
Minutes of the Council Meeting 3 May 2023

PRESENT

Councillors

Lisa Lake (Mayor)	Councillor
Suman Saha (Deputy Mayor)	Councillor
Steve Christou	Councillor
Diane Colman	Councillor
Greg Cummings	Councillor
Glenn Elmore	Councillor
Sabrin Farooqui	Councillor
Paul Garrard	Councillor
Ola Hamed	Councillor
Kun Huang	Councillor (arrived 6:34pm)
Helen Hughes	Councillor
Mohamad Hussein	Councillor
Joseph Rahme	Councillor
Michael Zaiter	Councillor

Officers

Peter Fitzgerald	General Manager
Melissa Attia	Director Corporate Performance (Deputy General Manager)
Daniel Cavallo	Director Environment & Planning
Brendan Govers	Director City Services
Nicole Byrn	Director Community & Culture
Charlie Ayoub	Director Governance & Risk
Colin McFadzean	General Counsel
Carol Karaki	Manager Governance
Bianca Mourched	Governance Officer

The Mayor, Councillor Lake declared the meeting open at 6:30pm.

Opening Prayer

The opening prayer was read by Rev. Meredith Williams from Wentworthville Uniting Church.

Acknowledgement of Country

The Mayor, Councillor Lake read the following Acknowledgement of Country:

"I would like to acknowledge the traditional owners of this land – the Darug People, and pay my respects to their elders past, present and emerging."

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2. Adjust the Draft budget accordingly.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Colman, Cummings, Elmore, Farooqui, Hamed, Huang, Hussein, Lake, Saha and Zaiter.

Councillor(s) Against the Motion: Christou, Garrard, Hughes and Rahme.

During the consideration of this item, Councillor Christou raised a Point of Order, citing an alleged breach of Clauses 15.11(a) and 15.11(e) of the *Code of Meeting Practice*, alleging that Councillor Elmore was being disorderly during the meeting. The Mayor, Councillor Lake did not uphold the Point of Order, however requested that Councillor Elmore remain silent unless he is speaking in debate.

During the Right of Reply speech, Councillor Garrard raised a Point of Order, alleging that Councillor Saha was introducing new information that was not raised in debate on the Motion. The Mayor, Councillor Lake did not uphold the Point of Order, and clarified that Councillor Saha was providing examples to make his point.

Councillor Rahme returned to the Meeting at 7:09pm during the consideration of this item.

Councillor Rahme left the Meeting at 7:12pm and returned to the Meeting at 7:16pm during the consideration of this item.

Min. 422 C05/23-297 2- 10 Victoria Street East, Lidcombe Planning Proposal Request

Motion (Elmore/Huang)

That Council:

1. Endorse a planning proposal for Lot 1 DP 1161392 (council owned stormwater infrastructure), 2 -10 Victoria Street East, Lidcombe that seeks to amend the Cumberland Local Environmental Plan 2021 to:
 - a) Reclassify Lot 1 DP 1161392), 2 -10 Victoria Street East (council owned stormwater infrastructure), Lidcombe from 'community' to 'operational' land under the Local Government Act, 1993 and
 - b) Amend Part 1 of Schedule 4 of Cumberland LEP 2021 to identify Lot 1 DP 1161392 as 'operational' land.
2. Endorse that the planning proposal be forwarded to the Department of Planning and Environment for a Gateway Determination.
3. Note that, subject of a receipt of a Gateway Determination by the Department of Planning and Environment, the planning proposal be exhibited and a public hearing be conducted (by an independent planning consultant) appointed by Council.

4. Following public exhibition of the proposal (post Gateway Determination) and after carrying out a public hearing for the proposal, Council report back the community consultation and hearing outcomes received for Council's final endorsement of the planning proposal, prior to progressing the proposal to plan making stage as per delegations issued by the Gateway Determination.
5. Note that the proposal does not involve any change of zoning or other planning controls applicable to the land under Cumberland LEP 2021.

Amendment (Cummings/Christou)

That points 1-5 be replaced with the following:

That the consideration of the proposal be deferred pending the receipt of flooding information on this proposal.

The Amendment on being Put was declared **LOST**.

Councillor(s) For the Amendment: Christou, Cummings, Garrard, Hughes and Rahme.

Councillor(s) Against the Amendment: Colman, Elmore, Farooqui, Hamed, Huang, Hussein, Lake, Saha and Zaiter.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Colman, Elmore, Farooqui, Hamed, Huang, Hussein, Lake, Saha and Zaiter.

Councillor(s) Against the Motion: Christou, Cummings, Garrard, Hughes and Rahme.

During the consideration of this item, Councillor Garrard cited Clause 10.23 of the *Code of Meeting Practice*, claiming that Councillor Huang had misrepresented him. The Mayor, Councillor Lake advised that Councillor Garrard could make his clarification after Councillor Huang finished his speech.

During the consideration of this item, Councillor Huang raised a Point of Order, citing an alleged breach of Clause 15.11(d) of the *Code of Meeting Practice*, alleging that Councillor Garrard had made an insulting remark. The Mayor, Councillor Lake requested that Councillor Garrard refrain from making accusations against other Councillors.

Min. 423 C05/23-298 Voluntary Planning Agreement – 1A and 1B Queen Street, Auburn

Motion (Christou/Elmore)

That Council:

1. Prepare and exhibit for 28 days a draft amended voluntary planning agreement and explanatory note for 1A and 1B Queen Street, Auburn, extending the timeframe for land dedication and intersection works till 4 October 2026 and permit

subdivision of Road Land as required in Schedule 4 of the VPA prior to the land being dedicated to Council.

2. Delegate authority to the Mayor and General Manager to execute the amended planning agreement on behalf of Council for 1A and 1B Queen Street, Auburn, subject to no significant objections on the draft agreement arising from exhibition.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Christou, Colman, Cummings, Elmore, Farooqui, Garrard, Hamed, Huang, Hughes, Lake, Saha and Zaiter.

Councillor(s) Against the Motion: Nil.

Councillor Hussein left the Meeting at 8:20pm during the consideration of this item.

Councillor Rahme left the Meeting at 8:20pm during the consideration of this item and did not return.

Min. 424 C05/23-299 Draft Pendle Hill Town Centre Public Domain Plan

Motion (Saha/Zaiter)

That Council place the Draft Pendle Hill Town Centre Public Domain Plan on public exhibition for a period of 28 days, with a report back to Council.

The Motion on being Put was declared **CARRIED** Unanimously.

Councillor(s) For the Motion: Christou, Colman, Cummings, Elmore, Farooqui, Garrard, Hamed, Huang, Hughes, Hussein, Lake, Saha and Zaiter.

Councillor(s) Against the Motion: Nil.

Councillor Christou left the Meeting at 8:22pm and returned to the Meeting at 8:24pm during the consideration of this item.

Councillor Farooqui left the Meeting at 8:24pm and returned to the Meeting at 8:26pm during the consideration of this item.

Councillor Hussein returned to the Meeting at 8:24pm during the consideration of this item.

Min. 425 C05/23-300 Notice of Motion - Pavement Turning Arrows on Botanica Drive, Lidcombe**Motion (Huang/Farooqui)**

That Council:

1. Due to considerable resident feedback regarding the intersection of Botanica Drive and Joseph Street Lidcombe and given this is a signalised intersection under the authority of Transport for NSW, that Council write to the office of Ms Lynda Voltz MP to make representation to the NSW State Government for pavement turning arrows to be marked on Botanica Drive as follows:
 - The left lane on Botanica Drive, Lidcombe to be painted to turn left only onto Joseph Street, Lidcombe. (According to the current road rule)
 - The right lane on Botanica Drive, Lidcombe to be painted to turn right only onto Joseph Street, Lidcombe. (According to the current road rule)
2. Subject to support by the state agency, Council bears the associated costs within the adopted Capital Works budget; and
3. Notify the adjoining residents prior to the pavement arrows being marked.

The Motion on being Put was declared **CARRIED** Unanimously.

Councillor(s) For the Motion: Christou, Colman, Elmore, Farooqui, Garrard, Hamed, Huang, Hughes, Lake, Saha and Zaiter.

Councillor(s) Against the Motion: Nil.

During the consideration of this item, Councillor Christou raised a Point of Order, citing an alleged breach of Clause 15.11(d) of the *Code of Meeting Practice*, alleging that Councillor Farooqui had made an insulting comment. The Mayor, Councillor Lake requested that Councillor Farooqui withdraw her comment. Councillor Farooqui withdrew her comment.

During the consideration of this item, Councillor Christou raised a Point of Order, citing an alleged breach of Clauses 15.11(d) and 15.11 (e) of the *Code of Meeting Practice*, alleging that Councillor Elmore had made an insulting comment toward another Councillor. The Mayor, Councillor Lake did not uphold the Point of Order.

Councillor Saha left the Meeting at 8:52pm and returned to the Meeting at 8:54pm during the consideration of this item.

Councillor Cummings left the Meeting at 8:52pm during the consideration of this item.

Councillor Hussein left the Meeting at 8:57pm during the consideration of this item.

Min. 426 C05/23-301 Notice of Motion - Swete Street Reserve Upgrade**Motion (Huang/Farooqui)**

That Council:

1. Investigate the feasibility of closing the section of Platform street from Swete Street and Rawson Street Lidcombe to consolidate Swete Street Park and the open space areas adjacent;
2. Undertake necessary consultation with the local community;
3. Look at options to improve the flow of traffic in the local area; and
4. Identify funding options to facilitate the design and construction of the upgraded Swete Street Park.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Colman, Cummings, Elmore, Farooqui, Hamed, Huang, Hussein, Lake, Saha and Zaiter.

Councillor(s) Against the Motion: Christou, Garrard and Hughes.

Councillor Hussein returned to the Meeting at 9:01pm during the consideration of this item.

Councillor Cummings returned to the Meeting at 9:08pm during the consideration of this item.

Min. 427 C05/23-302 Notice of Motion - Public Safety**Motion (Christou/Garrard)**

In light of the recent tragic events that have occurred and the need to always improve the public safety of our community:

That Council be provided with a report regarding the following:

1. The current availability of CCTV and public lighting in the Merrylands CBD;
2. Opportunities to improve the safety of women in the Merrylands CBD and across Cumberland;
3. If the report recommends upgrade improvements, identify a funding source; and
4. Opportunities to continue to partner with state government agencies to ensure the safe passage of our community through the areas of Clarence Street, Munal Reserve and Stocklands Merrylands.

The Motion on being Put was declared **CARRIED**.

Councillor(s) For the Motion: Christou, Cummings, Elmore, Farooqui, Garrard, Huang, Hughes, Lake, Saha and Zaiter.

Councillor(s) Against the Motion: Hussein.

Councillor Colman left the Meeting at 9:19pm during the consideration of this item.

Councillor Hamed left the Meeting at 9:20pm during the consideration of this item.

Min. 428 C05/23-303 Notice of Motion - Library Services

Motion (Farooqui/Huang)

That Council:

1. Investigate the option of placing book vending machines in appropriate community spaces across the LGA that currently do not have a library service.
2. Refer this option to the Library Committee meeting on Monday 15 May 2023 for further consideration and with a recommendation to be brought back to Council.

The Motion on being Put was declared **CARRIED** Unanimously.

Councillor(s) For the Motion: Christou, Colman, Cummings, Elmore, Farooqui, Garrard, Hamed, Huang, Hughes, Hussein, Lake, Saha and Zaiter.

Councillor(s) Against the Motion: Nil.

During the consideration of this item, Councillor Christou raised a Point of Order, citing an alleged breach of Clause 15.11 (e) of the *Code of Meeting Practice*, alleging that Councillor Hughes was not being correctly referenced by her name in the speech of Councillor Huang. The Mayor, Councillor Lake did not uphold the Point of Order, and requested that all Councillors have an inclusive and respectful tone at all times during the meeting. Councillor Huang apologised to Councillor Hughes if she was offended by his prior references to her in the third person.

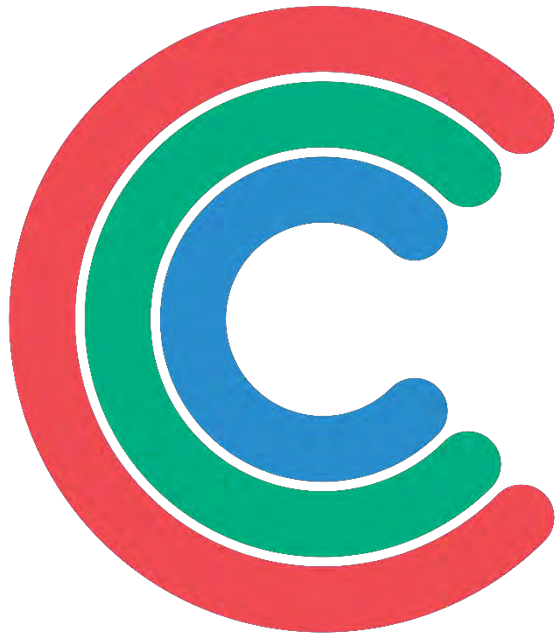
During the consideration of this item, Councillor Elmore raised a Point of Order, citing an alleged breach of Clause 15.11 (d) of the *Code of Meeting Practice*, alleging that Councillor Christou had made an insulting remark. The Mayor, Councillor Lake did not uphold the Point of Order.

Councillor Colman returned to the Meeting at 9:35pm during the consideration of this item.

Councillor Hamed returned to the Meeting at 9:39pm during the consideration of this item.

The Mayor, Councillor Lake closed the meeting at 9:55pm.

Chairperson _____ General Manager _____



CUMBERLAND CITY COUNCIL

Council Meeting

Wednesday, 3 May 2023 at 6:30pm

Cumberland City Council Chambers
Merrylands Service Centre, 16 Memorial Avenue, Merrylands

ORDER OF BUSINESS

All Council Meetings are livestreamed via Council's website. An audio/visual recording of the meeting is published following the meeting. Recordings remain on Council's website for a period of 12 months and are archived following this.

- 1 Opening of Meeting**
- 2 Opening Prayer / Acknowledgement of Country / National Anthem**
- 3 Apologies / Requests for Leave of Absence/ Requests for Attendance by Audio-Visual Link**
- 4 Confirmation of Previous Minutes**
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- 5 Disclosures of Interest**
- 6 Mayoral Minutes**
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Item No: C05/23-297

2- 10 VICTORIA STREET EAST, LIDCOMBE PLANNING PROPOSAL REQUEST

Directorate: Environment and Planning
Responsible Officer: Director Environment & Planning
File Number: PP2022/0001
Community Strategic Plan Goal: *Enhancing the Natural and Built Environment*

SUMMARY

The Planning Proposal Request seeks to amend the Cumberland Local Environmental Plan 2021 (Cumberland LEP 2021) to reclassify Lot 1 DP 1161392 from 'community' land to 'operational' land to enable its lease, sale and/or further development in conjunction with the adjoining land (Lot C DP 384900). The proposal does not involve any change of zoning or other planning controls applicable to the land under Cumberland LEP 2021. The reclassification will be effective by the amendment of Part 1, Schedule 4 of Cumberland LEP 2021 to identify Lot 1, DP1161392 as 'operational' land.

Cumberland City Council is the registered proprietor of the land. This report has been prepared by GLN Planning Pty Ltd as an independent assessment of the Applicant initiated Planning Proposal request as Council has a conflict of interest as landowner to assess this planning proposal.

The proposal was placed on early consultation in March 2022 and reported to the Cumberland Local Planning Panel on 14 December 2022. The Panel supported the recommendation of the independent assessment by GLN Planning to proceed to a Gateway Determination. As the matter relates to Council owned land, the proposal was considered by Council's Property Committee in February 2023.

It is recommended that Council endorse the planning proposal request and that this be forwarded to the Department of Planning Environment for a Gateway Determination.

RECOMMENDATION

That Council:

- 1. Endorse a planning proposal for Lot 1 DP 1161392 (council owned stormwater infrastructure), 2 -10 Victoria Street East, Lidcombe that seeks to amend the Cumberland Local Environmental Plan 2021 to:**
 - a) Reclassify Lot 1 DP 1161392), 2 -10 Victoria Street East (council owned stormwater infrastructure), Lidcombe from 'community' to 'operational' land under the Local Government Act, 1993 and**
 - b) Amend Part 1 of Schedule 4 of Cumberland LEP 2021 to identify Lot 1 DP 1161392 as 'operational' land.**

2. **Endorse that the planning proposal be forwarded to the Department of Planning and Environment for a Gateway Determination.**
3. **Note that, subject of a receipt of a Gateway Determination by the Department of Planning and Environment, the planning proposal be exhibited and a public hearing be conducted (by an independent planning consultant) appointed by Council.**
4. **Following public exhibition of the proposal (post Gateway Determination) and after carrying out a public hearing for the proposal, Council report back the community consultation and hearing outcomes received for Council's final endorsement of the planning proposal, prior to progressing the proposal to plan making stage as per delegations issued by the Gateway Determination.**

REPORT

The purpose of this report is to provide an overview of a revised Planning Proposal Request lodged with Council in late July 2022 and updated with minor additional information in August and September 2022 seeking reclassification of a strip of Cumberland City Council owned land traversing 2-10 Victoria Street East, Lidcombe (the Site) and surrounds. The additional information was requested to meet with Department of Planning and Environment's LEP practice note requirements for the reclassification of public land.

The Planning Proposal Request seeks to amend the Cumberland Local Environmental Plan 2021 (Cumberland LEP 2021) to reclassify Lot 1 DP 1161392 from 'community' land to 'operational' land to enable its sale and further development in conjunction with the adjoining land (Lot C DP 384900). The proposal does not involve any change of zoning or other planning controls applicable to the land under Cumberland LEP 2021. The reclassification will be effective by the amendment of Part 1, Schedule 4 of Cumberland LEP 2021 to identify Lot 1, DP1161392 as 'operational' land.

Cumberland City Council is the registered proprietor of the land. This report has been prepared by GLN Planning Pty Ltd as an independent assessment of the Applicant initiated Planning Proposal request as Council has a conflict of interest as landowner to assess this planning proposal.

The status of the Planning Proposal request is shown in Figure 1. This report recommends that the proposal is supported for the purposes of a Gateway Determination and be reported to a Council meeting for endorsement.



Figure 1 – Status of Planning Proposal Request

The Site and its Context

The Planning Proposal Request relates to Lot 1, DP 1161392 (as shown in Figure 2) which traverses Lot C DP 384900 (2-10 Victoria Street East, Lidcombe) and Lot 1 DP 135368 (49 East Street, Lidcombe).

Lot 1 DP 1161392 is used for drainage purposes and comprises a narrow strip of land (outlined in red in Figure 2) approximately 5 metres wide passing through 2-10 Victoria Street East and 49 East Street. The legal description of the land is Lot 1 DP 1161392 and it has an area of 727.2m² (refer to attachment 4 to view the Deposited Plan). The land is owned by Cumberland City Council and is classified as 'community land' for the purposes of the Local Government Act 1993. The subject land (outlined in green) and surrounds are shown in the aerial photo in Figure 2 below. The land to south is owned and occupied by the Commonwealth of Australia (Defence) (outlined in white).



Figure 2 – Aerial map showing the subject site and immediate surrounds

Source: Planning Ingenuity Planning Proposal August 2022

The site located within Lidcombe forms part of the Rookwood Stormwater channel a stormwater drainage system established in 1915. The channel is largely open for approximately 96 of the overall 152 metre length from Victoria Street East to East Street. A portion of the building on 2 -10 Victoria Street East is located above the drainage network with the infrastructure located underground.

2-10 Victoria Street East (Lot C DP 384900) is currently developed with a mix of light industrial land uses across the site utilising existing buildings and hardstand areas. The current configuration of the channel through 2-10 Victoria Street East within Lot 1 DP 1161392 does not directly affect the ongoing uses of the site, it limits the development potential of Lot C DP 384900 which is effectively severed by the location of the drainage infrastructure and as Council owned 'community' land, the provisions of the Local Government Act 1993, prevent development, leasing or sale of the land for commercial purposes. The location of Lot 1 DP 1161392 containing drainage infrastructure acts as a site constraint upon any redevelopment of the adjoining lots as Council is unable to lease or sell the land whilst identified as 'community' land. Future redevelopment of the sites adjoining Lot 1 DP1161392, particularly the Gabriss Pty Ltd owned land, is subject to constraints by the location of the existing stormwater infrastructure and classification of the land.

49 East Street (Lot 1 DP 135368) is owned by the Commonwealth of Australia and is identified as the Lidcombe Training Depot utilised for defence support purposes and Australian Air Force Cadets. The location of the open culvert located close to the front boundary does not significantly affect the ongoing or future use of 49 East Street but is included in this planning proposal request for consistency across the Council owned portion of land

In the immediate locality are a range of light industrial uses immediately to the west of 2-10 Victoria Street East and to the north along East Street. The site is located on the south-eastern periphery of Lidcombe town centre. Lidcombe Town Centre is identified as a principal local centre in Cumberland 2030: Our Local Strategic Planning Statement 2030 and operates as a principal town centre within Cumberland City.



Figure 3 - The Site in its regional context

Source: Cumberland City Council LSPS



Figure 4 - The Site in its Local Context

Source: Sixmaps

Objectives and Intended Outcomes

This planning proposal request seeks an amendment to the Cumberland Local Environmental Plan (Cumberland LEP) to facilitate the reclassification of Council owned land from 'community' to 'operational' land as identified for the purposes of the Local Government Act 1993 (LG Act). The reclassification is proposed to be affected by amendment of Part 1, Schedule 4 of Cumberland LEP 21.

"Public land is managed under the Local Government Act 1993 (LG Act) based on its classification. Under Part 2 of the LG Act, all public land vested in a Council (except a road or land to which the Crown Lands Act 1989 applies) must be classified as either 'community' land or 'operational' land (LG Act ss.25, 26).

- Community land – is land council makes available for use by the general public, for example, parks, reserves or sports grounds.
- Operational land – is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage

The classification of public land determines the manner in which Council must manage public land, including its sale, leasing or licensing. It also provides for transparency in council's strategic asset management or disposal of public land.

Community land cannot be sold, exchanged or disposed of by Council. A lease of community land may be granted with restrictions in accordance with an adopted Plan of Management (POM)."

The classification of public land under the LG Act can be identified at the time of purchase as operational land. Assets which have not been specifically identified as 'operational' land default to be held as 'community' land. The only means to reclassify Lot 1, DP 1161392 under the LG Act is via a Local Environmental Plan by a Planning Proposal under the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).

The reclassification will facilitate the continued use and development of the land for purposes consistent with the Cumberland LEP 21 provisions. No changes to the existing underlying planning provisions applicable to the land are proposed. The reclassification will enable Council to enter into an agreement to lease or sell the land in the future and so enable development of the sites the subject of this Planning Proposal which Lot 1, DP 1161392 traverses.

Explanation of Provisions

To achieve the objective and intended outcomes the proposal seeks to reclassify Lot 1 DP 1161392 as 'operational' land by inserting the site into Part 1 of Schedule 4 of Cumberland LEP 21. The subject land will remain zoned IN2 Light Industrial and SP2 Infrastructure (Defence). The height of buildings map does not apply to the subject land or adjoining sites. A 1:1 FSR and a minimum Lot size of 1500m² applies to the IN2 zoned land only. The SP2 (Defence) land is not subject to FSR, maximum height of building or minimum lot size provisions under Cumberland LEP 21. The applicable planning controls under Cumberland LEP 21 are summarised in Table 1 below:

Planning Control	Existing	Proposed
IN2 Light Industrial Zoned Land – Part Lot 1 DP 1161392 traverses Lot C DP 38490, 2-10 Victoria Street East, Lidcombe		
Land Zoning	IN2 Light Industrial	IN2 Light Industrial
Height of Buildings	N/A	N/A
Floor Space Ratio	1:1	1:1
Minimum Lot Size	1500m ²	1500m ²

Planning Control	Existing	Proposed
SP2 Infrastructure (Defence) Zoned Land – Part Lot 1 DP 1161392 traverses Lot 1 DP 135368 49 East Street Lidcombe		
Land Zoning	SP2 Infrastructure (Defence)	SP2 Infrastructure (Defence)
Height of Buildings	N/A	N/A
Floor Space Ratio	N/A	N/A
Minimum Lot Size	N/A	N/A

Table 1 – Planning controls under Cumberland LEP 21

This applicant initiated Planning Proposal request has been made over the whole of Lot 1 DP 1161392 which contains the stormwater infrastructure over both the Gabriss owned land (identified in green outline) and Commonwealth owned land (identified in white outline) in Figure 5 below.



Figure 5 - Existing zoning of the site and surrounds

Source: Cumberland LEP 21 Land Zoning Map – Sheet LZN_016

Cumberland Development Control Plan 2021 (DCP)

No changes are proposed to the existing DCP controls effective for the site nor new controls are proposed for this proposal request.

Early Consultation

Council officers placed the Planning Proposal Request on early consultation from 2 March 2022 to 22 March 2022, in accordance with Council's planning proposal notification policy requirements. In response, no community submissions were received. Council officers also consulted with Sydney Water and Council's Stormwater

Engineers, neither have provided any submissions. Owners and occupiers within 60m from the subject site were also notified during preliminary public exhibition, including the adjoining land owned by the Commonwealth of Australia.

The Need for the Proposal

The planning proposal request over a small portion of Council owned land is not the result of an endorsed local strategic planning statement, strategic study or report. To more readily facilitate the ongoing use and future development of the land for light industrial purposes, consistent with the current Cumberland LEP 21 zoning provisions, the support of Council to progress the Planning Proposal request is required to reclassify the land.

The planning proposal is the best and only means of achieving the objective and intended outcome to reclassify Lot 1 DP 1161392 as 'operational' land and to enable the ongoing business and industrial use of the land or its sale or lease to enable redevelopment of the land adjoining the stormwater infrastructure.

The Registrar-General's Guidelines under section 12D of the Real Property Act 1900, (RP Act) appearing on the Registrar-Generals Guidelines website, contains the following statement in respect of drainage reserves vested in local councils:

'A drainage reserve comprises operational land and may be dealt with in the same manner as other operational land standing in the name of the Council.'

This statement indicates an intention to effectively manage drainage reserves that they are to be classified as operational land. The provisions of the RP Act cannot apply a classification of 'operational' land. In this instance, the only means Council can classify or reclassify public land as 'community' land is by way of a local environmental plan. If Lot 1 DP1161392 is not reclassified as 'operational' land in accordance with the provisions of the LG Act then, the dealings Council may have with respect to the land will be restricted.

Advice from the Cumberland Local Planning Panel

Council officers and GLN Planning reported the Planning Proposal Request to the Cumberland Local Planning Panel on 14 December 2022, with a recommendation that the Panel supports the proposal for the purposes of a Gateway Determination.

The Panel determined that the planning proposal request has "site specific and strategic merit" and agreed with the recommendation of GLN Planning "that Council proceed to request a Gateway Determination to reclassify Lot 1 DP 1161392 (council owned stormwater infrastructure), Lidcombe from 'community' to 'operational' land under the Local Government Act, 1993 by undertaking a Local Environmental Plan amendment to amend Part 1 of Schedule 4 of Cumberland LEP 2021 to identify Lot 1 DP 1161392 as 'operational' land."

Consideration by Council's Property Committee

As the matter relates to Council owned land, the proposal was considered by Council's Property Committee in February 2023. The majority of committee members supported the recommendation of Council officers and the Panel to progress the proposal.

Strategic Merit Assessment

The proposal is consistent with the strategic planning framework and policy context as detailed below:

Consistency with Greater Sydney Region Plan - A Metropolis of Three Cities

The proposal is broadly consistent with the Greater Sydney Region Plan, by the maintenance of the current industrial and special uses land use of the site. The reclassification will enable ongoing use and redevelopment of the industrial land in a manner that will support the objectives of:

- Objective 3: Infrastructure adapts to meet future needs. The proposal seeks to ensure the existing stormwater infrastructure can be accommodated within the form of future redevelopment and that Council is able to appropriately deal with and manage the use of drainage infrastructure.
- Objective 22: Investment and business activity in centres. The planning proposal request seeks to ensure future redevelopment of the land adjoining the drainage infrastructure can be undertaken in a practical and sensible form in support of the existing and future support of Lidcombe Town Centre.
- Objective 23: Industrial and urban services land is planned, retained and managed. The planning proposal request supports the existing zoned light industrial and infrastructure land within Lidcombe Town Centre. The reclassification will enable redevelopment of land as anticipated by Cumberland LEP 21.

Consistency with the Central City District Plan

The proposal is generally consistent with the Central City District Plan, including:

- Priority C1: Planning for a city supported by infrastructure. The proposal seeks to enable Council to deal with and maintain the existing stormwater infrastructure in future redevelopment of the land. All existing stormwater infrastructure will be maintained.
- Priority C11 Maximising opportunities to attract advanced manufacturing and innovation in industrial and urban services land. The Gabriss land redevelopment potential is impacted by the location of the existing 'community' land parcel across the site and Council's current inability to enter into suitable arrangements to ensure the stormwater infrastructure is enhanced and maintained in response to redevelopment of the surrounding land. The planning proposal request will enable the more orderly and economic use of both Lot 1 DP 1161392 and the adjoining land consistent with the objectives of the EP&A Act 1979.

Consistency with Cumberland 2030: Our Local Strategic Planning Statement (LSPS)

The planning proposal request is generally consistent with Cumberland 2030: Our Local Strategic Planning Statement, including:

Local jobs and businesses:

- Local Planning Priority 3 - Aligning local infrastructure delivery with planned growth. The Planning Proposal request will support and enable the existing stormwater infrastructure whilst enabling redevelopment of the existing zoned lands.
- Local Planning Priority 10 – Support a strong and diverse local economy across town centres and employment hubs. The planning proposal request will enable the orderly and economic redevelopment of both private and Council owned lands in manner to ensure the maximum support to the Lidcombe Town Centre and support the employment potential of land zoned under Cumberland LEP 21.
- Local Planning Priority 11 – Promote access to local jobs, education and care services. The planning proposal request will enable the ongoing and enhanced use of existing employment generating land within the facilities and services provided within Lidcombe Town Centre.
- Local Planning Priority 12 – Facilitate the evolution of employment and innovation lands to meet future needs. The location of the existing stormwater infrastructure centrally dissecting the IN2 Light Industrial zoned land acts as a disincentive to redevelopment of the land to meet the changing needs and demands of the Cumberland Community.

Consistency with the Cumberland Community Strategic Plan

The planning proposal request is generally consistent with the Cumberland Community Strategic Plan 2017-2027, including:

- 2.1 Objective: Celebrate our diverse built and natural environments Specifically, strategy 2.1.1 Prepare land use plans and controls that value our heritage, encourage economic development, facilitate local infrastructure improvements and create vibrant precincts. The planning proposal request will enable the redevelopment of the land adjoining Lot 1 DP 1161392 in a manner to maximise the development potential of the site within the Lidcombe Town Centre and ensure the existing stormwater infrastructure.
- 3.1 Objective: We have public spaces that are welcoming, inclusive and promote pride in the area. Specifically, Action 3.1.1 Our physical infrastructure is sustainably planned and managed to meet our changing needs. At the time of the creation of the stormwater infrastructure and vesting of the ownership in the former Auburn Council, the ability to deal with Council owned land was not subject to the provisions introduced in the LG Act as the classification of Council owned land was not required. The classification of Council owned land ensures an appropriate level of scrutiny is provided when dealing with Council assets. The reclassification will not impede the ability of the land to serve the existing and ongoing stormwater disposal but will rather enable the consideration of redevelopment of the land and that of the adjoining land in a wholistic approach when the subject of a future development application.

- 4.1 Objective: The community is proud to be served by a sustainable and transparent Council organisation. This planning proposal request has been the subject of a preliminary exhibition and will be the subject of a public hearing and further statutory exhibition and notification. In addition, this request is assessed independently and will be reported to the Cumberland Local Planning Panel via this report and Council. Further examination will be undertaken by the Department of Planning and Environment via the Gateway Determination.
- 4.2 Objective: An informed community included in decision making and long-term planning. The progression of the planning proposal request will be updated on Council's website, the Department of the Planning and Environment LEP tracking website and via the notification of key points in the Planning Proposal and reporting to Council meetings.

Other Matters or Issues if any

The land is affected by foreshore land and is affected by a flood control lots as per LEP and Council's flood mapping. The proposal does not have an impact on the above and any future DA on site will address these matters in more detail should a redevelopment proposal is lodged for the site. The proposal does not seek to remove or modify the above affectations as a result of this proposal.

The proposal is also consistent with the Cumberland Employment Lands and Innovation Strategy and Study 2019 strategic land use framework and planning principles. The land affected by the proposal request is shown as other industrial lands and does not form part of a strategic employment land precinct.

As part of Department of Planning and Environment's ongoing employment land zoning reforms, the proposal site zoned IN2 Light Industrial is likely to be rolled over to E4 General Industrial zone under Cumberland LEP 2021 and these reforms take effect in late April 2023. The proposed employment zone reforms do not affect the planning proposal's need, intent and objectives and only seeks to reclassify council owned drainage easement from community to operational land by amending the Cumberland LEP 2021.

The proposal request does not involve land suited to residential use, the proposal does not involve any conflict with the Cumberland Local and Affordable Housing Strategy.

The Proposal request will enable the land to be used for both drainage and the purposes permissible with the underlying zoning of the land under Cumberland LEP 21.

The ongoing continued use of the land for stormwater drainage can be facilitated though a future development application stage or sale of the land should the proposal proceed to Gateway and finalisation after the subject land is reclassified. The proponent does not intend to relocate or modify the location of the existing stormwater drainage easement for this proposal request.

Social and Economic Benefits

Should the proposal proceed to Gateway and notification the proposal will facilitate the redevelopment of the site. This is likely to result in additional jobs and the proceeds of the future possible sale of council's drainage easement could further result in bringing social benefits to the wider community of Lidcombe Town Centre surrounds in the future.

LEP Practice Note Information Checklist Compliance

LEP Practice Note PN 16-001 dated 15 October 2016 "Classification and reclassification of public land through a local environmental plan" provides guidance on classifying and reclassifying public land through a LEP. Refer to Attachment 2 for details. The practice note emphasises the need for Council to demonstrate strategic and site-specific merit, includes a comprehensive information checklist. Table 2 provides a summary of the information checklist and the Planning Proposal request. All matters required to be addressed under LEP Practice Note PN 16-001 have been included within the planning proposal request.

Matters to be addressed for land proposed to be reclassified (Lot 1 DP 1161392)	Detail of Planning Proposal Request
<i>Current Classification of land proposed to be reclassified</i>	'Community'
Proposed Land Classification	'Operational'
Is the land a public reserve under the LG Act	No.
Strategic Site-Specific Merits	Yes, refer to discussion above in Strategic Merit Assessment.
Is the proposal a result of a strategic study or report?	No, refer to discussion above in Strategic Merit Assessment.
Is the planning proposal consistent with Council's community and local strategic plans and plans of management	Yes, see discussion above in Strategic Merit Assessment. The land to be reclassified is not affected by any plans of management and general community use registers within Cumberland City or former Auburn City Council.
Summary of the Councils interest in the land	The site was transferred to the then Auburn Council by the then Department of Public Works in October 1974 (see Government Gazette No 129 dated 25 October 1974). Refer to Attachment 5 for details.
Is an interest in the land proposed to be discharged?	No.
The effect of the classification change	There is no change the land will continue to be used for stormwater drainage purposes.

Matters to be addressed for land proposed to be reclassified (Lot 1 DP 1161392)	Detail of Planning Proposal Request
Relevant status and interests in the land	The land is owned by Cumberland City Council, there are no easements or leases registered or granted over the land.
Current use of the land	The land is lawfully used as a stormwater culvert.
Current and/or proposed leases and agreements for use of the land	There are no existing or proposed leases or agreements for use of the land.
Current and/or proposed dealings for sale and lease of the land	There are no proposed dealings for sale or lease of the land. The land is used and will be required to be used for stormwater infrastructure. Appropriate easements for stormwater purposes would be required to be registered on the title of the Lot 1 DP 1161392. Current Title searches and Deposited Plan of the land to be reclassified are contained in Attachments 3 and 4.
Any associated rezoning of the land	No change to the zoning of the land is proposed.
Benefit to Council financially and how the funds will be used	Not applicable as no agreements are proposed.
How Council will ensure funds remain available to proposed open space or improvements	Not applicable.
A Land Reclassification Map in accordance with technical requirements for Part lots	An LEP map not required since the proposal request seeks to reclassify the whole of Lot 1, DP 1161392 The land to be reclassified will be identified in Part 1 of Schedule 4 of the Cumberland LEP 2021.

Table 2: Information Checklist LEP Practice Note PN 16-001

Public Benefit Offer

The Proponent has not elected to enter into a Voluntary Planning Agreement considering the proposal is only a reclassification of Council owned land from 'Community' to 'Operational' and amends Part 1, Schedule 4 of the Cumberland LEP 2021.

COMMUNITY ENGAGEMENT

Council officers have carried out early consultation on the proposal, as outlined in this report. Further statutory consultation will be carried out by Council officers. A public hearing will be conducted in addition to statutory exhibition should the proposal

proceeds to Gateway Determination at the post gateway stage as per Department of Planning practice note requirements and Local Government Act 1993 requirements.

The public hearing would be conducted by an external independent planning consultant who is also independent to Council (who has a conflict of interest to assess this proposal) and GLN Planning who are engaged by Council to undertake and prepare the proposal's assessment reports and proposal to the Cumberland Local Planning Panel and Council at Pre and Post gateway stages.

POLICY IMPLICATIONS

If Council resolves to prepare and forward the planning proposal to the Department of Planning and Environment for a Gateway Determination, there will be no policy implications associated with the subsequent stages of the planning proposal process.

Future Council reports and the planning proposal will be prepared by an independent planning consultant (GLN Planning) for the purposes of pre and post gateway stages should the proposal proceeds given Council's conflict of interest to prepare and assess this proposal.

RISK IMPLICATIONS

There are no risk implications for Council associated with this report.

FINANCIAL IMPLICATIONS

There are no financial implications for Council associated with this report.

CONCLUSION

The Planning Proposal Request for 2-10 Victoria Street East, Lidcombe is also consistent with the strategic planning framework; policy context and the Department of Planning and Environment's reclassification practice note requirements. The proposal is likely to facilitate the redevelopment of the proposed site and the reclassification of Council owned stormwater infrastructure for possible future sale and lease which is likely to bring potential future economic and social benefits to the wider Lidcombe community.

It is recommended that Council supports, for the purpose of a Gateway Determination, the Planning Proposal Request to reclassify Lot 1 DP 1161392 (council owned stormwater infrastructure), Lidcombe from 'community' to 'operational' land under the Local Government Act, 1993 by undertaking a Local Environmental Plan amendment to amend Part 1 of Schedule 4 of Cumberland LEP 2021 to identify Lot 1 DP 1161392 as 'operational' land.

It is recommended that the planning proposal request for 2-10 Victoria Street East, Lidcombe be endorsed, and that a planning proposal be prepared and forwarded to Department of Planning and Environment for a Gateway Determination.

ATTACHMENTS

1. Planning Proposal Request [↓](#)
2. LEP Practice Note PN16-001 'Classification and reclassification of public land through a local environmental plan' [↓](#)
3. Title Searches for lands affected [↓](#)
4. Deposited Plan showing details of council owned land affected by stormwater infrastructure [↓](#)
5. NSW Gazette Notices to demonstrate that the land was transferred from public works to former Auburn Council and resumption (Additional Attachment)
6. Cumberland Local Planning Panel advice and report dated 14 December 2022 [↓](#)
7. Council Property Committee Minutes February 2023 [↓](#)
8. Engagement Evaluation Report [↓](#)