

## Greater Sydney, Place and Infrastructure

IRF19/6899

### Gateway determination report

<b>LGA</b>	Liverpool
<b>PPA</b>	Liverpool City Council
<b>NAME</b>	Draft Review of LEP 2008 to align with Local Strategic Planning Statement (LSPS)
<b>NUMBER</b>	PP_2019_LPOOL_007_00
<b>LEP TO BE AMENDED</b>	Liverpool LEP 2008
<b>ADDRESS</b>	LGA Wide
<b>DESCRIPTION</b>	Comprehensive review of existing LEP provisions
<b>RECEIVED</b>	30 November 2019
<b>FILE NO.</b>	IRF19/6899
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal (**Attachment A2**) seeks to align the Liverpool Local Environmental Plan (LEP) 2008 with the Liverpool Local Strategic Planning Statement (LSPS) and the planning priorities in the Western City District Plan. The proposal is the first phase (Phase 1) of the implementation of the LSPS.

Council has also indicated that the proposal intends to repeal the Liverpool LEP 2008.

In particular, the proposal seeks to make a number of specific amendments, which are addressed under the following headings:

- Item 1 – Rezoning land around Moorebank Town Centre.
- Item 2 – Rezoning of Crossroads Industrial Precinct, Casula.
- Item 3 – Rezoning 12 Sydney Water owned and operated sites.
- Item 4 – Expand existing health and research land uses around Liverpool Hospital.
- Item 5 – Changes to Part 1 of the LEP;
- Item 6 – The Land Use Table.
- Item 7 – Insert minimum floor areas for industrial zones under Clause 5.4 Controls relating miscellaneous permissible uses.

- Item 8 – Insert Clause 5.16 Subdivision of dwellings on land in certain rural, residential or environment protection zones.
- Item 9 – Amend Part 6 Urban Release Areas.
- Item 10 – Update Clause 7.5 (3)(f)(vii) Design Excellence in Liverpool city centre.
- Item 11 – Clause 7.5A(2) Additional provisions relating to certain land at Liverpool City Centre.
- Item 12 – Clause 7.6 Environmentally Significant Land.
- Item 13 – Clause 7.8A Floodplain risk management.
- Item 14 – Clause 7.16 Ground floor development in Zones B1, B2 and B4.
- Item 15 – Clause 7.22 Development in zone B6.
- Item 16 – Clause 7.33 Dwelling houses in Zone R3 and Zone R4 – Height and FSR controls.
- Item 17 – Update various clauses in Schedule 1 Additional Permitted Uses.
- Item 18 – Introduce community events under Schedule 2 Exempt Development.
- Item 19 – Update the Schedule 5 Environmental Heritage inventory.
- Item 20 – Housekeeping Amendments.
- Item 21 – Miscellaneous Amendments.
- Item 21 – Land Acquisition Map changes.

## **1.2 Site description**

The planning proposal applies to the whole Liverpool Local Government Area (LGA), except for the areas under the State Environmental Planning Policies for Sydney Region Growth Centres 2006; Western Sydney Parklands 2009; and, State Significant Precincts 2005 (Edmondson Park South).

At this stage, the future Western Sydney International Airport and part of the Aerotropolis are zoned under the Liverpool LEP 2008. Figure 1 (overleaf) illustrates this relationship.



proposal is to reflect the strategic vision for the Liverpool LGA as identified in the Western City District Plan and the LSPS by:

- implementing the relevant actions of the LSPS;
- making various amendments to strengthen the operation, function and currency of LEP 2008; and
- rectifying anomalies within the written instrument and maps.

## 2.2 Explanation of provisions

The Phase 1 planning proposal will amend LEP 2008 as detailed below. A summary of the LEP amendments are discussed below and in Table 5 of the planning proposal at **Attachment A2**. Council's draft instrument is at **Attachments D1 & D2**. It is noted that the proposed clauses will be subject to legal drafting.

### Item 1 – Rezoning land around Moorebank Town Centre

The proposal seeks to rezone thirty-seven (37) residential land parcels from R4 High Density Residential to R3 Medium Density Residential around Moorebank Town Centre (refer to Figure 2) and make changes to the associated development standards applying to the land parcels, i.e. minimum lot size, height of buildings and FSR. The subject properties are shown in Table 5 at **Attachment R**.

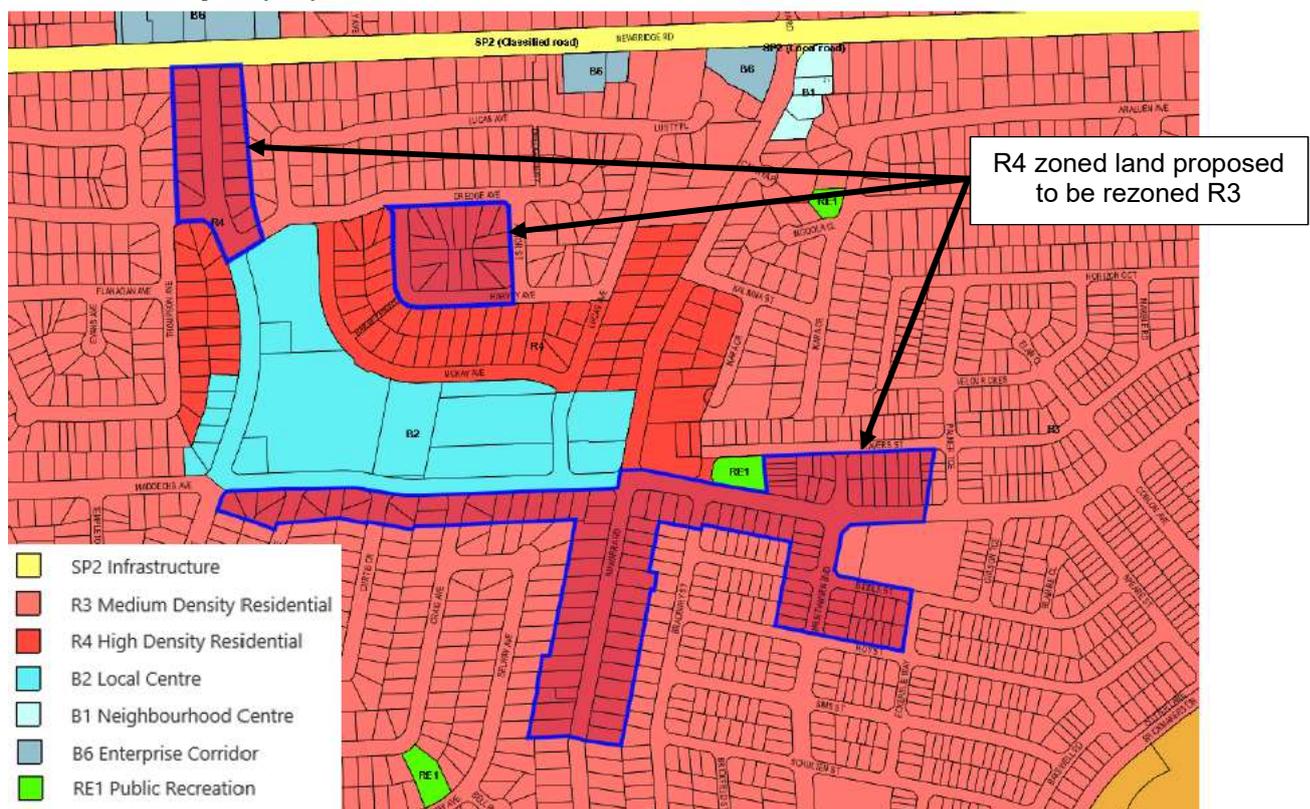


Figure 2 – Moorebank Town Centre land illustrating proposed rezoning from R4 to R3 (edged blue)

There have been five development applications (DAs) which have been approved recently and six are under assessment for residential flat buildings in the town centre. Council advises that the pending and approved developments for residential flat buildings are located within the R4 High Density Residential area that is to be retained except for one land parcel, which is within the area proposed to be rezoned to R3.

In view of community concerns over the current high density residential flat buildings being developed in the Moorebank Town Centre, in March 2019, Council conducted a community engagement session with the Moorebank residents, which resulted in many residents strongly objecting to the current R4 zone.

The Liverpool Housing Study (**Attachment I**) and Moorebank Rezoning Advice (**Attachment J**) commissioned by Council supports its conclusions that:

- there is adequate capacity in the LGA to accommodate housing demand to 2036;
- while there is dwelling capacity, not all land is currently feasible to be developed for residential flat buildings (RFB) within the R4 zones outside of the Liverpool CBD;
- under the existing controls, Moorebank Town Centre has capacity for additional housing, however, residential flat buildings are unlikely to occur because it is less feasible (i.e. smaller land sizes and land values and higher development expectations), particularly on those thirty seven (37) individual land parcels of R4 zoned land, which are proposed to be rezoned to R3;
- whilst serviced by retail and community facilities, a medium density development in R3 zone in Moorebank would:
  - be more likely to generate additional housing capacity within the town centre due to its feasibility, i.e. lower land price, higher feasibility and profit margins;
  - be more appropriate, given the limited public transport accessibility to justify additional housing density;
  - potentially be easier to develop as complying development through the low rise medium density housing code (when implemented) and make development more feasible in the area;
  - allow land uses and built form (refer to Table 1, **Attachment R**) that are more consistent with the surrounding residential character; and
  - have less land use conflict with the adjoining lower density residential areas, i.e. bulk and scale, overshadowing and loss of visual and acoustic privacy;
- the R4 High Density Residential zone has been retained in portions of the Moorebank Town Centre where high density residential development has occurred; and
- there are other areas within Moorebank that may be better suited to high density residential uses, such as the Moorebank East Precinct which is being investigated by Council.

**Department Comment:**

The Department, as well as Council, has received objections from the community on high density residential developments in the town centre and the proposed rezoning from R4 to R3. The Department notes that:

- Moorebank Town Centre is a local centre, not a strategic centre as identified in the Western City District Plan, and does not have good public transport connections with other centres;
- the proposed R3 zone land will ensure an appropriate transition between the high and low density residential land and ensure the amenity of the surrounding

low density residential character, i.e. bulk and scale, overshadowing and loss of visual and noise, is appropriately protected and managed; and,

- the proposal would reduce land use conflict.

Further, Council officers have advised that the proposal will not undermine the development applications which are being assessed within the proposed R3 area. Clause 1.8A Savings provision relating to pending development approvals of the LEP will enable the development applications to be considered under the existing LEP provisions. Table 2 of the **Attachment R** identifies the developments approved and proposed within R4 zoned areas. It is noted that only the permissibility of residential flat buildings on these sites will be removed.

In view of the issue raised above, the Department supports this amendment proceeding to exhibition, which will allow the consultation with the community to occur about the proposal and then further considered by Council following the anticipated response to the exhibition.

For clarity, it is recommended that Council strengthens the commentary in the planning proposal under Part 2 Explanation of Provisions by summarising the quantitative impacts on housing diversity and supply, as examined within the Liverpool Housing Study and Moorebank Rezoning Advice.

#### Item 2 – Rezoning of Crossroads Industrial Precinct, Casula

The planning proposal seeks to rezone land at the Crossroads Industrial Precinct from IN3 Heavy Industrial to IN1 General Industrial (Figure 3). No changes to the other existing development controls are proposed (Table 3 in **Attachment R**).

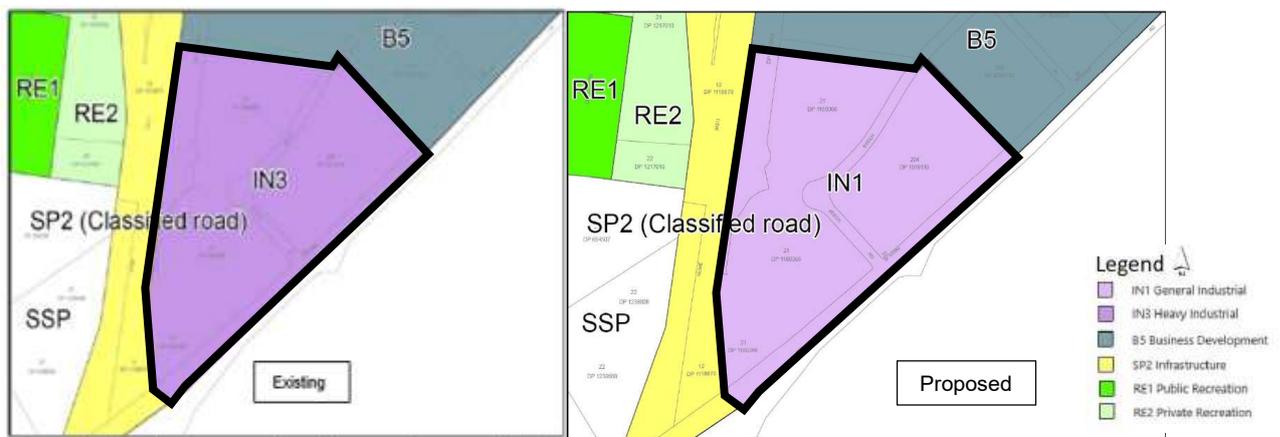


Figure 3 – Crossroads Industrial Precinct existing (left) and proposed zoning (right)

The Crossroads Industrial Precinct is a small industrial precinct of 21ha located to the south of the Casula Business and Retail Centre,. The site adjoins the Hume Highway and Campbelltown Road, with internal road access through Casula Business and Retail Centre to the Prestons Industrial area, north of Camden Valley Way.

The precinct has 79,000m<sup>2</sup> net leasable purpose-built and modern warehouse buildings, with a range of large to medium sized specialised manufacturing and logistics uses including Cosentino, Electrolux and Westrac.

Council advises that the precinct is part of a new subdivision to accommodate the AMP Crossroads Logistic Centre. The current and proposed uses in the precinct are mostly functioning as distribution and logistics warehouses as opposed to heavy industrial uses in the current IN3 zone.

Council prepared the Liverpool Industrial Development Lands Study (APP, July 2019 at **Attachment L1**). The study found that:

- the IN1 General Industrial Zone should be applied to industrial parks or estates that accommodate mid-sized operators and large, low-impact operations including warehousing, distribution, logistics, processing and manufacturing;
- the IN3 Heavy Industrial Zone should only be retained in areas where heavy impact industries are considered desirable to be maintained with protected separation distances to surrounding uses;
- the IN3 Heavy Industrial zoning could be revised given the nature of the current and future distribution and logistics land uses being developed in the precinct; and
- the Crossroads' site is small and not suitable for IN3 zone and is constrained for future growth by hard road boundaries and isolated from large industrial areas, removing the opportunity for the creation and emergence of co-existent and supporting industrial hubs.

The study further stated that Western Sydney Airport, and its associated future transport infrastructure, will continue to boost the logistics, freight and distribution sectors, which are heavily reliant upon movement of goods and materials, and access to transport and freight corridors. The study concluded that the site:

- is well positioned with direct access to operate in connection with larger industrial areas which will emerge through the development of both Western Sydney Airport and the Aerotropolis, further enhancing the area as a strategically placed centre for distribution; and
- has direct access to both the M7 and M5 Motorway interchanges, which provides transportation links to key commercial precincts around Sydney making the precinct suitable for niche competitive space for wholesale suppliers, distribution, freight and logistics.

Council further advises that AMP Capital, who owns the site, has been consulted and is satisfied with the proposed rezoning of the site.

#### **Department Comment:**

The Department notes that the IN1 zone allows various land uses, including freight transport facilities; depots; general industries; industrial training facilities; industrial retail outlets; information and education facilities; light industries; liquid fuel depots; passenger transport facilities; storage premises; transport depots; warehouse or distribution centres.

The existing uses and future uses envisaged on the site (i.e. logistics, freight and distribution) are permissible and are consistent with the objectives of IN1 General Industrial zone and will:

- provide a wide range of industrial and warehouse land uses;
- minimise any impacts on other land uses;
- encourage emerging logistics, freight and distribution sectors, because of direct access to the new Western Sydney Airport and the Aerotropolis; and
- provide transportation links to key commercial precincts around Sydney and make the precinct suitable for niche competitive space for wholesale suppliers,

distribution, freight and logistics because of direct access to both the M7 and M5 Motorway interchanges.

The proposed rezoning of the land from IN3 to IN1 is supported as:

- the proposed rezoning is consistent with the principles for managing industrial lands and urban services land under Objective 23 in the Western City District Plan;
- the proposal will not reduce the land used for industrial purposes or employment land; and
- the proposal aims to accommodate evolving business practices and is an outcome of a strategic review of industrial land as part of the LSPS process.

### Item 3 – Rezoning of 12 Sydney Water owned and operated sites

The planning proposal seeks to rezone twelve (12) Sydney Water owned sites (comprising 13 lots), across the Liverpool LGA from current zonings to SP2 (Sewerage System) and SP2 (Water Supply System), as detailed at Table 4, **Attachment R**. The proposal also seeks to remove development standards applying to the sites (i.e. FSR and height controls).

Following a review of Sydney Water property portfolio reflecting the permanent nature of the infrastructure assets, Sydney Water has made this request to Council (**Attachments P1 & P2**). Sydney Water advised Council that the proposed SP2 zone:

- will better reflect ongoing, permanent use as vital water and sewerage infrastructure;
- will provide clarity to the local community as to the current and intended use of the land;
- be consistent with Liverpool LEP 2008 SP2 zone objectives to provide for infrastructure and related uses; and
- confirms the land use is intended to support population growth within the LGA, providing services and infrastructure to meet changing needs.

### **Department Comment:**

The proposed SP2 zoning is supported. The proposal will accurately reflect the existing land use and permanent nature.

The proposal is also consistent with the LEP Planning Practice Note PN10-001 Zoning for Infrastructure in LEPs (14 December 2010), for sewage treatment plants and waste disposal sites to be zoned to an SP2 special purpose zone.

### Item 4 – Expansion of existing health and research land uses around Liverpool Hospital

The planning proposal seeks to:

- extend the area which the clause applies to the south to Elizabeth Street (instead of the current Campbell Street) which is zoned B4 Mixed Use (page 75 of **Attachment A2**);
- permit development for the purposes of light industry with consent on the land, but only if the industry is medical research and development; and,
- identify the area on the Key Sites Map (Figure 4).

Council advises that this area encompasses the Sydney Southwest Private Hospital; medical centres; recently developed residential flat buildings with ground floor medical uses, including a site awaiting approval for a residential flat building (DA-1212/2015). The proposed amendment aims to facilitate the viability and growth of the existing Liverpool Health and Innovation Precinct.

Council considers the clause is an additional local provision and not an additional permitted use and is to be included within Part 7 Local Provisions of the LEP (**Attachment D1**).



Figure 4 – Existing and Proposed Key Sites map – Medical Research and development

#### **Department Comment:**

The proposed amendment and intent is supported. The intention aligns with the objectives in the Western City District Plan and the LSPS “to develop a new world-class health, research and education precinct at Liverpool Hospital”, and the NSW Government commitment of \$740 million for the project. The proposal will further facilitate expansion of the hub for innovation and emerging technologies, boost the economy and create 30,000 jobs by 2026.

The Department also notes Council’s intention to relocate Clause 10 of Schedule 1 Additional permitted uses (**Attachment D1**) to Part 7 Local Provisions for land zoned R4 High Density Residential bounded by Campbell Street, Bigge Street, Lachlan Street and Goulburn Street. For legal drafting reasons, this is not possible, and for clarity, it is recommended that Council consider an alternative.

#### Item 5 – Changes to Part 1 of the LEP

##### A. New Liverpool LEP 2020 and remove Clause 1.8 Repeal of planning instruments applying to land

The proposal seeks to make various housekeeping amendments, remove redundant clauses and update references to the EP&A Act and legal instruments.

In addition, the planning proposal indicates that following a comprehensive review of Liverpool LEP 2008, it intends to introduce a new LEP 2020 and repeal the current LEP 2008. With the repeal of Liverpool LEP 2008, Council also proposes to remove the existing reference in Clause 1.8 to Liverpool LEP 1997 and 2007.

Council advises the planning proposal has been prepared:

- in accordance with sections 3.21 and 3.33 of the EP&A Act, following a comprehensive review of the Liverpool LEP 2008; and

- as required by sections 3.8 and 3.9 of the EP&A Act, the review gives effect to the Western City District Plan by aligning the planning proposal with the Liverpool LSPS.

**Department Comment:**

The Department notes that the proposal is the first phase of Council's implementation of the LSPS to align with the district plan. To protect Council's interests and ensure that the plan making process is not flawed, it is considered that the planning proposal should be treated as an amendment to the LEP 2008 and not act to repeal existing instruments.

The Department has taken this view as additional studies foreshadowed by Council will inform further amendment of the LEP under a proposed stage 2 review. Consequently, it is reasonable to contend that the subject planning proposal does not represent a comprehensive approach and, therefore does not give effect to the district plan under section 3.8(3) of the Act. Should the process not be correctly followed it may open the plan making process to challenge.

The Department also notes to meet the conditions of the NSW Government's Accelerated LEP Review Funding Program - that requires Council to submit the proposal to the Department for finalisation prior to 30 June 2020, an amendment to the Liverpool LEP 2008 would be a timelier process.

Any new comprehensive local environmental plans will include a clause relating to the suspension of covenants, agreements and instruments (currently clause 1.9A under the Liverpool LEP 2008), which would require the Governor's approval under section 3.16 of the EP&A Act prior to finalisation, possibly leading to a delay in meeting timeframes.

**B. Amend and insert new aims in the LEP**

The proposal seeks to amend and insert new aims in Clause 1.2 specifically aligned with planning priorities in the District Plan and the Liverpool LSPS.

New aims include:

- to improve public access along waterways and green corridors while protecting natural values;
- to improve public transport accessibility, and facilitate the increased use of active and public transport;
- to enhance the amenity and positive characteristics of established residential areas;
- to ensure the agricultural production potential of rural land and prevent its fragmentation;
- to encourage development opportunities for business and industry so as to deliver local and regional employment growth.

The proposal also seeks to amend some existing aims in Clause 1.2 to reflect the numbering changes in the EP&A Act as well as provide alignment with the planning priorities in the LSPS and Council's vision for Liverpool.

## Department Comment:

This proposed amendment is considered appropriate as the amended and new aims support specific planning priorities within the LSPS. These priorities are:

- Planning Priority 1 – active and public transport reflecting Liverpool’s strategic significance;
- Planning Priority 5 – a vibrant, mixed use and walkable 24-hour city centre with the Georges River at its heart;
- Planning Priority 6 – high quality, plentiful and accessible community facilities, open space and infrastructure aligned with growth;
- Planning Priority 7 – housing choice for different needs, with density focused in the City Centre and centres well serviced by public transport;
- Planning Priority 8 – community-focused low-scale suburbs where our unique local character and heritage are respected;
- Planning Priority 14 – bushland and waterways are celebrated, connected, protected and enhanced; and
- Planning Priority 16 – rural lands are protected and enhanced.

However, reference to Liverpool city centre as “Sydney’s third CBD” is recommended to be removed given the inconsistency with the District Plan.

### Item 6 – Changes to the Land Use Table

Amendments to existing land use tables (**Attachment D1**) are proposed in various zones (refer to Table 1). The proposal also seeks to update references in the objectives of the zones, as well as, aligning with the LSPS.

The proposed land uses are generally consistent with the objectives of the zones and with the Standard Instrument – Principal LEP however, some are not supported.

Table 1: Proposed changes to the Land Use Table

Land Use Zone	Proposed Amendment
RU1 Primary Production	Update reference to Western Sydney International Airport, and amend Land Use Table to specify ‘Environmental protection works’ as permitted with consent
B1 Neighbourhood Centre	Add an objective to facilitate sense of place, and amend Land Use Table to add ‘Car parks’ as permitted with consent
B2 Local Centre	Add ‘Car parks’ as permitted with consent
B3 Commercial Core	Add ‘Amusement centres’ and ‘Car parks’ as permitted with consent
B4 Mixed Use	Add ‘Amusement centres’, ‘Artisan food and drinks industries’ and ‘High technology industries’ as permitted with consent
B5 Business Development	Add ‘Kiosks’ as permitted with consent
B6 Enterprise Corridor	Remove ‘Multi dwelling housing’ as permitted with consent
IN1 General Industrial	Remove ‘Cemeteries’, and add ‘Vehicle sales or hire premises’ as permitted with consent

IN2 Light Industrial	Remove 'Cemeteries' and 'Recreation facilities (major)' as permitted with consent
IN3 Heavy Industrial	Add 'Liquid fuel depots' and 'Vehicle sales or hire premises' and remove 'Cemeteries', 'Light industries', 'Recreation facilities (outdoor)', 'Sex services premises' and 'Storage premises' to and from permitted with consent

### Department Comment:

#### A. IN1, IN2 and IN3 Zones - Prohibition of Cemeteries

The Liverpool Industrial Development Study (APP) (page 112, **Attachment L1**) states that cemeteries are deemed incompatible with the objective of the industrial zones, and that industrial activities should be prioritised in these zones. Council's advice is at **Attachment E**.

Planning Priority W3 'Providing services and social infrastructure to meet people's changing needs' of the Western City District Plan states that cemeteries and crematoriums are key social infrastructure that need to be accessible geographically and economically, and reflective of a delivery of cultures and backgrounds. A growing Sydney requires additional land for burials and cremations with associated facilities, such as reception space and car parking.

The prohibition of cemeteries is also contrary to the Department's advice provided to other councils in 2018 (**Attachment K**). The Department advised that cemeteries and crematoria were critical community infrastructure and that the Government had commissioned an independent review to identify suitable lands for Sydney's burial need. The advice stated that proposals which sought to prohibit cemeteries and crematoria were not to proceed to Gateway until the review and consideration of strategic planning options had been completed. It is understood this advice was given in the context of prohibiting cemeteries in the rural and environmental zones in The Hills and Penrith LGAs.

The Department has also consulted the Greater Sydney Commission (GSC) on the matter (**Attachment S**). It was advised that this amendment is not supported. The proposal is inconsistent with Planning Priority W3 of the District Plan, and the key findings of the Cemeteries & Crematoria NSW - the Metropolitan Sydney Cemetery Capacity Report (2017), which identifies that the existing cremation and grave occupancy rates, cemetery capacity in Greater Sydney could be exhausted by 2051.

The GSC noted that the Liverpool Industrial Lands Study did not give further explanation - why cemeteries are incompatible with industrial zones, as cemetery types may come in many forms at different densities. Some types of cemeteries may be suitable for some industrial lands and should be a matter for development assessment rather than prohibition in the LEP.

The GSC considered that the proposal to make cemeteries prohibited uses in the industrial zones is not supported as:

- insufficient justification has been provided as to why cemeteries are unsuitable in industrial lands;
- there is a significant long-term undersupply of burial space (which includes land for the establishment of columbarium) to serve Greater Sydney;

- the District Plan is seeking council action to identify additional land for cemeteries and burial space; and
- the proposal to make cemeteries prohibited uses in the industrial zones of Liverpool City would not be giving effect to the Western City District Plan.

In these circumstances, it is recommended that the proposal be amended to remove this item.

#### B. B1, B2 and B3 Zones – Inclusion of Car parks as a permitted use

No objections are raised for car parks in B1 and B2 zones to be a permitted use as any related impacts are likely to be minimal.

There, however, is insufficient justification to support the proposed permissibility of car parks as an additional use within B3 zones.

Stand-alone car parks within major centres zoned B3, may be contrary to sustainable principles to encourage public transport use and reduction of carbon emissions, and may reduce patronage for public transport potentially making these services unviable.

It is noted that B3 zones in Liverpool are within Liverpool City Centre within proximity to existing public transport nodes.

It is further noted that, clause 7.3 Car parking in the Liverpool City Centre of the Liverpool LEP 2008 provides car parking requirements within the city centre in the B3 Commercial Core or B4 Mixed Use zones. This clause ensures that car parking provided in the City Centre is commensurate with the traffic likely to be generated by the development; and, is appropriate for the road network capacity and proposed mix of transport modes for the city centre.

The Department has also issued a Gateway determination for a planning proposal to enable a multi deck car park at Collimore Park (PP\_2019\_LPOOL\_004\_00), approximately 2km at the north-western edge of the CBD to provide an additional 1,500 car parking spaces to support the CBD.

In addition, the Department notes that Planning Priority W9 Growing and strengthening the metropolitan cluster of the Western City District Plan advises when planning in collaboration areas, planned precincts and metropolitan clusters, proposals need to ensure parking availability takes into account the level of access to the area by public transport.

Encouraging car parks in the city centre is contrary to these priorities and may only exacerbate more traffic congestion in the CBD.

Further, the Department acknowledges that a Place-based Future Transport Study is being prepared by Transport for NSW. The draft study aims to develop Liverpool CBD as a successful place, well connected with efficient movement corridors and to make alternative and viable travel options available, which will lead to a reduction of car-based travel.

The draft study identified two key challenges to the heavy traffic congestion within the Liverpool CBD, being the significant high private car usage (80%) and the streets being used for multiple functions for too many transport modes. These factors are limiting the street's capacity, performance and ability of the movement corridors in the CBD. With the growing population and employment, access to the CBD will become increasingly important to its success as a Metropolitan Cluster.

The draft study recommends providing car parking on the edge of the City Centre. Encouraging car parks in the city centre is contrary to these initiatives and may only exacerbate more traffic congestion in the CBD. The study is being finalised.

Consequently, car parks as additional permissible use in B3 zone, as proposed, is not supported. Prior to exhibition, it is recommended that Council removes from the intention to make car park a permitted use for the B3 Commercial Core Zone, from the planning proposal.

Should Council wish to pursue this issue, it is recommended that Council further review car parks as a permissible use with consent in the B3 Commercial Core Zone in accordance with the Planning Priorities of the Western City District Plan and the Strategy 3 and 7.1 of the Greater Sydney Region Plan, as part of Council's Phase 2 program.

In undertaking further consideration, Council is to justify such a proposal in accordance with the strategic outcomes under those strategies and plans.

Advice in this regard is included in the covering letter to Council (**Attachment C**).

#### C. B6 Zone – Prohibition of multi dwelling housing

The Department notes that the B6 Enterprise Corridor zones within Liverpool LGA are along major roads or at the edges of centres and are zoned mainly for start-up businesses that support businesses in the strategic centres. The removal of multi dwellings is consistent with the aims of B6 zone which seeks to provide for residential uses, but only as part of a mixed use development.

The B6 zone will continue to allow residential dwellings in a form of shop top housing with consent. The proposed removal of multi dwelling housing from B6 zone is supported.

#### D. IN3 Zone - Prohibition of Sex services premises

Council's Addendum at **Attachment E** states that removal is based on the recommendations in the Liverpool Industrial Development Study (**Attachment L1**). The study found that it is deemed unsafe to have pedestrian movements from these uses occurring alongside heavy industrial activities.

Prohibition of sex services premises from IN3 zone is a local provision and is supported. Sex service premises will continue to be permitted with consent within IN1 and IN2 zones. The proposal is not inconsistent with the planning priorities in the relevant strategic planning documents.

#### Item 7 – Insert minimum floor areas for industrial zones under Clause 5.4 Controls relating miscellaneous permissible uses

The proposal seeks to add new provisions as follows:

- to limit depots, transport depots and warehouse or distribution centres, to a maximum of 2,000m<sup>2</sup> in IN2 Light Industrial zone; and
- to introduce a size limit for vehicle sales or hire premises to 500m<sup>2</sup> within all industrial zones.

Council advises the proposed changes are the outcomes recommended by Industrial Lands Studies supporting the planning proposal (**Attachments L1-L4**).

**Department Comment:**

The Department notes that depots, transport depots, warehouse and distribution centres are permissible uses with consent in other zones such as B4 Mixed Use, B5 Business Development, B6 Enterprise Corridor as well as IN1 General Industrial and IN3 Heavy Industrial zones. These zones are more appropriate than the IN2 zone to permit depots, transport depots and warehouse or distribution centres, and have no restrictions as to the area of operation (i.e. 2,000m<sup>2</sup>).

The restriction of vehicle sales or hire premises will ensure it does not have impact on the intended purpose of industrial areas for primary employment uses. The maximum floor space controls would ensure that these uses are kept to a limited scale, where these uses are not ancillary.

The proposed additional local provisions do not raise any issues and are supported.

**Item 8 – Insert Clause 5.16 Subdivision of dwellings on land in certain rural, residential or environment protection zones**

The planning proposal seeks to introduce a new Standard Instrument clause to minimise land use conflict between existing and proposed development on land in rural, residential or environmental protection zones.

Council advises that the objective of the clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or environment protection zones concerned (particularly between residential land uses and other rural land uses).

The clause is applied where subdivision or erection of a dwelling is proposed on land within specified zones, including the following zones applicable to the Liverpool LGA:

- RU1 Primary Production;
- RU2 Rural Landscape;
- RU4 Primary Production Small Lots;
- R5 Large Lot Residential;
- E2 Environmental Conservation; and
- E3 Environmental Management.

**Department Comment:**

The proposed amendment is in accordance with the standard instrument and is supported. This item does not restrict residential development but ensures that the surrounding uses are appropriately considered.

**Item 9 – Amend Part 6 Urban Release Areas**

The proposal seeks to relocate arrangements for designated State public infrastructure under Clauses 6.3, 6.4A and 6.6 related to intensive urban development areas to Part 7 Local Provisions of the LEP. These areas are not 'greenfield' urban release areas but refer to sites within the Liverpool CBD (as amended by Liverpool LEP Amendment No 52 for the CBD) and identified as Areas 7-11 on the Floor Space Ratio map.

The planning proposal also seeks to remove the identification of Elizabeth Hills, Old Glenfield Road and Voyager Point as Urban Release Areas. Council advises these

areas are fully developed and are serviced with public utility infrastructure. Therefore, the identification of these areas are no longer needed.

**Department Comment:**

The proposed changes are housekeeping amendments, that do not raise issues, and are supported.

Item 10 – Update Clause 7.5 (3)(f)(vii) Design Excellence in Liverpool city centre

The proposal seeks to introduce consideration of waste and recycling infrastructure as an additional consideration requirement when assessing design excellence.

The clause applies to development within the Liverpool City Centre for the delivery of high quality architectural and urban design and requires developments to address several matters to ensure design excellence. The proposed additional consideration is to encourage future developments to consider innovative and sustainable waste management solutions. Council advises this amendment is consistent with the LSPS Action 15.2: Review LEP and DCP to address sustainable waste outcomes.

**Department Comment:**

The change is supported as it is to align the proposal with the sustainability outcomes of Council's LSPS and the Western City District Plan.

Item 11 – Clause 7.5A(2) Additional provisions relating to certain land at Liverpool City Centre

The planning proposal seeks to remove 'business premises' and 'retail premise' uses from the clause and instead include 'commercial uses' which is a Standard Instrument group term. The provision will also add hotel and motel accommodation. Further, the proposal seeks to specify that this clause relates to the development of a site instead of the building.

This incentive clause was introduced as part of Amendment 52 for Liverpool CBD, and allows for increased height and FSR controls provided at least 20% of the gross floor area is used for specific uses identified in this clause such as 'business premises' and 'retail premises'. The current clause has inadvertently removed 'office premises' from the incentive clause. The clause will now include business premises, retail premise as well as offices.

**Department Comment:**

The proposed amendment is an administrative change to better reflect the intent of the Liverpool LEP (Amendment 52) and is supported.

Item 12 – Clause 7.6 Environmentally Significant Land

The planning proposal seeks to remove the Environmentally Significant Land (ESL) maps from the Liverpool LEP 2008 and reference to the maps which will be located on Council's website. The definitions within the LEP are to be amended to make reference to maps held on Council's website.

ESL maps identify land that has biodiversity values and are legislated under the Liverpool LEP 2008. Council advises the biodiversity maps are being updated and Council wishes these new biodiversity maps to be publicly available on Council's website rather than the LEP. Council considers that this process will ensure accurate assessment of the natural environment at the development application stage and can be frequently updated without the need for LEP amendments. No changes to the

intent of Clause 7.16 Environmentally significant land is proposed. The clause refers to the maps held on Council's website.

**Department Comment:**

The Department has taken the position (**Attachment O**) that the proposed relocation of environmentally significant land maps from the LEP to Council's website is not appropriate and is not supported.

Clause 1.7 of the Standard Instrument LEP requires the maps adopted by this Plan are to be made available on the official NSW legislation website in connection with this Plan. A Gateway determination condition is recommended for Council to update the planning proposal to retain the ESL maps in the LEP.

Item 13 – Clause 7.8A Floodplain risk management

The proposal is to add residential accommodation as a use that is also to be considered as part of Clause 7.8A Floodplain risk management, to ensure such development is safe for future residents.

Council advises this is a standard instrument clause which takes into consideration the safe occupation and evacuation from certain sensitive land uses in the event of flood events which exceed the flood planning level. The clause currently applies to various uses including childcare centres, hospitals and group homes.

**Department Comment:**

The proposed clause deviates from a settled model clause. The proposed clause is similar to Fairfield LEP 2013 (Clause 6.4 Floodplain risk management) which also applies to residential accommodation as one of the land uses that needs to be considered for floodplain risk management.

The proposed clause is inconsistent with clause 7 of Section 9.1 Direction 4.3 Flood Prone Land. The proposed clause will introduce additional requirement to residential development on land between the flood planning level and the level of a probable maximum flood (PMF). The direction requires the local plan-making authority to provide adequate justification for the controls to the satisfaction of the Secretary. Council has not submitted justification for the proposed variation in writing with the planning proposal.

The draft LEP proposes to introduce flood-related development controls on residential development. In accordance with the Department's Planning Circular PS07-003 Guidelines for Regulation on flood prone land dated 31 January 2007 (**Attachment U**), Council is required to provide adequate justification for the variation in writing, and is to be agreed by, the Environment, Energy and Science (EES) Group of the Department prior to public exhibition.

It is recommended that Council remove the proposed clause 7.8A Floodplain risk management from the planning proposal as it deviates from the settled model clause and is inconsistent with the Department's Planning Circular PS07-003 Guidelines for Regulation on flood prone land.

The proposed clause can be further addressed as a separate matter when Council provides adequate justification in writing for the variation as exceptional circumstances for the agreement by the Department (EES Group) and to the satisfaction of the Secretary, consistent with the Circular.

#### Item 14 – Clause 7.16 Ground floor development in Zones B1, B2 and B4

The proposal seeks to ensure active uses are provided at the street level to encourage the presence and movement of people by an amendment of an existing street activation clause.

The clause is proposed to be amended to specify that ground floor development within the B4 Mixed Use zone is to comprise of retail and business premises only to prevent other commercial uses with limited street activation.

#### **Department Comment:**

This change is minor and is supported. The amendment will assist in ensuring that active uses at the street level will be in place for passive surveillance and better amenity.

#### Item 15 – Clause 7.22 Development in zone B6

The proposal seeks to replace terms in the clause with standard instrument definitions, as follows: ‘timber and building supplies’ with ‘hardware and building supplies’ and ‘landscape and garden supplies’ with ‘landscaping material supplies’.

#### **Department comment:**

The proposed changes are supported, however, the explanation (refer to p. 119 - **Attachment A2**) refers to replacing ‘timber and building supplies’ with ‘building supplies’. A condition is recommended to include the words ‘timber and’ in the explanation.

#### Item 16 – Clause 7.33 Dwelling houses in Zone R3 and Zone R4 – Height and FSR controls

This planning proposal is to amend the clause to only apply to dwelling houses in the R4 zone. The clause specifies that dwelling houses built within the R3 Medium Density Residential and R4 High Density Residential zones may not exceed a height of 8.5m and FSR of 0.6:1. Council considers the controls result in unnecessarily excessive footprints for dwelling houses in the R3 zone and do not leave suitable landscaped and private open space areas. It is considered unnecessary for the provision to apply to R3 zone. The R3 zone will be controlled under the existing development standards (height and FSR) mapped for that zone.

#### **Department Comment:**

Supported. The proposed amendment is a local matter.

#### Item 17 – Update various clauses in Schedule 1 Additional Permitted Uses

##### A. Relocate Clause 8 of Schedule 1 to Part 7 Local Provisions

The clause allows for development for the purpose of restaurants or cafes to be permitted with consent if the gross floor area of any restaurant or cafe is not greater than 125m<sup>2</sup> on land in Zone RE1 Public Recreation located within Liverpool City Centre, bounded by the Hume Highway, Macquarie Street, Campbell Street and Northumberland Street.

Council considers the clause is a local provision and seeks to relocate the clause under Part 7 Additional local provisions of the LEP.

## B. Relocation of Clause 7 of Schedule 1 to Part 7 Local Provisions of the LEP

The existing clause 7 in Schedule 1 allows entertainment facilities and restaurants or cafes within the Moorebank Town Centre. The proposal seeks changes to the Schedule 1 by relocating this provision to Part 7 Local Provisions of the LEP. Further, it is intended that the proposed clause in Part 7 of the LEP will now apply to a small area of R3 and all R4 land in Moorebank Town Centre due to the proposed rezoning as outline in Item 1 (refer to Figure 5). The clause has also been amended to apply to mixed use development that contains 'more than three dwellings' to reflect the original intent of the clause.



Figure 5 – Existing and Proposed Moorebank APU

## C. Various clauses in Schedule 1

The proposal specifies it intends to remove clauses under Schedule 1 that are no longer required and alter clauses to achieve desired local outcomes (refer to page 19 of **Attachment A**). The proposal seeks changes to the schedule including:

- removal of clause 17 as the specific additional land uses are now permissible in the respective zones (i.e. residential accommodation on land at Middleton Grange and Elizabeth Hills other than dual occupancy); and
- removal of clause 19, which is now redundant.

### **Department Comment:**

The proposed amendments to the various additional permitted uses are supported but it is recommended that the location of these provisions is reconsidered by Council.

As previously indicated, Schedule 1 enables an additional permitted use to occur, while Part 7 is for additional local development controls. Relocating the use will remove the additional permissibility and the existing developments will have to rely on existing use rights provisions, if the respective zone does not allow these uses.

A Gateway condition has been recommended for Council to reconsider this intention.

### Item 18 – Introduce community events under Schedule 2 Exempt Development

The planning proposal seeks to introduce an exempt development clause (proposed Clause 44 Community events and temporary use of council land) for community events on Council owned land. Council advises it currently operates an ongoing DA (DA- 620/2015) to hold community events on seven Council sites across the LGA. The DA consent is renewed every 5 years.

The proposed clause will remove the need for this ongoing DA and allow Council to hold temporary community events as exempt development subject to conditions to ensure community use. Council further advises that despite the removal of the need for a DA, all events will still be assessed by Council officers in accordance with Councils Public Events Manual 2019. The proposed amendment is in accordance with the LSPS Action 11.5 *Amend LEP to increase land-use flexibility for festival uses*.

Other general review and amendments to the schedule proposed are consistent with the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Duplications between the SEPP and LEP have been removed as identified in detail in the draft LEP Instrument at **Attachment D**.

**Department Comment:**

The proposed exempt clauses detailed in **Attachment D** are supported and will remove duplications between the SEPP and LEP.

The Department notes that the proposed Clause 44 Community events and temporary use of council land is in accordance with the LSPS Action 11.5 and the Liveability Priority (W4 Fostering healthy, creative, culturally rich and socially connected communities) of the Western City District Plan. The priority encourages greater use of the public realm for temporary uses, and vacant or under-utilised commercial spaces for arts, events and creative uses that can support activation of places and encourage participation. The inclusion of the proposed clause 44 is supported. This amendment will simplify the use and delivery of community events.

Item 19 – Update the Schedule 5 Environmental Heritage inventory

The proposal seeks to remove certain local heritage items (i.e. Items 2, 3 and 51) and make other minor amendments to Schedule 5 - to correct property descriptions and addresses, as well as correcting the categorisation of three items as being of archaeological significance.

Council advises that the local heritage items 2, 3 and 51 have been demolished as part of the Western Sydney Airport works. No new local heritage items are proposed. Refer to corresponding heritage map amendments at pages 73–81 of the planning proposal at **Attachment A**.

Council advises the other amendments are in accordance with the LSPS Action 8.3 Review and update heritage provision in LEP, and address anomalies.

**Department Comment:**

The proposed changes are administrative in nature and are supported. Consultation with Heritage, Department of Premier and Cabinet is recommended.

Item 20 – Housekeeping Amendments

The proposal seeks to amend the following clauses:

- Clause 4.4 Floor space ratio – The proposal is to remove the application of height of buildings within specific zones after the CBD LEP (Amendment No 52) was made in September 2018.
- Additional provisions relating to certain land at Liverpool City Centre (clause 7.5A(4)) – To amend the clause to refer to subclause 7.5(3)(f)(i) and remove other subclauses to reduce duplication.

- Clause 7.7 Acid Sulfate Soils – To delete the reference to SEPP No 4, as it no longer exists.
- Clause 7.13 Minimum lot width in Zones R1, R2, R3 and R4 – The planning proposal seeks to remove the clause. Council advises that the minimum lot widths can be effectively regulated through Part 1 of Liverpool’s Development Control Plan 2008 (General controls for all development) and is not necessary.
- Clause 7.15 Minimum building street frontage in Zone B6 – The proposal seeks to remove Clause 7.15. The clause specifies that development in Zone B6 Enterprise Corridor is to have a minimum frontage to a classified road of at least 90m, or 30m - if it also fronts a non-classified road. The clause is unnecessary as all developments fronting classified roads are referred to the RMS for assessment and comment and Council considers site constraints can be individually assessed during this consultation.
- Clause 7.17 Airspace operations – The proposal seeks to refer to a new hyperlink: <https://www.legislation.gov.au/Details/C2018C00408> to the *Airports Act 1996*.
- Clause 7.18 Development in areas subject to potential airport noise – The proposal seeks to update references to the new airport Western Sydney International (Nancy-Bird Walton) Airport and Australian Standard AS 2021-2015.
- Clause 7.21 Delayed rezoning of certain land – The proposal seeks to remove the clause and corresponding maps. Edmondson Park is a release area under Liverpool LEP 2008. The proposed clause applies to Edmondson Park South which has been rezoned.
- Clause 7.28 Minimum rear setbacks at Georges Fair Moorebank – The proposal seeks to remove the provision as development within this area has been completed and the clause is not required.
- Clause 7.34 Dwelling houses at Church and Campbelltown Roads, Denham Court and Greendale Road, Wallacia—amalgamation of lots – The proposal seeks to remove two land parcels (Lots 13 and 14, DP 18891 and Lots 15 and 16, DP 18891) from the clause. Council advises that these lots have been amalgamated and it is not necessary to continue to identify the allotments in the clause.
- Clause 7.37 Floor space ratio of buildings on certain land at Bigge, Elizabeth and George Streets – The proposal seeks to update the addresses of certain land parcels identified in the clause.
- Schedule 6 Exempt Trees – The proposal seeks to correct numbering the Schedule from Schedule 6 to Schedule 7.

**Department Comment:**

The proposed housekeeping amendments are supported.

In relation to the removal of Clause 7.15 (Minimum building street frontage in Zone B6), it is recommended that Council consults RMS on the proposed amendment to ensure the State Agency is satisfied with the consequences of the removal of the clause. The Western Sydney Planning Partnership office was consulted on the proposed amendment to Clauses 7.17 and 7.18. No concerns were raised.

## Item 21 – Miscellaneous Amendments

The planning proposal involves various miscellaneous amendments to the LEP including:

- update of references to *Environmental Planning and Assessment Act 1979*;
- update to references to legislation;
- update property description;
- general wording changes;
- removal of references to ‘repealed’ clauses; and
- removal of historical map versions is also proposed as this planning proposal is to result in a new LEP.

This includes replacing the repealed Act references in Clause 1.9A Suspension of covenants, agreements and instruments such as *Crown Lands Act 1989*, the *Nature Conservation Trust Act 2001*, the *Native Vegetation Act 2003* and the *Threatened Species Conservation Act 1995*.

Also updating Clause 7.26A Residential development at Former New Brighton Golf Course to replace the reference to *Strata Schemes (Freehold Development) Act 1973* with *Strata Schemes Development Act 2015*.

### **Department Comment:**

The changes are supported. These are administrative changes, to strengthen the operation and function of the LEP or correct errors. The draft clause will be subject to review at legal drafting stage.

## Item 21 – Land Acquisition Map changes

### A. Dalmeny Reserve, Prestons

The planning proposal seeks to rezone part of R2 land to be rezoned to RE1 Public Recreation. Dalmeny Reserve (Figure 6) is owned and managed by Council. The site is zoned RE1 Public Recreation and R2 General Residential. The R2 portion is identified on the Land Acquisition map (LRA maps 008 and 013) for acquisition and Council has acquired this land. The rezoning is to reflect the status of the land for public open space and is to remove the acquisition status on the land acquisition maps.

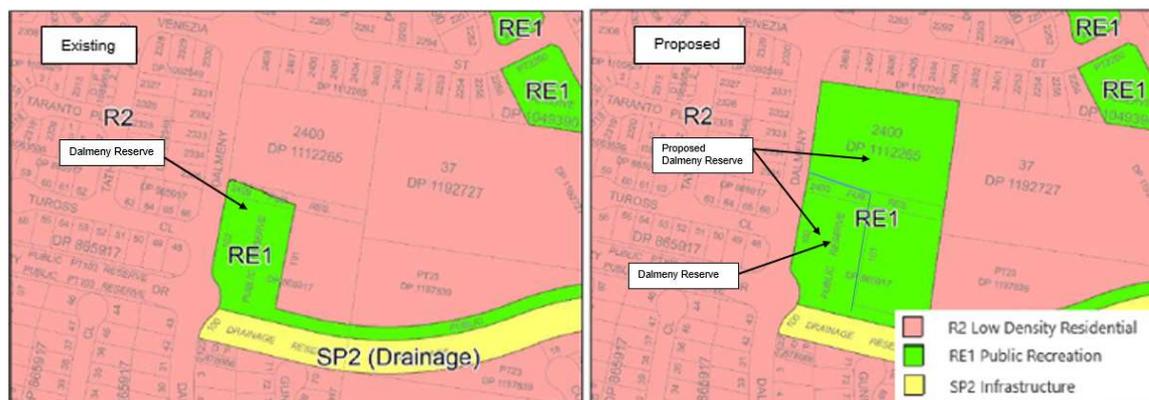


Figure 6 – Existing and Proposed Zoning - Dalmeny Reserve, Prestons

## B. Land along Bigge Street

The proposal seeks to remove land along Bigge Street from the acquisition map (LRA 012). No rezoning is required. The land outlined in yellow in Figure 7 along Bigge Park on Bigge Street (Lots 701 & 702 DP 1056246) between Elizabeth Street and Moore Street is State owned land. The land was acquired for upgrade and extension of the footpath. Council completed these works in 2018, however, the land is still shown on the acquisition map for acquisition by Council for local road expansion.

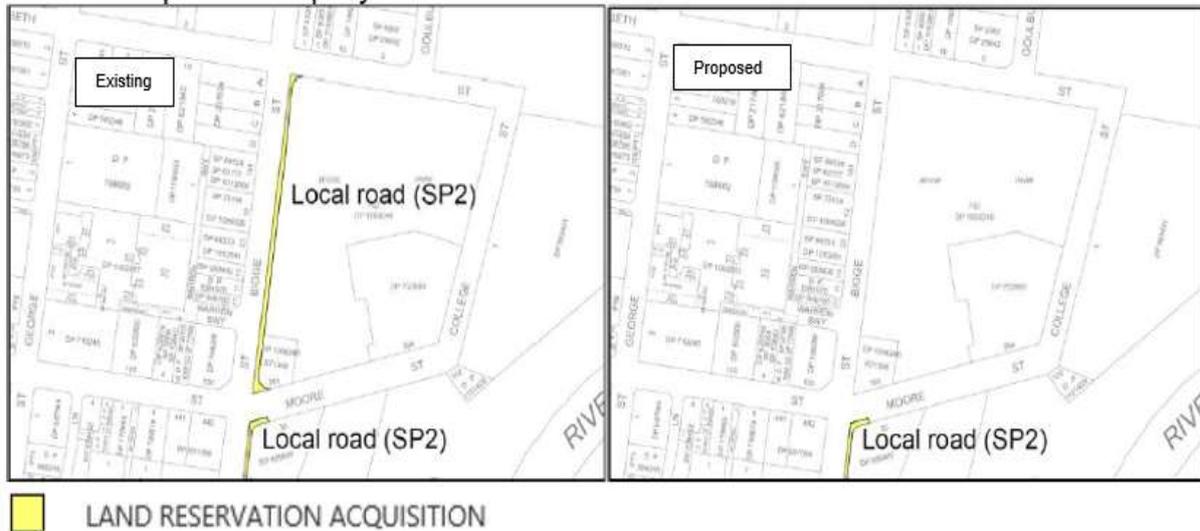


Figure 7 – Existing and proposed Land Acquisition Map of land along Bigge Street, Liverpool

## C. Fifteenth Avenue

The planning proposal is to correct land acquisition requirements for a Classified road (SP2). The land at Lot 2 DP 1074727 (Figure 8), zoned SP2 Infrastructure (Classified road) is to be acquired but is not reflected on Land Acquisition map (LRA 008). The acquisition authority is Roads and Maritime Services under Part 5.1 of the LLEP 2008. Fifteenth Avenue is the proposed Rapid Transport route between the new airport and Liverpool Railway Station.

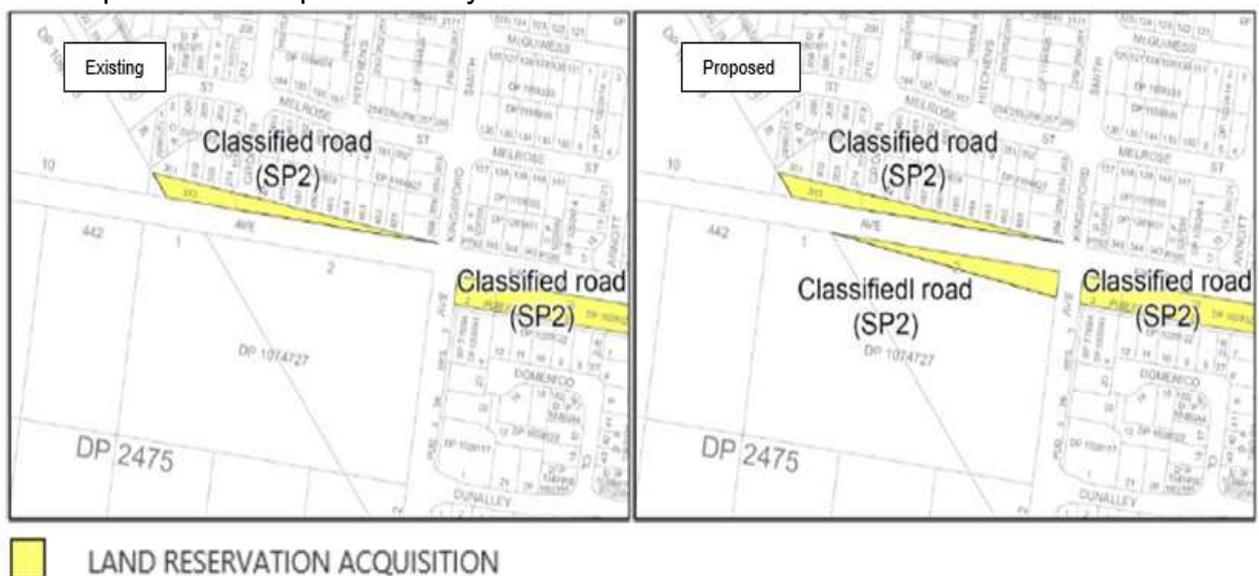


Figure 8 – Existing and Proposed Fifteenth Avenue reservation

### **Department Comment:**

The proposed map changes are supported. However, consultation with Transport for NSW is recommended for the Fifteenth Avenue changes.

### **2.3 Mapping**

Besides the proposed amendments required to be removed, the proposal seeks to make various amendments to maps as follows:

- rezoning (i.e. Moorebank, Cross Roads, Casula and 12 Sydney Water sites);
- removal of urban release areas which have been developed (i.e. Elizabeth Hills, Old Glenfield Road and Voyager Point);
- removal of delayed rezoning maps which are no longer required;
- amendments to Heritage and Key Sites Maps in accordance with the proposal (i.e. Moorebank and Medical Precinct); and
- mapping anomalies to reflect the intended use and/or completed acquisition of land.

## **3. NEED FOR THE PLANNING PROPOSAL**

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This planning proposal seeks to amend and update existing provisions, and add new provisions to align the actions in the LSPS, Connected Liverpool 2050 (endorsed by Council on 26 June 2019) as a Phase 1 review of the LEP.

Council advises the Phase 2 review of the LEP 2008 will incorporate various recommendations from the studies and strategies which are currently being prepared, including additional investigations for Warwick Farm. The Phase 2 planning proposal is to be considered by Council in mid to late 2020.

Except for some specific matters, most of the provisions are largely administrative in nature, either to strengthen the operation and function of the LEP or update and correct errors. Where appropriate, Gateway conditions have been recommended to either further address the matters or to be removed.

The LSPS is consistent with the planning priorities of the Western City District Plan. The proposal is supported by the LSPS, Liverpool Housing Study (**Attachment I**) and various Industrial Lands Studies (**Attachments L1-L4**).

Council advises these studies will be implemented into strategies during 2019 and 2020 and will inform further amendments to the LEP via future planning proposals. The planning proposal process is the best mechanism to achieve the intended outcome, to update the LEP, implementing the actions of the LSPS.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 Western City District Plan**

The planning proposal is consistent with the following priorities of the Western City District Plan:

W3: Providing services and social infrastructure to meet people's changing needs & W6: Creating and renewing great places and local centres, and respecting the District's heritage.

The proposal is consistent with the above Planning Priorities for the following amendments:

- the review of Schedule 5 Environmental Heritage will ensure the status of the inventory is correct and updated to ensure effective protection and conservation of the local heritage items; and
- the additional exempt development for temporary use of Council owned land for community events will contribute to the liveability priorities.

W5: Providing housing supply, choice and affordability, with access to jobs, services and public transport

The proposal seeks to:

- rezone thirty-seven (37) residential land parcels from R4 High Density to R3 Medium Density Residential around Moorebank Town Centre; and
- make changes to the associated development standards applying to the land parcels (i.e. minimum lot size, height of buildings and FSR).

**Department Comment:**

The proposal is partly inconsistent with the liveability priorities as it seeks to rezone land at Moorebank Town Centre from R4 to R3 and removes multi dwellings from B6 zone. The proposed amendments are supported by the Liverpool Housing Study, and investigation, which identifies that there is sufficient housing capacity until 2036 in the LGA without the need for rezoning to increase supply, and, there will be minimal overall impact to housing capacity within the LGA as a result of the planning proposal.

It is considered that:

- Moorebank Town Centre is a local centre and does not have good public transport connections with other centres; and
- the proposed R3 zone will ensure appropriate transition between the town Centre, high density residential development and low density residential areas, ensure the amenity of the surrounding low density residential character (i.e. bulk and scale, overshadowing and loss of visual and noise) is appropriately protected and reduce land use conflict.

Productivity Planning Priorities

The planning proposal is consistent with the priorities of the district plan.

Liverpool CBD will be connected directly via Fifteenth Avenue Rapid Transit Bus Corridor to the new airport. The proposed amendments for expanding land uses and provisions within B4 (additional medical research and development uses, CI 7.5A - commercial uses and CI 7.16 for ground floor retail and business premises), B6 (CI 7.15 - removal of distance requirements from classified roads), and IN1 and IN3 zones (additional uses - liquid fuel depots and vehicle sales and hire premises) will facilitate and attract support industries that capitalises on the future industries in the Aerotropolis and increase jobs within 30 minutes of the strategic centre, and strengthen the economic growth of the Metropolitan Cluster.

The expansion of the medical research and development precinct will allow additional Light Industrial uses associated with medical research and development.

Council also advises that the LEP 2020 will enable future amendments to respond to the growth of the Western Parkland City; leverage further opportunities from the

Western Sydney International (Nancy-Bird Walton) Airport; and, grow investment, business opportunities and jobs in its strategic centres.

W18: Delivering high quality open space & W20: Adapting to the impacts of urban and natural hazards and climate change.

Rezoning of Dalmeny Reserve, Prestons from R2 to RE1 for open space purpose is and amendments to introduce waste and recycling infrastructure (Cl. 7.5 Design Excellence in Liverpool City Centre) as a component of design excellence is consistent with the planning priorities.

## 4.2 Local

### Liverpool Strategic Planning Statement (LSPS)

The Liverpool LSPS – Connected Liverpool 2050 (**Attachment Q**) provides guidelines and character statements for access and movement, infrastructure and community, housing and neighbourhoods, economy and centres and environment and open space. The Liverpool LSPS was endorsed by Council at its meeting on 26 June 2019 and assured by the GSC on 30 March 2020.

Council advises the Phase 1 Planning Proposal is consistent with the actions of the LSPS as follows:

#### Liveability Actions:

- Action 8.1: Amend LEP 2008 to implement findings of review of dwelling typologies and density around Moorebank Shopping Centre
- Action 8.3: Review and update heritage provision in LEP 2008, and address anomalies. c. Action 11.3: Expand existing health and research precinct in Liverpool CBD.

#### Productivity Actions:

- Action 11.5: Amend LEP 2008 to increase land-use flexibility for festival uses.
- Action 12.2: Review LEP 2008 and DCP for employment lands to address future transition to ‘new industries’ in appropriate locations.

#### Sustainability Actions:

- Action 14.1: Review Environmentally Significant Land overlay in LEP 2008 to ensure protection of areas of high ecological conservation value.
- Action 15.2: Review LEP and DCP to address sustainable waste outcomes.

Consistency of the planning proposal with the LSPS is discussed further at Table 7 on pages 31 – 33 of the planning proposal at **Attachment A**.

### Associated Studies

To support the review of the LEP, the following studies have been prepared (or are being prepared) as shown in Table 2 below.

Table 2 – Supporting studies and timing

Study	Timing
Local housing strategy to address affordable housing strategies and targets	22 November 2020
Employment lands and urban services strategy	31 July 2019
Rural lands study	29 February 2019
Business centres and corridors study	30 November 2019

Community Engagement Plan	7 June 2019
Climate change and resilience strategy	29 February 2020
Green grid strategy	31 March 2020
Demographic change and social needs analysis	31 May 2019
LGA wide Transport Review	30 June 2020

Recommendations from completed studies (i.e. the Social Infrastructure, Local Housing and Employment Lands studies) have informed the proposed Phase 1 LEP amendments. The remaining studies will inform the Phase 2 of the planning proposal.

#### Liverpool Council Community Strategic Plan, Our Home, Liverpool 2027

Council advises the planning proposal is consistent with the four directions of the Liverpool Community Strategic Plan, Our Home, Liverpool 2027. These directions are: Creating Connection; Leading through Collaboration; Generating Opportunity; and, Strengthening and Protecting our Environment. Consistency of the planning proposal with the Liverpool Council Community Strategic Plan is discussed further at Table 8 on pages 35 - 36 of the planning proposal at **Attachment A**.

#### Local Planning Panel

On 2 September 2019, Liverpool Local Planning Panel resolved to support the integration of the Local Strategic Planning Statement into the LEP controls and future DCP place strategies.

The panel considers that the proposed change from R4 to R3 of a portion of the R4 zone at Moorebank has strategic merit. The panel notes that the amendment is justified by SGS Moorebank Rezoning Advice and SGS Liverpool Housing Study but recommended Council to review the amendment after 2-3 years to assess the actual take up rate for multi dwellings in R3 zones.

In relation to Cross Road rezoning from IN3 to IN1 zoning, the Panel recommended that Council officers determine the most appropriate zone (IN1 or IN2) after comparing the range of permitted uses in both zones. The Panel report and resolution are at **Attachments G1 and G2**.

The panel also recognises that SP2 zone for Sydney Water sites will provide greater certainty for Sydney Water assets, while limiting future uses, flexibility over time and potential value of these assets should any of these assets become surplus to Sydney Water needs.

Following assessment and in response to the Panel's advice, Council on 25 September 2019 resolved to:

- review Moorebank R3 zone through medium term LSPS Action 7.6 regarding the review of the Housing Strategy;
- rezone the Crossroads industrial area to IN1 General Industrial; and
- rezone Sydney Water sites to SP2 zone.

#### **4.3 Section 9.1 Ministerial Directions**

The consistency of the planning proposal with the relevant Section 9.1 Directions are discussed overleaf.

### Direction 1.1 Business and Industrial Zones

The objectives of this direction are to encourage employment growth in suitable locations, and support the viability of identified centres. This direction applies as the proposal affects business and industrial zones.

The majority of the proposed amendments will only alter the development controls. However, the proposed amendment to rezone certain Sydney Water sites to SP2 will affect three industrial zoned sites.

The inconsistency is considered to be justified as of minor significance as the three industrial zoned sites are owned by Sydney Water and the proposed SP2 Infrastructure zones will reflect the existing use of the land as sewerage infrastructure.

### Direction 1.2 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land. This direction applies to the planning proposal as:

- environmental protection works are proposed to be permissible with consent in the RU1 Primary Production zone; and
- the Clause 5.16 *Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones* will minimise land use conflicts between residential development and rural and agricultural uses.

The proposal is consistent with this direction as it will not increase the permissible density of land within a rural zone or rezone any rural zoned land.

It is accordingly recommended that the Secretary's delegate agree that the proposal can proceed on the basis of minor significance.

### Direction 1.5 Rural Lands

This direction requires protection of the agricultural production value of rural land. The planning proposal seeks to reduce conflict between rural/environmental and residential land uses by introducing the optional Standard Instrument Clause 5.16 "Subdivision of, or dwellings on, land in certain rural, residential or environment protection zone". One of the Sydney Water sites (Lot 201 DP 1117280) is currently zoned E2 Environmental Conservation and is proposed to be rezoned to SP2 Infrastructure.

Inclusion of the Standard Instrument Clause 5.16 is consistent with the direction. The proposed rezoning of Sydney Water site from E2 to SP2 is to reflect the current use of this site as sewerage infrastructure. Accordingly, the inconsistency with the direction is considered to be of minor significance and is recommended, as such to the Secretary's delegate.

### Direction 2.1 Environment Protection Zones

This direction requires the protection and conservation of environmentally sensitive areas. The proposed rezoning of the Sydney Water site (Lot 201 DP 1117280) from E2 Environmental Conservation to SP2 Infrastructure (Sewerage System) applies to approximately 1,750m<sup>2</sup> of a broader Wurrungwuri Reserve, Moorebank.

The inconsistency with the direction is of minor significance as the intent of the rezoning is to reflect the current use of the Sydney Water site and will not have additional impacts on the larger reserve. The inconsistency with the direction is of minor significance and recommended accordingly.

### Direction 2.3 Heritage Conservation

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The proposal proposes to remove certain local heritage items (i.e. Items 2, 3 and 51) from Schedule 5. Council advises that these items have since been demolished as part of the Western Sydney Airport works.

Other minor amendments to the schedule are for the corrections of property descriptions and addresses as well as to correct the categorisation of three items as being of archaeological significance, and the addition of the reference 'CO1' to the existing heritage conservation areas. Council advises these amendments are in accordance with LSPS Action 8.3 Review and update heritage provision in LEP, and address anomalies.

The proposal is to update the existing Schedule 5 Environmental Heritage of the LEP 2008. No new local heritage items are proposed. The proposal is consistent with the direction.

### Direction 3.1 Residential Zones

This direction seeks to encourage a variety and choice of housing types; make efficient use of existing infrastructure and services; and ensure that the impacts of residential development on the environment and resource lands are minimised.

The planning proposal is inconsistent with this direction as it will reduce the potential residential yield on existing land due to the following amendments:

- rezone portions of R4 High Density Residential land in Moorebank to R3 Medium Density Residential;
- rezone Dalmeny Reserve from R2 to RE1 Public Recreation on land that is currently owned and used by Council as a public reserve; and
- remove multi dwellings as permissible use with consent from B6 Enterprise Corridor zones.

The planning proposal's inconsistency with the direction is of minor significance as the R2 zoned land is used for recreation purposes and other forms of housing remains permissible in the B6 zone including shop top housing.

Council also note that there is adequate capacity in the LGA to accommodate housing demand to 2036 and the downzoning is justified due to the development constraints.

To allow further consideration to be given to this item at exhibition stage, a recommended condition of determination requires Council to strengthen the commentary in the planning proposal under Part 2 Explanation of Provisions by summarising the quantitative impacts on housing diversity and supply, as examined within the Liverpool Housing Study and Moorebank Rezoning Advice.

### Direction 4.3 Flood Prone Land

The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Flood Planning Development Manual 2005, and to ensure that provisions of an LEP on flood prone land is commensurate with flood hazard and includes considerations of the potential flood impacts both on and off the subject land.

This direction applies as the following proposed amendments affect flood prone land:

- Industrial land at Crossroads Casula – A minor portion of the site is identified as flood prone land. This is of minor significance given the extent of the flood affected land on the site, as well as the recent development of the site. Additionally, the proposed amendment is retaining an industrial zone and the amendment is to better reflect the existing uses on the site;
- Dalmeny Reserve – This is not inconsistent with the direction, as it is rezoning the flood prone land from residential uses to a public recreation use; and
- Sydney Water Sites – A variety of sites owned by Sydney Water are proposed to be rezoned to SP2 Infrastructure. This presents a minor inconsistency as it is rezoning land to a Special Purpose zone (SP2 Infrastructure). The rezoning is to reflect and safeguard the current use of the land for water and sewerage infrastructure. The rezoning is not intended to permit an increase in development potential.

It is considered the proposal's inconsistency with the direction is of minor significance in view of the above. There will be no change to the use of the sites as a result of the proposal. It is recommended that Council consults the Environment, Energy and Science Group of the Department as part of public agency consultation.

The proposal also seeks to add residential accommodation as a use that is also to be considered as part of Clause 7.8A Floodplain risk management, to ensure such development is safe for future residents. The proposed clause is inconsistent with clause 7 of Section 9.1 Direction 4.3 Flood Prone Land.

This issue has been addressed at page 17 of this report. It is recommended that this part of the proposal be removed from the proposal as discussed at page 17.

#### Direction 4.4 Planning for Bushfire Protection

The objective of this Direction is to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas. Furthermore, the Direction aims to encourage sound management of bush fire prone areas.

This direction applies as the following proposed amendments affect bushfire prone land:

- Industrial land at Crossroads, Casula – A minor portion of the site is identified as bushfire prone land. This is of minor significance given the limited extent of bushfire prone land on the site, as well as the recent development of the site. This amendment is not inconsistent with this Direction, as it is not proposing additional development of the site, rather the rezoning is to reflect the current use of the site.
- Sydney Water Sites – A variety of sites owned by Sydney Water are proposed to be rezoned to SP2 Infrastructure. This amendment is not inconsistent with this direction as the rezoning is not to increase development potential on the site, but rather to reflect the current and intended use of the sites as water and sewerage infrastructure. Council advises there are no changes to zoning of land that are affected by bushfire.

In accordance with the requirements of this direction, Council is required to consult with NSW Rural Fire Service prior to public exhibition to ensure it does not object to the progression of the planning proposal.

## Direction 6.2 Reserving Land for Public Purposes

This direction aims to facilitate the provision of public services and facilities by reserving land for public purposes or removing these reservations when the land is no longer required for the purpose.

The proposed amendments affecting public land and acquisition requirements are:

- removal of land acquisition requirements from land at Dalmeny Reserve, Prestons because the acquisition process by Council has been completed;
- acquisition requirement along Bigge Park, Liverpool for local road expansion has been removed, as the intended works have been completed, and acquisition is no longer required; and
- land reservation acquisition requirements to correct a mapping anomaly on land along Fifteenth Avenue (Lot 2 DP 1074727) for acquisition by RMS (the land acquisition is to reflect the SP2 (Classified Road) zone of the land).

Note: It is recommended RMS be consulted as part of the public agency consultation.

The proposed amendments are to rectify anomalies. Any inconsistencies are of minor significance and it is recommended accordingly.

## Direction 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls. The planning proposal seeks to introduce or amend a number of local provisions and additional permitted uses.

The proposed provisions are necessary to ensure a particular outcome is achieved in various locations in the Liverpool LGA as detailed in Section 2.2 of this report. The proposal is justifiably inconsistent with the direction. Recommended accordingly.

## Direction 7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan

The objective of this direction is to ensure development within the Western Sydney Aerotropolis is consistent with the Stage 1 Western Sydney Aerotropolis Land Use and Infrastructure Implementation Plan dated August 2018 (the Stage 1 Land Use and Implementation Plan).

The planning proposal is consistent with the implementation plan. The changes made to the instrument are administrative changes, such as the name of the new airport and references to the new noise standards, as well as, the web address for the *Airport Act*.

### **4.4 State environmental planning policies (SEPPs)**

The planning proposal is consistent with all applicable State Environmental Planning Policies (SEPP). however, commentary is provided below.

#### SEPP 55 – Remediation of Land

The SEPP contains provisions which require consideration if the land on which a planning proposal applies is contaminated, whether it is in a suitable condition for the intended use or can be made suitable and the steps required to make the land suitable (if required).

Council advises it has considered Clause 6 'Contamination and remediation to be considered in zoning or rezoning proposal' of the SEPP. Council advises the planning proposal will enable additional uses on land that are not permitted under current planning controls and is aware of its obligations under the SEPP.

The proposal is an LGA wide planning proposal and it is not possible to make site specific assessments for all the land involved. It is noted that, as referred in Table 5, the proposal does not add inconsistent land uses to existing zones. Consequently, it is considered that Council has appropriately considered Clause 6 of the SEPP.

#### SEPP (Exempt and Complying Development Codes) 2008

The planning proposal seeks to add community events and temporary use on Council owned and controlled land as exempt land use subject to certain conditions. The proposal will also remove duplications between the LEP and SEPP.

The Department notes that the proposed clause will remove the need for a DA and allow Council to hold temporary community events as exempt development, to be assessed by Council officers in accordance with Councils Public Events Manual 2019. The proposal is consistent with the SEPP. It will not impose additional restrictions on the carrying out of exempt or complying development under the SEPP.

### **5. SITE-SPECIFIC ASSESSMENT**

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#### **5.1 Social**

The proposal seeks to align the existing LEP with the actions in the LSPS. These actions are based on the outcomes of community consultation and reflect the local community's desire and needs in terms of social infrastructure, built environment and character of the area.

The proposal will remove the need for unnecessary development application approvals and allow Council to hold temporary community events as exempt development subject to appropriate conditions.

#### **5.2 Environmental**

The proposal is unlikely to have significant impacts upon the natural environment in view of the following:

- all land to be rezoned as part of this planning proposal are located within established urban areas;
- no rezoning or change of development controls are proposed within the Metropolitan Rural Areas or to environmental sensitive zones; and,

There are no changes proposed to the existing environmental provisions for environmental significant land, and flooding, heritage, bushfire and acid sulfate soils controls.

The relevant requirements and application of environmental provisions in the SEPPs including SEPP No 19 – Bushland in Urban Area, SEPP No 33 – Hazardous and Offensive Development, SEPP No 55 – Remediation of Land and SEPP (Vegetation in Non-Rural Areas) 2017 will continue to apply to the LGA.

### **5.3 Economic**

The planning proposal will directly contribute to economic development of the LGA by facilitating:

- the development of a new world-class health, research and education precinct at Liverpool Hospital, and the NSW Government commitment of \$740 million for the project; noting the precinct will create a hub for innovation and emerging technologies, boost the economy and create jobs growth with 30,000 jobs by 2026;
- appropriate industries to occur in suitable industrial zones for a range of specialised manufacturing and logistics uses;
- additional land acquisition responsibilities for Fifteenth Avenue, which is a future Rapid Transitway from Liverpool to the new Western Sydney Airport;
- office development within the Liverpool CBD, contributing to the creation of 20,000 jobs in the CBD by 2036; and
- the removal of distance restrictions for developments fronting classified roads within B6 zones.

In general, the proposal will support the economic development of the area aligned with the Government's infrastructure, liveability, productivity and sustainability priorities and actions in the Western City District Plan. It will give assurance and certainty to the community and the development industry where future residential, infrastructure and other facilities and services will occur.

### **5.4 Infrastructure**

The proposal is a review of the existing LEP. No new infrastructure funding is proposed nor considered necessary. The planning proposal will not result in major developments that would place significant additional demands on the existing infrastructure (utilities, transport or other services).

Future development applications enabled by the rezoning or the additional land uses proposed across Liverpool will be required to either demonstrate that there are adequate services or can make arrangements for the provision of infrastructure as part of the DA process.

## **6. CONSULTATION**

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### **6.1 Community**

Community consultation as proposed by Council is for a 28-day period. It is considered appropriate.

### **6.2 Agencies**

It is recommended the following agencies are consulted:

- Greater Sydney Commission;
- Sydney Water;
- Roads and Maritime Services;
- Transport for NSW;
- Environment, Energy and Science Group; and

- Heritage, Department of Premier and Cabinet.

## 7. TIME FRAME

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Council is required to submit the planning proposal to the Department for finalisation prior to 30 June 2020 to meet the conditions of the NSW Government's Accelerated LEP Review Funding Program.

## 8. LOCAL PLAN-MAKING AUTHORITY

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Council has not requested authorisation to undertake the local plan making function. Given the comprehensive nature of the planning proposal authorisation is not recommended.

## 9. CONCLUSION

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The planning proposal is supported to proceed to Gateway Determination subject to conditions as the proposed amendments have strategic and site-specific merit, are generally consistent with the Western City District Plan and aligns the Liverpool LEP 2008 with the Liverpool Local Strategic Planning Statement.

## 10. RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. **agree** that any inconsistencies with section 9.1 Directions 1.1 Business and Industrial Zone, 1.5 Rural Lands, 2.1 Environment Protection Zones, 4.3 Flood Prone Land, 6.2 Reserving Land for Public Purposes and 6.3 Site Specific Provisions are minor or justified; and
2. **note** that consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection remains unresolved pending further justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition, the planning proposal is to be amended as follows:
  - (a) while retaining Council's intention to undertake a further review of Liverpool LEP 2008 and subsequently repeal the instrument, amend the planning proposal (where appearing) to indicate that this review phase will not repeal the Liverpool LEP 2008;
  - (b) remove the following proposed amendments and associated references, or maps, from the planning proposal:
    - i. all references to Liverpool city centre as Sydney's third CBD;
    - ii. prohibition of cemeteries in the industrial zones;
    - iii. inclusion of car parks as a permitted use in the B3 zone;
    - iv. references to relocating the environmentally significant land maps from the LEP from the legislative website to Council's website; and
    - v. inclusion of Clause 7.8A Floodplain risk management;

- (c) reconsider the relocation of existing additional permitted uses from Schedule 1 into Part 7 Local Provisions for: Liverpool Hospital; RE1 in Liverpool City Centre; and land adjoining Moorebank Town Centre;
  - (d) for the proposed amendment to the rezoning of land adjoining Moorebank Town Centre, Council is to strengthen the commentary in the planning proposal under Part 2 Explanation of Provisions by summarising the quantitative impacts on housing diversity and supply, as examined within the Liverpool Housing Study and Moorebank Rezoning Advice; including the number of unconstrained lots which can be redeveloped for residential flat building developments; the number of reduced potential dwellings from the rezoning; and, the number of residential flat building developments approved in the R3 Low Density Residential zone in the past five years;
  - (e) in the explanation for item 34 – 7.22 Development in zone B6 (p.119 of Attachment A), amend, where appropriate, ‘building supplies’ to ‘hardware and building supplies’;
  - (f) include the intention to introduce a new savings and transitional clause to ensure that proposed amendments do not affect any development applications or appeal processes; and
  - (g) include a note that the draft proposed clauses will be subject to legal drafting and may alter under this process.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Council is to inform all landowners affected by amendments to reduce permissibility on the land and rezoning from R4 High Density Residential to R3 Medium Density Residential in writing about the exhibition of the proposal, outlining the effect of the proposed changes.
4. Council is to consult the NSW Rural Fire Service prior to public exhibition in accordance with section 9.1 Direction 4.4 Planning for Bushfire Protection and address any comments from this agency
5. Consultation is required with the following public authorities:
  - Greater Sydney Commission;
  - Sydney Water;
  - Roads and Maritime Services;
  - Transport for NSW;
  - Environment, Energy and Science Group; and
  - Heritage, Department of Premier and Cabinet.
6. Council is required to submit the planning proposal to the Department for finalisation prior to 30 June 2020.

7. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



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