



IRF24/1081

# Gateway determination report – PP-2024-781

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Fairlands Hall

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# Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

## Contents

<b>1</b>	<b>Planning proposal</b>	<b>1</b>
1.1	Overview	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	1
1.4	Site description and surrounding area	2
1.5	Mapping	3
1.6	Background	4
<b>2</b>	<b>Need for the planning proposal</b>	<b>4</b>
<b>3</b>	<b>Strategic assessment</b>	<b>4</b>
3.1	District Plan	4
3.2	Section 9.1 Ministerial Directions	5
3.3	State environmental planning policies (SEPPs)	6
3.4	LEP Practice Note PN 16-001	6
3.5	Local	9
<b>4</b>	<b>Site-specific assessment</b>	<b>9</b>
4.1	Environmental, social and economic	9
<b>5</b>	<b>Consultation</b>	<b>10</b>
5.1	Community	10
5.2	Agencies	10
<b>6</b>	<b>Timeframe</b>	<b>10</b>
<b>7</b>	<b>Local plan-making authority</b>	<b>10</b>
<b>8</b>	<b>Assessment summary</b>	<b>10</b>
<b>9</b>	<b>Recommendation</b>	<b>11</b>

**Table 1: Reports and plans supporting the proposal**

Relevant reports and plans
Deposited Plan – 17 August 2023
Order of the Commissioner of Dormant Funds – 27 June 1962
Caveat K649485 – 20 April 1967
Survey Report – July 2007

# 1 Planning proposal

## 1.1 Overview

**Table 2: Planning proposal details.**

<b>LGA</b>	Hunters Hill
<b>PPA</b>	Hunters Hill Council
<b>NAME</b>	Fairlands Hall
<b>NUMBER</b>	PP-2024-781
<b>LEP TO BE AMENDED</b>	Hunters Hill LEP 2012
<b>ADDRESS</b>	14 Church Street Hunters Hill 2110
<b>DESCRIPTION</b>	Lot 9 DP 666674
<b>RECEIVED</b>	15/04/2024
<b>FILE NO.</b>	IRF24/1081
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is:

- reclassification of Council owned land at 14 Church Street, Hunters Hill from “community” land to “operational” land.

The planning proposal seeks to pursue an LEP amendment pathway to reclassify the subject land to operational.

Reclassification will allow council to subdivide and sell the land on the northern portion of the site to the properties currently encroaching on the site and remove Council from its maintenance responsibility.

Council intends to continue operation of the C.A. Fairlands Hall as a community asset. However the reclassification of the southern portion of the site to operational will allow for a wider range of land uses should this community facility be no longer required.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend Schedule 4 Classification and reclassification of public land in the Hunters Hill LEP 2012 by reclassifying the land as shown below:

**Table 3: Current and proposed controls**

Control	Current	Proposed
Land classification	Community	Operational

The planning proposal also seeks to discharge the interests applying to the site through the reclassification. The planning proposal does not seek to amend any other controls related to the site.

The planning proposal should be updated prior to exhibition to provide clarity in the explanation of provisions to adequately explain how the objectives of the proposal will be achieved. This should include confirmation about the relevant part of Schedule 4 to be amended.

The planning proposal should also be updated prior to exhibition to clearly state which interests are to be discharged. It is noted the site also includes an interest relating to an easement for transmission line. The planning proposal should confirm if this interest is to remain.

## 1.4 Site description and surrounding area

The site is located at 14 Church Street Hunters Hill, legally described as Lot 92 DP 666674. The site has an area of 1,258sqm and is located within a low density residential area. A two storey residential flat building adjoins the site to the west. An electricity substation and a two storey residential flat building adjoins the site to the east. The adjoining sites to the north contain two, two storey residential dwellings. The site is identified in **Figure 1** below.

The site is zoned R3 Medium Density Residential. A sandstone rockface runs east-west generally through the middle of the site. The southern portion of the site fronting Church Street contains C.A. Fairland Hall, a part one part two storey brick building used as a community facility by Council and a small playground.

The northern portion of the site is inaccessible from the southern part and is used by the adjoining sites at 9 and 11 The Avenue as private open space.



Figure 1: Subject site (source: Nearmaps)



Figure 2: Site context (source: Nearmaps)

## 1.5 Mapping

The proposal does not include any changes to the development controls and therefore no change to the LEP maps is required.



## 1.6 Background

### Planning Proposal

On 28 August 2023, Council resolved to prepare a planning proposal to facilitate the reclassification of the site from community to operational including the release of the registered interests.

On 28 February 2024, the Hunters Hill Local Planning Panel considered the planning proposal and provided its support to proceed to Gateway Determination.

On 25 March 2024, Council resolved to submit the planning proposal to the Department of Planning, Housing and Infrastructure for Gateway Determination.

### Site History

Hunters Hill Council was appointed as Trustee of the Hunters Hill Men & Boys Club Fund, subsequently the site was vested in Council by Order of the Commissioner of Dormant Funds in June 1962 to be used for community purposes.

A Caveat (K649485) registered with the Registrar General of New South Wales in April 1967 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 has advised there is no opportunity in the Dormant Funds Act to vary the terms of the Order. Council is unable to sell or lease the land or part of the land while the Order exists.

## 2 Need for the planning proposal

The planning proposal is not the result of a strategic plan, study or report.

There is no other planning mechanism to reclassify community land to operational land under the Local Government Act 1993. A planning proposal is required to achieve the intended outcomes.

The site is classified as 'community' land and is unable to be sold or transferred.

It is noted the use of the northern portion of the site is not in accordance with the Order or Caveat as outlined above. The proposed reclassification will allow for the subdivision and subsequent lease or sale of the northern portion of the site to the adjoining neighbours. This will regularise the use of this portion of the site removing Council from its responsibility to maintain this inaccessible part of the site. It is noted that the northern portion of the site is inaccessible from the C.A. Fairlands Hall or the playground due to the site's topography.

Council has advised that reclassification is the best way to resolve the encroachment matters affecting the northern portion of the site and discharge the interest affecting the site under Section 30 of the Local Government Act 1993.

## 3 Strategic assessment

### 3.1 District Plan

The site is within the North District. The North District Plan (March 2018) contains planning priorities and actions to guide the growth of the district while improving its social, economic, and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the North District Plan in accordance with section 3.8 of the Environmental Planning and Assessment Act 1979. Table 4



includes an assessment of the planning proposal against relevant directions and actions. It is recommended the planning proposal is updated prior to exhibition to address consistency with the District Plan.

**Table 4: District Plan assessment**

District Plan Priorities	Justification
Planning Priority N3 Providing services and social infrastructure to meeting people's changing needs	<p>The proposed reclassification will enable the sale/lease of the northern portion of the site which is inaccessible from the existing community facility and playground.</p> <p>Council has indicated the funds generated from this will be redirected to the upgrade of C.A. Fairlands Hall on the site. The planning proposal will facilitate the delivery of improved social infrastructure for the use of the community.</p>

## 3.2 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 5: 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.2 Heritage Conservation	Yes	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and Indigenous heritage significance.</p> <p>The site is located within the Hunters Hill Conservation Area No 2 - The Peninsula. Future work to the site including renovation works to the C.A. Fairlands Hall subject to the development application process would need to consider the relevant heritage provisions within the current LEP.</p>
5.2 Reserving land for public purposes	Yes	<p>The objectives of Direction 5.2 are to facilitate the provision of public services and facilities by reserving land for public purposes, and to facilitate the removal of reservation of land for public purposes where the land is no longer required for acquisition.</p> <p>The proposal is consistent with this direction as it seeks to reclassify the land, allowing the sale/lease of part of the site and generation of funds to facilitate the upgrade of the existing community facility on the site. The proposed reclassification does not amend the zoning or land reservation acquisition map.</p>

6.1 Residential Zones	Yes	<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>a) encourage a variety and choice of housing types to provide for existing and future housing needs,</li> <li>b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</li> <li>c) c) minimise the impact of residential development on the environment and resource lands.</li> </ul> <p>The site is zoned R3 Medium Density Residential. The proposal does not propose additional housing or reduce the residential density of the land. However, the reclassification facilitates the future sale/lease of land to residential properties currently encroaching on the site.</p>
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### 3.3 State environmental planning policies (SEPPs)

The planning proposal is generally consistent with all relevant SEPPs as discussed in the table below.

The Planning Proposal proposes the reclassification of land only and does not propose to rezone land. Council has advised if land is determined to be rezoned and sold in the future, a Planning Proposal will be prepared to assess the merits of the proposal.

**Table 6: Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Chapter 2 – vegetation in Non-Rural Areas. Chapter 6 – Water Catchments	Yes	The proposal does not involve the removal of any vegetation, nor will the proposal alter the zoning or future development possible on the site, maintaining a neutral effect on the water quality of the harbour.

### 3.4 LEP Practice Note PN 16-001

LEP Practice note PN16-001 *Classification and reclassification of public land through a local environmental plan* provides guidance on preparing planning proposals seeking to reclassify public land through an LEP. The practice note also provides an accompanying information checklist of considerations to be discussed within reclassification proposals.

Council has provided an assessment against the checklist. Attachment 1 in the planning proposal is recommended to be updated prior to exhibition to provide additional detail as noted in the table below.

Table 7: PN 16-001 Assessment Checklist

Checklist PN16-001	Council's response	Department response
The current and proposed classification of the land;	Current: community Proposed: operational	Noted.
Whether the land is a 'public reserve' (defined in the LG Act);	No	Noted.
The strategic and site specific merits of the reclassification and evidence to support this;	No	Attachment 1 in the planning proposal should be updated to address this matter.
Whether the planning proposal is the result of a strategic study or report;	No	Noted.
Whether the planning proposal is consistent with council's community plan or other local strategic plan;	The proposal is not inconsistent with the Hunters Hill Local Strategic Planning Statement or Community Plan	Noted.
A summary of council's interests in the land, including: <ul style="list-style-type: none"> <li>How and when the land was first acquired (e.g. Was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)</li> <li>If council does not own the land, the land owner's consent;</li> <li>The nature of any trusts, dedications etc;</li> </ul>	Council is the landowner.	While the planning proposal provides this information, Attachment 1 in the planning proposal should be updated to provide a full summary.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;	Yes. The site contains interests that need to be discharged as part of the reclassification of the site. Council sought legal advice on the most appropriate means to resolve the encroachments on the northern portion of the site that concluded that the reclassification was the best way to resolve these issues and discharge the interest affecting the site.	Noted. Attachment 1 in the planning proposal should be updated to confirm the exact interest to be discharged noting there may be other interests on the site.

Checklist PN16-001	Council's response	Department response
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged);	There are no physical or operational changes or effects anticipated as a result of the reclassification.	While the planning proposal provides this information, Attachment 1 in the planning proposal should be updated to address this matter.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. Electronic title searches, notice in a government gazette, trust documents);	The site is not identified on Council land register as a public reserve.	Attachment 1 in the planning proposal should be updated to include detail regarding evidence of relevant interests.
Current use(s) of the land, and whether uses are authorised or unauthorised;	The land is currently used for public purposes (south) and residential development (north).	While the planning proposal provides this information, Attachment 1 in the planning proposal should be updated to address this matter.
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls;	There are no agreements or proposed agreements for the sale or lease of the lands.	Noted.
Current or proposed business dealings (e.g. Agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time);	There are no agreements or proposed agreements for the sale or lease of the lands.	Noted. Attachment 1 in the planning proposal should be updated to include detail regarding when council intends to sell parts of the site if relevant.
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);	Rezoning of the site is not proposed.	Noted.
How council may or will benefit financially, and how these funds will be used;	Any funds raised will be allocated to Council's reserve funds set aside for the improvement and maintenance of the C.A. Fairfield Hall.	Noted. Attachment 1 in the planning proposal should be updated to include detail about how council may or will benefit financially from the reclassification.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;	It is the intention to reinvest the funding received from the sale of land into renovation of the C.A. Fairlands Hall.	Noted. Attachment 1 in the planning proposal should be updated to include detail about how council will ensure the funds are used to upgrade the community facility on the site.

Checklist PN16-001	Council's response	Department response
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot;	The entire site will be reclassified.	Noted.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	There are no relevant government agencies that require consultation in regard to this proposal.	Noted.

### 3.5 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

**Table 6: Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement	<p>The Hunters Hill LSPS is a 20 year plan to manage land use growth and change and infrastructure delivery. The proposal is consistent with the LSPS including the following priorities:</p> <ul style="list-style-type: none"> <li>• Provide services and facilities within Hunters Hill to meet community needs and aspirations now and into the future by 2040; and</li> <li>• Provide infrastructure to support community needs and aspirations.</li> </ul> <p>Council has indicated that funds raised from the future sale/lease of the northern portion of the site will go towards the renovation of C.A. Fairlands Hall.</p> <p>The Department's assessment is that the proposal is consistent with the LSPS.</p> <p>It is recommended that the planning proposal be updated prior to exhibition to provide detail on the consistency with the LSPS.</p>
Community Strategic Plan	<p>The Hunters Hill Community Strategic Plan provides a framework to guide the needs and aspirations of the local community over 10 years to 2028. The proposal is consistent with the following actions:</p> <ul style="list-style-type: none"> <li>• Improve and maximise access to and use of parks, community, sporting and cultural facilities.</li> </ul> <p>It is recommended that the planning proposal be updated prior to exhibition to provide detail on the consistency with the Community Strategic Plan.</p>

## 4 Site-specific assessment

### 4.1 Environmental, social and economic

The planning proposal does not alter any development controls and is not considered to have any adverse social, economic or environmental impacts. Should the future upgrade of the community facility on the site require a development application, consideration of specific impacts can be undertaken during the detailed assessment stage.

As discussed previously in this report, the sale/lease of the northern portion of the site to the adjoining landowners will result in an economic and social benefit to the community. It is noted that the northern part of the site is inaccessible from the community facility and playground and the adjoining properties to the north currently encroach on this part of the site. Council has indicated it intends for the funds generated to be directed towards the renovation of C.A. Fairlands Hall improving the useability of this social infrastructure asset for the benefit of the community.

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 28 days.

Given the planning proposal is categorised as a standard planning proposal, it is recommended the exhibition period is a minimum of 20 working days.

Council must hold a public hearing when reclassifying public land from community to operational (EP&A Act s.57 & LG Act s.29). After the exhibition period has ended, at least 21 days public notice must be given before the hearing.

### 5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended Utility providers such as Ausgrid be consulted on the planning proposal and given 30 working days to comment, due to the presence of utility infrastructure and easements on and adjoining the site.

## 6 Timeframe

Council proposes a 12 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

The Department recommends an LEP completion date of 13 March 2025 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

The Department recommends that Council not be authorised to be the local plan-making authority for this proposal as the site is owned by Council.

## 8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It is consistent with the North District Plan, Council's Local Strategic Planning Statement, and the relevant SEPPs and Section 9.1 Directions.

- The proposal will allow for the sale/lease of the northern part of the site currently being used by the adjoining properties.
- Funds raised from the sale/lease of this land will be directed to the future upgrade of the community facility on the site.
- The proposal will not result in any adverse environmental outcomes and have a positive social and economic impact for the community.

The proposal is recommended to be updated prior to exhibition to:

- Ensure the explanation of provisions clearly explains how the objectives of the proposal will be achieved including confirmation of the relevant part of Schedule 4 of the LEP to be amended. The explanation of provisions must clearly state which interests are to be discharged/remain.
- Update Attachment 1 of the planning proposal to provide further detail against the requirements of the LEP Practice Note PN16-001 as noted in this assessment report.
- Provide detail on the consistency with the North District Plan, LSPS and Community Strategic Plan.
- Update the Project Timeline.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that there are no inconsistencies with relevant section 9.1 Directions.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated prior to exhibition to:
  - Ensure the explanation of provisions clearly explains how the objectives of the proposal will be achieved including confirmation of the relevant part of Schedule 4 of the LEP to be amended. The explanation of provisions must clearly state which interests are to be discharged/remain.
  - Update Attachment 1 of the planning proposal to provide further detail against the requirements of the LEP Practice Note PN16-001 as noted in the Gateway Assessment.
  - Provide detail on the consistency with the North District Plan, Local Strategic Planning Statement and Community Strategic Plan.
  - Update the Project Timeline to reflect the requirements of the Gateway determination.
2. Consultation is required with the following public authorities:
  - Utility providers such as Ausgrid.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
4. A public hearing is required to be held in accordance with Section 29 of the Local Government Act 1993 and the LEP Practice Note PN16-001.



Given the nature of the planning proposal, it is recommended that Council is not authorised to be the local plan-making authority.

The timeframe for the LEP to be completed is on or before 13 March 2025.



29 May 2024

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13 June 2024

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