

GMPG 03	Proposed Draft Amendment 39 to Liverpool Local Environmental Plan 2008 - Reclassification and rezoning of Lot 4221 Wilson Road Green Valley and minimum dwelling densities in Middleton Grange
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Strategic Direction	Liveable Safe City Deliver an efficient planning system which embraces sustainable urban renewal and development
Key Policy	Urban Development Plans
File Ref	025982.2014
Report By	Lisa Mackay - Strategic Planner
Approved By	Carole Todd - Acting Group Manager Planning and Growth

EXECUTIVE SUMMARY

Proposed draft amendment 39 to the Liverpool Local Environmental Plan 2008 (LLEP 2008) contains a number of amendments. The two items proposed to move forward under this amendment were previously a part of Amendment 27 to LLEP 2008 having been deferred for further consideration. Further information and investigation has been undertaken in accordance with the council resolution of 28 August 2013.

The changes proposed under draft Amendment 39 relate to:

- Minimum dwelling density in Middleton Grange, and
- Reclassification and rezoning of Lot 4221 Wilson Road, Green Valley.

It is noted that flooding provisions which were also deferred from Amendment 27 are suggested to remain deferred to allow flooding controls to be progressed as a separate planning proposal.

As the above two matters have been previously exhibited in accordance with the gateway determination for Amendment 27 it is recommended that this amendment be forwarded to the Department of Planning and Infrastructure (DP&I) seeking making of the plan.

RECOMMENDATION

It is recommended that Council resolve to:

1. Reduce the minimum dwelling density in Middleton Grange from 30 dwellings per hectare to 28 and 23 dwellings per hectare to 21 as part of Draft Amendment 39 to LLEP 2008.

2. Amend the zoning to R2 Low Density Residential and the classification to operational for Lot 4221 Wilson Road, Green Valley as part of Draft Amendment 39 to LLEP 2008.
3. Send a copy of this report and Planning Proposal to the Department of Planning and Infrastructure seeking that the adopted amendments to the LLEP 2008 be made.
4. Confirm that upon gazettal of the rezoning and reclassification of Lot 4221 Wilson Road Green Valley that Council resolves to sell the land to the Islamic League Association of NSW in accordance with its decision of 25 July 2011.

REPORT

Proposed draft amendment 39 contains two amendments that were previously a part of Amendment 27. On 28 August 2013 Council resolved to proceed with the making of Draft Amendment 27 to LLEP 2008 with deferment of:

- Changes relating to floodplain prone maps in the Prestons Industrial Area;
- Changes relating to reducing density in Middleton Grange; and
- Amendment to Lot 4221 Wilson Road, Green Valley.

These matters were further considered at the 2 December 2013 meeting (see attached) where council determined to defer the matter.

Flood prone land maps in the Prestons Industrial Area

In view of current flooding issues and uncertainties with the timing of completion of trunk drainage works, Council has undertaken a comprehensive flood study to determine the nature and extent of flooding arising from overland flows and to explore interim drainage options to facilitate development of otherwise flood affected land.

Council's investigations have found that development of the flood affected lands is feasible provided a range of interim food mitigation works are undertaken by the property owners to manage flood flows until construction of the final trunk drainage system has been completed. Council's assessment shows that the following works would be necessary:

1. On site detention - on site detention of stormwater would be required as part of all the remaining developments to reduce the volume of flood waters reaching the existing roads and pipe systems, which have reached capacity; and
2. Landscape buffer/mound - the Development Control Plan for the subject area requires a landscape buffer to be provided along Bernera Road. It is considered that incorporation of a low-height mound within the landscape buffer would enable all upstream flows to be intercepted and redirected along Bernera Road thus rendering the lots adjoining Bernera Road flood free. Detailed analysis shows that there will be no adverse impacts arising from these works.

However, the flood benefits arising from these works are contingent on the mound being constructed along the full length of Bernera Road in its entirety. This will require a coordinated approach by all the affected landowners to obtain necessary development approvals and to construct the mound. In this regard and to ensure uniformity in appearance and design, Council has developed necessary designs to enable construction of the landscape buffer and mounds.

Council has been recently advised that the affected landowners have entered into formal agreements to construct the mound and are currently preparing to seek development consent to undertake the works.

Following satisfactory completion of the mound and submission of a Works as Executed Plan, Council will commence necessary processes to update the flood maps to reflect the improved flood status of the lands. It is therefore proposed to delete this component from Amendment 39 with view to progressing a separate planning proposal which addresses flood affectation and controls separately.

Middleton Grange Density

Middleton Grange is a release area that utilises minimum dwelling density controls to facilitate a variety of development types with highest densities required in and around the planned town centre. Since the adoption of LLEP 2008, the required minimum dwelling density has increased by virtue of the Standard LEP Instrument definition. The increase has made it difficult for developers to achieve the required dwelling yields, leading to a number of Development Applications seeking an exception to the minimum dwelling density provision.

As Council is not permitted to alter the standard instrument definition, this proposal seeks to amend the dwelling density map to reduce the 30 dwellings per hectare area to 28 dwellings per hectare and the 23 dwellings per hectare area to 21 dwellings per hectare.

The dwelling density is proposed to be reduced to the smallest number possible that would respond to developers' interests while minimising impact on the Middleton Grange Section 94 Contributions Plan. The contributions plan accounts for all future infrastructure required for the suburbs development, a reduction that would impact on this plan was not seen as an appropriate outcome. The proposed amendments do not alter the objective of the dwelling density provisions in that they will continue to encourage the efficient use of infrastructure through the provision of smaller lots, locating smaller lots in areas that are well serviced and of high amenity and allow the continued collection of adequate developer contributions to provide for critical services and infrastructure for the suburb.

While Council did receive an objection to this change during the exhibition period, Council has since met with the submitter who once understanding the proposed change has withdrawn their objection.



Figure 1 Middleton Grange Dwelling Density Map – Current.

Reclassification and rezoning of Council owned land

The planning proposal includes the proposed reclassification of Lot 4221 Wilson Road, Green Valley from community land to operational land and rezoning the land from RE1 Public Recreation to R2 Low Density Residential. See Figure 1 for affected property:

The vested interests will be changing for this land and therefore the land will be placed in Schedule 4 Part 2 – Land classified, or reclassified as operational land – interests changed, of the LLEP 2008. The reclassification is consistent with Council's Property Management Plan and it enables surplus Council land to be sold to the neighbouring school.

It is noted that as this land was purchased using section 94 funds that the proceeds from the sale must be returned to the section 94 account allowing other facilities to be purchased and embellished.



Figure 2 Lot 4221 Wilson Road, Green Valley

At its meeting of 25 July 2011 Council resolved to reclassify and sell Lot 4221 Wilson Road, Green Valley to the Muslim League Association of NSW (see attached report). The reclassification and rezoning was a part of Draft Amendment 27 to LLEP 2008 which underwent State agency consultation, public exhibition and a public hearing. Council deferred this item at 28 August 2013 meeting as there were concerns with the use of the land after sale. This matter was reconsidered at the 30 October 2013 meeting with options put forth to restrict the use of the land being sold to the school to ensure open space was provided for. Council resolved to proceed with the reclassification and rezoning of the land with no conditions being placed on the sale. In accordance with that resolution, this planning proposal seeks to proceed with the LEP amendment to finalise the reclassification, rezoning and sale of this land.

It is recommended that Council proceed with the rezoning, reclassification and sale of the land to the Muslim League Association of NSW with no conditions. This would be in accordance with Council's previous decision of 25 July 2011.

It is acknowledged that this piece of land is surplus to drainage needs. Lot 4221 is land locked with no road frontage and could only be developed if integrated with an adjoining property. Any funds from the sale of this land would be returned to the appropriate Section 94 contributions account, allowing other facilities in the catchment to be purchased or embellished.

Public Exhibition

Draft Amendment 27 to LLEP 2008 was on public exhibition from Wednesday 19 June 2013 to Wednesday 17 July 2013. Letters were sent to all residents that were directly affected by an item in the amendment or who lived within the vicinity of particular items, such as rezoning's and land reclassifications. The Draft Amendment was advertised in the Liverpool Leader, on Council's website and at the Liverpool Administration Centre and Liverpool City Library Customer Service Desk.

A Public Hearing was held on 24 July 2013 for Amendment 27 reclassifications including Lot 4221 Wilson Road, Green Valley. This was undertaken in accordance with the Department of Planning and Infrastructure's LEP practice note PN09CO3 'Classification and reclassification of public land through a local environmental plan'.

Conclusion

The items within this amendment have been processed in accordance with the Gateway Determination including state agency consultation, public exhibition and a public hearing. All issues have been investigated and resolved where appropriate with the affected land owners. As such it is recommended to proceed with the making of amendment 39 to the LLEP 2008.

CONSIDERATIONS

Economic and Financial	This amendment includes rezoning and reclassification of land intended for sale. As the land was purchased using Section 94 funds any funds from the sale of the land will need to be returned to the appropriate contribution account.
Environmental and Sustainability	There are no environmental and sustainability considerations.
Social and Cultural	Raises awareness in the community about the available services and facilities.
Civic Leadership and Governance	There are no civic leadership and governance considerations.

ATTACHMENTS

1. 2 December 2013 Council Report for Draft Amendment 39 to Liverpool Local Environmental Plan 2008 (deferred from 27 November 2013)
2. Planning Proposal Draft Am 39 LLEP 2008 - Anomalies deferred from Am 27 - February 2014 (Under separate cover)
3. Confidential Report 25 July 2011 meeting - Sale of Lot 4221 Wilson Road Green Valley - Confidential – **Provided in Confidential book provided to Councillors**

LIVERPOOL CITY COUNCIL

PLANNING AND GROWTH

ORDINARY MEETING

27/11/2013

ITEM NO:	GMPG 02	FILE NO:	2013/3683
SUBJECT:	PROPOSED DRAFT AMENDMENT 39 TO LIVERPOOL LOCAL ENVIRONMENTAL PLAN 2008 - ANOMALIES		
COMMUNITY STRATEGIC PLAN REFERENCE:	LIVEABLE SAFE CITY		

EXECUTIVE SUMMARY:

Proposed draft amendment 39 to the Liverpool Local Environmental Plan 2008 (LLEP 2008) contains a number of amendments. This LEP amendment considers Council initiated changes at both Councillor and staff levels.

The three items within this amendment were previously a part of Amendment 27 to LLEP 2008. Further information and investigation has been undertaken in accordance with the council resolution of 28 August 2013. The items have been reviewed and placed within this new amendment No. 39.

The changes proposed under LEP Amendment 39 relate to:

- Dwelling density in Middleton Grange
- Flood planning maps for industrial zoned land in Prestons, and
- The proposed reclassification and rezoning of Lot 4221 Wilson Road, Green Valley.

As these matters have been previously exhibited in accordance with the gateway determination for Amendment 27 it is recommended that this amendment be forwarded to the Department of Planning and Infrastructure (DP&I) seeking making of the plan.

DETAILED REPORT:

This proposed draft amendment to the LLEP 2008 contains three amendments that were previously a part of Amendment 27.

On 28 August 2013 Council resolved to proceed with the making of Draft Amendment 27 to LLEP 2008 with deferment of:

- Changes relating to floodplain prone maps in the Prestons Industrial Area;
- Changes relating to reducing density in Middleton Grange; and
- Amendment to Lot 4221 Wilson Road, Green Valley.

In order to meet gateway determination deadlines the remainder of Draft Amendment 27 was forwarded to the DP&I for finalisation. The three deferred items have therefore been placed into a new amendment to be reconsidered. Council Officers have undertaken discussions with the relevant departments and parties involved to clarify the concerns that have been raised and the best way to resolve these issues. These matters are detailed below.

Middleton Grange Density:

Middleton Grange is a new release area that utilises minimum dwelling density controls to facilitate a variety of development types. Since the adoption of LLEP 2008, the required minimum dwelling density has increased by virtue of the Standard LEP Instrument definition. The increase has made it difficult for developers to achieve the required dwelling yields, leading to a number of Development Applications seeking an exception to the dwelling density provision.

As Council is not permitted to alter the standard instrument definition, this proposal seeks to amend the dwelling density map to reduce the 30 dwellings per hectare area to 28 dwellings per hectare and the 23 dwellings per hectare area to 21 dwellings per hectare. The proposed amendments do not alter the objective of the dwelling density provisions in that they will continue to encourage the efficient use of infrastructure through the provision of smaller lots, locating smaller lots in areas that are well serviced and of high amenity and allow the continued collection of adequate developer contributions to provide for critical services and infrastructure for the suburb.

This alteration was proposed as part of Draft Amendment 27 to LLEP 2008 which underwent State agency consultation and public exhibition. The dwelling density is proposed to be reduced to the smallest number possible that would not impact on the Middleton Grange Section 94 Contributions Plan. The contributions plan accounts for all future infrastructure required for the suburbs development, a reduction that would impact on this plan was not seen as an appropriate outcome. Upon Council's final decision this item was deferred as it was not believed to be a large enough reduction in the dwelling density provision to meet the required dwelling yields.

A meeting was held with concerned developers to discuss the proposed reduction of dwelling densities required in the 30 dwellings per hectare and 23 dwellings per hectare areas. After discussions were held it was found that the dwelling provision could be met with the proposed 28 and 21 dwellings per hectare and objections to the change were withdrawn. With this objection now being resolved it is proposed that the dwelling densities for Middleton Grange are changed from 30 dwellings per hectare to 28 and 23 dwellings per hectare to 21, to allow for a more achievable dwelling requirement that still retains higher densities in suitable areas with close access to infrastructure.

Flood Mapping updates for Prestons Industrial Area:

At its meeting on the 6th February 2012 Council resolved to adopt the Cabramatta Creek Flood Study and Basin Strategy Review as part of the Liverpool Floodplain Management Committee Minutes. The flood prone land mapping in the LLEP 2008 is required to be updated to correspond to the adopted study and strategy.

All LEP flood mapping was resolved on 28 August 2013 to be updated as part of Amendment 27 to LLEP 2008 with the exception of the Prestons Industrial Area. This was due to submissions questioning the change of flooding levels, the validity of the updated study and the delay in Council completing flood mitigation works that are dependent on Section 94 contributions for the Prestons Yarrunga Employment Area.

The flood study was undertaken in accordance with the NSW Floodplain Development Manual which recommends that a review of flood studies be undertaken approximately every 5 years taking into account changes that have occurred in the catchment. A basin strategy was developed for Cabramatta Creek in the early 1990s as a floodplain mitigation strategy to compensate for development that was anticipated to occur within the catchment. As the basin strategy has been progressively implemented, certain changes have been necessary to account for development and constraints. It was required to assess and review flood behaviour and the overall performance of the basin strategy in reducing flooding impact as a result of catchment development. Council undertook a review of the flood study in 2011 and flood mapping has been updated as part of Amendment 27 to LLEP 2008 with the exception of the Prestons Industrial Area. This area is proposed to be amended as part of this Draft Amendment to the LLEP 2008.

The benefits of the new study are that the current study is based on Aerial Laser Survey (ALS) data captured in 2008. The ALS data represented catchment terrain with an accuracy of $\pm 0.15\text{m}$ on clear ground. This provided improved definition of creeks, waterways and other features and provides a consistent terrain surface across the entire catchment. The ALS is considered to provide the best representation of existing catchment terrain, compared to previously adopted terrain surface, which was based on 1996 photogrammetric data.

The current study used a two dimensional hydrodynamic flood model known as TUFLOW model, which is widely used by floodplain managers and Councils. The TUFLOW model is more recent than the previously used RMA-2 model. Previous studies developed six RMA-2 models to cover the entire catchment due to the limitation of computer data processing capacity available at the time. The current study has assessed flooding behaviour of the entire catchment using a single TUFLOW model. As a result of use of ALS data and TUFLOW hydrodynamic model the study provides more accurate flood levels and flood behaviour throughout the catchment.

The study reconfirmed that Council's basin strategy is operating satisfactorily and the 1% AEP flood levels obtained from this study are within target level as anticipated. The current TUFLOW model can be used by developers for flood impact assessment for individual development. This facility was not available with previous RMA-2 model.

Flood levels in the updated flood study were found to be generally consistent with flood levels of the previous study. The majority of the study area shows little change (within $\pm 0.2\text{m}$) in the 100 year flood. The difference is acceptable for this type of catchment considering the significant changes that have occurred in the catchment since the previous modelling was undertaken in 1996.

However, some notable changes have been found at few locations as mentioned below:

- Flood levels have been reduced by 0.4 to 0.3m near the Liverpool Catholic Club, Hoxton Park Road and throughout Maxwells Creek.
- Reduction in flood levels by 0.2 to 0.3m on Cabramatta Creek between Hume Highway and Railway Bridge in Warwick Farm.
- Increase in flood levels by up to 1.0m over a distance of 1km along upper reaches of Hinchinbrook Creek. The increase in flood levels is contained within the creek corridor and reserve with no effect on developable land.
- An increase of around 1.0m is seen downstream of Orange Grove Road adjacent to the Orange Grove Mega Centre development. The increase in flood levels is generally contained within the creek corridor other than a small section of land at the Mega Centre. The increased flooding should not impact on the development potential of the Mega Centre and would have been mostly due to the filling of flood affected land within the Mega Centre.

The difference in flood levels between the two estimates may be due to a combination of factors such as:

1. Difference in modelling techniques;
2. Difference in source of data describing terrain surface i.e. 1996 photogrammetric and 2008 ALS;
3. Change in catchment conditions from 1996 to 2008.

The current study is based on the landform of 2008. As mentioned above, ground level survey data was captured using aerial laser scanning (ALS) survey. It was the best source of survey data available at the time.

It should be noted that use of ALS data is a common industry practice for flood modelling of larger catchments of this nature and is within the industry benchmark.

Prestons industrial area is affected by flooding from overland flows from upper catchment area. Landform will change as development occurs in Prestons industrial area. However, adverse impact of flooding can be mitigated by undertaking appropriate flood mitigation works.

Council has developed a trunk drainage strategy for the area, which involves major drainage structures, to be constructed by developers as works in kind (WIK) under the Section 94 contribution plan. In absence of the proposed trunk drainage system, appropriate flood mitigation works are to be incorporated with developments to minimise adverse impact of flooding.

In absence of the ultimate trunk drainage system in place, some properties in Prestons industrial area are potentially restricted for development. Council is currently working with the respective property owners and developing an interim flood mitigation solution to facilitate development of the flood affected properties.

Council will deal with individual development applications on a case by case basis to ensure that no development will adversely affect current flood behaviour and that adjoining properties are not adversely affected. Flood maps will be updated with development progress as per flood mitigation works being undertaken.

Flood levels in the vicinity of the property at Lot 1 Kurrajong Road has been reviewed and found that there is no increase in flood levels under the 100 year flood event this property. However, it has been observed that flood extent under current flood mapping has slightly extended on to the property and the depth of flooding of the extended flood area is negligible (approximately 0 to 200mm). Council's engineers consider this increase of flood extent is due to better topographic data used in the flood model.

The owner of Lot 1 Kurrajong Road was invited to a meeting at Council to discuss his concerns and the matter was explained. Council officers have offered the owner the ability to review the flood map of their property should they submit a recent ground level survey of the property. The owner is in contact with Council's Floodplain Engineers who have agreed to provide the owner with up to date information on flooding in the area.

Council has received a Works as Executed Plan for the property at 16 Bernera Road. The Plan has been reviewed and it appears that the property has been filled above the 100 year flood level. In conjunction with other land where landform change has occurred, the flood map of the site will begin to be updated at the end of this year and is expected to be shown as flood free land as part of that future review.

It is expected that following construction of the proposed interim flood mitigation works, properties in Prestons industrial area currently affected by overland flooding will be relieved from flooding and flood maps will be updated accordingly. Due to the cleared confusion with a number of land owners in the area and the assurance that the flood study is in line with industry standards using the most up to date survey data that is more accurate than past data used, it is seen as appropriate for the Preston Industrial flood maps to be updated to reflect the Cabramatta Creek Flood Study and Basin Strategy Review 2011.

Reclassification and rezoning of Council owned land:

The proposal includes the reclassification of Lot 4221 Wilson Road, Green Valley from community land to operational land and rezoning from RE1 Public Recreation to R2 Low Density Residential. The vested interests will be changing for this reclassification and will be placed in Schedule 4 Part 2 – Land classified, or reclassified as operational land – interests changed of the LLEP 2008. The reclassification is consistent with Council's Property Management Plan and it enables surplus Council land to be sold to the neighbouring school.

The reclassification and rezoning of Lot 4221 Wilson Road, Green Valley was previously proposed as part of Draft Amendment 27 to LLEP 2008 which underwent State agency consultation and public exhibition. Upon Council's final decision this item was deferred at 28 August 2013 meeting as there were concerns with the use of the land after sale. This matter was reconsidered at the 30 October 2013 meeting with Council resolving to proceed with the reclassification and rezoning of the land. In accordance with that resolution, this planning proposal seeks to make the required amendment to the LEP.

A Public Hearing was held on 24 July 2013 for Amendment 27 reclassifications including Lot 4221 Wilson Road, Green Valley. This was undertaken in accordance with the Department of Planning and Infrastructure's LEP practice note PN09CO3 'Classification and reclassification of public land through a local environmental plan'.

Public Exhibition

Draft Amendment 27 to LLEP 2008 was on public exhibition from Wednesday 19 June 2013 to Wednesday 17 July 2013. Letters were sent to all residents that were directly affected by an item in the amendment or who lived within the vicinity of particular items, such as rezoning's and land reclassifications. The Draft Amendment was advertised in the Liverpool Leader, on Council's website and at the Liverpool Administration Centre and Liverpool City Library Customer Service Desk.

The final Council Report for Draft Amendment 27 went to Council on 28 August 2013. Council resolved to proceed with the making of Draft Amendment 27 with the exception of the three items now in this amendment.

Conclusion

The items within this amendment have been through the Gateway Determination process previously through Amendment 27 to LLEP 2008 where they have gone through state agency consultation, public exhibition and a public hearing. All issues have been investigated and resolved with the affected land owners. As such it is appropriate to proceed with amendment 39 to the LLEP 2008.

FINANCIAL IMPLICATIONS:

There will be no financial implications for Council as a result of this report.

RECOMMENDATION:

That Council proceeds with the continuation of the items in this Planning Proposal by sending a copy this report and Planning Proposal to the Department of Planning and Infrastructure seeking that an amendment to the LLEP 2008 be made.

SIGNED BY:

Carole Todd
A/Group Manager
Planning and Growth

Attachments: 1. Planning Proposal Draft Amendment 39 to LLEP 2008