



IRF22/2023

## Plan finalisation report – PP-2021-3029

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Fairfield Local Environmental Plan Amendment –  
Fairfield Accelerated Review (stage 2) – Amendments  
to town centres, medium density, heritage and flooding  
provisions.

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# Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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# 1 Introduction

## 1.1 Overview

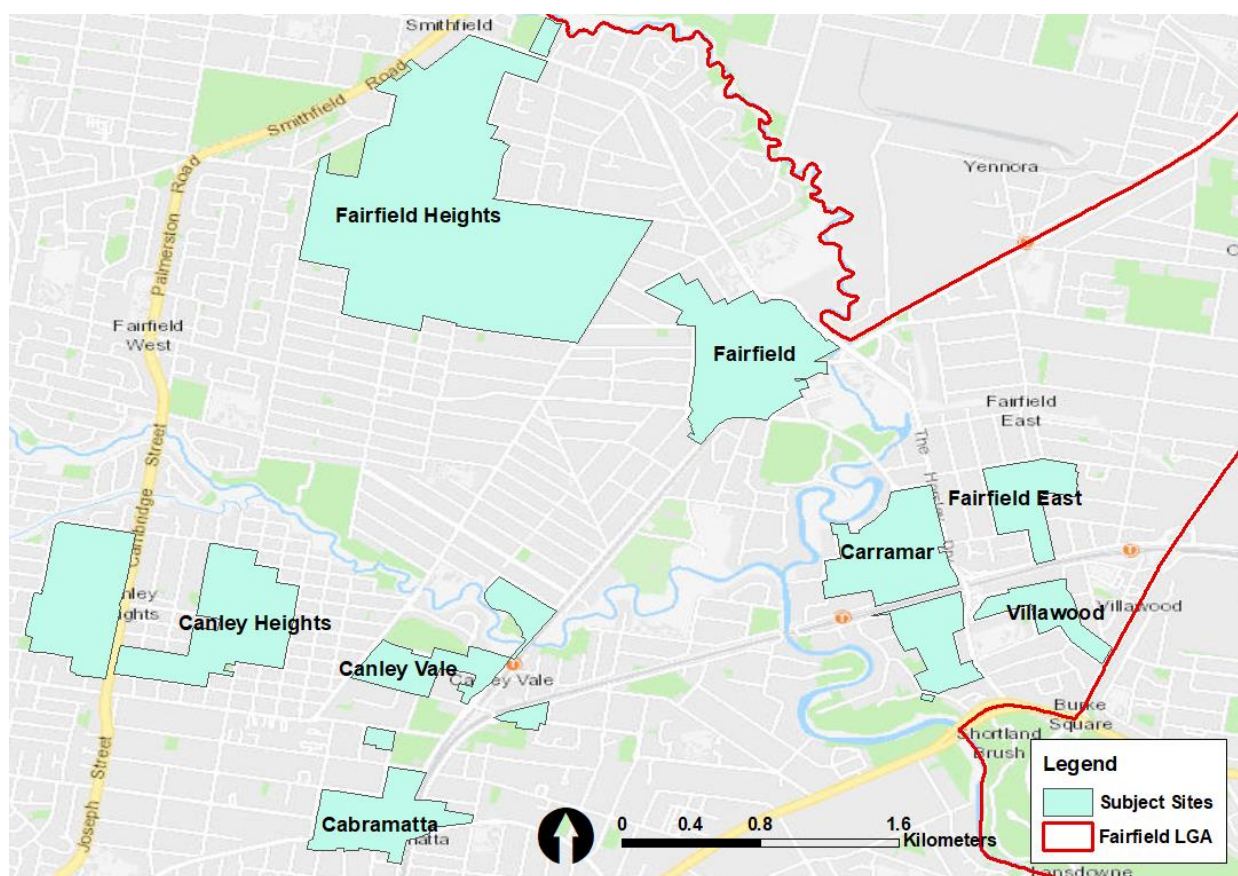
### 1.1.1 Name of draft LEP

Fairfield Local Environmental Plan 2013 (Amendment No 45)

### 1.1.2 Site description

**Table 1. Site description.**

|                  |   |
|------------------|---|
| Site Description | <p>The planning proposal (<b>Attachment A</b>) applies to certain land within the Fairfield Local Government Area (LGA), as depicted in Figure 1, including:</p> <ul style="list-style-type: none"> <li>Fairfield, Cabramatta, Canley Vale and Carramar town centres as shown in Figure 1 below.</li> <li>certain R3 Medium density zones being Fairfield Heights, Canley Heights, Fairfield East and Villawood;</li> <li>four potential local heritage items; and</li> <li>application of a proposed LGA wide 'Special Flood Consideration' clause.</li> </ul> |
| Type             | District  |
| Council / LGA    | Fairfield   |



**Figure 1. Sites subject to the planning proposal**

### 1.1.3 Purpose of plan

The purpose of this planning proposal is to realise the outcomes of Fairfield City Council's Local Strategic Planning Statement (LSPS), Local Housing Strategy (LHS), and studies funded by the Department Accelerated Review Program, primarily by facilitating job opportunities and additional housing within or near town centres and transport.

#### 1.1.3.1 Exhibited Planning Proposal

The exhibited planning proposal (April 2021) (**Attachment B**) sought to make the following amendments:

- changes to the land zoning, floor space ratio (FSR), maximum height of buildings (HOB), minimum lot size standards and controls for active frontages in the town centres of Fairfield, Cabramatta, Canley Vale and Carramar;
- changes to the FSR and HOB in the R3 Medium Density Residential (R3) zones across the LGA;
- inclusion of three items within the local heritage schedule and an amendment of the property description for a fourth listed item; and
- amend the existing flood planning controls to ensure consistency with the Department's model clause 6.3 Flood Planning and 6.4 Special Flood Considerations.

The exhibited planning proposal sought to enable a total of 1,074 jobs and at least 9,000 additional dwellings.

#### 1.1.3.2 Amendments made by Council at post-exhibition stage

At Fairfield City Council's meeting of 14 June 2022, Council supported minor post-exhibition changes to the planning proposal (**Attachments AB & AC**). These changes are discussed in Section 4 of this report. Council's amended post-exhibition planning proposal is at **Attachment A**.

The post-exhibition changes included:

- removal of 44 properties in Carramar located in a flood hazard category area H3 and partially within a category H4 area, which Council considers to be generally unsafe for vehicles, children and elderly;
- removal of 6 properties in Villawood, located in a flood hazard category area H3 and/or partially within a category H4 area; and
- the introduction of an optional new standard local environmental plan model flood clause (clause 5.22 Special flood considerations) as amended by Council and repeal of the existing flood clauses.

### 1.1.4 Amendments recommended to be made by the Department

#### 1.1.4.1 The NSW Flood Inquiry 2022

In March 2022, the NSW Government commissioned an independent expert inquiry into the preparation for, causes of, response to and recovery from flood events across the State of NSW that occurred in early 2022.

The Inquiry was led by Professor Mary O'Kane AC and Michael Fuller APM. The inquiry's report was published in July 2022 and can be accessed at:

<https://www.nsw.gov.au/nswgovernment/projects-and-initiatives/floodinquiry>.

The Inquiry was asked to consider and, if warranted, make recommendations on:

- the safety of emergency services and community first responders;

- current and future land use planning and management and building standards in flood prone locations across NSW;
- appropriate action to adapt to future flood risks to communities and their surrounds; and
- coordination and collaboration between all levels of government.

The Inquiry included a review into planning rules for developing on flood-prone land and highlighted the importance of NSW taking a more proactive, risk-based approach to flooding and land use planning decisions.

The Inquiry identified the Georges River as one of eight high risk catchments. The risks associated with additional development in this catchment are:

- evacuation capacity, and ensuring development does not increase risk to life in an emergency event, and
- increased flood hazard as result of additional development in flood prone areas.

The Inquiry recommended the preparation of disaster adaptation plans discouraging or prohibiting development in disaster prone areas (Recommendation 19) and review of existing flood planning levels (Recommendation 18).

The NSW Reconstruction Authority (RA) is considering the appropriate application of regional and local approaches to hazard studies and responses across NSW. This process includes a prioritisation of high risk catchments and other hazards, and developing a position on the role of the RA and other agencies in supporting, facilitating or leading the work to understand and respond to any hazards present. Where regional or catchment-wide processes are required, these will require appropriate resourcing to ensure affected communities and councils are included, similar to the collaborative model applied to develop a catchment-wide flood evacuation model (FEM) for the Hawkesbury Nepean. Should a decision be made that a similar catchment-wide FEM is considered necessary for the Georges River, this model would provide an understanding of the interconnectedness of the catchment and allow for proposed development to be tested in terms of its impact on evacuation capacity in other parts of the catchment.

The Department is in discussions with the RA regarding responsibilities and timing for this work.

#### 1.1.4.2 The Flood Advisory Panel and its recommendations for this planning proposal

To assist with the assessment of proposal in high-risk areas following on from the Inquiry, the Department established the Flood Advisory Panel (the Panel), comprising department staff and independent experts, and a Technical Advisory Group (TAG), comprising relevant State agencies, set up to advise the Panels.

The Department referred this planning proposal to the Panel on 12 January 2023 and sought the Panel's recommendations on how to proceed taking into consideration flood and evacuation matters.

The Flood Advisory Panel found, amongst other things:

- **“That flood evacuation modelling has not been undertaken.** The Panel considers that given the Planning Proposal's scale, spatial diversity, and complexity of impacts from both increased demand and flooding on evacuation routes, that evacuation modelling must be undertaken for the full range of events up to the PMF”.
- That the rezoning of land above the 1 in 100 flood could proceed subject to **“Appropriate evacuation studies being completed**, including modelling evacuation demand and route capacity for the full range of flood events up to the PMF in the context of the existing and future development conditions” and that “Evacuation studies must consider impacts from overland flooding.”

- “The submitted **flood modelling and hazard mapping**:
  - **Is based on outdated information.**
  - Does not adequately consider climate change.
  - **Does not consider the full range of flood events up to the PMF.**

#### **1.1.4.3 The Department’s response to the Panel’s recommendations**

##### Evacuation Risk

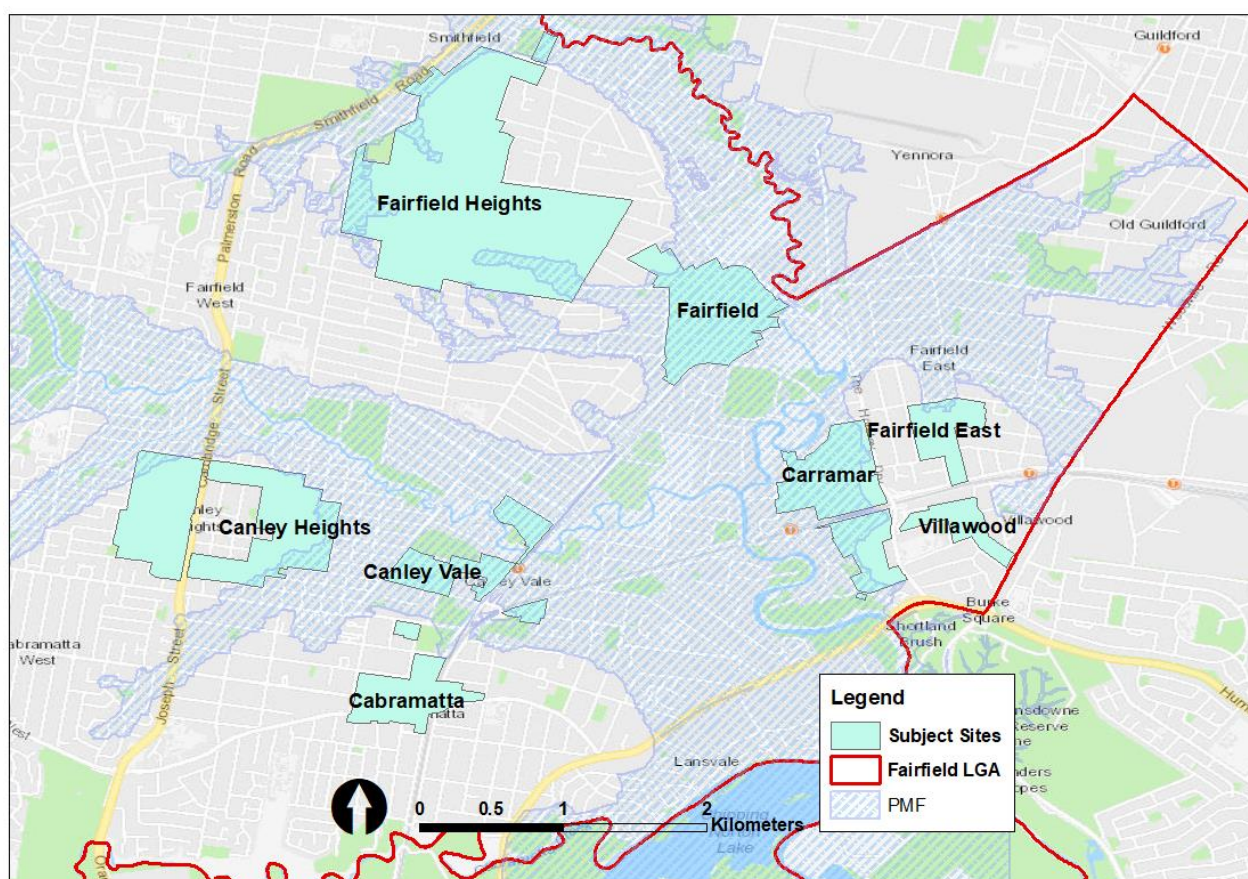
Council commissioned an independent review of the Flood Advisory Panel’s findings and recommendations. To summarise, the advice was that evacuation modelling should only be considered for those areas affected by Georges River flooding with longer durations of high hazard flooding in the PMF - potentially being parts of Canley Vale, Fairfield Town Centre and Carramar. The other areas should adopt a shelter in place strategy to manage flood risk. Refer to Section 5.4 of this report for more information about Council’s response.

The Department agrees with the Panel and Council that evacuation modelling should be undertaken for areas affected by Georges River flooding with longer durations of high hazard flooding in the PMF and agrees with the Panel that this should occur prior to rezoning these areas for increased densities.

For other areas under the PMF where Council have suggested that a Shelter in Place approach may be acceptable, the Department is not satisfied that these areas can be rezoned ahead of a Shelter in Place strategy being developed in more detail, and considered by the relevant agencies, including State Emergency Services. There is not enough detail about the flood hazard, duration of floods to support this approach at this stage.

**To allow for this Planning Proposal to proceed and rezone areas above the PMF, areas impacted by the PMF are to be excluded from the Planning Proposal, pending further evacuation studies, and certainty that additional development below the PMF level in these locations will not increase risk to life for people in the impacted centres, or other areas in the catchment in an emergency evacuation event.**





**Figure 2. Extent of PMF across subject sites**

### Flood modelling and flood hazard

The Panel recommended that land below the 1% AEP event be excluded pending further flood modelling.

Council's supplementary flood advice was that there is no need to undertake any new flood modelling nor to update the FPL but supported sensitivity testing using existing models to determine whether additional lots would be affected by H3 or a higher flood hazard due to climate change. Refer to Section 5.4 of this report for more details.

The exclusion of areas under the PMF also means that areas below the 1% AEP event are excluded also. As such there is no additional flood modelling required to support this Planning Proposal.

The draft LEP (**Attachment LEP**) seeks to amend the Fairfield LEP 2013 as follows:

- Only proceed with the proposed amendments to land located above the PMF for the following areas:
  - Cabramatta Town Centre;
  - Canley Vale R3 zoned land;
  - Canley Heights R3 zoned land;
  - Villawood R3 zoned land;
  - Fairfield Heights R3 zoned land; and
  - Carramar Town Centre (which includes proposed R3 and R4 zones).
- Proceed with the 4 heritage items.



Upon further analysis, the Department suggests that the housing potential of the original planning proposal was under-estimated and the proposed changes to the controls would facilitate approximately 24,000 additional dwellings. As a result of the Department's changes to the planning proposal, this would be reduced to approximately 11,000 dwellings.

#### 1.1.4.4 Amended development controls for Town Centres

##### Cabramatta Town Centre

Proceed with all amendments to the Cabramatta Town Centre as follows (Figures 3-7):

**Table 7. Summary of State agency concerns**

| Agency Issue   | Council Response   |
|--|--|
| <p><u>Transport for NSW (TfNSW)</u></p> <p>Increased density proposed under the planning proposal is aligned with transit corridors, however further consideration of traffic generation will need to be considered as part of future development applications.</p> <p>TfNSW also recommended measures to encourage active transport such as walking and cycling.</p>  | <p>Council has prepared the Fairfield Transport Study, Fairfield City Bike Plan and Urban Design Studies for the town centres which will promote sustainable transport in the LGA. Further development applications will need to address these outcomes.</p>   |
| <p><u>Endeavour Energy</u></p> <p>Existing infrastructure may be insufficient to meet demand associated with the proposed increased residential densities.</p> <p>It is noted that an extension and / or augmentation of the existing local network may be required. The extent of the works, however, cannot be determined until a final load assessment is completed. Endeavour Energy's preference is to alert proponents / applicants and Council of any potential matters for the existing local electricity network that may arise as further development of the areas occurs.</p> | <p>In response, Council stated that recent experience demonstrates that density potential will be gradually realised over time, and that energy supply will continue to be considered on a case-by-case basis in future DAs.</p>   |
| <p><u>Sydney Water</u></p> <p>They will prepare a determination of the servicing requirements. Detailed requirements will then be made clear at development stage through a Section 73 application.</p>  | <p>Detailed information on the projected increased capacity for residential housing associated with the proposal has been made available to Sydney Water.</p>  |
| <p><u>Department's Open Space and Public Spaces Team</u></p> <p>Raised concerns for Cabramatta regarding the provision of open space.</p> <p>For the Carramar, the Open and Public Spaces team supported Council on the additional public open space to service the town centre, however it was noted that increased in densities in R4 areas would apply pressure to existing open space areas along Prospect Creek. The Open and Public team Branch recommended that consideration should be given to a suitable road frontage to improve access to Carrawood Park.</p>                | <p>Council responded that Cabramatta is identified as a specialist retail centre and is a destination for tourism and festivals, and the character of the civic space is key to the town centre.</p> <p>For Carramar, Council stated that the rezoning of residential land will create 2 new neighbourhood parks that will service proposed new apartment/town house areas north of the railway line. In addition, it is proposed to rezone 4 properties along the frontage of Carrawood Park for public open space that addresses the comments made by DPE.</p> |

| Agency Issue   | Council Response  |
|--|---|
| <p><u>Heritage NSW</u></p> <p>Supported the listing of Whitlam House as a heritage item and will be recommending the site become State heritage listed.</p>  | Noted.  |
| <p><u>Former Environment and Heritage Group (EHG)</u></p> <p>Some areas of the proposal are subject to flood risk which may render them difficult to evacuate during major and extreme flood events.</p> <p>EHG noted that Council propose to include a clause 5.22 Special Flood Considerations in the Fairfield LEP.</p> <p>No objection raised.</p> | Council acknowledged EHG's submission.  |
| <p><u>NSW State Emergency Service (SES)</u></p> <p>SES recommended that Council thoroughly consider the requirements of the NSW Governments Floodplain Development Manual and evaluate whether the relevant Ministerial Directions of the EP&amp;A Act have been complied with.</p>  | <p>Council stated that relevant flood studies across the Fairfield LGA that address the requirements of the NSW Floodplain Development Manual have been undertaken and were considered in developing the recommendations of the various urban design studies, changes to planning controls and proposed rezoning of land included in the Stage 2 PP.</p> <p>Council also states that consistency is achieved with relevant Ministerial Directions relating to flood prone land.</p> |

#### . Cabramatta Town Centre Amendments

| Planning Control                 | Proposed  |
|----------------------------------|---|
| Land Zoning                      | Rezone the core of the town centre from MU1 Mixed Use to E2 Commercial Core   |
| Maximum Height of Building (HOB) | For the E2 zone – apply a HOB of 14m<br>For the surrounding MU1 zone – increase the HOB for certain land to 20-39m      |
| Maximum Floor Space Ratio (FSR)  | For the E2 zone – apply a FSR of 2.5:1<br>For the surrounding MU1 zone – increase the FSR for certain land to 1.6-4.5:1 |
| Minimum Site Area                | Identify Minimum Site Area requirements corresponding to the proposed HOB and FSR changes                               |
| Active Street Frontage           | Identify Active Street Frontage requirements for certain land   |

| Planning Control                            | Proposed   |
|---|--|
| Clause 7.2 Cabramatta – Floor Space Ratio   | <p>For Cabramatta Town Centre – the FSR must not exceed 2:1 unless it meets the Minimum Site Area Map</p> <p>For Cabramatta Town Centre South – the FSR must not exceed 1:1 unless it meets the Minimum Site Area Map</p> <p>For Cabramatta Area A and Cabramatta Area C (now Area B) – add if more than 50% of the floor space is used for the purpose of residential accommodation then the FSR identified on the map applies</p> <p>Remove Cabramatta Area B and rename the other areas accordingly</p> |
| Clause 7.3 Cabramatta – Height of Buildings | <p>For Cabramatta Town Centre and Cabramatta Town Centre South – the HOB must not exceed 14m unless it meets the Minimum Site Area Map</p> <p>For Cabramatta East (now Area C) – increase the HOB for air space development over the railway line to 26m</p> <p>Remove subclauses 6 and 7, and rename the other areas accordingly</p>  |

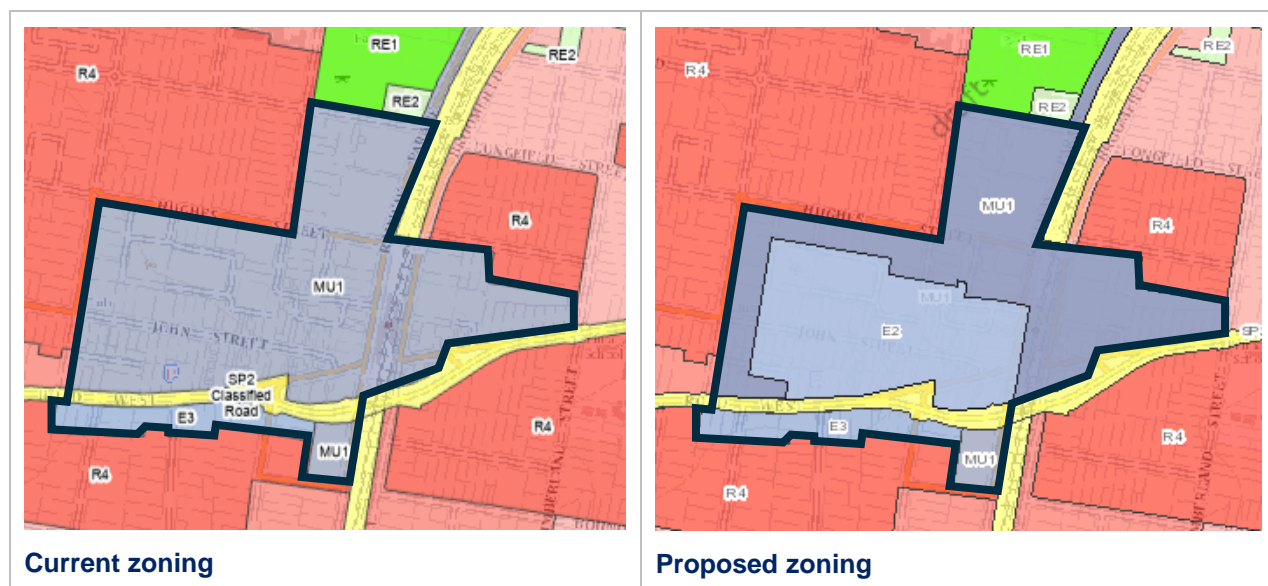


Figure 3. Cabramatta Town Centre proposed land use amendments.

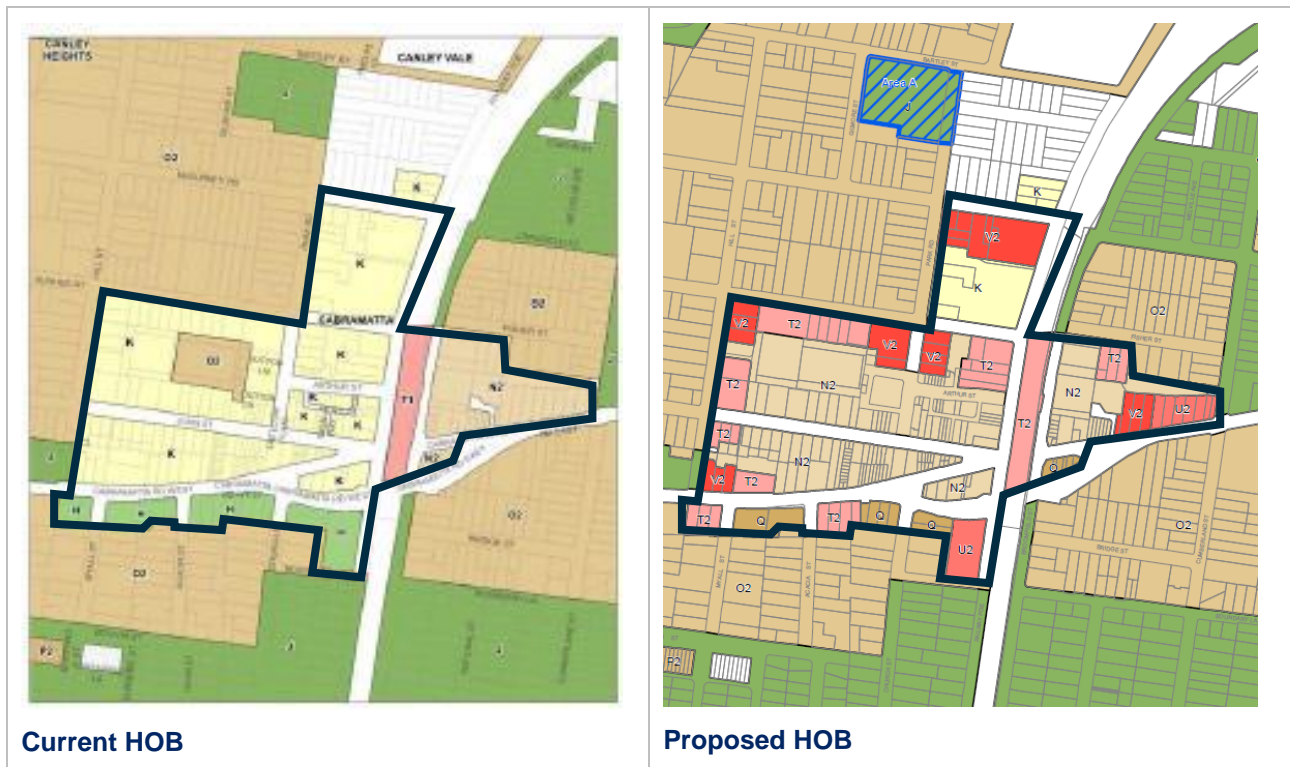


Figure 4 Cabramatta Town Centre proposed height of building amendments.

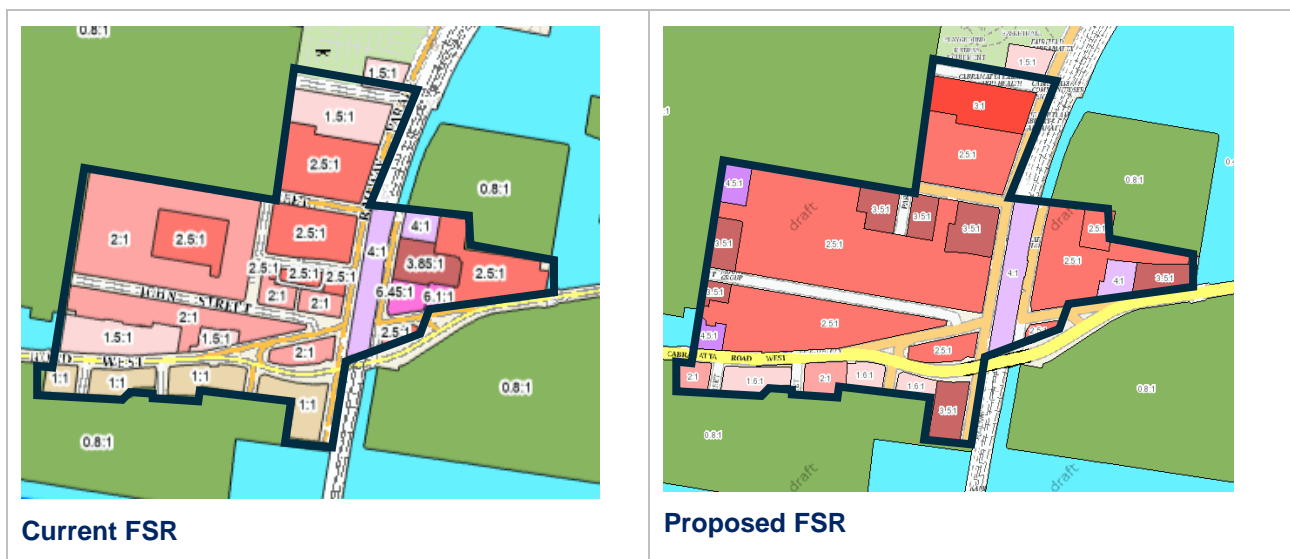
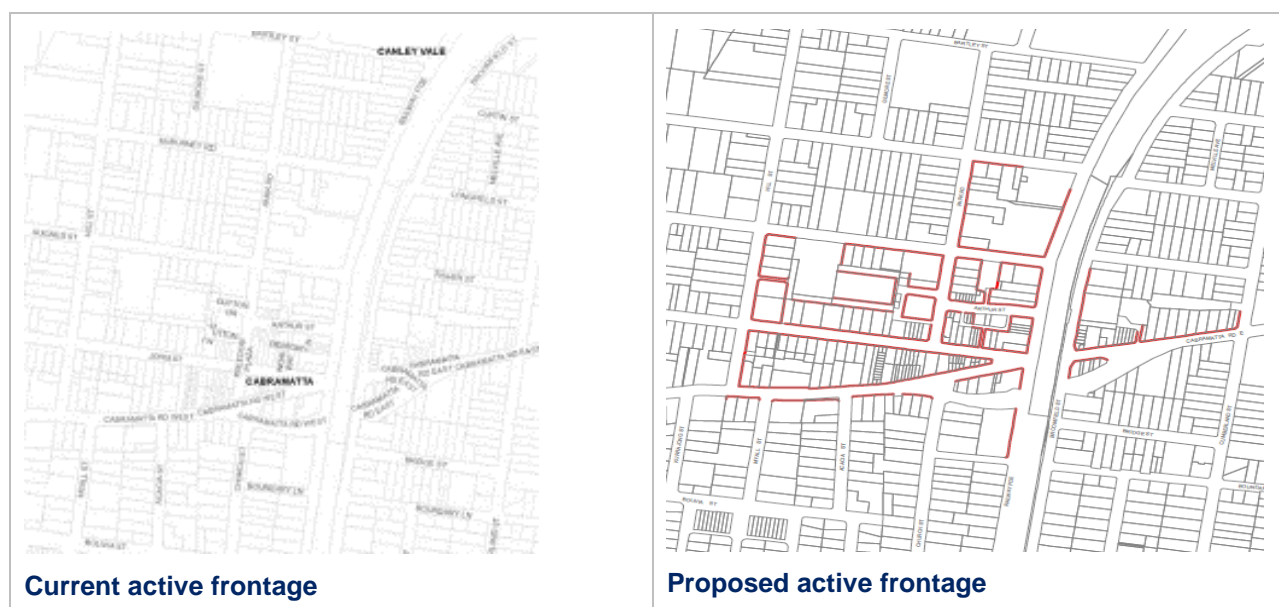


Figure 5. Cabramatta Town Centre proposed floor space ratio (FSR) amendments.



**Figure 6. Cabramatta Town Centre proposed minimum site area amendments.**



**Figure 7. Cabramatta Town Centre proposed active Street frontage amendments.**

### Carramar Town Centre

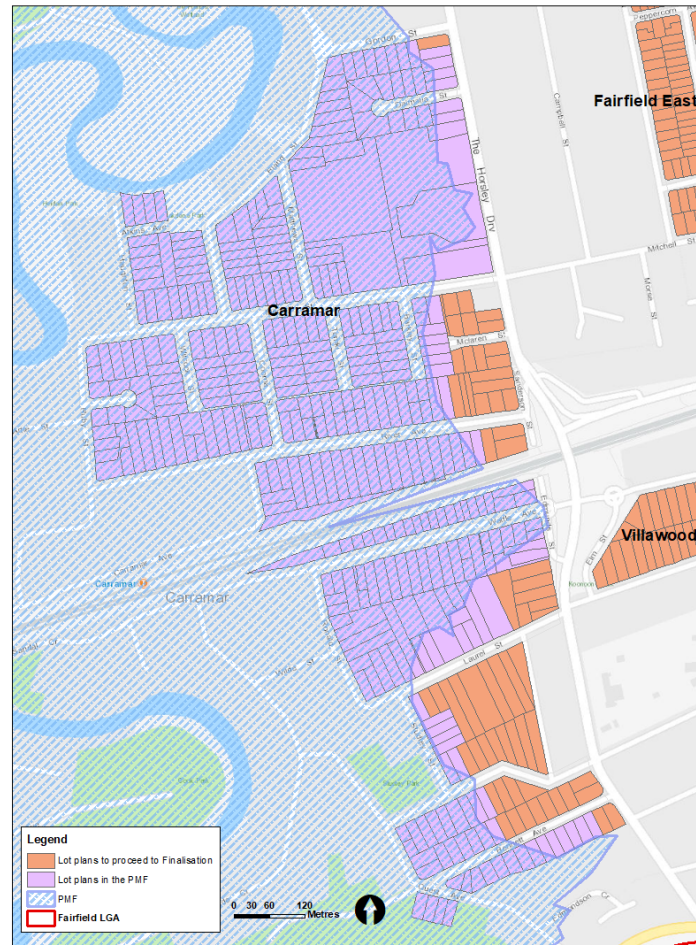
Proceed with the proposed amendments to the Carramar Town Centre outside the PMF as follows (Figures 9-14):

**Table 3. Carramar Town Centre Amendments.**

| Planning Control | Proposed  |
|------------------|---|
| Land Zoning      | Rezone certain land to: <ul style="list-style-type: none"> <li>E1 Local Centre</li> <li>R3 Medium Density Residential</li> <li>R4 High Density Residential</li> </ul> |



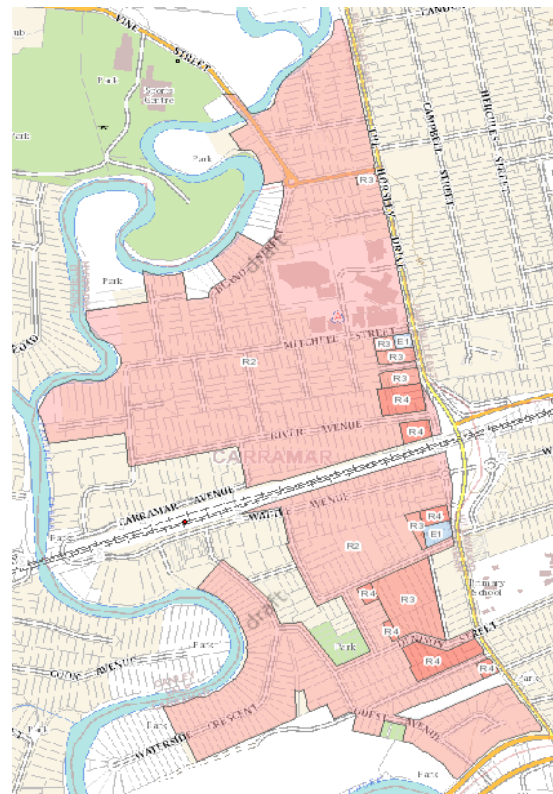
| Planning Control                             | Proposed  |
|--|---|
| Maximum Height of Building (HOB)             | For the E1 zone – apply a HOB of 11-20m<br>For the R3 zone – apply a HOB of 2 storeys and 3 storeys for corner sites<br>For the R4 zone – apply a HOB of 13-20m                   |
| Maximum Floor Space Ratio (FSR)              | For the E1 zone – apply no FSR<br>For the R3 zone – apply a FSR of 0.65:1 and identify as Area B<br>For the R4 zone – apply a FSR of 1.25-2:1 and identify certain land as Area A |
| Minimum Site Area                            | Identify Minimum Site Area requirements for the B1 zoned land and certain corner sites  |
| Minimum Lot Size                             | Remove the Minimum Lot Size for the E1, R3 and R4 zoned land  |
| Minimum Lot Size for Dual Occupancies        | Remove the Minimum Lot Size for Dual Occupancies for the E1, R3 and R4 zoned land   |
| New clause for Carramar - height of building | For Carramar Town Centre – the HOB must not exceed 9m unless it meets the Minimum Site Area Map   |



### Figure 8. PMF across the Carramar Town Centre



Current zoning



Proposed zoning

Figure 9. Carramar Town Centre proposed land use zoning.



Current HOB



Proposed HOB

Figure 10. Carramar Town Centre proposed height of building amendments.



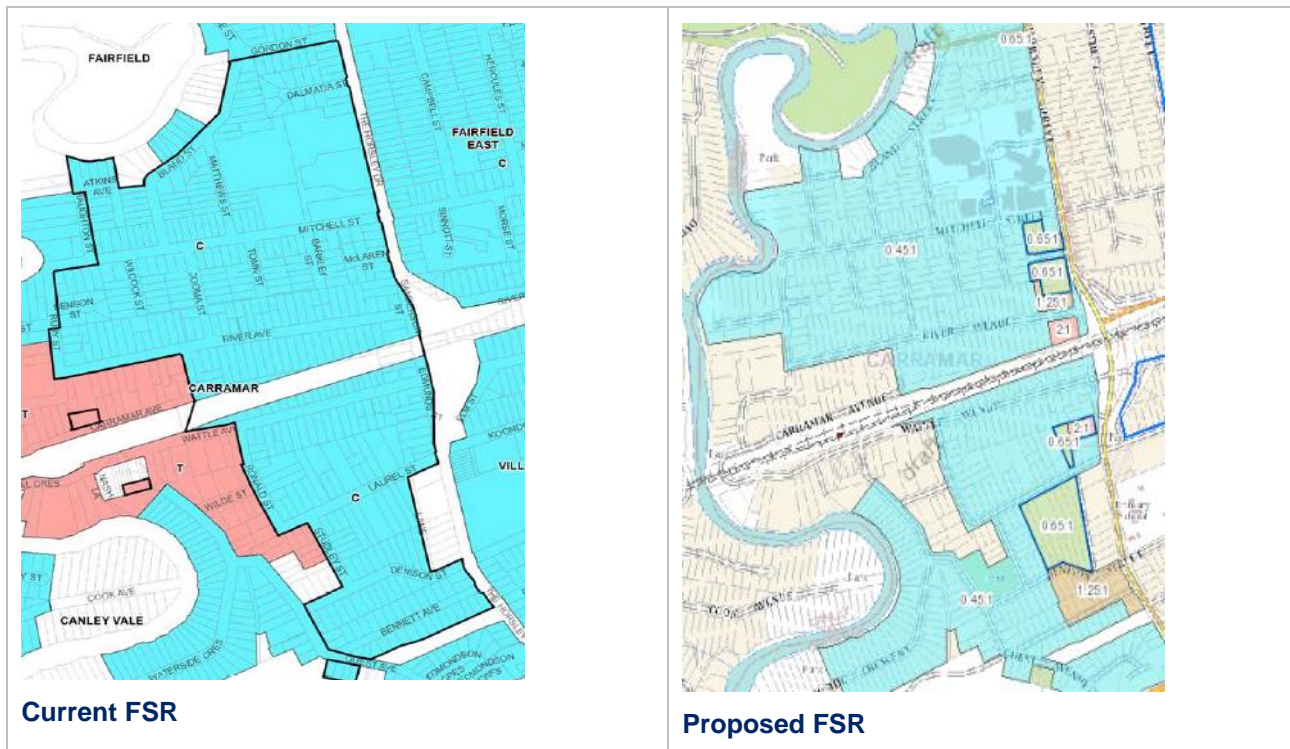


Figure 11. Carramar Town Centre proposed FSR amendments.



Figure 12. Carramar Town Centre proposed minimum site area amendments.



Figure 13. Carramar Town Centre proposed lot size amendments.

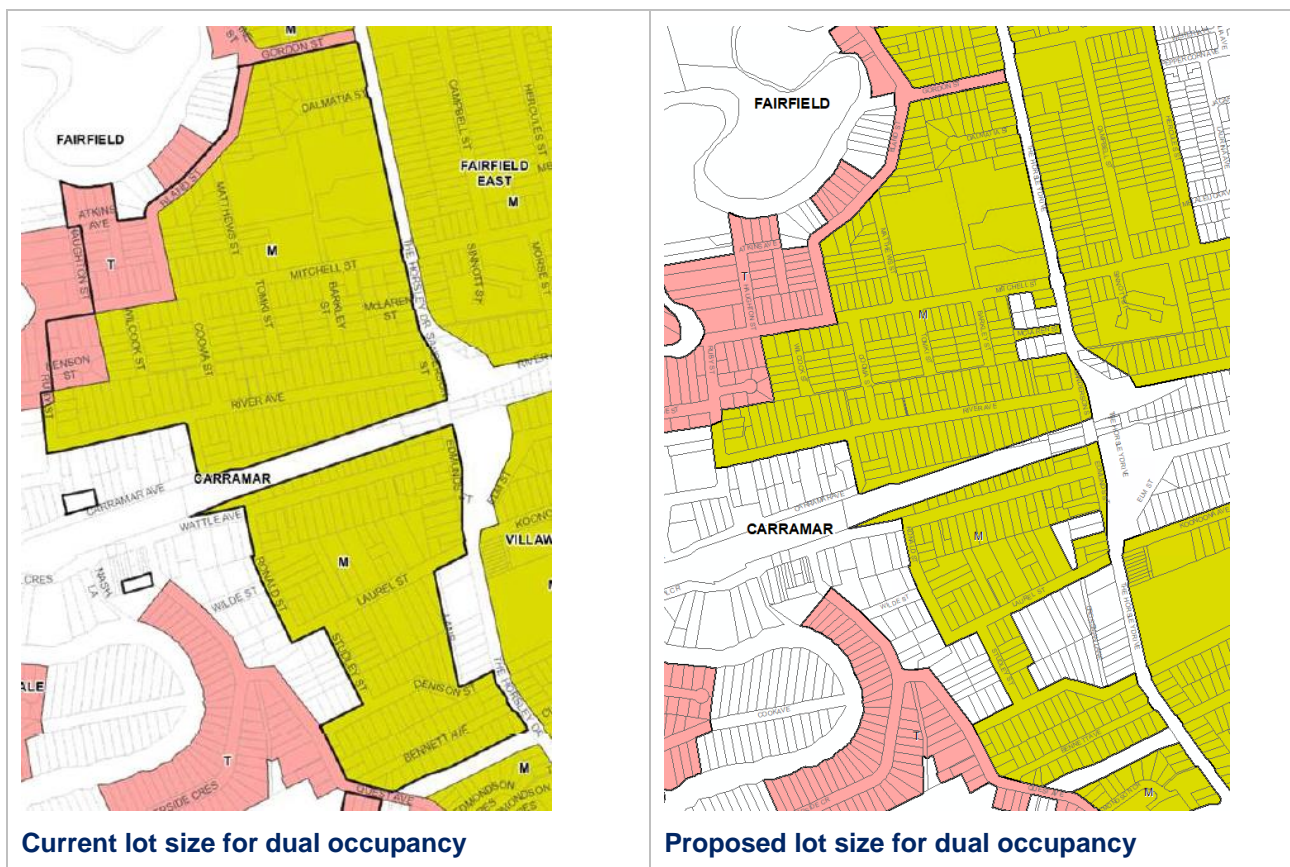


Figure 14. Carramar Town Centre proposed lot size for dual occupancy amendments.



### 1.1.4.5 Amendments to R3 Medium Density Residential across the LGA

For land outside the PMF, amend the FSR and HOB controls for R3 Medium Density Residential zoned land in Canley Heights, Fairfield Heights, Villawood, and Canley Vale as shown in Figures 15-22. The proposed amendments include:

**Table 4. R3 Medium Density Residential Amendments.**

| Planning Control  | Proposed  |
|---|---|
| Maximum Height of Building (HOB)  | <p>Provide a HOB exception of 10m if the following applies:</p> <ul style="list-style-type: none"> <li>• Building located on a corner site with at least 2 street frontages; and</li> <li>• Primary and secondary street frontages have a length of 22m; and</li> <li>• All car parking is in a basement.</li> </ul>                                  |
| Maximum Floor Space Ratio (FSR)   | <p>Provide an FSR exception of:</p> <ul style="list-style-type: none"> <li>• 0.5:1 for buildings with a street frontage of less than 22m</li> <li>• 0.65:1 for buildings with a street frontage of at least 22m</li> <li>• Bonus FSR of 0.15:1 for basement car parking</li> </ul>  |
| New clause for Exceptions to maximum floor space ratio in R3 Medium Density Residential | <p>Apply a sliding scale FSR from 0.5:1 (for a building front of less than 22m) to 0.65:1 (for a building front of more than 22m) with an additional incentive 0.15:1 FSR if basement parking is provided</p>   |
| New clause for Exceptions to maximum floor space ratio in R3 Medium Density Residential | <p>Apply a 10m maximum HOB for development on corner sites if:</p> <ul style="list-style-type: none"> <li>• The building is located on a corner site that consists of at least 2 street frontages</li> <li>• The primary and secondary street frontages for the site are at least 22m</li> <li>• All car parking is provided in a basement</li> </ul> |



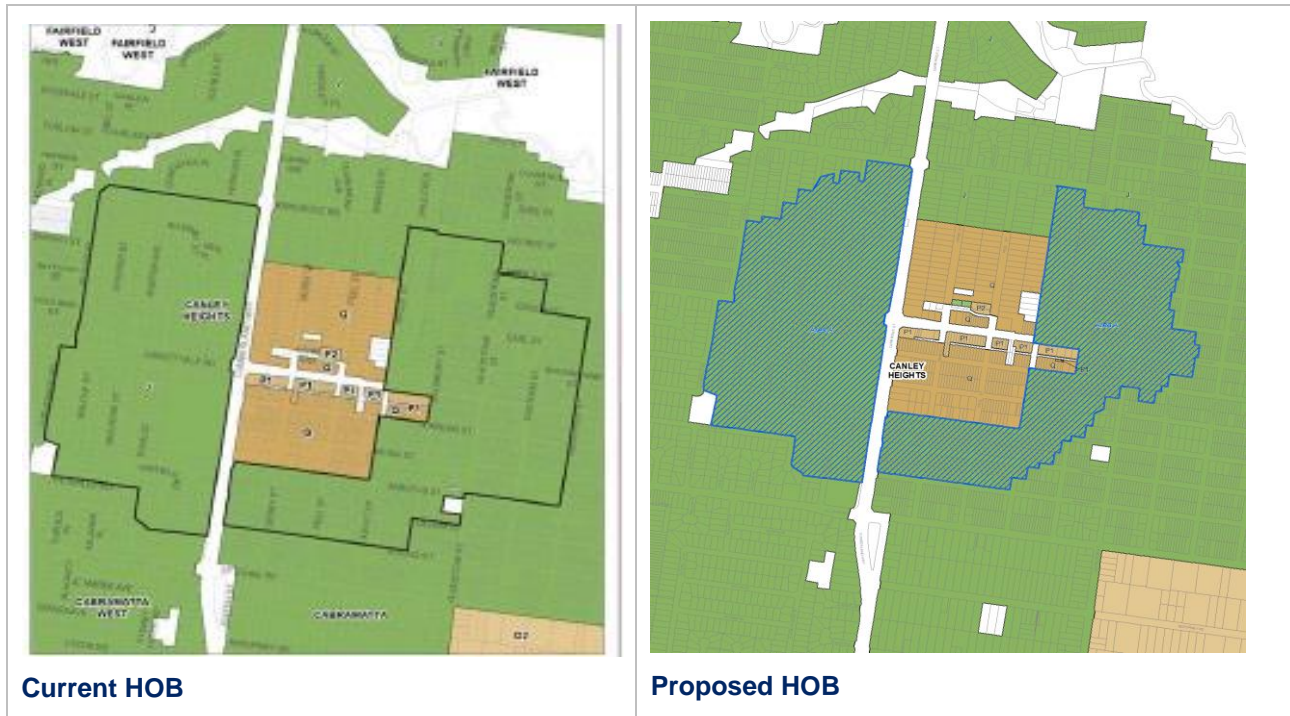


Figure 15. Canley Heights proposed height of building amendments.

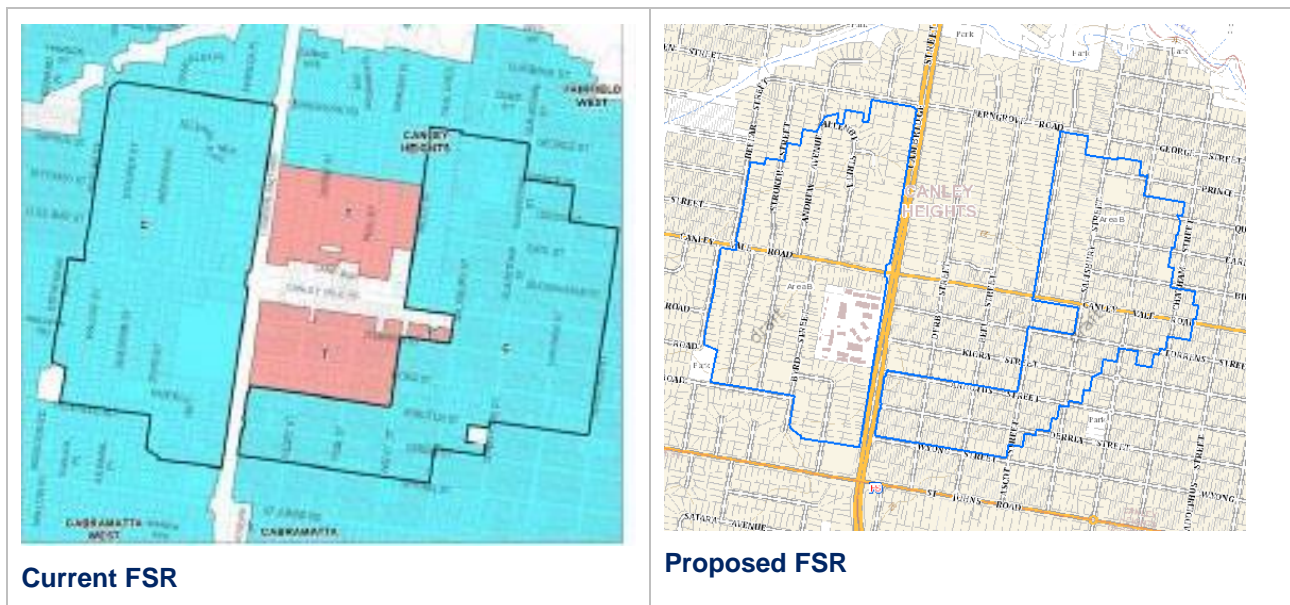
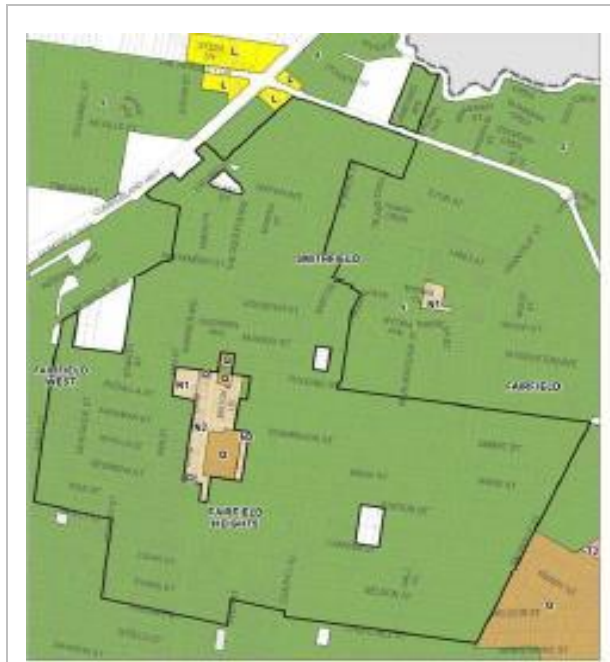
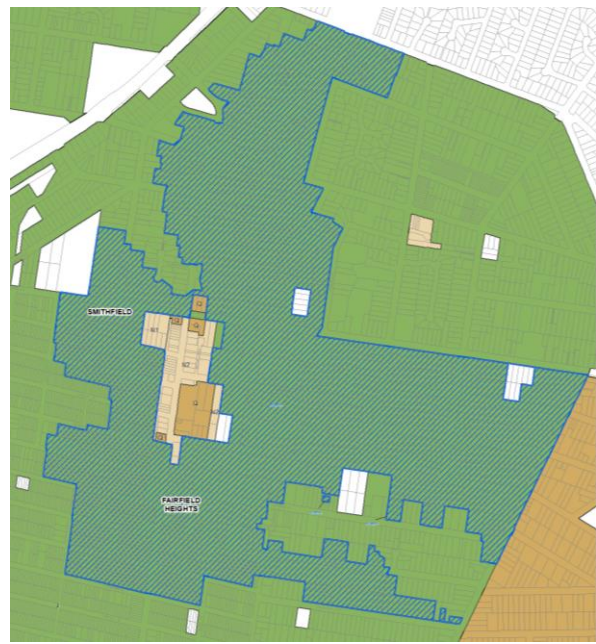


Figure 16. Canley Heights proposed FSR amendments.

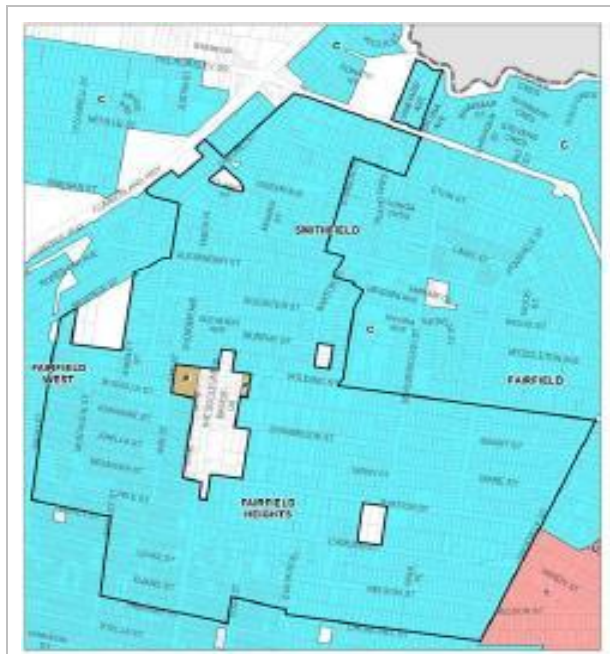


Current HOB

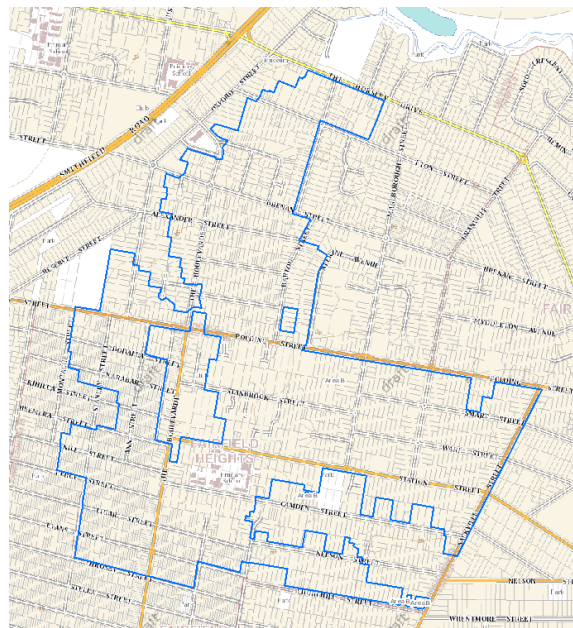


Proposed HOB

Figure 17. Fairfield Heights proposed height of building amendments.



Current FSR



Proposed FSR

Figure 18. Fairfield Heights proposed FSR amendments.





Figure 19. Proposed height of building amendments for Fairfield East and Villawood

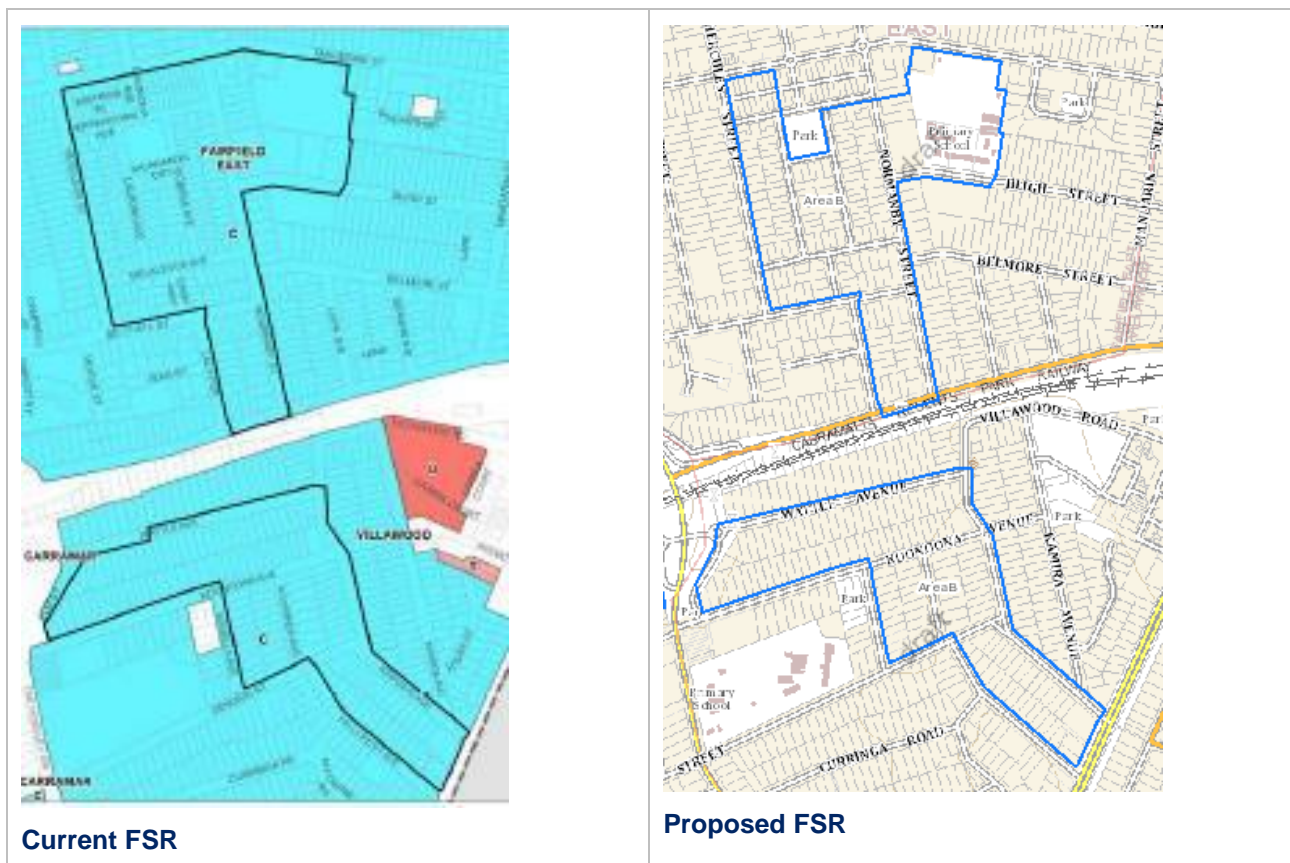


Figure 20. Villawood proposed FSR amendments for Fairfield East and Villawood.

NSW Department of Planning and Environment | 11



### 1.1.4.6 Local Heritage Items

Amend Schedule 5 Environmental Heritage to include 3 additional sites as local heritage items and update the associated maps for all 4 heritage items.

**Table 5. Heritage Items Scheduling and mapping.**

| Suburb      | Item name  | Address                         | Property description                       | Significance | Item number | Schedule 5 | Maps |
|-------------|--|---------------------------------|--|--------------|-------------|------------|------|
| Cabramatta  | Whitlam House  | 32 Albert Street                | Lot 11 DP 26969                            | Local        | I108        | ✓          | ✓    |
| Cabramatta  | Bandstand, memorial and trophy gun                           | Railway Parade (Cabravale Park) | Lots 13, 14 and 17, Section C, DP 2526     | Local        | I17         | ✓          | ✓    |
| Yennora     | Railway viaduct (underbridge) over Stimsons Creek, Fairfield | 124-126 Railway Street          | Lot 6 DP 1185514                           | Local        | I109        | ✓          | ✓    |
| Canley Vale | Corner shop  | 2-8 Canley Vale                 | Lot 100, DP 1196908, Lots 1 and 2 DP 23143 | Local        | I25         | ✕*         | ✓    |

\*Canley Vale is already listed in Schedule 5 but needs to be added to the maps

### 1.1.5 State electorate and local member

The site is within the Fairfield and Cabramatta State Electorates. David Saliba MP is the State Member for Fairfield and Tri Vo MP is the State Member for Cabramatta. Representations have been received from Tri Vo MP as the State Member for Cabramatta on the proposal.

The site falls within the McMahon and Fowler Federal Electorates. Chris Bowan MP and Dai Le MP respectively are the Federal Members. To the team's knowledge, neither MPs has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 2 Gateway Determination

The Gateway Determination issued on 26 May 2021 (**Attachment AA**) determined that the proposal should proceed subject to conditions. Council has appropriately responded to the relevant Gateway conditions, as follows:

- including the proposed changes to the zoning, FSR, HOB, land reservation and acquisition maps;
- including the total approximate additional dwelling yield resulting from the proposal;
- confirming that there is no land which will require reclassification as a result of the proposed zoning changes;



- finalising several supporting studies and provided additional information, including a traffic study, urban design study, economic demand and impact analysis, medium density housing study, as well as local infrastructure requirements and a delivery mechanisms analysis; and
- included a note in the planning proposal that draft clauses are indicative only and final drafting will be subject to legal drafting by the Parliamentary Counsel's Office.

The finalisation date for this proposal expired on 26 February 2023.

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 in a recommended amended form.

No Gateway Alterations have been issued for this planning proposal.

## 3 Public Exhibition

In accordance with the Gateway determination, the exhibited planning proposal (**Attachment B**) was publicly exhibited by Council from 2/06/2021 to 30/06/2021, as required by section 29 of the *Local Government Act 1993*.

The exhibition included the following:

- 4,500 tailored letters with information relevant to each property;
- information on Council website;
- notices in the local paper; and
- notice on the NSW Planning Portal.

The Department noted that approximately 300 phone enquiries were received during the public exhibition period; and over 200 in person enquiries were made to council officers.

### 3.1 Community submissions

Council received 83 written submissions from the community: 17 in support, 9 requesting further information and 57 opposing the proposal. All community submissions were summarised and addressed by Council in **Attachment AS**.

In Council's post-exhibition report (**Attachment AB**), Council noted that almost half of submissions made in opposition (27 submissions), related to the proposed FSR controls for the areas zoned R3 - Medium Density Residential. A number of submitters mistakenly thought their land was being zoned for apartments. Council did not consider that the nature or number of submissions warranted changes to the planning proposal.

In its post-exhibition report, Council concluded that *"...it is not considered that the nature and extent of issues raised in the submissions during public exhibition warrant Council undertaking any major - amendments..."* to the planning proposal. It is noted that Council undertook minor changes to the planning proposal as justified by certain community submissions.

The community issues and Council's response is detailed in Table 6, including the minor changes accepted by Council.

**Table 6. Summary of Community concerns**

| Community Issue   | Council Response   |
|---|--|
| <p><u>Fairfield City Centre</u></p> <p>A total of 8 submissions were received – with 1 supporting, 4 opposing, and 3 requesting changes.</p> <p>The key issues raised are as follows:</p> <ul style="list-style-type: none"> <li>• Opposition to open space locations.</li> <li>• Concerns with the inability to meet the minimum site area amalgamation requirements for 8-14 Hamilton Road.</li> <li>• Opposition to HOB decrease at 7 Ware Street.</li> <li>• Three properties sought additional HOB increases.</li> </ul>   | <ul style="list-style-type: none"> <li>• Open space – Council note that no rezoning is proposed rather the Urban Design Study only identifies potential locations.</li> <li>• 8-14 Hamilton Road – Council noted the unique circumstance of the subject land and excluded it from the amalgamation restriction.</li> <li>• 7 Ware Street – Council noted that the change was due to safeguarding solar access to the civic and public open spaces.</li> <li>• Additional height requests – Due to the significant changes requested, Council recommended that an individual planning proposal be sought. However the Department notes that these sites are within the PMF so it is agreed that these sites not be captured in the Stage 2 finalisation.</li> </ul> |
| <p><u>Cabramatta Town Centre</u></p> <p>A total of 11 submissions were received – with 1 supporting, 6 opposing, and 4 requesting changes.</p> <p>The key issues raised are as follows:</p> <ul style="list-style-type: none"> <li>• Opposition to rezoning MU1 Mixed Use land to E2 Commercial Core as it would prohibit shop top housing.</li> <li>• Request the removal of active street frontages to Cabramatta East.</li> <li>• Opposition to the intensification in the vicinity of the railway station as it will cause overcrowding.</li> <li>• Four properties sought additional HOB increases.</li> </ul> | <ul style="list-style-type: none"> <li>• E2 rezoning – No changes proposed as the Urban Design Study recommends rezoning the commercial core to preserve the town centre character.</li> <li>• Cabramatta East – Council resolved to accept this recommendation as the project has advanced.</li> <li>• Overcrowding – Increased heights will offset the reduction in potential residential development in the E2 core.</li> <li>• Additional height requests – Due to the significant changes requested, Council recommended that an individual planning proposal be sought.</li> </ul>   |
| <p><u>Canley Vale Town Centre</u></p> <p>A total of 1 submission was received – with 1 supporting, 0 opposing, and 0 requesting changes.</p>  | <ul style="list-style-type: none"> <li>• Noted.</li> </ul>   |

| Community Issue  | Council Response  |
|--|---|
| <p><u>Carramar Town Centre and surrounding R3</u></p> <p>A total of 22 submissions were received – with 1 supporting, 19 opposing, and 2 requesting changes.</p> <p>The key issues raised are as follows:</p> <ul style="list-style-type: none"> <li>Concerns regarding inappropriate new heights and changing neighbourhood character.</li> <li>Concerns on decreased property value, compulsory acquisition, impacts on quality of life, decreased safety, impacts on biodiversity, and negative traffic and parking impacts.</li> <li>Two properties sought rezoning for higher density.</li> </ul> | <ul style="list-style-type: none"> <li>Council noted that the Fairfield Local Housing Strategy and Urban Design Study recommend the rezoning of R2 zoned land to R3 and R4 due to the proximity to existing public transport, community facilities and services, and open space.</li> <li>Age of existing housing and relatively large block size of land parcels.</li> <li>Increase in development potential does not generate a negative impact on property values.</li> <li>Council does not pursue compulsory acquisition rather Council negotiates with the landowner when properties are offered for sale.</li> <li>The LEP, DCP and Apartment Design Guidelines provide controls to address quality of life and amenity.</li> <li>The Fairfield Transport Study 2020 did not identify any underlying concerns with the local road network capacity and traffic management will be assessed further through future DAs.</li> <li>No further rezoning recommended for the two properties.</li> </ul> |
| <p><u>R3 Medium Density Residential</u></p> <p>A total of 39 submissions were received – with 11 supporting. 28 submissions opposed changes in Canley Heights (17), Fairfield Heights (6) and Smithfield (5).</p> <p>The key issues raised are as follows:</p> <ul style="list-style-type: none"> <li>Believe that the proposal is rezoning R3 land for higher density residential development.</li> <li>Amenity, traffic, social &amp; environmental issues</li> </ul>  | <ul style="list-style-type: none"> <li>Rezoning – Council confirmed that this is not part of the proposal but rather an update of the planning controls applying to the R3 areas.</li> <li>Increase in development potential does not generate a negative impact on property values.</li> <li>To promote housing diversity, 3 storeys can be considered on corner sites subject to the requirements.</li> <li>All issues will still be assessed further through future DAs and be compliant with the DCP.</li> <li>The Fairfield Transport Study 2020 did not identify any underlying concerns with the local road network capacity.</li> <li>The R3 Zone precincts benefit from proximity to local centres and community services including regular public transport.</li> </ul>   |



| Community Issue   | Council Response   |
|---|--|
| <p><u>Heritage Items</u></p> <p>A total of 2 submissions were received – with one in support, and one in opposition. There were no submissions seeking changes.</p> <p>The key issues raised are as follows:</p> <ul style="list-style-type: none"> <li>• Opposition to the proposed heritage listing at 8 Canley Vale Road, Canley Vale.</li> <li>• Support for the proposed heritage listing at 32 Albert Street, Cabramatta with the listing being a significant step in achieving the goal of the home becoming a national icon.</li> </ul> | <ul style="list-style-type: none"> <li>• Canley Vale – the front section of the site is already listed as a heritage item. Under the Fairfield LEP 1994, the entire site was identified as a heritage item so the inclusion of the rear section will correct an error occurring from the transfer of the item into the Fairfield LEP 2013.</li> <li>• Cabramatta – Noted.</li> </ul> |
| <p><u>New Flood Clause</u></p> <p>No submissions received.</p>  | <ul style="list-style-type: none"> <li>• Noted.</li> </ul>   |
| <p><u>Transport Strategy and Mesoscopic Transport Model</u></p> <p>No submissions received.</p>   | <ul style="list-style-type: none"> <li>• Noted.</li> </ul>   |

## 3.2 State Agency submissions

The Gateway Determination required Council to refer details of public exhibition to a number of state agencies. None of the agencies raised objections to the proposal.

Council received 7 submissions from State agencies including:

- Environment and Heritage Group
- NSW State Emergency Service
- Transport for NSW
- Department's Open Space and Public Spaces Team
- Heritage NSW
- Sydney Water
- Endeavour Energy

Responses were not received from the following 4 State agencies:

- School Infrastructure NSW
- NSW Ministry of Health (South Western Sydney Local Health District)
- Infrastructure NSW
- Land and Housing Corporation

Responses received in response to Council's exhibition are summarised in Table 7.

**Table 7. Summary of State agency concerns**

| Agency Issue   | Council Response   |
|--|--|
| <p><u>Transport for NSW (TfNSW)</u></p> <p>Increased density proposed under the planning proposal is aligned with transit corridors, however further consideration of traffic generation will need to be considered as part of future development applications.</p> <p>TfNSW also recommended measures to encourage active transport such as walking and cycling.</p>  | <p>Council has prepared the Fairfield Transport Study, Fairfield City Bike Plan and Urban Design Studies for the town centres which will promote sustainable transport in the LGA. Further development applications will need to address these outcomes.</p>   |
| <p><u>Endeavour Energy</u></p> <p>Existing infrastructure may be insufficient to meet demand associated with the proposed increased residential densities.</p> <p>It is noted that an extension and / or augmentation of the existing local network may be required. The extent of the works, however, cannot be determined until a final load assessment is completed. Endeavour Energy's preference is to alert proponents / applicants and Council of any potential matters for the existing local electricity network that may arise as further development of the areas occurs.</p> | <p>In response, Council stated that recent experience demonstrates that density potential will be gradually realised over time, and that energy supply will continue to be considered on a case-by-case basis in future DAs.</p>   |
| <p><u>Sydney Water</u></p> <p>They will prepare a determination of the servicing requirements. Detailed requirements will then be made clear at development stage through a Section 73 application.</p>  | <p>Detailed information on the projected increased capacity for residential housing associated with the proposal has been made available to Sydney Water.</p>  |
| <p><u>Department's Open Space and Public Spaces Team</u></p> <p>Raised concerns for Cabramatta regarding the provision of open space.</p> <p>For the Carramar, the Open and Public Spaces team supported Council on the additional public open space to service the town centre, however it was noted that increased in densities in R4 areas would apply pressure to existing open space areas along Prospect Creek. The Open and Public team Branch recommended that consideration should be given to a suitable road frontage to improve access to Carrawood Park.</p>                | <p>Council responded that Cabramatta is identified as a specialist retail centre and is a destination for tourism and festivals, and the character of the civic space is key to the town centre.</p> <p>For Carramar, Council stated that the rezoning of residential land will create 2 new neighbourhood parks that will service proposed new apartment/town house areas north of the railway line. In addition, it is proposed to rezone 4 properties along the frontage of Carrawood Park for public open space that addresses the comments made by DPE.</p> |
| <p><u>Heritage NSW</u></p> <p>Supported the listing of Whitlam House as a heritage item and will be recommending the site become State heritage listed.</p>  | <p>Noted.</p>  |

| Agency Issue   | Council Response  |
|--|---|
| <p><u>Former Environment and Heritage Group (EHG)</u></p> <p>Some areas of the proposal are subject to flood risk which may render them difficult to evacuate during major and extreme flood events.</p> <p>EHG noted that Council propose to include a clause 5.22 Special Flood Considerations in the Fairfield LEP.</p> <p>No objection raised.</p> | <p>Council acknowledged EHG's submission.</p>   |
| <p><u>NSW State Emergency Service (SES)</u></p> <p>SES recommended that Council thoroughly consider the requirements of the NSW Governments Floodplain Development Manual and evaluate whether the relevant Ministerial Directions of the EP&amp;A Act have been complied with.</p>  | <p>Council stated that relevant flood studies across the Fairfield LGA that address the requirements of the NSW Floodplain Development Manual have been undertaken and were considered in developing the recommendations of the various urban design studies, changes to planning controls and proposed rezoning of land included in the Stage 2 PP.</p> <p>Council also states that consistency is achieved with relevant Ministerial Directions relating to flood prone land.</p> |

## 4 Council Post Exhibition Changes

### 4.1 Council resolved changes

#### 4.1.1 Inclusion of Clause 5.22 Special Flood Consideration

At Council's Outcomes Committee meeting of 14 September 2021 (**Attachment C**), Council resolved to advise the Department 'that it wishes to "opt-in" for the inclusion of the "special flood considerations" model clause relating to land above the flood planning level up to the probable maximum flood within Fairfield LEP 2013'.

#### 4.1.2 Council's post-exhibition reporting and changes

At Council's Outcomes Committee meeting on 14 June 2022 (**Attachment AB**), Council resolved to adopt the planning proposal with the following changes:

- Removal of 44 properties in Carramar located in a flood hazard category area H3 and/or partially within a H4 category area. Council considered these areas generally unsafe for vehicles, children and elderly.
- Removal of 6 properties in Villawood located in a flood hazard category area H3 and/or partially within a H4 category area.
- Rectification of a minor anomaly between the Cabramatta Town Centre site area amalgamation map and the associated LEP Clause 7.2 Cabramatta floor space ratio and Clause 7.3 Cabramatta height of buildings. Council created a new Cabramatta Town Centre precinct on the town centre site area amalgamation map to be known as "Cabramatta Town Centre South" to overcome the anomaly between the written instrument and the LEP mapping. This change does not alter the development standards proposed for the precinct or the intent of the LEP.
- Cabramatta East - removal of the active street frontage to the Cabramatta Road East and Broomfield Street frontages.



- At 29 Canley Vale Road – following Council’s previous decision to not include the site for future public open space acquisition, Council reinstated the height of building (HOB) control to the existing height standard of 26 metres. This height control is consistent with that applying to the adjoining properties east and west of the site along Canley Vale Road.

## 5 Flood Advisory Panel

### 5.1 Referral to the Flood Advisory Panel

In response to the recommendations of the 2022 Independent Flood Inquiry the Department established Flood Advisory Panels to provide advice regarding flood risks associated with selected development proposals in high-risk areas. This review of proposals was intended as an interim measure pending the establishment of the NSW Reconstruction Authority and completion of the disaster adaptation plans and revised flood planning levels referred to in section 1.1.4 of this Report.

As noted above, the Department referred the subject proposal to the Flood Advisory Panel (the Panel) on 12 January 2023. It sought the Panel’s recommendations on how to proceed with this rezoning in relation to flood and evacuation matters, with possible options being:

- Proceed to finalisation of the planning proposal without amendment.
- Proceed to finalisation only in certain areas of the planning proposal.
- Not finalise the planning proposal and require Council to undertake further work and resubmit the proposal for a fresh Gateway Determination and potential re-exhibition prior to finalisation.

The Panel was also required to provide advice on the following matters:

- Whether flood risk, including evacuation could be adequately managed in light of the Flood Inquiry recommendations.
- Whether the planning proposal adopts a tolerable, risk-based flood planning level, considering a range of flood scenarios, existing and approved development, evacuation routes, and only permitting new development in line with cumulative evacuation capacity.

The Panel considered a range of material including:

- Technical expert advice from the Technical Advisory Group (TAG) on specific flood-related risks of the Proposal, having regard to the Flood Inquiry and its recommendations as accepted by the NSW Government (either absolutely or in principle). This included advice as to whether the proposal adopts a tolerable, risk-based flood planning level.
- Additional advice from relevant agencies including the NSW State Emergency Service (SES), Infrastructure NSW (INSW) and Transport for NSW (TfNSW).

To assist, the Panel undertook a site inspection of the area on 5 May 2023 and met with various stakeholders 12 May 2023, including:

- the Department;
- (then) EHG; and
- Council.

The Panel’s report and recommendations are detailed in **Attachment D**.

## 5.2 Flood Advisory Panel Advice

The Panel considered the key issues to be the following:

### Flood modelling, hazard and behaviour

The Panel noted that the submitted flood modelling and hazard mapping:

- was based on outdated flood studies;
- did not adequately consider climate change; and
- did not consider the full range of flood events up to the PMF.

### Flood evacuation

- The Panel agreed with the advice from TAG and the SES that evacuation modelling must be undertaken to validate the capacity and capability of evacuation routes under existing and future development conditions.
- The Panel also agreed that evacuation modelling should be undertaken for the full range of flood events up to the PMF, using the latest flood data and appropriate climate change considerations.
- The Panel noted that evacuation modelling would enable demand impacts to be considered to determine whether upgrades are required at critical road intersections to support intensification.
- The Panel also considered that given the planning proposal's scale, spatial diversity, and complexity of impacts from both increased demand and flooding on evacuation routes, that evacuation modelling must be undertaken for the full range of events up to the PMF.

### Mitigation measures

- The Panel supported Council's approach of removing lots impacted by a flood hazard rating of H3, and higher, and agrees that the number of areas is likely to increase with updated flood modelling.
- The Panel recommended that areas below the 1% AEP be deferred from the current rezoning until updated modelling is undertaken to determine the extent of change, if any, to the number of lots impacted by a flood hazard rating of H3 or higher.
- The Panel supported Council's proposal to adopt clause 5.22 Special Flood Consideration of the Standard Instrument – Principal Local Environment Plan, which will require a higher level of assessment of the compatibility of future development with flooding in the area.

## 5.3 Flood Advisory Panel Recommendations

The Panel issued its advice to the Department on 22 June 2023 (**Attachment D**). A copy of this advice was provided to Council.

The Panel supports Council's approach of removing lots impacted by a flood hazard rating of H3, and higher, and agrees with the advice received that the extent of these areas is likely to increase with updated flood modelling.

To further manage flood risk, the Panel recommends the Department proceed with the planning proposal under the following conditions:

1. Removal of all lots currently identified as having a hazard rating of H3, or above, on the submitted hazard mapping.
2. Deferral of remaining areas currently identified below the 1% AEP event (i.e., with a flood hazard rating of H1 and H2), and thence, proceeding to rezoning subject to:
  - New flood modelling being completed, incorporating the latest available flood data and appropriately considering climate change impacts.

- Once updated modelling and hazard mapping has been undertaken, remove any additional lots identified as having a hazard rating of H3, or above, on the revised hazard mapping.
  - Application of the updated flood planning level (FPL) to land deemed suitable for rezoning and development.
3. Proceed with the rezoning of the land currently above the 1% AEP, subject to:
- Appropriate evacuation studies being completed, including the modelling of evacuation demand and route capacity for the full range of flood events up to the PMF, in the context of the existing and future development conditions.
  - Evacuation studies considering impacts from overland flooding.
  - The adoption of clause 5.22 *Special Flood Consideration* of the Standard Instrument – Principal Local Environmental Plan.
  - Identifying stormwater infrastructure improvements to address overland flooding and ensure upgrades occur in line with the redevelopment associated with the Proposal.
  - Identifying road network improvements to address evacuation requirements and ensure upgrades occur in line with redevelopment associated with the Proposal.

## 5.4 Council Response to the Flood Advisory Panel Recommendations

At Council's Ordinary Meeting on 10 October 2023 (**Attachment E**), Council considered the Panel advice and resolved to request the Department proceed with the implementation of the planning proposal, subject to deferral of 50 properties in Carramar and Villawood, as resolved by Council on 14 June 2022 (**Attachment C**).

It is also noted that Council resolved to adopt the Cabravale Overland Flood Study at its Ordinary Meeting of 10 October 2023 (**Attachment F**).

On 18 October 2023, the Department received a letter from Council (**Attachment E**) requesting that the Department implement the planning proposal as outlined in Council's resolution.

Council also advise that the existing Clause 6.4 Floodplain Risk Management of Fairfield LEP 2013 and the proposed inclusion of the Standard Clause 5.22 *Special Flood Considerations* will provide sufficient opportunities to adequately consider risk to life and enable the safe evacuation of people for all land up to the PMF.

Since then, Council has commissioned an independent review into the Panel's advice (**Attachment G**). This independent advice recommended the following:

1. Panel recommendation no.2 – the review concluded that there is no need to undertake any new flood modelling nor to update the FPL but supported sensitivity testing using existing models to determine whether additional lots would be affected by H3 or a higher flood hazard due to climate change.
2. Panel recommendation no.3 – the review concluded that evacuation modelling should only be considered for those areas affected by Georges River flooding with longer durations of high hazard flooding in the PMF: potentially being parts of Canley Vale, Fairfield Town Centre and Carramar. The other areas should adopt a shelter in place strategy to manage flood risk. All other aspects of the recommendation are supported.

Council was provided an opportunity to discuss the proposal with the Flood Advisory Panel, prior to the finalisation of its recommendations.

Council's advice did not address the issue of whether the recently adopted 2023 Cabravale study addressed the Panels concerns.



## 6 Department Finalisation Changes

### 6.1 Department recommendation

#### Evacuation Risk

The Department agrees with the Panel and Council that evacuation modelling should be undertaken for areas affected by Georges River flooding with longer durations of high hazard flooding in the PMF and agrees with the Panel that this should occur prior to rezoning these areas for increased densities.

For other areas under the PMF where Council have suggested that a Shelter in Place approach may be acceptable, the Department is not satisfied that these areas can be rezoned ahead of a Shelter in Place strategy being developed in more detail, and considered by the relevant agencies, including State Emergency Services. There is not enough detail about the flood hazard, duration of floods to support this approach at this stage.

**To allow for this Planning Proposal to proceed and rezone areas above the PMF, areas impacted by the PMF are to be excluded from the Planning Proposal, pending further evacuation studies, and certainty that additional development below the PMF level in these locations will not increase risk to life for people in the impacted centres, or other areas in the catchment in an emergency evacuation event.**

#### Flood modelling and flood hazard

The Panel recommended that land below the 1% AEP event be excluded pending further flood modelling.

Council's supplementary flood advice was that there is no need to undertake any new flood modelling nor to update the FPL but supported sensitivity testing using existing models to determine whether additional lots would be affected by H3 or a higher flood hazard due to climate change. Refer to Section 5.4 of this report for more details.

The exclusion of areas under the PMF also means that areas below the 1% AEP event are excluded also. As such there is no additional flood modelling required to support this Planning Proposal.

The Department has considered Council's post-exhibition reports and additional resolutions, and the recommendations of the Flood Advisory Panel, to inform the finalisation of the planning proposal. Finalisation is recommended as follows:

1. Proceed with the proposed amendments for land beyond the PMF event for the following areas:
  - Cabramatta Town Centre;
  - Canley Vale R3 zoned land;
  - Canley Heights R3 zoned land;
  - Villawood R3 zoned land;
  - Fairfield Heights R3 zoned land; and
  - Carramar Town Centre (which includes proposed R3 and R4).
2. Not proceed with the proposed amendments to land identified within the PMF for the following areas:
  - Fairfield City Centre;
  - Canley Vale Town Centre (which included proposed R4); and
  - Carramar proposed R3 and R4 areas.
3. Proceed with the 4 heritage items.

4. Not include Clause 5.22 Special Flood Consideration as this clause has subsequently been adopted into the Fairfield LEP 2023 through the State Environmental Planning Policy (Flood Planning) Amendment 2023 as notified on 10 November 2023. During the exhibition of this amendment, Council opted to have this clause inserted into their LEP. No further changes are recommended by the Department.

Below is a table illustrating the change to the additional dwelling potential for the subject areas.

**Table 8. Changes to additional dwelling potential.**

| <b>Subject Area</b>  | <b>Council Planning Proposal – Additional Dwelling Potential</b> | <b>Department Finalisation – Additional Dwelling Potential</b> |
|--|--|--|
| Fairfield Town Centre  | 5490   | 0  |
| Canley Vale Town Centre  | 1993   | 0  |
| Carramar Town Centre   | 3907   | 546  |
| Cabramatta Town Centre   | 1606   | 1606   |
| R3 Medium Density Zones (inc Fairfield Heights, Canley Heights, Canley Vale and Villawood) | 11,122   | 8875   |
| <b>Total Dwellings</b>   | <b>24,121 dwellings</b>  | <b>11,028 dwellings</b>  |

Notes about the above figures:

- Our analysis shows that Council's dwelling number (9,202 dwellings) did not include the R3 areas. The Department's assessment of the additional dwelling capacity of Council's proposal is closer to 24,000 dwellings.
- The Department's dwelling figures are derived by calculating total dwelling capacity under the proposed new control, minus any existing dwellings.

Maps of the lots affected by the PMF are shown in Figures 23-28.

The table below provides a summary of the FAP recommendation, Council's response to each recommendation, and the Department's final position.

| FAP Recommendation   | Council Response – Advice from Water Technology consultants on the Panel's recommendations   | Department Position   |
|--|--|---|
| Removal of all lots currently identified as having a flood hazard rating where flood conditions would be considered unsafe for vehicles, children and the elderly (i.e. flood hazard H3)                           | Council agrees – Council removed 50 properties post exhibition affected by high, medium or low flood risk within the Flood Planning Area (FPA) being the 1:100 year ARI plus 500mm freeboard.  | The Department agrees – no changes made during finalisation   |
| Deferral of remaining areas currently identified below the 1% AEP event until supported by new flood modelling, incorporating the latest available flood data and appropriately considering climate change impacts | <p>Council's independent review advised there is no need to undertake any new flood modelling nor to update the FPL but supports sensitivity testing using existing models to determine whether additional lots would be affected by H3 or higher flood hazard due to climate change.</p> <p>The advice suggests that the effects of climate change can be assessed by considering the modelling results for rarer floods. However, not all of the flood studies (particularly the older ones) have been run for events between the 1% AEP and the PMF and the model would need to be re-run to understand these events.</p> | <p>The exclusion of areas under the PMF for evacuation risk reasons also means that areas below the 1% AEP event are excluded also – so questions about what flood modelling to rely of for strategic planning do not have to be resolved in making this planning proposal.</p> <p>The Department would like to note:</p> <ul style="list-style-type: none"> <li>- The endorsed Council flood study is over 20 years old.</li> <li>- Liverpool Council have commissioned a new flood study but resolved not to adopt this study. Reliance on the new model under these circumstances, as suggested by the consultant is challenging.</li> </ul> |



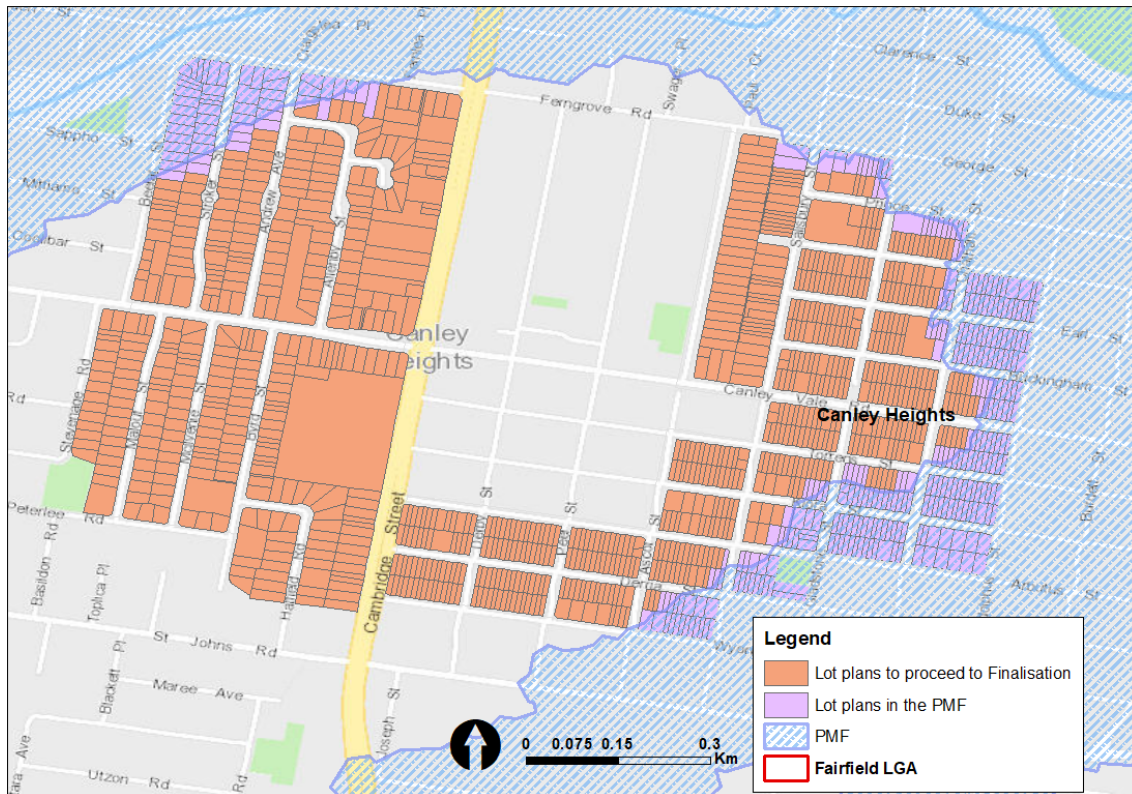
| FAP Recommendation  | Council Response – Advice from Water Technology consultants on the Panel's recommendations   | Department Position  |
|---|--|--|
| <p>Proceed with the proposed rezoning of the land above the 1% AEP, subject to completed evacuation studies, including evacuation demand and route capacity for the full range of flood events up to the PMF for existing and future development conditions</p> | <p>The advice suggests two separate approaches for areas impacted by different floods:</p> <p><b>Areas affected by Georges River flooding - Canley Vale, Fairfield Town Centre and Carramar</b></p> <p>The depths of flooding from the Georges River can make them highly hazardous and durations can exceed 24 hours. Evacuation, rather than sheltering in place is a more appropriate flood emergency response in these areas.</p> <p>The advice agrees that evacuation modelling is required for these areas. The advice also states that “flood evacuation modelling would identify road capacity constraints that would need to be overcome to support intensification.”</p> <p><b>Areas impacted by creek and overland flooding</b></p> <p>Fairfield Heights, Fairfield East, Smithfield, Canley Heights, Cabramatta and Villawood are only affected by creek flooding and/or overland flows. The advice states that given the short notice / no early warning for this type of flooding, and the speed at which roads are cut off, “the practicality of evacuation from these floods in Fairfield LGA is questionable.” These areas should adopt a shelter in place strategy to manage flood risk. The advice relies on the application of the draft Shelter in Place Guideline.</p> | <p>The Department agrees with Council's independent advice that evacuation modelling should be undertaken for areas affected by Georges River flooding with longer durations of high hazard flooding and agrees with the Panel that this should occur prior to rezoning the subject areas where they are below the PMF for increased densities.</p> <p>For other areas under the PMF where Council have suggested that a Shelter in Place approach may be acceptable, the Department is not satisfied that there is enough information available to adopt this approach at this stage.</p> <p>The Department is working with the SES in relation to preparing a position in relation to the use of shelter in place for flash flood events, noting the SES current position is that shelter in place is the least desirable evacuation strategy.</p> <p>Further work is required to understand the areas to which this would apply in more detail, the risk profile of flooding in these areas and flood depths, how many properties are impacted by lesser events than the PMF and would have to shelter in place more frequently, exploration of the design and accessibility impacts of adopting this approach (i.e. the draft Shelter in Place Policy suggests floor levels are to be above PMF). A specific Shelter in Place strategy should be prepared for the impacted areas in consultation with the SES and RANSW.</p> |
| <p>The panel supported adoption of clause 5.22 Special Flood Consideration of the Standard Instrument into the Fairfield LEP.</p>   | <p>Council agrees – clause subsequently adopted through the Flood Planning SEPP Amendment 2023</p>   | <p>The Department supports clause 5.22 which has already been implemented via a standard clause updated and is therefore not required as part of this finalisation</p>   |

| FAP Recommendation  | Council Response – Advice from Water Technology consultants on the Panel's recommendations | Department Position   |
|---|--|---|
| Identify stormwater infrastructure improvements to address overland flooding and ensure upgrades occur in line with the redevelopment associated with the Proposal. | Independent review did not comment on this matter.   | The Department notes that Council's local contributions plan may require additional identification of stormwater infrastructure improvements following the evacuation modelling work. |
| Identify road network improvements to address evacuation requirements and ensure upgrades occur in line with the redevelopment associated with the Proposal.        | Independent review did not comment on this matter.   | The Department notes that Council's local contributions plan may require additional identification of road network improvements following the evacuation modelling work.              |



**Figure 23. Cabramatta Town Centre and the southern parts of Canley Vale planning proposal area in the north depicting the subject lot plans. The PMF is in light blue**



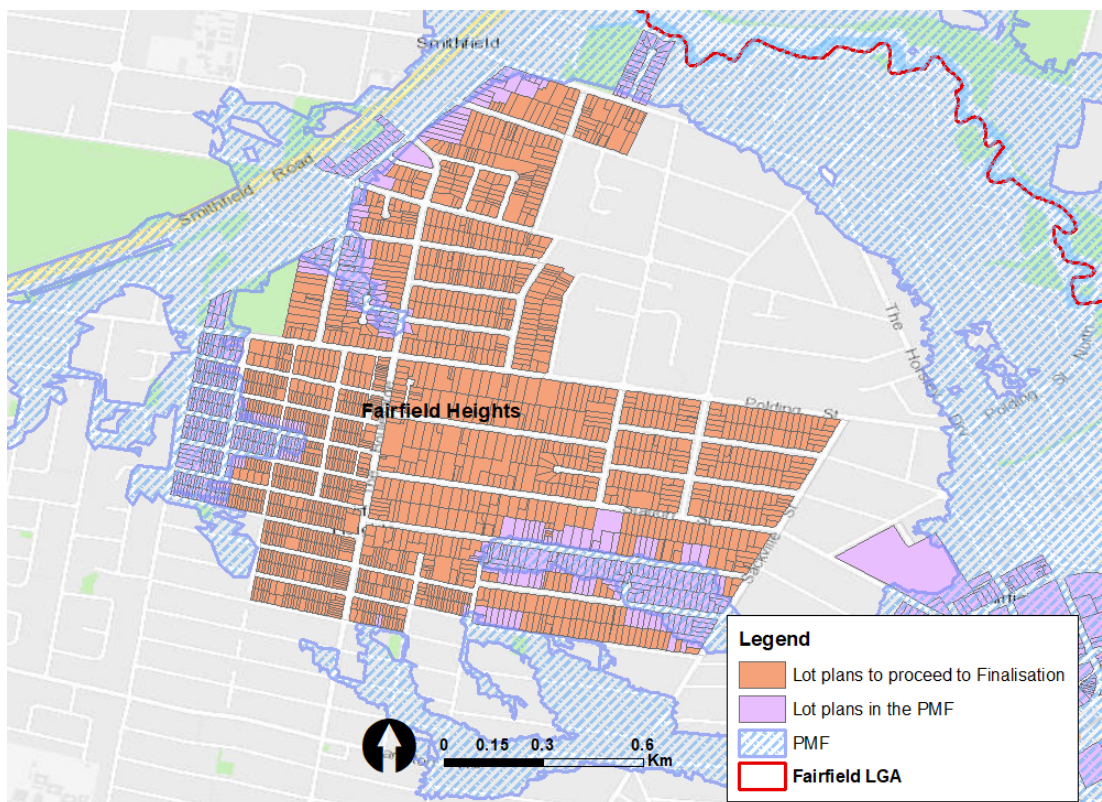


**Figure 24. Canley Heights planning proposal area depicting the subject lot plans. The PMF is in light blue.**

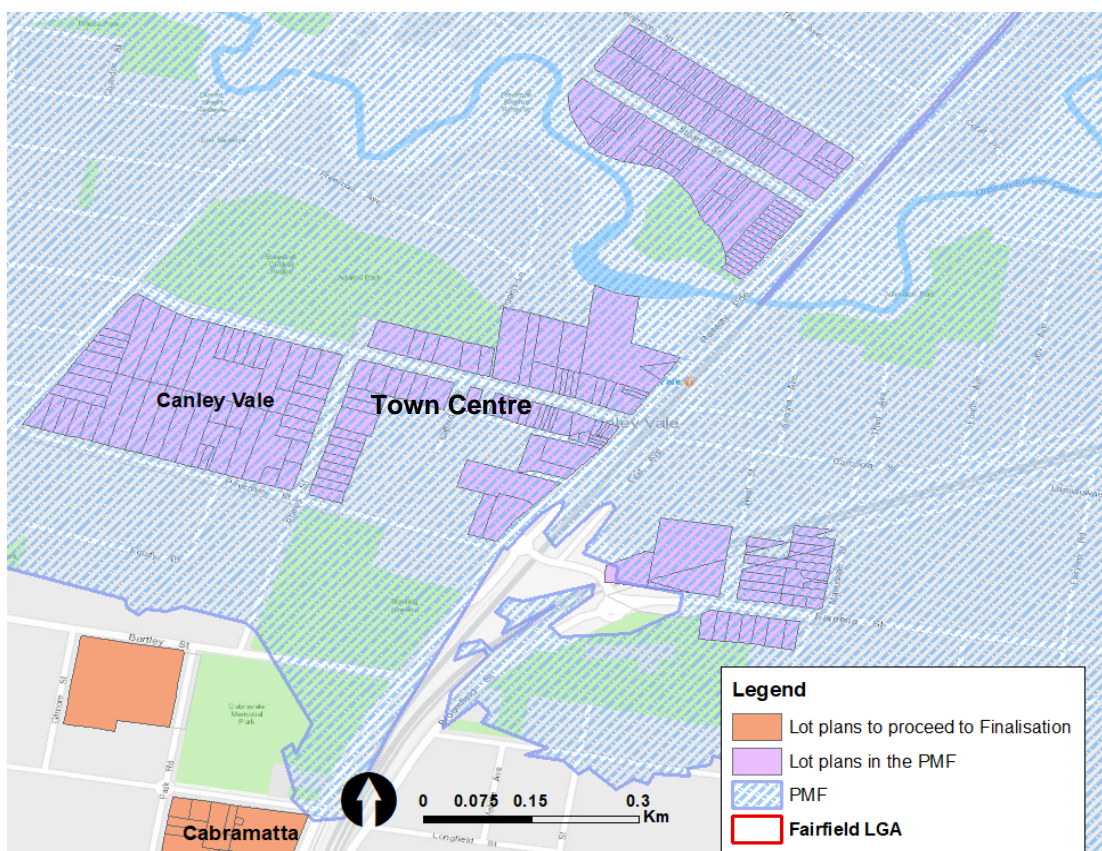


**Figure 25. Carramar and Villawood planning proposal areas with the subject lot plans. The PMF is in light blue.**



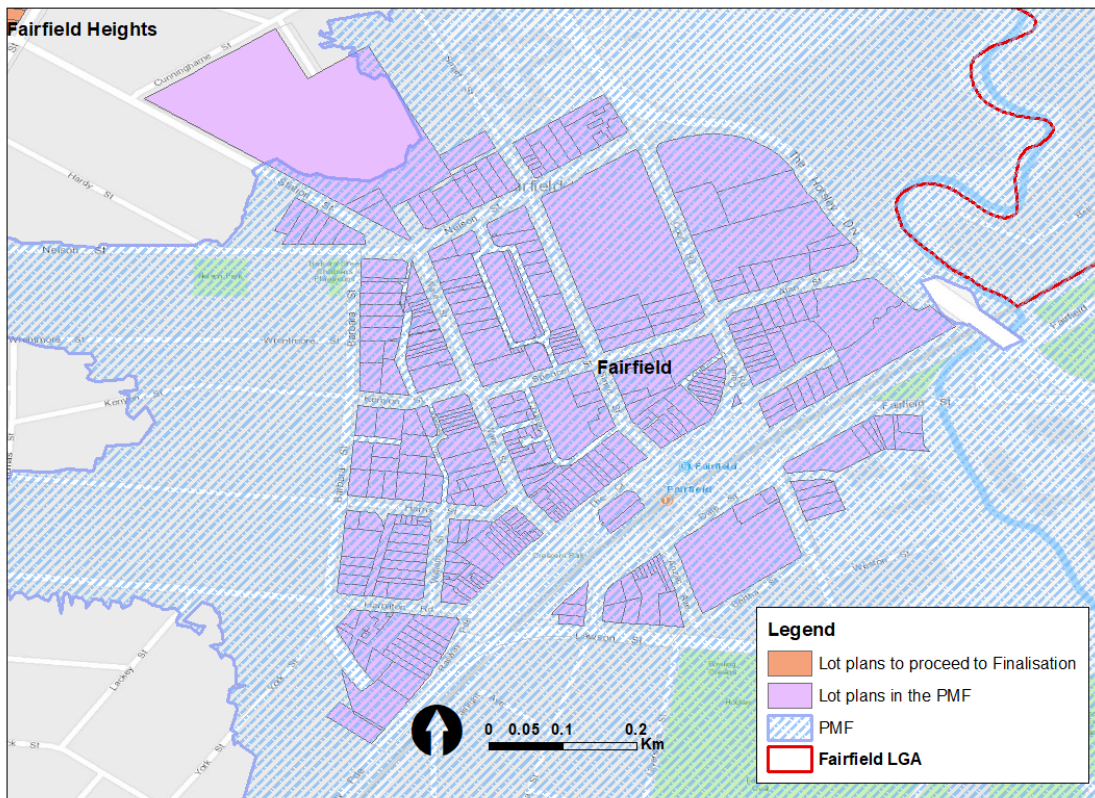


**Figure 26. Fairfield Heights planning proposal area depicting the subject lot plans to proceed to finalisation, lot plans in the PMF and the PMF**



**Figure 27. Canley Vale town centre depicting the R3 zoned area, flood planning area and PMF.**





**Figure 28. Fairfield town centre flood planning area and PMF.**

## 6.2 Justification for finalisation changes

The Department notes that these post-exhibition changes are justified and do not require re-exhibition. It is considered that the post-exhibition changes:

1. Are a reasonable response to advice provided by the Flood Advisory Panel and Council.
2. Ensure that the additional flood modelling and evacuation planning can be completed prior to Council enabling additional residential uplift in the subject areas.
3. Do not include risk to life.
4. Do not alter the intent of the planning proposal.

## 7 Strategic Assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination and subsequent planning proposal processes. The proposal has also been subject to a high level of public consultation and engagement.

The following confirms that the proposal is consistent with relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement.

At the time of Gateway determination, it was resolved that the planning proposal's inconsistencies with section 9.1 Directions: Acid Sulfate Soils and Site Specific Provisions are of minor significance or justified in accordance with the terms of the Direction. No further approval is required in relation to these Directions.

The planning proposal submitted to the Department for finalisation:

- Remains consistent with the Regional Plan and Western City District Plan relating to the subject sites.

- Remains consistent with the Council's Local Strategic Planning Statement.
- Remains consistent with all relevant Section 9.1 Directions. In particular, as all flood prone land has been removed from the planning proposal, Direction 4.1 Flooding no longer applies.
- Remains consistent with all relevant SEPPs.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed further below.

**Table 9. Summary of strategic assessment.**

|   | Consistent with Gateway determination report Assessment |  |
|---|---|--|
| Regional Plan                                 | <input checked="" type="checkbox"/> Yes                 | <input type="checkbox"/> No                                  |
| District Plan                                 | <input checked="" type="checkbox"/> Yes                 | <input type="checkbox"/> No                                  |
| Local Strategic Planning Statement            | <input checked="" type="checkbox"/> Yes                 | <input type="checkbox"/> No                                  |
| Local Planning Panel (LPP) recommendation     | <input checked="" type="checkbox"/> Yes                 | <input type="checkbox"/> No                                  |
| Section 9.1 Ministerial Directions            | <input type="checkbox"/> Yes                            | <input checked="" type="checkbox"/> No, refer to section 7.1 |
| State Environmental Planning Policies (SEPPs) | <input checked="" type="checkbox"/> Yes                 | <input type="checkbox"/> No                                  |

**Table 10. Summary of the site-specific assessment.**

| Site-specific assessment    | Consistent with Gateway determination report Assessment |                             |
|-----------------------------|---|-----------------------------|
| Social and economic impacts | <input checked="" type="checkbox"/> Yes                 | <input type="checkbox"/> No |
| Environmental impacts       | <input checked="" type="checkbox"/> Yes                 | <input type="checkbox"/> No |
| Infrastructure              | <input checked="" type="checkbox"/> Yes                 | <input type="checkbox"/> No |

## 7.1 Ministerial Direction 4.1 Flooding

The objectives of this Ministerial Direction are:

- 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 that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.

The direction requires planning proposals to be consistent with a range of flood risk management considerations including, the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. The direction requires that a planning proposal must not contain provisions that:

- permit development that will result in **significant flood impacts** to other properties.
- permit development for the purposes of **residential accommodation in high hazard areas**.
- permit a significant increase in the development and/or dwelling density of that land that are likely to result in a significantly increased requirement for government spending on **emergency management services and emergency response measures**.

Without evacuation studies, or understanding of evacuation capacity, and with uncertainty the proposed impacts of the rezonings below the PMF on the capacity to evacuate from other parts of the catchment, the planning proposal submitted by Council could not demonstrate compliance with this direction.

The exclusion of the areas impacted by the PMF from the planning proposal ensures that this important local planning direction can be complied with.

## 7.2 Western City District Plan

The site is within the Western City District and the Western City District Plan was released 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 planning proposal is consistent with the following priorities:

- Planning Priority W5 – as it implements some of the recommendations of LSPS, LHS and individual supporting urban design studies for additional housing.
- Planning Priority W6 – as it will enable the renewal of place and enhance protection of four places of local heritage significance.
- Planning Priority W6 – as it seeks to generate business centres in Cabramatta.

The District Plan also highlights the need for housing strategies to respond to natural hazards, such as flooding. In particular, consideration has been given to ensuring that the proposal appropriately addresses the following objective and action from the District Plan:

- Objective 37: Exposure to natural and urban hazards is reduced; and
- Action 88: Avoid locating new urban development in areas exposed to natural and urban hazards and consider options to limit the intensification of development in existing urban areas most exposed to hazards.

The amended proposal responds positively to these directions.

## 8 Post-Assessment Consultation

The Department consulted with the following stakeholders after the assessment.

**Table 11. Consultation following the Department's assessment.**

| Stakeholder | Consultation   | The Department is satisfied with the draft LEP   |
|-------------|--|--|
| Council     | <p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> (<b>Attachment H</b>).</p> <p>Council provide advice on 7 March 2024 that it did not support the draft and that the plan should be made in accordance with Council's resolution (<b>Attachment I</b>).</p> | <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, see below for details</p> |

| Stakeholder                   | Consultation  | The Department is satisfied with the draft LEP  |
|-------------------------------|---|---|
| Mapping                       | 14 paper maps and 2 electronic maps were prepared by the Department's ePlanning team and meet the technical requirements ( <b>Attachments Maps and MCS</b> ). | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No, see below for details |
| Parliamentary Counsel Opinion | On 8/03/2024 , Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at <b>Attachment PC</b> .  | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No, see below for details |

## 9 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 draft LEP, prepared in accordance with the planning proposal as amended by the Department (refer to following), has strategic merit being consistent with the Regional Plan, Western District Plan and local plans and their relevant objectives.
- The proposal was amended in response to recommendations of the Flood Advisory Panel and addresses all identified flood risks. Areas that were excluded from this rezoning may be considered for rezoning at a future time, subject to the completion of the necessary flood and evacuation studies.
- It is consistent with the Gateway Determination and all conditions have been met.
- There are no outstanding agency objections to the proposal.
- The proposal provides housing and employment land.



13/03/2024

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13/03/2024

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## Attachments

| Attachment | Document   |
|------------|--|
| A          | Post-exhibition Planning Proposal & Supporting Documents |
| B          | Exhibited Planning Proposal                              |
| C          | Council meeting on Special Flood Clause                  |
| D          | Flood Advisory Panel Report                              |
| E          | Council meeting on FAP report                            |
| F          | Council Meeting on Cabravale Overland Flood Study        |
| G          | Council Interim Independent Review Advice                |
| H          | Section 3.36(1) consultation with Council                |
| I          | Council comments on the draft LEP                        |
| LEP        | Draft LEP  |
| Maps       | Draft LEP maps   |
| MCS        | Map Cover Sheet  |
| Opinion    | Parliamentary Counsel Opinion                            |