



IRF22/850

Plan finalisation report – PP-2020-3230

Liverpool Environmental Plan 2008 Amendment 88
1370 Camden Valley Way, Leppington

April 2022

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Plan finalisation report – PP-2020-3230

Subtitle: Liverpool Environmental Plan 2008 Amendment 88 1370 Camden Valley Way, Leppington

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Introduction

1.1 Overview

1.1.1 Name of draft LEP

Liverpool Local Environmental Plan 2008 (Amendment No. 88).

The planning proposal seeks to amend the State Environmental Planning Policy (Precincts – Western Parkland City) 2021 (Western Parkland City SEPP) to expand the existing neighbourhood centre area to accommodate additional retail floor area in the precinct whilst reorganising the development of residential, commercial and recreational uses on the site. The proposed rezoning will result in a reduction of a maximum of 21 dwellings in comparison to the existing controls under the Growth Centres SEPP, providing a maximum of 203 dwellings in total on the site. Additionally, approximately 63 additional jobs will be provided through the planning proposal, supporting 155 jobs in total.

1.1.2 Site description

Table 1 Site description

Site Description	The planning proposal (Attachment A) applies to land at 1370 Camden Valley Way, Leppington
Type	Site
Council / LGA	Leppington
LGA	Liverpool City Council

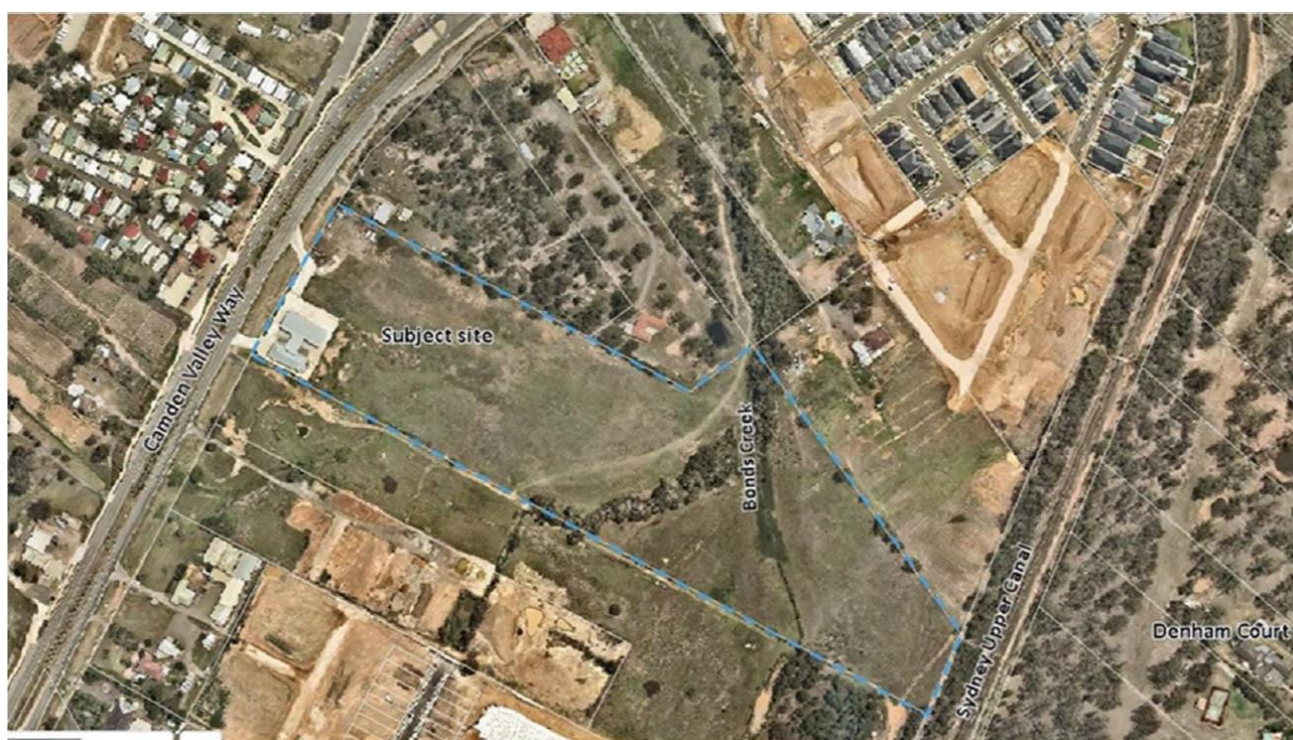


Figure 1 Subject site (outlined in blue)

1.1.3 Purpose of plan

The planning proposal seeks to amend the State Environmental Planning Policy (Precincts – Western Parkland City) 2021 (Western Parkland City SEPP) via the Liverpool Local Environmental Plan 2008 to reorganise the zoning of the site and increase the upper limit of permissible total Gross Floor Area for retail premises. Table 2 below outlines the current and proposed controls for the LEP.

Table 2 Current and proposed controls

Control	Current	Proposed
Zone	RE1 Public Recreation (Approx: 2.08ha) SP2 Infrastructure (Approx: 1.83ha) R3 Medium Density Residential (Approx: 2.26ha) R2 Low Density Residential (Approx: 1.04ha) B1 Neighbourhood Centre (Approx: 1.57ha)	RE1 Public Recreation (Approx: 2.45ha) SP2 Infrastructure (Approx: 1.75ha) R3 Medium Density Residential (Approx: 2.16ha) R2 Low Density Residential (Approx: 0.11ha) B1 Neighbourhood Centre (Approx: 2.32ha)
Maximum height of the building	For B1 Zoned Land – 15m For R3 Zoned Land – 12m For R2 Zoned Land – 9m	For B1 Zoned Land – 15m For R3 Zoned Land – 12m For R2 Zoned Land – 9m
Floor space ratio	N/A	N/A
Residential Density	For R3 zoned land – 25 dwelling/ha	For R3 zoned land – 25 dwelling/ha
Minimum lot size	1,200m ²	N/A
Number of dwellings (total)	224	203
Number of jobs (total)	92	155
Permissible Retail GFA	2,500m ²	4,800m ²

The draft LEP maps are provided at **Attachment Maps** and the draft LEP is provided at **Attachment LEP**.

Development Control Plan

Council has endorsed an amendment to the Liverpool Growth Centres Development Control Plan (Growth Centres DCP) to ensure appropriate development controls are established to support the intent of the draft LEP. The DCP was concurrently exhibited with the planning proposal. The DCP was amended post-exhibition in response to a submission from TfNSW who recommended access to the site from the highway service centre site only be provided off the local road network. Council updated the DCP controls to give effect to TfNSW submission. The proposed amended DCP will

be incorporated under Schedule 3 – East Leppington of the Growth Centres DCP once the LEP is made.

Voluntary Planning Agreement

Council exhibited a local Voluntary Planning Agreement (VPA) concurrently with the planning proposal and execution of the VPA occurred on 11 February 2022. The VPA is in addition to the required monetary contributions payable under Council's Contributions Plan. The VPA seeks to support upgrades and embellishments to the eastern portion of the site (RE1 land) to create more useable public open space. The VPA will enable the delivery of a social court (informal recreation space), walking loop, boardwalk across the riparian corridor and a pedestrian crossing.

1.1.4 State electorate and local member

The site falls within the Macquarie Fields state electorate. Mr Anoulack Chanthivong MP is the State Member.

The site falls within the Macarthur federal electorate. Mike Freelander MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

The Gateway determination issued on 22/12/2020 (**Attachment B**) determined that the proposal should proceed subject to conditions. The Gateway determination was altered on 17/11/2021 to extend the timeframe to finalise the LEP due to local Council elections impacting on the ability for the VPA to be endorsed by Council. The Department supported an extension until 28 February 2022 to submit the proposal to the Department for finalisation. The Department is satisfied that Council has met the conditions of the Gateway determination and the draft LEP is suitable for finalisation.

3 Public exhibition and post-exhibition changes

In accordance with Condition 2 of the Gateway Determination, the proposal was publicly exhibited by Council from 3 September 2021 until 3 October 2021, as required by section 29 of the *Local Government Act 1993*.

One submission was received on the proposal from TfNSW providing comments on the proposal (**Attachment F**). No submissions were received from the community.

3.1 Agency submissions

In accordance with the Gateway determination, Council was required to consult with TfNSW, Campbelltown City Council, Camden Council, Department of Planning and Environment Environment, Energy and Science group (now Environment and Heritage group), Sydney Water and Jemena Gas Network. TfNSW was the only agency to provide a response to Council. Table 4 below outlines their feedback and Council's response.

Table 3 Advice from public authorities

Agency	Agency comment	Council response
TfNSW	<p>Revised traffic impact assessment (TIA) has not assessed the cumulative impacts of the proposed increase to the maximum gross floor area. Additional trips that are external to the precinct are highly likely to be generated given the increase in retail offering proposed, particularly noting the current access proposed from Camden Valley Way (classified road) via the service station.</p>	<p>The increase in retail GFA is anticipated to generate approximately 200 additional vehicle trips per hour. Due to the proposed increase of retail GFA and the increased retail offering, some of these trips may originate from a broader catchment and come from Camden Valley Way via the highway service centre, as opposed to the East Leppington neighbourhood. Council staff consider that this does not warrant a full update of the traffic and transport report prepared for the entirety of the East Leppington precinct. The cumulative traffic impact assessment of the subject development and its impacts on the signalised intersection of Camden Valley Way and the future collector road will be required as part of a future development application.</p> <p>No amendment to the planning proposal is proposed as the cumulative traffic impact due to the retail GFA increase is considered insignificant.</p>
	<p>Future vehicular access to the neighbourhood centre or the rest of the development, from the highway service centre site is not supported. Access should be provided off the local road network. The DCP and Indicative Layout Plan will require amendment accordingly.</p>	<p>The DCP has been amended accordingly.</p>

Agency	Agency comment	Council response
	Future development of the neighbourhood centre should maximise sustainable active transport accessibility.	Figure 2-13: Pedestrian and Cycleway Network and Figure 3-2: Desired Future Layout of the Neighbourhood Centre of the draft DCP proposes amended cycleway and pedestrian linkages to maximise sustainable active transport accessibility to the centre. The amended cycleway and pedestrian network will also facilitate convenient access to the local open space and recreation area for residents.

The Department considers Council has adequately addressed matters raised in submissions from public authorities.

3.2 Post-exhibition changes

Council did not amend the planning proposal or supporting studies in response to TfNSW submission.

At its meeting on 23 February 2022 (**Attachment H**), Council resolved to:

- Note the Gateway determination for Liverpool Local Environmental Plan 2008 (Amendment 88) and the results of public authority consultation and community consultation;
- Proceed with Amendment 88 and delegate authority to the A/CEO (or delegate) to liaise with the Parliamentary Counsel's Office and the Department of Planning and Environment to finalise Amendment 88;
- Adopt amendments to Schedule 3 of the Liverpool Growth Centre Precincts Development Control Plan and delegate authority to the A/CEO (or delegate) to liaise with the Department of Planning and Environment to publish the DCP amendment; and
- Note the supporting planning agreement has been approved by the A/CEO under the delegation of Council from the 26 May 2021 meeting and executed by Council's Power of Attorney.

4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal to ensure that it is suitable for finalisation.

As outlined in the Gateway determination report (**Attachment C**), the planning proposal submitted to the Department for finalisation:

- Remains consistent with the Western Parkland City District Plan.
- Remains consistent with Council's Local Strategic Planning Statement – Connected Liverpool 2050.

The report identified that the proposal is generally consistent with all Section 9.1 Directions, with the exception of Direction 3.1 – Conservation Zones (formerly Direction 2.1 – Environmental Conservation Zones) and Direction 4.1 – Flooding (formerly Direction 4.3 – Flood Prone Land). However, the Gateway determination did not provide conditions requiring the inconsistencies with this direction be addressed prior to public exhibition. Refer to section 4.1 of this report for further details.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1.

Table 4 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Table 5 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

4.1 Detailed assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

Assessment issue	Department’s assessment												
Flooding Consistency with S9.1 Direction 4.1 Flooding (former Direction 4.3 Flood Prone Land)	<p>The Gateway determination report identified that the original planning proposal was inconsistent with Direction 4.3 Flood Prone Land (now Direction 4.1 Flooding) as the land use changes would result in an increase in dwellings in the R3 Medium Density Residential Zone within the Probable Maximum Flood extent. However, the Department notes that the Gateway determination did not require additional justification on this issue to be provided. Instead, the Letter to Council (Attachment E) noted further justification may be required following consultation with Environment and Heritage group. As EHG did not provide a submission on the proposal within the consultation period, Council did not include further justification on the inconsistency with this direction.</p> <p>However, following the proposals submission for finalisation, Council provided further justification on this inconsistency, identifying the number of dwellings impacted by flood events under the existing and proposed controls for the site as shown in Table 6 below.</p> <p>Table 6 Number of dwellings impacted by flood extents</p> <table><tr><th>Flood event</th><th>Dwellings under existing control</th><th>Dwellings under proposed control</th></tr><tr><td>1% AEP</td><td>5 (R2 zone)</td><td>0</td></tr><tr><td>PMF</td><td>28 (R3 zone)</td><td>36 (R3 zone)</td></tr><tr><td>Total</td><td>33 dwellings</td><td>36 dwellings</td></tr></table> <p>While the proposal results in a total net increase of 3 dwellings within the flood prone land, it will remove 5 dwellings from the 1% AEP flood extent through rezoning the R2 Low Density Residential Land to RE1 Recreation in the eastern portion of the site. The Department considers that this increase is of minor significance, as the redistribution of zonings within a rarer flood extent has a reduced risk to human life and property when compared to the 1% AEP flood extent. Further, the Department considers that removing the 5 dwellings outside of the 1% AEP flood extent places less pressure on emergency management measures and will not impact on the safe evacuation routes accessible for the East Leppington Precinct.</p> <p>Further, EHG was provided with an additional opportunity to comment on the flooding impacts of the proposal. EHG provided comments (Attachment G) did not raise any concerns, however, recommended that the full range of flood risks to the community, including emergency management measures and emergency response limitations be considered due to the increase in dwellings in flood prone land. The Department considers that the risk to the community and emergency response limitation will be considered within a future DA for the site, and the Liverpool LEP 2008 contains adequate provisions to ensure development within flood prone land are appropriately designed and considered.</p> <p>Considering these findings, and the flood advice (Attachment I) identifying that the proposal will not result in any adverse flooding impacts nor impact on the flood behaviour with Bonds Creek, the Department considers the inconsistency with Direction 4.1 of minor significance and recommended to be resolved.</p>	Flood event	Dwellings under existing control	Dwellings under proposed control	1% AEP	5 (R2 zone)	0	PMF	28 (R3 zone)	36 (R3 zone)	Total	33 dwellings	36 dwellings
Flood event	Dwellings under existing control	Dwellings under proposed control											
1% AEP	5 (R2 zone)	0											
PMF	28 (R3 zone)	36 (R3 zone)											
Total	33 dwellings	36 dwellings											

Assessment issue	Department's assessment
Biodiversity Consistency with S9.1 Direction 3.1 Conservation Zones (formerly Direction 2.1 Environmental Conservation Zones)	<p>The Gateway determination report identified the original planning proposal was inconsistent with the objectives of this Direction as the proposal seeks to support RE1 and R3 uses in non-certified land for urban development. Whilst the supporting environmental and ecological studies in support of the proposal identified no additional impacts on vegetation will result from the proposal, the Department required Council to consult with EES on the matter of this inconsistency.</p> <p>The revised planning proposal submitted to the Department for finalisation does not provide further justification on this inconsistency as EHG did not provide a response to Council on the proposal within the Consultation period (Attachment H). The Department provided EHG with an additional opportunity to comment on the proposal within the finalisation stage of this proposal.</p> <p>EHG did not object or raise concerns relating to the proposal and any impact on biodiversity as a result of the proposal, given that non-biodiversity certified land on site intended for protection under the Growth Centres SEPP remains zoned as RE1 Public Recreation. However, EHG did note that they would prefer land identified with existing native vegetation (ENV) be zoned C2 Environment Conservation with permissible uses consistent with protecting biodiversity values. Further, EHG noted that RE1 Public Recreation zoning on ENV land would be appropriate where the primary objective is to protect biodiversity values.</p> <p>The Department notes EES comments and considers that an RE1 Public Recreation zoning for the ENV land across the site as appropriate. The restrictive nature of an RE1 Public Recreation zoning and permissible uses will limited development occurring. Any development on RE1 land with ENV identified for public open space would need to consider the existing biodiversity values of the land and strategies to protect them, however, any impacts would be considered as part of future Development Application on this land. Given this, the Department considers the inconsistency with this Direction to be of minor significance and recommended to be resolved.</p>

Assessment issue	Department's assessment
<p>Traffic and Transport</p> <p>Response to TfNSW submission</p>	<p>As noted in Table 4, TfNSW suggested that the traffic study should be updated to assess the cumulative impacts of the proposed increase to the maximum floor area for retail. TfNSW noted the 2013 traffic assessment of East Leppington Precinct did not envisage the retail GFA of the neighbourhood centre to be over 2,500m².</p> <p>In response, Council noted that the cumulative traffic impact of any resulting development and its impacts on the signalised intersection of Camden Valley Way and the future collector road will be required as part of a future development application. Given this, Council considered that a full update of the traffic and transport report prepared for the entirety of the East Leppington Precinct is not required at this time.</p> <p>The traffic assessment (TA) (Attachment I) noted that the likely trip generation for the mix of retail uses within the Neighbourhood Centre would likely yield in a daily increase of 200 trips per day as assessed by the RTA <i>Guide to Traffic Generating Developments</i>. However, it is noted that the potential increase in retail floor space would be constrained by the land proposed from the northern boundary of the lot being set aside to accommodate an east to west road. Additionally, the TA notes most of the demand for these services will come from the residential component of the site. Due to the slight increase of approximately 36 medium density dwellings within the residential component of the lot, it is likely that the demand for retail from the residential component will be limited to 2 trips per day. The TA notes that 2 additional trips in the context of the East Leppington Precinct represents an increase of only 0.005%.</p> <p>Given the very small increase to traffic demand estimated from within the precinct, and that the demand for retail is likely to be created by the residential component of the site, the Department considers that a full update to the East Leppington Precinct traffic study is not justified. The Department notes that any traffic impacts resulting from the retail component of the site will be assessed as part of a future development application.</p>

Assessment issue	Department’s assessment																				
Housing Response to Gateway determination condition	<p>The Gateway determination required the planning proposal to be updated to identify the number of dwellings to be provided through the rezoning as the original proposal was inconsistent and did not identify a coherent numeric. The additional information provided to the Department at the Gateway determination stage by Council identified a maximum of 340 dwellings could be provided through the proposal.</p> <p>The revised planning proposal and supplementary information (Attachment A and Attachment K) identify that a maximum of 203 dwellings could be delivered under the proposal and 224 dwellings under the existing controls. Table 7 below outlines the dwelling numbers by zone which could be delivered under the current and proposed controls.</p> <p>Table 7 Dwelling yields of the current and proposed controls</p> <table><tr><th>Zone</th><th>Yield under current controls</th><th>Yield under proposed controls</th><th>Additional yield</th></tr><tr><td>B1 Neighbourhood centre</td><td>185 to 191</td><td>162 to 167</td><td>-23 to -24</td></tr><tr><td>R3 Medium density residential</td><td>28</td><td>36</td><td>+8</td></tr><tr><td>R2 Low density residential</td><td>5</td><td>0</td><td>-5</td></tr><tr><td>Total</td><td>224</td><td>203</td><td>-21</td></tr></table> <p>The loss of 21 dwellings as a result of the proposal is unlikely to have a significant impact on the broader supply of housing within the Liverpool area and will still provide opportunities to encourage housing affordability, diversity and choice within the precinct. The Department considers that the expansion of the B1 zone can accommodate for any potential loss of residential dwellings through the provision of shop-top housing.</p> <p>Additionally, the Department considers while there will be a loss of housing due to the rezoning of the site and expansion of retail GFA, the proposal provides for a better outcome for the site. Specifically, the proposal will remove 5 potential dwellings from the 1% AEP flood extent, relocate RE1 land to ensure the protection of land with potential ecological value and provide 155 jobs (63 more than the existing controls).</p>	Zone	Yield under current controls	Yield under proposed controls	Additional yield	B1 Neighbourhood centre	185 to 191	162 to 167	-23 to -24	R3 Medium density residential	28	36	+8	R2 Low density residential	5	0	-5	Total	224	203	-21
Zone	Yield under current controls	Yield under proposed controls	Additional yield																		
B1 Neighbourhood centre	185 to 191	162 to 167	-23 to -24																		
R3 Medium density residential	28	36	+8																		
R2 Low density residential	5	0	-5																		
Total	224	203	-21																		

Assessment issue	Department's assessment
Green and open space Response to Gateway determination conditions and Priority W18 of the Western Parkland City District Plan.	<p>The Gateway determination report identified that the original planning proposal was unclear on the open space and recreation demands of the proposal due to the absence of the number of homes and jobs as a result. Further, the Department considered that some of the open space has recreational limits, therefore may be unusable. Resultingly, conditions were required to identify the number of homes and jobs and resulting needs for passive and recreation open space.</p> <p>The revised planning proposal and supplementary information (Attachment A and Attachment L) identified that the proposal will result in a maximum of 203 dwellings, a loss of 21 dwellings than what could be delivered under the current development controls. Further, the proposal would result in 155 jobs in total (63 more jobs more than what can be delivered under the current controls. In terms of open space, Attachment L clarified that the 2.15ha of open space will satisfy the proposed population and does not include the open space in constrained land. The supplementary information also confirmed:</p> <ul style="list-style-type: none"> • All dwellings will remain within a 400m walking distance from public open space; • The reduced population will not create a demand for increasing open space in the area nor additional recreational need; • The reduced population does not change the efficacy and accessibility of the existing open space network, nor does it change the active and passive recreational needs; and • The proposed open space aligns with the Draft Greener Places Design Guide. <p>As such, the Department considers that the proposal demonstrates that high quality green and open space can appropriately be provided for the demands and needs for the proposal.</p>

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 8 Consultation following the Department's assessment

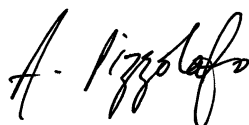
Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Five maps have been prepared by the Department's ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> (Attachment D)</p> <p>Council confirmed on 29/03/2022 that it approved the draft and that the plan should be made (Attachment D)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	<p>On 13/04/2022 , Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with Liverpool Local Strategic Planning Statement plan.
- It is consistent with the Gateway Determination.
- Issues raised in the Gateway determination and consultation have been addressed, and there are no outstanding agency objections to the proposal.



Anthony Pizzolato

Manager, Place & Infrastructure, Central (Western) Western Parkland City

Assessment officer

Nichola Cook

Planning Officer, Central West

9860 1553

Attachments

Attachment	Document
A	Planning Proposal (May 2021)
B	Gateway determination (December 2020)
C	Gateway determination report (December 2020)
D	Section 3.36(1) consultation with Council
E	Letter to Council (December 2020)
F	TfNSW submission
G	Environment and Heritage Group (EHG) submission
H	Council meeting agenda and minutes (23 February 2022)
I	Flood advice (11 July 2019)
J	Traffic Assessment (12 June 2018)
K	Supplementary information on housing (26 March 2021)
L	Supplementary information on green and open space (24 March 2021)
M	Supplementary information on jobs numbers (24 March 2021)
Maps	Draft LEP Maps
LEP	Draft LEP
PC	Parliamentary Counsel's Opinion