

FAIRFIELD CITY COUNCIL GATEWAY DETERMINATION REVIEW SUBMISSION



Prepared for Fairfield City Council

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August 2019

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1.0 Executive Summary

This report has been prepared to support the Fairfield City Council Gateway Determination Review Submission that seeks review of the Gateway Determination issued on 18 July 2019 as per Planning Circular PS 18-012 Independent Reviews of Planning Making Decisions.

An amended Planning Proposal was lodged for Gateway Determination that reflected Council's resolution of 25 September 2018 which proposed to amend the building height, floor space ratio and minimum site area provisions under Fairfield Local Environmental Plan (LEP) 2013 for certain land bounded by Fisher Street, Broomfield Street and Cabramatta Road East Cabramatta but that the proposed 16 and 19 storey buildings on the site be amended to a maximum of 15 storeys.

A Gateway Determination was issued on 18 July 2019 after assessment of the amended proposal and required under Condition 1 which did not support the 25 September 2018 Council resolution:

1. *Prior to public exhibition, Council is to revise the planning proposal, where required, to apply a maximum building height of 48m (approximately 12 storeys), 57m (approximately 16 storeys), 59m (approximately 16 storeys), and 66m (19 storeys) across the site, in accordance with the planning proposal considered by Council at its meeting of 25 September 2018.*

Council then at its meeting of 6 August 2019 gave consideration of a report on the 18 July 2019 Gateway Determination and, resolved as follows:

That Council seek a review of the Gateway Determination based on Council's previous resolution, to restrict the development to 16 floors.

As required by Council 6 August 2019 resolution a Gateway Determination Review is now lodged which seeks that the Gateway Determination be altered to restrict development to a maximum of 16 floors (storeys) as per Council resolution of 6 August 2019. This report has been prepared to support the Gateway Determination Review application.

Part of the information provided in this report to support the Gateway Determination Review identified that an Urban Design Review was initially undertaken by TPG Town Planning and Urban Design firm of a prior Planning Proposal before being amended to the current Gateway Determination issued Planning Proposal, proposed a height limit of 45metres for the southern part of the site.

This Urban Design Review identified that the proposed 45metres southern area of the site which was to adjoin Cabramatta Road East was unacceptable and "*further investigation be required of the proposed built form, massing and overshadowing impact on the developed land parcels to the south to ensure that the future development of the subject site does not unfairly prejudice the development of these lots.*"

This report identifies that the requirement of the Gateway Determination to require readoption of the 66metres height will create even greater built form and overshadowing impact on the developable land to the south than the assessed

45metre impacts identified in the TPG Urban Design report that will lead to an unfairly prejudice of the development opportunities of the developable lots to the south of the site.

The resulting conclusion of this report is to that readoption of the 66metres within the area identified as Stage B of the Planning Proposal should not be supported.

Accordingly, it is concluded that the Gateway Determination Review should be altered and the already issued Gateway Determination be altered as follows:

The Gateway Determination is altered and now requires that prior to the public exhibition, Council is to revise the planning proposal, where required, to apply a maximum building height of 48m (approximately 12 storeys to Stage D) and 57m (approximately 16 storeys to Stages A, B and C) across the site, in accordance with the planning proposal considered by Council at its meeting of 25 September 2018.

2.0 Introduction

2.1 General

This report has been prepared to support the Fairfield City Council Gateway Determination Review Submission that seeks review of the Gateway Determination issued on 18 July 2019 as per Planning Circular PS 18-012 Independent Reviews of Planning Making Decisions. A copy of the Gateway Determination is provided in Attachment A.

2.2 The Purpose of the Report

Council at its Ordinary Meeting of 6 August 2019 considered the Council officer's report (copy provided in Attachment B) that advised the Gateway Determination required as follows:

1. *Prior to public exhibition, Council is to revise the planning proposal, where required, to apply a maximum building height of 48m (approximately 12 storeys), 57m (approximately 16 storeys), 59m (approximately 16 storeys), and 66m (19 storeys) across the site, in accordance with the planning proposal considered by Council at its meeting of 25 September 2018.*

Council after consideration of the report, resolved as follows:

That Council seek a review of the Gateway Determination based on Council's previous resolution, to restrict the development to 16 floors.

Accordingly, the purpose of this report is to support the Gateway Determination Review request allowed under Planning Circular PS 18-012 *Independent reviews of planning making decisions*, which is based upon Fairfield City Council considering that the Determination will impose requirements and variations to the amended planning proposal (Council proposed height reduction to 15 storeys for the 16 and 19 storey buildings) which it thinks should be reconsidered given the Council resolution of 6 August 2019 provided above.

3.0 Background

14 August 2017 - Planning Proposal application lodged with Fairfield City Council that seeks to amend planning controls for large precinct of land within Cabramatta Town Centre on eastern side of Cabramatta Railway Station.

10 October 2017 - Council briefing undertaken

28 March 2018 - TGP Town Planning and Urban Design provide an independent urban design assessment of the Planning Proposal

14 August 2018 - Report on Planning Proposal considered at Outcomes Committee and recommendation of committee was:

1. *Council endorse the Planning Proposal (Attachment A of this report) to amend the building height, floor space ratio and minimum site area under Fairfield Local Environmental Plan (LEP) 2013 for certain land bounded by Fisher Street, Broomfield Street and Cabramatta Road East Cabramatta.*

2. *In accordance with Council's resolution of 10 July 2018 (Item 91) refer the Planning Proposal to the Fairfield Local Planning Panel (FLPP) for consideration at its meeting of 15 August 2018.*
3. *Following consideration of the Planning Proposal by the FLPP, Council inform the NSW Department of Planning and Environment (DP&E) that it wishes to commence the Gateway process to amend Fairfield LEP 2013.*
4. *Council receive a further report detailing a draft Site Specific Development Control Plan (SSDCP) and draft Voluntary Planning Agreement (VPA) should the DP&E issue a Gateway Determination for the Proposal.*
5. *Council receive a further report on the Planning Proposal, draft SSDCP and draft VPA following the public exhibition to be carried out in accordance with the public consultation strategy outlined in this report and the relevant conditions of the Gateway Determination.*
6. *A further report to Council addressing options for the Fisher Street car park including the potential for a Council initiated planning proposal to increase the height limit for the car park to enable its future expansion.*

30 August 2018 – Fairfield Local Planning Panel (FLPP) considered Planning Proposal and recommendation of FLPP was:

That:

1. *The Panel recommends to Council that:*
 - a. *The Planning Proposal (Attachment A of the Council report) to amend the building height, floor space ratio and minimum site area under the Fairfield Local Environmental Plan 2013 for certain land bounded by Fisher Street, Broomfield Street and Cabramatta Road East, Cabramatta, as detailed in Council Officer's assessment report be supported, and*
 - b. *The Planning Proposal as assessed be forwarded to the Department of Planning for the purposes of the Gateway Determination.*
2. *Should the Department of Planning and Environment issue a Gateway Determination for the Planning Proposal, Council request and be satisfied with a further report detailing a draft Site Specific Development Control Plan (SSDCP) and draft Voluntary Planning Agreement (VPA) for the subject land.*
3. *A further report be prepared for Council addressing options for the Fisher Street Car Park, including the potential for a Council initiated planning proposal to increase the height limit for the car park to enable its future expansion.*

25 September 2018 – Outcome Committee minutes of meeting held on 14 August 2018 and FFLP minutes of meeting held on 30 August 2018 considered and Council recommendation was:

That:

1. *Council endorse the Planning Proposal (Attachment A of the report) to amend the building height, floor space ratio and minimum site area provisions under Fairfield Local Environmental Plan (LEP) 2013 for certain land bounded by Fisher Street, Broomfield Street and Cabramatta Road East Cabramatta but that the proposed 16 and 19 storey buildings on the site be amended to a maximum of 15 storeys.*
2. *Council inform the NSW Department of Planning and Environment (DP&E) that it wishes to commence the Gateway process to amend Fairfield LEP 2013.*
3. *Council receive a further report detailing a draft Site Specific Development Control Plan (SSDCP) and draft Voluntary Planning Agreement (VPA) should the DP&E issue a Gateway Determination for the Proposal.*
4. *Council receive a further report on the Planning Proposal, draft SSDCP and draft VPA following the public exhibition to be carried out in accordance with the public*

consultation strategy outlined in this report and the relevant conditions of the Gateway Determination.

5. A further report to Council addressing options for the Fisher Street car park including the potential for a Council initiated planning proposal to increase the height limit for the car park to enable its future expansion.

22 October 2018 – Request for Gateway Determination lodged with Department of Planning & Environment with Height of Building as per Council resolution of 25 September 2018 which proposed 16 & 19 storey buildings on the site be amended to a maximum of 15 storeys.

26 June 2019 – Gateway determination report (copy of determination report Attachment C to this report)

18 July 2019 – Gateway determination issued and condition 1 of Determination required Council to revise the planning proposal to apply building heights in accordance with originally submitted planning proposal being 48 metres (approximately 12 storeys), 57m (approximately 16 storeys), 59m (approximately 16 storeys) and 66m (approximately 19 storeys) across the site.

06 August 2019 – Report on Gateway Determination of 18 July 2019 considered at Council's Ordinary Meeting of 6 August 2019 (copy of Council report Attachment B to this report) and resolved as follows:

That Council seek a review of the Gateway Determination based on Council's previous resolution, to restrict the development to 16 floors.

4.0 Site Location, Context & Planning Controls

4.1 Regional Context

The following *Regional Context* is reproduced from the Fairfield City Council Planning Proposal submission document:

The site is located in Cabramatta, within the south eastern portion of the Fairfield Local Government Area (LGA). The site is strategically located between the Parramatta and Liverpool City Centres and approximately 28km south-west of the Sydney CBD. Fairfield City falls within the Western Parkland City under the Greater Sydney Region Plan – A Metropolis of Three Cities. The population of the Western Parkland City is projected to grow from 740,000 in 2016 to 1.1 million by 2036, and to well over 1.5 million by 2056.

The region will be guided by the Western City District Plan and includes the Local Government Areas (LGAs) of Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly. Fairfield is one of the largest and most populated LGAs within the district. Covering 102 square kilometres (km²), Fairfield LGAs estimated resident population in 2016 was 198,817 (as per the ABS Census). Fairfield is also one of the most ethnically diverse areas in Australia with a large number of recent migrants.

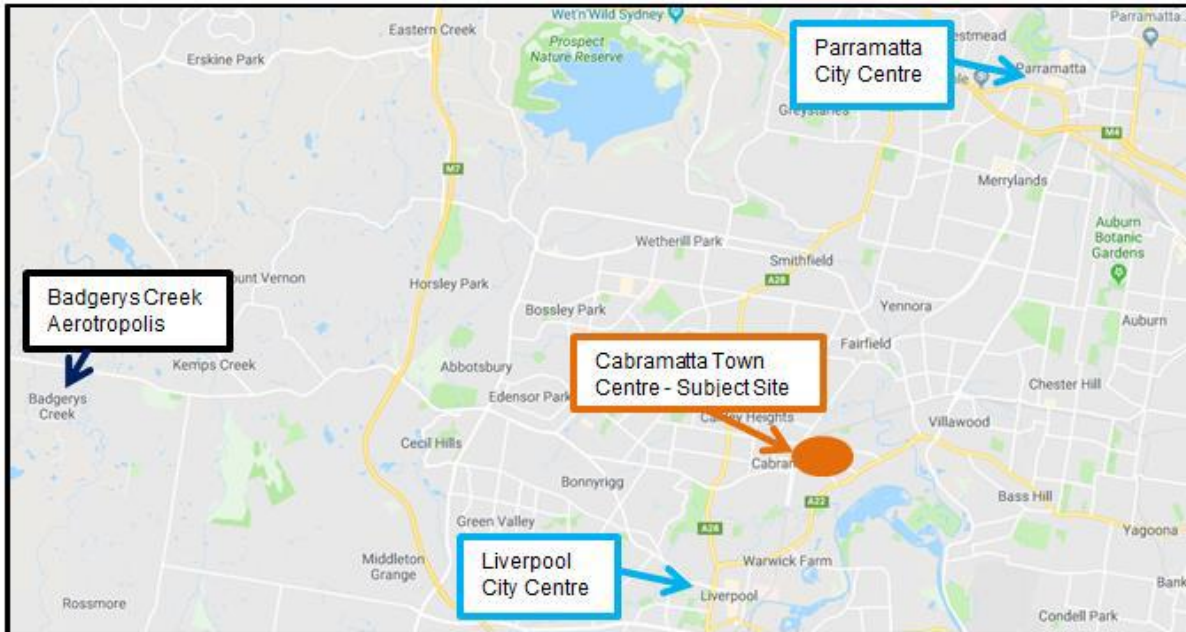


Figure 1 - Regional Context

Cabramatta is the second largest centre within the Fairfield LGA with a population of 21,783 in 2016 (as per the ABS Census). It has an established residential area, with a large commercial centre around the railway station and industrial land uses along the Hume Highway at its eastern periphery. Cabramatta is a unique multi-cultural town centre. From an urban design and planning perspective it is a fine-grained retail and commercial centre, often with a specialist flavour such as textile and authentic cuisine retailing.

The locality is well serviced by public transport and has good links to surrounding strategic centres including direct rail links to Parramatta and Liverpool City Centres. The subject site is located within the Cabramatta Town Centre, immediately adjacent to the Cabramatta Railway Station (see Figure 2).

Rail services provide easy access to the Sydney Metropolitan region via the following lines:

- *T2 Inner West & South Line / Campbelltown to City via Granville*
- *T5 Cumberland Line / Schofields to Campbelltown service*
- *T3 Bankstown Line / Liverpool or Lidcombe to City via Bankstown service*

4.2 The Site and Surrounds

The following *The Site and Surrounds* is reproduced from the Fairfield City Council Planning Proposal submission document:

The site consists of 22 privately owned lots and a section of public laneway owned by Fairfield City Council and has a total area of approximately 12,847 square metres (1.285ha). The site is zoned B4 Mixed Use and has access to 3 street frontages being Fisher Street, Broomfield Street and Cabramatta Road East. The site is bounded by:

- *A rail line and Cabramatta Railway Station to the west;*
- *R4 High Density Residential zoned land (comprising some single residential dwellings and multiple 3 - 4 storey residential flat buildings) and the Fisher Street Car Park to the north;*
- *Existing commercial premises zoned B4 Mixed Use and the Fisher Street and Cumberland Street Car Parks to the East; and*
- *Multiple B4 Mixed Use commercial premises, R4 High Density Residential apartment buildings (3 – 4 storey walk-ups) and a vacant parcel of land to the south.*



Figure 2 - Aerial Image – Subject Site and Surrounds

4.3 Fairfield LEP 2013 – Existing Controls

The following *Fairfield LEP 2013 – Existing Controls* is reproduced from the Fairfield City Council Planning Proposal submission document:

The subject site is currently zoned B4 Mixed Use under Fairfield LEP 2013 and consists of a number of smaller retail shops, commercial premises, medical suites, hotel, SBC Learning College, Church and dwelling house and a vacant parcel of land. There are approximately 70 private car parking spaces to the rear of the retail premises. At least half of the southern part of the site (with an area of 9,202m²) is under single ownership.

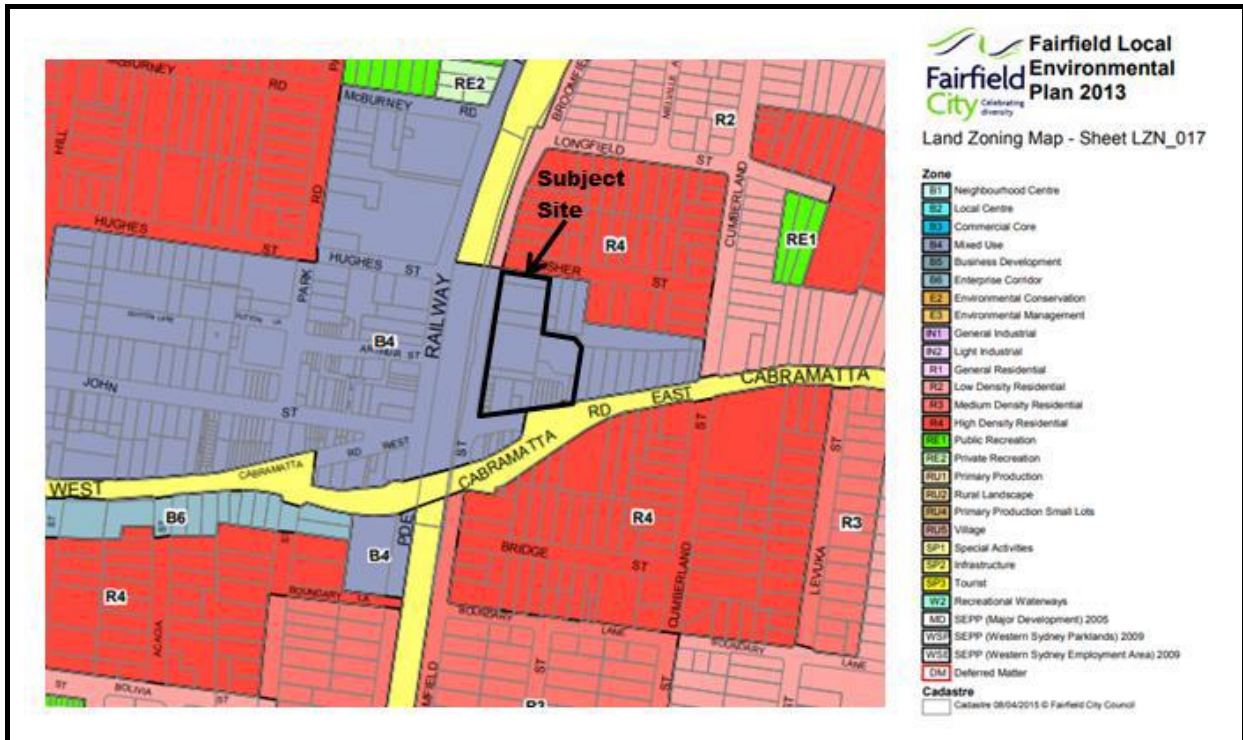


Figure 3 - Existing Zoning under Fairfield LEP 2013

All privately owned land within the subject site area has a current maximum allowable building height of 14 metres. Achievement of this maximum allowable building height is dependent on achieving an acceptable ratio of residential to commercial floor space which is outlined in Clause 7.3 of Fairfield LEP 2013. The public roadway owned by Council which is proposed to be incorporated into the development site currently has no applicable maximum building height. See Figure 4 below.

All privately owned land within the subject site area has a current maximum allowable floor space ratio of 2.5:1. Achievement of this maximum allowable floor space ratio is dependent on achieving an acceptable ratio of residential to commercial floor space which is outlined in Clause 7.2 of Fairfield LEP 2013. The public roadway owned by Council which is proposed to be incorporated into the development site currently has no applicable floor space ratio. See Figure 5 below.



Figure 4 – Existing Height of Buildings under Fairfield LEP 2013

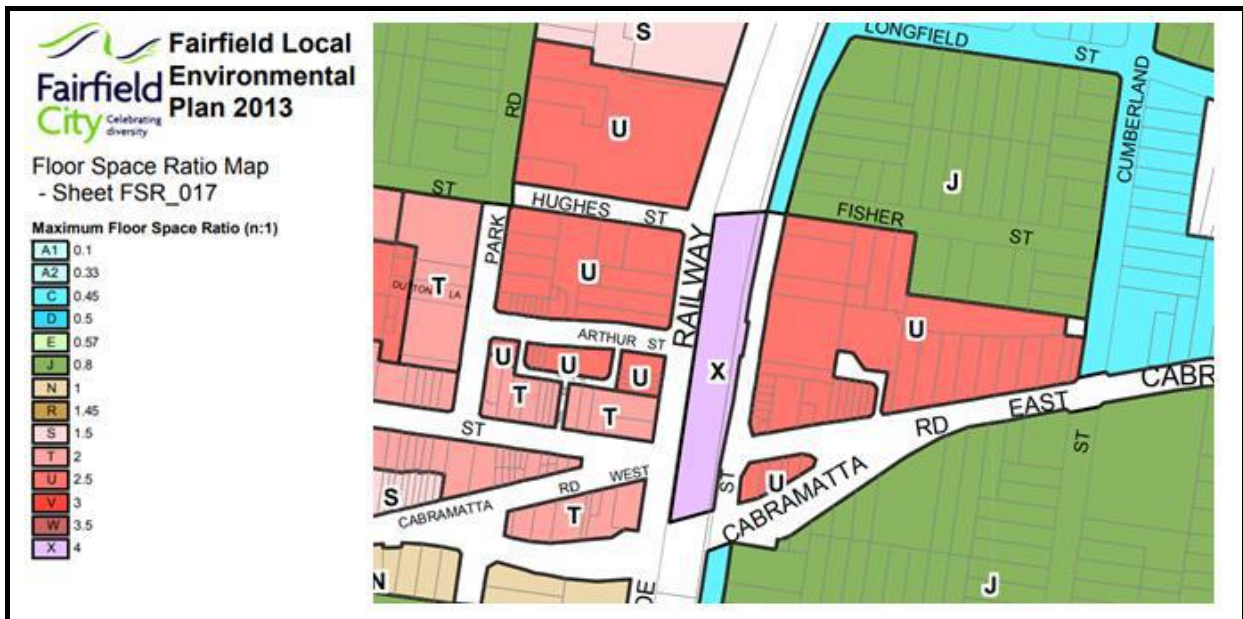


Figure 5 – Existing Floor Space Ratio under Fairfield LEP 2013

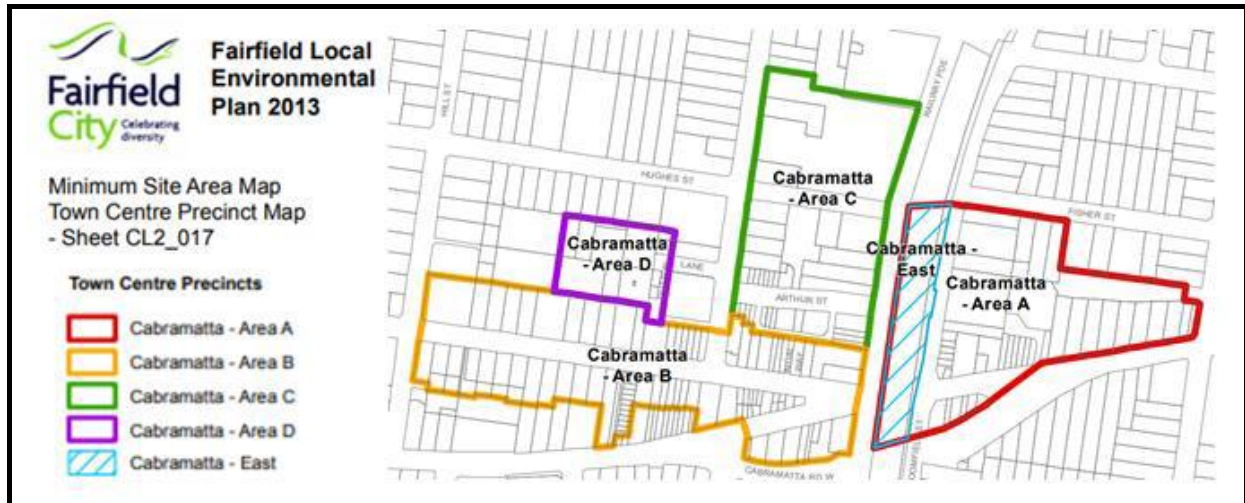


Figure 6 – Existing Town Centre Precinct Map under Fairfield LEP 2013

The subject site is currently identified as Cabramatta – Area A under the Fairfield LEP 2013 Town Centre Precinct map and has no applicable minimum site area.

5.0 Planning Proposal

5.1 Originally Lodged Planning Proposal

The following information provided on the originally lodged Planning Proposal is reproduced from the report considered at the Outcomes Committee meeting of 14 August 2018:

*The development controls proposed for the subject site under the Planning Proposal are apportioned over 4 distinct precincts which are based upon the concept plans submitted with the Planning Proposal (refer **Appendix B.2** of **Attachment A**) and the proposed future staging of the development (see Figure 4 below).*

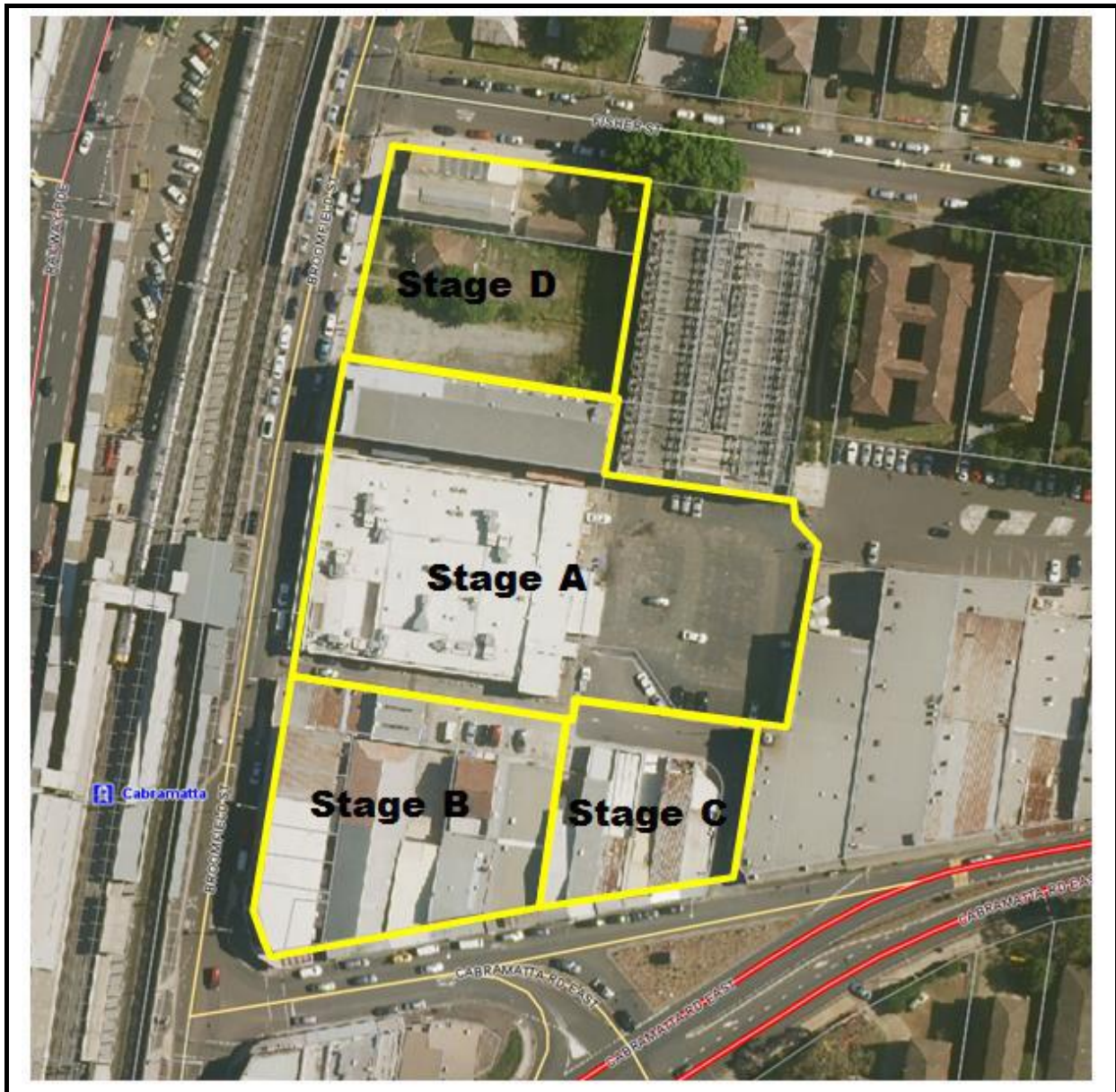


Figure 7 - Proposed Staging of Future Development

In summary, the Planning Proposal seeks the following changes to Fairfield Local Environmental Plan 2013:

Height of Buildings

Amend the Height of Buildings map to increase the maximum height of buildings as follows:

- Stage A - from an existing maximum building height of 14m to permit a maximum building height of 59 metres;
- Stage B - from an existing maximum building height of 14m to permit a maximum building height of 66 metres;
- Stage C – from an existing maximum building height of 14m to permit a maximum building height of 57 metres; and
- Stage D – from an existing maximum building height of 14m to permit a maximum building height of 48 metres.

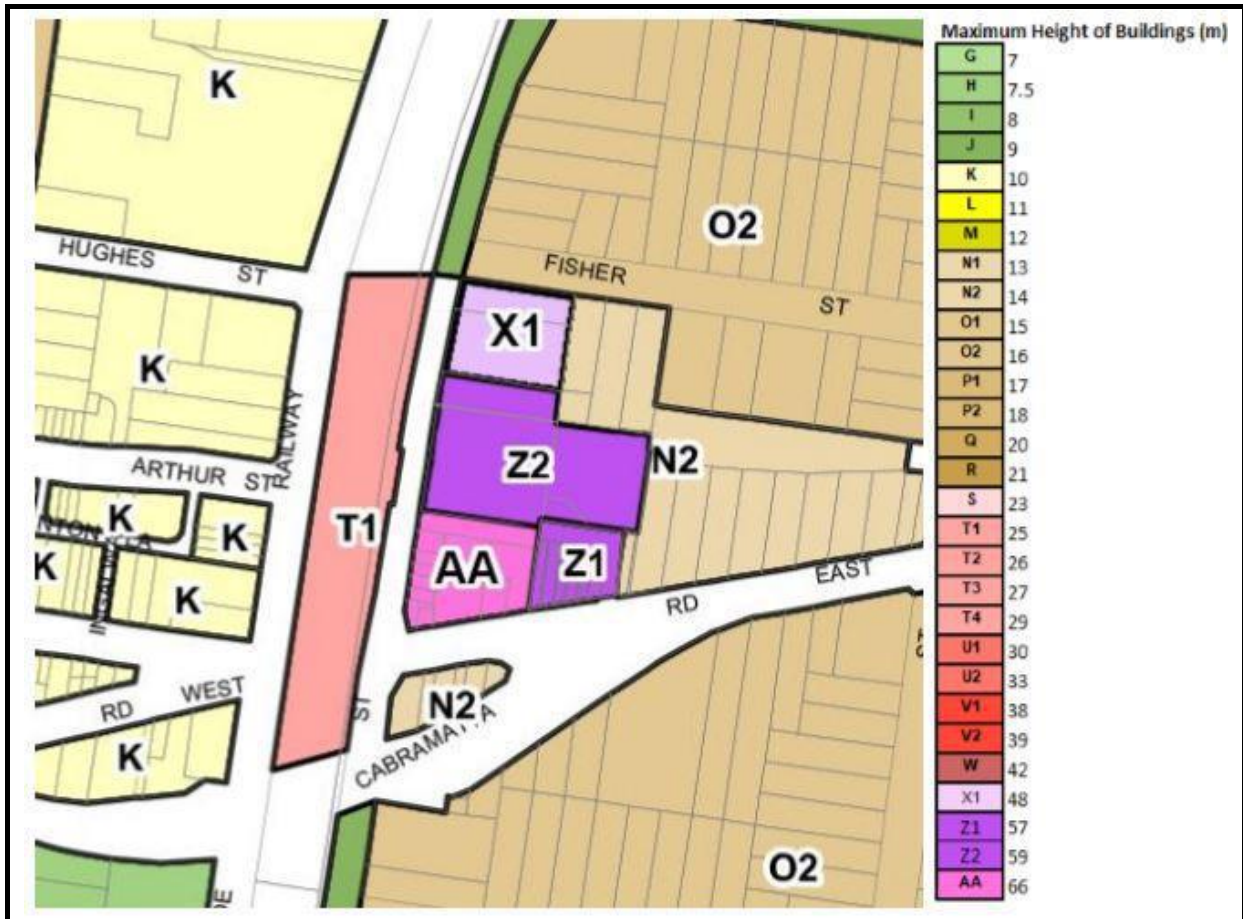


Figure 8 - Proposed Height of Buildings Map

Floor Space Ratio

Amend the Floor Space Ratio map to implement new maximum floor space ratio controls as follows:

- Stage A - from an existing maximum FSR of 2:1 to permit a maximum FSR of 3.85:1;
- Stage B - from an existing maximum FSR of 2:1 to permit a maximum FSR of 6.45:1;
- Stage C – from an existing maximum FSR of 2:1 to permit a maximum FSR of 6.1:1; and
- Stage D – from an existing maximum FSR of 2:1 to permit a maximum FSR of 4:1.

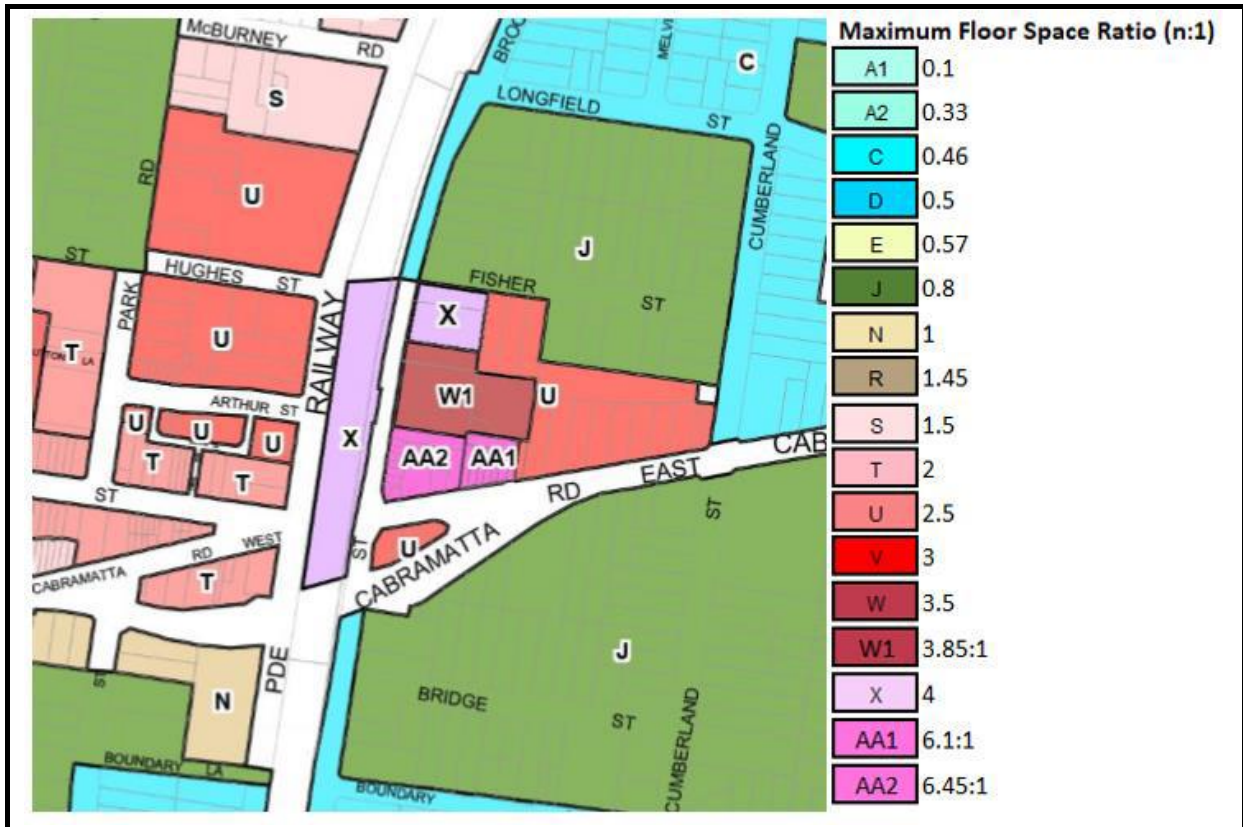


Figure 9 - Proposed Floor Space Ratio Map

Minimum Site Area Town Centre Precincts

Amend the Minimum Site Area Town Centre Precinct Map to identify the site as “Cabramatta – Area E” and apply varying minimum site areas across the site as follows:

- Stage A – Minimum site area of 2,700m² (western half) and 1,800m² (eastern half);
- Stage B – Minimum site area of 2,700m²;
- Stage C – Minimum site area of 1,300m²; and
- Stage D – Minimum site area of 2,200m²

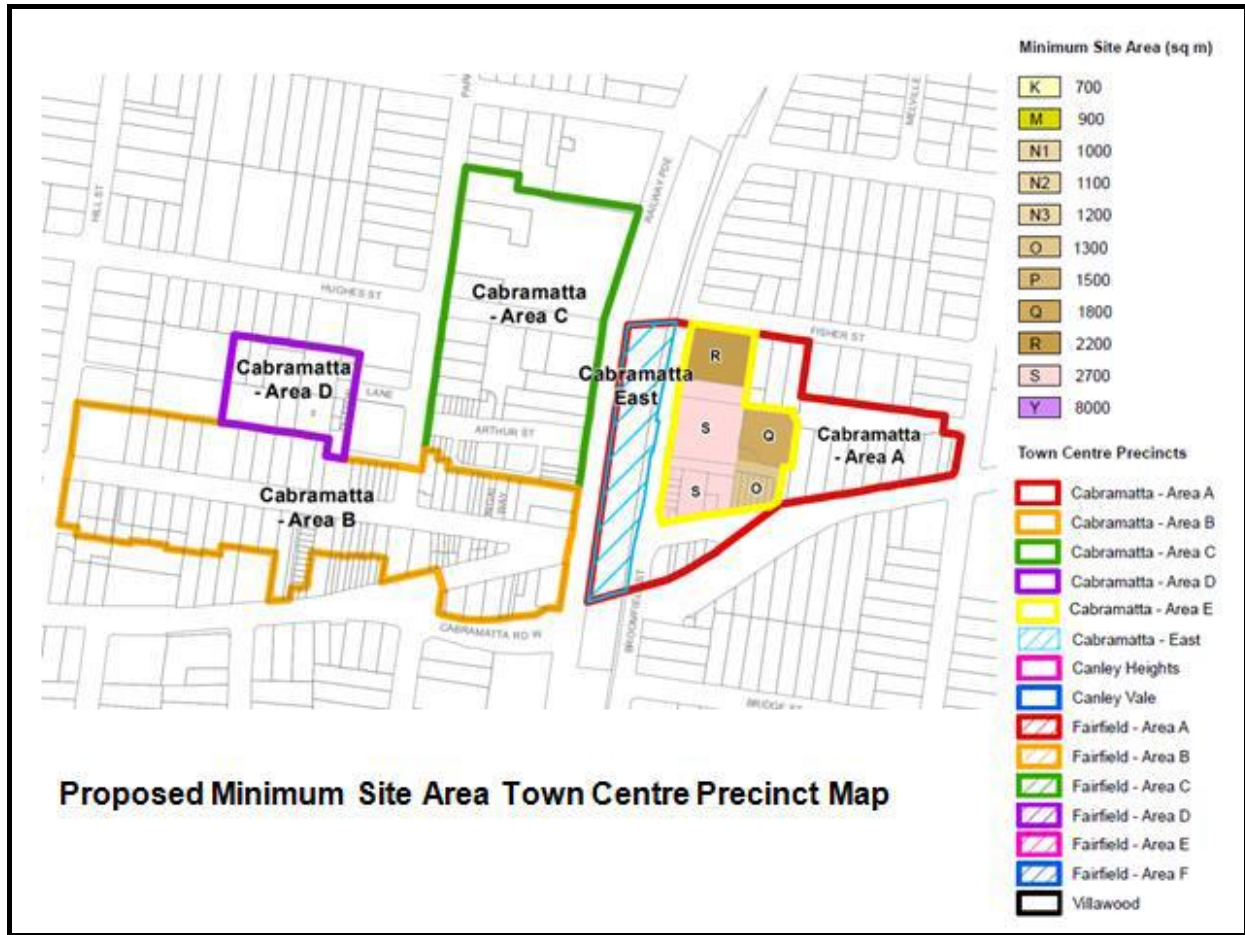


Figure 10– Proposed Minimum Site Area and Town Centre Precincts

Additional Local Provisions – Local Clause

Provide for a new Local Clause 7.9 - Cabramatta – Area E which would establish the following:

- i. Intended objectives and outcomes of the future development of the site;
- ii. Provision of a site specific DCP and associated staging plan;
- iii. Restrictions on the establishment of residential development on the ground floor; and
- iv. Restrictions on the amount of commercial/retail floor space across the site (consistent with current provisions).

The proposed local clause 7.9 is included within Section 3 Part 2 of the attached Planning Proposal document (**Attachment A**). The final drafting of this clause will be determined by the NSW Parliamentary Counsel’s office; however the clause as provided will form the basis of intended objectives, controls and outcomes for the future development of the subject site.

5.2 Gateway Determination requirement

A Gateway Determination was issued on 18 July 2019.

Condition 1 of this Gateway Determination required Fairfield City Council:

- 1. Prior to public exhibition, Council is to revise the planning proposal, where required, to apply a maximum building height of 48m (approximately 12 storeys), 57m (approximately 16 storeys), 59m (approximately 16 storeys), and 66m (19 storeys)

across the site, in accordance with the planning proposal considered by Council at its meeting of 25 September 2018.

5.3 Council Resolution 6 August 2019 amendment

Council at its Ordinary Meeting of 6 August 2019 considered a report (copy provided in Attachment B) that provided the Gateway Determination resolution.

Condition 1 of the Gateway Determination required *Prior to public exhibition, Council is to revise the planning proposal, where required, to apply a maximum building height of 48m (approximately 12 storeys), 57m (approximately 16 storeys), 59m (approximately 16 storeys), and 66m (19 storeys) across the site, in accordance with the planning proposal considered by Council at its meeting of 25 September 2018.*

However, Council after consideration of this report and the Gateway Determination, resolved as follows:

That Council seek a review of the Gateway Determination based on Council's previous resolution, to restrict the development to 16 floors.

This resolution would result in Stage B of the Planning Proposal to be restricted to a maximum height of between 57m to 59m (approximately 16 storeys).

6.0 GATEWAY DETERMINATION REVIEW

6.1 Reason for Report

Council at its 6 August 2019 Ordinary Meeting considered a report on the Gateway Determination issued on at which Council resolved to seek a review of the Gateway Determination based on Council's previous resolution, to restrict the development to 16 floors.

This resolution states:

That Council seek a review of the Gateway Determination based on Council's previous resolution, to restrict the development to 16 floors.

Accordingly, this report is prepared to support the Gateway Determination Review application lodged in response to this Council resolution.

6.2 Reason for imposition of Condition 1 of Gateway Determination

Assessment of the amended planning proposal, prepared by Fairfield City Council, which reflected the Council height reduction resolution of 25 September 2018 (maximum 15 storeys) was undertaken by the Gateway determination report dated 27 June 2019.

Pages 8, 9 & 10 of this report provide the assessment logic as to why the Department of Planning, Industry and Environment were unsupportive of the Council 25 September 2018 height restriction to a maximum of 15 storey resolution.

The relevant parts of pages 8 and 10 are reproduced as follows (page 9 provides visual concept illustrations of Council and proponents proposed heights):

Page 8

In response to the councillors' decision to reduce the proposed building height, the proponent has advised there was no planning justification for the height reduction and it disregards the work undertaken with council officers (Attachments F1–F3). In addition, it was advised that the height change would compromise the negotiations between Council and the proponent in regard to securing the consolidation of the site for redevelopment and the viability of delivering the local voluntary planning agreement (VPA) outcomes, such as the pedestrian overbridge to the station concourse due to the loss of 'premium' apartments within Stage B of the proposed development. It was also noted that the planning proposal submitted to Council was informed by strategic considerations and tested to ensure appropriate amenity outcomes within the site and with the surrounding area.

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A visual comparison of the proposed development based on the councillors' endorsed height (Figure 6, previous page) and the proponent's proposed height (Figure 7, previous) was provided by the proponent.

The Department considers that the visual impact of an additional four storeys (i.e. 19 storeys compared to 15 storeys) on the corner of Cabramatta Road East and Bloomfield Street would be minor from the street level and the surrounding public domain.

It is also noted that as part of the preparation of the local strategic planning statement for Fairfield LGA, Council has advised that the future growth of the LGA would be focused within the main town centres such as Cabramatta Town Centre, which includes this site. The adopted urban design study prepared for the Fairfield Town Centre proposes a density increase of up to 10 and 20 storey buildings for key sites within the centre and it is expected Cabramatta Town Centre would have comparable heights, once the initiated urban design study is finalised by Council.

The Department acknowledges the work undertaken by council officers, and the proponent, to develop the original planning proposal and concept plan, including the alignment of the building height and FSR controls to restrict the built form of the proposed development.

It is also noted that the supporting studies submitted with the planning proposal, such as the shadow diagrams (Attachment D3) and the traffic and transport assessment (Attachment D4), are based on the proponent's original building height.

Further, there is no justification, or studies, provided by Council to support the blanket 48m building height for the site. In addition, the blanket building height of 48m and the identified FSRs of 2.5:1 to 3.85:1, 4:1, 6.1:1 and 6.45:1 for the site are not considered to be compatible. The built form outcome of the proposed development based on these development standards would result in an entirely different building compared to the version assessed by council officers, the Fairfield Local Planning Panel, and the independently appointed urban designers.

Taking these matters into consideration, the Department recommends that Council amends the proposed maximum building height to be consistent with the heights originally assessed and supported by council officers and the Fairfield Local Planning Panel, i.e. a maximum building height of 48m (approx. 12 storeys), 57m (approx. 16

storeys), 59m (approx. 16 storeys), and 66m (approx. 19 storeys).

The Department considers that there is strategic and site-specific merit for the planning proposal to proceed with the scaled building height as originally proposed by the proponent.

6.3 Assessment and Reasons for support of Council requested Gateway Determination Review by Council resolution 6 August 2019

As already stated, Council resolved at its 6 August 2019 Ordinary Meeting, after consideration of the report on the Gateway Determination issued 18 July 2019, which imposed via Condition 1 that prior to public exhibition, the heights revert to the Planning Proposal original heights proposed, prior to the 25 September 2018 Council resolution.

The heights to be exhibited are a maximum building height of 48m (12 storeys), 57m (16 storeys), 59m (16 storeys) and 66m (19 storeys).

Accordingly due to the August 6 Council resolution, a Gateway Determination review is now sought and is allowable, as explained within Planning Circular PS 18-012 *Independent reviews of plan making decisions*, to restrict the height of Stage B instead of the originally proposed height of 66m (19 storeys) to be restricted to maximum height of between 57m to 59m being approximately 16 storeys (floors).

Urban Design Assessment/Height/Streetscape

Prior to the preparation of the initial report on the Planning Proposal (PP) (14 August 2018) considered by Council, an independent urban design assessment of the Planning Proposal was commissioned to be undertaken by TGP Town Planning and Urban Design.

The Planning Proposal assessed by TGP Town Planning and Urban Design proposed two (2) precincts only, a northern precinct (Site A) and a southern precinct (Site B) (4 precincts proposed under Gateway Determination PP). The building height and floor space ratio table provided on page 2 of this report identifies that the maximum height proposed for Site B (southern site, adjoins Cabramatta Road East) to be 45metres and potential FSR of 3.15:1. Whilst Site A (northern site, adjoins Fisher Street) is allocated a maximum height of 72metres and potential FSR of 5.2:1.

Page 5 of this report further notes that a Planning Proposal does not propose actual development or built form as any architectural plans can be considered indicative. However, this report notes that a site of this nature, the particular relationship between development controls and the ability to achieve the future form outcome should be based on sound urban design principles. This report also states *that "It is important to ensure that the site planning principles (Height and Floor Space Ratio personally added) and proposed massing are achievable with acceptable and management impacts.*

Whilst Page 19 (4.4 Summary) notes that this Planning Proposal will provide a unique opportunity for development outcome which will result in a number of public benefits.

This Summary also acknowledges that to reduce the impacts on neighbouring properties, especially to the south of the site will warrant reconsideration of building height and distribution of massing to ensure that the proposal does not unfairly impact on the future solar access and development potential of the nearby properties. These comments relate to a 45m proposed built form not to the 66m required height under Condition 1 of the Gateway Determination.

Further at page 18 in *4.2 Site Specific impacts*, the report recommends that further investigation to the proposed built form, massing and overshadowing of developable land parcels to the south of the site being 126 and 144 -156 Cabramatta Road East. It is also noted that the zoning of these properties will allow for residential purposes and redistribution of building form and reduction in height may need to occur, particular adjacent to Cabramatta Road East.

It is acknowledged that the TPG report assessed a slightly different planning proposal. Where this PP proposed only two (2) sites for the overall site, whilst the Gateway Determination PP proposes four (4) sites for the same area. The fundamental difference between the 2 PP proposals, was that the (northern) site B (adjoining Fisher Street) proposed to accommodate the greater height of 72metres and higher FSR of 5.2:1 and therefore the greater amount of built form. Whilst the lesser height and height of 45metres and FSR 3.5:1 proposed to be accommodated within the southern part of the site.

This Planning Proposal adopts a more typical approach of the normal sound urban and planning principles, where the massing, height and FSR are normally located towards and within the northern part of a site. This use of this part of a site's location for greater built form, will result in a substantial amount of the impacts generated by future development to be at least accommodated within the site's boundaries.

The Fairfield Council's initial resolution to require a maximum height of 15 storeys in place of the proposed 16 and 19 storeys appears may have been to adopt the more traditional planning principle of maximizing future impacts to be retained within site boundaries.

Again, the same Councillor thought process may have been the basis of the 6 August 2019 to restrict the maximum height to 16 storeys (floors) and thereby restrict the bulk, scale massing and height of the 19 storey corner building given height requirement of Condition 1 of the Gateway Determination and hence reduce impact on southern neighbouring properties fronting Cabramatta Road East.

The Gateway Determination (4 precincts) with the Condition 1 requirement to readopt the proposed heights where the greatest height of 66 metres is to adjoin the southern boundary will generate greater impact on the residential properties on the southern side of Cabramatta Road East and little, if any, of the impact of the greatest part of built form will be accommodated within the site boundaries.

From an urban design and streetscape height perspective, examination of the Gateway determination report reveals that a visual comparison of the proposed development based on the council resolution height restriction against the original planning proposal was undertaken. This assessment/comparison could be

undertaken as diagrams providing the visual differences where provided by the Planning Proposal proponent.

The diagrams utilized are provided as follows:



Figure 6: Concept plan based on Council-endorsed heights.



Figure 7: Concept plan based on proponent's proposed heights.

The Gateway Determination report indicates '*The Department considers that the visual impact of an additional four storeys (i.e. 19 storeys compared to 15 storeys) on the corner of Cabramatta Road East and Bloomfield Street would be minor from the street level and the surrounding public domain.*'

It is acknowledged from a street level urban design perspective, to visually distinguish the height difference between the Council 15 storey proposal and the original 19 storey height additional height would be very difficult visually. The same conclusion would result with the 16 storey restriction sought by Council 6 August 2019 resolution.

The Council Planning Proposal report and the Gateway Determination report do not provide any discussion on the future direction for that parcel of land as identified as follows:



Image courtesy of Google Maps

For applicable height and FSR controls are provided within Section 4.3 of the report. However, for ease of discussion this information is provided:

- Height Area N2 – 14metres
- Floor Space Ratio - Area U – 2.5:1

Whilst the area to the south of this site that adjoins Cabramatta Road East and zoned Residential has the following height and FSR applicable controls:

Height Area O2 – 16metres
 Floor Space Ratio Area J – 0.8:1

The traditional urban design principle is to provide a stepdown of the built form through the provision of applicable development controls to achieve an acceptable streetscape architectural interface between commercial and residential even if there are street/roads between the applicable sites.

This site when the Planning proposal is redeveloped and as well as the residential site to the south will be located if not redeveloped in an urban built form valley given that this site has the lowest maximum height allowance.

With the proposed 16 storey height proposed by Council, this height reduction will provide at least a lesser visual valley affect than with the proposed 19 storey height limit.

All the above information provided, clearly demonstrates that the height reduction from 19 storeys to 16 storeys (floors) requested by Council in the Gateway

Determination Review should address the matters raised. Accordingly, the Gateway Determination should be altered to require that prior to the public exhibition, Council is to revise the planning proposal, where required, to apply a maximum building height of 48m (approximately 12 storeys to Stage D) and 57m (approximately 16 storeys to Stages A, B and C) across the site, in accordance with the planning proposal considered by Council at its meeting of 25 September 2018.

Shadow Impact Assessment

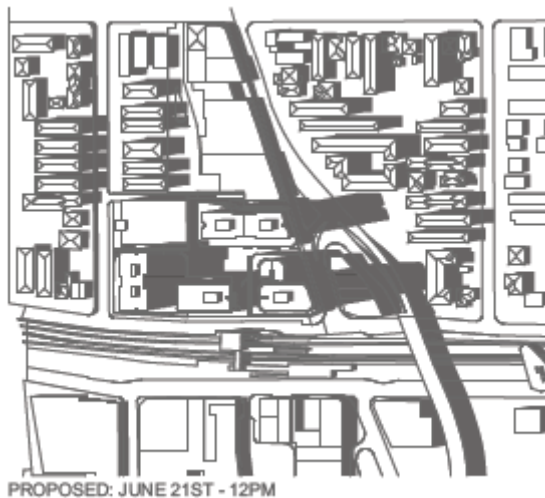
Examination of the Gateway determination report reveals that no assessment or comparison of the potential reduction in overshadowing on the land located to the south of the site has been undertaken for the height reduction proposed in Council's resolution of 25 September 2018. The only mention of shadow diagrams relates to the original building heights proposed.

The shadow diagrams illustrating the effect of the proposed height increase are provided:

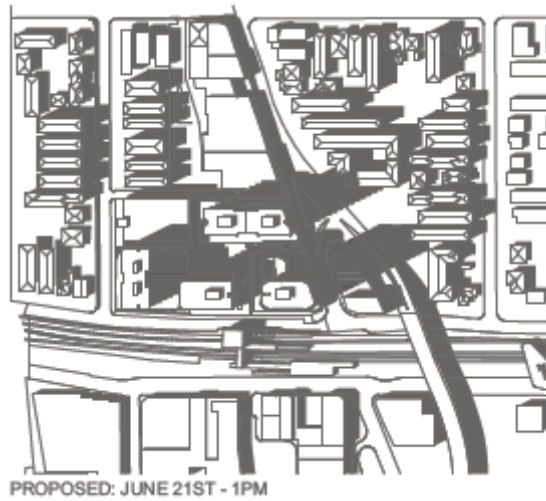
9am 21 June



12pm 21 June



1pm 21 June



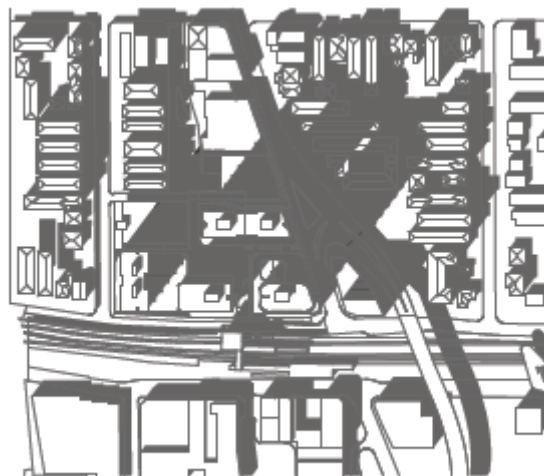
PROPOSED: JUNE 21ST - 1PM

2pm 21 June



PROPOSED: JUNE 21ST - 2PM

3pm 21 June



PROPOSED: JUNE 21ST - 3PM

As indicated within Section 4.2 Site Specific Impacts of the TPG Town Planning and Urban Design report (page 18) *“TPG recommends that the applicant undertake further investigation of the proposed built form massing and its overshadowing impact on developable land parcels to the south (i.e. 126 and 144-156 Cabramatta Road East) to ensure that the future development of the subject site does not unfairly prejudice the development potential of those lots. The zoning of these lots allow for residential purposes. As such a redistribution of building built and reduction in height may need to occur, particularly adjacent to Cabramatta Road East.”*

It is noted early in this section of the report, the Planning Proposal assessed by TPG proposed only 2 precincts, with the southern precinct (Site A) to be allocated a maximum height of 45m and FSR of 3.15:1. The above statement relates to a height of 45m which is substantially less than the 66m (height difference 21metres) as now being required by the Department via Condition 1 of the Gateway Determination.

The TPG urban design report at page 14 provides a core requirements of SEPP65/ADG Assessment table which indicates for 4A Solar and Daylight Access for solar overshadowing within the site and external to the site that the applicant should provide a schedule to confirm that that appropriate solar access consistent with ADG standards should be provided. This table further noted for 4A for external overshadowing that further consideration of solar impacts on 126 Cabramatta Road East (Lot 1 in DP 567885 and Lots 8, 9, 10, 11 and 12 in DP 237675) and on 144-156 Cabramatta Road East is necessary.

Plus, it is identified in this table that for the above lots, further investigation of vertical shadow impacts on a potential future built form scenario is also recommended to ensure these lots can achieve appropriate solar access.

However, the Planning Proposal documentation did not undertake to provide this information. It only provided large scale overshadowing diagrams which could not allow the required detail assessment to be undertaken that was suggested as required in the TPG urban design advice.

Accordingly, considering the TPG urban design advice provided which indicates that a proposed height of 45metres along the Cabramatta Road East boundary was unacceptable due to overshadowing impact and proposed built form and massing and thereby would unfairly prejudice the development potential of the lots to the south. To require that the height revert to the originally proposed 66metres for that area identified as Stage B of the Planning Proposal assessed by the Department appears unacceptable and unsupportable in light of the future overshadowing and built form and massing impacts.

A rule of thumb for overshadowing is that for each 1 metre reduction of height at midday will normally result in approximately a 3 reduction in shadow length. As such for the proposed reduction from 66 metres to 59metres should result in a shadow length reduction in approximately 18 metres. Shadow length reduction would be greater if height were limited to 57metres as for Stage C which is the stage that will adjoin the Cabramatta Road East site frontage.

It is concluded, after consideration of above information, the height reduction requested from 19 storeys to 16 storeys (floors) by Council in the Gateway Determination Review should address the identified potential overshadowing impact issue that will result in the unfairly prejudice of the development potential of those lots to the south of the site.

Accordingly, the Gateway Determination should be altered to require that prior to the public exhibition, Council is to revise the planning proposal, where required, to apply a maximum building height of 48m (approximately 12 storeys to Stage D) and 57m (approximately 16 storeys to Stages A, B and C) across the site, in accordance with the planning proposal considered by Council at its meeting of 25 September 2018.

7.0 Conclusion

A Gateway Determination of a Planning Proposal from Fairfield City Council was issued on 18 July 2019 that Council in Condition 1 to:

Prior to public exhibition, Council is to revise the planning proposal, where required, to apply a maximum building height of 48m (approximately 12 storeys), 57m (approximately 16 storeys), 59m (approximately 16 storeys), and 66m (19 storeys) across the site, in accordance with the planning proposal considered by Council at its meeting of 25 September 2018.

However, Council after consideration of a report on the Gateway Determination at its meeting of 6 August 2019, resolved as follows:

That Council seek a review of the Gateway Determination based on Council's previous resolution, to restrict the development to 16 floors.

A Gateway Determination Review is now lodged which seeks that the Gateway Determination be altered to restrict development to a maximum of 16 floors (storeys) as per Council resolution of 6 August 2019.

This report has been prepared to support the Gateway Determination Review application.

In this report it has been identified that the Urban Design Review undertaken by TPG Town Planning and Urban Design of a prior Planning Policy before being amended to the current Gateway Determination issued Planning Proposal proposed a height limit of 45metres for the Stage B and C areas.

This Urban Design Review identified in Section 4.3 of the report that the proposed 45metres in this location was unacceptable and *“further investigation be required of the proposed built form, massing and overshadowing impact on the developed land parcels to the south to ensure that the future development of the subject site does not unfairly prejudice the development of these lots.”*

After consideration of the impacts to be generated on the developable lots to the south through the required height increase from 59metres to 66metres. It was concluded that the Gateway Determination should be altered by the Gateway

Determination Review and that the following suggested Gateway Determination amendment to Condition should be issued:

The Gateway Determination is altered and now requires that prior to the public exhibition, Council is to revise the planning proposal, where required, to apply a maximum building height of 48m (approximately 12 storeys to Stage D) and 57m (approximately 16 storeys to Stages A, B and C) across the site, in accordance with the planning proposal considered by Council at its meeting of 25 September 2018.

ATTACHMENT A

Gateway Determination 18 July 2019



Gateway Determination

Planning proposal (Department Ref: PP_2018_FAIRF_003_00): to amend the development controls for the eastern portion of Cabramatta Town Centre.

I, the Executive Director, Regions at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Fairfield Local Environmental Plan (LEP) 2013 to: increase the maximum building height for the land in the eastern portion of Cabramatta Town Centre to 48m, 57m, 59m, and 66m; increase the maximum floor space ratio of the site to 3.85:1, 4:1, 6.1:1 and 6.45:1; identify the site as “Cabramatta – Area E” on the Town Centre Precinct, minimum site area map and apply a minimum site area of 1300m², 1800m², 2200m² and 2700m² to certain land within the site; and introduce a new local clause for the site should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to revise the planning proposal, where required, to apply a maximum building height of 48m (approximately 12 storeys), 57m (approximately 16 storeys), 59m (approximately 16 storeys), and 66m (approximately 19 storeys) across the site, in accordance with the planning proposal considered by Council at its meeting of 25 September 2018.
2. Prior to public exhibition, the planning proposal is to be amended as follows:
 - (a) under Part 2 – Explanation of Provisions:
 - (i) include an explanation of the intent of the proposed local clause; and
 - (ii) remove subclauses 7 and 8 of the proposed local clause;
 - (b) under Part 2.3 and Appendix A.2, include a clear outline of the site on the current and proposed maps;
 - (c) prepare a visual impact assessment to address and consider the impacts of the proposed development on the surrounding area;
 - (d) update the proposed concept plan with the recommendations of Council’s traffic engineers;
 - (e) update the consistency of the planning proposal with section 9.1 Directions 3.5 Development Near Regulated Airports and Defence Airfields, 4.3 Flood Prone Land and 6.3 Site Specific Provisions;
 - (f) prepare a draft site-specific development control plan for the site and concurrently exhibit this plan with the planning proposal; and
 - (g) indicate the intent to update the Cabramatta Town Centre Development Control Plan No. 5/2000 to include the proposed development controls for the site.

3. The revised planning proposal is to be updated in accordance with conditions 1 and 2 and forwarded to the Department for review and approval prior to public exhibition.
4. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (iii) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (iv) the planning proposal 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 local environmental plans* (Department of Planning and Environment 2016).
5. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - Roads and Maritime Services;
 - Transport for NSW;
 - Sydney Trains;
 - Office of Environment and Heritage;
 - Bankstown Airport;
 - Airservices Australia;
 - federal Department of Infrastructure, Regional Development and Cities;
 - Sydney Water;
 - Telstra;
 - Jemena Gas; and
 - Endeavour Energy.

Each public authority/organisation 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.

6. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the 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).

7. The time frame for completing the LEP is to be **18 months** following the date of the Gateway determination.

Dated 18th day of July 2019.


Stephen Murray
Executive Director, Regions
Department of Planning, Industry and
Environment

**Delegate of the Minister for Planning and
Public Spaces**

PP_2018_FAIRF_003_00 (IRF18/5834)



**Planning,
Industry &
Environment**

PP_2018_FAIRF_003_00/(IRF18/5834)

Mr Alan Young
City Manager
Fairfield City Council
PO Box 21
FAIRFIELD NSW 1860

Attn: Ms Elizabeth Workman

Dear Mr Young

Planning proposal PP_2018_FAIRF_003_00 to amend Fairfield Local Environmental Plan 2013

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) and additional information received on 3 June 2019 in respect of the planning proposal to amend the development controls for the eastern portion of Cabramatta Town Centre.

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

After careful consideration, I have conditioned the determination that the proposal proceeds with the application of maximum building heights of 48m (approximately 12 storeys); 57m (approximately 16 storeys); 59m (approximately 16 storeys); and, 66m (approximately 19 storeys), as proposed by the proponent and supported by council officers and the Fairfield Local Planning Panel.

In making my determination, I have taken the view that amendment of the proposal in this manner will better facilitate the revitalisation of the eastern portion of Cabramatta Town Centre and introduce proposed building height and floor space ratio controls to provide appropriate built form certainty. I have not taken this decision lightly and I can assure Council that I have fully considered all the planning merits and advice, including the analysis prepared by the independently appointed urban designers.

I have also agreed, as delegate of the Secretary, that the planning proposal's inconsistency with section 9.1 Direction 6.3 Site Specific Provisions is justified in accordance with the terms of the Direction. No further approval is required in relation to this Direction.

Council may need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant section 9.1 Directions 3.5 Development Near

Regulated Airports and Defence Airfields and 4.3 Flood Prone Land. Council should ensure this occurs prior to public exhibition.

I have considered the nature of Council's planning proposal and have not conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending LEP is to be finalised within 18 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department to draft and finalise the LEP should be made eight weeks prior to the projected publication date.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Ms Chantelle Chow to assist you. Ms Chow can be contacted on 9860 1548.

Yours sincerely

 18 July 2019
Stephen Murray
Executive Director, Regions

Encl: Gateway determination

ATTACHMENT B

Report to Council meeting 25 September 2018

REPORT BY CHAIRPERSON
OUTCOMES SUPPLEMENTARY REPORTS

Meeting Date 6 August 2019

Item Number. 71

SUBJECT: Gateway Determination - Cabramatta Town Centre East Planning Proposal
Premises: Various properties bounded by Fisher Street, Broomfield Street and Cabramatta Road East, Cabramatta
Applicant/Owner: Moon Investments Pty Ltd (Director/Secretary - Jim Castagnet, Director - Leon Zheng)
Zoning: B4 Mixed Use

FILE NUMBER: 16/18077

PREVIOUS ITEMS: 98 - Planning Proposal - Cabramatta Town Centre East - Outcomes Committee - 14 Aug 2018
20 - Planning Proposal - Cabramatta Town Centre East - Fairfield Local Planning Panel - 30 Aug 2018

REPORT BY: Elizabeth Workman, Senior Strategic Land Use Planner

RECOMMENDATION:

That:

1. Council note the Gateway Determination (Attachment A to the report) to allow the Cabramatta Town Centre East Planning Proposal to proceed to public exhibition.
2. The draft Site Specific Development Control Plan (SSDCP), draft Voluntary Planning Agreement (VPA) and Visual Impact Assessment for the subject site be reported to Council for endorsement prior to referral of these documents to the NSW Department of Planning.

Note: This report deals with a planning decision made in the exercise of a function of Council under the EP&A Act and a division needs to be called.

SUPPORTING DOCUMENTS:

AT-A [u](#) Cabramatta Town Centre East Gateway Determination and Letter - 5 Pages
18 July 2019
AT-B [u](#) Planning Circular - Independent Review of Plan Making Decisions 3 Pages

REPORT BY CHAIRPERSON
OUTCOMES SUPPLEMENTARY REPORTS

Meeting Date 6 August 2019

Item Number. 71

CITY PLAN

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

SUMMARY

Council is in receipt of a Gateway Determination for the Planning Proposal relating to a number of sites on the eastern side of the Cabramatta Town Centre adjacent to the Cabramatta Railway Station. The Gateway Determination was issued on 18 July 2019 and contains a number of conditions that are to be met prior to the Planning Proposal proceeding to public exhibition.

The purpose of this report is to inform Council of the relevant conditions of the Gateway Determination specifically relating to an amendment to the maximum height of buildings and the preparation and submission of a Visual Impact Assessment. The report also informs Council of its right to apply for a Gateway Review given the variation to the proposal that was endorsed for Gateway Determination by Council in September 2018.

BACKGROUND

14 August 2017 - Council received a Planning Proposal application seeking to amend the planning controls for a large precinct of land within the Town Centre on the eastern side of the Cabramatta Railway Station.

10 October 2017 - A briefing outlining the Proposal and issues for investigation was presented to Councillors.

14 August 2018 – Council considered the Planning Proposal (including an independent urban design review) and referred the proposal to the Fairfield Local Planning Panel for consideration and advice.

30 August 2018 - The Fairfield Local Planning Panel subsequently considered and supported the Planning Proposal and recommended its referral to the NSW Department of Planning for the purposes of a Gateway Determination.

25 September 2018 – Council considered the advice of the Fairfield Local Planning Panel and resolved to refer the Planning Proposal to the Department of Planning **with a reduced building height over a portion of the site from 19 storeys to 15 storeys.**

22 October 2018 – The amended Planning Proposal (reflecting Council's resolution for a reduced height limit over a portion of the site) was formally referred to the NSW Department of Planning under Section 3.34 of the Environmental Planning & Assessment Act, 1979 for the purposes of a Gateway Determination.

REPORT BY CHAIRPERSON
OUTCOMES SUPPLEMENTARY REPORTS

Meeting Date 6 August 2019

Item Number. 71

REPORT

On 18 July 2019, Council received a Gateway Determination (Attachment A to the report) to facilitate the public exhibition of the Planning Proposal for the Cabramatta Town Centre East Precinct bounded by Fisher Street, Broomfield Street and Cabramatta Road East immediately adjacent to the Cabramatta Railway Station.

Condition No.1 of the Gateway Determination requires Council to revise the Planning Proposal to apply a maximum building height of 48m (approximately 12 storeys), 57m (approximately 16 storeys), 59m (approximately 16 storeys), and 66m (approximately 19 storeys) across the site in accordance with the Planning Proposal initially considered by Council at its meeting of 25 September 2018. A further Condition No.2(c) also requires the preparation of a Visual Impact Assessment by the applicant to address and consider the impacts of the proposed development on the surrounding area.

Condition No.1 is contrary to Council's resolution from the meeting of 25 September 2018, which stated the following:

"Council endorse the Planning Proposal (Attachment A of the report) to amend the building height, floor space ratio and minimum site area provisions under Fairfield Local Environmental Plan (LEP) 2013 for certain land bounded by Fisher Street, Broomfield Street and Cabramatta Road East Cabramatta but that the proposed 16 and 19 storey buildings on the site be amended to a maximum of 15 storeys".

Under the provisions of *Planning Circular PS 18-012 Independent Reviews of Plan Making Decisions* (Attachment B of the report) Council can request a Gateway Review be undertaken by the Minister (or delegate) where the Gateway Determination makes variations to the proposal that Council thinks should be reconsidered.

In the accompanying letter to the Gateway Determination (Attachment A of the report) the Executive Director provides justification for the Department's decision to increase the building heights over a portion of the site. In particular, the letter states that *"amendment to the proposal in this manner will better facilitate the revitalisation of the eastern portion of Cabramatta Town Centre and introduce proposed building height and floor space ratio controls to provide appropriate built form certainty"*. The letter further states that the Department has *"fully considered all the planning merits and advice, including the analysis prepared by the independently appointed urban designers"*.

The Fairfield Local Planning Panel, independent urban design review and the Department have all supported the proposed building heights for the purposes of public exhibition, ranging from 48m to 66m.

Given that Condition No.2(c) of the Gateway Determination requires the preparation of a visual impact assessment to address and consider the impacts of the development on the surrounding area, it is recommended that Council not pursue a Gateway Review.

REPORT BY CHAIRPERSON
OUTCOMES SUPPLEMENTARY REPORTS

Meeting Date 6 August 2019

Item Number. 71

The requirement for the public exhibition of the Planning Proposal to be accompanied by associated documents including the draft Site Specific Development Control Plan (SSDCP), draft Voluntary Planning Agreement (VPA), draft concept plans and visual impact assessment will allow Council and the community an opportunity to consider the entire proposal in the context of the Town Centre and surrounds.

Should this public exhibition and consultation period bring to light significant concerns with respect to the proposed building height and/or floor space ratio controls, Council can reconsider the ultimate development potential for the site at this time.

For these reasons, it is recommended that Council accept the Gateway Determination issued on 18 July 2019 and advise the applicant of their requirement to submit a draft SSDCP, draft VPA, updated draft concept plans and a visual impact assessment for review and approval by Council and the Department prior to public exhibition.

CONCLUSION

The Gateway Determination issued by the NSW Department of Planning in respect of the Cabramatta Town Centre East Planning Proposal supports the progression of the Planning Proposal to public exhibition subject to a number of conditions.

One of these conditions requires Council to amend the maximum building height control across the site to that proposed under the original Planning Proposal. This decision to increase the building height was based upon significant consideration of the planning merits and advice including that of the Fairfield Local Planning Panel and independently appointed urban designers.

It is therefore recommended that Council not pursue a Gateway Review, but instead proceed to public exhibition of the Planning Proposal supported by all associated documentation as outlined in this report.

Elizabeth Workman
Senior Strategic Land Use Planner

Authorisation:
Manager Strategic Land Use & Catchment Planning
Group Manager City Strategic Planning

Outcomes Supplementary Reports - 6 August 2019

File Name: **OSR06082019_1.DOCX**
***** END OF ITEM 71 *****

ATTACHMENT A

Item: 71

Cabramatta Town Centre East Gateway Determination and Letter - 18 July 2019



Planning,
Industry &
Environment

Gateway Determination

Planning proposal (Department Ref: PP_2018_FAIRF_003_00): to amend the development controls for the eastern portion of Cabramatta Town Centre.

I, the Executive Director, Regions at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Fairfield Local Environmental Plan (LEP) 2013 to: increase the maximum building height for the land in the eastern portion of Cabramatta Town Centre to 48m, 57m, 59m, and 66m; increase the maximum floor space ratio of the site to 3.85:1, 4:1, 6.1:1 and 6.45:1; identify the site as "Cabramatta – Area E" on the Town Centre Precinct, minimum site area map and apply a minimum site area of 1300m², 1800m², 2200m² and 2700m² to certain land within the site; and introduce a new local clause for the site should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to revise the planning proposal, where required, to apply a maximum building height of 48m (approximately 12 storeys), 57m (approximately 16 storeys), 59m (approximately 16 storeys), and 66m (approximately 19 storeys) across the site, in accordance with the planning proposal considered by Council at its meeting of 25 September 2018.
2. Prior to public exhibition, the planning proposal is to be amended as follows:
 - (a) under Part 2 – Explanation of Provisions:
 - (i) include an explanation of the intent of the proposed local clause; and
 - (ii) remove subclauses 7 and 8 of the proposed local clause;
 - (b) under Part 2.3 and Appendix A.2, include a clear outline of the site on the current and proposed maps;
 - (c) prepare a visual impact assessment to address and consider the impacts of the proposed development on the surrounding area;
 - (d) update the proposed concept plan with the recommendations of Council's traffic engineers;
 - (e) update the consistency of the planning proposal with section 9.1 Directions 3.5 Development Near Regulated Airports and Defence Airfields, 4.3 Flood Prone Land and 6.3 Site Specific Provisions;
 - (f) prepare a draft site-specific development control plan for the site and concurrently exhibit this plan with the planning proposal; and
 - (g) indicate the intent to update the Cabramatta Town Centre Development Control Plan No. 5/2000 to include the proposed development controls for the site.

ATTACHMENT A

Item: 71 Cabramatta Town Centre East Gateway Determination and Letter - 18 July 2019

3. The revised planning proposal is to be updated in accordance with conditions 1 and 2 and forwarded to the Department for review and approval prior to public exhibition.
4. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (iii) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (iv) the planning proposal 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 local environmental plans* (Department of Planning and Environment 2016).
5. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - Roads and Maritime Services;
 - Transport for NSW;
 - Sydney Trains;
 - Office of Environment and Heritage;
 - Bankstown Airport;
 - Airservices Australia;
 - federal Department of Infrastructure, Regional Development and Cities;
 - Sydney Water;
 - Telstra;
 - Jemena Gas; and
 - Endeavour Energy.

Each public authority/organisation 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.

6. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the 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).

PP_2018_FAIRF_003_00 (IRF18/5834)

ATTACHMENT A

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Cabramatta Town Centre East Gateway Determination and Letter - 18 July 2019

7. The time frame for completing the LEP is to be **18 months** following the date of the Gateway determination.

Dated 18th day of July 2019.


Stephen Murray
Executive Director, Regions
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning and
Public Spaces

PP_2018_FAIRF_003_00 (IRF18/5834)

ATTACHMENT A

Item: 71 Cabramatta Town Centre East Gateway Determination and Letter - 18 July 2019



Planning,
Industry &
Environment

PP_2018_FAIRF_003_00(IRF18/5834)

Mr Alan Young
City Manager
Fairfield City Council
PO Box 21
FAIRFIELD NSW 1860

Attn: [REDACTED]

Dear Mr Young

Planning proposal PP_2018_FAIRF_003_00 to amend Fairfield Local Environmental Plan 2013

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) and additional information received on 3 June 2019 in respect of the planning proposal to amend the development controls for the eastern portion of Cabramatta Town Centre.

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

After careful consideration, I have conditioned the determination that the proposal proceeds with the application of maximum building heights of 48m (approximately 12 storeys); 57m (approximately 16 storeys); 59m (approximately 16 storeys); and, 66m (approximately 19 storeys), as proposed by the proponent and supported by council officers and the Fairfield Local Planning Panel.

In making my determination, I have taken the view that amendment of the proposal in this manner will better facilitate the revitalisation of the eastern portion of Cabramatta Town Centre and introduce proposed building height and floor space ratio controls to provide appropriate built form certainty. I have not taken this decision lightly and I can assure Council that I have fully considered all the planning merits and advice, including the analysis prepared by the independently appointed urban designers.

I have also agreed, as delegate of the Secretary, that the planning proposal's inconsistency with section 9.1 Direction 6.3 Site Specific Provisions is justified in accordance with the terms of the Direction. No further approval is required in relation to this Direction.

Council may need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant section 9.1 Directions 3.5 Development Near

320 Pitt Street Sydney NSW 2000 | GPO Box 39 Sydney NSW 2001 | planning.nsw.gov.au

ATTACHMENT A

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Cabramatta Town Centre East Gateway Determination and Letter - 18 July 2019

Regulated Airports and Defence Airfields and 4.3 Flood Prone Land. Council should ensure this occurs prior to public exhibition.

I have considered the nature of Council's planning proposal and have not conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending LEP is to be finalised within 18 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department to draft and finalise the LEP should be made eight weeks prior to the projected publication date.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Ms Chantelle Chow to assist you. Ms Chow can be contacted on 9860 1548.

Yours sincerely


Stephen Murray
Executive Director, Regions

10 July 2019

Encl: Gateway determination

ATTACHMENT B

Item: 71

Planning Circular - Independent Review of Plan Making Decisions

**PLANNING circular**

PLANNING SYSTEM

Plan-making reviews and delegations

Circular	PS 18-012
Issued	14 December 2018
Replaces	PS 16-004 (dated 30 August 2016)

Independent reviews of plan making decisions

The purpose of this circular is to advise councils and the public about the independent review processes related to plan-making decisions under Part 3 of the *Environmental Planning and Assessment Act 1979*.

Introduction

This circular replaces Planning Circular PS 16-004 and provides updates and advice in relation to changes to the *Environmental Planning and Assessment Act 1979* (the EP&A Act).

Independent Reviews

There are two administrative review processes available in the plan making process:

- **Rezoning reviews** – which may be requested by a proponent before a planning proposal has been submitted to the Department for a Gateway determination. These reviews are carried out by Planning Panels or the Independent Planning Commission (the Commission) for the City of Sydney; and
- **Gateway reviews** – which may be requested by a council or proponent following a Gateway determination. These reviews are informed by advice from the Commission.

These reviews will allow councils and proponents to have decisions in relation to proposed amendments to LEPs reconsidered, by providing an opportunity for an independent body to give advice on such proposals.

Rezoning Review

If a proponent (e.g. developer, landowner) has requested that a council prepare a planning proposal for a proposed instrument, the proponent may ask for a rezoning review if:

- the council has notified the proponent that the request to prepare a planning proposal is not supported, or
- the council has failed to indicate its support 90 days after the proponent submitted a request, accompanied by the required information, or has failed to submit a planning proposal for a Gateway

determination within a reasonable time after the council has indicated its support.

The Regulation requires councils to notify a proponent when the council determines that it will not support a request to prepare a planning proposal. The proponent of the proposed instrument then has 42 days to request that the relevant Planning Panel or the Commission review the proposal.

Where a council has not made a determination after 90 days, the proponent may request a review any time after the 90 days has lapsed. Where a council has made a decision to prepare a planning proposal or subsequently does so after the 90 days, there is an expectation that a planning proposal would be submitted for a Gateway determination no more than 42 days after this decision.

A proponent should contact the Department's regional office to discuss the opportunity for seeking a rezoning review if there are significant delays between a council making a determination and submitting a planning proposal for a Gateway determination.

A guide to preparing local environmental plans sets out lodgement requirements, including fees and information a proponent must provide to the Department in order for a review to be undertaken. Only the same application that was initially presented to the council by the proponent will be reviewed by the Planning Panel or the Commission.

Review and determination

The relevant Planning Panel or the Commission will undertake a strategic and site-specific merit assessment of rezoning review proposals.

The Planning Panel or the Commission will determine whether or not to recommend that a proposal should be submitted for a determination under section 3.34 of the Act (Gateway determination).

The key factor in determining whether a proposal should proceed to a Gateway determination should be its strategic merit. The Department has strengthened the Strategic Merit Test and proposals will now be assessed

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Planning Circular - Independent Review of Plan Making Decisions

to determine if they are:

- consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or
- consistent with a relevant local strategy that has been endorsed by the Department; or
- responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognized by existing planning controls.

A proposal that seeks to amend controls that are less than 5 years old will only be considered where it clearly meets the Strategic Merit Test.

Note: A draft regional plan outside of the Greater Sydney Region, draft district plan within the Greater Sydney Region or draft corridor/precinct plan that has been released for public comment by the Minister for Planning, Greater Sydney Commission or Department of Planning and Environment does not form the basis for the Strategic Merit Test where the Minister for Planning, Greater Sydney Commission or Department of Planning and Environment announces that there is to be another exhibition of, or it is not proposed to finalise, that draft regional, district or corridor/precinct plan.

Having met the Strategic Merit Test, the relevant Planning Panel or the Commission must then determine if the proposal has site-specific merit, having regard to:

- the natural environment (including known significant environmental values, resources or hazards);
- the existing uses, approved uses and likely future uses of land in the vicinity of the land subject to the proposal; and
- the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

Proposals that do not reasonably meet the assessment criteria above in the opinion of the Planning Panel or the Commission will not be able to proceed to a Gateway determination.

If the Planning Panel or the Commission determines that a proposal should proceed to a Gateway determination, councils will be provided the opportunity of accepting the planning proposal authority role. If the council does not accept the role within 42 days an alternate planning proposal authority will be appointed.

Planning Panels have delegated authority to direct itself to be the planning proposal authority where a proposal has been subject to a rezoning review and the council has not accepted this role.

For proposals that are to proceed to a Gateway determination, further work may still be required by the proponent or the planning proposal authority before a planning proposal can be submitted for a Gateway determination. Where a Council accepts the role of planning proposal authority it will have 42 days to submit a planning proposal to the Department for a Gateway determination or an alternate planning proposal authority will be appointed.

Further information and guidance regarding the delegations for Planning Panels and the Commission is described in Planning Circular PS 18-013.

Gateway Review

A council, when it is the planning proposal authority for a proposal, or proponent may request the Minister (or delegate) to alter a Gateway determination, when a Gateway determination is made that:

- a) the planning proposal should not proceed
- b) the planning proposal should be resubmitted to the Gateway, or
- c) imposes requirements (other than consultation requirements) or makes variations to the proposal that the council or proponent thinks should be reconsidered.

If the Gateway determination is either to not proceed or to resubmit the planning proposal, the council or proponent has 42 days from being notified by the Department to request a review.

If the Gateway determination is to proceed with the planning proposal but imposes conditions that the council or proponent considers inappropriate, the council or proponent has 14 days from being notified by the Department to indicate their intent to request a review. The council or proponent would then have 42 days to formally apply for a Gateway review.

A guide to preparing local environmental plans sets out lodgement requirements, including information the council or proponent must provide for a Gateway review to be undertaken.

Separate to the formal Gateway review process outlined above, a council, when it is the planning proposal authority for a proposal, may at any time request that the Gateway determination be reconsidered and reissued. Councils should contact the Department's regional team to discuss any concerns about the Gateway determination before deciding to request a formal review. For some routine matters, a Gateway determination may be altered without the need for a formal review.

Review and determination

The Planning Panels or the Commission will provide advice on whether the original Gateway determination should be altered, giving consideration to the council or proponent's submission and the reasons given for the original Gateway determination.

The Minister's final decision on whether to alter the Gateway determination will be informed by this advice, and the views of the council and proponent.

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Planning Circular - Independent Review of Plan Making Decisions

Further information

A guide to preparing local environmental plans provides advice on the various stages in the plan making process including details of the stages and application requirements for rezoning reviews and the review of Gateway determinations.

A guide to preparing planning proposals, issued under section 3.33(3) of the Act, provides advice on the preparation and content of planning proposals.

Copies of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000* are available online at <http://www.legislation.nsw.gov.au>.

Copies of *A guide to preparing local environmental plans* and *A guide to preparing planning proposals* are available on the Department's website <http://www.planning.nsw.gov.au>.

The Department has developed a number of template documents to assist councils preparing delegated LEPs. Councils will be able to access these templates and use them to ensure that the key statutory requirements of the plan-making process have been complied with. These templates are available for download from the Department's website at <http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/The-Gateway-Process>

For further information please contact the Department of Planning & Environment's information centre on 1300 305 695. Department of Planning & Environment circulars are available from <http://www.planning.nsw.gov.au/circulars>

Authorised by:

**Carolyn McNally
Secretary**

Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.
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ATTACHMENT C

Gateway Determination Report for Gateway Determination 18 July 2019



Planning Services

IRF19/5834

Gateway determination report

LGA	Fairfield City
PPA	Fairfield City Council
NAME	Cabramatta Town Centre East (582 homes, 369 jobs – subject to recommended amendment of the planning proposal)
NUMBER	PP_2018_FAIRF_003_00
LEP TO BE AMENDED	Fairfield LEP 2013
ADDRESS	Land bounded by Fisher Street, Broomfield Street and Cabramatta Road East, Cabramatta
DESCRIPTION	Various allotments
RECEIVED	25 March 2019
FILE NO.	IRF18/5834
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal (**Attachment A2**) seeks to increase the development controls for land within the eastern portion of Cabramatta Town Centre by amending the Fairfield Local Environmental Plan (LEP) 2013 as follows:

- increase the maximum building height for land within the site from 14m to 48m (approximately 15 storeys);
- increase the maximum floor space ratio (FSR) for land within the site from 2.5:1 to 3.85:1, 4:1, 6.1:1 and 6.45:1;
- identify the site as “Cabramatta – Area E” on the Town Centre Precinct, minimum site area map and apply a minimum site area of 1300m², 1800m², 2200m² and 2700m² to certain land within the site; and
- introduce a new local clause for the site that provides additional controls for the redevelopment of the site in relation to building height and FSR, and the application of a development control plan.

The proposal will not amend the current B4 Mixed Use zone for the site.

At the Fairfield City Council meeting of 25 September 2018, councillors resolved to reduce the proponent’s proposed building height for the site from a maximum of up to 59m and 66m (i.e. 16 and 19 storeys) (**Attachment D1**) to a blanket maximum building height of 48m (i.e. 15 storeys) (**Attachment A5**). The councillors did not

resolve to alter any of the proponent's other proposed amendments (i.e. FSR and minimum lot size).

1.2 Site description

The planning proposal applies to the eastern portion of Cabramatta Town Centre, which is zoned B4 Mixed Use and located along the eastern boundary of Cabramatta Station. The site has an area of approximately 1.3ha (or 12,847m²) and is bounded by Fisher Street to the north, Broomfield Street to the west, Cabramatta Road East to the south and a commercial development to the east. The site is outlined in red in Figure 1 (below).

The existing land uses within the site include several small retail shops and commercial premises, a hotel, a coaching college, a church, a dwelling house and a vacant parcel of land. The planning proposal would affect approximately 22 privately owned properties as identified on page 11 of the planning proposal (**Attachment A2**).

There are also approximately 70 private car parking spaces to the rear of the retail shops and a Council-owned laneway (which is 680m² in area) that traverses the southern part of the site.



Figure 1: Site context.

1.3 Existing planning controls

Under the Fairfield LEP 2013, the following zone and development controls apply to the site:

- zoned B4 Mixed Use (refer to Figure 2, below);
- a maximum building height of 14m; and
- a maximum FSR of 2.5:1.

The site is also identified as “Cabramatta – Area A” on the Town Centre Precinct, minimum site area map, which involves the application of Clause 7.2 (Cabramatta – floor space ratio) and Clause 7.3 (Cabramatta – height of buildings) to the site. The objective of these clauses is to provide additional guidance for the development of land within the site. A minimum lot size does not apply.

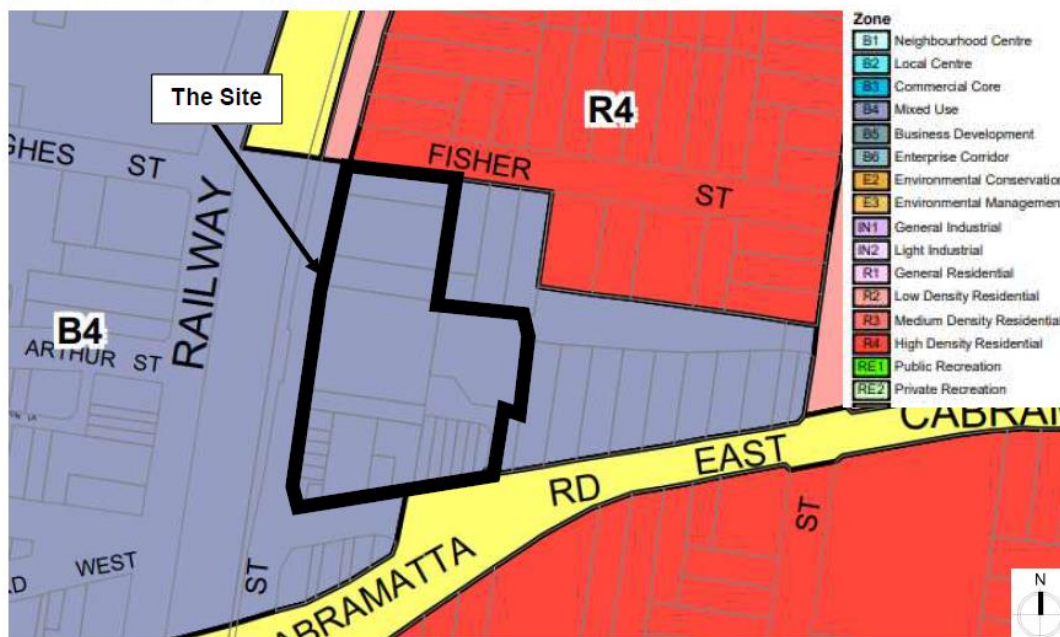


Figure 2: Current land zoning map.

1.4 Surrounding area

As shown in Figure 2 (above), the site is surrounded by B4 Mixed Use and R4 High Density Residential-zoned land. The B4-zoned land also forms part of the eastern portion of Cabramatta Town Centre and consists of two-storey commercial premises and a three-storey car park. The R4-zoned land contains a mix of single-storey dwelling houses and three-storey to four-storey residential flat buildings.

Cabramatta Station and the railway line is located along the western boundary of the site. The main portion of Cabramatta Town Centre is located on the western side of the railway station.

1.5 Summary of recommendation

It is recommended that the planning proposal proceed with conditions as it would facilitate the revitalisation of the eastern portion of Cabramatta Town Centre and provide additional housing and jobs in a suitable location, with access to infrastructure and services.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objective of this planning proposal is to revitalise the eastern portion of Cabramatta Town Centre by increasing the density of the site to facilitate the redevelopment of the land for a mix of commercial and residential apartment development, including basement car parking. It would also contribute to the development of an overhead pedestrian bridge to Cabramatta Station, activated street frontages and reinvigorated public spaces to enhance the commercial area east of the railway line.

Council also notes that the urban design objectives for the redevelopment of the site include the following:

- place making the site as a destination with improved connections across the railway line via a new overhead pedestrian bridge;
- facilitating and incentivising redevelopment of multistorey apartment living close to public transport, retail and other amenities; and
- reinvigorating shops and public spaces to activate the commercial area.

The objectives of this planning proposal are clear and adequate.

2.2 Explanation of provisions

The planning proposal seeks to amend the Fairfield LEP 2013 by:

- increasing the maximum building height for land within the site from 14m to 48m (approximately 15 storeys);
- increasing the maximum FSR for land within the site from 2.5:1 to part 3.85:1, 4:1, 6.1:1 and 6.45:1;
- identifying the site as “Cabramatta – Area E” instead of “Cabramatta – Area A” on the Town Centre Precinct, minimum site area map and applying a minimum site area of 1300m², 1800m², 2200m² and 2700m²; and
- introducing a new local clause for the site that provides additional guidance for the redevelopment of the site in relation to building height and FSR, and the application of a development control plan as follows:

Clause 7.9 Cabramatta - Area E

1. *This clause applies to land identified as “Cabramatta – Area E” on the Town Centre Precinct Minimum Site Area Map.*
2. *This clause has effect despite clause 4.3 Height of Buildings and clause 4.4 Floor Space Ratio.*
3. *The maximum floor space ratio of land identified as “Cabramatta – Area E” is:*
 - i. *If the building is not used for the purpose of residential accommodation – 1.5:1, or*
 - ii. *If less than 10% of the floor space is used for the purpose of residential accommodation – 2.0:1, or*
 - iii. *If 20% to 50% of the floor space is used for the purpose of residential accommodation – 2.2:1.*

4. *The height of a building on land identified as “Cabramatta – Area E” on the Town Centre Precinct Map must not exceed 14 metres unless the site area of the building is at least the minimum site area shown for the land on the Minimum Site Area Map.*
5. *The height of a building on land identified as “Cabramatta—Area E” on the Town Centre Precinct Map must not exceed 10 metres unless at least 50% of the building will be used for a residential purpose.*
6. *Despite any other provision of this Plan, development consent must not be granted to development for the purposes of residential accommodation located on the ground floor of a building (excluding residential lobbies and access areas).*
7. *Development of land identified as “Cabramatta Area – E” must be substantially in accordance with the adopted Development Control Plan that applies to the land.*
8. *The Development Control Plan must provide for:*
 - i. *Building envelopes and built form controls;*
 - ii. *Distinct public and private spaces including a market square, pedestrian access and overhead pedestrian bridge linking the site and the Cabramatta Railway Station concourse;*
 - iii. *Staging of future development;*
 - iv. *Traffic management infrastructure, including appropriate entry and exit points for each of the identified stages, loading and servicing areas;*
 - v. *Active street frontages to Broomfield Street and Cabramatta Road East; and*
 - vi. *Public domain improvements.*

The proposal would remove the application of clauses 7.2 and 7.3 to the site and would not change the current B4 Mixed Use zone for the site. Clauses 7.2 and 7.3 provide details on the FSR and heights permitted for Cabramatta Town Centre.

The planning proposal seeks to facilitate approximately 542 additional dwellings and 12,750m² of floor space for 369 additional jobs across the site. It is noted that the proponent’s original planning proposal sought to facilitate approximately 582 additional dwellings which is a loss of 40 dwellings from the original concept plan.

The proponent’s concept plan of the proposed development (**Attachment D3**) illustrates the inclusion of a church, a hotel/tavern, a medical centre, and additional retail and commercial floor space. The proposal would also provide several additional public benefits such as a new pedestrian overbridge to Cabramatta Station, a new public market square, activated street frontages, local intersection upgrades and additional landscaping.

The site is proposed to be developed in four stages (i.e. stages A to D) as shown in Figure 3 (next page). A summary of the proposed development controls for each development stage is provided in Table 1 (next page).

Table 1: Proposed controls for the site

Proposed control	Stage A	Stage B	Stage C	Stage D
Maximum building height	48m (approx. 15 storeys)	48m (approx. 15 storeys)	48m (approx. 15 storeys)	48m (approx. 15 storeys)
Maximum FSR	3.85:1	6.45:1	6.1:1	4:1
Town Centre Precinct	Cabramatta – Area E	Cabramatta – Area E	Cabramatta – Area E	Cabramatta – Area E
Minimum site area	2700m ² (eastern half) and 1800m ² (western half)	2700m ²	1300m ²	2200m ²

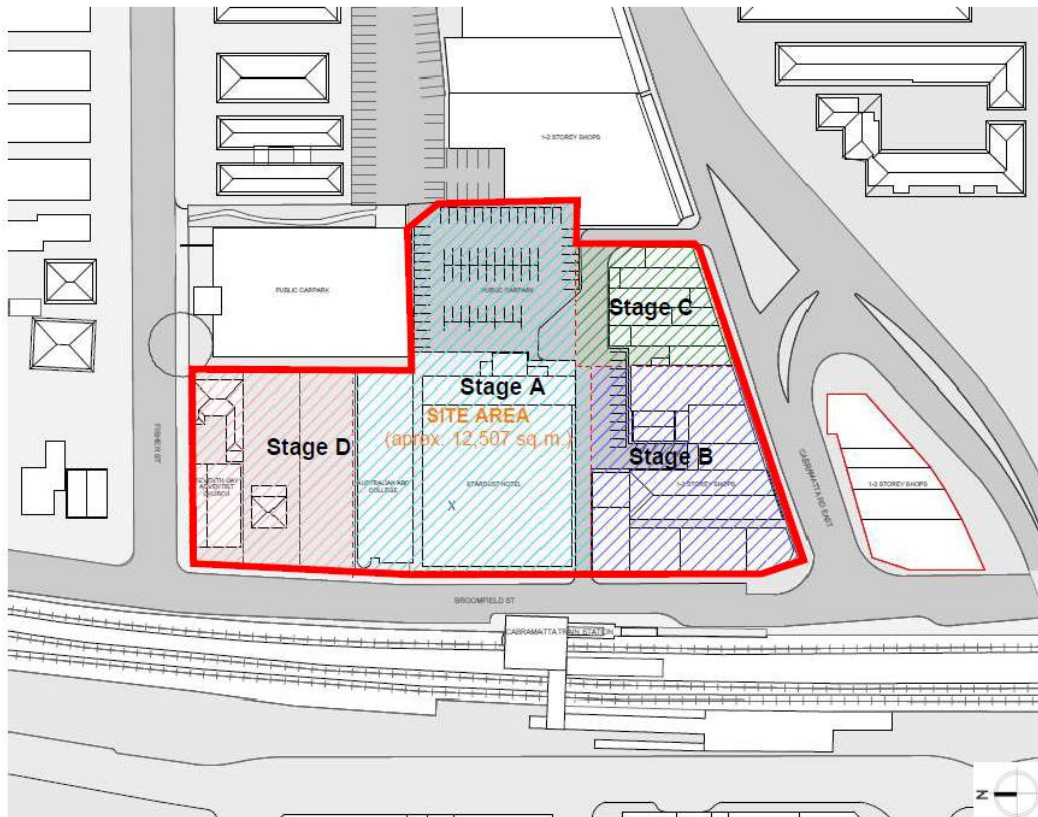


Figure 3: Proposed redevelopment stages.

Department comment – proposed height of building

As noted in section 1.1 of this report, at the Council meeting of 25 September 2018, councillors resolved (**Attachment A5**) to reduce the proponent’s proposed building height for the site from a maximum height of up to 59m and 66m (i.e. 16 and 19 storeys) (**Attachment D1**) to a blanket maximum height of 48m (i.e. 15 storeys) (**Attachment A2**). The councillors did not resolve to alter any of the proponent’s other proposed amendments (i.e. FSR and minimum lot size).

A comparison of the two proposed maximum building heights is provided in Table 2 (below) and Figures 4-5 (below).

Table 2: Comparison of proposed building heights

Building height	Stage A	Stage B	Stage C	Stage D
Council-endorsed height (Figure 4)	48m (approx. 15 storeys)	48m (approx. 15 storeys)	48m (approx. 15 storeys)	48m (approx. 15 storeys)
Proponent’s proposed heights (Figure 5)	59m (approx. 16 storeys plus lift overrun = 17 storeys)	66m (approx. 19 storeys plus lift overrun = 20 storeys)	57m (approx. 16 storeys plus lift overrun = 17 storeys)	48m (approx. 12 storeys plus lift overrun = 13 storeys)
Height difference	11m (approx. 2 storeys)	18m (approx. 5 storeys)	9m (approx. 2 storeys)	0m

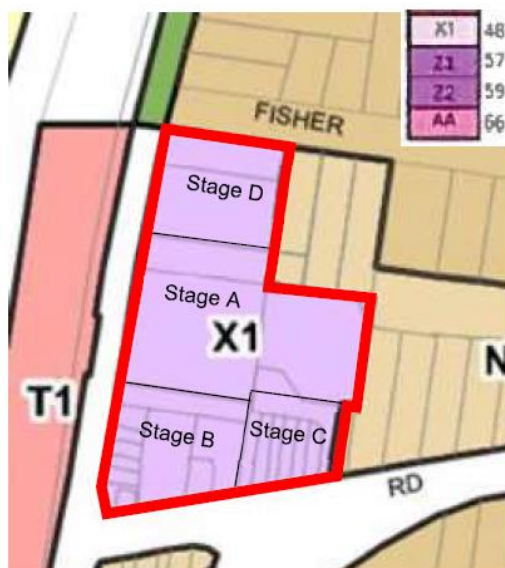


Figure 4: Council-endorsed heights.



Figure 5: Proponent’s proposed heights.

As shown in Table 2 (above), there is a height difference for three of the proposed buildings (i.e. Stages A, B & C). For Stages A and C, the height difference is related to the double ceiling height for the two commercial floors (i.e. approx. 5.5m and 4.5m per floor respectively). Whilst, the height difference for Stage B is attributed to the additional five residential floors.

Council officers (**Attachment A4**) and the Fairfield Local Planning Panel (**Attachment A7**) supported the proponent's initial building height of up to 59m and 66m for the site in the original planning proposal. Council officers have outlined the reasons for supporting the initial building height as follows (**Attachment E**):

- the site is within the eastern portion of Cabramatta Town Centre and contains several larger allotments that are in a single landownership or the current landowners support the proposal;
- given the larger allotment sizes, the site provides a unique opportunity to achieve a potential to deliver a significant amount of additional housing in Cabramatta Town Centre close to public transport and services;
- the land within the western portion of Cabramatta Town Centre is highly fragmented, which limits the redevelopment opportunity to provide a significant amount of housing in this area;
- the site is proposed by the proponent to be redeveloped over four stages with height variations to provide a much better urban design outcome (i.e. the maximum height of 66m at the corner of Broomfield Street and Cabramatta Road East, with the height reduced further along) compared to a blanket height across the entire site;
- the shadow analysis of the proponent's concept plan (**Attachment D3**) concluded that the proposed development complied with State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the *Apartment Design Guide* requirements for adjoining sites;
- the proponent's concept plan was reviewed by the independently appointed urban designers (**Attachment A8**) and the Fairfield Local Planning Panel (**Attachment A7**), both of which supported the original proposed building heights and acknowledged the opportunity to create a strong and vibrant mixed-use precinct on the eastern portion of Cabramatta Town Centre;
- the eastern portion of Cabramatta Town Centre is not constrained by traffic issues, like the western side of the town centre, as identified by a previous T-map and studies such as the Fairfield Residential Development Strategy 2009; and
- the proposed building height for the site is below the obstacle limitation surface (OLS) for Bankstown Airport, which is around 90-100m AHD for the area (i.e. the proposed building height of 66m plus the existing ground level of 16m equals a height of approximately of 84m).

In response to the councillors' decision to reduce the proposed building height, the proponent has advised there was no planning justification for the height reduction and it disregards the work undertaken with council officers (**Attachments F1–F3**).

In addition, it was advised that the height change would compromise the negotiations between Council and the proponent in regard to securing the consolidation of the site for redevelopment and the viability of delivering the local voluntary planning agreement (VPA) outcomes, such as the pedestrian overbridge to the station concourse due to the loss of 'premium' apartments within Stage B of the proposed development. It was also noted that the planning proposal submitted to Council was informed by strategic considerations and tested to ensure appropriate amenity outcomes within the site and with the surrounding area.



Figure 6: Concept plan based on Council-endorsed heights.



Figure 7: Concept plan based on proponent's proposed heights.

A visual comparison of the proposed development based on the councillors' endorsed height (Figure 6, previous page) and the proponent's proposed height (Figure 7, previous) was provided by the proponent.

The Department considers that the visual impact of an additional four storeys (i.e. 19 storeys compared to 15 storeys) on the corner of Cabramatta Road East and Bloomfield Street would be minor from the street level and the surrounding public domain.

It is also noted that as part of the preparation of the local strategic planning statement for Fairfield LGA, Council has advised that the future growth of the LGA would be focused within the main town centres such as Cabramatta Town Centre, which includes this site. The adopted urban design study prepared for the Fairfield Town Centre proposes a density increase of up to 10 and 20 storey buildings for key sites within the centre and it is expected Cabramatta Town Centre would have comparable heights, once the initiated urban design study is finalised by Council.

The Department acknowledges the work undertaken by council officers, and the proponent, to develop the original planning proposal and concept plan, including the alignment of the building height and FSR controls to restrict the built form of the proposed development.

It is also noted that the supporting studies submitted with the planning proposal, such as the shadow diagrams (**Attachment D3**) and the traffic and transport assessment (**Attachment D4**), are based on the proponent's original building height.

Further, there is no justification, or studies, provided by Council to support the blanket 48m building height for the site. In addition, the blanket building height of 48m and the identified FSRs of 2.5:1 to 3.85:1, 4:1, 6.1:1 and 6.45:1 for the site are not considered to be compatible. The built form outcome of the proposed development based on these development standards would result in an entirely different building compared to the version assessed by council officers, the Fairfield Local Planning Panel, and the independently appointed urban designers.

Taking these matters into consideration, the Department recommends that Council amends the proposed maximum building height to be consistent with the heights originally assessed and supported by council officers and the Fairfield Local Planning Panel, i.e. a maximum building height of 48m (approx. 12 storeys), 57m (approx. 16 storeys), 59m (approx. 16 storeys), and 66m (approx. 19 storeys).

The Department considers that there is strategic and site-specific merit for the planning proposal to proceed with the scaled building height as originally proposed by the proponent.

Department comment – proposed local clause

The Department notes that Council has drafted the proposed local clause (i.e. Clause 7.9 Cabramatta – Area E), however, this clause maybe subject to change following legal drafting and an explanation would provide clarity for the community. Therefore, prior to public exhibition it is recommended that Council includes an explanation of the intent of the proposed local clause in the planning proposal.

In addition, Council advised that a site-specific development control plan (DCP) would be prepared and exhibited concurrently with the planning proposal (**Attachment A5**). Subclauses 7 and 8 of the proposed local clause may not be necessary as these relate to the preparation of the DCP and its application, which is provided by the Act. Consequently, it is recommended that prior to public

exhibition, Council considers removing subclauses 7 and 8 in Part 2 of the planning proposal.

2.3 Proposed DCP

Council resolved to prepare a site-specific DCP for the site and exhibit it in conjunction with the planning proposal. The DCP would include the following provisions:

- building footprints, heights and FSRs reflective of those proposed under the planning proposal and potentially adopted under the Fairfield LEP 2013;
- design arrangements, including through-site links and overhead links to Cabramatta Station, public open space elements, market square access and management, ground-level activation, arrangement of podium height and upper-level setbacks, etc.;
- indicative vehicular access and parking arrangements, including loading facilities;
- measures to minimise the potential for crime, particularly in the proposed market square and along key site linkages; and
- requirements to minimise the potential impact of the development on adjoining land.

Department comment

The Department supports the preparation of a site-specific DCP for the site and its concurrent exhibition with the planning proposal to ensure there are adequate guidelines for the staged development of the site.

2.4 Proposed local contribution plan

Council has advised that a local VPA will be prepared to ensure that a satisfactory level of local public benefit is provided by the proponent for the community with the redevelopment of the site. The VPA will be exhibited with the DCP and the planning proposal.

Council has advised that the VPA would identify the provision of public benefits as proposed by the proponent, including the following:

- a pedestrian overbridge linking the site to Cabramatta Station;
- a public market square with public art and street furniture in the market square;
- local intersection upgrades; and
- landscaping and street furniture along Broomfield Street and Cabramatta Road East.

2.5 Mapping

The current and proposed maps are provided in Part 2.3, Part 4 and Appendix A.2 of the planning proposal (**Attachment A3**). The planning proposal will amend the following maps:

- height of building map (HOB_017);
- FSR map (FSR_017); and
- Town Centre Precinct, minimum site area map (CL2_017).

The current and proposed maps are shown in Figures 8–13 (next page).

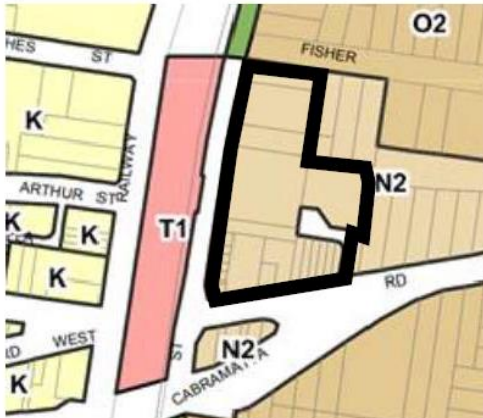


Figure 8: Current height of building map.

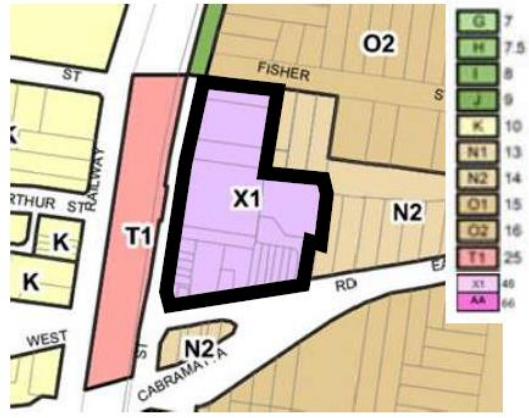


Figure 9: Proposed height of building map.

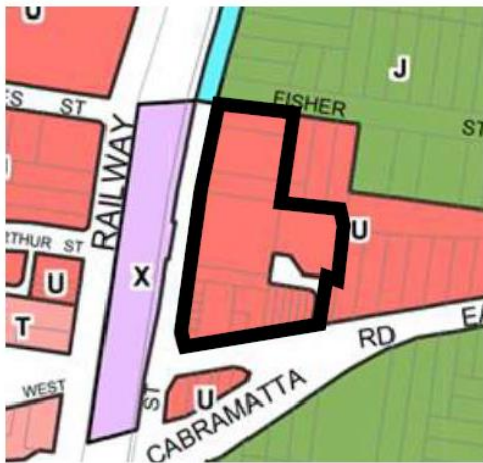


Figure 10: Current FSR map.

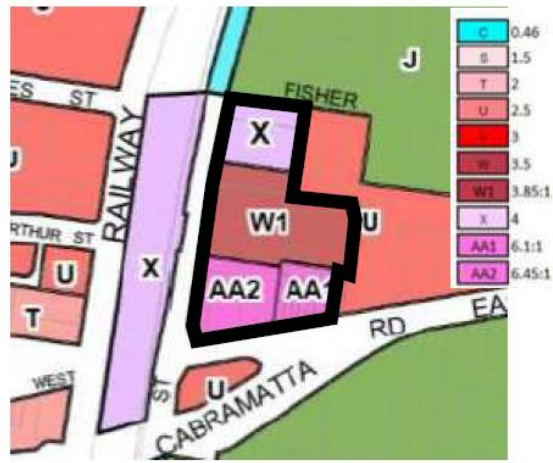


Figure 11: Proposed FSR map.



Figure 12: Current Town Centre Precinct, minimum site area map.

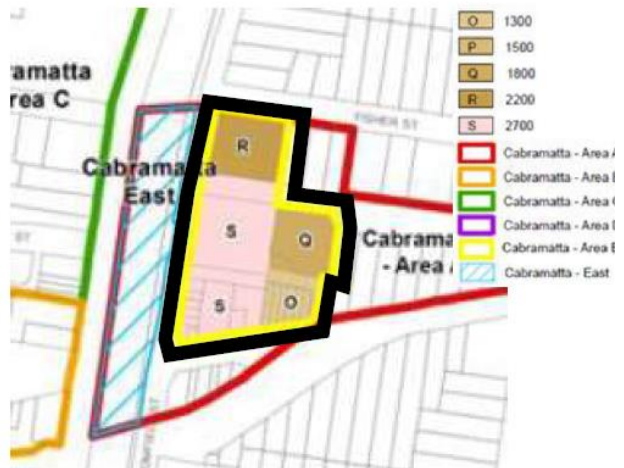


Figure 13: Proposed Town Centre Precinct, minimum site area map.

Department comment

It is recommended that prior to public exhibition, Council includes a clear outline of the site in the current and proposed maps in Appendix A.2 of the planning proposal to provide clarity to the community about the extent of the site and the proposed amendments.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is not a result of a strategic study or report. However, it advises that the proposed amendment is the best and most appropriate way to achieve Council's intended outcome, i.e. to increase the building height and FSR to guide the reinvigoration of the commercial area in the eastern portion of Cabramatta Town Centre. A planning proposal is the only means available to achieve amendments to relevant provisions under the Fairfield LEP 2013.

The planning proposal notes that there is the potential for Cabramatta to capitalise on good public transport, convenient services and community infrastructure by increasing residential densities near the railway station in the town centre.

Council advised that previous strategies to densify the town centre have not progressed due to the significant costs required to fund road upgrades and parking infrastructure. However, the eastern portion of Cabramatta Town Centre, where the site is located, has fewer traffic constraints and required upgrades and therefore is a suitable location for increased densities.

4. STRATEGIC ASSESSMENT

4.1 District

Western City District Plan

The site is within the Western City District and the Greater Sydney Commission released the Western City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets. The plan also identifies Cabramatta Town Centre, which includes the site, as a local centre in the district.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity and sustainability in the plan as it would:

- align the provision of forecast growth with existing infrastructure, such as the facilities and services provided in Cabramatta Town Centre and Cabramatta Station (Planning Priority W1);
- provide additional housing supply and choice near jobs, services and public transport facilities (Planning Priority W5);
- facilitate the revitalisation of the eastern portion of Cabramatta Town Centre, which is a local centre, and improve the amenity, connectivity and accessibility of the precinct for residents and the public (Planning Priority W6); and
- generate additional jobs in the retail and commercial sectors in the eastern portion of Cabramatta Town Centre (Planning Priority W11).

The Department is satisfied that the planning proposal could give effect to the district plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

4.2 Local

Fairfield City Centres Study and Fairfield City Centres Policy 2015

The Fairfield City Centres Study (2015) and Fairfield City Centres Policy 2015 provide several principles, objectives and assessment criteria against which applications are to be assessed.

The planning proposal is consistent with the recommendations of the city centres study as it has the potential to revitalise the land on the eastern side of the railway line. There will be a consolidation of retail floor space into a more pedestrian-friendly configuration, which aims to activate the streetscape, improve connections across the railway line via an overhead pedestrian bridge and reinvigorate shops and public spaces.

The proposal does not seek to increase the amount of retail floor space already permissible on the site or change the B4 Mixed Use zone and specialist retail function of Cabramatta Town Centre.

Fairfield Residential Development Strategy

The Fairfield Residential Development Strategy (2009) identifies areas in Fairfield City that should be investigated for increases in residential density. The key principle of this strategy is to increase the density of the LGA around centres and along corridors such as Cabramatta Town Centre.

Council notes that there are significant issues associated with increasing the density of the western portion of Cabramatta Town Centre, including compromising the capacity of the current road network and needing major infrastructure improvements.

However, this proposal provides an opportunity to implement urban renewal in the eastern portion of Cabramatta Town Centre near services and transport and without being restricted by the current road network. The site has excellent access to public transport (including rail and bus services) and a full range of education, retail, commercial and recreational services in the broader Cabramatta Town Centre. The proposal will generate approximately 582 new dwellings, which will be a significant contribution to housing supply in the area.

2016-2026 Fairfield City Plan

The planning proposal is consistent with several themes and goals in the Fairfield City community strategic plan, including the following:

- Theme 2 – Place and Infrastructure: The proposal seeks to improve the local character of the area, increase the supply of housing to meet the varied needs of the community and provide potentially high-quality apartment and unit development in a central location supported by existing infrastructure; and
- Theme 4 – Local Economy and Employment: The proposal seeks to increase the variety of shops in Cabramatta Town Centre, increase parking, create a modern vision for the area and create a safe and pleasant space to meet friends and family. The proposed public market square will create a vibrant community-based destination to promote unique cultural and culinary festivities.

Cabramatta Town Centre Development Control Plan No. 5/2000

The planning proposal was considered against the objectives and desired character for the precinct as contained in the Cabramatta Town Centre DCP. Under the DCP, the site is within Precinct 4 (Figure 14, below), which is classified as a mixed-use and residential precinct.

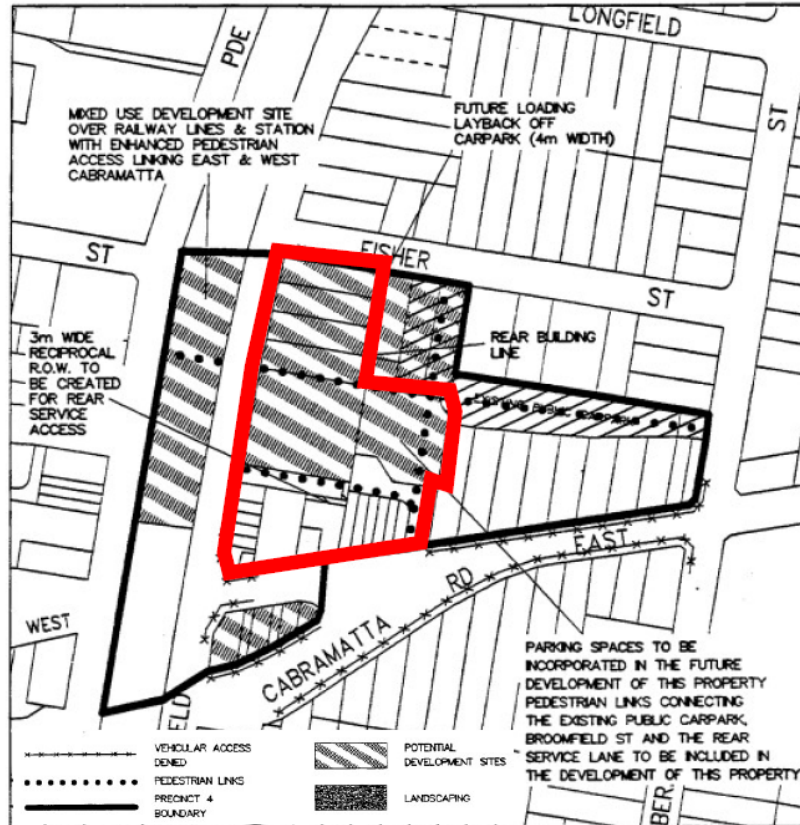


Figure 14: Precinct 4 map in the existing DCP.

The planning proposal will achieve the following objectives and desired character of the precinct:

- encourage the provision of mixed-use development with a significant residential component;
- limit retail activity to a scale that does not adversely change the retail balance of the town centre;
- ensure adequate safe, convenient and accessible car parking and provide adequate on-site loading and unloading facilities;
- facilitate the development of improved pedestrian connectivity to the west across the railway line; and
- promote attractive, vibrant and safe pedestrian accessways.

Council advises that while the proposal is generally consistent with the desired future character of the precinct, the proposed scale of development is considerably greater than that provided for under the DCP controls.

The Department notes that Council proposes to prepare a site-specific DCP for the site and the Department has included a Gateway condition requiring that this DCP be exhibited with the planning proposal. However, Council has not advised whether the existing DCP will be amended and therefore two DCPs would apply to the site.

Prior to exhibition, it is recommended that Council amends the planning proposal to include the intent to amend the existing DCP to incorporate the site-specific development controls so there is only one set of development controls in the DCP associated with the site.

Fairfield Local Planning Panel

The planning proposal was considered by the Fairfield Local Planning Panel on 30 August 2018 (**Attachments A6–A7**). The panel reviewed the proponent's original planning proposal and supported the proposed building height for the site of a maximum of up to 59m and 66m (i.e. 16 and 19 storeys).

The panel also recommended that Council should request and be satisfied with a further report detailing a draft site-specific DCP and a VPA for the site.

Following its review of the planning proposal, the panel advised that it was satisfied that the original planning proposal would “facilitate the future redevelopment of this site for a mix of commercial and residential apartments (including basement parking), an overhead pedestrian bridge linking the site to Cabramatta Railway Station, activated street frontages and open-air public market to activate the commercial area east of the railway line”.

The panel noted that the proposal is consistent with the Fairfield City Centres Study and the Fairfield Residential Development Strategy and has the potential to revitalise the eastern side of the railway line. The panel also noted that the proposal provides an opportunity to implement urban renewal in the eastern portion of Cabramatta Town Centre near services and transport and in an area not restricted by the road network.

However, the panel also stated that while the proposal is generally consistent with the desired character of the precinct, the scale of the original proposal is considerably greater than that provided under the controls of the existing DCP. Therefore, a new site-specific DCP should be prepared for the site.

The panel mentioned Council's independently appointed urban design review (**Attachment A8**) and concluded that the proposal provided a unique opportunity for a development outcome that would result in several public benefits, such as a pedestrian overbridge to the train station, local intersection upgrades, and a market square that would strengthen the strategic merit of the proposal in relation to Cabramatta Town Centre as described in the Western City District Plan.

The panel also noted that the proponent's traffic and transport assessment (**Attachment D4**) advised that the road network could accommodate the additional traffic generated by the proposed development, and future broader precinct uplift, without being significantly impacted.

The panel concluded that the planning proposal lodged by the proponent held strategic merit and the consolidated site is suitable for the proposed development, as it will progress the planned redevelopment of Cabramatta Town Centre without the necessity of a city-wide LEP. Therefore, for the reasons outlined above, the panel recommended that Council support and proceed with the original planning proposal.

The Department agrees with the panel's comments, and as advised in Section 2.2 of this report, recommends that Council proceeds with the planning proposal submitted by the proponent to Council, with a maximum building height of up to 59m and 66m, i.e. 16 and 19 storeys.

4.3 Section 9.1 Ministerial Directions

Inconsistent: The planning proposal is inconsistent with the following section 9.1 Direction:

Direction 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls. The planning proposal is inconsistent with this Direction as it seeks to introduce a site-specific clause (i.e. the new local clause) into the Fairfield LEP 2013, which will enable a particular development to occur on the site.

This inconsistency is considered to be minor as the site-specific development controls for the site will ensure that the construction of the development outcome is consistent with the proposed concept plan as part of this planning proposal.

Accordingly, it is recommended that the Secretary's delegate agrees that the inconsistency of the planning proposal with Direction 6.3 Site Specific Provisions is of minor significance.

Consistency to be further justified: The planning proposal is potentially consistent with the following section 9.1 Direction. However, further justification is required as outlined below:

Direction 3.5 Development Near Regulated Airports and Defence Airfields

This Direction aims to ensure the effective and safe operation of regulated airports and defence airfields and that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity. The site is within the conical surface (5% slope) of Bankstown Airport and therefore this Direction applies to the planning proposal (Figure 15 below).

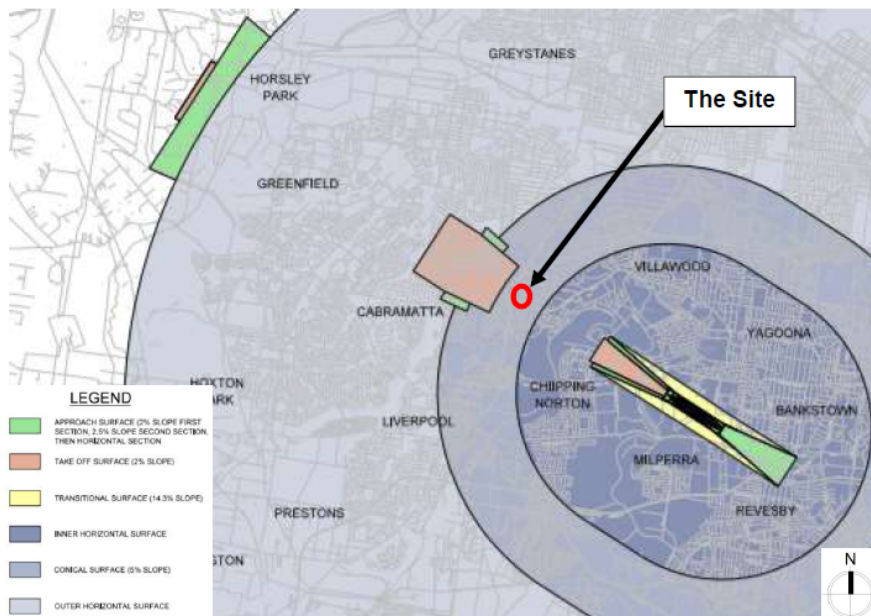


Figure 15: Obstacle limitation surfaces for Bankstown Airport.

The proponent has undertaken preliminary consultation with Bankstown Airport, which subsequently recommended the proposal be referred to Airservices Australia. Airservices Australia has advised that a maximum height of 66m will not affect sector or circling altitude, any instrument approach or departure procedure at Bankstown Airport, or the performance of any Airservices Precision/Non-Precision Nav Aids, Anemometers, HF/VHF/UHF Comms, A-SMGCS, Radar, PRM, ADS-B, WAM or Satellite/Links.

However, to be consistent with this Direction, Council is required to consult the relevant airport service providers in the preparation of the planning proposal. Therefore, Council should consult the relevant airport authorities prior to public exhibition to be consistent with this Direction.

Direction 4.3 Flood Prone Land

The objectives of this Direction are to ensure that development of flood-prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the *Floodplain Development Manual*. The site contains flood-prone land (Figure 16 below) and therefore this Direction applies to the planning proposal.

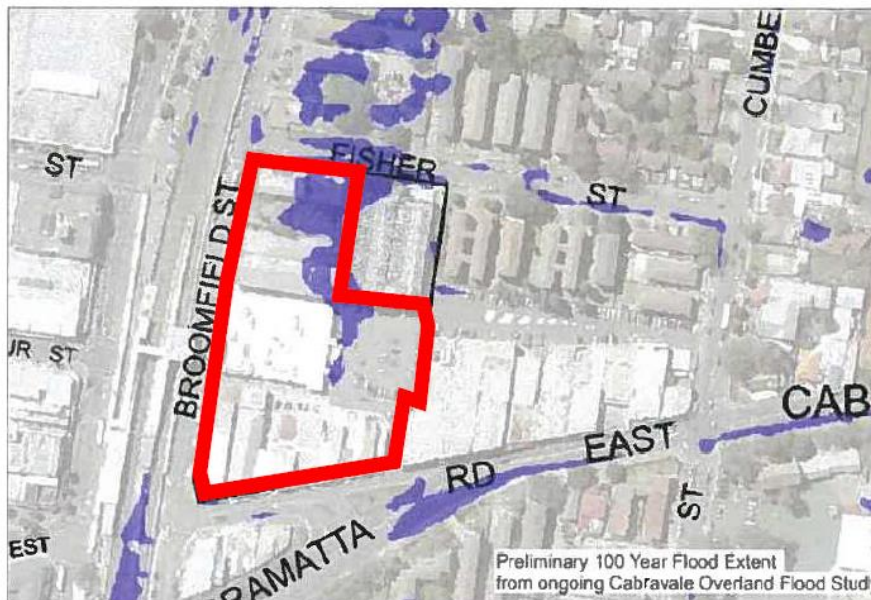


Figure 16: Flood-prone land map.

The planning proposal is inconsistent with this Direction as it permits a significant increase of the permissible development across the flood-affected land on the site.

Council's Catchment Planning Branch did not object to the planning proposal subject to any future development proposal addressing flooding and stormwater constraints likely to occur as a result of the development. The proposal states that these matters will be addressed at the development application stage.

A planning proposal may be inconsistent with this Direction provided the planning proposal authority can satisfy the Secretary's delegate that the proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the *Floodplain Development Manual* or that the provisions of the proposal that are inconsistent are of minor significance.

Therefore, to ensure that the planning proposal complies with the requirements of this Direction, it is recommended that Council addresses this inconsistency further and consults the Office of Environment and Heritage to determine if there are any flooding issues with the proposed development and, if necessary, seeks the agreement of the Secretary to justify any inconsistency with this Direction.

Consistent: The planning proposal is consistent with the following section 9.1 Directions:

Direction 1.1 Business and Industrial Zones

The objectives of this Direction are to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified centres. This Direction applies to the planning proposal as it affects land zoned B4 Mixed Use.

The proposal is considered to be consistent with this Direction as it will not rezone the site from its business zone and will not reduce the total potential floor space area for employment uses on the site. The proponent has advised that the proposal would create approximately 369 additional retail and commercial jobs across the site. Numerous employment opportunities will also be generated during construction of the development.

Direction 3.1 Residential Zones

This Direction aims to encourage a variety and choice of housing types, make efficient use of infrastructure and services, and minimise the impact of residential development on the environment and resource lands. This Direction applies to the proposal as the B4 Mixed Use zone permits shop-top housing.

The proposal is consistent with this Direction as it would broaden the choice of housing in an appropriate location and use the existing infrastructure and services in Cabramatta Town Centre. It does not involve rezoning land on the urban fringe for additional housing.

Direction 3.4 Integrating Land Use and Transport

The objective of this Direction is to increase the choice of available transport and reduce dependence on cars. The proposal is consistent with this Direction as it would provide additional housing and jobs within walking distance of Cabramatta Station and bus services.

4.4 State environmental planning policies (SEPPs)

State Environmental Planning Policy No 55—Remediation of Land

The object of this policy is to provide for a statewide planning approach to the remediation of contaminated land. Council has advised that there have been no contaminating land uses or activities on the site. The proposal would not introduce any additional permitted land uses. Therefore, the Department considers the proposal is consistent with this policy.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social and economic

Council notes that the planning proposal would enable the redevelopment of the site, which would reinvigorate the eastern portion of Cabramatta Town Centre and enable people to reside, work and recreate in an area that benefits from good urban infrastructure and transport accessibility. A new pedestrian bridge would improve

connectivity between both sides of the town centre and result in better access and a more cohesive centre.

Council advises that the benefits of locating high-density residential development near public transport would facilitate fewer cars on roads and a better sustainability footprint. The planning proposal would significantly increase housing stock in the area and create a unique sense of place that aims to reflect shared community values and culture. New residential development, retail shops and a public marketplace will aim to create a destination on the east side of Cabramatta that attracts residents, workers, visitors and investment.

5.2 Environmental

The planning proposal does not impose any adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats.

5.3 Flooding

As noted in section 4.3 of this report, the site contains flood-prone land (refer to Figure 16, previous page). Council's Catchment Planning Branch did not object to the planning proposal subject to any future development proposal addressing flooding and stormwater constraints likely to occur as a result of the development.

The proposal states that these matters will be addressed at the development application stage. It is recommended that Council consults the Office of Environment and Heritage on the flooding impacts of the planning proposal during the public exhibition period.

5.4 Solar and visual impacts

As part of the proponent's concept plan (**Attachment D3**), shadow diagrams were provided to illustrate the overshadowing created by the proponent's original planning proposal (i.e. 16 and 19 storeys). Refer to Figure 17 (next page) for the shadow diagrams during the winter solstice.

The shadow diagrams illustrate that the original proposed building height would significantly increase the overshadowing on adjoining properties. However, this overshadowing would be restricted to certain times of the day as follows:

- overshadowing to the south-west of the site over the railway station during the morning (i.e. 9am–12pm);
- overshadowing to the south of the site over the low-scale commercial premises and Cabramatta Road bridge at midday; and
- overshadowing to the south-east of the site over the four-storey apartments during the afternoon (i.e. 12pm–3pm).

Although the proposed building height increase would create additional overshadowing to the south of the site, this is limited at each time of the day due to the slender design of the proposed development. The shadow impacts of the current planning proposal have not been provided or assessed, but it is considered that the shadow impacts could be potentially greater due to the bulkier building form.

The Department notes that the visual impacts of the proposed development have not been assessed. Therefore, prior to public exhibition, it is recommended that Council prepares a visual impact assessment for this planning proposal so the visual impacts on the surrounding area can be appropriately considered.



Figure 17: Shadow diagrams of the original proposed development.

5.5 Traffic and transport

The proponent's traffic and transport assessment (**Attachment D4**) concludes that the road network can accommodate the additional trip generation arising from the planning proposal and broader uplift without being significantly impacted.

The assessment recommends several relatively minor intersection upgrades to accommodate the traffic generated from the planning proposal site and other up-zonings in the area.

However, Council's traffic engineers advised that the proposed development is expected to generate approximately 180 vehicle trips during the peak hour, which

would have significant impacts on the intersections of the slip lane/Cabramatta Road East and the adjacent road networks/intersections.

The assessment found that the proposed single access point to the site would potentially create unnecessary queuing on the road network and therefore at least one other or improved access arrangements to the site should be investigated. It is suggested that the location of the secondary access point be via Fisher Street. Council's traffic engineers also recommended additional traffic modelling and a road safety audit be prepared at the development application stage (**Attachment A4**).

It is recommended that prior to public exhibition, Council updates the proposed concept plan with the recommendations of its traffic engineers. It is also recommended that Council consult with Roads and Maritime Services, Transport for NSW and Sydney Trains in relation to the planning proposal.

5.6 Infrastructure

The planning proposal notes that the site is serviced by a range of infrastructure including water, sewer, electricity, communications and gas.

It is recommended that during the public exhibition stage, Council consults the relevant utility providers on the planning proposal, including Sydney Water, Telstra, Jemena Gas and Endeavour Energy.

6. CONSULTATION

6.1 Community

A public exhibition period of 28 days is considered appropriate to gauge the community's response to the proposal.

6.2 Agencies

The proponent undertook preliminary consultation with Bankstown Airport, which referred the proposal to Airservices Australia. Airservices Australia advised that at a maximum height of 66m, the proposal will not affect Bankstown Airport or any other services.

The Department recommends Council consult the following state agencies in relation to the planning proposal:

- Roads and Maritime Services;
- Transport for NSW;
- Sydney Trains;
- Office of Environment and Heritage;
- Bankstown Airport;
- Airservices Australia;
- Federal Department of Infrastructure, Regional Development and Cities;
- Sydney Water;
- Telstra;
- Jemena Gas; and
- Endeavour Energy.

Should these agencies require any additional information or specify any additional matters to be addressed, the proposal is to be updated to respond to the submission, a copy of which is to be included with the updated planning proposal.

7. TIME FRAME

Council proposes a time frame of 12 months to finalise this planning proposal. Given the nature of the planning proposal, an 18-month time frame is considered appropriate.

8. LOCAL PLAN-MAKING AUTHORITY

Council has not requested authorisation to be the local plan-making authority in relation to this planning proposal. Given that the planning proposal affects Council-owned land (i.e. a public laneway) and the issue relating to the proposed building height for the site, Council should not be authorised as the local plan-making authority.

9. CONCLUSION

The Department recommends that the planning proposal proceeds with conditions including the application of a maximum building height of 48m (approx. 12 storeys), 57m (approx. 16 storeys), 59m (approx. 16 storeys), and 66m (approx. 19 storeys) to the site, given that it would facilitate the revitalisation of the eastern portion of Cabramatta Town Centre in a suitable manner.

The proposal has strategic and site-specific merit as it would provide additional housing and jobs in a local centre with access to existing infrastructure and services, and adjacent to the Cabramatta Railway Station. In addition, it would improve the amenity, connectivity and accessibility of residents from the eastern portion of Cabramatta Town Centre to the western portion through a proposed pedestrian overbridge and streetscape improvements.

Furthermore, the eastern portion of Cabramatta Town Centre is not constrained by traffic issues, like the western side of the town centre, and the proposed maximum building height of up to 19 storeys would not impact the current operation of Bankstown Airport. The shadow diagrams also illustrate that the original proposed building height would significantly increase the overshadowing on adjoining properties, but these would be limited at each time of the day due to the slender design of the built form of the original planning proposal.

In addition, the visual impact of an additional four storeys (i.e. 19 storeys compared to 15 storeys) on the corner of Cabramatta Road East and Bloomfield Street would be minor from the street level and the surrounding public domain. This building height is also comparable to the proposed density increase for the Fairfield Town Centre which is up to 10 and 20 storey buildings for key sites as indicated by the adopted urban design study.

It is also noted that the supporting studies submitted with the planning proposal, such as the shadow diagrams (**Attachment D3**) and the traffic and transport assessment (**Attachment D4**), are based on the proponent's original building height of up to 19 storeys. Whereas the blanket 48m building height would result in a built form outcome that is entirely different to the version assessed by council officers, the Fairfield Local Planning Panel, and the independently appointed urban designers.

Therefore, the Department concludes that the planning proposal based on the maximum building height of up to 16 and 19 storeys is considered to be appropriate

for the site and is satisfied that the proposal will give effect to the Western City District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Direction 6.3 Site Specific Provisions are minor or justified; and
2. note that the consistency with section 9.1 Directions 3.5 Development Near Regulated Airports and Defence Airfields and 4.3 Flood Prone Land is unresolved and will require further justification.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - Roads and Maritime Services;
 - Transport for NSW;
 - Sydney Trains;
 - Office of Environment and Heritage;
 - Bankstown Airport;
 - Airservices Australia;
 - federal Department of Infrastructure, Regional Development and Cities;
 - Sydney Water;
 - Telstra;
 - Jemena Gas; and
 - Endeavour Energy.
3. The time frame for completing the LEP is to be 18 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.
5. Prior to public exhibition, Council is to revise the planning proposal to apply a maximum building height of 48m (approx. 12 storeys), 57m (approx. 16 storeys), 59m (approx. 16 storeys), and 66m (approx. 19 storeys) across the site, as originally proposed by the proponent.
6. Prior to public exhibition, Council is to amend the planning proposal as follows:
 - a) under Part 2 – Explanation of Provisions to include an explanation of the intent of the proposed local clause; and consider removing subclauses 7 and 8 of the proposed local clause;

- b) under Part 2.3 and Appendix A.2, include a clear outline of the site on the current and proposed maps;
 - c) prepare a visual impact assessment to address and consider the impacts of the proposed development on the surrounding area;
 - d) update the proposed concept plan with the recommendations of Council's traffic engineers;
 - e) update the consistency of the planning proposal with section 9.1 Directions 3.5 Development Near Regulated Airports and Defence Airfields, 4.3 Flood Prone Land and 6.3 Site Specific Provisions;
 - f) prepare a draft site-specific development control plan for the site and concurrently exhibit this plan with the planning proposal; and
 - g) indicate the intent to update the Cabramatta Town Centre Development Control Plan No. 5/2000 to include the proposed development controls for the site.
7. The revised planning proposal is to be updated in accordance with conditions 5 and 6 and forwarded to the Department for review and approval prior to public exhibition.



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27/06/2019
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