



CUMBERLAND
CITY COUNCIL

Council Meeting

Wednesday, 7 July 2021 at 6:30pm

Cumberland City Council Chambers

Merrylands Service Centre, 16 Memorial Avenue, Merrylands

Councillor Contact Details

Granville Ward

Clr Steve Christou (Mayor)	0419 651 187	Steve.Christou@cumberland.nsw.gov.au
Clr Joseph Rahme	0418 995 471	Joseph.Rahme@cumberland.nsw.gov.au
Clr Ola Hamed	0405 070 007	Ola.Hamed@cumberland.nsw.gov.au

Greystanes Ward

Clr Eddy Sarkis (Deputy Mayor)	0418 306 918	Eddy.Sarkis@cumberland.nsw.gov.au
Clr Greg Cummings	0417 612 717	Greg.Cummings@cumberland.nsw.gov.au
Vacant	-	-

Regents Park Ward

Clr Ned Attie	0419 583 254	Ned.Attie@cumberland.nsw.gov.au
Clr George Campbell	0409 233 315	George.Campbell@cumberland.nsw.gov.au
Clr Kun Huang	0418 911 774	Kun.Huang@cumberland.nsw.gov.au

South Granville Ward

Clr Paul Garrard	0414 504 504	Paul.Garrard@cumberland.nsw.gov.au
Clr Tom Zreika	0400 805 303	Tom.Zreika@cumberland.nsw.gov.au
Clr Glenn Elmore	0418 459 527	Glenn.Elmore@cumberland.nsw.gov.au

Wentworthville Ward

Clr Michael Zaiter	0418 432 797	Michael.Zaiter@cumberland.nsw.gov.au
Clr Suman Saha	0419 546 950	Suman.Saha@cumberland.nsw.gov.au
Clr Lisa Lake	0418 669 681	Lisa.Lake@cumberland.nsw.gov.au

For information on Council services and facilities please visit www.cumberland.nsw.gov.au

ORDER OF BUSINESS

- 1 Opening Prayer / Acknowledgement of Country / National Anthem**
- 2 Notice of Live Streaming of Council meeting**
- 3 Apologies / Requests for Leave of Absence**
- 4 Declarations of Pecuniary & Non Pecuniary Conflicts of Interest**
- 5 Confirmation of Previous Minutes**
C07/21-793 Minutes of the Ordinary Meeting of Council - 16 June 20215
- 6 Mayoral Minutes**
Nil
- 7 Public Forum / Presentation of Petitions**
- 8 Items Resolved by Exception**
- 9 Reports to Council**
 - General Manager**
Nil
 - Director Community and Organisation Development**
Nil
 - Director Finance & Governance**
Nil
 - Director Environment & Planning**
 - C07/21-794 Cumberland Affordable Housing Policy - Post-Exhibition Report 25
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- C07/21-801 Cumberland Heritage Committee - Minutes of Meeting Held 25 May 2021, Cumberland Local Heritage Rebate Program 2021 and Cumberland Local Heritage Awards 2021323

11 Motions Pursuant to Notice

Nil

12 Notices of Rescission

Nil

13 Questions on Notice

- C07/21-802 Questions on Notice - Submitted by Councillor Campbell335

14 Closed Session Reports

- C07/21-803 Tender Evaluation Report - Auburn Civic Centre Mechanical (Air Conditioning) Upgrade

Note: Included in Closed Council in accordance with Section 10A(2)(d)(ii) of the Local Government Act as the information involves information that would, if disclosed, confer a commercial advantage on a competitor of the council.

- C07/21-804 Appointment of the General Manager

Note: Included in Closed Council in accordance with Section 10A(2)(a) of the Local Government Act as the information involves personnel matters concerning particular individuals (other than Councillors).

15 Other / General Matters**16 Close**

Item No: C07/21-793

MINUTES OF THE ORDINARY MEETING OF COUNCIL - 16 JUNE 2021

Responsible Division:

Finance & Governance

Officer:

Director Finance & Governance

RECOMMENDATION

That Council confirm the minutes of the Ordinary Meeting of Council held on 16 June 2021.

ATTACHMENTS

1. Draft Minutes - 16 June 2021 [↓](#)

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-793

Attachment 1

Draft Minutes - 16 June 2021

Minutes of the Council Meeting 16 June 2021

Present:

Steve Christou (Mayor)	Councillor
Eddy Sarkis (Deputy Mayor)	Councillor
Ned Attie	Councillor
George Campbell	Councillor
Greg Cummings	Councillor
Glenn Elmore	Councillor
Paul Garrard	Councillor
Ola Hamed	Councillor
Kun Huang	Councillor
Lisa Lake	Councillor
Joseph Rahme	Councillor
Suman Saha	Councillor
Michael Zaiter	Councillor
Tom Zreika	Councillor
Peter Fitzgerald	Acting General Manager
Melissa Attia	Director People & Performance
Daniel Cavallo	Director Environment & Planning
Brendan Govers	Acting Director Works & Infrastructure
Richard Sheridan	Director Finance & Governance

Also Present:

Charlie Ayoub	Executive Manager Corporate Services
Colin McFadzean	General Counsel
Carol Karaki	Senior Governance & Civic Events Coordinator
Monica Shenouda	Governance and Civic Events Officer

The Mayor, Councillor Christou declared the meeting open at 6:35pm.

Opening Prayer

The opening prayer was read by Rev. Brian Rensford from Holroyd New Life Church.

Acknowledgement of Country

The Mayor, Councillor Christou read the following Acknowledgement of Country:

"I would like to acknowledge the traditional owners of this land – the Darug People, and pay my respects to their elders past, present and emerging."

National Anthem

At this point in the meeting the Mayor, Councillor Christou asked all of those in attendance to stand for the playing of the Australian National Anthem.

Notice of Live Streaming of Council Meeting

The Mayor, Councillor Christou advised that the Council meeting was being streamed live on Council's website and members of the public must ensure their speech to the Council is respectful and use appropriate language.

Apologies/Leave of Absence

Nil.

Declarations of Pecuniary & Non Pecuniary Conflicts of Interest

Councillor Rahme declared a pecuniary interest in item C06/21-788 as his family and members of his family reside in properties in Granville. As such, he exited the Chamber during the consideration of this item.

Councillor Hamed declared a less than significant non-pecuniary interest in item C06/21-790 as members of her family reside in Susan Street, Auburn.

Councillor Zreika declared a less than significant non-pecuniary interest in item C06/21-790 as a former client of his owns property affected by the proposed planning controls.

Confirmation of Minutes

Min.1185 C06/21-780 Minutes of the Ordinary Meeting of Council - 2 June 2021

Resolved (Attie/Sarkis)

That Council confirm the minutes of the Ordinary Meeting of Council held on 2 June 2021.

Min.1186 Matter of Urgency – Councillor Sarkis

Resolved (Sarkis/Garrard)

That in accordance with Clause 9.3(b) of the Cumberland Council Code of Meeting Practice, Standing Orders be suspended to permit the Matter of Urgency in relation to mobile food vending vehicles.

Min.1187 Matter of Urgency – Mobile Food Vending Vehicles

Resolved (Sarkis/Garrard)

That:

1. Pine Road, Yennora be added to the parking exclusion list in the Mobile Food Vending Vehicles Guidelines.
2. Council investigate alternate restrictions as part of the guidelines in relation to the vehicles operating within close proximity of other businesses (within 400 metres).

Min.1188 Resumption of Standing Orders

Resolved (Attie/Sarkis)

That in accordance with Clause 8.2 of the Code of Meeting Practice, Council resume the normal order of business.

Public Forum:

Speakers on Items on the Council Meeting Agenda

Speaker	Item #	Suburb
Gillian Kirby	C06/21-789 Proposed Planning Controls for Targeted Sites in Merrylands and Guildford	Merrylands
Patrick Condon	C06/21-789 Proposed Planning Controls for Targeted Sites in Merrylands and Guildford	Merrylands
Edsel Aquino	C06/21-790 Proposed Planning Controls for Targeted Sites in Auburn and Lidcombe	Auburn

Min. 1189 Suspension of Standing Orders

Resolved (Sarkis/Attie)

That in accordance with Clause 8.2 of the Code of Meeting Practice, Council suspend standing orders to allow Items C06/21-783, C06/21-788, C06/21-789 and C06/21-790 to be brought forward for consideration at this time of the Meeting.

Min.1190 C06/21-783 Adoption of the Operational Plan and Fees and Charges 2021-22 - Post Exhibition

Motion (Garrard/Sarkis)

That Council adopt the *Draft Operational Plan 2021-22* and *Fees and Charges 2021-22* as outlined in Attachment 1 and 2 of this report.

Amendment (Lake/Saha)

Add

"Subject to the following:

1. Community and Organisational Development Services
 - a. Community grants - increase program from \$50,000 to \$200,000 allocated as follows:
 - Community participation grants: \$150,000
 - Small equipment grants: \$50,000
 - b. Social research and plan project - restore with a budget of \$42,000

- c. Community Centres Service - increase budget from \$2M to \$2.5M
- d. Youth Development Service - increase budget from \$684,000 to \$1M
- 2. General Manager Unit Services
 - a. Strategic Communications Business Unit (Communications, Marketing and Media Service) - Identify savings opportunities to decrease budget.
- 3. Finance and Governance Services
 - a. Information Systems and Data Service - identify savings opportunities to decrease budget.
 - b. Technology Services - identify savings opportunities to decrease budget.
- 4. 2021/22 Fees and Charges
 - a. That discounted (subsidised) rates for the hire and use of community facilities in accordance with the Category A and B definitions to be applied to the halls, multipurpose rooms and meeting spaces of the Granville Centre."

The Amendment moved by Councillor Lake seconded by Councillor Saha on being Put was declared LOST.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Amendment: Campbell, Elmore, Hamed, Huang, Lake and Saha.

Councillor(s) Against the Amendment: Attie, Christou, Cummings, Garrard, Rahme, Sarkis, Zaiter and Zreika.

The Motion moved by Councillor Garrard seconded by Councillor Sarkis on being Put was declared CARRIED on the casting vote of the Mayor.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Christou, Garrard, Rahme, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Campbell, Cummings, Elmore, Hamed, Huang, Lake and Saha.

Councillor Rahme left the Meeting at 7:04pm and returned to the Meeting at 7:06pm during the consideration of this item.

Councillor Sarkis left the Meeting at 7:13pm and returned to the Meeting at 7:14pm during the consideration of this item.

Min.1191 C06/21-788 Proposed Planning Controls for Granville Town Centre and Surrounds

Note: Councillor Rahme declared a pecuniary interest in this item and as such exited the Chamber at 7:36pm prior to the consideration of this item and returned to the Chamber at 7:37pm following the consideration of this item.

Resolved (Attie/Garrard)

That Council:

1. Note the advice of the Cumberland Local Planning Panel on the draft Planning Proposal for the Granville Town Centre and surrounds.
2. Endorse the proposed planning controls for the Granville Town Centre and surrounds, as outlined in this report and provided at Attachments 1 to 3.
3. Endorse that the Planning Proposal for the Granville Town Centre and surrounds be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination.
4. Endorse that the draft Development Control Plan for the Granville Town Centre be publicly exhibited in accordance with statutory and policy requirements.
5. Endorse that the draft Public Domain Plan for the Granville Town Centre be publicly exhibited in accordance with policy requirements.
6. Note that the Planning Proposal for the Granville Town Centre and surrounds will be publicly exhibited at the same time as the draft Development Control Plan and draft Public Domain Plan.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Campbell, Christou, Cummings,
Elmore, Garrard, Hamed, Huang, Lake, Saha,
Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Nil

Min.1192 C06/21-789 Proposed Planning Controls for Targeted Sites in Merrylands and Guildford**Motion (Attie/Zreika)**

That Council:

1. Note the advice of the Cumberland Local Planning Panel on the draft Planning Proposal for targeted sites in Merrylands and Guildford.
2. Endorse the proposed planning controls for targeted sites in Merrylands and Guildford, as outlined in this report and provided at Attachments 1 to 5.

3. Endorse that the Planning Proposal for targeted sites in Merrylands and Guildford, and the Planning Proposal for Victor Brazier Park, Guildford, be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination.
4. Endorse that the draft Development Control Plan amendments for identified locations in the Merrylands Town Centre be publicly exhibited in accordance with statutory and policy requirements.
5. Endorse that the draft Public Domain Plan for the Merrylands Town Centre be publicly exhibited in accordance with policy requirements.
6. Note that the Planning Proposal for targeted sites at Merrylands and Guildford will be publicly exhibited at the same time as the draft Development Control Plan and draft Public Domain Plan.
7. Note that a public hearing regarding the reclassification land from community to operational, as identified in the Planning Proposal for Victor Brazier Park, Guildford, is anticipated to be required as part of the post-Gateway consultation process, consistent with statutory requirements.

Amendment (Lake/Campbell)

Insert the words "except for 7-10 Wayman Place, Merrylands" at the end of point 2 and 3.

The Amendment moved by Councillor Lake seconded by Councillor Campbell on being Put was declared LOST on the casting vote of the Mayor.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Amendment: Campbell, Cummings, Elmore, Hamed, Huang, Lake and Saha.

Councillor(s) Against the Amendment: Attie, Christou, Garrard, Rahme, Sarkis, Zaiter and Zreika.

The Motion moved by Councillor Attie seconded by Councillor Zreika on being Put was declared CARRIED on the casting vote of the Mayor.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Christou, Garrard, Rahme, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Campbell, Cummings, Elmore, Hamed, Huang, Lake and Saha.

Councillor Rahme left the Meeting at 7:39pm and returned to the Meeting at 7:43pm during the consideration of this item.

Min.1193 C06/21-790 Proposed Planning Controls for Targeted Sites in Auburn and Lidcombe**Motion (Attie/Zreika)**

That Council:

1. Note the advice of the Cumberland Local Planning Panel on the draft Planning Proposal for targeted sites in Auburn and Lidcombe.
2. Endorse the proposed planning controls for targeted sites in Auburn and Lidcombe, as outlined in this report and provided at Attachments 1 to 2.
3. Endorse that the Planning Proposal for targeted sites in Auburn and Lidcombe be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination.
4. Endorse that the draft Development Control Plan for Auburn Town Centre be publicly exhibited in accordance with statutory and policy requirements.
5. Note that the Planning Proposal for targeted sites in Auburn and Lidcombe will be publicly exhibited at the same time as the draft Development Control Plan for Auburn Town Centre.
6. Omit the Gelibolu Pde, Dartbrook Rd, Rawson St and the eastern part of Susan St and Beatrice St area from the Planning Proposal and undertake a detailed study for these areas.

Amendment (Campbell/Huang)

Include the omission of the Auburn Road proposal in point 6.

The Amendment moved by Councillor Campbell seconded by Councillor Huang on being Put was declared LOST.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Amendment: Campbell, Elmore, Hamed, Huang, Lake and Saha.

Councillor(s) Against the Amendment: Attie, Christou, Cummings, Garrard, Rahme, Sarkis, Zaiter and Zreika.

The Motion moved by Councillor Attie seconded by Councillor Zreika on being Put was declared CARRIED.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Christou, Cummings, Elmore, Garrard, Hamed, Rahme, Saha, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Campbell, Huang and Lake.

Min.1194 Items by Exception

Resolved (Sarkis/Elmore)

That Council adopt items C06/21-781, C06/21-784, C06/21-785, C06/21-786 and C06/21-787 on the Council Agenda in bulk as per the recommendations in the reports.

Min.1195 C06/21-781 Legal Report

Resolved (Sarkis/Elmore)

That the report be received.

Min.1196 C06/21-784 Update on Approved Mayoral Community Fund Applications

Resolved (Sarkis/Elmore)

That Council receive the report.

Min.1197 C06/21-785 Monthly Management Accounts - April 2021

Resolved (Sarkis/Elmore)

That Council receive the report.

Min.1198 C06/21-786 Investment Report - May 2021

Resolved (Sarkis/Elmore)

That Council receive the 31 May 2021 Investment Report.

Min.1199 C06/21-787 Making Rates and Fixing Charges

Resolved (Sarkis/Elmore)

That:

1. Council utilises provisions under the *Local Government Amendment Bill 2021* to achieve gradual rates harmonisation over a 4-year period, commencing 1 July 2021.
-

Council resolved to implement gradual harmonisation on 21 October 2020, Item No: C10/20-582, and all provisions were included on page 20 of the Operational Plan 2021-2022.

2. Council makes the Rates and Charges for the following rating structures for the 2021/2022 rating year in accordance with Chapter 15, parts 4 and 5 of the *Local Government Act 1993*:

Subcategory: Former Auburn City Council Rate Path

An Ordinary Residential rate of zero point zero zero one five nine nine six (0.0015996) cents in the dollar on the land value of all rateable land categorised as Residential in the former Auburn City Council area, subject to a minimum ordinary rate of six hundred and fifty dollars (\$650) per assessment be made and levied for the rating year 1 July 2021 to 30 June 2022.

An Ordinary Business General amount of zero point zero zero three six (0.0036) cents in the dollar applied to the land value on all parcels of rateable land categorised as Business General in the former Auburn City Council area, subject to a minimum ordinary rate of one thousand two hundred dollars (\$1200) per assessment be made and levied for the rating year 1 July 2021 to 30 June 2022.

An Ordinary Business Industrial, including Multi Level Shopping Centre, amount of zero point zero zero four three (0.0043) cents in the dollar applied to the land value on all parcels of rateable land categorised as Business Industrial in the former Auburn City Council area, subject to a minimum ordinary rate of one thousand two hundred dollars (\$1200) per assessment be made and levied for the rating year 1 July 2021 to 30 June 2022.

Subcategory: Former Holroyd City Council Rate Path

An Ordinary Residential rate of zero point zero zero two one seven three nine (0.0021739) cents in the dollar applied to the land value of all rateable land categorised as Residential in the former Holroyd City Council area, subject to a minimum ordinary rate of six hundred and fifty dollars (\$650) per assessment be made and levied for the rating year 1 July 2021 to 30 June 2022.

An Ordinary Business General amount of zero point zero zero five three (0.0053) cents in the dollar applied to the land value on all parcels of rateable land categorised as Business General in the former Holroyd City Council area, subject to a minimum ordinary rate of one thousand two hundred dollars (\$1200) per assessment be made and levied for the rating year 1 July 2021 to 30 June 2022.

An Ordinary Business Industrial, including Multi Level Shopping Centre, amount of zero point zero zero four six five (0.00465) cents in the dollar applied to the land value on all parcels of rateable land categorised as Business Industrial in the former Holroyd City Council area, subject to a minimum ordinary rate of one thousand two hundred dollars (\$1200) per assessment be made and levied for the rating year 1 July 2021 to 30 June 2022.

Subcategory: Former Parramatta City Council Rate Path

An Ordinary Residential rate of zero point zero zero one eight five five (0.001855) cents in the dollar applied to the land value of all rateable land categorised as Residential in the former Parramatta City Council area, subject to a minimum ordinary rate of six hundred and fifty dollars (\$650) per assessment be made and levied for the rating year 1 July 2021 to 30 June 2022.

An Ordinary Business General amount of zero point zero zero six zero (0.0060) cents in the dollar applied to the land value on all parcels of rateable land categorised as Business General in the former Parramatta City Council area, subject to a minimum ordinary rate of one thousand two hundred dollars (\$1200) per assessment be made and levied for the rating year 1 July 2021 to 30 June 2022.

An Ordinary Business Industrial, including Multi Level Shopping Centre, amount of zero point zero zero seven four (0.0074) cents in the dollar applied to the land value on all parcels of rateable land categorised as Business Industrial in the former Parramatta City Council area, subject to a minimum ordinary rate of one thousand two hundred dollars (\$1200) per assessment be made and levied for the rating year 1 July 2021 to 30 June 2022.

3. Council adopt the overdue Rates and Charges interest rate, as advised by the Minister for Local Government, of 6% for the period 1 July 2021 to 30 June 2022 and in accordance with Section 566(3) of the Act.
4. Pensioner rate rebates continue to apply with eligible pensioners receiving a mandatory rebate on their Rates and Domestic Waste Management Charge, to a maximum of \$250.00, plus an additional pensioner voluntary rebate of up to \$25.00 per eligible rate payer in accordance with Council Policy. Those eligible pensioners that have owned and resided in the Cumberland City LGA for 5 consecutive years will receive an additional voluntary rebate of \$75. The maximum rebate for all eligible pensioners will be \$350 (up to \$250 mandatory rebate and up to \$100 voluntary rebate).
5. The following Stormwater Management Levy be proposed:
 - Residential - \$25 per property
 - Residential (Strata lots) - \$12.50 per Strata Unit
 - Business - \$25 per 350 sqm capped at \$500 per property maximum
 - Business (Strata lots) - \$12.50 per Strata Unit.
6. Council make the following annual charges for Domestic Waste/ Recycling Services for 2021/2022:

240L garbage bin, 240L green waste and 240L recycling bin (single unit dwellings only)	Service	\$688
240L garbage bin and 240L recycling bin (former Holroyd only)	Service	\$588
120L/140L garbage bin, 240L green waste and 240L recycling bin	Service	\$530

120L/140L garbage bin, 240L recycling bin (strata properties only)	Service	\$508
Availability charge	Service	\$165
Additional 240L recycling bin	Service	\$90
Additional 240L green waste bin	Service	\$90

Min.1200 C06/21-782 Power of Expulsion from Council Meetings

Motion (Attie/Zaiter)

That Council:

1. Receive the report.
2. Amend the Code of Meeting Practice to reflect Section 10(2)(b) of the Local Government Act and amend any inconsistencies provided it can legally be done.

Amendment (Lake/Saha)

Omit item 2 from the motion.

The Amendment moved by Councillor Lake seconded by Councillor Saha on being Put was declared LOST.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Amendment: Campbell, Elmore, Hamed, Huang, Lake and Saha.

Councillor(s) Against the Amendment: Attie, Christou, Cummings, Garrard, Rahme, Sarkis, Zaiter and Zreika.

The Motion moved by Councillor Attie seconded by Councillor Zaiter on being Put was declared CARRIED.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Christou, Cummings, Garrard, Rahme, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Campbell, Elmore, Hamed, Huang, Lake and Saha.

**C06/21-783 Adoption of the Operational Plan and Fees and Charges
2021-22 - Post Exhibition**

This item was dealt with earlier in the meeting.

C06/21-784 Update on Approved Mayoral Community Fund Applications

This item was dealt with earlier in the meeting.

C06/21-785 Monthly Management Accounts - April 2021

This item was dealt with earlier in the meeting.

C06/21-786 Investment Report - May 2021

This item was dealt with earlier in the meeting.

C06/21-787 Making Rates and Fixing Charges

This item was dealt with earlier in the meeting.

C06/21-788 Proposed Planning Controls for Granville Town Centre and Surrounds

This item was dealt with earlier in the meeting.

C06/21-789 Proposed Planning Controls for Targeted Sites in Merrylands and Guildford

This item was dealt with earlier in the meeting.

C06/21-790 Proposed Planning Controls for Targeted Sites in Auburn and Lidcombe

This item was dealt with earlier in the meeting.

Min.1201 C06/21-791 Cumberland Local Planning Panel - Appointment of Chair, Alternate Chairs and Expert Members, and Commencement of Process for Community Representatives**Resolved (Attie/Elmore)**

That Council:

1. Appoint Mr. Stuart McDonald as Chair of the Cumberland Local Planning Panel, as selected by the Minister for Planning, for a term from 1 July 2021 up to 29 February 2024;
2. Appoint Ms. Elizabeth Kinkade PSM and Mr. Michael Leavey as Alternate Chairs of the Cumberland Local Planning Panel, as selected by the Minister for Planning, for a term from 1 July 2021 up to 29 February 2024;

3. Appoint the Expert Members of the Cumberland Local Planning Panel, as selected by Council and outlined in Table 1 of the report, for a term from 1 July 2021 up to 29 February 2024;
4. Set the Panel Remuneration in accordance with the Remuneration Determination from the Minister of Planning and outlined Attachment 3; and
5. Endorse that the process to select Community Representatives on the Cumberland Local Planning Panel for the new term from early 2022 commence in September 2021.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Campbell, Christou, Cummings, Elmore, Garrard, Hamed, Huang, Lake, Rahme, Saha, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Nil

C06/21-792 Questions on Notice - Submitted by Councillor Lake

Note: Council received the answers to these questions as published in the Business Paper for this Ordinary Council Meeting (16 June 2021).

Min.1202 Closed Session

Resolved (Attie/Zreika)

At this stage of the meeting being 8:31pm, the Mayor advised that in accordance with Section 10a of the *Local Government Act 1993*, the meeting would move into Closed Session, with the members of the press and public excluded from the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session being withheld. This action was taken as the items listed were within the following provisions under Section 10a of the *Local Government Act*:-

(2) *The matters and information are the following:*

- (d) *commercial information of a confidential nature that would, if disclosed—*
- (i) *prejudice the commercial position of the person who supplied it, or*
 - (ii) *confer a commercial advantage on a competitor of the council, or*
 - (iii) *reveal a trade secret.*

Min.1203 Expulsion from Meeting – Councillor Campbell

Note: At this point of the meeting the Mayor, Councillor Christou requested on multiple occasions that Councillor Campbell retract remarks made deemed as offensive, as Councillor Campbell advised Councillor Zaiter to "shut up." Councillor Campbell refused to retract the remarks made, and further advised the Mayor, Councillor Christou "you can shut up too".

Resolved (Rahme/Zaiter)

That Councillor Campbell be expelled from the meeting in accordance with Clause 15.16 of the Code of Meeting Practice.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Christou, Cummings, Garrard, Rahme, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Campbell, Elmore, Hamed, Huang, Lake and Saha.

Min.1204 Open Session**Resolved (Attie/Elmore)**

Council returned to Open Session at 9:02pm to resolve the below Confidential Item:

RES06/21-9 Notice of Rescission - C06/21-778 - Notice of Motion - Productivity Improvements

Min.1205 RES06/21-9 Notice of Rescission - C06/21-778 - Notice of Motion - Productivity Improvements**Motion (Lake/Saha)**

Pursuant to Notice, Councillors Lake, Elmore and Hamed move the following Resolution of Council 2/06/2021 (Item C06/21-778) be rescinded:

That Council:

1. Note the existence of extenuating circumstances which mean a satisfactory result would not be achieved by inviting tenders, thereby exempting Council from usual tendering requirements pursuant to s.55(3)(i) of the *Local Government Act 1993*. The reasons for the extenuating circumstances arising are due to the proposal being a contingency based proposal.
2. Authorises and delegates the Mayor and Acting General Manager to prepare and execute a Contract for the maximum value of \$450,000 with LSI Consulting Pty Ltd (LSI) that gives effect to the LSI proposal previously reported to Council at the 5 May 2021 Ordinary Council Meeting.

The Rescission Motion moved by Councillor Lake, seconded by Councillor Saha on being Put was declared LOST.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Elmore, Hamed, Huang, Lake and Saha.

Councillor(s) Against the Motion: Attie, Christou, Cummings, Garrard, Rahme, Sarkis, Zaiter and Zreika.

The Mayor, Councillor Christou closed the meeting at 9:06pm.

Chairperson_____ Acting General Manager_____

Item No: C07/21-794

CUMBERLAND AFFORDABLE HOUSING POLICY - POST-EXHIBITION REPORT

Responsible Division: Environment & Planning
Officer: Director Environment & Planning
File Number: CS-206
Community Strategic Plan Goal: *A resilient built environment*

SUMMARY

This report recommends the adoption of the Cumberland Affordable Housing Policy following a period of public exhibition.

RECOMMENDATION

That Council adopt the Cumberland Affordable Housing Policy, as provided in Attachment 2.

REPORT

On 18 December 2019, the current Interim Affordable Housing Policy was readopted by Council and required a review in 2021. This was to allow for the preparation of the Cumberland Affordable Housing Strategy and the review of the Cumberland City Council Planning Agreements Policy and Guidelines.

The Draft Affordable Housing Policy (Draft Policy) was prepared to align it with the latest legislative, policy and strategic framework and to clarify the policy's intent and the available pathways through which Council's affordable housing targets can be achieved.

The Draft Policy was considered by Council at its 5 May 2021 meeting (Item C05/21-738), and was endorsed for public consultation.

The Draft Policy was exhibited for 28 days between 10 May 2021 and 7 June 2021. Three submissions were received during the exhibition period, being one from the Community Housing Industry Association NSW and two from Community Housing Providers.

The key matters raised in the submissions provided positive feedback towards Council on its affordable housing policy, performance targets and other mechanisms for delivering affordable housing and potential partnering arrangements with affordable housing providers. The submissions are summarised in Attachment 1 along with Council's response. No changes to the draft policy are recommended in response to the received submissions.

In consideration of these submissions, it is recommended that Council adopt the Cumberland Affordable Housing Policy as provided in Attachment 2.

COMMUNITY ENGAGEMENT

On 5 May 2021, Council resolved that the Draft Policy be placed on public exhibition [Item C05/21-738] with a report to be provided back to Council following the conclusion of the exhibition.

The Draft Policy was subsequently exhibited for 28 days between 10 May 2021 and 7 June 2021. Three submissions were received during the exhibition period, being one from the Community Housing Industry Association NSW and two from Community Housing Providers.

Information on the public consultation, along with the Draft Policy, was made available on Council's website and at Council's Auburn and Merrylands Service Centres

POLICY IMPLICATIONS

The policy implications relate to the delivery of affordable housing for residents of Cumberland City, consistent with the Central City District Plan, the Cumberland City Council Local Strategic Planning Statement and Council's Affordable Housing Strategy.

RISK IMPLICATIONS

There are no risk implications for Council associated with this report.

FINANCIAL IMPLICATIONS

There are no financial implications for Council associated with this report.

CONCLUSION

This report addresses the submissions received during the public exhibition of the Draft Policy. After consideration of the submissions, it is recommended that Council adopt the Cumberland City Council Affordable Housing Policy as exhibited.

ATTACHMENTS

1. Summary of Submissions [↓](#)
2. Cumberland Affordable Housing Policy [↓](#)

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-794

Attachment 1
Summary of Submissions

Affordable Housing Policy - Key Issues Raised in Submissions

Key Issues	Submission Summary	Recommendations
Affordable housing targets	Concerned that voluntary planning agreements (VPAs) are an inefficient mechanism for securing contributions, particularly to meet the 15% additional residential floor space target set by Council in strategic locations	Noted. Council's approach of seeking an affordable housing target of 5-10% is consistent with the Central City District Plan. Mechanisms for the delivery of affordable housing are varied and VPAs provide a suitable delivery mechanism for established LGAs such as Cumberland with consideration of a variety of factors, including the viability of development. No change to the draft policy is proposed.
	The establishment of an affordable housing contribution scheme, applicable to future planning processes, should be considered for areas such as Westmead South and precincts within the Parramatta Road Corridor	Council is in the process of preparing to undertake Place Planning for both Westmead South and the Parramatta Road Corridor. A range of mechanisms including investigating the suitability of an affordable housing scheme will be considered as part of the planning work, consistent with State Government policies and plans. No change to the draft policy is proposed.
	Setting specific affordable housing targets is critical to measure progress - such as a target number of additional dwellings by a specific date.	Council will continue to explore new planning and delivery mechanisms for the provision of affordable housing in the LGA, as they become available. The intent is to ensure the most appropriate outcome for the community and future occupants, without sterilising development. No change to the draft policy is proposed.
	<p>Council's 15% target for additional residential floor space to apply to strategic locations undergoing significant urban renewal within Cumberland City should be made mandatory.</p> <p>Council's aspirational targets and use of terms such as 'as far as practicable' gives developers significant leeway to move away from these as 'not being practical'.</p>	Council's 15% target supports the delivery of affordable housing in strategic locations undergoing significant urban renewal and where development feasibility supports delivery. With these specific requirements, it is not necessary to mandate the target. No change to the draft policy is proposed.

Other Affordable Housing Mechanisms	<p>Council should explore other mechanisms for the provision of affordable housing including:</p> <ul style="list-style-type: none"> • An affordable housing contributions scheme; • Planning incentives; Subsidised land costs for affordable housing; and • Joint-venture project partnerships with Community Housing Providers (CHPs). 	<p>Council will continue to explore a variety of mechanisms for the provision of affordable housing in close partnership with relevant stakeholders, including CHPs and the Land and Housing Corporation. No change proposed to the draft policy.</p>
Affordable housing partnerships	<p>A greater degree of partnership such as joint ventures should be sought with CHPs beyond management of Council owned affordable housing by CHPs.</p>	<p>Council will continue to work closely with the Community Housing Industry Association NSW and CHPs to explore opportunities for increased partnerships. No change to the draft policy is proposed.</p>
	<p>Small-scale redevelopment or renewal of existing social housing stock may have the most potential to increase supply in the Cumberland local government area. Council should contact the Land and Housing Corporation regarding the potential redevelopment of existing social housing assets in its LGA.</p>	<p>Council will continue liaising with the Land and Housing Corporation to understand the future planning of their land holdings in the Cumberland City and to explore how potential redevelopment of existing social housing assets could result in increases in affordable housing stock. No change to the draft policy is proposed.</p>
Review of Council's planning controls	<p>Planning controls should be reviewed to ensure that they contribute to affordable housing feasibility and delivery through various mechanisms such as planning incentives (height or FSR bonuses in exchange for affordable housing provision), reduction in car parking requirements to support the viability of affordable housing development, etc.</p>	<p>Council will continue to monitor the implementation of its planning controls to ensure the delivery of affordable housing is supported in Cumberland City. No change to the draft policy is proposed.</p>
Key performance indicators	<p>Inclusion of key performance indicators to assist with the monitoring and review of Council's affordable housing policies, with allocation of a Council staff member who will be responsible for its implementation.</p>	<p>Council will seek to identify appropriate performance indicators for monitoring the delivery of the affordable housing policy and include outcomes in its reporting. No change to the draft policy is proposed.</p>

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-794

Attachment 2
Cumberland Affordable Housing
Policy

CUMBERLAND
CITY COUNCIL

Affordable Housing Policy

AUTHORISATION & VERSION CONTROL

Policy Number	POL-014
Policy Owner	Director Environment & Planning
Date Adopted	xxxx
Version No	1
Document ID	2067651
Review Date	xxxx

INTRODUCTION

Affordable housing encompasses a broad spectrum of housing, providers, tenure, and delivery models. Affordable housing products vary for various target groups and range from social (community and public) housing to subsidised housing such as group homes for those most in need, to discount private rental housing, boarding houses, secondary dwellings, dual occupancies and smaller apartments for key workers and low and moderate income households.

Housing affordability is a critical issue in Cumberland City and across Greater Sydney. In Cumberland City, 70% of the total very-low, low- and moderate-income renting households are currently in rental housing stress. Moreover, the rental market is becoming more far important, with an increase in long-term renters, and a total of 41.4% of renting households (private rental and social housing) in 2016 compared with 34.9% for Greater Sydney.

This Policy focuses on affordable rental housing where local government has the capacity and capability to provide this type of affordable housing. This focus also reflects evidence that rental stress is of more concern than mortgage stress. Out of around 19,000 households in housing stress in the Cumberland area in 2016, around 13,500 (71%) were in rental stress and 5,500 (29%) were in purchase stress, and a far higher proportion of very-low and low income households occupy the private rental market as opposed to the mortgage market.

PURPOSE

This Policy seeks to address housing affordability through the identification of mechanisms available to Council for the provision of affordable housing. It aims to:

- support the provision of affordable housing in Cumberland City, with a priority for households on very low and low incomes as well as key workers;
- enable the dedication of dwellings to Council and/or collection of monetary contributions for the provision of affordable housing; and
- support the achievement of affordable housing outcomes as outlined in district and local strategic planning frameworks.

SCOPE

The Policy applies to all land and development within Cumberland City.

DEFINITIONS

In this Policy, the following terminology is used:

Act means the Environmental Planning and Assessment Act 1979.

Affordable Housing is defined by the Environmental Planning and Assessment Act 1979 as housing for very low, low or moderate incomes households.

ARH SEPP 2009 means State Environmental Planning Policy (Affordable Rental Housing) 2009.

Community housing provides affordable rental housing to people on very low to moderate incomes and includes a range of housing including housing for people with very high needs (usually in partnership with a specialised support provider). Community housing providers are

increasingly working in partnership with support providers, public housing providers, local government, and the private sector.

Council means Cumberland City Council.

Development application has the same meaning as in the Act.

Key workers are those workers who are employed in roles essential to the functioning of a city. While there is no universal definition of the term, key workers typically include police, fire fighters, teachers, childcare workers and other employee groups who undertake work considered essential for the day-to-day functioning of a city, and who are typically paid low to moderate salaries.

Low household income is defined in SEPP 70 as households on between 50% to 80% of median household income for Greater Sydney.

Moderate household income is defined in SEPP 70 as households on between 80% and 120% of median household income for Greater Sydney.

Planning proposal has the same meaning as in the Act.

SEPP 70 means the State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes).

Social housing is secure and affordable rental housing provided by the Land and Housing Corporation for people on low incomes who are unable to access suitable accommodation in the private rental market. Social housing includes public, Aboriginal and community housing.

Very low household income is defined in SEPP 70 as households on less than 50% of median household income for Greater Sydney.

STRATEGIC CONTEXT

Background

Households paying more than 30% of their gross household income on housing costs are considered to be in housing stress, and households paying more than 50% are considered to be in severe housing stress. When households spend more than 30% of their household income on rental or mortgage payments, it restricts their capacity to adequately meet other basic needs such as food, clothes, medical care, education, and transport.

Affordable housing is essential for social equity and community wellbeing, a diverse labour market, employment growth and economic development, and environmental sustainability. A lack of affordable housing affects the quality of life of families and individuals. It results in the displacement of long-term residents and breakdown of the community's social fabric. It also impacts on an area's economic stability and growth - the labour force is affected when lower paid key workers leave their community to find cheaper housing.

Access to affordable, appropriate, and secure housing is a basic requirement for all people and an essential component of an inclusive and sustainable city. However, with housing costs increasing at a faster rate than household incomes and Sydney being Australia's least affordable housing market, there is a significant challenge in meeting the affordable housing needs of very-low, low- and moderate-income households in Cumberland City.

Affordable housing in Cumberland City

Current affordable housing provision in Cumberland City includes a mix of social housing, affordable rental housing, boarding houses, secondary dwellings and dual occupancies. 4,600

dwellings are managed by the Land and Housing Corporation, 100 dwellings by the Aboriginal Housing Office, and 1,000 dwellings by four community housing providers currently active in Cumberland. Council owns eight affordable housing units and 76 seniors units.

Secondary dwellings and dual occupancies are a form of privately owned affordable housing as part of the affordable housing of the spectrum with approvals for Cumberland City, being the second highest total in Greater Sydney.

Affordable housing is currently provided in Cumberland City through a range of mechanisms. These include provision by a community housing provider or State agency, in connection with a planning proposal or development application that is dedicated to Council, or affordable housing provided through development in response to the ARH SEPP 2009.

Despite considerable growth in private rental in the Cumberland City over the past decade, the proportion of rental stock affordable to very low-income renters in Cumberland fell from 30% to 22% and to low income households fell from 53% to only 34% from 2006-2016. There was also a loss of such properties in absolute terms.

Cumberland City continues to experience high levels of population growth, with this trend forecast to continue to 2036. It is estimated that over 10,700 new affordable housing dwellings will be required in Cumberland between 2016 and 2036, of which approximately 70% will be needed for very low-income households, and 50% of which will need to be larger dwellings. This reflects the diverse household structures and cultures within Cumberland City.

PRINCIPLES

The provision of affordable housing in Cumberland City will be governed by the following principles:

1. Affordable housing is to be created and managed so that a socially diverse residential population representative of all income groups is developed and maintained in a locality.
2. Affordable housing is to be made available to very low, low- or moderate-income households, or any combination of these.
3. Affordable housing is to be rented to appropriately qualified tenants and at an appropriate rate of gross household income.
4. Land provided for affordable housing is to be used for the purpose of the provision of affordable housing.
5. Buildings provided for affordable housing are to be managed so as to maintain their continued use for affordable housing.
6. Rental from affordable housing, after deduction of normal landlord's expenses (including management and maintenance costs and all rates and taxes payable in connection with the dwellings), is generally to be used for the purpose of improving or replacing affordable housing or for providing additional affordable housing.
7. Affordable housing is to consist of dwellings constructed to a standard that is consistent with other dwellings in the vicinity.

REQUIREMENTS

Council's position in relation to affordable housing is as follows:

1. Council encourages the provision of affordable housing, including infill affordable rental housing (dual occupancies, multi-dwelling housing or residential flat buildings) and boarding houses, in high-amenity locations that are in walking distance to public transport services.
2. Cumberland City supports and will facilitate the following targets related to affordable housing (as far as practicable).

Affordable Housing Target	Considerations
The Central City District Plan target to provide 5 – 10% of additional residential floor space, to be dedicated for very low- and low-income households.	Apply to planning proposals and development applications.
A Council target to provide 15% of additional residential floor space, to be dedicated for very-low, low- and moderate-income households.	<p>Apply to strategic locations within Cumberland City undergoing significant urban renewal.</p> <p>Apply where development feasibility can underpin efforts to support the delivery of this affordable housing target.</p>

3. Where a planning proposal includes a residential component, Council will seek a proportion of additional residential floor space to be dedicated to Council as affordable housing for very low and low-income households, as outlined in Council's *Planning Agreements Policy* and *Planning Agreements Guidelines*.
4. Where the development application or proposed development application includes a residential component, Council will seek affordable housing to be dedicated to Council through consideration of matters, as outlined in Council's *Planning Agreements Policy* and *Planning Agreements Guidelines*.
5. Further contributions for affordable housing can be accepted for moderate income households through planning agreements.
6. Council's *Planning Agreements Guidelines* outline matters that should be taken into consideration for inclusion in planning agreements, including target household, mix of dwelling sizes, extent of universal design requirements and timing for dedication of affordable housing, among others.
7. Affordable housing contributions will be dedicated to Council as whole dwellings. Monetary contributions will be sought to make up the remainder of target floor space area, determined by the market rate.
8. Council will hold monetary contributions received for affordable housing and use them for the intended purpose, as sufficient funds become available.
9. Council may set tenant eligibility for access to affordable housing. Details of eligibility criteria will be specified in procedural documents. Criteria may include income testing, current living arrangements and location, location of work in the Cumberland area, and whether the household includes a person with a disability.
10. Council may seek arrangements with local community housing providers active in the Cumberland area for the appropriate management of the Council owned affordable housing.

RELATED LEGISLATION

This Policy is consistent with the following:

- Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- Greater Sydney Region Plan: A Metropolis of Three Cities (Greater Sydney Commission, 2018)
- Central City District Plan (Greater Sydney Commission, 2018)
- Cumberland 2030: Our Local Strategic Planning Statement

RELATED DOCUMENTS AND COUNCIL POLICY

This Policy should be read in conjunction with:

- Cumberland Affordable Housing Strategy
- Cumberland Planning Agreements Policy
- Cumberland Planning Agreements Guidelines

Item No: C07/21-795

SUBMISSION ON PROPOSED EMPLOYMENT ZONES REFORM

Responsible Division: Environment & Planning
Officer: Director Environment & Planning
File Number: CS-247
Community Strategic Plan Goal: *A resilient built environment*

SUMMARY

In May 2021, the NSW Government commenced exhibition of a draft employment zones framework, outlining major reforms to existing employment related zones throughout the State. The proposed framework is on exhibition until 30 June 2021, with Council provided a small extension to make a submission until 12 July 2021.

This report provides an outline of the draft employment zones framework and the key considerations for Cumberland City Council. It is recommended that Council make a formal submission to the Department of Planning, Industry and Environment reflecting the key considerations for Cumberland City to ensure our local interests are respected and protected, and potential adverse impacts are minimised as far as possible.

RECOMMENDATION

That Council:

- 1. Endorse the draft submission at Attachment 3 and forward to the Department of Planning, Industry and Environment.**
- 2. Delegate authority to the Acting General Manager to finalise the draft submission, including any minor typographical or editorial changes.**

REPORT

Draft Employment Zones Framework

The Department of Planning, Industry and Environment (the Department) is proposing a simplified employment zones framework that seeks to:

- Clarify the strategic intent for each zone and minimise land use conflicts.
- Promote flexibility within the proposed zones, reducing the need for spot rezoning, and reducing the costs and complexity of development applications.
- Respond to the changing nature of business and industry.

- Better support councils in the delivery of the strategic vision contained in their Local Strategic Planning Statements and background studies.

The new framework is expected to be introduced through an amendment to the Standard Instrument LEP by September 2021, but would only come into effect after individual LEP amendments with each council by mid-2022.

Proposed employment zones

The Department is proposing to introduce five employment zones and three supporting zones to replace the 12 existing business and industrial zones in LEPs throughout the State. These new employment zones are:

- E1 Local Centre — to provide a range of retail, business and community uses (similar to the existing B1 Neighbourhood Centre and B2 Local Centre zones).
- E2 Commercial Centre — to provide the principal commercial centre for surrounding areas (similar to the existing B2, B3 Commercial Core, B4 Mixed Use and B7 Business Park zones).
- E3 Productivity Support — to provide a range of facilities and services, light industries, warehouses and offices (similar to the existing B5 Business Development, B6 Enterprise Corridor and B7 zones).
- E4 General Industrial — to provide a range of industrial, warehouse and related land uses (similar to the existing IN1 General Industrial and IN2 Light Industrial zones).
- E5 Heavy Industrial — to provide areas for industries that need to be separated from other land uses (similar to the existing IN1 and IN3 Heavy Industrial zones).

These employment zones will be complimented by the following supporting zones:

- MU1 Mixed Use — to focus on supporting genuine mixed-use development rather than one dominant use (similar to the existing B4 zone).
- W4 Working Foreshore — to reflect the existing IN4 Working Waterfront zone.
- SP4 Local Enterprise — to introduce a flexible mechanism for unique precincts (for example, special activation precincts and regional jobs precincts).

Amendments to land use provisions

The proposal also amends some land use provisions in the Standard Instrument LEP, including:

- Defining 'creative industry', 'data centres' and 'domestic goods repair and reuse facilities' and adding them to the land uses that can be included in land use tables in LEPs.
- Decoupling 'local distribution premises' from 'warehouse or distribution centres' so that developments like parcel lockers can be separately permitted.
- Clarifying that 'business premises' do not include shops.

Key considerations for Cumberland City

Key considerations for Cumberland City are summarised in the table below. It is recommended that Council make a formal submission to the Department reflecting these considerations which will seek to ensure that our local interests are respected and protected, and potential adverse impacts are minimised as far as possible through the implementation process.

Proposal	Submission
<i>Proposed employment zones</i>	
E1 Local Centre Zone	<ul style="list-style-type: none"> • Support the introduction of a single local centre zone. • Note concerns about the potential increased scope and intensity of uses for smaller scale centres (existing B1 zones). • Emphasise the importance of ensuring that local development controls set an appropriate scale of development and continue to define the centres hierarchy.
E2 Commercial Centre Zone	<ul style="list-style-type: none"> • Support the strategic intent of the zone to provide the principal commercial centre for surrounding areas. • Flag potential application for Merrylands Centre to support its potential as a strategic centre for Cumberland City, subject to inclusion of residential uses in the zone.
E3 Productivity Support Zone	<ul style="list-style-type: none"> • Support the introduction of a dedicated zone for urban services. • Note concerns about the potential increased scope and intensity of uses compared to existing B5 and B6 zones in Cumberland. • Consider simultaneous review of clause 5.4 miscellaneous permissible uses in the SI LEP to ensure controls for certain land uses meet the objectives of the zone.
E4 General Industrial Zone	<ul style="list-style-type: none"> • Support the introduction of a single 'general' industrial zone. • Note concerns about the potential increased scope and intensity of uses for smaller scale employment lands, especially where they interface with residential uses (existing IN2 zones). • Emphasise importance of ensuring that local development controls set an appropriate scale of development and continue to protect the amenity of adjoining and nearby sensitive land uses. • Consider expanding the application of the draft Cumberland LEP clause 6.11 buffer between industrial and residential zones to better manage interface issues.
E5 Heavy Industrial Zone	<ul style="list-style-type: none"> • Support strategic intent of the zone to provide areas for industries that need to be separated from other land uses. • Note potential legacy issue for an existing gas storage facility in Yennora, currently zoned IN1.
MU Mixed Use Zone	<ul style="list-style-type: none"> • Support strategic intent of the zone to focus on supporting genuine mixed-use development. • Note translation of new zone into the Cumberland LEP will require detailed review and consideration in the context of both the Cumberland LSPS and EILS.

Proposal	Submission
<i>Proposed amendments to land use provisions</i>	
Places of public worship	<ul style="list-style-type: none"> Note fundamental difference in approach to permissibility compared with the draft Cumberland LEP, and that these should not be mandated beyond what is currently provided. Outline the diverse and differing cultural and religious themes that surround all places of public worship in Cumberland and how activities associated with the development of public worship and multi-use facilities in Cumberland can result in changes to traffic flow, parking availability and impact on the prevailing amenity of an area. Emphasise importance of ensuring that local provisions continue to appropriately manage this type of development and address community expectations in our centres.
Commercial premises	<ul style="list-style-type: none"> Note concerns that certain land uses under the umbrella term 'Commercial Premises' (proposed as a mandated permissible use in the E1 Local Centre Zone) may not be suitable for smaller scale centres and some targeted mixed-use zones. Emphasise importance of maintaining an appropriate scale of 'Commercial Premises' commensurate with the defined centres hierarchy.
Vehicle body repair workshops and Vehicle repair stations	<ul style="list-style-type: none"> Note concerns that these uses may not be suitable in local centres which are typically surrounded by residential areas.
<i>Administrative items</i>	
Duplication of 'E' Zones in the Standard Instrument	<ul style="list-style-type: none"> Note concerns about potential confusion due to duplication of 'E' Zones in the Standard Instrument (i.e. existing Environmental Zones). Suggest potential alternative naming convention – Productivity 'P' Zones to align with Region and District Plan priorities.
Timeframes for review and implementation	<ul style="list-style-type: none"> Object to the proposed timeframes for review and implementation in the absence of a finalised and gazetted Cumberland LEP, as it is unclear if there may be unintended consequences for Council.

COMMUNITY ENGAGEMENT

The exhibition of the draft employment zones framework commenced in May 2021 and concludes on 30 June 2021. It is understood that feedback from councils, industry and government agencies will inform the final reforms package. The Department will also continue to work closely with individual councils and, where relevant, proponents to translate existing Business and Industrial Zones into the New Employment Zones Framework.

POLICY IMPLICATIONS

The New Employment Zones Framework is expected to be introduced through an amendment to the Standard Instrument LEP by September 2021. The new zones will sit alongside the existing land use tables until the changes are incorporated into updated Standard Instrument LEPs by mid-2022 (including the new Cumberland LEP).

The Department of Planning, Industry and Environment is working through savings and transitional arrangements for planning proposals currently underway and

undetermined development applications. Savings and transitional arrangements will also be prepared for the continuation of the existing zones during implementation.

RISK IMPLICATIONS

The public exhibition process enables Council to make a submission and to raise any relevant issues that can be addressed as part of the project. A decision needs to be made at this meeting, as public exhibition concluded on 30 June 2021 and a small extension to 12 July 2021 has been provided for Council's submission.

The proposed timeframe for implementation of the new employment zones framework is also a potential risk to Council. The draft Cumberland LEP is currently with the Department of Planning, Industry and Environment awaiting finalisation and gazettal. There are policy differences and inconsistencies in the proposed reform package compared to what Council has endorsed for the draft Cumberland LEP. In the absence of a finalised Cumberland LEP, Council cannot properly assess how the proposed framework will translate to the Cumberland City context, and there is the possibility of unforeseen consequences that are not detailed in Council's submission to the Department.

FINANCIAL IMPLICATIONS

There are no financial implications for Council associated with this report.

CONCLUSION

This report provides an overview of the draft Employment Zones Reform Package, and the attached submission outlines key implications for Cumberland City which have been identified by Council Officers. It is recommended that Council endorse the draft submission to be forwarded to the Department of Planning, Industry and Environment.

ATTACHMENTS

1. Proposed Employment Zones Framework – Position Paper (May 2021) [↓](#)
2. Draft Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [↓](#)
3. Draft Cumberland City Council Submission on the Proposed Employment Zones Framework [↓](#)

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-795

Attachment 1

Proposed Employment Zones
Framework – Position Paper (May
2021)



Planning Reform

Proposed Employment Zones Framework

Position Paper

May 2021



NSW Department of Planning, Industry and Environment | dpie.nsw.gov.au

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First published: May 2021

More information

Local Government & Economic Policy, Planning & Assessments

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Introduction

This position paper and legislative outline propose a new employment zones framework for NSW that will:

- provide greater certainty for the community, councils and the development industry
- support councils' long-term strategic planning objectives
- support businesses, industry and society to grow, respond and adapt as necessary
- facilitate innovation and changes in business processes now and into the future.

The proposed framework responds to various trends, exacerbated by the COVID-19 pandemic, including the growth of online retail, reliance on freight and logistics, the importance of local centres, flexible working arrangements and the continued rise of multi-use businesses and the experience economy.

The proposed framework aims to better align to the way cities and regions are evolving. It includes:

- three jobs-focused zones and two industrial zones (down from 12 currently)
- three supporting zones that capture land uses and locations that have a focus beyond jobs (mixed uses, local enterprise and waterways)
- A clear strategic intent for each zone that builds on strategic work by the State and councils over the past five years
- Across the proposed employment zones framework an additional 97 mandated permitted uses from what is currently mandated.
- the retention of core retail uses in centres
- support for urban services uses by providing a dedicated zone
- three new land use terms and an update to six existing terms to meet contemporary needs.

Detail on the new framework as well as the rationale and evidence base are outlined in the following sections.

We welcome your feedback on the proposed framework as we seek to improve the NSW planning system for all.

Background

What is an employment zone?

An employment zone is a zone in which the primary objective is to promote employment-generating activities.

Other zones including the rural, special purpose and residential zones, may permit employment generating activities as secondary to their primary objectives. This position paper focuses on the current B and IN zones, as well as a review of the application of the RU5 Village zone in regional areas, as the RU5 often operates as an employment zone. No change is proposed to the RU5 zone.

The Department of Planning, Industry and Environment (the Department) is reforming the employment focused zones under *Standard Instrument Principal Local Environmental Plan (2006)* (SI LEP). The SI LEP currently includes eight business (B) zones and four industrial (IN) zones.

This reform was announced as part of the NSW Budget in November 2020, and builds on ongoing work by the Department, reviews by both the Australian and NSW productivity commissions and broader planning reforms to support economic growth and productivity.

Changes to cities and regions and businesses

Since the SI LEP was prepared 15 years ago, it has not been subject to significant review despite changes to planning processes, business operations, technology and how cities and regions function. Emerging businesses blur historically distinct land uses and technological improvements reduce traditional land use conflicts.

Online retailing, advanced and small-scale manufacturing and the growth of dense, mixed use centres have fundamentally reshaped the planning for centres and industrial precincts.

The need for flexibility

Within the context of changing employment functions and land uses, the framework for managing employment land uses must be flexible and able to respond to unexpected challenges – such as the COVID-19 pandemic and subsequent job losses and economic contraction.

The NSW planning system needs to be ready to support business adaptation, especially to support continued productivity, investment and community wellbeing in difficult times.

The proposed employment zones framework is one of several planning reforms – more information on these is available [here](#).

Inconsistent application of zone

The SI LEP was introduced with a practice note that gave some direction on the intended application of each zone. Since then, the rationale for how zones were applied and how they were adapted within individual LEPs is such that any clarity around the strategic intent of the zones has been lost. Upfront engagement with stakeholders and councils identified that inconsistent application of the zones across LEPs is an issue.

Differences between centres and precincts across NSW are recognised; this reform aims to continue the existing SI LEP requirements to achieve place-based needs however there are gains from having greater consistency in how and where a certain zone is applied. The proposed framework sets out clear strategic intent to support the interpretation of the strategic vision for a particular area.

This will bring consistency, making it easier for industry to navigate different LEPs, and providing a clear market signal to support short-and long-term investment and development. This should also help facilitate complying development, a faster assessment pathway.

Further, the proposed employment zones framework can support the direction set in State and local strategic planning, which sets the future vision for centres, precincts, cities and regions.

The new framework is expected to be introduced through an amendment to the SI Principal LEP Order by September 2021, which will then be incorporated into updated SI LEPs by mid-2022.

Developing the new framework

The proposed framework is informed by the best available evidence, data, knowledge and information.

We commenced with a **review of past policy** and previous employment lands initiatives in the retail and industrial sector, including:

- *Planning for the Future of Retail* – Discussion Paper (2018)
- Retail Expert Advisory Committee (REAC) – Independent Report (2016)
- *A New Planning System for New South Wales – Green Paper* (2012)
- *A New Planning System for New South Wales – White Paper* (2013)
- *White Paper Feedback Report* (2013)
- SI LEP establishment and subsequent evolution (2006 – present)
- thought leadership and research from the Greater Sydney Commission.

We commissioned **background analysis** to gain an insight on new and emerging industries. This work covered:

- the role, function and operation of the B6 Enterprise Corridor zone, including its intent, application, issues and potential inefficiencies
- the needs of workers in out-of-centre developments, including the policy context of complementary land uses, the type of land uses needed to support workers and any issues related to permitting additional worker support focused land uses
- how creative industries are accommodated in the NSW planning framework, where and how creative industries are located and any current inefficiencies
- the role, function and operation of the B4 Mixed Use zone
- how the current operation of the RU5 Village zone might inform whether rural zones should be captured as part of this reform (given the zone is working effectively no changes are proposed).

We **reviewed all local strategies** relating to business and industrial zoned land, including local strategic planning statements, employment land strategies and centres strategies. This captured the strategic direction set out by each council.

We also audited all LEPs established under the SI LEP to understand which business and industrial zones are used and the land uses permitted in the zones.

We commenced an **extensive consultation process in late 2020** that included a webinar to launch the reforms, as well as online surveys and workshops for councils and meetings with other stakeholders.

We received responses from 30 metropolitan and 67 regional councils to the survey, which sought an initial understanding how the employment zones work in each local government area and the status of local strategic planning and LEP reviews. These findings informed council workshops in early 2021. Appendix B details the findings of the workshops.

We provided a preliminary framework paper that detailed the likely policy direction and allowed council officers to provide input prior to public exhibition. 40 officers provided valuable feedback. We have incorporated aspects of that feedback into the proposed framework, other comments will be reviewed alongside broader submissions on this position paper.

We met with relevant State agencies, and key peak and industry groups to understand the specific issues of each group. Peak and industry groups included the Planning Institute of Australia, Urban Development Institute of Australia, Urban Taskforce, Shopping Centre Council of Australia, Local Government NSW, Large Format Retail Association, Australian Retailers Association, Advanced Manufacturing and Cement Concrete Aggregates Australia.

A full list of all groups is held at Appendix B.

An **Expert Advisory Group** gives us high-level independent advice and expertise on emerging trends in commercial, creative, retail and industrial business, employment lands (metropolitan and regional), domestic and global logistics, economics and land use planning.

Group members are:

- Alice Thompson, CEO, Committee for the Hunter
- Richard Pearson, Director, Pearson Planning Solutions
- Kate Murray, Director, Kingfisher & Co
- Marcus Spiller, Principal & Partner, SGS Economics and Planning
- Gary Mortimer, Professor, Queensland University of Technology Business School

This Group also contributes and advises on the evidence base and provides a sounding board to explore ideas and capture data and approaches.

Ongoing work

A cost benefit analysis is underway to examine zoning options and provide a baseline costing of our preferred approach. A social impact assessment is examining the social impacts of the proposed employment zones framework.

The final framework will be informed by this work.

Findings of the LEP review

A review of LEPs across NSW revealed the following finding:

- The restricted number of permissible land uses in the B1 zone inhibits the evolution of centres. Density controls will continue to manage the scale of development; however, businesses should be able to deliver business types to meet community expectations.
- Councils interchangeably use B3 and B4 in strategic and regional centres. The supremacy of a commercial centre and its importance for supporting jobs is not clear across LEPs.
- The B4 zone, while applied differently, predominantly operates as a residential rather than business zone. There is place-making and productivity value in providing a true mixed use zone in a contemporary zoning framework.
- B5 and B6 are largely applied uniformly. The purpose of B6 is unclear, lacking in strategic clarity. Land use activities commonly found in areas zoned B6 are generally classified as urban support or mixed use.
- There is no clear home for urban services land uses in the existing zones framework. Urban services are critical to a sustainable and well-functioning city. These uses typically cannot compete with higher value land uses commonly found in centres.
- Industrial lands have a critical value to cities and regions. Industrial land should be defined and separated from other higher value or sensitive land uses so industrial activities are not impacted operationally or available land eroded.
- Hazardous and offensive land uses need to be clearly delineated to adequately manage significant risks.
- The SI LEP does not generally accommodate precincts with strategic significance that undergo a detailed master planning process. These areas tend to sit within SEPPs which reduces the legibility of the planning system and diminishes opportunities available to councils to lead precinct planning work.

Utilisation of existing zones across NSW SI LEPs**Business**

- Only 5% of LEPs utilise all available business zones.
- 52% of LEPs use fewer than 3 business zones.
- 43% use between 4 – 6 business zones
- Only 39% of strategic or regional centres have a B3 zoning

Industrial

- 11% of LEPs have no industrial zones
 - 33% use 1 industrial zone
 - 44% use 2 industrial zones
 - 11% use 3 industrial zones
 - Only 2% of LEPs use all industrial zones
-

Proposed employment zones framework

The proposed framework is an entirely new employment zones framework rather than a collapsing or combining of current zones.

Five new employment zones are proposed:

- E1 Local Centre
- E2 Commercial Centre
- E3 Productivity Support
- E4 General Industrial
- E5 Heavy Industrial¹

The Local Centre and Commercial Centre zones represent zoning for centres; the General Industrial and Heavy Industrial are the key industrial zones; and Urban Support provides a transition between the centres and industrial zones.

To accommodate land uses in existing B or IN zones that are not primarily productivity related, **two further zones are proposed**:

- MU Mixed Use
- W4 Working Foreshore

The MU Mixed Use zone is generally used where a range of land uses are to be encouraged.

To introduce a flexible mechanism to allow for bespoke planning for unique precincts **a new Special Purpose zone is proposed**:

- SP4 Local Enterprise

Introducing the SP4 Local Enterprise zone recognises that certain precincts and their proposed land use activities are unique and cannot be accommodated in another proposed zone. The SP4 zone will allow a planning authority to set the land use table.

The W4 Working Foreshore zone is a direct translation of the IN4 Working Waterfront yet due to the alignment of land uses and land application, is better grouped with waterways zones.

Strategic intent

Local Centre zone

- Provides for a range of retail, business, entertainment and community uses that serve the needs of people who live, work or visit the local area.
- Supports a centre that is smaller than a Commercial Centre in the centre's hierarchy.
- Fundamentally replaces B1 Neighbourhood Centre and most B2 Local Centres.
- Supports a scale of development that will vary from small-scale neighbourhood centres containing a handful of shops to larger local centres.
- Residential uses will generally be in the form of shop-top housing and boarding houses.

Commercial Centre zone

- Provides for large-scale commercial, retail, business and compatible associated uses like community uses, recreational and health care services.

¹ There may be consequential amendments to the naming of other SI LEP zones that follows from this reform.

- Essentially replaces B3 Commercial Core, could extend to larger B2 Local Centres and some B4 Mixed Use where there is a focus on jobs, and may be appropriate for B7 Business Park areas.
- Emphasises a centre's business and employment focus.
- Supports council community facilities to create a central community hub (e.g. with main libraries, community and cultural facilities and council offices).
- Supports an area's night-time economy.
- Avoids mandating residential uses although higher density residential may be appropriate in some areas so long as the primary employment focus is preserved.

Productivity Support zone

- Allows for a mix of services, low impact industry, creative industry, manufacturing, warehousing, office and limited supporting retail.
- Essentially replaces B5 Business Development, B6 Enterprise Corridor, some B7 Business Parks and in exceptional circumstances limited areas of IN2 Light Industrial zones that no longer function as traditional industrial precincts.
- Suits locations near catalyst development (such as health and education) to support those uses through development such as a larger campus style business park.
- Suits emerging and new industries that need larger floorplates.
- Limits retail to uses requiring larger lots/floorplates (e.g. specialised retail premises), or that meets workers' or businesses' daily needs, or that sells products manufactured on site.
- Generally does not support residential uses.

General Industrial zone

- Primarily accommodates light and general industrial uses and warehousing uses.
- Allows for infrastructure and utilities.
- Generally replaces IN1 General Industrial and IN2 Light Industrial zones.
- Limits general retailing to meet workers' daily needs or to sell products manufactured on site.
- Does not support residential uses.

Heavy Industrial zone

- Primarily accommodates heavy industry (i.e. hazardous and offensive industry) and associated storage and depot.
- Allows for infrastructure and utilities.
- Replaces IN3 Heavy Industrial zone and potentially some IN1 General Industrial zones.
- Does not support residential or retail uses.
- Excludes incompatible development to ensure the efficient and productive use of the land and its long-term viability as heavy industrial land.

MU – Mixed Use zone

- Supports a mix of residential, retail, light industry and tourist accommodation.
- Supports genuine mixed use development rather than one dominant use.
- Replaces B4 Mixed Use, some B2 Local Centres and potentially B8 Metropolitan Centre.
- Promotes and encourages activities at ground floor and on street fronts.

- Considers the role and purpose of mixed use relative to other commercial and high density residential zones within the local government area.

W4 Working Foreshore zone

The W4 Working Foreshore zone is a direct translation of IN4 Working Waterfront. Land to which this zone applies has more in common with the zone grouping of waterways than it does to employment zones.

SP4 – Local Enterprise zone²

- Provides a future home for planned precinct processes, special activation precincts and regional jobs precincts should these areas and processes ever be brought across into the SI LEP.
- Recognises that these precincts and their proposed land use activities have a special purpose that cannot be accommodated in other zones. Investment in enterprise should be the core objective of the zone where the application of another zone is not appropriate.
- Application for limited existing developed or partially developed areas where development does not meet the strategic intent and/or objectives of any of the new zones (e.g. parts of the B8 Metropolitan Centre in the City of Sydney LGA or large planned commercial office parks).
- Offers flexibility for the planning authority to set uses within the land use table.
- Only applies in unique and predetermined circumstances subject to meeting strict established criteria and Department endorsement.
- Wide use not expected at the commencement of the new framework.

How will the SP4 Local Enterprise zone work

The proposed new Special Purpose zone is an endeavour to introduce a flexible mechanism within the SI LEP that will allow for a bespoke planning response for unique precincts.

Similar to the 'regional enterprise zone' in the Activation Precincts SEPP, the Local Enterprise zone is proposed to have investment in enterprise at the core of its objective however it could be broadened to allow additional focuses. It would be a flexible zone where the council/government could set all the uses within the land use table however it could only be applied in unique and predetermined circumstances in accordance with the objectives and criteria set through a potential direction applying to this zone (similar to the directions that currently exist within the SI LEP Order).

Where SP4 is proposed to be applied within an LEP, precinct-specific land use tables will be provided potentially through use of a new LEP schedule. The permitted land uses could be provided similar to how they are laid out currently within SEPPs i.e. within the Activation Precincts SEPP or the State Significant Precincts SEPP. SP4 zoned sites could be mapped as SP4 with an identifier that links to the land use table in the new SP4 LEP schedule similar to how Schedule 1 sites are currently identified within SI LEPs.

² Please note that the SP4 Local Enterprise zone has not been included within the Draft Amendment Order, we would appreciate feedback on the intent of this proposed zone.

New, updated or consolidated land use definitions

We propose **updated definitions** for

- Business premises
- Industrial retail outlet
- Kiosk
- Neighbourhood shop
- Shop top housing
- Crematorium.

We also propose **new definitions**:

- Circular economy facility
- Creative industries
- Data centre.

Local distribution premises will become a separate land use decoupled from the parent term 'warehouse or distribution centres'.

Updated and new definitions

Land Use	Intent	Rationale
Business premises Amends existing definition	Update the definition to remove reference to outdated land uses (internet access facilities) and make it clear that business premises do not include a 'shop'.	<p>'Business premises' and the uses that are captured under the definition are subject to technological evolution and changes to business practices. Accordingly</p> <p><i>Internet access facilities</i> are a redundant type of business that should not be included within the definition as it no longer provides clarity.</p> <p>We have received feedback that there is some misunderstanding as to whether a 'business premises' includes a <i>shop</i> and so to put this beyond doubt and to reduce the overlap with the existing land use term 'shop' we are seeking to specifically include shop within the list of land uses that a 'business premises' is not. This is an important distinction as business premises are included as a mandated permitted use within the Productivity Support zone.</p>

Proposed Employment Zones Framework

Land Use	Intent	Rationale
Circular economy facility ('domestic goods repair and reuse facility') New definition Sub-term of 'light industry' or potentially 'business premises'	Insert a new definition that provides for a facility that allows for the collection, repair, refurbishment, dismantling, sharing and redistribution of goods found commonly in households. These facilities should not be confused with waste recovery facilities that have amenity impacts. These facilities are low in impact and suited to local neighbourhood collection of waste materials.	The 20-year waste strategy identifies the need for a new waste definition to support the circular economy. The definition intends to support the proposed amendments to the Codes SEPP.
Creative industry New definition Sub-term of 'light industry'	Insert a new definition that provides a catch all definition for the creative industries and their activities and outputs. The definition will capture occupations that commonly identify as creative including: <ul style="list-style-type: none"> • traditional and digital media; • fine arts and crafts; • design; and • creative products and extends to the activities carried out including production, workshops, display/performance and sale of items.	Creative industries are currently not defined under the SI LEP and therefore these uses are not captured clearly under the planning system. The intent of the new definition is to recognise the individual industries and activities that identify as creative. This definition builds on definitions in local creative industries strategies and plans. Please note creative industries may include an 'industrial retail outlet'
Crematorium Amend existing definition	Update the definition to include the additional process for inurnment known as aquamation.	Meets demand for new and emerging means of inurnment that do not involve burning (aquamation).
Data centre New definition Sub-term of 'High technology industry'	Insert a new definition to cover a building used for the collection, storage, process and distribution of electronic data,	Data centres are currently defined in part under the Infrastructure SEPP as 'data storage'. To make data centres complying development requires a broader definition to capture how data centres are planned and built.

Proposed Employment Zones Framework

Land Use	Intent	Rationale
Industrial retail outlet Amend existing definition	Update the definition to allow industrial retail outlet to sell the outputs of a creative industry,	<p>Amendments allow for a creative industry to display and sell goods manufactured on site.</p> <p>The retail floor area size will be controlled through Clause 5.4 <i>Controls relating to miscellaneous permissible uses</i> under the relevant LEP.</p>
Kiosk Amend existing definition	Update the definition to remove reference to products that are no longer convenience items (camera film)	Kiosks currently reflect a land use activity that has limited application (e.g. selling film) rather than selling fruit and vegetables, phone chargers, stationery, batteries etc.
Local distribution premises Retain existing definition Remove from parent term 'warehouse or distribution premises'	Retain existing definition however make 'local distribution premises' a stand-alone definition so that it no longer falls under the parent term 'warehouse or distribution premises'.	'Local distribution premises' are appropriate on land where 'warehouse and distribution premises' are not otherwise permitted. Decoupling permits this land use in zones where the use is mandated as well as within open zones. This change will support the expansion of last mile freight and logistics including parcel lockers and click and collect.
Neighbourhood Shop Amend existing definition	Update the definition to make it less ambiguous regarding ancillary services. Remove reference to products that are no longer frequent convenience items (newspapers) and replace the concept of personal care products with day to day needs.	The current definition of 'neighbourhood shop' is outdated, ambiguous and unnecessarily limiting. This broader application relies on the test of meeting day-to-day needs.
Shop-top housing Amend existing definition	Update the definition to allow ground floor commercial premises and health services facility providing more opportunity for local services, viable uses on the ground floor and employment generation.	<p>It is appropriate and desirable to allow additional uses on the ground floor of shop top housing. The definition expands the ground floor use to allow health service facilities e.g. medical centre or light industry.</p> <p>The Department would also welcome feedback on whether the existing definition needs updating to allow for more than just ground floor commercial use.</p>

Proposed Employment Zones Framework

Land Use	Intent	Rationale
Warehouse or distribution centre Amend existing definition	Update the definition to remove inclusion of local distribution premises as part of a consequential amendment reflecting the decoupling of local distribution premises from the parent term.	Amend to acknowledge that local distribution centre has been decoupled from the parent term warehouse and distribution centre.

Potential consolidation of existing definitions

As part of this Position Paper we are seeking feedback on the potential consolidation of a number of existing land use terms. These land use terms have a shared or overlapping strategic intent with another land use term. These land uses have been recommended for consolidation as there are similarities in how these land uses operate and often the zones where they are permitted with consent. This consolidation allows for streamlining of definitions and reduces potential misinterpretation where a land use term could fall into multiple definitions and depending on interpretation, result in ambiguity as to permissibility.

The potential land use term consolidation was not discussed as part of upfront engagement and therefore are not included in *Draft Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021* as they have not been the subject of preliminary feedback. These potential land terms are not shown in the Land Uses Matrix. Input is specifically sought in any instances where the current land use terms have different permissibility within individual land use tables. Additionally, if there are any other land use terms that could be consolidated we would be interested in hearing those suggestions.

Potential consolidated definitions

Land Use	Intent	Rationale
Home improvement retail premises Potential definition Sub-term of 'commercial premises' The new land use term would be permitted with consent in E1-E4 and MU1 zones.	<p>To provide a land use term that enables the retailing of materials that are used in home improvements.</p> <p>The definition would be formed by combining the existing definitions of 'hardware and building supplies' and 'garden centres' into a single 'home improvement retail premises' definition.</p> <p>'Hardware and building supplies' and 'garden centres' would be deleted from the Dictionary, Direction 5 and land use tables.</p>	'Hardware and building supplies' and 'garden centres' are similarly applied within land use tables and the business functions are comparable.

Proposed Employment Zones Framework

Land Use	Intent	Rationale
<p>Trades retail premises</p> <p>Potential definition</p> <p>Sub-term of 'commercial premises'</p> <p>The new land use term would be permitted with consent in E1-E3 and MU1.</p>	<p>To provide a land use term that enables the retailing of trade materials that are used in construction, farming, primary production and landscaping.</p> <p>The definition would be formed by combining the existing definitions of 'landscaping material supplies', 'rural supplies' and 'timber yards' into a single 'Trades retail premises' definition.</p> <p>'Landscaping material supplies', 'rural supplies' and 'timber yards' would be deleted from the Dictionary, Direction 5 and land use tables.</p>	<p>'landscaping material supplies', 'rural supplies' and 'timber yards' are similarly applied within land use tables and the business functions are comparable.</p>
<p>Storage and distribution premises</p> <p>Potential definition.</p> <p>The new land use term would be permitted with consent in E3-E5.</p>	<p>To provide a land use term that facilitates freight and logistics. This definition groups storage, warehousing and distribution centres uses under the one land use activity.</p> <p>The definition would be formed by combining the existing definitions of 'storage premises' and 'warehouse or distribution centre'.</p> <p>'storage premises' and 'warehouse or distribution centre' would be deleted from the Dictionary, Direction 5 and land use tables.</p>	<p>Freight and logistics are an expanding sector. Providing a single, broad definition will allow greater flexibility and enable expansion of storage, warehousing and distribution centres within the one operation.</p>
<p>Self-storage units</p> <p>Retain existing definition</p> <p>Decouple 'self-storage units' from parent term 'storage premises'</p> <p>No change is proposed to where 'self-storage units' would be permitted with consent (see Land-Use Matrix).</p>	<p>To reflect that 'self-storage units' are not part of the freight and logistics network unlike 'storage premises'</p>	<p>Recognising that 'self-storage units' are not part of freight and logistics it is not an appropriate fit to have this land use fall under the parent term 'storage premises'. Additionally, decoupling the land use from the parent term will enable a council to individually list 'self-storage units' into any zone where the land use is deemed appropriate i.e. a local centre.</p>

Land use tables

The proposed land use tables identify mandated permissible and prohibited uses within each of the new zones. Councils will still be able to permit or prohibit other land uses as they see fit and in alignment with relevant strategic plans.

Mandated permissible uses are expanded to clearly delineate the intent of the zones and allow greater consistency in application. Increasing the range of permissible uses while also managing contemporary land use conflicts is a key productivity gain. Increasing the range of permitted uses should reduce the need for a planning proposal for a development that is appropriate within the zone, but not within the list of permitted uses currently set within the SI LEP.

Draft Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 details the draft land use tables of the proposed employment and supporting zones other than for SP4 Local Enterprise zone.

Variation in objectives

Proposed objectives are intended to reflect the strategic intent of the proposed zones to support councils in development assessment. We propose allowing variation on certain objectives to ensure they reflect strategic planning. This means objectives can vary when applied in metropolitan versus regional areas. A decision on which objective is to be applied will be made as land use tables are prepared and reviewed by councils. Other proposed objectives are outlined in the *Draft Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021*.

Proposed zone	Proposed optional objectives
Commercial centre	<ul style="list-style-type: none"> To encourage employment opportunities and business investment OR <ul style="list-style-type: none"> To encourage employment opportunities and business investment in the regional centre OR <ul style="list-style-type: none"> To encourage employment opportunities and business investment in the Strategic centre.
Mixed use	<ul style="list-style-type: none"> To provide a range of business, community, light industrial, retail and residential land uses. OR <ul style="list-style-type: none"> To provide a range of retail, business, and community uses; OR <ul style="list-style-type: none"> To provide a range of business, community, retail and residential land uses.

* SI LEPs will still be able to add additional local objectives.

Land uses permitted under State Environmental Planning Policies

In addition to the mandated land uses in the SI LEP, a number of State Environmental Planning Policies (SEPPs) also set land use permissibility. These land uses are generally not listed in LEPs. We do not propose a change to this approach.

If you refer to the Land Uses Matrix provided as part of the exhibition documents most of these SEPP-based land uses are identified.

Parent terms to identify land uses

Currently, if a parent term is identified as a mandated permitted use there is no need to identify child terms under this as a mandated permitted use. No change to this approach is proposed. The proposed land use tables therefore do not list child terms.

If you refer to the Land Uses Matrix provided as part of the exhibition documents all mandated permitted and prohibited land uses are identified.

Benefits of the proposed framework

Greater land uses within individual zones

The reduced number of zones provides clear delineation of the purpose of each zone within the SI LEP and provides greater diversity of mandated permissible uses.

The increase in mandated permissible provides greater consistency and opportunity for new uses. This makes it easier for new businesses to understand where they are permitted or prohibited, to

enter local markets and for existing businesses to expand. It also enables the planning system to respond more flexibly to changing business and household needs and external market forces.

The opportunity for complementary businesses to co-locate where appropriate, especially important for emerging industries, is supported through the new definitions, such as the new definition of 'circular economy facility'.

Consistency in strategic intent

The mismatch in zone application creates mixed signals for market, industry and community. The proposed framework embeds clarity, boosting certainty which then supports industry to invest or establish a pipeline of investment.

For communities, consistency in the application of zones contributes to a legible planning system – meaning people can anticipate future development based on an area's zoning.

Response to key policy questions

Planning for a centres hierarchy

Councils and community generally support a hierarchy of centres via either the setting of scale through height and floor space ratio controls or by limiting which land uses are permitted depending on the size of the centre. The changing nature of retail and the evolution of our centres to meet community needs means that flexibility around land uses can make for great places, relying on development controls to set the appropriate scale of development and to maintain existing and desired future character.

In the setting of additional permitted land uses within the land use table for the Productivity Support zone, councils should determine their approach to managing out of centre development. As part of implementation we will provide guidance within a toolkit on balancing worker convenience retail and out of centre development.

Planning for industrial land

The value placed on industrial lands shifts over time particularly where there are competing land uses and limited land supply within cities and regions. Every region needs a location to accommodate its uses that require more physical space or access to freight networks, have an amenity or environmental impact or are priced out of other markets. Cities where there is no place for these back-of-house or impacting uses close to the population centre are less sustainable as businesses and communities need to travel further to access supporting infrastructure and activities.

Within parts of Greater Sydney and particularly the Eastern Harbour City, there is limited industrial land and strong pressure to adapt this land to mixed uses to meet the supply demands of other higher order land uses. While there will always be transition of land between land use activities, once industrial land flips to commercial or residential, that land is unlikely to ever revert to an industrial use. From a productivity perspective, industrial areas often yield low job ratios, but these operations are often critical to a well-functioning city i.e warehousing.

Given the finite amount of industrial land in many districts and regions, it is appropriate to provide a range of zones that respond to the different priorities of these industrial precincts. In the review of which is the appropriate zone for industrial precincts, councils should be guided by their employment lands strategy and how that aligns to the strategic intent of the proposed zone. Councils should also be cognisant of the long-term operational value and supply of their industrial land. In the setting of permitted uses in land use tables, councils should determine their approach to out of centre development and worker amenity/needs.

The outlined strategic intent, objectives and mandated permissible uses of the proposed framework, as a baseline, preserve industrial land for the uses that need to locate in industrial locations. Councils can choose to open industrial land to additional uses based on a strategic plan.

Simpler and more flexible planning systems

The Federal Productivity Commission outlined in its report *Shifting the Dial: 5-year productivity review* three areas that remain priorities across jurisdictions to support the productivity potential of urban lands:

1. reducing the number and complexity of restrictions on land use created by prescriptive zoning systems
2. better planning and provision for growth
3. the need to continue moves towards a risk-based approach to assessing development proposals.

The Productivity Commission is preparing case studies to focus on the three priority areas. The first case study, relating to the first priority area, was of Victoria's 2013 reform of the Commercial Land Use zoning³. The findings of the case study informed the development of this proposed employment zones framework.

Victoria undertook a reform of its commercial zones reducing the number from five to two. A third commercial zone was reinstated in 2018. Distinct from this employment zones reform, Victoria limited its reform to 'commercial' zones meaning it did not capture industrial, special activation or township centre/capital city zones.

The NSW reforms take a wider scope and go further than Victoria, but also seeks to deliver a framework that is appropriate to the nuances of the NSW planning system.

The NSW and Victoria planning systems are very different. Victoria mandates all prohibited and permitted land uses (councils cannot choose to allow additional permitted uses) and has extensive reliance on overlays to achieve local strategic provisions. The Federal Productivity Commission in its case study acknowledged that the benefits of the reform arise from increased flexibility within zones (additional permitted uses) rather than a decrease in the overall number of zones. Accordingly, this employment zones framework seeks to provide a fit for purpose framework as well as allowing increased flexibility.

³ Productivity Commission 2020, *Victoria's Commercial Land Use Zoning, Productivity Reform Case Study*, Canberra.

NSW proposed employment zones compared to Victoria	
NSW proposed	Victoria current
E1 Local Centre	Commercial 1 (Mixed use commercial)
E2 Commercial Centre	Commercial 2 (Commercial offices)
E3 Productivity Support	Commercial 3 (Employment generating/urban services uses)
E4 General Industrial	Industrial 1 (Light industry)
	Industrial 2 (General industry)
E5 Heavy Industrial	Industrial 3 (Heavy industry)
W4 Working Foreshore	Port
SP4 Local Enterprise Zone	Activity Centre (support activity centres)
	Capital City (City of Melbourne zone)
MU1 Mixed Use	Mixed Use
8 zones	10 zones

Relationship to other planning reforms

The proposed employment zones framework is part of a substantial reform program relating to elements such as planning proposals, updates to regional plans, State planning principles and reviews of SEPPs.

Additionally, other projects underway are related to these proposals:

- The Greater Sydney Commission is reviewing the effect of the 'retain and manage'⁴ policy in the Greater Sydney Region Plan and district plans. This review will inform an update to the Greater Sydney Region Plan. The employment zones framework will align to the review work of the Greater Sydney Commission.
- The Department has exhibited an Explanation of Intended Effect Building Business Back Better for changes to the employment codes under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Employment zones reform and the proposed changes to complying development codes together will grow jobs and support productivity. The interrelationships between the two reforms, public exhibition comments and implications for implementation will inform the final policy position of both reforms. This is anticipated to include specific guidance and mechanisms that will ensure the intent of local strategic planning is reinforced.
- The proposed Design and Place State Environmental Planning Policy Explanation of Intended Effect has recently been on public exhibition. The employment zones reform does not intend to impact on the application of the proposed Design and Place SEPP.

⁴ The Greater Sydney Region Plan includes principles for managing industrial and urban services land. One of these principles is 'retain and manage'. Existing industrial and urban services land identified as 'retain and manage' should be safeguarded from competing pressures, especially residential and mixed-use zones. For more information see here: <https://www.greater.sydney/metropolis-of-three-cities/productivity/jobs-and-skills-city/industrial-and-urban-services-land>

Implementation

The NSW zoning system, while standardised, enables a level of tailoring to support strategic objectives. This non-conformity will make the implementation of the new framework more complex.

Implementation will require work to translate existing B and IN zoned areas into the new framework; while this process will draw from strategic planning, it should not require councils to review or undertake additional strategic planning. Councils that have not completed strategic planning may wish to flag future rezoning of areas if they anticipate a need to align with employment and centres strategies.

For the proposed new employment zone framework to take effect:

- an amendment to the SI Principal LEP Order will be required
- all SI LEPs will need to be updated
- any other environmental planning instrument that relies on the SI Principal LEP either through land use tables, model provisions or dictionary will need to be amended.

We will support councils by driving much of the upfront process, including:

- consolidating amendments to all SI LEPs through State-led self-repealing SEPPs (prepared and exhibited to clearly outline and communicate individual LEP amendments)
- preparing the first draft of zone application maps and land use tables
- providing policy guidance and support.

Councils will have sufficient time to review the proposed translation into the new framework and will be able to make changes to land use tables, mapping, local provisions and schedule 1 additional permitted uses.

Implementation will not require councils to prepare individual planning proposals. The self-repealing SEPPs will be prepared and exhibited with the level of detail necessary to clearly outline and communicate individual LEP amendments and to then make the legislative change to individual LEPs.

An implementation plan outlines key timing for the employment zones. This is available as part of public exhibition.

The implementation approach is informed by council consultation and we will continue to refine the approach. Resourcing capacity will be balanced against the need to complete the reforms quickly to support economic recovery and to minimise uncertainty for local land use planning as zones are a key gateway into the NSW planning system.

Support

We will develop a **toolkit** of detailed information on the following topics. This may be expanded based on continued feedback from local government and stakeholders.

- Supporting local provisions: A review of existing local provisions introduced by councils to deliver strategic objectives has been undertaken. The Department will look to prepare a set of model local provisions to assist councils who wish to add similar provisions within their LEPs.
- Characterisation of zones: A detailed explanation on the intent and characterisation of each zone will be provided to make it easier for councils, the community and industry to understand where the zone should be applied, the type of permissible land uses and the strategic objective it will deliver. This will also include illustrative case studies.

- Discussion on open zones: We will encourage open zones rather than a closed approach to foster flexibility and innovation in employment zones. We will provide further information on the benefits of open zones and how they can be applied.
- Guidance on amending local plans: We will provide guidance on how strategic planning aims can be achieved through the new framework including planning for a centres hierarchy, supporting business parks, managing out of centre development and planning for precincts under transition (e.g. increasing densities in industrial areas.)

We are investigating options to provide **tangible planning support**; however, there is limited capacity to give funding directly to councils. Utilising a flying squad of policy planners engaged by the State and deployed to councils to undertake the detailed review work is being considered. We are also considering options to provide communications and engagement assistance to support public exhibition and consultation with communities and recently elected local government officials.

We will utilise **ePlanning** to prepare new zone application maps delivered through the spatial viewer. Councils will no longer be required to prepare PDF maps for LEPs. We will prepare the first round of mapping based on the findings of our consultation and analysis – these will then be provided to councils for review. We can also prepare final zone application maps for councils with little or no GIS capabilities. For councils with better GIS capabilities the Department will assist to the degree that is required to support delivery of the maps within the spatial viewer.

We will prepare **draft land use tables** for all LEPs having regard for local circumstances. This will include permitted and prohibited land uses under the new employment zoning framework and any additional permitted uses currently incorporated into LEPs. Councils can then review and confirm these tables.

These initiatives will enable councils to focus on complex or contentious areas that require more detailed consideration to align with their strategic planning.

Next steps

A final framework will be introduced into the Principal Standard Instrument in September 2021, drawing from feedback to this position paper. It is intended that the new zones will sit alongside the existing land use tables until such time as the changes are introduced into all relevant LEPs.

Amendments to individual SI LEPs is planned to occur in two tranches and be facilitated by self-repealing SEPPs. All LEPs are intended to be updated by mid-2022. This timing aligns to milestones set by the NSW Government when this reform was established.

Councils are already progressing LEP reviews following preparation of local strategic planning statements. This work should continue while the employment zones framework is being finalised. We are working through savings and transitional arrangements for planning proposals currently underway and will provide information as the arrangements are finalised.

For councils that are yet to undertake the review or are in the preliminary stages of the review, consideration should be given to how that work could progress under the proposed employment zones framework.

A **comprehensive list of consequential amendments** is being prepared for environmental planning instruments that interact with the SI LEP zones and/or dictionary. Where an instrument – such as the Growth Centres SEPP – uses the SI LEP zones and dictionary in name only, there is no intention to translate it into the new framework.

Savings and transitional arrangements will also be prepared for the continuation of the existing zones during implementation.

Planning proposals already underway should be unimpeded by the proposed framework – they should continue to progress through the LEP plan-making process. We will work with individual councils and, where relevant, proponents to work through translation of existing B and IN zones into the new framework.

Savings and transitional arrangements will extend to undetermined development applications. Further information on these arrangements will be provided as the reforms progress.

Potential future reform

During engagement there was discussion around other mechanisms to support flexibility and reduce the need for a planning proposal for undefined land uses that were consistent with the objectives of the zone. We are continuing to look into this aspect of the planning system to improve agility and respond to emerging land uses in a time critical manner.

Have your say

We want to continue the discussions on this important reform and build on the issues and opportunities that were raised during early consultation.

When reviewing the proposed framework, we encourage councils and landowners to consider the strategic intent of each proposed zone and where that intent aligns with the strategic vision contained within strategic plans for centres, areas and precincts.

Consider that the framework intends to provide a 'home' for all types of land use activities and how they exist within a regional or urban environment.

As part of this public exhibition councils and landowners are encouraged to anticipate how the new framework could be applied to particular areas or sites.

How to get involved

The Department welcomes your feedback about the proposals outlined in this paper, the draft SI (LEP) Amendment (Land Use Zones) Order 2021 and the Implementation Plan. To make a submission on the reform proposed in these document please go to

<https://www.planningportal.nsw.gov.au/employment-zones-review> and complete the submission form, alternatively please email employment.zones@planning.nsw.gov.au.

All submissions will be made public in line with our objective to promote an open and transparent planning system. If you do not want your name published, please state this clearly at the top of your submission. The Department will publish all individual submissions and an assessment report on all submissions shortly after the exhibition period has ended.

Appendices

- a) LEP Audit summary tables
- b) Upfront stakeholder and council engagement.

Appendix A - LEP audit

Table: Zone audit of business zones

Zone	Total Number of SI LEPs utilising the zone (160 SI LEP)	%	Metropolitan Councils (46 SI LEP)	%	Regional Councils (114 SI LEP)	%
B1						46%
B2	127	79%	38	83%	89	78%
B3	56	35%	20	43%	36	32%
B4	98	60%	39	85%	59	52%
B5	61	38%	23	50%	38	33%
B6	64	40%	25	54%	39	34%
B7	44	28%	20	43%	24	21%
B8	1	1%	1	50%*	n/a	n/a

*B8 Metropolitan Centre is only available to North Sydney and City of Sydney.

Table : Total number of SI LEP business zones and the quantum of zones utilised by council

Business Zones used within the LEP	Number of SI LEPs that utilise the specific number of zones	%	Metropolitan	% Metro Councils (46 SI LEP)	Regional	% Regional Councils (114 SI LEP)
8*						0%
7	6	4%	2	4%	4	4%
6	27	17%	14	31%	13	11%
5	20	13%	5	11%	15	13%
4	23	14%	12	26%	11	10%
3	23	14%	8	17%	15	13%
2	30	19%	2	4%	28	25%
1	13	8%	2	4%	11	10%

Proposed Employment Zones Framework

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*B8 Metropolitan Centre is only available to North Sydney and City of Sydney.

Table: Zone audit of industrial zones

Zone	Total Number of SI LEPs utilising the zone (160 SI LEP)	Percentage	Metropolitan Councils (46 SI LEP)	Percentage of Metro Councils that utilise the zone	Regional Councils (114 SI LEP)	Percentage of regional councils that utilise the zone
IN1	122	76%	25	54%	97	85%
IN2	94	59%	34	74%	60	53%
IN3	20	13%	4	9%	16	14%
IN4	22	14%	8	17%	14	12%

Total number of SI LEP industrial zones and the quantum of zones utilised by council

Industrial Zones used within the LEP	Number of SI LEPs	Percentage	Metropolitan Councils (46 SI LEP)	% Metro Councils	Regional Councils (114 SI LEP)	% Regional Councils
4	3	2%	1	2%	2	2%
3	18	11%	4	9%	14	12%
2	69	43%	22	48%	47	41%
1	54	34%	11	24%	43	38%
0	16	10%	8	17%	8	7%

B1 and B2

	SI LEPs utilising the zone or combination	Metro SI LEP	Regional SI LEP
B1 and B2	85 (53%)	37	48
B1 only	10 (6%)	6	4
B2 only	41 (26%)	0	41
None	23 (15%)	2	20

B3 and B4

Proposed Employment Zones Framework

Zone	Numbers (%)
B3 only	7 (4%)
B4 only	47 (29%)
B3 and B4	52 (33%)
None	54 (34%)

B5, B6 and B7

			Number of SI LEPs utilising the zone or combination	Metro SI LEP	Regional SI LEP
B5	B6	B7	11	7	4
B5	B6		15	7	8
B5		B7	15	5	10
	B6	B7	11	4	7
B5			18	3	15
	B6		28	8	20
		B7	8	2	6
None			54	8	46

Appendix B - Upfront stakeholder and council engagement

CONSULTED TO DATE	
Peaks & Industry groups	
Planning Institute of Australia	Retail Guild of Australia
UDIA	Australian Retailers Association
Urban Taskforce	Better Planning Network
Property Council of Australia	Advanced Manufacturing Growth Centre
Local Government NSW	The Australian Industry Group
Large Format Retail Association	Australian Logistics Council
Woolworths	Amazon (emerging retail)
Cement Concrete Aggregates Australia	Local government
Sydney Airport	118 NSW councils metro & regional councils across 28 workshops
Shopping Centre Council of Australia	

Key findings: consultation

The following themes and the issues/opportunities were consistent across all stakeholder groups.

- The reduction of zones is supported if it supports a strategic purpose and employment and economic uses can be prioritised and protected. Community representatives expressed concern that broadening permissible uses may be harder to regulate.
- Creating flexibility and adaptability for suitable uses in employment zones and being able to support new activities and innovation is a priority for councils and industry. How that flexibility could be delivered varies between industry, councils and the community.
- Supporting a strong centres hierarchy through the planning framework is important to councils, as is enabling fine grain retail and commercial uses within centres.
- Interpretation of zone purpose and alignment to local strategic direction are the key inconsistencies in application.
- The profile of and uses in industrial lands is changing, while land for urban services and industrial activities should be located near where people live.
- In regional and rural areas, economic success relies on adequate infrastructure servicing and a supportive planning framework. The key challenge in metropolitan areas is land availability.
- Within metro areas, the B4 Mixed Use Zone is problematic and has become a pseudo residential zone with ground floor shops. The effectiveness of the B4 zone as a centres zone is varied in regional areas, with most calling for a review of its intent and objectives.
- Zone objectives and development controls plans could be given greater statutory weight to strengthen controls for employment. Land use definitions in the planning system are not keeping pace with emerging uses.

Greater Sydney councils: Key themes

- Councils support retaining and managing industrial lands, due to a significant loss of urban services lands in urban centres and the pressure on land for residential uses.
- Most councils report that the B4 was problematic. Several councils have implemented local provisions such as minimum non-residential floor space to manage residential creep.
- The flexibility of the specialised retail premises is creating issues – the definition means that uses are not limited to bulky goods, which is leading to out-of-centre development.
- Future land uses in industrial zones will include data centres and automation. These uses could limit the productivity of industrial zones.
- The most important objectives when applying employment zones are:
 - enabling fine grain high street retail and commercial
 - providing small-scale warehouse uses, spaces and light industrial/urban services
 - providing for large scale industrial and logistics activities.

Regional NSW councils: Key themes

- The RU5 Rural Village zone is flexible and functions and supports productivity in rural villages and centres.
- Employment uses occur in rural zones, special infrastructure zones and residential zones and should be considered as part of the reform.
- Infrastructure limitations in rural areas inhibits productivity in employment zones.
- While there is demand for temporary worker accommodation across regional and rural NSW, that accommodation and housing is limited in most local government areas.

- The B4 Mixed Use zone supports commercial development in some town centres, but in others a dispersing employment uses out of main towns or centres limits economic development.
- The most important objectives when applying the employment zones are:
 - supporting agricultural activities and products
 - providing small scale warehouse uses, spaces and light industrial/urban services
 - providing for small businesses.

Industry stakeholders: Key themes

- While there is uncertainty, businesses will continue to evolve with technological advances such as click and collect. This will see the emergence of smaller distribution hubs.
- Mixed use should be more clearly defined. The future blending of land uses and business types will make mixed use an important part of the conversation. Stakeholders emphasised that the need to open up mixed use to be more creative and amenable to new uses.
- Activation on the street is an issue for mixed use given often high vacancy rates for ground floor commercial or retail shop fronts. It is important to understand the strategic intent of the mixed use zone and to look into how to achieve that strategic intent.
- The planning system needs to be more flexible and should recognise the need to protect industrial lands in Greater Sydney. While it is agreed that the system should have more flexibility to facilitate innovation, the extent to which flexibility should be introduced into the planning system is contested.
- Height controls for industrial lands need to increase to facilitate new and emerging uses such as robotics and automation.

Other feedback

- Several councils raised the idea of a precinct master planning approach to cater to transitioning and emerging industries.
- Others called for reforms to create 'flexible certainty' by providing clear statements of intent for each zone, objectives, permissible uses and definitions that do not create barriers.
- Several councils agreed to differentiation between regional and metropolitan objectives and to allow for more choice so that councils can tailor how they translate strategic directions within their LEP.

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-795

Attachment 2

Draft Standard Instrument (Local
Environmental Plans)
Amendment (Land Use Zones)
Order 2021

public consultation draft



New South Wales

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021

under the

Environmental Planning and Assessment Act 1979

, Governor

I, the Honourable Margaret Beazley AC QC, Governor of New South Wales, with the advice of the Executive Council, make the following Order under the *Environmental Planning and Assessment Act 1979*, section 3.20.

Dated, this day of 2021.

By Her Excellency's Command,

Minister for Planning and Public Spaces

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]

**Standard Instrument (Local Environmental Plans) Amendment
(Land Use Zones) Order 2021**

under the

Environmental Planning and Assessment Act 1979

1 Name of Order

This Order is *Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021*.

2 Commencement

- (1) This Order commences on [date to be inserted], except as provided by subclause (2), and is required to be published on the NSW legislation website.
- (2) Schedule 2 commences on [date that is 1 year after date in subclause (1) to be inserted].

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

Consultation note— If the proposed Employment Zones are adopted, the names of the Environment Protection Zones (E1–E4) will be changed.

[1] Clause 2.1 Land use zones [compulsory]

Insert after the matter relating to **Residential Zones**—

Employment Zones

E1 Local Centre
E2 Commercial Centre
E3 Productivity Support
E4 General Industrial
E5 Heavy Industrial

Mixed Use Zones

MU1 Mixed Use

[2] Clause 2.1

Insert at the end of the matter relating to **Waterway Zones**—

W4 Working Foreshore

[3] Land Use Table

Insert “Creative industries;” “Data centres;” and “Domestic goods repair and reuse facilities;” in alphabetical order in Direction 5.

[4] Land Use Table, Direction 7

Insert after Direction 6—

Direction 7— At least 1 type of commercial premises or health services facilities must be permitted wherever shop top housing is permitted in the Land Use Table.

[5] Land Use Table

Insert after the matter relating to **Zone R5 Large Lot Residential**—

Zone E1 Local Centre

Direction— The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone—

Roads

1 Objectives of zone

- To provide a range of retail, business and community uses that meet the needs of people who live, work or visit the area.
- To encourage employment opportunities and business investment.
- To enable residential development if it will encourage a vibrant Local Centre.
- To ensure that development is compatible with the amenity, character and scale of surrounding neighbourhoods.

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

2 Permitted without consent

3 Permitted with consent

Amusement centres; Boarding houses; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Domestic goods repair and reuse facilities; Entertainment facilities; Function centres; Home businesses; Home industries; Home occupations; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Respite day care centres; Service stations; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals

4 Prohibited

Pond-based aquaculture

Zone E2 Commercial Centre

Direction— The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Roads

1 Objectives of zone

- To provide the principal commercial centre for surrounding areas.
- To provide a range of business, office, retail, community, entertainment and other land uses that meet the needs of the community.
- To encourage employment opportunities and business investment.
- To promote vibrant and active street frontages, including during evenings and weekends.

2 Permitted without consent

3 Permitted with consent

Amusement centres; Artisan food and drink industries; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Domestic goods repair and reuse facilities; Educational establishments; Entertainment facilities; Function centres; Home businesses; Home industries; Home occupations; Information and education facilities; Local distribution premises; Medical centres; Mortuaries; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

4 Prohibited

Pond-based aquaculture

Zone E3 Productivity Support

Direction— The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Roads

1 Objectives of zone

- To provide a range of facilities and services, light industries, warehouses and offices.
- To provide for land uses that meet the needs of the community, businesses and industries that are not suited to locations in other employment zones.
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
- To encourage employment opportunities.
- To provide opportunities for new and emerging industries.
- To enable limited retail uses to meet the day to day needs of workers or to sell goods of a large size, weight or quantity or goods manufactured on-site.

2 Permitted without consent

3 Permitted with consent

Animal boarding or training establishments; Boat building and repair facilities; Building identification signs; Business identification signs; Business premises; Centre-based child care facilities; Community facilities; Depots; Function centres; Garden centres; Hardware and building supplies; Hotel or motel accommodation; Industrial retail outlets; Industrial training facilities; Information and education facilities; Landscaping material supplies; Light industries; Local distribution premises; Markets; Mortuaries; Neighbourhood shops; Office premises; Oyster aquaculture; Passenger transport facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Respite day care centres; Rural supplies; Service stations; Specialised retail premises; Storage premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Wholesale supplies

4 Prohibited

Pond-based aquaculture

Zone E4 General Industrial

Direction— The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Roads

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

1 Objectives of zone

- To provide a range of industrial, warehouse and related land uses.
- To support the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.
- To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.

2 Permitted without consent

3 Permitted with consent

Building identification signs; Business identification signs; Depots; Freight transport facilities; Garden centres; General industries; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Light industries; Local distribution premises; Neighbourhood shops; Oyster aquaculture; Take away food and drink premises; Tank-based aquaculture; Warehouse or distribution centres

4 Prohibited

Pond-based aquaculture

Zone E5 Heavy Industrial

Direction— The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Roads

1 Objectives of zone

- To provide areas for industries that need to be separated from other land uses.
- To support the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.

2 Permitted without consent

3 Permitted with consent

Building identification signs; Business identification signs; Data centres; Depots; Freight transport facilities; General industries; Hazardous storage establishments; Heavy industries; Industrial training facilities; Offensive storage establishments; Oyster aquaculture; Tank-based aquaculture; Warehouse or distribution centres

4 Prohibited

Pond-based aquaculture

Zone MU1 Mixed Use

Direction— The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Roads

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

1 Objectives of zone

- To provide a range of business, community, light industrial, retail and residential land uses.
- To encourage vibrant, active and safe areas.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

2 Permitted without consent

3 Permitted with consent

Amusement centres; Boarding houses; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Light industries; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Seniors housing; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations

4 Prohibited

Pond-based aquaculture

[6] Land Use Table, Zone E2 Environmental Conservation, item 4

Insert "Local distribution premises;" in alphabetical order.

[7] Land Use Table, Zone E3 Environmental Management, item 4

Insert "Local distribution premises;" in alphabetical order.

[8] Land Use Table, Zone E4 Environmental Living, item 4

Insert "Local distribution premises;" in alphabetical order.

[9] Land Use Table, Zone W1 Natural Waterways, item 4

Insert "Local distribution premises;" in alphabetical order.

[10] Land Use Table, Zone W2 Recreational Waterways, item 4

Insert "Local distribution premises;" in alphabetical order.

[11] Land Use Table

Insert in appropriate order—

Zone W4 Working Foreshore

1 Objectives of zone

- To retain and encourage industrial and maritime activities on foreshores.
- To identify sites for maritime purposes and for activities requiring direct foreshore access.

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

- To ensure that development does not have an adverse impact on the environment and visual qualities of the foreshore.
- To encourage employment opportunities.

2 Permitted without consent

3 Permitted with consent

Aquaculture; Boat building and repair facilities; Boat launching ramps; Jetties; Light industries

4 Prohibited

[12] Clause 5.4 Controls relating to miscellaneous permissible uses [compulsory]

Insert "Zone E3 Productivity Support, Zone E4 General Industrial, Zone E5 Heavy Industrial, Zone W4 Working Foreshore or" after "Plan in" in clause 5.4(10).

[13] Dictionary

Insert "Zone E3 Productivity Support, Zone E4 General Industrial, Zone E5 Heavy Industrial, Zone W4 Working Foreshore or" after "controls in" in the note to the definition of *artisan food and drink industry*.

[14] Dictionary, definition of "business premises"

Omit "internet access facilities."

[15] Dictionary

Omit the definition of *crematorium*. Insert instead—

crematorium means a building or place in which deceased persons or pets are cremated or processed by alkaline hydrolysis, whether or not the building or place contains an associated building for conducting memorial services.

[16] Dictionary

Insert in alphabetical order—

creative industry means a building or place mainly used to produce arts, crafts, design, media or other creative products, and includes artists' studios, recording studios, and set design and production facilities.

Note— Creative industries are a type of *light industry*—see the definition of that term in this Dictionary.

data centre means a building or place mainly used to collect, distribute, process or store electronic data using information technology.

Note— Data centres are a type of *high technology industry*—see the definition of that term in this Dictionary.

domestic goods repair and reuse facility means a building or place mainly used to collect, repair or refurbish domestic goods, including furniture and appliances, for the purposes of sale, lease or swap, but does not include a shop that is an op shop.

Note— Domestic goods repair and reuse facilities are a type of *light industry*—see the definition of that term in this Dictionary.

[17] Dictionary, definition of "high technology industry"

Insert "and includes a data centre," before "but".

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental
Plans) Order 2006

[18] Dictionary, definition of “kiosk”

Omit “such as newspapers, films and the like”.

[19] Dictionary, definition of “light industry”

Insert after paragraph (c)—

- (d) creative industry,
- (e) domestic goods repair and reuse facilities.

[20] Dictionary, definition of “local distribution premises”

Omit the note.

[21] Dictionary, definition of “neighbourhood shop”

Omit “and may include ancillary services such as a post office, bank or dry cleaning,”.

[22] Dictionary, definition of “shop top housing”

Omit “retail premises or business premises”.

Insert instead “commercial premises or health services facilities”.

[23] Dictionary, definition of “storage premises”

Insert “, local distribution premises” after “establishment”.

[24] Dictionary, definition of “warehouse or distribution centre”

Omit “, and includes local distribution premises”.

Insert instead “, but does not include local distribution premises”.

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
Schedule 2 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental
Plans) Order 2006

**Schedule 2 Amendment of Standard Instrument prescribed
by Standard Instrument (Local Environmental
Plans) Order 2006**

- [1] **Clause 2.1 Land use zones [compulsory]**
Omit the matter relating to **Business Zones** and **Industrial Zones**.
- [2] **Land Use Table**
Omit the matters relating to Zones B1–B8 and IN1–IN4.
- [3] **Clause 5.4 Controls relating to miscellaneous permissible uses [compulsory]**
Omit “an industrial or” from clause 5.4(10). Insert instead “a”.
- [4] **Clause 5.18 Intensive livestock agriculture [compulsory if intensive livestock
agriculture permitted with consent]**
Omit “Zone B4 Mixed Use, Zone B6 Enterprise Corridor,” from clause 5.18(7), definition
of *residential zone*.
- [5] **Dictionary**
Omit “industrial or” from the note to the definition of *artisan food and drink industry*.

**DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-795**

Attachment 3

**Draft Cumberland City Council
Submission on the Proposed
Employment Zones Framework**



July 2021

Director, Employment Zones
NSW Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Sir/Madam,

SUBMISSION ON THE PROPOSED EMPLOYMENT ZONES REFORM

Thank you for the opportunity to provide feedback on the draft employment zones framework currently on public exhibition.

Cumberland City Council generally welcomes the proposed changes and draft amendments to the Standard Instrument Local Environmental Plan (LEP), subject to consideration of local issues specific to our LGA and understanding how the reforms align with the consolidated Cumberland LEP when released from the Department.

Please find attached Council's formal submission on the proposed changes, outlining key considerations for Cumberland City.

Cumberland City Council would like to acknowledge the work NSW Department of Planning, Industry and Environment has taken in considering all councils, industry and stakeholder feedback in the drafting of the employment zones reforms to date. We look forward to the continued consultative relationship moving forward, to ensure local interests are respected and protected and potential adverse impacts are minimised as far as possible through the implementation process.

Should you have any queries or require additional information, please do not hesitate to contact Shona Porter, Executive Manager City Strategy on 8757 9901 or shona.porter@cumberland.nsw.gov.au.

Yours faithfully

Peter J Fitzgerald
ACTING GENERAL MANAGER



CUMBERLAND CITY COUNCIL SUBMISSION ON PROPOSED EMPLOYMENT ZONES REFORM

Cumberland City Council has considered the Department of Planning, Industry and Environment's proposed reform of employment zones, with a view to supporting long-term job creation and encouraging increased productivity across NSW. Council welcomes the overarching aim of the project to ensure employment zones provide clear strategic intent, include clarity around their application and increase flexibility around land uses.

The rationale and proposed updates to planning controls are generally considered appropriate to promote economic activity and support Council in the delivery of the strategic vision for its centres and employment precincts identified in Cumberland 2030: Our Local Strategic Planning Statement and the Cumberland Employment and Innovation Lands Strategy.

The following comments are provided in relation to elements of the proposal that are relevant to Council and the Cumberland community.

1) Draft Employment Zones Framework

Cumberland City Council supports the inclusion of both business and mixed-use zones, along with traditional industrial zones, in the broader definition/consideration of employment lands. This approach recognises the diverse and changing nature of business and industry activity throughout the State and supports Council's priority of providing for a range of local jobs to suit our changing demographic.

More specifically, Council generally supports the proposal to remove existing business and industrial zones in LEPs and introduce a suite of new employment zones, as follows:

- a) **E1 Local Centre** — Council supports the strategic intent of the E1 Local Centre Zone to provide a range of retail, business and community uses, similar to the existing B1 Neighbourhood Centre and B2 Local Centre zones. Whilst Council supports the introduction of a single local centre zone, some concern is raised about the potential increased scope and intensity of uses for smaller scale centres (existing B1 zones). Council will require support from the Department through the implementation process to ensure local development controls set an appropriate scale of development and continue to define the centres hierarchy.
- b) **E2 Commercial Centre** — Council supports the strategic intent of the E2 Commercial Core Zone to provide the principal commercial centre for surrounding areas, proposed to replace the existing B3 Commercial Core. The proposed zone seeks some applicability for B4 Mixed Use and B7 Business Park zones where there is a specific focus on jobs and will permit high density residential as an optional use.

Whilst there are no existing B3 zones in Cumberland City, Council sees an opportunity to work with the Department through the implementation process to investigate if this zone could be appropriate for the Merrylands Town Centre to support its potential as a strategic centre for Cumberland.

- c) **E3 Productivity Support** — Council supports the strategic intent of the E3 Productivity Support Zone to provide a range of facilities and services, light industries, warehouses, and offices, similar to the existing B5 Business Development, B6 Enterprise Corridor and B7 Business Park zones. Whilst Council supports the introduction of a dedicated zone for urban services that supports community and business needs by accommodating emerging technological and



creative industries, some concern is raised about the potential increased scope and intensity of uses compared to existing B5 and B6 zones in Cumberland.

To this end, it may be prudent to simultaneously review clause 5.4 Miscellaneous permissible uses in the SI LEP to ensure controls for 'Industrial retail outlets' and 'Neighbourhood shops', for example, meet the objectives of the zone.

In the Cumberland context, this zone is considered to have potential for the Parramatta Road Corridor and parts of the Great Western Highway. It may also be appropriate for some existing IN2 zones to align with the strategic focus identified in the Cumberland Employment and Innovation Lands Strategy.

- d) **E4 General Industrial** — Council supports the strategic intent of the E4 General Industrial Zone to provide a range of industrial, warehouse and related land uses, similar to the existing IN1 General Industrial and IN2 Light Industrial zones. Whilst Council supports the introduction of a single 'general' industrial zone, some concern is raised about the potential increased scope and intensity of uses for smaller scale employment lands, especially where they interface with residential uses (existing IN2 zones).

Council will require support from the Department through the implementation process to ensure local development controls set an appropriate scale of development and continue to protect the amenity of adjoining and nearby sensitive land uses. To this end, Council may consider expanding the application of the draft Cumberland LEP clause 6.11 Buffer between industrial and residential zones to better manage interface issues.

- e) **E5 Heavy Industrial** — Council supports the strategic intent of the E5 Heavy Industry Zone to provide areas for industries that need to be separated from other land uses, similar to the existing IN1 and IN3 Heavy Industrial zones. Whilst there are no existing IN3 zones in Cumberland, there may be a potential legacy issue for an existing gas storage facility in Yennora, currently zoned IN1. Council will work closely with the Department through the implementation process to determine the most appropriate zone for this site.
- f) **MU Mixed Use** — Council supports the strategic intent of the MU Mixed Use Zone to focus on supporting genuine mixed-use development rather than one dominant use, similar to the existing B4 zone. Translation of this new zone into the Cumberland LEP may not be straight forward and will require more detailed review in the context of both Cumberland 2030: Our Local Strategic Planning Statement and the Cumberland Employment and Innovation Lands Strategy. This would require a tailored approach once Council understands the details of this proposed zoning and should not be applied as a direct replacement of existing B4 zones which currently define our Principal Local Centres. Council seeks to work with the Department on the appropriateness of this zone and the E2 zone for our Principal Local Centres.
- g) **W4 Working Foreshore** — Council supports the strategic intent of the W4 Working Waterfront Zone to reflect the existing IN4 Working Waterfront zone. Council notes this zone is not applicable to Cumberland City.
- h) **SP4 Local Enterprise** — Council supports the strategic intent of the SP4 Local Enterprise Zone to introduce a flexible mechanism for unique precincts (for example, special activation precincts and regional jobs precincts). Council notes this zone is not applicable to Cumberland City.



2) Proposed amendments to land use provisions

Council generally supports the proposed amendments to land use provisions for the employment zones to provide flexibility for a wider range of uses and deliver greater consistency in the application of employment zones across local government areas. Council also supports the proposed land use provisions in so far as they seek to increase productivity by reducing the need for planning proposals for developments that are considered appropriate within the zone but currently not listed as permitted uses. However, some concern is raised about the following land use conflicts with the direction Council has recently resolved for the new Cumberland LEP.

- a) **Places of public worship** – The draft SI (LEPs) Amendment (Land Use Zones) Order 2021 includes 'places of public worship' as a mandatory permitted use (with consent) for the new employment zones (E1, E2, E3 and MU). This directly conflicts with Council's recently resolved policy position for the draft Cumberland LEP of only allowing new places of public worship in high density residential and industrial zones (R3, R4, IN1 and IN2). In addition, Council has endorsed the inclusion of a local provision for the draft Cumberland LEP requiring a minimum lot size of 2,000 sq.m for places of public worship in the R3 and R4 zones.

Our community articulated their concerns very clearly throughout the draft LEP consultation process, in particular citing how activities associated with the development of public worship and multi-use facilities in Cumberland can result in considerable changes to traffic flow, parking availability and impact on the prevailing amenity of an area. Council's resolved planning approach for the Cumberland LEP takes into consideration the diverse and differing cultural and religious themes that surround all places of public worship in Cumberland and seeks to balance support for these uses within the community, while at the same time protecting the amenity of low density residential areas and town centres.

Council will require support from the Department through the implementation process to ensure the Cumberland LEP continues to appropriately manage this type of development and address community expectations in our centres. Council's position is that Places of Public Worship should be an optional permitted use. Should they become mandatory, this use should be subject to the minimum lot size provision in the draft Cumberland LEP for the proposed E1, E2, E3 and MU zones.

- b) **Commercial premises** – The draft SI (LEPs) Amendment (Land Use Zones) Order 2021 includes certain umbrella terms, such as 'Commercial premises' and 'Tourist and visitor accommodation', as mandatory permitted uses (with consent) for the new employment zones (E1, E2, E3 and MU). Council is concerned that this broadened approach to permissibility will allow certain uses that may not be suitable for smaller scale centres and some targeted mixed-use zones.

For example, currently only subsets of commercial premises are permitted in the B1 Zone in recognition of the small scale of these centres – eg. 'Neighbourhood supermarket' which is separately defined and limited in size to 1,000 sq.m by clause 5.4 of the SI LEP. The risk is that a full-line supermarket under the definition of 'Commercial premises' could potentially occupy the majority of available commercial floor space in a small local centre, effectively eroding the local amenity and centres hierarchy. Similarly permitting 'Commercial premises' in the proposed MU Mixed Use Zone provides opportunity for a 'Retail premises' which may have adverse impacts on the retail viability of nearby local centres. Consideration should be given to maintaining an appropriate scale of 'Commercial premises' commensurate with



the defined centres hierarchy, either through additional criteria in clause 5.4 or local provisions in individual LEPs.

- c) **Vehicle body repair workshops and Vehicle repair stations** – The draft SI (LEPs) Amendment (Land Use Zones) Order 2021 includes 'Vehicle body repair workshops' and 'Vehicle repair stations' as a mandatory permitted uses (with consent) for the new E1 zone. Council is concerned these uses may not be suitable in local centres which are typically surrounded by residential areas. These uses are better suited to mixed use and industrial areas where noise and odour impacts can be appropriately managed. Council's recently resolved policy position for the draft Cumberland LEP seeks to prohibit such uses in our local centres. It is recommended that this not be a mandatory permitted use in the zone.

3) Duplication of 'E' Zones in the Standard Instrument

Council supports the proposed suite of Employment Zones but raises concern about the potential for confusion with the duplication of 'E' zones under the SI LEP. It is suggested that the new 'Employment' zones could alternatively be considered as 'Productivity' zones. This would both capture the essence of the employment zones reforms and align with the strategic priorities outlined in the Greater Sydney Region and District Plans, for example:

Proposed SI Employment Zones				
E1 Local Centre	E2 Commercial Centre	E3 Productivity Support	E4 General Industrial	E5 Heavy Industrial
↓				
Suggested alternative naming convention – Productivity 'P' Zones				
P1 Local Centre	P2 Commercial Centre	P3 Productivity Support	P4 General Industrial	P5 Heavy Industrial
↓				
Avoid duplication of existing SI 'E' Zones				
E1 National Parks and Nature Reserves	E2 Environmental Consideration	E3 Environmental Management	E4 Environmental Living	

4) Process for implementation

Council notes that a final framework will be introduced into the Principal Standard Instrument in September 2021, with the new zones to sit alongside the existing land use tables until such time as the changes are introduced into all relevant LEPs (by mid-2022).

The draft Cumberland LEP is currently with the Department of Planning, Industry and Environment awaiting finalisation. As discussed in this submission, there are several fundamental policy differences in the proposed reform package compared to what Council has endorsed for the draft Cumberland LEP.

In the absence of a finalised Cumberland LEP, Council cannot properly assess how the proposed framework will translate to the Cumberland context.

Once the Cumberland LEP is finalised, Council will be able to properly assess the proposal and commit to the timeframes for review and implementation.

Item No: C07/21-796

IBIS MANAGEMENT PLAN 2021: POST-EXHIBITION REPORT

Responsible Division: Environment & Planning
Officer: Director Environment & Planning
File Number: CS-233
Community Strategic Plan Goal: *A clean and green community*

SUMMARY

This report recommends the adoption of the *Ibis Plan of Management 2021* following a period of public exhibition.

RECOMMENDATION

That Council adopt the *Ibis Plan of Management 2021* as outlined in Attachment 1 of this report.

REPORT

Council officers have developed the *Ibis Plan of Management 2021* with an objective to address a range of issues associated with ibis management throughout Cumberland City. The Plan of Management will aim to:

- Manage the Australian White Ibis population in Cumberland City
- Minimise local community issues associated with ibis birds
- Reduce the impact of ibis on the natural environment and infrastructure
- Provide information to the Department of Planning, Industry and Environment on licence requirements for ibis bird management

The above objectives will be achieved through tailored management actions that respond to issues that have been identified at each site.

At the Ordinary Meeting of Council held on 21 April 2021, Council resolved to:

- Place the *Draft Ibis Plan of Management 2021* on public exhibition for a period of 28 days for public comment, with a report provided back to Council following the public exhibition period (Min. 1113).
- Write to City of Canterbury Bankstown Council and seek clarification regarding their management of this issue at Garrison Point.

Council received five submissions during the 28-day exhibition period. A summary of all submissions received, and Council's response is outlined in Attachment 2. As a response to the submission, minor amendments were made to the document, as well as the addition of a new site – Duck River, Auburn (Edgar Street) – in the plan.

A letter was also sent to City of Canterbury Bankstown Council seeking clarification on their management of ibis birds at Garrison Point.

In accordance with the above, Council has addressed all public feedback and recommends the *Ibis Management Plan 2021* be adopted by Council as outlined in Attachment 1 of this report.

COMMUNITY ENGAGEMENT

Council publicly exhibited the *Ibis Management Plan 2021*, for a period of 28 days from 23 April to 21 May 2021 on Council's website.

Council had 421 visits to the 'Have Your Say' community engagement website during the public exhibition period, with 117 people downloading the *Ibis Management Plan 2021* provided.

Submissions were received from five respondents. Council has formally responded to all respondents who made a submission.

POLICY IMPLICATIONS

Policy implications for Council are outlined in the main body of this report.

RISK IMPLICATIONS

There are no risk implications for Council associated with this report.

FINANCIAL IMPLICATIONS

Any actions arising from the *Ibis Management Plan 2021* that supports the delivery of management activities and programs, will be funded within existing budgets. Grant funding will be sought where applicable and/or available.

CONCLUSION

Council has publicly exhibited the *Draft Ibis Management Plan 2021* and formally responded to all who made a submission. The *Ibis Management Plan 2021* is now recommended for adoption.

ATTACHMENTS

1. Ibis Management Plan 2021 [↓](#)
2. Public Exhibition Submission Response [↓](#)

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-796

Attachment 1
Ibis Management Plan 2021



CUMBERLAND
CITY COUNCIL



Ibis Management Plan

2021

IBIS MANAGEMENT PLAN

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Acknowledgement of Traditional Custodians

Cumberland City Council acknowledges the traditional custodians of this land, the Darug people, and pays respect to their elders past, present and emerging.

1. INTRODUCTION

Over the past few years, the population of Australian White Ibis birds has gradually increased. This has resulted in increasing complaints and issues by our community about the Australian White Ibis. This Management Plan discusses the nature of Australian White Ibis, issues and problems associated with increase of populations of ibis birds whilst providing a management plan to balance the needs of our community.

Across Cumberland City, Council has identified ten problem areas that will require management actions to mitigate the impacts ibis are having on our community. These areas include Auburn, Lidcombe, Granville, Merrylands and Toongabbie Town Centres, Nelsons Ridge Pemulwuy, Central Gardens Merrylands, Holroyd Gardens Merryland, Pemulwuy Childcare Centre and Duck River (Edgar Street, Auburn). From the ten sites, Central Garden, Nelsons Ridge and Duck River (Edgar Street Auburn) recorded a population exceeding 100 ibis birds. Council will implement management actions when Ibis birds become problematic according to the 'Criteria for Ongoing Management'.

1.1 The Nature of the Australian White Ibis

The Australian White Ibis (AWI) is a wetland bird that is endemic to Australia. It has a white body with a black head and neck, with red patches on the back of its head and under its wings. The ibis has a curved, elongated beak which enables it to forage for aquatic invertebrates in its natural habitat. They primarily live in inland parts of the East Australian Coast, inhabiting freshwater wetlands and breeding during periods of inland flooding. They are migratory birds and will travel great distances to find suitable habitat to breed. In the last 60 years there has been a gradual increase in the number of ibis visiting the Sydney Basin. This shift in habitat range has been largely due to drought, bushfires and changes to land use.

The ibis has proven to be highly adaptable and resilient, feeding on human food sources from bins/ food scraps and nesting in trees and waterbodies across the city. As more ibis migrate to urban areas and their population numbers continue to grow, it is important that Cumberland City Council develop site specific management strategies to mitigate the impact of these birds on local communities.

1.2 Scope and Objectives

The Ibis Management Plan is applicable to public land within the Cumberland City. The management plan focuses on the main colonies located to the west of Pemulwuy Lake, Duck River Auburn near Edgar street, Holroyd Gardens and Central Gardens, as well as town centres of Auburn, Lidcombe, Merrylands, Toongabbie and Granville. Given the population growth of the Ibis bird in Cumberland, the scope may be extended beyond these specified areas to include additional parks, reserves and town centres as required.

The objective of Cumberland City's Ibis Management Plan is to address a range of issues associated with ibis throughout Cumberland. The Management Plan will aim to:

- Manage the Australian White Ibis population in Cumberland City
- Minimise local community issues associated with ibis birds
- Reduce the impact of ibis on the natural environment and infrastructure
- Provide information to the Department of Planning, Industry and Environment on licence requirements for Ibis bird management

These objectives will be achieved through managing Ibis birds through three action areas. Management actions will be site specific and tailored to issues that have been identified at each site.

1.3 Strategic Context

National Parks and Wildlife Act 1974

The objectives of the National Parks and Wildlife Act 1974 are to conserve habitat, ecosystem and biodiversity of lands reserved under the Act. All native animals and plants are protected under the Act, including the Australian White Ibis. Under this legislation, offences relating to the harming of fauna and flora is prosecuted under section 70 and 71 of the Act.

Biodiversity Conservation Act 2016

The purpose of the Biodiversity Conservation Act 2016 is to maintain healthy, productive and resilient environments for the well-being of the community. Under section 2 of the Act, licences can be issued for actions in relation to harming or obtaining protected fauna to control native animals.

Department of Planning, Industry and Environment: Landholders Licence to Harm Protected Animals-Australian White Ibis – Nest and Eggs

If protected native animals are shown to be a threat to human safety, damaging property and/or causing economic hardship, the National Parks and Wildlife Service (NPWS) may grant a licence to the owner or occupier of a property, to harm (for example, cull or catch and release) the animals. All management actions must be carried out in accordance with the licence conditions. Licensee's must keep a register of animals harmed under the licence using record sheets provided by the Department and returned to NPWS office within 7 days of the licence expiration.

Cumberland City Biodiversity Strategy

Cumberland City is committed to a clean, green and environmentally sustainable environment by protecting and enhancing Cumberland's natural areas. The Strategy commits Cumberland City to protecting biodiversity and supporting ecosystem services to ensure biodiversity is protected for current and future generations. Key Focus Area 3.1 aims to embed biodiversity consideration and protections into strategic plans and controls.



1.4 Ibis Distribution

Cumberland City's Australian White Ibis bird population is concentrated in its large green open spaces, often near water bodies. The largest permanent colony comprises of over 190 ibis birds at Central Gardens located to the central west of the local government area. This was closely followed by a colony present at Lake Pemulwuy with over 140 ibis birds and a colony located on a small island at Duck River Auburn (near Edgar Street) which recorded a population of over 130 ibis birds. During the ibis survey undertaken by Council in late 2020 and early 2021, an emerging population was observed at Holroyd Gardens, specifically to the east portion of the garden where a large lake is conducive for ibis habitat. Furthermore, the large open green spaces and high amount of palm trees and casuarinas promote establishment of colonies given the limited number of water bodies in Cumberland.

The survey also noted scattered smaller populations of ibis throughout the town centres of Merrylands, Granville, Auburn, Toongabbie and Lidcombe.

The ibis bird population has gradually increased over recent years. As their population continues to grow, it is expected that further conflicts between Ibis and the community and environment will increase.

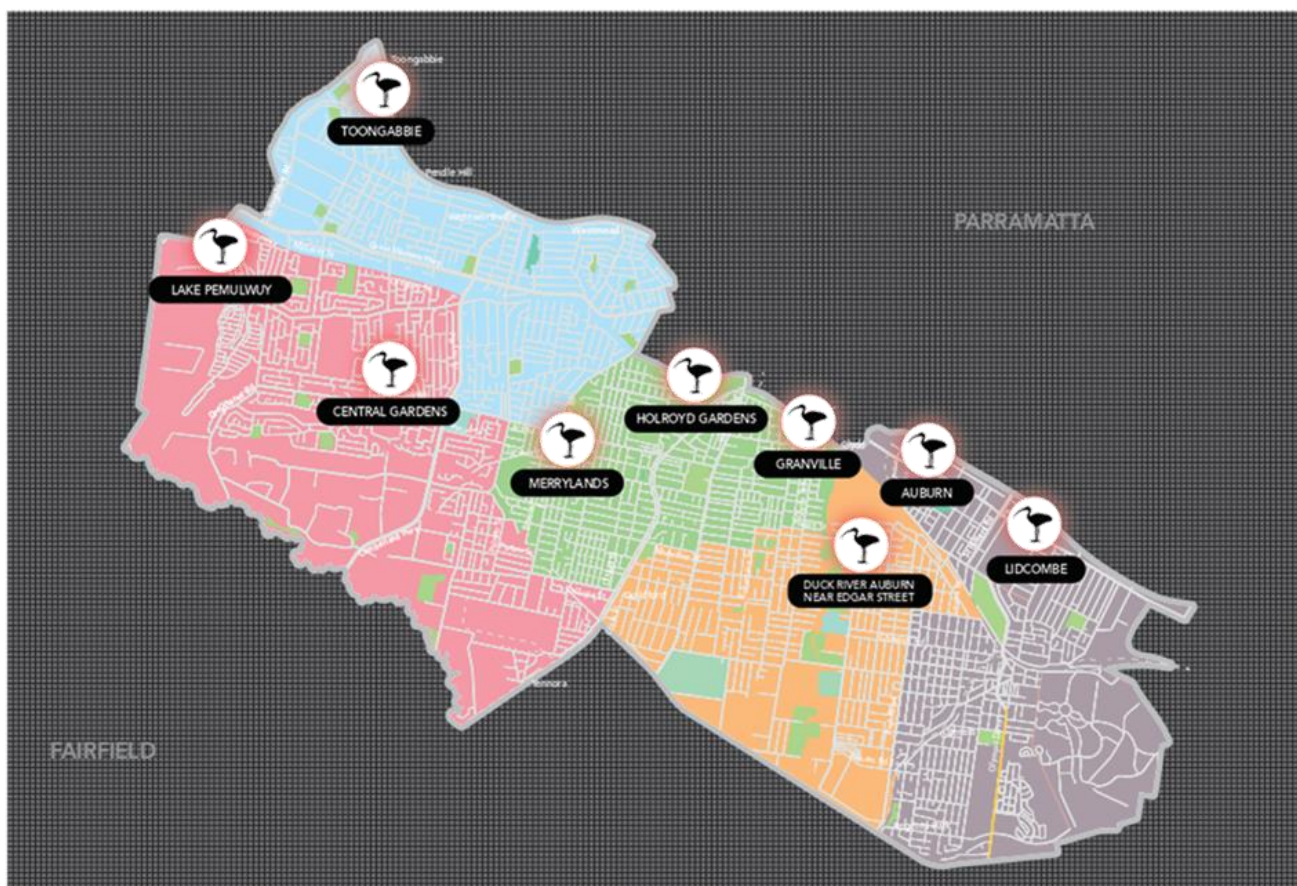


Figure 1 - Distribution of ibis birds and colonies across Cumberland City

2. SIGNIFICANT SITES

2.1 Central Gardens

Central Gardens is located on the corner of Merrylands Road and the Cumberland Highway in Merrylands West and forms an important component of Cumberland City Council's open spaces. The site's open grassed areas allow for recreational activities, such as BBQ's, picnics and tennis.

Central Gardens is unique as it contains patches of remnant vegetation of the native Cumberland Plain woodlands, including Eucalypts such as Grey Box (*E. moluccana*), Red forest Gum (*E. tereticornis*) and Narrow-leaved Ironbark (*E. crebra*).

The park also contains a nature reserve which has an animal enclosure containing native species including wallabies, emus, wombats and native cockatoos and cockatiels.

The lake at the park provides habitat for various species of waterfowl including dusky moorhens, pacific black ducks and wood ducks.

The manmade lake provides a natural habitat for Ibis and is Cumberland's largest permanent colony. In recent years, the Ibis have moved beyond the lake and colonised nearby casuarina's within the animal enclosures resulting in widespread fowling which has increased the risk of disease for the native animals.

Impact of Ibis Birds

The ibis at Central Gardens were found to be roosting and nesting in the trees and on the ground, predominately in the area surrounding the lake. Much of the trees, particularly the casuarinas, were showing signs of damage to the foliage. Multiple trees were found to contain up to 4 – 5 ibis nests. When observing the flora and fauna at the site it was apparent that the ibis bird was the dominant species present, which suggests that they are outcompeting other species of birds for food and space. The water in the lake was murky in appearance with an offensive odour associated with excretion. It is expected that the water quality will continue to decline unless action is taken. If left unmanaged it is expected that the ibis population at this site will continue to cause further disruption to public activities in the park as the birds will encroach more on public space when foraging for food, particularly when there are large gatherings of people having a BBQ or picnic.



Figure 2 - Central Gardens ibis colony

2.2 Holroyd Gardens

Holroyd Gardens is located on the corner of Walpole and Pitt Street in Merrylands. The site at Holroyd Gardens was originally a clay excavation pit and, as a result, there is limited remnant indigenous vegetation. Holroyd Gardens is an important open space and recreation area for our community. It contains sheltered BBQ areas, playgrounds, duck ponds and walking trails. Holroyd Gardens acts as a greenspace corridor for wildlife as it connects to the tree line that runs along A'Becketts Creek.

Impact of Ibis Birds

There was a relatively small ibis population located at this site, the majority of which were found to be roosting on the ground around a stagnant pond near the lake. No nests or chicks were found on inspection. The site overlaps with a high-density residential area (apartments). Should the population grow, this could cause disharmony among residents in the future. A copious amount of bird excretion along the footpath of the lake was noted, although it was unclear if this was produced by the ibis and there was no offensive smell associated with the excretion. The surrounding lake and brickwork site are both aesthetic features which makes the area appealing for residents and often serve as a backdrop for wedding photograph shoots. A growing ibis population could lead to the birds occupying much of this space which could lead to a decline in both the water quality and attractiveness of the site. As the brickworks site is heritage listed, Council would need to invest time and resources into cleaning and removing bird excrement from the structure in order to maintain it.



Figure 3 - Holroyd Gardens is a site with a growing ibis population in close proximity to residential properties

2.3 Pemulwuy

The ibis colony at Pemulwuy is spread across three areas at Nelsons Square, Driftway Reserve and Dirrabari Reserve. Pemulwuy Lake is approximately 3,650sqm, provides recreation for the local community and playing an important role in the environment.

Nelsons Ridge acts as a greenspace corridor which provides habitat connectivity for biodiversity. Previous fauna surveys recorded four threatened species located in the area surrounding the Nelsons Ridge, including the Greater broad-nosed bat, Eastern freetail bat, Eastern falsistrelle and the Powerful owl. Dirrabari Reserve contains some remnant vegetation of the endangered Shale Plains Woodland vegetation.

Driftway Reserve is aligned with the original creek which slopes northward. The creek line has been extensively modified during the development of Nelsons Ridge to ensure the surrounding development does not succumb to flooding. Run off that enters the creek line flows down into the water feature in Nelsons Square.



Figure 4 - Pemulwuy Lake has a large population of ibis in close proximity to homes

Impact of Ibis Birds

There is a growing ibis population that has established themselves around the lake at Nelsons Ridge. A site inspection recorded a total of 147 individuals present (141 adults, 6 chicks), making it the second largest population of the sites identified by Council. The birds were observed to be nesting in the vegetation on the lake and were seen flying in and out of the site. No ibis were observed nesting in the trees. Residents that live along the waterfront of the lake have lodged several complaints to Council relating to disruptive behaviour associated with this ibis population. There are also many complaints how the ibis birds reduce the attractiveness of the lake.

Long term effects of an unmanaged ibis population could see a decline in the aesthetic appeal and recreational value of the area. As this population is heavily concentrated around the water, there is likely to be a decline in water quality at the lake (despite having a water feature which assists in aeration). Poor water quality can lead to issues such as algal blooms and disruption to the local ecosystem services and biodiversity within the lake. Damage to aquatic vegetation was observed to be occurring at the site due to ibis birds nesting and roosting. Aquatic vegetation play an important role in ecosystem services, as they provide habitat and food resources for other aquatic animals, such as fish, amphibians and insects, and they remove toxins from the lake through photosynthesis.

2.4 Town Centres

This Management Plan also covers the town centres in Cumberland City Council. Presently, the problematic locations with ibis include Auburn, Lidcombe, Merrylands, Granville and Toongabbie town centres. Town centres offer a range of services and facilities to support our community. These include retail, restaurants and leisure opportunities. Town centres are the focal point of our community play host to festivals, markets and events. As ibis birds are increasingly being pushed out of their natural habitat, they find opportunities within town centres to forage through public and commercial bins, litter scraps and nest in trees close to these food sources. This poses an increasing public nuisance problem where large colonies produce strong smells and fowling in public spaces.



Impact of Ibis Birds Auburn Town Centre

An inspection of Auburn Town Centre found that ibis birds were nesting primarily in one location along Northumberland Road, in two palm trees at a site currently under construction close to the trainline. The trees that the birds were nesting in were not pruned and ibis were observed to be flying between Northumberland Road and Auburn Long Day Care, which is indicative that the two populations are linked.



Impact of Ibis Birds Lidcombe Town Centre

The Lidcombe Town Centre consists of Joseph Street, Bridge Street, Railway Parade and Remembrance Park in Lidcombe. Ibis were found to be nesting outside the library near Olympic Drive (main road) and near the railway line. The ibis nesting near the railway line were found in one single bottle brush tree, which contained several nests with chicks. There was a considerable amount of faeces under the tree and debris from the ibis was noticed to be scattered as the birds would take flight. A further inspection of Remembrance Park found a pair of ibis sitting in one of the palm trees in the park (despite the palm being recently pruned). While the population in this area is small, it is located near multiple restaurants, some of which include outdoor dining areas. Therefore, there is a potential health hazard associated with this population if left unmanaged.



Impact of Ibis Birds Merrylands Town Centre

Merrylands Town Centre is a high use pedestrian area consisting of McFarlane Street, Merrylands Road and Finns Lane and Main Lane. A small population of 7 ibis birds were surveyed in the rear of the McFarlane Street carpark, backing onto the stormwater channel. Sources of food included water, rubbish and scraps of food. Native casuarinas provided cover and nesting opportunities. A few ibis birds were also spotted in the lane ways picking through commercial waste bins for food scraps.



Impact of Ibis Birds Granville Town Centre

Granville Town Centre is a busy area with restaurants, shopping and community facilities. During the survey, 3 Ibis birds were spotted in the town centre foraging through residential and public bins. A large nest was surveyed in a palm tree at the intersection of Russell and Carlton Streets. The nest emitted a strong foul odour and signs of fowling around the palm tree.



Impact of Ibis Birds Toongabbie Town Centre

Toongabbie Town Centre is located in the north west of Cumberland City, comprising of restaurants, residential apartments, a small park, playground and community centre. The survey found two ibis birds flying over the town centre. No ibis birds were found to be nesting in any of the trees around the town centre. The park on the corner of Targo and Toongabbie Roads showed signs of ibis birds and nests being present. This was evident by the significant amount of excrement on the road, footpath and bin near the playground. There was also an odour and ibis feathers scattered along the ground indicating that the birds frequent the park throughout the day.

Source: Wikipedia, Author: J Bar.

2.5 Child Care Centres

Child care centres cater to the very young. They are an environment for growth, learning and development and socialisation. As outdoor playtime is an important element to childhood development, it is important that the child care centres are clean and hygienic.

During the survey, it was noted that Pemulwuy Childcare Centre had a nest located in the gumtree in the play area. Staff at the day care have reported that birds started nesting in the tree in March 2020 and they became increasingly concerned as bird dropping began to accumulate in the playground area posing a health hazard to young children. In response to this, Council organised for the tree to be cut back and installed roof spikes and spotlights to further discourage roosting and nesting. These methods were successful for a short period of time; however, the Ibis breeding season has seen the birds return, particularly at dusk. The ibis have a potential food source in the form of the bins behind the Woolworths which is adjacent to the childcare centre.

Auburn Long Day Care Centre is located next to Council's Northumberland Office in Auburn. Upon site inspection, ibis birds were found to be nesting in weedy vines that have grown onto the fence of the day care. Staff at the day care centre had raised concerns about the ibis as their behaviour was not only disrupting the children but they had also begun to destroy the centre's vegetable garden. Droppings from the birds are beginning to accumulate in the playground and this pose a health hazard to the children.

2.6 Duck River Auburn (Edgar Street)

The Duck River is approximately 12km long and lies on the traditional lands of the Dharug peoples, running through the suburbs of Auburn, Granville and Clyde and flows into the Parramatta River. This greenspace corridor holds both recreational and ecological value as members of the public frequent the walking trail and native wildlife use the area for habitat and nesting space.

Scattered throughout Duck River are several small islands which provide habitat and nesting space for birds, including ibis birds. An inspection of the Duck River corridor indicated that there was one island, located near Edgar Street Auburn, which had an abundance of ibis birds. Over 130 ibis birds were recorded during a survey in May 2021.



Impact of Ibis Birds Duck River Auburn (Edgar Street)

While the ibis birds at this site were mainly contained to the island, it was noted that ibis were foraging for food on the sporting fields at Oriole Park. As the Duck River is flanked by residential property, should ibis numbers increase, it is likely that the birds will encroach more into the residential area.

3. POTENTIAL ISSUES

3.1 General Issues

There are a range of general issues associated with ibis birds in the area. These are outlined below:



Public nuisance

Residents and the public generally are not receptive to ibis birds. Council often receives many complaints against them including the associated noise, smell, accumulation of excrement, aggressive behaviour and scattering of rubbish through public spaces.



Fauna displacement

Ibis are known to compete with native species over nesting locations, for example, the Grey-headed Flying-fox colony at Clyde along Duck River, are in direct competition with ibis for roosting spots. An overabundance of ibis can reduce ecosystem services and biodiversity.



Smell

Offensive odours have been experienced at several sites. The odours are emitted from ibis bird defecation and decaying organic matter including rotting eggs, carcasses and feathers.



Public health risk

Ibis are known carriers of pathogens that could be transmitted to humans. Salmonellosis is a common bacteria that is excreted in bird faeces, areas that contain an accumulation of bird droppings pose a risk to human health (particularly in small children). Increase in nutrients may result in algae blooms.



Damage to vegetation

Ibis smother native vegetation when nesting in the canopy and their excreta can inhibit seed growth of the under-storey vegetation. This can potentially reduce fauna and flora diversity.



Degraded water quality

An increase in faecal matter from ibis birds in water bodies increases the nutrient levels in the water and can lead to eutrophication and algal blooms.



Management Costs

Costs associated with vegetation management (pruning of palms) and street cleansing services (hosing down footpaths and surfaces covered with ibis droppings).



Noise

Ibis bird calls are often heard around nesting sites around sunrise and sunset. This has the potential to disturb neighbouring residents.

3.2 Site Issues

The general issues identified in section 3.1 have been applied on the sites surveyed by Council.
This is outlined in Table 1.









								
Site	Public nuisance	Smell	Noise	Degrade water quality	Damage to vegetation	Public health risk	Management costs	Fauna displacement
Central Gardens	●			●			●	●
Holroyd Gardens	●			●				
Pemulwuy Lake	●			●			●	●
Pemulwuy Childcare Centre	●					●	●	
Auburn Town Centre	●					●	●	
Lidcombe Town Centre	●	●				●	●	
Merrylands Town Centre	●	●						
Granville Town Centre	●	●						
Toongabbie Town Centre	●	●				●	●	
Duck River Auburn (Edgar St)	●	●	●	●	●			●

Table 1: Site specific issues associated with ibis

4. COLONY COMPOSITION

4.1 Details of ibis Populations

Council has undertaken surveys of ibis populations across a range of locations in Cumberland City.

The results of the surveys are provided in Table 2.

Site	Population size	Date/Time start/finish	Total chicks on-site (a)	Total adults on-site (b)	Flying in	Flying out	Total nests	Colony population a+b
Central Gardens	Large	23/10/20 1:30pm– 2:30pm	31	165	5	0	51	196
Holroyd Gardens	Small	28/10/20 3:30pm – 4:00pm	0	24	5	0	0	24
Pemulwuy Lake	Large	23/10/20 2:30pm – 3:00pm	6	141	5	1	39	147
Pemulwuy Childcare Centre	Small/ Transient	28/10/20 3:00pm – 3:30pm	0	0	0	0	2	0
Auburn Town Centre	Small/ Transient	28/10/20 2:00pm – 2:30pm	4	16	4	3	8	20
Lidcombe Town Centre	Small/ Transient	30/11/20 10:30am - 11:00am	7	15	1	2	8	22
Granville Town Centre	Small/ Transient	04/12/2020 11.30am - 12pm	0	3	0	1	1	3
Toongabbie Town Centre	Small/ Transient	04/02/2021 9:30am - 10am	0	0	0	2	0	0
Macfarlane Street, Merrylands Memorial Avenue, Merrylands	Small/ Transient	04/12/2020 1.30pm - 2.30pm	1	6	0	0	1	7
Duck River Auburn (Edgar Street)	Large	13/05/21 2:00pm – 2:20pm	8	129	1	0	9	138

Table 2: Results from ibis surveys

5. ACTIONS TO DATE

Ibis management actions has increased in Cumberland over recent years, which corresponds with a growing ibis population across Cumberland. To date, past management actions have been reactive and only at specific locations on both public and private land. Past management actions include pruning trees to deter ibis roosting and nesting in trees, and putting up signage in parks instructing the public not to feed the birds (noting this is not specific to the ibis).

Although Council has limited authority in implementing management actions on private property, Council advises residents to seek tree pruning approval on private land to deter roosting and nesting on private property. Council also has a town centre cleansing program to remove excrement and smells and litter pick up to ensure town centres are clean and free of food source.

In addition to this, Pemulwuy childcare centre implemented roost dispersal strategies in early March 2020, including the installation of spikes and predatory statues with noise and spotlight activation. These methods were successful in deterring the ibis from nesting at the site for a 6-month period; however, ibis have been spotted returning to the site at the beginning of the 2020 breeding season.

In late 2020, Council was granted a temporary 'Landholders Licence to Harm Protected Animals'. Council undertook actions at Pemulwuy to remove and oil 50 ibis eggs and destroyed 30 nests under its temporary licence.

To date, past management actions have been reactive and only at specific locations on both public and private land.



6. MANAGEMENT PLAN

6.1 Objectives

The objectives of the ibis Management Plan aims to:

- Manage the Australian White Ibis population in Cumberland City
- Minimise community issues associated with ibis birds
- Reduce the impact of ibis on the natural environment and infrastructure
- Provide information to the Department of Planning, Industry and Environment license requirements for ibis bird management

These objectives will be achieved through managing Ibis in three action areas:

Action 1: Groundworks

Action 2: Education

Action 3: Monitoring

Management actions will be site specific and tailored to issues that have been identified at each site.

6.2 Criteria for Ongoing Management

Management and monitoring actions will be undertaken based on the below criteria:

Criteria	Description
Population numbers	Maintain manageable Ibis population to balance the needs of the community and environment.
Number of complaints	The number of complaints received in relation to noise, smell, aggressive behaviour and fowling.
Proximity to food premises	Food premises with outdoor dining within 20m of an Ibis site could attract Ibis birds creating conflict between ibis birds, business and community.
Proximity to childcare centres	Ibis sites located within 20m of childcare centres creates problematic issues like fowling on play equipment, offensive smells and potentially aggressive behaviour towards children.
Degradation in ecosystem	Large numbers of ibis can reduce the ecosystem health leading to poor water quality and vegetation degradation.
Proximity to Bankstown Airport	According to the Australian National Airports Safeguarding Framework (NASF), Cumberland is impacted by its proximity to Bankstown and Sydney Airports. Regulations within the 'Managing Risk of Wildlife Strikes' specify that monitoring of ibis is recommended between eight to thirteen kilometres from an airport.

6.3 Action 1: Groundworks

Restricting food

There was a strong correlation between Ibis populations and access to human food sources, particularly in the form of rubbish from bins and food scraps that had been dumped. Ibis are resilient animals that have adapted to the urban landscape and it is not uncommon to see these birds pulling food out of bins that have either been left open or uncovered. Ways in which we can limit access to food is by:

- Provide bins in problem areas to reduce dumping of food scraps
- Ensure all bins have lids
- Ensure bins are emptied regularly and in a timely manner
- Picking up litter and food scraps

Roost dispersal

Roost dispersal methods can include:

- Installing bird deterrent spikes
- Using ultrasonic speakers (noise deterrents)
- Spotlights to deter birds from landing in specific areas.

Bird deterrent spikes are cost effective, non-harmful and easy to install, making them the most feasible option. The use of ultrasonic speakers aims to interrupt acoustic communication between the birds. This method is limited as there has been limited trials of this technique with ibis and can require a permit. Spotlights are also an effective roosting deterrent. The lighting around a nesting area reduces the attractiveness of the site and does not require a permit to install. When considering the use of spotlights, the birds could potentially find an alternative roost in a tree near the initial site.

Roost dispersal management strategies should only be used on small colonies to supplement egg and nest removal methods and can only be done when chicks are not present.

Restricting breeding success

The ibis breeding season generally begins in June and runs until February. Each year ibis have a clutch size ranging from 1 – 4 eggs, and have between 1 – 3 clutches per season and it takes 3 years for them to reach sexual maturity. Breeding success in ibis is dependent on access to resources and can be extended in the urban environment due to increased food and water supplied from external sources. These animals have a high reproductive turn over and it is important that any management activity designed to reduce breeding success are coordinated properly. Sporadic/uncoordinated breeding management can lead to the population splintering and recolonising in another area.

Breeding restrictions can include egg and nest removal, oiling eggs and pruning vegetation where ibis are known to nest. Egg and nest removal and oiling eggs are activities that require Council to obtain a 'licence to harm' from the NSW Government and these activities must be carried out by licensed personnel.

Egg and nest removal must commence at the start of the first signs of ibis breeding activity. Eggs must be removed on a fortnightly basis and nests must be closely examined before removal to ensure that only nests without chicks are removed.

Egg oiling is an effective, non-lethal and human method of bird control. It involves the coating of the birds egg in a specialised liquid which contains paraffin oil. This chemical stops the embryo from developing. Ibis have a keen sense of smell and are able to sense when their eggs have been disturbed and will either eject or abandon eggs that have been oiled.

Trees that have been identified as nesting sites should be pruned regularly. Ibis also tend to nest in exotic vines that run along fence lines. These vines can be removed completely provided there are no chicks in the nests.

Street cleaning

Regular cleaning of areas that are susceptible to fouling by ibis birds can significantly reduce perceived health risk associated with the birds. Cleaning efforts should be focused primarily in locations with high public traffic, such as the town centres and childcare centres. Cleansing works may include use of a street sweeper or high-pressure hose to remove bird excrement from the pavement.

In addition to street/pavement cleaning, any dead ibis should be removed from the area immediately in order to improve odours and reduce health risk.

6.4 Action 2: Education

Signage

Signs are an effective way to engage and educate members of the community about ibis's and what they can do to help minimise the impacts of ibis birds on their local area.

For example, signs may discourage the community from feeding birds. For a sign to be effective, it should contain the following:

- Written in plain text/avoid complicated jargon
- Written in English but contain translations to other languages common to Cumberland
- Be eye catching and contain a graphic relevant to the issue being addressed.

Brochures

Brochures can be prepared and handed out to community members who are observed to be feeding ibis birds. Brochures can explain the impact of this behaviour to improve community behaviour.

Website

Information can be provided on Council's website about the Australian White ibis, their importance to the natural environment and correct community behaviour to minimise ibis bird issues.

6.5 Action 3: Monitoring

Ibis counts

Regular survey counts are important to tracking the population numbers of ibis birds at key sites, such as Holroyd Gardens, Pemulwuy Lake and Central Gardens. This will enable Council to determine the effectiveness of mitigation actions. Council will be responsible for conducting regular ibis counts to monitor population size at problem sites.

There are two types of counts that can be conducted, an ibis population count and an ibis roost count. A population count must occur at a site before any management strategies have been implemented to establish the colony definition (small, medium, large, transient refuge colony).

Population counts should be conducted on a bi-annual basis to monitor the ibis population size during daylight hours. A roost count serves the same purpose as a population count, with the only difference being that roost counts are conducted exclusively in the evening. Roost counts will also be done on a bi-annual basis approximately one and a half hours before sunset.

Water quality and vegetation health

Excess numbers of ibis birds can degrade the local environment. Increase in faecal matter in water bodies has the potential for algal blooms and poor water quality. Large numbers of ibis birds can defoliate branches as they form roosts and nests, large amounts of faecal matter also can inhibit growth of new seedlings which will have long term implications to the ecological health of the site.

7.1 Action 1: Groundworks

The implementation strategy for the ibis Management Plan is outlined below.

7. IMPLEMENTATION STRATEGY

Objectives	Management Actions	Locations	Timing	Responsibility	Monitoring	Performance indicator
1.1 Maintain a sustainable ibis population	Implement relevant groundwork actions: -Restrict food -breeding success -roosting opportunities	As required Pembury Lake Central Gardens Duck River Auburn (Edgar Street)	As required	Works and Infrastructure	Bi-annual	Ibis population survey count
1.2 Reduce ibis population	Apply for 'License to Harm' to implement groundwork actions: -roost dispersal -egg removal -egg oiling	As required	As required	Works and Infrastructure	Bi-annual	Ibis population survey count
1.3 Reduce odour and public health risk	Street cleansing Remove dead ibis Clean footpath and furniture	As required	As required	Works and Infrastructure	As required	Number of complaints
1.4 Reduce opportunities to forage on litter and food scraps	Maintain clean town centres and parks by picking up litter and emptying bins	As required	As required	Works and Infrastructure	As required	Number of complaints
	Audit bins to ensure sufficient and appropriate covered bins to reduce foraging opportunities Advise residents and business not to overfill bins	As required	As required	Environment and Planning	As required	Number of complaints
	Investigate water quality improvement plan	Holroyd Gardens Pembury Lake Central Gardens Duck River (Edgar Street, Auburn)	As required	Works and Infrastructure	Annual	No excess weed or algal growth
Reduce opportunities of ibis to nest on public and private land	Trim tree branches to reduce opportunities to nest Implement roost dispersal actions (spikes, noise and spotlights)	As required	As required	Works and Infrastructure	As required	Number of complaints

7.2 Action 2: Education

Objectives	Management Actions	Locations	Timing	Responsibility	Monitoring	Performance indicator
1.1 Discourage feeding Ibis birds	Develop site signages	As required Pemulwuy Lake Central Gardens	As required	Works and Infrastructure	Bi-annual	Ibis population survey count
1.2 Improve community understanding of Ibis birds	<ul style="list-style-type: none"> Hand out flyers in problematic areas to educate community Develop webpage to include information about ibis birds and appropriate behaviour 	As required	As required	Works and Infrastructure	Bi-annual	Ibis population survey count
1.3 Develop and implement an education campaign	Work with Communications to develop an education campaign including social media	As required	As required	Works and Infrastructure	As required	Number of complaints

7.3 Action 3: Monitoring

Objectives	Management Actions	Locations	Timing	Responsibility	Monitoring	Performance indicator
1.1 Monitor Ibis population	Complete bi-annual ibis count at listed significant sites	Significant sites	Spring and Autumn	Environment and Planning	Bi-annual	Ibis bird count

8. MANAGEMENT PLAN REVIEW

The review approach for the ibis Management Plan is outlined below.

	Review Item	Task	Timing	Responsibility
1.1	Review existing sites and add new sites as required to management actions	Monitor existing sites through completing ibis survey and add new sites as required	Bi-annual	Works and Infrastructure
1.2	Review ibis Management Plan	Complete a full review of the Management Plan	5 years	Environment and Planning



CUMBERLAND
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DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-796

Attachment 2
Public Exhibition Submission
Response

Draft Ibis Plan of Management 2021 - Summary of Submissions

In total, 5 submissions were received during the public exhibition period. Each of the 5 individual submissions contained numerous comments and suggestions. The following table summarises all comments and suggestions received.

Comments / Suggestions	Council response	Changes to Strategy
Submission 1		
<p>The following comments for consideration:</p> <ul style="list-style-type: none"> The title needs to be modified from a Plan of Management to a Management Plan. A Plan of Management is a legislative instrument which is specific the management, development and categorisation of community land in accordance with the NSW Local Government Act 1993. Other management reports/studies/plans which are not specifically related to this legislation are generally called Management Plans. It is important to distinguish between the two, for instance, we would not want to have Management Plans mixed in with our Plans of Management on our Plans of Management webpage. 	<ul style="list-style-type: none"> This is an appropriate suggestion for legal reasons, and we will action this. 	<ul style="list-style-type: none"> The Ibis Plan of Management 2021 will be changed to Ibis Management Plan 2021.

Comments / Suggestions	Council response	Changes to Strategy
<ul style="list-style-type: none"> The Ibis birds travel far and wide across Australia and it seems quite apparent that they are opportunistically attracted to urban areas primarily to take advantage of the easily accessible food scraps which are readily available through overfilled waste bins and disposal facilities. On a local community level, we could run an awareness campaign to raise awareness of the importance of keeping our domestic waste bin lids closed, and further by specifically penalising commercial proprietors for overfilling those back lane skip bins which are a primary attraction to the birds. This is the rationale for keeping polar bears out of arctic towns. 	<ul style="list-style-type: none"> Due to resource constraints, Council won't be able to run an awareness campaign. Instead we will endeavour to use education resources we already have (pamphlets/door knocks) to inform the general public about the importance of correct disposal of waste so as not to attract the birds. No further action required. 	<ul style="list-style-type: none"> No changes required.
Submission 2		
<p>As these birds are a protected native species, I call on the council to honour this protection, acknowledge that the birds reside in our council area as a direct result of the actions of humans, and find non-destructive ways to co-habit with them:</p> <ul style="list-style-type: none"> Protect and restore wetlands in the council area 	<ul style="list-style-type: none"> Council will investigate opportunities to improve habitat at Pemulwuy, this would provide more habitat for ibis and other native birds. 	<ul style="list-style-type: none"> Current Action 1 Groundworks - 1.1 'Maintain a sustainable ibis population'. No changes required.
<ul style="list-style-type: none"> Allow space for the ibis to live – parks and gardens in the area 	<ul style="list-style-type: none"> Ibis already have adequate space in our parks and gardens – no further action required. 	<ul style="list-style-type: none"> No changes required.

Comments / Suggestions	Council response	Changes to Strategy
<ul style="list-style-type: none"> Put up signs to discourage people from feeding the birds 	<ul style="list-style-type: none"> Signs and education pamphlets are being generated/circulate to discourage people from feeding the birds. 	<ul style="list-style-type: none"> Current action 2 – 1.1 ‘Discourage feeding ibis birds’ No changes required.
<ul style="list-style-type: none"> Increase cleaning of streets and parks for rubbish removal 	<ul style="list-style-type: none"> Council already has a street cleansing and rubbish removal schedule in place. No further action required. 	<ul style="list-style-type: none"> Current action 1 – 1.3 ‘Reduce odour and public health risk’ and 1.4 ‘Reduce opportunities to forage on litter and food scraps’ No changes required
<ul style="list-style-type: none"> Provide bins that are difficult for ibis to get into 	<ul style="list-style-type: none"> Many Council’s bins (parks especially) have lids making it difficult for the birds to feed (provided the bin has not been overfilled). Depending on budget, potentially could investigate providing more lids with bins in hotspot locations. 	<ul style="list-style-type: none"> Current action 1 – 1.4 ‘Reduce opportunities to forage on litter and food scraps’. No changes required.
<ul style="list-style-type: none"> NO destruction of nests, removal of eggs, or restriction of roosting opportunities 	<ul style="list-style-type: none"> In areas where ibis numbers have been identified as small/transient no invasive management actions will occur. Sites which have been classified as having a large ibis population will require breeding and nesting deterrence as their numbers are unsustainable and impact on other native species – no further action required. 	<ul style="list-style-type: none"> No changes required.

Comments / Suggestions	Council response	Changes to Strategy
Submission 3		
<p>1) Reference to Merrylands Town Centre should be added?</p> <ul style="list-style-type: none"> P.3 regarding the POM 'Scope and Objectives' only references the town centres of Lidcombe, Toongabbie and Granville. <p>But p. 3 should also reference the Merrylands Town Centre - the Merrylands Town Centre being mentioned on p. 5, p.10, p.13 & p.14 of the POM.</p>	<ul style="list-style-type: none"> Noted – will include Merrylands Town centre on applicable pages. 	<ul style="list-style-type: none"> Have included Merrylands Town Centre on applicable pages
<p>2) Newman Street, Addlestone Road and Wayman Place need to be added to the list of problem streets - refer p.13 (3.2 Site Issues) & p.14 (4.1 Details of ibis Populations)</p> <p>To increase accuracy and provide better detail in the POM, there are some streets located on the fringe of the Merrylands Town Centre that need to be added to the list of problem streets – as ibis frequent them on a daily basis.</p> <p>P.14 of the POM lists the Merrylands Town Centre – and specifically Macfarlane Street and Memorial Avenue, Merrylands - as having a small transient population of ibis. However, Council needs to add adjacent Newman Street, Addlestone Road and Wayman Place to this list.</p> <ul style="list-style-type: none"> But please note - the ibis are not transient in this area. They are present at some stage <u>every day</u>. 	<ul style="list-style-type: none"> Council have investigated this – it was noted that ibis are present along these streets. Despite being found in these additional locations, the population is still classified under the small/transient category as population size is <50 individuals – no further action required. 	<ul style="list-style-type: none"> No changes required.
<p>3) Feedback on Action 1: Groundworks</p> <p>I absolutely concur with Council that ibis need to have no opportunity to forage on litter and food scraps and that it's important to:</p> <ul style="list-style-type: none"> Ensure all bins have lids <ul style="list-style-type: none"> But for many weeks one of our rubbish bins had no lid – until I saw one of the Council Officers conducting a bin inspection and I asked about obtaining a new bin with a lid. 	<ul style="list-style-type: none"> Many Council's bins (parks especially) have lids making it difficult for the birds to feed (provided the bin has not been overfilled). Depending on capacity Council could investigate providing more lids with bins in hotspot locations. 	<ul style="list-style-type: none"> No changes required. Current action 2 – 1.1 'Discourage feeding ibis birds' No changes required.

Comments / Suggestions	Council response	Changes to Strategy
<p>I subsequently then submitted a request for a new bin – which was promptly delivered.</p> <ul style="list-style-type: none"> ○ Moving forward, can Council Officers conducting bin inspections report missing bin lids – particularly when the numerous bird droppings in the bin area reflect an obvious issue of birds (or other vermin) pulling food scraps out of the bins. ● Advise residents to place all rubbish in bins, not leave it sitting on top of bins, and not to overfill bins – through education 	<ul style="list-style-type: none"> ● Signs and education pamphlets are being generated/circulate to discourage people from feeding the birds – no further action required 	
<p>4) Feedback on Action 2: Education</p> <p>I ask that Council develops flyers for unit (and house) dwellers – and signage for unit bin storage areas – like it has regarding rubbish control and removal:</p> <p><u>Signage</u></p> <p>Older style units tend to have open bin storage areas, unlike newer units – and appropriate signage made available to strata managers could be an effective way to engage and educate residents in the older style units about ibis birds – educating how residents can minimise the impacts of these birds.</p> <p>And to be most effective, the sign should contain the following eg:</p> <ul style="list-style-type: none"> ● An eye-catching picture of an ibis – perhaps illustrating ‘no feeding’ ● Graphics perhaps showing ibis pulling food out of bags that have been discarded inappropriately – or bins that have been left open or overfilled ● No complicated jargon – only plain English 	<ul style="list-style-type: none"> ● Signs and education pamphlets are being generated/circulate to discourage people from feeding the birds – No further action required 	<ul style="list-style-type: none"> ● Current action 2 – 1.1 ‘Discourage feeding ibis birds’ ● No changes required.

Comments / Suggestions	Council response	Changes to Strategy
<p><u>Brochures and Flyers</u></p> <p>Brochures and flyers should also be provided and also designed to discourage residents from feeding ibis birds - and educating how to remove the opportunities for the birds to scavenge.</p> <p>Like 'signage', brochures and flyers should contain:</p> <ul style="list-style-type: none"> • Eye catching pictures of ibis – and how they can be a nuisance in strata bin storage areas • Graphics explaining the importance of 'no feeding' and placing household garbage in the bins provided and keeping bin lids closed – to maintain good hygiene and cleanliness • Detail that explains and illustrates the impact and dangers of wrongful behaviour by residents regarding garbage disposal that allows ibis to feed on food scraps – and leave unhealthy excrement on our properties • Simple and plain English – with no complicated jargon <p>If flyers were available, I would readily distribute said brochures to all unit dwellers in my unit block and the adjacent blocks – as I really do want to remove these birds from our streets and properties.</p> <p>(I have delivered Council's '4 free collection' flyers to all residents in my block previously – and placed them on our 2 noticeboards – on more than one occasion).</p>	<ul style="list-style-type: none"> • Signs and education pamphlets are being generated/circulate to discourage people from feeding the birds – No further action required 	<ul style="list-style-type: none"> • Current action 2 – 1.1 'Discourage feeding ibis birds' • No changes required.

Comments / Suggestions	Council response	Changes to Strategy
<p>5) Feedback on Action 3: Monitoring</p> <p>I note Council's monitoring strategy on p.20 only references the ibis bird count at significant sites.</p> <p>But 'Monitoring' should not just include the ibis bird count – and I suggest 'monitoring' should include the number of complaints received - as stated on p.16 of the POM:</p> <p><i>6.2 Criteria for Ongoing Management</i> <i>Management and monitoring actions will be undertaken based on the below criteria:</i> <i>Number of complaints - The number of complaints received in relation to noise, smell, aggressive behaviour, scattering of rubbish and fowling.</i></p> <p>(And as per the red text above and as listed on p.12 of the POM, I suggest <i>scattering of rubbish</i> is added to the criteria list – as this is a major cause for concern and a major issue with ibis birds).</p>	<ul style="list-style-type: none"> It would be difficult to categorised/measure scattering of rubbish in relation to ibis' behaviour as rubbish can be scattered in multiple ways. No further action required. 	<ul style="list-style-type: none"> No changes required.
<p>6) Reference to Garrison Point in the resolution regarding the POM (C04/21-727 Draft Ibis Plan of Management)</p> <p>Listening to the Council Meeting 21/4/21, I understand that Council has concern with the vast number of ibis at Garrison Point and perhaps Cumberland's issue is linked to there. But I think Cumberland LGA very much has an issue in its own right. And if ibis containment isn't strategised now, we could land up with the same issues as Canterbury Bankstown Council – particularly if it's compounded by the apparent bad behaviour of some residents that encourages ibis to wander and forage in our streets and private space - which is unsightly, unhygienic and a health risk.</p>	<ul style="list-style-type: none"> Noted. This has been actioned – Letter has been sent to City of Canterbury Bankstown – No further action required. 	<ul style="list-style-type: none"> No changes required.

Comments / Suggestions	Council response	Changes to Strategy
Submission 4		
Were Council outdoor staff consulted?	<ul style="list-style-type: none"> Yes – No further action required. 	<ul style="list-style-type: none"> No changes required.
Ibis Colony along Duck River (Edgar Street) and Botanical Gardens should be included in the count	<ul style="list-style-type: none"> A Survey was conducted at this location and Council agreed that Edgar Street Duck River should be added to Management Plan. Auburn Botanical Gardens had a significantly lower number of ibis and therefore will not be included – no further action required 	<ul style="list-style-type: none"> Add site – Duck River Edgar Street
Council needs to have measurements in place to ascertain numbers	<ul style="list-style-type: none"> Yes – we already conduct bi-annual counts – no further action required 	<ul style="list-style-type: none"> No further action required.
Distance from Food services & Childcare services should be increased from 20m to 100m	<ul style="list-style-type: none"> Noted – This may not be possible to action, but future town planning may be able to take this into consideration. 	<ul style="list-style-type: none"> No further action required.
More Landholder Licence to Harm Protected Animals should be ongoing	<ul style="list-style-type: none"> Council already applies for the Licence to Harm from the Department of Planning and Industry and uses this to manage ibis population during the breeding season – no further action required 	<ul style="list-style-type: none"> No further action required.
Releasing large lizard species to predate on ibis' eggs	<ul style="list-style-type: none"> This could potentially be detrimental to other native species/potential to disrupt the local ecosystem – no further action required 	<ul style="list-style-type: none"> No further action required.
Submission 5		
I highly object to the Obtaining of a licence to harm these birds, it's disgraceful that this includes egg removal and nest Dispersal. It's inhumane.	<ul style="list-style-type: none"> Legally Council cannot physically harm the birds as they are protected under the National Parks and Wildlife Services (NPWS) Act. The license we obtain is issue by NPWS and is only done so to manage population numbers when they reach an unsustainable threshold. We will not be using these 	<ul style="list-style-type: none"> No further action required.

Comments / Suggestions	Council response	Changes to Strategy
	methods unless ibis bird population is deemed unsustainable for the site.	

Item No: C07/21-797

FRESH HOPE CARE, DUNMORE STREET, PENDLE HILL - PLANNING PROPOSAL, SITE-SPECIFIC DEVELOPMENT CONTROL PLAN AND REVISED PUBLIC BENEFIT OFFER

Responsible Division: Environment & Planning
Officer: Director Environment & Planning
File Number: PP2020/0012
Community Strategic Plan Goal: *A resilient built environment*

SUMMARY

On 5 May 2021, Council considered a report on a revised Planning Proposal, draft site-specific Development Control Plan and Public Benefit Offer to enter into a Voluntary Planning Agreement for Fresh Hope Care, Dunmore Street, Pendle Hill. At the meeting, Council resolved to proceed to exhibition with the revised Planning Proposal and the draft site-specific Development Control Plan. In relation to the Public Benefit Offer, Council resolved to inform the Proponent that their original offer is not acceptable and to invite resubmission of an offer for further consideration.

As resolved by Council, the revised Planning Proposal and draft site-specific Development Control Plan were publicly exhibited in accordance with policy and statutory requirements. A revised Public Benefit Offer has been received and reviewed by Council officers in relation to the Cumberland City Planning Agreements Policy and Guideline. This report outlines the feedback received during exhibition and provides an analysis of the revised offer.

Separately, the Proponent has written to the Department of Planning, Industry and Environment requesting that an alternate Planning Proposal Authority be appointed for the planning proposal under Section 3.32 of the *Environmental Planning and Assessment Act 1979*. The Department has written to seek Council's views on why an alternate Planning Proposal Authority should not be appointed, and Council officers have provided a response that outlines the reasons why Council should continue as the Planning Proposal Authority. It is noted that Council's work in progressing the Planning Proposal can continue while this process is underway.

It is recommended that Council finalises the Planning Proposal and site-specific Development Control Plan. It is also recommended that Council provides in-principle support for the revised public benefit offer and outlines the next steps in formalising the offer through a Voluntary Planning Agreement.

RECOMMENDATION

That Council:

1. **Adopt the exhibited planning controls for Fresh Hope Care, Dunmore Street, Pendle Hill, being:**
 - a. **Rezone part of the site from R2 Low Density Residential and R3 Medium Density Residential to R4 High Density Residential and RE2 Private Recreation**
 - b. **Amend the Height of Buildings control for the site from 9m and 11m to 12.5m, 23m and 32m**
 - c. **Amend the Floor Space Ratio control for the site from 0.5:1, 0.7:1 and 0.85:1 to 0.85:1, 1.2:1, 1.5:1 and 1.8:1**
 - d. **Amend Schedule 1 and additional permitted uses mapping to permit 'food and drink premises' on the Ashwood House portion of the site.**
2. **Finalise the Planning Proposal, as delegated by the Minister, following execution of the Voluntary Planning Agreement and registration on title.**
3. **Note that the Local Environmental Plan amendment will be published in the Government Gazette upon finalisation.**
4. **Adopt the site-specific Development Control Plan as an amendment to the Holroyd Development Control Plan 2013, as provided in Attachment 3, with the Development Control Plan coming into effect on the date of notification (gazettal) of the Local Environmental Plan amendment.**
5. **Endorse that the site-specific Development Control Plan provisions be carried over to the new Cumberland Development Control Plan when this is in force, as provided in Attachment 4.**
6. **Delegate to the Acting General Manager the authority to make minor, non-policy corrections or formatting changes to the draft Development Control Plan controls, if required, prior to it coming into effect.**
7. **Endorse in-principle the revised public benefit offer from the Proponent for Fresh Hope Care, Dunmore Street, Pendle Hill, as provided in Attachment 5.**
8. **Endorse and delegate authority for the Acting General Manager to prepare a draft Voluntary Planning Agreement for Fresh Hope Care, Dunmore Street, Pendle Hill, in accordance with the revised public benefit offer, and to exhibit the draft Agreement for 28 days in accordance with statutory and policy requirements.**
9. **Endorse and delegate authority for the Acting General Manager to finalise the Voluntary Planning Agreement for Fresh Hope Care, Dunmore Street, Pendle Hill, subject to no significant objections on the Agreement being received during exhibition.**
10. **Endorse and delegate authority for the Mayor and Acting General Manager to execute the Voluntary Planning Agreement on behalf of**

Council for Fresh Hope Care, Dunmore Street, Pendle Hill, subject to no significant objections on the Agreement being received during exhibition.

- 11. Note that the Department of Planning, Industry and Environment has written to seek Council's views on why an alternate Planning Proposal Authority should not be appointed, and Council officers have provided a response that outlines the reasons why Council should continue as the Planning Proposal Authority.**

REPORT

Background

On 5 May 2021, Council considered a report on a revised Planning Proposal, site specific Development Control Plan and Public Benefit Offer for Fresh Hope Care, Dunmore Street, Pendle Hill. At the meeting, Council resolved to:

- "1. Note the revised Planning Proposal for Fresh Hope Care, Dunmore Street, Pendle Hill, following receipt of a Gateway Determination by the Department of Planning, Industry and Environment.*
- 2. Endorse the site-specific Development Control Plan for Fresh Hope Care, Dunmore Street, Pendle Hill, to be placed on public exhibition for a period of 28 days.*
- 3. Inform the proponent of the Public Benefit Offer for Fresh Hope Care, Dunmore Street, Pendle Hill, that the offer is not acceptable to the Council and invite resubmission of an offer for further consideration.*
- 4. Defer preparation of a draft Voluntary Planning Agreement subject to Council providing in-principle support or acceptance of a resubmitted Public Benefit Offer."*

Public Exhibition

Following Council's resolution, the revised Planning Proposal and draft site-specific Development Control Plan were publicly exhibited as required by existing statutory and policy requirements from 13 May 2021 to 9 June 2021. The exhibition involved online notification of the exhibition material, with hard copies made available at selected customer service centres and libraries, and written notification to owners and occupiers within 400 metres of the site.

As required by the Gateway Determination, Council consulted with the following public agencies:

- Heritage NSW
- Transport for NSW
- NSW State Emergency Service
- DPIE's Environment, Energy and Science Group
- Department of Education
- Sydney Water.

A total of 19 public submissions were received as part of this process. These included:

- One submission to object to the proposal in relation to building heights and potential overshadowing and 'wind tunnel' effects. The submission included a request to reduce the proposed 32 metre height of building control to 23 metres.
- 18 submissions in support of the proposal on the basis that it will deliver a wide range of social and economic benefits to be enjoyed by the local community, now and in the future. These included submissions from Fresh Hope Care and Pathways Community Church who operate the existing retirement village and church on the site.

A total of four public authority submissions were also received as part of this process, with the key items in these submissions outlined in Table 1.

Public Authority	Key Items in Submission
Department of Planning, Industry and Environment's Environment, Energy and Science Group	Consider site-specific development controls on flooding by setting appropriate floor levels, requiring underground parking to be free from flood, and development of a Flood Management Plan for emergency management and flood awareness
Transport for NSW	Consider a range of matters, including opportunities to minimise the provision of on-site parking, improvements to public and active transport facilities, provide a shelter at local bus stops, and potential cumulative traffic and transport impacts
Heritage NSW	Confirmed that the proposal will not impact on any items of State heritage significance. Consider a range of matters in relation to the assessment and management of 'relics' and potential impacts on local heritage items
Endeavour Energy	No objections to the planning proposal. Consider a range of matters for the development application stage.

Table 1: Key Items in Public Authority Submissions

Planning Proposal

The Planning Proposal was revised in response to the Gateway Determination prior to public exhibition. Key changes to the document that were included in the revised planning proposal for public exhibition included the following items:

- Height of buildings mapping amended to provide a transition to lower density residential development to the west along Pendle Way. Amendments broadly reflect the indicative masterplan while maintaining flexibility for future building design at DA stage
- Floor Space Ratio mapping amended to respond to the amended maximum height of buildings across the site

- Additional permitted use mapping amended so that the proposed use only applies to the Ashwood House portion of the site
- Various other amendments to further demonstrate the proposal's consistency with the broader planning framework and policy context, and to ensure clarity and legibility of mapping for public exhibition.

The issues raised in community and public authority submissions have been considered by Council officers and are matters which can be addressed in detail at the development application stage. In relation to the cumulative traffic and transport impacts of development in the area as outlined in the submission by Transport for NSW, this will be considered as part of work on Pendle Hill, with the timing of this work in accordance with Council's strategic planning work program.

Following consideration of the submissions, no changes are proposed to the planning proposal. It is recommended that Council adopt the planning controls provided during public exhibition and finalise the planning proposal (Attachment 1).

Site-specific Development Control Plan

Consistent with Council's September 2020 resolution, a draft site-specific Development Control Plan has been prepared to guide the future development of the site. Following review of the submissions, minor changes to the site-specific Development Control Plan are included on flooding and transport matters.

It is recommended that Council adopt the site-specific Development Control Plan for the site, as provided in Attachment 3, as an amendment to the Holroyd Development Control Plan 2013 under Part J – Site-Specific Controls. It is also recommended that Council endorse the carryover of the site-specific Development Control Plan to the new Cumberland Development Control Plan Part F1 – Residential Site Specific (Attachment 4) when in force.

Revised Public Benefit Offer and Voluntary Planning Agreement

Following Council's resolution in May 2021 on the public benefit offer, a revised public benefit offer has been provided, which indicates that the Proponent will enter into a Voluntary Planning Agreement with Council. The details of the Public Benefit Offer are provided at Attachment 5.

Council officers have carried out an analysis of the revised Public Benefit Offer and consider it to be consistent with the Cumberland City Planning Agreements Policy and Guideline (Attachment 6).

It is recommended that Council endorse the revised Public Benefit Offer, as well as endorse and delegate the Acting General Manager to prepare and exhibit the draft Voluntary Planning Agreement that is consistent with the public benefit offer. Subject to no significant objections during the notification process, it is also recommended that Council endorse the finalisation of the Agreement, and delegate the Mayor and Acting General Manager to execute the Voluntary Planning Agreement.

Proponent Request for an Alternate Planning Proposal Authority

Separate to the planning proposal process underway, the Proponent has written to the Department of Planning, Industry and Environment requesting that an alternate Planning Proposal Authority be appointed for the planning proposal under Section 3.32 of the *Environmental Planning and Assessment Act 1979*. The Department has written to seek Council's views on why an alternate Planning Proposal Authority should not be appointed, and Council officers have provided a response to outline the reasons why Council should continue as the Planning Proposal Authority. It is noted that Council's work in progressing the Planning Proposal can continue while this process is underway.

COMMUNITY ENGAGEMENT

Community engagement for the proposal is outlined in the main body of the report.

POLICY IMPLICATIONS

Policy implications are outlined in the body of this report.

RISK IMPLICATIONS

Any Voluntary Planning Agreement for the site will include terms and conditions to minimise risk to Council, including a requirement to have the Agreement registered on title and to include an appropriate mechanism to ensure public access to part of the site zoned RE2 Private Recreation.

FINANCIAL IMPLICATIONS

Financial implications for Council are outlined in the body of this report.

CONCLUSION

As required by the Council resolution of 5 May 2021, the Planning Proposal and site-specific Development Control Plan for Fresh Hope Care, Dunmore Street, Pendle Hill were publicly exhibited as required by policy and statutory requirements. A revised Public Benefit Offer has also been received from the Proponent and assessed by Council officers. It is recommended that Council finalise the planning proposal as exhibited and adopt the site-specific Development Control Plan for the site. It is also recommended that Council supports in-principle the revised Public Benefit Offer and progress the preparation, notification and finalisation of a Voluntary Planning Agreement

ATTACHMENTS

1. Planning Proposal [↓](#)
2. Gateway Determination [↓](#)
3. Site-specific Development Control Plan (Holroyd DCP) [↓](#)
4. Site-specific Development Control Plan (Cumberland DCP) [↓](#)
5. Revised Public Benefit Offer (confidential)

6. Analysis of Revised Public Benefit Offer (confidential)
7. Summary of Community and Public Authority Submissions [↓](#)
8. Letter to Council Regarding Alternate Planning Proposal Authority (confidential)
9. Letter to NSW Government Regarding Alternate Planning Proposal Authority (confidential)

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-797

Attachment 1
Planning Proposal

CUMBERLAND
CITY COUNCIL

PLANNING PROPOSAL

Fresh Hope Care
Corner Dunmore Street & Pendle Way,
Pendle Hill

Proposal to facilitate redevelopment of the site for increased seniors housing, affordable key worker housing, community facilities, allied health services and publicly accessible open space.

APRIL 2021

For exhibition

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Supporting documents

Draft Development Control Plan
 Public Benefit Offer
 Gateway determination
 Council Report and Resolution
 Cumberland Local Planning Panel Report and Advice
 Aboriginal Heritage Due Diligence
 Conservation Management Plan
 Ecological Constraints Assessment
 Economic Assessment
 Heritage Impact Statement
 Historic Archaeology Assessment
 Landscape Architecture Report
 Preliminary Contamination Assessment
 Preliminary Tree Assessment
 Social Impact Assessment and Management Plan
 Transport Impact Assessment
 Urban Design Report
 Urban Design Peer Review

Introduction

Cumberland City Council (Council) prepared this planning proposal in response to a request made by Keylan Pty Ltd on behalf of Fresh Hope Care (the Proponent) for land at the corner of Dunmore Street and Pendle Way, Pendle Hill (the site).

The Planning Proposal provides for increased housing supply, including seniors housing and affordable key worker housing, open space and community facilities on a site that is strategically located close to the Pendle Hill local centre and Pendle Hill train station.

In order to achieve the intended outcome, the following amendments to Holroyd Local Environmental Plan 2013 are proposed:

- Rezone part of the site from R2 Low Density Residential and R3 Medium Density Residential to R4 High Density Residential and RE2 Private Recreation
- Amend the Height of Building control for the site from 9m and 11m to 12.5m, 23m and 32m
- Amend the Floor Space Ratio control for the site from 0.5:1, 0.7:1 and 0.85:1 to 0.85:1, 1.2:1, 1.5:1 and 1.8:1
- Amend Schedule 1 and Additional Permitted Use mapping to permit 'food and drink premises' on the Ashwood House portion of the site.

On 24 November 2020, the Department of Planning, Industry and Environment issued a Gateway determination, endorsing the proposal for exhibition subject to conditions including certain amendments to the Planning Proposal. Council revised the Planning Proposal accordingly.

The form and content of this Planning Proposal complies with Section 3.33 of the Environmental Planning and Assessment Act 1979 and the NSW Department of Planning and Environment's A Guide to Preparing Planning Proposals (2016).

The site and context

The site is located in close walking distance (approximately 300m) from the Pendle Hill local centre and train station, with 30 minute access by public transport to a range of other centres including Parramatta CDB (4.5km), Wentworthville local centre (1.5km) and Westmead Health and Education Precinct (3km) as shown in Figure 1.

The site is approximately 7.3 hectares in area with frontages to Dunmore Street and Pendle Way, Pendle Hill. Existing uses on the site include a 190-bed residential aged care facility, 86 independent living units, a place of public worship (Pathways Community Church) and six single-storey residential dwellings along Pendle Way. The senior's housing development and residential dwellings along Pendle Way are owned and managed by Fresh Hope Care. The site contains two local heritage items – Dunmore House and Ashwood House.

Surrounding developments include:

- A mix of low-density residential dwellings and low rise three-storey residential flat buildings on Pendle Way
- Low rise three-storey residential flat buildings on Dunmore Street
- Low density residential dwellings on Collins and Rowley Streets
- Light industrial development adjoining the eastern boundary (the former Bonds Spinning Mill site which is being redeveloped for a high-density residential living environment).

The local context and site characteristics are shown in Figure 2 and the site is further described in Table 1.

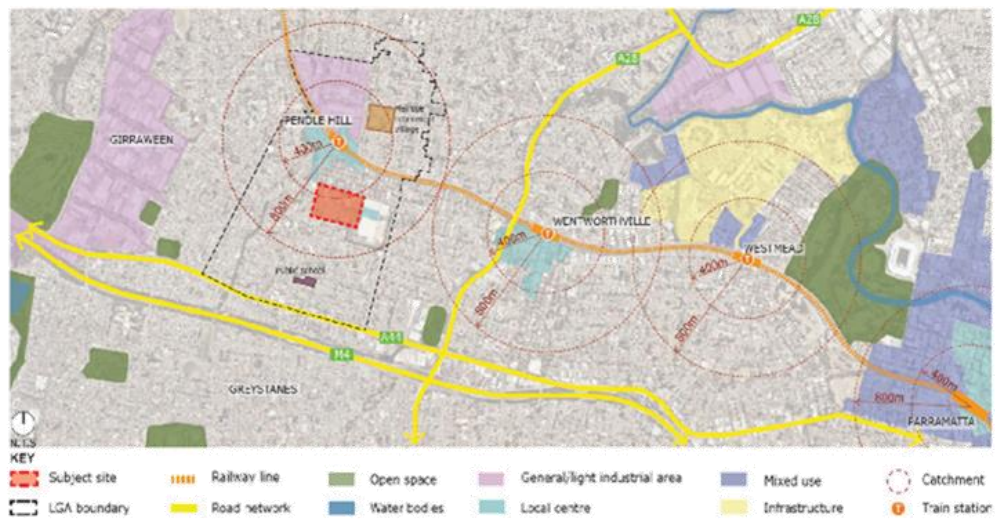


Figure 1: Regional context map



Figure 2: Local context and site characteristics

Table 1: Site description

Item	Description
Legal description	Lots 1 and 2, and 8-12 DP 24728, Lots 2 and 3 DP 5545208, Lot A DP 335578, Lot 472 DP 1204429
Access and connectivity	Internal road network, on-site car parking areas, vehicular access and egress via driveways off Dunmore Street and Pendle Way. A footpath provides pedestrian access from the bus stop on Pendle Way to the centre of the site.
Public transport	Pendle Hill train station (300m north of the site) is serviced by T1 North Shore-Western Line and T5 Cumberland Line. Bus services along Dunmore Street and Pendle Way.
Topography	11.5m fall to the east along the north south axis, and toward the eastern boundary. The highest point is at the location of Dunmore House, and the lowest point is at the corner of Dunmore Street and Pendle Way.
Existing uses	Seniors living development (190-bed residential aged care facility and 86 independent living units); a place of public worship (Pathways Community Church); six residential lots with single-storey dwellings along Pendle Way.
Significant trees and vegetation	The site contains significant trees, as shown in Figure 2.
Heritage	Two local heritage items listed under Schedule 5 of the HLEP 2013 (Environmental heritage): <ul style="list-style-type: none"> - Dunmore House (Item No. 194) – a nineteenth century Victorian homestead located at the high point of the site with views to and from Dunmore Street - Ashwood House (Item No. 195) – a mid-twentieth century brick structure with circular carriage driveway fronting Dunmore Street
Flooding	Part of the site is affected by flooding.

Existing planning controls

The following key planning controls apply to the site under Holroyd LEP 2013.

- Zoning: R2 Low Density Residential, R3 Medium Density Residential and R4 High Density Residential (Figure 3)
- Floor Space Ratio (FSR): 0.5:1, 0.7:1 and 0.85:1 (Figure 4)
- Height of Buildings (HOB): 9m and 11m (Figure 5)
- Heritage: Dunmore House (I94) and Ashwood House, (I95). The adjoining Bonds Spinning Mills is identified as an archaeological site and includes a heritage item (Figure 6)



Figure 3: Existing Zoning



Figure 4: Existing FSR



Figure 5: Existing HOB



Figure 6: Existing Heritage

Structure of this Planning Proposal

The Planning Proposal is structured as follows:

- Part 1—Objectives or intended outcomes
- Part 2—Explanation of provisions to be included in the proposed instrument
- Part 3—Justification and process for implementation
- Part 4—Maps showing proposed modifications and the area to which they apply
- Part 5—Community consultation to be undertaken
- Part 6—Draft timeline for the Planning Proposal.

Part 1 – Objectives and intended outcomes

The planning proposal seeks to facilitate redevelopment of the site for increased seniors housing, affordable key worker housing, community facilities, allied health services and publicly accessible open space. See extracts from the proposed masterplan at Figure 7 and Figure 8.

The proposal is expected to deliver significant public benefits, including:

- An increase in the supply of seniors housing, residential aged care facilities and affordable key worker housing to meet the forecast demand in the local area
- The creation of a vibrant on-site community with the inclusion of an additional 930 new permanent residents living in the proposed 240-bed residential aged care facility, 650 independent living units and affordable key worker housing
- A significant capital investment from future construction activities associated with the redevelopment of the site, estimated to be in the hundreds of millions of dollars
- The potential for 320 ongoing aged care and retirement living jobs, with additional jobs generated throughout the wider local economy
- The provision of new allied health services to support the on-site population
- The retention and adaptive reuse of existing heritage buildings on the site, including potential for Dunmore House to be provided for community related uses
- The provision of significant landscaped communal open space areas and a pedestrian network that will be accessible to the general public and will be owned and maintained by Fresh Hope Care
- The provision of approximately 51,709 m² of open space, which equates to around 70% of the total site area.



Figure 7: Proposed masterplan



Figure 8: Proposed masterplan in context of the adjoining Bonds site

Part 2 - Explanation of Provisions

The objectives and intended outcomes are proposed to be achieved by amending Holroyd LEP 2013 as outlined in Table 2:

Proposed changes to Holroyd LEP 2013		
Control	Existing	Proposed
Land use zone	R2 Low Density Residential R3 Medium Density Residential	R4 High Density Residential RE2 Private Recreation
Height of buildings	9m 11m	12.5m 23m 32m
Floor space ratio	0.5:1 0.7:1 0.85:1	0.85:1 1.2:1 1.5:1 1.8:1
Schedule 1 Additional permitted uses	N/A	Amend Schedule 1 and Additional Permitted Use mapping to permit 'food and drink premises' on the Ashwood House portion of the site.

Thumbnail images of proposed LEP mapping are contained in Part 4.

Part 3 – Justification

Section A – Need for the Proposal

Q1. Is the Planning Proposal a result of any strategic study or report?

No, Council prepared the Planning Proposal in response to a request by the Proponent. The proposal is considered to have both strategic and site-specific merit and is supported by the Cumberland Local Planning Panel (the Panel) and Council.

The Panel considered the Proponent's Planning Proposal at its meeting of 12 August 2020. The Panel expressed support for the proposal, subject to the following:

- Council to consider applying an RE1 Public Recreation zoning instead of RE2 Private Recreation to part of the site
- If RE2 is applied, consider an easement to ensure public access to that part of the site including the heritage buildings, and to ensure Dunmore House is utilised as a community facility
- Consider applying a range of building heights in the LEP to reflect the varying heights recommended in the Urban Design Peer Review (generally between 4 and 8 storeys).

Council considered the Proponent's Planning Proposal Request at its meeting of 16 September 2020, along with feedback received during preliminary (non-statutory) public consultation and the advice of the Panel. Council resolved to proceed to Gateway without amendment, and to address the concerns raised by the Panel and members of the public by taking the following actions post Gateway:

- Prepare a draft site-specific Development Control Plan giving further consideration to reducing the development's impact on residential properties on the northern side of Collins Street
- Pursue discussions with the proponent as to possible terms of a planning agreement, noting Council's desire to achieve public benefit by securing public rights of access over open ground within the proposed RE2 zoned land.

On 24 November 2020, the Department of Planning, Industry and Environment issued a Gateway determination, endorsing the proposal for exhibition subject to conditions including certain amendments to the Planning Proposal. Council revised the Planning Proposal accordingly.

Strategic Merit Assessment

There is strategic merit in progressing the proposal to the next phase of assessment based on the following.

Economic and Social Benefits

- There are significant opportunities for aged care and retirement living in the Cumberland area, with unmet demand for 4,320 aged care beds and 2,110 retirement living dwellings by 2036. The proposed redevelopment's net addition of 50 aged care beds and approximately 564 dwellings contributes in meeting this forecast demand
- The proposed café is likely to complement rather than compete with similar nearby businesses. Economic analysis submitted to support the proposal predicts that 80% of all sales at the proposed café would be from within the proposed development. This indicates that the proposed development would not have an impact on the viability of nearby centres including Pendle Hill, the Bonds site and Wentworthville
- The proposed medical centre is likely to complement rather than compete with nearby businesses. The medical suites (or consulting rooms) at the proposed redevelopment will host visiting GPs and allied health professionals by appointment (usually organised by the facility's management on a set schedule) and as such will not be utilised by non-residents. This indicates a low level of impact on medical facilities in Pendle Hill and Wentworthville
- The retirement living and aged care facility would generate approximately 320 direct ongoing jobs, plus a further 290 indirect jobs located in the wider economy
- The proposal will involve the investment of hundreds of millions of dollars on site and support an estimated 140 full time equivalent direct construction-related jobs per year, and a further 430 full time equivalent indirect jobs elsewhere in the economy
- The proposal is likely to add approximately 930 new permanent residents to the area (excluding aged care residents) and 320 workers who can contribute to the local economy through spending in nearby centres including Pendle Hill, Wentworthville and the adjoining Bonds site.

Built Form

- The increase in scale and density of development on the site is balanced through the design and siting of the proposed buildings and the provision of appropriate setbacks and gradual height transitions.
- The proposed setbacks (particularly along Collins Street) will ensure an appropriate interface with the adjoining low-density residential dwellings to the South. This will be achieved by providing a minimum of 6 metres for the first two storeys and a minimum of 8 storeys for the partial third storey. A 6m deep soil planting zone has also been proposed to facilitate a 'green screen' along the southern boundary.
- The proposed site-specific development control plan provides certainty that the key elements of the masterplan will be implemented even if the site is sold to another owner, which is considered unlikely.

Heritage

- The established heritage curtilage around both Dunmore House and Ashwood House provides adequate separation between the indicative built forms to negate the impact of the change to the LEP controls
- The proposed incorporation of a through-site link to the former Bonds Spinning Mills site reinforces the historic relationship between the two sites.

Traffic

- The proposal is not expected to compromise the safety or function of the surrounding road network. On any weekday or Saturday peak hour, the site is expected to generate between 135 and 145 vehicle trips (90 to 100 more vehicle trips than the existing facility).

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

Yes. Alternative approaches to achieving the intended outcomes of the proposal were considered, however the proposed approach is considered the best way to deliver the desired outcome.

Section B – Relationship to strategic planning framework

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy?

Yes. The planning proposal will give effect to the objectives and actions of the *Greater Sydney Region Plan* and *Central City District Plan*.

Greater Sydney Region Plan – A Metropolis of Three Cities

This Plan sets a 40-year vision for the Greater Sydney Region and establishes a 20-year action plan to manage growth and change to achieve balanced social, economic and environmental outcomes.

Table 3 discusses the proposal's consistency with relevant objectives of the Greater Sydney Region Plan.

Table 3: Consistency with the Greater Sydney Region Plan

Objective	Consistency
<i>Objective 6: Services and infrastructure meet community's changing needs</i>	<ul style="list-style-type: none"> The site is strategically located close to existing services and infrastructure including the Pendle Hill local centre and train station (300m to the north), Wentworthville local centre (1.5km to the east) and bus services along Dunmore Street and Pendle Way. The Plan notes that integrated planning for health services is required to make it easier for people to access a comprehensive health system, including allied health services. The Planning Proposal includes a Schedule 1 amendment to provide for allied health services that will service the on-site population.
<i>Objective 10: Greater housing supply</i>	<ul style="list-style-type: none"> The proposal will increase housing supply in the local area, including a 240-bed residential aged care facility, 650 independent living units and affordable housing.
<i>Objective 11: Housing is more diverse and affordable</i>	<ul style="list-style-type: none"> The proposal will facilitate the development of a diverse range of housing to meet the needs of seniors and people with a disability, as well as key workers and people with low and very low incomes Council intends to enter into a planning agreement with the Proponent post-Gateway to ensure, among other things, that

Table 3: Consistency with the Greater Sydney Region Plan

	affordable housing is provided as required by the <i>Cumberland Planning Agreements Policy</i> .
Objective 13: <i>Environmental heritage is identified, conserved and enhanced</i>	<ul style="list-style-type: none"> The Proponent's indicative concept plans show that all existing heritage items on the site (Dunmore House and Ashwood House) are to be retained and will undergo refurbishment to enable their adaptive reuse and incorporation into the overall design. Council intends to enter into a planning agreement with the Proponent post-Gateway to ensure, among other things, that Dunmore House is available for the public to use as a community facility.
Objective 14: A <i>Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities</i>	<ul style="list-style-type: none"> The subject site is located within easy walking distance (300m) of Pendle Hill train station and there are bus stops provided along Dunmore Street and Pendle Way. Increasing the supply of seniors housing on site will allow for more residents to have a shorter commute time to metropolitan centres and contribute towards creation of a 30-minute city.
Objective 31: <i>Public open space is accessible, protected and enhanced</i>	<ul style="list-style-type: none"> The site contains a large amount of landscaped open space and manicured gardens that contain various mature trees and native vegetation The proposal seeks to retain most of the vegetation on the site, including areas of high-value vegetation within the proposed RE2 zone which will be accessible to the public. The Planning Proposal also provides for a publicly accessible 'green spine' network across the site and through-site pedestrian link to the adjoining Bonds Spinning Mills site.

Central City District Plan

This Plan provides a district-level framework to implement the objectives of the Greater Sydney Region Plan.

Pendle Hill is centrally located within the Central City District, close to the central core and metropolitan centre of Greater Parramatta (see Figure 9).

The Proposal is consistent with relevant planning priorities of the Greater Sydney Region Plan, as discussed in Table 4.

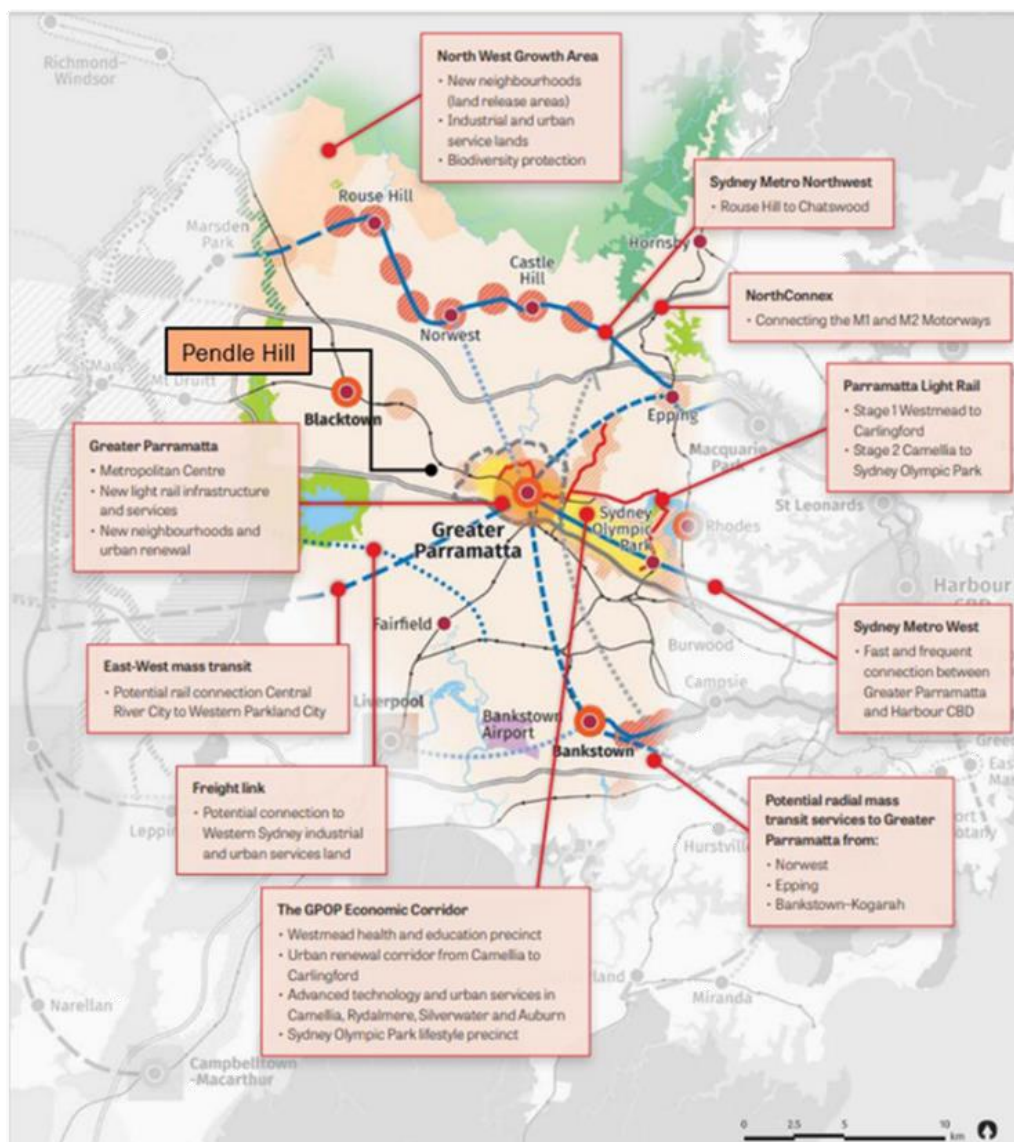


Figure 9: Location of the site within the Central River City District

Table 4: Consistency with the Central City District Plan

Planning Priority	Consistency
<i>C3: Providing services and social infrastructure to meet people's changing needs</i>	<ul style="list-style-type: none"> The District Plan forecasts a 183% proportional increase in people aged 85 and over, and a 95% increase in the 65 to 84 age group by 2036. To house the additional population, more diverse housing types and medium density housing is required to create opportunities for older people to continue living in their community, where being close to family, friends and established health and support networks is vital for wellbeing. The Planning Proposal provides for additional seniors housing supply on the site, including approximately 650 ILUs and affordable key worker housing units and a 240-bed RAC facility. The Planning Proposal provides for future social infrastructure including the refurbishment and adaptive reuse of Dunmore House for community related uses. The use of this facility by the local community will help respond to the different needs of local demographic groups.
<i>C4: Fostering healthy, creative, culturally rich and socially connected communities</i>	<ul style="list-style-type: none"> The District Plan highlights the importance of creating healthy, creative, cultural and socially connected communities. The Planning Proposal provides the opportunity to further expand the existing aged care facility that occupies the site and provide on-site community facilities and allied health services, some of which may be used by the wider community.
<i>C5: Providing housing supply, choice and affordability, with access to jobs, services and public transport</i>	<ul style="list-style-type: none"> The District Plan requires housing supply to be coordinated with local infrastructure to create livable, walkable and cycle-friendly neighbourhoods with direct, safe and universally designed pedestrian and

Table 4: Consistency with the Central City District Plan

	<p>cycling connections to shops, services and public transport.</p> <ul style="list-style-type: none"> The Planning Proposal facilitates increased supply of seniors housing that is in a highly accessible location being within approximately 300 metres walking distance of Pendle Hill local centre (i.e. access to shops and services) and Pendle Hill train station. The site is also serviced by a number of public bus routes.
<i>C6: Creating and renewing great places and local centres and respecting the District's heritage</i>	<ul style="list-style-type: none"> The Central City District's heritage items are recognised as assets to the community, forming unique local identity and contributing to the creation of great places. Heritage items on the site including Dunmore House and Ashwood House are retained as part of the proposal and will be adaptively re-used for allied health services (Ashwood House) and community related uses (Dunmore House). A heritage curtilage has been established around each of the heritage items, which closely reflects the RE2 zoning across the site.
<i>C9: Delivering integrated land use and transport planning and a 30-minute city</i>	<ul style="list-style-type: none"> The District Plan acknowledges that the vision for Greater Sydney is one where people can access jobs and services in their nearest metropolitan and strategic centre. The 30-minute city is a long-term aspiration that will guide decision-making on locations for new transport, housing, jobs, tertiary education, hospitals and other amenities. The Planning Proposal provides for increased housing for seniors and affordable key worker housing that is within walking distance of Pendle Hill train station, which provides connection and access to metropolitan and strategic centres

Table 4: Consistency with the Central City District Plan

	within 30 minutes, including Parramatta and Blacktown.
C20: Delivering high-quality open space	<ul style="list-style-type: none"> • Planning priority addresses the need of open space in a growing community. Good open space helps to enhance streetscape quality, encouraging healthy and active lifestyle. • The Planning Proposal incorporates approximately 51,709 m² (70% of the total site area) of open space, including publicly accessible communal and private open space areas. All open space areas on the site will be owned and maintained by Fresh Hope Care. Council intends to enter into a planning agreement with the Proponent to ensure public access is maintained.

Q4. Will the planning proposal give effect to Council's local strategic planning statement or any other strategy endorsed by council?

Yes, the planning proposal gives effect to *Cumberland 2030: Our Local Strategic Planning Statement* and *Cumberland Community Strategic Plan 2017-27*.

Cumberland 2030: Our Local Strategic Planning Statement (LSPS)

Aligned with the Greater Sydney Region Plan and Central City District Plan, the LSPS provides a local planning framework to deliver housing, transport, employment, public spaces and parks in the right places to meet the need of Cumberland's growing and changing population.

Pendle Hill is classified as a local centre supported by a range of existing services and facilities, including public transport providing 30-minute access to the central core and strategic centre of Greater Parramatta.

The proposal will help to deliver on a number of local planning priorities contained in the LSPS, as outlined in Table 5.

Table 5: Consistency with Cumberland 2030

Priority	Consistency
<i>3: Align local infrastructure deliver with planned growth</i>	The LSPS encourages the shared use of land and facilities. The proposal will deliver publicly accessible open space and other facilities including a food and drink premises and medical centre to meet the day to day needs of on-site residents and workers, as well as the wider Pendle Hill community. Council intends to enter into a planning agreement with the Proponent post-Gateway to ensure the proposed RE2 land, including the heritage-listed Dunmore House, is publicly accessible.
<i>5: Delivering housing diversity to suit changing needs</i>	The LSPS acknowledges the need to update local planning controls to ensure housing meets current and future needs and to encourage residential growth around key centres and transport nodes. The proposal will help to deliver a diverse mix of housing for people at different life stages and specific needs (i.e. seniors, people with a disability, key workers and low to very low income households) in an accessible location, close to one of Cumberland's key centres.
<i>6: Delivering affordable housing suitable for the needs of all people at various stages of their lives</i>	The LSPS encourages investment in/increased supply of affordable housing by the public, private and community sectors. The Proponent is a registered housing provider who seeks to develop the site for a mix of affordable housing to meet the needs of seniors, people with a disability, key workers and people of low and very low incomes. Council intends to enter into a planning agreement with the Proponent post-Gateway to ensure the proposal delivers an adequate supply of affordable housing, consistent with its Voluntary Planning Agreement Policy and Interim Affordable Housing Policy.

Cumberland Community Strategic Plan (2017-27)

This Plan sets broad strategic goals for the local area to be achieved over a four-year delivery program. Of particular relevance to the Planning Proposal is Strategic Goal 2 which aims to provide a safe and accessible community that has equal access to local services and facilities for vulnerable and at-risk groups, including seniors. The Planning Proposal enables higher residential densities to provide increased housing stock and choice for seniors, people with a disability, and people with low and very low incomes.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

Yes, the proposal is consistent with applicable SEPPs as outlined in Table 6 below.

Table 6: Consistency with applicable SEPPs	
SEPP	Consistency
<i>No. 55 – Remediation of Land</i>	<ul style="list-style-type: none"> • The SEPP aims to provide for a State-wide consistent planning approach to the remediation of contaminated land, with various objectives and provisions, particularly to reduce the risk of harm to human health and the environment. • Clause 6 of the SEPP states that an environmental planning instrument should not include a zone that would change the use of the land, unless the planning authority is satisfied that the potential risk to human health has been considered. Clause 6 is now addressed in Ministerial Direction 2.6 (Remediation of Contaminated Land). • Clause 7 of the SEPP requires the Council to consider whether a Site is contaminated and whether the Site is suitable for the proposed use (before or after remediation). • The attached Preliminary Contamination Assessment concludes that the site has a low potential for contamination due to minimal exposure of soil to human health under the current land use and present site conditions. The report recommends further testing at DA stage.
<i>SEPP No. 65 – Design Quality of Apartment Development</i>	<ul style="list-style-type: none"> • A detailed assessment of the proposal's consistency with SEPP 65 and the Apartment Design Guide will be undertaken at the DA stage. The attached Draft DCP also contains specific requirements for matters such as building setbacks and separation, open space and deep soil zones.
<i>Housing for Seniors or People with a Disability 2004</i>	<ul style="list-style-type: none"> • The SEPP aims to increase the supply and diversity of housing to meet the needs of seniors (aged 55 or more years) or people with a disability. • The Planning Proposal is consistent with the broader aims of the SEPP as it proposes

Table 6: Consistency with applicable SEPPs

	<p>amendments to the existing development controls of the site that will enable the increased supply of seniors housing in an area that is strategically located with access to public transport services, social infrastructure and goods and services in the Pendle Hill local centre.</p> <ul style="list-style-type: none"> • The design principles and development standards set out in the SEPP will be addressed as part of the future DAs for the site. • The SEPP's bonus FSR provisions (0.5:1) would only apply if the Proponent was to lodge DAs under the SEPP. However, it is noted that seniors housing is already permissible with consent on the site. If the Proponent was to pursue these bonus provisions, the matter would be subject to a merit assessment by the consent authority.
<i>Affordable Rental Housing 2009</i>	<ul style="list-style-type: none"> • The SEPP aims to facilitate the effective delivery of new affordable rental housing, facilitate the retention and mitigate the loss of affordable rental housing and facilitate an expanded role for not-for-profit providers of affordable housing. • Council intends to enter into a planning agreement with the Proponent post-Gateway to ensure, among other things, that affordable housing is provided as required by the <i>Cumberland Planning Agreements Policy</i>.
<i>Vegetation in Non-Rural Areas) 2017</i>	<ul style="list-style-type: none"> • The SEPP aims to protect the biodiversity values of trees and other vegetation in non-rural areas. • The site has historically been used for seniors housing and aged care services and is clear of any natural vegetation. • The attached Ecological Constraints Assessment states that the subject site includes approximately 0.67 hectares of planted native vegetation (highly modified), as well as landscaped gardens and lawns. • The SEPP will be further considered as part of any future DAs that propose the removal of vegetation from the site.

Q6. Is the planning proposal consistent with applicable Ministerial Directions under 9.1 of the Act?

Yes. The proposal is consistent with applicable Ministerial Directions, as outlined in Table 7 below.

Table 7: Consistency with applicable Ministerial Directions	
Direction	Consideration
<i>Direction 2.3: Heritage Conservation</i>	<p>The objective of Direction 2.3 is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The subject site includes two local heritage items including Dunmore House (Item No. 194) and Ashwood House (Item No. 195). No changes are proposed to the listing of these items under Schedule 5 of the HLEP 2013.</p> <p>Both Dunmore House and Ashwood House are envisaged as being integrated as part of the future redevelopment of the site. Council seeks to enter into a Planning Agreement with the Proponent to ensure, amongst other things, that Dunmore House remains open to the public for community use. The attached Aboriginal Due Diligence Assessment confirms there are no Aboriginal objects or areas of archaeological sensitivity located on the site.</p>
<i>2.6 Remediation of contaminated land</i>	<p>The attached Preliminary Contamination Assessment concludes that the site has a low potential for contamination due to minimal exposure of soil to human health under the current land use and present site conditions. A suitable sampling and testing plan to be implemented at DA stage as recommended in the report.</p>
<i>Direction 3.1: Residential Zones</i>	<p>The objectives of Direction 3.1 is to encourage a variety and choice of housing types to provide for existing and future housing needs; make efficient use of existing infrastructure and services and ensure that new housing has appropriate</p>

Table 7: Consistency with applicable Ministerial Directions

	<p>access to infrastructure and services; and minimise the impact of residential development on the environment and resource lands.</p> <p>The proposal seeks to facilitate higher density development on the site to increase the supply and mix of seniors housing and affordable key worker housing.</p> <p>Future development on the site will make use of existing infrastructure and services including connections to water, sewerage, electrical and telecommunications infrastructure. The site has good access to local services and is strategically located within walking distance of the Pendle Hill local centre and within 1.5km of Wentworthville town centre.</p>
<p><i>Direction 3.4: Integrating Land Use and Transport</i></p>	<p>The objectives of Direction 3.4 is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> • improving access to housing, jobs and services by walking, cycling and public transport • increasing the choice of available transport and reducing dependence on cars • reducing travel demand including the number of trips generated by development and the distances travelled, especially by car • supporting the efficient and viable operation of public transport services • providing for the efficient movement of freights <p>The site has good access to public transport and is strategically located within approximately 300m walking distance of Pendle Hill train station (to</p>

Table 7: Consistency with applicable Ministerial Directions

	the north). The site is also located within 1.5 kilometres of Wentworthville train station (to the east). Public bus services are available from stops located along Dunmore Street and Pendle Way.
<i>4.3 Flood Prone Land</i>	<p>The objectives of Direction 4.3 are to ensure (a) that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land. The Direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p> <p>While the site is identified on Council's Flood Control Lots Map, it is subject to floor level controls only, no other flood conditions apply.</p>
<i>Direction 6.1: Approval and Referral Requirements</i>	<p>The objective of Direction 6.1 is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>The Planning Proposal does not include consultation, concurrence or referral above and beyond the existing provisions of the HLEP 2013. The Planning Proposal is consistent with this Direction.</p>
<i>Direction 6.3: Site Specific Provisions</i>	<p>The objective of Direction 6.3 is to discourage unnecessarily restrictive site-specific planning controls.</p> <p>The Planning Proposal seeks to rezone the site consistent with the existing planning controls set out in the HLEP 2013. The Planning Proposal will expand the range of permitted uses in the proposed R4 High Density Residential zone to permit food and drink premises and medical centres. This is aimed at</p>

Table 7: Consistency with applicable Ministerial Directions

	facilitating the delivery of allied health services and potentially a café to support the future on-site population. The Planning Proposal does not propose any additional local provisions under Part 6 of HLEP 2013 or any other specific controls that would be contrary to this Direction.
<i>Direction 7.1: Implementation of A Plan for Growing Sydney</i>	The objective of Direction 7.1 is to give legal effect to the planning principles; directions and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney. A Plan for Growing Sydney has been replaced by the Greater Sydney Region Plan. The Planning Proposal demonstrates consistency with the relevant objectives of the Plan.

Section C – Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Vegetation communities

The attached Ecological Constraints Assessment (ECA) maps the existing vegetation across the site as comprising:

- Planted native vegetation that is native to NSW – approximately 0.67 Ha
- Remnant Cumberland Plain Woodland (Shale plains woodland) – approximately 0.15Ha

Cumberland Plain Woodland (CPW) is listed as a critically endangered ecological community (CEEC) under the *Biodiversity Conservation Act 2016* (BC Act). The CPW CEEC on the site is found to be in low condition, consisting of approximately 10 remnant trees including *Eucalyptus moluccana* (Grey Box) and *Eucalyptus tereticornis* (Forest Red Gum) species located along the northern site boundary (along Dunmore Street). Due to the trees' size, species and positioning, the ECA finds that they have not been planted and are, therefore, considered to be potential remnant CPW trees.

The ECA states that all the vegetation on the site is highly modified and consist of managed or landscaped gardens and lawn. Exotic species and weeds dominate the understorey and ground cover. In some areas, beneath the canopy of planted trees where conditions are shaded and moist, some native grasses and forbs are present.

Fauna habitat

The ECA finds that fauna habitat across the site to be relatively poor given its highly disturbed nature and lack of connection to any local or regional habitat corridors. The existing trees on the site would provide foraging habitat for common native fauna including birds, arboreal mammals and the threatened Grey-headed Flying-fox species. Scratch marks on the Grey Gum tree species planted along the eastern boundary of the site indicate that arboreal mammals (likely Brush-tailed Possums) are present.

There are two hollow bearing trees within the remnant CPW. One occurs within a *Eucalyptus moluccana* located near the site entrance driveway. The hollow is approximately 10 centimetres diameter and located high in the tree. Another tree hollow occurs within a *Eucalyptus tereticornis* located along the northern property boundary. The hollow is approximately 30 centimetres wide and is located 2 metres from the ground. These tree hollows are potential habitat for threatened microbats and will require further assessment to determine their significance at the future DA stages.

Ecological constraints

The ECA has mapped the ecological constraints across the site based on a low, moderate or high constraint category, as described below:

- Areas mapped as being a 'high' ecological constraint include the potential remnant trees associated with the CPW CEEC, including the two hollow bearing trees which are potential habitat for threatened microbat species.
- Areas mapped as being a 'moderate' ecological constraint include areas that provide foraging and roosting habitat for locally common native fauna species (bird, bats and possums) and foraging habitat for the threatened Grey-headed Flying-fox.
- Areas mapped as being a 'low' ecological constraint comprise the majority of the site area and includes the remaining areas of vegetation, generally comprising weeds and exotic species

The ecological constraints across the site are shown in Figure 10.



Figure 10: Ecological constraints across the site

The ECA states that, under the BC Act, the removal of more than 0.25 hectares of native vegetation will trigger the Biodiversity Offsets Scheme (BOS). There is approximately 0.67 hectares of planted native vegetation on the site, comprising both CPW CEEC and other planted native vegetation.

A significant proportion of vegetation mapped as being of either 'high' or 'moderate' value in the ECA will be retained as part of the Planning proposal as it is located on land proposed to be rezoned from residential land use to RE2 Private Recreation. The clearing of any vegetation from the site will be assessed in detail at the future DA stages to determine whether the BOS is triggered.

The ECA further states that the BOS is triggered when a development is likely to have a significant impact on threatened species, populations or communities. This will also be determined at the future DA stages, which will assess any impacts on the Grey-headed Flying-fox and threatened microbat species should vegetation removal form part of the application. If the BOS is triggered, a Biodiversity Development Assessment Report will be prepared as part of future relevant DAs.

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

Built form, urban design and public domain

The attached Urban Design Report (UDR) contains a proposed masterplan for the site that sets out specific design principles to ensure the overall vision of the site is achieved.

Key features of the proposed masterplan include:

- The creation of a 'fine-grain' orthogonal distribution of built form across the site with an even distribution of open space
- Higher scale buildings are concentrated toward the centre of the site, transitioning down to the edges and responding to the existing character
- Opportunity for a future built form 'marker' at the corner of Dunmore Street and Pendle Way to visually identify the site, particularly when approaching the site from the north
- A future residential aged care facility that is sufficiently setback from Ashwood House
- The extension of Ashwood House to the east with a landscape buffer behind
- Evenly fragmented buildings along Pendle Way to respond to the existing local context
- Retention of most significant trees.

The proposed masterplan indicates that the site has the potential to accommodate up to 16 buildings. The specific location and design of all buildings on the site will be refined as part of future development applications for the site.

Building heights

The proposed masterplan provides for taller buildings (up to 8 storeys) at the centre of the site away from the edges and heritage items,

transiting down to lower built form towards the site boundaries (to a maximum of 2 to 4 storeys).

The height distribution across the site, as shown on the proposed masterplan, is summarised below:

- Maximum of 2 storeys to the east of Ashwood House and 6 storeys to the west to complement the existing low to medium density residential character along Dunmore Street
- Maximum of 5 storeys at the corner of Dunmore Street and Pendle Way which will provide a visible built form marker for the site, particularly when approaching from the Pendle Hill local centre
- Maximum of 4 storeys along Pendle Way with a well-articulated 3 storey street wall height to respond to the surrounding local context
- Maximum 3 storey pop-up with a 2 storey street wall along the southern site boundary to respond the adjoining low-density residential dwellings
- Maximum of 3 to 5 storey buildings to the east and west of Dunmore House
- Maximum 6 to 8 storey residential aged care facility located towards the centre of the site to reduce overshadowing and visual impacts
- Maximum 8 storeys adjacent to the Bonds Spinning Mills site.

The indicative building heights, distribution across the site and proposed uses are shown in Figure 11.



Figure 11: Indicative building heights and proposed uses

A minimum 6 metre setback from the southern boundary is proposed as part of the masterplan, with a maximum 2 storey street wall and 3 storey building height beyond. An indicative section along the southern site boundary and indicative interface are shown in Figure 12 and Figure 13.

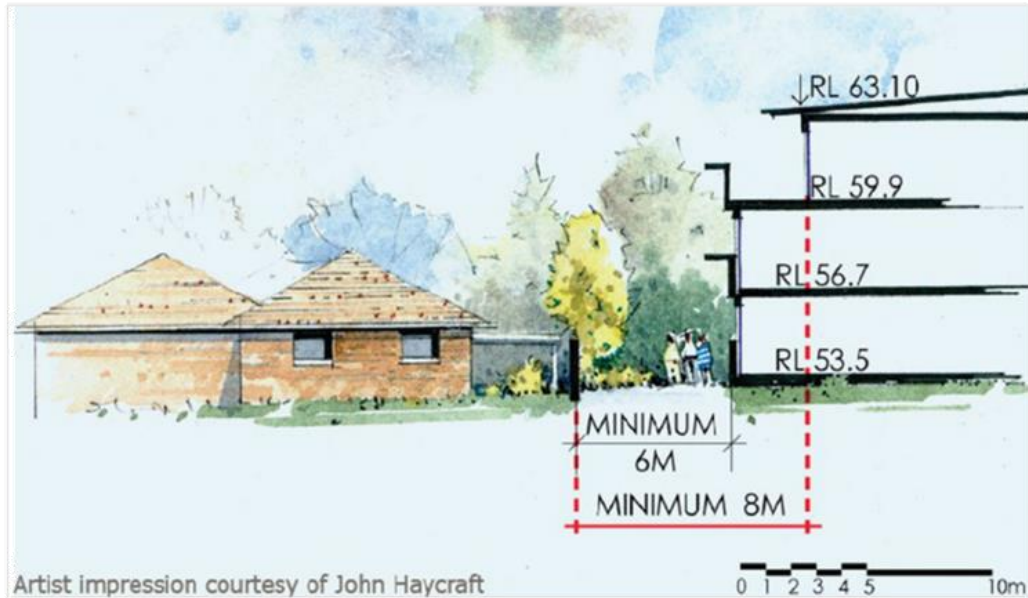


Figure 12: Indicative section along the southern site boundary



Figure 13: Indicative interface along the southern site boundary

Open space

The proposal involves a large amount of open space for recreational use, improvements to public domain areas and connectivity with adjoining open space areas on the Bonds Spinning Mills site.

The masterplan includes deep soil zones for the growth of mature trees, communal open space adjacent to future buildings and rooftop gardens on some of the independent living units.

The open space design principles are detailed in the Landscape Architecture Report and are summarised below:

- Provision of a publicly accessible 'green spine' network through the site
- Mix of large evergreen and deciduous trees to provide shade and seasonal colour interest
- Eucalyptus with tall crowning habitat to allow for solar access to street level
- Large deciduous trees to road junctions as way-finding measures and feature elements
- Publicly accessible pedestrian pathway network including future pedestrian linkages to the Bonds Spinning Mills site and associated retail centre
- Provision of a children's playground and shaded seating areas
- Planted terraces and rooftop gardens on some of the ILUs to provide communal open space for future residents including barbeque and dining spaces.

The indicative open space distribution across the site, green spine and pedestrian circulation network are shown in Figure 14 to Figure 16.



Figure 14: Indicative open space distribution

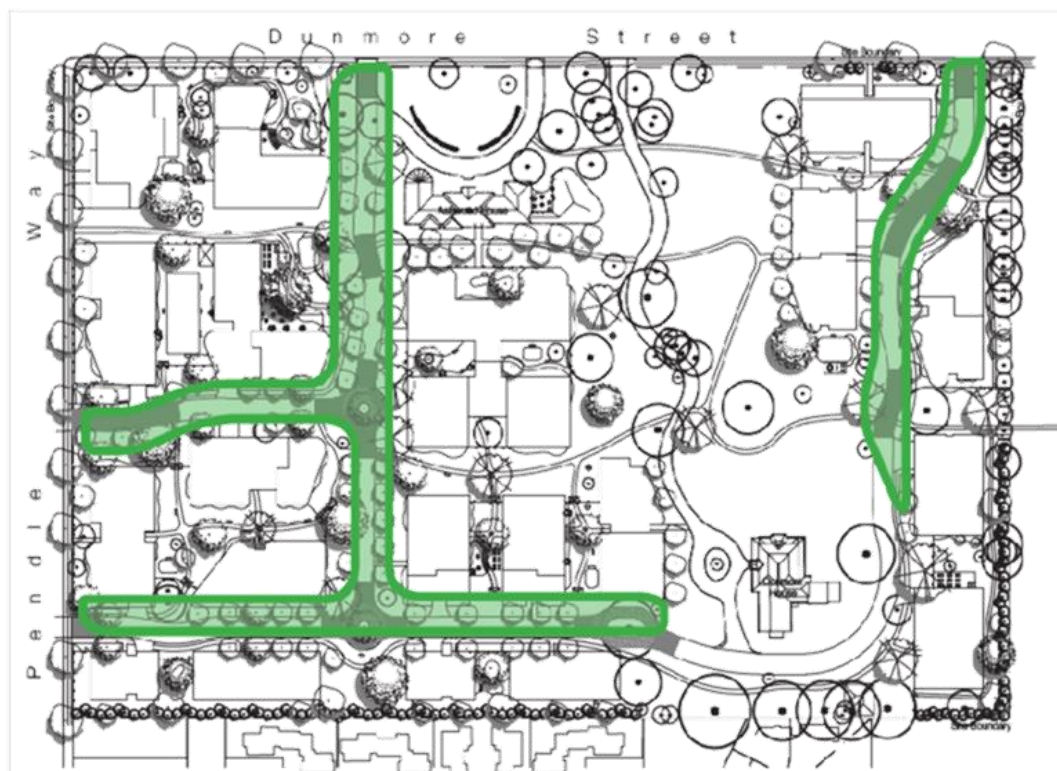


Figure 15: Indicative green spine



Figure 16: Indicative pedestrian circulation

Urban Design Peer Review

The attached Urban Design Peer Review (Peer Review) provides an independent analysis of the proposed masterplan. Specifically, the Peer Review provides comment on the appropriateness of the proposed building height and FSR controls for the site, the proposed masterplan and the proposed planning controls.

The Peer Review concludes that the proposed masterplan is strategically appropriate for new development at the height and densities proposed, as:

- The planning controls for land surrounding all other railway stations between Parramatta and Blacktown have been subject to review and/amendments by Council or the NSW State government, either for the whole centre or individual sites. Therefore, change should be expected in Pendle Hill in the short to medium term
- Pendle Hill is identified as a local centre in the LSPS and aligns with the NSW State government's 30-minute city objectives set out in the Greater Sydney Region Plan and the District Plan
- The site is one of three large sites within 10 minutes walking distance of Pendle Hill railway station, which is consistent with the District Plan's preferred locations for additional residential density

- There is a precedent of 39 metre maximum building heights adjacent to the site on the Bonds Spinning Mills site and greater residential densities, which is located a further distance from the railway station
- Maximum building heights of 24 metres (or greater) have been accepted on other large sites in the broader context that are distant from rail transport and local centres such as Wentworthville South, the Great Western Highway and in Parramatta North
- The site has the potential to provide important social infrastructure and open space, provide connections between Pendle Hill and the new local centre on the adjacent Bonds Spinning Mills site and support appropriate strategic growth of Cumberland.

The Peer Review provides the following comments in respect to the proposed masterplan for the site:

- The north-western corner of the site is its closest connection to Pendle Hill local centre and Pendle Hill train station and allows the opportunity for a built form marker to visually identify the site
- The residential aged care facility is the largest building proposed on the masterplan and there is a functional requirement for it to be located adjacent to Ashwood House, which is proposed to provide small-scale allied health services to support the on-site population. Its location in the centre of the site minimises impacts on surrounding properties and will be designed in wings that read as separate forms to minimise bulk
- Internally all future buildings can achieve appropriate amenity, consistent with the objectives of SEPP 65 and the Seniors Living SEPP
- A gradual height transition in height from south to north assists in retaining good solar access to the existing properties south of the site
- The design provides a clear grid of east-west and north-south connections that ensure the site is permeable, legible and safe and considerable work has been undertaken to ensure that pedestrian paths allow for disabled access across the site
- There is an emphasis on landscape and planting, including through the public realm, private realm and within buildings in the form of rooftop gardens which should be further encouraged through delivery.

In summary, the Peer Review finds that the proposed masterplan provides an appropriate response to its context, particularly through its:

- Strategically appropriate height and density that are in alignment with the Central City District Plan and Council's Local Strategic Planning Statement

- Excellent open space through-site links that assist in providing public amenity including providing an important connection from the proposed neighbourhood centre on the Bonds Spinning Mills site to the existing Pendle Hill Local Centre and railway station
- Appropriate interfaces to streets including Dunmore Street and Pendle Way which respond to the existing built form conditions of each
- Sensitive and appropriate interfaces to neighbours through stepping down to their neighbours and protecting their solar access
- Good on-site amenity outcomes with regard to best practice standards
- An appropriate level of flexibility in controls to allow delivery of this project through future development applications which will be staged.

Traffic, access and car parking

The attached Transport Impact Assessment (TIA) provides an assessment of the anticipated transport implications of the Planning proposal, including:

- Existing traffic and parking conditions surrounding the site
- Car parking, emergency and service vehicle requirements
- Pedestrian and bicycle requirements
- The traffic generating characteristics of the Planning proposal
- Suitability of the proposed access arrangements for the site
- The transport impact of the development proposal on the surrounding road network.

Surrounding road network and existing traffic generation

The TIA concludes that the Planning proposal will not compromise the safety or functioning of nearby intersections and will not have a detrimental impact on the surrounding road network.

The key arterial roads located in proximity to the site include Cumberland Highway (Emert Street), Great Western Highway and M4 Western Motorway which are all within one kilometre of the site.

Goodall Street, Wentworth Avenue and Dunmore Street are classified Regional Roads that generally provide one traffic lane and one parking lane in each direction. Goodall Street and Dunmore Street have a posted speed limit of 50 kilometres per hour and Wentworth Avenue has a posted speed limit of 60 kilometres per hour near the site. Dunmore Street and Wentworth Avenue are linked by Goodall Street which link Pendle Hill with Cumberland Highway to the east.

Key intersections located in proximity to the site are listed below and shown in Figure 17:

- Gilba Road / Pendle Way (roundabout)
- Goodall Street / Wentworth Avenue (signalised)
- Goodall Street / Dunmore Street (signalised)
- Dunmore Street / Pendle Way (signalised)
- Jones Street / Dunmore Street (roundabout)



Figure 17: Key intersections assessed

Surveys of the above key intersections were undertaken by GTA in May 2019. The intersection surveys were carried out during the morning (AM) and afternoon (PM) peak periods and at midday on a Saturday. The intersection survey data was analysed using SIDRA modelling.

The SIDRA analysis found that, under the existing road network conditions, the operation of all key intersections currently perform at either a Level of Service (LoS) A or LoS B during both the weekday AM and PM peak periods and midday Saturday, indicating an acceptable level of delay and queueing overall.

At the time the intersection surveys were carried out, GTA also undertook traffic counts at the existing site access driveways to

ascertain the existing traffic generation to and from the site. The traffic count results are outlined in Table 8.

Peak Period	Inbound	Outbound	Total
Weekday AM	16	11	27
Weekday PM	12	20	32
Saturday Midday	23	33	56

Table 8: Existing traffic generation

Future traffic generation

The TIA assumes the traffic generation of the site (once developed) based on the *Guide to Traffic Generating Developments* (RMS, 2002) and associated *Technical Direction: Updated Traffic Surveys* (TDT 2013/04a). The anticipated traffic generation from the developed site is outlined in Table 9.

Use	Quantity	Traffic generation rate (trips / hour)			Traffic generation estimates (trips / hour)		
		AM	PM	Sat	AM	PM	Sat
ILU/ AH	650	0.16 trips per dwelling	0.18 trips per dwelling	0.14 trips per dwelling	104	117	91
RAC	240	0.1 trips per dwelling	0.1 trips per dwelling	0.2 trips per dwelling	24	24	48
Total					128	141	139

Table 9: Future traffic generation estimates

The developed site is expected to generate between 128 and 141 vehicle movements during peak periods, which is an additional 100 to 110 vehicle movements to and from the site, compared to the current site conditions. The directional split of the additional vehicle movements is assessed in further detail in the Traffic Impact Assessment.

Traffic generated by the adjoining Bonds Spinning Mills site was also factored into the traffic assessment. The Traffic Impact Assessment notes that the Bonds Spinning Mills site was rezoned to support an additional 1,260 residential units, 3,160 square metres of supermarket use and 2,480 square metres of retail uses.

A summary of the anticipated traffic generated from the adjoining (developed) site is outlined in Table 10.

Use	Size	Traffic generation rate (trips / hour)			Traffic generation estimates (trips / hour)		
		AM	PM	Sat	AM	PM	Sat
Residential	1,260 units	0.32 trips per dwelling	0.18 trips per dwelling	0.23 trips per dwelling	403	227	290
Retail - Supermarket	3,160sqm	58 trips per 1,000sqm	116 trips per 1,000sqm	110 trips per 1,000sqm	183	367	348
Retail - Speciality	2,840sqm	18 trips per 1,000sqm	35 trips per 1,000sqm	80 trips per 1,000sqm	50	99	227
Total					636	693	865

Table 10: Future traffic generation estimates – Bonds Spinning Mills site

Intersection analysis

SIDRA intersection modelling was carried out to assess the impact of increased traffic volumes from the developed site on surrounding key intersections. The analysis finds that most intersections in proximity to the site will continue to operate at either a LoS A or LoS B once the site is fully developed. This remains the case even when the anticipated traffic volumes generated by the (developed) Bonds Spinning Mills site are factored into the analysis. The exception includes the Dunmore Street/Pendle Way and the Wentworth Avenue/Goodall Street intersections, which are expected to change from an existing LoS B to a LoS C (AM peak only).

The SIDRA modelling results for the five key intersections, accounting for both the developed site and the Bonds Spinning Mills site, are outlined in Table 11.

Intersection	Peak	Existing Level of Service (LOS)	Degree of Saturation (DOS)	Average Delay (sec)	95th Percentile Queue (m)	Level of Service (LOS)
Pendle Way/ Gilba Road	AM	A	0.66	10	51	A
	PM	A	0.48	9	12	A
	Sat	A	0.36	11	11	A
Dunmore Street/ Pendle Way	AM	B	0.76	18	64	B
	PM	B	0.75	18	80	B
	Sat	B	0.70	18	54	B
Dunmore Street/ Goodall Street	AM	B	1.05	38	196	C
	PM	B	0.80	19	85	B
	Sat	B	0.80	16	77	B
Wentworth Avenue/ Goodall Street	AM	B	0.92	31	125	C
	PM	B	0.85	26	130	B
	Sat	B	0.59	21	72	B
Dunmore Street/ Jones Street	AM	A	0.62	11	15	A
	PM	A	0.60	12	37	A
	Sat	A	0.46	11	22	A

Table 11: Intersection operation – future development and the Bonds Spinning Mills site

Site access

Vehicular access to the site is proposed to be provided via four new two-way private roads that will intersect with adjacent local roads including Dunmore Street and Pendle Way.

The internal road network will service individual buildings and are described in further detail below:

- Road 1: two-way north-south alignment intersecting with Dunmore Street at an existing crossover location, approximately 95 metres east of Pendle Way
- Road 2: two-way north south alignment intersecting with Dunmore Street at an existing crossover location, approximately 40 metres east of Goodall Street
- Road 3: two-way east-west alignment intersecting with Pendle Way, approximately 50 metres south of Macklin Street
- Road 4: two-way east-west alignment intersecting with Pendle Way, approximately 130 metres south of Macklin Street

The new private roads are located more than 40 metres (centre to centre) from the nearest intersections on the opposite side of the road, consistent with the requirements of the *Holroyd Development Control Plan* (Holroyd DCP 2013). All internal roads will function as private roads and will be between six and eight metres in width to allow for two-way vehicle access.

The Traffic Impact Assessment recommends a footpath network of 1.8 metres in width (where possible) be established on at least one side of the internal road network to provide enough width for wheelchairs and mobility scooters to pass.

Car Parking

The Traffic Impact Assessment notes that the Holroyd DCP 2013 requires car parking for seniors living or residential aged care development to be provided in accordance with *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Housing SEPP).

In assessing the minimum car parking requirements for the developed site, the TIA has assumed that:

- The 650 ILUs and affordable key worker housing units each comprise two bedrooms
- Visitor car parking for the ILUs and affordable key worker housing units comply with the minimum requirement for residential flat buildings under the Holroyd DCP 2013
- The 240-bed RAC facility has a maximum of 100 staff

On this basis, car parking is to be provided in accordance with the following rates:

- ILUs and affordable key worker housing units: resident parking (0.5 spaces per bedroom) plus visitor parking (1 space per 5 units)
- RAC facility: visitor parking (1 space per 10 beds) plus staff parking (1 space per 2 staff)

Based on the above assumptions and car parking rates, the minimum car parking requirement for the developed site is 780 spaces, which is to be distributed proportionally across each of the future buildings (within basement car parks).

A summary of indicative car parking requirements is outlined in Table 12.

Building/ Use	Quantity	SEPP Parking Rate	Parking Requirement
RAC Visitors	240	1 space per 10 rooms	24
RAC Staff	50	1 space per 2 staff	24
ILU and AH Residents	650	0.5 spaces per bedroom	650
ILU and AH Visitors	650	1 space per 5 units ⁽¹⁾	82
Total			780

Table 12: Indicative car parking requirements for the developed site

Accessible car parking and ambulance parking

The Holroyd DCP 2013 does not set out requirements for accessible car parking. Notwithstanding, the TIA notes that between 8 and 18 accessible spaces would be the minimum requirement for the site based on the requirements set out in the Australian Government's Disability (Access to Premises – Buildings) Standard 2010, National Construction Code of Australia and Australian Standards AS2890 – Parking Facilities.

The Seniors Housing SEPP requires one parking space suitable for an ambulance to be provided for RAC facilities. Therefore, the RAC will require one dedicated ambulance parking space. Ambulance parking

is not required for the ILU facilities, however ambulance access to these facilities will be available via the internal road network.

Bicycle parking

The Holroyd DCP 2013 does not set out requirements for bicycle parking for seniors living. Therefore, the TIA assessed the requirement for bicycle parking consistent with the minimum requirements for residential flat buildings.

The TIA recommends bicycle parking be provided in accordance with the following:

- ILUs and affordable key worker housing units – 0.5 spaces per unit
- ILUs and affordable housing key worker unit visitors – 0.1 space for unit
- RAC visitors and staff – 0.1 space per bed

Based on the above bicycle parking rates, the minimum bicycle parking requirement for the developed site is 414 spaces, which will be distributed proportionally across each of the future buildings on the site.

The bicycle parking requirements for the developed site are summarised in Table 13.

Building/ Use	Quantity	DCP Parking Rate	Parking Requirement
RAC	240	0.1 spaces per bed	24
ILU and AH Residents	650	0.5 spaces per unit	325
ILU and AH Visitors		0.1 spaces per unit	65
Total			414

Table 13: Bicycle parking requirements for the developed site

Public transport

The site is located approximately 300 metres south of Pendle Hill train station (a six to eight-minute walk) which is serviced by both the T1 North Shore & Western Line and the T5 Cumberland Line (see Figure 18)

The TIA states that the T1 Line provides six services to and from the Sydney CBD during peak periods and half-hourly services during off-peak periods. The T1 Line and T5 Line collectively provide four to six services per day to and from the Parramatta CBD and Blacktown. The T5 Line also provides direct services to and from Richmond, Cabramatta and Liverpool.



Figure 18: Surrounding train network

The TIA identifies the following three regular bus routes in Pendle Hill:

- 700: Blacktown to Parramatta, via Prospect, Pendle Hill, Wentworth Hill and Westmead with services every 15 minutes in peaks and 30 minutes interpeak. The nearest bus stops are along Smith Street and Pendle Way further south of the site
- 705: Blacktown to Parramatta, via Lalor Park, Seven Hills, Toongabbie, Pendle Hill, Wentworth Hill and Westmead with services every 30 minutes in peaks and hourly interpeak. The nearest bus stops are adjacent to the site on Dunmore Street and at Pendle Hill railway station
- 708: Northmead and Parramatta, via Constitution Hill, Pendle Hill, Wentworth Hill and Westmead with one service in the peak direction daily. The nearest bus stops are adjacent to the site on Dunmore Street and at Pendle Hill railway station

The surrounding bus route network is shown in Figure 19.



Figure 19: Surrounding bus route network (Source: GTA)

Aboriginal heritage

The attached Aboriginal Due Diligence Assessment for the site was prepared in accordance with the OEH *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* and relevant legislation for the protection of Aboriginal objects and places.

The site is located within the boundaries of the Deerubbin Aboriginal Land Council. A search of the OEH Aboriginal Heritage Information Management System (AHIMS) database was undertaken on 15 April 2019. The AHIMS search identified 35 sites within a 3 kilometre radius of the site including 19 artefact sites. Of the identified sites, none are identified on the subject land.

The Aboriginal Due Diligence Assessment confirms there are no Aboriginal objects or areas of archaeological sensitivity located within the study area and no further Aboriginal archaeology assessment is recommended.

The Aboriginal Due Diligence Assessment acknowledges that proposed activity is for a rezoning only, however, it is recommended that if any Aboriginal objects are located during future works, these works should cease, and an Aboriginal heritage consultant be engaged to assess the find and recommend if further investigation or permits are required.

Non-Aboriginal heritage

The attached Non-Aboriginal (Historic) Archaeological Assessment for the site provides an overview of the land use history of the site and an assessment of the archaeological potential and significance of any archaeological remains that may be present on the site.

The Archaeological Assessment is informed through the identification and evaluation of historical land uses and associated features on the site. In addition, a site inspection was carried out in April 2019 to assess any exposed archaeological remains and to view evidence of past ground disturbance.

A detailed history of the early European settlement on the site, dating back to the early 1800's, is provided in the Archaeological Assessment. The report states that Dunmore House was the first building to be constructed on the site in the mid-1880's and was purchased by the Churches of Christ in 1934 for subsequent use as a boy's home/orphanage. Ashwood House was constructed as a purpose-built women's aged care facility in 1938. The residential villas currently located on the site (ILUs) were constructed over the following years.

The Archaeological Assessment categorises certain features across the site as having 'low to nil' up to 'moderate to high' archaeological potential. Dunmore House and associated structures are considered the most significant archaeological feature on the site.

The archaeological potential across the site is shown in Figure 20.



Figure 20: Archaeological potential of the site

A detailed significance assessment for Dunmore House and Ashwood House is provided in the attached Conservation Management Plan.

The Archaeological Assessment was prepared for the purposes of informing the proposed masterplan and does not assess impacts to potential significant archaeology from any future development or construction activities.

The assessment confirms the Planning proposal will not impact on potential archaeological resources. It is recommended that a detailed archaeological assessment and research design be prepared as part of any future DAs or other ground-breaking activities on the site. Any archaeological relics are to be protected under the *Heritage Act 1977* and shall not be impacted without an approval issued by the Heritage Council of NSW.

Further, it is recommended that a Heritage Interpretation Strategy be prepared for the site, followed by a Heritage Interpretation Plan. The recommendations provided in the Archaeological Assessment will be considered as part of the future DAs for the site.

Heritage

The attached Heritage Impact Statement (HIS) for the site includes an assessment of significance for the heritage listed Dunmore House and Ashwood House. A summary is provided below.

Dunmore House

Dunmore House is a large Victorian Italianate residence built in 1885 by Sir William McMillan, Treasurer to Henry Parkes and an important figure in the Federation of Australia. The house was also inhabited by Edward Pearce (former Mayor of Parramatta, 1900-1904) and George A. Bond (founder of Bonds clothing brand), prior to its use as a boys' home and orphanage (1934-1980), and from that time, as an aged care facility.

The house is one of few remaining examples in the Cumberland region of the large "boom style" residences erected in the prosperous years of the late 19th century, and its subdivision is evidence of a period of speculation and haphazard urban development. It retains much of its original fabric and detailing, and remains a notable local landmark in local views, this role considerably enhanced by the spacious grounds and mature early trees, which remain as a setting for the house.

Dunmore House was subject to an Interim Conservation Order (ICO) in 1986 and was listed in 1991.

External and internal views of Dunmore House as it stands today are shown in Figure 21 and Figure 22.



Figure 21: Dunmore House – northern elevation and lawn

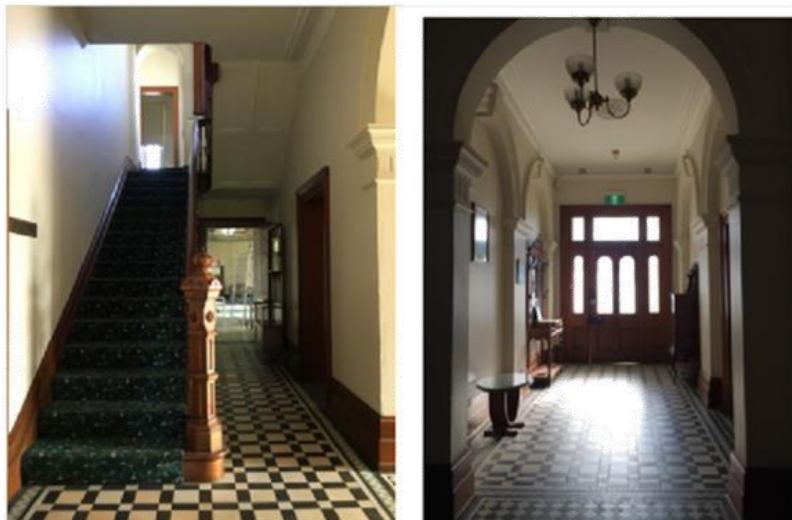


Figure 22: Dunmore House - Interior

Ashwood House

Built 1938, Ashwood House is a large interwar Georgian Free Classical building. Constructed as an aged care residence, which remains its current use. The building has a partly modified front elevation. A substantial building was constructed c.1990 alongside its rear extension.

The house is a strong, albeit unusual example of an Interwar Free Classical / Georgian style building that eschews institutional regularity and scale to create a welcoming, even domestic scale to its appearance.

An external view of Ashwood House as it stands today are shown in Figure 23.



Figure 23: Ashwood House

The HIS concludes that the planning proposal will have an acceptable impact on the heritage items both within the site and in the surrounding locality.

The heritage curtilage around Dunmore House and Ashwood House is considered to provide adequate separation between the indicative, future built forms to negate the impact of change to the Holroyd LEP 2013 development controls. In summary, the HIS concludes that:

- No significant view corridors to the heritage items will be impeded or blocked by future development on the site
- When considered in context of the current (and future) skyline, which includes a taller built form, there will be a negligible heritage impact on Dunmore House and Ashwood House
- The inclusion of a through-site link to the former Bonds Spinning Mills site reinforces the historic relationship between the two sites
- The proposed masterplan designs on-site car parking as largely underground to ensure visual impacts are minimised and the landscape setting persevered and enhanced
- The proposed ongoing use of the site for seniors living and aged care is associated with the current and historic uses of the site.

Conservation Management Plan

The attached Conservation Management Plan (CMP) for Dunmore House and Ashwood House provides an update of a previous CMP (prepared by Integrated Design Associates in 2014).

The CMP acknowledges that Dunmore House was subject to an Interim Conservation Order (ICO) in 1986 and was subsequently listed in 1991. The initial curtilage defined by the ICO applied only to Dunmore House and its relationship with Dunmore Street, with the curtilage reduced as part of the 1991 listing.

The CMP prepared by Integrated Design Associates in 2014 recommended that a combined and expanded heritage curtilage be established to include both Ashwood House and Dunmore House, as well as surrounding plantings and landscaped areas which together retain, permit and express an understanding of the item's history, significance and interrelationships.

The recommended heritage curtilage for the site is shown in Figure 24.

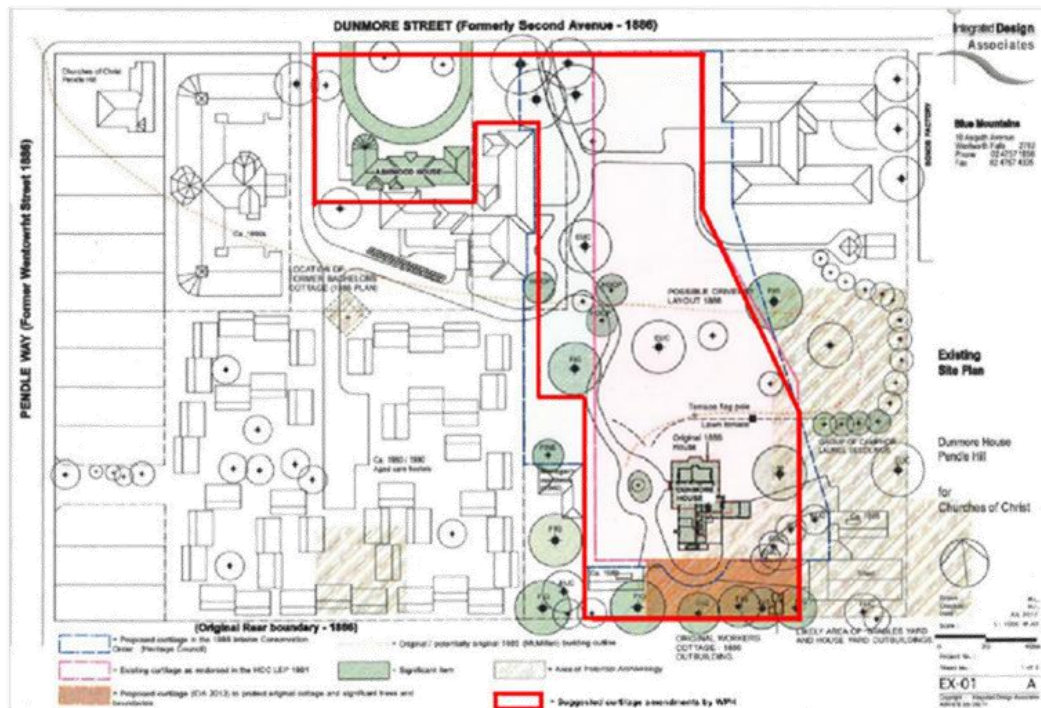


Figure 24: Recommended heritage curtilage

The planning proposal compliments the heritage curtilages that have been established around both items, including the surrounding landscaped areas. This is strengthened by the RE2 zone proposed within the central portion of the site, which has been aligned to closely reflect the recommended heritage curtilage shown in 24.

The attached Landscape Architecture Report sets out future design principles for the heritage curtilages. The curtilages for Dunmore House and Ashwood House are shown in Figure 25 and Figure 26.

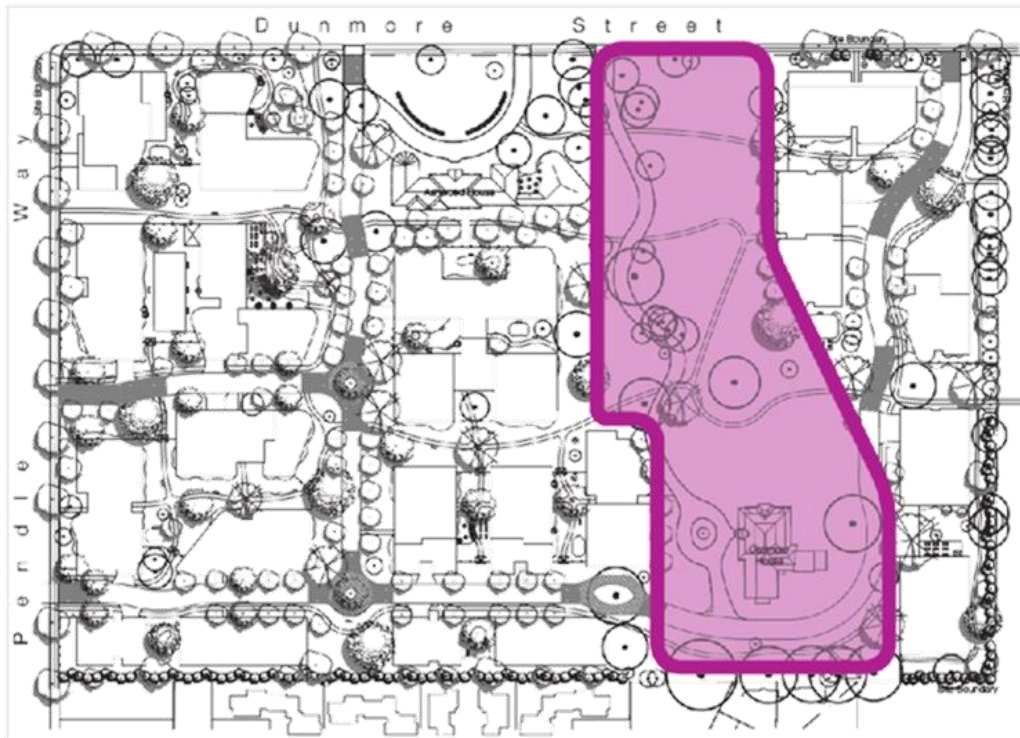


Figure 25: Dunmore House heritage curtilage

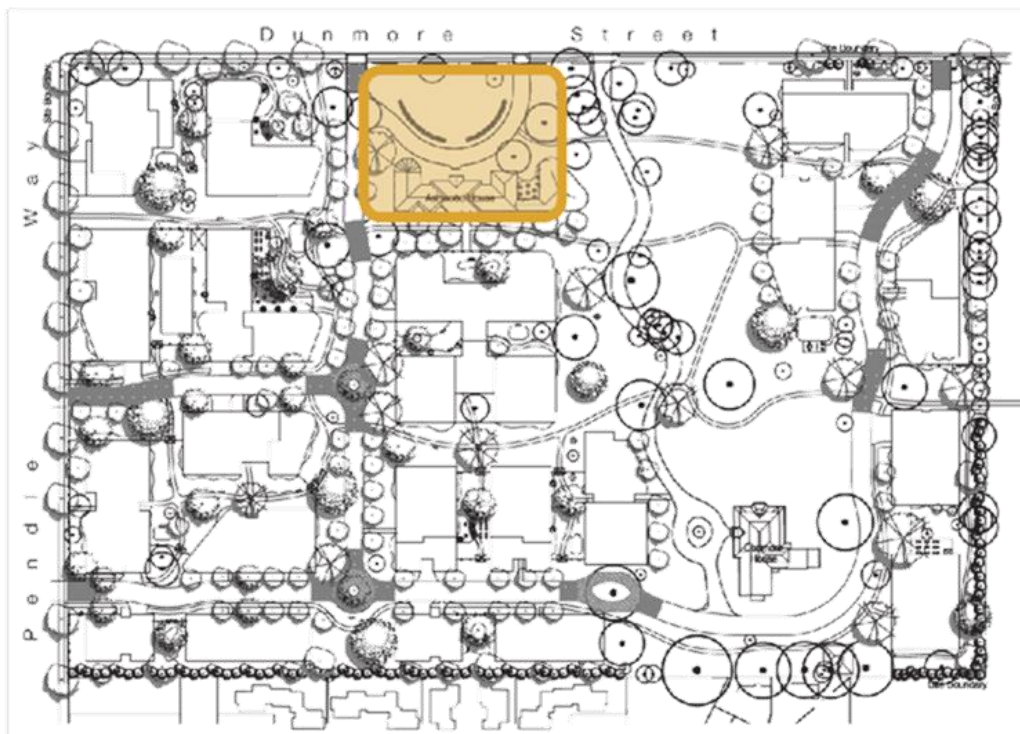


Figure 26: Ashwood House heritage curtilage

The design principles for each of the heritage curtilages are summarised below:

Dunmore House curtilage

- Existing views from Dunmore Street to Dunmore House shall be retained
- Dunmore House and the surrounding landscape curtilage shall be made publicly accessible for community use
- Existing landscape character of specimen trees within the lawn area to be retained as key wayfinding markers within the greater setting of Pendle Hill
- Pedestrian connectivity shall be prioritised through the creation of a new supplementary network of pathways
- Existing mature trees shall be supplemented with new screening vegetation to future built forms
- Provision of a children's community playground within the heritage curtilage to create a hub of activity.

Ashwood House curtilage

- Existing landscape setting of Ashwood House shall be retained and enhanced with the provision of specimen trees and ornamental rose gardens
- Provision of supplementary evergreen tree and screening vegetation to the eastern boundary
- Provision of native Frangipani species to provide green connectivity link between the rear of Ashwood House and the indicative future RAC facility behind.

Contamination

The attached Preliminary Contamination Assessment (PCA) concludes that the site has a low potential for contamination due to the minimal exposure of soil to human health under the current land use and present site conditions.

The PCA was prepared following a review of the site history and consideration of geological information to identify areas of potential contamination and to determine whether the site is likely to present a risk of harm to human health and the environment.

Aerial photography of the site from the 1950's onwards shows the site has slowly developed over the years with the progressive construction of residential buildings and associated structures. The adjacent residential land to the north, west and south have remained essentially

the same during this period, while land to the east has been used for industrial and commercial activities.

Potential areas of concern and associated contaminants identified in the PCA are outlined in Table 14 below.

Table 14: Potential areas of environmental concern/contaminants		
Potential area of environmental concern	Details	Potential contaminants
<i>Site features including residential buildings and associated fibro, timber, weatherboard and metal features</i>	<ul style="list-style-type: none"> • Potential for metals and Organochlorine Pesticides (OCP) in the surface soil surrounding the houses due to possible pest control activities • Due to the age and nature of the houses, some buildings may also contain asbestos 	<ul style="list-style-type: none"> • Heavy metals • OCP • Asbestos
<i>The footprints of the existing features, including associated hardstand areas, driveways and pathways</i>	<ul style="list-style-type: none"> • Potential for filling to have taken place beneath these features for cut and fill and levelling purposes • Fill material could have been imported from unknown sources • Based on past owners of the site, Lot 5 and Lot 10 in DP 24728 were owned by a panel beater and boilermaker • Possible pest control activities 	<ul style="list-style-type: none"> • Heavy metals • Total Recoverable Hydrocarbons (TRHs) • Volatile Organic Compounds (VOCs) including Benzene, Toluene, Ethylbenzene and Xylene (BTEX) • Polycyclic Aromatic Hydrocarbons (PAHs) • Polychlorinated Biphenyls (PCBs) • OCP • Phenols • Asbestos
<i>Soil stockpiles</i>	<ul style="list-style-type: none"> • Soil stockpiles may have been imported or generated within the site, with potential for these 	<ul style="list-style-type: none"> • Heavy metals • TRHs • BTEX • PAHs • OCPs

Table 14: Potential areas of environmental concern/contaminants

	stockpiles to be contaminated	<ul style="list-style-type: none"> • PCBs • Asbestos
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The PCA notes that, as the site is proposed to be rezoned to enable high density residential development, there is potential for exposure of soils to humans and the environment during future activities on the site.

The PCA provides the following recommendations to be considered as part of the future DAs for the site:

- A soil sampling and testing plan be implemented to address the potential for contamination at the site and to determine the need or otherwise for remediation to be carried out
- If any suspect materials are encountered during any stage of future earthworks/site preparation activities, additional contamination assessment should be carried out
- For any materials that are to be excavated and removed from the site, waste classification of the materials should be undertaken, prior to disposal at a licensed facility
- Any imported soil should be assessed by a qualified environmental consultant to ensure suitability for the proposed use
- Any imported fill should either be virgin excavated natural material or excavated natural material that does not contain any suspect materials (i.e. unusual staining, odor, discoloration or inclusions such as building rubble, asbestos or ash material, etc.).

Biodiversity

The attached Preliminary Tree Assessment (PTA) was informed by a desktop review of the soil landscape mapping, threatened species database searches, previous vegetation mapping and other relevant studies. Both assessments were informed following an inspection of the site.

Preliminary Tree Assessment

The PTA identifies all existing trees on the site and provides an evaluation of their current overall health, condition and life expectancy. Based on this evaluation, a retention value (i.e. high, medium or low) was assigned to each individual tree species.

A total of 149 trees in total were inspected. The PTA provides the following conclusions:

- 33 trees have a high retention value and are recommended to be retained and protected where possible
- 79 trees have a medium retention value and are considered less critical and should be retained where possible, but are not considered a constraint to future development
- 37 trees have a low retention value and their removal is not considered a constraint to future development.

The PTA recommends an arboricultural impact assessment be prepared for any future construction on the site where trees are likely to be impacted. The construction method and design footprint should protect high and medium retention value trees, where possible. These matters will be addressed through future DAs for construction of the development.

Q9. Has the planning proposal adequately addressed any social and economic effects?

Social impact

The attached Social Impact Assessment (SIA) considers whether social impacts which may occur as a result of the Planning proposal are either:

- Direct impacts: usually quantifiable impacts measured by social indicators, such as changes to the community in the areas of population, health and employment, etc.
- Indirect impacts: resulting from changes to more qualitative social indicators, such as community cohesion and sense of place
- Cumulative impacts: impacts which are successive, incremental or combined and which can arise from a single activity, multiple activities or from interactions with past, current and foreseeable future activities

In preparing the SIA, Elton Consulting carried out preliminary consultation activities with the current village residents and surrounding community members (comprising both residents and business owners). The consultation activities specifically involved:

- a three-question survey distributed to the current village residents
- three workshops with the current village residents involving those from both the ILUs and the RAC facilities
- a three-question online survey for surrounding residents, notified and invited to participate through a letter box drop

The SIA finds that the Planning proposal will have the following positive direct, indirect and cumulative impacts:

- Increased aged care and retirement housing to suit a diverse range of needs, including a combination of ILU and RAC housing to suit the physical and mental needs of older persons, while affordable key worker housing provides for those in vulnerable financial situations
- Increased housing options and quality services for an older population in the established suburb of Pendle Hill where existing family, friend and support networks are available for current and potential future residents
- The estimated 320 jobs to be created on the site provides employment opportunities for medical and aged care staff that will service the needs of RAC residents (primarily) and some of the ILU residents
- The future redevelopment of the site provides for increased open space and community facilities to service the current and future residents
- There is potential for the wider community to access existing or new social infrastructure within the redeveloped site for gatherings, workshops, trainings, etc.
- The existing heritage items on the site will be enhanced for community appreciation and use
- There will be no impact on the proximity and access to local services, infrastructure and amenities in the Pendle Hill local centre, including close access to Pendle Hill train station.

The SIA also finds that the Planning proposal will potentially have the following negative direct, indirect and cumulative impacts:

- Construction-related activities will generate environmental impacts such as noise, dust and increased construction generated traffic
- Impacts on the existing character of Pendle Hill being predominately low and medium density development
- An increased population on the site may lead to community tension and friction where there is currently a highly valued sense of community
- Existing residents will likely need to be re-accommodated in temporary housing at some stage during the future redevelopment of the site
- The future redevelopment of the site has the potential to interrupt social interactions and connections
- The future redevelopment of the site will increase the number of older persons (over 55 years of age) living on the site, which will increase the demand on existing health infrastructure and services including hospitals and ambulance services
- The redevelopment of the site and cumulative effect of the future Bonds Spinning Mills site will lead to additional pressure on existing

services and spaces (i.e. community facilities and public open space areas), as well as increased vehicles on the local road network.

While the Planning proposal seeks to establish increased building heights and provide higher residential densities on the site, it is noted that the adjoining Bonds Spinning Mills site was recently rezoned to allow for even greater building heights and higher residential densities. The Planning proposal and proposed masterplan are consistent with the evolving character of the surrounding area.

To address the potential negative social impacts of the Planning proposal, the SIA recommends the preparation of the following:

- A Phasing Plan be developed to address the timing and impact of construction related activities on the site, including consideration of a staggered program of construction for the future redevelopment of the site
- A Construction Management Plan be prepared to identify and outline mitigation measures to reduce construction related impacts, in alignment with the Phasing Plan (which would be addressed through future development applications rather than at the Planning proposal stage)
- A Communication Strategy be developed to inform existing residents on the site and the surrounding community of the progress, changes and plans for the redeveloped site.

It is considered that, through the preparation and implementation of the above listed plans, the social impact of the Planning proposal can be appropriately mitigated.

Economic impact

The attached Economic Assessment (EA) provides an assessment of the market potential for additional seniors living facilities to be developed on the site, as well as the likely economic impact of providing affordable key worker housing and commercial uses including allied health/medical consulting suites and a café.

To assess the market opportunities and economic implications of the Planning proposal, a study area encompassing a 10 kilometre radius from the site is established in the EA. The study area extends from Kellyville in the north, Ermington in the east, Eastern Creek in the west and Cabramatta in the south.

The EA states that significant growth in the study area is forecast, with approximately 83,070 additional residents aged 65 years and over between 2018 and 2036. The study area is shown in Figure 27.

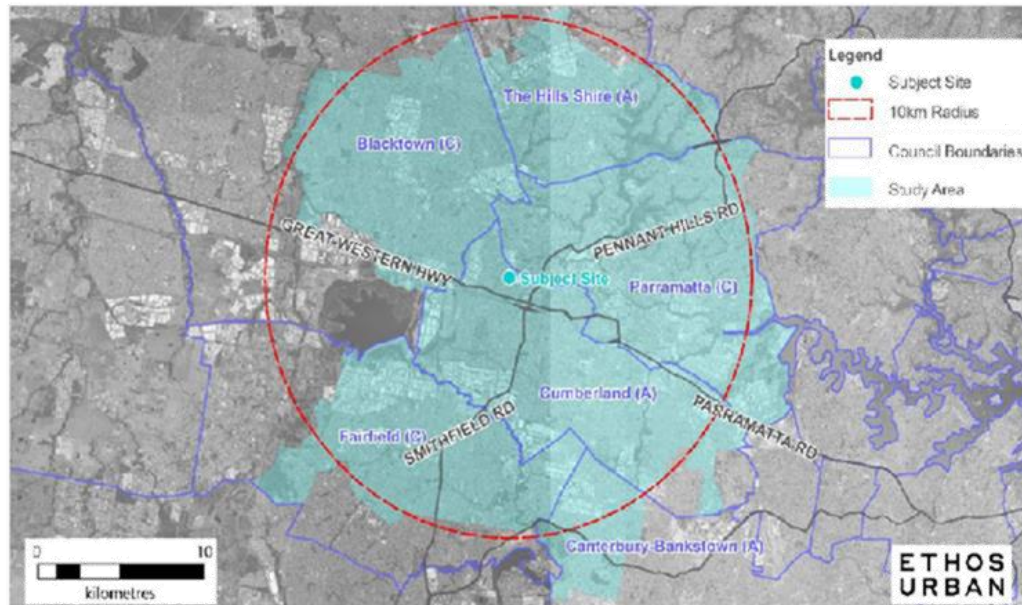


Figure 27: Economic Assessment study area

On the basis of the proposed masterplan prepared for the site, the EA considers the site has the potential to support approximately:

- 1,000 persons within the seniors living (ILUs) and affordable key worker housing units
- 240 persons in the 240-bed RAC facilities
- 290 direct jobs to service the residential aged care development (full-time, part-time and casual staff)
- 30 jobs to service the ILUs (full-time and part-time staff).

The key findings outlined in the EA are summarised below.

Additional aged care housing and affordable key worker housing

- Significant opportunities exist for aged care and retirement living in the study area, with unmet demand for 4,320 aged care beds and 2,110 retirement living dwellings by 2036
- The net addition of 50 aged care beds and approximately 564 dwellings comprising mostly of retirement living units (as proposed in the proposed masterplan) will help to meet this forecast demand
- Opportunity exists for the success of future affordable key worker housing on the site given the tight housing market, strong growth in

the healthcare and social services sectors and potential for 290 ongoing aged care jobs on the subject site.

Medical uses

- Medical consulting suites that provide flexible spaces for visiting medical and allied health services (e.g. physiotherapy, massage therapy, podiatry and other health and wellness services) are required for retirement living and aged care facilities to be competitive
- Medical uses will be supported entirely by the on-site resident population
- As the consulting suites are for visiting practitioners, this will support the viability of nearby medical and allied health businesses, as opposed to creating additional competition.

Food and drink premises

- A café offering at the site would largely be supported by the on-site resident and worker community and would have limited economic impact on nearby town centres.

Capital investment, jobs and expenditure

- Construction costs associated with the future redevelopment of the site are estimated to be in the hundreds of millions of dollars, and will support an estimated 1,400 full-time equivalent construction-related jobs and a further 4,300 full-time equivalent indirect jobs supported elsewhere in the wider economy
- The retirement living and aged care facility on the site would generate approximately 320 direct ongoing jobs and a further 290 indirect jobs supported elsewhere in the wider economy
- The subject site, once developed, will add approximately 930 new permanent residents (excluding aged care residents) to the area and approximately 320 workers. A large proportion of the spending of these residents and workers will be directed to centres nearby, including Pendle Hill, Wentworthville and the nearby Bonds Spinning Mills site. With a future café provided at the subject site, attracting only a very small proportion of this spending, the overall impact on the trading performance of nearby centres from the proposed development will be positive.

Section D – State and Commonwealth Interests

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

Future development on the site will make use of existing public infrastructure and services including connections to water, sewerage, electrical and telecommunications infrastructure.

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

As required by the Gateway determination, Council will consult with the following public agencies during the statutory consultation period.

- Heritage NSW
- Transport for NSW
- NSW State Emergency Service
- Environment, Energy and Science Group – Department of Planning, Industry and Environment
- Department of Education
- Sydney Water.

Part 4 – Mapping

Proposed changes to LEP mapping are shown in Figure 28 to Figure 31.

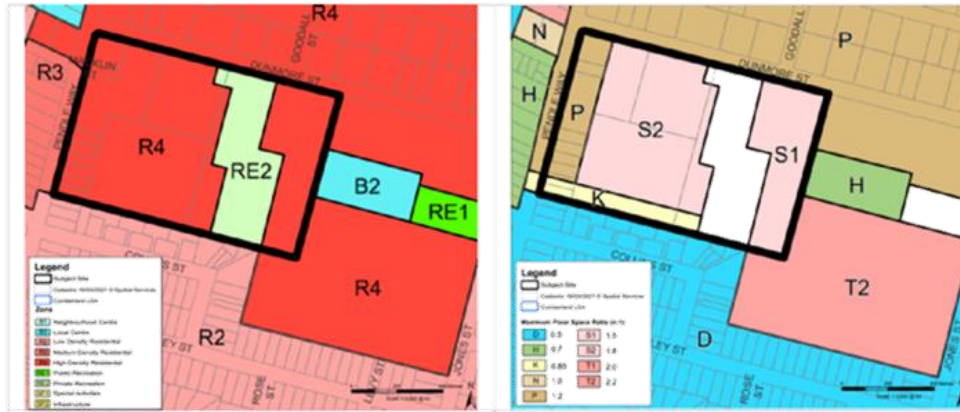


Figure 28: Proposed Land Zone

Figure 29: Proposed FSR

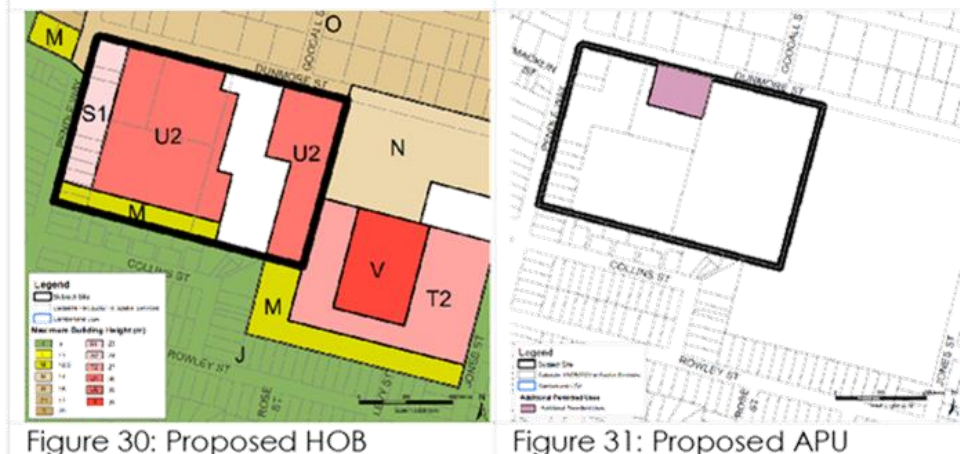


Figure 30: Proposed HOB

Figure 31: Proposed APU

Part 5 – Community Consultation

The Proponent carried out preliminary consultation activities with Fresh Hope Care residents and the local community prior to lodgment of their Planning Proposal Request. Feedback informed the preparation of the Social Impact Assessment.

Council carried out preliminary consultation with the local community immediately following lodgment of the Planning Proposal Request, as outlined in the attached Council report.

Further statutory consultation will occur as required by the Department's Gateway determination.

Part 6 – Project Timeline

Milestone	Anticipated date/s
Commencement date (Gateway determination)	Nov 2020
Consultation with community and public agencies	May-June 2021
Report to Council seeking resolution to proceed	June 2021
Submit for finalisation	July 2021

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-797

Attachment 2
Gateway Determination



Gateway Determination

Planning proposal (Department Ref: PP_2020_CUMBE_005_00): to amend the zoning, height of building and floor space ratio controls and allow additional permitted uses at the corner of Dunmore Street and Pendle Way, Pendle Hill.

I, the Executive Director, Central River City and Western Parkland City, at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Holroyd Local Environmental Plan (LEP) 2013 to amend the zoning, height of building and floor space ratio controls and allow additional permitted uses at the corner of Dunmore Street and Pendle Way, Pendle Hill should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to amend the planning proposal to:
 - (a) amend the proposed maximum height of buildings to reflect a range of heights across the site which responds to the surrounding context and is generally consistent with the proposed masterplan for the site, as detailed in the Urban Design Report dated April 2020;
 - (b) review and amend the proposed maximum floor space ratio controls to respond to the amended maximum height of buildings across the site;
 - (c) provide a discussion on the potential development outcome should bonus provisions under SEPP (Housing for Seniors or People with a Disability) 2004 be pursued;
 - (d) address consistency with SEPP No 65—Design Quality of Residential Apartment Development;
 - (e) update the proposed maps to ensure legibility of all labels and legends;
 - (f) update the Additional Permitted Uses map to only apply to the Ashwood House portion of the site;
 - (g) address Section 9.1 Directions 2.6 Remediation of Contaminated Land and 4.3 Flood Prone Land;
 - (h) update the discussion on SEPP 55 – Remediation of Land reflecting the effect of clause 6 is now achieved by Section 9.1 Direction 2.6 Remediation of Contaminated Land; and
 - (i) update the project timeline.
2. Prior to finalisation of the planning proposal, Council is to ensure that there is an appropriate mechanism in place to deliver public access to the proposed RE2 Private Recreation land.

3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 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 section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
4. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - Heritage NSW;
 - Transport for NSW;
 - NSW State Emergency Service;
 - Environment, Energy and Science Group – Department of Planning, Industry and Environment;
 - Department of Education; and
 - Sydney Water.

Each public authority/organisation 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.
5. The planning proposal must be placed on exhibition within six weeks of receiving gateway determination.
6. The planning proposal must be reported to council for a final recommendation within 10 months from the date of the Gateway determination.
7. 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 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).
8. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the 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 section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.

9. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 24th day of November 2020.



Catherine Van Laeren
Executive Director
Central River City and Western
Parkland City Department of
Planning, Industry and Environment

Delegate of the Minister for Planning
and Public Spaces

PP_2020_CUMBE_005_00 (IRF20/5006)

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-797

Attachment 3
Site-specific Development Control
Plan (Holroyd DCP)

Site Specific Controls

15. Corner Dunmore Street & Pendle Way, Pendle Hill

Land to which this section applies

This section applies to the following land (as shown in **Figure 1** below):

Address	Lot and DP
284 Dunmore Street, Pendle Hill	Lot 1 DP24728
105 Pendle Way, Pendle Hill	Lot 2 DP24728
93 Pendle Way, Pendle Hill	Lot 8 DP24728
91 Pendle Way, Pendle Hill	Lot 9 DP24728
87 Pendle Way, Pendle Hill	Lot 10 DP24728
85 Pendle Way, Pendle Hill	Lot 11 DP24728
83 Pendle Way, Pendle Hill	Lot 12 DP24728
282 Dunmore Street & 95 Pendle Way, Pendle Hill	Lot 472 DP1204429
268-280 Dunmore Street, Pendle Hill	Lot A DP335578
222-266 & 282 Dunmore Street & 89 Pendle Way, Pendle Hill	Lot 2 DP554208
222-266 Dunmore Street, Pendle Hill	Lot 3 DP554208



Figure 1: Land to which this section applies

Part **J**

Site Specific Controls

Vision

The Dunmore Street site is a high-quality residential precinct that respects and celebrates its history and integrates with and enhances the surrounding Pendle Hill area.

The site will play an important role in contributing to additional supply for seniors housing and affordable key worker housing, capitalising on its proximity to the Pendle Hill local centre, the adjacent Bonds Spinning Mills site and Pendle Hill railway station.

The site provides a high-amenity landscaped setting, including an open space curtilage to the heritage listed Dunmore House, new opportunities for publicly accessible open space and community uses for the local population.

General objectives

- O1. Development responds to the natural and built form elements of the site, the surrounding local character, the existing orthogonal street grid, heritage items and evolving built form scale, including the adjacent Bonds Spinning Mills site.
- O2. Development is predominantly for seniors housing and affordable key worker housing, significantly contributing to housing choice and affordability in the Cumberland LGA.
- O3. Celebrate and give precedence to the heritage components of the site while maintaining a heritage curtilage around Dunmore House, which is also a key determining feature in the open space network and landscaped character of the site.
- O4. New buildings adjacent to heritage items will respect the site's heritage through appropriate setbacks and design.
- O5. Development is well designed and effectively transitions to development on adjoining sites through building heights, massing, setbacks and landscaping.
- O6. Development on the corner of Dunmore Street and Pendle Way will be of a height, scale and design that provides a built form marker when approaching the site from the Pendle Hill local centre and railway station.
- O7. Existing mature vegetation on the site is retained and complemented through new planting of native species and landscaping.
- O8. The site will contain a legible and permeable movement network for pedestrians and cyclists, including potential linkages to the adjoining Bonds Spinning Mills site.
- O9. The site will provide an extensive open space network comprised of private and public open spaces, including the publicly accessible open space curtilage to Dunmore House.

Part J

Site Specific Controls

Indicative Master plan

The vision and objectives for the site as identified above are expressed in the structural design for the site as shown in Figure 2.

To ensure that development provides key elements, where variations to the Indicative Master Plan are proposed, the relevant development application (DA) is to demonstrate how the vision and objectives have been achieved.



Figure 2: Indicative Master Plan

Part

J

Site Specific Controls

1. Specific objectives and controls

1.1 Land use

Objectives

- O1. Create a high-quality residential precinct, primarily consisting of seniors and affordable key worker housing.
- O2. Provide an extensive open space network, including a centrally located publicly accessible recreational and community space in the Dunmore House curtilage, for new residents and the local community.
- O3. Provide for associated ancillary uses to meet the daily convenience and recreational needs of onsite residents and workers.

Controls

- C1. Land uses are to predominantly comprise residential development, specifically seniors housing and affordable key worker housing.
- C2. Non-residential uses are to generally include:
 - a. allied health services
 - b. publicly accessible recreational and community uses
 - c. places of public worship
 - d. café/s
- C3. Non-residential uses permissible in the R4 High Density Residential zone, such as cafes and neighbourhood shops, are to be located at ground level to maximise accessibility and contribute to the activation of streets.

1.2 Building height

Objectives

- O1. Provide opportunities for increased height and density to support the future provision of seniors housing and affordable key worker housing on the site.
- O2. Ensure building heights respond to the existing and future built form character of the area, including the adjoining Bonds Spinning Mills site and lower density residential developments surrounding the site.
- O3. Minimise any adverse shadow impacts to open spaces within the site and adjoining residences.
- O4. Maintain 'finer-grained' proportions along the southern boundary to respond to existing lower density residential development on Collins Street.

Controls

- C1. Maximum building heights to be generally in accordance with **Figure 3: Building heights**
- C2. Reduced level details must be in accordance with **Part G Cumberland DCP 20XX**.

Site Specific Controls



Figure 3: Building heights

I.3 Building siting and setbacks

Objectives

- O1. Provide appropriate separation distances between future buildings on the site in order to maximise amenity for future residents.
- O2. Achieve an appropriate built form scale along Dunmore Street and Pendle Way that contributes to the prevailing streetscape and the existing and future character of the locality.
- O3. Buildings are sited to respect and complement the existing heritage items on the site.
- O4. Buildings are sited to frame new streets and pedestrian links within the site and to maintain view corridors to and from the site.
- O5. Maintain high levels of visual and acoustic amenity and minimise overshadowing of surrounding areas, including the lower density detached dwellings along the site's southern boundary on Collins Street.

Controls

- C1. Building setbacks and building separations should generally comply with **Figure 4 to Figure 7**, including:
 - Minimum setback of 6m to Pendle Way

Part

J

Site Specific Controls

- Minimum setback of 6m to Dunmore Street
- Minimum setback of 6m for first and second storey and a minimum 8m setback for third storey to the southern boundary with existing residences on Collins Street
- Minimum setback of 10m to the southern boundary on eastern part of the site.
- Minimum setback of 10m to the eastern boundary
- Minimum 12m primary separation distance between all new buildings on the site
- Minimum 12m separation distance between Ashwood House and any new building to the immediate south and additional secondary setback of 23m towards the centre of the building.

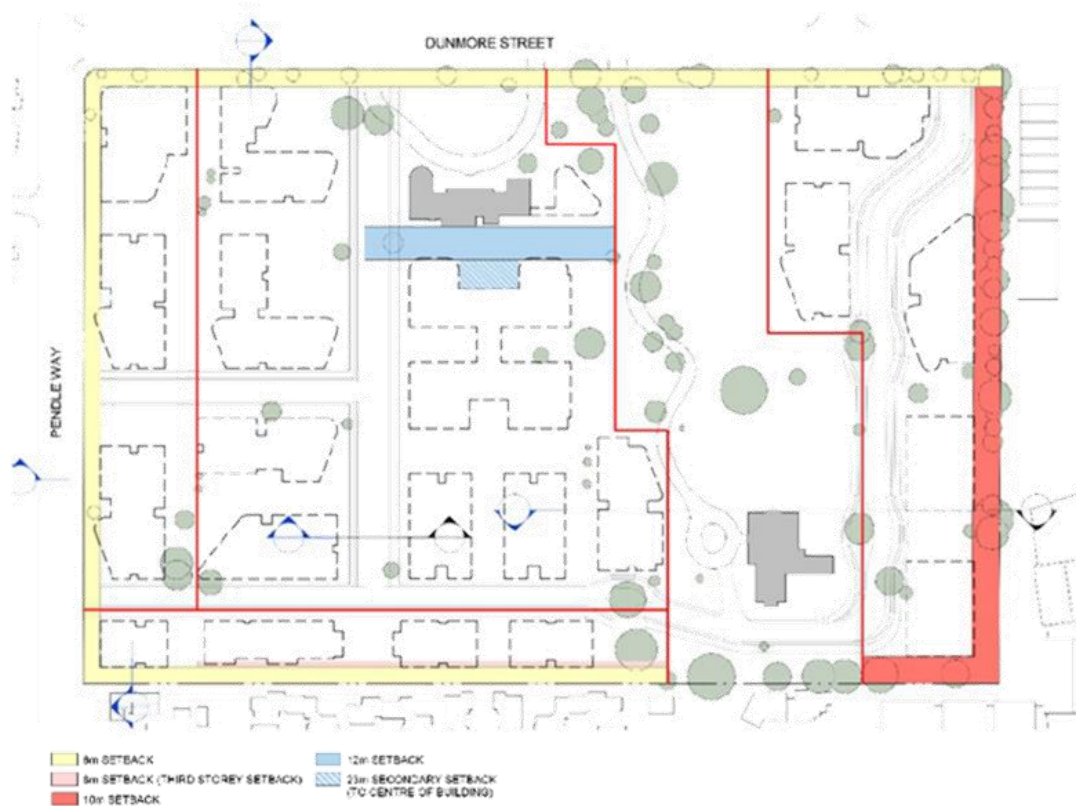


Figure 4: Setbacks plan

Part

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Site Specific Controls

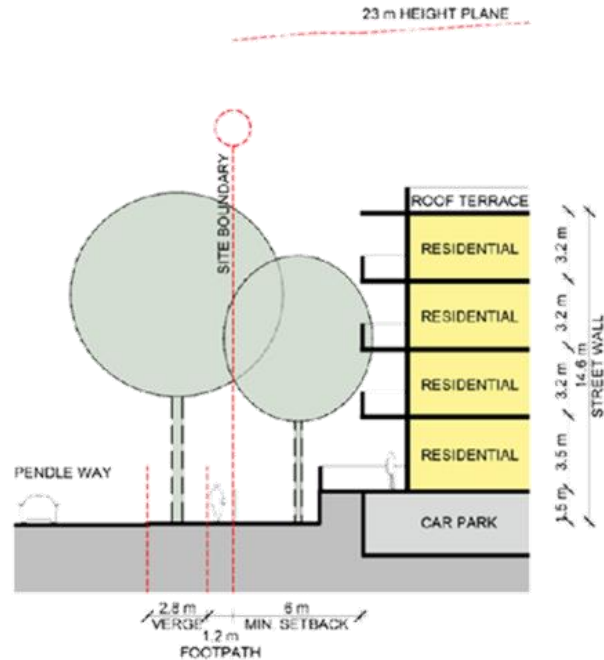


Figure 5: Street setback – Pendle Way

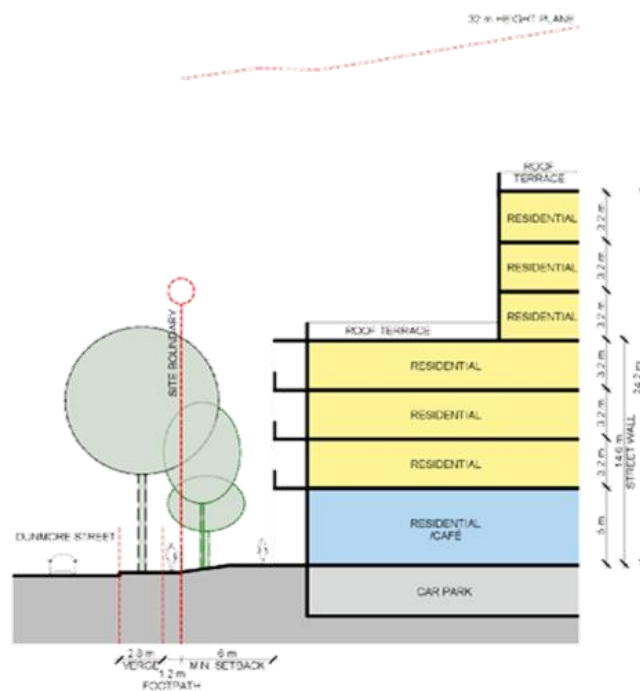


Figure 6: Street setback - Dunmore Street

Part J

Site Specific Controls

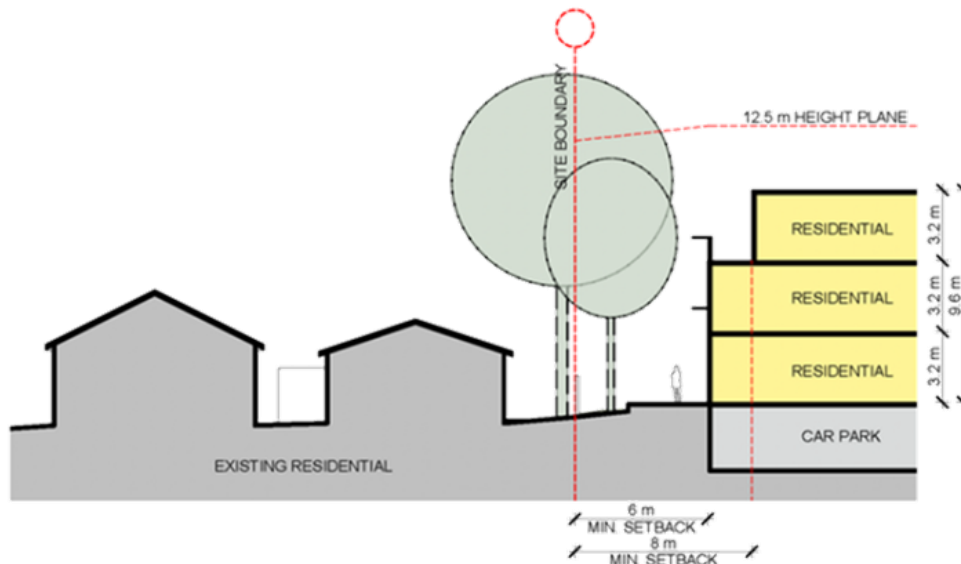


Figure 7: Southern boundary setback

I.4 Built form and building design

Objectives

- O1. Buildings are designed to complement existing streetscapes and to address and engage with the adjoining public domain.
- O2. Buildings are designed to provide a high level of architectural quality and visual interest and are of an appropriate bulk and scale when viewed from the public domain and surrounding residential areas.

Controls

- C1. Building facades along Dunmore Street and Pendle Way street-walls are to incorporate a number of smaller parts through significant recesses, other facade modulation and distinct building elements and materials.
- C2. In relation to residential uses at ground level:
 - the number of individual dwelling entries from the adjoining public domain are maximised
 - where entries provide access to more than one dwelling, they relate to each lift core, are clearly defined and legible and preferably form an architectural feature of the building
 - front boundary treatments use measures such as level changes, landscaping and fencing to provide privacy for residents whilst also providing for casual passive surveillance of the adjoining public domain

Part **J**

Site Specific Controls

- internal living areas are integrated with areas of outdoor private open space to provide a transition between the public and private domains
- C3. In relation to non-residential uses at ground level:
- pedestrian entries are at the same level as the adjoining public domain
 - cafes or restaurants can have outdoor seating in the adjoining public domain
 - universal access is provided
- C4. Buildings located on corner sites to be articulated to address each street frontage and to define prominent corners.
- C5. The building on the Dunmore Street-Pendle Way corner is to provide a built form marker through a height of 5 storeys and the expression of architectural elements such as building articulation, material, colour and roof form.

I.5 Solar access and overshadowing

Objectives

- O1. Minimise overshadowing impacts to surrounding public domain and private developments.
- O2. Provide reasonable amount of solar access to new public open spaces within the site.

Controls

- C1. Provide a minimum of 2 hours of solar access to the publicly accessible open space zoned RE2 Private Recreation between 9am and 3pm in mid-winter.

I.6 Open space and landscaping

Objectives

- O1. Provide a series of generous publicly accessible open spaces for recreational uses, improving the quality of the public domain and connectivity with surrounding open spaces.
- O2. Retain and enhance the landscaped setting of both Ashwood House and Dunmore House.
- O3. Provide sufficient private communal open space and rooftop gardens to cater for passive and active recreation opportunities for future residents.
- O4. Provide high quality landscaping around the perimeter of the site to enhance the streetscape and quality of the built environment.
- O5. Mitigate any visual impacts of buildings to the south of Ashwood House through provision of soft landscaping.

Controls

- C1. Open space and deep soil zone should generally be provided in accordance with **Figure 8.**

Part **J**

Site Specific Controls

- C2. Provide a central north-south landscaped publicly accessible open space from Dunmore Street to the site's southern boundary at the rear of Dunmore House. This publicly accessible open space area is to include the following facilities:
- soft and hard landscaping for passive and active recreation
 - amenities such as BBQ facilities, shade structures, seating, lighting, bins, playgrounds, community gardens and signage
- C3. Provide publicly accessible pocket parks with varied landscape features within the clusters of buildings connecting to the publicly accessible open space.
- C4. Provide private communal open spaces at the ground level and rooftop areas with a variety of facilities including seating, BBQ facilities and shelters.
- C5. Ground level courtyards are to be provided for ground level Independent Living Units as per the ADG.
- C6. Provide a landscape buffer zone (south of Ashwood House) for the provision of tall screening trees.
- C7. Provide high quality evergreen trees and screening within the setbacks along the site's boundaries as shown in **Figure 1: Setbacks plan**. This is to be achieved by providing a 6m deep soil zone along Pendle Way, Dunmore Street and the southern boundary of the precinct, and a minimum of 10m deep soil zone along the eastern boundary of the precinct.



Figure 8: Open space network

Site Specific Controls

1.7 Movement network

Objectives

- O1. Improve the site's accessibility and strengthen its connection to surrounding areas.
- O2. Provide a functional movement network that provides for the efficient and safe movement of all road users.
- O3. Encourage walking and cycling through the provision of a comfortable and attractive environment.
- O4. Provide a number of residential access points to activate street frontages and internal private and publicly accessible open spaces and to provide passive surveillance opportunities.
- O5. Reduce traffic impacts to Pendle Way and Dunmore Street and improve the public domain for pedestrians.

Controls

- C1. The street network, pedestrian network, site access and car access points are provided generally in accordance with **Figure 5: Public and pedestrian links**.
- C2. The site will incorporate 4 new two-way private roads that will intersect with the adjacent local roads (Dunmore Street and Pendle Way). The new private roads are to be located more than 40 metres (centre to centre) from the nearest intersections on the opposite side of the road.
- C3. Vehicular access points to buildings are to be provided within building footprints. If access is not within the building, high quality landscape and driveway design are to be incorporated to ensure a landscaped streetscape and to mitigate potential visual and acoustic privacy issues for residents.
- C4. Provide new pedestrian access points along both Pendle Way and Dunmore Street.
- C5. Provide a minimum of 4 new publicly accessible through-site links connecting the precinct to the surrounding area, including the Pendle Hill local centre, Pendle Hill railway station and the Bonds Spinning Mills site.
- C6. Streets include pedestrian paths on each side.
- C7. Pedestrian footpaths on new roads are separated with a planting strip which is at least 1.8m in width.
- C8. Private pedestrian links are interconnected with the new publicly accessible links.
- C9. The pedestrian and cycle access network:
 - Is direct and accessible to all
 - is easily identified by users
 - has a public character
 - includes signage advising of the publicly accessible status of the link and the places to which it connects

Part **J**

Site Specific Controls

- is clearly distinguished from vehicle access-ways
- allows visibility along the length of the link to the public domain at each end.

C10. Strong, legible pedestrian connections are established between the site and adjoining areas.

C11. The pedestrian and cycle access network:

- aligns with breaks between buildings so that views are extended and the sense of enclosure is minimised;
- includes materials and finishes (paving materials, tree planting, furniture etc.) integrated with adjoining streets and public spaces and be graffiti and vandalism resistant;
- is well-lit to safety standards;
- is open to the sky along the entire length; and
- is accessible 24 hours a day.

C12. Street furniture is provided and includes a high quality, durable and co-ordinated selection of paving, seating, lighting, rubbish bins, playground equipment and signage.

C13. Street trees are to be provided within deep soil zones on all streets that:

- comprise a co-ordinated palette of climatically responsive species
- are robust and low-maintenance
- are planted in a co-ordinated, regularly spaced and formalised manner
- increase the comfort of the public domain for pedestrians, including through the provision of shade in summer
- enhance the environmental performance of the precinct by increasing opportunities for energy conservation.

C14. In areas where deep soil zones cannot be achieved, suitable trees species will:

- comprise a co-ordinated palette of climatically responsive species
- are robust and low-maintenance
- provide adequate canopy shade, for the comfort of pedestrians.

C15. On-site car parking is provided in accordance with Part G, Cumberland DCP 2020.

C16. Carpark access is co-ordinated to provide for efficiency and convenience while not adversely affecting the pedestrian movement or the visual amenity of the public domain.

Part J

Site Specific Controls

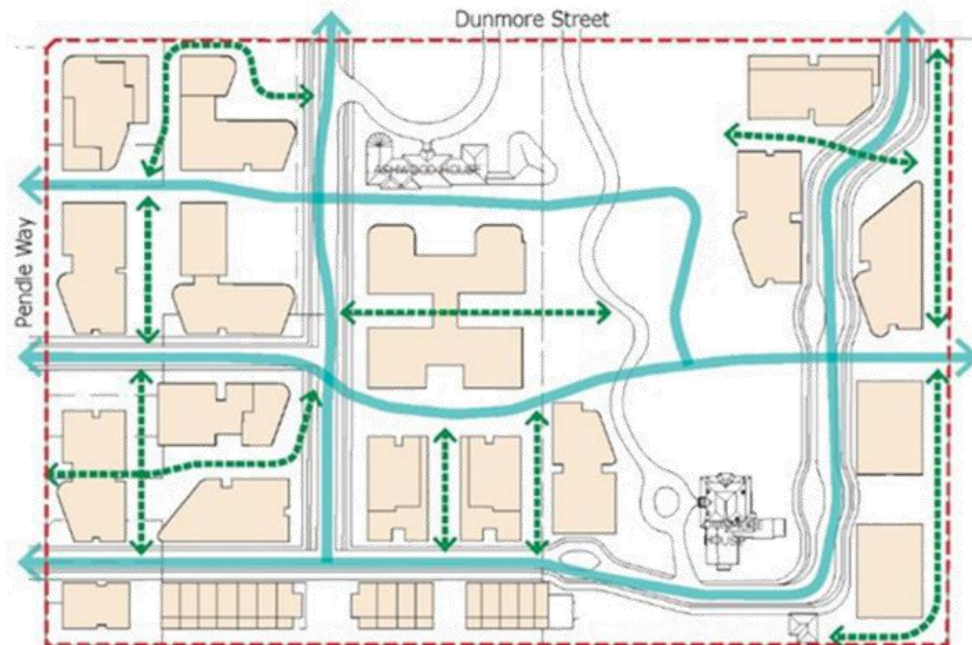


Figure 9: Public and pedestrian links



1.8 Managing transport demand

Objective

- O1. Ensure that the transport demand generated by development is sustainably managed.

Controls

- C1. DAs are to include a Transport Impact Assessment addressing potential impacts of development on the surrounding transport network, where the proposed residential development comprises 100 or more new dwellings.
- C2. Car parking spaces are to be provided in accordance with *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, Australian Standard/ New Zealand Standard, Parking Facilities, Part 6: Off -Street Parking for People with Disabilities AS/NZS 2890.6:2009 and **Part G3 Cumberland DCP 20XX.**
- C3. Bicycle parking spaces are to be provided in accordance with **Part G3 Cumberland DCP 20XX.**
- C4. One ambulance space to be provided as required for the Residential Aged Care facility.

Site Specific Controls

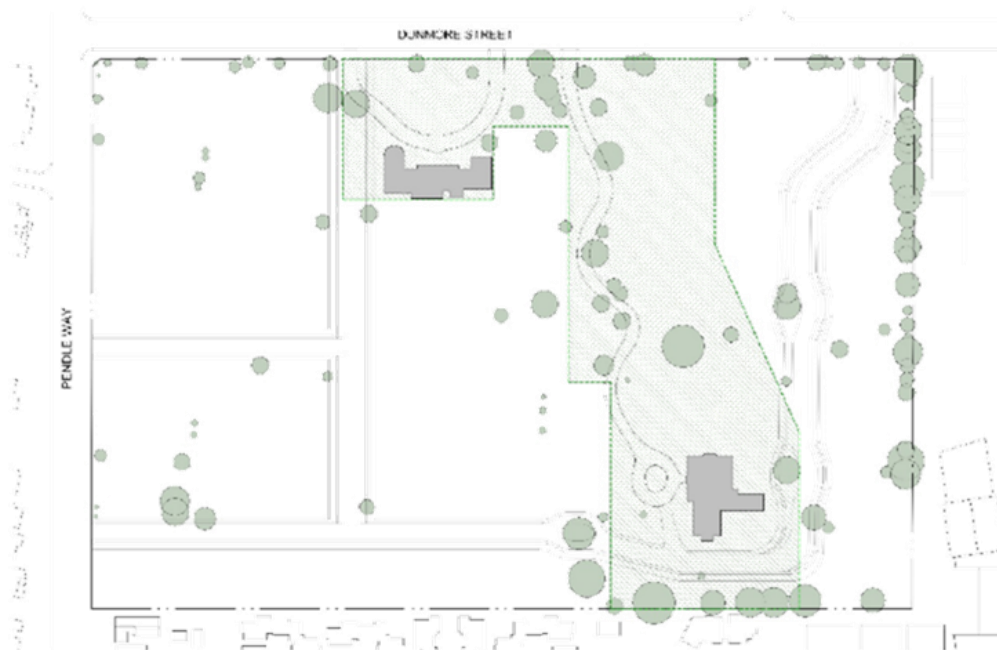
1.9 Heritage

Objectives

- O1. Development respects and celebrates the site's heritage significance.
- O2. Development seeks to identify the potential for archaeological remains and ensures adequate protection and best-practice management of remains or relics.
- O3. Retain primary views to and from Dunmore House from Dunmore Street.

Controls

- C1. Heritage curtilage is to be provided as shown in **Figure 6: Heritage Curtilage**.
- C2. Buildings are set back from Dunmore House in accordance with **Figures 11 and 12**
- C3. Minimum 12m separation distance between Ashwood House and any new building to the immediate south and additional secondary setback of 23m towards the centre of the building, inclusive of a landscape buffer zone for the provision of tall screening trees.
- C4. Development is sited and designed generally in accordance with the Dunmore House & Ashwood House Conservation Management Plan (CMP) prepared by Weir Phillips Heritage and Planning (September 2019).
- C5. Dunmore House and Ashwood House are sympathetically restored and adaptively re-used and integrated with the remainder of the site. This includes adaptive reuse of and public access to Dunmore House for community use.



Part

J

Site Specific Controls

Figure 10: Heritage Curtilage



Figure 11: Heritage curtilage setback

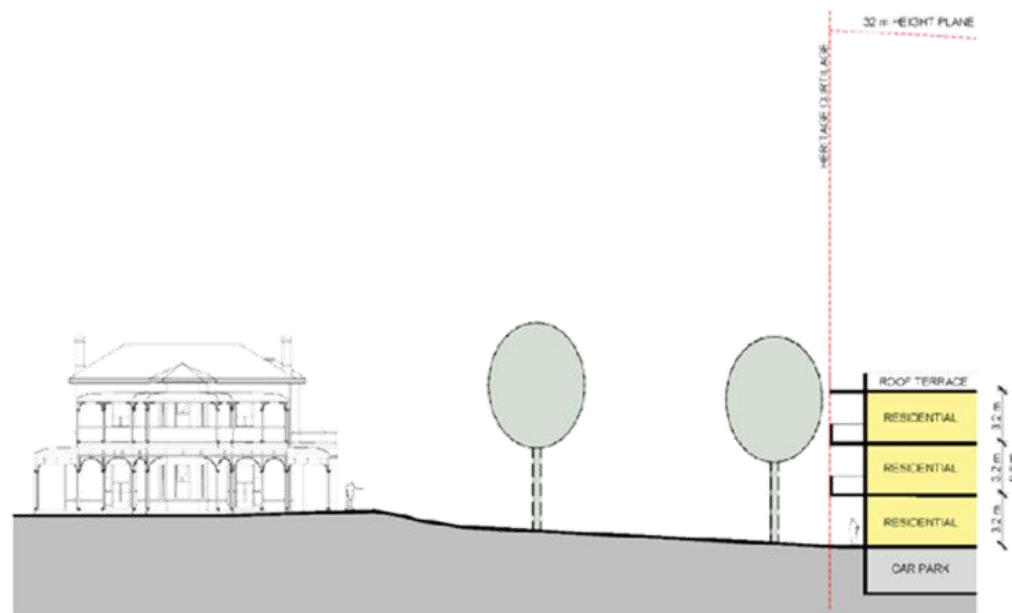


Figure 12: Dunmore House setback

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-797

Attachment 4
Site-specific Development Control
Plan (Cumberland DCP)



PART F1-4

DUNMORE STREET, PENDLE HILL (FRESH HOPE CARE SITE)

1. Introduction

1.1 Land to which this section applies

This section applies to the following land (as shown in **Figure 1** below):

Address	Lot and DP
284 Dunmore Street, Pendle Hill	Lot 1 DP24728
105 Pendle Way, Pendle Hill	Lot 2 DP24728
93 Pendle Way, Pendle Hill	Lot 8 DP24728
91 Pendle Way, Pendle Hill	Lot 9 DP24728
87 Pendle Way, Pendle Hill	Lot 10 DP24728
85 Pendle Way, Pendle Hill	Lot 11 DP24728
83 Pendle Way, Pendle Hill	Lot 12 DP24728
282 Dunmore Street & 95 Pendle Way, Pendle Hill	Lot 472 DP1204429
268-280 Dunmore Street, Pendle Hill	Lot A DP335578
222-266 & 282 Dunmore Street & 89 Pendle Way, Pendle Hill	Lot 2 DP554208
222-266 Dunmore Street, Pendle Hill	Lot 3 DP554208



Figure 1: Land to which this section applies

2. Vision and general objectives

2.1 Vision

The Dunmore Street site is a high-quality residential precinct that respects and celebrates its history and integrates with and enhances the surrounding Pendle Hill area.

The site will play an important role in contributing to additional supply for seniors housing and affordable key worker housing, capitalising on its proximity to the Pendle Hill local centre, the adjacent Bonds Spinning Mills site and Pendle Hill railway station.

The site provides a high-amenity landscaped setting, including an open space curtilage to the heritage listed Dunmore House, new opportunities for publicly accessible open space and community uses for the local population.

2.2 General objectives

- O1. Development responds to the natural and built form elements of the site, the surrounding local character, the existing orthogonal street grid, heritage items and evolving built form scale, including the adjacent Bonds Spinning Mills site.
- O2. Development is predominantly for seniors housing and affordable key worker housing, significantly contributing to housing choice and affordability in the Cumberland LGA.
- O3. Celebrate and give precedence to the heritage components of the site while maintaining a heritage curtilage around Dunmore House, which is also a key determining feature in the open space network and landscaped character of the site.
- O4. New buildings adjacent to heritage items will respect the site's heritage through appropriate setbacks and design.
- O5. Development is well designed and effectively transitions to development on adjoining sites through building heights, massing, setbacks and landscaping.
- O6. Development on the corner of Dunmore Street and Pendle Way will be of a height, scale and design that provides a built form marker when approaching the site from the Pendle Hill local centre and railway station.
- O7. Existing mature vegetation on the site is retained and complemented through new planting of native species and landscaping.
- O8. The site will contain a legible and permeable movement network for pedestrians and cyclists, including potential linkages to the adjoining Bonds Spinning Mills site.
- O9. The site will provide an extensive open space network comprised of private and public open spaces, including the publicly accessible open space curtilage to Dunmore House.

2.3 Indicative Master plan

The vision and objectives for the site as identified above are expressed in the structural design for the site as shown in **Figure 2**.

To ensure that development provides key elements, where variations to the Indicative Master Plan are proposed, the relevant development application (DA) is to demonstrate how the vision and objectives have been achieved.



Figure 2: Indicative Master Plan

3. Specific objectives and controls

3.1 Land use

Objectives

- O1. Create a high-quality residential precinct, primarily consisting of seniors and affordable key worker housing.
- O2. Provide an extensive open space network, including a centrally located publicly accessible recreational and community space in the Dunmore House curtilage, for new residents and the local community.
- O3. Provide for associated ancillary uses to meet the daily convenience and recreational needs of onsite residents and workers.

Controls

- C1. Land uses are to predominantly comprise residential development, specifically seniors housing and affordable key worker housing.
- C2. Non-residential uses are to generally include:
 - a. allied health services
 - b. publicly accessible recreational and community uses
 - c. places of public worship
 - d. café/s
- C3. Non-residential uses permissible in the R4 High Density Residential zone, such as cafes and neighbourhood shops, are to be located at ground level to maximise accessibility and contribute to the activation of streets.

3.2 Building height

Objectives

- O1. Provide opportunities for increased height and density to support the future provision of seniors housing and affordable key worker housing on the site.
- O2. Ensure building heights respond to the existing and future built form character of the area, including the adjoining Bonds Spinning Mills site and lower density residential developments surrounding the site.
- O3. Minimise any adverse shadow impacts to open spaces within the site and adjoining residences.
- O4. Maintain 'finer-grained' proportions along the southern boundary to respond to existing lower density residential development on Collins Street.

Controls

- C1. Maximum building heights to be generally in accordance with **Figure 3: Building heights**
- C2. Reduced level details must be in accordance with Part G Cumberland DCP 20XX.



Figure 3: Building heights

3.3 Building siting and setbacks

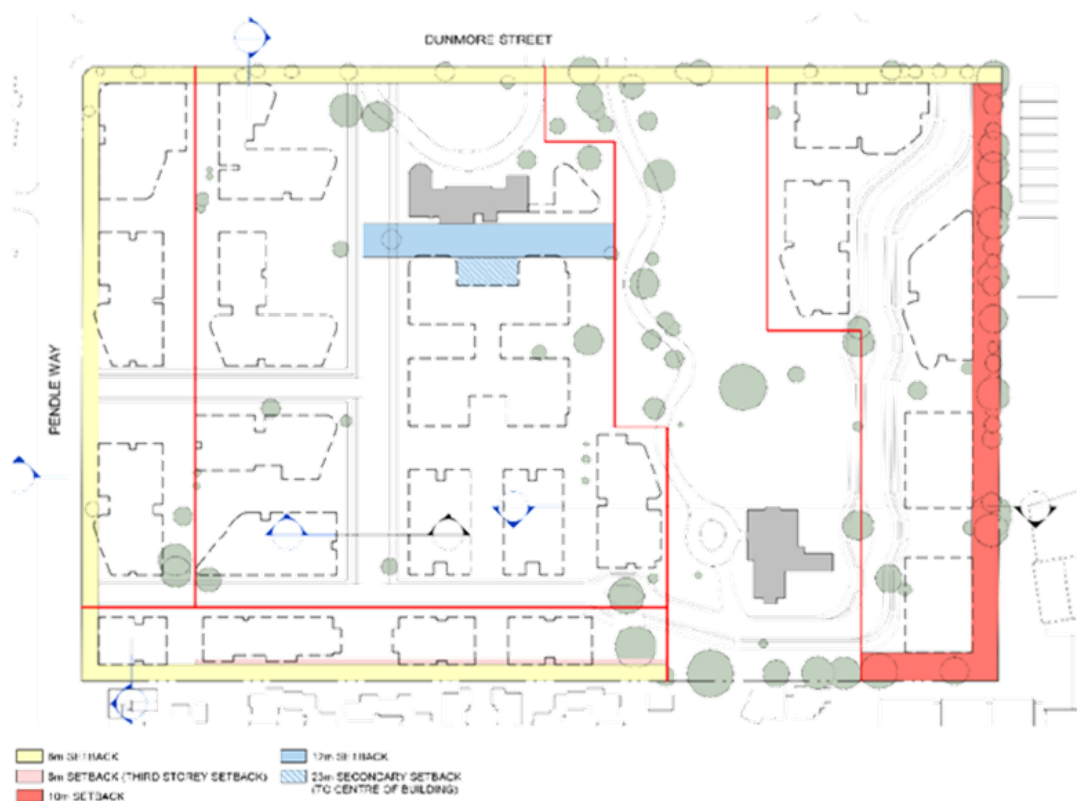
Objectives

- O1. Provide appropriate separation distances between future buildings on the site in order to maximise amenity for future residents.
- O2. Achieve an appropriate built form scale along Dunmore Street and Pendle Way that contributes to the prevailing streetscape and the existing and future character of the locality.
- O3. Buildings are sited to respect and complement the existing heritage items on the site.
- O4. Buildings are sited to frame new streets and pedestrian links within the site and to maintain view corridors to and from the site.
- O5. Maintain high levels of visual and acoustic amenity and minimise overshadowing of surrounding areas, including the lower density detached dwellings along the site's southern boundary on Collins Street.

Controls

- C1. Building setbacks and building separations should generally comply with **Figure 4** to **Figure 7**, including:
 - Minimum setback of 6m to Pendle Way
 - Minimum setback of 6m to Dunmore Street
 - Minimum setback of 6m for first and second storey and a minimum 8m setback for third storey to the southern boundary with existing residences on Collins Street

- Minimum setback of 10m to the southern boundary on eastern part of the site.
- Minimum setback of 10m to the eastern boundary
- Minimum 12m primary separation distance between all new buildings on the site
- Minimum 12m separation distance between Ashwood House and any new building to the immediate south and additional secondary setback of 23m towards the centre of the building.



Cumberland DCP – Part F1 – Residential Site Specific

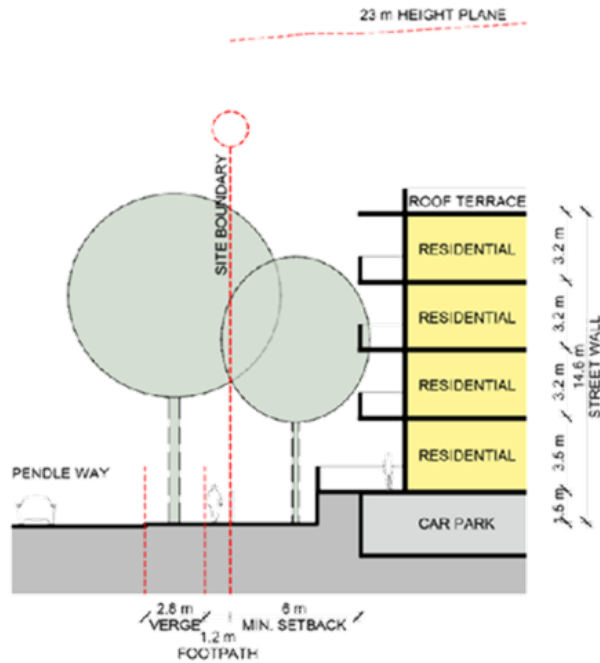


Figure 2: Street setback – Pendle Way

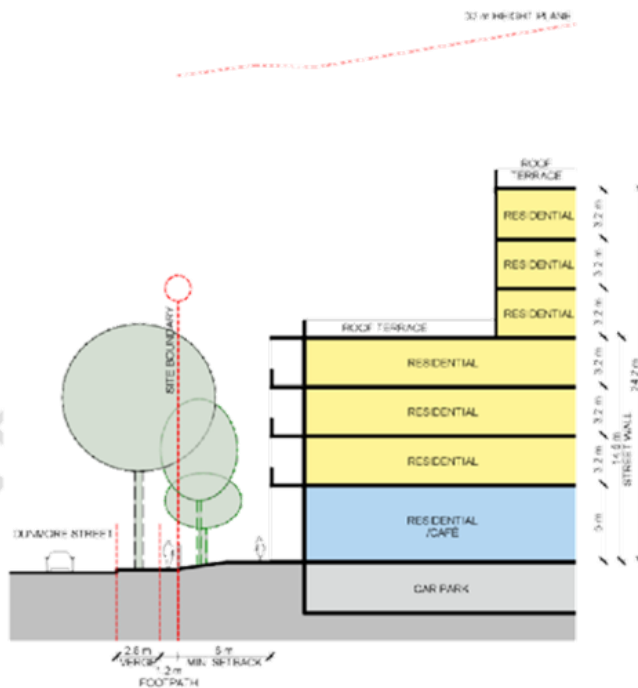


Figure 3: Street setback – Dunmore Street

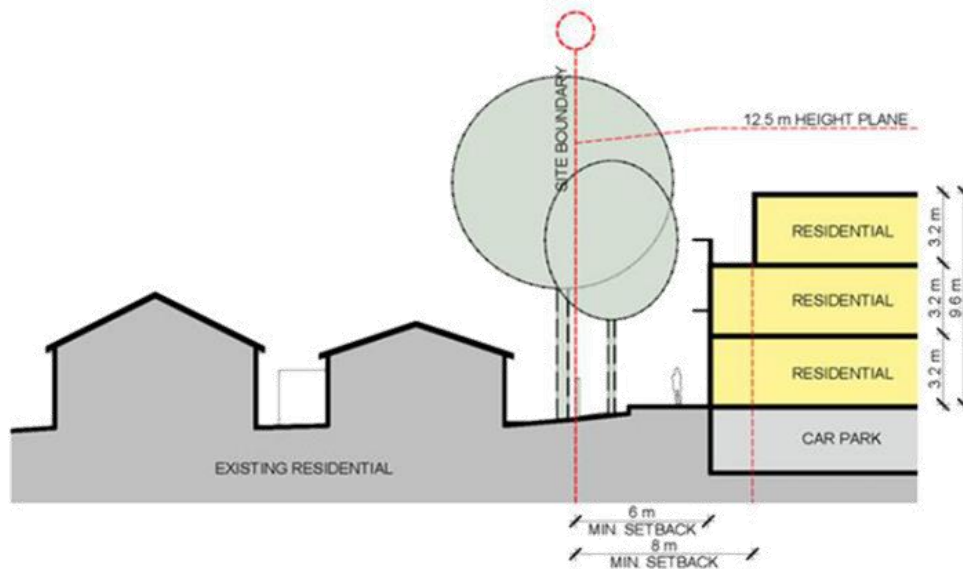


Figure 4: Southern boundary setback

3.4 Built form and building design

Objectives

- O1. Buildings are designed to complement existing streetscapes and to address and engage with the adjoining public domain.
- O2. Buildings are designed to provide a high level of architectural quality and visual interest and are of an appropriate bulk and scale when viewed from the public domain and surrounding residential areas.

Controls

- C1. Building facades along Dunmore Street and Pendle Way street-walls are to incorporate a number of smaller parts through significant recesses, other facade modulation and distinct building elements and materials.
- C2. In relation to residential uses at ground level:
 - the number of individual dwelling entries from the adjoining public domain are maximised
 - where entries provide access to more than one dwelling, they relate to each lift core, are clearly defined and legible and preferably form an architectural feature of the building
 - front boundary treatments use measures such as level changes, landscaping and fencing to provide privacy for residents whilst also providing for casual passive surveillance of the adjoining public domain
 - internal living areas are integrated with areas of outdoor private open space to provide a transition between the public and private domains

C3. In relation to non-residential uses at ground level:

- pedestrian entries are at the same level as the adjoining public domain
- cafes or restaurants can have outdoor seating in the adjoining public domain
- universal access is provided

C4. Buildings located on corner sites to be articulated to address each street frontage and to define prominent corners.

C5. The building on the Dunmore Street-Pendle Way corner is to provide a built form marker through a height of 5 storeys and the expression of architectural elements such as building articulation, material, colour and roof form.

3.5 Solar access and overshadowing

Objectives

- Q1. Minimise overshadowing impacts to surrounding public domain and private developments.
- Q2. Provide reasonable amount of solar access to new public open spaces within the site.

Controls

- C1. Provide a minimum of 2 hours of solar access to the publicly accessible open space zoned RE2 Private Recreation between 9am and 3pm in mid-winter.

3.6 Open space and landscaping

Objectives

- O1. Provide a series of generous publicly accessible open spaces for recreational uses, improving the quality of the public domain and connectivity with surrounding open spaces.
- O2. Retain and enhance the landscaped setting of both Ashwood House and Dunmore House.
- O3. Provide sufficient private communal open space and rooftop gardens to cater for passive and active recreation opportunities for future residents.
- O4. Provide high quality landscaping around the perimeter of the site to enhance the streetscape and quality of the built environment.
- O5. Mitigate any visual impacts of buildings to the south of Ashwood House through provision of soft landscaping.

Controls

- C1. Open space and deep soil zone should generally be provided in accordance with **Figure 8**.
- C2. Provide a central north-south landscaped publicly accessible open space from Dunmore Street to the site's southern boundary at the rear of Dunmore House. This publicly accessible open space area is to include the following facilities:
- soft and hard landscaping for passive and active recreation

- amenities such as BBQ facilities, shade structures, seating, lighting, bins, playgrounds, community gardens and signage
- C3. Provide publicly accessible pocket parks with varied landscape features within the clusters of buildings connecting to the publicly accessible open space.
- C4. Provide private communal open spaces at the ground level and rooftop areas with a variety of facilities including seating, BBQ facilities and shelters.
- C5. Ground level courtyards are to be provided for ground level Independent Living Units as per the ADG.
- C6. Provide a landscape buffer zone (south of Ashwood House) for the provision of tall screening trees.
- C7. Provide high quality evergreen trees and screening within the setbacks along the site's boundaries as shown in **Figure 1: Setbacks plan**. This is to be achieved by providing a 6m deep soil zone along Pendle Way, Dunmore Street and the southern boundary of the precinct, and a minimum of 10m deep soil zone along the eastern boundary of the precinct.



Figure 8: Open space network

3.7 Movement network

Objectives

- O1. Improve the site's accessibility and strengthen its connection to surrounding areas.
- O2. Provide a functional movement network that provides for the efficient and safe movement of all road users.
- O3. Encourage walking and cycling through the provision of a comfortable and attractive environment.
- O4. Provide a number of residential access points to activate street frontages and internal private and publicly accessible open spaces and to provide passive surveillance opportunities.
- O5. Reduce traffic impacts to Pendle Way and Dunmore Street and improve the public domain for pedestrians.

Controls

- C1. The street network, pedestrian network, site access and car access points are provided generally in accordance with **Figure 5: Public and pedestrian links**.
- C2. The site will incorporate 4 new two-way private roads that will intersect with the adjacent local roads (Dunmore Street and Pendle Way). The new private roads are to be located more than 40 metres (centre to centre) from the nearest intersections on the opposite side of the road.
- C3. Vehicular access points to buildings are to be provided within building footprints. If access is not within the building, high quality landscape and driveway design are to be incorporated to ensure a landscaped streetscape and to mitigate potential visual and acoustic privacy issues for residents.
- C4. Provide new pedestrian access points along both Pendle Way and Dunmore Street.
- C5. Provide a minimum of 4 new publicly accessible through-site links connecting the precinct to the surrounding area, including the Pendle Hill local centre, Pendle Hill railway station and the Bonds Spinning Mills site.
- C6. Streets include pedestrian paths on each side.
- C7. Pedestrian footpaths on new roads are separated with a planting strip which is at least 1.8m in width.
- C8. Private pedestrian links are interconnected with the new publicly accessible links.
- C9. The pedestrian and cycle access network:
 - Is direct and accessible to all
 - is easily identified by users
 - has a public character
 - includes signage advising of the publicly accessible status of the link and the places to which it connects
 - is clearly distinguished from vehicle access-ways
 - allows visibility along the length of the link to the public domain at each end.

- C10. Strong, legible pedestrian connections are established between the site and adjoining areas.
- C11. The pedestrian and cycle access network:
- aligns with breaks between buildings so that views are extended and the sense of enclosure is minimised;
 - includes materials and finishes (paving materials, tree planting, furniture etc.) integrated with adjoining streets and public spaces and be graffiti and vandalism resistant;
 - is well-lit to safety standards;
 - is open to the sky along the entire length; and
 - is accessible 24 hours a day.
- C12. Street furniture is provided and includes a high quality, durable and co-ordinated selection of paving, seating, lighting, rubbish bins, playground equipment and signage.
- C13. Street trees are to be provided within deep soil zones on all streets that:
- comprise a co-ordinated palette of climatically responsive species
 - are robust and low-maintenance
 - are planted in a co-ordinated, regularly spaced and formalised manner
 - increase the comfort of the public domain for pedestrians, including through the provision of shade in summer
 - enhance the environmental performance of the precinct by increasing opportunities for energy conservation.
- C14. In areas where deep soil zones cannot be achieved, suitable trees species will:
- comprise a co-ordinated palette of climatically responsive species
 - are robust and low-maintenance
 - provide adequate canopy shade, for the comfort of pedestrians.
- C15. On-site car parking is provided in accordance with Part G, Cumberland DCP 2020.
- C16. Carpark access is co-ordinated to provide for efficiency and convenience while not adversely affecting the pedestrian movement or the visual amenity of the public domain.

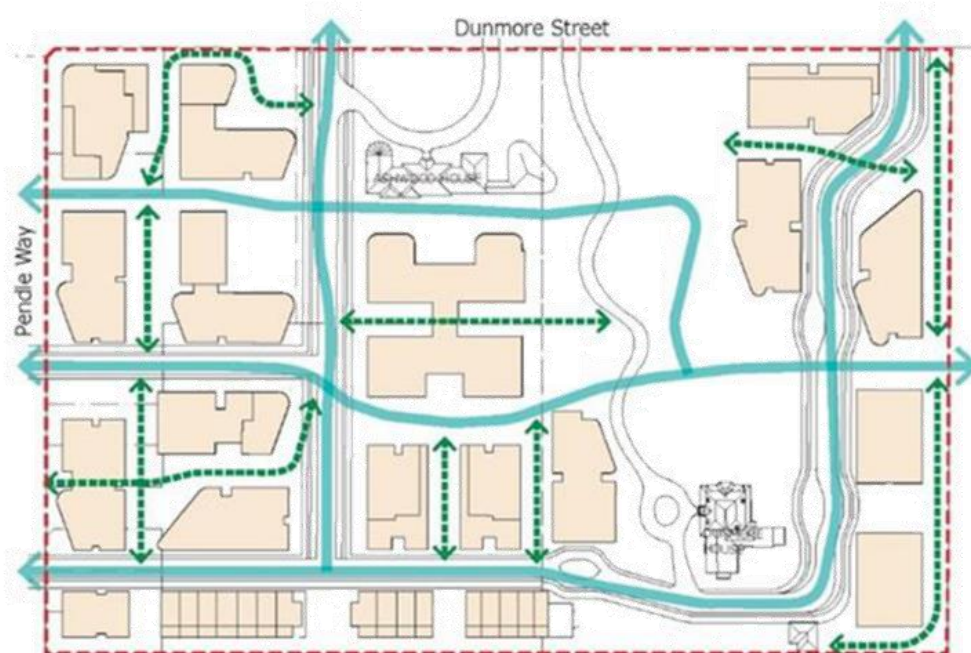


Figure 5: Public and pedestrian links



3.8 Managing transport demand

Objective

- O1. Ensure that the transport demand generated by development is sustainably managed.

Controls

- C1. DAs are to include a Transport Impact Assessment addressing potential impacts of development on the surrounding transport network, where the proposed residential development comprises 100 or more new dwellings.
- O3. C2. Car parking spaces are to be provided in accordance with *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, Australian Standard/ New Zealand Standard, Parking Facilities, Part 6: Off -Street Parking for People with Disabilities AS/NZS 2890.6:2009 and **Part G3 Cumberland DCP 20XX**.
- C3. Bicycle parking spaces are to be provided in accordance with **Part G3 Cumberland DCP 20XX**.
- C4. One ambulance space to be provided as required for the Residential Aged Care facility.

3.9 Heritage

Objectives

- O1. Development respects and celebrates the site's heritage significance.

- O2. Development seeks to identify the potential for archaeological remains and ensures adequate protection and best-practice management of remains or relics.
- O3. Retain primary views to and from Dunmore House from Dunmore Street.

Controls

- C1. Heritage curtilage is to be provided as shown in **Figure 6: Heritage Curtilage**.
- C2. Buildings are set back from Dunmore House in accordance with **Figures 11 and 12**
- C3. Minimum 12m separation distance between Ashwood House and any new building to the immediate south and additional secondary setback of 23m towards the centre of the building, inclusive of a landscape buffer zone for the provision of tall screening trees.
- C4. Development is sited and designed generally in accordance with the Dunmore House & Ashwood House Conservation Management Plan (CMP) prepared by Weir Phillips Heritage and Planning (September 2019).
- C5. Dunmore House and Ashwood House are sympathetically restored and adaptively re-used and integrated with the remainder of the site. This includes adaptive reuse of and public access to Dunmore House for community use.



Figure 6: Heritage Curtilage

Cumberland DCP – Part F1 – Residential Site Specific



Figure 7: Heritage curtilage setback

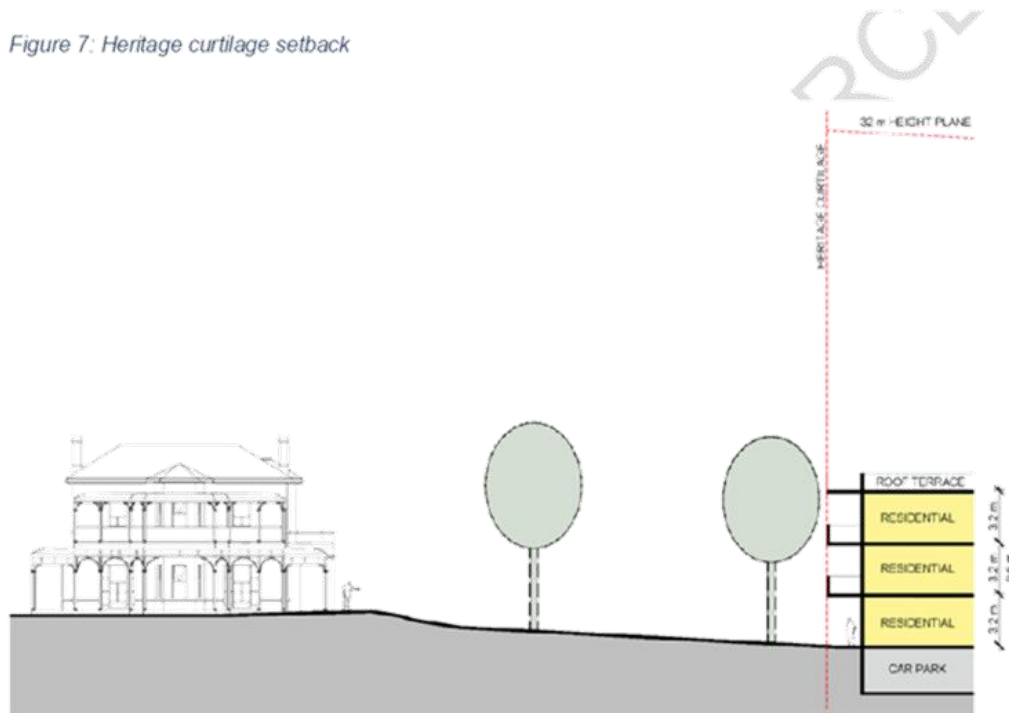


Figure 8: Dunmore House setback

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-797

Attachment 7

Summary of Community and
Public Authority Submissions

Summary of community and public agency submissions

Community submissions

A total of 21 community submission were received. Three (3) community submissions objected to the scale and density of the proposal and potential amenity impacts, including wind tunnelling effects, vehicular access, privacy and overshadowing, and safety. The remaining 18 submissions expressed strong support of the proposal on the basis that it will deliver positive benefits for current and future residents of Pendle Hill. These submissions used a standard letter template.

Planner comments:

The submissions received during statutory consultation are similar, or in some cases identical, to those received during early consultation. It is noted that the planning proposal and site-specific DCP were amended post-Gateway to address concerns raised by the community and Cumberland Local Planning Panel. The revised planning controls are considered to adequately address and mitigate potential amenity impacts. Potential amenity impacts will be further considered at DA stage when detailed plans are available.

Public agency submissions

Environment, Energy and Science Group (EES) made a submission which recommends that the site-specific DCP incorporates the following:

- Floor level controls which have been set considering climate change, by assessing sensitivity to an increase in rainfall intensity for flood producing rainfall events due to climate change by using the 0.5% and 0.2% AEP year flood events as proxies.
- Development considers the impact of rare flooding on underground car parks and the associated consequences, with the preferred design outcome being that these car parks are flood free for the full range of floods.
- Preparation of a Flood Management Plan in consultation with the NSW State Emergency Service which specifies:
 - Emergency management, evacuation and access arrangements during flood events
 - An ongoing flood education and awareness program for owners, occupiers and visitors to the site
 - Provision of flood safety signs on site.

Planner comments:

Issues raised in the EES submission are noted. No changes to the planning proposal or site-specific DCP are proposed in response to this submission. Any future DA for site must comply with Cumberland DCP's flood related development controls.

Transport for NSW made a submission recommending that:

- A wider transport study be undertaken, taking into consideration cumulative impacts/requirements for other large planning proposals in the area
- The site is well served by public transport, investigate opportunities to minimise the provision of on-site parking to reduce traffic demand in the area
- TfNSW strongly supports the provision of direct pedestrian links through the site to encourage walking and improve access to public transport services
- The draft DCP for the site should consider improvements to public and active transport facilities, to encourage the use of these modes
- Council to provide seating and a shelter at the bus stop opposite the development site

Planner comments:

Issues raised in the TfNSW submission are noted. No changes to the planning proposal or site-specific DCP are proposed in response to these submissions. Council Officers intend to carry out a wider transport study as part of the Pendle Hill Town Centre review, as part of Council's endorsed strategic works program. Other matters are adequately addressed in the site-specific DCP and other parts of the Cumberland DCP.

Heritage NSW made a submission recommending that:

- No identified impacts on items on the Stage Heritage Register
- In relation to historic archaeology, Proponent to assess the likelihood of relics and manage if necessary
- Potential impacts on local heritage items to be assessed by Council.

Planner comments:

Issues raised in the NSW Heritage submission are noted. No changes to the planning proposal or site-specific DCP are proposed in response to these submissions. Technical studies submitted by the Proponent in support of the planning proposal adequately address these matters and the matters will be further considered as part of any future DA for the site.

Endeavour energy made a submission outlining matters to be considered at DA stage.

Planner comments:

Issues raised in the Endeavour Energy submission are noted and will be future considered at DA stage.

Item No: C07/21-798

VOLUNTARY PLANNING AGREEMENT - 4-12 RAILWAY STREET, LIDCOMBE

Responsible Division: Environment & Planning
Officer: Director Environment & Planning
File Number: PP-4/2017
Community Strategic Plan Goal: *A resilient built environment*

SUMMARY

On 20 July 2020, Council entered into a Voluntary Planning Agreement (VPA) as part of a Planning Proposal to facilitate redevelopment of 4-12 Railway Street, Lidcombe for a mixed use development. The VPA requires land dedication for open space and road widening, and associated works in kind. The Proponent has confirmed that they will be unable to dedicate certain land to Council by the required date due to delays in obtaining approval for rehabilitation works which are required prior to the dedication of land. This report recommends that a draft amended VPA that incorporates altered timeframes to align with a revised development program be exhibited and further that the Mayor and Acting General Manager be delegated authority to execute an amended agreement provided that no significant objections to the exhibition are received.

RECOMMENDATION

That Council:

- 1. Prepare and notify for 28 days a draft amended planning agreement and explanatory note for 4-12 Railway Street, Lidcombe, extending the timeframe for the dedication of the Designated Land by 12 months.**
- 2. Delegate authority to the Mayor and Acting General Manager to execute the amended planning agreement on behalf of Council for 4-12 Railway Street, Lidcombe, subject to no significant objections on the draft agreement arising from exhibition.**

REPORT

Background

On 4 March 2020, Council considered a report regarding a Planning Proposal and Voluntary Planning Agreement (VPA) for 4-12 Railway Street, Lidcombe. The Planning Proposal involved increases to the site's height of buildings and floor space ratio controls under the Auburn LEP 2010 to facilitate redevelopment of the site for a mixed-use development. At the meeting, Council resolved to finalise the Planning Proposal and endorse and delegate authority to the Mayor and General Manager to execute the Voluntary Planning Agreement on behalf of Council for 4-12 Railway Street, Lidcombe.

The VPA was executed 20 July 2020 and the amending LEP was published on 30 July 2020.

Voluntary Planning Agreement

The table below provides a summary of the contributions to be made by the Developer under the VPA, along with the agreed timeframes for completion.

Contribution	Time for completion
Dedication of Lots 7 and 8 in DP 397 to facilitate the expansion of Friends Park ('Designated Land')	The earlier of: <ol style="list-style-type: none"> 1. The issue of the first Subdivision Certificate or Occupation Certificate issued in respect of the Development; 2. Two (2) months after completion of the Road Widening Works; 3. 30 June 2021.
Dedication of Road Widening Land ('Designated Land')	
Rehabilitation works – Lots 7 and 8 in DP 397	Two (2) months prior to Lots 7 and 8 in DP 397 being dedicated to Council
Road widening (2.5m wide, 25m in length) of Raphael Street and associated intersection upgrades	Prior to the issue of a Subdivision Certificate or Occupation Certificate issued in respect of the Development
Maintenance period for roads and streetscapes	To be conditioned in development consent, minimum 12 months.

Clause 5.1(1) of the VPA requires the Developer to dedicate the Designated Land to Council free of any trusts, estates, interests, covenants and encumbrances by the specified timeframes and, unless Council agrees otherwise, not prior to the completion of the works on the Designated Land.

A copy of the executed VPA is contained in Attachment 1, with the Developer's obligations tabled in Schedules 2 and 3, and the location of the Designated Land shown in Annexure 1.

Current status

The Developer has confirmed that they will not be able to meet their obligations under the VPA by the required date due to delays in obtaining approval for rehabilitation works for Lots 7 and 8 in DP 397.

The Developer lodged a Development Application on 9 March 2021 seeking approval for the construction of four (4) mixed-use buildings ranging in height from 2 to 18 storeys, comprising commercial/retail uses and 306 residential apartments over four (4) basement car park levels accommodating 456 car spaces, site remediation, landscaping works, and associated subdivision (DA2021/0092).

Council cannot issue a determination for the Development Application until the timeframes in the VPA are extended.

Amendment to the planning agreement

Variations to the VPA are possible under clause 21.3 and s.7.5 of the *Environmental Planning and Assessment Act*.

It is recommended that Council notify a proposed variation to the planning agreement to extend the timeframe for the dedication of Lots 7 and 8 in DP 397 by 12 months. Doing so would allow adequate time for Council to issue a determination for the rehabilitation works under DA2021/0092 and, if approved, for the Developer to carry out those works prior to the land dedication.

Subject to Council endorsement, the amended planning agreement and an explanatory note will be prepared and notified in accordance with statutory and policy requirements. It is also recommended that Council delegate authority to the Mayor and Acting General Manager to execute the amended planning agreement on behalf of Council, provided that there are no significant objections to the draft agreement arising from exhibition.

COMMUNITY ENGAGEMENT

Subject to Council endorsement, the draft planning agreement and explanatory note will be publicly exhibited for a period of 28 days in accordance with statutory and policy requirements.

POLICY IMPLICATIONS

Policy implications are outlined in the body of this report.

RISK IMPLICATIONS

Unless the timeframes in the VPA are extended, there is a risk that the land dedications and works in kind will not occur and the Developer will continue to benefit from the land value uplift arising from the LEP amendment and subsequent development consent.

FINANCIAL IMPLICATIONS

Financial implications for Council are outlined in the body of this report.

CONCLUSION

A VPA has been executed for the site on 4-12 Railway Street, Lidcombe. The Developer is unable to meet their obligations under the VPA by the required date. Therefore, it is recommended that the timeframes in the VPA be amended to align to a revised development program through an amended planning agreement.

ATTACHMENTS

1. Executed Voluntary Planning Agreement - 4-12 Railway Street, Lidcombe [↓](#)

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-798

Attachment 1

Executed Voluntary Planning
Agreement - 4-12 Railway Street,
Lidcombe

Planning Agreement
4 - 12 Railway Street, Lidcombe

Cumberland Council (ABN 22 798 563 329) (**Council**)

Lidcombe Property (NSW) Pty Limited (ABN 44 618 446 389) (**Developer**)

Marsdens Law Group

Level 1
49 Dumaresq Street
CAMPBELLTOWN NSW 2560

Tel: 02 4626 5077

Fax: 02 4626 4826

DX: 5107 Campbelltown

Ref: 42 2494



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Planning Agreement 4 - 12 Railway Street, Lidcombe

Parties

Council	Name	Cumberland Council
	Address	16 Memorial Avenue Merrylands NSW 2160
	ABN	22 798 563 329
Developer	Name	Lidcombe Property (NSW) Pty Limited
	Address	C/- Maxim Chartered Accountants Level 2, 59 Wentworth Avenue Kingston ACT 2604
	ABN	44 618 446 389

Background

- A The Developer owns the Land.
- B The Developer wishes to carry out the Development.
- C The Developer has applied for the Instrument Change in order to carry out the Development.
- D The Developer has agreed to make the Contributions on, and subject to, the terms of this document.

Operative Provisions

1 Agreement

The agreement of the parties is set out in the Operative Provisions of this document, in consideration of, among other things, the mutual promises contained in this document.

2 Definitions

2.1 Defined Terms

In this document, words beginning with a capital letter that are defined in Part 1 of **Schedule 2** have the meaning ascribed to them in that schedule.

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2.2 Interpretation

The interpretational rules contained in Part 2 of **Schedule 2** apply in the interpretation of this document.

3 Application and operation of this document

3.1 Planning Agreement

This document is a planning agreement:

- (1) within the meaning set out in s7.4 of the Act; and
- (2) governed by Subdivision 2 of Division 7 of the Act.

3.2 Application

This document applies to:

- (1) the Land;
- (2) the Instrument Change; and
- (3) the Development.

3.3 Operation

This document operates from the date it is executed by both parties.

4 Application of s7.11, s7.12 and s7.24 of the Act

4.1 Application

- (1) This document excludes the application of section 7.11 and section 7.12 of the Act to the Development.
- (2) For the avoidance of doubt, if the Council imposes a condition of consent on a Development Consent for the Development under section 7.11 or 7.12 of the Act requiring payment of a contribution authorised by a contributions plan, any such condition is of no effect and the Developer is not required to make the contributions otherwise required to be paid under that condition.

4.2 Consideration of Benefits

Section 7.11(6) of the Act does not apply to the Contributions that are to be carried out or provided pursuant to this document.

4.3 Section 7.24

This document does not exclude the application of s7.24 to the Development.

5 Provision of Contributions

5.1 Designated Land

- (1) The Developer must dedicate the Designated Land to Council free of any trusts, estates, interests, covenants and Encumbrances by the time specified in **Schedule 3** and,

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unless Council agrees otherwise, not prior to the Completion of the Works on the Designated Land.

- (2) The Developer must meet all reasonable costs associated with the dedication of the Designated Land in accordance with paragraph (1), including any costs incurred by Council in relation to that dedication.
- (3) For the purpose of this document, Designated Land is dedicated to Council:
 - (a) If the relevant land is dedicated in a plan registered at the Land Registry Services NSW, when that plan is so registered; or
 - (b) otherwise when the Developer delivers to Council:
 - (i) a transfer of the relevant land in registrable form;
 - (ii) the original Certificate of Title for the relevant land; and
 - (iii) any document in registrable form which, when registered, will remove any Encumbrances registered on the title of that land, excluding encumbrances that would not in the Council's opinion, acting reasonably, impede the intended use of all or any part of the Designated Land to be dedicated to the Council including but not limited to easements and covenants for services and drainage.

5.2 Works

The Developer, at its cost, must:

- (1) obtain Development Consent, and any other form of consent required by a relevant Authority, for the construction and use of the Works;
- (2) carry out and complete the stages and final Works to the satisfaction of the Council by the time specified in **Schedule 4**; and
- (3) carry out and complete the stages and final Works:
 - (a) in accordance with the specifications referred to in **Schedule 4** for the relevant item of Work;
 - (b) in accordance with any relevant Development Consent;
 - (c) in accordance with any designs, plans, reports and studies deemed certified or approved by an Authority
 - (d) in accordance with the requirements of, or consents issued by, any Authority;
 - (e) ensuring that:
 - (i) all necessary measures are taken to protect people, property, and the Environment;
 - (ii) unnecessary interference with the passage of people and vehicles is avoided;
 - (iii) nuisances and unreasonable noise and disturbances are prevented; and

- (iv) all relevant laws and regulations with respect to water, air, noise and land pollution (including 'pollution incidents') as defined under the *Protection of the Environment Operations Act 1997* (NSW);
- (f) in accordance with any Australian Standards applicable to works of the same nature as each aspect of the Works; and
- (g) in a proper and workmanlike manner complying with current industry practice and standards relating to each aspect of the Works.

5.3 Contribution Value

If the Developer's actual cost of carrying out the Works, including any costs incurred pursuant to this document, determined at the date on which the Works are Completed, differs from the Contribution Value, then subject to the Works having been completed in accordance with this document, neither party will be entitled to claim credit or reimbursement, as the case may be, for the difference.

5.4 Access to the Land and location of Works

- (1) The Developer is to permit the Council, its officers, employees, agents and contractors to enter the Land at any time, upon giving reasonable prior notice, in order to inspect, examine or test any of the Works.
- (2) The Developer must use reasonable endeavours to enable Council, its officers, employees, agents and contractors access to the location of the Works where this is not the Land, Council land or a public road.

5.5 Acceptance of Risk in Works

Once the Designated Land is dedicated or transferred to Council in accordance with this document, Council accepts ownership, risk, possession and control of both the Designated Land and any item of Work on that land that has been completed.

6 Completion of Works

6.1 Issue of Completion Notice

If the Developer considers that any particular item or stage of the Works is complete (section 5.2), then at least seven (7) days prior to completion of those Works, it must serve a notice on Director Works and Services and Director Environment and Planning (**Responsible Officer**) of Council which:

- (1) is in writing;
- (2) identifies the particular item of the Works to which it relates; and
- (3) specifies the date on which the Developer believes the relevant item of the Works was or is to be completed,
- (4) works exclude the submission of documentation, plans, studies or reports as part of the approval or completion notice

(Completion Notice).

6.2 Inspection by Council

- (1) Council must carry out an inspection of the physical Works set out in a Completion Notice:
 - (a) within thirty (30) business days of the receipt of that notice, if the inspection includes the review of documents related to the inspection of the physical Works,
 - (b) within a timeframe as agreed between the parties, if the inspection includes testing related to the inspection of the physical Works; and
 - (c) within ten (10) business days of the receipt of that notice, if the inspection of the physical Works does not include the review of documents or the undertaking of testing related to the inspection of the physical Works as referred to in paragraphs (1)(a) and (1)(b).
- (2) If Council fails to carry out an inspection in accordance with paragraph (1) the Works referred to in the relevant Completion Notice will be deemed to be Complete.

6.3 Rectification Notice

- (1) Within twenty (20) business days of inspecting the Works set out in a Completion Notice Council must provide notice in writing (**Rectification Notice**) to the Developer that the Works set out in the Completion Notice:
 - (a) have been Completed; or
 - (b) have not been Completed, in which case the notice must also detail:
 - (i) those aspects of the Works which have not been Completed; and
 - (ii) the work Council requires the Developer to carry out in order to rectify the deficiencies in those Works.
- (2) If Council does not provide the Developer with a Rectification Notice in accordance with paragraph (1), and the development consent provide no alternate completion process then the Works set out in the Completion Notice will be deemed to have been Completed
- (3) The Rectification Works are not deemed Complete until the Works within the Rectification Notice are inspected and approved by Council and written notice is issued to that effect to the Developer.
- (4) Council may issue a further Rectification Notice on the Developer if the works are unsatisfactory. Where Council serves a Rectification Notice on the Developer, the Developer must:
 - (a) rectify the Works in accordance with that notice; or
 - (b) serve a notice on the Council that it disputes the matters set out in the notice.
- (5) Where the Developer:
 - (a) serves notice on Council in accordance with paragraph (4)(b), the dispute resolution provisions of this document apply; or

- (b) rectifies the Works in accordance with paragraph (4)(a), then within ten (10) business days of rectification, it must serve upon the Council a new Completion Notice for the Works it has rectified.

7 Defects Liability

7.1 Defects Notice

- (1) Where any part of the Works has been Completed but those Works contain a material defect which:
 - (a) adversely affects the ordinary use and/or enjoyment of the relevant Works; or
 - (b) will require maintenance or rectification works to be performed on them at some time in the future as a result of the existence of the defect;
- (Defect) Council may issue a defects notice (**Defects Notice**) concerning those Works but only within the Defects Liability Period.
- (2) A Defects Notice must contain the following information:
 - (a) the nature and extent of the Defect;
 - (b) the work Council requires the Developer to carry out in order to rectify the Defect; and
 - (c) the time within which the Defect must be rectified (which must be a reasonable time and not less than ten (10) business days).

7.2 Developer to Rectify Defects

- (1) The Developer must rectify the Defects contained within a Defects Notice as soon as practicable after receipt of the Defects Notice.
- (2) The Developer must follow the procedure set out in clause 6 in respect of the satisfaction of the Defects Notice.

7.3 Right of Council to Step-In

Council, at its absolute discretion may rectify a defect set out in the Defects Notice where the Developer has failed to comply with a Defects Notice but only after giving the Developer five (5) business days written notice to the Developer of its intention to do so.

7.4 Consequence of Step-In

If Council elects to exercise the step-in rights granted to it under clause 7.3 then:

- (1) Council may:
 - (a) only enter upon parts of the Land that it requires access to in order to satisfy the obligations of the Developer in accordance with the Defects Notice; and
 - (b) rectify the relevant Defects in accordance with the Defects Notice; and
- (2) the Developer must not impede or interfere with Council in undertaking that work.

7.5 Costs of Council

Where Council exercises its step-in rights, the Developer must pay to Council all reasonable costs incurred by Council in rectifying the relevant Defects may call upon the Defects Security provided by the Developer pursuant to clause 10 and recover as a debt due in a court of competent jurisdiction any difference between the amount of the Defects Security and the costs incurred by the Council in rectifying the Defects:

8 Developer Warranties and Indemnities

8.1 Warranties

The Developer warrants to Council that it is:

- (1) legally and beneficially entitled to the Land;
- (2) able to fully comply with its obligations under this document;
- (3) it has full capacity to enter into this document; and
- (4) there is no legal impediment to it entering into this document, or performing the obligations imposed under it.

8.2 Indemnity

The Developer indemnifies Council in respect of any Claim that may arise as a result of the conduct of the Works but only:

- (1) to the extent that any such Claim does not arise as a result of the negligent acts or omissions of Council; and
- (2) to the extent of the Contribution Value of the relevant Works.

9 Contamination

9.1 Definitions

For the purpose of this clause 9:

Contamination means any material, gas, substance, liquid, chemical or biological mineral or other physical matter which would, if present on the Land:

- (1) result in an Authority issuing a notice, direction or order under an Environmental Law; or
- (2) which would constitute a violation of any Environmental Law.

Contaminated means subject to Contamination.

Environmental Law means all planning, environmental or pollution laws and any regulations, orders, directions, ordinances or requirements, permissions, permits, licences issued under those laws or instruments.

9.2 Obligations

- (1) The Developer acknowledges and agrees:

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- (a) that it is responsible for the management and remediation of any contamination present upon or under the Designated Land;
 - (b) it will attend to any necessary remediation of the Designated Land at its own costs; and
 - (c) to the fullest extent permitted by Law indemnify and release the Council from any Claim which might arise from any contamination with respect to the Designated land on which the Works are to be carried out.
- (2) Prior to the dedication of any part of the Designated Land to Council, the Developer must provide to Council's reasonable satisfaction, certification by a qualified person, that the Designated Land is not contaminated and is suitable for the proposed use.

10 Security

10.1 Provision of Security

Prior to the issue of a Construction Certificate in respect of the Development, the Developer must deliver to Council a Bank Guarantee, bond or other form of security to the satisfaction of the Council for the amount equal to the Contribution Value of the Works to be carried out on the Designated Land in accordance with **Schedule 4** of this agreement (**Security**).

10.2 Replacement of Security

- (1) The Developer may replace any Security provided by it at any time, provided that the amount of that replacement is not less than that which is required to be provided under this document.
- (2) On receipt of a replacement Security, Council must immediately release the Security being replaced and return it to the Developer.

10.3 Council may call on Security

- (1) If the Developer commits an Event of Default Council, without limiting any other remedies available to it, may call on any Security provided by the Developer.
- (2) If Council calls on any Security, it may use the amount so paid to it in satisfaction of any costs incurred by it in remedying the relevant Event of Default.

10.4 Top up of Security

If Council calls on the Security, Council, by notice in writing to the Developer, may require the Developer to provide a further or replacement Security in an amount that, when added to any unused portion of any Security then held by Council, does not exceed the amount of the Security Council is entitled to hold at that time under this document.

10.5 Release of Security

Unless:

- (1) Council has made a demand against any Security provided by the Developer;
- (2) the Contributions on account of which that Security was provided have not been made; or
- (3) the Developer is in breach of this document at the relevant time,



Council, upon a written request being made by the Developer, must return the Primary Security within ten (10) business days of such a request being made.

10.6 Indexation of value of Contribution Value

- (1) The Contribution Values and the value of any Security will be indexed quarterly in accordance with the Index.
- (2) The Developer must ensure that the Security held by Council at all times equals the indexed amount notified to the Developer by Council.

10.7 Compulsory acquisition of the Designated Land

- (1) The Developer consents to the compulsory acquisition of the Designated Land:
 - (a) in accordance with the Acquisition Act; and
 - (b) on the terms set out in this clause 10.7.
- (2) Council may only acquire the Designated Land compulsorily in accordance with the Acquisition Act if the Developer has committed an Event of Default with respect to the dedication of that land under this document.
- (3) If Council acquires the Designated Land compulsorily in accordance with the Acquisition Act:
 - (a) the Developer agrees that the compensation payable to it on account of that acquisition under the Acquisition Act is \$1.00; and
 - (b) Council must complete that acquisition within twelve (12) months of the relevant Event of Default.
- (4) The parties agree that the provisions of this clause 10.7 are an agreement with respect to the compulsory acquisition of the Designated Land for the purpose of s30 of the Acquisition Act.
- (5) If Council:
 - (a) acquires the Designated Land under paragraph (3); and
 - (b) is required to pay any compensation to a third party as a result of that acquisition,then the Developer must pay Council the amount of that compensation as a monetary contribution:
 - (c) within ten (10) business days of demand for payment being made by Council; and
 - (d) prior to the issue of the then next Occupation Certificate or Subdivision Certificate with respect to the Development.

10.8 Developer must not deal with property

- (1) The Developer, or land owner, must not during the term of this document sell, transfer, mortgage, charge or grant a lease or license or any other right of occupancy to any person over the Designated Land without first obtaining Council's consent in writing.

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- (2) Council may, may acting reasonably, refuse its consent or give consent with conditions.

10.9 Council may withhold Subdivision Certificate

- (1) The Developer may only make, or cause, suffer or permit the making of, an application for a Subdivision Certificate in respect of the Development if, at the date of the application, the Developer is not in breach of its obligation to make any Contribution under this document.
- (2) Council may withhold the issue of a Subdivision Certificate if, at the relevant time, the Developer is in breach of any obligation to make any Contribution under this document until such time as:
- (a) the breach is rectified; or
- (b) Council calls upon the Security provided by the Developer in respect of the Contribution to which the breach relates.

10.10 Developer must not apply for an Occupation Certificate

The Developer must not apply or other request or procure that an Occupation Certificate be issued with respect to the Development if:

- (1) the Developer is required to make a Contribution under this document prior to the issue of that Occupation Certificate; and
- (2) the Developer has not made that Contribution at the relevant time.

11 Registration of this document

11.1 Registration of this document

The Developer acknowledges and agrees that:

- (1) this document must be registered on the title to the Land pursuant to section 7.6 of the Act; and
- (2) subject to clause 11.2, Council will undertake that registration and the Developer must pay Council's reasonable costs of procuring the registration.

11.2 Obligations of Developer

- (1) The Developer, at its own expense, will promptly after this document comes into operation, take all practical steps, and otherwise do anything that the Council reasonably requires, to procure:
- (a) the consent of each person who:
- (i) has an estate or interest in the Land; or
- (ii) is seized or possessed of an estate or interest in the Land;
- (b) the execution of any documents; and
- (c) the production of the relevant duplicate certificates of title,
- to enable the registration of this document in accordance with clause 11.1.

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- (2) The Developer, at its own expense, will take all practical steps, and otherwise do anything that the Council reasonably requires:
- (a) to allow the lodgement of this document with the Registrar-General as soon as reasonably practicable after this document comes into operation but in any event, no later than sixty (60) business days after that date; and
 - (b) to allow the registration of this document by the Registrar-General in the relevant folios of the Register for the Land as soon as reasonably practicable after this document is lodged for registration.

11.3 Discharge from the Register

The Council will provide a release and discharge of this document so that it may be removed from the folios of the Register for the Land (or any part of it) when:

- (1) the obligations under this document have been satisfied; or
- (2) if this document is terminated or rescinded.

12 Assignment

12.1 Prohibition

Other than in accordance with this clause 12, the Developer may Assign its rights under this document without the prior written consent of the Council.

12.2 Restriction on Assignment

Other than in accordance with this clause 12 the Developer must not:

- (1) Assign any part of the Land; and/or
- (2) Assign their rights or obligations under this document.

12.3 Procedure for Assignment

- (1) If the Developer:
 - (a) wishes to Assign any part of the Land; and/or
 - (b) wishes to Assign its rights or obligations under this document,then the Developer must:
 - (c) provide a written request to Council for the consent of Council to the relevant Assignment;
 - (d) obtain written consent of Council to the relevant Assignment; and
 - (e) at no cost to Council, procure:
 - (i) the execution by the third party in whose favour the Assignment is to be made (**Assignee**) of an appropriate deed where the Assignee agrees to be bound by the terms of this document; and
 - (ii) the provision of all Securities to Council by the Assignee that the Developer is required to provide under this document (and any

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additional securities if required by Council acting reasonably) at the same time as, or prior to, entering into that deed.

- (2) Council may only refuse its consent to any request made by the Developer under paragraph (1)(c) if, at the time the request is made, the Developer is in breach of this document.

13 Dispute Resolution

13.1 Notice of dispute

- (1) If a dispute or lack of certainty between the parties arises in connection with this document or its subject matter (**Dispute**), then either party (**First Party**) must give to the other (**Second Party**) a notice which:
- (a) is in writing;
 - (b) adequately identifies and provides details of the Dispute;
 - (c) stipulates what the First Party believes will resolve the Dispute; and
 - (d) designates its representative (**Representative**) to negotiate the Dispute.
- (2) The Second Party must, within five (5) Business Days of service of the notice of dispute, provide a notice to the First Party designating as its representative a person to negotiate the Dispute (the representatives designated by the parties being together, the **Representatives**).

13.2 Conduct pending resolution

The parties must continue to perform their respective obligations under this document if there is a Dispute but will not be required to complete the matter the subject of the Dispute, unless the appropriate party indemnifies the other parties against costs, damages and all losses suffered in completing the disputed matter if the Dispute is not resolved in favour of the indemnifying party.

13.3 Further steps required before proceedings

Subject to clauses 13.14 and 13.15 and except as otherwise expressly provided in this document, any Dispute must, as a condition precedent to the commencement of litigation, mediation under clause 13.5 or determination by an expert under clause 13.6, first be referred to the Representatives. The Representatives must endeavour to resolve the dispute within five (5) Business Days of the date a notice under clause 13.1(2) is served.

13.4 Disputes for mediation or expert determination

If the Representatives have not been able to resolve the Dispute, then the parties must agree within five (5) Business Days to either refer the matter to mediation under clause 13.5 or expert resolution under clause 13.6.

13.5 Disputes for mediation

- (1) If the parties agree in accordance with clause 13.4 to refer the Dispute to mediation, the mediation must be conducted by a mediator agreed by the parties and, if the parties cannot agree within five (5) Business Days, then by a mediator appointed by the President of the Law Society of New South Wales for the time being.

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- (2) If the mediation referred to in paragraph (1) has not resulted in settlement of the Dispute and has been terminated, the parties may agree to have the matter determined by expert determination under clause 13.6.

13.6 Choice of expert

- (1) If the Dispute is to be determined by expert determination, this clause 13.6 applies.
- (2) The Dispute must be determined by an independent expert in the relevant field:
- (a) agreed between and appointed jointly by the parties; or
 - (b) in the absence of document within five (5) Business Days after the date that the matter is required to be determined by expert determination, appointed by the President of the Law Society of New South Wales for the time being.
- (3) If the parties fail to agree as to the relevant field within five (5) Business Days after the date that the matter is required to be determined by expert determination, either party may refer the matter to the President of the Law Society of New South Wales for the time being whose decision as to the relevant field is final and binding on the parties.
- (4) The expert appointed to determine a Dispute:
- (a) must have a technical understanding of the issues in dispute;
 - (b) must not have a significantly greater understanding of one party's business, functions or operations which might allow the other side to construe this greater understanding as a bias; and
 - (c) must inform the parties before being appointed of the extent of the expert's understanding of each party's business or operations and, if that information indicates a possible bias, then that expert must not be appointed except with the written approval of the parties.
- (5) The parties must promptly enter into an document with the expert appointed under this clause 13.6 setting out the terms of the expert's determination and the fees payable to the expert.

13.7 Directions to expert

- (1) In reaching a determination in respect of a dispute under clause 13.6, the independent expert must give effect to the intent of the parties entering into this document and the purposes of this document.
- (2) The expert must:
- (a) act as an expert and not as an arbitrator;
 - (b) proceed in any manner as the expert thinks fit without being bound to observe the rules of natural justice or the rules of evidence;
 - (c) not accept verbal submissions unless both parties are present;
 - (d) on receipt of a written submission from one party, ensure that a copy of that submission is given promptly to the other party;

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- (e) take into consideration all documents, information and other material which the parties give the expert which the expert in its absolute discretion considers relevant to the determination of the Dispute;
 - (f) not be expected or required to obtain or refer to any other documents, information or material (but may do so if the expert so wishes);
 - (g) issue a draft certificate stating the expert's intended determination (together with written reasons), giving each party ten (10) Business Days to make further submissions;
 - (h) issue a final certificate stating the expert's determination (together with written reasons); and
 - (i) act with expedition with a view to issuing the final certificate as soon as practicable.
- (3) The parties must comply with all directions given by the expert in relation to the resolution of the Dispute and must within the time period specified by the expert, give the expert:
- (a) a short statement of facts;
 - (b) a description of the Dispute; and
 - (c) any other documents, records or information which the expert requests.

13.8 Expert may commission reports

- (1) Subject to paragraph (2):
- (a) the expert may commission the expert's own advisers or consultants (including lawyers, accountants, bankers, engineers, surveyors or other technical consultants) to provide information to assist the expert in making a determination; and
 - (b) the parties must indemnify the expert for the cost of those advisers or consultants in accordance with clause 13.6(5) of this deed.
- (2) The parties must approve the costs of those advisers or consultants in writing prior to the expert engaging those advisers or consultants.

13.9 Expert may convene meetings

- (1) The expert must hold a meeting with all of the parties present to discuss the Dispute. The meeting must be conducted in a manner which the expert considers appropriate. The meeting may be adjourned to, and resumed at, a later time in the expert's discretion.
- (2) The parties agree that a meeting under paragraph (1) is not a hearing and is not an arbitration.

13.10 Other courses of action

If:

- (1) the parties cannot agree in accordance with clause 13.4 to refer the matter to mediation or determination by an expert; or

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- (2) the mediation referred to in clause 13.5 has not resulted in settlement of the dispute, the mediation has been terminated and the parties have not agreed to refer the matter to expert determination within five (5) Business Days after termination of the mediation,

then either party may take whatever course of action it deems appropriate for the purpose of resolving the Dispute.

13.11 Confidentiality of information provided in dispute resolution process

- (1) The parties agree, and must procure that the mediator and the expert agree as a condition of his or her appointment:
- (a) subject to paragraph (2), to keep confidential all documents, information and other material disclosed to them during or in relation to the mediation or expert determination;
 - (b) not to disclose any confidential documents, information and other material except:
 - (i) to a party or adviser or consultant who has signed a confidentiality undertaking; or
 - (ii) if required by Law or any Authority to do so; and
 - (c) not to use confidential documents, information or other material disclosed to them during or in relation to the mediation or expert determination for a purpose other than the mediation or expert determination.
- (2) The parties must keep confidential and must not disclose or rely upon or make the subject of a subpoena to give evidence or produce documents in any arbitral, judicial or other proceedings:
- (a) views expressed or proposals or suggestions made by a party or the mediator or the expert during the expert determination or mediation relating to a possible settlement of the Dispute;
 - (b) admissions or concessions made by a party during the mediation or expert determination in relation to the Dispute; and
 - (c) information, documents or other material concerning the dispute which are disclosed by a party during the mediation or expert determination unless such information, documents or facts would be discoverable in judicial or arbitral proceedings.

13.12 Final determination of expert

The parties agree that the final determination by an expert will be final and binding upon them except in the case of fraud or misfeasance by the expert.

13.13 Costs

If any independent expert does not award costs, each party must contribute equally to the expert's costs in making the determination.

13.14 Remedies available under the Act

This clause 13 does not operate to limit the availability of any remedies available to Council under the Act.

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13.15 Urgent relief

This clause 13 does not prevent a party from seeking urgent injunctive or declaratory relief concerning any matter arising out of this document.

14 Force Majeure

14.1 Definition

In this clause 14, force majeure (**Force Majeure**), means any physical or material restraint beyond the reasonable control of a party claiming the Force Majeure and includes, without limitation, fire, the discovery of threatened species on the Land or industrial disputes.

14.2 Consequences of Force Majeure Event

If a party is unable by reason of Force Majeure to carry out wholly or in part its obligations under this document, it must:

- (1) give to the other party prompt notice of the Force Majeure with reasonably full particulars; and
- (2) suggest an alternative method, if any, of satisfying its obligations under this document.
- (3) If a party is unable to satisfy its obligations under this document by an alternative method, the obligations of the parties so far as they are affected by the Force Majeure are then suspended during continuance of the Force Majeure and any further period as may be reasonable in the circumstances.

14.3 Inability to complete Works

- (1) The party giving such notice under this clause must use all reasonable effort and diligence to remove the Force Majeure or ameliorate its effects as quickly as practicable.
- (2) If the Developer is unable to Complete any part of the Works due to a Force Majeure event the Developer must pay to Council the Contribution Value of the relevant works and the amount payable to Council may be apportioned, if necessary, in such manner as may be fair and reasonable.
- (3) In reference to paragraph (2), Council, at its absolute discretion, may call on the Bank Guarantees (or any part of it) pursuant to clause 10.3.

14.4 Exclusion of operation

The parties agree that this Force Majeure provision does not apply to an obligation of a party to transfer land or to pay money.

14.5 Dispute

If the parties are unable to agree on the existence of an event of Force Majeure or the period during which the obligations of the parties are suspended during the continuance of the Force Majeure, that dispute must be referred for determination under clause 13.

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15 Breach of this document

15.1 Breach Notice

If the Developer breaches this document, Council may serve a notice on the Developer (**Breach Notice**) specifying:

- (1) the nature and extent of the alleged breach;
- (2) if:
 - (a) the breach is capable of being rectified other than by the payment of compensation, what Council requires the Developer to do in order to rectify the breach; or
 - (b) the breach is not capable of being rectified other than by payment of compensation, the amount of compensation Council requires the Developer to pay in order to rectify the breach, and
- (3) the time within which Council requires the breach to be rectified, which must be a reasonable time of not less than forty (40) business days.

15.2 Events of Default

The Developer commits an **Event of Default** if it:

- (1) fails to comply with a Breach Notice; or
- (2) becomes subject to an Insolvency Event.

15.3 Consequences of Events of default

Where the Developer commits an Event of Default, Council may, in addition to any rights it has at Law:

- (1) exercise the Step in Rights so as to carry out any work specified in the relevant Breach Notice; or
- (2) call on the Security to the extent of any compensation claimed in a Breach Notice and not paid by the Developer.

16 Termination, Rescission or Determination

16.1 Termination

This document terminates in the following events:

- (1) The parties agree in writing to terminate the operation of this document at any time.
- (2) Council serves notice on the Developer terminating this document where the Developer has failed to comply with a notice issued in accordance with clause 15.1.
- (3) The Instrument Change is not made.

16.2 Consequence of termination

Upon termination of this document:

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- (1) all future rights and obligations of the parties are discharged; and
- (2) all pre-existing rights and obligations of the parties continue to subsist.

16.3 Determination

This document will determine upon the Developer satisfying all of the obligations imposed on it in full.

17 Position of Council**17.1 Consent authority**

The parties acknowledge that Council is a consent authority with statutory rights and obligations pursuant to the terms of the Planning Legislation.

17.2 Document does not fetter discretion

This document is not intended to operate to fetter, in any unlawful manner:

- (1) the power of Council to make any Law; or
- (2) the exercise by Council of any statutory power or discretion,
(Discretion).

17.3 Severance of provisions

- (1) No provision of this document is intended to, or does, constitute any unlawful fetter on any Discretion. If, contrary to the operation of this clause, any provision of this document is held by a court of competent jurisdiction to constitute an unlawful fetter on any Discretion, the parties agree:
 - (a) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause 17 is substantially satisfied; and
 - (b) in the event that paragraph (1)(a) cannot be achieved without giving rise to an unlawful fetter on a Discretion, the relevant provision is to be severed and the remainder of this document has full force and effect; and
 - (c) to endeavour to satisfy the common objectives of the parties on relation to the provision of this document which is held to be an unlawful fetter to the extent that it is possible having regard to the relevant court judgment.
- (2) Where the Law permits Council to contract out of a provision of that Law or gives Council power to exercise a Discretion, then if Council has in this document contracted out of a provision or exercised a Discretion under this document, then to the extent of this document is not to be taken to be inconsistent with the Law.

17.4 No Obligations

Nothing in this document will be deemed to impose any obligation on Council to exercise any of its functions under the Act in relation to the Instrument Change, the Land or the Development in a certain manner.

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18 Confidentiality

18.1 Document not Confidential

The terms of this document are not confidential and this document may be treated as a public document and exhibited or reported without restriction by any party.

18.2 Other Confidential Information

- (1) The parties acknowledge that:
 - (a) Confidential Information may have been supplied to some or all of the parties in the negotiations leading up to the making of this document; and
 - (b) The parties may disclose to each other further Confidential Information in connection with the subject matter of this document.
 - (c) Subject to paragraphs (2) and (3), each party agrees:
 - (i) not to disclose any Confidential document received before or after the making of this document to any person without the prior written consent of the party who supplied the Confidential Information; or
 - (ii) to take all reasonable steps to ensure all Confidential Information received before or after the making of this document is kept confidential and protected against unauthorised use and access.
- (2) A party may disclose Confidential Information in the following circumstances:
 - (a) in order to comply with the Law, or the requirements of any Authority; or
 - (b) to any of their employees, consultants, advisers, financiers or contractors to whom it is considered necessary to disclose the information, if the employees, consultants, advisers, financiers or contractors undertake to keep the information confidential.
- (3) The obligations of confidentiality under this clause do not extend to information which is public knowledge other than as a result of a breach of this clause.

19 GST

19.1 Defined GST Terms

Defined terms used in this clause 19 have the meaning ascribed to them in the GST Law.

19.2 GST to be Added to Amounts Payable

- (1) If GST is payable on a Taxable Supply made under, by reference to or in connection with this document, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- (2) This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly agreed to be GST inclusive.
- (3) Unless otherwise expressly stated, prices or other sums payable or Consideration to be provided under or in accordance with this document are exclusive of GST.

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19.3 GST Obligations to Survive Termination

This clause 19 will continue to apply after expiration of termination of this document.

20 Miscellaneous

20.1 Obligation to act in good faith

The parties must at all times:

- (1) cooperate and use their best endeavours to profitably and professionally give effect to their rights and obligations set out in this document;
- (2) not unreasonably delay any action, approval, direction, determination or decision which is required of them;
- (3) make approvals or decisions that are required of them in good faith and in a manner consistent with the completion of the transactions set out in this document; and
- (4) be just and faithful in their activities and dealings with the other parties.

20.2 Legal costs

The Developer agrees to:

- (1) pay or reimburse the reasonable legal costs and disbursements of Council of the negotiation, preparation, execution, and stamping of this document;
- (2) pay the reasonable legal costs and disbursements referred to in paragraph (1) within ten (10) business days of receipt of a Tax Invoice from Council; and
- (3) pay or reimburse the reasonable legal costs and disbursements of Council arising from the ongoing administration and enforcement of this document including any breach or default by the Developer of its obligations under this document.

21 Administrative Provisions

21.1 Notices

- (1) Any notice, consent or other communication under this document must be in writing and signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:
 - (a) delivered to that person's address;
 - (b) sent by pre-paid mail to that person's address; or
 - (c) transmitted by facsimile to that person's address.
- (2) A notice given to a person in accordance with this clause is treated as having been given and received:
 - (a) if delivered to a person's address, on the day of delivery if a Business Day, otherwise on the next Business Day;
 - (b) if sent by pre-paid mail, on the third Business Day after posting; and

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- (c) if transmitted by facsimile to a person's address and a correct and complete transmission report is received, on the day of transmission if a Business Day, otherwise on the next Business Day.

- (3) For the purpose of this clause the address of a person is the address set out in this document or another address of which that person may from time to time give notice to each other person.

21.2 Entire Document

This document is the entire agreement of the parties on the subject matter. All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this document.

21.3 Variation of agreement

The parties may agree to vary the terms of this document. Any such variation shall be evidenced by a written variation and must comply with the provisions of section 7.5 of the Act.

21.4 Joint parties

If two or more parties are included within the same defined term in this document:

- (1) a liability of those parties under this document is a joint liability of all of them and a several liability of each of them;
- (2) a right given to those parties under this document is a right given severally to each of them; and
- (3) a representation, warranty or undertaking made by those parties is made by each of them.

21.5 Waiver

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the parties to be bound by the waiver.

21.6 Cooperation

Each party must sign, execute and deliver all agreements, documents, instruments and act reasonably and effectively to carry out and give full effect to this document and the rights and obligations of the parties under it.

21.7 Counterparts

This document may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

21.8 Amendment

This document may only be amended or supplemented in writing signed by the parties.

21.9 Unenforceability

Any provision of this document which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid or enforceable, and is otherwise capable of being severed to the extent of the invalidity or enforceability, without

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affecting the remaining provisions of this document or affecting the validity or enforceability of that provision in any other jurisdiction.

21.10 Power of Attorney

Each attorney who executes this document on behalf of a party declares that the attorney has no notice of:

- (1) the revocation or suspension of the power of attorney by the grantor; or
- (2) the death of the grantor.

21.11 Governing law

The law in force in the State of New South Wales governs this document. The parties;

- (1) submit to the exclusive jurisdiction of the courts of New South Wales and any courts that may hear appeal from those courts in respect of any proceedings in connection with this document; and
 - (2) may not seek to have any proceedings removed from the jurisdiction of New South Wales on the grounds of *forum non conveniens*.
-

Schedule 1– Requirements under s7.4 of the Act

REQUIREMENT UNDER THE ACT	THIS PLANNING AGREEMENT
Planning instrument and/or development application – (Section 7.4(1)) The Developer has: (a) sought a change to an environmental planning instrument; (b) made, or proposes to make, a Development Application; and/or (c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.	(a) Yes. (b) Yes. (c) Not applicable.
Description of land to which this agreement applies – (Section 7.4(3)(a))	Refer to definition of 'Land' in Part 1 of Schedule 2.
Description of change to the environmental planning instrument to which this agreement applies – (Section 7.4(3)(b))	As set out in the Planning Proposal.
Application of section 7.11 of the Act – (Section 7.4(3)(d))	Applies except to the extent set out in clause 4.1.
Applicability of section 7.12 of the Act – (Section 7.4(3)(d))	Applies except to the extent set out in clause 4.1.
Consideration of benefits under this agreement if section 7.11 applies – (Section 7.4(3)(e))	Refer to clause 4.2 of the Planning Agreement.
Mechanism for Dispute resolution – (Section 7.4(3)(f))	See clause 13.
Enforcement of this agreement (Section 7.4(3)(g))	See clause 10.
No obligation to grant consent or exercise functions – (Section 7.4(3)(9))	See clause 16. See clause 9.

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Schedule 2 – Defined Terms and Interpretation

Part 1 – Definitions

Acquisition Act	means the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> (NSW).
Act	means the <i>Environmental Planning and Assessment Act 1979</i> (NSW).
Assign	as the context requires refers to any assignment, sale, transfer, disposition, declaration of trust over or other assignment of a legal and/or beneficial interest.
Authority	means (as appropriate) any: <ul style="list-style-type: none"> (1) federal, state or local government; (2) department of any federal, state or local government; (3) any court or administrative tribunal; or (4) statutory corporation or regulatory body.
Bank Guarantee	means an irrevocable and unconditional undertaking without any expiry or end date by one of the following trading banks: <ul style="list-style-type: none"> (1) Australia and New Zealand Banking Group Limited. (2) Commonwealth Bank of Australia. (3) Macquarie Bank. (4) National Australia Bank Limited. (5) St George Bank Limited. (6) Westpac Banking Corporation. (7) Any other financial institution approved by the Council, in its absolute discretion, in response to a request from the Developer.
Claim	against any person any allegation, action, demand, cause of action, suit, proceeding, judgement, debt, damage, loss, cost, expense or liability howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.
Completed	means completed in accordance with the requirements of this document or condition or consent if not expressed within this document.
Completion Notice	has the meaning ascribed in clause 6.1.
Confidential Information	means any information and all other knowledge at any time disclosed (whether in writing and orally) by the parties to each other, or acquired by the parties in relation to the other's activities or services which is not already in the public domain and which:

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- (1) is by its nature confidential;
- (2) is designated, or marked, or stipulated by either party as confidential (whether in writing or otherwise);
- (3) any party knows or ought to know is confidential;
- (4) is information which may be reasonably considered to be of a confidential nature.

Contributions	means the provision of the Works and the dedication of the Designated Land.
Contribution Value	means the amount specified in Schedules 3 and 4 in the column headed "contribution value" for each item of the Contributions.
Defect	has the meaning ascribed to it in clause 7.1.
Defects Notice	has the meaning ascribed to it in clause 7.1.
Defects Liability Period	means twelve (12) months.
Defects Security	has the meaning ascribed to it in clause 10.
Designated Land	means that part of the Land set out in Schedule 3 , and includes the Road Widening Land.
Development Consent	means a consent issued under the Act for the Development.
Development	the development of the Land in accordance with a Development Consent.
Dispute	has the meaning ascribed to it in clause 13.1.
Encumbrance	means an interest or power: <ol style="list-style-type: none"> (1) reserved in or over an interest in any asset; (2) arising under, or with respect to, a Bio-Banking Agreement; (3) created or otherwise arising in or over any interest in any asset under any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, title retention, conditional sale agreement, hire or hire purchase agreement, option, restriction as to transfer, use or possession, easement, covenant, lease, subordination to any right of any other person and any other encumbrance or security interest, trust or bill of sale; or (4) by way of security for the payment of a debt or other monetary obligation or the performance of any obligation. Encumber means to grant an Encumbrance.
Event of Default	has the meaning ascribed to it in clause 15.2.
Force Majeure	has the meaning ascribed to it in clause 14.

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GST Law

means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Index

means the Consumer Price Index (All Groups - Sydney) as provided by the Australian Bureau of Statistics.

Insolvency Event

means the happening of any of the following events:

- (1) Application which is not withdrawn or dismissed within fourteen (14) days is made to a court for an order or an order is made that a body corporate be wound up.
- (2) An application which is not withdrawn or dismissed within fourteen (14) days is made to a court for an order appointing a liquidator or provisional liquidator in respect of a body corporate or one of them is appointed, whether or not under an order.
- (3) Except to reconstruct or amalgamate while solvent, a body corporate enters into, or resolves to enter into, a scheme of arrangement, agreement of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them.
- (4) A body corporate resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent or is otherwise wound up or dissolved.
- (5) A body corporate is or states that it is insolvent.
- (6) As a result of the operation of section 459F(1) of the *Corporations Act 2001* (Cth) (**Corporations Act**), a body corporate is taken to have failed to comply with a statutory demand;
- (7) A body corporate is or makes a statement from which it may be reasonably deduced that the body corporate is, the subject of an event described in section 459C(2)(b) or section 585 of the *Corporations Act*.
- (8) A body corporate takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a body corporate.
- (9) A person becomes an insolvent under administration as defined in section 9 of the *Corporations Act* or action is taken which could result in that event.
- (10) A receiver, manager or receiver and manager is appointed to the Company.
- (11) A claim is filed in a court against a person that is not defended, released or otherwise settled within twenty eight (28) days of the date of its filing at the court.
- (12) Anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

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Instrument Change	means the amendment of the Auburn Local Environmental Plan 2010 in accordance with the Planning Proposal.
Land	means the land contained in the following folio identifiers: (1) 38/222712. (2) 100/793305. (3) 1/397. (4) 6/397. (5) 7/397. (6) 8/397. (7) 101/1248142.
Law	means all legislation, regulations, by-laws, common law and other binding order made by any Authority.
LEP	means Auburn Local Environmental Plan 2010.
Location Plan	means the plan that is attached as Annexure 1 .
Occupation Certificate	has the same meaning as in section 6.4(c) of the Act.
Planning Legislation	means the Act, the <i>Local Government Act 1993</i> (NSW) and the <i>Roads Act 1993</i> (NSW).
Planning Proposal	means the planning proposal number PP_2019_CUMBE_001_00 to amend the LEP to allow on the parts of the Land zoned B4 under the LEP: (1) a minimum non-residential floor space ratio of 0.4:1; and (2) a maximum building height of: (a) 45 metres; (b) 48 metres in of the south-east corner of the Land; and (c) 55 metres in the north-east corner of the Land; and (3) bonus floor space ratio of 0.3:1 if a minimum of 0.6:1 non-residential floor space ratio is provided.
Primary Security	has the meaning ascribed to it in clause 10.
Rectification Notice	has the meaning ascribed to it in clause 6.3.
Road Widening Land	means the land upon which the Road Widening Works are to be undertaken as identified in the Location Plan.
Road Widening Works	means the road widening (2.5m in width, 25m in length) of "Raphael Street" and associated intersection upgrades as shown in the Location Plan, including land to be dedicated in Schedule 3 .
Security	means collectively the Primary Security and the Defects Security.
Subdivision Certificate	has the same meaning as in section 6.4(d) of the Act.
Works	means the works specified or described in Schedule 4 .

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Part 2 - Interpretational Rules

clauses, annexures and schedules	a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this document.
reference to statutes	a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
singular includes plural	the singular includes the plural and vice versa.
person	the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association or any government agency.
executors, administrators, successors	a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns.
dollars	Australian dollars, dollars, \$ or A\$ is a reference to the lawful currency of Australia.
calculation of time	if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.
reference to a day	a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.
accounting terms	an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia.
reference to a group of persons	a group of persons or things is a reference to any two or more of them jointly and to each of them individually.
meaning not limited	the words "include", "including", "for example" or "such as" are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.
next day	if an act under this document to be done by a party on or by a given day is done after 4.30pm on that day, it is taken to be done on the next day.
next Business Day	if an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.
time of day	time is a reference to Sydney time.
headings	headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this document.

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agreement

a reference to any agreement, document or instrument includes the same as varied, supplemented, novated or replaced from time to time.

Schedule 3 - Designated Land

Item	Time for Completion	Contribution Value
Lots 7 and 8 in DP 397.	Subject to clause 5.1(1), the earlier of: <ol style="list-style-type: none"> 1. the issue of the first Subdivision Certificate or Occupation Certificate issued in respect of the Development; 2. two (2) months after Completion of the Road Widening Works; and 3. 30 June 2021. 	\$5,753,800.00.
Dedication of Road Widening Land.	Subject to clause 5.1(1), the earlier of: <ol style="list-style-type: none"> 1. the issue of the first Subdivision Certificate or Occupation Certificate issued in respect of the Development; 2. two (2) months after Completion of the Road Widening Works; and 3. 30 June 2021. 	At no cost to Council.



Schedule 4 - Works

Item of Works	Specification	Time for Completion	Contribution Value
Rehabilitation Works - Lots 7 and 8 in DP 397	Removal of all existing structures Importation of 80/20 soil mixture at a depth level of 300mm Land levelled to an acceptable standard Laying of turf	2 months prior to Lots 7 and 8 in DP 397 being dedicated to Council.	\$20,000
Road widening (2.5m in width, 25m in length) of "Raphael Street" and associated intersection upgrades as shown in the Location Plan, including land to be dedicated in Schedule 3	Including, but not limited, pathways, street trees, service augmentation and relocation, street lighting, road works, drainage, signage and intersection upgrades within the Designated Land, to a minimum public purpose standard or as detailed in development approval and plans.	Prior to the issue of a Subdivision Certificate or Occupation Certificate in respect of the Development.	At no cost to Council.
Maintenance Period for roads and streetscape	As conditioned in development consent	Minimum 12 months	At no cost to Council

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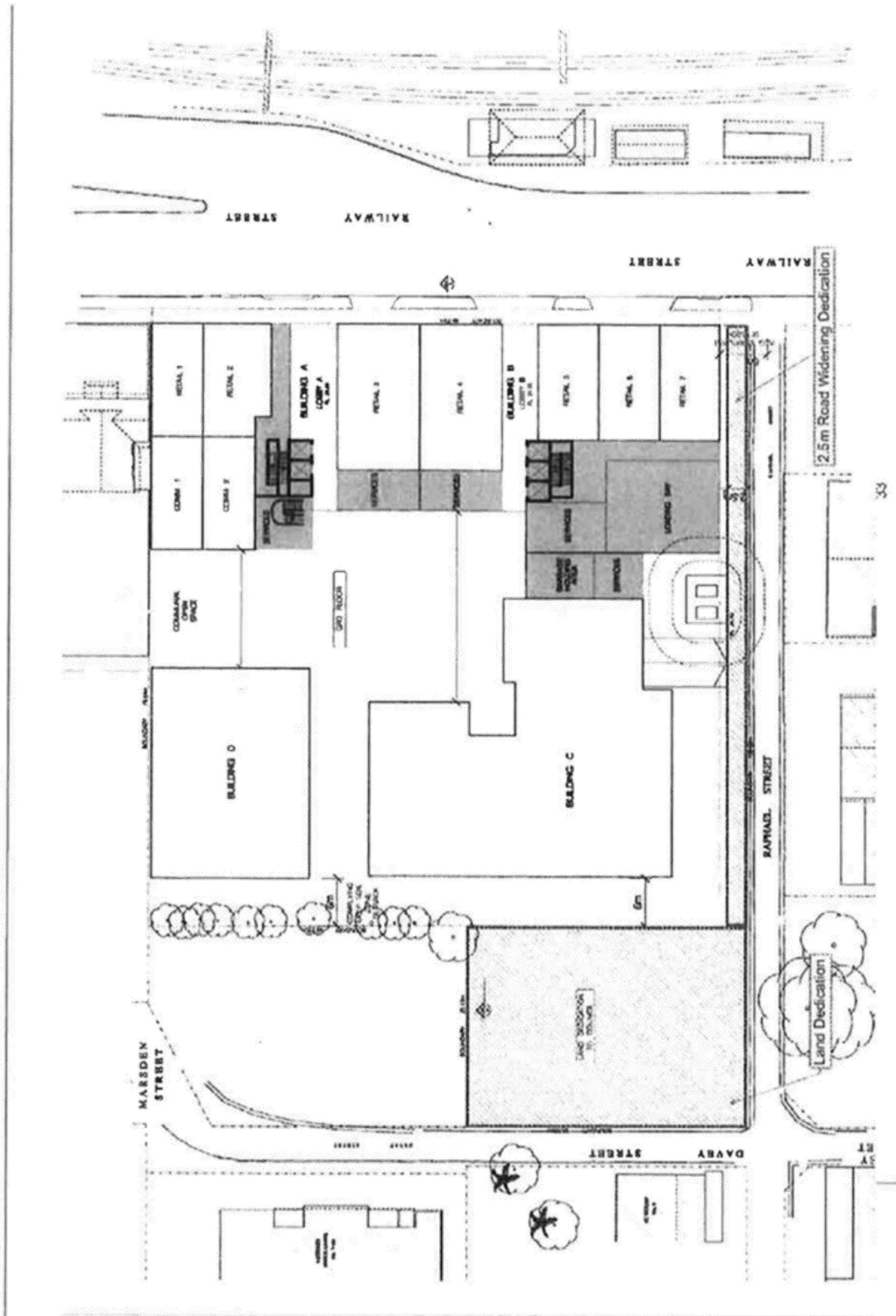
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Annexure 1 – Location Plan

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RX

Execution page

Executed as an agreement.

Dated:

Executed by Cumberland Council by its General Manager and Mayor by the affixing of the Common Seal of Council in accordance with resolution dated



General Manager (Signature)



Mayor (Signature)

HAMISH McNULTY

Name of General Manager (Print Name)

CLR STEVE CHRISTOU

Name of Mayor (Print Name)

Executed by Lidcombe Property (NSW) Pty Limited in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its sole director and secretary



Director/Secretary (Signature)

Simon Xistouris

Name of Sole Director/ Secretary (Print Name)

Planning Agreement Explanatory Note

4 - 12 Railway Street, Lidcombe

Marsdens Law Group

Level 1
49 Dumaresq Street
CAMPBELLTOWN NSW 2560

Tel: 02 4626 5077

Fax: 02 4626 4826

DX: 5107 Campbelltown



Planning Agreement Explanatory Note

4 - 12 Railway Street, Lidcombe

1 Introduction

This Explanatory Note has been prepared in accordance with clause 25E of the *Environmental Planning & Assessment Regulation 2000* (NSW).

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft planning agreement (**Planning Agreement**) proposed to be entered into between the parties under section 7.4 of the *Environmental Planning & Assessment Act 1979* (NSW) (**EPA Act**).

2 Parties to the Planning Agreement

The parties to the Planning Agreement are as follows:

- (1) Cumberland Council (**Council**).
- (2) Lidcombe Property (NSW) Pty Limited, Peter James Darroch and Susan Rae Darroch (**Developer**).

3 Description of the Land

The land to which the Planning Agreement applies (collectively referred to as the **Land**) is set out in the table below.

Folio Identifier	Location
Lot 38 in DP222712.	4 - 12 Railway Street, Lidcombe
Lot 100 in DP793305.	
Lots 1, 6, 7 and 8 in DP397.	
Lot 101 in DP1248142.	

4 Summary of contribution, objects, nature and effect of the Planning Agreement

The Developer is seeking an amendment of the *Auburn Local Environmental Plan 2010* (**LEP**) in accordance with planning proposal number PP_2019_CUMBE_001_00 so as to allow those parts of the land zoned B4 under the LEP:

- (1) a minimum non-residential floor space ratio of 0.4:1; and
- (2) a maximum building height of:
 - (a) 45 metres (for the remainder of the site);
 - (b) 48 metres in of the south-east corner of the Land; and
 - (c) 55 metres in the north-east corner of the Land; and

- (3) bonus floor space ratio of 0.3:1 if a minimum of 0.6:1 non-residential floor space ratio is provided.

(Collectively referred to as the **Instrument Change**).

The Developer has offered to make the development contributions set out in the Planning Agreement if the Instrument Change is made.

The contributions (collectively referred to as the **Development Contributions**), to be provided by the Developer under the Planning Agreement are described in the table below.

Description of Contributions
Open Space Dedication of Lots 7 and 8 in DP 397 (forming part of the Land) free-of-cost to Council to be used for public purposes. The rehabilitation and embellishment of that land by the Developer as described in Schedule 4 to the Planning Agreement.
Road Widening Dedication of part of the Land (defined as the 'Road Widening Land' in the Planning Agreement) for the purposes of widening Raphael Street free-of-cost to Council, including associated road widening, intersection upgrade works, and subsequent ongoing maintenance works in respect of that land by the Developer.

The Planning Agreement contains schedules (being Schedules 3 and 4) setting out the specific details, timing and procedures for the delivery of the Development Contributions. Clauses 10.9 and 10.10 of the Planning Agreement also include certain requirements which must be complied with by the Developer before the issuing of an occupation certificate or subdivision certificate by Council in respect of the development of the Land.

The intent of the Planning Agreement is to ensure that public benefits in the form of the dedication of land, and carrying out of works, for public purposes is provided by the Developer to ensure existing communities do not bear those costs.

The nature of the Planning Agreement is a contractual relationship between the Council and the Developer for the provision of Development Contributions to support the development of the Land.

The effect of the Planning Agreement is that the Developer will contribute the Development Contributions in the manner provided for by the Planning Agreement.

5 Assessment of the merits of the Planning Agreement

5.1 The planning purposes served by the Planning Agreement

In accordance with section 7.4(2) of the EPA Act, the Planning Agreement promotes the following public purposes:

- (1) The provision of public amenities and public services.
- (2) The provision of transport or other infrastructure relating to land.

5.2 How the Planning Agreement promotes the public interest

In accordance with the objects of the EPA Act, the Planning Agreement promotes the public interest in the following manner:

-
- (1) The promotion and co-ordination of the orderly and economic use and development of land.
 - (2) The provision of land for public purposes.
 - (3) The Planning Agreement will not preclude the public being provided with the opportunity for involvement and participation in development assessment. The public have been provided the opportunity to be involved with the development assessment and are invited to make comment on the Planning Agreement, particularly with regard to the public interest.

5.3 How the Planning Agreement promotes the Guiding Principles for Councils

The Planning Agreement promotes a number of the Guiding Principles for Councils under section 8A of the *Local Government Act 1993* (NSW), as follows:

- (1) This Explanatory Note is prepared for the purposes of keeping the local community and the State government (and through it, the wider community) informed about its activities and to ensure that its decision-making is transparent.
- (2) To manage lands and other assets so that current and future local community needs can be met in an affordable way which provides the best possible value for residents and ratepayers.
- (3) To act fairly, ethically and without bias in the interests of the local community.
- (4) To recognise diverse local community needs and interests.
- (5) To have regard to the long term and cumulative effects of its decisions on future generations.
- (6) To promote the public interest by committing the Developer to make contributions towards local amenity improvements.

5.4 Identification of whether the Planning Agreement conforms with the Council's capital works program

Not applicable.

Item No: C07/21-799

VOLUNTARY PLANNING AGREEMENT - 1A AND 1B QUEEN STREET, AUBURN

Responsible Division: Environment & Planning
Officer: Director Environment & Planning
File Number: PP2010/2
Community Strategic Plan Goal: *A resilient built environment*

SUMMARY

On 5 May 2021, Council considered a report on the Voluntary Planning Agreement (VPA) for 1A and 1B Queen Street, Auburn, and resolved to defer consideration of the matter, pending further advice which is included in this report. Based on this advice, Council officers maintain that the most appropriate course of action is to prepare and exhibit a draft amended VPA incorporating altered timeframes to align with a revised development program. Further, it is recommended that the Mayor and Acting General Manager be delegated authority to execute an amended agreement provided that no significant objections to the exhibition are received.

RECOMMENDATION

That Council:

- 1. Prepare and notify for 28 days a draft amended planning agreement and explanatory note for 1A and 1B Queen Street, Auburn, extending the timeframe for the land dedication and intersection works by three years.**
- 2. Delegate authority to the Mayor and Acting General Manager to execute the amended planning agreement on behalf of Council for 1A and 1B Queen Street, Auburn, subject to no significant objections on the draft agreement arising from exhibition.**

REPORT

Background

On 5 May 2021, Council considered a report on the VPA for 1A and 1B Queen Street, Auburn. The report advised Council that the Developer has not fulfilled its obligations under the VPA by the required date. The report recommended that the VPA timeframes be extended by three years to align with a revised development program. Council resolved to defer the consideration of this matter, pending further advice.

Current Status

The VPA, as provided in Attachment 1, required the dedication of land and works associated with the Planning Proposal to be undertaken within three years. This time period lapsed on 4 August 2020. In March 2021, the Developer confirmed the project

is on hold due to the impacts of COVID-19 and is unlikely to proceed until immigration numbers significantly improve.

In instances where the timeframe in a VPA has lapsed, an amended VPA is required to continue the operation of the agreement. The amended VPA will maintain the scope of works outlined in the document but amend the timeframe for the delivery of the works in the VPA. The Developer also expressed interest in amending the VPA to vary the time periods to align with a revised development program.

Further advice

Consistent with Council's resolution, further advice was sought on the matter. This advice is provided in Attachments 2 and 3. Based on this advice, Council officers maintain that the most appropriate course of action is to extend the timeframes in the VPA to align with a revised development program.

Next Steps

It is recommended that a draft amended VPA and explanatory note be prepared for 1A and 1B Queen Street, Auburn, extending the timeframe for the proposed land dedication and intersection works by three years.

Subject to Council endorsement, the draft amended VPA and explanatory note will be notified in accordance with statutory and policy requirements. It is also recommended that the Mayor and Acting General Manager be delegated authority to execute an amended agreement provided that no significant objections to the exhibition are received.

COMMUNITY ENGAGEMENT

Subject to Council endorsement, the draft amended planning agreement and explanatory note will be publicly exhibited for a period of 28 days in accordance with statutory and policy requirements.

POLICY IMPLICATIONS

Policy implications are outlined in the body of this report.

RISK IMPLICATIONS

Amendment of the VPA as proposed will overcome a current breach of VPA terms and mitigate the likelihood that the Developer will benefit from the land value uplift arising from the LEP amendment without satisfying its obligations under the agreement.

FINANCIAL IMPLICATIONS

Financial implications are outlined in the body of this report.

CONCLUSION

Following Council's resolution on the matter in May 2021, further advice has been provided and attached to this report. It is recommended that that Council proceeds to

prepare and exhibit an amended planning agreement and explanatory note incorporating altered timeframes that are aligned to a revised development program and that is subject to there being no significant public objections, proceed to execute an amended agreement.

ATTACHMENTS

1. Executed Voluntary Planning Agreement - 1A and 1B Queen Street, Auburn (confidential)
2. Further advice - Legal Counsel (confidential)
3. Further advice - Manager Engineering Services (confidential)

Item No: C07/21-800

LIDCOMBE OVAL GRANDSTAND NAMING

Responsible Division: Works & Infrastructure
Officer: Acting Director Works & Infrastructure
File Number: 8899805
Community Strategic Plan Goal: *A great place to live*

SUMMARY

This report provides a response to the Mayoral Minute – Passing of Tommy Raudonikis resolved at the Ordinary Meeting of Council on 21 April 2021 (Min.1091).

RECOMMENDATION

That Council name the Lidcombe Oval grandstand, The Tommy Raudonikis Grandstand and install a signage as outlined in this report, subject to DA approval.

REPORT

At the Ordinary Meeting of Council on 21 April 2021, a Mayoral Minute (Min. 1091) was raised regarding the naming of the Lidcombe Oval Grandstand. In considering this item, Council resolved the following:

“That Council:

- 1. Note with sadness and express its sincerest condolences for the passing of Tommy Raudonikis;*
- 2. Propose to name the Lidcombe Oval grandstand, The ‘Tommy Raudonikis Grandstand’ in his honour;*
- 3. Place the naming proposal on public exhibition for 28 days, with a report to be returned to Council following public exhibition; and*
- 4. Observe a minute of silence to honour the life of Tommy Raudonikis.”*

The naming proposal was placed on public exhibition from 20 April 2021 to 31 May 2021. Subsequently, Council received 20 submissions during the 28 day exhibition period. A summary of all submissions received, and Council’s response is outlined in Attachment 1. In accordance with the above, Council has now addressed all public feedback and recommends the grandstand at Lidcombe Oval be named The Tommy Raudonikis Grandstand.

Tommy Raudonikis Biography

Tommy was born in Bathurst to Ukrainian parents and grew up in Cowra and Wagga Wagga. Whilst serving in the air force, he came to the attention of rugby league legend

Arthur Summons, who helped him join Western Suburbs Magpies. His debut season with the Western Suburbs Magpies was played at the home ground Lidcombe Oval in 1969. Two years later, Raudonikis made his debut for NSW and Australia, and he played his first Test against New Zealand in 1972. Thereafter, he was a regular in Australian sides throughout the 1970s, including two Kangaroo tours, four Ashes series, two World Series, as well as Tests against New Zealand and France. He also claimed the Rothmans Medal in 1972.

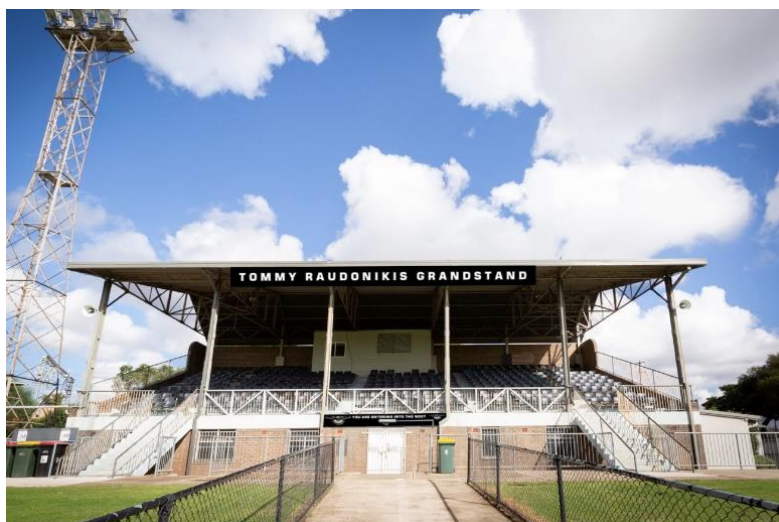
Raudonikis had a long career, spearheading the Western Suburbs Magpies team for over 200 games, as well as Newtown Jets for three seasons. After retiring as a player, he coached Brothers and Ipswich in Queensland before spending a stint as coach of Wests. He coached the NSW State of Origin team in 1997 and 1998.

Naming approvals and signage

The Geographical Names Board (GNB) administers place names for parks and reserves within Local Government Areas. The naming of buildings within a park does not require approval from the GNB and as such a Council resolution is sufficient to name this stadium.

The Tommy Raudonikis Grandstand signage is proposed for addition to the front of the grandstand as shown in Figure 1 below. The grandstand is situated within Wyatt Park on Crown Land managed by Council in accordance with the recently adopted Wyatt Park Plan of Management. Lidcombe Oval and the grandstand are listed as locally significant heritage therefore a Development Application (DA) approval is required. The DA will include a heritage impact statement to confirm the size, final location and design. Interpretative signage on the biography of Tommy Raudonikis can be installed nearby including photos.

Figure 1- Proposed signage



COMMUNITY ENGAGEMENT

Council placed the naming proposal on public exhibition for a period of 28 days from 20 April 2021 to 31 May 2021 on Council's website.

Council had 1214 visits to the 'Have Your Say' community engagement website during the public exhibition period. Submissions were received from 20 respondents, 19 in support of the naming The Tommy Raudonikis Grandstand. A copy of the submissions received is attached.

POLICY IMPLICATIONS

There are no policy implications for Council associated with this report.

RISK IMPLICATIONS

There are no risk implications for Council associated with this report.

FINANCIAL IMPLICATIONS

The estimated cost of placing signage as identified in this report is \$50,000 including the DA submission. The addition of this project to the 2021/22 Capital Works Program will require an amendment at Quarter 1, with the identification of either additional funds or the removal of a current project. This will be considered and identified in the Quarter 1 Budget Review.

CONCLUSION

The proposed naming was placed on public exhibition for 28 days with 20 responses. This report recommends the naming of the grandstand at Lidcombe Oval as "Tommy Raudonikis Grandstand" and to place signage in honour of Tommy Raudonikis.

ATTACHMENTS

1. Summary of submissions - Tommy Raudonikis Grandstand [↓](#)

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-800

Attachment 1

Summary of submissions -
Tommy Raudonikis Grandstand

Summary of Submissions

Comments / Suggestions	Council response	Changes to document
Submission 1: <p>To whom it may concern, I am fully supportive of renaming the Lidcombe Oval Grandstand to 'The Tom Raudonikis OAM Stand'. It would be a fitting tribute to one of West's greatest players and a great ambassador for the sport and the district.</p>	The support for the naming is noted.	Nil
Submission 2: <p>To whom it may concern, I fully support the naming of the stand at Lidcombe mobile to be Tom Raudonikis stand for all he did for the community and rugby league in general.</p>	The support for the naming is noted.	Nil
Submission 3: <p>We would be in total support of the proposed renaming of the Lidcombe Oval Grandstand to "The Tom Raudonikis OAM Stand"</p>	The support of the naming is noted.	Nil
Submission 4: <p>I am writing to notify my objection to the naming of the Lidcombe Oval Grandstand after Tommy Raudonikis.</p> <p>There is no doubt that Tommy Raudonikis was an effective athlete notorious for being a dirty player and a thug who orchestrated mass brawls (google Raudonikis cattle dog). Also as a heavy smoker and drinker, he is not a person that people should aspire to.</p> <p>The NRL has taken many steps over the last few decades to stamp out this type of player and preferring to let their memory die with their</p>	The objection of the naming is noted.	Nil

<p>old-school fan base.</p> <p>He is not a player that the youth of today should aspire to or idolise. Far from it, today they are schooled in healthy living, rather than the smoking and drinking to incoherence that Tommy was known for. Today's player, regardless of sport, need idols who were known for their athletic skills but also for their sportsmanship. -The sort of qualifications one would need for a "Best and Fairest" award.</p> <p>If Cumberland Council were to name the grandstand after Mr Raudonikis, it too would be dragged down to Mr Raudonikis' level. The same level that the NRL and the community in general is taking great lengths to distance itself from.</p> <p>The naming of the stand after Mr Raudonikis would bring the council's name into disrepute.</p> <p>Perhaps a plaque on a wall at his favourite pub might be a more fitting tribute.</p>		
<p>Submission 5:</p> <p>I support the naming the grandstand after Tommy due to his links to the ground and the Wests Magpies</p>	The support for the naming is noted.	Nil
<p>Submission 6:</p> <p>Your plan to call Lidcombe Oval grandstand after the great Tom Raudonikis is to be applauded. One of the toughest players to lace a boot. My late father would have been so happy as he loved Tommy. If it comes to fruition, thank you very much.</p>	The support for the naming is noted.	Nil
<p>Submission 7:</p> <p>As a longtime resident of Auburn , Granville I grew up going to Lidcombe Oval to watch Tommy and wests play I could not think of a more than suitable honor to be bestowed on him a great idea from</p>	The support for the naming is noted.	Nil

Cumberland Council it shows the council are up to what the people want fantastic idea.		
Submission 8: Fantastic idea.	The support for the naming is noted.	Nil
Submission 9: Naming the grandstand at Lidcombe Oval after Tommy Raudonikis NEEDS to happen! It should have happened YESTERDAY. Nobody gave more blood, sweat and tears on that ground than Tommy. He inspired generation and generation and generated enormous pride in the area for those that lived there. It would be an absolute travesty if this doesn't go ahead.	The support for the naming is noted.	Nil
Submission 10: I agree with having the Grandstand named after Tommy Ridonikus not because he was part of the magpie rugby league team but also for what he did off the field too. Plus it would show the Family how well liked and appreciation for what Tommy did during his time for Western Suburbs.	The support for the naming is noted.	Nil
Submission 11: I 100% support this initiative. Although I don't live in the area I do work in the area and have been a Magpie Supporter ever since I can remember watching footy (I'm 48 now). I played for Berala Bears and had the privilege of using the dressing sheds that Tommy once used. I also met him personally a couple of years ago and would love to see him remembered in this way. Please and Thanks.	The support for the naming is noted.	Nil
Submission 12: As a current member of the Western Suburbs Magpies Rugby League		

Football Club, and long time former resident of Cumberland Council (Guildford 2008 - 2018) I think that the naming of the grandstand in Tommy's honour is a fantastic idea.	The support for the naming is noted.	Nil
Submission 13: I fully support naming the Lidcombe Oval bc Grandstand after Tommy Raudonikis.	The support for the naming is noted.	Nil
Submission 14: I am in favour of naming the Lidcombe Oval grandstand to honour Tom Raudonikis, however I don't agree with the name (The Tom Raudonikis OAM Grandstand". Tommy wouldn't want something so formal. I feel the name "Tommy Raudonikis Grandstand" is much more appropriate for the little champion. Also, the stand and toilets need to be upgraded, they are in very poor condition.	The support for the naming is noted.	Nil
Submission 15: Yes to rename grandstand.	The support for the naming is noted.	Nil
Submission 16: Hello, I wanted to thank the Cumberland Council for raising the potential of renaming the Lidcombe Oval grandstand after Tommy Raudonikis. He was a childhood hero of mine growing up in Liverpool in the '90s, and I always heard stories about Lidcombe. I now work for the Wests Magpies at their Lidcombe Oval game days and they have been so, so wonderful. The fact that Cumberland Council is acknowledging the team's history in the region has made me really happy... it's just an honour for me to be working in the canteen at Lidcombe Oval purely historically, but knowing that you're acknowledging that in the present really fills my heart. I'd love to see the council really get behind the Magpies and their history with some	The support for the naming is noted.	Nil

great community events coming up at the oval with the Magpies, and am always here to discuss any options with you! My number is 0423 501 561. Thanks very much again for this motion, I'm really looking forward to seeing the grandstand with Tommy's name across the top of it!		
Submission 17: A grandstand named The Tommy Raudonikis OAM Stand would be a very fitting tribute to a person who personified Lidcombe. Tommy spent over a decade of his playing career at Lidcombe and the 2 words go together. Yes please, lets get this stand from "no name" to make it something of providence and respect.	The support for the naming is noted.	Nil
Submission 18: Tommy and Lidcombe Oval are synonymous with inspiration, hard work, battlers and Western Suburbs. What a wonderful idea!	The support for the naming is noted.	Nil
Submission 19: I support the proposal by Council for the grandstand naming at Lidcombe Oval.	The support for the naming is noted.	Nil
Submission 20: I fully support the renaming of Lidcombe Oval grandstand to The Tom Raudonikis OAM Stand. He was a Western Suburbs Magpies legend.	The support for the naming is noted.	Nil

Item No: C07/21-801

CUMBERLAND HERITAGE COMMITTEE - MINUTES OF MEETING HELD 25 MAY 2021, CUMBERLAND LOCAL HERITAGE REBATE PROGRAM 2021 AND CUMBERLAND LOCAL HERITAGE AWARDS 2021

Responsible Division: Environment & Planning
Officer: Director Environment & Planning
File Number: CS-207
Community Strategic Plan Goal: *A resilient built environment*

SUMMARY

This report presents the minutes of the Cumberland Heritage Committee (the Committee) meeting held on 25 May 2021 where the Cumberland Local Heritage Awards and Rebate Program for 2021 were considered.

The report informs Council of the applications received for the Rebate Program and the outcomes of the Committee's consideration of those applications. It recommends that Council adopt the Committee's recommendations regarding the successful rebate applications.

The report also informs Council of the number of entries to the Cumberland Local Heritage Awards 2021 and recommends that Council note the winners and highly commended prize recipients.

Lastly, this report informs Council of the Committee's consideration of the matter of the Lower Prospect Canal Reserve. This matter relates to a resident's request to Council to support the potential nomination of the Lower Prospect Canal Reserve for national heritage listing. The report recommends that Council note that the matter was deferred to the next meeting of the Heritage Committee.

RECOMMENDATION

That Council:

- 1. Receive the minutes of the Cumberland Heritage Committee meeting held on 25 May 2021 (Attachment 1).**
- 2. Adopt the recommendations of the Cumberland Heritage Committee for the Cumberland Heritage Rebate Program 2021, as outlined in Table 1 of this report, and note that funds totalling \$29,288 will be allocated from the Cumberland Local Heritage Rebate Program 2021/22 budget.**
- 3. Note the Cumberland Local Heritage Awards Program winners and highly commended prize recipients.**
- 4. Note the Heritage Committee's decision to defer to the next Committee meeting the matter relating to a resident's request for Council's support**

for a proposed nomination for the listing of the Lower Prospect Canal Reserve on the National Heritage Register.

REPORT

The second meeting of the Cumberland Heritage Committee for 2021 was held at the Merrylands Service Centre on 25 May 2021. The meeting was attended by four community representatives and two Councillors. Under the Terms of Reference for the Committee, the minutes of meetings are to be endorsed by the Meeting Convener and subsequently reported to Council to the next available Ordinary Meeting of Council. The endorsed minutes of the meeting are provided at Attachment 1.

The key items for consideration by Council from the meeting are discussed as follows:

Cumberland Local Heritage Rebate Program 2021

A report on the applications submitted to the Cumberland Local Heritage Rebate Program 2021 (Rebate Program) was provided to the Committee for consideration prior to, and for discussion at the meeting.

As outlined in the report, Cumberland City Council allocated \$50,000 under the Rebate Program for 2021 to be distributed as rebates for small works to heritage listed items, or properties within a conservation precinct, within Cumberland City.

Applications for the Rebate Program were open for eight (8) weeks between 8 March 2021 and 30 April 2021. Ten (10) applications were received from the community, with one (1) considered by the Committee out of session. In considering the applications, the Committee was provided technical advice on the suitability of proposed works by Council's heritage advisor. The Committee's consideration, as well as the funding nominally allocated for each of the applications, is set out in Attachment 2.

All ten applications were recommended for rebate funding, subject to conditions, with a total of \$29,288 allocated. The list of recommended properties is provided in Table 1. Successful applications will receive rebate funding after works have been completed to the satisfaction of Council, and receipts or invoices showing payment are provided.

Application No	Property Address	Proposed works
HR-001	6 Jamieson Street, Granville, NSW, 2142	\$4,000 for production and installation of 2 x sets of Victorian-style French doors on Jamieson Street facade
HR-002	15 Bayfield Road, Greystanes, NSW, 2145	\$4,000 for replacement of existing picket fence
HR-003	27 Grimwood Street, Granville, NSW, 2142	\$2,250 for gutter and downpipe replacement
HR-004	28 Walter Street, Granville, NSW, 2142	\$4,000 for removal of existing pavers and shrubs, and paving courtyard and planting range of native vegetation
HR-005	9 Moree Avenue, Westmead, NSW, 2145	\$1,778 for restoration of leadlight detailing of windows on front facade
HR-006	13 Moree Avenue, Westmead, NSW, 2145	\$3,000 for restoration of leadlight detailing of windows on front facade
HR-007	1A Taylor Street, Lidcombe, NSW, 2141	\$4,000 for replacement, repair, and restoration of loose tiles and roof tiles
HR-008	32 Jamieson Street, Granville, NSW, 2142	\$1,250 for replacement of existing picket fence with new picket fence, adjoining common fence with 34 Jamieson Street and side gate
HR-009	34 Jamieson Street, Granville, NSW, 2142	\$1,250 for replacement of existing picket fence with new picket fence, adjoining common fence with 32 Jamieson Street and side gate
HR-010	32 Walter Street, Granville, NSW, 2142	\$3,760 for complete replacement and restoration of both left and right sides of the now dilapidated front verandah (including the water damaged verandah ceiling) and the front picket fence with its rotted posts and pickets

Table 1 – Recommended Applications for the Cumberland Local Heritage Rebate Program 2021

Cumberland Local Heritage Awards Program 2021

A report on the entries to the Cumberland Local Heritage Awards Program 2021 (Awards) was provided to the Committee for consideration prior to, and for discussion at, the meeting. Applications for the Awards were open between 8 March 2021 and 30 April 2021 and were run concurrently with the Rebate Program. The number of entries received for each of the four Award categories is listed below:

- Category 1: Best maintained heritage property – One (1) entry received
- Category 2: Restoration and development (including adaptive reuse) - Zero (0) entries received

- Category 3: HistoResearch: Researching our local history - Two (2) entries received
- Category 4: Keeper of the Stone (Children's Heritage Award) – over one hundred and thirty (130+) entries received

The Committee judged the entries for all four (4) categories, and the winners and highly commended prize recipients were decided. As per the Cumberland Local Heritage Awards Guidelines, the winners and highly commended prize recipients were confirmed by the Director, Environment and Planning. The details of the winners and highly commended prize recipients have been withheld from the public domain to allow an Awards Presentation Ceremony to be held on 29 July 2021.

Lower Prospect Canal Reserve

A report on the Lower Prospect Canal Reserve (Reserve) was provided to the Committee for consideration. The report canvassed a resident request made to Council that seeks support for the nomination of the Reserve for national heritage listing. The Reserve is currently heritage listed under the *Holroyd Local Environmental Plan 2013*, *draft Cumberland Local Environmental Plan* and on the New South Wales *State Heritage Register*.

The report provided to the Heritage Committee outlined the resident's request, and canvassed the matters explored in the form of a technical heritage report prepared by GML Heritage Consultants. It also outlined advice received from other stakeholders including adjoining councils and State Government agencies that were consulted.

The Committee deferred the matter for further review of the technical heritage advice and also requested that the resident be invited to address the Committee at the upcoming Heritage Committee meeting as part of its further consideration. The author of the technical heritage advice will also be invited to provide their views on the proposal.

COMMUNITY ENGAGEMENT

A comprehensive promotion of the Cumberland Local Heritage Rebate Program and Local Heritage Awards was undertaken to promote engagement and interest in the history and heritage of the area. The engagement also sought to support Council's post-COVID 19 efforts to re-invigorate and re-engage with the community.

Letters were mailed out to over 740 owners of heritage properties and owners of properties within conservation precincts within Cumberland City, inviting applications to the Rebate Program in conjunction with the Awards. Notices were also placed on Council's website and social media, while application forms and related materials for both the rebate program and the awards were made available at the Auburn and Merrylands Service Centres, and at the Auburn, Granville, Greystanes, Guildford, Lidcombe, Merrylands, Regents Park and Wentworthville Council libraries.

Subject to Council's resolution on the successful applications recommended by the Committee and outlined in this report, Council will write to each property owner (applicant) advising them of the outcome of their rebate application and providing

details of the conditions imposed and the process for completing the works and seeking the rebate payment. Winners and highly commended prize recipients will be invited to an Awards Presentation Ceremony to be held on 29 July 2021.

POLICY IMPLICATIONS

There are no policy implications for Council associated with this report.

RISK IMPLICATIONS

There are minimal risk implications for Council associated with this report since the Awards and Rebate Program are existing Council commitments and included in current work programs.

FINANCIAL IMPLICATIONS

Funding for the Cumberland Local Heritage Awards and Cumberland Local Heritage Rebate Program are provided for in Council's 2021/22 budget.

CONCLUSION

The Cumberland Heritage Committee met on 25 May 2021. The recommendations of the Committee are detailed in the attached minutes and in this report. The recommendations in this report to Council are in accordance with the recommendations of the Committee.

ATTACHMENTS

1. Heritage Committee Meeting 25 May 2021 [↓](#)
2. Cumberland Local Heritage Rebate Program Evaluation Record - Committee Considerations (confidential)

DOCUMENTS
ASSOCIATED WITH
REPORT C07/21-801

Attachment 1
Heritage Committee Meeting 25
May 2021



Draft MINUTES

Meeting of Cumberland Heritage Committee

Date of Meeting: 25 May 2021	Attendance: Heritage Committee Community Members: D. Warwick, K. Stanton, C. Peralta, G. Skelly
Time: 18:00	Councillors: Clr. Garrard Clr. Lake
Location: Committee Rooms 1 & 2, Merrylands Service Centre 16 Memorial Avenue, Merrylands, 2160	Council Staff D. Cavallo, S. Porter, N. Mwaniki, J van Veghel
Chairperson: Councillor Garrard	Heritage Advisors: C Roehrig, N. Manley
Minutes: N. Mwaniki	

1. Introduction, attendance, and apologies; conflict of interest declarations

- Committee members were formally welcomed to the 2nd Heritage Committee meeting of 2021 and no conflicts of interest were declared.

2. Confirmation of minutes of meeting held on 23 February 2021

- The minutes of 23 February 2021 meeting were confirmed and accepted by the Committee. It was also agreed that in future, the minutes would be sent to the Committee for review prior to being reported to Council for its consideration.

3. Cumberland Local Heritage Rebate Program – Review of Applications and Selection of Recipients

- The *Cumberland Local Heritage Rebate Program 2021* received nine applications following the close of the advertisement period. The applications were for rebates for small works to heritage listed items or properties within a conservation precinct, within the Cumberland Local Government Area (LGA). The cumulative amount of rebate funding sought was \$25,528.
- The Committee discussed the entries taking into consideration the Heritage Advisor's expert advice in their evaluation. As part of the discussion, clarification was sought about the \$50,000 *per annum* budget for the overall Awards Program and what happens if the funds are not expended as part of the awards. Council staff advised that the money cannot be rolled over to following years and, in the



event, it is not expended, the money would be returned to capital. The Committee also noted that the overall budget was limited in comparison to Cumberland City's size.

- In terms of specific matters relating to the evaluation process, the Committee noted that the application for Nos 32 and 34 Jamieson Road, Granville was lodged without quotes as stipulated and that the works had already been undertaken. It was agreed that documentation for the repair of the fences be requested and that subject to meeting requirements, the application be supported.
- It was also noted that the amount of \$9,500 applied for works to 1A Taylor St, Lidcombe exceeded the maximum rebate allowable and that this would need to be reduced to the allowable maximum amount of \$4,000.
- The Committee agreed that all nine rebate applications be supported for funding, subject to the program's requirements and support provided by Council..

Action: Recommendations for the Cumberland Local Heritage Rebate Program to be provided to Council for endorsement.

4. Cumberland Local Heritage Awards – Review of Entrants and Selection of Winners

- The *Cumberland Local Heritage Awards 2021* consisted of four categories. Submissions were received for three of these categories as follows:
 - *Category 1: Best Maintained Heritage Property* : 1 entry
 - *Category 2: Restoration & Development (including adaptive Re-use)*: 0 entry
 - *Category 3 – HistoResearch: researching our local history - (Junior Division)*: 0 entry; Open Division: 2 entries
 - *Category 4: Keeper of the Stone (Children's Heritage Award)* Division 1: 6 shortlisted entries, Division 2: 10 shortlisted entries. (Overall 140+ entries)
- Following discussions and evaluation by the Committee members, recommendations for each of the categories are as follows:

Category 1: Best Maintained Heritage Property:

[REDACTED]

Category 3: HistoResearch: researching our local history – Open Division
1st Prize –

[REDACTED]

Runner up Prize –

[REDACTED]



Category 4: Keeper of the Stone (Children's Heritage Award)
Division 1: 1st Prize: [REDACTED]
Runner up Prize: [REDACTED]

Division 2: 1st Prize: [REDACTED]
Runner up Prize: [REDACTED]

Overall winner and Keeper of the Stone: [REDACTED]

- In awarding prizes, the Committee also recommended to award runner up prizes in the Category 3 and 4 divisions on the basis of both merit and availability of funding. It was noted that in previous years runner up prizes had not been awarded due to budgetary constraints as well as the program's structure.
- The Committee agreed that these recommendations be provided to Council for endorsement, in accordance with the guidelines for the Awards.

Action: Recommendations for the Cumberland Local Heritage Awards to be provided to Council for endorsement.

5. Lower Prospect Canal

- The report on the Lower Prospect Canal was discussed by the Committee. This related to a request made to Cumberland City Council seeking support for the nomination of the Lower Prospect Reserve Canal for national heritage listing. The Canal is listed under the Holroyd LEP 2013 and is also included in the New South Wales Heritage Register.
- Following discussion, the Committee agreed that the matter be deferred to allow further time for review of material including a technical report prepared by Heritage Consultants relating to the matter. It was also agreed that arrangements be made for the Canal Reserve Action Group and GML Heritage Consultants to brief the Committee at the next meeting.

Action: Council staff to invite GML Heritage Consultants and the Canal Reserve Action Group to brief the Committee at the next meeting.

6. Recent Development Applications with Heritage Considerations

- The process for conveying development applications with implications for heritage to Committee members was discussed. The process was initiated following the last meeting where members indicated they do not get to know when relevant applications are lodged.
- The Committee noted that this process poses a conflict of interest for Elected members (Councillors) regarding their involvement in development applications. As already in place, community members of the Committee would be advised when a relevant application has been lodged with access to information available



for the general public.would be continued as a courtesy and that As already in place, community members would be able to provide comments on the applications in their capacity as residents. .

7. Update on Action Items from meeting of 23 February 2021

Linnwood House

Committee members (Friends of Linwood) indicated they have not been able to obtain an update on progress of repair works for the House and other relevant matters pertaining to the House. Council staff undertook to provide the members with a direct contact person who can provide them with updates.

Action: Council staff to provide contact person for repair works at Linnwood House

8. Any other business

Stage 2 Heritage Study – Early consultation

- The Committee was updated on the early consultation process for Stage 2 Heritage Items and Conservation Areas. Early consultation is scheduled for June 2021 and includes over 60 proposed items, 4 proposed conservation areas and 1 proposed extension of an existing conservation area. These were identified as part of the Stage 2 Heritage Study.
- It was agreed that a link to the website would be sent to the Committee members and that all Councillors would be briefed about the engagement process. It was also noted that the advice provided to the community would need to be of sufficient detail, include a good communication strategy and convey the benefits of heritage for property owners.

Council staff confirmed a proactive approach would be taken, **with an update on the outcomes of the early consultation to be reported later in the year.**

9. Date of the next meeting

- The Committee was advised the date of the next meeting was scheduled for the second half of July and would be held after the Awards Ceremony.

Close of meeting and thanks

- Meeting closed at 19:30.

Item No: C07/21-802

QUESTIONS ON NOTICE - SUBMITTED BY COUNCILLOR CAMPBELL

Responsible Division: General Manager
File Number: SC483

QUESTION/S:

What is the outcome of the ICAC investigation into the Internal Audit into Councillor Expenses flowing from the meeting of 3rd February?

ANSWER/S:

The Acting General Manager will not provide public comment on a matter subject to investigation through an external oversight agency.

ATTACHMENTS

Nil