

ANNEXURE B
LPC Base Farm – Rural Workers Dwelling Plan

DPG 01

Draft Amendment Liverpool Local Environmental Plan 2008 - Leppington Pastoral Company

Strategic Direction	Liveable Safe City Deliver an efficient planning system which embraces sustainable urban renewal and development
Key Policy	Urban Development Plans
File Ref	088058.2016
Report By	Murray Wilson - Senior Strategic Planner
Approved By	Toni Averay - Director Planning & Growth
Property	1675 The Northern Road, Greendale
Owner	Leppington Pastoral Company Pty Ltd
Applicant	Leppington Pastoral Company Pty Ltd

EXECUTIVE SUMMARY

Note: DPG 01 was first published in the Agenda for Council meeting 29 June 2016 with the incorrect document included as "Attachment 1". The content of DPG 01 has not changed, however the correct document has now been provided for attachment 1.

On 1 September 2015, a proposal to amend the Liverpool Local Environmental Plan 2008 (LLEP 2008) was received from Leppington Pastoral Company Pty Limited (LPC) in relation to 1675 The Northern Road, Greendale. The subject site is identified as Lot 100 and 101 in DP 1171843, and Lot 11 DP 1092165.

The proposal seeks to amend the LLEP 2008, by adding a clause that permits up to 25 dwellings (dwellings and rural workers' dwellings) on the subject site. The proposed amendment will enable LPC to continue its operations in a sustainable manner.

RECOMMENDATION

That Council:

1. Endorses in principle the Planning Proposal to amend the Liverpool Local Environmental Plan 2008, to allow with consent a maximum of 25 dwellings (dwellings and rural workers' dwellings) on 1675 The Northern Road, Greendale;

2. Delegates to the A/CEO the authority to finalise a modified Planning Proposal as detailed in this report, and submit to DPE for Gateway approval.

REPORT

Background

The proposal seeks to amend the LLEP 2008, by adding a clause that allows (with consent) a maximum of 25 dwellings (inclusive of existing residences and rural workers' dwellings) on the subject property. The request for the amendment comes from the need to relocate existing rural workers' dwellings as a result of the government acquisition of land for the proposed Western Sydney Airport as well as the potential noise impacts from the future airport on existing rural workers' dwellings.

Context of the Subject Land

The subject site is identified as Lot 100 and 101 in DP 1171843, and Lot 11 DP 1092165, within the rural area of Greendale, approximately 20 kilometres west of the Liverpool city centre. The subject property lies outside of the South West Priority Growth Area, and borders the proposed airport at Badgerys Creek. The location of the Leppington Pastoral Company property is shown in Figure 1.

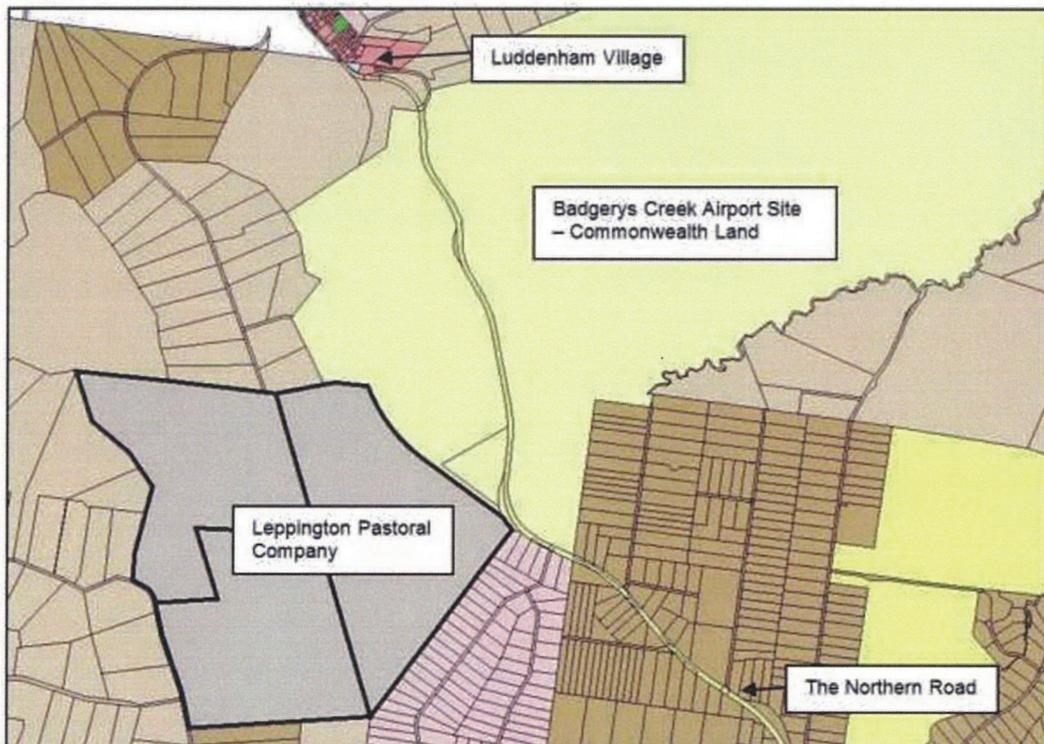


Figure 1 – Image illustrating location of subject property and zoning

Badgerys Creek Airport Site

In October 2015, the Department of Infrastructure and Regional Development (DIRD) publicly exhibited the Environmental Impact Statement for the proposed airport. It is anticipated that the first runway (being the northern runway - Stage 1) will be completed, and operational in 2025. Stage 2 or the long term scenario, involving the construction of the second (and southernmost) runway, is anticipated to be completed in 2063. The LPC dairy lies just west of the proposed southern runway (refer Figure 2).

While additional residential accommodation would not normally be supported in such close proximity to a future airport, the need to relocate or replace existing rural workers' dwellings has arisen as a direct result of acquisition of some of the existing land by the Commonwealth Government for the future airport. As a result of these land acquisitions, it is likely that LPC will lose approximately seven rural workers' dwellings.

To ensure LPC can continue as a sustainable farming operation, it is considered appropriate to allow them to relocate or replace their existing rural workers' dwellings on their property in a location that is currently located outside of the current ANEF contours 20-25. It should be noted that this planning proposal will also be referred to the DIRD for comment, if the recommendations of this report are supported.

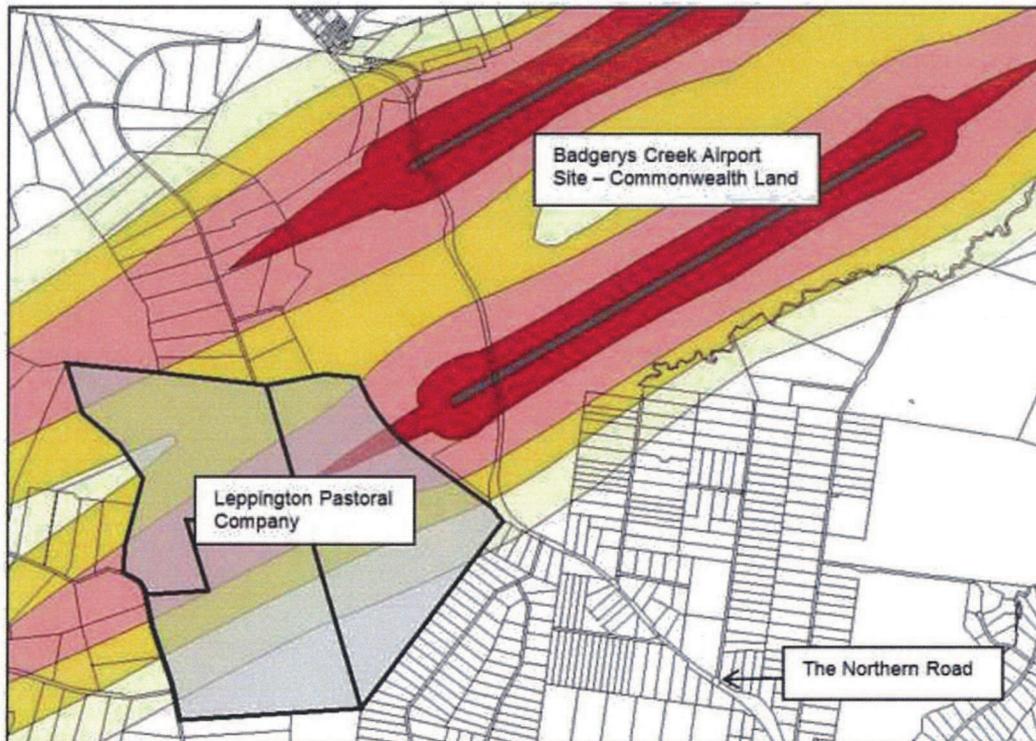


Figure 2 – Image illustrating location of subject property in relation to location of Badgerys Creek Airport runways and ANEF contours

A Plan for Growing Sydney

A Plan for Growing Sydney identifies the dairy farm as being outside of the urban growth area as shown in Figure 3. The support of this amendment would be consistent with Action 1.9.1 (supporting the growth of a priority industry i.e. agriculture) of the plan and Action 4.1.2 (minimise adverse economic impacts on existing primary industry and productive agriculture and protecting productive agricultural land).

Western Sydney Priority Growth Area

LPC is also located just to the west of the recently created Western Sydney Priority Growth Area (WSPGA). The WSPGA includes the Broader Western Sydney Employment Area (but not WSEA), the SWPGA (north of Bringelly Road) and Western Sydney Airport as shown in Figure 3.

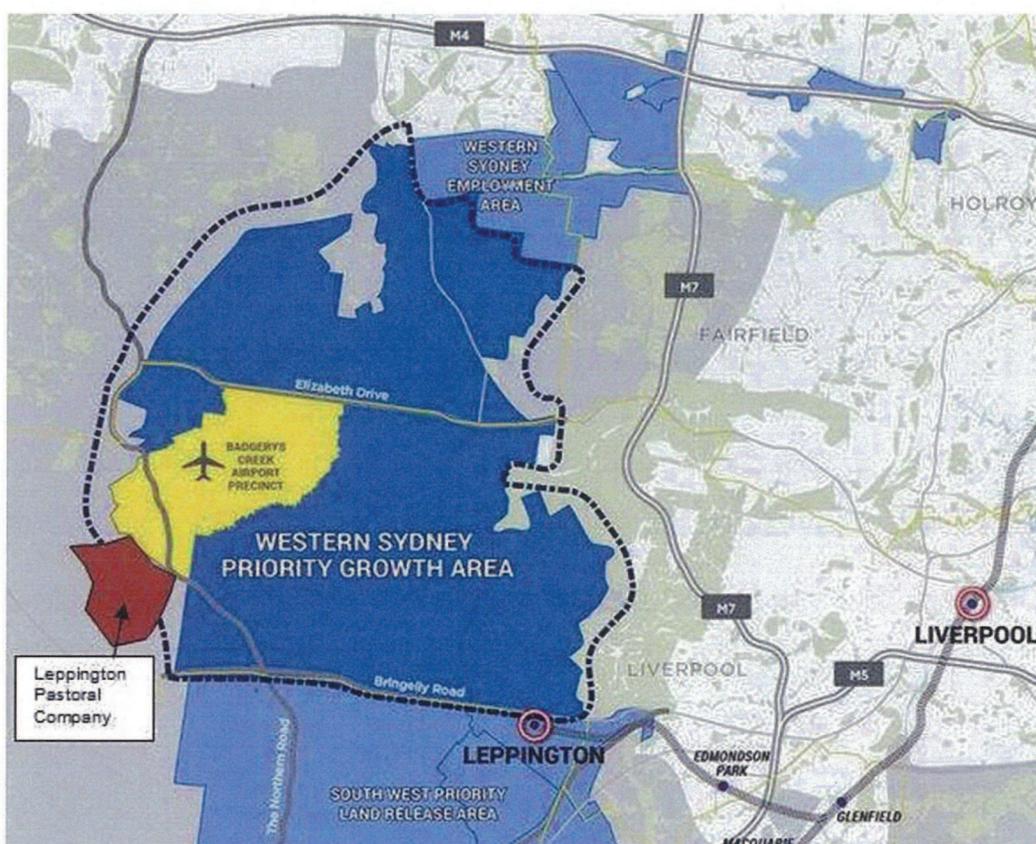


Figure 3 – Image illustrating the location of Leppington Pastoral Company's property (solid red shape) in relation to the Western Sydney Priority Growth Area

Leppington Pastoral Company

LPC began operating in 1962 with the purchase of a 230 hectare property at Greendale. Following incorporation a year later, LPC acquired an adjoining property of approximately 350 hectares. These two properties have operated together since then and are referred to by LPC as the "Base Farm" (dairy farm). The dairy farm comprises water storage, dryland

farming, year-round irrigation, as well as utilities such as houses, sheds, silage pits and irrigation infrastructure. Approximately 100 workers are directly involved in the daily operation of the pastoral company.

In 1991, the Commonwealth Government acquired 38 hectares of the subject site for the purpose of accommodating a site for an airport at Badgerys Creek. Since the acquisition, the 38 hectares have been leased back to the LPC. The Commonwealth gave notice of its intention to repossess the 38 hectares in May 2016.

LPC have advised they milk over 2,000 cows on the property, on a 24 hour, 7 days a week basis. This represents the second largest single-site dairy farm in Australia. Total dairy sales for 2014 were \$17.8 million. The dairy operation also includes the rearing of calves born on the farm or on nearby LPC associated properties (about 2,700 per year). After about 4 months the calves are sent to other properties in south west Sydney (also owned by LPC). The females are later returned to the farm as pregnant heifers and potential milkers, while the males are sold as steers. Refer to Attachment 2 for images of the farm in operation in late May 2016.

In addition to the dairy-based operations, onsite farming processes produce organic fertilizer, which in 2014, achieved \$8.3 million in sales.

As stated above, LPC's core agricultural business is dairy focused. Cows are milked on a 24 hours a day, 7 days a week. The family who own and operate the business live onsite in five separate dwellings. In addition to this, 29 farm employees also live onsite in 16 existing rural workers' dwellings, which result in a total of 21 dwellings (including rural workers' dwellings).

Proposed LEP Amendment

The applicant's Planning Proposal requested the following clause be drafted for consideration.

22 Use of certain land at Bringelly in Zone RU1

(1) This clause applies to Lots 10 and 11, DP 1092165 and Lot 102 DP 812653 in Zone RU1 Primary Production The Northern Road, Bringelly.

(2) The provisions of clause 7.24A(2) do not apply to the land referred in sub-clause (1).

It is noted that Clause 7.24A, which restricts the number of rural workers' dwellings to one per property, was introduced to ensure that rural workers dwellings do not conflict with zone objectives and undermine ongoing viability of rural enterprises.

Council officers had concerns with the lack of a dwelling cap, the impacts of any new dwellings on the development and operation of the proposed Western Sydney Airport, and potential impacts on the rural amenity of the locality.

The proponent has suggested a maximum cap of 25 dwellings for the possible future expansion of the business. This represents an addition of four (4) rural workers' dwellings to those currently on the site.

Council officers have held discussions with the applicant and developed a revised clause that addresses officers' concerns while still allowing the relocation and replacement of existing rural workers' dwellings. The appropriateness of the additional cap and a revised clause is discussed later in this report.

Liverpool Local Environmental Plan 2008 (LLEP 2008)

The subject site is zoned RU1 Primary Production under the LLEP 2008 (see Figure 1). The objectives and permitted uses of the RU1 zone are outlined below.

Zone RU1 Primary Production

1 Objectives of zone

- **To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.**
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To ensure that development does not unreasonably increase the demand for public services or public facilities.*
- **To ensure that development does not hinder the development or operation of an airport on Commonwealth land in Badgerys Creek.**
- *To preserve bushland, wildlife corridors and natural habitat.*

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations

3 Permitted with consent

*Agriculture; Airstrips; Animal boarding or training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cemeteries; Community facilities; Crematoria; Dual occupancies; **Dwelling houses**; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Hazardous storage establishments; Health consulting rooms; Helipads; Heliports; Home businesses; Home industries; Landscaping material supplies; Offensive storage establishments; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Rural supplies; **Rural workers' dwellings**; Secondary dwellings; Veterinary hospitals; Water recreation structures*

4 Prohibited

Any development not specified in item 2 or 3

It is considered that this proposed amendment would be consistent with encouraging sustainable primary industry production and diversity in primary industry enterprise and systems by supporting necessary residences for employees of the dairy operation. It is anticipated that the proposed rural workers' dwellings would not hinder the development potential of the proposed airport in the short or long term.

There are two main clauses within LLEP 2008 that affect this land. These are outlined below:

1. Clause 7.18 Development in areas subject to potential airport noise, dwellings are not permitted on land where the ANEF (Australian Noise Exposure Forecast) exceeds 25. While residential accommodation is permitted where the ANEF exceeds 20, subject to meeting the requirements of AS 2021-2000 Acoustics—Aircraft noise intrusion—Building siting and construction with respect to interior noise levels.

This intent of this clause is to ensure new developments in the vicinity of the Badgerys Creek airport (and Bankstown Airport) do not hinder the development or operation of the airport.

As explained on the DIRD's website:

The ANEF (Australian Noise Exposure Forecast) System was developed through a major socio-acoustic survey carried out in the vicinity of a number of Australian airports in 1980. Based on the results of this work the system then in use in Australia—the NEF system—was modified to suit Australian conditions and became termed the ANEF system. The ANEF system incorporated a weighting for the period 7pm to 7am (as opposed to the 10pm to 7am period under the NEF system) as the study showed that this gave the best correlation between noise dose and community reaction. (Source: Department of Infrastructure and Regional Development)

2. Clause 7.24A was included in LLEP 2008 (Amendment 32), which was gazetted in April 2016. The purpose of Clause 7.24A was to place restrictions on the size and quantity of rural workers' dwellings.

Clause 7.24A was introduced as a result of the NSW Department of Primary Industries' *Prime Fact Bulletin*, released to assist local councils in determining how to provide for rural workers' dwellings in LEPs.

It is proposed that Council consult with the NSW Department of Primary Industries as well as the DIRD if the recommendations of this report are adopted.

7.24A Erection of rural workers' dwellings in Zones RU1 and RU4

- (1) The objective of this clause is to ensure the provision of adequate accommodation for employees of existing agricultural or rural industries.
- (2) This clause applies to land in the following zones:
 - (a) Zone RU1 Primary Production.
 - (b) Zone RU4 Primary Production Small Lots.
- (3) Development consent must not be granted for the erection of a rural worker's dwelling on land to which this clause applies, unless the consent authority is satisfied that:
 - (a) the development will be on the same lot as an existing lawfully erected dwelling house, and
 - (b) the development will not impair the use of the land for agricultural or rural industries, and
 - (c) the agricultural or rural industry being carried out on the land has a demonstrated economic capacity to support the ongoing employment of rural workers, and
 - (d) the development is necessary considering the nature of the agricultural or rural industry land use lawfully occurring on the land or as a result of the remote or isolated location of the land, and
 - (e) the development will not result in more than 1 rural worker's dwelling being erected on the land comprising the agricultural or rural industry, and
 - (f) the gross floor area of the rural worker's dwelling does not exceed 100 square metres.

Difference between a Dwelling House and a Rural Worker's Dwelling (LLEP 2008)

A dwelling and rural worker's dwelling are similar in appearance but are considered to be quite different in terms of use. The definition, as stated in LLEP 2008, of a dwelling house quite simply is a building containing one dwelling. While a rural worker's dwelling has a very specific use: a rural worker's dwelling is allowed in addition to a dwelling, but it must be associated with a rural industry and used as a place of residence by a person working on the particular property.

- ***dwelling house*** means a building containing only one dwelling; and
- ***rural worker's dwelling*** means a building or place that is additional to a dwelling house on the same lot and that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purpose of agriculture or a rural industry on that land.

Existing Dwellings (including Rural Workers' Dwellings) on the site

There are currently 21 dwellings on the subject property. These consist of five (5) main dwellings and 16 rural workers' dwellings. Council officers have located 14 approvals, dating back to 1964, for dwellings (including rural workers' dwellings) on the subject site. Council officers have been unable to locate seven (7) consents or building certificates. This could be for the following reasons:

- Dwellings may have been built prior to 1963;
- The property files searched did not contain information prior to 1963; or
- Some files have not been able to be located.

Council has no evidence to conclude that the dwellings located on the site are unauthorised. It is clear the rural workers' dwellings have been erected for a significant period of time based on a number of site visits carried out by Council staff.

The existing rural workers' dwellings currently house 29 employees of the dairy farm operation. Council officers have been provided with a list of employees who reside in the rural workers' dwellings as well as a copy of the template *Accommodation Agreement*. The *Accommodation Agreement* provides a numbers of conditions in terms of use of a rural workers dwellings by the employee. One such condition requires that an employee must vacate the premises within seven (7) days after termination of employment. This provides Council officers some assurance that rural workers dwellings are being used for their intended purpose.

The need to relocate or replace existing rural workers' dwellings has arisen due to the acquisition of land by the Commonwealth Government for the future Western Sydney Airport. Figure 4 (below) shows the dwellings that are to be retained and dwellings that need to be relocated.

The draft Environmental Impact Statement for the Badgerys Creek Airport identifies a further allotment to be acquired for the airport (Lot 102 in Figure 4). As a result of these land acquisitions, LPC are likely to lose approximately seven rural workers' dwellings (yellow, white, blue and red circles in Figure 4).

Attachment 2 also shows images of some of the rural workers' dwellings that need to be replaced.

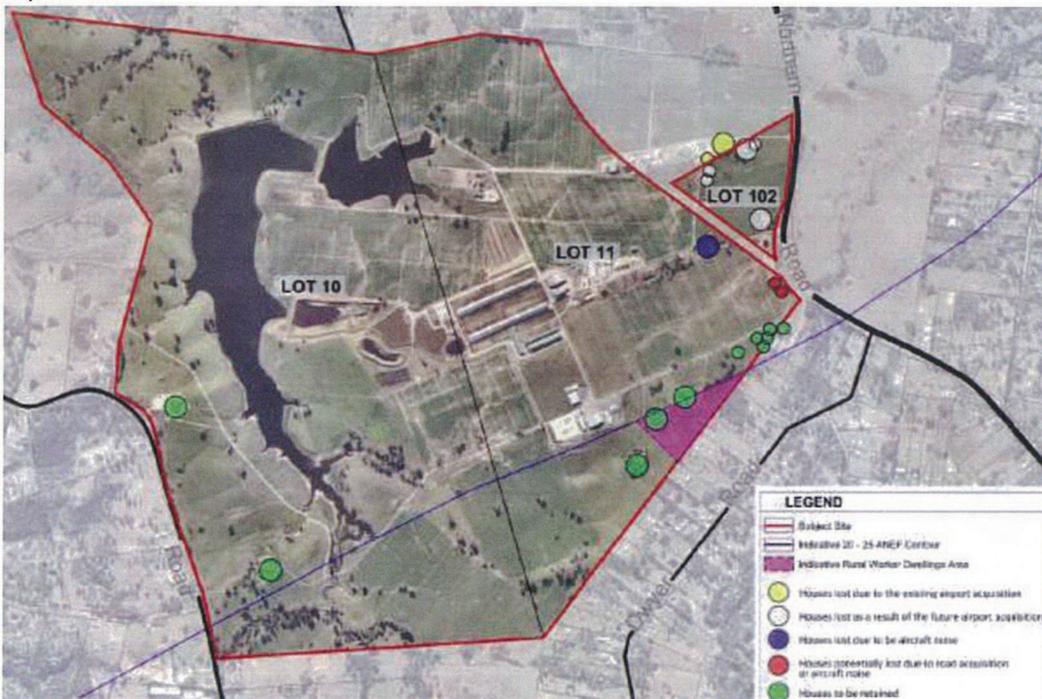


Figure 4 – Location of Dwellings to be removed or retained

Size of Property, Hypothetical Subdivision & Test of Rural Amenity

It is appropriate to consider the potential for subdivision of the subject properties. This will assist in determining whether the proposed number of dwellings and rural workers' dwellings (25), is appropriate.

While this is not a definite test of rural amenity, it provides an approximate indication of whether the proposed maximum cap of 25 dwellings and rural workers' dwellings could be an over-development of the site. LPC could hypothetically subdivide their property into 13 lots:

Size of Property: 530.1 hectares (approximately)
Hypothetical Subdivision: $530.1 \text{ ha} \div 40 \text{ ha (current minimum lot size in RU1 zone)} = 13.27 = 13 \text{ lots.}$

The number of lots would potentially accommodate a maximum of 26 dwellings in the form of a dwelling and a dual occupancy on each lot under LLEP 2008.

It is proposed that any new rural workers' dwellings will be located and clustered outside of the noise affected area, i.e. outside of the light yellow contour of ANEF 20 and 25.(shown in Figure 5). It is recommended to cluster of the rural workers' dwellings for the following reasons:

1. to ensure all new dwellings are located outside of the noise affected areas,
2. to ensure the effective ongoing use of the site as a dairy, and
3. to ensure rural amenity is not lost as a result of the clustering.

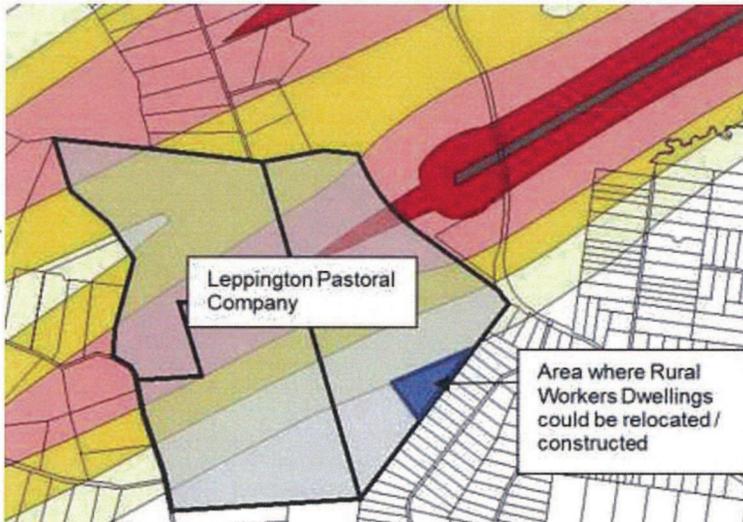


Figure 5 – Image illustrating the location of rural workers' dwellings (blue triangle) outside of the ANEF contour

Justification for Planning Proposal

The LPC is a working dairy that directly employs over 100 people, milking over 2,000 cows and producing approximately 68,500 litres of milk per day. The dairy also rears calves born on nearby LPC properties. Given the scale and nature of the dairy business, LPC has stated they must accommodate the current workers onsite to ensure operational efficiencies are maintained for the overall management and economic viability of the farm. It is also stated in a publication (*Prime Fact Bulletin*) by NSW Department of Primary Industries that, in some cases for the management of large scale intensive livestock enterprises, additional onsite residences may be required.

On site workers dwellings are important to support the 24 hour operation of the farm to offer cost effective onsite residences as a strategy to recruit and retain farm workers.

To ensure LPC can continue as a sustainable farming operation, it is considered appropriate to consider a new clause in to the LEP (outlined below) which permits 21 dwellings on the site comprising five dwellings and 16 rural workers' dwellings.

As stated previously in this report, LPC have requested permission for an additional four (4) rural workers' dwellings to provide them with flexibility if the need arises in the future. Council supports the ongoing operation of this significant rural enterprise which provides local employment and contributes significantly to the local economy. It is considered appropriate to facilitate expansion of the business in the future by allowing potential for additional rural workers' dwellings.

Accordingly, the request by LPC to allow the replacement of existing residences and future construction of four rural workers' dwellings on the subject site is supported for the following reasons:

- It is consistent with the objectives of the RU1 Primary Production zone;
- It is consistent with the NSW Department of Primary Industries publication (*Prime Fact Bulletin*) on rural workers' dwellings;
- The continuing use of the site as a dairy is an ideal use of its rural setting;
- All new dwellings are to be located outside of noise affected areas;
- Rural workers' dwellings are necessary for the ongoing operation, management and economic viability of the dairy;
- It would help retain and attract employees for the dairy;
- The farm directly employs over 100 people; and
- It is consistent with Action 1.9.1 of *A Plan for Growing Sydney* by supporting the growth of a priority industry i.e. agriculture and Action 4.2.1 by minimising adverse economic impacts on existing primary industry and productive agriculture and protecting productive agricultural land.

This report recommends Council endorse in principle the Planning Proposal to amend the Liverpool Local Environmental Plan 2008, to allow with consent a maximum of 25 dwellings (dwellings and rural workers' dwellings) on 1675 The Northern Road, Greendale and forward a copy of the Planning Proposal to the Department of Planning and Environment seeking Gateway Determination.

Risk of Precedent

Council officers are aware that additional dwellings (including rural workers' dwellings) around the airport could potentially set an undesirable precedent considering that the area around Badgerys Creek has been protected from residential development through New South Wales (NSW) Government planning restrictions, since the 1990s.

However, it is considered that the situation is unique to the LPC farm because of the size of the site, the significance of the rural business, the nature of the rural operations and the loss of land and dwellings as a result of the government acquisition process.

Given the above justification, it is considered that allowing the relocation and potentially additional rural workers' dwellings will ensure the long term sustainability of the dairy as a viable use in this location and that it will not create an undesirable precedent.

Recommended LEP Amendment

The intent of the amendment is to allow for the relocation of existing rural workers' dwellings on the property and allow (with consent) no more than 25 dwellings total on the site (inclusive of the existing main residences).

Ultimately, this report seeks to gain in principle support from Council in making a Gateway submission to the Department of Planning and Environment to amend the LLEP 2008. As part of this amendment, a key sites map is recommended to be included to indicate where the rural workers' dwellings can be constructed. The potential area where rural workers' dwellings could be located is shown in Figure 5. It is proposed that the draft clause (below) be incorporated into LLEP 2008.

7. ## Use of certain land at Greendale in Zone RU1

1. *The objectives of this clause are:
(i) to allow the provision of adequate accommodation for employees of agricultural or rural industries operating; and
(ii) to limit the number of dwellings to protect the rural amenity.*
2. *This clause applies to Lot 100 and 101 in DP 1171843, and Lot 11 DP 1092165 in Zone RU1 at The Northern Road, Greendale, known as the Leppington Pastoral Company.*
3. *The provision of clause 7.24A does not apply to the land referred in sub-clause (2).*
4. *A maximum of five (5) dwellings and sixteen (16) rural workers' dwellings are permitted, with consent on land to which this clause applies.*
5. *Development for the purpose of rural workers' dwellings is permitted with consent providing:*
 - *the development will be on the same lot as an existing lawfully erected dwelling house, and*

- *the development will not impair the use of the land for agricultural or rural industries, and*
 - *all new dwellings are to be located in accordance with the Key Sites Map, and*
 - *the agricultural or rural industry being carried out on the land has a demonstrated economic capacity to support the ongoing employment of rural workers, and*
 - *the development is necessary considering the nature of the agricultural or rural industry land use lawfully occurring on the land or as a result of the remote or isolated location of the land, and*
 - *the gross floor area of the rural workers' dwelling does not exceed 100 square metres; and*
6. *Despite subclause 4, an additional four (4) rural workers' dwellings, are permitted, subject to consent, in accordance with subclause 5, if it can be proven that there has been significant investment and expansion in the operations of the dairy resulting in an increase in the number of rural workers employed on site and that the additional rural workers' dwellings are necessary to support the expanded operation of the rural use.*

It is proposed that the Planning Proposal as submitted, will be modified with the above clause, prior to seeking Gateway Determination from the Department of Planning and Environment, with delegation to the Acting CEO.

Internal Referrals

The Planning Proposal was referred to internal departments in September 2015. There were three referrals received in relation to Floodplain Management, Environmental Significant Land and Contamination.

Further supporting documentation will be required in relation to potential contamination. The applicant will be required to prepare a Stage 1- Preliminary Site Investigation for the area proposed for rural workers' dwellings. These reports can be prepared subject to Council supporting the recommendation.

Conclusion

The need to relocate or replace existing rural workers' dwellings has resulted from the acquisition of land, by the Commonwealth Government, for the future Western Sydney Airport. It is likely that LPC will need to relocate approximately seven rural workers' dwellings.

To ensure LPC can continue as a sustainable farming operation:

- it is considered appropriate to allow them to relocate or replace their existing rural workers' dwellings on their property;
- It is proposed to introduce a new clause in to the LEP (outlined above) to allow 21 dwellings comprising of five main dwellings and 16 rural workers' dwellings on the property; and
- Allow a maximum of 25 dwellings subject to demonstration that the expansion of the rural enterprise requires additional rural workers' dwellings.

It is proposed that Council resolves to prepare and exhibit the draft amendment to the Liverpool Local Environmental Plan 2008, and forwards a copy of the Planning Proposal to the Department of Planning and Environment seeking Gateway Determination.

It is considered that the amendment will support the continued operation of a significant and sustainable agriculture business use and protect at least 100 rural jobs.

CONSIDERATIONS

Economic and Financial	There are no economic and financial considerations.
Environmental and Sustainability	There are no environmental and sustainability considerations.
Social and Cultural	There are no social and cultural considerations.
Civic Leadership and Governance	There are no civic leadership and governance considerations.

ATTACHMENTS

1. Leppington Pastoral Company Planning Proposal and Background Information [View](#)
2. Images of Leppington Pastoral Company [View](#)