

Western Sydney Planning Partnership
Western Sydney Aerotropolis
Sydney NSW 2000

27th February 2020

To whom it may concern,

**RE: Submission for ■ Kelvin Park Drive, Bringelly
To Draft Western Sydney Aerotropolis**

**Summary of Objection: Proposed Land Acquisition of Premium Useable Land
@ ■ Kelvin Park Rd Bringelly, NSW**

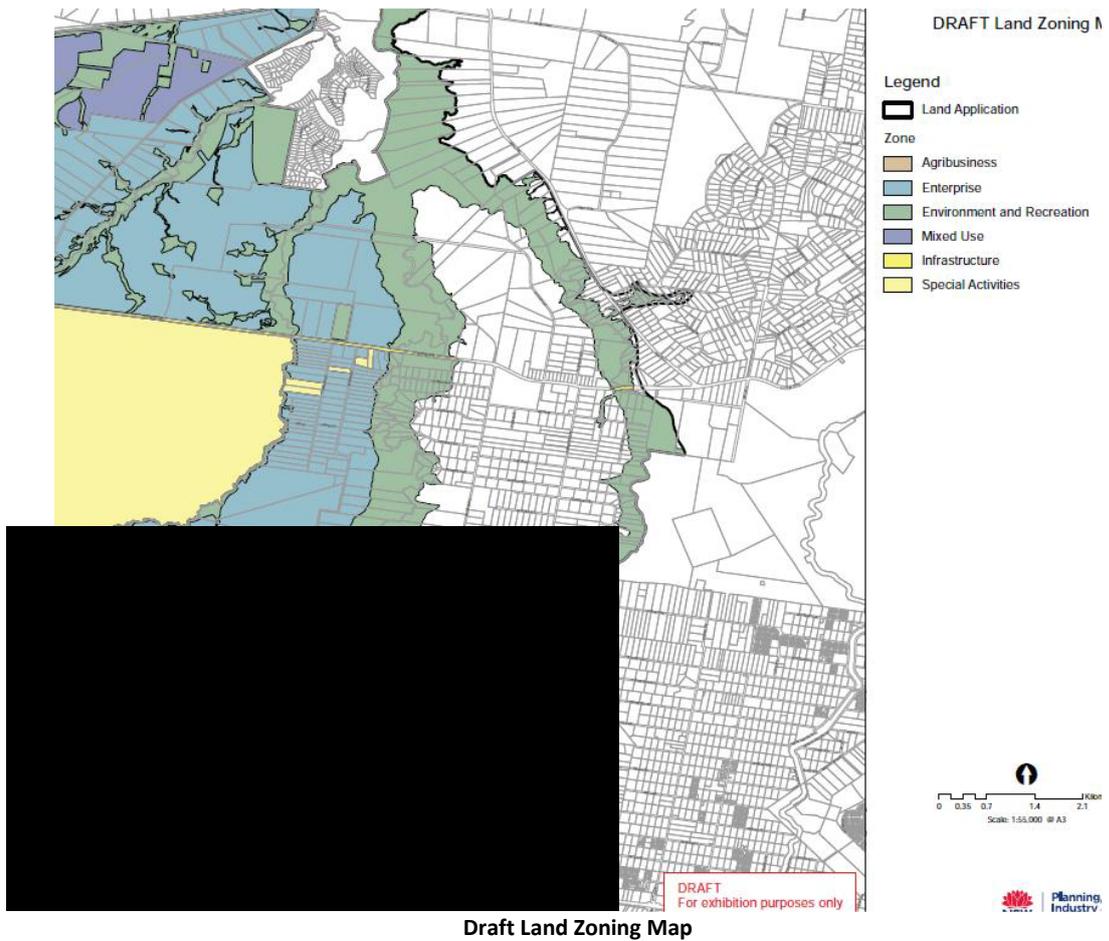
Valuation information – ■ Kelvin Park Drive, Bringelly

The Draft Western Sydney Aerotropolis Plan identifies various precincts based on opportunities and constraints, as well as likely future character and connectivity. The subject property is within the “Aerotropolis Core” precinct which is intended to be a high order employment focused metropolitan centre.

The Aerotropolis Core will greatly contribute to the Western Sydney Economic Corridor and forms part of the Metropolitan Cluster as identified in the Western City District Plan.

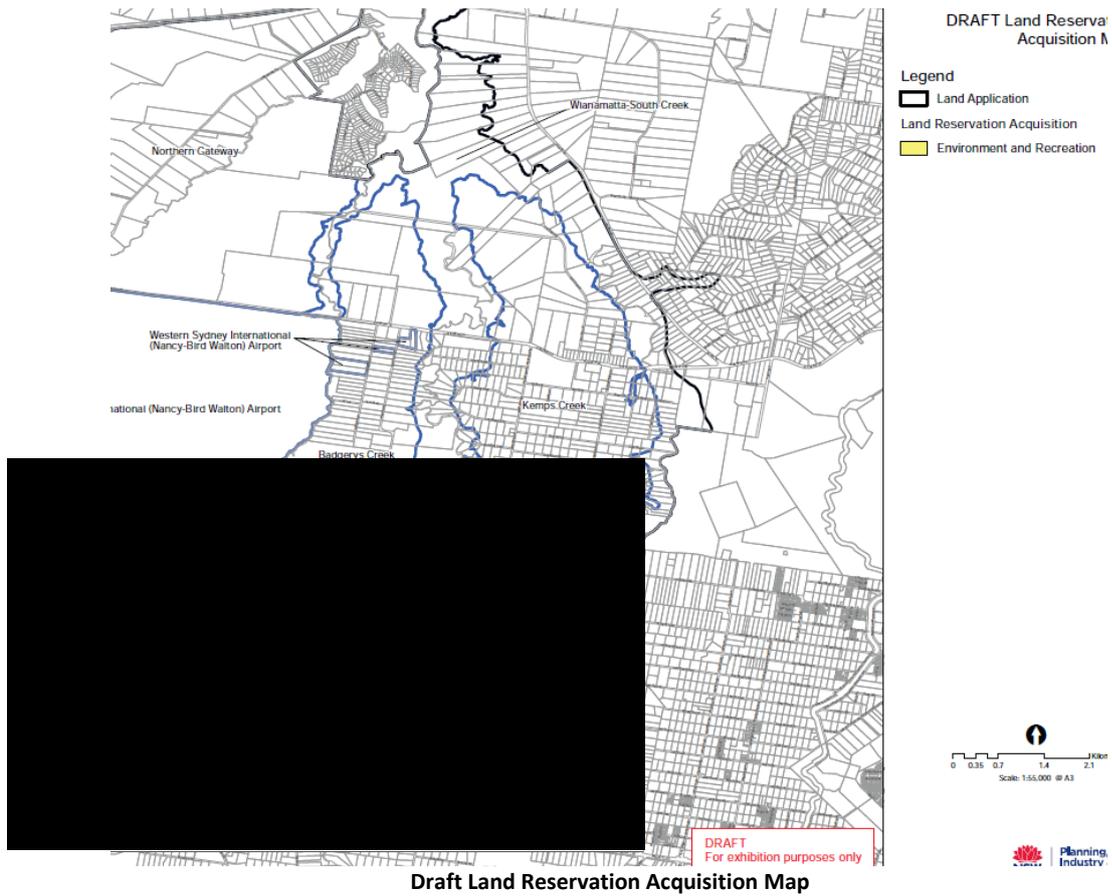
The “Aerotropolis Core” precinct is one of the six initial precincts to be planned and delivered.

The subject property is proposed to be zoned Environment and Recreation under the proposed State Environmental Planning Policy (SEPP), see extract of the Draft Land Zoning Map below.



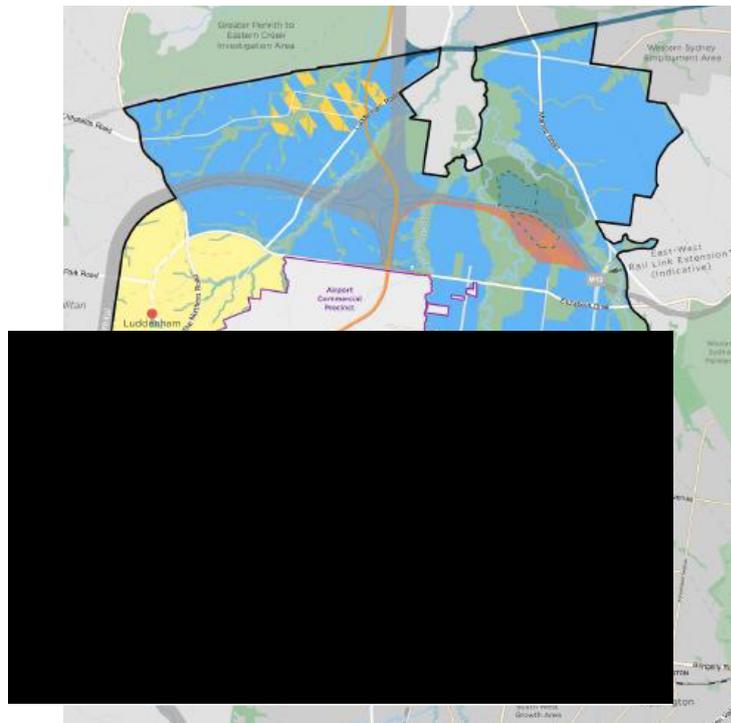
The surrounding area, within the immediate vicinity of the subject property, is proposed to be zoned Mixed Use.

Further to this, the subject property is identified for acquisition on the Draft Land Reservation Acquisition Map below.



Draft Land Reservation Acquisition Map

The approximate location of the subject property within the Western Sydney Aerotropolis is shown in the Draft Structure Plan below.



Draft Structure Plan

The draft Structure Plan also denotes the subject property to be within areas identified as:

- a) Mixed Flexible Employment & Urban Land; and
- b) Investigation area for Regional Parkland.

In accordance with section 10 of the Land Acquisition (Just Terms Compensation) Act 1991, the acquiring authority provides a guarantee of acquisition at market value, see below.

10 Statement of guaranteed acquisition at market value

- (1) When, on request by or on behalf of an owner or prospective purchaser of land, an authority of the State gives a person written notice to the effect that the land is affected by a proposal for acquisition by the authority, the notice must contain the following:
 - (a) a statement that the *Land Acquisition (Just Terms Compensation) Act 1991* guarantees that, if and when the land is acquired by (*insert name of authority*) under that Act, the amount of compensation will not be less than market value (assessed under that Act) unaffected by the proposal,
 - (b) such other information as the regulations may require.
- (2) This section does not apply to a proposal to acquire an easement, or right to use land, under the surface for the construction and maintenance of works.
- (3) Nothing in this section or in a statement made in a notice pursuant to this section gives rise to, or can be taken into account in

This guarantee is based on the premise that any land required for a public purpose, in this instance, Environment and Recreation, this zoning is ignored for the purpose of determining the highest and best use of the land in accordance with the underlying zoning, in this instance, Mixed Use.

The Kelvin Park Drive area is identified as Aerotropolis Core with a proposed zoning of Mixed Use, see Draft Land Zoning Map above.

The intention of the Mixed Use zone is as noted below.

Zone	Description	Initial precincts that this zone will apply
Mixed Use Zone	This zone will permit mixed use developments that integrate residential and commercial uses. This zone will ensure higher density residential and employment areas are located in places with high amenity. This includes having access to high frequency public transport, good connections to the State road network, open spaces including parks and waterways, pedestrian and cycle linkages and public squares, and will ensure residential uses are well outside of aircraft noise contours.	<ul style="list-style-type: none"> • Aerotropolis Core • Northern Gateway

The Aerotropolis Core is shown as being an Initial Precinct, see below.

Precinct	Initial Precinct	Description	Proposed zones applicable to this precinct
Aerotropolis Core	Yes	The Aerotropolis Core Precinct will be a diverse, dynamic and sustainable global airport city with attractive places for workers, residents and visitors, which has a direct interface to the South West Growth Centre to the south.	<ul style="list-style-type: none"> • Enterprise • Mixed Use • Special Purpose 2 • Environment and Recreation

The intention of the Mixed Use zone has also been documented as meeting the following goals.

3.3 Mixed Use Zone

The Mixed Use Zone will apply to areas where there is a focus on the delivery of both employment and higher density residential uses. The application of the zone will include local centres that provide for social services and art and cultural facilities and are located in areas of high amenity with access to high frequency public transport, open space, parks and waterways, pedestrian and cycle linkages and public squares. These areas will be highly connected, containing a legible street network to provide direct, safe, cool and convenient pedestrian, cycle and public transport access. The land uses in the Mixed Use Zone will contain a mix of commercial uses, including retail, such as restaurants, cafes, offices, medical and social services, and places of entertainment, along with residential (as appropriate).

The Mixed Use Zone will be applied to ensure residential land uses at the Aerotropolis are located outside the ANEC 20 contour. This restriction is one of the most important factors in protecting the future Aerotropolis community from any noise-related impacts of the Airport and to secure the 24-hour operation viability of the Airport.

The proposed SEPP will contain specific provisions to recognise the existing zoning of the Sydney Science Park within the Northern Gateway Precinct (Lots 2, 3 and 4, DP1242470, and Lot 1 DP221182) until precinct planning is completed as described in Section 7.4.

Commonwealth-owned land located at Bringelly and zoned SP2 under the Liverpool Local Environmental Plan 2008, is proposed to be zoned for mixed use purposes as the Commonwealth has agreed to enable the development of this land to help build the Western Parkland City.

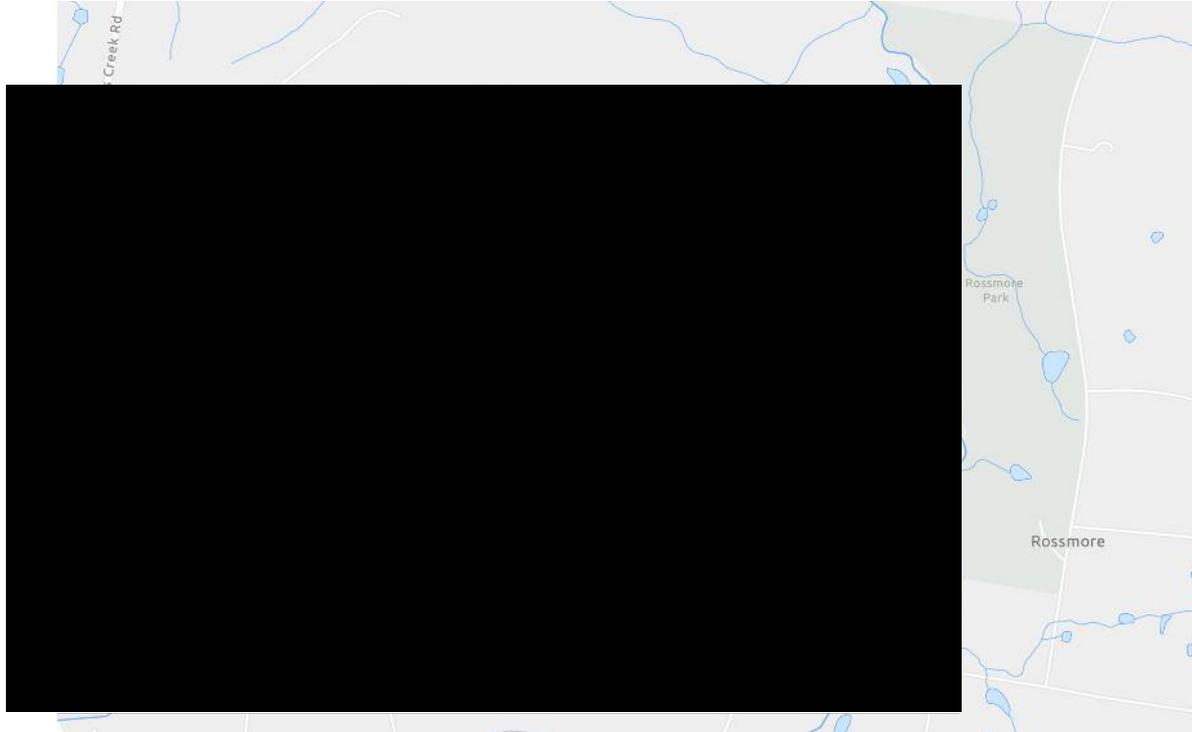
Under the proposed SEPP, the following land use table identifies the numerous uses that are permitted with consent.

Mixed Use Zone

<p>1. Objectives:</p> <ul style="list-style-type: none"> To manage the transition of land from non-urban uses to a range of urban uses. To encourage the development of well-planned and well-serviced new urban communities in accordance with the Precinct Indicative Layout Plan. To ensure a range of uses are located in a way that are consistent with the strategic planning for the Western Sydney Aerotropolis. To safeguard land used for non-urban purposes from development that could prejudice the use of the land for future urban purposes. To ensure that land adjacent to environmental conservation areas is developed in a way that enhances biodiversity outcomes for the Precinct. To protect the operations of the Airport, including 24-hour operations, and provide appropriate protections for the community. To ensure there are no sensitive land uses (such as residential, aged care, early education and childcare, educational establishments and hospitals amongst other uses) located within the ANEC 20 and above contours. To ensure that land uses up to the ANEC 20 contour are subject to appropriate design and construction standards to reduce any potential for airport noise impacts. 	
<p>2. Permitted without consent:</p> <ul style="list-style-type: none"> Home business Home occupation Home-based child care 	
<p>3. Permitted with consent:</p> <ul style="list-style-type: none"> Attached dwelling Backpackers' accommodation Boarding house Business identification sign Car park Commercial premises Community facility Early education and care facility Educational Establishment Electricity generating works Emergency Services Facility Entertainment facility Environmental facility Environmental protection works Flood mitigation work Function centre General industry Group home Health services facilities Home industry Hostel Hotel or motel accommodation Industrial training facility 	<ul style="list-style-type: none"> Information and education facility Light industry Multi dwelling housing Passenger transport facility Places of public worship Public administration building Pubs Recreation areas Recreation facility (indoor) Recreation facility (major) Registered club Residential care facility Residential flat building Respite day care centre Road Semi-detached dwelling Service station Serviced apartment Sex services premises Shop top housing Storage premises Telecommunications facility Vehicle repair station Veterinary hospital
	<p>4. Prohibited:</p> <ul style="list-style-type: none"> Any development not specified in item 2 or 3

Riparian Corridor

Thompsons Creek is within close proximity to the subject property, see an extract of Hydroline below.



Hydroline – Kelvin Park Drive locality

Thompsons Creek, within this vicinity, is considered to be a 3rd Order Watercourse in accordance with the Strahler System of the assessment of watercourses, see below.

Riparian corridor widths

The Officer of Water recommends a VRZ width based on watercourse order as classified under the Strahler System of ordering watercourses and using current 1:25 000 topographic maps (see Figure 2 and Table 1). The width of the VRZ should be measured from the top of the highest bank on both sides of the watercourse.

Figure 2. The Strahler System

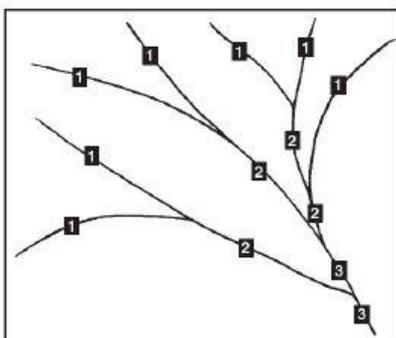


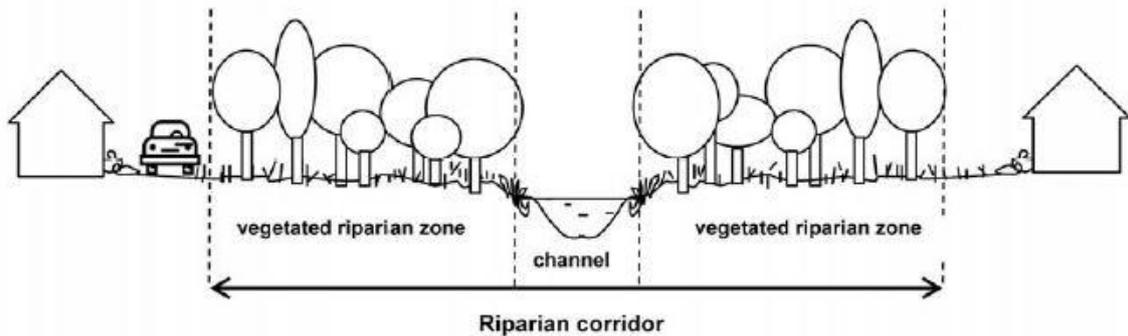
Table 1. Recommended riparian corridor (RC) widths

Watercourse type	VRZ width (each side of watercourse)	Total RC width
1 st order	10 metres	20 m + channel width
2 nd order	20 metres	40 m + channel width
3 rd order	30 metres	60 m + channel width
4 th order and greater (includes estuaries, wetlands and any parts of rivers influenced by tidal waters)	40 metres	80 m + channel width

Under the riparian corridor widths, Thompsons Creek would require a 30 metre riparian corridor setback from the top of the bank to the subject property. At the closes point of the subject property to Thompsons Creek, the 30 metre corridor width does not impact on the property.

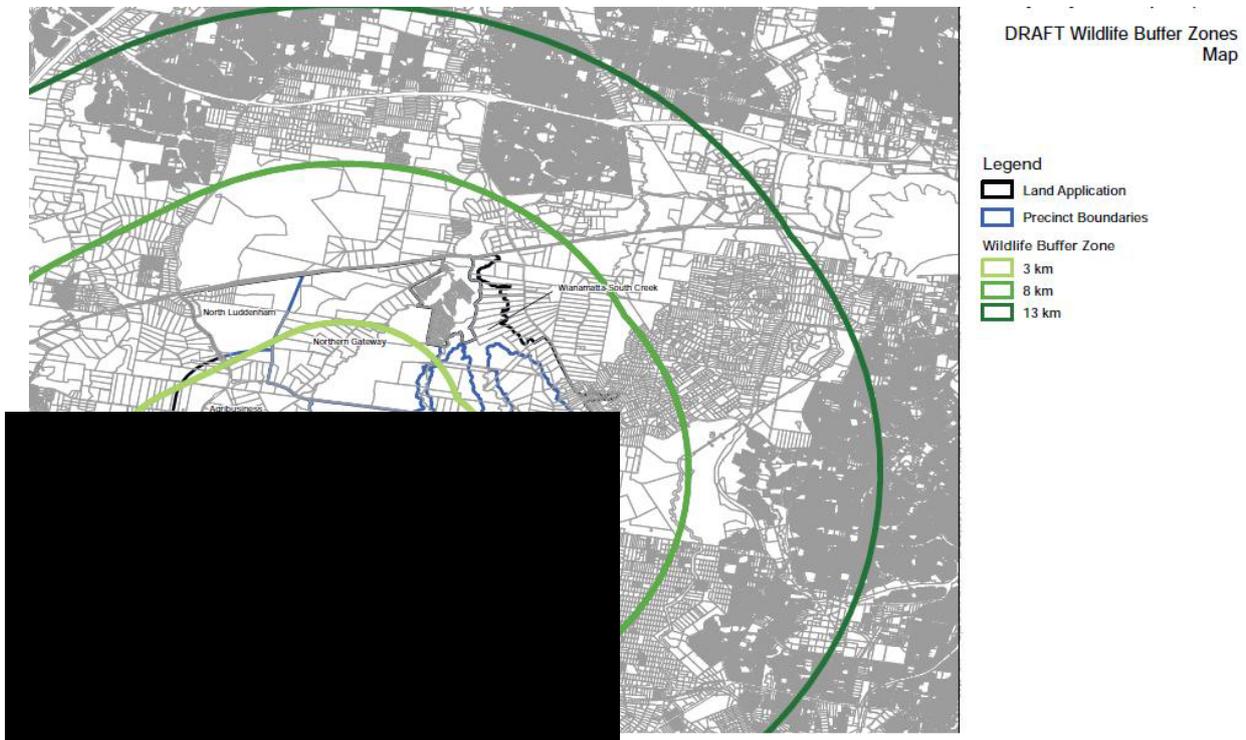
As shown below, the riparian corridor is for a vegetated zone so as to protect the watercourse for environmental damage. As such, the entire property would be available for development under the proposed Mixed Use zone.

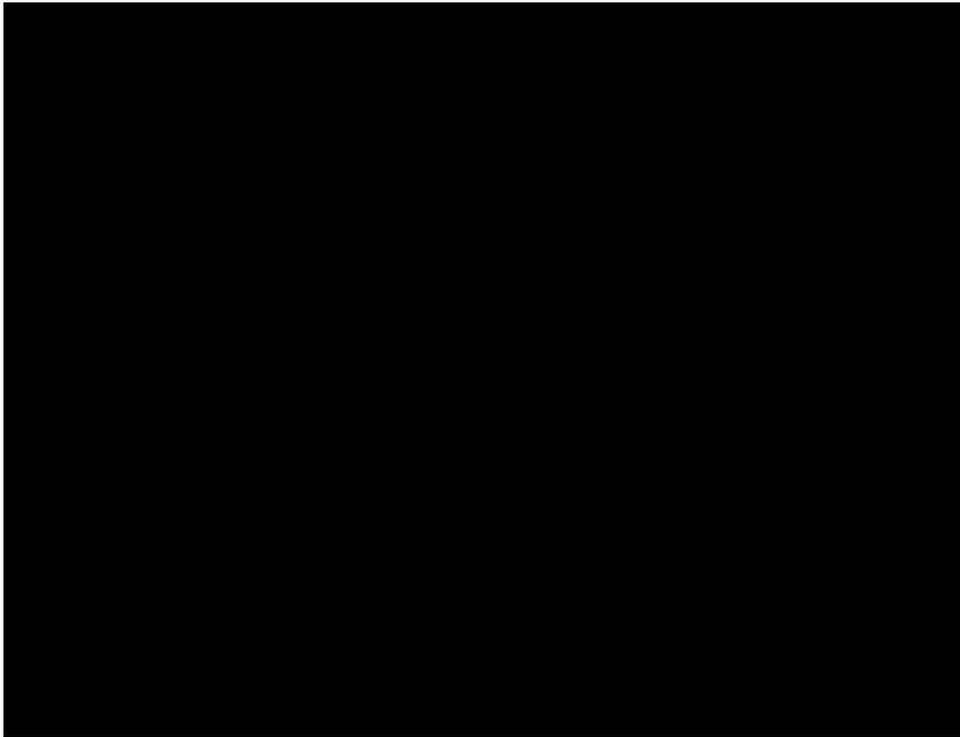
Figure 1. The riparian corridor



Wildlife Buffer

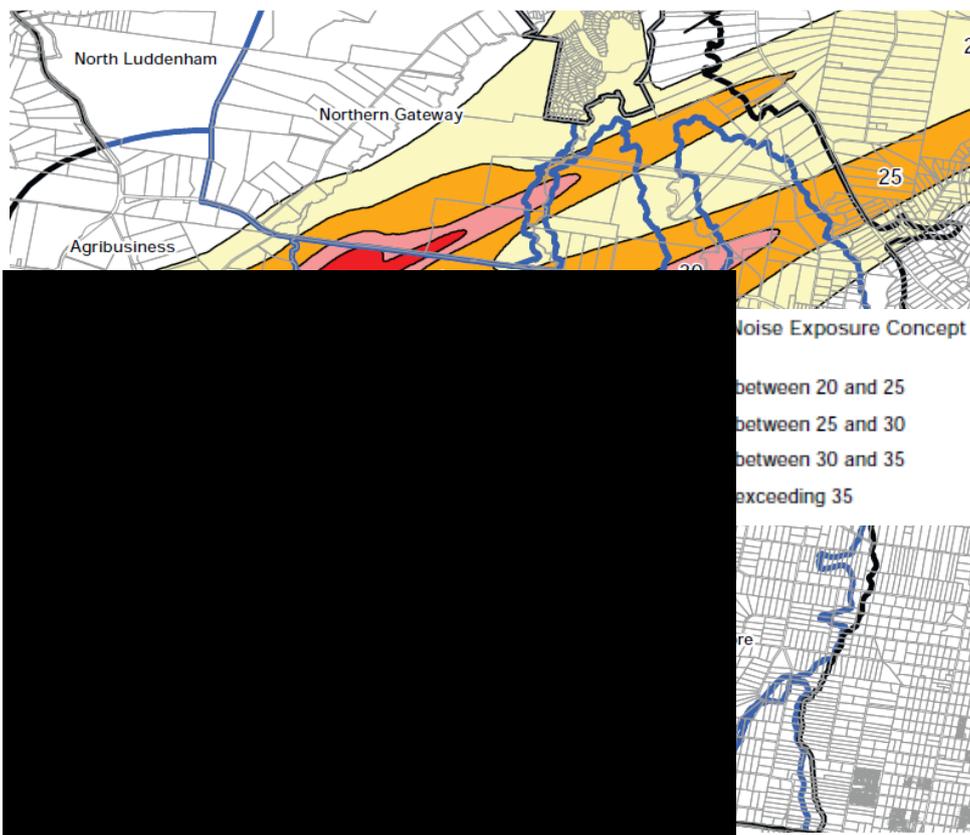
As seen below on the extracts from the Draft Wildlife Buffer Zones Map, the subject property sits just outside of the 3 km Wildlife Buffer Zone and as such there is little to no impact on the subject property.

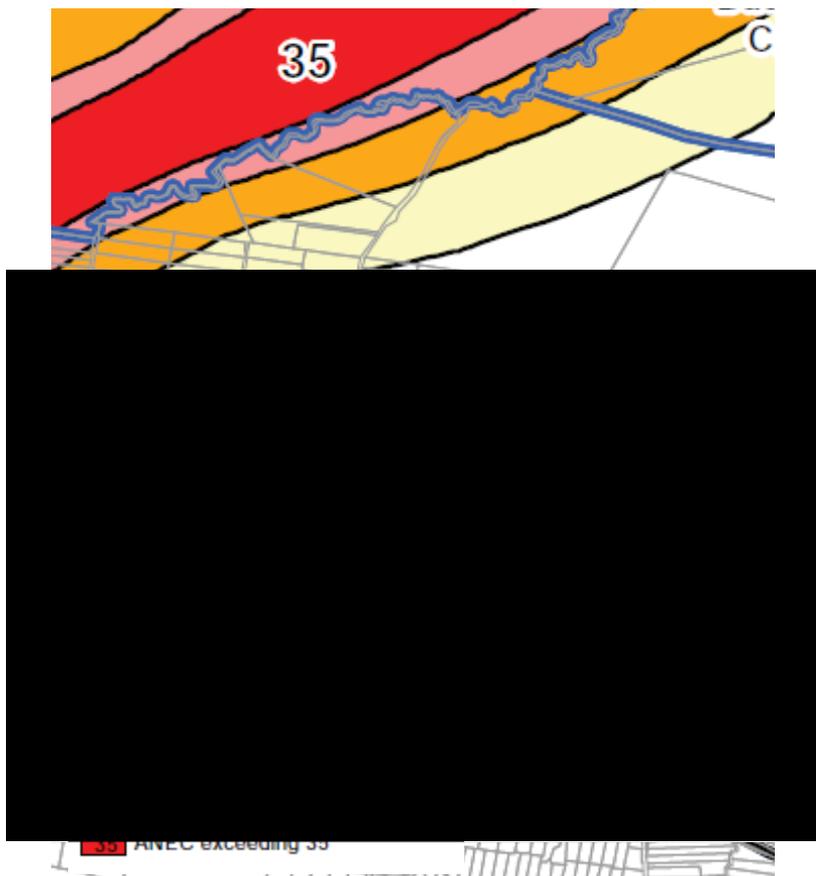




Australian Noise Exposure Concept/Australian Noise Exposure Forecast

As shown on the two maps below, the subject property sits well outside the ANEC 20 Contour and as such would otherwise be available for development with little to no constraints.





The ability to develop the subject property is further enforced under the following extract from the Western Sydney Aerotropolis Discussion Paper on the Proposed State Environmental Planning Policy dated December 2019.

2.9.2 Australian Noise Exposure Concept / Australian Noise Exposure Forecast

Aircraft noise is a key factor in land use planning for the Aerotropolis. A precautionary approach is being applied to the land use planning of noise sensitive uses around the Airport. For the Aerotropolis, NSW Government has adopted a position that no noise sensitive land uses (including new residential development) will be permitted in Australian Noise Exposure Concept (ANEFC)/Australian Noise Exposure Forecast (ANEF) contour of 20 or above. An ANEC contour refers to anticipated forecasts of future noise exposure patterns based on indicative flight paths around an airport.

Limiting new residential development to areas outside the 20 ANEC/ANEF reflects the greenfield nature of the Airport, is stricter than what is conditionally acceptable in the ANEF 25-30 contour within Australian Standard AS2021-2015 Acoustics – Aircraft Noise Intrusion Building Sitting and Construction. Confirmation of the final Airport airspace design/flight paths and ANEF contour is expected to be confirmed closer to the opening of the Airport. Notwithstanding, the land use planning will progress based on the most up-to-date information and will respond to any changes accordingly.

Updated ANEC/ANEF contour maps will be incorporated within the SEPP as required, with a focus on ensuring sensitive land uses are located in areas that will not be affected by aircraft noise. It is noted that the ANEC/ANEF contours extend beyond the Aerotropolis. As noted above airport safeguarding controls will be applied to land beyond the Aerotropolis through the SEPP.

Renovations to existing houses or minor extensions within the ANEC/ANEF 20 contour may still be allowed subject to appropriate noise mitigation management measures. The intention is to ensure that there is no further intensification of sensitive uses in those areas affected by the ANEC/ANEF 20 and above contours. The application of specific noise mitigation measures is to be included in the DCP and determined as part of the Development Assessment process.

Extract of various parts of the Land Acquisition (Just Terms Compensation) Act 1991.

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The heads of consideration require the following items to be included in the assessment of compensation payable by the acquiring authority:

56 Market value

57 Special value

58 Loss attributable to severance

59 Loss attributable to disturbance

loss attributable to disturbance of land means any of the following:

- (a) legal costs reasonably incurred
- (b) valuation fees of a qualified valuer reasonably
- (c) financial costs reasonably incurred in connection with the relocation of those persons
- (d) stamp duty costs reasonably incurred
- (e) financial costs reasonably incurred for the discharge of a mortgage and the execution of a new mortgage
- (f) any other financial costs reasonably incurred

60 Disadvantage resulting from relocation

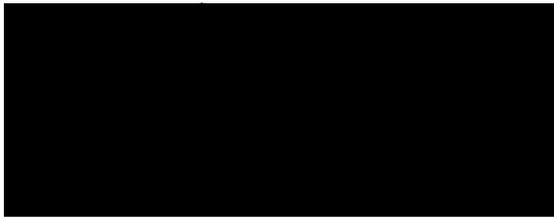
Conclusion

The basis of this submission is the unnecessary and unjustified sterilisation of developable lands arising from the LUIP and Proposed Land Acquisition.

We would like the Proposed Land Acquisition Line pushed back to the 1:100 Flood Line and to maintain our land for future land development in the private sector.

Yours sincerely

Mark Wilson



Director
BTF Holdings Pty Ltd