

Draft Planning Proposal

in respect of
Lot 1 DP 379688 (No. 4)
Craig Street Kyogle

Prepared on behalf of
Grahams Precast Concrete



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1	PART 1 - OBJECTIVES OR INTENDED OUTCOMES	1
1.1	Objectives.....	1
1.2	Site Context and Setting	1
1.3	Landholder Ownership.....	2
2	PART 2 - EXPLANATION OF PROVISIONS	3
3	PART 3 - JUSTIFICATION	3
3.1	Section A - Need for the Planning Proposal	3
3.1.1	Question 1 - Is the planning proposal a result of any strategic study or report?.....	3
3.1.2	Question 2 - Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	4
3.2	Section B - Relationship to strategic planning framework	5
3.2.1	Question 3 - Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?	5
3.2.2	Question 4 - Is the planning proposal consistent with a council's local strategy or other strategic plan?	5
3.2.3	Question 5 - Is the planning proposal consistent with applicable State Environmental Planning Policies?	5
3.2.4	Question 6 - Is the planning proposal consistent with applicable Ministerial Direction (s. 117 direction)?	5
3.3	Section C - Environmental, social and economic impact	6
3.3.1	Question 7 - Is there a likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?	6
3.3.2	Question 8 - Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	6
3.3.3	Question 9 - Has the planning proposal adequately addressed any social and economic effects?	7
3.4	Section D - State and Commonwealth Interests	8
3.4.1	Question 10. Is there adequate public infrastructure for the planning proposal?	8
3.4.2	Question 11 - What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?	8
4	PART 4 - MAPPING	9
4.1	Current Zoning.....	9
4.2	Proposed LEP Map.....	9
5	PART 5 - COMMUNITY CONSULTATION	10
6	PART 6 - PROJECT TIMELINE	11
7	CONCLUSION	11

1 Part 1 - Objectives or Intended Outcomes

1.1 Objectives

The primary objectives of the planning proposal is to enable the continued use and proposed minor redevelopment of an existing pre-cast concrete manufacturing facility upon Lot 1 DP 379688 (No. 4) Craig Street Kyogle.

The property owner is PJ and JJ Graham Superannuation Fund and operates as Grahams Pre-cast Concrete Pty Ltd has operated a concrete manufacturing business upon the site for in excess of 10 years.

With the introduction of Kyogle Local Environmental Plan 2012 the site was rezoned to IN2 - Light Industrial. Council has determined that the use of the site within the current IN2 Light Industrial zone for the purposes of the manufacturing of pre-cast concrete products does not fall within the list of permissible uses under the relevant land use table within the LEP. The owners are intending to undertake improvements to the site including the expansion of the existing shed so as to provide additional undercover area for the manufacturing of product and storage of material. The anomaly between the current operation and zoning of the site since 2012 therefore requires to be addressed.

The objectives and intended outcomes will be met by the inclusion within Schedule 1 (additional permitted uses) the use of Lot 1 DP 379688 for the purposes of the production of pre-cast concrete products.

1.2 Site Context and Setting

The subject property is identified by real property description as Lot 1 DP 379688 Craig Street Kyogle. It is located within an established light and industrial zoned and developed area.

Land uses within the locality consist of a variety of industrial activities including storage units, manufacturing, steel fabrication, vehicle sales and repairs, hardware supplies, seed drying and handling, as well as some limited residential uses. Outside of the current light industrial zoning the surrounding lands are zoned IN1 - General Industrial, RU1 - Primary Production and R1 - General Residential. The property is in close proximity to the established residential area of Kyogle.

The operation of the site for the manufacturing of pre-cast concrete products has a synergy with an adjoining concrete batching facility whereby the mixed concrete is readily delivered (across the road) to the site for use in the manufacturing of various concrete products in particular water tanks, septic tanks, headwalls and the like. The business supplies these concrete products throughout the NSW north coast and south-east Queensland regions.

The site is relatively flat and is developed. There are no existing environmental attributes such as native vegetation stands, drainage lines or the like.

Power, telecommunications, water and reticulated sewerage is available to the site.

1.3 Landholder Ownership

The site is privately owned by Grahams Pre-cast Concrete Pty Ltd.

2 Part 2 - Explanation of Provisions

It is proposed that the Kyogle Local Environmental Plan 2012 be amended by including as a permissible use with consent within Schedule 1 of the LEP the development of the site for the purposes of the manufacturing of pre-cast concrete products. It is not proposed to alter the current IN2 Light Industrial zoning.

Schedule 1 of the written instrument will need to be amended accordingly. No other alteration to the LEP is required and there is no requirement for amendment to the LEP supporting maps.

There is no proposal to amend the currently applicable minimum lot size or to amend the building height maps.

3 Part 3 - Justification

3.1 Section A - Need for the Planning Proposal

There is a need for the Planning Proposal to provide for the continued operation of the current business on-site as Council has determined that the use falls outside of the list of permissible uses within the IN2 Light Industrial Zone.

The current IN2 zoning allows for light industrial development. The definition for a light industry is subjective in that an industrial use can be deemed to be light industry as it requires consideration of the likely impacts of a proposed land use in order to determine its permissibility. Council in considering the issue as to whether the use of the site may constitute a light industry has determined that the use is in fact a general industry.

The inclusion of the use of the site as permissible within Schedule 1 of the LEP is therefore deemed to be the most appropriate mechanism to rectify the issue.

3.1.1 Question 1 - Is the planning proposal a result of any strategic study or report?

The property is within a locality which has been considerably developed for light industrial purposes. In 1995 Council prepared Development Control Plan No. 3 – Industrial development. The plan identified the general locality of the site as being the preferred area for industrial development within the town. Subsequent to the introduction of the DCP, the subject lands were developed for what was deemed to be light industrial development resulting in the use of the site consistent with the current zoning. Whilst the definition of light industrial development being *"a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following:*

- (a) *high technology industry,*
- (b) *home industry."*

it has been determined that the Schedule 1 amendment is the most appropriate means to confirm the permissibility of the development.

The proposal is consistent with Council's desire to promote sustainable development within the Council areas, and is consistent with the objectives for the IN 2 zone.

Benefits from proceeding with the proposed Schedule 1 inclusion are:

- Ability to acknowledge the permissibility of the current use and operations of the site within the IN2 zoning under the Kyogle LEP 2012;
- Ability for the proposed alterations to the site development to be granted development consent.

Council identified that in considering the proposed amendment of the LEP, a noise impact assessment should be undertaken in order to determine whether there is any potential for adverse noise impact upon the closest residential properties. An assessment was undertaken by Ambience Audio Services and is included as Appendix 3 to this proposal. The assessment concludes that the continued operation of the pre-cast concrete manufacturing facility and including the planned modifications can occur compliant with the requirements of the EPA and the NSW Industrial Noise Policy.

3.1.2 Question 2 - Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The current IN2 Light Industrial zoning applying to the site is an appropriate zoning for the locality. The option of seeking the rezoning of the subject property to IN1 General Industrial is seen as inappropriate as it could then lead to a future change of use of the site to another industry which by its nature may result in potential adverse impact to residents within the locality. In acknowledging that the current use of the site has limited potential for adverse impacts and in seeking to rectify the non-permissibility of the use within the IN2 zone (as determined by Council) the planning proposal is the most appropriate means of achieving the objectives.

The planning proposal is consistent with Councils objectives for the IN 2 zone which seeks:

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*

The Schedule 1 amendment will provide for the ongoing operation of an industrial activity within an established industrial area, providing continued employment opportunities and economic growth and development for the Kyogle community.

Is there a net community benefit?

Yes. The proposed zoning change will provide for additional opportunity industrial development and use of the site providing increased levels of service for the local community and increased employment opportunities.

3.2 Section B - Relationship to strategic planning framework

3.2.1 Question 3 - Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The proposal is consistent with the Far North Coast Regional Strategy which provides the regional framework for the consideration of policy development and the overall vision of the future. The site is within the existing serviced and developed area of Kyogle consistent with the Strategy provisions.

3.2.2 Question 4 - Is the planning proposal consistent with a council's local strategy or other strategic plan?

The planning proposal is consistent with:

- The aims and objectives of the Kyogle LEP 2012
- The provisions of the Kyogle Structure Plan

The planning proposal will also continue to facilitate practical planning outcomes in relation to the site and is therefore consistent with the long-standing practice in the Kyogle LGA.

3.2.3 Question 5 - Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposal is consistent with applicable State Environmental Planning Policies. A checklist is provided as Appendix 1.

3.2.4 Question 6 - Is the planning proposal consistent with applicable Ministerial Direction (s. 117 direction)?

The proposal is consistent with applicable Ministerial Directions.

A checklist is provided as Appendix 2.

3.3 Section C - Environmental, social and economic impact

3.3.1 Question 7 - Is there a 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 planning proposal is unlikely to result in negative impacts on flora and fauna. The site is a disturbed (previously cleared) and developed light industrial property within the developed urban area of Kyogle. The site has no specific habitat significance.

The property does not constitute potential Koala Habitat as defined under SEPP 44.

The site does not constitute significant habitat for any of the scheduled threatened species, populations or ecological communities under the *Threatened Species Conservation Act 1995*, *Fisheries Management Act 1994* or *Environmental Protection and Biodiversity Conservation Act 1999*. The proposal will not impact upon the viability of any scheduled species.

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

No direct adverse environmental impacts are likely to arise as a result of the planning proposal. Issues such as minimising erosion and sediment potential, preventing stormwater, dust and noise pollution can be adequately addressed at future development application stage for any modification to the site activities.

Natural Hazards

There are no identified natural hazards.

Land Contamination

The site is developed and includes hard standing surfaces for the entire development area. Given this and the nature of the use, a contaminated land assessment is not required for this rezoning proposal.

Water Quality and Stormwater Management

Council, through its standard development application assessment processes can ensure that any proposed future developments upon the site meet the Council's stormwater management requirements under the DCP provisions. Stormwater from the site is presently accommodated within the Council's general stormwater system for the industrial estate.

Heritage Impact

The site is not listed as an item of heritage significance under the Kyogle LEP or State inventory.

3.3.3 Question 9 - Has the planning proposal adequately addressed any social and economic effects?

The planning proposal will provide for the ongoing opportunity for industrial development and use of the site providing increased levels of service for the local community and increased employment opportunities. There are no identified external negative economic impacts associated with the proposal.

The Noise Impact Assessment undertaken by Ambience Audio Services concludes that:

"Background noise monitoring was conducted with calibrated noise monitoring equipment at 2 nearby representative residential locations over a period of 7 days to determine the existing background noise levels. The Project Specific Noise Level, Leq, 15min (PSNL) was determined to be 41 dB(A) for Receiver 1, 45 dB(A) for Receiver 2 and 43 dB(A) for Receiver 3 for the day time (7am – 6pm) period.

Measurements were conducted of the potential noise sources at the concrete manufacturing facility to determine the noise levels and noise characteristics. Results indicate low frequency and impulsive noise characteristics in some of the equipment and operations.

Measurements and observations of operational noise levels at the closest affected residential dwellings indicate that some noise levels (Franna crane revving, sledge hammer banging metal moulds, vibrator operated at full power) are audible for short periods of time particularly during road traffic lulls. When assessed over a 15 minute period, the noise levels are below the Project Specific Noise Level at each of the closest receiver locations.

Nearby industrial buildings, the workshop and a hill provide some noise shielding to nearby residential dwellings.

The operational noise levels at the receiver locations were generally below the level of road traffic noise levels. Short periods of some noise sources were audible at the receiver locations during traffic lulls.

The construction of a large shed over the mould area near the workshop will not increase noise levels at the closest residential receiver locations."

Future development of the site can occur with minimal impact on nearby uses which are dominated by rural, industrial and residential developments. There will be minimal potential for adverse social impact. Continued use and development of the site for the manufacturing of pre-cast concrete products can occur without adversely affecting the quality of life or social well being of the residents of the locality.

Given the location and topography of the site, any future development can occur with minimal visual impact upon the nearest dwellings.

Based upon the assessments, no adverse economic or social impacts are expected to result from the planning proposal.

3.4 Section D - State and Commonwealth Interests

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

The planning proposal does not create the need for any additional public funded infrastructure. Required infrastructure provisioning for any additional development upon the site will be met via Section 94 contributions or required as conditions of development consent.

Water, sewer, power and telecommunication facilities are available and adequate for expected demand.

The planning proposal does generate additional demand for open space or community facility provision.

3.4.2 Question 11 - What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation will be undertaken with relevant agencies following the gateway determination stage of the LEP amendment.

4 Part 4 - Mapping

4.1 Current Zoning

The planning proposal site is currently zoned IN2 Light Industrial under the Kyogle Local Environmental Plan 2012. The current zoning is shown below:



4.2 Proposed LEP Map

As the proposal involves the inclusion of the current use of the site a permissible under Schedule 1 of the Kyogle LEP 2012, no map amendments are required.

5 Part 5 - Community Consultation

Council has not undertaken any community consultation concerning this planning proposal. It is anticipated that this will occur as part of the formal exhibition of the planning proposal and as directed through the gateway determination process.

Council will undertake community consultation and public exhibition processes post Gateway determination. A 28 day exhibition period is proposed.

Notification of the exhibited planning proposal will include:

- Local newspaper advertisement;
- Letter to adjoining property owners, and
- Details on Council's website and Department of Planning and Environment website.

The written notice will:

- Provide a brief description of the objectives or intended outcomes of the Planning Proposal;
- Identify the land that is the subject of the Planning Proposal;
- Identify where and when the Planning Proposal can be inspected, and
- Advise how a submission can be made.

Exhibition Material:

The Planning Proposal, in the form approved for community consultation by the Director General of the Department of Planning and Environment.

6 Part 6 - Project Timeline

The following timeline is proposed:

- Report to Council - December 2016
- Gateway determination - December 2016
- Any additional technical studies as required by the determination - January 2016
- Public exhibition and Agency Consultation - January 2016
- Consideration of submissions - February 2016
- Post exhibition resolution by Council - February 2016
- Submission to Department for finalising - February 2016
- Plan making - March 2016

7 Conclusion

The planning proposal site is within the developed IN2 Light Industrial zoned area for Kyogle and the use of the site for the manufacturing of pre-cast concrete products has occurred on the site for in excess of 10 years.

The current IN2 zoning allows for light industrial development. The definition for a light industry is subjective in that an industrial use can be deemed to be light industry as it requires consideration of the likely impacts of a proposed land use in order to determine its permissibility. Council in considering the issue as to whether the use of the site may constitute a light industry has determined that the use is in fact a general industry.

The proposed Schedule 1 amendment will provide for the ongoing operation of an existing industrial activity within an established industrial area, providing continued employment opportunities and economic growth and development for the Kyogle community and is therefore deemed to be the most appropriate mechanism to address the issue for the current and future use of the site .

The planning proposal is consistent with relevant State Environmental Planning Policies and relevant Section 117 Directions.

Agency and community consultation will occur during the exhibition stage of the proposal.

It is considered that the planning proposal is sufficient to enable the Department of Planning and Environment to issue a positive Gateway Determination.

Appendix 1 - Compliance with Relevant State Environmental Planning Policies

State Environmental Planning Policy	Requirements	Compliance
SEPP 44 – Koala Habitat Protection	<p>16 Preparation of local environmental studies</p> <p>The Director General may require that potential or core koala habitat not proposed for environmental protection zoning is the subject of an environmental study.</p>	Consistent. The site does not contain any Koala habitat.
SEPP 55 – Remediation of Land	<p>6 Contamination and remediation to be considered in zoning or rezoning proposal</p> <p>Council is required to consider whether the land is contaminated when rezoning for residential development.</p>	<p>Consistent.</p> <p>The site is developed and includes hard standing surfaces for the entire development area. Given this and the nature of the use, a contaminated land assessment is not required for this rezoning proposal.</p>
SEPP (Affordable Rental Housing) 2009	No specific requirement regarding rezoning land.	Consistent
SEPP (Housing for Seniors or People with a Disability) 2004	No specific requirement regarding rezoning land.	Consistent
SEPP (Infrastructure) 2007	No specific requirement regarding rezoning land.	Consistent
SEPP (Rural Lands) 2008	<p>2 Aims of Policy</p> <p>The aims of this Policy are as follows:</p> <p>(a) orderly and economic use and development of rural lands,</p> <p>(b) regard to Rural Planning Principles and the Rural Subdivision Principles,</p> <p>(c) to implement measures designed to reduce land use</p>	<p>Consistent. Site does not contain state significant agricultural land.</p> <p>An future development will not have any impact on surrounding rural land.</p>

State Environmental Planning Policy	Requirements	Compliance
	<p>conflicts,</p> <p>(d) to identify State significant agricultural land</p> <p>(e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.</p>	

Appendix 2 - Compliance with Section 117 Directions

Ministerial Directions	Requirements	Compliance
1. Employment and Resources		
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	Consistent. The site is currently zoned IN2 Light Industrial and this zoning will be maintained. The planning proposal provides for the continuation of the current industrial use of the site.
1.2 Rural Zones	A Planning Proposal must not rezone land from a rural zone to a residential zone unless it is justified under clause 5 of the direction. Such justification includes the identification of the land in a strategy (local or regional).	Consistent. The subject site is not currently zoned rural.
1.3 Mining Petroleum Production and Extractive Industries	This direction applies when the Planning Proposal: <ul style="list-style-type: none"> a) Has the effect of prohibiting mining of coal or other minerals, production of petroleum, or winning or obtaining extractive materials; b) Restricting the potential of State or regionally significant mineral resources 	Does not apply to planning proposal
1.4 Oyster Aquaculture	Not applicable	Not applicable
1.5 Rural Lands	The Planning Proposal must be consistent with the Rural Planning Principles listed in SEPP (Rural Lands) 2008 if it impacts on rural zoned land.	Not applicable. The site is not zoned rural.
2. Environment and Heritage		
2.1 Environment Protection Zones	The Planning Proposal must include provisions that facilitate protection of environmentally sensitive areas. Must not reduce protection	Consistent. The planning proposal area does not contain any environmentally sensitive areas.

Ministerial Directions	Requirements	Compliance
	standards for environmental protection zones.	
2.2 Coastal Protection	Not applicable	Not applicable
2.3 Heritage Conservation	Planning proposal must incorporate provisions for conservation of European and Aboriginal heritage items or places.	Consistent. There are no identified Aboriginal heritage sites within the rezoning site. The property is not identified as an item of environmental heritage under the LEP or state inventory.
2.4 Recreation Vehicle Areas	Not applicable	Not applicable
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	The Planning Proposal must: <ul style="list-style-type: none"> a) Broaden the choice of housing types and locations. b) Make efficient use of existing infrastructure and services. c) Reduce consumption of land. d) Housing of good design. e) Residential development not permitted until land is adequately serviced. f) Not contain provisions that will reduce residential density. 	Consistent. No residential zones are proposed.
3.2 Caravan Parks and Manufactured Home Estates	Retain provisions that permit development of caravan park.	Consistent. Caravan parks are currently not permissible on the site. It is not proposed to permit caravan parks or manufactured home estates on the site.
3.3 Home Occupations	The Planning Proposal must permit home occupations in dwelling houses without development consent.	Consistent.
3.4 Integrating Land Use and Transport	The Planning Proposal must give effect to and be consistent with the aims, objectives and principles of: <i>Improving Transport Choice</i> – Guidelines for planning	Consistent. The planning proposal will not affect or require any upgrading of existing available infrastructure. The site is in close proximity to the established residential and

Ministerial Directions	Requirements	Compliance
	<p>and development (DUAP 2001, and</p> <p><i>The Right Place for Business and Services – Planning Policy (DUAP 2001)</i></p> <p><i>Improving Transport Choice</i></p> <p>This policy aims to better integrate land use and transport planning and development,</p> <p>provide transport choice and manage travel demand to improve the environment, accessibility and livability,</p> <p>reduce growth in the number and length of private car journeys, make walking, cycling and public transport use more attractive.</p> <p><i>The Right Place for Business and Services</i></p> <p>This policy aims to encourage a network of vibrant, accessible mixed use centres which are closely aligned with and accessible by public transport, walking and cycling.</p> <p>Objectives include:</p> <ul style="list-style-type: none"> a) help reduce reliance on cars and moderate the demand for car travel b) encourage multi-purpose trips c) encourage people to travel on public transport, walk or cycle d) provide people with equitable and efficient access 	<p>commercial area of Kyogle and can utilise existing pedestrian paths and cycleways.</p> <p>The development of the site will support existing business and commercial activity within Kyogle.</p>

Ministerial Directions	Requirements	Compliance
	<ul style="list-style-type: none"> e) protect and maximise community investment in centres, and in transport infrastructure and facilities f) foster growth, competition, innovation and investment confidence in centres 	
3.5 Development Near Licensed Aerodromes	<p>The three objectives of this Direction are to:</p> <ul style="list-style-type: none"> a) ensure safe operations of aerodromes; b) ensure operations are not compromised by development causing obstruction or hazard to flying aircraft; and c) ensure development for human occupation is not exposed to Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25 unless appropriate noise mitigation is proposed. 	Not applicable.
4. Hazard and Risk		
4.1 Acid Sulfate Soils	Not applicable	Not applicable
4.2 Mine Subsidence and Unstable Land	<p>Applies to mine subsidence areas.</p> <p>Applies to areas identified as unstable</p>	<p>Consistent. The subject land is not in an identified mine subsidence area.</p> <p>There is no instability associated with the site.</p>
4.3 Flood Prone Land	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 	Not applicable.

Ministerial Directions	Requirements	Compliance
	<p>2005, and</p> <p>(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p>	
4.4 Planning for Bushfire Protection	<p>A Planning Proposal in bush fire prone land:</p> <p>Is to be referred to the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination prior to community consultation.</p> <p>Have regard to Planning for Bush Fire Protection 2006.</p> <p>Restrict inappropriate development from hazardous areas.</p> <p>Ensure bush fire hazard reduction is not prohibited within the APZ.</p>	Consistent. The planning proposal site is not bush fire affected.
5. Regional Planning		
5.1 Implementation of Regional Strategies	The Planning Proposal must be consistent Regional Strategies.	Consistent. Proposal is consistent with the urban growth provisions of the Far North Coast Regional Strategy
5.2 Sydney Drinking Water Catchments	Not applicable	Not applicable
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable	Not applicable.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable	Not applicable
5.8 Second Sydney Airport: Badgerys Creek	Not applicable	Not applicable
6. Local Plan Making		
6.1 Approval and Referral Requirements	A Planning Proposal should not contain provisions requiring concurrence, consultation or referral of a Minister or public authority without approval from the relevant Minister or public	Consistent.

Ministerial Directions	Requirements	Compliance
	<p>authority; and the Director General of DPE.</p> <p>Not identify development as designated development unless justified.</p>	
6.2 Reserving Land for Public Purposes	A Planning Proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without approval of the relevant public authority and the Director General of DPE.	Consistent.
6.3 Site Specific Provisions	<p>The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.</p> <p>A Planning Proposal to allow a particular land use must rezone the site to an existing zone that allows the land use, without additional development standards to those already in use in that zone.</p>	Consistent. The planning proposal will provide for ongoing use of the site for the manufacturing of concrete products.
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Strategy	Not applicable	Not applicable