

Item No: 12.2
Subject: **SUBMISSION TO THE 'EXPLANATION OF INTENDED EFFECT: CHANGES TO CREATE MORE LOW AND MID-RISE HOUSING'**

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File No: 24/31810

Purpose of the Report: To obtain Council's endorsement of the submission to the Department of Planning, Housing and Infrastructure's exhibition on the Explanation of Intended Effect: Changes to create low and medium-rise housing

Alignment to Delivery Program: Strategy 4.1: Encourage and plan for sustainable, high quality planning and urban design outcomes.

Recommendation:

THAT Council:

- A. Notes the report on the exhibition on the Explanation of Intended Effect: Changes to create low and medium-rise housing.
- B. Endorses the draft submission at **Attachment 1** of the report to the Council meeting of 26 February 2024 and requests it be submitted to the Department of Planning, Housing and Infrastructure.

Executive Summary:

The purpose of this report is to obtain Council's endorsement of a draft submission prepared in response to the exhibition of the *Explanation of Intended Effect: Changes to create low and medium-rise housing*, prepared by the Department of Planning, Housing and Infrastructure (DPHI).

Staff do not support the proposed reforms, which seek to abandon best practice, placed based strategic planning. They disregard our own local plans, which have been carefully crafted (consistent with the current legislation) to address our agreed housing targets while also protecting local character. Furthermore, our agreed housing targets were met and exceeded for 2016-2021.

Through overriding our existing controls for permissible land uses, the proposed reforms will produce buildings with excessive bulk and scale. Staff also have concerns about impacts on heritage conservation areas (HCAs) and the placement of further strain on infrastructure already serving our very dense local government area (LGA). Council staff recommend that the proposed reforms do not progress, and that the DPHI engages in meaningful collaboration with councils to address the housing crisis.

Discussion:

Background

On October 2022, the *National Housing Accord* (Accord) was introduced with a national five year target of one million well-located new homes by June 2029. In August 2023, National Cabinet announced a revised five year target of 1.2 million well-located dwellings from mid-2024. The NSW Government committed to deliver at least 314,000 new homes by mid-2029, with a stretch goal of 377,000 dwellings. The Accord requires the NSW Government work in collaboration with Councils on changes to meet the five year housing target, with an agreement to: *'commit to working with local governments to deliver planning and land-use reforms that will make housing supply more responsive to demand over time, with further work to be agreed under the Accord.'*

On 28 November 2023, a press release from the NSW Government announced planning changes to create new low and mid-rise housing. The following assertions were made in the press release:

- *Sixty percent of R3 zones across Sydney (where multi dwelling housing is appropriate and should be encouraged) presently prohibit residential flat buildings of any scale,*
- *In October (2023) the Government identified a significant gap in the approval of density, with terraces and 1-2 storey unit blocks allowed under R2 zoning in only two of 32 Local Environmental Plans (LEPs) (across Sydney).*

Of note is that in the Woollahra LGA we already permit residential flat buildings (RFBs) and multi-dwelling development in our R3 Medium Density Zone, and dual occupancies in our R2 Low Density Zone.

On 15 December 2023, the *Explanation of Intended Effect: Changes to create more low and mid-rise housing* (EIE) was placed on public exhibition. The proposed controls in the EIE are aimed at encouraging low and mid-rise housing in response to the housing crisis. Reforms focused on transit oriented development were also announced at a similar time, however these do not apply to the Woollahra LGA.

Proposed reforms

The reforms introduce a number of planning changes that aim to create more low and mid-rise housing in “well-located” areas. The reforms identify mid-rise housing as RFBs and shop-top housing between three and six storeys, and low rise housing as multi-dwelling housing (MDH) such as terraces and townhouses, manor houses and dual occupancies. The changes seek to:

- Expand land use permissibility to allow dual occupancies in the R2 zone (already permissible under the Woollahra LEP 2014)
- Expand land use permissibility to allow manor houses and multi-dwelling housing in the R2 zone, in station and town centre precincts;
- Implement non-refusal standards for height and FSR; and
- Introduce other planning provisions such as changes to the *Apartment Design Guide* (ADG), landscaping provisions and Torrens subdivision of dual occupancies and MDH.

The reforms propose to introduce station and town centre precincts based on the definitions shown below:

- *800m walking distance of heavy rail, metro or light rail stations, 800m walking distance of land zoned E2 Commercial Centre or SP5 Metropolitan Centre, or*
- *800 walking distance of land zoned E1 Local Centre or MU1 Mixed that contain an appropriate level of goods, services and amenities, such as a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants.*

Staff consider the above definition of station and town centre precincts is vague and lacks sufficient detail. For example, the definition relies on an 800m walking distance area, not as the ‘crow flies’ distance. The DPHI has confirmed that they do not intend to introduce mapping with the reforms, which raises significant issues as to where exactly the proposed precincts will apply.

Furthermore, elements of the reforms are not supported by existing legislation. For example, there is no definition for a ‘full-line supermarket’. The DPHI is currently seeking input from councils to determine which E1 and MU1 centres contain an appropriate level of goods, services and amenities to be included.

Additionally, staff understand that proponents would be able to use both the above reforms and recent incentives for affordable housing under *State and Environmental Planning Policy (Housing) 2021* (Housing SEPP). These include floor space ratio (FSR) and building height bonuses of up to 30% for projects that include at least 10-15% of gross floor area (GFA) dedicated to affordable housing for 15 years.

Issues identified

Lack of strategic planning

The DPHI's proposed changes to create more low and mid-rise housing fundamentally abandon place based strategic planning. The reforms do not meet the requirements for strategic planning prescribed under Division 3.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The approach taken by the DPHI, utilising a one-size-fits-all density policy, is not best practice and does not allow councils to appropriately plan for increased density.

The current district strategic plan remains the *Eastern District Plan*, which implements the *Greater Sydney Plan – a Metropolis of Three Cities*. This plan sets our five year housing target (2016/17 to 2020/21). The *Woollahra Housing Strategy 2021*, endorsed by the DPHI on 11 March 2022, sets our 6-10 year housing target. Council exceeded the five year housing target by 70% (+264 new dwellings) and is on track to meet the 6-10 year target. The NSW Government's report, *Budget Estimates 2023-24*, showed we were one of only 13 councils in Greater Sydney that met the five year housing target. Accordingly, we have a strong record of accommodating growth in a coordinated and planned manner.

In contrast, the proposed reforms seek to increase density without consideration of any specific housing target for the Woollahra LGA. This approach has no regard for issues such as infrastructure constraints, housing delivery capacity under existing strategies, value capture mechanisms, and supporting existing initiatives (e.g. tree canopy targets).

The reforms would introduce changes that will override our carefully crafted local plans and strategies. For example, the introduction of non-refusal standards for FSR and building height would override controls in the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) and *Woollahra Development Control Plan 2015* (Woollahra DCP 2015), and would rely on a merit based assessment.

Overall, the approach taken by the DPHI through the reforms will introduce unnecessary confusion and complexity in the planning system and does not meet the requirements of the Accord and the EP&A Act.

Impacts from non-refusal standards and other planning controls

The reforms introduce non-refusal standards for mid-rise housing within station and town centre precincts. The proposed changes are outlined in **Table 1** below.

Table 1: Proposed non-refusal standards for RFBs and STH within precincts

Non-refusal standard	Within inner (0-400m) station and town centre precincts	Within outer (400-800m) station and town centre precincts
Maximum building height	21m or 6-7 storeys (27.3m or 8-9 storeys with AH* bonus)	16m or 4-5 storeys (20.8m or 6-7 storeys with AH bonus)
Maximum FSR	3:1 (3.9:1 with AH bonus)	2:1 (2.6 with AH bonus)

*AH bonus refers to affordable housing bonuses as previously discussed.

Other changes proposed relate to adjusted design criteria, such as reduced communal open space, building setback and servicing requirements.

If the changes proceed, the proposed FSR and height of building non-refusal standards would introduce excessive density with no regard for our local plans and strategies that support our future desired character and support our tree canopy targets. At worst, the changes represent a 462% increase on FSR and 221% on building height compared to development standards under Woollahra LEP 2014. Furthermore, the proposed reforms would be in addition to affordable

housing bonuses of up to 30% for FSR and building height. This is equivalent to an extra FSR of 0.9:1, and 6.3m building height. The final outcome would be a maximum FSR of 3.9:1 (+600% increase) and building height of 27.3m (+287.4% increase). The EIE provides no evidence base, modelling or economic justification for these figures.

These impacts are demonstrated in some potential reform scenarios below. **Figures 1 and 2** illustrate a model for a site between 33B-35 Mona Road and 20-28 Darling Point Road, Darling Point. **Figures 3 and 4** illustrate a model for a site at 30-50 Epping Road, Double Bay). Both of these areas would be within an inner precinct area (0-400m walking distance).

Further details on the impacts of the reforms are provided in the maps and modelling at **Attachment 1**. The modelling for both scenarios has been applied to five and four amalgamated sites respectively. It does not represent the full extent of the potential implications.



Figure 1: View south-west to Darling Point Road, Darling Point with indicative building envelopes under existing controls (blue), reforms (orange) and reforms plus Housing SEPP AH bonus (yellow).

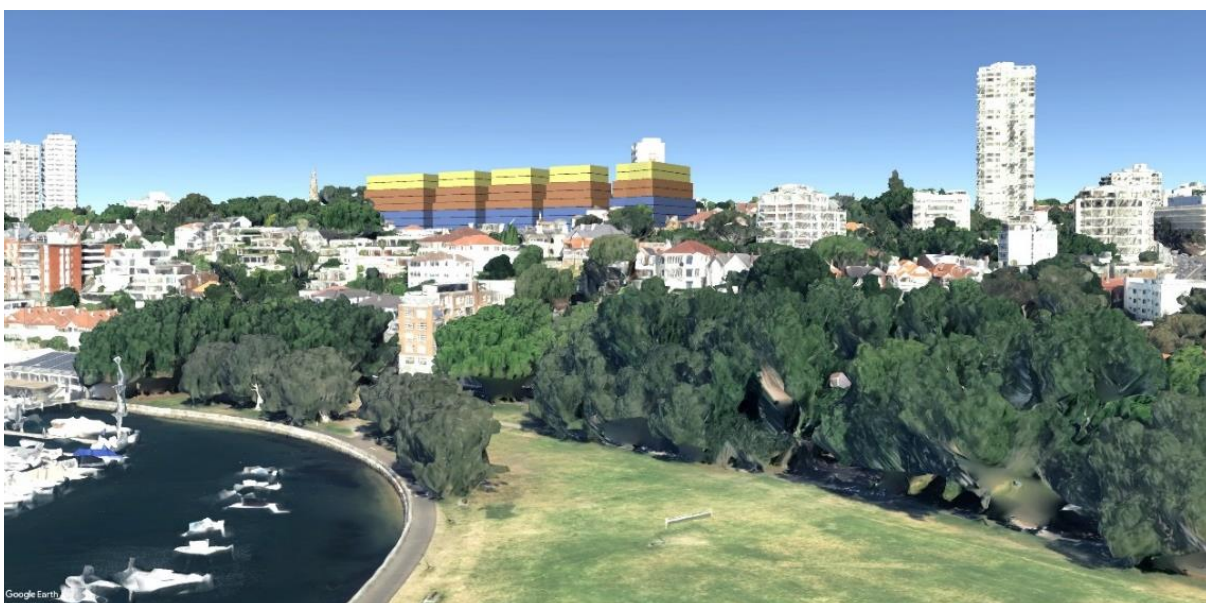


Figure 2: View east to Darling Point Road, Darling Point with indicative building envelopes under existing controls (blue), reforms (orange) and reforms plus Housing SEPP AH bonus (yellow).



Figure 3: View south-west to Epping Road, Double Bay with indicative building envelopes under existing controls (blue), reforms (orange) and reforms plus Housing SEPP AH bonus (yellow).



Figure 3: View north-east to Epping Road, Double Bay with indicative building envelopes under existing controls (blue), reforms (orange) and reforms plus Housing SEPP AH (yellow).

The reforms propose permitting multi-dwelling housing and manor houses in the R2 zone within station and town centre precincts. Key issues identified with this proposal are:

- Unacceptable density impacts from increased FSR (from 0.5:1, up to 0.8:1);
- Significantly reduced tree canopy targets (as low as 20% of site area); and
- Introduction of minimum car parking rates, which in contrast to Council's maximum rates which will worsen congestion issues.

Dual occupancies, which are already permitted in the R2, will also be affected. Under the reforms, they would be subject to less strict requirements on lot size and landscaped areas.

Infrastructure and value capture

The reforms lack consideration of infrastructure constraints. There is no commitment in the EIE to provide Council with any additional means of funding local infrastructure that will be required to meet the demands of a larger residential population. Staff note that Housing and Productivity contributions are now collected when new dwellings are constructed. However, these funds are allocated by NSW Treasury and spent anywhere in Greater Sydney. Accordingly, there is no guarantee that the Woollahra LGA will receive any funding. This is a significant oversight, given section 7.12 revenue is comparably minor and is not intended to support growth on the scale envisaged.

Additionally, there has been no proposal to capture any of the uplift in land values that would be generated from the proposed controls. A complementary contributions scheme could be used to raise money for local infrastructure provision or affordable housing delivery. Instead, private landowners will financially benefit from the reforms, and not the wider community bearing the impacts of increased development.

Heritage and environmentally sensitive land

Under the reforms all other applicable controls in LEPs and DCPs including heritage and environmental considerations will

“continue to apply to the extent they are not inconsistent with the proposed changes”.

Staff are unclear what this means in reality. The reforms provide insufficient information on how the changes would address the impacts of increased density on heritage items, HCAs, areas with high Aboriginal cultural significance, or areas with high biodiversity significance. Staff have made several requests to the DPHI to clarify the implications, however no further information has been provided.

The reforms will undermine local provisions that protect heritage and environmentally sensitive land. They will likely lead to the loss of significant fabric from heritage items and contributory buildings, and produce secondary impacts such as overshadowing issues and poor design outcomes.

Staff recommendations

Whilst staff fundamentally object to the proposed reforms and recommend that they do not progress, we suggest that the minimum requirements for the inclusion of E1 Local centre and MU1 Mixed Use land be updated as follows:

- Exclude all land zoned MU1 Mixed Use;
- Exclude all E1 Local Centres – unless:
 - The centre contains substantial infrastructure or a transport interchange such as a train station or bus interchange with existing capacity and additional capacity for planned population growth;
 - The centre contains at least two full-line supermarkets;
 - The centre must contain a wide range of consumer services, such as banks, hairdressers, medical premises and the like.

The definition for ‘town centre’ should be developed in consultation with councils, using an appropriate evidence based to develop recommended quantities for total employment floor space.

Based on our research, most E1 Local Centre or MU1 Mixed use centres across our LGA do not meet the level of services or infrastructure to sustain the suggested growth. The Edgecliff Commercial Centre may be considered for uplift in principle, however, the non-refusal standards

are not recommended due to infrastructure capacity and built form constraints. Furthermore, the reforms do not account for the uplift and additional dwellings already proposed under the *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy*.

Draft submission

A draft submission is provided at **Attachment 1** for Council's consideration. We note that there are some elements of the draft submission that are yet to be finalised, and these are highlighted in **yellow**. These elements will be finalised prior to lodgement with the DPHI.

In summary, the draft submission indicates Council's strong objection to the EIE, and requests that the proposed reforms do not progress.

The draft submission addresses the following key issues with the proposed reforms:

- They do not adhere to the requirements of the National Accord;
- They erode the planning hierarchy established under the EP&A Act by introducing confusion and complexity through overriding carefully crafted local provisions that support desired future character;
- The reforms will introduce un-certainty into the planning system.
- Uplift of this scale proposed must be delivered through place based planning supported by an evidence base including extensive site modelling and feasibility testing;
- The consultation is wholly inadequate and does not allow sufficient time, detail (e.g. it is not clear where precincts will be introduced), or the evidence base for the community to meaningfully respond to the content of the reforms;
- They introduce one-size-fits-all non-refusal standards that will create excessive bulk and scale;
- The reforms significantly reduce canopy provisions;
- They are accompanied with limited information as to how heritage significance and environmentally sensitive areas will be protected;
- Complexities associated with the assessment of non-refusal standards will delay the processing of development applications; and
- Funding for additional infrastructure has not been considered, which is particularly important given there is no alignment with State infrastructure provision.

Options:

As a consequence of this report Council may resolve to do one of the following:

1. Endorse the draft submission at **Attachment 1**;
2. Endorse the draft submission at **Attachment 1**, subject to staff making requested changes;
or
3. Not make a submission to the exhibition.

If Council proceeds with Option 1 or 2 above, the Council-endorsed submission will be forwarded to the DPHI. The deadline for submissions is 23 February 2024, however staff have sought an extension until 1 March 2024. Accordingly, in order to meet this deadline, any amendments must be considered and agreed to at the Council meeting of 26 February 2024 for inclusion in the submission.

Community Engagement and / or Internal Consultation:

The draft submission was prepared by staff across the Planning and Place Department, with significant assistance from Council's Spatial Systems Support Coordinator.

Staff have also placed information on the reforms on the Council's website (home page) to inform the community about these significant reforms.

Policy Implications:

The DPFI have identified the following implementation schedule in **Table 2**.

Table 2: Implementation schedule from DPFI.

Step 1	Step 2	Step 3	Step 4
Exhibition and engagement	Submissions consideration and Report	Policy Drafting (no re-exhibition)	Finalisation
Concludes 23 February 2024	March-April 2024	March –June 2024	July - September 2024

Having regard to the above, amendments to planning legislation may affect the Woollahra LGA as early as July 2024.

Financial Implications:

There are no financial implications associated with this matter at present. However, Council may have to increase infrastructure funding if the reforms proceed.

Resourcing Implications:


There have been significant resource implications associated with this matter, as multiple staff have been involved in preparing the draft submission which has impacted their ability to progress other matters.

Conclusion:

Prompted by the Accord, on 15 December 2023 an EIE was placed on public exhibition with proposed reforms that seek to facilitate infill housing in response to the current housing crisis. Staff have prepared a draft submission that sets out our significant concerns with the changes outlined in the EIE. The proposals will fundamentally undermine the role of Council in planning by overriding local environmental plans, and introducing buildings with excessive bulk that have no regard for local character, heritage significance and infrastructure capacity.

Staff recommend that Council endorses the draft submission at **Attachment 1**, for provision to the DPFI.

Attachments

1. Submission - EIE Low and Mid-rise Housing - Draft February 2024 [↓](#) 

Woollahra Council Submission



Department of Planning, Housing and Infrastructure

Explanation of Intended Effects: Changes to create more low- and mid-rise-housing

February 2024



[23/234590]

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1 Executive Summary

1.1 Summary

Woollahra Council welcomes the NSW Government's focus on addressing the housing issues the state is facing. However, the Department of Planning, Housing and Infrastructure's (DPHI's) approach to creating new housing under the *Explanation of Effect: Changes to Create Low- and Mid-rise Housing* (EIE) fundamentally undermines the NSW planning framework and local government's role in administering strategies and plans. The reform lacks strategic or economic justification, and has no evidence base to support the one-size-fits-all changes. As such, we strongly object to the low- and mid-rise reforms that will override the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) and *Woollahra Development Control Plan 2015* (Woollahra DCP 2015), creating confusion and complexity in the planning system.

Woollahra Council has successfully delivered on the requirements set out in the *Eastern District Plan*, which implements the *Greater Sydney Plan – a Metropolis of Three Cities*. The reforms have no regard for the strategic planning work of Council in delivering additional housing in our area. We have delivered and exceeded our five year housing target, and we are on track to deliver our 6-10 year housing target. We are implementing the region and district plan through best practice strategic planning using a place based approach to inform local plans and strategies with community consultation at every stage of the process.

If the NSW Government proceeds with the reforms and applies them to their full theoretical extent (introduce station and town centre precincts in all E1 Local Centre and MU1 Mixed Use centres), we would see the majority of land across the Woollahra Local Government Area (LGA) affected, including impacting on nearly all land with heritage significance.

In a wide scale implementation scenario with the introduction of station and town centre precincts in Edgecliff E1 Local Centre, Double Bay E1 Local Centre, Rose Bay E1 Local Centre, and surrounding centres from other Council areas at Bondi Junction, Bondi Beach and Kings Cross, we would see approximately 6,386 lots affected across the Woollahra LGA with 5,910 lots having heritage significance. Additionally, we would see 3,878 R2 Low Density Residential lots affected by dual occupancy provisions (lots over 400m²) under the reforms.

We are concerned that the proposed changes would fundamentally undermine our carefully crafted place-based plans that take into account local context, character, heritage conservation and infrastructure capacity. There are also complex implementation issues associated with many parts of the reforms that are likely to result in adverse built form outcomes, such as reduced amenity and excessive bulk and scale.

Furthermore, there is no framework to capture infrastructure or affordable housing contributions from the significant uplift proposed. The proposed reforms also do not explain how state or local additional infrastructure, which would be required to accommodate increased density, would be prioritised for the Woollahra LGA. We are very concerned that if

the reforms proceed, no funds will be captured and no additional infrastructure prioritised to be put towards essential projects.

In summary, we have significant concerns with the reforms and strongly object to their implementation. We urge the NSW Government to recommit to a sound strategic planning framework, aligned with state infrastructure provision, and collaborate with Councils on an alternative best practice planning response to meet the five-year housing target under the National Housing Accord.

2 Introduction

Woollahra LGA is a well-established infill area in the Eastern District of Greater Sydney. In 2021, 55.6% of residents lived in apartments, 21% in terraces and townhouses, and only 22.3% in detached houses and 0.9% in other dwelling types (ABS Census 2021).

Information produced by the Australian Bureau of Statistics (ABS), released on 30 March 2021, identifies that the Woollahra LGA is the seventh densest Council area in NSW, with an estimated population density of 4,363 people per km² and a total population of 53,496.

The population density and housing composition of the Woollahra LGA creates significant demand for high quality infrastructure, facilities and services. This is essential for maintaining the amenity, safety and economic vitality of the area and the wellbeing of people who live in, work in and visit the Woollahra LGA.

Woollahra Council fundamentally objects to the proposed reforms. We urge the NSW Government to abandon its implementation and collaborate with Councils on an alternative best practice planning response to meet the five-year housing target under the National Housing Accord. We are very concerned that the proposed reforms will erode our place-based plans and the one-size-fits-all changes have no regard for our local character and constraints and how infrastructure will be funded. Our specific concerns are outlined in **Section 3** of this document.

2.1 Background to the reforms

In October 2022, the *National Housing Accord* (Accord) was introduced with a national five year target of one million well-located new homes by June 2029 to support collaboration across governments, institutional investors and the construction sector in addressing housing supply of well-located homes and affordability issues.

In August 2023, National Cabinet announced a revised five year target of 1.2 million well-located dwellings from mid-2024. The NSW Government committed to deliver at least 314,000 new homes by mid-2029, with a stretch goal of 377,000 dwellings.

On 28 November 2023, a Ministerial press release announced proposed reforms to create more low- and mid-rise housing in well-located areas across Greater Sydney. The press release stated:

- *Sixty percent of R3 Medium Density Residential zones (R3 zone) across Sydney (where multi dwelling housing is appropriate and should be encouraged) presently prohibit residential flat buildings of any scale,*
- *In October (2023) the Government identified a significant gap in the approval of density, with terraces and 1-2 storey unit blocks allowed under R2 zoning in only two of 32 Local Environmental Plans (LEPs) (across Sydney).*

On 14 December 2023, an amendment to the *State and Environmental Planning Policy (Housing) 2021* (Housing SEPP) implemented changes to encourage affordable and social housing. This included introducing floor space ratio (FSR) and building height bonus of up to 30% for projects that include at least 10-15% of gross floor area (GFA) dedicated to affordable housing (AH) for 15 years.

Following the November announcement, on 15 December 2023, an exhibition commenced on the *Explanation of Intended Effect: Changes to create more low- and mid-rise housing* (EIE) to encourage infill housing in response to the current housing issues NSW is facing. We understand that the changes outlined in the EIE will apply on top of any Housing SEPP affordable housing bonuses. This submission responds to the matters outlined in the EIE.

2.2 Affected land in the Woollahra LGA

Woollahra Council is fundamentally opposed to the rezoning reforms proposed in the EIE including the introduction of precincts in our area with non-refusal standards, reduced design criteria for residential flat buildings (RFBs) and shop top housing (STH), introducing multi-dwelling housing into the R2 Low Density Residential zone (R2 zone) within precincts and increased planning controls for dual occupancies. Notwithstanding our major concerns, the affected lot information and mapping included in this submission demonstrates the potential impact of the reforms on the Woollahra LGA.

A summary of our methodology is outlined below.

- Research the implications of a broad implementation scenario of station and town centre precincts across the Woollahra LGA by locating all E1 Local Centres and MU1 Mixed Use centres, and centres in adjoining Council areas that may impact on land in the Woollahra LGA, and conduct preliminary mapping investigations;
- Based on an evaluation of the station and town centre precinct definition conduct investigations on potential precinct scenario being a Edgecliff E1 Local Centre precinct and a wider precinct application scenario consisting of Edgecliff E1 Local Centre, Double Bay E1 Local Centre, Rose Bay E1 Local Centre; and potential adjoining Council precincts of Bondi Junction E1 Commercial Centre and MU1 Mixed Use, Kings Cross E1 Local Centre and Bondi Beach E1 Local Centre;
- Then, conduct mapping investigations to understand potential affected land to understand the implications of increased density in our low and medium density residential areas, particularly impacts on heritage significance;
- Investigate through mapping the impact of introducing multi-dwelling, multi-dwelling (terraces) and manor houses into the R2 zone within station and town centre precincts;

- Consider mapping issues and constraints, and contact the DPHI for clarification where needed on matters such as the walking distance definition, part lot application, resolving how calculate 0-800m walking distance area with software available etc; and
- Investigate the impact of reducing minimum lot size for dual occupancies in the R2 zone through mapping.

2.2.1 Station and Town Centre Precinct – wider application precinct scenario

The reforms propose to introduce station and town centre precincts based on the definitions shown below:

- *800m walking distance of heavy rail, metro or light rail stations, 800m walking distance of land zoned E2 Commercial Centre or SP5 Metropolitan Centre, or*
- *800 walking distance of land zoned E1 Local Centre or MU1 Mixed that contain an appropriate level of goods, services and amenities, such as a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants.*

Staff consider the above definition of station and town centre precincts is vague and lacks sufficient detail. For example, the definition relies on an 800m walking distance area, not as the 'crow flies' distance. The DPHI has confirmed that they do not intend to introduce mapping with the reforms, which raises significant issues as to where exactly the proposed precincts will apply

The impact of a wider application of station and town precinct is shown in **Figures 1-2**. These demonstrate the extent of the 0-400m and 400-800m walking distance areas on residential and employment zoned land and heritage significance under the Woollahra LEP 2014.

The wider application precinct scenario looks at the introduction of precincts in the following centres; Edgecliff E1 Local Centre, Double Bay E1 Local Centre, Rose Bay E1 Local Centre, and precincts in adjoining Council areas; Bondi Junction E2 Commercial Centre and MU1 Mixed Use (Waverley Council), Bondi Beach E1 Local Centre (Waverley Council) and Kings Cross E1 Local Centre (City of Sydney)

If the wider application precinct scenario was implemented we have used modelling to demonstrate the potential impacts on our area outlined in **Figure 1**, with approximately 6,386 lots that would be impacted and with over 90% of these lots having heritage significance.

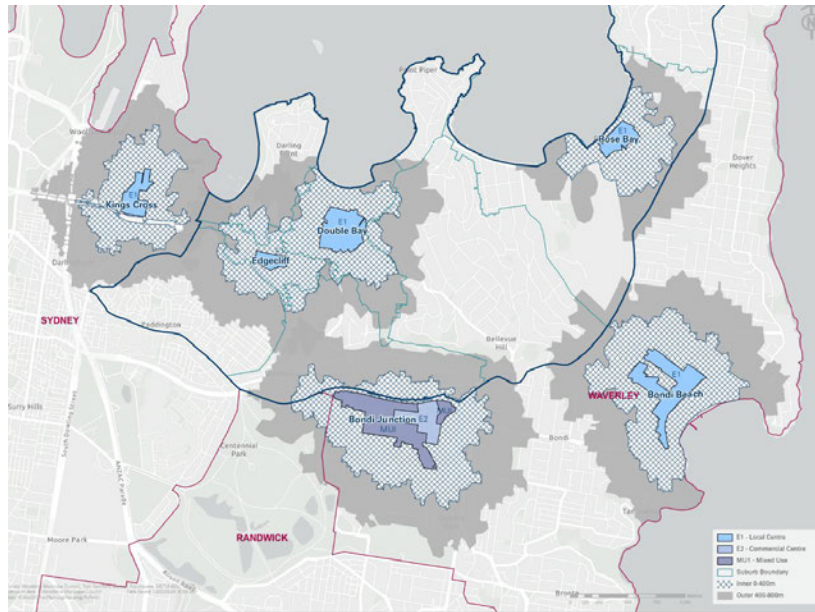


Figure 1: Wider application precinct scenario Map – 400m and 800m walking distance areas

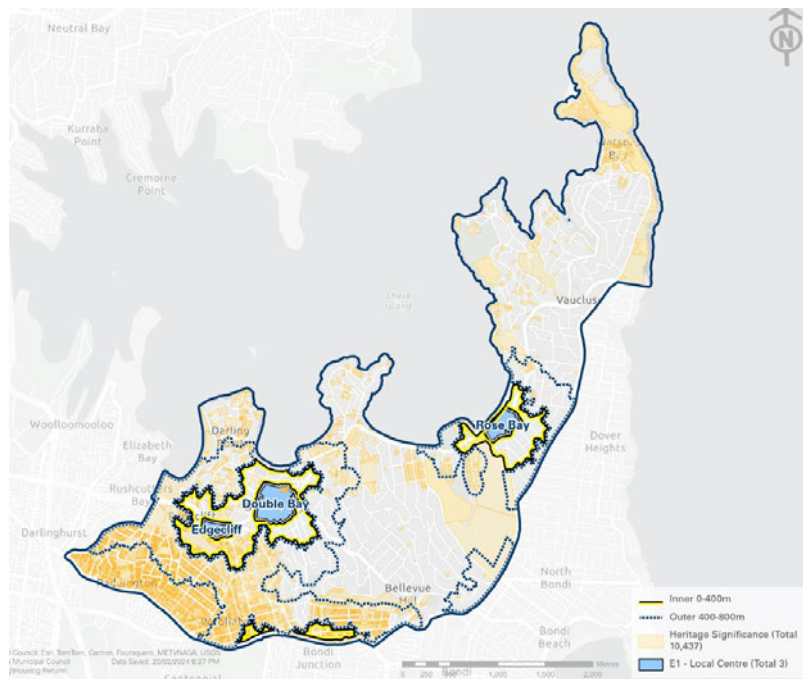


Figure 2: Wider application precinct scenario Map – 400m and 800m walking distance areas with heritage significance

2.2.2 Station and Town Centre Precinct – Edgecliff E1 Local Centre precinct scenario

The impact of the introduction of a precinct in the Edgecliff E1 Local Centre zone is shown in **Table 1** below with information on affected lots and **Figures 3** and **Figure 4** demonstrating the extent of the 0-400m and 400-800m walking distance areas on land zoning and heritage significance under the Woollahra LEP 2014.

Table 1: Edgecliff E1 Local Centre Precinct Scenario Affected Lots

Land type	Total lots affected	Lots affected by Zoning			
		R2=	R3=	MU1=	E1=
0-400m walking distance	816	257	369	80	10
400-800m walking distance	1,907	1,101	666	0	140
0-800m walking distance with heritage significance	2,582	R2=TBC	R3=TBC	MU1=TBC	E1 = TBC

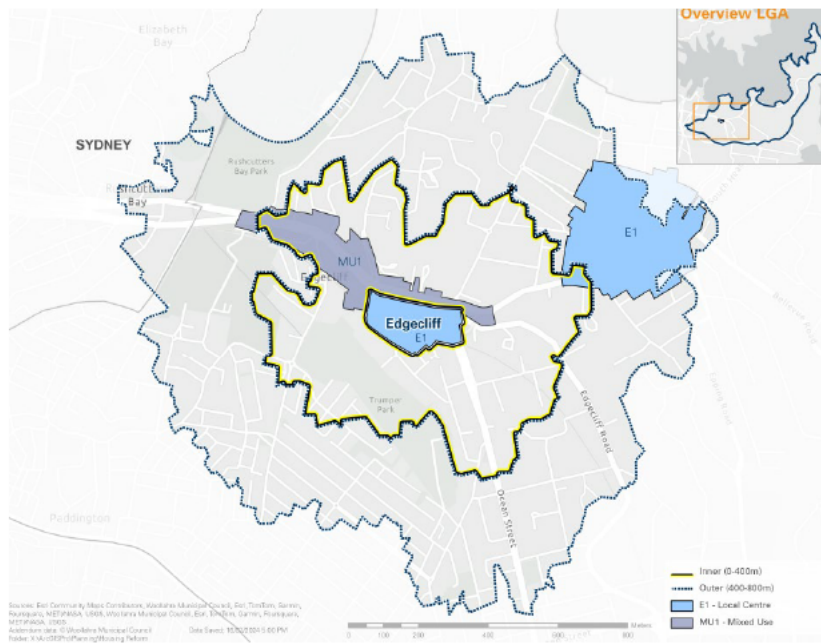


Figure 3: Edgecliff E1 Local Centre Precinct Scenario Map – 400m and 800m walking distance areas

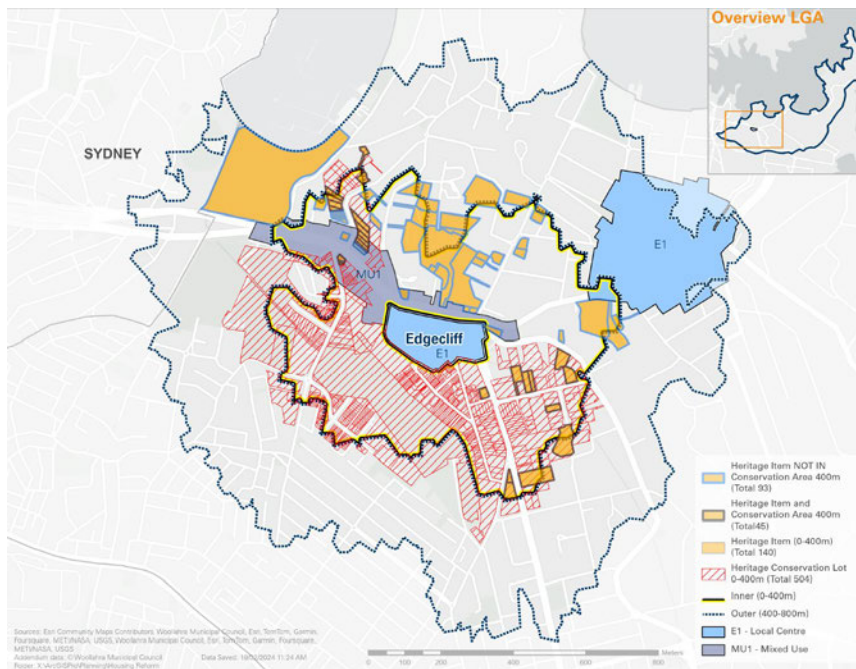


Figure 4: Edgecliff E1 Local Centre Precinct Scenario Map –Inner area (0-400m) heritage significance

2.2.3 Mid-rise housing – Edgecliff E1 Local Centre Precinct Scenario

A summary of potential affected lots in the R3 Medium Density Residential zone for the inner precinct area (0-400m) and outer precinct area (400-800m) is listed below.

- The precinct inner area (0-400m) has a total of 369 lots and will allow 6-storey RFBs and STH under the reforms or 8-storey RFBs and STH with the addition of the Housing SEPP affordable housing bonus; and
- The outer area (400-800m) has a total of 666 lots zoned that will allow 4 storey RFBs and STH under the reforms or 6-storey RFBs and STH with the addition of the Housing SEPP affordable housing bonus.

2.2.4 Multi-dwelling housing and manor houses – Edgecliff E1 Local centre scenario

The reforms propose to expand permissibility for multi-dwelling, multi-dwelling (terraces) and manor houses and introduce these land uses into the R2 zone in station and town centre precincts, and allow torrens subdivision provided a development meets the non-refusal standards.

While we fundamentally object to the reforms, staff have used mapping to investigate the implications of introducing multi-dwelling housing and manor houses into the R2 Low Density Residential zone in station and town centre precinct scenario that only includes the Edgecliff E1 zone. The findings are outlined below in **Table 2**.

Table 2: Edgecliff E1 Local Centre Precinct Scenario – Multi-dwelling Housing and Manor Housing in R2 Low Density

Land use type	Total lots affected
Multi-dwelling housing (terraces): minimum lot size 500m ² and lot width 18m	TBC
Multi-dwelling housing: minimum lot size 600m ² and lot width 12m	TBC
Manor houses: minimum lot size 500m ² and lot width 12m	37

2.2.5 Dual occupancies

The reforms propose dual occupancies will be permitted in all R2 zoned land and accompanying non-refusal standards including FSR, building height, minimum site area, minimum lot width, car parking and landscaping provisions. Whilst, dual occupancies are already permissible in the R2 zone under the Woollahra LEP 2014 for lots 460m² or more, the changes would apply to lots over 450m² and have increased impacts on amenity due to the non-refusal standards. The changes will impact approximately 42% of the R2 zone in the Woollahra LGA. The findings are outlined below in Table 3.

Table 3: Dual occupancy impacts on R2 Low Density Residential zone across the Woollahra LGA

Land use type	Total lots affected
Total R2 lots across LGA	9,182
Total R2 lots across LGA with heritage significance	5,150
Total R2 lots across LGA: equal or greater than 450m ²	3,878 (+52 lots compared to current minimum lot size)
Total R2 lots across LGA: equal or greater than 460m ²	3,826

3 Issues

3.1 Strategic Planning issues

The contents of the reforms suggest Greater Sydney has a lower population density when compared to other similar international cities, and there is a lack of dwelling diversity and density in inner city suburbs. The EIE suggests this lack of density is caused by current planning provisions blocking low- and mid-rise in-fill housing in inner suburbs. These statements are incorrect for the Woollahra LGA, and there is no evidence at a LGA or suburb level to justify these claims.

The proposed changes are a one-size-fits-all approach and not a justifiable response to the NSW Government's attempts to address the housing crisis. They would create long lasting impacts on local character, through unmitigated density increase with no regards for existing density. Councils are well aware of local capacity constraints for density and have not been approached at any stage to provide feedback on the crafting of the reforms. The reforms show no place-based evidence or consideration for the impacts of additional density from the proposed floor space and building height, as well as the cumulative impacts on additional traffic, parking, heritage and infrastructure capacity.

3.1.1 National Housing Accord

The Accord was announced in October 2022 to support the target of one million new well-located homes over the next five years from 1 July 2024. In August 2023, the National cabinet endorsed a new national target to build 1.2 million homes with New South Wales to deliver approximately at least 314,000 new homes by 20 June 2029, with an aspirational goal of 377,000 new homes. This is equal to 75,400 new dwellings per year over the next five years. In 2022, NSW delivered approximately 48,000 new dwellings.

The Accord requires the NSW Government to work in collaboration with Councils on changes to meet the five year new dwelling target. The Accord states an agreement to, *'commit to working with local governments to deliver planning and land-use reforms that will make housing supply more responsive to demand over time, with further work to be agreed under the Accord.'*

While Woollahra Council is supportive of steps to address the NSW housing crisis and provide more affordable housing in our area, we do not support the reforms which show no regard for the agreement in the Accord to work in collaboration with Council on creating more housing opportunities through planning and land-use reforms.

3.1.2 Updated Region and District Plans would be the best practice approach

The DPHI's approach to creating well-located housing in response to the Accord, is at odds with strategic planning under the *Environmental Planning and Assessment Act 1979* (EP&A Act). The unprecedented and excessive one-size-fits-all changes are not best practice planning and completely override the place-based planning our Council has developed over the past 20 years in consultation with our community.

The EP&A Act under Division 3.1 Strategic Planning sets out the requirements for the creation of region and district strategic plans, setting housing targets in collaboration with Councils and includes the preparation, content, implementation and the delivery of strategic plans and local strategic planning statements. There is no supporting Greater Sydney Region Plan and accompanying District Plan for our area with no new housing targets. The reforms set up controls that apply state-wide or to the Greater Sydney region, overriding and sidelining local planning controls. The reforms should be implemented through the planning hierarchy of new or updated region and district plans that are created in collaboration with Councils and the community including alignment with the states long term infrastructure strategies. The plans should encompass all aspects relating to land use planning; not limited to a state-wide housing target figure. This revised approach would enable Councils to review current local strategic plans and strategies, including the *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy* (Draft Edgecliff Strategy) and the recently adopted *Double Bay Planning and Urban Design Strategy* (Double Bay Strategy). Then, prepare and implement any necessary updates to meet growth demands and review housing and employment targets and deliver plans that are responsive to our future desired local character in consultation with the community.

The *Local Environmental Plan Making Guidelines* (August 2023) (the Guidelines) provides a detailed explanation of amending LEPs including the requirements for State-led rezoning for precincts. The Guidelines identify the need to outline a set of specific actions and objectives for areas, with precinct planning in a 'coordinated approach by State and Local government' which helps to ensure 'infrastructure such as schools, parks, community facilities, public transport and road upgrades are delivered to support housing'. Further, the Guidelines explain the role of a Local Strategic Planning Statement to set out the priorities and actions and identifies the need for further local strategic planning work (e.g. precinct planning, local housing, employment strategies and infrastructure strategies), prior to implementing LEP amendments.

In summary, the DPHI's approach with the reforms is not best practice planning. We do not support the reforms on this basis. We strongly urge the NSW government to recommit to a sound strategic planning framework as intended under Division 3.1 Strategic Planning of the EP&A Act 1979 as the best practice approach to setting new housing targets in collaboration with Council.

3.1.3 Lack of evidence supporting the reforms

The reforms are not supported by an evidence base that demonstrates the changes proposed would fulfil the objective of creating more in-fill low- and mid-rise housing to meet the five year housing target under the Accord, nor do they show any consideration for local character. With the enormity of the changes proposed, there should be a publicly available evidence base that demonstrates the non-refusal controls, statewide land-use permissibility changes and reduced *Apartment Design Guide* (ADG) design criteria such as building separation, setbacks, landscaping provisions, car parking, and access requirements that would be achievable and result in good urban design outcomes. For example, industry feedback and staff research has shown the proposed precinct non-refusal standards for building height and FSR are not achievable; with the proposed FSR not achievable with the recommended building height of 16m and 21m. In preparing this submission we asked for

this evidence. However, it was not provided. Furthermore, at a Departmental webinar it was suggested that Councils could provide their own evidence base.

There is also no information to demonstrate that infrastructure constraints, both current and those expected as a result of the reforms have been considered either at a local or state level. This issue is discussed in **Section 3** below.

Further to the above, there is no economic research that suggests the reforms will deliver new housing in the proposed station and town centre precincts. According to documents prepared by the DPHI, fewer than 10 percent of homes proposed under the NSW government's TOD program would be delivered during the five-year period up to June 2029¹. We would similarly expect a delayed housing pipeline for the low- and mid-rise changes.

Due to market conditions in our area, the increased FSR and height controls could stagnate dwelling growth for development applications (DAs) with approved RFB and STH buildings in precincts for some time, further interrupting our housing delivery pipeline. The changes will create uncertainty and developers will likely consider options to lodge new DAs with the increased FSR and building height controls, in addition to the Housing SEPP affordable housing bonuses.

The EIE document references two reports from the NSW Productivity Commission; *Building homes where people want to live* (2023) and *Building more homes where infrastructure costs less* (2023) and a 23 year-old report from the Grattan Institute, *The housing we'd choose* (2011). These reports are high level documents with no specific information on how the reforms would work at a local level nor provide any specific justification on the changes proposed.

We have reached out to the DPHI during the consultation period to provide the evidence base in response to these issues mentioned above. No information was provided in relation to our request.

In direct contrast to the reform's one-size-fits-all changes, our Council has worked extensively over the past years on the development of the plans and strategies. These strategies were developed with extensive background studies from consultants and Council staff, including planning and urban design studies involving site testing, heritage studies, transport studies and economic studies that have been made available to community through the various stages of consultation. This evidence base was used by Council staff to develop the built form elements of each strategy such as building heights, street wall height, FSR, built form, land use, amalgamation patterns, active frontages, public domain improvements, parking requirements and active transport.

Based on the issues identified above, the EIE does not have an evidence base to support the changes and the changes could impact on our housing delivery pipeline. The scale of the

¹ McGowan, M, *Only 10 percent of one of Labor's signature housing policies to be delivered by end of the Housing Accord*, Sydney Morning Herald, 7 February 2024.

proposed changes is unprecedented and should be the result of robust, place-based evidence that informs planning outcomes, not the arbitrary one-size-fits-all changes seen under the reform.

3.1.4 High levels of population density and dwelling density

The reforms rely on findings in the NSW Productivity Commissions 2023 report, *Building More Homes Where People Want to Live*, that state Sydney 'is one of the least dense global cities' and there being insufficient housing stock of low and medium density infill housing in inner suburbs. The report states that terraces, cottages and small apartment blocks account for only 20% of housing stock and also that these housing types are not being allowed under current planning laws. This is not true of the Woollahra LGA, where we have a higher percentage of medium density housing stock, and our local controls already permit dual occupancy in low density residential areas and RFBs are permissible in medium density residential areas.

The Woollahra LGA has density on a global scale. In 2021, the population density was 4,363 people per km², already significantly higher compared to Greater Sydney and comparable to other global cities as shown in **Figure 5** below. The population density is shown to be considerably higher for the suburbs of Double Bay (5,886 people per km²), Edgecliff (8,061 people per km²), Paddington (8,519 people per km²) (Woollahra LGA only), Woollahra suburb (5,762 people per km²)². Recent development activity in the Woollahra LGA confirms density is rising in our area and will continue to do so into the future.

Dwelling density in the Woollahra LGA exceeds many other comparable areas in Sydney, with 77.8% of dwellings being medium or high density, compared to 46% in Greater Sydney. This is clear to see when walking the streets of our suburbs including Double Bay and Edgecliff, where high density, apartment living is the norm comprising of 68.7% and 69.1% respectively.³

² 2021 Census, Australian Bureau of Statistics and 2022 ABS Estimated Residential Population data compiled by Profile ID.

³ 2021 Census, Australian Bureau of Statistics and compiled by Profile ID.

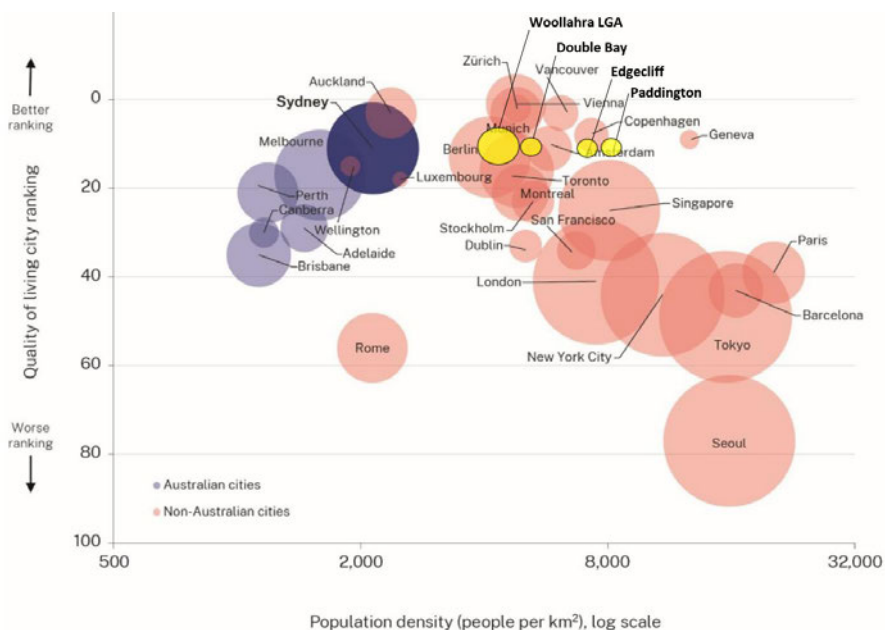


Figure 5: Population density comparison of the Woollahra LGA, Sydney and International Cities⁴

*This diagram has been included to show population density only and is not intended to make assertions on quality of living

3.1.5 Housing target delivery

Woollahra Council has met and exceeded the five year housing target (2016/17 to 2020/21) (+264 new dwellings) and is on track to meet the 6-10 year target. The *Budget Estimates 2023-24, NSW State Government* report showed Woollahra Council was one of the 13 Councils in Greater Sydney and part of the 13% of Council across NSW that met five year housing target (2016/17 to 2020/21).

The reforms do not address the delivery of new dwellings through local plans and strategies in response to housing targets established for the area set through the District Plan and *Woollahra Local Housing Strategy 2022* (Woollahra Housing Strategy). They respectively set a five year target of 300 dwellings for 2016 - 2021 and a 6-10 year target of 500 dwellings for 2021-2026. However, we exceeded our 2016-2021 housing target by 70%, and we have already delivered over 43% of the dwellings required for the 2021-2026 target.

The reforms discuss generic gaps in existing residential zones and controls to encourage and make feasible new housing. As shown above, we have demonstrated that we have

⁴ NSW Productivity Commissions report, *Building More Homes Where People Want to Live* (2023). Note, Council staff have added in information relating to the Woollahra LGA (not to scale) taken from Profile ID data (2024).

delivered on our five year housing target and have capacity in our existing local controls to deliver our 6-10 year target. Beyond our housing delivery pipeline, our Council has recently worked on the Draft Edgecliff Strategy and the recently adopted Double Bay Strategy. Both strategies will deliver additional housing through placed based planning.

Council remains in full compliance with our housing delivery objectives, and we see no reason why we should be disempowered to make important planning decisions for our community by the proposed reforms.

We await the release of the new Region Plan and Districts Plan, with new housing targets created in consultation with Councils, as per the requirements of the Accord.

Recommendation 1: Do not proceed with the reforms and take a best practice approach to create additional dwellings in compliance with the Accord and under Division 3.1 of the EP&A Act

3.2 Place-based planning

The reforms override our local controls in the Woollahra LEP 2014 and Woollahra DCP 2015, and do not account for our local strategies and plans in place such as the Woollahra Strategic Planning Statement 2020 (Woollahra LSPS) and Woollahra Housing Strategy. The reforms have no regard for our vision for Woollahra Council; our future desired character or respect for local issues such as heritage conservation, view sharing and infrastructure capacity.

Council plans for new housing and renewal using a place-based strategic planning approach. This is best practice - delivering new housing in a sustainable and practical way. The proposed changes as exhibited would no longer allow Councils to control development to ensure that growth and development occurs in a planned and coordinated manner consistent with our plans, community expectations and needs. The proposed changes undermines Councils role in considering site-specific planning amendments.

Based on the above, the reforms eliminate Councils from delivering best practice, place-based planning and disregards our work over the last 20 years. The changes will create unnecessary confusion and complexity by overriding local planning mechanisms. We urge the NSW Government to abandon the reforms and collaborate with Councils on alternative measures to deliver the housing targets set by the Accord.

Recommendation 2: Do not proceed with the reforms and work with Councils to continue the delivery of local plans and strategies that create additional housing through place-based planning

3.3 Lack of community consultation

The reforms theoretically adhere to the consultation requirements under the EP&A Act for an update to a State Environmental Planning Policy (SEPP). However, we have significant concerns with the lack of adequate community consultation due to the scale of the changes proposed including an insufficient consultation and implementation timeframe and the lack of specific detail provided in the reforms to understand the final outcomes for our area.

The timing of the consultation period through the end of year and new-year holiday period from late December (2023) leaves little time for Council and the community to adequately respond to the reforms. Due to the consultation timeframe there is no time for the community to consider Councils submission to better understand the implications of the reforms locally prior to the end of the consultation period, which is important due to the lack of clarity, evidence base and final detail provided in the reforms.

To give an insight into to the inadequacy of the community consultation. The Guidelines for local planning amendments require planning proposals, to include very specific and comprehensive information such as the justification of the strategy and site-specific merit, supporting studies on the outcomes and maps to identify the areas to which the changes will apply. In contrast, the EIE document provides only high level information with no evidence base to support site-specific merit and outcomes, and does not provide mapping.

Effectively, Councils have been left to complete their own site-specific research to understand the potential impacts of the reforms in our area. However, without knowledge of the final plan for station and town centre precincts in Woollahra, Council cannot fully respond to the impacts of the changes and share this information with our community.

The reforms are stated to be coming into force by 1 July 2024 or in third quarter of 2024. The DPPI has given no indication that there will be further community consultation prior to the implementation of the reforms, or that Councils will be consulted on a final plan for station and town centre precincts in our area or the drafting of an amendment to implement the reforms.

3.4 Infrastructure

We have significant concerns with the lack of consideration for infrastructure constraints and analysis provided in the reforms. The economic justification is inadequate with the reforms providing no evidence base on the current and projected local or state infrastructure capacity requirements as a result of the changes or a plan to introduce value capture mechanisms to fund additional infrastructure requirements for rapid population growth.

The reforms use a generalised economic justification for introducing more low- and mid-rise housing opportunities in inner suburbs, stating this approach would reduce infrastructure costs by removing an overreliance on Greenfield areas on the fringes of Sydney to provide new housing. The reforms reference the Productivity Commission's 2023 report, *Building more homes where infrastructure costs less* report which states, 'servicing new housing with infrastructure can be up to \$75,000 more expensive for each home in outer suburbs to the inner suburbs' and assert the overreliance on Greenfield areas has directly led to a lack of affordable housing choices.

We are particularly concerned the reforms show no regard for existing infrastructure capacity and increased demand on infrastructure, such as road traffic network, pedestrian and cyclists, open space provision, schools, utilities, waste collection, which are already under pressure from capacity constraints, and ageing infrastructure. If the reforms proceed,

existing infrastructure capacity must form part of the assessment for the implementation of a station and town centre precinct.

Another issue identified is the changes offer no certainty of the reforms impacts on existing infrastructure contributions and affordable housing contributions schemes, and they do not address how the additional infrastructure required by density increases and subsequent growth in population would be funded. There is no value capture mechanism accompanying the reforms. Our infrastructure is already under pressure and density increase must go hand-in-hand with value capture to provide for additional infrastructure requirements and local delivery mechanisms must not be undermined.

A high level summary of some of the other key issues is provided below:

- **Impacts on housing diversity** – In areas such as Double Bay, local market conditions often result in RFBs comprising a series of large, luxury penthouses. In such localities, larger units sell for more per square metre than smaller units with the same, or a lesser number of bedrooms. If contributions are provided by dwellings only, this will further encourage developers to offer a smaller numbers of units with greater internal floor space. This can only exacerbate the current housing diversity issue and further diminish the supply of smaller, more affordable units in the Woollahra LGA.
- **Car parking** - Due to the high level of development activity over the past decade, Council regularly receives complaints from the community regarding traffic congestion, lack of parking, inadequate public transport options, pressure on parks and community facilities, and loss of local character and heritage. Despite these facts, the previous NSW government repeatedly advised Woollahra Council that no new significant state infrastructure would be provided to support additional density across the area. We note the new Housing and Productivity contributions will require some payments, however these are not linked to new development and may be spent anywhere in Greater Sydney.

Recommendation 3: The reforms must assess existing infrastructure capacity in the application of station and town centre precincts.

3.5 Station and Town Centre Precinct issues

3.5.1 Station and Town Centre Precinct definition

The reforms state the definition station and town centre precincts as being:

- 800m walking distance of heavy rail, metro or light rail stations, 800m walking distance of land zoned E2 Commercial Centre or SP5 Metropolitan Centre, or
- 800m walking distance of land zoned E1 Local Centre or MU1 Mixed Use but only if the zone contains a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants.
 - The Department is seeking input from councils to determine which E1 and MU1 centres contain an appropriate level of goods, services and amenities to be included.

Staff consider the above definition of station and town centre precincts is vague and lacks sufficient detail and consideration of place based characteristics. For example, the definition relies on an 800m walking distance area, not as the 'crow flies' distance. The DPPI has confirmed that they do not intend to introduce mapping with the reforms, which raises significant issues as to where exactly the proposed precincts will apply. The most significant issues are outlined below.

Town Centre and full-line supermarket definitions

There is no planning definition for a 'town centre' or a 'full-line supermarket'. There is only the definition of a neighbourhood supermarket that is defined as a supermarket with a floor space less than 1,000m². As a result, the reforms provide no certainty to Council or the community on the precincts where the proposed reforms would apply.

Based on the EIE's definition and the scale of the changes proposed, we recommend the precinct definition should be updated as follows:

- Exclude all land zoned MU1 Mixed Use;
- Exclude all E1 Local Centres – unless:
 - The centre contains substantial infrastructure or a transport interchange such as a train station or bus interchange with existing capacity and additional capacity for planned population growth;
 - The centre contains at least two full-line supermarkets;
 - The centre must contain a wide range of consumer services, such as banks, hairdressers, medical premises and the like.

However, this is just an initial commentary, and staff suggest that the definition for 'town centre' should be developed in consultation with councils, using evidence based research to develop recommended areas for uplift.

Infrastructure capacity should form part of assessment criteria for the application of Station and Town Centres Precincts

Due to the scale of the changes proposed not all town centres would be appropriate (even if they met an agreed definition). Station and Town Centre precincts should only be considered where they are accompanied by sufficient infrastructure to accommodate population growth. Other infrastructure such as road networks, sewage facilities, water supply, schools, hospital and open space is fundamental to support liveability and new housing.

Application of inner (0-400m) and outer (400-800m) precinct areas

The precinct definition does not clearly define whether a 0-800m walking distance area applies from a train station entrance or from the edge of land zoned E2 Commercial Centre, SP5 Metropolitan Centre, E1 Local Centre or MU1 Mixed Use. The DPHI provided information during the consultation period that they intend to apply the inner (0-400m) area precinct controls inside town centres, as well as from the edge of centres (the inner (0-400m) and outer (400-800m) precinct area). This will create confusion and inconsistency, and undermines Councils strategies for centres and their surrounds e.g. active street frontages, recommended amalgamation patterns etc.

Our modelling and mapping has taken the approach that precincts areas apply around the edge of the zone, e.g. around the perimeter of an E1 Local Centre zone, rather than the centre itself. One of the key justifications for this is the significant strategic planning work we have recently been doing in preparing the Edgecliff and Double Bay Strategy.

Recommendation 4: The NSW government update the Station and Town Centre Precinct definition in collaboration with Councils and backed by and evidence base including an employment study

3.5.2 Local and neighbourhood centres

The Woollahra LSPS identifies a clear hierarchy of centres; local and neighbourhood scale business centres that consist of land zoned either E1 Local Centre or MU1 Mixed Use. The local centres of Double Bay, Edgecliff, Rose Bay, Oxford Street, Paddington and Rose Bay North, and other smaller centres of Rose Bay South and Queen Street Woollahra.

The neighbourhood centres across the Woollahra LGA are characterised with smaller scale retail, business and community uses to serve the surrounding neighbourhood. Some of these areas include; Hopetoun Avenue, Vaucluse, South Head Road Roundabout, Vaucluse, Five Ways, Paddington, Darling Point Road, Darling Point. These areas are not appropriate to provide the level of goods, amenity and services for inclusion as a station and town centre precinct.

Based on our research, most E1 Local Centre or MU1 Mixed use centres across our LGA do not meet the level of services or infrastructure to sustain the suggested growth. The Edgecliff Commercial Centre may be considered for uplift in principle, however, the non-refusal standards are not recommended due to a lack of infrastructure capacity and built form constraints e.g. heritage significance.

Recommendation 5: No E1 Local centres or MU1 Mixed centres in the Woollahra LGA are suitable for Station and Town Centre Precincts.

3.6 Surrounding precincts

The reforms do not address the impacts of cross-Council precincts - these are station and town centre precincts in an adjoining Council area that are within 800m walking distance of our area. The most likely centres that may impact on the Woollahra LGA, are the precincts surrounding Bondi Beach and Bondi Junction and Kings Cross. We consider it unlikely that any of the other small centres in Waverley Council and City of Sydney would meet the threshold for inclusion as a precinct.

Council staff have contacted adjoining Councils to discuss this issue. Without information on the final precincts, there is insufficient information to fully understand how the changes will ultimately impact on our area. Council staff have created indicative mapping above in **Section 2** of this submission at **Figures 1-2** that demonstrates the potential impacts of cross- Council precincts in our area, particularly on heritage significance in Woollahra and Paddington.

We strongly object to the introduction of cross-Council precincts. Amongst the other issues identified in our submission, cross- Council precincts completely disregard our local plans and strategies developed from extensive studies and place-based planning.

Recommendation 6: If the reforms proceed they must address impacts on cross-Council Station and Town Centre Precincts prior to proceeding and we recommend that precincts are not applied cross- Council boundaries

3.7 Urban design outcomes

3.7.1 Residential flat buildings and shop top housing in precincts

The proposed non-refusal standards for RFBs and STP in precincts are set out below in **Table 4**.

Table 4: Proposed non-refusal standards for RFBs and STH within precincts

Control	Existing controls	Non-refusal standards
Floor space ratio	As low as 0.65:1	<ul style="list-style-type: none"> 3:1 (inner area 0-400m) 2:1 (outer area 400m-800m)
Building height	As low as 9.5m	<ul style="list-style-type: none"> 21m, 6-7 storeys (inner area 0-400m) 16m, 4-5 storey building (outer area 400m-800m)

Staff requested the DPHI provide modelling that demonstrates the proposed non-refusal controls would be achievable and development under the changes would have good amenity and environmental outcomes – no evidence was provided. Staff conducted modelling of the proposed non-refusal standards and researched recent DAs, and made the following findings:

- A building height of 21m (6-7 storeys) is consistent with a maximum FSR of closer to 2:1, not 3:1 as proposed; and
- A building height of 16m (4-5 storeys) is consistent with a maximum FSR of closer to 1.5:1, not 2:1 as proposed.

If the changes proceed, the proposed FSR and height of building non-refusal standards of up to 3:1 and 21m respectively, would at worst represent an over 221% increase on FSR and 462% on building height compared to development standards under the Woollahra LEP 2014. The reforms would be in addition to the Housing SEPP's affordable housing bonuses of up to 30% FSR and building height for mid-rise housing in station and town centre precincts.

Recommendation 7: The NSW government must not proceed with the reforms, as they do not respond to our desired future character and RFB and STH development under the changes will have excessive impacts on amenity and streetscape. If the NSW government proceeds with the reforms the non-refusal standards should be reduced and supported by site-specific modelling and land with heritage significance should be exempted.

3.7.2 RFB development scenario comparative analysis

The development scenarios below demonstrate some of the potential impacts of the proposed reforms in our Council area. The scale of the reforms would have severe and unprecedented impacts on our Council area.

Typical lot scenario 1 – inner precinct area (0-400m)

This example looks at the reforms impact on a typical neighbourhood characterised by two-storey residential development at Wallaroy Crescent, Woollahra. The area is relatively flat and within 0-400m walking distance of a station and town centre precinct. The modelling has been applied to one amalgamated site.

Key information:

- **Current controls** - Under the Woollahra LEP 2014 the site is in the R3 Zone and has a FSR of 1:1 and building height of 10.5m (3 storeys). The site is eligible for the new affordable housing bonus of up to 30% for FSR and building height.
- **Reforms** - The site is within the inner precinct area (0-400m), and would be subject to the proposed non-refusal standards with an FSR of 3:1 and building height of 21m (6-7 storeys). This is a 300% FSR increase and 200% building height increase compared to local controls.
- **Reforms and Housing SEPP affordable housing bonus** - The reforms state the affordable and social housing bonus of up to 30% additional building height and FSR would apply on top of the proposed non-refusal standards. The resultant development standards in this scenario would be a FSR of 3.9:1 and building height of 27.3m (10 storeys). This is a 390% FSR increase and 260% building height increase compared to the current controls under Woollahra LEP 2014.

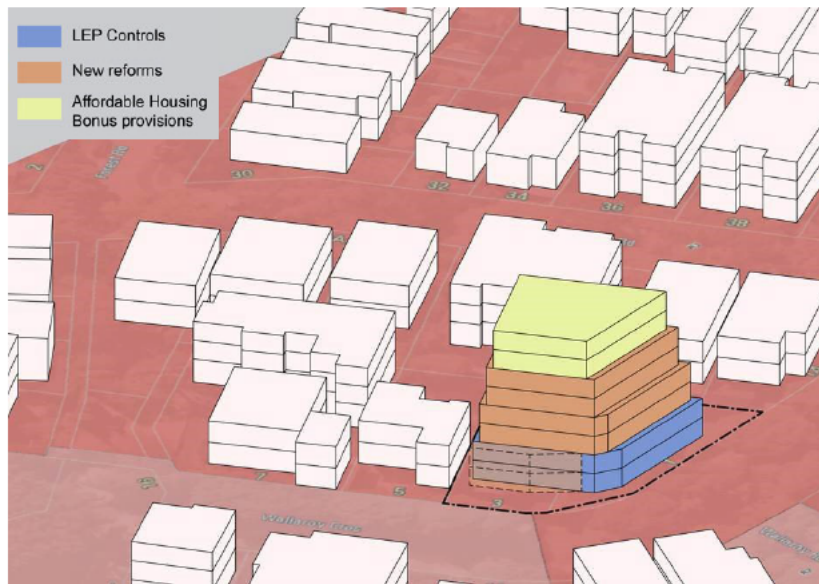


Figure 6: Existing context view with indicative building envelopes with existing controls (blue), reforms (orange) and Housing SEPP AH bonus (yellow)– Wallaroy Crescent, Woollahra

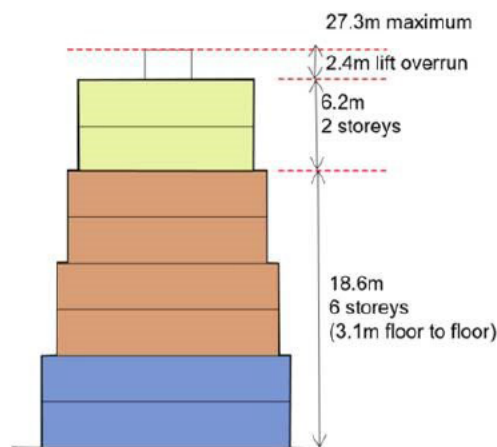


Figure 7: Indicative building envelope section with existing controls (blue), reforms (orange) and Housing SEPP AH bonus (yellow)

Typical lot scenario 2– inner precinct area (0-400m)

This example looks at the reforms impact on a typical neighbourhood characterised by two-three storey residential development from the amalgamated sites between 33B-35 Mona Road and 20-28 Darling Point Road, Darling Road. The area is relatively flat on a prominent ridgeline that is viewable from the harbour, and has views towards the city. The site is within 0-400m walking distance of a station and town centre precinct. The modelling has been applied to five amalgamated sites.

Key information:

- **Current controls** - Under the Woollahra LEP 2014 the site is in the R3 zone and has a FSR of 1:1 and building height of 13.5m (3-4 storeys). The site is eligible for the new affordable housing bonus of up to 30% for FSR and building height.
- **Reforms** - The site is within the inner precinct area (0-400m), and would be subject to the proposed non-refusal standards with an FSR of 3:1 and building height of 21m (6-7 storeys). This is a 300% FSR increase and 156% building height increase compared to local controls.
- **Reforms and Housing SEPP affordable housing bonus** - The reforms state the affordable and social housing bonus of up to 30% additional building height and FSR would apply on top of the proposed non-refusal standards. The resultant development standards in this scenario would be a FSR of 3.9:1 and building height of 27.3m (10 storeys). This is a 390% FSR increase and 202% building height increase compared to the current controls under Woollahra LEP 2014.



Figure 8: View east to Darling Point Road, Darling Point with indicative building envelopes under existing controls (blue), reforms (orange) and Housing SEPP AH bonus (yellow)

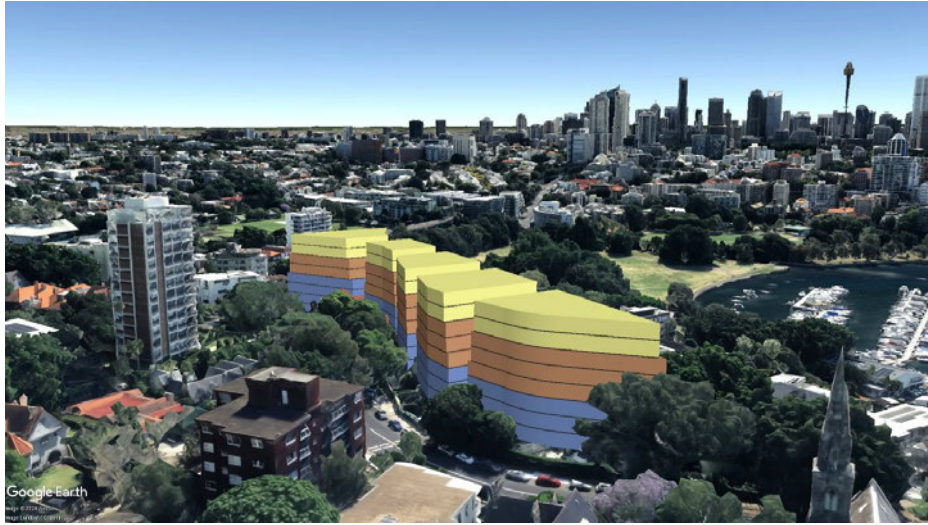


Figure 9: View west towards Sydney CBD with indicative building envelopes to Darling Point Road, Darling Point with indicative building envelopes under existing controls (blue), reforms (orange) and Housing SEPP AH bonus (yellow)



Figure 10: View to south towards Edgecliff Centre with indicative building envelopes to Darling Point Road, Darling Point with indicative building envelopes under existing controls (blue), reforms (orange) and Housing SEPP AH bonus (yellow)

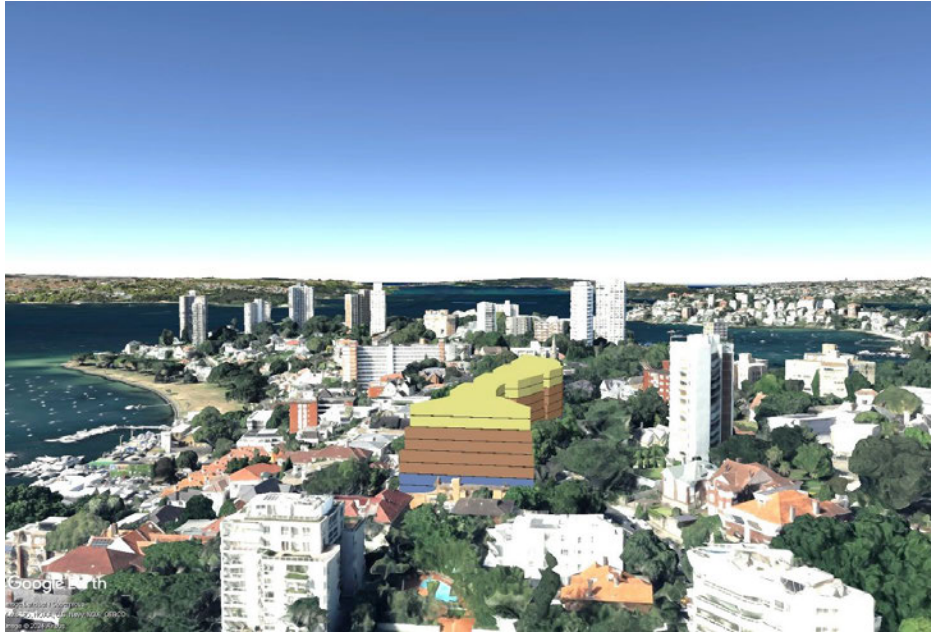


Figure 11: View to north-east with indicative building envelopes to Darling Point Road, Darling Point with indicative building envelopes under existing controls (blue), reforms (orange) and Housing SEPP AH bonus (yellow)

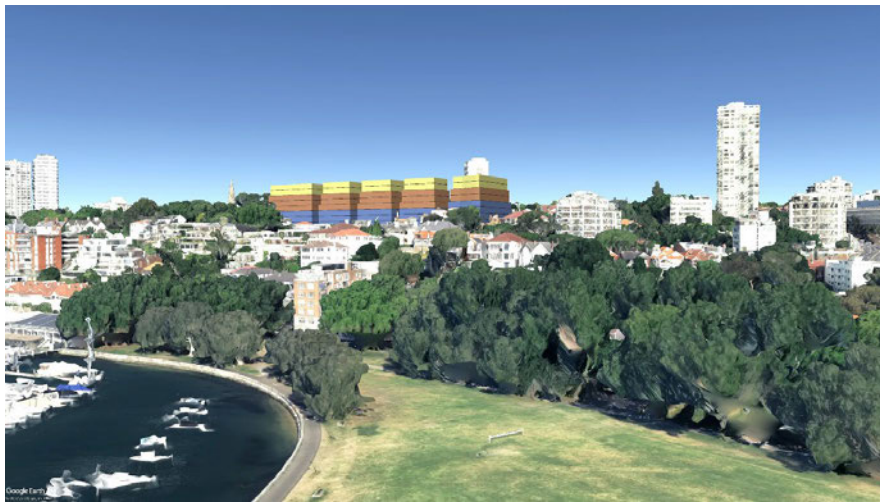


Figure 12: View to east from Rushcutters Bay with indicative building envelopes to Darling Point Road, Darling Point with indicative building envelopes under existing controls (blue), reforms (orange) and Housing SEPP AH bonus (yellow)

Typical lot scenario 3– inner precinct area (0-400m)

This example looks at the reforms impact on a typical neighbourhood characterised by one-two storey low density residential development surrounding the amalgamated sites between 30-50 Epping Road, Double Bay. The area has a predominate streetscape of low-rise dwellings and well-established street tree canopy. The area is relatively flat and within 0-400m walking distance of a station and town centre precinct. The modelling has been applied to four amalgamated sites.

Key information:

- **Current controls** - Under the Woollahra LEP 2014 the site is in the R3 zone and has a FSR of 0.75:1 and building height of 9.5m (3 storeys). The site is eligible for the new affordable housing bonus of up to 30% for FSR and building height.
- **Reforms** - The site is within the inner precinct area (0-400m), and would be subject to the proposed non-refusal standards with an FSR of 3:1 and building height of 21m (6-7 storeys). This is a 400% FSR increase and 221% building height increase compared to local controls. The maximum front setback of 6m, sees the removal of an existing tree on site.
- **Reforms and Housing SEPP affordable housing bonus** - The reforms state the affordable and social housing bonus of up to 30% additional building height and FSR would apply on top of the proposed non-refusal standards. The resultant development standards in this scenario would be a FSR of 3.9:1 and building height of 27.3m (10 storeys). This is a 520% FSR increase and 287% building height increase compared to the current controls under Woollahra LEP 2014.



Figure 13: View to north-east with indicative building envelopes to Epping Road, Double Bay with indicative building envelopes under existing controls (blue), reforms (orange) and Housing SEPP AH bonus (yellow)



Figure 14: View south-west with indicative building envelopes to Epping Road, Double Bay with indicative building envelopes under existing controls (blue), reforms (orange) and Housing SEPP affordable housing bonus (yellow)



Figure 15: View north-east with indicative building envelopes to Epping Road, Double Bay with indicative building envelopes under existing controls (blue), reforms (orange) and Housing SEPP AH bonus (yellow)

3.7.3 Multi-dwelling housing

In station and town centre precincts the reforms propose to expand permissibility for multi-dwellings, multi-dwelling (terraces) and manor houses into the R2 zone and permit Torrens subdivision. The Woollahra LEP 2014 currently permits multi-dwelling housing (terraces and manor houses) in the R3 zone, which is the appropriate location for these types of medium density residential types.

Manor houses will be characterised as 2-storey RFBs (excluding any habitable roof) and they will not be limited to 3 or 4 dwellings as they currently are under the Codes SEPP. It is justified there is a need to achieve more and diverse housing while managing their impacts on surrounding priorities, the local environment and neighbourhood. There is no evidence of place-based studies on the impact of introducing multi-dwelling housing permissibility into low density residential areas, and it is not explained how the proposed non-refusal standards manage the impacts on amenity and future desired character. If the changes are implemented, Council cannot calculate the final impact of the changes until station and town centre precincts have been finalised in each LGA.

An introduction of controls of this nature should be subject to rigorous testing of local implications and extensive community consultation, such as would be seen through the process of an LEP amendment.

Recommendation 8: Multi-dwelling should not be introduced into the R2 zone

3.7.4 Design Criteria

The proposed ADG design criteria changes are not supported by an evidence base to demonstrate good urban design and amenity outcomes are achievable under the reduced criteria for setbacks, vehicle access, visual privacy, communal open space, landscaping and car parking. We are significantly concerned with the impacts from these changes on our desired future character and in particular the conservation and preservation of heritage significance.

Building separations and setbacks

The reforms reduce 5-6 storey building separation requirements to those for 4-storey buildings and side and rear buildings setback requirements will increase by an additional 1m for every 2-storey difference in height of neighbouring buildings. These controls override our local controls that manage good design outcomes such as maintaining streetscapes, managing the impacts of bulk and scale and ensuring tree canopy targets are achievable. It is unclear how local provisions will be able to manage the impacts of reduced building separations and setbacks, particularly in areas with heritage significance which have specific provisions outlined in the Woollahra DCP 2015.

Visual privacy

The reforms propose visual privacy to be managed through the modified building and separation provisions discussed above. It is unclear what these modifications would be

beyond the reduced building separation and setbacks mentioned in the reforms, which would not increase visual privacy outcomes in their current form.

Vehicle access

The reforms remove the requirement for the design of basement and ground floor for RFBs and STH to accommodate large vehicles entering or turning around within the site and state the waste collection method to be detailed in Waste Management Plan. This will have impacts on waste servicing and unintended disruption impacts and increased servicing costs for Council or residents of these developments. We do not recommend changing the current vehicle access requirements, which would leave the impacts to be managed by merit assessment.

Car parking

The reforms propose minimum car parking. The introduction of minimum car parking rates would have cumulative impacts on traffic movement and implications on the congestion pinch points in the Woollahra LGA. Our local provisions identify maximum parking rates to promote housing that is more affordable and to encourage public transport use and walking, which should be a focus given this housing is being encouraged around public transport and centres. For our LGA we anticipate developers would want to excavate extensively to provide car parking to cater for our unique housing market, this may be particularly problematic on smaller lots around floodplains.

3.7.5 Dual Occupancies

Dual occupancies are proposed to be permitted with consent across all land zoned R2 and the torrens subdivision of new developments under the changes. Dual occupancies are already a permissible land use in the R2 zone (and R3 zone) under the Woollahra LEP 2014, however the proposed non-refusal standards do not align with our local provisions as set out below in **Table 5**.

Table 5: Proposed dual occupancy non-refusal standards and other provisions

Control/land use	Reforms	Local provisions
Permissibility	Introduce dual occupancy to R2 zone	Already permissible
Building height	9.5m	9.5m
FSR	0.65:1	<ul style="list-style-type: none"> 0:5:1 for lots equal to or greater than 400m² for dual occupancy development in the R2 and R3 zones. The FSR controls do not apply to a dual occupancy in the Paddington, Watson Bay or Woollahra HCAs, which is guided by provisions in the WDCP 2015.
Minimum site area	450m ²	<ul style="list-style-type: none"> 460m² for attached dual occupancies in the R2 and R3 zones and detached dual occupancies in the R3 zone

		<ul style="list-style-type: none"> 930m² for detached dual occupancies in the R2 zone.
Minimum Lot Width	12m	<ul style="list-style-type: none"> No minimum lot width applies to an attached dual occupancy Detached dual occupancy – 21m
Car Parking	Minimum 1 space per dwelling	Maximum 2 spaces per dwelling

On 14 July 2023, an amendment to the Woollahra LEP 2014 introduced new FSR development standards for low density residential and urban greening requirements for all residential development. Through extensive site testing on the relationship between FSR, deep soil landscaping and tree canopy area, a maximum FSR standard of 0.51 was introduced for low density development for attached dual occupancy's over 400m² or detached dual occupancies over 930m². Our dual occupancy provisions do not apply to land in the Paddington, Watsons Bay and Woollahra HCAs. These proposed changes involved extensive community consultation and were endorsed by the Department.

The non-refusal standard proposed for dual occupancy would result in increased density in our low density residential areas and override the extensive work undertaken by Council recently to introduce specific controls relating to dual occupancy development that:

- ensure bulk and scale of development is compatible with the desired future character of the area;
- minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain; and
- make adequate provision for deep soil planting, tree canopy cover and private open space.

Based on the above, we have significant concerns with the changes that would override our carefully-crafted local controls. If the reforms proceed, our Council has demonstrated an extensive and recent evidence base on dual occupancy standards in the low density residential area that respond to our local character and included an exemption for HCAs. As such we recommend the non-refusal standards should not apply to Councils who have existing land use permissibility and local provisions for dual occupancy.

Further to the above, the non-refusal standards for dual occupancies do not distinguish between attached and detached dual occupancies, and only identify application in the R2 zone. In the Woollahra LGA dual occupancy is a permissible land use in the R3 zone. While we do not support the proposed changes, applying the non-refusal standards to the R2 zone only, will create further inconsistency and confusion in the planning system.

Recommendation 9: Non-refusal standards for dual occupancies should not override local provisions where this land use is already permissible in the R2 zone and R3 zone

3.8 Impacts on Heritage Significance and Environmentally Sensitive Areas

The reforms provide insufficient information on how the changes would address the impacts of increased density and the proposed reduced ADG requirements (such as building setbacks, landscape provisions etc.) on heritage items, heritage conservation areas (HCAs), areas with high Aboriginal cultural significance or sensitivity, or areas with high biodiversity significance, such as our C1 National parks and Nature Reserves and C2 Environmental Conservation land.

Under the reforms all other applicable controls in LEP and DCP's including heritage and environment considerations will *continue apply to the extent they are not inconsistent with the proposed changes*. Staff are unclear what this means in reality. It is understood that they are not intended to erase local heritage provisions, but rather only prevent refusals that pertain to building height and FSR. Such that a six-storey development could not be refused because it was too tall, but could be refused because it, for example, had unacceptable impacts on heritage significance item or environmentally sensitive areas. This must be made explicit.

If this is made explicit, then in theory the direct impact on heritage items and HCAs would in theory be relatively minimal, because height *in itself* is generally not a major concern for heritage conservation. However, in practice this would lead to increased confusion on the part of applicants, and potentially challenges in court concerning refusals premised on, at least, the following impacts:

- Overshadowing, including of significant trees;
- Loss of fabric required for structural changes to accommodate additional height; and
- Poorly designed alterations and additions that seek to increase height.

The reforms therefore risk diminishing the local provisions that protect local heritage and undermining Council's and the community's conservation efforts. The DPHI must amend the provisions to clearly state that the demolition of, inappropriate alteration to, and loss of significant fabric from heritage items and contributory items in HCAs are acceptable reasons for refusal, regardless of height or FSR. It must also be made clear whether secondary impacts from height and bulk, including; overshadowing impacts, loss of fabric, and poor design outcomes, are acceptable reasons for refusal in HCAs.

Additionally, the reforms do not address how impacts on areas of, or in proximity to high Aboriginal cultural significance and environmentally sensitive areas will be managed. To address the potential unintended and excessive impacts on these areas, if the reforms proceed they must explicitly outline requirements for DAs on or in proximity to these areas, must respond to potential for adverse impacts. This approach will protect and manage excessive impacts and loss of amenity and from developments under the reforms.

Heritage conservation areas in Woollahra

The reforms pose a risk of significant impacts on all HCAs across the Woollahra LGA. These are unique urban areas which possess historical, aesthetic, technical and social significance at a local and State level. An important factor in the significance of these HCAs is their urban

form, characterised by distinctive architectural typologies, such as the Victorian terrace house in Paddington.

58% of our HCA's are located within the proposed precincts, and we have provisions carefully crafted within the Woollahra LEP 2014 and Woollahra DCP 2015 that guide development on land identified within a HCA. For example, a recent amendment to the Woollahra LEP 2014 in 2023, introduced cl. 4.4E(4), which exempts HCAs from exceptions to FSR for dwelling houses, dual occupancies and semi-detached dwellings in the R2 and R3 zones. The purpose of this is to allow Council officers to consider each proposal on its merits and in accordance with the Woollahra DCP 2015, something that the proposed reforms would make impossible. In exact opposition to our approach, the reforms propose to introduce blanket non-refusal standards, including FSR in HCAs which will essentially override our recent LEP amendment on this matter.

The uncertainty of the application of the changes and impacts on heritage significance, including unity, encompassing scale character, history, architecture and urban form, has been raised by staff in several requests to the DPHI to clarify the protection of these areas under the reforms – no information was provided beyond the information in the EIE. It remains uncertain how the changes would interact with local provisions and operate at DA level. In the section below, we have made key recommendations to ensure heritage significance is protected if the plans proceed.

Typical lot scenario 4 – inner precinct area (0-400m) adjoining heritage item

This example looks at the reforms impact to heritage significance, in a typical neighbourhood scenario which is characterised by two-three storey residential development with the subject site, adjoining a part one and two story dwelling house identified as a local heritage item as shown in **Figure 16** and **Figure 17** below. The site has existing cut and fill with the adjoining site with the heritage item giving a 2m greater ground height. The site is 0-400m walking distance of a Station and Town Centre Precinct.

Key information:

- **Current controls** - Under the Woollahra LEP 2014 the site is in the R3 zone and has a FSR of 0.65:1 and building height of 9.5m (2-3 storeys). The site is eligible for the new affordable housing bonus of up to 30% for FSR and building height.
- **Reforms** - The site is within the inner precinct area (0-400m), and would be subject to the proposed non-refusal standards with an FSR of 3:1 and building height of 21m (6-7 storeys). This is a 462% FSR increase and 221% building height increase compared to local controls.
- **Reforms and Housing SEPP affordable housing bonus** - The reforms state the affordable and social housing bonus of up to 30% additional building height and FSR would apply on top of the proposed non-refusal standards. The resultant development standards in this scenario would be a FSR of 3.9:1 and building height of 27.3m (8-9 storeys). This is a 600% FSR increase and 287% building height increase compared to the current controls under Woollahra LEP 2014.

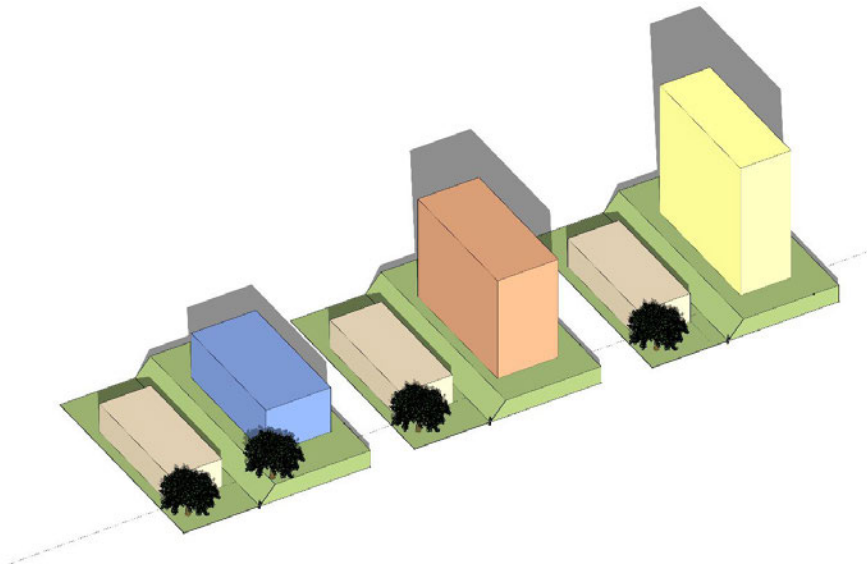


Figure 16: Indicative building envelopes 3D view – existing heritage item (beige), existing planning controls (blue), low- and mid-rise reforms (orange), and reforms plus Housing SEPP affordable housing bonus (yellow)

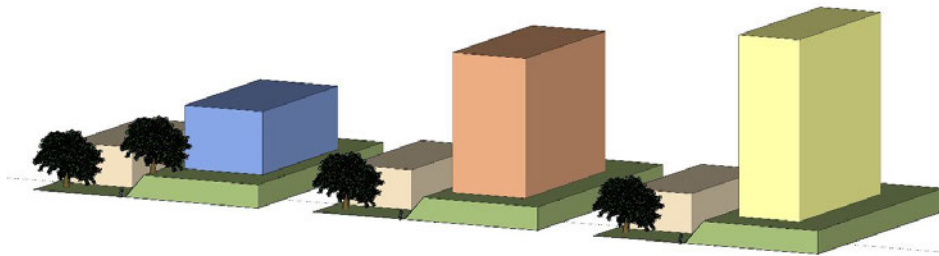


Figure 17: Indicative building envelopes 3D view – existing heritage item (beige), existing planning controls (blue), low- and mid-rise reforms (orange), and reforms plus Housing SEPP affordable housing bonus (yellow)

Overall, the example demonstrates the excessive impacts posed by development under the reforms on heritage significance. The reduced setbacks see the loss of a significant tree in the front setback and create an inconsistent streetscape, and the impacts of bulk and scale under the reforms is increased by the topography of the land, which slope down to the heritage item with a 2m ground height difference.

Recommendation 10 – If the reforms proceed they must include clauses on the conservation and protection of heritage significance, particularly to prevent demolition and excessive impacts from the non-refusal standards, and a clause to mitigate adverse impacts of loss of amenity from development on, or within proximity of high Aboriginal cultural significance and environmentally sensitive areas.

3.9 Tree canopy

The reforms proposes to introduce landscaping provisions for low and mid-rise housing that override local provisions and would reduce our urban tree canopy. The reforms are completely contrary to recent work undertaken by the DPHI through a report prepared by Gallagher Studio in 2021 on urban tree canopy targets and planning controls to enhance urban canopy across NSW.

Privately owned land is the largest ownership in most LGAs, it is also the land where canopy is lost due to development pressure. In terms of canopy cover, any reforms bought out by the State government are the best opportunity to embed canopy provisions for private property in planning instruments. Canopy targets need to be ambitious and our comparative analysis below at **Table 5** shows the proposed reforms fall short of our own research and in some cases research commissioned by the NSW government.

There is another body of relevant research lead by the DPHI that has the goal *to establish achievable future tree canopy targets for inclusion across a range of policies and planning instruments* which should be taken into account in the development of any new canopy (or other) controls.

A comparative analysis between the proposed reforms and Woollahra’s urban greening provisions for low and medium density residential development are set out in **Table 5** and **Table 6** below.

Low rise housing

The proposed reform figures for canopy targets are reduced compared to Council’s DCP provisions which will be an impediment for Council in achieving its 30% target.

Table 6: Landscape provisions for low-rise housing

Dual Occupancy (applies to the whole R2 Low Density Residential zone)				
Site area	Tree canopy target (min % site area)		Tree-planting rate	
	Reforms	WDCP 2015	Reforms	Woollahra provisions
< 300m ²	15%	35%	1 small tree per dwelling	<ul style="list-style-type: none"> Key priority supported by WLEP 2014 cl. 6.9 Tree canopy cover in R2 and R3 zones
300m ² -600m ²	20%	35%	1 small tree: 200m ² , or part thereof	

>600m ²	25%	35%	1 medium tree: 225m ² *, or part thereof	<ul style="list-style-type: none"> Urban greening and tree canopy guidelines in WDCP 2015 to meet specified tree canopy targets. Woollahra Urban Forest Strategy 2022
Multi-dwelling housing (terraces) (applies to station and town centre precincts)				
Site area	Tree canopy target (min % site area)		Tree-planting rate	
	Reforms	WDCP 2015	Reforms	WDCP 2015
<1,000m ²	20%	30%	1 small tree: 350m ² , or part thereof	<ul style="list-style-type: none"> Key priority supported by WLEP 2014 cl. 6.9 Tree canopy cover in R2 and R3 zones Urban greening and tree canopy guidelines in WDCP 2015 to meet specified tree canopy targets Woollahra Urban Forest Strategy 2022
1,000m ² -3,000m ²	25%	30%	1 medium tree: 350m ² , or part thereof	
> 3,000m ²	30%	30%	2 medium tree or 1 large tree: 575m ² *, Or part thereof	
Manor Houses (applies to station and town centre precincts)				
Site area	Tree canopy target (min % site area)		Tree-planting rate	
	Reforms	WDCP 2015	Reforms	Woollahra provisions
<300m ²	20%	30%	1 small tree: 200m ² *	<ul style="list-style-type: none"> Key priority supported by WLEP 2014 cl. 6.9 Tree canopy cover in R2 and R3 zones Urban greening and tree canopy guidelines in WDCP 2015 to meet specified tree canopy targets. Woollahra Urban Forest Strategy 2022
300m ² -600m ²	25%	30%	1 medium tree: 250m ² , or part thereof	
Greater than 1,500m ²	30%	30%	2 medium tree or 1 large tree: 350m ² , or part thereof	

Mid-rise housing

The comparative analysis at **Table 7** below shows the proposed canopy percentage reforms are substantially less than our local provisions. The table also shows that for the most part, the proposed reforms are not in line with the findings of the research commissioned by the DPHI.

Table 7: Landscape provisions for mid-rise housing

Residential flat buildings (RFB) and Shop top housing (STH) – R3, MU1 and E1 (applies to station and town centre precincts)

Site area	Tree canopy target (min % site area)		Tree-planting rate	
	Reforms	WDCP 2015	Reforms	Woollahra provisions
Less than 650m ²	15%	30%	1 small tree: 350m ² , or part thereof	<ul style="list-style-type: none"> Key priority supported by WLEP 2014 cl. 6.9 Tree canopy cover in R2 and R3 zones Urban greening and tree canopy guidelines in WDCP 2015 to meet specified tree canopy targets. Woollahra Urban Forest Strategy 2022
Less than 650m ² - 1,500m ²	15%	30%	1 medium tree: 350m ² , or part thereof	
Greater than 1,500m ²	20%	30%	2 medium tree or 1 large tree: 575m ² m, or part thereof	

Tree size

The terminology used in the EIE, ‘small tree’, ‘medium tree’ and ‘large tree’, lacks the specificity needed to achieve the tree canopy targets. For example, in the Woollahra DCP 2015 a canopy tree is defined as a ‘tree that attains a minimum height of 8 metres and minimum crown diameter of 8 metres at maturity, and is planted in a deep soil landscaped area with a minimum dimension of 4 metres’. As the reforms appear to have generally been developed in line with the Gallagher report, the tree sizes should be update to include clear definitions if the changes progress, as shown in **Table 8** below.

Table 8: Tree size information (Gallagher Studio, 2021)

Tree size	Crown diameter	Crown area
Small	6m	28m ²
Medium	8m	50m ²
Large	12m	113m ²

Overall, the proposed tree-planting rates for low and mid-rise housing types lacks suitable detail to achieve the aspirational tree canopy targets (minimum % of site area coverage). There is no evidence provided to demonstrate how the tree canopy and deep soil target can be met with the increased building footprints for low- and mid-rise housings under the controls proposed in the reforms such as FSR, building height, reduced setbacks etc. The reforms will reduce the provision of much needed outdoor space and sufficient deep soil

area, and compromise the provision of canopy coverage and the ability to provide on-site stormwater absorption contrary to other state objectives to increase canopy cover.

Recommendation 11: If the reforms proceed existing landscaping provisions in LEPS and DCPs should prevail to the extent of an inconsistency, and the State government must update the recommended landscaping provisions in line with the Gallagher report (2021)

3.10 Other Issues

3.10.1 Edgecliff E1 Local centre Station and Town Centre Precinct scenario

Notwithstanding our lack of support for the proposed reforms, the land zoned E1 Local Centre in Edgecliff (see **Figure 4** above) is the only centre in the Woollahra LGA that may meet the precinct definitions. However, the application of a precinct in Edgecliff is not appropriate as Council is already preparing a Strategy to guide development for the whole of the Edgecliff commercial centre. The Draft Edgecliff Strategy is being informed and supported by a heritage study, economic modelling, a traffic and transport study and urban design studies. It has also been informed by significant engagement with our community and would facilitate approximately 490-600 new dwellings.

The proposed approach within the reforms would undermine the strategic planning work that has been carried out to inform this Strategy.

Recommendation 12: We do not recommend any centres in the Woollahra LGA are appropriate for inclusion as Station and Town Centre Precincts.

3.10.2 Delays in Development Assessment

The reforms do not discuss how Councils would be expected to facilitate the extra staff required for the assessment of increased DAs and the extra time required for merit assessments under the reforms. Councils are already under immense pressure from the volume of DAs received. It's expected that assessment times would be impacted by the non-refusal standards and the reforms lack of clarity on how Council would conduct a merit assessment, especially on developments that exceed non-refusal standards and/or have heritage significance. For these reasons, we anticipate the changes would result in an increase in deemed refusals for DAs that aren't assessed within 40 days and an increase in Land and Environment Court appeals. Having these decisions played out in the court forum with precedents set, will further erode our local planning provisions and our ability to delivery our local strategies and plans.

The reforms are in direct contrast to their broader objective to '*speed up DAs*' and then they would increase complexity and assessment timeframes in the planning system. On this basis we fundamentally do not support the reforms.

3.10.3 Non-refusal standards and clause 4.6

The reforms do not address if a DA complies with a non-refusal standard, if the consent authority cannot refuse the development on that grounds. A cl. 4.6 written request for variation would not be required to be prepared for non-compliance with a principal

development standard in an LEP where compliance with the non-refusal standard is achieved, or even when a development exceeds the non-refusal standard.

In the absence of applying cl. 4.6, staff will have to rely on a merit assessment, which will be time consuming and apply further pressure on the workload of Councils. On this basis, we do not support the implementation of the reforms that unnecessarily increase complexity in the planning system and would weaken operation of cl. 4.6.

3.10.4 Net dwelling loss

We are concerned about the implications of net dwelling loss as a result of the reforms. Net dwelling loss may be broadly defined as a reduction in the total number of dwellings on a site as a result of new development. This is an absolute, or actual, dwelling loss compared to the number of existing dwellings on the proposed development site.

Net dwelling loss is an emerging issue being experienced by inner Sydney LGAs including Woollahra, Waverley and Sydney City. These LGAs contain high value land and when sites containing older building stock (such as older RFBs) are redeveloped or extensively renovated, the smaller sized dwellings (such as studios, 1 or 2 bedroom dwellings) are often amalgamated or replaced by larger dwellings (such as 3 bedroom or penthouse style apartments). This not only results in a reduction in the total dwelling yield on the site, but also means that the new housing stock delivered is more expensive and the mix of dwelling sizes is less diverse.

The reforms proposed in the Low- and Mid-rise Housing EIE do not include any mechanisms to avoid net dwelling loss, and in their current form would override any local provisions on net dwelling loss and housing diversity. They may even have unintended the effect of facilitating redevelopment of sites that results in net dwelling loss and loss of housing stock that is relatively more affordable. The NSW Government needs to recognise and respond to this issue in order to ensure that land for housing is being used efficiently, particularly in the inner metropolitan areas of Sydney where land values are high.

Recommendation 13 – If the reforms proceed there must be a clause to ensure development under the changes does not result in net dwelling loss

3.10.5 Commercial floor space

The introduction of the precincts would diminish Councils ability to protect commercial floor space through the Woollahra LEP 2014 and Woollahra DCP 2015, this is a significant concern for our E1 Local Centres and MU1 Mixed Use centres. An action of the Woollahra LSPS 2020 is to protect and enhance floor space for commercial, retail, business, health and community uses, particularly in Double Bay and Edgecliff. The proposed changes could encourage the building of STH with only token ground floor retail spaces. If the NSW government proceeds this should be addressed in the drafting.

Recommendation 14 – Commercial floor space must be protected. The non-refusal standards should not apply to land within employment centre zones such as E1 Local Centre and MU1 Mixed Use and a provision included that states DAs must provide

equal or greater total retail and commercial floor space than the existing development.

3.10.6 Value capture

The reforms lack consideration of infrastructure constraints. There is no commitment in the EIE to provide Council with any additional means of funding local infrastructure that will be required to meet the demands of a larger residential population. Staff note that Housing and Productivity contributions are now collected when new dwellings are constructed. However, these funds are allocated by NSW Treasury and spent anywhere in Greater Sydney. Accordingly, there is no guarantee that the Woollahra LGA will receive any funding. This is a significant oversight, given section 7.12 revenue is comparably minor and is not intended to support growth on the scale envisaged.

Additionally, there has been no proposal to capture any of the uplift in land values that would be generated from the proposed controls. A complementary contributions scheme could be used to raise money for local infrastructure provision or affordable housing delivery. Instead, private landowners will financially benefit from the reforms, and not the wider community bearing the impacts of increased development.

Recommendation 15 – If the reforms proceed they must include a value capture contribution for all new developments.

4 Implementation Recommendations

As outlined in **Section 3** we have fundamental concerns surrounding the validity of the approach in the EIE, the significant impacts from introducing increased density on such a large scale with no regard for local plans and strategies and the ability of the reforms to result in delivering create low- and mid-rise housing in our area.

First Option Scenario – Best practice approach to create more low- and mid-rise housing by June 2029 to meet the NSW wide five year housing target under the Accord (preferred approach)

Due to the significant issues outlined in **Section 3** we recommend the reforms do not proceed, and the DPHI take a best practice approach to land use planning to deliver more new homes in accordance with Division 3.1 of the EP&A Act. This would be achieved as follows:

- Adhere to the requirements of the Accord to collaborate with Councils on new housing targets to fulfil the five-year housing target set for NSW;
- The DPHI implement a new region and district plan with new housing targets set in collaboration with Councils with place based planning. The station and town centre precincts concept should be further developed and backed by an evidence base (e.g. employment studies to develop definition of a 'town centre');
- Councils can implement the region and district plans through place-based planning. Councils investigate for local suitability for Station and Town Centre precincts e.g. appropriate precinct areas, planning controls such as FSR and building height, and respond to existing local plans and provisions;
- Council update local housing strategies once the work above has been completed; and
- The proposed controls are the subject of rigorous and robust public consultation.

Second Option Scenario – If the NSW Government proceeds with the reforms

Notwithstanding Woollahra Council's complete objection to the reforms, should the NSW government proceed with the reforms our recommendations are set out below.

- **Stations and Town Centre Precincts not appropriate for the Woollahra LGA:** the centres in the Woollahra LGA are not appropriate for the introduction of station and town centre precincts for the reasons discussed in **Section 3**. Further as demonstrated, there are significant infrastructure capacity constraints at Edgecliff centre, although the centre has a rail station we recommend not to introduce a precinct in this area. The DPHI should consider the work already done in progressing draft Edgecliff Centre Strategy and adopted Double Bay Strategy.
- **Exemption from dual occupancy changes:**
The proposed non-refusal standards should not apply to Councils who have existing permissibility for dual occupancy in the R2 and R3 zone;
- **Exemption for heritage significance:** The non-refusal standards and planning provisions should not apply to land with heritage significance, being a heritage item

or within a HCA, and must be supported by specific clauses to ensure conservation and protect heritage significance from demolition;

- **Introduce a value capture mechanism for additional infrastructure requirements** - the DPPI must implement the plans in conjunction with a plan for value capture to cater for additional infrastructure requirements in collaboration with Councils;
- **Updated landscaping provisions** – landscaping provisions in local environmental plans and development plans must prevail, or the changes should be updated in line with greater detail and increased tree canopy targets; and
- **Updated car parking** – minimum car parking rates must be replaced by maximum car parking rates.
- **Finalisation consultation with Council** – the DPPI must consult with Council and the community on final station and town centre precincts and collaborate with Councils on the draft instrument to implement the reforms to reduce unintended consequences and complexity.

5 Conclusion

As outlined above, the proposed changes wholly undermine the role of Councils in carrying out best practice strategic planning. The proposed permissibility changes and non-refusal standards would create excessive density that does not support the desired future character of our area and erodes the role of Council's in the plan-making process undermining the planning hierarchy. A summary of the most significant issues with the reforms are below:

- They do not adhere to the requirements of the National Accord;
- They erode the planning hierarchy established under the EP&A Act by introducing confusion and complexity through overriding carefully crafted local provisions that support desired future character;
- The reforms will introduce un-certainty into the planning system.
- Uplift of this scale proposed must be delivered through place based planning supported by an evidence base including extensive site modelling and feasibility testing;
- The consultation is wholly inadequate and does not allow sufficient time, detail (e.g. it is not clear where precincts will be introduced), or the evidence base for the community to meaningfully respond to the content of the reforms;
- They introduce one-size-fits-all non-refusal standards that will create excessive bulk and scale;
- The reforms significantly reduce canopy provisions;
- They are accompanied with limited information as to how heritage significance and environmentally sensitive areas will be protected;
- Complexities associated with the assessment of non-refusal standards will delay the processing of development applications; and
- Funding for additional infrastructure has not been considered, which is particularly important given there is no alignment with State infrastructure provision.

Based on these considerations, staff strongly oppose the proposed changes that would have severe impacts on our desired future character. We urge the NSW government to abandon implementation of the reforms and follow best practice planning to create more low- and mid-rise housing in collaboration with Councils and the community.
