

## Greater Sydney, Place and Infrastructure

IRF20/855

### Gateway determination report

<b>LGA</b>	Fairfield City Council
<b>PPA</b>	Fairfield City Council
<b>NAME</b>	Fairfield Accelerated LEP Review – Stage 1
<b>NUMBER</b>	PP_2020_FAIRF_001_00
<b>LEP TO BE AMENDED</b>	Fairfield Local Environmental Plan 2013
<b>ADDRESS</b>	LGA wide
<b>DESCRIPTION</b>	N/A
<b>RECEIVED</b>	11 February 2020
<b>FILE NO.</b>	EF20/2678
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal (**Attachment A2**) is part of broader LEP reforms intended to align the Fairfield Local Environmental Plan (LEP) 2013 with the Western City District Plan and Fairfield Local Strategic Planning Statement (LSPS). This planning proposal forms Stage 1 of this broader amendment.

The planning proposals seeks to amend Fairfield LEP 2013 as follows:

- include a new aim for the LEP to acknowledge the role of the Fairfield LSPS 2040 in delivering desired strategic land use planning outcomes for the City of Fairfield;
- introduce new local clauses relating to active street frontages, design excellence, floodplain risk management and hospital helicopter airspace;
- include additional objectives relating to Floor Space Ratio and Height of Buildings clauses to encourage better building design;
- amend Schedule 2 (Exempt Development):
  - to increase the maximum period of temporary uses at the Fairfield Showground from 52 to 104 days; and
  - permit storage of goods on Council owned footpaths without the need for development consent and allow emergency works on Council owned or managed land without the need for development consent.
- amend Schedule 5 – Environmental Heritage, to update the description of 14 properties to reflect current property details; and

- amend zoning on three properties to address current zoning anomalies.

## 1.2 Site description

The planning proposal applies to land in the Fairfield Local Government Area (LGA) subject to the Fairfield LEP 2013 (Figure 1). It is noted that the planning proposal does not affect land subject to the State Environmental Planning Policies (Western Sydney Parklands) 2009, (Western Sydney Employment Area) 2009, and (State Significant Precincts) 2005.

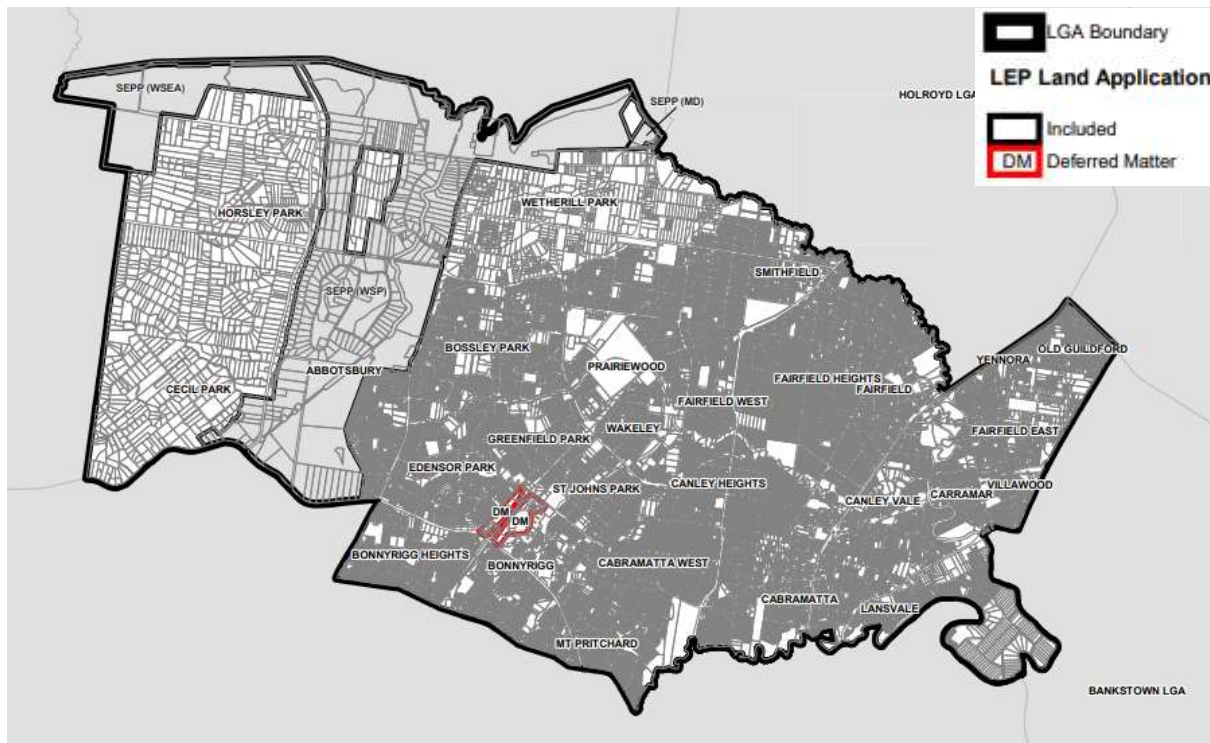


Figure 1: Land Application Map.

## 1.3 Summary of recommendation

It is recommended that the planning proposal proceed with a Gateway Determination subject to conditions as the proposed amendments have strategic and site-specific merit, are generally consistent with the Western City District Plan and form the first stage of amendments to align the Fairfield LEP 2013 with the Fairfield Local Strategic Planning Statement (LSPS).

## 2. PROPOSAL

### 2.1 Objectives or intended outcomes

The main objective of the planning proposal is to ensure the Fairfield LEP 2013 aligns with the Western City District Plan and the LSPS.

The objectives of this planning proposal are clear and adequate.

### 2.2 Explanation of provisions

The planning proposal is seeking to amend the Fairfield LEP 2013 as follows:

#### Item 1 – New Aim of Plan relating to Fairfield LSPS

The planning proposal proposes to include the following aim:

*“to ensure the provisions of this Plan are updated and amended to reflect relevant priorities and actions of Council’s Local Strategic Planning Statement in delivering desired strategic land use planning outcomes for the City of Fairfield.”*

Council considers that given the significance of the LSPS, it is timely to amend clause 1.2 Aims of Plan of the Fairfield LEP 2013 to ensure the role of the LSPS regarding future land use planning directions for the City is factored into the LEP.

**Department Comment:**

The Department notes that Clause 3.33 of the EP&A Act requires that justification is provided for how a planning proposal gives effect to a LSPS. The LSPS is a separate document that informs changes to the development standards and strategic controls of the LEP.

Although Council’s LSPS has received assurance, the GSC also advises that Council may need to update the LSPS as key supporting strategies, including the Local Housing Strategy are finalised. Due to the changing nature of the LSPS, it is recommended that the LSPS aim is removed from the planning proposal.

Item 2 – Proposed new clauses

A. Active street frontages

Council proposes to insert an existing model clause for active street frontages to be considered as part of future development. The inclusion of an LEP clause relating to active street frontages will provide support to the DCP provisions as well as recommendations stemming from the urban design studies. The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use. The proposed drafted clause is at page 6 of **Attachment A**.

Pursuant to priorities and actions of the LSPS, Council is in the process of preparing urban design studies for a number of main and local town centres in the LGA. Council also intends to prepare public domain plans for all town centres in the LGA.

Council will utilise the draft Site Specific DCP’s for Bonnyrigg, Fairfield Heights and Villawood which were developed from the existing urban design studies to prepare Active Street Frontage Maps for the LEP.

**Department Comment:**

The proposed new provision and associated mapping are supported as these will attract pedestrian traffic along certain street frontages and these provisions are consistent with Planning Priority W4 ‘Fostering healthy, creative, culturally rich and socially connected communities’ of the Western City District Plan.

B. Design Excellence

The proposal seeks to introduce a new clause to ensure design excellence is a fundamental step in ensuring that private development in the LGA responds to the initiatives contained within Council’s draft LSPS. The objective of this clause is to ensure that development exhibits the highest standard of architectural and urban design as part of the built environment. It will apply to the following zones: B2 Local Centre, B3 Commercial Core and B4 Mixed Use and R4 High Density Residential. The proposed drafted clause is at page 8 of **Attachment A**.

Council considers this step is warranted given the scope of urban design studies being carried across the medium sized town centres of the LGA, that in future have the potential to accommodate increased residential densities given their proximity to public transport services as well as providing a broad range of services to surrounding residential catchments.

**Department Comment:**

The proposed new provisions are supported as these relates directly to LSPS Planning Priority 4 and Action 4.6 'Council will encourage design excellence and ensure that design recommendations in the Urban Design Studies are reflected in the LEP and DCP controls. Further, these provisions are also consistent with Planning Priority W6 'Creating and renewing great places and local centres, and respecting the District's heritage' in the Western City District Plan.

C. Floodplain Risk Management

The existing clause 6.4 Flood risk management applies to private general housing, commercial and industrial uses on land located above the flood planning level (1in100 year+500mm freeboard) up to the probable max flood (PMF) level.

The planning proposal seeks to amend clause 6.4 by removing 'residential accommodation', 'commercial premises' and 'industries' from the clause and inserting 'seniors housing' as an additional form of development. The proposal will remove application of controls (that require preparation of evacuation plans) for residential accommodation, industries and commercial development. The proposed drafted clause is at page 9 of **Attachment A**.

Council advised that this amendment is based on flood studies undertaken by Council that have identified specific areas of the LGA that need to address flood safety and evacuation criteria. By removing these development types from the restrictive framework of clause 6.4 and using the Fairfield City Wide DCP 2013 to include detailed controls regarding specific areas, in this way the amendment will provide greater certainty for development affected by flooding.

Council advises that this amendment is linked to LSPS Planning Priority 10 and Action 10.1 'Council will align its flood risk planning controls in the LEP and DCP so that the planning provisions are consistent with the planning proposal controls in upstream and downstream local government areas'.

**Department Comment**

The Department notes that this proposed amendment is subject to an existing planning proposal (PP\_2015\_FAIRF\_002\_00) that was submitted by Council to the Department for finalisation. As the Department is still assessing this proposal, it is recommended that Council removes this matter from the proposal.

D. Hospital helicopter airspace

The proposal seeks to introduce a new Hospital helicopter airspace to refer all DA's subject to this clause to the relevant authorities. The proposed drafted clause is at page 11 of **Attachment A**.

In 2017 Liverpool City Council introduced a new LEP clause – 7.17A Hospital helicopter airspace into the LEP. This clause requires referral of development applications for works that may intersect the Object Identification Surface (OIS) of the Liverpool Hospital emergency helicopter to the Civil Aviation Safety Authority



(CASA), Air Ambulance NSW and the Director of Works South West Sydney Local Health District.

Council notes that a small section of the Fairfield LGA is affected by the OIS as shown in Figure 2. This area is zoned R2 Low Density Residential, with a maximum height restriction for buildings of 9m. Under the proposed new clause buildings with a height of 105m to 125m would require referral to relevant State Agencies for comment.

Council considers that in view of the above height considerations, it is unlikely in the foreseeable future, any proposals for building works in the LGA would require referral to agencies. However, to promote transparency and community awareness of this matter it is proposed to include this helicopter airspace clause and associated maps in the LEP.

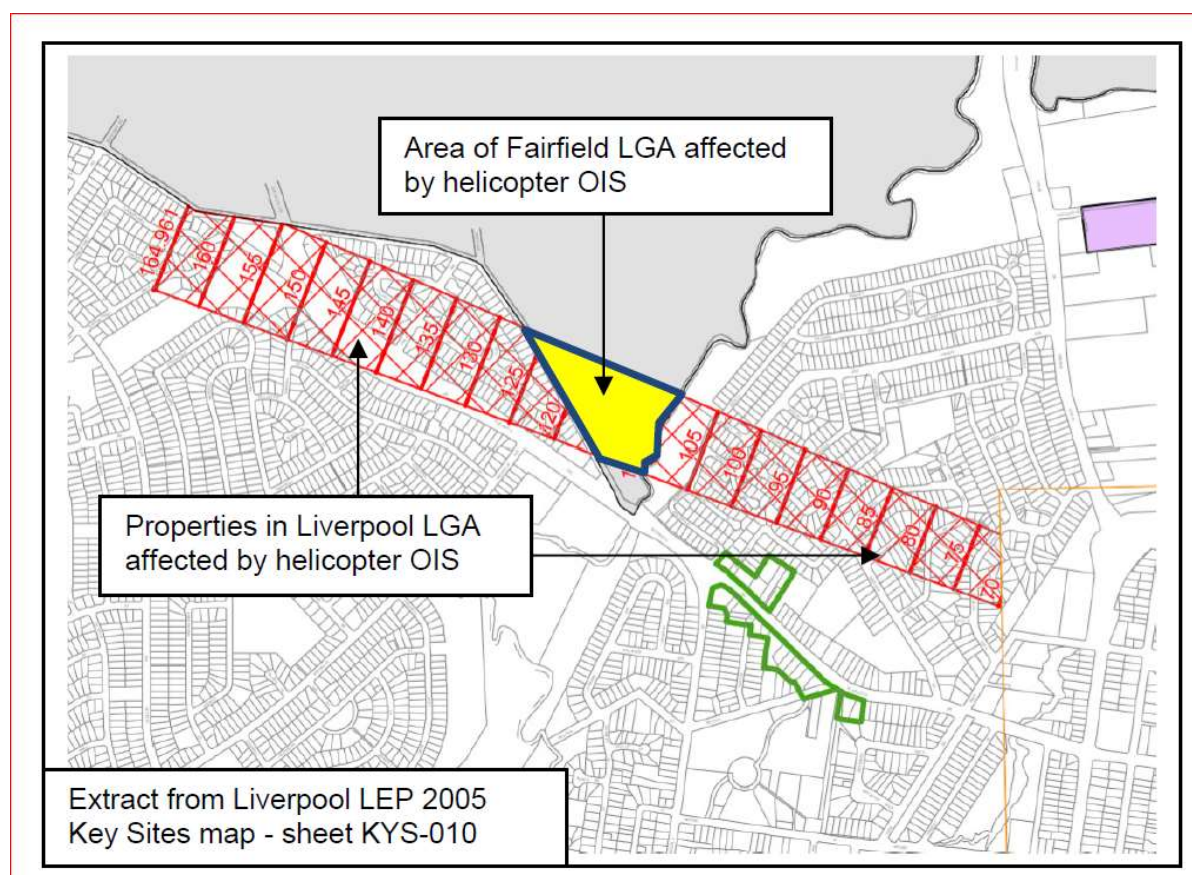


Figure 2: Area of Fairfield LGA affected by helicopter OIS

### Department Comment:

The proposed new provision is supported as it will ensure any future development in the LGA under the helicopter flight path will have regard to this matter and is consistent with Planning Priority W20 – Adapting to the impacts of urban and natural hazards and climate change. It is also recommended that Council consults the chief executive of the relevant local health district on this clause, CASA and NSW Ambulance.

### Item 3 – Amendment to Clauses 4.3 Height of buildings and 4.4 Floor space ratio

It is proposed to include additional objectives that deal with the breadth of planning considerations relevant to development proposals not complying with height controls

and FSR in the LGA. The new additional objectives deal with solar access, visual privacy, separation between buildings, compatibility of development with existing and/or proposed future built form and character of an area. The proposed drafted clause is at page 12 of **Attachment A**.

Since the Fairfield LEP 2013 came into force, the assessment of a range of development proposals has revealed that the scope and extent of the objectives under each clause do not provide sufficient capacity to deal with the breadth of planning considerations relevant to development applications not complying with height and FSR controls in the City. This situation is particularly evident in larger development proposals within the following zones: B4 Mixed Use, B2 Local Centre, R3 Medium Density and R4 High Density.

In these zones, variations can be sought from the controls under Clause 4.6 Exceptions to development standards of the LEP. Applications seeking a variation to the height/FSR standards are required to address a number of performance measures and merit consideration including whether the non-complying development is able to address the objectives of the particular standard relevant to a site.

In light of this, Council contends that the additional objectives proposed under this planning proposal will not only improve the scope of the objectives supporting the development controls relevant to each clause, but also enhance flexibility and scope for merit consideration of development not strictly complying with the development standards. The additional objectives will also help to improve the level of certainty for community in regard to the performance measures that need to be addressed in development not complying with height and FSR controls.

Additionally, these outcomes are also linked to Planning Priority 4 'Provide attractive, healthy, accessible and safe places for the whole community' of the Fairfield LSPS aimed as delivering well designed housing in and around town centres.

#### **Department Comment:**

The proposed objectives are supported as these will improve design and liveability of residential and commercial areas and are consistent with Planning Priority W5 'Providing housing supply, choice and affordability with access to jobs, services and public transport' of the Western City District Plan.

#### Item 4 – Schedule 2 Exempt Development

##### A. Display of Goods

The proposal seeks to introduce a new provision under exempt development to allow display of goods on footpaths in Cabramatta, Canley Heights, Canley Vale, Fairfield, Fairfield Heights and Villawood Town Centres without the need for development consent. The proposed drafted clause is at page 14 of **Attachment A**.

Council advised that under its Display of Goods on Public Domain Policy commercial shop owners in a number of the main town centres are able to submit a development application (DA) to Council for display of goods on Council owned/managed footpath areas.

All DA's for display of goods on Council land are required to be referred to the Fairfield Local Planning Panel for determination. Council considers this step is excessive and creates an additional level in the assessment process that is not considered necessary, as application for storage of goods have low impact and can

be readily controlled under the framework of Council's policy. This will help in streamlining the approvals process for applications for storage of goods on Council land.

**Department Comment:**

The new proposed provision is supported as it will promote activity in the town centres in line with desired outcomes of the Fairfield LSPS.

**B. Temporary Use of Land**

The proposal seeks to increase the maximum number of days for temporary uses only at the Fairfield Showground from 52 days (whether or not consecutive days) to 104 days in any period of 12 months. This clause is particularly relevant to a range of activities that take place at the Showground, which currently facilitate up to 26 multicultural festivals each year as well as environmental shows, hobby groups, weekend markets and functions.

The Showground site is zoned RE1 Public Recreation and the range of activities that are currently taking place on the site are permitted either with consent e.g. functions), without consent (e.g. markets) or are captured by the exempt provisions of the temporary use clause above.

The abovementioned uses/activities are also authorised on the site under the Fairfield Showground Plan of Management 2018 and relevant provisions of the *NSW Local Government Act 2003* (LG Act). Council has also endorsed a local approval policy (LAP) that will allow activities to take place without the need for approval under s68 of the LG Act subject to prescribed conditions being met.

Council has prepared a masterplan to transform the Showground into a major district recreation/cultural facility. This expansion means that there is potential for temporary uses on the site to exceed the current 52 days per year. In this regard, Council proposes to increase the number of days on which temporary uses on the Showground can take place from 52 to 104 days to remove any level of uncertainty concerning this matter.

The proposal also supports the LSPS Planning Priority 7 'Council will work with the State Government to ensure that evolving District facilities (including Western Sydney Parkland, Fairfield Showground, Cabravale Leisure Centre and Aquatopia) continue to provide for both the local and wider community needs with improved connectivity within Fairfield City'.

It is noted that the current allowance of 52 days on all other Council owned or managed land will be retained.

**Department comment**

The proposed amendment is supported as it will support expansion of community and recreation uses of the site and is consistent with the LSPS.

**C. Emergency works on Council land**

The proposal seeks to introduce a new exempt provision allowing Council to undertake emergency works on Council owned land, including works in response to a sudden natural event (e.g. storm, flood) accident, equipment failure or structural collapse, damage caused by vandalism, arson or a pollution accident. The proposed drafted clause is at page 16 of **Attachment A**.

The Infrastructure SEPP includes limited provisions that allow emergency works to be undertaken on Council land as exempt development (i.e. in relation to stormwater management systems). In other instances, emergency works are undertaken as part of a development application or review of environmental factors under Part 4 and 5 respectively of the EP&A Act.

From the community health and wellbeing perspective, it is highly desirable for emergency works to be undertaken as quickly as possible. Hence, it is proposed to allow emergency works on Council owned/managed land as exempt development subject to the same criteria applying to emergency works under the Infrastructure SEPP.

**Department Comment:**

The proposed new provision is supported as it will allow prompt implementation of emergency works on Council land.

Item 5 – Schedule 5 Environmental heritage

The planning proposal proposes to update property details (lot and deposited plan numbers) of 10 heritage listed properties in the LGA as a result of change in property addresses/descriptions. The list of affected properties is at Appendix D of the planning proposal (**Attachment A2**).

As part of the Planning Priority 5.4 'Protect the City's heritage' action 5.4 of the Fairfield LSPS 2040, Council undertook a Heritage Review to identify potential new heritage items and review existing items in the Fairfield LEP. The review revealed that over time, the property details for a number of heritage listed sites have changed as a result of re-subdivision of land and in some cases leading to changes to the street addresses.

**Department Comment:**

The proposed amendment is supported as it will clarify the property details for heritage listed properties and provide greater certainty for development proposals on or adjoining heritage listed sites.

The Department notes that only eight (8) properties are identified in the proposal on page 16. Council has confirmed that the number of properties mentioned in Appendix D (10 properties) is correct. Accordingly, it is recommended that Council amend the planning proposal prior to exhibition to reflect the correct number of properties whose details are being amended as per Schedule D.

In addition, as one of the sites is a State heritage listed item, it is recommended that Heritage, Department of Premier and Cabinet is consulted on the changes.

Item 6 – Amendments to Zoning arrangements and associated LEP maps

As part of housekeeping amendments, Council proposes to amend the zoning of three sites in the LGA as identified below.

A. 18 Butler Avenue, Bossley Park (Lot 2 DP 596191)

Council has advised that the portion of 18 Butler Avenue, Bossley Park that is zoned RE1 Public Recreation (Figure 3) is not required for open space purposes and has been physically incorporated into the lot comprising the private dwelling at 18 Butler Avenue.



The planning proposal proposes to rezone part of the site from RE1 Public Recreation to R2 Low Density Residential to reflect the current use of the land. In addition to Land Zoning Map, the associated FSR, Height of Building, Lot Size for Dual Occupancy Development and Lot Size maps are also proposed to be amended to reflect the development standards applicable to the R2 Low Density Residential zoning of the land in the locality.



Figure 3: 18 Butler Avenue, Bossley Park

#### B. 61 Hill Street, Cabramatta (Lot 1 DP 210323)

The planning proposal seeks to rezone the subject site to R4 High Density Residential (Figure 4) to create potential for integration of the parcel with adjoining underdeveloped privately-owned parcels of land to the north (also zoned R4 High Density Residential).

Council has advised that based on the surrounding land uses (in particular the adjoining Council carpark) and zoning pattern, it is not possible to integrate the site into the area zoned R3 Medium Density Residential. Hence, it is proposed to rezone the site to R4 High Density Residential, creating the option for amalgamation with adjoining properties and future redevelopment options.

Further, in addition to the Land Zoning Map, the associated FSR and Height of Buildings Maps would also be updated to reflect the development standards applicable to land zoned R4 High Density Residential. The proposal will increase height of buildings from 9m to 16m and an increase FSR from 0.45:1 to 0.8:1.



Figure 4: 61 Hill Street, Cabramatta

### C. 47 Brown Road, Bonnyrigg (Lot 1 DP 616457)

Council has advised that the portion of the site zoned RE1 Public Recreation is not required for open space purposes and in 2018 was removed from acquisition status under Council's Section 94 expenditure plan. Further, Council's City Wide DCP has been amended to remove the requirement for a 'through road connection' to Brown Road and allow for a cul-de-sac arrangement as per an approved application for re-subdivision of the site. As the site is in private ownership and has never been public land, reclassification under the *NSW Local Government Act 1993* is not required.

The planning proposal proposes to rezone the north-western corner of the site from RE1 Public Recreation to R2 Low Density Residential (Figure 5). In addition to the Land Zoning Map, the associated FSR, Height of Building, Lot Size for Dual Occupancy Development and Lot Size maps will also be amended to reflect development standards that apply to R2 Low Density Residential zoned land.



Figure 8: 47 Brown Road, Bonnyrigg

### **Department Comment:**

The Department notes that these three housekeeping amendments are minor and supported.

However, the existing and proposed Height of Building map for 18 Butler Avenue, Bossley Park requires to be amended prior to exhibition to clearly illustrate the affected land.

### **2.3 Mapping**

Appendix E of the planning proposal (planning proposal page 58-87) contains maps of the existing and proposed zones and development standards applying to the planning proposal. This includes:

- Land Zoning Maps;
- Height of Buildings Map;
- Floor Space Ratio Map;
- Key Sites Maps;
- Lot Size Maps;
- Lot Size for Dual Occupancy Development Maps; and
- Active Street Frontages Maps.

### 3. NEED FOR THE PLANNING PROPOSAL

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The planning proposal is the result of Council's preparation of a Local Strategic Planning Statement (LSPS) as a result of participating in the NSW Government Accelerated Local Environmental Plan Review Program. Fairfield LSPS contains a total of 76 planning priorities/actions and this planning proposal proposes to incorporate a number of LSPS's priorities into the Fairfield LEP 2013.

In addition, the planning proposal also deals with a number of housekeeping zoning anomalies that have been identified through the ongoing review of property information and development issues occurring in the City.

In light of the above, it is considered that the planning proposal is the best, most appropriate, and the only means of achieving Council's intentions

### 4. STRATEGIC ASSESSMENT

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#### 4.1 District

##### Western City District Plan

As indicated in section 2.2 of this report, the proposed amendments are consistent with the relevant planning priorities and actions under the District Plan.

#### 4.2 Local

##### 2040 Fairfield Local Strategic Planning Statement

The planning proposal represents Stage 1 of the implementation of a number of actions contained in the Fairfield LSPS 2040 as detailed in section 2.2 of this report.

Stage 2 of the process will be undertaken following the completion of the technical strategy work required to fully align Fairfield LEP 2013 with the Western City District Plan and LSPS. The following work is being undertaken by Council to inform Stage 2:

- Local Housing Strategy & Affordable Housing Strategy;
- Urban Design Studies (various town centres);
- Industrial & Business Lands Review;
- Open Space Strategy;
- Transport Strategy;
- Public Domain Plans;
- Heritage Review; and
- Biodiversity Strategy.

##### Local Planning Panel

The planning proposal was reported to the Fairfield Local Planning Panel on 18 September 2019 (**Attachments D1 & D2**). The Panel supported the planning proposal being forwarded to the Department for Gateway determination.

Whilst not part of the planning proposal, the Panel recommended Council considers the appointment of a design review panel to be part of the Design Excellence Strategy as recommended by the LSPS. Council has advised that its Development

Control Branch considers referring relevant proposals to an independent urban designer/architect for review is the most appropriate and efficient course of action for dealing with design excellence issues. This includes the construction of a new building or external alterations to an existing building in R4 High Density Residential, B2 Local Centre, B3 Commercial Core and B4 Mixed Use. Further, the Panel also include a qualified architect providing an additional layer for review of design excellence. Additionally, the urban design studies relating to each particular centre will provide an extra layer for assessing the suitability of the design of individual development projects.

The Panel also commended Council staff for minimising applications for minor developments such as that for the use of footpaths in commercial areas, and recommended that Council also consider extending this approach to such matters as the annual event of the circus. Council responded that the existing temporary use provisions of Schedule 2 of Fairfield LEP 2013 already allow for consideration of a range of annual events (including a circus) on Council owned/managed land without the need for development consent. In the case of Fairfield Showground, Council has endorsed a Local Approvals Policy that will allow temporary uses (including circuses) to take place on the site without need for a section 68 application.

#### **4.3 Section 9.1 Ministerial Directions**

The consistency of the planning proposal (except the proposed amendments required to be removed) with all relevant Section 9.1 Directions is discussed below.

##### Direction 1.1 Business and Industrial Zones

The objectives of this direction are to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified centres. This direction applies as the proposal affects business zoned land.

The planning proposal is consistent with this direction as it will not reduce the total potential floor space area for employment uses. Instead it provides additional controls to ensure that future development on business zoned land have active street frontage and design excellence controls.

##### 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. This direction applies as the proposal seeks to amend existing heritage items.

The proposal is consistent with this direction as it will not remove any existing heritage items but update the property description for these items.

##### Direction 3.1 Residential Zones

The objectives of this direction are to encourage a variety and choice of housing types, make efficient use of existing infrastructure and services, and minimise the impact of residential development on the environment and resource lands. This direction applies as the proposal affects residential zoned land.

The proposal is consistent with this direction as it will not reduce the permissible residential density of land. Instead the proposal will ensure good design is provided for R4 High Density Residential and B4 Mixed Use zoned land.

### Direction 3.5 Development Near Regulated Airports and Defence Airfields

The objectives of this direction are to ensure the effective and safe operation of regulated airports and defence airfields, ensure that their operation is not compromised by development in the vicinity, and ensure development situated on noise sensitive land incorporates appropriate mitigation measures. This direction applies as the proposal affects Liverpool hospital helicopter airspace.

The proposal has not addressed this direction. Although, the proposal will not increase any development standards for development within the airspace, Council is required to consult the lessee/operator of that airspace and CASA.

### Direction 6.1 Approval and Referral Requirements

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

This planning proposal introduces referral requirements (to the chief executive of the relevant local health district) for development that intrudes into the Liverpool hospital helicopter airspace which is inconsistent with this direction. However, this inconsistency can be justified if the subject public authority does not object to the inclusion of the referral provision.

However, in accordance with the requirements of this direction, Council is required to consult the relevant authority prior to public exhibition to ensure it does not object to the progression of the planning proposal.

### Direction 6.2 Reserving Land for Public Purposes

The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition. This direction applies as the proposal seeks to rezone two sites from RE1 Public Recreation to R2 Low Density Residential.

Council has advised that the relevant parcels are in private ownership and have not been identified for acquisition for public open space. The proposed rezoning of the parcels address zoning anomalies and will not reduce the total amount of land in the City intended for public recreation purposes.

Given the relevant parcels are in private ownership, have not been identified for acquisition and will not reduce the total amount of land in the City for public recreation purposes, it is considered that the planning proposal satisfies the requirements of the direction and is therefore consistent.

### Direction 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

The proposal is inconsistent with this direction as it seeks to impose additional development requirements in addition to those already contained in the existing LEP such as active street frontages and design excellence.

However, this inconsistency is justified as of minor significance as these proposed clauses will assist in providing better design outcomes.



#### **4.4 State environmental planning policies (SEPPs)**

The planning proposal is consistent with the relevant SEPPs as follows:

##### SEPP 65 – Design Quality of Residential Apartment Development

The proposal includes Active Street Frontages and Design Excellence clauses based on model clauses that will help to achieve better quality residential apartments.

##### SEPP (Exempt and Complying Development Codes) 2008

The proposed amendments relating to 'Temporary Use of Land', 'Display of Goods' and 'Emergency works' are consistent with the provision of the SEPP.

### **5. SITE-SPECIFIC ASSESSMENT**

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#### **5.1 Social and Economic**

The planning proposal will have positive social and economic impact as it proposes to provide greater certainty in relation to implementing the objectives and intended outcomes of the Fairfield LSPS 2040. It will also provide certainty in relation to the current and future use of the sites affected by this planning proposal having regard to current ownership, previous development approvals and intended use of the land parcels.

#### **5.2 Environmental**

Council has advised that none of the sites affected by the planning proposal have any critical habitat or environmental significance. No threatened species, populations or ecological communities or their habitats will be adversely affected as a result of the proposal.

#### **5.3 Infrastructure**

Council has advised that the properties subject to this planning proposal are serviced and have access to the full range of public infrastructure.

### **6. CONSULTATION**

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#### **6.1 Community**

Council has proposed a community consultation period of 28 days. Given the nature of the planning proposal, it is recommended that the Minister's delegate agrees to the length of the proposed period.

#### **6.2 Agencies**

Consultation with the following agencies is recommended:

- Greater Sydney Commission;
- Heritage NSW, Department of Premier and Cabinet;
- Civil Aviation Safety Authority (CASA);
- NSW Ambulance;
- Chief executive of the relevant local health district; and
- lessee/operator of that airspace.

## **7. TIME FRAME**

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Council is required to submit the planning proposal to the Department for finalisation prior to 30 June 2020.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested authorisation to exercise the plan making function under delegation in relation to this planning proposal. Given the planning proposal is required to give effect to the District Plan and the Department has provided funding for Council to prepare the amendment, authorisation for Council to be local-plan making authority is not recommended.

## **9. CONCLUSION**

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The planning proposal is supported to proceed to Gateway Determination subject to a number of conditions as the proposed amendments have strategic and site-specific merit, are generally consistent with the Western City District Plan and form the first stage of amendments to align the Fairfield LEP 2013 with the Fairfield LSPS.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 6.3 Site Specific Provisions are minor or justified; and
2. note that the consistency with section 9.1 Directions 3.5 Development Near Regulated Airports and Defence Airfields and 6.1 Approval and Referral Requirements is unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition, the planning proposal is to be amended as follows:
  - a) remove the following proposed amendments and associated references or maps from the planning proposal:
    - i. New Aim of Plan relating to Fairfield LSPS; and
    - ii. Floodplain Risk Management amendments;
  - b) update the list of affected heritage items on page 16 of the planning proposal;
  - c) update the existing and proposed height of building maps for 18 Butler Avenue, Bossley Park to clearly illustrate the affected land;
  - d) consult the Chief executive of the relevant local health district prior to public exhibition in accordance with section 9.1 Direction 6.1 Approval and Referral Requirements and address any comments from this agency;
  - e) include the intention to introduce a new savings and transitional clause to ensure that proposed amendments do not affect any lodged development applications or appeal processes; and
  - f) include a note that the draft proposed clauses will be subject to legal drafting and may alter under this process.

2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Council is to inform all landowners affected by the hospital helicopter airspace and rezoning amendments in writing about the exhibition of the proposal, outlining the effect of the proposed changes.
4. Consultation is required with the following public authorities:
  - Greater Sydney Commission;
  - Heritage NSW, Department of Premier and Cabinet;
  - Civil Aviation Safety Authority (CASA);
  - NSW Ambulance;
  - Chief executive of the relevant local health district; and
  - lessee/operator of that airspace.
5. Council is required to submit the planning proposal to the Department for finalisation prior by 30 June 2020.
6. Given the nature of the planning proposal, Council is not authorised to exercise delegation to make this plan.

**Eleanor Robertson**  
**Acting Director, Western**

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