



IRF 22/891

Gateway determination report – PP-2022-865 number

Liverpool LEP 2008 Amendment to Schedule 5 –
Environmental Heritage

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Planning proposal

1.1 Overview

Table 1 Planning proposal details

LGA	Liverpool
PPA	Liverpool Council
NAME	Amendment to Schedule 5 – Environmental Heritage (0 homes, 0 jobs)
NUMBER	PP-2022-865
LEP TO BE AMENDED	Liverpool LEP 2008
ADDRESS	122 Atkinson Street and 124 Moore Street, Liverpool (multiple)
DESCRIPTION	Lot 52 DP 1090837 and Lot 1 DP 10447 (multiple)
RECEIVED	16/03/2022
FILE NO.	IRF22/891
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

1.2 Objectives of planning proposal

The planning proposal (**Attachment A**) contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- include two local heritage items identified through the independent heritage significance assessments; and
- make amendments to remove six items from the Schedule because they are either no longer within the LEP boundary or have been demolished.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

This planning proposal seeks to amend Schedule 5 of the Liverpool Local Environmental Plan 2008 to:

Add:

1. 122 Atkinson Street, Liverpool
2. 124 Moore Street, Liverpool

Remove:

1. Item 4 – Badgerys Creek Road
2. Item 5 – 225-245 Badgerys Creek Road, Bringelly
3. Item 59 – 5-35 Yarrunga Road, Prestons
4. Item 27 – Greendale Road, Greendale
5. Item 36 – Campbelltown Road, Ingleburn [Edmondson Park]
6. Item 57A – Moorebank Avenue

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The planning proposal seeks to amend Schedule 5 Environmental Heritage of Liverpool Local Environmental Plan 2008 (Liverpool LEP 2008). **Table 3** shows the new additions to Schedule 5. **Table 4** shows the removals/amendment to the existing listings.

Table 3 Proposed addition to Schedule 5

Proposed item No. in Schedule 5	Address	Description	Justification
49	122 Atkinson Street, Liverpool Lot 52 DP 1090837	Weatherboard Federation cottage	Recommended by a heritage assessment prepared for Council by FORM Architects (Attachment D), November 2020 as having local significance.
111	124 Moore Street, Liverpool Lot 1 DP 10447	Former Liverpool Scout Hall	Recommended through a heritage assessment prepared for Council by Edwards Heritage Consultants (June 2021) as having local heritage significance. Refer to Attachment E .

Table 4 Proposed removals/amendment from Schedule 5

Item No. in Schedule 5	Address	Description	Justification
4	Badgerys Creek Road, Bringelly (Lot 1 DP 90328 and Lot 1 DP 109666)	Two water tanks (RAAF receiving station site and former water supply to OTC staff)	Site is within the Western Sydney Airport/Aerotropolis area under SEPP (Precincts-Western Parkland City) 2021. The LEP no longer applies to this item. Refer to Figure 1 .

Item No. in Schedule 5	Address	Description	Justification
5	225-245 Badgerys Creek Road, Bringelly (Lot 1 DP 417901 and Lot 1 DP 109666)	Former OTC Site Group, including radio receiving station and site of former staff housing	Site is included as a part of the Western Sydney Airport/Aerotropolis area under SEPP (Precincts-Western Parkland City) 2021. The LEP no longer applies to this item. Refer to Figure 1 .
59	5-35 Yarrunga Road, Prestons (Lot 34 DP 2359)	Remnants of former sandstone cottage ("Benera")	Site was assessed as a part of SSD 7155 and all potential archaeological matter was recorded and removed as a result of the Prestons Industrial Estate SSD approval.
27	Greendale Road, Greendale (Lot 1 and 2, DP 1115589)	Remnants of former farm homestead ("Pemberton")	The site is currently listed in Part 1 Heritage items as well as in Part 3 Archaeological site of the Schedule 5 as Item AO3. The proposed amendment will remove duplication.
36	Campbelltown Road, Ingleburn (Part Lots 1 and 2 DP 831152)	Ingleburn village site and lecture hall building (Nissen hut)	Item was demolished as a part of the preparation works under Part 3A for Edmondson Park.
57A	Moorebank Avenue, Moorebank (Lot 1 DP 1048263)	Defence National Storage and Distribution Centre	Item was demolished as a part of the Part 3A and SSD approvals for the Moorebank Intermodal.

The Assessment of Heritage Significance by (FORM Architects, November 2020) and Edwards Heritage Consultants (June 2021) are at **Attachments D** and **E**. Council's detailed explanation of the proposed changes are in the planning proposal at **Attachment A** and justification is at **Attachment A1**.

Some of the land descriptions are incorrect such as Lot 1 DP 90328, described as within Items 4 and 5 to be removed. The land descriptions will need to be checked and updated. A condition of this effect is included in the Gateway conditions. Council has been advised of this.

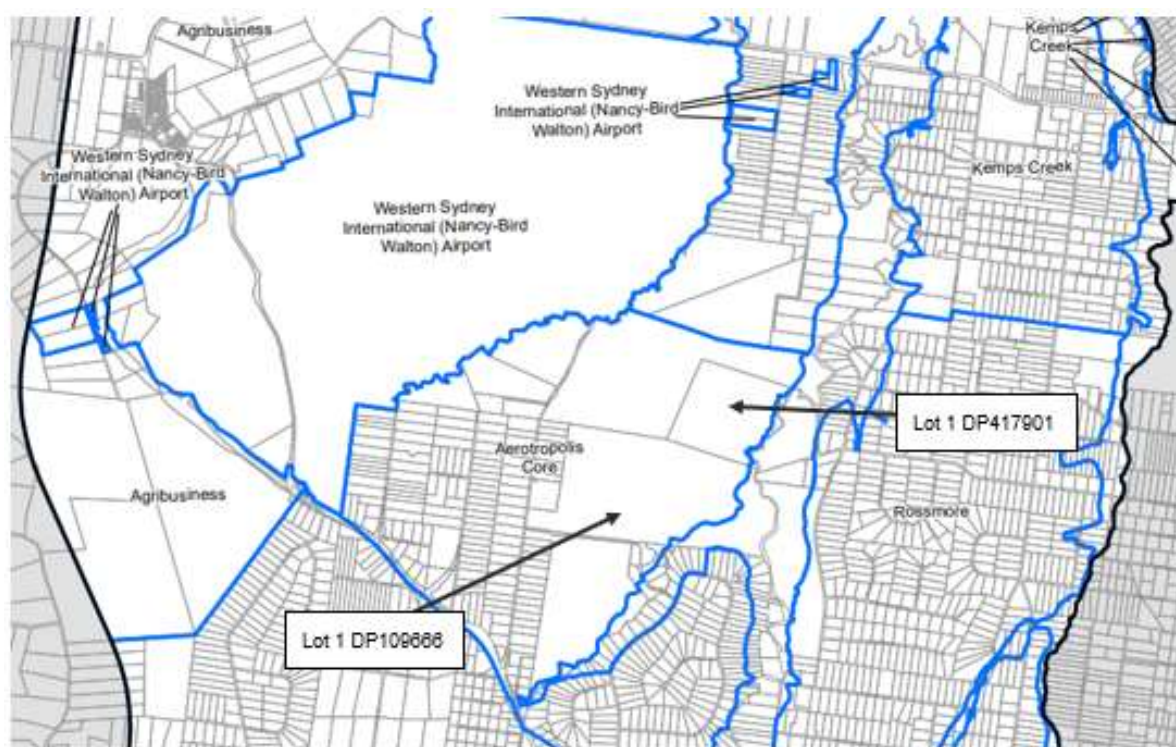


Figure 1 Map extract from SEPP (Precincts-Western Parkland City) 2021

1.5 Mapping

The planning proposal includes mapping showing the existing and proposed changes to the existing Heritage Map Sheets 01, 08, 10 and 11 (**Attachments J1-3**).

The maps submitted do not clearly show the sites involved. There are anomalies in the identification of amending maps. No change to Heritage Map Sheet 1 is required. A Gateway condition is recommended to these effects to update the maps prior to public exhibition.

1.6 Background

Council advises the two properties, 122 Atkinson Street and 124 Moore Street, Liverpool are the subject to Interim Heritage Orders issued pursuant to Council resolutions in November 2020 and February 2021. The Interim Heritage Orders (IHO) were issued by Council under delegation through the Heritage Act 1977 and the IHOs still applies to the items (**Attachment K**).

Preliminary Assessments of Heritage Significance were undertaken for each property subsequent to Council issuing the IHOs. The studies identified the potential for heritage significance and the need to undertake a more detailed assessment of each property.

FORM Architects (November 2020) and Edwards Heritage (March 2021) were engaged by Council to prepare an Assessment of Heritage Significance (**Attachments D and E**). The reports noted that the buildings are of historically and socially significance and therefore meets the threshold for local heritage listing in the LEP.

Council further advises a previous amendment to the LEP (Amendment 82, published 26 March 2021), all the archaeological sites were moved to Part 3 – Archaeological Sites of Schedule 5. When this change was made, item 27 (Lot 1 and 2, DP 1115589, Greendale Road, Greendale) was not removed from the list in Part 1 Heritage Items, so it remained in the local heritage items in Part 1 of the LEP. The proposal will rectify this anomaly. No mapping change is required for this purpose.

Lot 1 DP417901 and Lot 1 DP109666, Badgerys Creek Road, Bringelly is within the Aerotropolis SEPP. The LEP does not apply to these items anymore and needs to be removed from the LEP. The proposal will remove these items to avoid duplication, noting they are listed as heritage items under the SEPP.

As shown in **Table 4** the other sites have been removed to make way for subsequent developments on the site and no longer exist.

2 Need for the planning proposal

The planning proposal is the best means to achieve the objectives and intended outcomes. The proposal ensures the local heritage items referred in **Table 3** are protected under the local heritage provisions in the LEP.

The proposal also makes changes to remove heritage items that have been demolished, not required protection under the LEP (Clause 5.10 Heritage conservation) and to remove duplication as referred in **Table 4**.

3 Strategic assessment

3.1 District Plan

The site is within the Western City District Plan released by the Greater Sydney Commission on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priority for liveability in the plan as outlined below. The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following **Table 5** includes an assessment of the planning proposal against relevant directions and actions.

Table 5 District Plan assessment

District Plan Priorities	Justification
Priority W6: Creating and renewing great places and local centres, and respecting the District's heritage	<p>The proposal ensures the two local heritage items referred in Table 3 are protected under the local heritage provisions in the LEP (Clause 5.10 Heritage conservation).</p> <p>The proposal also makes changes to remove heritage items that have been demolished, no longer require protection under the LEP or remove duplication as referred in Table 4.</p>

3.2 Local

The proposal states that the planning proposal has site specific and strategic merit. It is consistent with the strategic direction and objectives of Liverpool Local Strategic Planning Statement (LSPS), as stated in the **Table 6** below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p>Council advises Local Planning Priority 8, under the Liveability goal of the LSPS, includes the planning priority: 'Community-focused low scale suburbs where our unique local character and heritage are respected.'</p> <p>The planning proposal seeks to add two additional items, increasing the protection of the local heritage of Liverpool and while six items are proposed to be removed, which are no longer of significance due to them being altered, demolished through state significance infrastructure or Part 3A Major projects or listed under another instrument.</p>

3.3 Local planning panel (LPP) recommendation

The planning proposal was considered by the Liverpool Local Planning Panel (LPP) on 25 October 2021 (**Attachment I**). The LPP advised that the planning proposal has site and strategic merit and should proceed to the Department for a Gateway determination (**Attachment G**). Council's resolution on 23 February 2022 noted the LPP's advice.

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant Section 9.1 Directions is discussed below in **Table 7**:

Table 7 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.2 Heritage Conservation	Yes	<p>The proposal is to conserve/protect local heritage items in Schedule 5 Environmental heritage of the LEP to be protected under Clause 5.10 Heritage conservation.</p> <p>The proposal may be inconsistent with the direction as it will make administrative changes, remove items from the Heritage Schedule as referred in Tables 3 and 4. However, the proposed removals apply mainly to the items which are already demolished and those items that are no longer within the LEP boundary where protection under the LEP is no longer required.</p> <p>The proposal is consistent with the Direction.</p>

6.1 Residential Zones	Yes	<p>The proposed amendments will not have adverse impact on the delivery of housing within the Liverpool LGA.</p> <p>The site at 122 Atkinson Street, Liverpool (Lot 52 DP 1090837) is zoned R3 Medium Density Residential. Inclusion in Schedule 5 would not impact on current planning controls on the site.</p>
7.1 Business and Industrial Zones	Yes	<p>The proposed amendment applies to a site at 124 Moore Street, Liverpool (Lot 1 DP 10447) within the Liverpool City Centre, zoned B4 Mixed Use.</p> <p>The proposal will not restrict the use of the building for commercial purpose but will restrict the future redevelopment potential of the site but will not result in loss of commercial zoned land and is not inconsistent with the Direction.</p>

The proposal needs to be updated to assess against the new Ministerial Directions 9.1 which came into effect on 1 March 2022. A Gateway condition will be recommended to this effect.

3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Precincts- Western Parkland City) 2021	Provisions in Chapter 4	Applicable/consistent	<p>The proposal is consistent with the SEPP.</p> <p>It will remove two items of heritage from the LEP which are redundant. These items are located within the SEPP boundary and Chapter 4 Western Sydney Aerotropolis applies.</p>
SEPP (Housing) 2021	Clause 54(3)	Applicable/consistent	<p>This planning proposal will restrict the undertaking of complying development in Clause 54(3) Development for the purposes of secondary dwellings that is complying development, as the two additional properties will be identified as heritage items.</p> <p>It will continue to allow other forms of development that would normally be allowed in the LEP.</p>

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Exempt and Complying Codes) 2008	Clause 1.16 General requirements for exempt development	Applicable/consistent	<p>This planning proposal will restrict the undertaking of complying or exempt development as the property will be identified for heritage listing in Schedule 5. The Interim Heritage Orders on the items will also restrict exempt developments to be carried out.</p> <p>It will not however prevent the undertaking of reasonable development that would normally be allowed with development consent through the LEP, subject to Clause 5.10 of Liverpool LEP 2008. The clause also identifies when consent is not required for works that are of minor nature and will not impact the heritage significance of the item.</p>

The proposal needs to be updated to reflect the SEPPs which came in force on 1 March 2022. A Gateway condition will be recommended to this effect.

4 Site-specific assessment

4.1 Environmental

The proposed amendments will not have adverse effect on the environment. It will protect the environmental heritage values and identity of the place.

4.2 Social and economic

The proposed amendments will not have adverse economic impacts as the amendments are largely administrative.

The retention and protection of items which have local heritage values are important to understanding of place and identity (i.e. Former Liverpool Scout Hall). It is of a public and social benefit to the local area.

4.3 Infrastructure

The proposal is largely administrative and is of public benefit. There are no impacts envisaged on the existing infrastructure or the need for infrastructure to support the proposal.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms the conditions of the Gateway determination.

5.2 Agencies

The two items proposed to be heritage listed have Interim Heritage Order imposed on them. It is prudent to consult with the NSW Heritage Office (**Attachments L**). It is recommended the following agency is be consulted on the planning proposal and given 21 days to comment:

- NSW Heritage Office

6 Timeframe

Council proposes a 6 months' time frame to complete the LEP as shown in **Table 9** below.

Table 9 Proposed timeframe by Council

Timeframe	Action
March 2022	Submission of Planning Proposal to DPE
May 2022	Gateway Determination issued
June-July 2022	State agency consultation
June-July 2022	Community consultation
July 2022	Consideration of submissions and proposal post-exhibition
August 2022	Post-exhibition report to Council
September 2022	Legal drafting and making of the plan

The Department agrees with Council's proposed timeframe of 6 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has requested to be the local plan-making authority. As the planning proposal is of low impact the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- the proposal has strategic and site-specific merits and gives effect to the Western City District Plan;
- the retention and protection of local heritage items are of public and social benefit;
- the proposed amendments are largely administrative and will not have adverse effect on the surrounding developments.

As discussed in the previous sections 4 and 5, the proposal should be updated to:

- clearly identify the land involved on relevant maps;
- remove Heritage Map Sheet HER_001 from the planning proposal;
- accurately identify the land description of the items;

- refer and assess the consistency with relevant Section 9.1 Directions issued on 1 March 2022; and
- refer and address consistency with State Environmental Planning Policies that are in force.

9 Recommendation

It is recommended the delegate of the Minister determines that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:
 - a) clearly identify the land involved on relevant maps, which may require removal of Heritage Map Sheet HER_001 from the planning proposal;
 - b) accurately identify the land description of the items;
 - c) refer and assess consistency with relevant Section 9.1 Directions issued on 1 March 2022; and
 - d) refer and address consistency with relevant State Environmental Planning Policies that are in force.
2. Public Exhibition is required within **one month** under section 3.34(2) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**;
 - (b) the planning proposal 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 the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, December 2021).
3. Consultation is required with the following public authorities under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - NSW Heritage Office
4. The timeframe for completing the LEP is to be **6 months** from the date of the Gateway determination. Council should aim to commence exhibition within **1 month** of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.
6. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.


 _____ (Signature) 06/04/2022 (Date)
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