

PLAN 04	Liverpool LEP 2008 - Draft Conservation Zones Study
Strategic Objective	Liveable, Sustainable, Resilient Protect and enhance our natural environment and increase the city's resilience to the effects of natural hazards, shocks and stresses
File Ref	281057.2023
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Approved By	Lina Kakish - Director Planning & Compliance

EXECUTIVE SUMMARY

At its Ordinary Meeting of Council on 26 October 2022, Council resolved to investigate the potential rezoning of 1 Sirius Road, Lot 68 and Lot 75 Sirius Road, Voyager Point from C3 Environmental Management to C2 Environmental Conservation, within the *Liverpool Local Environmental Plan 2008* (LLEP 2008).

Consistent with this resolution, a Sirius Road Issues and Options Report was tabled at the 26 April 2023 meeting. This report recommended a broader review of the Conservation Land Use Zones within the LLEP 2008, which would also assess the Sirius Road properties and numerous other sites. Council however moved to defer this item on two occasions, requesting further information on development approvals and community engagement.

At its meeting of 26 July 2023, it was resolved amongst other things:

"That Council:

- 2. Undertakes a Conservation Zones Study as part of the Principal LEP Review Project;*
- 3. Allocate funding to the LEP Review budget to complete this Study;*
- 4. Further investigates the rezoning of 1 Sirius Road, Lot 68 Sirius Road and Lot 75 Sirius Road, Voyager Point along with other identified sites, as part of the broader Conservation Zones Study;"*

The need for such a review has been instigated by previous biodiversity studies completed for Council, which have made zoning recommendations and requested for the investigation of Conservation zones. The protection of environmentally significant areas was also highlighted as a key priority of the community, during the initial public exhibition period held for the LEP Review Project in late 2022.

This report presents the findings of the Draft Conservation Zones Study (the Study) (**Attachment 1**), which applies to the following land use zoned under the LLEP 2008:

- C1 National Parks and Nature Reserves (C1 zone)
- C2 Environmental Conservation (C2 zone)
- C3 Environmental Management (C3 zone)

The Study reviews how the Conservation zones are currently applied and their intended use. This includes the establishment of criteria for the application of each zone, and recommendations for new permissible land uses. A summary of the recommendations is shown in the below table.

Criteria	C1	C2	C3
Land designated as National Park	✓		
Public land with 'high' conservation values		✓	
Private land with 'high' conservation values			✓
Land with a development outcome or conservation mechanism		✓	✓
Environmentally constrained land with a current C3 zone		✓	
Environmentally constrained land not currently zoned C3			✓

The Appendices of the Study (**Attachment 1**) assesses certain sites and makes draft zoning recommendations using the criteria established. Appendix A of the Study is the review of Council owned RE1 Public Recreation sites and Appendix B of the Study is a review of privately owned sites.

A total of 27 sites zoned RE1 Public Recreation (RE1) were selected for review, due to their environmental attributes and previous biodiversity studies which have recommended the application of a Conservation zone to RE1 sites which reflect a conservation purpose. Of the 27 sites, 15 are recommended to be rezoned (partly or fully) to a Conservation zone. The recommendations were closely informed by Council's Plans of Management, with areas categorised as 'Community Land – Sportsground' not proposed to be rezoned.

A total of 15 properties in private ownership (including the Sirius Road sites) were selected for review. Majority of these sites are burdened by S.88B Instruments, development consent conditions or other arrangements which necessitate the preservation of significant land.

Of these, 11 are recommended to be rezoned (partly or fully) to a Conservation zone. This will ensure planning controls are reflective of site constraints, which already restrict development on these sites. It is noted that No. 1 Sirius Road, Lot 68 and Lot 75 Sirius Road, Voyager Point are proposed to be retained as C3 Environmental Management and no changes are proposed to these sites.

It is recommended that Council endorse the draft Conservation Zones Study, to enable the preparation of a draft Planning Proposal. The draft Planning Proposal can undergo early exhibition, including engagement with private landowners, and further internal engagement.

This is in accordance with Council's Community Participation Plan which states "*For large scale planning proposals, Council will also exhibit the planning proposal for 28 days prior to a Council decision on whether to endorse the planning proposal for a Gateway determination. Feedback from the community will be incorporated into a report to Council*".

The draft Planning Proposal will be presented to the Liverpool Local Planning Panel (LPP) for comment. Following this, a report will be presented to a Council meeting, detailing the comments received from the community and the LPP. If supported up until this point, further consultation would occur at the post-Gateway stage before any rezoning was finalised.

If timing allows, the Draft Conservation Zones Study will be incorporated into the broader LEP review process.

RECOMMENDATION

That Council:

1. Endorse in principle the Draft Conservation Zones Study;
 2. Prepare a draft Planning Proposal to amend the *Liverpool Local Environmental Plan 2008* in accordance with the zoning recommendations in the draft Conservation Zones Study;
 3. Undertake an initial public exhibition of the Planning Proposal, in accordance with the Liverpool Community Participation Plan;
 4. Present the draft Planning Proposal and supporting draft Conservation Zones Study to the Liverpool Local Planning Panel for advice;
 5. Receive a further report on the draft Planning Proposal and the draft Conservation Zones Study, including the outcomes of the early public exhibition period and the Liverpool Local Planning Panel.
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REPORT

BACKGROUND

Council Resolutions

At its Ordinary Meeting of Council on 26 October 2022, Council resolved the following:

“That Council:

- 7. Investigates the rezoning of 1 Sirius Road and lots 68 and 75 Sirius Road, Voyager Point from C3 Environmental Management to C2 Environmental Conservation;*
- 8. Consult with the owners of the properties and include their feedback in the report back to Council;*
- 9. Receive a further report back to Council following this investigation for a decision on whether to progress a planning proposal to rezone those sites to C2 Environmental Conservation; and*
- 10. Allocate funding from the LEP review budget to complete these investigations.”*

Consistent with this resolution, a Sirius Road Issues and Options Report was considered at the 26 April 2023 meeting, which incorporated feedback from all respective landowners. The report recommended a broader review of the Conservation zones, which would assess the three Sirius Road properties and numerous other sites. Council however moved to defer the item until further information on development approvals was provided. A report to address this motion was subsequently presented at the 31 May 2023 Council meeting, where the item was again deferred.

A further report was then considered at the Planning and Infrastructure Governance Committee Meeting of 20 June 2023, which provided details on anticipated community engagement. At this Committee meeting, it was decided to proceed with a Council report, seeking endorsement to undertake a study.

In accordance with this, a Council report was prepared for the meeting held on 26 July 2023. At this meeting, Council resolved the following:

“That Council:

- 1. Receives and notes this report;*
- 2. Undertake a Conservation Zones Study as part of the Principal LEP Review Project;*

3. *Allocate funding to the LEP Review budget to complete this Study;*
4. *Further investigates the rezoning of 1 Sirius Road, Lot 68 Sirius Road and Lot 75 Sirius Road, Voyager Point along with other identified sites, as part of the broader Conservation Zones Study; and*
5. *Examine any other sources of funding outside of the budget, including any grants from State and/ or Federal Government.”*

This report addresses points 2, 3 and 4 of the above resolution and outlines the findings of the draft Conservation Zones Study (**Attachment 1**).

Significance of the Study

The need for a broader review of the Conservation zones has been largely instigated by biodiversity studies previously completed for Council. The *Liverpool Biodiversity Management Plan 2012* (LBMP 2012) recommended zones be assessed to ensure significant areas are appropriately protected. The *LBMP 2012* and *Liverpool Biodiversity Management Guidelines 2016* also make rezoning recommendations, particularly in relation to land zoned RE1 Public Recreation.

The protection of environmentally significant areas was also highlighted as a key priority of the community during the initial public exhibition for the LEP Review Project held in late 2022. The survey question regarding the protection of waterways, trees and vegetation scored the highest results out of all survey questions, with 88% of respondents rating this matter as either 'Highly Important' or 'Important'. A significant number of written submissions requested retention of trees, bush regeneration and urban heat management to be a priority of Council.

DRAFT CONSERVATION ZONES STUDY

The draft Conservation Zones Study investigates how the below Conservation zones are currently applied and their intended use. This includes the establishment of criteria for the application of each zone, and recommendations for new permissible land uses:

- C1 National Parks and Nature Reserves (C1 zone)
- C2 Environmental Conservation (C2 zone)
- C3 Environmental Management (C3 zone)

A summary of the recommendations for each zone is discussed further below.

C1 National Parks and Nature Reserves

The application of this zone, land use table and zone objectives are largely restricted by the *Standard Instrument – Principal Local Environmental Plan* and the provisions of the *National Parks and Wildlife Act 1974*. As such, no changes are proposed for this zone.

C2 Environmental Conservation

The C2 Environmental Conservation (C2) zone applies to certain publicly and privately owned sites within the LLEP 2008. Privately owned sites currently zoned C2 are the result of significant constraints and conservation mechanisms, such as S.88B Instruments which restrict development potential. The Study recommends retaining the C2 zone where it already applies under the LLEP 2008, and to also apply it to sites identified as:

- Publicly owned land with 'high' conservation values;
- Land with a conservation mechanism or negotiated development outcome (such as a S.88B Instrument restriction or Condition of Development Consent); and
- Undevelopable land with a current C3 Environmental Management zone.

The C2 zone provides limited development opportunities, which is why the above criteria is proposed. If the C2 zone is applied irrespective of the above criteria it is likely to trigger acquisition requirements for Council.

In terms of development standards, it is proposed to standardise the minimum lot size requirement to 40HA (with existing C2 lots to retain their current minimum lot size requirement). A large lot size will appropriately limit development, reduce the potential for land fragmentation and increase opportunities for future biodiversity offset sites.

The Study also recommends expanding the list of permitted uses (with consent) to include 'Jetty' and 'Recreation Area'. These uses align with the zone objectives without undermining the conservation value of the land. It is noted that the LEP Review will include these proposed Land Use Table amendments (i.e. inclusion of Jetty and Recreation Area), whilst the development standards and zone changes will proceed separately.

C3 Environmental Management

The C3 Environmental Management (C3) zone in the LLEP 2008 primarily applies to lots in private ownership, with a few sites owned by a public authority. The Study recommends retaining the C3 zone where it already applies under LLEP 2008, and to also apply it to:

- Privately owned land with 'high' conservation values;
- Privately owned land with a negotiated development outcome; and
- Land significantly constrained by natural hazards and processes.

The Study recommends the inclusion of 'Business Identification Signs', 'Water Recreation Structure' and 'Recreation Area' as permitted uses (with consent), which will occur as part of the LEP Review process. These will complement existing permitted uses and support the limited range of development opportunities appropriate for this zone.

A summary of the proposed Conservation zone application criteria is shown in Table 1 below.

Table 1 - Summary of Zone Application Criteria

Criteria	C1	C2	C3
Land designated as National Park	✓		
Public land with 'high' conservation values		✓	
Private land with 'high' conservation values			✓
Land with a development outcome or conservation mechanism		✓	✓
Environmentally constrained land with a current C3 zone		✓	
Environmentally constrained land not currently zoned C3			✓

The appendices of the Conservation Zones Study applies the criteria for zone application to numerous publicly and privately owned sites and makes draft rezoning recommendations. These recommendations will be subject to further assessment by the relevant Departments within Council, as well as undergo public exhibition.

1. RE1 Public Recreation Sites (Appendix A of the Study)

A total of 27 sites zoned RE1 Public Recreation (RE1) were selected for review. These sites are either owned by Liverpool City Council (or marked for Council acquisition) or another public authority. The review of RE1 land has arisen from Council's biodiversity studies, which recommend the application of a Conservation zone to RE1 sites which reflect a conservation purpose.

Nominated RE1 sites (see **Figure 1**) were generally selected on the basis of including one or more of the following environmental attributes:

- Land mapped as 'State Core or Corridor' or 'Regional Core';
- Endangered or Critically Endangered Ecological Communities;
- Wildlife Corridor / Riparian Corridor;
- Known Threatened Species Habitat; and
- Coast Wetlands mapped under the *SEPP (Resilience and Hazards) 2021*.

Of the 27 RE1 sites, 15 are recommended to be rezoned (partly or fully) to a Conservation zone, as outlined in **Table 1** below. The remainder of sites reviewed but not recommended for a rezoning are omitted from the table below. The complete review of all sites can be found at **Attachment 1** (within Appendix A of the draft Study).

The draft recommendations were closely informed by Council's available Plans of Management, with areas categorised as 'Community Land – Sportsground' not proposed to be rezoned. Land considered for active recreation activities within the draft Cabramatta and Brickmakers Creek Masterplan and draft Georges River Parklands and Chipping Norton Lakes Spatial Framework are also not proposed to be rezoned.

It is noted that provisions in Division 12 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* permit various developments (e.g. recreation areas, roads, lighting,

landscaping, viewing platforms etc.) on land owned by a public authority. The application of a Conservation zone does not preclude these activities from occurring by Council in the future.

Table 2 - Zoning Recommendations for RE1 Sites

Park / Reserve Name	Current Zone	Recommended Zone*	Whole or Part
Bill Anderson Park	RE1 Public Recreation	RE1 Public Recreation & C2 Environmental Conservation	Part
Cabramatta Reserve	RE1 Public Recreation	C2 Environmental Conservation	Whole
Dwyer Oval	RE1 Public Recreation	RE1 Public Recreation & C2 Environmental Conservation	Part
Freeman Oval	RE1 Public Recreation	RE1 Public Recreation & C2 Environmental Conservation	Part
Durrant Oval	RE1 Public Recreation	RE1 Public Recreation & C2 Environmental Conservation	Part
Osmond Reserve	RE1 Public Recreation	RE1 Public Recreation & C2 Environmental Conservation	Part
Lieutenant Cantello Reserve	RE1 Public Recreation	C2 Environmental Conservation	Whole
Peter Pan Park	RE1 Public Recreation	RE1 Public Recreation & C2 Environmental Conservation	Part
Glen Regent Reserve	RE1 Public Recreation	C2 Environmental Conservation	Whole
Harris Creek Field	RE1 Public Recreation & W1 Natural Waterways	C2 Environmental Conservation & W1 Natural Waterways	Part
Murragan Park	RE1 Public Recreation	C2 Environmental Conservation	Whole
Havard / Pasquale Minnici Parks	RE1 Public Recreation & SP2 Drainage	C2 Environmental Conservation & SP2 Drainage	Part
Woolway Park	RE1 Public Recreation	RE1 Public Recreation & C2 Environmental Conservation	Part
Cabrogal Reserve	RE1 Public Recreation & SP2 Drainage	C2 Environmental Conservation & SP2 Drainage	Whole
Dalmeny Reserve	RE1 Public Recreation	C2 Environmental Conservation	Whole

**Note – Supporting development standards (e.g. Floor Space Ratio, Minimum Lot Size) will also be amended if a draft Planning Proposal is progressed.*

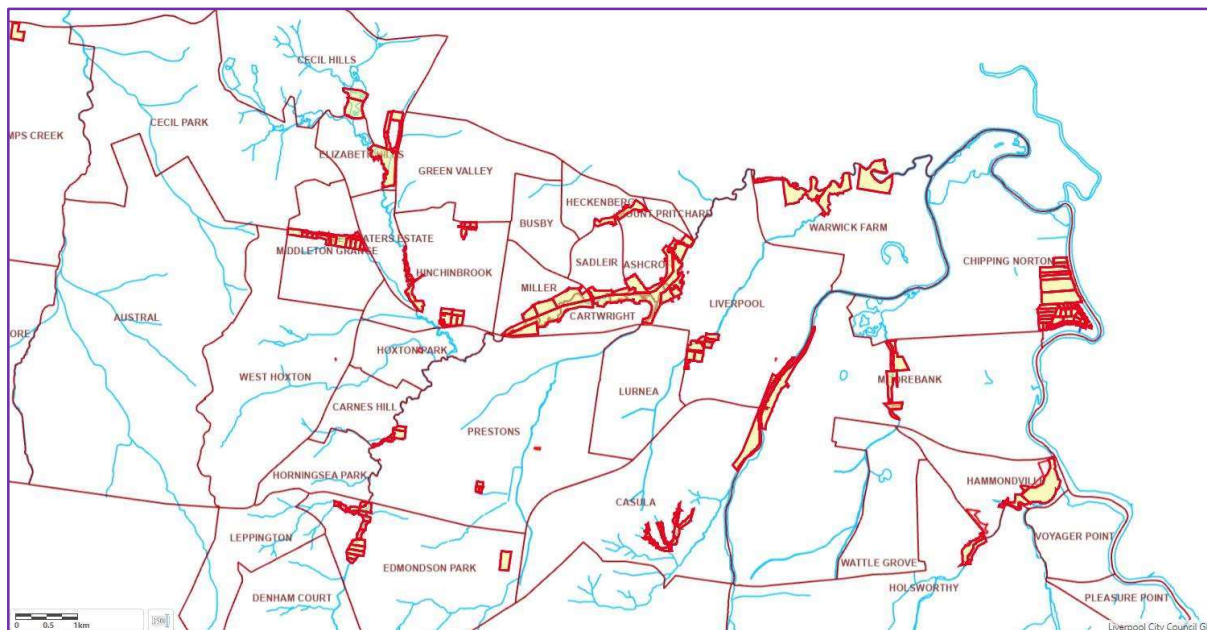


Figure 1 - Map of RE1 Public Recreation Sites reviewed under the Draft Study

2. Privately Owned Sites (Appendix B of the Study)

A total of 15 sites (see **Figure 2**) in private ownership were selected for review. Majority of these sites are either wholly or partly burdened by S.88B Instruments, development consent conditions and/or other site restrictions that necessitate the preservation of land on account of their biodiversity value.

Of the 15 sites, 11 are recommended to be rezoned (partly or fully) to a Conservation zone, as outlined in **Table 2**. Sites omitted from the table are not recommended to be rezoned. The complete review of all sites can be found at **Attachment 1** (within Appendix B of the draft Study).

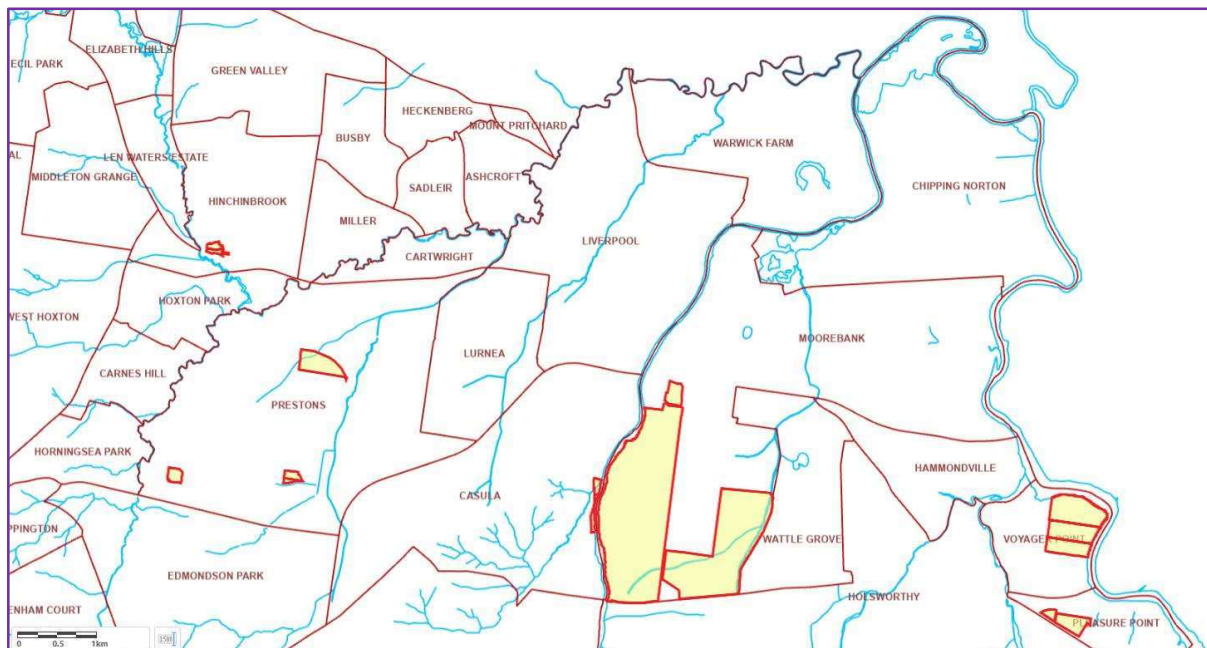


Figure 2 - Map of privately owned sites reviewed by the Draft Study

Table 3 - Zoning Recommendations for Privately Owned Sites

Address	Current Zone	Recommended Zone*	Reason
Lot 514 Willowie Way, Pleasure Point (Lot 514 DP 1183310)	C3 Environmental Management	C2 Environmental Conservation	S.88B restriction requires the lot to be retained for environmental management, and not to be cleared, altered or damaged.
Lot 792 Heathcote Road, Pleasure Point (Lot 792 DP 48718)	C2 Environmental Conservation & R2 Low Density Residential	C2 Environmental Conservation	Owned by a public authority (not Council) with high conservation values on site.
Pavesi Place, Hinchinbrook (Lot 113 DP 1120172)	R2 Low Density Residential	C2 Environmental Conservation & R2 Low Density Residential (split zone)	S.88B restriction to retain the lot as flood storage and rehabilitated riparian land.
Lot 101 Rossini Drive, Hinchinbrook (Lot 101 DP 1120172)	R2 Low Density Residential	C2 Environmental Conservation & R2 Low Density Residential (split zone)	S.88B restriction to retain the lot as flood storage and rehabilitated riparian land.

Address	Current Zone	Recommended Zone*	Reason
44 Manildra Street, Prestons (Lot 37 DP 1192727)	R2 Low Density Residential	C3 Environmental Management	Private land with 'high' conservation value. DCP identifies site as being for bushland preservation, with a DA refused on this basis.
Lot 23 Corrimal Street, Prestons (Lot 23 DP 1197839)	R2 Low Density Residential	C3 Environmental Management	Private land with 'high' conservation value. Previous DA consent condition for a 27 lot subdivision required the lot to be retained and not cleared.
10 Burando Road, Prestons (Lot 1 DP 1129090)	E5 Heavy Industrial & C2 Environmental Conservation	C2 Environmental Conservation (further) & E5 Heavy Industrial (split zone)	Development consent condition required the eastern vegetated portion to be an offset area and protected from future development.
Lot 100 Bapaume Road, Moorebank (Lot 100 DP 1049508)	E4 General Industrial	C2 Environmental Conservation (further) & E4 General Industrial (split zone)	Site Restriction. Refer to Confidential Attachment 2.
Moorebank Avenue, Moorebank (Lot 1 & Lot 4 DP 1197707)	C3 Environmental Management, E4 General Industrial & SP2 Infrastructure	C2 Environmental Conservation, C3 Environmental Management, E4 General Industrial & SP2 Infrastructure	Site Restriction. Refer to Confidential Attachment 2.
Lot 4 Casula Road (Lot 4 DP 1130937)	C3 Environmental Management	C2 Environmental Conservation	Site Restriction. Refer to Confidential Attachment 2.

*Note – Supporting development standards (e.g. Floor Space Ratio, Minimum Lot Size) will also be amended if a draft Planning Proposal is progressed.

The rezoning of the above lots will ensure land use planning controls are reflective of site constraints, which already restrict development. This will address the current misalignment between the zoning and site affectations and help reduce uncertainty for landowners moving forward.

Sirius Road Sites

Council originally resolved to investigate the potential rezoning of No. 1 Sirius Road, Lot 68 and Lot 75 Sirius Road, Voyager Point from C3 to C2. The rezoning of these properties to C2 is likely to trigger Council's acquisition requirements, as the sites do not meet any of the criteria established for the C2 zone. It is therefore proposed to retain these sites as C3. It is noted that

the existing C3 zoning affords these sites significant protection already against environmental impacts resulting from future development.

NEXT STEPS & CONSULTATION

Subject to Council's endorsement of the draft Conservation Zones Study, a draft Planning Proposal will be prepared based on the draft zoning recommendations. Initial community consultation will occur on the draft Planning Proposal for a minimum period of 28 days, in accordance with the *Liverpool Community Participation Plan*. This will include targeted consultation with directly impacted landowners, detailing the proposed changes to their site. There will also be the opportunity for landowners to meet with Council staff to discuss the proposal if desired. The draft Planning Proposal will also be submitted to the Liverpool Local Planning Panel (LPP) for advice.

Feedback received from the community exhibition period and the LPP will be considered, and a further report will then be submitted to Council, prior to the endorsement of a Planning Proposal.

Conclusion

It is recommended that Council endorse the recommendations of the draft Conservation Zones Study. This will strengthen the legislative protections of ecologically valuable land and is consistent with the community's vision for the Liverpool LGA.

FINANCIAL IMPLICATIONS

There are no financial implications relating to this recommendation. Although Council resolved to "Allocate funding to the LEP Review budget to complete this Study", the Study was subsequently undertaken by Council staff within existing budget allocations.

CONSIDERATIONS

Economic	There are no economic and financial considerations.
Environment	Manage the environmental health of waterways. Protect, enhance and maintain areas of endangered ecological communities and high quality bushland as part of an attractive mix of land uses.
Social	There are no social and cultural considerations.
Civic Leadership	There are no civic leadership and governance considerations.
Legislative	Clause 7 of the <i>National Parks and Wildlife Act 1974</i> .
Risk	The risk is deemed to be Low. Should Council endorse the draft Study, this does not finalise any rezoning recommendations. The draft Planning Proposal will undergo an early public exhibition period, allowing feedback to be received. Further consideration will also occur at the post-Gateway stage of the Planning Proposal. The risk is considered within Council's risk appetite.

ATTACHMENTS

1. Draft Conservation Zones Study & Site Investigations (Under separate cover)
2. Draft Conservation Zone Study & Site Investigations - Non Redacted Version of Appendix B (Under separate cover) - **Confidential**
3. Table of Existing Conservation Zoned land under LLEP 2008 (Under separate cover)
4. Department of Planning and Environment - Environment and Heritage Group LEP Review Advice (Under separate cover)
5. LEP Practice Note for Conservation Zones - PN-09 002 (Under separate cover)

