

Reclassification of land near Church Street, Lilyfield from Community to Operational Land

Proposal Title : **Reclassification of land near Church Street, Lilyfield from Community to Operational Land**

Proposal Summary : **The proposal seeks to amend Schedule 4, Part 1 of the Leichhardt Local Environmental Plan 2013 (LEP) by reclassifying land near Church Street, Lilyfield from 'Community' to 'Operational' land. The land is currently used for car parking by the 'Le Montage' Function Centre.**

The proposal does not seek to change the site's status as a public reserve, nor to affect any trusts, estates, interests, dedications, conditions, restrictions, or covenants on the land, nor to change the land use zoning.

PP Number : **PP_2015_LEICH_001_00** **Dop File No :** **15/07505**

Proposal Details

Date Planning Proposal Received : **11-May-2015** **LGA covered :** **Leichhardt**

Region : **Metro(CBD)** **RPA :** **Leichhardt Municipal Council**

State Electorate : **BALMAIN** **Section of the Act :** **55 - Planning Proposal**

LEP Type : **Reclassification**

Location Details

Street :

Suburb : **City :** **Postcode :**

Land Parcel : **Lot B DP 159831 and part Lot 2 DP 599686**

DoP Planning Officer Contact Details

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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 Regional Strategy :	Metro Inner West subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
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? : No			
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 :

- The land to be reclassified covers an area of approximately 380 square metres and is currently part of the car park of the 'Le Montage' Function Centre, providing approximately 8 parking spaces and circulation aisles. It has been used by the Centre to meet the minimum car parking requirements as specified in the development consent for the Centre. According to Council, it has been used for car parking since at least 1978 and prior to Le Montage, it was used by the former occupier, APIA club.
- Lot B DP 159831 and part Lot 2 DP 599686 are Council-owned and currently zoned R1 General Residential and RE1 Public Recreation, respectively, under the LEP 2013. The part of the subject land that is zoned RE1 is not suitable for use as open space, given its size, and location and use as part of an existing car park. The balance of Lot 2 DP 599686 which is not part of the planning proposal, is to remain classified as 'Community' land and zoned RE1.
- The planning proposal states that the adopted Plan of Management for the adjacent Leichhardt Park recommended the reclassification of this land to enable it to be leased at market rent.

A review of the Leichhardt Park Plan of Management (November 2004) confirms that:

- the subject land is outside (but immediately adjacent to) the boundary of Leichhardt Park;
- there were issues of limited encroachment onto the adjacent Crown land reserve that were "inadvertently permitted" by Council, but which have since been resolved between Council, the owners of the land and the Department of Lands;
- the outcome of the above encroachment issues was that the LEP 2000 (being the then current LEP) was to be amended to change the status of the 'community' land to 'operational', and that the land would be leased to the owners of the Le Montage Function Centre at market rent.

Council has advised that during the exhibition of the then draft Leichhardt LEP 2013, the NSW Department of Primary Industries identified a number of zoning and land use issues

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arising at land occupied by Le Montage Function Centre. At the time, and despite the submission, Council opted to retain the controls as exhibited, and for the site to be subject to future strategic review.

It is recommended that the NSW Department of Primary Industries be consulted on the proposal as a condition of the Gateway Determination.

4. Section 30 of the Local Government Act 1993 requires that if, as a result of the LEP amendment, a public reserve ceases to be a public reserve, and if the land is to be "discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land", the Governor has to approve the proposed provision. As the proposed reclassification does not seek to remove reservations, or change any other interests, the planning proposal does not require the Governor's approval under section 30 of the Local Government Act 1993.

The approval of the Governor is required before an amendment to Part 2 of Schedule 4 of the LEP 2013 relating to 'interests changed'. The proposal seeks to amend Part 1 of Schedule 4, not Part 2.

5. Council has requested that the plan-making function be delegated. Given the relatively minor nature of the planning proposal, and that the Governor's approval is not required, the planning proposal and Council's request for delegation are supported.

External Supporting Notes :

1. Council has lodged the planning proposal to reclassify the land from 'Community' to 'Operational' land in order to enable the subject land to be leased as a car park, thereby raising revenue to finance Council-initiated projects, therefore 'compensating' the community for the private use of the land.

2. The current use of the land as a car park has been on-going for 40-50 years or more, and is unsuitable for use as public open space, due to its location within, and surrounded by, an existing car park. It is currently used as part of the existing car park by the 'Le Montage' Function Centre in order to meet parking requirements as specified in its development consent.

3. The adopted Plan of Management for the adjacent Leichhardt Park recommended the reclassification of the subject site to enable it to be leased at market rent.

Adequacy Assessment

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

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

Comment : The objective of the planning proposal is to allow Council to lease the car park to the Le Montage Function Centre for car parking at market rent. The rent for the land can then be used for the funding of other projects, as determined by Council.

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

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

Comment : The proposed reclassification will be identified in Schedule 4, Part 1 (Land classified, or reclassified, as operational - no interests changed) of the LEP 2013. There are no proposed changes to zoning, nor does the proposal seek to change the site's status as a public reserve.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

3.5 Development Near Licensed Aerodromes

4.1 Acid Sulfate Soils

* May need the Director General's agreement

4.3 Flood Prone Land

6.1 Approval and Referral Requirements

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6.2 Reserving Land for Public Purposes

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?

SEPP No 55—Remediation of Land

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, but it is recommended that the Gateway Determination should draw Council's attention to the guidance and requirements relating to public exhibition and public hearings.

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

If No, explain :

Direction 4.1 Acid Sulfate Soils:

This Direction seeks to avoid significant adverse impacts resulting from the use of land containing acid sulfate soils.

The land is identified as being located on Class 2 acid sulfate soil. There are no proposed changes to planning controls or uses, and the existing local provision (clause 6.1 Acid sulfate soils in Leichhardt LEP 2013) regulates development of land with Acid Sulfate Soils. The proposal is therefore consistent with this Direction.

Direction 6.2 Reserving Land for Public Purposes:

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 land is Council-owned and there are no proposed changes to planning controls, and the land is not required for public purposes. The proposal does not seek to change the site's status as a 'public reserve'. The proposal is consistent with this Direction.

There are no inconsistencies with other SEPPs or s.117 Directions.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal includes an aerial photo and an annotated extract from its zoning map to indicate the location of the proposed reclassification. As no mapping changes are proposed or required, the map and aerial photo extracts provided are adequate for the purposes of the exhibition and assessment of this planning proposal.

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? **Yes**

If Yes, reasons :

The Department's 'A Guide to Preparing Local Environmental Plans' details specific requirements regarding reclassifications. The planning proposal is consistent with those requirements.

Council anticipates finalisation of the plan in late October 2015. A 6 month timeframe

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for finalisation is supported. Council has sought delegation of the plan-making functions, which is supported by the Department.

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 :

Leichhardt LEP 2013 was notified on 23 December 2013 and commenced on 3 February 2014.

Assessment Criteria

Need for planning
proposal :

The proposal seeks to amend Schedule 4, Part 1 of the Leichhardt LEP 2013 by reclassifying the land from 'Community' to 'Operational' land in order to facilitate the leasing of the land for car parking, as it is not useable as open space, and as it has been used as a car park for around 50 years.

The planning proposal is not a result of any specific strategic study or report, although Council's Plan of Management (2004) for the adjacent Leichhardt Park did recommend that the land be reclassified.

Consistency with
strategic planning
framework :

A Plan for Growing Sydney (2014):
There are no specific Actions or Directions in the Plan that relate to the planning proposal.

Draft Inner West Subregional Strategy:
Council has identified Objective F2 (Provide for a diverse mix of parks and public places) and Action G1.2 (Improve local planning and assessment) as relevant to the planning proposal.

Council states that it has no records of the subject land being used for public open space, and that it is likely that the car park use has been on going for around fifty years. The reclassification will reflect this longstanding use. It is therefore considered that, despite the subject land being part-zoned RE1, Direction F2 does not apply to the proposal.

With regard to Action G1.2, the planning proposal states that the reclassification will "regularise local planning by recognising that the site has historically been used for car parking and is unsuitable for use as public open space." It is considered that the proposal is not inconsistent with this Action.

Community Strategic Plan - Leichhardt 2025+
Council states that the proposal is consistent with goals and objectives relating to "Place where we live and work" and "Sustainable Service and Assets", but does not provide any explanation of the proposal's consistency with these goals and objectives.

Notwithstanding, the proposal is considered not inconsistent with the goals and stated objectives, which seek to facilitate a socially, environmentally and economically liveable community; and an "accountable civic leadership that delivers services and assets to support the community now and in the future".

Environmental social
economic impacts :

Environmental:
Given the nature of the proposal, and the fact that the site is already part of a well-established hard surfaced car park, it is not anticipated that there will be any adverse environmental impacts. Furthermore, the site is not identified as containing any critical habitat or threatened species, populations or ecological communities or their habitats.

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Social and Economic:

The community receives little benefit from the site while it remains as a car park and classified as 'Community' land. The proposed reclassification would result in Council having the ability to generate income from leasing the land, and to devote that income to "a range" of Council initiatives, thereby having the potential to provide both social and economic benefits.

Assessment Process

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

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Other**

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

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal.pdf	Proposal	Yes
Further info.pdf	Proposal	Yes
Further Info 2.6.2015.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions: **3.5 Development Near Licensed Aerodromes**
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
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Additional Information : Council has requested delegation of plan-making functions for this planning proposal. Section 30 (Reclassification of community land as operational) of the Local Government Act 1993 does not apply. Consequently, Governor's approval is not required and the requested delegation is supported.

It is recommended that the planning proposal proceed subject to the following conditions:

1. The planning proposal is exhibited for a minimum of 28 days, consistent with Council's intentions.
2. Council is to consult NSW Primary Industries.
3. A public hearing is required to be held on the reclassification of the subject land, under section 29 of the Local Government Act 1993.
4. The planning proposal is to be completed within 6 months.

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;
- there will be no change to the physical state of the land; and
- the proposal will result in the potential for public benefit to be gained as a result of the generation of income for Council to spend on Council-initiated projects and initiatives.

Signature:



Printed Name:

Diane Sarkies

Date:

3/6/15