

To Amend the Height Controls at Dutton Lane Car Park, Cabramatta

Proposal Title : **To Amend the Height Controls at Dutton Lane Car Park, Cabramatta**

Proposal Summary : **The purpose of the planning proposal is to amend the relevant height controls and site specific provisions for the Dutton Lane Car Park site in Cabramatta in order to enable development for an additional floor level for car parking.**

PP Number : **PP_2016_FAIRF_002_00**

Dop File No : **16/02510**

Proposal Details

Date Planning : **09-Dec-2015**

LGA covered : **Fairfield**

Proposal Received :

Region : **Metro(Parra)**

RPA : **Fairfield City Council**

State Electorate : **CABRAMATTA**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Dutton Lane**

Suburb : **Cabramatta**

City : **NSW**

Postcode : **2166**

Land Parcel : **Refer to page 3 of the Planning Proposal for a list of DP numbers**

DoP Planning Officer Contact Details

Contact Name : **Georgina Ballantine**

Contact Number : **0298601568**

Contact Email : **georgina.ballantine@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Andrew Mooney**

Contact Number : **0297250214**

Contact Email : **amooney@fairfieldcity.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Derryn John**

Contact Number : **0298601505**

Contact Email : **derryn.john@planning.nsw.gov.au**

Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub

Consistent with Strategy :

Regional Strategy :

To Amend the Height Controls at Dutton Lane Car Park, Cabramatta

MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg

Residential /

Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department's Lobbyist Contact Register has been checked on 15 February 2016 and there are no records of contact with lobbyists in relation to this proposal.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **To the best of the knowledge of the regional team, the Department's Code of Practice in relation to communications and meetings with Lobbyists has been complied with. Sydney Region West has not met with any lobbyist in relation to this proposal, nor has the Director been advised of any meetings between other departmental officers and lobbyists concerning this proposal.**

POLITICAL DONATIONS DISCLOSURE STATEMENT

Political donations disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the Planning system.

"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning application means:

- A formal request to the Minister, a council or the Secretary to initiate the making of an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Secretary is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this Planning Proposal.

Supporting notes

Internal Supporting Notes :

BACKGROUND

Development consent was granted by the Sydney West Joint Regional Planning Panel on 3 July 2014 for the demolition of an at-grade car park and toilet block on the Dutton Lane Car Park site, subdivision of land and construction of a three storey building comprising ground level retail outlets. The development is currently under construction.

The approved development complied with the 10m building height standard, however Council (the applicant) has advised that they propose to seek development consent to construct an additional level of car parking. The additional height is not permitted under Fairfield Local Environmental 2013 without a change to the applicable height standard and site specific provisions. Consequently Council has lodged a planning proposal to amend the provisions.

The submission of three proposals by Council is confusing:

1. Review of Planning Proposal prepared by GLN Planning (Tag D)
2. Planning Proposal prepared by Elton Consulting (Tag E)
3. Planning Proposal prepared by Fairfield City Council (Tag F)

Council has confirmed that Council's planning proposal (Tag F) is the planning proposal endorsed by the Councillors at the Council Meeting of 24 November 2015. Council has agreed to re-arrange the attachments to clearly identify Council's planning proposal as the principal endorsed proposal, the Elton proposal and GLN Planning's proposal as supplementary documents. It is recommended that a Gateway condition be included to confirm the re-arrangement and to request that Council's planning proposal be amended to clarify the significance of each proposal.

SITE DESCRIPTION

Dutton Lane Car Park is situated within the retail and commercial section of Cabramatta town and is surrounded by restaurants, take away establishments, and retail stores. An aerial map of the site can be found on page 2 of GLN Planning's review of the proposal.

The eastern end of the site will contain the proposed development, while the western side contains an existing multi-deck car park.

The site is classified as Operational land and is zoned B4 Mixed Use. The zoning and classification will remain unchanged. The maximum floor space ratio for the site is 2.5:1.

CONTROVERSY

The Dutton Lane Car Park site has been the source of public attention and controversy prior to the lodgement of the planning proposal, mainly due to residents' concerns over the lack of car parking in Cabramatta town centre. The Cabramatta Business Association has previously written to the Department on a number of occasions, objecting to the development application for the site and querying the validity of the reclassification process and Council's conduct. An independent assessor determined that the reclassification process had been completed in accordance with legislation.

CONFLICT OF INTEREST

As Council holds the joint roles of owner/applicant and relevant planning authority for the proposal, Council prepared a probity plan to cover the assessment process and address the perception of a Council conflict of interest as the assessment authority for the proposal.

As a result, Council as the applicant engaged Elton Consulting to prepare the planning proposal to submit to Council. On receipt of the proposal, Council (as the relevant planning authority) engaged the services of an independent planning consultant, GLN Planning, to undertake an independent review and assessment of the proposal. Council then endorsed GLN Planning's recommendations and resolved that the proposal be forwarded to the Department.

DELEGATION

Due to the potential perceived conflict of interest Council has not requested delegation for this proposal.

DEVELOPMENT CONTROL PLAN

In conjunction with the planning proposal, Council intends to amend Cabramatta Town Centre Development Control Plan No. 5/2000 to ensure alignment with the proposed Local Environmental Plan amendment. Council is proposing to delete Clauses 5.1 and 5.2 contained in part 'B. Height - Precinct 2' of the Performance Criteria and Development Controls section of the Cabramatta Town Centre Development Control Plan. The wording of the deleted clauses can be viewed on page 2 of the Council Outcomes Committee 10 November 2015.

The review by GLN Planning agrees with Council that the amendment to the Development Control Plan is appropriate irrespective of the planning proposal, as it is not necessary for Development Control Plan controls to reiterate the controls already contained within the overarching Fairfield Local Environmental Plan 2013.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The objective of the planning proposal is to amend the relevant height of buildings control for the Dutton Lane Car Park site in Cabramatta in order to enable development for an additional floor level for car parking. In addition the proposal seeks to amend a local provision to enable the development.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The following amendments to Fairfield Local Environmental Plan 2013 are proposed:**

1. Amend Clause 7.3(5) to read as follows:

(5) The height of a building on land identified as 'Cabramatta - Area D' on the Town Centre Precinct Map must not exceed 10 metres unless the area above 10 metres in height will be developed and used for public car parking.

2. Amend the Height of Buildings Map to provide for a 13 metre maximum height on the subject site.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

* May need the Director General's agreement

3.4 Integrating Land Use and Transport

6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP (Infrastructure) 2007

GMREP No. 2 - Georges River Catchment

e) List any other
matters that need to
be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

SECTION 117 DIRECTIONS

1.1 BUSINESS AND INDUSTRIAL ZONES

This Direction does apply to the planning proposal as it will affect land within an existing or proposed business or industrial zone.

The proposal is considered to be CONSISTENT with this direction.

3.4 INTEGRATING LAND USE AND TRANSPORT

This Direction does apply to the planning proposal as it will alter a provision relating to urban land (including land zoned for residential, business, industrial, village or tourist purposes).

The proposal is considered to be CONSISTENT with this direction.

6.3 SITE SPECIFIC PROVISIONS

This Direction does apply to the planning proposal as it allows a particular development

to be carried out. The land is zoned B4 Mixed Use and the maximum specified building height for the site is 16m under Clause 4.3 of Fairfield Local Environmental Plan 2013. A 10m height limit applies to the surrounding land.

Clause 7.3 (5) also applies to the site and limits the height to 10m unless at least 50% of the site area will be developed for landscaped open space for public benefit. As the development application approved by the Joint Regional Planning Panel did not provide 50% of the site as landscaped open space and sought to remain within the 10m limit, the provisions of Clause 7.3(5) were not triggered.

The review of the planning proposal by GLN Planning addressed the requirement to retain Clause 7.3(5) in an amended form, rather than deleting the clause. The review recommended that Clause 7.3(5) be retained and amended to maintain a link between additional development and providing a public benefit. As such, the proposed amendment to Clause 7.3 (5) permits an increase in height without the requirement for landscaped open space, but retaining public benefit through restricting construction over 10m for public car parking only.

The proposal is considered to be **INCONSISTENT** with this direction as it allows that land use on the relevant land and imposes development standards or requirements in addition to those already contained in the principal instrument being amended.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency is of minor significance.

STATE ENVIRONMENTAL PLANNING POLICIES AND DEEMED STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The proposal is considered to be **CONSISTENT** with the aims of this State Environmental Planning Policy.

GREATER METROPOLITAN REGIONAL ENVIRONMENTAL PLAN No. 2 - GEORGES RIVER CATCHMENT

The proposal is considered to be **CONSISTENT** with the aims of Regional Environmental Plan.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The planning proposal contains a current and proposed draft Town Centre Precinct Map and a current and proposed draft Height of Buildings Map for the site.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council notes that community consultation will be carried out as conditioned by the Gateway determination.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : May 2013

Comments in relation
to Principal LEP :

Fairfield Local Environmental Plan 2013 was notified on 17 May 2013.

Assessment Criteria

Need for planning
proposal :

The proposal was prepared in response to a growing demand for improved facilities consistent with Council's Town Centre Improvement Program upgrades.

The Fairfield 'Our Home, Our City, Our Future' Community Consultation Report 2012 highlighted the community's consistent identification of improved car parking as a significant issue, which placed it in the top four priority issues. The Cabramatta community has previously written to the Minister for Planning opposing development on the Dutton Lane Car Park site, citing shortage of car parking in Cabramatta town centre.

Council's current Delivery Program 2013-2017 includes the new initiative of developing an Integrated Parking Strategy for the City. The proposal is in accordance with early directions developed for the Integrated Parking Strategy. The budget allocation for Fairfield's Operational Plan 2015-2016 incorporates the Dutton Lane Redevelopment project.

Consistency with
strategic planning
framework :

A PLAN FOR GROWING SYDNEY

Council is required to give effect to A Plan for Growing Sydney under section 75A1 of the Environmental Planning and Assessment Act 1979.

GOAL 3: A great place to live with communities that are strong, healthy and well connected.

Direction 3.1: Revitalise existing suburbs.

The site is located in the Cabramatta Town Centre. Further redevelopment of the site will help revitalise the existing centre, supporting local retail and business uses.

Direction 3.3: Create healthy built environments.

The proposal addresses Directions 3.1 and 3.3 by supporting the viability of the Cabramatta town centre and encourage social interaction and create a sense of community, all of which will contribute to the health and wellbeing of the community.

GOAL 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.

Direction 4.3: Manage the impacts of development on the environment.

The proposal addresses Direction 4.3 by consolidating existing community infrastructure through developing an existing car parking site, rather than identifying a separate site, in order to minimise environmental impacts.

WEST CENTRAL SUBREGION - DRAFT SUBREGIONAL STRATEGY 2007

Cabramatta is classified as a Potential Major Centre under the West Central Subregion - Draft Subregional Strategy 2007. The proposal is consistent with Action B4.2 - Support Centres With Transport Infrastructure and Services. Although the Action focuses mainly on public transport, the overall goal is supported by the need for additional car parking in Cabramatta town centre, as identified by Fairfield's Delivery Program 2013-2017 and Operational Plan 2015-2016.

Environmental social
economic impacts :

ENVIRONMENTAL

Threatened Species

The subject land has not been identified as containing critical habitat or threatened species, populations or ecological communities, or their habitats. As the subject land is situated in an existing business and retail area, it is considered that an environmental assessment is not required.

Traffic and Amenity

The review of the proposal by GLN Planning Consultants identified three potential environmental impacts as a result of the proposed amendment, being traffic, overshadowing and visual impact.

Traffic

The Traffic and Transport Study submitted by Council found that the proposal has the potential to result in 47 additional weekday peak hour and 90 weekend peak hour vehicle trips to and from the site. The study concluded that the surrounding network provides adequate capacity to accommodate the minor potential increase in traffic generation.

Roads and Maritime Services requested the preparation of a Transport Management and Accessibility Plan (TMAP) for Cabramatta. The TMAP project is incomplete. Although the TMAP is likely to propose an increase in parking on the fringes of Cabramatta town centre, Roads and Maritime Services have no current plans or budget to implement any required infrastructure upgrades. As such, the proposal will address the overall goal to provide more car parking in the immediate future in Cabramatta with minor traffic impacts.

Although the Traffic and Transport Study, prepared by Thompson Stanbury and submitted by Council, concludes that the network has capacity to accommodate the minor increase in traffic, GLN Planning's review of the proposal recommends that a further traffic assessment is carried out, as the data referred to in Thompson Stanbury's study is based on data included in the Traffic Impact Assessment for the 2013 Development Application applying to the site. The additional traffic assessment can be broad and should address the alterations proposed to access routes to the Dutton Lane site.

Council endorsed the preparation of an additional traffic assessment in their resolution of 10 November 2015. It is considered that a condition requiring an additional traffic study should be included in the Gateway determination.

Amenity - Overshadowing and Visual Impact

The Development Control Plan Part B Height Precinct 2 Development Controls provide that a building on the site must not significantly increase overshadowing of public areas between the hours of 9am to 3pm during the months of June and July.

Council, as the applicant, provided some assessment of overshadowing and visual impacts through inclusion of Concept Drawings of elevations and shadowing with the planning proposal, however GLN Planning considers that further assessment is warranted. As Council contends that a building of 16m can be constructed on the site (under the provisions of Clause 7.3(5)), Council is claiming that a building of 13m would have a lesser impact. The Department supports GLN Planning's view that a further assessment is required that compares the impact and overshadowing of a 13m high building across the entire site with a building of 10m or a building of 16m located across 50% of the site where impacts would be least.

Council endorsed the preparation of additional amenity assessment in their resolution of 10 November 2015. It is considered that a condition requiring an additional amenity study should be conditioned in the Gateway determination.

SOCIAL AND ECONOMIC

Council has identified the following social and economic benefits that would result from the amendment:

- (a) increasing the supply of car parking to improve the viability of the Cabramatta town centre
- (b) contributing towards the social and economic wellbeing of the Cabramatta community

(c) a short term increase in jobs during construction of the development.

Council's opinion that no negative social and economic impacts are likely to occur is supported.

HERITAGE

GLN Planning's review of the proposal includes a reference that Council's Heritage Advisor is to comment on the proposal due to proximity of the site to the Pai Lau Gateway, a listed local heritage item. GLN Planning considers that the potential for heritage impacts is minimal and can be considered with comments received during the exhibition period.

Council makes no specific mention of heritage issues in their planning proposal, although reference is made to the potential visual impact in relation to the Pai Lau Gateway and Freedom Plaza. Council's resolution of 10 November 2015 endorses GLN Planning's recommendation to carry out a heritage study. It is considered that GLN Planning's recommendation and Council's resolution should be supported.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	Nil
Public Authority Consultation - 56(2)(d) :	Transport for NSW - Roads and Maritime Services		

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Heritage

Other - provide details below

If Other, provide reasons :

1. Heritage Study

2. Traffic Study

3. Visual Impact and overshadowing

ADDITIONAL STUDIES

Council has advised that, although the planning proposal is supported in principle, Council has requested that the following studies be prepared prior to public exhibition.

Traffic

Council considers that the impact of increased traffic on Dutton Lane and surrounding laneways has not been fully addressed as part of the planning proposal.

Heritage

The subject land is situated adjacent to Cabramatta's Freedom Plaza. The entrance to the Plaza is framed by the Pai Lau Gate which is listed on the local heritage register as being of historical significance. The potential impact on the Gate was not considered as part of the planning proposal.

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Overshadowing and Visual Impact

An initial study has been prepared to identify the overshadowing impact of raising the height of the car parking building. Council considers that further analysis of overshadowing and visual impacts is necessary before proceeding to exhibition.

It is considered that the additional studies requested by Council should be required as conditions of the Gateway determination.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Cover Letter from Council - 1 Dec 2015.pdf	Proposal Covering Letter	Yes
Council Resolution and Report - 10 Nov 2015.pdf	Proposal	Yes
GLN Planning Review of Planning Proposal - 5 Nov 2015.pdf	Proposal	Yes
Elton Consulting Planning Proposal.pdf	Proposal	Yes
Council Planning Proposal.pdf	Proposal	Yes
Draft Maps - Dutton Lane Car Park.pdf	Map	Yes
Council Resolution - 6 Oct 2015.pdf	Proposal	Yes
Traffic and Transport Study - 30 Sept 2015.pdf	Study	Yes
Concept Plans - Dutton Lane Car Park.pdf	Proposal	Yes
Reconfiguration Plans - Dutton Lane Car Park.pdf	Proposal	Yes
Proposed changes to DCP.pdf	Proposal	Yes
Planning Team Report.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.1 Business and Industrial Zones**
 3.4 Integrating Land Use and Transport
 6.3 Site Specific Provisions

Additional Information : **It is recommended that an amendment to amend height controls at the Dutton Lane Car Park, Cabramatta, proceed subject to the following conditions:**

1. Council is to undertake the following studies prior to public exhibition:

- (a) Heritage assessment;**
- (b) Traffic assessment; and**
- (c) Assessment of overshadowing and visual impact.**

2. For the purposes of public exhibition Council's planning proposal should be clearly identified as the key proposal on which the Gateway determination is authorised. Elton Consulting's proposal and GLN Planning's proposal review should be identified as supplementary documents. 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 a minimum of 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 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).**

3. Consultation is required with the following public authority under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- Roads and Maritime Services

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

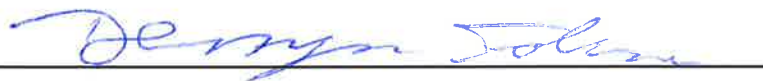
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Supporting Reasons :

The proposal has merit as it will assist in meeting the need for additional parking provision within Cabramatta town centre.

Signature:



Printed Name:

DERRYN JOHN

Date:

29 FEBRUARY 2016