



IRF23/2749

Gateway determination report – PP-2023-1924

Burnett Street Neighbourhood Centre, Merrylands
(+260 dwellings and +17 jobs)

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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
Attachment A – Planning Proposal Burnett Street Neighbourhood Centre
Attachment B – Flooding Analysis
Attachment C1 – 16 September 2020 Council Minutes
Attachment C2 – 16 June 2021 Council Minutes
Attachment C3 – 16 August 2023 Council Minutes
Attachment D – Burnett St Urban Design and Built form Analysis
Attachment E – Traffic and Transport Analysis
Attachment F – Cumberland Council, Local Housing Strategy Letter of Approval
Attachment G – Employment Study
Attachment H – Cumberland Local Shops Study
Attachment I – CLPP Recommendations
Attachment J – Map of the Applicable Land Area

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Cumberland	
PPA	Cumberland City Council	
NAME	Burnett Street Neighbourhood Centre	
NUMBER	PP-2023-1924	
LEP TO BE AMENDED	Cumberland Local Environmental Plan 2021	
ADDRESS AND DESCRIPTION	4 Burnett Street	Lots A, B and C DP27816
	6 Burnett Street	Lot 5 DP22097
	381 Merrylands Road	Lot D DP27816
	385 Merrylands Road	Lot E1/E2 DP448606
	387 Merrylands Road	Lot 8 DP22097
	389 Merrylands Road	Lot 7 DP22097
	391 Merrylands Road	Lot 11 DP1067685
	1A Kiev Street	Lot 12 DP1067685
	426 Merrylands Road	Lot 19 DP10983
	418 Merrylands Road	Lot 20 DP10983
	416 Merrylands Road	Lot 21 DP10983
	414 Merrylands Road	Lot 221 DP612806
	408 Merrylands Road	Lot 1 DP507258
	400-406 Merrylands Road	Lot 2 DP507258
	2 Ruth Street	Lot 10 DP10983
	1E Fowler Road	Lot 18 DP10983
	398 Merrylands Road	Lot A DP409730
	2 Fowler Road	Lot B DP409730
RECEIVED	19/09/2023	
FILE NO.	SF23/121584	
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required	

LGA	Cumberland
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 (proposal) (August 2023) (**Attachment A**) contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the proposal are to:

- capitalise on land use opportunities for housing diversity and jobs growth,
- facilitate the expansion of a neighbourhood centre supported by transport, local amenity and existing and planned infrastructure and facilities, and
- reconcile minor anomalies in the context of the surrounding land.

The objectives of this proposal are clear and adequate.

1.3 Explanation of provisions

The proposal seeks to amend the Cumberland LEP 2021 per the changes below:

Table 3 Current and proposed controls

Control	Address	Current	Proposed
Zone	6 Burnett Street, 2 Ruth Street and 2 Fowler Road	R2 Low Density Residential	E1 Local Centre
	400-406, 408-426 Merrylands Road, 398 Merrylands Road, 381-391 Merrylands Road, 4 Burnett Street, 1A Kiev Street, and 1E Fowler Road	E1 Local Centre	No change.
Maximum height of the building	6 Burnett Street, 2 Ruth Street and 2 Fowler Road	9m	17m
	400-406, 408-426 Merrylands Road, 398 Merrylands Road, 381-391 Merrylands Road, 4 Burnett Street, 1A Kiev Street and 1E Fowler Road	14m	17m
Floor space ratio	6 Burnett Street,	N/A.	1.8:1
	2 Ruth Street	N/A.	1.5:1
	2 Fowler Road	N/A.	1.4:1

Control	Address	Current	Proposed
	400-426 Merrylands Road, and 1E Fowler Road	1:1	1.5:1
	398 Merrylands Road	1:1	1.4:1
	381-391 Merrylands Road, 4 Burnett Street, and 1A Kiev Street	1:1	1.8:1
Number of dwellings	N/A	8 (approx.)	+260
Number of jobs	N/A	53	+17

The 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 proposal applies to existing E1 Local Centre zoned land (400-406, 408-426 Merrylands Road, 398 Merrylands Road, 381-391 Merrylands Road, 4 Burnett Street, 1A Kiev Street, and 1E Fowler Road) as well as R2 Low Density Residential zoned land at 6 Burnett Street, 2 Ruth Street and 2 Fowler Road. The subject site is referred to as Burnett Street Neighbourhood Centre. The area has been identified on an image in the planning proposal, however it forms a condition of the Gateway that all addresses and formal descriptions are to be listed.

The neighbourhood centre and additional sites are located within a residential area of west Merrylands, within the Cumberland LGA. The subject sites are surrounded by predominantly one (1) to two (2) storey residential dwellings in the R2 Low Density Residential and R3 Medium Density Residential zones. The neighbourhood centre is located around the intersection of Burnett Street, Merrylands Road, and Fowler Road (**Figure 1** Error! Reference source not found.). North of the site is Merrylands Park, tennis courts, and swimming centre (within a 400m walking catchment) and east of the site contains local amenities, educational and religious establishments, and facilities such as a childcare centre, Fire and Rescue NSW station, St Margaret Mary's Church, and St Margaret Mary's Primary School (within approximately 500m walking catchment).

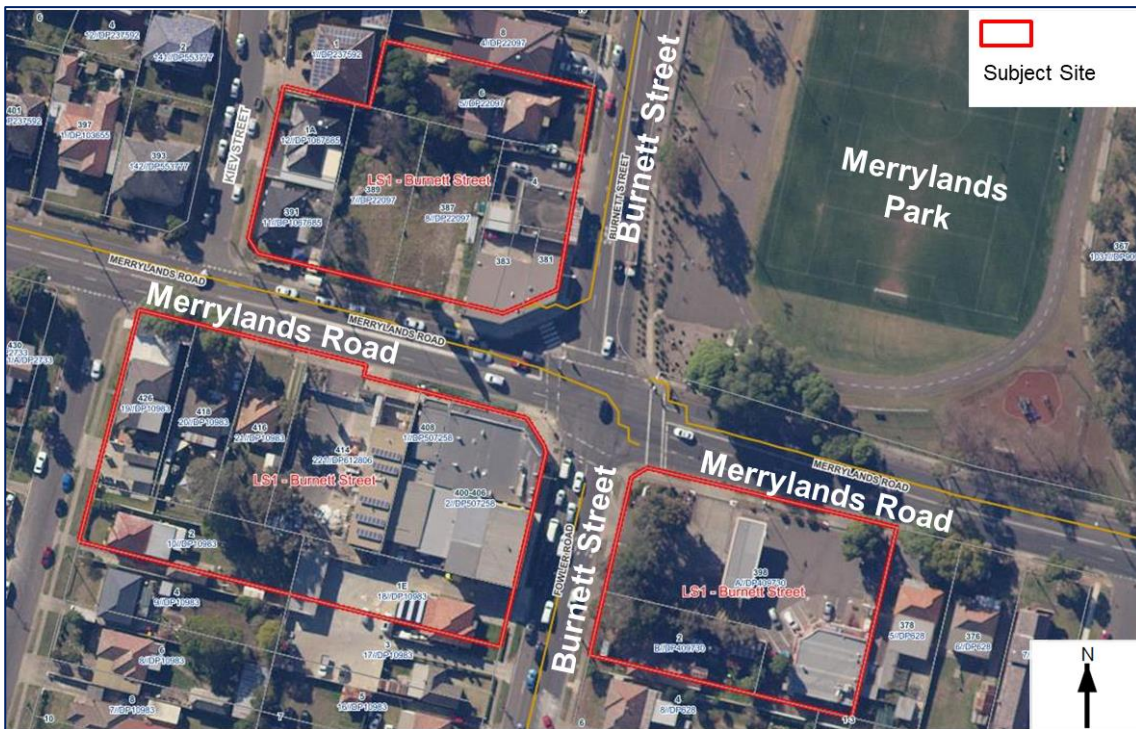


Figure 1 Subject site (Base source: Planning Proposal Attachment Map, August 2023)

Nearby local heritage items include the Fire station (inter-war period) at 340 Merrylands Road (labelled '7' below), Memorial reserve, historic memorial and cannon, at 48 Arthur Street, and Lawson Square Reserve on Price Street (Error! Reference source not found.). These have been discussed further in **Section 4**.

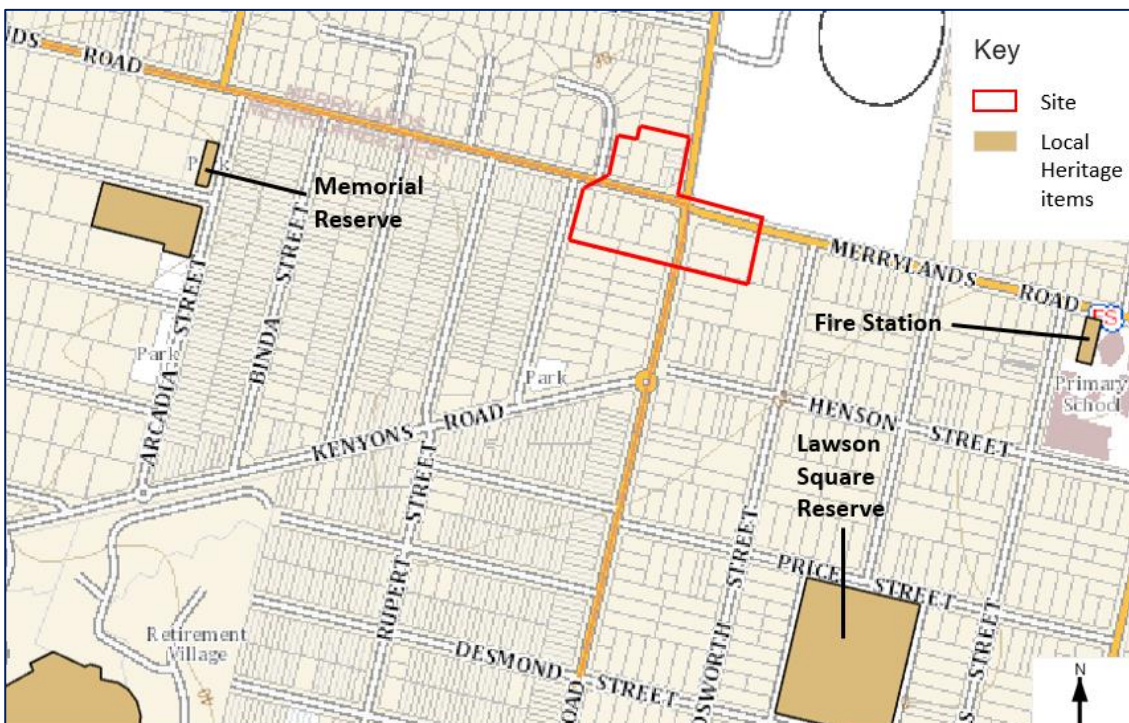


Figure 2 Surrounding local heritage items (Base Source: Spatial Viewer, 2023)

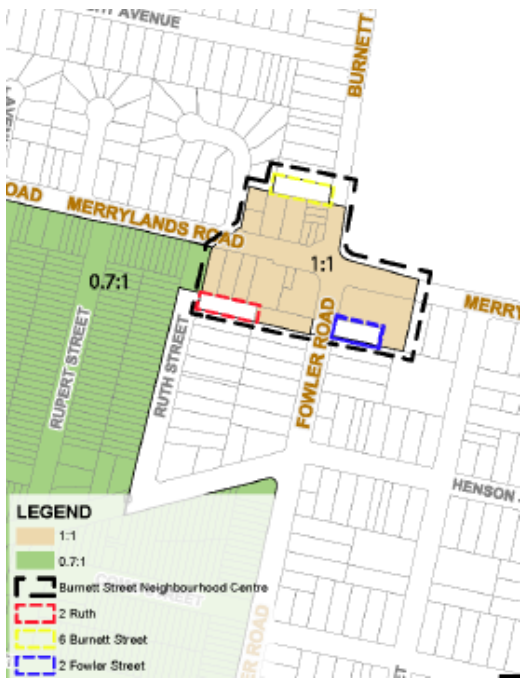
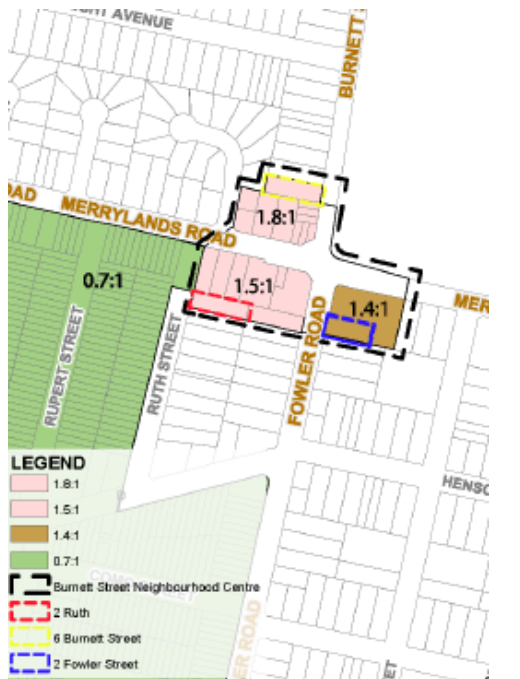
1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Zoning, Maximum Height of Building (HOB), and Floor Space Ratio (FSR) maps, to facilitate the

expansion of the neighbourhood centre and reconcile minor anomalies in the surrounding planning context (**Table 4**). The maps are suitable for community consultation. No further amendments are proposed.

Table 4: Current and Proposed LEP maps

Control	Existing	Proposed
Burnett Street Neighbourhood Centre		
Zone	 <p>(Source: Planning Proposal, August 2023)</p>	 <p>(Source: Planning Proposal, August 2023)</p>
HOB	 <p>(Source: Planning Proposal, August 2023)</p>	 <p>(Source: Planning Proposal, August 2023)</p>

Control	Existing	Proposed
FSR	 <p>(Source: Planning Proposal, August 2023)</p>	 <p>(Source: Planning Proposal, August 2023)</p>

1.6 Background

- 15 July 2020** – Council endorsed an updated Planning Proposal for the Cumberland LEP. This included site specific planning controls to rezone 2 Ruth Street and 6 Burnett Street Merrylands to be zoned B1 Neighbourhood Centre with existing HLEP FSR and Height controls to adjoining B1 zoned properties.
- September 2020** – During exhibition of the draft Cumberland LEP 2021, Council considered additional submissions for site specific proposals at Burnett Street Neighbourhood Centre and a number of other sites (**Attachment C1**). Council endorsed for these to be included in the finalisation of the Cumberland LEP 2021. However, the Department advised Council to progress a separate planning proposal for these site-specific amendments.
- 26 May 2021** – Cumberland Local Planning Panel (CLPP) provided a recommendation to proceed with a separate planning proposal for the targeted sites in Merrylands and Guildford (**Attachment I**).
- 16 June 2021** – Council endorsed a planning proposal for Burnett Street Neighbourhood Centre, and several other sites in Merrylands and Guildford, to be forwarded to the Department for a Gateway determination (**Attachment C2**).
- December 2021** – The Department notified Council that the proposal required a ‘centres based’ approach for comprehensive strategic planning prior to submission for a Gateway determination.
- December 2021 to August 2023** – A further review was undertaken by Council officers and a more focused approach was taken for strategic planning in Merrylands including the progression of work such as the preparation of a Local Shops Study and planning for the Woodville Road Corridor.

- **16 August 2023** - Council endorsed a planning proposal be prepared for Burnett Street Neighbourhood Centre only, and no further action be undertaken by Council on other targeted sites in Merrylands and Guildford (**Attachment C3**).
- **19 September 2023** – Burnett Street Neighbourhood Centre Planning proposal (**Attachment A**) lodged for Gateway determination.

2 Need for the planning proposal

Q1. Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?

The proposal is a result of Council's assessment of various submissions from local stakeholders during preparation and post-exhibition of the draft Cumberland LEP 2021, and further submissions to Council's early consultation process for this planning proposal.

The proposal also responds to the feedback from the Department regarding the previous planning proposal submitted in December 2021 for targeted sites in Merrylands and Guildford. The proposal has been informed by further strategic planning for the Cumberland LGA, and Merrylands as a key centre, through:

- analysis of opportunities for a master-planning approach in the Merrylands area, with reference to previous strategic planning undertaken for Merrylands Town Centre, and
- recent local strategic planning work, such as the Local Shops Study (**Attachment H**) and planning for the Woodville Road Corridor.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal states it is the most appropriate and effective means of amending the CLEP 2021 to achieve the intended outcomes as it will provide more certainty around future development outcomes, provides an opportunity to reduce Council's housing gap and will optimise development.

The Department agrees that a planning proposal is the best means of achieving the intended objectives as it will be the only way to amend the CLEP 2021 planning controls.

3 Strategic assessment

3.1 Regional Plan

The Greater Sydney Region Plan: A Metropolis of Three Cities (Region Plan) is a 20-year plan outlining a three-city vision for the Sydney Region to the year 2036. The planning proposal is broadly consistent with the objectives for Infrastructure and Collaboration, Liveability, and Productivity as it proposes controls facilitating the expansion of a local centre which provides services and facilities for the community. The expansion will allow for increased employment and housing opportunities within proximity to Merrylands Town Centre.

3.2 District Plan

The site is within the Central City District. The Central City District Plan (District Plan), released by the Greater Sydney on 18 March 2018, is a guide for implementing the Region Plan at the district level, and is a bridge between regional and local planning. The District Plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The 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 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 Objectives	Justification
2 – Infrastructure and Collaboration	
C1 – Planning for a city supported by infrastructure.	Objectives 1-4 of the District Plan aim to provide infrastructure that aligns with forecasted growth, future needs, and is of optimal use.
C2 – Working through collaboration.	<p>The proposal aims to enhance an existing neighbourhood centre in a location that already has access to existing infrastructure such as bus services to Merrylands Town Centre and Merrylands Train and Bus Interchange. The site is also in proximity to green spaces and community facilities such as the Merrylands Park and Merrylands Civic Square.</p> <p>With regards to objective C2, Collaboration refers to the <i>‘planning and delivery of infrastructure, housing, jobs, and great places to realise the full benefits of growth.’</i> The proposal aids in delivering an additional 260 dwellings and 17 jobs, which together work to strengthen the economy and implement a shared vision given its proximity to Merrylands Town Centre.</p>
3 – Liveability	
C5 - Providing housing supply, choice and affordability, with access to jobs, services and public transport.	The proposal seeks to amend HOB and FSR to deliver an additional 260 dwellings and 17 jobs. Expanding the neighbourhood centre will facilitate increased housing supply and improve access to jobs and services within the neighbourhood centre.
C6 - Creating and renewing great places and local centres, and respecting the District’s heritage.	The proposal will assist with renewing local centres by facilitating urban renewal and development through updated land use controls, which will in turn increase development feasibility and potential. The proposal has been informed by the findings of the Local Shops Study (Place Design Group, 8 August 2023) (Attachment H) which recommends planning controls and opportunities for shops in the Cumberland LGA (discussed further in Section 3.3). Local heritage items nearby to the site (discussed in Section 1.4) are not to be affected by the proposed amendments to controls on the site. Surrounding heritage items have been considered as part of the proposal.
4 – Productivity	

District Plan Objectives	Justification
C9 – Delivering integrated land use and transport planning and a 30-minute city.	Additional housing and jobs are proposed within 30-minute access to a metropolitan centre (Parramatta CBD), aligning with this planning priority. Public transport options include a bus stop opposite Kiev St. and Merrylands Train and Bus Interchange, which both provide access to Merrylands Town Centre and Parramatta CBD within 20 minutes.
C10 - Growing investment, business opportunities and jobs in strategic centres.	The proposal will facilitate redevelopment of an existing neighbourhood centre within the Merrylands area. The proposal seeks to deliver increased job opportunities and commercial Gross Floor Area (GFA) resulting in an increase 17 additional jobs and supporting Merrylands Town Centre. It's important to note that Merrylands has been identified as a potential strategic centre under Council's Local Strategic Planning Statement (LSPS) (discussed further in Section 3.3)

3.3 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
Cumberland 2030: Our Local Strategic Planning Statement (LSPS)	<p>Cumberland LSPS links to the Greater Sydney Region Plan and the Central City District Plan, for a targeted approach to manage growth and future needs for the Cumberland LGA. The LSPS identifies the site as an existing neighbourhood centre situated near the proposed strategic centre of Merrylands Town Centre.</p> <p>The proposal is generally consistent with the priorities in the LSPS as it aims to provide accessible retail and commercial spaces that offer services to a growing community (Priority 10). The proposal will also facilitate housing diversity around centres and transit nodes within an 800-walking catchment (Priority 5). The proposal will contribute to promoting access to jobs, education and care services through renewal of a local centre (Priority 11).</p>
Cumberland Local Housing Strategy (LHS)	<p>The Cumberland LHS has been endorsed by the Department subject to conditions (Attachment F) in July 2021.</p> <p>The proposal is broadly consistent with the objectives of the LHS as the proposal has the potential to deliver up to 250 dwellings. It seeks to facilitate a range of housing typologies, including opportunities for mixed use development (Priority 1). Further, there is a focus on transit-oriented housing options as development will be situated within walking distance to public transport (Priority 2). The proposal is also consistent in aligning infrastructure with housing delivery by increasing housing supply in existing centres close to public transport (Priority 5).</p>

Local Strategies	Justification
Local Shops Study	<p>The Local Shops Study (Council, 8 August 2023) (Attachment H) forms part of Council's recent local strategic planning work for the LGA. The study analyses key retail catchments to assess potential for residential growth, place-making opportunities, and to encourage services within walking distances for residents.</p> <p>The shops on Burnett Street (381 Merrylands Road and surrounds) form part of this study. Future opportunities have been assessed to include "mixed use redevelopment and potential to maximise floorspace to increase commercial viability of urban renewal."</p>

3.4 Local planning panel (LPP) recommendation

On 26 May 2021, Cumberland LPP considered the planning proposal for sites in Merrylands and Guildford, which was a separate proposal, but informed by submissions from exhibition of the draft Cumberland LEP. The panel recommended that Council forward the proposal to the Department for a Gateway Determination, subject to conditions.

3.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant and applicable Section 9.1 Ministerial Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Focus Area 4: Resilience and Hazards		
Direction 4.1 Flooding	Consistency not yet demonstrated	<p>The objective of this Direction is to ensure development is consistent with the principles of the Floodplain Development Manual 2005 and the provisions of a LEP are commensurate with flood behaviour both on and off the subject land.</p> <p>This Direction applies to all relevant planning authorities when preparing a planning proposal that alters or affects flood prone land.</p> <p>Council prepared a Flooding Analysis, (7 August 2023) (Attachment B) to support the proposal. The Flooding Analysis concluded that the area is affected by 1% AEP flood and is predominantly a flood fringe. There is also overland flow path with high risk (Figure 3) and high hazards (Probable Maximum Flood (PMF) (Figure 4) events along Merrylands Road and Fowlers Road. Council considers it unlikely that the proposed alteration of planning controls will result in any additional or adverse flooding impacts at a 1% AEP flood.</p> <p>Council's engineers have advised that they raise no flood-related concerns at this stage. Council also notes that there would be a detailed assessment at the development application stage as required by flood risk management controls under the Cumberland Development Control Plan (DCP).</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		 <p>Figure 3: Overland flow path (1% AEP) along Merrylands Road and Fowler Road (Base Source: Attachment B - Flooding Analysis, Cumberland Council)</p>  <p>Figure 4: High Hazard (PMF) along Merrylands Road and Fowler Road (Base Source: Attachment B - Flooding Analysis, Cumberland Council)</p> <p>Direction 4.1 (3) is considered to apply to the planning proposal, as the site is located in a Flood Planning Area (Figure 5).</p>  <p>Figure 5: Properties within the Flood Planning Level area (Base Source: Council's Flood Control Lots Map, 2021)</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>As the proposal will permit development in a floodway, increase the dwelling density, and has not provided evacuation information, the proposal is considered inconsistent with the Direction.</p> <p>The Department has assessed the Flooding analysis against the four considerations of this Direction that could justify this inconsistency:</p> <p>a. <i>the planning proposal is in accordance with a floodplain risk management study or plan adopted by the relevant council in accordance with the principles and guidelines of the Floodplain Development Manual 2005</i></p> <p>No reference has been made to Cumberland Council's Flood Risk Management Policy or the principles for a Floodplain Risk Management Plan within the Floodplain Development Manual 2005.</p> <p>b. <i>where there is no council adopted floodplain risk management study or plan, the planning proposal is consistent with the flood study adopted by the council prepared in accordance with the principles of the Floodplain Development Manual 2005</i></p> <p>The Department has not located a floodplain risk management study/plan has been located for the site. Council's Flood Analysis (7 August 2023) (Attachment B) refers to the Becketts Creek Overland Flood Study, however no assessment has been provided to demonstrate how this proposal is consistent with this study.</p> <p>c. <i>the planning proposal is supported by a flood and risk impact assessment accepted by the relevant planning authority and is prepared in accordance with the principles of the Floodplain Development Manual 2005 and consistent with the relevant planning authorities' requirements.</i></p> <p>The proposal is only accompanied by a Flooding Analysis (7 August 2023) (Attachment B) and not a comprehensive flood and risk impact assessment.</p> <p>d. <i>the provisions of the planning proposal that are inconsistent are of minor significance as determined by the relevant planning authority.</i></p> <p>The proposed provisions are not considered to be minor as they would significantly increase dwelling density on land mapped as high risk and high hazards at PMF.</p> <p>The Department is concerned with the analysis provided as the proposal is seeking to increase density on flood prone land and therefore the inconsistency with this Direction is not yet justified. The Department recommends the updating the flooding analysis in accordance with:</p> <ul style="list-style-type: none"> the NSW Flood Risk Management Manual, June 2023, the NSW Flood Prone Land Policy, and; the principles of the Floodplain Development Manual 2005. <p>A Gateway condition is proposed requiring the above updates prior to exhibition of the planning proposal. It is also recommended that consultation with NSW State Emergency Service (SES) and Environment and Heritage Group (EHG) regarding this aspect of the proposal prior to</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		finalisation and that the Direction remains unresolved pending further consultation with relevant authorities.
Direction 4.4 Remediation of Contaminated Land	Consistent	<p>The objective of this Direction is 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>Council's assessment against this Direction (noted as Direction 2.6 in the PP) referenced soil salinity but failed to provide any further response in relation to Contaminated Lands.</p> <p>The Department notes that there is an existing petrol station located at 398 Merrylands Road and likely the land is contaminated. The Department is satisfied that the land is suitable for the intended use of the site as there are no changes to the zoning of the site. Therefore, the proposal is consistent with this Direction.</p> <p>Further detailed contamination studies in line with SEPP (Resilience and Hazards) 2021 will be conducted at the development application process.</p> <p>A condition of Gateway is proposed to update the planning proposal confirm consistency with this Direction.</p>
Direction 4.5 Acid Sulfate Soils	Consistent	<p>The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>Council indicated in its assessment that this direction was not applicable and did not apply the proposal. However, under the assessment for Direction 4.4 Contaminated Land (referenced as 2.6 by Council), it was identified that site was on land classified as moderate salinity.</p> <p>The Department was unable to locate any salinity on site via the Department's Acid Sulfate Soils database (Figure 6), and the site is also not mapped under the Cumberland LEP 2021. As such, the Department is satisfied that the proposal is consistent with the Direction.</p> <p>Further considerations around this matter can be addressed at the development application stage, in accordance with clause 6.1 of the CLEP 2021 (which requires an acid sulfate soils management plan to be submitted at the development application stage, if certain development thresholds are met). However, it is recommended that the planning proposal is updated to confirm consistency with this Direction.</p>



Figure 6: Acid Sulfate Soils Map (Source: SEED NSW, 2023)

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
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Focus Area 5: Transport and Infrastructure

Direction 5.1 Integrating Land Use and Transport	Consistent	<p>The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts improve access to housing, jobs and services, through increased transport options and efficient movement within the road network.</p> <p>Council provided a Traffic and Transport Analysis (TTA), dated 3 August 2023 (Attachment E). Council's assessment concluded that additional vehicle trips are likely to have a minor impact on the network and are unlikely to require a detailed TIA or traffic modelling at the planning proposal stage.</p> <p>The Department agrees that the proposal is unlikely to have a significant impact on the local and broader road networks as the estimated additional vehicle trips during the morning peak time (75 trips) is a relatively minor increase. Further, there is access to various public transport options within walking distance to the site (Section 4.3).</p> <p>The planning proposal is consistent with this Direction, in that it will enable additional dwellings in close proximity to existing and future jobs and services, encouraging walking, cycling and use of public transport. While this proposal will primarily impact on local roads, it is recommended that the proposal be forwarded to Transport for NSW for comment.</p>
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Focus Area 6: Housing

Direction 6.1 Residential Zones	Consistent	<p>The objective of this Direction is to encourage a variety housing types by making efficient use of infrastructure and minimising environmental impact.</p> <p>The proposal is consistent with this Direction as it encourages housing growth and diversity through rezoning a portion of the site to E1 Local Centre, the objectives of which are to provide a range of retail, business and community uses.</p> <p>The proposal will facilitate medium to high density housing in the future, supported by existing infrastructure and services such as close proximity to public transport.</p>
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Focus Area 7: Industry and Employment

Direction 7.1 Employment Zones	Consistent	<p>The objectives of this Direction are to:</p> <ul style="list-style-type: none"> • Encourage employment growth in suitable locations, • Protect employment land in employment zones, and • Support the viability of identified centres. <p>By increasing the FSR and HOB on the site, expansion of the Neighbourhood centre will encourage employment growth while retaining existing Employment zones. Therefore, the proposal is consistent with this Direction.</p>
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The Department notes that the proposal refers to the outdated Ministerial Directions, which were repealed and replaced by the new directions from 13 December 2022. It is recommended that the Ministerial Directions in the proposal to be updated to follow the new numbering. A condition to the above effect has been included in the Gateway Determination.

3.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below, with the exception of SEPP No 65 – Design Quality of Residential Apartment Development.

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistency	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021	Chapter 2 – Vegetation in Non-Rural Areas, aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.	Consistent	<p>The proposal does not hinder the application of this SEPP or contain provisions that contradict the biodiversity values of this policy, at the planning proposal stage.</p> <p>However, the SEPP would continue to apply to future development on the subject site and would be considered at the DA stage through implementation of further technical studies.</p>
SEPP (Building Sustainability Index: BASIX) 2004	This Policy is to encourage sustainable residential development (<i>the BASIX scheme</i>) for development consent and ensure consistency in the implementation of the BASIX scheme throughout the State.	Consistent	<p>The proposal does not hinder the application of this SEPP or contain provisions that contradict the commitments of the BASIX Scheme.</p> <p>However, the SEPP would continue to apply to future development on the subject site and would be considered at the DA stage through implementation of further technical studies.</p>
State Environmental Planning Policy (Resilience and Hazards)	The SEPP applies contaminated sites and whether the site is suitable for the proposed use (before or after remediation)	Consistent	<p>The proposal does not hinder the application of this SEPP. An existing petrol station is located at 398 Merrylands Road and no changes are proposed to the zoning of the site. Further detailed contamination studies will be required as part of any future development application in accordance with the SEPP (Resilience and Hazards) 2021.</p>
SEPP No 65 – Design Quality of Residential Apartment Development	This Policy aims to improve the design quality of residential apartment development in NSW.	Requires further investigation	<p>The proposal states that the proposed controls take the design principles and Apartment Design Guide (ADG) into consideration.</p> <p>An Urban Design report, (August 2023) (Attachment D) provides built form</p>

SEPPs	Requirement	Consistency	Reasons for Consistency or Inconsistency
			<p>testing to demonstrate overshadowing impacts.</p> <p>The Department notes that the report does not provide an analysis to show that development can comply with SEPP 65 design quality principles, such as sunlight access requirements.</p> <p>It forms a condition of the Gateway that further built form modelling be undertaken to show how the proposed built form can comply with SEPP 65 principles, and the proposal be updated to demonstrate consistency against the SEPP.</p> <p>The Department notes that any future development application for the site would be subject to a detailed assessment under SEPP 65 and ADG.</p>
SEPP (Housing) 2021	<p>Chapter 2 – Affordable housing, provides provisions for development for affordable housing, and the retention of existing affordable rental housing.</p> <p>Chapter 3 – Diverse housing enables the development of diverse housing types.</p>	Consistent	<p>The proposal will not hinder the provisions of this SEPP, which will apply to future DAs relating to the delivery of affordable housing. Opportunities for affordable and diverse housing can be explored at the DA stage.</p>
SEPP (Planning Systems) 2021	<p>Schedule 1 of the Planning Systems SEPP states that development such as an 'entertainment facility', 'medical centre' or 'recreation facility' with a capital investment value (CIV) of more than \$30 million is State Significant Development (SSD).</p>	Not Applicable	<p>The requirements of this SEPP may be triggered at the DA stage if the proposed development reaches the CIV threshold for SSDs.</p> <p>The proposal does not impact on the operation of the SEPP.</p>

SEPPs	Requirement	Consistency	Reasons for Consistency or Inconsistency
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2 – Infrastructure, aims to facilitate the effective delivery of infrastructure.	Consistent	The proposal would not undermine the application of this SEPP to any future DA. The provisions of this SEPP will apply to any future works related to infrastructure upgrade or modification, at the DA stage.


The Department notes that the proposal refers to the outdated names for SEPPs, which were replaced by 11 new consolidated policies from 2021. It is recommended that the proposal be updated to reflect the new consolidated SEPPs. A condition to the above effect has been included in the Gateway Determination.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Built Form	<p>An Urban Design and Built Form Analysis Report (August 2023), (Attachment D) has been prepared to demonstrate built form, connectivity, local character and overshadowing of the area. The aerial view depicts built form massing based on the proposed HOB and FSR controls for each block (Figure 5). The Department notes that the proposed built form will range from four (4) to five (5) storeys in a 'stepped' approach to minimise visual impacts to nearby one (1) to two (2) storey residential properties.</p>  <p>Figure 6: Built form analysis (Source: planning proposal)</p>

Environmental Impact	Assessment
	<p>The Department notes that the report does not provide extensive analysis for the proposed built form in relation to specified date and time of the overshadowing impacts.</p> <p>To better understand the full impacts of the proposed potential built form, an overshadowing analysis at the Winter Solstice (21 June) is required, covering a period of time between 9am and 3pm.</p> <p>Other updates to the report are also required, including labelling of road names, and a more detailed analysis of potential impacts (including against SEPP 65 requirements) to support the proposed built form controls.</p> <p>A condition to the above effect has been included in the Gateway determination.</p>
Flooding	<p>Council has identified that the site is flood affected under A 'Becketts Creek Overland Flood Study' (Lyll & Associates Consulting Water Engineers, June 2017) and is within the floodplain due to additional overland water flow from blocked drainage lines situated next to the site's south-eastern drainage line and along Merrylands Road.</p> <p>While the site is predominantly affected by 1% AEP (Error! Reference source not found.), however is also impacted by the PMF. Notably, some small portions of the planning proposal area, and sections of both. Merrylands Road and Fowler Road</p>

Environmental
Impact

Assessment

are classified as high hazards at PMF (highlighted in purple) (



Figure 79).

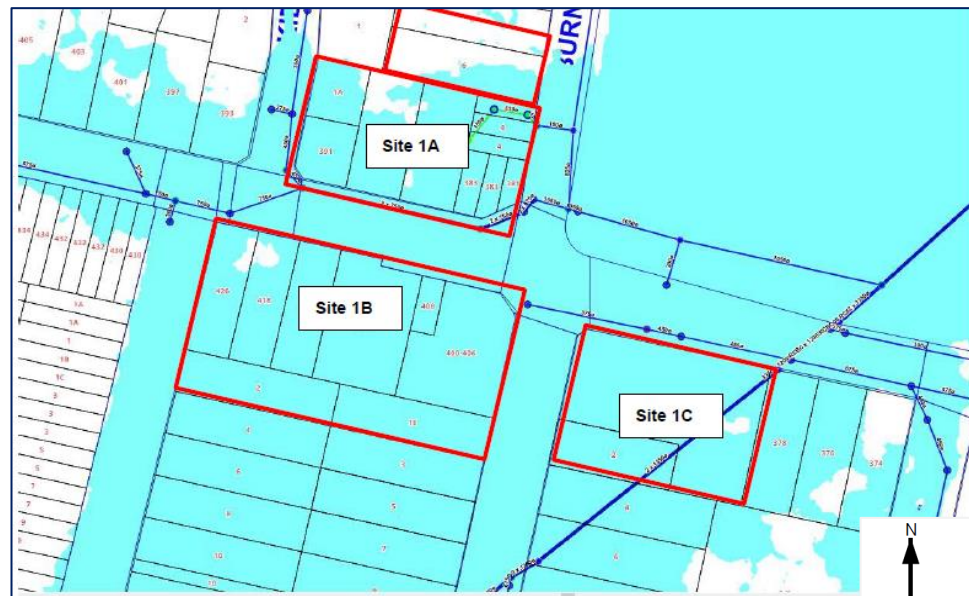


Figure 8: Council's Risk map of the area at 1% AEP flood event (Base Source: Flooding Analysis, Council 2023)

Environmental Impact	Assessment
	 <p>Figure 7: High Hazard PMF and floodplain areas (Source: Cumberland Council Flood Hazard Categories Map, 2021)</p> <p>The Department is actively seeking to implement the recent findings of the 2022 NSW Independent Flood Inquiry. The inquiry recommended that NSW move to a more risk-based approach to flooding and land use planning, including consideration of flooding impacts up to the PMF.</p> <p>Noting the above and that the site is impacted by a range of flooding impacts including the PMF, a Gateway condition to require an updated Flood Impact Assessment is recommended.</p>

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 10 Social and economic impact assessment

Social and Economic Impact	Assessment
Social Impact	<p>The proposal will enable community benefits through additional residential yield and a range of dwelling types through increased zoning permissibility. It will also better align with the surrounding zoning for the neighbourhood centre. This will increase opportunities for residents to live and work nearby to a local centre and reduce reliance on cars. Provision of local shops and facilities will benefit the community through access to local services.</p>

Social and Economic Impact	Assessment
Economic Impact	<p>The employment study provided by Council, (October 2021) (Attachment H) outlines the site being compatible with a range of industries consistent with the local character (such as hairdressers, restaurants, and convenience stores).</p> <p>The proposal will assist in the revitalisation of the Burnett Street Neighbourhood Centre by delivering opportunities for 17 additional and other benefits including expanded local services and retail facilities.</p>

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 11 Infrastructure assessment

Infrastructure	Assessment
Local Infrastructure	<p>The proposal is located in an urbanised area with surrounding residential zoning, supported by transport, local amenity, and existing and planned infrastructure. The Department considers the proposed controls to be in line with growth forecasts and market demand, as outlined in the employment study and local shops study (Attachments G and H). Any future works related to infrastructure upgrade or modification will need to be assessed accordingly at the DA stage.</p> <p>It is recommended that Schools Infrastructure NSW be consulted to confirm if surrounding schools such as Merrylands High School and Merrylands Public School (1-1.5km away), can accommodate for the demand from the additional dwelling yield. A condition to the above effect has been included in the Gateway determination.</p> <p>Further, consultation with utility providers such as Endeavour Energy and Sydney Water is required to confirm suitability and capacity of the site to service the additional dwelling yield for electricity and water. A condition to the above effect has also been included in the Gateway determination.</p>

5 Consultation

5.1 Community

The planning proposal is categorised as a standard proposal under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to 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 30 working days to comment:

- Transport for NSW (TfNSW)

- Schools Infrastructure NSW (SINSW)
- Environment and Heritage Group (EHG)
- NSW State Emergency Service (SES)
- Endeavour Energy
- Sydney Water

6 Timeframe

Council proposes a 6-12 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard proposal.

The Department recommends an LEP completion date of 21 August 2024 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the Gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

7 Local plan-making authority

Council has not indicated if it requests delegation to be the Local Plan-Making authority.

As the proposal relates to matters that are not considered to be contentious in nature, the Department recommends that Council be authorised to be the local plan-making authority (LPMA) for this proposal.

8 Assessment summary

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

- It is consistent with the objectives and priorities of the Greater Sydney Regional Plan, Central City District Plan and the Local Strategic Planning Statement
- the proposal will facilitate the expansion of a local neighbourhood centre that will expand community access to a variety of services and facilities;
- the proposal provides for an increase of 260 dwellings and 17 job opportunities,

As discussed in Sections 4 and 5 of the report, the proposal should be updated to:

- Include a list of all addresses and lot and DP numbers for sites within the planning proposal.
- Prepare an updated Flooding Analysis which justifies the inconsistency with Ministerial 9.1 Direction (4.1 Flooding).
- Respond to the proposal's consistency with Ministerial 9.1 Directions 4.4 Remediation of Contaminated land and 4.5 Acid Sulfate Soils.
- Provide further analysis of the proposed built form controls and demonstration of overshadowing impacts.
- Reflect current numbering of the Ministerial Directions and naming of SEPPs.

9 Recommendation

It is recommended the delegate of the Secretary:

- note that the consistency with section 9.1 Direction 4.1 Flooding is unresolved and will require justification.

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

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated to:
 - a) Include a list of all sites forming part of the planning proposal, including addresses and lot and DP numbers.
 - b) Include further flooding analysis which justifies the inconsistency with Ministerial 9.1 Direction (4.1 Flooding) and considers the findings and recommendations of the 2022 NSW Flood Inquiry, including an assessment of evacuation routes. The planning proposal should be updated to address the findings of the assessment.
 - c) Update the response in relation to Ministerial 9.1 Directions 4.4 Remediation of Contaminated Land and 4.5 Acid Sulfate Soils, and provide any relevant documentation to support this assessment, if required.
 - d) Provide further justification for the proposed built form controls with consideration to the impact on neighbouring residential uses, including demonstration of overshadowing impacts between 8am and 5pm on 21 June.
 - e) Reflect current numbering of the Ministerial Directions and naming of State Environmental Planning Policies.
2. Council is to submit the updated planning proposal to the Department in accordance with (1) above for endorsement prior to community consultation.
3. Council is to submit their assessment of consistency and supporting documentation against Direction 9.1 of the Act (4.1 Flooding) to the Department for review and confirmation, prior to finalisation.
4. Consultation is required with the following public authorities:
 - Transport for NSW (TfNSW)
 - Schools Infrastructure NSW (SINSW)
 - Environment and Heritage Group (EHG)
 - NSW State Emergency Service (SES)
 - Endeavour Energy
 - Sydney Water

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 working days to comment on the proposal.

5. The planning proposal should be made available for community consultation for a minimum of 20 working days.
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) there are no outstanding written objections from public authorities; and
 - c) prior to finalisation, Council's assessment of consistency and supporting documentation against Direction 9.1 of the EP&A Act (4.1 Flooding) is submitted to the Department for review. If applicable, the Secretary must also agree that any inconsistencies are justified.

7. The LEP is to be completed on or before 21 August 2024.



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20 October 2023



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24 October 2023

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