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Department Generated Correspondence (Y)

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Our ref: PP_2011_AUBUR_008_00 (11/18229)

Mr John Burgess
General Manager
Auburn City Council
PO Box 118
AUBURN NSW 1835

Dear Mr Burgess,

Re: Planning Proposal to increase the Floor Space Ratio controls for certain land zoned B4 Mixed Use and R4 High Density Residential within the Auburn Local Government Area

I am writing in response to your Council's letter requesting 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 the Auburn Local Environmental Plan LEP 2010 to increase the maximum Floor Space Ratio control from 3:1 and 3.6:1 to 5:1 for certain land zoned B4 Mixed Use and from 1.4:1 to 2:1 for certain land zoned R4 High Density Residential.

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 the Department supports the intent of the planning proposal to increase housing availability in the Auburn and Lidcombe Town Centres to achieve design excellence, to enhance the local environment and create safe, accessible and attractive public domain spaces, the Department is concerned that supporting studies and a detailed assessment of the social and environmental impacts and likely pressure placed on infrastructure capacity have not been undertaken.

It is acknowledged that Council propose to undertake a number of technical studies in support of the planning proposal including an Urban Design Study. It is noted that the planning proposal only proposes to amend the Floor Space Ratio controls for the subject lands and does not propose a corresponding increase in height. The Department is concerned that without a detailed Urban Design Density Study, which assesses the environmental impact of an increase in the bulk and scale of the built form, the objectives of the proposal will be hard to achieve. Council is encouraged to expedite the preparation of the study including a review of the maximum building height controls for the subject lands and should include it with the planning proposal for the purposes of public exhibition. Further, Council is strongly encouraged to consider preparing detailed Heads of Consideration and/or a Development Control Plan, which should also be exhibited with the planning proposal.

The planning proposal should be amended where necessary to reflect the recommendations of the studies and Council is to submit the amended planning proposal, to the Department's Regional Team prior to the commencement of public exhibition.

It is noted that the planning proposal is inconsistent with S117 Direction 4.3 Flood prone Land, in that a significant increase in development is proposed on land within a Flood Planning Area.

In order to overcome this inconsistency the planning proposal is to be amended to satisfy the Director General's delegate that the proposal is consistent with the principles and guidelines of the Floodplain Development Manual 2005 and has been prepared in accordance with a floodplain management plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway Determination. Council should aim to commence the preparation of the supporting studies as a matter of priority. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The 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 Stuart Withington of the Regional Office of the Department on (02) 9873 8544.

Yours sincerely,


28/11/11

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_AUBUR_008_00): to increase the Floor Space Ratio controls for certain land zoned B4 Mixed Use and R4 High Density Residential within the Auburn Local Government Area

I, the Deputy Director General, Plan Making & Urban Renewal 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 increase the maximum Floor Space Ratio control from 3:1 and 3.6:1 to 5:1 for certain land zoned B4 Mixed Use and from 1.4:1 to 2:1 for certain land zoned R4 High Density Residential should proceed subject to the following conditions:

1. Council is to undertake an Urban Design Study and a Traffic Transport and Accessibility Study as identified in the planning proposal and is to include these studies with the planning proposal for the purposes of public exhibition. The Urban Design Study is to consider the following:
 - analyse all sites included in the proposal to determine the locations where increased density is most appropriate given impacts of future development on solar access, overshadowing and amenity, and ensuring design quality will be of a high standard;
 - the impact of increased FSR on the building form, and the need for corresponding building height controls to ensure buildings can achieve design excellence and attractive public domain spaces;
 - the relationship between building size, bulk and scale where high and low density zones adjoin, and ways to ensure future development is responsive to the scale and character of the street; and
 - recommendations for suitable building configurations in appropriate locations that achieves the intent of the planning proposal and objectives of the subject zone.
2. Further, Council is to ensure that a thorough assessment of the planning proposal is undertaken against the recommendations and outcomes of the studies. Council is to amend the planning proposal accordingly where necessary and provide the Department's regional Office with a copy of the revised planning proposal and a copy of the study assessment, prior to the commencement of public exhibition.
3. In regards to S117 Direction 4.3 Flood Prone Land the planning proposal is to be amended to satisfy the Director General's delegate that the proposal is consistent with the principles and guidelines of the Floodplain Development Manual 2005 and has been prepared in accordance with a floodplain management plan.
4. Council is to include this Gateway determination and accompanying letter with the planning proposal for the purposes of public exhibition.
5. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.

6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- Department of Education and Communities
- Office of Environment and Heritage
- Housing NSW
- Energy Australia
- Department of Health
- NSW Police Service
- Transport NSW
- Sydney Water
- Adjoining LGAs

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

7. 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).

8. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 28th day of November 2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure