

101: Post Exhibition - Fairfield LEP 2013 Draft Amendment No. 11 - Reclassification of 18 Council owned sites
File Number: 13/01729

MOTION: (Barcha/Karajcic)

That Council:

1. Adopt the Planning Proposal (as shown in Attachment A of the report) as publicly exhibited to amend Schedule 4 – Classification or Reclassification of public land of Fairfield Local Environmental Plan 2013 to reclassify 18 sites from Community Land to Operational Land.
2. Submit the Planning Proposal to the Department of Planning and Environment (DP&E) for finalisation.

A division was taken with the following results:

Aye	Nay
Mayor Carbone	
Councillor Barcha	
Councillor Bennett	
Councillor Karajcic	
Councillor Khoshaba	
Councillor Le	
Councillor Ly	
Councillor Molluso	
Councillor Saliba	
Councillor Toma	
Councillor Tran	
Councillor White	
Councillor Yeung	
Total=(13)	Total=(0)

CARRIED UNANIMOUSLY

OUTCOMES COMMITTEE

Meeting Date 12 August 2014

Item Number. 101

SUBJECT: Post Exhibition - Fairfield LEP 2013 Draft Amendment No. 11 -
Reclassification of 18 Council owned sites

FILE NUMBER: 13/01729

PREVIOUS ITEMS: 1 - Planning Proposal - Reclassification of Council Owned Land
Premises: See tables within Attachment A of the report for list of sites for
reclassification
Applicant/Owner: Fairfield City Council
Zoning: Numerous zonings - Outcomes Committee - 11 February 2014

REPORT BY: Chris Shinn, Senior Strategic Land Use Planner

RECOMMENDATION:

That Council:

1. Adopt the Planning Proposal (as shown in Attachment A of the report) as publicly exhibited to amend Schedule 4 – Classification or Reclassification of public land of Fairfield Local Environmental Plan 2013 to reclassify 18 sites from Community Land to Operational Land.
2. Submit the Planning Proposal to the Department of Planning and Environment (DP&E) for finalisation.

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	Planning Proposal - Reclassification of Council owned land	82 Pages
AT-B	List of sites proposed to be reclassified	1 Page
AT-C	Gateway Determination	4 Pages
AT-D	Email from Department of Planning & Environment regarding Delegated Authority	3 Pages
AT-E	Public Hearing Report	6 Pages

CITY PLAN

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

SUMMARY

This report relates to the public exhibition of the Planning Proposal (Draft Amendment No. 11 to the Fairfield Local Environmental Plan (LEP) 2013) which seeks to amend Schedule 4 – Classification or Reclassification of public land of Fairfield LEP 2013 to reclassify 18 sites from Community Land to Operational Land.

BACKGROUND

In early February 2014, Council Officers completed preparation of a Planning Proposal (**Attachment A**) to amend Schedule 4 – Classification or Reclassification of public land of Fairfield LEP 2013 to reclassify 18 sites from Community Land to Operational Land. A complete list of the sites proposed to be reclassified is provided in **Attachment B**.

The aim of the planning proposal is to confirm the classification or reclassify Council owned land to:

- Enable Council to develop or dispose of a number of parcels of land that have been identified as surplus.
- Enable Council to enter into longer term lease agreements and to allow for potential future redevelopment on a number of Council owned properties.
- Ensure Council owned sites can be managed with greater flexibility.
- Provide certainty with regards to the classification of a number of Council owned properties.

On 18 February 2014, the subject Planning Proposal was reported to the Ordinary Council meeting, where Council resolved that:

1. *Council endorse the Planning Proposal (Attachment A) and inform the Department of Planning and Infrastructure (DP&I) that it requests a Gateway Determination to amend Schedule 4 – Classification or Reclassification of public land of Fairfield Local Environmental Plan 2013 to reclassify 18 sites from Community Land to Operational Land.*
2. *Subject to the DP&I issuing a gateway determination supporting the Planning Proposal, the Planning Proposal be publicly exhibited in accordance with the Consultation Strategy outlined in the report and the conditions outlined in the Gateway Determination.*
3. *Council endorse the following list of sites to potentially be disposed of in the future (subject to future reports being referred to Council for approval):*
 - 10A Ascot Street, Canley Heights

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- 29 Knight Street, Lansvale
 - 5 York Street, Fairfield
 - 68 Fitzgerald Avenue, Edensor Park
 - 21 Railway Parade, Fairfield (long term lease agreement or potential sale to adjoining property)
4. Council note that the process to confirm the Operational Classification of these sites does not indicate any intention to sell these properties and that the intention is to maintain ownership for community purposes:
- 28 Beelar Street, Canley Heights
 - Part of 25 Canley Vale Road & 25D Canley Vale Road, Canley Vale
 - 2A Hartog Avenue (aka 74 Tasman Parade), Fairfield West
 - 7A, B, C & D Nelson Street, Fairfield
 - 1 Pevensey Street, Canley Vale
 - 295 Victoria Street, Wetherill Park
 - 17-19 York Street, Fairfield
 - 6 Hughes Street, Cabramatta
 - 11A Landon Street, Fairfield East (Currently seeking tenants to lease the property. However, should an appropriate tenant not be found then Council will need to look at alternative options for the site, which may include sale or redevelopment. Accordingly, this would be subject to a future report being referred to Council for approval).
5. Council note that the process is to confirm the Operational Classification of these sites, and that in the long term these properties may be subject to future redevelopment as indicated in the Planning Proposal and the associated Plans indicating future redevelopment potential:
- 25A & B Barbara Street, 36A & C Harris Street, 11 & 11A Kenyon Street, Fairfield
 - 64, 64A and 64B Bareena Street, Canley Vale
 - 50A Marlborough Street, Smithfield
 - 146 Polding Street, Smithfield

On 26 February 2014, Council Officers forwarded the Planning Proposal to the Department of Planning & Environment (DP&E) for Gateway Determination.

GATEWAY DETERMINATION

On 7 April 2014, Council received the Gateway Determination (**Attachment C**) from the DP&E, which permitted the draft LEP Amendment to be publicly exhibited subject to a number of conditions.

The Gateway Determination was conditioned so that:

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1. Community consultation is required under Sections 56(2)(c) and 57 of the Environmental Planning and Assessment (EP&A) Act 1979 as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of A Guide to Preparing LEPs (Planning & Infrastructure 2013).

Comment: Complete (see additional comments relating to consultation in the Public Exhibition section of the report below).

2. No consultation is required with public authorities under Sections 56(2)(d) of the EP&A Act.

Comment: Complete, no consultation required.

3. A public hearing is not required to be held into the matter under Section 56(2)(e) of the EP&A Act. However, a public hearing is required to be held into the matter in accordance with the agency's practice note PN09-003, as the planning proposal involves a reclassification of land from community to operational.

Comment: Complete (see additional comments relating to the Public Hearing in the report below).

4. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Comment: On target (DP&E deadline 14 January 2015).

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

In addition to the conditions outlined above, the Gateway Determination also identified that:

"Fairfield City Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the Environmental Planning and Assessment Act 1979, that are delegated to it by instrument of delegation dated 1 November 2013, in relation to the planning proposal."

However, the DP&E's "A Guideline for the Preparation of Local Environmental Plans" outlines that where a reclassification Planning Proposal requires the Governors concurrence (i.e. where interests have changed, such as removal of trusts, implied trusts or interests), Council cannot be given authority to exercise its delegation on making the plan.

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The abovementioned Planning Proposal requires the reclassification sites to be included within *Schedule 4, Part 2 – Land classified, or reclassified, as operational land—interests changed* of Fairfield LEP 2013. This will result in interests changing and consequently, Council cannot be given authority to exercise its delegation on making the plan.

Council Officers advised the DP&E of this, and as a result received confirmation from the Department (**Attachment D**) that the DP&E would need to take over the Plan making process and referral to the Governor.

PUBLIC AUTHORITIES CONSULTATION

No consultation with public authorities was required by the Gateway Determination.

PUBLIC EXHIBITION

Following receipt of the Gateway Determination from the DP&E, Council was required to place the Planning Proposal on public exhibition. The public exhibition material was provided in accordance with *LEP Practice Note PN 09-003: "Classification and reclassification of public land through a local environmental plan"*. The material that was made available included copies of the:

- Planning Proposal
- Gateway Determination
- Council report to initiate the proposal
- Statement of Council's Interests (i.e. how Council acquired an interest in the land, financial implications to Council, etc.)
- Location Maps
- LEP Practice Note PN 09-003
- Maps of the notification areas and a copy of the notification letter.

The Planning Proposal went on public exhibition from Wednesday, 4 June 2014 to Wednesday, 2 July 2014.

In accordance with the consultation strategy identified in the previous report to Council, letters were sent to current occupants (where relevant) and all adjoining property owners of the 18 items proposed for reclassification. In addition, a notice was placed in the local newspaper; information was provided on Council's website and made available at the Administration Centre.

During the public exhibition period, no written submissions were received.

However, Council received a number of telephone calls enquiring about the proposal. These included general enquiries and clarification on what the proposal meant, to more detailed discussions with current lessees of some of the sites. An adjoining land owner also enquired about potential acquisition of a small parcel of land identified for disposal.

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After explaining the details of the proposal, the callers had no issue with the reclassification and advised that they would not provide a written submission.

PUBLIC HEARING

After the public exhibition period, a public hearing was held regarding the reclassification of the 18 Council owned sites. Public hearings are required for all reclassifications where it is proposed to change the classification from Community to Operational.

The public hearing was advertised in the local newspaper (the Fairfield Champion) pursuant to Section 29(1) of the Local Government Act 1993 on Wednesday, 9 July 2014 and a notice was placed on Council's website, giving residents and land owners the required 21 days notice prior to the scheduled public hearing.

The public hearing was held on Wednesday, 30 July 2014.

The public hearing was presided over by independent planner Stephan Andrusiw from Universal Planning Pty Ltd and attended by relevant Council Staff.

Council Staff and the independent planner were available in the Council Administration Building's Civic Wing from 6pm to 7pm. It should be noted that no member of the public attended the public hearing.

As a result of the Public Hearing and in accordance with the Local Government Act 1993, the Independent Planner prepared a report (**Attachment E**). As required by the Local Government Act 1993, the Independent Planner's report was made publicly available on Council's website and at Council's Administration Centre on 5 August 2014, which was within 4 days of the report being received by Council (as required by the regulations).

RECOMMENDATION

As a result of the Public Exhibition and Public Hearing, it is recommended that Council adopt the Planning Proposal as publicly exhibited to amend Schedule 4 – Classification or Reclassification of public land of Fairfield LEP 2013 to reclassify 18 sites from Community Land to Operational Land.

It is recommended that Council submit the Planning Proposal to the DP&E for finalisation.

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Chris Shinn
Senior Strategic Land Use Planner

Authorisation:
Acting Group Manager City Development

Outcomes Committee - 12 August 2014

File Name: **OUT120814_6.DOC**

***** END OF ITEM 101 *****