

Marrickville Local Environmental Plan 2011 - Amendment 1

Proposal Title : **Marrickville Local Environmental Plan 2011 - Amendment 1**

Proposal Summary : **The first amendment to Marrickville Local Environmental plan (MLEP 2011) proposes to make:**
(1) site specific amendments to six sites including changes to zoning, FSR and height of building maps, and use of Schedule 1;
(2) operational changes to Schedule 5 Environmental Heritage and various maps such as Heritage and Biodiversity; and
(3) policy changes to clarify interpretation of various clauses such as 6.9 (conversion of industrial and warehouse buildings) and 6.11 (dwelling houses in business and industrial zones), and rezoning of all school sites to SP2 (Educational Establishments).

PP Number : **PP_2012_MARRI_001_00** Dop File No : **10/02958-3**

Proposal Details

Date Planning Proposal Received :	30-Jul-2012	LGA covered :	Marrickville
Region :	Sydney Region East	RPA :	Marrickville Council
State Electorate :	MARRICKVILLE	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :	0		
Suburb :	0	City :	0
		Postcode :	0
Land Parcel :			

DoP Planning Officer Contact Details

Contact Name : **Megan Hollingsworth**
 Contact Number : **0292286286**
 Contact Email : **megan.hollingsworth@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Marcus Rowan**
 Contact Number : **0293352179**
 Contact Email : **mpp@Marrickville.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
 Contact Number :
 Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro South subregion	Consistent with Strategy :	Yes
MDP Number :	0	Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

No

If Yes, comment : The Department is not aware of any meetings or communications with registered lobbyists concerning this planning proposal.

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? Yes

Comment : The statement of objectives is considered to be adequate given the extent of proposed changes:

To make a number of amendments to the Marrickville Local Environmental Plan (MLEP) 2011 to better reflect community expectations and improve the operation of the LEP, ranging from site specific provisions to policy and operational matters.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : The proposal seeks to make site-specific, operational and policy amendments to MLEP 2011, as follows:

1. Site-Specific Amendments

a. 396-576 Princes Highway, St Peters – amend Land Zoning Map from IN1 General Industrial to B6 Enterprise Corridor; amend the Key Sites map to include 2 additional sites so that existing Schedule 1 'No. 16: Use of certain land at Princes Highway, St Peters and Bellevue Street, Tempe' which permits bulky goods with consent also applies to them.

b. 728-750 Princes Highway, Tempe – amend Land Zoning Map from IN2 Light Industrial to B6 Enterprise Corridor.

c. 31, 41-45 & 129 Princes Highway, St Peters – amend Floor Space Ratio Map showing a maximum permissible floor space ratio of 0.95:1 for these properties; and amend Height of Building Map which shows no height control for these properties and will be consistent with other B6 zoned land on the Princes Highway corridor.

d. 1-15 West Street & 96-98 Brighton Street, Petersham – amend Land Zoning Map to rezone 13-15 West Street, Petersham from R1 General Residential to R4 High Density Residential; and amend Floor Space Ratio Map indicating a maximum floor space ratio for 1-15 West Street, Petersham of 1.2:1 and 96-98 Brighton Street, Petersham of 0.7:1; amend Height of Buildings Map indicating a maximum height of building for 1-15 West Street, Petersham of 14.0 metres.

e. 55-61 Unwins Bridge Road, Sydenham – amend Land Zoning Map, amending zoning of this land from R2 Low Density Residential to B1 Neighbourhood Centre; amend Floor Space Ratio Map indicating a maximum floor space ratio of 1.5:1 for this land being consistent with adjoining B1 zoned land; amend Height of Buildings Map indicating a maximum height of buildings of 11 metres being consistent with adjoining B1 zoned land.

f. 221-235 and 244 Stanmore Road & 115-133 Cambridge Road, Stanmore – amend Land Zoning Map to zone 221-235 Stanmore Road, Stanmore from R1 General Residential to SP2 (Educational Establishment); amend Floor Space Ratio Map to show no maximum floor space ratio for 221-235 & 244 Stanmore Road & 115-133 Cambridge Road, Stanmore; and amend Height of Buildings Map which shows no maximum height of buildings for 221-235 & 244 Stanmore Road & 115-133 Cambridge Road, Stanmore.

2. Operational Matters

a. Amendment of Schedule 5 Environmental Heritage and Heritage Map to ensure improved clarity and heritage protection via: addition/deletion of heritage items and conservation areas which do/do not have heritage merit; and inclusion of the words 'and interiors' in the Schedule for all heritage items.

b. amend FSR map for 48-68 Hutchinson Street, St Peters to show a maximum floor space ratio of 1.8:1 for these properties.

c. amend the Biodiversity Map to show roads.

3. Policy Matters

a. amend Clause 6.9 Conversion of Industrial Buildings and Warehouse Buildings to clarify how it is intended to apply to Residential Flat Buildings, Multi-Dwelling Housing and Office Premises.

b. amend Part 4 Principal Development Standards Clause 4.4(2A) to include 'secondary dwellings' to the list of land uses that have a variable FSR based on site area.

c. amend Part 4 Principal Development Standards Clause 4.4(2A) to include a table showing either specific site areas and FSRs or a table permitting a 'merit' consideration for sites ≤ 200 sqm.

d. amend Clause 6.11 Use of Dwelling Houses in Business and Industrial Zones to enable significant structural alterations to a dwelling house in a non-residential zone unless the existing dwelling was substantially retained.

e. amend Land Zoning Map showing all educational establishments zoned SP2 (Educational Establishment).

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.1 Business and Industrial Zones**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 3.5 Development Near Licensed Aerodromes**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 6.1 Approval and Referral Requirements**
- 6.3 Site Specific Provisions**
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036**

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

- SEPP No 6—Number of Storeys in a Building**
- SEPP No 19—Bushland in Urban Areas**
- SEPP No 22—Shops and Commercial Premises**
- SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)**
- SEPP No 55—Remediation of Land**
- SEPP No 65—Design Quality of Residential Flat Development**
- SEPP (Building Sustainability Index: BASIX) 2004**
- SEPP (Exempt and Complying Development Codes) 2008**
- SEPP (Housing for Seniors or People with a Disability) 2004**
- SEPP (Infrastructure) 2007**
- SEPP (Major Projects) 2005**
- SEPP (Affordable Rental Housing) 2009**

e) List any other matters that need to be considered :

Proposed clause Marrickville LEP 2011 Part 4 Principal Development Standards Clause 4.4 (2A) to include 'secondary dwellings' to the list of land uses that have a variable FSR based on site area is inconsistent with the SEPP (Affordable Rental Housing) 2009. This is because it is proposing to introduce provisions to further restrict affordable housing projects otherwise permissible under the AHSEPP. This is further addressed in the adequacy Assessment section below.

The proposal is considered to be consistent with all other above nominated SEPPs.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

The proposal is partially inconsistent with Direction 1.1 Business and Industrial Zones, Direction 3.1 Residential Zones, Direction 3.4 Integrating Land Use and Transport, Direction 3.5 Development Near Licensed Aerodromes, and Direction 4.1 Acid Sulphate Soils, as follows:

Direction 1.1 Business and Industrial Zones - this Direction applies to two Princes Highway sites being 500-576 Princes Highway, Sydenham and 728-750 Princes Highway, Tempe relating to the proposed rezoning from IN1 General Industrial to B6 Enterprise Corridor with bulky goods retailing permitted via MLEP 2011 Schedule 1.

This proposal is partially consistent with 1.1 as it will give effect to relevant objectives, not reduce the total potential floor space area for employment uses and related public services in business zones, and ensures the proposed B6 areas are in accordance with the Draft South Subregional Strategy and The Marrickville Urban Strategy 2007 approved as part of the finalisation of the MLEP 2011. It is inconsistent with 1.1 as it is proposing to alter the location of the above two sites being existing industrial zones, and reduce a small portion of the total potential floor space area for industrial uses in industrial zones.

The agreement of the Director General is recommended under Direction 1.1 as these inconsistencies are of minor significance.

Direction 3.1 Residential Zones - Proposed clause 4.4 (2A) which adds 'secondary dwellings' to the list of land uses with a variable FSR based on site area, is inconsistent with this direction due to additional restrictions upon the existing provisions for secondary dwellings contained within the AHSEPP 2009.

The agreement of the Director General is not recommended under Direction 3.1 for this inconsistency.

Direction 3.4 Integrating Land Use and Transport - An inconsistency with this Direction applies to 396-576 Princes Highway, Sydenham and 728-750 Princes Highway, Tempe. This proposal involves a rezoning from IN1 General Industrial to B6 Enterprise Corridor, with bulky goods retailing permitted via MLEP 2011 Schedule 1. This may result in an increase in trip generation, including car trips. Council considers the proposal is generally consistent with this Direction as the Princes Highway has been identified as an enterprise corridor in the draft South Subregional Strategy and Marrickville Urban Strategy 2007, and is suitable for bulky goods retailing. This site is not only car dependent as it is accessible by walking from nearby Tempe, Sydenham and St Peters Rail Stations.

The agreement of the Director General is recommended under Direction 3.4 for this partial inconsistency being justified by the draft South Subregional Strategy, and by a traffic study prepared in support of rezoning these Princes Highway sites which gives consideration to the objectives of this Direction.

3.5 Development Near Licensed Aerodromes - this Direction is relevant to the site specific rezoning proposal for 1-15 West Street and 96 Brighton Street, Petersham within the 20-25 ANEF. This proposal represents a minor incremental variation in the development potential of this site, and Council considers this proposal is not inconsistent with this Direction as it is of minor significance.

This Direction is also relevant to the site-specific rezoning proposal for 55 to 61 Unwins Bridge Road, Sydenham situated within 30-35 ANEF. Council considers the proposed zoning from a residential (R2) to a less sensitive commercial use (B1) is consistent with this Direction as it allows land located on land within 30+ ANEF to be rezoned for commercial or industrial uses providing the development meets AS 2021 regarding interior noise levels.

The agreement of the Director General is recommended under Direction 3.4 for these inconsistencies as they are of minor significance.

Direction 4.1 Acid Sulphate Soils - this Direction is relevant to the site specific rezoning proposal for 55 to 61 Unwins Bridge Road, Sydenham, as it is situated within a potential Acid Sulphate Soils Area shown on the Acid Soils Map for MLEP 2011. This proposal is inconsistent with this Direction as it requires the preparation of an Acid Sulphate Soils Study prior to any rezoning, with Acid Sulphate Soil management conditions applying to works. Council advises Clause 6.1 of MLEP 2011 provides appropriate SI provisions for Acid Sulphate Soils, and the proposed residential to commercial rezoning may result in a minor intensification of land use.

The agreement of the Director General is recommended under Direction 4.1 for this inconsistency as of minor significance.

The proposal is also consistent with Direction 2.3 Heritage Conservation, Direction 4.3 Flood Prone Land, Direction 6.1 Approval and Referral Requirements, Direction 6.3 Site Specific Provisions and Direction 7.1 Implementation of the Metropolitan Plan for Sydney 2036.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment : All maps are considered to be adequate and indicate current and proposed provisions

under MLEP 2011.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council proposes to exhibit the planning proposal for 14 days.
Council is proposing to exhibit:
- in all relevant local newspapers;
- on council's website;
- via flyers displayed in the foyer at council's administration buildings and all local libraries; and
- notify in writing to all submitters/objectors, affected property owners and adjoining properties.

Council has resolved that certain site specific amendments i.e. 396-576 Princes Highway, St Peters and 728-50 Princes Highway, Tempe will require consultation with the Roads and Maritime Services (RMS) to assess any potential traffic implications for the Princes Highway. Council should also consult with the Department of Education and Communities for the proposed rezoning of all school sites to SP2 (Educational Establishments).

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : The explanation of provisions for certain provisions is considered to be adequate except for clause 2.2(4A), 6.9, clause 6.11, as discussed below.

The following proposed provisions are not considered to be adequate:

Policy Matters

Clause 2.2(4A)- Floor Space Ratio

Council has provided two options - to include a table showing either numeric values for specific site areas and FSRs or a table permitting a 'merit' consideration for sites ≤ 200 sqm. No objection is raised to the table amendment showing numeric values for sites. The mapped floor space ratio (FSR) for such land will apply, in the absence of any other standard specified in the table. The proposed site merit assessment option is not supported.

However, in relation to the proposal to add "secondary dwellings" to this provision, clause 22(3) of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) makes provision for the FSR of secondary dwellings. The effect of this provision is that the total FSR of the principal dwelling and the secondary dwelling must not exceed the FSR for a dwelling house under the Marrickville LEP. The outcome of the council's proposal may therefore be inconsistent with the ARH SEPP, and it is considered appropriate to delete the proposed addition of 'secondary dwellings' to Clause 4.4(2A).

Clause 6.9 - Conversion of industrial buildings and warehouse buildings to residential flat buildings, multi dwelling housing and office premises

Council's proposed draft provision at Attachment AC is not supported as a complete re-write of the existing clause 6.9 to further clarify council's intentions is unnecessary. The recommended changes (see Recommendations section of this report) incorporating

a minor drafting change will achieve Council's intended purpose of permitting multi-dwelling housing and residential flat buildings in Zone R2 Low Density Residential, residential flat buildings in Zone R3 Medium Density Residential and office premises in all residential zones but only as part of a conversion of an existing industrial and warehouse building.

The recommendations also suggest the addition of the words 'and as part of the conversion of existing industrial and warehouse buildings' to further clarify the relationship of clause 6.9 with the R1 General Residential Zone.

Clause 6.11 - Use of dwelling houses in business and industrial zones - Council's proposed draft provision at Attachment AF is not supported as a complete re-write of the existing clause 6.11 to further clarify council's intentions of enabling significant structural alterations is unnecessary. The recommended changes to retain the existing clause 6.11 in MLEP 2011 and delete the words 'and will not require significant structural alterations' will achieve council's intended outcome.

The recommended revised provisions (Recommendations section) have been discussed with Council and Council supports the proposed changes which will improve clarity and involve minimal change to the existing MLEP 2011 which is in Standard Instrument format.

Proposal Assessment

Principal LEP:

Due Date : December 2011

Comments in relation to Principal LEP : MLEP 2011 was published on 12 December 2012. This Planning Proposal is the first amendment to Marrickville LEP 2011 since being notified.

LEP Acceleration Fund (LEPAF)- Council received a total of \$68,000 under the LEPAF. This includes \$28,000 for immediate planning services to assist with finalising the MLEP 2011 at \$68 and \$40,000 for a deferred 'Urban Design for Centres Control' Study.

Assessment Criteria

Need for planning proposal :

The various amendments are required following finalisation of the MLEP 2011 on 12 December 2011. The planning proposal aims to improve the overall operation of the plan, and deals with operational and other policy matters, and some site specific issues following consultation with land owners since the initial drafting of MLEP 2011.

Some additional comments on particular amendments are included below:

Site Specific Amendments -

396-576 Princes Highway, St Peters and 728-750 Princes Highway, Tempe

This amendment proposes to extend the application of an existing Schedule 1 item and add two sites to the Key sites map.

In preparing MLEP 2011, Council identified only certain sites along the Princes Highway as being suitable for a B6 zone with bulky goods being permissible via Schedule 1. This is due to significant access/traffic generation issues affecting the majority of sites along the Princes Highway. Council decided not to use either a Zone B4 Mixed Use or a B5 Business Development Zone permitting bulky goods as such zones would also permit residential and retail uses which were considered inappropriate along the Princes Highway strip in this location. The existing B6 Enterprise Corridor Zone along the Princes Highway is consistent with the identification of the enterprise corridor within the Draft South Subregional Strategy and the Marrickville Urban Strategy.

It is considered that the proposed amendment should be supported as it is consistent with the approach taken in preparing the MLEP 2011.

221 - 235 and 244 Stanmore Road, Stanmore & 115-133 Cambridge Road, Stanmore

Marrickville Council has confirmed that any reference to land at 115-133 Cambridge Road, Stanmore should be deleted from the Planning Proposal. Council advised this site is already zoned as SP2 (Educational Establishment) under MLEP 2011 and has no corresponding FSR or building height. Therefore, no amendment to the FSR or HOB map is required for this land.

Policy Matters - Rezoning of school sites from an adjoining residential zone to SP2(Educational Establishment)

It is noted that some flexibility currently exists re application of the special use zones in SLEPs for school sites, however Marrickville Council should be required to consult with the Department of Education and Communities during the public exhibition period.

Consistency with strategic planning framework :

The planning proposal is the first amendment for MLEP 2011, and is considered to be consistent with the aims of the Metropolitan Plan 2036, draft South Subregional Strategy and Council's local strategies. These include numerous studies informing the strategic framework of MLEP 2011 i.e. Marrickville Employment Lands Study (2008), Aircraft Noise Strategy, Marrickville Integrated Transport Strategy (2007), and the Village Centres Urban Design Study.

Environmental social economic impacts :

The planning proposal is considered to produce positive environmental, social and economic outcomes.

There is no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected by this Planning Proposal.

The proposed site-specific and policy amendments such as modifications to zoning and development density will assist in achieving additional housing and employment targets by improving the operation of MLEP 2011. Council considers the proposed amendment to the zoning for educational establishments will have positive social effects in protecting these sites for community uses.

There are no significant environmental effects expected to result from this Planning Proposal. Council has advised that prior to the rezoning of the site-specific amendments to 396-576 and 728-750 Princes Highway, St Peters, Council will undertake further consultation with the RMS concerning any potential traffic impacts and future traffic management.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 Month	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Department of Education and Communities Office of Environment and Heritage Transport for NSW - Roads and Maritime Services		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :	Refer to Planning Team Recommendation for required variations.		

Marrickville Local Environmental Plan 2011 - Amendment 1

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

N/A

Identify any internal consultations, if required :

Employment Lands (ELDP)

Legal Services

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **N/A**

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal - Map attachments.pdf	Map	No
planning proposal - marrickville council covering letter.pdf	Proposal Covering Letter	No
Planning Proposal - Text attachments.pdf	Proposal	No
planning proposal - marrickville council.pdf	Proposal	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 3.5 Development Near Licensed Aerodromes**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 6.1 Approval and Referral Requirements**
- 6.3 Site Specific Provisions**
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036**

Additional Information :

It is recommended that the planning proposal proceed subject to the following conditions:

- 1. The planning proposal be exhibited for 14 days;**
- 2. The planning proposal should be completed within 9 months of Gateway Determination;**
- 3. The planning proposal be amended:**
 - (a) to delete the addition of 'secondary dwellings' in clause 4.4(2A), as shown in Attachment AD, and delete the existing site area and maximum floor space ratio requirements as shown in Attachment AE and include the following:**
 - ≤150 sqm – 1.1:1**
 - >150 ≤ 200 sqm – 1.0:1**
 - >200 ≤ 250 sqm – 0.9:1**
 - >250 ≤ 300 sqm – 0.8:1**
 - >300 ≤ 350 sqm – 0.7:1**
 - >350 ≤ 400 sqm – 0.6:1 and**
 - >400 sqm – 0.5:1**

(b) add the words - 'and as part of the conversion of existing industrial and warehouse buildings' to '1 Objectives of zone' in the Land Use Table for Zone R1 General Residential which currently reads - 'To provide for office premises and retail premises in existing buildings designed and constructed for commercial purposes'

(c) not to include the proposed amendments to Clause 6.9 at Attachment AC but the application of clause 6.9 to only apply to development for the purposes of - multi-dwelling housing and residential flat buildings in Zone R2 Low Density Residential; residential flat buildings in Zone R3 Medium Density Residential; and office premises in Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential.

(d) delete the words in Clause 6.11 (3)(b) 'and will not require significant structural alterations'.

(e) Amend the key for the proposed Floor Space Ratio Map at Attachment H to include an FSR of 1.20 for 'P' code rather than 17.0.

(f) delete any reference to 115-133 Cambridge Road, Stanmore (as this land is already zoned as SP2 Educational Establishments and consequently no change to the FSR and HOB maps are required).

4. Inconsistencies with Section 117 Directions 1.1, 3.1 (as it relates to clause 6.9 and 6.11), 3.4, 3.5 and 4.1 are considered to be of minor significance and the Director General's approval to proceed under the Direction is granted. No further consideration of any other Section 117 Directions is required.

5. Consult with Government agencies: Office of Environment and Heritage; Roads and Maritime Services; and Education and Communities; and

6. No further studies are required to be undertaken.

Supporting Reasons :

The planning proposal is the first proposal to amend Marrickville LEP 2011. It aims to update MLEP 2011 via a miscellaneous set of technical and site-specific amendments to facilitate development on numerous sites. The various changes will not affect the consistency and legibility of MLEP 2011.

Signature:

D Pitney

Printed Name:

DAVID PITNEY

Date:

10/8/12