

Planning Services

Gateway determination report

LGA	Camden
PPA	Camden Council
NAME	Minimum lot size and frontage controls for dual occupancies and multi-dwelling housing (0 dwellings, 0 jobs)
NUMBER	PP_2018_CAMDE_003_00
LEP TO BE AMENDED	Camden Local Environmental Plan 2010
ADDRESS	All land zoned residential, rural and B4 Mixed Use under the Camden LEP 2010
DESCRIPTION	Multiple lots
RECEIVED	31 August 2018
FILE NO.	IRF18/4424
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 (**Attachments A1-A3**) seeks to amend the Camden Local Environmental Plan (LEP) 2010 by introducing minimum lot and frontage controls for dual occupancy and multi-dwelling housing (terraces) developments where permissible on land zoned residential, rural and B4 Mixed Use.

The proposed dual occupancy controls will apply to all residential and rural zones, while minimum lot sizes for multi-dwelling housing will apply to the R1 General Residential, R3 Medium Density Residential and B4 Mixed Use zones.

The proposed controls are partly based on the development controls contained in the Camden Development Control Plan (DCP) 2011 and development standards within State Environmental Planning Policy (Sydney Region Growth Centres) 2006. This will ensure consistency between development applications and complying development certificates.

The planning proposal was prepared in response to the commencement of the Low Rise Medium Density Housing Code under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP). The code permits the construction of medium-density housing under a complying development certificate and enables subdivision of this development, but only where the development fully complies with the provisions of the code.

The code commenced on 6 July 2018 and permits new types of medium-density development, being manor houses and multi-dwelling housing (terraces), as complying development in residential zones where multi-dwelling housing is currently permitted under a council's LEP.

Deferral of commencement of the code

On 5 July 2018, the Minister granted Council deferral for the commencement of the code until 1 July 2019 or until Council prepares a local housing strategy and finalises this planning proposal, whichever is sooner (**Attachment E**).

Site description

The planning proposal applies to the following land under the Camden LEP 2010:

- residential-zoned land (i.e. R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and R5 Large Lot Residential);
- rural-zoned land (i.e. RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots); and
- B4 Mixed Use.

Council notes that this planning proposal does not affect land zoned under State Environmental Planning Policy (Sydney Region Growth Centres) 2006 as this SEPP contains minimum lot and frontage controls for dual occupancy and multi-dwelling housing.

Prior to public exhibition, it is recommended that Council amend the planning proposal to include a map of all land subject to the proposal to provide clarity for the community.

Summary of recommendation

It is considered that the planning proposal is suitable to proceed to Gateway determination as:

- it has the potential to provide certainty for the delivery of good urban design outcomes for dual occupancy and multi-dwelling housing in residential, rural and B4 Mixed Use zones;
- it has the potential to provide a consistent approach to applying a minimum lot size and lot frontage for dual occupancy and multi-dwelling housing across the Camden LGA; and
- it has the potential to complement the provisions and best-practice principles of the Low Rise Medium Density Housing Code.

PROPOSAL

Objectives or intended outcomes

The proposed amendments aim to ensure that appropriate controls are in place to effectively manage low-rise medium-density development in the Camden LGA once the code comes into effect. This will enable sustainable residential growth that is compatible with the character of the established and transitioning areas within the Camden LGA.

The proposed controls will ensure that sufficient space is provided to accommodate setbacks, private open space, ancillary buildings and driveway access while maintaining the amenity and character of neighbourhoods outside the growth areas.

It will also reinforce the principles contained in Council's Rural Land Strategy by protecting important agricultural land and ensuring that future density and development are facilitated in the right locations.

The planning proposal will satisfy the objectives of the Camden LEP 2010, which are to ensure that:

- Camden retains its valued character and traditional and scenic qualities;
- new communities are planned and developed in an orderly manner; and
- the recreation needs of all existing and future residents of Camden are appropriately planned.

The objectives of this planning proposal are clear and adequate.

Explanation of provisions

The planning proposal seeks to amend the Camden LEP 2010 by inserting a new *Clause 4.1D Minimum lot sizes for dual occupancy and multi-dwelling housing developments*, which will introduce the following controls:

- dual occupancy:
 - a 600m² minimum lot size control and 800m² for corner lots; and
 - an 18m-frontage control where dwellings are directly adjacent to each other, or 22m where dwellings are directly behind one another;
- multi-dwelling housing:
 - a 1500m² minimum lot size control; and
 - a 25m minimum lot frontage control.

Once this amendment is finalised, consistent minimum lot controls will be applied to dual occupancies and multi-dwelling housing under Council's LEP and the Codes SEPP.

Department comment

It is noted that the planning proposal seeks to apply the same minimum lot controls for dual occupancy and multi dwelling housing developments in both urban areas (i.e. R1, R2, R3, R5 and B4) and rural areas (i.e. RU1, RU2 and RU4).

In discussion with the relevant Council officer, it was advised that the proposed development controls are based on the current controls in the Camden DCP 2011 which are applied by dwelling type instead of a land use zone. Therefore, the minimum lot controls for dual occupancy and multi dwelling housing developments in the DCP are currently applied to all land use zones (including urban and rural areas) which permit the development of these dwelling types.

Furthermore, Council also noted that the minimum subdivision size for land zoned rural is generally greater than the proposed 600m², 800m² and 1500m² lot size controls, as outlined below:

- 40ha minimum lot size for RU1 Primary Production zoned land;
- 40ha minimum lot size for RU2 Rural Landscape zoned land; and
- 2ha minimum lot size for RU4 Primary Production Small Lots zoned land.

The Department raises the question whether a minimum lot size for dual occupancy and multi dwelling housing is necessary where this standard, in practice, not apply.

Therefore, it is recommended the planning proposal is amended prior to public exhibition to include further justification by Council in relation to the necessity for the application of the proposed minimum lot controls to the rural zones (i.e. RU1, RU2 and RU4).

Mapping

The planning proposal does not include any changes to maps under the Camden LEP 2010.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is not the result of a strategic study or report. It was initiated in response to the 12-month deferral from the commencement of the code for the Camden LGA.

Council advised that the introduction of the proposed minimum lot and frontage controls is consistent with the current site controls for dual occupancy and multi-dwelling housing developments in the Camden LGA identified in the Camden DCP 2011. Table 1 identifies the current site controls in the DCP.

Table 1: Camden DCP 2011 controls

Development type	Camden DCP 2011
Dual occupancies	A 600m ² minimum lot size or 800m ² on corner lots
Multi-dwelling housing	A 25m minimum lot frontage

Council's review of the code raised concerns with the stipulation that the prescribed 400m² minimum lot size for dual occupancies and 600m² minimum lot size for multi-dwelling housing would apply in the absence of such controls in Council's LEP. As Council's minimum lot and frontage controls are in its DCP, the controls of the code would apply. Refer to Table 2 for a comparison of the controls.

Council advised that this would undermine Council's ability to control the rapid growth of development in the LGA leading to density, infrastructure provision and neighbourhood character impacts as smaller lots would result with the application of the code.

Table 2: Comparison of the code, DCP and proposed LEP controls

Development types	The code controls	Camden DCP controls	Proposed Camden LEP controls
Dual occupancy	400m ² minimum lot size	600m ² minimum lot size or 800m ² for corner lots	600m ² minimum lot size or 800m ² for corner lots

Development types	The code controls	Camden DCP controls	Proposed Camden LEP controls
	12m minimum lot frontage	22m minimum lot frontage	18m minimum lot frontage (side by side) or 22m minimum lot frontage (one behind another)
Multi-dwelling housing	600m ² minimum lot size	Nil	1500m ² minimum lot size
	18m minimum lot frontage	25m minimum lot frontage	25m minimum lot frontage

The Camden DCP 2011 does not identify a minimum lot size for multi-dwelling housing. Therefore, Council proposed a minimum lot size of 1500m² for this type of development to be consistent with the current controls for the growth areas (such as Oran Park) in the Camden LGA under the Growth Centres SEPP. Council advised that this would provide a consistent approach to the development of multi-dwelling housing across the LGA.

Council noted that the proposed controls would aim to encourage low-rise medium-density housing that keeps within the established character of the localities outside the growth areas and to ensure sufficient space is provided for good-quality architectural design, landscaping and ancillary developments, such as car parking.

It is considered that this amendment to the Camden LEP 2010 through a planning proposal is the best way to achieve this objective.

STRATEGIC ASSESSMENT

Regional / District

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 and local plans and the assessment of planning proposals.

The planning proposal is generally consistent with the objectives and actions for liveability and sustainability in the plan, as:

- it does not aim to remove the permissibility of dual occupancy and multi-dwelling housing (terraces) developments in the current zones but instead aims to create better-quality developments and well-designed neighbourhoods for the community (Objectives 11 and 12);
- it would not significantly impact on housing supply or Council's ability to meet the housing target for the LGA (Objective 10);

- it would provide larger lots to allow more space to accommodate high-quality landscaping and more usable open space, and contribute to maintaining tree canopy cover (Objectives 26 and 30); and
- it would ensure that Camden's remaining agricultural land is protected and that important scenic landscapes are retained (Objectives 28 and 29).

Western City District Plan

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

The proposal is generally consistent with the liveability planning priorities under the plan. Council states that new housing is important, but it must be provided in the right place to meet the demand for different housing types, tenure, price points, preferred locations and design. Furthermore, Council notes it is in the best position to determine which areas are best suited to accommodate medium-density housing and would benefit from the code, particularly in relation to infrastructure and services.

Local

Camden 2040

Council advised that the planning proposal is consistent with its community strategic plan, Camden 2040.

Section 9.1 Ministerial Directions

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

The objectives of this Direction are to encourage a variety of housing types, make efficient use of infrastructure and services, ensure 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 may reduce dwelling potential by introducing a larger minimum lot size for dual occupancy and multi-dwelling housing developments compared to the new code. This may impact on the economic viability of these development types when considering other housing types available within the subject zones. Therefore, a Gateway condition is recommended to require further information to address and further justify this inconsistency.

It is considered suitable to allow the planning proposal to progress with the inconsistency with this Direction remaining unresolved. This will allow further informed consideration and a decision to be made over the inconsistency prior to finalisation of the plan-making process.

State environmental planning policies (SEPPs)

State Environmental Planning Policy (Affordable Rental Housing) 2009

The intent of the Affordable Housing 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 proposed minimum parent lot size requirements may have implications for this type of development from being carried out under the SEPP. The provision of further information, as required by a Gateway determination condition, will enable a better understanding of the impact of the proposal on housing supply and diversity.

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 came into effect on 6 July 2018 for councils where a deferral to the code was not provided.

The code aims to provide greater housing choice and facilitate faster housing approvals for medium-density housing. It allows one-storey and two-storey dual occupancies, manor houses and multi-dwelling housing (terraces) to be developed in accordance with a complying development certificate provided this development fully accords with the requirements of the code.

In relation to the planning proposal, the code will additionally permit manor houses and multi-dwelling housing (terraces) in zones where multi-dwelling housing is currently permitted under a council's LEP.

Consequently, the planning proposal to introduce minimum lot sizes for dual occupancies and multi-dwelling housing developments in residential zones (i.e. R1 General Residential, R2 Low Density Residential and R3 Medium Density Residential) will restrict these types of developments from being carried out pursuant to the code.

A Gateway condition is recommended requiring Council to provide further information. Once provided, further assessment will be undertaken at the plan-making stage to understand the impacts of the planning proposal on the code to determine the acceptability of the proposal.

The planning proposal is generally consistent with all other relevant SEPPs.

SITE-SPECIFIC ASSESSMENT

Social

Council notes that the planning proposal is unlikely to create any adverse social effects and would result in significant social benefits for the community as it aims to encourage low-rise medium-density housing that is consistent with the established character of existing areas.

Environmental

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

Economic

It is recommended that affected landowners be informed of the planning proposal, and its exhibition, and be given suitable time to make their own assessment of the matter.

The issues raised in submissions will be considered as part of the finalisation of the proposal, including consideration of section 9.1 Direction 3.1 Residential Zones and the impacts on the code.

CONSULTATION

Community

A Gateway condition is included requiring Council to write to all affected landowners prior to exhibition of the planning proposal, explaining the proposed changes and what these mean for the landowners.

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

Agencies

Consultation with other agencies is not considered necessary. The planning proposal will not increase demands on infrastructure or impact on the natural environment or heritage values.

SAVINGS AND TRANSITIONAL PROVISION

A condition should be included in the Gateway determination that requires a savings and transitional provision for any development applications lodged and not determined to ensure the proponents are not adversely impacted by the proposed changes.

TIME FRAME

The project timeline provided in the planning proposal indicates a time frame of six months from issue of the Gateway determination to complete the LEP amendment.

The LEP should be completed by 1 July 2019, consistent with the Minister's letter allowing the deferral from the code until this time.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the plan-making authority. Given the implications of the proposal's possible impact on a state policy, it is recommended that Council not be authorised to be the local plan-making authority to make this plan.

CONCLUSION

The planning proposal is supported as it will:

- deliver good built form outcomes for dual occupancy and multi-dwelling housing in areas zoned residential, rural and B4 Mixed Use in the Camden LGA;
- provide a consistent approach to applying minimum lot and frontage controls for dual occupancy and multi-dwelling housing across the Camden LGA; and
- complement the provisions and best-practice principles of the Low Rise Medium Density Housing Code.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Direction 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. Prior to public exhibition, Council is required to amend the planning proposal to:
 - (a) include a large-scale map identifying the boundaries of the subject residential, rural and B4 Mixed Use-zoned land;
 - (b) under the 'Background' section of the proposal provide:
 - i. the number of potential lots that would be achieved under the minimum standards within the Low Rise Medium Density Housing Code considering the Codes SEPP exclusions (such as sites below the minimum lot size and land subject to heritage provisions);
 - ii. the number of potential lots under the proposed development standards; and
 - iii. the number of dual occupancy and multi-dwelling housing developments approved in the R1 General Residential, R2 Low Density Residential and R3 Medium Density Residential zones in the LGA in the past five years;These numbers are to be shown under each relevant zone and by housing type.
 - (c) under Part 2 – Explanation of Provisions:
 - i. include the intention to introduce a new savings and transitional clause to ensure that proposed amendments do not affect any development applications or appeal processes;
 - ii. include a note that the draft clause will be subject to legal drafting and may alter under this process; and
 - iii. include further justification in relation to the necessity for the application of the proposed minimum lot controls to the rural zones;
 - (d) explain whether the proposal is supported by a housing strategy that has been developed in consultation with the community.
2. The planning proposal is to be updated in accordance with condition 1 and forwarded to the Department for review and approval prior to exhibition.
3. Council is to write to all affected landowners prior to the exhibition of the proposal outlining the effect of the proposed changes.
4. The planning proposal should be made available for community consultation for a minimum of 28 days.
5. No consultation is required with public authorities.
6. The time frame for completing the LEP is by 1 July 2019.

7. Given the nature of the planning proposal, Council is not authorised to be the local plan-making authority to make this plan.



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