

INNOVATIVE

ITEM NUMBER	18.2
SUBJECT	FOR APPROVAL: Gateway Request: Harmonisation Planning Proposal - Consolidated City of Parramatta Local Environmental Plan
REFERENCE	F2019/00709 - D07056202
REPORT OF	Team Leader Land Use Planning

PURPOSE:

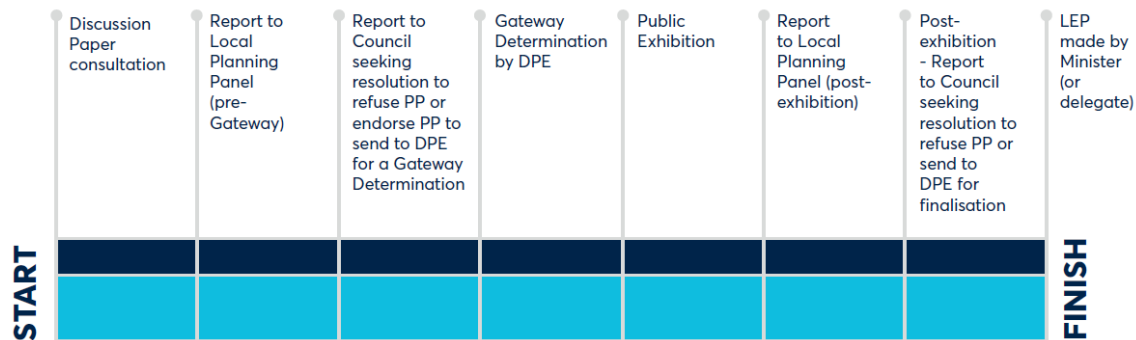
The purpose of this report is to:

- seek Council's endorsement of a Planning Proposal to consolidate the local environmental plans currently applying in the City of Parramatta Local Government Area following the amalgamation process.
- advise on the outcomes of the public exhibition of the *Land Use Planning Harmonisation Discussion Paper*, which has informed the preparation of the Planning Proposal.

RECOMMENDATION

- (a) **That** Council endorse the Planning Proposal – Consolidated Parramatta Local Environmental Plan (included at **Attachments 4 and 5**), for submission to the Department of Planning, Industry and Environment with a request for a Gateway Determination.
- (b) **That** Council note the outcomes of the public exhibition of the Discussion Paper, outlined in the Consultation Report that is included as Appendix 5 to the Planning Proposal.
- (c) **That** Council authorises the CEO to correct any minor policy inconsistencies and any anomalies of an administrative nature relating to the Planning Proposal that may arise during the Planning Proposal process.
- (d) **Further, that** Council note the Local Planning Panel's advice, provided at **Attachment 6**, except that it includes a recommendation that, post Gateway, there is greater targeted public consultation around the topical matters, including dual occupancy. Given the extensive consultation that has been undertaken to date, the Planning Proposal recommends targeted consultation including notification to those who made a submission on the Discussion Paper or have registered an interest in the project, as well as to landowners affected by a change in zoning, height, FSR or minimum lot size controls.

PLANNING PROPOSAL TIMELINE



BACKGROUND

1. This summary report is supported by a more detailed assessment report included at **Attachment 6** that was provided to the Local Planning Panel at its meeting on 8 October 2019.
2. The objective of this Planning Proposal is to create a single consolidated local environmental plan (LEP) that will replace existing LEPs that apply to land in the City of Parramatta Local Government Area (LGA). This process is primarily an administrative process.
3. This is necessary as a result of changes to council boundaries in May 2016, which resulted in the creation of the new City of Parramatta LGA, from parts of the former Auburn, Holroyd, Hornsby, Parramatta and The Hills council areas. As a result, different LEPs apply to different parts of the LGA:
 - Auburn Local Environmental Plan 2010
 - Holroyd Local Environmental Plan 2013
 - Hornsby Local Environmental Plan 2013
 - Parramatta Local Environmental Plan 2011
 - The Hills Local Environmental Plan 2012

INTENT OF THE PLANNING PROPOSAL

4. The LEP consolidation process is not intended as a comprehensive review of zoning or density provisions. The Planning Proposal does not propose substantive changes to zoning or increases to density controls across the LGA.
5. However, as there are differences between the provisions of existing LEPs, the consolidation process will result in some changes to the planning controls currently applying in certain areas of the LGA. The majority of these changes are considered minor and inconsequential. Changes include:
 - Changes to the land uses permitted in certain areas, as a result of the creation of a common set of land use tables;
 - Changes to floor space ratio, height and minimum lot size controls applying to certain low and medium density residential zoned land, to achieve consistency in the planning controls applying to these zones; and
 - The introduction of floor space ratio controls into residential areas in locations where they are not currently applied.

6. A limited number of changes to land use zones are suggested to reduce complexity and address anomalies and inconsistencies in the local land use planning framework:
 - Consistently zoning all public bushland reserves E2 Environmental Conservation, to recognise their ecological significance, noting that infrastructure such as walking and cycling tracks, seating, picnic tables and associated visitor facilities will still be able to be carried out.
 - Zoning existing places of public worship (PoPW) in the R2 Low Density Residential Zone to SP1 Special Activities, as it is proposed to prohibit new PoPW across the R2 zone. PoPW will still be permitted in all other zones excluding open space, environmental and infrastructure zones.
 - Rezoning certain sites in North Rocks from R3 Medium Density Residential to R2 Low Density Residential to address concerns over the impact of new forms of small lot medium density housing (manor houses) in these areas, which retain a low density character.
 - Rezoning of sites associated with the suggested phasing out of R1 General Residential, RU3 Forestry, E3 Environmental Management and E4 Environmental Living zones, which currently only apply to a very limited number of sites.
7. Council is currently progressing a number of separate planning proposals relating to specific sites in the LGA. These site-specific proposals will continue to be progressed separately to the LEP consolidation process. As site-specific LEP amendments are finalised the respective provisions will be carried over into the new consolidated LEP.
8. A summary of the key changes to planning controls included in the Planning Proposal is included at **Attachment 1** to this report.

DISCUSSION PAPER CONSULTATION

9. To inform the preparation of this Planning Proposal the *Land Use Planning Harmonisation Discussion Paper* was prepared. The Discussion Paper sought community and stakeholder feedback on various options for harmonising controls and achieving the intent of the Planning Proposal.
10. The Discussion Paper was publicly exhibited from 21 January to 4 March 2019.
11. A total of 539 submissions were received. Accounting for identified duplicate submissions, there was a net of approximately 464 submissions.
12. A summary of the submissions received on different issues is included at **Attachment 2**. Further discussion of the feedback received is outlined in a Consultation Report that forms part of the attached Planning Proposal (included at **Attachments 4 and 5**).

FEEDBACK ON PROHIBITION OF DUAL OCCUPANCY DEVELOPMENT

13. The majority of feedback on the Discussion Paper related to the issue of where in R2 Low Density Residential zones dual occupancies should be permitted. The Discussion Paper outlined the following three options:
 - Option 1: Retains current areas where dual occupancies are restricted under current controls, being R2 zoned land under *Hornsby LEP 2013* and *The Hills LEP 2012* and existing Dual Occupancy Prohibition Area under *Parramatta LEP 2011*. Some additional parts of Oatlands and

Winston Hills were also suggested to be included in the prohibition areas.

- Alternative Option 1: Expanded the above prohibition areas to include additional R2 zoned land in Carlingford, Dundas, Eastwood, Epping and Rydalmere where dual occupancies are currently permitted under *Parramatta LEP 2011*.
- Alternative Option 2: Feedback was invited on the potential for having fewer prohibition areas, such as by allowing dual occupancies on land formerly part of the Hornsby or The Hills LGAs.

14. 301 submissions were received in relation to the above options, a majority of these submission were in support of having fewer prohibition areas:

Prohibition area option	Total submissions	% of submissions
Option 1	59	20%
Alternative Option 1	36	12%
Alternative Option 2 (fewer prohibition areas)	196	65%
Other/stance unclear	10	3%
TOTAL	301	100%

15. Most submissions in support of allowing dual occupancies in more locations, were from residents in Epping and Carlingford, with many of these wanting to see dual occupancy development in areas where they are currently prohibited under *Hornsby LEP 2013*.
16. A small number of submissions recommended prohibition areas be extended to other parts of the LGA, including Ermington, Dundas Valley, Oatlands and Melrose Park.
17. Amongst those who supported prohibiting dual occupancies, reasons given included incompatibility with the character of low density areas, on-street parking congestion, loss of trees and gardens and general concerns with overdevelopment.
18. Amongst those in support of dual occupancy development, reasons given included concerns the suggested prohibition areas were unfair and inconsistently applied. There was also concern prohibition would reduce property values and limit housing choice and affordability in the LGA.
19. A full overview of the feedback received on the suggested dual occupancy prohibition areas and officer responses to issues raised is included in the Consultation Report that forms part of the Planning Proposal (included at **Attachments 4 and 5**).

Feedback from Councillors

20. Councillors were briefed on the consultation feedback at a workshop on 15 July 2019. Councillors raised concerns with the impacts of dual occupancies on local areas, particularly in relation to parking and traffic issues and impacts on local character.
21. Concern was also raised with the limitations that the State Government's *Low Rise Medium Density Housing Code* would place on Council's ability to control the impacts of dual occupancy development, were it to come into effect in the LGA. This Code would allow dual occupancies to be built through the

complying development pathway, and such development would not have to comply with local design controls.

22. The feedback received from Councillors has informed the preparation of this Planning Proposal alongside the consultation feedback and further technical analysis.

RECOMMENDED APPROACH TO DUAL OCCUPANCY PROHIBITION

23. While dual occupancies can help contribute to housing supply and diversity, it is important to ensure that development occurs in the right locations.
24. In response to the feedback received, and to provide a consistent basis for identifying appropriate locations for dual occupancies, further detailed analysis was undertaken to map, at a finer grain, the various constraints that exist to dual occupancy development across the LGA.
25. The analysis found that much of the low density residential land in Beecroft, Carlingford, Epping, North Rocks, Northmead, Oatlands and Winston Hills has a high level of constraints to dual occupancy development. There are also pockets of highly constrained land in Eastwood, Dundas, Dundas Valley and in heritage conservation areas.
26. The findings of this detailed analysis are outlined in the Dual Occupancy Constraints Analysis technical paper, included as part of the attached Planning Proposal.

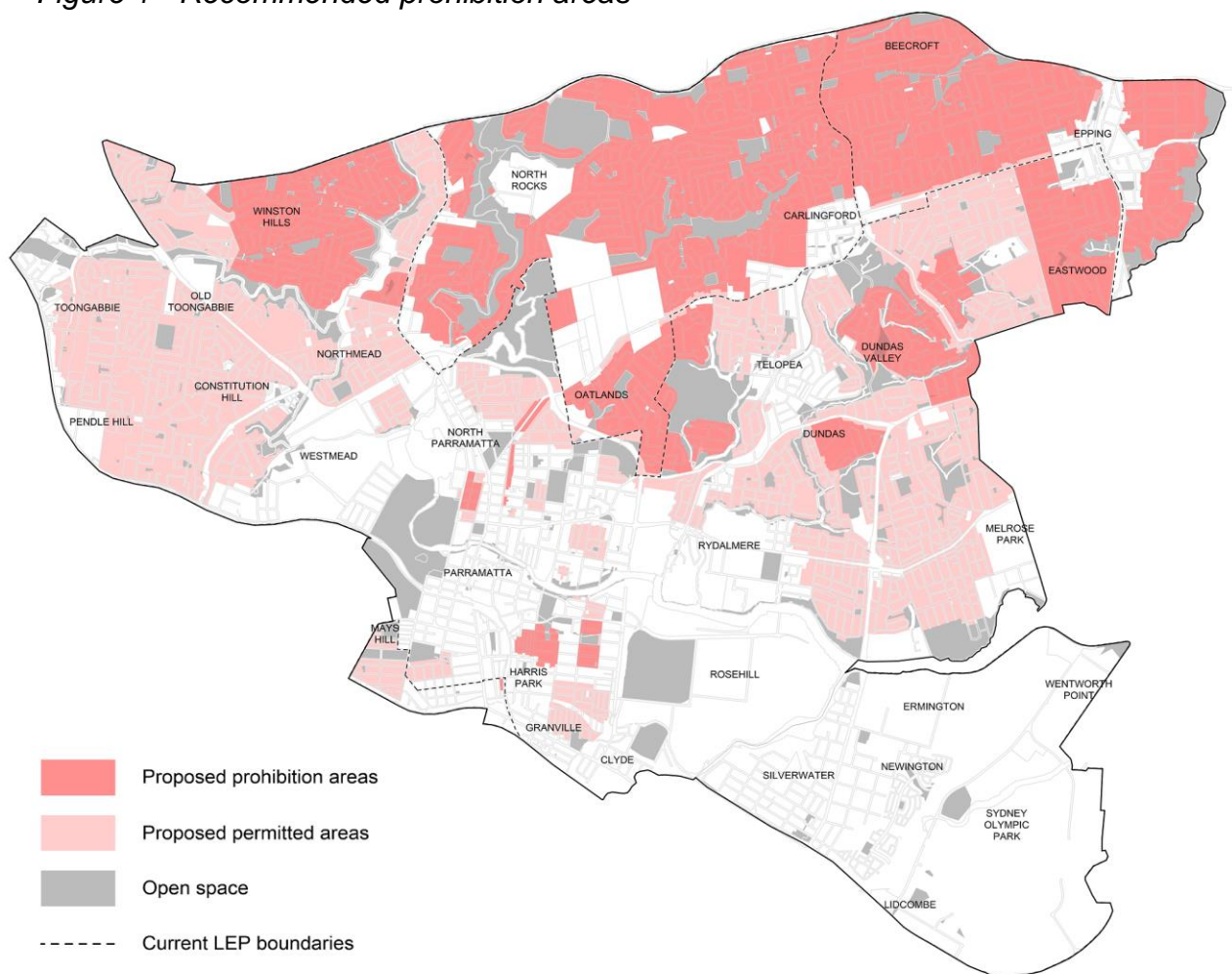
Recommended Dual Occupancy Prohibition Areas

27. Following the outcomes of the technical analysis, it is recommended to continue to prohibit dual occupancies in low density residential areas (R2 zoned land) where they are currently restricted under existing local planning controls, due to the development constraints that exist in these areas. This includes land that was formerly part of Hornsby and The Hills Council areas, with the exception of properties fronting the major road corridors of Carlingford Road, Pennant Hills Road and Windsor Road (which offer more direct access to transport and services and generally do not have the character constraints associated with low density residential areas).
28. It is also recommended to prohibit dual occupancies in parts of Carlingford, Dundas, Dundas Valley and Oatlands and heritage conservation areas where they are currently permitted under *Parramatta LEP 2011*. Introducing prohibition into these locations is considered justified on the basis of the multiple constraints to dual occupancy development that exist in these areas as shown in the technical analysis.
29. This Council officer recommended option for dual occupancy prohibition areas is indicated on the map in Figure 1 below and **Attachment 3** to this report. This option forms the basis of the Planning Proposal at **Attachments 4 and 5**.
30. The officer recommended option (based on the technical analysis) is a variation of the Discussion Paper Option 1 in that it excludes parts of Winston Hills outside of existing Parramatta LEP prohibition areas, but includes additional parts of Dundas, Dundas Valley, Oatlands and heritage conservation areas. Properties fronting Carlingford Road, Pennant Hills Road and Windsor Road are also excluded.
31. The recommended prohibition areas have taken into consideration Ministerial Planning Direction 3.1, which states that Planning Proposals cannot include provisions that reduce the permissible residential density of land, unless this

can be justified through a relevant study or is of minor significance. This means that prohibiting dual occupancy development in areas where it is currently allowed is unlikely to be supported by the State Government without sufficiently strong strategic planning justification, particularly in areas where no restrictions on subdivision apply. On this basis, only the most significantly constrained land outside of the former Hornsby and The Hills council areas is recommended to be included on the prohibition map (based on the technical analysis).

- 32. The recommended prohibition areas will impact approximately 16,100 R2 zoned properties over 600sqm. Of these lots, only approximately 1,895 represent sites where dual occupancies are currently allowed without any restrictions on subdivision.
- 33. Under this option, there would remain approximately 9,400 sites over 600sqm in the R2 zone on which dual occupancy development could be built, providing approximately 58 years of dual occupancy housing supply on current take-up rates of approximately 160 sites per year. Further, the draft Local Housing Strategy shows that Council is easily achieving its dwelling targets.

Figure 1 - Recommended prohibition areas



- 34. In areas where dual occupancy development is proposed to be permitted, it is recommended to restrict them to sites over 600sqm, consistent with the existing planning controls already applying to most of this land. 600sqm is considered the minimum size necessary to achieve satisfactory design and amenity outcomes.
- 35. To support the above policy, it is proposed to identify sites smaller than 600sqm (where these are located outside of the proposed prohibition areas) on the Dual

Occupancy Prohibition Map. Further, it is proposed to include provisions in the LEP that do not allow variations to the minimum lot size requirement under clause 4.6 of the LEP. This approach represents the strictest application of the policy to limit dual occupancy development to sites over 600sqm. Depending on feedback received following the consultation process, an alternative approach could be considered that allows small variations to the minimum lot size (such as up to 2.5% smaller). Such an approach would provide some flexibility in the application of the policy.

Alternative option for prohibition areas

36. As noted above, Alternative Option 1 of the Discussion Paper suggested prohibiting dual occupancies on additional R2 zoned land in Carlingford, Dundas, Eastwood, Epping and Rydalmere in response to concerns over the ongoing impacts of dual occupancies in these areas.
37. Extending the proposed dual occupancy prohibition areas to include all of the additional land identified in Alternative Option 1 would impact approximately 18,735 R2 zoned properties over 600sqm, representing 2,635 more than under the officer recommended option above.
38. This option is illustrated in **Attachment 3** to this report.
39. This option would provide maximum protection to low density residential areas from negative impacts associated with dual occupancy development, particularly in light of the potential introduction of the *Low Rise Medium Density Housing Code*.
40. However, while the constraints analysis identified these additional areas had some pockets of land with constraints, these pockets are considered too small/isolated and/or the constraints not severe enough to justify introducing a prohibition, particularly in light of the Ministerial Direction against reducing currently permissible densities. Consequently, this is not recommended by Council officers as the preferred option. Further, it was not supported by the Local Planning Panel.

FEEDBACK RECEIVED ON OTHER ISSUES

41. There was overall support for most other LEP-related policy suggestions in the Discussion Paper, with the exception of the following suggested policies for which there was not a majority in support:
 - Restricting dual occupancy development to attached forms (37% of submissions on this issue were in support).
 - Placing restrictions on the form and subdivision of dual occupancies in heritage conservation areas (48% of submissions on this issue were in support).
 - Increasing the minimum subdivision lot size to 550sqm in residential zones in the former Holroyd area (currently 450sqm) and Hornsby area (currently 500sqm) to match the controls in the former Parramatta LGA (47% of submissions on this issue were in support).
 - Prohibiting tourist and visitor accommodation in IN1 General Industrial zones (41% of submissions on this issue were in support).
 - Prohibiting function centres and registered clubs in IN1 General Industrial zones (27% of submissions on this issue were in support).
 - Allowing markets, and some food and drink premises on public open spaces (46% of submissions on this issue were in support).

42. Council officer responses to these issues are provided in the assessment report included at Attachment 6, and further commentary is provided in the Consultation Report that forms part of the Planning Proposal (included at **Attachments 4 and 5**).

CONSULTATION WITH PUBLIC AUTHORITIES

43. Preliminary consultation with relevant public authorities was undertaken as part of the public exhibition of the Discussion Paper.
44. The submissions were generally supportive of the suggestions made in the Discussion Paper in relation to harmonisation of the LEP, though some minor suggestions/concerns were raised. These are summarised in the detailed assessment report included at **Attachment 6**.
45. Council has considered the feedback received from various public authorities in the preparation of this Planning Proposal. It is anticipated that further consultation with public authorities will be undertaken in accordance with the requirements of the Gateway Determination and relevant Ministerial Directions.

LOCAL PLANNING PANEL ADVICE TO COUNCIL

46. The Local Planning Panel considered a detailed assessment report on the Planning Proposal on 8 October 2019.
47. Six residents addressed the Panel at the meeting. Of these, three spoke in support of extending dual occupancy prohibition areas, and three spoke against the recommended prohibition areas.
48. The Panel's subsequent advice to Council is consistent with the Council officer's recommendation, but includes the following two additional recommendations:
- (d) *That the Alternative Option 1, referenced in clause 43 of the report, should not be pursued.*
 - (e) *Further, that post gateway there is greater targeted public consultation around the topical matters, including dual occupancy, to assist residents to understand, in particular, the dual occupancy constraints analysis.*
49. Recommendation (d) of the Panel is consistent with the council officer recommended dual occupancy prohibition areas, which forms the basis of the Planning Proposal at **Attachments 4 and 5**.
50. With regard to recommendation (e) of the Panel, the Planning Proposal will be publicly exhibited following receipt of a Gateway Determination, as outlined in Part 5 of the Planning Proposal and subject to any conditions imposed by the Department of Planning, Industry and Environment (DPIE).
51. The Planning Proposal will be exhibited alongside supporting documents, including the Dual Occupancy Constraints Analysis and Consultation Report, which will assist the community to better understand the reasons for proposals on particular topics.
52. Given the extensive public consultation that occurred on the Land Use Planning Harmonisation Discussion Paper (which included notification of all landowners and a series of nine community drop-in sessions) a more targeted approach to engagement is outlined in Part 5 of the Planning Proposal. This will include written notification to those who made a submission on the Discussion Paper or have registered an interest in the project, as well as to landowners affected by

a change in zoning, height, FSR or minimum lot size controls. This targeted notification will be supported by more general notification activity including newspaper advertisements and use of Council's social media channels.

53. A copy of the report considered by the Local Planning Panel and its advice to Council is provided at **Attachment 6**.

PLAN-MAKING DELEGATIONS

54. Changes to plan-making delegations were announced by the Minister for Planning and Infrastructure in October 2012, allowing Councils to make LEPs of local significance. On 26 November 2012, Council resolved to accept the delegation for plan-making functions. Council has resolved that these functions be delegated to the CEO.
55. Given the Planning Proposal is for a comprehensive LEP and seeks to retain provisions for which the approval of the Governor of NSW is required prior to the making of the plan (*Clause 1.9A Suspension of covenants, agreement and instruments*) Council will not be able to exercise its plan-making delegations for this Planning Proposal, as indicated in DPIE's "A guide to preparing local environmental plans".
56. This means that once the Planning Proposal has received a Gateway determination, undergone public exhibition and been adopted by Council, it will be forwarded to DPIE for finalisation and legal drafting in consultation with the Parliamentary Counsel Office. The consolidated LEP will then be referred to the Minister for Planning and Public Spaces for making.

FINANCIAL IMPLICATION FOR COUNCIL

57. Costs associated with public exhibition activities outlined in Part 5 of the Planning Proposal have been budgeted for within the Land Use Planning Harmonisation Project budget.

CONCLUSIONS AND NEXT STEPS

58. It is recommended that the Planning Proposal proceed to Gateway as it will assist with reducing the complexity in the current land use planning framework applying to the LGA.
59. Should the Council endorse the Planning Proposal provided at **Attachments 4 and 5**, it will be forwarded to the DPIE with a request for a Gateway Determination.
60. Subject to Gateway Determination, the Planning Proposal will then be publicly exhibited.

Michael Carnuccio
Team Leader, Land Use Planning

Roy Laria
Land Use Planning Manager

Jennifer Concato
Executive Director, City Strategy & Development

ATTACHMENTS:

1	Summary of key LEP amendments	12 Pages
2	Overview of feedback on Land Use Planning Harmonisation Discussion Paper	6 Pages
3	Maps of options for dual occupancy prohibition areas	2 Pages
4	Planning Proposal - Consolidated Parramatta Local Environmental Plan	129 Pages
5	Appendices to Planning Proposal (provided under separate cover)	455 Pages
6	Local Planning Panel Minutes and Report - 8 October 2019	38 Pages

REFERENCE MATERIAL

18.2 SUBJECT FOR APPROVAL:

Gateway Request: Harmonisation Planning Proposal - Consolidated City of Parramatta Local Environmental Plan

REFERENCE F2019/00709 - D07056202

REPORT OF Team Leader Land Use Planning

2499 RESOLVED (Tyrrell/Issa)

- (a) **That** Council endorse the Planning Proposal – Consolidated Parramatta Local Environmental Plan (included at Attachments 4 and 5), for submission to the Department of Planning, Industry and Environment with a request for a Gateway Determination, and subject to the following amendments being incorporated:
- (i) Retain the existing height controls applying to R3 Medium Density Residential zoned land currently subject to Parramatta LEP 2011, and amend the Height of Building Map to apply a height limit of 11 metres to R3 zoned land across the remainder of the City of Parramatta LGA
 - (ii) Remove Items 13A and 13B in Part 4 of the Planning Proposal relating to the rezoning of various places of public worship from R2 Low Density Residential to SP1 Special Activities.
 - (iii) Amend the Zoning Map to rezone existing places of public worship adjoining R2 Low Density Residential zoned land from SP1 Special Activities to R2 Low Density Residential.
 - (iv) Amend the Zoning Map to rezone land in Northmead bounded by Fletcher Street, Campbell Street and Murray Street from R3 Medium Density Residential to R2 Low Density Residential, and apply the corresponding height, FSR and minimum subdivision lot size controls consistent with that proposed for the adjoining R2 zoned land, to reflect the lowdensity character of the neighbourhood. Further, that this land be included on the Dual Occupancy Prohibition Map.
 - (v) Amend the Zoning Map to rezone land at 34 to 62 Felton Road, Carlingford from R3 Medium Density Residential to R2 Low Density Residential to align with the R2 zoning on the north side of the road, and apply the corresponding height, FSR and minimum subdivision lot size controls consistent with that proposed for the adjoining R2 zoned land. Further, that this land be included on the Dual Occupancy Prohibition Map.
 - (vi) Amend the Dual Occupancy Prohibition Map to include all R2 Low Density Residential zoned land between Marsden and Midson Roads.
- (b) **That** Council note the outcomes of the public exhibition of the Discussion Paper, outlined in the Consultation Report that is included as Appendix 5 to the Planning Proposal.
- (c) **That** Council authorises the CEO to correct any minor policy inconsistencies and any anomalies of an administrative nature relating to the Planning Proposal that may arise during the Planning Proposal process.

Contact us:

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- (d) Further, that Council note the Local Planning Panel's advice, provided at Attachment 6, except that it includes a recommendation that, post Gateway, there is greater targeted public consultation around the topical matters, including dual occupancy. Given the extensive consultation that has been undertaken to date, the Planning Proposal recommends targeted consultation including notification to those who made a submission on the Discussion Paper or have registered an interest in the project, as well as to landowners affected by a change in zoning, height, FSR or minimum lot size controls.

DIVISION The result being:-

AYES: Clrs Bradley, Davis, Dwyer, Esber, Garrard, Han, Issa,

Jefferies, Pandey, Tyrrell, Wearne and Wilson

NOES: Nil