

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Blacktown LGA
<b>PPA</b>	Blacktown City Council
<b>NAME</b>	St Bartholomew's Cemetery Expansion (66 jobs, 13,000 burial spaces)
<b>NUMBER</b>	PP 2018 BLACK 009 00
<b>LEP TO BE AMENDED</b>	Blacktown Local Environmental Plan 2015
<b>ADDRESS</b>	Ponds Road, Prospect
<b>DESCRIPTION</b>	Refer to pages 2-3 of Attachment A2
<b>RECEIVED</b>	9 October 2018
<b>FILE NO.</b>	IRF18/5914
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

#### INTRODUCTION

##### Description of planning proposal

The planning proposal (**Attachment A1-A9**) seeks to amend Blacktown Local Environmental Plan (LEP) 2015 to facilitate the expansion of St Bartholomew's Cemetery in Prospect. To enable the expansion, the following amendments are proposed:

- rezone the subject site from RE1 - Public Recreation, RU4 - Primary Production Small Lots and SP2 - Classified Road to SP1 – Cemetery;
- reclassify the part of the subject site currently owned by Council from 'community land' to 'operational land'; and
- update the BLEP 2015 Land Reservation Acquisition Map and Lot Size Map.

The planning proposal would facilitate the provision of approximately 13,000 burial plots.

##### Site description

The planning proposal applies to the following lots:

- Lot 15 DP 801210
- Lot 1 DP 134024
- Lot 2 DP 134024
- Lot 3 DP 134024
- Lot 1 DP 744431
- Lot 26 DP 448744
- Lot 27 DP 448744
- Lot 140 DP 1003460
- Lot 21 DP 448744
- Lot 22 DP 448744
- Lot 23 DP 448744
- Lot 24 DP 448744
- Lot 25 DP 448744
- Lot 20 DP 744595
- Lot 11 DP 802753
- Lot 1 DP 456722

- Lot 21 DP 1150386
- Lot 22 DP 1150386
- Lot 13 DP 802753
- St Bartholomew's Place
- Lot 2 DP 456722
- Lot 3 DP 1134381
- Lot 12 DP 802753
- Tarlington Place

The site is irregular in shape with an area of approximately 8.5ha. The subject site adjoins the existing St Bartholomew's Cemetery to the west.

The site is bounded by the Great Western Highway to the north, Tarlington Place to the east and St Bartholomew's Place to the west. The land is primarily vacant land, except for the Old Prospect Post Office – a disused State heritage listed building located at the eastern end of the subject site. The Old Prospect Post Office is accessed via Tarlington Place, which itself has local heritage significance as it is part of the former alignment of the Great Western Highway. The site is outlined in blue in Figure 1 below.

Some of the land parcels are already acquired by the Office of Strategic Lands (OSL) (Lots 1 and 2 DP 456722) and lands owned by Roads and Maritime Services (Lot 3 DP 134024, and Lots 12 and 13 DP 802753) are being acquired by OSL. OSL is the acquisition authority for these land parcels as the area has been identified as a special use corridor. It is expected that these parcels of land will be transferred to Council.

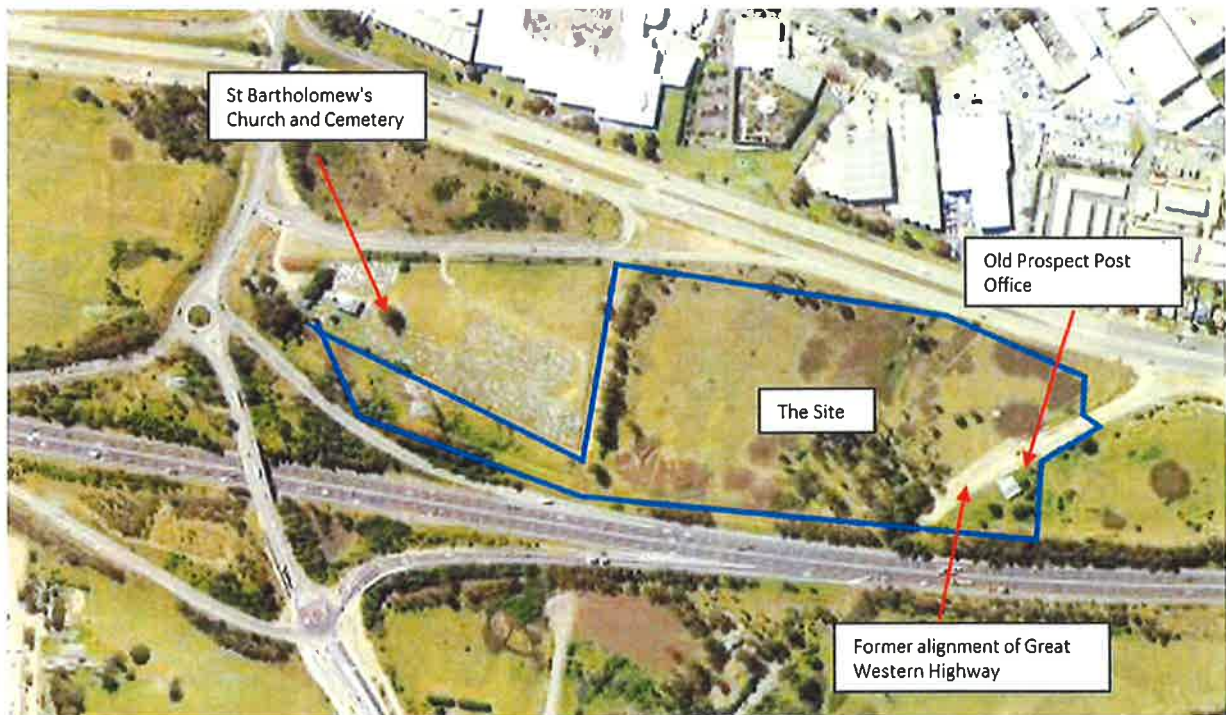


Figure 1 – Subject Site

### Surrounding area

The subject site is surrounded by a mix of uses, including residential, the adjoining cemetery and an area to the north zoned B5 – Business development which contains a variety of retail and commercial uses. The site and surrounds are rich in European heritage and includes state listed heritage listed St Bartholomew's Church and cemetery (adjoining the site to the west).

## Existing planning controls

Under the Blacktown Local Environmental Plan (LEP) 2015, the subject site is zoned RE1 – Public Recreation, RU4 – Primary Production Small Lots and SP2 – Infrastructure (Figure 2). A minimum lot size of 40ha applies to one lot within the subject site. Three lots within the subject site are currently identified on the Land Acquisition Map.

The Old Prospect Post Office is located in the south-eastern portion of the site and is identified as a state heritage item in the LEP (item no. I65). The former alignment of the Greater Western Highway is also located within the site and is identified as a local heritage item under the LEP (item no. I60).

No height of building or floor space ratio controls applies to the site as it is zoned for public recreation. An extract of the existing zoning map, land reservation map and minimum lot size map is provided below in Part 5 of the planning proposal (**Attachment A2**). Cemeteries are not permissible in the existing RE1 and SP2 zones, however are permissible in the RU4 zone.

Although zoned RE1 Public Recreation, the land parcels have not been used for public open space and remain vacant.

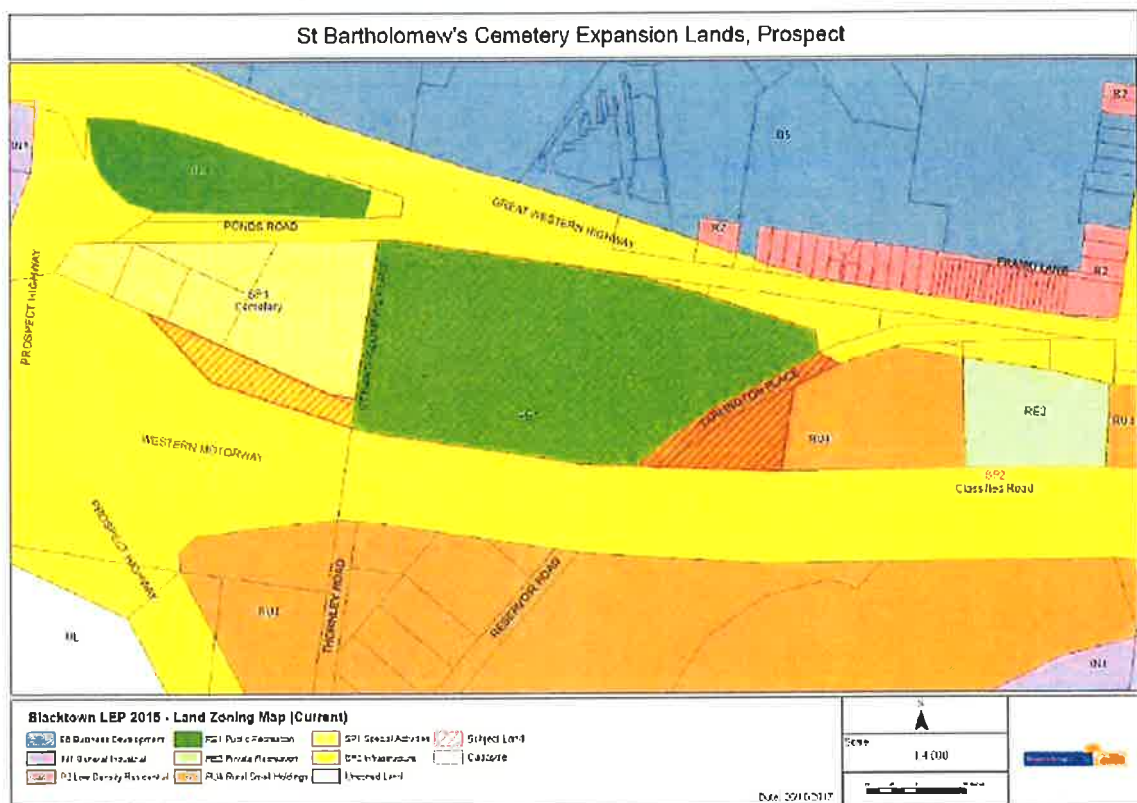


Figure 2 - Existing Planning Controls

## Summary of recommendation

The planning proposal has merit and should proceed subject to conditions as it will facilitate the expansion of St Bartholomew's Cemetery which is consistent with the Cemeteries and Crematoria NSW (CCNSW) Strategic Plan (2015-2020). This plan aims to ensure that there is sufficient and suitable land available to meet future

demand for interment services. It will also provide the community with important services and infrastructure.

## **PROPOSAL**

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### **Objectives or intended outcomes**

The objective of the planning proposal is to enable the lodgement of a development application to expand the existing St Bartholomew's Cemetery onto the subject land for an additional 13,000 burial spaces. This will require the reclassification of 15 Council owned lots from 'community land' to 'operational land' within the subject site.

It is recommended that prior to exhibition, Part 2 'Intended Outcomes' of the planning proposal is updated to include clear objectives of the Planning Proposal. The proposed changes to controls included in this part are to be relocated to Part 3 'Explanation of Provisions' of the proposal.

### **Explanation of provisions**

The planning proposal (**Attachment A2**) seeks to amend the Blacktown Local Environmental Plan 2015 by:

- rezoning the subject site from part RE1 - Public Recreation, part RU4 - Primary Production Small Lots and part SP2 - Classified Road to SP1 – Cemetery, as shown in Figure 3;
- amending Part 1 Schedule 4 'Classification and reclassification of public land' to reclassify part of the subject site from 'community land' to 'operational land' (interest not changed);
- amend minimum lot size requirements on part of the subject site within existing RU4 zoned land from 40ha to no controls;
- amending the Land Reservation Acquisition Map:
  - to remove subject land (Lots 1 & 2 DP 456722) currently identified for acquisition for the purpose of 'regional open space' as it is no longer required for this purpose; and
  - to include subject land (Lot 22 DP 1150386) that is proposed to be acquired for the purpose of 'cemetery'.

It is recommended that prior to exhibition, Part 3 'Explanation of Provisions' of the planning proposal is amended to indicate the existing zone, standards and provisions that currently apply to the land, as well as the proposed standards. A reference to the current and proposed maps attached to the planning proposal should be included in this section of the proposal.

### **Mapping**

The current and proposed maps are provided in Part 5 of the planning proposal (Attachment A2). The planning proposal will amend the following maps:

- Land Reservation Acquisition Map (LRA\_014)
- Minimum Lot Size Map (LSZ\_014); and
- Land Zoning Map (LZN\_014).

The proposed maps in the planning proposal are considered to be suitable for community consultation purposes.



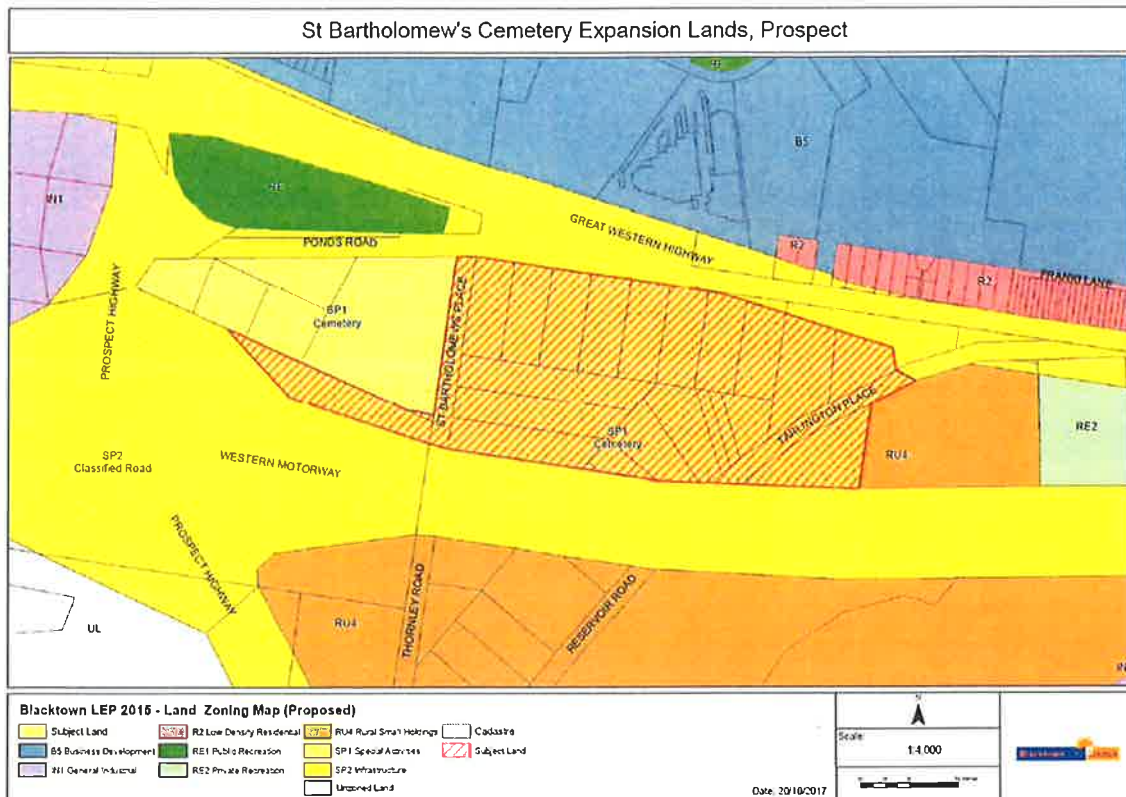


Figure 3 – Proposed Zoning

## NEED FOR THE PLANNING PROPOSAL

The planning proposal is not directly the result of a strategy or study. The proposal is supported by the following studies and reports:

- Utilities Strategy Report (**Attachment A3**);
- Transport Impact Report (**Attachment A4**);
- Stormwater Management Report (**Attachment A5**);
- Ecological Report (**Attachment A6**);
- Geotech Report (**Attachment A7**);
- Heritage Assessment (**Attachment A8**); and
- Contamination Report (**Attachment A9**).

The reports did not identify any impediments to the proposed use of the land for a cemetery.

The planning proposal is also supported by the Metropolitan Sydney Cemetery Capacity Report 2017 which highlights an urgent need for additional cemetery lands within Sydney. This is discussed further in this report.

Cemeteries and Crematoria NSW outlined their support of the proposal in a letter dated 4 July 2018 (**Appendix C** of the planning proposal).

The planning proposal advises that the proposed amendment is the best and most appropriate means of achieving the Council's intended outcome of cemetery

expansion. A planning proposal is the only means available to allow the expansion of the cemetery.

On 13 February 2018, the Department informed all councils in Greater Sydney that the Government was undertaking a review of the need for land for cemeteries and crematoria in the Greater Sydney region. Councils were informed that any planning proposal seeking to amend (i.e., limit) or prohibit existing cemeteries and crematoria would not proceed to Gateway until the review and consideration of strategic planning options have been completed.

It is considered that the planning proposal can proceed to Gateway as it proposes to expand an existing cemetery, rather than limit or prohibit the cemetery.

## **STRATEGIC ASSESSMENT**

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### **State**

#### Greater Sydney Region Plan – A Metropolis of Three Cities (March 2018)

The proposal is consistent with:

- *Objective 2 – Infrastructure aligns with forecast growth:* The proposal will supply additional cemetery capacity in accordance with anticipated need for such land.
- *Objective 3 – Infrastructure adapts to meet future needs:* The planning proposal will facilitate the delivery cemetery land, providing necessary infrastructure to support the surrounding area.

### **Regional / District**

#### Central City District Plan (March 2018)

Blacktown LGA is located within the Central City District therefore the Central City District Plan (the Plan) applies to this planning proposal. The proposal will provide services and social infrastructure to meet people's changing needs (Planning Priority C3). The proposal will also create a cemetery whilst respecting the surrounding heritage, consistent with Objective C6.

### **Local**

#### Our Blacktown 2036

Council advises its Community Strategic Plan (adopted 28 June 2017), 'Our Blacktown 2036', was developed in partnership with the residents, local community groups, stakeholders and businesses. The plan expresses the community's vision and aspirations for the future of Blacktown City.

The expansion of St Bartholomew's Cemetery will support the strategic directions of the Plan by ensuring access to cemetery services in the future and preserving and maintaining the heritage of the site. As such, the proposal is consistent with Council's 'Our Blacktown 2036'.

### **Section 9.1 Ministerial Directions**

The Section 9.1 directions that apply to the planning proposal are identified and discussed below.

#### Direction 1.2 Rural Zones

The objective of this direction is to protect the agricultural production value of rural lands. One parcel of land within the subject site is currently zoned RU4 – Primary

Production Small Lots under the LEP and is proposed to be rezoned to SP1 – Cemetery.

The lot is approximately 5000sqm in area, fragmented and surrounded by non-agricultural land. The lot contains the State Heritage listed 'Old Prospect Post Office'. As such, the agricultural potential of the lot is very limited and unlikely to be used for such purposes in the future.

The proposed rezoning of this site is considered to be of minor inconsistency with this Direction given the low agricultural significance and potential of the site.

#### Direction 1.5 Rural Lands

The objectives of this direction are to protect the agricultural production value of rural land and to facilitate the economic development of rural lands for rural related purposes. As discussed above, one parcel of land within the subject site is currently zoned RU4 – Primary Production Small Lots under the LEP and is proposed to be rezoned to SP1 – Cemetery.

The lot is approximately 5000sqm in area and is fragmented from other rural land. The lot contains the State Heritage listed 'Old Prospect Post Office'. As such, the agricultural value and potential economic development of the lot for rural purposes is extremely limited.

The proposed rezoning of this site is considered to be of minor inconsistency with this Direction given the low agricultural value and potential of the site.

#### Direction 2.3 Heritage Conservation

This Direction seeks to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The site and surrounds are rich in European heritage and includes state heritage listed St Bartholomew's Church and cemetery (adjoining the site to the west) and the Old Prospect Post Office (located to the east of the site). The former alignment of the Greater Western Highway is also located within the site and is identified as a local heritage item under the LEP.

The planning proposal does not seek any changes to the heritage items identified above. The proposal seeks to conserve heritage items located on site and preserve view lines to and from the adjoining site as well as proposing heritage conservation recommendations for the future development of the site. It is considered that the conservation of heritage items can be adequately addressed during the development assessment stage as demonstrated within the Heritage Assessment Report (Attachment A9). It is recommended that Council consult with Office of Environment and Heritage (OEH) and Heritage Council during exhibition and consider any comments in this regard.

The proposal is considered to be consistent with this Direction at this stage, pending consultation with OEH and the Heritage Council.

#### Direction 4.3 Flood Prone Land

This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

The subject site is not identified on Councils flood maps within the LEP, however a small portion of the site has been identified (by ARUP's Flooding Stormwater Management Report – June 2018) as being within the 1 in 100 year flood event. The proposal does not seek to include flood related provisions and controls, or permit development in the affected area. While the proposal would rezone flood affected land to SP2 – Cemetery, which is inconsistent with clause 5 of this Direction, it is considered that the proposal can comply with the flooding requirements of Councils LEP and DCP and that flooding issues can be adequately addressed during development assessment stage as detailed within the Stormwater Management Report (**Attachment A5**).

The Planning Proposal's inconsistency with this direction is of minor significance.

## 6.2 Reserving land for Public Purposes

This Direction aims to facilitate the provision of public services and facilities by reserving land for public purposes or removing these reservations when the land is no longer required for the purpose.

This direction applies as the planning proposal aims to rezone land zoned RE1 Public Recreation and remove two lots (Lots 1 & 2 DP 456722) from the Land Reservation Acquisition Map in the LEP. As these two lots have been acquired by OSL and are to be transferred to Council they are no longer required to be designated by Council for acquisition under Clause 5.1 of the LEP. It also proposed to identify Lot 22 DP 1150386 (currently owned by the trustee of former Prospect School of Arts) for acquisition by Council.

Lot 1 & 2 DP 456722 are currently in the possession of the 'Minister Administering the Environmental Planning and Assessment Act 1979' and managed by OSL. OSL confirmed on 15 November 2018 via email and phone (**Attachment E**) that the land will be transferred to Council. OSL have no objection to the land being used for the purposes of a cemetery.

Lot 3 DP 113481, Lot 12 & 13 DP 802753 are currently owned by Roads and Maritime Service (RMS). RMS confirmed on 12 November 2018 via email (**Attachment F**) that these lots will be transferred to OSL, who then intends to transfer the lots to Council.

Council is of the view that none of the above land parcels need to be identified on the Land Reservation Acquisition Map as these lots are already in public ownership and will therefore not be subject to the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*.

The Direction states that a planning proposal must not reduce the existing reservations of land for public purposes without the approval of the relevant public authority and the Secretary's delegate.

The RE1 Public Recreation land has never been used for public open space purposes because of its location, straddled between two major roads (M4 Motorway and Great Western Highway).

OSL confirmed that it is the acquisition authority for the RMS land as the land has been identified as a special use corridor. OSL also confirmed that the land transfer agreement to be entered into with Council will require that the land be used for public purpose and remains in Council ownership. The Department considers that the proposal ensure that the land will be used for a public purpose, that is a cemetery.



The Department considers that the planning proposal is consistent with this Direction. The rezoning of land to SP1 – Cemetery will facilitate efficient use of public land and the provision of public services and facilities, to meet future demand for interment services. Reduction of RE1 land at this location is considered justified.

It is recommended Council be advised that prior to exhibition of the planning proposal (page 17) be updated to reflect the ownership status of the two lots (Lots 1 & 2 DP456722).

### **State environmental planning policies**

The planning proposal is consistent with all relevant State Environmental Planning Policies.

## **SITE-SPECIFIC ASSESSMENT**

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### **Social**

The planning proposal seeks to facilitate the expansion of St Bartholomew's Cemetery which will be an important piece of public infrastructure that will be of a social benefit to the current and future community.

As previously stated, the land has never been used for public open space purpose. Whilst the proposal will reduce land zoned for public recreation, the rezoning of land to SP1 – Cemetery will facilitate efficient use of public land and the provision of public services and facilities.

The land is underutilised, and a cemetery is an appropriate use for the site. The proposal will enable much needed cemetery space for the region.

The community engagement process and the public hearing will also allow direct input from the community and may raise matters requiring further examination as the planning proposal evolves and progresses.

### **Environmental**

The Ecological Report (**Attachment A6**) notes that whilst majority of the site has been modified and cleared of vegetation, the site contains several areas of remnant native vegetation, including Cumberland Plain Woodland. Impacts to significant vegetation are likely to be able to be addressed at the development application stage, however consultation with OEH is recommended to ensure appropriate protection of vegetation at the planning proposal stage.

### **Economic**

The planning proposal outlines that cemetery expansion will increase the activity and economy of this part of Prospect.

### **Traffic and Transport**

The proposed expansion has the potential to create additional traffic impacts. A Traffic and Parking Study (**Attachment A4**) has been submitted which indicates that potential future traffic impacts are acceptable or can be mitigated.

It is recommended that Council consult with the Roads and Maritime Services and Transport for NSW in relation to the planning proposal.

### **Infrastructure**

Whilst the site has access to existing infrastructure and utilities, the expansion may increase the number of people accessing services in this area. As such, it is recommended that during the public exhibition stage, Council consults the relevant utility providers including Sydney Water.

## **CONSULTATION**

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### **Community**

The proposal includes the reclassification of land. No interest or trust on the land is proposed to be removed. In accordance with the Department's LEP Practice Note PN 16-001 Classification and reclassification of public land through a local environmental plan it is required to place the planning proposal on public exhibition for 28 days and a public hearing is also required.

A copy of the Department's Practice Note PN16-001 — is to be included in the public exhibition material, including the checklist submitted by the Council, as required.

### **Agencies**

The Department recommends that Council consulted the following State agencies in relation to the planning proposal:

- RMS,
- Office of Environment and Heritage,
- Heritage Council,
- OSL,
- Transport for NSW,
- Sydney Water, and
- relevant utility providers for phone, gas and electricity.

Should these agencies require any additional information, or specify any additional matters to be addressed, the proposal is to be updated to respond to the submission, a copy of which is to be included with the updated planning proposal.

## **TIME FRAME**

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Council proposes a timeframe of 9 months to finalise this planning proposal. Given the nature of the planning proposal, a 12-month timeframe is considered appropriate.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has not requested delegation of the plan making function be issued to it in relation to this planning proposal. Given that the planning proposal includes the reclassification of Council owned land, authorisation to exercise delegation cannot not be issued to Council.

## **CONCLUSION**

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The Department recommends that the planning proposal proceed with conditions, given that it will provide additional cemetery land that is needed within Sydney.

## **RECOMMENDATION**

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It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to:

- (a) amend Part 2 'Intended Outcomes' and Part 3 'Explanation of Provisions' of the planning proposal to be consistent with the Department's "A guide to preparing planning proposals"; and
  - (b) the information pertaining to two land parcels (Lots 1 & 2 DP456722) in the planning proposal is to be amended to reflect the current ownership situation.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
  - (b) the planning proposal 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 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the 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. Consultation is required with the following public authorities:
  - Roads and Maritime Services;
  - Office of Environment and Heritage;
  - Heritage Council;
  - Office of Strategic Lands;
  - Transport for NSW;
  - Sydney Water; and
  - relevant utility providers for phone, gas and electricity.
5. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
6. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



11/01/19

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16/01/2019

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