

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Lane Cove
<b>RPA</b>	Lane Cove Council
<b>NAME</b>	Open space rezoning and reclassification (0 homes, 0 jobs)
<b>NUMBER</b>	PP_2017_LANE_C_002_00
<b>LEP TO BE AMENDED</b>	Lane Cove Local Environmental Plan 2009
<b>ADDRESS</b>	10-20 Pinaroo Place, 1 Girraween Avenue and 552 Mowbray Road, Lane Cove North
<b>DESCRIPTION</b>	Lots 87, 88, 89, 90, 91 and 92 in DP 36362 Lot 141 in DP222997 Lot 5 DP10892
<b>RECEIVED</b>	15 November 2017
<b>FILE NO.</b>	IRF17/381
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## INTRODUCTION

### Description of planning proposal

The proposal seeks to amend Lane Cove Local Environmental Plan (LEP) 2009 to provide two new parks and rezone an existing pocket park for residential development.

The following LEP amendments are sought:

- rezone the public park at 1 Girraween Avenue from RE1 Public Recreation to R4 High Density Residential and introduce a height limit of 17.5 metres and floor space ratio (FSR) of 1.6:1;
- reclassify the public park at 1 Girraween Avenue from Community Land to Operational Land and discharge any interests;
- rezone 552 Mowbray Road from R4 High Density Residential to RE1 Public Recreation; and
- remove the identification of 10-20 Pinaroo Place from Lane Cove Council's land reservation acquisition map.

### Site description

#### 1 Girraween Avenue

1 Girraween Avenue, also known as Girraween Reserve, is a small pocket park of 1,332m<sup>2</sup>. The park contains children's play equipment and vegetation (including several large trees), and has a moderate slope from north to south.

The rezoning of the park is intended to facilitate the redevelopment of the adjoining aged residential flat building at 562 Mowbray Road, which is owned by NSW Land and Housing Corporation (LAHC).

Schedule 2 of the site's certificate of title identifies the land as a public reserve. It also references dealing AE407315, which relates to the dedication of the park from the Housing Commission of NSW (now LAHC) in 1964.

#### 10-20 Pinaroo Place

The six properties at 10-20 Pinaroo Place are owned by LAHC and contain detached dwelling houses. The properties have a combined site area of 4,255m<sup>2</sup> and are zoned RE1 Public Recreation.

To the north-east of the RE1 residences is a small park (1,796m<sup>2</sup>) known as Kullah Parade Playground. The properties are intended to form part of a new park at Kullah Parade/Mindarie Street, which will include the adjacent Kullah Parade Playground.

The properties are identified on Council's land reservation acquisition map and will need to be removed as the ownership is due to be transferred from LAHC to Council.

#### 552 Mowbray Road

552 Mowbray Road is occupied by a detached dwelling house. The site is zoned R4 High Density Residential and has a total area of 697m<sup>2</sup>. Adjoining either side of the site are newly constructed residential flat buildings of four to five storeys.



Figure 1: Location of subject sites (Source: Six Maps).

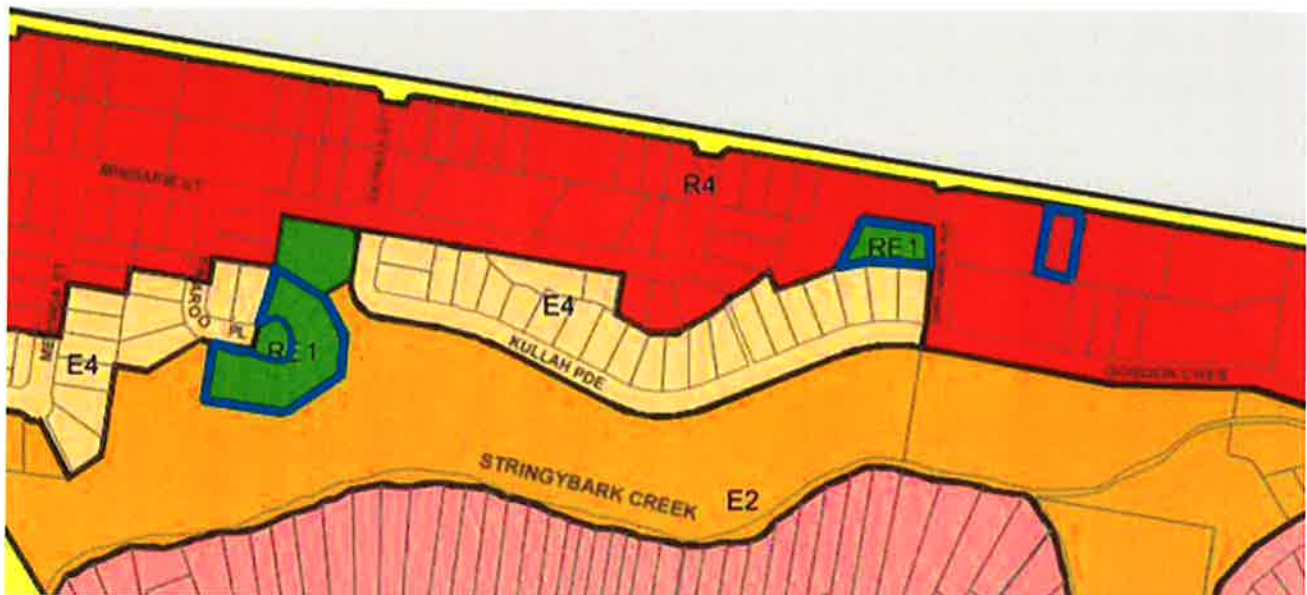


Figure 2: Extract from Lane Cove LEP land zoning map with subject sites identified in blue.

## **Surrounding area**

### Mowbray Road Precinct

In February 2010, most of the Mowbray Road Precinct was rezoned to R4 High Density Residential.

A strategic review report was prepared by the Department of Planning and Environment and Council in November 2011 to identify opportunities and constraints to medium and high-density development in the precinct.

Further amendments were made to the LEP in December 2012 in response to the review, which rezoned land in the southern portion of the precinct affected by low bushfire risk to E4 Environmental Living, and introduced the RE1 Public Recreation zone to the land at 10-20 Pinaroo Place.

Council anticipates there will be an additional 1,500 dwellings in the precinct resulting from the recent LEP amendments.

### **Summary of recommendation**

It is recommended that the planning proposal proceed subject to conditions.

The planning proposal is considered to have strategic planning merit as it will facilitate an increase in the size and quality of open space within the Mowbray Road Precinct, which is undergoing a transition to higher-density development.

The planning proposal has demonstrated site-specific merit as it will allow for the orderly use and development of land by facilitating the use of constrained bushfire-affected sites for public recreation and allowing higher-density residential development in a more suitable location.

It is recommended that Council provide further analysis to demonstrate the suitability of the proposed height at 1 Girraween Avenue.

## **PROPOSAL**

### **Objectives or intended outcomes**

The statement of objectives accurately describes the intent of the planning proposal.

The proposal seeks to amend the LEP to allow for the establishment of a new park at Pinaroo Place/Kullah Parade, the development of 1 Girraween Avenue for residential

purposes, and the rezoning of 552 Mowbray Road for a new pocket park to meet the recreational needs of the residents of the Mowbray Road Precinct.

### **Explanation of provisions**

The following amendments to the LEP are proposed:

- 10-20 Pinaroo Place
  - remove the identification of the site as land reserved for Local Open Space (RE1) from the land reservation acquisition map.
- 1 Girraween Avenue
  - amend the land zoning map to change the zoning from RE1 Public Recreation to R4 High Density Residential;
  - amend the height of buildings map to introduce a maximum permitted building height of 17.5 metres on the site;
  - amend the FSR map to introduce a maximum permitted FSR of 1.6:1 on the site;
  - reclassify the site from Community Land to Operational Land and discharge interests; and
  - amend Schedule 4, Part 3 Land Classified, or reclassified, as operational land – interests changed to include 1 Girraween Avenue.
- 552 Mowbray Road
  - Amend the land zoning map to change the zoning from R4 High Density Residential to RE1 Public Recreation;
  - amend the height of buildings map to remove any height control from the site;
  - amend the FSR map to remove any FSR control from the site; and
  - amend Schedule 4, Part 3 Land classified, or reclassified, as community land to include 552 Mowbray Road.

The explanation of provisions is considered clear and does not require amendment prior to community consultation.

### **Mapping**

Indicative mapping has been provided with the proposal. Mapping prepared in accordance with Department technical guidelines will be required for submission at the section 59 stage.

### **NEED FOR THE PLANNING PROPOSAL**

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The planning proposal is the result of a strategic review report for the Mowbray Road Precinct carried out in partnership by the Department and Council in 2011.

Among a range of findings, the report recommended:

*Consolidate the open space within the Precinct into a more usable park between Pinaroo Place and Kullah Parade by way of a land swap of Council's land at 1 Girraween Avenue with Housing NSW's land at 10-20 Pinaroo Avenue.*

At its meeting on 5 December 2011, Council resolved to endorse the review and prepare a planning proposal to facilitate its recommendations. The properties at 10-20 Pinaroo Place were subsequently rezoned from R4 High Density Residential to RE1 Public Recreation. However, in relation to 1 Girraween Avenue, Council resolved to retain Girraween Park until a replacement pocket park is acquired and continue to liaise with LAHC regarding open space options.

As Council has now acquired 552 Mowbray Road for a pocket park and successfully completed negotiations with LAHC in relation to the properties at 10-20 Pinaroo Place, it is now able to pursue the proposed amendment to the LEP relating to the subject properties.

Section 27(1) of the *Local Government Act 1993* requires that the reclassification of public land be made by a local environmental plan and a planning proposal is the only way to reclassify the land.

It is considered that the proposal is justified and the best way to achieve the intended outcomes.

## **STRATEGIC ASSESSMENT**

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### **State**

#### A Plan for Growing Sydney

The planning proposal is broadly consistent with the plan as it will:

- support the revitalisation of existing suburbs by supporting a land swap that will enable the provision of a new large park and a new pocket park within the Mowbray Road Precinct (Direction 3.1);
- contribute towards the creation of a network of green and open spaces across Sydney (Direction 3.1);
- support the creation of healthy built environments by providing a net increase in public open space in a precinct undergoing transition to higher-density development (Direction 3.3).

### **Regional / district**

#### Draft Greater Sydney Region Plan

The plan was released for public consultation in October 2017. It provides a 40-year vision for Greater Sydney and is designed to inform district plans, local plans and the assessment of planning proposals. Of the 10 Directions set out in the plan, the proposal is consistent with the following:

- Providing housing choice: through the provision of an additional parcel of R4 High Density Residential land;
- Designing places for people: through a net increase in the amount of public open space that will be in walking distance of dwellings; and
- Valuing green spaces and landscape: by facilitating the delivery of a new park providing recreational facilities adjacent to the Stringybark Creek Bushland.

#### Revised Draft North District Plan

The Greater Sydney Commission released the plan for consultation in October 2017. The proposal is in the North District and is consistent with the following priorities and actions of the plan:

- N2 – Planning for a city supported by infrastructure;
- N3 – Providing services and social infrastructure to meet people's changing needs;
- N4 – Fostering healthy, creative, culturally rich and socially connected communities;
- N19 – Increasing urban tree canopy cover and delivering green grid connections; and
- N20 – Delivering high-quality open space.

## **Local**

The proposal is consistent with Council's Community Strategic Plan Lane Cove 2025 as it will address the recreation needs of the community and provide a net increase in public open space for the Mowbray Road Precinct.

### **Section 117(2) Ministerial Directions**

The proposal is consistent with the relevant section 117 Directions except for the following:

#### 3.1 Residential Zones

This Direction requires that a planning proposal contain a requirement that residential development is not permitted until the land is adequately serviced, and not contain provisions that will reduce the permissible residential density of land.

In relation to 1 Girraween Avenue, although this land has not traditionally been used for residential purposes, it is in an established urban area and surrounded by adequately serviced residential land. Any additional services required will be identified at the development application stage.

The proposed change in zoning from R4 High Density Residential to RE1 Public Recreation at 552 Mowbray Road will reduce the permissible residential density of the site. This inconsistency is considered of minor significance as the planning proposal will result in a net increase of 697m<sup>2</sup> of R4 High Density Residential land.

#### 4.4 Bushfire Prone Land

The planning proposal is inconsistent with this Direction. The site is identified as bushfire-prone land under Council's bushfire-prone land map.

As part of the Gateway determination, formal consultation is required with the NSW Rural Fire Service (RFS) to ensure the proposal complies with the specific requirements of this Direction. Until this occurs, the consistency of this proposal with the Direction will remain unresolved.

#### 6.2 Reserving Land for Public Purposes

The proposal is inconsistent with this Direction as the approval of the Department's Secretary has not been obtained in relation to the alteration of existing zonings or reservations of land for public purposes. Considering that the proposal will facilitate a net increase in land for public purposes of 2,677m<sup>2</sup>, the inconsistency with this Direction is considered to be of minor significance and justified.

### **State environmental planning policies**

The proposal has demonstrated consistency with the following state environmental planning policies (SEPPs):

- SEPP 19 – Bushland in Urban Areas;
- SEPP 55 – Remediation of Land;
- SEPP 65 – Design Quality of Residential Apartment Development;
- SEPP (Affordable Rental Housing) 2009;
- SEPP (Building Sustainability Index: BASIX) 2004;
- SEPP (Exempt and Complying Development Codes) 2008;
- SEPP (Housing for Seniors or People with a Disability) 2004;
- SEPP (Infrastructure) 2007;
- SEPP (State and Regional Development) 2011; and



- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

## SITE-SPECIFIC ASSESSMENT

### Social

The planning proposal will have a positive social impact on the community as it will facilitate a net increase of approximately 2,677m<sup>2</sup> of public open space. A range of new facilities is planned for the proposed new park at Pinaroo Place/Kullah Parade, which will cater to the recreational needs of the community.

### Environmental

#### Built form

The proposed height of 17.5 metres is approximately one storey higher than the adjacent land zoned R4 High Density Residential at 562 Mowbray Road and not in keeping with the recommended heights set out in the master planning study that underpinned the Mowbray Road Precinct Strategic Review Report of 2011. The site is also sensitively located at the boundary of the E4 Environmental Living Zone, which has a maximum building height of 9.5 metres (Figure 3).

As such, further analysis is required to demonstrate the acceptability of the proposed maximum building height control having regard to the provisions set out in SEPP 65 – Design Quality of Residential Apartment Development and any potential impacts on the amenity of adjoining properties.



Figure 3: Extract from Lane Cove LEP height of buildings map.

#### Bushfire

The master planning study indicates that all three sites are in bushfire-prone land and are identified as being within the vegetation buffer zone. The study indicates a 50-metre asset protection zone would be required for the properties at 10-20 Pinaroo Place, whereas no asset protection zone would be required for 1 Girraween Avenue. This is therefore a more appropriate location for residential use, and the proposal will facilitate a land swap to promote a more orderly and efficient use of the land in the Mowbray Road Precinct.

While it is considered that the proposed changes will facilitate bushfire protection measures, consultation with RFS will be required in relation to this matter.

#### Flora and fauna

Given the largely developed state of the sites, the proposal is not likely to result in any adverse impacts on critical habitat, threatened species population or ecological communities or their habitats.

## **Economic**

The planning proposal will not result in any significant economic impacts. The proposal will provide additional dwellings in proximity to jobs and transport.

The proposal will facilitate a land swap between Council and LAHC, which will promote the orderly and economic use of the land by using constrained bushfire-prone land for public open space.

## **CONSULTATION**

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### **Community**

Council has proposed a public exhibition period of 28 days. This is considered to be appropriate.

As per the requirements of LEP Practice Note PN 16-001 *Classification and reclassification of public land through a local environmental plan*, the practice note is to be placed on exhibition alongside the planning proposal.

### **Agencies**

The following agencies should be consulted during public exhibition:

- NSW Land and Housing Corporation; and
- NSW Rural Fire Service.

## **TIME FRAME**

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Council has requested a nine-month time frame to complete the LEP. The Department considers a 12-month time frame to be more appropriate as the process includes reclassification of land.

## **DELEGATION**

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Council has not requested delegation of this planning proposal. Delegation cannot be granted as the reclassification involves the discharge of interests in public land under section 30 of the *Local Government Act 1993*.

## **CONCLUSION**

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The planning proposal is considered to have strategic planning merit as it will facilitate the delivery of an increase in quality open space and recreational infrastructure in a precinct undergoing transition to higher-density living.

The proposal has demonstrated site-specific merit as it will allow for the orderly use and development of land by facilitating the use of constrained bushfire-affected sites for public recreation and allowing higher-density residential development in a more suitable location.

The proposal has not demonstrated that the built form outcomes resulting from the proposed building height at 1 Girraween Avenue would be acceptable, particularly in the context of the sensitive location at the boundary of the E4 Environmental Living Zone. Before public exhibition, the planning proposal should be updated to demonstrate that the proposed building height is acceptable in relation to the impact on the amenity of adjacent dwellings.

As all three sites are located within bushfire-prone land, consultation with RFS prior to exhibition of the planning proposal is required to demonstrate consistency with section 117 Direction 4.4 Bushfire Prone Land.



## RECOMMENDATION

It is recommended that the Acting Executive Director, as delegate of the Secretary:

1. agree that any inconsistencies with section 117 Directions 3.1 Residential Zones and 6.2 Reserving Land for Public Purposes are minor and justified; and
2. note that the inconsistency with section 117 Direction 4.4 Bushfire Prone Land is unresolved and will require justification.

It is recommended that the Acting Executive Director, as delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation:
  - (a) the planning proposal is to be updated to demonstrate acceptability of the proposed building height at 1 Girraween Avenue having regard to provisions set out in SEPP 65 – Design Quality of Residential Apartment Development and the potential impact on the amenity of neighbouring properties; and
  - (b) consultation is required with the NSW Rural Fire Service to ensure the proposal complies with the specific requirements of section 117 Direction 4.4 Bushfire Prone Land.
2. The planning proposal should be made available for community consultation for a minimum of 28 days. A copy of practice note PN 16-001 *Classification and reclassification of public land through a local environmental plan* is to be included in the public exhibition material.
3. Consultation is required with the following public authorities:
  - NSW Rural Fire Service; and
  - NSW Land and Housing Corporation.
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.

Given the nature of the planning proposal, Council should not be authorised to exercise delegation to make this plan.

  
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15/12/17  
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