



Planning,  
Industry &  
Environment

IRF21/4646

## Gateway determination: PP-2021-6629

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Winston Hills prohibition of dual occupancies

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# 1 Planning proposal

## 1.1 Overview

**Table 1 Planning proposal details**

Local Government Area (LGA)	City of Parramatta
PPA	City of Parramatta Council
NAME	Winston Hills prohibition of dual occupancies
NUMBER	PP-2021-6629
LEP TO BE AMENDED	Parramatta Local Environmental Plan 2011 (Parramatta LEP)
ADDRESS	Simpson Street, Lois Street and Naomi Street South, Winston Hills
DESCRIPTION	27 properties located at 1 and 3 Simpson Street, 1-5 and 2-8 Lois Street and 5A, 51-61 and 64-82 Naomi Street South, Winston Hills
RECEIVED	2/11/2021
FILE NO.	IRF21/4646
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal (**Attachment A**) contains objectives and intended outcomes that adequately explain the intent of the proposal. The objective of the planning proposal is to prohibit dual occupancy development on the subject sites.

The stated objective of the planning proposal is to prevent adverse development outcomes within the subject sites by prohibiting dual occupancy development and address local community concerns about the impacts of increased development.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Parramatta LEP to apply the Dual Occupancy Prohibition Map (prohibition map) to the subject sites. No other amendments to the LEP are proposed.

## 1.4 Site description and surrounding area

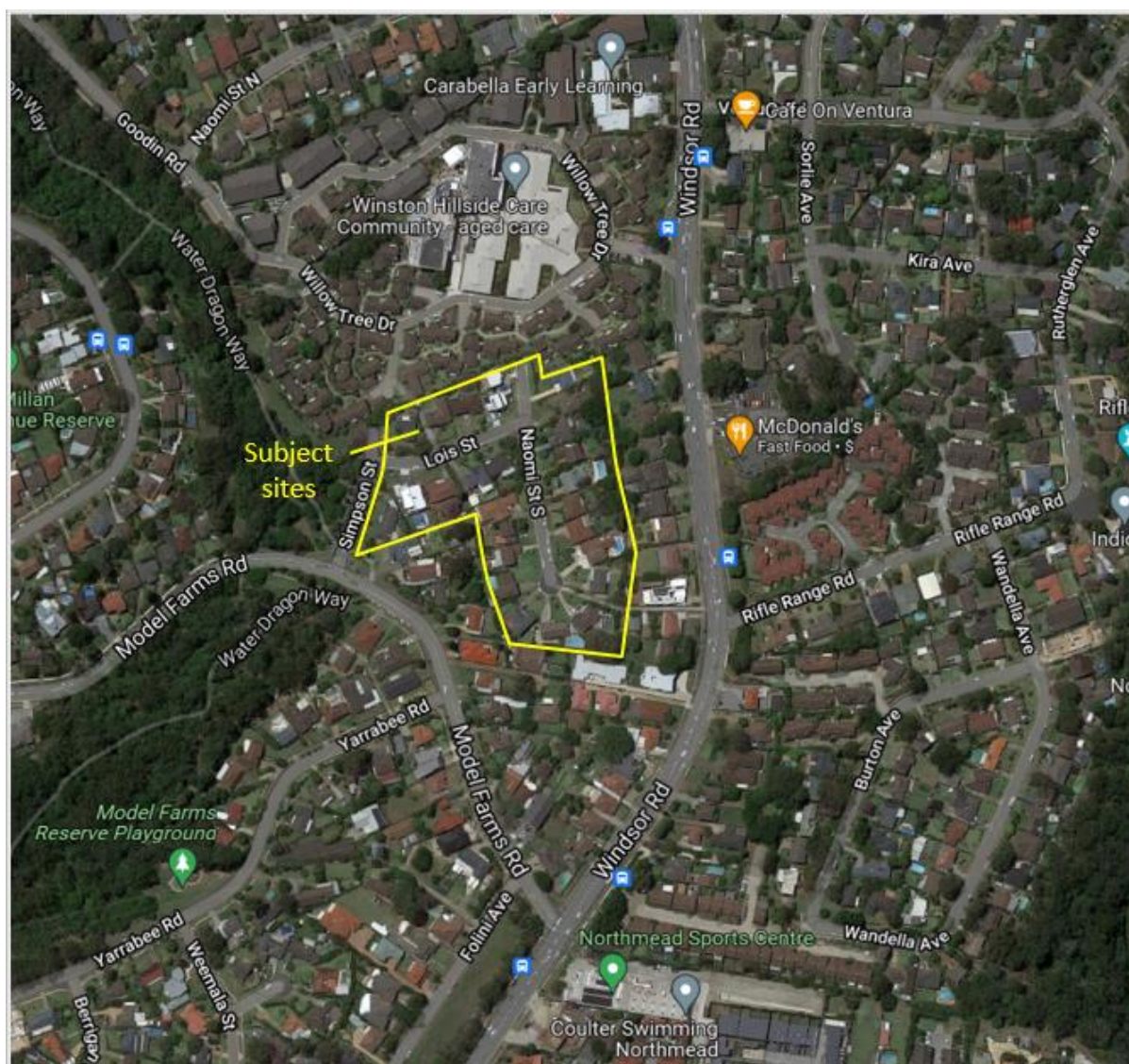
The subject sites consist of 27 properties located at 1 and 3 Simpson Street, 1-5 and 2-8 Lois Street and 5A, 51-61 and 64-82 Naomi Street South, Winston Hills (**Table 2**). The sites are located to the west of Windsor Road, east of Model Farms Road, and directly south of the Winston Hillside Care Community, a seniors housing development. An approximately 90 metre long pedestrian path

links the subject sites to Windsor Road. The sites are all within approximately 500 metre walking distance of existing bus stops on Windsor Road, which is a major bus corridor and Model Farms Road (**Figure 1**).



**Figure 1 The subject sites, highlighted in yellow (source: planning proposal)**

The surrounding area along Windsor Road is generally characterised by a mixture of low and medium density residential development, aged care housing and commercial uses, including an early learning centre, eateries, and a swimming centre. Urban bushland separates the sites from the lower density residential area of Winston Hills to the west (**Figure 2**).



**Figure 2 The subject sites and surrounding area (source: Google maps)**

**Table 2 Description of the site**

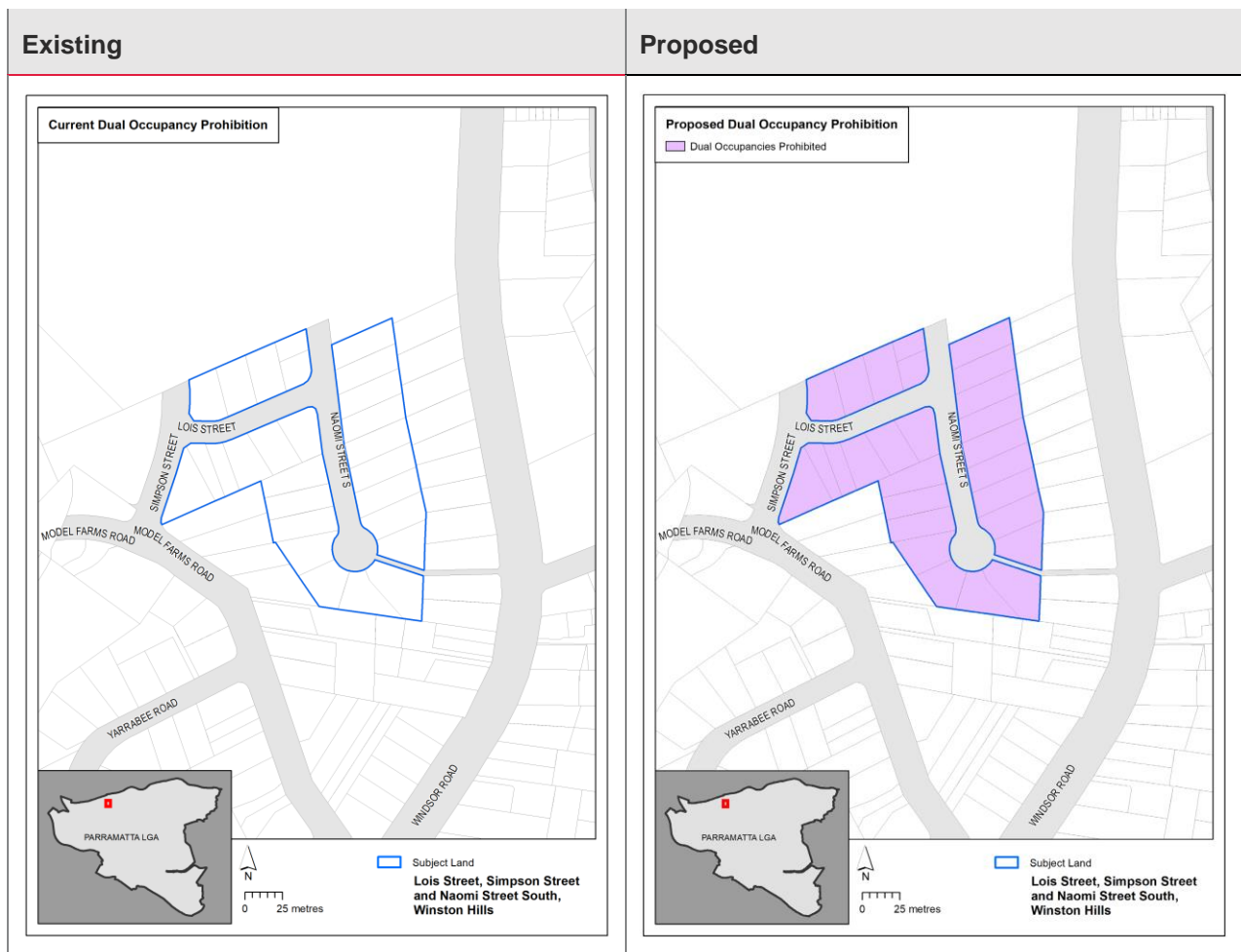
Site	Lot description	Existing land use
1 Simpson Street	Lot 14 DP234507	Detached dwelling
3 Simpson Street	Lot 13 DP234507	Detached dwelling
1 Lois Street	Lot 12 DP234507	Detached dwelling
2 Lois Street	Lot 400 DP1243911	Dual occupancy
2A Lois Street	Lot 401 DP1243911	Dual occupancy
3 Lois Street	Lot 11 DP234507	Detached dwelling
4 Lois Street	Lot 16 DP234507	Detached dwelling (dual occupancy approved)
6 Lois Street	Lot 17 DP234507	Detached dwelling
8 Lois Street	Lot 18 DP234507	Detached dwelling
5 Naomi Street South	Lot 1 DP1229275	Dual occupancy
5A Naomi Street South	Lot 2 DP1229275	Dual occupancy

Site	Lot description	Existing land use
51 Naomi Street South	Lot 12 DP244401	Detached dwelling
53 Naomi Street South	Lot 11 DP244401	Detached dwelling
55 Naomi Street South	Lot 10 DP244401	Detached dwelling
57 Naomi Street South	Lot 9 DP244401	Detached dwelling
59 Naomi Street South	Lot 8 DP244401	Detached dwelling
61 Naomi Street South	Lot 7 DP244401	Detached dwelling
64 Naomi Street South	Lot 6 DP234507	Detached dwelling
66 Naomi Street South	Lot 7 DP234507	Detached dwelling
68 Naomi Street South	Lot 8 DP234507	Detached dwelling
70 Naomi Street South	Lot 9 DP234507	Detached dwelling
72 Naomi Street South	Lot 1 DP244401	Detached dwelling
74 Naomi Street South	Lot 2 DP244401	Detached dwelling
76 Naomi Street South	Lot 3 DP244401	Detached dwelling
78 Naomi Street South	Lot 4 DP244401	Detached dwelling
80 Naomi Street South	Lot 5 DP244401	Detached dwelling
82 Naomi Street South	Lot 6 DP244401	Detached dwelling

## 1.5 Mapping

The planning proposal includes mapping showing the proposed amendment to the Parramatta LEP which is suitable for illustrating the purpose of the planning proposal **(Figure 3)**.

Figure 3 Current and proposed controls maps



## 1.6 Background

The City of Parramatta LGA was created as part of Council amalgamations in 2016 incorporating parts of the former Auburn, The Hills, Holroyd, Hornsby and Parramatta LGAs.

Council prepared a Land Use Planning Harmonisation Discussion Paper (finalised in January 2019) to seek initial community feedback on land use permissibility and planning controls, including dual occupancy permissibility. The Discussion Paper was prepared to inform a 'harmonisation' planning proposal to consolidate the planning controls of five existing LEPs that currently apply in different parts of the City of Parramatta LGA into a single LEP. The Parramatta Harmonisation Planning Proposal which is currently with the Department for finalisation (PP-2020-3106).

Council considers the consolidation of dual occupancy development provisions to be a key matter to be addressed in the Harmonisation proposal. Council carried out an LGA wide review dual occupancy permissibility, lot size requirements, and subdivision permissibility. A key component of this was the Dual Occupancy Constraints Analysis (December 2019 **Attachment A4**), which considers the appropriateness of permitting dual occupancies given each area's environmental and other factors.

The review informed the approach endorsed by Council in the Harmonisation proposal to prohibit dual occupancy development on certain residential zoned land identified on the prohibition map. The map identifies areas where dual occupancy development is not considered appropriate by Council and includes new prohibition areas where dual occupancies are currently permitted. Additional proposed controls seek to further restrict dual occupancies prohibiting the use on lots less than 600sqm in size and with a minimum street frontage of 15m.

On 11 November 2019, Council resolved to submit the Harmonisation proposal to the DPIE for Gateway determination. Council was presented an alternative version of the prohibition map which included the subject sites, as well as other additional R2 zoned land at various locations such as Carlingford, Dundas, Eastwood, Epping and Rydalmere. However, the alternative version of the map was not endorsed and the subject sites were not included in the Harmonisation proposal prohibition map.

On 16 April 2020, the Department issued a conditional Gateway determination to allow the Harmonisation proposal to proceed. Condition 1(g) required that, prior to public exhibition, the proposal must be amended to include a quantitative analysis and impact assessment of the proposal on housing diversity and supply. The Harmonisation proposal was publicly exhibited from 31 August to 12 October 2020.

On 29 June 2021, the Parramatta Local Planning Panel (LPP) considered a report on the exhibition and submissions for the Harmonisation proposal and recommended further investigation on the inclusion of the subject sites on the prohibition map. The recommendation was based on the acknowledgement that a petition related to 11 of the subject sites identified possible errors in the dual occupancy constraints mapping (**Attachment A1**).

On 12 July 2021, Council considered a report on the exhibition and submissions for Harmonisation proposal, the recommendations of the LPP and a review of inclusion of the subject sites on the prohibition map. Council resolved that the Harmonisation proposal be forwarded to the Department for finalisation, and that this planning proposal be forwarded to the Department as a separate planning proposal for Gateway (**Attachment A2**). The Harmonisation proposal was forwarded to the Department in September 2021 for finalisation and is being assessed (PP-2020-3106).

## 2 Need for the planning proposal

The objective of the planning proposal is to prohibit dual occupancy development on the subject sites. The proposed provision to meet this objective is to amend the dual occupancy prohibition map to include the subject sites, which requires a planning proposal. Alternative methods of achieving this objective are not considered suitable and a planning proposal is the best means of achieving the desired objective.

As part of the Harmonisation proposal, Council prepared a supporting Dual Occupancy Constraints Analysis (December 2019) for the LGA (**Attachment A4**) in order to provide a consistent basis for identifying land appropriate for inclusion on the prohibition map. Further, Council prepared a supporting site specific assessment (**Attachment A3**) for the subject proposal. The constraints analysis and the site specific assessment share a methodology of identifying a number of constraints that Council considered to make dual occupancy development inappropriate. The constraints identified in both documents are:

- areas with special character,
- narrow streets,
- areas lacking permeability,
- access to public transport,
- tree coverage,
- bushfire hazard, and
- site availability.

The subject sites were not included in the land proposed for dual occupancy prohibition under the Harmonisation proposal as most sites were suggested to be of limited constraints.

The proposal's supporting site specific assessment (**Attachment A3**) adds a weighting system to the constraints to conclude that the subject sites are 'highly constrained' on the basis that they demonstrate:

- a higher potential for traffic and parking issues as a result of increased housing densities, and being located on narrow streets less than 7.5m in width, and

- a lack of pedestrian permeability being located in 'dead-end' street.

The site specific assessment recommends inclusion of the subject sites on the prohibition map, based on this assessment.

## 3 Strategic assessment

### 3.1 District Plan

The Central City District plan provides 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: A Metropolis of Three Cities* (Region Plan) at a district level and is a bridge between regional and local planning.

The planning proposal is inconsistent with the priorities for infrastructure and collaboration, productivity and liveability as outlined in the District Plan. As such, the Department is not satisfied the planning proposal gives effect to the District Plan in accordance with Section 3.8 of *Environmental Planning and Assessment Act 1979*. **Table 3** provides an assessment of the planning proposal against the relevant directions.

**Table 3 District Plan assessment**

District Plan Priorities	Justification
Planning Priority C1: Planning for a city supported by infrastructure	The planning proposal states that the subject sites are not serviced by adequate infrastructure to accommodate dual occupancy development, as they are not located in a Council identified 'Growth Precinct' which will be the focus of additional infrastructure to accommodate future population needs. The Department does not agree with this assessment, as the subject sites have access to sufficient urban infrastructure, such as bus services on nearby Windsor Road, existing roads, power, water etc, to support a minor residential density increase. It is also considered that infrastructure requirement for the minor development potential on the subject sites can be adequately addressed at the development application stage. The planning proposal is inconsistent with this priority.
Planning Priority C5: Providing housing supply, choice and affordability, with access to jobs, services and public transport	<p>The planning proposal states that the proposed controls:</p> <ul style="list-style-type: none"> <li>• will not materially inhibit the delivery of housing supply, choice and affordability within the LGA,</li> <li>• are consistent with Council's Local Housing Strategy (LHS) to ensure housing is accommodated in the right locations,</li> <li>• will have a minor impact on dual occupancy development in the overall LGA, which has the capacity for more than 50 years supply of dual occupancy development on existing R2 and R3 zoned land.</li> </ul> <p>However, the planning proposal is not consistent with the Department's requirements for approval of the LHS as discussed in section 3.2 below. Additionally, the planning proposal is not consistent with this priority as it will reduce the opportunity for greater housing supply and diversity and affordability on the subject sites.</p>
Planning Priority C16: Increasing urban tree canopy cover and delivering Green grid connections  PP C20: Adapting to the impacts of urban and natural hazards and climate change	The planning proposal states that the permitting dual occupancy development on the subject sites will reduce the opportunity to increase and maintain the urban tree canopy due to the requirement for additional driveways and possible on-site tree removal required for dual occupancy development. The Department considers this to be a minor issue that can be managed through appropriate tree management policies and future development assessment processes.

## 3.2 Local

The planning proposal's consistency with relevant local plans and endorsed strategies is discussed in **Table 4** below:

**Table 4 Local strategic planning assessment**

Local Strategies	Justification
Parramatta Local Strategic Planning	The LSPS sets out a 20-year land use planning vision for the Parramatta LGA. The LSPS was made by Council on 31 March 2020.

Local Strategies	Justification
Statement <i>City Plan 2036</i> (LSPS)	<p>The planning proposal is not consistent with the priorities and actions of the LSPS. The planning proposal states it seeks to enact the vision of the LSPS and respond to action A30, to 'finalise the review of dual occupancy and medium density residential zone provisions for Government's consideration as part of the LEP Harmonisation Project'.</p> <p>The planning proposal states that implementing greater prohibition of dual occupancies on R2 zoned land, rationalises land uses and discontinues the need for the R1 General Residential zone. However inadequate justification has been provided to support this and the Department's assessment of Parramatta's Local Housing Strategy required Council to demonstrate initiatives to achieve housing diversity. The planning proposal is inconsistent with the Department's recommendations regarding the Local Housing Strategy (discussed further below).</p> <p>The planning proposal is considered inconsistent with the LSPS.</p>
Parramatta 2038 Community Strategic Plan (Strategic Plan)	<p>Parramatta 2038 is a long-term Community Strategic Plan for the City of Parramatta and is linked to the long-term future of Sydney.</p> <p>The planning proposal is considered to be inconsistent with the strategies and key objectives identified in the plan, in that it does not effectively or efficiently manage the growth of the City to ensure increased housing density and diversity as part of an improved quality of life for local communities.</p>
Parramatta Local Housing Strategy 2021 (LHS)	<p>The LHS addresses housing supply in the Parramatta LGA, including the 6-10 year housing target, capacity to deliver housing in the 10-20 year period, and addresses the need for housing diversity and affordability.</p> <p>The LHS was approved by the Department in July 2021, subject to a number of requirements including:</p> <p><i>11. Council's LHS Action to expand dual occupancy prohibition areas sought as part of the Parramatta Harmonisation LEP proposal is not included as part of this approval, until:</i></p> <ul style="list-style-type: none"> <li><i>the Parramatta Harmonisation LEP proposal demonstrates consistency or justifies any inconsistency with the Local Planning Direction 3.1 Residential zones and this has been further assessed by the Department as part of the finalisation of the Harmonisation LEP.</i></li> <li><i>further work on housing diversity precincts have been demonstrated (as per requirement 5), or housing diversity precincts are included in a future LEP proposal.</i></li> </ul> <p><i>The exception to this is where Council seeks to preserve future opportunity in the Parramatta to Epping and Parramatta to Norwest future mass transit corridors, where there may be opportunities for greater housing choice.</i></p> <p><i>The reason for this is that proposed amendments seek to reduce the capacity for this type of residential development in areas that already permit for dual occupancies, which is counter to Section 9.1 Direction 3.1 Residential Zones.</i></p> <p>As the Harmonisation proposal has yet to be assessed, the Department does not consider that the consistency or justified inconsistencies with Section 9.1 Direction 3.1, or further work on housing diversity precincts, have been demonstrated,</p>

Local Strategies	Justification
	consequently condition 11 has not been met. The planning proposal is inconsistent with the Local Housing Strategy.

### 3.3 Local planning panel (LPP) recommendation

The Harmonisation proposal exhibition submissions were reported to the Parramatta LPP on 29 June 2021 (**Attachment A1**). The submissions included support of dual occupancy prohibition on the subject sites. The LPP recommended that this matter be identified as one of a number of 'changes that have merit for further investigation', and to support further investigation of these matters. The LPP also recommended the Harmonisation proposal be forwarded to the Department for finalisation, subject to a number of identified amendments. However, the LPP has not specifically considered this planning proposal and therefore consistency with the Minister's Direction under Section 9.1 relating to Local Planning Panels cannot be met.

### 3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed in **Table 5** below:

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
<p>Direction 3.1 - Residential Zones</p> <p>The objectives of this direction are to encourage a variety and choice of housing types for existing and future housing needs, make efficient use of existing and future infrastructure and services, and minimise the environmental impacts of residential development.</p>	No	<p>The planning proposal is inconsistent with Direction 3.1, as it includes an amendment which will reduce the supply and diversity of housing in the LGA, by expanding the areas where dual occupancies will be prohibited to the subject sites.</p> <p>Council contends that there is both local planning merit to these changes, i.e. that they respond more appropriately to the local context and provide better urban design outcomes, and broader strategic merit by locating density and diverse housing in precincts identified in the LHS (<b>Attachment A</b>).</p> <p>However, the Department does not consider that the LHS has demonstrated consistency or justified inconsistencies with Direction 3.1, or commenced work on housing diversity precincts as required by condition 11 of the LHS approval discussed above.</p> <p>Further, the dual occupancy constraints analysis which was prepared as part of the Harmonisation PP (<b>Attachment A4</b>) identifies the subject sites as an area with limited constraints, however the planning proposal's site specific assessment (<b>Attachment A4</b>) identifies the subject sites as being 'highly constrained' based on substantially the same constraints criteria. Insufficient justification is provided as to why the constraints analysis for the subject area has changed.</p> <p>The planning proposal is inconsistent with this Direction.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
<p>Direction 3.4 – Integrating Land Use and Transport</p> <p>The objectives of this direction are to reduce travel demand by car through improving access to housing, jobs and services by walking, cycling and public transport.</p>	No	<p>The planning proposal is inconsistent with Direction 3.4, as the proposal seeks to restrict the development of additional housing in proximity to existing public transport links located within 800 metres on Windsor Road.</p> <p>Additionally, the subject sites are not considered to lack pedestrian permeability, as all sites are located within approximately 500m walking distance of a bus stop, either on Model Farms Road or by way of an approximately 90m long pedestrian path linking Naomi Street South to Windsor Road. It is also considered that this issue and traffic and parking issues can be addressed through other mechanisms, such as the development application process.</p>
<p>Direction 6.3 – Site Specific Provisions</p> <p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls</p>	No	<p>The planning proposal is inconsistent with Direction 6.3, as it seeks to introduce a site-specific prohibition provision for the subject site which is considered unnecessarily restrictive. Although the Direction applies to allowing particular development to be carried out, it is logical to apply the direction to the prohibition of particular development. It is considered that there is insufficient justification to support the need for this prohibition, as discussed in Direction 3.1 above.</p>

### 3.5 State environmental planning policies (SEPPs)

The planning proposal which seeks to prohibit dual occupancies, is inconsistent with the aims of the SEPP (Exempt and Complying Development Codes) 2008 to provide streamlined assessment processes for the development of dual occupancies, which is a type of complying development that may be carried out in accordance with a complying development certificate as defined in the Act.

## 4 Site-specific assessment

### 4.1 Environmental

The Department considers the planning proposal will have negative environmental impact. Although the subject site is not considered to be environmentally constrained, the planning proposal will restrict development of additional housing on the site, potentially driving development to land with greater environmental constraints.

### 4.2 Social and economic

The Department considers the planning proposal will have negative social and economic impacts. The planning proposal will restrict the ability of land owners to develop their land to provide additional and more diverse housing. While the Department acknowledges that the exhibition for the Harmonisation proposal attracted the submission of a petition opposing dual occupancy from

11 of the subject sites, this represents less than half of the 27 sites proposed. Additionally, the exhibition also attracted eight other submissions about dual occupancy development in Winston Hills, six in support of development and two opposed. In summary, there were more submissions received in favour of allowing dual occupancy development in Winston Hills.

## 4.3 Infrastructure

The Department considers the planning proposal will have negative infrastructure impacts. Although it is unlikely that the small increase in dwellings will require additional infrastructure provision, the planning proposal will restrict the efficient utilisation of existing infrastructure, such as bus services, roads, power, water and other urban services.

## 5 Assessment summary

It is recommended that the planning proposal not be supported.

The planning proposal is generally inconsistent with the relevant State and local planning strategies, has not demonstrated strategic or site-specific merit, and does not contain appropriate justification to support dual occupancy prohibition on the subject sites.

The planning proposal has not demonstrated strategic or site specific merit or consistency with the relevant priorities, aims or objectives of:

- the Central City District Plan;
- the Parramatta Local Strategic Planning Statement;
- the Parramatta Strategic Plan;
- the Parramatta Local Housing Strategy; Section 9.1 Ministerial directions:
  - Direction 3.1 – Residential Zones,
  - Direction 3.4 – Integrating Land Use and Transport,
  - Direction 6.3 – Site Specific Provisions, and
- SEPP (Exempt and Complying Development Codes) 2008.

The planning proposal is inconsistent with the key aims of the above to encourage additional housing supply and diversity in suitable residential areas and efficient use of infrastructure. The planning proposal provides inadequate justification and evidence for why a minor potential increase in housing (through dual occupancy development) in this existing residential area that is well serviced with infrastructure is inappropriate and should be prohibited.

## 6 Recommendation

It is recommended that the delegate of the Minister for Planning and Public Spaces determines that the proposal should not proceed, for the reasons outlined within this report.



10/12/2021

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