



Planning Proposal

Rezoning of two Council owned sites from:

- *RE1 Public Recreation to R2 Low Density Residential;and*
- *E2 Environmental Conservation to R2 Low Density Residential*

Fairfield Local Environmental Plan 2013

Amendment No. (INSERT NO.)

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- a)** Council Report – Item 37 - 9 April 2013
- b)** Location Maps
- c)** Context Map
- d)** Proposed LEP Amendment Maps – Zoning, Floor Space Ratio, Height of Building and Minimum Lot Size
- e)** Fairfield LEP 1994 Amendment 128
- f)** Open Space Strategy 2007
- g)** Draft Fairfield Residential Strategy (RDS) 2009
- h)** Fairfield Environmental Management Plan 2006-2016
- i)** Notification Letters to Public Authorities
- j)** Public Exhibition Comments from Public Authorities

Part 1 – Objectives

The purpose of the planning proposal is to:

- Rectify a mapping error which occurred during the transition period between the LEP 1994 Amendment No. 128 and the public exhibition of the Draft Fairfield LEP2011(subsequently gazetted as Fairfield LEP 2013 in force from 31 May 2013).

In summary, the objective of the Planning Proposal is to amend the Fairfield Local Environmental Plan 2013 two (2) parcels of Council owned land from:

- RE1 Public Recreation to R2 Low Density Residential; and
- E2 Environmental Conservation to R2 Low Density Residential

The planning proposal applies to the following land:

#	Street Address	Suburb	Lot	DP
1	117A Wetherill Street	Smithfield	Lot 15	DP 27962
2	Part of 52 Richards Road	Wakeley	Part Lot 1540	DP 260225

The planning proposal is in accordance with Council's decision at its meeting on 9 April 2013 - see **Attachment A** for Council report.

Part 2 – Explanation of provisions

To achieve the objectives mentioned above, the Planning Proposal will need to amend the Fairfield Local Environmental Plan (FLEP) 2013.

Five Amendments must be made to the FLEP 2013 maps. The amendments are outlined below:

1. Rezone Lot 15 DP 27962 Wetherill Street, Smithfield from RE1 Public Open Space to R2 Low Density Residential.
2. Rezone Part of Lot 1540 DP 260225 Richards Road, Wakeley from E2 Environmental Conservation to R2 Low Density Residential
3. Amend the Floor Space Ratio Map to reflect the controls relevant to the surrounding zone R2 Low Density Residential for both parcels of land.
4. Amend the Height of Building Maps to reflect the controls relevant to the surrounding zone R2 Low Density Residential for both parcels of land.
5. Amend the Lot Size for minimum lot size map to reflect the controls relevant to the surrounding zone R2 Low Density Residential for both parcels of land.

Refer to:

- **Attachment B for location maps depicting the above mentioned site**
- **Attachment C for context map**
- **Attachment D for Zoning, Floor Space Ratio, Height of Building and Minimum Lot size for Dual Occupancy Maps**

Part 3 – Justification

Section A – Need for a planning proposal

Is the planning proposal a result of any strategic study or report?

No. Historically the two sites (117A Wetherill Street and Richards Road) were zoned for public open space purposes under the Fairfield LEP 1994. In November 2010 Council prepared a Planning Proposal to rezone the two sites from public open space to low density residential as part of a broader Planning Proposal.

At the same time Council was in the process of preparing the draft comprehensive Fairfield LEP (dFLEP) 2011 (subsequently gazetted as Fairfield LEP2013, in force from 31 May 2013).

During the transition period between the two plans, LEP 1994 Amendment No. 128 was publicly exhibited, (in which the subject sites were proposed to be rezoned for residential) prior to the public exhibition of FLEP 2011. When the dFLEP 2011 was publicly exhibited the two sites subject to the rezoning were inadvertently shown as RE1 Public Open Space and E2 Environmental Conservation (Refer to **Attachment E** for a copy of the LEP 1994 Amendment No. 128).

As a result the, DFLEP 2011 did not reflect the amended zoning. Once the public exhibition of the DFLEP 2011 was complete, the dFLEP 2011 had progressed to a point where amending the plan would trigger re-exhibition, which would delay the finalisation of the Plan. According, a more timely and efficient method to resolve the matter was to prepare a separate Planning Proposal.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The only way to rezone a parcel of land from RE1 Public Open Space/E2 Environmental Conservation to R2 Low Density Residential is through a LEP amendment.

Is there a net community benefit?

The land parcels in this planning proposal are considered surplus to Council's requirements. It is noted that the LEP proposes to rezone the 117A Wetherill Street, smithfield from public open space to low density residential, however the loss of open space is not considered significant. It is also proposed to Part of 52 Richards Road, Wakeley from environmental conservation to low density residential. Only the area which does not contain significant vegetation on this site will be rezoned to low density residential. (Refer to **Attachment A** April 2013 Council report Item 37).

Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

It is noted that the draft Metropolitan Strategy for Sydney to 2031 is on currently on public exhibition.

The planning proposal is consistent with the draft Metropolitan Strategy for Sydney to 2031 and will indirectly assist with its implementation. The sites in this proposal are proposed to be sold or redeveloped, assisting Council to achieve its residential dwelling target, through infill residential development.

Is the planning proposal consistent with the local Council's community strategic plan, or other local strategic plan?

The proposal to rezone the sites from open space to the surrounding residential zone are consistent with Councils key strategic studies such as Open Space Strategy 2007 (**Attachment F**) and the Draft Fairfield Residential Development (RDS) Strategy 2009 (**Attachment G**).

The Draft RDS looks at the residential development within the City, but also takes into consideration Open Space and Recreation requirements. The Draft RDS and Open Space Strategy identify that “there is an imbalance in the distribution of open space in Fairfield LGA, with a bias towards the newer residential areas (including Smithfield), which features 47.5% of total open space but only 37.2% of the population”.

To ensure all residents have access to open space, the Fairfield Environmental Management Plan 2006-2016 has established two relevant targets, that 90% of all residents have a park within 400 metres of their homes and that there is a park in each suburb that achieves the standard detailed in the “Parks Improvement Program”.

In addition an assessment of alternative open space options located around the site to be disposed reveals there are more appropriate alternate open space areas close to the subject site that will better serve the local residents.

Is the planning proposal consistent with the applicable state environmental policies?

The relevant State Environmental Planning Policies are outlined in the table below:

SEPP Title	Consistency	Consistency of Planning Proposal
SEPP 1 – Development Standards	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 6 – Number of Storeys in a Building	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 14 – Coastal Wetlands	N/A	-
SEPP 15 – Rural Land Sharing Communities	N/A	-
SEPP 19 – Bushland in Urban Areas	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP. The site 52 Richards Road Wakeley has a small number of trees that have been identified as significant as they act as part of the vegetation corridor to the show ground site to the north. Any potential future development of the site will need to

		take this SEPP into consideration. The area containing the significant vegetation will remain E2 Environmental conservation.
SEPP 21 – Caravan Parks	N/A	-
SEPP 22 – Shops and Commercial Premises	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 26 – Littoral Rainforests	N/A	-
SEPP 29 – Western Sydney Recreation Area	N/A	-
SEPP 30 – Intensive Agriculture	N/A	-
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 33 – Hazardous and Offensive Development	N/A	-
SEPP 36 – Manufactured Home Estates	N/A	-
SEPP 39 – Spit Island Bird Habitat	N/A	-
SEPP 41 – Casino Entertainment Complex	N/A	-
SEPP 44 – Koala Habitat Protection	N/A	-
SEPP 47 – Moore Park Show Ground	N/A	-
SEPP 50 – Canal Estate Development	N/A	-
SEPP 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	N/A	-
SEPP 53 – Metropolitan Residential Development	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 55 – Remediation of Land	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 59 – Central Western Sydney Regional Open Space and Residential	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 60 – Exempt and Complying Development	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 62 – Sustainable Aquaculture	N/A	-
SEPP 64 – Advertising and Signage	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 65 – Design Quality of Residential Flat Development	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 70 – Affordable Housing (Revised Schemes)	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 71 – Coastal Protection	N/A	-
SEPP (Kurnell Peninsula) 1989	N/A	-
SEPP (Building Sustainability Index: BASIX) 2004	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP (Major Development) 2005	N/A	-
SEPP (Sydney Region Growth Centres) 2006	N/A	-
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	N/A	-
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	N/A	-
SEPP (Temporary Structures) 2007	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP (Infrastructure) 2007	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP (Exempt and Complying Development Codes) 2008	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.

SEPP (Rural Lands) 2008	N/A	-
SEPP (Western Sydney Employment Area) 2009	N/A	-
SEPP (Western Sydney Parklands) 2009	N/A	-
SEPP (Affordable Rental Housing) 2009	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP (Urban Renewal) 2010	N/A	-
SEPP (SEPP 53 Transitional Provisions) 2011	N/A	-
SEPP (State Regional Development) 2011	N/A	-
SEPP (Sydney Drinking Water Catchment) 2011	N/A	-

Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The relevant Section 117 Directions contained within the Environmental Planning and Assessment Act 1979 are outlined in the table below:

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
1. Employment and Resources			
1.1 Business and Industrial Zones	- Encourage employment growth in suitable locations - Protect employment land in business and industrial zones - Support the viability of identified strategic centres.	N/A	N/A
1.2 Rural Zones	Protect agricultural production value of rural land.	N/A	N/A
1.3 Mining, Petroleum Production and Extractive Industries	Ensure future extraction of State and regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	N/A	N/A
1.4 Oyster Aquaculture	Protect oyster aquaculture areas.	N/A	N/A
1.5 Rural Lands	Protect agricultural production value of rural land and facilitate orderly and economic development of rural lands and related purposes.	N/A	N/A
2. Environment and Heritage			
2.1 Environment Protection Zones	Protect and conserve environmentally sensitive areas.	Part of 52 Richards Road, Wakeley contains significant vegetation and will be zoned E2 Environmental Conservation, however only the part which does not contain vegetation will be rezoned to R2 low density residential.	
2.2 Coastal Protection	Implement the principles in the NSW Coastal Policy.	N/A	N/A
2.3 Heritage Conservation	Conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	N/A	N/A
2.4 Recreation Vehicle Areas	Protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	N/A	N/A
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	Encourage a variety and choice	The planning proposal gives	Yes

	- of housing types to provide for existing and future housing needs - Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services - Minimise the impact of residential development on the environment and resource lands.	opportunity for development to provide more housing choices, efficient use of infrastructure and services, and to direct some demand for housing away from the fringe. Urban design would be looked at as part of any development application.	
3.2 Caravan Parks and Manufactured Home Estates	- Provide for a variety of housing types - Provide opportunities for caravan parks and manufactured home estates.	N/A	N/A
3.3 Home Occupations	Encourage the carrying out of low-impact small businesses in dwelling houses.	No change.	Yes
3.4 Integrating Land Use and Transport	- Improve access to housing, jobs and services by walking, cycling and public transport. - Increase choice of available transport and reducing car dependency. - Reduce travel demand and distance (especially by car) - Support the efficient and viable operation of public transport services - Provide for the efficient movement of freight	The planning proposal is consistent with these documents in providing opportunity for development of residential land in areas that are well serviced by existing infrastructure, transport and services.	Yes
3.5 Development Near Licensed Aerodromes	- Ensure effective and safe operation of aerodromes - Ensure aerodrome operation is not compromised by development - Ensure development for residential purposes or human occupation, if situated on land within the ANEF contours between 20 and 25, incorporate noise mitigation measures.	The planning proposal is not proposing to rezone any land in the vicinity of these noise contours.	Yes
3.6 Shooting Ranges	- Maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, - Reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land - Identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	N/A	N/A
4. Hazard and Risk			
4.1 Acid Sulfate Soils	Avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	No property identified for rezoning in this planning proposal is affected by Acid Sulfate Soils.	N/A
4.2 Mine Subsidence and Unstable Land	Prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	No property identified for rezoning in this planning proposal is affected by unstable lands or potentially subject to mine subsidence.	N/A
4.3 Flood Prone Land	- Ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>. - Ensure that the provisions of an LEP on flood prone land are commensurate with flood hazard and includes consideration of the	None of the land affected by the planning proposal is classified as flood prone land.	Yes

	potential flood impacts both on and off the subject land.		
4.4 Planning for Bushfire Protection	- Protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas. - Encourage sound management of bush fire prone areas.	N/A	N/A
5. Regional Planning			
5.1 Implementation of Regional Strategies	To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	N/A	N/A
5.2 Sydney Drinking Water Catchments	To protect water quality in the hydrological catchment.	N/A	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	- Ensure that the best agricultural land will be available for current and future generations to grow food and fibre - Provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning - Reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas	N/A	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	- Protect the Pacific Highway's function, that is to operate as the North Coast's primary inter and intra-regional road traffic route - Prevent inappropriate development fronting the highway - Protect public expenditure invested in the Pacific Highway - Protect and improve highway safety and efficiency - Provide for the food, vehicle service and rest needs of travellers on the highway - Reinforce the role of retail and commercial development in town centres, where they can best serve the population of the towns.	N/A	N/A
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A (Revoked)	N/A	N/A
5.6 Sydney to Canberra Corridor	N/A (Revoked – See amended direction 5.1)	N/A	N/A
5.7 Central Coast	N/A (Revoked – See amended direction 5.1)	N/A	N/A
5.8 Second Sydney Airport: Badgerys Creek	Avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek	N/A	N/A
6. Local Plan Making			
6.1 Approval and Referral Requirements	Ensure LEP provisions encourage the efficient and appropriate assessment of development	The planning proposal does not contain provisions requiring concurrence, consultation or referral of development applications to the Minister or public authority. It does not identify development as designated development. The draft LEP will simply involve rezoning as provided by Fairfield LEP 2011.	Yes
6.2 Reserving Land for Public Purposes	Planning proposal to facilitate the provision of public services and	The planning proposal is consistent with the directions. The properties	Yes

	- facilities by reserving land for public purposes - Facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	identified within this planning proposal are proposed to be rezoned from recreation and conservation zones to residential zones. These parcels have been identified as surplus or not desirable open space due to location, isolation and site access. This planning proposal facilitates the removal of the reservations of public land.	
6.3 Site Specific Provisions	Discourage unnecessarily restrictive site specific planning controls	The planning proposal is consistent with the objective of this direction. The planning proposal proposes to rezone two (2) sites. The planning proposal does not impose any other development standards apart from those already applying to that zone.	Yes
7. Metropolitan Planning			
7.1 Implementation of the Metro Strategy	Planning proposal shall give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metro Strategy.	The planning proposal is generally consistent with the directions as it identifies areas for potential infill residential development, which may assist Council in achieving its residential dwelling target identified in the West Central Sub-Regional Strategy.	Yes

Section C – Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

52 Richards Road, Wakeley is identified to have a small number of significant trees which acts as a corridor between other areas and the Fairfield Showground site. However, the majority of the site is generally void of any native vegetation and with part of the site used as an informal car park for an adjoining veterinary practice. The draft Fairfield LEP 2011 identifies the site to be zoned E2 Environmental Conservation. This planning proposal proposes to rezone part of the site (part of the site void of significant vegetation) to the adjoining residential zone R2 Low Density Residential.

As a result of this planning proposal, no critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Any general constraints associated with development such as flooding, acid sulphate soil, site contamination, vegetation, etc., would be addressed at the development application stage, when the sites are redevelopment.

How has the planning proposal adequately addressed any social and economic effects?

The loss of two (2) parcels of open space may have some social impacts. However, these parcels have been identified as being undesirable open space due to the location, limited access and poor passive surveillance. The sites have not been identified for any future embellishments. Accordingly, the parcels have been recommended for future disposal.

117A Wetherill Street, Smithfield – With respect to 117A Wetherill Street, there will be limited impacts on relevant Council strategic studies such as the Open Space Strategy 2007 and the Draft Fairfield Residential Development (RDS) Strategy 2009. The Draft RDS looks at the residential development within the City, but also takes into consideration Open Space and Recreation requirements. The Draft RDS identifies that “there is an imbalance in the distribution of open space in Fairfield LGA, with a bias towards the New Residential Area (including Smithfield), which features 47.5% of total open space but only 37.2% of the population”.

To ensure all residents have access to open space land, the Fairfield Environmental Management Plan 2006-2016 (**Attachment F**) has established two relevant targets; that 90% of all residents have a park within 400 metres of their homes and that there is a park in each suburb that achieves the standards detailed in the “Parks Improvement Program”.

Three (3) small (pocket) parks are within 400 metres and two (2) large (neighbourhood) parks are within 800 metres of 117A Wetherill Street Smithfield. So this precinct achieves the relevant targets in the management plan even if the subject site is rezoned and sold.

52 Richards Road Wakeley – With respect to 52 Richards Road as a loss of open space, the site is not identified within Councils Open Space Strategy, nor is it identified within a Plan of Management as a park.

Two (2) small (pocket) parks are within 400 metres, one (1) small (pocket) park and two (2) large neighbourhood parcels of open space (associated with Orphan School Creek and Clear Paddock Creek) are within 800 metres as well as Fairfield Showground and Fairfield Golf Course being located directly opposite the site. Consequently, this area achieves the relevant targets in the management plan even if the subject site is rezoned and sold.

Section D – State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

It is unlikely that this planning proposal will result in an increase in demand in infrastructure.

117 Wetherill Street, Smithfield has access to four bus services. These bus services are:

- Westbus 812 – Fairfield To Blacktown via the Horsley Drive (Smithfield), Wetherill Park, Pemulwuy and Prospect (service operates Monday to Friday).
- Westbus 813 Fairfield to Prairiewood via the Horsley Drive (Smithfield) Limited service extends to Bonnyrigg via Horsley Park and Mount Vernon (service operates 7 days).
- Westbus 814 – Fairfield to Smithfield (Chifley Street) via the Horsley Drive, limited services extend to Wetherill Park in peak hours only (service operates Monday to Friday).
- Westbus 808 Fairfield to Liverpool via Brennan Street (Smithfield), Prairiewood, Bossley Park Abbotsbury, Edensor Park, Bonnyrigg and Mt Pritchard (service operates 7 days).

52 Richards Road, Wakeley is serviced by two bus services. These services are:

- Metro-link 819 Liverpool to Orange Grove, peak hour services extend to Prairiewood via Cumberland Highway and Canley Vale Road (Canley Heights (service operates 7 days)
- Western Sydney Buses T80 – Liverpool-Parramatta Transitway (LPT) (service operates 7 days)

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Council previously consulted with a number of relevant public authorities during the public consultation of LEP Amendment 128 which included the rezoning of the two subject sites. No formal objection was raised from these authorities. A copy of the correspondence forwarded to relevant authorities and submissions made to LEP Amendment 128 can be view in Attachment H & Attachment I of this planning proposal.

Part 4 – Community Consultation

The Planning Proposal went on public exhibition for 14 days from 17 – 31 July 2013, in accordance with the consultation strategy identified in the Gateway determination (dated 26 June 2013). This included letters being sent to properties owners of sites adjoining the two subject sites.

Part 5 – Project timeline

Action	Time Frame
Gateway Determination	26 June 2013
Public Exhibition	17 July 2013 – 31 July 2013
Consideration of Submissions	31 July 2013 – 10 September 2013
Post exhibition report to Council's Outcomes Committee	10 September 2013
Sent to PCO seeking Opinion	25 September 2013
Making of the LEP	25 October 2013
Sent to DP&I requesting notification	25 October 2013

**Outcomes Committee
Draft Minutes**

Meeting Date: 09 April 2013

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PRESENT:

His Worship Mayor Carbone.

Councillors Barcha (Chairperson), Le, Molluso (arrived 6.42pm), White and Yeung.

Also in attendance were the City Manager, Executive Manager City Outcomes, Executive Manager Environmental Standards, Manager Strategic Land Use Planning, Chief Financial Officer, Manager Policy and Community Development, Place Manager Cabramatta, Special Projects Manager, Manager Place Strategy, Governance Co-ordinator, Application Support Co-ordinator (Ty Phu), Application Support Officer (G Joseph), Communications Officer (J Marin), Customer Service Officer (M Mittiga) and Committee Clerk (M Pedavoli).

The Chairperson acknowledged the traditional owners of the land.

APOLOGIES:

An apology was tendered on behalf of Councillor Karajcic.

MOTION: (Carbone/White)

That the apology and reasons given for the absence tendered on behalf of Councillor Karajcic be accepted.

CARRIED

CONFIRMATION OF MINUTES

MOTION: (White/Carbone)

Resolved that the Minutes of the meeting held on the 12 March 2013 be confirmed.

CARRIED

SECTION A

‘Matters referred to Council for its decision.’

- 37: Proposal:** Planning Proposal - Rezoning of 2 Council owned sites from RE1 Public Recreation to R2 Low Density Residential
- Premises:** 117A Wetherill Street, Smithfield (Lot 15 DP 27962) Part of 52 Richards Road, Wakeley (Part of Lot 1540 DP 260255)
- Applicant:** Fairfield City Council
Owner: Fairfield City Council
- Zoning:** RE1 Public Recreation to R2 Low Density Residential
- File Number: qA156913

**Outcomes Committee
Draft Minutes**

Meeting Date: 09 April 2013

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RECOMMENDATION: (White/Carbone)

That Council:

1. Prepare a Planning Proposal and then inform the Department of Planning and Infrastructure that it wishes to commence the Gateway Determination Process to amend draft Fairfield Local Environmental Plan 2011 to rezone 2 sites Lot 15 DP 27962 and Lot 1540 DP 260255 from RE1 Public Recreation to R2 Low Density Residential.
2. Delegate to the Executive Manager Environmental Standards authority to endorse the Planning Proposal prior to its submission to the Department of Planning and Infrastructure.
3. Submit a Planning Proposal to the Department of Planning and Infrastructure pursuant to Section 55 of the Environmental Planning and Assessment Act 1979.
4. Upon receipt of confirmation from the DPI in the Gateway Determination that Council is not required to publicly exhibit the Planning Proposal, a final report be prepared for Councils consideration of the matter. However, should the Gateway Determination require Council to undertake public consultation, that the Planning Proposal be publicly exhibited subject to any conditions or requirements imposed by the Department of Planning being satisfied and that the results of the public exhibition be reported to Council.
5. Request the Minister to delegate Section 59 'Making of Local Environmental Plan to Council' as provided for under Section 23 of the EP&A Act.

The division was taken with the following results:

Aye	Nay
Mayor Carbone	
Councillor Barcha	
Councillor Le	
Councillor White	
Councillor Yeung	
Total=(5)	Total=(0)

CARRIED

OUTCOMES COMMITTEE

Meeting Date 9 April 2013

Item Number. 37

SUBJECT: Planning Proposal - Rezoning of 2 Council owned sites from RE1 Public Recreation to R2 Low Density Residential

Proposal: Planning Proposal - Rezoning of 2 Council owned sites from RE1 Public Recreation to R2 Low Density Residential

Premises: 117A Wetherill Street, Smithfield (Lot 15 DP 27962) Part of 52 Richards Road, Wakeley (Part of Lot 1540 DP 260255)

Applicant: Fairfield City Council
☐ Owner: Fairfield City Council

Zoning: RE1 Public Recreation to R2 Low Density Residential

FILE NUMBER: qA156913

REPORT BY: Chris Shinn, Strategic Land Use Planner

RECOMMENDATION:

That Council:

1. Prepare a Planning Proposal and then inform the Department of Planning and Infrastructure that it wishes to commence the Gateway Determination Process to amend draft Fairfield Local Environmental Plan 2011 to rezone two sites Lot 15 DP 27962 and Lot 1540 DP 260255 from RE1 Public Recreation to R2 Low Density Residential;
2. Delegate to the Executive Manager Environmental Standards authority to endorse the Planning Proposal prior to its submission to the Department of Planning and Infrastructure;
3. Submit a Planning Proposal to the Department of Planning and Infrastructure pursuant to s.55 of the Environmental Planning and Assessment Act 1979;
4. Upon receipt of confirmation from the DPI in the Gateway Determination that Council is not required to publicly exhibit the Planning Proposal, a final report be prepared for Councils consideration of the matter. However, should the Gateway Determination require Council to undertake public consultation, that the Planning Proposal be publicly exhibited subject to any conditions or requirements imposed by the Department of Planning being satisfied and that the results of the public exhibition be reported to Council.
5. Request the Minister delegate Section 59 Making of local environmental plan to Council as provided for under Section 23 of the EP&A Act.

OUTCOMES COMMITTEE

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Note: This report deals with a planning decision made in exercise of a function of Council under the EP & A Act and a division needs to be called

SUPPORTING DOCUMENTS

AT-A	Maps of the 2 sites proposed to be rezoned	2 Pages
AT-B	LEP Amendment 128	6 Pages
AT-C	Previous Planning Proposal	25 Pages
AT-D	Section 117 Directions	4 Pages

CITY PLAN

This report is linked to *Theme 2 Places and Infrastructure* in the Fairfield City Plan.

SUMMARY

The purpose of this report is to provide Council background information regarding the proposed rezoning of two Council owned sites (maps identifying the sites can be seen in **Attachment A**). The two sites that are proposed to be rezoned are:

1. 117A Wetherill Street, Smithfield
2. 52 Richards Road, Wakeley

These two sites were originally rezoned in July 2012 from 6(a) Existing and Proposed Recreation to 2(a) Residential A as part of Fairfield LEP 1994 Amendment 128 (**Attachment B**). However, during the preparation of the comprehensive Fairfield LEP 2011 the two sites were inadvertently zoned back to RE1 Public Open Space instead of R2 Low Density Residential.

This report proposes to initiate the Planning Proposal process to resolve the incorrect zoning included in draft Fairfield LEP 2011 which is soon to be gazetted.

BACKGROUND

In November 2010, Council officers prepared a Planning Proposal (**Attachment C**) regarding the reclassification of sixteen Council owned sites and the associated rezoning of two of the sixteen Council owned sites from 6(a) Existing and Proposed Recreation to 2(a) Residential A.

The aim of that previous planning proposal was to reclassify the 16 Council owned sites and to rezone two of the Council owned sites to:

OUTCOMES COMMITTEE

Meeting Date 9 April 2013

Item Number. 37

- Provide certainty with regards to the classification of a number of Council owned properties
- Enable Council to enter into longer term lease agreements on a number of Council owned properties
- Enable Council to develop or dispose of a number parcels of land that have been identified as surplus.

On 14 December 2011 the Planning Proposal was reported to Council's Ordinary Council meeting, at which Council resolved to submit the Planning Proposal to the Department of Planning and Infrastructure (DPI) for Gateway Determination.

On the 18 May 2011, Council received the Gateway Determination from the DPI which permitted draft LEP Amendment 128 to be publicly exhibited.

The draft LEP Amendment went on public exhibition for 28 days between Wednesday, 8 June 2011 to Friday, 8 July 2011. The draft LEP Amendment was subsequently re-exhibited for 28 days between Wednesday 12 October and Friday 11 November 2011 due to the financial implications to Council not originally being included within the exhibition material.

During both public exhibition periods Council did not receive any objections to the rezoning of these sites. A total of two public submissions were received, both from the same submission author, whose concern was related to the reclassification of the Council Administration Building site and not related to the two parcels the subject of this proposal.

Council also received two submissions from public authorities during the required public authorities' consultation period. One submission came from the Roads and Maritime Services (RMS) and the other from the Office of Environment & Heritage, both submissions did not relate to the sites that are subject of this proposal.

The proposal was subsequently reported Council on 6 December 2011 where Council resolved to forward the Planning Proposal to the DPI for finalisation.

Accordingly, LEP Amendment 128 came into force when it was published in the NSW Government Gazette on Friday 20 July 2012.

BACK ZONING ISSUE

Historically the two sites (117A Wetherill Street and 52 Richards Road) were zoned for public open space purposes under Fairfield LEP 1994. However, as noted above, in November 2010 Council prepared a Planning Proposal to rezone the two sites from public open space to low density residential as part of a broader Planning Proposal.

At the same time Council was in the process of preparing the draft comprehensive Fairfield LEP 2011 (dFLEP2011).

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During the transition period between the two plans, LEP 1994 Amendment No. 128 was publicly exhibited, (in which the subject sites were proposed to be rezoned for residential) prior to the public exhibition of dFLEP2011. When the dFLEP2011 was publicly exhibited the two sites subject to the rezoning were inadvertently shown as RE1 Public Open Space.

As a result, the dFLEP2011 did not reflect the amended zoning. Once the public exhibition of the dFLEP2011 was complete, the dFLEP2011 had progressed to a point where amending the Plan would trigger re-exhibition, which would delay the finalisation of the Plan. Accordingly, a more timely and efficient method to resolve the matter was to prepare separate Planning Proposal.

It should be noted that the 'back zoning' issue does not impact on the sites classification and as a result no reclassification is required to be undertaken.

Consequently, recent discussion with the DPI has identified the most suitable and efficient process to resolve the issue is to prepare a new planning proposal. The DPI advised that as part of the Planning Proposal Council could include a recommendation that public exhibition not be required, given that it is a mapping error in the draft Fairfield LEP 2011, and that approval for the rezoning of these sites has already been granted under Fairfield LEP 1994 (Amendment No.128).

CONSULTATION STRATEGY

It is recommended that due to the Planning Proposals history, that no public consultation is required. This has been discussed and agreed verbally with DPI staff but does need to be formalised by the Planning Proposals Gateway Determination.

The Department has indicated that other Council's have had similar issues with the transition period between old and new plans and in those cases a modified process with no public exhibition has been used.

This recommendation will be included within the Planning Proposal for DPI consideration at the Gateway Determination stage.

CONCLUSION

The Planning Proposal has been identified as the most efficient mechanism to resolve the incorrect zoning/mapping error that has occurred during the draft comprehensive Fairfield LEP 2011 process.

Accordingly, it is recommended to prepare a Planning Proposal to forward to the DPI to initiate the Planning Proposal process to resolve the issue.

OUTCOMES COMMITTEE

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Chris Shinn
Strategic Land Use Planner

Authorisation:
Acting Executive Manager Environmental Standards

Outcomes Committee - 9 April 2013

File Name: **OUT090413_15.DOC**
***** END OF ITEM 37 *****



Location Map

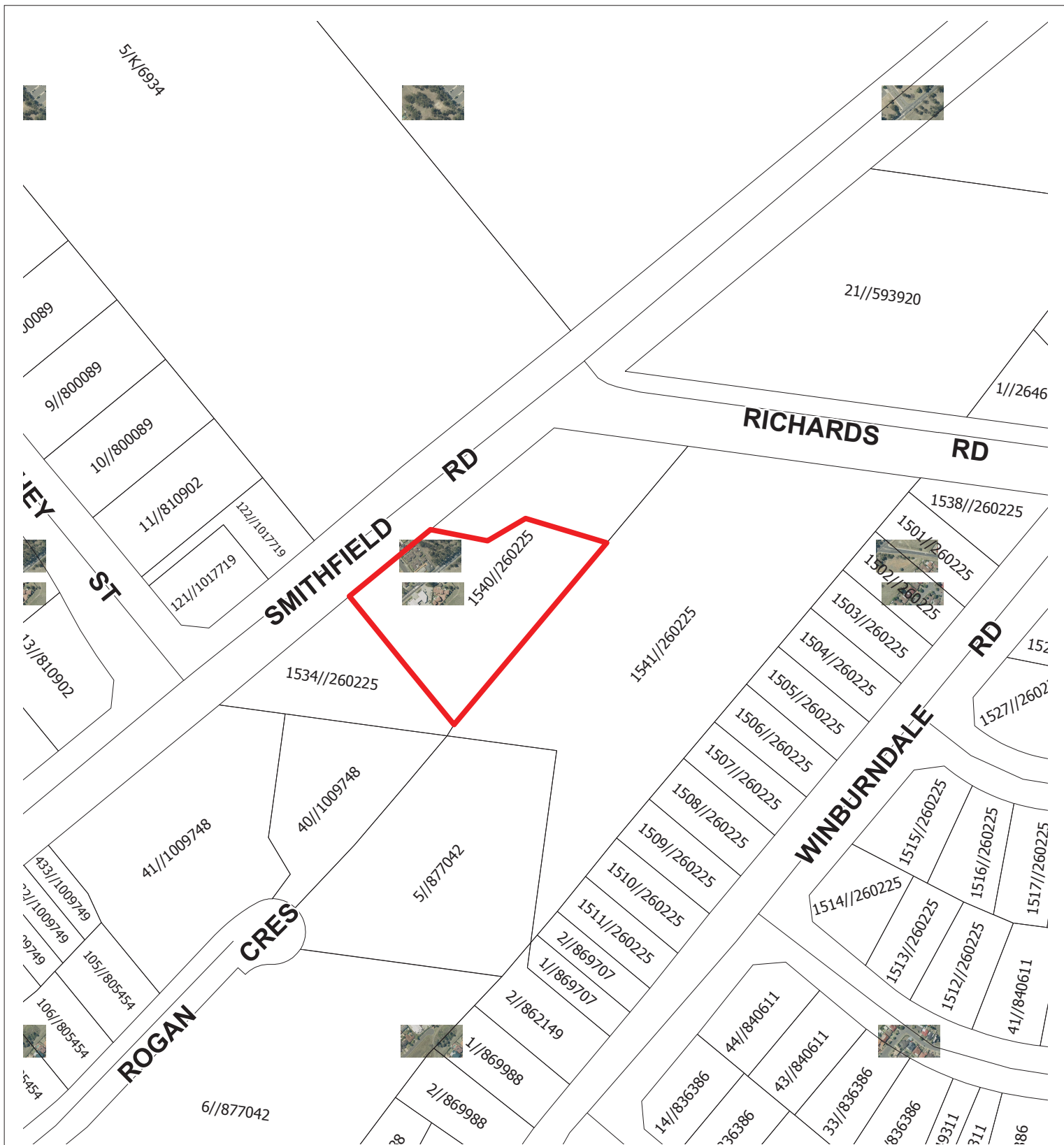
117A Wetherill Street SMITHFIELD



Subject Site



Scale: 1:700



Location Map

52 Richards Road WAKELEY

 Subject Site



Scale: 1:700