

1. Notes and endorses the Planning Proposal for the reclassification and rezoning of certain community lands.
2. Forwards the Planning Proposal to the Department of Planning and Environment seeking Gateway Determination.

1. Notes and endorses the Planning Proposal for the reclassification and rezoning of certain community lands identified in the report excluding:
 - a) 185 Bigge Street Liverpool (Lot 11 DP 849783 and Lot 11 DP 1084075); and
 - b) Owl Place Green Valley (Lot 4 DP 1007383)
2. Forwards the Planning Proposal to the Department of Planning and Environment seeking Gateway Determination.

Councillors voted unanimously for this motion.

DPG 02

**Planning Proposal - Reclassification and Rezoning of
Community Lands.**

Strategic Direction	Liveable Safe City Deliver an efficient planning system which embraces sustainable urban renewal and development
Key Policy	Urban Development Plans
File Ref	081986.2017
Report By	Peter Pham - Strategic Planning
Approved By	Stephen Joannidis - Acting Director Planning and Growth

EXECUTIVE SUMMARY

This report is to inform Council about the Planning Proposal to reclassify and rezone certain community lands. The proposal is the result of five Council resolutions (dated 17 December 2014, 25 February 2015, 26 August 2015, 30 September 2015 and 27 July 2016) which endorsed recommendations to commence the process of reclassification and rezoning of the properties identified below. The intent of the Planning Proposal is to provide Council with the flexibility to either respond to future development opportunities within the Liverpool City Centre, or enable the sale of underutilised Council land.

The Planning Proposal seeks to amend the *Liverpool Local Environmental Plan (LLEP) 2008* to reclassify the following lands from 'Community' to 'Operational', pursuant to Section 30 of the *Local Government Act (LG Act) 1993*:

- 6 Moore Street, Liverpool (Lot 102 DP 1151429);
- 185 Bigge Street, Liverpool (Lot 11 DP 849783 and Lot 11 DP 1084075);
- Bernera Road, Prestons (Lot 154 DP 867979 and Lot 3046 DP 869842); and
- 24 Atkinson Street, Liverpool (Part Lot 78 DP 27242).

The Planning Proposal also seeks to amend the LLEP 2008 to reclassify and rezone the following lands:

- Owl Place, Green Valley (Lot 4 DP 1007383) – Reclassify from 'Community' to 'Operational' land and rezone from RE1 Public Recreation to B1 Neighbourhood Centre; and
- Forcett Close, West Hoxton (Part Lot 1001 DP 1006332) – Reclassify from 'Community' to 'Operational' land and rezone from RE1 Public Recreation to R2 Low Density Residential.

The attached draft Planning Proposal outlines Council's intent and provides justification for the reclassification and rezoning. It is recommended that Council endorses the Planning Proposal and forward the relevant documentation to the Department of Planning and Environment (DP&E) seeking Gateway Determination.

RECOMMENDATION

That Council:

1. Notes and endorses the Planning Proposal for the reclassification and rezoning of certain community lands.
2. Forwards the Planning Proposal to the Department of Planning and Environment seeking Gateway Determination.

REPORT**Background**

The Planning Proposal relates to six parcels of land located within the Liverpool LGA. The location and background information of the sites are provided below.

Site 1 - 6 Moore Street, Liverpool (Lot 102 DP 1151429)

The Planning Proposal seeks to reclassify 6 Moore Street, Liverpool (Lot 102 DP 1151429) from 'Community' to 'Operational'.

On 17 December 2014, Council resolved to commence the process of reclassification of Lot 102 DP 1151429 through an amendment to the LLEP 2008. Following the public exhibition process, an additional report would be provided to Council for consideration.

Site 2 – 185 Bigge Street, Liverpool (Lot 11 DP 849783 and Lot 11 DP 1084075)

The Planning Proposal seeks to reclassify 185 Bigge Street, Liverpool (Lot 11 DP 849783 and Lot 11 DP 1084075) from 'Community' to 'Operational'.

It should be noted that no works are proposed on this land.

On 17 December 2014, Council resolved to commence the process of reclassification of Lot 11 DP 849783 and Lot 11 DP 1084075 through an amendment to the LLEP 2008. Following the public exhibition process, an additional report would be provided to Council for consideration.

Site 3 – Bernera Road, Prestons (Lot 154 DP 867979 and Lot 3046 DP 869842)

The Planning Proposal seeks to reclassify Bernera Road, Prestons (Lot 154 DP 867979 and Lot 3046 DP 869842) from 'Community' to 'Operational'.

On 25 February 2015, Liverpool City Council resolved to commence the process of reclassification of Lot 154 DP 867979 and Lot 3046 DP 869842 through an amendment to

LLEP 2008. Following the public exhibition process, an additional report would be provided to Council for consideration.

Site 4 – Site 4 – 24 Atkinson Street, Liverpool (Part Lot 78 DP 27242)

The Planning Proposal seeks to reclassify 24 Atkinson Street, Liverpool (Part Lot 78 DP 2724) from 'Community' to 'Operational'.

The property owner of adjoining land at 26 Atkinson Street approached Council to purchase part of the Council owned land at Lot 78 DP 27242, 24 Atkinson Street. Council has appointed a valuer to determine the market value of part Lot 72 DP 27242.

The site is surplus to Council's needs as it is currently unutilised and provides no benefit to the community.

On 27 July 2016, Council resolved to the following:

1. *Approves the reclassification and disposal of part Lot 78 DP 27242, 24 Atkinson Street, Liverpool, for the price and terms outlined in the confidential attachment;*
2. *Keeps confidential the attachment supplied under separate cover containing the purchase price pursuant to the provisions of Section 10A(2)(c) of the Local Government Act 1993 as this information would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business;*
3. *Authorises its delegated officer to execute any document, under Power of Attorney necessary to give effect to this decision; and*
4. *Transfers the net proceeds from the sale into the General Property Reserve.*

Site 5 – Owl Place, Green Valley (Lot 4 DP 1007383)

The Planning Proposal seeks to reclassify Owl Place, Green Valley (Lot 4 DP 1007383) from 'Community' to 'Operational'; rezone from RE1 Public Recreation to B1 Neighbourhood; provide a maximum FSR of 1.2:1 and a maximum height of buildings of 15m. The recommended FSR and height of buildings are consistent with the adjoining B1 zone.

The adjoining owners, Green Valley Village Shopping Centre, have approached Council, to purchase the subject site. Council appointed a valuer to determine the current market value of Lot 4 DP 1007383. An offer was made and accepted by the Green Valley Village Shopping Centre. However, the sale transaction will be subject to the successful outcome of the reclassification and rezoning process. Council provided that the sale of Lot 4 DP 1007383 would be subject to the following:

- Pedestrian access must be maintained through Lot 4 DP 1007383 to provide access from Owl Place to Green Valley Road; and
- Vehicular traffic would be prohibited to and from the site via Owl Place.

On 26 August 2015, Council resolved to the following:

1. *Approves the reclassification, rezoning and disposal of Lot 4 DP 1007383, Owl Place, Green Valley, for the price and terms outlined in the confidential attachment;*
2. *Keeps confidential the attachment supplied under separate cover containing the purchase price pursuant to the provisions of Section 10A(2)(c) of the Local Government*

Act 1993 as this information would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business;

3. *Authorises its delegated officer to execute any document, under Power of Attorney necessary to give effect to this decision; and*
4. *Transfers the net proceeds from the sale back into the relevant Section 94 Contribution Plan.*

Site 6 – Forcett Close, West Hoxton (Part Lot 1001 DP 1006332)

The Planning Proposal seeks to reclassify Forcett Close, West Hoxton (Part Lot 1001 DP 1006332) from 'Community' to 'Operational'; rezone from RE1 Public Recreation to R2 Low Density Residential; provide a maximum FSR of 0.6:1 and a maximum height of buildings of 8.5m. The recommended FSR and height of buildings are consistent with the adjoining R2 zone.

According to Council investigation, part of the improvements of 22 Forcett Close encroached onto the subject site. A survey has confirmed that various retaining walls, landscaping and concreting encroached onto Council land.

The owner of 22 Forcett Close was given the option of either removing the encroachments at their expense or purchasing part of Lot 1001 DP 1006332. The owner of 22 Forcett Close resolved to purchase the subject site from Council.

An agreement has been reached with the adjoining property owner of 22 Forcett Close to purchase part of Lot 1001 DP 1006332. Council has appointed a valuer to determine the current market value of Part Lot 1001 DP 1006332.

On 30 September 2015, Liverpool City Council resolved to the following:

1. *Approves the reclassification, rezoning and disposal of part Lot 1001 DP 1006332, Forcett Close, West Hoxton, for the price and terms outlined in the confidential attachment;*
2. *Keeps confidential the attachment supplied under separate cover containing the purchase price pursuant to the provisions of Section 10A(2)(c) of the Local Government Act 1993 as this information would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business;*
3. *Authorises its delegated officer to execute any document, under Power of Attorney necessary to give effect to this decision; and*
4. *Transfers the net proceeds from the sale back into the relevant Section 94 Contribution Plan.*

Site Identification

Site 1 - 6 Moore Street, Liverpool (Lot 102 DP 1151429)

The site has a site area of approximately 537m². The land is currently zoned B3 Commercial Core with a maximum FSR of 2.5:1; height of buildings of 45m and minimum allotment size of 1,000m². The site is identified as Acid Sulfate Soil Class 5 land and located within the Bigge Park Heritage Conservation Area.

Lot 102 DP 1151429 is an irregular shaped lot and located opposite Bigge Park, approximately 420m from Liverpool Train Station. The site was previously used as a car park and is currently unoccupied. The site adjoins a commuter car park at Liverpool Train Station and is located adjacent to TAFE NSW South Western Sydney Institute - Liverpool College.

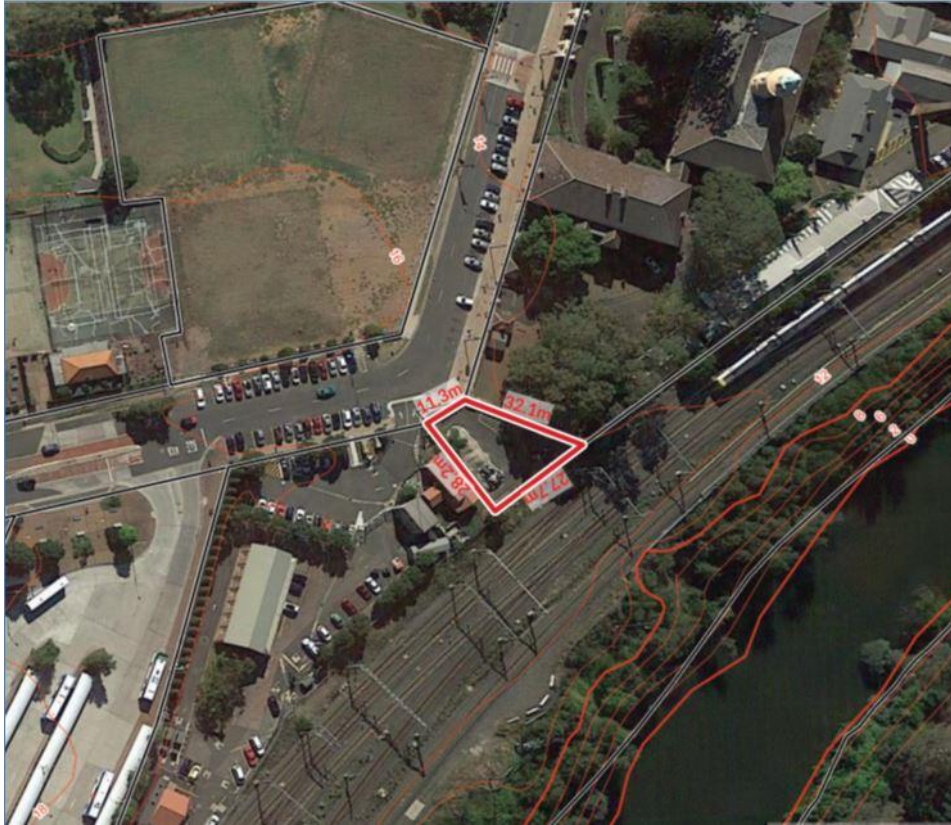


Figure 1: 6 Moore Street, Liverpool

Site 2 – 185 Bigge Street, Liverpool (Lot 11 DP 849783 and Lot 11 DP 1084075)

The site has a total site area of 855m². The land is currently zoned B3 Commercial Core with a maximum FSR of 2.5:1; height of buildings of 45m and minimum allotment size of 1,000m². The site is identified as Acid Sulfate Soil Class 5 land and located within the Bigge Park Heritage Conservation Area.

The site is a corner lot with a primary frontage to Bigge Street and a secondary frontage to Warren Service Way. The site is located opposite Bigge Park and approximately 330m from Liverpool Train Station. The property is rectangular in shape and is developed with a single storey brick and metal building. The building is currently occupied by Hilda M. Davis Senior Citizens Centre.



Figure 2: 185 Bigge Street, Liverpool

Site 3 – Bernera Road, Prestons (Lot 154 DP 867979 and Lot 3046 DP 869842)

The site has a site area of approximately 336m². The land is currently zoned B1 Neighbourhood Centre with a maximum FSR of 1:1; height of buildings of 12m and minimum allotment size of 1,000m².

The site is a two metres wide, narrow strip of land with an approximate area of 336m² and dimensions: 2m x 164m. The site adjoins residential developments located at Brogo Place, Berrara Close and Dalton Place and vacant B1 zoned land located at the corner of Bernera Road and Kurrajong Road. The useability of Lot 154 DP 867979 and Lot 3046 DP 869842 are severely restricted by the area and dimensions of the site.



Figure 3: Bernera Road, Prestons

Site 4 – Site 4 – 24 Atkinson Street, Liverpool (Part Lot 78 DP 27242)

Lot 78 has a total site area of 3,452m² but the Planning Proposal is only applicable to a small portion of the site on the western boundary. Part Lot 78 has a site area of approximately 270m².

The land is currently zoned R3 Medium Density Residential with a maximum FSR of 0.5:1 and height of buildings of 8.5m. The site is identified as Acid Sulfate Soil Class 5 land.

Part Lot 78 DP 27242 is a triangular shaped lot with a site area of 270m² and adjoins 26 Atkinson Street to the north; 6-10 McGowen Crescent to the west and railway corridor to the east. The subject site has no direct frontage to Atkinson Street or McGowen Crescent.



Figure 4: 24 Atkinson Street, Liverpool

Site 5 – Owl Place, Green Valley (Lot 4 DP 1007383)

The site has a site area of approximately 407m². The land is currently zoned RE1 Public Recreation and no development standards (i.e. FSR and height of buildings) are applicable.

Lot 4 DP 1007383 is an irregular shaped lot and adjoins the Green Valley Village Shopping Centre to the north and east and residential dwellings to the west. The site is also known as Aldred Park which provides a pedestrian link from Owl Place to Green Valley Road.

As observed from the site inspection, there is minimal amenity at Aldred Park as it is located adjacent to the carpark at Green Valley Village Shopping Centre. No facilities and public furniture are provided. Aldred Park is primarily used as a thoroughfare to and from Green Valley Village Shopping Centre.

The subject site is located within proximity to other public recreation lands, such as Winnall Reserve (400m) and Mihajlovic Reserve (700m), which are used as recreational areas by residents.



Figure 5: Owl Place, Green Valley

Site 6 – Forcett Close, West Hoxton (Part Lot 1001 DP 1006332)

The total site area for Lot 1001 is 7,696m² but the Planning Proposal is only applicable to a small portion of the site on the western boundary. Part Lot 1001 DP 1006332 is an irregular shaped lot with a site area of 215m².

The land is currently zoned RE1 Public Recreation and no development standards (i.e. FSR and height of buildings) are applicable.

The site adjoins 22 Forcett Close to the west and electricity tower and easement to the east. The site has a fall of approximately 5m from the top of the site (adjoining the rear boundary of 22 Forcett Close) to Forcett Close. The site is unutilised by Council and provides no public benefit to the community. However, it is noted that part of the improvements of 22 Forcett Close encroached onto the subject site. A survey has confirmed that various retaining walls, landscaping and concreting encroached onto Council land.



Figure 6: Forcett Close, West Hoxton

Objective

For Bernera Road (Lot 154 DP 867979 and Lot 3046 DP 869842), 24 Atkinson Street (Part Lot 78 DP 27242), Owl Place (Lot 4 DP 1007383) and Forcett Close (Part Lot 1001 DP 1006332), the intent of the planning proposal is to enable the sale of underutilised Council land, so it may integrate with adjoining property and facilitate future development opportunities.

For 6 Moore Street (Lot 102 DP 1151429) and 185 Bigge Street (Lot 11 DP 849783 and Lot 11 DP 1084075), the intent of the planning proposal is to provide Council with the flexibility to respond to future development opportunity within the Liverpool City Centre and contribute towards the Liverpool Central Business District (CBD) revitalisation program as part of Council's land rationalisation strategy. The subject properties will remain in Council ownership. No development has been proposed and 185 Bigge Street will continue to be utilised as a senior citizens centre.

Community and Operational Land

The Planning Proposal seeks to reclassify all six properties from 'Community' to 'Operational' in accordance with Division 1 of Chapter 6 of the *Local Government Act 1993*. 'Community land' is "*land Council makes available for use by the general public*" (Department of Planning & Environment, 2016) such as parks, reserves or sport grounds. Generally, community land is subject to the following restrictions:

- *Cannot be sold, exchanged or otherwise disposed of by a Council;*

- *Can be leased but subject to restrictions on the grant of leases and licences and also on the way community land can be used,*
- *A plan of management must be adopted by Council and details the specific uses and management of the land.*

'Operational land' is land which "*facilitates the function of Council and may not be open to the general public, for example, a works depot or Council garage*" (Department of Planning & Environment, 2016)

Reclassification

A planning proposal is required to reclassify the subject properties from 'community' to 'operational' as it involves the removal of public reserve status applying to land including any interests affecting all or part of the public land.

The Planning Proposal must be prepared in accordance with the *Environment Planning & Assessment Act (EP&A) 1979*, Practice Note 16-001 issued by the Department of Planning & Environment and the public land management requirements of the *LG Act 1993*.

Also the Planning Proposal will be subject to the requirements of the Gateway Determination such as further studies, public consultation, public hearing, agency consultation and timeframe.

In accordance with Section 29 of the LG Act 1993 and Section 57 of the EP&A Act 1979, Council must hold a public hearing to enable the community an opportunity "*to expand on written submissions and discuss issues with an independent person in a public forum*" (Department of Planning & Environment, 2016).

A public hearing must be conducted after the public consultation and at least 21 days public notice is to be given before the hearing. The public hearing must not be presided over by a Councillor or employee of the Council or a person who has been a Councillor or employee of the Council at any time during the 5 years before the date of his or her appointment.

The person who presides over the public hearing must prepare a report outlining the results of the hearing. Council must make a copy of the report available for inspection by the public within 4 days after it has received the report.

Rezoning

The Planning Proposal also seeks to rezone Forcett Close from RE1 Public Recreation to R2 Low Density Residential and Owl Place from RE1 Public Recreation to B1 Neighbourhood Centre and the introduction of development standards for the two sites.

A rezoning is required as the RE1 zone is highly restrictive and only permits the following uses with development consent:

Boat sheds; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Charter and tourism boating facilities; Child care centres; Community facilities; Entertainment facilities; Environmental facilities; Flood mitigation works; Information and education facilities; Kiosks; Marinas; Mooring pens; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; Roads; Water recreation structures.

The proposed R2 Low Density Residential and B1 Neighbourhood Centre will enable a consistent land uses with the adjoining land at 22 Forcett Close and Green Valley Village Shopping Centre.

It should be noted that the proposed development standards are consistent with the adjoining zone.

Authorisation of Delegation

As the LEP requires the Governor's approval, Council delegation cannot be issued by the Department. Hence, Council must request the Department to make the LEP.

In accordance with S377 of the LG Act 1993, a decision to reclassify public land cannot be sub-delegated by Council to the General Manager or any other person or body.

Net Proceeds

The reclassification of the properties will enable Council to sell or dispose of the land.

Section 32 of LG Act 1993 states:

"The net proceeds of the sale of any land dedicated in accordance with a condition imposed under Section 94 of the EP&A Act 1979 must be dealt with under that section as if those net proceeds were a monetary contribution paid instead of the dedication".

Therefore, the net proceeds of the future sale of 6 Moore Street, Bernera Road, Owl Place and Forcett Close must be returned to the relevant Section 94 fund as the land was dedicated in accordance with a condition imposed under Section 94 of the EP&A Act 1979.

In accordance with Council resolution dated 17 December 2014 and 27 July 2016, the net proceeds from the future sale of 185 Bigge Street and 24 Atkinson Street would be transferred to the General Property Reserve.

It should be noted that no works are proposed on 185 Bigge Street. Should Council seek to explore the redevelopment of the site, it must all ensure relevant stakeholders are engaged and that the senior centre can be relocated to an appropriate location.

Conclusion

It is recommended that Council endorse the attached draft Planning Proposal which seeks the following:

- Reclassify land at 6 Moore Street, Liverpool (Lot 102 DP 1151429); 185 Bigge Street, Liverpool (Lot 11 DP 849783 and Lot 11 DP 1084075); Bernera Road, Prestons (Lot 154 DP 867979 and Lot 3046 DP 869842); and 24 Atkinson Street, Liverpool (Part Lot 78 DP 27242) from 'Community' to 'Operational'; and
- Amend the LLEP 2008 to reclassify and rezone Owl Place, Green Valley (Lot 4 DP 1007383) – Reclassify from 'Community' to 'Operational' land and rezone from RE1 Public Recreation to B1 Neighbourhood Centre; and Forcett Close, West Hoxton (Part Lot 1001 DP 1006332) – Reclassify from 'Community' to 'Operational' land and rezone from RE1 Public Recreation to R2 Low Density Residential.

The Planning Proposal would enable the sale of underutilised Council land to be integrated with adjoining property to facilitate potential development. It also provides Council with the flexibility to respond to future development opportunity within the Liverpool City Centre which would contribute towards the Liverpool Central Business District (CBD) revitalisation program as part of Council's land rationalisation strategy.

Next Steps

Subject to endorsement by Council, a copy of the Planning Proposal will be forwarded to the Department of Planning & Environment for Gateway Determination.

Should a Gateway Determination be issued, Council officers will proceed with the Planning Proposal in accordance with the requirements of the Gateway Determination, including undertaking public agency consultation, public exhibition and community consultation, and public hearing. The outcomes of the consultation process and the public hearing will be reported to Council at a future meeting.

CONSIDERATIONS

Economic and Financial	Facilitate economic development.
Environmental and Sustainability	Protect, enhance and maintain areas of endangered ecological communities and high quality bushland as part of an attractive mix of land uses.
Social and Cultural	Preserve and maintain heritage, both landscape and cultural as urban development takes place.
Civic Leadership and Governance	There are no civic leadership and governance considerations.

ATTACHMENTS

1. Planning Proposal April 2017 (Under separate cover)