

Planning Services

Plan finalisation report

Local government area: Campbelltown City PP number: PP_2016_CAMPB_003_00

1. NAME OF DRAFT LEP

Campbelltown Local Environmental Plan 2015 (Amendment No 13). The draft instrument is at **Attachment LEP**.

2. SITE DESCRIPTION

The planning proposal (**Attachments B1–B2**) applies to land at the corner of Bensley, Oxford and Mercedes Roads, Ingleburn, also known as the Caledonia Precinct. The site contains 22 allotments and has an area of approximately 17.65ha. Figure 1 (below) shows the site outlined in red and shaded in yellow.

The site forms part of the eastern edge of the suburb of Ingleburn and part of the northern extremity of an area known as the East Edge Scenic Protection Lands, which is a strategic transitional landscape. The land reservation for the proposed Georges River Parkway traverses the north-eastern corner of the site, with the remainder located adjacent to the east of the site.



Figure 1: Aerial view of the site.

3. PURPOSE OF PLAN

The draft LEP seeks to amend the Campbelltown Local Environmental Plan (LEP) 2015 as follows:

- land zoning (LZN_012 and LZN_012A) – rezone part of the site from E4 Environmental Living to a mix of R2 Low Density Residential, R5 Large Lot Residential and RE1 Public Recreation (Figure 2, below);
- lot size (LSZ_0012) – decrease the minimum lot size for part of the site from 20ha to 1000m², 500m² and 200m²;
- lot size dual occupancy (LSD_012) – decrease the minimum lot size for dual occupancy development across part of the site from 20ha to 2000m², 1000m² and 700m²;
- land reservation acquisition (LRA_012) – identify the land proposed to be zoned RE1 Public Recreation for acquisition;
- terrestrial biodiversity (BIO_012) – identify sensitive vegetation across the site; and
- lot average (LAV_012) – remove the minimum lot size average requirement for part of the site.

The SP2 Future Transport Corridor-zoned land in the north-eastern corner of the site (i.e. for the Georges River Parkway) will not be rezoned and the associated development controls will not be amended. In addition, the maximum building height of 9m across the site and the local heritage item (I69) will not be altered.

The draft LEP aims to facilitate the development of low-density and large-lot housing across the site and the provision of public recreation. It is anticipated that the proposed amendment would facilitate up to 170 additional dwellings across the site.

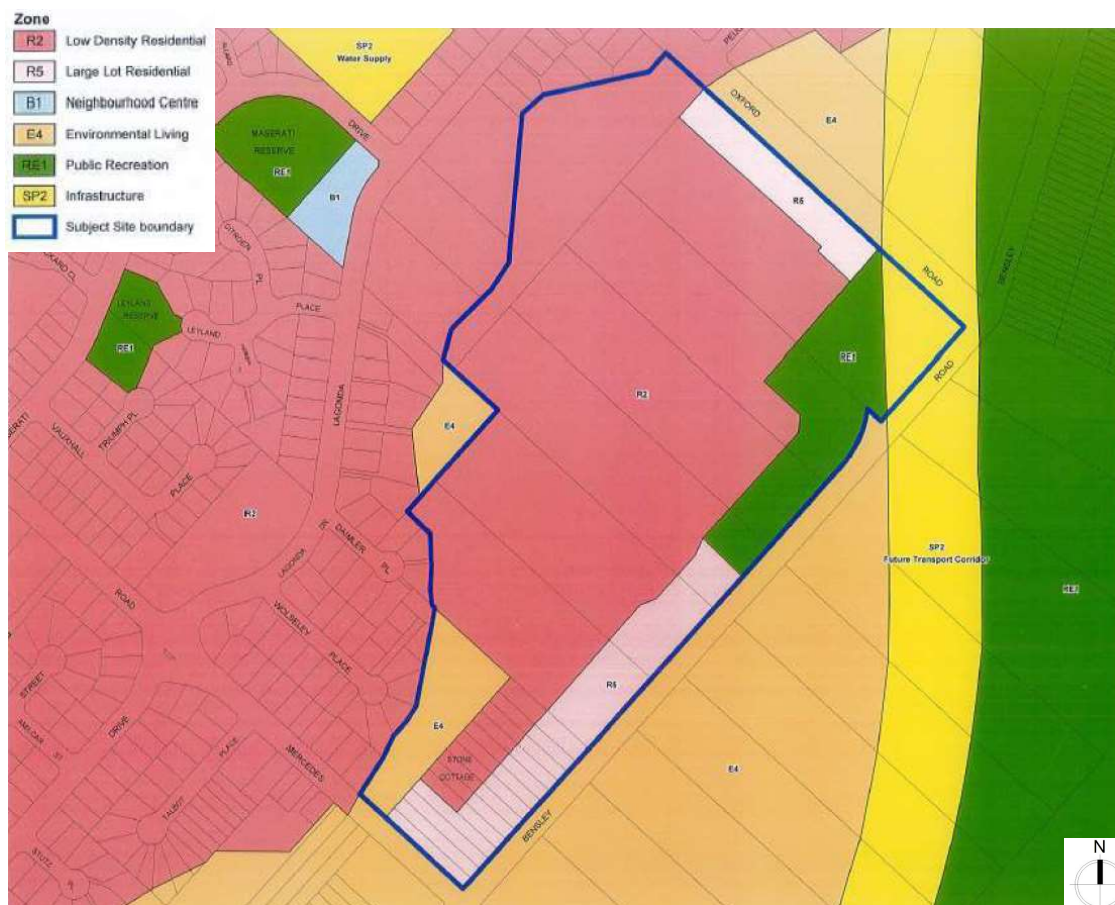


Figure 2: Proposed land zoning map (site outlined in blue).

Development control plan

The draft LEP is supported by a site-specific development control plan (DCP) (**Attachment G**), which was exhibited from 10 October to 9 November 2018. Council has not endorsed the adoption of the site-specific DCP.

The DCP provides site-specific controls in relation to the future development of the site in accordance with the structure plan (Figure 3, below) as follows:

- a transition in residential densities and building types from the urban edge to the interface with the proposed Georges River Parkway;
- the conservation of the most significant on-site vegetation;
- enhanced water quality outcomes;
- the preservation of the part of the proposed Georges River Parkway reservation that impacts the site;
- the retention and embellishment of the rural verge on the perimeter roads;
- the minimisation of potential heritage impact, and the implementation of an appropriate curtilage and a relevant conservation strategy; and
- the servicing of the land.

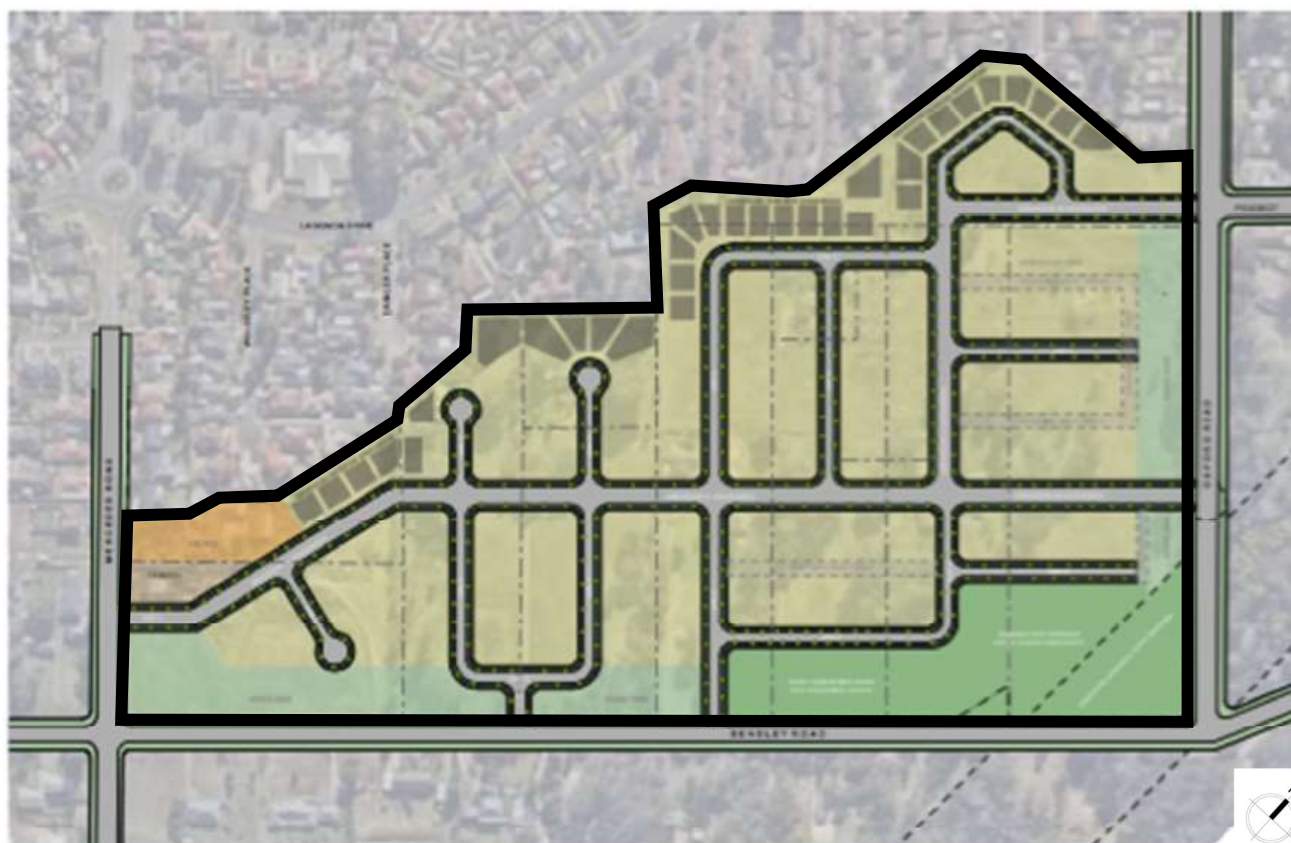


Figure 3: Structure plan in DCP.

Voluntary planning agreement

Council exhibited a local voluntary planning agreement (VPA) (**Attachment H**) for the planning proposal from 24 July to 21 August 2018 and authorised the execution of the VPA with the proponents on 11 September 2018. The key element of the VPA includes the dedication of the proposed RE1 Public Recreation-zoned land to Council to be maintained in perpetuity. Council did not make any post-exhibition changes to the VPA.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Campbelltown State Electorate. Mr Greg Warren MP is the State Member for Campbelltown.

The site falls within the Macarthur Federal Electorate. Dr Mike Freeland MP is the Federal Member for Macarthur.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no known donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 8 December 2016 (**Attachment C**) determined that the proposal should proceed subject to conditions.

Four Gateway alterations have been issued for the planning proposal as follows:

- on 29 March 2017 (**Attachment D1**): amending condition 2 to allow Council to consult with public agencies during the public exhibition period, rather than prior to public exhibition;
- on 22 December 2017 (**Attachment D2**): for a three-month extension for completion;
- on 11 April 2018 (**Attachment D3**): for a three-month extension for completion; and
- on 3 August 2018 (**Attachment D4**): for a four-month extension for completion.

The proposal was due for finalisation by 31 October 2018.

The Department received Council's request to finalise the planning proposal before the due date. The Department is satisfied that Council has met the conditions of the Gateway determination and the planning proposal is adequate for finalisation.

6. PUBLIC EXHIBITION

Condition 1 of the Gateway determination required several amendments to be made to the planning proposal. In July 2017, the Department confirmed that the conditions had been satisfied and the proposal could proceed to public exhibition.

In accordance with the Gateway determination, Council exhibited the planning proposal for 28 days, from 19 July to 18 August 2017. Council received 27 community submissions (five supporting the proposal and one submission with 18 signatories representing 17 households objecting to the proposal) and addressed the concerns raised in its report (**Attachment I**).

A summary of the concerns raised by the community and Council's response to each issue is provided in Table 1 (next page).

Table 1: Summary of community concerns and Council response

Community concern	Council response
<p><u>Biodiversity</u></p> <p>Concern regarding the potential loss of trees on-site and the accuracy of related studies.</p>	<p>Council notes that the higher ecological value Cumberland Plain Woodland (CPW) and moderate-quality CPW are located within the proposed RE1 Public Recreation zone, which will substantially protect the vegetation (Attachment J1). In addition, the proposed RE1-zoned land will be dedicated to Council for ownership and maintenance as detailed by the VPA.</p> <p>Significant vegetation on the site has been identified on the proposed terrestrial biodiversity map to ensure further protection and increased tree canopy will be sought through additional tree plantings as required by the site-specific DCP.</p>
<p><u>Koalas</u></p> <p>Concern regarding the protection of koala habitat on the site.</p>	<p>Council notes that a site-specific Koala Plan of Management (KPoM) may be required if the site meets the criteria of State Environmental Planning Policy No 44 – Koala Habitat Protection. A KPoM would need to include recommendations for appropriate development controls for koala protection.</p> <p>Council has drafted requirements in the site-specific DCP for the retention of koala habitat on the site.</p>
<p><u>Traffic and transport</u></p> <p>Traffic congestion and the lack of future public transport were highlighted as primary concerns for residents.</p> <p>Submissions requested the provision of footpaths and cycleways within the site.</p>	<p>The engineering report (Attachment J2) has been reviewed by Council's traffic engineers and Roads and Maritime Services. The report determined that traffic generated by the proposed development will be within the design capacity of the existing road network.</p> <p>Council also notes that the site-specific DCP includes an extension of the current bus route through the site to service new residents and the need to provide a 'safe walkable community' at the development application stage.</p>
<p><u>Infrastructure</u></p> <p>Concerns regarding the delivery of required infrastructure in a piecemeal approach and that the proposed stormwater and sewerage system was not appropriate for future development.</p>	<p>Council notes that the infrastructure servicing the site has the capacity to accommodate the proposed development, as reinforced by Sydney Water and Endeavour Energy. These services will be upgraded by the developer where required.</p> <p>Council has drafted a new local contributions plan, so any future development of the site would be required to provide monetary contributions to ensure essential community facilities are delivered, regardless of land ownership.</p> <p>The proponent has agreed to an amended stormwater management design, which has been included in the site-specific DCP, to ensure this will be delivered as part of any future development application for subdivision.</p>

<u>Georges River Parkway</u> Residents highlighted concerns over the loss of land reserved for the Georges River Parkway.	Council notes that the reservation for the Georges River Parkway has not been altered as part of this planning proposal.
<u>Aboriginal heritage</u> Concern regarding the preservation of Aboriginal heritage on the site.	The Aboriginal heritage assessment (Attachment J3) concluded that the site has low Aboriginal heritage significance. The Aboriginal community was consulted on the matter and further investigation will be required at the development application stage.
<u>Bushfire</u> Concern regarding the adequacy of the proposed bushfire protection.	<p>The recommendations of the bushfire assessment (Attachment J4) and from the NSW Rural Fire Service have been included in the site-specific DCP.</p> <p>Detailed bushfire management can be addressed further at the development application stage and any development will need to comply with <i>Planning for Bushfire Protection 2006</i>.</p>
<u>Vista/view loss</u> Residents of Lagonda Drive are concerned the proposed development may result in vista and view loss.	<p>Council notes that the development of the site would result in the loss of rural vistas for the site. However, the current E4 Environmental Living zone allows the development of limited dwellings across the site and the maximum building height will not be altered.</p> <p>Street planting on the site is proposed to soften the impact of any future development, and any privacy or view loss associated with the development of the site will be considered at the development application stage.</p>
<u>Odour</u> Concern that any future development on the site may experience negative odour impacts from nearby land uses.	Council notes there is a poultry farm on the corner of Bensley and Mercedes Roads, approximately 100m from the southern boundary of the site. The odour assessment (Attachment J5) concluded that the predicted odour concentrations are anticipated to be below the adopted odour performance goal as per Environment Protection Authority requirements.
<u>26 Mercedes Road, Ingleburn</u> A request to change the zone and the minimum lot size for this property.	Council resolved to rezone this property through a separate planning proposal.
<u>28 Mercedes Road, Ingleburn (local heritage item)</u> A request to decrease the minimum lot size for this property.	Council stated that the proposed minimum lot size of 2000m ² for this property is considered appropriate as it is on the outer edge of the site adjacent to land zoned E4 Environmental Living, which has a 2ha minimum lot size. This will provide a transition from residential development to large-lot residential development.

It is considered that Council has adequately addressed the issues raised by the community during the exhibition period. The site-specific DCP will ensure that matters such as heritage impacts, tree removal and odour impacts will be further addressed at the development application stage.

7. ADVICE FROM PUBLIC AUTHORITIES

Council consulted with public authorities in accordance with the Gateway determination. Council received seven submissions from the following authorities: Office of Environment and Heritage (OEH); Heritage Council of NSW; NSW Rural Fire Service (RFS); Transport for NSW (TfNSW); Roads and Maritime Services (RMS); Sydney Water; and Endeavour Energy. The submissions discussed matters relating to biodiversity, heritage, bushfire, transport and traffic, and infrastructure. A summary of the submissions and Council's comments are provided below.

Council did not receive any comments from Fire and Rescue NSW, the NSW Department of Health, Telstra or the Office of Strategic Lands.

Biodiversity

The flora and fauna assessment (**Attachment J1**) notes that the proposal would result in the removal of approximately 1.84ha of Cumberland Plain Woodland (CPW) in moderate and poor condition (i.e. 0.18ha in moderate condition and 1.66ha in poor condition). In addition, 2.54ha of vegetation and 5.85ha of exotic pasture will be removed.

However, approximately 1.15ha of CPW will be retained (i.e. 0.99ha of moderate condition and 0.16ha of poor condition). Most of the retained CPW will form part of the proposed RE1 Public Recreation zone, which will be dedicated to Council through a VPA for protection. Refer to Figure 4 (below) for the location of the CPW communities on the site.



Figure 4: Vegetation communities.

The site-specific DCP includes controls addressing vegetation matters such as the need for vegetation management and landscape concept plans. Significant vegetation within the site is identified on the proposed terrestrial biodiversity map, which will provide further protection through the application of Clause 7.20 Terrestrial Biodiversity in the Campbelltown LEP 2015. This clause requires development to be sited, designed, constructed and managed to avoid adverse impacts on native biodiversity or to offset any loss in biodiversity values.

OEH (**Attachment K1**) supports the retention of the CPW communities in the proposed RE1 Public Recreation zone and the above protection mechanisms. However, OEH would prefer that this land is zoned E2 Environmental Conservation instead with a community (bushland) classification.

In response, Council advised that the proposed RE1 zone is preferred rather than an E2 zone due to the need to balance passive recreational use of the area with the protection of vegetation.

OEH recommended that the proponent clarify *Pimelea spicata* surveys undertaken for the site. In response, the proponent completed targeted surveys and no threatened flora were identified.

OEH noted inconsistencies between the koala feed trees identified on the site and the species listed under State Environmental Planning Policy No 44 – Koala Habitat Protection. It was recommended that this information be clarified. Council noted that the flora and fauna assessment (**Attachment J1**) was updated in accordance with OEH's recommendation.

The Department notes that Council has adequately addressed the biodiversity matters raised by OEH, including the recommendation that the conserved area is zoned E2 Environmental Protection instead of RE1 Public Recreation.

The Department agrees that the proposed RE1 zone is appropriate as it will balance the public recreational needs of the new community with the biodiversity protection of this land. Council will ensure the appropriate management of this land as it will be dedicated to Council through the VPA and the requirements of the site-specific DCP.

Aboriginal heritage

OEH (**Attachment K1**) recommended that additional archaeological and cultural assessment studies be undertaken to inform the planning process, including consultation with Aboriginal stakeholders to explore conserving areas of Aboriginal heritage significance.

Council advised that the proponent has begun to prepare the studies recommended by OEH. Test excavations in December 2017 indicated that the site had low Aboriginal heritage significance (**Attachment J3**). Members of the Aboriginal community have accompanied the proponent's consultants during site visits of the land.

Council concluded that there is sufficient information to advance the finalisation of this proposal and further investigations would be required at the development application stage as required by the controls in the site-specific DCP.

The Department concludes that Council has adequately addressed OEH's comments in relation to this matter and that further consideration of Aboriginal heritage would occur at the development application stage.

European heritage

The site contains a local heritage item (i.e. I69 – stone cottage and bushland setting) at 28 Mercedes Road, Ingleburn (Figure 5, next page).



Figure 5: Recommended heritage curtilage.

The Heritage Council of NSW (**Attachment K2**) recommended that a statement of heritage impact and a historical archaeological assessment be prepared prior to the exhibition of the proposal.

In response, a heritage assessment (**Attachment J6**) was prepared and recommends the heritage curtilage for the heritage item be reduced (as shown in Figure 5) to provide an appropriate setting to retain the heritage significance of the cottage and views from the street.

The local heritage listing and associated identification on the heritage map will not be altered. Council advised that clause 5.10 of the Campbelltown LEP 2015 contains extensive objectives regarding heritage matters. Furthermore, the site-specific DCP includes a section on heritage matters, which includes the recommended heritage curtilage for the cottage.

The Department notes that Council has adequately addressed this matter and the conservation of the local heritage item. Any heritage impacts within the site will be considered further at the development application stage as required by the site-specific DCP.

Bushfire

The site contains bushfire-prone land (vegetation buffer) in the north-eastern corner. The bushfire constraints assessment (**Attachment J4**) concluded that the site can support residential development provided the recommended bushfire protection measures for the site, including asset protection zones (APZs), construction standards, and access and utility requirements, are met.

RFS raised no objections with the proposal but recommended the APZ be increased from 20m to 25m along Bensley Road (**Attachment K3**). Council has included this recommendation in the site-specific DCP.

It is considered that Council has adequately addressed this matter.

Traffic and transport

The engineering report (**Attachment J2**) concluded that the traffic impacts of the proposed development would be minimal, with future traffic flows on surrounding roads within acceptable limits. Surrounding intersections would continue to operate at current

levels of service. In addition, the internal road network has been designed to facilitate a future bus route.

TfNSW (**Attachment K4**) supports the proposed extension of the current bus route 873 (as shown in the site-specific DCP) but recommends that future infrastructure such as internal roads layout and associated bus services facilities comply with relevant specifications and guidelines. TfNSW also suggested the provision of pathways along road frontages and improving pedestrian connections within the site.

RMS (**Attachment K5**) raised no objections to the proposal but noted that the SP2 Future Transport Corridor zoning for the future Georges River Parkway is retained.

Council has advised that relevant development controls have been included in the proposed site-specific DCP, i.e. proposed bus route and pedestrian access, and these issues will be further considered at the development application stage.

It is considered that Council has adequately addressed this matter in the site-specific DCP.

Infrastructure

The engineering report (**Attachment J2**) states that it is feasible to service the proposed development in relation to stormwater and water cycle management, electricity and telecommunications, and water and sewerage.

No objections were received from Sydney Water (**Attachment K6**) or Endeavour Energy (**Attachment K7**). However, both authorities provided recommendations for the proposed development to be addressed at the development application stage.

It is considered that Council has adequately addressed this matter and further consideration will be undertaken at the development application stage.

8. POST-EXHIBITION CHANGES

On 11 September 2018 (**Attachment I**) at its Ordinary Meeting, Council resolved to proceed with the planning proposal with the following minor post-exhibition changes:

- identify low/moderate-quality Cumberland Plain Woodland on the site as significant vegetation on the terrestrial biodiversity map (Figure 6, next page); and
- identify the land proposed to be zoned RE1 Public Recreation on the land reservation acquisition map with Council as the acquisition authority (Figure 7, next page).

The Department notes that these post-exhibition changes are justified and given their nature the proposal does not require re-exhibition. It is considered that the post-exhibition changes:

- are a reasonable response to comments provided by public authorities to provide additional protection for significant vegetation; and
- do not alter the intent of the planning proposal and are minor amendments.



Figure 6: Proposed terrestrial biodiversity map.

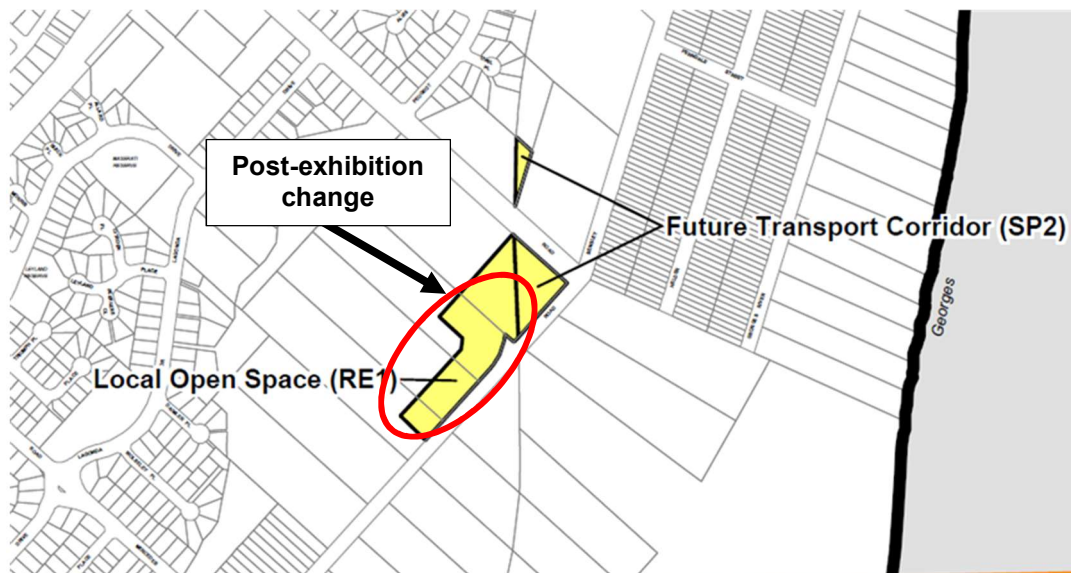


Figure 7: Proposed land reservation acquisition map.

9. ASSESSMENT

Section 9.1 Directions

At the time of the Gateway determination (**Attachment C**), it was agreed that the planning proposal's inconsistency with section 9.1 Directions 2.1 Environment Protections Zones and 3.1 Residential Zones were justified in accordance with the terms of the Directions. Therefore, no further approval is required in relation to these Directions.

Direction 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. The site contains a local heritage item (i.e. I69 – stone cottage and bushland setting) at 28 Mercedes Road, Ingleburn.

The planning proposal is considered to be consistent with this Direction as it will not alter the listing of the local heritage item and the site-specific DCP includes additional heritage controls for the protection of the cottage.

Direction 4.4 Planning for Bushfire Protection

The objectives of this Direction are to protect life, property and the environment from bushfire hazards by discouraging the establishment of incompatible land uses in bushfire-prone areas, and to encourage sound management of bushfire-prone areas. This Direction applies to the proposal as it contains bushfire-prone land (vegetation buffer).

The bushfire constraints assessment (**Attachment J4**) considered potential constraints on future residential land use and concluded that the site could readily be used for residential purposes while minimising impacts and preserving environmentally sensitive locations.

However, the planning proposal is inconsistent with this Direction as it does not introduce new controls that avoid placing inappropriate developments in hazardous areas as prescribed by the Direction.

The inconsistency is justified as consultation was undertaken with RFS and no objections to the planning proposal were raised subject to an increase in the proposed APZ. Council has included this requirement in the proposed site-specific DCP. Any future development application will be required to comply with *Planning for Bushfire Protection 2006* and will likely warrant referral to RFS for detailed comments.

Direction 6.2 Reserving Land for Public Purposes

The objectives of this Direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition. This Direction applies to the planning proposal as it intends to reserve land within the site under the RE1 Public Recreation (Open Space) zone.

The Direction requires approval from the planning proposal authority and the Secretary when creating reservations of land for public purposes.

The RE1 Public Recreation-zoned land is proposed to be dedicated to Council through a VPA. Council has accepted the role of acquisition authority for the land identified on the land reservation acquisition map. Approval has not been sought from the Secretary, and to satisfy the terms of the Direction, it is recommended that the Secretary's delegate determine that this inconsistency is of minor significance.

State environmental planning policies (SEPPs)

SEPP No 19 – Bushland in Urban Areas

This policy aims to protect and preserve bushland in urban areas because of its value to the community as part of the natural heritage, its aesthetic value, and its value as a recreational, educational and scientific resource. This SEPP applies to the planning proposal as it contains bushland.

The planning proposal is generally consistent with the SEPP as it will retain most of the high-value vegetation in a proposed recreation zone and dedicated to Council. In addition, bushland will be further protected through terrestrial biodiversity mapping.

SEPP No 44 – Koala Habitat Protection

This SEPP applies to land in Campbelltown. The site contains one species of koala feed trees (*Eucalyptus tereticornis*). However, no koalas were observed within the site.

In accordance with the SEPP, the flora and fauna assessment (**Attachment J1**) notes that the site is 'potential koala habitat' as the total number of koala feed trees exceeds the 15%

threshold under the SEPP 44 definition. However, the site is not considered to be 'core koala habitat'.

Council notes that a Koala Plan of Management (KPoM) may be required prior to any development approval being issued for the site. The KPoM will need to include recommendations for appropriate development controls for koala protection, which would be enforced via a condition of any development consent granted for the site.

The site-specific DCP includes a requirement to ensure the retention and maintenance of the potential koala habitat is a key consideration of any future development.

The flora and fauna assessment notes that while the proposed development will remove 0.18ha of potential koala habitat, including four koala feed trees, an additional 0.99ha will be retained and managed as an APZ under a vegetation management plan, with koala feed trees retained within this zone.

Higher-quality habitat is present directly adjacent to the study area in Georges River Parkway Reserve. Therefore, the habitat that would be directly impacted as a result of the proposed work would have minimal impact on the long-term survival of koalas in the locality.

Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment

The objective of this plan is to maintain and improve the water quality and river flows of the Georges River and its tributaries. This plan applies to parts of Campbelltown.

The proposal includes an appropriate level of stormwater treatment, which has been addressed in the proposed site-specific DCP to manage any potential water quality impacts on the Georges River Catchment.

State, regional and district plans

Greater Sydney Region Plan

The planning proposal is generally consistent with the Greater Sydney Region Plan as it will provide additional housing (Objective 10) and diversify housing choice in the vicinity (Objective 11). The proposal will also protect the local heritage item within the site and potential Aboriginal heritage items, if found (Objective 13).

Western City District Plan

The site is within the Western City District, therefore the Western City District Plan applies. The planning proposal is generally consistent with the plan as it will provide appropriate, additional housing which is in accordance with Planning Priority W5 'Providing housing supply, choice and affordability, with access to jobs, services and public transport'.

The proposal promotes the protection of a local heritage item, which is consistent with Planning Priority W6 'Creating and renewing great places and local centres, and respecting the District's heritage'.

The Department is satisfied that the planning proposal gives effect to the district plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

10. MAPPING

There are seven map tiles associated with this planning proposal (**Attachment Map**) that have been submitted via the ePlanning Portal. These maps have been examined by GIS staff and meet the technical requirements.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment E**).

Council confirmed on 19 December 2018 that it supported the draft LEP and the plan should be made (**Attachment F**).

12. PARLIAMENTARY COUNSEL OPINION

On 5 December 2018, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

It is recommended that the delegate of the Minister, as the local plan-making authority, determine to make the draft LEP under clause 3.36(2)(a) of the *Environmental Planning and Assessment Act 1979* because:

- the post-exhibition changes to the planning proposal are considered to be justified and are of a minor nature, do not adversely impact on the community and relevant authorities and do not require re-exhibition;
- the proposed rezoning has strategic merit as it is generally consistent with the Greater Sydney Region Plan and the Western City District Plan;
- the inconsistency with section 9.1 Direction 4.4 Planning for Bushfire Protection and 6.2 Reserving Land for Public Purposes is justified in accordance with the terms of the Direction; and
- the proposed rezoning will provide additional housing and jobs in the local area while protecting areas of biodiversity and heritage on the site.



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