

Item No: C07/20-501

CUMBERLAND LOCAL ENVIRONMENTAL PLAN - POST EXHIBITION REPORT ON NEW PLANNING CONTROLS FOR CUMBERLAND CITY

Responsible Division: Environment & Planning
Officer: Director Environment & Planning
File Number: CS-202
Community Strategic Plan Goal: *A resilient built environment*

SUMMARY

This report provides an update on the public exhibition for the new Cumberland Local Environmental Plan and outlines the recommended planning controls in response to further review and submissions. The report also identifies Council's strategic planning work program to progress further work following the finalisation of the new Local Environmental Plan. It is recommended that Council endorse the proposed planning controls for Cumberland City as outlined in this report, and that the planning proposal be forwarded to the Department of Planning, Industry and Environment for finalisation.

RECOMMENDATION

That Council:

- 1. Note the submissions received prior to, during and immediately following the public exhibition period for the new Cumberland Local Environmental Plan.**
- 2. Note the advice from the Cumberland Local Planning Panel on the planning proposal for the new Cumberland Local Environmental Plan**
- 3. Endorse the planning controls for Cumberland City, as provided at Attachment 1, which were included in the draft planning proposal for the Cumberland Local Environmental Plan and have not changed following exhibition.**
- 4. Endorse the planning controls for places of public worship, as provided at Attachment 5, which were included in the draft planning proposal for the Cumberland Local Environmental Plan and have not changed following exhibition.**
- 5. Endorse the planning controls for Cumberland City, as provided at Attachment 7, which reflect proposed general amendments following public exhibition and further review by Council officers.**

6. Endorse the planning controls for Cumberland City, as provided in Attachment 8, which reflect proposed site specific amendments following public exhibition and further review by Council officers.
7. Note the site specific requests received as part of the process for the new Cumberland Local Environmental Plan.
8. Endorse the strategic planning work program for 2020/21 and 2021/22 on Cumberland City's key centres and strategic corridors, as provided in Attachment 12.
9. Prepare a planning proposal for each of the key centres and strategic corridors identified in the strategic planning work program as provided in Attachment 12, with the following activities to be undertaken prior to further reports being considered by Council:
 - a. Completion of background analysis
 - b. Early community consultation on the planning proposal
 - c. Preparation of draft planning proposal
 - d. Preparation of draft planning controls associated with the planning proposal
 - e. Consideration of draft planning proposal by the Cumberland Local Planning Panel
 - f. Councillor briefings prior to early community consultation and prior to consideration by the Cumberland Local Planning Panel
10. Endorse the updated planning proposal for the new Cumberland Local Environmental Plan, as provided at Attachment 13.
11. Delegate to the General Manager the authorisation to make minor revisions to the planning proposal and supporting documentation, as necessary, following Council's deliberations, to ensure the desired objectives and intended outcomes can be achieved.
12. Forward the planning proposal for the new Cumberland Local Environmental Plan to the Department of Planning, Industry and Environment for finalisation, in line with agreed State Government milestones.
13. Note the Cumberland Local Environmental Plan will be published in the Government Gazette upon finalisation.

REPORT

Background

Council commenced preparation of the new Cumberland Local Environmental Plan (LEP) in 2019 with the focus on harmonising the planning controls of the existing Auburn, Parramatta, and Holroyd LEPs into a single set of planning controls for Cumberland.

Early consultation (pre-Gateway) on planning for the future of Cumberland City was undertaken in July and August 2019 in conjunction with *Cumberland 2030: Our Local Strategic Planning Statement*. A range of submissions were received and helped to inform the detail of the planning proposal for the new Cumberland LEP.

The proposal was reported to the Cumberland Local Planning Panel in February 2020, with a recommendation to proceed to the next stage for a Gateway Determination. The Panel supported the Council officer recommendation.

A Gateway Determination was received in March 2020, and the planning proposal for the draft Cumberland LEP was publicly exhibited in April and May 2020.

The status of the planning proposal is provided in Figure 1.

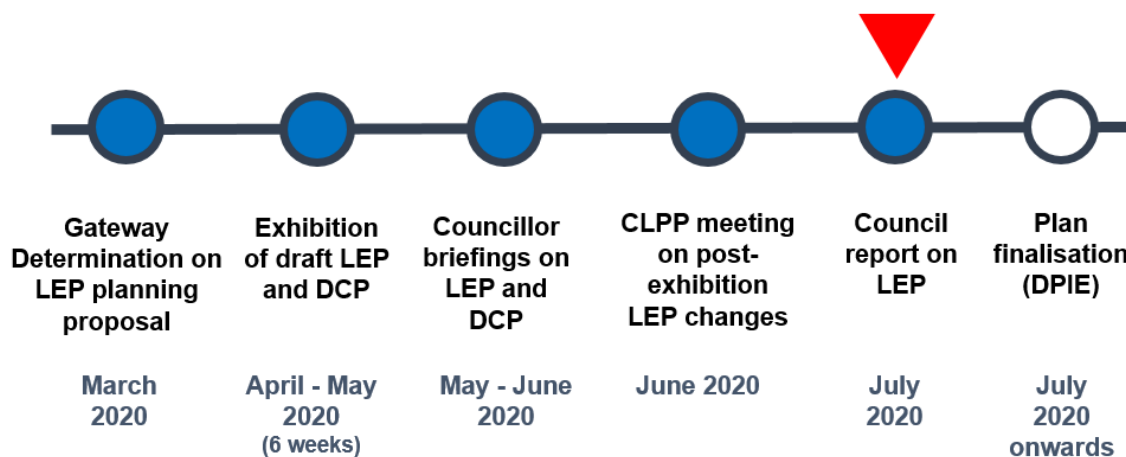


Figure 1: Planning proposal status

This report provides further information in the following areas:

- Post exhibition report for new Cumberland Local Environmental Plan
- Proposed planning controls for places of public worship
- Proposed post exhibition amendments to planning controls
- Proposed post exhibition site specific amendments and Council's strategic planning work program
- Updated planning proposal for the new Cumberland Local Environmental Plan

1. POST EXHIBITION REPORT FOR THE NEW CUMBERLAND LOCAL ENVIRONMENTAL PLAN

Public exhibition of new Cumberland Local Environmental Plan

The planning proposal for the new Cumberland LEP was on public exhibition for a six week period from 1 April 2020 to 8 May 2020. Information was made available on Council's website, with a letter and brochure posted to properties in Cumberland City. Phone enquiries were answered by Council officers, and virtual book-in sessions were also available for detailed discussions on the LEP. Due to the COVID-19 pandemic, physical copies of the documents were not provided at the administration centres and libraries as these facilities were closed during this time.

Public submissions

A total of 222 individual submissions on the draft LEP were received in response to the public exhibition. Council officers also fielded numerous phone calls during the exhibition period, assisting residents and stakeholders with their enquiries. Further information on the submissions is provided in Figure 2.

Of the total submissions received, 53 were from church groups and community members raising concerns about the proposed planning controls for places of public worship. Overwhelmingly, the submissions objected to the proposed changes to land use permissibility and implications for the continued operation and potential future expansion of established sites. A number of submissions also raised concerns about the proposed 2,000 sqm minimum lot size requirement for new places of public worship in the R3 and R4 zones and the likely constraints this would place on church groups supporting the community. This issue is considered in a latter part of this report.

Total of 222 submissions received on the draft Cumberland LEP (as at 12 June 2020)		
Recurring themes and messages: <ul style="list-style-type: none"> • Support planning for strategic corridors and centres • Support for higher densities around stations/transport nodes • Amenity concerns with high density development – referencing COVID-19 social distancing requirements and the need for adequate open space • Concerns around permissibility and proposed minimum lot size provisions for places of public worship • Sustainability and climate change concerns • Zoning and land use permissibility concerns – ensuring sufficient diversity in housing provision • General comments concerning traffic and local road networks 	Breakdown of submissions by strategic planning outcomes and key changes	
	Auburn Town Centre Planning Controls Strategy	3
	Lidcombe Town Centre Planning Controls Strategy – including site specific requests	3
	Parramatta Road Corridor – including site specific requests	5
	Woodville Road Corridor – including site specific requests	19
	New Cumberland heritage list with proposed de-listing of 9 heritage items	9
	Minimum lot sizes for dual occupancy development	5
	Consistent planning approach for places of public worship	53
	Consistent planning approach for sex services premises	3
	Targeted minor zoning and/or planning control changes (exhibited)	1
	New requests for site specific zoning and planning control changes	55
	Other/general LEP submissions	108
	<small>Note: some submissions covers multiple topic area, so total number of comments is different from submissions received</small>	

Figure 2: Summary of public submissions

Agency submissions

As part of the public exhibition on the draft Cumberland LEP, Council sought feedback from the following public authorities:

- Transport for NSW
- Roads and Maritime Services
- Sydney Trains
- City of Parramatta Council
- Department of Premier and Cabinet – NSW Heritage
- Environment, Energy and Science Group
- Sydney Water
- Water NSW
- Western Sydney Local Health District

Transport for NSW made a submission providing collated comments from across the Transport cluster (including Roads and Maritime Services and Sydney Trains). In particular, TfNSW advised that consideration of the additional public infrastructure associated with the targeted changes to planning controls at selected locations, including Auburn Town Centre, Lidcombe Town Centre, Parramatta Road Corridor, and Woodville Road Corridor should be undertaken as part of the LEP process, and not left to the development application stage.

Council will continue to work with TfNSW to demonstrate that the proposed changes within the Parramatta Road Corridor will result in no net increase to traffic generation, prior to finalisation of the LEP (in accordance with condition 2 of the Gateway Determination). Should TfNSW ultimately not agree to support the targeted changes to planning controls at selected locations along the Parramatta Road Corridor, these sites will be removed from the planning proposal for the Cumberland LEP prior to finalisation.

A submission was also received from Western Sydney Local Health District. The submission commended Council on the overall objectives and controls outlined in the LEP, and provided general feedback on a range of areas.

A submission was received from Water NSW advising that they have no comments on the draft LEP as they do not own or manage land in the area.

The other listed authorities did not make a submission.

Advice from Cumberland Local Planning Panel

A post exhibition report on proposed changes to the draft LEP, in response to further review and submissions, was considered by the Cumberland Local Planning Panel in

June 2020. The Panel generally supported the Council officer recommendations for administrative items and minor zoning changes to be included in the LEP prior to finalisation. The Panel also considered a report on site specific requests for rezoning and/or planning control changes and supported the proposed stream classification approach and scope of Council's strategic planning work program.

Proposed planning controls for Cumberland City

Council previously considered and endorsed much of the detail of the planning proposal for the new Cumberland LEP through various reports that dealt with particular issues and planning controls. The planning proposal has been prepared and exhibited in accordance with these Council resolutions, as outlined in Table 1. Where no changes are proposed, the existing planning controls will carry over into the new LEP controls for Cumberland City.

Council Report	Item No.	Date	Council resolution – pre Gateway	Post exhibition status
Planning proposal for the new Cumberland LEP	C09/19-219	18 September 2019	Endorse planning proposal to be forwarded for a Gateway Determination	Updated to reflect CLPP advice and address administrative items associated with the LEP (refer to relevant section in this report) Minor changes to site specific planning controls in response to submissions received (refer to relevant section in this report)
Early consultation for the new Cumberland LEP	C09/19-1218	18 September 2019	Endorse proposed minor zoning changes to be included in the planning proposal for the new Cumberland LEP	No changes to exhibited minor zoning changes – proceed to finalisation
Lidcombe Town Centre planning controls strategy	C09/19-189	4 September 2019	Endorse proposed planning controls to be included in the new Cumberland LEP	No changes to exhibited planning controls – proceed to finalisation
Auburn Town Centre planning controls strategy	C08/19-176	21 August 2019	Endorse proposed planning controls to be included in the new Cumberland LEP	No changes to exhibited planning controls – proceed to finalisation

Council Report	Item No.	Date	Council resolution – pre Gateway	Post exhibition status
Preparation of Planning Proposal for new Cumberland LEP	C07/19-151	17 July 2019	Note approach and key milestones for the planning proposal for the new Cumberland LEP	No changes to approach – proceed to finalisation
Part 1 Preliminary	C07/19-152	17 July 2019	Adopt Standard Instrument clauses Update name of plan and set out particular aims relevant to the Cumberland local area	No changes to exhibited planning controls – proceed to finalisation
Part 2 Permitted or prohibited development	C07/19-152 C08/19-163	17 July 2019 7 August 2019	Adopt Standard Instrument clauses Update local content where applicable Carry over the range of land uses under the existing LEPs	No changes to exhibited planning controls – proceed to finalisation
Land Use Table	C08/19-164 C09/19-192	7 August 2019 4 September 2019	General rule of permissibility retention	No changes to general rule – proceed to finalisation Minor updates to Land Use Table to ensure consistency with planning proposal and correct anomalies – (refer to relevant section in this report)
Part 3 Exempt and complying development	C07/19-152	17 July 2019	Adopt Standard Instrument clauses	No changes to exhibited planning controls – proceed to finalisation
Part 4 Principal development standards	C08/19-163	7 August 2019	Adopt Standard Instrument clauses Update local content where applicable Carry over existing site specific controls where applicable	Minor updates to reflect CLPP advice and address administrative items associated with the LEP (refer to relevant section in this report)

Council Report	Item No.	Date	Council resolution – pre Gateway	Post exhibition status
Part 5 Miscellaneous provisions	C08/19-163	7 August 2019	Adopt Standard Instrument clauses Update local content where applicable Carry over existing site specific controls where applicable	No changes to exhibited planning controls – proceed to finalisation
Part 6 Additional local provisions	C09/19-191	4 September 2019	Carry over existing controls where applicable Update and/or introduce new controls as appropriate	No changes to exhibited planning controls – proceed to finalisation Additional local content to address administrative issues and site specific anomalies (refer to relevant section in this report)
Schedule 1 Additional permitted uses	C08/19-163	7 August 2019	Carry over additional permitted uses in existing LEPs	No changes to exhibited planning controls – proceed to finalisation Additional permitted uses in response to site specific requests (refer to relevant section in this report)
Schedule 2 Exempt development	C07/19-152	17 July 2019	Adopt Standard Instrument clause	No changes to exhibited planning controls – proceed to finalisation
Schedule 3 Complying development	C07/19-152	17 July 2019	Adopt Standard Instrument clause	No changes to exhibited planning controls – proceed to finalisation
Schedule 4 Classification and reclassification of land	C08/19-163	7 August 2019	Adopt Standard Instrument clause	No changes to exhibited planning controls – proceed to finalisation

Council Report	Item No.	Date	Council resolution – pre Gateway	Post exhibition status
Schedule 5 Environmental heritage	C09/19-193	4 September 2019	Carry over heritage items listed under existing LEPs, with the exception of 9 items assessed as no longer meeting the NSW heritage criteria for assessing heritage significance	No changes to exhibited planning controls – proceed to finalisation
Schedule 6 Pond based and tank based aquaculture	C07/19-152	17 July 2019	Adopt Standard Instrument clause	No changes to exhibited planning controls – proceed to finalisation
Dictionary	C08/19-163	7 August 2019	Adopt Standard Instrument definitions	No changes to exhibited planning controls – proceed to finalisation
Planning approach for Woodville Road Corridor	C07/19-131	3 July 2019	Endorse land use planning approach for the Woodville Road corridor and that Stage 2 initiatives be included in the new Cumberland LEP	No changes to exhibited planning controls – proceed to finalisation
Planning approach for Parramatta Road Corridor	C07/19-132	3 July 2019	Endorse land use planning approach for the Parramatta Road corridor and that Stage 2 initiatives be included in the new Cumberland LEP	No changes to exhibited planning controls – proceed to finalisation
Planning Proposal – Minimum Lot Area for Low and Medium Dual Occupancy Housing	C06/19-103	5 June 2019	Endorse minimum lot size planning controls for dual occupancy development for inclusion in the new Cumberland LEP	No changes to exhibited planning controls – proceed to finalisation

Council Report	Item No.	Date	Council resolution – pre Gateway	Post exhibition status
Request for revised gateway determination – Planning Proposal for 264 Woodville Road Merrylands (also referred to as the Merrylands East Neighbourhood Centre)	C02/29-15	20 February 2019	Pursue B2 Local Centre and RE1 Public Recreation Zones in the new Cumberland LEP	No changes to exhibited planning controls – proceed to finalisation

Table 1: Council resolutions on planning controls for new Cumberland LEP

It is recommended that Council endorse the planning controls for Cumberland City, as provided at Attachment 1, which were included in the draft planning proposal for the Cumberland Local Environmental Plan and have not changed following exhibition. These planning controls cover the following areas:

- Harmonisation of planning controls to provide a single Cumberland LEP removing duplication of planning controls and aligning, where possible, the land uses and controls within the current instruments.
- Revised planning controls for the Auburn and Lidcombe Town Centres
- Minimum lot sizes for dual occupancy development across the Cumberland area
- Targeted changes to planning controls along the Parramatta and Woodville Road Corridors
- Stage 1 of the Cumberland Heritage Study, including the proposed de-listing of 9 properties that have been assessed as no longer meeting the NSW heritage criteria for assessing heritage significance
- Miscellaneous minor zoning and/or planning control changes. In particular, the planning proposal seeks to clarify the land use permissibility of government owned land, and address selected site specific anomalies on privately owned sites, through appropriate minor zoning and/or planning control changes in various locations across Cumberland

2. PROPOSED PLANNING CONTROLS FOR PLACES OF PUBLIC WORSHIP

Draft planning controls

Places of public worship are currently permissible in all zones under the Auburn LEP (except for the E2 Environmental Conservation and W1 Natural Waterways zones), all zones under the Holroyd LEP (except for the SP2 Infrastructure, RE1 Public Recreation, RE2 Private Recreation, E2 Environmental Conservation and W1 Natural Waterways zones), and all zones under the Parramatta LEP (except for R2 Low Density Residential, SP2 Infrastructure, RE1 Public Recreation, RE2 Private Recreation, and E2 Environmental Conservation zones).

Council previously endorsed and exhibited the following planning approach for places of public worship in the draft Cumberland LEP:

- Permit places of public worship with consent in the R3, R4, IN1 and IN2 zones
- Specifically prohibit them in all other zones in the Cumberland LEP
- For existing places of public worship zoned SP1 in the Parramatta LEP area, apply the surrounding zone in place of the SP1 zone, providing a consistent approach across the city. Existing use rights will apply where a valid development consent is in place
- Insert an additional objective in the Land Use Table for the R3 and R4 zones to ensure that places of public worship are located in a context and setting that minimises impacts on the amenity of a low density residential environment
- Introduce new local provisions regarding places of public worship in R3 and R4 zones, including a minimum lot size of 2,000m² for places of public worship and consent authority considerations

Further review of proposed planning controls

A further review of the proposed planning controls for places of public worship has been undertaken by Council officers in response to the public submissions.

Whilst there is genuine concern about the potential prohibition of places of public worship in certain zones, some parties may be unclear in the application of existing use rights provisions and how these laws protect places of public worship with a valid development consent.

There are a number of pathways in relation to planning controls for places of public worship where the new Cumberland LEP would prohibit its use that could be considered by Council, as shown in Figure 3. This includes the following pathways:

- Existing places of public worship with a valid development consent in prohibited zones have existing use rights, where minor works are permitted within the existing site

- Expansion of places of public worship with a valid development consent in prohibited zones could have a targeted expansion if an additional clause is included in the new Cumberland LEP
- New places of public worship and other proposals in prohibited zones could pursue an owner-initiated planning proposal; however, this would need to following the usual processes and would require support from Council

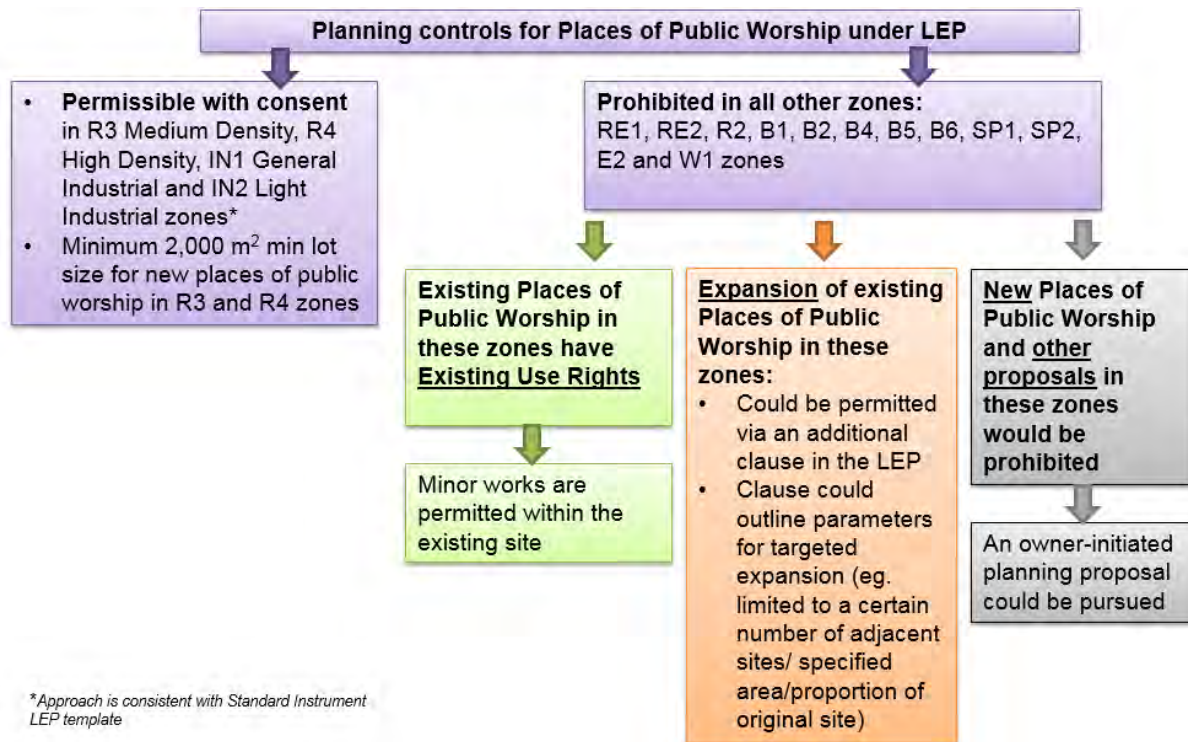


Figure 3: Potential planning pathways for places of public worship in proposed prohibited zones

In support of these pathways, a range of options regarding potential LEP clauses to permit places of public worship in residential areas have been prepared that may be considered by Council. These are further outlined in Attachment 6 and include:

- Allowing existing and new places of public worship in the R2 Low Density Residential zones
- Prohibiting new places of public worship in the R2 Low Density Residential zone but permitting existing places of public worship to expand within their own site under existing use rights
- Prohibiting new places of public worship in the R2 Low Density Residential zone and permitting existing places of public worship to expand to one adjoining site
- Prohibiting new places of public worship in the R2 Low Density Residential zone and permitting existing places of public worship to expand to multiple adjoining sites (with the number of sites to be determined by Council)

- Permit new places of public worship in the R2 Low Density Residential zone subject to a 2,000m² lot size that cannot be varied
- Permit new places of public worship in the R2 Low Density Residential zone subject to a 2,000m² lot size that can be varied by way of a clause 4.6 submission

While these clauses relate to residential zones, it is noted that some of these options may also be applicable for other zones (eg. business zones) where places of public worship are proposed to be prohibited.

Advice from Cumberland Local Planning Panel

The Cumberland Local Planning Panel provided advice on the planning controls for places of public worship at the June 2020 meeting. This advice indicated that:

- Council consider permissibility of places of public worship in business zones
- Supports places of public worship as a prohibited use in the R2 Low Density Residential zone
- Believes existing use rights provide sufficient protection for all existing places of public worship
- Supports the minimum site area of 2000m² for places of public worship in the R3 Medium Density Residential zone and R4 High Density Residential zone

3. PROPOSED POST EXHIBITION AMENDMENTS TO PLANNING CONTROLS

Post exhibition review

Following the completion of the public exhibition process, a detailed review has been undertaken. This review considered submissions received and other items identified by Council, including the Council officer response to the Cumberland Local Planning Panel's advice, administrative items associated with the LEP, and various site specific requests for zoning and/or planning control amendments.

Proposed amendments following advice from Cumberland Local Planning Panel

Following consideration of advice from the Panel, the following amendments are proposed to be included in the Cumberland LEP as outlined in Table 2 and Attachment 7.

Advice from Cumberland Local Planning Panel	Proposed Approach
Pre exhibition (February 2020)	
Preliminary matters <ul style="list-style-type: none"> Aims of the plan – include an additional aim <i>‘To encourage and promote development that is environmentally sustainable’</i> 	<ul style="list-style-type: none"> Include new aim in final LEP
Land Use Table <ul style="list-style-type: none"> Consider places of public worship in the Business Zones Consider sex services premises in the B4 and B6 Zones Review the applicability of waste land use definitions to ensure consistency between industrial zones 	<ul style="list-style-type: none"> Noted. Covered in relevant section of this report No change Review and update Land Use Table
Principal development standards <ul style="list-style-type: none"> Building heights and FSRs – include an additional objective <i>‘To minimise the visual impact of development and ensure sufficient solar access and privacy for neighbouring properties is achieved’</i> 	<ul style="list-style-type: none"> Include new objective in final LEP
Miscellaneous provisions <ul style="list-style-type: none"> Miscellaneous permissible uses – increase gross floor area of kiosks to 50sqm Architectural roof features – delete objective ‘e’ as it does not encourage innovation in roof design 	<ul style="list-style-type: none"> Include change in final LEP Remove objective from final LEP
Post exhibition (June 2020)	
Woodville Road Corridor <ul style="list-style-type: none"> Site specific rezonings along the Woodville Road Corridor should be examined holistically as part of Stream 2 and given a high priority 	<ul style="list-style-type: none"> All requests for site specific rezonings to be considered as part of Stream 2
Places of public worship <ul style="list-style-type: none"> Consider permitting places of public worship in business zones (particularly B4, B5 and B6 zones) 	<ul style="list-style-type: none"> Noted. Covered in relevant section of this report

Table 2: Proposed changes following advice from Cumberland Local Planning Panel

Proposed administrative amendments

Following further review by Council officers, the following administrative amendments are proposed to be included in the Cumberland LEP, as outlined in Table 3 and Attachment 7.

Issue	Description	Proposed Approach
<p>Exclusions to development standards under Clause 4.6</p>	<ul style="list-style-type: none"> • Clause 4.6 exceptions currently limited to: <ul style="list-style-type: none"> – Development standards for certain subdivisions in rural and environmental zones – Development standards for complying development – In connection with BASIX commitments – Clause.5.4 Miscellaneous permitted uses 	<ul style="list-style-type: none"> • Additional exclusions to be added to Clause 4.6 of Cumberland LEP: <ul style="list-style-type: none"> – clause 2.5 (additional permitted uses for particular land) – clause 2.6(2) (subdivision of secondary dwellings not permitted) – clause 2.8(3) (heads of consideration for the temporary use of land) – clause 3.2 (complying development references contained within the LEP) – clause 3.3(f) (environmentally sensitive areas exclusions) – clause 5.19 (pond based, tank based and oyster aquaculture permitted without consent in certain zones) – clause 6.1 (acid sulphate soils – where consent is required and not required) – clause 6.20 (urban heat management – heads of consideration for granting of development consent) – Schedule 1 – additional permitted uses (these standards are used to determine the permissibility of specific development types) – Schedule 3 – complying development (complying development references contained within the LEP)

Permissibility of office premises in the B6 Enterprise Corridor zone	<ul style="list-style-type: none"> Draft Cumberland LEP proposes to prohibit office premises, which is an intended land use in this zone 	<ul style="list-style-type: none"> Include office premises as a land use that is permitted with consent in the B6 Enterprise Corridor zone Provides consistent approach across the Cumberland area, and is a carryover of a permissible land use in the current Auburn and Parramatta LEPs
Complying development mapping	<ul style="list-style-type: none"> Need to ensure consistency of mapping for environmentally sensitive areas 	<ul style="list-style-type: none"> Proposed addition of land identified as 'remnant native vegetation' on the Biodiversity Map

Table 3: Proposed administrative amendments to Cumberland LEP
Proposed minor site-specific amendments

It is recommended that the following amendments be incorporated into the draft Cumberland LEP prior to finalisation. These amendments, outlined in Table 4 and Attachment 7, are for minor zoning and/or planning control changes to address particular issues and anomalies, and that will have only a minor impact on the overall plan.

Ref.	Site address	Proposal	Reasons
G1.1a	Mays Hill and Finlayson Transitway Precincts	Retain B6 zoning for Mays Hill and Finlayson Transitway Precincts and include a local provision to allow shop-top housing, consistent with DCP controls	Intent of existing DCP controls is that shop top housing is permitted in this location
G1.1b	Merrylands Town Centre (Neil St and Merrylands Rd)	Rezone B6 zoned land in Merrylands Town Centre (224-240 Pitt St, 4 Terminal Pl, 2-6 Gladstone St, 15 Neil St, 17 Neil St, Merrylands) to B4	Site is in town centre core, prohibiting residential development appears to be an unintended consequence of this harmonisation
G1.1c	B6 Zone (Great Western Highway / Pendle Way)	Rezone B6 land at intersection of Great Western Highway and Pendle Way to B1 (no change to height and FSR)	Inconsistent application of B6 zone under draft Cumberland LEP

G1.2	B6 Zone (Parramatta Road Corridor)	Update mapping of Clause 4.4(2B) to reflect revised boundary of B6 zone along Parramatta Road Corridor – ie. to exclude proposed B1 zone under draft Cumberland LEP	Clause 4.4(2B) provides an FSR incentive for certain types of development within the B6 zone (registered clubs, function centres, entertainment facilities, specialised retail premises, office premises and hotel/motel accommodation)
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Table 4: Proposed minor site-specific amendments to the Cumberland LEP

4. PROPOSED POST EXHIBITION SITE SPECIFIC AMENDMENTS AND COUNCIL'S STRATEGIC PLANNING WORK PROGRAM

Site specific requests

A number of site specific requests for zoning and/or planning control changes were received during the public exhibition of the new Cumberland LEP. These submissions have been considered on their merit and categorised into one of four streams, as outlined in Table 5.

Categories of site specific requests for zoning changes	No. of sites	Locations
Stream 1: Include in new Cumberland LEP	12	Various sites across Cumberland
Stream 2: Consider in Council's future work program of planning reviews for strategic corridors and centres	66	Strategic corridors and centres identified in Cumberland 2030: Our Local Strategic Planning Statement
Stream 3: Further review of future planning proposal if submitted to Council as an owner initiated planning proposal	28	Various sites across Cumberland
Stream 4: No further action at this time	9	Various sites across Cumberland
Total	115 (including 64 early LEP submissions)	

Table 5: Categories of site specific requests for zoning changes

This approach to the categorisation of site specific submissions was previously endorsed by Council following consideration of early LEP feedback in September 2019 (Council Report Item No. C09/19-218). Those early LEP submissions have been included in the overall tally of submissions.

A selected number of site specific requests have been identified to be included in the new Cumberland LEP. These amendments, as outlined in Table 6 and Attachment 8,

are for minor zoning and/or planning control changes to address particular issues and anomalies, and that will have only a minor impact on the overall plan. The site specific amendments are also supported by the Cumberland Local Planning Panel. It is recommended that these site specific amendments are included in the new Cumberland LEP and identified in the planning proposal for finalisation.

Ref.	Site address	Proposal	Reasons
S1.1	Octavia Street and Toongabbie Road	R2 to R4 (Octavia St) with corresponding increase in height and FSR R3 to R4 (Toongabbie Rd) with corresponding increase in height and FSR	Minor zoning anomaly in the context of surrounding land. Within walking distance of local centre and train services
S1.2	55 Fox Hills Crescent, Toongabbie	Include 'health services facility' as an Additional Permitted Use on part of the site	Minor impact with inclusion of additional permitted use, supporting the provision of health related services in the Cumberland area
S1.3	11-13 Bransgrove Street & 4-8 Irwin Place, Wentworthville	R2 to R4 with corresponding increase in height and FSR	Minor zoning anomaly in the context of surrounding land Within walking distance of local centre and high frequency bus services
S1.4	Merrylands Road, Burnett Street and Ruth Street, Merrylands	Review height and FSR controls (Merrylands Road B1 zone) R2 to B1 with corresponding changes to height and FSR (Burnett Street and Ruth Street)	Minor zoning anomaly in the context of surrounding land Located in neighbourhood centre with bus services accessing key centres
S1.5	233-249 Merrylands Road, Merrylands	Review FSR controls	Minor FSR anomaly in the context of application of planning controls on the site (town centre core)
S1.6	242-252 Pitt Street, Merrylands	Proposed increase in HOB and FSR	Minor HOB and FSR change in the context of town centre. Located within walking distance to train services

Ref.	Site address	Proposal	Reasons
S1.7	246-260 Woodville Road, 2-16 Lansdowne Street and 19 Highland Street, Guildford	Clarifications on planning controls applicable on site, consistent with development concept for site	Request from property owner, consistent with strategic intent and development outcomes for Merrylands East centre
S1.8	101-123 Parramatta Road and 58- 66 Adderley Street, Lidcombe	Permit 'specialised retail premises' as an additional permitted use on the Domayne holding	Minor impact with inclusion of additional permitted use, consistent with current land use activities and future plans for the site
S1.9	Lidcombe Hospital precinct	Identify three Nurses Quarters Buildings as individual heritage items	Request from property owner. Is in addition to existing State Heritage Listing and local heritage status of area
S1.10	Lidcombe Anglican Church	Include 'place of public worship' as an Additional Permitted Use	Request from property owner to support proposed development outcomes for the site, consistent with ongoing discussions on the matter

Table 6: Proposed post-exhibition amendments to draft Cumberland LEP

The remaining site specific requests received as part of the process for the new Cumberland LEP are provided in Attachments 9, 10 and 11. It is recommended that these requests are noted and may be considered in the future by Council.

Strategic planning work program

As outlined in *Cumberland 2030: Our Local Strategic Planning Statement*, a high level strategic planning work program was identified to progress more detailed planning for Cumberland City's key centres and strategic corridors (Figure 4). Since the preparation of this high level program, Council officers have further considered the scope and implementation approach for this planning work.



Figure 4: High level strategic planning work program

In relation to the scope of works for this program, it is proposed that planning work be undertaken for Cumberland City’s key centres and strategic corridors. As outlined in Table 7, the focus of this work will be to review the existing planning framework and consider future requirements to ensure that planning controls are appropriate to support development in the area. Site specific requests received as part of the Cumberland LEP process may be further considered as part of this program.

Locations	Indicative scope of works
Woodville Road corridor, Guildford, Merrylands (east of train station), Granville	Planning work to be undertaken, including consideration of submissions received during the preparation of the draft LEP
Merrylands (west of train station), Auburn, Lidcombe and Wentworthville	Further planning work to consider submissions received during the preparation of the draft LEP or advice on additional planning work identified by the Cumberland Local Planning Panel
Berala, Regents Park, Pendle Hill, Toongabbie, Transitway corridor, Merrylands West, Greystanes and Pemulwuy	Planning work to be undertaken, including consideration of submissions received during the preparation of the draft LEP
Westmead South, Greater Parramatta to Olympic Park (GPOP) corridor and Parramatta Road corridor	Planning work to be undertaken, including consideration of submissions received during the preparation of the draft LEP. This work will also align with strategic planning and infrastructure investment by the NSW Government

Table 7: Indicative scope of works for strategic planning work program

Further strategic work by Council will also be undertaken on centres of Merrylands (west of the train station), Auburn and Lidcombe, based on the submissions received as part of the draft Cumberland LEP and advice provided by the Panel on further work to be undertaken at the Auburn and Lidcombe town centres. Further work for Wentworthville will also be considered if required as part of this program.

In relation to implementation, it is proposed that the majority of this work be undertaken during 2020/21 and 2021/22. This provides an opportunity to have a consistent approach to planning for Cumberland City's key centres and strategic corridors that is aligned with Council's available resources. It is also noted that the timing of work on Westmead South, Parramatta Road Corridor and the Greater Sydney Olympic Peninsula (GPOP), will be subject to the status and progression of State Government work in these areas.

Further details on the strategic planning work program, including the staging of planning reviews, key activities and milestones, are provided in Attachment 12. It is recommended that Council endorse the strategic planning work program for 2020/21 and 2021/22 on Cumberland City's key centres and strategic corridors.

As part of this program, it is also recommended that Council endorse the preparation of planning proposals for the identified key centres and strategic corridors. This will enable planning work to be progressed that is supported by background analysis, early community consultation, feedback from Councillor briefings, and advice from the Cumberland Local Planning Panel. A further report to Council will be provided following the completion of these activities for each location.

5. UPDATED PLANNING PROPOSAL FOR NEW CUMBERLAND LOCAL ENVIRONMENTAL PLAN

Planning proposal for new Cumberland LEP

An updated planning proposal has been prepared following public exhibition, consideration of submissions and further review by Council officers. The key objectives and intended outcomes of the planning proposal for the new Cumberland LEP include:

- Harmonising existing planning controls into a single planning framework
- A consistent minimum lot size for dual occupancy development in Cumberland
- Targeted changes to planning controls at selected locations, including Auburn Town Centre, Lidcombe Town Centre, Parramatta Road Corridor, Woodville Road Corridor, and government owned sites
- New Cumberland Heritage List, with the proposed delisting of nine heritage items that no longer meet the NSW heritage criteria for assessing significance
- Consistent planning approach for specific land use, including places of public worship and sex services premises

Where no changes are proposed, the existing planning controls will carry over into the new planning controls for Cumberland City.

Earlier sections of this report outline the detail of the proposed planning controls for Cumberland City, and proposed changes to the draft Cumberland LEP in response to further review and submissions. The Gateway Determination (Attachment 14) has also been reviewed by Council officer and the conditions have been addressed, as outlined in Attachment 15.

It is recommended that Council endorse the updated planning proposal for the new Cumberland LEP, provided at Attachment 13, to be forwarded to the Department of Planning, Industry and Environment for finalisation and gazettal.

COMMUNITY ENGAGEMENT

Following the early (pre-Gateway) consultation undertaken in July and August 2019, a further, extensive program of consultation on the draft planning proposal for the new Cumberland LEP was undertaken from April to May 2020. Stakeholder consultation with government agencies, as required by the conditions of the Gateway Determination, was also undertaken.

POLICY IMPLICATIONS

The preparation of the Cumberland LEP is required under the *Environmental Planning and Assessment Act 1979*. The Cumberland LEP will also align with the strategic directions outlined in *Council's Community Strategic Plan and Cumberland 2030: Our Local Strategic Planning Statement*.

RISK IMPLICATIONS

Council is required to submit a planning proposal on the new Cumberland LEP to the Department of Planning Infrastructure and Environment for finalisation by mid-2020. The release of funds from the accelerated Local Environmental Plan Funding Grant provided by the NSW Government is also linked to this milestone. As such, consideration of this matter cannot be deferred or delayed.

FINANCIAL IMPLICATIONS

Work undertaken on the Cumberland LEP, including strategic studies and planned community consultation activities, is funded by the accelerated Local Environmental Plan Funding Grant provided by the NSW Government.

The strategic planning work program outlines the scope and implementation approach using current resources. Prioritisation of stages within this program can be reviewed; however, acceleration of this work would require additional resources.

CONCLUSION

The planning proposal for the new Cumberland LEP has been publicly exhibited in accordance with the Gateway Determination, and updated in response to further review and submissions. It is recommended that Council endorse the planning controls for Cumberland City as outlined in this report, and that the planning proposal be forwarded to the Department of Planning, Industry and Environment for finalisation.

ATTACHMENTS

1. Recommended planning controls for Cumberland LEP with no changes post-exhibition [↓](#)
2. Government agency submissions [↓](#)
3. Cumberland Local Planning Panel minutes February 2020 [↓](#)
4. Cumberland Local Planning Panel minutes June 2020 [↓](#)
5. Recommended planning controls for places of public worship [↓](#)
6. Options analysis for additional LEP clauses on places of public worship [↓](#)
7. Recommended general amendments (post-exhibition) to Cumberland LEP [↓](#)
8. Recommended site specific amendments (post-exhibition) to Cumberland LEP [↓](#)
9. Site specific requests – may consider as part of Council’s work program (Stream 2) [↓](#)
10. Site specific requests – may consider as future applicant-initiated planning proposal (Stream 3) [↓](#)
11. Site specific requests – no further action at this time (Stream 4) [↓](#)
12. Strategic planning work program - key centres and strategic corridors [↓](#)
13. Cumberland LEP planning proposal (updated post exhibition) [↓](#)
14. Gateway Determination [↓](#)
15. Summary of response to Gateway conditions [↓](#)