



IRF21/2398

Gateway determination report – PP-2021-3786

Introduce FSR standards for low density residential development within the R2 and R3 zones and new urban greening provisions across Woollahra local government area.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans

Planning Proposal (revised) - 2 February 2021

Greening our LGA report - 30 June 2020

1 Planning Proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Woollahra
PPA	Woollahra Municipal Council
NAME	Introduction of floor space ratio standards for low density residential development and urban greening provisions.
NUMBER	PP-2021-3786
LEP TO BE AMENDED	Woollahra Local Environmental Plan 2014
ADDRESS	Whole LGA
DESCRIPTION	Introduction of floor space ratio standards for low density residential development in R2 Low Density Residential and R3 Medium Density Residential zones and urban greening provisions.
RECEIVED	2/02/2021
FILE NO.	IRF21/2398
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The objectives of the planning proposal are to:

- Amend the Woollahra Local Environmental Plan (LEP) 2014 to introduce floor space ratio (FSR) standards for 'low density residential development'.
- Incorporate urban greening provisions to facilitate enhanced deep soil landscaping and tree canopy.
- Introduce a measurable balance between built form and landscaping.
- Remove complicated floorplate controls in the Woollahra Development Control Plan (DCP) to assist landowners to understand the extent of development potential and the relationship between site size and development yield.
- Make controls more consistent and effective for assessment of development applications.
- Ensure consistency with the Standard Instrument LEP.
- Improve Council's ability to sustain and enhance tree canopy in private developments.

- Introduce urban greening considerations in the assessment of development to focus on minimising urban heat and the mitigation of climate change.

Among other things, the planning proposal seeks to introduce an FSR of 0.5:1 to specific land uses (dwelling houses, dual occupancies and semi-detached dwellings) within the R2 Low Density Residential Zones and R3 Medium Density Residential Zones for the purpose of ensuring that site coverage provides for adequate deep soil areas to support increased tree canopy.

The planning proposal classifies dual occupancies and semi-detached dwellings as low density residential developments. As advised by the Department's Codes Team, these uses are deemed to be medium density residential developments. To ensure consistency with terminology used by the Department, these development types should be referred to as medium density residential. A Gateway condition requiring an update to the planning proposal to this effect is recommended.

1.3 Explanation of provisions

The planning proposal seeks to amend the Woollahra Local Environmental Plan (LEP) 2014 per the changes below:

1.3.1 Amendment to Aims of Plan

The proposal aims to support Council's aspirations to sustain and enhance tree canopy cover. The Council have proposed the following draft wording (new additions underlined) to amend the LEP aims:

- (a) to ensure that growth occurs in a planned and co-ordinated way,*
- (b) to promote the management, development, conservation and economic use of property,*
- (c) to provide for an appropriate balance and distribution of land for commercial, retail, residential and tourist development and for recreation, open space, entertainment and community facilities,*
- (d) to provide greater population densities in and around centres that are well serviced by public transport,*
- (e) to facilitate opportunities, in suitable locations, for diversity in dwelling density and type,*
- (f) to conserve and enhance built and natural environmental heritage,*
- (g) to protect and enhance amenity and the natural environment,*
- (h) to minimise and manage stormwater and flooding impacts,*
- (i) to protect and promote public access to and along the foreshores,*
- (j) to promote a high standard of design in the private and public domain,*
- (k) to minimise and manage traffic and parking impacts,*
- (l) to ensure development achieves the desired future character of the area,*
- (m) to minimise excavation and manage impacts,*
- (n) To encourage urban greening and minimise the urban heat island effect.*
- (o) to mitigate climate change*

The planning proposal should be revised to describe the intended effects of the proposed changes in plain English, as legal drafting of the instrument will be undertaken by Parliamentary Counsel's Office. A note should be included in the proposal to explain that the draft clause is only indicative and will be subject to legal drafting at finalisation. A Gateway condition has been included to reflect this.

1.3.2 Amended zone objectives

It is proposed to amend the zone objectives under the Land Use Table for R2 Low Density Residential and R3 Medium Density Residential zones, by including the following additional objective:

- *To ensure that development conserves and enhances the tree canopy/area.*

Within the B1 Neighbourhood Centre, B2 Local Centre, B4 Mixed Use, SP2 Infrastructure, SP3 Tourist and RE2 Private Recreation zones, the following new objective is proposed:

- *To encourage urban greening*

It is recommended that an explanation of the intended amendments to the LEP in plain English be provided in the planning proposal, and that a note be inserted to clarify that the draft provisions are indicative only and will be subject to legal drafting at finalisation.

The planning proposal should also acknowledge that the Department exhibited a proposal, 'Employment Zones Reform', from 20 May to 30 June 2021 to simplify the employment zones framework. This may in future impact on existing business zoning. The planning proposal should be updated prior to exhibition to reference the Employment Zones Reform and note that based on the exhibition package, the B1 Neighbourhood Centre and B2 Local Centre zones would likely align with the exhibited 'E1 Local Centre' zone, and the B4 Mixed Use zone to the 'MU1 Mixed Use zone.' A Gateway condition has been recommended accordingly. The Department will work closely with Council post-Gateway to address any implications or issues.

1.3.3 Introduce a new FSR control for low density residential development in the R2 and R3 zones and the Wolseley Road area

The proposal seeks to apply FSR standards to 'low density' residential development which comprises dwelling houses, dual occupancies and semi-detached dwellings (refer to **Table 2**). Areas located within the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas (HCAs) are excluded. The following FSR standards are proposed:

- Maximum 0.5:1 in R2 Low Density Residential and R3 Medium Density Residential zones (Areas 2 and 3 in **Figure 1**).
- Maximum 0.75:1 in the Wolseley Road, Point Piper area (Area 1 in **Figure 1**), which is currently zoned part R2 Low Density Residential and part R3 Medium Density Residential.
- A range of maximum FSRs on small sites (less than 400m²) in R2 and R3 zones (refer to **Table 3**).

The R2 Low Density Residential and R3 Medium Density Residential zones are depicted as Area 2 and Area 3 respectively on **Figure 1** and the proposed FSR changes are detailed in **Table 2 and 3**.

Table 2 Current and Proposed controls

Control	Current	Proposed
Floor space ratio	<p>R2 Low Density Residential - Nil</p> <p>R3 Medium Density Residential – Maximum FSR per LEP maps ranging from 0.65:1 to 1.3:1</p> <p>Clause 4.4(2A) includes an exception to the FSR as shown on the FSR maps – with no maximum FSR for dwelling house, dual occupancy and semi-detached dwelling</p>	<ul style="list-style-type: none"> R2 Low Density Residential zone - 0.5:1 for dwelling house, dual occupancy and semi-detached dwelling. R3 Medium Density Residential zone – 0.5:1 for dwelling house, dual occupancy and semi-detached dwelling. Other land uses would retain the existing FSR control as per the LEP map. Sliding scale for smaller lots under 400m² in R2 and R3 zones for dwelling house, dual occupancy and semi-detached dwelling. See Table 3. Wolseley Road, Point Piper - 0.75:1 for dwelling house, dual occupancy and semi-detached dwelling. Controls exclude Paddington, Watsons Bay and Woollahra Heritage Conservation Areas.

Table 3 Sliding scale for lots less than 400m² in the R2 and R3 Zones

Proposed FSRs for small residential lots		
Site area (square metres)	Whichever is the lesser	
	Floor space ratio (FSR)	Yield - Gross floor area (square metres)
350m ² to < 400m ²	0.55:1 (*site testing 0.57:1)	200
300m ² to < 350m ²	0.65:1 (*site testing 0.61:1)	192.5
250m ² to < 300m ²	0.75:1 (*site testing 0.69:1)	190
200m ² to < 250m ²	0.85:1 (*site testing 0.85:1)	187.5
150m ² to < 200m ²	0.95:1 (*site testing 0.78:1)	170
Under 150m ²	1.05:1 (*site testing 1.02:1)	142.5

*Note: the site testing in part 10 of the planning proposal is provided in brackets.

The planning proposal identifies a maximum yield (in square metres) for each lot size range (for smaller sites less than 400m²). Refer to **Table 3** above for details.

The permissible floor space for development is a sliding scale determined by whichever is the lesser of the FSR or yield standard in the respective lot size band. According to the proposal, this is to address an issue raised by councillors that “*by having a ‘stepped approach’ a smaller site would have a greater permissible FSR and therefore could have a greater development potential than a larger site.*”

Having regard to the proposed small lot controls, the following issues are noted:

- It is unclear how these FSRs relate to, or are converted from, the site testing results documented in part 10 of the planning proposal. There are discrepancies between the proposed sliding scale FSRs and the site testing (apart from 0.85:1 for sites between 200m² and < 250m²); as shown in the table above, the discrepancies in some cases are more than a matter of rounding up or down. An explanation of how the sliding scale FSRs for small lots have been established compared to the site testing tables for each lot size category is required.
- An explanation of how the maximum yield in square metres has been determined is required.

The planning proposal also has not provided analysis or site testing to support the 0.75:1 FSR for the Wolseley Road area.

A Gateway condition has been included to require further explanation for the proposed controls in plain English to address the issues above.

Figure 1 Affected land within Woollahra LGA (source: Planning Proposal dated 2 February 2021)

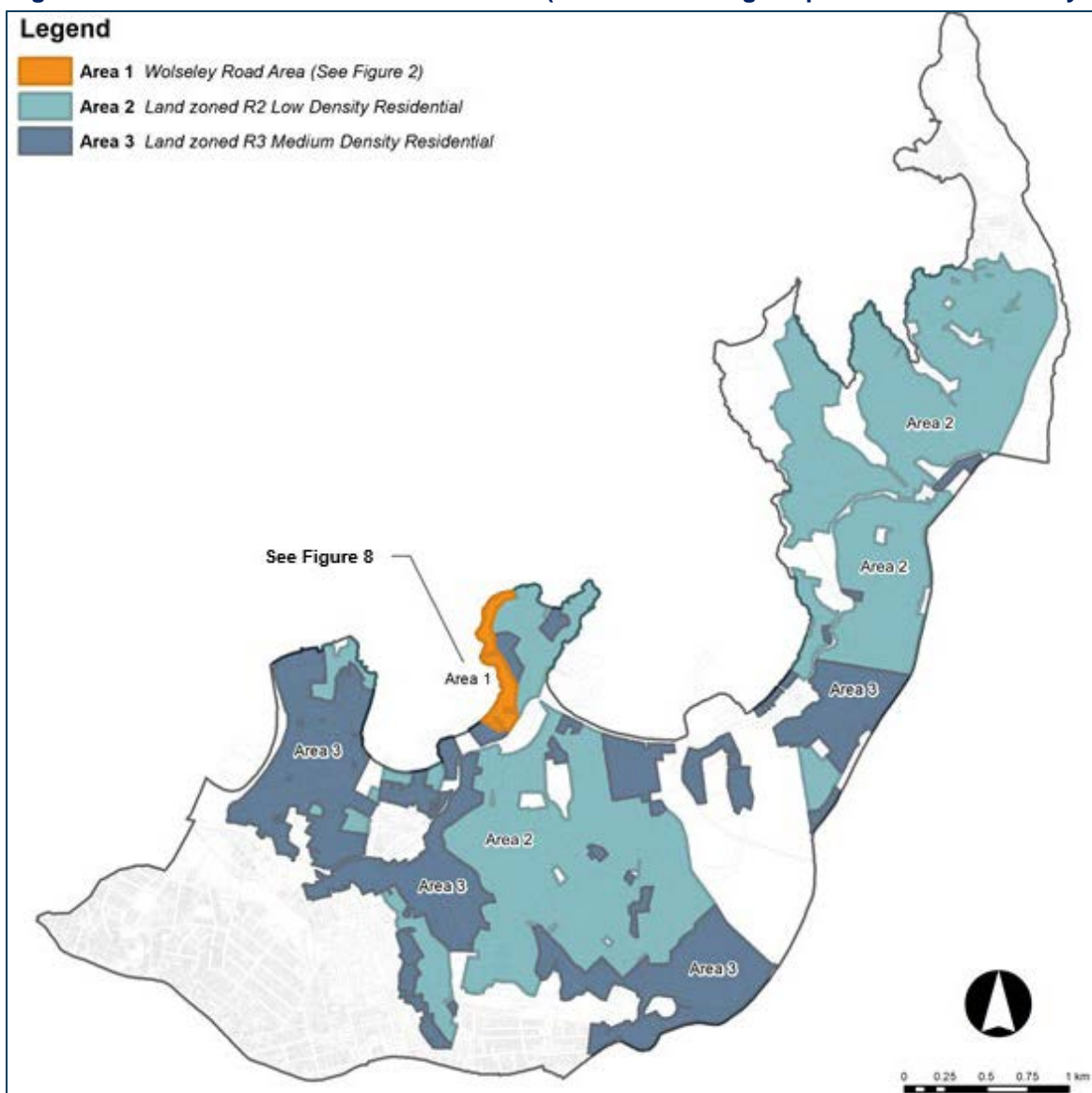
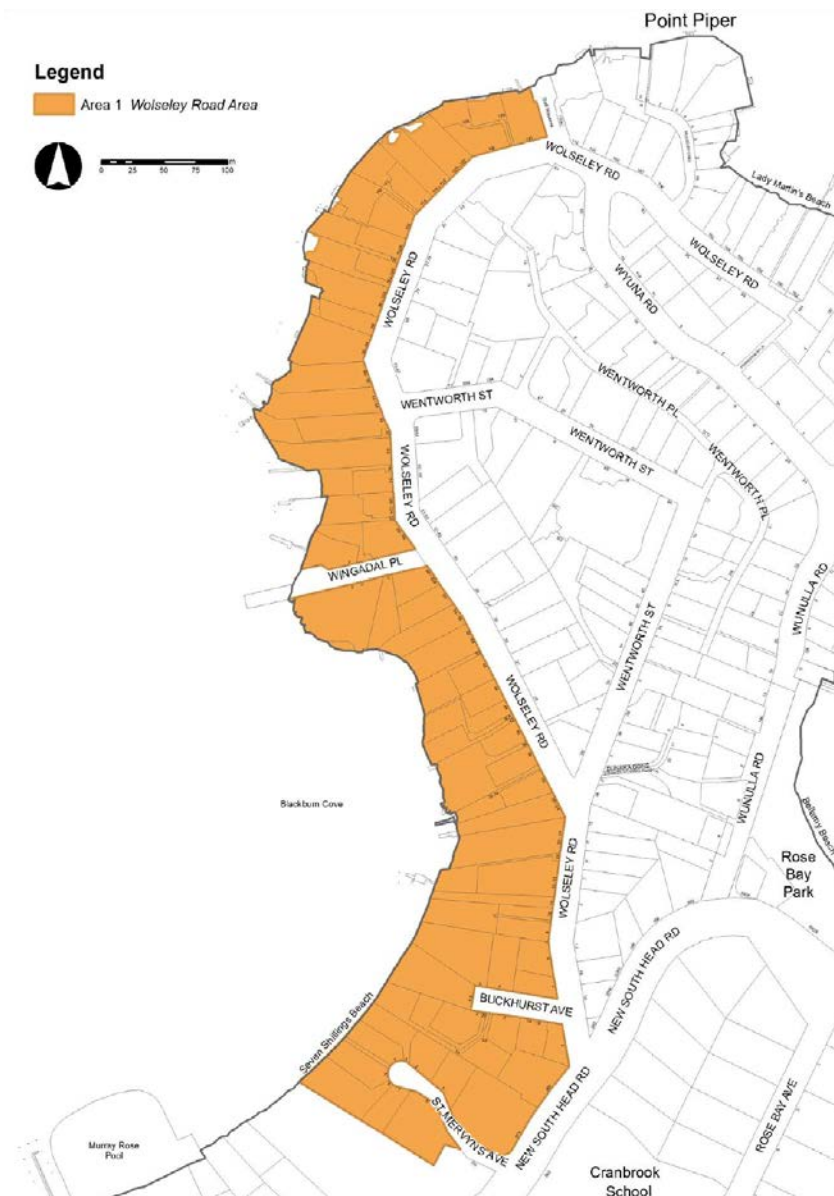


Figure 2 Affected land within the Wolseley Road area (source: Planning Proposal dated 2 February 2021)



1.3.4 Insert a new Urban Greening local provision within Woollahra LEP 2014

It is proposed to include amendments to clause 1.2 Aims of Plan and the Land Use Table zone objectives addressing matters of urban greening, urban heat island effect and climate change. The additional aims have been suggested to read as follows:

1.2 Aims of Plan

- (n) To encourage urban greening and minimise the urban heat island effect,
- (o) to mitigate climate change

As discussed, a plain English explanation of intent is required for these changes.

A new clause within Part 6 *Additional local provisions* of Woollahra LEP 2014 is identified as “Clause 6.8 Urban Greening” and the planning proposal includes the following draft clause:

Clause 6.8 Urban Greening

1. *The objective of this clause is to conserve and enhance urban greening, and in particular tree canopy/ area.*
2. *Subclause (3) applies to land in Zone R2 Low Density Residential and Zone R3 Medium Density Residential (excluding the Paddington, Woollahra and Watsons Bay Heritage Conservation Areas).*
3. *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—*
 - a) is consistent with the objectives of this clause, and*
 - b) provides an appropriate selection of and location for canopy trees, and*
 - c) minimises disturbance and adverse impacts on existing canopy trees which are to be retained.*

Council have commissioned a study “Woollahra: Greening our LGA” conducted by Lyndal Plant Urban Forrester. This report has analysed various development consents to establish a correlation between tree canopy cover and FSR. What was extrapolated from the investigation of recent approvals and baseline canopy cover levels was that the FSR of a site contributed to the extent of site coverage, which in turn determine the amount of achievable deep soil area and canopy cover.

The new urban greening provisions seek to enhance Council’s policies, procedures and planning controls to facilitate additional landscaping in private development and improve tree canopy cover.

Additional provisions relating to tree canopy enhancement and deep soil landscaping are to be included in amendments to Woollahra DCP 2015.

The planning proposal should be revised to describe the intent behind the proposed new clause stated above in plain English, with a note clarifying that the draft clause is only indicative. The above requirement has been included as a Gateway Condition.

1.3.5 Provide new definitions

The proposal states that the following new definitions will be incorporated in either the Woollahra LEP 2014 or Woollahra DCP 2015:

- **Urban heat island effect** *is localised warming caused by a lack of vegetation and large areas of impervious surfaces like roads, car parks and buildings.*
- **Urban greening** *is the integration of vegetation into development to decrease the urban heat island effect, improve microclimates and enhance mental and physical wellbeing.*
- A **tree crown** *is the total amount of foliage supported by the branches of an individual tree.*
- **Tree canopy area** *is the part of the site covered by the combined lateral spread of tree crowns of all trees above 3 metres in height and spread. Existing overhanging tree canopy from the street or neighbouring site/s is included in the calculation of tree canopy area on the subject site.*
- A **canopy tree** *is a tree that attains a minimum height of 8 metres and minimum crown diameter of 8 metres at maturity, and is planted in a deep soil landscaped area with a minimum dimension of 4 metres.*

These definitions pertain to more detailed design matters and are considered to be more appropriate for inclusion in the DCP, in lieu of an LEP amendment. A Gateway Condition is included to reflect this.

The explanation of provisions in the planning proposal would be considered satisfactory, subject to meeting the Gateway conditions recommended above.

1.4 Site description and surrounding area

The proposal relates to land zoned R2 Low Density Residential and R3 Medium Density Residential within the Woollahra LGA with the exclusion of land in the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas.

1.5 Mapping

The planning proposal includes mapping to identify where the new provisions will apply within the LGA (**Figure 1 and 2**). The mapping is high level in nature. Detailed mapping changes are not deemed necessary for the purposes of exhibition. It is recommended that the Paddington, Woollahra and Watsons Bay Heritage Conservation Areas, which are excluded from the proposed FSR controls, be annotated on the maps. A Gateway condition is recommended to be above effect.

1.6 Background

In preparing Woollahra LEP 2014, FSR standards were not applied to dwelling houses, dual occupancies and semi-detached dwellings in the R2 and R3 zones. This was because the definition for gross floor area (GFA) excludes elements including voids, mezzanine areas, large balconies and the thickness of external walls, there were concerns this would produce buildings of greater bulk.

A maximum floorplate control (measured across each level of a development) was introduced in Woollahra DCP 2015 which applies to dwelling houses, dual occupancies and semi-detached dwellings determined via a two-step methodology:

1. The buildable area is established by applying the front, rear and side setbacks
2. The maximum amount of development permitted on the site is then determined by multiplying the buildable area by a factor of 1.65 (165%).

This calculation method has proven complex, particularly for sites with irregular boundaries and battle-axe allotments, which triggered Council to research alternative controls for dwelling houses, dual occupancies and semi-detached dwellings, resulting in a suite of FSRs. Council proposes to introduce clearer statutory controls in the LEP to guide proponents and provide certainty for the community.

Planning Proposal 2019

On 29 April 2019, Council resolved to prepare a planning proposal introducing the following amendments to Woollahra LEP 2014:

- a) A maximum FSR control of 0.5:1 for low density residential development in the R2 Low Density Residential and R3 Medium Density Residential zones.
- b) A maximum FSR control of 0.75:1 for low density residential development in the Wolseley Road, Point Piper area.
- c) A range of maximum FSR controls for low density residential development on small lots in the R2 Low Density Residential and R3 Medium Density Residential zones.

On 27 June 2019, the Woollahra Local Planning Panel (WLPP) supported the proposed planning proposal with a recommendation to amend the FSR for lots greater than 400m² to 0.55:1, and supports a sliding scale FSR for small lots with a site area less than 400m².

On 15 July 2019, the Environmental Planning Committee considered a report containing the advice from the WLPP.

On 22 July 2019, Council resolved to submit the planning proposal to the Department for Gateway determination, with the original FSR of 0.5:1 for low density residential development on sites of 400m² or greater, with consequential amendment to the sliding scale FSRs for lots less than 400m².

The planning proposal was submitted to the Department on 30 July 2019 with a request for a Gateway determination.

On 2 September 2019, the Department wrote to Council advising that further information is required in order to proceed to Gateway determination. In summary, this letter advised that further information was required to support a maximum FSR of 0.5:1 for low density residential development in the R2 Low Density Residential Zone and R3 Medium Density Residential Zone and a maximum FSR of 0.75:1 for the Wolseley Road area.

On 11 November 2019, Council resolved to provide the additional information required by the Department, combined with new tree canopy controls in Council's Strategic Planning work program.

Council engaged a consultant, Lyndal Plant (consultant urban forester), to develop tree canopy controls with changes to Council's DCP controls to complement the proposed FSR standards.

On 2 December 2019, a workshop was held to update Councillors on the progress of the tree canopy controls. A further workshop was held with Councillors on 15 June 2020.

On 19 August 2020, an amended package of urban greening provisions was presented to the Council and representatives from the Department, being staff members from Green and Resilient Places and the Government Architect's Office (GA), and was generally supported by DPIE and Councillors.

On 23 November 2020, Council resolved to forward the revised planning proposal to DPIE for Gateway determination.

Planning Proposal 2021

On 2 February 2021, Council submitted an amended planning proposal to introduce floor space ratio standards for low density residential development combined with urban greening provisions. The amended proposal seeks the Minister for Planning and Public Spaces to authorise Council as the local plan-making authority in relation to the planning proposal under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

On 29 April 2021, Council wrote to the Department confirming that the revised planning proposal of 2 February 2021 is to be relied upon for the purposes of the Gateway determination.

2 Need for the planning proposal

This planning proposal is informed by the Woollahra Local Strategic Planning Statement 2020 (LSPS) and a five-year strategic review of Woollahra Council's density controls for low density residential development. Supporting this, Council commissioned a study titled 'Greening our LGA' prepared by Lyndal Plant Urban Forester, to investigate the correlation between FSR and deep soil area, and how that translates into tangible tree canopy cover which supports the intentions of this planning proposal. This study has informed the proposed urban greening provision in conjunction with a number of investigations and testing of planning controls that can be used to sustain and enhance future tree canopy.

A review of comparable controls in other Sydney metropolitan councils revealed that most apply an FSR standard contained within the LEP.

Since FSR and the resulting built form are integral to the character of a place, Council states that combining this with urban greening provisions will help ensure that future built forms align with the desired leafy character of the area.

The inclusion of urban greening provisions in the Woollahra LEP 2014 seeks to ensure the protection and enhancement of the natural environment to create resilient, sustainable and liveable neighbourhoods and provide greater weight to the proposed tree canopy and deep soil landscaped area controls to be included in the Woollahra DCP 2015.

In addition to amendments to Woollahra LEP 2014, it is intended to amend Woollahra DCP 2015 to introduce a minimum tree canopy control of 35% of the site area, and a minimum deep soil

landscaped area control of 35% of the site area for low density residential development (excluding the Wolseley Road Area).

Included in the suite of amendments are:

- New definitions of 'urban heat island effect', 'urban greening', 'tree crown', 'tree canopy area' and 'canopy tree'
- A list of trees species with their individual deep soil requirements and canopy areas at maturity in the DA Guide
- Urban greening controls and objectives across both the Woollahra LEP 2014 and the Woollahra DCP 2015.

Site testing and review of recently approved and constructed developments established approximate gross floor areas (GFA) and FSRs for each property analysed. Calculation of deep soil landscaped area and tree canopy area were then undertaken based on the landscape and architectural plans. Based on best practice guidelines developed by Lyndal Plant, potential improved tree canopy areas were identified for each site.

The research into the potential tree canopy and how it relates to the deep soil landscaped area controls identified that FSR is directly related to site coverage (**Figure 3**).

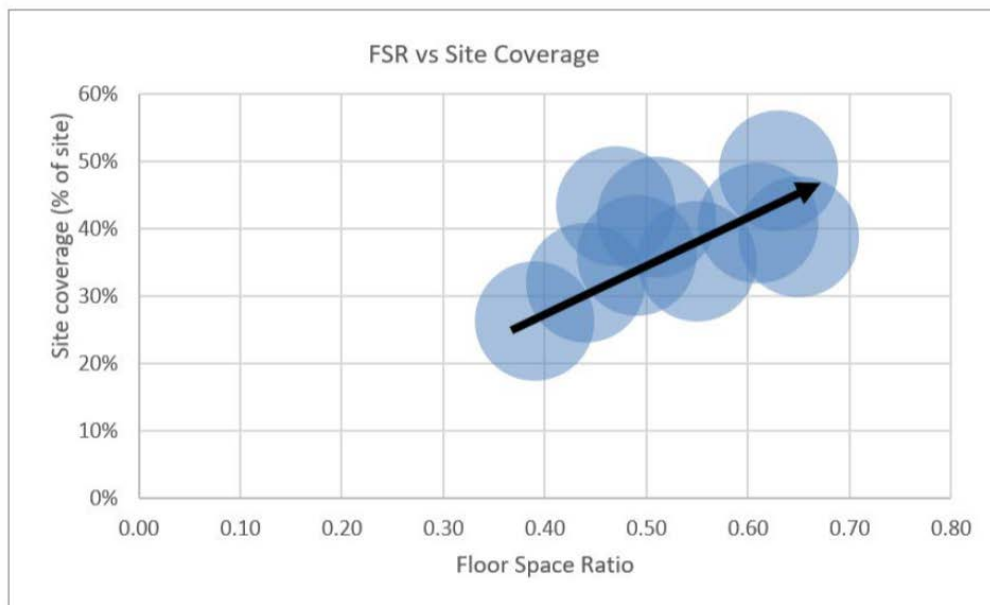


Figure 3 Graph depicting relationship between FSR and site coverage for dwelling houses (source: Planning Proposal dated 2 February 2021)

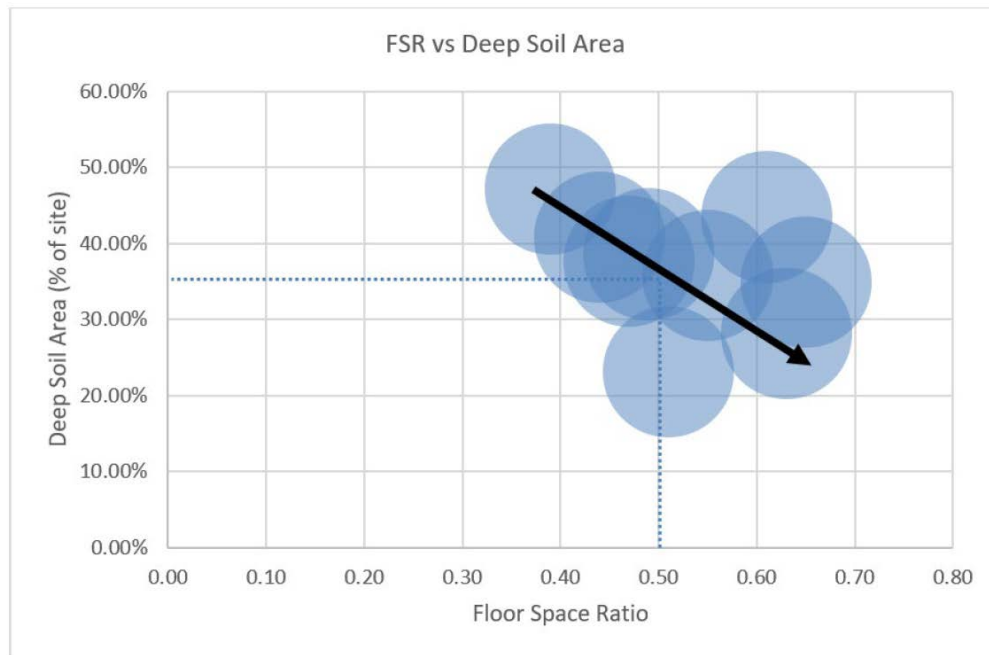


Figure 4 Graph depicting relationship between FSR and deep soil area for dwelling houses (source: Planning Proposal dated 2 February 2021)

Council's study has also demonstrated that an FSR of 0.5:1 for low density residential development would facilitate a balance of built form and reservation of 35% deep soil landscaped area, which would in turn achieve the desired tree canopy target of 35-40%.

For low density residential development in the Wolseley Road area, an FSR of 0.75:1 is proposed. This FSR is identified as being more consistent with the existing built form in this precinct which has a different character than other low density residential areas. In this area, Council is recommending a tree canopy control of 25% of the site area, and a deep soil landscaped area control of 30% of the site area. However, the proposal does not include testing and analysis as to how the proposed FSR standard of 0.75:1 was derived and its implications on site coverage and deep soil area. As discussed above, a Gateway Condition is recommended to require further explanation for the proposed FSR of 0.75:1 for the Wolseley Road area.

The proposal should also include evidence to demonstrate that an FSR of 0.5:1 would not restrict the viability of dual occupancy developments in the R3 zones, as this zoning seeks to provide a variety of housing types within a medium density residential environment. This would enable evaluation of any potential impact on housing diversity and supply across the R3 zones. A Gateway Condition has been included requiring further justification in consideration of the above.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Region Plan: *A Metropolis of Three Cities*.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
<i>Objective 12 – Great places that bring people together</i>	The use of FSR standards will simplify density controls for dwelling houses, dual occupancies and semi-detached dwellings whilst maintaining the place-based approach to planning.
<i>Objective 30 – Urban tree canopy is increased</i>	The proposed Urban Greening provisions seek to achieve an increase in urban canopy consistent with the objective of the Region Plan.
<i>Objective 40 – Plans refined by monitoring and reporting</i>	Over the last five years, and in collaboration with a practitioner working party, Council staff have been researching an appropriate suite of controls to apply to low density residential development. The planning proposal is the result of monitoring the application of the existing control set used in the Woollahra Municipality.

3.2 District Plan

The site is within the Eastern City District and the Greater Sydney Commission released the District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the District while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for liveability and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*, subject to *Planning Priority E5 - Providing housing supply, choice and affordability, with access to jobs, services and public transport* being addressed further. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 5 District Plan assessment

District Plan Priorities	Justification
<i>Planning Priority E5 - Providing housing supply, choice and affordability, with access to jobs, services and public transport</i>	<p>The proposal may have implications on housing supply and diversity, due to application of a new FSR standard for dual occupancies in the R3 zones. Further evidence should be provided to demonstrate that the proposed 0.5:1 FSR is adequate and viable for dual occupancy development in the R3 zones.</p> <p>A Gateway condition is recommended to update the discussion in the proposal against Priority E5 in light of the above.</p>
<i>Planning Priority E17 - Increasing urban tree canopy cover and delivering Green Grid connections</i>	<p>The insertion of urban greening provisions in the Woollahra LEP 2014 would ensure the protection and enhancement of the natural environment to create resilient, sustainable and liveable neighbourhoods.</p> <p>The proposed FSR controls would ensure adequate site coverage and allow deep soil areas to contribute to canopy cover.</p>

3.3 Local

The Department is satisfied the proposal is consistent with the following local plans. It is also consistent with the strategic direction and objectives, outlined in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Woollahra Local Strategic Planning Statement (LSPS)	<p>The planning proposal is consistent with the endorsed Woollahra LSPS, particularly with <i>Planning Priority 4 - Sustaining diverse housing choices in planned locations that enhance our lifestyles and fit in with our local character and scenic landscapes</i>.</p> <p>The proposal will give effect to the vision and priorities of the LSPS by providing a connection between FSR and urban greening through enhanced tree canopy on individual sites.</p> <p>The new urban greening component specifically enforces the Vision of the LSPS and the following Planning Priorities:</p> <p><i>Planning Priority 11 - Conserving, enhancing and connecting our diverse and healthy green spaces and habitat, including bushland, tree canopy, gardens and parklands,</i></p> <p><i>Planning Priority 12 - Protecting and enhancing our scenic and cultural landscapes,</i></p> <p><i>Planning Priority 13 - Improving the sustainability of our built environment, businesses, transport and lifestyles by using resources more efficiently and reducing emissions, pollution and waste generation, and</i></p> <p><i>Planning Priority 14 - Planning for resilience so we adapt and thrive despite urban and natural hazards, stressors and shocks, including climate change.</i></p>
Community Strategic Plan (CSP)	<p>The planning proposal is consistent with Council's CSP, particularly with the following Strategies:</p> <p>Goal 4 - Well planned neighbourhoods:</p> <p><i>Strategy 4.1 – Encourage and ensure high quality planning and urban design outcomes</i></p> <p><i>Strategy 4.2 – Promote sustainable design in future private and public development</i></p> <p><i>Strategy 4.6 - Ensure that planning and building requirements are complied with.</i></p> <p>Goal 5 – Liveable places</p> <p><i>Strategy 5.4 – Protect trees, streetscapes and landscapes</i></p> <p><i>Strategy 5.5 – Enhance the physical environment of our local suburbs, neighbourhoods and town centres</i></p> <p>Goal 8 – Sustainable use of resources</p> <p><i>Strategy 8.2 – Monitor and strategically manage environmental risks and impacts of climate change</i></p>

Local Strategies	Justification
Draft Woollahra Local Housing Strategy (LHS)	<p>The Draft Woollahra LHS is currently on exhibition from 23 August to 1 October 2021. The Draft LHS was not available when the current planning proposal was lodged with DPIE for Gateway. The Draft LHS will be reviewed by DPIE as part of an assurance/approval process.</p> <p>The Draft LHS identifies housing targets for the LGA as follows:</p> <ul style="list-style-type: none"> 0-5 year (2016-2021): 300 5-10 year (2021-2026): 500 10-20 year (2026-2036): 400 <p>The proposal is consistent with the following Objectives of the Draft LHS:</p> <ul style="list-style-type: none"> • Housing Objective 1. <i>Sustain a diverse range of housing types and protect low density neighbourhoods and villages</i> • Housing Objective 4. <i>Ensure that new housing contributes to tree canopy and long-term sustainability outcomes</i> <p>The proposal is consistent with the following Action:</p> <ul style="list-style-type: none"> • 5. <i>Protect and enhance tree canopy, urban greening and low density scale of our residential areas</i> – progressing this planning proposal is specifically referenced in this action. <p>The LHS notes that dual occupancy development in Woollahra “<i>has historically been relatively low. Council records show that since 2013 there have been 62 dual occupancies approved across the LGA, however, less than half have been constructed. However, recently there has been an increase with 14 currently under assessment (as at June 2021)</i>” (p. 47).</p> <p>As discussed above, a Gateway condition is recommended to demonstrate that the proposed FSR for dual occupancies in R3 zones will not restrict viability.</p> <p>A further condition is recommended to require the proposal to be revised prior to exhibition to address the Draft LHS.</p>

3.4 Local planning panel (LPP) recommendation

The amended planning proposal was considered by the Woollahra LPP on 15 October 2020. The Panel supported the removal of floorplate controls and accepted the reduced FSR at 0.5:1 in consideration of additional site testing undertaken which reinforced the connection between FSR, deep soil landscaping and tree canopy area. This is enhanced through the proposed Clause 6.8 *Urban Greening* and corresponding controls to be contained within Chapter B3: *General Development Controls* and Chapter E3: *Tree Management* of the draft DCP.

The Panel recommended Council proceed with the proposal and forward it to the Department for Gateway determination.

Council accepted the LPP advice on 23 November 2020.

3.5 Section 9.1 Ministerial Directions

The planning proposal’s consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
2.3 Heritage Conservation	Consistent	<p>The new FSR standards for dwelling houses, dual occupancies and semi-detached dwellings do not apply to the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas.</p> <p>The planning proposal does not seek any changes to the existing heritage listings and the provisions of Clause 5.10 of the Woollahra LEP 2014.</p> <p>The proposal is consistent with the Direction.</p>
3.1 Residential Zones Clause (4): A planning proposal must: (a) broaden the choice of building types and locations available in the housing market (d) be of good design	Requires further justification	<p>As discussed above, a Gateway condition is recommended to require further information to demonstrate that the proposed FSR for dual occupancies in R3 zones is achievable and viable.</p> <p>The proposed FSR standards were formulated in conjunction with new local provisions focusing on urban greening and tree canopy. As discussed above, further explanation is required to support the proposed FSR standard of 0.75:1 for the Wolseley Road area, and the sliding scale FSRs / yield controls for small lots, in terms of their urban design and greening outcome.</p> <p>The proposal should also include a comparison in the amount of floor space achievable under the existing DCP floor plate controls and the proposed FSRs, in order to demonstrate any significant difference in development outcomes.</p>
Clause (5): A planning proposal must: (b) not contain provisions which will reduce the permissible residential density of land	Consistent	<p>The proposal does not involve any amendment to lot size controls and would not result in significant changes in density across the R2 and R3 zones in terms of the number of dwellings deliverable.</p>
5.10 Implementation of Regional Plans	Consistent	<p>The proposal is consistent with the relevant objectives within the <i>Greater Sydney Region Plan: A Metropolis of Three Cities (2018)</i> and the relevant priorities and actions of the <i>Eastern City District Plan (2018)</i>.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
6.3 Site Specific Provisions	Minor inconsistency	<p>The planning proposal seeks to introduce an additional local provision relating to urban greening, with new definitions for <i>urban heat island effect</i>, <i>urban greening</i>, <i>tree crown</i> and <i>tree canopy area</i>. The proposal is not consistent with clause 4(c) of this direction.</p> <p>The proposed urban greening provision (i.e. proposed Clause 6.8) is considered to contribute to tree canopy cover and improve sustainability, and therefore is supported.</p> <p>As discussed above, the new definitions would be more appropriate to be contained in the DCP to provide more detailed planning and design guidance. A Gateway condition is recommended to remove the new definitions from the planning proposal.</p> <p>Subject to the Gateway condition, the extent of the inconsistency with this Direction is considered to be of minor significance and justified.</p>

3.6 State environmental planning policies (SEPPs)

The planning proposal does not contradict or hinder the application of any SEPPs.

Table 8 Assessment of planning proposal against relevant SEPPs and Regional Environmental Plans (SREPs)

SEPPs / REPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Coastal Management) 2018	Consistent	The proposal does not contain provisions contrary to the operation of this policy.
SREP (Sydney Harbour Catchment) 2005	Consistent	The planning proposal applies to land within the Sydney Harbour Catchment. The planning proposal is consistent with the planning principles under Part 2, clause 13 <i>Sydney Harbour Catchment</i> of the SREP.

4 Site-specific assessment

4.1 Environmental

The proposed FSR standards in conjunction with the urban greening provisions would contribute to increased tree canopy across the LGA and are considered to deliver a positive environmental impact.

4.2 Social and economic

Social:

As discussed above, the proposal may have an impact on housing diversity and choice, appropriate Gateway conditions have been recommended to require further justification to be provided.

Economic:

The proposed FSR controls would provide more clarity on potential yield to landowners and the development industry than the DCP floor plate controls.

As discussed above, additional analyses are required to demonstrate the viability of the FSR standard for dual occupancies in the R3 zone.

4.3 Infrastructure

There is no significant infrastructure demand that will result from the planning proposal. The planning proposal does not involve any amendments to the permissible land uses under the R2 and R3 zones or facilitate uplifts.

It is recommended that consultation be undertaken with public utility companies, service providers and emergency services during public exhibition as increased tree planting facilitated by the new controls may have maintenance or operational implications for these agencies.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate and forms part of the conditions of the Gateway determination.

5.2 Agencies

The proposal does not specifically identify which agencies Council intends to consult.

It is recommended the following agencies be consulted on the planning proposal and given 28 days to comment:

- Ausgrid
- Sydney Water
- Transport for NSW
- State Emergency Services

6 Timeframe

The Department recommends a time frame of 9 months (to May 2022) to allow time for the outstanding issues to be addressed and ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the Gateway is supported it also includes a condition requiring Council to report on the proposal by a specified milestone date.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

As the Draft Local Housing Strategy is still on exhibition and has not been approved by the Department, the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

8 Assessment Summary

The proposal is considered to provide more clarity and certainty for landowners and the community of the amount of floor space potentially achievable for a site. The proposed urban greening provisions would contribute to tree canopy cover and enhance environmental sustainability. The proposal is considered to have adequate merit to progress to Gateway.

The proposal is consistent with the Eastern City District Plan, local strategic plans and relevant SEPPs, subject to the following matters being resolved. The proposal would facilitate appropriate management of environmental impacts resulting from development and enhance local character and neighbourhood amenity.

As discussed in the body of this report, it is considered that the planning proposal requires further justification to address Section 9.1 Direction – *3.1 Residential Zones* and Planning Priority E5 *Providing housing supply, choice and affordability, with access to jobs, services and public transport* in the District Plan:

- Include a comparison in the amount of gross floor area achievable under the existing floor plate controls in the DCP and the proposed FSR standards.
- Provide an explanation of how the sliding scale FSRs and yield standards for small lots have been established.
- Provide an explanation of how the proposed FSR for the Wolseley Road area has been established having regard to the urban design and urban greening outcomes.
- Provide further evidence to demonstrate that the proposed FSR for dual occupancy developments in R3 zones is adequate and viable.
- Include a plain English explanation of the findings of the site testing provided in part 10 of the planning proposal.

In addition, the planning proposal should be amended to address the following prior to exhibition:

- Address the Draft Woollahra Local Housing Strategy.
- Amend the terminology to refer dual occupancies and semi-detached dwellings as ‘medium density’ residential developments.
- Provide a plain English explanation of the intended effects of the proposed amendments, and include an advisory that the draft clauses are indicative only and will be subject to drafting by Parliamentary Counsel’s Office, should the proposal progress to finalisation.
- Include an advisory referencing the proposed zoning framework under the “Employment Zones Review” as it relates to the proposal.
- Remove the definitions for ‘urban heat island effect’, ‘urban greening’, ‘tree crown’ and ‘canopy tree’ from the proposal, as it is more appropriate to include these in the DCP.
- Include minor mapping update.
- Update the project timeline.

9 Recommendation

It is recommended the delegate of the Secretary:

- Note the consistency with Section 9.1 Direction 3.1 Residential Zones is unresolved and will require justification.

It is recommended the delegate of the Minister determines the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be revised to:
 - a) Include a comparison of the amount of gross floor area achievable under the existing floor plate controls in the DCP and the proposed FSR standards.
 - b) Explain how the sliding scale FSRs and yield standards for small lots have been established, including an account for any difference from the site testing results.
 - c) Explain how the FSR for the Wolseley Road area has been established, having regard to urban design and urban greening outcomes.
 - d) Provide further evidence demonstrating that the FSR for dual occupancies in the R3 Medium Density Residential zone is adequate and viable.
 - e) Address the Planning Priority E5 within the Eastern City District Plan and Section 9.1 Direction 3.1 Residential Zones, based on information outlined in a) to d) above.
 - f) Include a plain English explanation of the findings of the site testing provided in part 10 of the planning proposal.
 - g) Include an advisory note referencing the Department's 'Employment Zones Reform' work, noting that the B1 Neighbourhood Centre and B2 Local Centre zones would likely align with the exhibited 'E1 Local Centre' zone, and the B4 Mixed Use zone with the 'MU1 Mixed Use' zone.
 - h) Address the Draft Woollahra Local Housing Strategy.
 - i) Amend the terminology to refer dual occupancies and semi-detached dwellings as 'medium density' residential developments, in lieu of 'low density'.
 - j) Provide a plain English explanation of the intended effects of the proposed amendments, including changes to the Aims of Plan, objectives of the relevant zones and Clause 4.4 *Floor space ratio*, and the proposed local provision relating to urban greening. Include an advisory to clarify that the draft clauses are indicative only and will be subject to drafting by Parliamentary Counsel's Office, should the proposal progress to finalisation.
 - k) Remove the definitions for 'urban heat island effect', 'urban greening', 'tree crown' and 'canopy tree' from the proposal, as it is more appropriate to include these in the DCP.
 - l) Update the mapping to annotate the Paddington, Woollahra and Watsons Bay Heritage Conservation Areas, which are excluded from the proposed FSR controls.
 - m) Update the project timeline based on the Gateway determination.
2. Consultation is required with the following public authorities:
 - Ausgrid
 - Sydney Water
 - Transport for NSW
 - State Emergency Services
3. The planning proposal should be made available for community consultation for a minimum of 28 days.

4. The planning proposal must be reported to Council for a final recommendation no more than 7 months from the date of the Gateway determination.
5. The timeframe for completing the LEP is to be **9 months** from the date of the Gateway determination.
6. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.



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31 August 2021

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