



IRF18/2678

Mr Ben Taylor  
Acting CEO  
Northern Beaches Council  
PO Box 1336  
DEE WHY NSW 2099

Dear Mr Taylor

I am writing to you regarding the Minister of Planning's recent announcement on the Low Rise Medium Density Code and medium density housing in the R2 Low Density Residential zone.

The Minister has advised that he would consider deferring the commencement of the code to allow councils in the Greater Sydney region to rectify local planning controls to meet the strategic intent of each council area. This deferral only applies to residential flat buildings (including manor houses) and multi-dwelling housing (including terraces) in the R2 zone where the current planning controls or the new code permit them. The provisions of the code will continue to apply to dual occupancy.

To seek this deferral from the code Council will need to lodge a planning proposal with the Department of Planning and Environment by 5.00 pm 27 June 2018. The planning proposal will need to address, or identify that it will address, the following:

- the area of land zoned R2 Low Density Residential, R1 General Residential and R3 Medium Density Residential;
- the number of lots eligible for manor house or multi-dwelling housing development as complying development under the code in the R2, R1 and R3 zone;
- the number of multi-dwelling housing developments approved by the council in the R2, R1 and R3 zone in the past 5 years; and
- whether the proposal is supported by a housing strategy that has been developed in consultation with the community.

The information required to support the proposal is necessary to ensure that a full understanding of the outcomes of changing the planning controls in the R2 zone has on the future provision of housing diversity in the local government area. The proposal will need to be finalised by 1 July 2019.

If your staff have further questions please do not hesitate to Amanda Harvey, Director Sydney Region East on 8275 1128.

Yours sincerely

**Marcus Ray**  
Deputy Secretary  
Planning Services

22/05/2018

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Attachment one

**NORTHERN BEACHES**  
COUNCIL

**Submission in response to the draft Medium Density Design Guide  
and an Explanation of Intended Effect for a Medium Density  
Housing Code**

**December 2016**

### Executive Summary

This submission is provided on behalf of the Northern Beaches Council in response to the draft Medium Density Design Guide (MDDG) and Explanation of Intended Effect (EIE) for a Medium Density Housing Code (draft Code). Comments are provided with respect to local planning controls for the three former Local Government Areas (LGAs) of Manly, Warringah and Pittwater, including: the Manly Local Environmental Plan 2013 (MLEP 2013) and Manly Development Control Plan 2013 (MDCP 2013); Warringah Local Environmental Plan 2011 (WLEP 2011), Warringah Local Environmental Plan 2000 (WLEP 2000) and Warringah Development Control Plan 2011 (WDCP 2011); and, the Pittwater Local Environmental Plan 2014 (PLEP 2014) and Pittwater 21 Development Control Plan (PDCP).

Proposed Development Controls: The principal controls in the draft Code are significantly less stringent than the local planning provisions of the former LGAs with respect to parking, landscape areas, setbacks, and private open space. Greater floor space ratios would be permitted compared with the MLEP 2013 and PLEP 2014, and increased building heights compared with the MDCP 2013. Thus implementation of the draft Code would result in an increased pressure on street parking, stormwater infrastructure, and an increase in building bulk and scale when compared with two storey developments requiring a development application under the local planning provisions. Council is therefore not satisfied the draft Code establishes a sufficiently strict set of controls to offset significant additional development scale/potential and likely resulting adverse impacts. It is therefore recommended to allow Council to set its own principal standards for complying development to cater to local conditions. This would ensure future medium density developments are in keeping with the character of established neighbourhoods.

Residential Densities: The implementation of the draft Code will result in ad-hoc, unplanned development that may affect Council's ability to meet current and future housing targets and their ability to deliver the required level of infrastructure. Of particular concern is the likely increase in density that would result in the former Manly and Pittwater LGAs, which permit dual occupancies within low density residential zones, subject to strict local density requirements. This increased density will result in significant adverse outcomes for our communities, particularly in terms of residential amenity and streetscape/ neighbourhood character. A decrease in dwelling yields may also result in some medium density areas (e.g under the WLEP 2011 and in Warriewood Valley). It is therefore vital that Section 94 plans can be reviewed prior to the implementation of the Code, and that Warriewood Valley and the Ingleside Land Release area are excluded. Further clarification is also sought from the Department as to how local density provisions will be taken into account.

Private Certification: The proposed expansion of complying development is not supported until issues with the transparency and accountability of the existing private building certification system are addressed. It is also not clear whether issues such as traffic impacts and stormwater design are proposed for private certification. An appropriate system of monitoring is essential to support the certification system, especially if the proposed design verification process is to proceed.

Other Issues: The attached Submission raises a number of other issues including: potential impacts on European and Aboriginal Heritage, absence of requirements for accessible housing, and technical matters such as stormwater and water management, subdivision, excavation, bushland and waste management. Recommendations are made to address Council's concerns.

In summary, the Northern Beaches Council has a number of concerns with the proposed draft Code in its current form, and requests that its commencement be delayed until these issues are resolved.

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## Part A – General Comments

### 1. Permissibility

It is our understanding that the draft Code will permit the the development of dual occupancies (attached and detached), multi-dwelling housing, and manor homes (Proposed Medium Density Development) as complying development only where it is first permitted by Council within Zones R1, R2, R3 and RU5<sup>1</sup>. Council supports this approach, as well as the proposal to restrict manor houses to zones permitting multi-dwelling housing and residential flat buildings<sup>2</sup>.

Council submits that the application of the draft Code in any other zones or lands would result in inappropriate and unsuitable development, particularly in relation to the Northern Beaches' Rural and Environmental zones<sup>3</sup>. It is therefore important that these zones are excluded from any future amendments to the draft Code.

For the Northern Beaches Council area, the draft Code would apply to zones R1 General Residential (R1), R2 Low Density Residential (R2) and R3 Medium Density Residential (R3). There are no RU5 zones in the Northern Beaches Council area. The permissibility of Proposed Medium Density Development in relevant Local Environmental Plans is shown in Table 1 and Figure 1, as well as the permissibility of Residential Flat Buildings to demonstrate the development potential of these areas.

For the Northern Beaches Council area, the draft Code would apply to all residential zones in the MLEP 2013 (R1, R2 and R3) and within zones R2 and R3 in the PLEP 2014. Within the former Warringah LGA, the draft Code would apply only in the R3 zone under WLEP 2011<sup>4</sup>.

**Table 1 – Permissibility of Proposed Medium Density Development across the Northern Beaches Council Area\*.**

LEP	R1	R2	R3
MLEP 2013	Dual occupancies Multi dwelling housing Residential Flat Buildings Manor homes	Dual occupancies Multi dwelling housing Manor homes	Dual occupancies Multi dwelling housing Residential Flat Buildings Manor homes
WLEP 2011	No R1 Zone	None of the Proposed Medium Density Development is permissible within R2	Dual occupancies Multi dwelling housing Residential Flat Buildings Manor homes
PLEP 2014	No R1 Zone	Dual occupancies	Dual occupancies Multi dwelling housing Residential Flat Buildings Manor homes

\*Although 'Manor homes' are not currently permissible in the PLEP 2014, WLEP 2011 and MLEP 2013, the draft Code proposes to permit these developments in zones permitting 'multi-dwelling houses' and 'residential flat buildings'.

<sup>1</sup> Statement of Intended Effect, pg 16

<sup>2</sup> Statement of Intended Effect, pg 37, note 10

<sup>3</sup> Presently, attached dual occupancies are permitted within Pittwater Local Environmental Plan 2014 (PLEP 2014) R5 Large Lot Residential and RU2 Rural Landscape zones, and both attached dual occupancies and multi-dwelling housing are permitted in the Manly Local Environmental Plan 2013 (MLEP 2013) E4 Environmental Living zone

<sup>4</sup> Land to which WLEP 2000 currently applies is taken to be in Zone E3 Environmental Management under the Codes SEPP and is therefore excluded from the current proposals.

**Recommendation 1 - That the Department confirms the draft Code will permit the the development of dual occupancies (attached and detached), multi-dwelling housing, and manor homes as complying development only where it is first permitted by Council within Zones R1, R2, R3 and RU5**

**Recommendation 2 – That the Department commit that future amendment to the draft Code will not include Rural or Environmental land zonings**

## 2. Minimum lot sizes and subdivision

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The MDDG outlines that the first step in preparing complying development certificate applications is to check the land zoning (discussed above) as well as the minimum lot size<sup>5</sup>. Specifically, reference is made to the minimum lot size in outlined in clause 4.1B of the Standard Instrument<sup>6</sup>.

In the EIE however, the requirement to comply with the minimum lot size in an LEP is only provided in the draft development standards for 'Two dwellings side by side'<sup>7</sup>. It is therefore unclear as to whether LEP minimum lot sizes apply for 'Multi-dwelling housing (terraces)', 'Manor houses' and 'Dual occupancies'.

It is also unclear as to whether clause 4.1 in the LEP, which refers to minimum subdivision lot sizes, applies to the Proposed Medium Density Development (see Figure 2 - Map showing minimum subdivision lot sizes in areas subject to the draft Code across the Northern Beaches Council Area).

Allowing the Proposed Medium Density Development as complying development which exceeds local density provisions is likely to result in significant adverse outcomes for our communities, particularly in terms of residential amenity and streetscape/ neighbourhood character.

Presently, only PLEP 2014 contains clause 4.1B, which refers to a minimum lot size for dual occupancies. However, the subdivision of dual occupancies is specifically prohibited. In Manly, MLEP 2013 contains important provisions for restricting medium density development under clause 4.1.

**Recommendation 3 – That the Department clarifies which of the Proposed Medium Density Developments are required to comply with the LEP minimum lot sizes and of those, which clause of the LEP applies (e.g. 4.1 Minimum Subdivision Lot Size or 4.1B Minimum Lot Sizes or both)**

**Recommendation 4 - That subdivisions are only permitted in accordance with the minimum lot sizes outlined in clause 4.1 in LEPs, or if relevant, allow time for Councils to review and amend their LEP to implement a clause 4.1B minimum lots sizes for specific developments**

## 3. Concurrent consent for dwelling and subdivision

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Clarification is sought on the intent and wording of the proposed new clause 4.1C, (3)(b) (i) and (ii)<sup>8</sup>. The EIE suggests that many Councils have LEP provisions allowing subdivision where the minimum

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<sup>5</sup> Medium Density Design Guide, pg 8, 80, 98, 136

<sup>6</sup> Medium Density Design Guide, pg 8

<sup>7</sup> Statement of Intended Effect, pg 32, specified development

<sup>8</sup> Statement of Intended Effect, pg 19

lot size does not equal the standard for subdivision alone. These instances have not occurred in any of the former Manly, Warringah and Pittwater Local Government Areas; therefore further information is required regarding the intention of this clause.

**Recommendation 5 – That the Department provides more detail to explain the meaning and intent of the proposed new clause 4.1C for concurrent consent for development and subdivision**

#### 4. Impacts on Dwelling Yields and Section 94/94A Contributions

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It is noted that the implementation of the Code may result in a decrease in dwelling yields in some medium density zones. For example, within R3 zones permitting an 11m height under WLEP 2011, a property owner may choose to develop a two storey dual occupancy or manor home on an existing small lot as complying development rather than seek to consolidate the land with adjoining properties to build a three storey residential flat building(s).

It may also result in a significant, rapid increase in dwelling yields in other areas (e.g. under the MLEP 2013 and PLEP 2014), with unexpected population growth that will lead to shortfalls in funding for appropriate services. For example, the Warriewood Valley's Section 94 Plan is based on an assumed potential future dwelling number and demand, such as demand for open space that cannot be readily provided within the valley.

Thus the implementation of the draft Code may result in ad-hoc, unplanned development that may affect:

- Council's ability to meet current and future housing targets
- Section 94/94A Contributions and therefore Council's ability to deliver the required level of infrastructure.

It is therefore vital that Section 94 plans can be reviewed prior to the implementation of the Code.

#### 5. The Design Verification Process

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It is not clear from the draft Code what reliance, if any, the accredited building certifier can place on a Design Verification Statement prepared by the designer. It is imperative that the accredited building certifier is held ultimately responsible for compliance with the Design Criteria as they trained and accredited and may be disciplined for non-compliance. Alternatively, a system could be implemented whereby the accredited building certifier obtains a Compliance Certificate issued by an accredited building designer for the Design Criteria. In this model, designers must be accredited by the Building Professionals Board or another body that is capable of disciplining the designer, and if necessary removing their accreditation.

**Recommendation 6 – That the Department clarifies that accredited building designers are held ultimately responsible for compliance of proposals with the Design Criteria despite obtaining a Design Verification Statement from the designer.**

**Recommendation 7 – That as an alternative, designers be accredited by the Building Professionals Board or like body to issue Compliance Certificates under the EP&A Act for Design Criteria under the draft Code.**

## 6. Non-merit based assessments

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The proposed development controls are less stringent than those in the Northern Beaches LEPs and DCPs (see Part B). As stated in the EIE, complying development must result in predictable outcomes with predictable impacts and have minimal scope for impact on adjoining properties<sup>9</sup>. The criteria for complying development should be more onerous than LEP or DCP requirements because they are not subject to the same merit assessment or consideration of local circumstances that would otherwise be afforded in development assessment.

Medium density residential development is not considered simple and straightforward development. It yields greater residential densities and generates more impacts including impacts on views, privacy, sunlight access, visual bulk and scale. These matters are often the subject of neighbour objections and the lack of detailed merit assessment may contribute to poorer design and amenity outcomes.

An example of where complying development has led to poorer outcomes has been in the implementation of the housing provisions of the Codes SEPP. Many properties in the Northern Beaches Council area enjoy views to the water or bushland. Local provisions encourage the sharing of these views however the Codes SEPP has permitted development resulting in extensive loss of views from neighbouring properties. Where a merit assessment and community engagement would encourage a compromise to achieve view sharing between dwellings, the complying development process does not.

Council is therefore not satisfied the draft Code establishes a sufficiently strict set of controls to offset significant additional development scale/potential and likely resulting adverse impacts. To address these concerns, it is recommended that Council be permitted to set its own principal standards for complying development to cater to local conditions.

**Recommendation 8 - That the Department allows Councils to set principal standards for the Proposed Medium Density Development in the draft Code**

## 7. The certification process and (lack of) community consultation

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As per our previous submissions, there are widely acknowledged concerns with the existing building certification system in NSW. The Department of Planning & Environment's discussion paper, released in May 2015, on the review of the Building Professionals Act 2005 highlights the need for reform of the building regulation and certification process. The lack of transparency, accountability, monitoring by the state government and auditing of work by certifiers needs to be addressed prior to the expansion of complying development.

Issues with the certification system often become a burden on Council, as Council is contacted with complaints and in some cases has stepped in to certify developments where certifiers have gone out of business. In the Northern Beaches, there have also been cases where certifiers have approved developments in violation of the codes.

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<sup>9</sup> Explanation of Intended Effects, pg 7

Council also questions whether private certifiers are willing or equipped to deal with the expansion of complying development, or to adequately consider the proposed design criteria, some of which are subjective.

The complying development process does not provide for community engagement, as the owner or Certifier is not required to consider any submissions. The expansion of complying development to include medium density development without the establishment of appropriate and strictly enforced controls on certifiers has the potential to undermine the community's faith in the planning system.

**Recommendation 9 – That the certification of medium density development as complying development by private building certifiers is delayed until measures are taken to improve the audit and discipline of private certifiers.**

**Recommendation 10 - That the Department allows Councils to charge a fee for enforcement of complying development**

## **8. Medium Density Design Guide**

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Council welcomes the addition of the Medium Density Design Guideline (MDDG) to provide guidance on good quality design outcomes. Clarification is required however as to how the MDDG will work with Council controls.

**Recommendation 11 – That the Department clarifies the meaning of the statement “Where Council does adopt the MDDG it will still need to prepare the principle development standards that include height, floor space ratio, landscape area and setbacks” (EIE, pg 8). Does this statement refer to Council’s existing standards, or is there a requirement for Council to provide additional standards for Medium Density Developments?**

**Recommendation 12 – That the Department clarifies the meaning of the statement “Council will use the design guidelines to establish precinct plans and principal controls” (EIE, pg 5). Does this statement mean that Council must undertake a separate process?**

## **9. European and Aboriginal heritage**

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The Codes SEPP does not currently require consideration of the impact of proposed development on heritage items in the vicinity of a site. In some cases this has resulted in significant impacts on heritage items. These impacts will increase as the scale and scope of development permitted as complying development increases. This will further undermine the protection of both European and Aboriginal heritage, especially in relation to curtilage, location such as setting, and views and the surrounding streetscape.

Aboriginal heritage is even more difficult to conserve and protect due to sensitive cultural needs of the Aboriginal community and the existing management system. The NSW Office of Environment and Heritage (NSW OEH) manages and regulates Aboriginal cultural heritage, and access to detailed and accurate information is difficult due to historical listing procedures and precedents in which ground truthing of data was not undertaken. As a consequence, Private Certifiers will not be aware of the process required to identify registered sites, the limitations and inaccuracies with existing listings, or the on-site investigations that are required to be undertaken to ensure compliance with the *National Parks and Wildlife Act, 1974*.

**Recommendation 13 – That requirements are included in the Site Analysis to ensure the development takes into consideration any impacts on heritage items in the vicinity of a development site**

**Recommendation 14 – That accredited certifiers are required to check the registers held by the NSW Office of Environment and Heritage (NSW OEH) for Aboriginal Heritage and undertake appropriate site inspections to determine whether Aboriginal objects are located on the site prior to the issue of a complying development certificate.**

## 10. Accessible housing

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The MDDG contains no requirements for the provision of adaptable or accessible dwellings, unlike the State Environmental Planning Policy - 65 Design, Quality of Residential Apartment Development and most Council development control plans. These standards are required to provide certainty that medium density residential developments will cater for people at all stages of life or ability, especially older residents or people with disabilities.

**Recommendation 15 - That the Department includes requirements for a proportion of all multi-dwelling housing to be adaptable or accessible housing**

## 11. Comments on proposed development controls

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The MDDG and EIE appear to contain certain inconsistencies, contradictions and omissions. The following clarifications are therefore recommended:

- Minimum lot width:
  - It is not always clear in the draft Code as to whether the sizes are applicable before or after subdivision. For example, the control for the minimum lot width of 12m for 'two dwellings side by side'<sup>10</sup> is assumed to be the minimum lot width required before subdivision and development of a dual occupancy. This should be clarified where required.
- Attics are permissible for all development types, however there are no provisions to restrict their size and address potential privacy issues. It is recommended to include provisions to address these concerns (e.g. attic to be no more than 50% of floor area below, no windows on the side of the buildings).
- For landscaped areas, it is recommended to provide:
  - A minimum soil depth of 1m
  - Requirements to use locally indigenous species
  - A minimum 2m width to enable planting that can enhance privacy between dwellings and ensure the establishment of low lying shrubs, medium high shrubs, deep soil planting, canopy trees of a size and density to mitigate the height, bulk and scale of the building.
- For landscaped areas forward of the building line:
  - The controls in the draft Code are inconsistent with the MDDG

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<sup>10</sup> Explanation of Intended Effects, pg 32

- For consistency in streetscapes, it is recommended to specify the front boundary setback to be free of any structures, basements, car parking or site facilities other than driveways, letter boxes, garbage storage areas and fences.
- For side setbacks:
  - The controls for 'side setbacks' and 'side boundary envelopes' should be separated for ease of interpretation
  - The controls in the draft Code and MDDG are difficult to interpret as they stand, for example:
    - The controls imply there will be no side boundary envelope for the first 15 metres of the lot. If so, concerns are raised regarding building bulk, articulation and building separation.
    - For two dwellings side by side and multi-dwelling housing, it is not clear whether the side setback of 1.2m applies to the entire site (the controls read as though there is no side setback for the rear of the lot >15m).
  - For dual occupancies and manor homes, the draft Code proposes a side setback of just 0.9m which contradicts the MDDG which states a 1.5m side setback (3.4A)
- For Multi-Dwelling Housing, the draft Code refers only to the size of strata lots (i.e. not Torrens lots)<sup>11</sup>
- For rear setbacks
  - For multi-dwelling housing, the setbacks in the Code differ to those in the MDDG 3.2A which are more detailed depending on the size of the lot. Clarification is required as to which controls apply.
- For building separation between rear "lane" development and dwelling house, clarification is required as to whether this control means 'land' (EIE pg 36) or 'lane' separation (EIE pg 38)
- For subdivision, this sentence is incomplete "It is proposed to expand this part (Subdivision Code) to include Torrens title subdivision – but only when.."<sup>12</sup>.

**Recommendation 16 – That the Department addresses the omissions, inconsistencies and contradictions in the draft Code and MDDG identified Part 11 of this submission**

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<sup>11</sup> Explanation of Intended Effect, pg 35

<sup>12</sup> Explanation of Intended Effect, pg 40

## Part B – Comments specific to the Planning Controls of the former Local Government Areas of Manly, Warringah and Pittwater

### 12. Manly LEP 2013 and DCP 2013

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#### Principal Controls

The principal controls in the draft Code are significantly less stringent than controls in MLEP 2013 and MDCP 2013 with respect to residential densities, floor space ratio (FSR), landscape areas, rear setbacks, side setbacks and building heights. Complying development certificates under the draft Code would therefore result in a significant increase in density and built forms compared with development requiring a Development Application (DA) under the local planning provisions.

Of particular note in the Manly Plans is the Residential Density Controls which are long established and tested within a suit of planning tools used to manage residential types, density and scale. Requirements for a minimum site area per dwelling are used alongside FSR, building height, open space and setbacks to guide suitable outcomes relating to the context and desired future character of certain areas and managing impacts on surrounding development. This local assessment and structure is likely to be compromised by the draft Code.

#### Dual Occupancies in Zone R2

The MLEP 2013 does not contain a clause 4.1B which enables Councils to nominate a minimum lot size for dual occupancies. However, detailed provisions for minimum subdivision lot sizes are provided within the MLEP 2013 clause 4.1, and a minimum site area per dwelling provided with the MDCP 2013 (paragraph 4.1.1 and Map A – Residential Density Areas)

Planning controls for the Manly R2 Zone require residential densities of at least 500sqm of site area per dwelling compared to the draft Code which requires only 200sqm per dwelling (i.e. total minimum lot size of 400sqm for a dual occupancy under the Code compared with 1000sqm for a development application).

On more environmentally sensitive sites sloping towards the foreshore, local density controls require significantly larger sites for dual occupancies compared to the draft Code (750sqm to 1150sqm of site area per dwelling). A DA in these areas would also be subject to a FSR of 0.4:1 to 0.45:1 whereas the draft Code proposes a FSR of 0.5:1 to 0.6:1.

#### Manor Homes in Zone R1

Under the MLEP 2013 R1 Zone (in Balgowlah, Fairlight and Manly), a 4 dwelling Manor House would require a 1000-1200sqm site (i.e. 250-300sqm site area per dwelling). However, the draft Code permits such development as complying on a site of only 600sqm.

#### Development types generally in Zone R2 in relation to height

The MDCP 2013 contains special height provisions for certain mapped land on steeply sloping sites of Seaforth, Clontarf, Balgowlah Heights and Manly (Bower St only). These are supported with planning controls for wall height and number of storeys. Any complying development that does not adhere to these special height provisions would result in significant adverse impacts on neighboring properties and views.

#### Development types generally in Zone R2 in relation to setback

A side setback of a standard 2 storey building, as assessed under the MDCP 2013, would be typically at least 2.7m (depending on wall height and slope). However, the draft Code proposes a side setback of just 1.2m.

#### **Relationship of Minimum Lot Size to FSR**

In the MLEP 2013, land with a minimum lot size of 600sqm for manor homes generally equates to a maximum 0.45:1 FSR whereas the draft Code proposes minimum lot size of 600-700sqm to a maximum 0.6:1 FSR (Multi-dwelling Housing).

In the MLEP 2013, land with a minimum lot size of 250sqm for all other dwelling types generally equates to a maximum 0.6:1 FSR whereas the draft Code proposes a maximum 0.8:1 FSR (Multi-dwelling Housing) or 0.75:1 FSR (2 Side by Side Dwellings) for dwellings with a minimum lot size of 200-300sqm.

**The following recommendations are repeated to address the above concerns:**

**Recommendation 4 - That subdivisions are only permitted in accordance with the minimum lot sizes outlined in clause 4.1 in LEPs, or if relevant, allow time for Councils to review and amend their LEP to implement a clause 4.1B minimum lots sizes for specific developments**

**Recommendation 8 - That the Department allows Councils to set principal standards for the Proposed Medium Density Development in the draft Code**

### **13. Warringah LEP 2011 and DCP 2011**

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#### **Principal Controls**

The draft Code would apply only in the R3 medium density residential zone within the former Warringah LGA. For these areas, the principal controls in the draft Code vary significantly from those in WLEP 2011 and WDCP 2011 with respect to landscaped areas, side setbacks, side boundary envelopes, rear setbacks and private open space. Thus, complying development under the draft Code could result in a significant increase in building bulk and scale when compared with two storey developments requiring a DA under the local planning provisions.

#### **Zone R2**

The draft Code does not apply to any land zoned R2 Low Density Residential in the WLEP 2011, as none of the Proposed Medium Density Developments are permissible in this zone (i.e. two dwellings side by side, dual occupancies, multi-dwelling housing, and manor homes).

#### **Zone R3**

All of the Proposed Medium Density Developments are permissible within land zoned R3 Medium Density Residential in WLEP 2011. Residential Flat Buildings are also permissible within R3.

#### **Subdivision under WLEP 2011**

WLEP 2011 does not contain clause 4.1B which enables Councils to nominate a minimum lot size for certain development. WLEP 2011 does not specify a minimum lot size for the Proposed Medium Density Development within the R3 medium density residential zones (Figure 2). There are therefore no conflicts between the minimum lot sizes between the WLEP 2011 and the draft Code.

### **Two-dwellings side by side in Zone R3**

These types of developments generally comprise semi-detached and detached dwellings. In Zone R3, there is no minimum lot size for these types of dwellings, thus any developments under the draft Code would result in dwellings with a minimum lot size of 200m<sup>2</sup> per dwelling. These types of developments will most likely be taken up in medium density areas with a current 8.5m height restriction (e.g. Belrose, Brookvale, Beacon Hill and Narrabeen - Figure 3), where development of an existing lot under complying development may be easier than consolidating lots to create higher density developments or residential flat buildings.

Under the code, these lots could be developed with far less landscaped area (i.e. up to 35% instead of 50%), smaller side setbacks (1.2m instead of 4.5m), larger side boundary envelopes (none for the first 15m, 3m and 45 degrees for the rear, instead of 4 or 5m and 45 degrees), fewer parking spaces (1 per dwelling instead of 2) and less private open space (16m<sup>2</sup> instead of 35-60m<sup>2</sup>). These developments would therefore result in increased stormwater runoff, potential noise and privacy issues from adjoining properties, increased building bulk and an increased demand for on-street parking. In addition, residents would have less private open space, increasing demand for, and pressure on, public open spaces.

### **Multi-dwelling housing in Zone R3**

These types of developments generally comprise terrace housing. Only developments which front a road are permissible as complying development under the Code, with master planned housing requiring a DA. These developments propose the same principle standards as above, thus the same issues will result. Only, in addition to the above, rear setbacks for these developments are far less than those allowed in Zone R3 (3m instead of 6m).

It is likely these developments will result in excavation of basement car parks as complying development. It is important that the design of these car parks address impacts of localised flooding and potential damage to Council's unmapped stormwater infrastructure. This is discussed further under section 20 Excavation.

### **Manor House and Dual Occupancies**

These types of developments generally refer to buildings in which dwellings are located above other dwellings. They are Class 2 developments under the National Construction Code.

The Codes SEPP will permit these developments on lots with a minimum area of 600m<sup>2</sup> with a minimum frontage of 15m. These developments will be subject to similar principle standards to those for two dwellings side by side, but with a reduced requirement for private open space which is more in keeping with the WDCP 2011 (8-12sqm compared with 10sqm).

**The following recommendations are repeated to address the above concerns:**

**Recommendation 8 - That the Department allows Councils to set principal standards for the Proposed Medium Density Development in the draft Code**

## **14. Pittwater LEP 2014 and PDCP 2014**

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### **Principal Controls**

The principal controls in the draft Code vary significantly from the PLEP 2014 and PDCP 2014 with respect to FSR, landscape areas, rear setbacks, side setbacks and private open space. Thus,

complying development under the draft Code would result in a significant increase in density and scale of development compared to development requiring a DA under the local planning provisions.

#### **Dual occupancies in Zone R2**

The PLEP 2014 currently permits dual occupancy development within the R2 zone. However, dual occupancies are restricted to a minimum lot size of 800sqm and cannot be subdivided. The Code proposes to allow subdivision for the 'two dwellings side by side' option however the resultant outcome is development that is more akin to semi-detached dwellings which are not permitted within the R2 zone under the PLEP. Effectively the outcome is development of a higher density than is prohibited in the low density zone. This does meet the approach of allowing the development to proceed under complying development if the relevant zone allows it. Concern is also raised that under this option the development is required to meet the minimum lot size specified in the LEP for a dual occupancy while under the 'Manor House and Dual Occ' option it is only required to meet a minimum of 600sqm before a dual occupancy can be built and then subdivided.

The subdivision of dual occupancies is not permitted in the PLEP 2014 to allow for affordable rental housing. However, the draft Code allows dual occupancies to be subdivided which would result in the creation of lots that are significantly below the minimum subdivision lot size standard (being 550sqm or 700sqm). This approach is not supported.

Thus the draft Code would result in a rapid increase in dwelling yields and population growth within the R2 zone. This will lead to shortfalls in funding for appropriate services.

#### **Manor Houses in Zone R3**

Under the Code, Manor Houses will be allowed on lots with a minimum area of 600sqm. In the PLEP 2014, Clause 4.5A sets the density controls for 'medium density type' uses in the R3 zone, being a maximum of 1 dwelling per 200sqm. The density standard in the draft Code will allow an increased density of 1 dwelling per 150sqm. This requirement should be amended to 200sqm per dwelling for Manor Homes to bring it into line with the remainder of the code.

#### **Multi dwelling housing in Warriewood Valley**

The Warriewood Valley Land Release project is a joint project between Council and the Department of Planning and Environment. The development of the project is heavily constrained by a number of issues which has been recognised by the Department and thus is subject to specific bespoke planning controls. The proposal for medium density housing as complying development will ignore these issues and may result in substantial development above and beyond what is catered for with substantial negative impacts.

Warriewood Valley was reviewed in 2012 with a dwelling cap set for the entire Release Area. This number was agreed to by Council and the Department based on issues such as water run-off and flooding, traffic, transport and environmental outcomes. The set dwelling yields take into account the cumulative impacts of development so as to not overload the development, and prevent issues such as flooding downstream of the valley and overwhelming safe evacuation routes. The release project also has a detailed water management specification which is based on a certain level of hard space and landscaping which will not be catered for under the code. The dwelling numbers were also agreed to by the Secretary of Department and have been confirmed by the Land and Environment Court to be prohibitions and not standards to be varied.

However the draft code may effectively overload the release project with unsustainable development that exceeds the expected outcomes in terms of dwellings, flooding and traffic impacts. This will undermine the entire release project. Instead of an expected dwelling yield in the range of 32 dwelling per hectare, the code could more than double the amount of dwellings. This does not represent the orderly and economic development of land, and will prevent Warriewood from achieving the goals of the land release project.

#### **Ingleside Land Release Area**

The Ingleside Land Release Area is a joint program between Council and the Department of Planning and Environment. The project is the subject of years of detailed investigation and studies. The project is within a sensitive environment and the project's vision for a sustainable and functional community, including GreenStar certification, relies on a range of outcomes being met. The proposal to extend complying development to medium density is of concern (similar to Warriewood Valley) as development in Ingleside is considered to be complex due to the wide spread of environmental, social and economic issues that need to be addressed.

The vision for Ingleside is a community that achieves the best in sustainability. This includes the goal of reaching a 4 Star GreenStar rating of Australian Best Practice. This requires detailed and thorough assessment of development from rezoning of the precinct through to development assessment and building performance. This requires development standards and controls that are above and beyond base levels. This includes targeted lower water and energy usage, building material recycling and reduced greenhouse gas emissions. There are also a range of other issues that need to be considered such as the need for 0% run off due to the limited ability of the shallow soils to absorb water and the potential impact of downstream flooding through Mona Vale, Warriewood and North Narrabeen. Complying Development is not required to address these issues to the required detail as it is intended for straightforward development. Allowing complying development to proceed in Ingleside will undermine the ability of the project to meet the goals agreed to by Council and the Department.

As well as targeted environmental outcomes, GreenStar requires a range of social and economic targets to be met. This includes a mixture of dwellings sizes and typology to cater for people at all stages of life as well the provision of affordable housing for key workers. The Codes once again are not capable of catering for these issues. The Northern Beaches already suffers from a lack of affordable and appropriate housing and Ingleside will go some of the way to addressing the issue through having specific standards contained within its environmental planning instrument. However concern is raised that extending complying development to medium density will undermine Council's ability to set controls to address these local issues.

**Recommendation 17 – That the subdivision of dual occupancies be prohibited where a Council LEP currently prohibits such subdivision**

**Recommendation 18 – That the development and subdivision of 'two dwellings side by side' only be permitted if semi-detached dwellings are permitted**

**Recommendation 19 – That Warriewood Valley is excluded from the Codes due to the sensitive technical design issues and the dwelling cap agreed to by Council and the Department of Planning and Environment**

**Recommendation 20 – That Ingleside is excluded from the Codes due to the extremely sensitive nature and the goal of achieving a 4 star GreenStar rating**

**Recommendation 21 – That Manor Homes require a minimum of 200 sqm per dwelling, or alternatively, that the draft Code requires compliance with clause 4.5A 'Density controls for certain residential accommodation'.**

## Part C – Technical Matters

### 15. Sloping land

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Council is concerned there are no provisions to restrict complying development on sloping land, where poor design can lead to negative outcomes in relation to overshadowing, privacy and view loss. There is also a high potential for severe consequences for neighbouring properties, especially in landslip areas.

Having regard to the additional likely impacts for steeply sloping sites (geotechnical, visual etc.) it is recommended that complying development should not be carried out on sites of greater than 15 degrees. This would allow a merit-based assessment for steeply sloping sites.

**Recommendation 22 – That sloping sites of greater than 15 degrees are excluded from the Codes SEPP**

### 16. Stormwater drainage

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The landscaped open space requirements in the draft Code are generally less than required under local provisions, meaning that Proposed Medium Density Development will generate increased stormwater runoff and additional demand on Council's stormwater drainage system (e.g. kerb and gutters and drainage pipelines). This may increase the risk and severity of flooding downstream of the development sites.

Stormwater Certification is therefore a vital component of the draft Code. Council notes that neither the EIE nor the MDDG refer to the proposed means of stormwater certification for complying development. In previous responses to the Discussion Paper, the former Councils proposed certification for On-site Stormwater Detention (OSD) either by:

- Council, subject to the collection of appropriate fee, or
- Qualified specialists, provided they were Accredited Certifiers in Civil Works (drainage works) with the Building Professionals Board and Registered Chartered Engineering Professionals with Engineers Australia.

If external certification is proposed, the State Government would need to guarantee sufficient oversight of specialists, for example, through audits of work.

It is vital that stormwater drainage systems are designed in strict accordance with Council's policies as stormwater runoff may require extensions or modifications of Council's stormwater drainage infrastructure. Given the recent Council merger, Council would require time to consolidate its policies and standards for use by external certifiers. The Department may also wish to provide guidelines for all Councils to ensure consistent external certification processes and the incorporation of water sensitive urban design principles.

**Recommendation 23 – That the Department clarifies the means and mechanisms for stormwater certification**

**Recommendation 24 – That, if external stormwater certification is proposed, a system is implemented to ensure practitioners are accredited and regularly audited, and Councils are given time to adopt new stormwater policy to allow consistent certification**

## 17. Water management

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The Northern Beaches Council area is bounded by Sydney Harbour, Pittwater and the Tasman Sea and contains numerous estuaries, lagoons and creeks. In addition, many localities have a high water table. Due to these factors, a large majority of developments require specialist impact assessments by qualified individuals as well as referrals to the NSW Office of Water to ensure proper management of water reserves and the environment.

Neither the EIE nor the MDDG outline requirements for referrals to the NSW Office of Water under the *Water Management Act 2000* or the need to engage specialist advice. For example, referrals are required where development involves the pumping of water or drainage works, or where buildings or works are proposed within 40 metres of a creek, river, lake or lagoon.

Regarding the provisions in the MDDG for Water Management and Conservation (3.1Y; 3.2Y and 3.4Y), the following comments are provided:

- Council does not support the disposal of stormwater runoff by means of a charged system. Charged systems have the potential to direct stormwater flow to a different catchment and can cause problems for the properties in this Catchment.
- Clarify the requirements to obtain:
  - Geotechnical investigations for any proposed onsite absorption systems to ensure that the land has a suitable absorption capacity
  - Easements over downstream properties for any inter-allotment drainage systems
- The Proposed Medium Density Development should only apply in areas which are serviced by a sewer network. Onsite wastewater systems are not considered feasible for this type of development due to the lack of available space for effluent irrigation.
- In the MDDG, the inclusion of Water Sensitive Urban Design in the principles on Page 78 is positive, however is not represented in the Objectives and Design Criteria on Page 115, 134, 153.

**Recommendation 25 – That developments requiring referrals under the *Water Management Act 2000* are excluded from the draft Code. Alternatively, requirements are included for the designer to seek specialist advice relating to water management and undertake the necessary referrals to the NSW Office of Water for applicable development as required under the *Water Management Act 2000*.**

**Recommendation 26 – That the MDDG is updated to clarify the requirements to obtain Geotechnical investigations and Easements for stormwater systems where required**

**Recommendation 27 – That the Proposed Medium Density Development should only apply in areas serviced by a sewer network**

**Recommendation 28 – That the Objectives and Design Criteria in the MDDG are updated to reflect the inclusion of Water Sensitive Urban Design principles**

## 18. Torrens title subdivision and basement car parks

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The draft Code proposes to allow Torrens title subdivision of multi-dwelling developments with basement car parking, with the use of easements for smaller developments. Council objects to

Torrens title subdivision of properties with basement car parks because these structures are contiguous and require maintenance. Whilst an easement may outline responsibilities, without a governing body such as a body corporate or community title, there is no one party responsible for enforcing them. As well, there is no mechanism to collect funds for maintenance. In instances where maintenance is required or flooding eventuates, property owners contact Council to assist in a resolution. Often there is nothing Council can do to assist with this issue and property owners are subject to ongoing disputes.

**Recommendation 29 – That Torrens title subdivision of developments with basement car parks is excluded as complying development**

## 19. Traffic and parking

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The Northern Beaches suffer from a relative lack of public transport options. This is particularly the case in outer suburban areas. Although the draft Code proposes parking rates in accordance with the Guide to Traffic Generating Development, these provisions are less than required under the relevant DCP in the Northern Beaches Council area. Furthermore, there are no provisions for onsite visitor parking spaces for multi-dwelling housing. This will result in a shift from developments being self-sufficient in parking to having Council's limited on street parking being used. This is particularly a concern for popular tourist areas such as Manly and Palm Beach.

It is noted the MDDG refers to AS2980.1 for parking spaces and circulation<sup>13</sup> and it is assumed this means compliance with AS2890.1. As per our previous submissions, detailed traffic assessment is required for medium density developments as the type of road frontage provision impacts on vehicular access to development sites, and the grades of driveways are often overlooked (e.g. too steep or not wide enough).

Further, certain medium density developments would require changes to traffic control facilities, requiring approval under the Roads Act and Council's Local Traffic Committee.

There is also concern where consecutive approvals result in cumulative impacts of extra dwellings and associated traffic on local and state road networks.

**Recommendation 30 - That on-site car parking is required to be provided at the rate specified under the relevant Council DCP for all forms of proposed Medium Density Development**

**Recommendation 31 – That traffic assessments and parking designs for multi-dwelling housing are required to be referred to Council for approval prior to the issue of a complying development certificate**

**Recommendation 32 – That developers are required to provide traffic and parking statement, prepared by a qualified traffic planner or engineer, with applications for multi-dwelling housing**

## 20. Excavation

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As per previous submissions, Council does not consider it appropriate to permit excavation for basement car parking as complying development. A number of issues arising from basement car

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<sup>13</sup> Medium Density Design Guideline, 3.1F, 3.2F and 3.4F

parking require Council's assessment. Firstly, there is the potential for localised flooding when floodwater overtops the driveway and floods the basement car park (even when the development is not identified as flood affected on the planning certificate). Council may be liable for damages due to flood damage where floodwaters emanate from Council roads so it is imperative that localised flooding is considered at the design stage of a proposal

Secondly, separate approval may be required by the NSW Office of Water if temporary dewatering of the site is required. As discussed above, the decision to request the developer to obtain the approval is based on merit assessment, undertaken by Council (see 17 Water management).

Thirdly, there is the potential for the basement car park to be constructed too close to or over Council's stormwater drainage infrastructure. This may restrict access to Council's stormwater drainage infrastructure in the future for inspection and maintenance purposes.

Finally, excavation in close proximity to boundaries is a constant compliance issue, resulting in damage to adjoining properties. It is recommended that excavation near boundaries be subject to a mandatory dilapidation report being provided to adjoining land holders if excavation exceeds the maximum permitted as exempt development. In addition, any construction methodology that requires structural support to encroach onto adjoining properties should be subject to obtaining the consent of the owners of those properties.

**Recommendation 33 - That basement car parks are excluded as complying development**

**Recommendation 34 – That, if basement car parks are permitted as complying development, a mandatory dilapidation report is provided to adjoining land holders where excavation exceeds the maximum permitted as exempt development**

**Recommendation 35 – That, if basement car parks are permitted as complying development, adjoining property owner's consent is obtained where structural support is proposed to encroach on their property**

**Recommendation 36 – That, if basement car parks are permitted as complying development, separate certification from an appropriately accredited or qualified person is required with respect to driveway design addressing localised flooding issues**

## **21. Vegetation clearance in bushfire zones**

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As identified in the MDDG Part 2C – Landscaped Area, *'Significant landscape features should be protected'*. However, Council is concerned that permitting additional dwellings under complying development within bushfire prone areas could result in the additional clearing of native vegetation, trees and or threatened species under the Rural Fires Act 10/50 Code. The placement of a habitable development closer to the hazard within a property that is within the 10/50 vegetation clearing entitlement area means that vegetation and tree clearing may be extended further into natural areas. Such vegetation and tree clearing change the character of an area and reduce the local amenity that is afforded by tree cover.

**Recommendation 37 – That the Proposed Medium Density Development is excluded as complying development from bushfire prone areas**

## 22. Waste management

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It is essential that waste management facilities are designed in accordance with Council's policies to ensure Council can continue to provide its waste collection service. The following changes are recommended to the Waste Management Provisions in the MDDG, the Exempt and Complying Development Codes 2008 (Codes SEPP) and standard conditions of complying development certificates to ensure Council can continue to provide its waste collection service:

### Amendments to the Design Guidelines

- Page 76 Guidelines – 2Z – Waste Management, include the following sentence in second paragraph:

“A waste management plan should be prepared for all stages of the development including any demolition, site preparation and construction as well as the ongoing use of the building. Refer to Council Policies for local waste management practices, services and correct numbers and types of bins which need to be accommodated. “

(This also harmonises with the Waste Management Design Criteria in Part 3. For developments which are complying or by application, Council will be the waste services collection agency and should be consulted in the planning stages.)
- Page 77 – Design guidance table:
  - Include a new point 1: “Refer to Council Policies for local waste management practices and services and correct numbers and types of bins which need to be accommodated.”
  - Change point 6 to point 2
  - Point 7 is essentially a repeat of point 4 and could be omitted
  - Omit point 11. Many councils provide separate green waste collection for composting at large, dedicated facilities, so there is no need for composting on site. Additionally, onsite composting requires relatively high maintenance, especially where multiple premises are concerned and there is generally no ‘maintenance person’ to ensure correct management of the compost. Individual home owners can still compost if they so choose within their own premises/courtyard/balconies etc. from the wide variety of home composting systems commercially available.
- Appendix 1 – Pre-Development Application Checklist, under “Development Details”, include a dot point for “Number and mix of waste bins required”
- Appendix 2 – DA Documentation Checklist:
  - Include “Waste Management Plan for Demolition and Construction as well as ongoing use of the development.”
  - For “Floor Plans”, under Storage Areas, add “including waste storage area”
- Appendix 4 – Site Analysis Checklist, include a dot point for “Proposed waste management plan (demolition, construction and design for ongoing use)”

### Amendments to the Codes SEPP

As the Principal Control for Complying Development, the Exempt and Complying Development Codes 2008 (Codes SEPP) needs to be reviewed in regard to waste management.

The Codes SEPP allows Councils and private certifiers to issue Complying Development Certificates (CDCs) for demolition and building works. CDCs have a mandated set of conditions which do not require sustainable management of waste during demolition and construction. The only reference in relation to waste requires that “demolition materials and waste materials must be disposed of at a waste management facility”. This places significant pressure on existing waste management facilities in NSW and does not ensure that waste is disposed of in a sustainable method.

Council requests that NSW Department of Planning and Environment amend the Codes SEPP to ensure the sustainable disposal of construction and demolition waste and to encourage the recycling and reuse of materials. Amending the conditions relating to Waste Management Plans, and relating to certification that plans have been implemented, would improve current practices.

Following is a set of proposed conditions for Complying Development Certificates. The conditions are not overly prescriptive but we believe this would be the first step towards better practice by both builders and certifiers. The conditions could be further enhanced following a trial period and review.

### Proposed Amendments to Conditions for Complying Development Certificates

#### A. Condition for Waste Management Plan

The existing condition 3 from Schedule 8 and 9 has been amended as highlighted below.

Proposed amendments to the SEPP include:

- Schedule 6 – insert condition X as a new clause.
- Schedule 7 – insert condition X as a new clause.
- Schedule 8 – replace Clause 3 Waste Management with new condition X
- Schedule 9 – replace Clause 3 Waste Management with new condition X

#### *Condition X Waste Management*

(1) A waste management plan for the work must be submitted to the principal certifying authority at least 2 days before work commences on the site.

(a) All bricks, tiles, timber, metals, glass and excavation material must be reused on site or recycled at a waste recycling outlet.

(2) The waste management plan must *(in accordance with subclause (1) (a))*:

(a) identify all waste (including excavation, demolition and construction waste material) that will be generated by the work on the site, and

(b) identify the quantity of waste material, in tonnes and cubic metres, to be:

- (i) reused on-site, and
- (ii) recycled on-site and off-site, and
- (iii) disposed of off-site, and

(c) if waste material is to be reused or recycled on-site—specify how the waste material will be reused or recycled on-site, and

*(d) if waste material is to be disposed of or recycled off-site—specify the contractor who will be transporting the material and the waste facility or recycling outlet to which the material will be taken.*

*(3) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.*

*(4) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.*

**B. Condition for the Management of Site**

Proposed amendment to the standard condition headed *Maintenance of Site* to include:

- Schedule 6 – amend Clause 9 (2) with new sub-clause 2
- Schedule 7 – amend Clause 6 (2) with new sub-clause 2
- Schedule 8 – amend Clause 10 (2) with new sub-clause 2
- Schedule 9 – amend Clause 9 (2) with new sub-clause 2

*Sub-condition*

*(2) Waste materials (including excavation, demolition and construction waste materials) must be managed ~~on the site and then disposed of at a waste management facility~~ in accordance with the waste management plan.*

**Recommendation 38 - That the Department amend the MDDG and Codes SEPP as described in Part 22 of this submission to ensure the sustainable disposal of construction and demolition waste and encourage the recycling and reuse of materials**

Maps of affected areas

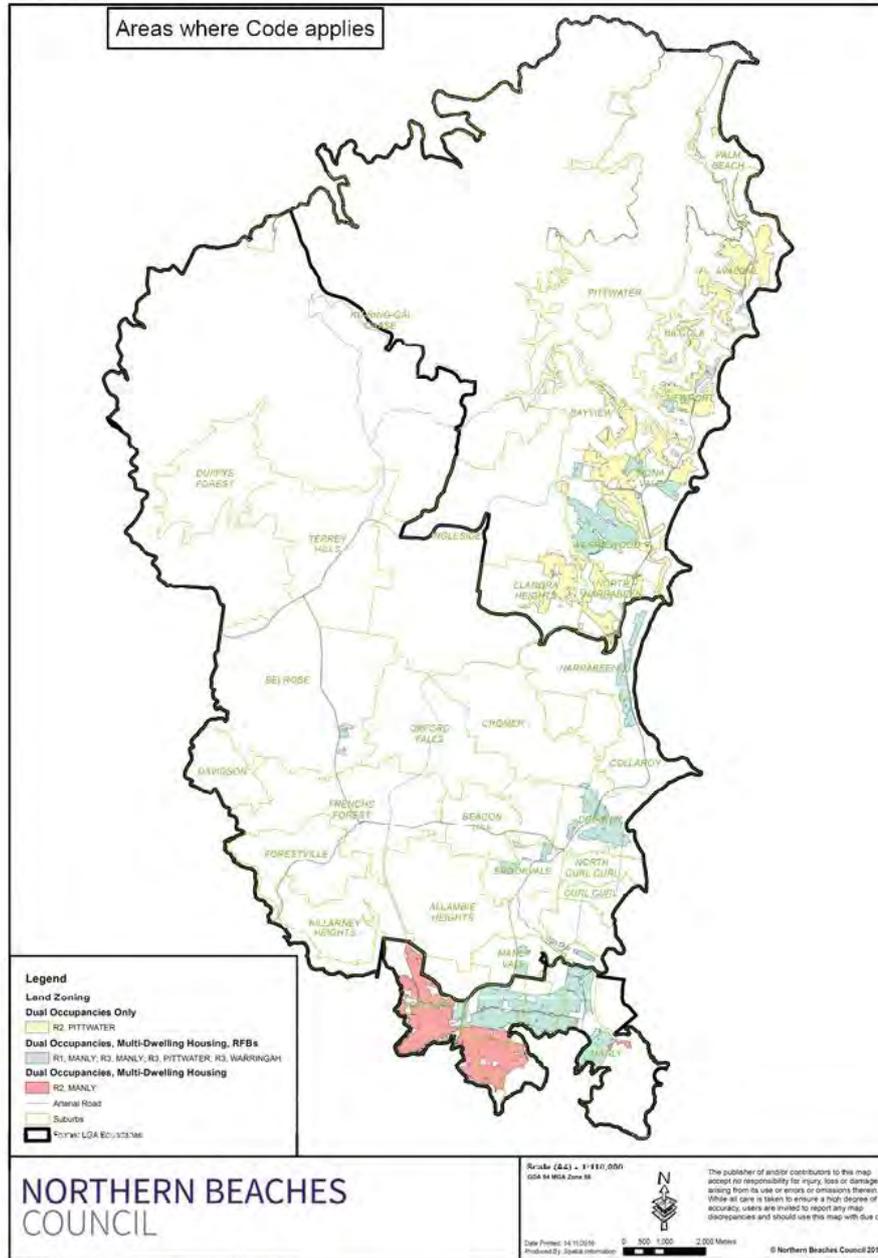


Figure 1 – Map showing permissibility of the Proposed Medium Density Development in areas subject to the draft Code across the Northern Beaches Council Area

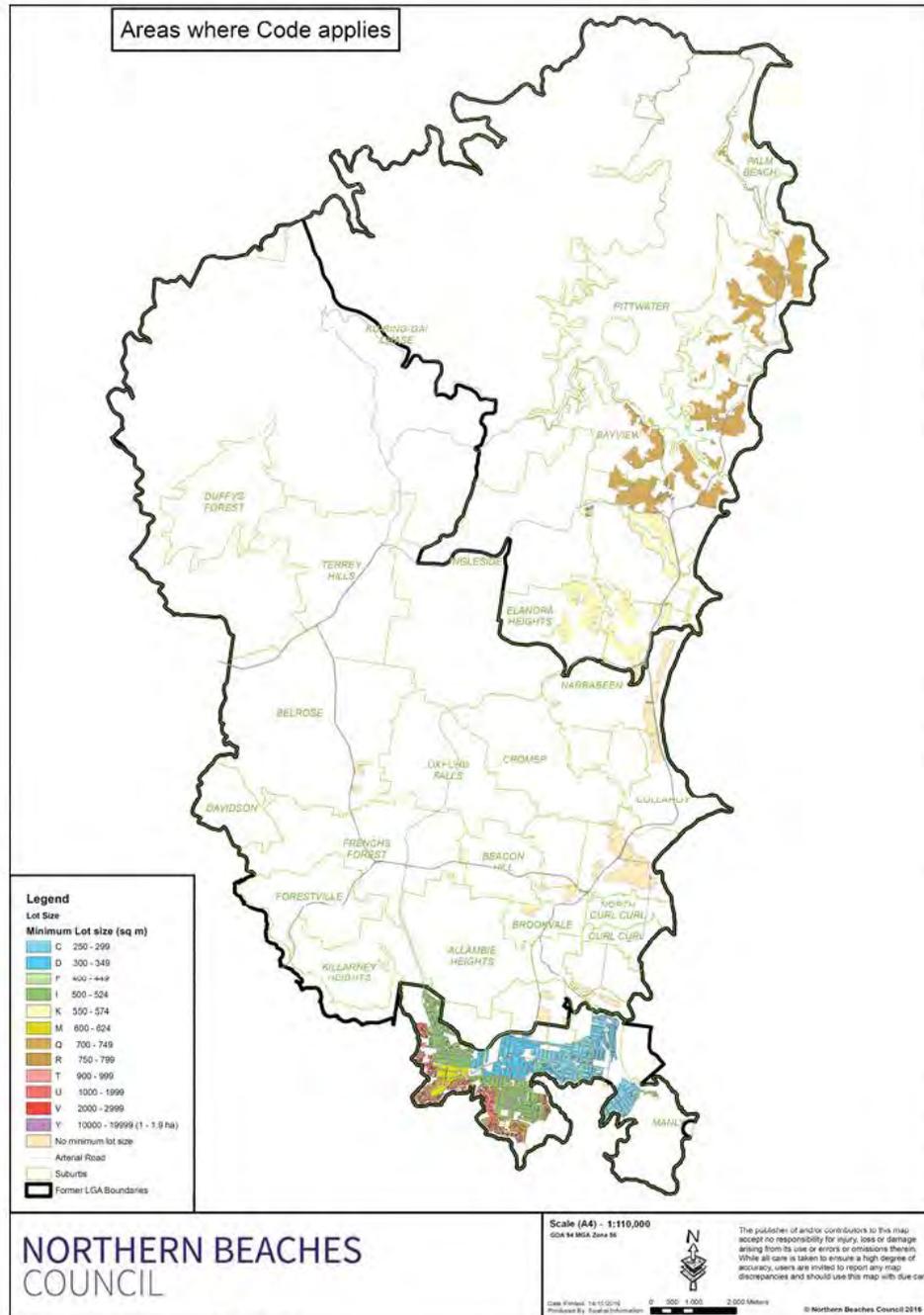


Figure 2 - Map showing minimum subdivision lot sizes in areas subject to the draft Code across the Northern Beaches Council Area

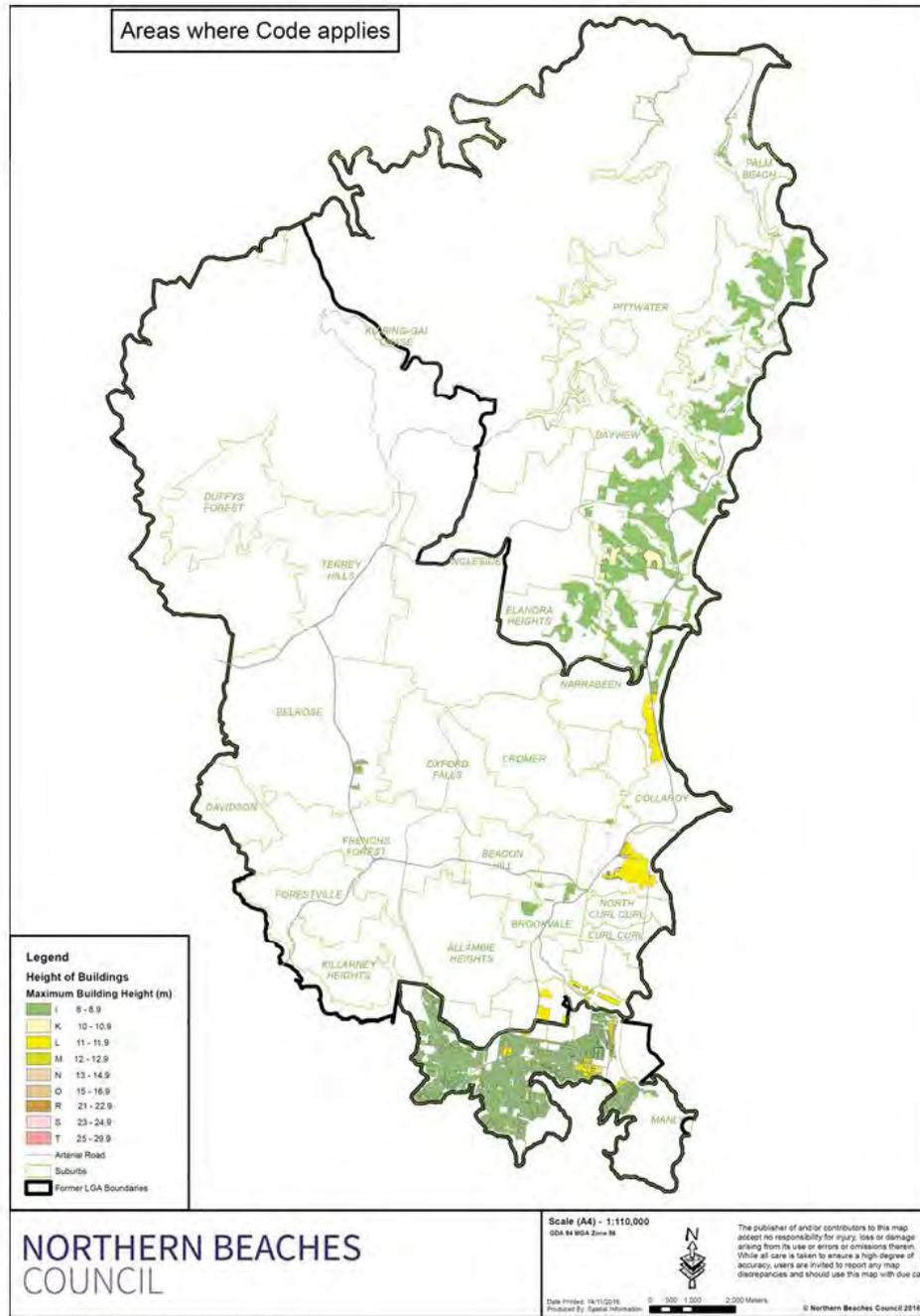


Figure 3 – Map showing permissible building heights in areas subject to the draft Code across the Northern Beaches Council Area

## Table of Recommendations

Recommendation 1 - That the Department confirms the draft Code will permit the the development of dual occupancies (attached and detached), multi-dwelling housing, and manor homes as complying development only where it is first permitted by Council within Zones R1, R2, R3 and RU5

Recommendation 2 – That the Department commit that future amendment to the draft Code will not include Rural or Environmental land zonings

Recommendation 3 – That the Department clarifies which of the Proposed Medium Density Developments are required to comply with the LEP minimum lot sizes and of those, which clause of the LEP applies (e.g. 4.1 Minimum Subdivision Lot Size or 4.1B Minimum Lot Sizes or both)

Recommendation 4 - That subdivisions are only permitted in accordance with the minimum lot sizes outlined in clause 4.1 in LEPs, or if relevant, allow time for Councils to review and amend their LEP to implement a clause 4.1B minimum lots sizes for specific developments

Recommendation 5 – That the Department provides more detail to explain the meaning and intent of the proposed new clause 4.1C for concurrent consent for development and subdivision

Recommendation 6 – That the Department clarifies that accredited building designers are held ultimately responsible for compliance of proposals with the Design Criteria despite obtaining a Design Verification Statement from the designer.

Recommendation 7 – That as an alternative, designers be accredited by the Building Professionals Board or like body to issue Compliance Certificates under the EP&A Act for Design Criteria under the draft Code.

Recommendation 8 - That the Department allows Councils to set principal standards for the Proposed Medium Density Development in the draft Code

Recommendation 9 – That the certification of medium density development as complying development by private building certifiers is delayed until measures are taken to improve the audit and discipline of private certifiers.

Recommendation 10 - That the Department allows Councils to charge a fee for enforcement of complying development

Recommendation 11 – That the Department clarifies the meaning of the statement “Where Council does adopt the MDDG it will still need to prepare the principle development standards that include height, floor space ratio, landscape area and setbacks” (EIE, pg 8). Does this statement refer to Council’s existing standards, or is there a requirement for Council to provide additional standards for Medium Density Developments?

Recommendation 12 – That the Department clarifies the meaning of the statement “Council will use the design guidelines to establish precinct plans and principal controls” (EIE, pg 5). Does this statement mean that Council must undertake a separate process?

Recommendation 13 – That requirements are included in the Site Analysis to ensure the development takes into consideration any impacts on heritage items in the vicinity of a development site

Recommendation 14 – That accredited certifiers are required to check the registers held by the NSW Office of Environment and Heritage (NSW OEH) for Aboriginal Heritage and undertake appropriate site inspections to determine whether Aboriginal objects are located on the site prior to the issue of a complying development certificate.

Recommendation 15 - That the Department includes requirements for a proportion of all multi-dwelling housing to be adaptable or accessible housing

Recommendation 16 – That the Department addresses the omissions, inconsistencies and contradictions in the draft Code and MDDG identified Part 11 of this submission

- Recommendation 17 – That the subdivision of dual occupancies be prohibited where a Council LEP currently prohibits such subdivision
- Recommendation 18 – That the development and subdivision of ‘two dwellings side by side’ only be permitted if semi-detached dwellings are permitted
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<b>DUAL OCCUPANCY</b>						
<b>Key Provisions</b>	<b>Former Pittwater</b>		<b>Former Warringah</b>		<b>Former Manly</b>	
	<b>Existing DA Controls</b>	<b>New CDC Outcome</b>	<b>Existing DA Controls</b>	<b>New CDC Outcome</b>	<b>Existing DA Controls</b>	<b>New CDC Outcome</b>
<b>Permissibility to construct development</b>	Permissible to construct in R2 & R3 zones.	CDC possible in R2 and R3 zones but: not on battle-axe lots; not involving a secondary dwelling / group home; not building over easement; not altering a garage forward of building line and; not affecting a heritage item or draft heritage item. Special requirements for CDC on bushfire or flood prone land. Each dwelling must have lawful access to public road at completion.	Permissible to construct in R3 zone.	CDC possible with same restrictions as listed under corresponding former Pittwater section.	Permissible to construct in R1, R2 and R3 zones.	CDC possible in R1, R2 and R3 zone with same restriction as listed under corresponding former Pittwater section.
<b>Minimum Site Size for Construction of Dual Occupancy</b>	800sqm	800sqm,	No Minimum site size for dual occupancy development.	400sqm	Residential Density Control in DCP requires a site for 2 dwellings to have between 100sqm and 2,300sqm in area, depending upon which Residential Density Area the site is located.	400sqm
<b>Minimum Site Width</b>		12m		12m		12m
<b>Maximum Building Height</b>	8.5m in R2 zone. 10.5m – 11m in R3 zone. 8.5m in R5 zone Second dwelling of detached dual occupancy must be	8.5m	11m	8.5m	8.5m – 11m in R1 8.5m in R2 11m in R3	8.5m

<b>DUAL OCCUPANCY</b>						
<b>Key Provisions</b>	<b>Former Pittwater</b>		<b>Former Warringah</b>		<b>Former Manly</b>	
	<b>Existing DA Controls</b>	<b>New CDC Outcome</b>	<b>Existing DA Controls</b>	<b>New CDC Outcome</b>	<b>Existing DA Controls</b>	<b>New CDC Outcome</b>
	single storey (DCP)					
<b>Maximum Gross Floor Area (GFA) Of All Buildings</b>	No equivalent control.  Maximum FSR in DCP variable between 0.3:1 and 0.4:1	For sites between 800sqm and 2,000sqm in area: 25% of site area + 300sqm.  For sites over 2,000sqm: 800sqm		For sites between 400sqm and 2,000sqm in area: 25% of site area + 300sqm.  For sites over 2,000sqm: 800sqm		For sites between 400sqm and 2,000sqm in area: 25% of site area + 300sqm.  For sites over 2,000sqm: 800sqm
<b>Front Setbacks</b>	6.5m or established building line, whichever is greatest.	Average of adjoining development on either side.	6.5m  3.5m to secondary frontage	Average of adjoining development on either side.	6m or prevailing setback in street	Average of adjoining development on either side.
<b>Side Setbacks</b>	2.5m to one side, 1m to other,	Variable between 0.9m and 2.5m, based upon lot width and building height.	4.5m	Variable between 0.9m and 2.5m, based upon lot width and building height.	1/3 height of proposed building wall	Variable between 0.9m and 2.5m, based upon lot width and building height.
<b>Rear Setbacks</b>	6.5m	Variable between 3m and 15m, based upon lot area and building height.	6m	Variable between 3m and 15m, based upon lot area and building height.	8m	Variable between 3m and 15m, based upon lot area and building height.
<b>Car Parking</b>	1 space for 1 bed dwellings;  2 spaces for 2+ bed dwellings.  (DCP controls)	1 space for each dwelling	2 spaces for each dwelling  (DCP controls)	1 space for each dwelling	2 spaces for each dwelling  (DCP controls)	1 space for each dwelling

<b>DUAL OCCUPANCY</b>						
<b>Key Provisions</b>	<b>Former Pittwater</b>		<b>Former Warringah</b>		<b>Former Manly</b>	
	<b>Existing DA Controls</b>	<b>New CDC Outcome</b>	<b>Existing DA Controls</b>	<b>New CDC Outcome</b>	<b>Existing DA Controls</b>	<b>New CDC Outcome</b>
<b>Subdivision</b>	Yes, strata or torrens title.	Yes, strata or torrens title.	Yes, strata or torrens title.	Yes, strata or torrens title.	Yes, strata or torrens title.	Yes, strata or torrens title.
<b>Minimum Resultant Lot Criteria for Subdivision</b>	<p>Torrens title (and strata title in R2): 700sqm north of Mona Vale Rd and 550sqm south of Mona Vale Rd.</p> <p>No minimum lot size for strata title in R3 or any dual occupancy approved on or before 2 June 2003.</p>	<p>Minimum lot sizes for torrens title: 420sqm north of Mona Vale Rd and 330sqm south of Mona Vale Rd. (60% of applicable minimum)</p> <p>For strata title subdivisions: each dwelling must have lawful frontage to a public road (not laneway); no dwelling to be located behind the other on single frontage lots; each resulting lot must have a minimum width at building line of 6m; for dual occupancies not above or below one another, minimum ground floor area of each strata lot must be 180sqm (excludes common areas).</p>	No minimum lot size in R3 zone.	200sqm	<p>Minimum lot size in R1 zone is 250sqm or 300sqm;</p> <p>minimum lot size in R2 zone ranges between 500sqm and 1,150sqm;</p> <p>minimum lot size in R3 zone is 250sqm.</p>	Minimum lot size: 60% of the applicable minimum lot size under the LEP.

## MANOR HOUSES

**Note:** Manor houses were not previously defined or permissible in any of the Northern Beaches former LGA planning instruments. Consequently, there are no existing planning controls specific to this form of development.

Key Provisions	Former Pittwater	Former Warringah	Former Manly
	New CDC Outcome	New CDC Outcome	New CDC Outcome
<b>Permissibility to construct development</b>	CDC possible in R3 zones but: not on battle-axe lots; not involving a secondary dwelling / group home; not building over easement; not altering a garage forward of building line and; not affecting a heritage item or draft heritage item. Special requirements for CDC on bushfire or flood prone land. Each dwelling must have lawful access to public road at completion.	CDC possible in R3 zone with same restrictions as listed under corresponding former Pittwater section.	CDC possible in R1, R2 and R3 zone with same restriction as listed under corresponding former Pittwater section.
<b>Minimum Site Size to Construct a Manor House</b>	400 sqm	400sqm	400sqm
<b>Minimum Site Width</b>	12m	12m	12m
<b>Maximum Building Height</b>	8.5m	8.5m	8.5m
<b>Maximum Gross Floor Area (GFA) Of All Buildings</b>	25% of the lot area + 150m <sup>2</sup> to a maximum of 400m <sup>2</sup>	25% of the lot area + 150m <sup>2</sup> to a maximum of 400m <sup>2</sup>	25% of the lot area + 150m <sup>2</sup> to a maximum of 400m <sup>2</sup>
<b>Front Setbacks</b>	Average of adjoining development on either side.	Average of adjoining development on either side.	Average of adjoining development on either side.
<b>Side Setbacks</b>	A manor house must have a minimum side setback of 1.5m and, for any part of a manor house more than 10m behind the building line and higher than 4.5m above the existing ground level, the minimum side boundary setback is: $s = h - 3m$ where,	A manor house must have a minimum side setback of 1.5m and, for any part of a manor house more than 10m behind the building line and higher than 4.5m above the existing ground level, the minimum side boundary setback is: $s = h -$	A manor house must have a minimum side setback of 1.5m and, for any part of a manor house more than 10m behind the building line and higher than 4.5m above the existing ground level, the minimum side boundary setback is: $s = h - 3m$ where,

## MANOR HOUSES

**Note:** Manor houses were not previously defined or permissible in any of the Northern Beaches former LGA planning instruments. Consequently, there are no existing planning controls specific to this form of development.

Key Provisions	Former Pittwater	Former Warringah	Former Manly
	New CDC Outcome	New CDC Outcome	New CDC Outcome
	's' is the minimum setback in metres, and 'h' is the height of the part of the building in metres.	3m where, 's' is the minimum setback in metres, and 'h' is the height of the part of the building in metres.	's' is the minimum setback in metres, and 'h' is the height of the part of the building in metres.
<b>Rear Setbacks</b>	Variable between 6m and 15m, based upon lot area and building height.	Variable between 6m and 15m, based upon lot area and building height.	Variable between 6m and 15m, based upon lot area and building height.
<b>Car Parking</b>	1 space for each dwelling	1 space for each dwelling	1 space for each dwelling
<b>Subdivision</b>	Yes, strata title only.	Yes, strata title only.	Yes, strata title only.
<b>Minimum Resultant Lot Criteria for Subdivision</b>	<p>Cannot also involve a secondary dwelling, boarding house, group home or a dual occupancy not approved as complying development.</p> <p>The subdivision must not contravene any condition of a development consent or complying development certificate.</p>	<p>Cannot also involve a secondary dwelling, boarding house, group home or a dual occupancy not approved as complying development.</p> <p>The subdivision must not contravene any condition of a development consent or complying development certificate.</p>	<p>Cannot also involve a secondary dwelling, boarding house, group home or a dual occupancy not approved as complying development.</p> <p>The subdivision must not contravene any condition of a development consent or complying development certificate.</p>

## MULTI DWELLING HOUSING (TERRACES) AND ATTACHED DEVELOPMENT

Multi dwelling housing (terraces) means multi dwelling housing where all dwellings are attached and face, and are generally aligned along, 1 or more public roads.

Key Provisions	Former Pittwater		Former Warringah		Former Manly	
	Existing DA Controls	New CDC Outcome	Existing DA Controls	New CDC Outcome	Existing DA Controls	New CDC Outcome
<b>Permissibility to construct development</b>	Permissible to construct in R3 zone	CDC possible in R3 zones but: not on battle-axe lots; not involving a secondary dwelling / group home; not building over easement; not altering a garage forward of building line; not affecting a heritage item or draft heritage item and, not on bush fire prone land. Special requirements for CDC on flood prone land. Each dwelling must have lawful access to public road at completion.	Permissible to construct in R3 zone.	CDC possible with same restrictions as listed under corresponding former Pittwater section.	Permissible to construct in R1, R2 and R3 zones.	CDC possible in R1, R2 and R3 zone with same restriction as listed under corresponding former Pittwater section.
<b>Minimum Site Size to Construct Terraces</b>	No minimum site size requirement.	600sqm	No minimum site size for the erection of a multi unit housing development.	600sqm	No minimum site size for the erection of a multi unit housing development.	600sqm
<b>Minimum Site Width</b>	Street frontage of site must be $\geq \frac{1}{3}$ of the length of the longest side boundary (DCP control)	18m measured at the building line.	No equivalent control	18m measured at the building line.	No equivalent control	18m measured at the building line.
<b>Density Control</b>	Except for the Warriewood Valley Release Area, which has stipulated dwelling ranges, the maximum density standard for multi dwelling housing is 1	No equivalent control.	No density control.	No equivalent control	Residential Density Control in DCP requires a site to have between 50 and 1,150sqm in area per dwelling proposed, depending upon which Residential Density Area	

## MULTI DWELLING HOUSING (TERRACES) AND ATTACHED DEVELOPMENT

Multi dwelling housing (terraces) means multi dwelling housing where all dwellings are attached and face, and are generally aligned along, 1 or more public roads.

Key Provisions	Former Pittwater		Former Warringah		Former Manly	
	Existing DA Controls	New CDC Outcome	Existing DA Controls	New CDC Outcome	Existing DA Controls	New CDC Outcome
	dwelling per 200sqm of site area.				the site is located.	
<b>Maximum Building Height</b>	10.5m – 11m	9m	11m	9m	8.5m – 11m in R1 8.5m in R2 11m in R3	9m
<b>Maximum Gross Floor Area (GFA) Of All Buildings</b>	No equivalent control.	80% of the site area.	No equivalent control	80% of lot area	No equivalent control	R1, R2 - 60% of lot area R3 - 80% of lot area
<b>Front Setbacks</b>	6.5m or established building line, whichever is greatest.	Average of adjoining development on either side.	6.5m 3.5m to secondary frontage	Average of adjoining development on either side.	6m or prevailing setback in street	Average of adjoining development on either side.
<b>Side Setbacks</b>	Where the wall height is 3m or less, the minimum side setback is 3m.  Where wall height is > 3m the minimum setback shall be  $S=3 + (H-2)/4$  S = setback distance in metres H = height of wall in metres.	1.5m	2m	Multi dwelling housing (terraces) must have a minimum side setback of 1.5m.	1/2 height of proposed building wall	Multi dwelling housing (terraces) must have a minimum side setback of 1.5m.

## MULTI DWELLING HOUSING (TERRACES) AND ATTACHED DEVELOPMENT

Multi dwelling housing (terraces) means multi dwelling housing where all dwellings are attached and face, and are generally aligned along, 1 or more public roads.

Key Provisions	Former Pittwater		Former Warringah		Former Manly	
	Existing DA Controls	New CDC Outcome	Existing DA Controls	New CDC Outcome	Existing DA Controls	New CDC Outcome
<b>Rear Setbacks</b>	As for side setbacks	Variable between 3m and 15m, based upon lot area and building height.	6m	Variable between 6m and 15m, based upon lot area and building height.	8m	Variable between 6m and 15m, based upon lot area and building height.
<b>Car Parking</b>	1 space for 1 bed dwellings;  2 spaces for 2+ bed dwellings.  (DCP controls)	At least one off-street parking space for each dwelling	2 spaces for each dwelling  (DCP controls)	At least one off-street parking space for each dwelling	2 spaces for each dwelling  (DCP controls)	At least one off-street parking space for each dwelling
<b>Subdivision</b>	Yes, strata, torrens title or community title.	Yes, strata or torrens title.	Yes, strata, torrens or community title.	Yes, strata or torrens title.	Yes, strata, torrens or community title.	Yes, strata or torrens title.
<b>Mandatory Resultant Lot Criteria for Subdivision</b>	No minimum lot size.	Minimum lot size: 200sqm  Subdivision must not contravene any condition of consent.  Each dwelling must have frontage to a public road (not a lane).  No dwelling must be located behind any other dwelling on the same lot (except corner lot or block with double frontage).  Each resulting lot must have a minimum width of 6m measured	No minimum lot size in R3 zone.	Minimum lot size: 200sqm  Subdivision must not contravene any condition of consent.  Each dwelling must have frontage to a public road (not a lane).  No dwelling must be located behind any other dwelling on the same lot (except corner lot or block with double	Minimum lot size in R1 zone is 250sqm or 300sqm;  minimum lot size in R2 zone ranges between 500sqm and 1,150sqm;  minimum lot size in R3 zone is 250sqm.	200sqm  Subdivision must not contravene any condition of consent.  Each dwelling must have frontage to a public road (not a lane).  No dwelling must be located behind any other dwelling on the same lot (except corner lot or block with double

## MULTI DWELLING HOUSING (TERRACES) AND ATTACHED DEVELOPMENT

Multi dwelling housing (terraces) means multi dwelling housing where all dwellings are attached and face, and are generally aligned along, 1 or more public roads.

Key Provisions	Former Pittwater		Former Warringah		Former Manly	
	Existing DA Controls	New CDC Outcome	Existing DA Controls	New CDC Outcome	Existing DA Controls	New CDC Outcome
		at the building line.  Only 1 dwelling on each resultant lot.		frontage).  Each resulting lot must have a minimum width of 6m measured at the building line.  Only 1 dwelling on each resultant lot.		frontage).  Each resulting lot must have a minimum width of 6m measured at the building line.  Only 1 dwelling on each resultant lot.

# PLANNING PROPOSAL

Amendments to  
Manly Local Environmental Plan 2013  
and  
Pittwater Local Environmental Plan 2014

June 2018  
(submission for  
Gateway  
Determination)

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## Part 1 – Intended Outcomes

The intended outcome of the Planning Proposal is that the Low Rise Medium Density Code would not apply for certain development types in all the R2 Low Density Residential zones in the Northern Beaches LEPs and the R3 Medium Density Residential zone for Warriewood Valley in the Pittwater LEP. These amendments are to retain the zones' strategic intent in response to the Low Rise Medium Density Code which will otherwise permit manor houses, multi-dwelling units and dual occupancy as Complying Development.

The proposed amendments will:

- prohibit multi-dwelling housing (including terraces) and manor houses (inserted under Code SEPP Amendment - Low Rise Medium Density 2017) in zone R2 Low Density Residential zone under the Manly LEP 2011; and
- prohibit dual occupancy in zone R2 Low Density Residential zone under the Manly LEP 2011 and Pittwater LEP 2014.
- prohibit dual occupancy and multi-dwelling housing in relation to certain land within zone R3 Medium Density Residential zone Pittwater LEP 2014 located in Warriewood Valley as contained within the LEP's Urban Release Area Map.

In relation to dual occupancy, consideration may be given to retaining permissibility (where permissibility currently exists in Manly and Pittwater LEPs) when carried out on land with sites' area of greater than 800sqm consistent with existing provisions in the Pittwater LEP. Studies to be prepared as outlined in this Planning Proposal will determine its appropriateness in this regard.

It is intended that the submission of this Planning Proposal by 5.00 pm 27 June 2018 with the Department of Planning and Environment and addressing, or identifying that it will address a range of matters raised by the Department will provide the basis for the deferral of the new Low Rise Medium Density Code in its entirety for Northern Beaches Council.

## Part 2 – Explanation of Provisions

The proposal seeks to amend the Land Use Tables for the R2 Zone Low Density Residential Zone of the Manly and Pittwater LEPs and the Land Use Tables for part of the R3 Zone Medium Density Residential Zone (Warriewood Valley only) in response to the impacts of the Low Rise Medium Density Code.

### Manly LEP 2013 Amendments

The land use table for the R2 Zone Low Density Residential Zone in the Manly LEP currently reads as follows:

#### **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.

##### **2 Permitted without consent**

*Home-based child care; Home occupations*

##### **3 Permitted with consent**

*Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Boat sheds; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Information and education facilities; Jetties; Manor Houses\*; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Shop top housing; Signage; Water recreation structures; Water recycling facilities; Water supply systems*

##### **4 Prohibited**

*Advertising structures; Water treatment facilities; Any other development not specified in item 2 or 3*

\* Note: Manor Houses inserted under State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Low Rise Medium Density) 2017 as published 6 April 2018 and to commence on 6 July 2018.

It is proposed that the terms ‘Dual occupancies’, ‘Manor Houses’ and ‘Multi dwelling housing’ are omitted from section 3 Permitted with consent’ in the Zone R2 Low Density Residential land use table above. The consequence is that these uses would not be able to be carried out as Complying Development under the Low Rise Medium Density Code. In this regard clause 1.18(1)(b) State Environmental Planning Policy (Exempt and Complying Development Codes) 2017 relevantly states:

#### **1.18 General requirements for complying development under this Policy**

*(1) To be complying development for the purposes of this Policy, the development must:...*

*(b) be permissible, with consent, under an environmental planning instrument applying to the land on which the development is carried out...*

### Pittwater LEP 2014 Amendments

The land use table for the R2 Zone Low Density Residential Zone in the Pittwater LEP currently reads as follows:

**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 provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.

**2 Permitted without consent**

Home businesses; Home occupations

**3 Permitted with consent**

Bed and breakfast accommodation; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental protection works; Exhibition homes; Group homes; Health consulting rooms; Home-based child care; Home industries; Jetties; Places of public worship; Respite day care centres; Roads; Secondary dwellings; Veterinary hospitals; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

It is proposed that the term '*Dual occupancies*' is omitted from section 3 'Permitted with consent' in Zone R2 Low Density Residential.

The land use table for the R3 Zone Medium Density Residential Zone in the Pittwater LEP currently reads as follows:

**Zone R3 Medium Density Residential**

**1 Objectives of zone**

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.

**2 Permitted without consent**

Home businesses; Home occupations

**3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental protection works; Exhibition homes; Group homes; Health consulting rooms; Home-based child care; Home industries; Multi dwelling housing; Neighbourhood shops; Places of public worship; Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Serviced apartments; Veterinary hospitals

**4 Prohibited**

Any development not specified in item 2 or 3

It is proposed that the terms '*Dual occupancies*' and '*Multi dwelling housing*' are omitted from section 3 'Permitted with consent' in the Zone R3 Medium Density Residential.

The consequence of omitting a range of land uses from the LEP Land Use Tables as above is that the uses specified would not be able to be carried out as Complying Development under the Low Rise Medium Density Code. In this regard clause 1.18(1)(b) State Environmental Planning Policy (Exempt and Complying Development Codes) 2017 relevantly states:

*1.18 General requirements for complying development under this Policy*

*(1) To be complying development for the purposes of this Policy, the development must:...*

*(b) be permissible, with consent, under an environmental planning instrument applying to the land on which the development is carried out...*

## Part 3 – Justification

### Section A – Need for the Planning Proposal

#### 1. Is the Planning Proposal a result of any strategic study or report?

This Planning Proposal was initiated in response to correspondence received from the Department of Planning and Environment dated 22 May 2018 requiring that the proposal be submitted prior to 27 June 2018. It is understood the Department's stated deadline is required to enable the Minister for Planning to consider deferring the application of the Low Rise Medium Density Code. Due to the time constraints placed on the submission of this Planning Proposal it is understood that that further strategic studies may be required in accordance with a Gateway Determination. It is therefore anticipated that the submission of this Planning Proposal will be the starting point for a discussion with the Department of Planning about how best to implement the changes during the period of deferral from the Code (the next 12 months).

Northern Beaches Council has previously undertaken some relevant research and prepared various Report Submissions which consider the impacts of low rise medium density housing as Complying Development. This study was initiated in response to the Department of Planning and Environment exhibition of a Discussion Paper *Options for Low Rise Medium Density Housing as Complying Development*, in late 2015.

The former Councils of Manly, Warringah and Pittwater provided submissions to the Department of Planning and Environment in relation to the Discussion Paper at the time, specifically objecting to proposals allowing dual occupancies, multi-dwelling houses, manor homes and subdivision within all low density residential neighbourhoods.

Northern Beaches Council considered a report at its meeting of the 13 December 2016 on the draft Low Rise Medium Density Code as exhibited by the Department of Planning and Environment. Council considered the exhibited draft Code and resolved to make submissions highlighting major concerns with the Code, including excessive densities and the potential for speculative development in low density areas, particularly in areas under the Manly and Pittwater LEPs. This report is attached (Attachment 2) and the key aspects of the submission may be summarised as follows:

Proposed Development Controls: The principal controls in the draft Code are significantly less stringent than the local planning provisions of Council's LEPs and DCPs with respect to parking, landscape areas, setbacks, and private open space. Greater floor space ratios would be permitted compared with the Pittwater and Manly LEPs, and increased building heights compared with the Manly LEP. Thus implementation of the draft Code would result in increased pressure on street parking, stormwater infrastructure, and an increase in building bulk and scale when compared with two storey developments requiring a development application under the local planning provisions. Council is therefore not satisfied the draft Code establishes a sufficiently strict set of controls to offset significant additional development scale/potential and likely resulting adverse impacts. It is therefore recommended that Council be allowed to set its own principal standards for complying development to cater to local conditions. This would ensure future medium density developments are in keeping with the character of established neighbourhoods.

Residential Densities: The implementation of the draft Code will result in ad-hoc, unplanned development that may affect Council's ability to meet current and future housing targets and its ability to deliver the required level of infrastructure. Of particular concern is the likely increase in density that would result in residential areas under the Manly and Pittwater LEPs, which permit dual occupancies within low density residential zones, subject to strict local density

requirements. This increased density will result in significant adverse outcomes for our communities, particularly in terms of residential amenity and streetscape/ neighbourhood character. An increase in dwelling yields may also result in some medium density areas (e.g. under the Warringah LEP 2011 and in Warriewood Valley). It is therefore vital that Section 94 plans are reviewed prior to the implementation of the Code, and that Warriewood Valley and the Ingleside Land Release area are excluded. Further clarification is also sought from the Department as to how local density provisions will be taken into account.

Private Certification: The proposed expansion of complying development is not supported until issues with the transparency and accountability of the existing private building certification system are addressed. It is also not clear whether issues such as traffic impacts and stormwater design are proposed for private certification. An appropriate system of monitoring is essential to support the certification system, especially if the proposed design verification process is to proceed.

Other Issues: Council's abovementioned submission raises a number of other issues including: potential impacts on European and Aboriginal Heritage, absence of requirements for accessible housing, and technical matters such as stormwater and water management, subdivision, excavation, bushland and waste management.

#### Strategic Study intended to be undertaken with the Planning Proposal

Given the short amount of time given to prepare the Planning Proposal it is anticipated that further strategic analysis may be required to support the Planning Proposal submission.

The Department of Planning and Environment letter dated 22 May 2018 states that this Planning Proposal must address, or identify that it will address certain matters. In this regard the following:

- the area of land zoned R2 Low Density Residential, R1 General Residential and R3 Medium Density Residential;
- the number of lots eligible for manor house or multi-dwelling housing development as complying development under the code in the R2, R1 or R3 zone;
- the number of multi-dwelling housing developments approved by the council in the R2, R1 and R3 zone in the past 5 years

The information required to support the proposal is necessary to ensure that a full understanding of the outcomes of changing the planning controls in the R2 and R3 (part) zone has on the future provisions of housing diversity in the local government area.

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

Council's abovementioned submission to the Department of Planning and Environment dated December 2016 identified major concerns that the release of the Low Rise Medium Density Code would not satisfy the objectives and strategic intent of current planning controls by allowing complying development with objectionable impacts on the Northern Beaches community.

Council submits that the best means of achieving desired objectives would be an exemption from the SEPP (Exempt and Complying) in respect of the Low Rise Medium Density Code. However the Code is intended to commence 6 July 2018 with the only option available to Council to seek to address impacts through amendments to its own planning controls which limit the impacts of the Code.

The Planning Proposal will not resolve all issues with the Code and it is anticipated that amendments to the Code itself will still be required.

## Section B – Relationship to strategic planning framework

### 3. Is the Planning Proposal consistent with the objective and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

#### The Greater Sydney Regional Plan

The Planning Proposal has been reviewed against relevant Outcomes of the Greater Sydney Regional Plan A Metropolis of Three Cities – connecting people published on 18 March 2018. The Plan identifies a number of strategic directions and specific policy settings with regards to transport, housing growth, employment and existing centres.

The Planning Proposal is consistent with a number of general goals of the Regional Plan, in that it would:

- continue deliver new and more diverse housing in strategically determined localities and zones;
- respond to a recognised need (and market demand) for housing in the locality, and
- provide new homes in close proximity to existing infrastructure and services.

#### North District Plan

The Planning Proposal supports the North District Plan vision for housing that is ‘targeted in the right places, aligned to new and enhanced infrastructure’ (p7). It is anticipated that the Planning Proposal will identify LEP amendments to achieve spacial and/or policy based outcomes which improve the delivery of new medium density Complying Development types in more locally targeted places better aligned with local services and facilities.

The Planning Proposal also supports the District Plan’s function ‘to assist councils to plan and deliver for growth and change, and align their local planning strategies to place-based outcomes’ (p16). In this regard the Planning Proposal acknowledges that the anticipated deferral of the new Low Rise Medium Density Code will assist Council in planning and delivering for growth and change under the NSW Codes SEPP. The proposal will seek to identify appropriate statutory mechanisms to improve the delivery of new medium density Complying Development with regard to local place-based outcomes for the Northern Beaches.

The Planning Proposal is considered consistent with, and justified under a number of general directions/ priorities in the North District Plan published on 18 March 2018 as follows.

Planning Priority N1 ‘Planning for a city supported by infrastructure’ is recognised in this Planning Proposal in relation to potential impacts of Complying Development under the Low Rise Medium Density Code. Council submits that the implementation of the draft Code would result in increased pressure on street parking, storm-water infrastructure, and an increase in building bulk and scale when compared with two storey developments requiring a development application under the local planning provisions. The implementation of the draft Code as it stands will result in ad-hoc, unplanned development that may affect Council’s ability to deliver the required level of infrastructure.

Planning Priority N6 ‘Creating and renewing great places...’ The District Plan recognizes that creating capacity for new housing in the right locations requires clear criteria. This Planning Proposal seeks to ensure that capacity of Medium Density Complying Development is provided in the right locations, excluding locations such as low density zoned environments with limited access to jobs and transport.

Planning Priority N9 'Growing and investing in health and education precincts'. Planning for housing in the French's Forest Hospital Precinct, requires particular consideration regarding the application of the new Low Rise Medium Density Code.

Planning Priority N12 'Delivering integrated land use and transport planning and a 30 minute city'. This Planning Proposal seeks to ensure that Complying Development under the Low Rise Medium Density Code is delivered in locations where land use and transport are most integrated.

Planning Priority N17 'Protecting and enhancing scenic and cultural landscapes'. The Planning Proposal is consistent with this priority in seeking to address potential deficits in the draft Codes in protecting and enhancing landscapes. In relation to the Warriewood Valley precinct, the new Low Rise Medium Density Code permits no landscaped area for some dual occupancies, based on lot size. This will result in additional run-off and impacts on water quality as the water management facilities were not designed to deal with the additional flows.

#### **4. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?**

A review has been undertaken of the Planning Proposal against certain policies and plans of Northern Beaches Council as follows:

##### Northern Beaches Draft Community Strategic Plan 2017-2028 'SHAPE 2028'

The Northern Beaches Community Strategic Plan will be adopted by the Northern Beaches Council by June 2018 following 2 stages of engagement and drafting in September/October 2016 (developing community issues, priorities and visions) and in March/April 2017 (developing draft goals and strategies to achieve the vision).

The Plan is built around themes of community, place, environment and leadership. The objectives and intended outcomes of the Planning Proposal are supported by the Community Strategic Plan and have been reported and resolved by Council.

#### **5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

The Planning Proposal is consistent with applicable State Environmental Planning Policies as shown in the following Table 1.

As this Planning Proposal is made with particular consideration of State Environmental Planning Policies (Exempt and Complying Development Codes) 2008, the aims of this SEPP are addressed as follows:

*This Policy aims to provide streamlined assessment processes for development that complies with specified development standards by:*

- (a) providing exempt and complying development codes that have State-wide application,*
- and*

This Planning Proposal supports the state-wide application of Low Rise Medium Density in strategically located lands in accordance with appropriate development standards that are determined based on local housing strategies and not as imposed over existing approval

systems. Council submits that the 'state-wide application' of the codes, with particular reference to the Low Rise Medium Density Code, should not extend to a blanket application across all residential zones in which the specified development types are permissible, including the R2 Low Density Residential zone.

- (b) identifying, in the exempt development codes, types of development that are of minimal environmental impact that may be carried out without the need for development consent, and*

This Planning Proposal does not consider or respond to any exempt development codes.

- (c) identifying, in the complying development codes, types of complying development that may be carried out in accordance with a complying development certificate as defined in the Act, and*

This Planning Proposal seeks to support the appropriate identification of certain types of Complying Development under the Low Rise Medium Density Code including manor houses, multi dwelling housing and dual occupancy. It is recognised that these development types are new forms of Complying Development to be introduced in local neighbourhoods under approval pathways unlike current development assessment processes. In this regard the Planning Proposal provides initial research dealing with the impacts of certain development types as Complying Development under the new Code compared to existing LEP and DCP planning controls under the Development Consent pathway as follows.

#### Manor Houses

Manor Houses are being introduced under the Standard Instrument (LEP) Order from 6 July 2018 and will amend Manly LEP 2013 by inserting 'Manor Houses' as a permitted use in Zone R2 Low Density Residential. While certain other low rise medium density housing is already permitted (see discussion on Multi dwelling housing and Dual Occupancies below), the introduction of Manor Houses as complying development under the Code is considered contrary to LEP Zone objectives to provide for the housing needs of the community within a low density residential environment.

The Code will permit Manor Houses as Complying Development on sites over 600sqm in area i.e. 200sqm per dwelling. The Manly LEP and DCP require minimum site area of between 500sqm and 1150sqm per dwelling (MDCP2013, Schedule, Map A) for residential development in the R2 Low Density zone. The likely density yield under the Code will be in the vicinity of 6 times greater than permitted in the Manly LEP and DCP.

In relation to other aspects of built form such as height, floor area and setback there are also disparities between the development outcomes currently achievable in a DA under the LEP and those to be permitted under the Code. Accordingly the Planning Proposal supports omitting Manor Houses as a permissible use with Consent in the R2 zone under the Manly LEP so as to retain the zones' strategic intent.

#### Multi Dwelling Housing

While multi dwelling housing is currently permitted in the Manly LEP R2 Low Density zone, Council's residential density provisions (MDCP2013, Schedule, Map A) limit the number of dwellings on any site in a similar manner as Manor Houses discussed above (requiring between 500sqm and 1150sqm of site area per dwelling) e.g. A development comprising 8 dwellings requires a site of 4000sqm (500sqm x 8) in the DCP. However, the Code provides examples of multi dwelling housing (terraces) on a standard lot comprising 8 dwellings on a minimum sized lot of 600sqm.

The Code does not recognise the existing minimum lot area requirements that are contained in the Manly DCP 2013. In the absence of a minimum lot area, the Code provides for multi dwelling housing (terraces) as Complying Development on sites of 600sqm in area and 18m site width at the building line.

In relation to other aspects of built form such as height, floor area and setback there are also disparities between the development outcomes currently achievable in a Development Application under the LEP and those to be permitted under the Code. Accordingly the Planning Proposal supports omitting multi dwelling housing as a permissible use with Consent in the R2 zone under the Manly LEP so as to retain the zones' strategic intent.

### Dual Occupancies

Dual Occupancies are a permitted land use in Zone R2 Low Density in both the Manly and Pittwater LEPs. Dual Occupancies are a prohibited use in Warringah LEP's R2 zone.

Under the Pittwater LEP (clause 4.1B) Dual Occupancy requires a site area of at least 800sqm to construct a dual occupancy development. Whilst this provision would continue to apply, the Code would permit the subdivision of dual occupancies into lots of between 330-420 sqm (and possibly lower) in the R2 zone, depending on location. This is significantly smaller than the Pittwater LEP which permits subdivision into lots of between 550-700 sqm in the R2 zone, depending on location.

Under the Manly LEP there is no minimum allotment size specified for the construction of a dual occupancy. Residential density controls are instead specified in the Manly DCP. Between 1000 sqm and 2,300 sqm of land is required for dual occupancy development in the R2 zone, depending on location. The Code will override the DCP requirements, permitting dual occupancies on lots of 400 sqm in all areas zoned R2. The Code will also permit the subdivision of dual occupancies into lots of 300-690 sqm (and possibly lower) in the R2 zone, depending on location. This is significantly smaller than the Manly LEP, which permits subdivision into lots of between 500-1150 sqm in the R2 zone, depending on area.

Further analysis may be required in reviewing the impact of this aspect of the Planning Proposal on dwelling supply given that this form of low rise medium density is more common. Some other matters which could be further investigated include options to only permit dual occupancy as Complying Development that cannot be subdivided and/or as a Complying Development type in which one dwelling is not permitted to be located above another dwelling.

Accordingly the Planning Proposal supports omitting dual occupancies as a permissible use with Consent in the R2 zone under the Manly and Pittwater LEPs so as to retain the zones' strategic intent.

#### *(d) enabling the progressive extension of the types of development in this Policy, and*

While this Planning Proposal supports the progressive extension of the types of low rise medium density development in this Policy, Council submits that this Objective is better served following the completion of more comprehensive Local Housing Strategies which are required to be completed by the Greater Sydney Commission in the next 12-24 months.

#### *(e) providing transitional arrangements for the introduction of the State-wide codes, including the amendment of other environmental planning instruments.*

This Planning Proposal supports the deferral of the introduction of the Low Rise Medium Density Code as an appropriate transitional arrangement prior to the making of amendments to Northern Beaches LEPs under this Planning Proposal.

**Table 1. Compliance with State Environmental Planning Policies (SEPPs)**

<b>SEPPs (as at September 2017)</b>		<b>Applicable</b>	<b>Consistent</b>
1	Development Standards	YES	YES
14	Coastal Wetlands	NO	N/A
19	Bushland in Urban Areas	YES	YES
21	Caravan Parks	YES	YES
26	Littoral Rainforests	NO	N/A
30	Intensive Agriculture	NO	N/A
33	Hazardous and Offensive Development	YES	YES
36	Manufactured Home Estates	NO	N/A
44	Koala Habitat Protection	YES	YES
47	Moore Park Showground	NO	N/A
50	Canal Estate Development	YES	YES
52	Farm Dams and Other Works in Land and Water Management Plan Areas	NO	N/A
55	Remediation of Land	YES	YES
62	Sustainable Aquaculture	YES	YES
64	Advertising and Signage	YES	YES
65	Design Quality of Residential Apartment Development	YES	YES
70	Affordable Housing (Revised Schemes)	YES	YES
71	Coastal Protection	YES	YES
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	YES	YES
	(Affordable Rental Housing) 2009	YES	YES
	(Building Sustainability Index: BASIX) 2004	YES	YES
	(Exempt and Complying Development Codes) 2008	YES	YES
	(Housing for Seniors or People with a Disability) 2004	YES	YES
	(Infrastructure) 2007	YES	YES
	(Integration and Repeals) 2016	NO	N/A
	(Kosciuszko National Park – Alpine Resorts) 2007	NO	N/A
	(Kurnell Peninsula) 1989	NO	N/A
	(Mining, Petroleum Production and Extractive Industries) 2007	YES	YES
	(Miscellaneous Consent Provisions) 2007	YES	YES
	(Penrith Lakes Scheme) 1989	NO	N/A
	(Rural Lands) 2008	NO	N/A
	(State and Regional Development) 2011	YES	YES
	(State Significant Precincts) 2005	YES	YES
	(Sydney Drinking Water Catchment) 2011	NO	N/A
	(Sydney Region Growth Centres) 2006	NO	N/A
	(Three Ports) 2013	NO	N/A
	(Urban Renewal) 2010	NO	N/A
	(Western Sydney Employment Area) 2009	NO	N/A
	(Western Sydney Parklands) 2009	NO	N/A

**6. Is the planning proposal consistent with applicable Ministerial Directions?**

Yes. The Planning Proposal is consistent with applicable Directions (as shown in Attachment 1). Comments on each of the applicable directions are provided in Table 2 below.



**Table 2: Ministerial (Local Planning) Directions**

<b>Ministerial Direction</b>	<b>Comment</b>
<b>2 Environment and Heritage</b>	
2.1 Environment Protection Zones	
The objective of this direction is to protect and conserve environmentally sensitive areas.	The Planning Proposal applies to certain lands which are environment sensitive areas but it is noted that the Low Rise Medium Density Code does not apply to Environmental Protection Zones.
2.2 Coastal Protection	
The objective of this direction is to implement the principles in the NSW Coastal Policy	The Planning Proposal applies to certain lands which are in the Coastal Zone but it is noted that the Low Rise Medium Density Code is not a significant consideration in relation to the principles of the NSW Coastal Policy
2.3 Heritage Conservation	
The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	While the Planning Proposal applies to certain lands which are listed as heritage significant, the application of Complying Development is controlled by land based provisions under Part 1 of the Codes SEPP.
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	
The objectives of this direction are to: a) encourage a variety of choice of housing types to provide for existing and future housing needs, b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and c) to minimise the impact of residential development on the environment and resource lands.	This direction applies as the Planning Proposal affects land within existing residential zones. In this regard the planning proposal seeks to encourage the provision of housing that deals with the following matters raised in the direction. In relation to 'broaden the choice of building types and locations available in the housing market' the Planning Proposal does not seek to limit broadened housing choice as Complying Development at large, but rather ensure the new types be tested and impacts evaluated to retain the strategic intent of zones and protect local character. In relation to the consideration of 'existing infrastructure and services' the need for efficiencies is recognised in the Planning Proposal In relation to the 'consumption of land' the Planning proposal does not reduce land for housing and associated urban development on the urban fringe. In relation to the need for 'good design' the Planning Proposal supports well designed low rise medium density in appropriate locations and zones.

	<p>The planning proposal does not permit residential development on land that is inadequately serviced.</p> <p>In relation to the residential density of land, the Planning Proposal seek to limit the permissibility of low rise medium development as Complying Development that exceeds established density provisions in Council's LEPs and DCPs.</p>
<p><b>3.4 Integrating Land Use and Transport</b></p>	
<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>	<p>This direction applies as the planning proposal will alter zones or provisions relating to urban land, including land zoned for residential purposes. In this regard the planning proposal is consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for planning and development (DUAP 2001).</p>
<p><b>4. Hazard and Risk</b></p>	
<p><b>4.1 Acid Sulfate Soils</b></p>	
<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>	<p>While the Planning Proposal applies to certain lands contained on LEP Acid Sulfate Soils Planning Maps, the existing provisions adequately regulate works and are consistent with the Acid Sulfate Soils Planning Guidelines.</p>
<p><b>4.3 Flood Prone Land</b></p>	
<p>The objectives of this direction are:</p> <p>(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</p> <p>(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p>	<p>While the Planning Proposal applies to certain lands identified as Flood Prone Land, the existing provisions adequately regulate works and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. The Planning Proposal particularly responds to likely impacts arising from the application of the Low Rise Medium Density Code in relation to Warriewood Valley which has strict controls on water management as it is highly flood prone and adjacent to the Endangered Environmental Community of the Warriewood Wetlands. The impervious</p>

	<p>fraction ('built upon' area) identified as part of the modelling undertaken by Council for water cycle management stipulates 50% site coverage/landscaped area for a Sector. Water management facilities have been and will be designed and constructed in accordance with this requirement. However the Code allows for no landscaped area for some dual occupancies, based on lot size. This will result in additional run-off and impacts on water quality as the water management facilities were not designed to deal with the additional flows.</p>
<b>4.4 Planning for Bushfire Protection</b>	
<p>The objectives of this direction are: (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas.</p>	<p>Appropriate considerations are made of land mapped as bushfire prone land.</p>
<b>6. Local Plan Making</b>	
<b>6.1 Approval and Referral Requirements</b>	
<p>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p>	<p>The Planning Proposal is consistent with the terms of this direction as follows: a) provisions that require the concurrence, consultation or referral of DAs to a Minister or public authority are minimised (b) no provisions are contained in the Planning Proposal requiring concurrence, consultation or referral of a Minister or public authority. (c) no development is identified as designated development.</p>
<b>6.2 Reserving Land for Public Purposes</b>	
<p>The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p>	<p>The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.</p>
<b>6.3 Site Specific Provisions</b>	
<p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.</p>	<p>The Planning Proposal contains no site-specific planning controls</p>
<b>7 Metropolitan Planning</b>	
<b>7.1 Implementation of A Plan for Growing Sydney</b>	
<p>The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic</p>	<p>The Planning Proposal is consistent with the NSW Government's "A Plan for Growing Sydney" published in December 2014.</p>

centres and transport gateways contained in A Plan for Growing Sydney.	
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### Section C – Environmental, social and economic impact

- 7. 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. The Planning Proposal continues to provide appropriate protections for residential land comprising the habitat of endangered species (clause 36A) and of threatened species (clause 36B).

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

The Planning Proposal will ensure environmental impacts are addressed arising from the delivery of the Low Rise Density Code as addressed, or intended to be addresses as detailed in this Planning Proposal.

- 9. Has the Planning Proposal adequately addressed any social and economic effects?**

The Planning Proposal will ensure social and economic effects are addressed arising from the delivery of the Low Rise Density Code as detailed in this Planning Proposal.

### Section D – State and Commonwealth interests

- 10. Is there adequate public infrastructure for the planning proposal?**

Yes

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

The Planning Proposal is in accordance with consultations with the Department of Environment and Planning as detailed in this Planning Proposal. Consultation will occur in accordance with the requirements of any Gateway approval.

## **Part 4 – Maps**

There are no maps associated with the Planning Proposal

## Part 5 – Community Consultation

Council will place the planning proposal on public exhibition in accordance with future Gateway Determination and consistent with Council's Community Engagement Policy including:

- A public notice in the Manly Daily notifying of the public exhibition;
- Letters to key stakeholders;
- Hard copies of the exhibition material at Council's offices; and
- Electronic copies of the exhibition material on Council's website.

The Gateway determination will confirm the public consultation that must be undertaken.

## Part 6 – Project Timeline

<b>Task</b>	<b>Anticipated timeframe</b>
Referral to Department of Planning & Environment for Gateway determination	June 2018
Issue of Gateway determination	September 2018
Government agency consultation (if required)	October 2018
Public exhibition period	February 2019
Consideration of submissions	March 2019
Report to Council to determine Planning Proposal	May 2019
Submit Planning Proposal to the Department of Planning & Environment for determination	Published by 1 July 2019

## Attachment 1 – Ministerial directions

Directions		Applicable	Consistent
<b>1</b>	<b>Employment and Resources</b>		
1.1	Business and Industrial Zones	YES	YES
1.2	Rural Zones	NO	N/A
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	NO	N/A
<b>2</b>	<b>Environment and Heritage</b>		
2.1	Environment Protection Zones	YES	YES
2.2	Coastal Protection	YES	YES
2.3	Heritage Conservation	YES	YES
2.4	Recreation Vehicle Areas	NO	N/A
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEP's	NO	N/A
<b>3</b>	<b>Housing, Infrastructure and Urban Development</b>		
3.1	Residential Zones	NO	N/A
3.2	Caravan Parks and Manufactured Home Estates	NO	N/A
3.3	Home Occupations	NO	N/A
3.4	Integrating Land Use and Transport	NO	N/A
3.5	Development Near Licensed Aerodromes	NO	N/A
3.6	Shooting Ranges	NO	N/A
<b>4</b>	<b>Hazard and Risk</b>		
4.1	Acid Sulfate Soils	YES	YES
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	YES
4.4	Planning for Bushfire Protection	YES	YES
<b>5</b>	<b>Regional Planning</b>		
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	NO	N/A
5.6	Sydney to Canberra Corridor (Revoked 10 July 2008 See amended Direction 5.1)	NO	N/A
5.7	Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	NO	N/A
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A
5.9	North West Rail Link Corridor Strategy	NO	N/A
5.1	Implementation of Regional Plans	NO	N/A
<b>6</b>	<b>Local Plan Making</b>		
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Provisions	YES	YES
<b>7</b>	<b>Metropolitan Planning</b>		
7.1	Implementation of A Plan for Growing Sydney	YES	YES
7.2	Implementation of Greater Macarthur Land Release Investigation	NO	N/A
7.3	Parramatta Road Corridor Urban Transformation Strategy	NO	NO
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	NO	NO
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	NO
7.6	Implementation of Wilton Priority Growth Area Interim Land Use	NO	NO

	and Infrastructure Implementation Plan		
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	NO	NO

**Attachment 2 – Council’s submission to the Department of Planning and Environment dated December 2016**

<insert TRIM 2016/358757 NB.The same document as in the CM report attachment 2 >