

In reply please quote: 14/13509

4 November 2014

Ms Rachel Cumming
Regional Director
NSW Department of Planning and Environment
Metropolitan Delivery Parramatta
GPO Box 39
SYDNEY NSW 2001



Dear Ms Cumming

**DRAFT PLANNING PROPOSAL IN RESPECT OF 13-21 ROSSETTI STREET
WETHERILL PARK**

Council at its meeting of 28 October 2014 resolved to forward the above Planning Proposal to the Minister for Planning and Environment, under Section 55 of the Environmental Planning & Assessment Act 1979.

The draft Planning Proposal seeks to enable residential flat buildings (RFB) and multi dwelling houses as additional permitted uses at 13-21 Rossetti Street (Lot 5 DP 714281), Wetherill Park to allow development of the site in accordance with the adopted Wetherill Park Market Town Centre Site Specific DCP.

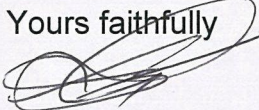
To enable the Department's consideration of this matter and the issuing of a Gateway Determination, the following information is submitted:

- Draft Planning Proposal;
- Council officer's report and Council resolution;

As the Minister has delegated plan making powers to Council in October 2012, it is requested that DP&E issue authority to Council to exercise delegation to make this plan.

Should you require any additional information in respect of this matter, please do not hesitate to contact Anjele Vu on 9725 0703 Council looks forward to hearing from the Department in the near future.

Yours faithfully


Kevin Kuo
Co-ordinator
Strategic Land Use Planning



Outcomes Committee

Draft Minutes

Meeting Date: 14 October 2014

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PRESENT:

His Worship Mayor Carbone (joined 6.57pm during Item 151).

Councillors Karajcic, Le, Ly (arrived 6.30pm during 143), Molluso (arrived 6.35pm during Item 144), White (Chairperson) and Yeung (arrived 6.40pm during Item 151).

Councillors Barcha (arrived 6.40pm during Item 151), Khoshaba and Saliba (arrived 7.08pm during Item 153).

Also in attendance were the City Manager, Director Rhonda Tyne, Director Amanda Bray (arrived 6.40pm), Group Manager Information Management and Services, Group Manager City Development, Manager Strategic Land Use Planning & Administrative Support, Acting Chief Financial Officer (B Cutts), Manager Major Projects and Planning (arrived 6.30pm), Communications and Marketing Officer (R Martinenko), Acting Manager, Children and Family Services (B Lewis), Child Care Centre Director (Z Haddad), Acting Coordinator Children and Family Services (R Esho), Senior IPR Officer (L Mahoney), Community Enforcement Officer (A Tabone) (arrived 6.48pm), Parks Supervising Gardener (W Jackson), Team Leader Rating Services (S Melki), IT Technician - Mobility & Infrastructure Support (S Al-Khozaie), Governance Coordinator and Committee Clerk (L Kalatzis).

APOLOGIES

There were no apologies tendered for this meeting.

CONFIRMATION OF MINUTES

MOTION: (Karajcic/Le)

Resolved that the Minutes of the meeting held on 9 September 2014 be confirmed.

CARRIED

Manager Major Projects and Planning arrived (6.30pm) to the meeting.

SECTION A

'Matters referred to Council for its decision'

143: Planning Proposal for Additional Permitted Uses at 13-21 Rossetti Street, Wetherill Park
File Number: 14/13509

Councillor Ly arrived (6.30pm) to the meeting.

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RECOMMENDATION: (Karajcic/Le)

That Council:

1. Endorse the draft Planning Proposal and associated amendments to the Key Sites Map as per Attachment A of the report, which proposes to enable residential flat buildings (RFB) and multi dwelling housing as additional permitted uses at 13-21 Rossetti Street (Lot 5 DP 714281), Wetherill Park, to allow development of the site in accordance with the adopted Wetherill Park Market Town Centre Site Specific Development Control Plan.
2. Refer the above Planning Proposal and associated amendments to the Key Sites Map to the NSW Department of Planning and Environment (NSW DP&E) and request that a Gateway Determination be issued to enable the planning proposal to be placed on public exhibition in accordance with the consultation strategy detailed in the report.
3. In requesting the Gateway Determination, advise the NSW DP&E that it seeks to utilise the delegation for LEP Plan Making (delegated by the Minister under Section 23 of the Environmental Planning and Assessment Act 1979 [EP&A]). The delegated functions will be undertaken by the Group Manager City Development who has been delegated these powers by Council and the City Manager under Section 377 of the Local Government Act 1993.
4. Receive a further report on the results of the public exhibition of the Planning Proposal.

A division was taken with the following results:

Aye

Councillor Karajcic

Councillor Le

Councillor Ly

Councillor White

Total=(4)

Nay

Total=(0)

CARRIED

OUTCOMES COMMITTEE

Meeting Date 14 October 2014

Item Number. 143

SUBJECT: Planning Proposal for Additional Permitted Uses at 13-21 Rossetti Street, Wetherill Park

FILE NUMBER: 14/13509

PREVIOUS ITEMS: 116 - Proposed Planning Proposal for Additional Permitted Uses at 13-21 Rossetti Street, Wetherill Park - Outcomes Committee - 12 August 2014

REPORT BY: Anjele Vu, Strategic Land Use Planner

RECOMMENDATION:

That Council:

1. Endorse the draft Planning Proposal and associated amendments to the Key Sites Map as per Attachment A of the report, which proposes to enable residential flat buildings (RFB) and multi dwelling housing as additional permitted uses at 13-21 Rossetti Street (Lot 5 DP 714281), Wetherill Park, to allow development of the site in accordance with the adopted Wetherill Park Market Town Centre Site Specific Development Control Plan.
2. Refer the above Planning Proposal and associated amendments to the Key Sites Map to the NSW Department of Planning and Environment (NSW DP&E) and request that a Gateway Determination be issued to enable the planning proposal to be placed on public exhibition in accordance with the consultation strategy detailed in the report.
3. In requesting the Gateway Determination, advise the NSW DP&E that it seeks to utilise the delegation for LEP Plan Making (delegated by the Minister under Section 23 of the Environmental Planning and Assessment Act 1979 [EP&A]). The delegated functions will be undertaken by the Group Manager City Development who has been delegated these powers by Council and the City Manager under Section 377 of the Local Government Act 1993.
4. Receive a further report on the results of the public exhibition of the Planning Proposal.

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 Council Report Item No.116 Meeting 12 August 2014

7 Pages

OUTCOMES COMMITTEE

Meeting Date 14 October 2014

Item Number. 143

AT-B Planning Proposal

18 Pages

CITY PLAN

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

SUMMARY

In August 2014, Council considered a report (**Attachment A**) which provided Council details of a proposed Planning Proposal to resolve a Fairfield Local Environmental Plan (LEP) 2013 transition issue associated with the recent rezoning of site 13-21 Rossetti Street, Wetherill Park from R2 Low Density Residential to B2 Local Centre zone. The subject site is located at the rear of the existing Wetherill Park Market Town Shopping Centre. Refer to figure 1 below for location of subject site.

Additionally, the report also sought Council's endorsement to invite the Applicant to submit a Planning Proposal to allow residential flat buildings (RFBs) and multi dwelling housing as additional permitted uses at the site to enable the site to be developed in accordance with the adopted Wetherill Park Market Town Site Specific Development Control Plan (SSDCP).

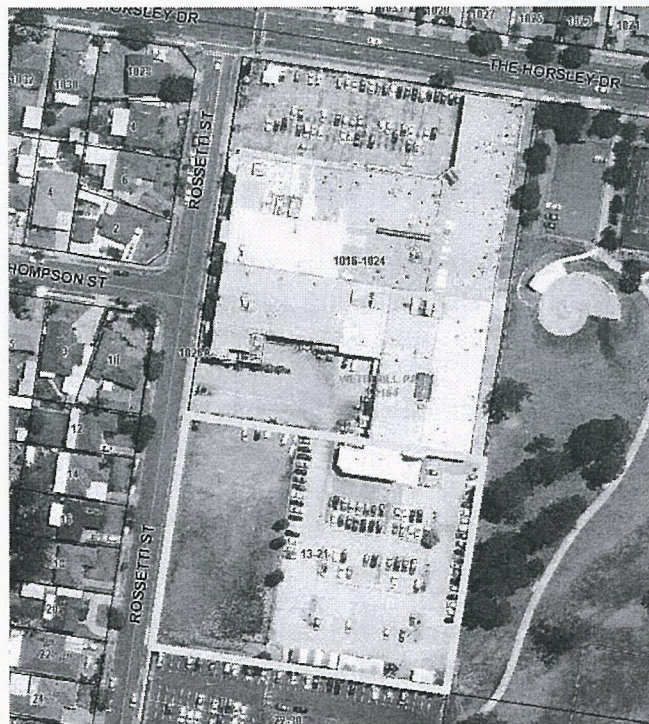


Figure 1

At that meeting Council resolved the following:

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Meeting Date 14 October 2014

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1. *Invite the Applicant to submit a Planning Proposal to permit residential flat buildings and multi dwelling housing as additional permitted uses at 13-21 Rossetti Street, Wetherill Park to enable development of the site in accordance with the built form outcome identified in the adopted Site Specific Development Control Plan.*
2. *Delegate the Group Manager – City Development the authority to authorise the Planning Proposal (when It is submitted) prior to its submission to the Department of Planning and Environment (DP&E) for Gateway Determination pursuant to Section 55 of the EP&A Act 1979.*
3. *In requesting the Gateway Determination, advise the DP&E that it seeks to utilise the delegation for Local Environmental Plan (LEP) Plan Making (delegated by the Minister under Section 23 of the Environmental Planning and Assessment Act 1979). The delegated functions will be undertaken by the Group Manager – City Development who has been delegated these powers by Council and the City Manager under Section 377 of the Local Government Act 1993.*
4. *Upon receipt of a Gateway Determination, and subject to the conditions contained therein, publicly exhibit the Planning Proposal in accordance with the Consultation Strategy outlined in this report and the DP&E Gateway Determination.*

As per Council's resolution, the Applicant has since submitted a Planning Proposal. Council Officers have since amended the Planning Proposal to ensure consistency with Council's Planning Proposal Template, however it is noted that the intention of the proposal reflects the Applicant's planning proposal and the above Council resolution.

Although Council has already endorsed this planning proposal in principle, recent legal advice requires that Council formally adopt the planning proposal prior to requesting Gateway Determination from the DP&E. This report therefore seeks Council's endorsement to proceed with the planning proposal shown in **Attachment B**.

BACKGROUND

The site was subject of a planning proposal during the period in which Council was transitioning from the Fairfield LEP 1994 to the current Fairfield LEP 2013. The purpose of the proposal was to allow a mix of uses across the site including residential flat buildings, and multi dwelling housing in conjunction with additional retail floor area in accordance with the Wetherill Park Market Town Centre SSDCP. The Planning proposal was subsequently gazetted under the current LEP 2013, however due to the LEP transition process, it has since become evident the current zoning does not enable the site to be developed in accordance with the Council adopted SSDCP for the site.

Accordingly, the purpose of the previous report was to rectify this transitional issue and to endorse the additional permitted uses (RFB's and multi dwelling houses) to enable the built form outcome identified in the SSDCP to be realised. Council subsequently resolved to invite the Applicant to submit a planning proposal which could be authorised by the Group Manager City Development for submission to the NSW DP&E Gateway

OUTCOMES COMMITTEE

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Determination Process. However as discussed previously, recent legal advice indicates that this approach cannot occur, and that Council would need to endorse the actual planning proposal document prior to submission to the NSW DP&E.

Full details of the background and LEP transition issues relating to this proposal are discussed in the previous August report shown in **Attachment A**.

NEW PLANNING PROPOSAL

As per Council's resolution on 12 August 2014 the Applicant has since submitted a Planning Proposal which Council Officers have converted to the format consistent with Council's Planning Proposal Template (**Attachment B**). The planning proposal aims to permit "residential flat building" and "multi dwelling housing" as additional permitted uses on the subject site. This would allow the site to be developed in accordance with the adopted SSDCP and the intentions of the previous LEP Amendment.

These additional permitted uses will allow the site to be developed as it was originally intended under Amendment No.2 to the Fairfield LEP 2013 and in accordance with the SSDCP for the Wetherill Park Market Town Centre.

It should be noted that this Planning Proposal will not change any of the existing development standards (i.e. Floor Space Ratio or Heights) and will not require an amendment to the SSDCP. However, an amendment will be required to the key site map to ensure that this amendment applies to the subject site only.

The Planning Proposal has addressed consistency of the Planning Proposal with relevant State Planning Policies and Section 117 directions.

The purpose of the amendment is to purely resolve the technical issue which resulted as part of the transition process between Fairfield LEP 1994 and implementation of Fairfield LEP 2013.

CONSULTATION STRATEGY

In addition to any requirements issued by the DP&E in any Gateway Determination, 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 of the site,
- Letters to all adjoining property owners,
- Notice in the local newspaper,
- Notice on Council's website.

It is also envisaged that the DA and the proposed LEP Amendment be exhibited concurrently. This will provide the community greater certainty on the proposal as well as ensuring that the entire process is managed effectively and efficiently.

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This is consistent with the previous consultation strategy adopted by Council in the previous August report.

CONCLUSION

It is recommended that Council endorse the Planning Proposal (**Attachment B**) to allow residential flat buildings and multi dwelling housing as additional permitted uses at 13-21 Rossetti Street, Wetherill Park for submission to the DP&E for Gateway Determination. This is to ensure that the built form outcome adopted by Council in the SSDCP can be realised.

In requesting the Gateway Determination it is also recommended that Council advise the DP&E that it seeks to utilise the delegation for LEP Plan Making (delegated by the Minister under Section 23 of the Environmental Planning and Assessment Act 1979 [EP&A]). The delegated functions will be undertaken by the Group Manager City Development who has been delegated these powers by Council and the City Manager under Section 377 of the Local Government Act 1993.

Upon receipt of a Gateway Determination and subject to the conditions contained therein, Council will publicly exhibit the Planning Proposal in accordance with the Consultation Strategy outlined in this report.

Anjele Vu
Strategic Land Use Planner

Authorisation:

Manager Strategic Land Use Planning and Administrative Support
Group Manager City Development

Outcomes Committee - 14 October 2014

File Name: **OUT141014_10.DOC**

***** END OF ITEM 143 *****

Outcomes Committee

Minutes

Meeting Date: 12 August 2014

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- 113:** Cabramatta, Canley Vale and Canley Heights Place Update - Including Cabravale Park Centenary Celebrations
File Number: 14/09936

MOTION: (White/Karajcic)

That the report be received and noted.

CARRIED

- 114:** Fairfield Youth Advisory Committee Meeting Minutes - July 2014
File Number: 14/07529

MOTION: (White/Le)

That the report be received and noted.

CARRIED

- 115:** HOLDING REPORT - Adoption of Council's 2013/14 Financial Statements
File Number: 13/05307

MOTION: (White/Karajcic)

That the report be received and noted.

CARRIED

SECTION A

'Matters referred to Council for its decision.'

- SUPP** Proposed Planning Proposal for Additional Permitted Uses at 13-21 Rossetti
116: Street, Wetherill Park
File Number: 14/13509

Councillor	Type of Interest	Nature of Interest	Action Taken/ Explanation Given
Molluso	Less than Significant Non-Pecuniary	I know the owner of the property.	This will not influence my decision.

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RECOMMENDATION: (White/Le)

That Council:

1. Invite the Applicant to submit a Planning Proposal to permit residential flat buildings and multi dwelling housing as additional permitted uses at 13-21 Rossetti Street, Wetherill Park to enable development of the site in accordance with the built form outcome identified in the adopted Site Specific Development Control Plan.
2. Delegate the Group Manager City Development the authority to authorise the Planning Proposal (when It is submitted) prior to its submission to the Department of Planning and Environment (DP&E) for Gateway Determination pursuant to Section 55 of the EP&A Act 1979.
3. In requesting the Gateway Determination, advise the DP&E that it seeks to utilise the delegation for Local Environmental Plan (LEP) Plan Making (delegated by the Minister under Section 23 of the Environmental Planning and Assessment Act 1979). The delegated functions will be undertaken by the Group Manager City Development who has been delegated these powers by Council and the City Manager under Section 377 of the Local Government Act 1993.
4. Upon receipt of a Gateway Determination, and subject to the conditions contained therein, publicly exhibit the Planning Proposal in accordance with the Consultation Strategy outlined in the report and the DP&E Gateway Determination.

A division was taken with the following results:

Aye	Nay
Councillor Barcha	
Councillor Karajcic	
Councillor Le	
Councillor Molluso	
Councillor White	
Councillor Yeung	
Total=(6)	Total=(0)

CARRIED

OUTCOMES COMMITTEE

Meeting Date 12 August 2014

Item Number. 116

SUBJECT: Proposed Planning Proposal for Additional Permitted Uses at 13-21 Rossetti Street, Wetherill Park

FILE NUMBER: 14/13509

REPORT BY: Chris Shinn, Senior Strategic Land Use Planner

RECOMMENDATION:

That Council:

1. Invite the Applicant to submit a Planning Proposal to permit residential flat buildings and multi dwelling housing as additional permitted uses at 13-21 Rossetti Street, Wetherill Park to enable development of the site in accordance with the built form outcome identified in the adopted Site Specific Development Control Plan.
2. Delegate the Group Manager – City Development the authority to authorise the Planning Proposal (when It is submitted) prior to its submission to the Department of Planning and Environment (DP&E) for Gateway Determination pursuant to Section 55 of the EP&A Act 1979.
3. In requesting the Gateway Determination, advise the DP&E that it seeks to utilise the delegation for Local Environmental Plan (LEP) Plan Making (delegated by the Minister under Section 23 of the Environmental Planning and Assessment Act 1979). The delegated functions will be undertaken by the Group Manager – City Development who has been delegated these powers by Council and the City Manager under Section 377 of the Local Government Act 1993.
4. Upon receipt of a Gateway Determination, and subject to the conditions contained therein, publicly exhibit the Planning Proposal in accordance with the Consultation Strategy outlined in this report and the DP&E Gateway Determination.

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 Wetherill Park Market Town Site Specific Development Control Plan 32 Pages
2014

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CITY PLAN

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

SUMMARY

The purpose of this report is to provide Council detail of a proposed Planning Proposal to resolve a Fairfield Local Environmental Plan (LEP) 2013 transition issue associated with the recent rezoning of site 13-21 Rossetti Street, Wetherill Park from R2 Low Density Residential to B2 Local Centre zone. The subject site is located behind the existing Wetherill Park Market Town Shopping Centre, refer to figure 1 below.

Additionally, the report seeks Council's endorsement to invite the Applicant to submit a Planning Proposal to allow residential flat buildings (RFBs) and multi dwelling housing as additional permitted uses at the site to enable the site to be developed in accordance with the Wetherill Park Market Town Site Specific Development Control Plan (SSDCP) (**Attachment A**). It is also recommended that delegation be given to the Group Manager – City Development to authorise the Planning Proposal (when it is submitted) to allow the Planning Proposal to proceed to Gateway Determination.

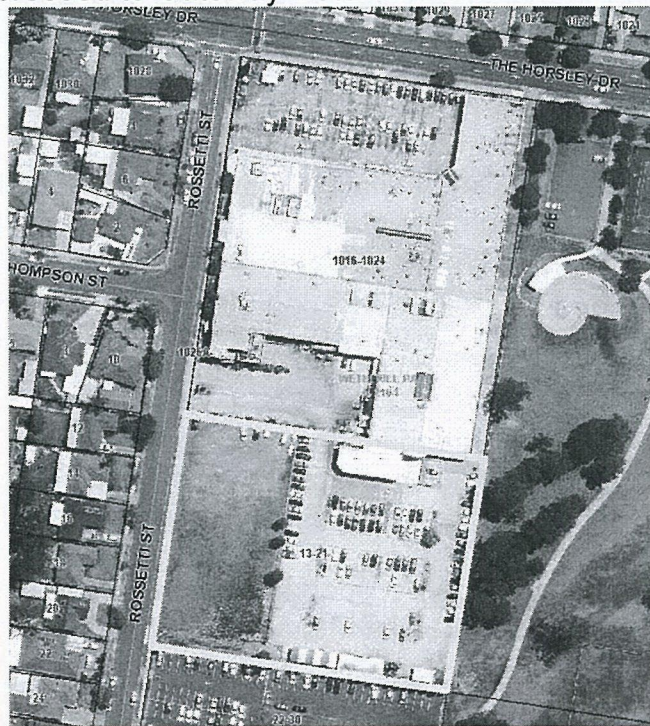


Figure 1

BACKGROUND

The abovementioned site was recently rezoned from R2 Low Density Residential to B2 Local Centre on 7 March 2014. This amendment was the culmination of a number of various rezoning proposals for the subject site since 2003.

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The proposal to rezone the site to retail/commercial was originally submitted to Council to amend Fairfield LEP 1994, as Fairfield LEP 1994 Amendment No. 132. However, during the transition of Fairfield LEP 1994 to the new Fairfield LEP 2013, the amendment was replaced by Amendment No. 2 to the Fairfield LEP 2013.

The gazettal of Fairfield LEP 2013 Amendment No. 2 intended to permit the expansion of the centre to facilitate further retail and commercial development as well as residential housing, such as shop top housing.

Fairfield LEP 2013 Amendment No.2 was accompanied by a SSDCP (adopted by Council on 27 November 2013, and came into force on 7 March 2014 with the gazettal of Fairfield LEP 2013 Amendment No.2) which guided the built form over the site, in addition to limiting the additional retail floor space to a maximum of 1,500 square metres.

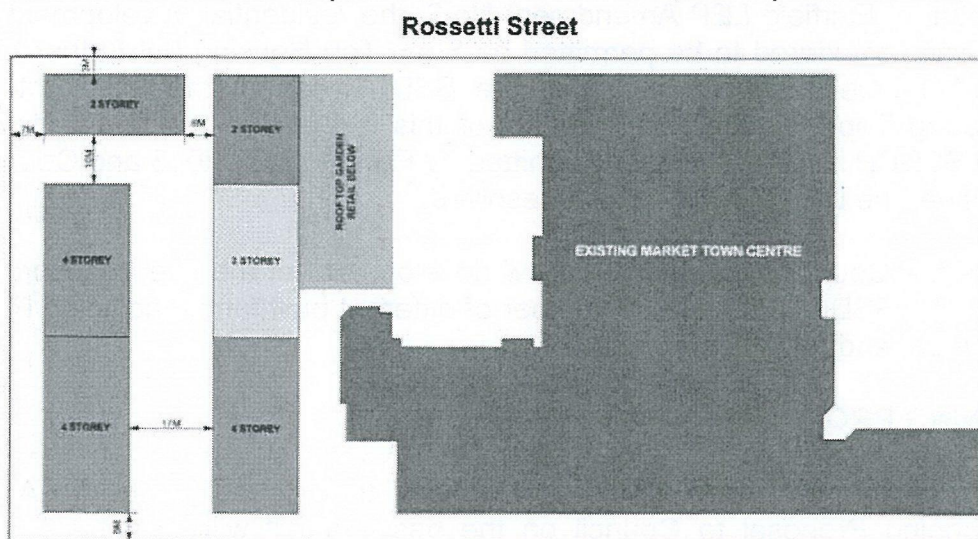


Figure 2

Since the site was rezoned in March 2014, the Applicant attended a pre-Development Application (DA) meeting with Council officers on 31 July 2014, and presented a concept design for the site, generally in accordance with the SSDCP for the site.

The concept design proposed at the pre-DA meeting, showed an Aldi (approximately 1,300 square metres in retail floor space), child care centre, RFBs towards the western half of the site adjacent Emerson Street Reserve. It also showed multi dwelling housing along the Rossetti Street frontage as a transition between the rest of the development and the existing low density residential dwellings opposite in Rossetti Street.

LEP TRANSITION ISSUES

In February 2011 the Applicant submitted a Planning Proposal to rezone the site from 2(a) Residential A to 3(c) Local Business Centre. At that time the Fairfield LEP 1994 was in force and zone 3(c) Local Business Centre permitted RFBs and multi dwelling housing.

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However, it was identified that given the likely timeframe of the new standard LEP coming into force, the proposal should be transitioned into the Fairfield Local Environmental Plan 2013 format. The Planning Proposal was therefore amended so that it would reflect the equivalent zoning under the Fairfield LEP 2013. In this case the equivalent zoning to the 3(c) Local Business Centre zone is the B2 Local Centre zone.

During the work associated with transitioning Fairfield LEP 1994 to Fairfield LEP 2013, RFBs and multi dwelling housing were made a prohibited use in the B2 Local Centre zone. The purpose for prohibiting RFBs and multi dwelling housing in this zone was to ensure that commercial and retail precincts continued to provide the daily/weekly need for the local community and would not be developed purely for residential purposes, resulting in a loss of retail/commercial zoned land.

Prior to gazettal of Fairfield LEP Amendment No.2, the residential development shown in the SSDCP was considered to be permitted as Shop Top Housing but further review has now revealed the development shown in the SSDCP cannot meet the criteria to be considered Shop Top Housing. The impact of this is that the residential development shown in the SSDCP is not technically permitted by Fairfield LEP 2013 and Council cannot properly consider the DA until this issue is resolved.

It was always the Council's intention to allow development of the site in accordance with the SSDCP. The SSDCP identifies a number of different built forms including RFBs, town houses and villas, and retail floor space.

NEW PLANNING PROPOSAL

As a result of the above issues, it is recommended that Council invite the Applicant to submit a Planning Proposal to Council on the basis that it will permit "residential flat building" and "multi dwelling housing" as additional permitted uses on the subject site. This will allow the site to be developed in accordance with the existing SSDCP and the intentions of the previous LEP Amendment.

In addition, to ensure that the process is expedited, it is recommended that Council endorse this approach and give delegation to the Group Manager – City Development to authorise the Planning Proposal and to allow the Planning Proposal to be forwarded to the Department of Planning and Environment (DP&E) for Gateway Determination.

These additional permitted uses will allow the site to be developed as it was originally intended under Amendment No.2 to the Fairfield LEP 2013 and in accordance with the SSDCP for the Wetherill Park Market Town Centre.

It should be noted that this Planning Proposal will not change any of the existing development standards (i.e. Floor Space Ratio or Heights) and will not require an amendment to the SSDCP. The purpose of the amendment is to purely resolve the technical issue which resulted as part of the transition process between Fairfield LEP 1994 and implementation of Fairfield LEP 2013.

OUTCOMES COMMITTEE

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CONSULTATION STRATEGY

In addition to any requirements issued by the DP& E in any Gateway Determination, 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 of the site,
- Letters to all adjoining property owners,
- Notice in the local newspaper,
- Notice on Councils website.

It is also envisaged that the DA and the proposed LEP Amendment be exhibited concurrently. This will provide the community greater certainty on the proposal as well as ensuring that the entire process is managed effectively and efficiently.

CONCLUSION

It is recommended that Council invite the Applicant to submit a Planning Proposal which seeks to allow RFBs and multi dwelling housing as additional permitted uses on site 13-21 Rossetti Street, Wetherill Park. This is to ensure that the built form outcomes as adopted by Council in the SSDCP can be realised.

It is also recommended that Council delegate the Group Manager – City Development the authority to endorse the Planning Proposal (when it is submitted) prior to its submission to the DP&E for Gateway Determination.

In requesting the Gateway Determination it is also recommended that Council advise the DP&E that it seeks to utilise the delegation for LEP Plan Making (delegated by the Minister under Section 23 of the Environmental Planning and Assessment Act 1979 [EP&A]). The delegated functions will be undertaken by the Group Manager – City Development who has been delegated these powers by Council and the City Manager under Section 377 of the Local Government Act 1993.

Upon receipt of a Gateway Determination and subject to the conditions contained therein, Council will publicly exhibit the Planning Proposal in accordance with the Consultation Strategy outlined in this report.

Chris Shinn
Senior Strategic Land Use Planner

Authorisation:

OUTCOMES COMMITTEE

Meeting Date 12 August 2014

Item Number. 116

Acting Group Manager City Development

Outcomes Committee - 12 August 2014

File Name: **OUT120814_19.DOC**

***** END OF ITEM 116 *****

Planning Proposal

*Proposed Amendment to Fairfield Local
Environmental Plan 2013 to Permit Residential Flat
Buildings and Multi Dwelling House as Additional
Permitted uses.*

*Draft Fairfield Local Environmental Plan 2013
Amendment No. (TBA)*

Table of Contents

- 1 Part 1 – Objectives or Intended Outcomes**
- 2 Part 2 – Explanation of Provisions**
- 3 Part 3 - Justification**
- 4 Part 4 – Community Consultation**

Attachments

- a) Council Report – 12 August 2014**
- b) Context Map and Location Maps**

Part 1 – Objectives

The purpose of the planning proposal is to resolve a Fairfield Local Environmental Plan (LEP) 2013 transition issue associated with the recent rezoning of site 13-21 Rossetti Street, Wetherill Park from R2 Low Density Residential to B2 Local Centre zone.

The planning proposal will correct an unintended outcome where 'residential flat buildings' and 'multi dwelling housing' remain prohibited on the subject site despite Council's and the Applicant's intention enable these uses under a previously gazetted Planning Proposal.

In summary, the objective of the Planning Proposal is to make permissible with consent, residential flat buildings and multi dwelling houses as additional permitted uses on the subject site.

In this regard, the subject site was rezoned from R2 Low Density Residential to B2 Local Centre under Fairfield Local Environmental Plan Amendment No. 2 (FLEP 2013 Am.2). The Planning Proposal was originally submitted as a Rezoning Application under the FLEP 1994 under which zoned the site 2(a) Residential A Zone and was proposed to be rezoned to 3(c) Local Business Centre. However during the processing of the rezoning, the FLEP 1994 was replaced by FLEP 2013. The then rezoning application was transferred to a Planning Proposal to amend the zoning of the site from R2 Low Density Residential to B2 Local Centre. However, whereas residential flat buildings, multi dwelling housing and the then applicable land use characterisation of Mixed Use Development were permissible under the 3(c) Local Business Centre Zoning, residential accommodation is only permissible under the B2 zoning where it satisfied the definition of "shop top housing". That definition requires dwellings to be located above ground floor retail and commercial premises and this is not a desirable outcome for the subject site.

The previous rezoning application and Planning Proposal was accompanied by a Site Specific Development Control Plan (SSDCP) which was adopted by Council on 27 November 2013 and which came into force on 7 March 2014. The SSDCP includes a development master plan, which incorporates up to 1500sqm additional retail floor space as well as a residential component in the form of multi dwelling housing and residential flat buildings.

The suitability of the site to accommodate residential development formed an integral part of the assessment of the previous rezoning application. The gazettal of FLEP 2013 Am.2 and adoption of the SSDCP indicates the acceptance of that development form on the subject site by both the Department of Planning and Environment and Council.

Additionally, the form and design quality of residential accommodation was assessed as part of the previous rezoning application and the SSDCP reflects the agreed and desired design outcomes.

Nevertheless, the location of much, if not all of the residential accommodation described within the SSDCP does not satisfy the definition of shop top housing and remains prohibited despite the previous intention to make the same permissible.

Under the current planning controls, there is a situation of at least ambiguous permissibility for the significant majority of the residential accommodation contemplated in the SSDCP and certainly, the two-storey multi dwelling housing development fronting Rossetti Street, and which is not above the car parking level is presently prohibited, notwithstanding that it is specifically accommodated with the SSDCP.

The purpose of the subject planning proposal is to correct that unintended outcome by making residential flat buildings and multi dwelling housing additional permitted uses on the subject site.

The planning proposal is considered to be procedural and administrative in nature and does not introduce any significant town planning issues. In this regard, the Planning Proposal seeks to make permissible a development form which was assessed in detail in the original rezoning application, and which was determined to be satisfactory by both Council and the Department of Planning.

The planning proposal applies to Lot 5 DP 714281, No. 13-21 Rossetti Street, Wetherill Park.

The planning proposal is in accordance with Council's decision at its meeting on 12 August 2014 – see **Attachment A** for Council report.

Part 2 – Explanation of provisions

To achieve the objectives mentioned above, the Planning Proposal will need to amend the Fairfield Local Environmental Plan 2013 (FLEP 2013) as follows:.

1. Amend the Fairfield Local Environmental Plan 2013 to make permissible residential flat buildings and multi dwelling housing by amendment of Schedule 1 of FLEP 2013.
2. Amend the Key Sites Map to identify Lot 5 DP 714281 No. 13-21 Rossetti Street, Wetherill Park as Key Site No. 20.

Refer to Attachment B for context map and Attachment C for location maps depicting the above mentioned site.

Part 3 – Justification

Section A – Need for a planning proposal

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

The development outcomes anticipated by the previous rezoning application and SSDCP were the subject of detailed studies including Design Quality in accordance with SEPP 65 – Design Quality of Residential Flat Buildings, retail impact analysis as well as traffic and parking impacts. The results of those studies supported the development concept described within the SSDCP. The Planning Proposal does not involve any change to that previously adopted development concept.

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

The SSDCP provides for residential flat buildings and multi dwelling housing at the ground floor of the site, generally towards the southern boundary. Such development does not fall within the definition of “shop top housing because it is not located above ground floor retail or commercial premises.

The SSDCP limits the amount of retail floor space, which is developable on the site to 1,500sqm against the site area of 9,940sqm. Accordingly, it is neither appropriate nor desirable to extend the ground level retail footprint so that residential development situated at the southern part of the site can be located above ground level retail or commercial premises. Such outcome would also be contrary to the findings of previous retail impact analysis from which the 1,500sqm retail floor space limit was derived.

Accordingly, the only practical means by which the SSDCP built form can be made permissible is by making residential flat buildings and multi dwelling housing permissible with consent as additional permitted uses.

Is there a net community benefit?

Yes. This planning proposal will benefit the community by providing improved access to housing through the redevelopment of urban land which will facilitate the provision of higher density mixed use development that is currently not permitted on the subject site.

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 Sydney Metropolitan Strategy and exhibited draft strategies)?

The subject planning proposal seeks to make the previously adopted development concept a permissible land use on the subject site. Consistency of the adopted development concept with the Draft West Central Subregion Strategy was considered in detail as part of the previous rezoning application. The adopted development form remains consistent with that strategy.

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

The relationship of the previously adopted development form with Council's Residential Development Strategy and Council's Retail and Commercial Centres Study was considered in detail as part of the previous rezoning application. The adopted development form remains consistent with all applicable local Council strategies.

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	Relevance	Consistency of Planning Proposal
SEPP 19 – Bushland in Urban Areas	Yes	The site does not contain significant vegetation. This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 21 – Caravan Parks	N/A	-
SEPP 30 – Intensive Agriculture	N/A	-
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)	Yes	This proposal facilitates the redevelopment of urban land which will facilitate the provision of higher density mixed use development that is currently not permitted. This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP 33 – Hazardous and Offensive Development	N/A	-
SEPP 50 – Canal Estate Development	N/A	-
SEPP 55 – Remediation of Land	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 Title	Relevance	Consistency of Planning Proposal
SEPP (Affordable Rental Housing) 2009	Yes	This planning proposal does not contain provisions that would affect the application of the SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	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 (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 (Infrastructure) 2007	N/A	-
SEPP (Major Development) 2005	N/A	-
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	N/A	-
SEPP (Miscellaneous Consent Provisions) 2007	N/A	-
SEPP (State and Regional Development) 2011	N/A	-

The relevant Sydney Regional Environmental Plans are outlined in the table below:

SREP Title	Relevance	Consistency of Planning Proposal
SREP 9 – Extractive Industry (No 2 – 1995)	N/A	-
SREP 18 – Public Transport Corridors	Yes	This planning proposal does not contain provisions that would affect the application of the SREP.
SREP 20 – Hawkesbury-Nepean River (No 2 – 1997)	N/A	-
GMREP No.2 – Georges River Catchment	Yes	This planning proposal does not contain provisions that would affect the application of the SREP.

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 to amend draft Fairfield Local Environmental Plan 2011 to allow "residential flat building" and "multi dwelling housing" as additional permitted uses on the subject site. The introduction of these additional permitted uses will support the viability of the centre by increasing the population which would utilise the centres services.	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. This planning proposal does not affect environmentally sensitive areas. [Direction 2.1 (1)]	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	The planning proposal is consistent with this direction. This planning proposal does not affect heritage items. [Direction 2.3 (1)]	YES

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
	significance.		
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 site is located adjacent to an existing centre, with the planning proposal encouraging a higher density mixed use development. [Direction 3.1 (1) (a)]. The planning proposal is consistent with the direction. The planning proposal makes use of existing infrastructure and services and ensures that new housing has access to appropriate services and infrastructure [Direction 3.1 (1) (b)] The site is located approximately 620 metres from the Liverpool to Parramatta Bus Transit Way (T-Way). The T-Way is a frequent, dedicated bus service route providing access to the two regional centres of Liverpool and Parramatta in addition to a number of other centres along the route. The planning proposal also minimises the impact of residential development on the environment and resource lands [Direction 3.1 (1) (c)].	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.	N/A	N/A
3.4 Integrating Land Use and Transport	Improve access to housing, jobs and services by walking, cycling and public transport.	The planning proposal is consistent with this direction. The planning proposal:	Yes

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
	• 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	- Improves access to housing, jobs and services by public transport [Direction 3.4 (1) (a)]; - Supports the efficient and viable operation of public transport services [Direction 3.4 (1) (d). - The site is close to a TAFE institution as well as the Wetherill Park – Industrial Estate. - The Planning Proposal facilitates the development of a mixed use commercial and residential development. This expansion will enhance the viability of the three (3) public bus services that travel along the Horsley Drive. The subject site is also located approximately 620 metres from the nearest bus station along the Parramatta to Liverpool Transit Way. - A Council shared path runs along the eastern boundary of the site through Emerson Street Reserve facilitating the use of bicycles. - The residential component complements the viability of the existing centre and it could be argued that the dependence on cars will be reduced as most of the essential services are located on basically the same site.	
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	N/A	N/A

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
	noise mitigation 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.	N/A	N/A
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 Floodplain Development Manual 2005. • 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.	The adjoining lots to the east and south of the site have been identified as being affected by overland flow, no flood related constraints apply to the subject site. As a result of proximity to affected land, it is possible that future studies may indicate that the subject site is affected. Council's review of all flood liable land is conducted in accordance with the Floodplain Development Manual 2005. It is therefore considered appropriate that development of the subject site be subject to Council's Flood Management Controls as outlined in the Fairfield City-wide DCP.	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	N/A	N/A

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
	bush fire prone areas. Encourage sound management of bush fire prone areas.		
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 farming 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 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	N/A	N/A

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
5.8 Second Sydney Airport: Badgerys Creek	Avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys 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 is consistent with this direction. The planning proposal will allow "residential flat building" and "multi dwelling housing" as additional permitted uses on the subject site consistent with the SSDCP, which will ensure efficient and appropriate assessment of development on the site [Direction 6.1 (1)].	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.	N/A	N/A
6.3 Site Specific Provisions	Discourage unnecessarily restrictive site specific planning controls	The planning proposal is consistent with the direction. This LEP amendment will facility orderly development of the site consistent with existing development controls.	YES
7. Metropolitan Planning			
7.1 Implementation of the Metropolitan Plan for Sydney 2036	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 the direction. The proposal gives legal effect to the vision, land use strategy and policies within the Metropolitan Strategy as it proposes to increase residential density in a suitable location, the site is located within walking distance of 3 local bus services and approximately 620 metres to the Parramatta-Liverpool Bus Transit Way [Direction 7.1 (1)]. The site is located approximately 1km from the Wetherill Park Industrial Estate.	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?

Introducing the additional permitted use of multi dwelling housing and residential flat buildings to the site will not result in any ecological impacts.

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

The subject Planning Proposal will not result in any environmental effects which have not been previously assessed and found to be satisfactory.

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

The subject Planning Proposal will not result in any social effects which have not been previously assessed and found to be satisfactory.

Section D – State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

The subject Planning Proposal does not introduce any additional infrastructure demands which were not already assessed and determined to be satisfactory as part of the previous rezoning application.

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

Consultation has not occurred at this stage. The original rezoning application attracted two submissions from the Office of Environment and Heritage (OEH). No objections were raised however additional investigation / information was required in relation to flooding and aboriginal heritage. Both of these issues were satisfactorily resolved as part of the original rezoning application. The subject Planning Proposal does not introduce any additional matters which were not previously determined to be satisfactory.

Part 4 – Community Consultation

In addition to any requirements issued by the DP&E in any Gateway Determination, 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 of the site,
- Letters to all adjoining property owners,
- Notice in the local newspaper,
- Notice on Councils website.

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	Prepare and submit Planning Proposal to DP&E	November 2014
2	Gateway Determination	- Assessment by DP&E (including LEP Panel) - Advice to Council	1 month: December 2014
3	Completion of required technical information and report (if required) back to Council	- Prepare draft controls for Planning Proposal - Update report on Gateway requirements	1 month: January 2015
4	Public consultation for Planning Proposal	In accordance with Council resolution and conditions of the Gateway Determination.	28 days notification period: January – February 2015
5	Government Agency consultation	Notification letters to Government Agencies, if required by Gateway Determination	January – February 2015
6	Consideration of submission	Assessment and consideration of submissions	1 month: March 2015
7	Report to Council on submissions to public exhibition and public hearing	Includes assessment and preparation of report to Council	1 month: April 2015
8	Possible re-exhibition	Covering possible changes to draft Planning Proposal in light of community consultation	1 month: May 2015
9	Report back to Council	Includes assessment and preparation of report to Council	1 month June 2015
10	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 July 2015
11	Plan is made	Notified on Legislation web site	1 month: August 2015
Estimated Maximum Time Frame			12 months

Current Zoning



Aerial View

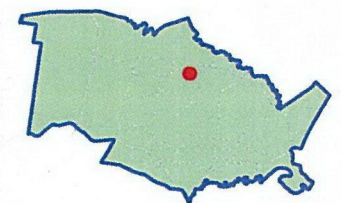


Draft LEP 2013 Amendment 13 - 21 Rossetti St Wetherill Park

Zone

- B2 Local Centre
- E2 Environmental Conservation
- R2 Low Density Residential
- RE1 Public Recreation
- SP2 Infrastructure

File No. 14/13509



Map Produced: 20141002