

**TITLE LEP Amendment (Home Activities) - Ingleburn Town Centre**

**Reporting Officer**

Acting Manager Environmental Planning

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**Attachments**

Local Environmental Plan (Amendment No 8) Map - Sheet 1 (distributed under separate cover).

**Purpose**

The purpose of this report is to request that Council consider amending *Campbelltown (Urban Area) Local Environmental Plan 2002* (CLEP 2002) to provide greater certainty with regard to ancillary land uses (particularly home activities) within the area adjoining the Ingleburn Town Centre, where only the development of residential flats is currently permitted.

**History**

At its meeting held 11 October 2005, Council resolved to prepare a draft Local Environmental Plan (LEP) which included, amongst other things, provision for the rezoning of certain land in the town centre of Ingleburn to Zone 10(b) District Comprehensive Centre Zone, and a clause to ensure only the development of residential flat buildings on part of this land (as shown hatched on the map marked Attachment 1).

This amendment was gazetted and thus came into force on 13 October 2006.

**Report**

During the preparation process of draft LEP (Amendment No 8) Council was mindful of the implications of including a clause, which would permit the development of only residential flat buildings on the land adjoining the Ingleburn Town Centre. As such, provisions were included in the draft LEP to make it clear that the replacement, alteration and addition to existing lawful residential and associated ancillary development would be permitted. However, the Parliamentary Counsel, in reviewing the draft plan, advised Council that such provisions were unnecessary as the principle of existing use rights still applied, and accordingly these provisions were removed.

Council has recently received enquiries regarding the permissibility of conducting home activities within dwellings located in this area at Ingleburn. Home activities are currently classified as exempt development under the provisions of *Campbelltown Local Environmental Plan No 209 - Exempt Development*, and thus such uses under normal circumstances could be carried out without Council's development consent. However the provision of LEP Amendment No 8 (clause 65 of CLEP 2002), which states "*all development*

*on the land to which this clause applies is prohibited except development for the purposes of residential flat buildings”,* has created an anomaly, whereby home activities could perhaps be argued to be a prohibited development, which was not Council's intention, when preparing the draft LEP amendment.

Council's Solicitor has provided advice recommending that the current provision be made clearer in terms of the permissibility of carrying out home activities on the land currently subject to clause 65 of CLEP 2002.

Accordingly, it is considered that home activities should continue to be permitted on the subject land at Ingleburn and, so as to ensure that there is no potential for misunderstanding of Council's intentions, that clause 65 of CLEP 2002 be amended by adding the words generally in accordance with those italicised and underlined as follows:

**65 Residential flat buildings on certain land in Ingleburn Town Centre within Zone 10(b)**

- (1) This clause applies to so much of the land at Ingleburn within Zone 10(b) as is shown coloured light blue, lettered "(10(b))" and hatched on Sheet 1 of the map marked "*Campbelltown (Urban Area) Local Environmental Plan 2002 (Amendment No 8)*".
- (2) Despite any other provision of this plan, all development on the land to which this clause applies is prohibited except development for the purpose of residential flat buildings, *or any use, which is permitted in a dwelling or on land which is occupied by a dwelling, including home activities.*

**Conclusion**

Council could include this proposed amendment to clause 65 within the preparation process of its draft comprehensive LEP. However, the Department of Planning has advised Council that the timeframe for the gazettal of the comprehensive LEP has been extended until March 2011, and it is considered that this matter should be dealt with as soon as possible. Therefore, it is suggested that Council resolve to prepare a draft LEP to address this matter, and include as part of the next suitable amendment to CLEP 2002.

**Officer's Recommendation**

That Council prepare a draft local environmental plan, to provide certainty with regard to ancillary land uses (including home activities) within the area adjoining the Ingleburn Town Centre, where only the development of residential flats is currently permitted.

## Agenda Report

### **User Instructions**

If necessary to view the original Report, double-click on the 'Agenda Report' blue hyperlink above.

### **Action Item**

Unless otherwise indicated below Council at its meeting of 4 August 2009 adopted the following Committee's Recommendation with Resolution No 196.

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## **2.5 LEP Amendment (Home Activities) - Ingleburn Town Centre**

### **Officer's Recommendation**

That Council prepare an amending local environmental plan, to provide certainty with regard to ancillary land uses (including home activities) within the area adjoining the Ingleburn Town Centre, where only the development of residential flats is currently permitted.

### **Committee's Recommendation: (Oates/Thompson)**

That the Officer's Recommendation be adopted.

### **CARRIED**

Voting for the Committee's Recommendation: Councillors Greiss, Kolkman, Oates, Rowell and Thompson.

Voting against the Committee's Recommendation: nil.

Councillor Matheson was not in the Chamber for the vote on this matter.