

Fairfield LEP 2013 - proposal to correct mapping anomaly in Abbotsbury

Proposal Title : **Fairfield LEP 2013 - proposal to correct mapping anomaly in Abbotsbury**

Proposal Summary : **To amend the Lot Size for Dual Occupancy Map for certain land in northwest and south Abbotsbury.**

PP Number : **PP_2017_FAIRF_001_00** Dop File No : **TBA**

Proposal Details

Date Planning Proposal Received : **20-Jan-2017** LGA covered : **Fairfield**

Region : **Metro(Parra)** RPA : **Fairfield City Council**

State Electorate : **FAIRFIELD** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street :

Suburb : **ABBOTSBURY** City : **FAIRFIELD** Postcode : **2176**

Land Parcel : **53 Lots within Rutar Place, Withers Place, Hinder Close, Heyson Street, Begovich Crescent, Lewers Close, Province Street, and Balson Close**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Terry Doran**

Contact Number : **0298601579**

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Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Consistent with Strategy :

Regional Strategy :

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MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Yes

Lobbyists Code of
Conduct has been
complied with :

If No, comment : At this point in time, to the best of the regional team's knowledge, the Department's Code of Practice in relation to communications with lobbyists has been complied with.

Have there been
meetings or
communications with
registered lobbyists? :

No

If Yes, comment : A search of the register was undertaken on 17 January 2017. There are no records of meeting or communications with registered lobbyists.

Supporting notes

Internal Supporting
Notes :

POLITICAL DONATIONS DISCLOSURE STATEMENT

Political donations disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the planning system.

"The disclosure requirements under new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications".

The term relevant planning authority means:

" A formal request to the Minister, a council or the Secretary to initiate the making of an environmental planning instrument..."

Planning Circular PS08-009 specifies that a person who makes a public submission to the Minister or the Secretary is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this planning proposal from the relevant planning authority.

Authorisation to Council

Council has requested authorisation to exercise the delegation of the Minister's plan making functions for this planning proposal. Authorisation is considered appropriate in this instance.

External Supporting
Notes :

The proposal seeks to amend the Lot Size for Dual Occupancy Map for fifty three lots of land in northwest and south Abbotsbury.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment :

The proposal seeks to:

- correct a mapping anomaly within the Fairfield Local Environmental Plan 2013 for Dual Occupancy development; and
- ensure that the original intention of Clause 22A of Fairfield Local

Environmental Plan 1994 is implemented.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment :

The proposal seeks to correct an anomaly involving the LEP Dual Occupancy Development Map applying to 53 Lots within the northwest and south west Abbotsbury locality (subject area).

Specifically, the proposal seeks to amend the minimum lot size from 900sqm to 4,000sqm for these sites in respect of dual occupancy development.

In including provisions - taken from the now repealed Fairfield Local Environmental Plan 1994 - in the current Fairfield Local Environmental Plan 2013, the minimum lot size provision for the subject area of 2,000sqm was included in the 2013 LEP lot size maps. However, the 2013 LEP also introduced a lot size map for dual occupancy development, which provides for a minimum lot size of 900sqm.

The proposal seeks to rectify this mismatch between the minimum lot size standards i.e. a minimum lot size of 4,000sqm is proposed to apply to dual occupancy development in this locality so that the minimum allotment size of 2,000sqm will uniformly apply to all dwellings in this locality.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

* May need the Director General's agreement

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 19—Bushland in Urban Areas

SEPP No 21—Caravan Parks

SEPP No 29—Western Sydney Recreation Area

SEPP No 30—Intensive Agriculture

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 33—Hazardous and Offensive Development

SEPP No 50—Canal Estate Development

SEPP No 55—Remediation of Land

SEPP No 62—Sustainable Aquaculture

SEPP No 64—Advertising and Signage

SEPP No 65—Design Quality of Residential Flat Development

SEPP No 70—Affordable Housing (Revised Schemes)

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Housing for Seniors or People with a Disability) 2004

SEPP (Infrastructure) 2007

SEPP (Major Projects) 2005

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

SEPP (Rural Lands) 2008

SEPP (Western Sydney Parklands) 2009

SREP No. 18 - Public Transport Corridor

SREP No. 20 - Hawkesbury-Nepean River (No. 2 - 1997)

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? No

If No, explain :

SECTION 117 DIRECTIONS:

The proposal is consistent with the s.117 Directions, except for the following:

3.1 RESIDENTIAL ZONES

Direction 3.1 applies when a relevant planning authority prepares a planning proposal that affects land within an existing residential zone or where residential development is proposed to be permitted.

The proposal is inconsistent with this Direction as it seeks to reduce the possible density and yield for fifty three lots of land currently zoned R2 Low Density Residential.

The proposed reduction in minimum lot size for dual occupancy standard is to correct an anomaly within the local environmental plan which was created when Fairfield Local Environmental Plan 2013 was made.

The proposed controls will reinstate the minimum standard that was created by Fairfield Local Environmental Plan 1994 (amendment No. 88), which limited lot sizes to a minimum of 2,000sqm due to landslide risk, terrestrial biodiversity issues and in view of the existing subdivision pattern.

It is considered that the planning proposal's inconsistency is of minor significance, and should be supported by the Secretary's delegate, in this instance.

4.1 ACID SULFATE SOILS

Direction 4.1 applies when a relevant planning authority prepares a planning proposal that affects land that has a probability of containing acid sulfate soils.

The Acid Sulfate map and Landslide Risk Map - 2850_COM_CL1_007_010_20130117 does not indicate the probability of acid sulfate soils appearing on the subject land. However, the proposal incorrectly identifies that this section 117 direction applies.

It is recommended that Council be directed to remove reference to this direction.

4.2 MINE SUBSIDENCE AND UNSTABLE LAND

Direction 4.2 applies when a relevant planning authority prepares a planning proposal that affects land identified as 'unstable'.

The Acid Sulfate map and Landslide Risk Map - 2850_COM_CL1_007_010_20130117 identifies that all land subject to this proposal is affected by landslide risk.

The proposal incorrectly states that this direction does not apply.

One of the key components in justifying the need for larger lot sizes is that the land is affected by landslip risk. Therefore, it is recommended that Council be required to amend the proposal to adequately address Section 117 Direction 4.2. Once Council amends the proposal, the Secretary's approval may be required in relation to this direction.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPP) AND DEEMED SEPP'S

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The proposal is generally consistent with all relevant SEPPs and Deemed SEPPs.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Mapping has been provided throughout the proposal.**

The property details in Table 1 describe the that the proposal will apply to fifty three lots, however, the cadastral data on the mapping within the proposal shows only fifty two lots.

In relation to land affected by this proposal, Council have clarified that the existing maps in Fairfield LEP 2013 do not capture new lots created after 2013. In this regard, there was a subdivision which created an additional lot after Fairfield LEP 2013 was made. Therefore, fifty three lots will be affected by the subject proposal.

Part 4 of the proposal clearly describes the required amendment to map 2850_COM_LSD_007_010_20130117 from 900sqm to 4,000sqm.

No other maps are proposed to be amended.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The proposal has not nominated a time frame for for community consultation.**

Given that the proposal will directly impact upon land owners in this location, a minimum consultation period of 28 days is recommended.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **May 2013**

Comments in relation to Principal LEP : **Fairfield Local Environmental Plan 2013 was notified on 17 May 2013. This proposal is consistent with the standard instrument, and Fairfield Local Environmental Plan 2013.**

Assessment Criteria

Need for planning proposal : **Fairfield Local Environmental Plan 1994 (Amendment 88) was published on 9 May 2003. The amendment inserted Clause 22A - Subdivision in the Residential A Zone, into the 1994 LEP. The clause restricted land in northwest and southwest Abbotsbury to a minimum lot size of 2,000sqm. The clause is shown, as follows:**

'(1A) Despite subclause (1), the Council must not grant consent to the subdivision of land in northwest and southwest Abbotsbury, as shown edged heavy black on Sheets 1 and 2 of the map marked "Fairfield Local Environmental Plan 1994 (Amendment No 88)"

unless each allotment to be created will have an area of not less than 2,000 square meters. The area of an access handle serving an internal allotment is not to be taken into account for the purpose of this subclause.'

At that time, dual occupancy development was prohibited in the Residential A zone, being defined as 'multi-unit housing'. Therefore, the minimum lot size applied to all residential development, being dwelling houses.

Fairfield LEP 2013 zoned that same area of land in Abbotsbury to Zone R2 low density residential and introduced dual occupancy development as a permitted use. The minimum lot size for dual occupancy map was updated for other adjoining land so that land zoned R2, with a minimum lot size of 450sqm, also contained a minimum lot size for dual occupancy development of 900sqm.

The result being, any new dwelling would be on a lot of at least 450sqm.

Council has indicated that the land subject to this proposal in northwest and south Abbotsbury was inadvertently mapped with a 900sqm lot size, the same as the adjoining land on the minimum lot size for dual occupancy development map, and did not consider the important planning characteristics for the fifty three lots.

Therefore, the planning proposal is the best means of achieving the proposed outcomes.

Consistency with
strategic planning
framework :

STRATEGIC PLANNING FRAMEWORK

A PLAN FOR GROWING SYDNEY

Section 75A1 (Implementation of strategic plans) of the Environmental Planning and Assessment Act 1979 states that, in preparing a planning proposal under section 55, the relevant planning authority is to give effect:

- (a) to any district plan applying to the local government area to which the planning proposal relates (including any adjoining local government area), or
- (b) if there is no district plan applying to the local government area - to any regional plan applying to the region in respect of which the local government area is part.

On 21 November 2016, the Greater Sydney Commission released draft District Plans for consultation purposes. Given that the plans are draft, pursuant to Section 75AE(3), A Plan for Growing Sydney is taken to be the regional plan for the Greater Sydney Region and will be considered in addition to the South West District Plan.

A Plan for Growing Sydney provides directions for Sydney's productivity, environmental management and livability; and for the location of housing, employment, infrastructure and open space.

In particular, A Plan for Growing Sydney, promotes the continued growth Penrith, Liverpool and Campbelltown-Macarthur as regional city centres supporting their surrounding communities.

The Planning Proposal is consistent with A Plan for Growing Sydney.

Specifically, the planning proposal does not detract from achieving the priorities listed for the South West Subregion, or from the broader, listed goals.

DRAFT SOUTH WEST DISTRICT PLAN

The proposal is consistent with the Vision for the South West District, adding to the 'mosaic' of different places in the South West District.

The proposal recognises the planning and land constraints for the fifty three lots and limits further subdivision of these sites. The proposal is generally consistent with the draft Plan in this regard.

Environmental social
economic impacts :

ENVIRONMENTAL CONSIDERATION

As indicated, the subject lots are identified on two other map tiles within Fairfield LEP 2013.

All fifty three lots are affected by landslide risk as shown on map 2850_COM_CL1_007_010_20130117.

In addition, approximately five lots are subject to the Terrestrial Biodiversity Map -2850_COM_BIO_007_010_20130227.

The proposal justifies the need to amend the minimum lot size given the identified planning matters (above).

Pending Council adequately addressing the provisions of Section 117 Direction 4.2, the proposal is supported.

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Assessment Process

Proposal type : **Minor** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority
Consultation - 56(2)(d)
:

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **The site is located in an existing urban area. It is considered that the site can be sufficiently serviced with essential services.**

Documents

Document File Name	DocumentType Name	Is Public
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Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.4 Planning for Bushfire Protection**
- 6.1 Approval and Referral Requirements**
- 6.3 Site Specific Provisions**

Additional Information : **RECOMMENDATION**
It is recommended that the planning proposal proceed subject to the following conditions:

1. Prior to public exhibition, Council is to amend the proposal to:

- a. correct and remove reference to Section 117 Direction 4.1 - Acid Sulfate Soils, unless the subject land is so affected; and
- b. adequately address Section 117 Direction 4.2 - Mine Subsidence and Unstable Land.

Note that approval from the Secretary may be required in relation to this Direction.

2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing Local Environmental Plans (Department of Planning and Environment 2016).
3. No consultation is required with public authorities under section 56(2) (d) of the Act
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission).
6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

DELEGATION OF THE GREATER SYDNEY COMMISSION'S PLAN MAKING FUNCTIONS

Council has requested delegation of the Commission's plan making functions for this planning proposal. Given the minor nature of the proposal, it is recommended that Council be authorised to exercise the plan making function for this planning proposal.

Supporting Reasons :

The planning proposal is supported, primarily based on the need to implement appropriate controls for land affected by landslip.

Signature:



Printed Name:

T. DORAN

Date:

27/1/17