

Winston Hills – Gateway Determination Review Request

Relating to various properties in Winston Hills (Lois and Simpson Streets and Naomi Street South)

January 2022



**CITY OF
PARRAMATTA**

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1. Introduction

- 1.1. This report supports a request for a Gateway review with respect to the properties at **5A, 51-61 and 64-82 Naomi Street South, 1-5 and 2-8 Lois Street and 1 and 3 Simpson Street, Winston Hills (total of 27 properties)**; see Figure 1.



Figure 1 – 27 properties subject to the Planning Proposal

- 1.2 The Gateway review request package has been prepared consistent with the *Local Environmental Plan Making Guideline* (December 2021) published by the NSW Department of Planning, Industry and Environment and includes:
- A completed application form.
 - A copy of the planning proposal and supporting information as submitted to the Gateway.
 - Justification of why a review of the Gateway determination is warranted, including where relevant responses to issues raised by the Gateway decision-maker (this report).

It is noted that no disclosure of reportable political donations is required in terms of Section 10.4 of the Environmental Planning and Assessment Act 1979.

2. Background

This section briefly outlines key stages of the decision-making process that have led to the Winston Hills Planning Proposal for land at 5A, 51-61 and 64-82 Naomi Street South, 1-5 and 2-8 Lois Street and 1 and 3 Simpson Street, Winston Hills (“the subject land”). Please refer to Section 1 of the Winston Hills Planning Proposal for detailed background and context.

- 2.1. The Harmonisation Planning Proposal was publicly exhibited from 31 August to 12 October 2020.
- 2.2. On 29 June 2021, the Parramatta Local Planning Panel (LPP) considered a report on the exhibition and submissions for the Harmonisation planning 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.
- 2.3. City of Parramatta Council at its meeting on 12 July 2021 considered a report on the submissions received on the Harmonisation Planning Proposal, including recommendations of the LPP requiring a review of the subject land on the Dual Occupancy Prohibition Map. The Harmonisation proposal was forwarded to the Department in September for finalisation is currently being assessed. In relation to the recommended next steps for the subject land Council resolved in part:
 - (iv) *Council prepare a separate Planning Proposal seeking to prohibit dual occupancy in Simpson Street, Lois Street and Naomi Street South, Winston Hills (by adding the properties in these streets to the areas on the Dual Occupancy Prohibition Map) and this separate Planning Proposal is pursued as a matter of urgency to minimise the amount of time when dual occupancy remains permitted in Simpson Street, Lois Street and Naomi Street South and that the CEO be delegated responsibility for endorsing the final form of the Planning Proposal documents.*
 - (vii) *That should any development application for dual occupancy in Simpson Street, Lois Street and Naomi Street South be lodged during the period whilst the use remains permitted, that Council not support that development application.*
- 2.4. To address the Council resolution, Council officers prepared a Site-Specific assessment which assessed the constraints of the subject land for accommodating dual occupancy development. Council officers adopted the same methodology used in the LGA wide mapping of constrained land under the Dual Occupancy Constraints Analysis undertaken for the Harmonisation planning proposal. The assessment found 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.
- 2.5. A planning proposal (PP) for the subject land was subsequently submitted to DPIE on 2 November 2021. The PP package included a copy of the Site-specific assessment to justify the need to include the subject land on a Dual Occupancy Prohibition Map.

- 2.6. 13 December 2021, a Gateway determination was received from the Acting Director, Central (GPOP) DPIE as a delegate of the Minister for Planning and Public Places. The determination indicated that the Planning Proposal did not demonstrate strategic or have site-specific merit and that it should therefore not proceed. The Gateway determination also indicated that:

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. Many constraints identified through the analysis can be appropriately addressed through the development application process.

3. Justification for seeking a Review

To justify Council's request for a Gateway review, this section addresses the matters raised by Department in its Gateway Determination Report. Each matter is supported by a Council Officer response. Refer to **Table 1**).

3.1. Matters Raised in Gateway Assessment Report

The Department's Gateway Determination report (refer to Section 3) provided the following matters for refusing the PP:

- The PP is inconsistent with District Plan priorities for infrastructure, collaboration, productivity, and liveability and therefore, is not satisfied the PP gives effect to the District Plan in accordance with Section 3.8 of EPA Act 1979.
- The PP restricts the delivery of additional housing on the subject land, potentially driving development to land with greater environmental constraints and therefore, sees that the PP will have a negative environmental impact.
- The Department considers the PP will have negative social and economic impacts as it will restrict the ability of landowners to develop their land to provide additional and more diverse housing. The Department acknowledges that during the exhibition of the Harmonisation PP, Council received 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, the exhibition also attracted eight separate submissions about dual occupancy permissibility in Winston Hills, six of those in support the use with two submissions supporting a prohibition. The Department does highlight that there were a higher proportion of submissions that were in favour of allowing dual occupancy development in Winston Hills.
- The Department considers the PP will have negative infrastructure impacts. Although it is unlikely that the increase in dwellings will require additional infrastructure provision, the PP will restrict the efficient utilisation of existing infrastructure, such as bus services, roads, power, water and other urban services.
- The Department states that the PP 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. This is further explained in Table 1.
- The Department correctly states that the LPP has not considered the Winston Hills PP.

Council's response to these matters raised by the Department are broadly addressed below. A detailed response to the Department's assessment of consistency with the Central City District Plan is provided at Table 1.

- Council officers do not agree that the PP should be refused on the basis that the PP will drive development to land with greater environmental constraints. As part of the Dual Occupancy Constraints Analysis (Appendix 4 to the PP) undertaken for the Harmonisation PP, Council assessed the environmental constraints identifying land that was environmentally constrained land for the purposes of dual occupancies and have ensured it is permitted only in appropriate areas.
- Council officers note that submissions received in favour of allowing dual occupancy development in Winston Hills were outside of the subject land (see **Figure 1**) in an area of special character where dual occupancy has been prohibited under previous instruments. Those submissions are of more limited reference to this particular precinct.
- Notwithstanding, Council officers were required to undertake further investigation to address the Council Resolution of 12 July 2021 as recommended by the LPP. This additional work, namely the 'Site-Specific Assessment' (Appendix 3 to the Winston Hills PP) concluded that there was sufficient justification for the subject land to be included on the Dual Occupancy Prohibition Map. A copy of Appendix 3 of the PP package has been provided to the Department.

- The subject site is not in an identified Growth Precinct where future growth is prioritised and will be serviced by the additional infrastructure. Therefore, it is not efficient to attract/permit an increase in dwellings in an area, where new infrastructure is not anticipated.

Given the evidence provided by Council to date that supports the need to prohibit dual occupancy development for the subject land, the decision to refuse the PP on the grounds the strategic assessment appears to be unjustified.

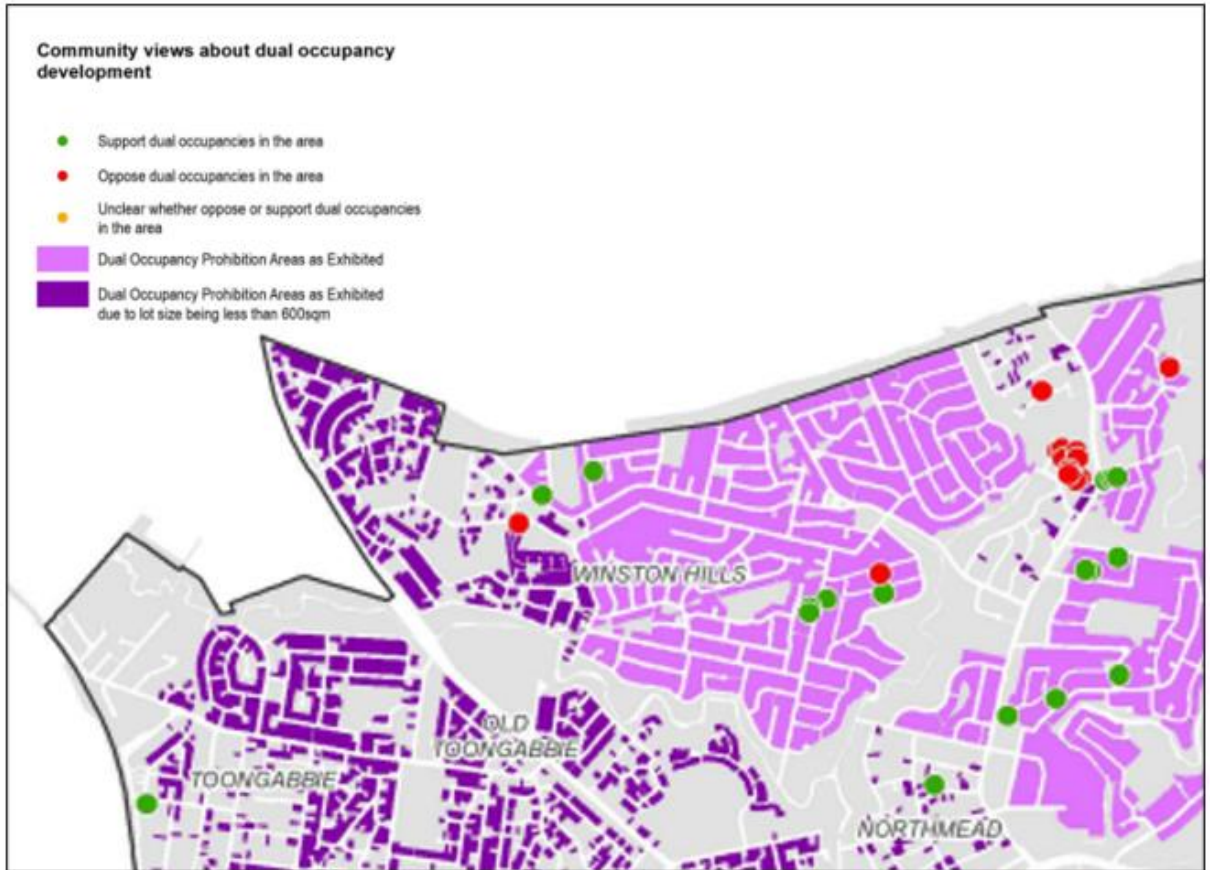


Figure 1 - Extract of Mapping of Community views about dual occupancy development received during exhibition of Harmonisation planning proposal.

A response to parts of Section 3 of the Gateway Determination Report is presented in Table 1 below.

Table 1 - Summary of DPIE reasons for inconsistency with Council Officer Response

District Plan Matters			
		Summary of DPIE reasons for inconsistency	Council Officer Response
1.	Planning Priority C1: Planning for a city supported by infrastructure	<p>Department does not agree with Council's assessment that the subject land is not supported by adequate infrastructure or located within a 'Growth Precinct'.</p> <p>Department is of the view that the subject sites are well-serviced and supported by existing infrastructure, to support a minor residential</p>	<p>Council maintains the view that the subject site is low density in character and demonstrates unique limitations in the local road infrastructure that would pose challenges to land use and transport integration if increased densities were to occur. Council's Local Housing Strategy establishes a principle that low density character area need to be protected in the right locations.</p>

		density increase. Further that any additional infrastructure required to support future dual occupancy development on the subject sites can be adequately addressed at the development application stage.	
2.	Planning Priority C5: Providing housing supply, choice and affordability, with access to jobs, services and public transport.	<p>Department considers that the Planning Proposal is inconsistent with the Department's requirements for approval of the LHS.</p> <p>Department states that the PP is not consistent with this priority as it will reduce the opportunity for greater housing supply and diversity and affordability of the subject sites.</p>	<p>Council supports the view that dual occupancy development, in the right locations, can provide future opportunities for families. Taking into account the findings of Council's site-specific assessment, the subject land is not suitable for future dual occupancy development due to factors such as the concentration of narrow streets (less than 7.5m wide) and impact on vehicle turning capacity which will put unnecessary pressure on vehicle access and movement.</p> <p>The subject land is also constrained by 'site availability' with limited sites being able to comply with the minimum lot size requirements. Therefore we reiterate that, dual occupancy development is not suitable on the subject land.</p> <p>On the 25 sites subject of this proposal secondary dwellings would remain permitted. This would enable a density increase but at a more sympathetic scale to the location.</p> <p>A response to LHS matters is provided at point 6.</p>
3.	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	Department considers that opportunities for urban tree canopy whilst balancing requirements for additional driveways are a matter that can be managed through appropriate tree management policies and future DA processes.	<p>By prohibiting dual occupancy development, Council can be confident that the existing mature tree canopy prevalent within the subject site will be retained.</p> <p>Again, secondary dwelling development would have a lesser impact on tree canopy than dual occupancy development given the smaller footprints of this form of development.</p>
Local Strategic Planning matters			
4.	Parramatta LSPS City Plan 2036	Department states that the planning proposal is considered inconsistent with the priorities and actions of the LSPS.	As detailed in the PP document, despite the proposal to prohibit dual occupancy development within the subject site, there remains a strong emphasis by Council to ensure a supply of diverse housing forms, delivered through efficient, place based outcomes in Growth precincts. Therefore, Council disagrees with the Department's assessment that the PP is inconsistent the PP supports Planning Priority 5 of the

			<p>LSPS “Support and enhance the low-scale character and identity of suburban Parramatta outside of the GOP area and Epping Strategic Centre”.</p> <p>Furthermore, one of the LSPS’s Sustainability areas of focus (Section 3.4.5) is <i>Reducing emissions and managing energy, water and waste efficiently</i>. Specifically, the LEPE states <i>the City must do more with less and improve the efficiency of our built environment in order to limit the impacts of growth</i>. With regards to these lifecycle principles, the very position most of the existing detached dwellings on 25 of the 27 sites within the subject land are likely to require demolition in order to create an appropriate dual occupancy design outcome. From both building waste and energy perspectives, this is inconsistent with the LSPS.</p>
5.	Parramatta 2038 Community Strategic Plan	<p>Department states that 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>	<p>As detailed in the PP, the PP is consistent with the Community Strategic Plan. The objective of the PP is to prevent adverse development outcomes within the subject site by prohibiting dual occupancy development, which will support effective management of density in Winston Hills. The findings of the constraints analysis that identified the subject land is ‘constrained due to road width and access issues.</p>
6.	Parramatta LHS (2021)	<p>The Department states that the PP is inconsistent with the Local Housing Strategy.</p> <p>The Department states that inadequate justification has been provided to support the prohibition of Dual Occupancies on R2 zoned land as described in the PP, and the Department’s assessment of Parramatta’s Local Housing Strategy required Council to demonstrate initiatives to achieve housing diversity.</p> <p>The Department highlights that the LHS was approved by the Department in July 2021, subject to Condition 11.</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</p>	<p>To date, Council has undertaken significant analysis to determine the prohibition and permissibility of dual occupancy development across the LGA, as part of the Harmonisation Planning Proposal. Council officers recommend that the Department consider the site-specific assessment in conjunction with the Dual Occupancy Constraints Analysis.</p> <p>As detailed in Table 3b of the PP, the impact of prohibiting dual occupancies within the subject site is minor and that housing diversity is to be explored in future Growth Precincts where more effective place-based outcomes can be achieved.</p> <p>In response to Direction 3.1, please see response at point 7.</p>

		been demonstrated consequently Condition 11 of the approval has not been met.	
Section 9.1 Ministerial Directions			
7.	Direction 3.1 - Residential Zones	<p>The Department is of the view that the PP 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>Despite Council's case that there is local planning merit to these changes, and broader strategic merit by locating density and diverse housing in precincts identified in the LHS, the Department does not consider the LHS has demonstrated consistency or justified inconsistencies with Direction 3.1</p> <p>The Department states that insufficient justification is provided as to why the constraints analysis for subject area deemed the subject sites as 'highly constrained' when compared to Council's original dual occupancy constraints analysis which the subject sites an area with 'limited constraints'.</p>	<p>In response to Direction 3.1 – Residential zones (Table 6), the planning proposal (Table 6) stated that the prohibition of dual occupancy development within the subject site is of minor significance, affecting a total of 27 properties (i.e., potentially 54 dual occupancy dwellings). With two sites (2 and 2A Lois Street) already occupied by a dual occupancy dwelling and the remaining 25 sites comprising detached dwellings with the potential for second (dual occupancy) dwelling. Therefore the prohibition of dual occupancy development in the subject area is only going to prevent the delivery of an additional 25 dwellings.</p> <p>Given:-</p> <ul style="list-style-type: none"> - Council's LHS demonstrating it is delivering housing numbers well beyond current targets, - that secondary dwellings are permissible in the area, and <p>the Department's refusal on grounds of dwelling delivery appears unnecessary.</p> <p>As explained in the site-specific assessment, a more detailed reassessment of the constraints affecting the subject site has established that the land has merit to be granted a higher score of 3 on the weighting scale as highly constrained land. The constraints analysis undertaken in 2019, as part of the Harmonisation PP did not identify the northern road stubs as contribution to potential traffic issues or lack of permeability within the site.</p>
8.	Direction 3.4 – Integrating Land Use and Transport	<p>The Department states the PP 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>The Department is of the view that the subject land benefit from pedestrian access to bus stop within walking distance and is therefore not considered to lack pedestrian permeability.</p>	<p>Council's site-specific assessment indicated that the site is not constrained by access to public transport instead, the street network is characterised by a concentration of dead-end streets that isolate the subject land and therefore, do not support dual occupancy development. This is further outlined in Table 6 of the PP where it seeks to justify the inconsistency under 3.4(5)(d) – matter of minor significance.</p>
Other matters			

9.	SEPP Exempt and Complying Developments 2008	The Department states that the PP is inconsistent with the aims of this SEPP to provide streamlined assessment process for the development of dual occupancies.	The provisions of this SEPP relating to the Low-Rise Housing Diversity Code will cease to apply to the subject land if dual occupancy development is prohibited on the land as per the intent of this Planning Proposal.
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4. Conclusion

- 4.1. Council Officers have reviewed the Gateway Determination report (dated December 2022) and identify that some of Council's strong evidence-based case for the prohibition dual occupancy development in Winston Hills has not been given sufficient weight in the Department's assessment. The Department's decision that the Winston Hills PP should not proceed does not align with the strategic direction of Council's endorsed approach for Dual Occupancy development for the LGA nor is it aligned with aspects of Council's LSPS. Further, the decision not to proceed, is considered not to be in the best interests of the local community.
- 4.2. Council Officers consider it reasonable to include a provision prohibiting Dual Occupancy development over the subject land (affecting 27 properties), on the Dual Occupancy Prohibition Map under the Parramatta Local Environmental Plan 2011 (PLEP 2011) for reasons outlined in Section 3 of this report. It is also considered that there is a case which is supported by a site-specific assessment to include the subject land on the Dual Occupancy Prohibition Map
- 4.3. Therefore, Council seeks that the Department reconsiders its decision to refuse the planning proposal as outlined in the Gateway determination dated 13 December 2021.