

**REPORT TO CITY MANAGER  
(For Decision under Delegated Authority)**

**Meeting Date 10 February 2020**

**SUBJECT:** Planning Proposal (Stage 1) - Fairfield Accelerated LEP Review

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**FILE NUMBER:** 19/19838

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**PREVIOUS ITEMS:** 72 - Accelerated LEP Review Program - Project Update and Revised Project Plan - Outcomes Committee - 13 Aug 2019 7.00pm

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**REPORT BY:** Andrew Mooney, Acting Manager Strategic Land Use Planning

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**RECOMMENDATION:**

That the City Manager under authority delegated by Council at its Ordinary Council Meeting of 10 December 2019 (Supplementary Item 212):

1. Endorse the Planning Proposal (Stage 1) (Attachment A of the report) prepared as part of the Accelerated LEP Review Program to give effect to the Western City District Plan through amending the Fairfield Local Environmental Plan (LEP) 2013 as follows:
  - 1.1. Include a new aim for the LEP to acknowledge the role of the Fairfield Local Strategic Planning Statement (LSPS) 2040 in underpinning the provisions of Fairfield LEP 2013.
  - 1.2. Introduce new or amended local clauses relating to active street frontages, design excellence, floodplain risk management and hospital helicopter airspace.
  - 1.3. Include additional objectives relating to Floor Space Ratio and Height of Buildings clauses to encourage better building design.
  - 1.4. Amend Schedule 2 – Exempt Development to include development relating to temporary use of Council owned/managed land, display of goods on Council footpaths and emergency works on Council land.
  - 1.5. Amend Schedule 5 – Environmental Heritage, to update descriptions of 14 properties to reflect current property details.
  - 1.6. Amend relevant LEP Land Zoning Maps and associated LEP Height of Building, FSR, Lot Size for Dual Occupancy, and Lot Size Map Dual to address current LEP anomalies affecting the properties at 18 Butler Avenue Bossley Park, 61 Hill Street Cabramatta and 47 Brown Road Bonnyrigg.

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2. Inform the NSW Department of Planning, Infrastructure and Environment (DPIE) that Council wishes to commence the Gateway Determination process to amend the Fairfield LEP 2013 through the Planning Proposal (Stage 1) in accordance with the timeframe for the Accelerated LEP Review Program.
3. In requesting the Gateway Determination, advises the DPIE that Council seeks to utilise the delegation for LEP Plan Making (delegated by the Minister under Section 23 of the Environmental Planning and Assessment Act 1979).

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**SUPPORTING DOCUMENTS:**

ATTACHMENT A: Planning Proposal (Stage 1) Accelerated LEP (69 Pages)

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**CITY PLAN**

This report is linked to *Theme 2 Places and Infrastructure* in the Fairfield City Plan.

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**SUMMARY**

This Planning Proposal (Stage 1) has been prepared as part of the Accelerated LEP Review Program to review and update the Fairfield LEP 2013 (FLEP 2013) to give effect to the Western City District Plan and the draft Fairfield Local Strategic Planning Statement (draft LSPS). The lodgement of the Planning Proposal (Stage 1) to the DPI&E requesting Gateway Determination will achieve Milestone 4 of the NSW Government Accelerated LEP Review Program.

Planning Proposal (Stage 1) introduces a new aim into the FLEP 2013 that acknowledges the role of the Fairfield LSPS 2040 as the basis for strategic planning for Fairfield City, including the Planning Priorities that implement the Western City District Plan at the local level as well as the goals of the Fairfield City Plan (Community Strategic Plan). The Planning Proposal also introduces new aims into the clauses relating to development standards (height and FSR) to improve development outcomes and proposes a number of changes to the local provisions to achieve the Actions of the Fairfield LSPS, including floodplain risk management, active street frontages, design excellence and facilitating active public spaces through the use of Council owned land.

The draft Fairfield LSPS 2040 – Shaping a Diverse City is currently being finalised, including consideration of submissions made during the public exhibition in July/August 2019, and will be the subject of a separate report.

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A future planning proposal to update the FLEP 2013 in line with the all of the Planning Priorities included in Council's draft LSPS and the outcomes and recommendations of the suite of studies and strategies being undertaken as part of the Accelerated LEP Review Program will be prepared subsequent to the Stage 1 LEP.

This planning proposal will be outside of the 30 June 2020 completion date for the Accelerated LEP Review Program however this phasing has been agreed to by the DPIE and GSC in recognition of the substantial background work that needs to be undertaken to inform the new Plan.

This current Planning Proposal (Stage 1) also deals with a number of housekeeping amendments to FLEP 2013, relating to updates of property descriptions for heritage listed properties and correcting with LEP anomalies identified for a number of properties in the City.

The Planning Proposal is being referred to the City Manager for consideration having regard to the delegation provided by Council at its meeting of the 10 December 2019.

#### **ACCELERATED LEP REVIEW PROGRAM**

Council resolved at its meeting of 26 June 2018 to participate in the DPIE's Accelerated LEP Review Program and accept the Funding Offer from the Minister for Planning of \$2.5 million to undertake a review of the Fairfield LEP and associated plans within 2 years (by June 2020).

Since the commencement of the project Council has achieved 3 of the 5 Funding Agreement Milestones including Milestone 1 (Signing of funding agreement), Milestone 2 (Approval of project plan) and Milestone 3 (Exhibition of Local Strategic Planning Statement). Milestone 4 is the submission of a planning proposal to the DPIE for Gateway determination by 28 February 2020 (the subject of this report).

The Accelerated LEP Review Program is subject to a number of critical components and milestones as summarised below:

**Initial LEP Review ("Health Check"):** In accordance with guidelines issued by the NSW Greater Sydney Commission (GSC) Council completed its LEP Health Check in October 2018. The Health Check involved a review of critical strategic planning issues relevant to the City and provided a broad overview of strategic investigations required to respond to the Western City District Plan Objectives and Actions. Council's Health Check received endorsed from the GSC in late 2018 which also provided authorisation for Council to proceed to preparation of its draft LSPS (below)

**Preparation of a draft Local Strategic Planning Statement (LSPS):** Following a GSC assurance meeting in March 2019, Council received a green light to prepare the Fairfield City draft LSPS "*Shaping a Diverse City*" that sets out a strategic land use vision for Fairfield City reaching out to 2040.

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The draft LSPS was endorsed for public exhibition by Council in June 2019, with the exhibition being completed in August 2019. The draft LSPS is currently being finalised and is scheduled for completion by 31 March 2020.

**Preparation of a planning proposal(s):** Under the Accelerated LEP Review Program Council is required to prepare a planning proposal that amends the Fairfield LEP 2013 to give effect to the Western City District Plan and the Planning Priorities and actions in the draft Fairfield LSPS. This requirement has provided the trigger for the Planning Proposal (Stage 1) amendment to the Fairfield LEP 2013, the subject of this report.

As noted above, a future planning proposal, with timing outside the 30 June 2020 completion date for the Accelerated LEP Review Program, will update the FLEP 2013 in line with the Planning Priorities included in Council's draft LSPS and the outcomes and recommendations of the suite of studies and strategies being undertaken as part of the Accelerated LEP Review Program.

The studies and strategies that are identified for completion by 30 June 2020 include:

- 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
- Biodiversity Strategy

### **PLANNING PROPOSAL (STAGE 1)**

This Planning Proposal (Stage 1) is the first of the proposed amendments to the FLEP 2013 to implement the studies and strategies being funded under the Accelerated LEP Review Project. The scope of the Planning Proposal (Stage 1) has been discussed with the DPIE Regional Team and the Strategic Planning, Local & Regional Planning Team (which is administering the Accelerated LEP Review Project). The Planning Proposal (Stage 1) is to be submitted to the DPIE for Gateway Determination by 28 February 2020 to achieve Milestone 4 of the Accelerated LEP Review Project.

In summary, the Planning Proposal (Stage 1) makes the following changes to the FLEP 2013:

1. Amends the overarching aims of the Fairfield LEP 2013 to acknowledge the role of the Fairfield Local Strategic Planning Statement (LSPS) 2040 in setting the detailed provisions of Fairfield LEP 2013.

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2. Introduces new or amended local clauses and additional objectives under existing Floor Space Ratio & Height of Buildings clauses to address priorities and actions contained in Council's draft LSPS and encourage better building design.
3. Introduces new local clauses relating to active street frontages, design excellence, floodplain risk management and Liverpool Hospital helicopter airspace.
4. Amends Schedule 2 (Exempt Development) – increase the maximum period of temporary uses at the Fairfield Showground from 52 to 104 days, 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.
5. Amends Schedule 5 – Environmental Heritage, to update the descriptions of 14 properties to reflect current property details.
6. Amends relevant LEP Land Zoning Maps to address current zoning anomalies affecting the properties at 18 Butler Avenue, Bossley Park, 61 Hill St, Cabramatta and 47 Brown Rd, Bonnyrigg.

A table of the proposed changes to the FLEP 2013 and their relationship with the relevant Planning Priorities of the **draft Fairfield LSPS** is provided below.

FLEP 2013 Clause	Reason for Proposed Change	Relationship to draft Fairfield LSPS
<b>Part 1 Preliminary</b>		
<b>1.2 Aims of Plan</b>  <u>Include new Aim:</u>  <i>To ensure the provisions of this Plan are updated and amended to reflect relevant planning priorities and actions of Council's Local Strategic Planning Statement in delivering desired strategic land use planning directions for the City of Fairfield.</i>	<p>To create a direct link between the provisions of Fairfield LEP 2013 &amp; the Planning Priorities of Council's draft LSPS (implementing the Western City District Plan and Fairfield City Plan).</p> <p>Ensure the LEP is updated to reflect the Planning Priorities and Actions of the LSPS including new or updated strategic studies, strategies, masterplans and policies.</p>	<p>Clarifies the status &amp; role of the LSPS, in being the principle strategic planning document underpinning and providing strategic justification for current and future amendments to the Fairfield LEP 2013.</p>

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<b>FLEP 2013 Clause</b>	<b>Reason for Proposed Change</b>	<b>Relationship to draft Fairfield LSPS</b>
<b>Part 4 Principal development standards</b>		
<b>4.3 Height of buildings</b>  <b>Amended Clause Objectives</b>  <p>It is proposed to include additional objectives that deal with the breadth of planning considerations relevant to development proposals not complying with height controls in the City</p>	<p>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</p> <p>Additional objectives are the result of feedback from Council's development assessment team that the existing clause objectives are deficient in being able to consider the merits of proposals not complying with relevant height standards</p> <p>This relates in particular to development proposals seeking a variation under the Standard LEP Clause 4.6 – Exceptions to Development Standards.</p>	<p>The proposed amendments are generally linked to LSPS Planning Priority 4 relating to improving the liveability of residential areas and town centres as well as promoting the quality of design in future development</p> <p>As part of a separate process it is proposed to include or amend relevant Planning Priorities of the draft Fairfield LSPS to provide a more direct link to the current and potential future amendments to LEP/DCP clause objectives and controls that are linked to improving liveability and design of development in the City</p>
<b>4.4 Floor space ratio</b>  <b>Amended Clause Objectives</b>  <p>It is proposed to include additional objectives that deal with the breadth of planning considerations relevant to development proposals not complying with FSR controls in the City</p>	<p>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</p> <p>Additional objectives are the result of feedback from Council's development assessment team that the existing clause objectives are deficient in being able to consider the merits of proposals not complying with relevant FSR standards</p> <p>This relates in particular to development proposals seeking a</p>	<p>The proposed amendments are generally linked to LSPS Planning Priority 4 of relating to improving the liveability of residential areas and town centres as well as promoting the quality of design in future development</p> <p>As part of a separate process it is proposed to include or amend relevant planning priorities of the draft Fairfield LSPS to provide a more direct link to the current and potential future amendments to LEP/DCP clause objectives and controls that are linked to improving liveability and</p>

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<b>FLEP 2013 Clause</b>	<b>Reason for Proposed Change</b>	<b>Relationship to draft Fairfield LSPS</b>
	variation under the Standard LEP Clause 4.6 – Exceptions to Development Standards.	design of development in the City
<b>Part 6 Additional local provisions</b>		
<p><b>6.4 Floodplain risk management</b></p> <p>Proposed amendment to existing clause 6.4 – Floodplain 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.</p>	<p>The proposed amendment is the subject of a separate planning proposal that was submitted to the NSW DPIE in 2017. At the time this report and associated planning proposal was being prepared Council was still awaiting advice from DPIE on whether or not it supported the scope of proposed changes to the flood controls.</p> <p>In light of the above it is proposed to include the amendment in the current Accelerated LEP Planning Proposal having regard to the significance of the proposed changes to the flood controls for future development in the City that is now highlighted in Council's draft LSPS</p> <p>Proposed to remove application of controls (that require preparation of evacuation plans) for residential accommodation, industries and commercial development.</p> <p>Achieve consistency with scope of flood related LEP provisions that apply to development in other Western Sydney Councils and be consistent with controls included in the draft Aerotropolis SEPP and draft DCP as exhibited by the NSW Government.</p>	<p>Linked to LSPS Planning Priority 10 and Action10.1 - <i>Council will align its flood risk planning controls in the LEP and DCP so that the planning provisions are consistent with the planning controls in the upstream and downstream local government areas.</i></p>

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<b>FLEP 2013 Clause</b>	<b>Reason for Proposed Change</b>	<b>Relationship to draft Fairfield LSPS</b>
	Remove advice on 10.7 planning certificates (previously known as 149 certificates) that flood related development controls apply to residential, commercial and industrial development located above the flood planning level (i.e. 1 in 100 flood + 500mm freeboard)	
<b>Hospital helicopter airspace</b>  Proposed new clause based on similar clause in Liverpool City LEP 2008 applying to adjoining land in Liverpool City affected by the Liverpool hospital helicopter flight path.	<p>Ensure that future development in Fairfield City under the helicopter flight path has regard to this matter</p> <p>The implications for development in Fairfield City are minor, however inclusion of the clause in Fairfield LEP 2013 will promote awareness and improve transparency regarding this matter</p>	<p>Although not directly linked to an LSPS planning priority, the proposed clause addresses a general theme of the LSPS of addressing 'natural and man-made hazards'.</p>
<b>Part 7 Additional local provisions</b>		
<b>Active street frontages</b>  Proposed new clause the same as a Standard Model Clause already in use in a number of other similar Council LEPs  <b>Active Street Frontages Map</b>  Initially the following areas will be identified on the Active Street Frontages Map: <ul style="list-style-type: none"> <li>- Bonnyrigg</li> <li>- Fairfield Heights</li> <li>- Villawood</li> </ul>	<p>Will apply to larger &amp; medium sized town centres zoned B2 Local Centre, B3 Commercial Core &amp; B4 Mixed Use</p> <p>Aimed at promoting uses that attract pedestrian traffic along certain ground floor street frontages in town centres</p> <p>A number of desired active street frontages are identified in town Centre DCPs. Additional areas to be identified in current and future urban design studies to be considered by Council</p> <p>Relevant streets will be shown on maps accompanying Fairfield LEP 2013</p>	<p>Linked to a number of desired outcomes identified in LSPS including promoting activity and amenity in the town centres of the City</p> <p>Also relates to the LSPS Planning Priority 4 and Action 4.6 - <i>Council will encourage design excellence, and ensure that design recommendations in the Urban Design Studies are reflected in the LEP and DCP controls</i></p>

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<b>FLEP 2013 Clause</b>	<b>Reason for Proposed Change</b>	<b>Relationship to draft Fairfield LSPS</b>
<p><b>Design excellence</b></p> <p>Proposed new clause the same as a Standard Model Clause already in use in a number of other Council LEPs</p>	<p>Will apply to larger &amp; medium sized town centres zoned B2 Local Centre, B3 Commercial Core &amp; B4 Mixed Use and Zone R4 High Density Residential</p> <p>Will require assessment of principles associated with 'design excellence' in DA's for apartments/higher rise buildings in the above zones. Includes consideration of <i>whether the form &amp; external appearance of the development will improve the quality and amenity of the public domain.</i></p>	<p>Relates directly to LSPS Planning Priority 4 and Action 4.6 - <i>Council will encourage design excellence, and ensure that design recommendations in the Urban Design Studies are reflected in the LEP and DCP controls</i></p>
<b>Schedule 2 – Exempt Development</b>		
<p><b>Temporary Use of Council Land</b></p> <p>It is proposed to increase the maximum number of days for temporary uses at the Fairfield Showground from 52 days (whether or not consecutive days) to 104 days in any period of 12 months</p> <p>The current allowance for 52 days will remain in place for temporary uses on all other Council owned or managed land</p>	<p>Council has recently updated the Fairfield Showground Plan of Management (POM) and adopted a Local Approvals Policy (LAP) to support expansion of community and recreation uses at the Showground site. This expansion is in accordance with a new masterplan adopted by Council that will guide redevelopment of the site.</p> <p>The extended temporary use provisions from 52 to 104 days will streamline the approvals process for community and recreation activities on the site by allowing these uses to take place without the need for development consent under the EP&amp;A Act. All of these uses are permitted under the RE1_Public Recreation zoning applying to the site and are authorised under the POM and LAP</p>	<p>Under Council's draft LSPS the Showground site is identified as a major sports and cultural precinct</p> <p>The amended provisions support the outcomes of LSPS Planning Priority 7 and Action 7.5 – <i>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.</i></p>

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<b>FLEP 2013 Clause</b>	<b>Reason for Proposed Change</b>	<b>Relationship to draft Fairfield LSPS</b>
<p><b>Display of Goods on footpaths</b></p> <p>Proposed new provision under exempt development to allow display of goods on footpaths in a number of the main town centres of the City without the need for development consent under the EP&amp;A Act.</p>	<p>Remove the requirement for submission of a development application for display of goods on Council land</p> <p>Rather applicants will be required to submit an application for a permit with Council to ensure compliance with relevant criteria (e.g. must not protrude more than 60cm from premises, maintain suitable pedestrian access and must not include hazardous materials/item)</p> <p>Promote local business and economic activity in town centres</p>	<p>The proposed amendment is linked to planning directions associated with Planning Priority 11 – Promote a robust economy which generates diverse services and job opportunities.</p>
<p><b>Emergency works on Council land</b></p> <p>Proposed new provision under exempt development 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 incident.</p> <p>Provisions to be based on existing definition of emergency works under SEPP (Infrastructure)</p>	<p>Under the SEPP (Infrastructure) Emergency works are identified as exempt development for a number of State infrastructure projects (e.g. electricity transmission, pipelines) but does not apply generally to Council owned land except for stormwater management systems.</p> <p>Broader exemption for emergency work on Council land is desirable to allow prompt implementation of emergency works on Council land, particularly in relation to vandalism and pollution incidents (including dumping of asbestos materials).</p>	<p>The proposed provision for emergency works supports planning directions associated with Planning Priority 10 – Adapt to natural hazards and environmental impacts.</p>

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<b>FLEP 2013 Clause</b>	<b>Reason for Proposed Change</b>	<b>Relationship to draft Fairfield LSPS</b>
<b>Schedule 5 – Environmental Heritage</b>		
<b>Part 1 Heritage items</b>  Update property details (lot and deposited plan numbers) of a total of 14 heritage listed properties in the City as a result of a change in property addresses/descriptions.	 Clarify the property details for heritage listed properties.  Provide greater certainty for development proposals on or adjoining heritage listed sites.	 Linked to Planning Priority 5 – Protect the city's heritage.

## **LAND USE ZONING ANOMOLIES**

Council maintains a list of anomalies in the zoning of land under Fairfield LEP 2013. These anomalies are the result of issues such as inconsistencies between the zoning of land with cadastral boundaries or historic zoning arrangements that do not reflect the nature of development that has taken place on land and/or its relationship with surrounding development.

Since 2013, Council has undertaken two previous 'housekeeping' LEP amendments to Fairfield LEP 2013 that address similar anomalies. The current review provides an opportunity to incorporate the current list sites (below) into the Planning Proposal (Stage 1).

### **18 Butler Avenue, Bossley Park (Lot 2 DP 596191)**

The subject land (Lot 2 DP 596191 – area 90m<sup>2</sup>) comprises the northern section of 18 Butler Ave and has been in private ownership since 1979. The parcel was previously part of the adjacent Council reserve and is currently zoned RE1 Public Recreation.

The subject lot is not required for open space and in 1979 Lot 2 was purchased by the then owner of 18 Butler Ave, which includes the dwelling located on the adjoining southern portion of 18 Butler Ave being lot 12 in DP 206149.

Since that time Lot 2 has not been not been rezoned for residential purposes.

#### **Proposed Amendment**

The portion of the site (below) zoned RE1 Public Recreation has been physically incorporated into the lot comprising the private dwelling at 18 Butler Ave.

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It is not required as open space under relevant Council strategy and development contributions expenditure plan and is recommended to be rezoned from RE1 Public Recreation to R2 Low Density Residential.

The associated LEP FSR, Height and lot size maps are also proposed to be updated to reflect the proposed R2 zoning of the land. The existing and proposed new LEP maps for the site are included in Appendix E of the attached planning proposal.



**61 Hill Street, Cabramatta (Lot 1 DP 210323)**

The site is a privately owned landlocked parcel of land adjoining Council's Hill Street car park in Cabramatta and adjoining privately owned land. The site is currently zoned R3 Medium Density Residential with a land area of 524.8m<sup>2</sup>.

It is proposed to rezone the parcel to R4 High Density Residential to create potential for integration of the parcel with the adjoining underdeveloped privately owned parcels to the north (also zoned R4).

Based on the surrounding land uses (in particular the Council car park) and zoning pattern it is not possible to integrate the site into the area currently zoned R3. In this respect, rezoning of the site to R4 not only creates potential for redevelopment of the precinct but also for realising a more consistent and coherent built form on the perimeter of the western boundary of the Cabramatta Town Centre.

The site was previously subject of a privately initiated rezoning proposal to rezone the site B4 Mixed Use (business). However, this rezoning proposal was not supported by Council and the planning proposal was subsequently withdrawn by the applicant in 2016.

**Proposed Amendment**

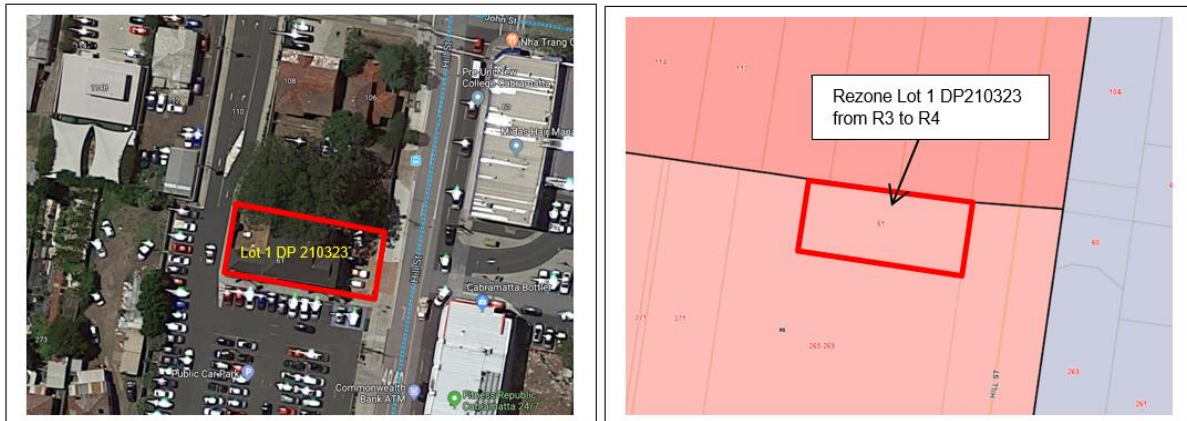
Rezone the subject site (below) from R3 Medium Density Residential to R4 High Density Residential, creating the option for amalgamation with adjoining R4 properties and redevelopment in the future.

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The associated LEP FSR, Height and lot size maps (Appendix E of the attached planning proposal) are also proposed to be updated to reflect the proposed R4 zoning of the land.

The amendments will allow an increase in height from 9m to 16m and increase in FSR from 0.45:1 to 0.8:1 for future development on the site.



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

47 Brown Rd is in private ownership with the subject very small (area 250m<sup>2</sup>) north-western portion of the site being zoned RE1 Public Recreation and remainder of the parcel being zoned R2 Low Density Residential.

The RE1 section of the site is not required for open space purposes and in 2018 it was removed from acquisition status under Council's development contributions expenditure plan.

In addition, 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.

#### Proposed Amendment

Rezoning the north-western corner of the site (below) from RE1 Public Recreation to R2 Low Density Residential.

The associated LEP FSR, Height and lot size maps are also proposed be updated to reflect the proposed R2 zoning of the land (Appendix E of the attached planning proposal).

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**ADVICE OF THE FAIRFIELD LOCAL PLANNING PANEL**

In accordance with the requirements of section 9.1 - Local Planning Panels Direction – Planning Proposals, of the *Environmental Planning and Assessment Act 1979* (EP&A Act), on the 18 September 2019, the draft Planning Proposal was considered by the Fairfield Local Planning Panel which provided the following advice:

1. *The Panel notes that the draft planning proposal has been prepared to address a key grant funding milestone for Council under the NSW Accelerated LEP Program. The planning proposal also represents Stage 1 of amendments to Fairfield LEP 2013 and includes a number of provisions that support proposed actions and planning themes of the Fairfield City draft LSPS – Shaping a Diverse City, as well as, addressing housekeeping amendments to the LEP, and recommends Council that it refer the proposal to the Department of Planning for consideration as part of the Gateway Process.*
2. *In addition, the planning proposal also deals with a number of housekeeping amendments to Fairfield LEP 2013, associated with zoning anomalies relevant to three properties as shown in Attachment A to Council's planning report, and updates to property descriptions for heritage listed sites as shown in Attachment B, to Council's planning report, aimed at promoting greater certainty for future development of these sites.*
3. *Whilst not part of the Planning Proposal, the Panel strongly recommends that Council considers the appointment of a design review panel to be part of the Design Excellence Strategy as recommended within the Draft Local Strategic Planning Statement.*
4. *The Panel congratulates Council's staff for minimising applications for minor developments such as that for the use of footpaths in commercial areas, and would recommend that Council also consider extending that approach to such matters as the annual event of the circus.*

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5. *Details of the planning proposal are set out in the Council's planning report referred to the Fairfield Local Planning Panel for advice in accordance with the provisions of section 9.1 of the EP&A Act 1979.*
6. *The Panel supports the proposed draft Planning Proposal, as outlined in Council's planning report and recommends that Council forward the proposal for further consideration by the Department of Planning as part of the Gateway Process.*

*Reasons for the Decision:*

1. *That the Fairfield Local Planning Panel indicate to the Fairfield City Council, that it supports the proposed draft Planning Proposal, as outlined in Council's planning report, to implement a number of priority actions of the Fairfield Local Strategic Planning Statement, as well as, housekeeping amendments to the Fairfield LEP 2013.*

Officer Comments:

The support of the Fairfield Local Planning Panel of the Planning Proposal (Stage 1) is noted.

In relation to Point 3 of the above advice from the Planning Panel which recommends that Council "*considers the appointment of a design review panel to be part of the Design Excellence Strategy*". Internal discussions with Council's Development Control Branch indicate that at this stage the most appropriate and efficient course of action for dealing with design excellence issues is to refer relevant proposals to an independent urban designer/architect for review. This includes the construction of a new building or external alterations to an existing building on land in the following zones:

- Zone R4 High Density Residential,
- Zone B2 Local Centre,
- Zone B3 Commercial Core,
- Zone B4 Mixed Use,

A major benefit of this approach would be to ensure that DAs requiring a review of design excellence will be processed within statutory time frames required under the EP&A Act, and where required meet deadlines for reporting to the Fairfield Local Planning Panel.

It is noted that the above approach is followed by other Councils in the Sydney Region. It is also noted that the Fairfield Local Planning Panel includes a qualified architect providing an additional layer for review of design excellence.

The provisions of the proposed design excellence clause provide detailed guidance on the matters that must be addressed to satisfy design excellence. This includes the relationship and improvements of the proposed development with the public domain, site suitability and relationship with surrounding development.

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The provisions of the proposed clause will also be supported by the various urban design studies being prepared for the main town centres areas of the City. These studies will provide an extra layer for assessing the suitability of the design of individual development projects having regard to the overall desired outcomes identified in the urban design study relating to each particular centre.

In future, Council would have discretion to expand the assessment framework relating to design excellence having regard to the urban design and built form outcomes realised under the proposed new clause.

In regard to part 4 of the Panel's advice, 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. These activities are subject to submission of an 'activity' application to Council under s.68 of the Local Government Act. As part of any approval granted under s.68, Council may require a range of control measures for an activity to minimise potential impacts on the amenity of surrounding neighbourhoods.

In the case of the Fairfield Showground, Council has endorsed a Local Approvals Policy (LAP) that will allow temporary uses (including circuses) to take place on the site without need for a s.68 application, subject to the criteria of the LAP and Showground Plan of Management being met.

## **CONCLUSION**

This Planning Proposal (Stage 1) has been prepared as part of the Accelerated LEP Review Program to review and update the Fairfield LEP 2013 (FLEP 2013) to give effect to the Western City District Plan and the draft Fairfield Local Strategic Planning Statement (draft LSPS). The lodgement of the Planning Proposal (Stage 1) to the DPIE requesting Gateway Determination will achieve Milestone 4 of the NSW Government Accelerated LEP Review Program.

Planning Proposal (Stage 1) introduces a new aim into the FLEP 2013 which acknowledges the role of the Fairfield LSPS 2040 as the basis for strategic planning for Fairfield City, including the Planning Priorities that implement the Western City District Plan at the local level as well as the goals of the Fairfield City Plan (Community Strategic Plan).

The Planning Proposal also introduces new aims into the clauses relating to development standards (height and FSR) to improve built form and urban design outcomes in future development. It also proposes a number of changes to the local provisions to achieve the Actions of the Fairfield LSPS, including floodplain risk management, active street frontages, design excellence and facilitating active public spaces through the use of Council owned land.

**REPORT TO CITY MANAGER  
(For Decision under Delegated Authority)**

**Meeting Date 10 February 2020**

Planning Proposal (Stage 1) also deals with a number of housekeeping amendments to FLEP 2013, relating to updates of property descriptions for heritage listed properties and dealing with zoning anomalies identified for a number of properties in the City.

Future planning proposals, with timing outside the 30 June 2020 completion date for the Accelerated LEP Review Program, will update the FLEP 2013 in line with the Planning Priorities included in Council's draft LSPS and the outcomes and recommendations of the suite of studies and strategies being undertaken as part of the Accelerated LEP Review Program.

It is recommended that the City Manager endorse the Planning Proposal (Stage 1) so that it can be referred to the NSW DPI&E for a Gateway Determination to allow public exhibition and finalisation of the amended FLEP 2013 by 30 June 2020.

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Andrew Mooney  
**Acting Manager Strategic Land Use Planning**

**Report Authorisation:**  
Group Manager City Strategic Planning

\*\*\*\*\* END OF ITEM \*\*\*\*\*

**REPORT TO ACTING CITY MANAGER  
(For Decision under Delegated Authority)**

**Meeting Date 6 May 2020**

**SUBJECT:** Amended Planning Proposal - Fairfield Accelerated LEP Review (Stage 1) endorsement for public exhibition

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**FILE NUMBER:** 19/19838

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**PREVIOUS ITEMS:** Report to City Manager (For Decision under Delegated Authority) Planning Proposal (Stage 1) – Fairfield Accelerated LEP 10 Feb 2020

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**REPORT BY:** Andrew Mooney, Acting Manager Strategic Land Use Planning

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**RECOMMENDATION:**

That the Acting City Manager under authority delegated by Council at its Ordinary Council Meeting of 10 December 2019 (Supplementary Item 212):

1. Endorse the amended Planning Proposal Accelerated LEP (Stage 1) (Attachment B to this report) for public exhibition in accordance with the Gateway determination and relevant provisions of the NSW Environmental Planning and Assessment Act (EP&A) 1979 for a minimum period of 28 days.
  2. Receive a further report on the amended Planning Proposal at the conclusion of the public exhibition period.
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**SUPPORTING DOCUMENTS:**

Attachment A: DPIE Gateway Determination 14 April 2020 (2 Pages)  
Attachment B: amended Planning Proposal (Stage 1) Accelerated LEP (66 Pages)  
Attachment C: Previous Report to City Manager – 10 Feb 2020 (17 Pages)

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**CITY PLAN**

This report is linked to *Theme 2 Places and Infrastructure* in the Fairfield City Plan.

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**SUMMARY**

On the 10 February 2020, the City Manager received a report and endorsed recommendations for referral of a draft Planning Proposal – Fairfield Accelerated LEP (Stage 1) to the Dept. of Planning Environment and Industry (DPIE) for a Gateway Determination.

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**REPORT TO CITY MANAGER  
(For Decision under Delegated Authority)**

**Meeting Date 6 May 2020**

The amended Planning Proposal (Attachment B) aims to amend Fairfield LEP 2013 to give effect to the Western City District Plan and the Fairfield Local Strategic Planning Statement (LSPS). It is noted the Fairfield LSPS 2040 came into effect on the 30 March 2020.

The previous report (Attachment C) to the City Manager provides further detailed information regarding the contents of the Planning Proposal and its relationship to the requirements (including the grant funding arrangements) applying under the Accelerated LEP Review Program.

A Gateway Determination (Attachment A) recently issued by DPIE, specifies a number of conditions that must be satisfied prior to public exhibition of the Planning Proposal taking place, as well as the terms and conditions for further processing of the document. The conditions require a number of specific changes that have been incorporated into the amended Planning Proposal (Attachment B) and are discussed further in this report.

It is noted that under the Gateway Determination, that Council is not authorised to exercise delegation to make (finalise) the plan, with this function to be undertaken by DPIE.

It is recommended that the Acting City Manager endorse public exhibition of the amended Planning Proposal for public exhibition. This step will allow Council to remain on track for meeting the Milestone 5 grant funding requirements of the NSW Government Accelerated LEP Review Program. This includes referral of the Planning Proposal to the DPIE before the end of June 2020.

## **REPORT**

The following sections of this report set out the key requirements of the Gateway Determination and recommendations on these matters.

### **1. Removal of the Aim of the Plan relating to the Fairfield LSPS as well as the proposed Floodplain Risk Management amendment**

The DPIE has advised that the proposed Aim of the Plan (relating to the Fairfield LSPS) has been removed, as the provisions of the Planning Proposal (PP) Stage 1 do not have regard to the findings of major strategic planning studies/reviews currently being undertaken by Council under the Accelerated LEP funding program, that are yet to be completed.

It is anticipated that the majority of the findings and recommendations of the strategic studies/review will be incorporated under the forthcoming Stage 2 PP, due to be reported to Council in the second half of 2020. The Stage 2 PP will consider more substantive changes to the Fairfield LEP 2013, including potential rezoning of land in various parts of the City. In this regard, inclusion of the new aim relating to the LSPS actions would be justified under the Stage 2 PP.

The proposed amendments to the current Floodplain Risk Management controls of Fairfield LEP 2013 are also subject to a separate Planning Proposal (LEP Amendment No. 28), submitted to the DPIE in 2016. In general, the LEP Amendment No.28 aims to align Fairfield's flood controls with adjoining Council areas.

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(For Decision under Delegated Authority)**

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This includes the proposal to remove flood controls from residential, commercial and industrial development located above the flood planning level (FPL) i.e. in the low flood risk precincts, being the area above the 1 in 100 year flood level plus 500mm freeboard, up to the probable maximum flood level (PMF).

The DPIE has recently placed a 'flood prone land package' on public exhibition that includes a number of proposed new State wide (standardised) LEP flood controls. This includes the proposed new local clause 'Special Flood Considerations' that aligns with the proposed amendments to the Fairfield flood controls contained in Fairfield LEP Amendment No.28 and Planning Proposal Stage 1 LEP referred to DPIE for a Gateway Determination.

The proposed new State wide flood controls are on exhibition until the 25 June 2020 and will be subject to a separate report to June Outcomes Meeting. Exhibition of the State wide flood controls means that the proposed changes to the Fairfield LEP flood controls can be addressed under the Stage 2 PP. Alternatively, implementation of the desired changes to the Fairfield LEP 2013 flood controls may occur because of the DPIE mandating the proposed new Standard local clauses and flood controls into relevant Council LEP's in the State.

At this stage, removal of the proposed amendments to the Fairfield LEP 2013 flood controls from the Stage 1 PP is considered reasonable and can be reviewed for inclusion in the Stage 2 PP.

**2. Prior to public exhibition of the Planning Proposal, consultation to take place with the Chief Executive of the South West Sydney Local Health District (SWSLHD)**

Under the Gateway Determination Council, prior to public exhibition Council is required to consult with the Chief Executive of the SWSLHD. This is due to the proposed concurrence provisions (required from the Chief Executive), for certain development affected by the proposed new LEP clause relating to the Liverpool Hospital helicopter airspace.

The proposed new clause is based on an existing clause contained in the Liverpool LEP 2008 and will affect approximately 50 properties in the southern section of Mt Pritchard. Pursuant to the Gateway requirement, a letter was referred to the Chief Executive of the SWSLHD on the 22 April, with a response requested by the 7 May 2020

The concurrence provisions will be triggered when development breaches the obstacle identification surface (OIS) of the helicopter airspace (ranging from 105m to 125m) over Mt Pritchard. Based on the current low density residential zoning of Mt Pritchard and relevant maximum height controls (9metres), it is unlikely that residential development in the affected area will breach the OIS levels.

However, the clause has been included in the Stage 1 LEP to promote transparency for the affected properties in Mt Pritchard and to address a 'missing' planning control associated with the Liverpool Hospital helicopter flight space, which is located predominantly over the Liverpool LGA.

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Verbal advice has recently been provided by DPIE that Council can proceed to public exhibition of the Stage 1 PP, regardless of whether or not a response has been received from the SWSLHD by the 7 May 2020.

**3. Update list of affected heritage items and proposed height of buildings maps for 18 Butler Ave, Bossley Park**

The changes recommended by the DPIE address minor anomalies identified in the PP and will provide increased certainty and clarity for land owners affected by the updates to the property details of heritage listed properties and enhancements to the building height map for the property located at 18 Butler Avenue.

**4. Include intention to introduce a new savings and transitional clause.**

The above requirement is a standard provision for amendments made to a City Wide LEP that incorporate new LEP clauses or updates provisions that will affect development proposals. Under the Stage 1 PP, this includes the proposed new clauses relating to design excellence, active street frontage and amended objectives to the existing FSR and Height local clauses.

The savings and transitional provisions required by the DPIE mean that development applications about to be lodged or already under assessment by Council are not disadvantaged as a result of introduction of the new/amended local clauses.

**5. Include a note that the draft proposed clauses will be subject to legal drafting**

This is a standard requirement of all Gateway Determinations and does not affect the overall intent of the Stage 1 PP.

**6. References to the Fairfield City Local Strategic Plan (LSPS) 2040**

In addition to the changes required under the Gateway Determination, details of the GSC Assurance and approval of the Fairfield LSPS (2040), as well as implementation of the LSPS on the 30 March 2020 have been incorporated into the PP. This information updates advice in the previous PP referred to DPIE for a Gateway Determination regarding preparation and public exhibition of the draft LSPS in 2019.

**PUBLIC EXHIBITION**

Under the Gateway Determination Council is required to consult directly with the GSC and a number of other public authorities, as well as individual landowners affected by the provisions of the Planning Proposal.

Details of public exhibition of the Planning Proposal will be placed on Council's website as well as the NSW Planning Portal for a minimum period of 28 days.

**REPORT TO CITY MANAGER  
(For Decision under Delegated Authority)**

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**CONCLUSION**

The Planning Proposal attached to this report (Attachment B) has been amended to address the requirements of the Gateway Determination issued by the DPIE to allow public exhibition of the document to take place for a minimum period of 28 days.

Pursuant to the Gateway Requirement, consultation with the Chief Executive of the SWSLHD regarding the Liverpool Hospital helicopter airspace has commenced. Any written advice from the Chief Executive as well as details of submissions from the general community or State Agencies will be reported to the City Manager following public exhibition.

It is recommended that the Acting City Manager endorse the amended Stage 1 Planning Proposal for public exhibition, to ensure Council can meet the project timeline and grant funding requirements associated with the Accelerated LEP Program. This includes the requirement for referral of the PP to the DPIE for finalisation by the 30 June 2020.

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Andrew Mooney  
**Acting Manager Strategic Land Use Planning**

**Report Authorisation:**  
Group Manager City Strategic Planning

\*\*\*\*\* END OF ITEM \*\*\*\*\*