

Planning Services

Gateway Determination Report

LGA	Lane Cove
PPA	Lane Cove Council
NAME	Proposal to prohibit multi-dwelling housing in the R2 Low Density Zone
NUMBER	PP_2018_LANEC_002_00
LEP TO BE AMENDED	Lane Cove Local Environmental Plan 2009
ADDRESS	All land zoned R2 Low Density Residential
RECEIVED	11 May 2018
FILE NO.	IRF18/2659
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The planning proposal seeks to amend Lane Cove Local Environmental Plan LEP 2009 to:

- prohibit multi-dwelling housing on land zoned R2 Low Density Residential; and
- remove the maximum permitted building height of 5 metres and maximum permitted floor space ratio (FSR) of 0.4:1 associated with multi-dwelling housing in the R2 Low Density Residential.

The planning proposal has been prepared in response to the recently released Low Rise Medium Density Housing Code, which permits the development of townhouses, manor homes and terraces as Complying Development on all land where multi-dwelling housing is permitted.

Site description

The planning proposal relates to all land zoned R2 Low Density Residential under Lane LEP 2009. Refer to Appendix E for a map of the area.

Summary of recommendation

It is recommended that the planning proposal proceed subject to the following conditions:

- Council should provide further information in relation to:
 - the total area of land currently zoned R2 Low Density Residential and R3 Medium Density Residential in the local government area;
 - the number of lots that would be eligible for manor homes/multi-dwelling housing in the R2 Low Density Residential and R3 Medium Density Residential zones under the Low Rise Medium Density Housing Code, taking into account the SEPP exclusions, such as foreshore areas and sites below the minimum lot size;
 - the number of multi-dwelling housing and dual occupancy developments approved in the R2 Low Density Residential and R3 Medium Density Residential zones in the local government area in the last 5 years; and
 - whether the proposal is supported by a housing strategy that has been developed in consultation with the community.
- Council should write to all affected landowners about the exhibition of the proposal.

It is considered that the planning proposal is suitable to proceed to the next stage as:

- Council's existing planning controls limit the scale of multi-dwelling housing development to a single storey with a maximum floor space ratio of 0.4:1, with the intent to maintain the low-density character of the zone;
- the recently released Low Rise Medium Density Housing Code is not consistent with Council's intent for single storey villas in the R2 zone; and
- as only one development application has been received since for multi-dwelling housing in the R2 Low Density Residential zone since 2010, it is considered that the proposal is likely to have a minor impact, subject to further quantitative analysis to be provided by Council.

PROPOSAL

Objectives or intended outcomes

The planning proposal seeks to prohibit multi-dwelling housing in the R2 Low Density Residential Zone in order maintain the local character and visual amenity of the area.

Explanation of provisions

The following amendments are proposed to Lane Cove Local Environmental Plan 2009:

- Amend the land use table for the R2 zone to delete multi-dwelling housing as development permitted with consent;
- Delete sub-clause 4.3(2A) referring to the maximum building height of 5 metres for multi-dwelling housing in the R2 zone;
- Delete subclause 4.4(2A)(a) referring to the maximum floor space ratio for multi-dwelling housing on land in Area 1; and

- Amend the Floor Space Ratio Map to remove 'Area 1'.

Mapping

Maps have not been included with the proposal. A condition of gateway is included requiring that the planning proposal be updated to include the proposed map amendments.

NEED FOR THE PLANNING PROPOSAL

The proposal is not the direct result of a strategic study or report.

Council developed a housing strategy in the 1990s aimed at promoting housing diversity through encouraging townhouses and villas.

As a consequence of the strategy, single storey "villa homes" were permitted in the low-density zone with a maximum floor space ratio of 0.4:1 and minimum area of 350 m² for each dwelling.

When Lane Cove Council converted its LEP to the standard instrument in 2016, villas were translated as "multi-dwelling housing".

Due to these historic reasons "multi-dwelling housing" is a permitted use in the R2 zone with a maximum height of 5 metres and maximum floor space ratio 0.4:1.

The recently released Low Rise Medium Density Housing Code permits the development of townhouses, manor homes and terraces as Complying Development on all land where multi-dwelling housing is permitted. Under the Code, 2 storey multi dwelling housing can be complying development.

Council states that the planning proposal is required, as the new code will override Council's original intent to permit villas of only one storey in its low-density zone. A planning proposal is the most effective means of achieving this objective.

STRATEGIC ASSESSMENT

Greater Sydney Region Plan

The Greater Sydney Region Plan was released by the Greater Sydney Commission on 18 March 2018. It provides a 40-year vision for Greater Sydney and is designed to inform district plans, local plans and the assessment of planning proposals.

While the plan has a primary focus on growth management, the directions within it relate to liveability and creating places for people.

The proposed removal of multi-dwelling housing from the R2 zone may reduce housing diversity; however, the application of a zone to reflect an area's current built form character and community interest is consistent with directions in the Region Plan.

North District Plan

The Greater Sydney Commission released the North District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the North District while improving the district's social, economic and environmental assets.

Like the Greater Sydney Region Plan, the proposal is generally consistent with the liveability planning priorities under the district plan.

The plan sets a five-year housing target of 1,900 dwellings by 2021, which the proposal states will be exceeded with the development of the Mowbray Road and St Leonards Precincts.

Promoting housing diversity, including a mix of dwelling types in appropriate locations is a key objective of the plan. This is to be predominantly led by councils and informed by local housing strategies. Council will be required to prepare a local housing strategy for its local government area which is required to address housing diversity.

Local

The planning proposal is considered consistent with Council's Community Strategic Plan as it will assist in maintaining the local character and area of the R2 Low Density Residential Zone. This is consistent with the overarching objective of the local plan to provide a well-designed, liveable and connected area.

Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all section 9.1 Directions, except for Direction 3.1 Residential Zones.

The objectives of this Direction is to encourage a variety of housing types, make efficient use of existing infrastructure and services, ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource land.

The planning proposal is inconsistent with this Direction as it seeks to reduce dwelling potential. However, Council has advised that only one development application has been received since for multi-dwelling housing in the R2 Low Density Residential zone since 2010 when the LEP came into force.

To understand the total impact on dwelling potential, a Gateway condition is included requiring Council to provide further information in relation to:

- The total area of land currently zoned R2 Low Density Residential and R3 Medium Density Residential in the LGA; and
- The number of lots that would be eligible for manor homes/multi-dwelling housing under the Low Rise Medium Density Housing Code in the R2 Low Density Residential and R3 Medium Density Residential zones, taking into account the SEPP exclusions.

It is considered suitable to allow the proposal to progress with the inconsistency with this Direction remaining unresolved. This will allow further consultation and quantitative analysis, which can then be considered prior to plan making and will determine if the inconsistency is of minor significance.

State environmental planning policies

State Environmental Planning Policy (Affordable Rental Housing) 2009

The intent of this SEPP is to increase the supply and diversity of affordable rental housing.

Under the SEPP, a multi-dwelling housing development that is used for affordable housing and complies with the requirements of the SEPP may be subject to a bonus floor space ratio.

The removal of multi-dwelling housing from the R2 Low Density Residential zone would preclude this type of development from being carried out under the SEPP.

However, given that only one development application has been made for multi-dwelling housing in the R2 zone since 2010, it is considered that the proposal may only have a minor impact on the operation of the SEPP. Furthermore, the planning proposal will not limit the potential for affordable housing under the SEPP elsewhere in the local government area on land zoned R3 Medium Density Residential or R4 High Density Residential.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

On 6 April 2018, the new Low Rise Medium Density Housing Code, was published and is due to come into effect on 6 July 2018.

The new Code aims to provide greater housing choice and facilitate faster housing approvals. The Code will allow one and two storey dual occupancies, manor houses and terraces to be carried under a complying development approval.

In relation to the planning proposal, the Code allows for the development of manor houses, terraces and multi-dwelling housing where ever multi-dwelling dwelling housing is currently permitted. As such, the proposal to remove multi-dwelling housing from the R2 Low Density Residential zone will preclude these types of developments from being carried out pursuant to the SEPP.

A Gateway condition is recommended requiring Council to provide a quantitative analysis demonstrating the number of lots that would be eligible for manor houses/multi-dwelling housing permitted under the Code, taking into account land excluded from the Code.

Once this information has been provided, further assessment will be undertaken at a plan-making stage to understand the impacts of the planning proposal on the SEPP to determine the acceptability of the proposal.

SITE-SPECIFIC ASSESSMENT

Social

The proposal aims to retain the existing low-density character of the R2 Low Density Residential zone and ensure that development remains consistent with the existing level of access to social and utility infrastructure.

Environmental

There are no known critical habitats, threatened species or ecological communities that would be impacted by the proposal.

An aim of the proposal is to prevent the application of the Low Rise Medium Density Housing Code in the foreshore areas zoned R2 Low Density Residential, which Council considers to be more environmentally sensitive and unsuitable for more intense development. Council believe these sites warrant more professional scrutiny from architects, planners and engineers than the Code currently provides for multi-dwelling housing development.

Economic

It is recommended that land owners within the R2 zone be informed about the proposal and its exhibition, and be given suitable time to make their own assessment on the matter.

The issues raised will then be considered as part of the finalisation of this proposal, including reconsideration of section 9.1 Direction 3.1 Residential Zones and the impacts of the Low Rise Medium Density Housing Code.

CONSULTATION

Community

A Gateway condition is included requiring that Council write to all affected landowners about the exhibition of the proposal.

An exhibition period of 28 days is considered acceptable to allow all affected landowners to review the material, seek their own advice and make a submission to Council.

Agencies

Consultation with other State agencies is not considered necessary. The proposal will not increase demands on infrastructure, nor does it have the potential to impact on the natural environment or heritage values.

TIME FRAME

The proposal indicates a timeframe of 12 months to finalise the plan. The LEP should be completed by 1 July 2019, as this timeframe is considered appropriate to allow sufficient time to prepare any additional information that may be required and place the proposal on public exhibition.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the plan-making authority. Given the implications this planning proposal may have on state policy, it is recommended that Council not be granted plan-making authority.

CONCLUSION

The planning proposal is supported at this stage because:

- Council's existing planning controls limit the scale of multi-dwelling housing development to a single storey with a maximum floor space ratio of 0.4:1, with the intent to maintain the low-density character of the zone;
- the recently released Low Rise Medium Density Housing Code is not consistent with the intent to only permit single storey multi-dwelling housing developments in the R2 Low Density Residential zone; and
- as only one development application has been received since 2010 for multi-dwelling housing in the R2 Low Density Residential zone, it is considered that the proposal will have a minor impact, subject to further quantitative analysis to be provided by Council.

It is considered that the conditions of the Gateway will provide the quantitative information required for the planning proposal to proceed to the next stage of the plan-making process when further assessment will take place.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Directions 3.1 Residential Zones is unresolved.

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be updated to:
 - (a) provide a quantitative analysis to assess the impacts of the proposal on housing diversity and supply as follows:
 - i. the total area of land currently zoned R2 Low Density Residential and R3 Medium Density Residential in the local government area;
 - ii. the number of lots eligible for manor houses/multi-dwelling housing under the Low Rise Medium Density Housing Code in the R2 Low Density Residential and R3 Medium Density Residential zones, taking into account the SEPP exclusions; and
 - iii. the number of multi-dwelling housing and dual occupancy developments approved in the R2 Low Density Residential and R3 Medium Density Residential in the local government area in the last five years;
 - (b) explain whether the proposal is supported by a housing strategy that has been developed in consultation with the community; and
 - (c) provide mapping that demonstrate the proposed amendments.
2. The revised planning proposal should be forwarded to the Department for review and approval prior to exhibition.
3. Council should write to all affected landowners about the exhibition of the proposal.
4. The time the LEP is to be completed by is 1 July 2019.
5. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.

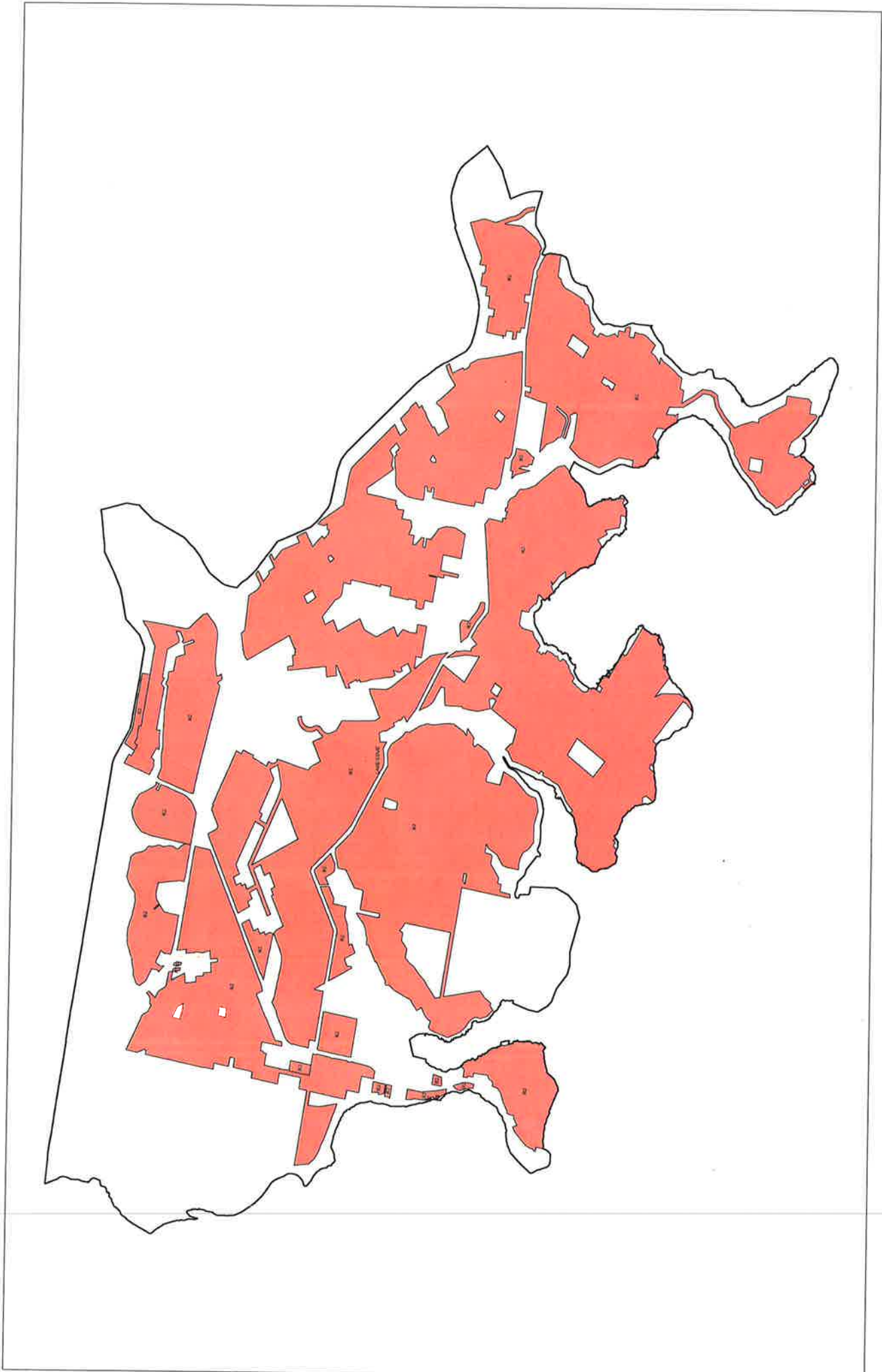


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Lane Cove LGA and Low Density Residential R2 Land Zoning



0.1 0.2 0.3 0.4 Kilometers
Scale: 1:5,789 @ A1