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Plan Finalisation Report – PP_2019_STRAT_001_00 (PP-2020-826)

Strathfield Local Environmental Plan 2012 - 1 Loftus
Crescent, Homebush

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1 Introduction

1.1 Overview

1.1.1 Name of Draft LEP

Strathfield Local Environmental Plan 2012 (Amendment No. 14).

The planning proposal seeks to amend *Strathfield Local Environmental Plan 2012* (Strathfield LEP 2012) to reclassify 1 Loftus Crescent, Homebush from 'community land' to 'operational land'.

1.1.2 Site Description

Table 1: Site Description

Site Description	The planning proposal (Attachment A) applies to land at 1 Loftus Crescent, Homebush, which is legally described as Lot D Deposited Plan 340860 (the Site). The site is highlighted red in Figure 1 .
Type	Site.
Council / LGA	Strathfield Municipal Council (Council).
LGA	Strathfield Local Government Area (LGA).



Figure 1: The Site Outlined Red (Source: Gateway Determination Report, 2019)

The site is rectangular in shape, has a total area of approximately 690sqm and is located on the northern frontage of Loftus Crescent, directly adjacent to Homebush Station. The site contains a Council owned two-storey, 1930's art deco style residential flat building, comprising four apartments. The four apartments are currently leased by Council but are not used for affordable housing purposes.

The following controls apply to the site under the Strathfield LEP 2012:

- **Land Zoning:** R4 – High Density Residential.
- **Floor Space Ratio (FSR):** 1.65:1 (2.7:1 if criteria of Clause 4.4A satisfied).
- **Height of Building:** 16m (29m if criteria of Clause 4.3A satisfied).
- **Acid Sulfate Soils:** Class 5.
- **Key Site:** Identified as part of 'Key Site 86' on the Key Sites Map.
- **Heritage:** N/A.

The site is also identified in Area 1 on the height of building and FSR maps which allows an exception to the maximum FSR and height controls to achieve an FSR of 2.7:1 and maximum height of 29 metres, subject to additional lots, as part of Key Site 86, being consolidated.

The site is included in the 'Homebush Precinct' of the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS). The PRCUTS recommends rezoning the site to 'B4 - Mixed Use', increasing the maximum building height to 80m and increasing the maximum FSR to 5:1.

Council acquired the site in 2006, at that time, the site was zoned 'Proposed Open Space 6(d)'. In 2013, the site was rezoned from 'Proposed Open Space 6(d)' to 'R4 - High Density Residential'. The land was not reclassified at this time to reflect the zoning change and remains classified as 'community land'. The land continues to be used for residential purposes (containing a residential flat building), which is consistent with the residential zoning of the land. However, the ongoing residential use of the site is not consistent with the 'community land' classification of the site.

1.1.3 Purpose of Plan

Council seeks to reclassify the site from 'community land' to 'operational land' to allow for the future redevelopment of the site for affordable housing in accordance with its existing 'R4 – High Density Residential' zoning. The future development of the site for affordable housing is intended to be undertaken through a joint venture agreement with Council. Council has confirmed that for any redevelopment of the site, all amenities and/or services would remain in the ownership of Council in perpetuity (**Attachment G**).

To achieve this outcome at the site, the planning proposal seeks to amend the Strathfield LEP 2012 to reclassify the site from 'community land' to 'operational land' by amending Schedule 4, Part 1 to insert the site (1 Loftus Crescent, Homebush - Lot D Deposited Plan 340860).

No other changes are proposed as part of the planning proposal. The zoning and development standards applying to the site remain unchanged. There are no interests registered on the title of the land to be extinguished by the planning proposal. No mapping changes are required.

1.1.4 State Electorate and Local Member

The site falls within the Strathfield state electorate. Jodi McKay MP is the State Member.

The site falls within the Reid federal electorate. Fiona Martin MP is the Federal Member.

On 6 June 2019, Jodi McKay MP made a submission on the planning proposal as the member for Strathfield (part of **Attachment H**). The concerns raised in this submission have been addressed in **Table 2** of this report.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this planning proposal.

2 Gateway Determination and Alterations

The Gateway determination issued on 18 April 2019 (**Attachment B**) determined that the planning proposal should proceed, subject to conditions. Council has met all of the Gateway determination conditions.

The Gateway determination was altered on 6 November 2020 to extend the timeframe to complete the LEP by 30 June 2021 (**Attachment I**). In accordance with the Gateway determination (as altered), the proposal is due to be finalised by 30 June 2021.

3 Public Exhibition and Post-Exhibition Changes

3.1 Submissions during exhibition

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 7 May 2019 to 7 June 2019. A total of 65 submissions were received, all of which objected to the planning proposal. A copy of the submissions is provided at **Attachment H**.

Table 2 outlines the key issues raised within the submissions, Council's response to the submissions and the Department's assessment of Council's response to the submissions. The Council report did not include a response to submissions, however the Public Hearing Report prepared by Paul Vergotis (**Attachment F**) addressed the submissions and this response is noted below.

Table 2: Summary of Key Issues

Issue Raised	Response
Need to create/preserve public open space, as there is a lack of open space in Homebush.	<p>The Public Hearing Report outlines that there is already sufficient existing and planned open space in close proximity to the site that can support surrounding residents. In addition to this, it is considered that the amenity of a pocket park at the site would be poor, given that it would be isolated and overshadowed by current and potential future development.</p> <p><u>Department Response:</u></p> <p>The Department considers the response provided in the Public Hearing Report acceptable. The Department notes that the site is zoned for residential development ('R4 – High Density Residential') and not for open space. The site is not identified for open space in the PRCUTS. In addition, the planning proposal would not result in a loss of existing open space in Homebush, as the site currently contains a residential flat building and not public open space.</p>
The reclassification of the site will allow the land to be sold for private/commercial interests. Concerns are raised in regard to this.	<p>The Public Hearing Report outlines there is no evidence that Council will sell the land.</p> <p>The Public Hearing report notes Council's intention to provide affordable housing as part of the future development of the site through a joint venture agreement.</p> <p><u>Department Response:</u></p> <p>The Department considers the response provided in the Public Hearing Report acceptable. The future development is intended to</p>

Issue Raised	Response
	contain affordable housing through a joint venture agreement with Council. In addition to this, Council has confirmed that as part of any redevelopment of the site, any and all amenities and/or services would remain in the ownership of Council in perpetuity (Attachment G).
The land was purchased by Council through Section 94 Contribution funding for community/open space and should therefore be used for this purpose.	<p>The Public Hearing Report outlined that:</p> <ul style="list-style-type: none"> • The site was rezoned in 2013 from 'Proposed Open Space 6(d)' to 'R4 - High Density Residential'. This rezoning process would have involved a detailed public exhibition period and extensive assessment. • The presence of an existing residential flat building at the site will continue to frustrate any proposed use of the site for open space. • The use of the site as public open space is not consistent with the vision for the site as outlined in the PRCUTS. • Quoted case law considers that even if a parcel of land was acquired for a particular purpose, this does not mean that its actuating purpose cannot change in the future. <p><u>Department Response:</u></p> <p>The Department considers the response provided in the Public Hearing Report acceptable. The ongoing use of this site which was rezoned to 'R4 – High Density Residential' in 2013 is not consistent with the 'community land' classification of the site. The future development is intended to contain affordable housing through a joint venture agreement, which will provide community benefit.</p>

In accordance with condition 3 of the Gateway determination (**Attachment B**), a public hearing for the planning proposal was held on 3 July 2019 and independently chaired by Mr Paul Vergotis. 11 oral submissions were heard at the public hearing, all of which objected to the planning proposal.

A Public Hearing Report dated 13 August 2019 was prepared following the hearing (**Attachment F**). It concludes the following:

“It is my finding that the proposed reclassification of the Land (namely No. 1 Loftus Crescent, Homebush) from ‘community land’ to ‘operational land’ should proceed and that any future dealings in relation to the redevelopment of the land should be subjected to appropriate contractual terms and conditions to ensure the Council retains partial ownership upon redevelopment to cater for the demands for public amenities and services within the suburb of Homebush in line with the aims and objectives of s 7.11 of the Environmental Planning and Assessment Act 1979 (NSW).”

Council have indicated that as part of any redevelopment of the site, all amenities and/or services would remain in the ownership of Council in perpetuity (**Attachment G**).

3.2 Advice from Agencies

In accordance with the Gateway determination, no consultation was required with public authorities.

3.3 Post-Exhibition Changes

3.3.1 Council Resolved Changes

At Council's Ordinary Meeting on 1 December 2020, Council resolved to proceed with the planning proposal with no post-exhibition changes (**Attachment C**).

3.3.2 The Department's Recommended Changes

The Department has made no post-exhibition changes to the planning proposal.

4 Department's Assessment

The planning proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the planning proposal against relevant Section 9.1 Directions, State Environmental Planning Policies (SEPPs), Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the planning proposal.

The planning proposal submitted to the Department for finalisation:

- Is consistent with the regional and district plans relating to the planning proposal.
- Is consistent with the Local Strategic Planning Statement relating to the planning proposal.
- Is consistent with all relevant Section 9.1 Directions relating to the planning proposal.
- Is consistent with all relevant SEPPs relating to the planning proposal.

The following tables identify whether the planning proposal is consistent with the assessment undertaken at the Gateway determination stage as outlined in the Gateway determination report on the planning proposal (**Attachment J**). Where the planning proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters, these are addressed in section 4.1 of this report.

Table 3: Summary Of Strategic Assessment

Strategic Assessment	Consistent With Gateway Determination Report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Table 4: Summary of Site-Specific Assessment

Site-Specific Assessment	Consistent With Gateway Determination Report Assessment
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Social and Economic Impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environment Impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

4.1 Detailed Assessment

The following section provides an assessment of the matters relating to the planning proposal that are marked as inconsistent in **Table 3** with the previous Gateway determination report for the planning proposal dated 18 April 2019.

Local Strategic Planning Statement:

The 'Strathfield 2040 – Local Strategic Planning Statement' (Strathfield LSPS) was adopted in March 2020 and is now applicable to the planning proposal. The Strathfield LSPS contains planning priorities to guide the future growth and development of the Strathfield LGA. The planning proposal has not addressed the Strathfield LSPS.

The following planning priorities are applicable to the planning proposal:

- *Planning Priority 6: Development balances growth with best practice planning and infrastructure provision to deliver sustainable, liveable and well-designed neighbourhoods.*
 - The future development facilitated by this planning proposal will be appropriately planned and designed to deliver additional residential accommodation to Homebush to support anticipated population growth (34,857 additional people in the Strathfield LGA between 2018 and 2036).
- *Planning Priority 8: Diverse housing options provide for people at all lifecycles and connects them to jobs, recreation, services and transport*
 - The future development facilitated by this planning proposal will deliver additional residential accommodation to Homebush that is located in close proximity to a range of services, amenities, jobs, recreational facilities and public transport connections.
- *Planning Priority 9: Our centres are easy to get around, deliver activated social spaces, opportunities to connect, nearby housing and local employment opportunities*
 - The future development facilitated by this planning proposal will deliver additional residential accommodation to Homebush that is located in a highly accessible location close to a range of local employment opportunities and public transport connections.

The Department considers the planning proposal to be generally consistent with these applicable Strathfield LSPS planning priorities and is acceptable.

Section 9.1 Ministerial Directions:

Additional applicable Section 9.1 Ministerial Directions that weren't previously addressed as part of the Gateway determination report (**Attachment J**) have been addressed in **Table 5**.

Table 5: Section 9.1 Ministerial Directions Assessment

Directions	Consistent/Inconsistent	Reasons for Consistency or Inconsistency
Direction 2.6: Remediation of Contaminated Land	Consistent	The planning proposal is consistent with this Direction, as the planning proposal does not seek to amend the existing zoning applying to the site or introduce any additional sensitive land uses than currently permitted. Detailed site/contamination studies will be required to

Directions	Consistent/Inconsistent	Reasons for Consistency or Inconsistency
		support any future DA at the site to ensure the development satisfies <i>State Environmental Planning Policy No 55 – Remediation of Land</i> (SEPP 55).
Direction 4.1: Acid Sulfate Soils	Consistent	The site is affected by Class 5 Acid Sulfate Soils. The planning proposal is consistent with this Direction, as the planning proposal does not seek to amend the existing zoning applying to the site or introduce any additional sensitive land uses than currently permitted. Relevant studies will be required to support any future DA at the site.
Direction 5.10: Implementation of Regional Plans	Consistent	The planning proposal is consistent with this Direction, as the planning proposal is consistent with a range of objectives contained to the 'Greater Sydney Regional Plan - A Metropolis of Three Cities' (Region Plan). An assessment of the planning proposal against the Region Plan was previously undertaken as part of the Gateway determination report (Attachment J).
Direction 6.2: Reserving Land for Public Purposes	Consistent	The planning proposal is consistent with this Direction, as the affected site is not zoned for public purposes. The proposal to reclassify the site from 'community land' to 'operational land' will ensure the land can be appropriately redeveloped in accordance with its 'R4 - High Density Residential' zoning.

5 Post Assessment Consultation

The Department has consulted with the following stakeholders after the assessment (see **Table 6**).

Table 6: Consultation following the Department's Assessment

Stakeholder	Consultation	The Department is satisfied with the Draft LEP
Council	Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> (Attachment D). Council confirmed on 23 April 2021 that it was agreeable with the draft and that the plan should be made (Attachment E).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	On 28 April 2021, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 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 planning proposal has strategic merit, being consistent with the following plans and strategies:
 - Greater Sydney Region Plan – A Metropolis of Three Cities.
 - Eastern City District Plan.
 - Strathfield 2040 - Local Strategic Planning Statement.
 - Parramatta Road Corridor Urban Transformation Strategy.
 - Strathfield 2030 Community Strategic Plan.
- The planning proposal has site-specific merit, as it will facilitate development for affordable housing at the site which satisfies the objectives of the 'R4 - High Density Residential' zone. The future development will provide greater housing supply (which is intended to comprise affordable housing through a joint venture agreement with Council) near public transport connections.
- The existing development on the site is a two-storey residential flat building which does not provide any public use. The reclassification of the site will align with the site's existing zoning and uses.
- The planning proposal is consistent with the Gateway determination (as altered).
- The planning proposal is consistent with all relevant Section 9.1 Directions relating to the planning proposal.
- The planning proposal is consistent with all relevant SEPPs relating to the planning proposal.
- The planning proposal will not generate adverse social, environmental or economic impacts on the surrounding locality.



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Attachments

Attachment	Document
PC	PC Opinion and Instrument dated 28 April 2021
LEP	Draft LEP
Council	Letter to Council
A	Planning Proposal dated January 2019
B	Gateway Determination dated 18 April 2019
C	Council Report and Finalisation Request dated 7 December 2020
D	Council Consultation under S3.36(1) of the Act dated 21 April 2021
E	Council Comments on Draft LEP dated 23 April 2021
F	Public Hearing Report dated 13 August 2019
G	Council Letter dated 1 April 2021
H	Public Submissions
I	Gateway Alteration dated 6 November 2020
J	Gateway Determination Report dated 18 April 2019