



IRF25/560

Plan finalisation report – PP-2024-781

Fairland Hall, Hunters Hill

October 2025



Published by NSW Department of Planning, Housing and Infrastructure

dpie.nsw.gov.au

Title: Plan finalisation report – PP-2024-781

Subtitle: Fairland Hall, Hunters Hill

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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.

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1 Introduction

1.1 Overview

1.1.1 Hunters Hill Local Environmental Plan 2012 (Amendment No.3)

The planning proposal seeks to reclassify the site and discharge an interest to allow council to subdivide and sell the land on the northern portion of the site to the residential properties currently encroaching on this land. This will also remove Council from its maintenance responsibility. Council have advised that it intends to continue operation of the C.A. Fairland Hall as a community asset.

1.1.2 Site description

The planning proposal applies to a Council-owned site located at 14 Church Street, Hunters Hill (Lot 92 DP 666674). The site has an area of 1,258m² and is zoned R3 Medium Density Residential. The southern portion of the site fronting Church Street contains C.A. Fairland Hall, a split level building operating as a community facility, and a small playground.

A sandstone rockface runs east-west through the middle of the site. The northern portion of the site is inaccessible from the southern part and is currently being used by the adjoining residential sites at 9 and 11 The Avenue as an extension of their private open space.

The site 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, 2 storey residential dwellings. The site is identified in **Figure 1** below.



Figure 1 Subject site (Source: Nearmap)



Figure 2 Site Context (Source: Nearmap)

1.1.3 Purpose of plan

The planning proposal seeks to amend Schedule 4, Part 2 of the Hunters Hill LEP 2012 to reclassify Council-owned land at 14 Church Street, Hunters Hill.

Table 1 Current and proposed controls

Control	Current	Proposed
Reclassification of public land	Lot 92 in DP 666674 is classified as 'community' land for the purposed of the <i>Local Government Act 1993</i> .	Reclassify Lot 92 in DP 666674 to 'operational' land and discharge the interests applying to the site, being: - Hunters Hill Men & Boys Club Fund – Caveat K649485 Council have advised that the following interest will not be discharged: - Transmission line easement

1.1.4 State electorate and local member

The site falls within the Lane Cove state electorate. Anthony Roberts MP is the State Member. The site falls within the Bennelong federal electorate. Jerome Laxale MP is the Federal Member.

To the team’s knowledge, neither MP has made any written representations regarding the proposal. There are no donations or gifts to disclose, and a political donation disclosure is not required. There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

The Gateway determination issued on 13 June 2024 determined that the proposal should proceed subject to conditions. Council has met all the Gateway determination conditions as detailed in Attachment 10 to the post-exhibition planning proposal.

In accordance with the Gateway determination the proposal was due to be finalised on 13 March 2025. Whilst the LEP completion date has passed, this condition is administrative, and the inconsistency is considered minor as the intent of the planning proposal is clear and it was exhibited in accordance with the Act.

The Department is satisfied that there are no outstanding issues relating to Gateway conditions which would prevent finalisation.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 17 July to 27 August 2024. A total of 18 community submissions were received and one submission from Government agency Ausgrid.

A public hearing in relation to the proposed land reclassification was held on 13 November 2024.

3.1 Submissions during exhibition

3.1.1 Submissions from the community

All 18 community submissions received objected to the proposal to reclassify the whole site, with one submission suggesting the site be subdivided into three parcels, with C.A. Fairland Hall retaining community land classification and the remaining two parcels being reclassified and sold.

Key issues raised in submissions are summarised below.

Table 2 Summary of Key Issues Raised in Community Submissions

Key Issue	Council response
Support for/ fear of loss of retention of Fairland Hall and the playground as community land	Council has stated that Fairland Hall and playground will continue to operate as community land. The proposal is administrative in nature and would not result in physical impacts to Fairland Hall. The proposal would seek to ensure the most practical resolution of encroachments into the northern section of the site.
Reclassification would breach the original intention of the Caveat	Council has sought legal advice, as detailed within the planning proposal, which has identified reclassification of the land as the most appropriate way to address the encroachments on the land.

Key Issue	Council response
Support for partial reclassification only on northern parts of the site	Council stated that, while part reclassification is possible, part reclassification of the site would not be appropriate in this instance as the boundaries of the proposed subdivision are not specifically and accurately identified. Rather, reclassification of the land in its entirety would facilitate the practical and orderly future stages of the proposed management of the site, including detailed survey and planning to inform subdivision associated with the encroachments within the northern portion of the lot.

The post-exhibition report to Council provides responses to the matters raised in submissions. The Department is satisfied with Council's response to submissions.

3.1.2 Submissions from agencies

The Gateway determination required Council to consult with Ausgrid. Ausgrid advised it had no objections to progressing the planning proposal.

3.1.3 Public hearing

A public hearing in relation to the proposed land reclassification was held on 13 November 2024. The independent chair was Sandra Hoy of Parkland Planners. Following the public hearing, an Independent Public Hearing and Submissions Report was prepared by Parkland Planners (9 December 2024) and was provided to Council.

The public hearing was a forum to consider the reclassification and for the community to express their views and concerns regarding the proposal. At the meeting several community members and Councillors addressed the public hearing.

The Public Hearing and Submissions Report recommended that, subject to legal advice, Council should consider the following options:

1. Reclassify the whole site as operational land. This option is not supported by the community because of the strong community desire to retain the Fairland Hall/southern portion of the subject land as community land for continuing community use.
2. Subdivide Lot 92 DP 666674 into three lots (two northern lots adjoining 9 and 11 The Avenue respectively and one southern lot including the hall and playground) and reclassify the northern portion below the cliff face only as operational land and sell or lease the land to the owners of 9 and 11 The Avenue. The owners would prefer to buy the land.
3. Retain the current classification of the whole site as community land, and lease/licence the northern portion to the adjoining property owners. This option would be subject to legal advice on whether the Local Government Act 1993 allows granting of a lease, licence or other estate over community land for private purposes. If so, preparation of an adopted Plan of Management under the Local Government Act 1993 authorising such a lease or licence would be required.

Option 2 was identified as the preferred recommendation in the Public Hearing and Submissions Report.

Council obtained further legal advice on the above and found that reclassification of the land in its entirety would facilitate the practical and orderly future stages of the proposed management of the site, including detailed survey and planning to inform subdivision associated with the encroachments within the northern portion of the lot.

While part reclassification is possible, Council have stated that this would not be appropriate in this instance as the boundaries of the proposed subdivision are not yet specifically and accurately identified.

The Department acknowledges the Report recommendations and Council’s interpretation of the legal advice received. It is noted that the alternate options to subdivide prior to reclassification or to facilitate the intended outcome through a lease may be inconsistent with the terms of the Covenant and Council would therefore be unable to carry out those options.

Notwithstanding, the hearing recommendations and the legal advice related to the public hearing are matters under Council’s jurisdiction. Any future disputes will be addressed and resolved directly between Council, the community, and the landowners.

3.2 Post-exhibition changes

3.2.1 Council resolution

At Council’s Ordinary Meeting on 16 December 2024, Council resolved to proceed with the planning proposal with no post-exhibition changes.

3.2.2 The Department’s recommended changes

The Department recommends no post-exhibition changes.

4 Department’s assessment

The proposal has been subject to detailed review and assessment through the Department’s Gateway determination and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council’s Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. The proposal is consistent with the assessment, there are no unresolved matters to be addressed.

Table 3 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	☒ Yes	☐ No, refer to section 4.1
District Plan	☒ Yes	☐ No, refer to section 4.1
Local Strategic Planning Statement	☒ Yes	☐ No, refer to section 4.1
Local Planning Panel (LPP) recommendation	☒ Yes	☐ No, refer to section 4.1
Section 9.1 Ministerial Directions	☒ Yes	☐ No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	☒ Yes	☐ No, refer to section 4.1

Table 4 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	☒ Yes	☐ No, refer to section 4.1
Environmental impacts	☒ Yes	☐ No, refer to section 4.1
Infrastructure	☒ Yes	☐ No, refer to section 4.1

4.1 Detailed assessment

There are no inconsistencies with the Gateway assessment or areas requiring further analysis, or unresolved matters that necessitate revisions to the planning proposal.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 5 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Council	Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i>. Council confirmed on 11/04/2025 that it approved the draft and that the plan should be made.	☒ Yes ☐ No, see below for details
Parliamentary Counsel Certificate	On 4/07/2025, Parliamentary Counsel provided the Certificate that the draft LEP could legally be made.	☒ Yes ☐ No, see below for details

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The proposal demonstrates strategic and site specific merit.
- It is consistent with the strategic planning framework including the North District Plan, Hunters Hill Local Strategic Planning Statement, Section 9.1 Ministerial Directions and State Environmental Planning Policies.
- Is consistent with the Gateway determination.
- Issues raised during consultation have been satisfactorily addressed, and there are no unresolved agency objections to the proposal.
- A Public Hearing into the classification of public land has been undertaken and Council has adequately responded to the Report recommendations.
- It is not expected to generate adverse social, environmental or economic impacts.



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1 October 2025

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