

Greater Sydney, Place and Infrastructure

IRF20/1206

Plan finalisation report

Local government area: Blacktown City Council

1. NAME OF DRAFT LEP

Blacktown Local Environmental Plan 2015 – 150 and 162 Reservoir Road Blacktown (Amendment No 18)

2. SITE DESCRIPTION

The planning proposal applies to land at 150 and 162 Reservoir Road, Blacktown.

Site 1 -150 Reservoir Road (Lot 284 DP 1075889) is located at the north-east part of Harpers Bush Reserve. It is a vacant battle-axe block, predominantly cleared, accessed by Reservoir Road and surrounded by Harpers Bush Reserve. It is owned by Council.

Site 2 - 162 Reservoir Road (Lot 1 DP 853940) is located at the south-eastern corner of Harpers Bush Reserve. It is privately owned, occupied by a single dwelling, accessed by Reservoir Road, predominantly cleared and surrounded by Harpers Bush Reserve.

PURPOSE OF PLAN

The draft LEP seeks to:

- rezone both sites from R2 Low Density Residential to RE1 Public Recreation;
- remove the height of building and minimum lot size controls on the subject sites;
- identify Site 2 on the land reservation acquisition map for acquisition.

Comment: Council purchased 150 Reservoir Road in 2018. Acquisition will not be necessary for this property.

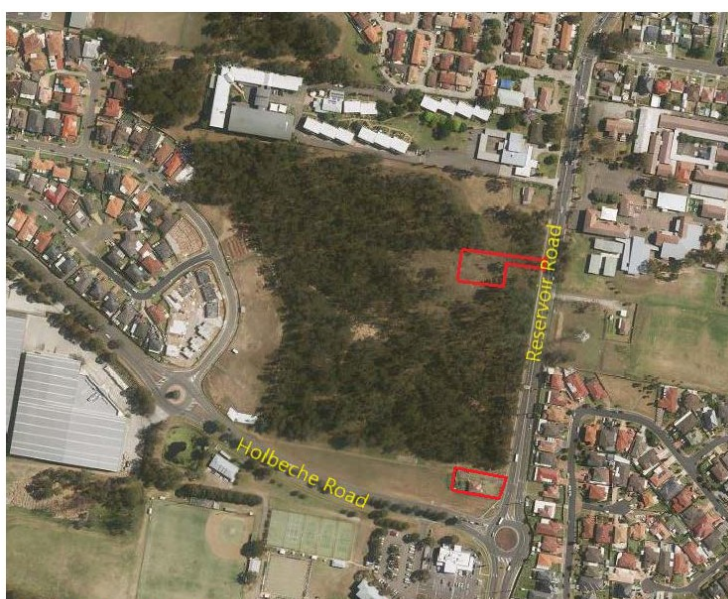



Figure 1 –  Subject sites (Source: Six Maps)

The draft LEP seeks to incorporate both sites into Harpers Bush Reserve as part of the adopted Reserve Masterplan. Harpers Bush Reserve is located to the west of Reservoir Road and north of Holbeche Road approximately 2 kilometres south of Blacktown CBD (see Figure 1: Location Plan and Subject Sites above). The reserve has an area of approximately 8.5ha and comprises Cumberland Plain Woodland of moderate to good conservation quality.

3. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Prospect state electorate. Hugh McDermott MP is the State Member.

The site falls within the Chifley federal electorate. Ed Husic MP is the Federal Member.

To the Central (Western) planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

4. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 27 September 2018 (**Attachment B**) determined that the proposal should proceed subject to conditions. The Gateway determination was altered on 5 August 2019 to allow time to complete the contamination assessment. The further alteration on 25 February 2020 was to allow time for resolution of the contamination assessment, due to difficulties gaining access to one of the sites (**Attachment C1 & C2**).

The proposal was due for finalisation on 27 April 2020. The request for finalisation was submitted by Council prior to this date.

5. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 17 October to 13 November 2018. Council received two submissions:

- The first submission requested details about the future accessibility of the site and expressed concerns over pedestrian pathways and crossings.

In response, Council highlighted the Harpers Bush Masterplan, which provides details on walking tracks to provide accessibility within the reserve and linkages to other reserves.

The pedestrian crossings issue is beyond the scope of this Planning Proposal however it has been referred to Council's Traffic section for consideration.

- The second submission strongly objected to the Planning Proposal; more specifically to the acquisition of the property. The objection was based on the following reasons:
 - the property having a higher potential use;
 - questioning the benefit of the inclusion of the property into the broader Harpers Bush;
 - no timeframe for acquisition;
 - RE1 zoning limits market appeal and affects the market value of the site;

- questioning the 'public benefit' as outlined in the Planning Proposal.

In response to the second submission, Council states that the subject site is entirely surrounded by the E2 Environmental Conservation zone and the acquisition of the two properties will assist in ensuring the long-term goals of the Harpers Bush Masterplan are met. The two sites are proposed to be zoned RE1 as they are not vegetated. Council's Property team will work with the landowner to acquire the property under the provisions of the Land Acquisition (Just Terms Compensation Act) 1997.

It is considered the consolidation of the reserve has significant merit and will allow a broader public benefit. There is a pathway for reasonable compensation to be paid to the owner of 162 Reservoir Road.

The proposal was referred to the Blacktown Local Planning Panel on 6 July 2018. The Panel endorsed the Planning Proposal with no additional requirements.

6. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult the NSW Rural Fire Service in accordance with the Gateway determination.

Council wrote to the NSW Rural Fire Service notifying it of the exhibition and providing 21 days to comment. The RFS responded that it had no specific recommendations in relation to bush fire protection.

7. POST-EXHIBITION CHANGES

No amendments were made to the planning proposal following public exhibition.

8. ASSESSMENT

It is recommended that the planning proposal proceed as it is:

- consistent with the pattern of surrounding land use zones and land uses;
- consistent with the strategic planning framework; and
- considered to be in the public interest and contribute a significant public benefit.

Council appointed consultants to prepare Preliminary Site Investigations (PSI) of both sites to address the Gateway condition regarding site contamination. The PSI concluded that no excessive contamination levels were recorded and recommended that further testing occur at the time of demolition of the dwelling.

9.1 Section 9.1 Directions

The Gateway Determination identified that consultation with NSW Rural Fire Service was required in relation to 9.1 Direction 4.4 Planning for Bushfire Protection. Council consulted with NSW Rural Fire Service which responded that it had no specific recommendations in relation to bush fire protection for the proposal. The consolidation of a dwelling sites into the reserve will reduce the number of properties exposed to the threat of bushfire. Therefore, it is considered that any inconsistency with the direction is justified.

9.2 State environmental planning policies

The draft LEP is consistent with relevant SEPPs or deemed SEPPs.

9.3 State, regional and district plans

The proposal is consistent with the Central City District Plan:

- *Planning Priority C15 - Protecting and enhancing bushland, biodiversity and scenic and cultural landscape:* The rezoning of both sites to RE1 Public Recreation, and the intention of Council to acquire the sites, will protect and enhance the surrounding bushland;

- *Planning Priority C16 - Increasing urban tree canopy cover and delivering green grid connections:* The rezoning and acquisition of both sites is a critical element of the Harpers Bush Reserve Masterplan. Further actions described in the plan include carrying out regeneration planting on each site; and
- *Planning Priority C17 - Delivering high quality open space:* The proposal will allow for Council to acquire the site and provide open space for residents, as well as incorporating each site into Harpers Bush Reserve.

9. MAPPING

The planning proposal will amend the land zoning, height of building, lot size and land reservation acquisition maps as follows:

- LZN_014 – Amend the land zoning map to rezone to RE1 Public Recreation
- LRA_014 – Amend the land reservation acquisition map to add one site
- HOB_014 – Amend the height of buildings map to remove the height control
- LSZ_014 – Amend the lot size map to remove the minimum lot size control

10. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979*. Council confirmed on 16 June 2020 that it supports the draft and that the plan should be made (**Attachment D**).

11. PARLIAMENTARY COUNSEL OPINION

On 1 July 2020 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

12. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because the proposal is:

- consistent with the pattern of surrounding land use zones and land uses;
- consistent with the strategic planning framework; and
- considered to be in the public interest and contribute significant public benefits.



Ian Bignell
Place Manager, Central (Western)



Gina Metcalfe
Acting Director, Central (Western)
6 July 2020

Assessment officer: Ryan Klingberg
Senior Planning Officer
Central River City & Western Parkland City
Phone: 9860 1561