

LIVERPOOL CITY COUNCIL

CITY PLANNING REPORT

ORDINARY MEETING

20/08/2012

ITEM NO:		FILE NO:	2012/1606
SUBJECT:	RURAL LANDS STUDY 2012		
COMMUNITY STRATEGIC PLAN REFERENCE:	DECISION MAKING PROCESSES ARE TRANSPARENT AND THE COMMUNITY HAS OPPORTUNITIES TO BE INVOLVED		

EXECUTIVE SUMMARY:

Councils Rural Lands Study (RLS) seeks to provide a broad strategic document which encompasses development opportunities and constraints of rural lands within the Liverpool Local Government Area (LGA).

The RLS 2012 updates the previous Study completed in 2007 by reflecting the progress made in relation to precinct planning under the South West Growth Centre, Badgerys Creek Airport reservation and considers other emerging issues and pressures affecting Liverpool's rural areas. The RLS also clarifies the applicable land use zones and planning provisions within the Liverpool Local Environmental Plan (LLEP) 2008 and the Liverpool Development Control Plan (LDCP) 2008.

It is recommended that Council endorse the RLS 2012 for public exhibition and supports the drafting of a Planning Proposal, amendment to the LDCP 2008 and undertake other actions as recommended in the RLS.

A further Council report will be prepared detailing the outcomes of the public exhibition process.

DETAILED REPORT:

Background

At its meeting dated 28 September 2011, Council resolved to undertake a review of rural land use planning including the permissibility of cemeteries and the restrictions relating to dual occupancies. Although the resolution was to investigate specific matters, the opportunity to update the current strategic policy relating to rural lands being the Liverpool Rural Lands Study (RLS) 2007 has been taken.

The aims of the draft RLS 2012 are as follows:

- To consider Councils resolution of 28 September 2011 which includes the permissibility of cemeteries, planning restrictions relating to dual occupancies, the rezoning of particular precincts in Bringelly and Badgerys Creek and the permissibility of specific land uses in the rural zones.
- To provide up to date information relating to precinct planning under the South West Growth Centre and the findings of the Governments Joint Aviation Study relating to the Badgerys Creek Airport reservation.
- To clarify the transition of land use zones from LLEP 1997 to LLEP 2008.
- To consider other emerging pressures affecting Liverpool's rural areas including urban development.
- To provide a suburb-by-suburb profile and assessment of attributes, constraints and opportunities.
- To outline the role of Liverpool's rural areas in the provision of fresh produce, rural industry and other rural production.
- To recommend amendments to planning controls within the LLEP 2008 and LDCP 2008.

Study Area

The study area encompasses all suburbs within the Liverpool LGA that contain land zoned rural under the LLEP 2008, being;

- Denham Court,
- Cecil Park,
- Austral,
- Leppington,
- Kemps Creek,
- Rossmore,
- Bringelly,
- Badgerys Creek,
- Luddenham,
- Wallacia,
- Greendale/Cobbitty.

Refer to Attachment 1 for the study area map.

Council resolution

At its meeting dated 28 September a Notice of Motion was considered and Council resolved as follows:

Resolution 1

Undertakes action to effect the rezoning of Bringelly properties that are less than or equal to five hectares from RU1 TO RU4, in keeping with the 2007 Rural Lands Study.

Comment: Bringelly is within the South West Growth Centre (SWGC) and as such will be the subject to detailed investigation as part of the precinct planning process. The precinct subject to this resolution is located along the western periphery of the SWGC and therefore it will be some time before the Minister is likely to announce the 'release' of this

area.

It is proposed that the subject land portion of Bringelly be rezoned from RU1 Primary Production to RU4 Primary Production Small Lots (Subject land outlined in the Figure 1).

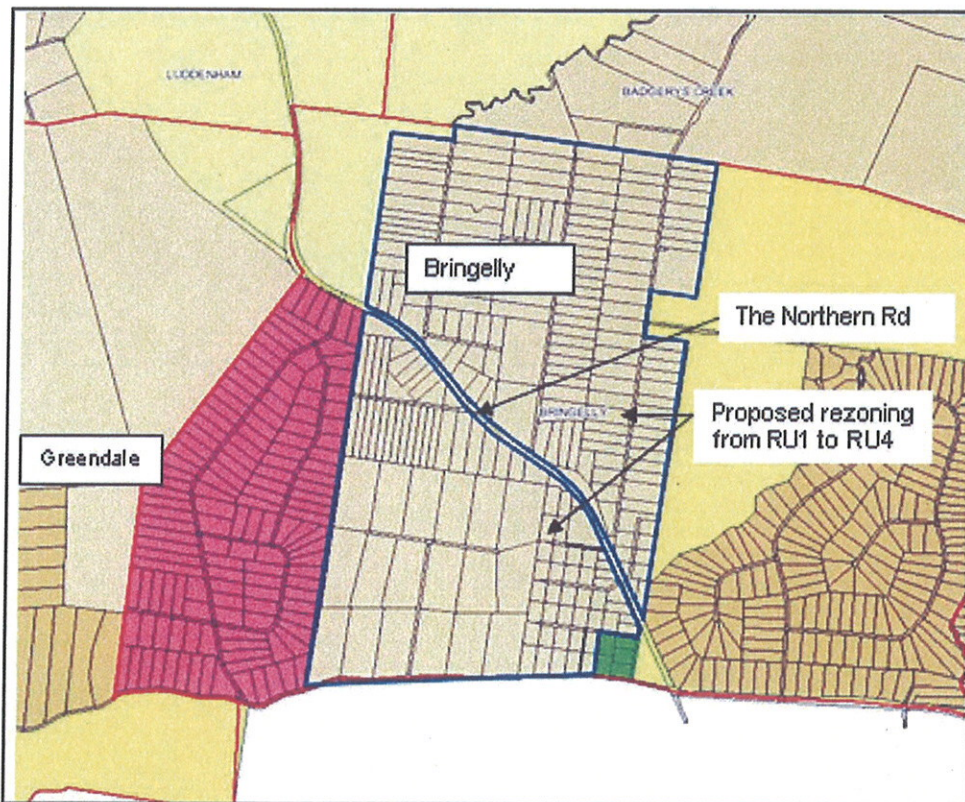


Figure 1 Land subject to rezoning from RU1 to RU4 (outlined in blue)

The rezoning is supported for the following reasons;

- The majority of the precinct is categorised as Soil category- Class 3 (with Class1 soils being optimum for agriculture).
- Only a small portion of this precinct is affected by *Sydney Regional Environmental Plan No. 9 Extractive Industry* and by the Badgerys Creek Airport Noise Exposure (ANEF) contours.
- The land is only marginally affected by land use constraints in terms of flooding and Environmentally Significant Land.
- The introduction of the 10 hectare minimum subdivision lot size (which is commensurate with other RU4 zoned land) will not result in substantial fragmentation of land which would impact upon the future planning of the SWGC.
- The precinct is well serviced by The Northern Road; an arterial road.

It is proposed that the remaining land zoned RU1 in Badgerys Creek and Bringelly (Figure 2) retains its current zone for the following reasons;

- Many of these lots currently contain agricultural or extractive industry.

- The Martin Road and Lawson Road precinct in Badgerys Creek is categorised as 'Soil Type 2' which is the second highest classification of soils indicating agricultural capability.
- This precinct contains a number of large lots which may be capable of subdivision if rezoned to RU4 and associated 10 hectare minimum subdivision lot size. Further fragmentation of such land may result in additional obstacles during future precinct planning and development under the SWGC.

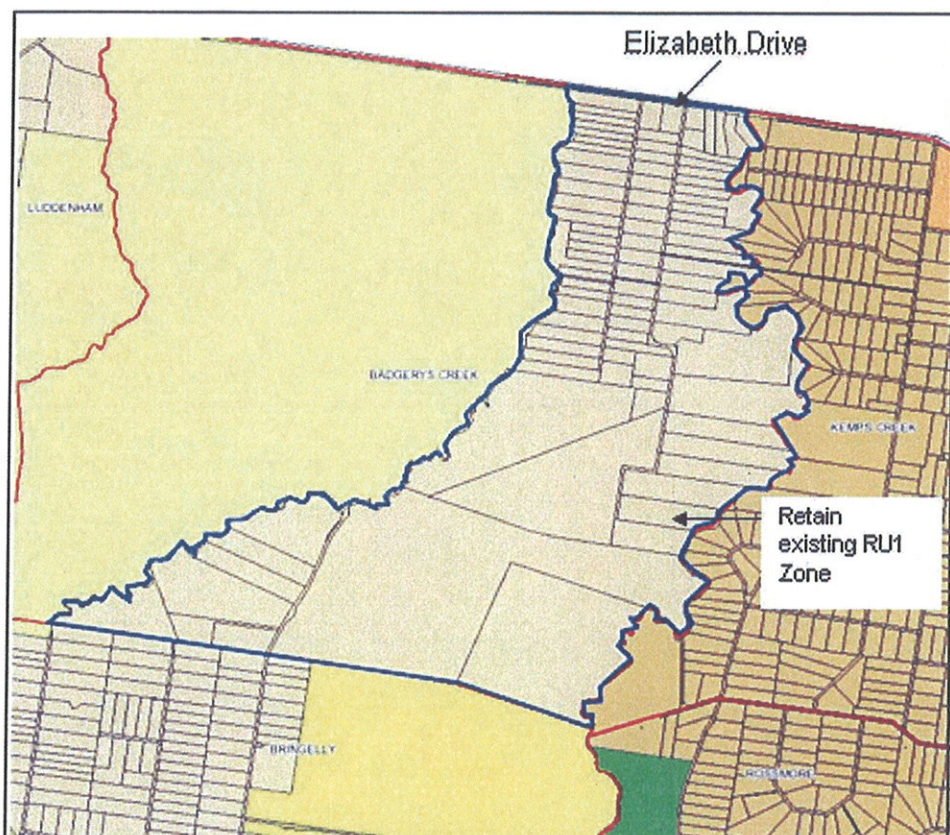


Figure 2. Land in Badgerys Creek (outlined in blue) to retain land use zone RU1

Existing lot sizes are only one consideration when seeking to apply an appropriate land use zone. Strictly rezoning lots that are up to five hectares in size as per the resolution would result in ad-hoc rezoning. The rezoning as proposed delivers an outcome based on land capability and strategic intent rather than on a lot-by-lot basis.

Resolution 2

Removes Dual Occupancy restrictions from LLEP 2008 for properties other than those that are within the Austral, Leppington North and East Leppington Precincts as identified within the South West Growth Centre.

Comment: Recommended amendments to the Liverpool LEP 2008 and LDGP 2008 provisions relating to dual occupancy are contained within this report under the heading 'Dual Occupancies'.

Resolution 3

Identifies Cemeteries and Crematoria as a prohibited use in LLEP 2008.

Comment: Council has resolved to prohibit cemeteries and crematoria in all rural land via Amendment No.27 to the LLEP 2008 currently being considered by the Department of Planning and Infrastructures Gateway Panel.

Resolution 4

Adds Local Provisions to Schedule 1 for the following class of developments:

- *Places of Worship in rural areas,*
- *Veterinary clinics in rural areas,*
- *School establishments,*
- *Brothels,*
- *Child care centres.*

Comment: The intention of this resolution is to make these changes across entire zones rather than individual land parcels and thus a Schedule 1 amendment is not the preferred mechanism. Further clarification regarding the resolution has been sought with the intent clarified and responses provided below;

Intent: Permit "Place of public worship" in the RU1 zone.

Response: Places of public worship are already permissible with consent in the RU2 and RU4 zones. This development type is not endorsed for the RU1 zone due to the remoteness of these areas to dense residential populations and the incompatibility with rural land uses including primary industry.

Intent: Permit "Veterinary hospitals" in the RU4 zone.

Response: Veterinary clinics (defined as veterinary hospitals under the LLEP 2008) are deemed an appropriate development type for land zoned RU4 and it is recommended that the necessary amendment is made to the LLEP 2008. It is not recommended that the use is permitted in the RU2 zones considering that this development type usually requires a large footprint which is likely to impact upon the scenic qualities exhibited by land within this zone.

Intent: Permit "Educational establishment" in the rural zones.

Response: Educational establishments are not compatible with the RU1 zone due to the lack of infrastructure including utilities, and lack of public transport and remoteness from dense residential catchments. The State Government has reinforced this view by not permitting this development type in the RU1 though the State Environmental planning Policy- Infrastructure (ISEPP) 2007. The ISEPP does however permit this use in the RU2 and RU4 zones. As the use is permissible through the ISEPP, there is no need to alter LLEP 2008.

Intent: Prohibit "Sex services premises" in the B3 Zone.

Response: The resolution relates to the permissibility of brothels (defined as sex service premises) in the Liverpool City Centre and is not within this scope of the RLS. Council has proposed the removal of 'sex service premises' from the B3 Commercial Core zone as part of LLEP 2008 Amendment No. 27, which is currently being considered by the Department of Planning and Infrastructure.

Intent: Prohibit "Child care centres" in the B3 Zone.

Response: The resolution relates to the permissibility of child care centres in the Liverpool City Centre and is not within this scope of the RLS. Child care centres provide an important service to the workforce and it is not recommended to remove them from a business area such as the Liverpool City Centre.

Resolution 5

Undertakes action to effect the rezoning of the "OTC Site" to RU1.

Comment: The subject site is identified as 225-245 Badgerys Creek Road, Bringelly. The site is currently zoned SP2 Special Uses Telecommunications which only permits development directly related to telecommunications infrastructure.

It is recommended that the site is not rezoned until such time the land is released as part of the South West Growth Centre or through a specific rezoning application prepared by the landowner. Such an application would be supported by technical studies, demonstration of compliance with relevant State Policies (including the Growth Centres SEPP) and Ministerial Directions. It is not considered appropriate to broaden the permissibility of the land uses on this site without such detailed consideration.

Resolution 6

Posts any updated, as well as the current, Rural Lands Study papers on Council's website.

Comment: The current RLS 2007 is currently available on Council's website. The draft RLS 2012 will be posted on Council's website during public exhibition with the final version will be made available on Council's website once adopted by Council.

Land use challenges

The challenges facing Liverpool's rural planning are consistent with rural areas throughout the Sydney basin. It is forecasted that 230,000 of Sydney's new dwellings are to be provided in Greenfield areas over the next 30 years, with Liverpool set to receive approximately 41,000 of these projected dwellings and hundreds of hectares of industrial land. The land take up for this scale of development, combined with landowners seeking to develop land for non-rural purposes will impact upon the quality and outputs of rural land.

A central objective of the RLS 2012 is to provide a balance between competing development interests whilst retaining land for rural purposes. One of the key issues highlighted by the public through consultation and public forums is the permissibility of dual occupancy development.

Dual occupancies

All three of Liverpool's rural zones permit dual occupancy development. In the pursuit of rural residential lifestyle, a number of landowners have developed residential properties on large rural lots and maintain landscaping and out buildings as an extension of their dwelling rather than pursue agricultural or other rural uses.

However the proliferation of housing in these areas can result in adverse impacts including the erosion of the rural character, which is the attractor for those seeking to live in rural

areas in the first place. Further, establishing additional dwellings may require the clearing of vegetation and an increase potential conflict with agricultural uses. Dual occupancies in the South West Growth Centre areas increase the challenge of master-planning, land acquisition, and provision of critical infrastructure.

Further, permitting unrestricted dual occupancies will further increase the number of Liverpool's residents at considerable distances from services and facilities. Also many of these homes will lack the basic utility services such as mains water and sewer, requiring the on-site treatment and disposal of effluent. As such the LLEP 2008 restricts the location, size and proliferation of dual occupancies on rural land.

For land zoned RU1 Primary Production and RU4 Rural Small Holdings, dual occupancy development is permitted if one of the dwellings does not exceed a maximum gross floor area of 150 square metres. In order to limit the proliferation of this type of development, the establishment of a second dwelling creating a dual occupancy (not including a secondary dwelling) can only be undertaken on lots of at least being 10 hectares for RU1 zoned land and 2 hectares for lots zoned RU4 zoned land.

For land zoned RU2 Rural Landscape, dual occupancy development is permitted if one of the dwellings does not exceed a maximum floor space of 60 square metres. Dual occupancies can only be undertaken if the subject site has a minimum lot size of 2 hectares.

Note that dual occupancies (attached and detached) are also permitted in the R5 large Lot Residential zone. No maximum dwelling floor space restriction applies to dual occupancies in this zone however the total development of floor space cannot exceed that stipulated as the Floor Space Ratio that applies to the land.

Council has received feedback from landowners that the dual occupancy controls are too stringent and that they are a significant departure from previous controls under the Liverpool LEP 1997. Although this may be the case for some areas, providing unrestricted dual occupancy development is not within the public interest.

It is for these reasons that dual occupancies should continue to be controlled through the LLEP 2008 and LDCP 2008. The RLS 2012 does recommend amending the controls to better balance the competing interests between the need to retain rural land for rural uses and some intent of some landowners to provide extended accommodation on their properties. The following recommended changes are proposed;

- For the Austral/Leppington North and East Leppington precincts 'released' by the Minister as part of the SWGC (Areas outlined in red in Figure 3); Recommendation: Retain the current dual occupancy provisions; LLEP 2008 Clause 7.10 and 7.24.
- For land within the South West Growth Centre that has not as yet released by the Minister (outlined in blue on Figure 3); Recommendation: Increase the dwelling maximum gross floor area restriction stipulated in LLEP 2008 Clause 7.24 from 150 square metres to 250 square metres. Retain the minimum lot size permitting dual occupancy development at 2hectares for the RU4 zone and 10 hectares for the RU1 zone.

- For land rural zoned land outside the Growth Centres (outlined in brown on Figure 3);
Recommendation: For RU1 zoned land, no specific gross floor area dwelling restriction for dual occupancies. Retain the minimum lot size for dual occupancies at 10 hectares. For RU4 zoned land, increase dwelling gross floor area restriction from 150 square metre to 250 square metre.

In respect to the RU2 Rural Landscape zone, retain current dual occupancy controls that apply with the aim of ensuring that the scenic qualities and character of the area are not compromised by residential development.

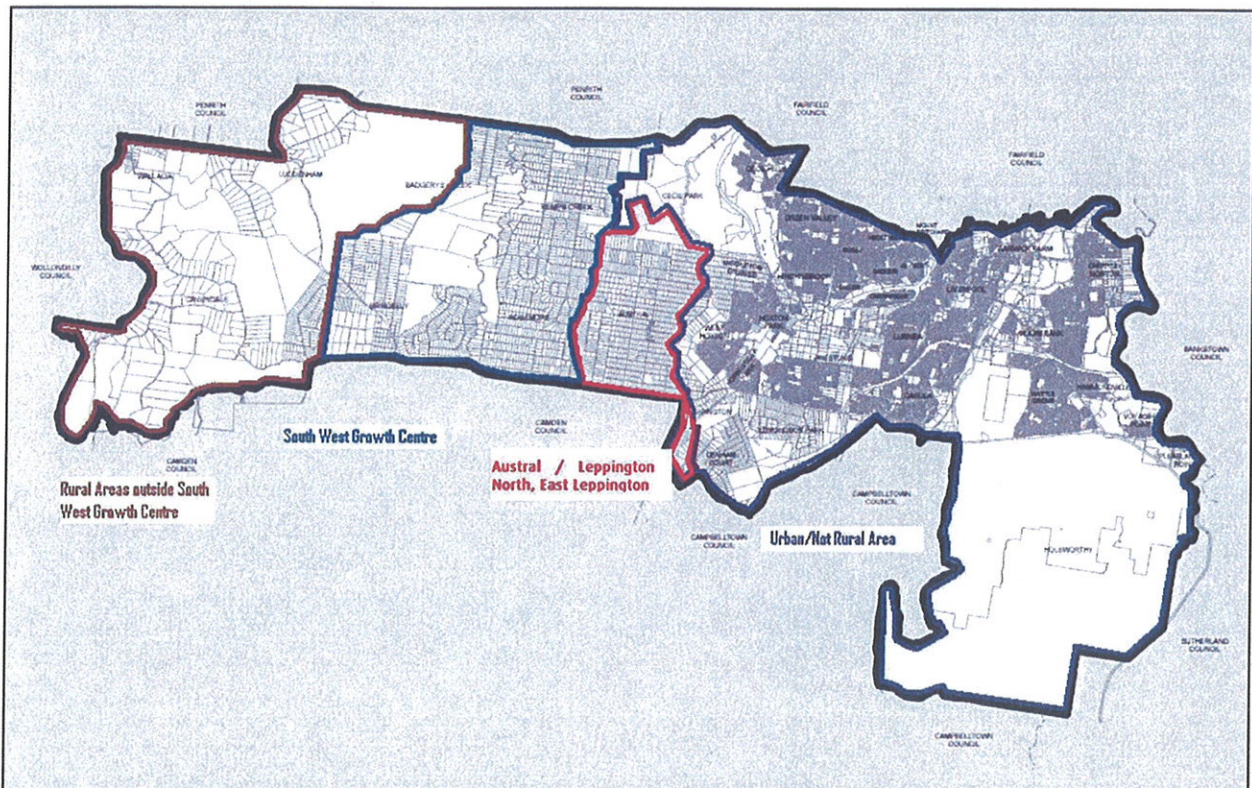


Figure 3. Application of amended dual occupancy controls

Red: South West Growth Centre precincts released by the Minister
 Blue: South West Growth Centre precincts not as yet released by the Minister
 Brown: Land outside the South West Growth Centre
 Purple: Generally indicates Councils urban areas

Development Control Plan 2008; Dual Occupancy provisions

The Liverpool DCP 2008 provides guidelines for the development of dual occupancies within the R5 Large Lot Residential and all rural zones. The current dual occupancy controls mainly focus on attached dual occupancies and therefore it is recommended that additional controls regarding detached dual occupancies are included in Liverpool DCP 2008.

The nature of the proposed changes to the Part 3.1 and Part 5 of the Liverpool DCP 2008 proposed include;

- General provisions clarifying that attached and detached dwellings are permitted.
- Introduction of new illustrations clarifying the required dwelling setbacks for dual occupancies, that is, 12 metre minimum setback from the rear boundary, between 12m-25m setback from the front property boundary; 5 metre minimum setback from the side property boundaries.
- Introduce additional controls regarding the relationship between the design and appearance of the two dwellings.
- Introduce additional objectives regarding the need to limit the size and scale of dual occupancies in order to preserve rural land capability and character.
- Correction of minor anomalies and inconsistencies within the existing DCP objectives and controls as required.

Cemeteries and crematoria

Council has received several Development Applications for cemeteries over the past three years. The reasons for this appears to be two fold; there is a shortage of burial space within the Sydney metropolitan area and cemeteries and crematoria appear to provide a higher return on investment when compared to many other permissible development uses within the rural zones.

The development of cemeteries and crematoria can result in impacts in terms of parking and traffic, intensification of land use in areas with limited servicing, impact upon rural amenity and contamination of groundwater. Due to the impact upon amenity the environment and the public interest, Council is facing expensive and lengthy Land and Environment Court proceedings to defend refusals of a number of Development Applications for cemeteries and crematoria. Further, cemeteries and crematoria take up large land holdings and generally utilise the land in perpetuity, which removes the potential for other uses in the future and may result in long term impacts for adjoining lots.

The Draft South West Subregional Strategy states that the issue of the lack of burial space is a matter for the Department of Planning and Infrastructure and the Department of Lands. The limited progress regarding the establishment of site selection guidelines or the dedication of a crown cemetery in Sydney's west is contributing to the number of cemeteries and crematoria seeking to locate in Liverpool. As such, Council is seeking to remove cemeteries and crematoria as a permissible land use within rural zones. The necessary amendment to the Liverpool LEP 2008 is being administered within Amendment No. 27 and is currently with the Department of Planning and Infrastructure for consideration.

Badgerys Creek Airport Reservation

The NSW and Federal Government recently completed Joint Study on aviation capacity for the Sydney Region (released on 2 March 2012). The Study concluded that the Badgerys Creek reservation remains the best Greenfield site for the development of an airport within the Sydney basin. Despite this finding, the Federal Government has once again announced that Badgerys Creek site is no longer an option for Sydney's second airport.

If Badgerys Creek is conclusively ruled out, the Joint Study states that Wilton is the next best site and processes should be put in place to secure the site and undertake the full environmental assessment and airport planning processes required to facilitate the site for future development.

This would make the Badgerys Creek site available for alternative development which would present major opportunities for the economic development of Western Sydney.

The airport reservation land remains zoned SP1 Special Activities and the associated ANEF contours still apply. As such the development on and affected by ANEF continues to be restricted regardless of the Ministers announcement and Council attempts to remove the restriction from the Liverpool LEP 2008.

Until such time as this Direction is revoked by the State Government, Council are not able to amend the LLEP 2008 ANEF contour maps and as such the noise affectation maps must be considered as a site constraint for the purposes of this updated Rural Lands Study.

It is recommended that Council once again write to the Minister requesting the removal of the ANEF contours and that a decision is made as to the future use of the airport reservation site.

Summary of RLS 2012 recommendations

1. Rezone approximately 755 hectares of land in Bringelly (highlighted in Figure 1) from RU1 Primary Production to RU4 Primary Production Small Lots.
2. Amend LLEP 2008 to permit Veterinary hospitals in the RU4 land use zone.
3. For the Austral/Leppington North and East Leppington precincts 'released' by the Minister as part of the SWGC; (Areas outlined in red in Figure 3); retain the current dual occupancy provisions (LLEP 2008 Clause 7.10 and 7.24).
4. For land within the South West Growth Centre that has not as yet released by the Minister (outlined in blue on Figure 3); increase the dwelling maximum gross floor area restriction stipulated in LLEP 2008 Clause 7.24 from 150 square metres to 250 square metres. Further, retain the minimum lot size permitting dual occupancy development at 2hectares for the RU4 zone and 10 hectares for the RU1 zone.
5. For land rural zoned land outside the Growth Centres (outlined in brown on Figure 3); for RU1 zoned land, no specific gross floor area dwelling restriction for dual occupancies. However retain the minimum lot size for dual occupancies at 10 hectares. For RU4 zoned land; increase dwelling gross floor area restriction from 150 square metre to 250 square metre.
6. Clarify and strengthen LDCP 2008 controls in relation to Dual Occupancies in the R5 Large Lot Residential zone and Part 5 Rural and Environmental zones.
7. Amend the Floor Space Ratio for three lots, being 1025-1029 Greendale Road Wallacia from 0.1:1 to 0.15:1. This would allow the flexibility for the renewal of housing stock. Considering this change only applies to three lots, the impacts of increasing potential dwelling size in this instance would be localised and assessed through aspecific development application process.

8. Write to the Minister of Infrastructure and Transport regarding the governments Joint Study of Aviation Capacity seeking removal of the ANEF contours and to seek a final decision on the future land use of the Badgerys Creek Airport reservation.

Conclusion

Councils Rural Lands Study (RLS) seeks to provide a broad strategic document which encompasses development opportunities and constraints of rural lands within the Liverpool Local Government Area (LGA).

The RLS 2012 seeks to update the previous study with up to date information relating to Badgerys Creek Airport reservation and the detailed precinct planning for the South West Sector. Additionally, further issues that have been raised by the public have been investigated resulting in a number of recommendations as outlined in this report.

The proposed changes to planning policy seek to better balance the challenges facing rural lands which include the use of land for primary production, extractive industry and recreational pursuits, protecting land with scenic qualities and environmental constraints whilst allowing some reasonable development types such as dual occupancies. Further challenges considered in the RLS include the relatively recent proliferation of cemetery proposals and the delivery of new neighbourhoods within the South West Growth centre. The importance of the rural areas for fresh food production is reiterated and is the extractive potential for land as outlined in SREP 9.

FINANCIAL IMPLICATIONS:

There are no financial implications arising from the recommendation contained within this report.

RECOMMENDATION:

That Council;

1. Prepares and forwards a Planning Proposal to the Department of Planning and Infrastructure seeking Gateway Determination.
2. Concurrently places on public exhibition the Planning Proposal, draft Rural Lands Study 2012, and amendments to Part 3.1 and Part 5 of Liverpool Development Control Plan 2008.
3. Prepares a report detailing the outcomes of the public exhibition period for the consideration of Council.
4. Writes to the Minister of Infrastructure and Transport regarding Joint Study remove ANEF contours and the Federal Governments intent with the land Badgerys Creek Airport reservation.

SIGNED BY:

Milan Marecic
Director
City Planning

Attachments:

1. Map of Study Area
2. Draft Rural Lands Study 2012 (under separate cover)

Attachment 1 - Map of Study Area

