

OUTCOMES COMMITTEE

Meeting Date 6 December 2016

Item Number. 138

SUBJECT: Planning Proposal - Correcting an Anomaly on the Lot Size for Dual Occupancy Development Map in Abbotsbury
Premises: Northwest and Southwest Abbotsbury
Applicant: Applicant: Fairfield City Council
Owner: Ownership details to be distributed separately
Zoning: R2 Low Density Residential

FILE NUMBER: 16/02889

REPORT BY: Sunehla Bala, Senior Strategic Land Use Planner

RECOMMENDATION:

That:

1. Council endorse the Planning Proposal (Attachment A of the report) to correct an anomaly by amending the Fairfield Local Environmental Plan (LEP) 2013 – Lot Size for Dual Occupancy Development map in relation to the subject land at north-west and south-west Abbotsbury, from 900m² to 4,000m².
2. Council refer the Planning Proposal to the NSW Department of Planning and Environment (NSW DP&E), requesting a Gateway Determination and that the Planning Proposal be placed on public exhibition in accordance with the Consultation Strategy detailed in the report and the Conditions set out in the Gateway Determination.
3. Council, in requesting the Gateway Determination, advise 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 under section 377 of the Local Government Act 1993.
4. The outcome of the public exhibition of the Planning Proposal be reported back to Council following completion of the exhibition period.

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

SUPPORTING DOCUMENTS:

AT-A	Planning Proposal	33 Pages
AT-B	FLEP 1994 Amendment 88	5 Pages

CITY PLAN

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

SUMMARY

This report details the need for Council to submit a Planning Proposal (Attachment A) to the Department of Planning and Environment (DP&E) to correct an anomaly identified within the Fairfield Local Environmental Plan (FLEP) 2013 – Lot Size for Dual Occupancy Development Map for north-west and south-west Abbotsbury. It is proposed to increase the Lot Size for Dual Occupancy from 900 square metres to 4,000 square metres for the precinct.

An oversight during the preparation of the FLEP 2013 resulted in the provision of a 900 square metre minimum Lot Size for Dual Occupancies for the precinct, rather than a 4,000 square metre minimum Lot Size for Dual Occupancies. This results in a discrepancy between the Minimum Lot Size Map and Lot Size for Dual Occupancy Map applying to the precinct. It is an anomaly that is proposed to be rectified by the attached Planning Proposal.

BACKGROUND

The previous Fairfield LEP 1994 included a minimum lot size provision of 2,000 square metres for certain land in north-west and south-west Abbotsbury. This provision was introduced to FLEP 1994 through LEP Amendment No. 88 (Attachment B). The minimum lot size provision of 2,000 square metres was subsequently carried over to FLEP 2013.

FLEP 2013 also introduced a new Lot Size for Dual Occupancy Map, with varying development standards depending on the location within the City. The introduction of this new development standard should have ensured that a 4,000 square metre minimum lot size for dual occupancy was implemented. However, it did not and a 900 square metre minimum Lot Size for Dual Occupancy was applied.

Accordingly, this oversight is an anomaly that needs to be rectified.

Lot Size for Dual Occupancy Development Map Anomaly

Lot Size for Dual Occupancy Development is a development standard which sets minimum lot sizes for dual occupancies throughout the R2 Low Density Residential zone of the City.

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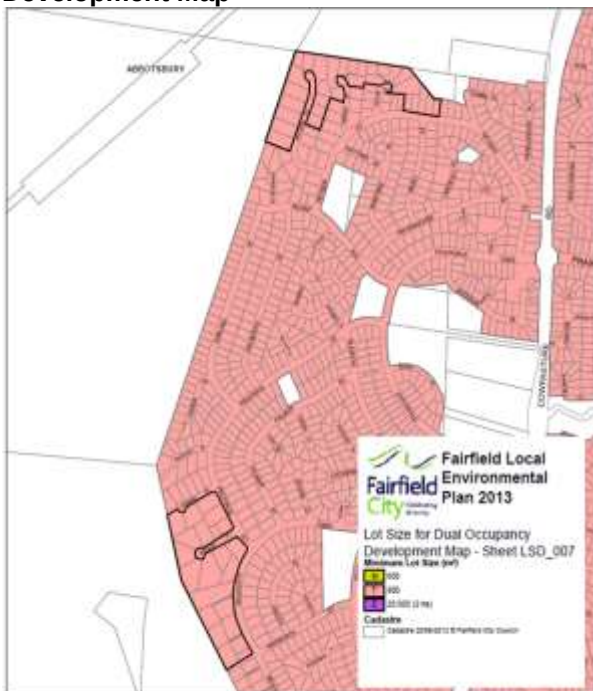
A 600 square metre minimum Lot Size for Dual Occupancy Development was introduced generally within the eastern half of the City (i.e. east of the Cumberland Highway where there were few constraints and sites were close to public transport and services). This allows the development of a dual occupancy on a 600 square metre site, and would result in a dwelling being achieved on a 300 square metre lot.

A 900 square metre minimum Lot Size for Dual Occupancy was introduced within the western half of the City (west of the Cumberland Highway). This allows the development of a dual occupancy on a 900 square metre site, and would result in a dwelling on a 450 square metre lot. This essentially reflects the existing development pattern in the western half of the LGA.

However, the 900 square metres minimum Lot Size for Dual Occupancy was also introduced to the areas in the north-west and south-west of Abbotsbury despite the minimum lot size being 2,000 square metres. It has since been identified as an anomaly within the FLEP 2013 and should be corrected.

It is proposed to amend the Lot Size for Dual Occupancy Map for the area from 900 square metres to 4,000 squares. This will ensure that the Minimum Lot Size for Dual Occupancy map will be consistent with the Minimum Lot Size map. Figures 1 and 2 below illustrate the FLEP 2013 Minimum Lot Size for Dual Occupancy Map and Minimum Lot Size Map.

Figure 1: Lot Size for Dual Occupancy Development Map



Source: FLEP 2013

Figure 2: Minimum Lot Size Map



Source: FLEP 2013

Land to which the Planning Proposal applies

The Planning Proposal applies to certain land at northwest and southwest Abbotsbury, identified in figures 3 and 4. The area is characterised by large allotments on steep slopes ranging on average between 2,000m² and 3,000m² that abut the Western Sydney Parklands. The character of the subject area lends itself to a fringe residential environment based on large lots and its relationship to the adjoining City Farm and Western Sydney Parklands. In total 54 properties are affected.

Figure 3: Northwest Abbotsbury



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Figure 4: Southwest Abbotsbury



History of lot size provision in Abbotsbury

The table below outlines the background of the lot size provisions associated with the subject site.

12 Feb 2002	Report to Council seeking approval to prepare and exhibit a draft Local Environmental Plan to amend clause 22A to FLEP 1994 (Amendment 83). Section 22A of FLEP 1994 regulated the type and size of allotments permissible for residential subdivisions. Under this section Council could approve the subdivision of land within the residential 2(a) zone if each allotment created was no less than 450m². However, the application of Section 22A of FLEP 1994 was not viable for the subject area. Therefore, it was recommended that Council exclude the subject area in Abbotsbury from the allotment provisions by requiring larger allotment sizes.
9 July 2002	A report was presented to Council seeking approval to prepare draft LEP Amendment 83. The Amendment sought an increase in the minimum lot size from 450m² to 2000m². However, prior to FLEP 1994; under LEP 43, a blanket provision of minimum lot size requirement of 2000m² was in force for the subject area.

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10 September 2002

Council considered a report relating to draft Amendment 83 and subsequently rescinded it and resolved to commence preparation of a new draft LEP Amendment 88. The intention of LEP Amendment 88 was to:

- Ensure that subdivision and development reflects and reinforces the predominant subdivision pattern of the area;
- Minimise any likely impact of subdivision and development on the amenity of neighbouring properties;
- Ensure that subdivision does not exacerbate land fragmentation;
- Reduce possible environmental impacts from subdivision and development; and
- Reduce the potential impact of landslide risk.

9 May 2003

Amendment 88 of FLEP 1994 was gazetted. The FLEP 1994 was amended and clause 22A (1A) was inserted. The clause read:

(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.

31 May 2013

Fairfield Local Environmental Plan 2013 came into effect on this date. FLEP 2013 transferred the provision from FLEP 1994 to the Minimum Lot Size Map and as a result the lot size was set at 2,000 square metres.

However, the FLEP 2013 also introduced a new Lot Size for Dual Occupancy Development Map, which unintentionally introduced provisions of 900m² over the subject area. This is seen as an anomaly within the FLEP 2013 and it can only be corrected by amending the Lot Size for Dual Occupancy Development of 4,000m² in the subject area.

Zoning and constraints

The subject area is zoned R2 Low Density Residential under the FLEP 2013.

The subject area is affected by landslide risk and terrestrial biodiversity. The FLEP 2013, Minimum Lot Size Map has provision of 2,000m² (was also provided historically under FLEP 43 and FLEP 1994) to ensure sufficient lot sizes are created to enable various options to be considered in siting dwellings based on the topography of the land, slope stability and existing vegetation.

However, this provision is not reflected on the FLEP 2013, Lot Size for Dual Occupancy Development Map, which is seen as an anomaly and needs to be rectified.

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Figures 5, 6 and 7 below illustrate the zoning, terrestrial biodiversity and landslide map affecting the subject area.

Figure 5: Zoning Map



Source: FLEP 2013

Figure 6: Terrestrial Biodiversity Map



Source: FLEP 2013

Figure 7: Landslide Risk Map



Source: FLEP 2013

Assessment of Consistency with Ministerial Direction under Section 117

Planning Proposals are required to demonstrate consistency with Section 117 Ministerial Directions under the NSW Environmental Planning and Assessment Act 1979. The attached Planning Proposal contains a detailed review of the proposal against all the relevant Section 117 Directions. Below are the key directions associated with this Planning Proposal.

Direction 2: Environment and Heritage, 2.1 Environment Protection Zones

The objective of this direction is to protect and conserve environmentally sensitive areas. The Planning Proposal is consistent with this direction and does not affect environmentally sensitive areas. This Planning Proposal will enable protection of the terrestrial biodiversity within the subject site.

Direction 4: Hazard and Risk, 4.2 Unstable Land

The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

The Planning Proposal is consistent with this direction. The subject area covered by this Planning Proposal is affected by Landslide Risk.

Due to the subject land being affected by landslide risk, the Planning Proposal is necessary to amend the Lot size for Dual Occupancy from 900m² to 4,000m² to control developments in the area that can result in adverse environmental impacts.

CONSULTATION STRATEGY

Community consultation of the Planning Proposal will be undertaken following receipt of a Gateway Determination. It is envisaged that Council's consultation and exhibition methodology will include, but not limited to:

- notifying affected landowners and adjoining land owners through letters;
- notification in the local newspaper;
- publication of all relevant information on Council's website;
- placement of a hard copy exhibition folder at the customer service counter at administration building; and
- any other consultation methods deemed appropriate for the proposal.

It is likely that the Gateway Determination would require Council to undertake consultation with State Government Agencies and utility providers.

Following public exhibition, a report will be presented to Council for consideration of submissions received during public exhibition and results of consultation with the State Agencies and Utility providers.

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DELEGATION

In addition to the above, the recommendations to this report include a request being made to the Department for Council to exercise its delegation in the final steps in processing of the LEP for rezoning of the land. This includes the Group Manager of City Development signing off on the LEP maps and written instrument to bring them into force.

CONCLUSION

The Planning Proposal will correct an anomaly identified within FLEP 2013, Lot Size for Dual Occupancy Development Map affecting land at northwest and southwest Abbotsbury.

It is recommended that Council endorse the Planning Proposal to proceed to the Gateway Determination and to allow community consultation. Additionally, Council in its request advise the NSW DP&E that Council seeks to utilise the delegation for LEP Plan Making (delegated by the Minister under Section 23 of the EP&A Act 1979).

Following public exhibition, a report would be referred back to Council to inform the consultation and for consideration of submissions received.

Sunehla Bala
Senior Strategic Land Use Planner

Authorisation:

Coordinator Strategic Planning
Acting Group Manager City Development

Outcomes Committee - 6 December 2016

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***** END OF ITEM 138 *****