

Council: LANE COVE COUNCIL - SYDNEY REGION EAST			
Current LEP: LEP 2009 - gazetted 19 February 2010		Proposed LEP: LEP 2009 – Amendment No.1	
Year: 2011	Planning Proposal no: 5/2011	Council ref: 22359/11 and 12053/11	Date: 6 June/ 24 August and 24 March 2011
Location/ topic: Public land – subdivisions for road closures to become exempt development			
Property description: Miscellaneous – Lane Cove local government area			
Council Resolution Date: 18 October 2010		Resolution. No: 358	
Resolution: That subdivisions for road closures be Exempt Development.			

Planning proposal based on: NSW Department of Planning, *A Guide to preparing local environmental plans*, July 2009 - Figure 3 – Matters to be addressed in a planning proposal – including Director-General's requirements for the justification of all planning proposals (other than those that solely reclassify public land).

Note: Lane Cove Development Control Plan would be updated as appropriate for LEP amendments.

PLANNING PROPOSAL

1. **A statement of the objectives or intended outcomes of the proposed local environmental plan. [Act s. 55(2)(a)]**
 - (i) to permit subdivisions for road closures to be exempt development, rather than requiring notification for a DA under Part 4 of the EPA Act – the benefit is in avoiding duplication of resources, because road closures already require public consultation under the Roads Act.
2. **An explanation of the provisions that are to be included in the proposed local environmental plan. [Act s. 55(2)(b)]**
 - (1) Maps: Not applicable.
 - (2) Text: Add to LEP 2009 Schedule 2: Exempt Development, between "Filming 7(d) the proposed daily length of filming at the location." and "Temporary structures", the following words:-

"Road closures (other than road closures on community land)".
3. **Justification for those objectives, outcomes and provisions and the process for their implementation. [Act s. 55(2)(c)]**
 - A. **Need for the planning proposal.**
 - (1) **Is the planning proposal a result of any strategic study or report?**

Yes:-
 - Ordinary Council Report No.39 of 18 October 2010 - at http://www.lanecove.nsw.gov.au/bps/Open/2010/CNL_18102010_AGN_WEB.HTM.
 - (2) **Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Yes: The Land & Property Information Service requires a subdivision certificate to be lodged in relation to a road closure. The DA Section would be able to produce such a subdivision certificate without the need for a DA.

The proposal will achieve the objective of reducing duplication of Council resources in terms of staff time, advertising costs etc. and of community time, in not having to prepare and respond to duplicated public exhibitions for both a development application and a road closure. Subdivision, to create an identifiable parcel of land, is only a pre-requisite for a road closure. The Roads Act 1993 - Part 4 then has requirements for road closures which will continue to ensure public scrutiny of a road closure proposal, as follows:-

"S.37 Decision on proposal

(1) After considering any submissions that have been duly made with respect to the proposal, the Minister (or, in the case of the proposed closing of a freeway, the RTA) may, by notice published in the Gazette, close the public road concerned.

(2) However, a public road may not be closed:

- (a) in the case of a classified road—unless the RTA consents to the closure of the road, or
- (b) in the case of a road owned by a council—unless the council consents to the closure of the road, or
- (c) in the case of a classified road that is owned by a council—unless both the RTA and the council consent to the closure."

(3) Is there a net community benefit?

Yes: As in A(2) above, Council resources in staff time, advertising costs etc will be saved and may then be applied to other projects of community benefit.

B. Relationship to strategic planning framework.

(1) 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)?

Not applicable.

(2) Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Yes: The proposal supports Lane Cove's *Community Strategic Plan's* Guiding Principle - Best Value: "To balance the provision of quality services to the community of Lane Cove with cost and to always seek continuous improvements to the services provided."

(3) Is the planning proposal consistent with applicable state environmental planning policies?

Yes (Appendices A & B)

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

Yes.

C. Environmental, social and economic impact.

- (1) **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?**

No. LEP 2009's s.3.1 does not permit exempt development from being carried on such land:

"3.1 Exempt development

The section states that exempt development:

- (a) must be of minimal environmental impact, and
- (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the Threatened Species Conservation Act 1995 ".

- (2) **Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

These would be assessed under the environmental assessment required under Part 5 of the EPA Act prior to a subdivision certificate being issued for the new lot.

- (3) **How has the planning proposal adequately addressed any social and economic effects?**

Yes – as in 3A(3) above.

D. State and Commonwealth interests.

- (1) **Is there adequate public infrastructure for the planning proposal?**

Not applicable.

- (2) **What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal? (Note: The views of State and Commonwealth Public Authorities will not be known until after the initial gateway determination. This section of the planning proposal is completed following consultation with those public authorities identified in the gateway determination).**

This would be addressed following consultation in accordance with Gateway approval.

4. Details of the community consultation that is to be undertaken on the planning proposal. [Act s. 55(2)(e)]

- Six weeks public exhibition – advertisement in a local newspaper: This Council consultation policy complies with the general Gateway determination requirement of a minimum of 14 days exhibition
- Council website
- Display at Council offices
- E-newsletter and hard copy Community Newsletter
- Written notice to relevant stakeholders including public authorities.

Appendix A

State Environmental Planning Policies – Consistency

- re Gateway Question 3B(3)

SEPP	Comment
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No conflict
Others	Not applicable

Appendix B

Section 117 Directions – Consistency

- re Gateway Question 3B(4)

None relevant.

Comment regarding:-

S.117: 6.2 Reserving Land for Public Purposes

“Objectives

- (1) The objectives of this direction are:
 - (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and
 - (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

Where this direction applies

- (2) This direction applies to all relevant planning authorities.

When this direction applies

- (3) This direction applies when a relevant planning authority prepares a planning proposal.

What a relevant planning authority must do if this direction applies

- (4) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General)."

This Direction is not relevant, because "reserve" status would not be altered by subdivision; in fact, many reserves comprise several lots.

This planning proposal does not remove the requirement for Council to consult with the Department before undertaking a road closure.

Note: This planning proposal does not relate to subdivision of roads within community land.

Attachments

None.