

Liverpool Local Environmental Plan (Draft Amendment No. 25) Proposed Rezoning Of New Brighton Golf Course

Proposal Title :	Liverpool Local Environmental Plan (Draft Amendment No. 25) Proposed Rezoning Of New Brighton Golf Course		
Proposal Summary :	To rezone a 16.75ha portion of the 87.5ha New Brighton Golf Course (NBGC) land at Moorebank to permit residential development of 310 dwellings and the continued operation of the golf course (via expansion to the south), together with the environmental and open space enhancement of the Georges River foreshore lands. The location and aerial map of the site is at Tags 1 and 2, and the existing zoning the proposed indicative rezonings are shown at Tags 3 and 4, in the "documents" section of the planning report. Specifically the proposal involves: - Area A (refer to the proposed indicative rezoning map at Tag 4) - Rezoning the western portion of the New Brighton Golf Club site from RE2 Private Recreation to R2 Low Density Residential while also adding an additional use into Schedule 1 Additional Permitted Uses for "Multi Dwelling Housing"; - Area B (refer to the proposed indicative rezoning map at Tag 4) - Rezoning of a section of foreshore land of 40 metres wide (including a 5 metre wide strip of land connecting the foreshore land to existing Council owned land) from RE2 Private Recreation to RE1 – Public Recreation, and the reclassification of the land from operational to community; - Area C (refer to the proposed indicative rezoning map at Tag 4) - Rezoning of part of the land on the southern side of the M5 Motorway, Hammondville from RE1 Public Recreation to RE2 Private Recreation, and the reclassification of the land from community to operational; - Area D (refer to the proposed indicative rezoning map at Tag 4) - Rezoning of a portion of land south of the M5 Motorway from RE2 – Private Recreation to RE1 Public Recreation to assist in strengthening core support habitat community and the reclassification of the land from operational to community; - Area E (refer to the proposed indicative rezoning at Tag 4) - Rezoning of a portion of land north of the M5 Motorway from RE2 – Private Recreation to E2 Environmental Conservation to assist in strengthening core support habitat community. Council's planning proposal is at Tag 5.		
PP Number :	PP_2011_LPOOL_011_00	Dop File No :	11/18571-1

Proposal Details

Date Planning Proposal Received :	15-Nov-2011	LGA covered :	Liverpool
Region :	Sydney Region West	RPA :	Liverpool City Council
State Electorate :	LIVERPOOL	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

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Street : Nuwarra Rd/ M5 Motorway
Suburb : Moorebank City : Liverpool Postcode :
Land Parcel : Land holdings held by the NBGC, and limited adjoining parcels owned by Council, as described in the Site Plan Map, page 5, of Council's Planning Proposal 1

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :	Other	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro South West subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	310	No. of Dwellings (where relevant) :	310
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : Yes

If No, comment :

Have there been meetings or communications with registered lobbyists? : No

If Yes, comment :

Supporting notes

Internal Supporting Notes : To the best of the knowledge of the regional team, the Department's Code of Practice in relation to communications and meetings with lobbyists has been complied with. Sydney Region West has not met with any lobbyists in relation to this proposal not has the Regional Director been advised of any meetings between other departmental officers and lobbyists concerning the proposal (as of 25 October, 2011).

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External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : A limited statement is provided, generally describing the proposal, and the intent to ensure the viability of the golf course and improve foreshore access whilst providing limited infill residential development.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The planning proposal provides an outline of the various rezonings required to achieve limited residential development, partially relocate and continue with the golf course facility, and provide a new foreshore open space area, as outlined in the "Proposal Summary". Council has also referred to adding an additional use into "Schedule 1 Additional Permitted Uses" for "Multi Dwelling Housing"; it is understood that this would permit a studio or "fonzie" flat, capable of strata subdivision to the rear of certain blocks.

The amendment to Schedule 1 is proposed because the Council wants to achieve a density of 3 dwellings on certain lots without the greater permissibility of alternate residential zones. In order to achieve the greater dwelling flexibility with a low density built form desired by council and avoid use of employing Schedule 1, an alternative zone and limiting clause is proposed as an alternative. This discussion is outlined in the discussion of S 117 Directions 6.3 Site Specific Provisions - s 55(2)(c).

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

2.1 Environment Protection Zones
3.1 Residential Zones
3.3 Home Occupations
3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
6.3 Site Specific Provisions
7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 1—Development Standards
SEPP No 19—Bushland in Urban Areas
SEPP No 55—Remediation of Land
SEPP (Infrastructure) 2007
GMREP No. 2 - Georges River Catchment

e) List any other
matters that need to
be considered :

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Have inconsistencies with items a), b) and d) being adequately justified? No

If No, explain :

SEPP's

The proposal is generally consistent with the relevant SEPP's and improves the use, protection and enjoyment of the Georges River.

Consistency with S 117 Directions:

2.1 Environment Protection zones

The proposal provides additional E2 land alongside an existing E2 parcel which reinforces the logical boundary of this land and therefore fulfils the intent of this Direction.

3.1 Residential Zones

Council has indicated that the proposal is consistent with this direction. It is considered that the proposal of 310 new dwellings at this location constitutes infill development, utilises existing services and will deliver a limited variety of detached and multi-dwelling housing of "good design".

A limited variety of housing types will be achieved under R2 Low Density Residential zoning. The proposal is not supported by a strategy or study. However, Council's proposal indicates that there are sufficient facilities, including a bus service, appropriate to service this residential density.

The site is in close proximity to the residential areas of Moorebank, Hammondville and adjoins Riverlands Golf Club to the west across Georges River, which is subject to a Planning Proposal for rezoning to R2 to accommodate around 1,100 dwellings with a mix of dwelling houses and apartments.

It is considered that the proposal is not inconsistent with the objectives of this direction and the draft South West Subregional Strategy - to encourage housing choice to provide for existing and future housing needs in established areas. Although it is not fully consistent with clauses 4 and 5 of the direction, the inconsistency with this direction is of minor significance, and in accordance with clause 6 of the direction, the Director General's (or his delegate) approval is required.

4.1 Acid Sulfate Soils

Council has not addressed the proposal against this direction.

The site contains land within Classes 3, 4 and 5 of Acid Sulfate soils (refer to Acid sulfate soils map at Tag 6). However, the land proposed for residential zone is identified as Class 5. A contamination study, by GHD identifies that the majority of the site has a "high probability of acid sulphate soils occurring" (p4, GHD) and recommends an acid sulphate soil management plan be prepared.

The proposal is inconsistent with this direction, which requires that council consider the Acid Sulphate Soils Planning Guidelines adopted by the Department; and requires consistency with the Acid Sulphate Soils Model LEP. Accordingly, it is recommended that the Director General's (or his delegate) approval is required subject to Liverpool Council justifying that the Planning Proposal is consistent with the Acid Sulphate Soils Planning Guidelines adopted by the Department.

4.3 Flood Prone Land

The site is identified as flood prone land in the Liverpool LEP 2008 Flood planning area map (see Tag 7). Council has indicated that the proposed residential area will be above the flood level, however, the proposal is to rezone land zoned recreation to residential

and therefore, this direction applies.

The Flood and Water Sensitive Urban Design (WSUD) Report prepared by GHD indicates that the proposed WSUD strategy together with flood plain management strategy would adequately satisfy the requirements of the NSW Floodplain Development Manual for management of stormwater quantity, quality and flooding at the site. Accordingly, a condition to ensure the preparation of these strategies is recommended. Compliance with this condition should allow consistency with Clause (4) of the direction.

The Director General's (or his delegate) approval will be subject to Council preparing these strategies to justify the inconsistencies.

4.4 Planning for Bushfire Protection

Council has not addressed this direction. However, the proposed site, including the western part of the proposed residential area is within bushfire prone land identified in Council's bushfire map (Tag 8).

A planning proposal may be inconsistent with the terms of the direction only if the relevant planning authority can satisfy the Director-General (or his delegate) that the council has obtained written advice from the Commissioner of Fire and Rescue NSW, to the effect that, notwithstanding the non-compliance, the Fire and Rescue NSW does not object to the progression of the planning proposal.

A letter from the applicant's bushfire consultant indicates that portions of the proposal are in proximity to land mapped as bushfire prone land and contains a number of specific recommendations. It is suggested that a condition be applied which requires Council to consult with Fire and Rescue NSW and incorporate the measures recommended by the "Preliminary Bushfire Constraints Advice". Compliance with these conditions would also mean that proposal is consistent with clauses 4, 5 & 6 of this direction.

It is recommended that Council consult the Commissioner of Fire and Rescue NSW prior to undertaking community consultation in satisfaction of section 57 of the Act.

6.2 Reserving Land for Public Purposes

This Direction requires the approval of the Director - General for the creation or alteration of reservations of land for a public purpose. It also requires that if acquisition is required, an acquisition authority is listed.

The proposal involves both the conversion of some of the public recreation land to private recreation, and the conversion of a portion of the NBGC land, along the foreshore, from private to public recreation. Council has advised that these land alterations will involve various land swaps achieved via a VPA. To clarify the land ownership, management and functional use of the new public foreshore land, a condition is recommended that the proposed new RE1 area be marked "Local open space" in keeping with clause 5.1A of Liverpool LEP 2008. And further, that a condition be applied which requires the VPA to be agreed prior to the plan being made.

Clause 6.2 (4) requires the Director General's approval for the creation or alteration of zoning of land for a public purpose. The proposed land swaps are considered to be of minor significance and the Director General's (or his delegate) approval is recommended in this instance.

Council has not advised whether the proposed reclassification from RE1 would involve changes to the interest on the land.

6.3 Site Specific Provisions

This direction discourages unnecessarily restrictive site specific planning controls. Council is proposing an amendment to Schedule 1 to permit Multi dwelling housing as an additional permissible land use to the proposed R2 – Low Density Residential zone. In order to contextualize this request, a brief description of the various residential zones is outlined below.

Zone R1 – General residential (see land use table at Tag 9)

This zone is envisaged as a residential area for a variety of housing types and densities together with complimentary uses, which is broadly concentrated in well serviced locations accessible to public transport, employment, services and facilities. The main difference between this zone and the R2 zone is that a higher scale of development and densities is permitted with lesser emphasis on the residential amenity - such as Multi dwelling housing, Residential flat buildings, serviced apartments, shop top housing and hostels.

Zone R2 – Low Density Residential (see land use table at Tag 10)

Essentially a low density, low scale residential zone with very limited complimentary uses and high residential amenity. A very limited type of dwellings including secondary dwellings (which cannot be subdivided) and semi- detached dwellings are permitted.

Zone R3 – Medium Density Residential (refer to land use table at Tag 11)

R3 is a transitional medium density zone between high and low residential density areas, which provides a mix of medium density residential and other mixed uses such as shop top housing, hotels, motels and public administration buildings. The main difference between this zone and the R2 zone is that multi dwelling housing is permitted as well as a wider range of other uses.

OPTIONS FOR RESIDENTIAL REZONING

R2 Zone with additional use schedule (proposed by Council)

Council's Planning Proposal is to rezone the proposed residential area to R2 Zone, however, Council report dated 17 October, 2011, identifies the resultant housing mix to be a combination of attached, detached and "studio" (not a defined term in the SI Instrument) type dwellings to be permissible via an additional use schedule to allow these housing types/subdivision. The proposal is, however, consistent with clause (4) of this direction in that an additional land use is permitted without imposing further development restrictions. It would allow a discreet adjustment to the proposed R2 zone and permit these types of dwellings, whilst maintaining a fundamentally low housing form and density consistent with the surrounding residential area.

Further discussions with Council has established that what Council actually wants is to enable 3 dwellings (equivalent to multi dwellings) to be built on certain corner lots with one street and one laneway access and to be subdivided. The main issue seems to be about allowing small (multi dwelling) subdivisions - and seems to imply that the developers want to restrict this opportunity for certain lots but not allow it more generally in the area. It is also not possible for Council to identify the corner sites where these types of housing are to be permissible/subdivided at this rezoning stage. If this option proceeds Council will need a clause giving heads of considerations for where multi unit dwellings is allowed.

If the requested use of Schedule 1 is to be discouraged, an alternative is to apply a higher density zone to the land at the outset – either a R1 or an R3 zone and then introduce a local clause, to limit the bulk and scale (lot size, height and FSR), and permissibility of larger built forms, thereby achieving some of the limitations sought by

council.

R3 Zone

Given the adjoining zones are either R2 or R3 Zone, a R3 Zone with limiting changes/clauses may be suitable for the site. However, R3 Zone on the land:

- would allow multi dwelling housing across the site;
- would not be consistent with the Standard Instrument objectives for the zone which is to provide a medium density residential environment;
- would not be consistent with local objectives to provide for a visual transition between high and lower density residential areas;
- would introduce additional uses such as shop top housing, hotel or motel accommodation and public administration etc. across the site, not compatible with the intended low density residential environment; and
- would not achieve the guaranteed restrictions sought by Council for 310 dwellings within a low density residential environment.

R1 Zone – Preferred option

R1 Zone in this location, similar to the R3 Zone would allow a variety of housing types such as residential flat buildings, shop top housing including multi dwelling housing, however, the main objective of the zone is to provide a variety of housing types and densities, and is considered to be more flexible to accommodate Council's proposal. R1 Zone will enable small lot subdivision in designated areas and allow flexibility for Council to set whatever development standards are needed to preserve, maintain and achieve the future desired character.

If the preferred option is acceptable, it is not considered to be inconsistent with the S117 Direction 6.3 Site Specific Provisions and the Director General's (or his delegate) approval is not required.

Further, this office has prepared a paper to address similar issues in relation to "secondary dwellings" and "fonzie flats". This paper is attached at Tag 12.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council advises: 'The Gateway Determination will stipulate the required community consultation'.

It is noted that that portion of the proposal which involves the reclassification of land will additionally require exhibition and compliance with Section 29 of the Local Government Act 1993. This includes the requirement that a public hearing be held.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

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Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Liverpool Principal LEP was made in 2008. The planning proposal seeks to make an amendment to the Liverpool LEP 2008.

Assessment Criteria

Need for planning proposal : The explicit need for the planning proposal is varied. In supporting documentation, the ongoing financial viability of the golf club, as a vital community facility, seems the rationale for rezoning a portion of the land to residential, and it appears the associated land rearrangements, including, the ability to continue with the golf course use, as well as provide a vital link in provision of new open space land along the foreshore; will be beneficial to the local and regional community in the long term.

Consistency with strategic planning framework : The planning proposal is generally consistent with the objectives and actions contained within The Metropolitan Plan for Sydney 2036 and the Draft South West Sub-Regional Strategy in that it would provide additional housing - in the form of infill development, adjacent to other similar scale housing, would be serviced by public transport and utilise existing infrastructure. However, without a supporting residential strategy, it is unclear whether the proposed housing zone is the most appropriate.

A brief discussion with Council's officer indicates that the proponent was originally seeking a higher density zone (R1 – General residential) but Council's Planning Proposal notes that Council prefers the lower density of the R2 zone with limited multi-unit housing in the form of a separate "studio" flat.

The provision of new open space land, along the Georges River foreshore; fulfills local and regional recreational and environmental goals.

Environmental social economic impacts : The environmental and social impact of the proposed new section of linking open space foreshore land, along the Georges River has been mentioned and represents a notable contribution to the region. This new open space fulfills local and regional recreational and environmental goals.

The proposal is supported by a flora report – undertaken by Anne Clements and Associates Pty Ltd and a fauna report by Ambrose Ecological Services Pty Ltd. Both reports have been reviewed and indicate nil to unlikely potential negative impacts from the proposal.

There are some concerns with the proposal's consistency with some findings in the background studies, where these are straightforward; conditions are recommended which apply the findings of these studies, in other cases it is suggested that the relevant studies are referred to agencies for comment prior to exhibition.

It is understood that the proposed residential zoning enables the economic viability and continuation of the golf course, a facility which provides some community benefit. A possible child care and gym are also mentioned as local social facilities.

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Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 Month** Delegation : **DDG**

Public Authority
Consultation - 56(2)(d)
:

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

Residential Land Release (MDP)

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **The Planning Proposal was referred to the Strategy and Infrastructure Planning division, and MDP who indicated they have no comment.**

Documents

Document File Name	DocumentType Name	Is Public
1_Contamination_Assessment_GHD_Main_Report.pdf	Study	Yes
2_Contamination_Assessment_GHD_Appendix_A_Figures.pdf	Study	Yes
3_Contamination_Assessment_GHD_Appendix_B.pdf	Study	Yes
1_Transport_Assessment_GHD_Chapters_1_to_3_June_2011.pdf	Study	Yes
2_Transport_Assessment_GHD_Chapters_4_to_6_June_2011.pdf	Study	Yes
Acoustic_Report_GHD_June_2011.pdf	Study	Yes
Assessment_of_significance_threatened_flora_species_populations_ecological_communities_Anne_Clements_16_August_2011.pdf	Study	Yes
Flood_and_Water_Sensitive_Urban_Design_Report_GHD_June_2011.pdf	Study	Yes
Preliminary_Bushfire_Constraints_Advice_ABPP_30_March_2011.pdf	Study	Yes
Summary_of_the_flora_assessment_Anne_Clements_25_May_2011.pdf	Study	Yes
CProposal Cover letter.pdf	Proposal Covering Letter	Yes

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Tag_5_-_Liverpool_Planning_Proposal.pdf	Proposal	Yes
Tag_1_-_Location_map.pdf	Map	Yes
Tag_2_-_Aerial_photo.pdf	Map	Yes
Tag_3_-_Existing_Zoning.pdf	Map	Yes
Tag_4_-_Proposed_indicative_zoning_map.pdf	Map	Yes
Tag_6_-_Acid_sulfate_soils_map.pdf	Map	Yes
Tag_7_-_Flood_planning_area_map.pdf	Map	Yes
Tag_8_-_Council's_Bushfire_Prone_map.pdf	Map	Yes
Tag_9_-_Land_Use_Table_for_R1_Zone.pdf	Proposal	Yes
Tag_11_-_Land_Use_Table_for_R3_Zone.pdf	Proposal	Yes
Tag_12_-_Interim_solution_studios_and_the_SI.doc	Proposal	No
Tag_10_-_Land_Use_Table_for_R2_Zone.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 2.1 Environment Protection Zones
- 3.1 Residential Zones
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : The Planning Proposal should proceed subject to the following conditions:

(1) The Director General's delegate agrees that any inconsistency with section 117 directions:

- 4.1 Acid Sulphate Soils;
- 4.3 Flood Prone Land; and
- 6.2 Reserving Land for Public Purpose;

are justified as minor matters subject to Council preparing a flood plain management strategy, and an acid sulphate soil management plan in the event of any inconsistency with Directions 4.1 and 4.3.

(2) A clause giving heads of considerations for where multi unit dwellings will be allowed is to be prepared in consultation with the Department's Regional Team;

(3) Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- Office of Environment and Heritage;
- Roads and Traffic Authority;
- Catchment Management Authority - Sydney Metro;
- Fire and Rescue NSW; and
- Bankstown Council.

The supporting studies be provided to the relevant agencies for their review and comment.

(4) Consultation with the Fire and Rescue NSW, in accordance with S.117 Direction 4.4 Planning for Bushfire Protection, prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments made;

(5) Community consultation is required under sections 56(2)(c) and 57 of the

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Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

- (a) the planning proposal must be made publicly available for 28 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of A Guide to Preparing LEPs (Department of Planning 2009);

(6) The timeframe for completing the local environmental plan is to be 12 months from the week following the date of the Gateway determination; and

(7) A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act.

If the requested use of R2 Zone with Schedule 1 is not supported by Gateway, an alternative is to apply a higher density zone to the land at the outset – either a R1 or an R3 zone and then introduce a local clause, to limit the bulk and scale (lot size, height and FSR), and permissibility of larger built forms, thereby achieving some of the limitations sought by council.

However, it is considered that the R1 Zone in this location is a preferred option. It will enable a variety of housing types and densities, and is considered to be more flexible to accommodate Council's proposal. It will enable small lot subdivision (i.e. 600 sqm) in designated areas (i.e. corner blocks with two street access) and allow flexibility for Council to set development standards (i.e. parking, FSR and height) and other local provisions needed to maintain and achieve the future desired character. This approach will also require heads of considerations for where multi unit dwellings will be allowed.

The Gateway letter to Council may care to advise that the VPA agreement being prepared for the site will need to be finalised prior to the plan being made.

In respect of the land proposed for reclassification, Council is to clearly address whether any changes to the covenants, interests etc applying to the land are required in accordance with the Department's Practice Note PN 09-003 (Re)classification of public land through a LEP.

Supporting Reasons :

It is considered that, provided the few remaining matters can be adequately resolved, the proposal is generally consistent with state and local strategies, and results in a positive environmental, social and economic outcome both locally and regionally.

Signature:



Printed Name:

CTO CTO MYINT

Date:

28/11/11