

Planning Proposal

Reclassification of Council Owned Land

Fairfield Local Environmental Plan 2013

Draft Amendment No. 11

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Introduction

The purpose of this planning proposal to confirm the classification of seventeen (17) Council owned properties as Operational and reclassify one (1) site from Community to Operational. This will result in eighteen (18) Council owned properties being classified as Operational Land.

Classification of Public Land

At the introduction of the Local Government Act in 1993, all NSW Councils were required to classify, by resolution, all public land owned or under the control of Council as either “Community” or “Operational” land (except Roads and Crown land). In accordance with the Act, Fairfield City Council adopted a list of 276 properties to be classified as Operational on 28 June 1994.

Council owned or Council controlled land that was not classified as Operational on 28 June 1994 (or within 3 months of a property's subsequent acquisition) reverted automatically to Community land.

It should be noted that the classification / reclassification of land does not affect a property's ownership, tenure, development, or zoning, nor does it mean that Council is required to sell the property.

What is Community Land?

Community land comprises land open to the public such as a park, bush land reserve or sportsground. The purpose of the Community land classification is to identify Council owned land which should be set aside for general public use. Accordingly, there are a number of restrictions on how Community land is managed by Council, including:

- Community land cannot be sold,
- Community land must be managed in accordance with a Plan of Management,
- Council can grant a lease or licence over community land, but only for certain purposes, some of which must be expressly authorised by a Plan of Management for the land, and not for more than 21 years (Note: A lease or licence over Community Land for greater than 5 years is required to comply with more stringent controls and more restrictions).

What is Operational Land?

Operational land would generally comprise:

- Land held as a temporary asset or as an investment,
- Land which facilitates the carrying out by Council its functions,
- Land which may not be opened to the general public, such as a works depot or a Council garage,
- The restrictions / controls applying to ‘Community Land’ do not apply to ‘Operational Land’, and can therefore be sold or developed in accordance with its zoning and subject to the normal Council processes.

What is ‘Uncertain Operational’ Land?

As previously discussed above, when the Local Government Act commenced in 1993 to introduce the classification process of Council owned land, there was an “implementation

period” where Council had a prescribed timeline to classify Council owned land to an appropriate land classification either Community or Operational by Council resolution.

During this period, Council specifically resolved to reclassify 276 properties in the City as Operational Land. Now that the ‘implementation period’ has ended the only way to change the classification from Community Land to Operational Land is through an LEP process.

Further, since the Council resolution in 1994, there is some uncertainty surrounding whether the 276 properties are definitively classified as ‘Operational’. This is due to legal advice Council has received regarding previous court cases relating to classification of land within other NSW Councils. The court case suggests that there is significant doubt as to whether the sites that were subject of the Council resolution in 1994 are legally classified as Operational land. The only opportunity to remove this uncertainty completely is to reclassify the sites through a draft LEP Amendment.

Part 1 – Objectives

The purpose of the planning proposal is to confirm the classification of Council owned land to:

- Enable Council to develop or dispose of a number 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 operationally with greater flexibility,
- Provide certainty with regards to the classification of a number of Council owned properties.

In summary, the objective of the Planning Proposal is to amend the Fairfield Local Environmental Plan 2013 to reclassify 18 parcels of Council owned land to Operational to provide certainty on the land classification and to reclassify one parcel from Community to Operational.

The planning proposal is in accordance with Council's decision at its meeting on 25 February 2014; see **Attachment A** for Council report.

The planning proposal applies to the following parcels:

#	Street Address of Site	Suburb	Lot	DP	Site Description	Current Classification	Current Zoning
1	10A Ascot Street	Canley Heights	12	207584	Closed Road, historic laneway	Uncertain Operational	R3 Medium Residential
2	25A & B Barbara Street, 36A & C Harris Street, 11 & 11A Kenyon Street	Fairfield	2 & 3	20333	Part of Downey Lane Multi Deck Car Park	Uncertain Operational	B4 Mixed Use
			1 & 2	216678	Part of Downey Lane Multi Deck Car Park	Uncertain Operational	B4 Mixed Use
			2	202875	Part of Downey Lane Multi Deck Car Park, part of Community Building and part of Downey Lane	Uncertain Operational	B4 Mixed Use
			2	548510	Part of Community Building	Uncertain Operational	B4 Mixed Use
3	64, 64A and 64B Bareena Street	Canley Vale	1, 2 & 3	564576	Fairfield SES Building and community building leased to Bushido Judo Club	Uncertain Operational	RE1 Public Recreation
4	28 Beelar Street	Canley Heights	2	584446	Two storey dwelling leased as a Community Facility	Uncertain Operational	R2 Low Density Residential
5	Part of 25 Canley Vale Road & 25D Canley Vale Road	Canley Vale	Part of 5	202980	Car Park and adjoining parcel of land.	Uncertain Operational	B2 Local Centre
			Part of B	414988			B2 Local Centre
			B	35534			R3 Medium Density Residential
6	2A Hartog Avenue (aka 74 Tasman Parade)	Fairfield West	263	227657	Tasman Parade Early Learning Centre	Uncertain Operational	R2 Low Density Residential
7	29 Knight Street	Lansvale	F	16606	Vacant Land	Uncertain Operational	R2 Low Density Residential
8	11A Landon Street	Fairfield East	1	43729	Community Building	Uncertain Operational	Part R2 Low Density Residential and Part E2 Environmental Conservation
9	50A Marlborough Street	Fairfield Heights	1	803139	Marlborough Street Preschool	Uncertain Operational	B1 Neighbourhood Centre
10	7A, B, C & D Nelson Street	Fairfield	1	228772	Nelson Street Multi Deck Car Park	Uncertain Operational	B4 Mixed Use
			1	249961			B4 Mixed Use
			1	583176			B4 Mixed Use
			2	249961			B4 Mixed Use
11	1 Pevensey Street	Canley	C	348882	Canley Vale Early	Uncertain	R4 High Density

		Vale			Learning Centre	Operational	Residential
12	146 Polding Street	Fairfield Heights	6	25299	Early Childhood Centre	Uncertain Operational	R3 Medium Density Residential
13	21 Railway Parade	Fairfield	1	951311	Part Car Park and forecourt of adjoining building	Uncertain Operational	B4 Mixed Use
14	295 Victoria Street	Wetherill Park	8	230076	Community Building leased to Autistic Association of NSW	Uncertain Operational	R2 Low Density Residential
15	5 York Street	Fairfield	2	1015540	Vacant Land, which was surplus land from creation of road.	Uncertain Operational	R4 High Density Residential
16	17-19 York Street	Fairfield	3 & 4	12161	Community Building leased to Fairfield Nursery School	Uncertain Operational	R4 High Density Residential
17	6 Hughes Street	Cabramatta	2	565436	Hughes Street Car Park	Uncertain Operational	B4 Mixed Use
18	68 Fitzgerald Avenue	Edensor Park	1	852647	Vacant	Community	R2 Low Density Residential

Part 2 – Explanation of provisions

To achieve the objectives mentioned above, the Planning Proposal will need to amend the Fairfield Local Environmental Plan 1994 (FLEP 1994).

Eighteen (18) amendments must be made to the *FLEP 2013 Schedule 4 Classification and Reclassification of Public Land – Part 2 Land Classified, or reclassified, as operational land – interests changed*. The amendments are outlined below:

- a) Reclassify Lot 12 DP 207584, 10A Ascot Street, Canley Heights from Community to Operational.
- b) Reclassify Lots 2 & 3 DP 20333, Lots 1 & 2 DP 216678, Lot 2 DP 202875 and Lot 2 DP 548510, 25A & B Barbara Street, 36A & C Harris Street, 11 & 11A Kenyon Street, Fairfield from Community to Operational.

The above parcel remains affected by the interests identified below:

LOT 2 DP 548510

- a. F417733 Easement for support appurtenant to the land above described affecting the land shown as easement wide F417733 in DP548510.

LOT 2 DP 202875

- b. N491188 Easement for underground cables, affecting part of the land within described shown as easement for underground cables in DP 548286.

- c) Reclassify Lots 1, 2 & 3 DP 564576, 64, 64A and 64B Bareena Street, Canley Vale from Community to Operational.

The above parcel remains affected by the interests identified below:

LOT 1 DP 564576

- a. DP564576 Easement to drain water affecting the part(s) shown so burdened in the title diagram.
- b. DP564576 Right of way appurtenant to the land above described.

LOT 2 DP 564576

- c. DP564576 Right of way appurtenant to the land above described.

LOT 3 DP 564576

- d. DP564576 Right of way affecting the part(s) shown so burdened in the title diagram.

- d) Reclassify Lot 2 DP 584446, 28 Beelar Street, Canley Heights from Community to Operational.

The above parcel remains affected by the interests identified below:

LOT 2 DP 584446

- a. R463670 Lease to [REDACTED] and [REDACTED] as tenants in common. Expires 31.12.2024.

* **Note:** Redacting in place to protect privacy of persons involved.

- e) Reclassify part of Lot 5 DP 202980, part of Lot B 414988 and Lot B DP 35534, part of 25 Canley Vale Road and 25D Canley Vale Road, Canley Vale from Community to Operational.

The above parcel remains affected by the interests identified below:

LOT B DP 414988

- a. K200000P Caveat by the registrar general forbidding unauthorised dealings with public reserves.

- f) Reclassify Lot 263 DP 227657, 2A Hartog Avenue (aka 74 Tasman Parade), Fairfield West from Community to Operational.

The above parcel remains affected by the interests identified below:

LOT 263 DP 227657

- a. L795415 Covenant.

- g) Reclassify Lot F DP 16606, 29 Knight Street, Lansvale from Community to Operational.

- h) Reclassify Lot 1 DP 43729, 11A Landon Street, Fairfield East from Community to Operational.

The above parcel remains affected by the interests identified below:

LOT 1 DP 43729

- a. 2664811 Lease to Fairfield Community Resource Centre. Expires 31-8-1997 option of renewal 2 years.

- i) Reclassify Lot 1 DP 803139, 50A Marlborough Street, Smithfield from Community to Operational.

- j) Reclassify Lot 1 DP 228772, Lot 1 DP 249961, Lot 1 DP 583176 and Lot 2 DP 249961, 7A, 7B, 7C and 7D Nelson Street, Fairfield from Community to Operational.

The above parcel remains affected by the interests identified below:

LOT 1 DP 249961

- a. Z789635 Lease to Prospect County Council of substation No.18744 together with proposed cable way 3 wide shown in DP123905. Expires 30.6.2016 option of renewal 25 years.

b. LOT 1 DP 583176

- Z789635 Lease to Prospect County Council of substation No.18744 together with proposed cable way 3 wide shown in DP123905. Expires 30.6.2016 option of renewal 25 years.

- k) Reclassify Lot C DP 348882, 1 Pevensey Street, Canley Vale from Community to Operational.

- l) Reclassify Lot 6 DP 25299, 146 Polding Street, Smithfield from Community to Operational.

- m) Reclassify Lot 1 DP 951311, 21 Railway Parade, Fairfield from Community to Operational.

- n) Reclassify Lot 8 DP 230076, 295 Victoria Street, Wetherill Park from Community to Operational.
 - a. LOT 8 DP 230076
Z9565 Lease to Autistic Association of New South Wales. Expires 1.10.2088.
- o) Reclassify Lot 2 DP 1015540, 5 York Street, Fairfield from Community to Operational.
- p) Reclassify Lot 3 & 4 DP 12161, 17-19 York Street, Fairfield from Community to Operational.
 - a. LOT 3 DP 12161
U570399 Lease to Fairfield Nursery School Incorporated Expires 30-6-1997, option of renewal 3yrs.
 - b. LOT 4 DP 12161
U570399 Lease to Fairfield Nursery School Incorporated Expires 30-6-1997, option of renewal 3yrs.
- q) Reclassify Lot 2 DP 565436, 6 Hughes Street, Cabramatta from Community to Operational.
 - a. LOT 2 DP 565436
J309688 Right of carriageway affecting the part of the land above described shown as right of way variable width 6.096 & 7.01 wide, var width in DP565436.
J341011 Right of way affecting the part of land above described shown as right of way 5.486 & 3.658 wide in DP565436.
M503567 Right of carriageway affecting the part of the land above described shown as right of way 4.572 wide in DP565436.
N240656 Easement for underground mains affecting the part of the land above described shown as easement for underground main 0.915 wide in DP 565436.
Land above described is road being the part shown in DP593918
T418870 Easement for underground mains 2.75 metres wide affecting the part of the land above described shown so burdened in DP117451
T418870 Easement for underground mains 1 metre wide affecting the part of the land above described shown so burdened in DP117451
- r) Reclassify Lot 1 DP 852647, 68 Fitzgerald Avenue, Edensor Park from Community to Operational.
 - a. LOT 1 DP 852647
C188077 Covenant.

The proposed amendment to Schedule 4 Classification and reclassification of public land is shown below:

Schedule 4 Classification and reclassification of public land

Part 2 Land classified, or reclassified, as operational land – interests changed

Column 1 Locality	Column 2 Description	Column 3 Any trusts etc not discharged
Canley Heights, 10A Ascot Street	Lot 12 DP 207584	NIL
Fairfield, 25A & 25B Barbara Street, 36A & 5 Downey Lane (aka 36C Harris Street), 11 Kenyon Street, 3 Downey Lane (aka 11A Kenyon Street)	Lot 2 & 3 DP 20333 Lots 1 & 2 DP 216678 Lot 2 DP 548510 Lot 2 DP 202875	<u>Lot 2 DP 548510</u> a. F417733 Easement for support appurtenant to the land above described affecting the land shown as easement wide F417733 in DP 548510 <u>Lot 2 DP 202875</u> a. N491188 Easement for underground cables, affecting part of the land within described shown as easement for underground cables in DP 548286
Canley Vale, 64, 64A & 64B Bareena Street	Lot 1, 2 & 3 DP 564576	<u>Lot 1 DP 564576</u> a. DP 564576 Easement to drain water affecting the part(s) shown so burdened in the little diagram. b. DP 564576 Right of way appurtenant to the land above described. <u>Lot 2 DP 564576</u> a. DP 564576 Right of way appurtenant to the land above described. <u>Lot 3 DP 564576</u> a. DP 564576 Right of way affecting the part(s) shown so burdened in the title diagram.
Canley Heights, 28 Beelar Street	Lot 2 DP 584446	<u>Lot 2 DP 584446</u> a. R463670 Lease to xxxx xxxx* and xxxx xxxx* as tenants in common. Expires 31.12.2024. *Redacting in place to protect privacy of private tenants
Canley Vale, Part of 25 Canley Vale Road and 25D Canley Vale Road	Part of Lot 5 DP 202980 Part of Lot B DP 414988 Lot B DP 35534	<u>Lot B DP 414988</u> a. K200000P Caveat by the registrar general forbidding unauthorised dealings with public reserves.
Fairfield West, 2A Hartog Avenue (aka 74 Tasman Parade)	Lot 263 DP 227657	<u>Lot 263 DP 227657</u> a. L795415 Covenant
Lansvale, 29 Knight Street Fairfield East, 11A Landon Street	Lot F DP 16606 Lot 1 DP 43729	NIL <u>Lot 1 DP 43729</u> a. 2664811 Lease to Fairfield Community Resource Centre. Expires 31-8-1997 option of renewal 2 years
Smithfield, 50A Marlborough Street	Lot 1 DP 803139	NIL
Fairfield, 7A, 7B, 7C & 7D Nelson Street	Lot 1 DP 228772 Lot 1 DP 249961 Lot 1 DP 583176 Lot 2 DP 249961	<u>LOT 1 DP 249961</u> a. Z789635 Lease to Prospect County Council of substation No. 18744 together with proposed cable way 3 wide shown in DP123905. Expires 30.6.2016 option for renewal 25 years.

		<u>LOT 1 DP 583176</u>
		a. Z789635 Lease to Prospect County Council of substation No. 18744 together with proposed cable way 3 wide shown in DP 123905. Expires 30.6.2016 option of renewal 25 years.
Canley Vale, 1 Pevensey Street	Lot C DP 348882	NIL
Smithfield, 146 Polding Street	Lot 6 DP 25299	NIL
Fairfield, 21 Railway Parade	Lot 1 DP 951311	NIL
Wetherill Park, 295 Victoria Street	Lot 8 DP 230076	<u>LOT 8 DP 230076</u>
		a. Z9565 Lease to Autistic Association of New South Wales. Expires 1.10.2088
Fairfield, 5 York Street	Lot 2 DP 1015540	NIL
Fairfield, 17-19 York Street	Lot 3 & 4 DP 12161	<u>LOT 3 DP 12161</u>
		a. U570399 Lease to Fairfield Nursery School Incorporated Expires 30.06.1997, option of renewal 3 yrs.
		<u>LOT 4 DP 12161</u>
		a. U570399 Lease to Fairfield Nursery School Incorporated Expires 30.06.1997, option of renewal 3 yrs.
Cabramatta, 6 Hughes Street	Lot 2 DP 565436	<u>LOT 2 DP 565436</u>
		a. J309688 Right of carriageway affecting the part of the land above described shown as right of way variable width 6.096 & 7.01 wide, var width in DP 565436.
		b. J341011 Right of way affecting the part of land above described shown as right of way 5.486 & 3.658 wide in DP 565436.
		c. M503567 Right of carriageway affecting the part of the land above described shown as right way 4.572 wide in DP 565436.
		d. N240656 Easement for underground mains affecting the part of the land above described shown as easement for underground main 0.915 wide in DP 565436.
		e. Land above described is road being the part shown in DP 593918
		f. T418870 Easement for underground mains 2.75 metres wide affecting the part of the land above described shown so burdened in DP 117451
		g. T418870 Easement for underground mains 1 metre wide affecting the part of the land above described shown so burdened in DP 117451
Edensor Park, 68 Fitzgerald Avenue	Lot 1 DP 852647	<u>LOT 1 DP 852647</u>
		a. C188077 Covenant.

Refer to **Attachment B** for location maps depicting the above mentioned 18 sites for reclassification.

Reclassification sites – Detailed reclassification explanation

The 18 sites have been grouped into four (4) categories to distinguish between the purpose of reclassification, to separate sites that have different constraints and for ease of assessment.

Group 1 – Disposal: These sites are currently identified as surplus to Council's needs and are proposed to potentially be redeveloped and / or sold in the future.

Group 2 – Long Term Lease Agreement and Potential Future Redevelopment: These sites are currently under lease agreement and / or have future potential to be redeveloped.

Group 3 – Operational Issues: These sites are generally car parks and have a number of varying operational issues which would be resolved by reclassifying them from community to operational.

Group 4 – Resolving Land Classification Uncertainty: These sites are generally those that have been considered 'uncertain operational' and the purpose of the planning proposal is to resolve any of the uncertainty surrounding the land classification. Operationally this will ensure that the sites are managed appropriately.

The 18 sites proposed to be reclassified have been separated into four different categories indicating the purpose for reclassification. This also allows for ease of review and assessment as part of the planning proposal process.

Group 1 – Disposal

The sites listed below have been identified as potentially surplus to Council's needs and could be considered for future disposal. To enable future disposal or development, if proposed, the land must be classified as Operational land.

- 10A Ascot Street, Canley Heights
- 29 Knight Street, Lansvale
- 5 York Street, Fairfield
- 68 Fitzgerald Avenue, Edensor Park

10A Ascot Street, Canley Heights is vacant land located behind 10 Ascot Street with no direct street frontage and zoned R2 Low Density Residential under the FLEP 2013. The site historically was part of a rear laneway that provided rear access to the residential properties as a "dunny lane" and has now been identified for potential future disposal. The majority of the adjoining land that comprised the laneway has already been acquired by the adjoining residents. To enable future disposal, the land must be classified as Operational land.

The site is identified as 'uncertain operational', (which is defined earlier in this report) and reclassification of the land to operational through this planning proposal will address this uncertainty.

29 Knight Street, Lansvale is vacant land and zoned R2 Low Density Residential and has been identified for potential future disposal. The site is currently leased to adjoining residents as a paddock for miniature horses. To enable future disposal, if proposed, the land must be classified as Operational land.

The site is identified as 'uncertain operational', (which is defined earlier in this report) and reclassification of the land to operational through this planning proposal will address this uncertainty.

5 York Street, Fairfield is vacant land surplus to road creation / widening which has been recently landscaped by Council and may become surplus in the future to Council's requirements. To enable future disposal, if proposed, the land must be classified as Operational land.

The site is identified as 'uncertain operational', (which is defined earlier in this report) and reclassification of the land to operational through this planning proposal will address this uncertainty.

68 Fitzgerald Street, Edensor Park is vacant land located adjoining residential dwellings. Council acquired the site in the early 1990s as a result of the site being surplus to the developer's requirements. Historically, Council has had discussions with an adjoining land owner seeking to purchase the site. To enable potential future disposal, if proposed, the land must be classified as Operational land.

The site is currently classified 'community' land. The reclassification will allow Council to dispose of the surplus parcel of land.

Group 2 – Long term lease agreements and potential future redevelopment

- 25A & B Barbara Street, 36A & C Harris Street, 11 & 11A Kenyon Street, FAIRFIELD
- 64, 64A and 64B Bareena Street, CANLEY VALE
- 50A Marlborough Street, FAIRFIELD HEIGHTS
- 146 Polding Street, FAIRFIELD HEIGHTS

25A & B Barbara Street, 36A & C Harris Street, 11 & 11A Kenyon Street, Fairfield comprises a large portion of the Council owned Barbara Street Master Plan precinct.

25A & B Barbara Street and 36A and 36C Harris Street contains part of the Downey Lane Car Parking structure. 11 Kenyon Street contains most of the two storey brick community building that is used as the Fairfield Senior's Citizen Centre, whilst 11A Kenyon Street contains a small part of the rear section of the building, part of Downey Lane and part of the Downey Lane Car Parking structure.

The purpose for the reclassification is that the Master Plan identifies potential future redevelopment of the precinct to incorporate a mix of the existing community facilities as well as some commercial and potentially residential development. To allow this to be undertaken in the future, this precinct is required to be classified as Operational.

The site is also identified within Council's Direct (Section 94) Development Contributions Plan 2011 as an option for future community facility upgrade / redevelopment in providing additional community facilities within the Fairfield Heights Sub-district. The future redevelopment option could potentially include a variety development types to compliment the community facility. To allow any future redevelopment, the site is required to be reclassified as Operational.

The sites are identified as 'uncertain operational', (which is defined earlier in this report) and reclassification of the land to operational through this planning proposal will address this uncertainty.

64, 64A and 64B Bareena Street, Canley Vale contains a single storey building that is used by the Bushido Judo Club and a single storey building that is utilized by the State Emergency Services. 64A Bareena Street provides the access to the community buildings plus rear access to the Cabra Vale Leisure Centre.

This reclassification will continue to allow the continued use of these buildings by the current tenants and provide a greater flexibility in any potential future lease agreements of these buildings.

The site is also identified within Council's Direct (Section 94) Development Contributions Plan 2011 as an option for future community facility upgrade / redevelopment in providing additional community facilities within the Fairfield Heights Sub-district. The future redevelopment option could potentially include a variety development types to compliment the community facility. To allow any future redevelopment, the site is required to be reclassified as Operational.

The sites are identified as 'uncertain operational', and reclassification of the land to operational through this planning proposal will address this uncertainty.

50A Marlborough Street, Smithfield contains a single storey brick building that is used as the Marlborough Street Pre-school. The reclassification will allow Council to enter into long term lease agreements for this building if it so wishes in the future.

The site is also identified within Council's Direct (Section 94) Development Contributions Plan 2011 as an option for future community facility upgrade / redevelopment in providing additional community facilities within the Fairfield Heights Sub-district. The future redevelopment option could potentially include a variety development types to compliment the community facility. To allow any future redevelopment, the site is required to be reclassified as Operational.

The site is identified as 'uncertain operational', and reclassification of the land to operational through this planning proposal will address this uncertainty.

146 Polding Street, Fairfield Heights contains a single storey brick building that is used as a child care centre and operated by Council. The reclassification will allow Council to enter into a long term lease agreement of this building.

The site is also identified within Council's Direct (Section 94) Development Contributions Plan 2011 as an option for future community facility upgrade / redevelopment in providing additional community facilities within the Fairfield Heights Sub-district. The future redevelopment option could potentially include a variety development types to compliment the community facility. To allow any future redevelopment, the site is required to be reclassified as Operational.

The site is identified as 'uncertain operational', and reclassification of the land to operational through this planning proposal will address this uncertainty.

Group 3 – Operational issues

- 7A, 7B, 7C & 7D Nelson Street, FAIRFIELD.
- Part of 25 Canley Vale Road and 25D Canley Vale Road, CANLEY VALE
- 6 Hughes Street, CABRAMATTA
- 11A Landon Street, EAST FAIRFIELD
- 21 Railway Parade, FAIRFIELD
- 28 Beelar Street, CANLEY VALE

- 295 Victoria Street, WETHERILL PARK
- 17-19 York Street, FAIRFIELD

7A, 7B, 7C and 7D Nelson Street are the properties that contain all of the Nelson Street Multi Deck Car Parking Structure. The site currently contains two access points from the car park over Spencer Lane to adjoining private properties which currently are used as function / reception centres. To allow greater flexibility and ease of management of the lease agreements and to facilitate any potential future access points, the site should be reclassified to Operational.

Additionally, the sites are identified as 'uncertain operational', (which is defined earlier in this report) and reclassification of the land to operational through this planning proposal will address this uncertainty.

Part of 25 Canley Vale Road and 25D Canley Vale Road comprises part of the Canley Vale Council car park and a small parcel of adjoining land. The site comprises part of a Transport for NSW proposal where they are seeking to develop a multi deck commuter car park site for Canley Vale railway station. To facilitate any future redevelopment, the site should be classified as Operational. Historically, part of 25 Canley Vale Road had already been reclassified to Operational through LEP Amendment No. 111 to Fairfield LEP 1994 for the purpose of the Canley Vale Link Road.

The sites are identified as 'uncertain operational', and reclassification of the land to operational through this planning proposal will address this uncertainty.

6 Hughes Street, Cabramatta comprises the Hughes Street car park. The site has numerous easements running through it and there is currently a request to extend another easement through the site to facilitate development of a private lot. Reclassification of the site to Operational will allow any current and future easements and lease agreements to be managed with greater flexibility.

The site is identified as 'uncertain operational', and reclassification of the land to operational through this planning proposal will address this uncertainty.

11A Landon Street, Fairfield East contains a single storey building that is currently not leased. Historically the site was leased to the Fairfield Community Resource Centre. However, since Fairfield Community Resource Centre's lease has finished, Council has been seeking another Community organisation to lease the building. Given the uncertainty of the sites classification and that the site is identified for purely community uses in the Plan of Management the site has been vacant for an extended period of time. The reclassification will allow Council to enter into more flexible lease agreements, not only for community uses but general lease agreements and will also allow potential future disposal or development of the site.

The site is identified as 'uncertain operational', and reclassification of the land to operational through this planning proposal will address this uncertainty.

21 Railway Parade, Fairfield is part vacant land and car park access, as well and also containing the front access to the Bowling Alley building. The reclassification will allow Council to enter into a long term lease agreement for this land if it so wishes in the future, and potentially sell the parcel of land to the bowling alley site in the future.

The site is identified as 'uncertain operational', and reclassification of the land to operational through this planning proposal will address this uncertainty.

28 Beelar Street, Canley Heights contains a two storey brick building that is leased and is operated as a Community Facility. The reclassification will continue to allow the continued use of this building by the current tenant and provide greater flexibility in any potential future lease agreement of this building.

The site is identified as 'uncertain operational', (which is defined earlier in this report) and reclassification of the land to operational through this planning proposal will address this uncertainty.

295 Victoria Street, Wetherill Park contains a number of structures and is leased to the Autistic Association of New South Wales. The Autistic Association currently holds a 99 year lease over the site. Generally land that is leased for this period of time is required to be classified as Operational.

The site is identified as 'uncertain operational', and reclassification of the land to operational through this planning proposal will address this uncertainty.

17-19 York Street, Fairfield these parcels of land are currently leased to and used by Fairfield Nursery School. The reclassification will allow Council to enter into long term lease agreements for this building if it so wishes in the future.

The sites are identified as 'uncertain operational', and reclassification of the land to operational through this planning proposal will address this uncertainty.

Group 4 – Resolving Land Classification Uncertainty

- 2A Hartog Avenue, FAIRFIELD WEST
- 1 Pevensey Street, CABRAMATTA

2A Hartog Street, Fairfield West contains a single storey building that is used as a child care centre and operated by Council.

The site is identified as 'uncertain operational', and reclassification of the land to operational through this planning proposal will address this uncertainty.

1 Pevensey Street, Cabramatta contains a single storey brick building that is used as the Tasman Parade Child Care Centre and operated by Council.

The site is identified as 'uncertain operational', and reclassification of the land to operational through this planning proposal will address this uncertainty.

Part 3 – Justification

Section A – Need for a planning proposal

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

No. The main purpose of the Planning Proposal is to address the uncertainty of the land classification of the majority of the sites identified in this planning proposal. This will allow Council to manage the 18 parcels with much more efficiency and flexibility.

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

Yes. The only way to remove the uncertainty of land classification for these sites is to reclassify the sites through a LEP amendment.

Is there a net community benefit?

Yes. The reclassification of the sites will remove the uncertainty around the classification of the land parcels identified in this planning proposal. The reclassification will then allow Council to enter into long term lease agreements with the sites, allow Council to dispose of any of the identified surplus sites and resolve any operational issues associated with the uncertainty of the classification.

Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Metropolitan Plan for Sydney 2036 and exhibited draft strategies)?

The planning proposal is consistent with the Metropolitan Plan for Sydney 2036 and will indirectly assist with its implantation. This is particularly the case for a number of the sites which are proposed to be sold and / or redeveloped, assisting Council to achieve its residential dwelling target, through infill residential development. Additionally, as the planning proposal is purely a reclassification, it does not propose to remove any employment lands.

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

There will be limited impacts on relevant Council strategic studies as the majority of the sites identified for reclassification are being reclassified for the purposes of long term lease agreements, which mean no change in terms of Councils strategic studies.

The planning proposal will reclassify a number of community precincts to Operational. Some of these sites have been identified in Council's Master Plans and Council's Direct (Section 94) Development Contributions Plan 2011 as potential sites for future redevelopment, which may incorporate mixed use development along with the community facilities.

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

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

SEPP Title	Consistency	Consistency of Planning Proposal
SEPP 1 – Development Standards	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 6 – Number of Storeys in a Building	N/A	-
SEPP 14 – Coastal Wetlands	N/A	-
SEPP 15 – Rural Land Sharing Communities	N/A	-
SEPP 19 – Bushland in Urban Areas	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP. The site 11A Landon Street Fairfield East contains a small section of E2 Environmental Conservation zoned land. This section primarily comprises part of a tributary to Prospect Creek. The planning proposal does not propose to remove this zoning. Any future sale or redevelopment of the site would include a subdivision to subdivide the rear portion of the site, which would remain in Council ownership for the purpose of a creek and continue to be zone E2 Environmental Conservation. Any potential future development of the site will need to take this SEPP into consideration.
SEPP 21 – Caravan Parks	N/A	-
SEPP 22 – Shops and Commercial Premises	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 26 – Littoral Rainforests	N/A	-
SEPP 29 – Western Sydney Recreation Area	N/A	-
SEPP 30 – Intensive Agriculture	N/A	-
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 33 – Hazardous and Offensive Development	N/A	-
SEPP 36 – Manufactured Home Estates	N/A	-
SEPP 39 – Spit Island Bird Habitat	N/A	-
SEPP 41 – Casino Entertainment Complex	N/A	-
SEPP 44 – Koala Habitat Protection	N/A	-
SEPP 47 – Moore Park Show Ground	N/A	-
SEPP 50 – Canal Estate Development	N/A	-
SEPP 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	N/A	-
SEPP 53 – Metropolitan Residential Development	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 55 – Remediation of Land	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 59 – Central Western Sydney Regional Open Space and Residential	N/A	-
SEPP 60 – Exempt and Complying Development	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 62 – Sustainable Aquaculture	N/A	-
SEPP 64 – Advertising and Signage	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 65 – Design Quality of Residential Flat Development	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 70 – Affordable Housing (Revised Schemes)	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.

SEPP 71 – Coastal Protection	N/A	-
SEPP (Kurnell Peninsula) 1989	N/A	-
SEPP (Building Sustainability Index: BASIX) 2004	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP (Major Development) 2005	N/A	-
SEPP (Sydney Region Growth Centres) 2006	N/A	-
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	N/A	-
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	N/A	-
SEPP (Temporary Structures) 2007	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP (Infrastructure) 2007	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP (Exempt and Complying Development Codes) 2008	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP (Rural Lands) 2008	N/A	-
SEPP (Western Sydney Employment Area) 2009	N/A	-
SEPP (Western Sydney Parklands) 2009	N/A	-
SEPP (Affordable Rental Housing) 2009	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP (Urban Renewal) 2010	N/A	-

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

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

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
1. Employment and Resources			
1.1 Business and Industrial Zones	- Encourage employment growth in suitable locations - Protect employment land in business and industrial zones - Support the viability of identified strategic centres.	The planning proposal is consistent with this direction. No reduction in business or industrial zones is proposed. A number of the sites proposed to be reclassified are within Business zones. This reclassification will continue to allow the use of the sites for business / commercial purposes and may in the future facilitate redevelopment which could potentially allow for more employment.	Yes
1.2 Rural Zones	Protect agricultural production value of rural land.	N/A	N/A
1.3 Mining, Petroleum Production and Extractive Industries	Ensure future extraction of State and regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	N/A	N/A
1.4 Oyster Aquaculture	Protect oyster aquaculture areas.	N/A	N/A
1.5 Rural Lands	Protect agricultural production value of rural land and facilitate orderly and economic development of rural lands and related purposes.	N/A	N/A
2. Environment and Heritage			

2.1 Environment Protection Zones	Protect and conserve environmentally sensitive areas.	The planning proposal is consistent with this direction. The site 11A Landon Street Fairfield East contains a small section of E2 Environmental Conservation zoned land. This section primarily comprises part of a tributary to Prospect Creek. The planning proposal does not propose to remove this zoning. Any future sale or redevelopment of the site would include a subdivision to subdivide the rear portion of the site, which would remain in Council ownership for the purpose of a creek and continue to be zone E2 Environmental Conservation. Any potential future development of the site will need to take this SEPP into consideration. This planning proposal will not remove or negatively impact on Environment Protection Zones.	Yes
2.2 Coastal Protection	Implement the principles in the NSW Coastal Policy.	N/A	N/A
2.3 Heritage Conservation	Conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	N/A	N/A
2.4 Recreation Vehicle Areas	Protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	N/A	N/A
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	- Encourage a variety and choice of housing types to provide for existing and future housing needs - Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services - Minimise the impact of residential development on the environment and resource lands.	The planning proposal is consistent with this direction. The planning proposal gives opportunity for development to provide more housing choices, efficient use of infrastructure and services, and to direct some demand for housing away from the fringe. Urban design would be looked at as part of any development application.	Yes
3.2 Caravan Parks and Manufactured Home Estates	- Provide for a variety of housing types - Provide opportunities for caravan parks and manufactured home estates.	N/A	N/A
3.3 Home Occupations	Encourage the carrying out of low-impact small businesses in dwelling houses.	The planning proposal is consistent with this direction.	Yes
3.4 Integrating Land Use and Transport	- Improve access to housing, jobs and services by walking, cycling and public transport. - Increase choice of available transport and reducing car dependency. - Reduce travel demand and distance (especially by car) - Support the efficient and viable operation of public transport services - Provide for the efficient movement of freight	The planning proposal is consistent with this direction.	Yes
3.5 Development Near Licensed Aerodromes	- Ensure effective and safe operation of aerodromes - Ensure aerodrome operation is not compromised by development - Ensure development for residential purposes or human occupation, if situated on land within the ANEF contours between 20 and 25, incorporate noise mitigation	The planning proposal is not proposing to reclassify or rezone any land in the vicinity of these noise contours.	Yes

	measures.		
3.6 Shooting Ranges	▪ Maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, ▪ Reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land ▪ Identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	N/A	N/A
4. Hazard and Risk			
4.1 Acid Sulfate Soils	▪ Avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	The planning proposal is consistent with this direction.	Yes
4.2 Mine Subsidence and Unstable Land	▪ Prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	N/A	N/A
4.3 Flood Prone Land	▪ Ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>. ▪ Ensure that the provisions of an LEP on flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Fairfield LGA has large areas affected by main stream and / or overland flow. Any future development of the sites identified in this planning proposal will be subject to Chapter 11 of the Fairfield City Wide DCP which establishes a framework for flood risk management of flood liable land in the Fairfield City. These controls were drawn up in accordance with the provisions of the NSW Floodplain Development Manual.	Yes
4.4 Planning for Bushfire Protection	▪ Protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas. ▪ Encourage sound management of bush fire prone areas.	A draft Biodiversity Study identifies a parcel of land within the urban area to have is within the bushfire protection buffer. Accordingly, any future development would have regard to the document <i>Planning for Bushfire Protection</i> .	Yes
5. Regional Planning			
5.1 Implementation of Regional Strategies	▪ To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	N/A	N/A
5.2 Sydney Drinking Water Catchments	▪ To protect water quality in the hydrological catchment.	N/A	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	▪ Ensure that the best agricultural land will be available for current and future generations to grow food and fibre ▪ Provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning ▪ Reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into Ofarming areas	N/A	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	▪ Protect the Pacific Highway's function, that is to operate as the North Coast's primary inter and intra-regional road traffic route ▪ Prevent inappropriate development fronting the highway ▪ Protect public expenditure invested in the Pacific Highway ▪ Protect and improve highway safety and efficiency ▪ Provide for the food, vehicle service	N/A	N/A

	- and rest needs of travellers on the highway - Reinforce the role of retail and commercial development in town centres, where they can best serve the population of the towns.		
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A (Revoked)	N/A	N/A
5.6 Sydney to Canberra Corridor	N/A (Revoked – See amended direction 5.1)	N/A	N/A
5.7 Central Coast	N/A (Revoked – See amended direction 5.1)	N/A	N/A
5.8 Second Sydney Airport: Badgerys Creek	Avoid incompatible development in the vicinity of any future second Sydney Airport at Badgery's Creek	N/A	N/A
6. Local Plan Making			
6.1 Approval and Referral Requirements	Ensure LEP provisions encourage the efficient and appropriate assessment of development	The planning proposal does not contain provisions for development requiring concurrence, consultation or referral of development applications to the Minister or public authority. It does not identify development as designated development. The draft LEP will simply involve reclassification.	Yes
6.2 Reserving Land for Public Purposes	- Planning proposal to facilitate the provision of public services and facilities by reserving land for public purposes - Facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	The planning proposal is consistent with this direction. The planning proposal will allow Council owned sites that are currently operating to operate more efficiently and effectively. The proposal will also allow sites which are considered surplus to Council's needs to be sold.	Yes
6.3 Site Specific Provisions	Discourage unnecessarily restrictive site specific planning controls	The planning proposal is consistent with this direction. The planning proposal proposes to reclassify nineteen (18) sites. The planning proposal does not impose any other development standards apart from those already applying to that zone.	Yes
7. Metropolitan Planning			
7.1 Implementation of the Metro Strategy	Planning proposal shall give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metro Strategy.	The planning proposal is consistent with this direction. The planning proposal is generally consistent with the directions as it identifies areas for potential infill residential development, which may assist Council in achieving its residential dwelling target identified in the Sub-Regional Strategy.	Yes

Section C – Environmental, social and economic impact

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

The site **11A Landon Street Fairfield East** contains a small section of E2 Environmental Conservation zoned land. This comprises part of a Prospect Creek tributary. The planning proposal does not propose to remove this zoning. Any future sale or redevelopment of the site would include a subdivision to subdivide the rear portion of the site off, which would remain for the purpose of a creek and continue to be zone E2 environmental Conservation. Any potential future development of the site will need to take into consideration any relevant SEPP, Fairfield LEP 2013, or any other policy.

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

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

Any general constraints associated with development such as flooding, acid sulphate soil, site contamination, vegetation, etc., would be addressed at the development application stage, should the site be subject to a redevelopment proposal in the future.

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

This planning proposal is unlikely to have any significant social or economic effects as it purely deals with reclassification. Any future long term lease agreements or redevelopment of the Council owned sites will be assessed by its merit at the time of any proposal.

Section D – State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

Given the nature of the proposal, it is unlikely that this planning proposal will result in a significant increase in demand in infrastructure.

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

Comments from the relevant public authorities will be sought once consultation requirements have been identified as part of the Gateway Determination.

Part 4 – Community Consultation

Community consultation, including a public hearing, is proposed in accordance with Section 57 of the Environmental Planning and Assessment Act 1979 and Clause 14 of the Environmental Planning and Assessment Regulation 2000.

A period of 28 days would be appropriate for the exhibition of the planning proposal and notification is able to be conducted by way of direct correspondence to surrounding owners and occupiers (where relevant) of the sites, publication within the local press and information on Fairfield City Council's website.

Once the exhibition period has concluded, it is intended to hold a public hearing subject to Section 57 (6) of the Environmental Planning and Assessment Act 1979 and Section 29 of the Local Government Act 1993 for land involving reclassification from community to operational. There will be further notification in the local press of the public hearing as well as direct correspondence with any parties that provide a submission during the public exhibition period. A report will then be submitted to Council with details of the results of the public exhibition and public hearing.

Planning Practice Note PN09-003 pertains to the classification and reclassification of public land through a local environmental plan and is provided at **Attachment D**.

Part 5 – Project Timeline

The project timeline is intended to be used only as a guide and may be subject to changes such as changes to issues that may arise during the public consultation process and/or community submissions.

No.	Step	Process content	Timeframe
1	s.56 – request for Gateway Determination	Submit Planning Proposal to DP&I	March 2014
2	Gateway Determination	- Assessment by DP&I (including LEP Panel) - Advice to Council	1 month: April 2014
3	Completion of required technical information and report (if required) back to Council	- Update Planning Proposal on Gateway requirements (if required)	1 month: May 2014
4	Public consultation for Planning Proposal	In accordance with Council resolution and conditions of the Gateway Determination.	28 days notification period: May / June 2014
5	Government Agency consultation	Notification letters to Government Agencies as required by Gateway Determination	1 month: May / June 2014
6	Public Hearing (if required) following public consultation for Planning Proposal	Public hearing is required to be held.	June / July 2014
7	Consideration of submission	Assessment and consideration of submissions	1 month: June / July 2014
8	Report to Council on submissions to public exhibition and public hearing	Includes assessment and preparation of report to Council	1 month: August 2014
9	Possible re-exhibition	Covering possible changes to draft Planning Proposal in light of community consultation (if required)	Minimum: 1 month
10	Report back to Council	Includes assessment and preparation of report to Council	1 month
11	Referral to PCO and notify DP&I	- Draft Planning Proposal assessed by PCO, legal instrument finalised - Copy of the draft Planning Proposal forwarded to DP&I.	1 month
12	Plan is made	Notified on Legislation web site	1 month
Estimated Time Frame:			12 months