and part 3(b) – Service Business. The recreation zoned (6(a) – Local recreation) land will be dedicated to Council as public reserve at future subdivision stage. Council proposes to purchase the portion of the land zoned 6(a) – Local Recreation in accordance with a Section 94 Contribution fund which will be adopted by Council prior to the gazettal of the Planning proposal. The valuation base for the Section 94 Contribution Plan will be calculated by a registered valuer and will form the basis of the Section 94 Contributions Plan. Council is satisfied that the Planning Proposal is not inconsistent with the requirements of this direction.
6.3 Site Specific	The Planning Proposal does not relate to a particular development to be carried out on a specific site.

Section 117 Ministerial Direction	Consistency
Provisions	Council is satisfied that the planning proposal is consistent with the requirements of the direction.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to the Bathurst Region. Council is satisfied that the planning proposal is consistent with the requirements of the direction.

Section C – Environmental , social and economic impact

7. 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?

Council is satisfied that, as a result of the Planning Proposal, critical habitat, threatened species, populations or ecological communities will be adversely affected by the rezoning.

An ecological assessment of the study area was undertaken by the landowners. The assessment considered the ecological constraints and opportunities to development on the subject land. The report concluded that the conservation value of the subject land was poor due to the long history of urban, industrial and agricultural land use practices and high level of land clearing.

The report identified the riparian zone of Raglan Creek as an area of ecological value and considered it to be degraded. The Bathurst Urban Waterways Management Plan recommended a 50 metre riparian corridor over Raglan Creek to be established and rehabilitated. The Planning Proposal includes a proposal to rezone the riparian corridor as 6(a) Local Recreation. Its rehabilitation and replanting will be undertaken in conjunction with the establishment and ongoing maintenance of the open space area.

8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

A number of reports (see **attachment 4**) have been prepared addressing a range of planning and environmental issues including landform, geology and soils, land contamination, ground water, surface water hydrology and water quality, ecology, bushfire hazard, visual environment, cultural heritage and land use and development. The reports generally concluded that the subject land is suitable for bulky goods development, industrial, intermodal freight terminal and warehouse uses and there are no significant constraints to the development occurring.

As a result of the Planning Proposal, Council will also prepare a Development Control Plan which will give consideration to environmental effects of expansion and include appropriate management controls. For example the provision of urban/rural interface buffer around the periphery of the development will better manage land use conflict. It is proposed that the DCP amendment will be placed on public exhibition concurrently with the Planning Proposal.

9. Has the Planning Proposal adequately addressed any social and economic effects?

Social Impacts

The Planning Proposal will facilitate the rezoning of the subject land to 3(b) Service Business together with additional uses discussed above. The rezoning of the land will support additional employment within the Bathurst Region, both during the construction phase of the buildings of the site, and the ongoing employment in the businesses located at the site.

Economic Impacts

Council's Bathurst Regional CBD & Bulky Goods Development Strategy (2011) identifies the site as having capacity for Bulky Goods development for at least a 20 year period and beyond. The Strategy concludes that the site will serve as the regional bulky goods precinct for Bathurst catering for the long term requirements of the city and its regional catchment area.

The development will generate significant employment within the Bathurst Region, both during the subdivision and construction phase, and the ongoing employment of staff at the businesses located in the enterprise park.

Section D State and Commonwealth interests

10. Is there adequate public infrastructure for the Planning Proposal?

The site has approximately 900m of frontage to the Great Western Highway. The Roads and Maritime Service is currently in the planning phase of upgrading the Great Western Highway, and proposes to locate a roundabout in the vicinity of Ashworth Drive. It is proposed that this will be the primary entry and exit point for the subject land.

Council is continuing to consult with the Roads and Maritime Service as it prepares the DCP amendment to support the Planning Proposal. The DCP amendment will show the road widening required by the RMS at this location.

Council's sewer and water infrastructure are available to the site and will require augmentation to fully service the land. The site has access to the Great Western Railway which will service the intermodal freight terminal component of the subject land.

Council considers that adequate services are available to the site to enable the Planning Proposal to proceed.

11. What are the views of State and Commonwealth Public Authorities consulted in accordance with the Gateway Determination?

Council consulted extensively with Government Agencies in the preparation of the Urban Strategy. Council did not receive any comments specifically in relation to the proposed rezoning of the subject land.

The landowners have previously submitted a similar proposal to the Department of Planning and Infrastructure as a Part 3A Major Projects application. The Department granted consent to the development proposal.

Notwithstanding the previous consultation as part of previous studies and Development Applications, Council proposes to consult more widely with Government Departments and Authorities such as:

- Ambulance Service of NSW
- Essential Energy
- Department of Primary Industries
- Fire and Rescue NSW
- John Holland Rail Pty Ltd
- NSW Police Service
- NSW Rural Fire Service
- NSW Department of State and Regional Development
- Office of Environment and Heritage
- Roads and Maritime Service
- State Emergency Service
- Telstra
- Transport for NSW

Part 4 Mapping

The maps relevant to the Planning Proposal have been prepared in accordance with the Department of Planning and Infrastructure's standard technical requirements for LEP maps.

The maps relevant to this Planning Proposal are attached to this Planning Proposal.

Map Number	Map Name	Version
1	The land subject to the Planning Proposal	A
2	Current land use zone of the land	A
3	Proposed alternative land use zone of the land	A
4	Urban Release Area map	A

Part 5 Community Consultation

Council anticipates that following the Gateway Determination and Council satisfying any conditions imposed prior to the public exhibition period, the Planning Proposal will be placed on public exhibition for a period of 28 days.

It is proposed that the Planning Proposal will be publically notified by:

- a) a notice in the Western Advocate newspaper on at least 2 occasions; and
- b) written notification to the landowner and directly adjoining landowners;
and
- c) notification on Council's website.

It is not anticipated that a Public Hearing will need to be conducted as part of this Planning Proposal, unless requested by a person making a submissions.

Concurrently with the public exhibition period, Council will notify the relevant Government Departments and Agencies.

Following the public exhibition period, this section will be altered to reflect the extent of consultation that was undertaken, including any issues which were raised as a result of the consultation.

Part 6 Project timeframe

The following table outlines Council's anticipated timetable for the completion of the Planning Proposal. Council anticipates that the process will take approximately 12 months from the date of the Gateway Determination.

Step	Criteria	Project timeline
1	Anticipated commencement date (date of Gateway determination)	February 2013
2	Anticipated timeframe for the completion of required technical information	End of March 2013
3	Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	End of April 2013
4	Commencement and completion dates for public exhibition period	May 2013
5	Dates for public hearing (if required)	July 2013
6	Timeframe for consideration of submissions	End of August 2013
7	Timeframe for the consideration of a proposal post exhibition	November 2013
8	Date of submission to the department to finalise the LEP	End of November 2013
9	Anticipated date RPA will make the plan (if delegated)	End of February 2014
10	Anticipated date RPA will forward to the department for notification.	End of February 2014