

November 2020

Local Character clause and Overlay

This document answers frequently asked questions regarding the draft clause for local character and the associated overlay, which is currently being exhibited for community feedback.

What is a local character clause and overlay?

- The local character overlay is a map which identifies the boundaries of a character area(s).
- The draft local character clause is proposed to be included in the Standard Instrument Local Environmental Plan (SI LEP). The local character clause (attached) will allow a council to map and describe the future desired character of an area. It will require the council to consider its local character statement when assessing development applications.
- A local character statement must be developed in accordance with the [Local Character and Place Guideline](#); and describe an area's existing character; and detail its desired future character. It will also set out how future growth will be consistent with the identified future character.

Is a council required to introduce a local character overlay?

- Introducing a local character overlay in an LEP is not mandatory. Councils can decide how to integrate local character into their strategic and statutory plans to suit their local needs. This includes inserting local character into Local Strategic Planning Statements (LSPSs), development controls in development control plans (DCPs) and standalone local character statements.

Who will prepare a local character overlay?

- Councils will undertake their local character assessments, prepare local character overlays and submit planning proposals to introduce the overlays into their LEPs.

How will the community be involved in the preparation of a local character overlay?

- A council will consult with its community to undertake a character assessment and develop a local character statement about the desired future character of an area.

Is community engagement undertaken during exhibition of a council's LSPS sufficient consultation for a local character statement?

- Whether the consultation undertaken during the development of an LSPS is sufficient for developing a local character statement will depend on the extent of the previous consultation and whether the community was consulted about the desired future character of their area.

What are the technical requirements for preparing an LEP map layer?

- Mapping a local character area will need to adhere to the Department's *Standard Technical Requirements for Spatial Datasets and Maps* (August 2017).

Can a local character map overlay include more than one local character area?

- A map overlay can include more than one local character area. Each area must be identified by undertaking a local character assessment in accordance with the *Local Character and Place Guideline*.

What does a council need to address to prepare a planning proposal to introduce a local character overlay?

- Councils need to address the Department's *Guide to Preparing Planning Proposals* and the *Guide to Preparing Local Environmental Plans*.
- The Local Character Overlay fact sheet provides additional requirements for planning proposals to introduce a local character overlay.

Can a local character statement be inserted in a development control plan (DCP)?

- A local character statement can be included in a DCP where a council does not want to include a reference to local character areas in its LEP.
- If a council wants to insert the local character overlay in its LEP, a local character statement must be prepared as a standalone document and cannot be included in the DCP.

Development proposals in local character areas

If an LEP contains a local character overlay, what will applicants need to demonstrate when submitting a complying development application or development application?

- The local character clause will only apply to development applications (DAs).
- When submitting a DA, applicants will need to demonstrate in the Statement of Environmental Effects (SEE) that their proposal is consistent with the local character statement and the LEP clause.
- For complying development applications under the *Low Rise Housing Diversity Code* (Code), an applicant must submit a design verification statement prepared by a registered architect or accredited building designer that provides a description about how the built form of the development contributes to the character of the local area.

Are local character areas exempt from the Low Rise Housing Diversity Code?

- In some circumstances an exemption from the Low Rise Housing Diversity Code may be sought by councils for limited areas. This means in these areas council planning controls will apply.
- There are no blanket exclusions, for example the entirety of all local character areas or the whole of a zone will not be considered for an exclusion. Exclusions requests are to be supported by comprehensive evidence.
- Councils will need to ensure that there is no net loss of missing middle housing types as well as provide draft local character statements.
- The evidence base includes:
 - Evidence showing the outcomes of the Code are inconsistent with the local character and desired future character
 - Evidence that any exclusion will not result in a reduction of housing diversity overall
 - Current and historical data on complying development take up including take up of the LRHDC
 - Statistics on the range of housing types approved (DA and CDC) for the prior 5 years
 - Number of lots and proposed lots that will be excluded from the Code and the number of lots where the Code will still apply
 - Evidence of community and industry views being considered
 - A completed LSPS and LHS
 - Detailed analysis and comparison between Council's planning controls (including design standards) and the controls in the Code and Design Guide
 - How the proposal aligns to the strategic direction within regional and district plans
 - Strategic basis for the request supported by evidence (eg urban design studies)

Will a council be required to simultaneously introduce a local character overlay and amend the relevant development standards in the LEP or DCP for the local character area?

- When a local character overlay is introduced, the development standards in the LEP or DCP for the local character area should also be amended to be consistent with the local character statement.

Can a council identify their entire LGA as a local character area?

- Local character can be recognised everywhere. Identifying a local character area allows a council to articulate what the community recognises as its existing and desired future character.
- Local character areas can be maintained (limited change), enhanced (incremental change) or changed (transformative) (refer to the *Local Character and Place Guideline* for more information). Councils cannot choose one of these characterisations, such as maintain, for an entire local government area.

The department is seeking comments on the draft local character clause, and you can [have your say until 29 January 2021](#).

Draft local character clause

public consultation draft

Local character areas

- (1) The objectives of this clause are as follows—
 - (a) to identify local character areas,
 - (b) to promote the desired future character of local character areas.
- (2) The local character and desired future character for a local character area is specified in the *Local Character Areas Statement* published by *[insert the name of the body responsible for the publication]* at *[insert the place of publication]* on *[insert the date of publication]*.
- (3) Development consent must not be granted to development on land in a local character area unless the consent authority has taken into account the *Local Character Areas Statement* for the land.
- (4) In this clause—
local character area means land identified as “local character area” on the Local Character Areas Map.

Drafting note 2.1 *The following definition should be included in the Dictionary—*

Local Character Areas Map means the *[Name of local government area or other relevant name] Local Environmental Plan [Year] Local Character Areas Map*.
