

Planning Proposal

Draft Liverpool LEP 2008 Amendment No. 48

RU2 – Rural Landscape zoned land

***To amend Liverpool Local Environmental Plan 2008,
Clause 7.24 – Dual Occupancies in Zones RU1, RU2
and RU4 to permit attached dual occupancies of up to
200sqm on land zoned RU2 – Rural Landscape***

May 2014

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Background

At its meeting dated 28 September 2011, Council resolved to undertake a review of rural land use planning. Although the resolution was to investigate specific matters, Council took the opportunity to update the strategic policy relating to rural lands being the Liverpool Rural Lands Study 2007 (RLS 2007).

The Liverpool Rural Lands Study 2012 (RLS), was adopted by Council on 29 May 2013 as part of which Council adopted a number of changes to Council's planning framework.

Following the adoption of RLS 2012, Draft Liverpool Local Environmental Plan (LLEP) 2008 Amendment 28 was prepared to increase the size of dual-occupancies on rural zoned land under LLEP 2008 as follows:

- RU1 – Primary Production zoned land outside the South West Growth Centres: unlimited
- RU1 – Primary Production and RU4 – Primary Production Small Lots zoned land within the South West Growth Centre that has not as yet been released by the Minister (outlined in blue on Figure 1 below): 350 square metres
- RU4 – Primary Production Small Lots zoned land outside the South West Growth Centres: 350 square metres
- RU2 – Rural Landscape zoned land: 60 square metres.

Amendment 28 was made by NSW Planning and Infrastructure on 4 April 2014.

Council at its meeting of 23 December 2013 requested the preparation of a report that detailed the rationale behind the imposition of maximum dual-occupancy residential size restrictions in rural and rural-residential areas, and the merits and challenges of adjusting the maximum size in each of the rural zones and the relevant Development Control Plan.

Council at its Ordinary Meeting of 26 March, 2014 noted the report (Planning and Growth Report GMPG07) and resolved in part:

- 3. Prepare and submit to the NSW Department of Planning and Infrastructure a planning proposal to apply to all land zoned RU2 Rural Landscape which makes permissible with consent, development for the purpose of a dual occupancy with a maximum gross floor area of 200sqm. The planning proposal is to make clear that this provision is to make permissible with consent attached dual occupancy.*

Summary

Draft LLEP 2008 (Amendment 48) is designed to align the restrictions on the size of secondary dwellings on RU2 – Rural Landscape zoned land more closely to that of other rural residential land within the Liverpool LGA. All RU2 – Rural Landscape zoned by LLEP 2008 land is located within the Denham Court precinct, which contains areas of outstanding natural beauty and high quality architectural design.

This proposal seeks a balance between providing more housing in the Liverpool local government area and maintaining the rural character of the Denham Court area. To minimise the cumulative impact of large unattached secondary

dwelling, the proposed amendment seeks to limit secondary dwellings to attached dwellings with a maximum gross floor area of 200 square metres.

It is to be noted that a proposed amendment to the LDCP 2008 will aim to ensure that secondary dwellings do not have a negative impact upon the physical and built environment in which they lie, and not detract from their visual context.

Draft LLEP 2008 (Amendment 48) is consistent with findings and objectives of Council studies and policies, including, *Growing Liverpool 2023*, *Liverpool Rural Lands Study 2012*, and *Rural Lands Study* (Don Fox, 2007).

Delegation:

Council is seeking an Authorisation to make the plan changes.

Site Identification

The planning proposal applies to all RU2 – Rural Landscape zoned land zoned by LLEP 2008, which is an area of approximately 220ha at Denham Court (see Figure 1 below)

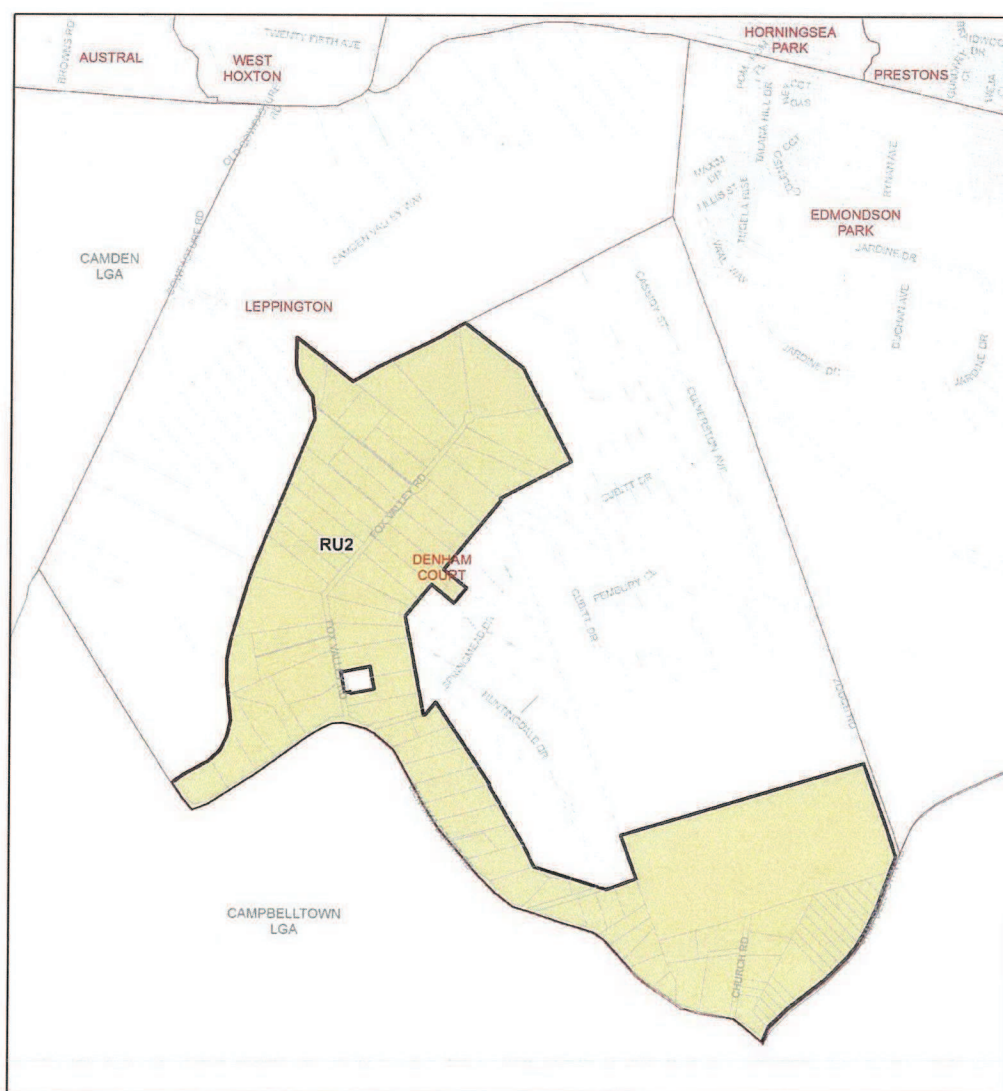


Figure 1: RU2 – Rural Landscape zoned land zoned by LLEP 2008

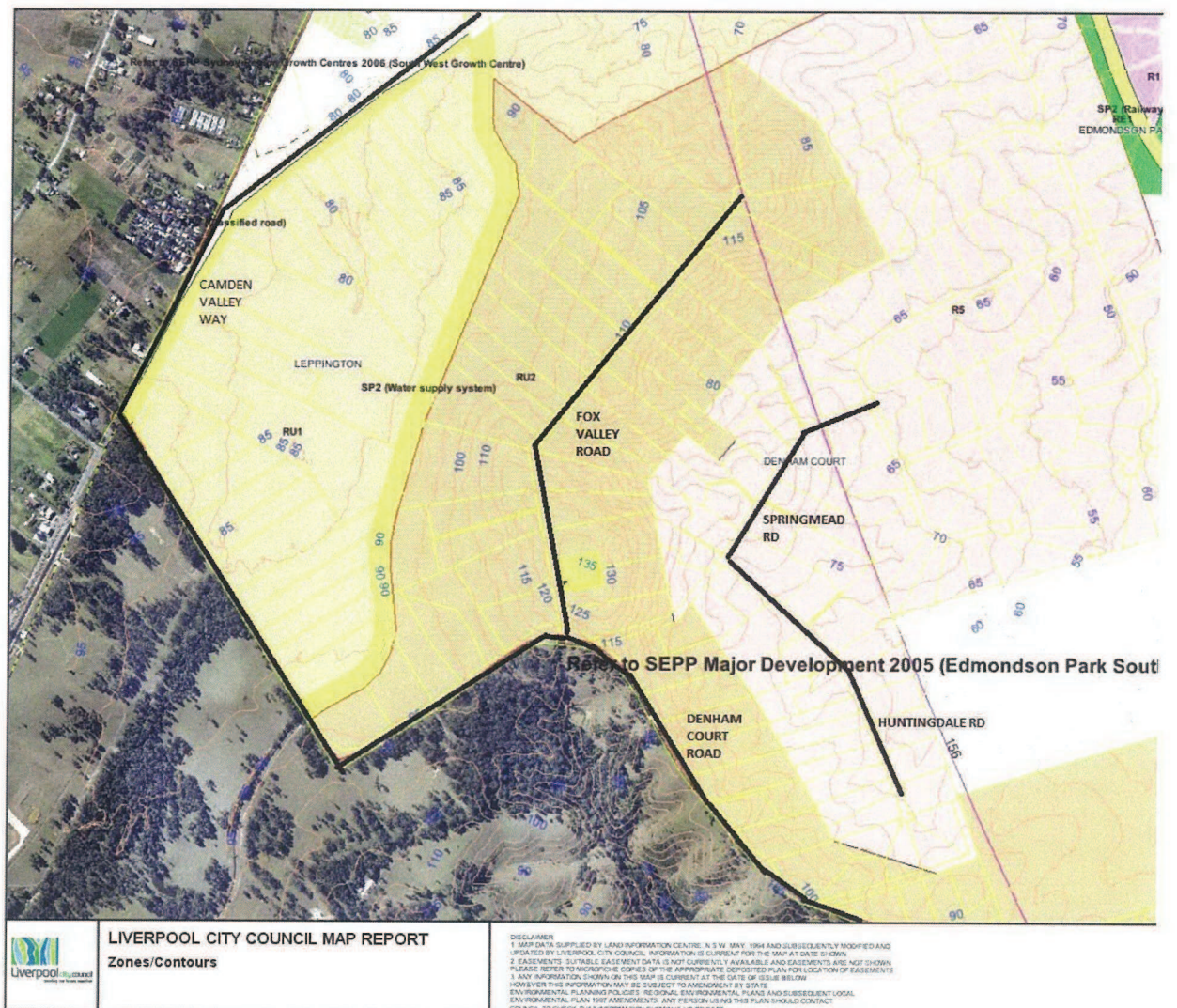


Figure 2: RU2 – Rural Landscape zone defined by ridges/streets of Denham Court district

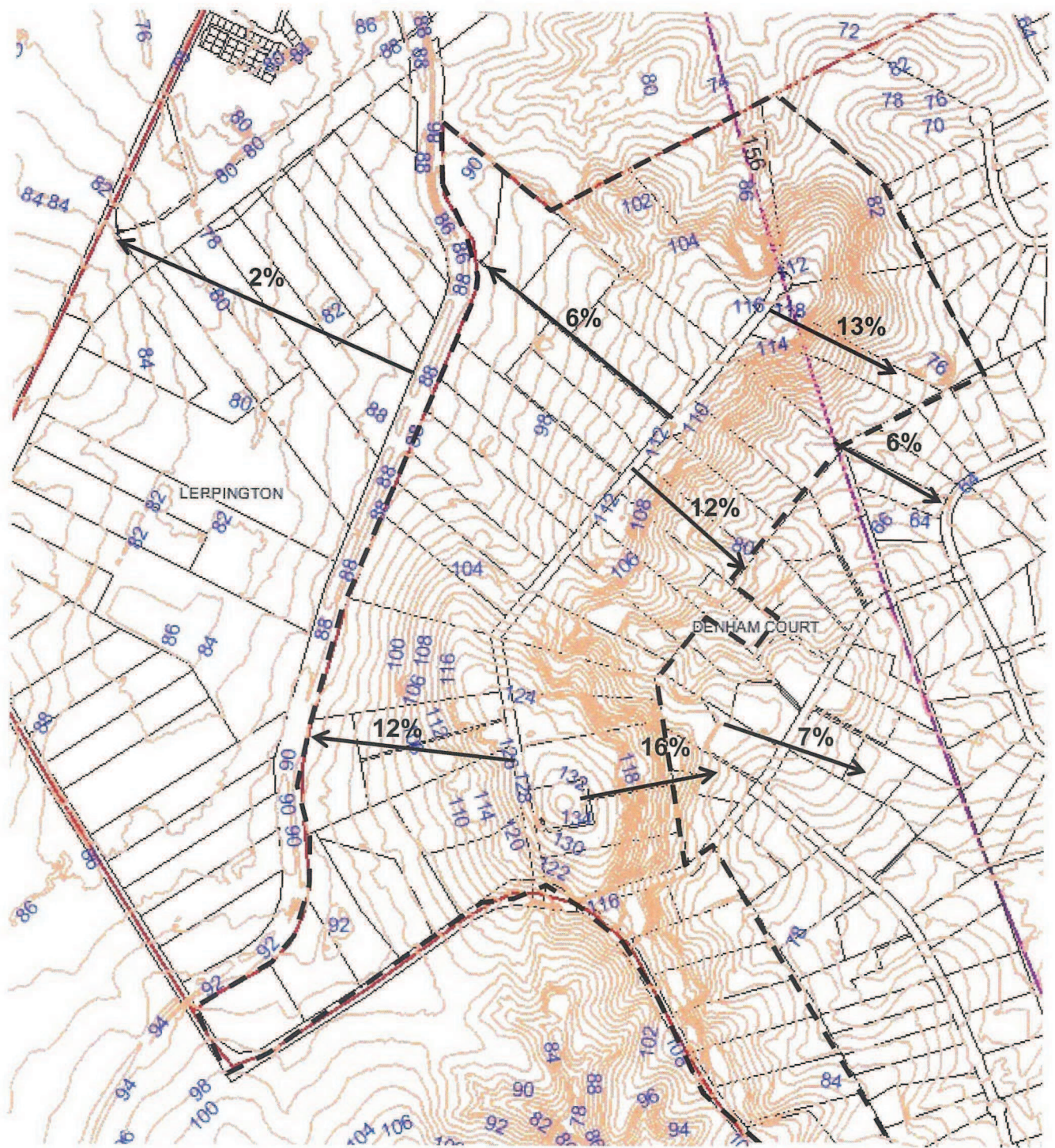


Figure 3: RU2 zone partly defined by Slope and Prominence



Figure 3: RU2 zone and Environmentally Sensitive Lands (bright green)

Part 1- Objectives

The objective of the Planning Proposal is to:

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 zone to be attached dual occupancies.

The purpose of this amendment is to permit secondary dwellings more consistent with those permissible on other rural or rural residential land zoned by the Liverpool Local Environmental Plan 2008. Gross floor area limits applying to other rural or rural residential zoned land is as follows:

- RU1 – Primary Production: unlimited (or 350sqm in the SW Growth Centre);
- RU4 – Primary Production Small Lots: 350sqm; and
- R5 – Large Lot Residential: unlimited depending on meeting landscaping and setback requirements).

It is also intended to limit the visual, environmental and density impacts of residential development within the RU2 zone.

Part 2- Explanation of provisions

To amend Liverpool Local Environmental Plan 2008, Clause 7.24 - *Dual occupancies in Zones RU1, RU2 and RU4* as follows:

Current	Proposed
(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 <u>60 square metres</u> .	(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 <u>200 square metres</u> . All dual occupancies within the RU2 zone must be attached.

Part 3- Justification

A. Need for the planning proposal

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

The proposal is not the result of any strategic study. However, Council at its meeting of 23 December 2013 requested the preparation of a report that detailed the rationale behind the imposition of maximum dual-occupancy residential size restrictions in rural and rural-residential areas, and the merits and challenges of adjusting the maximum size in each of the rural zones and the relevant Development Control Plan.

Council at its Ordinary Meeting of 26 March 2014 noted the expectations of landowners of RU2 – Rural Landscape zoned properties to be permitted dual-

occupancies more consistent with the 350sqm gross floor area permitted in other rural zones. Council also noted the need to nevertheless mitigate the cumulative impact of the bulk and scale of further building in such a visually sensitive area. Council therefore resolved in part to:

Prepare and submit to the NSW Department of Planning and Infrastructure a planning proposal to apply to all land zoned RU2 Rural Landscape which makes permissible with consent, development for the purpose of a dual occupancy with a maximum gross floor area of 200sqm. The planning proposal is to make clear that this provision is to make permissible with consent attached dual occupancy.

It is proposed to increase the permissible size of a dual occupancy on RU2 – Rural Landscape zoned land from 60sqm to 200sqm. The intent of the modified provision is to mitigate the bulk and scale and visual impact of dual occupancies by requiring them to be attached dwellings.

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

The proposal seeks to achieve a balance between landowners' expectations for rural residential living and the visual character objective of the RU2 – Rural Landscape zone in line with the objective of the zone:

To maintain the rural landscape character of the land.

To achieve this balance, the permissible size of a secondary dwelling is increased from 60sqm, which is regarded as more appropriate to an urban residential scale, to 200sqm. This represents 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 impacts are mitigated by prohibiting the building of detached dual-occupancies, and permitting only attached dual-occupancies.

It is also proposed to amend Section 9.1 of Part 5 of Liverpool Development Control Plan 2008 (Development in Rural and Environmental Zones) to impose controls to protect the rural visual character of the RU2 – Rural Landscape zone. The proposed DCP amendment will address:

- A requirement for a visual impact assessment of bulk, scale, façade, materials, patterns, textures and colours for visual harmony;
- Cumulative impact;
- Minimising development on steeply sloping land to avoid excessive runoff of stormwater;
- Minimising development near remnant Cumberland Plain Woodland and other environmentally sensitive areas, and bushfire hazard; and
- Care in the on-site treatment and disposal of effluent to avoid adverse environmental impacts.

It is considered that with these constraints in place, the proposal will maintain the rural landscape character of the land.

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

The Planning Proposal provides a community benefit by permitting extra housing in an area of Liverpool that provides attractive amenity.

B. Relationship to strategic planning framework.

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)?

Table 8 of the Housing chapter of the draft *South West Subregional Strategy* on housing growth for the south west subregion sets an additional housing target of 66,691 new dwellings by 2031. The amendment will assist in the provision of more housing in the south west subregion.

The Strategy also notes:

In order to contain Sydney's urban footprint and minimise Sydney's environmental footprint, the amount of land used for urban development must be balanced with the many other land use values of the region.

The competing land uses and values are:

- *urban uses such as residential, recreation, employment and transport lands;*
- *rural lands such as agricultural, rural lifestyle housing, extractive industries and mining; and*
- *conservation lands such as biodiversity conservation reserves, scenic landscapes and national parks.*

A Key Direction of the Strategy is also to "Recognise and support the unique rural character of the subregion." The provision of rural lifestyle housing in Denham Court is therefore to be balanced against the conservation of the scenic landscape. To achieve this, the dual occupancies are limited to 200sqm and are to be attached to the principal dwelling. In addition, a set of DCP design and location controls will seek to limit the visual impact of dual occupancies.

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

Growing Liverpool 2023 is Council's Community Strategic Plan, and articulates the goals for the 2013-2023 period. Direction 5 seeks a "Natural sustainable city":

We will create an environmentally healthy, vibrant and sustainable city where our natural environment is valued and protected.

Proposed amendments to LDCP 2008 will protect the rural landscape by:

- requiring that any dual occupancy to be located to "minimise impacts on remnant Cumberland Plain Woodland and other environmentally sensitive areas, and to avoid bushfire hazard." and

- “Locate secondary dwellings to minimise development on steeply sloping land to ensure that runoff created by impervious areas is managed appropriately.

The *Liverpool Rural Lands Study 2012* (LRLS) and the *Rural Lands Study* (Don Fox, 2007) conclude that:

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

The proposed amendment is consistent with policy, in that any dual occupancy will be limited through gross floor area while attached-only dual occupancies will moderate visual impact.

In addition, the proposed DCP amendment proposes the following measures to mitigate the impact of secondary dwellings on the RU2 – Rural Landscape zoned land:

- *In areas of high visibility with quality natural settings, such as elevated, sloping land with natural bushland, secondary dwellings should be visually unobtrusive. For example, bulk, scale, façade, materials, patterns, textures and colours should be visually consistent with the rural visual context. A Visual Impact Assessment addressing these matters should be provided to support a proposed secondary dwelling.*
- *Where the principle dwelling is large by urban standards, the cumulative impact of the bulk and scale of the secondary dwelling should be minimised.*

The Planning Proposal to amend LLEP 2008 and proposed amendment to LDCP 2008 are therefore consistent with Council’s strategic direction.

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

The planning proposal is consistent with all State Environmental Planning Policies.

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

Ministerial Direction 1.5 Rural Lands

The objectives of this direction are to:

- (a) *protect the agricultural production value of rural land,*
- (b) *facilitate the orderly and economic development of rural lands for rural and related purposes.*

Under Clause 3 (3) this direction applies when:

- (a) *a council prepares a draft LEP that affects land within an existing or proposed rural or environment protection zone ...*

Under Clause 4:

A draft LEP to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

Notwithstanding Clause 4, the State Environmental Planning Policy (Rural Lands) 2008, excludes Liverpool LGA from land to which this policy applies.

Ministerial Direction 2.1 Environment Protection Zones

Clause (5) states that:

Draft LEP that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP shall not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).

As shown in Figure 4, RU2 – Rural Landscape zoned land under LLEP 2008 contains some environmentally sensitive land. Clause 7.31 of the LLEP 2008 (Earthworks) controls development on environmentally sensitive land. It is also noted that the proposed DCP amendment will require future applicants to “locate secondary dwellings to minimise impacts on remnant Cumberland Plain Woodland and other environmentally sensitive areas, and to avoid bushfire hazard”.

It is therefore considered that the proposal is consistent with Ministerial Direction 2.1.

C. Environmental, social and economic impact.

The planning proposal to increase the size of secondary dwellings on RU2 – Rural Landscape zoned land will provide access for future residents to the rural landscape of Denham Court. This housing increase will also provide a positive economic impact. As addressed above under Ministerial Direction 2.1 Environment Protection Zones, secondary dwellings will be located to minimise impacts on remnant Cumberland Plain Woodland and other environmentally sensitive areas.

D. State and Commonwealth interests.

Is there adequate public infrastructure for the planning proposal?

RU2 – Rural Landscape zoned land in the Denham Court precinct will retain a minimum lot size of 2 hectares as provision of services is limited and there is no reticulated sewerage system in place. The demand for rural lifestyle housing continues to be strong and as such the future DCP amendment proposes:

Infrastructure

1. *Proposals for dual occupancies must ensure adequate provision of urban services and facilities to the satisfaction of relevant State instruments and Council.*

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?

The proposed LEP amendment will be sent for comment to the State and Commonwealth Public Authorities in accordance with any Gateway determination issued by NSW Department of Planning and Environment.

Part 4- Mapping

No LLEP 2008 maps require modification pursuant to this amendment.

Part 5- Public Consultation

Public consultation is to be consistent with Clause 57 of the Environmental Planning and Assessment Act 1979. The scope of public consultation required would be detailed in the Gateway Determination.

Part 6-Project Timeline

Section 2.6 of *NSW – A Guide to preparing planning proposals (2012)* requires that all Planning Proposals include a proposed timeframe for delivery of the Planning Proposal. Pending any time limit that would be provided by the Gateway Determination, the draft project timetable is presented below:

26 March 2014	Council resolution requesting Planning Proposal
6 May 2014	Planning Proposal sent to Department of Planning and Environment requesting Gateway Determination
18 June 2014*	Agency Consultation to commence
2 July 2014*	Agency Consultation to conclude
23 July 2014*	Community Consultation to commence
6 August 2014*	Community Consultation to conclude
24 September 2014*	Second Council Report

*Pending Gateway Determination