

Planning Proposal



Minimum lot size for dual occupancy (attached) development



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Supporting Documents

Appendix	Document
1	Report to the Environmental Planning Committee – 4 November 2019
2	Council resolution – 11 November 2019
3	Letter to the Minister of Planning and Public Spaces – 13 December 2019
4	Report to the Woollahra Local Planning Panel – 30 January 2020
5	Woollahra Local Planning Panel minutes – 30 January 2020
6	Report to the Environmental Planning Committee – 2 March 2020
7	Council resolution to lodge 800sqm lot size planning proposal – 9 March 2020
8	Report to the Environmental Planning Committee – 1 February 2021 (Annexure 1 included)
9	Council resolution to lodge 1200sqm lot size planning proposal – 22 February 2021

1. Introduction

1.1. Description of planning proposal

The objective of this planning proposal is to minimise the impact of dual occupancy (attached) development on residential amenity and the desired future character of the R2 Low Density Residential zone. The desired future character of this zone is to maintain and complement the existing low scale residential uses, which reinforce the landscaped setting of the area. This character was established in consultation with the local community.

Specifically, this planning proposal seeks to amend Clause 4.1A 'Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings' of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014), to increase the minimum lot size required for dual occupancy (attached) development in the R2 Low Density Residential zone from 460sqm to 1200sqm.

The planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the two documents prepared by the NSW Department of Planning, Industry and Environment titled *A Guide to Preparing Planning Proposals* (December 2018) and *A Guide to Preparing Local Environmental Plans* (December 2018).

The requirements for a planning proposal are provided in Sections 2 to 9 as follows:

- 3 Existing planning controls
- 4 Objective of planning proposal
- 5 Explanation of provisions
- 6 Justification
- 7 Mapping
- 8 Community consultation
- 9 Project timeline

The planning proposal has strategic merit and the key reasons to amend the Woollahra LEP 2014 are discussed in detail in Sections 6.1 to 6.4 of this document. A summary of these reasons is provided below:

1. The planning proposal will reduce the adverse impacts of dual occupancy (attached) development on the residential amenity and future character of the R2 Low Density Residential zone;
2. The planning proposal will not unreasonably impact on housing development in the LGA;
3. The planning proposal maintains the permissibility of dual occupancy (attached) development and will ensure planning controls continue to cater for present and future housing needs;
4. The planning proposal will ensure that new housing has appropriate access to infrastructure; and
5. The planning proposal is generally consistent with the relevant objectives and actions contained in applicable state, regional, district and local plans and strategies.

1.2. Background

1.2.1. Council Notice of Motion

On 8 July 2019, in response to a notice of motion Council resolved, in part:

- *THAT Council:*
 - A. *Receives a report, as a matter of urgency, in relation to amending its current Local Environmental Plan 2014 (“LEP”) to provide a minimum lot size of 800 square metres or other for dual occupancy (attached) developments in R2 Low Density Residential zones within the municipality.*
 - B. *Considers other amendments to its planning and development controls to give effect to the above, as soon as reasonably practicable, given the introduction of the Low Rise Medium Density Housing Code (part of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008) (“Code”) on 1 July 2019.*

The notice of motion was accompanied by the following background notes:

- *In October 2016 the Department of Planning and Environment exhibited a Draft Medium Density Housing Code for public comment, which proposed that dual occupancies, manor houses and multi dwelling housing, known as low rise medium density housing, be approved under a Complying Development Approvals pathway and without need for Council approval. The main aim of this was to fast track development and increase housing supply in Greater Sydney.*
- *The Complying Development Approvals process does not provide sufficient opportunity for community consultation on proposed development, and may result in more rapid densification of the municipality with significant impact and pressure on current infrastructure, which may not be able to keep pace.*
- *Council’s current development and planning controls are delivering housing, sufficient to meet the Greater Sydney State Government Housing target without the need for the Code.*
- *Council’s role as a planning authority is to accommodate the required level of growth in a balanced way. Growth needs to be carefully managed so that it responds to community expectations and is consistent with the desired future character of neighbourhoods. The operation of the Code will severely impact on this.*
- *In response to a Notice of Motion passed on 21 May 2018, Council obtained a 12-month exemption to the operation of the Code. This exemption will expire on 1 July 2019.*
- *When the Code commences operation, the mandated minimum lot size for development of a dual occupancy (attached) in an R2 Low Density Residential Zone will be the greater of 400 square meters, or whatever is provided for in Council’s LEP. Under the current LEP, that minimum lot size is 460 square meters.*
- *Being able to construct dual occupancy (attached) development in R2 Low Density Residential Zones through a Complying Development Approvals process may severely impact on the desired and future character of many of the municipality’s neighbourhoods, most especially in Vacluse, Rose Bay and Bellevue Hill.*
- *A way of improving planning outcomes for dual occupancy attached housing is the increase of lot sizes required for this type of development. This is because larger lot sizes generally allow for greater flexibility in design, resulting in less visually intrusive development. Also, larger lots can better accommodate ancillary elements that add bulk.*

- *On smaller lots, the impacts of dual occupancy attached development in the low-density neighbourhoods are intensified. The low-density neighbourhoods of Woollahra have a distinctive sense of place, which flows from a strong landscape character. The redevelopment of smaller lots to higher density generally fails to achieve an appropriate landscaped context, and magnifies the impacts of change within neighbourhoods. Achieving a balanced outcome for landscaping and quality design on small narrow lots is difficult because there is less area to resolve site-specific design issues. With the doubling or tripling of ancillary features, there is less area for deep soil landscaping and little space for large-scale canopy trees to be maintained and planted on site. Such developments outcomes do not maintain the low-density neighbourhood character, which is an underlying objective of the zone.*
- *It is recommended that Council limit the extent of medium density development which the Code will allow in R2 Low Density Residential Zones to land sizes of 800 square meters or more in order to maintain the character of the low-density neighbourhoods of Woollahra and better reflect the concerns of its residents. As mentioned above, Council's role as a planning authority is to accommodate the required level of growth in a balanced way. Growth needs to be carefully managed so that it responds to community expectations and is consistent with the desired future character of neighbourhoods. It is therefore entirely appropriate that Council tailors its planning framework to achieve better outcomes in its lower density zones.*
- *The intention of the proposed amendment is not to stop redevelopment in the lower density neighbourhoods, it merely requires it to be undertaken on larger lots where there is sufficient room to plant trees in the front and rear setback, and reduce the apparent density of development. This will assist in reducing the impacts of medium density developments in the low-density zones of Woollahra.*
- *The R3 Medium Density Residential zone is tailored to multi dwelling housing. The R3 zone facilitates a more dense urban form than the R2 zone and provides a transition between areas of single dwellings and areas of residential flats. The strategy supports Councils obligation to provide for a mix of housing types. The R3 zone has been applied to those areas most suitable for a more intense form of development.*

1.2.2. Establishment of Low Rise Housing Diversity Code

The Low Rise Housing Diversity Code ('the Code'), is contained within *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* ('Codes SEPP').

The Code applies to the following development types, limited to one or two storeys in height:

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

The Code permits dual occupancies, manor houses and terraces to be carried out under a 'fast track' complying development process. A complying development approval may be issued in 20 days if the proposal complies with all the relevant requirements of the Codes SEPP.

On 6 April 2018, amendments were made to the NSW planning system to facilitate the implementation of the Code. The amendments came into effect on 6 July 2018. However,

the commencement of the Code was deferred for Woollahra Council (as 1 of 46 councils) on three occasions:

1. In July 2018, the Code was deferred until **1 July 2019** to allow councils sufficient time to fully consider the potential impacts of the amendments.
2. In June 2019, the Code was deferred until **1 November 2019** to allow an independent review of the progress, impediments and pathways to the implementation of the Code.
3. In September 2019, the Code was deferred until **1 July 2020** as recommended by an independent review by Professor Roberta Ryan. The deferral was intended to allow councils to work with the Department of Planning, Industry and Environment ('DPIE') to identify and map areas of exceptional local character.

As the Code was not further deferred and has now commenced, the minimum lot size for dual occupancies (attached) under the Code is the same as that specified under the Woollahra LEP 2014.

1.2.3. Previous dual occupancy (attached) development applications

The public response to two contentious applications for dual occupancies (attached) were a significant motivation in the Notice of Motion and resolution of Council on 8 July 2019.

On 12 September 2019, development applications 347/2018/1 and 348/2018/1 were approved by the Woollahra Local Planning Panel under the section 8.2 review pathway after an initial refusal on 21 February 2019. The applications applied to two adjoining lots in the R2 Low Density Residential zone, both with a street address of 12 Greycliffe Avenue, Vacluse (Lots 28 & 29 in DP 7253). The lots were approximately 684sqm and 639sqm respectively, with one occupied by a single detached dwelling and the other being vacant.

The applications were the subject of significant community concern, attracting 39 individual submissions and an online petition with 324 signatures.

1.2.4. FSR and Urban Greening Project

On 29 April 2019, Council resolved to prepare a separate planning proposal for:

- 0.5:1 FSR for low density development in R2 and R3 zones;
- 0.75:1 FSR for Wolseley Road, Point Piper;
- A range of FSRs for small lots; and
- Specific objectives and amendments to accommodate the above.

Council also resolved to prepare a draft DCP with supporting amendments.

This original planning proposal was forwarded to DPIE on 30 July 2019. Following an initial assessment, DPIE requested further information from Council staff.

On 23 November 2020, Council resolved to forward an amended planning proposal to DPIE and request a gateway determination. This was accompanied by revised DCP amendments which supporting an LGA wide urban greening strategy, with landscaping and tree canopy requirements for residential development.

On 31 August 2021, a gateway determination was issued for the planning proposal. It is expected that public exhibition will take place in the first quarter of 2022. When implemented, the new FSR controls will apply to low density development in the LGA and will be supported by new urban greening provisions in the Woollahra DCP 2015 to increase the leafy character and amenity of the R2 Low Density Residential zone.

In this document, the planning proposal and urban greening provisions are referred to as the 'FSR and Urban Greening Project.'

1.2.5. Council resolution to prepare a planning proposal

On 4 November 2019, the *Environmental Planning Committee* (EPC) of Council considered a report identifying options to amend the Woollahra LEP 2014 controls, including a minimum lot size of 800sqm for dual occupancy (attached) developments in R2 Low Density Residential zone (**Appendix 1**).

On 11 November 2019, Council resolved, in part:

- C. *THAT a planning proposal be prepared to increase the minimum lot size of attached dual occupancies in the R2 zone to 800sqm.*
- D. *THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.*
- E. *THAT the advice of the Woollahra Local Planning Panel be reported back to the Environmental Planning Committee.*
- F. *THAT Council request the Minister for Planning and Public Spaces to exempt Woollahra Council from the commencement of the Low Rise Medium Density Housing Code for the Woollahra Local Government Area as it fails to deliver an increased diversity of housing.*
- G. *THAT Council advises the Minister that it does not agree with the independent review that there is strong community support for new multi dwelling housing in low density R2 zones, particularly within the Woollahra Municipality.*

1.2.6. Woollahra Local Planning Panel advice – 30 January 2020

On 30 January 2020, the *Woollahra Local Planning Panel* (Woollahra LPP) considered a report on the planning proposal. At that meeting the LPP provided the following advice:

THAT the Woollahra Local Planning Panel advises Council that:

- A. *It supports the planning proposal to amend clause 4.1A of the Woollahra Local Environmental Plan 2014 to increase the minimum lot size required for dual occupancy (attached) development in the R2 Low Density Residential Zone from 460 square metres to 800 square metres.*
- B. *The planning proposal should proceed.*
- C. *In the planning proposal include as appropriate reference to Item 2 of the opportunities listed in Section 8.3 minimum Lot size amendment in the report to the Environmental Planning Committee meeting on 4 November 2019.*

- D. *Carry out an analysis of options for a range of lot sizes for dual occupancy development (attached) in order to support the justification for the minimum lot size of 800m² and, if beneficial, provide those options to the Department of Planning, Industry and Environment as part of the planning proposal.*

1.2.7. Lodgement of planning proposal for 800sqm minimum lot size

On 9 March 2020, Council resolved to forward the planning proposal to the *Department of Planning, Industry and Environment* (DPIE) for a Gateway determination. The proposal was received by DPIE on 13 March 2020.

On 10 August 2020, DPIE advised that the planning proposal would not proceed and issued a letter to Woollahra Council citing a number of issues. Following a request for further feedback, an additional letter was issued by DPIE on 6 October 2020.

Issues raised in both letters are summarised below:

- The proposal would result in a 64% reduction in Code lots and would impact on long term housing supply;
- The proposal does not adequately distinguish between secondary dwellings and dual occupancies when discussing housing supply;
- The proposal does not indicate if the R3 Medium Density Residential zone has capacity for more low rise medium density dwellings;
- Further information is required on tree canopy calculations;
- Local government areas cited as having similar controls to those proposed have a different context to the Woollahra LGA;
- The proposal should include discussion about the Local Housing Strategy;
- Various minor errors and omissions require correction; and
- Further information is needed on built form, landscaping and setback outcomes of different lot sizes, including a comparison of Council's controls and the Code.

1.2.8. Revision of planning proposal to 1200sqm minimum lot size

After receiving DPIE's request for further information, Council staff carried out further research and site testing to build on the work originally undertaken for the planning proposal. This testing took into consideration the existing controls, recent developments and standards of the Code.

In particular, staff were looking for possible correlations between site area and the bulk and scale of dual occupancy (attached) development.

The preliminary site testing did not produce any correlation between the formerly proposed 800sqm site area and the desired outcomes for site coverage, bulk and landscaping.

Subsequently, staff reviewed the work undertaken for Council's separate FSR and Urban Greening Project, which seeks to introduce a 0.5:1 FSR for dwelling houses and dual occupancies in the R2 Low Density Residential and R3 Medium Density Residential zones.

More detailed testing did not identify any grounds to support the proposed 800sqm minimum lot size for dual occupancies (attached). This conclusion was based on an analysis of controls for site coverage, landscaped area, bulk and scale. However, the testing did find a relationship between site area and density. It found that a minimum site area of 1200sqm was required to achieve a maximum FSR of 0.5:1. Anything less than this area would result in dual occupancies achieving higher FSRs than that included in the FSR and Urban Greening Project. This would produce a significant inconsistency between the Code and future LEP.

This advice was considered by Council's EPC on 1 February 2021, and on 22 February 2021 Council unanimously resolved:

- A. *THAT the report on the planning proposal to introduce an 800sqm minimum lot size for attached dual occupancies to the Environmental Planning Committee meeting of 1 February 2021 be received and noted.*
- B. *THAT a written request be sent to the Minister for Planning and Public Spaces to formally proceed with an amended planning proposal seeking to introduce a 1,200sqm minimum lot size for attached dual occupancies in the R2 Low Density Residential Zone.*

1.3. Related Council actions

1.3.1. Council request for an exemption to the Code

On 13 December 2019, the Mayor of Woollahra Council wrote to the Minister for Planning and Public Spaces to request consideration of the 11 November 2019 Council resolution (**Appendix 2**). The letter stated that Council:

- Requests that the State Government exempt the Woollahra LGA from the Code as it will not deliver an increased diversity of housing
- Does not agree with the independent review of the Code undertaken by Professor Roberta Ryan, indicating that there is strong community support for new multi dwelling housing in low density zones, particularly in the Woollahra LGA.

Council requested an exemption from the Code for the following reasons:

- The Code is designed to deliver diverse housing to meet the needs of a growing and changing population, and support the Government's commitment of promoting more 'missing middle' development, such as low-rise dual occupancies, manor houses and terraces.

However, the Code is not required in the Woollahra LGA for these purposes as medium density housing already accounts for more than 30% of all dwellings in the LGA, compared with a Greater Sydney average of approximately 20% (ABS Census, 2016).

High density housing also accounts for more than 48% of all dwellings in the LGA, compared with the Greater Sydney average of 23.5%. Together with the supply of medium density housing, there is already a sufficient density mix.

- Council was working to develop a Local Housing Strategy, which at the time of this preparing this planning proposal has been endorsed by Council and has been submitted to DPIE for finalisation.

The Local Housing Strategy was said to provide opportunities for further housing in the right locations for growth, including areas that are suitable for significant change in the short to medium term.

- Council was concerned about the following consequences of allowing the Code to operate in the LGA:
 - The Code would undermine the precinct-based, fine grain local planning controls developed in consultation with the local community.
 - The Code and design guide would not address the existing or desired future local character of the LGA.
 - The Code would not allow for the assessment of amenity impacts on neighbouring land.
 - The existing complying development framework has a significant number of shortfalls, which will be amplified by the commencement of the Code.

The recommendations of this letter were not adopted by the Minister and the Code commenced in Woollahra in July 2020.

1.3.2. Comment on community support

Council does not agree with the independent review of the Code stating that there is strong community support for new multi dwelling housing in low density R2 Low Density Residential zones, particularly in the Woollahra LGA.

Section 2.4 of the independent review summarises the sources used to understand community views about medium density housing. These included a:

- 2011 online survey of Sydney and Melbourne residents commissioned by the Grattan Institute (the Grattan Survey);
- 2013 statistically representative phone survey of NSW residents by the University of Technology Sydney (the UTS survey);
- 2016 online survey of Sydney and Melbourne residents by the Centre for Urban Transitions (the CUT survey); and
- 2019 phone survey of Sydney residents by the Committee for Sydney (the CfS survey).

The surveys asked respondents about preferred features and locations for low, medium and high density housing (the Grattan Institute, CUT, UTS and CfS surveys), and whether they wish to comment on development applications for different housing types (the UTS survey).

Although the independent review found that “there is strong support from communities for an increase in housing diversity”, the survey results do not reflect this finding. In all surveys, less than half of all respondents indicated a personal housing preference for medium density housing, with some levels of support being as low as 16% of respondents in the CUT survey.

Additionally, the UTS survey was the only one to gauge community expectations for input into the approval process. It reported that 62% of respondents expected an input into development applications for medium density housing.

Council consistently receives strong community opposition to development applications for medium density housing, especially to dual occupancy development on small lots. As described earlier in this report, a recent example of this opposition was for two development applications for dual occupancy (attached) development on adjoining properties in Vaucluse.

2. Background Research

2.1. Similar planning proposals by other Councils

The independent review of the Code identified that 17 planning proposals relating to the Code had been submitted by councils that previously requested deferral. These most commonly sought to:

- Limit the permissibility of different types of multi dwelling housing in certain zones and/or locations, particularly dual occupancies and manor homes;
- Change development standards for some types of medium density housing, particularly minimum lot sizes and building heights for dual occupancies;
- Restrict the application of the Code to particular zones; and
- Permanently exempt the Code from applying to existing residential zones, whilst adopting some Code controls into LEP and DCP controls.

Table 1 summarises examples of these planning proposals and their progress status. It is noted that most examples were finalised and implemented within 12-16 months of their submission date.

Table 1: Recent planning proposals relating to the Code

Council / LEP	Control	Request to DPIE / Gateway determination	Status (November 2021)
Amendments to minimum lot size			
Camden Camden LEP 2010	600sqm minimum lot size for dual occupancies (800sqm on corner lots) where they are permissible	31 August 2018 18 October 2018	Amended LEP in force
Cumberland Auburn LEP 2010 Holroyd LEP 2013	585sqm minimum lot size for dual occupancies where mapped in low density zones	27 July 2018 6 September 2018	Amended LEPs in force
Georges River Hurstville LEP 2012 Kogarah LEP 2012	650sqm minimum lot size for dual occupancies (increased from 630sqm)	26 June 2018 31 July 2018	In force under Georges River LEP 2021
Kiama Kiama LEP 2011	<ul style="list-style-type: none"> - 300sqm minimum lot size for dual occupancies in all the R2 zones except Jamberoo - 400sqm minimum lot size for dual occupancies and terraces in the R2 zone in Jamberoo 	6 July 2018 31 July 2018	Amended LEP in force
Randwick Randwick LEP 2012	Adopt the minimum strata and Torrens Title subdivision lot size standards of the Codes SEPP for subdivision of dual occupancies	27 April 2018 10 May 2018	Amended LEP in force
Sutherland Sutherland Shire LEP 2015	<ul style="list-style-type: none"> - 600sqm minimum lot size for dual occupancies in R2 zone - 1,200sqm minimum lot size for multi dwelling housing in R2 zone 	21 September 2017 6 December 2018	Amended LEP in force
The Hills The Hills LEP 2012	900sqm minimum lot area for manor homes in the R3 zone	24 October 2018 11 January 2019	In force under Hills LEP 2019
Wingecarribee Wingecarribee LEP 2010	1,000sqm minimum lot size for dual occupancies in the R2 and R3 zones	9 April 2019 29 May 2019	Amended LEP in force
Amendments to land use permissibility			
Campbelltown Campbelltown LEP 2015	Prohibit multi dwelling housing in R2 zone	22 August 2018 15 October 2018	Amended LEP in force
Canterbury-Bankstown Bankstown LEP 2015	Prohibit multi dwelling housing in R2 zone	8 May 2018 31 July 2018	Amended LEP in force
Lane Cove Lane Cove LEP 2009	Prohibit multi dwelling housing in R2 zone	10 May 2018 6 July 2018	Amended LEP in force

Detailed information on three of these planning proposals is provided below.

2.1.1. Sutherland Shire Council

On 1 February 2019, the *Sutherland Shire Local Environmental Plan 2015 (Amendment No 14)* introduced the following:

- A minimum lot size of 600sqm for dual occupancies in the R2 Low Density Residential zone; and
- A minimum lot size of 1,200sqm for the construction of multi dwelling housing in the R2 Low Density Residential zone.

Sutherland Shire Council noted that the 600sqm minimum lot size requirement had existed previously in *Sutherland Local Environmental Plan 2006*. The standard was removed in the *Sutherland Shire Local Environmental Plan 2015* to encourage additional housing diversity. However, a significant rise (almost a doubling) in dual occupancy applications was observed on lots considered to be 'small' (below 500sqm) following the removal of this standard. This increase in development impacted the local character of low density residential areas in terms of landscaping, privacy and visual bulk.

Sutherland Council justified the amendment to minimum lot sizes by reasoning that it would:

- Achieve the objectives of the R2 Low Density Residential zone, by providing for housing needs in a low density residential environment;
- Improve built form outcomes by providing greater flexibility in design options; and
- Lessen the residential amenity impact on neighbouring land.

The planning proposal was supported by DPIE for the following reasons:

- The proposal maintained the ability to construct dual occupancies and multi dwelling housing;
- The changes would not impede Council's ability to provide housing supply and diversity, despite some minor implications for supply;
- The proposal would facilitate improved built form outcomes; and
- The amendments would lessen impacts on the amenity of neighbouring lots.

The issues responsible for Sutherland Shire Council submitting this planning proposal are similar to those being felt in the Woollahra LGA. The development of dual occupancies significantly reduces the ability to provide high quality, deep soil landscaping that softens the built form's impact on the streetscape. However, unlike Sutherland Shire, low density areas of the Woollahra LGA are characterised by larger lots and extensive landscaping. It is also expected that an FSR of 0.5:1 will apply to dual occupancies from 2022 onwards. Accordingly, a larger minimum lot size of 1200sqm is required for Woollahra.

2.1.2. Camden Council

On 31 August 2018, Camden Council submitted a planning proposal seeking to amend the *Camden Local Environmental Plan 2010* (Camden LEP 2010) by inserting the following minimum lot size controls:

- Dual occupancies:
 - 600sqm minimum lot size control, or 800sqm for corner lots; and
 - 18m minimum street frontage control where dwellings are directly adjacent to each other or 22m where dwellings are directly behind one another.
- Multi dwelling housing:
 - 1,500sqm minimum lot size control; and
 - 25m minimum lot frontage control.

Camden Council noted that the 600sqm and 800sqm minimum lot size requirements for dual occupancies previously existed in the *Camden Development Control Plan 2011*. Translating this control to a standard in the Camden LEP 2010 was intended to introduce stronger planning controls and achieve consistency between development applications and complying development certificates. The 1,500sqm standard for multi dwelling housing was based on a comparison of standards from other Sydney councils including Blacktown, Canterbury-Bankstown and Liverpool, and some areas controlled by the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*.

Council justified the amendment by reasoning that it would:

- Introduce appropriate controls to effectively manage low rise medium density development when the Code came into effect;
- Enable sustainable residential growth that is compatible with the character of established and transitioning areas;
- Ensure that sufficient space is provided to accommodate setbacks, private open space, ancillary buildings and driveway access while maintaining the amenity and character of established neighbourhoods; and
- Satisfy the objectives of the Camden LEP 2010 to ensure Camden retains its valued character and scenic qualities.

DPIE issued a gateway determination 18 October 2018, noting the amendments would:

- Ensure design excellence for dual occupancies and multi dwelling housing;
- Provide a consistent approach for applying a minimum lot size and lot frontage to dual occupancies and multi dwelling housing; and
- Complement the provisions and best-practice principles of the Code.

2.1.3. Lane Cove

On 14 June 2019, the *Lane Cove Local Environmental Plan 2009* (Lane Cove LEP 2009) was amended to remove “multi dwelling housing” as a permissible use in the R2 Low Density Residential zone. However, dual occupancies are still permitted with development consent.

The amendment was requested primarily in response to the introduction of the Code. The amendments to the Lane Cove LEP 2009 align it with the Woollahra LEP 2014, in which multi dwelling housing is not permitted but dual occupancies are permitted in the R2 Low Density Residential zone.

DPIE supported the planning proposal for the following reasons:

- The previous LEP planning controls limited the scale of multi dwelling housing development to a single storey, with the intent to maintain the low-density character of the zone.
- The Code was not consistent with Council's intent for single storey villas in the R2 Low Density Residential zone.
- Only one DA had been received for multi dwelling housing in the R2 Low Density Residential zone since 2010, therefore the proposal was likely to have a minor impact on supply.

2.1.4. DPIE requirements for justifying planning proposals relating to the Code

In considering the justification of these planning proposals, DPIE has generally requested the following supporting information from councils:

- The number of dual occupancy or multi dwelling housing developments approved in the R2 Low Density Residential zone in the last five years;
- The number of lots currently zoned R2 Low Density Residential and R3 Medium Density Residential in the LGAs;
- The number of lots that would be eligible for low rise medium density housing development (i.e. dual C, manor homes and multi dwelling housing) under the Code, taking into account Code SEPP exclusions, such as foreshore areas and sites below the minimum lot size; and
- Whether the proposal is supported by a local housing strategy that has been developed in consultation with the community.

An analysis of dual occupancy development in the Woollahra LGA is provided in the section below.

2.2. Analysis of dual occupancy development in the Woollahra LGA

An investigation of dual occupancy approvals in the Woollahra LGA is provided below.

2.2.1. Number of approved applications for dual occupancy development

Table 2 shows the number of approved development applications for dual occupancies in the R2 Low Density Residential zone between January of 2015 and June 2021.

Table 2: Approved development applications for dual occupancies 2015 - 2021

Year	Attached	Detached	% Attached	Number Constructed from Year
2015	11	0	100%	9
2016	14	1	93%	8
2017	5	0	100%	4
2018	10	2	83%	8
2019	5	0	100%	2
2020	10	0	100%	0 as at 13/12/21
2021	3	1	75%	0 as at 13/12/21

Table 3 shows the number of issued complying development certificates for dual occupancies in the R2 Low Density Residential zone since the commencement of the Code on 1 July 2020.

Table 3: Approved complying developments for dual occupancies 2020 - 2021

Year	Attached	Detached	% Attached	Number Constructed from Year
2020	0	0	N/A	0 at 13/12/21
2021	3	0	100%	0 at 13/12/21

It can be seen that there has been a steady pipeline of applications for dual occupancy development since 2015. There has also been limited uptake of the Code in the Woollahra LGA since its commencement in 2020.

This pattern can likely be attributed to the high existing supply of denser housing in the Woollahra LGA, highlighted by the census data summarised above. As such, it can be reasonably assumed that lower density lots are valued for their landscaped character and amenity and are less likely to be developed into dual occupancies.

This data underlines the fact that dual occupancies comprise a small number of developments in the LGA and amendments to their controls are unlikely to have a significant impact on housing supply.

2.2.2. Permissibility of dual occupancy development in the Woollahra LGA

Dual occupancies are currently permitted in the R2 Low Density Residential and R3 Medium Density Residential zones under the Woollahra LEP 2014. Accordingly, development under the Code is also possible in these zones.

The Code also excludes complying development on certain land, including:

- Land that comprises, or on which there is a heritage item (state or local), a draft heritage item or land subject to an interim heritage order;

- Land in a heritage conservation area or a draft heritage conservation area;
- Land that is reserved for a public purpose;
- Land identified on the Acid Sulfate Soils Map as being Class 1 or Class 2; and
- Land in the foreshore area (which is land between a foreshore building line and the mean high water mark).

2.2.3. Lots where dual occupancy development is permitted

Table 1 shows the total number of R2 Low Density Residential zoned lots in the LGA, and those where complying development may be carried out (Code lots), sorted by lot size.

Table 1: Count of all R2 lots and lots to which the Code applies

R2 zone lots and minimum size of lot	All R2 lots	All R2 lots %	R2 Code lots	R2 Code lots %	R2 Code lots as % of all lots
Less than 460sqm	5418	59%	0 (below minimum size)	0%	0%
460sqm - 800sqm	2434	26%	2180	65%	23%
800sqm – 930sqm	587	6%	525	16%	6%
930sqm – 1200sqm	506	5%	425	13%	5%
Greater than 1200sqm	341	4%	204	6%	2%
Total R2 lots	9285	100%	3334	100%	38% of total lots

The table illustrates that:

- 41% of all R2 Low Density Residential zoned lots are 460sqm or larger, currently permitting dual occupancies (attached) as a development application. This would be reduced to 4% of lots if a minimum lot size control of 1200sqm was introduced for dual occupancy (attached) development.
- 38% of all R2 Low Density Residential zoned lots are Code lots and will permit dual occupancies (attached) as complying development. This would be reduced to 2% of all lots if a minimum lot size of 1200sqm was introduced.

Additionally, it should be noted that the number of Code lots would be further reduced once other site specific standards and restrictions are considered (such as battle-axe lots and minimum lot widths).

As shown in **Figure 1** below, the majority of existing Code lots are distributed in areas of the LGA that are further from public transportation and commercial hubs. Large concentrations are located in Vacluse, Bellevue Hill and northern areas of Rose Bay.

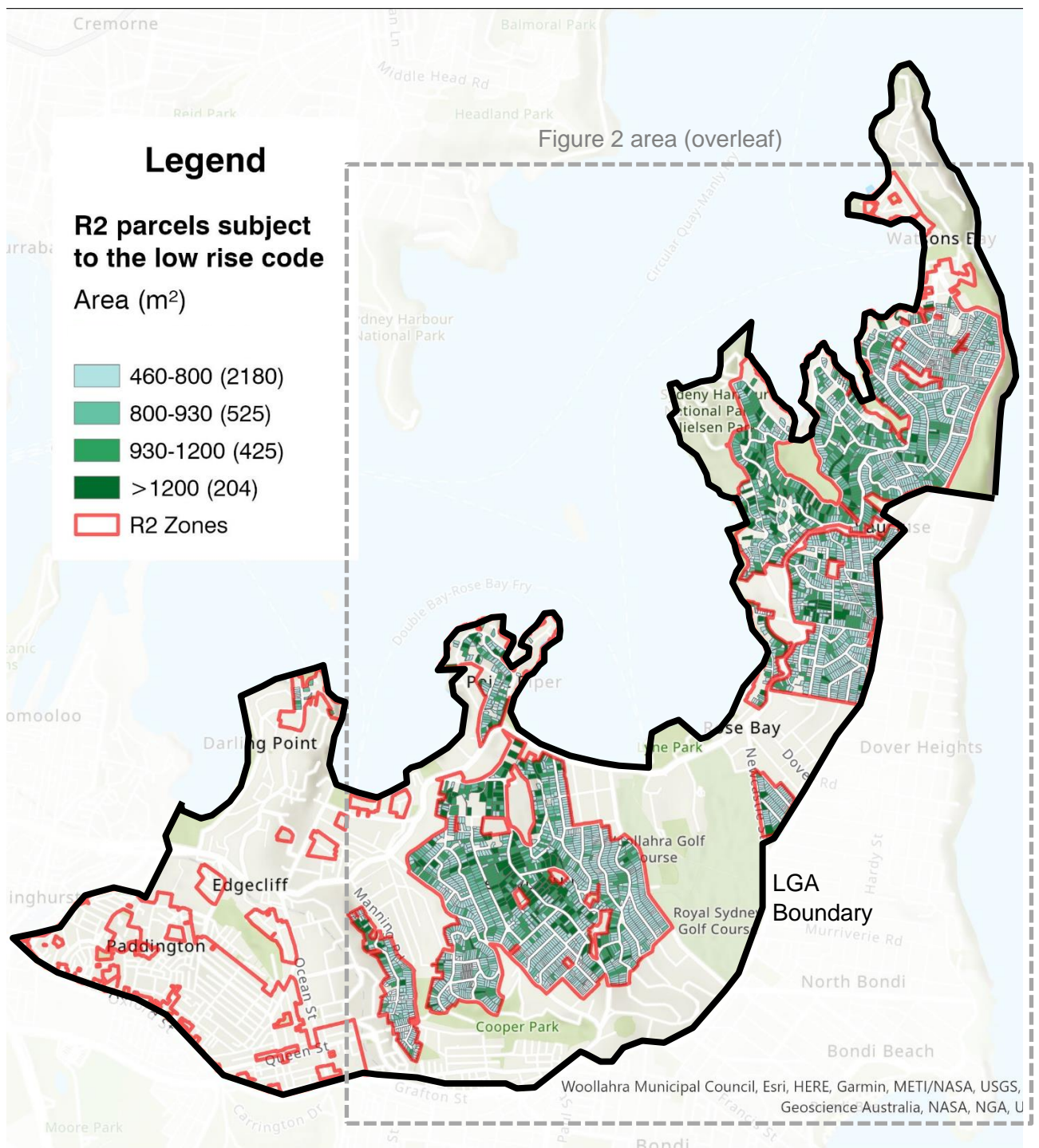


Figure 1: LGA map showing distribution of Code lots.

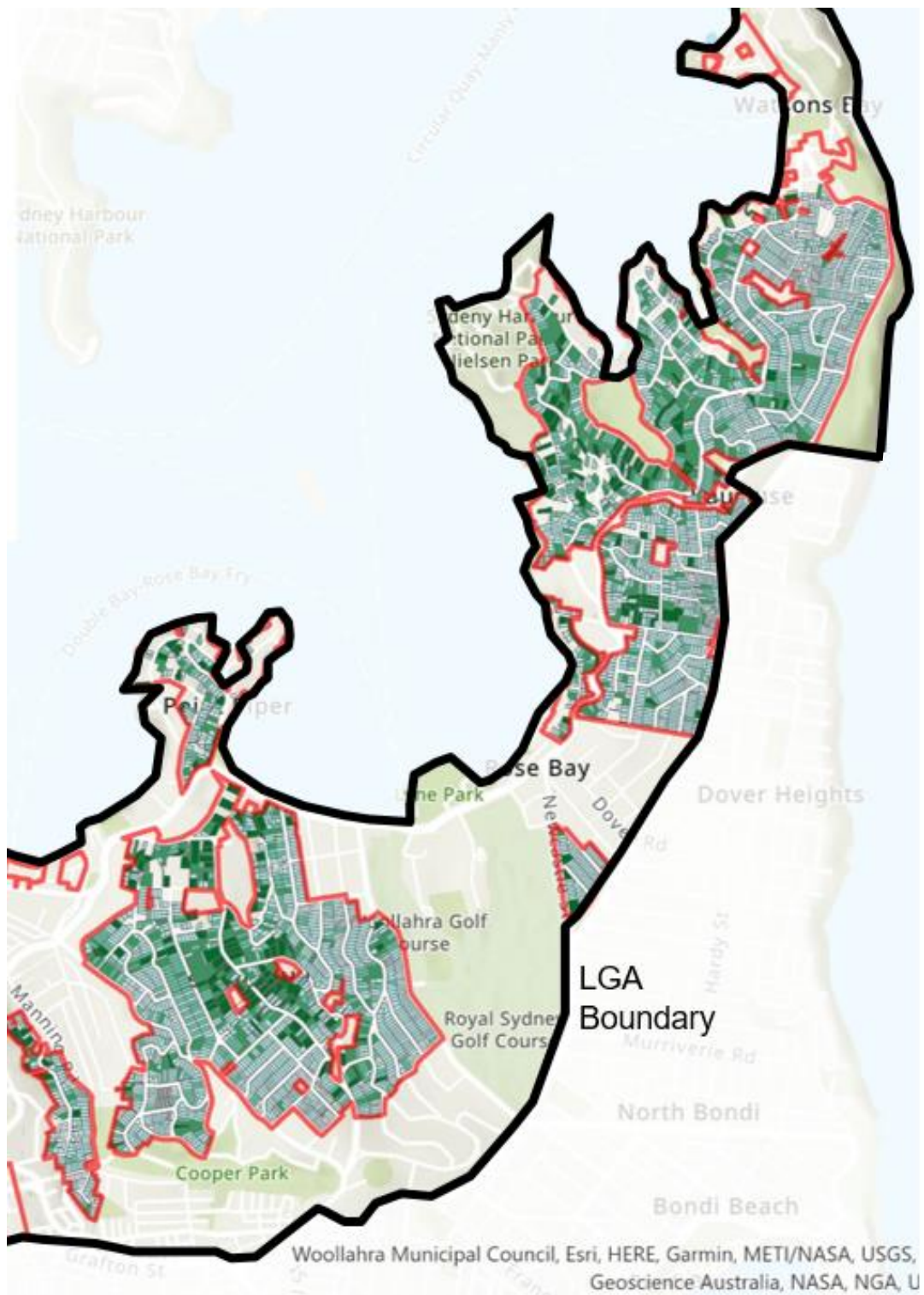


Figure 2: Closer view of Code lot locations.

2.2.4. Development scale of dual occupancies

The development scale achievable on a site can be expressed as a maximum gross floor area (GFA). There are different methods of calculating GFA for dual occupancy development in the Woollahra LEP 2014, Woollahra DCP 2015 and the Code.

GFA controls can be expressed as a formula, a specific number (sqm) or, as in most LEPs, a floor space ratio (FSR).

Currently, the GFA for development applications in the Woollahra LGA is determined by floorplate controls set out in the Woollahra DCP 2015. However, as previously noted, Council staff have submitted a planning proposal seeking an FSR control of 0.5:1 for low density residential development (including dual occupancies). The new FSR control will replace the floorplate controls in the Woollahra DCP 2015. A Gateway determination has now been issued, with the planning proposal expected to be publically exhibited in the first quarter of 2022. It is expected that the new FSR control will be in force in the coming year.

The Code provides its own standards for the permissible GFA of dual occupancies. This is based on the formulae below:

- Dual occupancy (attached) (side by side)
GFA = 25% of lot area + 300sqm to a maximum of 800sqm
- Dual occupancy (attached) (above and below)
GFA = 25% of lot area + 150sqm to a maximum of 400sqm
- Dual occupancy (detached)
GFA = 25% of lot area + 300sqm to a maximum of 800sqm

Table 2: Maximum GFA for dual occupancy development in the R2 zone
(greatest GFA per type shown in bold)

Dual occupancy type	Lot size ¹	Code	Woollahra DCP 2015 (floorplate) ²	Woollahra LEP 2014 (0.5:1 FSR) ³
Dual occupancy (attached) (side by side)	460sqm	415sqm	253sqm	230sqm
	1200sqm	600sqm	660sqm	600sqm
Dual occupancy (attached) (above and below)	460sqm	265sqm	253sqm	230sqm
	1200sqm	450sqm	660sqm	600sqm
Dual occupancy (detached)	930sqm	532.5sqm	511.5sqm	465sqm
Notes: 1. The minimum lot sizes permissible for complying development under the Code is the same as that permissible for development consent under Woollahra LEP 2014. 2. The Woollahra DCP 2015 floorplate controls exclude outbuildings such as decks, sheds, garages and detached studios. The floorplate controls translate to the equivalent of an FSR of approximately 0.55:1. 3. The GFA calculations for dual occupancies in the Woollahra LEP 2014 column is based on an FSR of 0.5:1.				

Table 2 compares the development scale of dual occupancies achievable under complying development with that for development applications approved using the Woollahra DCP 2015 floorplate controls and the proposed 0.5:1 FSR control.

The table illustrates that the scale of dual occupancy development under the Code is greater in almost all cases than that permitted under the existing Woollahra DCP 2015 floorplate controls and proposed FSR standard. The larger GFA of complying development dual occupancies will undermine the amended LEP control.

2.3. Comparison with other Councils' LEPs

Table 3 summarises minimum lot size controls in LEPs of Greater Sydney councils. The sizes vary between 450sqm to 2 hectares.

Table 3: Review of LEPs with minimum lot sizes for dual occupancies

LEP	Zone / Area / Condition	Minimum lot size for dual occupancies	
		Attached	Detached
Fairfield LEP 2013	As mapped (Permitted in RU2, RU4, R2 and R4 zones)	600sqm, 900sqm, 4000sqm or 2 ha	600sqm, 900sqm, 4000sqm or 2 ha
Georges River LEP 2021	R2, R3 and R4 zones	650sqm	650sqm
Woollahra LEP 2014	<ul style="list-style-type: none"> R2 zone R3 zone 	<ul style="list-style-type: none"> 460sqm 460sqm 	<ul style="list-style-type: none"> 930sqm 460sqm
Pittwater LEP 2014	RU2, R2 and R3 zones	800sqm	800sqm
Hunters Hill LEP 2012	R2 and R3 zones	700sqm	900sqm
Willoughby LEP 2012	R2 and E4 zones	700sqm	900sqm
The Hills LEP 2019	<ul style="list-style-type: none"> R2 zone R3 zone R4 zone 	<ul style="list-style-type: none"> 600sqm 600sqm 1800sqm 	<ul style="list-style-type: none"> 700sqm 700sqm 1800sqm
Canterbury LEP 2012	R2, R3 and R4 zones	600sqm	600sqm
Bankstown LEP 2015	R2 zone	500sqm	700sqm
Blacktown LEP 2015	R2 zone	500sqm	600sqm
Burwood LEP 2012	R1, R2 and R3 zones	500sqm	600sqm
Ryde LEP 2014	R2 zone	580sqm	Not permitted
Randwick LEP 2012	R2 zone	450sqm	No control
North Sydney LEP 2013	R2, R3 and R4 zones	450sqm	450sqm
Hornsby LEP	No clause	N/A	N/A
Ku-ring-gai LEP 2015	No clause	N/A	N/A
Lane Cove LEP 2009	No clause	N/A	N/A

LEP	Zone / Area / Condition	Minimum lot size for dual occupancies	
		Attached	Detached
Manly LEP 2013	No clause	N/A	N/A
Mosman LEP 2012	No clause	N/A	N/A
Warringah LEP 2011	No clause	N/A	N/A

The largest controls generally relate to semi-rural areas such as the RU2 Rural Landscape and RU4 Primary Production Small Lots zones, or special areas defined by the LEPs. However, the minimum lot size of dual occupancy (attached) development is generally in the 600 to 700sqm range. A notable exception is the Pittwater LEP 2014 at 800sqm.

Notwithstanding the above, there is merit in applying a 1200sqm minimum lot size to attached dual occupancies in low density areas of the Woollahra LGA. Unlike other metropolitan LGAs, large lot sizes are common in Woollahra and greatly contribute to the character of the R2 Low Density Residential zone. They allow the sympathetic massing of buildings and create opportunities for generous canopy coverage and deep soil planting.

3. Existing Planning Controls

The existing development standards under Clause 4.1A of the Woollahra LEP 2014 are shown below.

4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

- (1) *The objective of this clause is to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood.*
- (2) *Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this clause for a purpose shown in Column 1 of the table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the table.*

Column 1	Column 2	Column 3
<i>Dual occupancy (attached)</i>	<i>Zone R2 Low Density Residential</i>	<i>460 square metres</i>
<i>Dual occupancy (detached)</i>	<i>Zone R2 Low Density Residential</i>	<i>930 square metres</i>
<i>Dual occupancy (attached)</i>	<i>Zone R3 Medium Density Residential</i>	<i>460 square metres</i>
<i>Dual occupancy (detached)</i>	<i>Zone R3 Medium Density Residential</i>	<i>460 square metres</i>
<i>Multi dwelling housing</i>	<i>Zone R3 Medium Density Residential</i>	<i>700 square metres</i>
<i>Residential flat building</i>	<i>Zone R3 Medium Density Residential</i>	<i>700 square metres</i>

4. Objectives of Planning Proposal

The objective of the planning proposal is to minimise the impacts of dual occupancy (attached) development on the natural environment, residential amenity and the desired future character of the R2 Low Density Residential zone. The desired future character is to maintain and complement the existing local character of low scale residential uses which respond to the topography, protect views and reinforce the landscaped setting. This was established in consultation with the community.

Specifically, the planning proposal seeks to restrict the application of the Low Rise Housing Diversity Code which would otherwise result in attached dual occupancies containing more floor area than permitted in Council's existing floorplate control or future FSR control.

5. Explanation of Provisions

The objective of the planning proposal can be achieved by an amendment to Clause 4.1A of the Woollahra LEP 2014. Clause 4.1A deals with minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings.

Under Clause 4.1A, development consent for these three land uses can only be granted if the lot has the nominated minimum size. In the case of a dual occupancy (attached) in the R2 Low Density Residential zone, the minimum lot size is currently 460 sqm. The proposed amendment will replace 460sqm with 1200sqm.

The recommended amendments are shown as inserted text coloured in blue and underlined: inserted text and deleted text show in red strikethrough: ~~deleted text~~.

Column 1	Column 2	Column 3
<i>Dual occupancy (attached)</i>	<i>Zone R2 Low Density Residential</i>	<u>1200</u> 460 square metres
<i>Dual occupancy (detached)</i>	<i>Zone R2 Low Density Residential</i>	930 square metres
<i>Dual occupancy (attached)</i>	<i>Zone R3 Medium Density Residential</i>	460 square metres
<i>Dual occupancy (detached)</i>	<i>Zone R3 Medium Density Residential</i>	460 square metres
<i>Multi dwelling housing</i>	<i>Zone R3 Medium Density Residential</i>	700 square metres
<i>Residential flat building</i>	<i>Zone R3 Medium Density Residential</i>	700 square metres

6. Justification

The planning proposal has strategic merit and the key reasons to amend the Woollahra LEP 2014 are discussed below in Parts 6.1 to 6.3.

6.1. Need for planning proposal

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

Yes. This planning proposal is the result of the *Woollahra Local Strategic Planning Statement 2020* (LSPS) and the *Woollahra Local Housing Strategy 2021* (Local Housing Strategy). It has also been informed by scenario testing of development controls under the Woollahra LEP 2014, Woollahra DCP 2015 and the Code.

a. Scenario testing

As stated in the LSPS, the vision for Woollahra is “*outstanding heritage, lifestyle, leafy, boutique villages and an unrivalled open, sunny harbour-side landscape in Sydney’s east*”. The LSPS also states that “*extensive gardens, tree canopy, parklands, and landscape provide a pleasant, clean and comfortable environment. We work to protect and maintain existing trees and enhance our tree canopy and urban forest*” (page 12).

To ensure that future development is not contrary to this character, Council staff undertook scenario testing to compare the outcomes of development permissible under the Woollahra

LEP 2014 and the Code. This testing was undertaken using various lot sizes to determine the associated changes in built form and landscaping outcomes.

The following scenarios were considered:

- **Scenario A** - This scenario applied the standards for dual occupancy developments under the Woollahra LEP 2014 and the Woollahra DCP 2015. A 0.5:1 FSR, due to shortly replace the Woollahra DCP 2015 floorplate control, was used instead of the DCP's floorplate controls. Landscaping and setback requirements in the DCP amendments due to accompany the new FSR control were also applied.
- **Scenario B** - This scenario applies the current standards for dual occupancy development under the Low Rise Housing Diversity Code.

Methodology

The following methodology was used for the scenario testing:

1. The applicable standards and controls under each scenario were identified and compared (Table 7).
2. Five categories of lot sizes were selected for testing: 460sqm, 600sqm, 800sqm, 1000sqm and 1200sqm. These categories represented a range of lot sizes above the current minimum of 460sqm for attached dual occupancies.
3. On each of the lot sizes, the permissible floor space was calculated using the applicable standards under each scenario.
4. The building area was then modelled, assuming a 75% efficiency of GFA to accommodate external walls and car parking. Using other applicable standards including front, side, rear and upper storey setbacks, the maximum site coverage and upper storey floor plates were included in the models.
5. The deep soil area and tree canopy coverage were then calculated as a maximum, after accommodating the highest permissible GFA. Tree canopy area was calculated using the minimum deep soil requirements for different tree sizes as per arboricultural advice in *Woollahra: Greening our LGA* (June 2020), prepared by consultant Lyndal Plant.
6. The resultant GFA, FSR, site coverage, deep soil area and side setbacks were compared for the two scenarios to determine the impact of the applicable standards on built form and landscaping outcomes.

Table 7: Comparative analysis of key provisions related to dual occupancies

Standard/ Control	Scenario A (Woollahra LEP 2014 and DCP 2015)	Scenario B (Low Rise Housing Diversity Code)
Minimum lot size	1,200sqm	Whichever is the greater of: <ul style="list-style-type: none"> 400sqm; or The minimum lot size specified for dual occupancies in the LEP.
Maximum building Height	Generally 9.5 in the R2 Low Density Residential zone.	8.5m
Maximum floor space	Floor Space Ratio (FSR) 0.5:1 FSR	Gross Floor Area (GFA) For parent lot 400-2000sqm: 25% of lot area + 300sqm
Minimum lot width	N/A	<ul style="list-style-type: none"> 15m; or 12m where the vehicle access is from a secondary road, parallel road or lane.
Minimum front setback	Average of the three most typical setbacks of the four closest residential buildings that face the same side of the street	<p>Average of the two nearest dwelling houses or dual occupancies within 40m of the lot and on the same side of the primary road.</p> <p>If there are not two dwelling houses or dual occupancies within 40m the minimum setback is:</p> <ul style="list-style-type: none"> 4.5m for lots between 400-900sqm 6.5m for lots between 900-1500sqm 10m for lots >1500sqm
Minimum side setback	<ul style="list-style-type: none"> For lot width >15m – 17m: 1.9m For lot width >17m – 19m: 2.3m For lot width >19m – 21m: 2.7m For lot width >21m – 23m: 3.1m For lot width >23m: 3.4m 	<ul style="list-style-type: none"> For lot width 12m-24m: 0.9m for ground floor, (building height–4.5m) ÷ 4 + 0.9m for upper storey (1.9m) For lot width 24m-36m: 1.5m for ground floor, (building height–4.5m) ÷ 4 + 1.5m for upper storey (2.5m) For lot width >36m: 2.5m
Minimum rear setback	25% of average of side boundaries	<ul style="list-style-type: none"> For lot sizes 400-900sqm: 3m for ground floor, 8m for upper storey For lot sizes 900-1500sqm: 5m for ground floor, 12m for upper storey For lot sizes > 1500sqm: 10m for ground floor, 15m for upper storey
Minimum Landscaped area	<ul style="list-style-type: none"> 35% of site area 40% of front setback 	<ul style="list-style-type: none"> 50% of lot area – 100sqm 25% of front setback 50% of rear setback Min. dimension of landscaped area=1.5m
Minimum tree canopy Area	<ul style="list-style-type: none"> 35% of site area 50% of tree canopy areas to be contributed by canopy trees above 8m in height and spread 	N/A
Car parking	Maximum 2 spaces per dwelling	Minimum 1 parking space per dwelling (open or covered)

Results

Tables 8 – 12 below summarise the results of the scenario testing and illustrates the built form impacts of applying the controls to different sized lots.

Table 8: Analysis for 460sqm lot size.

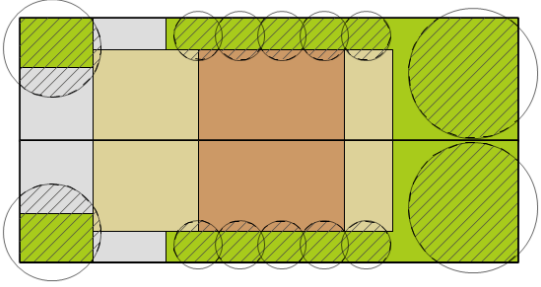
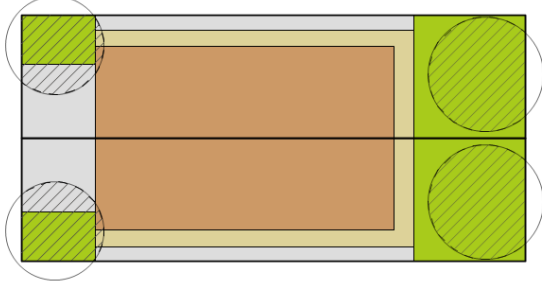
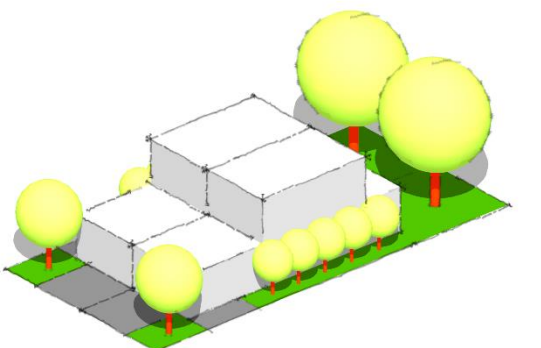
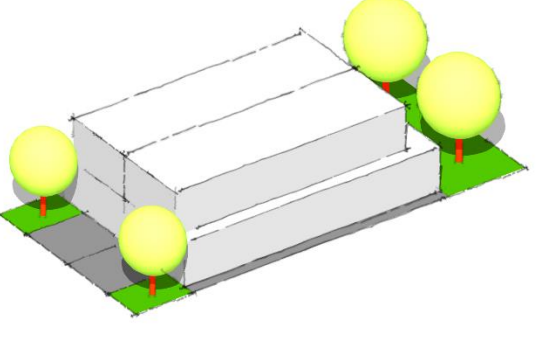
Category 1: Size area: 460m ²				
Site conditions: Area 460m ² , width 15m, depth 30.7m				
E = Existing P = Proposed	Scenario A – Woollahra LEP 2014 and Woollahra DCP 2015		Scenario B – Low Rise Housing Diversity Code (LRHD)	
	Woollahra LEP 2014		LRHD Code	Complies
	E	Height = Max. 9.5m	Height = Max. 8.5m	✓
	P	FSR = Max. 0.5:1	FSR = Max. 0.90:1	✓ (0.77:1)
	E	Lot Width = NA	Lot Width = Min. 12m	✓
	Woollahra DCP 2015			
	E	Front Setback = 4.5m	Front Setback = 4.5m	✓
	E	Side setback = Min.1.9m	Side setback = Min.0.9m, 1.9m	✓
	P	Rear setback = Min.7.7m	Rear setback = Min.3m, 8m	✓
	P	Deep soil area = Min. 35%	Deep soil area = Min.28.26%	✓
	P	Tree canopy area =Min 35%	Tree canopy area	NA (24%)
Indicative plan			Indicative plan	
 <p> Site coverage Hard paving Tree canopy area Upper storey Deep soil area </p>			 <p> Site coverage Hard paving Tree canopy area Upper storey Deep soil area </p>	
Indicative 3D model			Indicative 3D model	
				

Table 9: Analysis for 600sqm lot size.

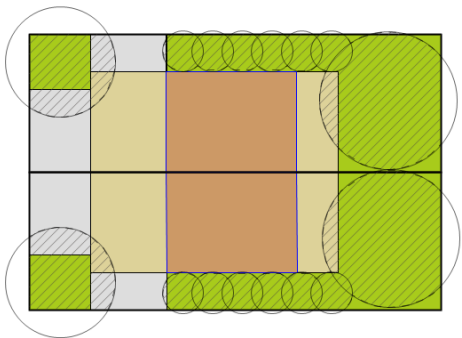
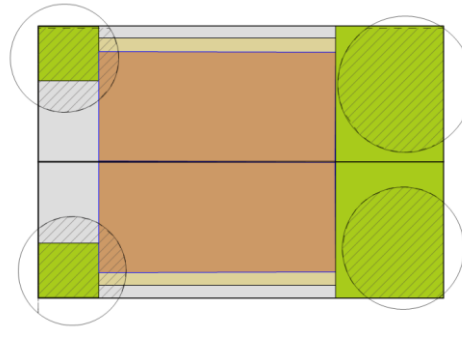
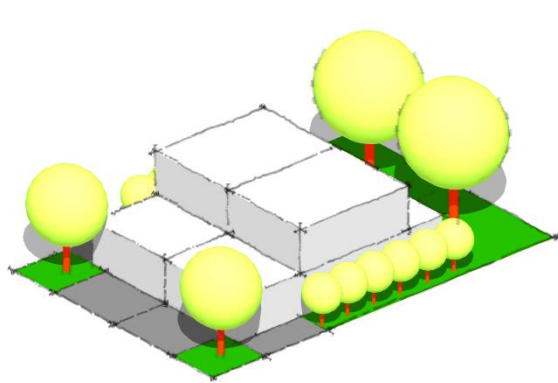
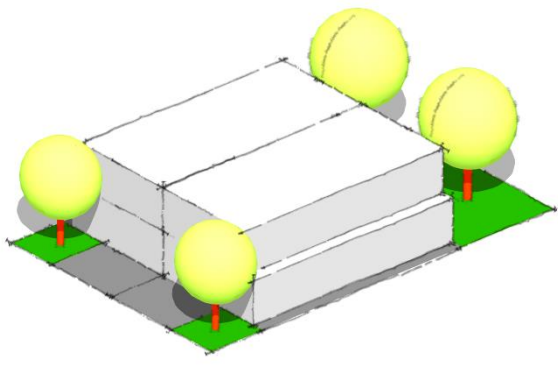
Category 2: Size area: 600m ²					
Site conditions: Area 600m ² , width 20m, depth 30m					
Scenario A – Woollahra LEP 2014 and Woollahra DCP 2015			Scenario B – Low Rise Housing Diversity Code (LRHD)		
E = Existing P = Proposed	Woollahra LEP 2014		Complies	Housing Diversity Code	Complies
	E	Height = Max. 9.5m	✓	Height = Max. 8.5m	✓
	P	FSR = Max. 0.5:1	✓	FSR = Max. 0.75:1	✓
	E	Lot Width = NA	NA	Lot Width = Min. 12m	✓
	Woollahra DCP 2015				
	E	Front Setback = 4.5m	✓	Front Setback = 4.5m	✓
	E	Side setback = Min.2.7m	✓	Side setback = Min.0.9m, 1.9m	✓
	P	Rear setback = Min. 7.5m	✓	Rear setback = Min.3m, 8m	✓
	P	Deep soil area = Min. 35%	✓ (42%)	Deep soil area = Min.33.33%	✓
	P	Tree canopy area =Min 35%	✓ (46%)	Tree canopy area	NA (29%)
Indicative plan			Indicative plan		
 <p> Site coverage Hard paving Tree canopy area Upper storey Deep soil area </p>			 <p> Site coverage Hard paving Tree canopy area Upper storey Deep soil area </p>		
Indicative 3D model			Indicative 3D model		
					

Table 10: Analysis for 800sqm lot size.

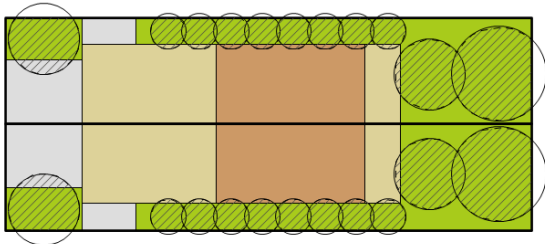
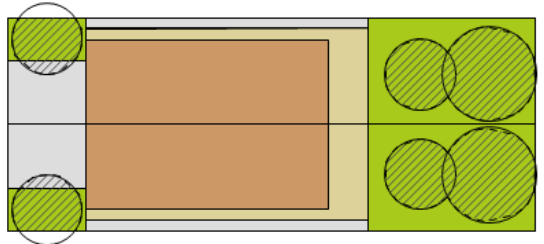
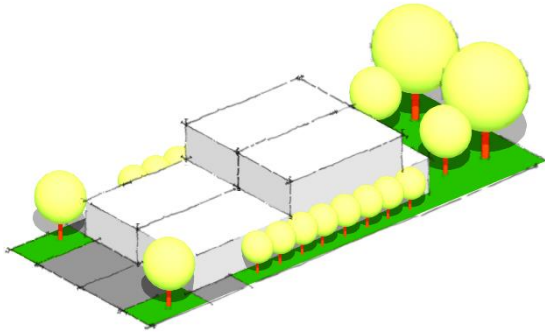
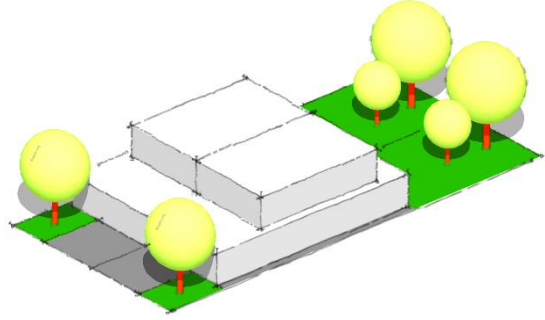
Category 3: Size area: 800m ²					
Site conditions: Area 800m ² , width 18m, depth 44.4m					
Scenario A – Woollahra LEP 2014 and Woollahra DCP 2015			Scenario B – Low Rise Housing Diversity Code (LRHD)		
E = Existing P = Proposed	Woollahra LEP 2014		Complies	Housing Diversity Code	
	E	Height = Max. 9.5m	✓	Height = Max. 8.5m	✓
	P	FSR = Max. 0.5:1	✓	FSR = Max. 0.625:1	✓
	E	Lot Width = NA	NA	Lot Width = Min. 12m	✓
	Woollahra DCP 2015				
	E	Front Setback = 6.5m	✓	Front Setback = 6.5m	✓
	E	Side setback = Min.2.3m	✓	Side setback = Min.0.9m, 1.9m	✓
	P	Rear setback = Min.11.1m	✓	Rear setback = Min.3m, 8m	✓
	P	Deep soil area = Min. 35%	✓ (44%)	Deep soil area = Min.37.50%	✓
	P	Tree canopy area =Min 35%	✓ (37%)	Tree canopy area	NA (25%)
Indicative plan			Indicative plan		
 <p> Site coverage Hard paving Tree canopy area Deep soil area </p>			 <p> Site coverage Hard paving Tree canopy area Deep soil area </p>		
Indicative 3D model			Indicative 3D model		
					

Table 11: Analysis for 1000sqm lot size.

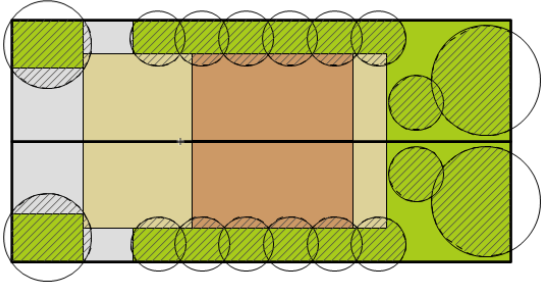
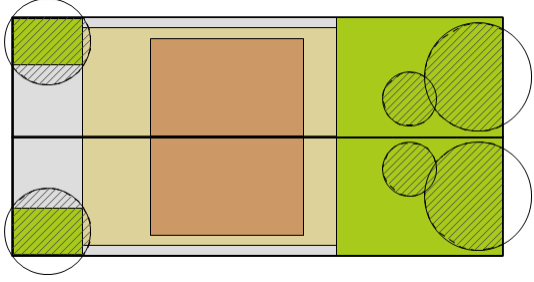
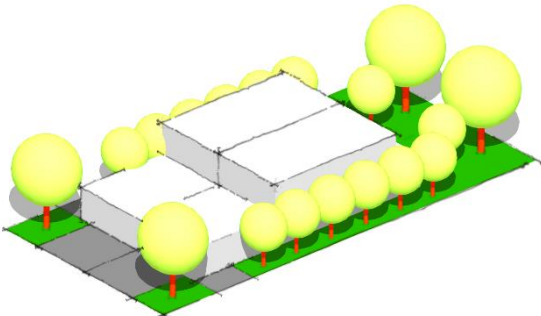
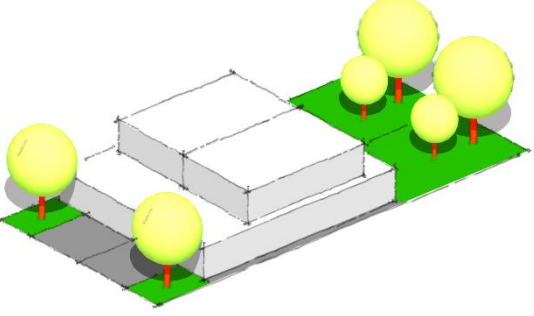
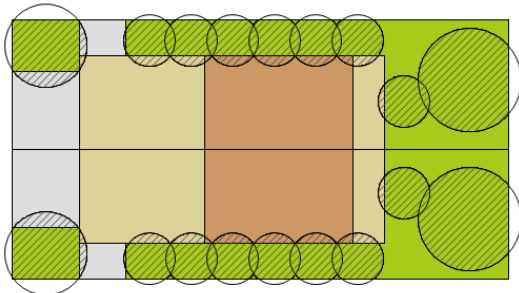
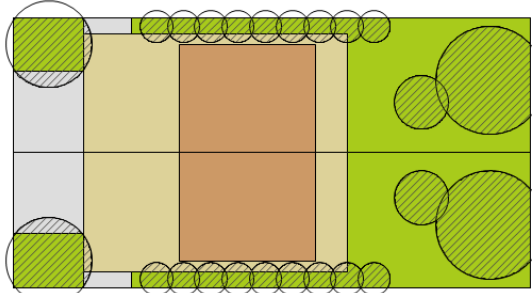
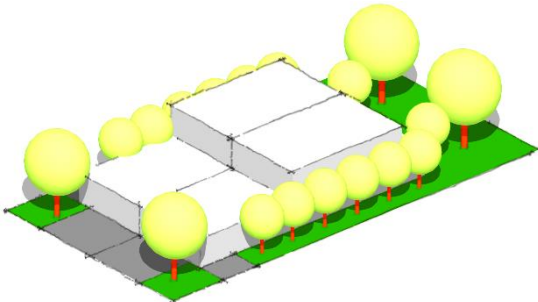
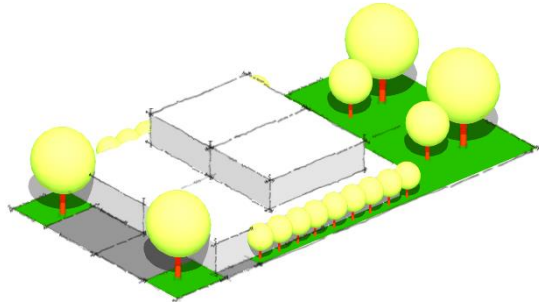
Category 4: Size area: 1000m ²				
Site conditions: Area 1000m ² , width 22m, depth 45.45m				
E = Existing P = Proposed	Scenario A – Woollahra LEP 2014 and Woollahra DCP 2015		Scenario B – Low Rise Housing Diversity Code (LRHD)	
	Woollahra LEP 2014	Complies	Housing Diversity Code	Complies
	E Height = Max. 9.5m	✓	Height = Max. 8.5m	✓
	P FSR = Max. 0.5:1	✓	FSR = Max. 0.55:1	✓
	E Lot Width = NA	NA	Lot Width = Min. 12m	✓
	Woollahra DCP 2015			
	E Front Setback = 6.5m	✓	Front Setback = 6.5m	✓
	E Side setback = Min.3.1m	✓	Side setback = Min.0.9m, 1.9m	✓
	P Rear setback = Min.11.4m	✓	Rear setback = Min.5m, 12m	✓
	P Deep soil area = Min. 35%	✓ (45%)	Deep soil area = Min.40%	✓
	P Tree canopy area =Min 35%	✓ (43%)	Tree canopy area	NA (24%)
Indicative plan		Indicative plan		
 <p> Site coverage Hard paving Tree canopy area Upper storey Deep soil area </p>		 <p> Site coverage Hard paving Tree canopy area Upper storey Deep soil area </p>		
Indicative 3D model		Indicative 3D model		
				

Table 12: Analysis for 1200sqm lot size.

Category 5: Size area: 1200m ²				
Site conditions: Area 1200m ² , width 25m, depth 48m				
E = Existing P = Proposed	Scenario A – Woollahra LEP 2014 and Woollahra DCP 2015		Scenario B – Low Rise Housing Diversity Code (LRHD)	
	Woollahra LEP 2014	Complies	Housing Diversity Code	Complies
	E Height = Max. 9.5m	✓	Height = Max. 8.5m	✓
	P FSR = Max. 0.5:1	✓	FSR = Max. 0.5:1	✓
	E Lot Width = NA	NA	Lot Width = Min. 12m	✓
	Woollahra DCP 2015			
	E Front Setback = 6.5m	✓	Front Setback = 6.5m	✓
	E Side setback = Min.3.4m	✓	Side setback = Min.1.5m, 2.5m	✓
	P Rear setback = Min.12m	✓	Rear setback = Min.5m, 12m	✓
	P Deep soil area = Min. 35%	✓ (45%)	Deep soil area = Min.41.67%	✓ (46%)
	P Tree canopy area =Min 35%	✓ (39%)	Tree canopy area	NA (30%)
Indicative plan			Indicative plan	
 <p> Site coverage Hard paving Upper storey Deep soil area Tree canopy area </p>			 <p> Site coverage Hard paving Upper storey Deep soil area Tree canopy area </p>	
Indicative 3D model			Indicative 3D model	
				

Analysis of data

As shown in **Figure 3**, Scenario B has a higher maximum permissible floor area compared to Scenario A for lots less than 1200sqm. Due to the higher permissible floor area, Scenario B could not accommodate an upper storey setback facing the street for the size categories of 460sqm and 600sqm, and could only accommodate a minimal upper storey setback for the 800sqm category. On the other hand, the lower permissible floor areas under Scenario A allowed for more generous upper storey setbacks facing the street.

The scenario testing results indicate that dual occupancies approved under the Code will present a larger built form compared to dual occupancies that comply with the Woollahra LEP 2014 and Woollahra DCP 2015.

The maximum permissible GFA for Scenario B could not be achieved for the 460m² lot size, due to the required landscape and setback standards under the Code, as shown in **Figure 3** below. However, the achievable GFA was still substantially higher than the maximum permissible GFA under Scenario A.

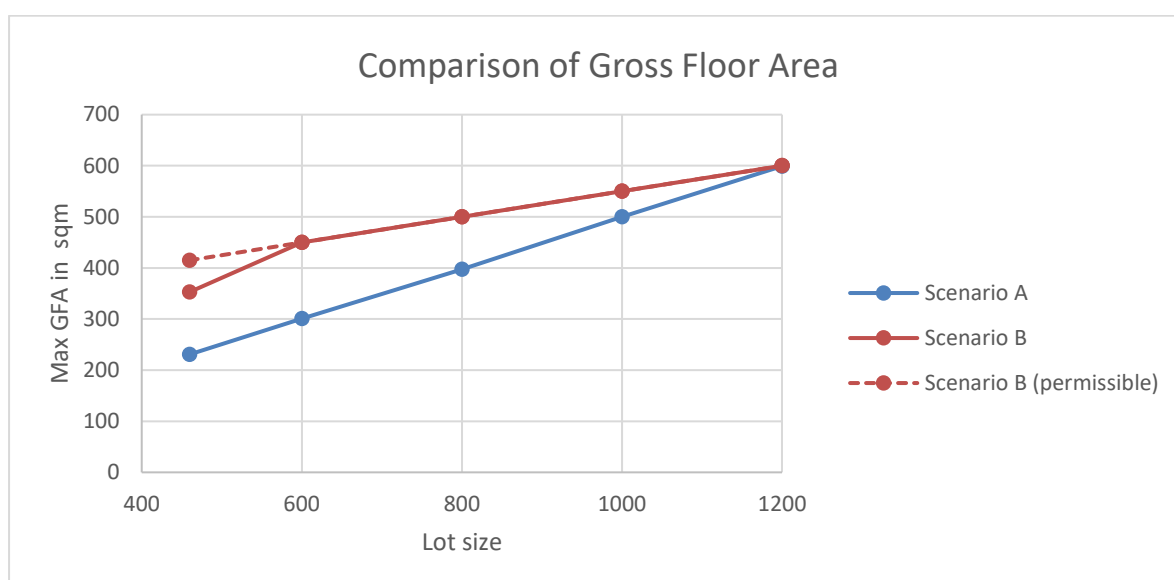


Figure 3: Scenario Testing – Comparison of Gross Floor Area

On lot sizes under 1200sqm, the site coverage was also significantly higher in Scenario B compared to Scenario A (**Figure 4**). This can be attributed to the higher maximum floor areas possible in Scenario B, which aligns with a study for the FSR and Urban Greening Project that found FSR is directly related to site coverage.

The finding indicates that dual occupancies approved under the Code are likely to have higher site coverage. Under the Code, dual occupancy development on a lot size of 1200sqm would have a maximum FSR of 0.5:1, which would result in site coverage outcomes more consistent with the Woollahra LEP 2014 and the desired future character of the R2 Low Density Residential zone.

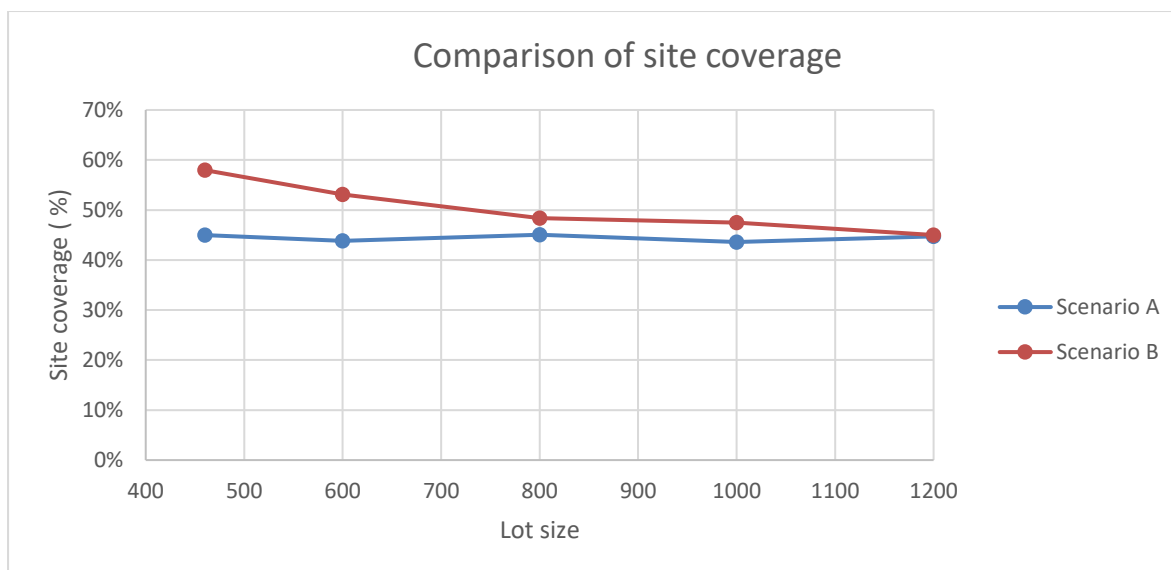


Figure 4: Scenario testing – comparison of site coverage.

In lot sizes under 1200sqm, the deep soil landscaped area was significantly lower in Scenario B when compared to Scenario A (**Figure 5**).

As per *Woollahra: Greening our LGA* (June 2020), the minimum deep soil area requirement increases with tree size. Canopy trees (above 8m in height and spread) require a minimum dimension of four metres to reach their mature height. Due to the reduced capacity of sites in Scenario B to accommodate larger deep soil landscaped areas, these sites had a reduced capacity to achieve the DCP’s recommended tree canopy area of 35%.

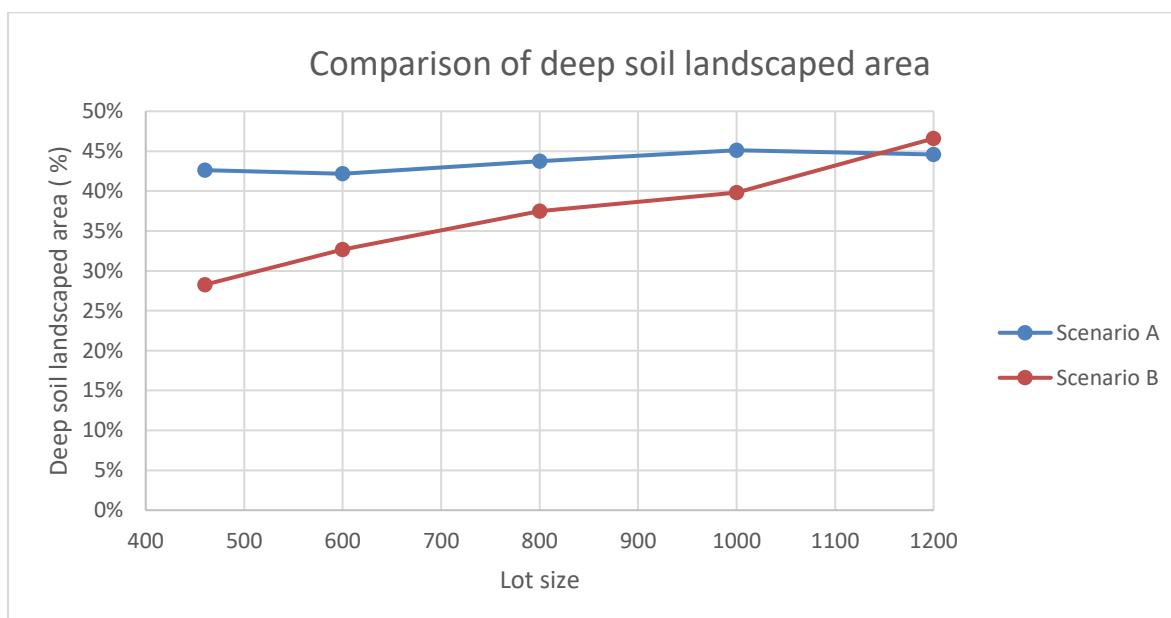


Figure 5: Scenario testing – comparison of deep soil landscaped area.

As demonstrated above, the controls in the Code achieve very different outcomes to those achieved under Council's local controls. The Code results in much bulkier development, with a greater visual impact on the streetscape and surrounding properties. The higher site coverage also greatly diminishes the ability of Code developments to provide quality deep soil landscaping and canopy trees.

These outcomes are contrary to the desired future character of the R2 Low Density Residential zone. By allowing FSRs far greater than Council's future 0.5:1 control (or the similar existing floorplate control of approximately 0.55:1), Code developments on lots under 1200sqm will achieve density that is incompatible with surrounding properties.

The scenario testing confirms the need to increase the minimum lot size of attached dual occupancies to 1200sqm. This will result in smaller building footprints with larger side setbacks, which will ensure more generous areas of deep soil landscaping. This will enable these sites to have a greater capacity to accommodate canopy trees, reduce urban heat and support biodiversity. This is aligned with the desired future character of low density residential areas as envisioned in the LSPS.

b. Impact of the Code on the number and scale of dual occupancies (attached)

Under the Code, dual occupancies (attached) are permitted as complying development. These certificates may be issued in 20 days without public consultation. As discussed previously, they will also allow developments with a greater floor space than those sought via a development application.

Under these conditions it is likely that complying development under the Code will become increasingly attractive to developers, compared to development applications. This assumes that developers will seek to reduce the time period, the risk of refusal and maximise the floor area of their developments. Therefore, it is likely that dual occupancies (attached) will have a growing impact on the character of the R2 Low Density Residential zone.

The minimum lot size for dual occupancy (attached) development under the Code is the same as that specified under the environmental planning instrument that applies to the land. In the Woollahra LGA, this is the Woollahra LEP 2014. The planning proposal will have the effect of minimising the amenity impact of complying development by requiring dual occupancies (attached) on lots 1200sqm or larger, in line with development approved under a development application.

c. Minor impact of the planning proposal on overall housing development

The planning proposal will not have an unreasonable impact on the development of housing in the LGA for the following reasons:

- Historically, the number of development applications approved for attached dual occupancies in the LGA is low and an amendment to the minimum lot size controls is unlikely to have a significant impact on this trend. Since 2015, only an average of eight dual occupancies have been approved a year. As such, they comprise a very low proportion of new dwellings being constructed in the LGA and the adjustment of controls to protect the character of the R2 Low Density Residential zone will not unreasonably impact on housing supply.
- The planning proposal will not reduce the permissible residential density of land. The potential number of dwellings in the R2 Low Density Residential zone will not be reduced, as secondary dwellings are a permissible use in the zone and are not subject to a minimum lot size control. In this regard, a minimum of two dwellings will remain permissible on all lots in the R2 Low Density Residential zone, whether they be dual occupancies or a combination of a principal dwelling and secondary dwelling. While it is acknowledged that secondary dwellings do not provide equivalent accommodation to dual occupancies, they enhance the supply of affordable housing products in the Woollahra LGA. Additionally, the smaller footprint typically allows more greenery to be provided on the site, better aligning with the desired future character of the R2 Low Density Residential zone and broader aspirations for the LGA.
- The R3 Medium Density Residential zone has adequate capacity to deliver additional low rise, medium density housing. This zone has 1987 lots over 460sqm where attached or detached dual occupancy developments could be constructed. These comprise 50% of the total number in the zone. These sites can ensure a steady pipeline of such developments into the future. Additionally, sites in the R3 Medium Density Residential zone are generally located closer to major public transport hubs and active transportation routes. Consequently, new developments will be less likely to increase strain on road networks. This makes the intensification of residential development in this zone more appropriate than in the R2 Low Density Residential zone.

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

Yes. The objective of the planning proposal is to minimise the potential impact of dual occupancy (attached) development on the natural environment, residential amenity and the desired future character of the R2 Low Density Residential zone.

Increasing the minimum lot sizes for dual occupancies (attached) in the Woollahra LEP 2014 is the best means of achieving this objective. Larger lot sizes generally allow for greater flexibility in design options, resulting in less intrusive residential development with larger setbacks, greater areas of landscaping and additional room for ancillary elements. Requiring a larger lot size is considered to be a more practical and flexible method to manage the impacts of development than prescriptive design controls

Notwithstanding the above, similar outcomes could be achieved by requiring attached dual occupancy developments under the Code to comply with any FSR prescribed by an environmental planning instrument. This would achieve consistency between Council's controls and those in the Code. However, the submission of this planning proposal is considered a more efficient and transparent method of addressing this inconsistency.

6.2. Relationship to strategic planning framework

6.2.1. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including exhibited draft plans or strategies)?

Yes. The planning proposal is consistent with the relevant objectives of the *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) ('the Sydney Region Plan') and the relevant actions of the *Eastern City District Plan* (2018) ('the District Plan'), as discussed below.

a. *Greater Sydney Region Plan: A Metropolis of Three Cities*

The Sydney Region Plan is the Greater Sydney Commission's 40-year vision for Greater Sydney. It is the regional strategic plan that is intended to guide growth and change to meet the needs of Sydney's growing population. The planning proposal is consistent with the objectives of the Sydney Region Plan. The actions and planning principles set out in the District Plans seek to ensure that all councils implement 'A Metropolis of Three Cities'. The Woollahra LGA is located in the Eastern City District.

b. *Eastern City District Plan*

The planning proposal is generally consistent with the planning priorities and corresponding actions of the District Plan.

Table considers the Sydney Region Plan's directions and objectives, and the District Plan's priorities and actions that are relevant to the planning proposal.

Table 13: Consideration of Greater Sydney Region Plan: A Metropolis of Three Cities and Eastern City District Plan

<i>Greater Sydney Region Plan</i>	<i>Eastern City District Plan</i>	Comment on consistency
Directions and objectives	Priority and action	
Direction - Housing the city <i>Giving people housing choices</i>	Liveability - Planning Priority E5 <i>Providing housing supply, choice and affordability, with access to jobs, services and public transport</i>	The proposal is generally consistent with the objectives for this priority. The planning proposal is unlikely to impact on Council achieving longer term housing targets. The target of 300 dwellings between 2016 and 2021 has now been met, according to Council's records of net dwelling completions.
Objective 10: Greater housing supply	Action 16: Prepare local or district housing strategies that address the following:	The reduction in lots eligible for attached dual occupancy developments under the

Greater Sydney Region Plan	Eastern City District Plan	Comment on consistency
Directions and objectives	Priority and action	
Objective 11: Housing is more diverse and affordable	<ul style="list-style-type: none"> a. the delivery of five-year housing supply targets for each local government area b. the delivery of 6-10 year (when agreed) housing supply targets for each local government area c. capacity to contribute to the longer term 20-year strategic housing target for the District d. the housing strategy requirements outlined in Objective 10 of A Metropolis of Three Cities that include: <ul style="list-style-type: none"> i. creating capacity for more housing in the right locations 	<p>Code will not affect the LGA's ability to reasonably contribute to longer term housing supply in Eastern Sydney. As previously established, there will remain 1987 lots in the R3 Medium Density Residential zone capable of supporting attached dual occupancy developments with a minimum lot size of 460sqm. Significant future uplift in the Edgecliff Commercial Centre will also provide a strong pipeline of new dwellings.</p> <p>The planning proposal seeks to ensure that an ongoing supply of housing is provided in a range of types in appropriate locations. The 1200sqm minimum lot size will not adversely impact on the residential amenity, liveability or local character of the R2 Low Density Residential zone. While the introduction of a minimum lot size may require some sites to be amalgamated for development consent of dual occupancies (attached), it does not remove the permissibility of any form of development.</p>
Direction - A city of great places <i>Designing places for people</i>	Liveability - Planning Priority E6 <i>Creating and renewing great places and local centres, and respecting the District's heritage</i>	<p>The proposal is generally consistent with the objectives and actions of this priority.</p> <p>The plans acknowledge that Sydney's neighbourhoods each have a unique combination of people, built form and natural features that create places with distinctive identifies and functions. The residents of the Woollahra LGA value the existing local character of the R2 Low Density Residential zone which consists of low scale residential uses which responds to the topography, protects views and reinforces a landscaped setting.</p> <p>The planning proposal seeks to build on these values by only permitting dual occupancies (attached) that are appropriately designed and not contrary to the character of the R2 Low Density Residential zone.</p>
Objective 12: Great places that bring people together	<p>Action 18: Using a place-based and collaborative approach throughout planning, design, development and management, deliver great places by:</p> <ul style="list-style-type: none"> a. prioritising a people-friendly public realm and open spaces as a central organising design principle b. recognising and balancing the dual function of streets 	

Greater Sydney Region Plan	Eastern City District Plan	Comment on consistency
Directions and objectives	Priority and action	
	as places for people and movement <i>c. recognising and celebrating the character of a place and its people</i>	
Direction - A city in its landscape <i>Valuing green spaces and landscape</i>	Sustainability - Planning Priority E15 <i>Protecting and enhancing bushland and biodiversity</i>	The proposal is generally consistent with the objectives and actions for this priority. The Sydney Region Plan notes that Greater Sydney is one of the world's most attractive and liveable regions with diverse and iconic natural landscapes. The Woollahra landscape is iconic in that it is one recognised locally, nationally and internationally as part of the backdrop for significant cultural events such as the New Year's Eve fireworks, the Sydney to Hobart yacht race and countless images of Sydney Harbour used to promote tourism. The character of the R2 Low Density Residential zone is generally one of a mixture of large dwellings immersed in a landscaped setting. Apart from public open spaces, the majority of landscaped areas, mature trees, remnant vegetation and bushland edges are contained in the landscaped areas of large lots in the R2 Low Density Residential zone. This vegetation is often found in front and back yards, on rocky outcrops and along the Sydney Harbour foreshore.
Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced	Action 62: Protect and enhance biodiversity by: a. supporting landscape-scale biodiversity conservation and the restoration of bushland corridors b. managing urban bushland and remnant vegetation as green infrastructure c. managing urban development and urban bushland to reduce edge-effect impacts	
Direction - A city in its landscape <i>Valuing green spaces and landscape</i>	Sustainability - Planning Priority E16 <i>Protecting and enhancing scenic and cultural landscapes</i>	
Objective 28: Scenic and cultural landscapes are protected	Action 63: Identify and protect scenic and cultural landscapes. Action 64: Enhance and protect views of scenic and cultural landscapes from the public realm.	The planning proposal recognises this and seeks to build on it by requiring larger lot sizes for the construction of dual occupancies (attached) in the R2 Low Density Residential zone. The larger lot sizes will allow for greater flexibility in the design and siting of dwellings on a site. This flexibility will allow for greater areas of deep soil landscaping on sites where
Direction - A city in its landscape	Sustainability - Planning Priority E17	

Greater Sydney Region Plan	Eastern City District Plan	Comment on consistency
Directions and objectives	Priority and action	
<i>Valuing green spaces and landscape</i>	<i>Increasing urban tree canopy cover and delivering Green Grid connections</i>	large canopy trees and other large plants can be accommodated. This will promote development which aligns with the objectives and priorities of both plans in terms of:
Objective 30: Urban tree canopy cover is increased	Action 65: Expand urban tree canopy in the public realm.	<ul style="list-style-type: none"> • Supporting biodiversity conservation. • Reducing edge-effect impacts. • Protecting the cultural and scenic landscapes of the LGA, including views from Sydney Harbour. • Maintaining and enhancing the urban tree canopy.

6.2.2. Will the planning proposal give effect to a council endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Yes. The planning proposal is broadly consistent with Council's local strategies and strategic plans.

a. Woollahra – 2030: Our community, our place, our plan

The planning proposal is consistent with Council's Community Strategic Plan *Woollahra – 2030: Our community, our place, our plan* ('Woollahra CSP'). The Woollahra CSP identifies the strategic direction and integrated planning framework for the Woollahra LGA. The community vision is that:

Woollahra will continue be a great place to live, work and visit where places and spaces are safe, clean and well-maintained.

Our community will offer a unique mix of urban villages with a good range of shops, services and facilities.

We will make the most of the natural beauty, leafy streetscapes, open spaces, views and proximity to the water and the city.

We will be a harmonious, engaged and connected community that looks out for each other. (page 6).

Council has been committed to maintaining local character and residential amenity through appropriate urban planning controls. This commitment is measured in Council's annual community surveys under the categories of:

- The community is more satisfied with the way we regulate the design and quality of new development.
- The community is more satisfied with the way we assess and determine applications for development.

Notably, the planning proposal meets the following strategy goals in the 'Quality places and spaces' theme of the strategy:

- Goal 4: Well-planned neighbourhood

4.1 *Encourage and ensure high quality planning and urban design outcomes*

The planning proposal will help enable high quality planning and urban design outcomes which maintain and enhance the existing and desired future character of the R2 Low Density Residential zone.

4.4 *Encourage diversity in housing choice to suit a changing population*

The planning proposal will not affect the permissibility of any housing type in the R2 Low Density Residential zone. The reduction in the number of lots suitable for attached dual occupancies will not have an unreasonable impact on housing choice as these have not historically been common development in the zone. There is also ample capacity to support more low rise medium density developments in the R3 Medium Density Residential zone.

- Goal 5: Liveable places

5.4 *Protect trees, streetscapes and landscapes*

The planning proposal will help protect trees on private land within the R2 Low Density Residential zone. The revised minimum lot size will reduce the site coverage of attached dual occupancy developments and create opportunities for the retention or enhancement of existing vegetation.

5.5 *Enhance the physical environment of our local suburbs, neighbourhoods and town centres*

The planning proposal will help maintain and enhance the physical environment of the R2 Low Density Residential zone by requiring development to preserve the existing local character of low scale residential uses, which responds to the topography, protects views and reinforces a landscaped setting.

b. Woollahra Local Strategic Planning Statement

The planning proposal is broadly consistent with the *Woollahra Local Strategic Planning Statement* (Woollahra LSPS).

The Woollahra LSPS is Council's 20-year land use vision for the local area. It contains the planning priorities, strategies and actions for implementing our 20-year vision as well as the *Eastern City District Plan*, linking local strategic planning to regional planning for Greater Sydney.

The planning proposal relates in particular to Planning Priority 4 under the theme of 'Liveability':

Planning Priority 4

Sustaining diverse housing choices in planned locations that enhance our lifestyles and fit in with our local character and scenic landscapes.

The vision for the planning priority states that:

Our area is home. It supports our lifestyle and allows people of all capabilities and all ages to participate in community life and live in health and comfort.

Housing is designed to be the right fit for the character, heritage, landscape, and village scale of our area. It is located in well-planned places which are close to villages, services, and public transport hubs. Everything is on our doorstep – shops, cafes, markets, libraries, parks, our foreshore, schools, health services, aged care facilities, and more.

Diverse and affordable housing options in accessible locations provide for a range of needs and incomes. Council collaborates with government agencies, other councils, and organisations on affordable housing programs.

Development that creates new dwellings or commercial buildings contributes to funding upgrades and improvements that enhance the liveability, infrastructure, and amenity of our area. Factors that contribute to the amenity of a neighbourhood include access to green and open space, water and air quality, safety, accessibility, pleasant streetscapes, local villages and opportunities for recreation and social interaction.

Housing developments in and around our villages respect their character and important role in community life. They do not decrease space for employment, community activities, connections, or green spaces. Buildings and sites are designed to enhance the amenity of residents, including noise and light attenuation measures, provision of tree canopy and soft landscaping, and suitable on-site areas to facilitate servicing, storage and deliveries.

Council plans for new housing and renewal using a place-based approach which prioritises our lifestyle, heritage, local character, and scenic landscape. Fine-grain human scale design protects our village character whilst delivering new housing that is the right fit for our area.

The Woollahra Housing Strategy (expected in 2020) will set out where new housing will be located and identifies investigations for longer-term housing outcomes. Sustainable housing is carefully planned so that it is the right fit and is located on suitable, highly accessible and well-serviced sites.

The planning proposal will ensure that dual occupancies (attached) will be directed to locations which have appropriate consideration of existing and desired future character, heritage, landscape, and the village scale of the Woollahra LGA.

c. Woollahra Local Housing Strategy

The Woollahra Local Housing Strategy, endorsed by Council on 25 October 2021, nominates the following short term housing action:

Council will submit this housing strategy and additional site testing to DPIE in support of our planning proposal to amend the Woollahra LEP 2014 to introduce a minimum lot size development standard for dual occupancies of 1200sqm.

This will ensure that dual occupancies fit in with the established scale of our residential areas and contribute to our tree canopy. The introduction of this development standard will not reduce housing diversity in the LGA or adversely affect housing supply targets.

The submission of this revised planning proposal satisfies this action in the strategy.

The strategy also underlines that there is 'no missing middle' in the Woollahra LGA, with terraces making up nearly 30% of dwellings. As such, the LGA has ample supply of this dwelling type.

Furthermore, the strategy establishes that a reduction in Code lots would not hinder Council's ability to meet the 2021-2026 housing target of 500 dwellings. Council data indicates that there is a sufficient pipeline of development to reach this target. Beyond these years, it is expected that the Edgecliff Commercial Centre will be capable of supplying dwellings to meet the 2026-2036 forecast of 400 dwellings. *Future Transport 2056* and *NSW Infrastructure Strategy 2018-2038* have not identified any projects in the LGA that would support significant uplift outside this centre.

The housing strategy further notes the issues associated with increasing the density of land uses in the R2 Low Density Residential zone. Areas such as Vaucluse are not readily accessible by active transport due to topography and are not well serviced by mass transit. As such, increased densities are likely to increase car dependency, adding to congestion.

These matters, outlined in the Woollahra Local Housing Strategy, reinforce the strategic merit of this planning proposal.

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

Yes. The planning proposal is consistent with applicable State Environmental Planning Policies. A detailed compliance table is included in **Schedule 1**.

6.2.4. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Yes. The planning proposal is consistent with the terms of direction 3.1 Residential zones, in that it will:

- Not affect the choice of building types and locations available in the housing market;
- Not reduce the efficient use of existing infrastructure and services;
- Not reduce or impact on the consumption of land for housing and associated urban development on the urban fringe;
- Not adversely impact on the design of development;
- Only apply to the R2 Low Density Residential zone in the Woollahra LGA, which is generally serviced for current levels of density; and
- Not contain provisions which will reduce the permissible residential density of land. The proposal will not reduce the potential number of dwellings in the R2 Low Density Residential zone, as secondary dwellings are a permissible use in the zone and are not subject to a minimum lot size control. In this regard, a minimum of two dwellings will remain permissible on all lots in the R2 Low Density Residential zone, whether they be dual occupancies or a combination of a principal dwelling and secondary dwelling.

The planning proposal is consistent with all other applicable section 9.1 directions. A detailed compliance table is in **Schedule 2**.

6.3. Environmental, social and economic impact

6.3.1. 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 seeks to increase the minimum lot size required for dual occupancy (attached) development in the R2 Low Density Residential zone. The LEP amendment will have no impact on any critical habitats to threatened species. It will result in larger lot sizes for the construction of this form of development, allowing more landscaped areas to be maintained across the R2 Low Density Residential zone. This will potentially improve and / or increase the available vegetation and tree canopy habitat for ecological communities.

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

No. The proposed amendments are unlikely to result in any adverse environmental effects. Development applications based on the proposed changes to the Woollahra LEP 2014 will be subject to a detailed assessment, where the environmental effects are considered. This assessment will consider consistency with the desired future character of the neighbourhood.

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

Yes. The planning proposal will have a positive social effect. The proposed minimum lot size control will protect established greenery in the R2 Low Density Residential zone and will ensure new development provides opportunities to further contribute to the zone's leafy character. This will reduce the urban heat island effect and improve connectedness to the natural environment, which will promote resident amenity and wellbeing.

The proposal will not result in significant economic impacts, particularly those regarding the value of properties. Unlike other areas of Greater Sydney, the real estate market in the Woollahra LGA often favours large homes with high levels of amenity. A net increase in additional dwellings does not necessarily add value to a property. As such, controls that prevent the development of smaller dual occupancies will not unreasonably affect property owners and developers.

It is not anticipated that the planning proposal will have any adverse social and economic effects which need to be addressed as part of the proposal.

6.4. State and Commonwealth interests

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

Yes. It is unlikely that the proposal will directly impact on the provision of public infrastructure or significantly increase demand.

If required by the gateway determination, consultation will be undertaken with public utility companies, service providers and emergency services during public exhibition.

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

No consultation has been carried out with State and Commonwealth public authorities. Any public authorities identified by the DPIE will be consulted during the public exhibition of the planning proposal.

7. Mapping

The purpose of the planning proposal is to amend the Woollahra LEP 2014 to increase the minimum lot size required for consent for dual occupancy (attached) development in the R2 Low Density Residential Zone from 460sqm to 1200sqm. There are no mapping amendments required to the Woollahra LEP 2014.

8. Community Consultation

The public exhibition will be undertaken in accordance with the requirements of the Act and the *Environmental Planning and Assessment Regulation 2000*.

Council staff recommend that the planning proposal is exhibited for a minimum of 28 days.

Public notification of the planning proposal will comprise:

- A weekly notice in the local newspaper (the Wentworth Courier) for the duration of the exhibition period, when available.
- A notice on Council's website.
- A notice to local community and business groups such as the Double Bay Residents' Association, West Vaucluse Residents' Association and the Sydney East Business Chamber.
- A notices to any parties who have made a submission to Council about previous reports about the Code or amendment of the minimum lot sizes for dual occupancy, manor house or terraces.

During the exhibition period the following material will be available on Council's website and at the Woollahra Council offices, if the offices are accessible to the public:

- The planning proposal, in the form approved by the gateway determination;
- The gateway determination; and
- Information relied upon by the planning proposal, such as relevant Council reports.

9. Project Timeline

If Council is authorised to exercise the local plan-making functions under section 3.36 of the *Environmental Planning and Assessment Act 1979*, the proposed timeline for completion is as follows:

Plan-making step	Estimated completion
Local Planning Panel advice	30 January 2020
Council resolution to proceed	9 March 2020
Council resolution to amended proposal	22 February 2021
Gateway determination	March 2022
Completion of technical assessment	Usually none required
Government agency consultation	May 2022
Public exhibition period	Same time as agency consultation
Submissions assessment	June 2022
Council assessment of planning proposal post exhibition	July 2022
Council decision to make the LEP amendment	August 2022
Council to liaise with Parliamentary Counsel to prepare LEP amendment	September 2022
Forwarding of LEP amendment to DPIE for notification	October 2022
Notification of the approved LEP	November 2022

Schedules

Schedule 1 – Consistency with State Environmental Planning Policies

State environmental planning policy	Comment on consistency
SEPP No 19 – Bushland in Urban Areas	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 21 – Caravan Parks	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 33 – Hazardous and Offensive Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 36 – Manufactured Home Estates	Not applicable
SEPP No 47 – Moore Park Showground	Not applicable
SEPP No 50 – Canal Estate Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 55 – Remediation of Land	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 64 – Advertising and Signage	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 65 – Design Quality of Residential Apartment Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP No 70 – Affordable Housing (Revised Schemes)	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Aboriginal Land) 2019	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map of the SEPP.
SEPP (Activation Precincts) 2020	Not applicable. No land within the Woollahra LGA is identified as an Activation Precinct.
SEPP (Affordable Rental Housing) 2009	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Building Sustainability Index: BASIX) 2004	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Coastal Management) 2018	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Concurrences and Consents) 2018	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Educational Establishments and Child Care Facilities) 2017	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Exempt and Complying Development Codes) 2008	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Gosford City Centre) 2018	Not applicable.

State environmental planning policy	Comment on consistency
SEPP (Housing for Seniors or People with a Disability) 2004	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Infrastructure) 2007	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Koala Habitat Protection) 2020	Not applicable. The Woollahra LGA is not specified in Schedule 1 of SEPP (Koala Habitat Protection) 2021.
SEPP (Koala Habitat Protection) 2021	Not applicable. The Woollahra LGA is not listed in Schedule 1.
SEPP (Kosciuszko National Park - Alpine Resorts) 2007	Not applicable
SEPP (Kurnell Peninsula) 1989	Not applicable
SEPP (Major Infrastructure Corridors) 2020	Not applicable. No future corridors are identified within the Woollahra LGA.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Penrith Lakes Scheme) 1989	Not applicable
SEPP (Primary Production and Rural Development) 2019	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (State and Regional Development) 2011	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP (State Significant Precincts) 2005	Applicable There are currently no identified state significant precincts located in the Woollahra LGA.
SEPP (Sydney Drinking Water Catchment) 2011	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map.
SEPP (Sydney Region Growth Centres) 2006	Not applicable
SEPP (Three Ports) 2013	Not applicable
SEPP (Urban Renewal) 2010	There are currently no potential urban renewal precincts in the Woollahra LGA which are identified in the SEPP.
SEPP (Vegetation in Non-Rural Areas) 2017	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Western Sydney Aerotropolis) 2020	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map.
SEPP (Western Sydney Employment Area) 2009	Not applicable
SEPP (Western Sydney Parklands) 2009	Not applicable

Sydney Regional Environmental Plans – now deemed State Environmental Planning Policies	Comment on consistency
SREP No 8 (Central Coast Plateau Areas)	Not applicable
SREP No 9 - Extractive Industry (No 2 - 1995)	Not applicable
SREP No 16 – Walsh Bay	Not applicable
SREP No 20 - Hawkesbury- Nepean River (No 2 - 1997)	Not applicable
SREP No 24 - Homebush Bay Area	Not applicable
SREP No 26 – City West	Not applicable
SREP No 30 - St Marys	Not applicable

Sydney Regional Environmental Plans – now deemed State Environmental Planning Policies	Comment on consistency
SREP No 33 - Cooks Cove	Not applicable
SREP (Sydney Harbour Catchment) 2005	<p>Applicable</p> <p>Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.</p>

Schedule 2 – Compliance with section 9.1 directions

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
1	Employment and resources	
1.1	Business and industrial zones	Not applicable. The planning proposal does not apply to any business or industrial zones.
1.2-1.5	Directions 1.2-1.5	Not applicable. These directions are not relevant to the Sydney metropolitan area.
2	Environment and heritage	
2.1	Environment protection zones	Not applicable. The planning proposal does not apply to land within an environmental protection zone or land identified for environmental protection.
2.2	Coastal management	Not applicable. The planning proposal does not apply to land within the coastal zone.
2.3	Heritage conservation	Applicable. Consistent. The planning proposal does not affect any heritage conservation provisions.
2.4	Recreation vehicle areas	Not applicable. The planning proposal does not apply to sensitive land or land with significant conservation values. It will not allow land to be developed for a recreation vehicle area.
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable. The planning proposal does not apply to land in the Far North Coast.
2.6	Remediation of contaminated land	Not applicable. The planning proposal does not specifically relate to the change and/or intensification of a use on contaminated land.
3	Housing, infrastructure and urban development	
3.1	Residential zones	<p>Applicable. Consistent. The planning proposal does not contain a provision which is contrary to this direction.</p> <p>Objectives</p> <p>(1) The objectives of this direction are:</p>

**Planning proposal –
Compliance with section 9.1 directions**

Direction		Applicable/comment
		<p>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>(c) to minimise the impact of residential development on the environment and resource lands.</p> <p>What a relevant planning authority must do if this direction applies</p> <p>The direction states that:</p> <p>(4) A planning proposal must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and</p> <p>(b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>(5) A planning proposal must, in relation to land to which this direction applies:</p> <p>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p> <p>Consistency</p> <p>The planning proposal is consistent with the direction in that it will:</p>

**Planning proposal –
Compliance with section 9.1 directions**

Direction		Applicable/comment
		<ul style="list-style-type: none"> • Not affect the choice of building types and locations available in the housing market. • Not reduce the efficient use of existing infrastructure and services. • Not reduce or impact on the consumption of land for housing and associated urban development on the urban fringe. • Not impact on the design of development. • Only apply to the R2 Low Density Residential zone in the Woollahra LGA, which is generally adequately serviced by existing infrastructure. • Not contain provisions which will reduce the permissible residential density of land.
3.2	Caravan parks and manufactured home estates	Not applicable. The planning proposal does not affect caravan parks and manufactured home estates.
3.3	Home occupations	Revoked 9 November 2020.
3.4	Integrating land use and transport	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.
3.5	Development near regulated airports and defence airfields	Not applicable. The planning proposal does not apply to land near a licensed aerodrome.
3.6	Shooting ranges	Not applicable. The planning proposal does not apply to land adjacent to or adjoining an existing shooting range.
3.7	Reduction in non-hosted short term rental accommodation period	Note applicable. The planning proposal does not apply to land in the Byron Shire Council.
4	Hazard and risk	
4.1	Acid sulfate soils	Applicable. Consistent. Existing acid sulfate soils provisions will not be altered by the planning proposal.
4.2	Mine subsidence and unstable land	Not applicable. The planning proposal does not apply to land within a proclaimed Mine Subsidence District or to land identified as unstable.
4.3	Flood prone land	Applicable. Consistent. The planning proposal will not create, remove or alter a zone or provision that affects flood prone land.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
4.4	Planning for bushfire protection	Not applicable. The planning proposal does not apply to land mapped as bushfire prone land.
5	Regional planning	
5.1 - 5.9	Strategies 5.1-5.9	Not applicable. These strategies do not apply to the Woollahra LGA.
5.10	Implementation of Regional Plans	<p>Applicable. The planning proposal is consistent with the objectives of the <i>Greater Sydney Region Plan: A Metropolis of Three Cities</i>, particularly the following objectives:</p> <ul style="list-style-type: none"> • Objective 10: Greater housing supply • Objective 11: Housing is more diverse and affordable • Objective 12: Great places that bring people together • Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced • Objective 28: Scenic and cultural landscapes are protected • Objective 30: Urban tree canopy cover is increased <p>Refer to Schedule 1 of this report and direction 7.1 of this table.</p>
5.11	Development of Aboriginal Land Council land	Not applicable. The planning proposal does not apply to Aboriginal Land Council land.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
6	Local plan making	
6.1	Approval and referral requirements	Not applicable. The proposal does not include provisions that require development applications to be referred externally and is not related to designated development.
6.2	Reserving land for public purposes	Not applicable. The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3	Site specific provisions	Not applicable. The planning proposal is not intended to allow a particular development to be carried out. The proposal will permit flexibility in the design of future development proposals and does not impose site specific standards which will restrict development to a particular development outcome.
7	Metropolitan planning	
7.1	Implementation of <i>A Metropolis of Three Cities</i> (March 2018)	Revoked 9 November 2020.
7.2 – 7.13	Directions 7.2 – 7.13	Not applicable. These strategies do not apply to the Woollahra LGA.