

## Place, Design and Public Spaces

### Gateway determination report

<b>LGA</b>	Ryde
<b>PPA</b>	City of Ryde Council
<b>NAME</b>	Removal of Multi Dwelling Housing from the R2 Low Density Residential Zone
<b>NUMBER</b>	PP_2020_RYDEC_001_00
<b>LEP TO BE AMENDED</b>	Ryde Local Environmental Plan 2014
<b>ADDRESS</b>	Local government area wide
<b>DESCRIPTION</b>	All land zoned R2 Low Density Residential and land where dual occupancies (attached) are permitted under Ryde Local Environmental Plan 2014.
<b>RECEIVED</b>	23 April 2020
<b>FILE NO.</b>	IRF20/2463
<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.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal has been prepared as part of City of Ryde Council's first stage of implementing the *City of Ryde Draft Local Housing Strategy 2020* (Hill PDA Consulting, February 2020). Council's draft Local Housing Strategy (LHS) identifies several strategic directions, one of which is to mitigate the impact of the Low Rise Medium Density Housing Code (Code).

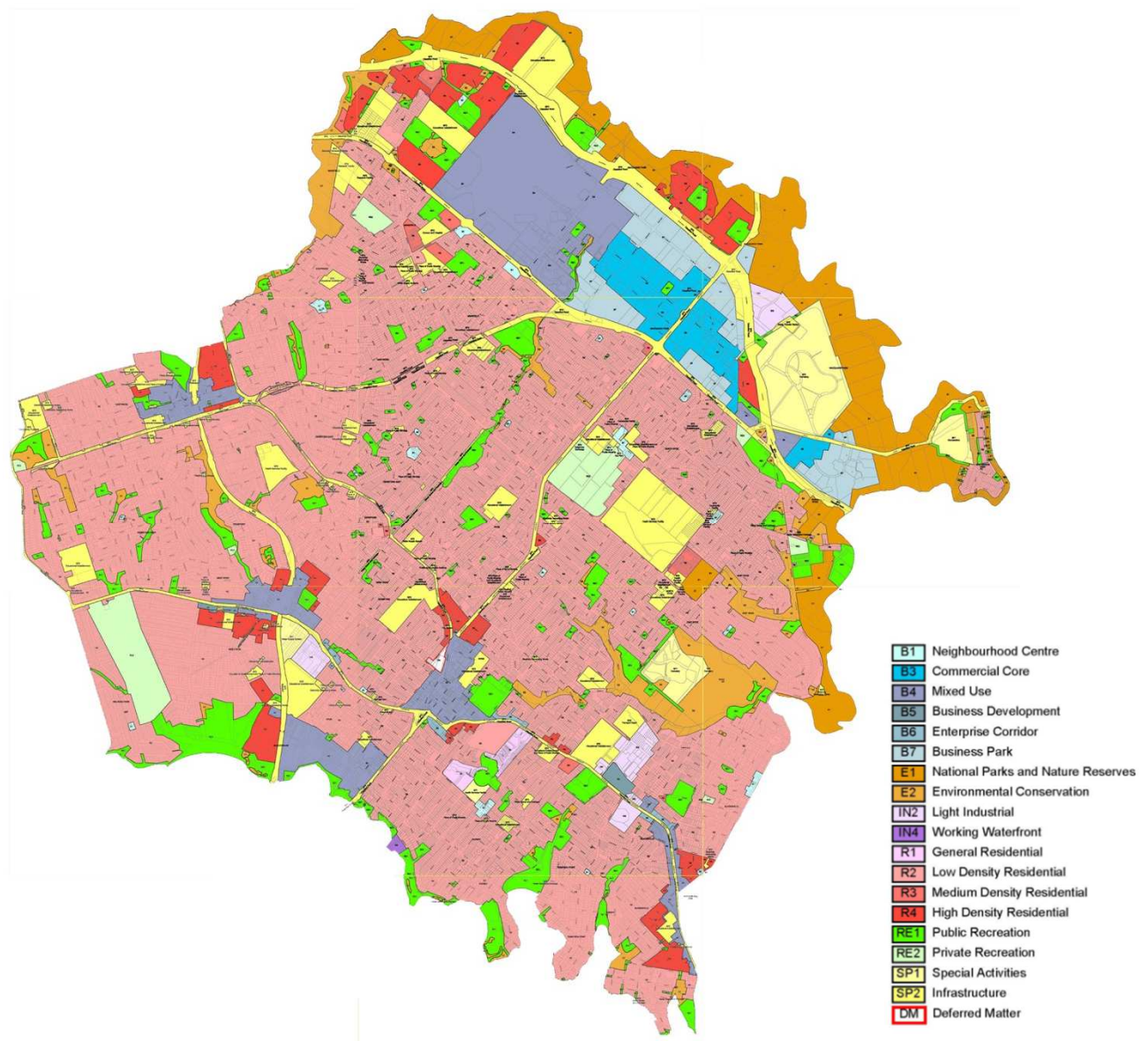
The Low Rise Medium Density Housing Code (Code) under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* permits dual occupancies, manor houses and terraces (up to two storeys) under a complying development certificate (CDC) and enables subdivision of this development, but only where this development fully complies with the provisions of the Code and where these uses are permitted under a local environmental plan.

The Code commenced on 6 July 2018, however 46 councils, including the City of Ryde Council, received temporary deferral of the Code until 1 July 2020. On 1 July 2020, the Code will be operational in the Ryde local government area.

The planning proposal seeks to amend *Ryde Local Environmental Plan 2014* (Ryde LEP 2014) to prohibit 'multi dwelling housing' in Zone R2 Low Density Residential, as well as amend the planning controls for 'dual occupancies (attached)' development in relation to Torrens title subdivision, strata subdivision and the granting of development consent.

## 1.2 Site description

The planning proposal applies to all land zoned R2 Low Density Residential and land where dual occupancies (attached) are permitted under Ryde LEP 2014. Residential zones that permit dual occupancies (attached) include R2 Low Density Residential, R3 Medium Density Residential and R4 High Density Residential. According to the draft LHS, approximately 2,082 hectares, or 51 per cent of the area of the Ryde LGA, is zoned R2 Low Density Residential. Figure 1 shows the extent of land zoned R2 Low Density Residential.



**Figure 1:** Land zoning under Ryde LEP 2014 (Source: NSW Legislation)

### 1.3 Existing planning controls

The planning proposal seeks to amend the R2 Low Density Residential land use table, as well as clauses 4.1A, 4.1B and 4.5A under Ryde LEP 2014.

The existing R2 Low Density Residential zone land use table permits 'multi dwelling housing' with consent.

The objectives of Zone R2 Low Density Residential are:

- To provide for the housing needs of the community within a low-density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a variety of housing types

Land uses permitted with consent in the R2 zone include:

*Bed and breakfast accommodation; Boarding houses; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies (attached); Dwelling houses; Environmental protection works; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Hospitals; Multi dwelling housing; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Residential care facilities; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture*

The existing Clause 4.1A Dual occupancy (attached) subdivisions relates to dual occupancy (attached) Torrens title subdivision and specifies a lot area of at least 580 square metres and that each resulting lot (containing one dwelling) will have an area of not less than 290 square metres. On or after Amendment 2 to Ryde LEP 2014 (notified on 10 April 2015), there is an additional requirement that the resulting lot (of not less than 290 square metres) has a road frontage of not less than 10 metres.

The existing Clause 4.1B Minimum lot sizes for dual occupancies and multi dwelling housing aims to clarify the amount of land (site area) required before certain residential development can occur. The standard minimum size of lots has generally been formulated on the basis of a conventional subdivision for a single dwelling. In most cases dual occupancy, multi dwelling housing and residential flat buildings require the original ('parent') lot to be larger than shown on the Minimum Lot Size Map.

Under clause 4.1B, development consent may be granted for dual occupancies (attached) and multi dwelling housing if the road frontage of the lot is equal to or greater than 20 metres and the area of the lot is equal to or greater than 580 square metres for dual occupancies (attached) and the area of the lot is equal to or greater 900 square metres in the case of multi dwelling housing.

The existing Clause 4.5A Density Controls for Zone R2 Low Density Residential specifies site area requirements in relation to multi dwelling housing in the R2 zone. For example, the site area for the building is not less than 300 square metres for

each 1, 2 or 3 bedroom dwelling; and not less than 365 square metres for each 4 or more bedroom dwelling.

#### **1.4 Background**

On 12 March 2020, the Ryde Local Planning Panel considered the planning proposal to remove multi dwelling housing as a permitted use in the R2 Low Density Residential zone and amend the planning controls for dual occupancies (attached) under *Ryde Local Environmental Plan 2014*. The Panel unanimously determined that the planning proposal be submitted for Gateway determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

On 24 March 2020, at Council Meeting No. 5/20, City of Ryde Council considered the planning proposal. Council resolved to endorse the planning proposal to be submitted for Gateway determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

#### **1.5 Summary of recommendation**

It is recommended the planning proposal proceed to Gateway determination subject to conditions because:

- the Code permits additional land uses, such as manor houses and multi dwelling housing (terraces), which have not been anticipated in the R2 Low Density Residential zone under Ryde LEP 2014;
- the proposal is supported by a draft Local Housing Strategy (yet to exhibited); and
- Council can review its LEP and the community's housing needs in all residential areas, including its low and medium density zones.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The planning proposal states that the objectives of the proposed LEP changes are to:

- ensure that the type of residential development permitted in the R2 Low Density zone reflects the objectives of the zone; as well as conserves and protects the existing low-density character of the built environment of the R2 Low Density Residential zone into the future
- ensure a clear distinction between the five zones that currently permit residential development in the City of Ryde through the residential land uses permitted in each zone and the level of the density of development that occurs in each zone;
- ensure the development anticipated in the R2 zone can be adequately serviced by infrastructure and services;
- enable planning for medium density development to be focused in locations that provide adequate servicing of that development; and
- provide a transition from high density to low density residential development.

The Department considers the planning proposal's objectives are adequately explained.

## **2.2 Explanation of provisions**

The planning proposal identifies the relevant parts of Ryde LEP 2014 that will be amended and details how clauses will be changed. Specifically, a summary of the proposed amendments include:

- multi dwelling housing will be deleted from the Zone R2 Low Density Residential land use table as permitted with consent;
- clause 4.1A will be deleted and replaced with a new clause that increases the minimum lot size for Torrens title subdivision and strata subdivision of dual occupancies (attached) from 580 square metres to 750 square metres. Additionally, for Torrens title subdivision the road frontage of the lot is proposed to decrease from 20 metres to 12 metres.
- clause 4.1B will be amended to increase the lot size for dual occupancies (attached) from 580 square metres to 750 square metres in the R2 zone before development consent may be granted. Additionally, the road frontage development standard is proposed to decrease from 20 metres to 12 metres. The existing reference to multi dwelling housing is proposed to be deleted given the change proposed to the R2 zone land use table (discussed above). It is also proposed to preclude the operation of clause 4.6 Exceptions to development standards which allows for the variation of development standards in certain circumstances.
- clause 4.5A will be deleted given the change proposed to the R2 zone land use table (discussed above).

It is considered the proposal's explanation of provisions provides a detailed description of how the objectives or intended outcomes are to be achieved.

## **2.3 Mapping**

There are no proposed amendments to the Ryde LEP 2014 maps as part of this planning proposal.

The planning proposal includes maps as figures to identify the number and location of lots affected by the proposal. The planning proposal states Figure 3 depicts R2 zoned land currently eligible to be developed as dual occupancy and multi dwelling housing. However, the map itself includes parameters for site area of 900 square metres and above and road frontage of at least 20m. It is unclear why these parameters have been used when under existing planning controls dual occupancies (attached) can be developed where the minimum lot size is 580 square metres.

Furthermore, the imagery resolution of the maps (pages 11 – 13 of the planning proposal) should be improved to assist with general map legibility. Council may consider using map titles to divide the LGA and add these as attachments to the planning proposal. The purpose of such mapping would be to assist in visually understanding the extent of lots affected.



A Gateway condition is recommended to update the planning proposal to review these maps and ensure the correct quantitative analysis is used.

### **3. NEED FOR THE PLANNING PROPOSAL**

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The planning proposal is the result of Council's draft Local Housing Strategy (LHS) prepared by Hill PDA for Council, dated February 2020. The draft LHS was considered by Council at Council Meeting of 24 March 2020. Council resolved to endorse the draft LHS for public exhibition for a period of 28 days, which will take place after the pandemic period (COVID-19) has been officially downgraded. The draft LHS is yet to commence public exhibition.

The draft LHS sets out a plan for delivery of new housing in Ryde for the next 10 to 20 years. It has informed the development of the Ryde Local Strategic Planning Statement 2020 (LSPS) and supports Council's vision to align the housing growth with provision of infrastructure, services and community facilities.

A key action of Council's draft LHS is the preparation of a planning proposal to prohibit multi dwelling housing in the R2 Low Density Residential zone and increase the minimum lot size for dual occupancies to manage housing growth anticipated as complying development under the Low Rise Medium Density Housing Code (Code).

The planning proposal states the Code will increase the theoretical dwelling capacity in the R2 zone from approximately 5,900 dwellings to 19,000 dwellings – representing an additional 14,000 dwellings.

The Department notes a discrepancy between the theoretical dwelling potential stated in the planning proposal compared to the estimates provided in the draft LHS. The draft LHS states that under existing planning controls the theoretical maximum dwelling yield in the R2 zone is 5,252 additional dwellings (across 3,936 lots). Upon implementation of the Code, the theoretical maximum dwelling yield in the R2 zone is 20,418 additional dwellings (across 11,550 lots) – representing approximately 15,000 additional dwellings above current capacity.

The draft LHS's methodology for its desktop analysis of dwelling yield capacity is primarily based on lot size and frontage. Strata lots were excluded as they were assumed not to have development potential because of the constraint imposed by multiple ownership.

It is unclear whether the analysis excluded land based exemptions under the Codes SEPP, including but not limited to:

- Heritage items and heritage conservation areas
- Land reserved for public purpose
- Acid sulfate soils class 1 and 2
- Coastline hazard / coastal hazard / coastal erosion hazard
- Land in a foreshore area

The planning proposal asserts the proliferation of low rise medium density housing would have a significant adverse impact on the existing character of the R2 zone; undermine the existing hierarchy of the residential zones; would not be consistent

with the existing and proposed infrastructure capacities and would not be sustainable into the future.

The planning proposal states (page 6):

*With the introduction of Part 3B of the SEPP, the planning controls in Ryde LEP 2014 for Dual Occupancy, Multi dwelling housing (terraces) and Manor Houses will be overridden and significantly relaxed. These developments would also be complying development under the SEPP and the current design and development standards will no longer apply.*

This statement is incorrect as the Code uses the minimum lot size for dual occupancies and multi dwelling housing in an LEP where this is specified. Only where the LEP does not specify a minimum lot size for such development will the lot requirements in the Code be utilised. Currently Ryde LEP 2014 requires a minimum lot size of 580 square metres for dual occupancies (attached) and 900 square metres for multi dwelling housing in the R2 zone. A Gateway condition is recommended to update the planning proposal to clarify that the Code does not override, but in fact utilises, the minimum lot sizes in an LEP where this is specified for dual occupancies and multi dwelling housing.

Many councils commenced the implementation of the Code on 6 July 2018. For councils that requested additional time, such as the City of Ryde Council, a temporary deferral was been granted. The Code will be operational in the Ryde LGA on 1 July 2020.

The Code allows well designed dual occupancies, manor houses and terraces (up to two storeys) under a fast track complying development approval (Figure 2). A development proposal must meet all of the development standards in the Code and the Design Criteria in the supporting Low Rise Medium Density Design Guide for complying development. A complying development certificate can be issued within 20 days if the proposal complies with all the relevant requirements in the Code.

Low rise medium density housing as complying development is only permitted in the following zones where councils already allow it under their Local Environmental Plan (LEP):

- Zone RU5 Village,
- Zone R1 General Residential,
- Zone R2 Low Density Residential,
- Zone R3 Medium Density Residential.

Manor houses and multi dwelling housing (terraces) are two new land uses terms introduced under the Codes SEPP. They are defined in the Codes SEPP as follows:

**manor house** means a residential flat 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).

**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.



**Figure 2:** Spectrum of low rise medium density housing (DPIE website)

The Code permits manor houses where multi dwelling housing or residential flat buildings (or both) are permitted in council's LEP.

Multi dwelling housing (terraces) are permitted under the Code where council's LEP permits multi dwelling housing is permitted in a zone.

Dual occupancy is defined in the Standard Instrument – Principal Local Environmental Plan and Ryde LEP 2014 as follows:

**dual occupancy** means a dual occupancy (attached) or a dual occupancy (detached).

**dual occupancy (attached)** means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

*Note. Dual occupancies (attached) are a type of **dual occupancy***

Dual occupancies under the Code are permitted where council's LEP permits dual occupancies.

This means that if the Code applies to a local government area, applicants may lodge a development application under the relevant LEP or carry out complying development under the Code for manor houses, multi dwelling housing (terraces) or dual occupancies, where they are permitted in a zone.

Once multi dwelling housing is prohibited in the R2 Low Density Residential zone under Ryde LEP 2014, manor houses and multi dwelling housing (terraces) cannot be developed in this zone, whether it be through a complying development certificate or development consent.

To assist the community's understanding of the proposed changes and what they mean, particularly affected landowners, it is recommended that the planning proposal is updated prior to community consultation to include the definitions for dual occupancies, manor houses and multi dwelling housing (terraces) as well as an image depicting the range of low rise medium density housing that may be developed under a complying development certificate.



The planning proposal identifies a number of means of achieving the intended outcomes, including:

- amend the Code so that manor houses and terraces are not permissible wherever multi dwelling housing is currently permitted;
- amend the Code to adopt Ryde LEP 2014's planning controls for dual occupancies;
- amend the Code to exempt Ryde LGA from the operation of the Code; or
- proceed with a planning proposal as stage 1 of implementing the draft LHS.

The Department considers a planning proposal is the best means for achieving the intended outcomes.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 Greater Sydney Region Plan**

The Greater Sydney Region Plan *A Metropolis of Three Cities* was released by the Greater Sydney Commission on 18 March 2018. It sets a 40-year vision (to 2056) and established a 20-year plan to manage growth and change for Greater Sydney in the context of social, economic and environmental matters.

The planning proposal is generally consistent with the objectives and actions for liveability in the Plan.

While the plan emphasises the need to provide greater housing supply and a diversity of housing types, it also recognises Councils are in the best position to investigate and confirm which parts of their local government areas are suited to additional medium density opportunities.

Although the removal of multi dwelling housing from the R2 Low Density Residential zone will potentially reduce housing diversity in this zone, the proposal seeks to ensure that the existing hierarchy of residential zones, representing low, medium and high-density residential development within Ryde, is maintained and protected into the future.

### **4.2 North District Plan**

The North District Plan was released by the Greater Sydney Commission in March 2018. The District Plan is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney. It is a guide for implementing the Greater Sydney Region Plan at a district level and is a bridge between regional and local planning.

The North District covers Hornsby, Hunter's Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Northern Beaches, Ryde and Willoughby local government areas

The North District Plan sets a five-year housing target (2016 to 2021) of 7,600 dwelling for the Ryde LGA. Council's draft LHS suggests that approximately 9,000 dwellings are likely to be delivered from development in the pipeline, thereby meeting or exceeding this target.

Promoting housing diversity, including a mix of dwelling types in appropriate locations, is a key objective of the North District Plan. This is to be predominately led by councils and informed by local housing strategies.

The planning proposal states it has been prepared by Council as the first stage of implementing Council's draft LHS (February 2020). Stage two of the implementation of the draft LHS is to investigate the more appropriate areas for provision of medium density housing to fulfil the need for this type of housing and to provide for transition areas from high density to low density residential development.

### 4.3 Local

#### City of Ryde Local Strategic Planning Statement

On 31 March 2020, the Greater Sydney Commission confirmed it supports the City of Ryde's Local Strategic Planning Statement (LSPS) (March 2020) as being consistent with the Greater Sydney Region Plan and North District Plan under Section 3.9(3A) of the EP&A Act.

Ryde's LSPS is 20-year plan setting out Council's vision and planning priorities for the Ryde LGA, and the actions Council will take to achieve them. It also bridges the space between the Community Strategic Plan and the local planning framework. Planning priorities and actions identified in the Ryde LSPS that are relevant to the planning proposal include:

<b>Planning priority</b>		<b>Action</b>
<i>Housing supply to satisfy needs to 2039</i>	➡	<i>Encourage residential development within existing centres that are well serviced by public transport, community infrastructure and open space</i>
<i>Maintain the City of Ryde's current strategic planning direction to focus the majority of residential growth within town centres</i>	➡	<i>Investigate residential transition areas around centres. 2025</i>
<i>Protect the character of low-density residential areas</i>	➡	<i>Prepare a housing strategy that will provide for medium-density housing in appropriate locations within the City of Ryde and support dual occupancy 'infill' development in keeping with local character. 2021</i>

Ryde LSPS states that through Council's LHS and subsequent updates to Council's plans and controls, Council will explore options for the most appropriate approach to deliver medium density housing at a similar quantum to current levels in the short term. It will also consider how to ensure medium density options can be appropriately increased into the future. The impacts of the Code are proposed to be managed to ensure a balance between maintaining valued local character and providing appropriate opportunities for medium density outcomes.

It is considered the planning proposal is consistent with relevant planning priorities and actions in the Ryde LSPS.

## City of Ryde draft Local Housing Strategy

Ryde's draft LHS (February 2020) sets out a plan for delivery of new housing in the LGA for the next 10 to 20 years. It has informed the development of the Ryde Local Strategic Planning Statement (LSPS) and supports Council's vision to align the housing growth with provision of infrastructure, services and community facilities.

Strategic directions and key actions identified in the Ryde draft LHS that are relevant to the planning proposal include:

<b>Strategic direction</b>		<b>Key action</b>
<i>Adopt housing delivery targets</i>	➡	<i>Mitigate the effects of Part 3B of the Codes SEPP</i>
<i>Increase the supply of medium density dwellings</i>	➡	<i>Expand medium density development around centres</i>
<i>Mitigate impact of Part 3B of the Codes SEPP</i>	➡	<i>Develop planning proposal to prohibit multi dwelling housing in R2 Low Density Residential areas and increase minimum lot size for dual occupancies to manage the location of housing growth</i>

It is considered the planning proposal is consistent with relevant strategic directions and key actions in the Ryde draft LHS.

### **4.4 Section 9.1 Ministerial Directions**

Section 9.1 Directions relevant to the planning proposal include Direction 3.1 Residential Zones and Direction 6.3 Site Specific Provisions.

#### Direction 3.1 Residential zones

This Direction seeks to encourage a variety and choice of housing types to provide for existing and future housing needs. It also seeks to make efficient use of existing infrastructure and services to ensure that new housing has appropriate access to infrastructure and services. The Direction ensures that the impacts of residential development on the environment and resource lands are minimised.

The planning proposal indicates it is consistent with this Direction, however an explanation of the proposal's consistency is not provided.

The planning proposal states that there are approximately 6,269 lots of R2 zoned land currently eligible to be developed for dual occupancies and multi dwelling housing (page 11). Approximately 3,969 lots are eligible to be developed for dual occupancies (attached) only (page 12). The Department notes a discrepancy between these estimates and the capacity estimates in the draft LHS which refer to 2,987 lots for dual occupancy and 949 lots for multi dwelling housing (page 103 of draft LHS). As noted in Table 1, a combined capacity of 3,936 lots for dual occupancies and multi dwelling housing represents a theoretical maximum dwelling yield of 5,252 dwellings under current planning controls, in the absence of the operation of the Code.

**Table 1:** R2 Low Density Residential zone capacity estimates (Source: draft LHS page 103)

Housing type	Lots with capacity	Theoretical maximum dwelling yield
Dual occupancy	2,987 lots	2,987 dwellings
Multi dwelling housing	949 lots	2,265 dwellings
Total	3,936 lots	5,252 dwellings

According to the draft LHS, removing multi dwelling housing as a permissible use in the R2 zone, while maintaining the existing planning controls for dual occupancies (attached), would theoretically allow for 11,550 dual occupancies once the Code is operational. This represents an increase of approximately 7,600 dwellings across the R2 zone.

The draft LHS undertook a dual occupancy lot size option analysis based on a 15m primary road frontage, which is acknowledged as a conservative interpretation of the Code's frontage controls. The Codes SEPP allows for dual occupancy development on a frontage as small as 12m, where vehicle access is at the rear of a site, either on a corner lot or rear laneway. Due to limitations in the ability to identify lots with rear vehicle access potential, a road frontage of 15 m was used.

As shown in Table 2, a minimum lot size between 700 and 800 square metres is most closely aligned with current theoretical development capacity of dual occupancy development. Note that the dwelling yields shown in Table 2 assumes all multi dwelling housing capable lots are instead capable of providing dual occupancy development, given that multi dwelling housing is proposed to be prohibited in the R2 zone.

**Table 2:** Dual occupancy lot size option analysis with 15 m frontage (Source: draft LHS page 164)

	Current 580 m2 20 m frontage	Part 3B 580 m2 15 m frontage	Option 1 700 m2 15 m frontage	Option 2 800 m2 15 m frontage	Option 3 900 m2 15 m frontage
Dual Occupancy Capacity	3,936	11,550	5,340	2,896	1,836

In the Council officer report to Council Meeting of 24 March 2020, data is provided to show a 750 square metre minimum lot size yields a theoretical maximum dwelling capacity of 4,567 dwellings (Table 3). The Department notes that Council's data is based on a 12m road frontage, instead of 15m. This analysis must assume that all dual occupancy capable lots are able to provide rear vehicle access, which is questionable.

**Table 3:** Council report dual occupancy lot size option analysis (Source: Agenda to Council Meeting 24 March 2020)

	<b>Current LEP</b> 20m frontage	<b>Proposed SEPP</b> 12m frontage			
<b>Lot Size</b>	580m <sup>2</sup>	700m <sup>2</sup>	750m <sup>2</sup>	800m <sup>2</sup>	900m <sup>2</sup>
Dual Occupancy theoretical potential	3,936	6,407	4,567	3,414	2,105

The planning proposal seeks to amend the planning controls for dual occupancies (attached) such that this development is only permitted on lots with a minimum lot size of 750 square metres and 15m primary road frontage.

While the intent of the amendments is to maintain the overall dwelling capacity in the R2 zone, the analysis indicates that the overall theoretical maximum dwelling capacity is in fact reduced, from a current estimate of 5,252 dwellings to 4,567 dwellings (assuming the LEP amendments were made). The planning proposal is therefore considered inconsistent with this Direction as it seeks to reduce dwelling potential and choice.

To better understand the impact on dwelling potential, a Gateway condition is included requiring the planning proposal to be updated to provide further information in relation to:

- the total area of land zoned R2 Low Density Residential and R3 Medium Density Residential in the LGA;
- the number of multi dwelling housing and dual occupancy developments approved in Zone R2 Low Density Residential and Zone R3 Medium Density Residential in the LGA in the past five years;
- the number of lots that would be eligible for dual occupancies, manor houses and multi dwelling housing (terraces) under the Code in Zone R2 Low Density Residential and Zone R3 Medium Density Residential, taking into account Codes SEPP exclusions (exclusions factored into the analysis should be listed); and
- the number of lots that would be eligible for dual occupancies, manor houses and multi dwelling housing (terraces) under the Code in Zone R2 Low Density Residential and Zone R3 Medium Density Residential, once the proposed changes sought by the planning proposal have been implemented (SEPP exclusions should be taken into account).

It is considered suitable to allow the proposal to proceed with an inconsistency with this Direction remaining unresolved, which can then be considered at finalisation stage.

A Gateway condition is recommended to update the planning proposal to demonstrate the proposal's consistency or justify its inconsistency with Direction 3.1 Residential Zones.



### Direction 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site specific controls. The planning proposal seeks to amend existing planning provisions for dual occupancies (attached) which relate to Torrens title subdivision, strata subdivision and development consent. Clause 4.1B in Ryde LEP 2014 is a model local provision that aims to clarify the amount of land (site area) required before certain residential development can occur. The planning proposal is considered to be consistent with Direction 6.3 Site Specific Provisions.

### **4.5 State environmental planning policies (SEPPs)**

SEPPs relevant to the planning proposal include the following:

#### State Environmental Planning Policy (Affordable Rental Housing) 2009

The intent of the Affordable Rental Housing SEPP is to increase the supply and diversity of affordable rental housing by providing a range of planning incentives to encourage the development of new affordable rental housing.

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

The removal of multi dwelling housing from the R2 zone (i.e. the prohibition of this land use) as sought by the planning proposal would preclude this type of development from being carried out under the Affordable Rental Housing SEPP.

The planning proposal will not limit the potential for other affordable housing under the SEPP elsewhere in the LGA.

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

The Low Rise Medium Density Housing Code (Code) aims to provide greater housing choice and facilitate faster housing approvals for medium density development. The Code allows well designed dual occupancies, manor houses and terraces (up to two storeys) to be carried out under a fast track complying development approval. A development proposal must meet all of the development standards in the Code and the Design Criteria in the supporting Low Rise Medium Density Design Guide for complying development.

The Code commenced on 6 July 2018, however Ryde Council received temporary deferral of the Code until 1 July 2020.

In relation to the planning proposal, the Code will additionally permit manor houses and multi dwelling housing (terraces) where multi dwelling housing is currently permitted under Council's LEP. As such, the proposal to remove multi dwelling housing from the R2 Low Density Residential zone will preclude these types of development from being carried out under the Code.

A Gateway condition is recommended requiring the planning proposal to be updated prior to public exhibition to provide quantitative analysis demonstrating the number of lots that would be eligible for dual occupancies, manor houses and multi dwelling housing (terraces) permitted under the Code, taking into account land excluded from the Code.

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

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

The planning proposal aims to retain the character and low-density nature of the R2 zone and ensure that anticipated development is commensurate with supporting infrastructure and services.

### **5.2 Environmental**

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

### **5.3 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 planning proposal, including consideration of Section 9.1 Direction 3.1 Residential Zones and the impacts of the Low Rise Medium Density Housing Code.

## **6. SAVINGS AND TRANSITIONAL PROVISIONS**

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A Gateway condition is recommended requiring the planning proposal to be updated prior to public exhibition to include a savings and transitional clause to ensure any development applications lodged and not determined are not adversely impacted by the proposed changes.

## **7. CONSULTATION**

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### **7.1 Community**

A Gateway condition is recommended requiring that Council write to all affected landowners about the exhibition of the proposal explaining the proposed changes and what they mean for the landowner. Landowners affected by the proposal include those within land zoned R2 Low Density Residential and those that are affected by the proposed changes to planning controls for dual occupancies (attached), such as those zones other than R2 where this form of development is permitted.

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.

## **7.2 Agencies**

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

## **8. TIME FRAME**

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The project timeline provided in the planning proposal indicates a timeframe of five to six months from issue of the Gateway determination to complete the LEP amendment. This time frame is considered to be optimistic given additional information and public consultation is required. A 12-month time frame is therefore recommended.

## **9. LOCAL PLAN-MAKING AUTHORITY**

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Council has confirmed it does not request authorisation to be the local plan-making authority. Given the implications the planning proposal may have on state policy, it is recommended that Council not be granted local plan-making authority.

## **10. CONCLUSION**

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The planning proposal is supported to proceed subject to conditions because:

- the Code permits additional land uses, such as manor houses and multi dwelling housing (terraces), which have not been anticipated in the R2 Low Density Residential zone under Ryde LEP 2014;
- the proposal is supported by a draft Local Housing Strategy (yet to exhibited); and
- Council can review its LEP and the community's housing needs in all residential areas, including its low and medium density zones.

## **11. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Direction 3.1 Residential Zones is unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated to:
  - (a) clarify that the Code utilises the minimum lot size specified for dual occupancies and multi dwelling housing in an LEP;
  - (b) include the definitions for dual occupancies, manor houses and multi dwelling housing (terraces) as well as an image depicting the spectrum of low rise medium density housing;
  - (c) demonstrate the planning proposal's consistency or justify its inconsistency with Direction 3.1 Residential Zones;
  - (d) provide a quantitative analysis to assess the impacts of the proposal on housing diversity and supply as follows:

- i. the total area of land zoned R2 Low Density Residential and R3 Medium Density Residential in the LGA;
    - ii. the number of multi dwelling housing and dual occupancy developments approved in Zone R2 Low Density Residential and Zone R3 Medium Density Residential in the LGA in the past five years;
    - iii. the number of lots that would be eligible for dual occupancies, manor houses and multi dwelling housing (terraces) under the Code in Zone R2 Low Density Residential and Zone R3 Medium Density Residential, taking into account the Codes SEPP exclusions (exclusions factored into the analysis should be listed); and
    - iv. the number of lots that would be eligible for dual occupancies, manor houses and multi dwelling housing (terraces) under the Code in Zone R2 Low Density Residential and Zone R3 Medium Density Residential, once the proposed changes sought by the planning proposal have been implemented (SEPP exclusions should be taken into account); and
  - (e) provide mapping that demonstrates the impact of the Code on affected lots and ensure this of an appropriate scale and resolution;
  - (f) include a new savings and transitional clause to ensure that proposed amendments do not affect any development applications or appeal processes; and
  - (g) revise the project timeline.
2. The revised planning proposal is to be updated in accordance with condition 1 and forwarded to the Department for review and approval prior to public exhibition.
  3. Council is to write to all affected landowners providing notice of the proposal and public exhibition, explaining the effect of the proposed changes.
  4. The planning proposal should be made available for community consultation for a minimum of 28 days.
  5. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.



30 May 2020

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