

PLANNING PROPOSAL 19

To amend Lane Cove Local Environmental Plan 2009 in accordance with NSW Dept of Planning and Environment guidelines to adjust the zone boundaries, floor space ratio and height of buildings and reclassify land at 302-314 Burns Bay Road, Lane Cove

INTRODUCTION

Background and Site Identification

Please see the list of Attachments at the rear of the planning proposal.

Note: Council recently compulsorily acquired 296 Burns Bay Road in order to realign the signalised intersection to the north, to improve access to properties in this area. The documents for this planning proposal refer to No 296, as it is integral to the planning for this precinct, but 296 is not the subject of any proposed changes to the LEP.

Proposed development on the subject site - a former disused bowling club (aerial photograph at **AT-1**) - has been endorsed under Lane Cove Council's *Major Projects Plan 2007-2016*, and subsequently confirmed in LEP 2009 and made the subject of Part C of *Lane Cove Development Control Plan 2010 - Locality 1 - Burns Bay Road.* The development of the subject site includes rezoning for residential flat buildings in an R4 zone, plus parkland, community centre and access roadway in an RE1 zone. For further detail, refer to the attached Report to Council (**AT-2** and **AT-3**).

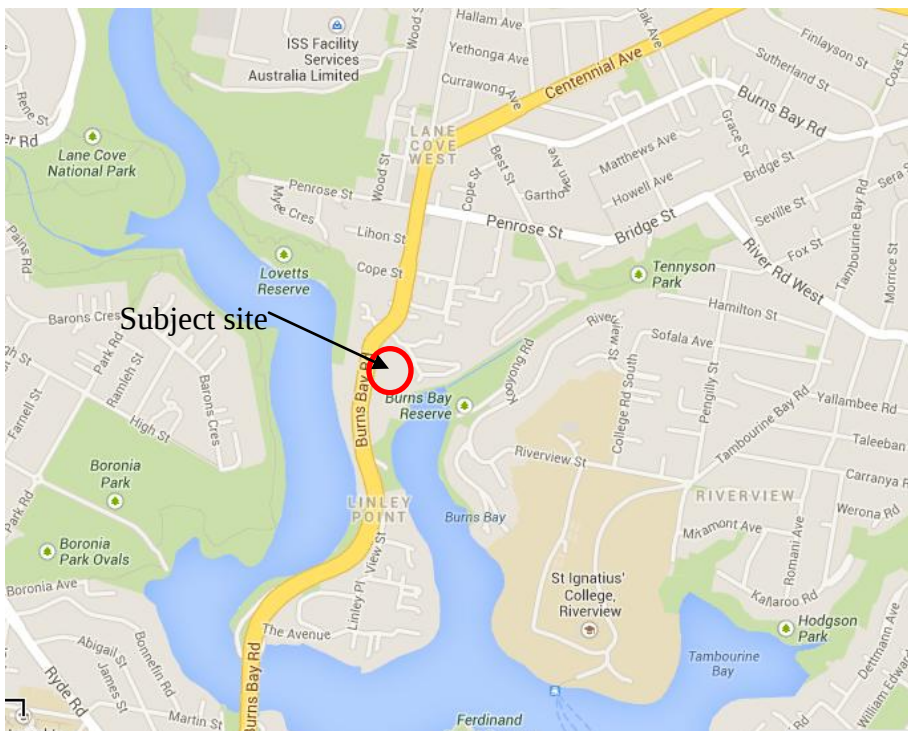


Figure 1: Site context



Figure 2: Site location

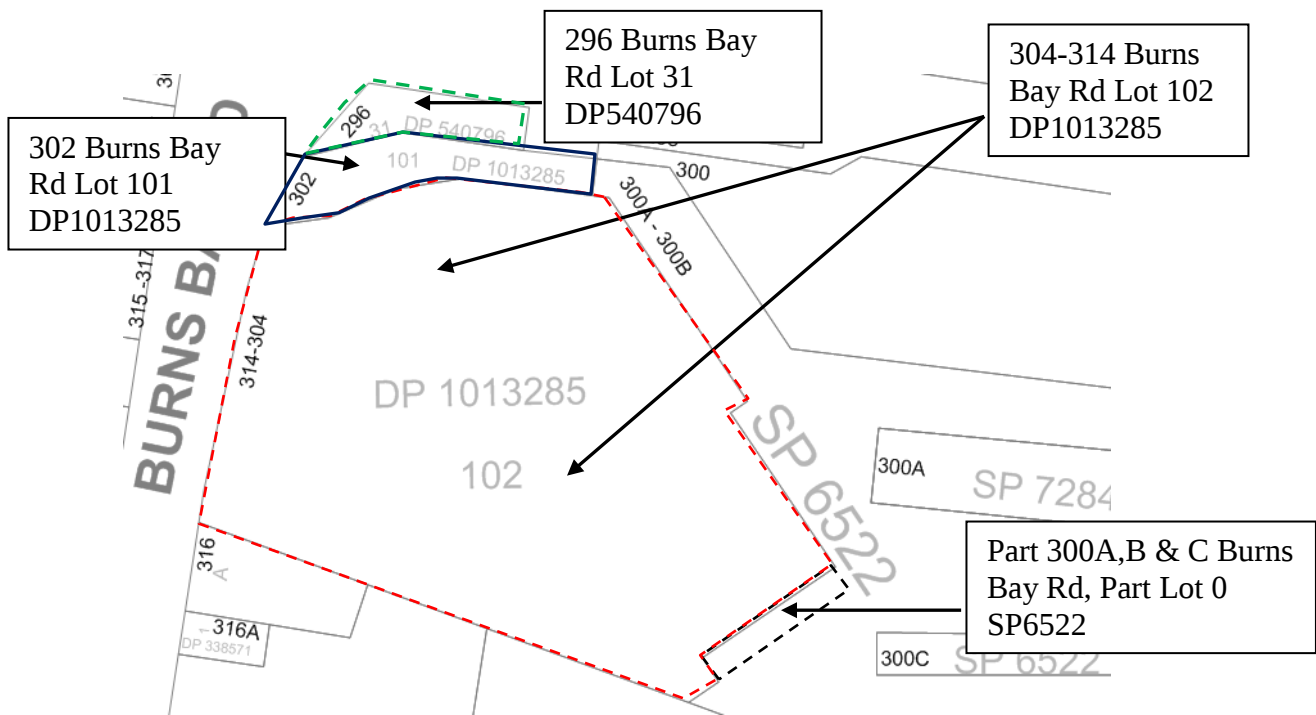


Figure 3: Current addresses for the site

The subject site comprises four lots or part lots. See *Figure 3* above:-

- 302 Burns Bay Road and
- 304-314 Burns Bay Road – are both owned by Lane Cove Council and are the site of a former bowling club.
- Part of Lot 300A, B & C Burns Bay (SP 6522), at the south-eastern corner, which will be dedicated to Lane Cove Council in the near future, in return for car parking rights at the new park kerb.
- Immediately adjacent to the site of this planning proposal, land at 296 Burns Bay Rd, a light industrial property, has been compulsorily acquired under the *Land Acquisition*

(*Just Terms Compensation*) Act 1991 by Council to improve the exit from Burns Bay Road, as of 21 November – refer **AT-4** and **AT-5**. The land was classified as operational by resolution of Council. See Note on page 1.

The planning proposal site is currently zoned a mix of Public Open Space RE1 and High Density Residential R4, under *Lane Cove Local Environmental Plan 2009* (LEP 2009). See **AT-6** (Current Zoning). The site is currently classified a mix of community land and operational land. See **AT-12** (Current Classification).

Steps taken to date:-

- a) The *Major Projects Strategic Management Plan 2007 – 2016* identifies the site of a disused bowling club for development;
- b) LEP 2009, based on consultation, rezones the western area to R4 from RE1, and as a result of a public hearing in 2008 reclassifies this land to operational from community;
- c) Property acquisitions affecting 296, 300 and 300A,B&C Burns Bay Road are identified as necessary to improve the public road alignment and capacity to meet future traffic generation demand;
- d) Arrangements are agreed with the Body Corporate of SP 6522 relating to road dedication, access, parking and land transfers;
- e) A new road is constructed across 296-314 Burns Bay Road (originally notionally drawn to follow a contour line across Lot 102) as a condition of consent for adjacent southern development;
- f) Redevelopment of the park to the east of the new access road begins, including a community centre beneath part of the new road; and
- g) Imminent closure of surplus public road on 302 Burns Bay Road is proposed.

Reason for the LEP amendments:

When the *Major Projects Plan* was prepared in 2007, and the DCP for this locality in 2009, a road crossing 304-314 Burns Bay Road was intended. This road was required under the Deed of Agreement between Council and the adjacent development to the south at 316-332 Burns Bay Road (**AT-14**). However, the location of the road was *indicative only*. In terms of zoning, it was always the intent that the new road would include and define the western extent of the RE1 zoned land (see Figure 6). In 2014, the new road was constructed across part of 302 and 304-314 Burns Bay Road (in yellow highlight in Figure 4 below) and named Waterview Drive. The impact of construction of the road is that its location is more directly north-south than the notional location originally following the contour. This therefore effectively moves the boundaries for the zoning and classification maps. Compare maps **AT-6** with **AT-7**, and **AT-12** with **AT-13**. These changes are the purpose of this amendment.

Also, a community centre is being constructed beneath part of the new road within a depression in the land. See Figure 4 below and Subdivision Plan (**AT-16**). It is proposed in future to create a new strata lot beneath the roadway to define the location of the community centre. This is made possible by the realignment of the road from the original (contour-driven) road alignment. The community centre is being zoned RE1, and classified Operational to better allow for long-term leases within the community centre.



Figure 4: Constructed road (yellow) across Nos. 302 & 304-14

In addition, as part of an agreement with SP 6522 (300A, B and C Burns Bay Rd), a section of their property along the south-eastern boundary of the Park as set out as “Area 5” in **AT-15** (Changed Areas) is to be dedicated to Council and integrated into the park, in return for access to parking along the eastern edge of the new park. Following transfer to Council it is intended that the land be allowed to default to community land under S31 of the *Local Government Act*. This planning proposal seeks to rezone this land from R4 to RE1.

Note that additional road work is proposed also to cross 296 and 302 Burns Bay Road, which is not the subject of this amendment. Originally, 302 Burns Bay Road was classified operational for future road. This use was never realised, and now the intention is only to use a small (eastern) part of the Lot as road.



Figure 5: Construction of Waterview Drive (image: Google Maps, April 2014)

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The following amendments are supported by Council Resolution 96 from Ordinary Meeting of Council dated 19 May, 2014 (**AT-2 & AT-3**). The purpose of these amendments is to facilitate the orderly redevelopment of a disused bowling club as residential flat buildings, public park, community centre and roadway/parking.

In detail, the purpose of this Planning Proposal is to amend the Lane Cove Local Environmental Plan 2009 (LEP 2009) as follows:

1. The zone boundary between the R4 High Density Residential and RE1 Public Recreation zones on part of 302 & 304-314 Burns Bay Road is moved to align with the western boundary of the newly constructed road across the subject site, as was the original intent. See Figure 6.
2. The classification boundary between Operational and Community land is moved:
 - a. To include the new road in operational land; and
 - b. To align with the new road as constructed. See Figure 7.

The road was always intended to be classified operational (as described in Schedule 4 Part 2 of the LEP2009). This planning proposal adjusts the boundary to the newly constructed road by comparison with the notional boundary established previously.

3. As part of the development, a small rectangle of land within 300A, B and C Burns Bay Rd along the eastern boundary of the Park (shown as “Area 5” in **AT-15**) is to be dedicated to Council in return for parking rights uphill. This dedication is imminent. It is intended to become part of the park and therefore should be re-zoned from R4 High Density Residential to RE1 Public Recreation, and will by default be classified as Community land.

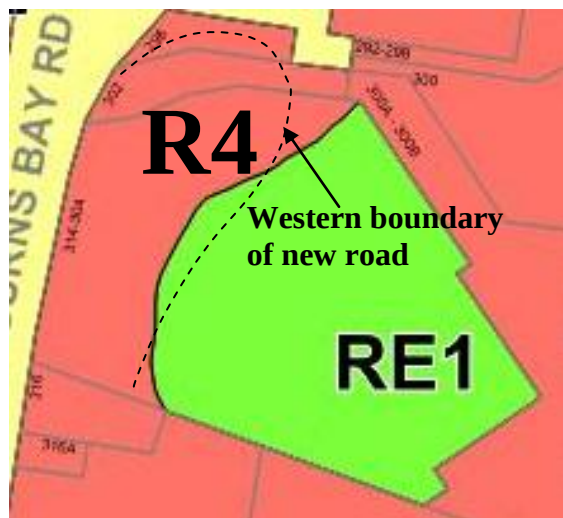
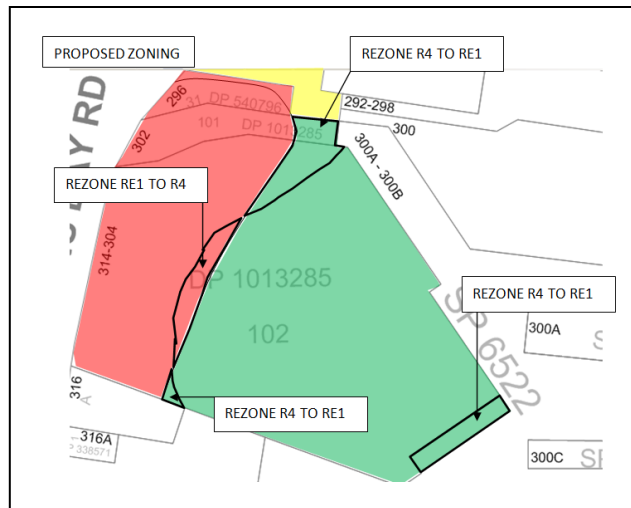


Figure 6: Zoning current (AT-6)



and proposed (AT-7)

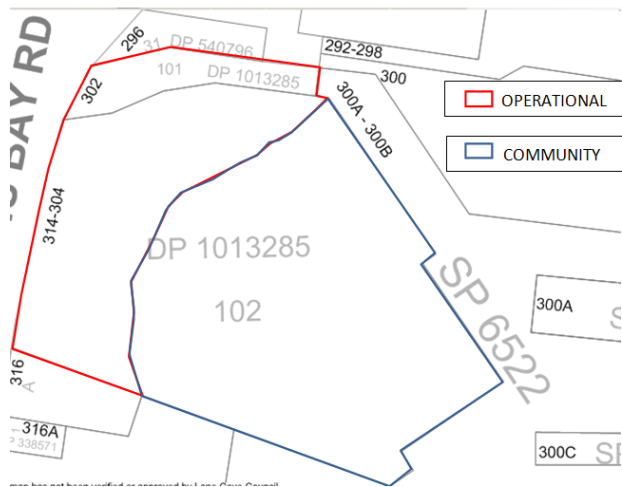
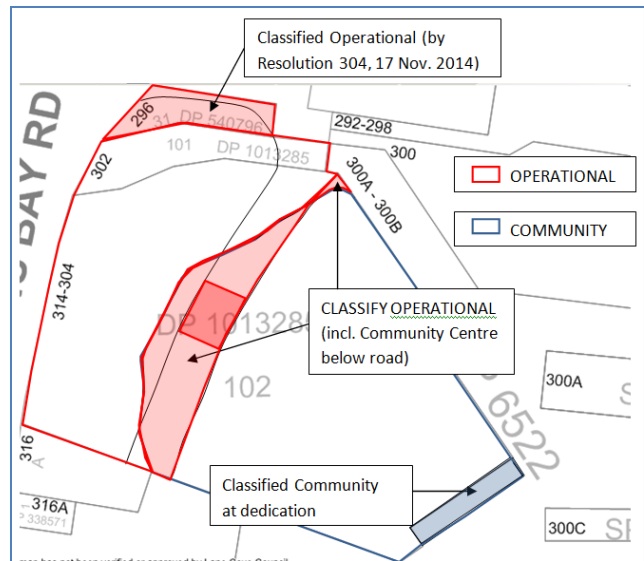


Figure 7: Situation as at LEP 2009



and changes proposed from 2010.

NOTE: The relocated boundary for Zoning Map would also apply to the FSR and Height of Building Maps.

PART 2 – EXPLANATION OF THE PROVISIONS

Mapping:

- Land Zoning maps - LZN_001 (010_20130521) and LZN_002 (010_20130612):
 - Redefine the boundary, as shown in **AT-7**, between the R4 High Density Residential and RE1 Public Recreation zones on 302 & 304-314 Burns Bay Road to be consistent with the western boundary of the newly constructed road across these lands.
 - Rezone the small rectangular section of 300C Burns Bay Rd along the south-eastern boundary of the Park (shown as “Area 5” in **AT-15**) from R4 High Density Residential to RE1 Public Recreation. This is to be dedicated to Council in the near future.
- FSR maps - FSR_001 (010_20140408) and FSR_002 (010_20140408):
 - Redefine the boundary, as shown in **AT-9**, between the FSR coloured pink and labelled “T1” and the blank areas on 302 & 304-314 Burns Bay Road.
 - For the section of 300C Burns Bay Rd along the south-eastern boundary of the Park (shown as “Area 5” in **AT-15**), remove the green coloured rectangle labelled “J”.
- Height-of-Building maps - HOB_001 (010_20121205) and LZN_002 (010_20121113):
 - Redefine the boundary, as shown in **AT-11**, between the HOB coloured pink and labelled “T” and the blank areas on 302 & 304-314 Burns Bay Road.
 - For the section of 300C Burns Bay Rd along the south-eastern boundary of the Park (shown as “Area 5” in **AT-15**), remove the lime-green coloured rectangle labelled “M”.
- Land Reclassification (Part Lots) maps – RPL_001 and RPL_002:

- Redefine the boundary between the operational and community land on 304-314 Burns Bay Road to be consistent with drawing **AT-13**.
- Classify, by default, the small rectangle of land to be dedicated within 300C Burns Bay Rd (SP6522) along the eastern boundary of the Park)shown as “Area 5” in **AT-15**) to *Community land*.

Note: That part of 302 Burns Bay Road (Lot 101//DP1013285) that does not contain the new road was classified as operational land in 1999 when first considered for future road. This is reiterated in Council meeting 13 October 2014 (see **AT-17** and **AT-18**).

Note: Land at 296 Burns Bay Rd (Lot 31 DP540796) that has been compulsorily acquired under the Land Acquisition (Just Terms Compensation) Act 1991 by Council (as of 21 November, 2014) was classified as operational land by resolution 304 of Council, dated 17 November, 2014 (see **AT-4** and **AT-5**).

The figure below is an illustration of Schedule 4 Part 2 under the current LEP 2009.

Lane Cove Local Environmental Plan 2009		
Current version for 15 August 2014 to date (accessed 17 December 2014 at 16:55)		
Schedule 4		
Schedule 4 Classification and reclassification of public land		
Part 2 Land classified, or reclassified, as operational land—interests changed		
Column 1 Locality	Column 2 Description	Column 3 Any trusts etc not discharged
304–314 Burns Bay Road, Lane Cove West	Part Lot 102, DP 1013285, being the part indicated as zoned R4 High Density Residential on the Land Zoning Map , Sheets LZN_001 and LZN_002	F371160 Easement for transmission line J12158 Easement for drainage DP 1013285 Easement for encroachment and support
89A Centennial Avenue and Hallam Avenue, Lane Cove West	Lot 114, DP 9653	Nil
Land east of 29A Fleming Street, Northwood	Lot 9, DP 253441	Nil

Figure 8: LCLEP 2009 Schedule 4 Part 2

Schedule 4 of Lane Cove LEP 2009:-

Replace the above with the following:-

Schedule 4 Classification and reclassification of public land (Clause 5.2)

Part 1 Land classified, or reclassified, as operational land-no interests changed

**Column 1
Locality**

**Column 2
Description**

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
304–314 Burns Bay Road, Lane Cove [Waterview Drive and R4 land]	Part Lot102, DP 1013285, being the part indicated as west of the eastern boundary of Waterview Drive on the Land Reclassification (Part Lots) Map , Sheets RPL_001 and RPL_002	*F371160 Easement for transmission line.

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description
Part of 300C Burns Bay Road	Part Lot 0//SP6522 (rectangle at south-east corner of Lot102, DP 1013285)

Note: 296 Burns Bay Road, Lane Cove (Lot 31, DP 540796) is acquired by resolution of Council on 21 November and classified as operational under clauses 30 and 31 of the *Local Government Act*. Under Clause 20 of the *Land Acquisition (Just Terms Compensation) Act 1991*, the land is, “freed and discharged from all estates, interests, trusts, restrictions, dedications, reservations, easements, rights, charges, rates and contracts in, over or in connection with the land.” These interests are described in Schedule 2 of the relevant Government Gazette (see **AT-5**).

Note: the “Easement for encroachment and support” on 304-314 Burns Bay Road is to be removed as part of car park works.

In summary:

Area	EPA	LGA
West of new road (residential)	R4	Operational
Road	RE1	Operational
East of new road (park, including newly dedicated land)	RE1	Community

PART 3 – JUSTIFICATION

Section A – Need for the planning proposal

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

The changes subject to this Planning Proposal reflect the objectives of the *Lane Cove Major Projects Plan 2007-2016*. It is considered that the proposed changes are partly administrative rather than policy changes, and have the following benefits:

- The redrawing of the RE1/R4 zone boundary will result in approximately equal areas of land transferred between RE1 and R4. **AT-15** shows a correction of an originally

indicative boundary line, with a slight increase in RE1 land (347sqm become R4 and 587sqm become RE1);

- In Schedule 4, Part 2 of the current LEP 2009, the proposed new road is indicatively included in the R4 zoned land, and by implication is operational land, as shown by the indicative RE1/R4 boundary.
- The reclassification of part of the new road from community to operational (as shown in red highlight in **AT-13**) is required to adjust the reclassification map to be consistent with the final location of the road. Furthermore, this permits the constructed road to be dedicated as public road under Section 47.F of the *Local government Act 1993*;
- The dedication to Council of a section of SP6522 property along the south-eastern boundary of the Park (shown as “Area 5” in **AT-15**) will by default be classified as Community Land under S31 of the *Local Government Act*, upon registration of the subdivision. The rezoning from R4 to RE1 is consistent with its use as a public park.

Please refer to the Council report of 19 May, 2014 attached at **AT-2** and **AT-3** for details.

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

The objectives seek to align the zoning and classification of the land with the development endorsed in consultation with the community in 2007-2008, together with the agreement for dedication of part of SP6522 land as public park. These have been extensively consulted upon, both for that Plan and for the Lane Cove LEP 2009, and gazetted.

Therefore, the Planning Proposal is appropriate to facilitate previously approved works.

Section B – Relationship to strategic planning framework.

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

As an administrative amendment in support of previously approved works, the Planning Proposal is not relevant to this section.

4. Is the planning proposal consistent with the local council’s Community Strategic Plan, or other local strategic plan?

As an administrative amendment in support of previously approved works, the Planning Proposal is not relevant to this section.

5. Is the planning proposal consistent with applicable state environmental planning policies?

As an administrative amendment in support of previously approved works, the Planning Proposal is not relevant to this section.

6. Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

As an administrative amendment in support of previously approved works, the Planning Proposal is not relevant to this section.

Section C – Environmental, social and economic impact.

7. 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?

As an administrative amendment in support of previously approved works, the Planning Proposal is not relevant to this section.

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

As an administrative amendment in support of previously approved works, the Planning Proposal is not relevant to this section.

9. How has the planning proposal adequately addressed any social and economic effects?

As an administrative amendment in support of previously approved works, the Planning Proposal is not relevant to this section.

Section D – State and Commonwealth interests.

10. Is there adequate public infrastructure for the planning proposal?

As an administrative amendment in support of previously approved works, the Planning Proposal is not relevant to this section.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

As an administrative amendment in support of previously approved works, the Planning Proposal is not generally relevant to this section. The NSW Office of Local Government would, however, be consulted at exhibition. The Department of Planning and Environment would be requested to advise the Governor prior to finalisation of the LEP amendment relating to Council land.

PART 4 – MAPPING

A Site Identification map (**AT-1**), as well as current and proposed Land Zoning, FSR and HOB maps and Classification maps are attached to this Planning Proposal in Attachments **AT-6** to **AT-13**.

PART 5 – COMMUNITY CONSULTATION

This is dependent on the Department's advice. With regards to the rezoning amendments, Council's Consultation Policy provides for a six-week exhibition period. Secondly, with

regards to the reclassification, because some of the indicative community land will be reclassified as operational, Council must arrange a public hearing under section 57 of the *Environmental Planning and Assessment Act 1979* in respect of a planning proposal under Part 3 of that Act to reclassify community land as operational land. This will be complied with.

PART 6 – PROJECT TIMELINE

Stage	Completion Date
Commencement date of Gateway	April 2015
Completion of required technical information	April 2015
Commencement/ and completion dates for public exhibition	April 2015-May 2015
Consideration of submissions	May-June 2015
Dates for public hearing	May 2015
Consideration of a proposal post exhibition	June 2015
Date of submission to the Department to finalise the LEP	June 2015
Anticipated date RPA will make the plan (if delegated)	N.A.
Anticipated date RPA will forward to the Department for notification	Late June 2015

Attachments

Attachment AT-1: Site Identification Aerial Map
Attachment AT-2: Report to Council, Ordinary Council Meeting, 19 May, 2014
Attachment AT-3: Minutes of 19 May, 2014
Attachment AT-4: Resolution 304, dated 17 November 2014
Attachment AT-5: Government Gazette 47 re. 296 Burns Bay Rd
Attachment AT-6: Current Land Zoning Map
Attachment AT-7: Proposed Land Zoning Map
Attachment AT-8: Current FSR Map [Harvey]
Attachment AT-9: Proposed FSR Map [Harvey]
Attachment AT-10: Current Height of Building Map [Harvey]

Attachment AT-11: Proposed Height of Building Map [Harvey]
Attachment AT-12: Current (indicative) Classification Map
Attachment AT-13: Proposed Reclassification (Part Lots) Map
Attachment AT-14: Deed of Agreement with Tuta Properties
Attachment AT-15: Changed areas in sqm
Attachment AT-16: Subdivision Plan
Attachment AT-17: Reports to Council, 13 October, 2014
Attachment AT-18: Minutes of 13 October, 2014
Attachment AT-19: Information Checklist
Attachment AT-20: Evaluation Criteria for the Delegation of Plan Making Function ["Attachment 4"]
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