

PLAN 03	Post exhibition report - Liverpool Local Environmental Plan Amendment 83 - rezoning land and amending development standards at 1400-1480 Elizabeth Drive, Cecil Park
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Strategic Direction	Strengthening and Protecting our Environment Exercise planning controls to create high-quality, inclusive urban environments
File Ref	133563.2021
Report By	Masud Hasan - Senior Strategic Planner
Approved By	David Smith - Acting Director Planning & Compliance

Property	1400-1480 Elizabeth Drive, Cecil Park
Owner	Western Sydney Town Centre Pty Ltd
Applicant	Western Sydney Town Centre Pty Ltd

EXECUTIVE SUMMARY

At its meeting on 24 June 2020, Council resolved to support a planning proposal request to rezone land and amend development standards in the Liverpool Local Environmental Plan 2008 (LLEP) for land at 1400-1480 Elizabeth Drive, Cecil Park. A planning proposal, Draft Amendment 83 to the LEP was prepared in accordance with this resolution (**Attachment 1**). The planning proposal was then submitted to the Department of Planning, Industry and Environment (DPIE) for a Gateway determination in accordance with Council's resolution.

A Gateway determination was issued by DPIE on 31 August 2020 (**Attachment 2**). The planning proposal was publicly exhibited from 27 October 2020 until 23 November 2020 in accordance with the conditions of the Gateway determination and Council's Community Participation Plan. One submission was received, supporting the planning proposal (**Attachment 3**).

During public authority consultation, Transport for New South Wales (TfNSW) advised that a revised access arrangement to the site via Range Road was required due to the future upgrading of Elizabeth Drive (**Attachment 4**). This involves upgrading Range Road to an industrial road standard. The Western Sydney Parkland Trust (WSPT) is currently upgrading a section of Range Road to provide improved access to the Sydney International Shooting Centre.

The proponent has offered to upgrade the section of Range Road between the Elizabeth Drive/Range Road intersection and the section of Range Road currently being developed by WSPT. The draft Planning Agreement letter of offer (**Attachment 5**) will facilitate the upgrading of part of Range Road.

Since the planning agreement will not provide for the upgrading of the entire road, an amendment to the Liverpool Development Contributions Plan 2009 (**Attachment 6**) has been prepared (draft Amendment 3 to Liverpool Development Contributions Plan 2009 and will apply to the following properties:

- Lot 1-7 and Part Lot 8, DP1054778
- Part Lot 8 and Lot 9, DP1054778
- Lot 11, DP1146142
- Lot 90, DP 1101411
- Lot 91 DP 1101411
- Lot 12 DP 1065416

It is recommended that Council endorses Amendment 83 to the Liverpool LEP and delegates authority for the CEO to liaise with DPIE and the Parliamentary Counsel's Office to finalise the amendment, subject to the exhibition and adoption of Amendment 3 to the Liverpool Development Contributions Plan 2009.

RECOMMENDATION

That Council:

1. Notes the Gateway determination for Liverpool Local Environmental Plan 2008 (Amendment 83) and the results of the public authority consultation and community consultation;
2. Endorses Draft Amendment 3 to Liverpool Development Contributions Plan 2009 for public exhibition in accordance with Clause 28 of the *Environmental Planning and Assessment Regulation 2000*;
3. Delegates to the CEO the authority to adopt Amendment 3 to the Liverpool Development Contributions Plan 2009 following public exhibition;
4. Proceeds with Amendment 83 to the Liverpool Local Environmental Plan 2008, following adoption of Amendment 3 to Liverpool Development Contributions Plan 2009;
5. Delegates authority to the CEO to liaise with the Department of Planning, Industry and Environment and the Parliamentary Counsel's Office to finalise Amendment 83 to the Liverpool Local Environmental Plan; and

6. Delegates to the CEO to further negotiate the proposed Planning Agreement with the proponent.

REPORT

Background

The planning proposal relates to land located at 1400-1480 Elizabeth Drive, Cecil Park (Lot 1 to 9 in DP1054778). Refer to Figure 1 below.



Source: Google Earth

Figure 1: Aerial view of the subject site (highlighted in red)

The site is in an area which is undergoing transformation. Key influences on the area include the construction of the new Western Sydney Airport (WSA) at Badgerys Creek located approximately 5km west of the site, and continued development of the broader Western Sydney Employment Area (WSEA). There is also the associated upgrading of supporting infrastructure including roads, rail, and utility services.

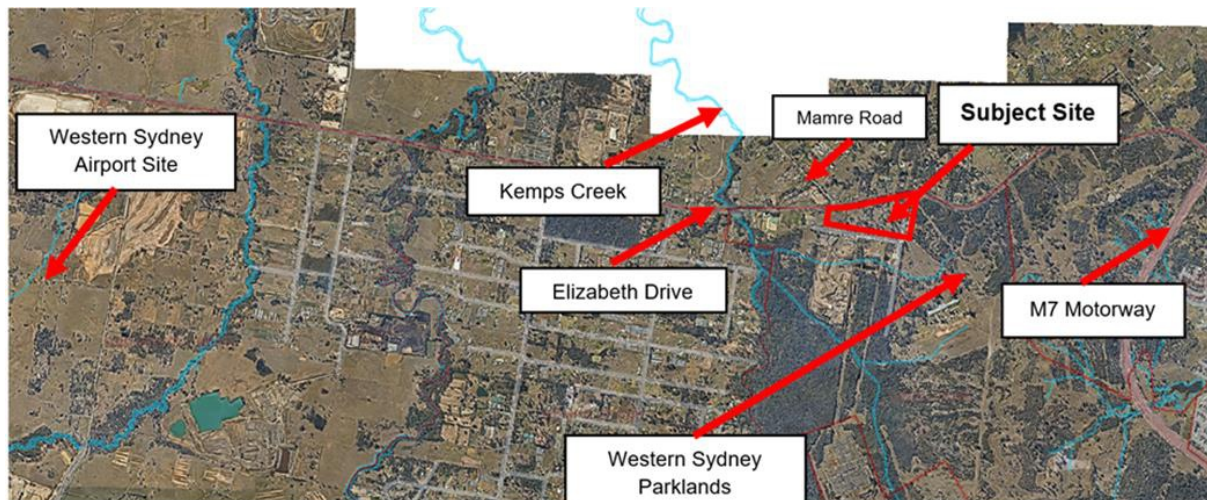


Figure 2: Surrounding land uses

The proposed M12 motorway corridor runs through the site dividing it into two parcels of land. This is visually evident in Figure 3.

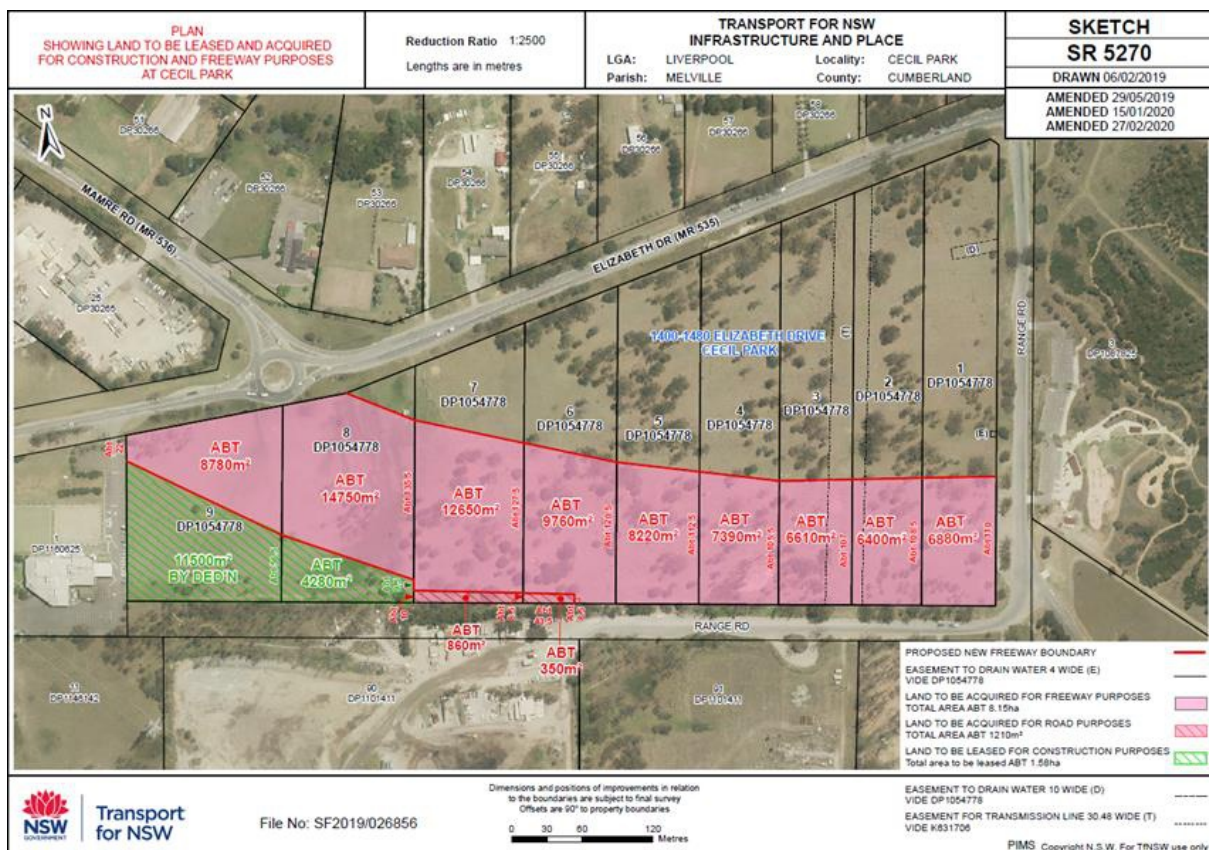


Figure 3: Proposed M12 site acquisition

Planning Proposal

The key objective of the planning proposal is to allow a range of light industrial, warehouse and related land uses on the site with a maximum permissible floor space ratio of 1:1. The planning proposal will also recognise the future M12 motorway corridor through the site by reserving the land for acquisition by TfNSW.

To facilitate these objectives, the planning proposal proposes to amend the Liverpool Local Environmental Plan (LLEP) 2008 in the following ways:

- Rezone part of the land from RU4 – Primary Production Small Lots to IN2 – Light Industrial and SP2 – Infrastructure;
- Establish a maximum permissible Floor Space Ratio of 1:1;
- Amend the minimum lot size development standard from 10ha to 2,000m²;
- Amend the Land Reservation Acquisition Map for the site to facilitate acquisition of land for the M12 motorway corridor.

At its meeting on 24 June 2020, Council endorsed the planning proposal request and Amendment 83 was forwarded to the Department of Planning, Industry and Environment (DPIE) for a Gateway determination.

Gateway Determination

DPIE issued a Gateway determination on 31 August 2020. The Gateway determination included the following conditions:

- Prior to public exhibition, Council was required to consult with Transport for NSW (TfNSW) to determine the extent of the land acquisition as part of the M12 project and update the mapping that identifies the relevant acquisition authority;
- Consult with the Rural Fire Service (RFS) in accordance with Section 9.1 Direction 4.4 Planning for Bushfire Protection;
- Publicly exhibit the proposal and relevant documentation for a minimum of 28 days;
- Provide a minimum of 21 days for the following public authorities to comment on the proposal:
 - TfNSW;
 - RFS;
 - Sydney Water;
 - Endeavour Energy; and
 - Environment, Energy and Science group (EES).

The Gateway determination also authorised Council as the local plan-making authority to make LEP Amendment 83.

Community Consultation

In accordance with the Gateway determination, the planning proposal and relevant documents were placed on public exhibition from 27 October 2020 until 23 November 2020. One submission was received which supported the planning proposal.

A copy of the submission is included in **Attachment 3**. No changes are proposed to the planning proposal resulting from community consultation.

Public Authority Consultation

Letters were sent to public agencies identified in Table 1 on 15 September 2020 requesting comments be received no later than 7 October 2020. No objections were raised by NSW RFS, Sydney Water, Endeavour Energy and EES in relation to the planning proposal.

Prior to public exhibition, Council consulted with TfNSW on two occasions regarding the future M12 motorway corridor through the site. TfNSW advised that the future upgrading of Elizabeth Drive by TfNSW would restrict direct vehicular access to the subject site from Elizabeth Drive and the proposed intersection with Mamre Road could not be supported. As a result, a revised access arrangement via the local road network (Range Road) was recommended.

Summaries of each submission received during the public authority consultation and the Council officer's response are summarised in Table 1, and original copies are included in **Attachment 4**.

Table1: Public authority consultation

Agency	Comments	Council Staff's response
RFS	The RFS did not raise any objection and advised that future developments on the site should address the requirements of <i>Planning for Bushfire Protection 2019</i> .	No changes to the planning proposal are deemed necessary as the existing planning framework requires development on bushfire prone land to consider the policy at the DA stage.
Sydney Water	No objection was raised. It was advised that the water and wastewater services were not available for the site and would not be available until 2022 and 2025/26 respectively. Sydney Water recommended a feasibility study be undertaken to	The proponent has provided a servicing plan for interim connections to the existing water and wastewater service network. The funding for the interim connections is proposed to be provided by the proponent under a

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Agency	Comments	Council Staff's response
	<p>identify the need of potential upsizing of drinking water assets. It was further recommended that the proponent explore a range of temporary wastewater service options as wastewater servicing in the interim is not available. A temporary arrangement is needed until a connection to a wastewater treatment plant can be established in the future.</p>	<p>service agreement with Sydney Water.</p> <p>A feasibility study for infrastructure upgrades and a connection strategy are deemed necessary at the DA stage.</p> <p>This will not materially affect the planning proposal but may impact the timing for future DAs.</p>
<p>The Environment, Energy and Science Group (EES) of DPIE</p>	<p>The EES Group did not object to the planning proposal, however it provided recommendations regarding the concept plan and the future development on the site. It recommended to avoid removing the existing native vegetation (where possible) and to make future development on the site consistent with the planning priority and objective of the Western City District Plan, by increasing urban tree canopy and delivering the Green Grid connection.</p> <p>It was further recommended that the future developments should consider the flood affected area and flood depth under the 1% AEP.</p>	<p>Council staff deem that the planning proposal adequately addresses and complies with the biodiversity certification order applicable to the site.</p> <p>The planning proposal does not include provisions related to delivering the Green Grid connection as the subject site is not included in the Green Grid Priority mapping. Any future developments on the site will be carried out as per the DCP requirements including landscaping and deep soil controls.</p> <p>Future developments on the site are to follow the DCP guidelines for developments on flood-prone land.</p>
<p>Endeavour Energy</p>	<p>No objection raised.</p> <p>Recommended conditions for development on site and to maintain the existing electricity easement on site.</p>	<p>The proposed conditions are standard practice that will be followed at the DA stage and do not materially affect the planning proposal.</p>

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Agency	Comments	Council Staff's response
Transport for New South Wales	It was advised that vehicular access to the subject site from Elizabeth Drive would be restricted due to the planned upgrading of Elizabeth Drive by TfNSW. A revised access provision via Range Road was required.	<p>An updated traffic impact assessment report and a revised concept plan have been submitted by the proponent that demonstrated the revised access provision to the site from Range Road and the resulting traffic impacts.</p> <p>Council staff are of the view that the concept plan and the impact assessment did not adequately address the traffic impacts in the report and will need to be amended at the time of the actual development i.e. at the DA stage. This will not materially affect the planning proposal.</p>

In relation to the Traffic Impact Assessment report and the proposed Concept Plan, Council staff identified the following key issues that will need to be addressed at the DA stage:

- The location of the proposed access road off Range Road is in close proximity to the future Elizabeth Drive signalised intersection;
- The access from Elizabeth Drive (allowed by TfNSW) should only be for a future service station and associated related development on the site but not for the industrial development;
- An interim intersection treatment at the Elizabeth Drive/Range Road intersection is needed prior to the Elizabeth Drive upgrade by TfNSW;
- Identification of an intersection treatment off Range Road to the development site and associated localised road widening to permit right movements or a U turn facility;
- Unrealistic assumptions are made in the report in terms of traffic generation due to the development on site; and
- The existing traffic volumes along Range Road should be based on a traffic survey data rather than estimated data.

Draft Amendment 3 to Liverpool Development Contributions Plan 2009

The proposed rezoning and the access arrangement off Range Road requires Range Road to be upgraded to an industrial road standard. This is to accommodate the additional industrial traffic and to provide safe and efficient access to the site. The Western Sydney Parkland Trust (WSPT) is currently upgrading a section of Range Road to improve access to the Sydney International Shooting Centre.

To ensure there is a suitable and equitable funding source for the upgrade of Range Road, and to allow the planning proposal to be finalised, an amendment to Liverpool Development Contributions Plan 2009 (the Contributions Plan) has been prepared (**Attachment 6**).

Figure 4 shows the delivery mechanism for various segments of Range Road. TfNSW is delivering the intersection with Elizabeth Drive (blue lines), and WSPT are delivering a portion adjacent to their property (orange lines). The cost for the remainder of the Range Road upgrade is approximately \$3.9 million and is addressed in the Contributions Plan amendment.

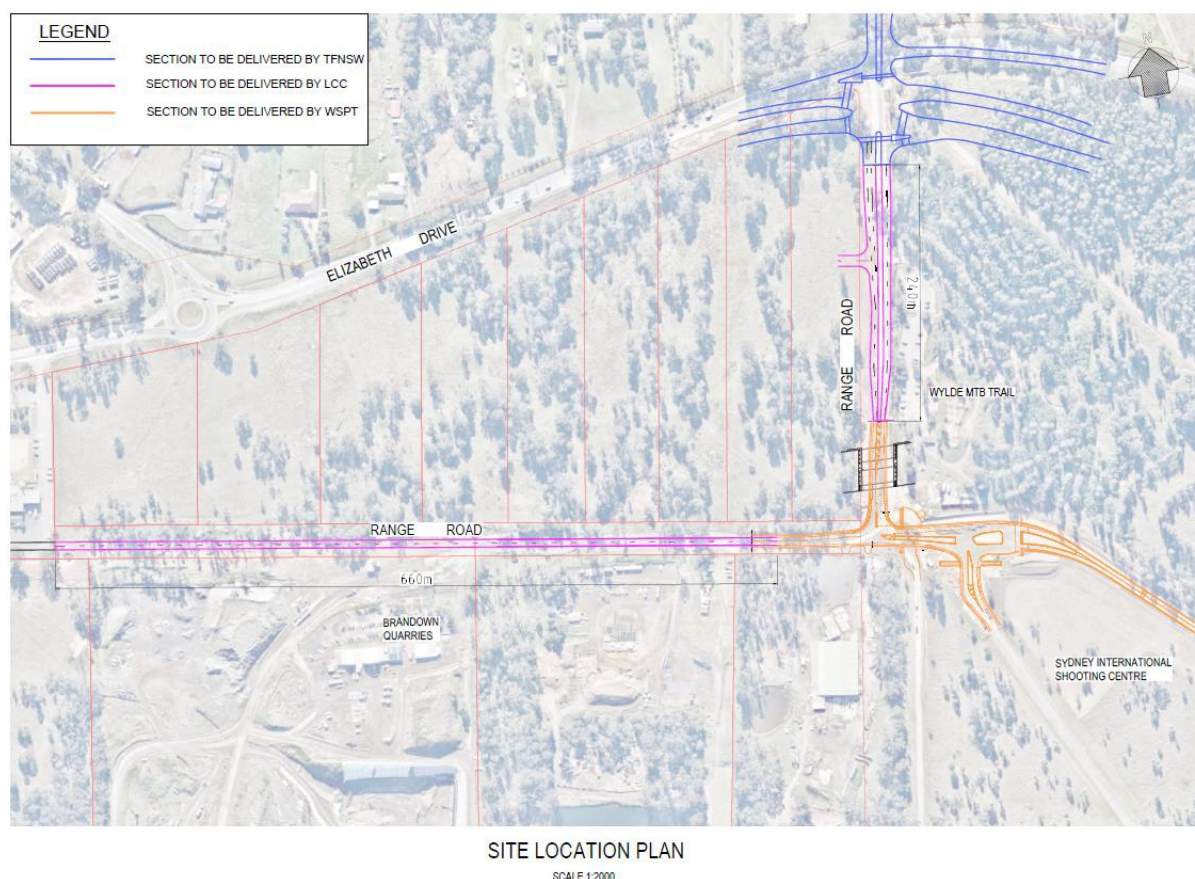


Figure 4 Delivery mechanisms for various segments of Range Road

To allocate the costs of the Range Road upgrade equitably, Amendment 3 to the Liverpool Development Contributions Plan 2009 divides the Range Road precinct into north and south segments, as shown below in Figure 5. This approach aligns the funding of road upgrades to the properties that would directly benefit by the road upgrade.



North and South Segments of Range Road

Legend

- Contributing Development to Range Road - north segment
- Contributing Development to Range Road - south segment
- Range Road - north segment
- Range Road - south segment
- M12 Corridor

Figure 5: Contributing development to Range Road north and south segments

The northern segment of Range Road has a contributing development of 1 property - a consolidated landholding owned by Western Sydney Town Centre Pty Ltd. Although it is anticipated that the development of the north segment will be covered by the draft Planning Agreement, this part of Range Road has been included in Amendment 3 to the Contributions

Plan to ensure that there is a funding source, regardless of the outcome of the Planning Agreement negotiations. The total cost of construction for the north segment of Range Road is estimated at \$1.8 million, based on the strategic cost estimate provided in **Attachment 7**.

The total cost of construction for the south segment of Range Road is estimated to be \$2 million based on the strategic cost estimate provided in **Attachment 8**. This segment of Range Road has a contributing development of 5 properties owned by various landowners. Under the Contributions Plan, the cost of delivering the south segment is distributed proportionally among these properties, based on the length of each lot's frontage to Range Road. This approach ensures that all properties adjacent to the south segment provide the funding as part of future development to complete the upgrade of the road as necessary.

An administration cost of 1.5% of works costs (approximately \$60,000) has been included in Amendment 3.

Once the Contributions Plan is updated, Council will be able to upgrade the road as a part of the capital works program or have it delivered via a works in kind agreement by future developers.

Planning Agreement Offer

The proponent has offered to upgrade the section of Range Road (north segment) between the Elizabeth Drive/Range Road intersection and the section of the road currently being upgraded by WSPT. They proposed to upgrade the road (approximately 233m) under a Planning Agreement for a 4-lane road running north to south adjacent to their property. **Attachment 5** provides details of the Planning Agreement letter of offer received from the proponent.

The proponent has offered to complete the following works under the Planning Agreement:

1. *Upgrade 233m of Range Road from the proposed pedestrian crossings at the proposed signalised intersection of Range Road and Elizabeth Drive (signalised intersection to be built by TfNSW) to the WSPT developed road section.*
2. *Carriageway width of approximately 12.8m and as a B-Double route.*
3. *Industrial Road with pavement design to the industrial pavement standard.*
4. *Other requirements of industrial roads including landscaping, kerb/guttering and footpath paving in accordance to the Western Sydney Uniform Engineering Design Manual.*
5. *Median strip to the section of Range Rd up to the access road of the land.*
6. *Landscaping of the road reserve on the western side of Range Road and Elizabeth Drive to the access road of the land.*

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It is proposed that the works will be undertaken within Council's road reserve and will be completed prior to the issuing of an Occupation Certificate for the proposed development on the site.

Should the proponent withdraw its offer to enter into a Planning Agreement, as offered at this stage, the proposed amendment to Liverpool Development Contributions Plan 2009 as outlined above, will ensure that the entire road (except for the part currently being upgraded by WSPT) is upgraded to an industrial road standard.

Conclusion

The Gateway requirements for Amendment 83 have been satisfied, and submissions received have been addressed. The planning proposal has addressed all matters raised by public authority agencies. Other issues raised by these agencies will be considered as part of a future DA process.

It is recommended that Council endorses Amendment 83 to the Liverpool LEP and delegates authority for the CEO to liaise with DPIE and the Parliamentary Counsel's Office to finalise the amendment, subject to the exhibition and adoption of Amendment 3 to the Liverpool Development Contributions Plan 2009.

CONSIDERATIONS

Economic	Facilitate economic development.
Environment	Protect, enhance and maintain areas of endangered ecological communities and high-quality bushland as part of an attractive mix of land uses. Raise community awareness and support action in relation to environmental issues.
Social	There are no social considerations.
Civic Leadership	Encourage the community to engage in Council initiatives and actions.
Legislative	Environmental Planning and Assessment Act 1979
Risk	Gazettal of Amendment 83 to the LEP prior to adopting Amendment 3 to Liverpool Development Contributions Plan 2009 has a risk that public infrastructure (the upgrade of Range Road) will not be completed to support future industrial development. Adopting the amendment to the Liverpool Contributions Plan 2009 prior to gazettal of Amendment 83 to the LEP will remove this risk.

ATTACHMENTS

1. Planning Proposal - Amendment 83 (Under separate cover)
 2. Gateway determination (Under separate cover)
 3. Submission on planning proposal (Under separate cover)
 4. Public Authority Submissions (Under separate cover)
 5. Letter of Offer to enter into a Planning Agreement (Under separate cover)
 6. Draft Amendment 3 to Liverpool Contributions Plan 2009 (Under separate cover)
 7. Strategic Cost Estimate - Range Road upgrade (North segment) (Under separate cover)
 8. Strategic Cost Estimate - Range Road upgrade (South segment) (Under separate cover)
 9. Western Sydney Town Centre - ASIC - Current Extract (Under separate cover)
- Confidential**