



PLANNING PROPOSAL

Minimum Lot Area for Low and Medium Density Dual Occupancy Housing

July 2018

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1 INTRODUCTION

1.1 EXECUTIVE SUMMARY

The Planning Proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) and the relevant Department of Planning and Environment (DP&E or Department) guidelines including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*. This Planning Proposal is provided for a Gateway Determination.

This Planning Proposal is prepared in accordance with the resolution (Min.223, C07/18-136), of Council on 18 July 2018 and the previous Council report and resolution (Min.175, C06/18-106) of 6 July providing an initial review of the new *Low Rise Medium Density Housing Code* (the Code). The Code forms a new section of the *State Environmental Planning Policy (Exempt and Complying Development Code) 2007 (SEPP)*.

The Code allows dual occupancies, manor houses and terraces as complying development in the R1, R2 and R3 residential zones where permitted under a *Local Environmental Plan* (LEP). The Code provides development standards such as a minimum lot size of 400m² for dual occupancies. The Code's standards will apply to the new development for the above listed housing types unless the lot size provisions are contained within an LEP.

The review of the Code identified a number of concerns about the inconsistency of minimum lot size that apply under the Code and to the LEPs that apply to the Cumberland LGA, being *Auburn LEP 2010*, *Holroyd LEP 2013*, *Parramatta LEP 2011*, and associated Development Control Plans (DCPs), as the existing lot standards requirement varies across the three LEPs and DCPs.

The provisions of the Code will permit dual occupancies on allotments which are up to 100m² smaller than Council's current DCP controls. This could result in larger building capacity and residential population than envisaged under the LEPs and DCPs which would have implications to the local and surrounding areas, particularly in terms of pressure on, and capacity of, existing infrastructure such as roads, open space, hospitals and schools.

The Planning Proposal will set a minimum lot size control of 600m² for dual occupancies to all R2 Low Density Residential and R3 Medium Density Residential zones. The Planning Proposal seeks to add a clause 4.1B Minimum lot sizes and special provisions for dual occupancies under Part 4 Principal development standards of the *Auburn LEP 2010* and the *Holroyd LEP 2013*. No change is proposed for the *Parramatta LEP 2011*.

1.2 PURPOSE OF THIS PROPOSAL

The Planning Proposal has been prepared in response to a resolution of Council on 18 July 2018 (Min. 223, C07/18-136) below:

CARRIED 18 July 2018 (Min. 223, C07/18-136)

"That Council:

1. Prepare a Planning Proposal to amend the Auburn Local Environmental Plan 2010, Holroyd Local Environmental Plan 2013 and Parramatta Local Environmental Plan 2011 to introduce a minimum lot area for dual occupancy development within Cumberland LGA.

2. Nominate 600m² as the minimum lot area for the development of dual occupancies within Cumberland LGA.

3. Consult with the community and the Local Planning Panel on the Planning Proposal, following Gateway Determination by the Department of Planning and Environment."

The Council minutes and report are included at Attachment 1 of this report.

A separate Planning Proposal may be developed in the near future that may seek to exclude certain lands, such as those within environmentally sensitive areas, from the Code's complying development.

1.3 THE PROPOSAL

The Planning Proposal seeks to insert a clause setting minimum lot area standard provisions for dual occupancies under the Part 4 Principal development standards of the *Auburn LEP 2010* and *Holroyd LEP 2013*.

- Insert 4.1B under the Part 4 Principal development standards of the *Auburn LEP 2010* and *Holroyd LEP 2013* by including the following item:

4.1B Minimum lot sizes and special provisions for dual occupancies

(1) The objectives of this clause is to ensure that the lot sizes proposed for dual occupancy development facilitates good design that can accommodate an appropriate built form, driveways and sufficient landscaped areas, so as to provide a high quality of amenity for the future residents and to maintain the amenity and character of the surrounding residential area.

(2) Development consent may only be granted to development for the purpose of a dual occupancy (attached or detached) on a lot in Zone R2 Low Density Residential and Zone R3 Medium Density Residential if:

(a) an area of the lot is at least 600m²

1.4 BACKGROUND

The Department of Planning and Environment (DP&E or Department) released the new *Low Rise Medium Density Housing Code* (the Code) and an associated Design Guide, which commenced on 6 July 2018.

The Code forms a new section of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. It allows dual occupancies, manor houses and terraces (multi-dwelling housing (terraces)) as complying development in the R1, R2 and R3 residential zones where permitted under a Council's *Local Environmental Plan* (LEP).

The Code also provides development standards such as minimum lot size requirements for a development of dual occupancies, manor houses and terraces. Note that a minimum lot size under the Code is 400m² for dual occupancies. The Code's standards will apply to the new development for the above listed housing types unless the Council LEP specifies lot sizes.

The Council report [Item C07/18-136] for Council meeting of 6 June 2018 provides Council officer's initial review of the Code (Attachment 2). The report identified a number of concerns about the Code's inconsistency with Council's *Local Environmental Plans* (LEPs) being *Auburn LEP 2010*, *Holroyd LEP 2013* and *Parramatta LEP 2011*, and associated *Development Control Plans* (DCPs).

The Council at the meeting of 6 June 2018, resolved that:

'Council write to the Minister for Planning requesting a deferral of the commencement of the Low Rise Medium Density Housing Code within Cumberland until a new Housing Strategy and draft Cumberland comprehensive Local Environmental Plan is completed, consistent with the deferral granted to other Councils.'

Consistent with this resolution, a letter requesting a deferral of the commencement of the Code within Cumberland, pending a new Housing Strategy and draft comprehensive *Cumberland Local Environmental Plan*, was sent to the DP&E.

At a subsequent meeting with the DP&E staff, which discussed the requested deferral, the DP&E advised that Councils who have their minimum lot size controls in their DCPs will be required to submit Planning Proposals in order for the DP&E to defer the Code for a year (being the time anticipated for the finalisation of the Planning Proposal). Accordingly Cumberland Council would need to submit a Planning Proposal to the DP&E by 27 July 2018 to amend minimum lot size control within the LEPs, with the intention that this amendment be finalised by July 2019.

Council has subsequently received correspondence from the Acting Executive Director, Planning Policy at the Department advising that in response to Council's request, the Code will be deferred in the Cumberland local government area (LGA) until 1 July 2019 (See Attachment 3).

Therefore this Planning Proposal is to amend the Auburn LEP 2010 and Holroyd LEP 2013 to impose a minimum lot size of 600m² on R2 and R3 zoned land. This amendment is to minimise and manage the impacts of the Code, particularly in terms of amenity in the R2 Low Density Residential zone, as well as pressure on existing infrastructure.

1.5 LAND TO WHICH THIS PLANNING PROPOSAL APPLIES

This Planning Proposal applies to all R2 Low Density Residential and R3 Medium Density Residential zoned land within Cumberland LGA.

Cumberland Local Government Area (LGA) includes the suburbs of Auburn, Berala, Chester Hill (part), Girraween, Granville (part), Greystanes, Guildford, Guildford West, Holroyd, Lidcombe (part), Mays Hill (part), Merrylands, Merrylands West, Pemulwuy, Pendle Hill (part), Regents Park (part), Rookwood, Smithfield (part), South Granville, South Wentworthville, Toongabbie (part), Wentworthville (part), Westmead (part), Woodpark and Yennora (part).

1.6 LOCAL CONTEXT

Cumberland LGA has a current population of 231,604 with an area of 72km² bounded by the City of Parramatta in the north, the Strathfield LGA in the east, the City of Canterbury Bankstown and Fairfield LGA in the south and Blacktown LGA in the west. Cumberland LGA is within the Central City District along with the Blacktown, Parramatta and the Hills Shire LGA's as recognised in the *Central City District Plan*.

R2 Low Density and R3 Medium Density Residential zones across Cumberland vary in local character and lot sizes as the objectives of zone and permitted uses differ across the three LEPs.

The lot sizes in the R2 zone in the former Holroyd LGA are often larger than those in the more eastern areas of Cumberland.

1.7 CURRENT PLANNING CONTROLS

There are three LEPs and three DCPs that apply to respective areas of the LGA.

- *Auburn Local Environmental Plan 2010 and Auburn Development Control Plan 2010*
- *Holroyd Local Environmental Plan 2013 and Holroyd Development Control Plan 2013*
- *Parramatta Local Environmental Plan 2011 and Parramatta Development Control Plan 2011*

The minimum lot sizes for dual occupancies stated in these LEPs and DCPs are provided in Table 1.

Minimum Lot Size Controls for Dual Occupancies

Planning Controls	Auburn LEP 2010	Auburn DCP 2010	Holroyd LEP 2013	Holroyd DCP 2013	Parramatta LEP 2011	Parramatta DCP 2011
Minimum Lot Size	Not specified	450m ² (attached), 600m ² (detached) in R2 and R3 zones	Not specified	500m ² (attached or detached) in R2 and 450m ² in R3	600m ² (attached) in R2, R3 and R4 zones	600m ²

Table 1. Comparison of lot size controls for dual occupancies of three LEPs and DCPs

2 Planning Proposal

The Planning Proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the relevant Department of Planning and Environment (DP&E) guidelines including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

Section 3.33 (2) of the EP&A Act outlines that a Planning Proposal must include the following components:

- A statement of the objectives or intended outcomes of the proposed instrument;
- An explanation of the provisions that are to be included in the proposed instrument;
- The justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under 9.1);
- Maps, where relevant, to identify the intent of the Planning Proposal and the area to which it applies;
- Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

This Planning Proposal is provided for a Gateway Determination.

2.1 PART 1 - OBJECTIVES OR INTENDED OUTCOMES

The key objectives for this Planning Proposal are:

- To ensure the lot size proposed for dual occupancy development facilitates good design that can accommodate an appropriate built form, driveways and sufficient landscaped areas,
- To retain the low density residential character of the R2 Low Density Residential zone,
- To identify the appropriate locations for growth and align projected growth with existing and proposed local roads, transport and social infrastructure,
- To minimise the adverse impacts of the '*Low rise medium density housing code*' development under complying development,
- To achieve a consistency of minimum lot size across LGA.

The intended outcomes of the Planning Proposal are:

- To introduce the minimum lot area for dual occupancies under the *Auburn LEP 2010* and the *Holroyd LEP 2013*. This minimum lot area would align with that currently provided with the *Parramatta LEP 2011*.

2.2 PART 2 - EXPLANATION OF PROVISIONS

2.2.1 Proposed *Auburn LEP 2010* and *Holroyd LEP 2013* Amendments

The proposed LEP amendment would need to be achieved by inclusion of a written clause in the *Auburn LEP 2010* and the *Holroyd LEP 2013* in the following manner:

- Insert 4.1B under the Part 4 Principal development standards of the *Auburn LEP 2010* and the *Holroyd LEP 2013* by including the following item:

4.1B Minimum lot sizes and special provisions for dual occupancies

(1) The objective of this clause is to ensure that the lot size proposed for dual occupancy development facilitates good design that can accommodate an appropriate built form, driveways and sufficient landscaped areas, so as to provide a high quality of amenity for the future residents and to maintain the amenity and character of the surrounding residential area.

(2) Development consent may only be granted to development for the purpose of a dual occupancy (attached or detached) on a lot in Zone R2 Low Density Residential and Zone R3 Medium Density Residential if:

(a) an area of the lot is at least 600m²

Table 2 below compares the existing Auburn and Holroyd LEPs and DCPs' minimum lot size controls to the proposed amendment to the respective LEPs. The draft Minimum Lot Sizes for Dual Occupancy Development Maps are provided in Appendix 1.

Auburn LEP 2010 Controls	Existing ALEP 2010 Controls	Existing ADCP Controls	Proposed ALEP 2010 Controls in R2 & R3 zones
Minimum Lot Size for dual occupancies (attached)	N/A	450m ²	600m ²
Minimum Lot Size for dual occupancies (detached)	N/A	600m ²	600m ²

Holroyd LEP 2013 Controls	Existing HLEP 2013 Controls	Existing HDCP Controls	Proposed HLEP 2013 Controls in R2 & R3 zones
Minimum Lot Size for dual occupancies (attached or detached) on a lot in Zone R2	N/A	500m ²	600m ²
Minimum Lot Size for dual occupancies (attached or detached) on a lot in Zone R3	N/A	450m ²	600m ²

Table 2. Existing and Proposed Controls

The Planning Proposal does not propose to amend the planning controls relating to the site for zoning, height of buildings, or floor space ratio.

No amendment to Parramatta LEP 2011 is proposed since a minimum lot size of 600m² is already specified under clause 6.11 of this LEP.

2.3 PART 3 - JUSTIFICATION

2.3.1 Section A. Need for the Planning Proposal

Q1: Is the Planning Proposal a result of any strategic study or report?

Yes. The Planning Proposal was prepared as a result of the Council report, Item C07/18-136 and resolution of 18 July 2018 (Attachment 1). The Council report was prepared following Council

officer's review of the *State Environmental Planning Policy (Exempt and Complying Development Code) 2007* (SEPP) which introduces the *Low Rise Medium Density Housing Code* (the Code).

The Code allows dual occupancies, manor houses and terraces as complying development in the R1 General Residential, R2 Low Density Residential and R3 Medium Density Residential zones where permitted under a Council's *Local Environmental Plan* (LEP). Details of the review findings are provided in Council report, Item C06/18-106 for the Council meeting on 6 June 2018 (Attachment 2).

The Council reports identify a number of concerns about the Code's inconsistency with Council's LEP and DCP and raises implications for Cumberland. The Code provides built form, landscape and amenity development standards such as minimum lot size requirements, maximum gross floor area, minimum setbacks, minimum landscaped area, car parking and vehicle access requirements. The Code states that a development must meet the minimum lot size requirements under the relevant LEP, and if the LEP does not specify lot sizes, the Code's standards will apply.

In the case of Cumberland LGA, the existing lot standards requirement for dual occupancies varies across the three LEPs and DCPs.

The Parramatta LEP specifies a minimum 600m² lot area which will continue to apply. However, for the remainder of Cumberland (i.e. land within former Auburn and Holroyd LGAs), lot size controls are specified in the DCPs only. These lot sizes are 450m² in Auburn DCP and 500m² in Holroyd DCP. These controls would be overridden by the Code's minimum 400m² of lot size. This will result in the minimum lot size being inconsistent across different low density areas of Cumberland LGA.

The Council report identifies adverse impacts of this inconsistency to Council's development standard to low density residential areas of Cumberland LGA. The provisions of the Code will permit dual occupancies on allotments which are up to 100m² smaller than Council's current DCP controls. This larger building capacity and residential population could result in cumulative impacts on surrounding areas, particularly in terms of pressure on, and capacity of, existing infrastructures. Roads, transport and social infrastructure are currently planned for a population based on low population density and the existing planned local character of low density suburban areas.

Therefore, this Planning Proposal is to retain the general low-density scale and minimise any likely adverse impacts of the Code on the amenity of the R2 and R3 zones and on the capacity of local infrastructure.

It is also important to note that Cumberland Council is one of the priority councils allocated funding to prepare a new comprehensive Cumberland LEP over the next 2 years. The comprehensive Cumberland LEP would be supported by a Residential Housing Strategy and Local Strategic Planning Statement, which will identify local character and consideration of how and where future housing density increases should occur.

Q2: Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, a Planning Proposal is the best means of achieving the objectives and intended outcomes as amendments are required to the two LEPs; *Auburn LEP 2010* and *Holroyd LEP 2013* to stipulate the minimum lot size for dual occupancies in R2 and R3 zones.

Council considered following scenarios, minimum lot size for dual occupancies as shown in Table 3. On 18 July 2018, Council resolved to adopt Scenario 3 which will provide uniform approach to lot sizes for dual occupancy development across the entire Cumberland LGA.

Scenario	Options to proceed with the Planning Proposal	Assessment
1	<p>Adopt existing lot size controls as specified in DCPs to the relevant LEPs.</p> <p>Auburn LEP 2010</p> <ul style="list-style-type: none"> - Minimum lot area of 450m² <p>Holroyd LEP 2013</p> <ul style="list-style-type: none"> - Minimum lot area of 500m² <p>Parramatta LEP 2011</p> <ul style="list-style-type: none"> - No change required as PLEP already sets a minimum 600m² lot area 	<p>Scenario 1 delivers the minimal impact to the community since the same minimum lot size requirements are currently being enforced under the assessment of development applications under the Council's DCPs.</p> <p>Incorporating the controls set in the DCPs into the LEPs allows the future development to be consistent with the planned residential density and would not have any greater impact on the capacity of the existing infrastructure than currently envisaged.</p> <p>However, this approach does not unify the controls across the entire Cumberland LGA nor does it take into account the difference in the existing subdivision/lot size patterns in different parts of the LGA.</p>
2	<p>Adopt existing lot size controls of Holroyd DCP to <i>Auburn LEP 2010</i> and <i>Holroyd LEP 2013</i>.</p> <p><i>Auburn LEP 2010</i></p> <ul style="list-style-type: none"> - Minimum lot area of 500m² <p><i>Holroyd LEP 2013</i></p> <ul style="list-style-type: none"> - Minimum lot area of 500m² <p><i>Parramatta LEP 2011</i></p> <ul style="list-style-type: none"> - No change required as PLEP already sets a minimum 600m² lot area 	<p>Scenario 2 is the middle ground approach between the Scenario 1 and 3. This Scenario applies the existing minimum 500m² lot area set in Holroyd DCP to <i>Auburn LEP 2010</i> and <i>Holroyd LEP 2013</i>.</p> <p>It would increase the minimum lot size requirement for attached dual occupancies by 50m² for the former Auburn LGA, and for the R3 zone in the former Holroyd LGA reducing the existing development potential for the lots between 450m² and 499m² in these locations.</p> <p>This approach would not affect a large number of lots, but would provide a more consistent approach than Scenario 1 within the Cumberland LGA.</p>
3	<p>Adopt existing lot size controls of Parramatta LEP 2011 to <i>Auburn LEP 2010</i> and <i>Holroyd LEP 2013</i>.</p> <p><i>Auburn LEP 2010</i></p> <ul style="list-style-type: none"> - Minimum lot area of 600m² <p><i>Holroyd LEP 2013</i></p> <ul style="list-style-type: none"> - Minimum lot area of 600m² <p><i>Parramatta LEP 2011</i></p> <ul style="list-style-type: none"> - No change required as PLEP already sets a minimum 600m² lot area 	<p>Scenario 3 delivers a uniform approach to lot sizes for dual occupancy development throughout the entire Cumberland LGA.</p> <p>This approach ensures that the sufficient areas are available for adequate landscaping, setbacks and a built form that does not detract from the local residential character. It would maintain a density that is consistent with the planned Low Density Residential zoning and the associated planned infrastructure.</p> <p>The increased minimum lot size would also minimise the fragmentation of land, and allow more space between driveways for on street parking and street tree planting.</p> <p>It would increase of the minimum lot size for former Auburn and Holroyd LGAs by 150m² and 100m² respectively, reducing the existing development potential for these areas where the provision of the smaller lot sizes was allowed under Council's DCPs. However, it is</p>

		<p>noted that currently at least 900m² (450m² each) is required for Torrens subdivision of dual occupancies under the Auburn LEP provisions. This uniformed approach is considered reasonable given merit assessment of design and impact is being removed.</p> <p>Dual occupancy development is not currently highly prevalent in the east (because of current Torrens subdivision limitation) and will be introduced to this area under the Code. It is also noted that there are more large (600m²+) lots available in the central-west area of Cumberland compared to the far west and east, and sufficient to ensure that there would continue to be ample opportunity for small residential developers on the most suitably sized lots. This approach is also the most consistent with the standard for most comparable Sydney Councils.</p>
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Table 3. Review of minimum lot size Scenario 1, 2 and 3 for dual occupancies

Scenario 3's resulting consistent application of 600m² lot area across the Cumberland LGA would be simple and easy for the community to understand.

Increasing the minimum lot size for development of dual occupancy (in comparison to the minimum lot sizes used in the Code) will allow for building forms, landscaped areas and vehicle access provision that is compatible with the local residential character and maintains a reasonable level of amenity for residents.

The nominated lot sizes also enable the planting or retention of trees on private lands and increase opportunities for street tree planting which will help to mitigate heat island effects and improve streetscapes which also supports the vision of the *Greater Sydney Green Grid*.

The Planning Proposal adopting the 600m² minimum lot area also feed into the preparation of Council's Housing Strategy and Local Strategic Planning Statement, as part of the preparation of the new comprehensive Cumberland LEP.

2.3.2 Section B. Relationship to strategic planning framework

Q3: Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The Planning Proposal is consistent with the relevant actions and provisions of the following state government strategic planning policies:

- Greater Sydney Region Plan - A Metropolis of Three Cities
- Central City District Plan

Greater Sydney Region Plan – A Metropolis of Three Cities

The Greater Sydney Commission's *Greater Sydney Region Plan – A Metropolis of Three Cities (the Plan)*, is built on a vision of three cities (to 2056) where most residents live within 30 minute of their jobs, services and great places. Cumberland is within the Central River City. The Plan seeks to achieve the vision by aligning land use, transport and infrastructure outcomes for Greater Sydney concurrently with *Future Transport 2056* (Transport for NSW) and *State Infrastructure Strategy* (Infrastructure NSW). The Plan identifies objectives and actions under 10 Directions for the Metropolis, under the following four key themes:

Themes	Directions
Infrastructure and collaboration	<ol style="list-style-type: none"> 1. A city supported by infrastructure 2. A collaborative city
Liveability	<ol style="list-style-type: none"> 3. A city for people 4. Housing the city 5. A city of great places
Productivity	<ol style="list-style-type: none"> 6. A well-connected city 7. Jobs and skills for the city
Sustainability	<ol style="list-style-type: none"> 8. A city in its landscape 9. An efficient city 10. A resilient city

Central City District Plan

The *Central City District Plan* (Greater Sydney Commission, March 2018) outlines planning priorities and actions to support the *Greater Sydney Region Plan*, under the same set of themes and directions. Part 3.8 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) requires planning authorities to give effect to the District Plan in preparing or considering Planning Proposals.

The *Greater Sydney Region Plan* and the *Central City District Plan's* key planning priorities and actions relevant to this Planning Proposal are discussed below in Table 4 and details are provided at Appendix 2.

Directions for a Greater Sydney	Greater Sydney Region Plan - Objectives	Central City District Plan - Planning Priority	Central City District Plan - Actions	Consistency
1. A city supported by Infrastructure	O2. Infrastructure aligns with forecast growth	C1. Planning for a city supported by infrastructure	A3. Align forecast with infrastructure	Consistent
4. Housing the City	O10. Greater housing supply O11. Housing is more diverse and affordable	C5. Providing housing supply, choice and affordability, with access to jobs and services	A16. Prepare local or district housing strategies A17. Prepare Affordable Rental Housing Target schemes following development of implementation arrangements	Consistent
5. A city of great places	O13. Environmental heritage is conserved and enhanced	C6. Creating and renewing great places and local centres, and respecting the District's heritage	A18. Using a place-based and collaborative approach throughout planning, design, development and management deliver great places by:	Consistent
8. A city in its landscape	O25. The coast and waterways are protected and healthier and the	C13. Protecting and improving the health and enjoyment of the District's	A60. Protect environmentally sensitive waterways. A62. Improve the health of	Not inconsistent

	corresponding strategies	waterways	catchments and waterways through a risk-based approach to managing the cumulative impact of development including coordinated monitoring of outcomes.	
	O27. Biodiversity is protected, urban bushland and remnant vegetation is enhanced O28. Scenic and cultural landscapes and protected.	C15. Protecting and enhancing bushland and biodiversity	A65. Protect and enhance biodiversity. A66. Identify and protect scenic and cultural landscapes.	Not inconsistent
	O30. Urban tree canopy cover is increased O32. The Green Grid links parks, open spaces, bushland, and walking and cycling paths	C16. Increasing urban tree canopy cover and delivering Green Grid connections	A68. Expand urban tree canopy in the public realm. A69. Progressively refine the detailed design and delivery of.	Not inconsistent
10. A resilient city	O36. People and places adapt to climate change and future shocks and stresses O37. Exposure to natural and urban hazards is reduced O38. Heatwaves and extreme heat are managed	C20. Adapting to the impacts of urban and natural hazards and climate change	A82. 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. A83. Mitigate the urban heat island effect and reduce vulnerability to extreme heat.	Not inconsistent
Implementation	O39. A collaborative approach to city planning	C21. Preparing local strategic planning statements informed by local strategic planning	A86. The Greater Sydney Commission will require a local environmental plan review	Not inconsistent

Table 4. Consistency with key Planning Priorities and Actions

Q4: Is the Planning Proposal consistent with a council's local strategic or other local strategic plan?

Cumberland Community Strategic Plan 2017-2027

Council's *Community Strategic Plan 2017-27* provides a 10 year strategic vision and planning framework for balancing its commitment to social cohesion, the local economy, the natural and built environments and the wider community. The key strategies relevant to the Planning Proposal are:

- Strategic Goal 1 - A great place to live
- Strategic Goal 4 - A strong local economy
- Strategic Goal 5 - A resilient built environment

The Planning Proposal is consistent with strategic goals of the Cumberland Community Strategic Plan as outlined in Table 5.

Relevant CSP Strategic Goals	Relevant CSP outcome/s	Council's commitment to the outcome	How the proposal achieves the outcome
Strategic Goal 1. A great place to live	We have high quality community facilities and spaces that fit our purposes	Council encourages the provision of facilities in line with community expectations, population growth and intended uses	The Planning Proposal proposes the amendment to the <i>Auburn LEP 2010</i> and <i>Holroyd LEP 2013</i> to introduce minimum lot area standard provisions for dual occupancies. This ensures that the amenity of the R2 Low Density Residential zone is maintained and minimises the impacts of the Code to the pressure on existing local infrastructure from unplanned population growth and density.
Strategic Goal 4. A strong local economy	We have access to great local education and care services	Council continues to advocate on behalf of our growing community for continual increases in access to education at all levels.	The Planning Proposal aims to align the planned social infrastructure with the planned population growth by setting minimum lot area standard provisions for dual occupancies.
Strategic Goal 5. A resilient built environment	Our planning decisions and controls ensure the community benefits from development; We have a range of transport options that connect our town centres and to wider Sydney	Council ensures planning controls benefit the community and decisions are made with consideration to a strategic vision; Local infrastructure is maintained and used sustainably.	The Planning Proposal aims to maintain a density that is consistent with the planned Low Density Residential zoning and the associated infrastructure.

Table 5. Consistency with the Cumberland Community Strategic Plan.

Cumberland Residential Housing Strategy and comprehensive Cumberland LEP

The forthcoming preparation of Council's Residential Housing Strategy as part of the comprehensive Cumberland LEP will enable this issue to be considered in more detail and also in the context of infrastructure provision, as well as giving due consideration to local character and amenity. The Planning Proposal's uniform approach of setting a minimum lot size across the entire Cumberland LGA would support the preparation of comprehensive Cumberland LEP.

Q5: Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

State Environmental Planning Policies (SEPPs) and *Regional Environmental Plans* (deemed SEPPs) deal with issues significant to the state and people of New South Wales.

The Planning Proposal is consistent or justifiably inconsistent with the applicable SEPPs and deemed SEPPs as outlined below with details provided in Appendix 3.

- **SEPP 55 Remediation of Land** provides a State wide planning approach for the remediation of contaminated land. The *Low Rise Medium Density Code* permits dual occupancy and medium density housing as complying development. The Code permits (and in some cases encourages) basement car parking as complying development, increasing the likelihood of disturbing contaminants that may affect human health. These matters would normally be considered as part of a DA, however, this assessment would not occur under the Code.

Council's mapping shows lands in the R2 and R3 zones identified by Council or the EPA as contaminated. Some of these have been remediated and have Site Audit Statements to verify this. Further work is required to update the remediation status of these contaminated lands for parts of the LGA.

A separate Planning Proposal may be developed to recognise sites that are identified by Council or the EPA as contaminated, but which do not have Site Audit Statements be identified, seeking possible exclusion from the Code's complying development.

- **SEPP Exempt and Complying Development Codes 2008** aims to provide a streamlined assessment process for development that complies with specified development standards. The *Low Rise Medium Density Code* when in effect, will form part of this SEPP. This Planning Proposal seeks amendments to the Auburn and Holroyd LEPs to address issues raised as a result of this, as discussed throughout this Planning Proposal and the Reports to Council at 6 June and 18 July 2018.

- **SEPP (Affordable Rental Housing) 2009** aims to provide a consistent planning regime for the provision of affordable rental housing and facilitate the effective delivery of affordable housing. The SEPP includes provisions providing FSR incentives for infill housing, such as dual occupancies and multi dwelling housing in locations within 800m walking distance from a rail station or 400m from a bus stop.

Permitting complying development for dual occupancies in the R2 zones, and manor houses, terraces, and dual occupancies in the R3 zones, at the lot sizes and FSRs proposed in the Code would discourage applicants from providing infill affordable housing via the Affordable Rental Housing SEPP. The applicants would favour the Code's provision for similar development potential for such sites.

However, a review of DAs lodged under the Affordable Housing SEPP for this type of infill housing for the former Holroyd and Auburn areas identified that only one DA lodged in each of the relevant areas, both of them for dual occupancies. Both used the SEPP to seek a dual occupancy on a lot below the permitted lot size under the LEP or DCP. Only one sought to use

the FSR incentive (in part). A review of similar DAs for the former Parramatta LGA has not been undertaken, as the lot size provisions are already contained in the *Parramatta LEP 2011*.

No applications for townhouses under this SEPP have reached beyond pre-lodgement stage, with significant issues identified for the limited sites where interest has been expressed.

Given the apparent minimal uptake of this form of affordable housing, it is considered that the Planning Proposal is justifiably inconsistent with SEPP (Affordable Housing) 2009.

- **SEPP 19 - Bushland in Urban Areas** aims to protect bushland within urban areas. Specific attention to bushland, remnant and endangered vegetation and bushland zoned or reserved for public open space.

The SEPP requires a consent authority to consider the aims of the policy, and give priority to retaining bushland unless there are significant environmental, economic or social benefits which outweigh the value of the bushland.

The residential land affected by the Code includes land that adjoins land containing bushland, zoned or reserved for public open space, which is subject to the SEPP. The Code does not make any provision to avoid adverse impacts on such bushland from the residential development types identified as complying. Given the urgent need for this Planning Proposal, there has not been opportunity to map these lands. Nevertheless, SEPP (Vegetation in Non-Rural Areas) 2017 still requires a permit or other consent for the removal of bushland. In addition, the Codes SEPP requires the new development to be compliant with the relevant DCP in relation to stormwater drainage. These requirements will minimise, but not prevent, other potential adverse impacts on adjoining publicly reserved bushland.

Whether such lands should be included on an 'Environmentally sensitive areas – Buffer Map' could be considered as part of Council's Biodiversity Strategy which is currently being prepared. It is also anticipated that a separate Planning Proposal will be developed that may seek to exclude these identified lands in environmentally sensitive areas, from the Code's complying development.

- **SREP (Sydney Harbour Catchment) 2005** aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways. It establishes planning principles and controls for the catchment as a whole.

Most of Cumberland LGA is within this catchment. Planning principles for development under this SREP include (but are not limited to):

- Protection and where practicable, improvement of the hydrological, ecological and geomorphological processes on which the catchment depends;
- Improvement of water quality, rehabilitation of watercourses, wetlands, riparian corridors remnant native vegetation and ecological connectivity;
- Protection and rehabilitation of land affected or potentially affected by urban salinity;
- Minimisation of the disturbance of acid sulfate soils;
- Reduction of quantity and frequency of urban runoff;
- Protection of the functioning of natural drainage systems on floodplains;
- Protection of visual qualities of the foreshores; and
- Take into account the cumulative impacts of development in the catchment.

A number of waterways and riparian zones within Cumberland LGA are identified on the SREP *Foreshores and Waterways Area Map*. The planning principles for the development of land within these areas include:

- Protection and enhancement of natural assets, visual qualities and the unique environmental qualities of the foreshores; and
- Increasing public access along foreshores and to the waterways while minimising the impact on watercourses, wetlands, riparian lands and remnant vegetation.

Development under the *Low Rise Medium Density Code* has certain requirements regarding the management of stormwater, to support some of the above principles in relation to the catchment as a whole.

However, where sites are located within riparian lands and waterways, it would result in a number of inconsistencies with the above principles, both for the catchment as a whole, and for the identified foreshores and waterways. For example, such development would result in increased impermeable surfaces, reduce vegetated riparian areas, and/or areas that could be rehabilitated to assist in filtering pollutants from runoff and protect the stability of creek banks.

Limiting the areas by the topographical features as described, means that land near most channelled waterways is not excluded from the Code. Council may consider a future Planning Proposal to address.

Clause 1.19 (1) (e) of the Exempt and Complying Development SEPP excludes complying development from land identified by an environmental planning instrument as being within a 'river front area'. Again, the terminology is not consistent with the SREP.

To ensure consistency with the SREP, and to protect the environmental and social qualities of the waterways and adjoining lands, a separate Planning Proposal may be prepared seeking to exclude the application of the Code to riparian areas in the LGA that retain the topography to support the above principles.

The Holroyd and Parramatta LEPs have mapped lands identified as 'Riparian lands and Watercourses' and 'Natural Resources – Riparian Land and Waterways'. It is anticipated that mapping of such lands will be updated if needed in these areas, and a similar map included for the former Auburn Council area in the future, under the title 'Environmentally sensitive areas'. This would exclude them from Complying Development.

As listed above, the SREP also seeks to minimise the disturbance of acid sulphate soils and to protect and rehabilitate land affected or potential affected by urban salinity. Acid sulphate soils are discussed under the relevant Ministerial Direction. Urban Salinity is discussed under the Section 2.3.3 in regard to other environmental impacts.

Other relevant SEPPs

The following SEPPs and deemed SEPPs are relevant to the type of residential development proposed under the Code.

- **SEPP (Building Sustainability Index – BASIX) 2004** aims to ensure consistency in the implementation of the BASIX scheme throughout the State.

Compliance with this SEPP BASIX is required for complying development of the types permitted under the Code.

- **SEPP (Coastal Management) 2018** aims to promote an integrated and co-ordinated approach to land use planning in the coastal zone. Certain lands in Cumberland LGA are identified as part of the coastal zone, mapped as coastal wetlands, and proximity area for coastal wetlands.

Clause 1.19 of *SEPP (Exempt and Complying Codes) 2008* identifies coastal wetlands and lands within 100m of these wetlands (ie land that is mapped as 'Proximity to coastal wetlands') as land within an 'environmentally sensitive area'. To protect these areas consistent with the Coastal Management SEPP, the Codes SEPP does not permit complying development on this land.

- **SEPP (Vegetation in Non-Rural Areas) 2017** aims to protect the biodiversity and amenity values of trees and other vegetation in non-rural areas of the State.

The Code would not override the need for a permit or other consent for the removal of vegetation identified in Council's DCPs and other vegetation specified in the SEPP.

Q6: Is the Planning Proposal consistent with applicable Ministerial Directions (sec 9.1)?

Section 9.1 directions are directions to councils from the Minister for Planning and Infrastructure that need to be considered or given effect to in the preparation of draft LEPs.

The following Directions are relevant to this Planning Proposal. The Planning Proposal is consistent or justifiably inconsistent with these Directions. Discussion of these is provided in Appendix 4.

S9.1 Ministerial Directions	Consistency with the Planning Proposal
2.1 Environment Protection Zones	Consistent
2.2 Coastal Protection	Consistent
2.3 Heritage Conservation	Consistent
3.1 Residential Zones	Justifiably Inconsistent
3.4 Integrating Land Use and Transport	Consistent
4.1 Acid Sulfate Soils	Consistent
4.3 Flood Prone Land	Consistent
5.10 Implementation of Regional Plans	Consistent
6.1 Approval and Referral Requirements	Consistent
6.3 Site Specific Provisions	Not applicable
7.1 Implementation of a Plan for Growing Sydney	Consistent
7.3 Parramatta Road Corridor Urban Transformation Strategy	Consistent
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Consistent

2.3.3 Section C. Environmental, social and economic impact

Q7: Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

This Planning Proposal is not anticipated to create any adverse impacts on critical habitat or threatened species, populations or ecological communities or their habitat, as it applies to land zoned R2 Low Density Residential and R3 Medium Density Residential only.

The initial review of land identified as 'Remnant Native Vegetation' on the Biodiversity Map of the *Holroyd LEP 2013*, and land identifies as 'Biodiversity' on the Natural Resources - Biodiversity Map of the *Parramatta LEP 2011*, revealed that most of the lands are identified within RE1 Public Recreation zone or IN1 General Industrial zone.

However, many of these RE1 zoned lands are bounded by R2 Low Density Residential and R3 Medium Density Residential zones. Development of residential zoned lands in vicinity of these identified RE zoned lands were assessed as merit based through Council's Development Application. However the eastern section of Cumberland LGA could not be assessed as the *Auburn LEP 2010* does not have a Biodiversity Map.

Council may consider a future Planning Proposal to further address this, or it may address this more thoroughly through its forthcoming comprehensive Cumberland LEP Review.

Q8: Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Flooding

The *Low Rise Medium Density Code* does not enable low and medium density housing on any part of a lot with the following characteristics in relation to flooding:

- a flood storage area;
- a floodway area;
- a flow path;
- a high hazard area; or
- a high risk area.

There are also controls in the Code that apply to 'flood control lots' to minimise flood risk, such as minimum floor levels.

While it is noted that increased density outside these areas, either on the same site or other sites, there will be some continued mitigation if the requirements for stormwater management under the Code are properly applied by designers and overseen by certifiers.

It is therefore not considered feasible to exclude such lands from the Code.

Riparian protection

There are a number of creeks and rivers running through the LGA. While many have been channelled as part of previous development, before there was general recognition of the important values of a natural waterway and the adjoining lands, there remain areas where the waterways are open. Some of these are protected by appropriate zonings, such as E2 Environmental Conservation, W1 Natural Waterways or RE1 Public Recreation; however, some are on private land, including land in R2 and R3 residential zones.

It is anticipated that Council may prepare a separate future Planning Proposal to seek to better address this issue.

Urban salinity

Concentrations of salt and certain kinds of salt can affect plant growth, soil chemistry and structure as well as the lifespan of materials such as bitumen, concrete, masonry and metal. This means that both ecosystems and various aspects of any development and infrastructure can be affected.

Urban salinity is caused by urban development however, the impacts can be moderated by careful design, construction methods and use of materials. For development on these sites, Council imposes conditions of consent requiring the use of measures to minimise the potential for salinity.

The Code does not include such conditions. Accordingly, it is appropriate that a DA be required for dual occupancy or medium density development, at least in those areas identified as having high salinity potential.

The former Holroyd LGA is identified as having moderate potential for urban salinity, with certain areas identified in the LEP as having high potential.

There are also lands within the former Parramatta and Auburn LGAs which have high salinity potential. However relevant maps are not provided in the Auburn and Parramatta LEPs.

Further work would be required to map these lands for the consistent approach across the Cumberland LGA, potentially as part of the comprehensive Cumberland LEP.

Q9: Has the Planning Proposal adequately addressed any social and economic effects?

Yes. The Planning Proposal seeks to minimise the adverse impacts of the Code on the amenity of the R2 and R3 zone area or on the capacity of local infrastructure. Details of its effects are addressed below.

Character and amenity and human health impacts

Stipulating the minimum lot size for dual occupancy development (in comparison to the minimum lot sizes used in the Code) to 600m² will allow for building forms, landscaped areas and vehicle access provision that is compatible with the local residential character and would better maintain a reasonable level of amenity for existing and future residents.

In addition, this 600m² lot area would enable planting or retention of tree canopy on private land which is important to mitigate the urban heat island effect and for streetscape.

Infrastructure and services

The proposed minimum 600m² lot area would maintain a low density population in largely car-dependent areas which have not been planned for medium density development, limiting the impact on existing road network, parking, stormwater and social infrastructure.

Low and medium density suburban areas of Cumberland, such as Pemulwuy, Auburn south, Regents Park east or Greystanes where services and public transport are less available have the potential to be impacted significantly with the introduction of the Code and the potential resulting increase in building capacity.

For example, Pemulwuy, a medium density residential suburb in a remote location away from major transport, has a density of 18 dwellings per hectare and will reach 22 dwellings per hectare on completion. These car-dependent suburbs have a high level of car ownership and experience street car parking issues. As it has developed over the past 15 years the additional pressure placed on road networks and car parking at stations has been visible.

Housing supply and diversity

The Planning Proposal would result in a somewhat lower potential number of dwellings in the R2 and R3 zones, in comparison to the potential under the Code. However, Council continues to work towards providing opportunities for increased residential density in the most appropriate locations, notably those close to centres and public transport such as Merrylands, Wentworthville, Auburn and Lidcombe town centres.

Under the current controls, Council is approving developments across the LGA for dual occupancy and multi-dwelling housing, which supports increased housing provision and diversity in the LGA. It is anticipated that this would continue if the Planning Proposal is made.

Further studies including a Residential Housing Strategy and consultation with the community will be undertaken as part of preparation of comprehensive Cumberland LEP.

2.3.4 Section D. State and Commonwealth interests

Q10: Is there adequate public infrastructure for the Planning Proposal?

The introduction of the Code would have some adverse impact to the public infrastructure of Cumberland. The population density will increase incrementally without consideration of the implications to existing infrastructure and its capacity.

Cumberland is established and (in part) densely populated LGA, with a population density of 32.32 per hectare, and the majority of the land zoned as R2 Low Density Residential but with higher density areas and centres. Therefore it is crucial to plan for a growth to align with any planned and existing public infrastructure, so forecast growth population can be accommodated with adequate infrastructure support.

Q11: What are the views of state and commonwealth public authorities consulted in accordance with the Gateway Determination?

The Gateway Determination has not been issued for this Planning Proposal.

Consultation will be undertaken with relevant State and Commonwealth Public Authorities as directed by a favourable Gateway Determination.

3 MAPPING

Please refer to Appendix 1 for an indicative amendment to the *Auburn LEP 2010* and the *Holroyd LEP 2013* - introducing a Minimum Lot Sizes for Dual Occupancy Development Map, should the Planning Proposal be adopted.

4 COMMUNITY CONSULTATION

4.1 PROPOSED POST-GATEWAY COMMUNITY CONSULTATION

Formal community consultation would be undertaken following Gateway Determination, in accordance with the conditions listed on that determination as per section 3.34(2) of the *Environmental Planning and Assessment Act 1979*. The community would be notified of the exhibition through notices in local newspapers, notices on Council website and information at customer service centres and libraries.

5 ANTICIPATED PROJECT TIMELINE

The timeline presented below indicates the anticipated steps for completion of the Planning Proposal and submission of the final, exhibited and amended version to the Department for making and notification (gazettal) of the *Auburn LEP 2010* and *Holroyd LEP 2013*.

PP Actions	July 2018	Aug 2018	Sep 2018	Oct 2018	Nov 2018	Dec 2018	Jan 2019	Feb 2019	Mar 2019	Apr 2019	May 2019	Jun 2019
Submit PP to the Department for Gateway Determination												
Gateway Determination made by the Department of Planning & Environment												
Consult relevant Public Authorities												
Public exhibition of PP												
Receive and evaluate submissions and revise controls of PP												
Report to CLPP												
Report PP to Council												
Submit PP to the Department for legal drafting and finalisation												
Notification of LEP amendment												

7 ATTACHMENTS

The following documents are provided in support of the Planning Proposal:

- Attachment 1. Council report and minutes of 18 July 2018 (Min. 223, C07/18-136)
- Attachment 2. Council report and minutes of 6 June 2018 (Min. 175, C06/18-106)
- Attachment 3. DP&E Response to Council Request for Exemption to LRMDH Code
- Appendix 1. draft Minimum Lot Sizes for Dual Occupancy Development Map
- Appendix 2. Consistency with NSW broader strategic framework
- Appendix 3. Consistency with SEPPs and deemed SEPPs
- Appendix 4. Consistency with Section 9.1 Ministerial Directions