

## Planning Services

### Plan Finalisation Report

**Local Government Area:** Georges River

**File Number:** 17/05879

#### 1. NAME OF DRAFT PLAN

Hurstville Local Environmental Plan 2012 Amendment No. 11 (draft LEP).

#### 2. SITE DESCRIPTION

The planning proposal ([Attachment B](#)) applies to land at No. 34 Coreen Avenue, Peakhurst. The site comprises the two parts of Lot 18 Deposited Plan 31882. The northern part of the lot (the land subject to this amendment) has an area of 45.4m<sup>2</sup> and the southern part of the lot has an area of 446.2m<sup>2</sup> (see below).



Figure I: Site (bounded in yellow) and surrounding land (Source: Nearmap)

### 3. PURPOSE OF PLAN

The draft LEP seeks to reclassify land at 34 Coreen Avenue, Peakhurst (part Lot 18 in DP 31882) from community to operational land.

### 4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the State Electorate of Oatley. Mr Mark Joseph Coure MP is the State Member for Oatley.

The site falls within the Federal Electorate of Banks. Mr David Coleman MP is the Federal Member for Banks.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

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| <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 (Attachment C) issued on 12 August 2016 determined that the proposal should proceed subject to conditions. The timeframe for completing the LEP was to 5 September 2017, 9 months from the week following the date of the Gateway determination.

### 6. PUBLIC CONSULTATION

In accordance with the Gateway determination the planning proposal was publicly exhibited from 14 September to 14 October 2016 and no submissions were received.

On 22 February 2017, a public hearing regarding the reclassification of public land was held in accordance with section 29 of the *Local Government Act 1993* and section 57 of the *Environment Planning and Assessment Act 1979*.

The public hearing was independently chaired by Mr Michael McMahon. Two members of the public attended the meeting and provided verbal support for the proposal. One written submission was received objecting to the reclassification.

The Public Hearing Report concludes that the subject land is vested in Council and given the small size of the land, approximately 45sqm, it could not easily be regarded as having any special community significance. The report notes that the submission does not justify a finding against the reclassification from community to operational land and therefore concludes that Council would be justified in proceeding with the planning proposal.

Full details are included within the Public Hearing Report (Attachment D).

### 7. ADVICE FROM PUBLIC AUTHORITIES

The Gateway determination did not require consultation with public authorities and no submissions were received from public authorities.

## 8. POST EXHIBITION

At its meeting of 23 March 2017, the Georges River Independent Hearing and Assessment Panel (IHAP) considered the post-exhibition report and resolved to note the public exhibition of the planning proposal and the public hearing report and support the reclassification.

At its meeting of 3 April 2017, Council considered a post exhibition report and resolved to support the amendment to Hurstville LEP 2012 to reclassify the site from Community Land to Operational Land under the *Local Government Act 1993*.

The proposal did not originally identify any interests or public reserve status that needed to be removed as part of the reclassification. The Public Hearing Report into the reclassification identified that the land was transferred to Council in 1960 as 'public garden and recreation space'. While this is not noted on the land title, it may have created an implied interest. To remove any doubt and ensure the land is unencumbered in the future, it was subsequently decided to seek the Governor's approval to discharge any public reserve status and/or interest on the title of the land.

## 9. ASSESSMENT

The draft LEP was considered by the Governor and Executive Council on 20 September 2017 who granted approval, as required under section 30(2) of the *Local Government Act 1993*, to reclassify community land as operational (Attachment ExCo).

The Department has considered the submissions received during the public consultation period and recommends the draft LEP be supported for the following reasons:

- the use of the land for residential purposes is consistent with the R2 Low Density Residential zone under the Hurstville Local Environmental Plan 2012. There is no proposal to change this zone;
- disposal of the land is consistent with Council's Open Space Strategy and Community Strategic Plan as it is not identified for any future use, upgrading or expansion and does not satisfy Council's criteria for functional local open space;
- the subject land is very small (45.2m<sup>2</sup>) and not practicable for any meaningful public open space or community use; and
- the proceeds from the future sale of the land would go to Council's Property Realignment Reserve to be used for future acquisition of effective open space.

The relevant Section 117 Directions and SEPPs were identified and addressed in Council's planning proposal. The draft LEP is considered consistent with relevant SEPPs, deemed SEPPs and Section 117 Directions.

The final planning proposal complies with the conditions of the Gateway determination.

## 9. MAPPING

There is one map (Attachment Map) and an accompanying Map Cover Sheet (Attachment Map Cover Sheet) associated with this amendment:

Land Reclassification (Part Lots) Map:

- RPL\_005

The map and Map Cover Sheet have been approved by the Department's e-Planning Team and provided to Parliamentary Counsel.

## **12. CONSULTATION WITH COUNCIL**

Council was consulted on the terms of the draft instrument ([Attachment E](#)). Council's response to the draft LEP was received on 9 June 2017 supporting the LEP be made ([Attachment F](#)).

## **13. PARLIAMENTARY COUNSEL OPINION**

On 26 June 2017, Parliamentary Counsel provided the final Opinion that the draft Plan could be legally made. This Opinion is provided at [Attachment PC](#).

## **14. RECOMMENDATION**

It is recommended that the Greater Sydney Commission's delegate determine to make the draft plan as it will allow for greater options for a presently unusable parcel of land.

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