
ITEM NO	: 4.1
SUBJECT	: FAIRLAND HALL PLANNING PROPOSAL
STRATEGIC OUTCOME	: NEIGHBOURHOODS REFLECT LOCAL CHARACTER, HERITAGE AND CREATE A SENSE OF BELONGING
ACTION	: IMPLEMENT RECOMMENDATIONS FROM THE LOCAL STRATEGIC PLANNING STATEMENT (LSPS)
REPORTING OFFICER	: KIERAN METCALFE

Ref:688788

PURPOSE

The purpose of this report is to facilitate Council's consideration of a Planning Proposal to reclassify the C.A. Fairland Hall (located at 14 Church Street Hunters Hill, Lot 92 DP 666674) from Community land to Operational land. This would be achieved by amending Hunters Hill Local Environmental Plan 2012 (LEP) by listing the land within Schedule 4 of the LEP.

The proposed changes enacted by the Planning Proposal would assist in rectifying existing encroachments on the northern section of the site and discharge the interests registered over the site.

The Planning Proposal would be the first stage in Council's desire to rectify the existing encroachments on the land. Subsequent to adoption of the Planning Proposal, it is intended that the land would be subdivided to sell the northern portions of the site to the adjoining landowners.

RECOMMENDATION

1. That Council supports the recommendations set out below:

- (A) Forward the attached Planning Proposal to the Department of Planning, Housing and Infrastructure seeking a Gateway Determination in accordance with section 3.34 of the *Environmental Planning and Assessment Act 1979*. The planning proposal would seek to amend Hunters Hill Local Environmental Plan 2012 by including C.A. Fairland Hall (14 Church Street Hunters Hill, Lot 92 DP 666674) within Schedule 4 of the LEP.
- (B) Subject to (A) above, advise the Department of Planning, Housing and Infrastructure that Council will not be seeking to be authorised as the Local Plan Making Authority.
- (C) Subject to (A) above, Council endorse for public exhibition the Planning Proposal as outlined in (A).
- (D) Delegate authority to the General Manager to make amendments to the Planning Proposal that:
 - (1) Are minor and do not alter the intent; or

(2) Are required in order to comply with the Gateway Determination.

BACKGROUND

At its Ordinary Meeting of 28 August 2023 Council Resolved:

- 1. That Council authorise the preparation and lodgement of the planning proposal to reclassify the land at 14 Church Street, Hunters Hill from community land to operational land,*
- 2. That Council receive a further report following preparation, lodgement, and receipt of advice from the Local Planning Panel concerning the planning proposal.*

For: Mayor Zac Miles, Deputy Mayor Elizabeth Krasso, Councillor Richard Quinn, Councillor Tatyana Virgara, Councillor Julia Prieston.

Against: Councillor Ross Williams, Councillor Jim Sanderson.

The attached Planning Proposal has been prepared in relation to Item 1 and Part Item 2 of the above Resolution.

In addition to the above, this matter was reported to the Hunters Hill Local Planning Panel (LPP) meeting of 28 February 2024. As a result of its consideration of this matter the LPP Resolved:

- 1. The Hunters Hill Local Planning Panel advises Council that it supports the recommendations set out below, for the reasons set out in the Council's report:*
 - a) Amend Schedule 4 to include Fairland Hall as Operational Land; and*
 - b) Discharge any interests registered over the site.*

For: Chairperson Lesley Finn, Mr David Logan, Mr Chris Young, Ms Virginia Wise.

Against: Nil.

The above LPP consideration addresses the balance of Item 2 of the above Resolution.

DISCUSSION

Site Description

The subject property, legally defined as Lot 92 DP 666674, is located at 14 Church Street Hunters Hill and commonly known as C.A. Fairland Hall. The property has an area of approximately 1,258 m² and is:

- Categorized as Community Land under the *Local Government Act 1993*, and
- Zoned R3 – Medium Density Residential under the LEP.

The site is topographically split into a higher southern and lower northern section by a sandstone cliff. The current topography resulted from quarrying activities on the northern part of the property. The quarry created a sheer cliff that traverses through the middle of the property from east to west.

The height of the cliff is approximately 10 metres, with no access available from the top of the cliff (street level) to the lower areas in the north.

The southern section of the site contains the C.A. Fairland Hall, that is currently utilised by Hunter's Hill Council as a community facility, and a playground.

The northern section of the site is landlocked and currently used by the adjoining neighbours (9 and 11 The Avenue) as part of the gardens at the rear of the dwellings. The encroachments occupy an area of approximately 650m² and include fencing, garden shed, a chicken shelter and chicken run, timber garden beds, garden walls, and stone steps.



Figure 1: Location Map (Source: Nearmap)

The site is currently owned by Hunter's Hill Council, after it was appointed as trustee of the Hunters Hill Men & Boys Club Fund. The property was vested in Council by Order of the Commissioner of Dormant Funds in June 1962 under the *Dormant Funds Act 1942* (DF Act) (copy in Attachment 3 of the attached Planning Proposal) for community purposes. A Caveat (Ref: K649485) was registered with the Registrar General of New South Wales in April 1967 (copy in Attachment 4 of the attached Planning Proposal). The Caveat forbids the registration of any dealings affecting the land that is not consistent with the duties of the registered proprietors as trustees of the Hunters Hill Men & Boys Club Fund. Council is therefore not in a position to sell the land under the registered interests.

Council sought legal advice on the options to rectify the current situation and it was recommended that the land be reclassified to enable the sale of the land.

Strategic Alignment (Strategic merit)

Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission (GSC) finalised the Greater Sydney Region Plan – A Metropolis of Three Cities, as the NSW Government’s metropolitan plan for Sydney.

The Region Plan repositions Sydney as a metropolis of three cities, being the Western Parkland City, Central River City and Eastern Harbour City (within which The Hunters Hill Municipality is located). The Region Plan presents a strategy for managing growth, change, and infrastructure delivery over the next 40 years and establishes policy directions to achieve identified goals and principles, with each direction underpinned by actions.

The planning proposal does not give effect to any objectives or actions identified in the Greater Sydney Region Plan.

North District Plan

The North City District Plan is a 20-year plan to manage growth in the context of economic, social and environmental matters to implement the objectives of the Greater Sydney Region Plan. The intent of the District Plan is to inform local strategic planning statements and local environmental plans, guiding the planning and support for growth and change across the district.

The planning proposal does not give effect to any objectives or actions identified in the Northern District Plan 2056.

Hunters Hill Local Strategic Planning Statement

The Planning Proposal responds to Council’s endorsed Local Strategic Planning Statement (LSPS). The LSPS is a 20-year plan to manage land use growth and change in the Hunters Hill LGA until 2040 in light of community aspirations and broader economic, social and environmental matters that influence our daily lives. It sets out the strategic planning priorities for managing growth and change and will be a guide for land use planning and infrastructure delivery in the area.

Although while the proposed reclassification will not give effect to the endorsed local strategic planning statement, it is not inconsistent with the implementation plan tasks.

State Environmental Planning Policies (SEPPs)

SEPPs are environmental planning instruments which implement planning at a State level. Applicable SEPPs are required to be considered in relation to planning proposals. The subject Planning Proposal has been assessed against potentially applicable SEPPs within the Planning Proposal report attached to this report and within Table 1 below.

Table 1: Assessment against relevant SEPPs

State Environmental Planning Policy (Biodiversity and Conservation) 2021		
Chapter 2 – Vegetation in Non-Rural Areas	Applicable	Consistent with the provisions of this SEPP as no vegetation removal will result from the reclassification.
Chapter 3 – Koala habitat protection 2020	Not Applicable	Not Applicable
Chapter 4 – Koala Habitat Protection 2021	Not Applicable	Not Applicable
Chapter 6 – Water Catchments	Applicable	<p>The provisions apply to land within the Sydney Harbour Catchment. The provisions require development to maintain a Neutral or Beneficial Effect on the water quality of the harbour.</p> <p>It is considered that, as the proposal will not alter the zoning or the future development on the site, the provisions are not specifically applicable to the development.</p>
State Environmental Planning Policy (Housing) 2021		
Chapter 2 – Affordable Housing	Applicable	The proposal will not alter housing affordability in the area as no housing will be removed from the housing market.
Chapter 3 – Diverse Housing	Applicable	The proposal will not alter housing diversity as no housing will be lost

		or added to/from the housing market.
State Environmental Planning Policy (Planning Systems) 2021		
Chapter 2 – State and Regional Development	Not Applicable	Not Applicable
Chapter 3 – Aboriginal Land	Not Applicable	The site has not been identified as Aboriginal Land under the Policy provisions.
State Environmental Planning Policy (Resources and Energy) 2021		
Chapter 2 – Mining, Petroleum Production and Extractive Industries	Not Applicable	The proposed reclassification will not alter the land uses on the site.
Chapter 3 – Extractive Industries in Sydney Area	Not Applicable	The proposed reclassification will not alter the land uses on the site.
State Environmental Planning Policy (Transport and Infrastructure) 2021		
Chapter 2 – Infrastructure	Applicable	A review of the Policy provisions did not identify any impacts from the proposed reclassification of land on the surrounding infrastructure. This includes any impacts on the electricity substation located to the east of the site and the nearby Burns Bay Road.
State Environmental Planning Policy (Resilience and Hazards) 2021		
Chapter 2 – Coastal Management	Not applicable	The site is not located within the Coastal Zone.
Chapter 3 – Hazardous and Offensive Development	Not applicable	The proposal will not alter the zoning of the site to permit hazardous or offensive development.

Chapter 4 – Remediation of land	Applicable	The site has been used for community and residential purposes for an extended period and no change to current land use is proposed.
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As detailed within Table 1 above, the proposal is generally consistent with the applicable SEPPs.

Section 9.1 Ministerial Directions

The Minister for Planning has issued Directions to relevant planning authorities under section 9.1(2) of the *Environmental Planning and Assessment Act 1979*. These directions apply to planning proposals lodged with the Department of Planning, Housing and Infrastructure on or after the date the particular direction was issued and commenced. The consistency of the Planning Proposal with these Ministerial Directions is detailed in Table 2 below.

Table 2 – Consistency of the Planning Proposal with Section 9.1 Ministerial Directions

No.	Direction	Consistency
Focus area 1: Planning Systems		
1.1	Implementation of Regional Plans	The planning proposal does not give effect to any objectives or actions identified in the Greater Sydney Region Plan or the North District Plan 2056.
1.2	Development of Aboriginal Land Council land	Not applicable
1.3	Approval and Referral Requirements	The proposal will not result in concurrence from the Minister or referral authorities.
1.4	Site Specific Provisions	The proposal will not result in any provisions that will require specific land uses to be undertaken on the site.
1.4A	Exclusion of Development Standards from Variation	The proposal includes a reclassification only and will not exclude any future development on the site from the provisions of Clause 4.6 of the LEP.
Focus area 2: Planning systems – Placed based		
1.5	Parramatta Road Corridor Urban Transformation Strategy	Not applicable
1.6	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable

1.7	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
1.8	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable
1.10	Implementation of the Western Sydney Aerotropolis Plan	Not applicable
1.11	Implementation of Bayside West Precincts 2036 Plan	Not applicable
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable
1.13	Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable
1.14	Implementation of Greater Macarthur 2040	Not applicable
1.15	Implementation of the Pyrmont Peninsula Place Strategy	Not applicable
1.16	North West Rail Link Corridor Strategy	Not applicable
1.17	Implementation of the Bays West Place Strategy	Not applicable
1.18	Implementation of the Macquarie Park Innovation Precinct	Not applicable
1.19	Implementation of the Westmead Place Strategy	Not applicable
1.20	Implementation of the Camellia-Rosehill Place Strategy	Not applicable
1.21	Implementation of South West Growth Area Structure Plan	Not applicable
1.22	Implementation of the Cherrybrook Station Place Strategy	Not applicable
Focus area 2: Design and Place [This Focus Area is blank within the Directions]		
Focus area 3: Biodiversity and Conservation		
3.1	Conservation Zones	Not applicable
3.2	Heritage Conservation	<p>The site is not heritage listed or identified as having Aboriginal heritage significance. The site is however located within the Hunters Hill Conservation Area No 2 - The Peninsula Significance: Local.</p> <p>The proposal will not alter the heritage significance of the area as the proposed reclassification will not alter the built environment. The proposal is therefore considered</p>

		consistent with the Ministerial Direction.
3.3	Sydney Drinking Water Catchments	The site is located outside of the local government areas identified in the Ministerial Direction.
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable
3.5	Recreation Vehicle Areas	Not applicable
3.6	Strategic Conservation Planning	The proposal is consistent with the provisions of State Environmental Planning Policy (Biodiversity and Conservation) 2021 as no vegetation removal will result from the reclassification. It is therefore considered that the proposal will not impact on the biodiversity values of the area.
3.7	Public Bushland	Not applicable
3.8	Willandra Lakes Region	Not applicable
3.9	Sydney Harbour Foreshores and Waterways Area	The provisions apply to land within the Sydney Harbour Catchment. The provisions require development to maintain Neutral or Beneficial Effect on the water quality of the harbour. It is considered that, as the proposal will not alter the zoning or the future development on the site, the provisions are not specifically applicable to the development.
3.10	Water Catchment Protection	The site is located outside of any water catchment areas.
Focus area 4: Resilience and Hazards		
4.1	Flooding	The site is not identified as flood prone.
4.2	Coastal Management	Not applicable
4.3	Planning for Bushfire Protection	The site is not identified as bushfire prone land.
4.4	Remediation of Contaminated Land	The site has been used for community and residential for an extended period.
4.5	Acid Sulfate Soils	The site is identified within land affected by Class 5 Acid Sulfate Soils. As the proposal will not result in any excavation, the proposal will not result in adverse impacts.
4.6	Mine Subsidence and Unstable Land	Not applicable
Focus area 5: Transport and Infrastructure		

5.1	Integrating Land Use and Transport	The proposal does involve the rezoning of land.
5.2	Reserving Land for Public Purposes	The proposed reclassification will not alter the land available for public purposes in the foreseeable future. The C.A. Fairland Hall will continue to be utilised by community groups, while the sale of the land to the north is not currently used for public purposes.
5.3	Development Near Regulated Airports and Defence Airfields	Not applicable
5.4	Shooting Ranges	Not applicable
Focus area 6: Housing		
6.1	Residential Zones	The proposal will not reduce the type or number of housing available in Hunters Hill.
6.2	Caravan Parks and Manufactured Home Estates	The proposal will not impact on manufactured home villages.
Focus area 7: Industry and Employment		
7.1	Business and Industrial Zones	Not applicable
7.2	Reduction in non-hosted short-term rental accommodation period	Not applicable
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
Focus area 8: Resources and Energy		
8.1	Mining, Petroleum Production and Extractive Industries	Not applicable
Focus area 9: Primary Production		
9.1	Rural Zones	Not applicable
9.2	Rural Lands	Not applicable
9.3	Oyster Aquaculture	Not applicable
9.4	Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable

Site analysis and requirements (Site specific merit)

The site specific merit of the proposal is considered under the following headings.

Tree loss and landscape strategy

The proposal will not result in the removal of any vegetation.

Bushfire

The site is not mapped as bushfire prone land.

Heritage conservation

The site is not heritage listed or identified as having Aboriginal heritage significance. The site is however located within the Hunters Hill Conservation Area No 2 - The Peninsula Significance: Local.

The proposal will not alter the heritage significance of the area as the proposed reclassification will not alter the built environment or the heritage character of the area.

Archaeological conservation

The proposal will not result in the change to the built environment and will therefore not disturb any Aboriginal items or places.

Social Impact and Community Needs

The proposal will not alter the use of the site. The C.A Fairland Hall and playground will continue to be utilise for community purposes for the foreseeable future. The future sale of the northern portion of the site will not affect the operation of the community facilities.

Economic Impact

The proposal will not have a direct economic impact as no changes to the land use is proposed.

Infrastructure Servicing

The proposal will not impact on existing services as the northern part of the site is currently not connected to infrastructure. The proposal will result in the amalgamation of the northern part of the site and the adjoining residential lots, which will provide access and connection to services in The Avenue Road.

Drainage and Flooding

No flooding issues have been identified for the site.

Other Matters

Advice from the Local Planning Panel

This matter was reported to the Hunters Hill LPP meeting of 28 February 2024. As a result of its consideration of this matter the LPP Resolved:

1. The Hunters Hill Local Planning Panel advises Council that it supports the recommendations set out below, for the reasons set out in the Council's report:

- a) Amend Schedule 4 to include Fairland Hall as Operational Land; and*
- b) Discharge any interests registered over the site.*

For: Chairperson Lesley Finn, Mr David Logan, Mr Chris Young, Ms Virginia Wise.

Against: Nil.

Public Exhibition

Council would place the Planning Proposal on public exhibition for a period of not less than 28 days and undertake consultation with all stakeholders as directed, in accordance with conditions of the Gateway Determination.

Community consultation would be commenced with placing a public notice in the local newspapers (where relevant) and on the website of the Hunters Hill Council and/or the Department of Planning, Housing and Infrastructure and access to all relevant documents in Council administration offices in Hunters Hill. In addition, adjoining landowners will be notified in writing.

Public Hearings

Councils must hold a public hearing when reclassifying public land from community to operational. A public hearing would be held in relation to this Planning Proposal during the public exhibition stage, following Gateway Determination.

Local Plan Making Authority

A Local Plan Making Authority (LPMA) is responsible for making the LEP as identified by the Gateway Determination. This may be the Minister for Planning and Public Spaces (or delegate) or the relevant Council.

As this planning proposal relates to the reclassification of Council Owner land, this report recommends that Council advise the Department of Planning, Housing and Infrastructure that Council will not be seeking to be authorised as the LPMA. This is intended to ensure an additional level of objectivity in the progression of this Planning Proposal, should it proceed.

Referrals

To date, the Planning Proposal has not been referred to any agencies, or technical specialists representing Council. It is expected that this referral and advisory process will be undertaken during the exhibition and ongoing assessment stage of the Planning Proposal as required.

CONCLUSION

The *Local Government Act 1993* requires all public land to be classified as either community or operational. Community land is land Council makes available for use by the public, for example as parks or sports grounds. Operational land is land which facilitates the functions of Council and may not be open to the public, for example a works depot or a Council pound. This classification also determines land management and dealings: community land requires a plan of management and must not be sold, exchanged, or otherwise disposed of by a Council. There are no such special restrictions on Council powers to manage, dispose or change the nature of operational land.

The entire site containing C.A. Fairland Hall is identified as Community Land that reflects the use of the hall for community purposes. However, the northern portion of the site is currently land locked and utilised by the adjoining residential land as open space. The reclassification of the land will facilitate the rectification these encroachments and also discharge the interest registered over the site.

Should Council endorse the attached Planning Proposal, it will be forwarded to the Department of Planning, Housing and Environment in accordance with section 3.34 of the *Environmental Planning and Assessment Act 1979* requesting a Gateway Determination.

FINANCIAL IMPACT ASSESSMENT

There is no direct financial impact on Council's adopted budget as a result of this report.

ENVIRONMENTAL IMPACT ASSESSMENT

Refer to the 'site analysis and requirements (site specific merit)' section of this report.

SOCIAL IMPACT ASSESSMENT

Refer to the 'site analysis and requirements (site specific merit)' section of this report.

RISK ASSESSMENT

There are no direct or indirect risks impacting on Council arising from consideration of this matter.

ATTACHMENTS

1. Planning Proposal - C A Fairland Hall