

Reclassification of land at 59B Park Road, Burwood from 'community' to 'operational' land.

Proposal Title : **Reclassification of land at 59B Park Road, Burwood from 'community' to 'operational' land.**

Proposal Summary : **Proposal to amend Burwood Local Environment Plan 2012 for the reclassification of 'community' land to 'operational' land of Council owned land at 59B Park Road, Burwood.**

PP Number : **PP_2015_BURWO_002_00**

Dop File No : **15/12833**

Proposal Details

Date Planning
Proposal Received : **20-Aug-2015**

LGA covered : **Burwood**

Region : **Metro(CBD)**

RPA : **Burwood Council**

State Electorate : **STRATHFIELD**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Reclassification**

Location Details

Street : **59B Park Road**

Suburb : **Burwood**

City : **Sydney**

Postcode : **2134**

Land Parcel : **Lot 2, DP615429**

DoP Planning Officer Contact Details

Contact Name : **Alan Chen**

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Diane Sarkies**

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Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub

Consistent with Strategy :

Regional Strategy :

Reclassification of land at 59B Park Road, Burwood from 'community' to 'operational' land.

MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been meetings or
communications with
registered lobbyists? : **Yes**

If Yes, comment : **The Department is not aware of any meetings or communications with registered lobbyists concerning this planning proposal.**

Supporting notes

Internal Supporting
Notes :

On 20 August 2015, Burwood Council submitted a planning proposal to the Department, seeking to amend Schedule 4, Part 1 of the Burwood Local Environment Plan (LEP) 2012 to reclassify land at 59B Park Road (subject land) from 'community' land to 'operational' land. The proposal does not seek rezoning of the subject land.

The subject land is 17.2 square metres in size and sits at the front of 59 Park Road, Burwood. In context, the land forms part of the front yard of 59 Park Road. The subject land and adjoining land at 59 Park Road is currently zoned R3 Medium Density Residential under the BLEP 2012.

Council had originally purchased the land from the landowner in 1981 for the purposes of widening Park Road. No other land parcels were later purchased to facilitate the widening. In 1994, Council were required to classify its land holdings as either 'community' or 'operational' in accordance with the introduction of the Local Government Act 1993. The subject land was omitted from classification as 'operational' land at a Council meeting held on 28 June 1994. This resulted in the land automatically being classified as 'community'.

The original landowner still resides at 59 Park Road, Burwood, and has offered to purchase 59B Park Road back from Council for the purposes of integrating and redeveloping the sites. The land cannot be sold back to the original owner until it has been reclassified. The subject land is also identified by Council as surplus land.

On 25 May 2015, Council resolved in meeting to enter into a contract of sale and have the subject land reclassified. Council also resolved to grant a lease, licence or easement for a period of 12 months to allow for the finalisation of the reclassification and sale of the subject land.

Development consent has been issued for the development of townhouses on 59 Park Road. However, as of August 2015, commencement of the DA has been delayed under Part 80 (3) of the Act. The consent will come into effect when two pre-conditions are met: the completion of the reclassification and sale of 59B Park Road.

External Supporting
Notes :

Burwood Council has submitted a planning proposal which seeks to reclassify land at 59B Park Road, Burwood, from 'community' to 'operational' land. The subject land is Council owned land and is classified as community land. Council has identified the land as surplus to its needs.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The primary objective of this planning proposal is to reclassify land at 59B Park Road, Burwood (Lot 2 DP615429) from 'community' to 'operational' land through the amendment to the Burwood LEP. The reclassification will enable Council to sell the land, which it considers surplus to Council's needs, to the original land owner. The objectives of the planning proposal are considered to be clear and adequate.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **Council has provided explanation of their amendments to Burwood LEP 2012 which would involve an amendment to Schedule 4 of the LEP. The property description of the subject land will be inserted in Part 1 of Schedule 4. The explanation of provisions is considered acceptable.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

2.3 Heritage Conservation

* May need the Director General's agreement

3.1 Residential Zones

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

7.1 Implementation of A Plan for Growing Sydney

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

e) List any other matters that need to be considered :

DEPARTMENT PRACTICE NOTES

PN 09-003 'Classification and reclassification of public land through a local environmental plan': This Practice Note provides guidance on the classification and reclassification process, and includes general requirements for exhibition and public hearings. The planning proposal generally accords with the Practice Note, and Council is obliged to follow the guidance and requirements relating to public exhibition and public hearings as set out in PN 09-003.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

DIRECTION 6.2 RESERVING LAND FOR PUBLIC PURPOSES

The objectives of this Direction enables the reservation of land for public purposes and facilitates the removal of reservations where land is no longer required for this purpose. The Direction states that a planning proposal must not create, alter or reduce reservations of land for public purposes without the approval from the Department of Planning.

The subject land was purchased by Burwood Council in 1981 for the purpose of road widening. The original landowner of the subject land approached Council and offered to purchase back the subject land for integration with 59 Park Road to provide access to the potential redevelopment of the site.

The previous purpose for road widening of the subject land is not captured as a definition of reservation of land for public purposes under section 26 (1) (c) of the Act. Therefore the removal of 'community' land does not contravene the Act nor require continuing provisions under Clause 12 of the EP&A Reg 2000.

This Direction was considered by the Department and it has been found that approval by the Secretary's delegate is not required.

There are no inconsistencies with any other SEPPs or s117 Directions.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The planning proposal includes an aerial photo to indicate the location of the proposed reclassification which is adequate for the purposes of the exhibition and assessment of this planning proposal. The proposal will not result in any amendments to Burwood LEP maps.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council proposes a 28 day public exhibition period and, as required by the Local Government Act 1993, a public hearing. The Department's Practice Note PN 09-003 provides guidance on the requirements for public exhibition and public hearings.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : Council's explanation of the proposal and its objectives is adequate.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The principal Burwood LEP was notified on 9 November 2011.

Assessment Criteria

Need for planning proposal : In August 2014, Council received a Development Application (DA127/2014) for Nos.59 and 59B Park Road, Burwood. The application proposes the demolition of the existing dwelling house and construction of several townhouses. In August 2015, Council granted deferred development consent. Consent will come into effect when the reclassification and sale of 59B Park Road is completed.

Owners of 59 Park Road have approached Council to purchase 59B Park Road, Burwood (subject land). However, under s45 of the Local Government Act 1993, Councils cannot sell, exchange or dispose of community land. Therefore, the subject land being sold back to the original owner is prohibited. Therefore, the reclassification of the subject land to 'operational' land is required to facilitate the sale of the land.

On 25 May 2015, Council resolved to commence the process of reclassification of the subject land and seek a Gateway determination. A planning proposal is the only means of undertaking this.

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Consistency with strategic planning framework :

Burwood is identified as a strategic centre under A Plan for Growing Sydney. The proposal will consolidate the subject land with 59 Park Road, Burwood and enable future redevelopment for new housing. The proposal seeks to reclassify land already zoned for residential purposes and is surplus to Council's needs. The result of this proposal would be consistent with Direction 2.1: 'Accelerate housing supply across Sydney' as it will facilitate housing in a strategic centre with close access to jobs, amenities and public transport.

The Burwood 2030 Community Strategic Plan was adopted by Council in 2013. The proposal demonstrates consistency with "Direction 5.1.1 Implement economic development strategies". Council identifies the subject land as surplus land. The reclassification of the land will enable the subject land to be sold and consolidated with 59 Park Road, Burwood, which has received consent for redevelopment for townhouses. Therefore, the proposal provides efficient and economic use of the subject land and is considered consistent with the strategic goal of Burwood 2030 Strategic Plan.

Environmental social economic impacts :

The subject land is a small parcel of land and forms part of the front yard of 59 Park Road. This proposal is not likely to adversely impact threatened species, populations or ecological communities or their habitats. The site is not subject to flooding.

The proposal will consolidate the subject land with 59 Park Road and facilitate residential development which is likely to positively contribute to economic growth. The subject land is classified as 'community land' and it is currently not used for community purposes but forms a part of the front yard of 59 Park Road, Burwood. The proposal will allow the subject land to facilitate vehicular and pedestrian access to the proposed redevelopment. The potential monetary compensation generated from the sale of the subject land will be spent towards the benefit of the wider community.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - s56(2)(d) :

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Cover Letter - Planning Proposal.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Appendix 1.pdf	Study	Yes
Appendix 3.pdf	Study	Yes
Land image + Title.pdf	Drawing	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **2.3 Heritage Conservation**
 3.1 Residential Zones
 6.1 Approval and Referral Requirements
 6.2 Reserving Land for Public Purposes
 6.3 Site Specific Provisions
 7.1 Implementation of A Plan for Growing Sydney

Additional Information : **It is recommended that the planning proposal proceeds subject to the following conditions:**

- 1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979, as follows:
(a) the planning proposal must be made available for 28 days; and
(b) the relevant planning authority must comply with notice requirements for public exhibition of planning proposals and the specifications for material that must be available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2013).**
- 2. A public hearing is required to be held when 'community' land is proposed to be reclassified as 'operational land', under section 29 of the Local Government Act 1993. Public notice of a hearing must be given at least 21 days before the starting date of the public hearing.**
- 3. The timeframe for completing the local environmental plan is to be 9 months from the week following the date of the Gateway determination.**

Supporting Reasons : **The planning proposal is supported for the following reasons:**
 - it is not inconsistent with the NSW strategic planning framework and Council's strategic plans;
 - the subject land is currently zoned for residential purposes (R3 Medium Density Residential) and is not used for community purposes.

Signature:



Printed Name:

Diane Sarkies

Date:

21/9/15