

Planning Services

Plan Finalisation Report

Local Government Area: Liverpool

File Number: 16/10386

1. NAME OF DRAFT LEP

Liverpool Local Environmental Plan 2016 - Amendment No.64 (draft LEP).

2. SITE DESCRIPTION

The draft LEP applies to land at 1675 The Northern Road Greendale (the site). The site is approximately 540 hectares of dairy farm and organic fertiliser business, with 100 employees (known as Leppington Pastoral's "Base Farm"). The site also comprises of five dwellings and sixteen rural workers' dwellings. The draft LEP applies to the following allotments of the farm:

- Lots 100 & 101 in DP 1171843 (formerly Lot 10 DP 1092165).
- Lot 11 DP 1092165.

3. PURPOSE OF PLAN

The draft LEP seeks to allow an additional four rural workers dwellings on the subject land and introduces set criteria for rural amenity, agricultural activity and location of dwellings on site. The draft LEP introduces a new local provision:

Clause 7.39

Insert after clause 7.38:

7.39 Rural workers' dwellings at Leppington Pastoral Company

(1) The objectives of this clause are:

(a) to ensure the provision of adequate accommodation for persons employed for the purpose of agriculture or a rural industry on the land to which this clause applies, and

(b) to limit the maximum number of dwellings on the land to which this clause applies to protect the land's rural amenity.

(2) This clause applies to Lot 11, DP 1092165 and Lots 100 and 101, DP 1171843, being land at The Northern Road, Greendale.

(3) Despite clause 7.24A (3) (e), development for the purpose of up to 20 rural workers' dwellings is permitted with development consent on the land shown coloured light brown on the Key Sites Map.

(4) The consent authority must not grant development consent to development for the purpose of a rural worker's dwelling on the land to which this clause applies unless the consent authority is satisfied that the rural worker's dwelling is necessary to ensure the provision of adequate accommodation for persons

employed for the purpose of agriculture or a rural industry on the land.

(5) The consent authority must not grant development consent to development that results in either or both of the following on the land to which this clause applies:

(a) more than 20 rural workers' dwellings,

(b) more than 5 dwellings other than rural workers' dwellings.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Camden Electorate. Mr Chris Patterson MP is the State Member for Camden.

Mr Angus Taylor MP is the Federal Member for Hume.

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

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.
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NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION

The Gateway determination issued on 15 August 2016 (**Attachment C**) determined that the proposal should proceed subject to conditions. The timeframe for completing the LEP is by 22 August 2017, being 12 months from the week following the date of the Gateway Determination.

Council has met the conditions in the Gateway determination.

- Condition 1 required the Commissioner of the NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal prior to public exhibition. Council will need to take into consideration any comments received as part of this consultation, and the proposal amended accordingly prior to exhibition.
 - o Council sought comment from NSW Rural Fire Service on 23 August 2016. NSW Rural Fire Service provided comment on 19 September 2016.
 - o NSW Rural Fire Service did not raise any objections or require any amendments to the proposal.
- Condition 2 required council is to consult with Transport for NSW in specific relation to the Outer Sydney Orbital investigation area to ensure the proposal's consistency with the project.
 - o Council sought comment from Transport for NSW on 23 August 2016. Transport for NSW provided comment on 16 September 2016.
 - o Transport for NSW did not raise any objections or require any amendments to the proposal. Transport for NSW's comment is discussed further below.

- Condition 3 required community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (EP&A Act) as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 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 LEPs (Department of Planning & Infrastructure 2013).
 - o Council placed the proposal on public exhibition from 2 November 2016 to 2 December 2016.
- Condition 4 required consultation with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Transport for NSW
 - NSW Department of Primary Industries - Agriculture
 - Commonwealth Department of Infrastructure and Regional Development

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal, or indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

 - o Council sought comment from the above agencies on 23 August 2016. Agency responses are discussed further below.
- Condition 5 noted 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 or if reclassifying land).
 - o No public hearing is required to be held by Council.
- Condition 6 required the timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.
 - o Council have resolved to make the LEP within 12 months.

6. PUBLIC CONSULTATION

In accordance with the Gateway determination, community consultation was undertaken by Council from 2 November 2016 to 2 December 2016. No submissions were received from community members.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult Transport for NSW, NSW Rural Fire Service, NSW Department of Primary Industries – Agriculture, and Commonwealth Department of Infrastructure and Regional Development in accordance with the Gateway determination.

Council has consulted these authorities. There were no objections raised in relation to the planning proposal, however Transport for NSW requires Council to consult them on any future development or sub-division applications for the site due to investigations for the Outer Sydney Orbital transport corridor. Further, the Commonwealth Department of Infrastructure and Regional Development requires any future development of the site to

have regard for the potential noise impacts of the proposed airport at Badgerys Creek and to consider the Australian Noise Exposure Forecast (ANEF) contours and construction standards where applicable.

8. POST EXHIBITION CHANGES

No changes were made to the Planning Proposal post exhibition. A further supporting site investigation study regarding potential contamination was completed for the site in accordance with the Gateway Determination and discussed further below.

9. ASSESSMENT

The draft LEP has strategic merit and is consistent with all relevant Section 117 Directions and State Environmental Planning Policies (discussed further as follows).

State Environmental Planning Policies

Further supporting documentation regarding potential contamination was required prior to submission of the Planning Proposal to the Department of Planning and Environment for finalisation. This is pursuant to State Environmental Planning Policy No 55—Remediation of Land. The proponent prepared a Stage 1 – Preliminary Site Investigation for the area proposed for rural workers' dwellings. The investigation shows no contamination of the area proposed for dwellings. The draft LEP is consistent with all relevant State Environmental Planning Policies.

10. MAPPING

The LEP amendment includes an updated Key Sites Map which has been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument (**Attachment D**). Council confirmed on 26 July 2017 that it was happy with the draft and that the Plan should be made (**Attachment E**).

12. PARLIAMENTARY COUNSEL OPINION

On 24 July 2017, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

It is recommended that the Greater Sydney Commission's delegate determine to make the draft LEP because:

- It will enable the continued operation of an existing and established business in the area, contributing to jobs in the locality.
- The draft LEP suitably recognises the constraints of Badgerys Creek and is considered an acceptable response due to the mapped noise contours in the area that limits development.