

## PLAN 01

**Amending the State Environmental Planning Policy (Precinct- Western Parkland City) to secure industrial land in Austral.**

<b>Strategic Objective</b>	Liveable, Sustainable, Resilient Deliver effective and efficient planning and high-quality design to provide best outcomes for a growing city
<b>File Ref</b>	050172.2024
<b>Report By</b>	Masud Hasan - Senior Strategic Planner
<b>Approved By</b>	Mark Hannan - Acting Director Planning & Compliance

**EXECUTIVE SUMMARY**

The scale of commercial land uses permitted in the IN2 Light Industrial zone under the State Environmental Planning Policy (Precincts – Western Parkland City) is currently uncontrolled. As per the objectives of the Light Industrial zone, non-industrial uses in the zone should only be permitted to meet the day-to-day need of the local workers. However, a lack of planning controls for the scale of retail and commercial uses under the SEPP results in Council receiving, and eventually having to approve developments, where the majority of industrial land is being used for non-industrial purposes.

There are concerns that the current controls are facilitating out-of-centre development, which will lead to an increase in local congestion, decreased viability of planned centres, and decreased access to shops and commercial services for those without access to private vehicle transport. Importantly, this is also impacting upon the availability of industrial zoned land and will reduce local employment opportunities if left unmanaged.

A Planning Proposal (**Attachment 1**) has been prepared to address the adverse planning outcome relating to industrial lands being used for non-industrial purposes. The objective of the Planning Proposal is to secure industrial land for industrial development. This would be achieved by an additional local provision (proposed Clause 6.7) under Part 6, Appendix 4 of the Western Parkland City SEPP. This additional provision would regulate the extent of non-industrial uses in the Light Industrial (IN2) zone in Austral.

Council staff and the Liverpool Local Planning Panel (LPP) have deemed that the Planning Proposal has strategic and site-specific merit and complies with the broader planning framework. It is recommended that the Planning Proposal be supported by Council to proceed to the Department of Planning, Housing and Infrastructure (DPHI) for Gateway determination.

## **RECOMMENDATION**

That Council:

1. Notes the advice of the Liverpool Local Planning Panel;
2. Endorses in principle the Planning Proposal request;
3. Forwards the Planning Proposal to the Department of Planning, Housing and Infrastructure pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979* for Gateway determination;
4. Subject to Gateway determination, publicly exhibits the Planning Proposal for a minimum of 28 days in accordance with the conditions of the Gateway determination and Council's Community Participation Plan; and
5. Receives a further Report on the outcomes of the public exhibition and community consultation at a future Ordinary Meeting of Council.

## **REPORT**

### **The Site and Locality**

All land zoned IN2 Light Industrial, including approximately 40 hectares of land in the Austral Precinct (see Figure 1), is under Appendix 4 of the State Environmental Planning Policy (Western Parkland City). The site comprises multiple parcels of land with multiple landowners.

Table 1 shows the street address, lot and DP number of the properties that are zoned IN2 Light Industrial under Appendix 4 (Liverpool Growth Centre Precincts) of the Western Parkland City SEPP. These lots would be affected by the Planning Proposal.

*Table 1 – Lots subject to the Planning Proposal*

<b>Street Address</b>	<b>Lot</b>	<b>DP</b>
190 Gurner Avenue	264	804734
184 Gurner Avenue	263	804734
180 Gurner Avenue	262	804734
174 Gurner Avenue	261	804734
170 Gurner Avenue	28	3403
160 Gurner Avenue	29	3403
150 Gurner Avenue	102	620585
144 Gurner Avenue	101	620585
535 Fifteenth Avenue	380	2475
545 Fifteenth Avenue	381	2475

Street Address	Lot	DP
555 Fifteenth Avenue	382	2475
561 Fifteenth Avenue	383	2475
575 Fifteenth Avenue	384	2475
585 Fifteenth Avenue	385	2475
595-599 Fifteenth Avenue	8	235953
605 Fifteenth Avenue	7	235953
615 Fifteenth Avenue	6	235953
625 Fifteenth Avenue	5	235953

## **Background**

### Precinct Planning

In March 2013, the Austral and Leppington North Precincts were rezoned to provide for 17,350 new dwellings, and four (4) town centres supported by an array of planned social, transport and drainage infrastructure. Approximately 40 hectares of land was zoned IN2 Light Industrial within the Austral Precinct under the State Environmental Planning Policy (Precincts – Western Parkland City) to provide for local jobs and land for urban services. The location of the ALN industrial lands is presented in Figure 1.

During the rezoning of the Precincts, an Employment and Industrial Assessment (December 2010) was undertaken. It was recognised that industrial users (namely urban services such as smash repairers and the like) would be subject to competition (being outpriced) by alternative uses such as bulky goods.

No controls were implemented to control the scale of non-industrial development that could be delivered in the light industrial zone despite the following zone objectives of IN2 Light Industrial zone under the SEPP:

- To encourage employment opportunities and support the viability of centres; and
- To enable other land uses that provide facilities or services to meet the day-to-day needs of workers in the area.

The IN2 Light Industrial zone under the SEPP is also an open zone. An open zone means that if a land use is not listed as prohibited, or permissible with consent, it can be determined to be permissible upon merit. Given the zone objectives, Council can consider some of the non-listed but non-industrial land uses on merit.

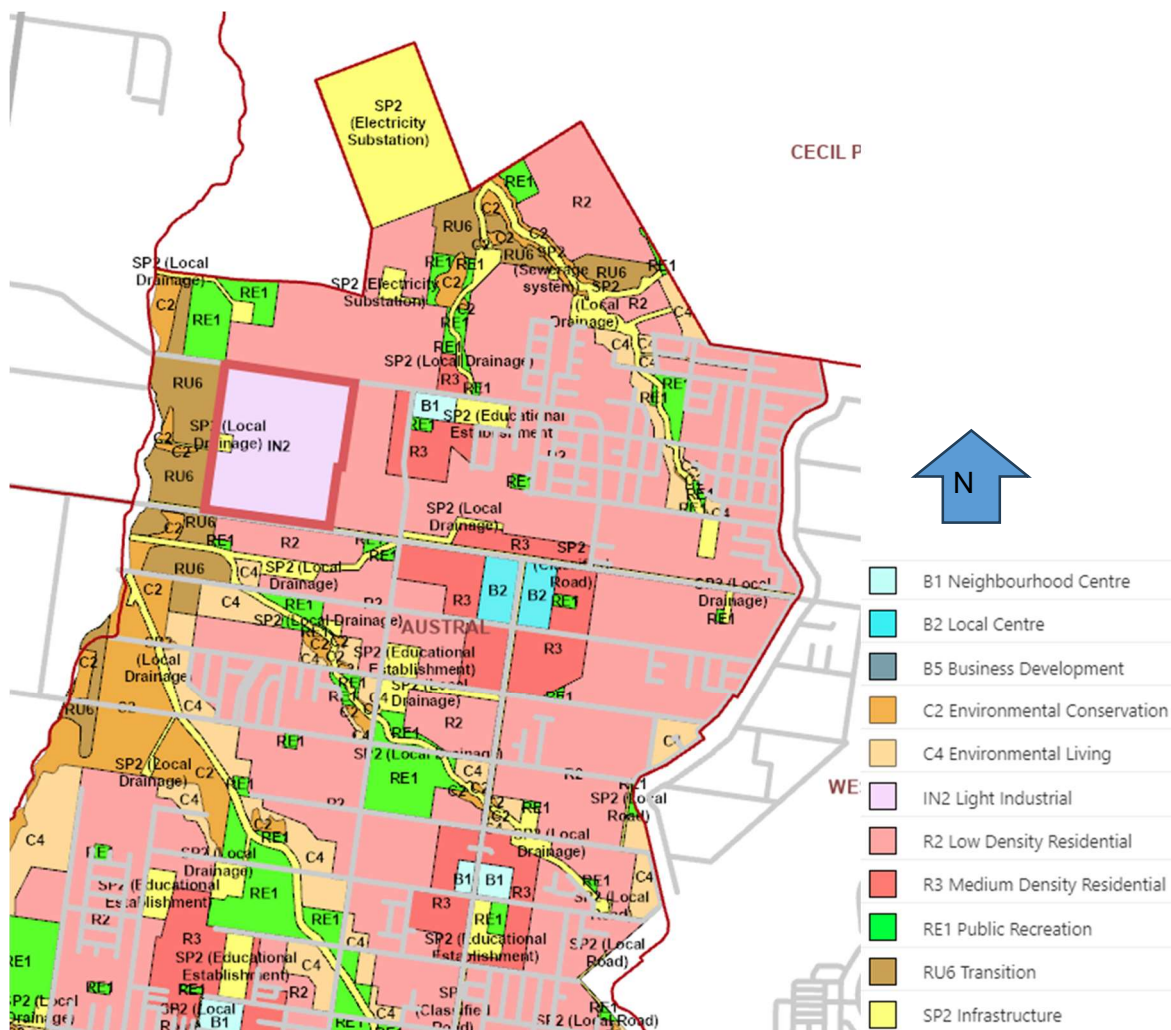


Figure 1: Light Industrial zoned land in Austral (outlined with red boundary)

## Post-Precinct Planning

The lack of planning controls for non-industrial uses has resulted in Council receiving, and eventually approving developments in which the majority of land is used for non-industrial purposes. Approved developments include one early example where more than 50% of the site area was approved for non-industrial (commercial) uses, whilst another example which has been lodged includes eight (8) take-away food and drink premises.

The later example was referred to the Liverpool LPP, in which the Panel, in its comments, pointed out the need for additional planning controls in the planning policies for non-industrial uses in the industrial zone. It is clear in these examples that the development being provided has a strong commercial component, competing with trade for planned town centres, and displacing lands strategically set aside for urban services.

## Potential Impacts of Doing Nothing

If the current trend of non-industrial development in the industrial zone is not regulated, this would create a situation where non-industrial uses could take up majority of the IN2 zone

and would threaten the commercial viability of B1 (Neighbourhood Centre) and B2 (Local Centre) zoned lands. This would impact upon the availability of suitable land for industrial development and result in industrial jobs being displaced to other areas or lost entirely. The scale of commercial land uses permitted will encourage out-of-centre development, land use conflict, increasing local congestion and decrease access to shops and commercial services for those who do not or cannot access private vehicle transport.

There would likely be a net loss of employment opportunities across the precincts, as there is a finite demand for retail floorspace / jobs. Rather than the industrial lands creating additional retail jobs, they will instead be parasitically reducing floorspace demand in planned centres, resulting in these either centres not developing, not developing to their planned capacity, or being developed / later rezoned for alternative uses (e.g. residential in the form of shop-top housing).

As such, there is a need to secure land for light industrial purposes, and limit competition from retail activities. Securing land for more low-impact industrial jobs close to residential areas will improve access to employment opportunities, reduce travel time for residents, and enable local industries to flourish.

#### **Proposed Amendments to the SEPP (Western Parkland City)**

The lack of clear planning controls for non-industrial uses in the IN2 Light Industrial zone warrants an amendment to the development standards in the SEPP. There are planning provisions to regulate the size and scale of non-industrial uses in the industrial zone under the *Liverpool Local Environmental Plan 2008* (LLEP 2008). Introducing similar provisions into the SEPP, to regulate retail and commercial activities in the industrial zones, would further ensure consistency in the planning instruments.

On 18 July 2023, Council's Governance Committee resolved to investigate amendments to the SEPP and DCP to provide clearer controls relating to non-industrial development in industrial zones (refer to **Attachment 2 and 3**).

On 21 December 2023, the LPP considered the Planning Proposal in their meeting and agreed that the Proposal had both strategic and site-specific merit and supported the Proposal proceeding for Gateway determination. They also recognised that, given Austral Leppington North is a greenfield Precinct, there is a need to provide a different approach in the planning controls compared to those in the Liverpool LEP. The advice of the LPP is included in **Attachment 4**.

An amendment to the current development standards is needed to limit the size and scale of non-industrial uses within industrial zones. This would be achieved by including an additional local provision (Clause 6.7) into Part 6 under Appendix 4 of the State Environmental Planning Policy (Precincts – Western Parkland City) 2021. A copy of the proposed amendments to Clause 6.7 is provided in **Attachment 5**.

The Floor Space Ratio Map of the SEPP would also require amendment to add reference to the newly added Clause. The specific wording of this draft Clause would be refined through the plan-making process prior to finalisation.

### **Explanation of the Clause Amendment**

It should be noted that whilst the draft Clause may seem long and complex it has been worded to achieve a fair and predictable outcome, whilst still providing for site and titling flexibility:

- Prevent circumvention via the Codes SEPP (complying development)

To ensure that complying development cannot circumvent the control, it is necessary to include Clause 6.7(3.a) to restrict the FSR of all non-industrial buildings on the parent lot to no more than 0.05:1 (5%). This is because Clause 6.7(3.b) would have no effect on complying development, only FSR controls do.

Furthermore, this is why it is proposed that the FSR map is amended to make reference to Clause 6.7 (to ensure private certifiers are aware of this control as they wouldn't typically look at Section 6 of the SEPP).

- Provide absolute certainty as to what constitutes non-industrial development

Being an open zone, it is necessary to define the uses which are not prohibited and could be considered 'non-industrial development' (developments subject to the control which are more appropriate in town centres beyond a certain size) as per Clause 6.7(5).

Rather than closing the zone, or listing them as prohibited in an open zone, a limited amount of non-industrial uses in the zone can be accommodated to service the day-to-day needs of the local workers (such as café, childcare centres, etc.). This would not be possible if non-industrial uses were entirely prohibited in the zone.

- Apply control to parent lot

This is to:

- a. ensure equity

A control across the whole precinct means that the first few lots to develop could exhaust the 5%. Applying it to the parent lot ensures each existing landowner gets an equal opportunity.

- b. prevent double dipping or repeated use of the provision

The control requires consideration of existing development or other DAs that have been approved on the parent lot (Clause 6.7(3b-c)).



- c. ensure subdivided lots can still support viable development.

Opposite to the scenario above, if a parent lot were to be subdivided into many smaller lots before a building was constructed or before a use commenced, then a control which limited non-industrial uses to only 5% of any lot would mean that non-industrial uses would probably be too small to be viable on all of those new smaller lots.

- Defining the area that constitutes non-industrial development

Unlike residential and industrial development, car based commercial developments often have small building footprints compared to their site area (e.g. a service station of fast-food premises will often have a modest sized building compared to parking, bowsters, drive-thru, hardstand areas, etc.). As such, controlling FSR is not particularly useful as it is the site area, not the building footprint which eats into the land available for industrial development.

Given that some non-industrial uses might not be subdivided from other uses (e.g. remain as a strata development on a parent lot), it is necessary to list out what elements count towards the non-industrial uses footprint in Clause 6.7(5).

- Still providing flexibility

The way the control is written provides for similar outcomes whether the lot is or is not subdivided and whether that subdivision is Torrens title or Strata title.

The control also does not seek to prohibit certain uses, rather it only seeks to control their size, as per the zone objectives.

As it is currently worded, the controls would also still permit a larger non-industrial development, if it were physically spread across two or more parent lots. For example, a site of 1,000m<sup>2</sup> could be used for non-industrial development on a single 2ha parent lot.

But a site of 2,000m<sup>2</sup> could be located on the boundary of two 2ha parent lots (1000m<sup>2</sup> in each) as this would still only represent 5% of the area of each parent lot. Given the size of parent lots in Austral, this is useful for developments such as service stations, which typically require space for vehicle maneuverability and might not fit within a 5% footprint of just one parent lot.

Visual examples of possible development outcomes are provided in **Attachment 6**.

## Next Steps

If the Planning Proposal is supported by Council, the Proposal will be submitted to the Department of Planning, Housing and Industry (DPHI) for Gateway determination. Subject to receiving Gateway determination, the Planning Proposal will then be publicly exhibited in

accordance with the conditions of the Gateway determination and Council's Community Participation Plan.

Following the public exhibition, a further Report will be provided for Council consideration detailing submissions received and any amendments proposed.

### **Conclusion**

The Planning Proposal aims to provide positive economic, environmental and planning outcome by limiting non-industrial uses in the industrial zone, thereby securing more jobs in Austral and increasing town centre development feasibility.

Council staff and the LPP have deemed that the Planning Proposal has strategic and site-specific merit, and complies with the broader planning framework. It is recommended that Council endorses the Planning Proposal and supports the Planning Proposal proceeding to the DPHI for Gateway determination.

### **FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report.

### **CONSIDERATIONS**

<b>Economic</b>	Deliver a high-quality local road system including provision and maintenance of infrastructure and management of traffic issues.  Facilitate economic development.
<b>Environment</b>	Promote an integrated and user-friendly public transport service.  Support the delivery of a range of transport options.
<b>Social</b>	There are no social and cultural considerations.
<b>Civic Leadership</b>	Encourage the community to engage in Council initiatives and actions.  Provide information about Council's services, roles and decision-making processes.
<b>Legislative</b>	Environmental Planning and Assessment Act 1979  State Environmental Planning Policy (Precinct – Western Parkland City) 2021
<b>Risk</b>	The risk associated with perverse planning outcomes is considered moderate if no action is taken. Further non-industrial development in



	<p>this precinct will likely lead to a loss of local industrial job opportunities, poorer town centre viability, higher traffic congestion, and greater road infrastructure costs for Council.</p> <p>The risk to Council can be reduced by supporting the Planning Proposal. The risk associated with supporting the Planning Proposal is within Council's risk appetite.</p>
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## **ATTACHMENTS**

1. Planning Proposal- Securing Austral Industrial Land (Under separate cover)
2. Governance Committee meeting minutes (Under separate cover)
3. Governance Committee meeting report (Under separate cover)
4. Liverpool Local Planning Panel (LLPP) meeting minutes (Under separate cover)
5. Draft Clause 6.7 (Under separate cover)
6. Possible development outcomes (Under separate cover)

## **Council**

## **COUNCIL DECISION**

### **Motion:**

**Moved: Cllr Rhodes**

**Seconded: Cllr Green**

That Council:

1. Notes the advice of the Liverpool Local Planning Panel;
2. Endorses in principle the Planning Proposal request;
3. Forwards the Planning Proposal to the Department of Planning, Housing and Infrastructure pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979* for Gateway determination;
4. Subject to Gateway determination, publicly exhibits the Planning Proposal for a minimum of 28 days in accordance with the conditions of the Gateway determination and Council's Community Participation Plan; and
5. Receives a further Report on the outcomes of the public exhibition and community consultation at a future Ordinary Meeting of Council.

On being put to the meeting the motion was declared CARRIED.

Councillors voted unanimously for this motion.