

**REPORT BY CHAIRMAN
OUTCOMES COMMITTEE**

Meeting Date 11 February 2014

Item Number. 1

SUBJECT: 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

FILE NUMBER: 13/01729

REPORT BY: Chris Shinn, Strategic Land Use Planner

RECOMMENDATION:

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.

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

SUPPORTING DOCUMENTS:

AT-A	List of sites proposed for reclassification	1 Page
AT-B	Planning Proposal - Reclassification of Council owned land	23 Pages
AT-C	Location Maps	18 Pages
AT-D	Statement of Council's Interests	41 Pages

CITY PLAN

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

**REPORT BY CHAIRMAN
OUTCOMES COMMITTEE**

Meeting Date 11 February 2014

Item Number. 1

SUMMARY

The purpose of this report is to have Council endorse the commencement of a Planning Proposal to reclassify the 18 sites identified by listing them in '*Schedule 4 – Classification and reclassification of public land*'. The report also provides background information regarding the proposed reclassification of the sites from Community land to Operational land.

BACKGROUND

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 of its functions,

**REPORT BY CHAIRMAN
OUTCOMES COMMITTEE**

Meeting Date 11 February 2014

Item Number. 1

- 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, leased 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.

SITES PROPOSED TO BE RECLASSIFIED TO 'OPERATIONAL' LAND

The majority (17) of the 18 sites covered by this proposed LEP subject of this report were previously included in the schedule of sites Council previously resolved to classify as operational in 1994 but are now considered 'uncertain operational'. The remaining site that has been identified for reclassification and the reasons for the proposed reclassification is detailed further in the report.

A detailed list of the sites proposed to be reclassified is attached to this report as **Attachment A**.

SPECIFIC SITE DETAILS

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.

**REPORT BY CHAIRMAN
OUTCOMES COMMITTEE**

Meeting Date 11 February 2014

Item Number. 1

a. 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.

**REPORT BY CHAIRMAN
OUTCOMES COMMITTEE**

Meeting Date 11 February 2014

Item Number. 1

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

b. 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 utilised by the State Emergency Services (SES). 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.

**REPORT BY CHAIRMAN
OUTCOMES COMMITTEE**

Meeting Date 11 February 2014

Item Number. 1

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.

c. 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

**REPORT BY CHAIRMAN
OUTCOMES COMMITTEE**

Meeting Date 11 February 2014

Item Number. 1

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 2 access points (air-bridges) 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 bisecting 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 a narrow parcel of land located between 18 Railway Parade (which consists of a Council owned car park and part of Barbara Street) and 22 Railway Parade which consists of a privately owned building which is currently operated as a bowling alley.

**REPORT BY CHAIRMAN
OUTCOMES COMMITTEE**

Meeting Date 11 February 2014

Item Number. 1

The reclassification will allow Council to potentially enter into a lease agreement with the owners of the bowling alley and / or allow potential future sale to the owners of 22 Railway Parade.

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 Women's Refuge. 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.

d. 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.

**REPORT BY CHAIRMAN
OUTCOMES COMMITTEE**

Meeting Date 11 February 2014

Item Number. 1

OTHER SITES FOR RECLASSIFICATION

The remainder of the sites identified in the 1994 Council resolution are all proposed to be reclassified eventually, in accordance with the original resolution. The key issue is that the research for each site is quite labour and time intensive. As a result it is proposed to undertake a periodic review to determine higher priority sites for reclassification and subsequently prepare an associated Planning Proposal for reclassification of those sites.

CONSULTATION STRATEGY

In addition to requirements issued by the DP&I under the planning proposal covering consultation with State Government Agencies and utility providers, it is proposed that consultation and public exhibition of the planning proposal (for a minimum of 28 days) be undertaken as outlined below:

- Letters to current occupants (where relevant) and all adjoining property owners of the 18 items proposed for reclassification
- Notice in the local newspaper,
- Notice on Councils website.

A public hearing will also be required to be held after the public exhibition occurs with respect the above mentioned sites.

CONCLUSION

It is recommended that Council inform the Department of Planning and Infrastructure that it requests a Gateway Determination to amend the Fairfield Local Environmental Plan (LEP) 2013 to amend '*Schedule 4 – Classification and reclassification of public land*' to reclassify 18 sites from community land to operational land.

These steps will provide greater certainty in regard to Council's future control and management of these lands in accordance with relevant provisions of the NSW Local Government Act.

Chris Shinn
Strategic Land Use Planner

Authorisation:
Manager Strategic Land Use Planning

Outcomes Committee - 11 February 2014

File Name: **OUT110214_1.DOC**

***** END OF ITEM 1 *****

ATTACHMENT A

Item: 1

List of sites proposed for reclassification

ATTACHMENT A

List of sites proposed to be reclassified:

#	Street Address of Site	Suburb	Lot	DP	Site Description	Current Classification	Current Zoning
1	104 Ascot Street	Canley Heights	12	207584	Closed Road, historic laneway	Uncertain Operational	R3 Medium Residential
2	25A & 8 Barbara Street, 36A & C Harris Street, 11 & 11A Kenyon Street	Fairfield	2 & 3	203111	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
			1, 2 & 3	564576	Fairfield SES Building and community building leased to Bushido Judo Club	Uncertain Operational	RE1 Public Recreation
3	64, 64A and 64B Barcelona 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 Women's Refuge	Uncertain Operational	R2 Low Density Residential
5	Part of 25 Canley Vale Road & 25D Canley Vale Road	Canley Vale	Part of 5	202880	Car Park and adjoining parcel of land	Uncertain Operational	R2 Local Centre
			Part of B	114388			R2 Local Centre
			B	155114			R3 Medium Density Residential
6	7A Harrag Avenue (aka 74 Tasman Parade)	Fairfield West	263	227657	Tasman Parade Early Learning Centre	Uncertain Operational	R2 Low Density Residential
7	29 Knight Street	Lonsdale	F	16606	Vacant Land	Uncertain Operational	R2 Low Density Residential
8	11A Landon Street	Fairfield East	1	11779	Community Building	Uncertain Operational	Part R2 Low Density Residential and Part 17 Environmental Conservation
9	504 Marlborough Street	Smithfield	1	803119	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 Pevamsey Street	Canley Vale	C	348882	Canley Vale Early Learning Centre	Uncertain Operational	R4 High Density Residential
12	136 Polding Street	Smithfield	G	25299	Early Childhood Centre	Uncertain Operational	R3 Medium Density Residential
13	21 Railway Parade	Fairfield	1	951111	Part Car Park and forecourt of adjoining building	Uncertain Operational	B4 Mixed Use
14	255 Victoria Street	Wetherill Park	8	236076	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	11161	Community Building leased to Fairfield Nursery School	Uncertain Operational	R4 High Density Residential
17	6 Hughes Street	Coburns Park	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