

Liverpool LEP 2008 (Amendment No 43) – Clause 4.6A - Subdivision/realignment of undersized lots

Proposal Title :	Liverpool LEP 2008 (Amendment No 43) – Clause 4.6A - Subdivision/realignment of undersized lots		
Proposal Summary :	The proposal seeks to amend Liverpool Local Environmental Plan 2008 mainly to insert a new clause to clause 4.6 Development Standards to allow flexibility for variations of the minimum lot size requirements in order to facilitate subdivision/boundary adjustment between two non-compliant lots, and other minor changes.		
PP Number :	PP_2014_LPOOL_002_00	Dop File No :	14/02402

Proposal Details

Date Planning Proposal Received :	30-Jan-2014	LGA covered :	Liverpool
Region :	Sydney Region West	RPA :	Liverpool City Council
State Electorate :	CAMDEN LIVERPOOL MACQUARIE FIELDS MULGOA	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :

Suburb : City : Postcode :

Land Parcel : The Planning Proposal applies to any land zoned as RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, R5 Large Lot Residential, E1 National Parks and Nature Reserves, E2 Environmental Conservation, and E3 Environmental Management within the Liverpool LEP 2008

DoP Planning Officer Contact Details

Contact Name : Amar Saini

Contact Number : 0298601130

Contact Email : amar.saini@planning.nsw.gov.au

RPA Contact Details

Contact Name : Katie Miles

Contact Number : 0298219511

Contact Email : K.Miles@liverpool.nsw.gov.au

DoP Project Manager Contact Details

Contact Name : ChoCho Myint

Contact Number : 0298601167

Contact Email : chocho.myint@planning.nsw.gov.au

Liverpool LEP 2008 (Amendment No 43) – Clause 4.6A - Subdivision/realignment of undersized lots

Land Release Data

Growth Centre :		Release Area Name :	
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) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
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 : **In relation to the Lobbyist Code of Conduct there are no records on the Department's Lobbyist Contact Register regarding this matter.**

Supporting notes

Internal Supporting Notes : **POLITICAL DONATIONS DISCLOSURE STATEMENT**

Political donations disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the Planning system.

"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning application means:

- A formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Director General is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this Planning Proposal.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The primary objective of the planning proposal is to allow flexibility for subdivisions and**

Liverpool LEP 2008 (Amendment No 43) – Clause 4.6A - Subdivision/realignment of undersized lots

boundary adjustments between non-compliant lots which fall outside the "minor" boundary adjustment clause 2.75 Specified development of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (copy in Documents) and clause 4.6(6) of the Standard Instrument LEP. This will allow for lot boundaries to be altered in certain circumstances, to give landowners a greater opportunities to achieve the objectives of the zone. The planning proposal is also to remove identification of zones not adopted by the LEP from clauses 4.6(6) and 4.2(2)(d).

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

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

Comment : **Council has provided an explanation for the proposed amendments. The explanatory statement is in Council's planning proposal in Documents. It is considered that the explanations of the proposed amendments are adequate.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA : **1.5 Rural Lands**

* May need the Director General's agreement **7.1 Implementation of the Metropolitan Plan for Sydney 2036**

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified? **SEPP (Rural Lands) 2008**

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

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **SECTION 117 DIRECTIONS**

1.5 RURAL LANDS

The objective of this direction is to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.

This direction requires that when a council proposes a change to lot sizes that the proposal be consistent with the Rural Subdivision Principles listed within the State Environmental Planning Policy (Rural Lands) 2008. The planning proposal is considered to be consistent with these principles and is consistent with the direction.

7.1 IMPLEMENTATION OF THE METROPOLITAN STRATEGY:

The Planning Proposal is not inconsistent with the Metropolitan Strategy, Draft Metropolitan Strategy for Sydney to 2031 and the draft South West Subregional Strategy.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **No maps apply to this proposal.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : **Council has advised that the Gateway Determination will specify the community**

Liverpool LEP 2008 (Amendment No 43) – Clause 4.6A - Subdivision/realignment of undersized lots

consultation period. Given the nature of the Planning Proposal, it is recommended that it should be placed on public exhibition for a minimum of 14 days.

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 :

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The Liverpool principal plan was made in 2008. This planning proposal seeks to amend the Liverpool Local Environmental Plan 2008.

Assessment Criteria

Need for planning
proposal :

BACKGROUND

Liverpool City Council has advised that Clause 4.6 of the Liverpool Local Environmental Plan 2008 provides no flexibility to accept the subdivision of lots below the minimum area specified by the development standard. In instances where the existing lots are already below the minimum subdivision lot size (sometimes as result of residue lots from old road networks or easements) this has prevented their subdivision.

Council has advised that there are a number of substantially small lots within the Liverpool Local Government Area which are both below the associated minimum lot size requirement as well as being too narrow or small to accommodate any type of compliant dwelling or building. Where these lots are unable to be consolidated into larger lots with their adjoining properties they remain isolated and stagnant.

On 17 July 2013, Council wrote to the Department proposing a re-wording of the mandatory Clause 4.6. On 19 September 2013, the Department provided Council with a sample clause for boundary changes between non-compliant lots (copy in Documents) which has been adopted by other SI LEPs. Council now seeks to incorporate this clause into the written instrument to create a mechanism to facilitate the realignment of boundaries or allow the re-subdivision of these lots to a more reasonable size for permissible building or dwelling to occur.

THE PROPOSAL

The planning proposal is for the following changes to the Liverpool LEP, to incorporate the sample clause as follows:

1. Insert the sample clause as Clause 4.6A into the Liverpool LEP 2008,
2. Delete reference to Zones RU3 Forestry, Zone RU6 Transition, and Zone E4 Environment Living from Clause 4.6(6) as these zones are not present in the Liverpool Local Government Area,
3. Delete reference to Zone RU6 Transition from Clause 4.2(2)(d) as this zone is not

Liverpool LEP 2008 (Amendment No 43) – Clause 4.6A - Subdivision/realignment of undersized lots

present in the Liverpool Local Government Area,

4. Amend subclause Clause 4.1(3) (copy in Documents) to read:

"Clause 4.1(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land, unless compliance to Clause 4.6A is granted by the consent authority."

5. Insert subclause (c) to Clause 4.6(6) (copy in Documents) which refers to the new Clause 4.6A;

"Clause 4.6(6)(c) Despite Clause 4.6(6) a subdivision or boundary adjustment between existing non complying lots may be granted through Clause 4.6A."

THE DEPARTMENT'S CONSIDERATION

The Department's Planning Coordination & Support (PC&S) Team has previously agreed with the intent of the proposed clause. The Team was reconferred on the planning proposal and has advised that the proposed "boundary adjustment clause" should be inserted as an amendment to Clause 4.2 and not as an amendment to the mandated clause 4.6.

The PC&S Team suggested that the new additional clause should be numbered 4.2B. The Team also suggested that it is not necessary to amend subclause 4.1(3) and Clause 4.6(6) as it applies under different circumstances in comparison to the proposed new boundary adjustment clause being proposed by Liverpool Council (copy in Documents). This advice is considered to be a detailed drafting matter which can also be addressed by the Parliamentary Counsel.

The Department agrees with the intent of the proposed clause. However, in light of the comments from PC&S Team, it is recommended that Council be asked to incorporate these changes into the planning proposal prior to exhibition to avoid any potential confusion.

Consistency with strategic planning framework :

DRAFT METROPOLITAN STRATEGY FOR SYDNEY 2031 AND DRAFT SOUTH WEST SUBREGIONAL STRATEGY

The planning proposal is not considered to be inconsistent with both the Sydney Metro Strategy and the draft South West Sub-regional Strategy.

Environmental social economic impacts :

There are no likely environmental, social or economic impacts. Any potential impacts will be addressed at development stage.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

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 :

Liverpool LEP 2008 (Amendment No 43) – Clause 4.6A - Subdivision/realignment of undersized lots

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Council Report.pdf	Determination Document	Yes
Letter from the DP&I.pdf	Determination Document	Yes
Subdivision Clause from SEPP (Exempt & Copying Development Codes) 2008.pdf	Determination Document	Yes
Clause 4.1 Minimum subdivision lot size from Liverpool LEP 2008.pdf	Determination Document	Yes
Clause 4.6 Exceptions to development standards from Liverpool LEP 2008.pdf	Determination Document	Yes
Email from Planning Coordination & Support Team.pdf	Determination Document	No
Council Resolution.pdf	Determination Document	Yes

Planning Team Recommendation

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

S.117 directions: **1.5 Rural Lands**
7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **It is recommended that the Planning Proposal proceed subject to the following conditions:**

- Council** to amend the planning proposal to incorporate the following changes before it is placed on exhibition:
 - The proposed should be Clause 4.2B;
 - Exclude the proposed subclause 4.1(3); and
 - Exclude the proposed subclause 4.6(6)(c) from the planning proposal.
- Exhibited for 14 days.
- The timeframe for completing the Local Environmental Plan is to be 6 months from the week following the date of the Gateway determination.

DELEGATION TO COUNCIL

Delegation be given to Council to exercise the Minister's plan making powers in this instance. Council intends to use this delegation to proceed with the Planning Proposal (see attached in documents).

Liverpool LEP 2008 (Amendment No 43) – Clause 4.6A - Subdivision/realignment of undersized lots

Supporting Reasons : The planning proposal is supported as it would allow a legal mechanism to approve boundary re-alignment/subdivision for isolated/undersized lots. This is an agreed clause which has been in some SI LEPs (i.e. Coffs Harbour).

Signature:

R Cumming

Printed Name:

Rachel Cumming

Date:

21 Feb 2014