



Contact: Tai Ta
Phone: (02) 9860 1560
Email: Tai.Ta@planning.nsw.gov.au
Postal: GPO Box 39 Sydney NSW 2001

Mr Peter Fitzgerald
Acting General Manager
Auburn City Council
P O Box 118
AUBURN NSW 1835

Our ref: PP_2012_AUBUR_004_00 (12/11236)
Your ref: PP-1/2012

Dear Mr Fitzgerald,

Planning proposal to amend Auburn Local Environmental Plan 2010

I am writing in response to Council's letter dated 18 October 2012 and subsequent liaison between Council and the department surrounding the legal and operational implications for a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend Clause 4.1(4) 'Minimum subdivision lot size' and Clause 6.6 'Particular dual occupancy subdivisions must not be approved' under Auburn Local Environmental Plan (LEP) 2010.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway determination.

While I support the proposed amendment to Clause 6.6 of Auburn LEP 2010, it is considered that Clause 4.1(4) already operates as Council intended. Clause 4.1 deals primarily with the subdivision of land and the minimum lot size. The effect of the Clause does not relate to the creation of new strata or community title schemes. Clause 4.1 states that any lot resulting from the subdivision of land cannot be less than the minimum lot size shown on the Lot Size Map. However, Clause 4.1(4) provides that subdivision of lots in an existing strata or community title scheme do not have to meet the minimum lot size. Therefore, the proposed amendment to Clause 4.1(4) is not required and should be removed from the planning proposal.

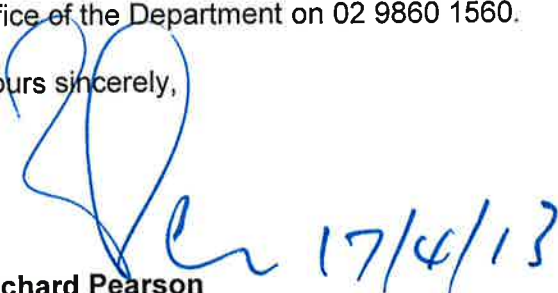
The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan. Council should contact the regional planning team of the department should it require assistance in relation to the exercise of its delegation, including assistance with liaising with Parliamentary Counsel's Office on the drafting of the written instrument.

The amending LEP is to be finalised within 3 months of the week following the date of the Gateway determination. As it has been determined this is a minor amendment, Council is to request Parliamentary Counsel's Office commence drafting the instrument, once it has amended the planning proposal to remove the proposed amendment to Clause 4.1(4). A copy of the request should be forwarded to the department for administrative purposes.

The NSW State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Mr Tai Ta of the regional office of the Department on 02 9860 1560.

Yours sincerely,



Richard Pearson
Deputy Director General
Planning Operations and Regional Delivery

Gateway Determination

Planning proposal (Department Ref: PP_2012_AUBUR_004_00): to facilitate minor housekeeping amendments to Auburn LEP 2010.

I, the Deputy Director General, Planning Operations and Regional Delivery at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Auburn Local Environmental Plan (LEP) 2010 to amend Clause 4.1(4) 'Minimum subdivision lot size' and Clause 6.6 'Particular dual occupancy subdivisions must not be approved' should proceed subject to the following conditions:

1. Council's proposal to amend Cause 4.1(4) is not necessary to achieve Council's intended outcome, to allow strata and community title subdivision to be exempt from the minimum lot size shown on the Lot Size Map. The proposed amendment to Clause 4.1(4) should be removed from the planning proposal.
2. No community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act").
3. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. 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).
5. The timeframe for completing the LEP is to be **3 months** from the week following the date of the Gateway determination.

Dated

17

day of

April

2013



Richard Pearson
Deputy Director General
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Auburn City Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2012_AUBUR_004_00	Planning proposal to amend Clause 4.1(4) 'Minimum subdivision lot size' and Clause 6.6 'Particular dual occupancy subdivisions must not be approved' under Auburn Local Environmental Plan (LEP) 2010.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guideline for the preparation of local environmental plans*" and "*A guide to preparing planning proposals*".

Dated

2013

Richard Pearson
Deputy Director General
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2012_AUBUR_004_00
Date Sent to Department under s56	18/10/2012
Date considered at LEP Review Panel	28/03/2013
Gateway determination date	17 April 2013

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: