
Item No: 7.1
Subject: **PLANNING PROPOSAL TO ADDRESS NET DWELLING LOSS.**
Author: Jacquelyne Della Bosca, Executive Planner
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Approver: Anne White, Manager Strategic Planning & Place
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Purpose of the Report:

To seek a resolution of Council to proceed with the planning proposal to amend the *Woollahra Local Environmental Plan 2014* by introducing a local planning provision to address net dwelling loss.

Alignment to Delivery Program:

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

Recommendation:

THAT Council:

- A. Notes the advice provided by the Woollahra Local Planning Panel on 6 February 2025 regarding the planning proposal to address net dwelling loss.
- B. Endorses the planning proposal as contained at **Attachment 1** of the report to the Environmental Planning Committee of 3 March 2025 to amend the *Woollahra Local Environmental Plan 2014* by introducing a local provision to restrict net dwelling loss.
- 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) to 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. Requests the Department of Planning, Housing and Infrastructure to address the issue of a net dwelling loss within the State policy framework, given the NSW Government push to increase housing across the Greater Sydney metropolitan region.
- F. Notes the advice on Social Impact Statements and takes no further action in this regard.

Executive Summary:

This report seeks a resolution of Council to endorse the planning proposal on net dwelling loss at **Attachment 1**, and forward this to the Department of Planning, Housing and Infrastructure (DPHI) with a request for a Gateway determination to allow public exhibition of the proposed amendment to *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014).

Net dwelling loss occurs when the total number of dwellings on a site (or an amalgamated site) arising from new development is less than the number of dwellings existing on the site(s) prior to the approved development.

Analysis of development applications (DAs) lodged with Council from March 2020 to January 2025, identified 42 DAs (35 DAs approved and seven DAs currently being assessed) that result in net dwelling loss. The combined net dwelling loss from the 35 approvals is 83 dwellings. If the seven DAs awaiting determination are all approved this will result in a further net loss of 10 dwellings, potentially taking the total dwelling loss to 93 dwellings over the review period.

There is growing concern about the impact of net dwelling loss in high land value areas, like the Woollahra LGA, as the redevelopment activity that results in the net loss not only reduces housing supply, but also tends to have a negative social impact on diversity of dwelling sizes and housing affordability. Further, this process of net loss undermines Council's efforts in working towards the housing target of 1,900 dwellings by 2029 as set by the NSW Government.

The planning proposal seeks to address this net dwelling loss by amending the Woollahra LEP 2014 to introduce a local provision to restrict dwelling loss to no more than one (1) dwelling, or 15% of all existing dwellings, whichever is greater. The provision will apply to residential accommodation (except for boarding houses, co-living housing, group homes, secondary dwellings and residential care facilities) where the total number of dwellings on the development site, totals three or more dwellings.

The planning proposal at **Attachment 1** was considered by the Woollahra Local Planning Panel (LPP) on 6 February 2025, and the Woollahra LPP advised Council to proceed with the planning proposal as it has strategic merit. This advice is consistent with the staff recommendation.

Discussion:

Background

On 28 August 2023, and in response to a Notice of Motion, Council resolved the following:

THAT Council staff urgently investigate and report on opportunities to:

- A. Prepare a planning proposal to include objectives and controls in the Woollahra Local Environmental Plan 2014 to prevent the net reduction of dwellings on development sites; and*
- B. Amend the Woollahra Development Control Plan 2015 to require a Social Impact Statement (or similar documentation) to be provided where a reduction in dwelling numbers is proposed on a development site.*

What is a planning proposal?

A planning proposal is the legal mechanism through which a local environmental plan (LEP) is amended. After Council resolves to prepare a planning proposal, staff prepare the document and take it to the Woollahra Local Planning Panel (LPP) for independent advice.

Following this, Council considers the planning proposal along with the LPP's advice and determines whether to endorse the planning proposal. If endorsed, the planning proposal will be submitted to the Department of Planning, Housing and Infrastructure (DPHI) requesting a Gateway determination. If the DPHI issues a Gateway determination, the planning proposal will progress to public exhibition.

What is net dwelling loss?

For the purpose of this report and the planning proposal, 'net dwelling loss' is a reduction in the total number of dwellings on a site (or sites) as a result of new approved development.

Examples of development that results in a net dwelling loss include the following scenarios:

- Three residential lots containing three houses are amalgamated to construct one dwelling house;
- An older residential flat building (RFB) is extensively renovated and existing studio, one or two bedroom apartments are amalgamated to create larger sized apartments (typically three bedroom or penthouse style apartments) and as a result there are fewer apartments contained within the RFB;
- An older RFB is demolished and a new RFB is constructed that has fewer dwellings within the development.
- A change of use from an RFB to a single dwelling house.

Council is increasingly concerned about the impact of net dwelling loss as it:

- *Reduces housing supply:* This is particularly relevant given the NSW Government requirement for councils to increase the number of dwellings in our LGA and address housing affordability. The net loss of dwellings on individual sites has an incremental and cumulative impact on Council's ability to achieve housing targets set by the NSW Government. As of 1 July 2024 our current target is 1900 dwellings by 2029.
- *Impacts on diversity of dwelling sizes and housing affordability:* When net dwelling loss occurs it tends to result in smaller, more compact dwellings being amalgamated to create larger dwellings. This not only results in a reduction in the dwelling yield on the site, but also means that the new housing delivered is more expensive, and the mix of dwelling sizes may be less diverse. While it is important that larger dwellings are catered for, it is also essential that smaller, lower cost dwellings are available for couples and singles. Only 12.5% of dwellings in the LGA are studios and one bedroom dwellings (ABS, 2021). This was the fastest growing typology across the Eastern Harbour City and Greater Sydney over the last decade, increasing by 38% and 43%, respectively. In contrast, Woollahra saw a 1% decline in one-bedroom and studio dwellings over the same timeframe. Larger dwellings saw positive growth in Woollahra, particularly four-bedroom homes which grew by 18%.
- *Inefficient use of land:* When land is not developed or used to its highest and best yield (such as a change of use from an RFB to a dwelling house) this results in net dwelling loss and can create pressure to rezone or increase density on other land to retain the overall capacity of land to provide for housing supply.

The issue of net dwelling loss may be considered as a relatively new or emerging issue, which seems to be an issue particularly relevant to high land value, high demand, inner metropolitan areas. The City of Sydney and Waverley local government areas (LGAs) are also experiencing net dwelling loss and both councils have recently exhibited planning proposals to amend their local environmental plans (LEPs) to address the issue.

City of Sydney and Waverley Council planning proposals

The City of Sydney planning proposal “Dwelling Retention” (PP-2024-27) seeks to amend their LEP to include a development standard which limits the loss of housing stock through redevelopment of existing RFBs or mixed-use developments to one dwelling or 15% of dwellings, whichever is the greater. The 15% is rounded to the nearest whole number. The planning proposal was exhibited from 11 July 2024 to 23 August 2024 and the post-exhibition report was reported to Council on 25 November 2024, where Council resolved to proceed with the planning proposal and seek finalisation by the Department of Planning, Housing and Infrastructure (DPHI).

A copy of the planning proposal can be viewed on the NSW Government Planning Portal at <https://www.planningportal.nsw.gov.au/ppr/post-exhibition/dwelling-retention>

The Waverley Council planning proposal “Residential dwelling density in the R3 and R4 zones” (PP2024-512) seeks to amend the LEP by:

- Strengthening objectives in the R3 and R4 zones to clarify that one of the objectives of each zone is to increase or preserve residential dwelling density “across the site”; and
- To prevent the reduction of dwelling numbers in the R3 and R4 zones by no more than 15% of all existing dwellings on the site, rounded up to the nearest whole dwelling.

The planning proposal was exhibited from 27 June 2024 to 8 August 2024. A copy of the planning proposal can be viewed on the NSW Government Planning Portal at <https://www.planningportal.nsw.gov.au/ppr/post-exhibition/residential-dwelling-density-r3-and-r4-zones>

The planning proposal was reported to Waverley Council on 10 December 2024, where Council resolved not to proceed. Woollahra Council staff have listened to the public recording of this meeting, and consider the key reasons for this decision are:

- Concerns around private property rights;
- Insufficient rates of loss to justify a policy response;
- A need to facilitate larger dwellings; and
- A perception that older apartments are lower quality, and less desirable to live in.

On 11 December 2024 a rescission motion was submitted. At the Council meeting on 18 February 2025 the rescission motion was supported. The Council then resolved not to proceed with the planning proposal, and instead requested that staff investigate amendments to the Waverley Development Control Plan (DCP) having regard to the following matters:

- Mixture of apartment unit types to provide housing choice;
- Forecast demographic profile of Waverley LGA and housing needs to support diverse household types;
- Demand for affordable housing;
- Requirements of the NSW Apartment Design Guidelines which calls for a diversity in apartment mix;
- Relationship with *State Environmental Planning Policy (Housing) 2021*;
- Opportunity to further strengthen planning controls for the retention or adaptation of existing Inter-War Art deco buildings;
- Notes that much of the existing stock of Inter-War Art Deco buildings in the Bondi basin has a level of protection, either as a listed item or in a Heritage Conservation Area, or DCP provisions that encourage retention and appropriate conservation works in accordance with Council’s *Inter-War Building Design Guidelines*.
- Notes that managing future dwelling diversity is more appropriately addressed via Council’s DCP to provide the appropriate level of guidance and flexibility to support implementation, without further adding red tape or delay in meeting Council’s development assessment performance target.

Woollahra Council staff contend that Waverley Council's decision should not prevent the progression of Woollahra's planning proposal. The planning proposal is the best and most efficient means to address net dwelling loss. A DCP serves as a guideline for development only, and is unlikely to effectively achieve the objectives. As discussed later in this report, Woollahra Council's planning proposal only applies to three or more dwellings, and as such will not unreasonably impede on the ability of families to amalgamate dwellings to create larger dwellings. The proposed provisions will also provide flexibility more broadly, allowing a percentage of dwelling loss to acknowledge site-specific redevelopment constraints. As such, it effectively balances private property rights with Council's responsibility to support the housing needs of our community.

Furthermore, while current rates of loss are relatively modest on an annual basis, the cumulative impact over multiple years is likely to significantly undermine our target of 1,900 dwellings by 2029. The low and mid rise housing reforms commenced on 28 February 2025. They introduced revised permissibility requirements and development standards for residential flat buildings, dual occupancies and multi-dwelling housing. Staff are particularly concerned about their impacts to R3 Medium Density Residential land surrounding our local centres, such as Double Bay. This land contains many older-style flat buildings, which are at risk of being replaced by newer buildings with fewer dwellings. The net loss controls will help safeguard against any substantial losses of these dwellings, and protect the supply of lower cost units in the Woollahra LGA.

In relation to the issue of dwelling size, as identified in the planning proposal, there is a significant need to protect smaller, lower cost dwellings that are undersupplied in the Woollahra LGA. Council staff also contend that apartment stock quality will inevitably vary between development sites, and well maintained older buildings in our LGA provide high quality residential accommodation. Accordingly age is not a reliable indicator of amenity or desirability.

NSW LEC judgement on Billyard Avenue Developments v City of Sydney

In response to issues raised in Councillor correspondence from 5 February 2025, a summary is provided below of the NSW LEC judgement on Billyard Avenue Developments v City of Sydney, having regard to its relevance to net dwelling loss and public interest.

On 19 December 2024, the NSW Land and Environment Court dismissed an appeal by the applicant in relation to Council's refusal of Development Application No. D/2023/727 for the demolition of existing buildings and construction of two new residential flat buildings at 21C Billyard Avenue and 10 Onslow Avenue, Elizabeth Bay. (*Billyard Avenue Developments Pty Limited ATF Billyard Avenue Development Trust v The Council of the City of Sydney* NSWLEC 1825) The decision can be viewed at <https://www.caselaw.nsw.gov.au/decision/193d6b786add6a9003fae58f>

The proposed development, if approved, would result in a reduction of dwellings on the site from 28 to 20, replacing older style more affordable housing stock with luxury housing. The proposal also breached the permissible building height, and raised concerns regarding view impacts, visual bulk, and character and heritage impacts of demolishing buildings in a heritage conservation area.

The City of Sydney's planning proposal for dwelling retention had not been publicly exhibited when the DA was lodged on 14 August 2023 and therefore no weight could be given to the draft policy.

The applicant sought a variation to the building height standard under *Sydney Local Environmental Plan 2012* clause 4.6 Exceptions to development standards, which at the time that the DA was lodged included a public interest requirement:

Development consent must not be granted for development that contravenes a development standard unless -

- a. *the consent authority is satisfied that -*
 - i. *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii. *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b. *the concurrence of the Planning Secretary has been obtained.*

The relevant zone is Zone R1 General Residential. The Objectives of the zone are

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maintain the existing land use pattern of predominantly residential uses.

Commissioner Walsh found that the proposed development was not in the public interest because it was inconsistent with the R1 Zone objective to 'provide for the housing needs of the community' (see para 90-92). The Commissioner also found that given the need to balance positive and negative impacts, the proposal would also fail on the merits (see paras 130-135).

In his concluding remarks, Commissioner Walsh states:

137. The permissive powers of cl 4.6(2) of SLEP are not available to me because I am not satisfied that the proposed development is in the public interest because it is consistent with the objectives for development within the R1 zone objectives (cl 4.6(4)(a)(ii)). The essence of it is that the proposed development would not provide for the housing needs of the community. It would have the opposite to effect. There is no power available to grant consent.
138. The proposal would also fail on merits. The merits failure is also essentially concerned with the adverse social impact of reduced housing supply which meets community need. In my view this easily outweighs the construction-related economic benefits which generate, the platform for which is created by effecting the removal of existing housing stock. The amenity impacts are moderate and would, were the situation to be "reversed" (ie the proposal was increasing housing supply, particularly were it for an in-need group), the weightings could also be reversed.

The decision may provide a precedent for considering cases involving a reduction in housing supply which meets community need. However, the extent that it informs Council's planning proposal on net dwelling loss is somewhat limited.

It is noted that the Woollahra LEP 2024, Zone R2 Low Density Residential and Zone R3 Medium Density Residential include the zone objectives:

- *R2 Zone: To provide for the housing needs of the community within a low density residential environment.*
- *R3 Zone: To provide for the housing needs of the community within a medium density residential environment.*

If Council introduces a net dwelling loss clause in the Woollahra LEP 2014, the provision will establish specific development standards and clause objectives which will support and supplement the zone objectives.

Net dwelling loss in the Woollahra LGA

To understand the extent and type of net dwelling loss in the Woollahra LGA, staff have undertaken a study of development applications (DAs) approved from March 2020 to January 2025. Analysis of these DAs identifies that 42 DAs result in a net dwelling loss. This comprises 35 DAs that have been approved, and seven DAs currently being assessed. The combined net dwelling loss from the 35 approvals is 83 dwellings. If the seven DAs awaiting determination are all approved this will result in a further net loss of 10 dwellings, potentially taking the total dwelling loss to 93 dwellings over the review period. **Table 1** contains a summary of these DAs to provide a broad understanding of the types of DAs that result in net dwelling loss.

Table 1 - Approvals that have resulted in a net dwelling loss on the site (March 2020 to January 2025)		
DA categories	Number of DAs	Combined net dwelling loss
DAs with a net dwelling loss of more than 1 dwelling or more than 15%, whichever is the greater	• 13 DAs (11 DAs approved + 2 DAs under assessment)	• 51 dwellings 55% of total dwelling loss
DAs with net dwelling loss of 1 dwelling	• 27 DAs (22 approved + 5 DAs under assessment)	• 27 dwellings 29% of total dwelling loss
DAs with net dwelling loss which is less than 15% of dwellings on the site	• 2 DAs approved	• 15 dwellings 16% of total dwelling loss
Total	• 42 DAs (35 approved + 7 under assessment)	• 93 dwellings (93 approved + 10 under assessment)

In analysing the impact of this loss, we note that dwelling loss in the Waverley LGA was 92 dwellings (Jan 2017 – Nov 2022) and in the City of Sydney LGA it was 91 dwellings (Jan 2018 – Oct 2024, with potential further loss of 132 dwellings for DAs under assessment or appeal). Considering the relatively small size of the Woollahra LGA compared to the City of Sydney LGA (12km² vs. 26km²), the scale of net dwelling loss in the Woollahra LGA is far more significant. This is also true when looking at the total number of applications lodged, with the City of Sydney receiving more than double the number of applications than Woollahra Council over the 2023-24 financial year.

Furthermore, Council's planning staff expect that the low- and mid-rise housing reforms are likely to accelerate the rate of net dwelling loss due to the incentivisation of redevelopment in land zoned R3 Medium Density Residential which contains many older style flat buildings. This is further discussed in the planning proposal (at **Attachment 1**) and supported by an analysis of market conditions.

Planning Proposal

Having regard to the net dwelling loss that is occurring in the Woollahra LGA, staff identified that there is strategic merit to prepare a planning proposal to address this issue. The objective of the planning proposal is to reasonably minimise the loss of housing supply resulting from the consolidation of existing dwellings or the demolition of existing housing for the construction of new dwellings. The intended outcomes are to:

- Reasonably minimise net loss of housing stock;
- Support housing diversity and affordability;
- Maintain and grow housing supply in the Woollahra LGA, and
- Retain residential dwelling density and diverse housing choice

The planning proposal seeks to amend the Woollahra LEP 2014 by introducing a local provision to restrict dwelling loss to no more than one dwelling, or 15% of all existing dwellings, whichever is greater.

The proposed clause will apply to residential accommodation (except for boarding houses, co-living housing, group homes, secondary dwellings and residential care facilities) where the total number of dwellings on the development site, totals three or more dwellings.

The threshold of three dwellings has been applied to provide some scope and flexibility for the amalgamation of dwellings within the LGA. For example, the provisions will not apply to the amalgamation of two adjoining residential apartments or amalgamation of dual occupancies. This approach allows for improvements to dwellings whilst also seeking to address the incremental impact of net dwelling loss within the LGA. The proposed threshold provides a reasonable balance between allowing for redevelopment and renewal of building stock, whilst also seeking to minimise the loss of dwelling numbers on any development site.

The provision will operate as a development standard and will therefore be subject to Clause 4.6 Exceptions to development standards of the Woollahra LEP 2014. This will provide further flexibility in circumstances where it can be suitably justified that compliance with this standard is unreasonable having regard to the site, e.g. to comply with the NSW Government *Apartment Design Guide 2015* (ADG) requirements, such as minimum dwelling sizes or floor plate design to achieve solar access.

The proposed approach is informed by the City of Sydney and Waverley Council planning proposals which have been endorsed by the DPHI and therefore provide a sound benchmark.

Examples explaining if / how the draft provision will apply

Part 4.2 of the planning proposal includes the following examples of how the net dwelling loss provision would apply to different DA scenarios and development types.

Scenario	Comments
Example 1: Knock-down and rebuild of an existing RFB with 10 existing dwellings.	15% of 10 dwellings is 1.5 dwellings, equating to 2 when rounded. As such, the proposal may reduce the site to 8 dwellings whilst still complying with the provisions.
Example 2: Knock-down and rebuild of an existing RFB with five dwellings.	15% of 5 dwellings is 0.75 dwellings, equating to 1 dwelling when rounded. As such, the proposal may reduce the site to 4 dwellings whilst still complying with the provision.
Example 3: Demolition of an existing RFB and replacement with a non-residential building.	The proposed provision will not apply as changes of use to non-residential purposes are permitted under subclause (4).
Example 4: Demolition of an existing RFB with 10 dwellings, resulting in an empty lot.	Subclause (3) specifies that development includes demolition work. This would not be permitted as there would be a reduction of 10 dwellings on the site.
Example 5: Consolidation of three residential lots, with a dwelling house on each lot, in a low density area. All dwellings are demolished and a single, larger dwelling house is built in their place.	The proposed provision would apply, as 3 dwellings exist on the site. There would be a net loss of 2 dwellings, which is not permitted.
Example 6: Consolidation of two residential lots, with a dwelling on each,	The proposed provision would not apply. As there are 2 existing dwellings on the collective

Scenario	Comments
in a low density area. Both dwellings are demolished and a single, larger dwelling is built in their place.	development site, the threshold of 3 dwellings would not be reached.
Example 7: Demolition of a dual occupancy and construction of dwelling house.	The proposed provision would not apply. As there are 2 existing dwellings in the dual occupancy, the threshold of 3 dwellings would not be met.
Example 8: Three separate lots each contain a dwelling house. A complying development certificate is lodged to demolish one of the dwelling houses. Six months later, when the demolition works are completed, a DA is lodged to demolish the remaining 2 and build a single dwelling house.	As there were 3 dwellings in existence at the time of gazettal of the LEP net dwelling loss clause, the DA would not be supported under the provisions. The net reduction in dwellings would be 2 over all applications.
Example 9: Demolition of a 1960s RFB with 15 dwellings, and the construction of a new RFB with 11 dwellings. The reduction of dwellings stems from larger apartment sizes required under the ADG.	15% of 15 dwellings is 2 (when rounded). The proposal will result in a net dwelling loss of 4 (2 more than permitted), and would not comply. The applicant may lodge a clause 4.6 variation request, which would be assessed on its merits.
Example 10: Mixed use development with 25 dwellings (1000sqm of residential floor space) and 500sqm of retail floor space is renovated. There is no change of floor space overall, but 1000sqm is allocated to retail and the number of dwellings will drop to 11.	The provision limits the loss of dwellings up to 15% of existing units, but exceptions allow the conversion of residential space to non-residential usage. Despite exceeding the 15% loss of dwellings, the development would be permitted under the proposed controls.

Local planning panel advice

The planning proposal was referred to the Woollahra LPP on 6 February 2025. Note: Councillor Toni Zeltzer and Councillor Merrill Witt addressed the Panel.

The Woollahra LPP unanimously supported the planning proposal, and provided the following advice to Council:

THAT the Woollahra Local Planning Panel advises Council:

- A. To proceed with the planning proposal (at Attachment 1) as it has strategic merit, which seeks to amend the Woollahra Local Environmental Plan 2014 by introducing a local provision to restrict net dwelling loss to no more than one (1) dwelling or 15% of existing dwellings, whichever is the greater.*
- B. Given the NSW Government push to increase housing across the Greater Sydney metropolitan region, that the DPHI be requested to review how the issue of a reduction in housing numbers be addressed at a State policy level, given State policies prevail over any local policies.*

This advice is reflected in the recommendations of this report.

The planning proposal at **Attachment 1** of this report has been updated to reflect this advice. The planning proposal is substantially the same as the one considered by the Woollahra LPP, but has been updated to include the Panel's advice, to reflect Waverley Council's most recent decision regarding their residential density planning proposal, and to recognise that the low and mid-rise housing reforms have now commenced.

Social impact statements

As part of the resolution from 28 October 2023 on net dwelling loss, Council requested that staff *"B. Amend the Woollahra Development Control Plan 2015 to require a Social Impact Statement (or similar documentation) to be provided where a reduction in dwelling numbers is proposed on a development site."*

A social impact statement (SIS) may be broadly defined as a report that assesses the social impacts of a proposal. The NSW Government's *Social Impact Assessment Guideline (2023)* identifies that *"'social impacts' generally refer to the consequences that people experience when a new project brings change... The social impact assessment should be targeted and proportionate to the likely project impacts, and to the project's context."* (page 7)

Staff have considered Council's request to amend the *Woollahra Development Control Plan 2015* (Woollahra DCP 2025) to require an SIS or similar for DAs where there is a net dwelling loss, and do not support this approach as it would not add value to the assessment process.

The potential social impact of a DA is already addressed within the existing assessment framework. Under the Environmental Planning and Assessment Act 1979 (EP&A Act), section 4.15, the social impact of any DA is to be taken into consideration:

"In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality".

The potential social impacts should be addressed in the statement of environmental effects (SEE). If the SEE does not suitably address the social impact, Council's planner can request additional information, including a SIS if it is proportionate and relevant to the proposal.

In addition, if the Woollahra LEP 2014 is amended to include a net dwelling loss clause (such as to limit dwelling loss to no more than 15% of the existing dwellings), compliance with that clause will provide positive impacts and would not need to be further addressed through a SIA.

Alternatively, if the applicant does not comply with the net dwelling loss clause, the LEP clause will be a development standard to which *Clause 4.6 Exceptions to development standards* of the Woollahra LEP 2014 applies. Consistent with Clause 4.6 of the LEP and Clause 35B of the *Environmental Planning and Assessment Regulation 2021* the applicant will need to submit a written request, which accompanies the DA, setting out the grounds to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient planning grounds to justify contravening the development standard. Matters such as the social impact of the proposed reduction in dwelling numbers would be considered.

Having regard to the above, staff advise that the planning proposal on net dwelling loss does not require supporting provisions in the Woollahra DCP 2015 to address social impact assessment.

In a separate, but related matter, a Councillor has expressed interest in requesting SIA or SIS for other types of developments, and the following Question with Notice was put to the Council meeting of 28 October 2024:

Could the Staff please provide an update on progress made to date to introduce something similar to Waverley Council's Social Impact Assessment (SIA) requirement for substantial new developments.

In response, staff can provide the following advice.

We have considered the merits of introducing additional requirements for a SIA and do not support this approach. In particular, staff have looked at Waverley Council's *Waverley Social Impact Assessment Guidelines 2022* (Guidelines), which establish triggers for a Social Impact Assessment (SIA) for all proponent-lead Planning Proposals, and Development Applications that involve the following:

- Loss of low-rental dwellings (as defined under *State Environmental Planning Policy Housing 2021*)
- Strata subdivision of 4 or more lots
- \$10,000,000 or greater construction cost
- Gross Floor Area of 3,000sqm or greater
- Reduction in dwelling numbers on site

Under Waverley Council's Guidelines, a SIA may also be required for the following uses if the use exceeds the threshold specified in the Guidelines:

- Shop top housing
- Residential flat buildings
- Build-to-Rent housing
- Boarding houses and hostels
- Co-living housing
- Entertainment facilities for more than 100 persons
- Pubs, excluding a limited licence and a small bar.
- Retail premises for more than 500sqm
- Tourist and visitor accommodation
- Backpackers' accommodation
- Hotel or motel accommodation
- Serviced apartments

The Guidelines also state that the need for a SIA applies where significant social impacts are anticipated, and is up to the discretion of Council planners, based on the expected impact, scope and scale of development, and impact of similar development in the past (pg 5).

The Waverley Social Impact Assessment Guidelines 2022 can be viewed at https://www.waverley.nsw.gov.au/__data/assets/pdf_file/0009/208476/Social_Impact_Assessment_Guidelines.pdf

The Woollahra DCP, Chapter F3 Licensed premises, currently identifies that a Social Impact Report is required for DAs involving licensed premises. The report is to contain "an appropriate level of information of social impacts having regard to the risk rating of the premises". For example, hotels, general bars and clubs have a higher risk rating than a small bar or restaurant. The Social Impact Report is to address certain matters including details of who was consulted about the DA, issues raised, and measures proposed to mitigate negative social impacts.

Council staff do not recommend amending the Woollahra DCP to identify other land uses that require SIA or SIS. This is because the land uses likely to have social impacts significant enough to warrant a SIA will generally be identified as State significant development or regionally significant development, or will otherwise be suitably addressed under the EP&A Act section 4.15 evaluation and assessment.

All State significant development (SSD) projects require a social impact assessment (SIA). This includes the following types of development where the estimated cost of development meets the specified threshold:

- cultural, recreation and tourist facilities (\$30M +)
- build-to-rent housing (\$50M +)
- in-fill affordable housing (\$75M +)

- seniors housing (\$30M +)
- educational establishments including alterations or additions to an existing building, at an existing school (\$50M +)

SSD is listed in Chapter 2—Schedule 1 and Schedule 2—of the *State Environmental Planning Policy (Planning Systems) (2021)*. <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724>

Regionally significant development (RSD) is development with large investment value, scale or complexity, and includes general development with a capital investment value (CIV) over \$30M, and council related development over \$5M (refer Planning Systems SEPP, Schedule 6).

RSD in the Woollahra LGA is assessed by Council staff and determined by the Sydney Eastern City Planning Panel. The DPHI has set out a best practice application and assessment process for RSD, which includes briefings between the DPHI Planning Panel teams, Council staff and the applicant. This process facilitates identification of issues, including any outstanding information or unresolved assessment issues. Within this context there is sufficient opportunity for Council staff to identify if there is a need for SIA based on the particular circumstances of the DA.

Having regard to the SIA requirements for SSD, the assessment process for RSD, the aforementioned EP&A Act section 4.15 assessment, and the existing provisions for licenced premises in the Woollahra DCP, staff do not recommend that Council amends the DCP to require a SIA for other specified land uses.

There is suitable provision within the current assessment framework for Council staff to use their discretion to determine when an SIA is required. Establishing mandatory requirements for SIA reporting based on predetermined types of DAs will not add value to the assessment process as it tends to lead to perfunctory and superficial SIA reporting if the requirements are not applied with discretion, while also creating an unnecessary reporting burden on the applicant.

Options:

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

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

Community Engagement and / or Internal Consultation:

Council's Strategic Planning and Place staff undertook internal consultation to inform the preparation of the planning proposal. Planning staff from the City of Sydney and Waverley Councils were also consulted regarding their planning proposals for addressing net dwelling loss.

Staff have updated the planning proposal to include the advice of the Woollahra LPP, the latest position regarding the Waverley residential density planning proposal and to recognise that the land and mid-rise housing reforms have now commenced. These changes are administrative in nature.

If the planning proposal receives a Gateway determination, the wider community will be notified via the exhibition process. Public exhibition of the planning proposal will be undertaken in accordance with the requirements of the Act, 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 the planning proposal (having considered the advice of the Woollahra LPP), and should the planning proposal progress to finalisation, there will be policy implications by amending the Woollahra LEP 2014 to insert a new local planning provision.

Financial Implications:

Should Council resolve to progress the planning proposal there will be costs associated with advertising the public exhibition of the planning proposal, subject to the DPHI issuing a Gateway determination.

Resourcing Implications:

Should Council decide to progress the planning proposal, staff resources will be required to progress the matter, including to manage the public exhibition process and prepare a post exhibition report to a meeting of Council.

Conclusion:

This report seeks a Council resolution to proceed with a planning proposal to amend the Woollahra LEP 2014 by introducing a local planning provision to address the net dwelling loss. The net dwelling loss being experienced in the Woollahra LGA will have incremental and cumulative impacts on housing supply, as well as social implications by reducing housing diversity due to losses of smaller and relatively more affordable stock. The planning proposal will seek to reasonably minimise the loss of housing supply resulting from the consolidation of existing dwellings or the demolition of existing housing for the construction of new dwellings.

Attachments:

1. Planning Proposal - Net Dwelling Loss - Draft February 2025 for EPC 3 March 2025