

## Greater Sydney, Place and Infrastructure

IRF20/4203

### Plan finalisation report

Local government area: Blacktown

#### 1. NAME OF DRAFT LEP

Blacktown Local Environmental Plan 2015 (Amendment No 9)

#### 2. SITE DESCRIPTION

The planning proposal (**Attachment A**) applies to 23 Council's owned small public space (reserves) across the Blacktown LGA listed as follows:

- Site 1 - Reserve 134 Headingly Reserve Redwood Street, Blacktown;
- Site 2 – Reserve 230 Ajax Park Vardys Road, Blacktown;
- Site 3 – Reserve 377 Shadwell Crescent, Kings Langley;
- Site 4 – Reserve 114 Cooina Street, Seven Hills;
- Site 5 – Reserve 318 Hope Street, Seven Hills;
- Site 6 – Reserve 563 Prospect Highway, Seven Hills;
- Site 7 – Reserve 564 Prospect Highway, Seven Hills;
- Site 8 – Reserve 68 Freeman Street, Lalor Park;
- Site 9 – Reserve 69 Freeman Street, Lalor Park;
- Site 10 – Reserve 181 Hayes Road, Seven Hills;
- Site 11 – Reserve 537 Tallawong Avenue, Blacktown;
- Site 12 – Reserve 105 Derwent Reserve, Walters Road, Blacktown
- Site 13 – Reserve 40 Archer Street, Blacktown;
- Site 14 – Reserve 159 Caldwell Place, Blacktown;
- Site 15 – Reserve 237 Palmer Place, Blacktown;
- Site 16 – Reserve 452 Musgrove Crescent, Doonside;
- Site 17 – Reserve 455 Wilkie Crescent, Doonside;
- Site 18 – Reserve 488 Siandra Avenue, Shalvey;
- Site 19 – Reserve 631 Crawley Avenue, Hebersham;
- Site 20 – Reserve 698 Edwina Place, Plumpton;
- Site 21 – Reserve 866 Gracilis Way, Bidwill;
- Site 22 – Reserve 402 Clune Reserve, Carlisle Avenue, Blackett; and
- Site 23 – Reserve 674 Buckwell Drive, Hassall Grove.

Overview maps of the subject sites are provided at **Attachment A1**.

### 3. PURPOSE OF PLAN

The draft LEP seeks to amend Blacktown Local Environmental Plan (BLEP) 2015 to reclassify public land to operational and remove any implied trusts on the basis that the land will no longer be used for public recreation purposes by amending Part 2 of Schedule 4 *Classification and reclassification of public land* of BLEP 2015. All the sites are classified as 'community land' in accordance with the Local Government Act 1993. Certificate of Titles are listed at **Attachment A2** and location of the subject reserves are at **Attachment A3**.

Council and the Department has amended the LEP since public exhibition to remove some sites from the proposal or only proceed with reclassifying/rezoning sites in part (discussed further in Section 8 of this report).

In summary the amendment LEP seeks to reclassify 15 reserves from 'community' to 'operational' land and to rezone 13 reserves. 11 reserves will be rezoned to R2 Low Density Residential, 1 reserve will be rezoned to B1 Neighbourhood Centre, and 1 reserve will be rezoned to R4 High Density Residential.

Further detail of the reserves, size, existing and proposed zoning, proposed development controls and details of land are listed at **Attachment A4**.

The planning proposal was prepared in accordance with *Practice Note 16-001* dated 5 October 2016. Council's explanation of the provisions is satisfactory.

### 4. STATE ELECTORATE AND LOCAL MEMBER

The sites fall within the Blacktown, Seven Hills and Mount Druitt state electorates. Stephen Bali MP, Mark Taylor MP and Edmond Atalla MP are the State Members respectively. The site falls within the Chifley federal electorate. Ed Husic MP is the Federal Member. To the team's knowledge, none of the MPs have made any written representations regarding the proposal.

<b>NSW Government Lobbyist Code of Conduct:</b> There have been no meetings or communications with registered lobbyists with respect to this proposal.
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<b>NSW Government reportable political donation:</b> There are no donations or gifts to disclose and a political donation disclosure is not required.
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### 5. GATEWAY DETERMINATION

The Gateway determination issued on 20 December 2016 (**Attachment B**) determined that the proposal should proceed subject to conditions. Council has met all the Gateway determination conditions.

The plan was to be finalised on 20 December 2017, but delays in Council mapping and sequencing has delayed the Gateway timeframe.

### 6. PUBLIC EXHIBITION

In accordance with the Gateway conditions, the proposal was publicly exhibited by Council from 8 March 2017 to 5 April 2017.

A total of 71 community submissions were received, comprising of 40 objections, one petition with 82 signatures about retaining Reserve 377 (Shadwell Crescent), nine petitions in excess of 600 signatures about retaining Reserve 105 (Derwent Reserve, Walters Road) were received not supporting the proposal, 17 submissions were in support of the proposal and four of the submissions received were unclear about their position/discussed general issues.

Three public hearing sessions were chaired by an independent planning consultant, held on 1, 5 and 8 June 2017 and heard from 25 local residents. The public hearing report (**Attachment C1**) recommended that Council proceed to rezone 21 of the proposed 23 reserves. As discussed in Section 8 of this report, Council proposed to proceed with 20 of the sites.

In summary, submissions which support the proposal state either:

- An interest in purchasing sites;
- Sites are not suitable for recreation and the embellishment of other nearby reserves would better accommodate the community;
- Sites attract anti-social behaviour; and
- Sites are too close to residential properties and a suitable noise buffer is not able to be accommodated.

Submissions which objected to the proposal raised the following concerns:

- The Blacktown and District Environment Group Inc submission raised concerns about rezoning and selling of 11 reserves (230, 377, 318, 105, 40, 237, 455, 488, 698, 866 and 674) because these reserves contain mature trees. The submission states the trees contribute to local biodiversity, provide habitat for local fauna, provide shade, contribute to the wellbeing of local residents, provide recreation community benefit and contribute to the visual appeal and character of the local area.
- Future intensification of residential areas and a growing local population means there is a greater need for recreational spaces.
- Future redevelopment of reserves for residential uses will increase traffic, adversely impact the amenity of adjoining residential lots and increase water runoff.
- If the amount of open space is reduced and less maintenance is required then this will reduce employment opportunities.
- Some sites provide pedestrian linkages and convenient access to bus stops.
- Shadwell Crescent, Kings Langley is used regularly by the community.
- Some sites are affected by electricity easements which limit the development potential of the land.

Further detail on issues raised during community consultation and public hearings and Council's responses are at **Attachment C**.

## **7. ADVICE FROM PUBLIC AUTHORITIES**

Council was required to consult with Transport for NSW, former Roads and Maritime Services and Endeavour Energy and Sydney Water in accordance with the Gateway conditions.

Council has consulted with these authorities, and the following responses were received:

- Sydney Water did not raise any objections to the proposed amendments and noted detailed comments on connections and services will be provided at the development application stage once referred to Sydney Water.
- Endeavour Energy did not raise any objections to the proposed amendments.
- RMS did not raise any objections to the proposed amendments. However, for reserves 563 and 564, access from Prospect Highway is denied.
- TfNSW did not raise any objections to the proposed amendments.

## 8. POST-EXHIBITION CHANGES

On 29 November 2017 a revised planning proposal was submitted to the Department for finalisation (**Attachment A**).

Based on community and agency submissions, Council amended the proposal to rezone and/or reclassify 20 of the 23 small reserves (**Attachment C**). Council made the following post-exhibition changes:

- a) Delete 3 reserves from the proposal.
  - i) Reserve 402 Clune Reserve, Carlisle Avenue, Blackett.
  - ii) Reserve 377 Shadwell Crescent, Kings Langley.
  - iii) Reserve 105 Derwent Reserve, Walters Road, Blacktown.
- b) Partially rezone Reserve 230 Ajax Park, Vardys Road, Blacktown.

Upon reviewing the planning proposal for finalisation, including detailed assessments of each site having regard to Premier's Priority 11 (Greener Public Spaces), the Department made the following post-exhibition changes:

- a) Delete 5 reserves from the proposal.
  - i) Reserve 537 Tallawong Avenue, Blacktown.
  - ii) Reserve 488 Siandra Avenue, Shalvey.
  - iii) Reserve 68 Freeman Street, Lalor Park.
  - iv) Reserve 69 Freeman Street, Lalor Park.
  - v) Reserve 866 Gracilis Way, Bidwell.
- b) Partially reclassify and rezone Reserve 318 Hope Street, Seven Hills.

This change was made to enable retaining these sites as they have beneficial open space qualities.

This amendment is discussed further in the following section.

The post-exhibition changes are considered minor as they do not significantly change the intent of the proposal and no further public consultation is required.

## 9. ASSESSMENT

The planning proposal has site-specific and strategic merit, because:

- the proposal gives effect to the Central City District Plan, in terms of increasing housing supply and diversity and deliver high-quality open spaces;
- the proposal is consistent with all relevant Section 9.1 Directions;
- the proposal is consistent with all relevant State Environmental Planning Policies
- these 15 small reserves (recommended by the Department) are underutilised/ surplus and mostly cleared of vegetation with less than 0.15 hectares in area. Therefore, the reclassifying and rezoning of them do not result in a significant reduction of public space, value to the community and ecosystem/biodiversity. Also, the *Biodiversity Conservation Act 2016* and *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*, have sufficient vegetation clearing provisions in place that can be addressed through the development assessment process for those lands that contain mature trees;
- sites are within 400 metres of other quality open spaces that service the surrounding community;
- Council can investigate the provision of through site links with better surveillance and walkability in the vicinity of these sites where required;

- the proposal will reduce ongoing maintenance liabilities for small reserves and allow these lands to be used for more suitable residential and commercial land use that benefit community;
- the proposed rezoning will maintain the character of the adjoining lands and the surrounding sites; and
- the proposal will provide benefits to the community, as the released funds from selling the underutilised reserves will be utilised to improve quality of existing parks and create new parks and recreational areas across the Blacktown LGA.

The Department has carried out detailed assessments of each site having regard to Premier's Priority 11 (Greener Public Spaces) and considered the following criteria:

- safety and surveillance;
- accessibility and if the site is accessible from the street via footpaths;
- embellishment, condition and useability;
- size and topography; and
- connectivity and walkability to other open spaces.

Post-exhibition the Department requested Council to provide further consideration of the following sites and whether they could be retained as open space:

- Reserve 318 (Site 5) Hope Street, Seven Hills;
- Reserves 68 & 69 (Sites 8 & 9) Freeman Street, Lalor Park;
- Reserve 537 (Site 11) Tallawong Avenue, Blacktown;
- Reserve 488 (Site 18) Siandra Avenue, Shalvey; and
- Reserve 866 (Site 21) Gracilis Way, Bidwell.

Council provided additional information in response (**Attachments A5 and A7**) and the sites are assessed in further detail as follows.

### **Hope Street, Seven Hills**

Reserve 318 (Site 5) Hope Street, Seven Hills is 1,178m<sup>2</sup> and consists of four allotments (Figure 1). The site is within 400 metres of Ashley Brown Reserve to the north east and open space along Blacktown Creek to the south west. Seven Hills Public School is located east of the subject site. Council is seeking to rezone and reclassify the allotments east of the laneway (Lots G and H DP 36466) to be consistent with the surrounding R4 High Density Residential zone.





Figure 1 – Reserve 318 (Site 5) Hope Street, Seven Hills

The Department requested Council to consider amalgamating the southern portions (Lots H and 362, DP 36466) and retaining them to be used as a pocket park opposite Seven Hills Public School.

Council has no objections to removing Lot H DP 36466 from the draft LEP (**Attachment A5**) however considers that rezoning this site would enable a more appropriate urban design outcome if these sites were consolidated with adjoin residential land enabling upgrades to the public domain and activation at ground level along the street front and corner. Council states if the southern portion was to be retained it would remain underutilised.

#### Department comment

The southern allotments (Lot H DP 36466) is to be retained as open space to enable potential future amalgamation and embellishment to improve the existing open space qualities of this part of the site and to retain a pedestrian connection.

The Department considers there is only site-specific merit to reclassify and rezone the northern part of the site (Lot G DP 36465) on the basis that:

- The lots proposed to be retained excludes the existing footpath and street-edge verge.
- If the site was consolidated and redeveloped with the northern parcel and a 3m private setback is provided, it would allow sufficient space for movement and vegetation.
- There is potential for the northern allotment to be used for other uses in an orderly way as it adjoins one consolidated landholding.

It is noted the site has potential to be better configured, as the result of some comprehensive master planning or a development proposal. In the future, if a developer could demonstrate that the sufficient open space can be provided on site in a better way, and dedicated to council, then the re-classification of these sites could be reconsidered.

## **Freeman Street, Lalor Park**

Reserves 68 and 69 consist of large areas of mowed grass (2,403m<sup>2</sup> Site 8 and 2,719m<sup>2</sup> Site 9), intersected by a pedestrian pathway connecting Freeman Street to Maughan Street (West) and Funda Crescent (east) (Figure 2).



Figure 2 – Reserves 68 & 69 (Sites 8 & 9) Freeman Street, Lalor Park

Council notes these sites are underutilised and are within 400 metres of larger reserves which can adequately service the surrounding community. Upon further consideration, Council has amended their proposal and request that only the land to the south of the existing pedestrian pathway be rezoned from RE1 Public Recreation to R2 Low Density Residential and reclassified from 'community' to 'operational' land.

Council have prepared a draft concept design (**Attachment A5**) indicating how the northern portions can be retained for open space and upgraded/embellished to facilitate a more usable space with a total area of approximately 2,300m<sup>2</sup>. The embellishment of the northern portion is proposed to be funded by the sale of the land to the south of the pathway.

### **Department comment**

The entirety of Sites 8 & 9 are to be retained as open space to enable potential future embellishment to improve the existing open space qualities of these sizeable and accessible sites (2,403m<sup>2</sup> Site 8 and 2,719m<sup>2</sup> Site 9).

### **Tallawong Avenue, Blacktown**

Reserve 537 (Site 11) at Tallawong Avenue, Blacktown is 972m<sup>2</sup>, is south west of Tallawong Oval and north west of local shops (Figure 3). Council notes (**Attachment A5**) this site is not used for recreation purposes due to it being located within the transmission easement and that reclassifying and rezoning the site would enable consolidation with the adjoining B1 Neighbourhood Centre.

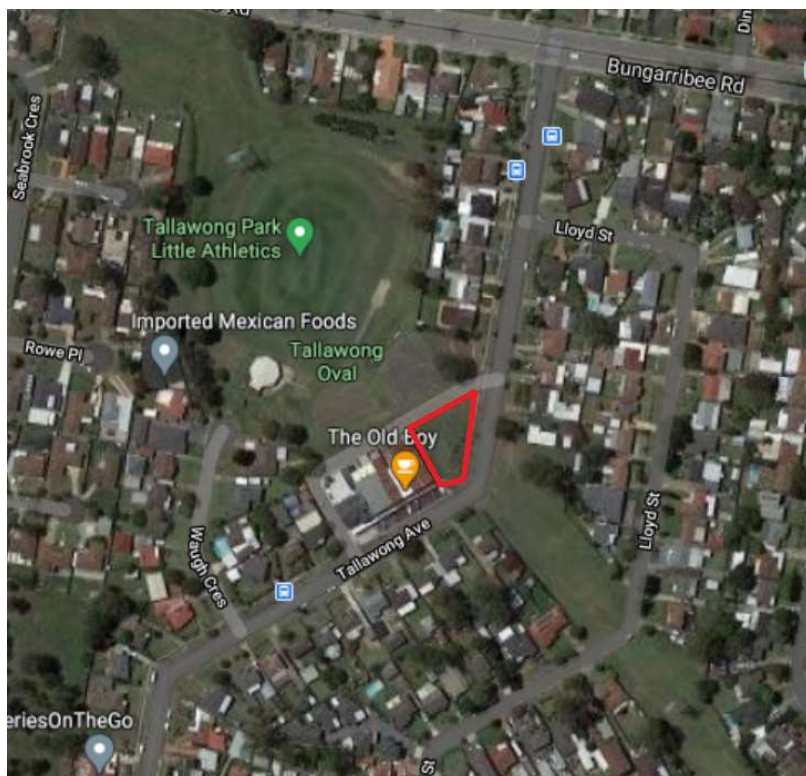


Figure 3 – Reserve 537 (Site 11) Tallawong Avenue, Blacktown

The Department requested Council to consider retaining this site for open space as it forms part of a green link that extends north towards the rail line at Doonside and south to the Great Western Highway.

Council have no objection to removing this site from the draft LEP, however notes that funds from the sale of the land could be utilised to upgrade and enhance adjoining open space.

#### **Department comment**

The site to be retained as open space to enable potential future embellishment to improve the existing open space qualities of the site, including its position in the surrounding green corridor and connectivity to Tallawong Oval.



### **Siandra Avenue, Shalvey**

Reserve 488 (Site 18) at Siandra Avenue, Shalvey contains mowed grass, is 1,171m<sup>2</sup> and adjoins Reserve 431 (Piccolo Reserve) and district level open space to the north-west (Figure 4).

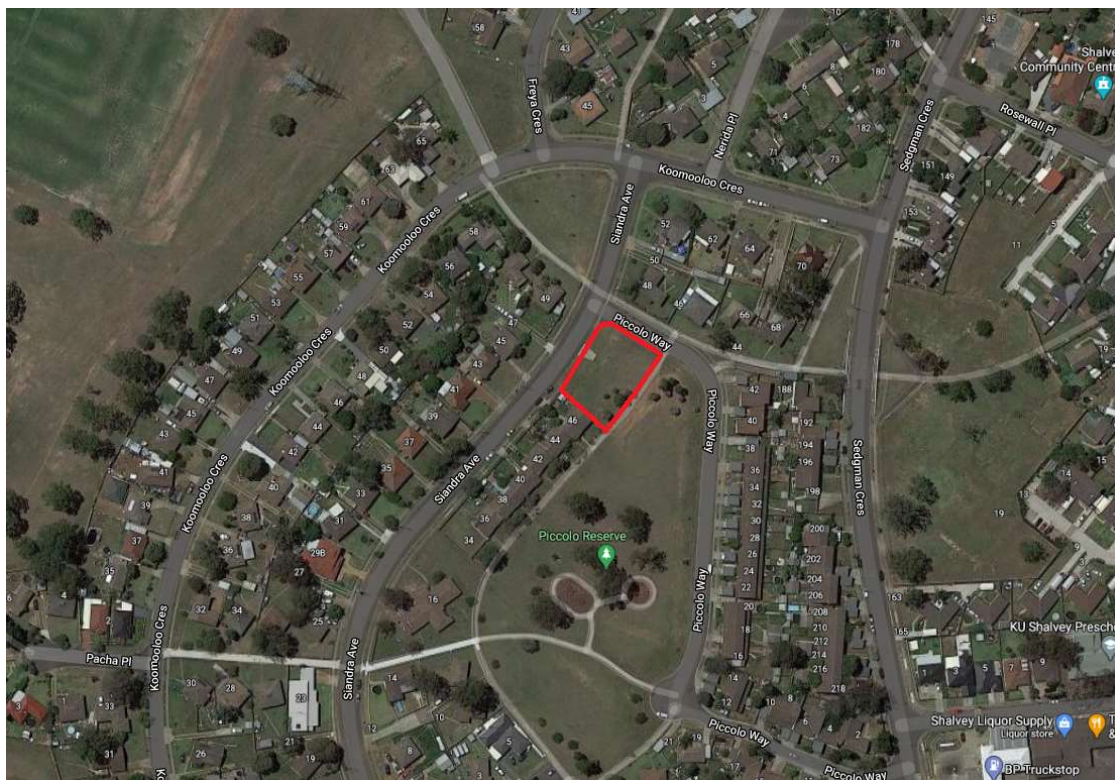


Figure 4 – Site 18 Siandra Avenue, Shalvey

Council notes **(Attachment A5)** rezoning and reclassification of this site is sought as it is underutilised and can help respond to increased demand for the provision of land for housing. Council intends to use the funds generated from the sale of this land to upgrade and embellish surrounding open space, providing greater usability of the spaces and providing greater community benefit.

Council supports the Department's view of the importance of retaining a green link connecting both the local open space to the south of the site with the District open space to the north west of the site. However, Council are of the view the sale of Reserve 488 will fund upgrades to pedestrian links to the adjoining District open space, additional street furniture and tree planting along Piccolo Way and Koomooloo Crescent.

### **Department comment**

The site to be retained as open space to enable potential future embellishment to improve the existing open space qualities of the site, particularly its connection to other open spaces.

### **Gracilis Way, Bidwell**

Reserve 866 (Site 21) at Gracilis Way, Bidwell is zoned R2 Low Density Residential and has an area of 330m<sup>2</sup> (which is less than the minimum lot size) and would therefore require purchasing by an adjoining land owner to be developed for residential purposes.

Council supports the retention of trees on the site subject to an assessment of their health and suitability **(Attachment A7)**. Council notes future removal of any significant trees from the site as a result of the reclassification of the site, will require an assessment prior to development consent as part of any development application or complying development

certificate state with respect to the health of the trees and where required incorporation of the trees as part of any development.

### **Department comment**

The site is to remain classified as community land to retain the trees on site. The trees are notable and contribute to the achievement of the Premier's Priority 11 Greener Public Spaces.

### **Other considerations**

Post-exhibition the Department also requested Council to provide further information to demonstrate the proposed rezonings and/or reclassifications and subsequent sale of the sites will attribute funds to the upgrade or embellishment of other open spaces.

Council confirm **(Attachment A6)**, in 2013, Council endorsed that any funds generated by Council through the potential sale of rezoned reserves will be placed in a trust and invested in the provision of playgrounds in line with Council's adopted Playground Strategy (December 2012) and Council's 'New Major Parks' cash reserve.

The Department also requested Council to provide further consideration of trees, through site links and connectivity to other open space for the following sites:

- Reserve 230 (Site 2) Ajax Park, Vardys Road, Blacktown – regarding trees on site;
- Reserve 159 (Site 14) Caldwell Place, Blacktown – regarding connectivity to other open space;
- Reserve 455 (Site 17) Wilkie Crescent, Doonside – regarding connectivity to other open space;
- Reserve 631 (Site 19) Crawley Avenue, Hebersham – regarding a through site link;
- Reserve 698 (Site 20) Edwina Place, Plumpton – regarding a through site link; and
- Reserve 674 (Site 23) Buckwell Drive, Hassall Grove – regarding a through site link;

In summary, Council responded **(Attachment A7)** noting the above matters can be investigated upon any sale of the land and future development application or complying development certificate where sites are consolidated, particularly as:

- the *Biodiversity Conservation Act 2016* and *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*, have sufficient vegetation clearing provisions in place that can be addressed through the development assessment process for those lands that contain mature trees;
- existing informal pedestrian links through reserves have poor surveillance and better designed pedestrian links can be planned for elsewhere to other open spaces and bus stops; and
- Council have plans to improve and embellish open spaces which are better placed to service the community within the vicinity of these reserves.

### **Department Comment**

The Department requests, with the reclassification and rezoning, and potential subsequent redevelopment sites, for Council to consider the following:

- Site 20 Edwina Place, Plumpton – to improve pedestrian connectivity to bus stops along Bungalow Road elsewhere; and
- Site 23 Buckwell Drive, Hassall Grove – to retain and if possible improve pedestrian connectivity from Luxford Road to Hassall Grove Public School via the local shops.

The Department notes that Council's post-exhibition report **(Attachment C)** recommended holding off the sale of Reserve 631 Crawley Avenue, Hebersham until the future operations and requirements of the adjacent land use (Mount Druitt SES) is determined. If the reserve

and adjoining land was to be redeveloped, it is recommended a master planned outcome considers designing appropriate through-site links/permeability through the site.

### **9.1 Section 9.1 Directions**

The planning proposal is considered consistent with all section 9.1 Directions, except for Direction 6.2 Reserving Land for Public purposes that is of minor significance.

### **6.2 Reserving Land for Public Purposes**

The objectives of this Direction are to facilitate of public services and facilities by reserving land for public purposes and to facilitate the removal of reservation of land for public purposes where the land is no longer required for acquisition.

The proposal is inconsistent with this Direction because it will remove the public use of the reserves and reduce the overall public recreation and open spaces in Blacktown LGA. The proposal states the subject reserves are not providing recreation space for community benefit. The reclassifying and rezoning of the lands will enable Council to sell the land for more appropriate purposes such as commercial or residential uses. Council intends to use the funds from the sale of the lands for maintaining and improving the quality of other parks across the LGA that are better located to serve the community's needs.

The inconsistency with this Direction is considered of minor significance and justified in accordance with the terms of this Direction.

### **9.2 State environmental planning policies**

The planning proposal is considered consistent with relevant SEPPs or deemed SEPPs.

### **9.3 State, regional and district plans**

The LEP gives effect to the Central City District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979* and gives effect to the following planning priorities of the Plan:

- Planning Priority C5 of the plan in terms of providing housing supply, choice and affordability close to centres and key open spaces; and
- Planning Priority C6 to create opportunities to deliver new high-quality open spaces.

The LEP gives effect to these priorities as it will potentially contribute to housing supply targets for Blacktown and the Central City District. It will also enable the sale of underutilised public reserves and for funding to be allocated toward the upgrade and embellishment of other public recreation areas.

## **10. MAPPING**

The LEP will amend the relevant BLEP 2015 maps as follows:

- Land Zoning - LZN\_008, LZN\_013 and LZN\_14;
- Height of Building - HOB\_008, HOB\_013 and HOB\_14;
- Minimum Lot Size - LSZ\_008, LSZ\_013 and LSZ\_14; and
- Introduce the Land Reclassification (Part Lots) Map RPL\_013

The maps (**Attachment Maps**) and map cover sheet (**Attachment MCS**) have been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

## **11. 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* (**Attachment D**). Council confirmed on 5 November 2020 that it was happy with the draft and that the plan should be made (**Attachment E**).

## 12. PARLIAMENTARY COUNSEL OPINION

On 3 December 2020 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

## 13. 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 inconsistency with 9.1 Ministerial Direction, 6.2 Reserving Land for Public Purposes is of minor significance as the subject lands are not currently providing recreation space for community benefit;
- the rezoning gives effect to the Central City District Plan in accordance with section 3.8 of the Environmental Planning and Assessment Act 1979. It will enable sites to be utilised for residential or commercial uses consistent with the surrounding land use and will enable the delivery of high-quality open spaces elsewhere;
- these 15 small reserves (recommended by the Department) are underutilised/ surplus and mostly cleared of vegetation with less than 0.15 hectares in area. Therefore, the reclassifying and rezoning of them do not result in a significant reduction of public space, value to the community and ecosystem/biodiversity. Also, the *Biodiversity Conservation Act 2016* and *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*, have sufficient vegetation clearing provisions in place that can be addressed through the development assessment process for those lands that contain mature trees;
- sites are within 400 metres of other quality open spaces that service the surrounding community;
- Council can investigate the provision of through site links with better surveillance and walkability in the vicinity of these sites where required;
- the proposal will reduce ongoing maintenance liabilities for small reserves and allow these lands to be used for more suitable residential and commercial land use that benefit community;
- the proposed rezoning will maintain the character of the adjoining lands and the surrounding sites; and
- the proposal will provide benefits to the community, as the released funds from selling the underutilised reserves will be utilised to improve quality of existing parks and create new parks and recreational areas across the Blacktown LGA.



16/12/2020

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