

Greater Sydney, Place and Infrastructure

IRF19/5131

Plan finalisation report

Local government area: Fairfield

1. NAME OF DRAFT LEP

Fairfield Local Environmental Plan 2013 (Amendment No 38). (draft LEP). The draft written instrument is at **Attachment LEP**.

2. SITE DESCRIPTION

The planning proposal (**Attachment A2**) applies to land in the Bonnyrigg Town Centre in the Fairfield local government area (LGA) (Figure 1). The site is bounded by Smithfield Road, Edensor Road, Elizabeth Drive and the Newleaf (Bonnyrigg Living Communities) development precinct. The site includes the Bonnyrigg Plaza, Bonnyrigg District Park and a number of community facilities such as the Bonnyrigg Library and the community centre and educational establishments. It contains 52 allotments as identified in **Attachment A4**.



Figure 1: The Site.

3. PURPOSE OF PLAN

The draft LEP seeks to transition the existing development controls for the Bonnyrigg Town Centre from the existing Fairfield Local Environmental Plan (LEP) 1994 into the Fairfield LEP 2013, which is a LEP standard instrument. The amendment will repeal Fairfield LEP 1994, as it will no longer apply to land in the Fairfield LGA.

Under the Fairfield LEP 1994, the site is currently zoned: zone 2(a) Residential A; zone 3(b) District Business Centre; zone 3(c) Local Business Centre; zone 4(c) Special Industrial; and, zone 6(a) Existing and Proposed Recreation (Figure 2).

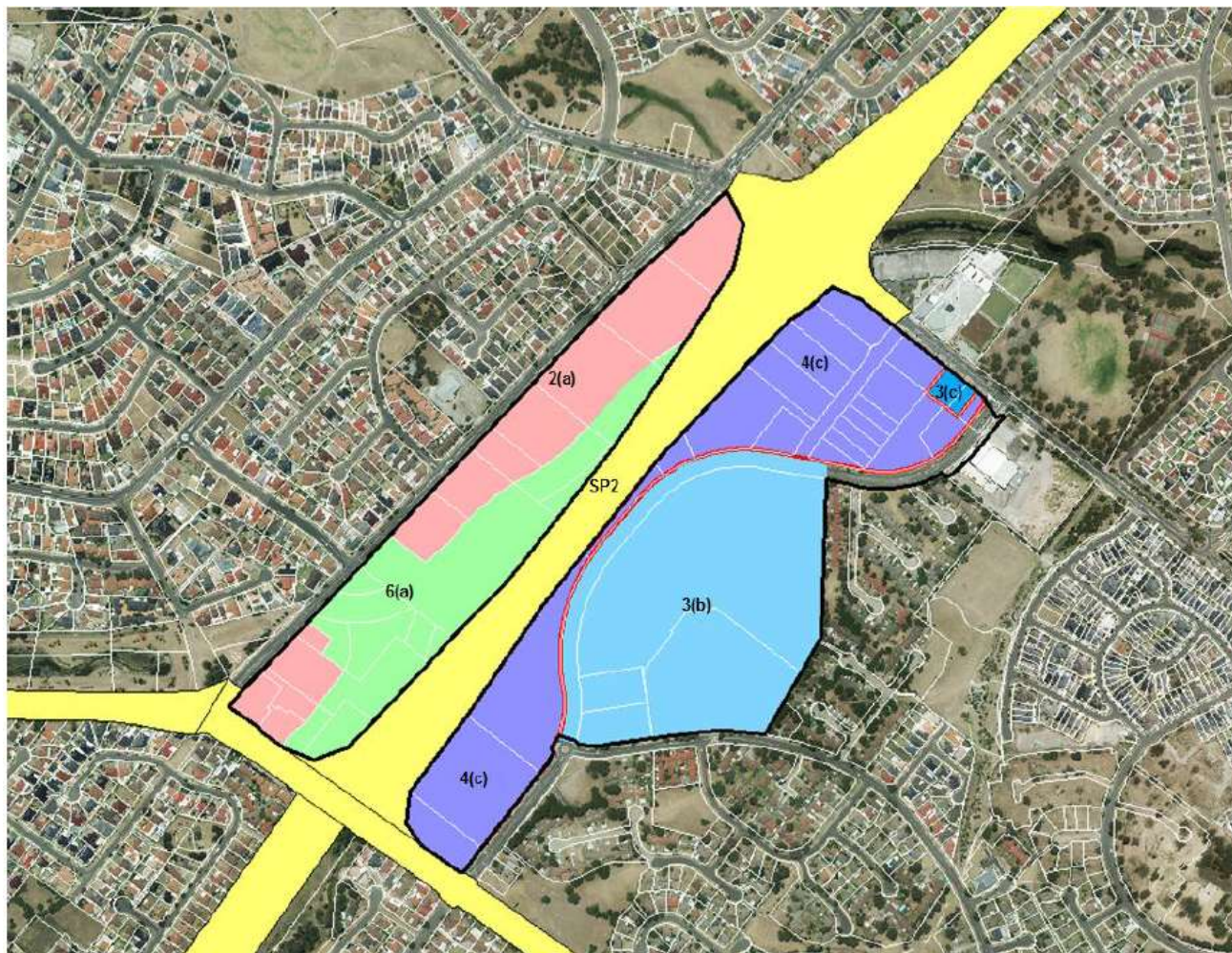


Figure 2: Current Land Zoning under Fairfield LEP 1994.

The proposal seeks to amend the Fairfield LEP 2013 as follows:

- Fairfield LEP 1994 – repeal this LEP;
- Land Application Map – remove the site as a ‘Deferred Matter’;
- Land Zoning Map – rezone the site to a mix of B1 Neighbourhood Centre, B4 Mixed Use, B6 Enterprise Corridor, R4 Residential High Density, SP2 Infrastructure, RE1 Public Recreation (existing and proposed), and RE2 Private Recreation (Figure 3);
- Height of Building Map – apply various maximum building heights to the site, with potential for up to eight (8) storeys (inclusive of 2 storeys of commercial) buildings on certain large sites (Figure 4);
- Land Reservation Acquisition Map – identify sections of properties already zoned SP2 – Infrastructure (Classified Road) adjoining the Deferred Matter;

- Riparian Lands and Watercourses Map – identify part of the site to apply the provisions of Clause 6.6 Riparian land and watercourses;
- Heritage Map and Schedule 5 Environmental Heritage – include 4 local heritage items, listed as local heritage items under Fairfield LEP 1994;
- Land Use Table – include a reference to “Bonnyrigg” in the third objective for the B4 zone that currently only refers to the Prairiewood, Fairfield and Cabramatta Town Centres;
- Clause 4.4A Exception to Maximum Floor Space Ratio in R4 – exclude the application of this clause to the site;
- Clause 7.9 Bonnyrigg Height of Buildings – apply a new local clause to establish height incentives for the future redevelopment of Bonnyrigg Plaza and amend the associated Town Centre Precinct Map to identify the Bonnyrigg Plaza site; and
- Key Sites Map and Schedule 1 Additional Permitted Uses – introduce the following additional permitted uses:
 - residential flat buildings for land at 673-683, and 661 Smithfield Road, Edensor Park;
 - residential flat buildings, restaurants and cafés, and small bars for land at 1-9, 9-11, 21 and 35 Bonnyrigg Avenue, Bonnyrigg; and
 - restaurants and cafés, and small bars for land at 27 Bonnyrigg Avenue, Bonnyrigg; and,
 - business premises, office premises and restaurant and café on the ground floor only for land at 37 and 51 Bonnyrigg Avenue, Bonnyrigg.

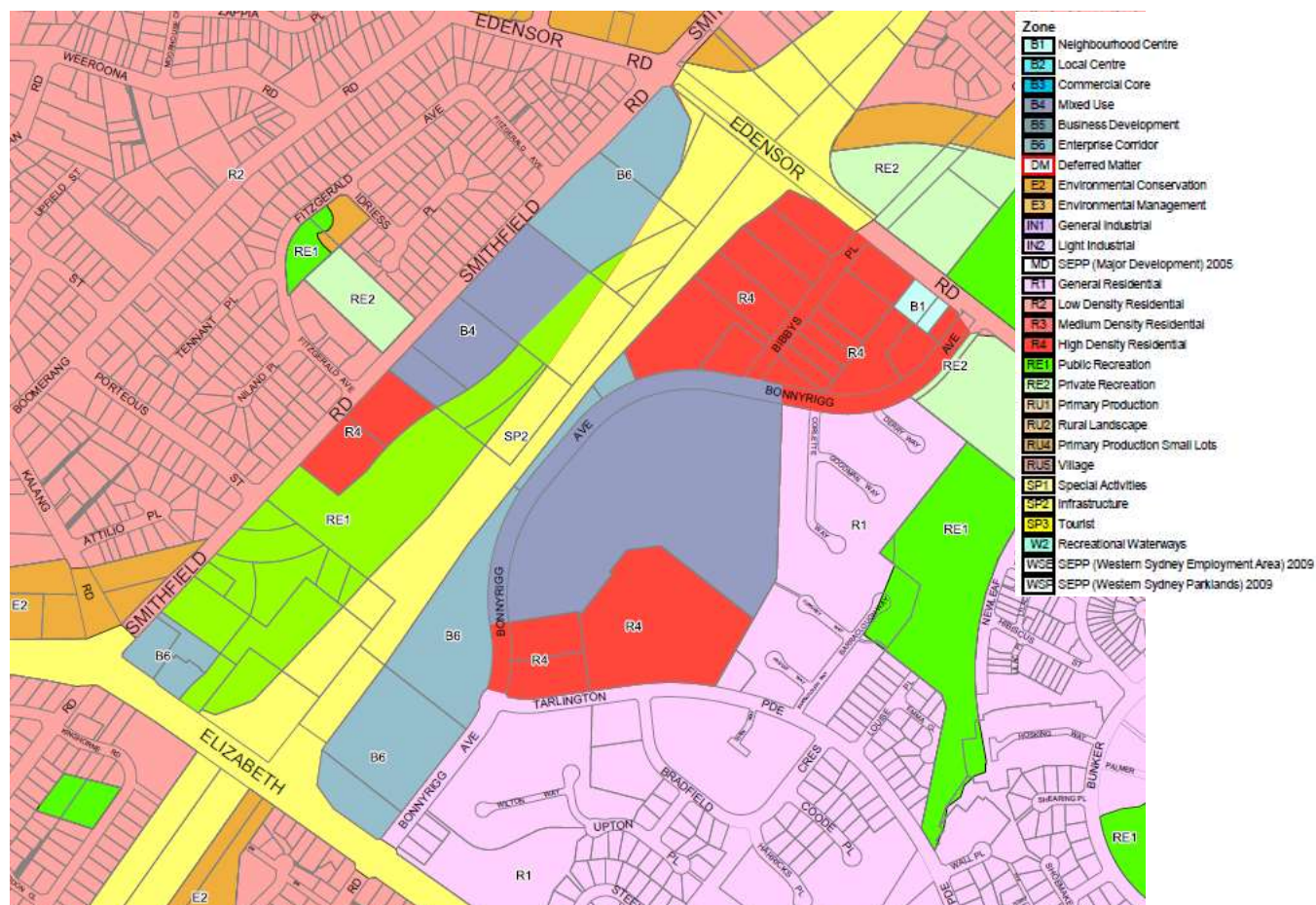


Figure 3: Proposed Land Zoning Map under Fairfield LEP 2013.

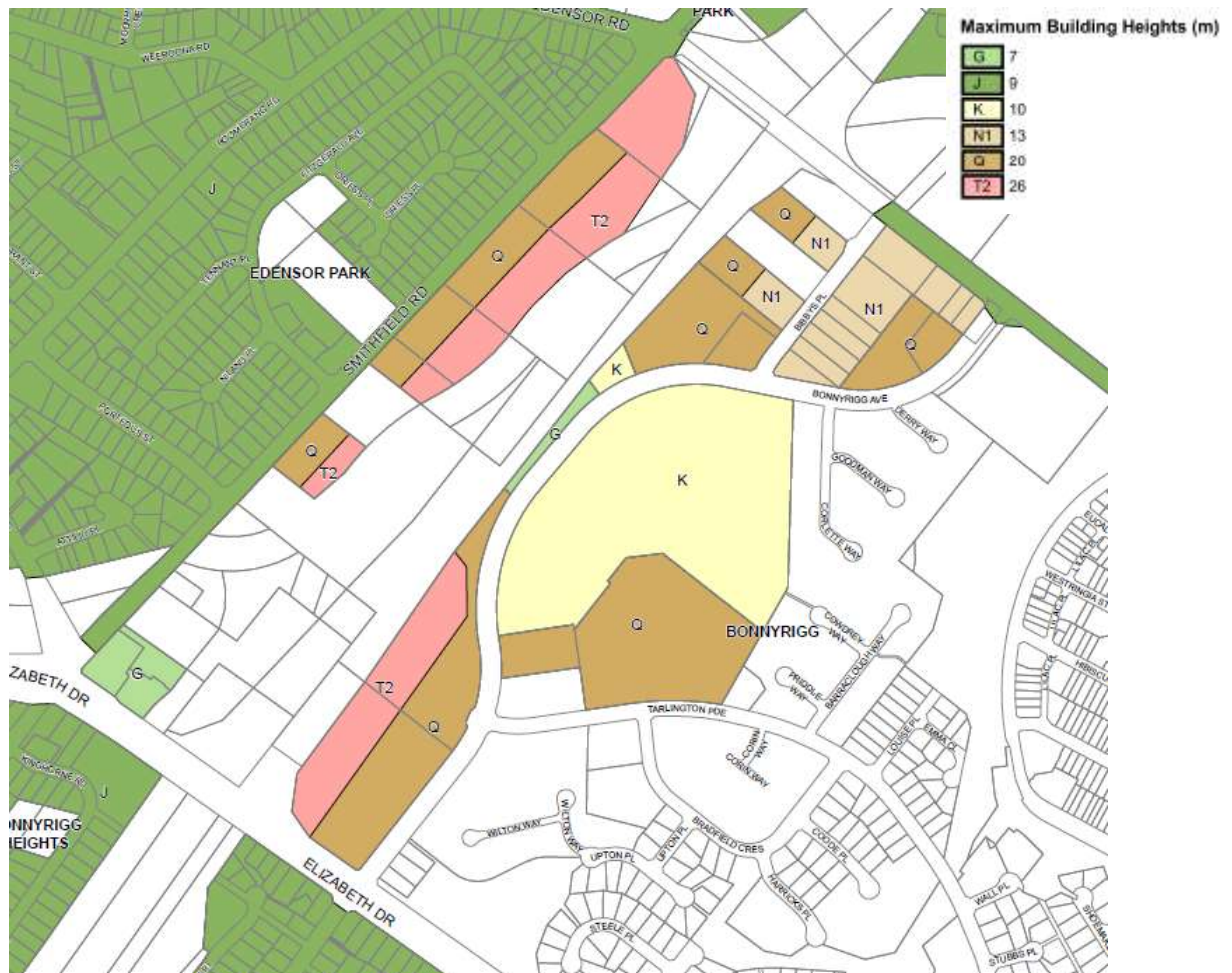


Figure 4: Proposed Height of Building Map under Fairfield LEP 2013.

It is noted that no maximum floor space ratio is proposed for the site.

It is anticipated that the planning proposal would provide approximately 320 additional dwellings and 369 additional jobs.

The current and proposed maps are provided at **Attachment A3**.

Development Control Plan

An amendment to the Bonnyrigg Town Centre Development Control Plan (DCP) (**Attachment D**) was also prepared by Council to guide future development and to ensure the underlying objectives of the planning proposal can be reasonably achieved.

The DCP includes the following key design considerations:

- built form controls, including building setbacks, building depths and bulk, building design and materials;
- streetscape and public domain objectives;
- pedestrian and vehicular connectivity;
- pedestrian amenity; and
- desired urban structure for the town centre precincts.

The town centre precincts in the DCP (Figure 5) include the following:

- Precinct 1 – consists of a service station, basketball court, McDonalds outlet and other fast food outlets on the corner of Elizabeth Drive and Smithfield Road;

- Precinct 2 – consists of two large vacant sites related to a development application for a shopping centre at 685-707 Smithfield Road, Assyrian Community centre, heritage item, a Christian church, large fruit and grocery warehouse and a large discount store;
- Precinct 3 – consists of an existing Bunnings Warehouse at the corner of Elizabeth Drive and Bonnyrigg Avenue, the adjoining former Bunnings site (currently vacant and subject of an approved development application for a Kmart store) and two smaller lots of land between the TWAY and Bonnyrigg Plaza;
- Precinct 4 - consists of the Bonnyrigg Plaza, Bonnyrigg Public School, a heritage item, youth centre, Bonnyrigg Library and community centre;
- Precinct 5 – consists of a mixture of bulky goods and two recently mixed-use buildings up to 6 storeys in height;
- Precinct 6 – consists of cultural and religious uses (two heritage items and two cultural buildings), as well as, residential/social housing and bulky goods; and
- Precinct 7 – consists of residential development, a three storey mixed used building with restaurants and a service station.



Figure 5: Town Centre Precincts under DCP.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Cabramatta state electorate. Mr Nick Lalich MP is the State Member.

The site falls within the Fowler federal electorate. Mr Chris Hayes MP is the Federal Member.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 7 June 2016 (**Attachment B**) determined that the proposal should proceed subject to conditions. The Gateway determination was previously altered as follows:

- on 16 October 2017, to extend the timeframe (**Attachment C1**); and
- on 21 March 2019, to amend the proposal description, extend the timeframe to finalise the proposal, and remove the authorisation for Council to be the local plan-making authority (**Attachment C2**).

The finalisation date for this proposal expired on 7 August 2019.

The Department received Council's request to finalise the planning proposal prior to the due date. The Department is now satisfied that Council has met the conditions of the Gateway determination and the planning proposal is adequate for finalisation.

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was initially exhibited by Council from 31 May 2017 to 7 July 2017. Following some revisions to the proposal, however, it was re-exhibited by Council from 10 April 2019 to 10 May 2019.

6.1 Community Submissions

Council received 8 submissions from the community during the initial public exhibition period and 2 submissions were received during the re-exhibition period (**Attachments E1-E4**). The issues raised and Council's response is shown in Table 1 below.

Table 1: Community Concerns and Council Responses.

Community Concern	Council Response
1. Objection to the vast areas of land to be rezoned for retail purposes and questions the current and future provision of retail floor space and allocation across the site.	Council noted that the proposed amount of land to be rezoned for retail purpose relates largely to a redistribution of retail floor space in the town centre and permitted under the provisions of the current Fairfield LEP 1994. In addition, the Fairfield City Centres Study 2016 identified a general retail floor space cap of 50,000m ² in GFA for the town centre and the total retail floor space allocation proposed under the B4 zone falls within this identified cap.
2. Objection to the restrictive/anti-competitive proposed retail zoning and diminishing range of retail uses on specific sites.	Council included additional permitted uses for certain sites.
3. Objection to the proposed 25m setbacks to Edensor Road.	Council reduced the setback to 10m.

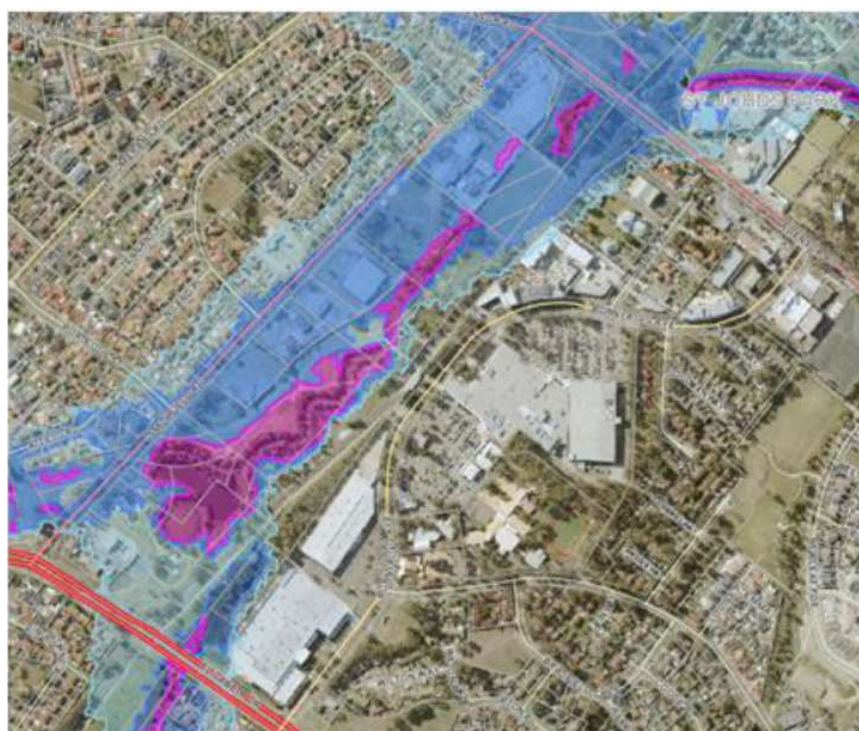
Community Concern	Council Response
4. Request that the proposed local clause for increased building height or the Bonnyrigg Plaza site be applied across the whole centre.	Noted.
5. Access arrangements, built form controls and drainage design.	Council adopted a number of minor changes to the DCP, which were re-exhibited.
6. Request for increased height at 35 Bonnyrigg Avenue and clarification of residential flat buildings as an additional permitted use.	Council increased the building height from 2 to 3 storeys to provide better transition to existing 6 storey adjoining development.
7. Request for inclusion of the property at 6 Bonnyrigg Avenue, Bonnyrigg, which is outside the planning proposal boundary to be rezoned from R1 General Residential to B4 Mixed Use.	Council considered the change in zoning too significant to incorporate into the existing planning proposal. The future development of this site needs to be considered in the context of the Bonnyrigg Living Communities Housing Estate and the owners of the subject land are encouraged to consult with NSW Land and Housing Corporation with respect to the future development of the site.
8. Request for significant height increase and retail permissibility for land at 661-671 Smithfield Road, Edensor Park, and for consideration of reduced setback requirements and road layout under the DCP.	Council noted that the changes requested in the submission to the planning proposal and draft DCP are significant and are not substantiated. These would require considerable review and assessment by Council's urban designer, flood and traffic engineers and development planners. Consequently, the landowner may care to pursue the lodgement of a separate planning proposal for the desired changes.

6.2 Internal Submission

Bonnyrigg Town Centre lies over Upper Clear Paddock Creek. The section bounded by Edensor Road, Smithfield Road, Elizabeth Drive and the T-WAY is affected by the 1 in 100 year flood level (as represented in pink and dark blue in the flood risk map – Figure 6, overleaf).

The degree of flooding is a combination of flooding from the creek line running parallel to the Bus T-Way as well as overland flooding passing from Smithfield Road to the creek. The intersection at Edensor Road and Smithfield Road is also flood affected (refer to Figure 6).

Information in relation to flooding issues was incorporated into the building footprints and envelopes for the Town Centre under the provisions of the exhibited draft DCP.



Fairfield LEP 2013

Bonnyrigg Deferred Matter – Mainstream Flooding



Figure 6: Mainstream Flood Risk Precincts

Council's flood engineers (**Attachment E1**) made recommendations for the amendment of the DCP, as follows:

- include within Section 2.4 – Environmental Characteristics (Drainage and Flooding) of the DCP - additional wording requiring that future developments must not have a negative impact on flooding and should be designed so that where there is flooding it has little impact on the development and its residents/stakeholders;
- remove the proposed building footprints for properties located along Smithfield Road in the DCP as future development should be informed by accurate flood modelling at the time of development, which also considers the integration of, and impact upon, adjoining properties; and
- amend the Riparian Lands and Watercourses Map to include all affected land (refer to Figures 7 & 8).

Accordingly, Council amended the DCP and the Riparian Land and Watercourses Map which accurately identifies all “Riparian Area” land to be included under the provisions of Clause 6.6 of Fairfield LEP 2013 (Figure 8).

In light of these changes, Council included the amended DCP and map in the re-exhibition package.

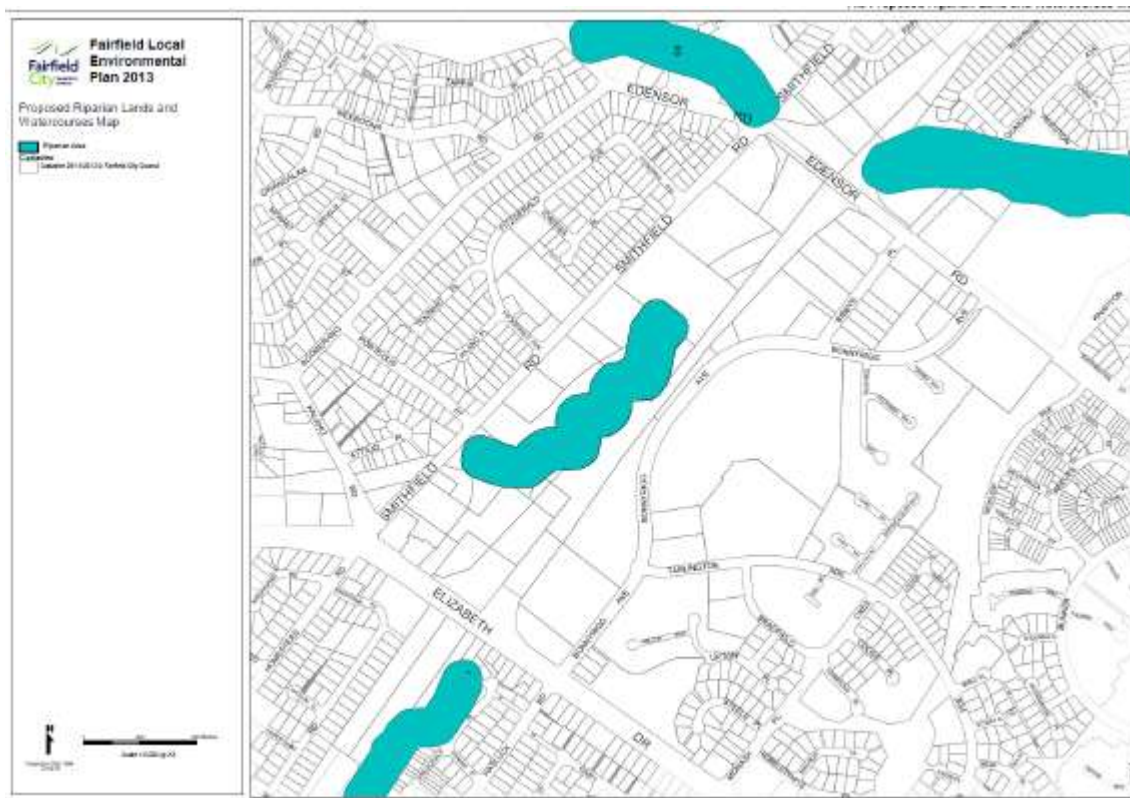


Figure 7: Exhibited Riparian Lands and Watercourses Map.

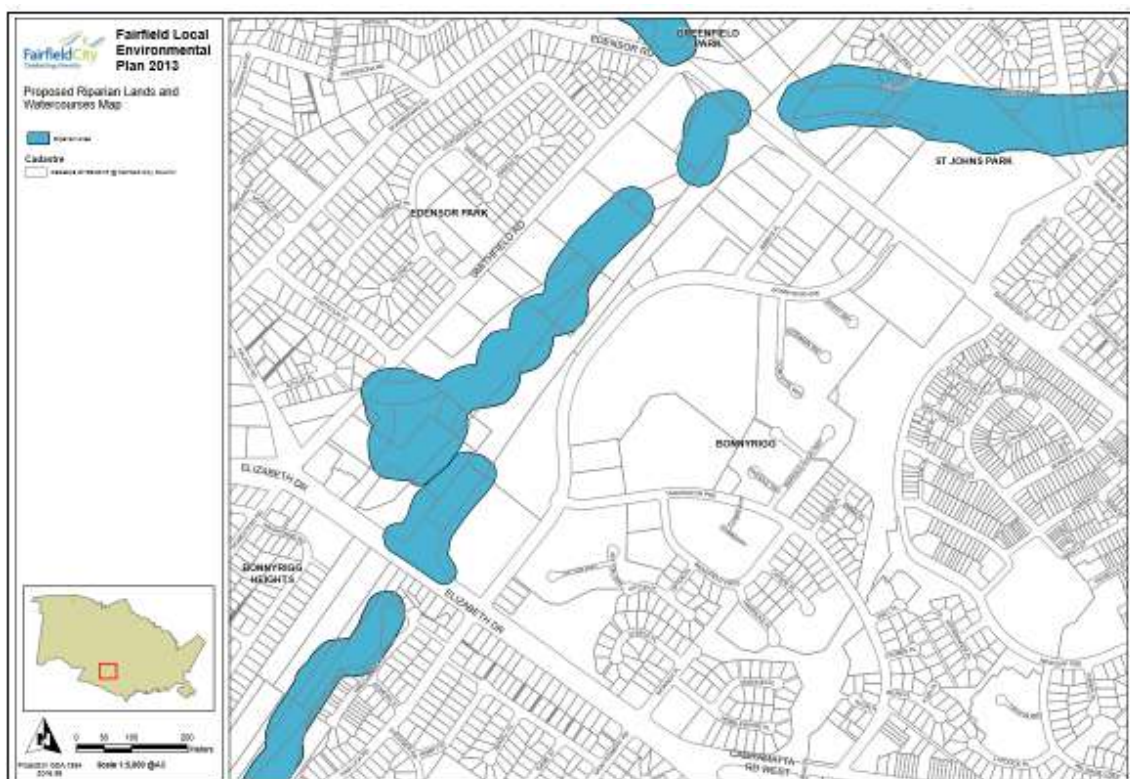


Figure 8: Revised Riparian Lands and Watercourses Map.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult Endeavour Energy, Roads and Maritime Services, Office of Environment and Heritage (Flood Division), Sydney Water, Telstra, Transport for NSW, and NSW State Emergency Service in accordance with the Gateway determination.

Council has consulted these authorities and received five (5) submissions. Endeavour Energy, Roads and Maritime Services, Office of Environment and Heritage (Flood Division), Transport for NSW, and the Land and Housing Corporation, made submissions.

7.1 Traffic and Transport Matters

Acquisition

In preparing Fairfield LEP 2013, Council was required to zone land for the Liverpool to Parramatta Bus T-Way corridor as SP2 Infrastructure (Classified Road). This included the rear sections of some privately owned properties facing Smithfield Road. Under the Fairfield LEP 1994 all of the subject land was previously zoned 5(b) Special Uses – Arterial Road and Arterial Road Widening and land acquisition provisions under Part 5 of the Fairfield LEP 1994 applied.

Although land associated with the Bus T-Way Corridor was zoned SP2 under Fairfield LEP 2013, it was not identified on the accompanying Land Reservation Acquisition Map for sections of 4 privately owned properties and 1 Council owned parcel of land (at 673A Smithfield Road) affected by the SP2 Zone. These parcels are shown on the following diagram (Figure 9).



Figure 9: Parcels of land subject to acquisition

To address this anomaly, the planning proposal sought to amend the Fairfield LEP 2013 Land Reservation Acquisition Map accordingly.

The covering letter to the Gateway determination issued on 7 June 2016 (**Attachment B**) required Council to consult with the Roads and Maritime Services (RMS) in relation to additional acquisition responsibilities, prior to the commencement of the formal public exhibition of the planning proposal.

Council consulted with RMS (**Attachment F10**). RMS requested (**Attachment F1**) Council amend the planning proposal and associated draft Land Reservation Acquisition (LRA) map to ensure that the proposed SP2 zones already identified on RMS's Property Information and Mapping System (PIMS) correctly corresponds with the draft LRA map within the planning proposal. Further, there was no record of approval from RMS for the acquisition requirements to be removed from 4 privately owned properties and 1 parcel owned by Council.

The absence of the identification of the 5 properties highlighted by RMS on the draft LRA map was an oversight and Council subsequently amended the draft LRA Map to ensure the SP2 zoned land yet to be acquired is identified within the Planning Proposal and aligns correctly with the SP2 zones and acquisition requirements identified on RMSs PIMS.

A revised planning proposal was referred to the Department for an amended Gateway Determination, which was issued during March 2019 (**Attachment C2**). The subsequently exhibited draft LRA Map correctly identified the 5 affected properties.

Cumulative Traffic and Transport Matters

During July 2016 and August 2017, RMS (**Attachments F1 & F2**) suggested that Council give consideration to the cumulative traffic and transport impacts associated with the proposed land use intensification proposed for the town centre and the need (if any) for appropriate road and transport infrastructure improvements and associated funding mechanisms (i.e. Planning Agreements and Section 94 Plans).

RMS also noted that funding for a City Wide Traffic Model has been identified to investigate the need for road improvements in the City, which includes road servicing for the town centre. RMS recommended that the funding mechanism is adopted prior to the finalisation of the planning proposal to ensure all developers benefiting from the LEP amendment made an equitable contribution towards any identified infrastructure improvements.

During July 2017 and June 2019 Transport for NSW (TfNSW) (**Attachment F3**) supported and agreed with RMS's comments above. In addition, TfNSW (**Attachment F4**) raised the following:

- Local bus services – Council should consider renewal of bus stops and shelters on Bonnyrigg Avenue within proximity of the existing Bonnyrigg Plaza and T-way station to support local bus services running to/from the redeveloping Newleaf estate. This service would support the potential expansion of the retail offering associated with the redevelopment of the town centre; facilitated by this planning proposal.
- Bicycle network – Section 2.8 of the DCP identifies a major opportunity to create a pathway and walkway system along existing and proposed streets linking the surrounding residential areas to the town centre, cultural facilities and the town centre park to address difficulties in walking around the town centre. In addition, Council should also identify opportunities to develop the bicycle network alongside the pedestrian network to support movements from future residential dwellings to the north of the centre, south of the centre and the Newleaf redevelopment towards the Bonnyrigg Plaza, cultural uses and recreational uses.

Council Response

Local Bus services

Council noted that preliminary investigations have previously been undertaken and bus stops within the Newleaf Estate will be subject to further consideration with future stages of the Newleaf redevelopment.

Bicycle Network

It is noted that Council has an allocated cycle path adjoining the Liverpool to Parramatta T-way, including an assigned bike rack at the T-Way Station.

Assessment of Traffic Impacts

Council arranged the Fairfield City Development Uplift - Traffic Modelling Report (**Attachment I**). The study was undertaken by Bitzios Consulting and aimed to determine

the anticipated impacts and required infrastructure improvements and responsibilities as a result of proposed increased densities in various centres within the City of Fairfield including the Bonnyrigg Town Centre.

The study investigated the capacity at the following 6 major intersections within the Bonnyrigg Town Centre “Deferred Matter” area:

- Smithfield Road/Edensor Road;
- Elizabeth Drive/Smithfield Road;
- Bonnyrigg Avenue/Edensor Road;
- Elizabeth Drive/Bonnyrigg Avenue;
- Bonnyrigg Avenue/Tarlington Parade; and
- Bonnyrigg Avenue/Bibby’s Place.

The study concluded that “the proposed additional development contributes a relatively minor proportion of peak traffic volumes passing through the assessed intersections. Most of the traffic through those intersections is background traffic originating from and destined to areas beyond the proposed developments”. The only intersections to operate within practical capacity under all scenarios were Bonnyrigg Avenue/Tarlington Parade and Bonnyrigg Avenue/Bibby’s Place both of which are local intersections.

Consequently, the density proposed under the planning proposal is not significantly more than that currently permitted under the existing LEP 1994 controls.

Intersection upgrades will be required to the four major intersections (as a result of ‘natural’ background growth in traffic levels) within the Bonnyrigg Town Centre in the future, regardless of the proposed minor increases in density within the centre under the planning proposal. Two of these intersections include classified roads which are the responsibility of the RMS.

At this stage, there will be an insufficient increase in the level of traffic for Council to be able to apply contribution levies on new development in the centre to fund intersection upgrades. Rather, upgrades for arterial road would be undertaken as part of ongoing road management programs undertaken by the RMS.

In the case of local roads, the issue of the upgrade of local roads, and potential to levy contributions on future development, will be examined further under the current LEP review programme being undertaken for the City.

Further, Council recently obtained grant funding under the Federal Government’s Local Roads Package Program associated with the Western Sydney Infrastructure Plan (WSIP) for the upgrade of Smithfield Road. This plan involves improving major road and transport links to capitalise on the economic gains from the Western Sydney Airport.

Part of the improvements to Smithfield Road includes an upgrade to the intersection of Smithfield Road with Elizabeth Drive, including the provision of a dedicated left turn lane from Smithfield Road into Elizabeth Drive. This is one of the proposed upgrades recommended in the draft Traffic Study.

In these circumstances, Council requested that the Department proceed with finalisation of the amended Planning Proposal as exhibited, and advise RMS that identification of mechanisms to collect monetary contributions from future development within the Bonnyrigg Town Centre is not a viable option.

Department Comment

Council has satisfactorily addressed the issues raised by RMS and TfNSW.

In regard to the need for contributions for infrastructure upgrades, as Council has advised, the increase in density within the town centre is only minor and traffic impacts are from the wider area. The Fairfield City Development Uplift - Traffic Modelling Report (**Attachment I**) was provided to TfNSW, which advised that the modelling was satisfactory and no further comments are provided (**Attachment F9**).

7.2 Flooding Matters

The former Office of Environment and Heritage (OEH) (**Attachment F5**) reviewed the proposal and considered that the proposed amendments are unlikely to create adverse impacts to natural hazards or Aboriginal cultural heritage issues.

7.3 Heritage Matters

The Heritage Council of NSW (**Attachment F6**) did not raise any objections to the inclusion of the locally listed heritage items provided a detailed assessment of the heritage significance of the items, and an assessment against the NSW Heritage Division assessment criteria have been undertaken by a suitably qualified heritage professional.

7.4 Utility Matters

Endeavour Energy (**Attachment F7**) advised it did not hold an objection to the planning proposal subject to the recommendations and comments provided, generally relating to matters for consideration at the development application stage within the town centre.

Council noted that the comments by Endeavour Energy. As part of the Fairfield LEP 2020 Review, a Public Domain Strategy will be prepared and will consider, amongst other things, additional street lighting within town centres. Further the need for additional street lighting can be included in Council's Operational Plan, however, will need to be discussed further with relevant Place Managers. All other issues and requirements raised will be investigated and addressed when future development applications are lodged.

7.5 Land and Housing Corporation

The Land and Housing Corporation (LAHC) (**Attachment F8**) is generally supportive of the goals of the Bonnyrigg Town Centre Strategic Study and associated planning proposal. Comments were provided in relation to the following areas:

- built form interface with the town centre: supports the proposal to increase heights in the town centre which is likely to result in a more vibrant and activated town centre, however recommends that the interface between the Plaza Site and adjoining Land and Housing Corporation (Newleaf Estate) site is given greater attention in the DCP – providing a greater degree of activation and amenity – “ideally some form of active use would extend partway down the shopping centre interface and a landscaped setback, inclusive of pedestrian connections would be provided”;
- pedestrian and active transport network/interface: supportive of strong and legible connections through the Town Centre. Suggest Council include clear large scale diagrams to identify overall desired pedestrian connections; and
- activation areas: The approach to activating Bonnyrigg Avenue is supported, in particular concentrating activity near the junction of Bonnyrigg Avenue and Corlette Way.

In response, Council advised that Section 4.3 – Pedestrian Network of the DCP identifies the need for extra pedestrian priority to be given to the footpath linking the Bonnyrigg Plaza site to the adjoining LAHC precinct. In addition, provisions within the DCP relating to Precinct 4 requires a site specific DCP to be prepared for the Bonnyrigg Plaza site upon any major redevelopment. Accordingly, this matter will be further addressed under the preparation of this site specific DCP.

8. POST-EXHIBITION CHANGES

Council resolved to not undertake any further changes to the planning proposal following the re-exhibition of the proposal (**Attachment E4**).

9. ASSESSMENT

9.1 Section 9.1 Directions

At the time of the determination (**Attachment B**), the delegate of the Secretary agreed that the planning proposal's inconsistency with section 9.1 Directions 1.1 Business and Industrial Zones and 2.1 Residential Zones, are justified in accordance with the terms of the Directions. Therefore, no further approval is required in relation to these Directions.

Direction 2.3 Heritage Conservation

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The planning proposal is consistent with this direction as it seeks to facilitate the transfer of four (4) existing heritage listed items from Schedule 4 of Fairfield LEP 1994 to Schedule 5 Fairfield LEP 2013 (Table 2 below).

Table 2: Transferred Local Heritage Items

Suburb	Item Name	Address	Property Desc	Significance	Item No.
Edensor Park	Temple	711-715 Smithfield Road	Lot 4442 DP 748408	Local	I104
Bonnyrigg	Temple	68 Tarlington Parade	Lot 434 DP 701592	Local	I105
Bonnyrigg	Mosque	10-12 Bibbys Place	Lot 455 DP 807376	Local	I106
Bonnyrigg	Temple	2-4 Bibbys Place	Lot 452 DP 747837	Local	I107

Direction 2.6 Remediation of Contaminated Land

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

The areas of the town centre where RFB's are permitted (including the 4(c) Special Industrial sites) are currently zoned for this use.

A desktop review does not indicate there are any existing, or previous uses, applying to the site that would necessitate detailed investigations into possible site contamination under this planning proposal.

Rather this matter can be dealt with on a site by site basis under the future development application process.

Therefore, the planning proposal is consistent with this direction.

Direction 3.4 Integrating Land Use and Transport

The objective of this direction is to improve access to housing, jobs and services by walking, cycling and public transport, and reduce dependence on cars. The planning proposal is consistent with this direction as it facilitates residential development within walking distance of public transport, and provides a mix of housing near the Parramatta to Liverpool TWAY.

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 2005, and ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

The planning proposal does not rezone land that is within a flood planning area from a Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zone to a Residential, Business, Industrial, Special Use or Special Purpose Zone.

Council also notes that the LEP includes existing clauses 6.5 – Flood Planning and 6.6 Floodplain Risk Management, which require future development on flood liable land to take into account the impacts of flooding and incorporate appropriate design measures to ensure the safe occupation and evacuation of buildings in the event of flooding. These requirements are supplemented by the detailed provisions of Chapter 11 of the Fairfield City Wide DCP - that apply to the Bonnyrigg Town Centre.

None of the subject land to be zoned for residential and commercial uses is located in a floodway. In addition, the provisions of the planning proposal will not permit a significant increase in the development of that land to that currently permitted by the provisions of Fairfield LEP 1994. All of the subject sites proposed to be zoned residential or commercial purpose (or both) currently permit these uses.

Therefore, the proposal is consistent with this direction.

Direction 6.2 Reserving Land for Public Purposes

The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations where the land is no longer required for acquisition.

The planning proposal includes sections of privately and Council owned land zoned SP2 associated with the Parramatta – Liverpool Bus T-Way onto the Fairfield LEP 2013 Land Reservation Acquisition Map.

As indicated in this report, nomination of an acquisition authority was previously overlooked. The proposal is consistent with this direction as TfNSW (RMS) has confirmed it wishes to remain the acquisition authority. To ensure there are no issues of inconsistency, the approval of the Secretary's delegate is recommended on the basis of minor significance.

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 proposes the inclusion of additional permitted uses and a new site-specific clause.

These provisions will contribute to the appropriate redevelopment of the Bonnyrigg Town Centre. Any inconsistency is considered to be of minor significance. The approval of the Secretary's delegate is recommended on this basis.

9.2 State environmental planning policies

SEPP 19 – Bushland in Urban Areas

The general aim of this Policy is to protect and preserve bushland within the urban areas referred to in Schedule 1 because of its value to the community as part of the natural heritage, aesthetic value, and value as a recreational, educational and scientific resource.

There are small remnant pockets of Cumberland Plain Woodland scattered along Clear Paddock Creek proposed to be zoned RE1 Public Recreation and Bus T Way Corridor (currently zoned SP2 Infrastructure).

These areas are protected by the provisions of clause 6.6 *Riparian land and watercourses* of Fairfield LEP 2013, which aims to protect the ecological values of these areas.

9.3 State, regional and district plans

Western City District Plan

The site is located within the Western City District, therefore this plan applies to the site.

The proposal is consistent with the plan as it:

- aligns growth with infrastructure - as Bonnyrigg Town Centre is a local centre that is located with direct access to Liverpool to Parramatta T-Way, and other essential community service infrastructure (Planning Priority W1);
- provides additional housing in a local centre that has access to jobs, services and public transport (Planning Priority W5);
- facilitates the redevelopment of parts of the Bonnyrigg Town Centre, which is a local centre and continues to protect the local heritage items in the centre (Planning Priority W6); and
- ensures the existing open space land is retained (Planning Priority W18).

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

10. MAPPING

There are thirteen maps associated with this planning proposal (**Attachment Maps**) which have been submitted via the ePlanning Portal. These maps have been examined by GIS staff and meet the technical requirements.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment G**).

Council confirmed on 24 July 2020 that it was happy with the draft and that the plan should be made (**Attachment H**).

12. PARLIAMENTARY COUNSEL OPINION

On 17 July 2020 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- the proposed rezoning has strategic merit as it is generally consistent with the Western City District Plan;
- the inconsistency with section 9.1 Directions 1.1 Business and Industrial Zones, 2.1 Residential Zones; 6.2 Reserving Land for Public Purposes; and, 6.3 Site Specific Provisions, are justified in accordance with the terms of the Directions; and

- the proposed rezoning will provide additional dwellings and jobs in a local centre.



Terry Doran
Manager, Western



Adrian Hohenzollern
Acting Director Western
Central River City and Western
Parkland City

Assessment officer: Chantelle Chow/Amar Saini
Western
Phone: 9373 2880