

Planning Proposal

Clause 6.4 - Floodplain Risk Management
Amendments to Additional Local Provision

Fairfield Local Environmental Plan 2013
Draft Amendment No. TBA

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Obj ID 14/20306

Background - Need for Planning Proposal

1. Clause 6.4 – Floodplain Risk Management

The above clause of the Fairfield LEP 2013 requires development between the flood planning level (FPL) of 1 in 100 year average recurrence interval (ARI) (plus 500mm freeboard) and the probable maximum flood (PMF) (referred to as the low flood risk precinct) to address safe occupation and evacuation criteria, with specific controls contained in the Fairfield City Wide DCP. The clause applies to a range of specific Standard LEP land uses and Group Terms including residential, commercial and industrial development.

Under the making of the Fairfield LEP 2013, the Director General of NSW Planning and Infrastructure provided advice (attached) that Council *“should map areas that are outside the flood planning area that are subject of a flood event that are subject to isolation in a flood event, as well as those areas susceptible to instances of flash flooding.....as part of finalisation of Council’s City-Wide Development Control Plan”*

Pursuant to the above advice, recent investigations carried out by Council’s Catchment Branch has incorporated refinements to the flood mapping process that enables ‘isolated’ land affected by critical occupation and evacuation issues in the low flood risk precinct to be more clearly identified.

As a result of this work there is now scope to include more detailed controls in the Fairfield City Wide DCP 2013 that relate to specific areas of the City where residential, commercial and industrial development needs to address the flood safety and evacuation criteria. Consequently, there is scope to remove these land use categories from the provisions of Clause 6.4 of Fairfield LEP 2013.

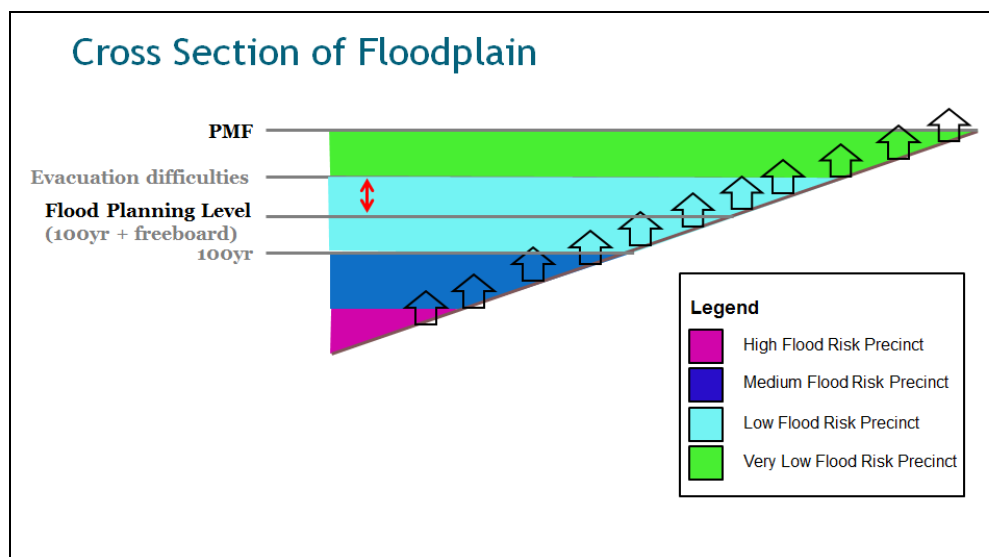
It is proposed that more sensitive land use categories such as emergency service facilities and hospitals would continue to fall under the provisions of Clause 6.4 of the LEP primarily because the potential future locations of these uses is much more variable and unpredictable. To ensure consistency with this approach, it is proposed that ‘seniors housing’ would also be added to the list of sensitive land uses covered by the provisions of this clause.

This step will provide greater certainty for development and facilitate better planning in terms of preparing development for the impacts of flooding in the low risk precinct. In addition this it will eventually mean that s.149 certificates issued for a large number of properties in the low risk precinct (that do not have flood safety or evacuation issues) will no longer indicate the properties are affected by flood related development controls.

2. Proposed Changes to Fairfield City Wide DCP – Chp.11 Flood Risk Management

In parallel with the proposed changes to Clause 6.4 of the Fairfield LEP 2013, Council at its meeting of the 23 June 2013 also resolved to amend the provisions of the Fairfield City Wide DCP 2013 by;

- Introducing a 'very low flood risk precinct' (see figure below) whereby development controls apply principally to sensitive land uses (i.e. uses listed under clause 6.4 of the Fairfield LEP 2013 that are required to address a range of planning controls including safe occupation and evacuation from buildings).



- Remove flood related development controls applying to residential, commercial and industrial development, in that part of the low flood risk precinct located above the FPL up to and including the PMF.
- Undertake a process of community awareness and education for landowners and occupants of residential commercial and industrial development where the expected flood risk may warrant evacuation for properties located above the FPL up to the PMF.

3. Case for Exceptional Circumstances

Under the NSW Environmental Planning and Assessment Act (EP&A) Act (Section 117 Direction 4.3 – Flood Prone Land) any changes to the flooding controls contained in Fairfield LEP 2013 or City Wide DCP 2013 require Council to submit a 'case' (referred to as exceptional circumstances) to the NSW Department of Planning and Environment (DP&E) and Office of Environment and Heritage (OE&H) to support the scope and nature of proposed changes.

In summary the key issues supporting Council's case for exceptional circumstances for the proposed changes to the LEP and DCP controls are as follows;

- The changes proposed by Council are based on detailed flood investigations and flood mapping. Recent flood investigations have clarified areas where evacuation from buildings need to be taken into account in the low and very low risk flood precincts (i.e. above the 1 in 100 year flood event) for different categories of development including residential accommodation, commercial and industrial development.
- In relation to clause 6.4 – Floodplain Risk Management the changes proposed by Council are consistent with the following advice from the Director General of the NSW DP&E under implementation of the Fairfield LEP 2013:

“Council should map areas that are outside the flood planning area that are subject of a flood event that are subject to isolation in a flood event, as well as those areas susceptible to instances of flash flooding.....as part of finalisation of Council's City-Wide Development Control Plan”

- Guidelines and an education process represents a more practical way of raising awareness of evacuation issues from residential, commercial and industrial buildings affected by flooding above the FPL up to the PMF level.
- The amendments proposed by Council provide greater certainty for development affected by flooding.

Part 1 – Objectives

The purpose of the planning proposal is to:

Remove *residential accommodation, commercial premises and industries* as types of development affected by the provisions of Clause 6.4 Floodplain Risk Management of Fairfield LEP 2013. Incorporate seniors housing as an additional form of development affected by the provisions of Clause 6.4.

The above changes are the result of flood studies undertaken by Council, whereby land affected by overland flooding the probable maximum flood is now more clearly identified and measures for consideration in the development assessment process of the less sensitive land uses will be identified and included under Council's Citywide Development Control Plan rather than the more restrictive legal framework of the LEP.

In summary, the objective of the Planning Proposal is to amend the Fairfield Local Environmental Plan 2013 to:

1. Remove certain types of less sensitive land uses from the provisions of *Clause 6.4 Floodplain Risk Management*. The clause currently requires that development consent must not be granted for such development unless the consent authority is satisfied that the development will not affect the safe occupation of, and evacuation from, the land in the event of floods exceeding the flood planning level. Council is now in a position to be able to undertake this amendment

The planning proposal is in accordance with Council's decision at its meeting of 23 June 2015 - see **Attachment C** for Council reports.

Part 2 – Explanation of provisions

To achieve the objectives mentioned above, the Planning Proposal will need to amend Fairfield Local Environmental Plan 2013 (FLEP 2013) as follows;

Clause 6.4 – Floodplain risk management

Remove *residential accommodation, commercial premises and industries* from the provisions of Clause 6.4(3) as types of development requiring additional consideration by Council in relation to floodplain risk management. Include Seniors Housing as an additional form of development affected by the provisions of clause 6.4.

The existing Clause 6.4 Floodplain Risk Management is as follows:

6.4 Floodplain risk management

1. The objectives of this clause are as follows:
 - a) in relation to development with particular evacuation or emergency response issues, to enable evacuation of land subject to flooding in events exceeding the flood planning level,
 - b) to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.
2. This clause applies to land between the flood planning level and the level of a probable maximum flood, but does not apply to land subject to the discharge of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.
3. Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land:
 - a) caravan parks,
 - b) commercial premises,
 - c) correctional centres,
 - d) emergency services facilities,
 - e) group homes,
 - f) hospitals,
 - g) industries,
 - h) residential accommodation,
 - i) residential care facilities,
 - j) tourist and visitor accommodation.
4. In this clause:

Flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus metre freeboard.

Probable maximum flood has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7247 5476 0), published in 2005 by the NSW Government.

The proposed Clause 6.4 Floodplain Risk management is as follows:

6.4 Floodplain risk management

1. The objectives of this clause are as follows:
 - a) in relation to development with particular evacuation or emergency response issues, to enable evacuation of land subject to flooding in events exceeding the flood planning level,
 - b) to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.
2. This clause applies to land between the flood planning level and the level of a probable maximum flood, but does not apply to land subject to the discharge of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.
3. Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land:
 - a) caravan parks,
 - b) correctional centres,
 - c) emergency services facilities,
 - d) group homes,
 - e) hospitals,
 - f) residential care facilities,
 - g) seniors housing
 - h) tourist and visitor accommodation.
4. In this clause:

In this clause, ***flood planning level*** means:

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

probable maximum flood has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published in 2005 by the NSW Government.

Note. The probable maximum flood is the largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation.

Part 3 – Justification

Section A – Need for a planning proposal

Is the planning proposal a result of any strategic study or report?

The planning proposal is a result of Council undertaking flood studies to identify with greater accuracy areas within the Fairfield Local Government Area that are affected by flooding. Under this process Council has been able to identify specific areas where there is the potential for evacuation concerns above the flood planning level up to and including the probable maximum flood.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is considered that a planning proposal is the best means of achieving the intended outcomes as it will allow greater clarification of where evacuation needs to be considered in closer detail for land affected by flood above the flood planning level up to and including the probable maximum flood, referred to as the low flood risk precinct in the Fairfield City Wide DCP.

Is there a net community benefit?

Yes it is Council's belief that there will be community benefit as a result of the proposed amendment to Fairfield LEP 2014 as it will provide greater certainty and indication of Council's requirements for development affected low flood risk flooding where evacuation is an issue during flood events.

Table A – Net Community Benefit Test Assessment

Evaluation Criteria	Assessment	✓/x
Will the LEP be compatible with agreed State and regional strategic direction for development in the area?	The amendment proposes no change from the zoning under the Fairfield LEP 2013.	✓
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	No. Fairfield and Prairiewood Town Centres are identified as potential major centres under the draft West Central Regional Strategy. However this status has been removed under the current metropolitan strategy 'A Plan for Growing Sydney'. Notwithstanding, the provisions of the LEP will not impact or compromise the potential to attain the objectives of both the Metropolitan or sub regional strategies.	✓
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	No. The LEP amendment proposes to facilitate development by providing more specific criteria for development within a low flood risk precinct.	✓

Evaluation Criteria	Assessment	✓/x
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	N/A	✓
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	No.	✓
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	The proposal will provide greater certainty in relation to flood controls for residential development and will not impact on the supply of residential land and affordability.	✓
Is the existing public infrastructure (roads, rail, and utilities) capable of servicing the proposed site?	As the proposal seeks to change an additional local provision that will affect Fairfield Local Government area, this is not applicable.	✓
Is there good pedestrian and cycling access?	NA	✓ ✓
Is public transport currently available or is there infrastructure capacity to support future public transport?	NA	
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	No	✓
Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	No.	✓
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts?	No.	✓

Evaluation Criteria	Assessment	✓/x
Will the LEP be compatible or complementary with surrounding land uses?	The LEP is not seeking to change land zoning or uses.	✓
What is the impact on amenity in the location and wider community?	NA	✓
Will the public domain improve?	The proposal does not involve any changes to the public domain	✓
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	N/A	✓
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	N/A.	✓
What are the public interest reasons for preparing the draft plan?	The proposal addresses advice from the Director General under making of the Fairfield LEP 2013 that:-	✓
What are the implications of not proceeding at that time?	<i>“Council should map areas that are outside the flood planning area subject of a flood event that are subject to isolation in a flood event as well as those areas susceptible to instances of flash flooding ... as part of finalisation of Council’s City-Wide DCP”</i> The implication of not proceeding at this time require more onerous requirements on certain forms of development in relation to flooding that exceed the actual level of flood risk.	✓

Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

As discussed in Section A above, the Planning Proposal stems from recent flood studies undertaken by Council.

The Planning Proposal is consistent with directions contained within the Sydney Metropolitan Strategy including:

- *to build a more sustainable, resilient city that responds to the potential threat of natural hazards such as flooding*
- *consider natural hazards, such as the need to evacuate people from flood/bushfire prone areas; how flood-prone areas will be avoided and not increasing flood risks in new housing areas (through early planning for stormwater management)*

Is the planning proposal consistent with the local Council's community strategic plan, or other local strategic plan?

Fairfield City Plan 2010-2020 Community Strategic Plan sets out goals and aspirations of Council and the Community in respect to what they want to see happen in Fairfield City in the next decade. The proposed amendment is considered to be consistent with directions and themes contained in the Fairfield City Plan 2010 – 2020:

Under Theme 2 – Places and Infrastructure

- Provide fit for purpose buildings, infrastructure and facilities that are designed to meet community needs
- Implement comprehensive strategic land use planning and regulatory framework for new development

Under Theme Three – Environmental Sustainability

- Manage stormwater and flooding
- Take a catchment based approach to managing our natural resources
- Plan controls and guidelines to protect environmentally sensitive land and waterways and promote sustainable practices

Is the planning proposal consistent with the applicable state environmental policies?

The relevant State Environmental Planning Policies are outlined in the table below:

SEPP Title	Relevance	Consistency of Planning Proposal
SEPP 1 – Development Standards	No	
SEPP 19 – Bushland in Urban Areas	No	
SEPP 21 – Caravan Parks	No	
SEPP 30 – Intensive Agriculture	No	
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)	No	
SEPP 33 – Hazardous and Offensive Development	No	
SEPP 50 – Canal Estate Development	No	
SEPP 55 – Remediation of Land	No	
SEPP 62 – Sustainable Aquaculture	No	
SEPP 64 – Advertising and Signage	No	
SEPP 65 – Design Quality of Residential Flat Development	No	
SEPP 70 – Affordable Housing (Revised Schemes)	No	
SEPP (Affordable Rental Housing) 2009	No	
SEPP (Building Sustainability Index: BASIX) 2004	No	
SEPP (Exempt and Complying Development Codes) 2008	No	
SEPP (Housing for Seniors or People with a Disability) 2004	No	
SEPP (Infrastructure) 2007	No	
SEPP (Major Development) 2005	No	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	
SEPP (Miscellaneous Consent Provisions) 2007	No	
SEPP (State and Regional Development) 2011	No	

The relevant Sydney Regional Environmental Plans are outlined in the table below:

SREP Title	Relevance	Consistency of Planning Proposal
SREP 9 – Extractive Industry (No 2 – 1995)	N/A	
SREP 18 – Public Transport Corridors	N/A	
SREP 20 – Hawkesbury-Nepean River (No 2 – 1997)	N/A	
GMREP No.2 – Georges River Catchment	N/A	

Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The relevant Section 117 Directions contained within the Environmental Planning and Assessment Act 1979 are outlined in the table below:

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
1. Employment and Resources			
1.1 Business and Industrial Zones	- Encourage employment growth in suitable locations - Protect employment land in business and industrial zones - Support the viability of identified strategic centres.	N/A	N/A
1.2 Rural Zones	Protect agricultural production value of rural land.	N/A	N/A
1.3 Mining, Petroleum Production and Extractive Industries	Ensure future extraction of State and regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	N/A	N/A
1.4 Oyster Aquaculture	Protect oyster aquaculture areas.	N/A	N/A
1.5 Rural Lands	Not applicable to Fairfield LGA	Not applicable to Fairfield LGA	N/A
2. Environment and Heritage			
2.1 Environment Protection Zones	Protect and conserve environmentally sensitive areas.	N/A.	N/A
2.2 Coastal Protection	Implement the principles in the NSW Coastal Policy.	N/A	N/A
2.3 Heritage Conservation	Conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	N/A	YES
2.4 Recreation Vehicle Areas	Protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	N/A	N/A

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	- Encourage a variety and choice of housing types to provide for existing and future housing needs - Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services - Minimise the impact of residential development on the environment and resource lands.	The proposed amendment to Fairfield LEP 2013 does not change the permissibility of existing residential development on land affected by this planning proposal.	YES
3.2 Caravan Parks and Manufactured Home Estates	- Provide for a variety of housing types - Provide opportunities for caravan parks and manufactured home estates.	N/A	N/A
3.3 Home Occupations	Encourage the carrying out of low-impact small businesses in dwelling houses.	N/A	N/A
3.4 Integrating Land Use and Transport	- Improve access to housing, jobs and services by walking, cycling and public transport. - Increase choice of available transport and reducing car dependency. - Reduce travel demand and distance (especially by car) - Support the efficient and viable operation of public transport services - Provide for the efficient movement of freight	N/A	N/A
3.5 Development Near Licensed Aerodromes	- Ensure effective and safe operation of aerodromes - Ensure aerodrome operation is not compromised by development - Ensure development for residential purposes or human occupation, if situated on land within the ANEF contours between 20 and 25, incorporate noise mitigation measures.	N/A	N/A
3.6 Shooting Ranges	- Maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, - Reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land - Identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	N/A	N/A

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
4. Hazard and Risk			
4.1 Acid Sulfate Soils	Avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	NA	N/A
4.2 Mine Subsidence and Unstable Land	Prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	N/A	N/A
4.3 Flood Prone Land	- Ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>. - Ensure that the provisions of an LEP on flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	The PP aims to maintain the existing residential character of surrounding areas. The Proposal does not alter the zoning or permissibility of land uses over the subject land. Council has undertaken a number of Flood Studies which have identified areas within the City as having varying levels of flood risk. The recommendations of these studies are addressed under this planning proposal as a result of removal of "residential accommodation, commercial premise and industries" from local clause 6.4 as per this planning proposal. Future redevelopment of land in accordance with the proposed changes to Fairfield LEP 2013 will be required to meet the provisions of Chapter 11 Flood Risk Management of Councils City Wide DCP as well as the NSW Governments <i>Flood Planning Development Manual 2005</i>. The objectives of the planning proposed are consistent with the key aspects of the NSW Floodplain Development Manual (FDM) including: - The provisions of the planning proposal are based on a merit approach and consistent with Council's strategic approach for dealing with floodplain risk management - The approach is consistent with the policy provisions of the FDM of following a merit approach to dealing with development or redevelopment of flood prone land.	YES

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
		In accordance with the requirements of this Direction Council has also submitted a 'case for exceptional circumstances' justifying the proposed changes to the LEP and DCP flood controls.	
4.4 Planning for Bushfire Protection	- Protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas. - Encourage sound management of bush fire prone areas.	N/A -	N/A
5. Regional Planning			
5.1 Implementation of Regional Strategies	To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	N/A	N/A
5.2 Sydney Drinking Water Catchments	To protect water quality in the hydrological catchment.	N/A	N/A
5.8 Second Sydney Airport: Badgerys Creek	Draft LEPs shall not contain provisions that enable the carrying out of development, either with or without development consent, which at the date of this direction, could hinder the potential for development of a Second Sydney Airport at Badgerys Creek	N/A	N/A
6. Local Plan Making			
6.1 Approval and Referral Requirements	Ensure LEP provisions encourage the efficient and appropriate assessment of development	The PP is consistent with this direction	YES
6.2 Reserving Land for Public Purposes	- Planning proposal to facilitate the provision of public services and facilities by reserving land for public purposes - Facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	N/A.	YES
6.3 Site Specific Provisions	Discourage unnecessarily restrictive site specific planning controls	NA	YES

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
7. Metropolitan Planning			
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Planning proposal shall give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metro Strategy.	The planning proposal is consistent with this direction. Further details are provided earlier in this proposal under Section B – Relationship to Strategic Planning Framework	YES

Section C – Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No, the land affected by this Planning Proposal does not contain any critical habitat or threatened species, communities etc.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The planning proposal involves minimal adverse environmental effects. Any likely environmental effects will be controlled through the provisions of the Fairfield City Wide Development Control Plan 2013 including Chapter 3 – Environmental Site Analysis.

How has the planning proposal adequately addressed any social and economic effects?

The Planning proposal is considered to have minor social impact.

The Planning Proposal is considered to have minor economic impact.

Section D – State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

The proposal does not identify a change in zoning and seeks to remove 'residential accommodation' from local clause 6.4 Floodplain Risk Management in the Fairfield Local environmental Plan 2013. This legislative change will have no need for additional public infrastructure.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Section to be completed following Gateway Determination.

(The Gateway Determination will determine consultation required. Insert this information after Gateway Determination - Delete before printing)

Part 4 – Community Consultation

Section to be completed following Gateway Determination.

(The Gateway Determination will determine consultation required. Insert this information after Gateway Determination - Delete before printing)

Part 5 – Project Timeline

The project timeline is intended to be used only as a guide and may be subject to changes such as changes to issues that may arise during the public consultation process and/or community submissions.

No.	Step	Process content	Timeframe
1	s.56 – request for Gateway Determination	Prepare and submit Planning Proposal to DP&I	July 2015
2	Gateway Determination	- Assessment by DP&I (including LEP Panel) - Advice to Council	2 months:
3	Completion of required technical information and report (if required) back to Council	- Prepare draft controls for Planning Proposal - Update report on Gateway requirements	1 month
4	Public consultation for Planning Proposal	In accordance with Council resolution and conditions of the Gateway Determination.	28 days notification period:
5	Government Agency consultation	Notification letters to Government Agencies as required by Gateway Determination	November 2015 - December 2015
6	Public Hearing (if required) following public consultation for Planning Proposal	Under the Gateway Determination issued by DP&I public hearing is not required.	
7	Consideration of submission	Assessment and consideration of submissions	1 month
8	Report to Council on submissions to public exhibition and public hearing	Includes assessment and preparation of report to Council	1 month:
9	Possible re-exhibition	Covering possible changes to draft Planning Proposal in light of community consultation	Minimum 1 month
10	Report back to Council	Includes assessment and preparation of report to Council	1 month
11	Referral to PCO and notify DP&I	- Draft Planning Proposal assessed by PCO, legal instrument finalised - Copy of the draft Planning Proposal forwarded to DP&I.	1 month
12	Plan is made	Notified on Legislation web site	1 month
Estimated Time Frame			12 months

Attachment A – Proposed amended clause 6.4

6.4 Floodplain risk management

The objectives of this clause are as follows:

- c) in relation to development with particular evacuation or emergency response issues, to enable evacuation of land subject to flooding in events exceeding the flood planning level,
- d) to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.

This clause applies to land between the flood planning level and the level of a probable maximum flood, but does not apply to land subject to the discharge of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land:

- i) caravan parks,
- j) correctional centres,
- k) emergency services facilities,
- l) group homes,
- m) hospitals,
- n) residential care facilities,
- o) seniors housing
- p) tourist and visitor accommodation.

In this clause:

In this clause, ***flood planning level*** means:

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

probable maximum flood has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published in 2005 by the NSW Government.

Note. The probable maximum flood is the largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation.

Attachment B – Minutes of Council Meeting 29 June 2014

REPORT BY CHAIRMAN OF THE OUTCOMES COMMITTEE - 9 JUNE 2015

67: Fairfield LEP 2013 - Planning Proposal Amended Flooding Controls
File Number: 14/20306

MOTION: (White/Khoshaba)

That Council:

1. Undertake amendments to flood planning controls contained in the Fairfield Local Environmental Plan (LEP) 2013 and City Wide Development Control Plan (DCP) 2013, as outlined in Option 2 of the report.
2. Having regard to the approach contained in Option 2 of the report, amend and endorse the draft Planning Proposal (Attachment A of the report) and associated draft amendments in relation to Clause 6.4 – Floodplain Risk Management (Attachment B of the report) of the Fairfield LEP 2013.
3. Inform NSW Department of Planning and Environment (NSW DP&E) that pursuant to relevant provisions of the Environmental Planning and Assessment (EP&A) Act and associated Regulations, Council wishes to commence the Gateway Determination Process to amend the flood planning controls contained in Clause 6.4 of Fairfield LEP 2013.
4. In requesting the Gateway Determination, advise NSW DP&E that it seeks to utilise the delegation for LEP Plan Making (delegated by the Minister under Section 23 of the EP&A Act 1979). The delegated functions will be undertaken by the Group Manager City and Community Development who has been delegated these powers by Council and the City Manager under Section 377 of the Local Government Act 1993.
5. Having regard to the approach contained in Option 2 of the report, endorse the proposed amendments to Chapter 11 – Floodplain Risk Management of the Fairfield City Wide DCP 2013 as the basis for clarifying the proposed changes to the DCP flooding controls under the Planning Proposal.
6. Endorse public exhibition of the Planning Proposal and associated exhibition material subject to NSW DP&E issuing a gateway determination supporting the Planning Proposal, in accordance with the Consultation Strategy outlined in the report and the conditions set out in the Gateway Determination.
7. Receive a further report following public exhibition (minimum 28 days) regarding the Planning Proposal.
8. Receive a further report on the scope of changes to the City Wide DCP once advice has been received from the NSW DP&E regarding Council's request for a gateway determination.
9. Endorse the issues outlined in the report as the basis for submitting a case for exceptional circumstances to the NSW DP&E and Office of Environment and Heritage to justify the proposed changes to the LEP and DCP flooding controls.

Attachment B – Minutes of Council Meeting 29 June 2014

A division was taken with the following results:

Aye	Nay
Mayor Carbone	
Councillor Barcha	
Councillor Bennett	
Councillor Karajcic	
Councillor Khoshaba	
Councillor Ly	
Councillor Molluso	
Councillor Saliba	
Councillor Tran	
Councillor White	
Councillor Yeung	
Total=(11)	Total=(0)

CARRIED UNANIMOUSLY

SUBJECT: Fairfield LEP 2013 - Planning Proposal Amended Flooding Controls

FILE NUMBER: 14/20306

PREVIOUS ITEMS: 178 - Fairfield Local Environmental Plan 2013 and City Wide Development Control Plan - Flooding Controls - Outcomes Committee - 2 December 2014
34 - Fairfield Local Environmental Plan 2013 - Planning Proposal on Flooding Controls - Outcomes Committee - 14 April 2015

REPORT BY: Andrew Mooney, Acting Manager Strategic Planning

RECOMMENDATION:

That Council:

1. Select its preferred approach from the 2 options detailed in the report for undertaking amendments to flood planning controls contained in the Fairfield Local Environmental Plan (LEP) 2013 and City Wide Development Control Plan (DCP) 2013.
2. Based on the preferred Option, amend and endorse the draft Planning Proposal (Attachment A of the report) and associated draft amendments in relation to Clause 6.4 – Floodplain Risk Management (Attachment B of the report) of the Fairfield LEP 2013.
3. Inform NSW Department of Planning and Environment (NSW DP&E) that pursuant to relevant provisions of the Environmental Planning and Assessment (EP&A) Act and associated Regulations, Council wishes to commence the Gateway Determination Process to amend the flood planning controls contained in Clause 6.4 of Fairfield LEP 2013.
4. In requesting the Gateway Determination, advise NSW DP&E that it seeks to utilise the delegation for LEP Plan Making (delegated by the Minister under Section 23 of the EP&A Act 1979). The delegated functions will be undertaken by the Group Manager City and Community Development who has been delegated these powers by Council and the City Manager under Section 377 of the Local Government Act 1993.
5. Based on the preferred Option, endorse the proposed amendments to Chapter 11 – Floodplain Risk Management of the Fairfield City Wide DCP 2013 as the basis for clarifying the proposed changes to the DCP flooding controls under the Planning Proposal.

6. Endorse public exhibition of the Planning Proposal and associated exhibition material subject to NSW DP&E issuing a gateway determination supporting the Planning Proposal, in accordance with the Consultation Strategy outlined in the report and the conditions set out in the Gateway Determination.
7. Receive a further report following public exhibition (minimum 28 days) regarding the Planning Proposal.
8. Receive a further report on the scope of changes to the City Wide DCP once advice has been received from the NSW DP&E regarding Council's request for a gateway determination.
9. Endorse the issues outlined in the report as the basis for submitting a case for exceptional circumstances to the NSW DP&E and Office of Environment and Heritage to justify the proposed changes to the LEP and DCP flooding controls.

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

SUPPORTING DOCUMENTS:

AT-A	Draft Planning Proposal	19 Pages
AT-B	Draft LEP Amendment	1 Page
AT-C	DCP Flood Maps	1 Page
AT-D	DCP Risk Matrix	1 Page

CITY PLAN

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

SUMMARY

The April 2015 Council meeting deferred consideration of a report dealing with proposed amendments to the flood planning controls for low flood risk precincts contained in the Fairfield Local Environmental Plan (LEP) 2013 and City Wide Development Control Plan (DCP) 2013 until a briefing had been provided to Council in May.

In light of the briefing, 2 options are now presented to Council that aim to clarify the extent of planning controls applying to residential, commercial and industrial development on land affected by low risk flooding events. These options are listed below.

In these options the Flood Planning Level (FPL) is the 1 in 100 year flood plus freeboard.

Option 1: Introduction of Very Low Flood Risk Precinct

- Amend Cl.6.4 – Flood Risk Management of the Fairfield LEP 2013 by removing reference to Residential Accommodation, Commercial and Industrial Development such that no evacuation controls apply to these forms of development under the LEP above the FPL up to the Probable Maximum Flood (PMF).
- Introducing the new category of ‘very low flood risk’ precinct in the City Wide DCP 2013 whereby there are no flood related development controls applying to residential, commercial and industrial development.
- Development controls would still apply to properties located in the low risk precinct where there are issues with the depth and/or velocity of flood waters placing residents and properties at risk.
- This is the option recommended by Council Officers and has been the subject of discussion with representatives of the NSW Department of Planning and Environment (DP&E) and Office of Environment and Heritage (OE&H) who have provided in principle support to considering a planning proposal that provides further justification for this proposal.

Option 2: Introduce Very Low Flood Risk Precinct and remove controls in the Low Risk Precinct above the FPL for residential, commercial and industrial development.

- Amend Cl.6.4 – Flood Risk Management of the Fairfield LEP 2013 by removing reference to Residential Accommodation, Commercial and Industrial Development such that no evacuation controls apply to these forms of development under the LEP above the FPL up to the PMF
- As well as introducing the ‘very low flood risk precinct’, remove DCP planning controls for residential, commercial and industrial development in that part of the low flood risk precinct located above the FPL up to and including the PMF.
- Undertake a process of community awareness for landowners where the expected flood risk may warrant evacuation for properties located above the FPL up to the PMF.

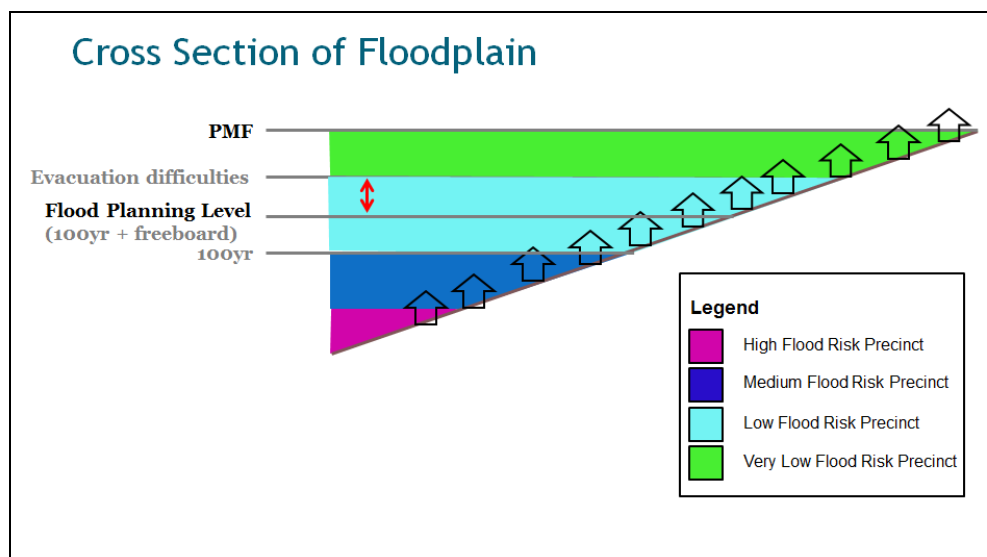
Under the NSW Environmental Planning and Assessment Act (EP&A) Act (Section 117 Directions) any proposed changes to the flooding controls contained in Fairfield LEP 2013 or City Wide DCP 2013 require Council to submit a ‘case’ (referred to as exceptional circumstances) in support of the scope of changes contained in both Options 1 and 2 (above).

Having regard to the information contained in this report it is recommended that Council identify its preferred option for the scope of flood planning/building controls applying to future residential, commercial and industrial development located in low flood risk precincts of the City.

BACKGROUND

The scope of current planning controls applying to flood liable land (which includes land affected by floods up to and including the PMF) in Fairfield City first came into force in 2006. These controls were subsequently transferred to the new standardised provisions of new Fairfield LEP 2013 and associated City Wide DCP 2013.

As part of this process, under the Fairfield LEP 2013 Council was required to adopt a NSW Standard LEP Clause 6.3 – Flood Planning. The significance of this clause is that it establishes a FPL (FPL – shown in the figure below) for the City located at the 1 in 100 ARI (average recurrent interval) flood plus 500mm freeboard (being a ‘buffer’ area above the 1 in 100 year flood) and is generally a mandatory inclusion in all Standard LEPs in NSW.



The provisions of clause 6.3 mean that in addition to evacuation issues a range of structural/design measures must also be considered for development located on land below the FPL to mitigate the impacts of flood waters and promote human safety.

In addition to the above, under the new Fairfield LEP 2013 Council obtained approval from the NSW DP&E and OE&H (known as exceptional circumstances) to include a ‘discretionary’ clause 6.4 - Flood Risk Management in the new LEP. This clause requires Council to take into account whether adequate arrangements have been made for safe occupation and evacuation for all development between the FPL up to and including the PMF. In Fairfield City, this incorporates land within the low flood risk precinct and is identified on maps prepared by Council in various flood studies.

As a result of recent floodplain risk management studies carried out in the City, Council officers have identified the scope to rationalise the extent to which controls need to be considered for development affected by low risk floods. This involves introducing the new category of ‘very low flood risk precinct’ where it is proposed that no flood controls apply to residential (excluding seniors housing), commercial and industrial development.

Further details relating to this (Option 1) and an alternative approach (Option 2) for applying flood controls in the low flood risk precinct are detailed in the following report.

Option 1. Introduce Very Low Flood Risk PrecinctFairfield LEP 2013 – Cl.6.4 Floodplain Management

Clause 6.4 currently applies to all land affected by low risk floods, i.e. floods above the FPL (1 in 100 year flood plus freeboard) up to and including the PMF.

The key proposals are;

- Deleting the generic reference to residential, commercial and industrial development from the clause (Attachment B) and relying on DCP provisions (see under next heading) to apply requirements to these forms of development where hazards in specific areas of the low flood risk precinct are an issue.
- Retain other provisions that require consideration of evacuation measures for more sensitive land uses (e.g. seniors housing) regardless of the location in the low flood risk precinct.

Fairfield City Wide DCP 2013 - Under Chp.11

In light of the above changes to the LEP clause, the key proposals in relation to the Chp.11 of the City wide DCP are;

- Include maps showing a 'very low flood risk precinct' (Attachment C) where no flooding controls apply to commercial, industrial and residential development.
- For areas remaining in the 'low flood risk precinct' (i.e. above the FPL but below the very low risk precinct) development controls (Attachment D) will still apply to development (including commercial, industrial and residential).

This option is recommended by Council Officers as it;

- Has regard to the specific nature and characteristics of flood behaviour associated with very large floods above the FPL
- Has been developed as a result of detailed (evidence based) technical investigations carried out under recent flood risk management studies in the City.
- Provides the highest level of safeguard in ensuring evacuation issues are considered at the DA stage for new development affected by floods above the FPL.
- Is generally consistent with the advice provided to Council by the NSW DP&E and OE&H when it supported Council's 'case for exceptional circumstances' for inclusion of clause 6.4 – Flood Risk Management in the Fairfield LEP 2013 and associated DCP controls.
- Maintains the strongest level of protection in Council meeting its duty of care to the population at risk from flooding through the application of appropriate controls that apply to new development.

It is noted that this option is similar to current flood planning controls in place in Blacktown, Bankstown and Penrith City Councils.

Option 2: Introduce Very Low Flood Risk Precinct and remove controls in the Low Risk Precinct above the FPL for residential, commercial and industrial development.

This option also involves the same amendments to clause 6.4 (above) of the Fairfield LEP 2013 involving;

- Deleting the generic reference to residential, commercial and industrial development from clause 6.4 (Attachment B).
- Retain other provisions that require consideration of evacuation measures for more sensitive land uses (e.g. seniors housing) regardless of the location in the low flood risk precinct.

However, in relation to DCP provisions, in addition to introducing the 'very low flood risk precinct' this option involves removing development controls (in practice principally relating to evacuation controls) applying to residential, commercial and industrial development in the low risk precinct above the FPL) and instead focus on an education program for landowners in this precinct to make them aware of evacuation issues in the event of a very large flood above the FPL.

Although providing scope for Council to still address evacuation issues for floods above the FPL this option does not provide the same degree of protection or safeguards as Option 1 in ensuring evacuation issues are addressed at the DA stage.

While evacuation issues may be assessed for a limited number of properties where DAs are submitted, it does result in evacuation information being provided to the other properties in the areas affected. It is considered that to address this issue, a better outcome would be to provide a broader education program to all those affected by flood events

Under this option it is important for Council to be aware that under Clause 6.3 – Flood Planning evacuation and other controls would still apply to development located within the 500mm freeboard area above the 1 in 100 ARI flood event which is part of the FPL and also forms part of the low flood risk precinct.

There is limited scope for Council to vary this arrangement as it the result of the requirements of the NSW Standard LEP provisions and sound floodplain management practice.

The proposals contained in Option 2 are very similar to flood related planning controls currently in place in Liverpool City Council.

Overland Flooding Issues

The report to the April 2015 Council meeting flagged the option of Council seeking to lower the amount of freeboard required for development affected by overland flooding from 500mm to 300 mm. Again this option has been identified as a result of the recent floodplain risk management studies that found there is a case to lower the freeboard level to 300 mm due to the depth and velocity of flood waters in areas affected by overland flooding.

After further consideration Council officers recommended that this step be deferred to a later stage as it involves an amendment to the NSW Standard LEP Clause 6.3 – flood planning that applies across NSW. The DP&E has provided verbal advice that this would trigger the need to consult with the majority of other Councils in NSW regarding this change.

This is likely to be a prolonged process and result in a significant extension in the time required to implement the other changes being sought by Council to clause 6.4 Flood Risk Management which only applies to a small number of other Councils.

In addition, Council officers understand that a number of other Councils in the State are in the early stages of considering a revision in the freeboard required for development affected by overland flooding. This has the potential to trigger a broader and more coordinated review of the issue by both the DP&E and OE&H.

Feedback from DP&E and OE&H

Although providing in principle support to considering a planning proposal (based around Option 1) from Council, at this stage neither the OE&H nor DP&E have provided any commitment to supporting the exact nature of changes to the flood controls detailed in this report.

The main reason for this position that the LEP amendments proposed by Council relate to a model clause developed by the State Government under the NSW Standard LEP template. However, as referred to previously the clause only applies in a small number of other Councils.

In Council's favour the proposed amendments are based on detailed evidence-based investigations carried out by Council under recent flood investigations. The scope of the changes would not only provide greater certainty for the development community in relation to dealing with evacuation issues for very large floods above the FPL City.

The following section of this report details other areas of justification that will be submitted to the DP&E and OE&H in relation to the proposed amendments.

Section 117 Directions – Case for Exceptional Circumstances.

When preparing LEP amendments Council must have regard to relevant Section 117 Directions of the NSW EP&A Act and address any criteria or requirements of the particular Direction.

In regard to flooding matters, the Section 117 Direction (4.3) – Flood Planning requires specific justification (generally referred to as a case for exceptional circumstances) for changes to either LEP or DCP controls.

The above Section 117 Direction does not include specific criteria or requirements that need to be addressed under 'exceptional circumstances'. Rather the issue is dealt with on a case by case basis and places onus on Councils to provide sufficient justification (including technical reasons) for the nature of changes proposed.

In this regard, the following points would represent the basis for Council's case for 'exceptional circumstances' to amend the flood controls contained in the Fairfield LEP 2013 and City Wide DCP 2013;

- The changes proposed by Council are based on detailed flood investigations and flood mapping. An example of a recent flood map that clarifies areas affected by evacuation in the 'low risk flood precinct' i.e. above the 1 in 100 year is included in Attachment C.
- In relation to clause 6.4 – Floodplain Risk Management the changes proposed by Council are consistent with the following advice from the Director General of the NSW DP&E under implementation of the Fairfield LEP 2013:

“Council should map areas that are outside the flood planning area that are subject of a flood event that are subject to isolation in a flood event, as well as those areas susceptible to instances of flash flooding.....as part of finalisation of Council's City-Wide Development Control Plan”

- The amendments proposed by Council provide greater certainty for development affected by flooding.

CONSULTATION STRATEGY

In addition to requirements issued by NSW DP&E under the Planning Proposal covering consultation with State Government Agencies and utility providers, it is proposed that consultation and public exhibition of the Planning Proposal be undertaken for a minimum period of 28 days that will include:

- Notice in the local newspaper; and
- Publication of all relevant information on Council's website.

CHANGES TO SECTION 149 PLANNING CERTIFICATES

The process of amending the LEP and DCP controls will ultimately impact on advice contained on Section 149 (2) & (5) planning certificates that clarifies which properties in the City are subject to flood related planning controls and is attached to property contracts of sale.

It is important to be aware that the amendments contained in both Options 1 and 2 cannot be applied to the 149 certificates until such time the planning proposal to change clause 6.4 of the Fairfield LEP 2013 is gazetted. This is likely to take at least 12 months to occur.

CONCLUSION

This report outlines 2 options for amending flooding controls for residential, commercial and industrial development located in the low flood risk precincts of the City.

Option 1 (as recommended by Council Officers) proposes the introduction of a new 'very low floor risk precinct' where no flood related development controls would apply to residential, commercial or industrial development but would still be applicable to more 'sensitive' development (e.g. seniors housing).

Option 2 involves as well as introducing the 'very low flood precinct' removing development controls (including flood evacuation criteria) for residential, commercial or industrial development in all of the low flood risk precincts above the FPL and instead relying on an flood awareness program for owners of properties in this precinct.

Once Council has determined its preferred option for preparation of a planning proposal, it will need to be referred to DP&E and OE&H seeking their support for a gateway determination and implementation of the proposed amendments. This will also involve Council obtaining support to its case for exceptional circumstance to change the controls as outlined in this report.

Andrew Mooney
Acting Manager Strategic Planning

Authorisation:
Group Manager City & Community Development

Outcomes Committee - 9 June 2015

6.4 Floodplain risk management

(1) The objectives of this clause are as follows:

- (a) in relation to development with particular evacuation or emergency response issues, to enable evacuation of land subject to flooding in events exceeding the flood planning level,
- (b) to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.

(2) This clause applies to land between the flood planning level and the level of a probable maximum flood, but does not apply to land subject to the discharge of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

(3) Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land:

- (a) caravan parks,
- (b) commercial premises,
- (c) correctional centres,
- (d) emergency services facilities,
- (e) group homes,
- (f) hospitals,
- (g) industries, seniors housing
- (h) residential accommodation,
- (i) residential care facilities,
- (j) tourist and visitor accommodation.

(4) In this clause:

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

probable maximum flood has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published in 2005 by the NSW Government.

Note.

The probable maximum flood is the largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation.

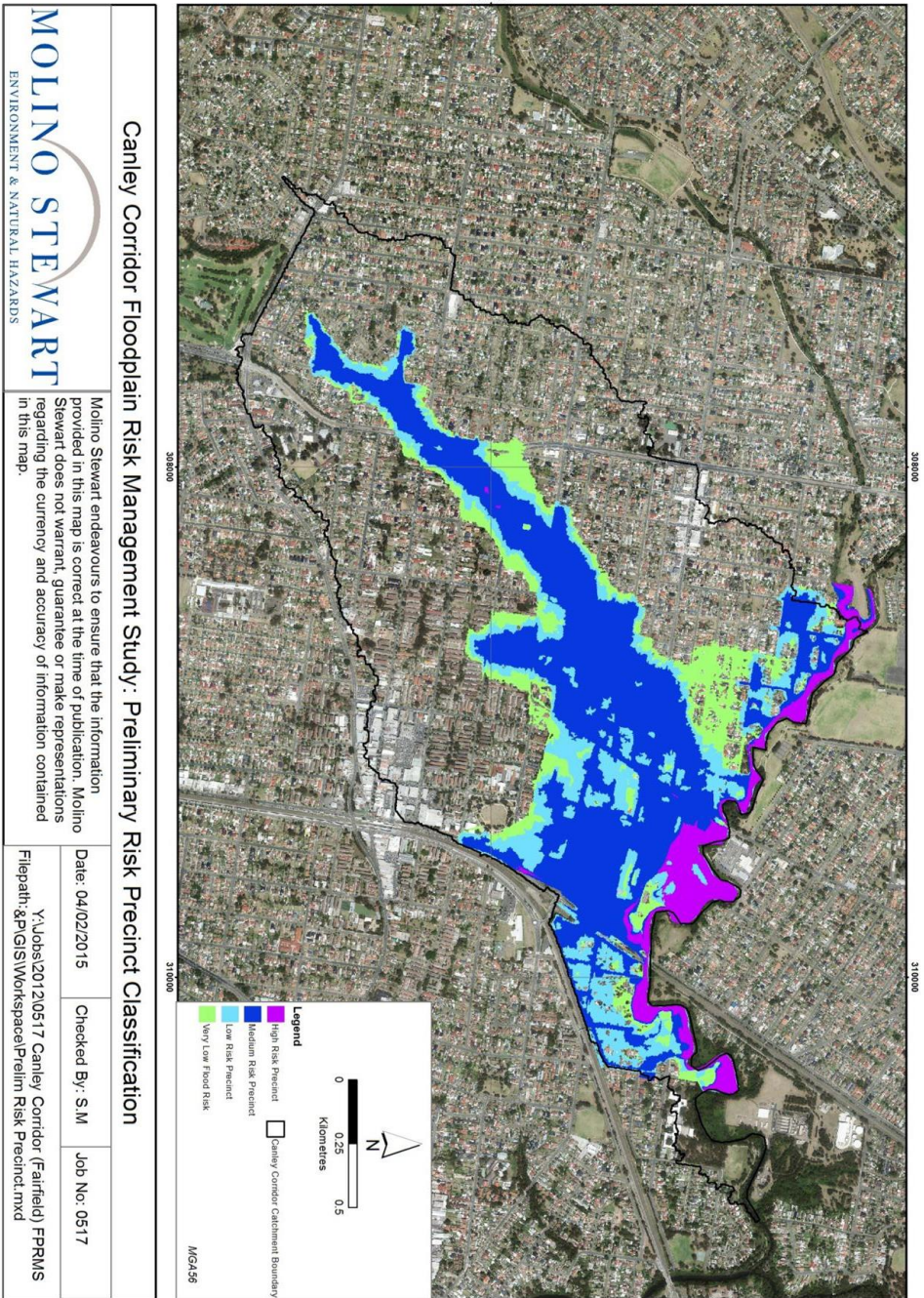


Figure 34: Preliminary Flood Risk Precinct Map

Canley Corridor Floodplain Risk Management Study - Final Draft Report

Attachment C – Outcomes Committee - 9 June 2015

Table 18: Draft Planning Matrix

Schedule *
Canley Corridor Catchment
Planning & Development Controls

FIGURE*
Matrix of Prescriptive Controls for Canley Corridor
Template v4.5

Planning Consideration	Flood Risk Precincts (FRPs)																					
	Very Low Flood Risk					Low Flood Risk					Medium Flood Risk					High Flood Risk						
	Critical Uses & Facilities	Sensitive Uses & Facilities	Subdivision	Commercial & Industrial	Tourist Related Development	Critical Uses & Facilities	Sensitive Uses & Facilities	Subdivision	Commercial & Industrial	Tourist Related Development	Critical Uses & Facilities	Sensitive Uses & Facilities	Subdivision	Commercial & Industrial	Tourist Related Development	Critical Uses & Facilities	Sensitive Uses & Facilities	Subdivision	Commercial & Industrial	Tourist Related Development		
Flood Level	3					4.7	3	2.6.7	5.6.7	2.6.7	1.6	4.7		2.6.7	5.6.7	2.6.7	1.6	4.7		1.6	4.7	
Building Components	2					1	2	1	1	1	1	1		1	1	1	1	1		1	1	
Structural Soundness	3					2	3	2	2	2	2	2		2	2	2	2	2		2	2	
Flood Effects	2	2				2	2	2	2	2	2	2		2	2	2	2	2		2	2	
Car Parking & Driveway Access	1.3.5	8.7				6.7.8	1.3.5	8.7	6.7	8.7	6.7	8.7	6.7.8		1.3.5	1.3.5	1.3.5	2.3.4	6.7.8		2.3.4	6.7.8
Evacuation	2.3.4	5				2.3	2.3.4	5	2.3	1er	2.3	4.3	2.3		5	2.3	1.3	2.3	4.3	2.3	4.3	
Management & Design	4.5	1				2.3.5	4.5	1	2.3.5	2.3.5	2.3.5	2.3.5		2.3.5	2.3.5	2.3.5	2.3.5	2.3.5		2.3.5	2.3.5	
Fencing														1	1	1	1	1			2	

COLOUR LEGEND: Not Relevant Unsuitable Land Use

General Notes

- Freeboard equals an additional height of 300mm.
- The relevant environmental planning instruments (generally the Local Environmental Plan) identify development permissible with consent in various zones in the LGA. Notwithstanding, constraints specific to individual sites may preclude Council granting consent for certain forms of development on all or part of a site. This matrix identifies where flood risks are likely to determine where certain development types will be considered "unsuitable" due to flood related risks.
- Filing of the site, where acceptable to Council, may change the FRP considered to determine the controls applied in the circumstances of individual applications.
- Refer to Section 11.9 of the DCP for planning considerations for proposals involving only the erection of a fence. Any fencing that forms part of a proposed development is subject to the relevant flood effects and Structural Soundness planning considerations of the applicable landuse category.
- Refer to Section 11.10 of the DCP for special considerations such as for house raising proposals and development of properties identified for voluntary acquisition.
- Terms in *italics* are defined in the glossary of this plan and Schedule 2 specifies development types included in each land use category. These development types are generally as defined within Environmental Planning Instruments applying to the LGA.
- From time to time, Council may adopt mapping showing the *Boundary of Significant Flow* and/or *Flood Storage Areas* for this floodplain. Refer to Council to find out if these areas have been defined and mapped for this floodplain.

Flood Level

- All floor levels to be no lower than the 20 year flood level unless justified by site specific assessment.
- Habitable floor levels to be no lower than the 100 year flood level plus freeboard.
- Habitable floor levels to be no lower than the PMF level. Non-habitable floor levels to be no lower than the PMF level unless justified by a site specific assessment.
- Floor levels to be no lower than the design floor level. Where this is not practical due to compatibility with the height of adjacent buildings, or compatibility with the floor level of existing buildings, or the need for access for persons with disabilities, a lower floor level may be considered. In these circumstances, the floor level is to be as high as practical, and, when undertaking alterations or additions, no lower than the existing floor level.
- The level of *habitable floor areas* to be equal to or greater than the 100 year flood level plus freeboard. If this level is impractical for a development in a Business zone, the floor level should be as high as possible.
- Non-habitable floor levels to be equal to or greater than the 100 year flood level plus freeboard where possible, or otherwise no lower than the 20 year flood level unless justified by site specific assessment.
- A restriction is to be placed on the title of the land, pursuant to S.88B of the Conveyancing Act, where the lowest *habitable floor area* is elevated more than 1.5m above finished ground level, confirming that the undercroft area is not to be enclosed.

Building Components & Method

- All structures to have flood compatible building components below the 100 year flood level plus freeboard.
- All structures to have flood compatible building components below the PMF level.

Structural Soundness

- Engineer's report to certify that the structure can withstand the forces of floodwater, debris and buoyancy up to and including a 100 year flood plus freeboard, or a PMF if required to satisfy evacuation criteria (see below). An engineer's report may be required.
- Applicant to demonstrate that the structure can withstand the forces of floodwater, debris and buoyancy up to and including a 100 year flood plus freeboard, or a PMF if required to satisfy evacuation criteria (see below). An engineer's report may be required.
- Applicant to demonstrate that any structure can withstand the forces of floodwater, debris and buoyancy up to and including a PMF. An engineers report may be required.

Flood Effects

- Engineer's report required to certify that the development will not increase flood effects elsewhere, having regard to: (i) loss of flood storage; (ii) changes in flood levels and velocities caused by alterations to the flood conveyance; and (iii) the cumulative impact of multiple potential developments in the floodplain.
- The flood impact of the development to be considered to ensure that the development will not increase flood effects elsewhere, having regard to: (i) loss of flood storage; (ii) changes in flood levels and velocities caused by alterations to the flood conveyance; and (iii) the cumulative impact of multiple potential developments in the floodplain. An engineer's report may be required.

Note: (1) If a *Flood Storage Area* has been defined for this floodplain, any filling of the floodplain inside this area (except where this occurs by compensatory excavation), will normally be unacceptable as it will reduce the volume of flood storage available on the floodplain and increase flood effects elsewhere. (3) Even where a *Flood Storage Area* has been defined, development outside this areas may still increase flood effects elsewhere and therefore be unacceptable.

Car Parking and Driveway Access

- The minimum surface level of open car parking spaces or carports shall be as high as practical, and not below: (i) the 20 year flood level; or (ii) the level of the crest of the road at the location where the site has access, (whichever ever is the lower). In the case of garages, the minimum surface level shall be as high as practical, but no lower than the 20 year flood level.
- The minimum surface level of open car parking spaces, carports or garages, shall be as high as practical.
- Garages capable of accommodating more than 3 motor vehicles on land zoned for urban purposes, or enclosed car parking, must be protected from inundation by floods equal to or greater than the 100 year flood.
- The driveway providing access between the road and parking space shall be as high as practical and generally rising in the egress direction.
- Where the level of the driveway providing access between the road and parking space is lower than 0.3m below the 100 year flood, the following condition must be satisfied. The depth of inundation on the driveway during a 100 year flood shall not be greater than the larger of: (i) the depth at the road; and (ii) the depth at the car parking space. A lesser standard may be accepted for single detached dwelling houses where it can be demonstrated that risk to human life would not be compromised.
- Enclosed car parking and car parking areas accommodating more than 3 vehicles (other than on Rural zoned land), with a floor level below the 20 year flood level or more than 0.8m below the 100 year flood level, shall have adequate warning systems, signage and exits.
- Restraints or vehicle barriers to be provided to prevent floating vehicles leaving a site during a 100 year flood.
- Driveway and parking space levels to be no lower than the design ground/floor levels. Where this is not practical, a lower level may be considered. In these circumstances, the level is to be as high as practical, and, when undertaking alterations or additions, no lower than the existing level.

Note: (1) A still water flood depth of 0.3m is sufficient to cause a small vehicle to float. (2) Enclosed car parking is defined in the glossary and typically refers to carparks in basements.

Evacuation

- Reliable access for pedestrians or vehicles required during a 100 year flood.
- Reliable access for pedestrians or vehicles is required from the building, commencing at a minimum level equal to the lowest *habitable floor level* to an area of refuge above the PMF level, or a minimum of 20% of the gross floor area of the building to be above the PMF level.
- The development is to be consistent with any relevant flood evacuation strategy or similar plan.
- The evacuation requirements of the development are to be considered. An engineers report will be required if circumstances are possible where the evacuation of persons might not be achieved within the effective warning time.
- Applicant to demonstrate that evacuation in accordance with the requirements of this DCP is available for the potential development flowing from the subdivision proposal.

Management and Design

- Applicant to demonstrate that potential development as a consequence of a subdivision proposal can be undertaken in accordance with this DCP.
- Site Emergency Response Flood Plan required where floor levels are below the design floor level, (except for single dwelling-houses).
- Applicant to demonstrate that area is available to store goods above the 100 year flood level plus freeboard.
- Applicant to demonstrate that area is available to store goods above the PMF level.
- No storage of materials below the design floor level which may cause pollution or be potentially hazardous during any flood.