



Mr Gary James  
General Manager  
Woollahra Municipal Council  
PO Box 61  
DOUBLE BAY NSW 2028

Dear Mr James

**Planning proposal PP\_2020\_WOOLL\_007\_00 to amend Woollahra Local Environmental Plan 2014**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to increase the minimum lot size for dual occupancy (attached) from 460m<sup>2</sup> to 800m<sup>2</sup>.

The Department appreciates Council's aspirations to protect the natural environment, residential amenity and desired future character of the R2 Low Density Residential Zone and to minimise the potential impact of attached dual occupancy development.

While the objective of the subject planning proposal is acknowledged, by restricting the number of lots eligible for attached dual occupancy development via both the development application (DA) and complying development certificate (CDC) pathways there will be an effect on housing density and diversity across R2 zoned land. The impact on housing delivery and choice is illustrated below:

- While the impact on the potential number of DAs may not be substantial based on past trends, the proposal would result in a decrease in 2,241 lots in the R2 Zone that would otherwise be eligible for a CDC for an attached dual occupancy. This is equivalent to a 64% reduction in the number of eligible "Code lots" from the existing 3,513, and is a significant change when compared to the current minimum lot size control.
- The proposal notes that the change in minimum lot size will not affect Council's ability to achieve the five-year housing target of 300 dwellings identified in the Eastern City District Plan. I note that the five-year housing target is generally consistent with known housing approvals and construction activity. As such there will be limited effect on the ability to achieve this target with or without the planning proposal. However, the proposal may have a bearing on medium and longer term housing delivery in the Woollahra LGA.

- The proposal also states that the potential number of dwellings in the R2 zone will not be reduced, as secondary dwellings will continue to be permissible. The Woollahra LEP stipulates the maximum floor area of secondary dwellings of 60m<sup>2</sup> or 5% of the total floor area of the principal dwelling, whichever is the greater. Secondary dwellings are a type of residential accommodation that is significantly different from attached dual occupancies in terms of form and size. Secondary dwellings and dual occupancies are not considered to be direct substitutes.

Based on the above, the proposal in its current form is not considered to be consistent with Section 9.1 Ministerial Direction 3.1 – Residential Zones, and there is inadequate analysis and reasons to justify against the inconsistency.

Council should consider, among other things, whether there will be adequate capacity to deliver a variety of low rise medium density housing in other zones in the LGA, such as the R3 Medium Density Residential zones, if the minimum lot size for attached dual occupancies in R2 zones is to be increased. This is to ensure that housing growth and diversity over the medium and longer term will not be unduly affected.

Additionally, Council should provide further analysis to determine the most appropriate minimum lot size for attached dual occupancy in the light of the intent to protect the desired future character of the R2 zone. The key issues with the current analysis are as follows:

- The analysis in Part 6 of the planning proposal relates to mature tree planting only and should be broadened in scope. The proposal requires an analysis to illustrate the built form, landscaped area and setback outcomes resulting from different lot sizes, together with a comparison between Council's controls and the Code. Detailed modelling supported by examples of actual developments should be included.
- More information is required to explain how the Structure Root Zone (as per Australian Standard 4970: *Protection of trees on development sites*) is applied to the analysis, and the difference between "*maximum potential mature trees*" and "*maximum achievable mature trees*". Relevant diagrams should be included to illustrate the methodology used in the analysis.

The analysis should include testing of a range of lot size options to determine the most appropriate control, consistent with the advice of the Woollahra Local Planning Panel of 30 January 2020.

It is also noted that certain comparative analysis in the planning proposal relating to other local government area's lot size controls although appreciated are not relevant. This is because some of those LGAs (such as Kiama and Wingecarribee) have significantly different character and locational and environmental context to Woollahra. The use of these data needs to be qualified and interpreted to account for the above differences.

The Department considers the planning proposal has not demonstrated its consistency, or adequately justify its inconsistency with Section 9.1 Direction 3.1.

Council is recommended to undertake further analysis having regard to the above issues, address the Ministerial Direction in detail and submit a revised planning proposal.

During review of the planning proposal, several minor errors or omission have been identified (see attachment). Appropriate administrative changes should be made, prior to re-submission of the proposal to the Department.

Should you have any enquiries about this matter, I have arranged for Ms Christina Brooks, Planning Officer, and Mr Simon Ip, Manager Place and Infrastructure to assist you. Ms Brooks and Mr Ip can be contacted on 9274 6045 and 8289 6714 respectively.

Yours sincerely



**10 August 2020**  
**Brendan Metcalfe**  
**A/Director, Eastern and South Districts**  
**Greater Sydney, Place and Infrastructure**

Encl: List of administrative matters