



IRF22/1174

## Gateway determination report – PP-2022-1052

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221-235 Luddenham Road, Orchard Hills (Alspec Industrial Business Park)

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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
Appendix A_Concept Master Plan
Appendix B_Master Plan Report
Appendix C_Structure Plan
Appendix D_Landscape Master Plan
Appendix E_Civil & Stormwater Package
Appendix F_Site Survey
Appendix G_Geotechnical Investigation
Appendix H_Stage 1 Preliminary Site Investigation
Appendix I_Stormwater Design Summary
Appendix J_Utilities Report
Appendix K_Overland Flow Study
Appendix L_Visual Impact Assessment
Appendix M_Ecological Constraints Assessment
Appendix N_Bushfire Assessment
Appendix O_Preliminary Historical Heritage Assessment
Appendix P_Preliminary Aboriginal Cultural Heritage Assessment
Appendix Q_Traffic Impact Assessment
Appendix R_Noise Impact Assessment
Appendix S_Economic Benefits Report
Appendix T_Industrial Need and Impact Assessment

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Penrith Local Environmental Plan 2010</b>
<b>PPA</b>	<b>Penrith City Council</b>
<b>NAME</b>	<b>221-235 Luddenham Road, Orchard Hills (Alspeg Industrial Business Park) (0 homes, 6,410 Jobs)</b>
<b>NUMBER</b>	<b>PP-2022-1052</b>
<b>LEP TO BE AMENDED</b>	<b>Penrith LEP 2010</b>
<b>ADDRESS</b>	<b>221-235 Luddenham Road, Orchard Hills</b>
<b>DESCRIPTION</b>	<b>146.6-hectare area (Lot 1 DP1099147, Lot 242 DP1088991, Lot 1 DP396972, Lot 1-4 DP520117, Lot 24 DP331426 &amp; Lot 2 DP219794)</b>
<b>RECEIVED</b>	<b>29/03/2022</b>
<b>FILE NO.</b>	<b>IRF22/1174</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 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:

- Facilitate the development of warehouse buildings, each accompanied with an ancillary office, associated parking and business identification signage for legibility and wayfinding,
- Landscaped internal estate roads including three roundabouts, four cul-de-sacs and entry roads for improved amenity,
- Electrical easement and an environmental zone and basins, and
- Encourage a mix of large and small industrial lots.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Penrith LEP 2010 per the changes below:

**Table 3 Current and proposed controls**

Control	Current	Proposed
Zone	RU2 Rural Landscape	IN1 General Industrial IN2 Light Industrial
Maximum height of the building	0m	0m (Refer to recommended conditions)
Minimum lot size	40Ha	1,000m <sup>2</sup>
Number of dwellings	0	0
Number of jobs	0	6,410

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. It is noted that the Department is progressing the Employment Zones Reform and has exhibited a draft framework. While the current proposed zoning is appropriate, the planning proposal may need to be amended prior to finalisation to reflect the zone translation that is identified for Penrith Council. This will need to be addressed further at finalisation.

The planning proposal also seeks to introduce density provisions to ensure a mixture of large and small lots that meet the needs of the local market. While the planning proposal includes a minimum lot size of 1,000m<sup>2</sup>, a 'Minimum Lot Density Control' has been sought for this planning proposal. The Minimum Lot Density Control proposed is:

- 50 lots for land zoned IN1, and
- 60 lots for land zoned IN2.

A sunset clause is also sought for the development to commence within five (5) years of gazettal of the PLEP 2010. Should this not occur, the zoning will revert to the current RU2 Rural Landscape zone.

## 1.4 Site description and surrounding area

The proposal site is situated approximately 13.6km north-east of the Western Sydney (Nancy-bird Walton) International Airport, 15km west of the Western Sydney Parklands and 30km west of Parramatta CBD. The site is relatively clear of vegetation and comprises five (5) farm dams, a riparian corridor running north-south in the north-west corner of the site, a singular dwelling and two barns.

The site is located directly north of the future Western Sydney freight line, east of the Sydney Metro West Rail line and proposed M9 Motorway (Outer Sydney Orbital Corridor), south of the Sydney Metro West Stabling Yard, approximately halfway between the new metro stations at Orchard Hills and Sydney Science Park and to the west of the Erskine Park and Mamre West industrial precincts.

The proposal involves 'additional lands' to the east of the Concept Master Plan (**Figure 1**), these lands are incorporated to promote a more consistent approach to the rezoning as the concept plan surrounds this land.



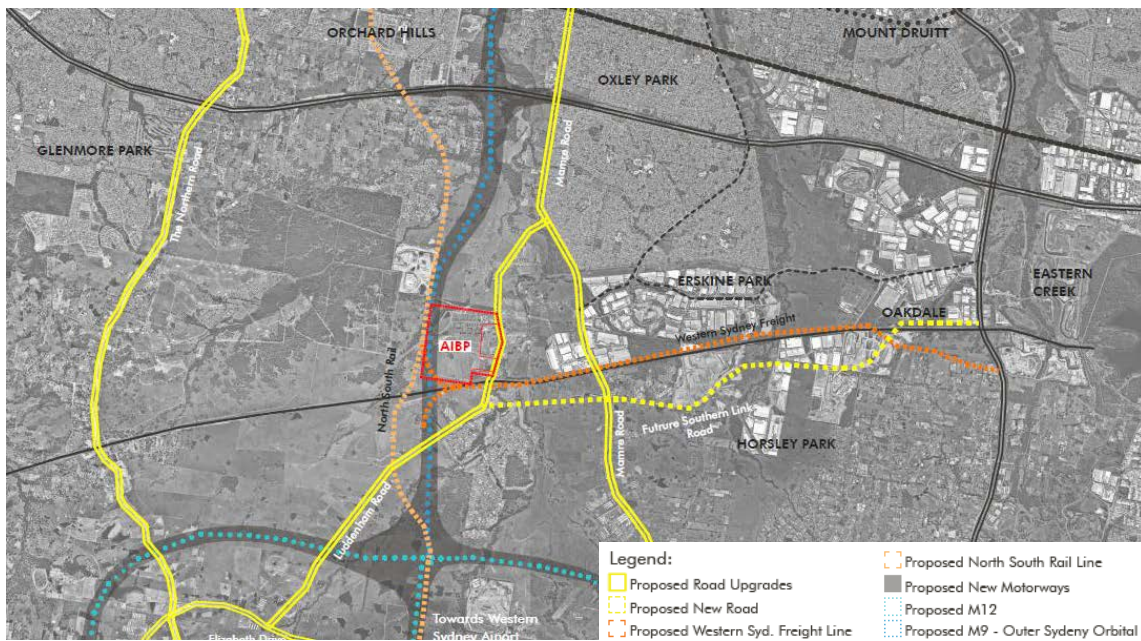


Figure 1 Concept Master Plan (Source: Nettleton Tribe)



Figure 2 Subject site (source: Planning Proposal)

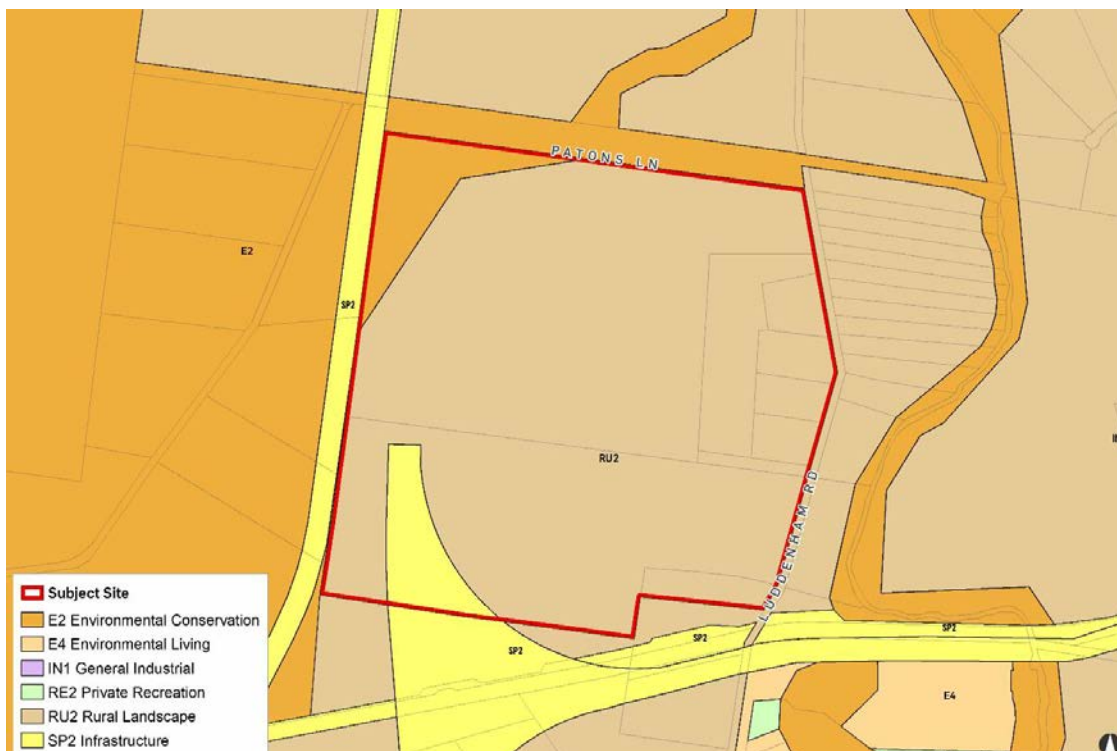




**Figure 3 Site context (source: Planning Proposal (Nettleton Tribe))**

## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Penrith LEP 2010 maps. There is an inconsistency in the zoning maps within the planning proposal as the current zoning map shows the location of part of the proposed Outer Sydney Orbital while the proposed zoning map does not. This should be rectified so that it is consistent to avoid confusion during the exhibition. It is noted that the Penrith LEP 2010 does not zone the future corridor SP2, but this is embedded in the SEPP (Transport and Infrastructure) 2021. This should be clearly articulated in the planning proposal.



**Figure 4 Current zoning map**





Figure 5 Proposed Zoning Map

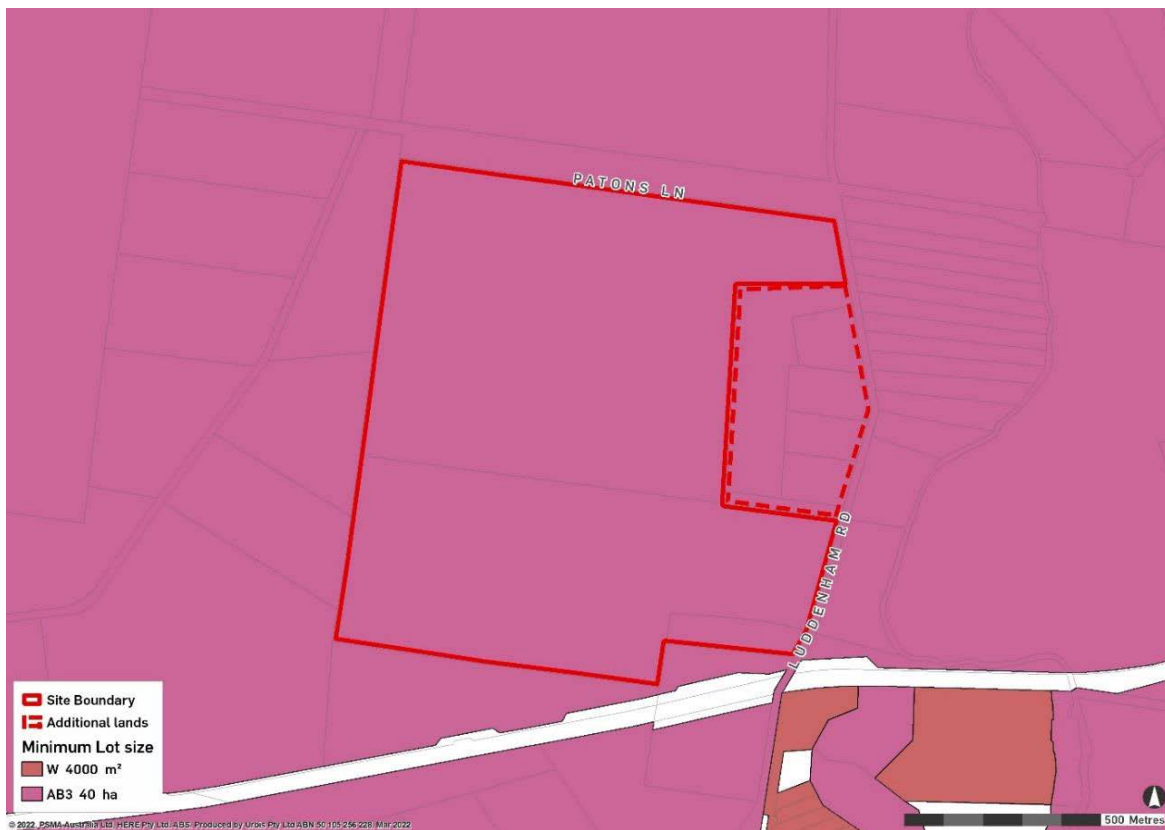


Figure 6 Current minimum lot size map

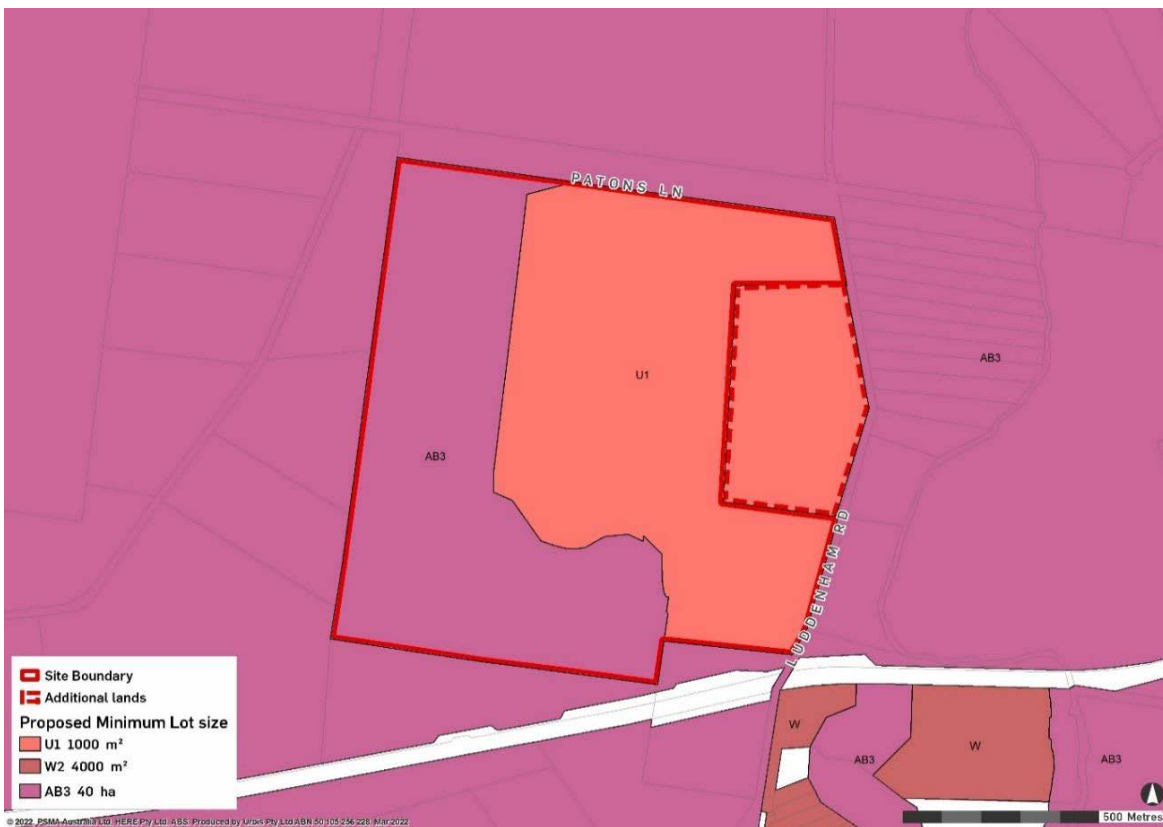


Figure 7 Proposed minimum lot size map

## 2 Need for the planning proposal

The proposal is not the result of a Council study or strategy; however, the proposal is consistent with Penrith's Local Strategic Planning Statement and Draft Employment Lands Strategy as outlined in Section 4 of this report.

The planning proposal is supported by an Economic Benefits Report (**Appendix S**) which supports Council's position that enabling industrial development will respond to the shortfall and short-term development of Industrial land. The proposal is located within the Greater Penrith to Eastern Creek (GPEC) area and is expected to provide employment generating land uses to nearby residents and future land release areas which supports the Greater Sydney Commissions Western City District Plans direction of a 30-minute city.

Due to its location, the planning proposal is expected to be well serviced by future infrastructure such as the future Western Sydney (Nancy-bird Walton) International Airport, Western Sydney freight line, Sydney Metro West Rail line and proposed M9 Motorway (Outer Sydney Orbital Corridor), and the new metro stations at Orchard Hills and Luddenham (Sydney Science Park). The site is also in proximity to similar industrial areas such as the Erskine Park and Mamre West industrial precincts as well as the Aerotropolis.

The planning proposal is the best means of achieving the intended outcomes for the site.

## 3 Strategic assessment

### 3.1 District Plan

The site is within the Western City District and the Greater Sydney Commission released the Western City District Plan on 18 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
W1 – Planning for a city supported by infrastructure	<p>The proposal report states the rezoning to industrial land will create employment possibilities within an area that is supported by infrastructure and city-shaping projects such as the Mamre Road Precinct, the Western Sydney International Airport and Aerotropolis.</p> <p>The proposal will facilitate the development of an industrial precinct that will deliver approximately 571 jobs (during construction) and a total of 6,410 jobs during operation. The site is proximate to the Mamre Road Precinct and other city-shaping infrastructure projects that support the Western Sydney Airport and the Aerotropolis.</p>
W7 - Establishing the land use and transport structure to deliver a liveable, productive and sustainable Western Parkland City	<p>The proposal states that it will provide jobs in proximity to future land release areas and growth areas, which will enable residents to live within 30 minutes of their jobs.</p> <p>The proposal supplements the residential growth in the area by creating employment opportunities for current and future residents. The location will provide good access to jobs around the Western Sydney Airport and will help serve the 30-minute city concept.</p>
W8 and W10 - Leveraging industry opportunities from the Western Sydney Airport and Badgerys Creek Aerotropolis	<p>The proposal states that it will supply industrial lands to support warehousing and logistics needs of industry within proximity of the Western Sydney (Nancy-Bird Walton) International Airport and Badgerys Creek Aerotropolis.</p> <p>The proposal maximises the opportunities given to the site through the implementation of significant transformational projects such as the Mamre Road Precinct, the Western Sydney International Airport and the Aerotropolis.</p>
W19 - Reducing carbon emissions and managing energy, water and waste efficiently	<p>The Proposal states that any future industrial estate will seek to adopt WSUD targets through appropriate site servicing and stormwater management. Water efficient toilets, showerheads, taps and urinals are proposed to be incorporated into the development as well as rainwater reuse.</p> <p>Any future assessment of WSUD targets is appropriately dealt with at the development assessment stage through the evaluation of a development application under Section 4.15 of the Act.</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	<p>The Penrith LSPS identified the vision and priorities for land use across Penrith LGA. Land surrounding the site sits within various planned infrastructure that will help achieve the vision of the LSPS and create more jobs closer to homes.</p> <p>Specifically, the site facilitates industrial uses that will support the following Planning Priorities identified in the LSPS:</p> <ul style="list-style-type: none"> <li>• Priority 1: Align development, growth and infrastructure</li> <li>• Priority 9: Support the North South Rail Link and emerging structure plan</li> <li>• Planning Priority 11: Support the planning of the Western Sydney Aerotropolis</li> <li>• Planning Priority 12: Enhance and grow Penrith's economic triangle</li> </ul>
Draft Employment Lands Strategy (ELS)	<p>The Proposal is consistent with the ELS in that the site will deliver 6,410 ongoing jobs when complete and will facilitate industrial development close to the M4 Motorway. Specifically, the proposal is consistent with the following actions identified in the draft ELS:</p> <ul style="list-style-type: none"> <li>• Action 6 - Planning future employment land near access points on motorways.</li> <li>• Action 13 - Planning a mix of lot sizes to allow local businesses to start-up and scale-up.</li> <li>• Action 19 - Working with local servicing agencies to ensure a pipeline of serviced employment land is available for timely and balanced development.</li> </ul>

### 3.3 Penrith Local planning panel (PLPP) recommendation

On 22 September 2021, the PLPP provided advice on the proposal.

The Panel generally supported the proposal, however noted the following considerations as the proposal progresses:

- A site-specific DCP should be prepared for the site, and should be exhibited concurrently with the proposal;
- A mechanism for the delivery of local infrastructure should be exhibited with the proposal, including the delivery of road works;
- Servicing and contributions should consider future corridors and all utility provision and staging;
- Confirm the Outer Sydney Orbital (OSO) boundary with TfNSW; and
- Other minor updates to the proposal to align the current supply and demand issues affecting industrial land more clearly within Western Sydney.

### 3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	<p>The proposal seeks to rezone land for industrial uses in an area supported by transport and road infrastructure.</p> <p>The proposal is consistent as it will support job creation in the LGA.</p>
1.10 Implementation of the Western Sydney Aerotropolis Plan	Yes	<p>This direction seeks to ensure development in and around the Western Sydney Aerotropolis is consistent with the Western Sydney Aerotropolis Plan 2020.</p> <p>The proposal is consistent with this direction as it seeks to provide industrial land uses that compliments and supports the Aerotropolis plan.</p>
3.1 Conservation Zones	Yes	<p>This direction seeks to protect and conserve environmentally sensitive areas.</p> <p>The planning proposal is supported by an Ecological Constraints Assessment (<b>Appendix M</b>) which advises the site has historically been cleared of vegetation for agricultural purposes.</p> <p>The site is located within the Cumberland Plain Conservation Plan (CPCP) where a portion of the site to the north west and south is identified as 'Avoided for Biodiversity' in the draft CPCP maps. The proposal is not seeking to rezone or develop within the avoided land areas identified in the draft CPCP.</p>



3.2 Heritage Conservation	Yes	<p>This direction seeks is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The proposal is supported by a Historical Heritage Assessment (<b>Appendix O</b>) as well as an Aboriginal Cultural Heritage Assessment (<b>Appendix P</b>).</p> <p>The Historical Heritage Assessment did not discover areas of archaeological significance. It is recommended unexpected finds protocol is adopted and conditioned at SSDA or DA stage, the proposal also states additional surveys will be undertaken on the structures within Lot 1 DP 396972 and Lot 2 DP 219794 to determine if they hold any heritage significance.</p> <p>The Aboriginal Cultural Heritage Assessment identified a number of Aboriginal sites including the observation of two cultural materials. The assessment concluded the areas of Aboriginal significance is predominately within the riparian corridors and outside the areas proposing development and soil disturbance.</p> <p>It is recommended further investigation of the area is undertaken at SSDA or DA stage to determine the nature and extent of potential areas of Aboriginal cultural value.</p>
4.1 Flooding	No	<p>This direction seeks to ensure development of flood prone land is consistent with the NSW Government's Flood Policy and Manual and to ensure potential flood impacts both on and off the subject land is considered.</p> <p>The proposal is supported by an Overland Flow report (<b>Appendix K</b>) which advises the site is not within the 1:100 or Probable Maximum Flood (PMF) events. However, further details are required to clearly address the proposal's consistency with this Direction, including the post-development flooding impact. This is further discussed in <b>Section 4.1</b> below.</p>
4.3 Planning for Bushfire Protection	No/Yes	<p>The site falls within land identified as Bushfire Prone Land. This direction applies to the site, a condition has been added requiring this direction be addressed in the planning proposal.</p> <p>It is noted the planning proposal was supported by a Bushfire Assessment Report (<b>Appendix N</b>). The report advises the site is bushfire prone particularly along the riparian corridor where there is more vegetation. The report recommends bushfire protection measures which appear adequate for the proposal.</p> <p>In accordance with this direction it is recommended and conditioned that Council consult with the Commissioner of the NSW Rural Fire Service prior to community consultation and to consider any comments made.</p>

4.4 Remediation of Contaminated Land	Yes	<p>This direction seeks to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The planning proposal is supported by a Preliminary Site Investigation report (<b>Appendix H</b>), the report identified asbestos contained within fill which will need to be carefully managed prior to any excavation works on site. The planning proposal recommends a Sediment and Erosional Control Plan be submitted at SSDA or DA stage.</p> <p>It is noted the planning proposal is supported by a Geotechnical Investigation report (<b>Appendix G</b>), the report found a substantial area of the site contains moderately saline soils. The planning proposal recommends a Sediment and Erosional Control Plan be submitted at SSDA or DA stage.</p>
5.1 Integrating Land Use and Transport	Yes	<p>The planning proposal adequately addresses this direction identifying its proximity to the below regional infrastructure, housing in the Greater Penrith to Eastern Creek (GPEC) area and employment opportunities resulting from the rezoning.</p> <p>The proposed industrial land use will benefit from the proposed regional infrastructure in proximity such as the Sydney Metro Greater West (St Marys to Nancy-Bird Walton Airport and Aerotropolis), the North-South Rail line and the Outer Sydney Orbital which will connect the M4 and M7 Motorways and the proposed Western Sydney freight line.</p>
5.3 Development near regulated airports and defence airfields		<p>This direction seeks to ensure the safe and effective operation of regulated airports and to ensure that their operation is not compromised by development that constitutes an obstruction or hazard.</p> <p>The site is located within the obstacle limitation surface for the Western Sydney (Nancy-Bird Walton) International Airport. The site is not subject to maximum building height controls under the Penrith LEP 2010, the proposal advises the potential height of industrial buildings will be limited to the outer horizontal surface maximum of 230.5 m AHD and will not infringe on the OLS for the Western Sydney (Nancy-Bird Walton) International Airport.</p> <p>It is recommended as a condition that council investigate a maximum height of building control that is consistent with the surrounding industrial lands/precincts.</p>

7.1 Business and Industrial Zones	Yes	<p>This direction seeks to:</p> <ul style="list-style-type: none"> <li>(a) encourage employment growth in suitable locations,</li> <li>(b) protect employment land in business and industrial zones, and</li> <li>(c) support the viability of identified centres</li> </ul> <p>The proposal addresses this direction as it seeks to rezone the land to IN1 General Industrial and IN2 Light Industrial which will result in employment generating land uses.</p>
9.1 Rural Zones	No	<p>This direction seeks to protect agricultural production value of rural land. The planning proposal is inconsistent with this direction as it seeks to rezone land from a rural zone to industrial. The planning proposal has not directly addressed this direction.</p> <p>As mentioned previously in this report the planning proposal is located within the Greater Penrith to Eastern Creek Growth (GPEC) Area, which is a new growth area that seeks to build on the opportunities created by the Western Economic Corridor to enhance the integration of land use and transport planning whilst supporting land release development and urban renewal. GPEC is anticipated to facilitate an increased provision of jobs and services consistent with the Western City District Plan which delineates the GPEC Growth Area as capable of providing new jobs and services.</p> <p>Whilst the planning proposal is inconsistent with this direction, the inconsistency can be justified as it is in accordance with the provisions in the Western City District Plan, which considers GPEC as an area that will support and manage land release development and urban renewal.</p> <p>It is recommended as a condition that Council amend the planning proposal to address this direction prior to exhibition.</p> <p>It is noted that the proposal is also located within the urban investigation area and Metropolitan Rural Area (MRA) identified in the District Plan. As the subject land is located within the GPEC Area and the Urban Investigation Area, its inclusion with the MRA area will not exclude the proposal progressing (refer to Strategy 29.2 of <i>A Metropolis of Three Cities</i> which permits urban development to occur within the investigation areas).</p>

### 3.5 State environmental planning policies (SEPPs)

With exception of the below SEPPs, the planning proposal is consistent with all relevant SEPPs

**Table 8 Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Western Sydney Employment Area) 2009	To guide the efficient release and development of land within the WSEA	Yes	While not directly related to the site, the proposal report states that the rezoning will facilitate the delivery of 6,410 ongoing jobs upon completion. The primary job types are intended to include the transport, postal and warehousing sectors. Further assessment of the economic issues related to this proposal are discussed in Section 4.2, below.
SEPP (Western Sydney Aerotropolis)	Consider the aims of SEPP (WSA) including safeguarding the operation of the Western Sydney (Nancy-Bird Walton) International Airport.	Yes	The proposal report states that the rezoning is unlikely to affect the future ongoing operations of the Airport. The site will be limited to the outer horizontal surface maximum of 230.5m AHD on the Obstacle Limitation Surface (OLS) map.  It is recommended as a condition that council investigate a maximum height of building control that is consistent with the surrounding industrial lands/precincts.
State Environmental Planning Policy (Major Infrastructure Corridors) 2020	Identify and project land that is intended to be used in the future as an infrastructure corridor	Yes	The site responds to, and retains, the existing Outer Sydney Orbital (OSO) corridor, and identifies the North-South Rail link corridor that runs along the site's western boundary.  In any case, Council is to forward the proposal to TfNSW and Sydney Metro for comment and confirmation of the impacts, if any, that the proposal may have on the existing protected corridor investigation areas.

## 4 Site-specific assessment

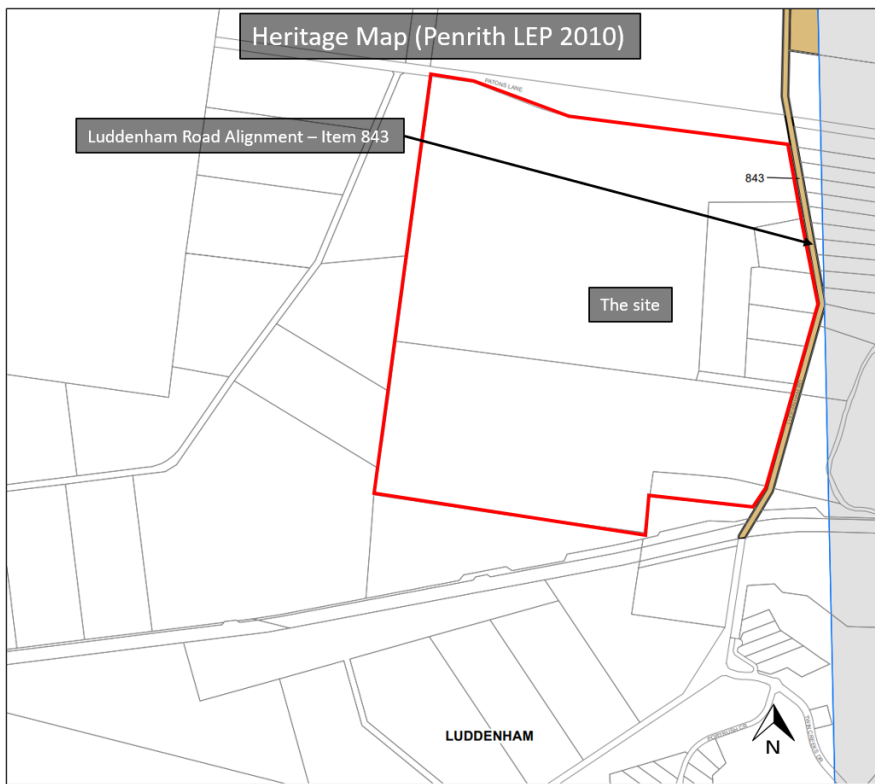
### 4.1 Environmental

#### Heritage

Heritage Item 843: Luddenham Road Alignment runs along (but outside of) the sites eastern boundary (**Figure 5**).

A Historical Assessment, prepared by EMM Consulting (**Appendix O**), and a Preliminary Aboriginal Cultural Heritage Assessment (**Appendix P**), prepared by HB and B Property, were submitted with the proposal. The Historical Assessment generally details that the site is clear of historical heritage and is supported on cultural heritage grounds. The report states that the site has a low chance of historical relics, with further assessment being undertaken upon the preparation of the development application.

Further surveys are to be undertaken on specific structures on Lot 1 DP 396972 and Lot 2 DP 219794 to fully understand their heritage significance and their contribution to rural character. Any future heritage assessment should be to the satisfaction of Penrith City Council and any requirements that result from agency consultation.



**Figure 8 Heritage Map under PLEP 2010 (source: NSW Legislation).**

A preliminary Aboriginal Cultural Heritage Assessment (ACHA), prepared by EMM, was submitted with the proposal (**Appendix P**). The ACHA indicated that the site did not present specific areas of cultural value, however some areas were earmarked for further investigation, this can be addressed at DA stage.

#### Built form

A Visual Impact Assessment (VIA) was undertaken by Urbis (**Appendix L**). The report outlines that there are limited number of elevated viewpoints within proximity of the site, however, acknowledges that the existing rural character of the locality will be impacted.

It is anticipated that the future character of the area will be transformed to an urban collection of industrial lands and city-serving transport infrastructure such as the North-south rail link and OSO, as shown in the Concept Master Plan and land zoning shown in **Figure 9** below.

The proposal is compatible with the desired future character and the built form as depicted in the Concept Master Plan is supported. While no height provision is proposed, Council should further consider the introduction of a building height control for this site.





**Figure 9 Proposed zoning and Concept Master Plan**

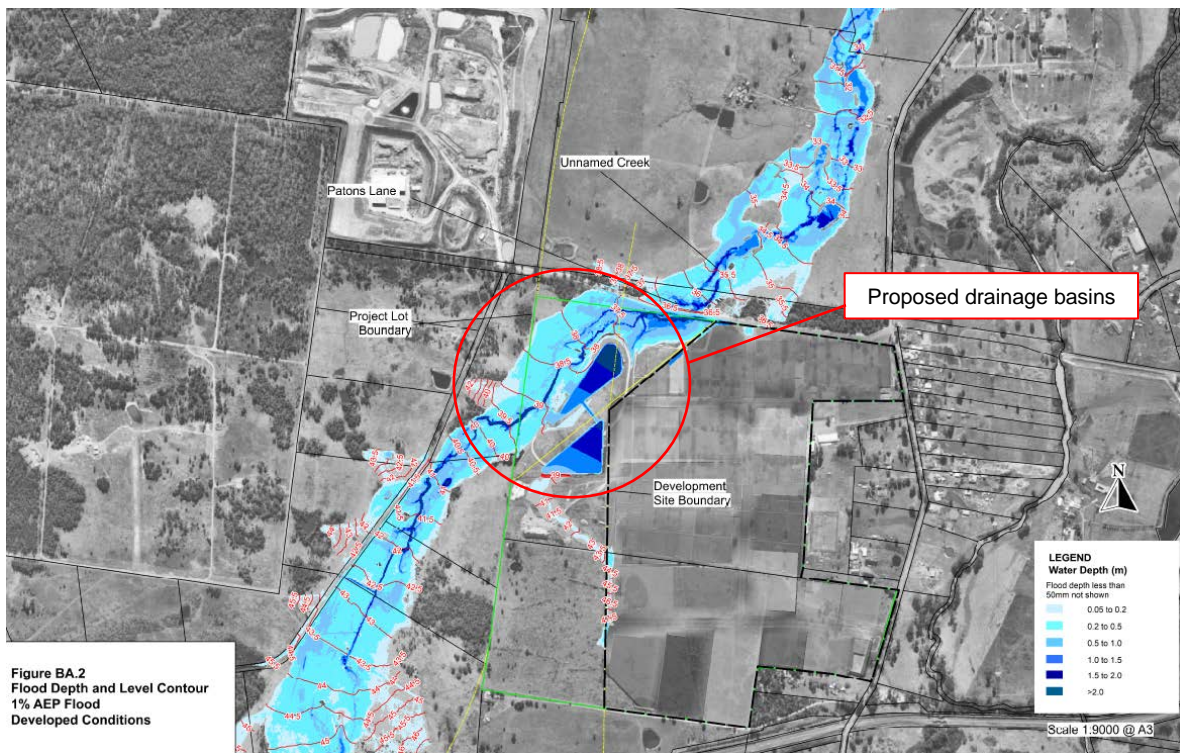
### Flooding and Riparian Corridor

As discussed in Section 3.4 of this report, the proposal states that the site is not within the 1:100 or Probable Maximum Flood (PMF) events. The proposal is supported by an Overland Flow report (**Appendix K**) as well as a Stormwater Design Summary carried out by Henry and Hymas (**Appendix I**) which identifies that the land is not subject to flood planning under PLEP 2010.

The planning proposal intends to construct detention basins to mitigate the impacts of flooding between the 1:100 – PMF extents see Concept Master Plan in **Figure 9** above. The planning proposal is inconsistent with the Overland flow report (**Appendix K**) which proposes basins within the OSO corridor see **Figure 10** below.

As a result, the proposal is unclear in terms of being consistent with Ministerial Direction 4.1 – Flooding. The Department recommends consultation with NSW Environment and Heritage Group (EHG) (former Environment, Energy and Sciences division (EES)) and Transport for NSW, to confirm the post-development flood impacts to the OSO, and to ensure consistency with Direction 4.1.

Council is to consult with the Department's Risk and Resilience team and NSW State Emergency Services to confirm if the site is impacted by the Wianamatta South Creek flooding.



**Figure 10 1:100 Flood level post-development (source: Overland Flow Study)**

#### Draft Cumberland Plain Conservation Plan (CPCP)

The draft CPCP identifies the location of certified and non-certified land across the Western Parkland City. The site is affected by 'Avoided for Biodiversity' Lands located on its south-west boundary (**Figure 11**).

The concept masterplan (**Appendix A**) and Master Plan Report (**Appendix B**) do not propose development of this land and retains the existing RU2 Rural Landscape zone for the non-certified land.



**Figure 11 CPCP map (source: Draft Cumberland Plain Conservation Plan Map)**



An Ecological Constraints Assessment (ECA), prepared by Ecoplaning, supports the proposal (**Appendix M**). The ECA generally shows that the site has been extensively cleared over time and has a range of exotic species.

The Department is satisfied that the proposal responds to the existing ecological characteristics of the site and retains a large portion of vegetation that is prescribed as having high ecological value. Further assessment of the ecological value of the site should occur prior to development to determine the possibility of biodiversity offsets.

Given the likelihood of urban transformation and major infrastructure projects within and around the site (including in areas that contain high ecological value), the proposal is supported.

#### Noise Impact

A Noise Impact Assessment (NIA) has been prepared by EMM Consulting and supports the proposal (**Appendix R**).

The NIA found that any potential noise intrusiveness that exceeds the maximum night-time sleeping level can be mitigated through noise barriers, warehouse structures and placements, and ongoing management controls. This noise disturbance is likely to only affect existing dwellings within the site.

#### Bushfire

The site falls within land identified as Bushfire Prone Land and is supported by a Bushfire Assessment Report (**Appendix N**). As discussed in Section 3.4 above, it is recommended that the proposal is referred to the NSW Rural Fire Service for consideration and to amend the proposal if necessary.

It is also noted that the proposal does not consider the provisions outlined in Ministerial Direction 4.3 – Planning for Bushfire Protection and remains inconsistent with this Direction.

While the Bushfire Assessment Report does recommend bushfire risk mitigation measures such as proper access for firefighting vehicles and appropriate landscaping, the proposal is required to be updated prior to exhibition to address Direction 4.3. This requirement has been conditioned in the Gateway determination.

#### Salinity and Contamination

The proposal is supported by a Geotech Investigation carried out by Construction Sciences (**Appendix G**). The investigation found that the site contains moderately saline soils, and that a Sediment and Erosion Control Plan be prepared and submitted with any future development application for the site.

A Stage 1 Preliminary Site Investigation (PSI) (**Appendix H**) was also prepared by Construction Sciences. The investigation found that asbestos was contained within the site and will need to be appropriately managed prior to any development on the site.

The Department is satisfied that the site can be made suitable for future development subject to the further soil sampling and an update to asbestos risks as outlined in the PSI recommendations.

## 4.2 Social and economic

#### Job creation

An Economic Benefits Report, prepared by Urbis, was submitted with the proposal (**Appendix S**). The Report details that, once complete and fully tenanted, the operation has the potential to deliver over \$1.0 billion in direct and indirect value added to the economy. The key findings of the report are summarised as,

- The majority of jobs are within the wholesale sector (2,588 jobs), with other likely sectors to be technical services, retail trade and public administration.

- Indirect jobs will be mostly within the industrial sector including transport, postal, warehousing, rental, hiring and the like.

The economic analysis presented a gap of 8,706, meaning there are far more residents than jobs within the LGA, with the most affected jobs being wholesale trade, transport, postal and warehousing.

The proposal intends to reduce the deficit by rezoning rural land to industrial land. An amendment to introduce a minimum lot size as small as 1000m<sup>2</sup> is consistent with the reports' findings that there is a shortfall in smaller industrial lots.

Council is also preparing a site-specific DCP for the site, however this is not mentioned within the proposal. Further details on minimum lot sizes and the types of industry intended are to be detailed within the draft DCP.

### Shortfall of Industrial Land

An Industrial Need and Impact Assessment was undertaken by Urbis (**Appendix T**). The analysis identified that there is a high demand of industrial zoned land, this is mainly due to diminishing industrial land in favour of other uses.

The Department supports the proposal as it will assist with the current demand for industrial zoned land, while also increasing the diversity of jobs within the Penrith LGA.

### Traffic

A Traffic Impact Assessment (TIA) was undertaken by Arcadis (**Appendix Q**) that supports the proposal. The TIA acknowledges the significant urban transformation that is likely to occur over the next 30 years, and the impact this will have on the existing traffic network.

The TIA identifies the intersection of Luddenham Road and Patons Lane plays a critical role in servicing the traffic generated by the development. This intersection will operate at a satisfactory level once the development is complete.

Further consultation with TfNSW is recommended in relation to the planning proposal.

## 4.3 Infrastructure

The proposal is supported by a Utilities Report (**Appendix J**) which identifies that the site benefits from being within proximity to Erskine Park, with the developer bearing any costs associated with extending utilities to the site. The proposal is generally capable of being serviced.

Standard consultation is required with Sydney Water, Endeavour Energy, Jemena (Gas), Telstra and NBN Co. as outlined within the Gateway determination (**Attachment B**)

Sydney Water confirmed that development of the proposal area will be able to access water and wastewater services and confirmed that the proposal will not take capacity reserved for other development within the surrounding area.

Sydney Water capacity issues can be appropriately dealt with further during the agency consultation period as detailed within the Gateway determination.

### Major Infrastructure

As discussed throughout this report, the site benefits from being surrounded by NSW Government investments into major infrastructure projects such as the North-South rail link and the proposed Western Sydney freight line or Outer Sydney Orbital (OSO) (**Figure 12**). The rezoning to industrial land is the best use of the site given the desired future character set by local and state agencies.



Figure 12 Major infrastructure context (source: Master Plan Report).

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms to the conditions of the Gateway determination.

### 5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

- Transport for NSW
- NSW State Emergency Service
- NSW Rural Fire Service
- NSW Sydney Metro
- NSW Environment and Heritage Group
- Sydney Water
- Relevant infrastructure providers for telephone, NBN, gas and electricity

## 6 Timeframe

Council proposes a 9 month time frame to complete the LEP.



The Department recommends a time frame of 12 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.

A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

Council has not requested plan-making delegation for this proposal.

Given the general consistency with local and regional strategic projects, and the relatively straightforward nature of the rezoning, the Department recommends Penrith City Council be given plan-making authority delegation under the Act.

Any outstanding issues and further consultation requirements have been appropriately conditioned, with Penrith City Council being best placed to finalise the proposal within the timeframe given in the Gateway determination.

## 8 Assessment summary

The planning proposal is supported to proceed with conditions as it:

- Aligns with the Western City District Plan;
- Aligns with the LSPS and Draft Employment Lands Strategy in terms of supporting job creation and economic growth;
- Will include a site specific DCP to guide the development of smaller lot sizes to those surrounding industrial and employment areas;
- Seeks to deliver infrastructure at no cost to government; and
- Is consistent with the CPCP and maintains significant vegetation along riparian corridors.

As discussed in the previous sections 4 and 5, the proposal should be updated to:

- Address Ministerial Direction 4.3 – Planning for Bushfire Protection, including comments from the NSW Rural Fire Service
- Address Ministerial Direction 4.1 – Flooding, including comments from DPE's Environment and Heritage Group (former Environmental Energy and Science division), the Department's Risk and Resilience team and NSW State Emergency Service
- Update all maps to clearly show the Outer Sydney Orbital
- Demonstrate how the site will achieve the minimum lot density controls (i.e. 50 x lots for IN1 and 60 x lots for IN2 zoned land)
- Implement a maximum height of building control that is consistent with the surrounding industrial lands/precincts

The updates discussed above are required to be updated prior to public exhibition of the proposal.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved until comments from the NSW Rural Fire Service are considered
- Agree that any inconsistency with section 9.1 Direction 4.1 – Flooding remains unresolved until the proposal is referred to DPE's Environment and Heritage Group (former

Environmental, Energy and Science division), the Department's Risk and Resilience team and the NSW State Emergency Service.

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

1. Council is to update the planning proposal prior to exhibition, as follows:
  - (a) Address consistency with Ministerial 9.1 Direction 4.3 Planning for Bushfire Protection and Direction 9.1 Rural Zones
  - (b) Further address Ministerial 9.1 Direction 4.1 – Flooding, including the proposed locations of drainage basins
  - (c) Amend the planning proposal to refer to the proposed site specific DCP for the site
  - (d) Update all maps to clearly show the Outer Sydney Orbital corridor
  - (e) Demonstrate how the site will achieve the minimum lot density controls (i.e. 50 x lots for IN1 and 60 x lots for IN2 zoned land), including an update to the Concept Master Plan, and consideration of alternative solutions to achieve the desired outcome
  - (f) Implement a maximum height of building control that is consistent with the surrounding industrial lands/precincts
2. Prior to public exhibition, consultation is required with the NSW Rural Fire Service under section 3.34(2)(d) of the Act to comply with the requirement of the relevant Section 9.1 Direction. The NSW Rural Service is to 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.
3. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
  - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 30 days; and
  - (b) the planning proposal authority must comply with the notice 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 *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

Exhibition must commence within 4 months following the date of the gateway determination.

4. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
  - Transport for NSW
  - NSW State Emergency Service
  - NSW Rural Fire Service
  - NSW Sydney Metro
  - NSW Environment and Heritage

- Sydney Water
- Relevant infrastructure providers for telephone, NBN, gas and electricity

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the EP&A Act subject to the following:
  - (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
  - (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.
7. The LEP should be completed on or before 24 May 2023.



(Signature)

20 May 2022 (Date)

Ryan Klingberg

Acting Manager, Place and Infrastructure

Assessment officer

Michael Cividin

Senior Planning Officer, Metro West

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