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Australia's property industry

Creating for Generations

12 June 2020

Mr Alan Young
City Manager
Fairfield City Council
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FAIRFIELD NSW 1860

Email – mail@fairfieldcity.nsw.gov.au

Dear Mr Young

Planning Proposal – Proposed Amendments to Fairfield Local Environmental Plan 2013 (Ref: 19/25670)

The Property Council of Australia welcomes the opportunity to provide comments on the Planning Proposal to make amendments to the *Fairfield Local Environmental Plan 2013* (Fairfield LEP 2013).

As Australia's peak representative of the property and construction industry, the Property Council's members include investors, owners, managers and developers of property across all asset classes. We are pleased to provide the following comments for your consideration.

The Property Council understands that Fairfield City Council is one of eighteen (18) councils in Greater Sydney that are participating in the Accelerated LEP Review Program. We support the accelerated approach to Fairfield's participation in the development of a District Plan this year ahead of other councils in greater Sydney.

Fairfield City Council has been given financial assistance from the NSW Government to complete each of the required milestones under the program. The completion of this Planning Proposal (PP_2020_FAIRF_001_00) is one such milestone. Finalisation of Council's Local Strategic Planning Statement (LSPS) and a Local Housing Strategy (LHS) being other important steps.

Page 3 of the Planning Proposal states *"in time, additional planning proposals under the Accelerated LEP Program will be prepared once the review of various strategic land-use planning studies has been completed in accordance with priorities and actions of the Fairfield LSPS"*.

It is disappointing however, that more than two years since the Regional Strategic Plan and Western City District Plan were endorsed by the NSW Government and more than eight months since the public exhibition of Council's draft LSPS, it is not in a position to exhibit a planning proposal that will "give effect" to the important need to boost housing supply for residents of Fairfield City LGA.

Section 3.8 of the *Environmental Planning and Assessment Act 1979* requires a Planning Proposal Authority, when preparing a planning proposal under section 3.33, to give effect to any district strategic plan applying to the local government area to which the planning proposal relates. Also as soon as practicable after a district strategic plan is made, the relevant council must review its local environmental plan for the area and prepare such planning proposals under section 3.33 as are necessary to give effect to the district strategic plan. Unfortunately, the current planning proposal however, in our view fails to adequately give effect to the Western City District Plan.

Council should clearly set out its planned timeframe for completion of the next phase of the LEP update, including the completion of additional planning studies such as its local housing strategy and employment lands strategy.

Housing Targets

The Greater Sydney Commission (GSC) issued Council with a letter of support on 23 March 2020 which included a 6 to 10-year housing target between 3,000 and 3,800 dwellings. This involves the production of more than 600 new dwellings annually.

The GSC's Western City District Plan established a 0 to 5-year housing target for Council of 3,050 additional dwellings from 2016/17 to 2020/2021 (about 610 new dwellings each year). We understand that in the first three years of this period (2016/17 to 2018/19) there were just 995 dwellings completed in the Fairfield City LGA. Council must take necessary action to ensure its policy settings are appropriate for the continuation of new housing supply above the current level, particularly given the post Covid-19 market conditions.

The Property Council does however acknowledge the substantial effort Council has made towards the preparation of this Planning Proposal with very tight timeframes set by the State government.

General Comments on the planning proposal

The intent of the current Planning Proposal is to:

- Insert additional model clauses into *Fairfield LEP 2013* that address priorities and actions contained in the Fairfield LSPS;
- Additional objectives under existing local clauses to better clarify the intention of local clauses, promote certainty for future development and identified desired urban design outcomes for new development in accordance with priorities and actions of the Fairfield LSPS;
- Make amendments to Schedule 2 (Exempt Development) to increase the maximum period of temporary uses on at the Fairfield Showground site at Prairiewood to support initiatives contained in the Masterplan prepared for the site as a major cultural/recreational facility for the City;
- Allow for storage of goods on Council owned/managed footpaths in town centres to promote activation of town centres and opportunities for commercial enterprise, subject to issuing of permit by Council;
- Allow for emergency works on Council owned/managed land to safeguard community health and wellbeing;
- Updating of existing property/site details of a number of properties appearing in Schedule 5 Environmental Heritage to clarify planning considerations relevant to these sites; and
- Make amendments to the land use zoning of various parcels of land that addresses zoning anomalies to promote greater certainty for future development of the relevant sites.

It is understood that additional planning proposals will be prepared under the Accelerated LEP Program pending the completion of various strategic land use planning studies being carried out in accordance with the priorities and actions of Fairfield LSPS.

These actions are generally considered to be appropriate and, in most cases, supported. Detailed comments on specific issues are provided below.

Active Street Frontages

It is proposed to add a new clause into *Fairfield LEP 2013* that will apply to business zones (B2 Local Centre, B3 Commercial Core and B4 Mixed Use) to attract pedestrian traffic along ground floor street frontages. At present this is a requirement in Fairfield's town centre Development Control Plans and it is proposed to elevate the requirement into the LEP. This clause will primarily be used in larger town centres including Fairfield, Cabramatta, Bonnyrigg, Fairfield Heights and Villawood. This is a model local clause and it is appropriate to include the requirement in *Fairfield LEP 2013*.

Design Excellence

Council is proposing to insert a new model clause into *Fairfield LEP 2013* that will apply to land in the R4 High Density Residential, B2 Local Centre, B3 Commercial Core and B4 Mixed Use. Council has made a deliberate decision to apply this clause the B2 Local Centre zone because of this zone has potential to accommodate increased residential densities given its location close to public transport services.

The proposed clause will prevent the granting of development consent to a proposal unless it exhibits design excellence. The test to decide whether a development exhibits design excellence includes consideration of a number of criteria, including;

- A high standard of architectural design;
- The external appearance of the building should improve the quality & amenity of the public domain;
- Impact on view corridors; and
- How the development addresses a range of other matters.

Although running of a design competition is not required to meet the design excellence standard, the proposed change will create considerable additional costs and time delays for developers of small and medium-sized multi-dwelling housing developments.

The State Government has produced *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* (SEPP 65) and the *Apartment Design Guide* (ADG) for the purpose of improving the design and quality of apartment buildings. Recently, the Department of Planning, Industry and Environment (DPIE) prepared a design guide for low-rise medium density housing for development applications which may be a useful tool. Adapting this guide to other forms of housing would be preferable alternative to the use of the design excellence clause.

We support the intent to lift the standard of residential development in Fairfield town centres but do not support the use of the design excellence clause in *Fairfield LEP 2013* to achieve that outcome. Council should consider providing a more detailed explanation of the information applicants will need to provide with their development applications to assist with the design and preparation of plans. Also, Council should provide a summary of the expected compliance costs associated with applying design excellence requirements to development in the town centres. This could be done through development of guidelines to provide great clarity to proponents.

Building Height and Floor Space Objectives

The Planning Proposal seeks to amend *Fairfield LEP 2013* by making amendments to the relevant objectives for Height of Buildings under clause 4.3 and Floor Space Ratio under clause 4.4.

As stated in the Planning Proposal, the objectives to each clause are taken into consideration when considering a request (clause 4.6) to vary a development standard (such as building height or FSR). Council is proposing these additional objectives to improve the scope of the objectives supporting each development standard and to enhance the flexibility and scope of merit consideration of development not strictly adhering to these planning controls. This approach is appropriate and supported.

The additional objectives are considered as follows:

Additional Objectives	Property Council Response
<p><u>Clause 4.3 Height of Buildings</u></p> <ul style="list-style-type: none"> - To ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality. - To ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area. - To allow adequate natural light and ventilation between dwellings and sufficient separation for acoustic and visual privacy. 	<p>These additional three (3) objectives for clause 4.3 are clear and reasonable.</p> <p>Also, they are generally consistent with the equivalent objectives used in neighbouring local environmental plans (such as <i>Liverpool LEP 2008</i>, <i>Bankstown LEP 2015</i>, <i>Penrith LEP 2010</i> and <i>Holroyd LEP 2013</i>).</p>
<p><u>Clause 4.4 Floor Space Ratio</u></p> <ul style="list-style-type: none"> - To control building density and bulk in relation to the site area and within building envelopes to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality. - To maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation. - To reduce the visual impact of development on heritage conservation areas and heritage items, - To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain. - To provide an appropriate correlation between the size of a site and the extent of any development on that site. - To establish the maximum development density and intensity of land use having regard to the availability of infrastructure and the generation of vehicle and pedestrian traffic, and - To facilitate quality design and urban amenity by ensuring the extent of floor space in building envelopes provides space for articulation and modulation of design. 	<p>These additional seven (7) objectives for clause 4.4 are clear and reasonable.</p> <p>Also, they are generally consistent with the equivalent objectives used in neighbouring council local environmental plans (such as <i>Liverpool LEP 2008</i>, <i>Bankstown LEP 2015</i>, <i>Penrith LEP 2010</i> and <i>Holroyd LEP 2013</i>).</p>

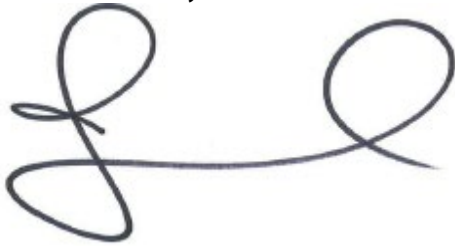
Exempt Development – Display of Goods

The Planning Proposal involves an amendment to Fairfield LEP 2013 that will make it easier for retailers in Fairfield's commercial centres to display goods on the public footpath. The proposal to insert a new provision into Schedule 2 – Complying Development, is supported and will assist retailers in Council's main town centres who have been heavily impacted by restrictions arising from COVID-19 and other factors impacting the retail sector. We note that this is a local variation that operates separate to the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

This change will help reduce red tape and remove the requirement of retailers to apply for a development application to display goods on the public footpath outside their business premises. This amendment will positively affect premises identified on the Town Centre Precinct Map which includes the following six (6) commercial centres; Cabramatta, Canley Heights, Canley Vale, Fairfield, Fairfield Heights and Villawood. Retailers will only need to obtain a single permit from Council which we understand will be considered under the Council's *Display of Goods on Public Domain Policy* and this measure is strongly supported by the Property Council.

Should you have any questions in respect to the content of this submission, please contact Troy Loveday, Senior Policy Advisor, on 0414 265 152 or tloveday@propertycouncil.com.au

Yours sincerely

A handwritten signature in dark blue ink, appearing to read 'Jane Fitzgerald', with a long horizontal flourish extending to the right.

Jane Fitzgerald
NSW Executive Director
Property Council of Australia