

Planning Services

Gateway Determination Report

LGA	Penrith
PPA	Penrith City Council
NAME	Increase the height of building and floor space ratio controls for land at 33-43 Phillip Street, St Marys (600 homes, 583 jobs – a net increase of 320 jobs)
NUMBER	PP_2018_PENRI_004_00
LEP TO BE AMENDED	Penrith Local Environmental Plan 2010
ADDRESS	33-43 Phillip Street, St Marys
DESCRIPTION	Lot 7 DP734738
RECEIVED	28 June 2018
FILE NO.	IRF18/3633
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

The planning proposal seeks to increase the applicable height of building (HOB) and floor space ratio (FSR) controls for the land at 33-43 Phillip Street, St Marys, to develop the site with a new mixed-use development including apartments and commercial premises. It is proposed to increase the HOB control from 32m (10-11 storeys) to 61m (19-20 storeys) and the FSR control from 3.5:1 to 5.5:1. No changes to the land use rezone is proposed.

The proposal would facilitate the provision of 580 to 600 dwellings (apartments) and 583 jobs, i.e. about 320 new jobs than currently provided.

Site description

The site forms part of the St Marys Town Centre precinct and is bounded by St Marys Railway Station and Station Street to the north; Phillip Street to the south; a public car park and a service lane to the west and a mix of low density dwellings and low-rise residential flat buildings to the east.

The site contains a large commercial building comprising a Coles supermarket, with specialty shops and office premises. Ground level customer car parking is provided at the north edge of the site, with basement parking also provided. The site area is approximately 11,740sqm (Figure 1).



Figure 1: Aerial image

Existing planning controls

The site is zoned B4 – Mixed Use under Penrith Local Environmental Plan 2010 (refer to Figure 2 below). The current height of building control is 32 metres; and the current floor space ratio control is 3.5:1.

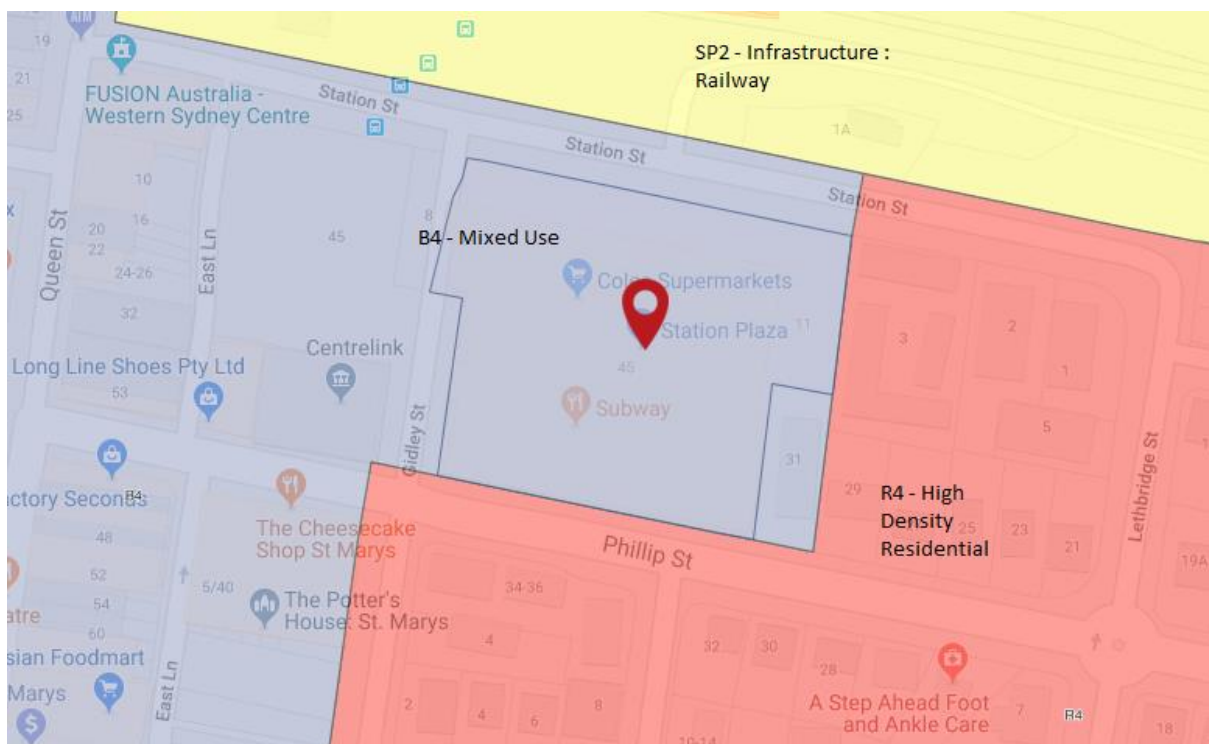


Figure 2: Land zoning map

The B4 Mixed Use zone permits the following land uses:

Amusement centres; Boarding houses; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Home-based child care; Home businesses; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Mortuaries; Multi dwelling housing; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Serviced apartments; Sex services premises; Shop top housing; Signage; Veterinary hospitals.

Surrounding area

The site is on the north-eastern fringe of the St Marys Town Centre. The locality contains a mix of low density dwellings and low-rise residential flat buildings to the south and east; a business precinct to the west and St Marys Railway Station to the north. A Council owned car park forms a majority of the adjoining site to the west (refer to Figure 3).



Figure 3: Surrounding area

Summary of recommendation

The site forms part of the St Marys Strategic Centre as identified in the Western City District Plan. The planning proposal will allow for an increase in housing within proximity to public transport, increased employment opportunities, and act as an important site in the rejuvenation of the St Marys Town Centre. It is recommended that the proposal proceed with conditions.

PROPOSAL

Part 1 - Objectives or intended outcomes

The objective of the proposal is to provide a greater incentive to redevelop the site, and stimulate the northern section of the St Marys Town Centre.

The increase in the height of building and floor space ratio controls is intended to encourage further renewal of St Marys Town Centre and surrounding areas.

Department comment

The objectives and intended outcomes are considered clear, and are explained in 'Part 1 – Objectives and Intended Outcomes' as well as the attached appendices that form the proposal.

It is noted, however, that some of the studies and reports submitted contain figures that are inaccurate in the context of the intended outcome of this proposal. The Economic Impact Report and Community and Open Space Study were both submitted to Council as part of previous attempts to amend Penrith LEP 2010, and reference a greater density than the current proposal.

Appropriate Gateway Determination conditions are recommended to amend/update these reports to ensure accurate information is provided prior to exhibition.

Further, it is also noted that a small portion of land immediately adjoining the subject land to the east is zoned B4 and the existing height of building and FSR controls will continue to apply to this site, i.e. it is not included in this planning proposal. This adjoining land is shown in Figure 1 and a rezoning extract is at Figure 2.

To ensure orderly development of the subject land together with the adjoining land, it is considered that Council should be required to review the planning proposal prior to exhibition and take the opportunity to amend the planning proposal to accommodate the inclusion of the additional land. A condition is recommended.

Part 2 - Explanation of provisions

The proposal seeks to amend the height of building and floor space ratio controls that are applicable to the site.

Control	Current	Proposed
Height of building	32 metres (10-11 storeys)	61 metres (19-21 storeys)
Floor space ratio	3.5:1 (41,000m ²)	5.5:1 (64,500m ²)

All other planning controls applying to the site will remain unchanged.

Department comment

The explanation of provisions is considered to be adequate, however, it is recommended that reference to the current and proposed maps (in Part) 4 be added under Part 2.

Part 4 - Mapping

The proposal contains amendments to the height of building (HOB_019) and floor space ratio (FSR_019) maps from Penrith Local Environmental Plan 2010. The maps do not require updating prior to community consultation, however, minor editorial amendments are recommended. Refer to Figures 4, 5, 6 and 7 (following) for the current and proposed mapping information.

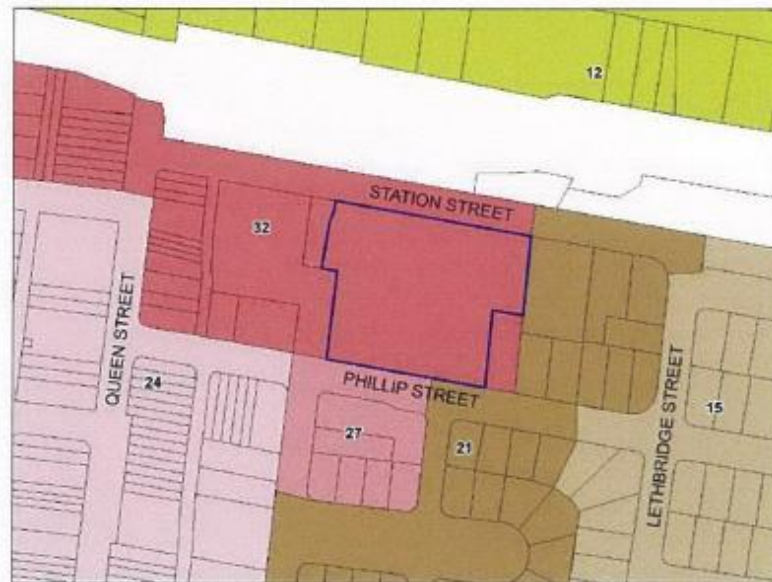


Figure 4: Current height of buildings – 32m

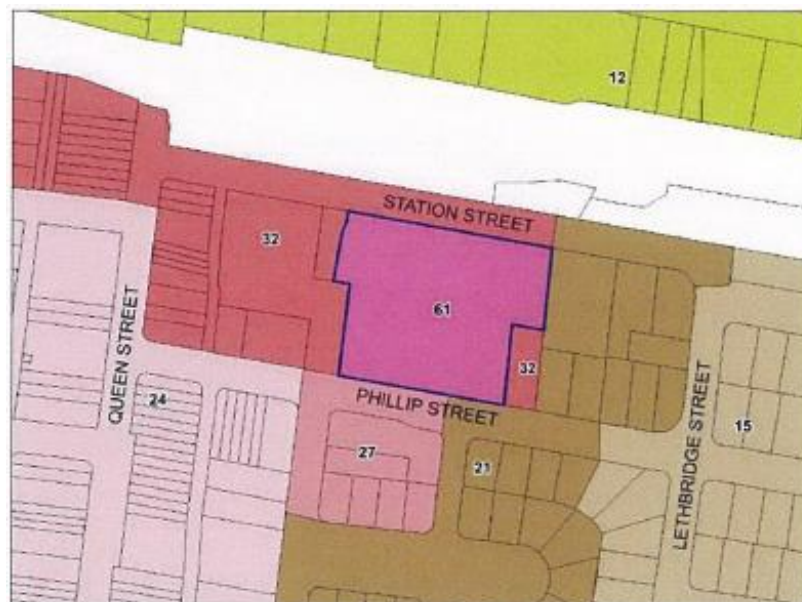


Figure 5: Proposed height of buildings – 61m

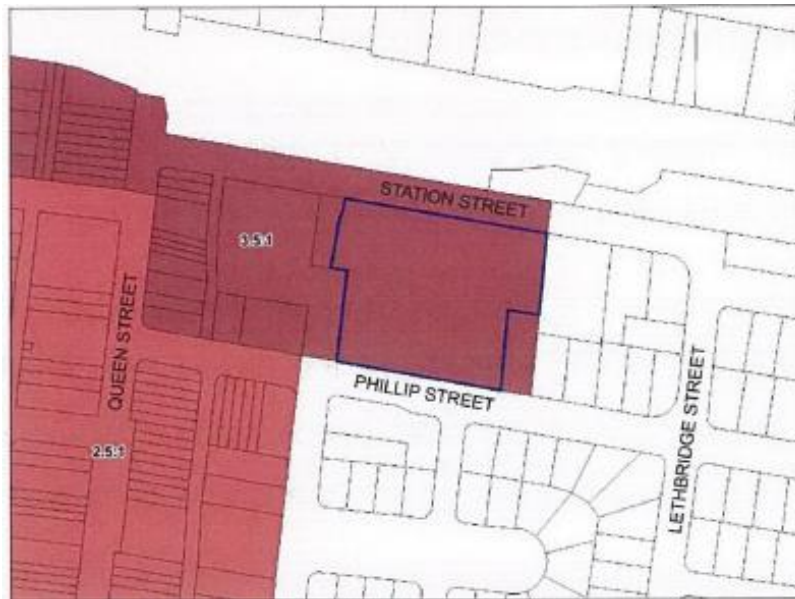


Figure 6: Current floor space ratio map – 3.5:1



Figure 7: Proposed floor space ratio map – 5.5:1

In addition to the above, a location map (an aerial photograph) is also provided.

Department comment

The supporting diagrams in the planning proposal are considered to be adequate for community consultation purposes, provided these are enlarged and a key is added.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is not the result of a specific study or report prepared by Council. A private landowner has expressed interest in taking advantage of the planned growth in Western Sydney, specifically the St Marys Town Centre. The

landowner intends to redevelop the site as part of a development application for a mixed-use building being 19-20 storeys in height.

As the development application would be inconsistent with the current height of building and floor space ratio controls, a planning proposal is necessary.

It is worth noting that Council is in the early stages of reviewing the St Mary's Town Centre precinct in response to the identification of the Precinct as a 'Strategic Centre' in the Western City District Plan. Council has advised that the planning proposal aligns with the vision of the town centre.

Department comment

It is considered that that the planning proposal is the best and most appropriate means of achieving Council's intention.

STRATEGIC ASSESSMENT

Regional / District

A Metropolis of Three Cities

The site falls within the metropolitan cluster of Greater Penrith, and specifically forms part of the Strategic Centre of St Marys. The broader vision of the Greater Sydney Commission's *A Metropolis of Three Cities* is built around residents living within 30 minutes of their jobs, education and health facilities, services and great places.

Department comment

The proposal intends to allow for a greater incentive to develop the site, and provide greater opportunity for residents to live and work close to public transport. In this regard, the proposal is generally consistent with the Greater Sydney Commission's *A Metropolis of Three Cities*.

Western City District Plan

The site forms part of the St Marys Town Centre, and is identified as a Strategic Centre in the Western City District Plan. A cornerstone of the plan is to connect communities, allowing quicker access to jobs, housing types and activities.

The proposal is consistent with:

- the *Liveability Planning Priority - W5 Providing housing supply, choice and affordability, with access to jobs, services and public transport*: the proposal will provide housing supply and a range of housing types at a location with very good access to jobs, services and public transport.
- the *Liveability Planning Priority – W6 Creating and renewing great places and local centres, and respecting the District heritage*: the proposal will help to revitalise the Town Centre with new residents and the activity generated by commercial uses.
- the *Liveability Planning Priority – W11 – Growing investment, business opportunities and jobs in strategic centres*: the proposal by delivering new housing would support existing and encourage the delivery of new services, shops and business in the Town Centre.

The site is adjacent to a railway station that is proposed to be a major link to the Western Sydney Aerotropolis.

As the site is identified as a Strategic Centre in the Western City District Plan, Council is in the early stages of reviewing density controls on a precinct-wide scale. While this proposal pre-empts those studies, it is anticipated that an increase in density for the site, as proposed by council, will align with the future vision for the precinct.

Local

St Marys Town Centre Strategy (2006) and St Marys Town Centre Masterplan (2007)

Generally, these local strategies are centred around a long-term vision of a sustainable and vital Town Centre, while attracting new businesses and encouraging new development.

Department comment

The intent of the proposal is to encourage the urban renewal of St Marys Town Centre. Council has also committed to a review of the current controls in and around the St Marys Town Centre as a result of the Western City District Plan. It is considered that the proposal is consistent in this regard.

The revised St Marys Town Centre Masterplan details that any future development within the centre should protect regional views to the Blue Mountains. The Masterplan identifies Bennett Park as possessing unobstructed views to the Blue Mountains, and the impact this proposal will have on these views must be explored further. A condition to the Gateway determination is recommended.

Penrith Community Plan

The Penrith Local Community Plan 2013 represents the community's vision for the Penrith LGA over the next 20 years.

Department comment

Community consultation will be required and the proposal is consistent in this regard.

Section 9.1 Ministerial Directions

Section Relevant 9.1 Directions:

Direction 1.1. Business and Industrial Zones

The subject site is zoned B4 Mixed Use. The proposal intends to encourage employment growth in an identified strategic centre. The proposal does not seek to rezone the site. However, it is recommended any technical inconsistency with this direction be treated as of minor significance, and the approval of the Secretary is recommended accordingly.

Direction 2.3. Heritage Conservation

The subject site is adjacent to an identified heritage item 'St Marys Railway Station', which is of State significance. The proposal is not considered to be inconsistent with this Direction at this stage, however, further analysis is required on the impacts the proposal will have on the heritage values of the Railway Station.

Consultation with the Heritage Branch of the Office of Environment and Heritage is recommended as part of the consultation process.

A determination condition is recommended for this consultation and for the planning proposal to be amended to provide a commentary on the relationship between the proposal and the heritage item.

Direction 3.1. Residential Zones

The subject site is zoned B4 Mixed Use, and residential accommodation is permitted with consent in the zone. As the planning proposal seeks to increase the height and floor space controls for the site, this direction applies. However, it is considered that any technical inconsistency with this direction is of a minor nature and the approval of the Secretary is recommended.

Direction 3.4. Integrated Land Use and Transport

The planning proposal intends to facilitate the rejuvenation of the site, creating jobs and housing, within proximity to an established rail and bus network. The proposal is consistent with this Direction.

State Environmental Planning Policies

The proposal is consistent with all State Policies as it only recommends changes to the height of building and floor space ratio controls of Penrith LEP 2010. Of particular relevance is the following:

State Environmental Planning Policy No 55 – Remediation of Land

The objective of the SEPP is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Department comment

The planning proposal is considered consistent with the SEPP. The site has been predominantly used as a commercial site for several years. The potential for a more sensitive use, being residential accommodation, is already permitted with consent and is required to be addressed at the development application stage.

SITE-SPECIFIC ASSESSMENT

Social/Environmental

The site is located within an urban environment and it is not identified to contain critical habitat or threatened species, populations or ecological communities.

The planning proposal will provide additional dwellings within walking distance of employment opportunities and established public transport networks. It is an appropriate location to increase density and encourage further development.

While the proposal is not considered to provide a negative social impact at this stage, amendment of the planning proposal is recommended to address:

- overshadowing on existing neighbouring residential lots; and,
- the views to the Blue Mountains.

The proposal identifies that the anticipated increased population will not result in the need for a new community facility, however it will place additional pressure on existing facilities. Council has advised that upon the determination of any future

development application(s), Section 7.11 contributions will be levied to provide for the intensification of the site.

Traffic and Transport

The proposal has addressed the issue of traffic and transport through a traffic study, and an accompanying addendum to this study.

Department Comment

The site is well served by public transport as St Marys Railway Station and bus interchange are adjacent.

While local traffic modelling has been undertaken, limited details have been provided showing how the modelling ties in with the Western City District Plan, and the site being identified as a Strategic Centre.

Referral to the Roads and Maritime Services is proposed to be conditioned in the Gateway Determination, to ensure the traffic study is adequate.

Further, it is recommended that, prior to exhibition, the traffic study be revised to consider the relevant recommendations of the Western City District Plan. This is proposed at page 18 of the planning proposal.

Overshadowing

Shadow diagrams have been provided as part of the Urban Design Report for the site and north-east precinct.

Department comment

Prior to community consultation, further details are required to appropriately assess the impact on existing dwellings to the east and south. While a Council led precinct study is underway to review current development standards, existing residents should be considered. A condition is recommended.

It is noted that further analysis will also be required as part of a future development application.

Economic

The proposal identifies that an increase in the height and floor space controls will allow for additional employment opportunities and additional dwellings on the site.

Department comment

The proposal will contribute to the revitalisation of the St Marys Town Centre, providing jobs and a diverse range of dwelling types within proximity to a range of public transport networks.

A Gateway condition is recommended to clarify that additional retail development permitted by the proposal will not adversely impact upon other centres.

Heritage

As noted previously, the site is adjacent to St Marys Railway Station (Schedule 5 of Penrith Local Environmental Plan 2010 - State Item 282). Further consideration is required to determine the full extent the proposal.

Department comment

It is recommended that Council consult with the Office of Environment and Heritage in relation to heritage impacts associated with the planning proposal.

Scenic Views

It is noted that the site and surrounding sites fall within the scenic protection layer of Council's supporting LEP maps (SLV_019) and it is recommended that consideration be given to impacts associated with this proposal in this regard.

CONSULTATION

Community

The proposal seeks public consultation for a period of 28 days.

Department Comment

28 days is considered an appropriate period to engage the community.

Agencies

Consultation is required with the following public agencies under Section 3.34(2)(d) of the Act:

- Transport for NSW – Sydney Trains;
- Roads and Maritime Services;
- Office of Environment and Heritage;
- Sydney Water; and
- Relevant service providers.

Each public authority will be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

TIME FRAME

The council proposed timeframe to finalise this planning proposal is 9 months from submission to the Department.

LOCAL PLAN-MAKING AUTHORITY

Council has requested delegation of the plan making function in relation to this planning proposal.

It is recommended that delegation be granted in this instance, as the proposal is a local planning matter.

CONCLUSION

It is recommended that the planning proposal proceed with conditions, given the intended outcome provides an incentive to redevelop the site, and contribute to the renewal of the St Marys Town Centre.

RECOMMENDATION

That the Director, Sydney Region West, as delegate of the Secretary:

1. **agree** that any inconsistency with section 9.1 Directions 1.1 Business and Industrial Zones and 3.1 Residential Zones is justified in accordance with the terms of the Directions; and
2. **note** that the inconsistency with section 9.1 Directions 2.3 Heritage Conservation remains unresolved until further justification has been provided.

Further, it is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, Council is to:
 - (a) Give consideration to the inclusion of the land immediately adjoining the subject site (to the east and zoned B4 Mixed Use) within the planning proposal and, if considered appropriate, seek an altered Gateway determination;
 - (b) amend the supporting urban design report by including an overshadowing diagram that shows shadows cast by the proposal on the existing surrounding development;
 - (c) amend the traffic assessment so that it addresses:
 - the proposed planning controls;
 - the recommendations of the Western City District Plan, including planned growth, as well as, reviewing the influence of the north-south rail-line and other infrastructure corridors; and,
 - amend page 18 of the planning proposal accordingly.
 - (d) include an addendum to the supporting studies that addresses the planning controls proposed under the planning proposal, where these differ from those controls currently addressed in the studies, and provide suitable commentary within these addendums.
 - (e) in view of the above, amend the note on page 17;
 - (f) amend the planning proposal by:
 - under Part 2 – Explanation of Provisions – for clarity, either refer to the existing and proposed maps in Part 4 of the planning proposal or duplicate, i.e. repeat, these maps under Part 2;

- within *Section C – Environmental, Social and Economic*, include a section that addresses the proposal’s relationship with the heritage listed railway buildings;
 - under the heading *Local Planning Directions and State Environmental Planning Policies* (p.14), amend the heading to Section 9.1 Directions, where appropriate;
 - under the heading *Council’s Framework – Strategic Planning* (p.14), provide commentary on the proposal’s relationship with scenic protection land and views to the Blue Mountains;
 - under the heading of *Bulk and scale of development and overshadowing* (p.18),
 - include an overview of the report and how it has addressed the proposed increase in height and FSR controls; and,
 - include the key finding of the report in respect of overshadowing in mid-winter;
 - under the heading of *Economics* (p.19) by reference to the economic impact assessment (Hill PDA), provide advice clarifying that the proposal will not redirect expenditure to surrounding centres;
 - under Part 4 – Maps, enlarge these maps to be legible and include a key; and,
 - within Schedule 3 – amend the heading to Section 9.1 Directions and include commentary on directions 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land
2. Community consultation is required under Sections 3.34(2)(c) and Schedule 1, Clause 4 of the *Environmental Planning and Assessment Act 1979* (the Act) as follows:
- the planning proposal must be made publicly available for a minimum of 28 days; and
 - the planning proposal authority must comply with the notice of requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment 2016).
3. Consultation is required with the following public authorities:
- Transport for NSW – Sydney Trains
 - Roads and Maritime Services
 - Office of Environment and Heritage
 - Sydney Water, and
 - Relevant service providers

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment.

4. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.



3/8/18

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27/08/2018

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