

**ITEM PLANNING PROPOSAL - LOCAL CHARACTER AREAS
- PP2022/0001**

Department Community and Environmental Planning

Author Initials: HW

EXECUTIVE SUMMARY

A revised Planning Proposal has been prepared to give effect to the *City of Canada Bay Local Strategic Planning Statement* (LSPS) by amending the *Canada Bay Local Environmental Plan 2013* (CBLEP 2013) to introduce local character areas (LCAs) for areas where the established character is to be maintained.

The Planning Proposal has been updated to respond to the outcomes of community engagement and the further background analysis prepared to inform the content of the proposed Local Character Statements.

The rationale for introducing the proposed LCAs is to ensure new development is compatible with the desired future character of identified localities. Once introduced, the provisions will be a consideration when a development application is submitted for land within the identified areas.

It is recommended that the Planning Proposal be endorsed for submission to the Department of Planning, Industry and Environment (DPIE) for a Gateway Determination.

STRATEGIC CONNECTION

This report supports YOUR future 2030 Outcome area:

EFF 4.2.1. Provide Strategic and Land Use Planning to ensure the built and natural environment is highly liveable with quality and sustainable development incorporating best practice design.

This report also relates to the *Canada Bay Local Strategic Planning Statement*, the *Canada Bay Local Housing Strategy*, the *Canada Bay Local Environmental Plan 2013* and the *Canada Bay Development Control Plan*.

REPORT

Background

In 2009, Council undertook a comprehensive assessment of local character in the Canada Bay LGA, which formed the evidence-base for an addition to the *Canada Bay Development Control Plan* (DCP).

In February 2017, Council adopted an amended DCP that removed the Character Areas. This decision was made as it was apparent that Complying Development under the General Housing Code (*State Environmental Planning Policy – Exempt*

and Complying Development) was undermining the established character of the Character Areas, and there were limited statutory mechanisms available to Council, beyond those relating to heritage conservation, to protect local character.

The Canada Bay *Local Housing Strategy (LHS) 2019*, which was produced to inform the *Local Strategic Planning Statement (LSPS)* determined that forecast housing need will be met via the supply that is being delivered in renewal precincts and corridors, plus infill development under existing planning controls in residential and business zones. The LHS also recognised the strong desire of the local community to recognise the local character of identified low density precincts.

The LSPS and LHS are currently being implemented through a series of planning proposals. The first planning proposal was prepared in late 2019 and included the introduction of Local Character Areas and an intention to seek an exemption from the General Housing Code and the Housing Diversity Code under *State Environmental Planning Policy – Exempt and Complying Development*. On 28 April 2020, this planning proposal received a Gateway Determination to proceed to public exhibition, subject to a condition that the Local Character Areas be removed. One reason given by DPIE was the absence of policy certainty at a State level for local character in Local Environment Plans.

On 29 June 2020, the Minister for Planning and Public Spaces confirmed, at a meeting between Council and DPIE, that Council should progress the Local Character Areas through a planning proposal, and should seek to have the areas exempted from application of the Housing Diversity Code under *SEPP (Exempt and Complying Development Codes) 2008*.

On 28 October 2020, Council submitted a local character planning proposal to DPIE for Gateway Determination. However, on 24 December 2020, Council received a letter from DPIE advising that they were unable to accept the planning proposal, as an Explanation of Intended Effect (EIE) for draft standard local character area provisions had been subsequently placed on public exhibition by DPIE, from 12 November 2020 to 29 January 2021, and the planning proposal was inconsistent with the EIE. Further work would be required in the form of a strategic study and community engagement to enable the planning proposal to align with the DPIE *Local Character and Place Guideline 2019*.

On 16 February 2021, Council resolved to proceed with the planning proposal to introduce Local Character Areas into the *Canada Bay Local Environmental Plan 2013* and undertook to prepare further background study and engagement to support the proposed Local Character Areas. The outcome of this work is the subject of this report.

Planning Proposal

The planning proposal seeks to amend the CBLEP 2013 by introducing a new clause and associated maps to protect and maintain the established character of areas that have been recognised by the community as having a unique character (Type 3 LCA – To be maintained).

Community engagement

The planning proposal has been informed by a tailored and targeted community survey to determine the areas that have established character and the characteristics that define them. Refer to Attachment - Local Character Review – Community Survey – Report of Findings – July 2021.

The survey found that a majority of residents want to see future change that is sympathetic to their area's current look and feel, although there was some support for the areas to stay exactly as they are now. Almost all respondents felt that some intervention to maintain the local character is important and that the ongoing loss of the traditional character of the areas should be stopped. The characteristics that were deemed to have the strongest influence on the area's current look and feel were the local parks and green spaces, the safe and welcoming feeling, the local history and heritage buildings, and the area's walkability.

Review and Analysis

A comprehensive and evidence-based review of local character across the LGA underpins the scope and extent of the proposed Local Character Areas and associated Local Character Area Statements.

The review was undertaken in accordance with the Department's *Local Character and Place Guideline* (February 2019) and included:

- an analysis of the policy background;
- analysis of the context; and
- defining characteristics of the investigation areas.

Refer Attachment – Appendix 01 – Baseline review and context analysis, and Attachment – Appendix 02 – Analysis and supporting research).

This informed the production of:

- Local Character Statements for each proposed Local Character Area and
- Local Character Area Maps – Proposed.

Refer to Attachments 3-13 – Local Character Statements and Attachment 2 Local Character Area Maps – Proposed.

The Statements describe the established characteristics and the Desired Future Character of the draft Local Character Areas, comprising photos, maps, Snapshot on a Page, Principles and built form guidelines.

The Local Character Areas that were previously included in Council's DCP, plus the surrounding areas, formed a starting point for the Review as these areas were deemed to most likely have a high concentration of established, unique and special character.

Changes from previous planning proposal

The new planning proposal is still seeking to adopt the Department's Standard Instrument LEP clause for Local Character Areas to give statutory weight to each Local Character Statement.

However, it has been amended to reflect the outcome of the analysis and includes the following changes:

1. Concord-North Strathfield LCA – the southern side of Gracemere Street is removed as the area interfaces with the Sydney Metro West investigation area and has little contributory value.
2. Concord North LCA – the northern side of Archer Street is removed due to lack of consistent tree planting and varying interfaces with the school, such as high fence lines, which detracts from the character of the LCA.
3. Concord East LCA – the area along Sanders Parade and Duke Avenue (eastern edge) is removed as new development has resulted in inconsistencies with garage placements on the street and planting.
4. Wareemba West LCA is removed completely as the analysis recommending that the LCA be reduced to include only Glen Ormond Avenue as the remainder of the LCA comprised of recent development of inconsistent architectural style and built to take advantage of the views.
5. Russell Lea North - the area west of Wareemba Street is removed due to inconsistencies in architectural style and lack of verges and street trees.
6. Russell Lea South - the area east of Janet Street is removed due to contemporary development and variation in land uses (retail uses).
7. Five Dock North LCA has been extended to include the south side of Kirrang Street as the area contains intact Federation/Californian Bungalows and has a similar street condition.
8. Five Dock LCA – the properties along Henley Marine Drive are removed as they are of varying and inconsistent residential styles.

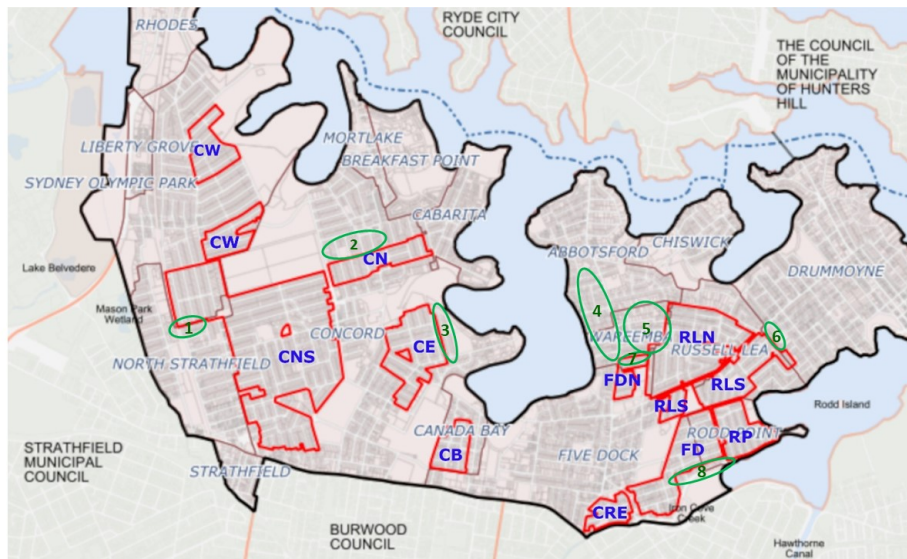


Figure 1: Draft Local Character Areas proposed in this planning proposal (Type 3 – To be maintained)

It is intended to seek an exemption for the LCAs from the Housing Diversity Code under *SEPP Exempt and Complying Development*, in a subsequent planning proposal. This is consistent with the process set out in the *Local Planning and Place Guideline*. A draft Development Control Plan (DCP) will also be prepared that will include the planning controls to give effect to the Local Character Statements.

Consideration by the Local Planning Panel

On 27 January 2022, the Local Planning Panel considered the planning proposal. The Panel advised the following:

General comments:

1. *The Panel was supportive, in principle, of the Local Character Statements.*
2. *The Panel noted Canada Bay may be the first or one of the first Councils to proceed with this, and recommends working with the Department, and possibly also the Government Architect to secure support for the Local Character Statements. It is likely to need a partnership approach working closely with the Department to secure this reform.*

Comment: Council staff will continue to work with the Department, and will liaise with the Office of the Government Architect to seek the support of the Office for the planning proposal.

3. *Make clear within the planning proposal and exhibition documentation whether an amendment to the SEPP (Exempt and Complying) 2009 is proposed.*

Comment: The planning proposal will make it clear that an amendment to the SEPP will be sought in a subsequent planning proposal, consistent with

the two stage process outlined in the Department's Local Character and Place Guideline.

4. *Ideally the planning proposal would be exhibited with the Development Control Plan for clarity and ease of understanding. If not possible, then finalisation of both in parallel subsequently and within a reasonable time is recommended. It is anticipated that the Development Control Plan will extract relevant provisions from the work done to guide new development.*

Comment: A draft DCP has been prepared, which will need to be reviewed to reflect the outcomes of the new analysis and Local Character Statements. The draft DCP will also need to be reviewed to address the outcome of the public exhibition of the planning proposal. It is therefore proposed that the DCP be exhibited separately to the planning proposal but as soon as possible.

5. *Tailor the examples of good and bad development to individual character localities (where there are material differences) in supporting documentation. This may appear in the Local Character Statements, or in the DCP as appropriate. The desired outcome is to make it very clear and easily understood for all parties as to what is desirable and more likely to gain approval for proponents preparing plans for Council in a DA.*

Comment: It is proposed that the draft DCP include examples of built and natural elements that are consistent/compatible with the desired future character, and not consistent/not compatible.

6. *When finalising the boundaries, give consideration to edge effects at boundaries for immediately adjacent properties.*

Comment: The final Local Character Statements and the draft DCP will be revised to include a statement about the need for development on both sides of a Local Character Area boundary to give consideration to edge effects, to respect the desired future character of the Local Character Areas.

Exhibition of Planning Proposal

In accordance with the *Environmental Planning & Assessment Act 1979*, the planning proposal is required to be placed on public exhibition for a minimum of 28 days to enable community feedback. It is proposed that, at a minimum, this involve:

- notification on the City of Canada Bay website (Collaborate);
- notification on the NSW Planning Portal;
- individual notification letters sent to affected landowners.

Conclusion

Council has previously resolved to prepare a planning proposal to introduce Local Character Areas into the *Canada Bay Local Environmental Plan 2013*. Following concerns raised by the Department of Planning, Industry and Environment, community engagement and a comprehensive and evidence-based review have been undertaken to inform the planning proposal.

The planning proposal seeks to amend the CBLEP 2013 by introducing DPIE's Standard Instrument LEP clause and associated maps, to protect and maintain the established character of areas that have been identified by the community as having special character (Type 3 LCA – To be maintained).

The Local Planning Panel is supportive, in principle, of the planning proposal and the draft Local Character Statements.

It is recommended that the planning proposal be endorsed for submission to the Department of Planning, Industry and Environment for a Gateway Determination.

RECOMMENDATION

1. THAT Council note the advice of the Local Planning Panel on 27 January 2022.
2. THAT the Planning Proposal – Local Character Areas (PP2022/0001), attached to the report, be endorsed for submission to the Department of Planning, Industry and Environment for a Gateway Determination, replacing the Planning Proposal previously endorsed by Council on 20 October 2020.
3. THAT delegation be requested from the Department of Planning, Industry and Environment to manage the plan making process.
4. THAT authority be delegated to the General Manager to make any minor modifications to the Planning Proposal following receipt of a Gateway Determination.
5. THAT should the Planning Proposal proceed to public exhibition, following the consideration of any submissions received, the Planning Proposal be reported to Council for determination.

Attachments:

1. Planning Proposal
2. Attachment – Local Character Area Maps – Proposed
- 3-13. Attachments – Local Character Statements
- 14-15. Attachments – Local Character Review – Appendices 1-2
16. Attachment – Local Character Review – Community Survey – Report of Findings – July 2021
17. Attachment – Local Housing Strategy (LHS) 2019
18. Attachment – Local Strategic Planning Statement (LSPS) 2020

19. Attachment – Letter to Canada Bay Council – Local Character Areas Planning Proposal – 24 December 2020
20. Local Planning Panel – Minutes

(All attachments are provided under separate cover)