

Item: CCL031-18 Planning Proposal to address the impact of the new Low Rise Medium Density Housing Code in the Georges River LGA

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Directorate: Environment and Planning

Matter Type: Environment and Planning

CCL031-18 Planning Proposal to address the impact of the new Low Rise Medium Density Housing Code in the Georges River LGA
(Report by Manager Strategic Planning)

Resolved: Councillor Landsberry and Councillor Hindi

- (a) That the Planning Proposal – Low Rise Medium Density Housing Code be forwarded to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.
- (b) That Council be advised of the conditions of the Gateway Determination when received.
- (c) That Council endorse the recommendations of the Local Planning Panel in respect to the Planning Proposal – Low Rise Medium Density Housing Code.

Record of Voting:

For the Motion: Unanimous

Executive Summary

1. The Planning Proposal was considered by the Local Planning Panel at its Meeting held 21 June 2018. The outcome of the Local Planning Panel Meeting is subject to a separate subsequent report. Direction from the Minister for Planning under Section 9.1 of the Environmental Planning and Assessment Act 1979 and the Charter of the Georges River Council Local Planning Panel 2018 both specify that the Planning Proposal is to be referred to the Local Planning Panel before it is forwarded for Gateway Determination (approval).
2. The intended outcomes of the Planning Proposal are to:
 - a. Seek an exemption from the application of the Low Rise Medium Density Housing Code to the R2 Low Density Residential zone within HLEP for manor houses, multi dwelling housing (terraces), multi dwelling housing, residential flat buildings and dual occupancies.
 - b. Seek an exemption from the application of the Low Rise Medium Density Housing Code to Schedule 1 Additional Permitted Uses within the KLEP for multi dwelling housing (terraces), multi dwelling housing, manor houses and dual occupancies.
 - c. Seek an exemption from any related amendment to the Standard Instrument – Principal Local Environmental Plan, including the Standard Instrument (Local Environmental Plans) Amendment (Low Rise Medium Density Housing) Order 2017 [NSW] to the R2 Low Density Residential zone within the Georges River LGA, which is intended to introduce two new terms (manor houses and multi dwelling housing (terraces)); amend the existing definition of multi dwelling housing and the existing definition of residential flat buildings; and amend Direction 5 and introduce Direction 6 and Direction 7 in the Land Use Table, after Direction 5.

- d. Seek an exemption from any State Government initiated amendment to HLEP that is intended to add the terms manor houses and multi dwelling housing (terraces) to the R2 Low Density Residential zone, and to permit those land uses where medium density housing or residential flat buildings is allowed in the R2 Low Density Residential zone.
 - e. Seek an exemption from Environmental Planning and Assessment Amendment (Low Rise Medium Density Housing) Regulation 2017 or any amendment to the Environmental Planning and Assessment Regulation 2000 to the R2 Low Density Residential zone within the Georges River LGA, which is intended to allow an applicant to lodge a complying development certificate for medium density housing and concurrent subdivision and require the submission of a Design Verification Statement from the Building Designer.
 - f. If exemptions are not supported, Council requests a deferment of:
 - i. the commencement of the Low Rise Medium Density Housing Code;
 - ii. any related amendment to the Standard Instrument – Principal Local Environmental Plan, including the Standard Instrument (Local Environmental Plans) Amendment (Low Rise Medium Density Housing) Order 2017 [NSW];
 - iii. any related State Government initiated amendment to HLEP; and
 - iv. any related amendment to the Environmental Planning and Assessment Regulation 2000.
 - v. Until 1 July 2019 or such time as Council has undertaken its local Housing Strategy and prepared its new principal local environmental plan informed by this strategy (whichever is sooner).
 - g. Prohibit Multi dwelling housing, Multi dwelling housing (terraces) and Manor houses in the R2 Low Density Residential zone of the HLEP.
 - h. Increase the minimum lot size for dual occupancies under HLEP so that it mirrors the minimum lot size for dual occupancies under KLEP
 - i. Prohibit manor houses, multi dwelling housing (terraces), town houses and villas from being built on land listed under Items 17, 18 or 19 of Schedule 1 Additional Permitted Uses of KLEP.
 - j. Prohibit dual occupancies from being built on land listed under Items 17, 18 or 19 of Schedule 1 Additional Permitted Uses of KLEP, unless development consent is granted by Council.
3. The intent of the planning proposal is for Council to develop its own provisions for manor housing and terrace housing in the R3 zones, with such provisions being developed through a housing strategy process.
 4. Direction 5, 6 and 7 state:
 - a. Direction 5: Only the following types of development may be included in the Land Use Table: Add “Multi dwelling housing (terraces)” after “Multi dwelling housing”.
 - b. Direction 6. Manor houses must be permitted wherever multi dwelling housing is permitted in the Land Use Table.
 - c. Direction 7. Multi dwelling housing (terraces) cannot be prohibited in a zone if multi dwelling housing is permitted in that zone.
 5. Council has raised concern with the impact of the Low Rise Medium Density Code and medium density housing in its R2 Low Density Residential Zone with the Department of Planning and Environment.

6. By letter dated 24 May 2018 the Department has advised that the Minister has indicated that he would consider deferring the commencement of the code to allow councils to rectify local planning controls to meet the strategic intent of the council area.
7. The Department's letter further stated that this deferral from the Code will need the lodgement of a planning proposal with the Department by 27 June 2018. A copy of the Department's letter dated 24 May 2018 is in **Attachment 1**.
8. This report, which is to be read in conjunction with the separate report titled *Addendum to Planning Proposal – Low Rise Medium Density Housing Code*, recommends that Council forward the Planning Proposal – Low Rise Medium Density Housing Code, to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 3.34 of the Environmental Planning and Assessment Act 1979.
9. This report also provides the information required by Notice of Motion 035-18 which was adopted by Council on 28 May 2018 in relation to the suspension of the New Low Rise Medium Density Housing Code in Georges River Local Government Area.

The Site and Locality

10. On 12 May 2016 the Minister for Local Government announced the newly formed Georges River Council (Council), which was formed out of the amalgamation of the former Kogarah Council and the former Hurstville Council.
11. The new Georges River Local Government Area (LGA) is 44.14 square kilometres with 147,000 people residing in the area. The Georges River LGA has approximately 1,945 hectares of land zoned R2 Low Density Residential and approximately 222 hectares of land zoned R3 Medium Density Residential.
12. The LGA is located in Southern Sydney and includes the suburbs of Allawah, Beverley Park, Beverly Hills (part), Blakehurst, Carlton (part), Carss Park, Connells Point, Hurstville, Hurstville Grove, Kingsgrove (part), Kogarah, Kogarah Bay, Lugarno, Mortdale, Narwee (part), Oatley, Peakhurst, Peakhurst Heights, Penshurst, Ramsgate (part), Riverwood, Sans Souci (part) and South Hurstville.

Current Zoning and Permissibility

13. Council currently has:
 - a. Three LEPs:
 - i. Kogarah Local Environmental Plan 2012;
 - ii. Hurstville Local Environmental Plan 2012; and
 - iii. Hurstville Local Environmental Plan 1994.
 - b. Four DCPs:
 - i. Kogarah Development Control Plan 2013;
 - ii. Hurstville Development Control Plan 1 (Applies to land within the Peakhurst, Mortdale and Hurstville Wards);
 - iii. Hurstville Development Control Plan 2 Amendment Number 5 (Applies to sites within the Hurstville City Centre identified as Deferred Land); and
 - iv. Hurstville Development Control Plan 2 Amendment Number 6 (Applies to land identified as Hurstville City Centre, excluding the Deferred Land).
14. Kogarah Local Environmental Plan 2012 (KLEP) and Hurstville Local Environmental Plan 2012 (HLEP) are in the standard form, prescribed in the Standard Instrument (Local Environmental Plans) Order 2006. Hurstville Local Environmental Plan 1994 is not in the standard form as it was made prior to the standardisation of LEPs and applies only to the land deferred from HLEP (Deferred Land). Please see **Figure 1** below for a map of the Deferred Land.

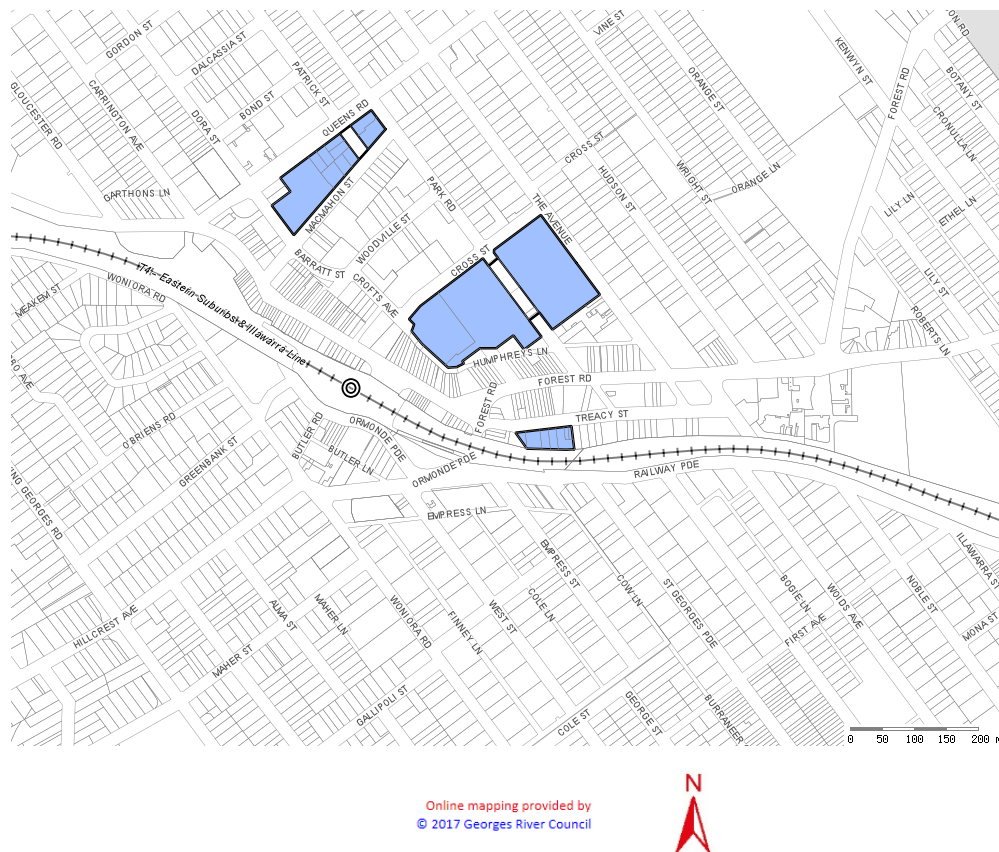


Figure 1 – Deferred Land Map

15. The Deferred Land, which sits under Hurstville Local Environmental Plan 1994, is zoned 3(b) City Centre Business zone. There are no development controls in the Hurstville Local Environmental Plan 1994 that apply to the 3(b) City Centre Business zone. Therefore the community and developers must refer to Hurstville Development Control Plan 2 Amendment Number 5 for the relevant planning and design guidelines.
16. Whilst Kogarah Local Environmental Plan 2012 and Hurstville Local Environmental Plan 2012 are in the standard form, both instruments have different objectives, zoning patterns, local provisions and development controls.

Proposed Georges River Local Environmental Plan

17. Council resolved on 27 November 2017 (Notice of Motion 015-17):
 - a. *That Council commence the preparation of a new Local Environmental Plan (LEP) for the Georges River local government area in early 2018.*
 - b. *That the General Manager prepare a report detailing the proposed program for preparation of the LEP, including the necessary strategic studies, community consultation framework, timeframes and costs for preparation of the LEP.*
 - c. *That the General Manager investigates the scheduling of additional Councillor Workshop sessions during 2018 for the purposes of formulating the draft LEP.*
18. In October 2017, the NSW Government released the draft Greater Sydney Region Plan and the revised draft South District Plan. The draft Greater Sydney Region Plan and Draft South District Plan outlined the need for councils to update their local environmental plans once both of the State Government Plans were finalised. The draft South District Plan also sets out a requirement for councils to prepare a Housing Strategy for the local government area. At the same time, the Environmental Planning & Assessment Act 1979 (EP&A Act) was in a review phase, with the Environmental Planning & Assessment Bill 2017 (Bill) being passed by Parliament and awaiting assent. The Bill set out a requirement that

- councils must draft a Community Participation Plan and a Local Strategic Planning Statement for the local government area.
19. Council staff prepared a Council report to respond to Notice of Motion 015-17, the Bill, the draft Greater Sydney Region Plan and the Draft South District Plan, by recommending the preparation of a Housing Strategy, Community Participation Plan, Local Strategic Planning Statement and a principal Local Environmental Plan for the local government area.
 20. Council resolved on 26 February 2018 (CCL001-18) that:
 - a. *The report on the Georges River Principal Local Environmental Plan be received and noted.*
 - b. *Council endorse the preparation of a Housing Strategy, Community Participation Plan and Local Strategic Planning Statement for the Georges River local government area.*
 - c. *Council endorse the preparation of a principal Local Environmental Plan for the Georges River local government area.*
 21. In March 2018, the amendments to the EP&A Act came into force and the Greater Sydney Region Plan and the South District Plan were finalised.
 22. Council has commenced the drafting of the Georges River principal local environmental plan and has a dedicated planning resource for this project.
 23. Council is awaiting the release of guidelines to inform the drafting of a Housing Strategy, amendments to the Environmental Planning & Assessment Regulation 2000 to inform the drafting of a Community Participation Plan and the release of Planning Secretary requirements on the preparation and making of Local Strategic Planning Statements, including with respect to the participation of councillors.
 24. A Housing Strategy, Community Participation Plan and Local Strategic Planning Statement are all required to inform the drafting of the Georges River Local Environmental Plan.

South District Plan's Housing Targets for Georges River

25. Council's current planning controls will ensure that the 2016 – 2021 housing target of 4,800 (South District Plan, Planning Priority S5, p42) for the LGA will be delivered. Our current approvals are tracking beyond our five year housing target.
26. Significant housing is also being delivered within our centres, our transport corridors, the Kogarah North precinct and other areas of the former Kogarah Council. For example:
 - a. King Georges Road and Princes Highway Blakehurst – increase of 868 dwellings
 - b. Blakehurst waterfront, along the Princes Highway – increase of 300 dwellings
 - c. Kogarah Town Centre and Kogarah North precinct – increase of 2800 dwellings
 - d. South Hurstville precinct – increase of 1337 dwellings
 - e. Princes Highway Carlton precinct (B6 Enterprise corridor) – increase of 950 dwellings
 - f. Ramsgate, Rocky Point Road – increase of 327 dwellings
27. A Housing Strategy was prepared for Kogarah Council in July 2014. The Kogarah Housing Strategy supported the "New City Plan" amendment which was gazetted in May 2017 to the Kogarah Local Environmental Plan 2012. The former Hurstville Council did not have a housing strategy. The Hurstville LEP 2012 is a translation of the previous Hurstville LEP 1994.
28. Council requires a new housing strategy that addresses the existing and future housing needs of its population. Council has not assessed the LGA's changing demographic

forecasts of population and local housing demand since the current LEPs were gazetted in 2012. Nor has Council have an estimate of local housing needed in 20 years. This is the role of a housing strategy.

29. Each LGA within the Greater Sydney Region is required to prepare a Housing Strategy, Community Participation Plan and Local Strategic Planning Statement, under the Greater Sydney Region Plan, District Plans and the EP&A Act.
30. The purpose of these strategic documents is to inform any amendments to local planning controls. However, councils have not been given the opportunity to draft the documents as we are awaiting the guidelines to inform the drafting of a Housing Strategy, amendments to the Environmental Planning & Assessment Regulation 2000 to inform the drafting of a Community Participation Plan and the release of Planning Secretary requirements on the preparation and making of Local Strategic Planning Statements, including with respect to the participation of councillors.
31. If an assessment of where such development and density is appropriate in the LGA is not conducted at the strategic level through a Housing Strategy, Community Participation Plan and Local Strategic Planning Statement, the implementation of the new Low rise medium density housing code and new medium density housing types will result in an ad hoc approach to density and housing type with no consideration for local infrastructure demands and deficits, and no assessment of environmental, social or economic impacts of the development.
32. It should be noted that Council only received the Guideline from the Department of Planning and Environment for the preparation of the Local Strategic Planning Statement on 12 June 2018. The Housing Strategy Guidelines and Template have not been released by the Department of Planning and Environment.

Notice of Motion 035-18 - Low Rise Medium Density Housing Code

33. Notice of Motion 035-18 was adopted by Council on 28 May 2018 and states:
 - a. *That the General Manager urgently prepare a report to Council in June 2018 on the NSW Coalition Government's new Low Rise Medium Density Housing Code, to be introduced on 6 July 2018, and the impact that this new Code will have on the Georges River Council LGA, including the extent of the likely significant increase in the number of dwellings permitted in low density areas and; the approximate number of sites in the LGA where the new Code will allow the fast-tracked development of manor houses, duplexes and terrace houses in low density areas.*
 - b. *That Council notes with serious concern that the new Code will allow Private Certifiers to approve 2 storey residential flat buildings comprising 3-4 dwellings, known as "manor homes", as well as duplexes and terrace housing, under the complying development approval process (SEPP) in R2 Low Density Residential Zones, with minimal neighbour notification and no requirement for objections to be considered.*
 - c. *That to protect our community from future impacts from the Code:*
 - i. *Council immediately and concurrently prepare a Planning Proposal to:*
 - a. *Prohibit manor houses from the R2 Low Density Residential Zone.*
 - b. *Prohibit terraces/town houses/villa development from the R2 Low Density Residential Zone.*
 - c. *Restrict dual occupancy development to current planning rules.*
 - ii. *Submit the Planning Proposal to the Greater Sydney Commission for Gateway approval.*

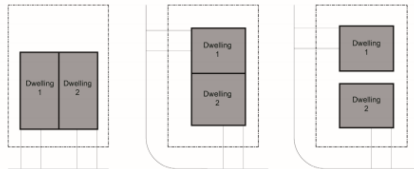
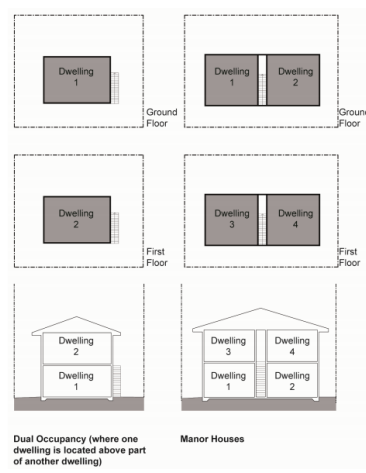
- iii. *Delegate to the General Manager any administrative arrangements to progress the Planning Proposal, including exhibition, once a Gateway Determination has been received.*
 - d. *That Council write to the Minister for Planning, the Hon Anthony Roberts MP to seek an exemption from the Code's SEPP amendments within the R2 zone and to request that Council's local planning controls prevail over the SEPP until the Planning Proposal has been gazetted.*
 - e. *That Council apply for grant funding of \$2.5 million to assist in accelerating the preparation of the Georges River LEP review within a 12 month period, with such funds being used for studies, resources and other items needed to advance the LEP review within the required two-year period.*
 - f. *That the NSW Coalition Government's policy changes and its implications for our City be widely communicated to the community.*
34. Council has written to the Minister for Planning, the Hon Anthony Roberts MP by letter dated 1 June 2018 seeking an exemption from the Code's SEPP amendments within the R2 zone. The letter requests that Council's local planning controls prevail over the SEPP until the Planning Proposal has been gazetted.
35. Council by letter dated 4 June 2018 has applied for grant funding of \$2.5 million to assist in accelerating the preparation of the Georges River LEP review, with such funds being used for studies, resources and other items needed to advance the LEP review within the required two-year period.

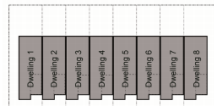
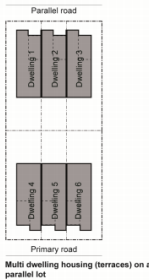
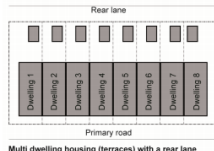
Impact of the new Code within Georges River LGA

36. The following table (**Table 1**) provides an outline of the planning provisions that will apply for complying development under the Medium Density Housing – Low Rise Medium Density Housing Code within Georges River LGA.
37. It should be noted that the following directions apply and overrule the local environmental plans of Council:
- a. Direction 5: Only the following types of development may be included in the Land Use Table: Add "Multi dwelling housing (terraces)" after "Multi dwelling housing".
 - b. Direction 6: Manor houses must be permitted wherever multi dwelling housing is permitted in the Land Use Table.
 - c. Direction 7: Multi dwelling housing (terraces) cannot be prohibited in a zone if multi dwelling housing is permitted in that zone.
38. In summary:
- a. The Kogarah LEP 2012 permits Dual Occupancies in the R2 Low Density Residential Zone and Dual Occupancies and Multi Dwelling Housing in the R3 – Medium Density Residential Zone.
 - b. The Hurstville LEP 2012 permits Dual Occupancies and Multi Dwelling Housing in the R2 and R3 Zones.
39. The Low Rise Medium Density Housing Code and its accompanying legislative changes will permit:
- a. manor housing and terrace housing in the R2 and R3 residential zones under the Hurstville LEP 2012;
 - b. manor housing and terrace housing in the R3 residential zone under the Kogarah LEP 2012; and

- c. terrace housing for land listed in Items 17, 18 and 19 of Schedule 1 Additional Permitted Uses and that are zoned R2 under the Kogarah LEP 2012. Refer to **Attachment 2** for the properties listed in Items 17, 18 and 19 of Schedule 1 to the Kogarah LEP 2012.

Table 1 - Planning provisions and the Code

Type of Housing	Low Rise Medium Density Housing Code	KLEP applicable controls	HLEP applicable controls
Dual Occupancy Attached or detached but not located above	 <p>Certain attached dual occupancies (where no part of the dwelling is located above any part of another dwelling) on a standard lot</p> <p>Certain attached dual occupancies (where no part of the dwelling is located above any part of another dwelling) on a corner lot</p> <p>Certain detached dual occupancies (where no part of the dwelling is located above any part of another dwelling) on a corner lot</p>		
Lot requirements – size		650m ² 1000m ²	630m ² 1000m ²
Lot Width	Width 12m		
Height	8.5m		
Maximum gross floor area	400m ² – 2000m ² : 25% of lot area + 300m ² >2,000m ² : 800m ²		
Manor Houses, Dual occupancies (located above part of another dwelling) manor house means a building containing 3 or 4 dwellings, where: (a) each dwelling is attached to another dwelling by a common wall or floor, and (b) at least 1 dwelling is partially or wholly located above another dwelling, and (c) the building contains no more than 2 storeys (excluding any basement).	 <p>Dual Occupancy (where one dwelling is located above part of another dwelling)</p> <p>Manor Houses</p>		
Lot size requirements – manor house	600m ²		

Type of Housing	Low Rise Medium Density Housing Code	KLEP applicable controls	HLEP applicable controls
Lot size requirements - dual occupancy		650m2 1000m2	630m2 1000m2
Lot Width	15m width		
Height	8.5m		
Maximum gross floor area	The maximum gross floor area of all buildings on a lot is 25% of the lot area plus 150m2, to a maximum of 400m2.		
Multi dwelling housing (terraces) multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land where: (a) each dwelling has access at ground level, and (b) no part of a dwelling is above any part of any other dwelling, and includes multi dwelling housing (terraces). Note. Multi dwelling housing is a type of residential accommodation—see the definition of that term in this Dictionary. multi dwelling housing (terraces) means multi dwelling housing where all dwellings are attached and face, and are generally aligned along, 1 or more public roads	 <p>Multi dwelling housing (terraces) on a standard lot</p>  <p>Multi dwelling housing (terraces) on a parallel lot</p>  <p>Multi dwelling housing (terraces) with a rear lane</p>		
Lot size requirements	Other than K in the HELP 2012 – 600m2	800m2	K – 500m2 per dwelling
Lot Width	18m width		
Height	9m		

Type of Housing	Low Rise Medium Density Housing Code	KLEP applicable controls	HLEP applicable controls
Maximum gross floor area	R2 – 60% of lot area 80% of lot area		

40. **Table 2** below provides the approximate number of sites in the LGA where the new Low Rise Medium Density Housing Code will allow the fast tracked development of dual occupancies, manor housing and terrace housing.

Table 2 – Number of sites affected by Code per Zone/LEP

Type	LEP	Zone	Lot Area	Frontage	Estimated No. of Land
Dual Occ	HLEP12	R2			
(attached & detached)			≥ 630sqm	≥ 12m	3130
			≥ 1000sqm	≥ 12m	170
		R3			
			≥ 630sqm	≥ 12m	640
			≥ 1000sqm	≥ 12m	0
	KLEP12	R2			
			≥ 650sqm	≥ 12m	2950
			≥ 1000sqm	≥ 12m	70
		R3			
			≥ 650sqm	≥ 12m	800
			≥ 1000sqm	≥ 12m	1
Dual Occ	HLEP12	R2			
(2 storey)			≥ 630sqm	≥ 15m	2350
			≥ 1000sqm	≥ 15m	150
		R3			
			≥ 630sqm	≥ 15m	610
			≥ 1000sqm	≥ 15m	0
	KLEP12	R2			
			≥ 650sqm	≥ 15m	2230
			≥ 1000sqm	≥ 15m	60
		R3			
			≥ 650sqm	≥ 15m	730
			≥ 1000sqm	≥ 15m	1
Manor House	HLEP12	R2			
			≥ 600sqm	≥ 15m	4030
		R3			
			≥ 600sqm	≥ 15m	650
	KLEP12	R3			
			≥ 600sqm	≥ 15m	810
Terraces	HLEP12	R2			
			≥ 600sqm	≥ 18m	1460
			≥ 1500sqm	≥ 18m	10
		R3			

Type	LEP	Zone	Lot Area	Frontage	Estimated No. of Land
			≥ 600sqm	≥ 18m	510
			≥ 1500sqm	≥ 18m	0
	KLEP12	R3			
			≥ 800sqm	≥ 18m	570

41. **Table 2** only details the sites that are eligible for complying development for the different types of housing that will be permitted under the new Low Rise Medium Density Housing Code. Land affected by the following is excluded from complying development:

- a. Land that contains State heritage
- b. Land that contains Item of environmental heritage'
- c. Land that is in an environmentally sensitive area (Coastal SEPP 2018)
- d. Land within a heritage conservation area
- e. Land reserved for public acquisition
- f. Land affected by classes 1 and 2 acid sulphate soils
- g. Land in the foreshore area
- h. Environmentally sensitive land (E1 and E2 zones)

Note: Table 2 does not distinguish sites that already have been developed for dual occupancy and multi-unit housing.

42. The table indicates that sites available under the SEPP for:

- a. Dual occupancies with a 12m frontage is 7,761;
- b. Dual occupancy with a 15m frontage – 6,131 (council controls);
- c. Manor housing is 5,490; and
- d. Terraces is 2,550.

43. The changes to the Standard LEP instrument amend both the Kogarah and Hurstville LEPs. If the development cannot be carried out as complying development due to an exclusion or a non-compliance with the new Low Rise Medium Density Housing Code, a DA can be lodged, as manor housing and terrace housing will be permitted in the R3 Medium Density Housing zone under Kogarah LEP 2012 and in the R2 and R3 zones under the Hurstville LEP 2012.

44. Therefore it is envisaged that there will be an increase in the DA and the CDCs numbers for manor housing, dual occupancies and terrace housing – and it is anticipated that manor housing will be a popular form of development.

45. It should be noted that in the 2017 calendar year:

- a. Council received 101 DAs for Dual Occupancies with a total of \$166,000.00 received in DA fees.
- b. Out of the 101 DAs received, 61 construction certificates were issued by private certifiers.
- c. Only 5 construction certificates were issued by Council with a total of \$21,500.00 received in fees.

Kogarah Local Environmental Plan 2012

46. Items 17, 18 and 19 of Schedule 1 Additional Permitted Uses allow medium density housing to be carried out in the R2 Low Density Residential zone on land listed in the schedule.

47. Medium density housing is not currently permitted in the R2 Low Density Residential zone and is contrary to the objectives of the zone.
48. The proposed expansion of the definitions of multi dwelling housing and residential flat buildings to include multi dwelling housing (terraces) and manor houses, the amendment to Direction 5 and the introduction of Directions 6 and 7 in the Land Use Table means that the Multi dwelling housing land use is diametrically opposed to the R2 objective of providing for the housing needs of the community within a low density residential environment.
49. It is no longer appropriate to allow multi dwelling housing on land in the R2 Low Density Residential zone through an additional permitted use, until such time as Council has completed a Housing Strategy and reviewed all of the land in the LGA, to determine what land has merit on strategic planning grounds to accommodate medium density housing.
50. Dual occupancies are permitted with consent in the R2 Low Density Residential zone. It is not appropriate to apply the Low Rise Medium Density Housing Code to Dual occupancies in the R2 Low Density Residential zone as it changes the characterisation of the Dual occupancy land use into a land use that is only appropriate in the R3 Medium Density zone. The Dual Occupancy land use is only acceptable in the R2 Low Density Residential zone if the merit of each development is assessed against the objectives of the zone through the development assessment process.
51. If the Low Rise Medium Density Housing Code applied to the dual occupancy land use in the R2 Low Density Residential zone, the land use would no longer meet the low density character of the zone. The Code will increase the density of the area in a zone that does not have the requisite facilities or services for such medium density housing, to meet the day to day needs of residents in that zone.
52. The permissibility of medium density housing may continue on land zoned R3 Medium Density Housing and Council does not oppose the application of the Low Rise Medium Density Housing Code to the R3 Medium Density Housing zone, as such development meets the objectives of the zone and the community and Council have been consulted with in determining the appropriateness of such a zoning on that land. However, such provisions should be developed by Council through a housing strategy process.

Hurstville Local Environmental Plan 2012

53. Multi dwelling housing is currently permitted with consent in the R2 Low Density Residential zone. The proposed expansion of this land use to include manor houses and multi dwelling housing (terraces) means that the Multi dwelling housing land use will no longer meet the objectives of the R2 Low Density Residential zone. The purpose of the zone is to provide housing for the community in a low density residential environment, whilst ensuring that a high level of residential amenity is achieved and maintained. Multi dwelling housing is now contrary to these objectives, as it will adversely affect the surrounding residential amenity and the natural and cultural heritage of the area. This is further compounded by the Low Rise Medium Density Housing Code which will remove any consideration of the objectives of the zone and the impact of the development on the low density character of the area.
54. It is no longer appropriate to permit multi dwelling housing on land in the R2 Low Density Residential zone, until such time as Council has completed a Housing Strategy and reviewed all of the land in the LGA, to determine what land has merit on strategic planning grounds to accommodate medium density housing.
55. Dual occupancies are permitted with consent in the R2 Low Density Residential zone. However applying the density controls of the Low Rise Medium Density Housing Code to the R2 Low Density Residential zone will increase the housing density in the zone and therefore resulting in housing not meeting the objectives of a low density residential zone.

The Dual Occupancy land use is only acceptable in the R2 Low Density Residential zone if the merit of each development is assessed against the objectives of the zone through the development assessment process.

56. If the Low Rise Medium Density Housing Code applied to the Dual occupancy land use in the R2 Low Density Residential zone, the land use would no longer meet the low density character of the zone, a high level of residential amenity could not be maintained and such development would compromise the amenity of the surrounding area, as whole streets of low density houses could become rows of dual occupancies without development consent and with no neighbour consultation. This would dramatically increase the density of the area in a zone that does not have the requisite facilities or services for such medium density housing, to meet the day to day needs of residents in that zone.
57. The permissibility of medium density housing may continue on land zoned R3 Medium Density Housing, however the intent of the planning proposal is for Council to develop its own provisions for multi-unit housing in the R3 zones, with such provisions being developed through a housing strategy process.

Impact of the Low Rise Medium Density Housing Code on the planning proposal process

58. The commencement of the Low Rise Medium Density Housing Code and medium density housing in the R2 Low Density Residential zone will undermine the Department's own process for preparing local environmental plans, which requires such changes to land uses and zoning to have strategic justification and be appropriately assessed through the planning proposal process. This includes the application of a "suite of Ministerial Directions which require consideration for local plan making that covers issues such as employment, environment and heritage, housing, infrastructure and urban development" (Greater Sydney Region Plan, Objective 39, p. 183).

Impact of the expansion of multi dwelling housing on the Georges River LGA

59. The impact of the expansion of medium density housing in the Georges River LGA can be illustrated by understanding the area of land zoned R2 Low Density Residential and R3 Medium Density Residential; the number of lots eligible for manor houses, multi dwelling housing (terraces) and dual occupancies in the R2 Low Density Residential and R3 Medium Density Residential zones; and the number of multi dwelling housing developments that have been approved by the former Kogarah Council, former Hurstville Council and Georges River Council.

Impact of SEPP Controls on the Built Environment of the City

60. The SEPP provisions proposing a 12m frontage for dual occupancies and the provision of 600m² site area and 15m frontage for manor houses will have an adverse impact on the built form characteristics of the R2 zoned areas within the City.
61. The impacts are:
 - a. the resulting land use would no longer meet the low density character of the R2 zone;
 - b. a high level of residential amenity could not be maintained as such development would compromise the amenity of the surrounding area, as whole streets of low density houses could become rows of dual occupancies without development consent and with no neighbour consultation;
 - c. a dramatic increase the density of the area in a zone that does not have the requisite facilities or services for such medium density housing, to meet the day to day needs of residents in that zone; and
 - d. The reduction of rear yard areas and tree canopy.

62. Council should be able to develop its own provisions for manor housing and terrace housing in the R3 zones, with such provisions being developed through a housing strategy process – looking at appropriate zoning, lot size, frontage, height and setbacks.
63. For these reasons Council is seeking exemption from the SEPP. The delivering of a diversity of housing through a range of housing typology such as manor houses, small scale residential flat buildings, terrace housing and dual occupancy should be developed by Council which reflect local characteristics.

Planning Proposal

64. The Planning Proposal has been drafted in accordance with the relevant sections of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the following advisory documents prepared by the Department of Planning and Environment:
 - a. “A guide to preparing planning proposals” (August, 2016); and
 - b. “A guide to preparing local environmental plans” (August, 2016).
65. The drafting has included a review of the strategic planning framework and an LGA wide assessment as listed below:
 - a. Kogarah Local Environmental Plan 2012;
 - b. Hurstville Local Environmental Plan 2012;
 - c. State Environmental Planning Policies;
 - d. Ministerial Section 117 Directions;
 - e. Environmental, Social and Economic Impacts; and
 - f. Services and Infrastructure.
66. Section 55 of the Environmental Planning & Assessment Act, 1979 outlines that a planning proposal must explain the intended effect and the justification for making the proposed instrument and must include the following components:
 - a. A statement of the objectives and intended outcomes of the proposed instrument (Part 1)
 - b. An explanation of the provisions that are to be included in the proposed instrument (Part 2)
 - c. The justification for those objectives, outcomes and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117) (Part 3)
 - d. Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies (Part 4)
 - e. Details of community consultation that is to be undertaken before consideration is given to the making of the proposed instrument (Part 5)
67. **Attachment 3** contains a copy of the Planning Proposal for Councils information.
68. The objectives of the Planning Proposal are to:
 - a. Ensure that appropriate strategic studies are carried out to “identify the right locations for growth, including areas that are unsuitable for significant change in the short to medium term” (Greater Sydney Region Plan, Objective 10, p. 64)
 - b. Uphold the integrity of the objectives of the R2 Low Density Residential zone
 - c. Protect the low density residential character of the R2 Low Density Residential zone

- d. Ensure that the community is able to have their say on the future of the Georges River LGA, including the type of housing that is permitted and where it is permitted in the LGA
- e. Ensure that social, environmental and economic factors are considered prior to allowing multi dwelling housing in the Georges River LGA

Conclusion

- 69. Council has raised concern with the impact of the Low Rise Medium Density Code and medium density housing in its R2 Low Density Residential Zone with the Department of Planning and Environment; and has outlined those concerns in this report.
- 70. By letter dated 24 May 2018 the Department has advised that the Minister has indicated that he would consider deferring the commencement of the code to allow councils to rectify local planning controls to meet the strategic intent of the council area; and that this deferral was contingent on the lodgement of a planning proposal with the Department by 27 June 2018.
- 71. A Planning Proposal has been prepared in accordance with the Council resolution dated 28 May 2018. This report recommends that the Georges River Local Planning Panel recommends to Council that the Planning Proposal – Low Rise Medium Density Housing Code, be forwarded to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 3.34 of the Environmental Planning and Assessment Act 1979.

Financial Implications

- 72. Within budget allocation.

Risk Implications

- 73. Risks include:
 - a. Financial – loss of DA income from more housing development being approved under SEPP (Exempt and Complying Development Codes) 2008,
 - b. Operational – increase in number of DAs lodged for dual occupancies, terrace housing and manor housing, the changes to the Standard LEP instrument amend both the Kogarah and Hurstville LEPs. If the development cannot be carried out as complying development due to an exclusion or a non-compliance with the new Low Rise Medium Density Housing Code, a DA can be lodged, as manor housing and terrace housing will be permitted in the R3 Medium Density Housing zone under Kogarah LEP 2012 and in the R2 and R3 zones under the Hurstville LEP 2012,
 - c. Environmental - the resulting land use would no longer meet the low density character of the R2 zone; a high level of residential amenity could not be maintained as such development would compromise the amenity of the surrounding area, as whole streets of low density houses could become rows of dual occupancies without development consent and with no neighbour consultation; a dramatic increase the density of the area in a zone that does not have the requisite facilities or services for such medium density housing, to meet the day to day needs of residents in that zone; and, the reduction of rear yard areas and tree canopy.

Community Engagement

- 74. Community engagement will be conditioned through the gateway determination.

File Reference

Trim File 18/1177

ATTACHMENTS

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|--------------|---|
| Attachment 1 | Letter dated 24 May 2018 from Department of Planning on requirements for a planning proposal which seeks deferral of Code |
| Attachment 2 | Schedule 1 - Additional Permitted Uses under the Kogarah LEP 2012 |
| Attachment 3 | Planning Proposal |