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Our ref: PP_2013_LPOOL_008_00 (13/19187)
Your ref: 260754.2013

Mr Farooq Portelli
General Manager
Liverpool City Council
Locked Bag 7064
LIVERPOOL BC NSW 1871

Dear Mr Portelli,

Planning proposal to amend Liverpool Local Environmental Plan 2008

I am writing in response to Council's letter dated 7 November 2013 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal (Amendment No.36) to:

- remove cemeteries and crematoria as permitted with consent in zones RU1 Primary Production, RU4 Primary Production Small Lots, RE1 Public Recreation and RE2 Private Recreation;
- remove crematoria as permitted with consent from B6 Business Enterprise;
- add crematoria as permitted with consent in IN2 Light Industrial; and
- add cemeteries and crematoria as an additional use on 5 sites that either currently operate as a cemetery or crematoria or have an approval for this purpose.

As delegate of the Minister for Planning and Infrastructure, I have now determined the planning proposal should proceed subject to the variations as outlined in the attached Gateway determination.

I have also agreed the planning proposal's inconsistency with S117 Direction 1.1 Business and Industrial Zones is of minor significance. No further approval is required in relation to this Direction.

It is acknowledged that planning for cemeteries and crematoria at a metropolitan and subregional scale is important. The need to plan for adequate burial lands to meet the needs of Sydney's diverse community and guide their appropriate location has been identified as an action within the draft Metropolitan Strategy for Sydney to 2031. It is intended that the new Agency for cemeteries and crematoria will establish planning strategies and guidelines to address current and future needs.

Until such a time as detailed sub-regional planning for burial lands has commenced, the removal of cemeteries and crematoria from the RU1 Primary Production zone and RU4 Primary Production Small Lots zone, and the inclusion of crematoria in the IN2 Light Industrial zone can not be supported. It is considered premature at this stage for council to adopt a blanket prohibition for cemeteries and crematoria in rural zones until sub-regional planning has identified and safeguarded land for these purposes. Further, the subject land use is considered inconsistent with the intention of the industrial zone and may create land use conflict. Council is to remove these components of the planning proposal.

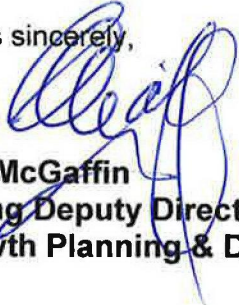
The proposed inclusion of cemeteries and crematoria as additional permitted uses on land in Liverpool is not required as the removal of cemeteries and crematoria from the relevant rural zones has not been supported. This component of the planning proposal is to be removed. Council should consider zoning the land SP2 Infrastructure or an appropriate alternative zone consistent with the Department's Practice Note PN10-001 Zoning for Infrastructure in LEPs which identifies Special Use zones as appropriate for the subject land use. Council is to amend the planning proposal to reflect the above approach, prior to proceeding to public exhibition.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

Should you have any queries in regard to this matter, I have arranged for Mr Amar Saini of the Department's regional office to assist you. Mr Saini can be contacted on (02) 98601560.

Yours sincerely,


Neil McGaffin 8.1.14
Acting Deputy Director General
Growth Planning & Delivery

Encl:

Gateway Determination

Written Authorisation to Exercise Delegation

Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2013_LPOOL_008_00): to prohibit cemeteries and crematoria in various zones and to permit crematoria in a particular zone and a certain lands.

I, the Acting Deputy Director General, Growth Planning and Delivery at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Liverpool Local Environmental Plan 2008 (Amendment No.36) to:

- remove cemeteries and crematoria as permitted with consent in zones RU1 Primary Production, RU4 Primary Production Small Lots, RE1 Public Recreation and RE2 Private Recreation;
- remove crematoria as permitted with consent from B6 Business Enterprise;
- add crematoria as permitted with consent in IN2 Light Industrial; and
- add cemeteries and crematoria as an additional use on 5 sites that either currently operate as a cemetery or crematoria or have an approval for this purpose.

should proceed subject to the following variations and conditions:

1. The inclusion of crematoria in the IN2 Light Industrial zone is not supported. The subject land use is considered inconsistent with the intention of the industrial zone and may create land use conflict. Council is to remove this component of the planning proposal.
2. The proposed removal of cemeteries and crematoria from the RU1 Primary Production zone and RU4 Primary Production Small Lots zone is not supported. Council is to remove this component of the planning proposal.
3. The proposed inclusion of cemeteries and crematoria as additional permitted uses on land in Liverpool is not required as the removal of cemeteries and crematoria from the relevant rural zones has not been supported, as per Condition 2 above. This component of the planning proposal is to be removed. Council is to consider amending the planning proposal to zone the land SP2 Infrastructure or an appropriate alternative, prior to proceeding to public exhibition.
4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **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 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning & Infrastructure 2013).
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Cemeteries and Crematoria NSW

The public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

Once the above consultation with public authorities has been undertaken, Council is to update the planning proposal to reflect the outcomes of the work and consultation undertaken prior to exhibition.

6. 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. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
7. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated

8th

day of

January

2014



Neil McGaffin
Acting Deputy Director General
Growth Planning & Delivery
Department of Planning & Infrastructure

Delegate of the Minister for Planning &
Infrastructure

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Liverpool City Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_LPOOL_008_00	Planning proposal (Amendment No.36) to: • remove cemeteries and crematoria as permitted with consent in zones RU1 Primary Production, RU4 Primary Production Small Lots, RE1 Public Recreation and RE2 Private Recreation; • remove crematoria as permitted with consent from B6 Business Enterprise; • add crematoria as permitted with consent in IN2 Light Industrial; and • add cemeteries and crematoria as an additional use on 5 sites that either currently operate as a cemetery or crematoria or have an approval for this purpose.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guide to preparing local environmental plans" and "A guide to preparing planning proposals".

Dated 8. January 2014



Neil McGaffin
Acting Deputy Director General
Growth Planning & Delivery
Department of Planning & Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2013_LPOOL_008_00
Date Sent to Department under s56	7/11/2013
Date considered at LEP Review Panel	19/12/2013
Gateway determination date	8/1/14.

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: