

Planning Services

Plan Finalisation Report

Local Government Area: Canterbury Bankstown

File Number: 17/11563

1. NAME OF DRAFT LEP

Canterbury Local Environmental Plan 2012 Amendment No.8 (draft LEP).

2. SITE DESCRIPTION

The draft LEP applies to the following parcels of land (the subject sites):

- 49 Jeffrey Street, Canterbury (Lot 1 DP 959315);
- 14 Warejee Street, Kingsgrove (Lot 145 DP 16265);
- 15 Attunga Avenue, Earlwood (Lot 1 DP 1142452);
- 79 Viking Street, Campsie (Lot 23 DP 35848);
- 24 - 26 Mazarin Street, Riverwood (Lot 23 DP 237686); and
- 20A Cooks Avenue, Canterbury (Lot 61 DP 9484)

3. PURPOSE OF PLAN

The draft LEP seeks to amend Schedule 4 of Canterbury Local Environmental Plan 2012 to reclassify six (6) parcels of land from community to operational, and remove interests from four (4) of the parcels, as follows:

Part 1 Schedule 4

- 49 Jeffrey Street, Canterbury (Lot 1 DP 959315): no change of interest
- 14 Warejee Street, Kingsgrove (Lot 145 DP 16265): no change of interest

Part 2 Schedule 4

- 15 Attunga Avenue, Earlwood (Lot 1 DP 1142452): removal of the caveat on title relating to the site's status as a public reserve. Two easements are to remain listed in Column 3 Part 2, as they relate to water pipes and transmission lines.
- 79 Viking Street, Campsie (Lot 23 DP 35848): extinguish the covenant on the title relating to roads and fencing. No interest to remain.
- 24 - 26 Mazarin Street, Riverwood (Lot 23 DP 237686): remove caveat on title relating to public reserve. No interest to remain.
- 20A Cooks Avenue, Canterbury (Lot 61 DP 9484): remove drainage reserve notation on title. Drainage easement to be retained.

The purpose of the draft LEP is to enable Canterbury Bankstown Council to commence the process of disposing of the subject sites identified as surplus to Council needs. The proposal is expected to unlock six parcels of residential zoned land.

4. STATE ELECTORATE AND LOCAL MEMBER

The subject sites fall across both the Canterbury and Lakemba NSW Electorates. Sophie Cotsis MP is the State Member for Canterbury and Jihad Dib MP is the State Member for Lakemba. Tony Burke MP is the Federal Member for Watson and Linda Burney MP is the Federal Member for Barton.

To the regional planning team's knowledge, no MP has made any written representations regarding this proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION

The Gateway determination issued on 7 November 2014 ([Attachment C](#)) determined that the proposal should proceed subject to conditions. The proposal was due for finalisation 9 months from the week following the date of the Gateway determination.

6. PUBLIC CONSULTATION

In accordance with the Gateway determination, the proposal was publicly exhibited from 20 January 2015 to 20 February 2015. 52 submissions were received objecting to the proposal with regards to the following allotments:

Allotment	No. of Submissions
2 Whitfield Avenue, Ashbury	18 (including 2 petitions)
15 Attunga Avenue, Earlwood	14 (8 form letters, 2 petitions, 4 individual submissions)
14 Warejee Street, Kingsgrove	18 (including 1 petition)
49 Jeffrey Street, Canterbury	1
24-26 Mazarin Street, Riverwood	1

The main issues raised in submissions were concerns over the loss of open space, community gardens and recreational facilities and potential road safety issues.

A public hearing was held on 31 March 2015 in accordance with section 29 of the *Local Government Act 1993*. 40 people attended the public hearing, 27 of whom addressed the meeting regarding the following issues:

Allotment	Issues
2 Whitfield Avenue, Ashbury	Road safety, traffic and loss of open space (16 speakers)
15 Attunga Avenue, Earlwood	Environmental significance and the statutory process (6 speakers)

14 Warejee Street, Kingsgrove	Loss of open space and retention of community facilities (4 speakers)
49 Jeffrey Street, Canterbury	The statutory process (1 speaker)

A public hearing report was prepared by the independent chairperson, and provided at [Attachment G](#). The report concluded that the reclassification of all seven allotments are in the public interest.

The former Canterbury Council resolved to proceed with the reclassification at its meeting of 23 July 2015, however deferred the inclusion of 2 Whitfield Avenue, Ashbury from the proposal until an alternate means of access could be provided to the adjoining Wagner Oval.

On 21 September 2015, the Department wrote to Council to request confirmation that issues raised at the Public Hearing had been considered by Council, pursuant to clause 57(8) of the Act ([Attachment H](#)).

On 2 October 2015, the Department received written confirmation from Council that issues raised in the Public Hearing had been considered, and reiterated where these issues had been addressed in the Council Report ([Attachment I](#)).

Council maintains that access to adjoining reserves will be maintained and that no allotments have been identified as being of such environmental significance that would prevent Council dealing with the land.

It is considered that issues raised in the public hearing have been adequately addressed by Council at its meeting of 23 July 2015 ([Attachment J](#)).

7. ADVICE FROM PUBLIC AUTHORITIES

Council consulted with the Office of Environment and Heritage, Transport for NSW, Sydney Water, and Ausgrid in accordance with the Gateway determination ([Attachment F](#)). There were no objections or issues raised from these public authorities.

8. POST EXHIBITION CHANGES

Following exhibition of the proposal and consideration of submissions, Council resolved to remove 2 Whitfield Avenue, Ashbury (Lot E DP 30778) from the proposal.

It is considered that the removal of 2 Whitfield Avenue, Ashbury does not warrant further community consultation as the amendment did not change the intent of the proposal. The Department considers amendment appropriate given the access issues identified through the community engagement process.

9. ASSESSMENT

The draft LEP seeks to implement Council's Strategic Property Portfolio Plan and Property Portfolio Policy 2013 (the Policy). The Policy specifies the parameters for the management of Council's commercial and residential property assets to enhance Council's long-term financial sustainability. The allotments have been assessed against the criteria for disposal outlined within the Policy, and are considered to be surplus to Council's needs.

Five of the six allotments are vacant and have not been embellished for passive or recreational open space use. One of the allotments (14 Warejee Street, Kingsgrove) contains a footpath and community garden, however Council considers that there is sufficient land to the west of this site to accommodate a new public footpath and to ensure access to the recreational park in the south is maintained.

In addition, all of the allotments are within a 400m walkable catchment of larger open space and are not required for public purposes, and are all zoned for residential use.

It is considered the reclassification of the six allotments will assist Council in the long-term management of Council's property portfolio, whilst not significantly impacting on the availability of, or access to local open space in the area. It is therefore recommended that the Canterbury LEP 2012 Amendment No. 8 be made.

Section 117 Directions

At Gateway, the Minister's delegate advised Council that inconsistencies with Section 117 Directions 4.1 Acid Sulfate Soils and 4.3 Flood Prone land are of minor significance.

The Gateway determination did not discuss Direction 6.2 Reserving land for public purposes, and therefore the Direction remains unresolved. As noted above, the draft LEP seeks to reclassify six lots of Council owned land, four of which require the removal of reserve status and the extinguishment of covenants.

As all lots are zoned for residential purposes, and have been assessed against the criteria for disposal outlined within Council's Strategic Property portfolio, it is considered the Secretary's delegate can be satisfied that the inconsistency with Section 117 Direction 6.2 Reserving Land for Public Purposes, is justified in accordance with the terms of the Direction.

The proposal is otherwise consistent with Section 117 Directions.

State Environmental Planning Policies

The draft LEP is consistent with relevant State Environmental Planning Policy's (SEPPs). There are no outstanding inconsistencies with any SEPPs.

10.MAPPING

There are no maps associated with this amendment.

11.CONULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument. Council confirmed on 20 January 2016 that it was happy with the draft and that the Plan should be made (Attachment D). It is noted that the draft LEP has not been altered since Council's agreement.

12.PARLIAMENTARY COUNSEL OPINION

On 27 June 2017, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. The Opinion is provided at Attachment PC.

13.RECOMMENDATION

It is recommended that the Greater Sydney Commission's delegate make the LEP under section 59(2)(a) of the Act as submitted by Council as the relevant planning authority because:

- the subject sites meet the requirements for disposal as set out in Council's Strategic Property portfolio;
- there are not outstanding agency concerns;
- it assists Council to better manage Council owned land in line with Council's property strategy; and
- it will not significantly impact on, or access to, local open space in the area.



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Martin Cooper
Team Leader, Sydney Region East

Contact Officer: Kate Hanson
Senior Planner, Sydney Region East
Phone: 9860 4153