

18 March 2025

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Eden Estates (Newcastle) Pty Ltd
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Email: [REDACTED]

Dear [REDACTED]

STAGE 1 – PRE-LODGEEMENT - REQUEST TO AMEND THE NLEP 2012 FOR EDEN ESTATES AT 144 BOUNDARY ROAD WALLSEND

Thank you for attending City of Newcastle's (CN) scoping meeting on 26 February 2025 to discuss the proposal to amend Newcastle *Local Environmental Plan 2012* (NLEP 2012) for Eden Estates. This letter provides further details on the scoping proposal matters (Appendix 1). The meeting minutes in Attachment A should be considered with this letter.

This letter responds to the scoping proposal and preliminary studies submitted. It provides guidance to address the further information and updated scoping proposal requested to establish strategic and site-specific merit. Separate proposals for land in each local government area (LGA) are recommended. Key matters remaining unresolved include biodiversity impacts and mitigation, affordable housing, over development, scale of retail and commercial land, and buffers to Summerhill Waste Management Centre (SWMC).

CN is committed to working together to achieve suitable planning outcomes for the site. An additional meeting may be arranged to discuss an updated scoping proposal. This may be helpful to work through some of these key matters with technical staff to support the conversation.

Should you wish to discuss this further or have any questions, please contact Samantha Cross on 4974 2889 or scross@ncc.nsw.gov.au, or Peter Milles, Strategic Planner on 02 4974 2250 or pmilles@ncc.nsw.gov.au.

Yours faithfully

Samantha Cross
STRATEGIC PLANNING SECTION MANAGER

*Appendix 1 - Request for Information
Attachment A - Minutes - Stage 1 Prelodgement - 144 Boundary Road Wallsend
Attachment B - Eden Estates Hydrolines Comparison Imagery*

Appendix 1 - Request for information

Biodiversity

A significant proportion of the site is proposed for urban development and does not protect high value biodiversity land. CN's strategic commitments to address include:

Newcastle Environment Strategy 2023 - Protecting biodiversity corridors and areas of high environmental value from development, rehabilitating and restoring our environment, and designing a city that can coevolve with nature.

Newcastle Local Housing Strategy (LHS) 2020 - Conserving, protecting and managing significant habitats and areas of high biodiversity value (including riparian zones); expanding and improving the Blue and Green Grids.

Newcastle Development Control Plan 2023 - Objective to protect high environmental value land, including biodiversity corridors, riparian areas and wetlands. This includes CN's Green Corridor and Landscape Precincts Plan 2005.

The development is to avoid high environmental value (HEV) land, including effective corridors wider than 300m. Important local and regional corridors must be protected such as the Blackbutt Reserve to Mount Sugarloaf, and Watagans to Stockton.

Draft Local Strategic Planning Statement 2020 (update 2025) (draft LSPS 2025) - On 25 February 2025, Council endorsed public exhibition draft LSPS 2025. This includes showing land south of the Newcastle Link Road as 'Environmental and Open Space'.

Biodiversity Certification Assessment Report - The proposed development footprint in Appendix J: BCAR includes areas of HEV. Matters below are to be addressed:

- The Conservation Programs, Heritage and Regulation Group (CPHR) scoping response dated 14 March 2025.
- The Water Operations and Resilience scoping response dated 17 February 2025.
- The BCAR is to be updated reflecting Lake Macquarie City Council and CN's latest methodology for assessing biodiversity as raised by CPHR.
- Location of development areas where native vegetation and habitat is in the poorest condition while applying the avoid, minimise and offset hierarchy of CN's LEP Making Biodiversity Policy. This policy is to be addressed as part of a revised BCAR.
- Lower Hunter Spotted Gum – Ironbark Forest Endangered Ecological Communities is to have a 30m buffer.
- A net positive outcome should be sought. Retain very large native trees, stag trees and hollow bearing trees with a minimum 10m buffer where possible. Larger buffers may be required to account for tree, branch or stag falls. Where stag trees and hollow bearing trees can't be retained, appropriate areas for replacements are to be identified onsite such as biodiversity and riparian corridors with the same buffers. Felled large native trees should be reused on site where possible as replacement stags and/or hollows.
- The BCAR states Asset Protection Zones (APZs) are accounted for in the structure plan. Confirm that all fire trails and other bushfire protection measures are not included within biodiversity or riparian corridors or ecological buffer land proposed to be retained.
- Appendix F: Bushfire indicates combined APZs of over 70m plus the road reserve width are required in some locations where roads cut through retained vegetation. Provide clarification on how/if these can work with the proposed fauna crossings mentioned in the BCAR. Suitable vegetation between patches is required to enable fauna movement.
- APZs, fire trails and other bushfire protection measures are not to be on land to be dedicated to CN. The APZs for the E4 Productivity Support zone are not planned and may encroach on the important biodiversity and riparian corridor along Maryland Creek.
- Roads are not to be within ecological setbacks. The layout should minimise the need for road crossings through biodiversity and riparian corridors. Where crossings are

unavoidable, wildlife-friendly underpasses or crossings are to be designed. Elevated roads/bridges could be considered in some locations for fauna movement below roads.

- The proposed roads fragment retained habitat and vegetation. Not all fauna will utilise culverts (ie. arboreal species). Minimise wildlife and vehicle collisions.
- Barrier effects on different wildlife should be considered.
- Stormwater infrastructure including detention basins are not to be within biodiversity or riparian corridors or ecological buffers.
- The Lower Hunter Region is critically important for the Regent Honeyeater. The BCAR acknowledges the site represents potential foraging habitat requiring referral under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). As the site is near areas known for Regent Honeyeater sightings and recent bird release projects further assessment of foraging habitat protection is required.
- With recent updated Swift Parrot NSW Government mapping and species distribution mapped as likely to occur. A review of this mapping and habitat requirement is required.
- Figure 3 - Location Map should recognise the approved footprint of surrounding development and be part of the assessment of local impacts to species and if the current site will be a retreat area for habitat lost in surrounding approved development.
- The BCAR should map species located from bionet findings or from surveys.
- Clarify if Figure 6 - Habitat Features purple shaded area is equivalent to the purple hatched area that depicts caves and crevices.
- Table 19 - Direct Impact Assessment the first row Native vegetation relates to pre-development and development. However mitigation timing is post operation. This should focus on mitigating actions for works and is not CN's responsibility.
- Table 21 - Indirect Impact Assessment is not discussed in the report and further detail is required to assess impacts, particularly for light spill impacts post development.
- Table 26 has irregularities on how many *Rhodamnia rubescens* will be impacted; 4a notes 1 individual to be removed, 4b refers to 58 impacted out of 2772 identified, and Table 27 a) refers to avoidance of impact of 99.9% of the subpopulation, however b) refers to 1 being directly impacted by removal and 13 being indirectly impacted.
- Table 28 - Ecosystem Credit Requirements identifies 5028, however the information in 2.4.1 states 7166, please address these discrepancies.
- The BCAR is to address any identified EPBC Act implications.
- Clarity is needed for the biodiversity stewardship agreements if this includes all C2 zoned land dedicated to CN. CN would need to agree to be part of the management plan development process. Land dedication and the final decision is at CN's discretion.
- CN has assessed the BCAR however this is not a comprehensive assessment. CN is likely to need to further comment as part of a bio-certification referral under the *Biodiversity Conservation Act 2016*.

Please note, CN would like confirmation when the ecologist's data in the BCAR is provided to NSW Government for inclusion on BioNet and/or SEED.

Future use of dedicated C2 Environmental Conservation zone

Conservation land is to firstly be investigated for dedication to Council. The Appendix H: Environmental and Social Sustainability Strategy outlines managed walking tracks, this is inconsistent with the zone objectives and is not considered by the BCAR and requires removal.

Waterways and riparian buffer distances

The Hydrolines used are incomplete and those shown in the structure plan HydroLine is inconsistent with the Biodiversity Certification Assessment Report (BCAR) Figure 1 - Habitat Assessment pg. 240 (and not to the same extent). The scoping proposal report s.2.2.5 Topography and watercourses notes LiDAR mapping is available. Identify all flow paths north of the Link Road to determine appropriate buffer distances. CN's spatial data (**Attachment B**) indicates first and second order streams to identify on the structure plan.

Following ground-truthing, classify streams under *Appendix E (Ordering of waterways and riparian buffer distances)* of the *Biodiversity Assessment Method*.

Waste Services – Summerhill Waste Management Centre (SWMC)

Amenity impacts from SWMC on sensitive uses are a concern. These include visual, odour, landfill/ground gas, contamination, noise and traffic. Locating sensitive uses near SWMC may lead to increased community complaints, regulatory oversight and pressure to mitigate any impacts. NDCP 2023 includes buffer areas to manage these risks.

Appendix K: EPA Matters and Appendix D: Contamination suggest risks of subsurface gas are too low to preclude development. This statement does not consider future risks from additional waste placement over the next 50 or more years (life of SWMC).

Buffers and matters below are to be addressed:

- The EPA scoping response letter dated 24 February 2025.
- No residential areas within Lot 2 DP800035.
- No residential areas or sensitive non-residential land uses within at risk areas due to contamination and proximity to SWMC.
- A preliminary site investigation and detailed site investigation report prepared by a suitably qualified consultant that considers:
 - CN's Contaminated Land Policy dated July 2024 and Technical Manual Contaminated Land Management dated July 2024
 - The detailed site investigation report should not be limited to a 1000m buffer distance but is to address the whole area of land as it relates to potential contamination and the proposed land use changes. This is to be presented in one complete detailed investigation provided pre-Gateway. This is to address the following additional matters:
 - Any areas across the site that may require further investigation and possible remediation for the proposed land use
 - Dedication of assets to Council that may be contaminated
 - Any proposed areas that may require remediation through passive or active management
 - A remediation plan with recommendations of the appropriateness/feasibility of the remediation approach as it relates to proposed land uses. These are to focus on lesser ongoing maintenance requirements
 - CN environmental monitoring data for SWMC - <https://newcastle.nsw.gov.au/living/waste-and-recycling/summerhill-waste-management-centre/environmental-monitoring>
- Amelioration of noise impacts refer to NSW Road Noise Policy dated 1 March 2011, the NSW DOP Development Near Rail Corridors and Busy Roads - Interim Guideline and other relevant noise guidelines and standards.
- Air quality and odour information should consider and address impacts from the SWMC on sensitive land uses with potential impacts.
- Visual impacts on residential areas within 1km of SWMC. A landscape and visual impact assessment is required to consider views from homes to the SWMC and mitigation measures (eg. site-specific development controls). Note. Ultimate landfill operational height is up to 130m AHD under the *Summerhill Waste Management Centre Stage 2 Development Environmental Impact Statement*, August 2010 Revision O by GHD.

Proposed development footprint and dwelling targets

Development south of Newcastle Link Road - Development south of the Newcastle Link Road conflicts with the Hunter Regional Plan 2041 (HRP) and CN's policies, plans and strategies. It is not within *National Pinch Point regionally significant growth area*. It should be noted that the Department of Planning, Housing and Infrastructure (DPHI) as part of the

Urban Development Program's meeting of 4 March 2024, waived any requirement under the HRP for a place strategy to be prepared for Eden Estates.

The HRP's implied dwelling projections to 2041 include 17,850 dwellings, consistent with CN's LSPS and LHS forecasts. The HRP's Objective 5 plans for nimble neighbourhoods and diverse housing. The HRP intends for 80% infill and 20% greenfield development.

Appendix: I Highview Report recognises a capacity to achieve 20% across the LGA. However, the methodology underestimates the actual capacity of greenfield land, confirmed by the Urban Development Programs Housing Supply Pipeline Audits.

CN has demonstrated capability to address the NSW Government 5-year housing targets through infill development. Land south of the Newcastle Link Road is not essential to CN achieving Strategy 5.1 guidance for the greenfield and infill development mix. This land is not suitable for housing and evidence suggests it may be required for biodiversity.

Further, Transport for New South Wales on 6 May 2024 indicated no regional significance or strategic planning for the proposed intercity road that traverses this area.

Development north of Newcastle Link Road residential urban footprint - Figure 1 indicates land proposed for residential development to consider removing shown with an 'X' due to:

- biodiversity/movement corridors/ edge effects
- urban permeability
- connections/links to residential development in Wallsend
- connections/links to residential development within the structure plan
- inadequate buffers to SWMC
- bushfire hazard
- topography constraints.

Urban zones proposed over HEV land near the STAR icons in figure 1, as per the BCARs ecological constraints and surveyed endangered ecological communities. A revised urban footprint (density and yield) is advised to avoid impacts and protect HEV.

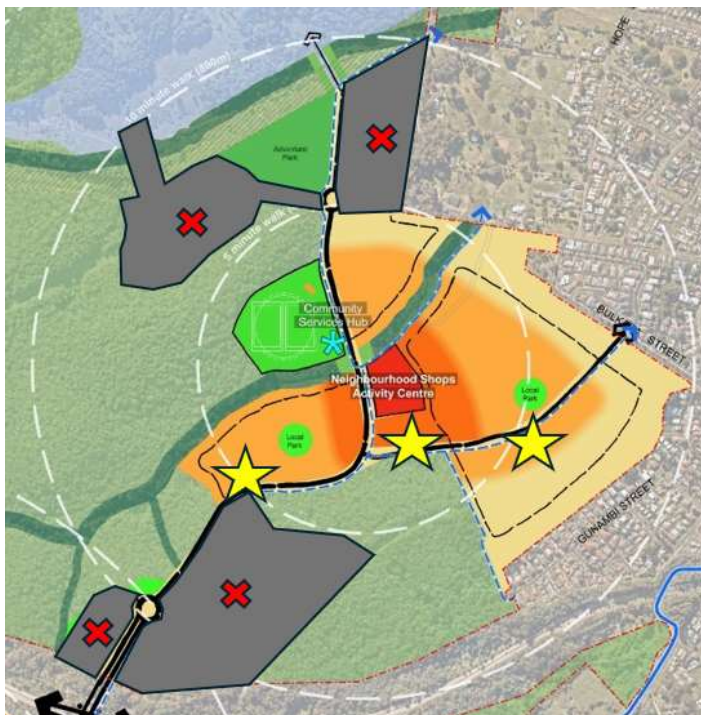


Figure 1 - Proposed Residential urban footprint

Sequential development - The proposal should address how C4 Environmental Living zone land along Hope Street in the *National Pinch Point regionally significant growth area* is to access Eden Estates. Development controls could be considered.

Density

NDCP 2023 reinforces HRP's Strategy 5.2 for subdivision in new urban areas to achieve a range of lot sizes supporting yields closer to 40 dwellings per hectare near open space, retail, commercial, community, recreation facilities and public transport.

Varying densities across the site is important to good place making. Up to 50 dwellings per hectare may be suitable on some land with 30-39 dwellings per hectare appropriate in limited circumstances. The proposed structure plan exceeds an appropriate amount of residential footprint for general suburban (less than 39 dwellings per hectare).

A revised structure plan should demonstrate how 40 dwellings per hectare will be achieved. Minimum density controls are to be included as clauses in the NLEP 2012 for density and context areas to ensure this is achieved.

Shop top housing is proposed as a residential typology in employment zones. Appendix A: Structure Plan Part B should include a dwelling target or minimum density for employment zones. Please identify the density and potential dwelling yield and any related LEP clauses to ensure this outcome is achieved.

Zones and related LEP clauses

Explore Land Efficiencies for Proposed R3 Medium Density Zone - NSW Government's Low and Mid-Rise Housing Policy mapped residential areas around the Wallsend Town Centre for increased density. This presents an opportunity for a greater mix of density, typologies and height towards Wallsend. A possible R3 Medium Density Residential zone extension could increase housing options and maintain a 30m buffer to existing Wallsend residents.

Proposed Height of Building and Floor Space Ratio (FSR) - Justification is required on some of the proposed amendments in Table 1.

Table 1

Provision	Proposed	CN requires for planning proposal
Height of Buildings (Clause 4.3)	R2 Low Density Residential – 10 m	Further justification required
	R3 Medium Density Residential – 16 m	14m
	B2 Local Centre - 16 m	14m
Floor Space Ratio (Clause 4.4)	R2 Low Density Residential – no FSR	Further justification required
	B2 Local Centre – no FSR	Further justification required

The scoping proposal needs to demonstrate how building heights (8.5m-9.5m) on the R2 zone will be hard to comply with due to slope. Amenity and streetscape appearance are to be considered in development controls. The scoping proposal discusses building envelopes to manage FSR for residential and non-residential land uses. How will density, bulk and scale be managed to contribute positively to the desired built form.

Public ownership and zoning - Land for conservation, community and recreation purposes should be appropriately zoned.

Site-specific DCP

A site-specific DCP is to be prepared per Clause 8.3 of the NLEP 2012. This may be prepared post gateway determination if appropriate controls are reflected in the planning proposal and general intent statements for the DCP are clear.

Neighbourhood shops/ Activity centre - North of the Newcastle Link Road

The proposed new centre is within 15-minute walk or ride to Wallsend Town Centre. The proposed centre's commercial and retail impacts on Wallsend are to be addressed. A smaller neighbourhood centre may be supported with justification. Zoning/planning controls are to reflect recommendations of an economic assessment that considers Newcastle Employment Lands Strategy 2019 and LSPS.

HRP's Strategy 3.1 intends that *Neighbourhood shops* and *Neighbourhood supermarkets* are appropriate within residential context areas. Retail land uses above this scale are likely to be inappropriate. The economic assessment must consider planning mechanisms to control scale and land use.

E3 Productivity Support zone

The HRP Strategy 8.4 states local strategic planning should consider identifying knowledge and innovation clusters and specialist industries and support the co-location of mutually supportive and value-adding activities without compromising the cluster's primary function.

An E3 Productivity Support zone is proposed next to SWMC. The scoping proposal should address the HRP's innovation cluster objectives. Many uses in this zone do not provide for specific specialist and complimentary land uses such as Neighbourhood shops, Office premises, Pubs, Recreation facilities (indoor), Recreation facilities (major), Restaurants or cafes, Sex services premises, Small bars, Specialised retail premises; Take away food and drink premises. Without further justification, CN does not consider employment lands appropriate at this location.

Any proposed connection from an innovation cluster to Newcastle Link Road should consider how non-residential traffic from the innovation cluster can sensitively integrate with surrounding residential development. This includes noise, dust and vibration impacts. Accessing the existing local road network in Wallsend is not appropriate.

Use of Lot 2 DP800035 adjoining SWMC for non-residential uses is dependent on the findings and risk to safety, reverse amenity impacts and impact to sensitive land uses. This land parcel may be more appropriate as C4 Environmental Living zone.

Affordable housing

The exhibited draft Newcastle Affordable Housing Contributions Scheme 2025 (draft scheme) identifies the site as an applicable area for affordable housing contributions (refer figure A3: Western Corridor - Affordable Housing Contribution Scheme Area). CN acknowledges the range of measures developed in part of Appendix G: Housing Affordability Strategy. The relevant provisions of the draft scheme are to be included in the proposed Eden Estates Housing Affordability Strategy.

Traffic

The Traffic and Transport assessment is to be updated to consider impacts and upgrades to the existing road network, more specifically:

- Transport for NSW comments on scoping proposal in letter dated 19 February 2025.
- The structure plan E3 Productivity Support zone gaining appropriate access to the greater road network. Minmi Road is currently under traffic stress and accessing the

Newcastle Link Road through the development may be inappropriate for heavy vehicles in a residential area.

- Management of bus routes via the site is to be addressed with links to existing network for both public and school (including High School). The traffic assessment must demonstrate if the desired 400m radius walkable catchment coverage is achieved for existing parts of surrounding areas.
- The CN Section 7.11 Western Corridor Transport Study at present has only considered 1,200 dwellings for this housing release area. The impact of up to 4,000 dwellings is to be modelled and any additional impacts identified are to be addressed. It should be noted elsewhere in this information request comments regarding over development of the site when considering yield.
- Address how major traffic flows and direct connection from the urban footprint area could lead to a rat-run through Bulkara Street to Wallsend Town Centre. CN is concerned this may create local traffic management and safety issues. The submitted Traffic Assessment Report considers a street calming/roundabout, however the impacts of approximately 25% (1,400vpd) and likely more will add to localised traffic issues in the area. Facilities such as provision of cycleway and transport links may largely impact and put pressure on the local streetscape and road amenity. Consider methods for future subdivision to manage vehicle access to Bulkara Street, such as through subdivision design.
- Managing bushfire access is to be reflected in the detailed traffic submission.

The structure plan should consider additional width in road reserves to allow for street trees and street verges. Road widths in terms of road hierarchy are to be appropriately considered for shared paths within local roads and separated on-road cycleway for major roads. This is to be reflected in development controls.

Flooding and water quality

Current conditions result in local impacts from surface water runoff and localised flooding in surrounding catchments (Minmi Road, Hexham Swamp and Wallsend town centre). A Water Cycle and Flood Study is required by a suitably qualified consultant and is to include:

- Flood study modelling.
- Impacts on downstream properties (both sides of the LGA).
- Upstream catchment modelling.
- Matters relating to legal rights to drain through private properties.
- Impacts on the proposal itself, where residential lots and commercial precincts are based around the creek edges, thus raising additional flood risks.
- Concerns in relation to roads passing over creeks and management of risks such as blockages and isolation.
- Setbacks to creeks and vegetated areas required to be managed under WaterNSW.
- Impacts on downstream catchment area (noting that the northern areas are bounded by Wetlands).
- Potential impacts to Wallsend Town Centre which is sensitive to flooding.
- Consideration to stormwater diversion from the southern boundary of SWMC into the E3 Productivity Support zone.

Social

A Social Impact Assessment (SIA) and Social Infrastructure Plan (SIP) are required, by a suitably qualified consultant. The housing density and number of dwellings range is to be refined. The SIA is to consider Section C8 Social Impact of NDCP 2023 and best practice to allow adequate assessment of social impacts from the development. The SIP is to consider the below matters:

- CN's policies, plans and strategies including but not limited to the LSPS, draft Social Infrastructure Strategy, Strategic Sports Plan 2020, Section 7.11 Western Corridor Local Infrastructure Contributions Plan and best practice guidelines.

- Provision of any on site facilities need to show that land is suitable and meets the functional requirements of the space. A land capability analysis is required on the proposed sites to assess the ability of the land to be dedicated to CN to support the proposed infrastructure.
 - Hazards/contamination
 - Topography
 - Accessibility
 - Adequate buffers
 - Amenities and parking
 - Connectivity
 - Size
 - Shape
 - Relevant standards.
- Volume 2 of the Newcastle Strategic Sports Plan 2020 provides criteria that should be used to confirm land suitability to accommodate recreation and sporting use. The standards of service are also designed to ensure that land proposed for sporting areas can be developed and maintained effectively without unreasonable costs imposed upon CN which can be associated with poor quality land.
- CN is supportive of the applicant's planned delivery and scope, for CN's review, of a Social infrastructure assessment as outlined in the scoping proposal Section 8.1 Supporting Technical Information.
- Recommendations as to appropriate size of land areas for zoning for each social infrastructure item (community facilities, open space) is to be provided based on the findings. All social infrastructure (including land) to support this development is to be provided on site, except and where provision exceeds 1,200 dwellings toward the district recreation facility at Creek Rd, Maryland. No monetary contributions in lieu of providing infrastructure needs within the development site will be accepted.
- CN's draft Social Infrastructure Strategy intends social infrastructure investment in areas with current gaps and forecast urban renewal building upon local centres hierarchy, along with making social infrastructure 'work harder' for informal and formal uses by ensuring spaces are multifunctional, adaptive and co-located with centres to promote equitable access and enhanced utilisation.
- Details of connection to public transport/ pedestrian and cycling networks are to be provided. Connections through local areas of Wallsend to the town centre and Minmi Road are to be considered. The capacity of local road verge widths in Wallsend for off-road shared paths need to be considered for suitability. The proposed 2.5m wide shared path is to be increased to 3m.
- District level forms of social infrastructure are to be considered.
- Social infrastructure provision and implementation plan.

Heritage

An updated Aboriginal Heritage Information Management System search is required. If any additional Aboriginal archaeological sites are recorded, these should be assessed and reflected in the Aboriginal Heritage Study.

Landscape scale

A view shed analysis as part of a Landscape and visual impact assessment is required to assess the developments' potential impact on ridgeline view corridors.

Regionally significant haulage route - investigation

The draft LSPS 2025 identifies a regionally significant haulage route for investigation between SWMC and the Newcastle Link Road. This reflects CN's Sustainable Waste Strategy 2023 priorities and will accommodate commercial and B-Double sized vehicles. The haulage route is to be considered and reflected in the structure plan.

Offer to enter into a Planning Agreement (PA)

An offer to enter into a PA is required early in the process. A draft PA and explanatory note are to be exhibited with a planning proposal.

A letter of offer is to propose locations for social infrastructure including on and off-site provision. It is to consider the Section 7.11 Western Corridor Development Contribution Plan 2020. Clarity is sought on responsibilities and timing of land and assets.

Proposed conservation land is to be considered in an offer. Other relevant matters may want to be reflected to ensure certain development outcomes.

General Requirements for a planning proposal

A planning proposal is to include:

- The planning proposal category is complex under the Local Environmental Plan Making Guideline
- Fees are to be paid for a complex planning proposal as per CN's *Fees and Charges 2024-2025*
- CN's Owner Details and Consent form
- A written submission to inform the preparation of a planning proposal, prepared under the Department of Planning Housing and Industry Local Environmental Plan Making Guideline
- Preliminary Site Investigation
- Detailed Site Investigation
- Air Quality Impacts assessment
- Economic impact assessment for employment lands and local centre
- Traffic and Transport assessment
- Water cycle and flood study
- Social Impact Assessment
- Social Infrastructure Plan
- Aboriginal Heritage Study and addendum
- Proponent proposed updates in scoping proposal report for Section 8.1 Supporting Technical Information
- Landscape and visual impact assessment
- GIS spatial information for LEP amendments (ie zoning plan), environmental assessments and contamination.

Please note that Council accepting a formal request does not imply that the proposal will inevitably be supported by staff, elected Councillors, and/or the NSW Government. Upon receipt of a formal request, you will be invoiced relevant fees, and your proposal will be assessed by Council's LEP Panel prior to recommendations being reported to Council.