



# **Planning Proposal**

## **For Reynolds Road and The Driftway, Londonderry**

**April 2021**



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# Introduction

## 1. Purpose of Planning Proposal

The Planning Proposal seeks to reclassify land owned by Hawkesbury City Council, located on Reynolds Road and The Driftway, Londonderry to amend the Penrith Local Environmental Plan (LEP) 2010 to reclassify the following sites from 'community' land to 'operational' land and propose a clause that maintains a buffer between residential dwellings and Hawkesbury City Council's Waste Management Facility located north of the subject sites in Hawkesbury's Local Government Area.

Site	Legal Description	Street Address	Zoning	Area	Current Land Use	LGA
1	Lot 1 DP 25981	2-6 Reynolds Road, Londonderry	RU4 Primary Production Small Lots And E2 Environmental Conservation	2.986ha	Vacant land	Penrith
2	Lot 24 Sec D DP 25020	2-8 The Driftway, Londonderry	RU4 Primary Production Small Lots	1.588ha	Vacant land	Penrith
3	Lot 22 Sec D DP 25020	18-24 The Driftway, Londonderry	RU4 Primary Production Small Lots	1.618ha	Vacant land	Penrith
4	Lot 21 Sec D DP 25020	26-32 The Driftway, Londonderry	RU4 Primary Production Small Lots	1.618ha	Vacant Residential Dwelling	Penrith
5	Lot 20 Sec D DP 25020	34-40 The Driftway, Londonderry	RU4 Primary Production Small Lots	1.618ha	Vacant land	Penrith
6	Lot 19 Sec D DP 25020	42-48 The Driftway, Londonderry	RU4 Primary Production Small Lots	1.618ha	Vacant land	Penrith
7	Lot 18 Sec D DP 25020	50-56 The Driftway, Londonderry	RU4 Primary Production Small Lots	1.618ha	Vacant Residential Dwelling	Penrith

**Table 1 – Subject Sites**

The Planning Proposal would enable the subject sites to continue to be used for the purpose for which HCC acquired them, which is to provide a buffer of 250m between the Hawkesbury City Waste Management Facility and surrounding residential dwellings, as per the Siting Restrictions in the NSW Environment Protection Authority's *Solid Waste Landfill Guidelines*, while also being self-sustaining through leases or potential future sale.

Hawkesbury City Waste Management Facility is located on the northern side of The Driftway, which forms the boundary between Penrith LGA and Hawkesbury LGA.

Conditions under the *Local Government Act* 1993 and the *Local Government Regulations* 2005, prevent the sale and restrict leasing of 'Community' land. The conditions restrict the maximum lease term and require categorisation of the sites with concurrent uses and plans of management. The current "Community" classification also prevents the sites from being used by HCC for operational purposes that would otherwise be permissible with development consent under Penrith LEP 2010. These conditions have restricted HCC's ability to lease the subject sites for agricultural and residential purposes or use the sites in a manner which would allow them to be self-sustaining.

This Planning Proposal will enable HCC to utilise, lease and manage the subject sites whilst the Waste Management Facility is in operation and as the facility evolves in the future.

This Planning Proposal has been prepared in accordance with:

- Section 3.33 of the *Environmental Planning and Assessment Act 1979*;
- NSW Department of Planning, Industry and Environment publications '*A guide to preparing Planning Proposals*' and '*A guide to preparing local environmental plans*'; and
- NSW Department of Planning, Industry and Environment *Practice Note PN16-001 'Classification and reclassification of public land through a local environmental plan'*.

The Planning Proposal is structured as follows:

- Section 1 - provides an overview and background to the proposal, including detailed site description;
- Section 2 - describes the intended outcomes;
- Section 3 - provides an explanation of the possible provisions;
- Section 4 - documents the justification for the proposal;
- Section 5 - addresses mapping associated with the proposal;
- Section 6 - outlines the community consultation requirements; and
- Section 7 - suggests a project timeline.

Appendix 3 includes *Practice Note PN 16-001- 'Classification and reclassification of public land through a local environmental plan'* and responses to the Practice Note checklist.

#### Site Description

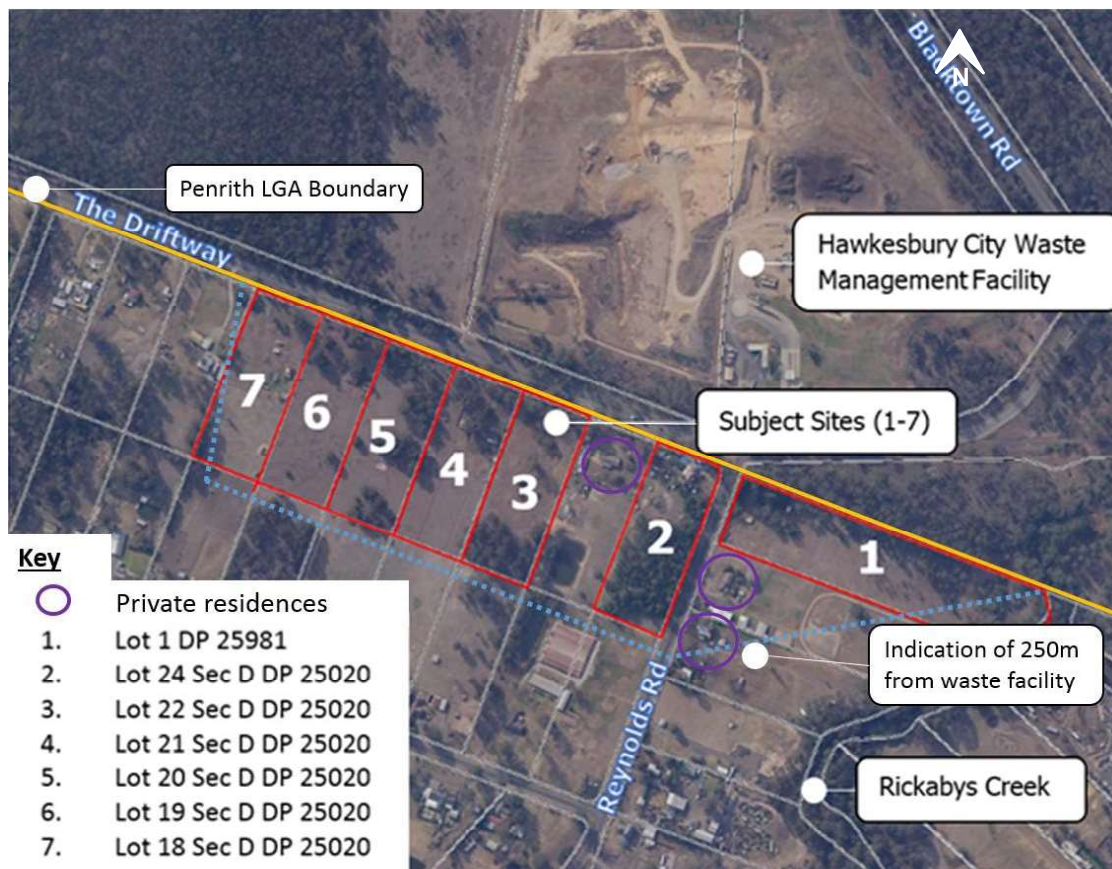
The subject land is made up of seven lots located on the southern edge of the Hawkesbury City Waste Facility (Waste Facility) along The Driftway. Five of the lots are adjoining with the other two being separated. The subject site has an area of 12.71ha.

The general land use that surrounds the subject sites includes rural- residential properties with a mix of grazing, hobby farming, residential living and the like. To the north is the Waste Facility. The subject site contains derelict buildings with some remaining evidence of previous habitation. Two of the sites contain dwellings in various states of disrepair and a number contain removable storage as well as other miscellaneous items.

The subject land is generally flat and low lying, with a gentle slope to the east and west with site 2 being the high point. Low points are located in the western portion of the site on site 7 where two dams and a detention basin has been constructed to take advantage of a natural watercourse. These dams and the one located at the southern end of site 5 are currently dry and silted up. The other low point at the eastern end of site 1 adjoins Rickabys Creek.

The majority of the subject site has been previously cleared and disturbed from past rural and rural-residential uses. Vegetation is concentrated adjacent to the road frontage (along The Driftway) or as clumps of scattered and disturbed Shale Plains Woodland throughout the site. The area is dominated by exotic groundcover species with 2-6 Reynolds Road which also adjoins a HCC reserve being the only site to contain other vegetation types, being an area of Alluvial Woodland in the eastern part of that land. 2-8 The Driftway is also dominated by exotic vegetation in the form of introduced pine trees.

The lots (that make up the subject site) are highlighted in Figure 1 below. The lot between subject sites 2 and 3 (Lot 23 Sec D DP 25020) is not included in the subject sites as it remains in private ownership and contains a dwelling and associated outbuildings.



Site photographs of the subject land are shown in Figure 2 overleaf.



*View north-east from Lot 18 frontage to Waste Facility.*



*View east from Lot 18 frontage along The Driftway*



*View to Waste Facility Entrance from Lot 24 frontage*



*View of Lot 21 from The Driftway.*



*View south along boundary of Lot 18 & 19*



*Lot 24 from corner of Reynolds Road & The Driftway*



*View south from The Driftway along boundary of Lot 24.*

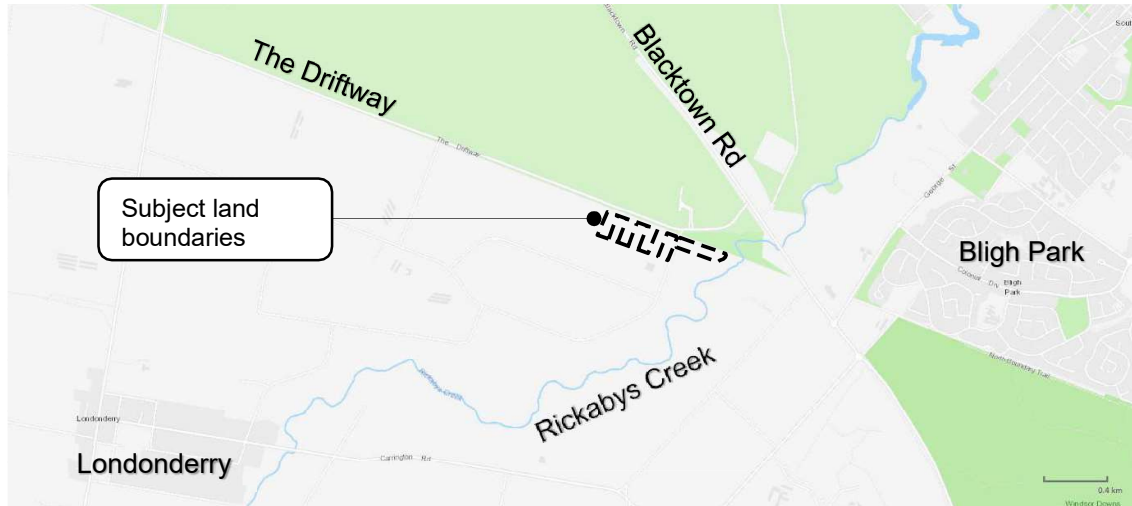


*Waste Facility Entry Signage indicating hours of operation.*

**Figure 2 – Site Photographs**

## 2. Background

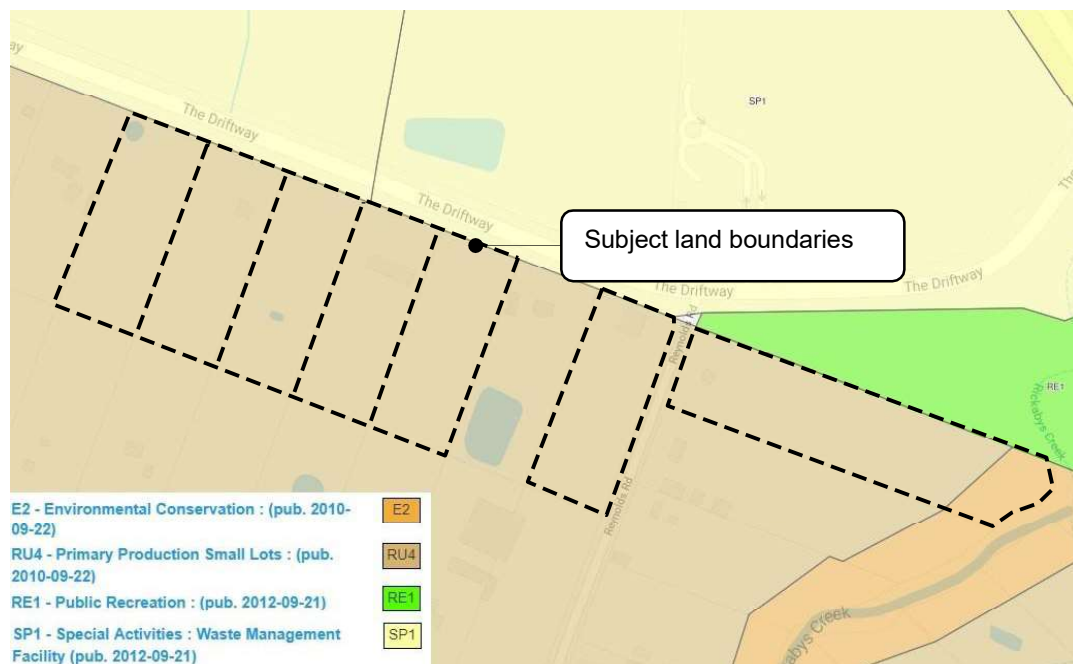
The sites are located on the edge of a large lot rural residential area adjacent to the Hawkesbury City Waste Management Facility, within the Penrith LGA. Bligh Park contains the closest commercial centre, which is approximately 2.5km away by road. The subject site is shown on the Locality Plan in 3 below.



**Figure 3 - Locality Plan**

The site has a combined area of 12.71ha and is largely vacant, however there are a number of derelict buildings (i.e. unoccupied sheds, garages and dwellings) and vegetated areas across the site.

Most of the subject site is zoned RU4 Primary Production Small Lots under Penrith LEP 2010 with a small section of E2 Environmental Conservation and is currently classified as 'community' land (under the Local Government Act, 1993). The current zoning is shown in figure 4 below.



**Figure 4 – Current Zoning Map (extract from Planning Portal website)**

The subject sites were purchased by HCC between 1997 and 2001 to form a 250m buffer between residential dwellings and HCC's Waste Management Facility. This was proposed to comply with the NSW Environment Protection Authority (EPA) "Environmental Guidelines, Solid Waste Landfills, Second Edition".

At the time of purchase, no action was taken by HCC to reclassify the subject sites as 'Operational' land' under the Local Government Act 1993, and therefore by default they are classified as 'Community' land.

The properties have historically been leased for rural and residential purposes by HCC. A "History of Dealings" for the site is provided as Appendix 2.

As the *Local Government Act* 1993 restricts the use of the sites while they are classified as "Community" land, the sites can't be managed for the purposes for which they were acquired by HCC. Hence, the need for this Planning Proposal to reclassify the subject site to "Operational" land.

At its meeting of 11 March 2008, Hawkesbury City Council considered a report and resolved to reclassify the subject site. The report and minutes of this meeting are provided as Appendix 1. Written consent from Hawkesbury City Council for the proposed reclassification of the subject land is provided in Appendix 10. This Planning Proposal is consistent with the Council resolution.

The Waste Management Facility has a projected lifespan under its current operational model of 15-20 years, beyond which it is likely to transition into a waste transfer facility and the sites will remain as a buffer while the Waste Facility is in operation.

The planning proposal helps HCC ensure land they own in Penrith Local Government Area continues to be used as a buffer to the Waste Facility and can be leased and used for purposes to meet the needs of residents in both LGAs.

## Part 1 – Objectives or Intended Outcomes

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The objective of this Planning Proposal is to amend Penrith Local Environmental Plan 2010 to reclassify the seven (7) subject sites (detailed in Table 1) from Community to Operational land and an addition of an LEP clause that prohibits the use of the sites for renovated, new or intensified residential accommodation while the Waste Facility is in operation and sites are required as a buffer.

This will allow HCC to consider the future use of all sites to realise the objectives of the existing zones. HCC do not intend to use the sites for residential purposes until the Hawkesbury City Council Waste Management Facility site ceases to operate as a waste or resource management facility.

## Part 2 – Explanation of Provisions

The objectives and intended outcomes of the planning proposal will be achieved by amending *Penrith Local Environmental Plan* (PLEP) 2010. The proposed changes are presented in this Part of the Planning Proposal.

The intended outcome will be achieved by amending PLEP 2010, as outlined below:

### **Schedule 4 Classification and reclassification of public land Part 1 Land classified, or reclassified, as operational land – no interests changed**

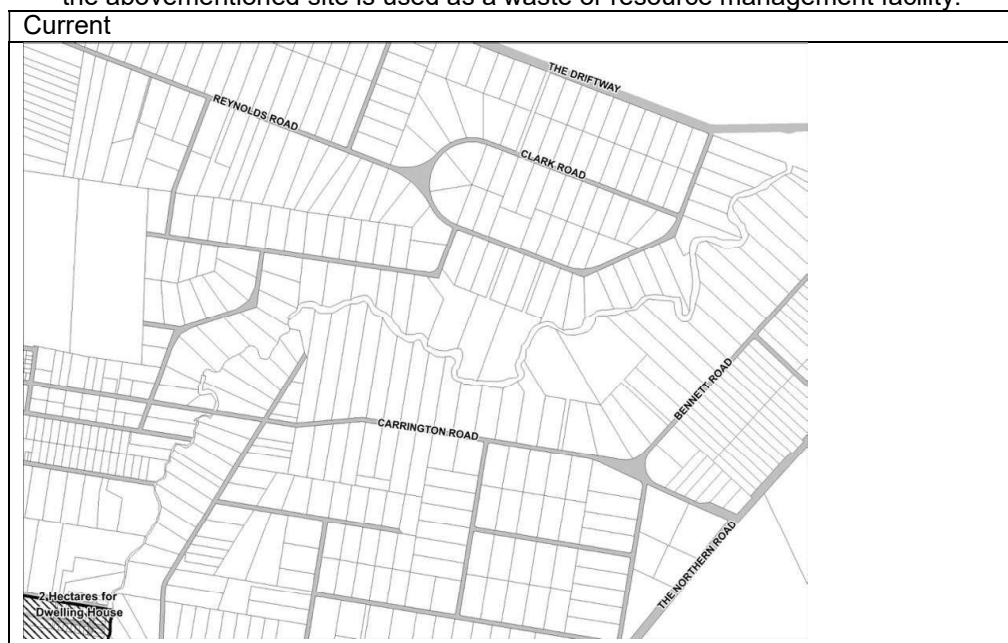
Column 1	Column 2
Locality	Description
Londonderry	Lot 1 DP 25981 Reynolds Road and Lots 18, 19, 20, 21, 22 & 24 Sec D DP 25020, The Driftway, Londonderry. Combined area of 12.71ha.

Creation of a new clause under Part 7 and an amendment to the Clause Application Map.

### **PART 7 Additional Local Provisions**

#### **7.26 Reynolds Road and The Driftway, Londonderry**

1. The objective of this clause is to maintain a buffer between residential dwellings and Hawkesbury City Council's Waste Management Facility located north of the subject sites in Hawkesbury's Local Government Area.
2. This clause applies to land identified as 'Driftway Londonderry' on the Clause Application Map.
3. Development consent must not be granted to development on land to which this clause applies for the purpose of renovated, new or intensified residential accommodation whilst the abovementioned site is used as a waste or resource management facility.





The 'Deposited Plans' and 'Certificate(s) of Title' provided as Appendix 2 identify that Site 1 (Lot 1, DP 25981) is partly affected by an 'easement for transmission line' (W168632). This interest is not proposed to be discharged by the Planning Proposal.

The Certificate(s) of Title also identify "1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)" applying to each Lot. The conditions and reservations in the Crown Grants (also provided in Appendix 2) are not proposed to be discharged by the Planning Proposal under *Local Government Act* 1993 s.30(1)(a).

There are no other mechanisms that would enable the intended outcomes of the Planning Proposal to be achieved. The use of the land as a buffer to the Waste Facility is not consistent with the *Local Government Act* 1993 objectives for 'Community' land. The retention of the 'Community' land classification and preparation of a Plan of Management to enable HCC to use the land for purposes compatible with the buffer, is not considered appropriate in this case.

This is because classification as 'Community' land generally:

- reflects the importance of the land to the community due to its use or special feature; and,
- relates to land intended for public access and use.

The proposed changes to Penrith LEP 2010 are considered to be the most effective way to ensure that the subject sites can be effectively managed and utilised by Hawkesbury City Council during and beyond the lifespan of the Waste Facility. It is considered that the 'community' classification is not appropriate for managing manage economic, social and environmental considerations for the sites.

The alternative is the continued lease of the land while it remains under a 'Community' classification. The *Local Government Act* 1993 and the *Local Government Regulations* 2005 prevent the sale and restrict leasing of 'Community' land. The conditions restrict the maximum lease term and require categorisation of the sites with concurrent uses and plans of management. These conditions restrict HCC's ability to lease the subject sites for agricultural or residential purposes in a manner which would allow the sites to be self-sustaining.

The proposed reclassification and clause will not facilitate additional jobs or dwellings beyond what is already permissible under the existing and proposed controls.

## Part 3 – Justification

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This part of the Planning Proposal identifies the need for the proposed amendments to Penrith LEP 2010, the relationship with the strategic planning framework, the impacts of the proposed changes, and State and Commonwealth interests.

As this Planning Proposal seeks a reclassification of public land, *Practice Note PN 16-001- Classification and Reclassification of Public Land through a Local Environmental Plan* and the related Reclassification Checklist have been provided as Appendix 3, with a supporting History of Dealings for the sites provided as Appendix 4.

### Section A – Need for the Planning Proposal

#### **Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?**

Yes. The Planning Proposal is the result of the following strategic studies or reports.

##### Hawkesbury City Council Report (2008)

At its meeting of 11 March 2008, Hawkesbury City Council resolved to reclassify the subject site to optimise its use in accordance with s. 27(2) of the *Local Government Act 1993*.

This was following a Review of HCC Records which indicated that at the time of acquisition, no action was taken to have the properties classified as 'Operational' land, resulting in them automatically being classified as 'Community' land. This HCC report is provided as Appendix 1.

##### Hawkesbury City Council Property Development Strategy

Hawkesbury City Council's Property Development Strategy identified the subject lands as a strategic site. This strategy recommends the maximisation of the use of, and return from, strategic sites.

HCC's strategic planning framework includes an overarching Community Plan and Delivery Program / Operational Plan that outlines how revenue is raised and how funds are used.

In 2015, HCC was one of seven metropolitan Councils deemed 'Fit for the Future' by the Independent Pricing and Regulatory Tribunal (IPART). This assessment was based on a set of criteria around sustainability, effective infrastructure and service management, efficiency, and scale and capacity.

HCC has committed to a number of strategies to deliver ongoing productivity improvements to meet the criteria set by IPART. One of these strategies is to review HCC's property and assets to identify non-performing and surplus properties for sale or disposal. Whilst HCC is not currently considering disposing of the subject lands due to the nature of their acquisition, the reclassification to operational would allow HCC to generate an income from the sites, with a use compatible with the 250m landfill buffer.

HCC's Community Strategic Plan identifies at strategy 4.2.1 that:

"Our community's current and future utility infrastructure needs (including waste) are identified and delivered."

The subject lands respond to these needs, in that they support existing guidelines relating to the operation of the waste facility. Should any of the subject sites be divested or developed, all proceeds will be retained in the HCC domestic waste reserve, which funded the initial purchase of the properties and supports the operation of the waste facility. In this way, any income generated from the sale or development of the sites will directly contribute to infrastructure needs, or will be re-invested to generate an ongoing income stream for this purpose.

**Q2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The Planning Proposal is considered to be the best means of achieving the intended outcomes.

The proposed reclassification will:

- Enable the subject site to be used for its intended purpose as a buffer whilst also providing an opportunity for Hawkesbury City Council to effectively manage the land asset in a manner that is compatible with an Operational classification;
- Be consistent with the HCC resolution;
- Not impact the environmental attributes of the land;
- Allow for the economic utilisation of the land; and,
- Assist Hawkesbury City Council with better planning and future management of HCC owned assets.

The use of the land as a buffer to the Waste Facility is not consistent with the *Local Government Act* 1993 objectives for 'Community' land. The retention of the 'Community' land classification and preparation of a Plan of Management to enable HCC to use the land for purposes compatible with the buffer, is not considered appropriate in this case because classification as 'Community' land is intended to:

- reflect the importance of the land to the community due to its use or special feature; and,
- relate to land intended for public access and use.

The alternative of reclassifying the sites after the waste facility ceases to operate as a landfill site is also not considered suitable in this case. There is no set timeframe for the change of use for the Waste Facility to occur and this option would, in the meantime, prevent HCC from utilising the sites in a manner that is consistent with their stated objectives for the sites.

Conditions under the *Local Government Act* 1993 and the *Local Government Regulations* 2005, prevent the sale and restrict leasing of 'Community' land. The conditions restrict the maximum lease term and require categorisation of the sites with concurrent uses and plans of management. These conditions have restricted HCC's ability to lease the subject sites for agricultural purposes in a manner which would allow the sites to be self-sustaining.

The proposed clause maintains a buffer between residential dwellings and HCC's Waste Management Facility. This clause restricts the sites for the purposes of renovated, new or intensified residential accommodation whilst there is a waste or resource management facility adjacent to the site.

Section B – Relationship to Strategic Planning Framework

**Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?**

Yes. The Planning Proposal is consistent with the following plans and strategies:

*Greater Sydney Region Plan*

The Greater Sydney Commission is an independent body established by the NSW Government in 2016 to manage planning for the Sydney Metropolitan Area.

In March 2018, the Commission released the Greater Sydney Region Plan, which replaces 'A Plan for Growing Sydney' as the plan to accommodate 8 million people by 2056 in a more productive, liveable and sustainable global city.

The plan is based on a 'three city – one metropolis' approach with the cities being: Eastern Harbour, Central River and Western Parkland. Each city, whilst well-connected to the others, is

intended to be largely self-sufficient with 70% of residents being within 30 minutes of work, study, services and 'great places'. This will help to encourage the spread of jobs away from the Sydney CBD and to the west of the City.

The subject site is on the 'Western Parkland City', sitting on the urban fringe of the Sydney 'metropolis'.

This Planning Proposal will support the Infrastructure Directions and Liveability Directions included in the Greater Sydney Region Plan, by supporting the management of a key Waste Management Facility, providing long term services and infrastructure that meet the changing needs of the community. This is consistent with the intent of the Greater Sydney Region Plan.

The planning proposal is consistent with the actions of the Greater Sydney Region Plan as follows:

Direction	Consistency
Direction – Jobs and Skills for the City Objective 24: Economic sectors are targeted for success.	<p>The Planning Proposal is consistent with this Direction and relevant Objectives of the Plan.</p> <p>The Planning Proposal will facilitate reclassification of the land to operational land to allow HCC to lease the subject site whilst ensuring its continued operation as a buffer to the Waste Facility.</p> <p>The reclassification of the subject site will allow local economic sectors that both relate to, and can co-locate with, waste management to be potentially targeted in the context of the lease of the land.</p>

#### Western City District Plan

The Greater Sydney Commission's 'Western City District Plan' (released in March 2018) provides a 20 year vision for this precinct – which encompasses the Blue Mountains, Hawkesbury, Penrith, Camden, Campbelltown, Fairfield, Liverpool and Wollondilly council areas. The district plan provides detail on how the objectives for Greater Sydney can be achieved – i.e. being a more productive, liveable and sustainable global city.

The Planning Proposal is consistent with the actions of Western City District Plan as follows:

Direction/ Planning Priority	Consistency
<p>Planning Priority W1: Planning for a city supported by infrastructure.</p> <p>Planning Priority W11: Growing investment, business opportunities and jobs in strategic centres.</p> <p>Planning Priority W19: Reducing carbon emissions and managing energy, water and waste efficiently.</p>	<p>The Planning Proposal is consistent with the broad intent of this district plan. Specifically, the Planning Proposal supports the key direction of "creating the conditions for a stronger economy" with the subject site providing opportunity for HCC to lease a large area of land and ensure its continued operation as a buffer to the Waste Facility.</p> <p>The reclassification of the subject site will support the ongoing operation of the Waste Facility and allow local economic sectors that both relate to, and can co-locate with, waste management to be potentially targeted in the context of the lease of the land.</p> <p>The Waste Facility has a projected lifespan under its current operational model of 15-20 years beyond which it is likely to transition</p>

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into a transfer facility. The ongoing provision of waste infrastructure is supported by Planning Priorities W1, W11 and W19 in the district plan.

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The site also forms part of the Metropolitan Rural Area identified by the district Plan. The plan seeks to protect the environmental, social and economic values of the Metropolitan Rural Area.

**Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?**

Yes. The Planning Proposal is consistent with the following local strategies.

*Hawkesbury Strategic Community Plan - The Hawkesbury 2036 .... It's Our Future*

The Hawkesbury Community Strategic Plan (CSP) includes the following key strategies that this Planning Proposal is consistent with:

- 4.2.1 – Our communities current and future utility infrastructure needs (including waste) are identified and delivered – this Planning Proposal helps to ensure the ongoing operation of the Waste Facility and may provide for related industries to be co-located as waste technology continues to change over time.
- 5.15 - The needs of our community will be reflected in Local, State and Regional Plans – this Planning Proposal is the result of landowner/ community request to ensure HCC purchased properties (in Penrith LGA) that were being impacted by the operation of the Waste Facility.
- 5.7 & 5.8 – Economic Development & Increase the range of local industry opportunities and provide effective support to continued growth – this Planning Proposal will result in the potential lease of the subject lands to ensure economic return on the land to HCC and opportunity for appropriate local businesses to use/ operate from the site (subject to the environmental constraints of the lands and any necessary approvals processes).

Penrith City Council's strategic planning framework consists of the following documents:

- Community Plan;
- Community Engagement Strategy;
- Delivery Program and Operational Plan;
- Resourcing Strategy;
- City Strategy; and,
- Other - Cooling the City Strategy.

*Penrith Community Plan 2017*

The document of most relevance to this Planning Proposal is the Community Plan, which identifies the community's long-term aspirations for Penrith City, with outcomes and strategies to achieve this. The Penrith Community Plan (CP) includes the following key strategies that this Planning Proposal is consistent with:

- *1.1 Attract investment to grow the economy and increase the range of businesses operating in the region* – this Planning Proposal helps Hawkesbury City Council ensure land they own in Penrith City Council continues to be used as a buffer to the Waste Facility and can be leased and used for compatible purposes, including those that may be envisaged by local businesses.
- *2.1 Facilitate development in the City that considers the current and future needs of our community* - this Planning Proposal helps Hawkesbury City Council ensure land they own in Penrith City Council continues to be used as a buffer to the Waste Facility and can be leased and used for purposes to meet the needs of residents in both LGAs.

#### Penrith Local Strategic Planning Statement

The LSPS outlines Penrith's economic, social and environmental land use needs over the next 20 years. This plan highlights characteristics that make Penrith special and outlines how growth and change will be managed into the future.

The proposal may also assist in achieving the delivery of Penrith City Council's policy response for Jobs and Economy which aims to attract strategic investment, facilitate employment diversity and growth, promote job clusters and encourage local workforce skills and training. It may also contribute to Penrith City Council's policy response for Infrastructure Delivery which aims to facilitate the infrastructure necessary to sustain past and planned growth in the City and Environment which aims to protect the native biological diversity of the City. The proposal contributes to these outcomes by making the rural land available for these purposes.

#### Consistency with LSPS

*Planning Priority 2: work in partnership to unlock our opportunities*

*Action: Collaborate with neighbouring council on cross-boundary issues*

This amendment is consistent with Planning Priority 2 as it works in partnership with others to unlock opportunities and improve the use of our rural lands. The additional use limits the residential accommodation to protect residential areas whilst reclassifying the land strengthens rural lands.

#### Penrith Local Environmental Plan 2010 and Development Control Plan 2014

	Existing Planning Controls PLEP 2010
<b>Site 1</b> Lot 1 DP 25981	<ul style="list-style-type: none"><li>• Zoned as RU4 - Primary Production Small Lots</li><li>• Eastern edge of the site Zoned E2 - Environmental Conservation.</li><li>• Minimum Lot Size of 2 Hectares</li></ul>
<b>Sites 2 to 7</b> Lots 18, 19, 20, 21, 22 & 24 Sec D DP 25020	<ul style="list-style-type: none"><li>• Zoned as RU4 - Primary Production Small Lots</li><li>• Minimum Lot Size of 2 Hectares</li></ul>

The Planning Proposal seeks to introduce a new clause that prevents new or increased residential accommodation at the site. Part 7 of the Penrith LEP 2010 and Clause Application Map will be amended to maintain these sites as a buffer. Any future development of the site would be subject to the existing controls in *Penrith Development Control Plan 2014*. This will ensure that any future development is of an appropriate scale, sensitive to the character of the area and in line with community expectations.

The Planning Proposal closely aligns with a number of the aims of Penrith LEP 2010, outlined below.

Clause	Comment
2 (a) to provide the mechanism and planning framework for the management, orderly and economic development, and conservation of land in Penrith	The Planning Proposal is an initiative to manage Hawkesbury City Council's property portfolio more efficiently. It will enable orderly development of land that was not purchased to be used for community purpose.

2 (b) to promote development that is consistent with the Council's vision for Penrith, namely, one of a sustainable and prosperous region with harmony of urban and rural qualities and with a strong commitment to healthy and safe communities and environmental protection and enhancement,	Use of the sites in a manner consistent with their zoning will enable the desired rural vision and economic benefit for the sites to be achieved, and will allow improved maintenance for better ecological outcomes.
2 (c) to accommodate and support Penrith's future population growth by providing a diversity of housing types, in areas well located with regard to services, facilities and transport, that meet the current and emerging needs of Penrith's communities and safeguard residential amenity	Realisation of the intentions of the existing RU4 zoning will contribute to the supply of housing in in the area after the properties are no longer required as a buffer to the Waste facility. Any future development outcomes will be subject to Penrith Development Control Plan 2014 and operational conditions for the Waste Facility, which will safeguard residential amenity.
2 (d) to foster viable employment, transport, education, agricultural production and future investment opportunities and recreational activities that are suitable for the needs and skills of residents, the workforce and visitors, allowing Penrith to fulfil its role as a regional city in the Sydney Metropolitan Region	The Planning Proposal will enable more efficient land use, encouraging employment and agricultural uses and eventually housing supply, suited to the needs and skills of the residents.

In summary, the proposal has strategic merit. It is consistent with the strategic planning framework that applies to the site, both in relation to Hawkesbury City Council and Penrith City Council.

The subject site is not well configured, accessible or located in proximity to centres that would benefit from the lands being used for community purpose, under the current land classification. And, no such purpose or use is indicated in a local strategy or strategic plan, for either Hawkesbury City or Penrith City Council.

#### **Q5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

Yes, the Planning Proposal is consistent with all relevant state environmental planning policies (SEPPs). Those that are directly relevant to the Planning Proposal are addressed below. For a complete checklist of SEPPs, refer to Appendix 5.

##### *SEPP (Primary Production & Rural Development) 2019*

The relevant aims of the Primary Production & Rural Development SEPP are to facilitate the orderly and economic use and development of rural lands for rural and related purposes, and to implement measures designed to reduce land use conflicts.

The Planning Proposal does not propose to rezone the rural zoned land, but rather reclassifies rural land that is not being utilised for agricultural or other rural related purposes. Any future lease arrangements or changes to uses of the land subject lands will address potential land use conflicts via the statutory planning process.

##### *SEPP (Vegetation in Non-Rural Areas) 2017*

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan and substantially reproduces the effect of these clauses in the Vegetation SEPP.

The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent, and applies to that part of the subject site zoned E2 Environmental Conservation. The Planning Proposal does not propose to clear or disturb any of the vegetation located on that part of the site zoned E2 Environmental Conservation.

*SREP No. 20 – Hawkesbury-Nepean River (No. 2 1997) – Deemed SEPP*

The aim of this deemed SEPP is to ensure impacts of future land uses are considered in a regional context, via a series of planning policies, strategies and development controls. As planning continues for the subject lands the impacts on the Hawkesbury-Nepean will continue to be considered, and ultimately addressed in any future strategic and/or statutory planning process.

**Q6. Is the Planning Proposal consistent with applicable Ministerial Directions (s.9.1 directions)?**

The Planning Proposal is generally consistent with applicable Ministerial Directions. The Section 9.1 Directions that are relevant to the Planning Proposal are detailed below. For a complete checklist of Section 9.1 Directions, refer to Appendix 6.

*Employment & Resources – 1.2 Rural Zones*

The Planning Proposal does not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and does not contain provisions that will increase the permissible density of land within a rural zone, however, the proposed clause ensures the sites are maintained as a buffer to residential areas. The Planning Proposal is therefore consistent with this s.9.1 direction.

*Employment & Resources - 1.4 Rural Lands*

The Planning Proposal does not propose to rezone the subject lands, nor change the minimum lot size of the land. The Planning Proposal facilitates the reclassification of the land to enable it to be continue to be used for the purpose it was acquired by Hawkesbury City Council.

*Environment and Heritage – 2.1 Environment Protection Zones*

A small area in the eastern part of the subject lands to which the Planning Proposal applies is zoned E2 Environmental Conservation. The Planning Proposal proposes to reclassify the subject lands, and therefore will not reduce the environmental protection standards that apply to the land. The Planning Proposal is therefore consistent with this s.9.1 direction.

*Hazard and Risk – 4.4 Planning for Bushfire Protection*

Concurrence from the NSW Rural Fire Service Commissioner may need to be sought to address this Direction as no study has been completed to determine consistency with the *Planning for Bushfire Protection Guidelines*. The subject land is mapped as “bushfire prone land”.

The Planning Proposal does not alter the controls that will continue to apply to bushfire prone land. Further, the Planning Proposal is for the reclassification of the subject land and does not propose any development. As per the Gateway Determination, RFS do not object to the planning proposal and recommend any future development of the subject lands will be required to comply with the relevant provisions of Planning for Bush Fire Protection 2019, provided in Appendix 12.

*Regional Planning - 5.10 Implementation of Regional Plans*

As discussed in Section 4.2 the Planning Proposal is consistent with the ‘Greater Sydney Region Plan – Our Greater Sydney 2056’. The Planning Proposal is therefore consistent with this s.9.1 direction.

*Local Plan Making - 6.1 Approval and Referral Requirements*

The Planning Proposal does not include new or proposed provisions that require concurrence, consultation or referral of development applications to a Minister or public authority. The Planning Proposal is therefore consistent with this s.9.1 direction.

### Local Plan Making – 6.3 Site Specific Provisions

The Planning Proposal is for reclassification of the subject site and introduces a site specific provision as per condition (2) of the Gateway Determination received from the Department of Planning, Industry and Environment, provided in Appendix 9. The proposed land use control prohibits the use of the site for renovated, new or intensified residential accommodations while there is a Waste or Resource Management Facility in operation north of these sites and these sites are required as a buffer. The Planning Proposal is therefore consistent with this s.9.1 direction.

### Metropolitan Planning - 7.1 Implementation of 'A Plan For Growing Sydney'

As discussed in Section 4.2, the Planning Proposal is consistent with the Greater Sydney Region Plan – Our Greater Sydney 2056, which replaces 'A Plan for Growing Sydney'. The Planning Proposal is therefore consistent with this s.9.1 direction.

## Section C – Environmental, Social and Economic Impacts

### **Q7. 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 subject lands are largely cleared but do contain some vegetated areas along the site boundaries and in scattered clumps. This vegetation is a mix of predominantly introduced species with some native species. However, no threatened species are recorded on site and habitat for threatened species is observed to be of low quality in the Rapid Ecological Assessment report provided as Appendix 7.

The intent of the proposed reclassification is to facilitate the management and use of the subject site as a buffer to the adjacent Waste Facility, whilst also providing an opportunity for Hawkesbury City Council to effectively manage the land asset. The planning proposal will not alter any other development controls in a manner such that there would be adverse impacts on critical habitat or threatened species, populations or ecological communities, or their habitats species, populations, or ecological communities.

Therefore, there are no likely impacts on threatened species or ecological communities that would preclude the reclassification of the subject site. Any future development of the land is similarly unlikely to have such impacts and these can be appropriately managed through HCC's more detailed planning and leasing processes.

### **Q8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

The planning proposal seeks only to reclassify the subject site and will not have any environmental effects. The reclassification will enable the subject site to be leased and potentially developed in the future, however, any future impacts will be managed through existing statutory planning process.

### **Waste Facility Operation**

The operation of the Hawkesbury City Council Waste Management Facility is not planned to impose on the subject sites. The sites were acquired as a 250m buffer to residential dwellings under the NSW Environmental Protection Authority *Environmental Guidelines, Solid Waste Landfills, Second Edition* 2016 and currently serve this purpose.

HCC continue to lease the Waste Facility from Western Sydney University (who have care and control of the Crown Land) on a monthly basis and will consider the future use of the Waste Facility as part of a Waste Options Strategy (yet to be commenced). The current operation of the Waste Facility is carried out under an EPA licence and HCC's *Landfill Environmental Management Plan* (LEMP). The LEMP is due to be updated in the next 18 months - 2 years.

In the short-medium term, the Waste Facility will continue to require a buffer. However, the immediate impact of waste activities on the subject site is reducing due to the changing landfilling activities and locations and the establishment of a Waste Transfer Station on site.

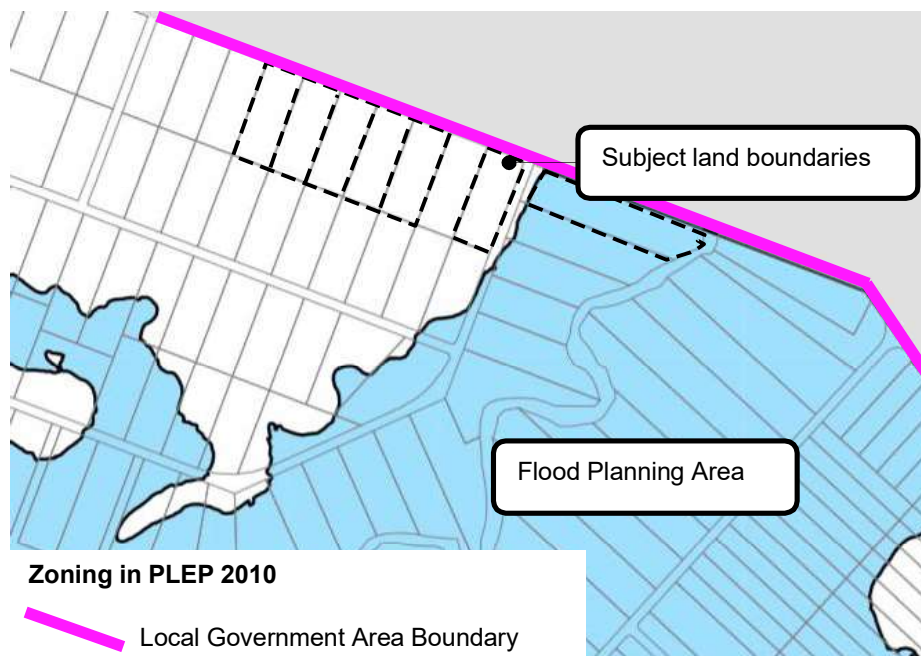
The current Hawkesbury City Waste Management Facility EPA License and *Landfill Environmental Management Plan* provided as Appendix 8 provide environmental management responses for the Waste Facility site. If any changes to the current use of the subject sites is planned, additional approvals, development applications or a new or amended EPA License and LEMP may be required. These ensure that any future uses of the subject sites are appropriate to the local context and that plans consider existing and future planning and environmental controls.

### Urban Heat

Any future development proposal must demonstrate consistency with Penrith City Council's adopted 'Cooling the City Strategy'.

### Flooding

All of the sites except 2-8 The Driftway (Lot 24 Sec D DP 25020) are identified as flood prone by the Hawkesbury-Nepean Valley flood risk analysis tool on the State Emergency Services website (<https://www.ses.nsw.gov.au/hawkesbury-nepean-floods>) and in the *Penrith City Council Overland Flow Flood Overview Study* (2006). This study also indicates that 2-6 Reynolds Road, Londonderry (Lot 1 DP 25981) is subject to Flood Planning Area controls, as shown in 4 below.



*Penrith City Council Overland Flow Flood Overview Study (2006)*

**Figure 4 – Flood Map**

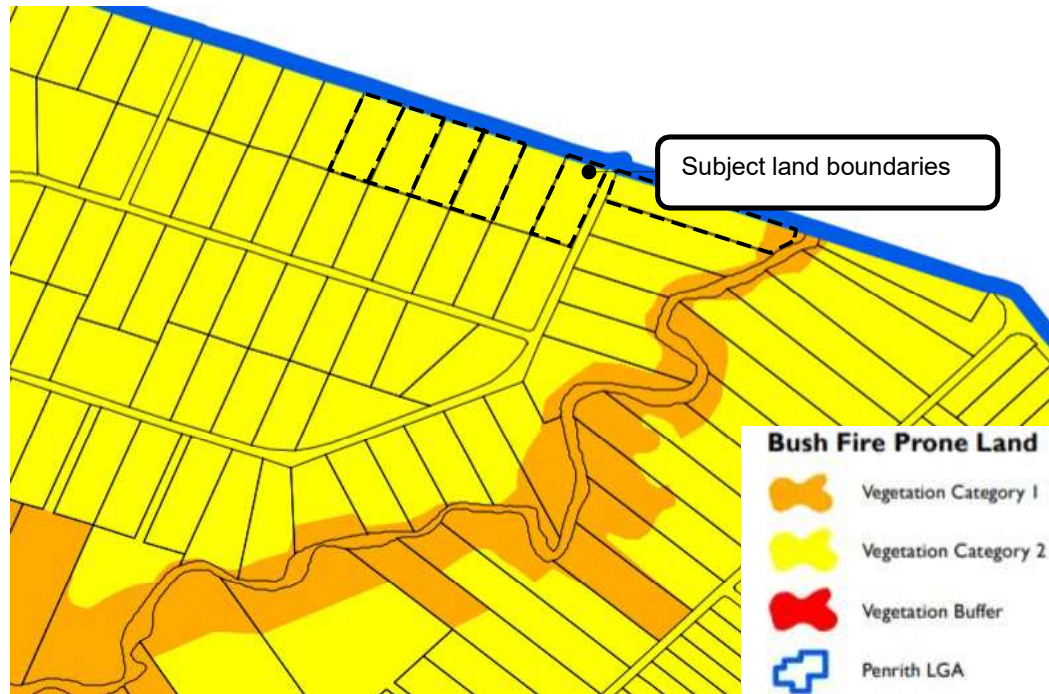
Clause 7.2 Flood Planning in the Penrith LEP 2010 applies to this site. Any future development on the subject sites would need to comply with the flood related controls in this clause and will be considered as part of existing statutory planning process.

### Bushfire

Penrith City Council LGA - Bush Fire Prone Land Map indicates the entire subject site is "bushfire prone", with the majority of the land being mapped as Vegetation Category 2 and a small part of Lot 1 DP 25981 being mapped as Vegetation Category 1, as shown on *Penrith City Council LGA - Bush Fire Prone Land Map* (Penrith City Council website)

Figure 5 below. Any future development on the subject site would need to comply with the bushfire related controls and will be considered as part of Council's statutory planning process.

Council referred the Planning Proposal to the Commissioner of the NSW Rural Fire Service in accordance with the requirements of Section 9.1 Directions by the Minister (previously 117) of the Environmental Planning and Assessment Act 1979. The NSW Rural Fire Service has no objections to the progression of the Planning Proposal. Although, any future development on these sites will need to comply with the relevant provisions of *Planning for Bush Fire Protection* 2019.



Penrith City Council LGA - Bush Fire Prone Land Map (Penrith City Council website)

**Figure 5 - Bushfire Prone Land Map extract**

**Q9. Has the Planning Proposal adequately addressed any social and economic effects?**

Yes. This Planning Proposal will provide beneficial economic and social effects in the Penrith City and Hawkesbury City communities for the following reasons:

- the Planning Proposal is consistent with the purpose for which HCC acquired the subject lands, being the provision of a buffer for the Waste Facility whilst also providing an opportunity for Hawkesbury City Council to effectively manage the land asset;
- the Planning Proposal is consistent with regional and local strategies applying to both Hawkesbury City Council and Penrith City Council;
- the Planning Proposal will facilitate ongoing planning and operation of infrastructure to service the needs of the community, through ensuring Hawkesbury City Council can lease and better manage the subject site as a buffer to the Waste Facility. This will create improved amenity for neighbours and the local community;
- the Planning Proposal provides an opportunity to appropriately lease the underutilised sites and therefore improve economic vitality; and,
- the Planning Proposal will enable positive social and economic outcomes for the area including through improved management of the subject site.

## Section D – State and Commonwealth Interests

### **Q10. Is there adequate public infrastructure for the Planning Proposal?**

This Planning Proposal seeks only to reclassify the subject site to 'Operational land'. It will not increase or create additional demand for public infrastructure.

Any subsequent proposal to lease or use the land will need to address the suitability and the adequacy of current infrastructure, proposed funding and delivering solutions to overcome any identified shortfall.

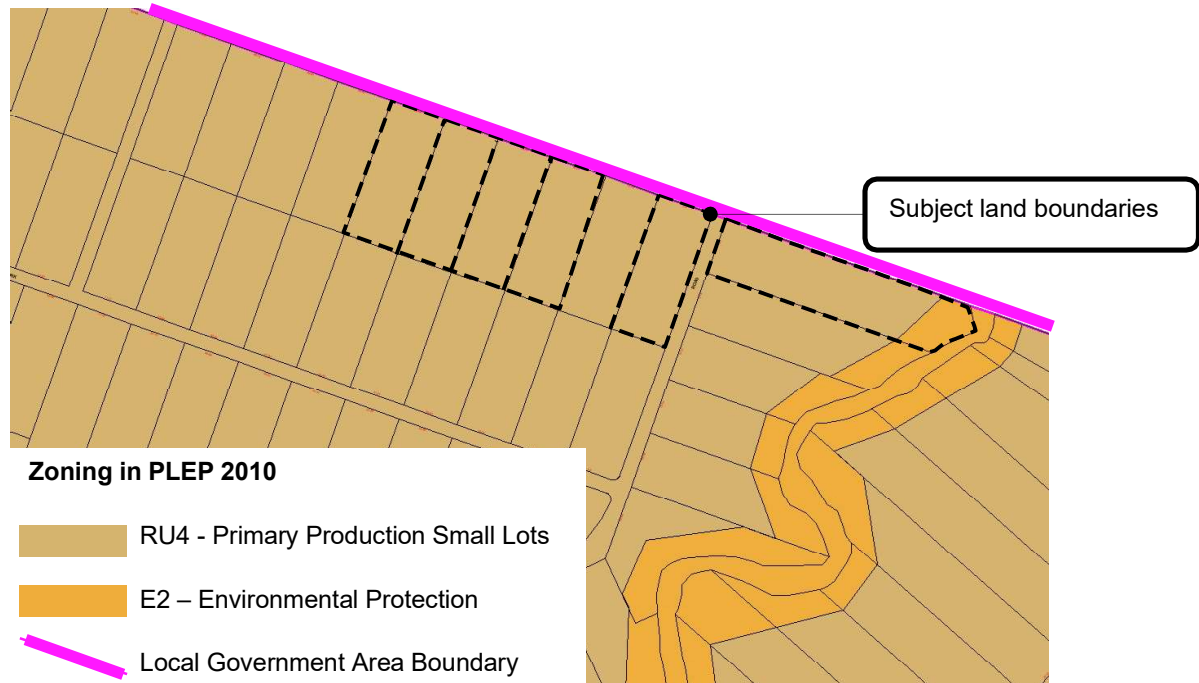
### **Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Consultation with public authorities was undertaken as per Part 5 of this Planning Proposal and the Gateway Determination provided as Appendix 9.

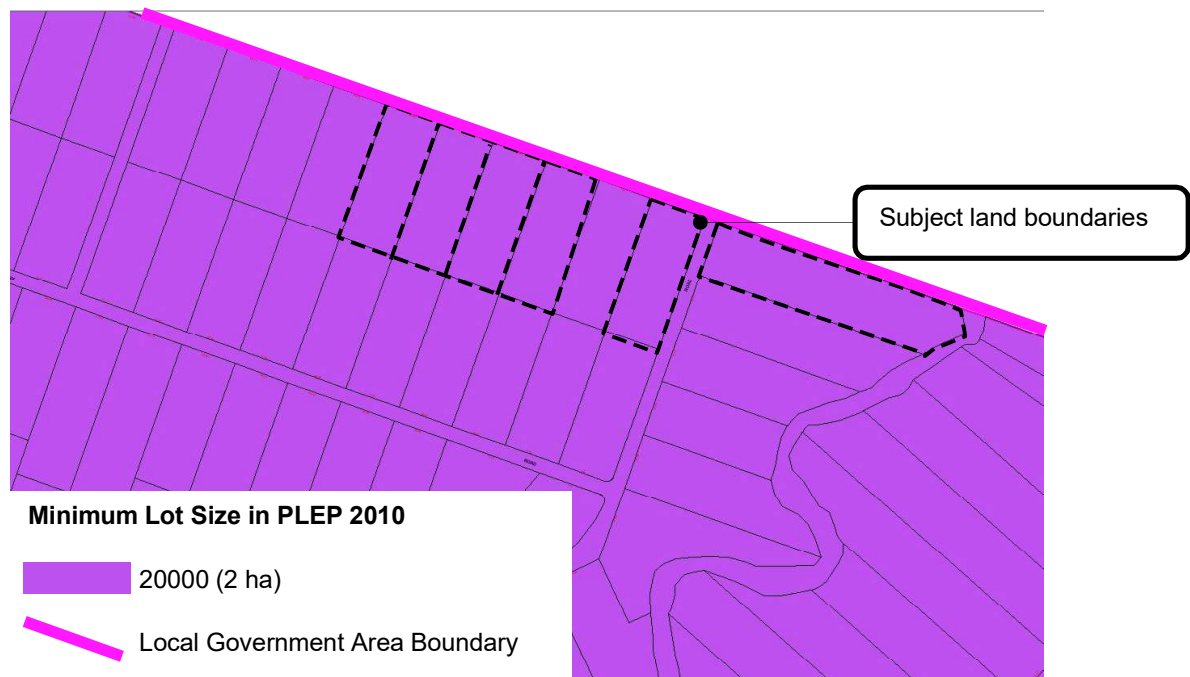
## Part 4 – Mapping

This Planning Proposal seeks to amend the Clause Application Map of the Penrith LEP 2010. Figures 9 and 10 show the current and proposed Clause Application Maps to include the site specific provision in Part 7 of Penrith LEP 2010.

Below, Figures 7 and 8 show Zoning and Minimum Lot Size Controls from Penrith Local Environmental Plan (PLEP) 2010 applying to the sites.



**Figure 7 – Zoning Map Extract from Penrith Local Environmental Plan 2010**



**Figure 8 – Minimum Lot Size Map Extract from Penrith Local Environmental Plan 2010**



**Figure 9 – Current Clause Application Map Extract from Penrith Local Environmental Plan 2010**



**Figure 10 – Proposed Clause Application Map for Penrith Local Environmental Plan 2010**

## Part 5 – Community Consultation

Community consultation has been undertaken in accordance with the requirements prescribed by the Gateway Determination provided in Appendix 9.

The Planning Proposal was placed on public exhibition from 3 September 2020 to 1 October 2020. All exhibition material is available through Council's YourSay page.

Notice of the public exhibition was given in the local paper, The Western Weekender, and on Council's website, social media pages, and the NSW Planning Portal. A notification letter was also sent to adjoining and nearby land owners and occupiers, and to relevant public authorities, including HCC in accordance with the requirements of the Gateway Determination. The owners and occupiers of the properties identified on the map (Figure 11).



**Figure 11 – Notification Area Map**

The Planning Proposal and relevant supporting material was referred to the NSW Rural Fire Services (RFS) Commissioner to satisfy the requirements of Section 9.1 Ministerial Direction 4.4 Planning for Bushfire Protection, and also in response to condition 3 of the Gateway Determination. The NSW RFS did not provide any objections to the progression of the Planning Proposal. However, future development of the subject land will be required to comply with the relevant provisions of *Planning for Bushfire Protection 2019*. RFS response is provided in Appendix 12.

A copy of the Department of Planning, Industry and Environment's *Practice Note PN16-001 – Classification and reclassification of public land through a local environmental plan* is provided in Appendix 3.

An independently chaired public hearing is required to be held under the *Local Government Act 1993* for reclassification of land. The public hearing took place on Wednesday 10 March 2021 at Penrith Civic Centre. The Independent Chair provided a report on submissions received, provided as Appendix 14.

Practice Note PN16-001 – 'Classification and reclassification of public land through a local environmental plan' requires that the public hearing be held after the close of the exhibition period. This allows the person chairing the hearing sufficient time to consider written submissions. More than 21 days public notice was provided before the hearing through, the local paper, The Western Weekender, and on Council's YourSay page. A notification letter was also sent to the four submitters of the public exhibition.

As per section 47G of the *Local Government Act 1993*, the independent public hearing report was made publicly available on Council's YourSay page and at Penrith Council offices and Libraries in Penrith and St Marys. A copy of this report was also sent to the three attendees of the hearing.

Council received a total of seven community submissions during the consultation process (four during public exhibition and 3 in the public hearing). These relate to matters regarding future development on the subject sites, environmental capabilities, rural landscape and impact on neighbouring properties. These submissions are tabled in a report to Council's Ordinary Meeting on 24 April 2021.

No amendments to the Planning Proposal were required in response to the issues raised in the submissions.

## Part 6 - Project Timeline

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The following table provides an indication of the expected timelines for progression of the Planning Proposal.

Key Milestones	Timeframe
Gateway determination (received)	March 2020
Planning Proposal Approved by DPIE	July 2020
Government agency consultation	July - August 2020
Public exhibition period	3 September – 1 October 2020
Public hearing (for reclassification)	March 2021
Consideration of submissions/ report to PCC	April 2021
Submission to Department to finalise the LEP	May 2021
Anticipated publication of amendment to LEP 2010/reclassification	May 2021