



Planning Proposal

**Zone SP2 Infrastructure – Classified Road,
Elizabeth Drive, Mt Pritchard**

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Background - Need for Planning Proposal

History of road widening on Elizabeth Drive, Mt Pritchard

Elizabeth Drive (known as Mulgoa Road) was originally surveyed with a width of 66 feet (20.115 m). The County of Cumberland Planning Scheme (1950s) identified the road as a Main Road. The Department of Main Roads (now the NSW Roads and Maritime Services - RMS) began surveying the road to increase the width of the road reserve to between 100 feet (30.48 m) and 132 feet (40.23 m). DP 218905 and DP 218906 were registered with the Land Titles Office in 1963, affecting land with frontages to Elizabeth Drive between Cabramatta Road West and Reservoir Road, Mt Pritchard.

The above two Deposited Plans are plans of “Proposed Road” (which is now known as a “Plan of Acquisition”). This type of Survey Plan, although registered, does not change the title of a property until the acquisition affecting that property has taken place. It causes a line to be added to each affected property’s title, indicating that the property is subject to Road Widening.

Council’s digital mapping database

Council’s digital cadastral mapping database contains detail of land and property boundaries within the City. Cadastral information used by Council was originally sourced from Sydney Water in 1989. Council initially compared this cadastre against the previous paper version of the cadastre, the Central Mapping Authority (now the NSW LPI) charting sheets, being the best information available at the time.

Following this initial review, Council began building other mapping datasets on it, such as the initial Fairfield Local Environmental Plan, which was gazetted in 1994. As the cadastre contained unknown errors such as road widening, Fairfield LEP 1994 also inadvertently included these errors. The drafting error affecting some properties on Elizabeth Drive, Mt Pritchard was then unknowingly transferred to the maps drafted for Fairfield LEP 2013 that included the Zoning Map (LZN) and the Land Reservation Acquisition Map (LRA).

In the preparation of the Fairfield LEP 2013, draft maps were referred to the NSW RMS who were invited to provide guidance on the accuracy of road acquisition needs. Council also advised RMS that in the absence of advice being received, Council will assume that information supplied to the authority for comment was correct. NSW RMS did not alert Council to any of the errors that have now been identified in Council’s digital mapping database with respect to property boundaries and future widening and acquisition requirements along Elizabeth Drive, Mt Pritchard. Accordingly, Fairfield LEP 2013 was formally gazetted and unknown errors were once again transferred to the new LEP maps.

Investigation of road widening affected properties on Elizabeth Drive, Mt Pritchard

The need to correct the cadastral drafting anomalies on Elizabeth Drive, Mt Pritchard was first identified in the processing of a Planning Certificate for an affected property along Elizabeth Drive, Mt Pritchard in February 2015.

Investigations by Council with the NSW Land & Property Information (LPI) indicated that the lot in question, along with numerous others either side, were still subject to road widening as

no acquisition had taken place despite Council's cadastre (property boundary database) indicating otherwise.

Investigation by Council revealed that a total of 26 properties along Elizabeth Drive between Humphries Road and Reservoir Road were still subject to the original road widening first described in the 1960s. Having recently received confirmation from the NSW RMS that the 26 properties are still required for road widening purposes, Council's cadastre (the property boundaries within its mapping database) is required to be corrected. The changes required to the property cadastre consequently change the application of zoning to affected properties and effectively add a strip of Zone SP2 Infrastructure land along the frontage of each affected property.

Council has received legal advice that it is not legally able to apply the Zone SP2 Infrastructure to the subject properties without an amendment to Fairfield LEP 2013. Similarly the properties cannot be formally acquired by the NSW RMS for road widening purposes unless they are identified on the Fairfield LEP 2013 Land Acquisition Map.

Part 1 – Objectives

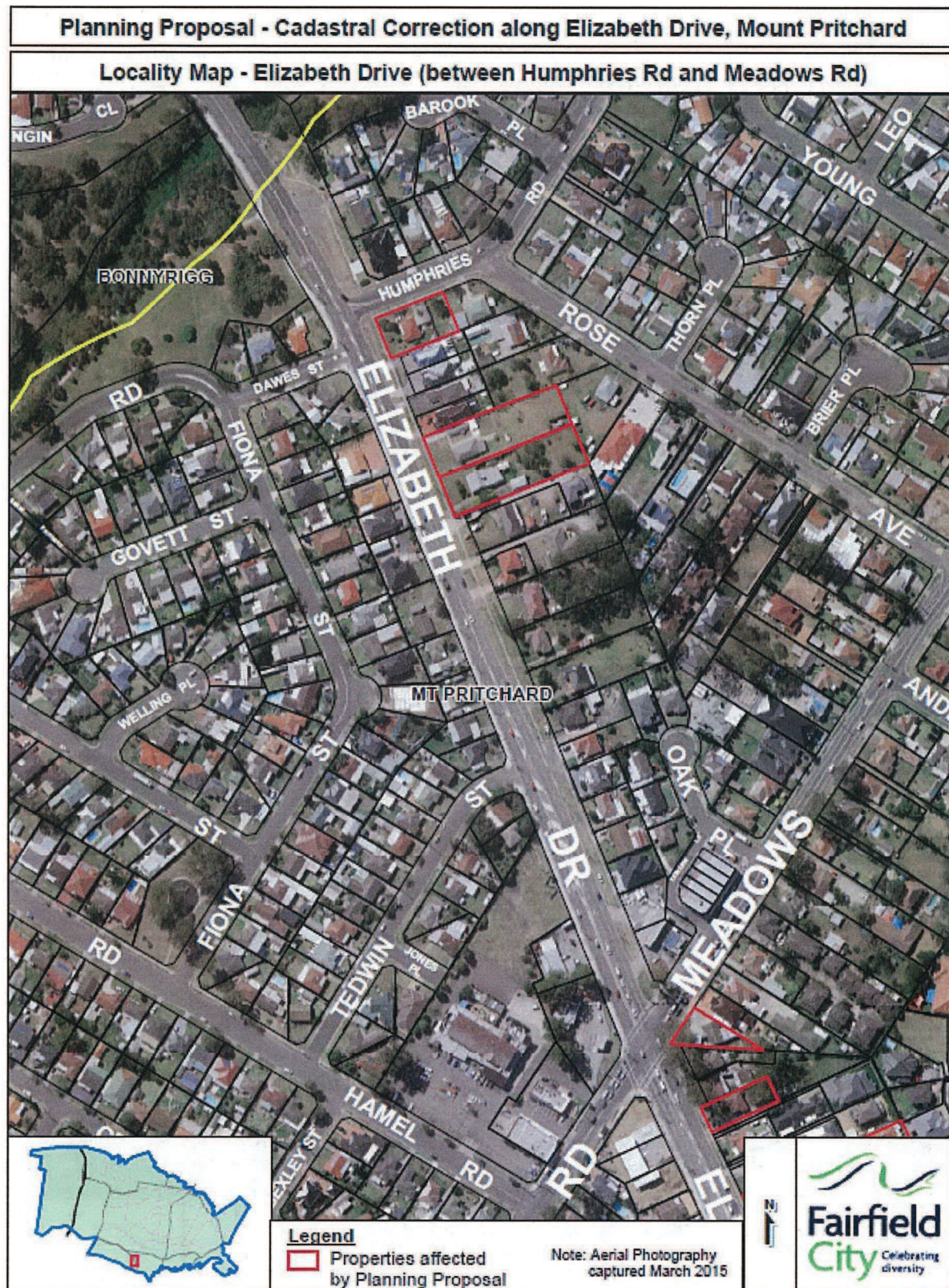
The purpose of the planning proposal is to correct a cadastral drafting anomaly applying to Fairfield LEP 2013 which will consequently change the zoning applied to affected properties. Properties affected by the Planning Proposal are currently wholly zoned R2 Low Density Residential as the property cadastre as currently drawn does not extend along the full length of affected properties and incorrectly omits privately owned land that is zoned SP2 Infrastructure for future road widening purposes.

The required change to the property boundaries on the cadastre layer will lead to these properties being part zoned R2 Low Density Residential and part zoned SP2 Infrastructure – Classified Road, as the amended property boundary will be extended into the identified road reserve along Elizabeth Drive, Mt Pritchard. See **Attachment A** - Existing and Proposed Land Zoning Maps

In accordance with *Clause 5.1 Relevant Acquisition Authority* of Fairfield LEP 2013, land zoned SP2 Infrastructure and marked "Classified Road" is identified on the Fairfield LEP 2013 Land Reservation Acquisition map for future acquisition by the NSW Roads and Maritime Services (RMS) for a public purpose. Accordingly, the Planning Proposal also seeks to amend the Fairfield LEP 2013 Land Reservation Acquisition Map to identify that part of the 26 affected properties which will have their new property boundary extend into the Zone SP2 Infrastructure, added to the map for future acquisition by the NSW RMS for road widening purposes. See **Attachment B** – Existing and Proposed Land Reservation Acquisition Maps

The planning proposal is in accordance with Council's decision at its meeting on 24 November 2015 - see **Attachment C** for Council report.

Locality Map Identifying Land Affected by the Planning Proposal (North of Meadows Road)



Locality Map Identifying Land Affected by the Planning Proposal (South of Meadows Road)

Planning Proposal - Cadastral Correction along Elizabeth Drive, Mount Pritchard

Locality Map - Elizabeth Drive (between Meadows Rd and Reservoir Rd)



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Part 2 – Explanation of provisions

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

1. Correct the digital cadastre layer applying to Fairfield LEP 2013 Land Zoning Map (Sheets 12 and 13) as it relates to 26 identified properties located along Elizabeth Drive, Mt Pritchard to ensure that the cadastral property boundary for affected properties correctly includes land zoned SP2 Infrastructure that is required for future road widening purposes along Elizabeth Drive, Mt Pritchard; and
2. Ensure that the land zoned SP2 Infrastructure on each of the 26 affected properties and identified for future acquisition by the NSW RMS is identified on the Fairfield LEP 2013 Land Reservation Acquisition map.

Impact for property owners

Land zoned SP2 Infrastructure on Elizabeth Drive at Mt Pritchard and required for future road widening purposes currently does not include privately owned land for an affected 26 properties because the property cadastre as currently drawn does not include the full length of each affected property. Therefore, the property cadastre as currently drawn gives the appearance that the acquisition for road widening has already occurred when in fact it has not.

The required change to the property boundaries on the cadastre layer for properties affected by the Planning Proposal will lead to these properties being part zoned R2 Low Density Residential and part zoned SP2 Infrastructure – Classified Road, as the amended property boundary will encroach into the existing identified road reserve for Elizabeth Drive, Mt Pritchard.

The property owners will in the future be compensated by the RMS for the acquisition of land required for road widening on Elizabeth Drive, Mt Pritchard. Development potential has not been diminished by the cadastral anomaly and the resulting Planning Proposal.

Attachment A - Existing and Proposed Land Zoning Maps

Attachment B – Existing and Proposed Land Reservation Acquisition Maps

Part 3 – Justification

Section A – Need for a planning proposal

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

No – the Planning Proposal is not a result of any strategic study or report. The Planning Proposal is the result of internal investigations which have identified errors in Council's digital property cadastre layer.

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

Council has received legal advice that it is not able to amend the property cadastre applying under Fairfield LEP 2013 as it will cause the addition of Zone SP2 Infrastructure land to 26 affected properties and require the newly added SP2 Infrastructure land to be identified for acquisition by the NSW RMS on the Fairfield LEP 2013 Land Reservation Acquisition Map. In order to achieve the changes required to Council's digital property cadastre layer, a planning proposal is required.

Is there a net community benefit?

The aim of the Planning Proposal is to correct an anomaly in Council's digital property cadastre layer. There is the benefit of clarity for the owners of the 26 affected properties. The planning proposal does not change the existing development potential of the land or the permissibility of land uses for affected properties, therefore there is no net gain or loss to the broader community.

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 to the R2 Low Density Residential zoning or development controls applying to the affected properties under Fairfield LEP 2013 therefore the LEP retains its existing compatibility with agreed State and regional strategic directions.	✓
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	No.	✓
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	No the LEP will not create a precedent as the planning proposal aims to correct a digital drafting anomaly and does not change the current development potential of properties. The land owners affected by the change to property cadastre will have an expectation of future acquisition of that part of their property to be zoned SP2 Infrastructure by the NSW RMS.	✓
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Not applicable as the Planning Proposal is not rezoning or changing the development potential of land.	✓
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?	No.	✓
Is the existing public infrastructure (roads, rail, and utilities) capable of servicing the proposed site?	Not applicable as the Planning Proposal is not rezoning or changing the development potential of land.	✓
Is there good pedestrian and cycling access?		
Is public transport currently available or is there infrastructure capacity to support future public transport?		✓ ✓
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?	Not applicable.	✓
Are there significant Government investments in infrastructure or services in the area whose	Not applicable.	✓

Evaluation Criteria	Assessment	✓/x
patronage will be affected by the proposal? If so, what is the expected impact?		
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.	✓
Will the LEP be compatible or complementary with surrounding land uses?	Yes	✓
What is the impact on amenity in the location and wider community?	Nil.	✓
Will the public domain improve?	Not applicable.	
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	Not applicable.	✓
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	Not applicable.	✓
What are the public interest reasons for preparing the draft plan?	The proposal will provide clarity and certainty to 26 affected property owners regarding the future intent of road widening and acquisition along Elizabeth Drive, Mt Pritchard.	✓
What are the implications of not proceeding at that time?	The implications of not proceeding at this time are that Council's gazetted Fairfield LEP 2013 maps contain inaccurate property cadastre which incorrectly identifies the zoning applying to 26 properties along Elizabeth Drive, Mt Pritchard. The ability for Council to issue correct Planning Certificates for these properties is compromised.	✓

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)?

The Planning Proposal aims to correct an anomaly that exists in Council's digital property cadastre on maps gazetted under Fairfield LEP 2013. The proposal does not change the zoning or development potential of existing land that is zoned R2 Low Density Residential. For these reasons it is considered that the planning proposal is consistent with the objectives and actions contained within applicable regional and sub-regional strategies.

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

Yes, the Planning Proposal is consistent with Council's Community Strategic Plan, particularly with respect to Theme 2 Places and Infrastructure and facilitating effective traffic management along Elizabeth Drive, Mt Pritchard by ensuring the appropriate legislative provisions are in place to ensure future acquisition of land for road widening purposes can occur.

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	None of the properties subject to the provisions of the Planning Proposal are identified as Items of Environmental Heritage.	YES

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
	significance.		
2.4 Recreation Vehicle Areas	Protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	N/A	N/A
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.	N/A	N/A
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	N/A	N/A

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
	human occupation, if situated on land within the ANEF contours between 20 and 25, incorporate noise mitigation measures.		
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
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.	None of the properties identified under this Planning Proposal are affected by Acid Sulfate Soils under the provisions of Fairfield LEP 2013.	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.	N/A	N/A
4.4 Planning for Bushfire Protection	▪ Protect life, property and the environment from bush fire hazards, by	N/A - None of the properties identified in this Planning Proposal area affected by	N/A

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
	discouraging the establishment of incompatible land uses in bush fire prone areas. ▪ Encourage sound management of bush fire prone areas.	Bushfire Hazard/Risk	
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 Planning Proposal is consistent with this direction and does not change the current concurrence, consultation or referral requirements for the land.	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. ▪ A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority	The Planning Proposal aims to alter the digital property cadastre applying to 26 properties along Elizabeth Dr, Mt Pritchard which will have the effect of extending the front property boundary of subject sites into the existing SP2 Infrastructure – Classified Road zone along Elizabeth Drive. In effect it will create a new reservation over the 26 affected properties for the public purpose of facilitating road widening along Elizabeth Drive, Mt Pritchard. Council will seek the formal approval	YES

Section 117 Direction No. and Title	Contents of Section 117 Direction	Planning Proposal	Comply
	and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General)	of the NSW RMS during the consultation phase of the Planning Proposal however has already received initial advice from the NSW RMS that the 26 properties subject to the Planning Proposal should all include land zoned SP2 Infrastructure for future acquisition by NSW RMS for road widening purposes.	
6.3 Site Specific Provisions	Discourage unnecessarily restrictive site specific planning controls	N/A	N/A
7. Metropolitan Planning			
7.1 Implementation of A Plan for Growing Sydney	Planning proposals shall be consistent with the NSW Government's A Plan for Growing Sydney published in December 2014.	The planning proposal is consistent with this direction.	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 does not change the intended use or development potential of identified land. The planning proposal is simply adjusting the digital property boundary cadastral layer as it applies under Fairfield LEP 2013 (map sheets 12 and 13). In doing so there is a change to the current zoning of the 26 identified properties as the amended property boundary will encroach on land already zoned SP2 Infrastructure. As such the planning proposal will not generate any environmental effects.

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

The Planning Proposal is not considered to have any social effects however will have economic effects for both the NSW RMS and the landowners of the 26 affected properties subject to this Planning Proposal.

The purpose of the Planning Proposal is to accurately identify land located along Elizabeth Drive, Mt Pritchard that is required by the NSW RMS for future road widening purposes and ensure this land is included on Council's Land Reservation Acquisition maps. The Gazetted property cadastre layer under Fairfield LEP 2103 has mistakenly omitted a 5 metre (approximately) strip of land from the Elizabeth Drive frontage of 26 properties located along Elizabeth Drive, Mt Pritchard. NSW RMS has confirmed with Council that it still requires this land for future road widening purposes.

Without accurate identification of the land required for road widening purposes and inclusion of this land on Council's Land Reservation Acquisition Map under Fairfield LEP 2013, there is no legal mechanism to allow NSW RMS to formally acquire the land and compensate affected land owners.

The property cadastre, as identified, is incorrect and potentially leaves Council open to litigation if Planning Certificates are issued without appropriate notification of road widening requirements along Elizabeth Drive, Mt Pritchard.