

Planning Services

Gateway Determination Report

LGA	Campbelltown
RPA	Campbelltown City Council
NAME	17 Percival Avenue, Ingleburn (1 home, 0 jobs)
NUMBER	PP_2018_CAMPB_001_00
LEP TO BE AMENDED	Campbelltown Local Environmental Plan 2015
ADDRESS	Part of land at 17 Percival Avenue, Ingleburn
DESCRIPTION	Part Lot 27 DP 1096807
RECEIVED	12 January 2018, as amended following the receipt of additional information.
FILE NO.	17/05175
QA NUMBER	IRF18/31
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

The planning proposal seeks to amend the Campbelltown Local Environmental Plan (LEP) 2015 by rezoning part of land located at 17 Percival Avenue, Ingleburn (the site), from part RE1 Public Recreation to R2 Low Density Residential. This will rectify a drafting anomaly and permit the develop of the whole site for residential purposes by the private landowner. The planning proposal will not facilitate any additional dwellings.

The site is not identified for acquisition and is still in private ownership, therefore this planning proposal does not require the reclassification of the site.

Council has received a development application (DA 2414/2017/DA-DW) to construct a dwelling house and ancillary buildings on the property. The footprint of the proposed dwelling house is located over the site (i.e. the RE1 zoned land), which is not permissible in this zone. Therefore, prior to Council issuing development consent for the development application for the site, a planning proposal is required to rezone the land.

Site Description

The planning proposal applies to part of land at 17 Percival Avenue, Ingleburn (the site) which legally described as Lot 27 DP 1096807. The property has an area of 950.8sqm. However, the area subject to the planning proposal has an area of approximately 115sqm.

A map of the site is provided at Figure 1 (overleaf).



Figure 1 – Land Zoning Map (site outlined in red)

Summary of Recommendation

It is recommended that the proposal proceeds with conditions given that it seeks to rectify a drafting anomaly and enable the private landowner to develop the site for residential purposes.

PROPOSAL

Objectives or Intended Outcomes

The objective of this planning proposal is to correct a drafting anomaly, created at the time of adoption the Standard Instrument for the Campbelltown local government area (LGA). This will permit the private landowner to develop a dwelling house on the site in an orderly manner.

The objectives of this planning proposal are clear and adequate.

Explanation of Provisions

The planning proposal seeks to amend the Campbelltown Local Environmental Plan (LEP) 2015 by:

- rezoning the site from RE1 Public Recreation to R2 Low Density Residential;
- applying a maximum building height of 9.5m to the site;
- applying a minimum lot size of 500sqm to the site; and,
- applying a minimum lot size of 700sqm for dual occupancy development to the site.

Department comment

These proposed amendments are supported. The amendment will ensure the site is appropriately developed in accordance with R2 zoned land under the Campbelltown LEP 2015.

Mapping

The current and proposed maps are provided in Part 4 and Maps 1-8 of the planning proposal. The planning proposal will amend the following maps:

- Land Zoning Map;
- Height of Building Map;
- Lot Size Map; and,
- Lot Size for Dual Occupancy Development Map.

Refer to **Attachment F** for the current and proposed maps.

Department comment

The Department notes that the maps provided in the planning proposal are adequate for community consultation purposes.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is not a result of a strategic study or report. However, the proposed amendments aim to rectify a drafting anomaly.

The planning proposal is the best and most appropriate means of achieving the Council's intended outcome. A planning proposal is the only means available to achieve amendments to relevant provisions under the Campbelltown LEP 2015.

STRATEGIC ASSESSMENT

Regional/ District

A Plan for Growing Sydney (2014)

The planning proposal is consistent with Goal 2 of A Plan for Growing Sydney which aims to accelerate housing across Sydney.

Draft Greater Sydney Region Plan (2017)

Given the nature of the planning proposal, it is considered that the proposal is not inconsistent with the intent of the Draft Greater Sydney Region Plan, in that it will enable housing (Objective 10). In addition, while it will marginally decrease existing public open space, it will not impede access to green space (Objective 31) and will not sever links along the open space corridor (Objective 32).

Draft Western City District Plan (2017)

The planning proposal is consistent with Planning Priority W5 of the Draft Western City District Plan as it represents local infill development by marginally extending the existing residential area.

Greater Macarthur Priority Growth Area (2016)

The planning proposal is consistent with the objectives of the Greater Macarthur Priority Growth Area as it aligns with the housing intentions of the Glenfield to Macarthur Urban Renewal Corridor.

Local

Campbelltown Community Strategic Plan 2013-2023

This Plan identifies broad directions for the community towards 2023 and the areas of focus. The planning proposal is consistent with this Plan as it will provide suitable residential development in an appropriate location (Objective 2 – A strong local economy).

Campbelltown Local Planning Strategy 2013

This Strategy encourages infill development around several identified major growth nodes, including the Ingleburn Centre. The planning proposal is consistent with this Strategy as the proposed residential development is within proximity to the Ingleburn Centre.

Campbelltown Residential Development Strategy 2013

This Strategy seeks to address the projected population growth in the LGA through greenfield, infill and urban edge lifestyle opportunity. As detailed above, the planning proposal is consistent with this Strategy as it represents a form of infill development.

Section 117(2) Ministerial Directions

Inconsistent: The planning proposal is inconsistent with the following Section 117 directions:

Direction 4.3 Flood Prone Land

This direction aims to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and that potential flood impacts are considered. This direction applies to the planning proposal as the site is flood prone land (1 in 100 flood level).

Council Engineers have advised that the site can be satisfactorily developed for residential purposes provided that certain conditions are implemented at the development consent stage.

Department comment

The planning proposal will not permit development in a floodway area or result in significant flood impacts to other properties. Furthermore, the proposed amendments will not significantly increase the development potential of flood prone land as the site is part of a larger lot that is currently zoned for residential purposes. Therefore, it is recommended that the delegate of the Secretary agrees that the inconsistency of the planning proposal with Direction 4.3 Flood Prone Land is of minor significance.

Direction 4.4 Planning for Bushfire Protection

The objective of this direction is to protect life, property and the environment from bush fire hazards and manage bush fire prone areas. The site contains Bushfire Prone Land (Vegetation Buffer) therefore this direction applies to the planning proposal.

In the above circumstances, the direction requires that the relevant planning authority (i.e. Council) must consult with the Commissioner of the NSW Rural Fire Services (RFS) prior to undertaking community consultation.

A planning proposal may be inconsistent with the direction if the RPA can satisfy the Secretary's delegate that the council has obtained written advice from the Commissioner of the NSW Rural Fire Services, to the effect that, notwithstanding the non-compliance, the RFS does not object to the progression of the planning proposal

Council consulted the RFS on the development application for the property. RFS raised no objections to the proposed development, provided several conditions, including matters relating to the design and construction of the dwelling house, landscaping, asset protection zones, water and utilities were put in place (**Attachment F**).

Council is of the view that no further consultation with RFS is required in relation to this direction as advice provided states that the development, subject to conditions, can satisfactorily proceed.

Department comment

The Direction states that:

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General (now Secretary) of the Department of Planning (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.

In recognition of the minor nature of the proposal and that the RFS has provided advice on the development application, it is recommended that the delegate of the Secretary agrees that the inconsistency of the planning proposal with Direction 4.4 Planning for Bushfire Protection, in respect of the need to consult with the RFS prior to community consultation., is justified.

To ensure, however, that the intent of the process is not flawed, it is also recommended that Council consult with the RFS on the planning proposal during the community consultation period. This recognises the circumstances and does not unduly delay the matter, but keeps faith with the intention of the direction to consult with the RFS on the planning proposal.

Inconsistent: The planning proposal may be technically inconsistent with the following Section 117 direction:

Direction 6.2 Reserving land for Public Purposes

This direction aims to facilitate the provision of public services and facilities by reserving land for public purposes or removing these reservations when the land is no longer required. This direction applies as the planning proposal aims to rezone land from RE1 Public Recreation to R2 Low Density Residential.

The direction states that a planning proposal must not reduce existing zonings for public purposes without the approval of the relevant public authority and the Secretary's' delegate.

Although the site is zoned RE1, it is not identified for acquisition by Council or a state agency on the Land Reservation Acquisition Map. Council would be the likely acquisition authority and has advised that it does not intend to acquire the site for open space purposes. Council also noted that the RE1 zone is likely the result of a drafting anomaly.

To satisfy the direction, it is recommended that the Secretary's delegate agree that any inconsistency with the direction is of minor significance.

State Environmental Planning Policies

The planning proposal is consistent with all State Policies given the nature of the proposal which seeks to rectify a minor drafting anomaly to Campbelltown LEP 2015.

SITE SPECIFIC ASSESSMENT

Social and Economic

The planning proposal will have minimal social and economic impacts as it proposes minor amendments that aim to rectify a drafting anomaly under the Campbelltown LEP 2015.

Environmental

There are no trees on the site therefore the planning proposal does not have any adverse impacts to the environment.

Infrastructure

The site is currently serviced by necessary infrastructure and utilities.

CONSULTATION

Community

Council proposes to undertake a community consultation period of 14 days. A community consultation period of 14 days is considered an appropriate amount of time to engage the community.

Agencies

Given the minor nature of the planning proposal, no consultation with state agencies is recommended other than consultation with the Rural Fire Service during the community consultation period.

TIMEFRAME

Council proposes a timeframe of 6 months to finalise this planning proposal. Given the minor nature of the planning proposal, a 6-month timeframe is considered appropriate.

DELEGATION

Council has requested to be issued with delegation of the plan making function in relation to this planning proposal. Given the minor nature of the planning proposal, it is recommended that Council be issued authorisation to exercise delegation.

CONCLUSION

The Department recommends that the planning proposal proceeds with conditions, given that it will rectify a drafting anomaly and permit the development of the whole site for residential purposes by the private landowner.

RECOMMENDATION

It is recommended that the delegate of the Secretary agree any inconsistencies with Section 117 Directions 4.3 Flood Prone Land and 6.2 Reserving Land for Public Purposes are of minor significance.

Further, in respect of Section 117 Direction 4.4 Planning for Bushfire Protection, it is recommended that the delegate of the Secretary agree that Council has obtained appropriate written advice from the Commissioner of the NSW Rural Fire Service (RFS), to the effect that the Service does not object to the progression of the proposed development permitted by the planning proposal. This recommendation is made on the basis that Council will consult with the RFS on the proposal during the community consultation period.

It is further recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, Council is to amend the planning proposal to:
 - a) remove the word “draft” on the cover page of the planning proposal (page 1);
 - b) revise the consistency of the planning proposal with the Campbelltown Community Strategic Plan 2013-2023 as it is consistent with Objective 2 of the Plan; and
 - c) include the advice on flood and bushfire prone land from the Council Report (dated 12 December 2017) within the relevant section 117 directions in the planning proposal to provide clarity.
2. Community consultation is required under Sections 56(2)(c) and 57 of the Act as follows:
 - a) the planning proposal must be made publicly available for a minimum of 14 days; and
 - b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment 2016).
3. Consultation is required with the Commissioner of the NSW Rural Fire Service during the community consultation period under section 56(2)(d) of the EP&A Act. The Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given a least 21 days to comment on the proposal.
4. 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).

5. The timeframe for completing the LEP is to be 6 months from the date of the Gateway determination.
6. Given the nature of the planning proposal, Council should be authorised to exercise delegation to make this plan.



19/01/18

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