
Item No:	D6
Subject:	PROPOSED AMENDMENTS TO WOOLLAHRA LEP 2014 AND WOOLLAHRA DCP 2015 TO INCORPORATE CONTROLS FOR LOW RISE MEDIUM DENSITY HOUSING TYPES
Authors:	Jorge Alvarez, Senior Strategic Planner Anne White, Team Leader - Strategic Planning
Approvers:	Chris Bluett, Manager - Strategic Planning Allan Coker, Director - Planning & Development
File No:	19/43044
Reason for Report:	To seek the advice of the Woollahra Local Planning Panel in relation to a planning proposal to amend Woollahra Local Environmental Plan 2014 by inserting controls for low rise medium density housing. To seek the advice of the Woollahra Local Planning Panel in relation to a draft development control plan to amend Woollahra Development Control Plan 2015 by inserting controls for low rise medium density housing.

Advice:

THAT the Woollahra Local Planning Panel advise Council that it:

- A. Supports the planning proposal to amend clause 4.1A of *Woollahra Local Environmental Plan 2014* by inserting minimum lot size standards for manor houses and multi dwelling housing (terraces).
- B. Supports the planning proposal being forwarded to the Minister for Planning, requesting a gateway determination to allow public exhibition.
- C. Supports the draft development control plan to amend various sections of the *Woollahra Development Control Plan 2015*, to insert references to manor houses and multi dwelling housing (terraces), as described in **Annexure 2** of the report to the Woollahra Local Planning Panel on 18 April 2019.

1. Reason for report to the Woollahra Local Planning Panel

This report seeks the advice of the Woollahra Local Planning Panel (LPP) on a planning proposal to amend Clause 4.1A of *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014), by inserting minimum lot size standards of 700 square metres for manor houses and multi dwelling housing (terraces) (refer to **Annexure 1**).

An associated draft development control plan has been prepared to amend various sections of the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015), to insert references to manor houses and multi dwelling housing (terraces) (refer to **Annexure 2**).

On 27 September 2018, the Minister for Planning issued a *Local Planning Panel Direction – Planning Proposals* which states in part:

1. *A council to whom this direction applies is required to refer all planning proposals prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:*
 - (a) *the correction of an obvious error in a local environmental plan,*
 - (b) *matters that are of a consequential, transitional, machinery or other minor nature, or*
 - (c) *matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.*
2. *When a planning proposal is referred to the local planning panel for advice in accordance with this direction it is to be accompanied by an assessment report prepared by the council staff setting out recommendations in relation to the planning proposal, including whether or not the planning proposal should be forwarded to the Minister or Greater Sydney Commission under section 3.34 of the Environmental Planning and Assessment Act 1979.*
3. *The local planning panel must have given its advice on the planning proposal before council considers whether or not to forward it to the Minister or Greater Sydney Commission under section 3.34 of the Environmental Planning and Assessment Act 1979.*

In this case, the planning proposal is required to be referred to the local planning panel under section 3.34 of the *Environmental Planning and Assessment Act 1979* (the Act), because the general manager has not made a determination in regard to items 1 (a), (b) or (c), above.

The draft DCP has been referred to the Woollahra LPP in accordance with section 2.19 (1) (c) of the Act. The section states an LPP is to advise a council on any planning or development matter that is to be determined by the council and is referred to the LPP by a council.

2. Background

2.1. Low rise medium density housing

Low rise medium density housing is defined as three development types, limited to 1 or 2 storeys in height:

- Dual occupancy – being two dwellings either attached or detached on one lot of land.
- Manor house – being a type of residential flat building containing three or four attached dwellings.
- Multi dwelling housing (terraces) – being three or more attached dwellings on one lot of land, facing and generally aligned along one or more public roads.

2.2. NSW planning framework

On 6 April 2018 amendments were made to the NSW planning framework to facilitate the development of Low Rise Medium Density Housing. The amendments came into effect on 6 July 2018. However, the commencement of the Code was deferred to land in the Woollahra LGA (and 40 other LGAs in NSW) until 1 July 2019. The deferral was provided to allow Councils sufficient time to fully consider the potential impacts of the amendments.

2.3. Low rise medium density housing permitted with a development application

From 1 July 2019, manor houses and multi dwelling housing (terraces) will be permissible with development consent (as a DA) in the Woollahra LGA. Dual occupancy development is already permitted. The *Low Rise Medium Density Design Guide for Development Applications* (DA Design Guide) commenced on 6 July 2018 to provide design guidance and best practice design controls and standards for low rise medium density development requiring development consent. The *Environmental Planning and Assessment Regulation 2000* (the Regulation) requires councils to consider the DA Design Guide when assessing DAs for this type of development, until they adopt development controls and standards for these new housing types. A council may choose not to adopt local development controls and standards and rely on the DA Design Guide.

2.4. Review of Woollahra LEP 2014 and Woollahra DCP 2015

Council staff reviewed the Woollahra LEP 2014 and Woollahra DCP 2015 in relation to development controls and standards for low rise medium density housing. On 18 March 2019, a detailed report recommending the preparation of a planning proposal and draft DCP was presented to the Environmental Planning Committee (EPC). To avoid duplication, the agenda of the EPC is included as Appendix 2 of **Annexure 1**. A summary of the proposed amendments to Woollahra LEP 2014 and Woollahra DCP 2015 is provided below.

2.5. Planning proposal to amend Woollahra LEP 2014

Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat building of the Woollahra LEP 2014 currently provides development standards for the minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings within certain zones.

The DA Design Guide control for minimum lot size of manor houses and multi dwelling housing (terraces) is 600 square metres. However, the Woollahra LEP 2014 minimum lot size standard for residential flat buildings and multi dwelling housing is 700 square metres. Therefore, it is recommended that the minimum lot size standard for manor houses and multi dwelling housing (terraces) be adopted as 700 square metres, to align the standards to those of residential flat buildings and multi dwelling housing and to meet the desired future character of the LGA. A planning proposal is required to amend this clause.

2.6. Proposed amendment to the Woollahra DCP 2015

The Woollahra DCP 2015 currently provides development controls for the development of dual occupancies, multi dwelling housing and residential flat buildings within the Woollahra LGA. To provide appropriate controls for all types of low rise medium density housing, additional controls are required for manor houses and multi dwelling housing (terraces).

A comparison of the existing controls and standards in Woollahra DCP 2015 for low rise medium density housing development and those in the DA Design Guide revealed that the current controls of the Woollahra DCP 2015 either exceed or are equivalent in detail and stringency to the controls and standards in the DA Design Guide. Therefore, it is not necessary to adopt any of the controls and standards in the DA Guide into the Woollahra DCP 2015. However, various amendments are proposed to extend the controls of the Woollahra DCP 2015 to manor houses and multi dwelling housing (terraces) (refer to **Annexure 2**).

2.7. Council resolution

On 18 March 2019, a report recommending the preparation of a planning proposal and draft DCP was presented to the EPC (refer to Appendix 2 of **Annexure 1**). On 25 March 2019, Council resolved:

- A. *THAT Council prepare a planning proposal to amend clause 4.1A of Woollahra LEP 2014 by inserting minimum lot size standards for manor houses and multi dwelling housing (terraces).*
- B. *THAT a draft development control plan be prepared to amend various sections of the Woollahra Development Control Plan 2015, to insert references to manor houses and multi dwelling housing (terraces), as described in detail in **Annexure 4** of the report to the Environmental Planning Committee meeting on 18 March 2019.*
- C. *THAT the planning proposal and draft development control plan be referred to the Woollahra Local Planning Panel for advice.*
- D. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*
- E. *THAT Council does not support any move towards incorporating manor houses or multiple dwellings beyond the R3 Zone.*

3. Planning proposal

3.1. Structure

A planning proposal to amend Clause 4.1A of the Woollahra LEP 2014 has been prepared in accordance with section 3.33 of the Act and the two documents prepared by the NSW Department of Planning and Environment titled *A Guide to Preparing Planning Proposals* (August 2016) and *A Guide to Preparing Local Environmental Plans* (August 2016) (refer to **Annexure 1**).

3.2. Objective

The objective of the planning proposal is to amend Woollahra LEP 2014 to add minimum lot size standards of 700 square metres for manor houses and multi dwelling housing (terraces).

3.3. Explanation of provisions

The planning proposal seeks to amend Clause 4.1A of Woollahra LEP 2014 by inserting minimum lot size standards of 700 square metres for manor houses and multi dwelling housing (terraces).

3.4. Justification for objectives, outcomes and the relationship to strategic planning framework

The planning proposal is consistent with the relevant strategic planning framework plans, policies and directions:

- The planning proposal is consistent with the relevant objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the actions of the *Eastern City District Plan* (2018), (refer to section 5.2 of the planning proposal).
- The planning proposal is consistent with the Council's Community Strategic Plan titled *Our Woollahra 2030: Our community, our place, our plan*, (refer to section 5.2 of the planning proposal).
- The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable State environmental planning policies (refer to **Schedule 1** of the planning proposal).
- The planning proposal is consistent with applicable section 9.1 directions (refer to **Schedule 2** of the planning proposal).

3.5. Mapping

There are no mapping amendments proposed or required to Woollahra LEP 2014.

4. Community consultation

The public exhibition of the planning proposal and draft DCP will be undertaken concurrently in accordance with the requirements of the Act, the Regulation and, for the planning proposal, the gateway determination. The gateway determination will specify the minimum duration of the public exhibition period for the planning proposal. This period is usually a minimum of 28 days, which is the mandatory exhibition periods required under the Act for planning proposals and draft DCPs, and is consistent with Council's standard practice.

Public notification of the exhibition will comprise:

- A weekly notice in the local newspaper (the *Wentworth Courier*) for the duration of the exhibition period.
- A notice on Council's website.
- Local community groups.

5. Making the draft LEP under delegated authority

The planning proposal will be forwarded to the Department of Planning and Environment (as the delegate for the Minister of Planning) for a gateway determination under section 3.34 of the Act. To streamline the plan making process, the Minister can delegate some plan making powers to Council for routine matters. In this case, Council will request the Minister for Planning authorise Council as the local plan-making authority in relation to the planning proposal, to allow it to make the local environmental plan, under section 3.36 of the Act.

Following public exhibition, if Council resolves to proceed with and finalise the planning proposal, staff will request that the Parliamentary Counsel (PC) prepare a draft LEP. Once the draft LEP has been prepared, PC will issue an opinion that it can be made. Alternatively, if Council decides not to finalise the planning proposal, it will resolve to request that the Minister, or Minister's delegate, not proceed with the planning proposal, under section 3.35(4) of the Act.

6. Adopting the draft DCP

A draft DCP has been prepared in accordance with division 3.6 of the Act and part 3 of the Regulation (refer to **Annexure 2**). This draft DCP contains additional amendments to the Woollahra DCP 2015, to those described in Annexure 4 of the report to the EPC meeting on 18 March 2019. In particular, the additional amendments relate to Chapter C2 Paddington Heritage Conservation Area.

Following public exhibition, if Council resolves to proceed with and adopt the draft DCP, staff will update the relevant sections of Woollahra DCP 2015. Alternatively, Council may resolve not to adopt the draft DCP.

7. Conclusion

This report seeks the advice of the Woollahra LPP on:

- A planning proposal to amend Clause 4.1A of Woollahra LEP 2014, to insert minimum lot size standards of 700 square metres for manor houses and multi dwelling housing (terraces).
- An associated draft development control plan to amend various sections of the Woollahra DCP 2015, by inserting references to manor houses and multi dwelling housing (terraces).



The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- a statement of the objectives or intended outcomes
- an explanation of the provisions that are to be included
- the justification for the objectives, outcomes and provisions and the process for their implementation
- details of the community consultation that is to be undertaken.

Note: No mapping amendments are proposed.

Advice from the Woollahra LPP will be provided to Council.

Annexures

1. Planning proposal - Low rise medium density housing - 9 April 2019 [↓](#) 
2. Draft Woollahra DCP 2015 - Low rise medium density housing - April 2019 [↓](#) 

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Note: Late correspondence was tabled by Chris Bluett, Manager Strategic Planning.

Note: The Panel amended Part A. (Planning Proposal).

Resolved:

THAT the Woollahra Local Planning Panel advise Council that it:

- A. Supports the planning proposal at **Annexure 1** of the report to the Woollahra Local Planning Panel on 18 April, 2019, to amend clause 4.1A of *Woollahra Local Environmental Plan 2014* by inserting minimum lot size standard of 700 square metres for manor houses and multi dwelling housing (terraces), subject to amending section 5.1 of the planning proposal by including a reference to the study undertaken to establish the minimum lot sizes for land uses in the new standard instrument LEP for Woollahra (Woollahra LEP 2014).
- B. Supports the planning proposal being forwarded to the Minister for Planning, requesting a gateway determination to allow public exhibition.
- C. Supports the draft development control plan to amend various sections of the *Woollahra Development Control Plan 2015*, to insert references to manor houses and multi dwelling housing (terraces), as described in **Annexure 2** of the report to the Woollahra Local Planning Panel on 18 April 2019.

Note: *In accordance with the Woollahra Local Planning Panel Operational Procedures the votes are recorded on this planning matter.*

For the Motion

Dr Mark Carleton
Graham Humphrey
John McInerney
Annelise Tuor

Against the Motion

Nil

4/0

There being no further business the meeting concluded at 2.51pm.

We certify that the pages numbered 1 to 142 inclusive are the Minutes of the Woollahra Local Planning Panel Meeting held on 18 April 2019 and confirmed by the Chair of the Woollahra Local Panel on 23 April 2019 as correct.



Chairperson

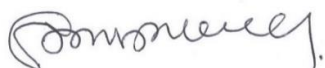
Secretary of Committee



Expert



Expert



Community Representative