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Mr Alan Young
General Manager
Fairfield City Council
PO Box 21
FAIRFIELD NSW 1860

Our ref: PP_2012_FAIRF_003_00 (12/12351)
Your ref: 12/00140

Dear Mr Young,

Planning proposal to amend the Fairfield Local Environmental Plan (LEP) 1994 and draft Fairfield LEP 2011

I am writing in response to your Council's letter dated 18 July requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Fairfield Local Environmental Plan (LEP) 1994 to include 'medical centre' and 'hotel' as additional permitted uses on land at 96 Newton Road and 449 Victoria Street, Wetherill Park.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to variations as outlined by the conditions in the attached Gateway determination.

The department supports Council's intended outcome to permit the development of 'medical centres' and a 'hotel' on the subject land. However, the department does not generally support the inclusion of items as 'additional permitted uses' preferring instead to deal with issues around appropriate zoning and land use permissibility in the Land Use Tables of a Council's LEP. Therefore, an additional permitted use in this instance is not supported. Council is to progress the matter through the inclusion of 'hotels' and 'medical centres' as permissible land uses within the 4(a) General Industrial zone under the Fairfield LEP 1994 and IN1 General Industrial zone under the draft Fairfield LEP 2011.

I have also agreed that the planning proposal's inconsistency with S117 Direction 4.3 Flood Prone Land is of minor significance. No further approval is required in relation to this Direction.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible following agency consultation. Council's request for the department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Claire Mirow of the regional office of the department on 02 9860 1560.

Yours sincerely,

SHaddad

Sam Haddad
Director-General

5/9/2012

Gateway Determination

Planning proposal (Department Ref: PP_2012_FAIRF_003_00): to amend the Fairfield Local Environmental Plan 1994 and draft Fairfield Local Environmental Plan 2011, to include 'medical centre' and 'hotel' as additional permitted uses on land at 96 Newton Road and 449 Victoria Street, Wetherill Park.

I, the Director-General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Fairfield Local Environmental Plan (LEP) 1994 or the draft Fairfield LEP 2011 to include 'medical centre' and 'hotel' as additional permitted uses on land at 96 Newton Road and 449 Victoria Street, Wetherill Park should proceed subject to the following variations and conditions:

1. The inclusion of 'medical centres' and 'hotels' as additional permitted uses is not supported in this instance. Council is to include 'hotels' and 'medical centres' as permissible land uses within the 4(a) General Industrial zone under the Fairfield LEP 1994 and IN1 General Industrial zone under the draft Fairfield LEP 2011.
2. It is noted that the planning proposal will either amend the Fairfield LEP 1994 and/or the draft Fairfield LEP 2011, depending on the timing of Council's Standard Instrument LEP. Council is to explain how it will amend either Instrument to ensure the community is clearly informed of the process and finalisation of the amendment.
3. It is considered that the planning proposal is inconsistent with the requirements of S117 Direction 6.3 Site Specific Provisions in that the amendment seeks to permit specific uses on the subject land and limit the permissible floor space. The proposed floor space provisions are not supported, given the progression of the planning proposal as an amendment to the land use table, as required by Condition 2 above. Therefore, Council is to remove this component of the proposal. Should Council wish to proceed however, it is recommended that the floor space provisions be incorporate into the proposed site specific development control plan.
4. Council is to include an additional map, which identifies the existing zoning of the site under the draft Fairfield LEP 2011 for the purposes for public exhibition.
5. It is noted that the planning proposal does address consistency of the proposal with the requirements of S117 Direction 4.3 Flood Prone Land. However, Council is to ensure that its assessment of flood risk has taken into consideration the principles and guidelines of the Floodplain Development Manual 2005. Council is to amend the planning proposal accordingly, prior to the commencement of public exhibition.
6. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy No 55 (SEPP 55) – Remediation of Land and the *Contaminated Land Planning Guidelines*. Council is to prepare an initial site contamination investigation to demonstrate that the site is suitable for the proposed future use. This report is to be included as part of the public exhibition material and a copy forwarded to the department's regional office.
7. Council is to amend the planning proposal to correctly reference S117 Direction 7.1, on page 29 of the planning proposal as '*Implementation of the Metropolitan Plan for Sydney 2036.*'

8. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
- (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
9. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
- Transport for NSW
 - Transport for NSW (Roads and Maritime Services)\
 - Sydney Water
- Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
10. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
11. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 5th day of September 2012.


Sam Haddad
Director-General
Delegate of the Minister for Planning and
Infrastructure