

In reply please quote: 21/15583

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28 April 2021

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Attention: Jillian Hopkins

## **RE: SEPP (DESIGN & PLACE) – EXPLANATION OF INTENDED EFFECT (EIE)**

Fairfield City Council officers welcome initiatives aimed at enhancing design and place outcomes across the State aimed at improving the quality of places as well as community wellbeing. We would however like raise a number of important issues in relation to the proposed SEPP (Design & Place) and the EIE.

This submission focuses on the relationship of the Fairfield Local Strategic Planning Statement (LSPS) 2040 with the proposed SEPP, as well as the significant deficiencies that are being delivered in relation to design and place outcomes under the current regime of complying development associated with the SEPP (Affordable Rental Housing) and SEPP (Exempt and Complying Development Codes).

Of concern is that the EIE associated with the proposed SEPP (Design and Place) fails to recognise the extensive work undertaken by NSW Councils in recent years with the preparation of LSPS's that respond at the local level to Planning Priorities and Actions contained in both the Regional and District Plans. The Action of the LSPS will deliver various initiatives identified in these plans, including improvements to design and place at the local level through the preparation of design and place based studies and strategies, funded under the Accelerated LEP Review Program.

### **Fairfield LSPS 2040 – Relationship with local strategic planning framework**

The Fairfield LSPS 2040 came into force in March 2020 and was prepared as a result of specific actions contained in the Western City District Plan. Preparation of the LSPS included extensive consultation with the community, Greater Sydney Commission, State Agencies and various community organisations. Key planning priorities and actions in the Council endorsed LSPS that specifically relate to 'place and design' outcomes include:

*Planning Priority 4: Provide attractive, healthy, accessible and safe places for the whole community.*

Action 4.1 Council will undertake urban design studies for key town and neighbourhood centres that deliver attractive, healthy, accessible and safe places in Fairfield, Cabramatta, Smithfield, Canley Vale, Carramar and Yennora.

- Action 4.2 Council will update its Development Control Plans to include tailored development controls which reflect the recommendations and outcomes of the Urban Design Studies and provide attractive, healthy, accessible and safe town centres.
- Action 4.3 Council will prepare Public Domain Plans for all town centres.
- Action 4.4 Council will implement the Public Domain Plans outcomes and recommendations through Council's works program and place improvements.
- Action 4.5 Council will encourage high- quality developments in suitable locations with supported infrastructure that improve the local character of the area with a focus on sustainability and technology.
- Action 4.6 Council will encourage design excellence, and ensure that design recommendations in the Urban Design Studies are reflected in the LEP and DCP controls.

### **Accelerated LEP Review Program – Place and Design Studies**

In parallel to the preparation of the LSPS, Council obtained \$2.5 million in grant funding from DPIE under the LEP Accelerated LEP Program to implement a range of amendments to local planning controls.

The scope of the proposed amendments relate directly to the above Actions of Council's LSPS (including the preparation of urban design studies, public domain plans and open space strategies) and as detailed below are aimed at enhancing design and place outcomes across the urban areas of the City, with a particular focus on areas of the City targeted for future housing and population growth.

Action 4.1 of the LSPS included preparation of urban design studies for six (6) key town centres in the eastern area of the City (Fairfield, Cabramatta, Canley Vale, Carramar, Smithfield and Yennora), supported by the preparation of a new local housing strategy as well as major studies relating to public domain, community facilities and open space needs and transport planning.

The work also included a review of planning controls (FSR, height, amalgamation) and urban design principles applying to the R3 Medium Density zones of the City that are located primarily in the eastern areas of the City in proximity to the above town centres and main public transport nodes.

### **Planning Proposals – Implementing Place and Design Controls**

As a result of the above work Council has completed a Stage 1 LEP Amendment and recently commenced a Stage 2 LEP Amendment as follows:

Stage 1 LEP Amendment (published on 27 Nov 2021):

- Implementation of Standard LEP Clauses relating to:
  - 'Design excellence' analysis for apartment buildings located in high density and town centres areas to address design and place outcomes as identified in urban design studies and public domain strategy.

- Provision of active street frontages for mixed used development in designated areas/streets of town centres to deliver desired place based outcomes identified in the urban design studies and public domain strategy.
- Amendments to FSR and Height clauses requiring greater consideration of amenity (e.g. solar access, cross ventilation) and place (e.g. bulk, local character) outcomes in new development.

Stage 2 LEP Amendment (planning proposal commenced Dec 2020):

- Rezoning of land and changes to FSR, height and site amalgamation controls in town centres in the eastern areas of the City to reflect recommendations of urban design studies.
- Amendments to site amalgamation requirements, FSR and Height controls for medium density development to enhance site development outcomes.

The above amendments will also be supported by a suite of new City Wide and Town Centre DCP controls (including graphics, template designs) that help clarify the nature and extent of measures that will deliver the desired design and place outcomes in future development.

### **SEPP (Design and Place) and Council's Plans, Studies and Strategies**

The EIE for the SEPP (Design and Place) contains meagre reference/acknowledgement of the work undertaken by Council's in relation to preparation of LSPS's and associated actions aimed at delivering improvements to design and place at the local level.

In this regard it is requested that the Department and Government Architects Office commit to working with NSW Council's to ensure that the proposed new SEPP is integrated with local provisions and strategic planning work (e.g. urban design studies, public domain plans) that have been prepared to address requirements of the Western City District Plan.

As detailed above, the scope of the proposed amendments to the local planning controls relate directly to enhancing design and place outcomes across the urban areas of the City with a particular focus on areas of the City targeted for future housing and population growth.

### **Detrimental Impacts of Complying Development on Place and Design**

Council has previously raised the significant issue of complying development and secondary dwellings in Fairfield City in numerous meetings in relation to the Fairfield LSPS and the draft Local Housing Strategy, and the detrimental impact that this form of development is having on place and design outcomes across the City, particularly in the low density residential areas.

The Fairfield LSPS (p.36) highlights that the current regime of complying development provided for under the SEPP (Exempt & Complying Development) and SEPP (Affordable Housing) is having the following impacts on the urban areas of Fairfield City.

*"Future residential infill development is restricted in parts of the established areas due to constraints, including flooding, traffic and transport considerations. Out-of-centre lower-density residential neighbourhoods, where there are limited constraints, will be able to accommodate modest levels of infill development in the form of duplexes and medium-density townhouses/villas."*

*However, unsympathetic infill development should be avoided. A good example of this is the high numbers of unsympathetic secondary dwelling (granny flat) developments that have occurred under State Government planning rules in recent years.*

*While providing a form of affordable accommodation, the impacts associated with this housing type are many including increased site coverage and impervious surfaces, increased overland flooding, loss of vegetation and canopy cover, and inadequate on-street car parking availability.*

*There are also additional pressures placed on public infrastructure and services such as childcare, schools, hospitals, open space and community facilities due to the increased population.*

*This is exacerbated by the policy applying to all residential land in Fairfield City (meaning that developments occur in an unplanned and ad hoc manner) and also the inability to obtain data concerning occupancy rates that is necessary for forward planning. Council will need to work with the State Government for a more strategic approach to planning for secondary dwellings. This matter will be further investigated in the Local Housing Strategy”.*

**Attachment A** of this submission maps the ‘uncontrolled’ and ‘un-planned’ expansion of housing (secondary dwellings) across the Fairfield LGA. As part of the local housing strategy and funded under the Accelerated LEP Review, a recent study (Fairfield City Secondary Dwellings Study) commissioned by Council revealed that in the majority of cases, secondary dwellings are being utilised by landowners as source for rental income and not for meeting the housing needs of the existing occupants (i.e. housing for siblings or immediate relatives).

This pattern of development is slowly but surely undermining Council’s efforts to undertake planning that will facilitate the strategic provision of future housing in the City supported by appropriate levels of infrastructure, community facilities, open space and access to public transport.

Moreover, the above detrimental impacts of this form of housing on the urban fabric of the City are being compounded by associated complying development approvals for outbuildings, studios, sheds, garages and cabanas being approved in low density residential areas of the City (at the same time as a secondary dwelling approval).

Investigations by Council officers have found that these forms of complying development structures are also being utilised for the purposes low cost rental accommodation throughout the City. **Attachment B** to this submission provides further detailed examples and information relating to impacts of the above forms of complying development.

In summary, the nature of complying development currently taking place across the urban areas of the Fairfield City is effectively undermining levels of current and future community health and wellbeing.

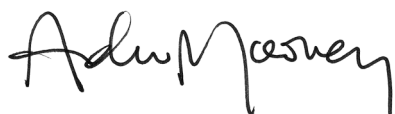
This is due to such factors as the loss of tree canopy cover, soft landscaped areas and the uncontrolled increase in hard surface area coverage that will lead to increased stormwater run-off and flooding as well as exacerbating the impacts of the heat island effect.

Under further preparation of the SEPP (Design and Place), Fairfield City Council officers respectfully request that the Department and Government Architect take into account the issues raised in this submission.

Specifically this includes ensuring integration of Council LSPS's (and associated place and design studies/strategies) into the framework of the draft SEPP as well as ensuring measures are incorporated (either within the proposed SEPP or current SEPPs), to address the significant and unmitigated detrimental impacts of complying development in areas such as Fairfield City.

Thank you for the opportunity to provide comment on the SEPP (Design & Place) and please contact the undersigned on 9725 0214 if you require any further clarification in regard to the issues raised in this submission.

Yours faithfully,

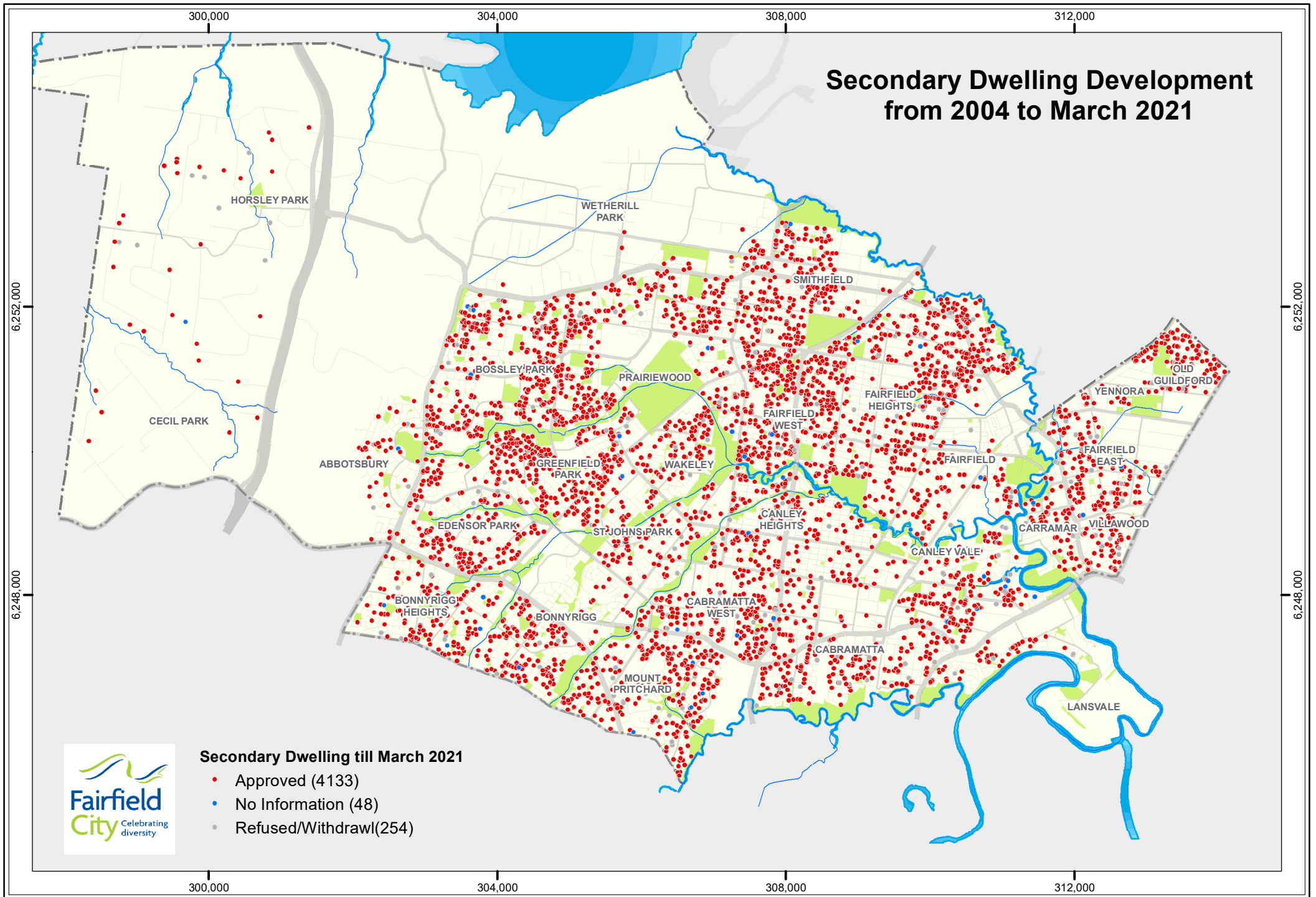


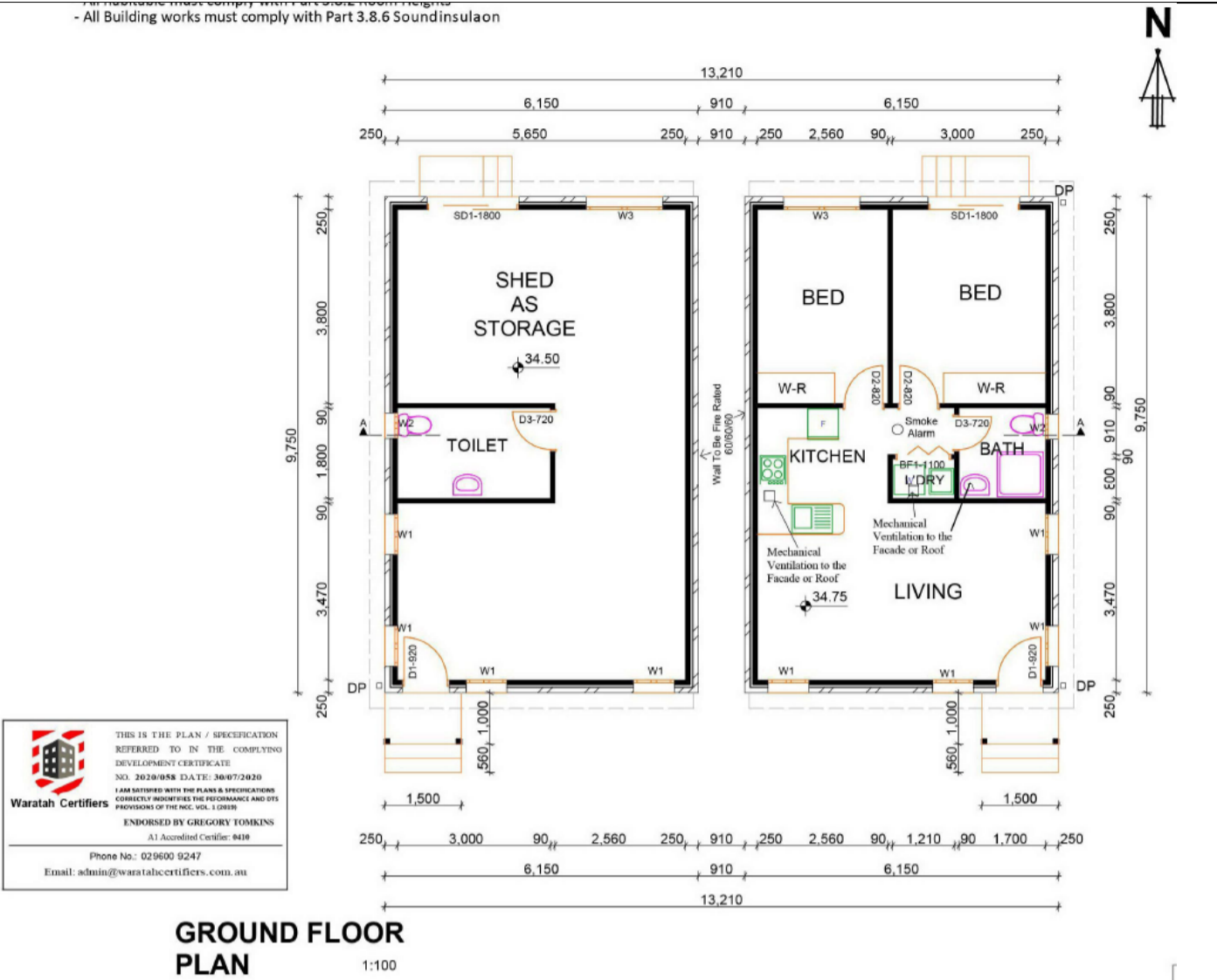
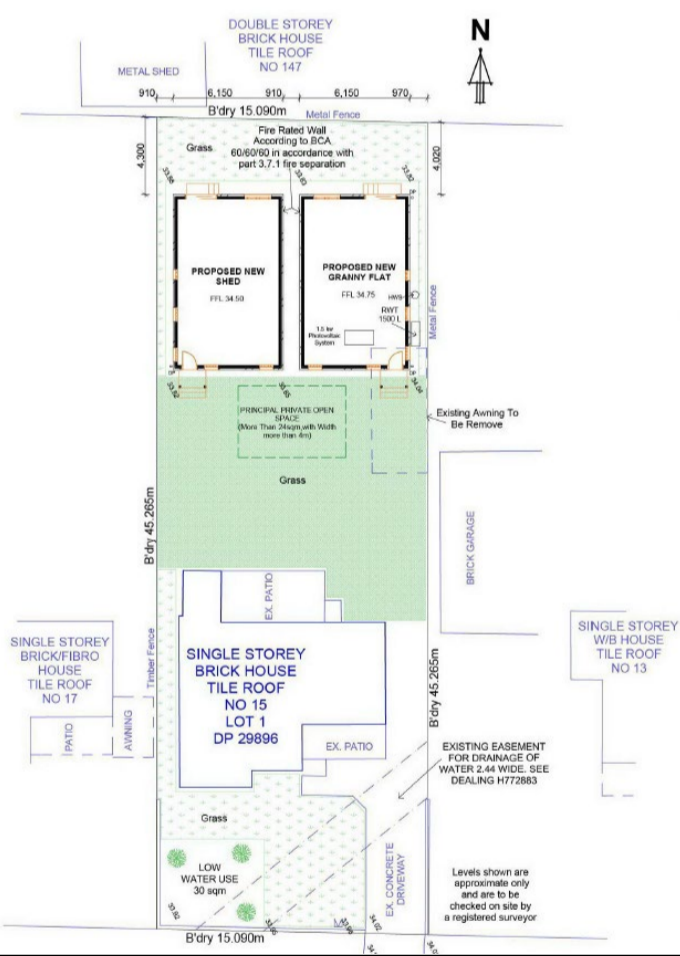

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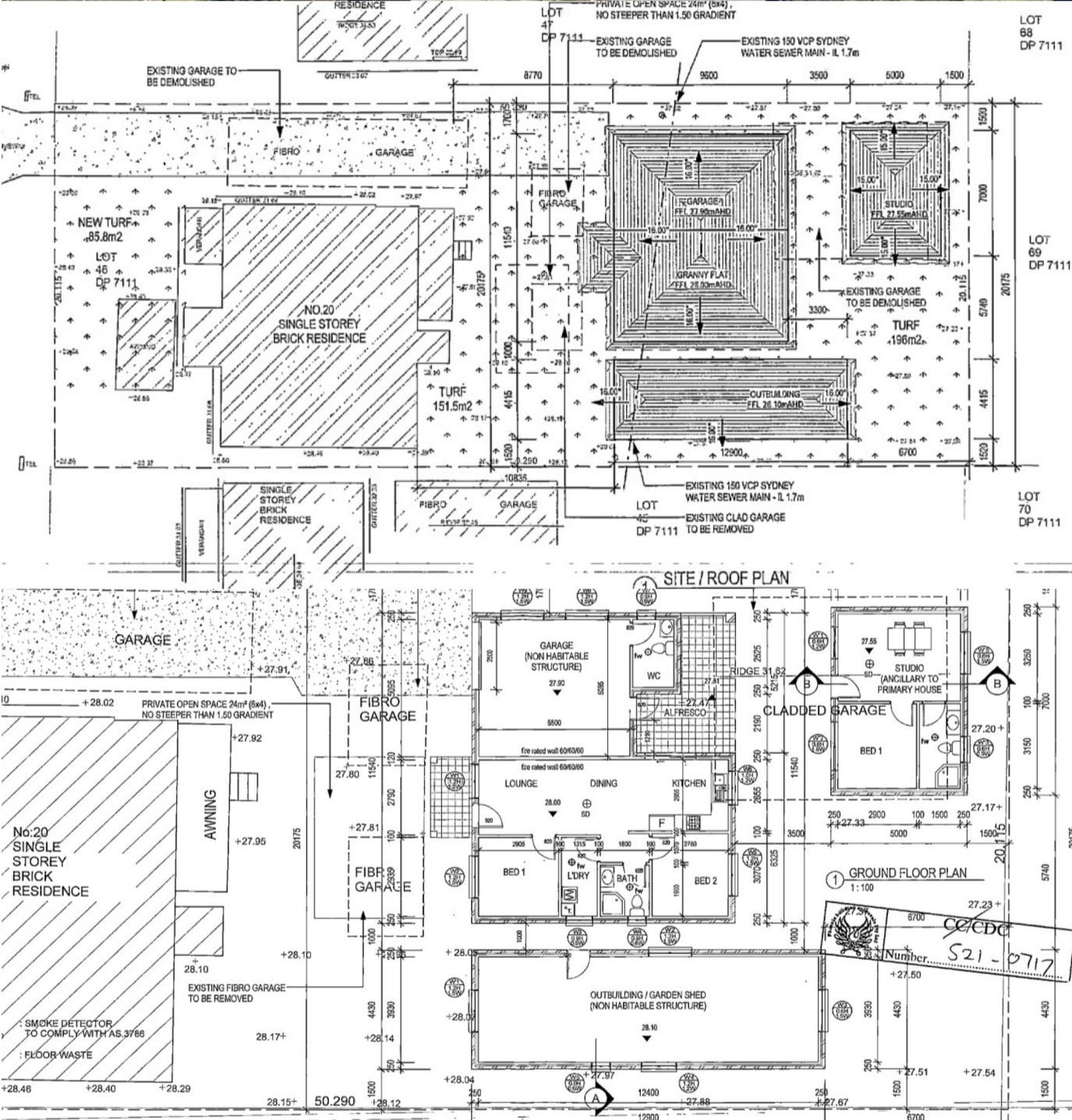
**EXECUTIVE PLANNER, CITY STRATEGIC PLANNING**


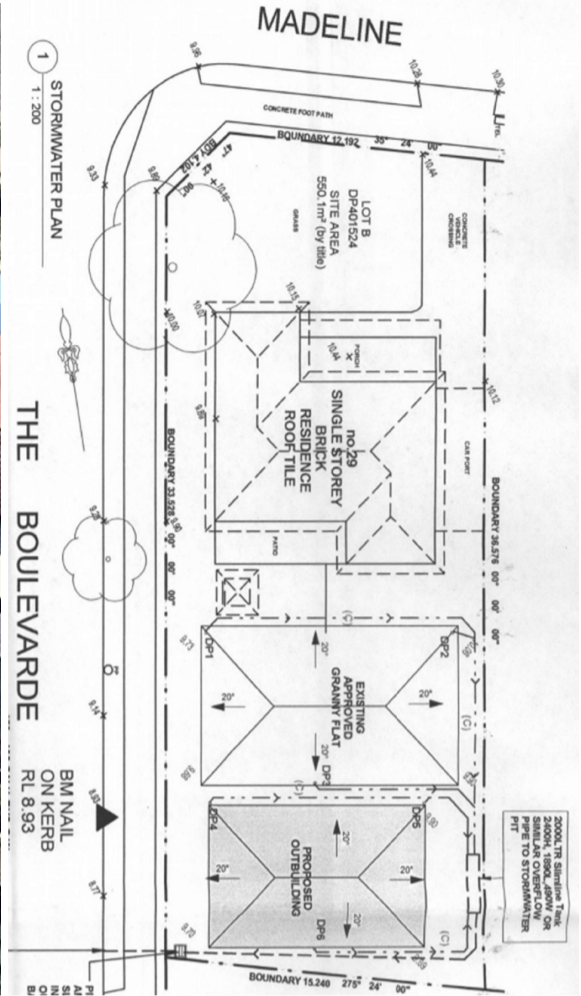
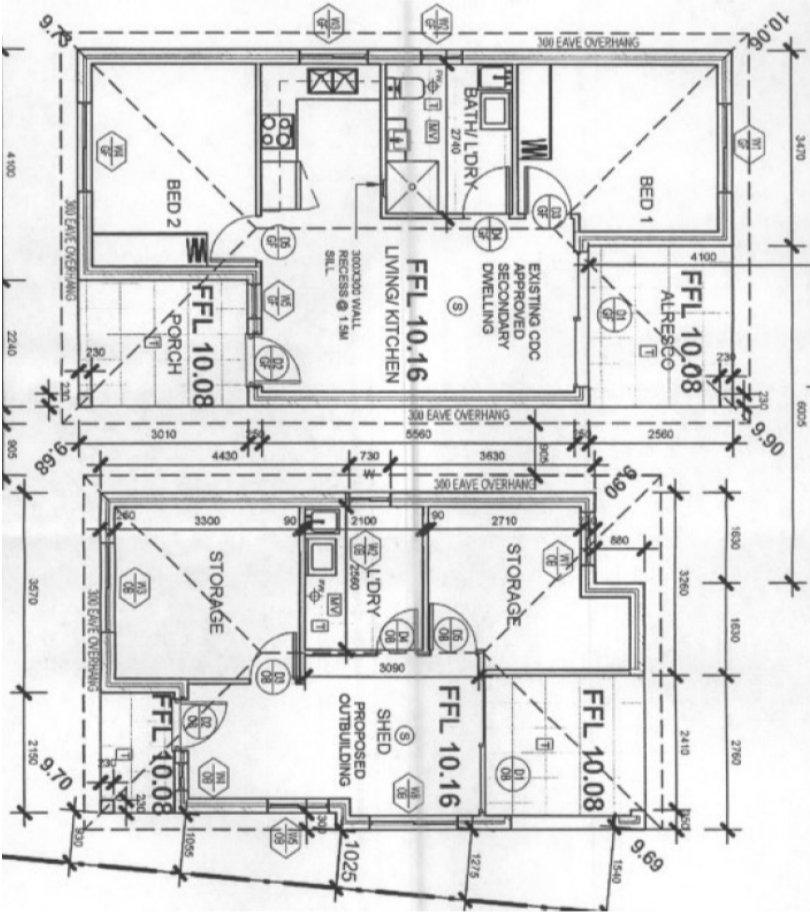

Attachment A: Secondary dwellings map (1 page)


Attachment B: Complying developments (4 pages)



Examples of poor outcomes permitted under SEPP Exempt & Complying and SEPP Affordable Rental Housing		
Address	Description	Images and plans
15 Jane Street, Smithfield	<p>Complying development certificate application within a R2 Low Density Residential zone.</p> <p>Application received approval for a detached two bedroom secondary dwelling and “detached shed for storage”.</p> <p>It is clear that the “storage shed” is a mirror image of the secondary dwelling with the internal layout not shown. The developer would likely then fit out the shed as another dwelling.</p> <p><b>Outcome</b> This would ultimately result in 3 separate dwellings on site:</p> <ol style="list-style-type: none"><li>1. Primary dwelling</li><li>2. Secondary dwelling</li><li>3. Converted storage/shed</li></ol> <p>Hardstand / impervious surface over 80% of the lot.</p> <p>Poor amenity and living outcomes for residents of the development, separation and privacy issues, car parking and access, and hard stand increasing stormwater run-off, increased heat island effect and inconsistent with the intent of Fairfield Local Strategic Planning Statement.</p> <p>Development Contributions are also only paid for the secondary dwelling, as the other structures are not intended to be separately habitable. However, with the larger population on the site and replicated over a larger number of sites through the City it would be creating an increased demand on local infrastructure items not funded for in the Section 7.11 Development Contributions Plan.</p>	<p>At least one must comply with Part 3.8.6 Sound insulation - All Building works must comply with Part 3.8.6 Sound insulation</p>  <p><b>GROUND FLOOR PLAN</b> 1:100</p>  

Examples of poor outcomes permitted under SEPP Exempt & Complying and SEPP Affordable Rental Housing		
Address	Description	Images and plans
20 Lovoni Street, Cabramatta	<p>Complying development certificate application within a R2 Low Density Residential zone.</p> <p>Application received approval for a detached secondary dwelling, garage attached to secondary dwelling containing a bathroom, studio and 'outbuilding'.</p> <p>Each of the structures would likely be illegally converted into separate dwellings. They will then likely be privately rented out by the owner.</p> <p><b>Outcome</b></p> <p>This would ultimately result in 5 separate dwellings on site:</p> <ol style="list-style-type: none"><li>1. Primary dwelling</li><li>2. Secondary dwelling</li><li>3. Studio</li><li>4. Converted outbuilding</li><li>5. Converted garage</li></ol> <p>Hardstand / impervious surface almost 100% of the lot.</p> <p>Poor amenity and living outcomes for residents of the development, separation and privacy issues, car parking and access, and hard stand increasing stormwater run-off, increased heat island effect and inconsistent with the intent of Fairfield Local Strategic Planning Statement.</p> <p>Development Contributions are also only paid for the secondary dwelling, as the other structures are not intended to be separately habitable. However, with the larger population on the site and replicated over a larger number of sites through the City it would be creating an increased demand on local infrastructure items not funded for in the Section 7.11 Development Contributions Plan.</p>	 

Examples of poor outcomes permitted under SEPP Exempt & Complying and SEPP Affordable Rental Housing		
Address	Description	Images and plans
29 Madeline Street, Fairfield	<p>Complying development certificate application within a R2 Low Density Residential zone.</p> <p>Application received approval for a detached two bedroom secondary dwelling and “detached outbuilding”.</p> <p>It is clear that the “outbuilding” is a variant of the secondary dwelling with the internal layout easily converted to a bathroom and kitchen.</p> <p><b>Outcome</b> This would ultimately result in 3 separate dwellings on site:</p> <ol style="list-style-type: none"><li>1. Primary dwelling</li><li>2. Secondary dwelling</li><li>3. Converted outbuilding</li></ol> <p>Hardstand / impervious surface at least 70% of the lot.</p> <p>Poor amenity and living outcomes for residents of the development, separation and privacy issues, car parking and access, and hard stand increasing stormwater run-off, increased heat island effectand inconsistent with the intent of Fairfield Local Strategic Planning Statement.</p> <p>Development Contributions are also only paid for the secondary dwelling, as the other structures are not intended to be separately habitable. However, with the larger population on the site and replicated over a larger number of sites through the City it would be creating an increased demand on local infrastructure items not funded for in the Section 7.11 Development Contributions Plan.</p>	   

Examples of poor outcomes permitted under SEPP Exempt & Complying and SEPP Affordable Rental Housing		
Address	Description	Images and plans
Various 'narrow lot' areas throughout the City.	<p><b>Background</b></p> <p>Fairfield has large areas of the City that consist of 'narrow lots'. These lots generally range between 6.8 metres and 7.5 metres in width and vary in area from 200m<sup>2</sup> to 300m<sup>2</sup>. Many of the lots were sold as groups of 2, 3 or 4 post World War 1 &amp; 2. This resulted in 1 dwelling house being constructed over 2, 3 or 4 lots.</p> <p>Developers then purchase these dwellings to develop a house on each lot.</p> <p>The issue arises with the SEPP Exempt and Complying Codes which permits 'studios' to be developed on lots of at least 200m<sup>2</sup> to a maximum floor area of 20m<sup>2</sup>.</p> <p>The studio are ultimately used as defacto secondary dwellings for these small narrow lots. See numerous examples attached.</p> <p><b>Outcome</b></p> <p>This would ultimately result in many dwellings on site.</p> <p>Hardstand / impervious surface up to 100% of the lot.</p> <p>Poor amenity and living outcomes for residents of the development, separation and privacy issues, car parking and access, and hard stand increasing stormwater run-off, increased heat island and inconsistent with the intent of Fairfield Local Strategic Planning Statement.</p> <p>Development Contributions are also only paid for the primary dwellings, as the other structures are not intended to be separately habitable. However, with the larger population on the site and replicated over a larger number of sites it would be creating an increased demand on local infrastructure items not funded for in the Section 7.11 Development Contributions Plan.</p>	 <p>The image block contains three visual elements. At the top is an aerial photograph showing a row of residential houses on narrow lots. In the middle is a detailed floor plan for a three-unit development. The plan shows three units, each with a lounge/dining room, kitchen, study, sitting room, and a garage. It also includes a courtyard area and a hardstand. At the bottom is another aerial photograph showing a different view of the same or a similar residential street with narrow lots.</p>