

ITEM 8. POST EXHIBITION: AMENDMENT TO SOUTH SYDNEY LOCAL ENVIRONMENTAL PLAN 1998 - 91-99 EVELEIGH STREET AND 119-121 EVELEIGH STREET REDFERN - RECLASSIFICATION OF COMMUNITY LAND

FILE NO: S082490

SUMMARY

On 30 June 2009, the Aboriginal Housing Company, as the majority landowner in Eveleigh Street, obtained approval from the Department of Planning for a Concept Plan (Approval No. 06_0101) to redevelop the area known as 'The Block' in Redfern.

This proposal, known as the 'Pemulwuy Project', aims to revitalise the area and develop housing and services for the Aboriginal community, as well as a community centre, health and fitness facility, health and respite centre and public open space.

The Planning Proposal was made publicly available between 9 August 2011 and 12 September 2011 and a public hearing was undertaken in accordance with section 29 of the *Local Government Act 1993* and section 57 of the *Environmental Planning and Assessment Act*.

This report is to inform the Central Sydney Planning Committee of the outcomes of the public exhibition and hearing and to seek endorsement to proceed with making an amendment to the *South Sydney Local Environmental Plan 1998* which will allow the Pemulwuy Project to proceed.

In order for the project to proceed, it is necessary for the ownership of parcels of land to be transferred from Council to the proponents of the project, the Aboriginal Housing Company. The *Local Government Act 1993* requires that public land must be reclassified from 'community' to 'operational' before any transfer can occur. The reclassification process requires a Local Environmental Plan amendment. Therefore, Council, on 7 March 2011, and the Central Sydney Planning Committee (CSPC), on 3 March 2011, resolved to endorse a Planning Proposal to amend *South Sydney Local Environmental Plan 1998* to reclassify the land at 91-99 and 119-121 Eveleigh Street, Redfern. These resolutions are at **Attachment A**. The endorsed Planning Proposal is at **Attachment B**.

On 14 April 2011, the Department of Planning and Infrastructure issued a Gateway Determination allowing the public exhibition of the Planning Proposal. To allow for appropriate consultation with the Aboriginal Housing Company and the local community, the City requested an extension to the Gateway Determination, which was granted. The Gateway Determination now expires on 18 September 2012.

In accordance with the Gateway Determination, the Planning Proposal was publicly exhibited between 9 August 2011 and 12 September 2011. Following the exhibition period, a public hearing was held as required by the *Local Government Act 1993*. In accordance with the *Environmental Planning and Assessment Act 1979*, the public hearing was facilitated by an independent party who also produced a report, which is at **Attachment C**.

A total of four written submissions and seven oral submissions were made during the public exhibition and public hearing respectively. The majority of these submissions express support for the reclassification and see it as a positive step in delivering an important project for the community. A summary of these submissions and the City's response is at **Attachment D**.

RECOMMENDATION

It is resolved that the Central Sydney Planning Committee:

- (A) note the matters raised in response to the public exhibition of *Planning Proposal: South Sydney Local Environmental Plan 1998 (Amendment No. 22) - 91-99 Eveleigh Street and 119-121 Eveleigh Street, Redfern*; and
- (B) approve the submission of *Planning Proposal: South Sydney Local Environmental Plan 1998 (Amendment No. 22) - 91-99 Eveleigh Street and 119-121 Eveleigh Street, Redfern*, as shown at **Attachment B** to the subject report, to the Director-General of the Department of Planning and Infrastructure, with a request that *South Sydney Local Environmental Plan 1998 (Amendment No. 22) - 91-99 Eveleigh Street and 119-121 Eveleigh Street, Redfern*, be legally drafted and made, in accordance with Sections 58 and 59 of the *Environmental Planning and Assessment Act 1979*.

ATTACHMENTS

Attachment A: Resolution of Council of 7 March 2011 and Resolution of the Central Sydney Planning Committee of 3 March 2011.

Attachment B: *Planning Proposal: South Sydney Local Environmental Plan (Amendment No. 22) - 91-99 Eveleigh Street and 119-121 Eveleigh Street, Redfern*, dated April 2012.

Attachment C: Public Hearing Report produced by Willana Associates dated March 2012.

Attachment D: Summary of submissions.

BACKGROUND

The sites

1. The subject sites are at 91-99 and 119-121 Eveleigh Street, Redfern. These sites form part of Pemulwuy Park and the Eveleigh Street playground and have a combined area of approximately 534m². The sites are located between Eveleigh Street and the Redfern railway corridor and are within the Redfern-Waterloo operational area. Figure 1 shows the sites, outlined below, and the surrounding local area.



Figure 1 – Aerial photograph of the sites

2. These seven parcels of land were progressively acquired by the former South Sydney City Council between May 1988 and October 1994 for the purpose of establishing a children's playground and landscaped open space area. The total cost of acquiring the land was \$193,500. The land is currently classified 'community' land under the *Local Government Act 1993*.
3. Public land comprises all land "vested in or under the control of the council". The principal effect of the classification of public land is to "restrict the alienation and use of the land".

4. Operational land has no special restrictions other than those that may apply to any piece of land. Community land is different. Classification as community land reflects the importance of the land to the community because of its use or special features. Generally it is land intended for public access and use. This gives rise to the restrictions, intended to preserve the qualities of the land. Community land cannot be sold, cannot be leased, licensed or any other estate granted over the land for more than 21 years and must have a plan of management prepared for it.

The planning controls

5. The subject sites are identified under *State Environmental Planning Policy (SEPP) (Major Development) 2005*, as within the Redfern-Waterloo Authority sites. It should be noted, however, that the Redfern-Waterloo Authority is no longer operational and its functions have been assumed by the Sydney Metropolitan Development Authority.
6. As the development has a capital investment value greater than \$5M, it is a project to which the State and Regional Development SEPP applies.

The Pemulwuy Project

7. On 30 June 2009, the Aboriginal Housing Company, as the majority landowner in Eveleigh Street, obtained approval from the Department of Planning for a Concept Plan (Approval No. 06_0101) to redevelop the area known as 'The Block' in Redfern.
8. This proposal, known as the 'Pemulwuy Project', aims to revitalise the area and develop housing and services for the Aboriginal community, as well as a community centre, health and fitness facility, health and respite centre and public open space.
9. The approved Concept Plan incorporates the subject sites for the development of a three storey commercial building along the railway corridor, including an art gallery, gymnasium and fitness centre.
10. On 30 September 2010, a Director-General's Requirements for the environmental assessment was issued for a modification of the approved concept plan to allow development of a four storey building along the railway corridor for commercial offices and art gallery.
11. Following this, a major development application (MP11_0093) was lodged with the Department of Planning and Infrastructure in December 2011. The application proposes a four storey building along the railway corridor, in accordance with the modified concept plan.
12. The public exhibition period for the development application closed on 29 February 2012 and the application is undetermined at the time of writing this report.

The Planning Proposal

13. The *Local Government Act 1993* prevents councils from transferring public land that is classified 'community' and requires that councils follow a reclassification process. This involves identifying land that is to be reclassified from 'community' to 'operational' in the relevant Local Environmental Plan.

14. As the sites form part of the Redfern-Waterloo Authority Sites and, hence, are excluded from the draft *Sydney Local Environmental Plan 2011*, the Local Environmental Plan that currently applies is *South Sydney Local Environmental Plan 1998*.
15. The effect of this Planning Proposal will be to introduce to the *South Sydney Local Environment Plan 1998* a schedule which identifies land to be reclassified from 'community' to 'operational', thus satisfying the relevant section of the *Local Government Act 1993*.
16. The subject sites have a total area of approximately 534m² and are located between Eveleigh Street and the railway corridor. Given the location of the land adjacent to the railway line, it is not ideally suited as open space and this is reflected in its current underutilisation. By reclassifying the land and allowing the Pemulwuy Project to proceed, the land can be used to better address local needs.
17. While the making of site specific Local Environmental Plan amendments is generally discouraged, the Department of Planning's *Planning Circular PS06-005* provides that such amendments may proceed where Council can justify the proposal and demonstrate that it is in the public interest. The Planning Proposal, at Attachment B to this report, outlines the full justification of the proposed amendment and has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979*.

Public exhibition

18. Council, on 7 March 2011, and the CSPC, on 3 March 2011 resolved to endorse the Planning Proposal to reclassify the land and submit it to the Department of Planning and Infrastructure with a request for a Gateway Determination.
19. A Gateway Determination was received on 14 April 2011, allowing public exhibition of the Planning Proposal. It also sets a timeframe for completing the amendment to the Local Environmental Plan of nine months from the week following the date of the Gateway Determination. To allow for appropriate consultation with the community and the Aboriginal Housing Company, the City submitted a request to extend the deadline for finalisation of the Planning Proposal. This request was agreed to by the Department of Planning and Infrastructure and the amendment is to be completed by 18 September 2012.
20. As per the Gateway Determination, the Planning Proposal was made publicly available between 9 August 2011 and 12 September 2011 on the City of Sydney website and at all Customer Service and Neighbourhood Service Centres. The public exhibition was advertised in the Sydney Morning Herald, the Central newspaper and on the City of Sydney website. Notification letters were sent to all owners and occupiers within a 75m radius of the subject sites, four public authorities as identified in the Gateway Determination, and other relevant organisations and community groups as identified by Council officers.

Public hearing

21. As the subject of the Planning Proposal is the reclassification of public land from 'community' to 'operational', a public hearing was undertaken in accordance with section 29 of the *Local Government Act 1993* and section 57 of the *Environmental Planning and Assessment Act*. This process must be held after the close of the public exhibition of the Planning Proposal.

22. The public hearing was advertised for a period of 28 days, between 15 February 2012 and 13 March 2012, through the same channels as the public exhibition. The distribution of notification letters was the same as that for the public exhibition.
23. Prior to the public hearing, a number of telephone and email enquiries were received. The majority of these enquiries requested clarification of the reclassification process and the purpose of the public hearing. One resident confirmed their attendance at the public hearing.
24. In accordance with section 47G(2) of the *Local Government Act 1993*, the public hearing was convened by an independent consultant. Willana Associates were selected using the standard Council quote evaluation procedure.
25. The public hearing was held on Wednesday 14 March 2012 at 6.00pm at the Redfern Town Hall. A representative of Willana Associates took minutes during the hearing and these were used as the basis for their report provided to Council on 23 March 2012, which is at Attachment C.
26. There were a number of oral and written submissions made in response to the notification period regarding the reclassification process. In summary:
 - (a) a total of four (4) written submissions were received; and
 - (b) seven (7) parties presented oral submissions to the hearing. Councillor Irene Doutney was also present at the hearing and provided an oral submission.
27. A copy of the register of attendance for the hearing is provided at Appendix B to the public hearing report at Attachment C.
28. Section 47(G)(3) of the *Local Government Act 1993* provides that Council must make the public hearing report available for public inspection no later than four days after it has been received. A copy of the report was made available at the Redfern Neighbourhood Service Centre on Monday 26 March 2012.

Response to submissions

29. A summary of all submissions made throughout the public exhibition and public hearing, and the City's responses to these submissions, are at Attachment D.
30. A total of four written and seven oral submissions were made in response to both the public exhibition and the public hearing.
31. The three main issues raised in the submissions are:
 - (a) confusion regarding the reclassification process and a request for clarification;
 - (b) support of the reclassification as a positive step in the redevelopment of the area; and
 - (c) concern regarding the loss of the children's playground as a result of the reclassification and redevelopment.

32. In response to the public hearing advertisement, several telephone and email enquiries requested clarification of the reclassification process. There was some confusion around why a public hearing was being held in addition to a public exhibition. Accordingly, the reclassification process and the relevant statutory obligations of Council were explained.
33. The majority of submissions, both written and oral, expressed support for the reclassification. The main argument in favour of the reclassification was that it is an important step in a larger project that will benefit the local community.
34. Two oral submissions made at the public hearing make specific reference to the creation of a more welcoming entrance from Redfern station as a result of the proposed bridge widening at Lawson Street/Eveleigh Street. These submissions state that the Pemulwuy Project would not be possible if the sites are not reclassified and transferred and, therefore, the reclassification is supported.
35. A submission made at the public hearing expressed concern that the reclassification and subsequent transfer of the subject sites would lead to the loss of a children’s playground at 91-99 Eveleigh Street. The development application currently being assessed shows the land in question will be developed and the playground will be removed. However, the development application provides for a greater amount of open space elsewhere on site which will address this loss. Furthermore, the Pemulwuy Project will reconfigure the entire area to better address the needs of the local community.

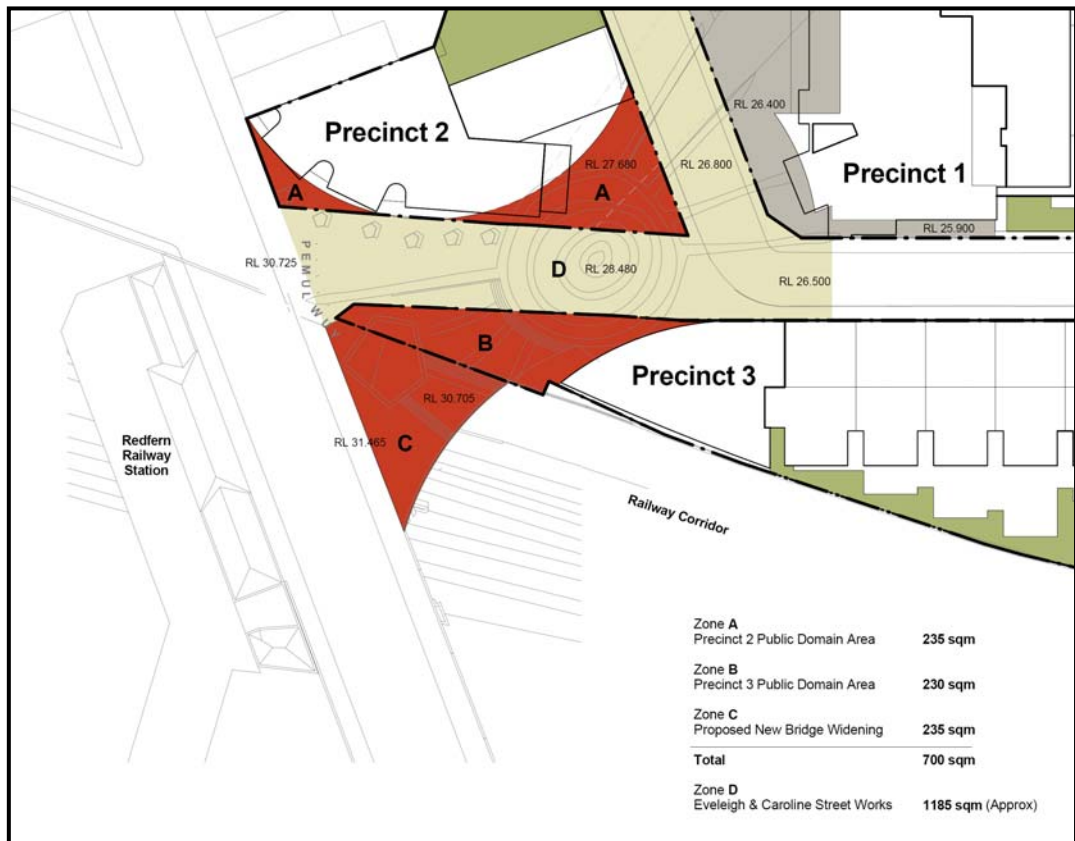


Figure 2 – Pemulwuy Project Public Domain Area Plan

36. Council staff acknowledge the concern regarding the loss of the children's playground. The development application does not indicate any children's play equipment in the proposed open space areas. Officers will raise this concern directly with the Department of Planning and Infrastructure as part of the referral of the Planning Proposal.
37. Figure 2 shows a section of the public domain areas plan submitted with the development application. The plan shows a total of 700m² of public open space proposed to the north of the Eveleigh Street/Lawson Street junction. Proposed improvements include new hard and soft landscaping, cultural interpretive elements, tree planting and new pavements. In addition, the proposed 'land bridge' over the existing railway corridor will improve visual integration of the development with the train station and the surrounding community. This will increase passive surveillance and ensure greater public safety. The proposed improvements and alterations to the layout of the area will enhance the quality and amenity of the public domain.

Other matters

38. Assuming the reclassification is endorsed by Council and the CSPC, and the amendment to the Local Environmental Plan is made by the Minister for Planning and Infrastructure, the transfer of the subject sites to the Aboriginal Housing Company will then be legally permissible.
39. The proposed transfer of the subject sites, along with road closures associated with the Pemulwuy Project, will be separately reported to Council.

KEY IMPLICATIONS

Strategic Alignment - Sustainable Sydney 2030 Vision

40. *Sustainable Sydney 2030* is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. Several of these directions are directly relevant to the Pemulwuy Project.

- (a) Direction 6 – *Vibrant Local Community and Economies* recognises and seeks to build on our diverse City communities with diverse lifestyles, interests and needs – each with an important economic and employment role.

The project is proposed to revitalise a part of Redfern and provide housing and services for the Aboriginal community. The Project also proposes community and office floor space.

- (b) Direction 7 – *A Cultural and Creative City* recognises the arts and cultural activities as fundamental to liveability, diversity and quality of life in our cities, as well as their contribution to economic development.

The project has the ability to encourage the development of Aboriginal and Torres Strait Islander cultural heritage and supporting cultural activities and be incorporated into the "Eora Journey" concept.

- (c) Direction 8 – *Housing for a Diverse Population* seeks to build on Sydney’s character as a city of diversity and equity, with a place for everyone. It recognises that housing affordability is an increasing challenge in inner Sydney.

The Project proposes to provide housing for the Aboriginal community, as well as provide housing for Aboriginal and non-Aboriginal students.

- (d) Direction 9 – *Sustainable Development, Renewal and Design* responds to sustainability and environmental imperatives facing our cities. Actions under this direction aim to better capture the potential of streets, parks and squares in public life and improve design excellence in our buildings.

The redevelopment has the ability to make major contributions to the sustainability of the City, including onsite power generation; defining and improving the City’s streets, squares, parks and open space, and enhancing their role for pedestrians and in public life.

RELEVANT LEGISLATION

41. Part 2, Division 1 of the *Local Government Act 1993* contains requirements for classification of land, including the need for a public hearing when land is to be reclassified from ‘community’ to ‘operational’.
42. The *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000* outline the requirements for amending a Local Environmental Plan.

CRITICAL DATES / TIME FRAMES

43. The Department of Planning and Infrastructure issued a Gateway Determination for the Planning Proposal on 14 April 2011. This set a deadline of 21 January 2012 for completion of the Planning Proposal. This deadline was later extended until 18 September 2012 to allow for appropriate consultation with the local community and the Aboriginal Housing Company.
44. It is recommended that this amendment to the *South Sydney Local Environmental Plan 1998* be approved by the Central Sydney Planning Committee and referred to the Department of Planning and Infrastructure with a request that it be legally drafted and made.

GRAHAM JAHN

Director City Planning, Development and Transport

(Tim Aldham, Student Planner)