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Gateway determination report – PP-2022-1043

Ryde Housekeeping Review 2022

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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	City of Ryde
PPA	City of Ryde Council
NAME	Ryde Housekeeping Review 2022
NUMBER	PP-2022-1043
LEP TO BE AMENDED	Ryde Local Environmental Plan 2014
ADDRESS	N/A
DESCRIPTION	N/A
RECEIVED	31/03/2022
FILE NO.	IRF22/1451
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 contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Improve the operation of the LEP through the correction of historic errors, omissions and anomalies.
- Allow community facilities in additional locations to assist government agencies and non-profit community organisations in providing services.
- Allow recreation areas in the C2 Environmental Conservation Zone to reflect the existence of children’s play areas in existing Council owned parks.
- Implement *Planning Ryde: Local Strategic Planning Statement 2020* by expanding on community education and capacity of Council’s waste management practices.
- Incorporate Council-initiated resolutions made with respect to signage (including advertising) to provide via exempt development improved and enhanced access networks, services and facilities in the City of Ryde in terms of convenience, safety and amenity of pedestrians, cyclists, public transport and road users.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Ryde LEP 2014 per the changes below:

- Permit community facilities in SP1 Special Activities and SP2 Infrastructure zones.
- Permit recreation areas as exempt development in the C2 Environmental Conservation zone.
- Amend Clause 4.3A *Exceptions to height of buildings* and Clause 4.4A *Exceptions to floor space ratio* to replace the words “and provides laneway access” with “and dedicates land to Council where required by Council for the purposes of providing or extending part or whole of a Council existing or proposed laneway”.
- Amend Schedule 1 *Additional permitted uses* to:
 - delete clause 1 which permits roads at 11-13 Pennant Ave, Denistone which is redundant under the current zoning.
 - delete clause 2 which permits vehicle sales or hire premises at 607 Blaxland Rd, Eastwood. The site has been redeveloped for residential and strata subdivided.
 - correct the street address in clause 16 from 600-640 Victoria Rd, Ryde to 55 and 59 Charles St, Ryde.
 - permit an educational resource recycling facility as an additional permitted use within Porters Creek Park. (Note that under the Standard Instrument LEP this would be defined as a resource recovery facility).
- Permit signage (including advertising) on road areas and facilities under Schedule 2 *Exempt development*.
- Remove heritage listing of Heritage Item 80 (Old Factory) as the building has been demolished.
- Amend Schedule 5 *Environmental heritage* to:
 - correct the property descriptions for:
 - Heritage Item 1 (Curzon Hall (restaurant))
 - Heritage Item 10 (Macquarie University Ruins)
 - Heritage Item 16 (Masonic Temple (hall))
 - Heritage Item 35 (St Philip’s)
 - Heritage Item 46 (Northern Suburbs Crematorium)
 - Heritage Item 47 (“Denistone House” and “Trigg House” (Ryde Hospital))
 - Heritage Item 87 (Putney Park (house remains))
 - Heritage Item 90 (“Wollondilly”)
 - Heritage Item 138 (Buildings B00A, B00B and B00D in Gladesville Public School)
 - Heritage Items 139 and 140 (Church and Gates).
 - correct the street addresses for:
 - Heritage Item 13 (Ryde Park (gazebo))
 - Heritage Item 83 (House)
 - Heritage Item 121 (Shops).
 - correct the property descriptions and street addresses for
 - Heritage Item 57 (Crowle Home (house))
 - Heritage Item 141 (House).
 - change the description of Heritage Item 49 from “Obelisk” to “Tramway Monument” and update the address to reflect its current location.
 - correct Heritage Item 153 (The Retreat (House)) to reflect its State Heritage Item status.

- Correct mapping anomalies on the Land Zoning Map, Floor Space Ratio Map, Height of Buildings Map and Heritage Map.
- Repeal LEP 2010 and transfer relevant provisions (including land application, land use zoning and maximum building height maps) to the LEP 2014.
- Amend the Land Zoning Map to remove reference to E1 National Parks and Nature Reserves and E2 Environmental Conservation and replace with C1 National Parks and Nature Reserves and C2 Environmental Conservation.

The planning proposal contains an explanation of provisions that adequately explains how most of the objectives of the proposal will be achieved. However, more information is required for the proposal to permit signage (including advertising) under *Schedule 2 Exempt development*. It is recommended that the planning proposal be updated accordingly prior to exhibition (see section 4.2).

Note that the Department does not support the proposal to permit recreation areas as exempt in the C2 Conservation zone. It is recommended that this is amended to permit with consent. (see section 4.2).

The proposed provision to permit ‘resource recovery facilities’ as an additional permitted use at Porters Creek Park is not supported (see section 4.2).

The Department notes that the planning proposal currently includes suggested wording for the proposed amendments to clause 4.3A Exceptions to height of buildings and clause 4.4A Exception to floor space ratio. Should the proposed changes proceed to finalisation, the wording of the clauses will be drafted by Parliamentary Counsel. Including the suggested wording on the exhibited proposal may cause confusion should the final wording be substantially different to the exhibited version. To mitigate these risks, the Department recommends that the suggested wording be removed from the proposal prior to exhibition. A Gateway condition is included to have the suggested wording removed prior to exhibition.

The Department notes that the Justification section of Council’s planning proposal includes multiple references to “water recycling facilities”. Council has confirmed that this is the result of an administrative error. A Gateway condition is included to have these references removed prior to exhibition.

1.4 Site description and surrounding area

The planning proposal applies to land in the City of Ryde local government area (LGA) as shown on **Figure 1**. Certain administrative amendments apply to specific sites as identified in the explanation of provisions (see section 1.3).

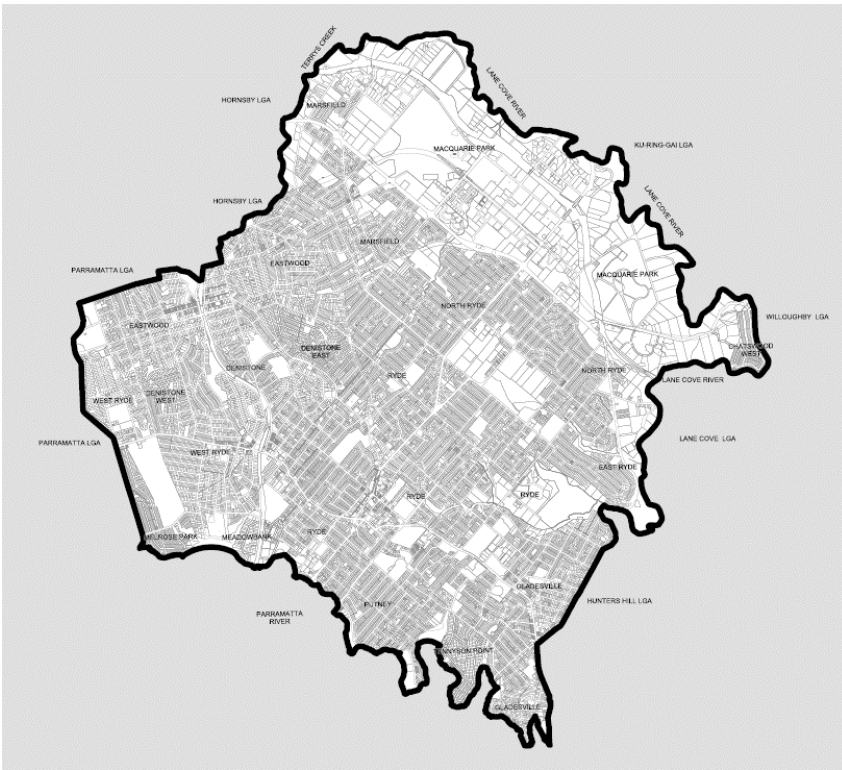


Figure 1 Land application map (source: planning proposal (March 2022))

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Application Map, Land Zoning Map, Floor Space Ratio Map, Height of Buildings Map, and Heritage maps, which are suitable for community consultation.

1.6 Background

In 2020, Council submitted the 'Ryde Administrative and Update LEP' planning proposal to the Department for Gateway assessment. The planning proposal sought to implement components of Council's local strategic planning statement (LSPS) and address a range of miscellaneous administrative matters.

In April 2021, the Department advised that while it supports the strategic merit and intent of the planning proposal but noted the significant range and complexity of amendments it proposes to implement. To assist in the reduction of assessment times for planning proposals, the Department recommended that Council withdraw the planning proposal and resubmit as multiple separate proposals.

This planning proposal seeks to implement many of the relatively minor amendments originally proposed as part of the 'Ryde Administrative and Update LEP' planning proposal.

2 Need for the planning proposal

The planning proposal is not a result of a single strategic study or report. It responds to matters that have been raised by Council staff in relation to the operation of the LEP, actions in the LSPS and Council resolutions.

The minor operational matters raised by Council staff include mapping errors and out of date information in Schedule 5 Heritage. The proposed changes to resolve these errors are necessary for the operational effectiveness of the LEP and can only be achieved by a planning proposal.

Other operational matters identified by Council staff include the need for greater clarity in clauses 4.3A *Exceptions to height of buildings* and 4.4A *Exceptions to floor space ratio* and the decision to repeal LEP 2010 and transfer its remaining controls to LEP 2014. The proposed changes will reduce confusion when implementing the LEP and can only be achieved by a planning proposal.

Other administrative matters relating to the permissibility of community facilities, recreation areas, and signage (including advertising) seek to implement Council resolutions and parts of the adopted LSPS. A planning proposal is the only means to implement these decisions they require amendments to the LEP.

The Department notes that Council's Waste Management Strategy identifies the need for an educational resource recycling facility. However, the site nominated by Council is currently zoned RE1 Public Recreation and a resource recovery facility is inconsistent with the objectives of the RE1 zone. The Department considers that Council's approach of using Schedule 1 to permit a resource recovery facility in the RE1 zone is not the best means of achieving the intended outcome (see section 4.2).

3 Strategic assessment

3.1 Regional Plan

Table 2 below provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Regional Plan.

Table 2 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 3: Infrastructure adapts to meet future needs	<p><u>Council's Response</u></p> <p>No comment.</p> <p><u>Department's Assessment</u></p> <p>The Department considers that the proposal to permit community facilities in SP1 Special Activities and SP2 Infrastructure zones will increase flexibility and allow infrastructure provision to easily adapt to future needs.</p> <p>The Department is satisfied that the proposal is consistent with Objective 3.</p>

<p>Objective 4: Infrastructure use is optimised</p>	<p><u>Council's Response</u></p> <p>Council considers that the proposal to permit signage (including advertisements) on transport related road infrastructure will improve and enhance access way networks for the convenience, safety and amenity of road users and will assist in optimising transport infrastructure.</p> <p>Council also considers that the proposal to permit community facilities in SP1 Special Activities and SP2 Infrastructure zones will optimise the use of facilities.</p> <p><u>Department's Assessment</u></p> <p>It is not clear how the proposal to permit signage (including advertising) as exempt development is consistent with Objective 4 or how advertisements enhance the convenience, safety, and amenity of transport networks.</p> <p>However, the Department notes Council's intention to use the income from advertisements to fund improvements to transport infrastructure.</p> <p>It is recommended that the planning proposal is updated to better address the intent of Objective 4 (see section 4.2 of this report).</p> <p>The Department is satisfied that the proposal to permit community facilities in SP1 and SP2 zones is consistent with Objective 4.</p>
<p>Objective 6: Services and infrastructure meet communities changing needs</p>	<p><u>Council's Response</u></p> <p>Council considers that the proposal to permit community facilities in SP1 Special Activities and SP2 Infrastructure zones will support changing social infrastructure needs and optimise the use of facilities.</p> <p><u>Department's Assessment</u></p> <p>The Department is satisfied that the proposal is consistent with Objective 6.</p>
<p>Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced.</p>	<p><u>Council's Response</u></p> <p>No comment.</p> <p><u>Department's Assessment</u></p> <p>The Department considers the proposal to permit recreation areas as exempt development in C2 Environmental Conservation Zone to be potentially inconsistent with Objective 27. As discussed in section 4.1 of this report, permitting recreation areas as exempt development may have unintended negative consequences on the conservation of these areas. It is recommended the proposal be amended to seek to permit recreation areas with consent and that the consistency with Objective 27 is updated.</p>

Objective 35: More waste is re-used and recycled to support the development of a circular economy

Council's Response

Council considers that the proposal to permit an education resource recycling facility within Porter's Creek Park will contribute to more waste being re-used and recycled to support the development of a circular economy.

Department's Assessment

The Department notes that the proposal to permit an additional resource recovery facility with educational signage is consistent with Objective 35.

However, the site nominated by Council is currently zoned RE1 Public Recreation and a resource recovery facility is inconsistent with the objectives of the RE1 zone. The Department does not support Council's approach of using Schedule 1 to permit a resource recovery facility in the RE1 zone and considers that it is not the appropriate mechanism for permitting the intended use on the site (see section 4.2).

3.2 District Plan

The site is within the Northern District. The Greater Sydney Commission released the North District Plan 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 priorities for infrastructure and collaboration, liveability, productivity, and sustainability 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*.

Table 3 below includes an assessment of the planning proposal against relevant directions and actions.

Table 3 District Plan assessment

District Plan Priorities	Justification
<p>Planning Priority N1: Planning for a city supported by infrastructure</p>	<p><u>Council's Response</u></p> <p>Council considers that the proposal to permit signage (including advertisements) on transport related road areas will improve and enhance access way networks for the convenience, safety and amenity of road users and will assist in ensuring the City of Ryde is supported by transport infrastructure.</p> <p>Council also considers that the proposal to permit community facilities in SP1 Special Activities and SP2 Infrastructure zones will ensure that the City of Ryde is able to support changing social infrastructure needs.</p> <p><u>Department's Assessment</u></p> <p>It is not clear how the proposal to permit signage (including advertising) as exempt development is consistent with Planning Priority N1 or how advertisements enhance the convenience, safety, and amenity of transport networks.</p> <p>However, the Department notes Council's intention to use the income from advertisements to fund improvements to transport infrastructure.</p> <p>It is recommended that the planning proposal is updated to better address the intent of Planning Priority N1 (see section 4.2 of this report).</p> <p>The Department is satisfied that the proposal to permit community facilities in SP1 and SP2 zones is consistent with Planning Priority N1.</p>
<p>Planning Priority N3: Providing services and social infrastructure to meet people's changing needs</p>	<p><u>Council's Response</u></p> <p>Council considers that the proposal to permit community facilities in SP1 Special Activities and SP2 Infrastructure zones will ensure that the City of Ryde is able to support changing social infrastructure needs.</p> <p><u>Department's Assessment</u></p> <p>The Department is satisfied that the proposal is consistent with Planning Priority N3.</p>
<p>Planning Priority N16: Protecting and enhancing bushland and biodiversity</p>	<p><u>Council's Response</u></p> <p>No comment.</p> <p><u>Department's Assessment</u></p> <p>The Department considers the proposal to permit recreation areas as exempt development in C2 Environmental Conservation Zone to be potentially inconsistent with Planning Priority N16. As discussed in section 4.1 of this report, permitting recreation areas as exempt development may have unintended negative consequences on the conservation of these areas. It is recommended the proposal be amended to seek to permit recreation areas with consent and that the consistency with Planning Priority N16 is updated.</p>
<p>Planning Priority N21: Reducing carbon emissions and managing energy, water and waste efficiency</p>	<p><u>Council's Response</u></p> <p>Council considers that the proposal to permit an education resource recycling facility within Porter's Creek Park will result in waste being managed more efficiently.</p> <p><u>Department's Assessment</u></p>

The Department notes that the proposal to permit an additional resource recovery facility with educational signage is consistent with Planning Priority N21.

However, the site nominated by Council is currently zoned RE1 Public Recreation and a resource recovery facility is inconsistent with the objectives of the RE1 zone. The Department does not support Council's approach of using Schedule 1 to permit a resource recovery facility in the RE1 zone and considers that it is not the appropriate mechanism for permitting the intended use on the site (see section 4.2).

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in Table 4 below:

Table 4 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p><u>Council's Response</u></p> <p>Council considers that the proposal to permit an education resource recycling facility within Porter's Creek Park will give effect to:</p> <ul style="list-style-type: none"> • Planning Priority E3 (Reduce carbon emissions and manage energy, water and waste efficiently) <ul style="list-style-type: none"> ○ Action E3.4 (Review waste policies and planning controls in the Ryde Development Control Plan 2014 and in Ryde Local Environmental Plan 2014) of • Planning Priority E5 (Provide waste and recycling infrastructure that is designed to ensure safety, efficiency and accessibility of waste, reuse and recycling services, and that does not compromise the public domain.) <ul style="list-style-type: none"> ○ Action E5.1 (Review and amend planning controls in the Ryde Local Environmental Plan 2014 and Ryde Development Control Plan 2014 to ensure they require new developments to have appropriately designed on-site storage for waste and recycling services, and provide for the separation of waste materials to encourage recycling and reuse) <p><u>Department's Assessment</u></p> <p>The Department is satisfied that the proposal is consistent with the Ryde LSPS.</p>

Community
Strategic Plan

Council's Response

Council considers that the proposal to permit community facilities in more locations will give effect to the "Well Targeted Services" aspect of the "Our Active and Healthy City" outcome.

Council considers that the proposal to permit an education resource recycling facility within Porter's Creek Park will give effect to the "Sustainable Planning and Protecting Natural Areas" aspect of the "Our Natural and Sustainable City" outcome.

Council considers that the proposal to permit advertisements on transport related road areas will give effect to the "Connections within our City" aspect of the "Our Connected and Accessible City" outcome.

Department's Assessment

The Department is satisfied that the proposal is consistent with the Ryde Community Strategic Plan.

3.4 Local planning panel (LPP) recommendation

The planning proposal was considered at the Ryde LPP's meeting of 10 March 2022 provided the following advice:

The Panel advises that they raise no objection to the Housekeeping Review 2022 Planning Proposal being submitted for Gateway Determination under 3.34 of the Environmental Planning and Assessment Act 1979.

3.5 Section 9.1 Ministerial Directions

The planning proposal is inconsistent with Ministerial Direction 3.1 Conservation Zones because to permit recreation areas as exempt development in C2 Environmental Conservation Zone may have unintended negative consequences on the conservation of these areas. To mitigate this risk, it is recommended the planning proposal be updated to seek to permit recreation areas with consent (see section 4.1 of this report).

The planning proposal is inconsistent with Ministerial Direction 4.1 Flooding, but the inconsistency is minor and justified as it relates to the correction of a mapping anomaly.

The planning proposal is consistent with all other relevant Directions (see Table 5 below).

Note that the planning proposal references an outdated version of the Section 9.1 Ministerial Directions. A Gateway condition is recommended to require that the proposal is updated prior to exhibition to refer to the current Directions, including removing references to the repealed 'Minister's Planning Principles'.

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.3 Approval and Referral Requirements (formerly 1.4)	Yes	<p>The planning proposal seeks to make housekeeping amendments to the Ryde LEP 2014. There are no provisions proposed that include a requirement for concurrence, consultation or referral to a Minister or public authority.</p> <p>Transport for NSW, Environment and Heritage NSW and NSW Rural Fire Service should be consulted during exhibition.</p>
1.4 Site Specific Provisions (formerly 1.5)	Yes	<p>The planning proposal is consistent with this direction. It is seeking to amend errors and anomalies in the LEP and will not impose additional restrictive development standards.</p>
3.1 Conservation Zones	No	<p>The proposal seeks to permit recreation areas as exempt development in C2 Environmental Conservation Zone to reflect existing children's play areas. As discussed in section 4.1 of this report, permitting recreation areas as exempt development may have unintended negative consequences on the conservation of these areas. It is recommended the planning proposal is updated to permit recreation areas with consent (see section 4.1 of this report).</p> <p>The proposal also seeks to rezone a portion of Blenheim Road, North Ryde from C2 Environmental Conservation to RE1 Public Recreation. This is to resolve a mapping anomaly and align with its current use as a vehicular access and parking for Blenheim Park. This change is consistent with the direction. The site is not an environmentally sensitive area.</p> <p>The proposal also seeks to amend the Ryde LEP to reflect changes to the Standard Instrument in 2021 which renamed the environmental zones from E1 National Park and Nature Reserves and E2 Environmental Conservation to C1 National Parks and Nature Reserves and C2 Environmental Conservation. This is consistent with the direction as it is an administrative change.</p>
3.2 Heritage Conservation	Yes	<p>The proposal contains multiple changes to heritage listings. These changes are administrative in nature (such as updating property descriptions and resolving mapping anomalies).</p> <p>The proposal to delist Heritage Item 80 (located at 37 Nancarrow Ave, Meadowbank) is justified because the item has been demolished.</p> <p>The proposed changes are not inconsistent with Direction 3.2 Heritage Conservation.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.1 Flooding	No	<p>The proposal includes a minor inconsistency with Direction 4.1 Flooding.</p> <p>62-80 Rowe Street is mapped as a flood planning area on the Flood Planning Map. The site is primarily zoned B4 Mixed Use, but a small section on the border of the property was incorrectly zoned R4 High Density Residential. The proposal seeks to correct this mapping anomaly consistent with the existing use on the site.</p> <p>This change is technically inconsistent with Direction 4.1 Flooding but is justified and of minor significance as it does not seek a change of use on flood prone land.</p>
4.3 Planning for Bushfire Protection	Yes	<p>Multiple sites in the Ryde LGA are mapped as bushfire prone land.</p> <p>The planning proposal is primarily administrative in nature and does not propose any development intensification on bush fire prone land.</p> <p>However, the Department notes that the proposal seeks to permit community facilities in the SP1 and SP2 zones and that some of the land zoned SP1 and SP2 is identified as bush fire prone. It is also noted that the Ryde LGA is an established urban area and that the proposed use is compatible with the existing nominate uses for the SP1 and SP2 zones.</p> <p>The Direction 4.3 requires that all planning proposals which will affect land in or within proximity to bush fire prone areas be referred to the NSW Rural Fire Service. A Gateway condition has been included to this effect.</p>
5.1 Integrating Land Use and Transport	Yes	<p>The proposal seeks to permit signage (including advertisements) on various road related infrastructure.</p> <p>Council intends that the financial return from the advertising would be invested to enhance asset networks, services and facilities.</p> <p>The change is administrative in nature and does not impact access to housing jobs and services or transport choice. The proposal is considered to be not inconsistent with the objectives of Direction 5.1.</p>
6.1 Residential Zones	Yes	<p>The planning proposal applies to land zoned residential. The changes to residential zones are administrative in nature, correcting anomalies and errors. It does not propose provisions which will reduce the permissible residential density of land. The planning proposal is consistent with the direction.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
7.1 Business and Industrial Zones	Yes	The proposal seeks to permit signage, including advertisements, on various road area features as exempt development. This change is not inconsistent with the objectives of the direction.

3.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in Table 7 below.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021	This policy aims to protect the biodiversity values of trees and other vegetation and preserve amenity of non-rural areas in the State.	Not Applicable	<p>The amendments do not affect the operation of the SEPP as the planning proposal is largely administrative in nature.</p> <p>Chapter 2 (Vegetation in non-rural areas) and Chapter 6 (Bushland in urban areas) apply to Ryde but are not relevant to the proposal.</p> <p>None of the other chapters apply to the City of Ryde.</p> <p>Schedule 11 (Heritage items) includes several sites in the Ryde LGA, but none of the existing provisions are directly affected by the planning proposal.</p>

SEPP (Industry and Employment) 2021	This policy aims to ensure that signage is compatible with the desire amenity and visual character of an area and is of high-quality design.	Yes	<p>Chapter 3 Advertising and signage applies to signage and advertisements in transport corridors. Under clause 3.4(2), the Chapter does not apply to signage which is exempt development under an environmental planning instrument.</p> <p>The SEPP chapter would not apply to signage permitted under the proposed new LEP provision but should be considered in the assessment of the planning proposal.</p> <p>The SEPP aims to ensure that all signage, including advertising, is compatible with the area in which it is located, provides effective communication, is of high quality and delivers public benefits.</p> <p>The planning proposal is consistent with the aims of the SEPP as the advertising would have to be consistent with the Transport Corridor Outdoor Advertising and Signage Guidelines and the funding derived from the advertising would be used to improve transport infrastructure.</p> <p>Note that it is recommended the proposal be updated to provide further information about amenity impacts and other issues (see section 4.2 of this report).</p>
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4 Site-specific assessment

4.1 Environmental

4.1.1 Permitting recreation areas in C2 Environmental Conservation zones

The planning proposal seeks to permit recreation areas as exempt development by amending the C2 Environmental Conservation land use table. This is intended to reflect the presence of existing children's play areas in Council owned parks and facilitate upgrades.

The Department notes that the definition of 'recreation areas' encompasses a range of land uses including a children's playground, areas for community sporting activities, a public park, reserve or garden, and ancillary buildings. Permitting recreation areas as exempt development may result unintended outcomes where activity encroaches onto environmental conservation land.

To mitigate the risk of unintended adverse impacts, the Department recommends that the planning proposal is amendment to seek recreation areas as permissible with consent in C2 Environmental Conservation zone. The Department notes that this approach is consistent with other LEPs, including Blacktown and Penrith.

A condition on the Gateway determination requires that the planning proposal is updated to reflect this change and demonstrate consistency with the relevant District Plan prior to exhibition.

4.1.2 Educational resource recycling facility in Porters Creek Park

The planning proposal seeks to permit ‘resource recovery facilities’ as an additional permitted use at Porters Creek Park, 152 Wicks Road, Macquarie Park. This would be achieved by introducing a new clause in Schedule 1 *Additional permitted uses*. The site is zoned RE1 Public Recreation.

The intent of the proposed change is to provide a Community Recycling Centre for the disposal of problem waste by residents, including diversion of items for recovery where feasible, and to permit educational signage and displays, including information on how residents and the community can work to reduce waste going to landfill.

The Department notes that the RE1 zone is generally intended for public recreational areas and activities, such as local and regional parks and open space and that other uses may also be permitted when compatible with the primary use of the land. In the Ryde LEP 2014, the objectives of the RE1 zone are:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

The Department considers a resource recovery facility to be inconsistent with the objectives of the RE1 zone. Permitting the facility via a new additional permitted use clause in Schedule 1 is considered to be an inappropriate mechanism for achieving the intended outcome. Additionally, the proposal does not include enough information about the site and the intended use to undertake an assessment. Council could also consider whether the education facility could be located on the adjoining IN2 Light Industrial zoned land to maintain 152 Wicks Park as recreational land.

The Department recommends removing the proposed provision from the planning proposal prior to exhibition. The Gateway determination includes a condition to this effect.

4.2 Social and economic

4.2.1 Permitting advertisements as exempt development

The planning proposal seeks to amend Schedule 2 *Exempt development* to make signage (including advertising) permitted as exempt development on Council managed public roads, road related areas, electric vehicle parking stations and sport fields. This is intended to implement a Council resolution from August 2015.

A similar change was proposed in the ‘Ryde Administrative and Update LEP’ planning proposal. The Department’s response to the Administrative and Update LEP (issued April 2021) expressed in principle support for the intent to make signage permissible subject to criteria. The current planning proposal is for a significantly simplified version of the proposed provision from the previous planning proposal with criteria relating to illumination and the number of advertisements that can be placed on a single bus shelter removed.

The Department supports the proposal in principle but notes that some details remain unclear. It is recommended that prior to exhibition, the planning proposal is updated to clearly identify the areas and structures to which the proposed clause would apply and to confirm whether Council intends to prepare a procedure and assessment criteria for exempt signage.

It is also recommended that the planning proposal is updated to provide more information on potential issues, including illumination, amenity impacts, design compatibility, suitability in heritage conservation areas and residential zones, appropriateness of displayed content, number of

advertisements to be permissible on a single structure, safety provisions and relevant guidelines to be complied with.

The Department notes that the planning proposal currently includes suggested wording for the proposed clause. Should the proposed change proceed to finalisation, the wording of the clause will be drafted by Parliamentary Counsel. Including the suggested wording on the exhibited proposal may cause confusion should the final wording be substantially different to the exhibited version. To mitigate these risks, the Department recommends that the suggested wording be removed from the proposal prior to exhibition.

As discussed in section 3 of this report, whilst the Department considers this proposed provision is broadly consistent with the Regional Plan, District Plan and Ministerial Directions the justification in the planning proposal requires more detail specific to the proposed provision. The planning proposal should be updated to specifically discuss the impacts of the exempt provision prior to exhibition.

4.2.2 Updates to heritage controls

Most of the proposed heritage changes are administrative in nature, such as updating property descriptions and mapping.

One change that, while administrative, is more significant is the proposal to remove the heritage listing of Heritage Item 80 (an old factory at 37 Nancarrow Ave, Meadowbank). The item has been demolished. Accordingly, the proposal seeks to remove the listing from Schedule 5 and from the Heritage Map.

The approval for this demolition was granted under Section 75O of the *Environmental Planning and Assessment Act 1979* on 14 September 2011, consistent with the NSW Government's Concept Plan for the redevelopment of land at Shepherds Bay.

The Department considers the proposal to remove the demolished Heritage Item 80 from Schedule 5 and the Heritage Map is justified.

4.3 Infrastructure

The proposal does not have significant implications for the provision, funding or adequacy of supporting infrastructure.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days. However, in accordance with the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021), the community consultation period will be a minimum of 20 days.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 20 days to comment:

- Transport for NSW
- Environment and Heritage NSW

- NSW Rural Fire Service.

6 Timeframe

Council proposes a 6 month time frame to complete the LEP.

The Department recommends a time frame of 10 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 advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal includes new clauses to be drafted the Department recommends that Council not 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 proposed amendments will improve the accuracy and operation of the LEP by removing administrative anomalies and errors.
- The proposed amendments have strategic and site specific merit. The discrepancies with the relevant Ministerial Directions and SEPPs are considered minor and justified.

Based on the assessment outlined in this report, the proposal must be updated before consultation as follows:

- update all references to the Section 9.1 Ministerial Directions reflect the current Directions, including removing references to the repealed 'Minister's Planning Principles'
- Remove proposal to permit recreation areas in the C2 Environmental Conservation zone as exempt development and replace with proposal to permit with consent and address the consistency with the District Plan
- remove the proposal to permit an educational resource recycling facility within Porters Creek Park as an additional permitted use as the proposed mechanism is not supported
- provide additional information about the proposed new signage (including advertising) clause under Schedule 2 and remove the example clause wording
- include the advice of the Local Planning Panel
- removal all references to water recycling facilities.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 3.1 Conservation Zones and 4.1 Flooding are minor and justified.

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

1. Prior to community consultation, the planning proposal is to be amended to:

- a. Update all references to the Section 9.1 Ministerial Directions to reflect the current Directions, including removing references to the repealed 'Minister's Planning Principles'
 - b. Remove proposal to make recreation areas exempt development in the C2 Environmental Conservation zone under the land use table. Include proposal to make recreation areas permissible with consent in the C2 Environmental Conservation zone under the land use table.
 - c. Remove the suggested wording for the proposed amendments to clause 4.3A Exceptions to height of buildings and clause 4.4A Exception to floor space ratio. Identify that the wording of the proposed provisions will be subject to drafting by Parliamentary Counsel should the proposal progress to the finalisation stage.
 - d. Remove the proposal to permit an educational resource recycling facility within Porters Creek Park as an additional permitted use as this mechanism is not supported
 - e. Provide further information about the proposal to permit signage (including advertising) as exempt development under Schedule 2 to:
 - i. Clearly identify the areas and structures to which the provision will apply
 - ii. Identify whether Council intends to develop an assessment procedure for exempt signage
 - iii. Identify the intent of the proposal in relation to issues relating to illumination, amenity impacts, design compatibility, suitability in heritage conservation areas and residential zones, appropriateness of displayed content, number of advertisements to be permissible on a single structure, safety provisions and relevant guidelines to be complied with
 - iv. Consistency with the Regional Plan and District Plan
 - v. Remove the suggested wording for the proposed new signage clause under Schedule 2 and identify that the wording of the proposed provisions will be subject to drafting by Parliamentary Counsel should the proposal progress to the finalisation stage
 - f. include the advice of the Local Planning Panel
 - g. address the consistency of the proposal to permit areas in C2 Environmental Conservation zones with the District Plan
 - h. remove all references to water recycling facilities,
 - i. update the project timeline to reflect the timeframe allowed to complete the LEP, where appropriate.
2. Prior to community consultation, consultation is required with the NSW Rural Fire Service, in accordance with Ministerial Direction 4.3 Planning for Bushfire Protection.
 3. Prior to community consultation, the planning proposal is to be revised to address conditions 1 and 2 and forwarded to the Department for review and approval.
 4. The planning proposal should be made available for community consultation for a minimum of 20 days.

5. The planning proposal must be exhibited within 4 months of the date of the Gateway determination.
6. The planning proposal must be reported to council for a final recommendation 6 months from the date of the Gateway determination.
7. The timeframe for completing the LEP is to be 10 months from the date of the Gateway determination.
8. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.
9. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 days; and
 - (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 *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).
10. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
 - Transport for NSW
 - Environment and Heritage NSW.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.
11. 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 EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
12. The Secretary as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the EP&A Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
 - (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
13. The LEP should be completed on or before 13 March 2023.

KLettice

08/05/2022

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16 May 2022

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