

Planning Proposal

To amend Mosman Local Environmental Plan 2012 by:

- 1. Amending objectives for the R2 Low Density Residential zone, height of buildings and floor space ratio clauses; and**
- 2. Reintroducing local clauses for maximum wall height and number of storeys, and minimum landscaped area.**

Revised August 2014

Pursuant to section 58(1) of the *Environmental Planning and Assessment Act 1979*, Council may vary a Planning Proposal as a consequence of its consideration of a submission, report or for any other reason. Revisions to this Planning Proposal have been made and are shown in purple text.

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1.0 Introduction

This planning proposal has been prepared to amend Mosman Local Environmental Plan (LEP) 2012 by:

1. Amending objectives for the R2 Low Density Residential zone, height of buildings and floor space ratio clauses; and
2. Reintroducing local clauses for maximum wall height and number of storeys, and minimum landscaped area.

The planning proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the NSW Department of Planning & Infrastructure's document "*A guide to preparing planning proposals*", October 2012.

2.0 Background

On 31 October 2013 a facilitated workshop was held with Councillors, the Hon. Paul Stein AM QC (Chair, Mosman Development Assessment Panel), Council's lawyers and Council staff, in response to a resolution of Council of 6 August 2013 that:

C. Council review the objectives in Mosman LEP 2012 for height of buildings, floor space ratio and for the Residential R2 zone to ensure that the intent of these development standards and the character of the zone are maintained. In addition Council review the objectives in the Residential DCP for commonly varied guidelines, such as building height and landscaping. To this end a facilitated workshop with Messrs Stein and McDonald from MDAP, Councillors, Council planning staff and Council's lawyer shall be held.

At this workshop, amendments to strengthen objectives and controls and for consistency within Mosman LEP 2012 were suggested by Council's lawyers and the Hon. Paul Stein. The amendments suggested at this workshop form the basis of this planning proposal.

A further workshop was held with Councillors on 20 February 2014, prior to reporting proposed amendments and this planning proposal to Council on 1 April 2014.

3.0 The Planning Proposal

Part 1 – Objectives or Intended Outcomes

The objectives of this planning proposal are to

- (i) strengthen, and provide consistency between, objectives for the R2 Low Density Residential zone, height of buildings and floor space ratio clauses in Mosman LEP 2012, and
- (ii) reinforce controls which have applied in Mosman for over 20 years to:
 - a. achieve a scale of development which is not excessive and is consistent with the desired future character in residential zones, that is, generally no greater than two storeys in height with a pitched roof form, and
 - b. maintain and enhance the landscape character of Mosman by requiring landscaping of sites in conjunction with development in residential zones.

Part 2 – Explanation of Provisions

To achieve these objectives, the planning proposal seeks to amend Mosman LEP 2012 in the manner outlined below.

Under section 79C of the EP&A Act, the provisions of any environmental planning instrument (i.e. LEP) must be considered in the assessment of a development application. To allow a degree of certainty in the preparation and lodgement of development applications, it is intended that a savings provision be included for the proposed amendments, that is, the amendments would only apply to development applications lodged with Council on or after the day the amendments come into effect.

2.1 Amendment to objectives for the R2 zone, height of buildings and floor space ratio

It is proposed that minor wording changes to objectives for the R2 Low Density Residential zone, height of buildings and floor space ratio clauses in Mosman LEP 2012 be made as shown in the following tables. Proposed amendments are shown in blue text with italics and strikethrough (*further revisions in purple text*).

Mosman LEP 2012	Amendment
R2 Low Density Residential zone objectives, Land Use Table	- To ensure that development is of a height and scale that complements <i>seeks to achieve</i> the desired future character - To encourage residential development that has regard to <i>maintains or enhances</i> local amenity and, in particular, public and private views <i>To minimise the adverse effects of bulk and scale of buildings</i>
Clause 4.3 Height of Buildings – objectives for residential zoned land	- To minimise the visual impact of buildings <i>particularly</i> when viewed from the harbour and surrounding foreshores - To ensure new <i>that</i> buildings are compatible with the desired future character of the area in terms of building height and roof form - To minimise the <i>adverse</i> effects of bulk and scale of new buildings
Clause 4.4 Floor Space Ratio – objectives for residential zoned land	- To minimise the <i>adverse</i> effects of bulk and scale of buildings <i>To limit excavation of sites and retain natural ground levels for the purpose of landscaping and containing urban run-off</i>

As shown above, amendments to the R2 zone objectives are relatively minor and involve replacing some wording to strengthen the intent of the objectives.

A new objective is proposed for this zone. This objective is currently in Mosman LEP 2012 for the height of buildings and floor space ratio clauses, and including it here provides consistency between objectives for the R2 zone and these clauses.

Amendments to the height of buildings clause are also relatively minor. The importance of minimising the visual impact of buildings when viewed from the harbor and surrounding foreshores is reinforced by adding the word “*particularly*” to this objective. The word “*new*” is omitted from two objectives to make it clear that all buildings (i.e. including alterations and additions to existing buildings, not just new buildings) should be designed with an appropriate bulk, scale and roof form.

The word “*adverse*” is included in the third objective shown for height of buildings to make it clear that the negative effects of bulk and scale of buildings should be minimised (i.e. overshadowing, loss of privacy, loss of views). For consistency this word is included in similar objectives for the R2 zone and floor space ratio clause.

Similar changes are also proposed to height of buildings objectives for business zoned land for consistency.

A new objective is included for the floor space ratio clause in response to the standardised definition of ‘gross floor area’ in the State Government’s Standard Instrument which may result in greater excavation of sites. This objective was included in the former Mosman LEP 1998.

Appendix A of this planning proposal contains an extract from Mosman LEP 2012 of this content.

2.2 Reinforce controls which have applied in Mosman for over 20 years

Wall height and number of storeys

It is proposed that objectives and planning controls for maximum wall height and number of storeys – currently contained in Mosman Residential DCP, Part 4.2 Siting and Scale, Objectives O1-O3 and Planning Control P1 – be included in Mosman LEP 2012.

The wall height clause would be included in the LEP as a development standard – meaning that an application pursuant to clause 4.6 of the LEP would be required to vary the standard, and any variation of more than 10 per cent of the standard would be referred to the Mosman Development Assessment Panel for determination.

The number of storeys clause would be included in the LEP but not as a development standard – meaning that compliance with the control would be measured against the circumstances of each case to the extent that is reasonable. Addition of a third storey to a two storey dwelling would always necessitate referral to the Mosman Development Assessment Panel (MDAP) for determination as it results in a 50 per cent variation to the development standard. This is a commonly sought variation given Mosman’s topography where, for example, a third storey may be proposed within the existing foundation space of a building which would not add to bulk or building height. It is recommended that the number of storeys clause be included in the LEP to add weight to its importance in shaping the built environment, however the clause should be drafted in a similar way to the landscaping clause and not as a development standard requiring a clause 4.6 exception.

Minor wording changes would be made to the objectives for consistency with objectives for the R2 zone, height of buildings and floor space ratio clauses in Mosman LEP 2012.

The planning controls would be carried across into Mosman LEP 2012 without **substantial** change. A maximum wall height of 7.2 metres and two storeys would apply to all development on residential

zoned land to which a maximum building height of 8.5 metres applies. Exceptions to allow an additional storey in the foundation space of existing buildings, provided that the building height and bulk is of an appropriate form and scale, would also apply.

A change would be made in regards to allowing an additional storey in the attic roof space of existing and new buildings. This wording is currently in the DCP and was carried across from the former Mosman LEP 1998, however the Standard Instrument definition of 'storey' does not include an attic. This anomaly needs to be rectified by omitting the words "in the attic roof space of existing and new buildings" from the clause to be included in the LEP. Council would continue to allow the attic roof space of existing and new buildings to be occupied as habitable space, provided that the building height and bulk is of an appropriate form and scale.

The definition of wall height in the DCP would also be included in the LEP, as this term is not defined in the Standard Instrument. This definition would be amended to be consistent with means of measuring "building height" as defined in the Standard Instrument (i.e. from the ground level up) which will improve clarity of the definition. It should also be made clear that wall height is measured to the underside (not the top) of the eaves as shown in explanatory diagrams in the DCP.

The definition of wall height (currently in the DCP) is:

The **wall height** of a building means the vertical distance between the top of the eaves at the wall line (excluding dormer windows that are no more than 25% of the width of the roof plane and gable ends), parapet or flat roof (not including a chimney) whichever is the highest, and the ground level (existing) immediately below that point.

This definition would be amended for inclusion in the LEP as follows:

The **wall height** of a building means the vertical distance between the ground level (existing) and the underside of the eaves at the wall line, parapet or flat roof (not including a chimney) whichever is the highest, but excluding dormer windows that are no more than 25% of the width of the roof plane and gable ends.

Appendix A of this planning proposal contains an extract from the DCP of this content.

Landscaped area

It is proposed that objectives and planning controls for minimum landscaped area – currently contained in Mosman Residential DCP, Part 4.4 Landscaping, Objectives O1-O3 and Planning Control P1 – be included in Mosman LEP 2012.

A minimum landscaped area of between 30-50% of the site area would continue to apply to all development on residential zoned land depending on factors such as the development type, zone, location and size of the site.

The formula and sliding scale graph for landscaped area contained in the DCP would likely need to be converted to a numerical standard – for example, 35% if the site area is at least 500m² but less than 650m² – however the intention is that this reflect as best as possible the existing requirement in the DCP.

The planning control would be amended to recognise small allotments (such as semi-detached dwellings) and the difficulty in achieving the minimum landscaped area required. It is proposed that the minimum landscaped area required be reduced from 30% to 25% of the site area where the site area is less than 400m². Research of residential development applications approved in Mosman over the past two years has found that the majority of small lots are unable to achieve the minimum landscaped area required under the DCP, and on average, around 25% landscaped area is approved for lots less than 400m² in area.

A new objective would also be included, such as *“To have a general visual dominance of landscape over buildings maintained, particularly on harbour foreshores, although recognising the difficulty of achieving this on small lots where there are existing buildings such as semi-detached dwellings.”*

The minimum landscaped area required under the former Mosman LEP 1998 was, for development resulting in one dwelling per lot, a percentage of the gross floor area of the site. When the clause was transferred into the DCP in 2012, this method of calculation was changed to be the same as that for medium density dwellings, that is, to be based on a percentage of the site area. Inadvertently, in making this change, the amount of landscaped area required for particular land (lots less than 500m² in area, zoned R3 Medium Density Residential, occupied by one dwelling) was altered and is proposed to be corrected.

Appendix A of this planning proposal contains an extract from the DCP of this content.

Part 3 – Justification

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

No. This planning proposal is not a result of any strategic study or report.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. This planning proposal is the best way of achieving the objectives identified in Part 1 above.

In relation to objective (i), the mechanism for amending content within an LEP is a planning proposal. The amendments are relatively minor but will strengthen and provide consistency between objectives for the R2 Low Density Residential zone, height of buildings and floor space ratio clauses in Mosman LEP 2012.

In relation to objective (ii), planning controls for wall height, number of storeys and landscaped area have applied in Mosman for over 20 years to achieve housing that is compatible with the desired future character, maintains residential amenity and provides sufficient landscaping. These controls are particularly important for Mosman's visually significant slopes and foreshores, which have been recognised in the LEP as a scenic protection area, and within which development is to be designed to minimise its visual impact.

For at least 18 years these controls were contained in an LEP – first in Mosman LEP No. 1, then Mosman LEP 1998 – reflecting their importance to Mosman because, in terms of hierarchy, an LEP is a council's principal planning policy. When drafting the current LEP in 2010-11 Council had intended to retain these controls in the LEP, however the then NSW Department of Planning and Infrastructure (now known as NSW Planning and Infrastructure) directed that these controls could not be included in the LEP due to inconsistency with the Standard Instrument.

As such, these controls were relegated to Mosman Residential DCP in 2012 where they remain today. This is not ideal as a DCP by its very nature has less statutory weight than an LEP. The role of a DCP in development assessment has since been further diminished by the introduction of the *Environmental Planning and Assessment Act Amendment Act 2012* in March 2013. The Amending Act did not exist in 2010-11 when drafting the current LEP, hence the future implications of moving wall height, number of storeys and landscaped area controls to the DCP were unknown at that time.

It is evident that the State may now be more responsive to the inclusion of such content in LEPs as some recently gazetted LEPs for other councils include objectives and clauses relating to wall

height, number of storeys and landscaped area. A complete list of these council LEPs and clauses is contained in Appendix B.

Reinstating controls for wall height, number of storeys and landscaped area into Mosman LEP 2012 is the best means of achieving objective (ii) identified in Part 1 above. The mechanism for including content within an LEP is a planning proposal.

Section B – Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Strategies applicable to the Mosman Local Government Area are:

- *Metropolitan Plan for Sydney 2036*
- *Draft Metropolitan Strategy for Sydney to 2031* (exhibited March 2013)
- *Draft Inner North Subregional Strategy* (exhibited in 2007)

The planning proposal is not inconsistent with the objectives and actions of these adopted and draft strategies. Consideration of relevant sections of these strategies is given below.

Metropolitan Plan for Sydney 2036

Strategic Direction D: Sydney's Housing Population

Objective D4: To improve the quality of new housing development and urban renewal

Action D4.1: Strengthen the Government's role in ensuring good design outcomes

Comment: The planning proposal would contribute towards achieving good design outcomes which respect the desired future character of Mosman's residential areas, for example, by encouraging two storey dwellings with a pitched roof form and a dominance of landscaping.

Draft Metropolitan Strategy for Sydney to 2031

Healthy and Resilient Environment

Objective 20: Minimise impacts of climate change in local communities

Action 20.2: Develop guidance on resilient neighbourhood and building design

Comment: The planning proposal would contribute towards achieving better designed neighbourhoods and buildings, for example, requiring a certain percentage of landscaped area with residential development. As noted on p 62 of the draft strategy, "*Better designed neighbourhoods and buildings can improve our ability to cope with climate change impacts while also enhancing quality of life. For example, increased green cover can improve air quality, reduce the impact of heatwaves and help manage energy demand...*".

Draft Inner North Subregional Strategy

Direction C: Housing

Objective C5: Improve the quality of new development and urban renewal

Action C5.1: Improve the design quality of new development

Comment: The planning proposal would contribute towards improving the design quality of new development by setting out clear objectives and controls for development in Mosman's residential areas.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Local strategies and strategic plans applicable to the Mosman Local Government Area are:

- *MOSPLAN Community Strategic Plan 2013-2023*
- *Mosman Residential Development Strategy* (February 1997)

The planning proposal is consistent with Mosman's local strategies and strategic plans. Consideration of relevant sections of these local strategies and strategic plans is given below.

MOSPLAN Community Strategic Plan 2013-2023

Plan: Built Environment

Direction statement: A unique urban environment that is maintained and protected through strong planning & regulatory practice, an appreciation of Mosman's heritage, and a commitment to high quality infrastructure and development

Strategy 1: Maintain the special local character of Mosman with effective planning strategies in place

Comment: The planning proposal would contribute towards achieving this strategy by setting out clear objectives and controls for development in residential areas consistent with Mosman's Residential Development Strategy.

Mosman Residential Development Strategy

Relevant objectives:

- *To ensure that new housing development is compatible with existing development and does not adversely affect its environment or the residential amenity of existing residents.*
- *To ensure that the range of housing choice in Mosman is maintained, including single dwellings.*

Comment: The planning proposal would contribute towards achieving these objectives by setting out clear objectives and controls to enhance local amenity and encourage two storey dwellings with a pitched roof form and a dominance of landscaping, consistent with the desired future character of Mosman's residential areas.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. The planning proposal is consistent with applicable State Environmental Planning Policies. Refer to Appendix C of this planning proposal.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Yes. The planning proposal is consistent with applicable Ministerial Directions (s.117 directions). Refer to Appendix D of this planning proposal.

Section C – Environmental, social and economic impact

Q7. 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?

No.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Including a clause in Mosman LEP 2012 which requires all residential zoned land to contain a certain percentage of landscaped area in conjunction with development will have a positive environmental effect in Mosman, for example, by:

- achieving increased green cover which can improve air quality, reduce the impact of heatwaves and help manage energy demand (source: *Draft Metropolitan Strategy for Sydney to 2031*);
- providing habitat for native fauna (sites within the Habitat Link on Mosman's Biodiversity Corridor and Habitat Link Map would be required to incorporate Australian native species, in particular those indigenous to Mosman); and
- containing stormwater on sites and preventing stormwater run-off into local drains which feed into Sydney and Middle Harbours.

Including a new objective in the floor space ratio clause of Mosman LEP 2012 to limit excavation of sites and retain natural ground level for the purpose of landscaping and containing stormwater run-off will also have a positive environmental effect in Mosman.

Q9. Has the planning proposal adequately addressed any social and economic effects?

There are unlikely to be any social or economic effects as a result of this planning proposal. The amendments to existing objectives for the R2 zone, height of buildings and floor space ratio are relatively minor. Planning controls for wall height, number of storeys and landscaped area have applied in Mosman for over 20 years, and this planning proposal seeks only to reinstate these controls in Mosman LEP 2012.

The increased cost to the Mosman Development Assessment Panel (MDAP) has been considered in the report to the Council Meeting of 2 September 2014, and a revision to the Planning Proposal (to exclude number of storeys from being a development standard in the LEP) is proposed. Inclusion of wall height in the LEP as a development standard would not significantly contribute to the workload of MDAP or costs or processing time associated with this. Refer to the Council report for more detailed information.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

The planning proposal will not generate the need for additional public infrastructure.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

No State or Commonwealth public authorities have been consulted due to the nature of the planning proposal.

Part 4 – Community Consultation

Community consultation for this planning proposal would be consistent with the prescribed consultation guidelines under the NSW Department of Planning and Infrastructure's document "*A Guide to preparing Local Environmental Plans*" (April 2013).

The planning proposal would likely be publicly exhibited for a minimum period of 28 days and in the following manner:

- Notice placed in the Mosman Daily (local newspaper)
- Notice and background information to be made available on Council's websites
- Facebook and twitter utilised to advise followers
- Notice in Mosman Urban Planning newsletter and/or Mosman News
- Exhibition at Council offices and Mosman Library

The written notice would:

- Give a brief description of the objectives or intended outcomes of the planning proposal
- Indicate the land affected by the planning proposal
- State where and when the planning proposal can be inspected
- Give the name and address of the Council for the receipt of submissions
- Indicate the last date for submissions
- Confirm whether the Minister has chosen to delegate the making of the LEP to Council.

During the exhibition period the following material would be made available for inspection by the community:

- The planning proposal, in the form approved for community consultation by the Gateway determination issued by NSW Planning and Infrastructure
- The Gateway determination
- Any information or technical information relied upon by the planning proposal

The community consultation will be deemed complete once Council has considered any submissions made on the planning proposal.

The proposed amendments were publicly exhibited from 12 June - 10 July 2014 in the manner outlined above and in accordance with the gateway determination issued by the NSW Department of Planning and Environment (the Department) on 14 May 2014.

Part 5 – Project Timeline

The following timeline for the planning proposal is an estimation only.

Task	Timeframe / target date
Council endorsement of Planning Proposal and decision to send to NSW Planning and Infrastructure for gateway determination	1 April 2014
Referral to NSW Planning and Infrastructure for gateway determination	4 April 2014
Gateway determination issued by NSW Planning and Infrastructure	May-June 2014
Public exhibition period (28 days)	June-July 2014
Consideration of submissions received and proposal post exhibition	July 2014
Report to Council considering submissions received	2 September 2014
Submit revised Planning Proposal to the Minister	September 2014
Liaise with Parliamentary Counsel (assuming delegation)	October-November 2014
Anticipated date Council will make plan (assuming delegation)	October-November 2014
Anticipated date that plan would be forwarded to NSW Planning and Infrastructure for notification	October-November 2014

Appendices

Appendix A - Extracts from Mosman LEP 2012 and Mosman Residential DCP 2012

Zoning

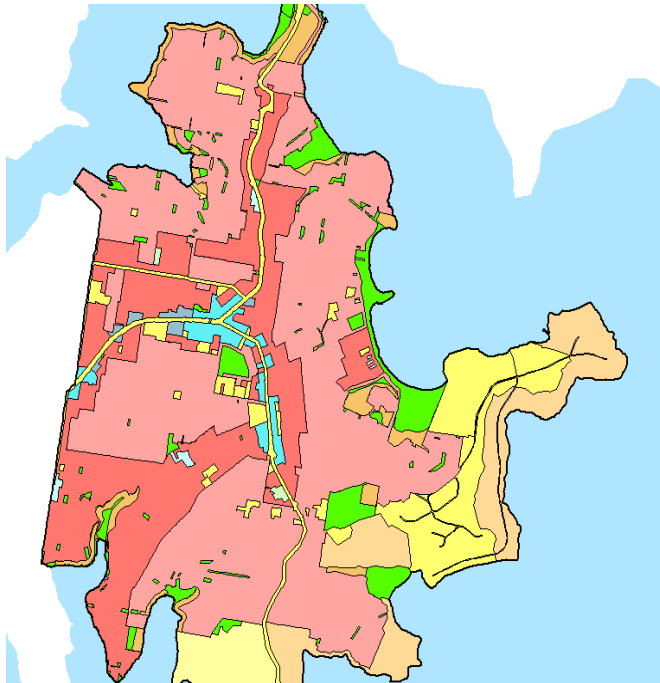
Mosman LEP 2012, Part 2 Land Use Table (with content mandated by the Standard Instrument shown in red):

Zone R2 Low Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To retain the single dwelling character of the environmentally sensitive residential areas of Mosman.
- To maintain the general dominance of landscape over built form, particularly on harbour foreshores.
- To ensure that sites are of sufficient size to provide for buildings, vehicular and pedestrian access, landscaping and retention of natural topographical features.
- To ensure that development is of a height and scale that complements the desired future character.
- To encourage residential development that has regard to local amenity and, in particular, public and private views.

Land zoned R2 is shown shaded light pink on the following map:



Height

Mosman LEP 2012, clause 4.3 Height of buildings (with content mandated by the Standard Instrument shown in red):

4.3 Height of buildings [optional]

(1) The objectives of this clause are as follows:

- (a) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential:
 - (i) to share public and private views, and
 - (ii) to minimise the visual impact of buildings when viewed from the harbour and surrounding foreshores, and
 - (iii) to ensure new buildings are compatible with the desired future character of the area in terms of building height and roof form, and
 - (iv) to minimise the effects of bulk and scale of new buildings,

Mosman Residential DCP 2012, Part 4.2 Siting and scale:

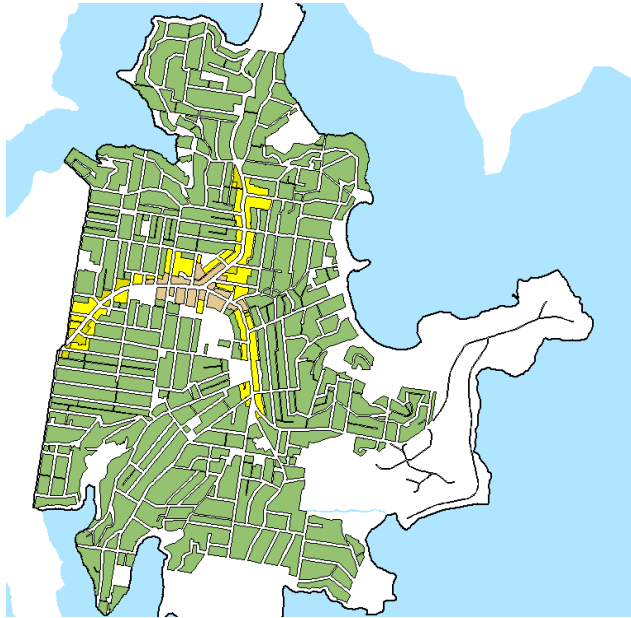
OBJECTIVES	PLANNING CONTROLS
O1. To have the effects of bulk and scale of buildings arising from new development minimised. O2. To have a scale of development which is not excessive and is consistent with the existing or desired future townscape area character. O3. To have a built form that is typical of traditional building types in Mosman, and encourage pitched and gabled roof forms.	P1. For all residential zoned land to which a maximum building height of 8.5 metres applies under the LEP, the following also applies: (a) a maximum wall height of 7.2m; (b) a maximum of two storeys (above ground level (existing)). Council may allow an additional storey in attic roof space of existing and new buildings, or in the foundation space of existing buildings, provided that the building height and bulk is of an appropriate form and scale.

Mosman Residential DCP 2012, Appendix 1 - Dictionary:

Wall height

Wall height of a building means the vertical distance between the top of the eaves at the wall line (excluding dormer windows that are no more than 25% of the width of the roof plane and gable ends), parapet or flat roof (not including a chimney) whichever is the highest, and the ground level (existing) immediately below that point.

Planning control P1 applies to all residential zoned land to which a maximum building height of 8.5 metres applies under the LEP. This is land shown shaded green on the following map:



Floor space ratio

Mosman LEP 2012, clause 4.4 Floor space ratio (with content mandated by the Standard Instrument shown in re):

4.4 Floor space ratio [optional]

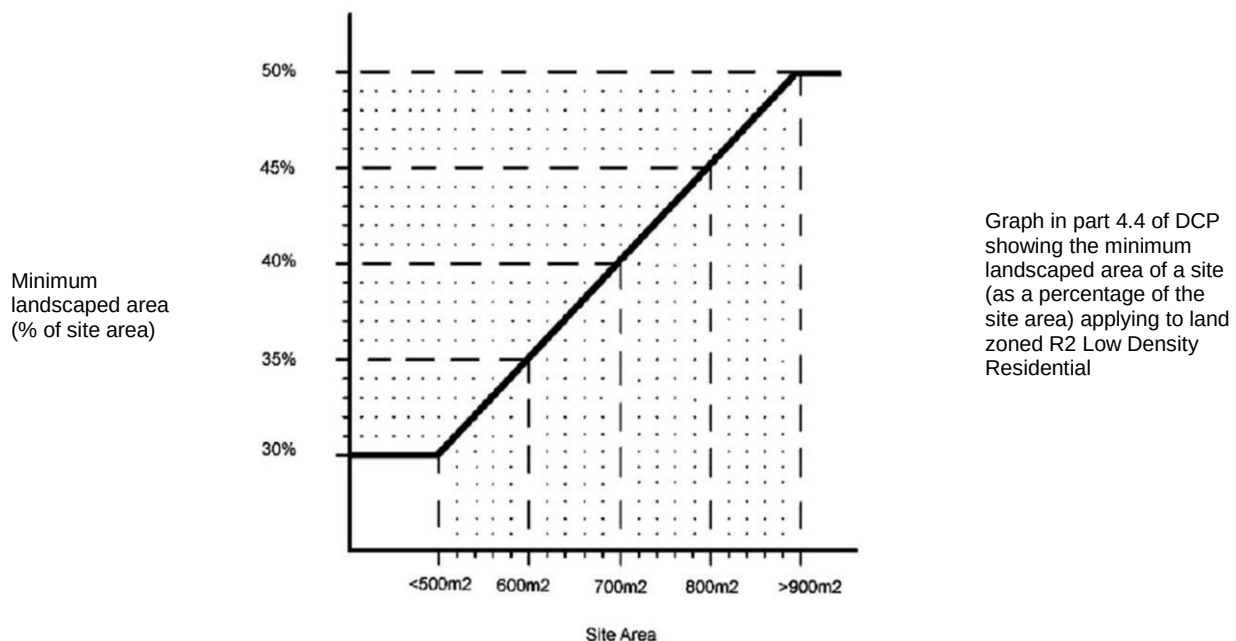
(1) The objectives of this clause are as follows:

- (a) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential:
 - (i) to ensure that buildings are compatible with the desired future character of the area in terms of building bulk and scale, and
 - (ii) to provide a suitable balance between landscaping and built form, and
 - (iii) to minimise the effects of bulk and scale of buildings,

Landscaped area

Extract from Mosman Residential DCP 2012, Part 4.4 Landscaping:

OBJECTIVES	PLANNING CONTROLS
O1. To have the landscape and townscape area character of Mosman's residential areas maintained and enhanced by requiring landscaping of sites in conjunction with other development. O2. To have a general visual dominance of landscape over buildings maintained, particularly on harbour foreshores and on land in Zone R2 Low Density Residential. O3. To have adequate and useable ground level open space for recreation, landscaping and containing urban run-off.	P1. The minimum landscaped area of a site (as a percentage of the site area) should be: (a) For land zoned R2 Low Density Residential: (i) 30%, where the site area is 500sqm or less; (ii) 50%, where the site area is 900sqm or more; (iii) in accordance with the following formula, where the site area is more than 500sqm but less than 900sqm: $LA = \left[30 + \frac{(SA - 500)}{20} \right] \%$ Where LA is landscaped area, and SA is site area. This formula is shown graphically in a sliding scale on the following page. (b) For land zoned R3 Medium Density Residential: (i) 50%, for land identified in the LEP as having a maximum floor space ratio of 0.55:1 or 0.6:1; (ii) 40%, for land identified in the LEP as having a maximum floor space ratio of 0.7:1 or 1:1.



Appendix B – Precedent other NSW councils

NSW council LEPs with reference to maximum wall height

LEP	Comment
Canada Bay LEP 2008	Schedule 3 Complying Development. Applies maximum wall height to certain complying development.
Lismore LEP 2012	Schedule 3 Complying Development. Applies maximum wall height to certain complying development.
North Sydney LEP 2013	Clause 4.3 Height of buildings. Subclause (2A) applies limitation based on height of street elevation (i.e. wall height) for land zoned R2 Low Density Residential and heritage conservation areas.
Parramatta City Centre LEP 2007	Schedule 3 Complying Development. Applies maximum wall height to certain complying development.
Penrith LEP 2010	Schedule 3 Complying Development. Applies maximum wall height to certain complying development.
Port Macquarie - Hastings (Area 13 Thrumster) LEP 2008	Schedule 3 Complying Development. Applies maximum wall height to certain complying development.
Port Macquarie - Hastings LEP 2008	Schedule 3 Complying Development. Applies maximum wall height to certain complying development.
Richmond Valley LEP 2012	Schedule 2 Exempt Development. Applies maximum wall height to certain exempt development.

NSW council LEPs with reference to maximum number of storeys

LEP	Comment
Ashfield LEP 2013	Clause 6.5 Development on land in Haberfield Heritage Conservation Area. Applies maximum number of storeys limit to maintain the single storey appearance of dwellings in the HCA.
Hunters Hill LEP 2012	Clause 4.3 Height of buildings. Objectives reference maximum two storey development in the R2 Low Density Residential zone, heritage conservation areas and foreshore areas.
Ku-ring-gai LEP (Local Centres) 2012	Clause 6.7 Minimum street frontages for lots in business zones. Consent cannot be granted for buildings greater than two storeys unless a certain frontage exists.
Leichhardt LEP 2013	Clause 6.15 Development on certain land in Rozelle. Subclause (3) limits buildings to three or six storeys in height depending on location. (Leichhardt LEP has not adopted the optional clause 4.3 Height of Buildings.)
Liverpool LEP 2008	Clause 7.14 Minimum building street frontages. Consent cannot be granted for buildings greater than two storeys unless a certain frontage exists.
Ryde LEP (Gladesville Town Centre and Victoria Road Corridor) 2010	Zone R2 Low Density Residential objectives reference maintaining two storey character on sloping sites.
Ryde LEP 2010	Zone R2 Low Density Residential objectives reference maintaining two storey character on sloping sites.

NSW council LEPs with reference to minimum landscaped area

<i>LEP</i>	<i>Comment</i>
Hunters Hill LEP 2012	Clause 6.9 Minimum landscaped area for dwelling houses and secondary dwellings. Requires a minimum percentage of sites to be landscaped area, with the percentage required depending on location.
Leichhardt LEP 2013	Clause 4.3A Landscaped areas for residential accommodation in Zone R1. Applies a minimum landscaped area to residential accommodation in Zone R1 General Residential.

Appendix C -SEPPs

State Environmental Planning Policies

State Environmental Planning Policies (SEPPs)	(tick only one)			Comment
	Not relevant	Consistent	Justifiably inconsistent	
SEPP 1 – Development Standards	✓			
SEPP 4 – Development Without Consent & Miscellaneous Complying Development	✓			
SEPP 6 – Number of Storeys in a Building		✓		
SEPP 14 – Coastal Wetlands	✓			
SEPP 15 – Rural Landsharing Communities	✓			
SEPP 19 – Bushland in Urban Areas	✓			
SEPP 21 – Caravan Parks	✓			
SEPP 22 – Shops and Commercial Premises	✓			
SEPP 26 – Littoral Rainforests	✓			
SEPP 29 – Western Sydney Recreation Area	✓			
SEPP 30 – Intensive Agriculture	✓			
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)		✓		
SEPP 33 – Hazardous and Offensive Development		✓		
SEPP 36 – Manufactured Home Estates	✓			
SEPP 39 – Spit Island Bird Habitat	✓			
SEPP 41 – Casino Entertainment Complex	✓			
SEPP 44 – Koala Habitat Protection	✓			
SEPP 47 – Moore Park Showground	✓			
SEPP 50 – Canal Estate Development	✓			
SEPP 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	✓			
SEPP 53 – Metropolitan Residential Development	✓			
SEPP 55 – Remediation of Land		✓		
SEPP 59 – Central Western Sydney Economic and Employment Area	✓			
SEPP 60 – Exempt & Complying Development	✓			
SEPP 62 – Sustainable Aquaculture 2000	✓			

State Environmental Planning Policies (SEPPs)	(tick only one)			Comment
	Not relevant	Consistent	Justifiably inconsistent	
SEPP 64 – Advertising and Signage	✓			
SEPP 65 – Design Quality of Residential Flat Development		✓		
SEPP 70 – Affordable Housing (Revised Schemes)	✓			
SEPP 71 – Coastal Protection	✓			
SEPP (Building Sustainability Index: BASIX) 2004		✓		
SEPP (Housing for Seniors or People with a Disability) 2004		✓		
SEPP (Development on Kurnell Peninsula) 2005	✓			
SEPP (Major Development) 2005	✓			
SEPP (Sydney Region Growth Centres) 2006	✓			
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	✓			
SEPP (Temporary Structures) 2007	✓			
SEPP (Infrastructure) 2007		✓		
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	✓			
SEPP (Rural Lands) 2008	✓			
SEPP (Exempt and Complying Development Codes) 2008		✓		
SEPP (Western Sydney Parklands) 2009	✓			
SEPP (Western Sydney Employment Area) 2009	✓			
SEPP (Affordable Rental Housing) 2009		✓		
SEPP (State and Regional Development) 2011	✓			
SEPP (Sydney Drinking Water Catchment) 2011		✓		
Draft SEPP (Competition) 2010	✓			

Deemed State Environmental Planning Policies (formerly regional environmental plans)

Deemed State Environmental Regional Environmental Plans (REPs)	(tick only one)			Comment
	Not relevant	Consistent	Justifiably inconsistent	
Sydney REP 5 – Chatswood Town Centre	✓			
Sydney REP 8 – Central Coast Plateau Areas	✓			
Sydney REP 9 – Extractive Industry (No. 2)	✓			
Sydney REP 11 – Penrith Lakes Scheme	✓			
Sydney REP 13 – Mulgoa Valley	✓			
Sydney REP 16 – Walsh Bay	✓			
Sydney REP 17 – Kurnell Peninsula (1989)	✓			
Sydney REP 18 – Public Transport Corridors	✓			
Sydney REP 19 – Rouse Hill Development Area	✓			
Sydney REP 20 – Hawkesbury-Nepean River (No. 2 1997)	✓			
Sydney REP 24 – Homebush Bay Area	✓			
Sydney REP 25 – Orchard Hills	✓			
Sydney REP 26 – City West	✓			
Sydney REP 28 – Parramatta	✓			
Sydney REP 29 – Rhodes Peninsula	✓			
Sydney REP 30 – St Marys	✓			
Sydney REP 33 – Cooks Cove	✓			
Sydney REP (Sydney Harbour Catchment) 2005		✓		

Appendix D – s.117 Directions

Ministerial Directions (s.117 directions)

New Ministerial Directions under s.117 of the EP&A Act	(tick only one)			Comment
	Not relevant	Consistent	Justifiably inconsistent	
D1.1 Business and Industrial Zones	✓			
D1.2 Rural Zones	✓			
D1.3 Mining, Petroleum Production and Extractive	✓			
D1.4 Oyster Aquaculture	✓			
D1.5 Rural Lands	✓			
D2.1 Environmental Protection Zones	✓			
D2.2 Coastal Protection	✓			
D2.3 Heritage Conservation		✓		
D2.4 Recreation Vehicle Areas	✓			
D3.1 Residential Zones		✓		
D3.2 Caravan Parks and Manufactured Home Estates	✓			
D3.3 Home Occupations	✓			
D3.4 Integrating Land Use and Transport		✓		
D3.5 Development Near Licensed Aerodromes	✓			
D3.6 Shooting Ranges	✓			
D4.1 Acid Sulfate Soils		✓		
D4.2 Mine Subsidence and Unstable Land	✓			
D4.3 Flood Prone Land	✓			
D4.4 Planning for Bushfire Protection		✓		
D5.1 Implementation of Regional Strategies	✓			
D5.2 Sydney Drinking Water Catchments	✓			
D5.3 Farmland of State and Regional Significance on the NSW Far North Coast	✓			
D5.4 Commercial and Retail Development along the Pacific Highway, North Coast	✓			
D5.8 Second Sydney Airport: Badgerys Creek	✓			
5.9 North West Rail Link Corridor Strategy	✓			
D6.1 Approval and Referral Requirements	✓			

<i>New Ministerial Directions under s.117 of the EP&A Act</i>	<i>(tick only one)</i>			<i>Comment</i>
	<i>Not relevant</i>	<i>Consistent</i>	<i>Justifiably inconsistent</i>	
D6.2 Reserving Land for Public Purposes	✓			
D6.3 Site Specific Provisions	✓			
D7.1 Implementation of the Metropolitan Plan for Sydney 2036		✓		