

Planning Services

Plan Finalisation Report

Local Government Area: Fairfield

File Number: IRF18/1371

1. NAME OF DRAFT LEP

Fairfield Local Environmental Plan 2013 Amendment No.27 (draft LEP). The draft written instrument is at **Attachment LEP**.

2. SITE DESCRIPTION

The planning proposal (**Attachment B1 – B2**) applies to certain land, or an issue, in the Fairfield local government area (LGA), as identified in the table below.

Site	Address	Lot Description
1	302A The Boulevard, Smithfield	Lot 1 DP 35591
2	13 to 21 Rossetti Street, Wetherill Park	Lot 5 DP 714281
3	117A Wetherill Street, Wetherill Park	Lot 15 DP 27962
4	84 Tasman Parade, Fairfield West	Lot 0 SP 87321
5	512-520 Smithfield Road and 2 Myrtle Road, Prairiewood	Lot 2 & 3 DP 310205, and Lot 105 & 106 DP 778580
6	4 Kellaway Place, Wetherill Park	Lot 11 DP847242
7	Fairfield Showground, Prairiewood	Lot 11 DP 1101430, Lot 11 DP 620965, and Lot 25 & 26 DP 262525
8	Fairfield LGA – B1 Neighbourhood Centre Zoned Land	Refer to Attachment F
9	Fairfield LGA – Minimum subdivision lot size for community title schemes	Various across Fairfield LGA

Refer to **Attachment G** for the site identification maps.

3. PURPOSE OF PLAN

The draft LEP seeks to undertake housekeeping amendments to the Fairfield LEP 2013 to address issues that have arisen as a result of drafting errors or to respond to issues in the application of the LEP provisions.

The proposal will not facilitate any additional dwellings or jobs within the Fairfield LGA.

The draft LEP seeks to amend the Fairfield Local Environmental Plan (LEP) 2013 as follows:

Site 1 – 302A The Boulevard, Smithfield

- apply a maximum building height of 9m; and
- apply a maximum floor space ratio (FSR) of 0.45:1, to the site.

Site 2 – 13 to 21 Rossetti Street, Wetherill Park

- amend Clause 17A under Schedule 1 Additional permitted uses to refer to the site identified on the map.

Site 3 – 117A Wetherill Street, Wetherill Park

- apply a minimum lot size of 450sqm; and
- apply a minimum lot size of 900sqm for dual occupancy development, to the site.

Site 4 – 84 Tasman Parade, Fairfield West

- rezone the site from R2 Low Density Residential to R4 High Density Residential;
- apply a maximum building height of 18m;
- apply a maximum FSR of 2:1;
- remove the minimum lot size;
- remove the minimum lot size for dual occupancy development on the site; and
- include office premises as an additional permitted use on part of the site.

Site 5 – 512-520 Smithfield Road and 2 Myrtle Road, Prairiewood

- remove the minimum lot size on the site.

Site 6 – 4 Kellaway Place, Wetherill Park

- include sex services as an additional permitted use on the site.

Site 7 – Fairfield Showground, Prairiewood

- remove the local heritage item 86 (Fairfield Showground, original grand stand and trees); and
- amend the local heritage item 85 (Indigenous Flora Park) to include additional land.

Site 8 – Fairfield LGA – B1 Neighbourhood Centre Zoned Land

- increase the maximum building height of certain land zoned B1 Neighbourhood Centre zoned from 8m to 9m.

Site 9 – Fairfield LGA – Minimum subdivision lot size for community title schemes

- provide for the subdivision of land under a community title scheme at a density that is appropriate for the site constraints, development potential and infrastructure capacity of the land; and
- ensure that community title lots are of a sufficient size to accommodate development.

The proposed amendments to the maps and clauses are provided at **Attachment H**.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Fairfield State Electorate. Mr Guy Zangari MP is the State Member for Fairfield.

The site falls within the McMahon Federal Electorate. Hon Chris Bowen MP is the Federal Member for McMahon.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION

The Gateway determination issued on 17 October 2017 (**Attachment C**) determined that the proposal should proceed subject to conditions. There have been no alterations to the Gateway determination.

The proposal was due for finalisation by 24 July 2018.

Department Comment: The Department received the request by Council to finalise the planning proposal prior to the due date. The Department is now satisfied that Council has met the conditions of the Gateway determination and the planning proposal is adequate for finalisation.

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, public exhibition was undertaken by Council from 8 November 2017 to 6 December 2017. Council did not receive any community submissions during the exhibition period (**Attachment I1**).

7. ADVICE FROM PUBLIC AUTHORITIES

Council consulted the Office of Environment and Heritage (OEH) in accordance with the Gateway determination.

OEH (**Attachment J1**) did not object to the proposed removal of the Fairfield Showground as a local heritage item (I86) and the expansion of the Indigenous Flora Park local heritage item (I85) to include adjacent remanent vegetation, provided Council was satisfied that the proposed amendments were acceptable.

OEH also advised that a comprehensive archaeological assessment be provided at the development application stage for the future development of the Fairfield Showground.

Department Comment: The Department notes that this matter can be addressed by Council at the development application stage.

A late submission was also received from Endeavour Energy (**Attachment J2**) which noted that the proposed height increases for the B1 Neighbourhood Centre zoned land could impact upon the setback of new buildings to existing overhead power lines. Therefore, additional setbacks should be considered in the design of proposed buildings near these lines.

Council (**Attachment B1**) advised that the proposed height increase will not result in the intensification of land within the B1 zoned areas but instead correct an anomaly. In addition, Council noted that this issue will be considered as part of any future development application for the area.

Department Comment: The Department concludes that Council has adequately addressed the concerns of OEH and Endeavour Energy.

8. POST-EXHIBITION CHANGES

On 12 December 2017 (**Attachment I2**) at Council's Ordinary Meeting, Council resolved to proceed with the planning proposal without any post-exhibition changes.

However, a minor post-exhibition change was made by the Department to the proposed additional permitted use across land at 84 Tasman Parade, Fairfield West (refer to **Attachments K1 and K2**).

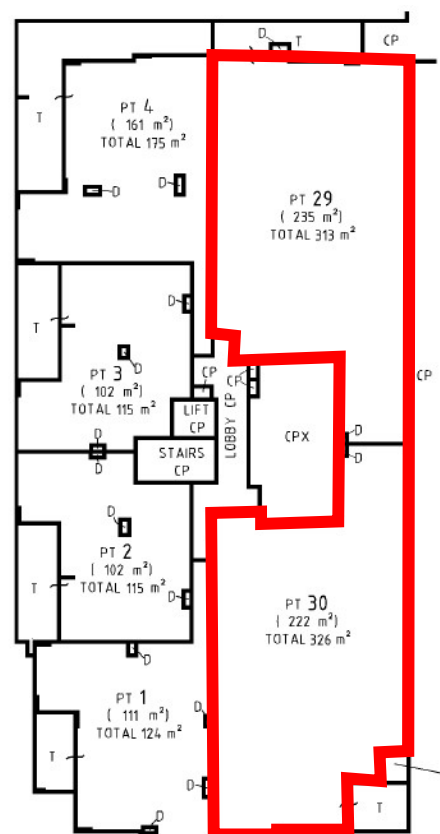
Council had initially exhibited the additional permitted use across the whole land (refer to Figure 1 below), however, it only intended to apply this additional permitted use to Lots 29 and 30 in the strata plan (SP 87321) (refer to Figure 2 below).

Therefore, following a request from Council (**Attachments K1 and K2** refer), the draft LEP was amended to apply the additional permitted use for 84 Tasman Parade to certain lots on the strata plan instead of across the whole site. The relevant council officer supported these amendments (**Attachment E**). Further, the Department notes that this post-exhibition change is minor and does not require or warrant re-exhibition.

The change is considered to be justified as the exhibited planning proposal (**Attachment B2**) states that the intention of the additional permitted use was to only reflect the existing office use in the LEP as the proposed R4 High Density Residential zone does not permit with consent the development of offices premises.



Figure 1 – Exhibited Additional Permitted Use at 84 Tasman Parade, Fairfield West



MEZZANINE LEVEL FLOOR PLAN

Figure 2 – Strata Plan for 84 Tasman Parade, Fairfield Heights

9. ASSESSMENT

Section 9.1 Directions

At the time of the determination (**Attachment C**), the delegate of the Secretary agreed that the planning proposal's inconsistency with section 9.1 Directions 4.1 Acid Sulfate Soils and 7.1 Implementation of A Plan for Growing Sydney are justified in accordance with the terms of the Directions. Therefore, no further approval is required in relation to these Directions.

The inconsistency of the planning proposal with the following Direction is further addressed as follows:

Direction 2.3 Heritage Conservation

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The planning proposal is inconsistent with this Direction as it will delist the local heritage item 86 – Fairfield Showground. Council advise that this proposed amendment is supported by a Heritage Assessment (**Attachment L**) which states that the grandstand at the site does not have heritage significance, in its own right, as it does not fulfil the necessary criteria to be listed.

In addition, OEH did not object to the proposed amendment (**Attachment J1**) and the cultural and social values of the Showground are clearly acknowledged and safeguarded in the current Fairfield Showground Plan of Management 2012.

Therefore, taking into consideration the above, the inconsistency of the planning proposal with Direction 2.3 Heritage Conservation is considered to be of a minor significance.

State Environmental Planning Policies

Given the nature of the proposal which seeks to implement minor housekeeping amendments to Fairfield LEP 2013, the planning proposal is consistent with all State Policies.

State, Regional and District Plans

The planning proposal is not inconsistent with the objectives and actions of the Greater Sydney Region Plan (March 2018) and the Western City West District Plan (March 2018), as it only proposes minor amendments to the Fairfield LEP 2013.

10. MAPPING

There are twenty-two (22) maps associated with this planning proposal (**Attachment Map**) which have been submitted via the ePlanning Portal. These maps have been examined by GIS staff and meet the technical requirements.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment D**).

Council confirmed on 17 September 2018 that the draft plan met Council's intentions and supported the draft plan being made (**Attachment E**).

12. PARLIAMENTARY COUNSEL OPINION

On 12 September 2018, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

It is recommended that the Greater Sydney Commission's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act as the plan will appropriately implement housekeeping amendments to the Fairfield LEP 2013 to address issues that have arisen as a result of drafting errors or to respond to issues in the application of the LEP provisions.

In addition, the draft plan is not inconsistent with the Greater Sydney Region Plan and the Western City West District Plan.



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23.10.18

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