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■ Badgerys Creek Road, Bringelly

Derwent Road and Badgerys Creek Landowner Group

*Submission on Western Sydney
Aerotropolis Draft Precinct Plan*

10 March 2021

NSW Department of Planning, Industry and Environment
Western Sydney Aerotropolis Draft Precinct Plans
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

Lodged online via NSW Planning Portal

Dear Sir/Madam,

Re: Submission on Western Sydney Aerotropolis Draft Precinct Plans

Our Property is amalgamated with the Derwent Road and Badgerys Creek Landowner Group (DRBC Landowners) to prepare this submission on the Western Sydney Aerotropolis Draft Precinct Plan (Draft Precinct Plan). We thank the Department of Planning, Industry and Environment (DPIE) for the opportunity to comment.

Introduction - The Landholding

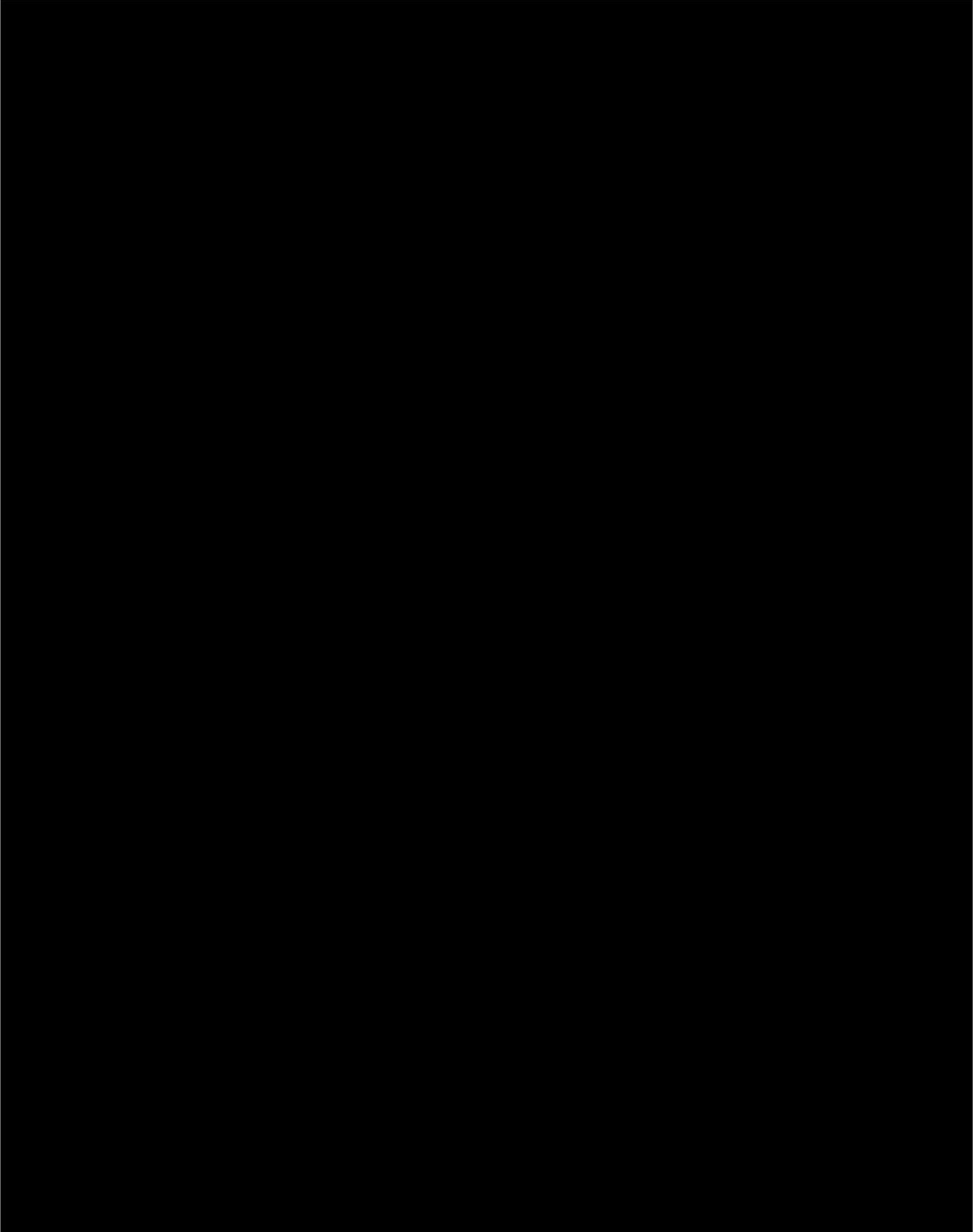
The DRBC Landowners comprises the owners of 24 landholdings that together control and own approximately 55 hectares to the immediate north west of the proposed Aerotropolis Metro station. By reference to this strategic location, the combined land holding is hereinafter referred to as the *DRBC landholding*. The location of *the DRBC Landholding* identified on Figure 1.

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The landholding is strategically located within the Aerotropolis Core Precinct and zoned Enterprise by the *Western Sydney Aerotropolis SEPP* – see **Figures 2 and 3**.



Summary of this Submission and findings

On behalf of the DRBC Landowners we submit the following concerns and issues with the Draft Precinct Plan:

- The strategic importance, value and potential contribution of the combined landholding to the Aerotropolis Core has not been recognised by the Draft Precinct Plan in terms of the extent of development possible by way of either Floor Space Ratio (FSR) or Heights of Buildings (HOB).
- The DRBC Landholding is of a scale and location that can make a major contribution to the Aerotropolis Core.
- The DRBC Landowners act as a coordinated combined group for the purpose of planning the land.
- The Draft Precinct Plan is not a practical plan and provides limited guidance on how it is to be implemented.
- The proposed HOB and FSR controls are not supported by the DRBC Landowners. Their landholding is located within the Aerotropolis Core station precinct (as confirmed by the SIC – see **Figure 5**) and a walkable distance to the Metro. The Draft Precinct Plan presents an inequitable approach to land use planning of lands within the core precinct, with other lands at a further distance from the Metro being identified for greater density.
- The DRBC Landowners do not support the proposed setting aside of a large portion of their landholding as open space. The landholding has not been identified as an Environment and Recreation zone, or as being flood affected or containing high biodiversity value. The extent of open space on the landholding should therefore be reduced on this landholding.
- The Draft Precinct Plan, and draft land use framework in particular, is not clear and provides limited direction on the specific range of uses that will be permitted.
- A flexible and intensified approach to zoning and land use is needed to activate the Enterprise zone and it should include some appropriate forms of residential development as permitted uses to support employees.
- The development contributions as proposed by the Draft SIC and Liverpool Council are not supported by the DRBC Landowners. When combined with the extent of open space indicated by the Draft Precinct Plan, the financial burden is unacceptable and a major disincentive to the development of the landholding in the limited manner as proposed.
- It is unreasonable to impose such onerous development constraints on private landholders without understanding the practical economic and commercial consequences on future development, particularly when considering the strategic location of the land holding immediately adjacent to the proposed Metro.

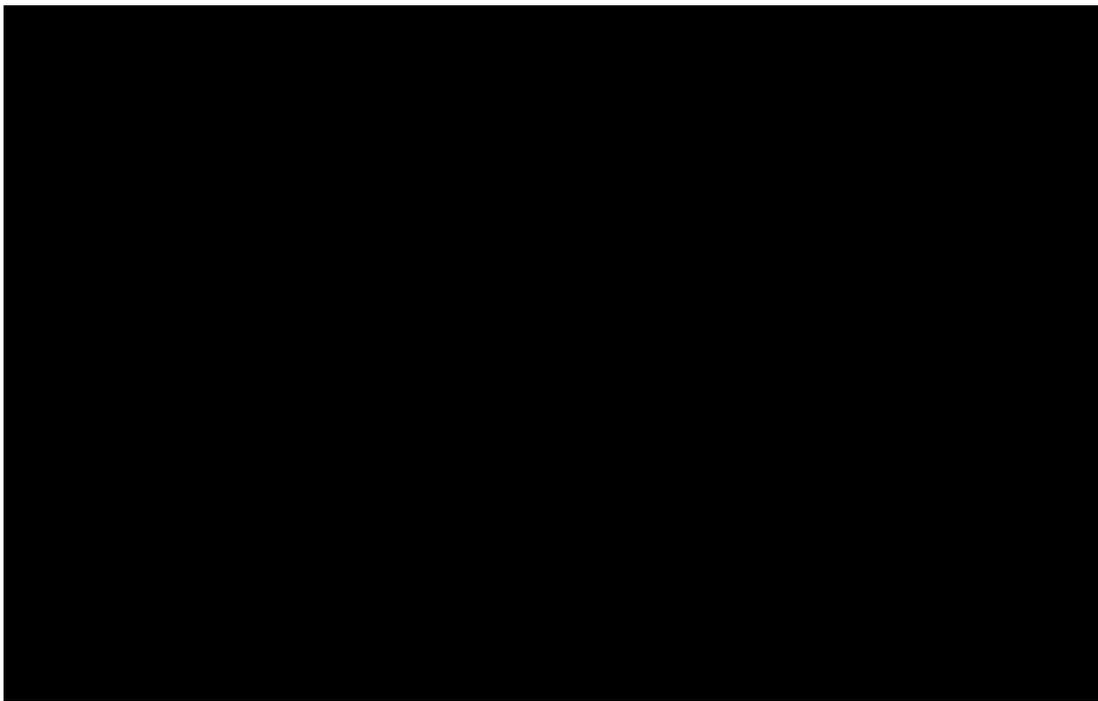
The Landholding - Strategic Positioning

The DRBC Landholding is a significant opportunity to contribute to the Aerotropolis with the following confirming the strategic importance of the landholding:

- The DRBC Landholding forms part of the Aerotropolis Core precinct – **see Figure 2**. A landholding of this size and location can contribute significantly to the precinct, which is set to become the city centre of the Aerotropolis.
- The landholding is within the 800 – 1200 metre walkable catchment of the proposed Aerotropolis Core Metro Station and adjacent to a proposed Rapid Bus Corridor, making it well served by public transport. In addition, the site is accessible by key roads, being located immediately north of The Northern Road, between Badgerys Creek Road and Derwent Road. The landholding is therefore in a highly accessible location, with excellent access to key public transport and transport infrastructure routes. Accordingly, it is suitable for an increased density and range of uses.
- The DRBC Landowners provides a consolidated approach to a strategic parcel, with the opportunity to deliver a large unfragmented landholding. There are few other landholdings of this size to the immediate west of the Aerotropolis Core Metro station that provide one contiguous large parcel with the potential to deliver an integrated approach at this scale within walking distance of the proposed Metro station.
- The landholding is largely unconstrained by flooding and has not been identified as containing high biodiversity value (as confirmed by the SEPP).

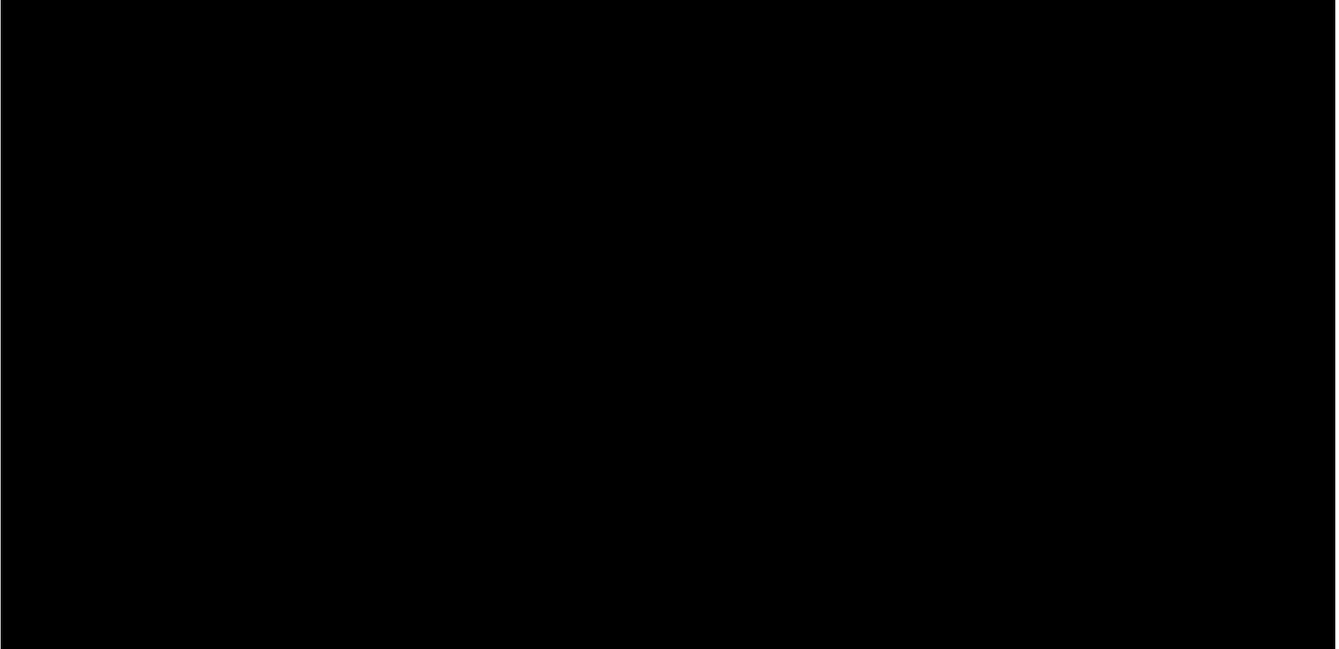
The future development of this large parcel is therefore unconstrained with the potential to be an important contributor to the early development of the Aerotropolis and in particular the Aerotropolis Core Station Precinct which it forms part of (confirmed by the SIC – see **Figure 4**).

Through the learnings of the North West and South West Growth Areas over the years, in particular the unlocking of precincts, one of the greatest (and ongoing) challenges is land fragmentation. This landowner group is vested in trying to tackle the land fragmentation conundrum for Government within the Aerotropolis Core, west of Badgerys Creek Road. However, it requires further consideration to be given to the draft Land Use Planning Framework as applicable to the site, in order to establish a viable redevelopment of the site that is commensurate with the development contributions to support the Aerotropolis Core and broader Aerotropolis precinct.



Response to the Draft Precinct Plan

The Draft Precinct Plan identifies the following proposed uses on the landholding: business, enterprise and light industry, and includes a proposed enterprise centre– see **Figure 5**.



In response to the Draft Precinct Plan we provide the following specific comments on the following:

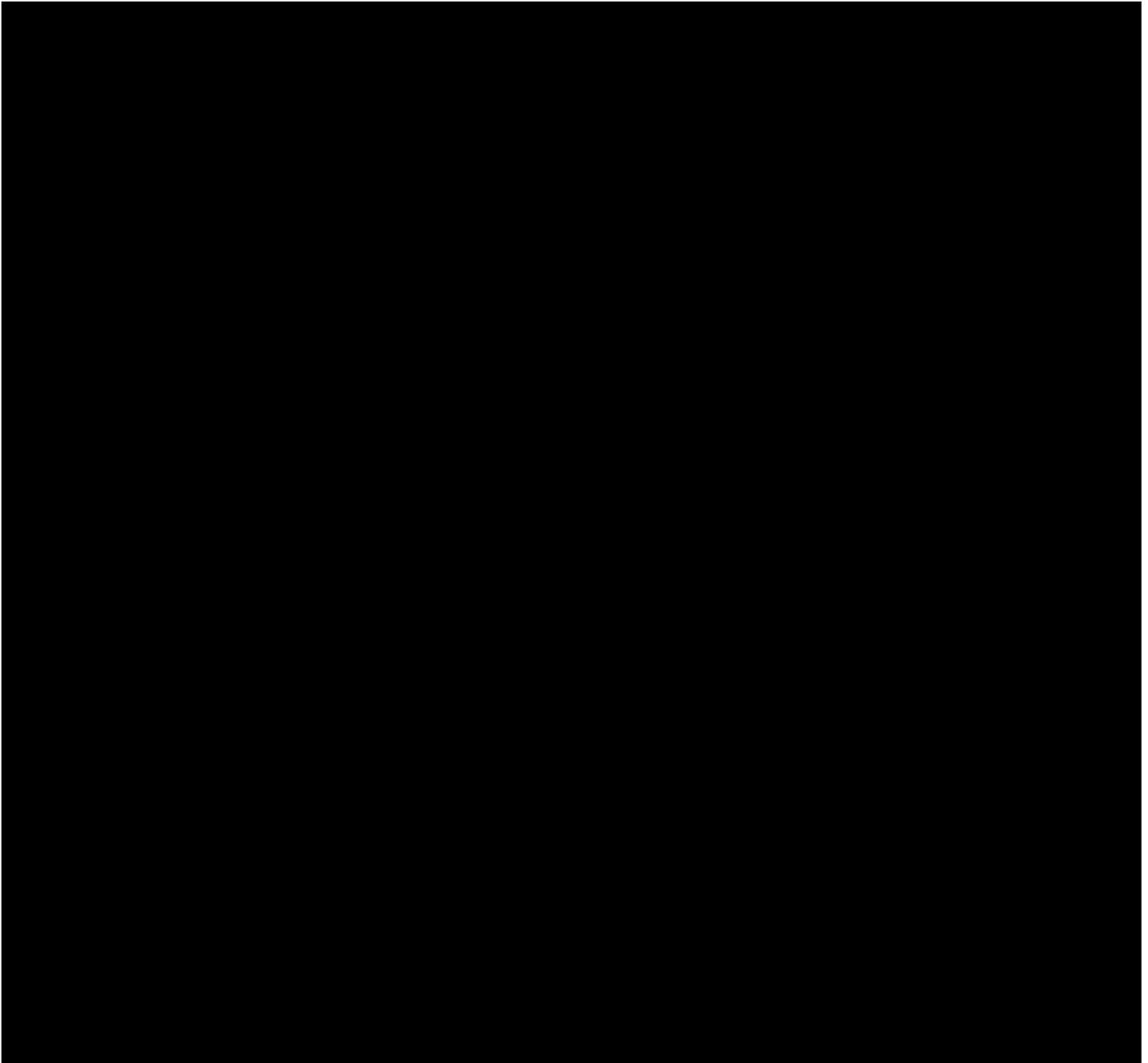
- Land Use
- Open Space
- Height and FSR
- State Infrastructure Contributions
- Social and Economic Impacts
- Sequencing
- Amalgamation

Land Use

The Precinct Plan states that mixed use employment and residential development is to be prioritised within 800 metres of the Metro station. The *DRBC Landholding* is within this 800 – 1200 metre catchment but no residential development is being permitted. The Aerotropolis City Centre is proposed to be “a regional-scale mixed-use centre focusing on retail, services and business activity, serviced by a metro station”. The subject landholding forms part of the walkable catchment to this centre and is located within the Aerotropolis Core Station Precinct – see **Figure 4**. Despite this, Badgerys Creek Road appears to have been identified as the boundary to the mixed use zone notwithstanding part of these landholdings being located within the 800m catchment of the Metro.

It is noted that the proposed Metro station is located in the northern area of the Aerotropolis Core Centre and the mixed use precinct extends south of Thompson’s Creek despite these lands being further away (approx. 1.8 kilometres) from the Metro station. The mixed use zone does not therefore align with the metro station being at the core of the centre. With this layout, the mixed use area (and associated higher density controls) crosses the existing creek and an area zoned Environment and Recreation area, creating a substantial disconnect from the majority of the core and station precinct.

Accordingly, extending the mixed use precinct beyond Badgerys Creek Road to Derwent Road will create a more centralised city with a Metro at its core and provide a better planning outcome for the Precinct by better aligning land use and infrastructure, enabling a greater scale of development and mix of uses in walking distance of the centre. Accordingly, we recommend that the Aerotropolis centre boundary (and associated height and FSR controls) be amended to extend further to the west – see **Figure 6** which provides a recommended plan showing a more appropriate mixed use centre boundary.



It is noted that these landholdings were previously identified as flexible mixed use in the LUIP. We are not aware of any explanation as to why this zone was removed from this landholding and replaced with Enterprise. As such it would not be a significant change to the Draft Precinct Plan and updated SEPP to rezone this land to flexible mixed use, considering a previous draft plan included residential use on this landholding.

We note that the preliminary flight paths (released in 2016) fly directly over the Aerotropolis Core which is zoned as mixed use residential. It is therefore not appropriate to apply the restriction on residential through an arbitrary border at Badgerys Creek Road even though the DRBC Landholding is within the same flight path.

Residential uses on the DRBC Landowners holding will not compromise the operating of the Airport when taking into account the Noise Exposure Mapping. Residential in a mixed use setting will be the best and highest order use when considering the proximity to the Metro precinct. This would contribute to a diversity of housing, delivery of a 30 minute city, and result in a more vibrant and economically viable outcome for the Enterprise Zone whilst still retaining its main role as business and employment uses.

If a change to the zoning is not supported by the Department, as a minimum, the SEPP and Draft Precinct Plans should provide a flexible and intensified zoning approach for the Enterprise Zone. A denser and mixed use commercial and business enterprise precinct at *DRBC Landholding* makes sense given its strategic location within walking distance from the Metro station. It would also provide the opportunity to deliver more jobs and a wider range of services to the surrounding community. As part of the Core precinct, the *DRBC Landholding* has the capacity to deliver a high quality urban design which could lead innovation, provide further floor space for key employment sectors, and enhance the mental and physical health of workers in the precinct with strong connections to open space and active transport.

Open Space

A large part of the landholding is identified as open space in the Draft Precinct Plan – see **Figure 5**. We note that the landholding is zoned for Enterprise and is not constrained by flooding or high biodiversity value (as confirmed by the SEPP).

In comparison, we understand that the proposed parkland along Thompsons Creek is zoned Environment and Recreation and a large portion of this land has been acquired by Government to deliver this open space parkland. It is therefore understandable that the Draft Precinct Plan identified this land as open space parkland. However, in the absence of any specific environmental or planning constraint, it is neither reasonable or equitable to propose this extent of open space on the DRBC Landholding zoned already for Enterprise use. Furthermore, we note that site is not identified as a hilltop or ridge park and is not identified as being flood affected land in the SEPP maps. Therefore, it would be unreasonable to have a significant amount of space on the landholding dedicated to open space.

In the absence of a justifiable basis for the extent of open space proposed, it is more appropriate that the uses and density of development on the land holding reflect its proximity to the future Metro station and Aerotropolis Core centre.

On behalf of the DRBC Landowners, we strongly object to the extent of open space both on economic and equity grounds. We strongly suggest that the proposed extent of open space indicated on the Draft Precinct Plan is excessive, and the practical developable potential of the landholding has been severely restricted. This is neither commercially viable or reasonable and the Draft Precinct Plan should be amended to reduce this impact on the future development of the land.

Alternatively, it is recommended that the Draft Precinct Plan provide a more flexible approach to enable landowners the opportunity to explore place based design approaches to deliver the best urban design outcome for the precinct. For example, including an aim to provide open space in a certain area rather than explicitly identifying private land as open space. As a minimum, to have certainty of the outcome on this landholding an incentive should be given as an offset to the dedication of open space to support financially viable development.

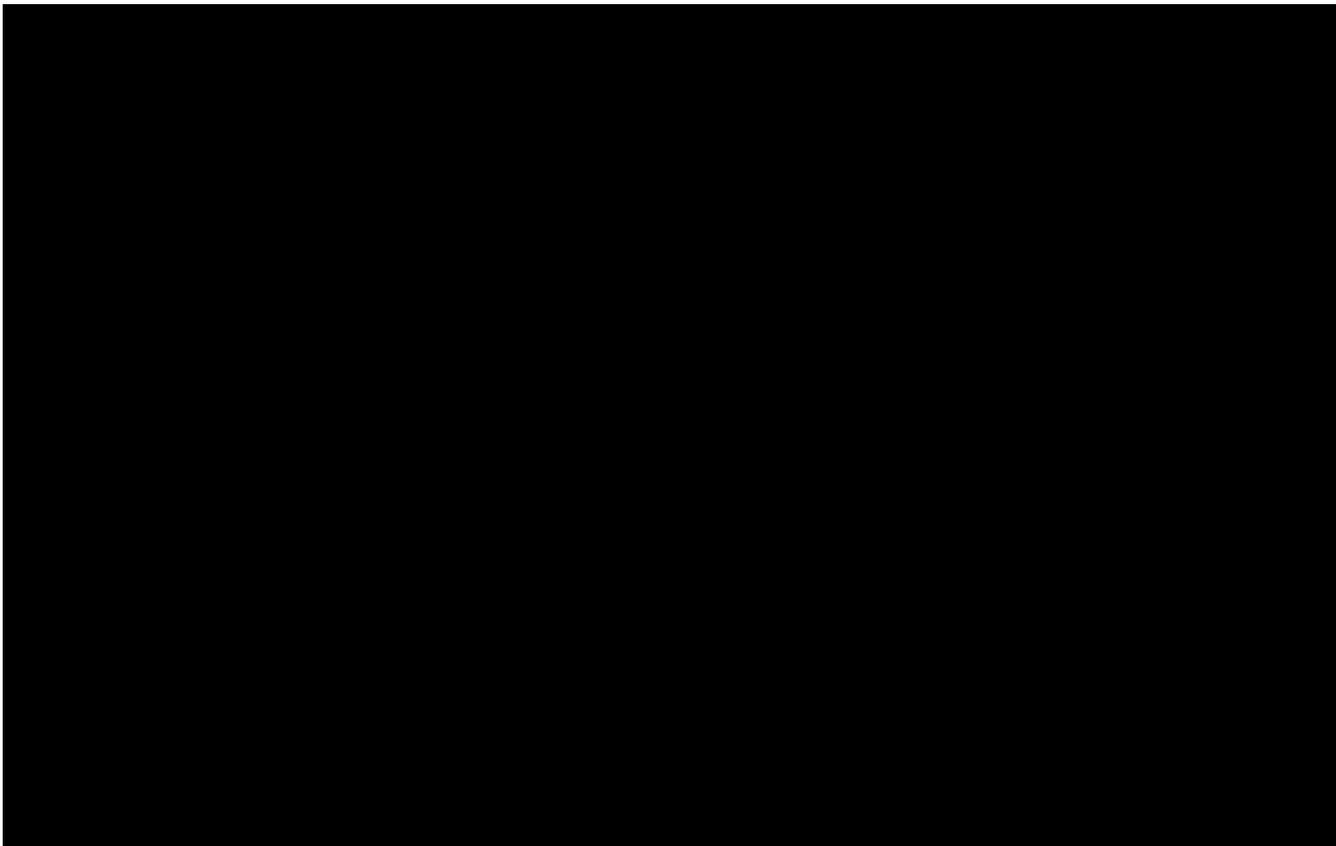
Height of Buildings (HOB) and FSR

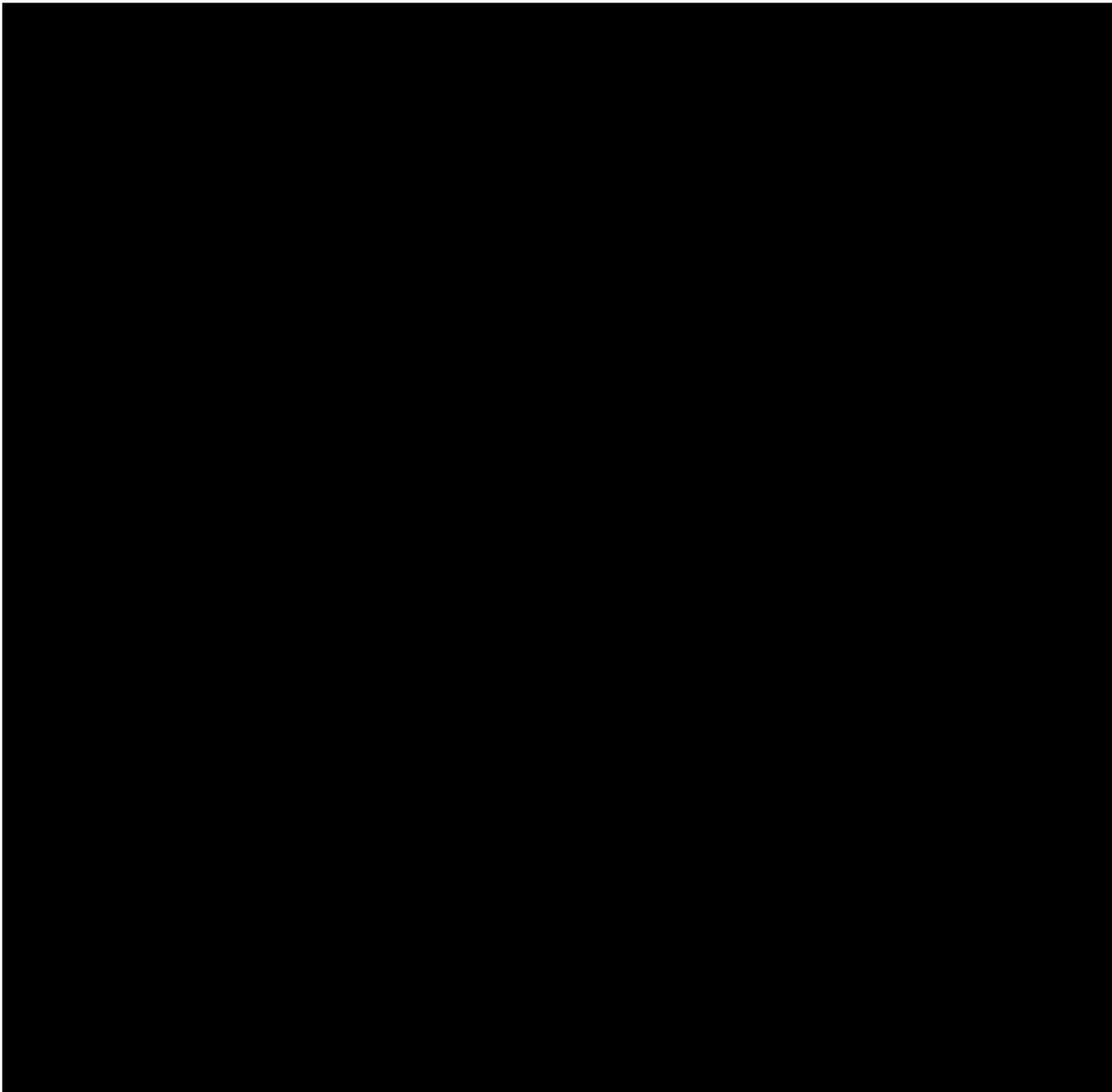
We note that there are inconsistencies between the exhibited maps in the Draft Precinct Plan. The proposed HOB Controls identified in the Draft Precinct Plan are not supported by the DRBC Landowners. The controls are not appropriate for a station precinct location and do not reflect the potential of the site as part of the Aerotropolis Core city centre.

It is noted that there are significant inconsistencies between the HOB maps included in the precinct plans and precinct brochures. The HOB map in the Aerotropolis Core brochure identifies the eastern and southern parts of the site (fronting Badgerys Creek Road and The Northern Road) coloured to have a maximum HOB of 40-52.5 metres. However, has reference to the OLS control limiting the height to 15 metres with no explanation – see **Figure 8**. Inconsistent with this, the lots with frontages to Derwent Road have been identified for a height limit of 24 metres. Furthermore, we note that according to the Airport Safeguarding Tool, lots within the subject site can achieve building up to 44.5 metres in height – see **Figure 9**. Therefore, this is an inconsistent approach and there is no planning basis for not applying increased HOB and FSR on the DRBC Landholding.

We note that lands to the northeast of the station located at a further distance to the Metro station than these lots have also been identified for a maximum HOB of 40-52.5 metres. In addition, landholdings to the south of Thompsons Creek, have been identified for a higher height and FSR than our client’s landholding which is closer to the Metro station– see **Figure 8**.

Significant development contribution rates are being applied to the DRBC Landholding due to it being identified as part of the station precinct (as confirmed by the Draft SIC) but the site has not been allocated appropriate controls to offset this cost and realise the potential of the land. This is further discussed below.





It is recommended that the Draft Precinct Plan be amended to increase the HOB and FSR controls on the *DRBC Landholding* to a density that is similar to the lands to the immediate east of the landholding and south of Thompsons Creek – See **Figure 8 and 10**. Additionally, we strongly suggest that the entire landholding have a height control of 40-52.5 metres, consistent with the eastern part of the site. It is noted that this would remain compliant with the OLS control over the site and deliver a better planning outcome for the landholding as a whole of site urban design approach.

SIC – Station Precinct

The Draft Precinct Plan states that mixed use employment and residential development is to be prioritised within 800 metres of the Metro station. Part of the landholding is within this 800m catchment, but no residential development is being permitted. However, in the Draft State Infrastructure Contributions scheme, also on exhibition, *“the Station Precinct charge will apply to land within approximately 1.2 kilometres of the proposed Metro station.”* The result is an additional development levy or burden being applied to the DRBC landowners despite no development benefit from the proximity to the proposed Metro. This is neither reasonable nor equitable.

This SIC charge is in addition to the extremely high Local Infrastructure Contributions charges which have been exhibited by Liverpool City Council to be at 6.5% of the cost of carrying out development, which for a site as large as the DRBC Landholding would incur an unreasonably high contribution when combined with the SIC.

It is only reasonable and appropriate to assume therefore that Government has formed the view that our clients’ land forms part of the station precinct. It is therefore also reasonable to assume that the DRBC Landholding should benefit in the same way as the balance of the Station precinct in terms of a mix of uses and density of development. This is particularly the case given and as stated, that our clients’ land is closer to the Station than much of the remainder of the Station precinct.

Social and Economic Impacts

The future development of DRBC Landholding will be severely compromised by the identification of a large portion of this land as open space, and the value of our client’s land significantly reduced as a result. It is not reasonable to impose such a significant burden on the use of landholdings without understanding the practical social and economic consequences.

We strongly recommend that prior to the adoption of the Draft Precinct Plans, an assessment of the social and economic impacts on landholdings be undertaken to take into account the real and practical implications of Government’s plans to restrict the use of private lands. This is of particular importance to those landholders that will be severely impacted as a result of the proposed planning controls.

On behalf of the DRBC Landowners we seek advice on what basis would the land for open space be set aside, that is, is it to be acquired or proposed to be dedicated? If it is to be dedicated, will that be recognised as an offset against any infrastructure contributions, State or Local?

Sequencing Plan

The DRBC Landowners support the Sequencing Map as included in the Precinct Plan. It is noted that the Aerotropolis Core Precinct should be included as a first priority area, particularly given the Metro is due to be operational in 2026 and it is vital that land use aligns with infrastructure to ensure a successful Aerotropolis. The DRBC Landholding has the capacity and the capability to be a catalyst site and could achieve the vision and objectives of the Aerotropolis (see Objectives IO1 and IO2).

Amalgamation

The Draft Precinct Plan encourages amalgamation of land to a minimum of 5 hectares directly to the west of Badgerys Creek Road in order “to achieve a consistent and feasible employment land development on the major arterial road.”

The DRBC landowners provide a consolidated approach, with a combined holding of approximately 55 hectares. This provides the opportunity to deliver a large unfragmented landholding in proximity to the Aerotropolis Metro station. There are few other landholdings of this size to the west of the Aerotropolis Metro station that provide one large parcel.

The amalgamation plan provided in the Draft Precinct Plan is unclear – see **Figure 11**. Accordingly, our client’s request guidance from the Department on the potential implications of amalgamation with particular reference to the following:

1. On what basis was the boundary of the amalgamation parcels determined?
2. What are the practical implications of the amalgamation parcels in terms of development controls?
3. Are there development incentives to support amalgamation?
4. What are the funding and delivery arrangements for providing the proposed open space and construction of the roads?
5. How does the Department intend to address isolated lots? That is, lots not forming part of a development parcel due to ownership and at risk of a less than optimal planning outcome through no fault of the landowner.

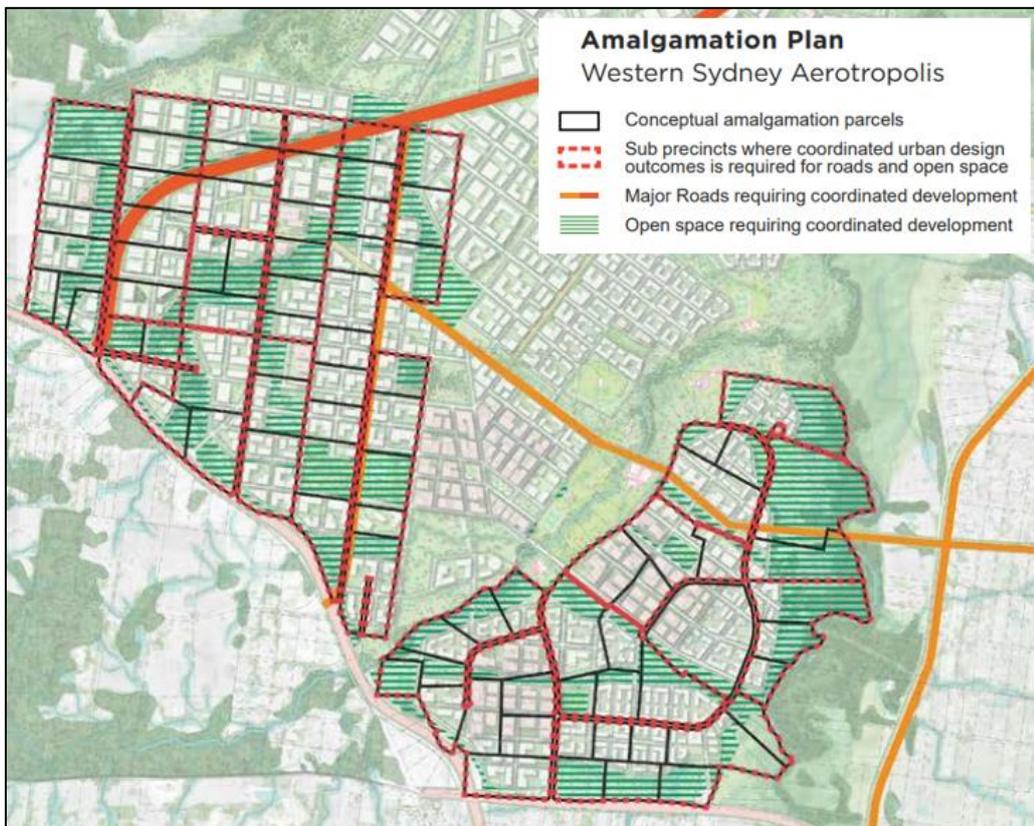


Figure 11:
Amalgamation Plan
(WSA Precinct Plan)

Conclusion and Recommendations

For the reasons set out above, we recommend the following:

- The Draft Precinct Plan be amended to reduce the amount of open space to enable this strategically located landholding to better contribute to the Aerotropolis Core precinct by supporting a larger and practical developable area. Alternatively, and as a minimum, to have certainty of the outcome on this landholding an incentive should be provided to offset the dedicated open space to make it financially viable to develop this landholding.
- No plan or planning controls should be adopted until a comprehensive Social and Economic Impact Assessment and Regulatory Impact Statement has been undertaken to better understand the implications of the proposed Precinct Plan on private landholdings. Once undertaken the social and economic impact assessment should be publicly exhibited.
- Subject lands to be rezoned as mixed use taking into consideration its location in proximity to the Metro Station and to ensure consistency in the zoning of lands in and around the centre. Alternatively, as a minimum, provide flexibility to allow for the expansion of uses in the Enterprise zone to provide flexible employment related uses in areas not constrained by the ANEF.
- The Draft Precinct Plan be amended to include more appropriate height and FSR controls for our client's landholding located within the Aerotropolis Core station precinct.
- All lands within the Aerotropolis Core precinct should be included as a first priority area in the Sequencing plan to align land use and infrastructure to ensure a successful Aerotropolis.
- The size (over 55 hectares) and the strategic location of the site despite being less than 100 hectares should be recognised as a significant catalyst.

Again, on behalf of the landowners, we thank the Department for the opportunity to comment on the Draft Precinct Plan and look forward to further engagement on the concerns raised with regards to this landholding.

Yours sincerely.