

OUTCOMES COMMITTEE

Meeting Date 10 July 2012

Item Number. 104

SUBJECT:

Issue: Fairfield draft Comprehensive LEP 2011 – Housekeeping Amendments
Premises: Various parcels of land in Fairfield Local Government Area (LGA).
Owners: Various private (Attachment A) and Council owned land.
Zoning: Various zones detailed in report
Submissions: Previous submissions made to draft Fairfield LEP 2011 and requiring further consideration by Council.

FILE NUMBER: 12/03792

PREVIOUS ITEMS: Fairfield Draft Comprehensive LEP - Comprehensive LEP Committee - 17 April 2012

REPORT BY: Andrew Mooney, Senior Strategic Planner

RECOMMENDATION:

That Council:

1. Commence the first housekeeping planning proposal to the draft Fairfield LEP 2011.
2. Endorse the zone boundary changes to 21 Phelps St, Canley Vale, 80-84 Brisbane Road, St Johns Park as detailed under Section A.1 and A.2 of the report.
3. In relation to land adjoining the Bonnyrigg Sports Club at 620 Elizabeth Drive, Bonnyrigg Heights Council endorse:
 - (a) Rezoning of the land from RE 2 Private Recreation to R2 Low Density Residential as detailed under Section B under Section B.1 of the report .
 - (b) Advise Bonnyrigg Sports Club it does not endorse this as an interim position and that the Bonnyrigg Sports Club would need to submit a private planning proposal for potential establishment of a service station and convenience store on the site which will be considered on its merits.
4. As detailed under Section B.2 of the report endorse the rezoning of No.99 and 115 Meadows Road, Mt Pritchard from R2 - Low Density Residential to RE2 - Private Recreation and Council advise the Mounties Club it no longer supports rezoning of Nos.8-10 Leo Street from R2 to RE2 as this has the potential to lead to the isolation of surrounding residential lands by land zoned RE2.

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5. Endorse the following Rezoning Policy for club sites:
 - (a) Council will not support the rezoning of land RE2 – Private Recreation where this has the potential for a residentially zoned property becoming isolated from the surrounding residential land by the RE2 zone.
 - (b) Any further requests for rezoning of club land (directly adjoining an RE2 zone) under the housekeeping LEP will only be considered against the criteria in 5(a) above until such time as the new draft Fairfield LEP 2011 comes into force. Once the Fairfield LEP 2011 comes into force any changes to the RE2 zone will need to be initiated by the landowner via lodgement of a formal planning proposal.
 - (c) That all clubs in the Fairfield City located in residential areas and proposed to be zoned RE2 under the draft Fairfield LEP be advised of this Policy.
6. Advise the owners of 34-38 and 39-43 Calmsley Place, Horsley Park it does not support modification to the Biodiversity overlay map applying to their site for the reasons outlined under Section B.3 of the report.
7. Endorse the inconsequential amendments to the draft LEP detailed under Section C of the report.
8. Refer the planning proposal to the Department of Planning and Infrastructure (DPI) requesting a gateway determination to allow the draft LEP to be placed on public exhibition.

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

SUPPORTING DOCUMENTS:

AT-A Owner details for relevant properties	1 Page
AT-B S.117 and SEPP Checklist	6 Pages

SUMMARY:

Council at its meeting of the 24 April 2012 endorsed the Fairfield Draft Comprehensive LEP 2011. Pursuant to Council's resolution, the draft LEP has been referred to the Dept of Planning and Infrastructure (DP&I) requesting it be made.

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The draft LEP 2011 is currently being reviewed by various sections of the Department and Council is awaiting feedback on some of the key amendments (e.g. request for prohibition of neighbourhood shops in certain residential and industrial zones) included in the draft LEP by Council following public exhibition.

After consideration of submissions, in addition to making a number of direct amendments to the draft LEP, Council also resolved to defer a range of issues to be part of a separate LEP 'housekeeping' planning proposal to be prepared by Council. This process included inviting further feedback from some landowners who made submission, to allow their issues to be considered under the housekeeping LEP.

The recommendations contained in this report commence the first 'housekeeping' planning proposal for the draft LEP 2011 and cover the following key issues;

- A. Zone changes originating from Councils resolution on the draft LEP on the 24 April 2012 in relation to two sites; 21 Phelps St, Canley Vale (future commercial development) and 80-84 Brisbane Road (Triglav Club), St Johns Park (residential development).

These sites were deferred to the housekeeping planning proposal to allow public exhibition and further notification to adjoining land owners. A subdivision proposal to create residential allotments has recently been approved for the Triglav Club and provides the basis for determining a new zone boundary for future residential development on part of the club site.

- B. Advice on zoning issues as a result of feedback from the Bonnyrigg Sports Club and Mounties Club and in relation to land parcels adjoining the clubs. As a result of further analysis of issues relating to rezoning of club land it is recommended that Council also endorse a rezoning policy to ensure rezoning of club land RE2 does not lead to 'isolation' of residential properties by the RE2 zone.

As a result of further investigations by Council officers, a recommendation is also provided in relation to biodiversity issues for two properties located in Calmsley Place (Horsley Park).

- C. Inconsequential amendments to the draft LEP that have been identified by Council officers since its endorsement by Council on the 24 April 2012

PLANNING PROPOSAL - AMENDMENTS TO DRAFT FAIRFIELD LEP 2011

The following sections of this report provide further information on the above amendments proposed to be included in the housekeeping planning proposal;

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A. Zone changes originating from Council Resolution 24 April 2012

Item.	Site	Recommendation (No.) endorsed by Council 24 April 12
A.1	21 Phelps St, Canley Vale	(4.5) 21 Phelps St, Canley Vale be rezoned from Residential to B2 Local Business Centre in a separate planning proposal to be prepared by Council
A.2	80-84 Brisbane Road, St Johns Park	(5.2) In relation to the Triglav Site (80-84 Brisbane Road, St Johns Park) Council amend the RE2 zone boundary by including this amendment in the housekeeping planning proposal to be prepared by Council so that part of the site proposed to be subdivided for residential purposes is zoned R2

COMMENTS AND RECOMMENDATIONS:

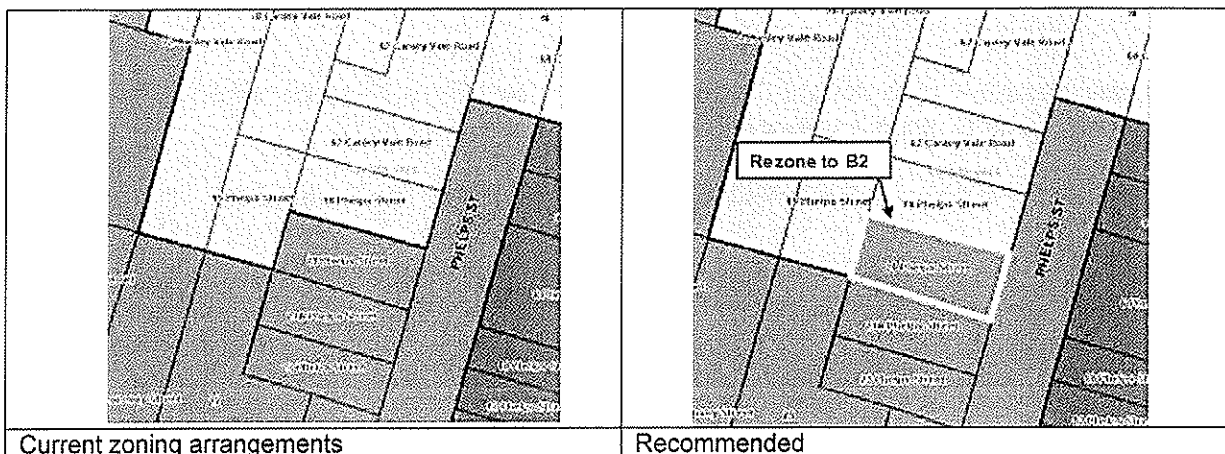
A.1 21 Phelps St, Canley Vale

Council at its meeting of the 24 April 12 considered there were sufficient merits in the submission from the owners of the 21 Phelps St to support rezoning of the parcel from R3 Medium Density to B2 – Local Centre having regard to;

- Under Fairfield LEP 1994 the site benefits from clause 20C(1) Development near zone boundaries that allowed Council to approve a DA for commercial development on the land
- The above clause no longer applies under the draft Fairfield LEP 2011
- Under this DA the economic and other impacts associated with the lot being utilised for commercial development have been assessed.
- The adjoining properties to the north and west of the site are to be zoned B2 Local Business Centre and are in the same ownership.

Recommendation:

The recommended zoning change for 21 Phelps St is shown in the following figure:



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Under the above amendment relevant provisions of the LEP Height of Buildings Map (26m height allowance) will also need to be applied to the site.

A.2 80-84 Brisbane Road (Triglav Club), St Johns Park

The draft LEP placed on public exhibition proposed to rezone the above site from residential to RE1 – Private Recreation. This approach is in line with advice from the DP&I regarding the zoning of club sites in the City.

Following consideration of a submission from the Club to the draft LEP zone, Council supported rezoning of the rear of the site (fronting Runcorn St) from RE1 to R2 Low Density Residential.

The subdivision application relating to the creation of 6 individual residential allotments on the site (fronting Runcorn St) has recently been approved by Council. A number of issues in relation to provision of stormwater drainage, services, vehicular access and provision of fencing to the new residential allotments have been resolved.

Public exhibition of the DA attracted 5 submissions from surrounding residential properties raising concerns in relation to the following issues;

- Traffic generation on local streets
- Suitability of access for new lots
- Acoustic impacts from the existing Club on the new residential allotments.

The above concerns were dealt with under assessment of the proposal and conditions of consent which;

- Preclude access to the Club facility from Runcorn St
- Design and construction of new driveways for the residential lots in accordance with Council specifications
- Provision of an acoustic fence between the new residential allotments and existing club facility.

Accordingly based on the recently approved residential subdivision a new RE1 and R2 zone boundary line can be determined for 80-84 Brisbane Road, St Johns Park as follows;

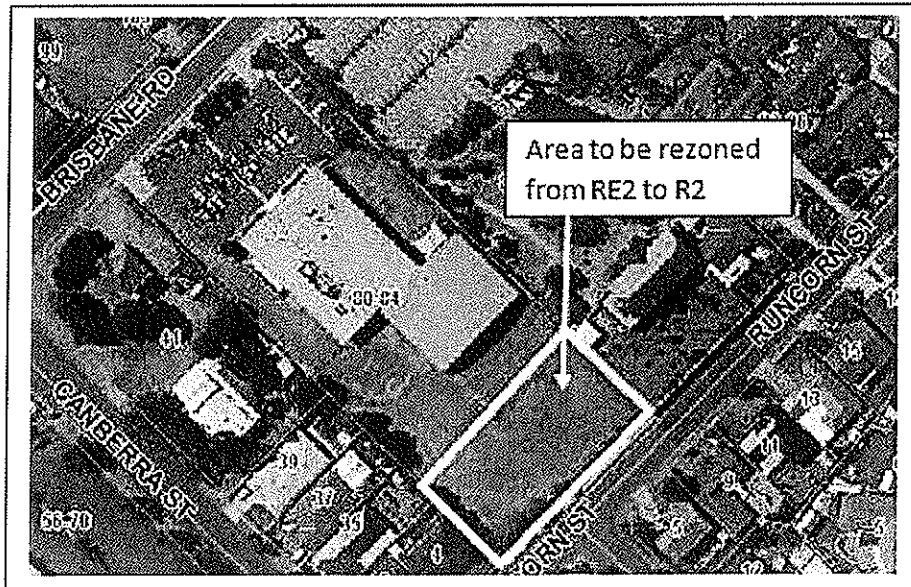
Recommendation:

That a new R2 and RE1 zone boundary line for the Triglav site be endorsed based on the recent approval (DA235.1/2012) for residential subdivision of the site as shown in the following figure:

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B. Issues arising from further feedback from landowners and investigations by Council officers

The following table summarises the recommendations endorsed by Council which required further consultation or investigations in relation to zoning issues and LEP provisions.

Item	Site	Recommendation (No.) endorsed by Council 24 April 12
B.1	620 Elizabeth Drive, Bonnyrigg (Bonnyrigg Sports Club)	(5.1) Council further discuss with the Bonnyrigg Sports Club the option of zoning 620 Elizabeth Drive, Bonnyrigg – Residential Low Density with any further rezoning of the land to be the subject of a planning proposal to be prepared by Council.
B.2	Mounties Club (Various properties)	(5.3) 115 Meadows Road and 8-10 Leo Street, Mount Pritchard be included in a separate planning proposal to be prepared by Council to rezone these parcels RE2 to be consistent with the zoning of land containing the Mounties Club, Mt Pritchard.
B.3	34-38 and 39-43 Calmsley Place, Horsley Park	(2.3) The LEP provisions relating to the Biodiversity Map and Clauses as exhibited be adopted with Council officers to undertake a further review of the Biodiversity Map in relation to 34-38 and 39-43 Calmsley Place, Horsley Park with any variations to be included in a further Planning Proposal for the area to be undertaken by Council

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COMMENTS AND RECOMMENDATIONS:

B.1 Bonnyrigg Sports Club - 620 Elizabeth Drive, Bonnyrigg

Letter from Club

In response to Council's resolution of the 24 April 12, the Bonnyrigg Sports Club have provided a letter to Council in regard to the above land formally requesting that Council *"take the necessary steps to zone the land R1 – General Residential" under the draft LEP, at no cost to the Club*.

Following the Council meeting, Council officers met with representatives from the Club who also indicated a desire to investigate potential future use of the front part of above site for the purposes of a service station/convenience store to provide an income stream that will enable funds to be provided back to the community for development of the remainder of the land and upkeep on the Club.

To this end the letter from the Club also states the retention of the residential zone is an *"interim position"* to enable the Club to *"explore potential options for the front part of the land"* with a further request that Council acknowledge that the current request to rezone the land for residential purposes is an interim measure pending further consideration of potential development scenarios.

Comments

620 Elizabeth Drive is currently a large vacant parcel of land (approximately 1ha in area) owned by the Bonnyrigg Sports Club and is zoned 2(a) Residential under Fairfield LEP 1994. It is noted that the adjoining parcel of residentially zoned land at 630 Elizabeth Drive is the subject of a recent approval for an electricity substation.

The recommendation supporting the rezoning of the 620 Elizabeth Dr from RE2 – Private Recreation to R2 Residential Low Density under the draft Fairfield LEP 2011 is consistent with the Council's resolution of 24 April 2012.

However, at this stage it is not recommended that Council endorse the rezoning to R2 as an *"interim position"* as requested in the recent letter from the Club. The basis for this is that a separate private planning proposal would need to be submitted requesting establishment of a service station/convenience store on the front part of the site.

The site is located on an arterial road falling under the control of the NSW Roads and Maritime Service (RMS). Any proposal for a service station/convenience store on the front of the site would need to be the subject of a detailed traffic study and require support/approval from the RMS. In this regard it would be inappropriate for Council to pre-empt the position of the RMS regarding access from a service station use to Elizabeth Drive without the benefit of the planning proposal being considered.

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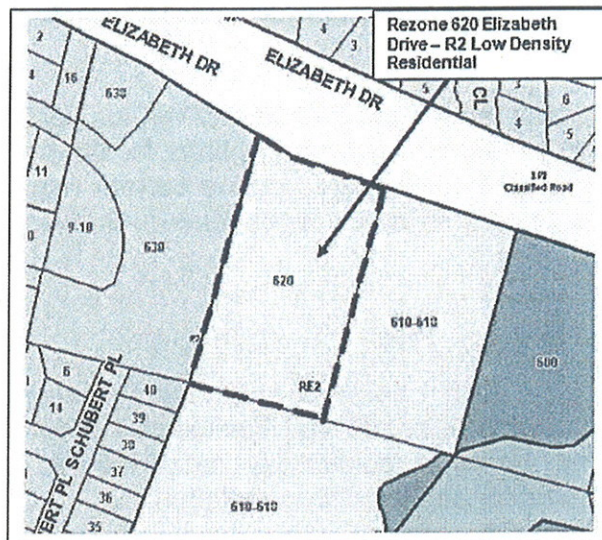
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In addition, the land adjoins other residentially zoned land. Council also needs to consider the suitability of a service station/convenience store not only with regards to the potential impacts on the residential properties and surrounding environment but also the relationship of the service station with possible Club uses/activities to be established on the remainder of the land at 620 Elizabeth Drive.

Recommendation

That Council endorse rezoning 620 Elizabeth Drive from RE2 to R2 under the draft LEP 2011. In doing so it is also recommended Council also advise the Club it does not endorse this as an interim position and that the Bonnyrigg Sports Club would need to submit a private planning proposal for potential establishment of a service station and convenience store on the site which will be considered on its merits.



B.2 Mounties Club (Various Parcels)

In response to Council's resolution of the 24 April, the Mounties Club have submitted a letter requesting rezoning of four (4) residential properties directly adjoining the existing club facilities to RE2 – Private Recreation.

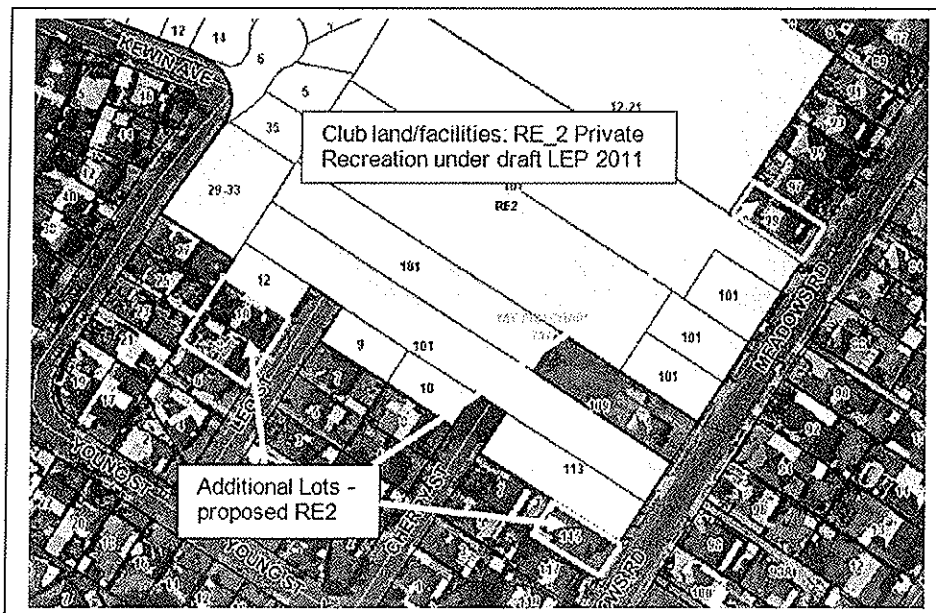
As referred to previously, based on advice from the DP&I all existing club sites located within the residential areas of the City are proposed to be zoned RE2 under the draft LEP. Under the existing Fairfield LEP 1994 the Mounties Club site is currently zoned Residential 2(a).

The following figure shows the location of the sites (Nos. 8 -10 Leo Street, 99 and 115 Meadows Road) requested by Mounties to be zoned RE2 – Private Recreation.

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In light of the advice from the DP&I, under preparation of the draft LEP, the general approach followed by Council also included rezoning other club owned land (not utilised for club facilities) adjoining the club facilities RE2 Private Recreation.

Further analysis of the request by Mounties highlights a deficiency in this approach in that it does not provide an adequate safeguard against residential properties becoming isolated and surrounded by club activities.

For example in the above figure, rezoning of no.8-10 Leo St provides a significant extension of the RE2 zoned land into the surrounding residential area. It also creates the potential for the Club to acquire and request rezoning of further residential properties (adjoining the new RE2 land) in Young Street to RE2 at a later date. However there is no guarantee the Club will be able to acquire all the surrounding residential properties in an orderly fashion and this could lead to isolated pockets of residential properties surrounded by Club facilities. This scenario is not desirable in terms of mitigating the potential impacts of club activities on residential lands at DA stage.

In this regard, in considering any further applications for rezoning of residential lands to an RE2 zone it is recommended that Council adopt the additional criteria that this must not create the potential for isolation of residential properties as a result of a being surrounded by Club facilities.

As detailed in the following recommendation, based on this criteria rezoning of numbers 8-10 Leo Street is no longer supported.

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Essentially, the rezoning of various club lands under the draft LEP 2011 to RE2, represents a transition from the current zoning provisions of Fairfield LEP 1994 to the new Standard LEP for the City. In this regard, it is also recommended that Council only consider any further requests for rezoning of club land (directly adjoining an RE2 zone) under the housekeeping LEP until such time as the new draft Fairfield LEP 2011 comes into force.

After the gazettal of the new Standard LEP, any proposal to rezone residential land for club uses will need to be subject of a private planning proposal.

Recommendations:

- Council endorse the rezoning of no.99 and 115 Meadows Road, Mt Pritchard from R2 - Low Density Residential to RE2 - Private Recreation. Council advise the Mounties Club it no longer supports rezoning of nos.8-10 Leo Street from R2 to RE2 as this has the potential to lead to the isolation of surrounding residential lands by land zoned RE2.

Endorse the following rezoning policy for club sites;

- Council will not support the rezoning of land RE2 – Private Recreation where this has the potential for a residentially zoned property becoming isolated from the surrounding residential land by the RE2 zone.
- Any further requests for rezoning of club land (directly adjoining an RE2 zone) under the housekeeping LEP will only be considered against the criteria above until such time as the new draft Fairfield LEP 2011 comes into force and that all clubs in the City be advised of this policy.

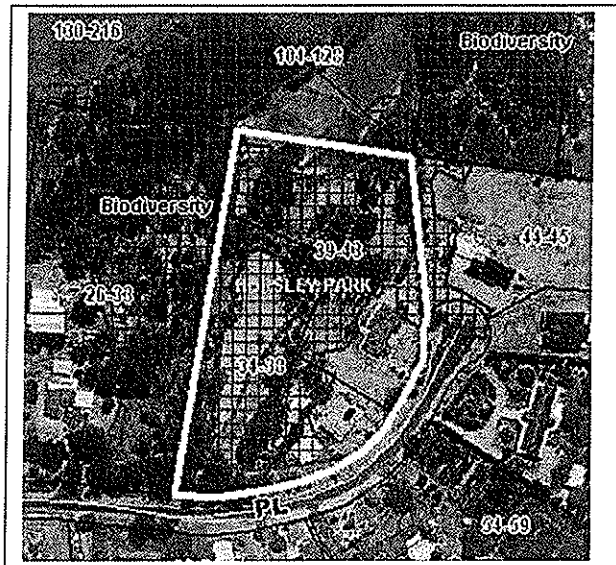
B.3 34-38 and 39-43 Calmsley Place, Horsley Park

Under the draft LEP the above properties (highlighted in following figure) are proposed to be rezoned from 1(a) Non Urban Residential under Fairfield LEP 1994 to RU4 Primary Production Small Lots. The site also supports remnant (Cumberland Plain Vegetation) and as such is affected by the Natural Resources – Biodiversity overlay map (extract below) and associated local clause (6.2) of the draft LEP 2011.

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Under public exhibition of the draft LEP, a submission was received from the owners of the above sites questioning the extent of application of the biodiversity overlay map (above) to their site.

The biodiversity overlay map is based on aerial photographic work undertaken as part of preparation of Council's draft Biodiversity Strategy and is based on mapping criteria and standards relating to threatened species issued by State Government Agencies.

Whilst it is recognised the extent of the biodiversity mapping is based on aerial photographs and has some degree of 'roughness', it is generally accurate in terms of confirming the presence of endangered vegetation on a site and flagging its conservation potential having regard to the State Government mapping criteria and standards.

An inspection of the site by Council officers confirmed the presence Cumberland Plain vegetation on the site protected under State (Threatened Species Act) and Federal (Environment Protection and Biodiversity Conservation Act) Legislation. The site inspection also confirmed the relevance of Council's Biodiversity overlay map in terms of the cross section of vegetation existing on the site, its connectivity with endangered vegetation on surrounding properties and conservation potential of this vegetation.

Under the draft LEP, the application of the Biodiversity overlay map does not necessarily imply a site is sterilised from future development. It largely highlights that fact that assessment criteria under State (i.e.'7 Part Test') and Federal Legislation need to be taken into account under future development.

This reflects the 'status quo' of the assessment process relating to threatened species under the current Fairfield LEP 1994, however under the draft LEP 2011 the Biodiversity overlay map represent some degree of enhancement in the local planning controls as it provides greater clarity and transparency in relation to the environmental factors that need to be taken into account with development of a site.

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In general, the Biodiversity provisions of the draft LEP provide a broad framework and 'heads of consideration' for assessment of development. Ultimately, more detailed analysis and consideration of threatened species is undertaken at the development application stage. In future, this analysis and consideration will need to take into account the controls and guidelines of the new Chp.3 of the City Wide DCP subject to a separate report to the Outcomes Committee.

A key aspect of the DCP controls for threatened species is that an applicant will still be able to engage a qualified professional (e.g. arborist, ecologist) to prepare a detailed report on the condition and significance of endangered vegetation on a site which can be taken into account in the DA assessment process. In addition, under the EP&A Act, any decision by Council can be further appealed to the Land and Environment Court.

Recommendation

In light of the above, it is not recommended that Council undertake any changes to the Biodiversity overlay map of the draft LEP 2011 in relation to the above sites.

Note: the owners of the above site were advised that the current report on their submission was being referred to Council and invited to attend/speak at the Outcomes Committee.

C. Inconsequential amendments identified by Council officers

Since Council's endorsement of the draft LEP and its referral to the DP&I Council officers have identified a range of inconsequential amendments to the draft LEP 2011

Item	Site	Issue	Recommendations
C.1	Lot 1 in DP 29449 - Corner of Cabramatta Road West and Orange Grove Road (Cumberland Hwy) Cabramatta	- Fairfield LEP 1994 permits the additional use of multi unit housing on the site comprising 6 different land parcels. - One parcel of land (lot 1 in DP 29449) inadvertently omitted from Schedule 1 (Site 6) and on Key Sites Map sheet of draft LEP 2011	- Change Key sites map 6 to include lot 1 in DP 29449 - Update schedule 1 of draft LEP 2011 – Key Site 6 by including reference to lot 1 in DP 29449
C.2	Southern side of Smithfield Road, between Polding St and Prospect Creek	- Land is part of an existing public transport corridor zoned 5(a) Special Uses - Public transport corridor under Fairfield LEP 1994 - Incorrect map label "Classified Road" assigned to this part of the corridor	- Assign correct label "Strategic Bus Corridor" to zone map associated with draft Fairfield LEP 2011 - Incorporate parcel onto land acquisition map to be acquired by the Roads and Maritime Service.

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Item	Site	Issue	Recommendations
C.3	Homebush St, St Johns Park (part lot 129 DP 259188)	- Site currently zoned 6(a) under Fairfield LEP 1994 and utilised as a Council playground. - RE1 – Public Recreation label appears on the draft LEP map but incorrect colour (associated with the R2 - Low Density zone) was applied	- Change colour on map to that applicable to RE1 - Public Recreation zone under draft LEP.
C.4	Villawood Railway Station Group, Villawood	- Station is a State Listed item under Fairfield LEP 1994 - Site is listed in Schedule 5 of draft LEP 2011 but the curtilage of the Station precinct is not shown on the accompanying LEP Heritage Map.	- Amend draft LEP Heritage Map to show curtilage of Villawood Station Precinct.
C.5	Smithfield Library 51-57 Oxford Street, Smithfield	- Library currently zoned 6(a) Open Space under Fairfield LEP 1994 - RE1 Public Recreation label appears on LEP map but incorrect zone colour (R3 Medium Density) applied - FSR and heights controls also applied but not relevant to RE1 Zone	- Change colour on draft LEP Map to applicable colour for RE1 zone. - Remove site from height, and FSR maps

S117 DIRECTIONS & STATE ENVIRONMENTAL PLANNING POLICY (SEPPs)

Under preparation of the housekeeping proposal, justification will need to be provided for any variations or inconsistencies with s.117 Directions issued by the Minister for Planning and SEPPs.

As detailed in attachment B to this report there are no inconsistencies associated with the planning proposal in relation to these matters.

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PUBLIC EXHIBITION AND CONSULTATION WITH STATE AGENCIES

After further preparation of the draft LEP it is anticipated public consultation will need to be undertaken with a range of State Government Agencies including the Roads and Maritime Service.

As referred to previously it is proposed to notify all clubs in the City located in residential areas on Council's policy regarding the rezoning of land from residential purposes to the RE2 – Private Recreation zone.

In addition to placing a notice in the local newspaper (28 days exhibition period), at this stage it is proposed that land owners adjoining the sites covered under sections A and B of this report be notified of the planning proposal.

It is not proposed to notified landowners or properties adjoining land affected by the amendments contained in section C of this report - 'Inconsequential Amendments' as the nature of LEP issues relating to these sites generally maintains the status quo of LEP zones/provisions applying under the current Fairfield LEP 1994.

In addition, consultation in relation to State owned land (i.e. public transport corridor along Smithfield Road and Villawood station precinct) has previously been undertaken as part of s.62 consultation for the draft Fairfield LEP 2011 and public exhibition of the draft in Feb-March 2012.

CONCLUSION:

The first 'housekeeping' planning proposal for the draft Fairfield LEP 2011 addresses a range of LEP issues associated with Council's resolution in relation to the LEP of 24 April 2012.

In addition, further feedback has now been received from private landowners who made a submission to the draft LEP to allow zoning issues relating to their land to be resolved under the housing keeping LEP as well as inconsequential amendments to be made.

In this regard it is recommended endorse commencement of the housekeeping planning proposal for the draft Fairfield LEP 2011.

Andrew Mooney
Senior Strategic Planner

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Authorisation:

Executive Manager Environmental Standards
Manager Strategic Land Use Planning

Outcomes Committee - 10 July 2012

File Name: **OUT100712_8**

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