

Blacktown Local Environmental Plan 2015 (Amendment No 2) – To rezone land at Lot 1268 DP 803528 Denis Winston Drive, Doonside

Proposal Title :	Blacktown Local Environmental Plan 2015 (Amendment No 2) – To rezone land at Lot 1268 DP 803528 Denis Winston Drive, Doonside		
Proposal Summary :	The planning proposal is to amend Blacktown Local Environmental Plan 2015 to rezone land at Lot 1268 DP 803528, Denis Winston Drive, Doonside from R2 Low Density Residential to E2 Environmental Conservation Zone. The minimum lot size and height of building maps are also proposed to be amended.		
PP Number :	PP_2015_BLACK_003_00	Dop File No :	15/15666

Proposal Details

Date Planning Proposal Received :	16-Oct-2015	LGA covered :	Blacktown
Region :	Metro(Parra)	RPA :	Blacktown City Council
State Electorate :	BLACKTOWN	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Denis Winston Drive		
Suburb :	Doonside	City :	Blacktown
Land Parcel :	Lot 1268 DP 803528	Postcode :	2767

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :

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MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **The Department's Lobbyist Contact Register has been checked on 23 October 2015, and no records on the Department's Lobbyist Contract Register regarding this matter.**

Supporting notes

Internal Supporting Notes : **POLITICAL DONATIONS DISCLOSURE STATEMENT**

Political donations disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the Planning system.

"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning application means:

- A formal request to the Minister, a council or the Secretary to initiate the making of an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Secretary is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this Planning proposal.

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The objective of the planning proposal is to seek an amendment to Blacktown Local Environmental Plan 2015 to rezone the land from R2 Low Density Residential to E2 Environmental Conservation Zone with an aim to preserve the site, which forms a habitat for a variety of flora and fauna and contains Shale Plain Woodland. The Shale Plain Woodland along with Shale Hills Woodland, makes up the Cumberland Plain Woodland vegetation community. Cumberland Plain Woodland is listed as a critically endangered community under the NSW Threatened Species Conservation Act 1995. The site is also identified on the Terrestrial Biodiversity layer of the Blacktown LEP 2015 map.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment :

The objectives of the planning proposal will be achieved by amending the following Blacktown LEP maps:

Land Zoning Map – Sheet LZN_009 (Changing the zoning from R2 Low Density Residential to E2 Environmental Conservation zone)

Land Zoning Map – Sheet LZN_014 (Changing the zoning from R2 Low Density Residential to E2 Environmental Conservation zone)

Removing the site from Lot Size Map – Sheet LSZ_009

Removing the site from Lot Size Map – Sheet LSZ_014

Removing the site from Height of Building Map – Sheet Height of Building_009

Removing the site from Height of Building Map – Sheet Height of Building_014

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

* May need the Director General's agreement

3.1 Residential Zones

6.2 Reserving Land for Public Purposes

7.1 Implementation of A Plan for Growing Sydney

Is the Director General's agreement required?

c) Consistent with Standard Instrument (LEPs) Order 2006 :

d) Which SEPPs have the RPA identified?

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

S117 DIRECTIONS:

2.1 ENVIRONMENTAL PROTECTION ZONES

Clause 4 of this Direction requires that a planning proposal must include provisions to facilitate the protection and conservation of environmentally sensitive areas. Clause 5 of the Direction also requires that a planning proposal must not reduce the environmental standards applying to land zoned or otherwise identified for environmental protection purposes.

This direction applies in this instance, as the planning proposal proposes to rezone the site from the current R2 Low Density Residential to E2 Environmental Conservation Zone.

The planning proposal is considered to be consistent with the Direction as it complies with clause 4 of the Direction, as it seeks to rezone land to the Environmental Conservation Zone to protect the land from being developed and prevent the loss of high value vegetation including Shale Plain Woodland.

3.1 RESIDENTIAL ZONES

This direction applies when a planning proposal affects an existing or proposed

residential zone or any other zone in which significant residential development is permitted or proposed to be permitted and approval of the Secretary of the Department of Planning and Environment is required if the reduction in density is involved.

This direction applies as the planning proposal proposes to rezone the site from R2 Low Density Residential to E2 Environmental Conservation Zone.

It is noted that the site under the Blacktown Biodiversity Strategy 2011 is recognised as Regionally Significant (Core) and Regional Corridor Potential.

Council has advised that it provides a significant contribution to increasing housing, and affordable housing stock, across the Sydney region by way of the North West Growth Centre and other means. Council contends that this contribution should not be at the expense of reasonable measures to protect the environment, or the amenity and lifestyle opportunities for existing local communities.

In view of the above, the inconsistency with the direction is considered to be of a minor significance.

7.1 IMPLEMENTATION OF A PLAN FOR GROWING SYDNEY

The planning proposal's consistent with "A Plan for Growing Sydney" and the draft North West Subregional Strategy are discussed under "Consistency with strategic planning framework" section of this report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Council has provided the following maps:

- Location Map
- Aerial View of the site and surrounding areas
- Current Zoning, Minimum Lot Size, Height of Building, Terrestrial Biodiversity, and Cumberland Plain Vegetation maps.
- Proposed Zoning, Minimum Lot Size, and Height of Building maps.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council has advised that the Gateway Determination will specify the community consultation period. Given the nature of the planning proposal, it is recommended that it should be placed on public exhibition for a minimum of 28 days.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

**Blacktown LEP 2015 is a Standard Instrument LEP. The planning proposal is to amend the
Blacktown LEP 2015.**

Assessment Criteria

Need for planning
proposal :

BACKGROUND AND PROPOSAL

The site is located on the eastern side of Denis Winston Drive, between Seabrook Crescent and Bruxner Place, Doonside (Location map in Documents). The site has an area of approximately three hectares. It is surrounded by low density residential development to the north and east, a public recreation area to the south and public recreation and utility (Sydney Water) to the west (aerial photograph in Document).

The Department of Education and Communities (DEC) owned the site at the time of the planning proposal being lodged, but have since sold the land. It was identified as a surplus school site. It is currently vacant of any development. The current ownership is unknown.

The site contains Shale Plain Woodland, which along with Shale Hills Woodland, makes up the Cumberland Plain Woodland vegetation community. Cumberland Plain Woodland is listed as a critically endangered community under the NSW Threatened Species Conservation Act 1995.

The site is zoned R2 Low Density Residential under Blacktown LEP 2015 (Current Zoning map in Documents). Dwelling houses are permitted in this zone and the minimum lot size and maximum building height applying to the site are 450 square metres and 9 metres respectively. The site is also identified on the Terrestrial Biodiversity layer of the Blacktown LEP 2015 map (copy in Documents) and is affected by provisions of Clause 7.2 of the LEP (copy in Documents), which sets out additional considerations for development in order to protect biodiversity values.

The site was previously zoned 5(a) School under the Blacktown LEP 1988. In the preparation of its standard instrument, Blacktown Council proposed to zone the site to R2 Low Density Residential. When the standard instrument was exhibited, the surrounding residents sought the site to be zoned RE1 Public Recreation based on the environmental qualities (Cumberland Pain Woodland) and linkages to other existing open spaces in the locality. In response to community opposition Council resolved to zone the site to SP2 Infrastructure (Educational Establishment). DEC objected to Council's post exhibition change as the site was identified as surplus school and was planned for disposal in the 2014/15 financial year. DEC requested the site be zoned residential (as exhibited) to reflect adjoining uses and maintain consistency with the Government's policy approach on disposal of Government owned assets, and to facilitate its disposal. The standard instrument was made on 26 May 2015 and zoned the site to R2 Low Density Residential.

The Minister for Planning received representations from Mr John Robertson MP, Member for Blacktown supporting retention of the site as open space.

On 21 August 2015, the Mayor of Blacktown, Councillor Stephen Bali met with the Minister for Planning to discuss this surplus school site.

On 24 August 2015, the Daily Telegraph reported that the Mayor and the residents of the area have united to retain the site as E2 Environmental Conservation Zone because of its value to the local community.

An article in the Sydney Morning Herald (27 October 2015) indicates that the site failed to sell at auction. However, it is understood that the Department of Education and Communities has since sold the site.

Council contends that the planning proposal will protect the site from future development and will be utilised for environmental purposes for the good of the entire community.

Consistency with
strategic planning
framework :

METROPOLITAN STRATEGY

A PLAN FOR GROWING SYDNEY

The planning proposal is considered to be consistent with “A Plan for Growing Sydney” as it supports the following directions within the Plan:

Direction 4.1 Protection our natural environment and biodiversity

The site is identified on the Terrestrial Biodiversity layer of Blacktown LEP 2015 (copy in Documents). The 2011 Blacktown Biodiversity Strategy maps the site as Regionally Significant (Core) and Regional Corridor Potential (copy of maps in Documents).

The planning proposal proposes to rezone the site from residential to environmental conservation. The rezoning will protect the conservation significant area (Core area) which contains the remnants of vegetation of conservation value. Threatened fauna species [(Swift Parrot (*Lathamus discolor*) and Little Lorikeet (*Glossopsitta pusilla*)] have also been recorded on the site recently (20 July 2015 - copy of Threatened Species maps in Documents).

Direction 4.3 Manage the impacts of development on the environment

Applying mitigation measures would prevent/reduce the impacts of development on areas of high conservation value, native vegetation and diversity from development.

Council considers that offsets can be used to protect other areas of land with conservation value. By retaining the site as bushland and rezoning it to E2 Environmental Conservation Zone, it can be used as a biodiversity offset for Cumberland Plain Woodland from other new or existing development projects that result in the clearing of Cumberland Plain Woodland vegetation.

WEST CENTRAL DRAFT SUBREGIONAL PLAN

The planning proposal fulfils one of the priorities of the Subregional Plan, i.e. Protect the natural environment and promote its sustainability and resilience (Copy in Documents). The Plan identifies “work with councils to implement the Cumberland Plain Recovery Plan to protect the threatened biodiversity of the Cumberland Plain as the area develops”

It is noted although the site is not identified a high priority conservation area within the Blacktown 2011 Cumberland Plain Recovery Plan, the site contains Shale Plain Woodland which, along with Shale Hills Woodland, makes up the Cumberland Plain Woodland vegetation community (copy of vegetation maps in Documents).

Council's 2011 Biodiversity Strategy maps the site as Regional Corridor Potential. It is considered that the proposed rezoning would provide an opportunity to use the site as a potential linkage between Bungaribee Creek and the Eastern creek corridor in the Western Sydney Parklands (copy of Regional Corridor Potential in Documents).

BLACKTOWN BIODIVERSITY STRATEGY 2011-2020 (Copy in Documents)

Council adopted this strategy, which includes a Conservation Significant Assessment (CSA) Map. Council used this map as a basis for developing the Terrestrial Biodiversity Map, which now forms part of Blacktown LEP 2015.

The aim of this Strategy is to conserve, restore and enhance biological diversity and ecosystem health, particularly threatened species, populations and communities, in the Blacktown Local Government Area. It provides strategies for the effective long-term management and viability of remnant vegetation and ecosystems, including edge expansion and improved connectivity. One of the key actions identified in this Strategy is identification, protection and enhancement of biodiversity corridors and high conservation

value areas.

The Biodiversity Strategy maps the site as Regionally Significant (Core). Core areas are the remnants of highest conservation value. They represent areas where species or communities are at imminent risk of extinction, or large areas within the region that constitute the backbone of a viable conservation network across the landscape.

The Biodiversity Strategy also maps the site as Regional Corridor Potential. The provision of corridors is a very important component of biodiversity enhancement. Corridors promote opportunities for species movement and long term viability in an urban bushland setting. To the south-west of the subject land is an east-west corridor of open space (Bungarribee Creek Reserve) that links to the substantial Western Sydney Parklands to the west.

It is considered that preserving the site for its ecology value, would provide good linkage to Bungarribee Creek and the Eastern Creek Corridor in the Western Sydney Parklands.

CUMBERLAND PLAIN RECOVERY PLAN (Copy in Documents)

The planning proposal is also not inconsistent with the Department of Environment and Heritage's document Cumberland Plain Recovery Plan – January 2011.

The main aim of this document is to provide a long-term survival and protection of seven threatened species, four endangered populations and nine threatened ecological communities listed on the NSW Threatened Species Conservation Act 1995 that are found only on the Cumberland Plain. Seven of these are also listed as threatened under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

The Recovery Plan recognises that "While the priority conservation lands are considered to represent the regional conservation priorities for the Cumberland Plain, it is recognised that areas of local conservation significance (such as council reserves) complement and enhance these regional conservation priorities. Areas of local conservation significance will include buffers, corridors and ecological linkages for the priority conservation lands. The implementation of best practice management on these and other areas of local conservation significance will contribute to the long-term viability of biodiversity on the Cumberland Plain."

It is noted that although the site is not identified as high priority conservation area within 2011 Cumberland Plain Recovery Plan, the site contains Shale Plain Woodland which, along with Shale Hills Woodland makes up the Cumberland Plain Woodland vegetation community. The planning proposal is therefore considered to be consistent with the objectives of this Recovery Plan as it proposes to preserve the site from incompatible developments.

BLACKTOWN LEP 2015

The site is identified on Blacktown LEP 2015 Terrestrial Biodiversity map (copy in Documents) and is affected by Clause 7.2 - Terrestrial biodiversity of the Blacktown LEP 2015 (copy in Documents). The objective of this clause is to maintain biodiversity by protecting native fauna and flora, protecting the ecological process necessary for their continued existence and encourage the conservation and recovery of native fauna and flora and their habitats. The clause identifies a number of conditions of consent that a consent authority must consider while granting development to which this clause applies with a aim to protect and maintain ecological value and significance of the fauna and flora on the land.

The planning proposal is considered to be consistent with the objectives of this clause.

LEP PRACTICE NOTE PN 09-002 ENVIRONMENT PROTECTION ZONES.

According to the Standard Instrument - LEP Practice Note PN 09-002 – Environment

Protection Zones, the E2 Environmental Conservation zone should be applied to areas of high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves.

Further, prior to applying the relevant zone, the environmental values of the land should be established, preferably on the basis of a strategy or from an environmental study developed from robust data sources and analysis. This is particularly important where land is identified as exhibiting high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves.

Further more, the application of these zones should also to be consistent with relevant legislation, State and regional planning policies and subregional strategies.

In this instance, Council's proposal has been supported by Blacktown Biodiversity Strategy 2011, which identifies the site as Conservation Significant (Core) with Regional Corridor Potential. The planning proposal proposes to protect the site's ecological values as a remanent.

As discussed above, the planning proposal is also consistent with State and regional planning policies.

CONCLUSION

After considering the planning proposal against the above mentioned documents, it is quite clear that the site has high ecological and aesthetic value and needs to be preserved. One option to preserve the land would be to rezone the site RE1 Public Recreation. However the presence of Cumberland Plain Woodland on the site, a critically endangered community under the Threatened Species Conservation Act, means that the site is more suited for the E2 Environmental Conservation Zone. This approach is consistent with the Practice Note (PN 09-002) which clearly states that the E2 zone should be applied for land containing endangered ecological communities.

Options for zoning the site were discussed with the Office of Environment (OEH) and Heritage Planning Team, who advised that the site was not part of an identified priority conservation area. The condition of the vegetation is not ideal as there is a markedly reduced understorey due to management practices such as slashing. However, Cumberland Plain Woodland will recover and the understorey will be re-instated if management practices are changed to facilitate conservation. Overall OEH advised that the site would be recommended for an E2 zone as it is a large intact site containing a remnant critically endangered community.

The future of the site has generated significant community interest. When the local member, John Robertson raised the matter in Parliament, Minister Stokes responded (29 October 2015 Hansard in Documents) that "whatever the ownership of the site, it has clear environmental values and those values must be respected...". It is the considered view of the Department that the best way to respect the environmental values of the site is to zone the land containing Cumberland Plain Woodland in the E2 Environmental Conservation Zone.

It is noted that not all of the site contains Cumberland Plain Woodland or is included in the Terrestrial Biodiversity Map. There is a cleared section of land fronting Denis Winston Drive that is evident in the aerial photo of the site. The Department should not object if Council decided to retain all or part of this land in the R2 Low Density Residential zone.

Environmental social
economic impacts :

ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACTS

The planning proposal is unlikely to have any negative social impacts.

The planning proposal is likely to have positive environment impacts as it proposes to protect the existing flora and fauna on the site. The proposal by rezoning the land for E2

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Environmental Conservation will protect the site from future development and loss of biodiversity.

There would be some economic impact from the planning proposal as it will result in the loss of residential zoned land, however this is offset by the significant residential development occurring elsewhere in Blacktown Local Government Area. Although the site was owned by DEC, residents have for many decades used it for passive recreation purposes and link from the nearby Tallawong Avenue to Dennis Winston Drive. Given the site is being used by residents for passive recreational purposes, the economic loss is justified.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) **Department of Education and Communities
Office of Environment and Heritage**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **Yes**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Location map.pdf	Map	Yes
Aerial Photograph.pdf	Map	Yes
Current Zoning.pdf	Map	Yes
Current Lot Size map.pdf	Map	Yes
Current Terrestrial Biodiversity map.pdf	Map	Yes
Current Height of Building map.pdf	Map	Yes
Blacktown Biodiversity Strategy 2011 - 2020.pdf	Study	Yes
20100501CumberlandPlain.pdf	Study	Yes

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Current Cumberland Plain Vegetation.pdf	Map	Yes
Current Height of Building map.pdf	Map	Yes
Environment protection zones - LEP Practice Note PN09-002.pdf	Study	Yes
Extract from BLEP 2015 - Clause 7.2 Terrestrial biodiversity.pdf	Study	Yes
Extract from BLEP 2015 - E2 Environment Conservation Zone.pdf	Study	Yes
Extract from BLEP 2015 - RE1 Public Recreation.pdf	Study	Yes
Proposed Zoning Map.pdf	Map	Yes
Proposed Lot Size map.pdf	Map	Yes
Proposed Height of Building map.pdf	Map	Yes
Bushfire prone land -Dennis Winston Drive.pdf	Map	Yes
Minister's Statement in Legislative Assembly.pdf	Determination Document	Yes
Cumberland Plain Recovery Plan.pdf	Study	Yes
Conservation Significant Assessment map from Blacktown Biodiversity Strategy.pdf	Map	Yes
Conservation Significant Assessment_1km map from Blacktown Biodiversity Strategy.pdf	Map	Yes
Regional Corridor Potential map from Blacktown Biodiversity Strategy.pdf	Map	Yes
Regional Corridor Potential_1km map from Blacktown Biodiversity Strategy.pdf	Map	Yes
Threatened Species 1km map from OEHS Atlas of NSW Wildlife.pdf	Map	Yes
Threatened Species map from OEHS Atlas of NSW Wildlife.pdf	Map	Yes
Vegetation Communities map from Blacktown Biodiversity Strategy.pdf	Map	Yes
Vegetation Communities map from Blacktown Biodiversity Strategy.pdf	Map	Yes
Vegetation Communities map from Blacktown Biodiversity Strategy.pdf	Map	Yes
Vegetation Communities_1km map from Blacktown Biodiversity Strategy.pdf	Map	Yes
Extract from Sydney's West Central Subregion.pdf	Study	Yes
0750_COM_BIO_009_020_20150122.pdf	Map	Yes
0750_COM_BIO_014_020_20150122.pdf	Map	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

- S.117 directions:
- 2.1 Environment Protection Zones
 - 3.1 Residential Zones
 - 6.2 Reserving Land for Public Purposes
 - 7.1 Implementation of A Plan for Growing Sydney

Additional Information : **RECOMMENDATION**

It is recommended that the planning proposal proceed subject to the following conditions:

1. Community consultation is required under Section 56(2)(c) and 57 of the EP&A Act as follows:

(a) the planning proposal must be publicly exhibited 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 the planning proposal as identified in section 5.5.2 of A Guide to preparing local environmental plans (Department of Planning and Environment 2013).

2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

Office of Environment and Heritage
The Department of Education and Communities

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and be given at least 21 days to comment on the proposal.

3. A public hearing is not required to be held in relation to this matter by any person or body under section 52(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).

4. The timeframe for completing the local environmental plan is to be 12 months from the week following the date of the Gateway determination.

DELEGATION TO COUNCIL

Blacktown City Council has not requested plan making functions be delegated to Council in this instance. Given the local nature of the planning proposal, it is recommended that delegation of the Plan Making functions be given to Council in this instance.

Supporting Reasons : The planning proposal is supported, as it will help in preserving the ecological values as a remnant of Cumberland Plain Woodland.

Signature:



Printed Name:

DECLAN JOHN

Date:
