

Planning proposal to permit additional uses at 96 Newton Road and 449 Victoria Street, Wetherill Park

Proposal Title : Planning proposal to permit additional uses at 96 Newton Road and 449 Victoria Street, Wetherill Park

Proposal Summary : This planning proposal seeks to amend the Fairfield Local Environmental Plan 1994 and draft Fairfield Local Environmental Plan 2011, to permit medical centres (up to 300m²) and a hotel with ancillary conference room (up to 7,000m²) on the subject site at 96 Newton Road and 449 Victoria Street, Wetherill Park.

PP Number : PP_2012_FAIRF_003_00 **Dop File No :** 12/12351

Proposal Details

Date Planning Proposal Received : 27-Jul-2012 **LGA covered :** Fairfield

Region : Sydney Region West **RPA :** Fairfield City Council

State Electorate : FAIRFIELD **Section of the Act :** 55 - Planning Proposal

LEP Type : Policy

Location Details

Street : 96 Newton Road

Suburb : Wetherill Park **City :** Sydney **Postcode :** 2164

Land Parcel : Lot 4 DP 851250

Street : 449 Victoria Street

Suburb : Wetherill Park **City :** Sydney **Postcode :** 2164

Land Parcel : Lot 304 DP 1098762

DoP Planning Officer Contact Details

Contact Name : Claire Mirow

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RPA Contact Details

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DoP Project Manager Contact Details

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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) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government 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 :

SITE DESCRIPTION & ZONING

- The subject site is currently vacant land and is zoned 4(a) General Industrial under the Fairfield LEP 1994 and IN1 General Industrial under the Draft Fairfield LEP 2011 (See page 18 of the attached proposal).
- Land directly east of the site (known as 119 Newton Road, Wetherill Park) is also zoned for industrial purposes under the Fairfield LEP 1994 and Draft Fairfield LEP 2011 and contains a multi-storey business centre, which was facilitated through the expansion of permissible uses on this site under Fairfield LEP 1994 Amendment No.79 (See page 5 of the attached Council report dated 12 June, 2012).
- 'Hotels' and 'medical centres' are currently a prohibited use in the 4(a) General Industrial and IN1 General Industrial zones under the Fairfield LEP 1994 and Draft Fairfield LEP 2011.

BACKGROUND TO PROPOSAL

- The Employment Lands Strategy (ELS) 2008, which was prepared by Hill PDA Consulting on behalf of Fairfield City Council, identifies the subject site among two suitable locations for the development of a Central Service Facility (CSF) node in the Wetherill Park Industrial Area.
- In 2008, Council received a proposal from GAT and Associates (on behalf of the land owner) which sought to facilitate the development of a CFS on the subject site. Council resolved to progress this proposal as part of its annual review LEP 1994. Since 2008 there has been ongoing discussions between Council and the Department on this matter, particularly concerning the type of land uses proposed.
- The Department advised that it is not opposed to the development of non-commercial uses on the site which service the day-to-day needs of people who work and live in the

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area, including uses such as a gym, childcare centre, neighbourhood shops, a restaurant and hotel.

- On 26 June, 2012 Council resolved to commence the Gateway Determination process to facilitate the expansion of the permissible uses on the site to include a hotel with ancillary conference room (up to 7000m²) and medical centres (up to 300m²).

- This planning proposal was received by the Department on 27 July 2012 for Gateway Determination.

****Note:** A more comprehensive chronological history of this proposal is provided in Tag 1 of this Planning Team report, and on pages 3-5 of the attached proposal.

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 intent of this planning proposal, to allow a hotel and ancillary conference centre (up to 7000m²) and medical centres (up to 300m²) on the subject site(see page 6 of the attached planning proposal).

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

Is an explanation of provisions provided? Yes

Comment : The application contains an adequate explanation of provisions (refer to page 11-15 of the attached planning proposal).

In light of Council's recent submission of the Draft Fairfield LEP 2011 to the Department for finalisation, this planning proposal has been prepared as an amendment to both the draft Fairfield Principal LEP and existing Fairfield Local Environmental Plan 1994.

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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

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 55—Remediation of Land

SEPP No 60—Exempt and Complying Development

SEPP No 64—Advertising and Signage

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Infrastructure) 2007

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

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

SECTION 117 DIRECTIONS

1.1 BUSINESS AND INDUSTRIAL ZONES

This direction seeks to encourage employment growth in suitable locations; protect employment land in business and industrial zones and support the viability of identified strategic centres.

This direction is relevant as this proposal relates to land within an existing 4(a) General Industrial zone under the Fairfield LEP 1994 and proposed IN1 General Industrial zone under the draft Fairfield LEP 2011.

It is considered that this planning proposal is consistent with this direction as it seeks to encourage employment growth by increasing local employment opportunities in the hospitality; service and medical industries, on the currently vacant site.

3.4 INTEGRATING LAND USE AND TRANSPORT

The planning proposal is consistent with this direction as it will work to improve access to employment opportunities and services in Wetherill Park by public transport and support the viable operation of public transport in the area, as the site is located in close proximity to the Liverpool to Parramatta Bus Transit-way and bus services which operate along Newton Road; Victoria Street and Elizabeth Street, Wetherill Park.

4.3 FLOOD PRONE LAND

This direction specifies (in part) that a planning proposal contain provisions that apply to flood planning areas, which permit a significant increase in the development of that land.

This direction is relevant as the planning proposal contains provisions which seek to increase the development of the subject land which has been identified to contain an existing concrete stormwater drainage channel (Refer to page 27 of the attached proposal).

As discussed in Council's report of June 2012, a flood risk investigation assessment

report was prepared by Cardno Pty Ltd in July 2011, to address the potential flood related issues associated with the future development of 449 Victoria Street, Wetherill Park.

This assessment report found that the redevelopment of the subject site at 449 Victoria Street, Wetherill Park will have minimal impacts on the 100yr ARI flood levels on the downstream overland flowpath along Victoria Street and negligible impacts on the 20yr ARI flood levels (Refer to page 5 of the attached Cardno flood assessment report [dated July, 2011]).

This report was reviewed by Fairfield City Council's Natural Resource Branch, who identified a number of issues with the flood model (See page 13 of the attached June 2012 Council report). An addendum to the original report was issued by Cardno, to address the issues raised by Council (A copy of this addendum report [dated 4 August 2011] is attached).

On 10 August 2012, the Regional Team spoke with the relevant Council officer to clarify whether the Cardo report also addressed the flood related impacts with the future development of the subject site at 96 Newton Road, Wetherill Park. Council confirmed that the flood modelling undertaken by Cardno, applied to both parcels of land subject to this proposal.

Council has also advised that, in the event that the development proposed for the site is altered from what was previously reviewed, further modelling will be requested by Council as part of the DA stage (See page 27 of the proposal).

Notwithstanding the above, it has not been made clear whether the Cardno flood risk assessment has been undertaken in accordance with the provisions of s.117 Direction 4.3 'Flood Prone Land', and whether appropriate consideration has been given to the principles and guidelines of the Floodplain Development Manual 2005. Therefore the Regional Team requests that Council provide this information to the Department's Sydney West regional office, prior to exhibition.

6.1 APPROVAL AND REFERRAL REQUIREMENTS

Part 3 of the planning proposal indicates that this proposal is consistent with this direction. The Regional Team agrees with this assertion as it is considered that the proposal will not discourage the efficient and appropriate assessment of development, as it does not include additional provisions which require concurrence, consultation or referral of development applications for the subject lands, to a Minister or public authority.

6.3 SITE SPECIFIC PROVISIONS

Part 3 of the proposal indicates that this proposal is consistent with this Direction.

However, the Regional Team considers that this planning proposal is inconsistent with Direction 6.3 as this proposal seeks to apply additional floor space restrictions on the future development of hotels and medical centres on the site via the use of Schedule 1.

Whilst the intended outcome in the planning proposal is generally acceptable, consideration should be given to the potential inclusion of the proposed uses across all of the existing 4(a) General Industrial and proposed IN1 zones under Fairfield LEP 1994 and draft Fairfield LEP 2011. Consideration should also be given to the Department's draft practice note 'Schedule 1 - Additional Permitted Uses' which seeks the use of Schedule 1 only in 'exceptional circumstances'.

The proposed land uses (medical centres and hotel) will provide additional services for the need of the workers on the site and in the surrounding area. It is not considered inappropriate to allow these uses as permissible with consent in the broader industrial precincts. The zone objectives in the draft Fairfield LEP 2011 also provide additional tests for future development applications in the IN1 General Industrial zone.

It is also noted that Council is seeking to amend the Fairfield City Wide Development Control Plan (DCP) to include site specific controls for the future development of the site, including provisions which seek to limit the quantity and size of child care centres permitted on the site (See attachment E of the Council report dated June 2012). In this light, the Regional Team recommends that Council's proposed floor space controls for the development of hotels and medical centres on the site, be incorporated into the site specific DCP.

The Regional Team also notes that there are currently no Floor Space and Height of Building controls proposed for the site under the draft Fairfield LEP 2011. It is understood that the height and FSR of proposed development applications for such industrial zoned site are assessed on their merits and against the provisions of the relevant Development Control Plans. Should Council consider applying FSR and Height controls for the future development of this site, the Department's preference (as stated in LEP Practice Note PN08-001) is that such controls be set out within Local Environmental Plans rather than Development Control Plans.

7.1 IMPLEMENTATION OF THE METROPOLITAN PLAN FOR SYDNEY 2036

The s.117 assessment table contained in Part 3 of the Planning Proposal includes a reference to the compliance of the proposal with Direction '7.1 Implementation of the Metropolitan Strategy' (See page 29 of the attached proposal).

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

Notwithstanding this, it is noted that a comprehensive assessment of the proposal's consistency with the Metropolitan Plan for Sydney 2036 has been included on pages 19-20 of the attached proposal.

It is considered that this planning proposal is generally consistent with the Metropolitan Plan for Sydney 2036 as the proposal will: facilitate the regeneration and infill development on an existing vacant site; retain the existing industrial zoned land for employment purposes; and increase employment opportunities in Wetherill Park, on a site which is easily accessible by public transport.

In light of the above, the s.117 assessment table contained in Part 3 of the planning proposal should be revised prior to exhibition, to include an accurate reference to this direction.

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

Part 3 of the planning proposal indicates that this proposal is not inconsistent with the relevant SEPPs and Deemed SEPPs.

***SEPP No.55 - REMEDIATION OF LAND**

While the proposal states that 'it will not affect the application of this SEPP', no statement has been provided to indicate whether the land in question is subject to issues of contamination (See page 23 of the attached proposal).

In this light, it is recommended that Council undertake an investigation of the subject land prior to exhibition, to determine whether any contamination exists on the site and ensure that it is suitable for its intended future use.

STANDARD INSTRUMENT (LEPs) ORDER 2006

It is considered that this planning proposal is not inconsistent with the provisions of the Standard Instrument (LEPs) Order 2006.

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REGIONAL TEAMS COMMENTS

It is recommended that Council ensure it is clear during consultation, that this proposal is seeking to amend both the Fairfield LEP 1994 and the draft Fairfield LEP 2011.

While the Regional Team has no issue with permitting the development of a hotel and medical centres on the site, the progression of the proposed floor space provisions and 'ancillary conference centre' as a permitted use, is not supported.

Additionally, the Regional Team recommends that Council expand the list of land uses currently permitted in the 4(a) General Industrial zone under the Fairfield Local Environmental Plan 1994, and IN1 General Industrial Zone under the draft Fairfield Local Environmental Plan 2011, to include 'hotel' and 'medical centres', rather than seek to their inclusion as an additional permitted uses on the site.

On 10 August 2012, the Department contacted the relevant Council officer to determine whether consideration had been given to the inclusion of a 'hotel' and 'medical centres' as permitted uses across all the General Industrial zones in the LGA. It was advised that while Council has not specifically considered allowing such uses across all the general industrial zoned land, they would be reluctant to allow any additional non-industrial land uses across all of the general industrial zones, due to the potential impact it may have upon the existing centres. It was also advised that as the subject site is vacant land, Council decided to grant special dispensation to the site and that the proposed additional uses have been scaled back considerably from that which were initially sought for the site.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

The Regional Team considers that any inconsistency of this proposal with s.117 Direction 4.3 'Flood Prone Land' is of a minor significance and recommends that the Director General (or delegate) agrees that the proposal may proceed on this basis.

Additionally, the regional team considers that this proposal is inconsistent with Direction 6.3 'Site Specific Provisions' and recommends that the proposed floor space provisions be removed from the planning proposal. Should Council wish to proceed with applying floor space provisions to future development of hotels and medical centres on this site, the Regional Team recommends that these controls be inserted into the proposed Site Specific Development Control Plan.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Council has submitted a number of maps in support of this planning proposal (See pages 8-9; 12 and 15 of the attached proposal).

The maps provided identify the location of the subject site; the current zoning of this site under the Fairfield LEP 1994; and proposed amendment to the Fairfield LEP 1994 Land Application and Draft Fairfield LEP 2011 Key Sites Map.

For information purposes it is recommended that the proposal be revised prior to exhibition, to incorporate an additional map which shows the zoning of the site under the Draft Fairfield LEP 2011.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council intends to exhibit this proposal for a period of twenty-eight days and will notify the public of the exhibition of this proposal through advertisements in the local newspaper and distribution of letters to adjoining land owners (See page 32 of the attached proposal).

It is also recommended that the anomaly on page 32 which relates to a proposed

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'rezoning' be corrected prior to exhibition, to ensure the intent of this proposal is clearly communicated.

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 : **The proposal is considered to have merit for progression. The Regional Team recommends that this proposal proceed, subject to the conditions listed in the 'Recommendations' section of this report.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Draft Fairfield Local Environmental Plan 2011 was publicly exhibited from 18 January, 2012 to 14 March, 2012.**

The subject land was exhibited in the Draft Fairfield LEP 2011 as a proposed IN1 General Industrial Zone, which prohibits the the development of land uses for the purposes of a 'hotel' and 'medical centres' in this zone.

In May 2012, Council submitted the Draft Fairfield LEP 2011 to the Department for finalisation and gazettal.

This planning proposal is seeking to amend both the existing Fairfield LEP 1994 and Draft Fairfield LEP 2011.

Assessment Criteria

Need for planning proposal : **The need for this planning proposal has been adequately addressed by Council (Refer to Part 3 - Section A of the attached proposal [pp 16-17]).**

Council considers that this proposal will provide the best means of achieving its intended outcome. Council has considered an alternative option of rezoning the site to local centre or business zone. However, Council decided against proceeding with this option due to its inconsistency with the broader strategic framework, as it will permit the development of a variety of business, commercial and retail uses on a site which is outside of an existing centre (See page 18 of the attached proposal).

Notwithstanding this, the Regional Team recommends that this proposal be revised prior to exhibition, to seek an expansion of the land uses permitted in the 4(a) General Industrial zone and IN1 zone respectively under the FLEP 1994 and dFLEP 2011, to include 'hotel' and 'medical centres' rather than including them as additional permitted use on the site.

Consistency with strategic planning framework : **As previously outlined in this report, this proposal is generally consistent with the broader planning objectives of the Metropolitan Plan for Sydney 2036.**

Environmental social economic impacts : **The potential environmental, social and economic implications of this planning proposal have been adequately addressed (refer to pages 29-30 of the attached proposal).**

The subject land has not been identified to contain any critical habitats, threatened species or ecological communities which may be adversely affected as a result of this

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proposal (Refer to page 29 of the proposal).

While Part 3 of the proposal identifies the potential for environmental issues such as flooding to arise (due to the presence of a stormwater easement which intersects the site), Council has indicated that a further assessment of the potential flooding impacts will be undertaken at the Development Assessment stage (See page 27 of the attached proposal).

This planning proposal has the potential to provide many social and economic benefits, including expanding the local employment opportunities and facilitating the development of an accessible service node, which will assist in accommodating the day-to-day needs of the local community.

It is not anticipated that this proposal will generate any significant impacts upon the surrounding centres.

Notwithstanding the above, it is recommended that Council consult with Roads and Maritime Services prior to exhibition.

Assessment Process

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

Timeframe to make **12 Month** Delegation : **DDG**
LEP :

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

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

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

If no, provide reasons :

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 :

Documents

Document File Name	DocumentType Name	Is Public
Cover Letter_July 2012.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Attachment A_Council Report_May 2010.pdf	Study	Yes

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Attachment B_Council Report_June 2012.pdf	Study	Yes
Cardno Flood Risk Assessment_July 2011.pdf	Study	Yes
Cardno Flood Risk Assessment Report_Addendum_August 2011.pdf	Study	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
 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 this planning proposal proceed, subject to the following conditions:

1. Council is clear during consultation that this planning proposal is seeking to amend both the existing Fairfield Local Environmental Plan 1994 and draft Fairfield Local Environmental Plan 2011.
2. The Planning Proposal be amended, prior to exhibition, to seek to insert 'medical centres' and 'hotel' into Item 3 of the 4(a) General Industrial and IN1 General Industrial zone land use tables.
3. The Director General (or delegate) does not approve the inconsistency of this proposal with s.117 Direction 6.3 'Site Specific Provisions' and requests that Council remove the proposed floor space provisions prior to exhibition. Should Council wish to proceed with the proposed floor space provisions, it is recommended that they be incorporated into the proposed site specific development control plan.
4. Council consult with Roads and Maritime Services, prior to exhibition.
5. The Planning Proposal be revised prior to exhibition to incorporate an additional map, which identifies the current zoning of the subject site under the Draft Fairfield LEP 2011, for information purposes.
6. Prior to exhibition, Council inform the Department's Regional Office of whether or not the flood risk assessment report prepared by Cardno has given consideration to the principles and guidelines of the Floodplain Development Manual 2005.
7. Council undertake an investigation of the land under SEPP No.55 'Remediation of Land' prior to exhibition, to determine whether any contamination exists on site, and advise the Regional Team of the outcome of this assessment.
8. The table in Part 3 of the planning proposal be revised prior to exhibition, to include an accurate reference to Local Planning Direction 7.1 'Implementation of the Metropolitan Plan for Sydney 2036'.
9. The planning proposal be exhibited for a period of 28 days.
10. The Planning Proposal be completed within 12 months.

Supporting Reasons : It is considered that this planning proposal has merit for progression.

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Signature:

Rachel Cumming

Printed Name:

Rachel Cumming

Date:

17 August 2012 .