

Council: LANE COVE COUNCIL - SYDNEY REGION EAST			
Current LEP: LEP 2009 - gazetted 19 February 2010		Proposed LEP: LEP 2009 – Amendment No.1	
Year: 2011	Planning Proposal no: 4/2011	Council ref: 22557/11 and 12053/11	Date: 10 June 2011 and 24 March 2011
Location/ topic: Public land reclassification - drainage reserves and public reserve off Upper Cliff Road			
Property description: Miscellaneous – Lane Cove local government area			
Council Resolution Date: 18 October 2010		Resolution. No: 368	
Resolution: That the list of drainage reserves and an under-utilised item provided as AT-4 to the report [of 18 October 2010] be amended from community to operational land.			

Planning proposal based on: NSW Department of Planning, *A Guide to preparing local environmental plans*, July 2009 - Figure 3 – Matters to be addressed in a planning proposal – including Director-General's requirements for the justification of all planning proposals (other than those that solely reclassify public land).

Note: Lane Cove Development Control Plan would be updated as appropriate for LEP amendments.

1. A statement of the objectives or intended outcomes of the proposed local environmental plan. [Act s. 55(2)(a)]

- (i) To reclassify twelve drainage easements/ reserves (LGA-wide) and one lot of under-used public reserve (Fleming Street) to operational from community land
- (ii) To provide consistency in the classification of drainage easements/ reserves to facilitate the administration of public land and
- (iii) To permit the potential sale of those under-used drainage reserves and one lot of virtually land-locked open space to adjacent property owners.

2. An explanation of the provisions that are to be included in the proposed local environmental plan. [Act s. 55(2)(b)]

(1) **Maps:** No amendment.

(2) **Text:** Add the following properties to "Schedule 4 Classification and reclassification of public land – Part 2 Land classified, or reclassified, as operational land – interests changed":-

Column 1 Locality	Column 2 Description	Column 3 Any trusts etc not discharged
89A Centennial Avenue and Hallam Avenue	Lot 114, DP 9653	
Bridge Street and Howell Place (East)	Lot 128, DP 10084	
Howell Place and Matthew Street (East)	Lot 127, DP 10084	
Matthew Street and Burns Bay Road (East)	Lot 26, DP 126/10084	
Bridge Street and Howell Avenue (West)	Lot 125, DP 10084	
Howell Avenue and Matthew Street (West)	Lot 124, DP 10084	
Matthew Street and Burns Bay Road (West)	Lot 123, DP 10084	
15A Point Road	Between Lots C & 38, DP 4424	
Garling Street	Lot 13, DP 19114	
Stokes Street	Lot 43, DP 6874	
Ronald Avenue	Lot 498, DP 7626	

Fleming St/ Upper Cliff Road	West of Lot 1, DP 6766
Fleming Street	Lot 9 DP 253441

3. Justification for those objectives, outcomes and provisions and the process for their implementation. [Act s. 55(2)(c)]

A. Need for the planning proposal

Council in 1994 with the introduction of LGA 1993 was required to administer all land under its control and was required to classify all land either as "community" or "operational" land by 30 June 1994. Beyond 30 June 1994 land which was not classified as operational land reverted automatically to community land. A number of drainage reserves which were not classified operational land fell into this category. The majority of the reserves over the years have been illegally occupied by the adjacent property owners and in some instances structures have been built over the reserves. In many instances there is no physical drainage structure within the reserves and in some cases the reserves are used solely for the benefit of the adjacent owners and with very little benefit to the general community.

The current estimated cost of maintaining the reserves is in the order of \$150,000-\$200,000 per year.

There are financial advantages to Council in selling unnecessary drainage reserves. It is estimated that a realisation of some \$2 million is possible by selling the redundant reserves. The sale proceeds may be used at Council's discretion to fund maintenance of the reserves or provide additional much needed facilities elsewhere for the benefit of the community.

In summary, the reasons for the proposal are to:-

- (i) rationalize Council's underused assets through disposal and long term leasing, permitting the lands to be sold as appropriate under the Local Government Act
- (ii) permit flexibility and efficiency in administering infrastructure land as operational, whereas, under the Local Government Act, for community land:-
 - (a) a plan of management is required, and this is not appropriate for drainage etc
 - (b) leases and licences are restricted to 21 years
 - (c) the Minister's consent is required for leases above 5 years.

(1) Is the planning proposal a result of any strategic study or report?

Yes:-

- "Drainage Reserves/ Easements – Identification and Classification", Major Projects Section, Lane Cove Council, 27 February 2010 **(AT 1)** and
- "Reclassification and rezoning of certain lands", Major Projects Section, Lane Cove Council, 27 February 2010 **(AT 2)**.

(2) Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes: Under the Local Government Act 1993 Part 2, land must have operational classification prior to Council being permitted (i) to sell it and (ii) apply long-term leases.

(3) Is there a net community benefit?

Yes, as the proposal would enable Council to:-

- (a) reduce annual maintenance costs of about \$150,000 to \$200,000

- (b) provide increase in Council's income stream (\$2M potential) and use annual cost savings to fund other infrastructure projects
- (c) prevent illegal occupation of the drainage reserves and possible potential costs to regain possession of land
- (d) remove potential liability claims arising from illegal occupation.

B. Relationship to strategic planning framework.

- (1) Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

Yes.

- (2) Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?**

Yes.

- (3) Is the planning proposal consistent with applicable state environmental planning policies?**

Yes (Appendices A & B)

- (4) Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

Yes.

C. Environmental, social and economic impact.

- (1) Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No.

- (2) Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No.

- (3) How has the planning proposal adequately addressed any social and economic effects?**

Yes, above.

D. State and Commonwealth interests.

- (1) Is there adequate public infrastructure for the planning proposal?**

The proposal facilitates Council's infrastructure administration.

- (2) What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal? (Note: The views of State and Commonwealth**

Public Authorities will not be known until after the initial gateway determination. This section of the planning proposal is completed following consultation with those public authorities identified in the gateway determination).

This would be addressed following consultation under (1).

4. Details of the community consultation that is to be undertaken on the planning proposal. [Act s. 55(2)(e)]

- Six weeks public exhibition – advertisement in a local newspaper: This Council consultation policy complies with the general Gateway determination requirement of a minimum of 14 days exhibition
- Council website
- Display at Council offices
- E-newsletter and hard copy Community Newsletter
- Written notice to relevant stakeholders including public authorities.

Appendix A

State Environmental Planning Policies – Consistency

- re Gateway Question 3B(3)

Not relevant.

Appendix B

Section 117 Directions – Consistency

- re Gateway Question 3B(4)

Attachments

- AT 1:** “Drainage Reserves/ Easements – Identification and Classification”, Major Projects Section, Lane Cove Council, 27 February 2010 (6810/10)
- AT 2:** “Reclassification and rezoning of certain lands”, Major Projects Section, Lane Cove Council, 27 February 2010 (6821/10)