

AUBURN CITY COUNCIL

November 20, 2013

Executive Manager Planning's
Report
Planning and Environment
Department

To the Planning Committee Meeting

Pla015/13 Adoption of Auburn LEP 2010 (Amendment No. 10)

PP-3/2012

MC : EG

SUMMARY

This report seeks a resolution from Council to make and adopt the Auburn LEP 2010 (Amendment No.10) as per section 59(2) of Environmental Planning and Assessment Act 1979 (EP&A Act 1979), after exercising the Minister for Planning's delegated plan making functions issued to Council on 3 April 2013. A copy of the signed Parliamentary Counsel's opinion, issued under section 59(1) of the EP&A Act 1979, is Attachment 1.

RECOMMENDATION

1. *That Council adopt and make the Auburn Local Environmental Plan 2010 (Amendment No.10) and supporting Auburn LEP 2010 maps without change, as per section 59(2) of the EP&A Act 1979;*
2. *That Council allow the General Manager as Council's delegate to sign the legal written instrument and Map Cover Sheet for Auburn LEP 2010 (Amendment No.10) if adopted, on behalf of the full Council; and*
3. *That Council staff send the adopted Auburn LEP 2010 (Amendment No.10) to the Department of Planning and Infrastructure for final notification (gazettal) of the Plan.*

REPORT**1.0 Background**

On 15 May 2012, Auburn City Council received a Planning Proposal Application from Australand Pty Limited (the applicant) for Lot 802 (DP 1150164) Main Avenue, Lidcombe, referred to as the subject site throughout the report.

The Planning Proposal Application seeks to amend the *Auburn Local Environmental Plan 2010 (Auburn LEP 2010)* to:

- rezone the subject site from R3 Medium Density Residential zone to R4 High Density Residential zone;
- amend the existing Floor Space Ratio from 0.5:1 to 1.2:1; and
- amend the existing Maximum Height of Buildings from 9 metres to 10 metres.

At its meeting of 5 December 2012 (Item 306/12), Council resolved to support the application and prepare a Planning Proposal for the subject site. On 6 March 2013, Council prepared and submitted a Planning Proposal to undertake amendments to the *Auburn LEP 2010* in accordance with Council's resolution.

2.0 New LEP Delegations

On 31 October 2012, the Minister for Planning and Infrastructure informed in writing that they had delegated their plan making functions under section 59 of the EP&A Act 1979 to Council.

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The new LEP delegations became effective on 2 November 2012 and were reported to the Council meeting of 21 November 2012 (Item 257/12). At this meeting, Council resolved amongst other things:

"3. That Council exercise the delegated function."

As such, approval must be sought from the full Council before the delegation is exercised.

3.0 Gateway Determination

On 3 April 2013, Council received the Gateway Determination and Minister's written authorisation to exercise delegation from DP&I for the Planning Proposal (PP-3/2012) (refer attachments 2 and 3). The Determination outlined that:

- Community consultation was required under sections 56(2)(c) and 57 of the EP&A Act 1979 for a minimum of 28 days and Council must comply with the notice requirements for public exhibition of planning proposals as per section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning and Infrastructure 2012)*;
- Consultation was required with public authorities such as the Office of the Environment and Heritage and Department of Education and Communities under section 56(2)(d) of the EP&A Act 1979;
- A public hearing was not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act 1979. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land); and
- The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway Determination.

The DP&I's Gateway Determination and Minister's written authorisation to exercise delegation was reported to the Council meeting of 1 May 2013 (Item 141/13). Council made the following resolution:

"4. That the final planning proposal, section 59(1) report and maps be reported to Council for adoption prior to submitting the Department of Planning and Infrastructure for notification (gazetted) of the plan".

Council has progressed the Planning Proposal in accordance with the Gateway Determination within the 9 month timeframe given by the DP&I.

4.0 Consultation with public authorities and Community

As per the Gateway Determination, Council consulted the public authorities of NSW Office of the Environment and Heritage and Department of Education and Communities as per section 56(2)(d) of the EP&A Act 1979 from 3 May to 7 June 2013.

Council exhibited the planning proposal from 15 May to 14 June 2013 for 31 days as required by the sections 56(2)(c) and 57 of the EP&A Act 1979. Council received three objections. (These are addressed in Appendix 18 of the Planning Proposal).

No submissions requested a public hearing.

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In light of the community consultation carried out, Council made only minor revisions to the Planning Proposal (refer Attachment 4) prior to submitting it to Parliamentary Counsel's office for an opinion.

5.0 Consultations with Parliamentary Counsel's office

On 27 August 2013, Council submitted the Planning Proposal and supporting maps to DP&I's Parliamentary Counsel requesting that the draft legal written instrument for *Auburn LEP 2010 (Amendment No.10)*, the map cover sheet and *Auburn LEP 2010* amending maps be finalised.

On 4 October 2013, Council received the Parliamentary Counsel's Opinion that this LEP amendment may be legally made (refer Attachment 1) and the final maps for adoption (refer Attachment 5).

CONCLUSION

It is recommended that *Auburn LEP 2010 (Amendment No.10)* be made and adopted by Council and be sent to Department of Planning and Infrastructure to be notified (gazetted) in accordance with section 59(2) of the EP&A Act 1979.

Council staff will provide an update to Council once the *Auburn LEP 2010 (Amendment No.10)* is notified (gazetted).

ATTACHMENTS (to be circulated to Councillors under separate cover)

- 1 - Signed PC opinion dated 4 Oct 2013 (T094445/2013)**
- 2 - Gateway Determination (T037458/2013)**
- 3 - Written authorisation to exercise delegation (T037460/2013)**
- 4 - Revised Planning Proposal (T080433/2013)**
- 5 - Auburn LEP 2010 maps for adoption (T094532/2013)**

For: Councillors Zraika, Batik, Campbell, Oldfield and Simms.

Against: Councillors Attie, Lam, Mehajer, Oueik and Yang.

Note: Voting on the above motion was by way of a division.

Pla014A/13 Outcomes of Previous Workshop - Council's Planning Investigations for Open Space within North Auburn Area and Surrounds

PP-4/2012 RO

RESOLVED unanimously on the motion of Clr Oueik, seconded Clr Attie that a report be provided to the next meeting of Council on the outcomes of previous workshop undertaken in respect to the Council's Planning Investigations for Open Space within the North Auburn Area and Surrounds.

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RESOLVED unanimously on the motion of Clr Attie, seconded Clr Simms:

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- 2. That Council allow the General Manager as Council's delegate to sign the legal written instrument and Map Cover Sheet for Auburn LEP 2010 (Amendment No.10) if adopted, on behalf of the full Council; and***
- 3. That Council staff send the adopted Auburn LEP 2010 (Amendment No.10) to the Department of Planning and Infrastructure for final notification (gazettal) of the Plan.***

For: Councillors Zraika, Attie, Batik, Campbell, Lam, Mehajer, Oldfield, Oueik, Simms and Yang.

Against: Nil.

Note: Voting on the above motion was by way of a division.

Pla016/13 Assessment of Planning Proposal Application for 1-17 Grey Street and 32-48 Silverwater Road, Silverwater (PP- 5/2013)

PP-5/2013 MC : MW

RESOLVED unanimously on the motion of Clr Zraika, seconded Clr Simms that standing orders be suspended to enable open discussion on the matter.

Ms A. Mooney and Mr T. Shore each in turn, addressed the Council on this matter.

RESOLVED unanimously on the motion of Clr Zraika, seconded Clr Mehajer that standing orders be resumed in respect to this matter.

Moved Clr Attie, seconded Clr Oueik that further consideration of the matter be deferred to

