

## Planning Services

### Gateway determination report

<b>LGA</b>	Campbelltown
<b>PPA</b>	Campbelltown City Council
<b>NAME</b>	Multi-dwellings in the R2 Low Density Residential zone (0 homes, 0 jobs)
<b>NUMBER</b>	PP 2018 CAMPB 004 00
<b>LEP TO BE AMENDED</b>	Campbelltown Local Environmental Plan 2015
<b>ADDRESS</b>	All land zoned R2 Low Density Residential under the Campbelltown LEP 2015
<b>DESCRIPTION</b>	Multiple lots
<b>RECEIVED</b>	24 August 2018
<b>FILE NO.</b>	IRF18/4596
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	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 prohibit multi-dwelling housing on land zoned R2 Low Density Residential under the Campbelltown Local Environmental Plan (LEP) 2015. It also proposes to omit the corresponding development controls associated with multi-dwelling housing on R2-zoned land in clauses 4.1C and 4.4 of the Campbelltown LEP 2015.

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 the development, but only where it 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 Low Rise Medium Density Housing Code

On 5 July 2018, the Minister granted Campbelltown City Council deferral of 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**).

The intent of this planning proposal is to remove multi-dwelling housing as a permitted development type on land zoned R2 Low Density Residential from the Campbelltown LEP 2015 and to preclude multi-dwelling housing (terraces) and manor homes from being permitted in the R2 zone once the code applies on 1 July 2019.

### **Site description**

The planning proposal applies to land zoned R2 Low Density Residential under the Campbelltown LEP 2015.

Prior to public exhibition, it is recommended that Council amend the planning proposal to include a map of all land subject to this planning 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:

- multi-dwelling housing is not a mandatory permitted use in the R2 Low Density Residential zone under the Standard Instrument;
- the types of multi-dwelling housing, including manor houses and terraces, that will be permitted as complying development under the code may be incompatible with the intended low-density character and objectives of the existing R2-zoned land; and
- Council has advised that the best locations for medium-density housing in the LGA are areas zoned R3 Medium Density Residential as they are supported by transport infrastructure and commercial centres.

## **PROPOSAL**

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### **Objectives or intended outcomes**

The planning proposal states that the proposed amendments aim to prohibit multi-dwelling housing in the R2 Low Density Residential zone under the Campbelltown LEP 2015 to maintain the strategic intent of this zone.

It states that it will also prevent the circumvention of local planning controls for the R2 zone and encourage medium-density housing in more appropriate locations such as areas zoned R3 Medium Density Residential, which are closer to transport infrastructure and commercial centres.

The objectives of this planning proposal are clear and adequate.

### **Explanation of provisions**

The planning proposal seeks to amend the Campbelltown LEP 2015 by:

- amending the land-use table for the R2 Low Density Residential zone to remove multi-dwelling housing as development permitted with consent;
- amending *Clause 4.1C Minimum qualifying site area and lot size for certain residential and centre-based child care facility development in residential zones* to remove multi-dwelling housing and the corresponding development controls from the table; and
- amending *Clause 4.4 Floor space ratio* to remove multi-dwelling housing in the R2 Low Density Residential zone and the corresponding floor space ratio from the table.

Once this amendment is finalised, 'manor houses' and 'multi-dwelling houses (terraces)' will not be permitted in the R2 Low Density Residential zone, as the Codes SEPP only permits this type of development in zones where multi-dwelling housing is a permissible use in an LEP.

### **Mapping**

The planning proposal does not include any changes to the maps under the Campbelltown LEP 2015.

### **NEED FOR THE PLANNING PROPOSAL**

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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 Campbelltown LGA.

Council advised that the prohibition of multi-dwelling housing and manor houses within the R2 zone is consistent with the Campbelltown Local Housing Strategy in terms of promoting medium-density housing in areas close to transport infrastructure and support services, namely those areas zoned R3 Medium Density Residential.

Council's review of the code raised concerns with the detrimental impacts of the code on the orderly and planned development of housing supply within the Campbelltown LGA through the promotion of new forms of medium-density housing: in inappropriate locations; in an uncontrolled manner; in a way that does not meet the reasonable expectations of the community; and in areas distant from supporting infrastructure and ill-suited to densification.

Council advises that the code will enable the circumvention of its local development standards for multi-dwelling housing within the R2 zone, resulting in higher-density development outcomes that are inconsistent with the objectives of the R2 zone to provide a low-density housing environment for the community.

In addition, Council is concerned with the mandated permissibility of 'manor houses' in the R2 zone in the code as Council has no development controls for this type of development.

To minimise the impacts of the code, Council submitted the planning proposal to remove multi-dwelling housing as a permitted use in the R2 zone of the Campbelltown LEP 2015. This restricts medium-density development to zones where development density is expected and characteristic. It would also negate the need for Council to resolve the impacts of the code within the R2 zone through amendments to its development controls in the LEP.

It is considered that this amendment to the Campbelltown LEP 2015 through a planning proposal is the best way to achieve this objective.

### **Impact on Land and Housing Corporation landholdings**

The Campbelltown LEP 2015 was notified on 11 December 2015 and became operational on 11 March 2016. The plan was prepared by Council in accordance with the Standard Instrument. This resulted in the transfer of multi-dwelling housing as a permissible land use from the generic 2B Residential Zone under the previous Campbelltown (Urban Area) LEP 2002 to the R2 Low Density Residential zone under the Campbelltown LEP 2015.

Council had initially proposed to prohibit multi-dwelling housing in the R2 zone to implement its strategy to concentrate medium-density housing in centres to

maximise infrastructure and services. This would down-zone most residential land outside centres in the Campbelltown LGA.

In 2014, the Department advised Council that the proposed down-zoning of residential land to low density is contrary to a government commitment to increase housing provision and maintain and increase the viability of social and affordable housing (**Attachment F**). Council received an objection from the NSW Land and Housing Corporation (LAHC), whose plans for 8000 dwellings across its properties would be affected. Other landowners would also have been affected by the proposed change.

To address these concerns, the Department required Council to retain multi-dwelling housing as a permissible land use in the R2 zone under the Campbelltown LEP 2015.

Council is reviewing its housing strategy and updating its LEP to be consistent with the objectives of the Western City District Plan and to promote housing diversity and supply (**Attachment G**).

For these reasons, Council requested that the operation of the Low Rise Medium Density Housing Code be deferred to advance the necessary planning work on its housing strategy and LEP update in consultation with the Department.

To allow this matter to be further considered, it is recommended that Council consult with LAHC, and the Gateway determination has been conditioned accordingly.

## **STRATEGIC ASSESSMENT**

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### **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 proposal is generally consistent with the plan's liveability objectives and actions.

While the plan emphasises the need to provide a greater housing supply and a range of housing types, it also recognises Council's role in confirming which parts of its local areas are suitable for additional medium-density development. Council has advised that it will continue to:

- deliver new and diverse housing in strategic localities and zones;
- respond to a recognised need (and market demand) for housing in the locality; and
- provide new homes near existing infrastructure and services.

#### 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 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 additional housing diversity and choice for medium-density development will be provided in appropriate areas zoned R3 Medium Density Residential in the Campbelltown LGA. These areas have sufficient infrastructure to create liveable neighbourhoods with access to shops, services and public transport.

## Greater Macarthur Growth Area

The Greater Macarthur Growth Area has been identified as suitable for urban development, including a planned approach to the following:

- new urban design and local character plans around seven train station precincts from Glenfield to Macarthur to provide new homes and apartments and 21,000 jobs over the next 20-30 years;
- new land release areas of Menangle Park and Mount Gilead;
- new roads, parks, schools and sporting and community facilities; and
- an infrastructure plan to fund state infrastructure in the area.

It is anticipated that the growth area will provide an additional 35,000 homes within land release areas (i.e. Menangle Park, Mount Gilead and Wilton) and up to 15,000 additional homes within the Glenfield to Macarthur corridor.

The planning proposal is consistent with the strategy for the Greater Macarthur Growth Area as it will not rezone land within the growth area, but it will affect the intended outcome for the growth area by potentially reducing the above housing potential.

Therefore, it is recommended that the Gateway determination includes a condition requiring further information in relation to the impacts of the proposal on the strategy for the Greater Macarthur area.

## **Local**

### Campbelltown 2027 – Community Strategic Plan

The Campbelltown 2027 – Community Strategic Plan focuses on the delivery of four key outcomes over the next 10 years: a vibrant and liveable city; a respected and protected natural environment; a thriving and attractive city; and a successful city. Council advises that the planning proposal is consistent with these key outcomes, particularly infrastructure solutions that meet the needs of the community and responsibly manage growth and development in the LGA.

### Campbelltown Residential Development Strategy

The Campbelltown Residential Development Strategy was prepared to inform the development of the Campbelltown LEP 2015. Council notes that the planning proposal is consistent with this strategy, which identifies the need to encourage the provision of medium-density housing in centres and near transport nodes/corridors and services.

The strategy states that medium-density development should be focused in the identified R3 Medium Density Residential, R4 High Density Residential and B4 Mixed Use zones to negate ad-hoc and unplanned medium-density housing outcomes.

### Campbelltown Local Planning Strategy

The Campbelltown Local Planning Strategy provides a long-term strategic planning framework for the development of the Campbelltown LGA. Council states that the planning proposal is consistent with the promotion of low-density outcomes such as dwelling houses and dual occupancies within the R2-zoned area and the identification of infill medium-density development in R3, R4 and B4-zoned areas.

## **Section 9.1 Ministerial Directions**

### **Direction 3.1 Residential Zones**

The objectives of this Direction are to encourage a variety of housing types, make efficient use of existing 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 will reduce dwelling potential and housing choice by removing a permissible dwelling type (i.e. multi-dwelling housing) from the R2 Low Density Residential zone.

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.

### **Direction 7.2 Implementation of Greater Macarthur Land Release Investigation**

The objective of this Direction is to ensure development within the Greater Macarthur Land Release Investigation Area is consistent with the Greater Macarthur Land Release Preliminary Strategy and Action Plan.

Although the planning proposal does not rezone land within the Greater Macarthur area, it may undermine the achievement of the objectives, planning principles and priorities for the area by reducing development potential for land zoned R2.

Therefore, to satisfy this Direction it is recommended that Council provides additional information about the implications of the proposal on the Greater Macarthur area, and the Gateway determination has been conditioned accordingly.

## **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 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. 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.

The planning proposal will not limit the potential for affordable medium-density housing under the Affordable Housing SEPP elsewhere in the LGA on land zoned R3 Medium 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 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 meets the requirements of the code.

In relation to the planning proposal, the code will permit manor houses and multi-dwelling housing (terraces) in zones where multi-dwelling housing is currently permitted under the Campbelltown LEP 2015.

Consequently, the planning 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 code.

A Gateway condition is recommended requiring Council to provide further information on the number of lots that would become eligible for manor housing and multi-dwelling housing as a result of the proposal. Once this information has been 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 consistent with all other relevant SEPPs.

### **SITE-SPECIFIC ASSESSMENT**

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#### **Social**

The planning proposal aims to retain the scale and character of the R2 Low Density Residential-zoned area in the Campbelltown LGA. It seeks to ensure that development will be appropriate for the existing level of services and infrastructure and will be compatible with the desired future character for this zone.

#### **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 on the matter.

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

## **CONSULTATION**

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### **Community**

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

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**

The Department recommends Council consult the NSW Land and Housing Corporation (LAHC) in relation to the impacts of the proposal on the properties owned by LAHC and its plans to provide additional housing for the community.

## **SAVINGS AND TRANSITIONAL PROVISION**

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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 affected by the proposed changes.

## **TIME FRAME**

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The project timeline provided in the planning proposal indicates a time frame of seven 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 Council's deferral from the Low Rise Medium Density Housing Code until this time.

## **LOCAL PLAN-MAKING AUTHORITY**

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

## **CONCLUSION**

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The planning proposal is supported as:

- multi-dwelling housing is not a mandatory permitted use in the R2 Low Density Residential zone under the Standard Instrument;
- the types of multi-dwelling housing (including manor houses and terraces) that will be permitted as complying development under the Low Rise Medium Density Housing Code may be incompatible with the intended low-density character and objectives of the R2-zoned land; and
- Council has advised that the best locations for medium-density housing in the LGA are areas zoned R3 Medium Density Residential as they are supported by transport infrastructure and commercial centres.



## RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Directions 3.1 Residential Zones and 7.2 Implementation of Greater Macarthur Land Release Investigation 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 undertaking community consultation, Council is to:
  - (a) amend the format of the planning proposal so the cover page includes Council details, is appropriately dated, the words 'Submission for Gateway Determination' are removed, pages are numbered, and a contents page is added;
  - (b) include a large-scale map identifying the boundaries of the subject R2 Low Density Residential-zoned land;
  - (c) provide a quantitative analysis to assess the impacts of the proposal on housing diversity and supply, as follows:
    - i. the number of lots zoned R2 Low Density Residential under the Campbelltown LEP 2015;
    - ii. the number of potential lots that would become eligible for manor houses/multi-dwelling housing under the Low Rise Medium Density Housing Code in the R2 Low Density Residential zone, considering the SEPP exclusions (such as sites below the minimum lot size and land subject to heritage provisions);
    - iii. the number of multi-dwelling housing developments approved in the R2 Low Density Residential zone in the past five years;
    - iv. the number of lots zoned R2 in the Greater Macarthur Growth Area that are subject to this planning proposal and indicate reduced dwelling potential within that area that would occur as a result of the finalisation of the proposal;
  - (d) following review as required by condition (c) iv, amend the section of the planning proposal referring to Direction 7.2 Implementation of Greater Macarthur Land Release Investigation and, if necessary, seek the approval of the Secretary for any identified inconsistency with this Direction prior to finalisation of the plan;
  - (e) explain whether the proposal is supported by a housing strategy that has been developed in consultation with the community; and
  - (f) under Part 2 – Explanation of Provisions, include the intent, as part of this proposal, to introduce a new savings and transitional clause to ensure that proposed amendments do not affect any development applications or appeal processes.
2. The revised planning proposal is to be updated in accordance with condition 1 and forwarded to the Department for review and approval in writing prior to exhibition.

3. Council is to write to all affected landowners about the exhibition of the proposal, outlining the effect of the proposed changes.
4. The planning proposal is to be made available for community consultation for a minimum of 28 days.
5. Consultation is required with the NSW Land and Housing Corporation in relation to the impacts of the proposal on its properties and plans to provide housing for the community.
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.



28/09/2018

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12/10/2018

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