



Reclassification of Land, Lidcombe

Planning Proposal: PP-1/2015

(Submitted to Department of Planning and Environment for s.56 Gateway Determination)



Reclassification of Land, Lidcombe Planning Proposal – PP-1/2015

Proposal to amend the *Auburn Local Environmental Plan 2010* to reclassify Council land at Lot 22 Eric Crescent, Lidcombe from 'Community' to 'Operational' land

(Submitted to Department of Planning and Environment for s.56 Gateway Determination)

16 July 2015

Report history

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1 Introduction

1.1 Executive summary

This planning proposal contains an explanation of the intended effect and justification for a proposed amendment to the *Auburn Local Environmental Plan 2010* (*Auburn LEP 2010*). The planning proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979), and the relevant Department of Planning and Environment guidelines including '*A Guide to Preparing Local Environmental Plans*' and '*A Guide to Preparing Planning Proposals*'.

The proposal seeks to amend *Part 2, Schedule 4* of the *Auburn LEP 2010* to reclassify Auburn City Council land at Lot 22 (Lot 22 DP 219238), Eric Crescent, Lidcombe from 'community' to 'operational'. The land is currently identified as surplus or redundant to Council's open space needs, and is a public reserve.

Council sought to reclassify this land from community to operational land in June 2002, but due to an administrative error and land ownership title issues it was not reclassified.

The planning proposal does not amend the site's existing R3 Medium Density Residential zoning or principal development standards.

The planning proposal:

- would enable Council to dispose of the surplus or redundant land;
- would enable the land classification to be consistent with the current *Auburn LEP 2010* zoning controls to consolidate and develop the site;
- is consistent with the *Auburn Residential Development Strategy 2015* and *Auburn LGA wide Traffic and Transport Study 2013* recommendations; and
- is consistent with the New South Wales strategic planning framework and relevant state and draft subregional strategies, section 117 directions, *State Environmental Planning Policies* (SEPPs) and deemed SEPPs.

The proposed amendments are described in detail under Section 3 of this report.

1.2 Purpose of this Proposal

The planning proposal has been prepared in response to a Council resolution made on 17 December 2014 (Item 383/14) below:

- "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".*

The Council meeting minutes and business paper report is at Appendix A. The planning proposal addresses Part 1 of Council's resolution.

1.3 Background

Council at its meeting of 5 June 2002 (CCL31-02) as part of a report dealing with the removal of various encumbrances relating to (39) thirty nine Council owned properties, resolved to reclassify land at Lot 22 Eric Crescent, Lidcombe (Lot 22 DP 219238) from Community to Operational land (refer to Appendix B for Council minutes and business paper report).

The land was identified as being surplus or redundant to Council's open space needs though it was identified as a pocket park under Council's 'Plan of Management for Parks' (refer to Item 27 of p.11).

Council when implementing the reclassification process discovered that Council did not own the site though the above LEP amendment was initiated and notified by the New South Wales (NSW) Government Gazette No. 25 on 24 January 2003. At the time of gazettal, the site was held by Trans Development Pty Limited (private owner) with a mortgage.

Council then undertook an exhaustive legal process to discharge the existing mortgage, to eventually obtain the title (sole ownership) of the land. On 4 September 2009, the New South Wales Land and Property Information (NSW LPI) issued a title edition 1 to Auburn Council as a result of discharging the mortgage.

On 3 October 2008, via a Public Gazette Notice, the land was subsequently vested in Council with a 'public reserve' notation on the Certificate of Title shown at Appendix C.

Legal advice received from Council's solicitors, and subsequently confirmed by the NSW LPI on 17 September 2014, informed that the Public Gazette Notice published for above vested the site in Council as 'community land', and was required to follow a new Local Environmental Plan (LEP) process to reclassify the site and dispose of the site.

The matter was then reported to Council's meeting of 17 December 2014 (Item 383/14) to obtain a Council resolution to prepare a planning proposal to amend the *Auburn Local Environmental Plan 2010 (Auburn LEP 2010)*.

The site to which the proposal applies is described in detail in section 2.0. The reclassification of the site from 'community' to 'operational' land will enable Council to dispose of the surplus land and discharge any public interests attached to the title. A public hearing is further required to be carried out under section 29(1) of the *Local Government Act 1993*.

2 Existing situation

2.1 Land to which the proposal applies

The planning proposal applies to Council land known as Lot 22 Eric Crescent, Lidcombe (Lot 22 DP 219238) ('the site') which is currently classified as 'community' land.

The site is located at Eric Crescent, Lidcombe. Figure 1 shows an aerial view of the site (outlined in yellow) and its immediate surrounds with cadastral and street overlay.



Figure 1 - Aerial photograph of the site

2.2 Site description

The site:

- is approximately 270m² in square area;
- is highly irregular in shape;
- is bounded by Eric Crescent from the west and adjoins residential properties from north, east and south;
- is currently vacant and has no building structures; and

- adjoins vacant land on its eastern boundary (Lot 3 Eric Crescent), which is currently owned by a private company.

Figures 2-3 below shows some views of the site from Eric Crescent and its surrounds.

Figure 2 – View of the site and its surrounds from Eric Crescent



Figure 3 – Another view of the site from Eric Crescent



Figure 4 overleaf shows the site's existing R3 Medium Density Residential zoning.

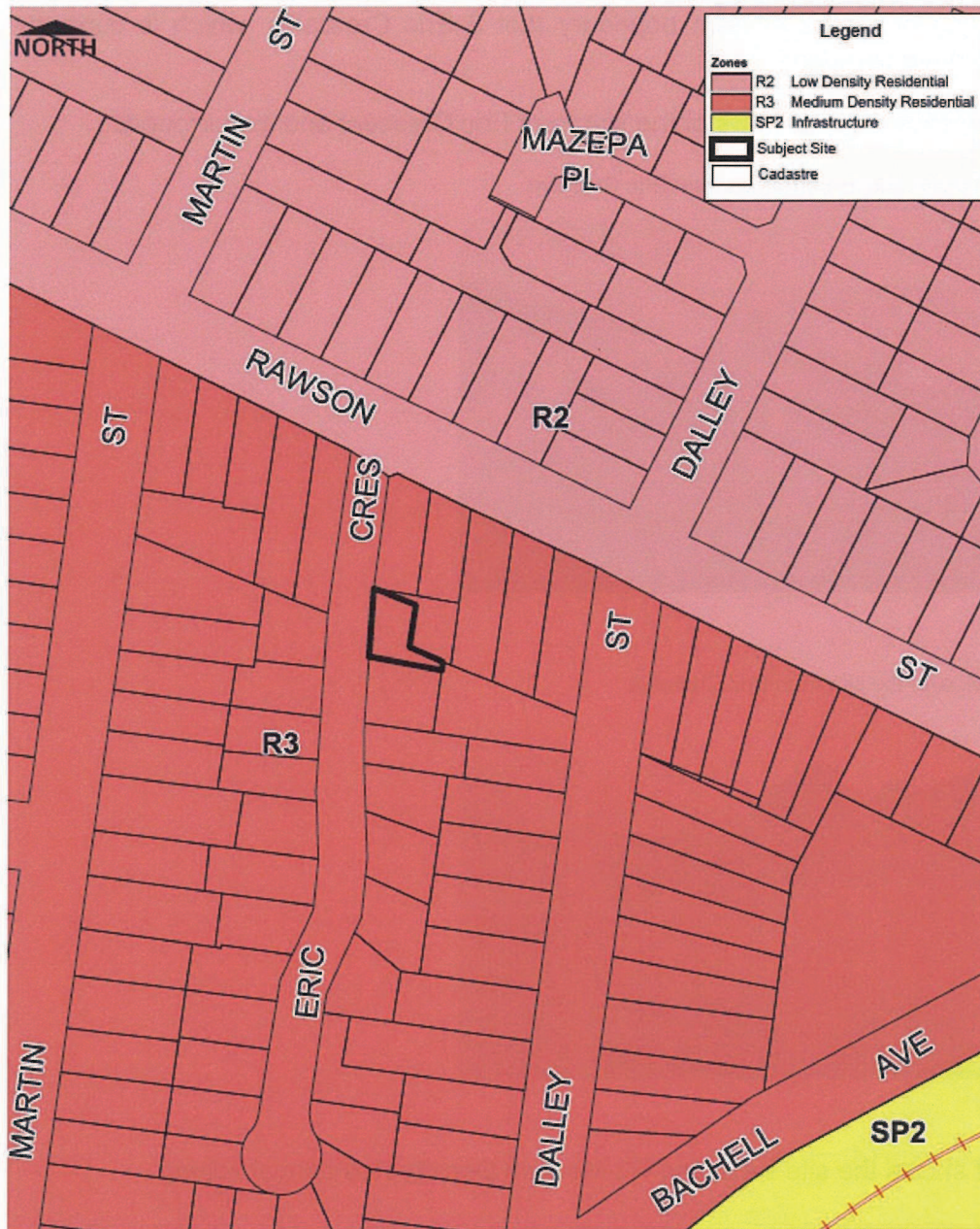


Figure 4 - Auburn LEP 2010 – Extract from Land Zoning Map (site outlined in Black)

2.3 Local context

Figure 5 overleaf shows the site outlined in yellow with its surrounds, including the nearest railway station, bus stops and parks.



Figure 5 - Aerial view of the site and its context

Figure 5 shows the site is located approximately 682 metres from Lidcombe Railway Station and Town Centre, and approximately 380 meters distance (5-10 minute) walking distance from Phillips Park which is significantly larger and includes playing fields. The site is currently well serviced by public transport services that operate along Swete Street and includes low density residential uses predominantly single storey detached dwellings surrounding the site.

Figures 6 to 8 illustrate the existing surrounding land uses and development.

Figure 6 – Surrounding residential properties located south of the site



Figure 7 – Surrounding residential properties located west of the site



Figure 8 – Surrounding residential properties located far west of the site



Although there are no known site constraints such as environmental heritage, native vegetation issues or contamination, the site is affected by acid sulphate soils.

2.4 Existing Planning Controls

The existing *Auburn LEP 2010* planning controls for the study area are summarised in table 1 below:

Property Address	Zoning	Minimum Lot Size	Height	FSR
Lot 22 Eric Crescent, Lidcombe	R3 Medium Density Residential	No control	9 metres	1 : 0.75

Table 1 - Existing *Auburn LEP 2010* Planning Controls

The existing *Auburn LEP 2010 maps* are shown by Figures 9 to 11 overleaf.

Acid Sulfate Soils

The site is shown as having Class 5 Acid Sulphate Soils under the *Auburn LEP 2010* Acid Sulphate Soils Map, which is the least affected category for development purposes.



Figure 9 - Existing FSR controls



Figure 10 - Existing Height of Buildings controls



Figure 11 - Existing Minimum Lot Size controls

3 Description of the proposal

This planning proposal generally follows the assessment criteria for planning proposals set out in the Department of Planning's *A Guide to Preparing Planning Proposals* including:

- objectives or intended outcomes;
- explanation of proposed planning and development controls;
- justification;
- need for the planning proposal;
- relationship to strategic framework;
- environmental, social and economic impact; and
- State and Commonwealth interests.

3.1 Objectives or intended outcomes

The objectives and intended outcomes of the planning proposal are:

- To implement the resolutions of Council dated 17 December 2014 (Item 383/14).
- To enable Council to dispose of the surplus land; and
- To enable the land classification to be consistent with the current *Auburn LEP 2010* zoning controls.

3.2 Proposed Planning Controls

The Proposal aims to amend *Auburn LEP 2010 Part 2 of Schedule 4 - Classification and Reclassification of Public Land* to reclassify Council land from 'Community' to 'Operational' land. The proposal needs to fulfil certain requirements in accordance with the Department of Planning and Environment's LEP Practice Note 09-003 dated 12 June 2009 when reclassifying land from community to operational (refer to Appendix D).

Table 2 below, illustrates a 'written statement of Council's discharge of interests' for the site as confirmed by a certificate of title search.

Land affected by the proposal	Interests currently attached to the land	Interests proposed to be EXTINGUISHED upon making of the draft LEP	Interests to be DISCHARGED upon making of the draft LEP
Lot 22 Eric Crescent, Lidcombe (Lot 22 DP 219238)	• Land excludes minerals and reservations and conditions in the Crown Grant(s). • 'Public Reserve' status	The 'Public Reserve' status will be extinguished upon making of the draft LEP. This is because the status could be a setback for Council to dispose the surplus/redundant land. This status could devalue the land, diminish Council's financial returns and impose restrictions to prospective buyers intending to purchase the land to develop the site.	• Land excludes minerals and reservations and conditions in the Crown Grant(s).

Table 2 - Discharge of interests

Source: Council's GEAC data and Certificate of Title searches

A 'Statement of Council's interest for the land' is at Appendix E.

The proposal does not propose new planning controls relating to the site for zoning, height of buildings, floor space ratio, or standard minimum lot size, or amends the existing *Auburn LEP 2010* maps.

Auburn Development Control Plan 2010

The planning proposal does not propose to amend the *Auburn Development Control Plan 2010* (Auburn DCP 2010).

3.3 Justification

3.3.1 Section A – Need for the planning proposal

This section sets out the reasons for the proposed outcomes and development standards in the planning proposal. The following questions are set out in the Department of Planning's "A Guide to Preparing Planning Proposals", and address the need for the planning proposal, its strategic planning context, the environmental, social and economic impacts and the implications for State and Commonwealth government agencies.

Q1 Is the planning proposal a result of any strategic study or report?

Yes. Council conducted a comprehensive review of its property portfolio in June 2002. The review identified a number of properties currently classified as 'community land' as surplus or redundant to Council's public open space needs.

The site to which the planning proposal applied was also identified as surplus or redundant to Council's open space needs, and was recommended to be reclassified as resolved by Council's Meeting of 5 June 2002 (CCL31-02) (refer to Appendix B of Council Minutes and Report).

Council when implementing the reclassification process discovered that Council did not own the site, and was held by a private owner with a mortgage. Council then undertook an exhaustive legal process to discharge the existing mortgage, to eventually obtain the title (sole ownership) of the land.

In 2008, the land was subsequently vested in Council with a 'public reserve' notation on the certificate of title, and was considered as 'community' land.

This required a resolution from Council to amend the *Auburn LEP 2010* to reclassify the site, and dispose of any public interests attached.

The planning proposal was initiated in response to Council's resolution below:

RESOLVED 17 December 2014 (Item 383/14):

- "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".*

This planning proposal is in accordance with that resolution and is prepared for the Department of Planning and Environment to obtain s.56 Gateway Determination approval for the proposal.

Q2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. This is the only best option to proceed with the planning proposal and to reclassify the land to make it operational.

Council considered the amendment to *Part 2, Schedule 4* of the *Auburn LEP 2010* was the best and most effective way of achieving the key objectives and desired outcomes of this proposal in a more equitable manner and a strategic way.

The chosen option would enable Council to dispose of the surplus or redundant land and enable consolidation of the site for future residential development to reflect the existing R3 Medium Density Residential zoning and land uses.

3.3.2 Section B – Relationship to strategic framework

Q3 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The planning proposal is consistent with a number of actions within both the *Metropolitan Plan for Sydney 2036 (Metropolitan Plan)*, *A Plan for Growing Sydney* and the *West Central Subregion Draft Subregional Strategy (WCSDSS)*. An analysis of the planning proposal's consistency with these strategies is provided at table 3 overleaf.

Table 3 - Consistency with Metropolitan Plan for Sydney 2036

Actions	Consistency
B. Growing and renewing centres B1.3 Locate at least 80% of all new housing within the walking catchments of existing and planned centres of all sizes with good public transport	Consistent The site to which the proposal applies is currently zoned R3 Medium Density Residential, and is located within an 800 metre walking catchment of the Lidcombe Town Centre. By reclassifying the site to operational land, Council would be able to dispose of the land which may facilitate redevelopment of the site for residential uses.
D. Housing Sydney's Population D1.1 Locate at least 70% of all new housing within existing urban areas and up to 30% of new housing in new release areas	Consistent The site to which the planning proposal applies is located within an existing urban area in Lidcombe Town Centre, around which low to medium density residential development is encouraged. By reclassifying the site, Council would be able to dispose of the land which may facilitate redevelopment of the site for residential uses.

Table 4 - Consistency with A Plan for Growing Sydney

Actions	Consistency
Direction 2.1 Accelerate Housing Supply Action 2.1.1: Accelerate Housing Supply and Local Housing Choices	The proposal will enable low to medium density residential development in the Lidcombe Town Centre contributing to the achievement of housing growth, increase dwelling targets by reclassifying the site from Community to Operational land.

Table 5 - Consistency with *West Central Subregion Draft Subregional Strategy*

Action	Consistency
B Centres and Corridors B2.1 Plan for housing in centres consistent with their employment role	Consistent The site to which the planning proposal applies is located approximately 683 metres from Lidcombe's Railway Station and Town Centre providing potential capacity for additional medium density residential growth.
C Housing C1.3 Plan for increased housing capacity targets in existing areas C2.1 Focus residential development around centres, town centres, villages and neighbourhood centres	Consistent The site to which the planning proposal applies proposes to reclassify land to encourage low to medium density residential uses, further increasing housing capacity within the Lidcombe Town Centre. The site to which the planning proposal applies proposes to reclassify land to encourage low to medium density residential uses, and further increasing housing capacity within the Lidcombe Town Centre.

Q4 Is the planning proposal consistent with Council's local strategy or other local strategic plan?

Auburn City Community Strategic Plan 2013 - 2023

The Auburn City Community Strategic Plan was formally adopted by Council in 2011. The Plan is built around themes of community, place, environment and leadership. The objectives and intended outcomes of the planning proposal support the Community Strategic Plan by enabling increased opportunity for business and employment and for concentration of residential growth within and around established centres that are well serviced by public infrastructure and transport.

Table 6 below illustrates the planning proposal's consistency with the *Auburn City Community Strategic Plan 2013-2023*.

Table 6 - Consistency with Auburn City Community Strategic Plan 2013 - 2023

Relevant CSP outcome within 'Our Places' theme	Council's commitment to the outcome	How the proposal achieves the outcome
2a High quality urban environment	Prepare strategic land use plans and policies that improve the urban environment.	The Proposal intends to reclassify the site from community to operational land to best reflect Council's <i>Auburn LEP 2010</i> zoning, and enables the consolidation and development of the site in keeping with its existing residential surrounds.
2f Community assets managed for current and future generations	Maximise return on investment for Council properties	The Proposal intends to reclassify and dispose of the site identified as surplus to Council's open space to bring financial returns.

Auburn LGA Residential Development Strategy (2015)

The Council adopted *Auburn Residential Development Strategy* dated 27 March 2015 (*Auburn RDS 2015*) by AECOM Australia Pty Ltd, identifies the subject site to which the planning proposal applies is located within a potential site identified for residential development that may be suitable for rezoning (refer to site 4 of p.95 and 96). The study further identifies this site as located within 800 metres of a railway station (p.96).

Table 11 of the *Auburn RDS (2015)* (p.96) provides a 'Lidcombe Town Centre Character Analysis' outlining potential sites for redevelopment, and identifies the site to which the proposal applies belongs to a part of 'site 4'.

The character analysis acknowledges that the 'site 4' is predominantly developed with older single storey dwellings and has the opportunity to improve the existing road network by extending the cue-de-sac into streets. However, the subject site seeks only to reclassify the land from community to operational and does not seek to rezone or amend principal development standards of the site.

The planning proposal to amend the *Auburn LEP 2010* is generally consistent with the adopted *Auburn RDS 2015* recommendations overleaf:

- it would encourage medium density residential uses within the Lidcombe Town Centre's north eastern fringe in addition to allowing for the existing commercial expansion of the Town Centre.
- there would be no impact on the existing surrounding land uses or built form or character of the Lidcombe Town Centre, because the site to which the proposal applies seeks only to reclassify the land from 'Community' to 'Operational' under *Auburn LEP 2010*.
- it would enhance the current expectations of existing surrounding land owners to further renew and revitalise the area through redevelopment of the site for future residential uses.

Draft Auburn LGA Traffic and Transport Study (2013)

Council's *Draft Auburn LGA Traffic and Transport Study (2013)* (draft Traffic study) prepared by Hyder Consulting Pty Ltd for Council, modelled a number of key intersections across the Auburn LGA. The draft traffic study identified poor Levels of Service (LoS) (i.e. long delays) at a number of intersections, and made recommendations about future intersection improvements within Auburn City.

The site to which the planning proposal applies is not located within a prominent intersection of the Auburn LGA that is identified by Council's draft Traffic study.

The site is well serviced by existing cycle and public bus routes (401 and M92) and is within 5 to 10 minute walking distance from the existing bus stops. Lidcombe's Railway Station and Town Centre are located within 15 - 25 minutes walking distance from the site.

Q5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. Appendix F contains an assessment of the proposal's consistency with the applicable SEPPs.

Consistency of any future development proposals with SEPPs and deemed SEPPs would be determined at the development application/assessment stage.

Q6 Is the planning proposal consistent with applicable Ministerial Directions (s.117)

Yes. Appendix F contains an assessment of the planning proposal's consistency with the applicable Ministerial Directions. The most relevant s.117 Ministerial Directions that apply to the planning proposal are:

- Direction 3.4 - Integrating land use and transport;
- Direction 6.2 - Reserving land for public purposes; and
- Direction 7.1 - Implementation of *A Plan for Growing Sydney*.

The proposal is consistent with the above directions.

3.3.3 Section C – Environmental, social and economic impact

Q7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No. The site to which the planning proposal applies is not located within a critical habitat or threatened species, populations and ecological communities and would not result in adverse impacts to such communities.

Q8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No. There are no likely environmental impacts anticipated as a result of this planning proposal. However, any other potential impacts as a result of a proposed residential development on site by an applicant would be dealt at the Development Application (DA) stage.

Q9. *Has the planning proposal adequately addressed any social and economic effects?*

Yes. The Planning Proposal involves the reclassification of one lot, and the following social and economic effects/benefits for the community are anticipated as a result of this proposal:

Social and Economic:

- Enable Council to dispose of its surplus land and discharge any public interests attached to the land;
- Deliver a policy position which is consistent with the existing *Auburn LEP 2010* land zoning;
- Remove the financial burden on Council to maintain land that is not suitable for public open space; and
- Allocate the funds gained from the sale of the subject site to other areas.

Given the nature and scale of the proposal, it is not anticipated that any further significant social or economic effects will emerge.

3.3.4 Section D – State and Commonwealth interests

Q10 *Is there adequate public infrastructure for the planning proposal?*

Yes. The subject site to which the planning proposal applies is located in a residential area north east of Lidcombe which is currently served by existing public roads and infrastructure services, utilities and public transport. The subject land is vacant land, and any development arising after the reclassification and sale of the site is not anticipated to increase the demand on public infrastructure services, utilities and public transport.

Q11 What are the views of State and Commonwealth Public Authorities consulted in accordance with the Gateway Determination, and have they resulted in any variations to the planning proposal?

Consultation will be undertaken with relevant State and Commonwealth Public Authorities as directed by a s.56 Gateway Determination from the Department of Planning and Environment. The proposed consultation with these agencies is discussed further in Community Consultation section of the Planning Proposal in section 4.1.

4 Community Consultation

4.1 Proposed Post- Gateway Community Consultation

Council anticipates community consultation on the planning proposal will be undertaken following receipt of a s.56 Gateway Determination.

The planning proposal can be categorised as a moderate impact planning proposal. Considering the nature of the planning proposal Council recommends the planning proposal and related documentation be exhibited for at least 28 days in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulations 2000*.

Should Gateway approval be given, community consultation for this planning proposal is proposed as follows:

- Consult relevant state authorities/agencies as required;
- Consult relevant service providers as required;
- Send notification letters to surrounding land holders;
- Advertise the public exhibition of the planning proposal and supporting studies in the main local newspaper (i.e. the Auburn Review);
- Advertise the planning proposal's exhibition on Council's website, including electronic copies of the planning proposal, all supporting studies, any additional information requested and the Gateway Determination;
- Exhibit the planning proposal and supporting information in accordance with the Gateway Determination at Council's Administration Centre and at Auburn and Lidcombe libraries;
- Exhibit Department's *LEP Practice Note PN 09-003* and a 'Statement of Council's Interest for the Land';
- Include a public notice in advance in the local newspaper to inform about the public hearing;
- Engage an external consultant to conduct a public hearing for the proposal to meet legislation requirements of section 57 of the EP&A Act 1979 and section 29(1) of the *Local Government Act 1993*;
- Publish the public hearing report on Council's website; and
- Undertake any other consultation methods deemed appropriate for the proposal.

5 Anticipated Timeline

The timeline presented in Table 7 indicates anticipated steps for completion of the planning proposal and submission of the final, exhibited and amended version to the Department for making and notification (gazettal) of the *Auburn LEP 2010*.

Table 7 – Proposed timelines for finalisation of the planning proposal

PP Actions	July 2015	Aug 2015	Sept 2015	Oct 2015	Nov 2015	Dec 2015	Jan 2015	Feb 2016	Mar 2016	Apr 2016	May 2016
Submit PP to the Department for Gateway Determination											
Department issues Gateway Determination											
Report Gateway Determination to Council											
Consult relevant Public Authorities											
Public exhibition of PP											
Receive and evaluate submissions											
Council prepare presentation for public hearing											
Engage external consultant, include paper notice and conduct public hearing											
Consultant prepare public hearing report											
Revise PP and submit PP to the Department to seek an opinion from Parliamentary Counsel to make the plan											
Report revised PP, opinion and public hearing report for Council's adoption											
Send draft LEP for Notification											

Council anticipates a 10 to 11 month period to complete the draft LEP. This anticipated timeline will be revised after post exhibition if required.