



**Planning Proposal**  
**PP\_2017\_CBANK\_002**

**No. 479 Henry Lawson**  
**Drive in Milperra**





## **Part 1–Intended Outcomes**

This planning proposal applies to the site at No. 479 Henry Lawson Drive in Milperra (Lot 2, DP 576251) as shown in Part 4 (Map 1).

The intended outcomes of this planning proposal are:

- To allow ‘garden centres’ as an additional permitted use on the site.
- To manage the likely environmental effects as a result of the proposal.



## **Part 2–Explanation of Provisions**

To achieve the intended outcomes, it is proposed to amend Bankstown Local Environmental Plan 2015 by:

- Allowing ‘garden centres’ as an additional permitted use on the site as shown in Part 4 (Map 2).
- Applying a maximum 0.4:1 floor space ratio to the site as shown in Part 4 (Map 3).



## **Part 3–Justification**

### **Section A–Need for the planning proposal**

#### **1. Is the planning proposal a result of any strategic study or report?**

The proposal is not the result of any strategic study or report prepared by the Department of Planning & Environment, Greater Sydney Commission or Council.

However, the proposal reflects a decision by the Sydney West Regional Planning Panel. In December 2013, the Panel approved a retail plant nursery and associated retail uses on the site. The Panel considered *‘the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City’*.

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

The site is within Zone RE1 Public Recreation and is reserved for open space purposes. Whilst an objective of the zone is to provide a range of recreational settings and activities and compatible land uses, the site is currently under private ownership and is not used for public recreation purposes.

At present, there are limited opportunities for the site. Given that Council’s local strategies do not prioritise the acquisition of the site for open space purposes, the proposal is the best means of achieving the intended outcome for the following reasons:

- According to the application, the site does not benefit from the ‘existing use’ provisions under the Environmental Planning & Assessment Act 1979 as the use has not commenced operation.
- Council’s local strategies do not support a rezoning of the site due to the environmental constraints that restrict development on the site.
- Council is in the process of preparing a Local Area Plan for the Bankstown Airport–Milperra Specialised Centre, which includes the site. The timing to complete the Local Area Plan is medium term.



In light of the above, the Sydney West Regional Planning Panel's approval of the retail plant nursery and associated retail uses (DA 840/2010) in December 2013 considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'*. The proposal reflects the decision by the Sydney West Regional Planning Panel.

It is noted the proposal must apply the definitions under the Standard Instrument Principal Local Environmental Plan. The definition of 'garden centres' is considered to best reflect the Panel's decision as follows:

Approval of the retail plant nursery and associated retail uses (DA 840/2010)	Definition of garden centre under Bankstown LEP 2015
Retail plant nursery, administration office and cafe.	<p><b>Garden centre</b> means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may, if ancillary to the principal purpose for which the building or place is used, include a restaurant or cafe and the sale of any the following:</p> <ul style="list-style-type: none"><li>(a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,</li><li>(b) pets and pet supplies,</li><li>(c) fresh produce.</li></ul>



## **Section B–Relationship to strategic planning framework**

### **3. Is the planning proposal consistent with the objectives and actions of the applicable regional, subregional or district plan or strategy (including any exhibited draft plans or strategies)?**

#### **3.1 Metropolitan Plan ‘A Plan for Growing Sydney’**

This planning proposal is consistent with the Metropolitan Plan, ‘*A Plan for Growing Sydney*’, namely:

##### **Goal 1: A competitive economy with world class services and transport.**

The site forms part of the Bankstown Airport–Milperra Strategic (Transport Gateway) Centre.

The intended outcome of Goal 1 is to grow economic activity in Sydney and provide more jobs closer to home. Action 1.7.3 will require the Greater Sydney Commission to develop a job target for the Strategic (Transport Gateway) Centre, taking into consideration the specialised economic roles and requirements of this precinct.

Whilst Council’s local strategies do not support a rezoning of the site for employment purposes (due to the environmental constraints that restrict development on the site), the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered ‘*the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City*’. The proposal reflects the decision by the Sydney West Regional Planning Panel.

##### **Goal 3: A great place to live with communities that are strong, healthy and well connected, and Goal 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.**

The site forms part of the green grid. The intended outcomes of Goals 3 and 4 are to deliver the green grid and investigate options for a bushland renewal program.

In relation to the green grid, the proposal retains the public recreation zone to build upon the established open space network. The Department of Planning & Environment will provide open space guidelines to resource Council to develop recreational and open space policies to meet local community needs and inform the preparation of local level plans and policies that are consistent with the Sydney Green Grid.



In relation to bushland, the proposal includes a Vegetation Management Plan to manage the creek and endangered ecological communities on the adjoining lot (Lot 3 DP 576251), namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands. The Vegetation Management Plan also proposes to replace the weed vegetation on the adjoining lot (Lot 3 DP 576251) with species characteristic of the Swamp Oak Floodplain Forest.

It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.

### **3.2 Greater Sydney Region Plan**

This planning proposal is consistent with the Greater Sydney Region Plan, namely:

Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced.

According to this objective, development should protect biodiversity and enhance urban bushland and remnant vegetation. To address this objective:

- The proposal is confined to the site.
- The proposal includes a Flora and Fauna Assessment. The 7 part test indicates a 'not significant' conclusion with respect to the potential impact upon threatened species, communities and populations on the adjoining lot (Lot 3, DP 576251).
- The proposal includes a Vegetation Management Plan to manage the creek and endangered ecological communities on the adjoining lot (Lot 3, DP 576251), namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands. The Vegetation Management Plan also proposes to replace the weed vegetation on the adjoining lot (Lot 3, DP 576251) with species characteristic of the Swamp Oak Floodplain Forest.

It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.



Objective 31: Public open space is accessible, protected and enhanced.

According to this objective, urban renewal should maximise the use of existing open space to respond to community needs as populations grow.

At present, the site is reserved for open space purposes. In relation to Council's Open Space Strategic Plan, the Strategic Plan does not contain an action that supports garden centres on land intended to be acquired for open space purposes. The Strategic Plan also does not prioritise the acquisition of this site.

In terms of next steps, Council is in the process of preparing a Local Area Plan for the Bankstown Airport–Milperra Specialised Centre, which includes the site. The Local Area Plan will implement the Open Space Strategic Plan and will contain actions to inform the supply and function of open space within the Specialised Centre. The timing to complete the Local Area Plan is medium term.

In light of the above, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'*. The proposal reflects the decision by the Sydney West Regional Planning Panel.

Objective 37: Exposure to natural and urban hazards is reduced.

According to this objective, effective land use planning should manage growth in existing neighbourhoods that are exposed to existing and potential natural hazards.

To address this objective, the proposal considers the relevant guidelines in relation to bushfire hazards and contaminated land.

In relation to flood hazards, the proposal includes a Flood Impact Assessment. The assessment indicates the development of the site is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 considered *'the proposal adequately addresses stormwater drainage and flooding issues'*.





### 3.3 South District Plan

This planning proposal is consistent with the South District Plan, namely:

Planning Priority S13: Protecting and improving the health and enjoyment of the District's waterways.

According to this planning priority, urban renewal should manage the cumulative impact of development to improve the health of catchments and waterways.

To address this planning priority, additional information is required to assess the impacts of the proposal, namely:

- The likely effect of the proposal on adjacent or downstream land (as required by REP No. 2–Georges River Catchment).
- The cumulative impact of the proposal on the Georges River or its tributaries (as required by REP No. 2–Georges River Catchment).
- The quantity and quality of surface and ground water flows to the adjacent coastal wetland (as required by Draft SEPP (Coastal Management) 2016).

Planning Priority S14: Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes and better managing rural areas.

According to this planning priority, the protection of bushland in urban areas will help to conserve the District's biodiversity. To address this planning priority:

- The proposal is confined to the site.
- The proposal includes a Flora and Fauna Assessment. The 7 part test indicates a 'not significant' conclusion with respect to the potential impact upon threatened species, communities and populations on the adjoining lot (Lot 3, DP 576251).
- The proposal includes a Vegetation Management Plan to manage the creek and endangered ecological communities on the adjoining lot (Lot 3, DP 576251), namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands. The Vegetation Management Plan also proposes to replace the weed vegetation on the adjoining lot (Lot 3, DP 576251) with species characteristic of the Swamp Oak Floodplain Forest.



It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.

Planning Priority S16: Delivering high quality open space.

According to this planning priority, urban renewal should maximise the use of existing open space to respond to community needs as populations grow.

At present, the site is reserved for open space purposes. In relation to Council's Open Space Strategic Plan, the Strategic Plan does not contain an action that supports garden centres on land intended to be acquired for open space purposes. The Strategic Plan also does not prioritise the acquisition of this site.

In terms of next steps, Council is in the process of preparing a Local Area Plan for the Bankstown Airport–Milperra Specialised Centre, which includes the site. The Local Area Plan will implement the Open Space Strategic Plan and will contain actions to inform the supply and function of open space within the Specialised Centre. The timing to complete the Local Area Plan is medium term.

In light of the above, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'*. The proposal reflects the decision by the Sydney West Regional Planning Panel.

Planning Priority S18: Adapting to the impacts of urban and natural hazards and climate change.

According to this planning priority, planning for future growth should avoid locating development in areas exposed to natural hazards. To address this objective, the proposal considers the relevant guidelines in relation to bushfire hazards and contaminated land.

In relation to flood hazards, the proposal includes a Flood Impact Assessment. The assessment indicates the development of the site is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 considered *'the proposal adequately addresses stormwater drainage and flooding issues'*.



#### **4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?**

##### **4.1 Bankstown Community Plan 2023 (former City of Bankstown)**

The vision of the Bankstown Community Plan 2023 is to have 'a thriving centre of Greater Sydney. We enjoy the services and facilities of a prosperous, growing city with lively neighbourhoods and a proud history. Our diverse population live and work together in harmony. Bankstown is a modern, active community with quality transport infrastructure, clean waterways, pristine bushland and great community spaces and parks'.

Term Achievement 1 will achieve this vision by having integrated plans for local areas that recognise each location's unique characteristics and heritage that guides the future development of our city. At present, Council is in the process of preparing a Local Area Plan for the Bankstown Airport–Milperra Specialised Centre, which includes the site. The timing to complete the Local Area Plan is medium term.

In light of the above, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'*. The proposal reflects the decision by the Sydney West Regional Planning Panel.



## 4.2 Bankstown Open Space Strategic Plan

This planning proposal is inconsistent with the Open Space Strategic Plan, which Council adopted at the Ordinary Meeting of 25 February 2014.

The purpose of the Strategic Plan is to provide a framework for protecting, enhancing and managing open space in the former City of Bankstown.

At present, the site is reserved for open space purposes. The Strategic Plan does not contain an action that supports garden centres on land intended to be acquired for open space purposes. The Strategic Plan also does not prioritise the acquisition of this site.

In terms of next steps, Council is in the process of preparing a Local Area Plan for the Bankstown Airport–Milperra Specialised Centre, which includes the site. The Local Area Plan will implement the Open Space Strategic Plan and will contain actions to inform the supply and function of open space within the Specialised Centre. The timing to complete the Local Area Plan is medium term.

In light of the above, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered *‘the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City’*. The proposal reflects the decision by the Sydney West Regional Planning Panel.



## **5. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

This planning proposal is consistent with applicable State Environmental Planning Policies as shown in Attachment A, namely:

- **State Environment Planning Policy No. 19–Bushland in Urban Areas**

The SEPP aims to protect and preserve bushland in urban areas. The site known as No. 479 Henry Lawson Drive in Milperra comprises two lots: Lot 2, DP 576251 and Lot 3, DP 576251. The proposal identifies a creek, endangered ecological communities and remnant native vegetation on Lot 3.

To address this SEPP, the proposal is confined to Lot 2, and includes a Vegetation Management Plan to manage the creek and endangered ecological communities on Lot 3 (namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands). The Vegetation Management Plan also proposes to replace the weed vegetation on Lot 3 with species characteristic of the Swamp Oak Floodplain Forest.

It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.

- **State Environment Planning Policy No. 55–Remediation of Land**

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

According to the application, the site is a former landfill used for the disposal of dry industrial and trade waste, although some putrescible waste appears to have also been disposed. The former landfill was operational from the 1960s to 1973.

To address this SEPP, the proposal makes reference to the findings of the following contaminated land investigations:

### October 2013

The proposal for a retail plant nursery and associated retail uses on the site (DA 840/2010) included a Site Audit Statement (prepared by an Accredited Site Auditor, dated October 2013). According to the Site Audit Statement:



*The Auditor notes that the remediation strategy involves capping landfill waste, passive gas venting and management of leachate via aeration and further assessment of the attenuation capacity of the aquifer.*

*A number of contingency actions are nominated. A validation report is proposed to be completed after the remedial works have been completed. An ongoing EMP (including maintenance and monitoring of the efficacy of the remedial systems) will be required to be prepared and implemented at the completion of remedial works.*

*The RAP concludes that ‘the preferred remedial option will allow the proposed commercial land use of the site’. Based on the information presented in the Geologix and EES reports and observations made on site, and following the Decision Process for Assessing Urban Redevelopment Sites in DEC (2006) Guidelines for the NSW Site Auditor Scheme, the Auditor concludes that the site can be made suitable for the purposes of the proposed development as a retail plant nursery and associated retail uses if the site is remediated in accordance with the following remedial action plan:*

- *Remediation Action Plan, 479 Henry Lawson Drive, Milperra, dated 15 October 2013 by EES.*

*Subject to compliance with the following conditions:*

- *Preparation of a remedial works plan that documents the detailed design in consideration of the hydrogeology, flow directions and potential acid sulfate soil and outcomes of further investigations of receptors and extent of migration of contaminated groundwater to the west and east. This would also need to include a Groundwater Management Plan that details the proposed verification works.*
- *Preparation of and adherence to a specific and appropriate long term environmental management plan at the completion of the remedial works.*
- *Preparation of a Site Audit Statement certifying suitability for the proposed use, at the completion of remediation and validation.*

#### December 2013

The Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010). The Panel considered the remediation of the land as a consequence of the proposed use would be in the public interest.



### March 2017

The Accredited Site Auditor issued an Interim Audit Advice (dated 3 March 2017), which reviewed the *Remediation Action Plan, 479 Henry Lawson Drive, Milperra, dated 13 December 2016 by EES.*

The revised RAP supersedes the RAP that was the subject of a Site Audit Statement (prepared by the Accredited Site Auditor, dated October 2013). According to the Interim Audit Advice:

*The Remediation Action Plan outlines a process to be followed to ensure the site can be made suitable for use as a retail plant nursery and associated retail through capping of landfill waste and passive gas venting. A Groundwater Management Plan (GMP) outlines additional groundwater and surface monitoring and assessment to confirm that attenuation of contaminants is occurring due to natural attenuation in groundwater and due to proposed conversion of the drainage line (Golf Course Creek) at the site to a wetland. A number of contingency actions are nominated. A validation report is proposed to be completed after the remedial works have been completed. An ongoing Environmental Management Plan (EMP), including maintenance and monitoring of the efficacy of the remedial systems, will be required to be prepared and implemented at the completion of remedial works. The Auditor shall require review of any revisions of the GMP, ongoing EMP and validation documentation.*

The intended outcome, at the completion of the remediation and validation, is for the Accredited Site Auditor to issue a Site Audit Statement that confirms the site is suitable for the proposed uses subject to the implementation of an ongoing long term Environmental Management Plan and Groundwater Management Plan.

### April 2017

In a letter dated 13 April 2017, the Accredited Site Auditor confirmed the conclusions of the Interim Audit Advice (dated 3 March 2017) remain applicable where the site is used as a garden centre, and where the building design is consistent with the proposal contemplated in the Remediation Action Plan for the site.

### Summary

Having regard to the above information, it is considered that Council can remain satisfied the land will be remediated in accordance with clause 6(1)(c) of the SEPP before it is used for the purposes of a garden centre. In addition, it is proposed to apply a maximum 0.4:1 FSR to the site. The intended outcome is to ensure the building design is consistent with the Remediation Action Plan for the site (as recommended by the Accredited Site Auditor's letter dated 13 April 2017).





However, this planning proposal is inconsistent with the following State Environmental Planning Policies:

- **State Environment Planning Policy (Infrastructure) 2007**

The SEPP aims to identify matters to be considered in the assessment of development adjacent to particular types of infrastructure development. The site adjoins Henry Lawson Drive, which is a classified road.

To address this SEPP, the proposal includes a Traffic and Parking Assessment. According to the assessment, the proposal will not generally compound with the existing traffic circumstances in the area provided the building design is consistent with the proposal contemplated in the Traffic and Parking Assessment.

Having regard to the above information, it is considered the following is required to address this SEPP:

- Consultation with the Roads & Maritime Services.
- The application of a maximum 0.4:1 FSR to the site. The intended outcome is to ensure the building design addresses the cumulative impact of development on the capacity of the road network, namely Henry Lawson Drive (in accordance with Bankstown LEP 2015, clauses 1.2 and 4.4).

- **Greater Metropolitan Regional Environmental Plan No 2–Georges River Catchment**

The REP (Deemed SEPP) aims to protect and enhance the environmental quality of the catchment for the benefit of all users through the management and use of the resources in the catchment in an ecologically sustainable manner.

To address this REP, additional information is required to address the planning principles in relation to flooding, namely:

- The likely effect of the proposal on adjacent or downstream land.
- The cumulative impact of the proposal on the Georges River or its tributaries.





- **Draft State Environmental Planning Policy (Coastal Management) 2016**

The Draft SEPP aims to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objectives of the Coastal Management Act 2016.

The site known as No. 479 Henry Lawson Drive in Milperra comprises two lots: Lot 2, DP 576251 and Lot 3, DP 576251. The Draft SEPP identifies coastal wetlands on Lot 3 and the neighbouring golf course site. Lot 2 is located within a proximity area to the coastal wetlands.

According to the Draft SEPP, development consent must not be granted unless Council is satisfied the proposal will not significantly impact on:

- the biophysical, hydrological or ecological integrity of the adjacent coastal; or
- the quantity and quality of surface and ground water flows to the adjacent coastal wetland.

Additional information is required to address the quantity and quality of surface and ground water flows to the adjacent coastal wetland.



## 6. Is the planning proposal consistent with applicable Ministerial Directions?

This planning proposal is consistent with applicable Ministerial Directions (as shown in Attachment B), namely:

- **Direction 2.1–Environmental Protection Zones:** The objective of this direction is to protect and conserve environmentally sensitive areas.

The site known as No. 479 Henry Lawson Drive in Milperra comprises two lots: Lot 2, DP 576251 and Lot 3, DP 576251. The proposal identifies a creek, endangered ecological communities and remnant native vegetation on Lot 3.

To address this direction, the proposal is confined to Lot 2, and includes a Vegetation Management Plan to manage the creek and endangered ecological communities on Lot 3 (namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands). The Vegetation Management Plan also proposes to replace the weed vegetation on Lot 3 with species characteristic of the Swamp Oak Floodplain Forest.

It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.

- **Direction 3.5–Development near Licensed Aerodromes:** The objective of this direction is to ensure the effective and safe operation of Bankstown Airport, and to ensure the operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity.

The proposal follows the approval of a retail plant nursery on the site (DA 840/2010) by the Sydney West Joint Regional Planning Panel. The retail plant nursery is currently under construction. In this regard, the proposal is limited to seeking an additional permitted use on the site.

The proposal is therefore considered to be consistent with this direction as the proposed additional permitted use is compatible with the safe operation of Bankstown Airport.



- **Direction 4.1–Acid Sulfate Soils:** The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

The site is subject to acid sulfate soils (classes 3 and 5). To address this direction, the proposal includes an Acid Sulfate Soils Assessment. The assessment did not identify acid sulfate soils within the top 2 metres of natural soil on the site. In future, should a proposal seek to excavate the site, the development application process would consider this issue.

- **Direction 6.2–Reserving Land for Public Purposes:** The objective of this direction is to facilitate the provision of public services and facilities by reserving land for public purposes.

The site is within Zone RE1 Public Recreation and is reserved for open space purposes. Whilst an objective of the zone is to provide a range of recreational settings and activities and compatible land uses, the site is currently under private ownership and is not used for public recreation purposes. Council's local strategies do not prioritise the acquisition of the site for open space purposes.

According to clause 4 of this direction, a planning proposal may alter an existing reservation of land for public purposes with the approval of the relevant public authority. In this case, the relevant public authority is Council.

- **Direction 7.1–Implementation of *A Plan for Growing Sydney*:** The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in the Metropolitan Plan, '*A Plan for Growing Sydney*'.

The proposal is consistent with this direction (see Section B(3) of this planning proposal for details).

However, this planning proposal is likely to be inconsistent with certain Ministerial Directions, namely:

- **Direction 4.3–Flood Prone Land:** The objective of this direction is to ensure the provisions of a 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 site is affected by the high riverine flood risk precinct and the high and medium stormwater flood risk precincts.



To address this direction, the proposal includes a Flood Impact Assessment. The assessment indicates the development of the site is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. However, additional information is required to assess the potential flood impacts both on and off the site, namely:

- The likely effect of the proposal on adjacent or downstream land.
- The cumulative impact of the proposal on the Georges River or its tributaries.
- **Direction 4.4–Planning for Bushfire Protection:** The objective of this direction is to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas.

The site is within a bushfire prone buffer. The adjoining lot (Lot 3 DP 576251) together with the neighbouring golf course site are bushfire prone land (Category 1). To address this direction, the proposal includes a Bushfire Protection Assessment. The assessment contains recommendations to address the Planning for Bushfire Protection Guidelines. However, consultation with the Rural Fire Service is required to address this direction.

- **Direction 6.3–Site Specific Provisions:** The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

The proposal is inconsistent with clause 4 of this direction as it introduces a site specific provision to allow a particular development to be carried out. This is in addition to the current provisions of Bankstown Local Environmental Plan 2015. The site specific provision is to include 'garden centres' as an additional permitted use.

However, in accordance with clause 6 of this direction, the inconsistency is considered to be of minor significance as the site specific provisions do not impose unnecessarily restrictive requirements, and do not contain or refer to drawings that show details of development proposals.



## **Section C–Environmental, social and economic impact**

### **7. 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?**

The site known as No. 479 Henry Lawson Drive in Milperra comprises two lots: Lot 2, DP 576251 and Lot 3, DP 576251. The proposal identifies a creek, endangered ecological communities and remnant native vegetation on Lot 3.

To ensure this planning proposal does not adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats:

- The proposal is confined to Lot 2.
- The proposal includes a Flora and Fauna Assessment. The 7 part test indicates a ‘not significant’ conclusion with respect to the potential impact upon threatened species, communities and populations on Lot 3.
- The proposal includes a Vegetation Management Plan to manage the creek and endangered ecological communities on Lot 3 (namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands). The Vegetation Management Plan also proposes to replace the weed vegetation on Lot 3 with species characteristic of the Swamp Oak Floodplain Forest.

It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.

### **8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

In relation to managing the environmental effects, there is a need to apply a maximum 0.4:1 FSR to the site. The reasons are:

- The maximum FSR ensures the building design is consistent with the Remediation Action Plan for the site (as recommended by the Accredited Site Auditor’s letter dated 13 April 2017).
- The maximum FSR ensures the building design addresses the cumulative impact of development on the capacity of the road network, namely Henry Lawson Drive (in accordance with Bankstown LEP 2015, clauses 1.2 and 4.4).



**9. Has the planning proposal adequately addressed any social and economic effects?**

In relation to social and economic effects, this planning proposal is consistent with the Greater Sydney Region Plan and the South District Plan (see Section B(3) of this planning proposal for details).

**Section D–State and Commonwealth interests**

**10. Is there adequate public infrastructure for the planning proposal?**

In relation to public infrastructure, the site adjoins Henry Lawson Drive, which is a classified road. As outlined in Section B(5) of this planning proposal, the proposal includes a Traffic and Parking Assessment. According to the assessment, the proposal will not generally compound with the existing traffic circumstances in the area provided the building design is consistent with the proposal contemplated in the Traffic and Parking Assessment.

Having regard to the above information, it is considered the following is required:

- Consultation with the Roads & Maritime Services.
- The application of a maximum 0.4:1 FSR to the site. The intended outcome is to ensure the building design addresses the cumulative impact of development on the capacity of the road network, namely Henry Lawson Drive (in accordance with Bankstown LEP 2015, clauses 1.2 and 4.4).

The Greater Sydney Region Plan, South District Plan, NSW Long Term Transport Master Plan and State Infrastructure Strategy do not identify any new infrastructure investment for Henry Lawson Drive.

**11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

An update to this section of the planning proposal will occur following consultation with the State and Commonwealth public authorities in accordance with the Gateway determination.



## **Part 4–Maps**

The maps which support this planning proposal are:

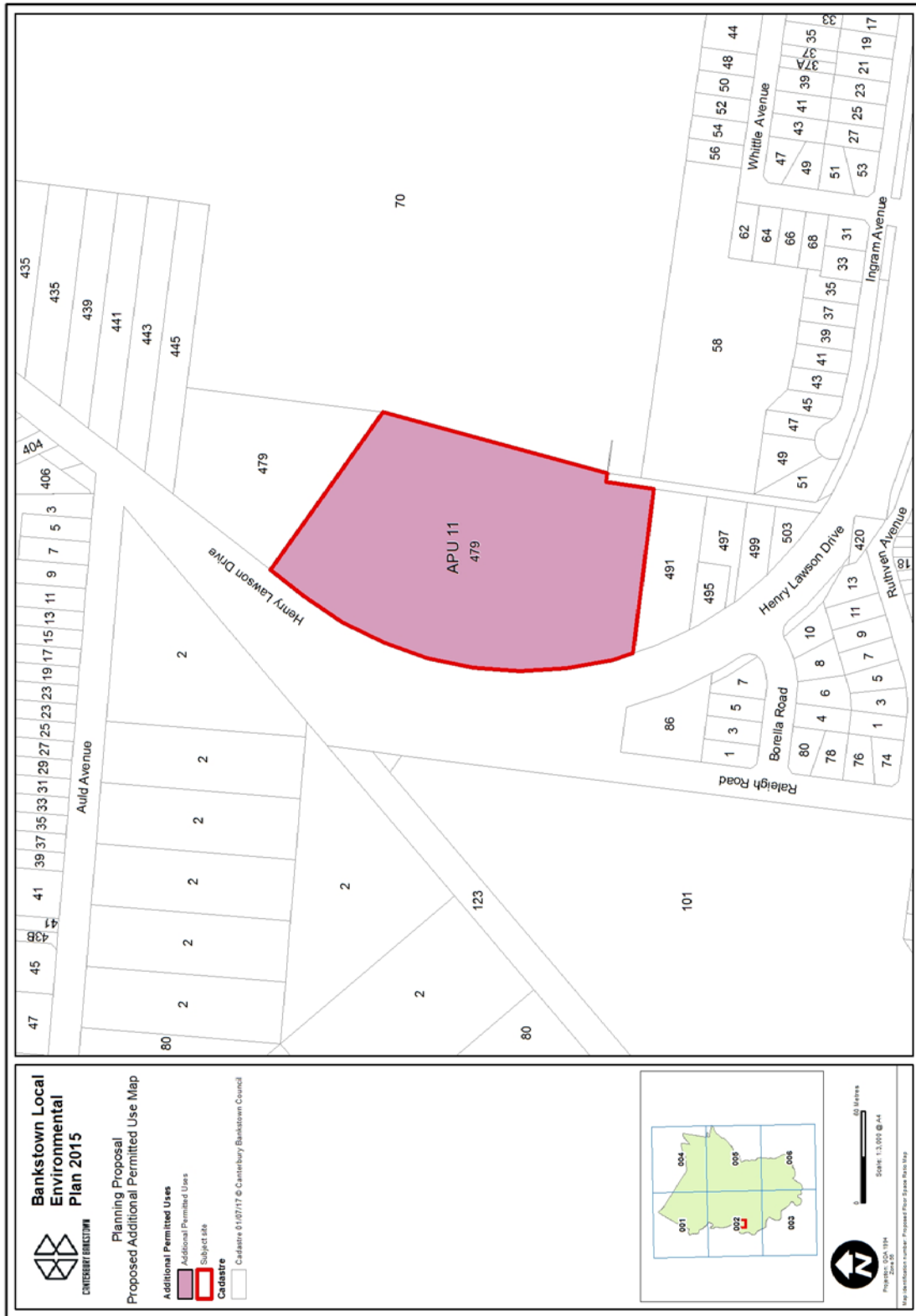
- Map 1–Land Application Map
- Map 2–Proposed Additional Permitted Uses Map
- Map 3–Proposed Floor Space Ratio Map
- Map 4–Current Land Zoning Map
- Map 5–Current Floor Space Ratio Map
- Map 6–Current Aerial Image



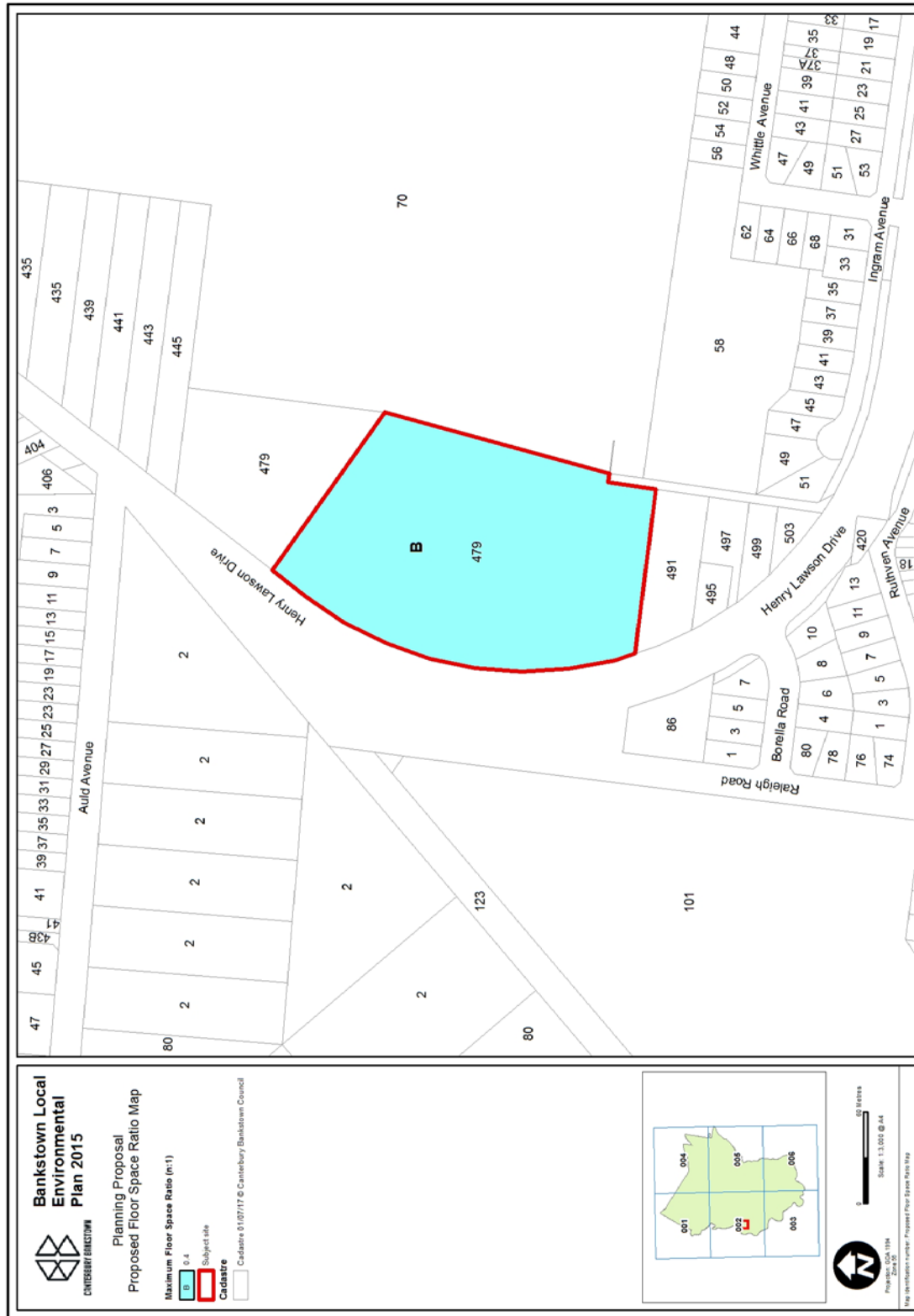




Map 2–Proposed Additional Permitted Uses Map

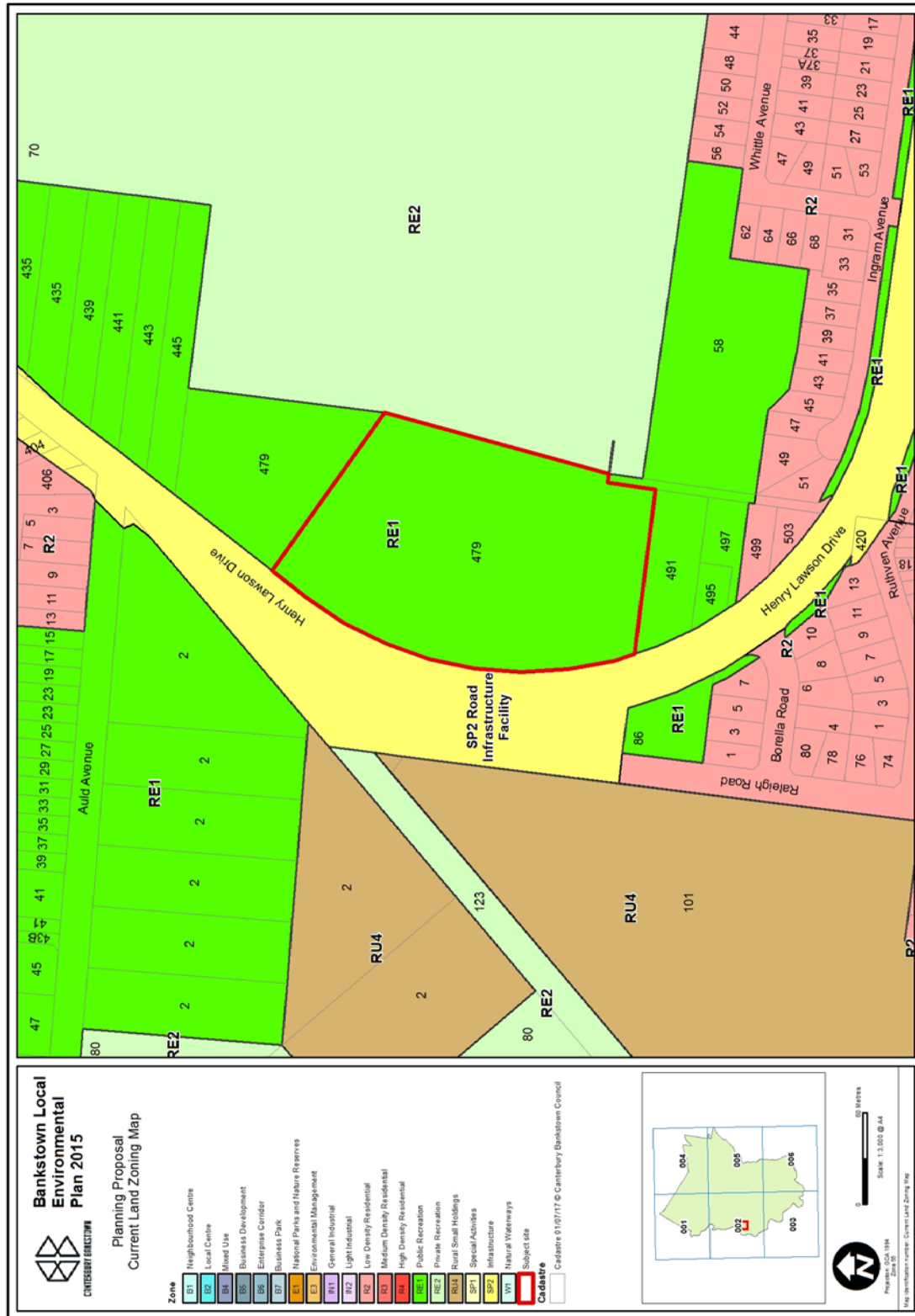


### Map 3—Proposed Floor Space Ratio Map



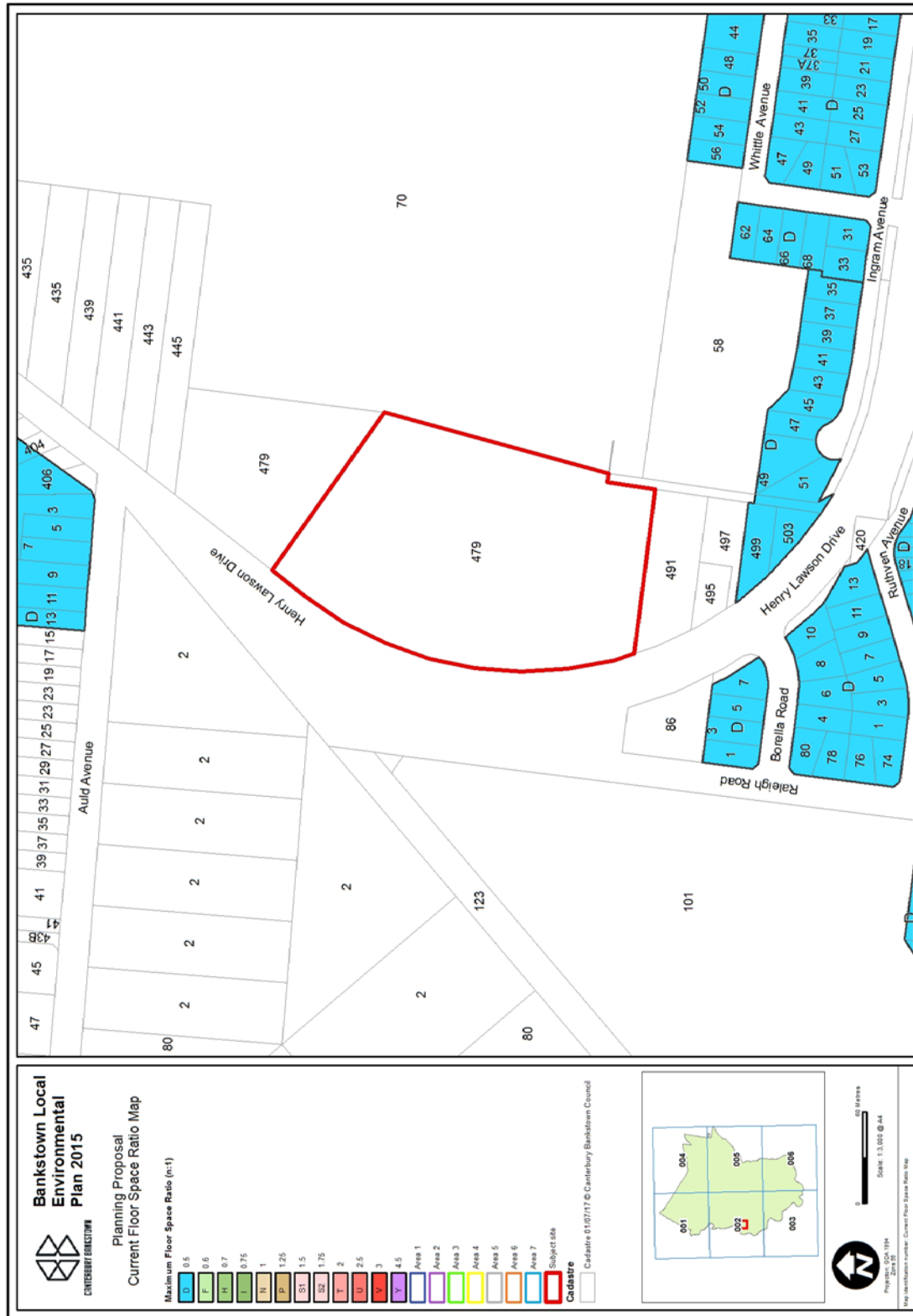


Map 4—Current Land Zoning Map





Map 5—Current Floor Space Ratio Map







Map 6—Current Aerial Image





## Part 5–Community Consultation

Although the Gateway determination will confirm the public consultation that must be undertaken, the exhibition period for this planning proposal is likely to take 28 days and would comprise:

- Notification in the local newspaper that circulates in the area affected by the planning proposal.
- Displays at the Council administration building (Bankstown Branch) and corporate website.
- Written notification to affected and adjoining property owners where practical.
- Written notification to relevant agencies including:
  - Transport for NSW
  - Roads & Maritime Services
  - Rural Fire Service
  - Environment Protection Authority
  - Office of Environment & Heritage
  - Sydney Water
  - Ausgrid
  - Bankstown Airport.

## Part 6–Project Timeline

Dates	Project timeline
November 2017	Issue of Gateway determination.
March 2018	Exhibit planning proposal.
May 2018	Report to Council following the exhibition.
June 2018	Submit Draft Local Environment Plan to the Parliamentary Counsel's Office to seek an Opinion.
August 2018	Submit Local Environment Plan to the Department of Planning & Environment for notification purposes.



## ATTACHMENT A–State Environmental Planning Policies

SEPPs (as at March 2018)		Applicable	Consistent
1	Development Standards	Yes	Yes
14	Coastal Wetlands	No	N/A
19	Bushland in Urban Areas	Yes	Yes
21	Caravan Parks	Yes	Yes
26	Littoral Rainforests	No	N/A
30	Intensive Agriculture	Yes	Yes
33	Hazardous & Offensive Development	Yes	Yes
36	Manufactured Home Estates	No	N/A
44	Koala Habitat Protection	No	N/A
47	Moore Park Showground	No	N/A
50	Canal Estate Development	Yes	Yes
52	Farm Dams & Other Works in Land & Water Management Plan Areas	No	N/A
55	Remediation of Land	Yes	Yes
62	Sustainable Aquaculture	Yes	Yes
64	Advertising & Signage	Yes	Yes
65	Design Quality of Residential Apartment Development	Yes	Yes
70	Affordable Housing (Revised Schemes)	No	N/A
71	Coastal Protection	No	N/A
	(Affordable Rental Housing) 2009	Yes	Yes
	(Building Sustainability Index: BASIX) 2004	Yes	Yes



	(Educational Establishments & Child Care Facilities) 2017	Yes	Yes
	(Exempt & Complying Development Codes) 2008	Yes	Yes
	(Housing for Seniors or People with a Disability) 2004	No	N/A
	(Infrastructure) 2007	Yes	No
	(Integration & Repeals) 2016	No	N/A
	(Kosciuszko National Park–Alpine Resorts) 2007	No	N/A
	(Kurnell Peninsula) 1989	No	N/A
	(Mining, Petroleum Production & Extractive Industries) 2007	Yes	Yes
	(Miscellaneous Consent Provisions) 2007	Yes	Yes
	(Penrith Lakes Scheme) 1989	No	N/A
	(Rural Lands) 2008	No	N/A
	(State & Regional Development) 2011	Yes	Yes
	(State Significant Precincts) 2005	Yes	Yes
	(Sydney Drinking Water Catchment) 2011	No	N/A
	(Sydney Region Growth Centres) 2006	No	N/A
	(Three Ports) 2013	No	N/A
	(Urban Renewal) 2010	No	N/A
	(Vegetation in Non–Rural Areas) 2017	Yes	Yes
	(Western Sydney Employment Area) 2009	No	N/A
	(Western Sydney Parklands) 2009	No	N/A
	Greater Metropolitan REP No.2–Georges River Catchment	Yes	No
	Sydney REP (Sydney Harbour Catchment) 2005	Yes	Yes
	Draft (Coastal Management) 2016	Yes	No





## ATTACHMENT B–Ministerial Directions

Direction & Issue Date		Applicable	Consistent
<b>Employment and Resources</b>			
1.1	Business and Industrial Zones [01/05/17]	No	N/A
1.2	Rural Zones [14/04/16]	No	N/A
1.3	Mining, Petroleum Production & Extractive Industries [01/07/09]	No	N/A
1.4	Oyster Aquaculture [01/07/09]	No	N/A
1.5	Rural Lands [01/07/09]	No	N/A
<b>Environment and Heritage</b>			
2.1	Environment Protection Zones [14/04/16]	Yes	Yes
2.2	Coastal Protection [14/04/16]	No	N/A
2.3	Heritage Conservation [01/07/09]	Yes	Yes
2.4	Recreation Vehicle Areas [14/04/16]	Yes	Yes
2.5	Application of E2 and E3 Zones & Environmental Overlays in Far North Coast LEPs [02/03/16]	No	N/A
<b>Housing, Infrastructure and Urban Development</b>			
3.1	Residential Zones [14/04/16]	No	N/A
3.2	Caravan Parks & Manufactured Home Estates [14/04/16]	Yes	Yes
3.3	Home Occupations [01/07/09]	Yes	Yes
3.4	Integrating Land Use & Transport [14/04/16]	Yes	Yes
3.5	Development Near Licensed Aerodromes [14/04/16]	Yes	Yes
3.6	Shooting Ranges [16/02/11]	No	N/A



Hazard and Risk			
4.1	Acid Sulfate Soils [01/07/09]	Yes	Yes
4.2	Mine Subsidence & Unstable Land [14/04/16]	No	N/A
4.3	Flood Prone Land [01/07/09]	Yes	No
4.4	Planning for Bushfire Protection [01/07/09]	Yes	No
Regional Planning			
5.1	Implementation of Regional Strategies [01/05/17]	No	N/A
5.2	Sydney Drinking Water Catchments [03/03/11]	No	N/A
5.3	Farmland of State & Regional Significance on the NSW Far North Coast [01/05/17]	No	N/A
5.4	Commercial & Retail Development along the Pacific Highway, North Coast [21/08/15]	No	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) [Revoked]	No	N/A
5.6	Sydney to Canberra Corridor [Revoked]	No	N/A
5.7	Central Coast [Revoked]	No	N/A
5.8	Second Sydney Airport: Badgerys Creek [14/04/16]	No	N/A
5.9	North West Rail Link Corridor Strategy [30/09/13]	No	N/A
5.10	Implementation of Regional Plans [14/04/16]	No	N/A
Local Plan Making			
6.1	Approval & Referral Requirements [01/07/09]	Yes	Yes
6.2	Reserving Land for Public Purposes [01/07/09]	Yes	Yes
6.3	Site Specific Provisions [01/07/09]	Yes	No



Metropolitan Planning			
7.1	Implementation of A Plan for Growing Sydney [14/01/15]	Yes	Yes
7.2	Implementation of Greater Macarthur Land Release Investigation [22/09/15]	No	N/A
7.3	Parramatta Road Corridor Urban Transformation Strategy [19/12/16]	No	N/A
7.4	Implementation of North West Priority Growth Area Land Use & Infrastructure Implementation Plan [15/05/17]	No	N/A
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use & Infrastructure Plan [25/07/17]	No	N/A
7.6	Implementation of Wilton Priority Growth Area Interim Land Use & Infrastructure Plan [25/07/17]	No	N/A
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor [22/12/17]	No	N/A