

**EGROW 01**

**Proposed amendments to Part 1 and 4 of Liverpool Development Control Plan 2008 (Amendment 25) following gazettal of Liverpool Local Environmental Plan 2008 (Amendment 52)**

<b>Strategic Direction</b>	Strengthening and Protecting our Environment Exercise planning controls to create high-quality, inclusive urban environments
<b>File Ref</b>	090480.2019
<b>Report by</b>	Graham Matthews - Senior Strategic Planner
<b>Approved By</b>	David Smith - Acting Director, City Economy and Growth / Deputy CEO

## **EXECUTIVE SUMMARY**

This report seeks Council's endorsement to re-exhibit Amendment 25 to the *Liverpool Development Control Plan 2008 (DCP)* (**Attachments 1-3**).

Amendment 25 amends Part 1 and 4 of the *DCP* following the gazettal of *Liverpool Local Environmental Plan (LLEP) 2008* (Amendment 52) by the Department of Planning, Industry and Environment in September 2018.

Council resolved at its March 2017 meeting to delegate to the CEO the finalisation of the redraft of Part 1 and 4 of the DCP following gazettal of Amendment 52. A number of changes were made to the final wording of Amendment 52 during the finalisation process by the Department necessitating housekeeping amendments to Part 1 and Part 4 of the DCP.

It is recommended that Council endorse the amendments to the DCP and re-exhibit the DCP for 28 days in accordance with the Liverpool Community Participation Plan 2019. A further report to Council will be prepared responding to any submissions received. If no submissions are received, it is recommended that Council delegates to the CEO the finalisation of Amendment 25.

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## **RECOMMENDATION**

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That Council:

1. Re-exhibits Amendment 25 to the Liverpool Development Control Plan 2008 (Part 1 and 4) for a period of 28 days; and
2. Receives a further report on the outcomes of the public exhibition and community consultation if submissions are received. If no submissions are received, Council delegates to the CEO the finalisation of Amendment 25.

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## **REPORT**

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### Background to Liverpool Local Environmental Plan Amendment 52

At its ordinary meeting of 27 July 2016, Council resolved that it:

*Delegates to the A/CEO the authority to finalise the planning proposal [for LLEP 2008 (Amendment 52), Liverpool City Centre LEP review] on receipt of the Liverpool City Centre Traffic and Transport Study and to submit the proposal to the Department of Planning and Environment for finalisation pursuant to s59 of the Environmental Planning and Assessment Act 1979.*

On 5 October 2016, Council wrote to the Department requesting that they finalise Amendment 52.

On 19 October 2017, Council received final comment from Transport for NSW (TfNSW), following the finalisation of the Liverpool city centre traffic study report (completed by GTA consultants in July 2017). TfNSW recommended that all new dwellings developed pursuant to Amendment 52, make a contribution (known as “satisfactory arrangements”) towards regional transport infrastructure.

On 5 September 2018, Amendment 52 was gazetted on the Legislation NSW website. The required contribution is addressed in Clause 6.4A of LLEP 2008.

### Background to Liverpool Development Control Plan Amendment 25

At its Ordinary meeting of 29 March 2017, Council considered a report which outlined the results of the public exhibition of DCP Amendment 25. The amendment sought to amend Parts 1 and 4 of the DCP in order to make them consistent with the changes proposed by Amendment 52 to the LEP, and to simplify the DCP by removing all matters with general application from Part 4 and including them in Part 1.

At this meeting, Council resolved:

*Authorises the Chief Executive Officer to finalise Amendment No. 25 including any further minor technical changes which may be required including those recommended by the Liverpool Design Excellence Panel.*

*Adopts Draft Liverpool Development Control Plan - Part 4 Liverpool City Centre as a policy of Council to be used in the assessment of development applications lodged pursuant to Planning Proposal – Amendment 52.*

*Authorises the Chief Executive Officer - upon notification that Planning Proposal Amendment No. 52 has been approved by the Minister for Planning – to bring into effect Draft Liverpool Development Control Plan, Part 1 – General Controls for all Development and Part 4 Liverpool City Centre (Amendment No. 25) in accordance with the Environmental Planning and Assessment Act 1979 and Regulation.*

#### Reconsideration of DCP Amendment 25

Despite Council's decision at its 29 March 2017 meeting to authorise the CEO to bring into effect DCP Amendment 25, including amendments to Part 1 and Part 4 of the DCP, changes to the gazetted version of LEP Amendment 52 made by the Department of Planning necessitated further amendments to Part 4 of the DCP.

In addition, a further modification to Part 1 of the DCP was required to update Section 28.4 Child care, as a result of the Department of Planning, Industry and Environment introducing the *Educational Establishments and Childcare Facilities SEPP 2017* (which limits the scope of development controls Council may apply to childcare facilities).

As a result, it was necessary to reconsider DCP Amendment 25, prior to it being brought into effect.

As noted in the report to the Council meeting of 29 March 2017, DCP Amendment 25 was publicly exhibited for eight weeks in November and December 2016. A total of 22 submissions (and one late submission) were received. The response to submissions was reported in the body of that report and endorsed by Council.

The proposed changes to Parts 1 and 4 of the DCP contained in this report, compared to the draft adopted by Council in March 2017, warrant further public exhibition for a period of 28 days in line with the requirements of the *Environmental Planning and Assessment Regulations 2000*.

Following exhibition, a further report responding to submissions received will be prepared for Council's consideration. Should no submissions be received, it is recommended that Council delegates to the CEO authority to finalise Amendment 25.

### Amendments to Part 4 of the DCP

As noted in the memo to Councillors dated 3 September 2018 (**Attachment 4**), in finalising Amendment 52, the Department of Planning made changes to the draft Amendment endorsed by Council on 27 July 2016, necessitating additional changes to Part 4 of the DCP.

The changes to Amendment 52 can be summarised as:

- Introduces clause 6.4A to LLEP 2008, which requires an additional contribution for new dwellings in the city centre, as a payment towards the costs of improving regional transport infrastructure;
- Introduces clause 7.5A to LLEP 2008, which permits development on larger (minimum 1500 m<sup>2</sup>) sites, with two or more street frontages, to exceed the mapped floor space ratio (FSR) and Height of Building development standards (up to a maximum FSR of 10:1) under certain circumstances;
- Requires that a minimum of 20% of the floor space of buildings, which receive a development bonus from clause 7.5A, be used for certain educational, public, commercial or business uses;
- Requires that, prior to the development of buildings which seek to receive a development bonus from clause 7.5A that the developer lodges a concept development application/site specific DCP, which demonstrates how the proposed building(s) will meet design excellence criteria; and
- Requires that buildings which seek to receive a development bonus from clause 7.5A, also include recreation areas, a gym, community facilities, information and education facilities, through-site links or public car parking.

One key change is to Section 4.2.5 *Controls for sites that require the submission of a DCP*. This replaces Sections 4.2.5 *Additional Controls for “Master planned” Sites* and Section 4.2.6 *Additional Controls for Opportunity Sites* in the draft of DCP Part 4 endorsed by Council in March 2017.

The new section 4.2.5 follows the Department of Planning, Industry and Environment (DPIE)’s redraft of Clause 7.5A of the LEP and seeks to provide guidance as to how a concept DA should be prepared to comply with the LEP requirements.

Additional changes include:

- An explanation of clause 6.4A of the LEP, Arrangements for designated State public infrastructure in intensive urban development areas (“Satisfactory Arrangements”);
- the incorporation of 77-83 Moore Street and 193 Macquarie Street (rezoned by Council as LEP (Amendment 56)) as “Area 11”, making it subject to the “satisfactory arrangements” provision;
- an update of Section 4.2.12 Public Open Space and Communal Open Space;
- an update of Section 4.3.8 Building Design and Public Domain Interface;

- an update of Section 4.4.3 On-Site Parking;
- an update of Section 4.3.10 Public Artworks; and
- rationalisation and reorganisation of some sections to improve readability.

The redraft of DCP Part 4 has been reviewed by Council's Development Assessment team, the City Design and Public Domain team, the Traffic and Transport team and Council's Public Arts Officer. In addition, changes to DCP Part 1 were reviewed by Council's Floodplain and Water Management and Waste and Cleansing teams prior to finalisation.

Part 4 of LDCP 2008 was referred to the Liverpool Design Excellence Panel (DEP) for comment, pursuant to the requirements of Clause 21A of the *Environmental Planning and Assessment Regulation 2000*. Key points raised by the DEP were as follows:

- Support for the objectives for the city centre retaining a human fine grain scale;
- The proposed built form objectives (height 6-8 stories) were considered appropriate in achieving better outcomes;
- Supported the proposed public domain objectives;
- Noted the importance of "opportunity sites" (development sites which receive a bonus from clause 7.5A) delivering a public benefit;
- That Council consider imposing a maximum on permitted parking and require the inclusion of spaces for car share vehicles;
- Noted that the deep soil requirements in the Apartment Design Guide (ADG) are a minimum and more should be provided wherever possible for residential development; and
- Recommended the inclusion of a section on sustainability/energy performance and consideration of climate change.

#### Amendments to Part 1 of the DCP

All amendments to Part 1 are as adopted by Council at its March 2017 meeting. These amendments were primarily intended to rationalise the number of sections included in Part 4, removing a number of sections from Part 4 that have general applicability, and adding them to Part 1. The exception is the rationalisation of controls applying to child care, which has occurred to make the DCP consistent with the requirements of the *Educational Establishments and Childcare Facilities SEPP 2017* as noted above.

<b>Controls removed from Part 4</b>	<b>Part 1 Modified/New Section</b>	<b>Amendment</b>
<i>5.8 Sewage Treatment Plant Part of 5.2 Water Conservation</i>	6. Water Cycle Management	Add - 6.5 Stormwater Quality Management Add - 6.6 Sewage Treatment Plant Add - Non-residential controls to 6.8 Water Conservation
<i>3.4 Safety and Security 4.1 Pedestrian Access &amp; Mobility 5.9 Businesses where Trolleys are Required</i>	29. Safety and Security	New section. Chapter 28 addresses shopping trolleys and as updated following an earlier Council resolution.
N/A	17. Heritage and Archaeological Sites	Minor change - additional wording to Control 6.
<i>4.2 Vehicular Driveways &amp; Maneuvering Areas 4.3 Onsite Parking</i>	20. Car Parking and Access	Remove - Main objectives (i) and (j) Add - 21.2 Vehicular Access Arrangement & Maneuvering Areas Add - 21.6 On-site Car Parking
N/A	6.8. Water Conservation	Moving of section
1 x non-residential control (7)	22. Energy Conservation	Minor change - residential controls – “Dwelling” to “New dwellings” Add – 2 x non-residential controls
<i>5.3 Reflectivity</i>	23. Reflectivity	New section
<i>5.6 Waste</i>	25. Waste Disposal and Reuse	Add – Non-residential development controls Add – Residential development controls
<i>7.2 Controls for restricted premises 7.5 Non Business Uses 7.6 Restaurants/Outdoor Cafes 7.7 Child Care Centres</i>	30. Additional Uses	New section

The redraft of Parts 1 and 4 of the DCP are included in **Attachment 1 and 2**.

To clearly illustrate the proposed changes made to the version of Part 4 of LDCP 2008 as adopted by Council in March 2017, that version is attached (**Attachment 3**), with "track changes" showing the changes that have been made in the current draft.

### Conclusion

It is recommended that Council re-exhibits DCP (Amendment 25) for a period of 28 days.

## **CONSIDERATIONS**

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<b>Economic</b>	Further develop a commercial centre that accommodates a variety of employment opportunities. Enhance the environmental performance of buildings and homes.
<b>Environment</b>	Minimise household and commercial waste. Enhance the environmental performance of buildings and homes.
<b>Social</b>	Regulate for a mix of housing types that responds to different population groups such as young families and older people.
<b>Civic Leadership</b>	Encourage the community to engage in Council initiatives and actions. Provide information about Council's services, roles and decision making processes.
<b>Legislative</b>	Environmental Planning and Assessment Act 1979 Environmental Planning and Assessment Regulation 2000

## **ATTACHMENTS**

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1. Draft Part 1 LDCP 2008 (Under separate cover)
2. Draft Part 4 LDCP 2008 (Under separate cover)
3. Part 4 LDCP 2008 adopted June 2017 with amendments from 2019 added as track changes (Under separate cover)
4. Memo to Mayor and councillors re-gazettal of LLEP 2008 (Amendment 52) (Under separate cover)