

## Planning Services

### Plan Finalisation Report

**Local Government Area:** Canterbury-Bankstown

**File Number:** IRF18/29

#### 1. NAME OF DRAFT LEP

Canterbury Local Environmental Plan 2012 Amendment No14 (draft LEP).

#### 2. SITE DESCRIPTION

The planning proposal applies to various parcels of land across the former Canterbury local government area. These are described in Table 1 below:

Address	Property description
13A Denman Avenue, Wiley Park	Lot 106 DP 6480
71A Denman Avenue, Wiley Park	Lot 107 DP 6480
61A Beauchamp Street, Wiley Park	Lot 35 DP 10980
66A Beauchamp Street, Wiley Park	Lot 36 DP 10980
1A Calbina Road, Earlwood	Lot 110 DP 10987
13A Ryrie Road, Earlwood	Lot 111 DP 10987
44A Cornelia Street, Wiley Park	Lot 170 DP 7298

Table 1: Land to which the proposal applies.

The parcels of land are all drainage reserves that City of Canterbury Bankstown Council has identified as being unsuitable for public recreation purposes due to their size, location and current use for private purposes.

Maps identifying the parcels of land and a description of each site are provided at **Attachment G**.

#### 3. PURPOSE OF PLAN

The draft LEP seeks to amend Schedule 4 of Canterbury Local Environmental Plan (LEP) 2012 to reclassify the seven parcels of land from community to operational and discharge interests on the land relating to drainage reserves.

As part of the reclassification process, all interests will be removed from six of the seven land parcels. In addition, Council seeks to remove two interests from 44A Cornelia Street, Wiley Park, however proposes to retain a drainage easement in order to maintain access to a stormwater drainage channel west of the site.

#### 4. STATE ELECTORATE AND LOCAL MEMBERS

The sites fall within the Lakemba and Canterbury State Electorates. Mr Jihad Dib MP is the State Member for Lakemba and Ms Sophie Cotsis MP is the State Member for Canterbury.

The Hon Tony Burke MP is the Federal Member for Watson and the Hon Linda Burney MP is the Federal Member for Barton.

To the regional planning team's knowledge, no MP has made any written representations regarding the 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 12 July 2016 (**Attachment C**) determined that the proposal should proceed subject to conditions.

The time frame for completing the LEP was 12 July 2017, being 12 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 17 January 2015 to 20 February 2015.

Two submissions were made during the exhibition of the proposal, which objected to the proposal. A public hearing, in accordance with the *Local Government Act 1993*, was conducted by an independent chair on 29 March 2017. It was attended by six community members, three of whom addressed the hearing.

The primary issue raised in the two written submissions and at the public hearing was a concern that the reclassification will impact the formal and informal access and tenure arrangements currently enjoyed by adjoining landowners.

It is noted by both Council (at its meeting of 23 May 2017 – **Attachment E**) and the hearing chairperson that the reclassification of the lands is the most certain and appropriate means for landowners to continue their current occupation of the drainage reserves. Council also noted that future dealings in the land will be guided by Council's Drainage Reserves Disposal Policy (June 2017).

The chairperson's report (**Attachment F**) concluded that the proposal to reclassify the parcels of land is in the public interest as the land provides no broader community benefit.

It is considered that Council has suitably considered all issues raised and no changes were made as a result.

## 7. ADVICE FROM PUBLIC AUTHORITIES

The Gateway determination required consultation with Sydney Water. No objection was raised by the agency.

Council also consulted with Ausgrid and Roads and Maritime Services (RMS). No submissions were received from these agencies.

## 8. POST-EXHIBITION CHANGES

No amendments were made to the planning proposal following public exhibition.

## 9. ASSESSMENT

It is considered that the LEP amendment is appropriate and it is recommended that the Greater Sydney Commission's delegate make the LEP under section 59(2)(a) of the *Environmental Planning and Assessment Act 1979* as submitted by Council as the relevant planning authority. The reasons for supporting the finalisation of the plan are detailed below.

The subject sites consist of small, narrow parcels of land where access is generally limited to adjoining landowners. Given the size and location of the allotments, they are considered

impractical for any meaningful public open space or community use. The adjoining landowners have historically used and managed these parcels of land as part of their residential properties.

Reclassification will allow Council to appropriately manage its property portfolio and enter into negotiations or formalise tenure arrangements with adjoining landowners who are currently utilising the land for private use. Council intends to retain access and drainage rights over the parcels of land by way of easement.

The proposal is also consistent with Council's key strategies and studies for dealing with open space and land divestment, including the Property Portfolio Policy (May 2013), the Drainage Reserves Disposal Policy (June 2017) and the Open Space Strategy (2017). Council's Open Space Strategy does not identify these land parcels as public open space.

Council has satisfied all but one of the conditions of the Gateway determination, including the community consultation and public hearing requirements under the *Local Government Act 1993*.

It is noted that condition 1(d) of the Gateway determination required the planning proposal to be updated to include additional maps in accordance with the standard technical requirements for LEP mapping. While zoning maps were not added to the proposal, the current LEP zoning for each site was confirmed in writing and this is deemed sufficient to address the purpose of the condition. In addition, no zoning change is proposed under this LEP amendment.

#### Section 117 Directions

Direction 6.2 Reserving Land for Public Purposes remains unresolved following the Gateway determination. As noted above, the draft LEP seeks to reclassify seven parcels of land, discharging interests on the land relating to drainage reserves.

While the Secretary of the Department of Planning and Environment has not agreed to the removal of reservations over these land parcels, it is considered that the Secretary's delegate can be satisfied that this inconsistency with the Direction is justified in accordance with the terms of the Direction. The parcels of land are small and generally alienated from the public, and Council intends to retain access to the stormwater infrastructure by way of easement. The inconsistency with this Direction is therefore justified as of minor significance.

The proposal is otherwise consistent with section 117 Directions.

#### State environmental planning policies

The draft LEP is consistent with relevant SEPPs or deemed SEPPs. An assessment of the proposal against the relevant SEPPs was conducted before the Gateway determination was issued. No changes to the planning proposal have caused it to be inconsistent with the relevant SEPPs.

### **10. MAPPING**

There are no maps associated with the LEP amendment.

### **11. CONSULTATION WITH COUNCIL**

Council was consulted on the terms of the draft instrument. Council confirmed on 27 September 2017 that it was satisfied with the draft and that the plan should be made (**Attachment D**).

### **12. PARLIAMENTARY COUNSEL OPINION**

On 11 October 2017, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

### **13. GOVERNOR'S APPROVAL**

As part of the reclassification process, Governor's approval (**Attachment ExCo**) was granted on 22 December 2017 to remove the restriction on the titles of the land parcels for the purpose of a drainage reserve.

### **14. RECOMMENDATION**

It is recommended that the Greater Sydney Commission's delegate determine to make the draft LEP because:

- reclassification will allow Council to appropriately manage its property portfolio and enter into negotiations or formalise tenure arrangements with adjoining landowners who are currently utilising the land for private use;
- it relates to parcels of land that are small, generally alienated from the public, and are considered impractical for any meaningful open space and community use; and
- the proposal is consistent with Council's key strategies for managing and disposing of Council-owned land.

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