

Mr Sam Haddad
Director-General
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

6 January 2014

Attention: The Regional Director
Sydney Region East

Our Ref: LEP 2013/12/4

Dear Mr Haddad,

Planning Proposal – LEP (Housekeeping Amendment) 2013

At its meeting on the 12 March 2013 Council resolved to:-

- Forward draft LEP 2013 (previously known as LEP 2011) to the Department of Planning and Infrastructure (DoPI) with a Section 68 report and a request that the Minister make the Plan and
- Undertake a “Housekeeping” Planning Proposal to amend LEP 2013 in accordance with a table of approximately 30 amendments.

A “Housekeeping” Planning Proposal to amend LEP 2013 was considered necessary in light of a recent court decision where the limits of a planning authority’s power to amend a draft local environmental plan after public notification were contested. In light of this the Department of Planning and Infrastructure staff also supported a “Housekeeping” PP as the most appropriate and safest way to amend LEP 2013.

Council submitted LEP 2013 to the Department in March 2013 and has been working the DoPI toward bringing the LEP into effect.

A community workshop was held on the 31 July 2013 addressing the proposed amendments to be undertaken within the “Housekeeping” PP. After consideration of a report on the outcomes of that workshop Council again on the 8 October 2013 resolved to endorse the preparation of a PP to amend LEP 2013 in line with a table of amendments. (See Attachment 1 - Report to Council – Planning Proposal – Amendments to LEP 2013)

The planning proposal is a request to:-

- Bring into effect amendments identified within submissions received to LEP 2013 and supported by Council from Government agencies and the community
- Correct omissions and anomalies to LEP 2013

- Bring into effect amendments associated with Council resolutions related to LEP 2013 and the updating of the LEP based on recent studies.

Matters for consideration

I would like to bring to your attention a number of key matters that are being proposed within the planning proposal. The first matter relates to the introduction of a new subclause to *Cl 4.6(8) Exemption to development standards* in relation to the minimum lot size required for the Torrens titling of dual occupancy (attached) developments, the second matter relates to a number of amendments requested by the Roads and Maritime Services.

1. Request for proposed *Clause 4.1A Dual occupancy (attached) subdivision* as it applies to the Torrens titling of dual occupancy developments being exempt from *Clause 4.6 Exemptions to development standards*.

One of the amendments proposed to LEP 2013 in the “Housekeeping” LEP is the introduction of the Torrens titling of Dual occupancy (attached) developments.

In light of this proposed amendment Council on the 8 October 2013 further resolved to request DoPIs support to the inclusion of *Clause 4.1A Dual occupancy (attached) subdivision*, as it applies to the Torrens titling of dual occupancy developments and as amended within the PP, in *Clause 4.6(8) Exemptions to development standards*.

The following is provided as background information with respect to Dual Occupancy development in the City of Ryde and a rationale as to why the ability to vary controls relating to the Torrens titling of such developments should not be able to occur.

As background to Dual Occupancy (attached) development in the City of Ryde the following information is provided:-

- A minimum lot size of 580sqm for the erection of a dual occupancy development was introduced by Ryde Local Environmental Plan 72 on 17 March 1995. The area of 580sqm was specified because it was in keeping with the existing subdivision pattern in the City.
- The subdivision of dual occupancy developments was prohibited under LEP 74 in March 1996. (It should be noted that LEP 74 made provision for those developments approved under Sydney Regional Environmental Plan No.12 and those approved within 14 days of LEP 74 having been first exhibited to be able to be subdivided.)
- Under Ryde LEP 2010 the minimum lot size of 580sqm for a dual occupancy development and the prohibition on the subdivision of such developments was maintained.
- Under Ryde LEP 2013 a dual occupancy development:-
 - is permitted on a residential lot with a minimum area of 580sqm and a minimum road frontage of 20m. The introduction of a 20m road frontage has been based on the need to deliver better design

outcomes, particularly with regard to compatibility with existing streetscapes.

- can be strata subdivided subject to the development being located on a lot of 580sqm or greater

In response to submissions to LEP 2013 Council resolved on the 8 October 2013 to:-

- permit the Torrens titling of dual occupancy developments subject to each lot created containing one dwelling and having a minimum area of 290sqm and road frontage of 10m
- include the amendment in the "Housekeeping" PP.
- seek the DoPIs support to the inclusion of the new clause, permitting the Torrens titling of dual occupancy developments, in Clause 4.6(8) so prohibiting any variation to the minimum subdivision requirements.

In support of this last point Council advises the following:-

1. Since 1996 council has prohibited the subdivision, both strata and Torrens titling of dual occupancy development
2. LEP 2013 will permit the strata subdivision of dual occupancy developments.
3. Based on an area of 580sqm and 20m road frontage there is a maximum number of allotments (approximately 3000) that can be developed for dual occupancy in the City of Ryde and subdivided to required standards of 290sqm and 10m road frontage per lot.
4. A review of the dual occupancy controls of adjoining Councils found that a number:-
 - require a larger allotment of land to erect a dual occupancy than to carry out a residential subdivision
 - permit Torrens title subdivision however the subdivision requirements must be in accordance with the Lot Size Map

It is considered that similar to the development standards for the erection of a dual occupancy i.e. 20m road frontage and a minimum allotment size of 580sqm, there will be requests made to Council to vary the subdivision standard of 290sqm and 10m road frontage required to Torrens title such developments. It is considered that if such requests were supported it will substantially undermine not only the minimum standards required for the erection of a dual occupancy development which have been based on detailed design analysis but more importantly will impact upon the integrity of the Lot Size Map requirement of a minimum of 580sqm for residential subdivisions. (See Attachment 1 for detailed information on all of the above)

As such Council seeks DoPIs support to the inclusion in the PP LEP (Housekeeping Amendment) 2013 the following new subclause to Clause 4.6(8) Exemptions to development standards:-

4.6(8)(cb) Clause 4.1A Dual occupancy (attached) subdivision to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached) development.

2. Roads and Maritime Services (RMS)

Council received a number of submissions to LEP 2013 from the Roads and Maritime Services requesting amendments to both the Land Zoning Map and the Land Reservation Acquisition Map. The amendments included:-

- deleting land previously indicated as being required for Classified Road on the Land Reservation Acquisition Map and the subsequent rezoning of the land on the Land Zoning Map or
- indicating new areas required for Classified Road on both the Land Reservation Acquisition Map and the Land Zoning Map

The changes requested in those submissions have been made within the Planning Proposal – LEP (Housekeeping Amendment) 2013 with the exception of the following:-

- Those changes which had already been made within LEP 2013 as a result of s62 consultation with the RMS
- Those changes which were significant enough that it is considered that a separate Planning Proposal is required.

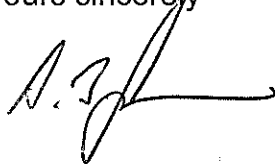
It is brought to the Departments attention that one of the requested changes made by the RMS is the inclusion of land owned by the Transport NSW at 283 Vimiera Road Marsfield (Lot 3 DP881923) which they have requested to be indicated on the Land Reservation Acquisition Map as Classified Road. The Department has previously indicated to Council that such land should not be indicated for acquisition and as such has not been included in the PP. All submissions received from the RMS are attached. (Attachment 5).

During the exhibition period the RMS will be contacted and asked to comment on the amendments related to road acquisition proposed within the PP.

Council requests that a Gateway Determination be issued pursuant to Section 56 of the Environmental Planning and Assessment Act 1979, to enable the planning proposal be placed on public exhibition. It is also requests that the Ministers delegation enabling Council to determine the LEP be granted.

The Planning Proposal, council reports and other material are attached. Should you require more information or have any questions about this matter, please contact Susan Wotton on 9952 8204 or Meryl Bishop on 9952 8228.

Yours sincerely



Dominic Johnson
Group Manager – Environment and Planning

Attachments:

- 1 - Copy of officer's report to Council (Extract from Agenda of meeting 8 October 2013 - Item 2)
- 2 - Copy of minutes for the officer's report to Council (Official Records Copy: Extract from Minutes of Council Meeting 8 October 2013 - Item 2)
- 3 - Planning Proposal for LEP (Housekeeping Amendment) 2013
- 4 - Community Engagement Plan
- 5 – RMS submission

