

Draft Fairfield Local Environmental Plan 1994 Amendment No.132 – Rezoning of land at 13-21 Rossetti Street, Wetherill Park from 2(a) Residential A to 3(c) Local Business Centre

Proposal Title : Draft Fairfield Local Environmental Plan 1994 Amendment No.132 – Rezoning of land at 13-21 Rossetti Street, Wetherill Park from 2(a) Residential A to 3(c) Local Business Centre

Proposal Summary : This Planning Proposal seeks to amend the Fairfield Local Environmental Plan 1994 to rezone land at 13-21 Rossetti Street, Wetherill Park (Lot 5 DP 714281), from 2(a) Residential A to 3(c) Local Business Centre. The proposed rezoning will facilitate the expansion of the adjoining 'Wetherill Park Market Town' shopping centre by an additional 1500 square metres of commercial floor space, and high density residential development on the subject site.

The Planning Proposal also seeks to amend the Fairfield LEP 1994 to incorporate an additional clause which prescribes a maximum Floor Space Ratio of 1.7:1 and a maximum height limit of 20 metres, to the subject land.

PP Number : PP_2011_FAIRF_004_00 **Dop File No :** 11/14866

Proposal Details

Date Planning Proposal Received :	19-Dec-2011	LGA covered :	Fairfield
Region :	Sydney Region West	RPA :	Fairfield City Council
State Electorate :	SMITHFIELD	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	13-21 Rossetti Street		
Suburb :	Wetherill Park	City :	Fairfield
		Postcode :	2164
Land Parcel :	This subject site (Lot 5 DP 714281) currently accommodates an 11 metre wide section of the adjoining shopping centre to the north, and a car park which is located towards the eastern portion of the site. It is noted that the existing car park was permitted as an additional use in Schedule 2 of the Fairfield LEP 1994 pursuant to Fairfield LEP 1994 Amendment No.42 (Refer to page 16 of the Report to Outcomes Committee 13 September 2011 included in 'Attachment A' of the Planning Proposal). The western portion of the site fronting Rossetti Street is currently undeveloped.		

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DoP Project Manager Contact Details

Contact Name :
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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro West Central subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Yes
Lobbyists Code of
Conduct has been
complied with :

If No, comment :

Have there been
meetings or
communications with
registered lobbyists? :

No

If Yes, comment :

LOBBYIST STATEMENT

At this time, to the best of the Regional Team's knowledge, there have been no meetings or communications with lobbyists regarding this planning proposal.

Supporting notes

Internal Supporting
Notes : BACKGROUND

The site (Lot 5 DP 714281) has been the subject of a number of rezoning applications since 2003, which Council had resolved to not proceed with principally due to the significant changes being made to the scope of the proposal by the applicant (Refer to page 54 of the Report to Outcomes Committee dated 13 September, 2011 and page 7 of the 22 November, 2011 Council Report included in 'Attachment A' of the Planning Proposal).

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On 22 July 2011, Council wrote to the Department advising of its receipt of a Planning Proposal which sought an amendment to the Fairfield LEP 1994, to rezone the land at 13-21 Rossetti Street, Wetherill Park from 2(a) Residential A to 3(c) Local Business Centre, to facilitate the expansion of the adjoining centre (Wetherill Park Market Town) by an additional 4000sqm of commercial floor space, and a residential component on the subject land. The adjoining centre is approximately 6000 square metres in area and comprises a Franklin's Supermarket and 37 specialty shops.

In this letter, Council sought the Department's advice on how to regulate the uses within the proposed additional 4000 m2 of commercial floor space, so as not to facilitate an additional supermarket from 'potentially compromising the economic viability of other centres'. Council also noted that an option which was being considered was to rezone the site for 2(b) High Density Residential and use of Schedule 2 of the Fairfield LEP 1994 to permit retail use, while specifying the maximum amount of retail floor space.

In September 2011, the Department's Sydney West Regional Director provided the following advice to Council:

- The policy of the Department does not generally support policies which attempt to place limits on competing retailing;
- The Draft Centres Policy (2009) states that the planning system should be flexible enough to enable centres to grow, and new centres to form and that 'the market is best placed to determine the need for retail and commercial development';
- Given that the property in Wetherill Park adjoins an existing centre that is already big enough to contain a supermarket and is well serviced by public transport, there does not appear to be any rationale for limiting the size and scale of retail uses, if such uses are to be permitted on the site; and
- With regards to the use of Schedule 2 of the Fairfield LEP, Department policy does generally not support the inclusion of detailed development controls for additional permitted uses.

At a Council meeting on 13 September, 2011, Council officers recommended that only the high density residential component of the Planning Proposal proceed, due to the insufficient justification provided to support the proposed commercial component.

In light of this, the applicant submitted a request to Council that the Planning Proposal be revised to include 1500 square metres of commercial/retail floor space.

At a Council meeting on 27 September 2011, Council resolved to defer the Planning Proposal, pending the results of expert advice regarding the potential economic impacts of the proposal (Refer to the Council Report dated 22 November, 2011 included as 'Attachment A' of the Planning Proposal).

Norling Consulting Pty Ltd was engaged by Council to conduct a review of the Economic Impact Assessment Report which was previously submitted by the applicant, in support of the Planning Proposal.

Norling Consulting Pty Ltd found the impact of the Planning Proposal was unlikely to be significant enough to warrant refusal. It was also noted that a proposed extension of the commercial/retail floor space of the nearby centre by 1500 square metres would not unacceptably affect the range of services available in nearby sub-regional centres, or neighbourhood centres (Refer to page 9 to 12 of the Council Report included as 'Attachment A' of this Planning Proposal).

In light of the above, the Planning Proposal was revised to incorporate a proposed additional commercial floor space of 1500 square metres.

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On 6 December 2011, Council wrote to the Department's Sydney West Regional Director advising of its resolution at a Council meeting on 22 November 2011, to prepare a Planning Proposal to amend the Fairfield Local Environmental Plan 1994 to rezone land at 13-21 Rossetti Street, Wetherill Park, from 2(a) Residential A to 3(c) Local Business Centre (Refer to Council's letter to the Department dated 6 December, 2011 as attached). The Planning Proposal also seeks to amend Part 4 of the Fairfield LEP 1994, to include an additional clause which prescribes a maximum FSR of 1:7:1 and Height Limit of 20 metres. Additionally, a Site Specific Development Control Plan has been prepared to guide future development on the subject site, in support of the Planning Proposal (A copy of the site specific DCP is included in 'Attachment A' of the Planning Proposal).

The Planning Proposal was received by the Department's Sydney West Team on 19 December, 2011, for Gateway Determination.

POLITICAL DONATIONS DISCLOSURE STATEMENT

The political donation disclosure laws commenced on 1 October, 2008. The legislation requires public disclosure of donations or gifts for certain circumstances relating to the Planning system.

The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning application means:

"A formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Director General is required to disclose all reportable political donations (if any).

No disclosures were provided for this planning proposal.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The application clearly identifies the objectives of the Planning Proposal to facilitate the expansion of the existing 'Wetherill Park Market Town' shopping centre by an additional 1500 square metres of commercial floor space, and development of high density residential uses on the subject site (Refer to page 5 of the attached Planning Proposal).

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : The Planning Proposal contains an adequate explanation of provisions (Refer to page 9 and 'Attachment B' of the attached Planning Proposal).

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 1—Development Standards

**SEPP No 4—Development Without Consent and Miscellaneous
Exempt and Complying Development**

SEPP No 6—Number of Storeys in a Building

SEPP No 19—Bushland in Urban Areas

SEPP No 22—Shops and Commercial Premises

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 55—Remediation of Land

**SEPP No 59—Central Western Sydney Economic and Employment
Area**

SEPP No 60—Exempt and Complying Development

SEPP No 64—Advertising and Signage

SEPP No 65—Design Quality of Residential Flat Development

SEPP No 70—Affordable Housing (Revised Schemes)

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Housing for Seniors or People with a Disability) 2004

SEPP (Infrastructure) 2007

**SEPP (Temporary Structures and Places of Public Entertainment)
2007**

SEPP (Affordable Rental Housing) 2009

e) List any other
matters that need to
be considered :

s117 DIRECTIONS

1.1 BUSINESS AND INDUSTRIAL ZONES

The Planning Proposal is consistent with this Direction as the rezoning seeks to increase the potential floor space area for employment uses within the subject site by facilitating the expansion of an adjoining business centre ('Wetherill Park Market Town') to the north, with an additional 1500 square metres of commercial floor space.

2.1 ENVIRONMENT PROTECTION ZONES

The Planning Proposal is consistent with this Direction as it does not affect any environmentally sensitive areas.

2.3 HERITAGE CONSERVATION

The Planning Proposal is consistent with this Direction as it does not affect any items, areas, objects or places of environmental heritage significance and indigenous heritage significance.

3.1 RESIDENTIAL ZONES

The Planning Proposal is consistent with this Direction as it seeks to encourage a variety and choice of housing types in the Fairfield LGA, by increasing the permissible residential density of the subject lands.

Part 3 of the Planning Proposal indicates that the proposal will make use of existing infrastructure and services (including the nearby Liverpool to Parramatta T-way), and seeks to ensure that new housing has access to appropriate services and infrastructure.

3.3 HOME OCCUPATIONS

Part 3 of the Planning Proposal indicates that the Proposal is consistent with this Direction and will pose no change to the provisions in the Fairfield LEP 1994 relating to home occupations.

3.4 INTEGRATING LAND USE AND TRANSPORT

The Planning Proposal is consistent with this Direction as it seeks to improve access to housing, jobs and services within the LGA by public transport. The Planning Proposal will support the viable operation of existing public transport services, as the proposed rezoning will facilitate the development of a mixed use commercial/residential development on the subject site, which is located in close proximity to the Liverpool to Parramatta Tway and the Horsley Drive (including the bus services which operate along this road).

4.3 FLOOD PRONE LAND

The Planning Proposal is not inconsistent with this Direction as the subject site has not been identified as being constrained by flooding issues. However, it is noted in Part 3 of the Planning Proposal, that the adjoining lots to the east and south of the site are flood affected.

It has been outlined by Council that due to the site's proximate location to flood affected land, future studies may indicate the site is constrained by flooding issues and as such, any future development on the site will need to have regard to the flood management controls contained in Fairfield's City Wide Development Control Plan.

In light of the above, it is recommended that Council undertake a Flood Study as part of this Planning Proposal, to determine whether or not the subject lands are flood prone.

6.1 APPROVAL AND REFERRAL REQUIREMENTS

Part 3 of the Planning Proposal indicates that the proposal is consistent with this Direction as the proposed rezoning will seek to ensure that LEP provisions encourage the efficient and appropriate assessment of development on the subject site.

6.3 SITE SPECIFIC PROVISIONS

It is considered that the Planning Proposal is justifiably inconsistent with s.117 Direction 6.3, which discourages the use of unnecessarily restrictive site specific planning controls.

This Direction states that:

'A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

- (a) allow that land use to be carried out in the zone the land is situated on, or
- (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or
- (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended'.

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This Planning Proposal seeks to include an additional provision in Part 4 of the Fairfield Local Environmental Plan 1994, which prescribes a maximum Floor Space Ratio of 1.7:1 and a maximum Building Height limit of 20 metres for any future development on the subject land at 13-21 Rossetti Street, Wetherill Park (Lot 5, DP 714281)(Refer to page 9 of the attached Planning Proposal).

Additionally, the Planning Proposal has included a new Site Specific Development Control Plan for the subject site (A copy of the draft Site Specific DCP is included in 'Attachment A' of this Planning Proposal).

The Department's LEP Practice Note PN08-001 'Height and floor space ratio' issued in January 2008, encourages Council to include Height and FSR controls where high density residential development is proposed, and that these controls be set out within Local Environmental Plans rather than in Development Control Plans.

The inconsistency is considered of minor significance and is justifiable on the grounds that Council's approach is consistent with Department policy and will provide a mechanism to facilitate the incorporation of the Planning Proposal into the Draft Fairfield LEP 2011 (if approval is granted) at a later date.

In light of the above, it is recommended that the DG's delegate agree to the inconsistency with this Direction.

7.1 IMPLEMENTATION OF THE METROPOLITAN PLAN FOR SYDNEY 2036

Part 3 of the Planning Proposal identifies compliance with '7.1 Implementation of the Metropolitan Strategy'.

However, Direction 7.1 requires the Relevant Planning Authority to demonstrate consistency with the NSW Metropolitan Plan for Sydney 2036, which was published in December 2010, when preparing a Planning Proposal.

The Planning Proposal should be revised to include an accurate reference to this Direction and demonstrate consistency of the Planning Proposal with the Metropolitan Plan for Sydney 2036.

Notwithstanding the above, it is considered that the Planning Proposal is generally consistent with the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036. The proposed land use rezoning seeks to increase the residential density of the subject site, which is well served by transport infrastructure (including local bus services and the nearby Liverpool to Parramatta Tway) and located proximate to the Wetherill Park Industrial Estate.

RELEVANT STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs) & REGIONAL ENVIRONMENTAL PLANS (DEEMED SEPPs)

Part 3 of the Planning Proposal indicates that the Planning Proposal is not inconsistent with any relevant SEPPs or SREPs.

STANDARD INSTRUMENT (LEPs) ORDER 2006

It is considered that the Planning Proposal is generally consistent with the Standard Instrument (LEPs) Order 2006.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

As previously outlined, it is recommended that the DG's delegate agree to the inconsistencies of this Planning Proposal with section 117 Directions 6.3 and 7.1, on the grounds that the inconsistencies are considered of minor significance.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council intends to advertise the public exhibition of the Planning Proposal in the local newspaper, distribute letters to adjoining owners within 100 metres of the site and Emerson Street Reserve, and to notify adjoining centres (Refer to page 25 of the attached Planning Proposal).

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : It is considered that the Planning Proposal has merit for progression.

In this light, it is recommended that the Planning Proposal proceed, subject to the conditions identified in the 'Recommendations' section of this report.

Proposal Assessment

Principal LEP:

Due Date : **June 2012**

Comments in relation to Principal LEP : A revised s.65 certificate was issued to Council in November 2011.

Council resolved to endorse the Draft Fairfield LEP 2011 for public exhibition from 18 January, 2012 to 14 March, 2012.

Assessment Criteria

Need for planning proposal : The need for the Planning Proposal has been adequately addressed by Council (Refer to pages 10 and 11 of the attached Planning Proposal).

The Planning Proposal is not the outcome of any strategic study or report, however, Council has noted that the site has been subject to a number of rezoning applications since 2003.

At a meeting on 22 November 2011, Council resolved to prepare a Planning Proposal to amend the Fairfield Local Environmental Plan 1994 to rezone land at 13-21 Rossetti Street, Wetherill Park, from 2(a) Residential A to 3(c) Local Business Centre and incorporate an additional clause which prescribes a maximum FSR of 1.7:1 and Height Limit of 20 metres.

The proposed 3(c) Local Business Centre rezoning seeks to facilitate the expansion of the existing 'Wetherill Park Market Town' shopping centre which adjoins the site by an additional 1500 square metres of commercial floor space, and high density residential development on the subject site.

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Consistency with
strategic planning
framework :

The Planning Proposal is generally consistent with the strategic planning framework, including the Sydney Metropolitan Plan for Sydney 2036 and Draft West Central Subregional Strategy (Refer to pages 12 to 13 of the attached Planning Proposal).

The Metropolitan Plan seeks to contain the urban footprint; focus activity in accessible areas; strengthen major and specialised centres to support sustainable growth of the city; ensure an adequate supply of land and sites for residential development; produce housing that suits expected and future needs and to improve housing affordability.

Key directions of the Draft West Central Subregional Strategy include:

1. Provide Local Employment Opportunities;
2. Allow for Housing Growth close to public transport corridors; and
3. Provide Greater Housing Choice and Affordability;

This Planning Proposal will provide additional commercial floor space on the subject site which will assist in increasing local employment opportunities; and provide high density residential dwellings on the site, which will work to meet the expected future needs of housing located proximate to existing transport facilities.

Environmental social
economic impacts :

It is considered that the potential environmental, social and economic implications of the Planning Proposal have been adequately addressed (Refer to page 23 of the attached Planning Proposal).

Part 3 of the Planning Proposal indicates that the subject site does not contain any critical habitats or threatened species. However, Council have noted that potential environmental issues pertaining to storm water quality, traffic, waste generation, soil and sediment control can be addressed at the DA stage in accordance with the provisions of the proposed Site Specific DCP.

In light of the above, it is considered that the Planning Proposal is unlikely to have any major adverse impact on the environment, or cause any unacceptable environmental risk to the subject land.

The proposed rezoning has the potential to generate social and economic benefits including:- promoting economic growth and development in Fairfield; increasing the local employment opportunities in the LGA through the expansion of the existing retail/commercial space in the adjoining 'Wetherill Park Market Town' shopping centre; and increasing the quantity and diversity of housing types located proximate to existing transport infrastructure. This will assist in accommodating the current and future population in the Fairfield LGA.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 Month** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) : **Transport for NSW - Roads and Maritime Authority**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

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Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **The Planning Proposal indicates the subject land is adequately served by public infrastructure(Refer to page 24 of the Planning Proposal).**

Documents

Document File Name	DocumentType Name	Is Public
Cover_Letter.pdf	Proposal Covering Letter	Yes
Planning_Proposal.pdf	Proposal	Yes
Planning_Proposal_Attachment A_Council Report.pdf	Study	Yes
Planning_Proposal_Attachment B_Draft Amendment Map.pdf	Map	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **It is recommended that the Proposal proceed, subject to the following conditions:**

- 1. The Planning Proposal be revised to include an accurate reference to Local Planning Direction 7.1 (Implementation of the Metropolitan Plan for Sydney 2036) and demonstrate consistency of the Planning Proposal with the Metropolitan Plan for Sydney 2036;
- 2. Council complete a Flood Study of the subject lands;
- 2. The Planning Proposal be publicly exhibition for 28 days; and that
- 3. The Planning Proposal be completed within 9 months.

Supporting Reasons : **It is considered that the Proposal has merit for progression.**

The proposed 3(c) Local Business Zoning will support the economic viability of the existing centre, and will facilitate the development of high density residential uses on the subject site, to accomodate the needs of the population in the Fairfield LGA.

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Signature:

S. Shevell

Printed Name:

Sandy Shevell

Date:

19-1-12