

In reply please quote: 14/20306

Contact: Andrew Mooney on 9725 0214

27 July 2015

Ms Rachel Cummings
Regional Director
NSW Department of Planning and Environment
Sydney West Region
Locked Bag 5020
PARRAMATTA NSW 2150

Attention: Rachel Cummings

Dear Ms Cummings

DRAFT PLANNING PROPOSAL IN RESPECT OF AMENDED FLOODING CONTROLS WITHIN FAIRFIELD LEP 2013

Council at its meeting of 23 June 2015 resolved to forward the attached Planning Proposal to the Minister for Planning, under Section 56 of the Environmental Planning & Assessment Act 1979.

The draft Planning Proposal seeks to amend Fairfield Local Environmental Plan 2013 by removing *residential accommodation*, *commercial premises* and *industries* as types of development affected by the provisions of Clause 6.4 Floodplain Risk Management and inserting instead *seniors housing* as an additional form of development affected by the provisions of this clause.

The results of flood studies recently undertaken by Council have enabled land affected by flooding (up to the probable maximum flood) in a number of Catchments to be more clearly identified, including the degree risk (i.e. high, medium or low risk) associated with potential flood events.

As a result of the recent flood studies 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 accommodation*, *commercial premises* and *industries* need to address flood safety and evacuation criteria. Consequently, there is potential to remove these land use categories from the more restrictive legal framework of the provisions of Clause 6.4 of Fairfield LEP 2013.

It is proposed that sensitive land use categories such as *emergency service facilities* and *hospitals* will 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 clause 6.4 of Fairfield LEP 2013.

As well as making the above amendments to the Cl.6.4, in parallel Council is also proposing to amend the provisions of Chp.11 of the City Wide DCP by removing current controls applying to residential, commercial and industrial development located above the flood planning level (FPL) (1in 100 year ARI plus 500mm freeboard) up to the PMF level. It is noted that this arrangement will be similar to that in place in a number of other Council's in Western Sydney and generally consistent with the framework of the NSW Floodplain Development Manual.

Currently the primary function of DCP controls applying to residential, commercial and industrial development in areas above the FPL is to require development to address flood evacuation measures including identifying suitable routes for occupants of a building to escape rising flood waters.

It has become apparent that this approach does not adequately transfer awareness of flood evacuation issues to the occupants of buildings located above the FPL. Accordingly Council is proposing to implement guidelines and education process to raise awareness of evacuation issues from residential, commercial and industrial buildings affected by flooding above the FPL up to the PMF level.

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 the onus on Council to provide sufficient justification (including technical reasons) for the nature of changes proposed.

In general, the following points 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.
- The amendments proposed by Council provide greater certainty for development affected by flooding.
- Guidelines and an education process will provide a more effective mechanism of raising awareness of flood evacuation issues for residential, commercial and industrial properties affected by flooding above the FPL.

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- 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"

More detailed information relating to Council's case for exceptional circumstances will be forwarded separately to the Department in due course.

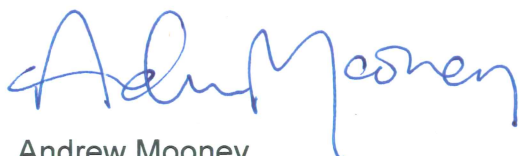
To enable the Department's consideration of this matter and the issuing of a Gateway Determination, the following information is submitted:

- Draft Planning Proposal;
- Council officer's report and Council resolution;
- Proposed amendments to Fairfield LEP 2013 Clause 6.4 Floodplain Risk Management.

As the Minister has delegated plan making powers to Council in October 2012, it is requested that DP&E issue authority to Council to exercise delegation to make this plan.

Should you require any additional information in respect of this matter, please do not hesitate to contact Andrew Mooney on 9725 0214. Council looks forward to hearing from the Department in the near future.

Yours sincerely



Andrew Mooney
CO-ORDINATOR STRATEGIC PLANNING