
Item No: 7.1
Subject: **PLANNING PROPOSAL - FSR HOUSEKEEPING**
Author: Charmaine Tai, Strategic Planner
Approver: Anne White, Manager Strategic Planning & Place
Scott Pedder, Director Planning & Place

Purpose of the Report:

To seek a resolution of Council to support the FSR Housekeeping planning proposal and forward this to the Department of Planning, Housing and Infrastructure requesting a Gateway determination.

Alignment to Delivery Program:

4.1 Encourage and plan for sustainable, high quality planning and urban design outcomes.

Recommendation:

THAT Council:

- A. Notes the advice provided by the Woollahra Local Planning Panel from 3 April 2025 regarding the FSR Housekeeping planning proposal.
 - B. Resolves to support the planning proposal as contained at **Attachment 1** to make the following amendments to the Floor Space Ratio controls in the *Woollahra Local Environmental Plan 2014*:
 - i. Amend the FSR Map and Clause 4.4 to apply FSR controls to all development in the R2 Low Density Residential zone to replace the current floorplate controls in the *Woollahra Development Control Plan 2015*. These amendments will not apply to land in the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas.
 - ii. Insert subclause to Clause 4.4 to ensure FSR provisions do not apply to attached dwellings, dwelling houses, dual occupancies or semi-detached dwellings in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas.
 - C. Forwards the planning proposal to the Department of Planning, Housing and Infrastructure seeking a Gateway Determination to allow public exhibition.
 - D. Requests the Minister for Planning and Public Spaces (or delegate) authorise Council as the local plan-making authority to make the local environmental plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.
 - E. Receives the *Draft Woollahra Development Control Plan 2015 (Amendment No 36)* as contained at **Attachment 2** and resolves to exhibit this concurrently with the planning proposal, should a Gateway determination be received.
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Executive Summary:

This report seeks a resolution of Council to endorse the housekeeping planning proposal to amend Floor Space Ratio (FSR) controls in the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014), as originally intended, and forward this to the Department of Planning, Housing and Infrastructure (DPHI) with a request for a Gateway determination to allow public exhibition. The planning proposal addresses two administrative and housekeeping related matters resulting from the finalisation of the previous planning proposal (PP-2021-3786).

Discussion:

Background

In preparing Woollahra LEP 2014, FSR controls were not applied to the R2 Low Density Residential zone and certain residential developmen in the R3 Medium Density Residential zone. Instead of an FSR control in Woollahra LEP 2014, a maximum floorplate control was introduced in the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015). However, an ongoing concern with the existing floorplate control is the complexity associated with calculating the permissible floor area and development potential of a site.

In 2021, Council staff progressed a planning proposal (PP-2021-3786) to amend the Woollahra LEP 2014, replacing the complex floorplate controls with FSR controls. This amendment was not intended to apply to the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas (HCAs).

During the exhibition of PP-2021-3786, it was identified that the wording (as drafted) had the effect of only applying an FSR control to dwelling houses, dual occupancies and semi-detached dwellings in the R2 Low Density Residential and R3 Medium Density Residential zones (i.e. no FSR control would apply to other permissible land uses such as child care centres and office premises in the R2 Low Density Residential zone). Instead, the complicated floorplate would continue to apply to these types of uses in the R2 Low Density Residential zone.

Following public exhibition, Council staff sought to address this issue to ensure that the proposed FSR controls would apply to all development in the R2 Low Density Residential zone. However, the DPHI did not support this amendment at the time. Advice from the DPHI was that Council should progress a new, separate 'housekeeping' planning proposal to ensure that the FSR controls would apply to all types of development in the R2 Low Density Residential zone.

Furthermore, in finalising the planning proposal post-exhibition, the terminology used in the LEP amendment (to *Clause 4.4E Exceptions to floor space ratio - dwelling houses, dual occupancies and semi-detached dwellings in Zones R2 and R3*) resulted in *Clause 4.4 Floor space ratio* applying to certain development (dwelling houses, dual occupancies and semi-detached dwellings) in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra HCAs. This was not the intention of the originally proposed FSR controls. It was the original intention that the more detailed and place-based controls located in the relevant chapter of the Woollahra DCP 2015 would apply to dwelling houses, dual occupancies and semi-detached dwellings in the Paddington, Watsons Bay and Woollahra HCAs. For these three HCAs this is considered a more appropriate and place based approach than the FSR controls.

Accordingly, this planning proposal aims to address two key issues identified during the finalisation of PP-2021-3786. This planning proposal seeks to:

- **Apply FSR controls to all development in the R2 Low Density Residential zone:** Staff are seeking to apply FSR controls for development (such as child care centres and office premises) in the R2 Low Density Residential zone, which was the original intent of the previous planning proposal (PP-2021-3786). This amendment would remove the floorplate controls in the Woollahra DCP 2015 in their entirety. This change applies to the R2 Low Density Residential zone, outside of the Paddington, Watsons Bay and Woollahra HCAs.
- **Exempt certain residential development in the Paddington, Watsons Bay and Woollahra HCAs from FSR controls:** Consistent with the original intent of PP-2021-3786, this change seeks to ensure that FSR controls in the Woollahra LEP 2014 do not apply to attached dwellings, dwelling houses, dual occupancies and semi-detached dwellings in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra HCAs.

Subject land

Figure 1 illustrates the land affected by the planning proposal:

- Apply FSR controls to all development in the R2 Low Density Residential zone (excluding lots in the Paddington, Watsons Bay and Woollahra HCAs), identified in red shaded areas.
- FSR exemptions for attached dwellings, dwelling houses, dual occupancies and semi-detached dwellings in the Paddington, Watsons Bay and Woollahra HCAs, identified in grey shaded areas.

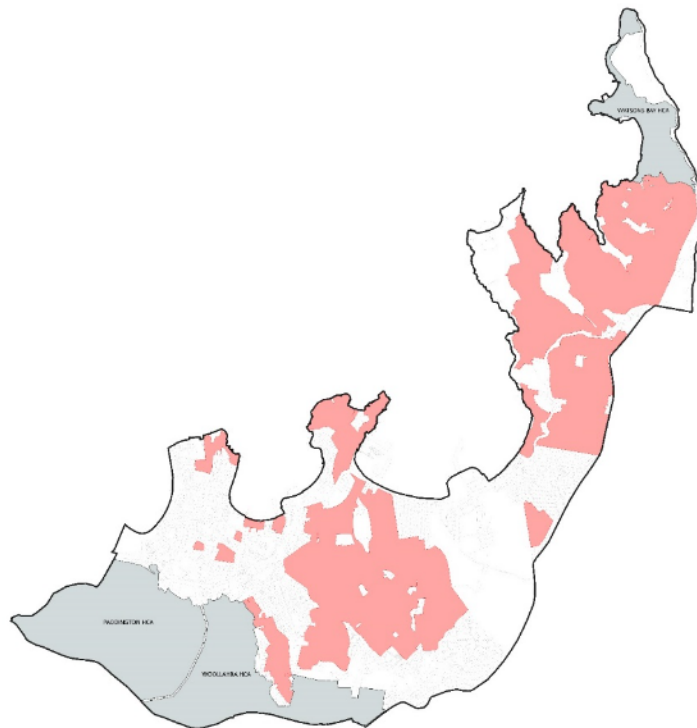


Figure 1 Affected land within Woollahra LGA

Planning proposal

FSR controls for all development in the R2 Low Density Residential zone

The planning proposal will establish FSR controls for all development including non-residential land uses (such as child care centres and office premises) in the R2 Low Density Residential, as originally intended. This is achieved through amendments to the FSR Map, Clause 4.4 and Clause 4.4E of the Woollahra LEP 2014 (excluding land within the Paddington, Watsons Bay and Woollahra HCAs).

Currently, the FSR controls apply only to dwelling houses, dual occupancies and semi-detached dwellings. All other land uses in the R2 Low Density Residential zone are subject to the complicated floorplate controls in the Woollahra DCP 2015, which resulted from an unintended outcome of the previous planning proposal (PP-2021-3786).

This minor housekeeping update is administrative in nature and will ensure that new development maintains a density compatible with the desired future character of these low density residential areas. This change will not restrict any land uses currently permitted in the R2 Low Density Residential Zone.

The existing sliding scale FSRs outlined in Clause 4.4E are supported by evidence-based testing and modelling, as demonstrated in the planning proposal (PP-2021-3786) that supported the Woollahra LEP 2014 (Amendment No. 33). Additionally, staff conducted DA analysis and modelling on non-residential uses, which indicated that the viability of non-residential development will not be adversely affected by the planning proposal.

The proposed FSR controls in Woollahra LEP 2014 will allow for similar densities allowable under the existing floorplate controls while ensuring adequate deep soil landscaping and tree canopy cover. This change will:

- Simplify the development application (DA) process by replacing complicated floorplate controls in its entirety.
- Provide a consistent framework for development assessment staff when assessing DAs.
- Align with the original intent for FSR controls to apply this to all development (such as child care centres and office premises) in the R2 Low Density Residential zone.

Exempt certain residential development in the Paddington, Watsons Bay and Woollahra HCAs from FSR controls

The planning proposal also aims to clarify the intended FSR effects for specific residential development in the Paddington, Watsons Bay and Woollahra HCAs through amendments to Clause 4.4. It has always been the intention that FSR controls do not apply to dwelling houses, dual occupancies and semi-detached dwellings in these HCAs. The Height of Buildings (HOB) controls in the Woollahra LEP 2014 and heritage controls in the Woollahra DCP 2015 would ensure that the height, bulk and scale of the specified residential development remain consistent with the unique characteristics of these three HCAs.

The inclusion of 'attached dwellings' is justified as this typology is also considered to be low density development and has a similar scale as dwelling house, dual occupancy or semi-detached dwellings. Terraces, which are often defined as attached dwellings, represent one of the most common residential typologies in the Paddington, Watsons Bay and Woollahra HCAs. This amendment has arisen as a consequence of consultation with Council's development assessment staff who sought to clarify that 'terraces' or 'attached dwellings' are considered as low density residential development in these three HCAs and that the FSR exemption should extend to attached dwellings in these areas.

Currently, FSR controls do not apply to land zoned R2 Low Density Residential zone in these HCAs. The previously repealed subclause 4.4(2A) provided FSR exemptions for certain residential development. It is intended to insert a subclause to Clause 4.4 to uphold the original intent, ensuring consistent planning controls are applied across the Paddington, Watsons Bay and Woollahra HCAs irrespective of land zoning. The absence of this subclause has necessitated Clause 4.6 requests to vary the FSR controls when proposed development exceeds the controls, as well as mandatory reporting to the Woollahra Local Planning Panel (Woollahra LPP) if the development exceeds the FSR controls by more than 10%.

Accordingly, this change will:

- Provide clarity for applicants and staff regarding the FSR exemptions for low density residential development (attached dwellings, dwelling houses, dual occupancies and semi-detached dwellings) in the Paddington, Watsons Bay and Woollahra HCAs.
- Reduce costs and time associated with DA preparation by eliminating the need for Clause 4.6 requests.
- Expedite DA determinations by avoiding unnecessary reporting to the Woollahra LPP.

Proposed amendments

To enhance the operation and clarity of the FSR controls, staff recommend updating the FSR Map and further simplifying the LEP provisions. The objectives and intended outcomes of the planning proposal will be achieved by amending Clause 4.4, repealing Clause 4.4E and updating the FSR Map.

It should be noted that all draft clauses are indicative only and will be subject to drafting by Parliamentary Counsel, should the proposal progress to finalisation.

Insertions – identified in blue and underlined

~~Deletions – identified in red and scored through~~

Proposed amendments to Clause 4.4

Proposed amendments	Clause 4.4 Floor space ratio																
	(1) <i>The objectives of this clause are as follows –</i> (a) <i>for development in Zones <u>R2 Low Density Residential and R3 Medium Density Residential</u> –</i> i. <i>to ensure the bulk and scale of new development is compatible with the desired future character of the area, and</i> ii. <i>to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and</i> iii. <i>to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space,</i> (b) <i>for buildings in Zone E1 Local Centre and Zone MU1 Mixed Use – to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.</i> (2) <i>The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</i> (2A) <i>(Repealed)</i> (3) <u>Despite subclause (2), the maximum floor space ratio for a building on land that is in Zone R2 Low Density Residential is-</u> <table data-bbox="576 1626 1406 1895"> <thead> <tr> <th><u>Lot size</u></th><th><u>Maximum floor space ratio</u></th></tr> </thead> <tbody> <tr> <td><150m²</td><td>1.05:1</td></tr> <tr> <td>≥150m²<200m²</td><td>0.95:1</td></tr> <tr> <td>≥200m²<250m²</td><td>0.85:1</td></tr> <tr> <td>≥250m²<300m²</td><td>0.75:1</td></tr> <tr> <td>≥300m²<350m²</td><td>0.65:1</td></tr> <tr> <td>≥350m²<400m²</td><td>0.55:1</td></tr> <tr> <td>≥400m²</td><td>0.5:1</td></tr> </tbody> </table> (4) <u>Despite subclause (2), the maximum floor space ratio of a dwelling house, dual occupancy or semi-detached dwelling on land in Zone R3 Medium Density Residential is-</u> (a) <u>For land identified as “Area 6” on the Floor Space Ratio Map – 0.75:1, or</u>	<u>Lot size</u>	<u>Maximum floor space ratio</u>	<150m ²	1.05:1	≥150m ² <200m ²	0.95:1	≥200m ² <250m ²	0.85:1	≥250m ² <300m ²	0.75:1	≥300m ² <350m ²	0.65:1	≥350m ² <400m ²	0.55:1	≥400m ²	0.5:1
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	<u>(b) For other land – the floor space ratio specified for the lot size in subclause (3).</u> (5) <u>Despite subclauses (2) and (4), the maximum floor space ratio does not apply to a building that is an attached dwelling, dwelling house, dual occupancy or semi-detached dwelling in the Paddington, Watsons Bay or Woollahra heritage conservation areas identified on the Heritage Map.</u>
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Proposed amendments to Clause 4.4E

Proposed amendments	Clause 4.4E <i>Repealed</i> <u>Exceptions to floor space ratio – dwelling houses, dual occupancies and semi-detached dwellings in Zones R2 and R3</u> <u>(1) The objectives of this clause are as follows –</u> a. <u>to ensure the bulk and scale of development is compatible with the desired future character of the area.</u> b. <u>to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.</u> c. <u>to ensure development makes adequate provision for deep soil planting, tree canopy cover and private open space.</u> <u>(2) This clause applies to land in the following zones –</u> a. <u>Zone R2 Low Density Residential.</u> b. <u>Zone R3 Medium Density Residential.</u> <u>(3) The maximum floor space ratio for a dual occupancy, dwelling house or semi-detached dwelling is –</u> a. <u>for land identified as “Area 6” on the Floor Space Ratio Map – 0.75:1, or</u> b. <u>for other land – the floor space ratio specified for the lot size in the table to this subclause.</u> <table> <tr> <td><u>Lot size</u></td><td><u>Maximum floor space ratio</u></td></tr> <tr> <td><u><150m²</u></td><td><u>1.05:1</u></td></tr> <tr> <td><u>≥150m²<200m²</u></td><td><u>0.95:1</u></td></tr> <tr> <td><u>≥200m²<250m²</u></td><td><u>0.85:1</u></td></tr> <tr> <td><u>≥250m²<300m²</u></td><td><u>0.75:1</u></td></tr> <tr> <td><u>≥300m²<350m²</u></td><td><u>0.65:1</u></td></tr> <tr> <td><u>≥350m²<400m²</u></td><td><u>0.55:1</u></td></tr> <tr> <td><u>≥400m²</u></td><td><u>0.5:1</u></td></tr> </table> <u>(4) This clause does not apply to a dual occupancy, dwelling house or semi-detached dwelling in the Paddington, Watsons Bay or Woollahra heritage conservations areas identified on the Heritage Map.</u>	<u>Lot size</u>	<u>Maximum floor space ratio</u>	<u><150m²</u>	<u>1.05:1</u>	<u>≥150m²<200m²</u>	<u>0.95:1</u>	<u>≥200m²<250m²</u>	<u>0.85:1</u>	<u>≥250m²<300m²</u>	<u>0.75:1</u>	<u>≥300m²<350m²</u>	<u>0.65:1</u>	<u>≥350m²<400m²</u>	<u>0.55:1</u>	<u>≥400m²</u>	<u>0.5:1</u>
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By removing Clause 4.4E and consolidating the FSR provisions under Clause 4.4, the new approach simplifies the provisions and removes duplication. Currently, the objectives of Clauses 4.4 and 4.4E are generally the same, and FSR exceptions for HCAs are required in both clauses.

The FSR Map

This planning proposal seeks to amend the FSR Map (Sheets 2, 3, 4, 5 and 6) of the Woollahra LEP 2014. It proposes an FSR of 0.5:1 for all development, including non-residential uses, in the R2 Low Density Residential zone outside of the Paddington, Watsons Bay and Woollahra HCAs.

For R2 Low Density Residential zoned land within ‘Area 6’, a maximum FSR of 0.75:1 will continue to apply.

Updates to the FSR map would reflect changes in planning controls, providing greater clarity to the community and practitioners. These updates would benefit map users by providing easy access to FSR controls.

Schedule 3 of the planning proposal at **Attachment 1** includes maps of the proposed FSR controls for this planning proposal.

Relationship to strategic planning framework

The planning proposal is consistent with the relevant objectives of the *Greater Sydney Region Plan: A Metropolis of Three Cities* and the relevant planning priorities and actions of the *Eastern City District Plan*. The planning proposal also aligns with the *Woollahra Local Strategic Planning Statement 2020*, *Woollahra Local Housing Strategy 2021* and Council's *Community Strategic Plan Woollahra 2032*.

Draft development control plan (DCP)

The proposed amendments to the Woollahra LEP 2014 require a number of consequential and administrative amendments to *Chapter A1 Introduction and Administration* and *Chapter B3 General Development Controls* of the Woollahra DCP 2015. The amendments to Chapter B3 involve the final and complete deletion of the existing floorplate controls, which currently apply to certain land uses (such as child care centres and office premises) previously omitted under PP-2021-3786. The planning proposal will establish an FSR in the R2 Low Density Residential Zone meaning that these floorplate controls are no longer required.

The draft DCP (**Attachment 2**) amends Chapter A1 and Chapter B3 in accordance with Division 2, Part 2 of the *Environmental Planning and Assessment Regulation 2021*.

Advice of the Woollahra Local Planning Panel

Local Planning Panels (LPPs) are panels of independent experts that determine DAs on behalf of Council and provide advice on other planning matters, including planning proposals. Under the *Environmental Planning and Assessment Act 1979* (the Act), LPPs are mandatory for all Greater Sydney councils.

A housekeeping FSR planning proposal was first presented to the Woollahra LPP on 21 November 2024. This original proposal sought to amend Clauses 4.4E and 4.4 of the Woollahra LEP 2014 but there were no proposed accompanying changes to the FSR Map. A copy of this report is contained at **Attachment 3**. At this meeting, the Panel expressed support for the planning proposal and advised Council to submit the planning proposal for a Gateway determination. The Woollahra LPP also advised that, should a Gateway determination be received, the public exhibition of the planning proposal be accompanied with plain English documentation.

The panel advice was as follows:

- A. *Supports the planning proposal at Attachment 1 of the report to the Woollahra Local Planning Panel of 21 November 2024 to amend the Woollahra Local Environmental Plan 2014 in the following manner:*
- Amend Clause 4.4E to establish FSR controls for the R2 Low Density Residential Zone. This provision will not apply to land in the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas.
 - Insert sub-clause to Clause 4.4 to ensure FSR provisions do not apply to attached dwellings, dwelling houses, dual occupancies or semi-detached dwellings in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas.

- B. Notes the associated amendments to the Woollahra Development Control Plan 2015 at Attachment 2.*
- C. Recommends that should a Gateway determination be received, the exhibition should be accompanied with plain English documentation explaining the proposed housekeeping amendments.*

Having regard to the advice from the Woollahra LPP's, staff met with representatives from the DPHI on 11 December 2024 to discuss the proposal. It was recommended that the objectives could be more effectively achieved by updating both the FSR Map and the LEP provisions. DPHI advised that all draft clauses would be subject to drafting by the Parliamentary Counsel's Office.

Additionally, DPHI requested additional information to support the proposed FSR controls for non-residential uses in the R2 Low Density Residential Zone. In response, the planning proposal has been amended to include justifications for the proposed LEP changes. DA analysis and site testing have been incorporated in the planning proposal to inform the FSR controls for all development (such as child care centres and office premises) in the R2 Low Density Residential Zone.

To improve clarity for the community and practitioners, staff recommend updating the FSR Map and simplifying the LEP provisions. Updates to the FSR Map would benefit map users, providing easy access to FSR controls.

As the proposed amendments are not considered to fall within the exceptions outlined in the *Local Planning Panel Direction – Planning Proposals* (2018), and given the scale and significance of the proposed changes, it was considered appropriate to refer the planning proposal to the Woollahra Local Planning Panel for advice before a Gateway determination is requested.

Accordingly, the updated planning proposal was presented to the Woollahra LPP on 3 April 2025.

On 3 April 2025, the Woollahra LPP considered the planning proposal and provided the following unanimous advice to Council:

THAT the Woollahra Local Planning Panel advises Council that it:

- A. Supports the planning proposal at **Attachment 1** of the report to the Woollahra Local Planning Panel of 3 April 2025 to amend the Woollahra Local Environmental Plan 2014 in the following manner:*
- Amend the FSR Map and Clause 4.4 to apply FSR controls to all development in the R2 Low Density Residential Zone, replacing the existing floorplate controls in the Woollahra Development Control Plan 2015. These amendments will not apply to land in the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas.*
 - Insert subclause to Clause 4.4 to ensure FSR provisions do not apply to attached dwellings, dwelling houses, dual occupancies or semi-detached dwellings in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas.*
- B. Notes the associated amendments to the Woollahra Development Control Plan 2015 at **Attachment 2**.*

In summary, the Woollahra LPP supports the current planning proposal and recommends submitting it to the DPHI with a request for Gateway determination to allow public exhibition.

Options:

As a consequence of this report, the Environmental Planning Committee may:

- Recommend Council proceed with the planning proposal; or

- Request staff make amendments to the planning proposal; or
- Recommend Council not to proceed with the planning proposal.

Community Engagement and / or Internal Consultation:

Staff have engaged extensively with development assessment staff to inform the preparation of the planning proposal.

If the planning proposal receives a Gateway determination, the wider community will be notified via the public exhibition process.

Public exhibition of the planning proposal will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2021*, the *Woollahra Community Participation Plan 2019* and any conditions of the Gateway determination.

Policy Implications:

Should Council resolve to progress a planning proposal, and should it progress to finalisation, there will be policy implications as the FSR Map, Clauses 4.4 and 4.4E of the Woollahra LEP 2014 and the Woollahra DCP 2015 will be amended.

Financial Implications:

Should Council resolve to progress the planning proposal, financial resources will be associated with the public exhibition process.

Resourcing Implications:

Should Council resolve to progress the planning proposal, staff resources will be associated with managing the public exhibition and preparing a post exhibition report to a meeting of Council.

Conclusion:

This report provides the advice of the Woollahra LPP on the FSR Housekeeping planning proposal to clarify and enhance the operation of FSR controls in the Woollahra LEP 2014. The amendments will simplify the planning controls and ensure built form outcomes are consistent with the desired future character of Woollahra LGA's low density residential areas.

Council staff recommend that Council resolves to submit the planning proposal at **Attachment 1** to the DPHI for a Gateway determination, and resolves to exhibit the draft Woollahra DCP 2015 (Amendment No. 36) at **Attachment 2**, concurrently with the planning proposal, should a Gateway determination be received.

Attachments:

1. Planning Proposal - FSR Housekeeping March 2025
2. Draft Woollahra Development Control Plan (Amendment No 36)
3. Report to the Woollahra LPP meeting of 21 November 2024 (excluding attachments)