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Georges River Council
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Submission on Planning Proposal Draft LEP2020 (Reference SF20/881)

Oatley Flora and Fauna Conservation Society (OFF)

Oatley Flora and Fauna Conservation Society Inc. (OFF) was established in 1955 by local residents concerned about the destruction of plants and wildlife in local parks and reserves. Our activities have broadened over the years and now, with around three hundred members, the Society is a leading conservation group in the St George area. Our mission is:

“Working to protect, conserve and enhance the natural environment locally and globally”

Website: <http://off.oatleypark.com/about/>

Facebook: <https://www.facebook.com/OatleyFloraandFauna>

We make the following comments for your consideration in the interests of achieving the best outcome for our local environment.

Our submission

OFF objects to the reduction of the Foreshore Scenic Protection Area (FSPA) which currently exists in the HLEP2012. The narrow re-drawing of the FSPA to protect only a narrow band of the immediate waterfront properties in this Planning Proposal Draft LEP 2020 is totally unacceptable.

The proposed LEP **reduces the number of lots** that will remain in the FSPA by **2380** compared to the HLEP 2012, across the suburbs of Riverwood (14); Lugarno (534); Peakhurst (114); Peakhurst Heights (282); Mortdale (253); and Oatley West (1183). [Note these figures were only provided in [FAQ FSPA](#) on 15 May 2020]

The removal of thousands of properties from the protections afforded by the existing HLEP FSPA will surely lead to significant increases in built densities, as the lot size for a single dwelling will fall from what would otherwise have been 700sqm to 450sqm. The minimum lot size for each dual occupancy after subdivision falls from what would have been 430sqm to 300sqm. The cramming in of more dwellings, will mean a parallel increase in traffic and parking congestion and a greater population pressure on recreational spaces, with no plans to expand these locally.

These effects will be compounded by the reduction of the landscaping requirement from 25% of a development site to just 20%. This, combined with a smaller lot size, will also mean the shrinking of gardens, the loss of neighbourhood leafiness and shady trees, and very little private outside space for trees.

In addition to the community and social impacts, these changes will result in detrimental impacts on tree canopy, biodiversity values, scenic views, and stormwater runoff and pollution.

Tree Canopy

One of the key issues identified in the [Local Strategic Planning Statement](#) (LSPS) p.7/75 was:

Maintaining and increasing the tree canopy is overwhelmingly important and removed trees need to be replaced with appropriate native species and additional trees on public land.

However, the removal of thousands of properties from the FSPA will be moving in the wrong direction. Tree planting on public land to “compensate” for loss of those on private land will be unable to keep up with the demand.

Dual occupancies in particular often lead to multiple driveways into the street where currently there may only be one. The end result is less space for street trees on public land leading to further loss of tree canopy.

Increased urban densities and diminishing tree cover will undermine the council’s ability to achieve the ‘low cost’ ecosystem benefits provided by dense canopy cover, including the amelioration of stormwater impacts and climate change impacts. The simple metrics for this, are that reducing lot size and taking out 5% from the required landscape area can be the difference between having trees, and removing them. Cumulatively, that effect for hundreds of properties is significant. The fact that this LEP2020 will enable this, is directly contradictory to the Greater Sydney Commission’s South District Planning Priority S15 “Increasing urban tree canopy cover and delivering Green Grid connections”.

Biodiversity

Council has an obligation to protect biodiversity that it is ignoring. Greater Sydney Commission’s South District Planning Priority S14 is: “Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes”. Biodiversity clearly will be undermined by the removal of so much of the FSPA in Oatley West, Mortdale Heights and Peakhurst West, which by increasing built densities will lead to tree removal.

The Guidelines for [Preparing Planning Proposals](#) (page 15) state: “A planning proposal that is submitted for a Gateway determination should identify if the land subject to the proposal has the potential to contain critical habitat or threatened species, populations or ecological communities, or their habitats.”

In response, **Council has erroneously claimed:** “This Planning Proposal will not adversely affect critical habitat, threatened species, populations or ecological communities or their habitats”. ([Planning Proposal](#), p. 67).

On the contrary, the NSW Government data base and mapping program (OEH, Bionet documents) shows both threatened species and ecological communities within the affected area. Amongst the species are the Powerful Owl and Grey-Headed Flying Foxes that forage in the bushy suburban setting, and roost in the adjacent bushland reserves. A threatened frog, the Red crowned toadlet has been recorded in one of the drainage lines of one of these reserves. Urbanisation is a known 'key threatening process' to threatened biodiversity. The fact that the Council simply ignores the impact of intensifying the threat to what we have left in our area is unacceptable.

In a very recently published FAQ sheet ‘Questions from digital webinars’ Council states:

“The Local Strategic Planning Statement 2040 (LSPS 2040) commits to developing a biodiversity strategy informed by a LGA-wide biodiversity study (refer to Action 90 under P17 of the LSPS 2040). The outcomes of this study may result in biodiversity provisions included in a future LEP.”

The problem arising from this statement is “If the current proposed changes to the FSPA are implemented immediately, impacting biodiversity detrimentally, and at some future date a biodiversity study finds that biodiversity provisions are needed in the GRC LEP, it will be so much more difficult to not only undo the changed LEP provisions but also to counter the impacts that have already been wrought on biodiversity. That is, the horse will have bolted!

Additional comment on **biodiversity impacts**

1. The revised LEP appears to pay little regard to maintaining, conserving or enhancing biodiversity in the LGA. The LGA is currently very diverse for fauna due to the current area of native vegetation surviving in the LGA.

2. The Planning Proposal does not use mapping of surviving native vegetation to which the Council has access (OEH vegetation (2013) “The Native Vegetation of the Sydney Metropolitan Area”), to guide the preparation of the LEP. There is no reference or acknowledgment that such information exists. The great importance of surviving isolated old-growth, hollow-bearing Eucalypts and Angophoras and significant native fruit bearing Rusty Fig trees in streets and gardens has not been mentioned or considered in their contribution to maintaining fauna, especially threatened fauna such as the Powerful Owl and Grey-Headed Flying Fox.

3. The Strategy document pays only superficial attention to biodiversity under ‘Natural Values’ and states there won’t be any impact on threatened species. **This is untrue.** The Powerful Owl, Grey-headed Flying Fox and Square-tailed Kite are all recorded and will be impacted.

3.1 The Powerful Owl (Vulnerable Biodiversity Conservation Act 2016) will be greatly affected by the loss of old growth hollow bearing eucalypts and Angophoras through the loss of large hollows for nesting and also the loss of hollows for some of its main prey items Brushtail and Ringtail Possums. The Grey-Headed Flying Fox is also an important prey item and will be impacted (see next Point). Many of the prey species of the Powerful Owl are hollow users (See table ‘Oatley hollow-using fauna’ - this can be supplied if requested) and with the grossly reduced lot sizes and increases in the proportion of the block which can be built on this will not allow enough space to maintain or grow large eucalypts and angophoras. The canopy spread of an old growth tree typically requires a circle of 20-30 metres around the tree. Protection of trees in public parks is insufficient as Powerful owls require home ranges from 800 to over 1000 hectares.

3.2 The Grey-Headed Flying Fox (Vulnerable Biodiversity Conservation Act 2016) will be impacted by the dramatic reduction in native tree canopy which it requires to provide nectar and fruit. Old growth eucalypts, angophoras and Rusty Figs provide much greater volumes of nectar and fruit than young trees.

3.3 The loss of tree canopy will also impact on other hollow nesting birds, most of the parrots, hollow sheltering microbats and all nectar feeding birds and mammals.

3.4 The Square-tailed Kite will be impacted by the overall reduction in birds (on which it preys) due to reduction in total canopy cover.

4. The apparent absence of an assessment of the impact of this proposed LEP2020 on biodiversity is appalling and irresponsible.

Stormwater Run-off and Water Pollution

This proposal threatens water quality in the Georges River. With increased housing density comes more hard paved surfaces leading to less infiltration into the soil and more stormwater runoff. This carries with it pollutants from the catchment including sediment, nutrients, organic matter, oils and greases from increased traffic, and litter and other gross pollutants. All of this flows into our wetlands and creeks and then the Georges River.

Some of the most significant and sensitive environmental assets of the Georges River LGA are the Myles Dunphy Reserve, Oatley Park and the Lime Kiln Bay wetlands, and each of these reserves either fringe or drain into the Georges River. The Hurstville LEP 2012 recognised implicitly the importance of maintaining a FSPA buffer zone around these assets. The creek lines and wetlands within these bushland reserves have been recognised by a body of robust research, as poor in both ecological function and water quality performance. ([Georges Riverkeeper Health Report Card 2017-2018](#)). This justifies the retention of the FSPA as it exists around them, and the further strengthening of development controls to reduce their impact on downstream water quality of the Georges River. Alarming the draft LEP will increase the threat, with denser urban development and a lessening of the absorbing capacity of soft landscaping, leading to greater volumes of polluted urban runoff entering waterways.

Scenic views

The [Foreshore Strategic Directions Paper](#) - Recommendations (page 85) stated “9. The LEP and DCP can play a major role in protecting and enhancing views and there is a need to strengthen the policy objectives relating to protecting views and enhancing tree coverage.”

The 2012 Hurstville LEP recognised the value of the vegetation behind the foreshore band on visible high points and ridge tops. To protect bushy views from the river and lookouts, it is essential to keep all the headlands wholly within the FSPA. It is unacceptable that Council’s current proposal (LEP2020) does not do this.

Council has also ignored a critical map prepared as its own research for this LEP, that shows the focal view points and bushy highspots throughout the local area (Fig. 31, p.100, Foreshore Strategic Directions Paper). Many of these are not on the foreshore but background for it and once again these areas should have been included in the proposed FSPA.

Further, this diagram should have been used to inform the proposed FSPA coverage in the former Kogarah Council area to ensure inclusion of these focal view points and bushy highspots to a greater extent in the FSPA. It is expected that the area covered would be closer to that which existed in the E4 Environmental Living Zone in the Kogarah LEP prior to 2016 (only 4 years ago).

However, as the LEP2020 is currently proposed Council will not be supporting Greater Sydney Commission’s South District Planning Priority S14: “Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes”

‘Harmonising’ – equity and consistency

It is OFF’s view that the harmonising process has been perverted to deliver very poor outcomes in the draft LEP particularly in relation to the FSPA. In order to achieve some level

of harmonisation Council has descended to the lowest common denominator and reduced the FSPA to a narrow band of waterfront properties along most of the LGA's Georges River frontage. In the process 2380 properties will no longer be covered by the FSPA and only 1297 properties will be added to the former Kogarah LGA side.

The Planning Proposal (Clause 6.7 Foreshore scenic protection area) states:
"This Planning Proposal also seeks to extend the existing FSPA under the HLEP 2012 to the whole LGA in accordance with the principle of achieving equity across the LGA to consistently regulate built form outcomes, reduce impacts of development on biodiversity and reinforce the dominance of vegetation and landscape over hard surfaces in the foreshore localities.

The extent of the existing FSPA in the former Hurstville LGA has been reduced in accordance with the principles of **equity and consistency**."

Comments with regard to Equity

In fact the Draft LEP modifications to the FSPA rules will lead to a reduction in equity. These changes potentially provide large capital gains for the approximately 740 owners no longer within the FSPA in the former Hurstville LGA, who would in the future be able to subdivide their lots. Other owners in the LGA will not have these potential windfall capital gains. So the effect is to change the rules to privilege a small group of property owners over others - how is this "equity"?

Further, owners who would be removed from the former Hurstville LGA FSPA, but either can't or don't want to subdivide, are likely to see the value of their properties fall as the area becomes more built-up - how is this "equity"?

Comments with regard to Consistency

Consistency is hardly a principle which should be applied in toto in an LEP. An LEP by its nature provides and sets rules for different permitted developments in different situations. The guiding principle should be to determine what is suitable for different locations on a granular, lot-by-lot basis.

While the LEP rules themselves have to be applied consistently, it is nonsense to suggest that one FSPA has to be treated the same as another one on the basis of 'consistency' just because they are both FSPAs. This is like saying one suburb is the same as another, one park is the same as another, one bush reserve is the same as another, one heritage building is the same as another etc.

Council itself is happy to allow inconsistencies arising from the merger to continue. In Council's Draft Stormwater Management policy (September 2019), Section 3.4.4.1, the following is stated:

An absorption system that meets all technical requirements within this Policy may be considered as the primary method of draining a single dwelling and / or a secondary dwelling in suitable parts of the following suburbs: Connells Point, Kyle Bay, Blakehurst, Hurstville Grove, Sans Souci, Carss Park, Kogarah Bay.

Absorption systems are not allowed as the primary method of draining a development site in all other locations within the Local Government Area.

This is a significant 'inconsistency' between parts of the former Kogarah LGA and the rest of the new LGA, but Council is proposing that this 'inconsistency' be maintained and continued into the future. If this approach is good enough for stormwater systems, why isn't it good enough for FSPAs?

Recommendations

OFF strongly recommends that:

1. the existing Foreshore Scenic Protection Area and associated development conditions as currently mapped under the HLEP 2012 be retained and carried forward to the proposed Georges River LEP 2020.
2. the proposed FSPA in the former Kogarah LGA be expanded, using information shown in Fig. 31, Foreshore Strategic Directions Paper, to include the focal view points and bushy highspots behind the immediate foreshore strip to a greater extent in the FSPA. It is expected that the area covered would be closer to that which existed in the E4 Environmental Living Zone in the Kogarah LEP prior to 2016.
3. a public hearing be held based on Council's failure to consider the full impacts of the reduction of the FSPA on tree canopy, biodiversity, scenic views and stormwater pollution of the Georges River as well as its failure to provide and consider key information for the LEP.