

# ATTACHMENT C

## ATTACHMENT C

**PUBLIC HEARING REPORT  
PRODUCED BY WILLANA ASSOCIATES  
DATED MARCH 2012**

public hearing report



91-99 eveleigh street and  
119-121 eveleigh street  
redfern

# ATTACHMENT C

## public hearing report



91-99 eveleigh street and  
119-121 eveleigh street  
redfern

prepared for  
City of Sydney Council

prepared by

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associates

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## foreword

At the Council meeting of 26 July 2010, the City of Sydney Council resolved to take steps which support the transfer of seven parcels of land in Eveleigh Street, Redfern to the Aboriginal Housing Company. This resolution included giving public notice under Section 34 of the *Local Government Act 1993 (LG Act)* of its intention to reclassify the “community land” identified as 91-99 and 119-121 Eveleigh Street, Redfern to “operational land”. The reclassification is being undertaken to allow for the reselling of the land to the Aboriginal Housing Company. The selling of the land is consistent with the City of Sydney’s support for the redevelopment of the area and the commitment to the Pemulwuy development.

On 14 April 2011, a Gateway Determination was issued by the Department of Planning (now the Department of Planning & Infrastructure) to amend the *South Sydney Local Environmental Plan 1998* to reclassify the following parcels of land from “community” to “operational” land:

- 91 Eveleigh Street, Lot 1 DP 779120
- 93 Eveleigh Street, Lot A DP 439127
- 95 Eveleigh Street, Lot B DP 439127
- 97 Eveleigh Street, Lot 1 DP 797845
- 99 Eveleigh Street, Lot 1 DP 194785
- 119 Eveleigh Street, Lot 5 DP 230305
- 121 Eveleigh Street, Lot 1 DP 995857

In accordance with Section 56 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, the amendments were placed on public exhibition from 1 August to 19 September 2011. In accordance with Section 29 of the *LG Act*, a public hearing was required.

Willana Associates was appointed to preside over the hearing and prepare a report in accordance with the *EP&A Act* and the *LG Act*. This document is intended to comprise the report of the public hearing in accordance with the requirements of Section 57(7) of the *EP&A Act*.

The general administration of the public hearing was undertaken by Council officers. Willana Associates understands that notice of the public hearing was given in two newspapers in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000* (see [appendix a](#) for a copy of the advertisement). Willana Associates is also advised that there was additional notice of the public hearing by way of mail notification to surrounding property owners and on the Council’s web site prior to the hearing.

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The hearing was conducted on 14 March 2012. Those in attendance included:

- nine (9) members of the public;
- one (1) elected Councillor;
- four (4) Council staff; and
- two (2) representatives of Willana Associates.

The key points raised from the public hearing included:

- A local playground is being lost as a result of the transfer of the land.
- The transfer of the land is supported as part of the larger redevelopment.

Mindful of the requirements of the *LG Act* and the *EP& A Act* and informed of public submissions and the findings of this report, Council is now required to make the decision it feels is appropriate with regard to any alterations to land classifications and the *South Sydney Local Environmental Plan 1998* in relation to this matter.



# 1 introduction

## 1.1. The Client

This Report for has been prepared for the City of Sydney Council, as a record of the public hearing held on 14 March 2012, for the reclassification of 91-99 and 119-121 Eveleigh Street, Redfern. Willana Associates was appointed by the City of Sydney Council to facilitate the public hearing and report back to Council in accordance with the requirements of the *Local Government Act 1993 (LG Act)* and the *Environmental Planning & Assessment Act 1979(EP&A Act)*.

## 1.2. This Report

The Report is divided into the following sections;:

- Section 1** this introduction;
- Section 2** the public hearing;
- Section 3** details of submissions; and
- Section 4** conclusions.

## 1.3. Background

There is a proposal before the City of Sydney Council to amend the *South Sydney Local Environmental Plan 1998 (SSLEP)* and to reclassify the land, identified as 91-99 and 119-121 Eveleigh Street, Redfern, from “community” to “operational” land pursuant to the *Local Government Act 1993 (LG Act)*.

Under the regime for the classification of public land introduced with the *LG Act*, all public land must be classified as either community or operational land. Public land comprises all land “vested in or under the control of the council”<sup>1</sup>. The principal effect of the classification of public land is to “restrict the alienation and use of the land”<sup>2</sup>. The following comment outlines the nature of the land.

*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 on the LG Act, intended to preserve the qualities of the land. Community land:*

<sup>1</sup> Some exceptions noted in the Dictionary to the LG Act including a public road, land to which the *Crown Lands Act 1989* applies, a common, land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or a regional park under the *National Parks and Wildlife Act 1974*.

<sup>2</sup> Department of Local Government, *Public Land Management – Practice Note 1 Revised May 2000*, ISSN 1320-6788

- *Cannot be sold*
- *Cannot be leased, licensed or any other estate granted over the land for more than 21 years*
- *Must have a plan of management prepared for it.*<sup>3</sup>

## 1.4. The Proposal

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 Project, known as the “Pemulwuy Project”, proposes 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 approved Concept Plan proposes to incorporate the sites to be part of a commercial development, including an art gallery, gymnasium and fitness centre.

On 26 July 2010, Council resolved to reclassify the sites to the Aboriginal Housing Company in order for the project to proceed.

A Planning Proposal was compiled by the City of Sydney and was subsequently approved. The Planning Proposal clearly sets out that the reclassification of the subject site will permit Council to sell the land to the Aboriginal Housing Company. The transfer of ownership of the land is part of the larger strategic direction for the area and the approved Pemulwuy Concept Plan. An excerpt from the Planning Proposal is provided below to detail the proposed changes to the SSLEP. Figure 1 indicates the subject parcels of land on an aerial photo.

*The proposal is to reclassify seven parcels of land owned by the City of Sydney from “Community” to “Operational” and discharge any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land.*

*It is proposed to amend the South Sydney Local Environmental Plan 1998, by inserting a new clause and Schedule as follows:*

**57 Classification and reclassification of public land as operational land**

- 1) The public land described in Schedule 6 is classified, or reclassified, as operational land for the purposes of the Local Government Act 1993, subject to this clause.*
- 2) Land described in Columns 1 and 2 of Schedule 6, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant amending plan and, by the operation*

<sup>3</sup> Department of Local Government, *Public Land Management – Practice Note 1 Revised May 2000*, ISSN 1320-6788

*of that plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land except those (if any) specified opposite the land in Column 3 of Part 3 of Schedule 6.*

- 3) *In this clause, the relevant amending plan, in relation to land described in Part 3 of Schedule 6, means this plan or, if the description of the land is inserted in that Part by another local environmental plan, that plan.*
- 4) *Before the relevant amending plan inserted the description of land into Schedule 6, the Governor approved of subclause (2) applying to the land.*

**Schedule 6 Land classified, or reclassified, under amended section 30 of Local Government Act 1993—interests changed Column 1**

<b>Locality</b>	<b>Description</b>	<b>Trusts etc not discharged</b>
<b>Redfern</b>		
91	<i>Eveleigh Street, Redfern</i>	<i>Lot 1 DP 779120,</i>
93	<i>Eveleigh Street, Redfern</i>	<i>Lot A DP 439127</i>
95	<i>Eveleigh Street, Redfern</i>	<i>Lot B DP 439127</i>
97	<i>Eveleigh Street, Redfern</i>	<i>Lot 1 DP 797845</i>
99	<i>Eveleigh Street, Redfern</i>	<i>Lot 1 DP 194785</i>
119	<i>Eveleigh Street, Redfern</i>	<i>Lot 5 DP 230305</i>
121	<i>Eveleigh Street, Redfern</i>	<i>Lot 1 DP 995857</i>

*Note: There are affectation as per the certificate of title*



**Figure 1 | Subject Land - 91-99 and 119-121 Eveleigh Street, Redfern.**

## 2 public hearing & report

### 2.1. The Public Hearing

Where there is a proposal to reclassify community land to operational land, Section 29 of the *LG Act* provides that Council must arrange a public hearing in accordance with the provisions of section 57 of the *EP&A Act*. Section 57 (7) of the *EP&A Act* provides that at the conclusion of a public hearing:

*A report of any public hearing is to be furnished to the relevant planning authority and may be made publicly available by that authority.*

Section 47G(2) of the *LG Act* provides:

*The person presiding at a public hearing must not be:*

- a) *a councillor or employee of the council holding the public hearing, or*
- b) *a person who has been a councillor or employee of that council at any time during the 5 years before the date of his or her appointment.*

Willana Associates were appointed to preside over the public hearing and prepare a report in accordance with the above requirements. This document is intended to comprise the report of the public hearing in accordance with Section 57(7) of the *EP&A Act*.

The general administration of the public hearing was undertaken by Council officers. Willana Associates understands that notice of the public hearing was given in two newspapers in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000* (see [appendix a](#) for a copy of the advertisement). Willana Associates is also advised that additional notice of the public hearing included:

- Advertising on the City of Sydney website.
- Owners and occupiers within a 75m radius of the subject sites were notified by letter.
- A number of community groups specifically notified by letter.
- Public authorities, as identified by the Department of Planning and Infrastructure, were notified by letter.

The hearing was conducted on the evening of 14 March 2012. A total of nine (9) members of the public attended the hearing. Those members of the public attending the hearing, who registered, are listed at [appendix b](#) to this report. Councillor Irene Dountney was also present at the hearing.

Stuart Harding, Director Willana Associates was the appointed independent facilitator of the hearing and Emily O'Sullivan, Graduate Planner, Willana



Associates recorded the meeting. City of Sydney Council officer attendees present were:

- Tim Aldham - Student Planner
- Francesca O'Brien - Manager City Plan Review
- Samantha Urquhart - Property Officer
- Jacqueline Sequeira - Neighbourhood Service Manager

The members of the public, at the hearing, were invited to view a map which identified the subject parcels of land and an explanation was provided as to the purpose of the public hearing.

Mr Harding, the hearing's independent facilitator, outlined to the attendees that the public hearing was an opportunity for each of them to make their oral submission on the proposed reclassification of the land.

## **2.2. The Report and Future Council Decisions**

The appointment of an independent facilitator and subsequent production of the hearing report provides opportunity for a party, at "arms length" from Council, to consider the submissions and provide an independent report for due consideration by Council and subsequent authorities in the decision making process. The Council's future deliberations on the reclassification of the land are governed by the following relevant clauses of the *LG Act* and *EP&A Act*.

Section 47(G) (3) of the *LG Act* provides:

*Not later than 4 days after it has received a report from the person presiding at the public hearing as to the result of the hearing, the council must make a copy of the report available for inspection by the public at a location within the area of the council.*

Section 57(8) of the *EP&A Act* provides:

*The consultation required by this section is completed when the relevant planning authority has considered any submissions made concerning the proposed instrument and the report of any public hearing.*

Section 58(1) of the *EP&A Act*:

*The relevant planning authority may, at any time, vary its proposals as a consequence of its consideration of any submission or report during community consultation or for any other reason.*

Mindful of Section 57(8) and informed of public submissions and the findings of this report, Council is now required to make the decision it feels is appropriate with regard to any alterations to land classifications and *SSLEP* in relation to this matter.

## 3 submissions

There were a number of oral and written submissions made in response to the notification period regarding the reclassification process. The following summarises the nature of the submissions:

- A total of four (4) written submissions were received.
- Seven (7) parties presented oral submissions to the hearing. Councillor Irene Doutney was also present at the hearing and provided an oral submission.

A copy of the register of attendance for the hearing is provided at [appendix b](#). A summary of written and oral submissions is provided below:

### 3.1. Public submissions

#### 3.1.1. Written Submissions

Letters received by Council in response to the proposed reclassification are summarised below:

*Paul Morris, Chief Executive Officer, Metropolitan Local Aboriginal Land Council*

- Very supportive of the development and rehousing of Aboriginal people in the area identified. Also supportive of the area being used for commercial purposes to benefit Aboriginal people either directly or indirectly.
- This matter was discussed at Board level and the Board was unanimous that we support the project.
- The Metropolitan Local Aboriginal Land Council looked forward to the Pemulwuy Project moving forward quickly to benefit the Aboriginal community in a time frame which is acceptable to the Aboriginal Housing Company.

*Geoff Turnbull*

- Request for further information to clarify the public hearing process.

*Josh Taylor*

- Agreed in principle that it is a good idea to rehabilitate / redevelop the land / buildings that was given to AHC on 'the block'. It is currently run down and an eyesore and notes that it cannot be a particularly nice spot for those who live in the run down houses.
- In respect of the land swap - There appears to be limited information that has been provided. A group of residents requested a meeting with Council that was rejected. Would appreciate if more information was provided to the resident's group in respect of same and if a meeting with Council was arranged.

- Hopes that progress is made in the area quickly, as it needs to be tidied up. Progress needs to be made with the full awareness and disclosure to the local community.

*James Christian, General Manager, Aboriginal Affairs NSW*

- Raised no objections to the proposed reclassification of the land and makes no other comments in relation to the project.

### 3.1.2. Oral Submissions by those attending the hearing

The following comments were recorded and paraphrased for the purposes of clearly identifying the submission being made as follows.

*Tony Purcell*

Mr Purcell stated that he was in favour of the proposal, just to tidy up the blocks of land. Note: Anne Purcell nodded and agreed to this statement.

*Patricia Gallagher*

Ms Gallagher raised concern that the proposed reclassification and subsequent sale of the Council land would result in the loss of a children's playground currently located on the site.

*Geoff Turnbull*

Mr Turnbull stated that he was in support of the transfer. He felt it was a necessary step to deliver on the development (Pemulwuy) as per the plans that are on exhibition. He also made the point that land is being transferred back to Council as part of the proposed development. He drew attention in particular to the opening up of the "top of the site", from Lawson Street, and that this transfer was important in allowing that aspect of the proposed development to occur.

Later in the meeting Mr Turnbull also stated that there is a lot of support for the redevelopment of the area and there is a danger in drawing out the process, particularly as the Aboriginal people have been moved out for it to occur. He said it was important to get the development done quickly.

*Lani Tuitavake*

Ms Tuitavake stated that she was in support of the proposed reclassification of the land and thought that the development proposal was a great opportunity to revitalise the area. She made reference to the revitalisation being part of a broader community revitalisation. She said that the proposed reclassification allows for the facilitation of the redevelopment.

*Mick Mundine*

Mr Mundine stated that the welcoming entrance or corridor from Redfern Station was of benefit to the whole community. The proposal is about bringing people together and breaking a vicious cycle. The change in Redfern is not just about



the negative being broken but the positive also coming in. A whole range of things are happening to make a new vision and breaking the negative past. It is a very important development. The swap over of the land is no big deal. Council are very supportive of what's going on. It is a facelift for the area which has had a very sad past.

*Councillor Irene Doutney*

Councillor Doutney stated that it is a good step in a larger picture.

*Ross Alexander*

Mr Alexander expressed that the proposed reclassification is a positive step and that the development of the area has taken a long time to eventuate.

*Unidentified Oral Submission*

A man who did not provide a name arrived towards the close of the public hearing and expressed a number of concerns with the proposed development of the site, but no clear objection to the proposed reclassification of the subject land. His objection is noted to the reclassification.

### **3.2. Key Issues**

The prominent issues raised in respect of the proposal can be summarised below:

- Confusion as to exactly what was being proposed. This was explained as requested.
- The reclassification is a positive step in achieving the redevelopment proposal known as Pemulwuy.
- A comment was made regarding the loss of a children's playground as the result of the proposed reclassification.

## 4 conclusions

A public hearing into the reclassification of land at 91-99 and 119-121 Eveleigh Street, Redfern was conducted by Willana Associates in accordance with the requirements of the *Local Government Act 1983* and the *Environmental Planning & Assessment Act 1979*. Nine (9) members of the public attended the hearing.

Based on the available information, there are two (2) options open to Council as follows:

### **4.1. Option 1 – Support the proposal**

The view may be held that the proposal can be supported in its current form. This view could be based on the principle that further details to address the concerns raised by the public in their submissions can be addressed in detailed planning and DA assessment work for any future proposal.

This approach would be based on justifying that the operation classification is required to uphold Council's commitment and support of the Pemulwuy development, which is documented in various Council minutes.

There appears to be wider community support for the change in classification.

### **4.2. Option 2 – Not support the proposal**

This position might be supported if the offset of open space was not clear and/or the negotiations regarding sale of the land were no longer relevant.

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## appendix a

public hearing newspaper notification

# Have Your Say

**Public Hearing. Reclassification of land**

**91–99 Eveleigh Street, Redfern** (known as Pemulwuy Park)

**119–121 Eveleigh Street, Redfern** (known as the Eveleigh Street Playground)

The City is proposing to reclassify seven parcels of Council-owned land from 'community' to 'operational' so that it can be included in the Pemulwuy Project.

Community land is generally open to the public. Operational land may be used as work depots or garages.

In August and September 2011 the planning proposal for the reclassification of these parcels of land was publicly exhibited and in November the City and the Aboriginal Housing Company held a community meeting to discuss your concerns. The next step is this public hearing.

The Pemulwuy Project, which is supported by Council, is the Aboriginal Housing Company's proposed redevelopment of The Block to provide much needed affordable housing, open space and community facilities.

The Pemulwuy Project is being assessed by the State Government not Council. You can see more information at

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=4889](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4889)

**Wednesday  
14 March 2012  
Redfern  
Town Hall  
73 Pitt Street,  
Redfern  
From 6pm**

*city of villages*

For enquiries call 9246 7846 or visit [cityofsydney.nsw.gov.au](http://cityofsydney.nsw.gov.au)



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## appendix b

attendance register

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## Appendix B: Register of Attendance

<b>Name of Attendee</b>
Tony Purcell
Anne Purcell
Julia Jacklin
Patricia Gallagher
Geoff Turnbull
Ross Alexander
Mick Mundine
Lani Tuitavake
Councillor Irene Dountney