

Appendix A: Minutes and Report of CM 17 Dec 2014 (Item 383/14)

AUBURN CITY COUNCIL
MINUTES OF THE EXTRAORDINARY MEETING OF COUNCIL HELD DECEMBER 17, 2014

Amended Plan No. MMD-333498-C-SK-SB-AA-0010 by compulsory process and agree to accept compensation in the amount as determined by the Valuer General.

- 2. That Council seek compensation for the costs associated with the relocation of the existing advertising sign and for loss in revenue.***
- 3. That the Mayor and General Manager be authorised to sign and seal all documents associated with the acquisition by the Roads and Maritime Services.***

383/14 Land in Eric Crescent, Lidcombe known as Lot 22, DP 219238 -
Reclassification

L-02-01/03 AG: EG

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

- 1. That pursuant to Section 55 of the Environmental Planning and Assessment Act 1979, Council prepare a Planning Proposal to amend the Auburn Local Environment Plan 2010 to reclassify land in Eric Crescent, Lidcombe known as Lot 22, DP 219238 from Community Land to Operational Land.***
- 2. That the General Manager be authorised to deal and proceed with matters associated with the consolidation of Lot 22 DP 219238 with Lot 3, DP 555190 and the subsequent sale of the consolidated lot, subject to independent valuation advice.***
- 3. That the Mayor and General Manager to authorised to sign and seal documentation associated with the sale of the subject land.***

384/14 Rental of Part of Burroway Road, Wentworth Point

C-32-01/11 AG: MW

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

- 1. That Council give consent to the rental of a 75m section of Burroway Road, Wentworth Point ending at the cul-de-sac to VSL Australia Pty Ltd for the temporary storage of bridge segments for a period of seven months.***
- 2. That Council seek rental for the roadway from VSL Australia Pty Ltd in accordance with appropriate rental rate and authorise the General Manager to enter into a licence agreement with VSL Australia Pty Ltd for the temporary use of Burroway Road, Wentworth Point and to sign all associated documents subject to Auburn Traffic Committee consideration of the temporary closure of the road in accordance with the Roads and Maritime Services delegation to Councils.***

385/14 Re-establishment of Council's Governance Committee

C-28-40 BC: PV

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

- 1. That the report on the 'Expressions of Interest for appointment of two Independent Members of the Governance Committee' be dealt with in Closed Session pursuant to Section 10A(2)(a).***

AUBURN CITY COUNCIL

December 17, 2014

Executive Manager Planning's
Report

To the Extraordinary Meeting of Council

383/14**Land in Eric Crescent, Lidcombe known as Lot 22, DP 219238 -
Reclassification**

L-02-01/03

AG : EG

LINK TO INTEGRATED PLANNING AND REPORTING FRAMEWORK

Operational Plan Code	Relationship to Community Strategic Plan	Relationship to Operational Plan
2f.4.1.1,	Maximise return on investment for Council properties.	Identify operational and community land for potential sale

SUMMARY

This report seeks a Council Resolution to classify land in Eric Crescent, Lidcombe known as Lot 22, DP 219238 from Community Land to Operational Land to facilitate its sale approved by Council for its disposal.

RECOMMENDATION

1. *That pursuant to Section 55 of the Environmental Planning and Assessment Act 1979, Council prepares a Planning Proposal to amend the Auburn Local Environment Plan 2010 to reclassify land in Eric Crescent, Lidcombe known as Lot 22, DP 219238 from Community Land to Operational Land.*
2. *That the General Manager be authorised to deal and proceed with matters associated with the consolidation of Lot 22 DP 219238 with Lot 3, DP 555190 and the subsequent sale of the consolidated lot, subject to independent valuation advice.*
3. *That the Mayor and General Manager be authorised to sign and seal documentation associated with the sale of the subject land.*

REPORT

Council at its meeting of 5 June 2002 as part of a report dealing with the removal of various encumbrances related to thirty-nine (39) Council owned properties/allotments, resolved to reclassify, to operational, land in Eric Crescent, Lidcombe known as Lot 22, DP 219238 (Lot 22).

Council had envisaged the consolidation of Lot 22 with Lot 3, DP 555190 (Lot 3), an irregular shaped lot from a previous subdivision, which is in private ownership, to facilitate a sale as a single residential lot.

Subsequent to Council's decision it was discovered that Council did not have title to Lot 22, notwithstanding the fact that the lot had previously been identified for 'Public Garden and Recreation' and was clearly intended to be transferred to Council. Subsequently, Council undertook an exhaustive legal process including discharging an existing mortgage, to eventually obtain title to Lot 22.

December 17, 2014

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To the Extraordinary Meeting of Council

Land in Eric Crescent, Lidcombe known as Lot 22, DP 219238 - Reclassification (cont'd)

The land was subsequently vested in Council however, a 'Public Reserve' notation appears on the property title. Legal advice received from Council solicitors, Storey and Gough and subsequently confirmed by NSW Land and Property Information (LPI) indicated that it will be necessary to reclassify Lot 22 from community to operational and to remove the 'Public Reserve' notation to enable the proposed consolidation of the two (2) lots and the proposed sale to proceed.

The following marked up aerial photograph shows Lot 22 and Lot 3 which, notwithstanding its formal description, would appear to be a single vacant lot. The land is zoned R3 Medium Density Residential and has a combined area of 503m².



It will be necessary for Council to prepare a Planning Proposal to amend the Auburn Local Environment Plan 2010 to reclassify Lot 22. Council will then proceed to consolidate Lot 22 and Lot 3 to facilitate a sale.

Therefore it is recommended that Council prepares a Planning Proposal to amend the Auburn Local Environment Plan 2010 to reclassify land in Eric Crescent, Lidcombe known as Lot 22, DP 219238 from Community Land to Operational Land and the General Manager be authorised to finalise the sale.

December 17, 2014

Executive Manager Planning's
Report

To the Extraordinary Meeting of Council

Land in Eric Crescent, Lidcombe known as Lot 22, DP 219238 - Reclassification (cont'd)

Conclusion

The site known as Lot 22 DP219238 has had a complicated and complex history. The research and advice undertaken and received has identified a solution that will enable the lots to be reclassified, consolidated and sold.

Appendix B: Minutes and Report of CM 5 June 2002 (CCL31- 02)

Minute No: 314/02

CCL31-02 Status of Preparation of LEPs for Council Land - Berala-Carramar Tennis Club

File Number: L-02-01

RESOLVED on the motion of Councillor Curtin, seconded Councillor Appleby that:-

- a) Council prepare and exhibit a draft LEP to:
 - i) rezone, for residential purposes, and reclassify, to operational, the land in Schedule A of the Schedule of Lands,
 - ii) reclassify, to operational, the lands in Schedule B of the Schedule of lands,
 - iii) make provision to the effect that, on commencement of the LEP, the lands in Schedule C of the Schedule of Lands are by operation of the LEP discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the lands, except for:
 - any reservations that except land out of a Crown grant relating to the land.
 - reservations of minerals (within the meaning of the Crown Lands Act 1989).
- b) the net proceeds from any eventual sale of land referred to in Schedule A and Schedule B of the Schedule of Lands, be reserved for the acquisition and embellishment of open space lands as follows:
 - appropriate public open space acquisition and / or embellishment and in accordance with the Open Space Strategy and Section 94 Open Space Contributions Plan.
 - recoupment of funds utilised in the land disposal process (for example, legal fees).
- c) the Council agree to enter into a new Deed of Agreement with Planning NSW in respect to those lands which are detailed in Schedule C of the Schedule of Lands and are currently subject to caveats which recognise the Declaration of Trust between the Council and the former County of Cumberland and Numbered 18306 and 18348.
- d) the terms of the Deed of Agreement in (c) above provide for:
 - in the event the site being proposed for sale by Council, PlanningNSW to have the first right of purchase at a nominal cost (ie. \$1.00), to ensure the opportunity for the land to be retained in public ownership into the future.
 - any net profits generated from the site be required to be utilised for the enhancement, management, and embellishment of regional Open Space in the Local Government Area,
- e) the draft LEP be prepared and exhibited in accordance with the Best Practice Guideline published by the Department of Urban Affairs and Planning in January 1997 titled LEPs and Council Land – Guideline for Council using delegated powers to prepare LEPs involving land that is or was previously owned or controlled by Council.

**- SCHEDULE A -
LAND TO BE REZONED FOR RESIDENTIAL PURPOSES AND RECLASSIFIED
TO OPERATIONAL LAND**

LOT	DEPOSITED PLAN	LOCATION
2	959197	Simpson Street

- SCHEDULE B -

LAND TO BE RECLASSIFIED TO OPERATIONAL LAND ONLY

LOT	DEPOSITED PLAN	LOCATION
22	219238	Eric Crescent
5	7097	West Street
44	7097	West Street

- SCHEDULE C -

LANDS TO BE DISCHARGED FROM ANY TRUSTS, ESTATES, INTERESTS, DEDICATIONS, CONDITIONS, RESTRICTIONS AND COVENANTS

LOT	DEPOSITED PLAN	LOCATION
34 and 35	1463	Webbs Avenue
35	13471	Weymouth Avenue
33	9380	Chisholm Road
19	1463	Webbs Avenue
18	1463	Webbs Avenue
26	9380	Ostend Street
30 and 31	9380	Ostend Street
18	6713	Killeen Street
2 and 3	235351	Chisholm Road East
28	8800	Edgar Street
37	8800	Edgar Street
41	8800	Edgar Street
34 and 35	8800	Edgar Street
5	7097	West Street
44	7097	West Street
48	77377	Stanhope Street
17	1463	Webbs Avenue
14	1463	Webbs Avenue
16	1463	Webbs Avenue
42	1463	Webbs Avenue
29 to 32	1463	Webbs Avenue
36	1463	Webbs Avenue
57	6713	Chisholm Road
32	9380	Chisholm Road
1	235351	Chisholm Road East
7 to 11	13471	Weymouth Avenue

Council Meeting

MinuteNumber: 314/02 Council Meeting Date: 05/06/02

Action Created

05/06/2002 CCL31-02

Status of Preparation of LEPs for Council Land - Berala-Carramar Tennis Club

File Number: L-02-01 BC:MC Department: Corporate Services

SUMMARY:

Details are provided of the status of the action to prepare an LEP to resolve various issues related to 39 Council-owned allotments.

REPORT:

In response to the Question Without Notice at the Council's Meeting of May 15, 2002 (Refer Minute No.277/02, Item 4(i)), it is advised that the action to prepare an LEP to extinguish an encumbrance on the land to be transferred to the Berala-Carramar Tennis Club Ltd. (the Club) is in the hands of the Council's Consultant, ERM Australia Ltd.

The background to the issues related to the encumbrance on that and other Council land was the subject of an extensive report to the Council's Meeting of August 15, 2001 (refer Minute No.585/01 and attached copy of report) following which the Council resolved to undertake the preparation of the LEP to extinguish the incumbrances, and other action to resolve the issues.

The Council's files indicate that the matter was first raised when the Club, in March 1996 requested the Council's agreement to a land exchange. This was dealt with at its meeting on 19th March, 1997 (Refer Minute No: 97/157) when the Council agreed to support the exchange subject to certain conditions, including the preparation of an LEP so as to reclassify it from Community to Operational Land.

When the LEP was nearing gazettal, the Council at its meeting on 5th May, 1999 (Refer Minute No: 212/99) gave its formal agreement to the land transfer and specified the terms etc.

When the details of the Club's building were being assessed as part of the relevant application however it, was established that the Club required more land than originally requested. Accordingly, on 1st November, 2000, the Council's agreement was obtained for an exchange of additional land for two parcels of land owned by the Club.

In the meantime, the Council's carpark has been found however to be subject to the abovementioned encumbrance (as a consequence of dealings with other land), and negotiations were pursued with Planning NSW (then DUAP) to get its agreement to a release from the Deed. On 30th July, 2001, however, it reversed its previous advice and advised that it required the preparation of an LEP.

ERM was ultimately engaged on January 18, 2002 to prepare an LEP to -

- discharge any trusts, estates or restrictions on title (including caveats, etc.) from 37 allotments owned by the Council in 26 different locations throughout the LGA,
- rezone for residential purposes and reclassify to operational land one allotment in Simpson Street,
- reclassify to operational 3 allotments which are surplus or redundant open space land.

The project was to overcome difficulties related to the existence of a caveat on 37 allotments which, amongst other things, prevented them from being leased, even though in the case of the Auburn RSL Bowling Club and the Berala-Carramar Tennis Club Ltd., leases had been in existence for 20 or more years (refer previous Report as above).

Those two matters had become outstanding and, the remaining properties were included in the project so as to 'tidy up' property issues which required an LEP, and so as to achieve cost savings from the economy of scale of including the total of 39 land holdings from throughout the Local Government Area.

The consultants were appointed on the basis that expediency was of the essence and, it is considered, satisfactory progress has been made by ERM on the work.

It was apparent however that the issue caused some delays with Planning NSW as the existence of the Deed of Agreement between the Council and the former County of Cumberland recognised by the caveat on each of the 37 allotments, meant that the project was not treated as a normal 'minor' LEP.

Nevertheless, the various issues which were raised were readily dealt with by the Consultant and/or the Council, and the expectation was that the public exhibition phase would commence on May 30.

Neither PlanningNSW nor the consultants recognised at first however the critical need to invoke the provisions of the Department's publication "Best Practice Guidelines - January 1997". The matter was first raised by the Department on May 23 and it now requires the Council to carry a fresh resolution to consolidate its three previous decisions in the matter, and to recognise the guidelines as being part of the process.

PlanningNSW advised of the need for this step as the Minister's delegations to Councils require that where a Council proposes a draft LEP related to Council owned land, the Council must have passed a resolution such as is detailed in the recommendation below.

The effect of this requirement is that the public exhibition period, after due notice to the various public authorities, will now commence on June 26, some four weeks after the previously planned date.

The planned schedule of actions in respect to the LEP is now as follows -

Council resolution to recognise 'Guidelines'	June 5
Notification to public authorities	June 6
Time for response by authorities	June 21
Public Notice of draft LEP	June 26
Exhibition period (Public Meeting to be held during Exhibition period)	June 26 until July 26
Report to Council on submissions (if any) with recommendation to make LEP	August 7
Draft LEP submitted for Ministerial approval and gazettal of LEP	August 8

FINANCIAL IMPACT STATEMENT:

There are no financial implications directly linked to the matters dealt with above.

REPORT RECOMMENDATION:

THAT:

a) *Council prepare and exhibit a draft LEP to:*

- i) rezone, for residential purposes, and reclassify, to operational, the land in Schedule A of the Schedule of Lands,*
- ii) reclassify, to operational, the lands in Schedule B of the Schedule of Lands,*
- iii) make provision to the effect that, on commencement of the LEP, the lands in Schedule C of the Schedule of Lands are by operation of the LEP discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the lands, except for:*
 - any reservations that except land out of a Crown grant relating to the land.*
 - reservations of minerals (within the meaning of the Crown Lands Act 1989).*

b) *the net proceeds from any eventual sale of land referred to in Schedule A and Schedule B of the Schedule of Lands, be reserved for the acquisition and embellishment of open space lands as follows:*

- appropriate public open space acquisition and / or embellishment and in accordance with the Open Space Strategy and Section 94 Open Space Contributions Plan.*

- recoupment of funds utilised in the land disposal process (for example, legal fees).
- c) the Council agree to enter into a new Deed of Agreement with PlanningNSW in respect to those lands which are detailed in Schedule C of the Schedule of Lands and are currently subject to caveats which recognise the Declaration of Trust between the Council and the former County of Cumberland and Numbered 18306 and 18348.
- d) the terms of the Deed of Agreement in (c) above provide for:
 - in the event the site being proposed for sale by Council, PlanningNSW to have the first right of purchase at a nominal cost (ie. \$1.00), to ensure the opportunity for the land to be retained in public ownership into the future.
 - any net profits generated from the site be required to be utilised for the enhancement, management, and embellishment of regional Open Space in the Local Government Area,
- e) the draft LEP be prepared and exhibited in accordance with the Best Practice Guideline published by the Department of Urban Affairs and Planning in January 1997 titled LEPs and Council Land – Guideline for Council using delegated powers to prepare LEPs involving land that is or was previously owned or controlled by Council.

APPENDIX:

SCHEDULE OF LANDS

**- SCHEDULE A -
LAND TO BE REZONED FOR RESIDENTIAL PURPOSES AND RECLASSIFIED
TO OPERATIONAL LAND**

LOT	DEPOSITED PLAN	LOCATION
2	959197	Simpson Street

**- SCHEDULE B -
LAND TO BE RECLASSIFIED TO OPERATIONAL LAND ONLY**

LOT	DEPOSITED PLAN	LOCATION
22	219238	Eric Crescent
5	7097	West Street
44	7097	West Street

**- SCHEDULE C -
LANDS TO BE DISCHARGED FROM ANY TRUSTS, ESTATES, INTERESTS,
DEDICATIONS, CONDITIONS, RESTRICTIONS AND COVENANTS**

LOT	DEPOSITED PLAN	LOCATION
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34 and 35	1463	Webbs Avenue
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41	8800	Edgar Street
34 and 35	8800	Edgar Street
5	7097	West Street
44	7097	West Street
48	77377	Stanhope Street
17	1463	Webbs Avenue
14	1463	Webbs Avenue
16	1463	Webbs Avenue
42	1463	Webbs Avenue
29 to 32	1463	Webbs Avenue
36	1463	Webbs Avenue
57	6713	Chisholm Road
32	9380	Chisholm Road
1	235351	Chisholm Road East
7 to 11	13471	Weymouth Avenue

Appendix C: Site's Certificate of Title



**Land & Property
Information**

A division of the Department of Finance & Services

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 22/219238

SEARCH DATE	TIME	EDITION NO	DATE
30/3/2015	8:36 AM	1	4/9/2009

LAND

LOT 22 IN DEPOSITED PLAN 219238
AT LIDCOMBE
LOCAL GOVERNMENT AREA AUBURN
PARISH OF LIBERTY PLAINS COUNTY OF CUMBERLAND
TITLE DIAGRAM DP219238

FIRST SCHEDULE

AUBURN COUNCIL

(R AE396729)

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 THE LAND WITHIN DESCRIBED IS PUBLIC RESERVE

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

https://six.nsw.gov.au/wps/myportal/!ut/p/b1/04_SjzQ0MzI1NjQ3MzD... 30/03/2015