

Agenda Report

Council Resolution Item

Action is required from the Council Meeting on **02 October 2012** as per the Resolution outlined below.

EP/65: Taronga Zoo - Planning Proposal

MOSPLAN REF: 03.03

REPORT BY: Strategic Planner, Joe Vertel

SUMMARY

Report on a Planning Proposal to enable certain works at Taronga Zoo to be considered as Exempt and Complying Development.

OFFICER'S RECOMMENDATION

The Manager Urban Planning recommends:

That

- A. Council prepare a Planning Proposal as detailed in this report to allow for a range of development at Taronga Zoo to be identified as exempt or complying development under Mosman LEP 2012 as outlined in the report and to clarify the status of heritage items on the site.
- B. The Planning Proposal be referred to the NSW Department of Planning and Infrastructure for approval to undertake community consultation.
- C. A further report be submitted to Council on the results of the community consultation.

COUNCIL RESOLUTION

Motion Menzies/Moline

That the Officer's Recommendation be adopted.

CARRIED UNANIMOUSLY

REPORT

Background

Under Mosman's current LEP (Mosman LEP 2012), Taronga Zoo is zoned SP2 Infrastructure and listed as a heritage item. Under the provisions of the LEP development consent is required for all works by virtue of the Land Use Table and due to the provisions of clause 5.10 Heritage Conservation.

This regulatory framework has only been in place since the coming into force of Mosman LEP2012 on 1 February 2012. Prior to this, under Mosman LEP1998, Taronga Zoo was zoned 5(a) Special Uses – Zoological Gardens and listed as a heritage item. The land use table provided for the following works as 'development allowed without development consent':

“Structures solely for the purposes of exhibition, conservation and care of animals on land zoned Community Uses 5(a) – Zoo.”

In addition, the heritage listing was addressed by clause 38B Taronga Zoo, which provided as follows:

“Nothing in this part requires development consent for the carrying out of works within Taronga Zoo, unless the works specifically affect an individual heritage item that is listed in Schedule 2.”

Schedule 2 specifically listed the Upper Entrance Gate, Lower Entrance Gate, Elephant Gate, Aviary, Floral Clock, and Taronga Bus Shelter and office.

The effect of the planning controls in Mosman LEP1998 was that works for animal exhibits did not require development consent unless they exceeded the \$5million value set down under State Environmental Planning Policy Major Development. Also, consent was required for any works affecting specific heritage structures within the site and for development that was not solely for the purposes of exhibition, conservation and care of animals. This framework had worked well in practice for thirteen years which coincided with a major upgrade and renewal of the Zoo.

Mosman LEP 2012 differs in two significant ways to the previous LEP1998. One, it does not include any development in the SP2 Infrastructure zone in the Land Use Table as “Permitted without consent”; and two, the heritage listing identifies the whole site as a heritage item and specifically includes “landscape, bus shelter, office, upper and lower entrance gates, original Elephant House, Birds of Prey Aviary and floral clock.”

The effect of these changes is that Taronga Conservation Society needs to seek development consent for all development on the site. The two State Environmental Planning Policies (SEPP) that allow for minor works of low environmental impact to be classed as exempt or complying development - SEPP (Exempt and Complying Development Codes) and the Infrastructure SEPP, do not include works for the Zoo due to its zoning.

It was not Council's intention to have a new LEP that requires development consent for all development at the Zoo. Mosman LEP 2012 uses the Standard Instrument template as required under the Environmental Planning and Assessment Act. The template is not flexible in terms of land use terms that are allowed in the land use table. They must be terms that are included in the Dictionary and so the provision of MLEP 1998 for ‘structures solely for the purposes of exhibition, conservation and care of animals’ as permitted without consent, was not allowed by the Department of Planning and Infrastructure (the Department). In addition, the exhibited and adopted draft LEP (prior to MLEP2012) included a heritage listing of only the structures specified in MLEP1998 and a local provision stating that:

“Consent is not required under this clause if the development involves the carrying out of works within Taronga Zoo, unless the works directly affect an individual heritage item that is listed in Schedule 5.”

(Schedule 5 being the listing of heritage items.)

Despite assurance from the Department in meetings held in 2010 that the planning regime for consent under the heritage clauses in the LEP would be consistent with LEP 1998, the provisions were changed with the consequence of no development being exempt or complying. In its normal operations the Zoo undertakes various construction and maintenance activities which, if undertaken by another public authority, would not require any approval due to them being minor or ancillary, but because of the current LEP drafting

require a development application. For example, a development application was recently approved for a sun shade over an outdoor eating area.

Planning proposal

The mechanism for amending the provisions of MLEP 2012 is called a planning proposal. In order to address the planning problem the Department, Taronga Zoo and Council planners have met to discuss potential solutions. The Department has indicated that it would support an amendment to the Mosman LEP 2012 that allowed for certain routine developments at the Zoo to be exempt or complying as well as an amendment to the heritage schedule consistent with the previous listing.

In order to continue with its program of maintenance as well as minor upgrades and animal holding modifications the Zoo is in a position of needing to submit development applications for all works. The Zoo estimates an additional 70 applications which would be a significant additional cost to them plus a time and resource drain on Council for no public benefit.

The Zoo has a number of management strategies in place to guide development of the site including a Conservation Management Strategy prepared in 2002. Any amendment to the LEP would include reference to this document. The types of development proposed to be included in the schedule of exempt or complying development (as appropriate) would include but not be limited to:

- (1) The erection and alteration of structures for the purpose of exhibition, conservation and care of animals;*
- (2) Maintenance and environmental protection works;*
- (3) Landscaping works including fencing, retaining walls, paths, picnic facilities and signage;*
- (4) Temporary structures including marquees, shade structure, scaffolding, tents and the like; and*
- (5) Internal building works to existing buildings*

Provided that:

- (1) The works are in accordance with Taronga Zoo's Conservation Management Strategy prepared by Godden Mackay Logan (2002);*
- (2) The works have a capital value of less than \$1m;*
- (3) The works are, in the opinion of Council, of a minor nature and do not have a significant visual impact or detract from the heritage significance of the site or create adverse amenity impacts for surrounding residential properties;*

Conclusion

It is considered reasonable that a range of ancillary and incidental works should be able to be undertaken at Taronga Zoo relating to the conservation and display of animals without the need to obtain development consent on the basis that these works are necessary for the operation of the Zoo and are unlikely to create any adverse environmental impacts or detract from the heritage significance of the site. To provide for this, it is recommended that a Planning Proposal be prepared which will amend Mosman LEP 2012 to create an exempt and complying category of development for a range of minor works at Taronga Zoo as detailed in this report. Similarly there is a need to clarify the heritage status of certain items and this opportunity should be used to do so.