



Lane Cove Council

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PCU027933

Ms Juliet Grant,
Regional Director,
Sydney Region East,
NSW Department of Planning &
Infrastructure,
GPO Box 39,
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9 November 2011
Our ref: 46701/11
Your ref: 11/11751

Department of Planning
Received
15 NOV 2011
Scanning Room

Dear Ms Grant,

RE: LANE COVE PLANNING PROPOSAL 5/2011 – ROADS SUBDIVISION

I refer to your letter of 25 October 2011 requesting clarification on the purpose of the planning proposal to permit subdivisions for road closures to be exempt development.

The justification to support the proposal follows:-

1. The extent of the proposed road closures/ subdivision indicating whether it is intended to close whole roads or small parts of road

The majority of past and proposed road closures relate to relatively small sections of roads. Council would only rarely close a whole road.

Examples of the scale of road closures recently completed are:-

- Nield Avenue, Greenwich: Part of a cul de sac and a pathway was gazetted in 2009, measuring 980m² – the purpose was to incorporate the former road with its surrounding ten lots, all being in one ownership, into a rectangular site for a for a private hospital Part 3A application.
- College Road South: Part road closure was gazetted in 2007, measuring 1,642m² – the purpose was to sell a disused verge to adjoining owners already using it for extension to their gardens.
- Laneway off Austin Street: This was gazetted in 2008, measuring 31.65m². – the purpose was to reconfigure access into a new public carpark within a substantial Library redevelopment and new supermarket.

Examples of proposed road closures currently under consideration by NSW Land & Property Information (LPI) are:

- Friedlander Place, St Leonards: This measures 1,475m² – the purpose is to permit a potential enclosed public plaza within a commercial redevelopment.

- Little Lane: This measures 254.9m² – it is a substratum to extend underground car parking, within a mixed use community use/ retail-commercial/ residential development increasing the public car parking on an existing open car park site.

2. The legal mechanism or process by which the roads are closed and subdivided

The legal mechanism by which the roads are closed and subdivided is very elaborate and is in accordance with the provisions of the Roads Act 1993, Real Property Act and the provisions set down by the LPI. The steps in the process are described below.

- Council resolves to close a section of unnecessary road and details a communication strategy.
- A road closure application is submitted to the LPI, which issues approval to commence public notification.
- Council commences the public notification process. The proposed closure is advertised in the Sydney Morning Herald and a local newspaper. Public utilities, surrounding and affected property owners are notified. The notification process usually takes 6 weeks, during which submissions may be made.
- Council considers all submissions and resolves to proceed with the proposed closure.
- A report is sent to the LPI, which considers the proposal and determines the road closure. If approved, the proposal is notified/ gazetted and the land held in fee simple by Council. As part of this process, the LPI requires that a subdivision certificate under Section 109 J of the Environmental Planning & Assessment Act be attached to the proposed Road Closure Deposited Plan Administration Sheet for registration, prior to issuing a Certificate of Title for the closed section of road.

3. The intended outcome of the provision , namely to facilitate the sale and development of the Council owned roads

The intended outcome of the completed road closures is generally to sell the land parcels to interested parties (in the majority of cases to adjacent land owners). The respective property owners may then make decisions to redevelop the land. Any redevelopment is subject to the provisions of the LEP 2009 and DCP.

In conclusion, the reasons why it is considered that subdivision for the purpose of permanent road closures should be included as exempt development in the LEP are:-

- Council already consults with all the relevant public authorities and the general public under the Roads Act and other legislation, and to do so again by lodging and notifying a development application is both time-consuming and procedurally repetitious.
- A subdivision certificate has to be issued by Council with environmental issues considered.
- There are no other reasons for significant environmental issues to arise with the registration of the land in fee simple, given that roads were required to be

rezoned under the NSW Standard LEP, permitting development, and that zoning is not changing.

- The process adopted to close the unnecessary roads is a rigorous one and subject to final approval by LPI acting on behalf of the Minister for Roads;
- Council has the power to either proceed or stop the road closure process following the public notification process and receipt of valid and invalid objections.
- Following the road closure, any development of land is subject to the provisions of the Council's LEP 2009 and DCP, with development applications to be lodged and a public notification and submissions process undertaken at that stage.

The information above is provided to indicate that roads subdivision "development" would be of minor/ negligible environmental impact, and that subsequent development of the sites would have to be processed under the EPA Act.

Council notes the comment that other exempt uses ("filming" and "temporary structures") have been transferred from the LEP to the Codes SEPP since the Planning Proposal was lodged in June this year.

In conclusion, I advise that Council requests the Department to proceed with the planning proposal submission to the Gateway for consideration, and thanks you for your assistance.

Yours sincerely,



Stéphanie Bashford,
Manager – Strategic Planning