



PLANNING PROPOSAL:

Blue Mountains LEP 2015 – Home within a home (Secondary dwelling complying development pathway in C3 & C4 zones)

Blue Mountains Local Environmental Plan 2015
(Draft Amendment 24)

March 2026

Prepared by Blue Mountains City Council

Version	Purpose	Modifications Made	Date	Status
1.0	Pre-lodgement advice from Water NSW		August 2025	Draft
2.0	Local Planning Panel Review		September 2025	Draft
3.0	Council Meeting	Updated to address WaterNSW consultation	October 2025	Draft
4.0	Submission to DPHI		November 2025	Draft
5.0	Consultation with NSW RFS and Water NSW	Updated to address Gateway conditions	December 2025	Draft
6.0	Public exhibition	Updated to address WaterNSW consultation	March 2026	Draft

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INTRODUCTION

This Council initiated Planning Proposal seeks to amend Schedule 3 of *Blue Mountains Local Environmental Plan 2015 (LEP 2015)* to introduce a complying development pathway for secondary dwellings within an existing principal dwelling in the C4 Environmental Living and C3 Environmental Management zones.

The purpose of this Planning Proposal is to support the provision of additional housing located within the footprint of an existing dwelling, better utilising existing housing stock, increasing dwelling supply, and improving housing diversity and affordability within the Blue Mountains LGA.

This Planning Proposal has been prepared in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the Department of Planning and Environment publication, *NSW Local Environmental Plan Making Guideline* (August 2023).

Background

The City of the Blue Mountains is an established string of towns and villages within a World Heritage National Park. As such, the urban footprint of the Blue Mountains is largely fixed, with no green field sites or land release area, which limits the capacity for new housing.

Housing within the Blue Mountains predominately takes the form of free-standing homes, with over 90% of the housing stock being separate dwellings. This is much higher than New South Wales or Greater Sydney which have a higher percentage of medium and high-density housing. As a low growth Council with established low density residential areas, detached dwellings will continue to remain the predominant housing typology despite increasing supply of medium density housing.

In addition, data from the Australian Bureau of Statistics (ABS) shows that the size of dwellings in the Blue Mountains has increased over the last 20 years with a greater portion of dwellings with 4 or more bedrooms. Further, the number of people living alone has also increased and in 2021 there was over 80% of dwellings in the Blue Mountains with one or more spare bedrooms.

Given the limited capacity for new housing and the importance of retaining the existing Blue Mountains' character, one of the key aims within Council's Local Housing Strategy (LHS) is to provide diverse and affordable housing in the form of 'hidden density' within the Blue Mountains Local Government Area (LGA). The concept of hidden density involves increasing dwelling numbers in the predominantly low-density residential areas in a way which also retains the character of our towns and villages, while appropriately managing bushfire and environmental risks. Council's LHS identifies secondary dwellings as one of its key forms of hidden density.

In this regard, Council is looking to facilitate appropriate housing opportunities, that improve housing diversity, choice and affordability while utilising the existing urban areas and housing stock. Early stakeholder engagement with community-based housing organisations has identified the need to provide self-contained living opportunities within this existing housing stock.

This planning proposal seeks to introduce an approval pathway for secondary dwellings within the footprint of an existing dwelling. This therefore provides the opportunity for additional (and potentially affordable) housing options, without environmental impact and for minimal cost.

Objective

The key objective of this planning proposal is to amend Schedule 3 of *Blue Mountains Local Environmental Plan 2015* (LEP 2015) introducing a complying development pathway for secondary dwellings located within the footprint of a principal dwelling, in the C4 Environmental Living and C3 Environmental Management zones.

Intended outcomes

- To facilitate additional and diverse housing while maintaining the existing character and landscape qualities of established urban areas.
- To facilitate the more efficient use of existing housing stock, which is predominately in the form of detached single dwellings, many with three or four bedrooms but occupied by much smaller households.
- Provide an approach consistent with the State Environmental Planning Policy (Housing) 2021 which provides a complying development pathway for secondary dwellings in residential zones.

PART 2 EXPLANATION OF PROVISIONS

To achieve the intended outcomes in Part 1, it is proposed to amend Schedule 3 Complying Development of Blue Mountains Local Environmental Plan 2015 to include provisions that:

- Allow secondary dwellings to be undertaken as complying development in zones C3 Environmental Management and C4 Environmental Living.
- Require that the secondary dwelling is located within the footprint of the existing dwelling and does not involve the conversion of a garage.
- Ensure that the development will not result in a dwelling on the land, other than the principal dwelling and the secondary dwelling.
- Ensure that the relevant provisions of the Building Code of Australia (BCA) are met, in particular that fire separation is achieved and each dwelling has separate facilities (i.e. bathroom, kitchen).
- Require that the secondary dwelling does not change the buildings' classification under the BCA so that significant upgrades are not required.
- Exclude land on which there is a heritage item or draft heritage item.
- Exclude land that is unsewered, if the development will increase the number of bedrooms. This will ensure that the development will not impact on the capacity of an existing on-site sewage management (OSSM) system.
- Exclude land that is an environmentally sensitive area, including land that is within 100m of the Blue Mountains National Park, a World Heritage Area.
- Ensure that no external alterations to the principal dwelling are undertaken apart from provision of an additional entrance. This will minimise the visual impact by maintaining the existing character and landscape qualities of established urban areas.
- Exclude land with a bushfire attack level of 40 (BAL-40) or the flame zone (BAL-FZ).
- Limit the size of the secondary dwelling to a maximum of 60m².
- Advise that secondary dwellings may require payment of Section 7.11 or Section 7.12 contributions.

It is also Council's intention that Schedule 3 will include a condition requiring that neighbour notification be undertaken in accordance with the requirements for residential zones under the *Environmental Planning and Assessment Regulations 2021*.

It is noted that the final wording of the amendment will be drafted by Parliamentary Counsel and be consistent with SEPP (Housing) 2021 and SEPP (Exempt and Complying Development Codes) 2008.

PART 3 JUSTIFICATION

Section A - Need for the Planning Proposal

1. *Is the planning proposal a result of an endorsed LSPS, strategic study or report?*

Yes, the planning proposal has been initiated by Council and supports a number of actions in the LSPS (endorsed in 2020). In particular 'Planning Priority 6 – Meeting the diverse needs of our community' and 'Planning Priority 5 – Conserving and enhancing heritage, character and liveability'.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Yes. At present, secondary dwellings are permitted under the land use tables in both the C3 Environmental Management and C4 Environmental Living zones in Blue Mountains LEP 2015 by being listed under the heading 'Permitted with Consent'. There are no other provisions in Blue Mountains LEP 2015 or any other Environmental Planning Instrument (such as a SEPP) which enable secondary dwellings as complying development in these zones. An amendment to Blue Mountains LEP 2015 is therefore required to initiate proposed amendments which can only be undertaken in this case by a Planning Proposal prepared in accordance with the NSW Department of Planning, Housing and Infrastructure's Local Environmental Plan Making Guideline.

Section B - Relationship to strategic planning framework

3. *Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?*

This Planning Proposal is not inconsistent with the Greater Sydney Region Plan (2018), the Western City District Plan (2018) and is consistent with the Blue Mountains 2040; Living Sustainably, Council's Local Strategic Plan Statement.

A Metropolis of Three Cities – The Greater Sydney Region Plan

A Metropolis of Three Cities is the first Regional Plan developed by the Greater Sydney Commission. The Plan provides a vision and actions for managing growth in Greater Sydney and enhancing its status as a global city. The Plan envisions Sydney as three cities connected by transport links. The Blue Mountains is located in the Western City.

The Planning Proposal is consistent with the following objectives of the Greater Sydney Region Plan:

Table 2 – Consistency with Greater Sydney Region Plan objectives

Greater Sydney Region Plan	Consistency
Liveability Objective 10 – Greater Housing Supply	Objective 10 in the Regional Plan focuses on the importance of ongoing housing supply and a range of housing types, in the right locations, to meet future demand. The amendments proposed by this planning proposal will facilitate additional housing where existing local infrastructure is already provided, while respecting the existing local residential character.

	The proposed amendment will also facilitate an alternative housing typology, while utilising the existing housing stock within the Blue Mountains which is predominately single detached dwellings.
Liveability Objective 11 – Housing is more diverse and affordable	Objective 11 in the Regional Plan recognises that communities require housing that meets changing demographic needs over time, in addition to providing housing choice and affordability for a cross-section of workers. The amendments proposed by this planning proposal will facilitate additional secondary dwellings while utilising the existing housing stock which is predominately single detached dwellings. Secondary dwellings can provide an alternative housing option for older family members, enabling people to age in place and reducing pressure on care facilities. Secondary dwellings also provide an opportunity to increase housing diversity and the potential to contribute to housing affordability.

Western City District Plan

The Western City District Plan provides subregional objectives which stem from the Greater Sydney Region Plan. The document also provides a list of Planning Priorities, these priorities work together to create a liveable, vibrant Western City.

The Planning Proposal is consistent with the following planning priority of the Western City District Plan:

Table 3 – Consistency with Western City District Region Plan planning priorities

Western City District Plan	Consistency
Liveability Planning priority W5 – Providing housing supply, choice and affordability, with access to jobs services and public transport.	Planning Priority W5 in the Western City District Plan identifies that a diversity of housing types is needed to support different community needs and that housing is more than just dwellings; it needs to be considered in a local context with a place-based approach. The amendments proposed by this planning proposal will facilitate additional housing where existing local infrastructure is already provided, while respecting the existing local residential character. The proposed amendment will also facilitate an alternative housing typology, while utilising the existing housing stock within the Blue Mountains which is predominately single detached dwellings.

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GCC, or another endorsed local strategy or strategic plan?

Yes, the planning proposal is consistent with Blue Mountains LSPS, Community Strategic Plan and Blue Mountains Local Housing Strategy 2020, as assessed below.

Local Strategies	Assessment
Blue Mountains Local Strategic Planning Statement	Living Sustainably: Blue Mountains 2040 is Council's Local Strategic Planning Statement (LSPS) and was made on 31 March 2020 following endorsement from the GSC. The LSPS contains 9 local planning priorities. This planning proposal relates most directly to priority 6: <i>Meeting the diverse housing needs of our community</i> but also aligns with priority 1 <i>Living sustainably within a World Heritage National Park</i>, and priority 5 <i>Conserving and enhancing heritage, character and liveability</i>. The planning proposal aims to facilitate secondary dwellings within the C3 and C4 zones, while maintaining the existing character and landscape qualities within the surrounding residential areas. The planning proposal is consistent with the Blue Mountains LSPS.
Blue Mountains Community Strategic Plan	The Blue Mountains CSP, endorsed by Council, identifies the community's main priorities and aspirations and sets the broad strategic direction for Council's long term planning documents. The CSP includes strategy 4.4a: <i>Support provision of a range of housing choices to meet diverse needs including adaptable and well-designed medium density and infill development to facilitate affordability and ageing in place.</i> The planning proposal aims to facilitate secondary dwellings within the C3 and C4 zones, providing housing choice in areas that are predominately single dwellings. The planning proposal is consistent with the Blue Mountains Community Strategic Plan.
Blue Mountains Local Housing Strategy 2020	The Blue Mountains Local Housing Strategy 2020 was prepared to inform future planning for housing in the Blue Mountains. The strategy includes the following Action: <i>Investigate local policy on secondary dwellings, including expanding the permissibility for this use in the Living Conservation zone (LEP 2005), establish appropriate controls to maintain character and landscape qualities, and limiting this development type within the most bush fire prone areas of the City.</i>

	The planning proposal is consistent with the Blue Mountains Local Housing Strategy. It aims to facilitate secondary dwellings within building footprint of an existing dwelling in the C3 and C4 zones, while maintaining the character and landscape qualities within the surrounding residential areas.
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5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

No other State or regional studies or strategies are applicable to this planning proposal.

6. Is the planning proposal consistent with other applicable SEPPs?

The following table documents the application and consistency with all State Environmental Planning Policies (SEPPs)

Note:

- ¹ **Not Relevant:** This SEPP does not apply to land within LEP 2015 Draft Amendment
- ² **Consistent:** This SEPP applies; LEP 2015 Draft Amendment meets the relevant requirements and is in accordance with the SEPP.
- ³ **Justifiably Inconsistent:** This SEPP applies; LEP 2015 Draft Amendment does not meet all the requirements or may be inconsistent with this SEPP as outlined following the table.

State Environmental Planning Policies in force		NOT RELEVANT ¹	CONSISTENT ²	JUSTIFIABLY INCONSISTENT ³
SEPP	State Environmental Planning Policy (Biodiversity and Conservation) 2021		✓	
SEPP	State Environmental Planning Policy (Exempt and Complying Development Codes) 2008		✓	
SEPP	State Environmental Planning Policy (Housing) 2021		✓	
SEPP	State Environmental Planning Policy (Industry and Employment) 2021	✓		
SEPP	State Environmental Planning Policy No 65 (Design Quality of Residential Apartment Development)	✓		
SEPP	State Environmental Planning Policy (Planning Systems) 2021	✓		
SEPP	State Environmental Planning Policy (Precincts- Central River City) 2021	✓		
SEPP	State Environmental Planning Policy (Precincts- Eastern Harbour City) 2021	✓		
SEPP	State Environmental Planning Policy (Precincts- Regional) 2021	✓		
SEPP	State Environmental Planning Policy (Precincts- Western Parkland City) 2021	✓		
SEPP	State Environmental Planning Policy (Primary Production) 2021	✓		
SEPP	State Environmental Planning Policy (Resilience and Hazards) 2021	✓		
SEPP	State Environmental Planning Policy (Resources and Energy) 2021	✓		
SEPP	State Environmental Planning Policy (Sustainable Buildings) 2022		✓	
SEPP	State Environmental Planning Policy (Transport and Infrastructure) 2021	✓		

This Planning Proposal is consistent with all relevant SEPP's. A summary of compliance with certain SEPP's is provided below.

SEPP Biodiversity and Conservation 2021

The land to which the Planning Proposal relates is mostly located within the Hawkesbury/Nepean Water Catchment and Sydney Drinking Water Catchment areas. While the complying development pathway will result in secondary dwellings bypassing the requirements under Parts 6.2 and 6.5 of the Biodiversity and Conservation SEPP, the provisions contained in the proposed LEP amendment which need to be met for the secondary dwelling to be undertaken as complying development, ensure that impacts on water quality is minimal.

Consultation with Water NSW has been undertaken during the preparation of this Planning Proposal. Further details on the outcomes of this consultation is provided within Section 7 of this Planning Proposal.

SEPP Exempt and Complying Codes 2008

This Planning Proposal does not contain any provisions that would conflict with the exempt and complying development provisions within the SEPP.

SEPP Housing 2021

This Planning Proposal is consistent with the Housing SEPP. The Planning Proposal will encourage the delivery of alternative housing within the LGA thereby promoting housing supply, diversity and affordability.

The proposal includes complying development provisions for a secondary dwelling in the C3 Environmental Management and C4 Environmental Living zones. This approach is consistent with the Housing SEPP which includes a complying development pathway for secondary dwelling within residential zones. The proposal does not seek to introduce provisions that would contradict the SEPP.

SEPP Sustainable Buildings 2022

This Planning Proposal is consistent with the Sustainable Buildings SEPP. Depending on the costs of works, a secondary dwelling located within the footprint of an existing dwelling may be considered BASIX development and therefore a BASIX certificate would be required to accompany an application for a complying development certificate. The proposal does not seek to introduce provisions that would contradict the SEPP.

7. Is the planning proposal consistent with applicable Ministerial Directions (Section 9.1 Directions) or key government priority?

The following table provides a summary of the application and consistency with Directions by the Minister.

Note:

- ¹ **Not Relevant:** This direction does not apply to land within LEP 2015 Draft Amendment
- ² **Consistent:** This direction applies; LEP 2015 Draft Amendment meets the relevant requirements and is in accordance with the direction.
- ³ **Justifiably Inconsistent:** This direction applies, but LEP 2015 Draft Amendment does not meet all the requirements or may be inconsistent with this direction as outlined following the table.

Section 9.1 Ministerial Directions		NOT RELEVANT¹	CONSISTENT²	JUSTIFIABLY INCONSISTENT³
1. PLANNING SYSTEMS				
1.1	Implementation of Regional Plans		✓	
1.2	Development of Aboriginal Land Council land	✓		
1.3	Approval and Referral Requirements		✓	
1.4	Site Specific Provisions	✓		
1.4A	Exclusion of Development Standards from Variation	✓		
1.5	Parramatta Road Corridor Urban Transformation Strategy	✓		
1.6	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	✓		
1.7	Implementation of Greater Parramatta Priority Growth Area Land Use and Infrastructure Implementation Plan	✓		
1.8	Implementation of Wilton Priority Growth Area Land Use and Infrastructure Implementation Plan	✓		
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	✓		
1.10	Implementation of Western Sydney Aerotropolis Plan	✓		
1.11	Implementation of Bayside West Precincts 2036 Plan	✓		
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	✓		
1.13	Implementation of St Leonards and Crows Nest 2036 Plan	✓		
1.14	Implementation of Greater Macarthur 2040	✓		
1.15	Implementation of the Pyrmont Peninsula Place Strategy	✓		
1.16	North West Rail Link Corridor Strategy	✓		
1.17	Implementation of the Bays West Place Strategy	✓		
1.18	Implementation of the Macquarie Park Innovation Precinct	✓		
1.19	Implementation of Westmead Place Strategy	✓		
1.20	Implementation of the Camellia-Rosehill Place Strategy	✓		
1.21	Implementation of South West Growth Area Structure Plan	✓		
1.22	Implementation of the Cherrybrook Station Place Strategy	✓		
2. DESIGN AND PLACE				
3. BIODIVERSITY AND CONSERVATION				
3.1	Conservation Zones		✓	
3.2	Heritage Conservation		✓	
3.3	Sydney Drinking Water Catchments		✓	
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	✓		
3.5	Recreation Vehicle Areas	✓		
3.6	Strategic Conservation Planning	✓		
3.7	Public Bushland	✓		
3.8	Willandra Lakes Region	✓		
3.9	Sydney Harbour Foreshores and Waterways Area	✓		
3.10	Water Catchment Protection	✓		
4. RESILIENCE AND HAZARDS				
4.1	Flooding	✓		
4.2	Coastal Management	✓		
4.3	Planning for Bushfire Protection		✓	
4.4	Remediation of Contaminated Land	✓		
4.5	Acid Sulfate Soils	✓		
4.6	Mine Subsidence and Unstable Land	✓		
5. TRANSPORT AND INFRASTRUCTURE				
5.1	Integrating Land Use and Transport	✓		
5.2	Reserving Land for Public Purposes	✓		
5.3	Development Near Regulating Airports and Defence Airfields	✓		
5.4	Shooting Ranges	✓		

Section 9.1 Ministerial Directions		NOT RELEVANT¹	CONSISTENT²	JUSTIFIABLY INCONSISTENT³
5.5	High Pressure Dangerous Good Pipelines	✓		
6.	HOUSING			
6.1	Residential Zones	✓		
6.2	Caravan Parks and Manufactured Home Estates	✓		
7.	INDUSTRY AND EMPLOYMENT			
7.1	Employment Zones	✓		
7.2	Reduction in non-hosted short-term rental accommodation period	✓		
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	✓		
8.	RESOURCES AND ENERGY			
8.1	Mining, Petroleum Production and Extractive Industries	✓		
9.	PRIMARY PRODUCTION			
9.1	Rural Zones	✓		
9.2	Rural Lands	✓		
9.3	Oyster Aquaculture	✓		
9.4	Farmland of State and Regional Significance on the NSW Far North Coast	✓		

This Planning Proposal is consistent with all relevant Directions by the Minister as detailed below.

Direction 1.1 Implementation of Regional Plans

The planning proposal is consistent with this direction. As outlined in Section B, this planning proposal is consistent with the Greater Sydney Regional Plan, particularly the liveability objectives.

Direction 1.3 Approval and Referral Requirements

The planning proposal is consistent with this direction as it does not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.

Direction 3.1 Conservation Areas

The planning proposal applies to land that is zoned C4 Environmental Living and C3 Environmental Management. The planning proposal is consistent with this direction as the provisions contained in the proposed LEP amendment which need to be met for a secondary dwelling to be undertaken as complying development preclude land within an environmental sensitive area. This is a consistent approach to the Housing SEPP which includes a complying development pathway for secondary dwelling within residential zones.

Direction 3.2 Heritage Conservation

The planning proposal is consistent with this direction. The provisions contained in the proposed LEP amendment which need to be met for a secondary dwelling to be undertaken as complying development, preclude land that comprises, or on which there is, a heritage item or a draft heritage item.

Direction 3.3 Sydney Drinking Water Catchment

A significant portion of land zoned C3 Environmental Management and C4 Environmental Living in the Blue Mountains falls within the Sydney Drinking Water Catchment. Any development in this area is required to achieve a neutral or beneficial

effect on water quality and any planning proposal in this area must meet the requirements of Ministerial Direction 3.3 Sydney Drinking Water Catchments.

This planning proposed seeks to introduce a complying development pathway into schedule 3 of the Blue Mountains Local Environmental Plan 2015 for secondary dwellings within the C3 and C4 zones. The provisions contained in the proposed LEP amendment which need to be met for the secondary dwelling to be undertaken as complying development ensure that impacts on water quality are minimal.

As required by the Ministerial Direction, Council has consulted with Water NSW, with the draft Planning Proposal being referred in August 2025. A response from Water NSW was received on the 12 September 2025 which generally supports the proposed amendments as the provisions protect water quality and limit the circumstances where a complying development pathway could be assessed. The response did raise concerns that the Planning Proposal had little consideration regarding whether secondary dwellings will require an additional driveway or associated landscaping. As parking is not required for secondary dwellings, it is Council's intention that if external works are proposed (other than the provision of an additional door) then a development application be required.

As required by Condition 2 of the Gateway determination, prior to public exhibition further consultation was undertaken with Water NSW. The planning proposal was forwarded via the planning portal on 15 December 2025. Water NSW provided comments on the 19 January 2026 which seek clarification regarding the relationship of the proposal to "Priority Sewerage or Pressure Sewer Scheme" areas. The planning proposal has been updated to clarify that these areas will not be excluded for using the proposed complying development pathway however, a Section 73 Certificate under the *Sydney Water Act 1994* would need to be obtained.

Direction 4.3 Planning for Bushfire Protection

This Planning Proposal will affect land that is, or is in proximity to, land mapped as bushfire prone land. The planning proposal does not increase the permissibility of any residential development type. Secondary dwellings are currently permissible within the C3 Environmental Management and C4 Environmental Living zones within Blue Mountains LEP 2015.

In this regard, the planning proposal does not increase density from what is projected under the current zoning.

Further, it is proposed that the provisions contained in the proposed LEP amendment which need to be met for the secondary dwelling to be undertaken as complying development requires that a bush fire risk assessment is undertaken in accordance with the methodology specified in *Planning for Bush Fire Protection* and excludes land with a bushfire attack level of 40 (BAL-40) or the flame zone (BAL-FZ).

Consistent with this Ministerial Direction, and as required by Condition 2 of the Gateway determination, consultation was undertaken with the Commissioner of the NSW Rural Fire Service (RFS) prior to public exhibition. The planning proposal was forwarded via the planning portal on 15 December 2025. In accordance with the Gateway Determination at least 30 working days to provide comment on the proposal, with the deadline being 30 January 2026. No comments were received from the NSW RFS within this timeframe.

Section C - Environmental, Social and Economic Impact

- 8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The planning proposal will not impact any critical habitat, threatened species, populations or ecological communities, or their habitats as a result of including a complying development pathway for secondary dwellings located within the footprint of an existing dwelling in the C3 Environmental Management and C4 Environmental Living zones. The level of protection afforded to critical habitat, threatened species populations or ecological communities will be maintained as a result of this amendment.

9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

This planning proposal seeks to facilitate secondary dwellings within the footprint of existing dwelling. As such, there are no environmental effects envisaged as a result of proposed amendments.

10. Has the planning proposal adequately addressed any social and economic effects?

This planning proposal has positive social benefits in facilitating the delivery of alternative housing within the LGA thereby promoting housing supply, diversity and affordability.

The planning proposal is not expected to result in adverse economic effects.

Section D – Infrastructure (Local, State and Commonwealth)

11. Is there adequate public infrastructure for the planning proposal?

There are limitations to sewer connections within the Blue Mountains, with Sydney Water advising Council that certain areas within the Priority Sewage Program are reaching capacity. It is the intention that these areas will not be excluded from the proposed complying development pathway however, in these areas a Section 73 certificate under the *Sydney Water Act 1994* would need to be obtained.

The Planning Proposal is not expected to require the provision of other additional public infrastructure. It is recommended that Schedule 3 includes a condition requiring that prior to works commencing that any contribution required to be paid under section 7.11 or 7.12 of the *Environmental Planning and Assessment Act 1979* has been paid.

Section E –State and Commonwealth Interests

12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

. The Gateway Determination required referrals to the Rural Fire Service and Water NSW prior to public exhibition. Following is a summary of that consultation:

1. Rural Fire Service – The planning proposal was forwarded via the planning portal on 15 December 2025. In accordance with the Gateway Determination at least 30 working days to provide comment on the proposal, with the deadline being 30 January 2026. No comments were received from the NSW RFS within this timeframe.
2. Water NSW - The planning proposal was forwarded via the planning portal on 15 December 2025. Water NSW provide comments on the 19 January 2026 which seek clarification regarding the relationship of the proposal to “Priority Sewerage or Pressure Sewer Scheme” areas. The planning proposal has been updated to clarify that these areas will not be excluded for using the proposed complying development pathway however, a Section 73 Certificate under the *Sydney Water Act 1994* would need to be obtained.

PART 4 MAPPING

The Planning Proposal does not seek to amend any maps within the Blue Mountains Local Environmental Plan 2015.

DRAFT

PART 5 COMMUNITY CONSULTATION

The Planning Proposal and draft LEP amendments will be publicly exhibited for a period of least 28 days or in accordance with the Gateway Determination and Council's Community Participation Plan. Notification will be in accordance with the directions of the Gateway Determination. Notification of the Proposal will also be placed on Council's website and in the local newspaper, and the exhibition material available made available on Council's Have Your Say website as well as hard copies at Council's customer service centres.

At the conclusion of the exhibition period, a report will be presented to Council detailing the submissions received and any changes proposed in response to submissions.

PART 6 PROJECT TIMELINE

Stage	Timeframe	
Pre-lodgement consultation with Water NSW (as per Ministerial Direction)	August 2025	Completed
Consideration of draft Amendment 24 to LEP 2015 by the Local Planning Panel	September 2025	Completed
Consideration of draft Amendment 24 to LEP 2015 by Council	October 2025	Completed
Council decision to proceed with Gateway application	October 2025	Completed
Gateway determination	December 2025	Completed
Commencement and completion of public exhibition period	March / April 2026	Projected
Post-exhibition review and consideration of submissions	April 2026	Projected
Council meeting to resolve to proceed with final draft Amendment 24 to LEP 2015	May / June 2026	Projected
Submission to the Department for Finalisation	May / June 2026	Projected
Gazettal of LEP amendment	July 2026	Projected

PART 7 ATTACHMENTS

Document	Attachment
Consultation letter from Water NSW dated 12 September 2025	A
Local Planning Panel advice from 29 September 2025 meeting	B
Report to Council – Draft Amendment 24 LEP 2015 – Home within a home, Ordinary Meeting, 28 October 2025	C
Gateway Determination – 5 December 2025	D
Advice from Water NSW dated 19 January 2026	E

Attachment A:

Consultation letter from Water NSW dated 12 September 2025

12 September 2025

Contact: Stuart Little
Telephone: 0436 948 347
Our ref: D2025/110180

Ms Jane Hetherington
Senior Strategic Planner
Blue Mountains City Council
Locked Bag 1005
KATOOMBA NSW 2780

Dear Ms Hetherington,

RE: Planning Proposal: Blue Mountains LEP 2015 – Home within a home (Secondary dwelling complying development pathway in C3 & C4 zones)

I refer to Council's email of 2 September 2025 providing the aforementioned Planning Proposal for WaterNSW's consideration and advice.

The Planning Proposal seeks to amend Schedule 3 of the Blue Mountains Local Environmental Plan 2015 to introduce a complying development pathway for secondary dwellings within an existing principal dwelling in the C4 Environmental Living and C3 Environmental Management zones. The Proposal would provide a new planning pathways for secondary dwellings in the C3 and C4 zones across the entire local government area (LGA), irrespective of whether the land resides within the Sydney Drinking Water Catchment (SDWC).

Our main concern is in relation to the potential implications of the Proposal for water quality in the SDWC.

The complying development pathway bypasses the provisions of Part 6.5 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the B&C SEPP) including the requirements for new development to have a neutral or beneficial effect (NorBE) on water quality. It is therefore important that higher risk development types, or developments which are likely to have higher environmental impacts, default to requiring a full DA and thereby attract the provisions of the B&C SEPP.

We raise the following:

- We note and support the proposed requirement for the secondary dwelling to be located within the existing dwelling and not require the conversion of a garage, nor result in a dwelling on the land beyond the principal and secondary dwelling. This ensures that the footprint of the existing dwelling is not expanded through the complying development process.
- We support the Proposal's intention of excluding unsewered land if the development will increase the number of bedrooms. This ensures that the development will not impact on existing on-site sewage management systems (OSSM). It also circumvents the potential for additional OSSMs requiring new or additional effluent management areas over land that is likely to be environmentally constrained. Council's proposed approach is also consistent with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP) which excises the Complying development planning pathway from operating on unsewered land in the SDWC if the number of bedrooms is increased (see Codes SEPP, s 1.19(1)(j)).

- We support the intention to exclude land that is located in an area with a Priority Sewerage or Pressure Sewer.
- There appears to be little consideration regarding whether secondary dwellings will require an additional driveway or associated landscaping. Additional driveways would likely require erosion and sediment control during construction and may have implications for stormwater management due to the increase in impervious area. The Proposal would benefit by additional considerations or controls with regard to these matters such as requiring complying development to be consistent with *Landcom 2004 Managing Urban Stormwater: Soils and construction - Volume 1*.

The Proposal notes that it is consistent with section 9.1 Ministerial Direction 3.3. We note and support this conclusion given the inclusion of controls that implicitly protect water quality and limit the circumstances where the Complying development pathway could be accessed. Given the nature of the amendment applying LGA-wide, Strategic Land and Water Capability Assessments are not applicable. The Special Area provisions of Direction 3.3 are also not relevant as the Proposal is not seeking to specifically rezone WaterNSW land or National Park estate.

We do not need to see the Proposal again at Gateway, although we ask that Council advise us regarding how the above considerations have been addressed. We also ask that we be notified when the Planning Proposal is exhibited. Please use the environmental.assessments@waternsw.com.au for further communications regarding the Proposal.

If you have any questions regarding this letter, please contact Stuart Little at stuart.little@waternsw.com.au.

Yours sincerely



ALISON KNIHA
Environmental Planning Assessments and Approvals Manager

Attachment B:

Local Planning Panel advice from 29 September 2025 meeting

2.5 CONSIDERATION OF Amendment 24 to LEP 2015 – Home within a home (secondary dwelling complying development pathway in C3 & C4 zones).

Panel Advice

The Panel unanimously provides the following advice:

- The Panel agreed that this Council initiated planning proposal has merit and is worthwhile of progression.
- The Panel agrees that this Planning Proposal has strategic merit as it supports the State governments housing strategies and it has local merit as it similarly supports Council's housing strategies.
- The Panel considered that the take up might be limited given the number of exclusions but understands Council's conclusion that there is quite a lot of housing stock where this could be applied.
- The Panel considered that this could be implemented and then used as short term rental accommodation which would be against the intent of the planning proposal. The Panel encourages Council to think strategically in terms of avoiding this outcome. These concerns about short term accommodation should not be a reason to not proceed with the Planning Proposal.
- The Panel encourages examination to ensure that unnecessary barriers are removed, which could be supported by monitoring the uptake and enquiries received.
- The Panel encourages Council to actively promote facilitation of these provisions through existing community networks.

Attachment C:

**Council report – Draft Amendment 24 to LEP 2015 – Home within a home,
Ordinary Meeting, 28 October 2025**

ITEM NO: 10

SUBJECT: DRAFT AMENDMENT 24 LEP 2015 - HOME WITHIN A HOME

FILE NO: F16021 - 25/148934

Delivery Program Link

Principal Activity: Live

Service: City Wide Strategic Planning Service

Recommendations:

1. *That the Council endorses the Planning Proposal (Enclosure 1), prepared in accordance with Section 3.33 of the Environmental Planning and Assessment Act 1979, for Blue Mountains Local Environmental Plan 2015 draft Amendment 24 (Home within a home) to be submitted to the NSW Department of Planning, Housing and Infrastructure (the Department) requesting a Gateway Determination;*
 2. *That the Council notes the advice provided by the Local Planning Panel on the Planning Proposal for Blue Mountains Local Environmental Plan 2015 draft Amendment 24 (Home within a home) (Enclosure 1);*
 3. *That the Council processes the Planning Proposal for Blue Mountains Local Environmental Plan 2015 draft Amendment 24 (Home within a home) and places it on public exhibition in accordance with Council's Community Participation Plan and the Gateway Determination issued under the provisions of Section 3.34 of the Environmental Planning and Assessment Act 1979;*
 4. *That the Council notes that a further report will be brought to Council, following receipt of the Gateway Determination and at the conclusion of the public exhibition period, to enable consideration of submissions made to the Planning Proposal for Blue Mountains Local Environmental Plan 2015 draft Amendment 24 (Home within a home); and*
 5. *That the Council delegates to the CEO or her delegate the authority to make minor amendments to the endorsed Planning Proposal for Blue Mountains Local Environmental Plan 2015 draft Amendment 24 (Home within a home) that may arise after the formal endorsement by the Council of this Planning Proposal, subject to such amendments maintaining the policy intent of the Planning Proposal.*
-

Report by Director Environment & Planning Services:**Reason for report**

This report seeks Council's endorsement of the Planning Proposal for Blue Mountains Local Environmental Plan (LEP) 2015 draft Amendment 24 (Home within a home) to submit to the NSW Department of Planning, Housing and Infrastructure (the Department) for Gateway Review, and to subsequently place it on public exhibition.

The Planning Proposal seeks to facilitate the conversion of part of existing dwelling in the C3 Environmental Management or C4 Environmental Living zone, into a secondary dwelling within the footprint of an existing principal dwelling, via a complying development pathway.

Background

Council's Local Strategic Planning Statement (LSPS) and Local Housing Strategy (LHS) both identify the need to provide housing to meet the needs of the community, both now and into the future. These documents also acknowledge the constrained nature and limited capacity of urban areas within the Blue Mountains, adding to the complexity of increasing housing supply and diversity to meet community needs.

Housing within the Blue Mountains predominately takes the form of free-standing homes, with over 90% of the housing stock being separate dwellings. This is much higher than New South Wales or Greater Sydney which have a higher percentage of medium and high-density housing. In addition, data from the Australian Bureau of Statistics (ABS) shows that the size of dwellings in the Blue Mountains has increased over the last 20 years with a greater portion of dwellings with 4 or more bedrooms. Further, the number of people living alone has also increased and in 2021 there was over 80% of dwellings in the Blue Mountains with one or more spare bedrooms.

Given the limited capacity for new housing and the importance of retaining the existing Blue Mountains' character, one of the actions identified in Council's LHS is to provide diverse and affordable housing in the form of 'hidden density' within the Blue Mountains Local Government Area (LGA). The concept of hidden density involves increasing dwelling numbers in the predominantly low-density residential areas in a way which also retains the character of our towns and villages, while appropriately managing bushfire and environmental risks. Council's LHS identifies secondary dwellings as one of the key forms of hidden density.

Investigation has been undertaken into options to facilitate appropriate housing opportunities, which improve housing diversity, choice and affordability while utilising existing urban areas and housing stock. Early stakeholder engagement with community-based housing organisations has also identified a demand for providing self-contained living opportunities within the existing housing stock.

In response, a Planning Proposal has been prepared that seeks to amend Blue Mountains Local Environmental Plan 2015 (LEP 2015) to introduce a complying development pathway for secondary dwellings within the footprint of an existing dwelling within certain environmental zones (C3 Environmental Management and C4 Environmental Living).

Planning Proposal: Home within a home

As referenced above, the purpose of the draft LEP amendment is to support the provision of additional housing located within the footprint of an existing dwelling. This enables a more efficient use of existing housing stock, increasing dwelling supply, and improving housing diversity and affordability within the Blue Mountains LGA. This approach also places such dwelling supply into the market more quickly, as opposed to newly constructed secondary dwellings or other housing forms.

Current Permissibility of Secondary Dwellings in the C3 and C4 zones

The proposed changes will not alter existing permissibility for secondary dwellings. This form of housing is already permissible with development consent within both the C3 Environment Management and C4 Environmental Living zones, either as a detached secondary dwelling (separate from the principal dwelling), attached to the principal dwelling, or within the principal dwelling.

This proposal provides an alternative planning pathway for secondary dwellings within the existing footprint of the principal dwelling. This is via complying development under Council's Local Environmental Plan, which is a faster and lower cost option than a development application. The key difference between complying development and a development application is that complying development includes specific pre-set criteria which cannot be

varied. If one of the criteria cannot be met, then it cannot be approved as complying development and will instead require approval through a development application, which allows additional flexibility through robust merit-based assessment.

Existing Complying Development Pathways for Secondary Dwellings

Currently, there is a similar, complying development pathway for secondary dwellings in residential zones through state policy (*State Environmental Planning Policy (Housing) 2021*). However, this does not apply to the C3 or C4 zones. This proposal seeks to provide this opportunity. Many of the proposed complying development criterion are consistent with those listed in the state policy and the key aspects are summarised below. Similarly, it is proposed that the notification process will align with the requirements under this state policy.

Complying development pathway - Key requirements

The proposal applies to zones E3 Environmental Management and E4 Environmental Living. The key requirements for this complying development pathway are:

- The secondary dwelling must be located within the footprint of a principal dwelling;
- No external alterations are to be made to the principal dwellings, except for the provision of an additional door;
- It will not result in a dwelling on the land, other than the principal dwelling and secondary dwelling; and
- The maximum floor area of the secondary dwelling will also be limited (maximum 60m²) which is consistent with limit set by the *State Environmental Planning Policy (Housing) 2021* and Council policies.

These requirements will limit environmental impact, and particularly the visual impact, maintaining the existing character and landscape qualities of established urban areas. It is intended that this proposal will also assist housing affordability by increasing the supply of smaller, lower-cost homes within the Blue Mountains LGA.

The proposed complying development pathway will also require that the relevant provisions of the Building Code of Australia (BCA) are met, in particular that each dwelling has separate facilities and that fire separation is achieved.

Complying development pathway - Key exclusions

To ensure that secondary dwelling developments utilising this complying development pathway have minimal environmental impact and are appropriately located, several exclusions are proposed. These include:

- Land with bushfire attack levels of BAL 40 and flame zone. This is consistent with the NSW RFS document *Planning for Bushfire Protection 2019* and Clause 1.19A of the Codes SEPP;
- Land which is defined as an environmentally sensitive area within Clause 3.3 of Blue Mountains LEP 2015. This includes land within 100m of the Blue Mountains National Park, a World Heritage Area;
- Land on which there is a heritage item of draft heritage item which is consistent with the Codes SEPP;
- Land that is unsewered, if the proposal will increase the number of bedrooms which is consistent with the Codes SEPP;
- A change of the buildings' classification under the BCA so that significant upgrades are not required; and
- The conversion of the garage due to the potential loss of parking, and that garages do not often meet the standards for habitable areas.

Importantly, if a site triggers one of the above criteria, a secondary dwelling can still be pursued. However, this would need to be undertaken through a development application where a detailed assessment and the necessary State agency referrals can be undertaken.

Further, an additional requirement will be that the secondary dwelling be used for long term rental and not utilised for Short Term Rental Accommodation. This is referenced below.

Consultation with WaterNSW

As part of the preparation of the draft Planning Proposal, Council has consulted with WaterNSW as required by the Local Planning Directions of the Department of Planning, Housing and Infrastructure.

The draft Planning Proposal was referred to WaterNSW on 27 August 2025. A response was received on 12 September 2025 which generally supports the proposed amendment as the provisions protect water quality and limit the circumstances where the complying development pathway could be assessed. However, concerns were raised that the Planning Proposal had little consideration to whether secondary dwellings utilising the proposed pathway will require an additional driveway or landscaping. In response, the planning proposal has been updated to clarify Council's intention that if external works are proposed (other than the provision of an additional door) then a development application be required.

Secondary Dwellings and Short-Term Rental Accommodation (STRA)

The use of secondary dwellings generally for Short Term Rental Accommodation presents a challenge from the perspective of housing supply and affordable housing. This is particularly true in the Blue Mountains, where secondary dwellings represent one of the only housing diversity options available to deliver a form of hidden density.

Additionally, there remains no clear state government direction on STRA policy. While a discussion paper on the policy and regulatory framework for short-term rental accommodation was released in early 2024, which identified key themes and challenges with this policy area, there has been no response from the state government, or legislative or policy changes.

Currently under state policy, short term rental accommodation (STRA) is not required to obtain approval provided that a 180-day cap is not exceeded. However, this 180-day cap does not effectively discourage the exclusive use of properties for STRA. In this regard, Council continues to advocate to the State Government that the STRA policy framework be improved to better balance the benefits to the tourism economy with impacts to the housing availability and affordability.

Generally, Council has limited powers to influence the use of secondary dwellings for long term rental rather than short term rental accommodation. However, it is proposed that as part of the proposal that is the subject of this report, that a condition be required to be included on any complying development certificate issued for a 'home within a home' under Council's LEP 2015 provisions, which states that the secondary dwelling cannot be used for Short Term Rental Accommodation. This has been included in the Planning Proposal at Enclosure 1.

Local Planning Panel Advice

As required by section 9.1 of the Environmental Planning and Assessment Act 1979, the Planning Proposal was referred to the Blue Mountains Local Planning Panel (the Panel) for advice. The Panel considered the matter at its meeting of 29 September 2025.

The Panel found that the draft Planning Proposal has strategic merit and is worthwhile being progressed. Concerns were raised that the uptake of the proposed pathway may be limited, and the secondary dwellings have the potential to be used as short-term rental accommodation which is inconsistent with the intention. However, the Panel noted that these were not reasons

to stop progression of the planning proposal. On review, it is proposed at that a condition be included on any Complying Development Certificate for a 'home within a home' under LEP 2015, requiring that it not be used for Short Term Rental Accommodation, as referenced above. The LPP advice is attached to the Planning Proposal at Enclosure 1.

Next Steps

Should the Council endorse the draft Planning Proposal, a Gateway Determination will be sought from the NSW Department of Planning, Housing and Infrastructure. Subject to a favourable Gateway Determination, the Planning Proposal will then be placed on public exhibition in line with Council's Community Participation Plan and Gateway Determination conditions.

A report will be brought back to Council outlining the results of the public exhibition. This is expected to occur early 2026.

Sustainability assessment

Effects	Positive	Negative
Environmental including the Rights of Nature	The amendments seek to facilitate secondary dwellings within the footprint of an existing dwelling. As such, there will be minimal environmental impacts.	Nil
Social	The amendments seek to facilitate an alternative housing typology, while utilising the existing housing stock within the Blue Mountains which is predominately single detached dwellings. The amendment also seeks to promote housing affordability by increasing the supply of smaller, lower-cost homes within the Blue Mountains LGA.	Nil
Economic	The amendments seek to speed up the development process and reduce costs for applicants.	Nil
Governance	The amendment will streamline approvals to facilitate additional housing with minimal environmental impacts.	A complying development pathway does not allow for community input or feedback. This can be perceived as a negative consequence. However, the approval pathway is consistent with low impact development within an existing building footprint.

Financial implications

There are no financial implications for Council in adopting the recommendations in this report. All work is within the operational budget for the current financial year.

Legal and risk-management issues for the Council

There are no legal or risk management implications for Council in adopting the recommendations of this report.

External consultation

WaterNSW was consulted on the draft Planning Proposal as detailed earlier in this report. Subject to a favourable Gateway Determination, further State Agency consultation will be

undertaken and the Planning Proposal will be placed on public exhibition in line with Council's Community Participation Plan and Gateway Determination conditions.

Alignment with Delivery Program and/or Operational Plan

The recommendations in this business paper are aligned with the Delivery Program 2025-2029 key direction *Live*, as follows:

- Objective 4.4 *The City's housing meets the diverse needs of the community;*
- Strategy 4.4a *Support and encourage the provision of a range of housing choices to meet diverse needs and budgets;* and
- Principal Activity 40401 *Consider housing affordability in city wide planning and support greater diversity in housing options.*

Conclusion

A Planning Proposal for draft Amendment 24 to LEP 2015 (Home within a Home) has been prepared seeking to introduce a complying development pathway for secondary dwellings located within the footprint of a principal dwelling. This would apply in the C4 Environmental Living and C3 Environmental Management zones. As outlined in this report, this form of development is already permissible in these zones through a development application. A simpler and faster approval pathway option is being proposed to encourage homeowners with large under-utilised existing dwellings to consider conversion of part of that dwelling into a separate smaller dwelling to address housing needs in the community.

It is recommended that the Council endorses the draft Planning Proposal to be submitted to the NSW Department of Planning, Housing and Infrastructure for Gateway Determination. Subject to a favourable Gateway Determination, the Planning Proposal will then be placed on public exhibition in line with Council's Community Participation Plan and the Gateway Determination conditions.

Following public exhibition, a report will be brought back to Council on the outcomes of exhibition and the steps required to finalise the draft LEP amendment.

ATTACHMENTS/ENCLOSURES

1	Council Report Enclosure - Home within a home planning proposal	25/207395	Enclosure
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Attachment D:

Gateway Determination – 5 December 2025

Gateway Determination

Planning proposal (Department Ref: PP-2025-2156): To introduce a complying development pathway for secondary dwellings in the C3 Environmental Management and C4 Environmental Living zones.

I, the Director, Local Planning and Council Support, Central, West and South at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Blue Mountains Local Environmental Plan 2015 to amend Schedule 3 Complying Development to introduce a complying development pathway for secondary dwellings located within the footprint of a principal dwelling, in the C3 Environmental Management and C4 Environmental Living zones, should proceed subject to the following:

The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the Act subject to the following:

- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
- (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and
- (c) there are no outstanding written objections from public authorities.

The LEP should be completed on or before 30 September 2026.

Gateway Conditions

1. Prior to public exhibition and agency consultation, the planning proposal is to be updated to:
 - remove from the Objectives and Explanation of Provisions, the proposed condition / restriction that the dwelling is not used as short term rental accommodation;
 - remove from the Explanation of Provisions, the draft wording of the amendment to Schedule 3 and replace with a note that final wording of the amendment will be drafted by Parliamentary Counsel and be consistent with SEPP (Housing) 2021 and SEPP (Exempt and Complying Development Codes) 2008; and
 - make clear within the Explanation of Provisions, that secondary dwellings may require payment of Section 7.11 or Section 7.12 contributions.
2. Prior to public exhibition, consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act (or any other part of the Act) and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:
 - NSW Rural Fire Service; and

- Water NSW.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.

Following agency consultation and prior to public exhibition, the planning proposal is to be:

- updated to address agency comments / advice; and
 - forwarded to the Minister under s 3.34(6) of the Act.
3. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).
 4. Should the findings of the New South Wales Parliamentary Inquiry into reforms to facilitate the construction of secondary dwellings in rural areas become available, council is to consider these findings at the post exhibition stage.
 5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

Dated 5 December 2025



Elizabeth Kimbell
Acting Director, Local Planning and
Council Support, Central, West and
South
Department of Planning, Housing and
Infrastructure

Delegate of the Minister for Planning and
Public Spaces

Attachment E:

Advice from Water NSW dated 19 January 2026

19 January 2026

Contact: Stuart Little
Telephone: 0436 948 347
Our ref: D2026/1452

General Manager
Blue Mountains City Council
Locked Bag 1005
KATOOMBA NSW 2580

Dear Sir/ Madam,

RE: Blue Mountains Local Environmental Plan 2015 – Home within a home (Secondary dwelling complying development pathway in C3 & C4 zones)(PP-2025-2156; Ref 4363)

I refer to the 'Home within a home' Planning Proposal which seeks to provide a complying development pathway for secondary dwellings within an existing principal dwelling for the C3 Environmental Management and C4 Environmental Living zones across the Blue Mountains Local Government Area (LGA).

WaterNSW provided comment on an earlier version of the Proposal on 12 September 2025 (Our Ref: D2025/110180). We note that the Proposal takes into account and responds to those comments. As indicated in that correspondence, our main interest is in relation to water quality protection for that area of the LGA that occurs within the Sydney Drinking Water Catchment (SDWC).

Complying development bypasses the water quality considerations under Part 6.5 of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (B&C SEPP) including the requirement for new development to have a Neutral or Beneficial Effect (NorBE) on water quality. We note that the Proposal includes a number of standards which implicitly protect water quality by limiting the circumstances where the complying development pathway can be accessed.

As raised in our previous correspondence:

- We support the proposed requirement for secondary dwellings to be located within the existing dwelling and not require the conversion of a garage, nor result in a dwelling on land beyond the principal and secondary dwelling. This will ensure that the footprint of the existing dwelling is not increased through the complying development process.
- We support the provision of excluding secondary dwellings from the complying development process if the development is on unsewered land and increases the number of bedrooms. This ensures that the complying development pathway does not place additional reliance or pressure on existing on-site sewage management systems or give rise to additional effluent management areas. The proposed requirement is also consistent with relevant provisions of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) which excises complying development from operating on unsewered land in the SDWC if the number of bedrooms is proposed to be increased (see Codes SEPP, s 1.19(1)(j)).

It is unclear whether the proposed complying development pathway would be available to “Priority Sewerage or Pressure Sewer Scheme” areas. The previous version of the Proposal indicated an intention for the complying development pathway to not apply to land “with a Priority Sewerage or Pressure Sewer Scheme”. This constraint appears to have been removed in the latest iteration of the Proposal. The current version of the Proposal (P. 15) states that “certain areas within the Priority Sewage Program are reaching capacity”. We seek clarity regarding the relationship of the Proposal to “Priority Sewerage or Pressure Sewer Scheme” areas.

Our previous correspondence raised concerns regarding the potential for the Proposal to expand the impervious area of properties, such as through new driveways and landscaping, thereby increasing potential stormwater impacts and management requirements. The current Proposal clarifies that parking is not required for secondary dwellings. It also clarifies the intention that if external works are proposed (other than the provision of an additional door) then a full DA would be required. We note and support the additional context and clarification on this issue. A full DA would attract the consideration of stormwater and water quality impacts including through the NorBE requirement. We also note that the requirement for the secondary dwelling to be within the footprint of the existing dwelling will also restrict any increase in impervious areas and associated stormwater impacts.

We agree that the Proposal is consistent with section 9.1 Ministerial Direction 3.3 (see P. 12). Strategic Land and Water Capability Assessments (SLWCAs) are not applicable in this circumstance. The Special Area provisions of Direction 3.3 are also not relevant as the Proposal is not seeking to specifically rezone WaterNSW land or National Park estate within designated Special Areas.

We request that any correspondence on strategic planning matters to environmental.assessments@waterNSW.com.au.

If you have any questions regarding this letter, please contact Stuart Little at stuart.little@waterNSW.com.au.

Yours sincerely,



MINA SUH
Environment and Heritage Manager
Land and Water Operations