

Planning Services

Gateway Determination Report

LGA	Liverpool
PPA	Liverpool City Council
NAME	Planning Proposal to rezone land at Prestons from IN3 Heavy Industrial to E2 Environmental Conservation zone
NUMBER	PP_2018_LPOOL_004_00
LEP TO BE AMENDED	Amendment 71 to Liverpool LEP 2008
ADDRESS	36 Lyn Parade (Lot 10 DP1003837) and Part Lot 11 Progress Circuit (Part Lot 11 DP1228445), Prestons
DESCRIPTION	Lot 10 DP1003837 and Part Lot 11 DP1228445
RECEIVED	4 April 2018
FILE NO.	IRF18/1740
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

The planning proposal seeks to rezone 36 Lyn Parade (Lot 10 DP1003837) and Part Lot 11 Progress Circuit (Part Lot 11 DP1228445), Prestons from IN3 Heavy Industrial to E2 Environmental Conservation. The minimum lot size and height of buildings controls applying to the sites will be changed to reflect the rezoning.

Liverpool Council resolved to support the planning proposal on 7 February 2018.

The planning proposal was accompanied by an Expert Statement (James, Teresa 2018) and a Species Impact Statement (Cumberland Ecology, 2016).

Site description/ Surrounding area

The planning proposal relates to two vacant parcels of land (approximately 4.2ha) in Prestons Industrial Estate. The two parcels of land are zoned IN3 - Heavy Industrial under Liverpool LEP 2008.

Lot 10 is approximately 1ha and is bounded by warehouses on the north, south, and east, and has a frontage to a local road, Lyn Parade. Part Lot 11 is approximately 3.2ha and is bounded by warehouses to the north and south east, and has frontages to local roads, Lyn Parade to the east and Progress Circuit to the south, and is connected to the Maxwells Creek riparian corridor to the west. The western part of Lot 11 DP1228445 is connected to the riparian corridors of Maxwells Creek and is zoned SP2 (Drainage).

The subject sites are currently undeveloped and are of high ecological value. Council has advised that threatened flora, fauna, and ecological communities listed under the NSW *Biodiversity Conservation Act 2017* ("BC Act") and the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* ("EPBC Act") are known to occur or may occur on the sites.



Subject sites



Figure 4: Location of threatened species (Cumberland Ecology 2016)
Key: Green – *Acacia pubescens*; orange – *Pultenaea parviflora*

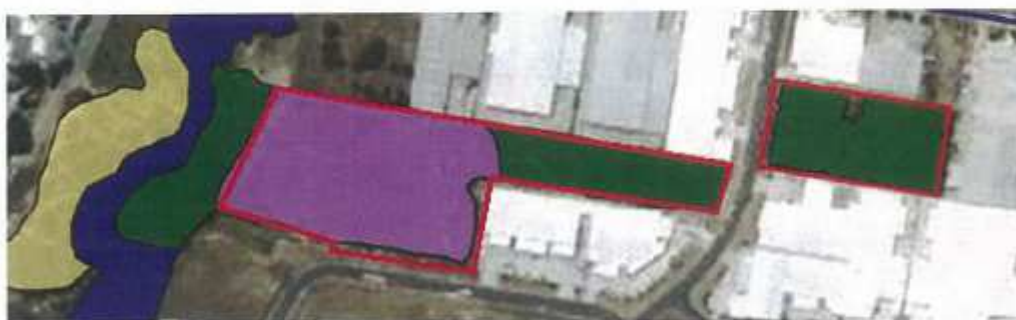


Figure 5: Threatened ecological communities on the subject sites (Cumberland Ecology 2016)
Key:
Green – Cooks River/Castlereagh Ironbark Forest or Shale Gravel Transition Forest
Purple – Cooks River Swamp Forest
Blue – River-flat Eucalypt Forest
Yellow – Shale Gravel Transition Forest

Vegetation Communities on the site

Existing planning controls

Both the sites are zoned IN3 Heavy Industrial zone and have been registered as part of the industrial subdivision on adjoining land. Although the sites are zoned for industrial, they are not used for employment purposes. The sites are each subject to a Section 88B Instrument, under the Conveyancing Act 1919, restricting the use of land, mandating no alteration of native vegetation, and for the land to be retained as bushland to be managed through a management plan.



Existing zoning – IN3 – Heavy Industrial (Purple)

Summary of recommendation

The planning proposal is recommended to proceed with conditions. The rezoning will protect and maintain the sites of high ecological value and ensure that the zoning and planning controls for the subject sites reflect the Section 88B Instruments applying to the land.

PROPOSAL

Objectives or intended outcomes

The planning proposal is to acknowledge the high ecological value of the site, and the planning controls and respective Section 88B Instruments on the land to be appropriately reflected.

Explanation of provisions

The planning proposal clearly provides the need to rezone the site from IN3 Heavy Industrial zone under Liverpool LEP 2008 to E2 Environmental Conservation zone. The minimum lot size and height of buildings controls applying to the sites will be changed to reflect the proposed rezoning. No changes are required to be made prior to community consultation.

Mapping

The planning proposal will make amendments to the Land Zoning, Height of Buildings and Minimum Lot Size maps. No changes to the maps in the planning proposal are required prior to community consultation.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is supported. It will acknowledge and reflect the high ecological value of the site, protect and maintain the sites of its ecological value. The planning proposal will also remove inconsistencies between the land uses permissible under the existing zoning and the restrictions on the land use in the Section 88B Instruments applying to the land. The proposal is the best means for achieving the intended outcomes.

STRATEGIC ASSESSMENT

State / Regional

The planning proposal is consistent with Sustainability objectives of the Greater Sydney Region Plan 2018, including Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced and Strategy 27.1: Protect and enhance biodiversity by managing urban bushland and remnant vegetation as green infrastructure.

District

The planning proposal is consistent with the planning priorities of Western City District Plan, W14: Protecting and enhancing bushland and biodiversity and Action 72: Protect and enhance biodiversity by managing urban bushland and remnant vegetation as green infrastructure.

Local

Council advises that protecting the sites of high ecological value and managing the threatened species and ecological communities is consistent with Liverpool's Community Strategic Plan (CSP) — Our Home, Liverpool 2027.

Section 9.1 Ministerial Directions

The relevant directions are as follows:

1.1 Business and Industrial Zones

The planning proposal is inconsistent with the direction. It will affect land within an existing industrial area, Prestons Industrial Estate. The planning proposal will reduce the overall land that is zoned for Industrial.

The land contains vegetation of high ecological value. The current IN3 zoning on the sites does not reflect the restricted nature of land uses on the site, as a result of the section 88B Instruments. In practical terms, there will be no loss of developable industrial or employment lands as a result of the planning proposal.

The planning proposal is justifiably inconsistent with the direction and is considered to be of minor significance.

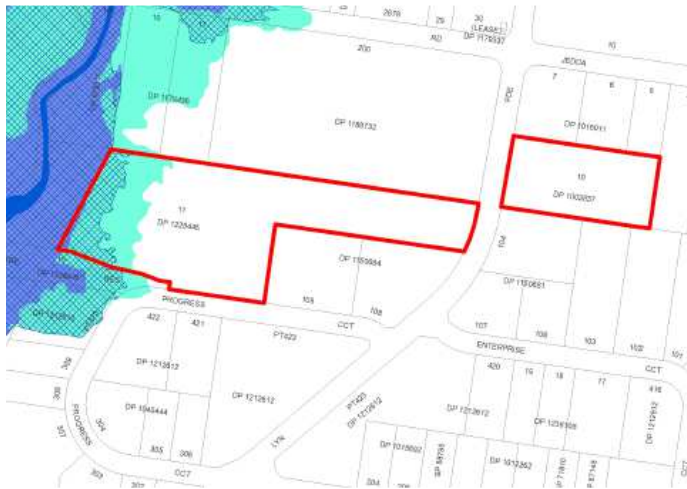
2.1 Environment Protection Zones

The planning proposal is consistent with the direction. It will enable additional environmental zoned land that facilitates the protection and conservation of environmentally sensitive land.

4.1 Flood Prone Land

Council has advised that part of the subject sites is identified as flood prone land and within the flood planning areas. The proposal is for rezoning of the land to E2

Environmental Conservation, further restricting development that is incompatible with flood prone land and minimising the flood impact on the adjoining properties. No changes to flood development controls or provisions are proposed. The planning proposal is consistent with the direction.



Flood prone land map

4.4 Planning for Bushfire Prone Land

The direction applies as part of the subject sites is identified as bushfire prone land. The proposed E2 Environmental Conservation zone is more restricted and will reduce types of land uses that are permissible compared to land uses under the IN3 Heavy Industrial zone. For consistency with the direction, consultation with the Commissioner of the NSW Rural Fire Service will need to be undertaken, prior to community consultation, in accordance with Direction 4(4).



Bushfire prone land map

7.1 Implementation of A Plan for Growing Sydney

A Plan for Growing Sydney has been superseded by Greater Sydney Region Plan and this direction is not applicable.

State environmental planning policies

The planning proposal is consistent with all relevant SEPPs, including SEPP 19 (Bushland in Urban Areas) and SEPP (Vegetation in Non-Rural Areas) 2017.

SITE-SPECIFIC ASSESSMENT

Social

The planning proposal will have a significant positive environmental effect on threatened species, populations, and ecological communities. Rezoning the sites to E2 Environmental Conservation will prohibit development that can adversely affect the threatened species, populations, and ecological communities and ensures better protection and management of the sites of high ecological value.

Environmental

The Expert Statement (James, Teresa 2018) and a Species Impact Statement (Cumberland Ecology, 2016) submitted with the planning proposal identified two vulnerable flora species (*Acacia pubescens* and *Pultenaea parviflora*) observed on both sites listed under the *Environmental Planning and Biodiversity Conservation* (EPBC) Act. Both species are identified as vulnerable and endangered under *Biodiversity Conservation* (BC) Act.

The reports also identified vegetation such as Cooks River/Castlereagh Ironbark Forest and Shale Gravel Transition Forest which are endangered ecological communities under the BC Act and critically endangered ecological communities under the EPBC Act. The vegetation is of moderate to good condition with native species and relatively low occurrence of exotic species, and relates to Maxwells Creek riparian corridor.

Council has advised that due to the proximity to Maxwells Creek and the relatively undisturbed nature of the sites, there may be of Aboriginal or archaeological significance. An archaeological and Aboriginal heritage study is proposed to be undertaken to assess as part of the planning process.

Economic

Due to the restrictions on the Use of Land contained in the respective section 88B Instruments the land cannot be developed for industrial purpose. As such, the rezoning will not result in adverse economic impacts due to loss of jobs or developable employment lands.

CONSULTATION

Community

Council's proposed community consultation period of 28 days is considered appropriate.

Agencies

Council has proposed consultation with the following state and Commonwealth public authorities, which is considered appropriate by the Department:

- NSW Office of Environment and Heritage
- NSW Office of Environment and Heritage — Heritage Division
- NSW Rural Fire Service
- NSW Department of Industry
- Australian Department of the Environment and Energy

TIME FRAME

The time frame for completing the LEP as proposed by Council is 9 months. The planning proposal is of a minor nature. The time frame proposed by Council is considered appropriate.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority. The proposal is of a minor nature and is consistent with all applicable SEPPs, Section 9.1 Directions and the Greater Sydney Region Plan 2018 and Western City District Plan. Council should be authorised to be the local plan-making authority.

CONCLUSION

The planning proposal is supported to proceed with conditions.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with Section 9.1 Directions 1.1 Business and Industrial zones is minor; and
2. note that the consistency with Section 9.1 Directions 4.4 Planning for Bushfire Prone Land will require consultation with NSW Rural Fire Service prior to community consultation and no objection being raised by the agency.

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - NSW Office of Environment and Heritage;
 - NSW Office of Environment and Heritage — Heritage Division;
 - NSW Rural Fire Service;
 - NSW Department of Industry; and
 - Australian Department of the Environment and Energy.
3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority to make this plan.

Reviewed



16/4/2018

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