
5 HOUSEKEEPING REVIEW 2022 PLANNING PROPOSAL - POST EXHIBITION

Report prepared by: Senior Strategic Planner
File No.: LEP2021/8/5 - BP22/802

REPORT SUMMARY

On 22 March 2022 Council considered a report and resolved to forward the Housekeeping Review 2022 Planning Proposal to the Department of Planning and Environment for Gateway Determination. The planning proposal seeks to amend the *Ryde Local Environmental Plan 2014* (RLEP 2014) to update and address a range of miscellaneous administrative issues identified in the operation of the plan being the correction of minor errors, omissions and anomalies, and to facilitate minor operational matters by reducing administrative requirements to better reflect existing uses.

The Department of Planning and Environment issued a Gateway Determination on 16 May 2022 requiring Council to address two Gateway conditions prior to community consultation for a minimum of 20 days. The Gateway Determination is provided at **ATTACHMENT 1**. As a result, minor changes were made to address the Gateway conditions (see **ATTACHMENT 6** for the history of the planning proposal and related feedback).

The planning proposal is the result of extensive consultation with the Department of Planning and Environment, following advice and feedback provided.

The planning proposal was publicly exhibited from 1 August 2022 to 29 August 2022. In response, a total of six submissions were received including two submissions from members of the public and four from government agencies (refer to **ATTACHMENT 4** for the community submissions and detailed response). After careful consideration of all submissions and consultation with the Department of Planning and Environment, Council staff have made further changes to the planning proposal to address the matters raised. The amended planning proposal is provided at **ATTACHMENT 2** with key changes summarised in **ATTACHMENT 3**. As Council was not authorised as the Local Plan-making Authority, the planning proposal is to be referred to the Department of Planning and Environment for finalisation. It is recommended that Council endorse the amended planning proposal to be forwarded to the Department of Planning and Environment for finalisation.

This report details the consultation process, submissions received, Council staff responses and the next steps in the Local Environmental Plan-making process.

ITEM 5 (continued)**RECOMMENDATION:**

- (a) That Council endorse the following amendments to the exhibited Housekeeping Review 2022 Planning Proposal based on feedback received:
 - i. Clarify that the proposal to permit community facilities in SP1 Special activities and SP2 Infrastructure zones is to be permitted with consent
 - ii. Include in the Schedule 2 Exempt Development – Signage provisions of the planning proposal a reference to Transport for NSW's recommended provisions
 - iii. Remove the proposal to add "recreation areas" as permitted with consent use in C2 Environmental Conservation Zone
 - iv. Correct zoning errors in relation to land reserved under the *National Parks and Wildlife Act 1974*.
 - v. Attach agency submissions to the planning proposal.
- (b) That Council refer the amended planning proposal to the Department of Planning and Environment for finalisation.
- (c) That Council send acknowledgement letters to all those who lodged a submission advising them of the Council resolution and thanking them for their submission.

ATTACHMENTS – CIRCULATED UNDER SEPARATE COVER

- 1 Gateway Letter and Determination - Ryde Housekeeping LEP
- 2 Planning Proposal - Housekeeping Review 2022 - Post Exhibition
- 3 Summary of Proposed Changes
- 4 Response to Submissions - Housekeeping Planning Proposal
- 5 National Parks and Wildlife Land
- 6 History of the Housekeeping Review Planning Proposal

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ITEM 5 (continued)**Background**

At the Council meeting on 22 March 2022, Council resolved to forward a planning proposal for housekeeping amendments to Ryde Local Environment Plan 2014 (RLEP 2014) to the Department of Planning and Environment (the Department) for Gateway Determination.

The purpose of the proposal is to correct minor errors that have been identified in the administration of the plan, to bring it into line with changes to land to which the plan refers, and to improve the process for assessing and undertaking Council advertising on transport related infrastructure (such as bus shelters and multi-function poles).

On 16 May 2022, the Department issued its Gateway Determination under section 3.34(2) of the Act that an amendment to the RLEP 2014 to address a range of miscellaneous administrative issues should proceed subject to conditions being met. The Gateway Determination included conditions for minor changes to the planning proposal prior to public exhibition, which were made to the Department's satisfaction (see list of changes below). As required by the Gateway Determination, consultation with the NSW Rural Fire Service was undertaken prior to community consultation. Refer to **ATTACHMENT 1** for the Gateway Determination.

In accordance with the Gateway Determination conditions, the following amendments were made to the planning proposal which were subsequently approved by the Department to proceed to public exhibition:

- Updated all references to the Section 9.1 Ministerial Directions to reflect the current Directions
- Amended proposal to make recreation areas exempt development in the C2 Environmental Conservation zone to permissible with consent
- Removed the proposal to permit an educational resource recycling facility within Porters Creek Park as an additional permitted use
- Replaced the proposed clauses for 4.3A Exceptions to height of buildings and 4.4A Exceptions to floor space ratio with a plain English explanation of the proposed changes
- Provided more information about the proposal to permit signage (including advertising) as exempt development under Schedule 2
- Included the Ryde Local Planning Panel's advice and statement of reasons as attachment to the planning proposal
- Addressed the consistency of the proposal to permit areas in C2 Environmental Conservation zones with the District Plan
- Removed all references to water recycling facilities
- Updated the project timeline to reflect the timeframe allowed to complete the LEP
- Included NSW Rural Fire Service's determination letter as attachment to the planning proposal.

ITEM 5 (continued)

Upon reviewing the submissions received during the public exhibition period, additional amendments to the planning proposal are proposed. A summary of the proposed amendments is provided at **ATTACHMENT 3**.

Discussion

The planning proposal was publicly exhibited from 1 August to 29 August 2022, consistent with the Gateway Determination condition that the planning proposal is to be exhibited for community consultation for a minimum of 20 days.

In addition to public exhibition of the planning proposal, consultation with the following government agencies was undertaken as required by the Gateway Determination approval conditions:

- Transport for NSW
- Environment and Heritage NSW, Department of Planning and Environment

Council also notified Landcom and NSW Health - Northern Sydney Local Health District as they are landowners that are affected by the proposed amendments to the RLEP 2014.

Notification included:

- Letters by post to affected landowners explaining the proposed changes
- Notices on Council's "Have Your Say" website and "Your City News" eNewsletter
- Requests for government agency referrals lodged via the Planning Portal and direct contacts (Transport for NSW, Heritage and Environment NSW, NSW Health – Northern Sydney Local Health District and Landcom)

In response, four submissions were received from government agencies and two submissions were received from the community.

Key issues raised in the submissions are summarised and addressed below. A copy of submissions is provided at **ATTACHMENT 4**.

Staff have responded to the submissions as follows.

Response to Submissions

Transport for NSW

The submission received from Transport for NSW raised no objection to the planning proposal provided the following provisions are included within Schedule 2: Exempt development – Signage on Council owned public roads and associated road use:

ITEM 5 (continued)**b. Signage – Bus Shelter advertising**

- Must not obstruct the driver's view of the road, particularly of other vehicles, bicycle riders or pedestrians at crossings;
- Must not be illuminated to a level that has the potential to dazzle or distract drivers;
- The placement of a sign should not distract a driver at a critical time. In particular, advertising should not obstruct a driver's view of a road hazard, to an intersection, to a prescribed traffic control device (such as a traffic signals, stop or give way signs or warning signs), or to an emergency vehicle access point.

Council response

This matter was raised to ensure future advertising does not compromise road safety or cause distraction to approaching road users. Council staff support the suggested additional provisions.

Council staff will amend the planning proposal to instruct Parliamentary Counsel to refer to and include provisions to address Transport for NSW's recommendations (noting that the final wording of the proposed LEP provisions is determined by Parliamentary Counsel and not Council).

Recommended planning proposal changes

- Include Transport NSW's submission as an attachment to the planning proposal.
- Refer to the attachment in the planning proposal requesting that they be addressed as part of the final drafting and making of the plan.

Heritage NSW (Environment and Heritage NSW)

Heritage NSW does not object to the planning proposal and notes that the proposed amendments have no identified impacts on Aboriginal objects or places protected under the *National Parks and Wildlife Act 1974*, or State Heritage Register items or historic archaeology protected under the *Heritage Act 1977*

Biodiversity and Conservation Division (part of Environment and Heritage Group)

Environment and Heritage Group (EHG) does not consider the proposal to amend the allowable use with C2 Environmental Conservation Zones through an amendment to the Land Use Tables is consistent with the stated objectives for C2 zones. EHG considers that the proposed amendment would risk the expansion and development of new recreation facilities in C2 zones.

ITEM 5 (continued)

EHG also identified several zoning errors relating to land reserved under the *National Parks and Wildlife Act 1974* (NPW Act) that should also be corrected as part of this process. EHG recommends that due to their status these parcels should be allocated the new C1 National Parks and Nature Reserves as part of this planning proposal.

Council response

Council staff acknowledge and accept the concerns raised by EHG. Subsequent consultation with the Department indicated that the preferred response is to remove this element from the proposal, use alternative approval pathways for any maintenance works required on the existing facilities and consider separate proposals if required, with more detailed site by site analysis and assessment. While this would not achieve the proposed reduction in administrative work that initiated this element of the proposal, it is considered appropriate to remove this element and continue to work with the State Government to improve in this area as part of future proposals and activities. As such, this element will be removed from the planning proposal, so that the rest of the proposed amendments can be finalized without being held-up by the objection.

The planning proposal will include the zoning error corrections as suggested. The 11 parcels identified by the EHG are reserved under the NPW Act and therefore will be rezoned to C1 National Parks and Nature Reserves. The 11 parcels are listed below and shown in **ATTACHMENT 5**:

- Lot 10 DP841496
- Lot 1 DP1098517
- Lot 1 DP868255
- Lot 195 DP16042
- Lot 22 DP1003588
- Lot 10 DP843121
- Lot 442 DP711873
- Lot 1 DP214741
- Lot 2 DP409673
- Lot 11 DP712860
- Page Road (no lot or DP)

Recommended planning proposal changes

- Correct the zoning errors as recommended.
- Remove the proposal to permit “recreation areas” with consent in the C2 Environmental Conservation Zone.

ITEM 5 (continued)Landcom

Landcom suggested Council to consider amending the maximum Floor Space Ratio (FSR) of the Landcom owned site - 6 Halifax Street, Macquarie Park from 3:1 to 3.5:1, so it is consistent with the proposed State Significant Development (SSD) modification being assessed by the Department and the intended future development of the site to deliver affordable housing.

Council response

Council staff do not support this suggested amendment. This proposal makes administrative changes and corrections and does not seek to expand the development potential of land. Such proposals should be assessed individually.

As the proposed modification is still under assessment by the Department, there is no guarantee that the proposed FSR of 3.5:1 will be approved. The Housekeeping Review 2022 Planning Proposal seeks to apply a FSR of 3:1 across the whole site, so it is consistent with the remainder of the site. As the FSR for the remainder of the site has not been increased to 3.5:1, it is premature for Council to make the suggested amendment.

Furthermore, Council staff had made a submission on 31 August 2022 to the Department for the modification of SSD 6 Halifax Street, Macquarie Park. Council staff consider that any increase in the GFA on the site should not exceed the maximum permitted GFA under the RLEP 2014 to maintain an appropriate density relationship with existing and future developments in Lachlan's Line, commensurate with available supporting infrastructure. In addition, council staff recommended further analyses be undertaken to understand overshadowing and traffic impacts.

Community submissions

The main issues are summarised as follows (see **ATTACHMENT 4** for the full summary and responses):

Issue 1: The community raised concerns about permitting recreation areas with consent in the C2 Environmental Conservation Zone and expressed the view that C2 zoned lands should be protected for their biodiversity values.

Council response

Council staff and EHG agree that biodiversity values should be protected. As noted previously in relation to the EHG submission, the proposal to add "recreation areas" as permitted with consent use to the whole C2 Environmental Conservation zone will be removed from the planning proposal.

ITEM 5 (continued)

Recommended planning proposal changes

- Remove the element of the proposal to permit “recreation areas” with consent in the C2 Environmental Conservation Zone.

Issue 2: In addition, it is suggested that community facilities in SP1 Special Activities and SP2 Infrastructure zones should be permitted with consent not without consent.

Council response

This is agreed as the intended outcome is to permit community facilities with development consent; that is, they will require a Development Application process and will need to be assessed in relation to their impacts and merit. The planning proposal has been amended to clarify this.

Recommended planning proposal changes

- Include the words “permitted with consent” in the proposed updates to the SP1 Special Activities and SP2 Infrastructure land use table.

Issue 3: The proposed rezoning of land zoned E2 and proposed Conservation Zoned land at Blenheim Road to RE1 Public Recreation is not supported.

Council response

The proposed rezoning of a portion of Blenheim Road, North Ryde from C2 Environmental Conservation to RE1 Public Recreation is to correct a mapping anomaly that does not reflect the current nor future nature of the land. The proposed rezoning does not affect the nearby Myall Reserve which will remain as C2 Environmental Conservation. It is noted that EHG did not object to this element of the proposal when requesting changes.



Portion of Blenheim Road proposed to be rezoned C2 Environmental Conservation

ITEM 5 (continued)

Issue 4: Enquired about the heritage status of the Lane Cove National Park.

Council response

National Parks are no longer listed as individual heritage items on Schedule 5 of a Council's Local Environmental Plan. This is a state-wide practice enforced with all current LEP updates. National Parks are afforded their own statutory protection under the *National Parks and Wildlife Act 1974*, which provides a statutory framework for the protection and management of cultural heritage within National Parks. Council has advice from the Department on this matter on file and has confirmed it remains current.

Summary

Council staff have reviewed the submissions received from government agencies and the community. Clarification of and amendments to the planning proposal have been undertaken to address issues and concerns raised.

Financial Implications

Adoption of the recommendation will have no financial impact.

OptionsOption 1 (Recommended) – Endorse the Amended Planning Proposal to Proceed to Finalisation

This option is supported as the planning proposal will update and address a range of miscellaneous administrative issues identified in the operation of the LEP through the correction of anomalies. The recommended amendments to the planning proposal will address concerns raised in the submissions and clarify the intended outcomes of the planning proposal.

Option 2 – Not endorse the Amended Planning Proposal

This option is NOT supported as the miscellaneous administrative issues cause confusion and affect the efficient and effective operation of the LEP. Not addressing the issues would impede Council's capacity to manage land use and community facilities and potentially impede private landowners seeking to undertake activities on their land in a manner consistent with the intentions and objectives of the LEP.