
The City in its Broader Context

21 Status of the Fernhill and Infracorp proposals for inclusion on the Metropolitan Development Program

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Strategic Program Term Achievement: Council's agreed strategies, where they relate to planning provisions, are implemented through the new Citywide Penrith Local Plan and Penrith Development Control Plan.

Critical Action: Develop the Citywide Penrith Local Plan and Development Control Plan by March 2009, as agreed with the Department of Planning.

Purpose:

To advise Council on the status of the proposals, for inclusion on the State Government's Metropolitan Development Program, of Fernhill and the former AirServices Australia (Infracorp) land at Cranebrook. The report also provides information regarding the biodiversity significance of the former AirServices Australia land at Cranebrook, and the potential for 'listing' the site to identify and conserve its significance. The report recommends that the information be received, and that a conservation outcome for the Infracorp land is pursued with the State Government.

Background

Council first considered this matter on 12 November 2007. The Briefing Paper outlined three proposals, which had been lodged with the Department of Planning, to have sites within Penrith City considered by the Land Supply CEOs Group for listing on the State Government's Metropolitan Development Program (MDP). The sites were land along the western side of The Northern Road, Glenmore Park; the Infracorp (former AirServices land); Cranebrook; and Fernhill, Mulgoa.

The Northern Road and Infracorp were subsequently considered by Council at its Policy Review Committee meeting of 19 November 2007. Council resolved at that meeting to:

2. ... Council request the Department of Planning not to proceed with the submission of the rezoning proposals for consideration by the Metropolitan Development Program Land Supply CEOs group
3. Council formally oppose the listing of the sites on the Metropolitan Development Program or their consideration as a Major Project under Part 3A of the Environmental Planning and Assessment Act
4. Council request further dialogue with the Department of Planning in relation to the process for securing rezonings outside of the existing Local Planning framework and statutory arrangements

5. *The Mayor write to the Premier of New South Wales, The Hon. Morris Iemma MP and copy the Minister for Planning, The Hon. Frank Sartor MP expressing Council's extreme concern about the State Government's process which allows rezonings to be sought from the Government completely outside of the Local Plan process."*

Council has since been formally advised that the inclusion of the Northern Road proposal on the MDP has not been supported. No advice has yet been received regarding the other two sites.

Infracorp proposal

Council received an application for rezoning on September 2006. The initial rezoning proposed approximately half the site for conservation and half for development, with rural-residential development of **up to 180 dwellings, on lot sizes averaging 4000m², but generally ranging from 1500m² to 8000m².**

Council's assessment of the rezoning application was deferred while the proponent participated in the DECC BioBanking Pilot Scheme. Subsequent advice from the DoP indicated that the proponent should also prepare a Sustainability Assessment so that the proposal could be considered by the Land Supply CEOs Group meeting in November 2007.

The Sustainability Assessment report was lodged with Council on 12 October 2007. The proposal outlined in the Sustainability Assessment report had evolved significantly from the original scheme, with the scale and intensity of residential development greatly increased. The scheme now includes **up to 740 dwellings, grouped into three precincts with lot sizes of 350m², 350m²-600m² and 2000m²+**.

Council is still awaiting advice from the Department of Planning as to whether the proposal has been included in the MDP.

If the site is included in the MDP, and the proponent chooses not to pursue the rezoning of the land under Part 3A of the Environmental Planning and Assessment Act, Council will be requested to re-commence assessment of the rezoning application. A report on the rezoning application assessment would be presented to Council for its consideration when all matters of concern are appropriately addressed.

Infracorp Conservation Significance

The information in this section of the report has been predominantly derived from the Sustainability Assessment submitted by the proponent to the State Government for its consideration for listing on the MDP.

Vegetation Communities

The 181 hectare (ha) site supports four vegetation communities covering about 161ha. They are:

- Castlereagh Swamp Woodland (46ha)
- Cooks River/Castlereagh Ironbark Forest (4ha)
- Shale/gravel Transition Forest (66ha)
- Castlereagh Scribbly Gum Woodland (4ha)

The balance of the site (60ha) is cleared.

The Castlereagh Swamp Woodland and Cooks River/Castlereagh Ironbark Forest are listed as Critically Endangered Ecological Communities under the Threatened Species Conservation Act (TSC Act). The Shale/gravel Transition Forest is listed as an Endangered Ecological Community under the TSC Act.

Castlereagh Scribbly Gum Woodland is not listed as an endangered ecological community under the TSC Act.

Threatened Flora

The site supports 7 plant species that are listed under the TSC Act. Their names and conservation status are:

Species name	TSC	EPBC
<i>Acacia byoeana</i>	E	V
<i>Allocasuarina glareicola</i>	E	E
<i>Dillwynia tenuifolia</i>	V	V
<i>Grevillia juniperina subsp juniperina</i>	V	
<i>Micromyrtus minutiflora</i>	E	V
<i>Persoonia nutans</i>	E	E
<i>Pultenea parviflora</i>	E	V

TSC = NSW Threatened Species Conservation Act

EPBC = Commonwealth Environmental Protection & Biodiversity Conservation Act

E = listed as endangered

V = listed as vulnerable

The concentration of so many listed plant species on one site is very unusual in the Penrith context.

Threatened Fauna

The Freetail-bat and the Cumberland Land Snail are the only animal species recorded on the site that are listed under the TSC Act.

Conservation Significance Assessment

An assessment of the conservation significance of different parts of the site accompanied the Sustainability Assessment Report. The significance was determined on the basis of the relationships between the conservation status of individual vegetation communities, the vegetation recovery potential of the disturbed parts of the site and the distribution of threatened plant species. Based on this assessment 69% (124ha) of the site was determined to have high conservation significance. A further 20% (37ha) of the site was deemed to have moderate conservation significance.

The site is currently the only known area, of some size, where a mosaic of four distinct vegetation communities exists that provides habitat for at least 9 listed plant and animal species. The site could reasonably be described as an 'ecological hotspot' in Penrith.

Biodiversity Protection on the Infracorp site

The current zoning of 'Special Uses – Wireless Station' currently affords the site a high degree of protection, as most development uses are prohibited.

If the site were to be zoned to permit a broader range of uses, considerable pressure would be brought to bear on the site's biodiversity, notwithstanding the protection given to plant communities and individual species listed under the TSC Act. Any development on the site is likely to compromise the moderate to high conservation areas by impacting around its edges.

From the information currently available, it is evident that most of the site has significant conservation values, that should be protected in an holistic manner. No decision has yet been made on the proposal for future development of the site.

It is therefore suggested that Council could choose to take a more pro-active approach to resolving this matter, and ensuring the future conservation of the site, by lobbying the State Government to acquire and manage the entire site for conservation purposes. Council may also consider making a submission to the NSW Scientific Committee, seeking to have the endangered plant species found on the site listed as 'Endangered Populations' under the TSC Act.

Fernhill – status of proposal for inclusion on the Metropolitan Development Program (MDP)

The owner is seeking inclusion of the property on the MDP to permit, after subsequent rezoning, parts of the site to be developed for residential purposes to deliver a heritage conservation fund that would finance, in perpetuity, the conservation of Fernhill and its setting. In principle, Council staff are of the view that such a scheme is worthy of consideration.

A preliminary proposal was received in May 2006, nominating that certain land at the eastern end of the site, fronting Mulgoa Road adjacent to the village, be zoned to permit a 92 lot residential subdivision and that land at the western end of the property, fronting Fairlight Road and Nepean Gorge Drive, be rezoned to accommodate 49 x 1ha lots and 48 cluster dwellings. The proponent was advised in June 2006 that the particular scheme was inappropriate for the site, and that any alternative development proposals would require that a range of environmental issues would need to be explored.

Following consideration of the preliminary scheme in 2006, there was limited contact between Council staff and the proponent's consultants until a Sustainability Assessment Report was received on 12 October 2007. An addendum to the report was then received in January 2008. This report was prepared by the proponent for the purpose of consideration by the State Government's Land Supply CEOs Group and then, contingent upon approval by Cabinet, inclusion in the Metropolitan Development Program (MDP).

The proposal described in the Sustainability Assessment report is essentially a revised version of the 2006 scheme, with an overall reduction in the number of lots and deletion of the proposed cluster housing. The initial submission received in October 2007 made specific reference to 'seniors living' in proximity to Mulgoa village. The addendum received in January 2008, however, does not specify whether such housing remains part of the proposal.

The Department of Planning requested that Council provide a formal response on the Sustainability Assessment report by the end of March 2008. The key issues emerging from

the current assessment include heritage conservation, infrastructure, landscape character, bushfire, traffic and access, and flooding. The significance of the biodiversity on the site also required further examination.

Council has received advice from the Department of Planning that the request for inclusion on the MDP is still being considered.

Conclusion

The proposals for both the Fernhill and Infracorp sites are still under consideration by the State Government for possible inclusion in the Metropolitan Development Program. It is not known when the State Government will make a decision.

The Infracorp site has significant conservation values that require greater protection and certainty than currently available. Lobbying the State Government to acquire the site, and seeking a stronger conservation status under the TSC Act, will enable Council to demonstrate a clear policy position on its commitment to appropriate biodiversity conservation for the site.

RECOMMENDATION

That:

1. The information contained in the report on Status of the Fernhill and Infracorp proposals for inclusion on the Metropolitan Development Program be received.
2. Council lobby the State Government to acquire the Infracorp site, and dedicate it as a Nature Reserve under the National Parks and Wildlife Act, to conserve its unique assemblage of vegetation communities.
3. Council make a submission to the NSW Scientific Committee requesting that the endangered plant species on the Infracorp site be listed as endangered populations of their species under the Threatened Species Act.

ATTACHMENTS/APPENDICES

There are no attachments for this report.