

**Submission
No 167**

**INQUIRY INTO PLANNING SYSTEM AND THE IMPACTS
OF CLIMATE CHANGE ON THE ENVIRONMENT AND
COMMUNITIES**

Organisation: Liverpool City Council

Date Received: 31 October 2023

Ms Susan Higginson, MLC
Parliament House
Macquarie Street
SYDNEY NSW 2000

Submitted via email: PortfolioCommittee7@parliament.nsw.gov.au

Dear Ms Higginson,

Re: Submission on 'Inquiry into the planning system and the impact of climate change on the environment and communities'

I am writing in relation to the NSW Legislative Council's inquiry into the planning system and the impact of climate change on the environment and communities, undertaken by Portfolio Committee No. 7 Planning and Environment.

Liverpool City Council recognises the significant impact the planning has on climate change, the environment and communities, and therefore continues to advocate for improvements to the NSW Planning System.

A detailed submission on behalf of Liverpool City Council is attached to this letter, addressing the following points:

- Clarity is required regarding the policy position for planning and development of flood prone land in New South Wales;
- Significant development occurs under *SEPP (Exempt and Complying Development Codes) 2008* which bypasses local planning controls;
- Ability for Local Governments to have autonomy over local planning policies to address local issues;
- Implementation of State Environmental Planning Policy - Design and Place, and other planning reform which delivers positive environmental outcomes; and
- Alignment of density and population growth with public transport infrastructure.

Should you wish to discuss this matter further, please contact Nancy-Leigh Norris, Executive Planner, on _____ or _____

Yours sincerely,

Ian Stendara
Acting Coordinator Strategic Planning



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1. Background Information

a) Liverpool Local Government Area Context

Liverpool is a diverse Local Government Area, in relation to its demographics as well as its geographical aspects. The LGA comprises of 42 suburbs, ranging from established suburbs, redeveloping suburbs from infill development, an emerging City Centre, rapidly developing growth precincts, an imminent Aerotropolis around the Western Sydney (Nancy-Bird Walton) International Airport, as well as rural suburbs.

Across the LGA, there is a growing and diverse population. Liverpool is proudly one of the most culturally diverse cities in NSW with around 40% of people born overseas and half the population speaking a language other than English at home. There are high levels of refugee and migrant settlement, as well as a significant Aboriginal community.

Liverpool is experiencing substantial growth, with the population expected to increase by around 60% between 2019 and 2036. Forecast.id population projections predict that Liverpool's population will grow to 358,871 by 2036, compared with a 2019 population of 227,312 (LSPS, p44). This growth is due to increased residential development in our city centre, infill development within established suburban areas, and unprecedented development within new release development in our growth areas.

The changing nature of the climate in Western Sydney has the ability to impact on human health and quality of life, particularly with the effect of urban heat. Western Sydney is set to experience more days over 35 degrees than Eastern Sydney. The streetscapes of Liverpool are also experiencing urban heat, due to high temperatures and lack of tree canopy.

Recent extreme weather events such as flooding, heatwaves, bushfires are anticipated to increase with climate change, and demonstrate the need for robust resilience planning and community capacity building. A significant portion of Liverpool's urban settlement in the low lying areas of the Georges River and South Creek catchments, and are exposed to floods. The impact of climate change and recent extreme weather conditions have exacerbated the challenge in finding a balance for highest and best use of flood prone land.

Electricity and transport account for more than 80% of community emissions of greenhouse gas production (Community Strategic Plan 2022-2032, p21). Liverpool is home to wide-spread suburban areas where active transport is not always an option, additionally public transport options can be limited in certain parts of the LGA.

Community engagement has indicated that environmental matters are a top priority for the Liverpool community. Recent community engagement on the Liverpool Local Environmental Plan Review, found that protecting waterways, trees and vegetation was a key priority, with 88% of respondents rating this as very important or important.

Similarly, in relation to urban heat management, 82% of respondents rated this as very important or important.

b) Liverpool Strategic Planning Statement 'Connected Liverpool 2040'

Local Strategic Planning Statement 'Connected Liverpool 2040' (LSPS) sets out Council's 20-year vision for land use across the Local Government Area. It guides development and growth, by considering the need for housing, jobs, services as well as open spaces and the natural environment.

Liverpool City Council's commitment to sustainable development and climate change mitigation is expressed throughout the LSPS and reflected in its actions. The four pillars of the LSPS all contain strategic direction which is relevant to climate change:

- **Connectivity:** Availability of active and public transport infrastructure has implications for emissions and sustainable development. Key priorities include advocating for public transport links between Liverpool and the other parts of the District and Greater Sydney Region, including a rapid transit link between the Liverpool City Centre and the Western Sydney Aerotropolis.
- **Liveability:** Climate change will have significant impacts on liveability of existing and future residents. The LSPS has a focus on implementing active transport routes around Chipping Norton Lakes and managing urban heat.
- **Productivity:** The LGA contains significant industrial precincts, and the future development of the Aerotropolis will portions of the LGA will continue to deliver large scale employment land. This scale of development has implications for climate change and urban heat, especially when developed under Complying Development pathways.
- **Sustainability:** This section contains various actions relating to updating planning legislation and controls in relation to environmentally significant land, protection of biodiversity and waterway quality, tree canopy, sustainable waste outcomes, water sensitive urban design, and urban heat island effect.

2. Development Proposed or Approved in Environmentally Sensitive Areas

a) Lack of clarity for strategic land use planning in flood-prone areas

The following documentation has recently been developed by the Department of Planning & Environment:

- Planning Circular PS 21-006 came into force on 14 July 2021;
- Planning direction regarding flooding under section 9.1 of the Environmental Planning and Assessment Act 1979 (the Act) (Section 4.1 – Flooding);
- Considering Flooding in Land Use Planning guideline 2021;

- 2022 Flood Inquiry Report findings;
- Flood Risk Management Manual 2023 (the Manual) and Toolkit; and
- DPE Draft shelter in place policy.

Additionally, in December 2020, the Department of Planning, Industry & Environment advised Council that a Regional Flood Study be undertaken for the Georges River, to inform a number of planning proposals in this region. Council has since undertaken the Regional Flood Study (Georges River Evacuation Modelling Flood Evacuation Analysis, prepared by Molino Stewart, dated March 2022).

In September 2022 Council wrote to the Department of Planning to seek further clarity on the NSW Flood Inquiry. In June 2023 Council also wrote to Hon. Paul Scully, the Minister for Planning and Public Spaces seeking further clarity and direction in relation 2022 NSW Flood Inquiry and how to proceed with the assessment of planning proposals and land use policies within the Georges River Catchment.

A recent response outlined the function of the newly established NSW Reconstruction Authority, and the importance of a risk-based approach in relation to flooding. However, it did not provide direction on how a flood planning assessment at the strategic planning stage.

Historically, the 1 in 100 year flood extent was deemed the applicable flood planning level for determining risk impacts and appropriateness of a land use change etc. However, the recent assessment of planning proposals by the Department of Planning & Environment, and other State agencies, such as State Emergency Services, has demonstrated significant inconsistencies in how planning in flood prone areas occurs, leading to uncertainty for a variety of planning proposals within the LGA.

For example, the planning proposal for Liverpool Private Hospital at 61-71 Goulburn Street, Liverpool, is not marked as flood affected under Council's endorsed maps. Under the *Georges River Flood Study 2020*, the site is marked as being subject to the Probable Maximum Flood (PMF) extent. This study was not endorsed by Council, as the extent of PMF across the study area was significantly reduced in comparison to the existing flood maps under Council's endorsed Study (with limited exceptions for certain sites, such as the Private Hospital site).

During the post-exhibition assessment of this planning proposal, significant barriers to progression were encountered relating to the flood assessment, despite that:

- The hospital use was already permissible on the site (planning proposal sought increased height and floor space);
- Redevelopment of the adjacent Liverpool Public Hospital was approved despite being mapped as flood prone land; and
- The subject site was not mapped as 1 in 100 or PMF under endorsed plans, and only subject to the PMF in a plan not adopted by Council.

Alternatively, a Gateway determination has been provided for the Moore Point planning proposal. The Moore Point Precinct contains significantly flood prone land, including land in the 1 in 100 year flood as well as the PMF. The Gateway determination also recognises this constraint and requires further modelling and evacuation plans be undertaken for the planning proposal to progress.

Council has a number of other planning proposals on land identified as flood prone land, however advice on the appropriate flood planning level (i.e., 1 in 100, or the PMF) has not been provided. This creates a significant level of uncertainty in the progression of existing and future planning proposals.

3. Adequacy of planning powers to review, amend or revoke controls

a) SEPP (Exempt & Complying Development Codes) 2008

The majority of residential dwelling developments are undertaken under State Government Complying Development Pathways, rather than via Councils local controls. Data collected since 1st January 2018, indicates that in the Liverpool LGA there were 5912 Complying Development certificates issued for housing, compared to 2649 Development Applications. This indicates that approximately two-thirds of applications are received under Complying Development, and therefore are not using Council's local controls.

Therefore, it vital that improvements to *SEPP (Exempt & Complying Development Codes) 2008* (Codes SEPP) are made to better integrate climate change mitigation and adaptation measures. For example, Complying Development Codes allow for higher floor space ratio and less area for landscaping, enabling the development of suburbs containing low density residential developments, with dark roofs and limited landscaping, contributing to urban heat impacts, and adversely impacting amenity.

There is a relationship between site coverage and the ability for water to either: infiltrate soil, or run-off into stormwater systems. To date, Council is unaware of any evidence to suggest that the site coverage controls in these SEPPs was considered in the context of Council stormwater systems. This is especially pertinent in older suburbs where dwellings were typically quite modest in size and lot sizes were large, therefore run-off coefficients were low and stormwater systems were designed as such. Whilst many developments may be conditioned to provide on-site detention, these systems are only reliable if owners maintain them properly, and compliance action can be difficult to investigate. The cumulative impacts of such development in overwhelming stormwater systems in high rainfall conditions has not been investigated and has the potential to pose a serious risk to human health and the environment.

A high site coverage control may also be at odds with current cost-of-living pressures and resource use minimisation principles. The average occupancy rate of NSW homes continues to decline in each census, yet the size of new dwelling houses is not reflective of that trend. Given that the family home is likely the largest investment most families will make, it is understandable that the higher site coverage control incentivises building a

bigger home, in order to maximise financial return if/when selling. This results in a more expensive build price for homeowners and may be contributing to construction material shortages. The cost of housing and the number of occupied bedrooms per unit of construction material may be improved if site coverage controls were lowered.

Building setbacks in development codes are also based upon BCA/NCC standards for fire separation, and have no regards to building ventilation, access to sunlight, or the need for tree planting. The result is that many homes, particularly in greenfield areas, are built less than 2m of one-another and rely on mechanical ventilation and artificial lighting due to inadequate space between dwellings. Rear setback controls are also often 3m, the same distance that is required to separate a tree from any building (resulting in backyards having no trees). Controls should encourage passive and sustainable design and dis-incentivise design which will induce reliance upon mechanical ventilation, and restrict the provision of tree planting.

The Codes SEPP should be reviewed to ensure low and medium density housing have backyards capable of supporting mature vegetation, and buildings embody sustainable building practices, with adequate space for recreation, stormwater filtration and attenuation of the urban heat island effect. Impacts of cumulative developments causing a risk to life and property as a result of increased water-runoff and flooding must also be investigated. This may require setting lower site coverage standards in specific areas, or referring to a Council derived control (e.g. FSR, or Schedule 3 of SI LEPs). This is to ensure that the codes can meet the liveability and sustainability objectives of the Western City District Plan and Greater Sydney Region Plan. This is also the same in relation to industrial and commercial development permissible under the Codes SEPP.

b) Liverpool Local Environmental Plan Review

Council is currently undertaking a review of the *Liverpool Local Environmental Plan 2008* (LLEP 2008). The review seeks to improve urban heat management, water sensitive urban design, terrestrial biodiversity mapping, and recycled water provision etc. Despite these improvements to local planning legislation, this will only apply to certain Development Applications under the LEP application area, as a significant portion of the LGA is also covered by *SEPP (Precincts – Western Parkland City) 2021*, or as previously noted, development occurs under *SEPP (Exempt & Complying Development Codes) 2008*.

As part of the Phase 1 LEP Review conducted in 2018/19, updates were sought regarding the Environmentally Significant Land map within the LLEP 2008. This map was transferred from the Liverpool LEP 1997, therefore is significantly outdated and not fit for purpose. It was requested that this map layer is removed from the LLEP 2008, so an updated map can be placed within Council's Development Control Plan (enabling ease of ability for future updates), however this was not supported by the Department of Planning & Environment. Council wishes to protect significant land, and as part of the current LLEP 2008 review, is seeking to replace this outdated map with a new map layer.

This is one example where the top-down nature of decision making of the current planning system makes it less efficient, especially in addressing local issues.

4. Short, Medium and Long Term Planning Reforms

a) Adoption of SEPP (Design and Place)

SEPP Design and Place was developed by the Department of Planning and Environment, however in early 2022, the NSW Government decided not to proceed with its implementation. Liverpool City Council made two separate submissions in April 2021 and February 2022, with both submissions supporting the reforms which broadly improved the built environment, leading to positive health, amenity, environmental and economic outcomes.

At the Ordinary Meeting of Council on 27 April 2022, Council resolved to Publicly advocate for changes to the NSW Planning system, including:

- New housing is designed for future climates and can maintain survivable temperatures without air-conditioning;
- The heat-resilience of existing housing stock and critical infrastructure is improved; and
- Adequate green space is provided for not only greenfield housing developments, but also for medium and high-density developments.

As previously noted, majority of planning controls are impacted by State Environmental Planning Policy, therefore improvements to policy, such as via the previously proposed SEPP (Design & Place), are critical for improvements to occur.

b) Improvement of Codes SEPP (Exempt and Complying Development Codes)

As explained earlier in Section 3a) the Codes SEPP should be improved in order to address climate change, as State legislation is beyond the realm of Council's control.

5. Other Related Matters

a) Public Transport Infrastructure

According to NSW State of Environment Report 2021, transport emissions are currently the second largest component of NSW greenhouse gas emissions, with 2019 emissions being 48% higher than 1990 levels, resulting in an average increase in transport emissions of 1.65% per year (p23).

According to NSW State of Environment's Household Travel Survey of the Greater Sydney Region (2019/2020)¹, 68% of trips were by private vehicles, while only 6% were by bus and 7% were by train, summing to 13% of trips by public transport. This public

¹ <https://www.soe.epa.nsw.gov.au/all-themes/human-settlement/transport#modes-of-transport-status-and-trends>

transport share is much lower than the corresponding figures in urban regions of similar sizes, for example 44% for Singapore², 25% for Paris³ and 57% for Tokyo Metropolitan Area⁴. Additionally, for the Liverpool LGA⁵, census data from 2021 shows much lower rates of public transport use, being 1.7% compared to private modes comprising 46.4% of the total commuting trips (noting a decrease from 70% in 2016, due to COVID-19).

As previously noted, the Liverpool LSPS emphasises the importance of transport infrastructure and connectivity. However, as Council does not deliver public transport, the priorities and actions within the LSPS primarily relate to advocacy of services and infrastructure, such as the rapid smart transit link between Liverpool and Western Sydney International Airport/Aerotropolis, or the fast rail service to the Liverpool City Centre from Sydney CBD.

Simple and cost-effective interventions can also encourage greater utilisation of public transport, such as:

- Relocate bus stops to facilitate local buses to use dedicated bus lanes, such as the Liverpool to Paramatta T-way, to improve travel time and reliability,
- Periodically rationalising circuitous bus routes when new roads open (e.g. Kurrajong and Bernera Roads),
- Provide funding to Council's to improve active transport infrastructure at, or connecting to public transport (e.g. bike lockers, shared paths)
- Continue and the roll-out of improved bus stop amenities, such as unified signage and identification of bus route / destination, and expand to assist Councils in providing bus shelters, and lighting.

Investment in public transport delivery, particularly for the growing population of Liverpool, will assist in shifting travel modes from private usage to public and active transportation, which is crucial to reducing greenhouse gas emissions and achieving long term sustainable development for Liverpool and the Greater Sydney Region.

b) Integrated Transport & Land Use Planning

Transportation planning is fundamental to inform land use planning, that in turn will determine the actual functionality and efficiency of an urban area. Transit Oriented Development (TOD) is a perfect planning concept to combine public transport at large scale to local land use planning at local scale. As noted above, this relies on infrastructure delivery, to ensure land use planning can also be in alignment.

There is currently poor coordination between public transit planning by the State Government, and the local land use planning proposed by State and Local Governments. There are also inadequate financing mechanisms (e.g. value capture) to enable this as

² https://www2.deloitte.com/content/dam/insights/us/articles/4331_Deloitte-City-Mobility-Index/city-mobility-index_SINGAPORE_FINAL.pdf

³ https://www2.deloitte.com/content/dam/insights/us/articles/4331_Deloitte-City-Mobility-Index/Paris_GlobalCityMobility_WEB.pdf

⁴ <http://www.publicpurpose.com/ut-cr-tok.pdf>

⁵ <https://profile.id.com.au/liverpool/travel-to-work>

both a financially and environmentally sustainable option. For example, the Liverpool City Centre has been rezoned in 2018, with capacity for approximately 25,000 dwellings, however significant public transport investment has not occurred for this future population. Similarly, areas, such as Austral, are undergoing unprecedented growth, well beyond the planned capacity envisioned. An increase in yield compared to what was planned will provide opportunities for additional services to be more viable.

It is noted that the vision for greenfield areas remains that of low density residential development and land for light industrial / logistics uses. This sprawl model will continue to consume agriculturally productive land for development which has poor sustainability outcomes and does not support viable high-frequency public transport services. Sydney is split into several housing sub-markets, and each will have its own demands for a range of housing typologies at different price points. The current emphasis on only providing large detached housing on the city's western fringe is making the market less affordable for first home-buyers and lower income households. This also stymies choice for households who may prefer medium and higher density housing (especially from culturally diverse backgrounds).

There are opportunities to provide a blend of detached houses, medium density housing, and apartments concentrated in key nodes within greenfield areas. Providing higher density activity nodes (supported by value capture mechanisms, and up-front infrastructure planning and delivery) will assist in tackling the housing crisis, increasing liveability, as well as improving the viability of high frequency public transport within outer Sydney and should be a key consideration for future release areas.

Efficient and timely coordination in transportation planning and land use planning between the State government and Council would have positive impacts in regard to climate change and sustainable development.