

- Ensure the provision of access of residents to utility services and facilities, and
 - Protect land likely to undergo future development.
2. Notes that residential densities and scale should be appropriately controlled in rural areas in accordance with state controls, such as Ministerial Direction 1.5 rural Lands, State Environmental Planning Policy (Rural Lands) 2008, and State Environmental Planning Policy Sydney Region Growth Centres 2006.
 3. Notes the visual amenity of the Denham Court district and the need to ensure that the predominant landscape character of this area of Scenic Hills is maintained and that the imposition of additional dwellings into this significant landscape detracts from this character.
 4. Notes that Amendment 28 which is currently with Planning and Infrastructure will amend the LEP to deliver greater flexibility in accordance with these principles and policies.

REPORT

Background

This report addresses matter number 1 of Notice of Motion NOMO 01, from the 23 December 2013 Council meeting where it was resolved that Council:

1. *Prepares a report for the March 2014 Council meeting that details the rationale behind the imposition of maximum size restrictions in rural areas, and the merits and challenges of adjusting the maximum size in each of the rural zones and relevant Development Control Plans.*

At its meeting dated 28 September 2011, Council resolved to undertake a review of rural land use planning. The RLS was adopted by Council at its 29 May 2013 meeting. Within the same report Council adopted a number of changes to Council's planning framework (Amendment 28). This amendment is currently being finalised by Planning and Infrastructure.

Amendment 28 will introduce the following increases to the maximum dual-occupancy gross floor areas (GFA, please see Figure 1):

- RU1 zoned land outside the South West Growth Centres = unlimited.
- RU1 and RU4 zoned land within the South West Growth Centre that has not as yet released by the Minister (outlined in blue on Figure 1) = 350 square metres.
- RU4 zoned land outside the South West Growth Centres = 350 square metres.
- RU2 zoned land = 60 square metres.

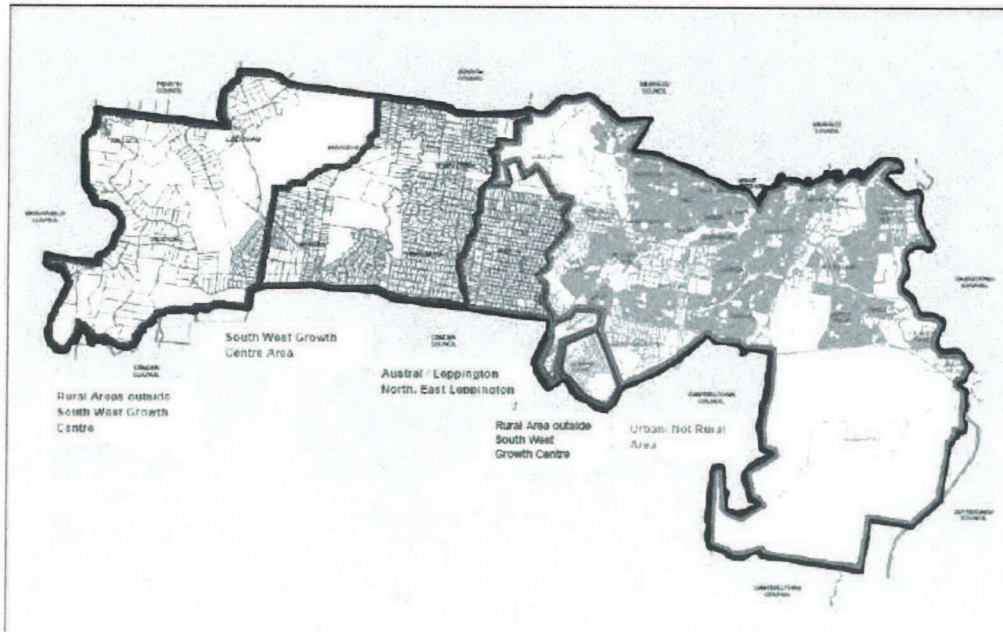


Figure 1: Rural Planning Districts

By way of definitions, a “dual-occupancy” refers to two dwellings on one lot, whether attached or detached. A “secondary dwelling” is a type of dual-occupancy in which the secondary dwellings are restricted in GFA in relation to the primary (other) dwelling. Secondary dwellings are often colloquially referred to as “Granny Flats”.

1. Residential restrictions in rural zones.

The following table summarises the relevant controls in relation to dual-occupancies and secondary dwellings within the three rural zones RU1, RU2 and RU4 plus the R5 Large Lot Residential zone.

Zone	RU1 Primary Production	RU2 Rural Landscape	RU4 Primary Prod. Small Lots	R5 Large Lot Residential
Min. Lot Size	40 ha	2ha	10ha	1-2ha in Bringelly, 1ha in Denham Court)
Min. Residential Lot Size (Cl. 7.10) for dual-occs (& no strata subdivision below min lot	10ha	2ha	2ha	Not applicable

Zone	RU1 Primary Production	RU2 Rural Landscape	RU4 Primary Prod. Small Lots	R5 Large Lot Residential
size)				
Max. GFA for at least one dwelling within a dual-occ. (Cl. 7.24) – current controls	150m ²	60m ²	150m ²	GFA depends on Setbacks (DCP Part 3.1, Section 3) -12m front & rear; 5m side
Proposed Max. GFA under Amendment 28	Unlimited (or 350m ² in South West Growth Centre)	60m ²	350m ²	1ha for attached dual-occupancy, or 2ha for detached dual occ.

Note: Liverpool Development Control Plan 2008, Part 3.1 and 5 provide controls with regard to setbacks, design and size of dual-occupancies.

Rationale

The broad rationale behind controls on the size of dual occupancy development is to minimise the impact of dwellings on:

- 1) **Agriculture.** The NSW Department of Primary Industry supports the supply of intensive small lot agriculture, and notes that agricultural viability can be compromised by large dual occupancies. Soil class 1 is considered optimum for agriculture. Poorer classes of soil have a lessened claim on the priority of agricultural use over other uses. It is noted that a well placed dwellings can have minimal impact on agricultural viability of the land dependent on site planning.
- 2) **Visual Character.** The rural character is the attractor for many seeking to live in rural areas. This is especially clear in the RU2 Rural landscape zone, where dual-occupancies are restricted to a GFA of 60m² to retain aesthetic amenity for landowners and the community.

A visual assessment of the scenic quality of rural lands was undertaken in the 1994 Liverpool Rural Lands Study (RLS) in accordance with the methodology outlined within the Rural Land Evaluation Manual (DoP, 1998). The recent RLS uses this assessment to map constraints. It assesses visual quality of such matters as major/minor ridge lines, vegetation, water bodies, and creeks. Information regarding slope, elevation and land use were also factors in assessing the visual quality of views. The scenic quality was given a high, medium or low category.

The Rural Lands Study (Don Fox, 2007) concludes:

Areas of high visibility with quality natural settings should be protected where possible and as such these areas will be constrained for further subdivision.

- 3) **Topography and drainage.** Increased local runoff and flood levels in the catchment result from increasing impervious areas. The NSW Office of Environment and Heritage and Councils floodplain catchment management strategies apply in this case. This principle seeks to minimise development on steeply sloping land and to ensure that runoff created by impervious areas is managed appropriately.
- 4) **Vegetation.** Development is to be planned to minimise impacts on remnant Cumberland Plain Woodland and other environmentally sensitive areas. The Rural Lands Study (Don Fox, 2007) concludes:

It is considered appropriate to maintain large lot sizes in areas where there are large tracts of remnant bushland.

- 5) **Services and facilities.** Access of residents to services and facilities is to be ensured. In particular, many rural areas lack basic utility services such as sewer, in turn this requires the on-site treatment and disposal of effluent, which can have environmental impacts particularly on sloping sites, sites subject to flood inundation or smaller sites.
- 6) **Future development** of the land. It is noted that a substantial portion of Liverpool's rural area is identified within the South West Growth Centre. As these areas are rezoned and urban development is being carried out, large existing improvements can increase the challenges into the future. These improvements can impact on master-planning, land acquisition costs, and provision of critical infrastructure.
- 7) **Australian Noise Exposure Forecast (ANEF)** The is mapping within the LLEP 2008 which shows areas affected by the noise forecast related to the planned Badgerys Creek Airport in Liverpool's west. Restrictions therefore apply to introducing housing into areas where the ANEF 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.
- 8) **Bushfire hazard.** Associated with the grasslands and bushlands throughout the rural area, there is a bushfire hazard map. The Rural Lands Study (Don Fox, 2007) concludes:

...it is not considered good practice to reduce the minimum lot size of subdivision in areas that are constrained by bushfire hazard.

Note: It is noted that these impacts can in some ways be minimised through proper siting of the dwellings on the land through merit assessment. As such, it was considered acceptable through Amendment 28 to increase the maximum dual occupancy size to 350m² in the RU1 Primary Production zone within the South West Growth Centre area and in the RU4 Primary Production Small Lots zone.

Residential Density in rural areas

Within each zone, the rationale for residential densities generally stems from the objectives for that zone.

RU1 Primary Production

- Zone objectives include:
 - * minimise fragmentation / alienation of resource lands,
 - * do not unreasonably increase demand for public services and facilities,
 - * preserve bushland, wildlife corridors and natural habitat.
- The minimum lot size for the RU1 zone is required to be 40ha to comply with the Section 117 Directions and NSW Department of Agriculture provisions.
- This zone covers land used for most kinds of commercial primary industry production, including extensive agriculture, intensive livestock and intensive plant agriculture, aquaculture, forestry, mining and extractive industries. The zone is aimed at utilising the natural resource base in a sustainable manner.
- The RU1 zone has been applied to land suitable for primary production, private recreational pursuits and with potential for extractive industry. Limiting further fragmentation of land and urban development is considered appropriate in the context of land capability and relevant state policy.

RU2 Rural Landscape

- Zone objectives include:
 - * maintain the rural landscape character,
 - * maintain & enhance the natural resource base.
- The RU2 zone is applied to rural land that has agricultural values along with ecological or scenic landscape qualities that has been conserved (often due to topography).
- It is noted that these lots within Denham Court are often sloping, are mostly around 2ha in size and have been developed with large principle dwellings.
- The boundaries between the RU2, RU1 and R5 zones of Denham Court are basically defined by the ridgeline and associated high/visible land that follows the line of Fox Valley Road.
- To the west of the RU2 zone is the RU1 zone, on relatively low, flatter (2% slope) land sloping down from the RL90 to Camden Valley Way and Denham Court Road at approx. RL80 and approx. 600m away.
- The ridgeline land either side of Fox Valley Road is of poor (Erosional Luddenham) fertility soil and steeply sloping (6-12% to the west of the road and 14% to the east). The land to the east of Denham Court Road south also slopes

eastward at approximately 14%. The RU2 land is therefore not particularly suited to active agricultural pursuits, however some hobby farming activities are supportable. There are also large areas of environmentally sensitive land.

- Due to these slopes, areas of medium and high visual significance exist within the RU2 zone. In terms of visual impact, the ridge land mostly presents as a forested vegetated horizon line as seen from the east and west. See photographs in Attachment 1. It creates a framed visual catchment viewed from the lower lands of the vicinity and the region. The character is naturally rural (especially to the west) and bushland (especially to the east). It is well suited to the objective of the RU2 to maintain the rural landscape character of the district. The ridge line's ecological and scenic landscape qualities have been conserved. The style of well-vegetated, steeply-sloping land is valuable for its contribution to the rural landscape character of the area. Further, its RU2 zoning has been supported by the strategic context.

RU4 Primary Production Small Lots

- Zone objectives include:
 - * promote primary industry, particularly smaller lots or more intensive in nature,
 - * minimise conflict with adjoining zones.
- This zone is for land which is to be used for commercial primary industry production, including emerging primary industries and agricultural uses that operate on smaller rural holdings. The objectives of the zone encourage employment opportunities in relation to primary production on small lots and to minimise fragmentation and alienation of resource lands important for food security.
- A number of Liverpool's perishable vegetables are produced within Liverpool RU4 zoned land.
- Further the majority of the RU4 is earmarked for future urban development within the South West Growth Centre and as such the permissible land uses and minimum subdivision lot size should be retained.
- Small lots are conducive to greater residential density.

R5 Rural Residential

- Many factors are considered when determining the appropriate application of the R5 zone, including access to utility services, existing and desired character, predominate lot sizes and surrounding land uses. Lot sizes are varied within the zone depending on the servicing availability and other factors such as topography, native vegetation characteristics and surrounding agricultural land uses.

- The Denham Court and Dwyer Road precinct retain minimum lot size as servicing is limited and there is no reticulated sewerage system in place. The demand for rural lifestyle housing continues to be strong and as such it is recommended that the current DCP controls pertaining to development of housing, particularly those relating to dual occupancies are further clarified.

Liverpool Local Environmental Plan 2008 (Amendment 28)

The following updated clauses will apply once Amendment 28 is gazette:

Clause 7.10 Minimum allotment size for dual occupancies in rural zones

- (1) *The objective of this clause is to maintain opportunities for productive rural and urban fringe uses by providing certainty about the land area required for two dwellings to be on a single lot in rural zones.*

Clause 7.24 Dual occupancies in Zones RU1, RU2 and RU4

- (1) *For RU1 and RU4 land within the South West Growth Centre that has not as yet released by the Minister (outlined in blue on Figure 1); amend the dwelling maximum gross floor area restriction from 150 square metres to 350 square metres*

- (2) *For RU1 zoned land outside the Growth Centres delete the 150sqm gross floor area dwelling restriction for dual occupancies.*

- (3) *For RU4 zoned land outside the Growth Centres (outlined in brown on Figure 3) increase dwelling gross floor area restriction from 150 square metres to 350 square metres.*

- (4) *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.*

The broader context of recognition and protection of rural lands is addressed in:

- Section 117(2) Ministerial directions - Ministerial direction 1.5 Rural Lands, and
- State Environmental Planning Policy Sydney Region Growth Centres 2006.

With regard to the South West Growth Centre, it is important for Liverpool Council to ensure that development applications on land currently zoned RU1 Primary Production and RU4 – Primary Production Small Lots located within the South-West Growth Centre does not preclude the orderly and economic development for future urban uses of this land.

The non-urban land located within the South West Growth Centre is appropriately zoned to ensure these objectives are observed.

Conclusion

There is a sound rationale to the zoning and controls in Liverpool's rural areas. These controls have been recently reviewed and amended following the *Liverpool Rural Lands Study 2012*.

In general, planning in rural zones should primarily aim to:

- protect agricultural pursuits on good quality, large-lot land,
- protect the rural/vegetated visual character of prominent land,
- protect steeply sloping land from runoff created by impervious areas
- maintain large lot sizes in areas where there are large tracts of remnant bushland and environmentally sensitive land,
- ensure the provision of access of residents to utility services and facilities, and
- protect land likely to undergo future development.

This means that residential densities and scale should be appropriately controlled in these areas. State controls, such as Ministerial Direction 1.5 Rural Lands, State Environmental Planning Policy (Rural Lands) 2008, and State Environmental Planning Policy Sydney Region Growth Centres 2006 support the primacy of rural uses of rural land.

In Denham Court, the current boundary between R5 and RU2 was established under a visual quality assessment of district views (consistent with the Rural Lands Evaluation Manual (DP&I)). The Fox Valley Road ridge line (the northern extent of land referred to as the Scenic Hills) is a visually prominent landscape structure in the district surrounding, seen from both the east and west. The predominant desired character of the Scenic Hills is as a grassy, rural backdrop to various urban view situations, as this was the original character of much of the land. More recent development has added both greater tree cover and more residences. Further imposition of additional dwellings into this significant landscape is not supported.

The boundaries between the RU2, RU1 and R5 zones of Denham Court are basically defined by the ridgeline and associated high/visible land that follows the line of Fox Valley Road. The RU2 land slopes 6-12% westward of the Road and 14% to the east. The zone ends generally where the land flattens out, and contains some protected vegetation and some flood prone land.

It is for these reasons that the current lot size and floor space controls for dual-occupancies and secondary dwellings as modified by Amendment 28 are considered appropriate. There is no reason to make further changes to these controls or the zoning of Liverpool's rural areas.

CONSIDERATIONS

Economic and Financial	There are no economic and financial considerations.
Environmental and Sustainability	Retain viable opportunities for local food production while managing land use to meet urban growth. Protect, enhance and maintain areas of endangered ecological communities and high quality bushland as part of an attractive mix of land uses. Raise community awareness and support action in relation to environmental issues.
Social and Cultural	Preserve and maintain heritage, both landscape and cultural as urban development takes place.
Civic Leadership and Governance	Act as an environmental leader in the community.

ATTACHMENTS

1. Rural Residential densities in rural and R5 zones - rationale

Attachment 1 - Strategic context of Denham Court.

- The *Sydney Regional Outlook Plan 1968* originally identified the elevated area of Denham Court as a continuation of what became known as the Western Sydney parklands. See Figure 5. The purpose of these open space corridors was "to break up the continuous stretch of the suburbs and to promote a civic consciousness".
- The *1994 Liverpool Rural Lands Study* was informed by a visual quality assessment (consistent with the Rural Lands Evaluation Manual (DP&I)). District views were assessed, and as a result, the current boundary between R5 and RU2 was established under the *Liverpool Local Environmental plan 1997* (as 1(d) and 1(c) respectively).
- The *South West Subregional Strategy* identifies the ridge line as part of the catchment management boundary between the Nepean and Georges Rivers. This implies it is the high point for the two surrounding catchments and is therefore topographically prominent. See Figure 4.
- The Richard Lamb visual impact assessment entitled, *Residential Re-Zoning - Stockland site, Leppington East*, (RLA, June 2012) describes the visual significance of the ridge line (pages 8 and 9):

The [Scenic Hills] as a landscape structure run south west from south of Liverpool to about Mt Annan.

Topographically ... they appear to be hills when seen from the east in the Georges River catchment and relatively flat to undulating topography when seen from the west, although there are some residual hilltops along the range such as Badgalley Hill, Bunbury Curren Hill and the hill at Raby Reservoir (unnamed), to the north. The area most prominent in views to the north and north west from the residential area of Ingleburn, including part of Varroville and Bunbury Curren Hill, is zoned 6(d) in the LEP.

The assessment notes that residential and rural residential development in the visual catchment of the Scenic Hills has subjected them to closer planning "scrutiny". For example, they are relevant to developments such as Ingleburn Gardens, Macquarie Links, Macquarie Field House curtilage and the Meehan Estate seen from the east, as well as to views from the south west freeway. A study by Wellings, Smith and Byrnes, (1990) is referenced as concluding that,

...the predominant desired character of the Scenic Hills was as a grassy, rural backdrop to various urban view situations, given that this was the original character of much of the land.

The Wellings Smith and Byrnes concept of the desired character of the Scenic Hills also needs to be considered with respect to the changing character of the rural landscape in the intervening period. Two significant influences have been rural residential expansion pressure and changes in rural economics. The first lead to the intensification of use of substantial areas of rural land and a significant change in its

character to a more urban one, consistent with its underlying rural character. The second has lead to reduction in grassed landscapes and the reestablishment of significant areas of vegetation, mostly indigenous, on land that has been changed in rural use, become marginal from an agricultural use perspective or simply uneconomic to farm.

The RLA assessment concludes:

While the desire to retain a rural background to views remains valid, the character of that rural landscape is changing. The changes are caused by processes that are outside the influence of planning controls (ie. the change is in response to rural economics and also the impact on that of urbanisation). It is not possible to mandate a grassy, grazed landscape, or a past, cultural landscape, but only to find ways to facilitate this appearance...

The Increasing presence of woodland and forest vegetation for example is a change that is occurring and is also considered by most contemporary viewers as a desirable change because of the scenic and ecological benefits. Increasing vegetation presence is also a legitimate means to control the visibility of development in the rural landscape as a result and would not be inconsistent with the objectives of the present zoning of the land.

Figure 1: Relationship of zones and roads

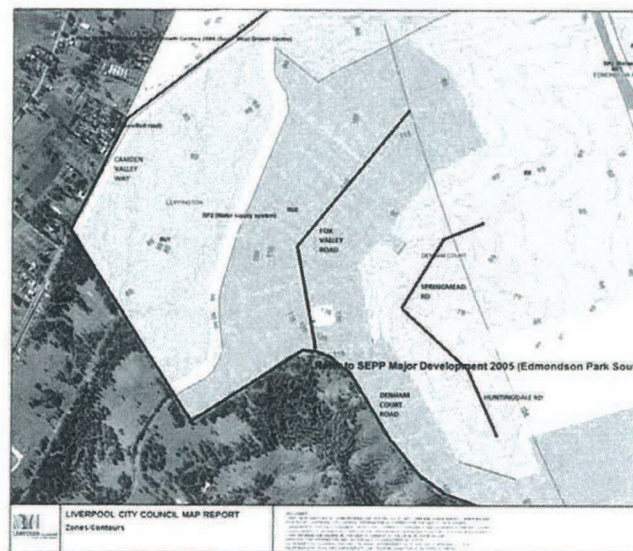


Figure 2: ESL lands (green patches)



Photograph 1: View from west up to ridgeline



Photograph 2: View from southeast with ridgeline as backdrop



Photograph 3: Fox Valley Road as it follows the spur of the ridge line.



Figure 3: Liverpool Local Environmental Plan 1997



Figure 4: from South West Subregional Strategy (DP&I)

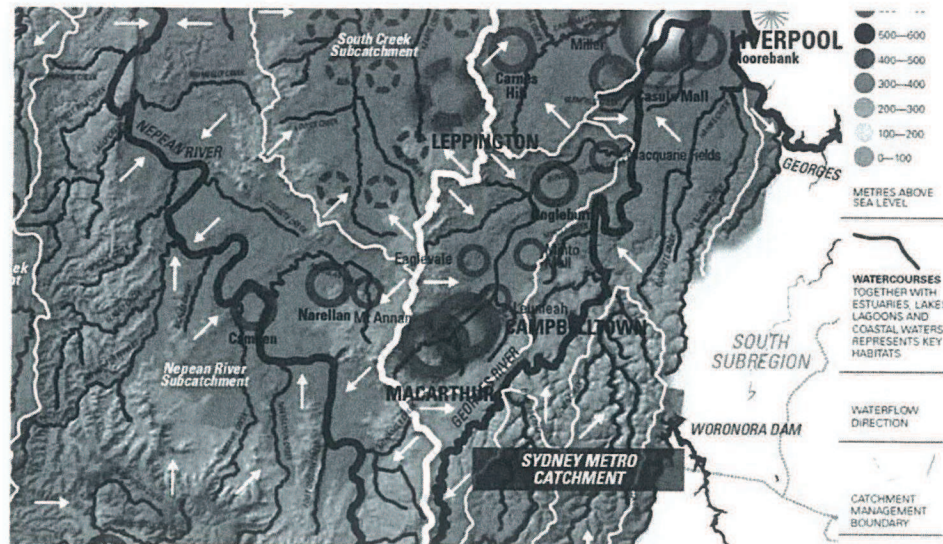


Figure 5: from Sydney Regional Outlook Plan 1968 (State Planning Authority)

