

Item No: R2 Recommendation to Council

Subject: **PROPOSED AMENDMENTS TO WOOLLAHRA LEP 2014 AND WOOLLAHRA DCP 2015 TO INCORPORATE CONTROLS FOR LOW RISE MEDIUM DENSITY HOUSING TYPES**

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File No: 19/62511

Reason for Report: To report the advice made to Council by the Woollahra Local Planning Panel.
To obtain Council's approval to proceed with the planning proposal to amend Woollahra Local Environmental Plan 2014 by inserting controls for low rise medium density housing.
To obtain Council's approval to proceed with a draft development control plan to amend Woollahra Development Control Plan 2015 by inserting controls for low rise medium density housing.

Recommendation:

- A. THAT Council note the advice provided by the Woollahra Local Planning Panel on 18 April 2019.
- B. THAT Council note that the planning proposal attached at **Annexure 1** has been amended in accordance with advice provided by the Woollahra Local Planning Panel on 18 April 2019, by including, in section 5.1, a reference to the study undertaken to establish the minimum lot sizes for land uses in the new standard instrument LEP for Woollahra (Woollahra LEP 2014).
- C. THAT the altered planning proposal described above be forwarded to the Department of Planning and Environment (as the delegate for the Minister for Planning), requesting a gateway determination to allow public exhibition.
- D. THAT Council request the Minister for Planning authorise Council as the local plan-making authority in relation to the planning proposal, to allow it to make the local environmental plan, under section 3.36 of the *Environmental Planning and Assessment Act 1979*.
- E. THAT Council publically exhibit the draft development control plan to amend various sections of the *Woollahra Development Control Plan 2015*, to insert references to manor houses and multi dwelling housing (terraces), as described in **Annexure 2** of the report to the Woollahra Local Planning Panel on 18 April 2019.

1. Background

On 6 April 2018 amendments were made to the NSW planning framework to facilitate the development of Low Rise Medium Density Housing. The amendments came into effect on 6 July 2018. However, the commencement of the Code was deferred to land in the Woollahra LGA (and 40 other LGAs in NSW) until 1 July 2019. The deferral was provided to allow Councils sufficient time to fully consider the potential impacts of the amendments.

From 1 July 2019, manor houses and multi dwelling housing (terraces) will be permissible with development consent (as a DA) in the Woollahra LGA. Dual occupancy development is already permitted. The *Low Rise Medium Density Design Guide for Development Applications* (DA Design Guide) commenced on 6 July 2018 to provide design guidance and best practice design controls and standards for low rise medium density development requiring development consent. The *Environmental Planning and Assessment Regulation 2000* (the Regulation) requires councils to consider the DA Design Guide when assessing DAs for this type of development, until they adopt development controls and standards for these new housing types. A council may choose not to adopt local development controls and standards and rely on the DA Design Guide.

On 18 March 2019, a report recommending the preparation of a planning proposal and draft DCP was presented to the Environmental Planning Committee (refer to Appendix 2 of **Annexure 1**). On 25 March 2019, Council resolved:

- A. *THAT Council prepare a planning proposal to amend clause 4.1A of Woollahra LEP 2014 by inserting minimum lot size standards for manor houses and multi dwelling housing (terraces).*
- B. *THAT a draft development control plan be prepared to amend various sections of the Woollahra Development Control Plan 2015, to insert references to manor houses and multi dwelling housing (terraces), as described in detail in **Annexure 4** of the report to the Environmental Planning Committee meeting on 18 March 2019.*
- C. *THAT the planning proposal and draft development control plan be referred to the Woollahra Local Planning Panel for advice.*
- D. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*
- E. *THAT Council does not support any move towards incorporating manor houses or multiple dwellings beyond the R3 Zone.*

2. Planning proposal

Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat building of the Woollahra LEP 2014 currently provides development standards for the minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings within certain zones.

The DA Design Guide control for minimum lot size of manor houses and multi dwelling housing (terraces) is 600 square metres. However, the Woollahra LEP 2014 minimum lot size standard for residential flat buildings and multi dwelling housing is 700 square metres. Therefore, it is recommended that the minimum lot size standard for manor houses and multi dwelling housing (terraces) be adopted as 700 square metres, to align the standards to those of residential flat buildings and multi dwelling housing and to meet the desired future character of the LGA. A planning proposal is required to amend this clause.

A planning proposal was prepared in accordance with the Council's decision of 25 March 2019. The objective of the planning proposal is to amend Woollahra LEP 2014 to add minimum lot size standards of 700 square metres for manor houses and multi dwelling housing (terraces).

3. Proposed amendment to the Woollahra DCP 2015

Woollahra DCP 2015 currently provides development controls for the development of dual occupancies, multi dwelling housing and residential flat buildings within the Woollahra LGA. To provide appropriate controls for all types of low rise medium density housing, additional controls are required for manor houses and multi dwelling housing (terraces).

A comparison of the existing controls and standards in Woollahra DCP 2015 for low rise medium density housing development and those in the DA Design Guide revealed that the current controls of the Woollahra DCP 2015 either exceed or are equivalent in detail and stringency to the controls and standards in the DA Design Guide. Therefore, it is not necessary to adopt any of the controls and standards in the DA Guide into the Woollahra DCP 2015. However, various amendments are proposed to extend the controls of the Woollahra DCP 2015 to manor houses and multi dwelling

A draft DCP has been prepared in accordance with division 3.6 of the Act and part 3 of the Regulation (refer to **Annexure 2**). This draft DCP contains additional amendments to the Woollahra DCP 2015, to those described in *Annexure 4* of the report to the EPC meeting on 18 March 2019. In particular, the additional amendments relate to Chapter C2 Paddington Heritage Conservation Area in so far as that Chapter addresses medium density housing in the R3 Medium Density Housing Zone.

4. Woollahra Local Planning Panel advice

On 18 April 2019, the Woollahra Local Planning Panel (WLPP) considered a report (**Annexure 3**) on the planning proposal and draft DCP and provided the following advice to Council:

THAT the Woollahra Local Planning Panel advise Council that it:

- A. *Supports the planning proposal at Annexure 1 of the report to the Woollahra Local Planning Panel on 18 April 2019, to amend clause 4.1A of Woollahra Local Environmental Plan 2014 by inserting a minimum lot size standard of 700 square metres for manor houses and multi dwelling housing (terraces), subject to amending section 5.1 of the planning proposal by including a reference to the study undertaken to establish the minimum lot sizes for land uses in the new standard instrument LEP for Woollahra (Woollahra LEP 2014).*
- B. *Supports the planning proposal being forwarded to the Minister for Planning, requesting a gateway determination to allow public exhibition.*
- C. *Supports the draft development control plan to amend various sections of the Woollahra Development Control Plan 2015, to insert references to manor houses and multi dwelling housing (terraces), as described in Annexure 2 of the report to the Woollahra Local Planning Panel on 18 April 2019.*

Subsequent to the meeting of the WLPP, the planning proposal has been updated in accordance with this advice by making a reference to the following discussion paper. An amendment has been made to section 5.1 of the planning proposal, with changes shown in underlined text. This discussion paper has been attached as an appendix to the Planning Proposal (see Appendix 3 of **Annexure 1**).

5. Next Steps

Subject to the Council's decision, the planning proposal will be referred to the Department of Planning and Environment (the Department) for a gateway determination. This will allow the planning proposal to be placed on public exhibition.

6. Public exhibition

The public exhibition of the planning proposal and draft DCP will be undertaken concurrently and in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (the Act), the Regulation and for the planning proposal, the gateway determination.

The gateway determination will specify the minimum duration of the public exhibition period for the planning proposal. This period is usually a minimum of 28 days, which is the mandatory exhibition periods required under the Act for planning proposals and draft DCPs, and is consistent with Council's standard practice.

Public notification of the exhibition will comprise:

- A weekly notice in the local newspaper (the Wentworth Courier) for the duration of the exhibition period.
- A notice on Council's website.
- Local community groups.

During the exhibition period the following material will be available on Council's website and in the customer service area at Woollahra Council offices:

- The planning proposal, in the form approved by the gateway determination.
- The gateway determination.
- Supplementary information relied upon by the planning proposal.
- A draft DCP

7. Making the draft LEP under delegated authority

If Council resolves to proceed with the planning proposal, it will be forwarded to the Department for a gateway determination under section 3.34 of the Act.

To streamline the plan making process, the Minister can delegate some plan making powers to Council for routine matters. In this case, Council may request authorisation to exercise the functions of the Minister to make an LEP under section 3.36 of the Act.

Following public exhibition, if Council resolves to proceed with and finalise the planning proposal, staff will request that the Parliamentary Counsel (PC) prepare a draft LEP. Once the draft LEP has been prepared, PC will issue an opinion that it can be made.

Alternatively, if Council decides not to finalise the planning proposal, it should resolve to request that the Minister, not proceed with the planning proposal, under section 3.35(4) of the Act.

8. Adopting the draft DCP

Following public exhibition, if Council resolves to proceed with and adopt the draft DCP, staff will update the relevant sections of Woollahra DCP 2015. Alternatively, Council may resolve not to adopt the draft DCP.



9. Conclusion

The planning proposal seeks to amend Clause 4.1A of Woollahra LEP 2014, to insert minimum lot size standards of 700 square metres for manor houses and multi dwelling housing (terraces). The associated draft development control plan seeks to amend various sections of the Woollahra DCP 2015, by inserting references to manor houses and multi dwelling housing (terraces).

On 18 April 2019, the WLPP provided advice to Council that it supports the planning proposal and draft DCP to address recent amendments to the NSW planning framework to facilitate the development of Low Rise Medium Density Housing.

The Council may now proceed with referring the planning proposal to the Department of Planning and Environment (as delegate for the Minister for Planning) requesting a gateway determination to allow public exhibition.

Annexures

1. Planning proposal - Low rise medium density housing (amended and including appendices) [↓](#) 
2. Draft Woollahra DCP 2015 - Low rise medium density housing - April 2019 [↓](#) 
3. Woollahra Local Planning Panel report - 18 April 2019 (excluding annexures) [↓](#) 