

# Planning Proposal

## 25 Dwyer Road, Bringelly

Draft Amendment 89 - Liverpool Local Environmental Plan 2008 to permit, with development consent, a recreation facility (outdoor) at 25 Dwyer Road, Bringelly

17 November 2020

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## Introduction

This planning proposal relates to 25 Dwyer Road, Bringelly (the subject site) and legally described as Lot 80 DP 27550. The site currently contains two dwellings as part of strata-titled dual occupancy development that was completed in 2008.

In 2006, the owners of the site consulted Council regarding the possibility of running an obstacle course training facility within the front yard of their site. It was then understood by the owners that such a facility would be permissible without development consent as a home occupation use. Over the past five years the site has been used as a recreational facility (outdoor) known as Burns Outdoor Obstacle Training. In July 2020, Council visited the property in response to a complaint received regarding the operation of the facility and its permissibility within the R5 – Large Lot Residential zone under the LEP. Following an investigation, a Notice of Proposed Stop Use Order was issued in August 2020.

On 28 August 2020, a Mayoral Direction was issued by the elected Mayor of Liverpool pursuant to her policy-making responsibilities under Section 226(d) of the *Local Government Act 1993*. This Mayoral Direction required Council prepare an issues and options report to be considered by Council at the 30 September 2020 meeting that detailed options available to Council to amend the Liverpool Local Environmental Plan 2008 (LEP) to permit, with development consent, a recreation facility (outdoor) at 25 Dwyer Road, Bringelly.

At the 30 September 2020 Council meeting, it was resolved:

*That Council:*

1. *Directs the Acting Chief Executive Officer to prepare a planning proposal to amend Schedule 1 of the Liverpool Local Environmental Plan 2008 to permit, with development consent, a Recreation Facility (Outdoor) at 25 Dwyer Road, Bringelly and delegates authority to the Acting Chief Executive Officer to forward the planning proposal to the Department of Planning, Industry, and Environment seeking a Gateway determination.*

This planning proposal has been prepared in response to the above Council resolution. The planning proposal seeks to amend Schedule 1 “Additional Permitted Uses” of the LEP to permit with consent a recreation facility (outdoor) at the subject site.

## Background

A number of development applications (DA’s) have been approved on the subject site in recent years, as summarised below:

- **DA-153/2006** – Double storey detached dual occupancy;
- **DA-210/2006** – Machinery shed;
- **DA-760/2006** – Demolition of existing dwelling;
- **DA-50/2007** – Relocate existing metal shed; and
- **DA-660/2009** – Carport and first floor patio cover.

Over the last five years, the front portion of the subject site has been used as an outdoor obstacle training facility.

## Report Structure

This Planning proposal has been prepared in accordance with Section 3.33 of the Environmental Planning & Assessment Act 1979 with consideration to DPIE's (formerly DPE's) 'A Guide to Preparing Planning Proposals' (December 2018). Accordingly, the proposal is discussed in the following parts:

- Site Description
- Statutory Planning Framework
- Part 1 – A Statement of the Objectives and Intended Outcome
- Part 2 – Explanation of Provisions
- Part 3 – Justification
- Part 4 – Mapping
- Part 5 – Community Consultation
- Part 6 – Project timeline

## Site Description

The subject site is known as 25 Dwyer Road, Bringelly and is legally described as Lot 80 within DP 27550. The sites topography is relatively flat, and the allotment is regular in shape. The site currently includes two dwellings within the rear portion of the site, a pool, various storage sheds, a small dam, and outdoor training equipment within the front portion of the site. The subject site sits within a broader residential area typified by large lot residential development. The site is located south of the Western Sydney International (Nancy-Bird Walton) Airport (WSA) that is currently under construction and within the Dwyer Road non-initial precinct of the Western Sydney Aerotropolis Plan.



*Figure 1: Aerial view of subject site (Nearmap Aug 2020)*

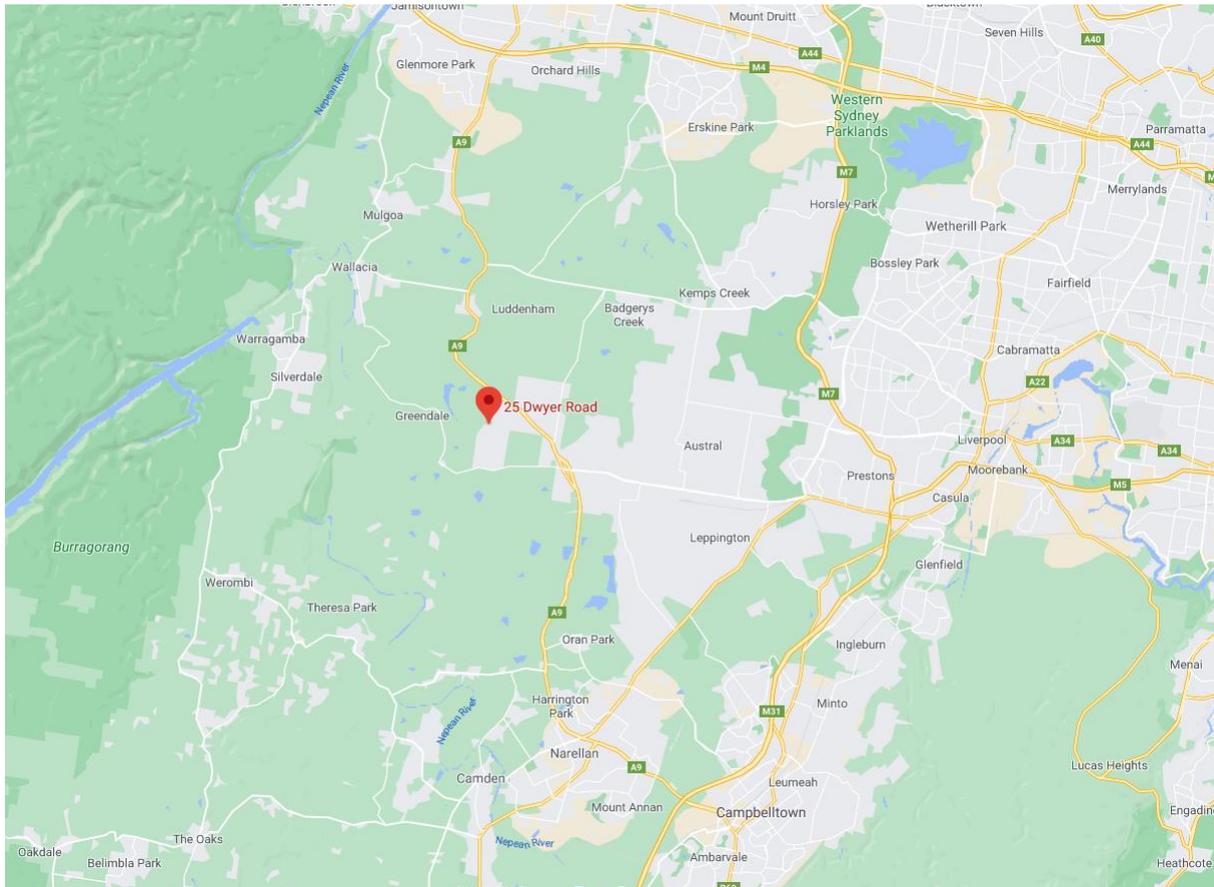


Figure 2 - Regional Context Map (Google Maps)

## Statutory Planning Framework Liverpool Local Environmental Plan 2008

The land is zoned R5 – Large Lot Residential in accordance with the zoning map of the LLEP 2008.



Figure 3: Existing land use zoning in the LEP (subject site outlined in red)

The objectives of the R5 – Large Lot Residential zone are:

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To ensure that a high level of residential amenity is achieved and maintained.
- To provide for complementary uses that are of low impact and do not unreasonably increase the demand for public services or public facilities.

## Delegation of plan making functions

This planning proposal seeks to make a minor amendment to the Liverpool Local Environmental Plan 2008. As such, Council is seeking authority of plan making functions pursuant to Section 3.36 of the *Environmental Planning and Assessment Act 1979* (“EP&A Act”).

## Part 1 – Objectives and Intended Outcomes

The objective of this planning proposal is to permit with development consent the existing part use of the site as a recreation facility (outdoor). The intended outcome is that the Burns Outdoor Obstacle Training facility can continue operating in a permissible manner under the LEP, subject to a development consent.

## Part 2 – Explanation of provisions

The objectives of this planning proposal is to be achieved through an amendment to Schedule 1 of the LEP. The amendment proposes a new clause for the additional permitted use of a 'recreation facility (outdoor)' on the subject site (25 Dwyer Road, Bringelly) within the existing R5 – Large Lot Residential zone.

## Part 3 – Justification

### Section A – Need for the planning proposal

*3.1 Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?*

The planning proposal is not a result of any strategic planning statement, strategic study or report.

*3.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The planning proposal is considered the best means of achieving the objectives and intended outcomes as indicated in Part 1 of this planning proposal.

The utility in proposing a site-specific provision in this instance is to allow, subject to development consent, the ongoing operation of an existing facility. The ongoing use will be subject to a future development consent to ensure any adverse impacts are appropriately mitigated.

### Section B – Relationship to strategic planning framework.

DPIE's Planning Circular (PS 16-004) notes that a key factor in determining whether a proposal should proceed to Gateway determination should be its strategic merit and site-specific merit. It is considered that the planning proposal meets these tests as outlined in the following sections.

*3.3 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?*

#### a. Strategic Merit

The planning proposal will give effect to the relevant regional, sub-regional or district plan or strategies. The most relevant State and District plans that guide the land use direction for the site, are

- Greater Sydney Regional Plan – A Metropolis of Three Cities (GSRP); and
- Western City District Plan (WCDP).

#### Greater Sydney Regional Plan – A Metropolis of Three Cities (GSRP)

A Metropolis of Three Cities – The Greater Sydney Region Plan (GSRP) aims to rebalance growth and deliver its benefits more equally and equitably to residents across Greater Sydney. The plan is built on a vision of three cities where most residents live within 30 minutes of their jobs, education and health facilities, services and great places.

Objective 7 of the GSRP is of relevance to the proposed amendment. This objective being “*Communities are healthy, resilient and socially connected*”. The proposed amendment will allow for an existing facility to continue operating, subject to development consent, and contributing to local residents access to recreational facilities. The current facility also provides a catalyst for social and community events.

Objective 29 is also of relevance, this objective being “*environmental, social and economic values in rural areas are protected and enhanced*”. Within Objective 29, the GSRP aims for “*opportunities for more tourism and recreation, linked to the Western Sydney Airport and improved transport infrastructure, which can bring more visitors to the Metropolitan Rural Area and the Protected Natural Area*”. The proposed amendment will help to formalise an established and widely enjoyed recreational facility within the existing rural area. The intended outcome is that the social and economic contribution the facility currently provides will be continued in a permissible manner.

#### Western City District Plan (WCDP)

The Western City District Plan provides planning priorities to guide the sustainable growth of Western City over the next 20 to 40 years. The District’s population is expected to grow by around 464,000 (between 2016 and 2036), and households in Liverpool LGA are expected to grow by 91%.

Planning Priority W3 of the WCDP is “*providing services and social infrastructure to meet people’s changing needs*”. The priority is further detailed in the following excerpt:

*“Each neighbourhood has facilities such as libraries, community centres, adult education, sport and recreation facilities that function to enhance and promote social connections and networks within the community.”*

Planning Priority W4 of the WCDP is “*fostering healthy, creative, culturally rich and socially connected communities*”. The priority is further detailed in the following excerpt:

*“Connectivity of, and access to, diverse open space and opportunities for recreational physical activity are also essential. Sport and active lifestyles provide many social, cultural and health benefits.”*

Planning Priority W7 of the WCDP is “*establishing the land use and transport structure to deliver a liveable, productive and sustainable Western Parkland City*”.

*“The Western Parkland City is a place that meets the country and where the Metropolitan Rural Area, Western Sydney Parklands and the national parks and reserves of the Protected Natural Area including the Greater Blue Mountains World Heritage Area frame the city. This unique setting provides the opportunity to derive tourism benefits linked to the District’s natural, recreational and agricultural assets.”*

The existing facility provides a recreation type service that has demonstrated a contribution to promoting the social connections and networks of the wider community. This is evident in the way the facility has hosted charity events, training, groups of people with disabilities and youth groups. Additionally, the facility actively encourages and facilitates healthy outcomes for the local and wider community.

#### Local Strategy

Assessment of the proposal with regards to the Liverpool Local Strategic Planning Statement (LSPS) – *Connected Liverpool 2040* is detailed in Section 3.4.

## b. Site Specific Merit

In addition to meeting at least one of the strategic merit criteria, a Planning proposal is required to demonstrate site-specific merit against the following criteria in Table 2 below.

Table 1 - Site Specific Merit

Criteria	Planning Proposal Response
<i>Does the planning proposal have site specific merit with regard to: the natural environment (including known significant environmental values, resources or hazards)?</i>	<p>The subject site exists within a site that is mostly free from significant vegetation. It is noted that some <i>Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion</i> is mapped as occurring within the central part of the subject site. However, the existing facility has not impacted adversely on this feature of the site and it is not anticipated that this feature will be impacted in the future. Any future DA will be required to address this feature of the site.</p> <p>In terms of hazards, the subject site is not located in flood prone or bushfire affected land.</p> <p>These aspects are further addressed in section 3.8 of this report.</p>
<i>The existing uses, approved uses and likely future uses of land in the vicinity of the land subject to a proposal?</i>	<p>The proposed amendment will not impact on the existing large lot residential character of the area.</p> <p>It is noted that the entire locality of Bringelly will experience changes as the Western Sydney Aerotropolis develops. It is not anticipated that the proposed amendment will impact these future uses given the minor scale and low-impact nature of the facility.</p>
<i>The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision?</i>	<p>The existing facility requires minimal services and infrastructure and does not require anything above and beyond what is provided at present.</p> <p>There is a risk regarding parking issues if attendees park on Dwyer Road. The facility currently requires attendees to park within the subject site. Through the DA process, it is believed this issue can be managed, limiting numbers of visitors and requiring parking within the subject site.</p>

### 3.4 Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

#### Liverpool Local Strategic Planning Statement (LSPS) – Connected Liverpool 2040

The Local Strategic Planning Statement (LSPS) – *Connected Liverpool 2040* is Council's long-term plan to shape Liverpool's future which will help guide the development of Liverpool's suburbs and balance the need for housing, jobs and services as well as parks, open spaces and the natural environment.

Table 2 below demonstrates how the proposed amendment will give effect to the LSPS:

Table 2 - Assessment against the LSPS

Local Planning Priority	Extracts	Assessment
<p>Local Planning Priority 6 High-quality, plentiful and accessible community facilities, open space and infrastructure aligned with growth</p>	<p><i>“Ensure community facilities, open space and recreation facilities meet the needs of a growing population across the entire LGA.”</i></p> <p><i>“Our vision is to create recreation spaces for people that inspire and connect residents, and act as a catalyst for community life.”</i></p>	<p>The proposed amendment will facilitate the permissible operation of a successful recreation facility that provides a valued contribution to the community.</p>
<p>Local Planning Priority 9 Safe, healthy and inclusive places shaping the wellbeing of the Liverpool community</p>	<p><i>“While Western Sydney residents should enjoy the same health outcomes as those in other parts of Sydney, currently this is not the case, with significantly higher rates of obesity and diabetes. This is due to a number of reasons, including... fewer recreation opportunities.”</i></p>	<p>The proposed amendment will facilitate the permissible operation of a facility that actively encourages positive health outcomes and facilitates these outcomes.</p>
<p>Local Planning Priority 11 An attractive environment for local jobs, business, tourism and investment</p>	<p><i>Provide infrastructure, facilities and services needed to support and facilitate visitor economy and tourism growth in light of the opportunities provided by Western Sydney International Airport.</i></p>	<p>The existing facility provides a valuable destination for tourism within the region. The proposed amendment will allow for the ongoing operation of the facility in a permissible manner.</p>
<p>Local Planning Priority 16 Rural lands are protected and enhanced</p>	<p><i>“Ensure agricultural land is protected and enhanced to support the rural economy, ecosystem services and natural scenic landscapes.”</i></p> <p><i>“Protect and promote sustainable rural employment opportunities, including rural tourism.”</i></p>	<p>The proposed amendment will not impact on the nearby agricultural land and natural scenic landscapes. The facility will be effectively regulated against impacts as part of a future DA.</p> <p>The existing facility has proven to be a successful tourist destination and contributes to the rural tourism offerings within the western parts of the Liverpool LGA. The proposed amendment will allow for the ongoing operation of this facility in a permissible manner.</p>

### 3.5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

Several State Environmental Planning Policies apply to the land. The consistency of the planning proposal with pertinent SEPPs has been provided in Table 3 below. SEPPs which the planning proposal will not materially impact nor undermine are omitted from Table 3.

Table 3 – Consistency with State Environmental Planning Policies

State Environmental Planning Policy	Comment / Consistency
<i>State Environmental Planning Policy (Koala Habitat Protection) 2019</i>	The central vegetated portion of the subject site is identified as a site investigation area for koala plans of management. This then requires any DA on the site to address the matters outlined under Part 3 of the Draft Koala Habitat Protection Guideline. Given the nature of the existing facility and the lack of need for vegetation removal, it is deemed that koala protection can be adequately addressed as part of a future DA to formalise the existing use.
<i>SEPP No. 55 Remediation of Land</i>	Given the sites historical residential use, no contamination issues are anticipated.
<i>State Environmental Planning Policy No 64— Advertising and Signage</i>	Any advertising signage proposed will be required to adhere to SEPP 64 at the DA stage.

### 3.6 Is the planning proposal consistent with applicable Ministerial Directions (Section 9.1 directions)?

Table 4 - Ministerial Directions Compliance

Ministerial Direction	Justification	Consistent
3.1 Residential Zones	The proposed amendment will not impact on the existing dwellings on the subject site, nor restrict the existing residential provisions applicable to the subject site.	Yes
4.4 Planning for Bushfire Protection	The site is not identified as bushfire prone land on the LLEP, however there is some bushfire prone land located to the east of the subject site.  The proximity of the subject site from the bushfire prone land is deemed to be satisfactory and will avoid safety impacts.	Yes
5.10 Implementation of Regional Plans	The proposal is consistent with the GSRP as discussed in section 3.3 of this report.	Yes
6.1 Approval and Referral Requirements	The planning proposal does not contain provisions requiring additional concurrence, consultation or referral to a Minister or public authority for future DA's.	Yes

Ministerial Direction	Justification	Consistent
6.3 Site Specific Provisions	The proposed amendment is for a site-specific clause to allow a recreation facility (outdoor) use to be permitted with consent on the subject site. No development standards or requirements are imposed in addition to those already contained in the LEP.	Yes
7.1 Implementation of A Plan for Growing Sydney	Consistency with Greater Sydney Region Plan - A Metropolis of Three Cities is demonstrated in Section 3.3 of this report.	Yes
7.8 Implementation of Western Sydney Aerotropolis Plan	The proposed amendment will not impact on the achievement of the objectives, planning principles and priorities of the Western Sydney Aerotropolis Plan.	Yes

## Section C – Environmental, social, and economic impact

### 3.7 *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The subject site exists within a site that is mostly free from significant vegetation. It is noted that some Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion is mapped as occurring within the central part of the subject site. The existing facility has not impacted adversely on these features of the site and it is not anticipated that this feature will be impacted in the future. Any future DA will be required to address this further.

### 3.8 *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

#### *Traffic and transport*

The proposed amendment will not create capacity issues in relation to the local road network, given the nature of the existing use and surrounding area. The traffic caused by the development is minor, and the surrounding road network is not constrained by any capacity issues currently. In relation to parking, any future DA will be required to ensure parking provision is provided.

#### *Noise*

The proposed amendment will facilitate the ongoing operation of the existing facility in a permissible manner. A future DA will require noise impacts to be addressed and managed appropriately.

### 3.9 *Has the planning proposal adequately addressed any social and economic effects?*

The planning proposal is expected to result in positive social and economic impacts by enabling the successful operation of the current facility to continue in a permissible manner. The existing facility provides a recreation type service that has demonstrated a contribution to promoting the social connections and networks of the wider community. This is evident in the way the facility has hosted charity events, training, groups of people with disabilities and youth groups. Additionally, the facility actively encourages and

facilitates healthy outcomes for the local and wider community. Finally, the existing facility provides a valuable destination for tourism within the region.

## Section D – State and Commonwealth interests

### 3.10 *Is there adequate public infrastructure for the planning proposal?*

Given the nature of the additional permitted use proposed, there is little to no demands for public infrastructure.

### 3.11 *What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?*

As a part of the Gateway determination, the relevant public authorities will be identified who are to be consulted in relation to the planning proposal. The referral advice provided by the public authorities will be considered, following consultation in the public exhibition period.

## Part 4 – Mapping

No changes to LEP mapping is required as part of this proposal.

## Part 5 – Community Consultation

Schedule 1, Clause 4 of the EP&A Act requires the relevant planning authority to consult with the community in accordance with the Gateway determination. The planning proposal will be publicly exhibited for at least 14 days in accordance with DPIE’s A Guide to Preparing Local Environmental Plans. The planning proposal exhibition will also be carried out in accordance with Council’s Community Participation Plan.

At a minimum, the notification of the public exhibition of the Planning proposal is expected to involve:

- Notification on the Liverpool City Council website

## Part 6 – Project Timeline

An anticipated project timeline is shown in Table 5.

*Table 5 – Anticipated Project Timeline*

<b>Timeframe</b>	<b>Action</b>
November 2020	Submission of Planning Proposal to DPIE
December 2020	Gateway Determination issued
January 2020 – February 2021	State agency consultation
January 2020 – February 2021	Community consultation

February 2020 – March 2021	Consideration of submissions and proposal post-exhibition
March 2021	Post-exhibition report to Council
April 2021	Legal drafting and making of the plan