

Planning Services

Plan Finalisation Report

Local Government Area: Liverpool

File Number: 17/13152

1. NAME OF DRAFT LEP

Liverpool Local Environmental Plan 2008 Amendment No. 65 (draft LEP).

2. SITE DESCRIPTION

The planning proposal applies to land at 20–33 Shepherd Street, Liverpool along the western foreshore of Georges River, known as the ‘Shepherd Street Precinct’. The site (approx.3.1 ha) is currently zoned R4 High Density Residential under Liverpool LEP 2008. The zone allows residential flat buildings up to 24m and floor space ratio (FSR) of 1.5:1 to 2.5:1 (includes bonus for sites in excess of 1000 sqm). The precinct is currently dominated by industrial uses such as car yards and warehouses. It contains a local heritage item known as the Paper Mill building on 20 Shepherd Street.

The site is located near Liverpool City Centre and is 1.2 km from Liverpool Railway Station and Transport Interchange. On the eastern bank of the Georges River is a large industrial precinct. To the west of the site are industrial buildings, and the railway line and to the north is Atkinson Street. To the north of Atkinson Street is low to medium density housing of up to three storeys. To the immediate east of the site is a strip of foreshore land owned by Council and the environmentally significant Georges River riparian corridor land. A location map is at **Attachment E**.

There have been two development applications (DAs) approved within the Shepherd Street precinct for 314 dwelling units on 20 and 28 Shepherd Street. The approved DA on 20 Shepherd Street involves adaptive reuse of a local heritage item (Paper Mill building) as a local retail and neighbourhood precinct. More details are in the planning proposal in **Attachment B**.

3. PURPOSE OF PLAN

The draft LEP seeks to:

- increase the floor space ratio (FSR) from 1.5:1 and 2.5:1 to 3.3:1 – 3.7:1 and the existing building height from 24m to 24m–77m to facilitate 1,200 dwellings on the site;
- transform the site to an urban residential precinct and facilitate a mix of uses in a location close to existing transport, community infrastructure, open space at a location within the vicinity of Liverpool City Centre;
- enhance the Georges River Corridor with public domain improvements and foreshore access for residents of the proposed development and the broader community; and
- rehabilitate the riparian corridor along the river banks through best practice bush regeneration works.

No change to the existing R4 High Density Residential zone is proposed. The proposal is to contain 16,000 sqm public open space (Mill Park, Light Horse Park and pedestrian board walks/cycle ways on the river foreshore) and 14,000 sqm community open space for future residents.

The proposed shops at the Paper Mill building (local heritage item) will contribute to the activation of the area and provide employment opportunities as well as assist in conservation of the heritage building.

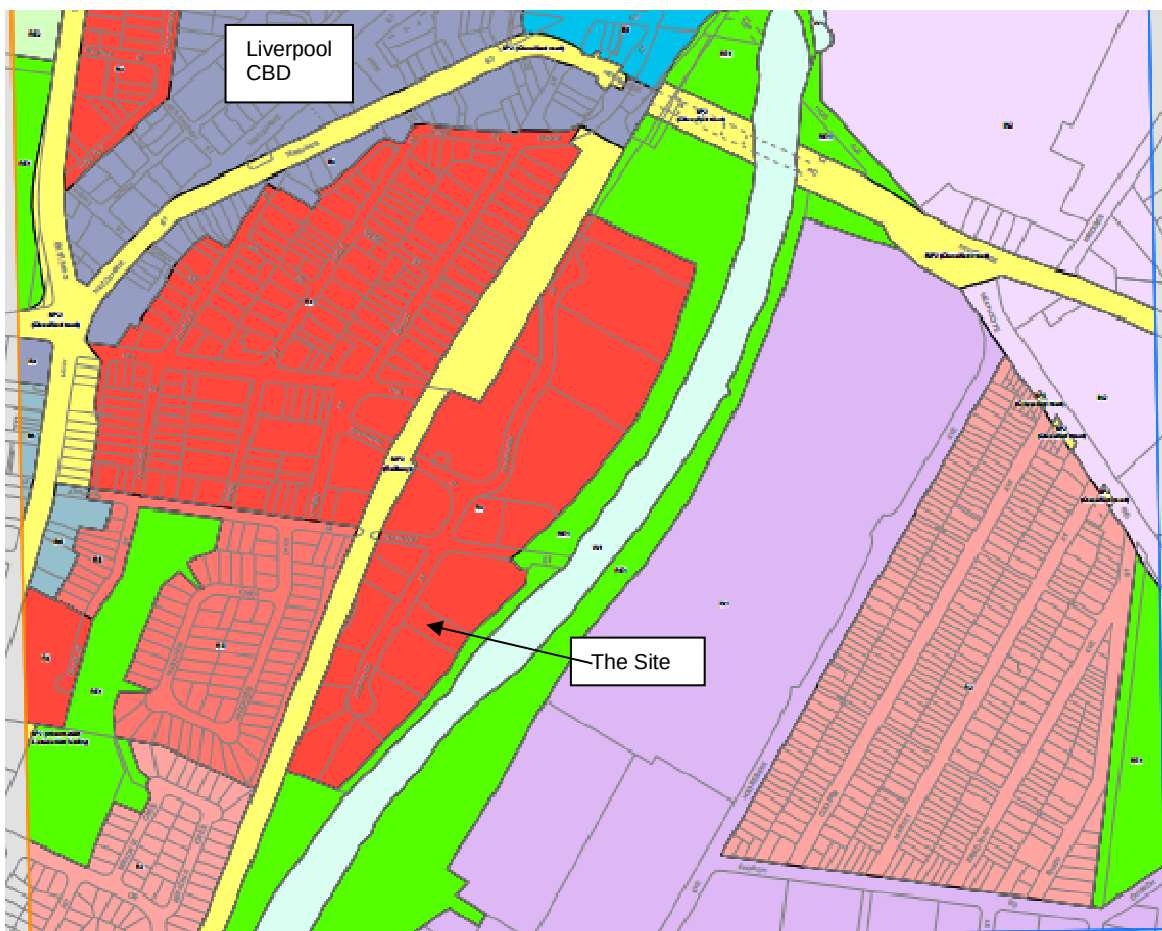
The planning proposal is supported by various studies (Flooding and Drainage, Traffic Impact Assessment, Heritage Impact Assessment, Aboriginal Cultural Heritage, Flora and Fauna/Riparian, Masterplan and Urban Design report).



Site Location



Birds eye view of the site



Current zoning of the site



Concept plan of the proposed development

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Liverpool Electorate. Mr Paul Lynch MP is the State Member. Mr Chris Hayes MP is the Federal Member for Fowler.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required

5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 9 September 2016 (**Attachment C**) determined that the proposal should proceed subject to conditions. The Gateway determination was altered on 12 September 2017 to allow preparation and negotiations for a Voluntary Planning Agreement between Council and the proponents, and surveys for mapping. The planning proposal is due for finalisation by 16 December 2017.

6. PUBLIC CONSULTATION

In accordance with the Gateway determination, community consultation was undertaken by Council from 26 October 2016 to 25 November 2016 for 30 days. Council received one submission during the exhibition period. The issues raised relate to car parking requirements, availability of schools and flooding.

Car parking

The submission wants the Council to consider car parking for tenants including industrial estate tenants.

Council response:

Car parking provisions and rates under Liverpool DCP 2008 will ensure sufficient car parking for visitors and residents.

Department response:

This is an issue that can be appropriately addressed by Council at development approval stage.

Availability of schools

The submission enquired regarding additional schools for the children.

Council response:

Council consulted the Department of Education and Communities (DEC) for infrastructure needs for future development. DEC did not raise the need for additional schools.

Flooding

The submission raised that the area has continually been inundated by flooding.

Council response:

The land is within low risk flood zone in accordance with Council's Flood Risk Assessment Study and Plan for the Georges River prepared in accordance with the guidelines of the NSW Floodplain Development Manual 2005. This area is within the study area and any future DAs in the area will be assessed in accordance with the guidelines.

Department response:

The planning proposal is accompanied by a flood impact assessment. The part of the land which is subject to flood planning level is confined to 20 Shepherd Street to which a development approval has been given. The proposal does not impose flood related development controls above the residential flood planning level on the remainder part of the precinct.

The Secretary's delegate has previously agreed, at Gateway determination stage, that flooding is considered to be of a minor issue under S117 4.3 Flood Prone Land. Detailed assessment of flooding on the site can be considered by Council at development approval stage.

It is considered Council has satisfactorily addressed the issues raised in the submission.

7. ADVICE FROM PUBLIC AUTHORITIES

In accordance with the Gateway determination condition 5, Council consulted with infrastructure servicing agencies such as NSW Department of Primary Industries – Water, Office of Environment and Heritage, Energy Australia, Telstra, Sydney Catchment Management Authority and Sydney Metro Airports (Bankstown Airport).

Council has consulted these agencies during October 2016. Responses from these authorities are at **Attachment B** and the key issues raised are discussed over.

NSW Department of Primary Industries – Fisheries

NSW Department of Primary Industries (DPI) Fisheries has raised no issues with the proposal to increase the height and Floor Space Ratio controls within the Shepherd Street precinct.

DPI Fisheries further made comments that the influence on riparian vegetation from shading caused by these buildings should be considered when designing detailed riparian rehabilitation plans. DPI Fisheries notes the proposed boardwalk is located on Council owned land between the Shepherd Street precinct and the Georges River. DPI Fisheries is likely to require an approval or be consulted on any future works proposed within the river or its banks (below the top of the bank) of the Georges River such as the proposed boardwalk. DPI Fisheries recommended the boardwalk be constructed above and outside the top of the river bank.

DPI Fisheries also raised concerns over the stability of the river bank in relation to floodwaters and the erosion and slumping of banks if the riparian corridor is cleared for the boardwalk. Further comments were made on the inaccuracy of the supporting studies on potential environmental effects including consideration of the bank stability and land degradation issues, required under the Greater Metropolitan Regional Environment Plan No.2 – Georges River.

Council response:

As part of the VPA negotiations, the public pathway along the Georges River will be assessed at the application stage by Council under Part 5 of the Act. Appropriate assessment of the subject site and the larger Georges River precinct will be undertaken to determine the bank stability having regard to both flood events and storm water discharge, and with consideration to the rehabilitated vegetated riparian zone (VRZ).

Department response:

The Department has discussed with DPI Fisheries on the issues raised in their submission on 21 September 2017. DPI Fisheries has confirmed that it does not have any objections or issues with the planning proposal itself.

The concerns in relation to the proposed boardwalk and potential environmental effects including bank stability and land degradation issues can be addressed at the precinct development stage. Council has also confirmed that any development on Council owned land along the river foreshore will be considered under Part 5 of the *Environmental Planning & Assessment Act 1979* (the Act) and DPI Fisheries will be consulted.

NSW Department of Primary Industries – Water

Department of Primary Industries (DPI) Water has no issues with the proposal to increase the building height and increase the floor space ratio to allow commercial and residential development within the Shepherd Street precinct.

DPI Water, however, made comments in relation to protection of Vegetated Riparian Zones (VRZ), the proposed encroachment of development into the inner 50% of the VRZ and the requirements for providing offsets. DPI Water also made comments on the preferred location of the proposed boardwalk and the requirement of the proposed development of the precinct to demonstrate consistency with the DPI Water Guidelines for Controlled Activities on Waterfront Land (2012). DPI Water is the approval authority for riparian works

within 40m wide riparian buffer zone from the top of the river bank for developments within the privately-owned land along Shepherd Street.

Council response:

The proponent has submitted a scaled precinct plan which highlights the proposed development footprint, highest bank, the 40m VRZ plus inner and outer VRZs, and areas of offsets and encroachments for the entire precinct. DPI Water has previously agreed that currently built upon land in the inner VRZ can be used as part of offsetting for development incursions into the outer 50% VRZ. The proponents scaled precinct plan is considered consistent.

Department response:

The Department has discussed with DPI Water on 21 September 2017. DPI Water reiterated its view that it has no issues with the planning proposal. DPI Water requested the proponents for additional details regarding the proposed boardwalk, bank stabilisation and treatment of VRZ and made further recommendations to be addressed at the precinct development stage. It is considered this matter can be appropriately addressed at development approval stage.

Office of Environment and Heritage – Heritage

The Office of Environment and Heritage (OEH) did not object to the draft amendment, but noted there are items of local significance within the site such as “Challenge Woollen Mills”, 20 Shepherd Street and in the vicinity. OEH advised that consideration be given to the potential for any significant historic archaeology or relics that may be uncovered by future excavation or ground disturbance on the subject site which would require the approval of the Heritage Council of NSW.

Council response:

The local heritage matter was addressed in the development application for 20 Shepherd Street. In view of increasing the development standards, Council will give further consideration to future DAs with regard to potential adverse impacts due to the development of property within the subject site.

Department response:

This is a matter which can be satisfactorily addressed at development approval stage.

An Archaeological Survey report by Artefact Heritage Consultants submitted with the planning proposal found that the area has no Aboriginal sites and/or places.

Bankstown Airport

Bankstown Airport Limited noted the building height is expected to extend close to the OLS surface pertaining to Bankstown Airport and as such an aviation assessment may be required when the final drawings are available.

Council response:

Council noted this advice and responded that future DAs on the subject site will be referred to Bankstown Airport Limited for an aviation assessment.

Department response:

Bankstown Airport Limited is bound by the *Airports Act 1996* and regulations which provides for the protection of airspace at federally-leased airports. Clause 7.17 Airspace operations of the

Liverpool LEP 2008 require approval under *Airports Act 1996* of the Commonwealth for construction or alteration of buildings that intrudes into prescribed airspace. This clause ensures Bankstown Airport Limited will be appropriately consulted if the situation occurs.

Endeavour Energy, Telstra, Water NSW and Sydney Water raised no objections to the planning proposal but made comments on potential matters that may need to be addressed in future planning proposals.

8. REGIONAL INFRASTRUCTURE

The Gateway determination condition 5 required Council to consult with a number of public agencies in relation to the likely need of additional regional infrastructure services. During October 2016, Council consulted the agencies and the key issues raised by the public authorities are discussed below.

Transport for NSW and Roads and Maritime Services

TfNSW and RMS provided a joint submission in December 2016 requesting the draft LEP not be made until such time that the cumulative transport study associated with the Liverpool City Centre LEP (Amendment 52) is finalised. The RMS also recommended the planning proposal be incorporated into the cumulative Transport Study associated with the City Centre planning proposal (i.e. residential population uplift) and the level of developer contribution being commensurate with an identified contribution scheme/levy that may be generated for the City Centre planning proposal.

Council response:

At a meeting in February 2017, it was agreed that in the absence of a funding mechanism being established for the City Centre Planning Proposal (Amendment 52) (i.e. residential population uplift) the public authorities would consider a monetary contribution in a form of a VPA towards regional road and transport infrastructure.

On 1 May 2017, it was agreed by RMS and TfNSW that a monetary contribution in the order of \$10,000 per dwelling (per agreed uplift because of the LEP amendment) go towards regional road and transport infrastructure, removing the previous objection to this amendment for Shepherd Street, proceeding to gazettal ahead of Draft LEP Amendment No.52.

Department response:

The Transport Study by GTA Consultants (July 2017) for the Liverpool CBD was agreed by RMS and was adopted by Council on 26 July 2017. In particular, the study proposes road upgrades and intersections works and includes Mill Road and Speed Street roundabout and Shepherd Street and Speed Street intersections to be combined to form a peanut roundabout. The outcomes of the transport study will contribute to a draft transport infrastructure plan to accommodate future developments within the City Centre including the Shepherd Street precinct.

A VPA offer letter was exchanged between Council and the proponent on 28 August 2017 which essentially matched the developer contribution for regional road infrastructure for the City Centre planning proposal.

Department of Education and Communities

The Department of Education and Communities does not consider regional infrastructure contributions or a VPA is appropriate in the circumstances with regard to school facilities.

Ministry of Health

The Ministry did not raise any issues on the need for additional services but commented on the proposed overshadowing of the Georges River and the need for setback of the buildings from the river. The Ministry also made comments that Council should take into consideration the Liverpool Hospital helicopter landing site and flight path.

Council response:

Council noted the comments and considered that no action is required. Council resolved to support the application as proposed (including the bulk and heights as depicted in the concept plan).

Department response:

The planning proposal is for an increase in development potential on the site. Council will be required to assess any future development on the site in accordance with Residential Flat Design Code (SEPP 65 Design Quality of Residential Apartment Development) and Liverpool DCP to ensure solar access to public domain (i.e. proposed boardwalk) along the river foreshore are appropriately addressed.

Liverpool Hospital helicopter landing site and flight path over Liverpool CBD will be satisfactorily protected by Clause 17.7A Hospital helicopter airspace.

Office of Environment and Heritage

OEH made no comments on the need of additional infrastructure services. Comments by OEH relates to assessment of flood impacts and consideration of risks to people and property from the Georges River and any potential overland flooding.

Council response:

The site is not affected by floodway of the Georges River and the proposed development does not involve filling of flood storage area. Therefore, there would be no adverse impact on flood behaviour or flow redistribution. Council has developed the Floodplain Risk Management Study and Plan (FRMP) for the Georges River in accordance with the Guideline of the NSW Floodplain Development Manual (FDM) 2005. Flood modelling was undertaken for full range of the floods up to the probable maximum flood (PMF) and flood risk maps were prepared as part of development of FRMP. The site is located on the low risk flood zone and the corresponding flood planning level (FPL) for the proposed residential development is above the flood planning level which is 1%AEP flood + 0.5m freeboard, which is 10.4m AHD.

Department response:

The planning proposal is accompanied by a flood impact assessment. The part of the land which is subject to flood planning level is confined to 20 Shepherd Street to which a development approval has been given. The proposal does not impose flood related development controls above the residential flood planning level on the remainder part of the precinct. The Secretary's delegate has previously agreed that the inconsistency of the proposal with S117 Direction 4.3 Flood Prone Lands is of minor significance.

State Emergency Services

Comments by SES are related to the flood prone nature of the precinct and flood free access, with possible risk to residents and delivery of emergency services. Comments also referred to requiring assessment of flood risk impacts and emergency services.

Council response:

Council considered these concerns are to be addressed at development approval stage.

NSW Police

Comments by NSW Police relates to the future design of the residential development, consideration of the location of mailboxes and access to underground car parking.

Council response:

Council considered that these are design matters to be considered at development application stage.

Sydney Water

Comments relating to the need for upgrades to the reticulation network and wastewater system.

Council response:

Council advises that these matters will be considered at development application stage.

Fire and Rescue NSW made no comments on the proposal.

9. VOLUNTARY PLANNING AGREEMENT

Council has advised that an irrevocable letter of offer, dated 28 August 2017, was provided to Council by the proponents of the Shepherd Street precinct for a voluntary planning agreement (VPA) to deliver public benefit outcomes within the area by way of works and monetary contributions. The parties to the draft voluntary planning agreement are Liverpool City Council; Shepherd Street Developments Pty Limited, Coronation Pty Limited and Shepherd Property Nominee Pty Limited.

The draft planning agreement provides for the Developer to pay Council the Contributions (works and monetary contributions) in exchange for additional development on the properties. These include regional transport infrastructure (\$10,000 per dwelling) and other works related to improved public open spaces and access, pedestrian and cycle paths, board walks, upgrades to Mill Park and Light Horse Park, improved traffic and transport connectivity and access, riverbank stabilisation and rehabilitation of riparian zone along the riparian corridor along the river.

The draft VPA was placed on public exhibition from 13 September 2017 to 13 October 2017.

10. POST EXHIBITION CHANGES

No changes have been made to the planning proposal post exhibition.

11. ASSESSMENT

The planning proposal is consistent with the key directions in A Plan for Growing Sydney and the draft South West District Plan to deliver residential dwellings and jobs close to strategic centres.

The proposal will:

- unlock developable land and accommodate high density housing adjacent to the Liverpool Strategic Centre, consistent with proposed developments envisaged in the CBD to revitalise Liverpool CBD;
- increase housing and employment in the Liverpool Strategic Centre to deliver on Liverpool Council's vision to revitalise the CBD;
- increase housing in an area connected to employment in the vicinity of Liverpool Centre close to jobs and public transport;
- protect and enhance the environmental value of Georges River foreshore environment by providing an appropriate setback, bank stabilisation and rehabilitate riparian vegetation along the riparian corridor;
- deliver local infrastructure including pedestrian and cycling links in and around the Liverpool City Centre and the Georges River precinct, and local road upgrades;
- facilitate adaptive reuse of the heritage Mill Building for local employment, commercial and retail uses to ensure ongoing conservation of a local heritage item;
- support NSW long term Transport Master Plan by increasing density along East Hills rail line and M5 corridor, and consistent with Local strategies (Growing Liverpool and City Centre Project); and
- contribute to regional road network improvement around and within Liverpool CBD.

The planning proposal is comparable with other planning proposals (i.e. density, height and FSR) within and around the CBD where Gateway determinations have been issued (such as Amendment 52, and Amendment 57).

At its ordinary meeting on 29 June 2017 Council resolved to finalise the draft amendment.

Section 117 Directions

Condition 1 of the Gateway determination required an acid sulfate soils assessment and contaminated land assessment be prepared prior to the public exhibition of the planning proposal to confirm *consistency with Direction 4.1 Acid Sulfate Soils*.

An Acid Sulfate Soils and Contamination Review (EI Australia) was undertaken which concluded that it is unlikely the site is affected by actual Acid Sulfate Soils or potential Acid Sulfate Soils.

On 12 October 2016, the Department advised Council that the assessment satisfactorily addressed Condition 1 of the Gateway determination. While this review provides a level of satisfaction that the site is suitable for intensified development, however an actual study will be required at development application stage to confirm consistency with the Acid Sulfate Soils provision under the LEP.

The proposal's inconsistency with Section 117 Directions 4.1 Acid Sulfate Soils is considered to be of minor significance. The Secretary's delegate's approval is recommended.

The consistency of the planning proposal with relevant Section 117 Directions have been appropriately addressed at Gateway determination stage. There are no outstanding Section 117 Directions.

State Environmental Planning Policies

The Gateway determination condition 2 required the proposal to address State Environmental Planning Policy No. 55 – Remediation of Land prior to public exhibition.

The Acid Sulfate Soils and Contamination Review (EI Australia) for the subject site concluded that the properties were suitable for redevelopment process, providing optimal opportunity for the removal of both primary and secondary sources of contamination, mainly through the excavation process and remediation works.

On 12 October 2016, the Department advised Council that the assessment satisfactorily addressed Condition 1 of the Gateway determination. Further contamination issues can be assessed at DA stage.

There are no other applicable SEPPs for this proposal.

12. MAPPING

The draft plan proposes amendments to the Liverpool LEP 2008 maps HOB and FSR 12 (**Attachment Maps**). The maps have been checked by the ePlanning Team and sent to Parliamentary Counsel.

13. CONSULTATION WITH COUNCIL

Under s59(1) of the Act, Council was consulted on the terms of the draft instrument (**Attachment F** – Email from Department consulting on the Draft LEP). Council confirmed on 3 October 2017 that the draft plan was correct and that the Plan should be made (**Attachment G** – Email from Council regarding the draft Plan).

14. PARLIAMENTARY COUNSEL OPINION

On 9 October 2017, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

15. RECOMMENDATION

It is recommended that the Greater Sydney Commission's delegate determine to make the draft LEP because the draft plan:

- will contribute a significant number of new dwellings (1,200 dwellings) within the vicinity of Liverpool City Centre to contribute to Liverpool's dwelling targets and liveability priorities as a strategic centre;
- unlock developable land and accommodate high density housing adjacent to the Liverpool Strategic Centre, consistent with proposed developments envisaged in the CBD to revitalise Liverpool CBD;

- represents positive opportunities to activate and unlock an existing dilapidated industrial area for residential development and urban renewal along the Georges River foreshore with various public domain embellishments and improvements such as local street layout and pedestrian connections, public access to the river and amenities for the future residents; and
- facilitates adaptive reuse of the heritage Mill Building for local employment, commercial and retail uses to ensure ongoing conservation of a local heritage item.



30/10/17

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24/10/17

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