



IRF22-1687

Gateway determination report – PP-2021-3862

Rezoning and Land Acquisition amendment of former school site at 161 and 167 Riverstone Road, Riverstone (19 dwgs)

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Att A – Planning proposal, Council report and resolution (27 April 2022)
Att B - Preliminary Contamination Assessment (Geotechnique Pty Ltd, May 2019)
Att C - Letters from Department of Education (16 June 2017, 13 June 2019 and 12 January 2021)
Att D - Flora and Fauna Assessment – incl Frog Assessment (Eco Logical Australia, June 2019)
Att E - Stormwater Management (Calibre, June 2019)
Att F - Traffic Impact Assessment (Traffix Traffic and Transport Planners, April 2021)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Blacktown
PPA	Blacktown City Council
NAME	Rezoning and Land Acquisition amendment of former school site (19 dwellings)
NUMBER	PP-2021-3862
LEP TO BE AMENDED	SEPP – Precincts (Central River City) 2021
ADDRESS	161 and 167 Riverstone Road, Riverstone
DESCRIPTION	Lot A on DP 362093 and part of Lot B on DP 362093
RECEIVED	16/05/2022
FILE NO.	IRF22/1687
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

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal. The objectives of the planning proposal are to:

- rezone part of Lot B DP 362093 (167 Riverstone Road) from SP2 Infrastructure (Educational Establishment) to R2 Low Density Residential and apply Height of Buildings and Residential Density Maps to apply the same building height (9 m) and residential density (15 dwellings per hectare) to that on the remainder of Lot B and surrounding land;
- remove identification of Lot A DP362093 (161 Riverstone Road) and part of Lot B DP 362093 (167 Riverstone Road) as land reserved for acquisition by the Department of Education.

The intended outcomes would facilitate an amendment that removes the identification of the land for acquisition and enables residential development on part of 167 Riverstone Road similar to that proposed on surrounding land to complement adjoining development.

No change in the current land use zone SP2 Infrastructure (Educational Establishment) on 161 Riverstone Road is proposed.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the *State Environmental Planning Policy (Precincts - Central River City) 2021* by amendment to the following maps below:

- Land Reservation Acquisition Map (Sheet LRA_004) to remove identification of Lot A and part of Lot B DP 362093 as land reserved for acquisition.
- Land Zoning Map (Sheet LZN_004) to rezone part of Lot B DP 362093 from SP2 Infrastructure (Educational Establishment) to R2 Low Density Residential.
- Height of Building Map (Sheet HOB_004) to apply a maximum building height control of 9 m to the part of Lot B DP 362093 which is rezoned to R2 Low Density Residential.
- Residential Density Map (Sheet RDN_004) to apply a minimum residential density control of 15 dwellings per hectare to the part of Lot B DP 362093 which is rezoned to R2 Low Density Residential.

Effect of amendments to Lot B DP 362093 (167 Riverstone Road)

The proposed amendments to part of Lot B DP 362093 seek to apply the same land use zone, residential density and building height that applies to the remainder of Lot B and the surrounding land. The proposed controls would enable low density residential land uses similar to that nearby. The landowner has expressed an intent to subdivide the land, once rezoned, to complement the adjoining residential subdivision and is estimated to create around 17 lots or 19 dwellings.

Effect of amendments to Lot A DP 362093 (161 Riverstone Road)

The amendments to Lot A DP362093 will remove the acquisition layer in accordance with Department of Education advice that it no longer requires both subject lots for educational purposes and has relinquished its interest in the land.

This site has recently been purchased by the landowner of Lot 4 Sec O DP 712 (149 Riverstone Road) which adjoins the western boundary of Lot A. Deferred development consent has been granted by Council for a private school on 149 Riverstone Road with conditions requiring a drainage easement to be provided across 161 Riverstone Road and a retaining wall on the lot boundary.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The Planning Proposal applies to land in the Riverstone Precinct within the North West Growth Area (NWGA). The Riverstone Precinct is located approximately 10km north from Blacktown and 5.5km west from the Rouse Hill Town Centre.

The site includes part of 167 Riverstone Road and 161 Riverstone Road (refer Figure 1). The site is rectangular in shape with frontage to Riverstone Road on the southern boundary. The part of 167 Riverstone Road of the site comprises a residential dwelling, sheds and substantial greenhouse structures while 161 Riverstone Road is vacant.

The remainder of 167 Riverstone Road (east of the site) accommodates sheds and greenhouse structures and is subject of an approved development application for low density residential lot subdivision and new roads (DA-19-00934) for 64 lots.



Figure 1 Aerial view of subject site (outlined in red) (source: Blacktown Council)

The land to the south across Riverstone Road has been subdivided into residential lots with many new dwellings constructed or under construction. Land adjacent to the north of the site at 154 Regent Street is subject to development consent for a 26 residential lot subdivision including a road on the northern border of the site (DA-18-02330).

The land to the west at 149 Riverstone Road is currently vacant and zoned SP2 Infrastructure (Educational Establishment) and is subject to deferred development consent for a private school (DA-17-01135). Riverstone High School is located further west of 149 Riverstone Road.

The surrounding area is characterised by recent residential subdivisions and housing development undertaken in accordance with the Riverstone Indicative Layout Plan and educational uses, including Riverstone High School, Norwest Christian College and St John's Primary School and public spaces (refer Figure 2).

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1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the SEPP maps as outlined above, which are suitable for community consultation. The proposal is a map only amendment.

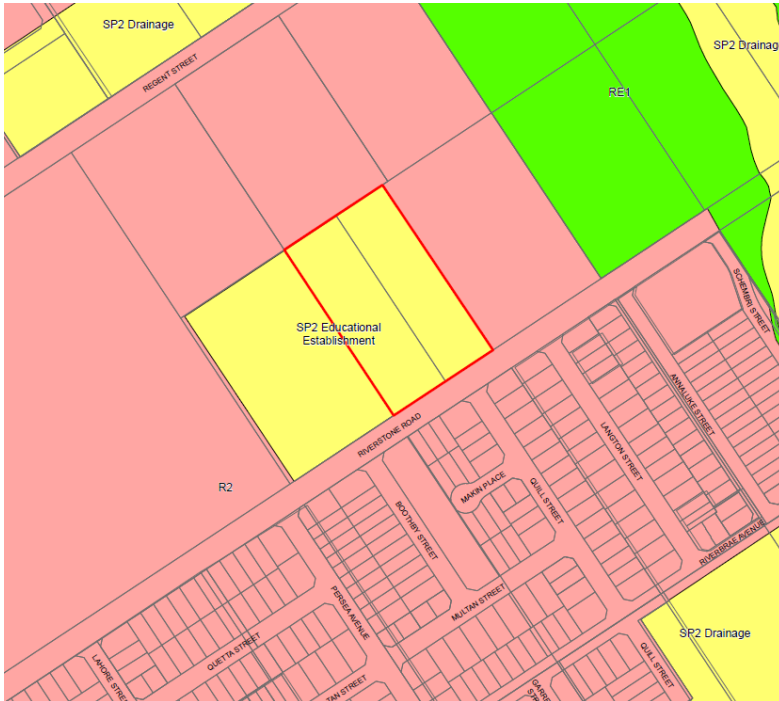


Figure 3 Current land zoning map

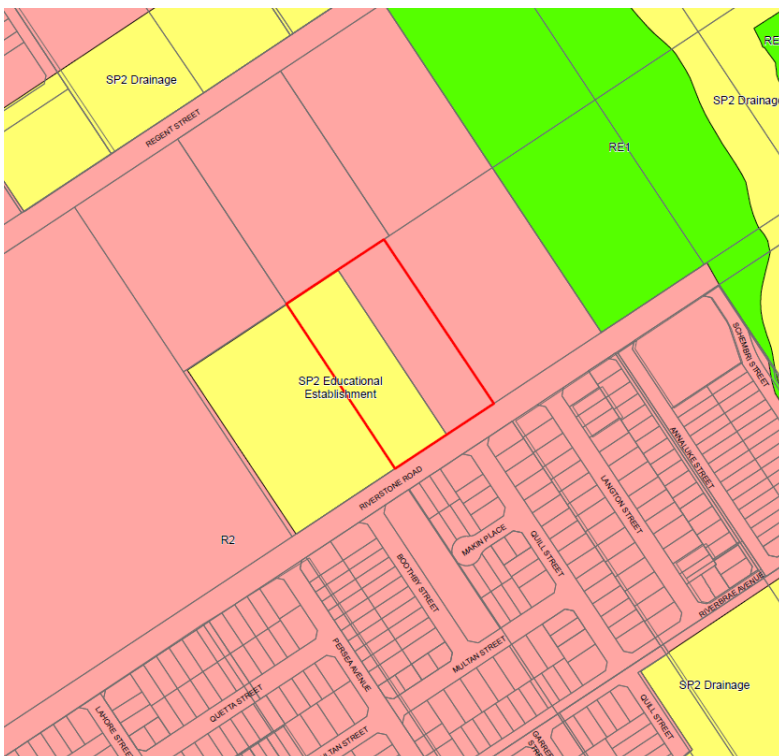


Figure 4 Proposed land zone map



Figure 5 Current height of building map

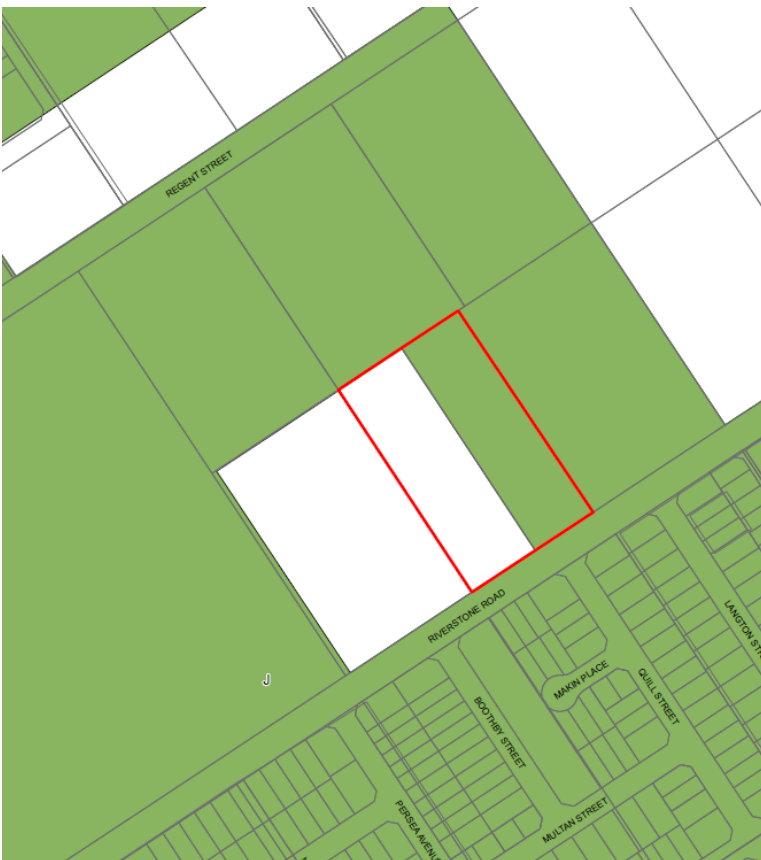


Figure 6 Proposed height of building map

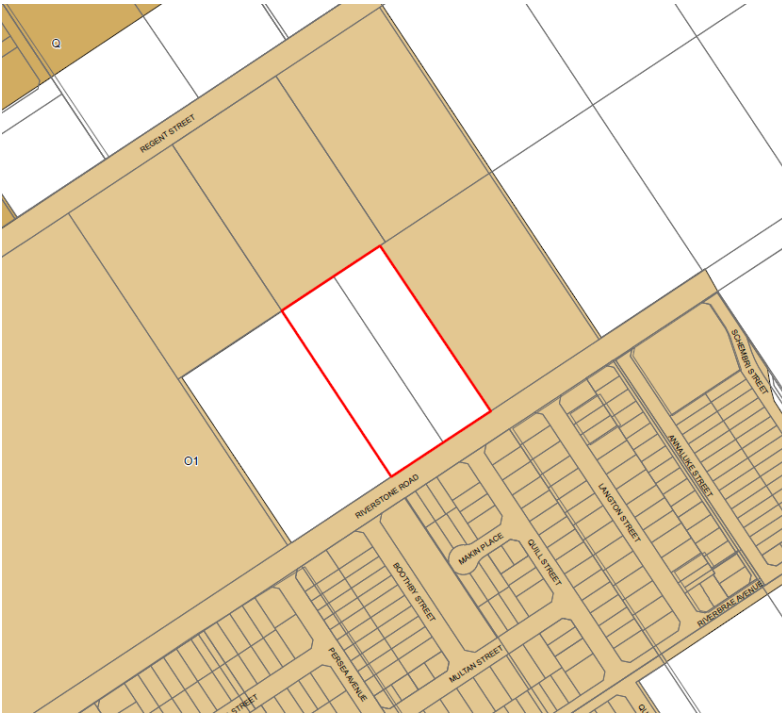


Figure 7 Current residential density map

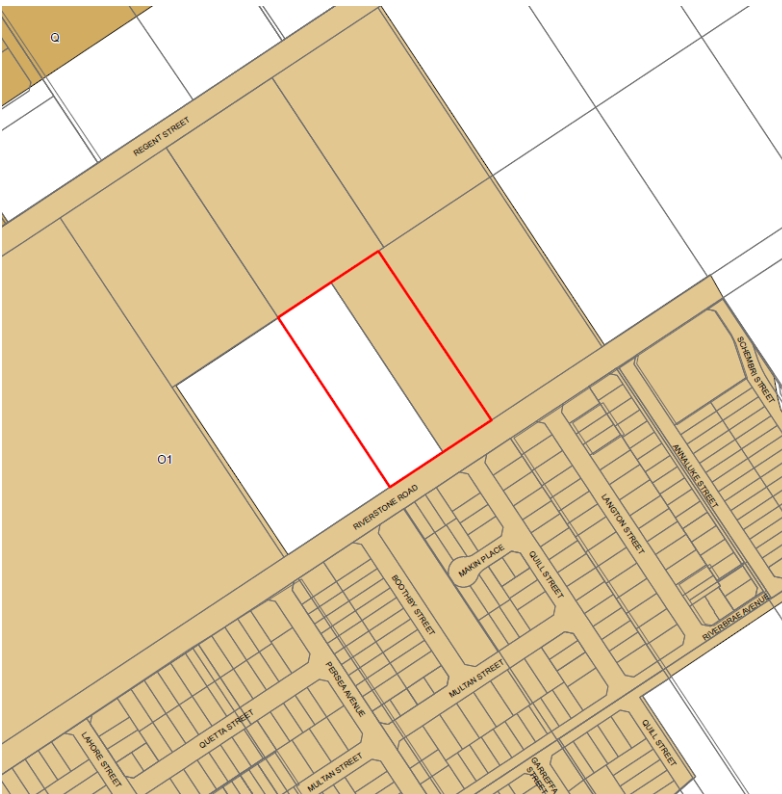


Figure 8 Proposed residential density map

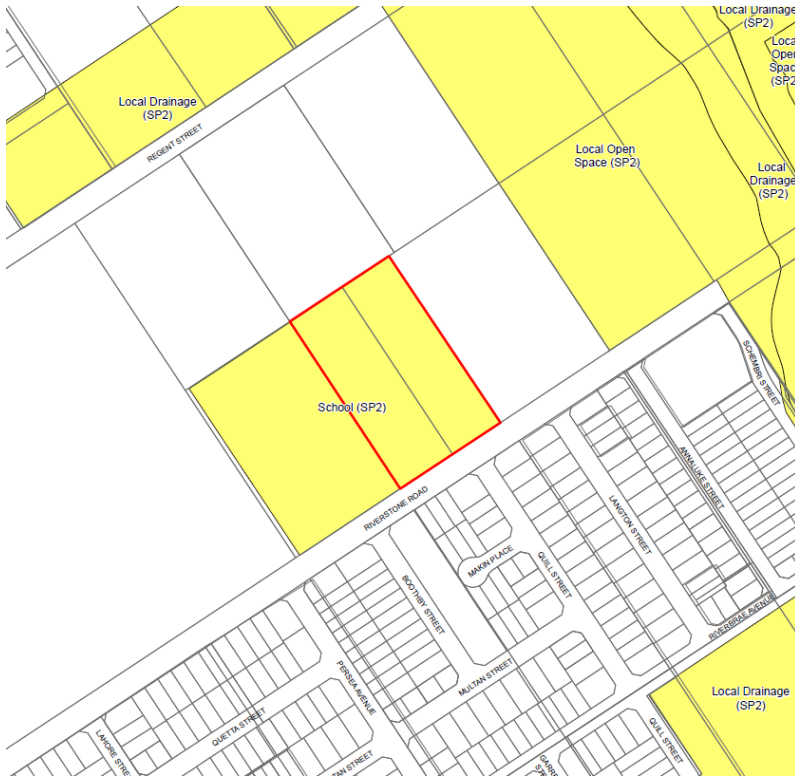


Figure 9 Current land acquisition map

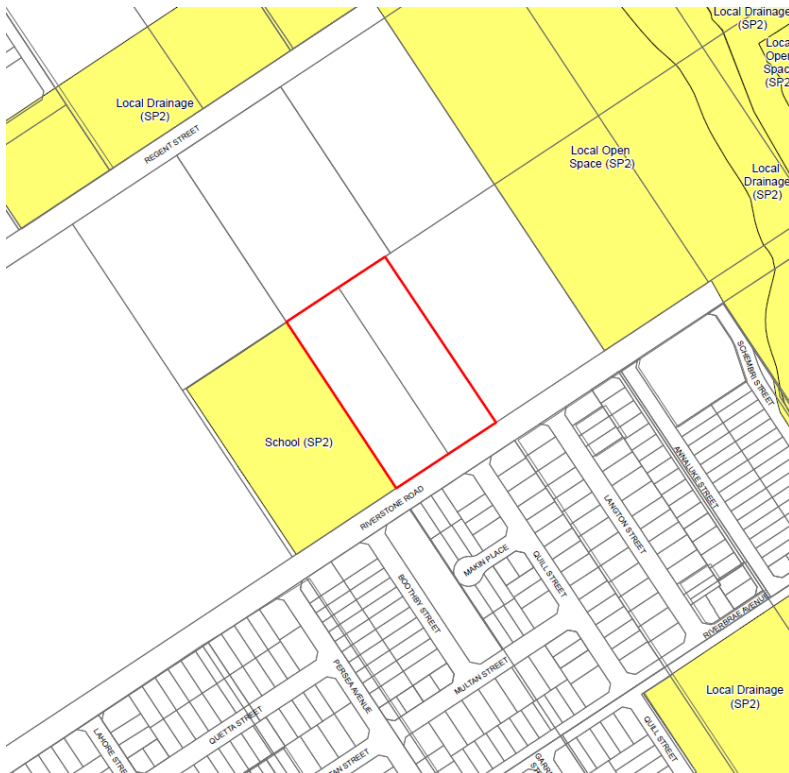


Figure 10 Proposed land acquisition map

2 Need for the planning proposal

The planning proposal results from the Department of Education's advice that it no longer requires the subject lots for education purposes and that it wishes to relinquish its interest in the land.

The proposed amendment to the Land Reservation Acquisition Map will remove the obligation for the NSW Government to acquire the land, in accordance with the Department of Education's correspondence.

The proposed amendments to the land use zone, building height and residential density controls applying to part of 167 Riverstone Road (Lot B DP 362093) will enable the orderly and economic development of the site for residential purposes consistent with the Riverstone Indicative Layout Plan and surrounding residential development.

The planning proposal is the best means of achieving the objectives and intended outcomes. Amendments to the Growth Centres SEPP maps can only be achieved via the LEP Planning Proposal process.

3 Strategic assessment

3.1 District Plan

The site is within the Central River City District Plan released by the Greater Sydney Commission in March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 5 District Plan assessment

District Plan Priorities	Justification
Planning Priority C5: Providing housing supply, choice and affordability, with access to jobs, services and public transport	<p>The Planning Proposal supports <i>Objective 10: Greater Housing Supply</i> and <i>Objective 11: Housing is more Diverse and Affordable</i> and contributes to Action 16 of this Planning Priority.</p> <p>The proposed Planning Proposal will facilitate greater housing supply, choice, and affordability within Riverstone by creating the potential for increased development yield on the subject site. The subject site is suitably located with access to jobs and services which are accessible by public transport and private vehicles.</p>

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	The Planning Proposal will support <i>Action 18. Maintain an updated Blacktown Local Housing Strategy</i> and <i>Action 19. Collaborate on housing affordability across Greater Sydney</i> . The Planning Proposal facilitates increased housing supply and choice within the Riverstone region which is readily accessible to jobs, services and public transport options.
Our Blacktown 2036: Community Strategic Plan	<p>The Community Strategic Plan outlines Council's vision and aspirations for the future of the City. The vision is based on 6 Strategic Directions and Transformational Projects for the City.</p> <p>The planning proposal is consistent with <i>Strategic Direction 1: A Vibrant and Inclusive City</i>, <i>Strategic Direction 2: A Clean, Sustainable and Healthy Environment</i> and <i>Strategic Direction 4: A growing City Supported by Accessible Infrastructure</i> as it will facilitate greater housing options within the community, will not negatively impact the local environment and has access to transport routes connected to the broader transport network.</p>

3.3 Local planning panel (LPP) recommendation

The planning proposal was considered by the LPP at a meeting held 27 August 2021. The Panel supported the proposal, providing the following advice:

- the Proposal has strategic merit in regard to the natural environment, existing uses and likely future uses on and surrounding the site, and existing and required services and infrastructure.
- the proposal is responding to changing circumstances not recognised by current controls such as new infrastructure and changing demography.
- supports the community vision and strategic objectives within Our Blacktown 2036 Community Strategic Plan (Community Strategic Plan).
- aligns with the objectives and priorities in the Blacktown Local Strategic Planning Statement (Blacktown LSPS).
- is consistent with the Greater Sydney Region Plan: A Metropolis of Three Cities (Region Plan) and the Central City District Plan (District Plan).

3.4 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant Ministerial Directions, noting that Council needs to address Direction 4.4 Remediation of Contaminated Land prior to exhibition. A comprehensive assessment of the Ministerial Directions relevant to the proposal is outlined below:

Table 8 Assessment of planning proposal against relevant Ministerial Directions

Direction	Consistent/ Inconsistent	Reasons for Consistency or Inconsistency
<u>1.1 Residential Zones</u>	Consistent	The proposal is consistent with this Direction as it rezones surplus land that is no longer required by the Department of Education. The surrounding area is predominantly low density residential with construction of dwellings ongoing, and no known inconsistencies with this Direction are identified.
<u>3.2 Heritage Conservation</u>	Consistent	The Planning Proposal is consistent with this Direction. No heritage items are identified on the site. There are two items of local significance nearby located on the Riverstone High School site at 71 McCulloch Street, Riverstone and 'Warrawong' house at 158 Riverstone Road, Riverstone (Figure 11 below). The proposal to rezone land and remove acquisition responsibilities is unlikely to affect the existing heritage context of the locality. Given the minor nature of the proposal, no further consideration of heritage impacts is required and no consultation with NSW Heritage is required.
<u>4.4 Remediation of Contaminated Land</u>	Consistent	<p>The proposal submitted to the Department did not address this Direction. In response to a follow-up enquiry, the Council has provided a Preliminary Site Investigation report for all of 167 Riverstone Road, including the part of the land subject to the rezoning proposal and adjoining land to the east and north forming part of the approved residential subdivision (Attachment B). The report concludes the site is suitable for residential development subject to implementation of several recommendations prior to site earthworks being carried out.</p> <p>No further consideration is required for 161 Riverstone Road under this Direction as there is no proposal to change the existing land use zoning of the site.</p> <p>The proposal is consistent with this Direction. However, a condition is recommended on the Gateway determination to require Council to amend the planning proposal to address Direction 4.4 prior to exhibition.</p>
<u>5.2 Reserving Land for Public Purposes</u>	Consistent	The proposal is consistent with this Direction as the rezoning is supported by letters from the Department of Education stating that the land is no longer required. These letters (Attachment C) satisfy Ministerial Direction 5(2)(1) in terms of reducing land for public purposes.
<u>7.4 Implementation of the North-West Priority Growth Area and Infrastructure Implementation Plan</u>	Consistent	The planning proposal is consistent with this Direction. The Department of Education has written that the land is surplus to its needs in that area.

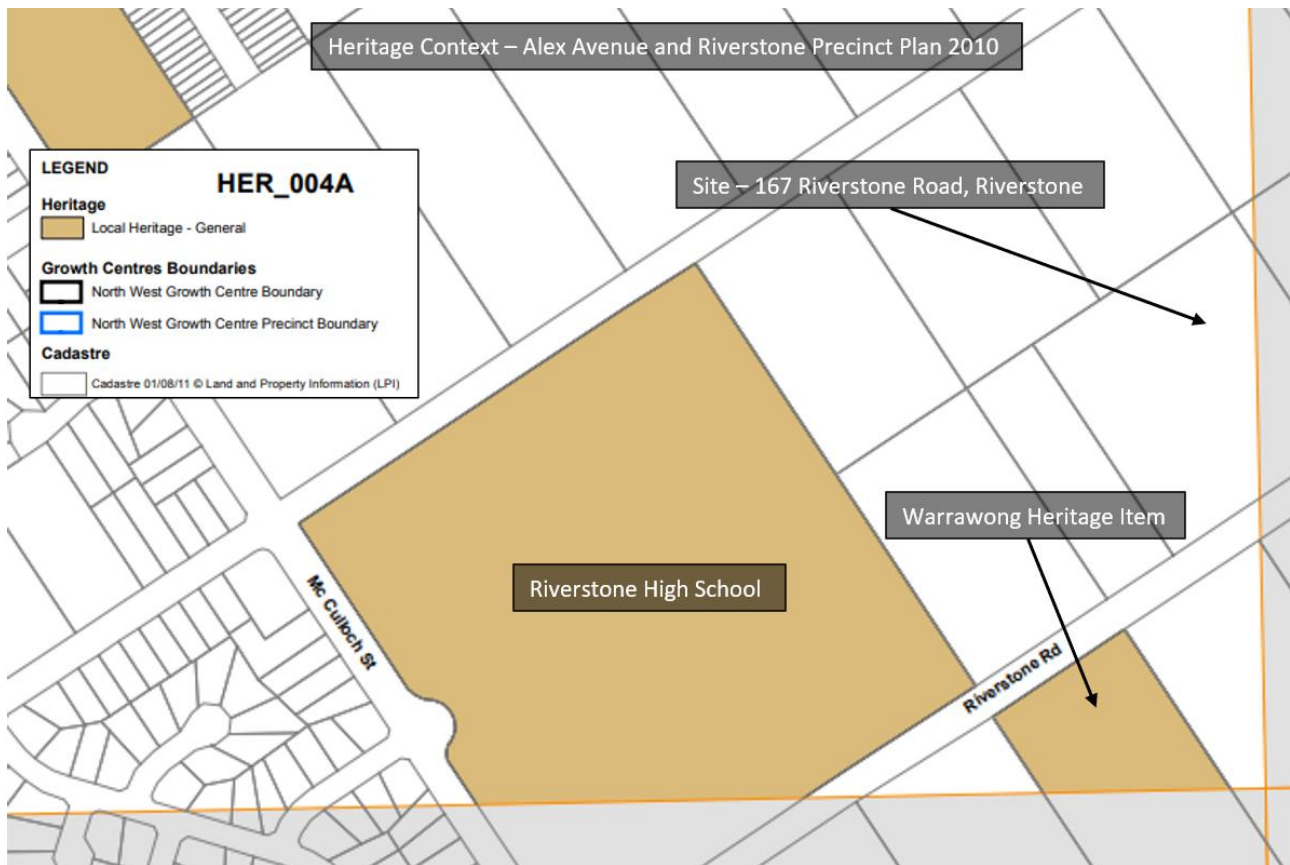


Figure 11 Local heritage items nearby the site

3.5 State environmental planning policies (SEPPs)

A discussion of the relevant SEPP's is contained in Table 8, below:

Table 9 Assessment of planning proposal against relevant SEPPs

SEPPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Resilience and Hazards) 2021	Consistent	<p>The proposal states that the any development aims to be consistent with the SEPP and any site contamination would be addressed as part of a future DA.</p> <p>While the proposal did not initially address Direction 4.4, the Department was subsequently provided with a contamination assessment relating to the part of the subject site (167 Riverstone Road) to be rezoned. This assessment confirmed the site is suitable for residential subdivision.</p>

SEPPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Precincts – Central River City) 2021	Consistent	<p>The Department of Education has been clear in its communications to Council that it no longer requires the land for a public school. The rezoning to R2 – Low Density Residential is appropriate and consistent with the prevailing land use (refer Attachment C)</p> <p>A concept subdivision plan supports the proposal and identified that the R2 zoned portion of the site can accommodate 19 dwellings, consistent with adjoining residential land.</p> <p>Council has provided information that the land that 161 Riverstone Road would be retained in its current SP2 – Educational Establishment zone and is expected to form part of a private school development. Refer Section 1.2 and 1.3 above for more information.</p>

4 Site-specific assessment

4.1 Environmental

Ecology

An ecological assessment has been provided in relation to 167 Riverstone Road, which identifies the site as land subject to biodiversity certification and does not contain vegetation mapped as existing native or native vegetation retention areas (**Attachment D**).

The site is mapped as Green and Golden Bell Frog habitat on the land zoning map and is subject to Clause 6.9 of Appendix 7 of *State Environmental Planning Policy (Precincts – Central River City) 2021* (formerly Growth Centres SEPP Appendix 4 clause 6.9 ‘Development on certain land identified as Green and Golden Bell Frog habitat’).

More broadly, the block bounded by Garfield Road, McCulloch Street, Riverstone Road and First Ponds Creek is similarly mapped as frog habitat and most of this land has been rezoned by the Riverstone Precinct Plan as R2 Low Density Residential and is currently undergoing urban transformation for residential development.

The objectives of this clause are to ensure suitable habitat for Green and Golden Bell Frog species on certain land (ie. zoned SP2 Infrastructure and marked “Drainage”), ensure biodiversity values of habitat are protected and preserved and appropriate measures in place to minimise or prevent adverse impacts of development on the species and its habitat.

The site does not comprise land identified as SP2 Infrastructure and “Drainage” but is identified as land on which development could result in potential indirect impacts such as surface runoff and sedimentation. The Department notes future development can be managed to avoid and mitigate these impacts, such as through design and engineering solutions determined at the development application stage and required by Clause 6.9 in Appendix 7 of the abovementioned SEPP.

Notwithstanding, the Department has recommended a condition to require consultation with Environment and Heritage to satisfy Section 3.25 of the *Environmental Planning and Assessment Act 1979*. The Planning Proposal is not considered likely to result in adverse ecological impacts.

Flooding and stormwater

The site is not identified as flood prone land under environmental planning instrument or flood mapping of the area. Flood prone riparian land is located to the east of the site near First Ponds Creek and adjacent land zoned for drainage infrastructure and public recreation uses.

The proposal is expected to enable an increased dwelling yield of about 19 dwellings, which is not considered likely to significantly impact the flood evacuation capacity and traffic load of the North West Growth Area in an emergency flood event. Notwithstanding, the Department considers the NSW SES, Infrastructure NSW and Transport for NSW should be consulted to confirm that they have no concerns arising from the proposed additional dwellings resulting from the rezoning, or that those concerns can be adequately addressed. A referral to these agencies has been recommended as conditions.

In addition, the Department has notified Council of the need to consider any relevant recommendations that may arise from the NSW Flood Inquiry, which is currently underway. This may include addressing any relevant recommendations published prior to the finalisation of this proposal. The department will also consider whether any relevant recommendations necessitate a change to this gateway determination when the Inquiry's recommendations are published.

In relation to stormwater management, the proposal was supported by a stormwater management plan prepared for development application DA-19-00934 for residential development on the remainder of 167 Riverstone Road, including the part which is proposed to be rezoned (see **Attachment E**). The plan demonstrates appropriate stormwater management arrangements can be made to accommodate the rezoning and potential future development of 19 dwellings. Overall, the planning proposal is not considered likely to result in adverse environmental impacts.

4.2 Social and economic

Housing

The Planning Proposal will provide positive social and economic effects to Riverstone as it facilitates the orderly and efficient development of land for urban development and will contribute additional housing supply.

Education Infrastructure

While the site was identified at precinct planning stage as the location for a future school, the decision not to construct a public educational establishment on the site is a decision of the NSW Government, based on current policy and demographic needs assessment by the Department of Education. This Planning Proposal is the result of the Department of Education's advice that they no longer require the subject site and seeks to make amendments to enable the efficient use of surplus Education land. The Planning Proposal itself has not generated the change in location of a future school site.

4.3 Infrastructure

Traffic and Transport

A Traffic Impact Assessment (**Attachment F**) has been provided in support of the proposal to rezone part of 167 Riverstone Road to enable residential subdivision in conjunction with the adjoining land to the east and north. The traffic study concluded the following:

- the site has good accessibility to bus services that connect with Rouse Hill, Riverstone and Tallawong stations.
- adequate car parking can be accommodated for the proposed residential subdivision.

- the traffic generation arising from the proposed subdivision results in 18 vehicle movements in the morning peak and 19 vehicle movements in the afternoon peak. These traffic levels are considerably less than for a primary school for which both subject lots were zoned.

The traffic study was referred to Transport for NSW (TfNSW) prior to Council initiating the planning proposal and no objections were raised by TfNSW. The proposed land use changes are not considered likely to result in adverse traffic or transport impacts.

Services Infrastructure

The subject site is located close to the Riverstone potable water main and First Ponds Creek Carrier – Section 2 wastewater main for servicing. Adequate arrangements can be made to ensure that the supply of water, electricity, disposal and management of sewerage is available for the proposed development when required. The comments of the key servicing agencies will be sought on the proposal as a condition of the gateway determination.

5 Consultation

5.1 Community

Council proposes a community consultation period of 30 days. The exhibition period proposed is considered appropriate, and forms one of the conditions of the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted, although council noted that the proponent's proposal was referred to TfNSW for comment and raised no objection to the proposed amendments. It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- NSW SES
- Infrastructure NSW
- Transport for NSW
- Environment and Heritage
- Sydney Water
- Endeavour Energy

6 Timeframe

Council proposes a 6 month time frame to complete the LEP. The Department agrees and recommends a time frame of 6 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

7 Local plan-making authority

Council has not requested delegation to be the Local Plan-Making authority. As the planning proposal is considered to be minor and non-contentious the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposal is broadly consistent with the State, Regional and Local strategic planning framework.
- It includes amendments that rezone surplus SP2 Infrastructure – School zoned land in accordance with the advice of the NSW Department of Education for urban development uses, which are consistent with the strategic planning framework.

As discussed in the previous section 3, the proposal should be updated to confirm the proposal is capable of conforming with Section 9.1 Direction 4.4 - Remediation of Contaminated Land.

9 Recommendation

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated to confirm the proposal is capable of conforming with Section 9.1 Direction 4.4 - Remediation of Contaminated Land.
2. Prior to community consultation, the planning proposal is to be revised to address condition 1.
3. Consultation is required with the following public authorities:
 - NSW SES
 - Infrastructure NSW
 - Transport for NSW
 - Environment and Heritage
 - Sydney Water
 - Endeavour Energy
4. The planning proposal should be made available for community consultation for a minimum of 30 days.
5. The planning proposal must be exhibited within 2 months from the date of the Gateway determination.
6. The planning proposal must be reported to council for a final recommendation 4 months from the date of the Gateway determination.
7. The timeframe for completing the LEP is to be six months from the date of the Gateway determination.
8. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



20 June 2022

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21 June 2022

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