

Planning Proposal - Liverpool LEP 2008 Amendment No. 5

Part 1 – Objectives

The objective of this planning proposal is to address anomalies and to improve interpretation within the existing plan and to incorporate a rezoning request from the Department of Planning.

Part 2 – Explanation of provisions

Please refer to attachment 1.

Part 3 – Justification

A. Need for the planning proposal.

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

The draft Local Environmental Plan is not a result of any strategic study or report. The amendment has been undertaken in order to address anomalies and to improve interpretation within the existing Plan and to incorporate a rezoning request from the Department of Planning.

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

Amending Liverpool Local Environmental Plan 2008 is the only means to achieve the intended outcomes.

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

The net community benefit includes the correct interpretation of Council's Local Environmental Plan.

The net community benefit outweighs the cost of implementing and administering the planning proposal. The amendment has been undertaken in order to address anomalies and to improve interpretation within the existing Plan.

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)?**

The draft Local Environmental Plan is not inconsistent with the objectives and actions contained within the Sydney Metropolitan Strategy and draft Subregional Strategy.

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

The draft Local Environmental Plan is not inconsistent with Council's strategic plans.

- 3. Is the planning proposal consistent with the applicable state environmental planning policies?**

The draft Local Environmental Plan is not inconsistent with the applicable state environmental planning policies.

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

The planning proposal is consistent with the following applicable Ministerial directions (s.117 directions):

- *Business and Industrial zones*
- *Environmental Protection Zones*
- *Heritage Conservation*
- *Residential Zones*
- *Integrating Land Use and Transport*
- *Flood Prone Land*
- *Planning for Bushfire Protection*
- *Approval and Referral Requirements*
- *Reserving Land for Public Purposes*
- *Site Specific Provisions*

The planning proposal is inconsistent with the following applicable Ministerial direction (3.3. *Home Occupations*), but can be justified:

- Home Occupations

The draft Local Environmental Plan proposes to delete 'home occupations' as a use permitted without consent in zones:

- o SP1 (Special Activities),
- o SP2 (Infrastructure),
- o E2 (Environmental Conservation),
- o B3 (Commercial Core),
- o B5 (Business Development),
- o IN1 (General Industrial),
- o IN2 (Light Industrial),

- o IN3 (Heavy Industrial),
- o W1 (Natural Waterways).

A small number of existing dwellings are located in some of these zones.

Section 117 (3.3(4) *Home Occupations*) directions state that “Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent”.

The Environmental Planning and Assessment Act 1979 allows scope to be inconsistent with the terms of this direction if the planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposals that are inconsistent with the terms of the direction are of minor significance.

It is considered that the inconsistency is of a minor significance for the following reasons:

- o dwellings are not currently permitted within the zones specified; and
- o there are only a small number of existing dwellings within the specified zones; and
- o Not allowing home occupations in existing dwellings within the specified zones will avoid intensification of the use of those dwellings.

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?

The planning proposal proposes to rezone Lot 1 DP 1126484 (Leacocks Lane, Casula) from E1 (National Parks and Nature Reserves) to R5 (Large Lot Residential). The vegetation on the site is not of any major environmental significance.

Other proposed amendments to the draft Local Environmental Plan are unlikely to affect critical habitat or threatened species, populations or ecological communities, or their habitats.

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

There are no environmental effects from this Draft Local Environmental Plan. The amendment has been undertaken in order to address anomalies and to improve interpretation within the existing Plan.

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

The only rezoning proposed is to rezone Lot 1 DP 1126484 (Leacocks Lane, Casula) from E1 (National Parks and Nature Reserves) to R5 (Large Lot Residential). The social and economic impacts of the rezoning are minimal and the change of zoning is likely to further improve the adaptive re-use potential of the heritage building on the property leading to a better social and economic outcome.

There will also be economic benefits from making permissible Hotel and Motel accommodation (in RE2 - Private Recreation to support registered clubs and the like) and Serviced Apartments (in the B6 - Enterprise Corridor)

All other changes proposed have minimal or no social and economic impacts.

D. State and Commonwealth interests.

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

The planning proposal does not increase the demand for public infrastructure.

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.)

The planning proposal has been endorsed by Council and is being submitted for gateway proposal.

The proposed rezoning of Lot 1 DP 1126484 Leacocks Lane, Casula was proposed by the Department of Planning and supported by the Department of Environment and Climate Change.

Part 4 – Community Consultation

Council proposes that the LEP is publically exhibited in accordance with the Environmental Planning and Assessment Act 1979.

It is considered that consultation with State or Commonwealth public authorities is not required as the Planning Proposal is not likely to increase the demand for public infrastructure.

Attachment 1 – Explanations of Provisions

	Clause / Map	Change requested	Reason for change
1	Key Sites Map (KYS-011)	Delete the following from the Key Sites Map: Cnr Lot 100 DP 1102856 Lachlan Street Warwick Farm Cnr Lot 101 DP 1102856 Lachlan Street Warwick Farm	In accordance with clause 7.5, land coloured blue on the Key Sites Map requires the consent authority to consider an architectural design competition for new development proposals. The requirement for architectural design competition is no longer required. The subject sites are to be deleted from this map as they have been subject of development approval and construction.
2	Land Reservation Acquisition Map (LRA-010)	Land Reservation Acquisition Map (LRA-010) is to be updated to reflect the current need for road widening at Woodward Park, Liverpool	The Roads and Traffic Authority (RTA) have written to Council expressing the need for road widening at this site. The current SP2 (Classified road) zoning currently reflects this need, however the notation is not reflected in the Land Reservation Acquisition Map. It is recommended that the Land Reservation Acquisition Map (LRA-010) be updated to reflect the current need for road widening at this site.
3	Dwelling Density Map (DWD-008)	Update Dwelling Density Map (DWD-008) to ensure density controls for the land identified as Lot 214 in Deposited Plan 1111381 Middleton Drive, Middleton Grange.	To ensure the land zoned residential and reconfigured in a previous re-zoning is subject to appropriate residential lot density controls. Note that the previous amendment to rezoning was undertaken by the State Government and extended the area of residential zoned land. This amendment did not amend the density layer at that time. This amendment will seek to rectify this omission.

	Clause / Map	Change requested	Reason for change
4	Minimum Lot Size Map (LSZ-009) Floor Space Ratio Map (FSR-009) Height of Building Map (HOB – 009)	Amend the subject maps for Lot 2 Zouch Road Ingleburn (Small corner of R5 - Large Lot Residential land on delayed zoning map) to include appropriate controls. The following development controls are proposed for the R5 zoned parcel; Minimum Lot size map (LSZ-009) = W (4000 sq m) Height of Building map (HOB-009) = I (8.5m) Floor Space Ratio (FSR-009) = A2 (0.1:1)	The land is subject to a delayed rezoning of R5 Large Lot Residential. There is a need to include additional controls for height, minimum lot size and Floor Space Ratio (FSR) as these were omitted from LLEP 2008. The amendment will ensure appropriate development controls apply when the delayed rezoning comes into effect.
5	Clause 7.16 (2) (b)	The clause currently states that “land in Zone B6 Enterprise Corridor that is within 100 metres of a classified road”. It is recommended that this figure be changed to 50 metres	Clause 7.16 aims to ensure active uses are provided at the street level to encourage the presence and movement of people. This Clause conflicts with Clause 7.22 (3) which states that “development consent must not be granted to development for the purposes of a dwelling unless the dwelling is at least 50 meters from any boundary of the land that adjoins a classified road” Changing the 100m figure in Clause 7.16 to 50m will provide consistency between the two clauses whilst still promoting active street frontages along main roads.
6	Land Use Table	Home based child care centres are to be added as a permissible land use in the E3	A ‘Home based child care centre’ is deemed to be an appropriate land use for the E3 (Environmental Management) zone as dwellings are permissible in this zone.

	Clause / Map	Change requested	Reason for change
		(Environmental Management) zone	The proposed change will allow Home based child care centres in E3 (Environmental Management) zones which is considered to have only a minimal additional impact.
7	Land Use Table	Delete 'home occupations' from 'Permitted without consent' in zones that do not permit dwellings These zones include: Zone SP1 (Special Activities) Zone SP2 (Infrastructure), Zone E2 (Environmental Conservation), Zone B3 (Commercial Core), Zone B5 (Business Development), Zone IN1 (General Industrial) Zone IN2 (Light Industrial) Zone IN3 (Heavy Industrial) Zone W1 (Natural Waterways)	For the purposes of LLEP 2008, 'home occupation' means an occupation carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve: - the employment of persons other than those residents, or - interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam. Currently, the LEP allows Home Occupations in zones where dwellings are prohibited. A small number of existing dwellings are located in some of these zones, however continuing to permit home occupations in these locations will likely intensify the use of the dwelling and therefore reduce the likelihood of that site being re-developed for the intended purpose of the zone.
8	Land Use Table	Add "Serviced apartments" to B6 (Enterprise Corridor) zone	Serviced Apartments are considered an appropriate use within commercial areas adjacent to main arterial roads. The use is similar to "recreation facilities" and "registered clubs" which are already permissible in that zone.
9	Land Use Table	Add "Hotel and motel accommodation" to RE2 (Private Recreation) zone.	Hotel and motel accommodation is considered an appropriate use for the zone. The RE2 zone currently permits entertainment facilities, function centres, and registered clubs. Hotel and motel accommodation is considered to be a complementary use. There is also a demand/need for the use

	Clause / Map	Change requested	Reason for change
			within the zone.
10	Clause 5.1 (2)	Update clause to identify the Department of Education as the acquisition authority for SP2 Infrastructure and marked "Educational Establishment"	The Department of Education and Training (DET) actively acquire land for the provision of schools. It is considered appropriate that Clause 5.1 (Relevant acquisition authority) lists DET as the acquisition authority for properties zoned SP2 Infrastructure and marked "Educational Establishment".
11	Part 7 – Additional local provisions	Amend Clause 7.13(4) to delete reference to the requirement of "450 square meters or more" Add a new clause in Part 7 of the LEP for minimum allotment size for hatchet shaped lots as follows: Minimum allotment size for Hatchet shaped lots The minimum lot size for a hatchet shaped lot shall not be less than the minimum lot size shown on the Lot Size Map. For the purposes of clause (1), the area of any accessway handle for the hatchet shaped lot is not included as part of the lot for the purposes of calculating minimum lot size.	This change is required for clarification of minimum lot sizes and lot widths. 7.13(4) states: "An irregular shaped lot with an area of 450 square metres or more that has an average width of more than 10m may have a minimum width of not less than 5 metres." The intent of this clause is to control lot dimensions for hatchet shaped lots. The clause is difficult to interpret and further clarification is required.

	Clause / Map	Change requested	Reason for change
12	Schedule 5 – Environmental Heritage	Update of property details (e.g. Lot and DP references)	As a result of recent subdivisions, some property details have changed (i.e. Lot and DP numbers). These are proposed to be updated accordingly. The amendment does not introduce new properties for heritage listing, nor does it delete existing heritage properties from the schedule.
13	Clause 5.4 (9)(b)	Replace “20% of the total floor area of both the self-contained dwelling and the principle dwelling” with “25% of total floor area of principle dwelling”	The intent of the clause is to restrict the size of secondary dwellings (i.e. granny flats) to a suitable size which complements the principle dwelling on the site. The current clause is difficult to interpret and the amendment is required to improve readability and provide further certainty and clarification. This change does not increase the resultant size of the granny flat, but is much simpler to apply.
14	Clarify 4.4 (2C).	Insert column headings that expresses the lot sizes to which this clause applies.	The intent of this clause is to establish standards for the maximum development density and intensity of land use. Adding numbers to columns will improve readability and provide for further clarification of the clause.
15	Rezone Lot 1 DP 1126484 Leacocks lane Casula.	Rezone portion of the site from E1 (National Parks and Nature Reserves) to R5 (Large Lot Residential). Add additional planning controls to the proposed R5 portion of the site and amend maps as follows:	Council has received a request from the NSW National Parks and Wildlife Service and the Department of Planning to rezone Lot 1 DP 1126484 to an appropriate zone that can permit development ancillary to a dwelling (i.e. R5 Large Lot Residential). The other minimum lot size, height of building, and floor space ratio maps are updated to apply appropriate controls to the property.

	Clause / Map	Change requested	Reason for change
		Minimum Lot Size Map – 10000 sqm Height of Building Map – 8.5m Floor Space Ratio Map – 0.1:1	
16	Dictionary – Vocational training facilities	Propose a new definition for 'Vocational training facility' and permit these with consent in the following zones: B5 (Business Development) RU1 (Primary Production) RU4 (Rural Small Holdings) IN1 (General Industrial) IN2 (Light Industrial). The following draft definition for 'Vocational training facility' is proposed to be forwarded to the Department of Planning for their review of the LEP Standard Instrument. "means a building or place used for providing education and training to individuals for the purpose of gaining workplace skills but does not include training for skills related to office or retail operations"	To facilitate the development relating to workplace training. There is currently no definition which permits this type of land use in the standard instrument. It should be noted that this definition is not currently in the Standard Instrument.
17	Schedule 2 – Exempt Development	Amend Schedule 2 and Schedule 3 accordingly to make	State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 commenced on 27 February 2009.

	Clause / Map	Change requested	Reason for change
	Schedule 3 – Complying Development	consistent with recent amendments to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.	The Codes SEPP currently includes the General Exempt Development Code and the General Housing Code. On 5 August 2009, State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial) 2009 (the SEPP amendment) was published on the NSW Legislation website and will commence on 7 September 2009. The SEPP amendment adds a new General Commercial and Industrial Code and new Housing Internal Alterations Code to the Codes SEPP. This SEPP overrides provisions in LLEP 2008, as a result, Schedules 2 and 3 should be updated accordingly to ensure consistency with the SEPP.
18	Land Use Table	Add "Boarding houses" as a permissible land use in Zone R2 Low Density Residential	To ensure LLEP 2008 is made consistent with Standard Instrument (Local Environmental Plans) Amendment (Affordable Rental Housing) Order 2009 gazetted 29 July 2009.
19	Definitions	Omit "generally has shared facilities, such as communal" from paragraph (c) of the definition of boarding house. Insert instead "may have shared facilities, such as communal living room" Insert "Some or all of which may have private kitchen and bathroom facilities" after "rooms in paragraph (d).	To ensure LLEP 2008 consistent with Standard Instrument (Local Environmental Plans) Amendment (Affordable Rental Housing) Order 2009 gazetted 29 July 2009.

