

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

Council and the Department of Planning will seek to develop an appropriate mechanism to apply the range of dual occupancy controls to the relevant precincts outlined in Figure 3. Options may include introducing a new 'Dual occupancy' mapping with reference to an amended Clause 7.24 or new clauses within Part 7 of the LLEP 2008.

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 theme 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 that consist of the dual occupancy.
- 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 dual occupancy objectives and controls as required.

3 - Justification

A. Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the result of recommendations contained within the draft RLS 2012.

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 made under the South West Growth Centre (SWGEC), Badgerys Creek Airport 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 LLEP 2008 and the LDGP 2008.

The RLS contains a number of recommendations, most of which require further action to ensure implementation such as carrying out amendments to Liverpool Local Environmental Plan (LLEP 2008), Liverpool Development Control Plan (LDGP) 2008 while other actions rely on State Government or other public agencies for implementation.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The draft RLS 2012 contains a number of recommendations, some of which require amendments to the LLEP 2008. A Planning Proposal is the only way to achieve these outcomes.

3. Will the net community benefit outweigh the cost of implementing and administering the planning proposal?

The proposal will ensure that recommendations contained within the draft RLS are realised. Significant resources have been spent on the encumbered RLS 2007 and the draft RLS 2012. Not proceeding with the recommendations contained within the draft RLS 2012 will result in a higher cost, in that many outcome based recommendations would not be realised.

B. Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Sydney Metropolitan Strategy

The planning proposal is generally consistent with the Sydney Metropolitan Strategy. A majority of the amendments consider land use constraints, the possibility of rural land for extractive industry, agriculture and rural lifestyle development.

For the purposes of this Proposal, the relevant strategic directions and objectives from the current metropolitan strategy have been listed below;

Strategic Direction D – Housing Sydney's Population

This strategic direction seeks to ensure that Sydney is able to house its growing population. Potentially, this will result in urban sprawl which puts pressure on rural and 'fringe' land.

Relevant Objective; *D1 – To ensure an adequate supply of land and sites for residential development.*

The South West subregion is expected to accommodate 155, 000 new dwellings up to the year 2036, including 83, 000 new dwellings in release areas, 41,000 of which are within the Liverpool LGA. The Planning Proposal does not compromise these objectives as it maintains the controls applying to dual occupancies and minimum lot sizes within the released precincts under the SWGC.

Outside of the released precincts, the Planning Proposal seeks to rezone approximately 755 hectares of land from RU1 to RU4. This increases the potential for all lots over 2 hectares in size to develop dual occupancy development (in accordance with Clause 7.10 LLEP 2008. At maximum development, the likely additional potential would be approximately 220 dwellings or approximately 0.3 dwellings per hectare. Each dwelling application would be subject to a development application which will need to demonstrate appropriate servicing strategies.

Strategic Direction F –Balancing Land Uses on the City Fringe

This strategic direction deals with managing land uses on the fringe of Sydney. The objectives of Strategic Direction F are as follows:

Relevant Objective; *F1 – To contain Sydney's urban footprint*

This will be achieved by focussing land release in Growth Centres and simplifying the land release process.

Council is supportive of this objective. The focus of land release in the Growth Centres provides certainty to governments, landowners and developers regarding where infrastructure and services will need to be provided. This increases the onus on Councils strategic planning to limit development types that impede land release planning and delivery.

Further, this objective seeks to focus rural settlement growth on infill sites and in existing serviced towns and villages. The objective also notes that subdivision of rural and resource lands for additional dwellings should be avoided.

Relevant Objective; F2 – To maintain and protect agricultural activities and resource lands

To achieve this direction, the draft RLS 2012 retains the restrictive planning controls that relate to higher order agricultural land and land considered to possess sub-surface resources (as indicated under SREP 9). The Planning Proposal does not seek to increase the fragmentation or development potential of land considered as high agricultural potential.

South-West Draft Subregional Strategy

The NSW Department of Planning's South West Subregional Strategy is the strategic land use planning framework to guide the sustainable growth of South West Sydney over the next 25 years.

One of the key directions within the strategy is to accommodate a high proportion of additional dwellings within the existing urban areas in order to protect native bushland areas and rural and resource lands from encroaching urban development.

The Strategy also highlights the need to provide for 'working lands'; areas which support diverse rural industries such as agriculture, extractive industry and mining. Agriculture has been an extremely important activity in the South West Subregion since European settlement and has an important cultural heritage and identity. There are also very significant high quality coal resources, and associated methane gas in the subregion.

The Strategy also states that working land should not be considered as land for urban development as the protection of these resource lands is not only vitally important to the Sydney fresh produce markets, the construction market and secondary industries such as steelworks and other manufacturers, but also to tourism, biodiversity and catchment protection. It is essential that businesses and individuals involved in these industries have greater certainty for investment timeframes on the future uses of these lands.

Careful consideration should be given to the potential impact of access to these resources before commitments are made to development in the South West Subregion.

The Planning Proposal accords with these directives as it maintains the majority of the restrictive framework limit urban develop and fragmentation.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The Planning Proposal is the result of recommendations contained within Council principal rural lands policy, being the draft RLS 2012. The draft RLS supersedes the RLS 2007 and provides a broad strategic document which encompasses development opportunities and constraints of rural lands within the Liverpool Local Government Area (LGA).

Updating Councils strategic land use policy ensures the objectives and strategies remain current and accords with strategies contained within the Councils Community Strategic Plan titled Growing Liverpool 2021 including;

2.1 Develop and implement planning policies that respond to environmental, social, and economic considerations

3.1 Preserve and maintain heritage, both landscape and cultural as urban development takes place

3.5 Retain viable opportunities for local food production while managing land use to meet urban growth demands

6. Is the planning proposal consistent with the applicable state environmental planning policies?

The following SEPP's are considered under the Planning Proposal:

State Environmental Planning Policy Sydney Region Growth Centres 2006

The South West Growth Centre (SWGC) includes approximately two thirds of the land currently zoned rural in the Liverpool local government area. The SEPP provides development controls that must be complied with until such time as a precinct plan has been finalised. The Planning Proposal does not seek to implement any changes to land within any 'released' planning precincts.

Sydney Regional Environmental Plan 9 – Extractive Industries (No.2)

SREP 9 seeks to preserve clay shale extraction areas of regional significance which includes both current and potential operations. Sheet 2 of Sydney Regional Environmental Plan No. 9 applies to the study area.

The Planning Proposal does not compromise any land that is currently the subject of quarry/mine activities nor does it affect land that is approved for future extractive industry.

Of the 755 hectares of land being rezoned in Bringelly, approximately 83 hectares of land is mapped on the SREP 9 map as "Development in this area could adversely affect or be affected by future quarrying/mining operations". The proposed rezoning from RU1 and RU4 increases the potential for dual occupancy development at a scale of approximately 0.3 dwellings per hectare. This scale of development is not likely to inhibit minimum operations. Further the proposed change in minimum lot size will not result in any potential subdivision within the 83 hectare area. The proposed RU4 zone has been already applied to similar affected areas under SREP 9.

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Various Section 117 Ministerial Directions apply to this planning proposal. These are discussed below:

Direction No. 1.2 – Rural Zones

The objective of this Direction is to protect the agricultural production value of existing rural land. The Direction applies when Council prepares a planning proposal that will affect land within an existing or proposed rural zone. According to this direction, Council must not increase the permissible density of land within a rural zone (other than land within an existing town or village).

Bringelly rezoning from RU1 – RU4

The rezoning of land from RU1 to RU4 introduces some land uses not previously permitted in the RU1 eg entertainment facilities, places of public worship and recreational facilities and conversely prohibits certain land uses such as storage establishments and extractive industry. Overall there is minimal change to the permissible density of development from the rezoning change with the main foreseeable development potential dual occupancy development (at a maximum build out rate of approximately 0.3 dwellings per hectare). The floor space maximum for dual occupancies is stipulated through the amended clause 7.24. The siting of such development is also controlled through the LDCP 2008 and a merit assessment during the development assessment process.

Floor Space Ratio

The proposal also seeks to increase the maximum floor space ratio for three lots in Wallacia from 0.1:1 to 0.15:1. The lots are not of typical dimensions and size for rural areas and as such are incapable of supporting substantial primary production activities. The increase in FSR will allow for reasonable sized dwelling and will only apply to the specific circumstances that relate to these lots. Undertaking a spot rezoning for these lots to residential is not supported on the basis that it may allow other permissible uses that conflict with the neighbouring rural uses.

Clause 7.24

The proposed changes to clause 7.24 seek to allow larger dwellings constructed as part of dual occupancies that that permitted under the current LLEP. The material effect of these amendments are minimal in that they do not compromise the ability to deliver on the rural land use objectives, nor do they result in additional lot yield or dwelling densities.

These changes have been considered in the context of draft Rural Lands Study 2012 which is to be concurrently exhibited with the Planning Proposal. The additional development potential under the amendments is considered marginal and will not result in fragmentation of land, or large scale development that inhibit the objectives of rural land use planning.

Direction No. 1.3 – Mining, Petroleum Production and Extractive Industries

The objective of this Direction is to ensure that State or Regionally significant reserves of coal, other minerals, petroleum and extractive materials are adequately considered when preparing a Draft Local Environmental Plan and that inappropriate development does not compromise the future extraction of these resources.

Land within Liverpool's rural areas is deemed to possess potential for extractive industry. The Planning Proposal does not rezone any rural land to urban zones and as such the potential for extraction industry is retained.

The portion of Bringelly being considered for rezoning to RU4 will be open to some additional development, mostly via the development of dual occupancies. The resultant development is generally limited in density and scale (that is, maximum dwelling size of 250sqm and a maximum of two dwellings on lots with a minimum of 2 hectares). However, Council supports consultation with the Department of Primary

Industries in this regard and suggests that the Department of Planning stipulate such requirement in the planning Proposal.

Direction No. 2.3 – Heritage Conservation

This direction requires that Councils consider environmental heritage when preparing planning proposals. The proposed amendment to the floor space ratio, land use zoning and minimum lot size maps alters potential development potential which can only be realised through separate development applications. Specific proposals would need to address heritage considerations through the process of seeking development consent.

Direction No. 3.5 – Development Near Licensed Aerodromes

This direction requires that planning proposals shall not rezone land for residential purposes nor increase residential densities in areas where the ANEF (Australian Noise Exposure Forecast) exceeds 25, or allow for schools, hospitals, churches and theatres where the ANEF exceeds 20, or for hotels, motels, office or public buildings where the ANEF exceeds 30.

The Planning Proposal seeks to re zone 33.4 hectares of land from RU1 to RU4 affected by ANEF 20 and over. Under the zoning change, additional permitted uses include recreation facilities, places of public worship and pursuant to Clause 7.10 and 7.24, dual occupancy development. The proposed development types would be limited in density and scale, for example dual occupancies are only permitted to maximum dwelling size of 250sqm (for at least one dwelling) and a maximum of two dwellings per 2 hectare property.

The consent authority would be required to assess any such development within the ANEF affected land against Clause 7.18 of the LLEP 2008 and against the objectives of the zone which remain rural in nature.

Direction No. 4.1 – Acid Sulfate Soils

This section requires that Council's must consider the acid sulfate soils planning guidelines adopted by the Director General when preparing a Draft Local Environmental Plan or a draft Development Control Plan.

The additional development potential facilitated through the planning proposal is contained to additional dwellings on rural lot. Such development proposals may require specific assessment at the development application stage.

Direction No. 4.3 – Flood Prone Land

The Planning Proposal does not seek to amend controls that relate to flooding. The scope of additional development potential under the planning proposal is limited and would be assessed on its merits against the flood provisions contained within the Liverpool LEP and DCP 2008.

Direction No. 4.4 – Planning for Bushfire Protection

Where a planning proposal is in proximity to bush fire prone land Council must consider, amongst other things, the requirements under the Planning for Bushfire Protection 2006.

The scope of additional development potential possible under the planning proposal is limited. Specific proposals will continue to be subject of the specific bushfire provisions contained within the Planning for Bushfire Protection manual and the LLEP and LDCP 2008.

Direction No. 5.8 – Second Sydney Airport: Badgerys Creek

The objective of this Direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.

This Direction applies to land shown within the boundaries of the airport reservation within the ANEF contour as shown on the map. The map is identical to that considered in Councils previous Rural Lands Studies and is part of the LLEP 2008 mapping series.

According to this Direction, Planning Proposals shall not contain provisions that enable the carrying out of development, either with or without development consent, which at the date of this Direction, could hinder the potential for the development of a second Sydney airport.

The Planning Proposal seeks to re-zone land in the vicinity of the airport reservation site from RU1 to RU4. Under the zoning change additional permitted development types include recreation facilities, places of public worship and pursuant to Clause 7.24, dual occupancy development. The proposed development types would be limited in density and scale, for example dual occupancies are only permitted to maximum dwelling size of 250sqm (for at least one dwelling) and a maximum of two dwellings per 2 hectare property.

The scope of development potential possible under the Planning Proposal is limited and does not impact upon the likelihood of Badgerys Creek being developed as Sydney's second airport.

C. Environmental, social and economic impact***8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?***

The planning proposal will not have an impact on critical habitat, threatened species, populations or ecological communities or their habitats. Specific development achieved under the amended planning controls would be carried out via a development application and subsequent environmental considerations.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The planning proposal will not result in any other environmental effects.

10. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal responds to landowner queries regarding the dual occupancy parameters as they relate to rural land. The proposed amendment allow for larger dwellings as they form part of dual occupancies in certain precincts that are not subject to land release in the short terms. The amendment can have a positive social and economic impact through the provision of additional rural housing. The likely increase in development density is minor and maintains the intent of rural land zoning which is to promote rural and private recreational uses.

D. State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

The planning proposal will not place additional demands on public infrastructure. Specific proposals will continue to demonstrate the individual servicing strategies specific to the development.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The Planning Proposal is seeking the Gateway Determination which will stipulate the consultation requirements.

Part 4 - Community Consultation

The Department of Planning and Infrastructure issued a Gateway Determination which specifies the duration of community consultation. In this case Council resolved to exhibit the Planning Proposal and supporting Rural Lands Study 2012 for a period of 60 days. Council will also determine the appropriate methods of information delivery and display which will be above that required by the legislation including additional public notice venues.

LLEP 2008 Amendment No 28 Rural Lands



RECOMMENDATION

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.

Motion: **Moved:** Clr Lucas **Seconded:** Clr Harle

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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.
5. Extend the advertising period to sixty days to allow for community consultation.

On being put to the meeting the motion was declared CARRIED.