

OUTCOMES COMMITTEE

Meeting Date 9 July 2024

Item Number. 73

SUBJECT: Post Exhibition - Keyhole Lands Planning Proposal and Site Specific Development Control Plan
Premises: Various privately owned lots between Chandos Road Horsley Drive Horsley Park
Applicant: Frasers Property Industrial
Owner: Frasers Property Group Australand C&L Holdings Pty Ltd & other private landowners (details circulated separately)
Zoning: RU2 – Rural Landscape

FILE NUMBER: 20/40354

PREVIOUS ITEMS: 119 - Keyhole Lands - Planning Proposal for Rezoning to IN1 General Industrial - Outcomes Committee - 08 Nov 2022
109 - Public Exhibition - Keyhole Lands - Site Specific Development Control Plan and Associated Documents - Outcomes Supplementary Reports - 24 Oct 2023
22 - Keyhole Lands - Planning Proposal - Fairfield Local Planning Panel - 10 Nov 2021

REPORT BY: Patrick Warren, Senior Strategic Land Use Planner

RECOMMENDATION:

That:

1. Council advise the Planning Secretary of its in-principal support to rezoning the section of the Keyhole Lands (located north of The Horsley Drive to Chandos Road) zoned RU2 Rural Landscape to zone E4 General Industrial, as per the Planning Proposal included in Attachment A of this report.
2. Pursuant to relevant sections of the NSW Environmental Planning & Assessment Act, Council defer its delegation for making of the Planning Proposal to the NSW Department of Planning Housing and Infrastructure, with the advice that the plan not be made until such time as Transport for NSW and Fairfield City Council have confirmed, by written notice to the Planning Secretary, that satisfactory arrangements have been made under a State Voluntary Planning Agreement for the proposed works to The Horsley Drive, including the road widening and provision of a signalised intersection.
3. In the event Transport for NSW or Council provide written notice that satisfactory arrangements have not been made for the proposed works and provision of a signalised intersection to The Horsley Drive, the Planning Proposal not be made.

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4. Council provide in principle endorsement to the Keyhole Lands Site Specific Development Control Plan (SSDCP) (Attachment B of the report) including post exhibition amendments.
5. In the event the Planning Proposal is made, the Keyhole Lands Site Specific Development Control Plan (SSDCP) come into force on the date it is published on Council's website in accordance with Section 14 of the Environmental Planning and Assessment Regulation 2021.
6. Council note the draft Letter of Offer for provision of local infrastructure upgrades, to facilitate further discussions between Frasers Property Industrial and Council to determine the extent of infrastructure upgrades required to support future development on the site and potential to provide for public benefits from redevelopment of the Keyhole Lands.
7. A further report on the draft Letter of Offer and local Voluntary Planning Agreement be referred to Council once there is greater certainty around the timing for the delivery of the State Voluntary Planning Agreement.

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

SUPPORTING DOCUMENTS:

AT-A	Keyhole Lands Planning Proposal	53 Pages
AT-B	Site Specific Development Control Pan	45 Pages
AT-C	Proposed Fairfield Local Environment Plan 2013 Mapping	10 Pages
AT-D	Agency Submissions and Development Control Plans	7 Pages
	Amendment Table	
AT-E	Public Submissions Redacted	8 Pages
AT-F	Frasers Property Industrial Letter of Offer Revised	6 Pages

CITY PLAN

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

SUMMARY

The report discusses the outcomes of the public exhibition of the Keyhole Lands Planning Proposal (Attachment A) regarding the proposed rezoning of the precinct (located in Horsley Park) from RU2 Rural Landscape to E4 General industrial under the Fairfield Local Environmental Plan 2013 (FLEP), as well as an associated Site-Specific Development

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Control Plan (SSDCP) (Attachment B of the report) to support future redevelopment of the site for industrial uses.

As previously reported to Council, the proposed rezoning is consistent with the strategic framework of the draft Fairfield Urban Investigation Area (UIA) Structure Plan that was endorsed by Council in April 2019.

A total of 15 submissions were received during public exhibition from various stakeholders including State agencies, utility providers, emergency services and adjoining landowners who were generally in support of the proposal, subject to addressing a number of detailed site development matters relating to site access, waterways, flooding, traffic impacts, amenity, environment and design.

The matters raised during public exhibition have been addressed following further consultation with State agencies and utility providers with relevant amendments being incorporated into the SSDCP to address further comments and issues raised.

A critical planning matter relevant to rezoning of the site is finalisation of a State Voluntary Planning Agreement (VPA) between the applicant, Frasers Property Industrial and Transport for NSW (TfNSW) to formalise primary vehicle access (via an estate road) from the site to The Horsley Drive, that will service vehicle movements generated by future industrial development on the site.

Council Officers have had numerous meetings and discussions with State agencies and Frasers Property Industrial to assist the progress of the State VPA and the NSW Department of Planning Housing & Infrastructure (DPHI) has recently advised that finalisation of the Planning Proposal (PP) cannot occur until Frasers Property Industrial and TfNSW have entered into a State VPA.

At the time this report was prepared, confirmation had not been provided by the State agencies regarding the timing for delivery of the State VPA. To this end, the recommendations of this report provide in-principal support to the PP to facilitate its referral to the DPHI for finalisation once the State VPA is resolved.

To make clear Council's position that access and widening of The Horsley Drive is acceptable and to a standard required for a major State arterial road of this nature, it is also recommended that Council advise DPHI that finalisation of the PP for rezoning of the Keyhole Lands should not proceed unless both TfNSW and Council have provided written notice to the Planning Secretary that satisfactory arrangements have been made under the State VPA for the proposed works including road widening and signalised intersection on The Horsley Drive.

The applicant has also submitted an updated draft Letter of Offer (Attachment F) to enter into a VPA relating to the upgrade of local infrastructure (principally roads and stormwater drainage) impacted by future warehouse and logistic development on the site. It is recommended that Council acknowledge the local Letter of Offer (for the proposed local

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VPA) that is tied to the State VPA being entered into between TfNSW and Frasers Property Industrial.

REPORT

A. Subject Site

The Keyhole Lands site located in Horsley Park East of the M7 motorway is approximately 66.8ha in size and contains 32 lots, approximately 19 of which are owned by the applicant Australand C&L Holdings (Frasers Property Industrial). The remaining lots are owned by individual landholders. The majority of the subject site is zoned RU2 – Rural Landscape and is bounded by the Western Sydney Parklands (Figure 1).

The Horsley Drive (State arterial road) runs along the Southern boundary of the site. An approximately 3m wide strip of land is also incorporated within properties that have frontage to The Horsley Drive that is zoned SP2 – Infrastructure and designated for acquisition by TfNSW.

Local roads run East-West through the site comprising Redmayne Road (central road) and Chandos Road along the Northern boundary of the site. The Western Sydney Parklands Urban Farming Precinct (established by the Greater Sydney Parklands Trust) is located immediately adjoining the Eastern boundary of the site extending to Ferrers Road and contains market gardens, growers markets and green houses.

Land to the West and North of the site comprises the Jemena Eastern Gas Pipeline and metering facility. Historically, the Keyhole Lands have been utilised mainly for agricultural purposes including market gardening and also contains some remnant native vegetation. The site contains 2 unnamed watercourses which form tributaries to Eastern Creek, located West of the site within the Western Sydney Parklands.

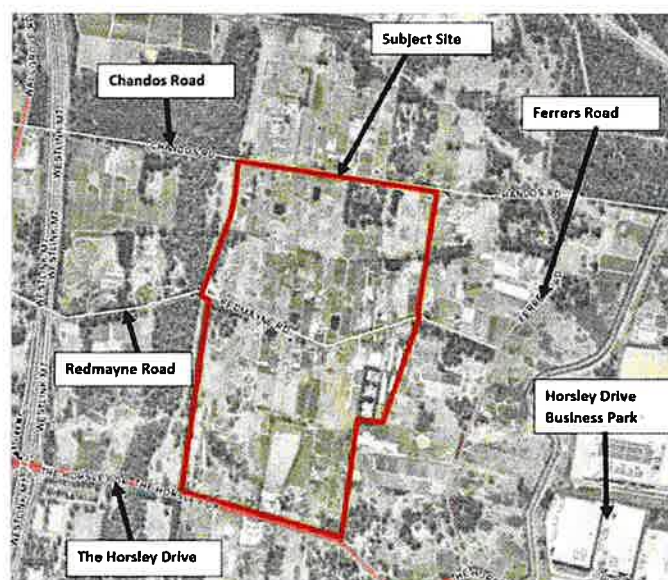


Figure 1: Subject Site

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B. Fairfield Local Environmental Plan 2013 Proposed Amendments

Frasers Property Industrial has submitted a standard PP to Fairfield City Council to amend the Fairfield Local Environmental Plan 2013 (FLEP). The PP was publicly exhibited for a period of 30 days. The FLEP 2013 is proposed to be amended as per Attachment C of the report as follows:

- Amend the Land Zoning Map for the section of the site zoned RU2 Rural Landscape to the new zone E4 General Industrial
- Amend the Minimum Lot Size Subdivision Map from 10,000m² to 930m²
- Amend the Height of Building Map to remove references to 9m on the site
- Remove the Minimum Lot Size Dual Occupancy Development Standard from the site

C. Site Specific Development Control Plan

A SSDCP has been prepared for the site to guide future development and was publicly exhibited for a period of 30 days concurrently with the PP and covers the following matters relating to development:

- Development controls
- Transport access and parking
- Stormwater and flooding
- Infrastructure and services
- Environmental management
- Estate road and infrastructure layout
- Horsley Drive intersection layout
- Waterway controls

Details of changes to the SSDCP following public exhibition are dealt with under Section E of this report.

D. Public Exhibition

In accordance with the Gateway Determination issued by the DPHI, the PP was placed on public exhibition concurrently with the Keyhole SSDCP and supporting studies for a period of 30 days from Wednesday 15 November 2023 to Wednesday 15 December 2023. The exhibition included:

- Letters with detailed information on changes relevant to each property being sent out to affected landowners
- Letters with information on the PP generally sent out to properties within 400m of the PP
- Information being made available on Council's website under 'Have Your Say'
- Information being made available on the NSW DPHI Planning Portal

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A number of enquiries were received from surrounding landowners during the public exhibition period. There were 10 submissions received by agencies and utility providers and 5 written submissions from landowners. Issues raised during the consultation are addressed below.

State agencies and utility provider submissions

The following table provides a summary of the key advice provided by State agencies and utility providers. More detailed background and commentary regarding the submissions from agencies and utility providers is included in Attachment D of the report.

Agency	Advice	Officer Comments
Transport for NSW (TfNSW)	<p>TfNSW have provided in principle support to the provision of access to The Horsley Drive, with in summary key points made:</p> <p>Previous concerns regarding the network performance and potential queuing to the M7 have been addressed and the proposed new signalised intersection on The Horsley Drive can be supported subject to TfNSW requirements.</p> <p>Horsley Drive upgrade is to consider provision of 2 lane road widening, provisions for bus shelter/stop, footpath, shared cycleway, pedestrian path, street trees and street lighting.</p>	<p>To address TfNSW and Council concerns a revised site masterplan has been submitted to Council as a post exhibition amendment.</p> <p>The site masterplan confirms access arrangements including that all proposed lots proposed to be rezoned can be serviced from the internal estate road network and that all heavy vehicles will access the site via the Horsley Drive.</p> <p>In addition, direct access onto Chandos Road and Redmayne Road will be denied directly from the proposed industrial lots.</p>
TransGrid	TransGrid was consulted during public exhibition and confirmed that no TransGrid assets are affected by the PP.	N/A
Endeavour Energy	Endeavour Energy have provided detailed technical specifications and advice regarding existing and future easements through the site including minimum easement widths, most direct route and integrated easements.	The SSDCP includes a section "2.3.11- Transmission Lines", that address matters raised by Endeavour Energy
Sydney Water	Request data from the applicant regarding ultimate annual growth data and time frames for future development on the site and timescales to enable Sydney Water to formulate planning for amplification/provision of services for the site.	<p>Further detail regarding growth data will be provided at State Significant Development Application (DA) stage when detailed design and further particulars are known.</p> <p>The infrastructure and servicing strategy (Appendix 2 of the PP) considers all relevant infrastructure needs to service the proposal.</p>

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Agency	Advice	Officer Comments
Department of Environment Energy Climate Change and Water (DEECW – Heritage and Environment)	<p>Recommended that an assessment of Biodiversity Values in line with Stage 1 and 2 of the Biodiversity Assessment Method (BAM) 2020 be undertaken.</p> <p>The piping of existing drainage lines across the site is not supported, areas of the site containing local biodiversity values should be retained and zoned C2 Environmental Conservation.</p> <p>Maximising the retention and revegetation of existing ecological communities, drainage areas are to be naturalised and provided as riparian zones of at least 20m wide and recognised and assessed for their inherent ecological value.</p>	<p>A Biodiversity Development Assessment Report (BDAR) has been prepared for the proposal in accordance with Biodiversity Conservation Act 2016 (BC Act)</p> <p>Frasers Property Industrial have provided a revised civil engineering report and a memorandum detailing their solutions to realign the first order watercourse adjacent to the Horsley Drive.</p> <p>Amendments to the SSDCP in relation to this matter are discussed under Section E of this report.</p> <p>Given the low conservation significance of remnant vegetation remaining on the site and proposed SSDCP controls to maintain waterways, in this instance application of a C2 conservation zone is not considered warranted.</p>
NSW State Emergency Services (SES)	<p>Requested revised flood modelling up to the Probable Maximum Flood (PMF) factoring in rainfall intensity and climate change events and consideration is given to the safe access/egress and evacuation of the site, in accordance with provisions of the NSW Flood Risk Management Manual 2023 and supporting guidelines including Support for Emergency Management Planning.</p>	<p>Frasers Property Industrial provided a revised civil engineering report that addresses the issues raised by the SES in relation to PMF flooding and flood evacuation issues.</p> <p>Information has also been included in Section 4.1 – Flood Management of the SSDCP regarding these matters.</p>
NSW Rural Fire Services (RFS)	<p>Requested amendments to the SSDCP to include reference to Planning for Bushfire Protection (PBP) 2019 and associated requirements.</p>	<p>The Site-Specific Development Control Plan has been amended to include address the matters raised by the NSW RFS.</p>
Heritage NSW	<p>If impact cannot be avoided in areas of high Aboriginal cultural heritage values through footprint design then appropriate mitigation measures should be negotiated with the registered Aboriginal parties.</p> <p>Council should be satisfied that all necessary heritage assessments have been undertaken and that any impacts have been sufficiently addressed, including through the State Heritage Inventory and Aboriginal Heritage Impact Permit Management System.</p>	<p>An Aboriginal Cultural Heritage report and Archaeological report (ACHAR) has been undertaken by Frasers Property Industrial in consultation with the Registered Aboriginal Parties (RAP) and the Deerubbin Aboriginal Land Council.</p> <p>The Deerubbin Aboriginal Land Council and RAP recommendations were incorporated into the ACHAR, no further concerns are raised at this time.</p>

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Agency	Advice	Officer Comments
Jemena	Changed an initial objection to the proposal and requested that an Encroachment Safety Management Study must be performed on (Design and Construct SMS) being prepared at DA stage to safeguard the adjoining Eastern Gas Pipeline corridor through the area.	This matter is addressed under Section 5.1 of the SSDCP.
Greater Sydney Parklands Trust (GSP)	Request controls to: <ul style="list-style-type: none"> • Ensure the surrounding Parklands are not adversely impacted by the proposed use. • No adverse impact on the ability to achieve GSP objectives for the Horsley Park precinct • Proposal contributes positively to the landscape • Proved design excellence for future development on the site including a local Local Environmental Plan (LEP) clause requiring a State design review panel process for future SSDAs at the site. 	As per Section E of this report (below) the SSDCP includes a range of controls to address issues raised by the GSP. Inclusion of a local LEP clause relating to design excellence is not considered warranted as future DAs will be required to address existing design guidelines published by the State government including "Greener Places" and "Better Place".

Landowner submissions

The following section of this report provides an overview of key issues raised in submissions from the general community, including landowners within the Keyhole Lands affected by the proposed rezoning whose properties have not been acquired by the applicant (Fraser's Property Industrial). Redacted copies of these submissions are included in Attachment E of this report.

Issue	Council Officer response
An affected resident within the Keyhole Lands did not want to be rezoned for employment uses as they wish to continue living on the site and want to be able to make improvements to the existing house and land overtime, which they did not think they would be able to do if the land was zoned industrial.	The draft Fairfield UIA Structure Plan prepared for Horsley Park aims to avoid 'piecemeal' zoning of the Keyhole Lands and to apply a general employment zone across the entire the precinct. In the event Council supports rezoning of the land for General Industrial, any existing dwelling that has a legitimate approval would be able to be modified or apply for alterations and additions under existing use right provisions of the NSW EP&A Act.
An affected resident was concerned that their rates and land taxes would increase if the land was zoned industrial.	Council's rates department has advised that rates would not increase on the land after the land is rezoned, should the existing (non-industrial) use be maintained on the land. Should the land be utilised for an industrial land use in the future then rates would increase to reflect the industrial use.

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Issue	Council Officer response
A resident raised concerns about the level of cut and fill and the lack of disclosure by applicant.	Council has publicly exhibited all relevant documents issued by Frasers Property Industrial including technical reports in line with the gateway determination issued for the site by the DPHI. All directly impacted residents and properties within 400m were notified and provided access to all exhibited documents on Council's website, 'Have your say' page. Section 2.3.7 of the Site DCP contains controls relating to cut and fill does not cause adverse impacts on adjacent property by way of altering flood characteristics. The applicant will be required to submit, with any bulk earthworks application, a detailed geotechnical investigation.
A resident raised concerns about the developments negative impact on future traffic flow on Ferrers Road during construction.	During Construction a Construction Traffic Management Plan (CTMP) will be required to be provided to Council for approval. Haulage routes, vehicle number, etc will be required to be approved by Council prior to the beginning of construction. The CTMP will have to show that traffic flow and access for properties at Ferrers Road be maintained during construction.
A resident raised concerns that their property was not referenced in the land application table in the Site DCP.	Council Officers can confirm that this was an administrative error. The site DCP has been amended to make reference to the affected residents property.

E. Critical Planning Issues and Post Exhibition Amendments

During the course of assessment and public exhibition of the proposal there have been a number of critical planning matters that have required detailed attention to ensure adequate arrangements and controls are in place to facilitate rezoning of the site and adequately address submissions by agencies and landowners, as summarised below:

1. Site Access to The Horsley Drive

Initially, TfNSW did not support primary access from the site to The Horsley Drive however after further discussions with the applicant, TfNSW have now advised that they generally support provision of this access, subject to Frasers Property Industrial entering into a State VPA to fund signalisation and widening of The Horsley Drive in accordance with specifications agreed to by TfNSW.

Officer Recommendations:

As referred to under the Summary section of this report, at the time this report was being prepared Council had not received confirmation of detailed matters to be covered by the State VPA and timing for its finalisation.

To this end, the recommendations of this report provide Council's in principle support for the PP subject to satisfactory arrangements being made under a State VPA for the proposed works to The Horsley Drive, including the road widening and provision of a signalised intersection.

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2. Reconfiguration/Realignment of Existing Watercourses

The original Gateway Determination issued by DPHI on the 15 May 2023 included the following advice:

"Prior to public exhibition, prepare a revised civil engineering report that allows watercourses to largely flow naturally rather than implementing engineering solutions".

As detailed above, the submissions from a number of State agencies raised concerns with the applicant's initial proposal to realign and pipe sections of an existing watercourse running along the Southern boundary of the site that flows into Eastern Creek. In response, the applicant has submitted an amended plan for treatment of the watercourse to maintain it in a 'natural' state.

However, at this (rezoning) stage the proposed final layout and configuration of lots and future development on the site is unknown and it is not possible to resolve all of the issues that are relevant to the alignment of the watercourse along the Southern boundary and how its connection into Eastern Creek will be maintained (noting the watercourse runs through the Western Sydney Parklands to connect to Eastern Creek).

Officer Recommendations:

To address the above matters, amendments have been included in the SSDCP to facilitate a 'performance based' approach to address the issues raised by State agencies that will need to be addressed at detailed design stage when a DA is prepared for the section of site where the watercourse is located.

In summary, this means the watercourse must not be piped and that connection is maintained to Eastern Creek to the satisfaction of relevant State agencies and Council.

3. Landscaping Buffers and Future Site Coverage

The issue of landscaping buffers, tree canopy cover and impermeable site coverage have been subject to consideration by the Fairfield Local Planning Panel (FLPP) (who recommended the PP be endorsed by Council for a Gateway Determination), a number of State agencies and the applicant.

It is noted that the Keyhole Lands are located adjacent to the Western Sydney Parklands that comprises a semi-rural/parklands landscaped character and has visual prominence along an important roadway corridor into the urban areas of the Fairfield Local Government Area (LGA).

Officer Recommendations:

To address issues raised in comments from State agencies, as well as feedback provided by the applicant, the following amendments are recommended for the draft SSDCP (Attachment B of the report) that provide for:

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- Provision of a minimum landscape setback along boundaries with the Keyhole estate adjoining the Western Sydney Parklands of 4m.
- Suitable landscaping and planting measures including use of locally occurring indigenous plant species particularly within the landscape buffer areas adjoining the Western Sydney Parklands.
- Controls that allow consideration of impervious site area achieved for the entire estate rather than just individual lots, to support the establishment of vegetation and landscaped areas, mitigate stormwater run-off and heat island effects.

The above measures are also aimed at promoting a transition between future development in the Keyhole Lands with the adjoining Parklands, as well as mitigating the visual impacts of warehouse/logistics development on the Parklands setting of the precinct.

Amendments - Planning Proposal

The PP has been amended post exhibition to address feedback provided by State agencies and Frasers Property Industrial including:

- Amendment of the land application table to include all lots proposed to be rezoned
- Inclusion of reference to the economic benefits of the proposal as provided in an additional economic assessment provided by Frasers Property Industrial.
- Updating references to new job creation figures
- Updating the staging plan for the development
- Amendment of the traffic management issues section of the report to reflect the revised traffic assessment report, modelling and additional advice received from TfNSW.
- Amendment of the flooding section of the report to reflect additional advice provided in the civil engineering report to address concerns raised by the NSW SES.
- Amendment of the public exhibition section of the report to reflect the results of public exhibition.

CONCLUSION

As detailed in this report, extensive community and stakeholder consultation has been carried out for the Keyhole Lands PP that included direct notification of properties proposed to be rezoned and those within 400m of land proposed to be rezoned.

All agencies and utility providers were consulted in line with the Gateway Determination conditions issued by the DPHI. As referred to in this report, issues raised during exhibition have been addressed through amendments to the draft SSDCP and PP.

The proposal is consistent with the draft Fairfield UIA Structure Plan and will provide for employment generation and significant economic growth for the City.

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In this respect it is recommended that Council endorse the recommendations of this report to provide in-principal support to rezoning of the Keyhole Lands and endorsement of the SSDCP and local VPA, subject to a State VPA for a signalised intersection and widening of The Horsley Drive being delivered to the satisfaction of TfNSW and Council.

Patrick Warren
Senior Strategic Land Use Planner

Authorisation:

Executive Strategic Planner
Manager Strategic Land Use Planning
Director City Planning

Outcomes Committee - 9 July 2024

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***** END OF ITEM 73 *****