



IRF23/2383

Gateway determination report – PP-2023-1759

Amend Clause 4.4 'Floor Space Ratio' of the
Campbelltown Local Environmental Plan 2015

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Subtitle: Amend Clause 4.4 'Floor Space Ratio' of the Campbelltown Local Environmental Plan 2015

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A - Planning Proposal – Amendment of Clause 4.4 ‘Floor Space Ratio’ – Campbelltown Local Environmental Plan 2015 (July 2023)
Attachment B - Local Planning Panel Meeting Papers and Minutes (24 May 2023)
Attachment C - Campbelltown City Council Ordinary Business Paper (8 August 2023)
Attachment D - Campbelltown City Council Minutes Summary (8 August 2023)

1 Planning Proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Campbelltown
PPA	Campbelltown City Council
NAME	Amend Clause 4.4 'Floor Space Ratio' of the Campbelltown Local Environmental Plan 2015
NUMBER	PP-2023-1759
SEPP TO BE AMENDED	Not applicable
LEP TO BE AMENDED	Campbelltown Local Environmental Plan 2015
ADDRESS	Campbelltown LGA
DESCRIPTION	Entire Campbelltown LGA
RECEIVED	17/08/2023
FILE NO.	IRF23/2383
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 objective of the planning proposal (**Attachment A**) is to:

- Amend clause 4.4 of the Campbelltown Local Environmental Plan (LEP) 2015 to remove the opportunity for unintended floor space ratio (FSR) outcomes resulting from clause 4.4(2) and clause 4.4(2A).

The intended outcomes of the planning proposal are to:

- Remove opportunities for unintended bonus FSR through the interplay of clauses 4.4(2) and 4.4(2A).

The objectives and intended outcomes are clear and adequately explain the intent of the proposal.

The proposal to amend the wording of Clause 4.4 has resulted from inconsistencies in the operation of the clause identified by Council during routine development assessment activity.

1.3 Explanation of provisions

The planning proposal seeks to amend clause 4.4 FSR of the Campbelltown LEP 2015 per the changes below:

Table 3 Current and proposed controls under the Campbelltown LEP 2015. The proposed changes are underlined.

Current	Proposed						
<p>(1) The objectives of this clause are:</p> <ul style="list-style-type: none"> (a) to provide effective control over the bulk and scale of future development, (b) to nominate a range of floor space ratio controls that will provide a transition in built form and land use intensity across all zones, (c) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality, (d) to ensure that the bulk and scale of buildings contribute to the intended architectural outcomes for development appropriate to the locality and reflect their proximity to employment centres and transport facilities, (e) to provide for built form that is compatible with the hierarchy and role of centres, (f) to assist in the minimisation of opportunities for undesirable visual impact, disruption to views, loss of privacy and loss of solar access to existing and future development and the public domain is addressed, (g) to minimise the adverse impacts of development on heritage conservation areas, heritage items and the public domain. 	No change						
<p>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p>	No change						
<p>(2A) Despite subclause (2), the floor space ratio for a building used for a purpose specified in the table to this subclause on land in a zone specified in the table is the floor space ratio listed beside the use and the zone in the table plus the floor space ratio shown for the land on the Floor Space Ratio Map.</p> <table border="1" data-bbox="164 1603 1024 1991"> <thead> <tr> <th data-bbox="164 1603 778 1720">Column 1 Use and zone</th><th data-bbox="778 1603 1024 1720">Column 2 Floor space ratio</th></tr> </thead> <tbody> <tr> <td data-bbox="164 1720 778 1856">Dwelling houses in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R5 Large Lot Residential</td><td data-bbox="778 1720 1024 1856">0.55:1</td></tr> <tr> <td data-bbox="164 1856 778 1991">Dual occupancies in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R5 Large Lot Residential</td><td data-bbox="778 1856 1024 1991">0.45:1</td></tr> </tbody> </table>	Column 1 Use and zone	Column 2 Floor space ratio	Dwelling houses in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R5 Large Lot Residential	0.55:1	Dual occupancies in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R5 Large Lot Residential	0.45:1	<p>(2A) Despite subclause (2), <u>where a floor space ratio is not shown on the floor space ratio map, the maximum floor space ratio for a building used for a purpose specified in the table to this subclause on land in a zone specified in the table is the floor space ratio listed beside the use and the zone in the table.</u></p> <p>(no changes to the table to subclause (2A) are proposed)</p>
Column 1 Use and zone	Column 2 Floor space ratio						
Dwelling houses in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R5 Large Lot Residential	0.55:1						
Dual occupancies in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R5 Large Lot Residential	0.45:1						

Current		Proposed
Multi dwelling housing in Zone R3 Medium Density Residential	0.75:1	
Centre-based child care facilities in a residential zone	0.55:1	
Attached dwellings in Zone R2 Low Density Residential	0.45:1	
Attached dwellings in Zone R3 Medium Density Residential	0.75:1	
(2B) Subclause (2A) does not apply to land identified as “Mount Gilead Urban Release Area” on the Urban Release Area Map.		Delete
(2C) To avoid doubt, subclause (2A) does not apply to land for which a floor space ratio is not shown on the Floor Space Ratio Map.		Delete

Council provide the following reasoning for the proposed changes:

- Rewording subclause 2(A) – clarifies that the prescribed FSR is a maximum and removes the opportunity for a bonus FSR by applying either the FSR map or the FSR table;
- Deleting subclause 2(B) – no longer required as Mount Gilead Urban Release Area has an FSR map; and
- Deleting of subclause 2(C) – deletion of this subclause will address the unintended effect of removing the FSR provision under subclause 2(A) for the vast majority of residential zoned land in the Campbelltown LGA, not presently included on the Floor Space Ratio Map.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. The proposal will also have no impact on the existing dwelling potential for the Campbelltown LGA.

1.4 Site description and surrounding area

The planning proposal relates to land where a floor space ratio is not shown on the floor space ratio map and for the following development types:

- Dwelling houses in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R5 Large Lot Residential;
- Dual occupancies in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R5 Large Lot Residential;
- Multi dwelling housing in Zone R3 Medium Density Residential;
- Centre-based childcare facilities in a residential zone;
- Attached dwellings in Zone R2 Low Density Residential; and
- Attached dwellings in Zone R3 Medium Density Residential.

Land within the Campbelltown LGA that is zoned either Zone R2 Low Density Residential, Zone R3 Medium Density Residential, R4 High density Residential or Zone R5 Large Lot Residential is subject to this planning proposal.

It is noted that a map of the subject land is not identified in the planning proposal. Therefore, prior to exhibition, Council is required to amend the planning proposal to include a map of the subject land.

1.5 Mapping

Maps are not part of this planning proposal as there are no proposed changes to the Floor Space Ratio map under the Campbelltown LEP 2015.

It is recommended that a map of the subject land is included that identifies land subject to the FSR map.

2 Need for the planning proposal

The proposed amendments described in this planning proposal are a result of the need to remove opportunities for additional FSR through Clauses 2 and 2A of the Campbelltown LEP 2015 and only apply FSR provisions through the Campbelltown LEP by development type and zone where land is not included in the FSR map.

It is noted that additional FSR through the existing clauses 2 and 2A would apply to various housing types across residential land use zones and childcare facilities.

The proposed amendments to clause 4.4 would contribute to effectively controlling bulk and scale of future developments in residential land use zones, assist in minimising adverse impacts to views, privacy and solar access (as per clause 4.4 (1)(a) and (f)).

3 Strategic assessment

3.1 District Plan

The Campbelltown LGA is within the Western Parkland City as described in the Western City District Plan by the former Greater Cities Commission. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets. This planning proposal is consistent with the priority for housing supply, choice and affordability (Table 4).

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. It is considered that the proposal is not inconsistent with the overall intent of the District Plan. The proposal would remove the opportunities for unintended floor space outcomes and clarify the FSR limits in residential areas that are not on the FSR map for the Campbelltown LEP. Therefore, supporting opportunities for improved housing supply, affordability and choice.

Table 4 District Plan assessment

District Plan Priorities	Justification
Planning Priority W5- Providing housing supply, choice and affordability, with access to jobs and services	The proposal seeks to manage bulk and scale of residential developments to be compatible with the existing and desired future character of the Campbelltown LGA, while also effectively managing adverse impacts to residential amenity and the public domain.

3.2 Local

The proposal states that it is consistent with the local plans and endorsed strategies, as follows

Table 5 Local strategic planning assessment

Local Strategies	Justification
Campbelltown Local Strategic Planning Statement (LSPS)	<p>The LSPS provides context and direction for land use decision making within the Campbelltown LGA.</p> <p>Its purpose is to:</p> <ul style="list-style-type: none"> • Provide a 20-year land use vision for the Campbelltown LGA • Outline the characteristics that make our city special • Identify shared values to be enhanced or maintained • Direct how future growth and change will be managed • Prioritise changes to planning rules in the Local Environmental Plan (Campbelltown LEP 2015) and Council's Development Control Plans • Implement the Region and District Plans as relevant to the Campbelltown LGA • Identify where further detailed strategic planning may be needed. <p>The LSPS responds to region and district planning initiatives and information received from the Campbelltown community during the public exhibition period for the future of our city. This planning proposal is not inconsistent with the outcomes listed. The planning proposal only relates to a minor amendment to the Campbelltown LEP.</p>
Campbelltown Community Strategic Plan	<p>The proposal is minor in nature and does not impede the implementation of the Campbelltown Community Strategic Plan.</p> <p>The proposal gives effect to the Campbelltown Community Strategic Plan by addressing: Community Outcome 4, Strategies 4.3 and 4.4:</p> <p><i>4.3 Support the growth, productivity and diversity of the local economy.</i></p> <p><i>4.4 Attract investment to the area.</i></p>
Campbelltown Local Housing Strategy	<p>The purpose of the Campbelltown Local Housing Strategy is to inform the implementation of the LSPS and Campbelltown LEP 2015 and assist in the future planning of the growth centres, urban renewal corridor and precincts collaboratively with the department.</p> <p>The strategic vision for Campbelltown's LSPS is to:</p> <p><i>"Campbelltown City is Sydney's lifestyle capital – a distinctive destination of high amenity nestled within a natural and historic cultural landscape. It is a place where city meets country and where people choose to live, work, play, invest and visit because quality of life is second to none."</i></p> <p>The planning proposal is minor in nature and will continue to support sustainable, high quality housing options to meet the diverse accommodation needs of the local community and future population growth.</p>

3.3 Local planning panel (LPP) recommendation

The Campbelltown Local Planning Panel (the Panel) considered this planning proposal on 24 May 2023 (**Attachment B**). The Panel provided the following advice in relation to clause 2.19 of the EP&A Act the Direction No.2 of the Local Planning Panels Direction – Planning Proposals:

- The Panel considers that the interplay of clauses 4.4 (2), (2A) and (2B) of the Campbelltown LEP will result in unintended excessive floor space, bulk and scale.
- The Panel recognises the deficiencies in the current operation of clause 4.4 generally resulting from the unintended interplay of the subclauses providing the opportunity for buildings of excessive floor space, bulk and scale.
- The Panel supports Council in seeking a Gateway Determination to have clause 4.4 amended.
- The Panel is of the view that the planning proposal should state that there should be no saving provisions applied to this amendment in the Campbelltown LEP 2015.

It is noted that the planning proposal does not include the Panel's recommendation in relation to stating that there would not be any savings provision. This should be addressed prior to public exhibition.

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 Section 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Direction 1.1 Implementation of Regional Plans	Consistent	The planning proposal is consistent with this Direction as it is consistent with the Western City District Plan.
Direction 1.4 Site Specific Provisions	Consistent	The planning proposal is consistent with this Direction as it does not introduce additional site-specific provisions but alters an existing provision by clarifying the application of clause 4.4 and removing potential unintended effects.
Direction 1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Consistent	This Direction is relevant as the planning proposal applies to land to in the Campbelltown local government area that applies to land within the precincts between Glenfield and Macarthur. This planning proposal is consistent as it seeks to provide for better planning outcomes as it seeks to manage housing amenity and enable opportunities to provide housing in close proximity to a range of existing infrastructure, services and amenities.
Direction 1.14 Implementation of Greater Macarthur 2040	Consistent	This Direction is relevant as residential areas in the Campbelltown LGA are part of the Greater Macarthur 2040. The Greater Macarthur 2040 is a land use and infrastructure implementation plan which sets a vision for the Growth Area as it develops and changes. In particular the Greater Macarthur 2040 seeks to provide

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>opportunities for homes in a variety of forms to meet the needs of people of different ages and incomes.</p> <p>This planning proposal is consistent as it supports the need for smaller lots, semi-detached homes, townhouses and low-rise apartments in residential land use zones but works to manage residential amenity by reducing opportunities for bonus FSR as the need for housing increases over time.</p>
Direction 3.1 Residential Zones	Consistent	<p>This Direction is relevant as it relates to residential land use zones.</p> <p>The objective of this Direction is to encourage a variety and choice of housing types to provide for existing and future housing needs. The proposal is consistent with the Direction as it will support a variety and choice of housing types for existing and future housing needs and encourage good design.</p> <p>In this regard the planning proposal is consistent as it seeks to remove opportunities for additional FSR and only apply FSR provisions through the Campbelltown LEP 2015. As such, the planning proposal would help to effectively control the bulk and scale of future developments in residential land use zones, assist minimise adverse impacts to views, privacy and solar access (as per clause 4.4(1)(a) and (f) of the Campbelltown LEP).</p>

3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Proposal	Complies
State Environmental Planning Policy (Housing) 2021	The Housing SEPP includes the planning provisions for: boarding houses, build-to-rent housing, seniors housing, caravan parks and manufactured home estates, group homes, retention of existing affordable rental housing, secondary dwellings (granny flats), social and affordable housing and short-term rental accommodation.	<p>As this planning proposal seeks to amend FSR pertaining to residential land use zones, this SEPP is relevant.</p> <p>The aim of this planning proposal is to allow for council's original intent to provide local FSR provisions by development type and zone, only where land is not included on the Floor Space Ratio Map.</p> <p>The amended wording of the proposal will clarify that the prescribed FSR is a maximum. This amendment will help manage housing amenity and enable opportunities to provide housing in close proximity to a range of existing infrastructure, services and amenities.</p>	Yes

SEPPs	Requirement	Proposal	Complies
State Environmental Planning Policy (Transport and Infrastructure) 2021	The provisions in Part 3.3 of Chapter 3 – Education of SEPP Transport and Infrastructure apply to early education and childcare facilities.	As this planning proposal seeks to amend FSR pertaining to centre-based childcare facilities in residential land use zones, this SEPP is relevant. It is noted that under cl.3.30 home-based childcare is exempt development and clause 3.31 is home – based childcare is complying development. Therefore this SEPP does not apply.	Not applicable
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	SEPP 65 aims to improve the design quality of residential apartment development in New South Wales and applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component. This also applies to new developments, substantial alterations and additions and building conversions.	The intent of this planning proposal is to remove opportunities for unintended bonus FSR and manage bulk and scale of residential developments low density Residential (R2), medium density residential (R3) and large lot residential zones. SEPP 65 is relevant to this proposal where it applies to residential developments in medium density residential land use zones (R3) as shop top housing and in some instances, multi-dwelling housing is permitted with consent in this land use zone. The amended wording of the proposal will clarify that the prescribed FSR is a maximum. This amendment is aligned to the intent of SEPP 65 as it aims to maximise amenity and achieve better built form of buildings and of the streetscapes and the public spaces they define.	Yes

4 Site-specific assessment

4.1 Environmental

The proposed amendments described in this planning proposal seek to remove opportunities for unintended floor space outcomes resulting from clause 4.4(2) and clause 4.4(2A).

No adverse environmental impact is anticipated because of the proposal. There is no critical habitat or threatened species, populations or ecological communities or habitat on the site.

4.2 Social and economic

The proposed amendments described in this planning proposal are a result of the need to remove opportunities for additional FSR through clause 4.4(2) and clause 4.4(2A) of the Campbelltown LEP 2015 and only applying FSR provisions by development type and zone where land is not included in the FSR map.

The proposal involves changes to the bulk and scale of various housing types across residential land use zones and childcare facilities. The intention of this proposal is to avoid and minimise the risk of any adverse social or economic impacts by effectively minimising the bulk and scale of future developments and assist in managing any adverse impacts to views, privacy and solar access (as per clause 4.4(1)(a) and (f)).

4.3 Infrastructure

The proposal will not result in the need for additional infrastructure.

5 Consultation

5.1 Community

Council proposes a community consultation period of 20 working days. The exhibition period proposed is considered appropriate and is recommended as a condition of the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted. Given the housekeeping nature of the planning proposal it is recommended Council is only required to consult the NSW Land and Housing Corporation as this proposal affects their land within the Campbelltown LGA.

6 Timeframe

Council proposes a 8 month time frame to complete the LEP.

The Department recommends a time frame of 9 months in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal relates to a minor alteration in the principal development standards of the Campbelltown LEP, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment Summary

The planning proposal is supported to proceed for the following reasons:

- the proposal is not inconsistent with regional, district and local plans and their relevant objectives;
- there are no adverse social, economic or environmental impacts;
- the planning proposal is the best way to achieve the intended outcomes; and
- the proposal will have a positive outcome for the community and complement the existing and future land use of the surrounding area.

9 Recommendation


It is recommended the delegate of the Secretary:

- agree that there are no inconsistencies with Section 9.1 Directions.

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

The following conditions are recommended to be included on the Gateway determination:

1. Prior to exhibition, the planning proposal is to be amended as follows:
 - a. include a map of the subject land that identifies land subject to the FSR map and the FSR table; and
 - b. state that there would not be any savings provisions associated with this planning proposal.
2. Consultation is required with the NSW Land and Housing Corporation.
3. The planning proposal should be made available for community consultation for a minimum of 20 days.
4. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



14/09/2023

Chantelle Chow
Manager, Western



14 September 2023

Adrian Hohenzollern
Director, Western

Assessment officer

Liza Miller
Senior Planning Officer, Western
8289 6787