

Liverpool Local Environmental Plan 2008 (Amendment No 48) – Increase the permissible maximum gross floor area of dual occupancies within RU2 – Rural Landscape zone

Proposal Title : **Liverpool Local Environmental Plan 2008 (Amendment No 48) – Increase the permissible maximum gross floor area of dual occupancies within RU2 – Rural Landscape zone**

Proposal Summary : **The planning proposal proposes to amend Liverpool LEP 2008 to:**

- 1. Increase the permissible maximum gross floor area for at least one dwelling of a dual-occupancy within the RU2 - Rural Landscape zone from 60sqm to 200sqm; and**
- 2. Change the permissibility of dual occupancies within RU2 – Rural Landscape zone to attached dual occupancies only.**

The purpose of this amendment is to permit secondary dwellings more consistent with those permissible in other rural or rural residential zoned land under the Liverpool LEP 2008.

PP Number : **PP_2014_LPOOL_008_00**

Dop File No : **14/8206**

Proposal Details

Date Planning Proposal Received : **08-May-2014**

LGA covered : **Liverpool**

Region : **Metro(Parra)**

RPA : **Liverpool City Council**

State Electorate : **LIVERPOOL**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Housekeeping**

Location Details

Street : **All RU2 zoned land within Liverpool LGA**

Suburb : **Denham Court**

City : **Liverpool**

Postcode : **2565**

Land Parcel : **All RU2 - Rural Landscape zoned land within Liverpool LGA.**

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Metro South West subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government
Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been
meetings or
communications with
registered lobbyists? : **No**

If Yes, comment : **In relation to the Lobbyist Code of Conduct there are no records on the Department's Lobbyist Contact Register regarding this matter.**

Supporting notes

Internal Supporting
Notes :

POLITICAL DONATIONS DISCLOSURE STATEMENT

Political donations disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the Planning system.

"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning application means:

- A formal request to the Minister, a council or the Secretary to initiate the making of an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Secretary is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this Planning Proposal.

Additional Information

The planning proposal was received on 8 May 2014 by the regional team. Further information was sought from Liverpool Council and received on 14 July 2014.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment :

BACKGROUND AND PROPOSAL

In 2013, Liverpool City Council adopted the Liverpool Rural Lands Study 2012 (RLS).

Following the adoption of RLS 2012, draft Liverpool LEP 2008 (Amendment No 28) was prepared, amongst other things, to increase the size of the maximum dwelling gross floor area of dual occupancies in rural zoned land under Liverpool LEP 2008 (60 square metres maximum dwelling gross floor area within RU2 – Rural Landscape zone). Liverpool Amendment No 28 was made in April 2014.

OBJECTIVES OF THE PLANNING PROPOSAL

On 26 March 2014, Council resolved to prepare a planning proposal with the following objective:

1. Increase the permissible maximum gross floor area (GFA) for at least one dwelling of a dual occupancy within the RU2 – Rural Landscape zone from 60sqm to 200sqm; and
2. Require all secondary dwellings within the RU2 – Rural Landscape zone to be attached dual occupancies.

The purpose of this amendment is to permit secondary dwellings at a gross floor area size more consistent with those permissible in other rural or rural residential land zoned by the Liverpool LEP 2008.

Council has advised that the RU2 – Rural Landscape zoned land do not involve South West Growth Centre area.

Council intends to amend the Liverpool LEP 2008 Development Control Plan 2008 (Development in Rural and Environmental zones) in order to protect the visual amenity and natural environment of the RU2 – Rural Landscape zone through controls on building design and location of secondary dwellings.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment :

Council has provided the following explanation for the proposed amendment:

To amend Clause 7.24 – Dual occupancies in Zones RU1, RU2, and RU4 of Liverpool LEP 2008 as follows:

Current Clause

- 2) Development Consent must not be granted to development for the purposes of a dual occupancy on land in Zone RU2 – Rural Landscape unless the gross floor area of at least one of the dwellings is not more than 60 square metres.

Proposed Clause

- 2) Development Consent must not be granted to development for the purpose of a dual occupancy on land in Zone RU2 – Rural Landscape unless the gross floor area of at least one of the dwellings is not more than 200 square metres.

Council also proposes to allow only attached dual occupancies within the RU2 – Rural Landscape zone.

It is noted that in order to implement the proposed clause, Council will need to amend the land use table of Zone RU2 – Rural Landscape of Liverpool LEP 2008, by replacing 'Dual occupancies' with 'Dual occupancies (attached)' under the land use under Item 3 'Permitted with consent' . Council is to be advised on this.

The RU2 – Rural Landscape zoned land do not involve South West Growth Centre areas.

Justification - s55 (2)(c)

- a) Has Council's strategy been agreed to by the Director General? **No**
- b) S.117 directions identified by RPA :
 - 1.2 Rural Zones**
 - 2.1 Environment Protection Zones**
 - 2.3 Heritage Conservation**
- * May need the Director General's agreement

Is the Director General's agreement required? **No**

- c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

- d) Which SEPPs have the RPA identified?

- e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

SECTION 117 DIRECTIONS

1.2 Rural Zones

The objective of this direction is to protect the agriculture production value of rural land. The proposal will increase the permissible maximum gross floor area of dual occupancies within the RU2 – Rural Landscape zone from 60 square metres to 200 square metres. The planning proposal also proposes to allow only dual occupancies (attached) within RU2 – Rural Landscape zone.

The inconsistency of the proposal with the direction is justified by the Liverpool Rural Lands Study 2012. The approval of the Secretary's delegate is recommended in this report.

2.1 Environmental Protection Zones

This direction applies when a planning proposal proposes to reduce an existing environmental protection zoned land or reduces the environmental protection standards.

Council has advised that RU2 – Rural Landscape zoned land under Liverpool LEP 2008 contains some environmentally sensitive land.

It is noted that any development application on Environmentally significant land will be subject to controls under Clause 7.6 Environmentally significant land of the Liverpool LEP 2008, such as location of flora and fauna, retention of any vegetation on the land, effect of the development on upstream or downstream water body, water quality and aquatic ecosystems and public access. Clause 7.31 – Earthworks of the Liverpool LEP 2008 also controls development on environmentally sensitive land.

Further, the proposed DCP amendment will require future applications to 'locate secondary dwellings to minimise impacts on remnant Cumberland Plain Woodland and other environmentally sensitive areas, and to avoid bushfire hazard.'

In light of above, the planning proposal is not considered to be inconsistent with the direction.

2.3 Heritage Conservation

This direction applies when a planning proposal contains any item of heritage significance.

This direction applies in this instance as the planning proposal includes land where an item of local heritage significance is located (i.e listed under Schedule 5 of Liverpool LEP 2008, known as the Virgin Church and Cemetery Group, item No 23). The Heritage Council is also considering a nomination for listing this item on the State Heritage Register because of its high historical and aesthetic significance and strong associations with the nearby Denham Court, which is listed on the State Heritage Register.

Council has consulted with the Heritage Division, Office of Environment and Heritage, who advised that "if Council decides to pursue these amendments to the Liverpool LEP 2008, the Heritage Division recommends that Council implements a mechanism to protect and preserve the rural landscape and its attributes, particularly within the vicinity of the heritage items, such as retention of existing gross floor area of 60sqm for secondary dwellings, or excluding secondary dwellings on land below a certain land size to effectively exclude the allotments surrounding the Mary the Virgin Church and Cemetery Group."

It is considered that the Heritage Division's concern regarding protection of rural landscape will be subject to Clause 7.6 Environmentally significant land, Clause 7.31 of the Liverpool LEP 2008 Earthworks, which controls development on environmentally sensitive land (as explained under 117 Direction Environmental Protection Zones of this report) and by amendment to Council's Development Control Plan 2008 as explained in Consistency with strategic framework of the planning proposal section of this report.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **No maps require modification pursuant to this amendment at this stage.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has advised that the Gateway Determination will specify the community consultation period. Given the nature of the Planning Proposal, it is recommended that it should be placed on public exhibition for a minimum of 14 days.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The Liverpool principal plan was made in 2008. This planning proposal seeks to amend the Liverpool Local Environmental Plan 2008.

Assessment Criteria

Need for planning proposal :

As stated under the statement of objectives of this report, the main purpose of this amendment is to align the restrictions on the size of secondary dwellings on RU2 – Rural Landscape zoned land more closely to that of other rural land with the Liverpool LGA. All RU2 – Rural Landscape zoned land by Liverpool LEP 2008, is located within the Denham Court precinct, which contains areas of rural landscape. The proposal seeks to balance between providing more housing in the Liverpool LGA and maintain the rural character of the Denham Court area. To minimise the cumulative impact of large unattached secondary dwellings, the proposed amendment seeks to limit secondary dwellings to attached dwellings with a maximum gross floor area of 200 square metres.

Consistency with strategic planning framework :

DRAFT METROPOLITAN STRATEGY FOR SYDNEY 2031 AND DRAFT SOUTH WEST SUBREGIONAL STRATEGY

The planning proposal is not considered to be inconsistent with both draft Metropolitan Strategy for Sydney 2031 and the draft South West Sub-regional Strategy.

Further, the draft planning proposal is consistent with the findings and objectives of Council studies and policies, including Growth Liverpool 2023, Liverpool Rural Lands Study 2012, and Rural Lands Study (2007).

The planning proposal seeks to achieve a balance between the permissible size of a dual occupancy on RU2 – Rural Landscape zone in line with the objective of the zone i.e. "To maintain the rural landscape of the land". The planning proposal also seeks a balance between the size of dual occupancies permitted in the other rural zones, (350sqm and unlimited on RU1 – Primary Production zoned land outside the South West Growth Centre) and the rural landscape values of the RU2 – Rural Landscape zone. Bulk and scale impact are mitigated by prohibiting the building of detached dual-occupancies, and permitting only attached dual-occupancies.

Council has further advised that it is also proposed to amend Section 9.1 of Part 5 of Liverpool Development Control Plan 2008 (Development in Rural and Environment Zones) to impose controls to protect the rural visual character of the RU2 – Rural Landscape zone:

It is considered that the proposed DCP amendments, and the existing controls under the Liverpool LEP 2008 - Clause 7.6 Environmentally significant land and Clause 7.31 Earthworks of the Liverpool LEP 2008 (as explained under 117 Direction Environmental Protection Zones) are satisfactory to maintain the rural landscape character of the land.

Environmental social economic impacts :

ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACTS

It is considered that there are no likely environmental impacts from the proposal, as these will be addressed by Clause 7.6 Environmentally significant land, Clause 7.31 of the Liverpool LEP 2008 Earthworks, which controls development on environmentally sensitive land (as explained under 117 Direction Environmental Protection Zones of this report) and by the proposed amendments to Council's Development Control Plan 2008.

Further, this report recommends that the planning proposal, before exhibition, be discussed with the Heritage Division (OEH) regarding the retention of existing clauses

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applying to heritage items.

Increase in the size of secondary dwellings on RU2 – Rural Landscape zoned land will provide positive economic impact.

It is considered that there are no likely social impacts arising from the planning proposal.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage**
Adjoining LGAs

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Council Resolution.pdf	Determination Document	Yes
Council's Planning Report.pdf	Determination Document	Yes
Relevant extracts from LLEP 2008.pdf	Determination Document	Yes
Clause 7.6 Environmentally significant land of LLEP	Determination Document	Yes
2008.pdf		
Clause 7.31 Earthworks of LLEP 2008.pdf	Determination Document	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: 1.2 Rural Zones
 2.1 Environment Protection Zones
 2.3 Heritage Conservation

Additional Information : **Recommendation:**

It is recommended that the planning proposal proceed subject to the following conditions:

1. Before planning proposal is placed on exhibition, Council is to:

- amend the land use table for RU2 – Rural Landscape by replacing ‘Dual occupancies’ with ‘Dual occupancies (attached)’ under item 3 ‘Permitted with consent’ of the Land Use Table.
- include provisions to preserve the rural landscape and its attributes in and around the vicinity of heritage items such as retention of the existing gross floor area of 60sqm for secondary dwellings or excluding secondary dwellings on land below a certain land size in consultation with the Heritage Division, Office of the Environment and Heritage.

2. The Secretary’s delegate pursuant to the item (5) (b) of section 117(2) Direction - 1.2 Rural Zones agrees that the inconsistency in this instance is justified by a study prepared by Council.

3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- Campbelltown Council
- Office of Heritage

The agencies are to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. The planning proposal is exhibited for 14 days.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The timeframe for completing the Local Environmental Plan is to be 6 months from the week following the date of the Gateway determination.

DELEGATION TO COUNCIL

Council requested to use delegation to proceed with the planning proposal (see attached Documents).

It is recommended that delegation be given to Council to exercise the Minister’s plan making powers under section 59 of the EP&A Act, in this instance.

Supporting Reasons : **The planning proposal is supported as:**

- Dual occupancy development would be appropriately controlled in RU2 – Rural Landscape zoned area in line with the other rural residential zones;
- Visual amenity heritage and predominant landscape character of the Denham Court district will be maintained.

Signature:



Printed Name:

CHO CHO MYINT

Date:

10/9/14