

10.3. State Government Planning interventions to increase housing density

AUTHOR	Ben Boyd, Executive Strategic Planner
ENDORSED BY	Marcelo Occhiuzzi, Director Community, Planning and Environment
ATTACHMENTS	1. EIE - Changes to create low and mid rise housing [10.3.1 - 42 pages]
CSP LINK	<ol style="list-style-type: none"> 1. Our Living Environment <ol style="list-style-type: none"> 1.2 Environmentally sustainable community 1.4 Well utilised open space and recreational facilities 2. Our Built Infrastructure <ol style="list-style-type: none"> 2.1 Infrastructure and assets meet diverse community needs 2.2 Vibrant public domains and villages 2.3 Prioritise sustainable and active transport 2.4 Efficient traffic mobility and parking 3. Our Innovative City <ol style="list-style-type: none"> 3.1 Our commercial centres are prosperous and vibrant 3.3 Distinctive sense of place and design excellence 4. Our Social Vitality <ol style="list-style-type: none"> 4.1 North Sydney is connected, inclusive, healthy and safe 4.3 North Sydney’s history is preserved and recognised 5. Our Civic Leadership <ol style="list-style-type: none"> 5.2 Strong civic leadership and customer focussed services

PURPOSE:

The purpose of this report is to provide an analysis of the NSW Department of Planning, Housing, and Infrastructure’s proposed planning reforms that will introduce overriding planning controls to deliver low to mid-rise housing within the vicinity of existing rail-based stations and commercial town centres, and to seek an endorsement as to the basis of Council’s submission.

EXECUTIVE SUMMARY:

- The NSW Government has committed to an aspirational target to build 377,000 new homes by 2029 in response to the [National Housing Accord](#). Since mid-2023, the NSW Government has been focused on delivering “more” and “affordable” housing. This approach has been progressively expressed through a series of broad policy announcements and media releases.
- In this context, the NSW Department of Planning and Environment (now Department of Planning, Housing, and Infrastructure – DPHI), released a number of proposals to address

this issue in December 2023. In particular, two separate but tandem proposals were released:

- Transport Oriented Development Program; and
 - Creation of Low and Mid-rise Housing Explanation of Intended Effect (EIE).
- This report focuses primarily on the implications of the Low and Mid-rise Housing EIE. Whilst the overall intent to increase residential densities around rail-based stations and commercial centres is appropriate, the generic blanket approach proposed is not supported. Increasing density should be undertaken with regard to a proper place-based planning process to ensure that all opportunities, constraints, and relevant impacts are considered, including the views of affected communities and to ensure we are delivering great and liveable places.

RECOMMENDATION:

1. THAT Council make a submission to the Department of Planning Housing and Infrastructure based on the information and issues contained within this report. In particular, the submission should strongly object to the progression of the proposal outlined in the EIE, based on the lack of place-based planning undertaken to deliver the desired outcomes.

2. THAT should the State Government seek to progress the proposal outlined in the EIE, that the following matters be objected to and addressed:

- a. exclude the Town Centre Precincts from applying to the Proposal and subject to a place-based approach similar to the Accelerated Precinct program, or at least the Town Centres that can't be easily identified (i.e., those zoned *E1 Local Centre* and *MU1 Mixed Use*).
- b. further clarification be provided with regard to measuring of walking catchments.
- c. object to permitting a 9.5m maximum height limit in the *R2 Low Density Residential* zone to accommodate low-rise housing.
- d. require different development standards for dual occupancies depending upon whether they are in an attached or detached form.
- e. object to the permitting of manor houses, terraces and multi dwelling housing within the *R2 Low Density Residential* zone.
- f. manor houses be defined under the Standard Instrument LEP
- g. consideration be given to creating a new land use definition to differentiate between the existing definition of manor houses and the proposed definition of manor houses.
- h. object to the permitting of residential flat buildings and shop-top housing within the *R3 Medium Density Residential* zone.
- i. the proposed mid-rise housing development controls be excluded from applying to employment zoned land.
- j. reducing the maximum buildings heights for mid-rise housing.
- k. remove the FSR controls applying to proposed midrise housing or require that a provision be incorporated which prevents the breaching of either the height or FSR control.
- l. that maximum parking rates be imposed to low- and mid-rise housing in Station and Town Centre Precincts to ensure that traffic congestion is appropriately managed and encourage the take up of alternative forms of transport to private vehicles.
- m. the proposal be excluded from applying to Heritage Conservation Areas, and areas subject to hazards identified under the s.9.1 Ministerial Directions.

- n. that the State Government undertake an immediate review of the State imposed contributions cap on residential development to ensure that councils can continue to deliver local infrastructure to meet future population demand.
- o. that all proposed variations to the requirements under the Apartment Design Guide be objected to.
- p. that under the proposed mid-rise planning controls, an additional provision be incorporated that mandates the provision of affordable housing in perpetuity at the rate of 2% of all residential dwellings in a new development (or equivalent monetary contribution) if that development is located within 400m of a rail-based station within the Six Cities Regions.
- q. that, consistent with the proposed TOD program, measures be implemented to ensure any approvals granted are acted upon to address pressures on housing supply.

BACKGROUND

From mid-2023, the NSW Premier announced the State Government's intent to undertake a number of reforms to the NSW Planning System to assist with delivery of "more" and "affordable" housing to address the current housing affordability situation. Of particular note, the State Government is seeking to deliver an additional 377,000 dwellings within NSW by 2029 to assist in meeting the [National Housing Accord's](#) target of an additional 1.2m dwellings nationwide by that time.

In December 2023, the NSW Department of Planning and Environment (now Department of Planning, Housing and Infrastructure – DPHI), released a number of proposals to address this issue. In particular, two separate but tandem proposals were released:

- Transport Oriented Development Program; and
- Creation of Low and Mid-rise Housing Explanation of Intended Effect.

Each of these proposals are briefly discussed in the following subsections.

A. Transport Oriented Development (TOD) Program

On 18 December 2023, the DPHI released the *Transport Oriented Development Program*. Further details can be accessed at: <https://www.planning.nsw.gov.au/policy-and-legislation/housing/transport-oriented-development-program>. The TOD Program is to be implemented in two parts which are summarised below.

Part One: Accelerated Precinct Program

The Accelerated Precinct Program involves a state-led rezoning process focusing on land generally within 1,200m walking distance of priority high growth areas near transport hubs in Greater Sydney. This proposed program is very similar to a former program (Accelerated Precinct Protocol) established by the State Government in 2006 to focus on increasing densities within identified Growth Centres.

The current Program is focusing on eight identified Accelerated Precincts, which includes Crows Nest Metro Station.

The key objectives of the Accelerated Precinct Program are to enable:

- a variety of land uses (residential, commercial, recreational) within walking distance of train and/or metro stations;
- deliver housing supported by infrastructure; and
- increase the amount of affordable housing in these locations.

Investigations will focus on an area up to 1,200m from the identified station entries. It is estimated that the eight state-led rezonings will create capacity for up to 47,800 new homes over 15 years.

It is understood that the proposed rezoning of these Precincts is intended to be implemented by November 2024, with exhibition of draft planning instruments around April 2024. In order

to facilitate the rezoning process, the DPHI will undertake master planning of each Precinct to determine the extent of rezoning required.

The rezonings will mandate the provision of 15% of affordable housing in each new development, to be provided in perpetuity.

In terms of the potential infrastructure funding mechanisms, the State Government has committed \$520M to these Precincts for infrastructure improvements including critical road upgrades, active transport links, and provisions of parks and walkways. It is understood that this figure is in addition to contributions that would have been levied under the former State Infrastructure Contributions for the St Leonards & Crows Nest Planned Precinct (recently replaced by the Housing and Productivity Contribution). Further details on the proposed funding is expected to be provided in early 2024.

A preliminary briefing was provided to Council staff by DPHI on 15 December 2023. It is understood that Council will be given an opportunity to be involved with the preparation of any draft plans (via project working groups) prior to it being placed on public exhibition but details of this process are unclear. However, given the tight timeframes, this is very likely to be an accelerated process.

The status of the State Government's *St Leonards Crows Nest 2036 Plan* is unclear, as is what elements will be incorporated into the TOD Program.

Part Two - TOD SEPP

From 1 April 2024, a new State Environmental Planning Policy on Transport Oriented Development (TOD SEPP) is intended to apply to 31 identified TOD Precincts. These identified Precincts will apply to 31 metro or rail stations within the Six Cities Region. *None of the currently identified stations are located within the North Sydney LGA.* However, these may be other stations may be included in the future.

The *Transport Oriented Development Program* only provides a broad overview at this stage of the proposed SEPP, its objectives, and key changes. The draft TOD SEPP/instrument has not been released for comment and is unlikely to be, given the very tight timeframe for the envisaged enactment of the policy. The TOD SEPP is said to create capacity for an additional 138,000 new homes in the identified TOD Precincts over the next 15 years.

The objective of the proposed TOD SEPP is to amend planning controls within 400m of the identified stations to allow:

- residential flat buildings (RFBs) in all residential zones (*R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, and R4 High Density Residential*); and
- RFBs and shop-top housing in the *E1 Local Centre* and *E2 Commercial Centre* zones.

It is proposed to allow the delivery of RFBs with development controls as follows:

- building height 21m (approximately six storeys)
- floor space ratio 3:1;
- no minimum lot size or lot width;

- minimum active street frontage controls in the *E1 Local Centre* and *E2 Commercial Centre* zones; and
- minimum parking rates.

A mandatory minimum 2% affordable housing “contribution” will apply to all new developments in the identified TOD Precincts. It is assumed that this will be a monetary payment rather than the delivery of physical apartments.

Broader matters applying to both Accelerated Precincts (8 precincts) and TOD Precincts (31 Precincts)

Despite the lack of details, the following information is interpreted as applying to all 39 Precincts:

- the TOD Program will apply to heritage conservation areas, which has the potential to result in significant changes to the character of these areas as additional housing is delivered. Whilst it is suggested that a merit-based assessment will continue to apply to developments in these locations, it is questioned how they could be reasonably applied given the fundamental and drastic difference between an 20+m tall RFB and potentially a row of single-storey heritage character homes;
- the TOD program will not apply to land zoned for industrial uses;
- the existing in-fill affordable housing provisions set out in the Housing SEPP 2021, which permit up to a 30% increase in height and FSR where a percentage of the development provides affordable housing, will also continue to apply over and above the increased densities under these proposals. Therefore, there is potential for the delivery of buildings up to 27m (eight storeys) in height and an FSR of 3.9:1 within these Precincts.

Once available, Council will be kept informed of any further updates regarding the proposed TOD program and how it will apply to North Sydney.

B. Explanation of Intended Effect: Creation of Low and Mid-rise Housing

In parallel to the TOD Program, an Explanation of Intended Effect (EIE) for the creation of low and mid-rise housing was released by the DPHI on 15 December 2023 (refer to Attachment 1). An EIE is effectively a draft State Environmental Planning Policy, however, only provides a high level of intent rather than a draft legal instrument or specifics on detail of application of the proposed changes. The EIE is provided at Attachment 1 and can also be viewed at [Explanation of Intended Effect](#).

The absence of greater detail, along with a compressed timeframe, means that the assessment of impact undertaken and outlined in this report is based on a best level of understanding of information available. Interpretation issues have also been explored with planning colleagues at neighbouring councils to help support a common level of understanding.

The EIE principally proposes to increase residential densities within walking catchments of existing rail-based stations (i.e., heavy rail, metro, and light rail) and town centres. Densities

are proposed to be increased throughout all residential zones within these walking catchments.

The provisions of the proposed TOD SEPP are proposed to override the provisions under the EIE for low and mid-rise housing, in the event that the provisions will overlap. This is likely to result in a high level of confusion by the wider community.

The anticipated impacts and implications of this EIE is the subject of this report.

REPORT

1. Proposal

The principal stated aim of the EIE is to deliver new housing supply in established areas that have capacity to accommodate growth in a way that capitalises on current and future investment in public infrastructure. In particular, the proposal primarily focuses on increasing residential densities within proximity of a rail-based “station” or an existing “town centre”.

1.1. Station and Town Centre Precincts

The Station and Town Centre Precincts are proposed to apply to land located within the Six Cities Region (within which North Sydney LGA is included) and is also located within:

- 800m walking distance to the entry of a heavy rail, metro or light rail station; and
- 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.

Whilst not explicitly stated within the proposal documentation, the DPHI have confirmed that the *Town Centre Precincts* will also incorporate the land zoned *E2 Commercial Centre*, *SP5 Metropolitan Centre*, *E1 Local Centre*, or *MU1 Mixed Use* to which the walking catchments apply.

It should be recognised that the location of rail-based stations and town centres within adjoining LGAs may have an impact on the full extent of these Precincts on land within the North Sydney LGA. For the purposes of this assessment, implications from adjoining LGAs have been excluded and are unlikely to have a significant impact due to overlapping walking catchments.

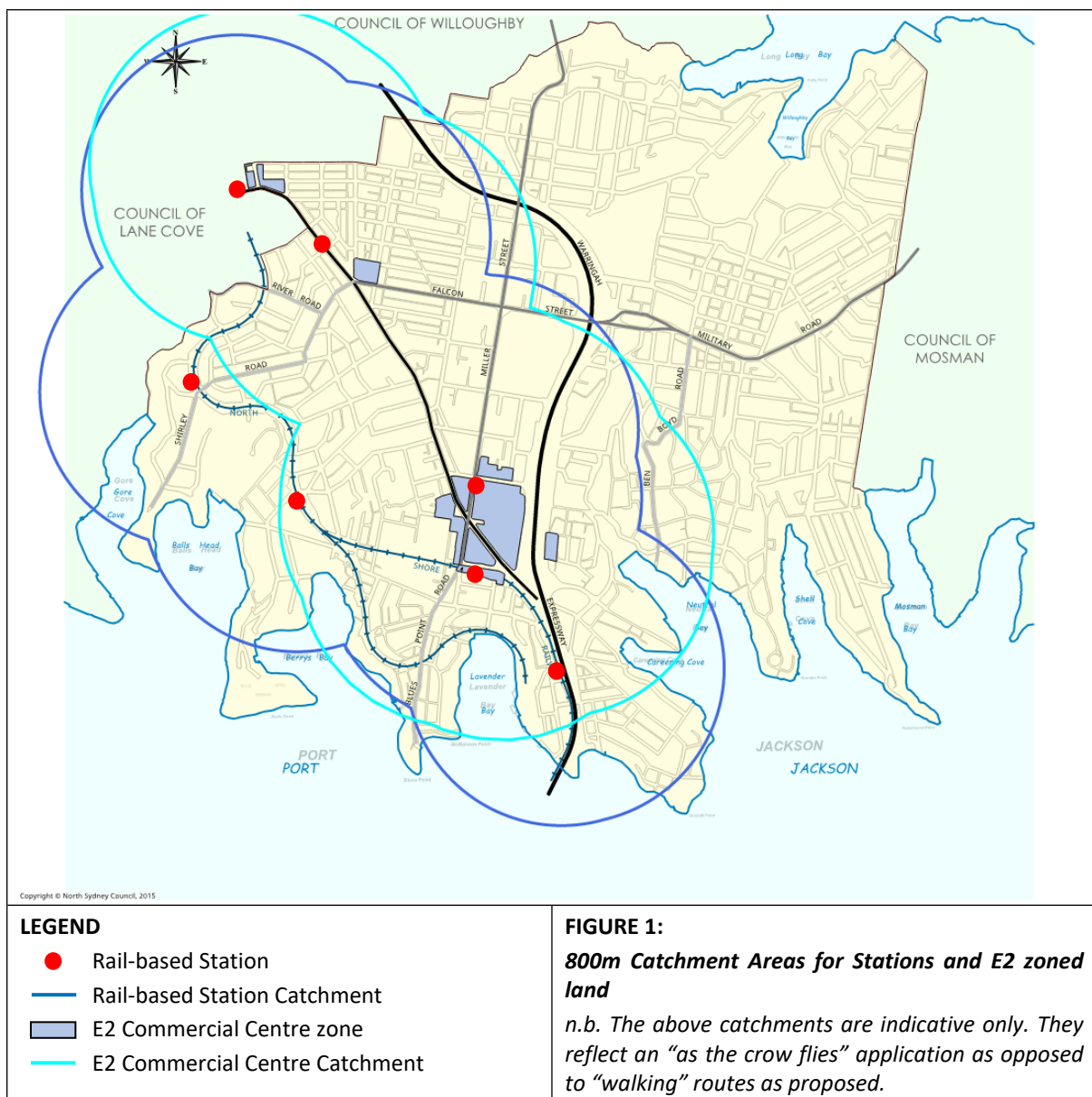
1.1.1. Precinct Identification

Whilst the establishment of the Precincts based on the first two criteria are relatively easy to determine, establishment based on the third criteria relating to *E1 Local Centre* and *MU1 Mixed Use* zoned land is too ambiguous. Reliance on a merit-based assessment to determine a Town Centre Precinct for the purposes of the Proposal is not supported, as it reduces clarity

for the wider community as to where residential development can be intensified. It is recommended that a more clear, consistent, and transparent approach be used.

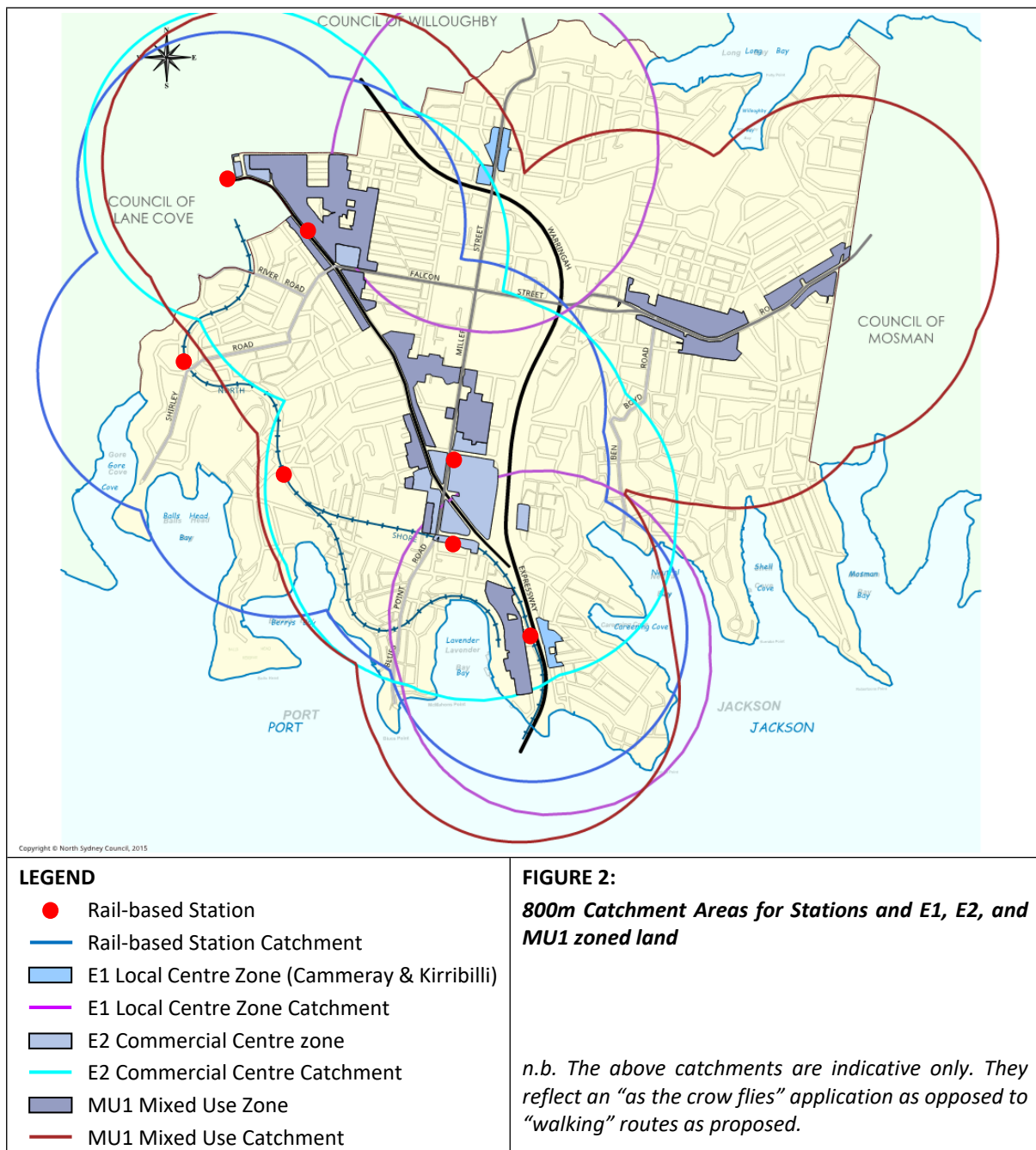
Due to the extent of rail-based stations and land zoned *E1 Local Centre*, *E2 Commercial Centre*, *SP5 Metropolitan Centre*, and *MU1 Mixed Use* within the North Sydney LGA, there has been insufficient time to accurately map the actual walking catchments to these Precincts. Therefore, the following analysis represents a catchment “as the crow flies”. The actual extent of these catchments under the proposal would likely be less, to account for street layouts and walkable paths.

Based on the first two criteria alone, the extent of the catchments as the crow flies is depicted in Figure 1.



When incorporating the third criteria, if a simplified blanket approach is applied to the rail-based stations and all the identified zones (*E1 Local Centre*, *E2 Commercial Centre*, *SP5*

Metropolitan Centre and MU1 Mixed Use), the extent of potential impact is shown in Figure 2, below. Isolated sites zoned E1 Local Centre have been specifically excluded from this analysis.



Whilst supermarkets are generally easy to locate, determining which ones comprise a “full-line supermarket” is much more difficult as they are not defined under the Proposal, nor any existing planning legislation or policy. However, they are generally considered to have a sales floor area exceeding 2,500sqm. If the Proposal is to proceed, a definition should be included to remove any ambiguity. There is no ready list of all supermarkets and their floor area sizes and therefore would require a large amount of background research to determine which ones would qualify as a “full-line supermarket”. This demonstrates that a place-based approach to the determining of Town Centres is required.

Further, it is unclear as to what quantum of other goods and services may be required to meet the threshold for a *Town Centre Precinct* under the Proposal, requiring a merit assessment in each instance. To improve clarity, the identification of *Town Centre Precincts* could be based on meeting a minimum quantum of overall retail floor space provided within these Centres. However, not all councils, including North Sydney, have ready access to such information and therefore such an approach is not deemed suitable and reinforces the need for a place-based approach.

Notwithstanding the absence of any clear direction, Council staff have sought to further identify and determine extent of the proposed *Town Centre Precincts*, based on the existence of a full-line supermarket as a base.

Land zoned *E1 Local Centre* within the North Sydney LGA is limited to the following localities:

- Cammeray Town Centre;
- Kirribilli Town Centre;
- Blues Point Road shopping strip, McMahons Point; and
- various isolated sites distributed across the LGA.

None of these E1-zoned lands contain a full-line supermarket. Accordingly, all of the *E1 Local Centre*-zoned lands within the LGA should be automatically excluded from the application of the Proposal. However, if a full-line supermarket was constructed in an *E1 Local Centre* zone in the future, it could open up the extent of land subject to the Proposal.

The LGA contains a large proportion of land zoned *MU1 Mixed Use* which is predominantly focussed:

- on either side of the Pacific Highway, stretching from North Sydney to St Leonards;
- immediately to the north of the North Sydney CBD;
- to the west of Milson Point Railway Station; and
- the Neutral Bay and Cremorne town centres, straddling Military Road.

Within the *MU1 Mixed Use* zone, there are only three full-line supermarkets (i.e., greater than 2,500sqm), as follows:

- Coles, Crows Nest (101-111 Willoughby Road – approx. 2,700sqm);
- Woolworths, Neutral Bay (1-7 Rangers Road – approx. 3,300sqm); and
- Woolworths (future Coles), Neutral Bay (Grosvenor Street – approx. 3,600sqm)

As previously mentioned, if a full-line supermarket is constructed in the *MU1 Mixed Use* zone in the future, it could open up the extent of land subject to the Proposal. Based on the location of these existing supermarkets, it would be appropriate to limit the extent of the *MU1 Mixed Use* zone used to determine the extent of the *Town Centre Precincts* to include:

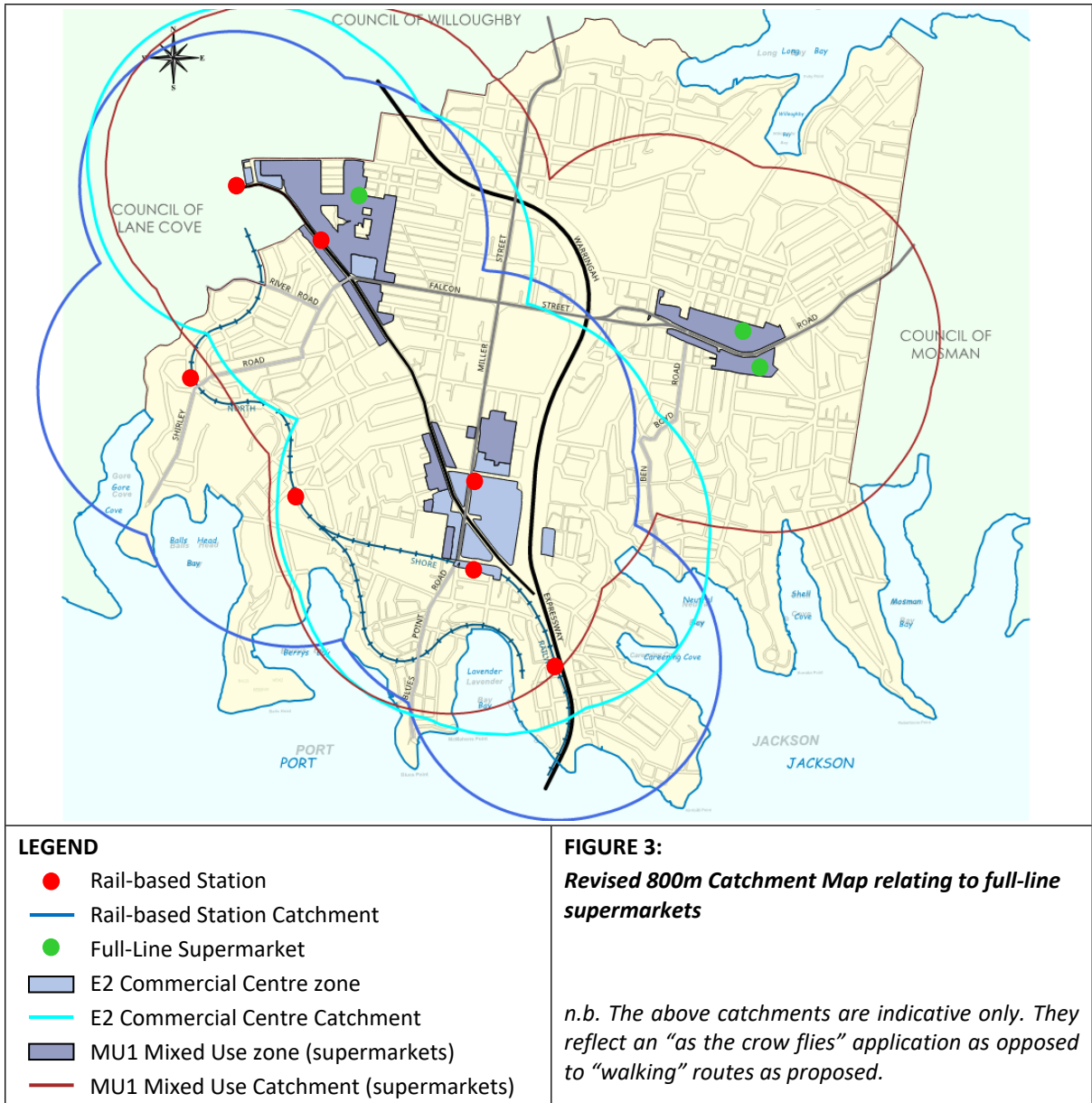
- Neutral Bay Town Centre (between Park Avenue and Hampden Avenue;
- St Leonards and Crows Nest Town Centres, but not extending southwards beyond Rocklands Road; and

- North Sydney CBD, not extending northwards beyond the North Sydney Centre identified under NSLEP 2013.

The only way to ensure that adequate clarity is provided with regard to the establishment of Town Centre Precincts under the proposal would be to map the relevant areas. That said, the presence of a full-line supermarket alone should not form the primary justification of significant increases in density. Robust, place-based planning is far more complex, and the simplicity and bluntness of this approach is not supported and does not represent sound planning.

Figure 2 (page 9) illustrates the location of the supermarkets within the extent of *MU1 Mixed Use* zoned land. Given the spread of these facilities, it would be unreasonable to apply the Town Centre catchment requirements to all of these existing centres and shopping strips.

If the above analysis is applied with regard to the *E1 Local Centre* and *MU1 Mixed Use*, the extent of affectation would be reduced as depicted in Figure 3.



Despite the removal of all the *E1 Local Centre* and some of the *MU1 Mixed Use*-zoned land, several areas would be retained based on the location of the heavy rail and metro Stations. This is reflected in Figures 1 to 3.

The overarching intent of increasing density around existing rail/metro/light rail stations and high order commercial centres is supported, being consistent with the best practice planning principle of integrating land use and transport.

The determination of the extent of a walking catchment can sometimes be open to interpretation, depending upon how the catchment is measured. In addition, it is unclear if the catchment would apply to sites wholly within only, or those which are wholly and partly within. At present, there is no definition or guidance as to how to determine a walking catchment. Further guidance and clarification as to how to measure the walking catchment and how much of a site must be included within the catchment to be included.

Furthermore, additional guidance should be included where a developer has accumulated a number of lots to comprise a site and only one of those lots is within the catchment.

1.1.2. Recommendation – Precinct identification

It is recommended that:

- (a) the application to Town Centre Precincts be excluded from the proposal and be subject to a place-based approach similar to the Accelerated Precinct program.
- (b) that if the Town Centre Precincts aspect of the Proposal is to progress:
 - (i) that it be excluded from Town Centres zoned *E1 Local Centre* and *MU1 Mixed Use*, unless they can be adequately mapped and subject to further community consultation.
 - (ii) clear guidance be provided with regard to measuring walking catchments to ensure a consistent approach.
 - (iii) clear guidance be provided to determine whether a site is included if only part of the site can be reached within the walking catchment measurement.

2. Low-rise Housing

The EIE proposes to make “dual occupancies”, “manor houses”, “multi dwelling housing”, and “terraces” permissible within the *R2 Low Density Residential* zone. It also proposes to introduce a number of development standards that, if complied with, cannot be used as reasons for refusal.

Due to the complexity of the Proposal, the analysis of the Proposal relating to “dual occupancies” and the other identified low-rise housing forms have been separated.

2.1. Dual Occupancies

It is proposed to permit “dual occupancies” on all land in the State zoned *R2 Low Density Residential*.

It is also proposed to introduce a number of development standards for dual occupancies across the State that, if complied with, could not be used as reasons for refusal. These non-refusal standards would overrule all local LEP and DCP controls. However, if the equivalent control in the LEP or DCP allows for a greater height, FSR or the like, that Council control would continue to apply. A comparison of the proposed controls against Council’s controls is provided within Table 1.

TABLE 1: Dual Occupancy Development Control Comparison				
Land Use Type	Control Type	Proposed State Control	NSC Council Control	Difference / comment
Dual Occupancy	<i>Height</i>	9.5m (max) (2 storeys envisaged)	8.5m (max) (2 storeys envisaged)	1m increase
	<i>FSR</i>	0.65:1	N/A	Anticipated increased bulk

TABLE 1: Dual Occupancy Development Control Comparison				
Land Use Type	Control Type	Proposed State Control	NSC Council Control	Difference / comment
	Site Area	450sqm (min)	450sqm (min)	Generally consistent
	Lot Width	12m	N/A	
	Car parking	1 /dw (min)	1-2 bed – 1 max 3+ bed – 2 max	Generally consistent

Key issues with the proposed controls are outlined in the following subsections.

2.1.1. Permissibility

North Sydney Local Environmental Plan (NSLEP) 2013 currently prohibits “dual occupancies (detached)” but permits “dual occupancies (attached)” in the *R2 Low Density Residential* zone. The proposal would therefore allow “dual occupancies (detached)” to be approved in the *R2 Low Density Residential* zone, which would represent a minor change if imposed in terms of land use.

This particular change has the least level of impact of all the reforms and can be adequately managed through appropriate built form controls. The take-up of such development may be relatively low as many *R2 Low Density Residential*-zoned sites are of insufficient size to accommodate dual occupancies and meet the other proposed site criteria.

2.1.2. Form

The EIE appears to focus on the delivery of “two-storey attached duplexes” in a side-by-side format, similar to “semi-detached dwellings”. However, as the definition of “dual occupancies” extends to include attached and detached forms, there is a need to consider potential impacts for the two types rather than the adoption of a single set of controls for both forms. This is further discussed in the following subsections.

2.1.3. Lot Size

Council’s dual occupancy controls are based on an “attached” built form. However, “detached” built forms require larger lot sizes to enable appropriate building separation to ensure the maintaining of the desired future built form character, fire safety, privacy, private open space, and access. In this respect, it is recommended that different minimum lot sizes be established for “attached” and “detached” dual occupancy-built forms.

Based on the provision of 225sqm per dwelling within a dual occupancy (450sqm per lot), and application of a 12m wide frontage as proposed, if the second detached dwelling within the dual occupancy was to be provided at the rear of the allotment (e.g., a battle-axe arrangement), it would require an access handle of approximately 100sqm in area. The utility of this access handle would be limited to access only, resulting in the provision of a much smaller area upon which to locate the second dwelling. This in turn is likely to result in reduced levels of landscaped area and private open space provision.

Even if the detached dwellings were located side-by-side facing the street, there is a need to maintain nominal building separation to ensure adequate fire safety and amenity outcomes, which also requires increased land area over an “attached” dual occupancy form.

Accordingly, it is recommended that a minimum lot size for detached dual occupancies be introduced, in the order of at least 550sqm.

2.1.4. Height

Whilst the proposal would enable a moderate increase in overall height (1m), this increase would enable the provision of three habitable floors which has the potential to dramatically alter the desired character of a locality.

It is general practice to utilise an 8.5m height limit for an anticipated two-storey residential built form, which is applied in most *R2 Low Density Residential* zones, including North Sydney.

It is noted that State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) permits low-rise housing forms, including dual occupancies, but restricts the height limit to 8.5m based on best practice.

The Proposal does not state that existing height controls are an issue with regard to the delivery of dual occupancies, nor is there any justification provided as to why a 9.5m height limit is appropriate.

2.1.5. Recommendation

It is recommended that:

- (a) no objection be raised to the proposed permissibility of all forms of dual occupancies within the *R2 Low Density Residential* zone;
- (b) a new minimum lot size of 550sqm for detached dual occupancies be established, and further design criteria be established for this form; and
- (c) the proposed maximum 9.5m height limit be objected to, and that a maximum 8.5m height limit be imposed.

2.2. Manor House / Terraces / Multi dwelling Housing

It is proposed to permit “manor houses”, “terraces” and “multi dwelling housing” on all land in the State zoned *R2 Low Density Residential* AND where it is located within a Station or Town Centre Precinct.

Manor houses are a type of “residential flat building” (RFB) which are generally limited to two storeys in height and contain a limited number of dwellings. Terraces are a form of “multi dwelling housing”, where each dwelling has direct access to a public road.

It is also proposed to introduce a number of development standards for “manor houses”, “terraces”, and “multi dwelling housing” within Station and Town Centre Precincts, that if complied with, could not be used as reasons for refusal. These non-refusal standards would overrule all local LEP and DCP controls. However, if the equivalent control in the LEP or DCP

allows for a greater height, FSR or the like, that Council control would continue to apply. A comparison of the proposed controls against Council’s controls is provided within Table 2.

TABLE 2: Low-rise Housing Development Control Comparison				
Land Use Type	Control Type	Proposed State Control	NSC Council Control	Difference / comment
Manor Houses	Height	9.5m (2 storeys envisaged)	8.5m (R2 and R3 zone – 2 storey envisaged)	1m increase (R2 zone)
	FSR	0.8:1	N/A	Potential increase in bulk and scale
	Site Area	500sqm (min)	N/A	
	Lot Width	12m (Min)	N/A	
	Car parking	0.5/dw (min)	0.3-1/dw (max) in high accessibility area 0.5-1/dw (max) in non-accessible area	Potential increase in parking provision and traffic congestion.
Multi dwelling housing (Terraces)	Height	9.5m (2 storeys envisaged)	8.5m (R2 and R3 zone – 2 storey envisaged)	1m increase
	FSR	0.7:1	N/A	Potential increase in bulk and scale
	Site Area	500sqm (min)	N/A	
	Lot Width	18m (min)	N/A	
	Car parking	0.5/dw (min)	1/dw/1-2bed (max) 1.5/dw/3+bed (max)	Potential reduction in parking provision and traffic
Multi dwelling housing (other than terraces)	Height	9.5m (2 storeys envisaged)	8.5m (R2 and R3 zone – 2 storey envisaged)	1m increase
	FSR	0.7:1	N/A	Potential increase in bulk and scale
	Site Area	600sqm (min)	N/A	
	Lot Width	12m (min)	N/A	
	Car parking	1/dw (min)	1/dw/1-2bed (max) 1.5/dw/3+bed (max)	Potential increase in parking

TABLE 2: Low-rise Housing Development Control Comparison				
Land Use Type	Control Type	Proposed State Control	NSC Council Control	Difference / comment
				provision and traffic

Key issues with the proposed controls are outlined in the following subsections.

2.2.1. Permissibility

NSLEP 2013 currently prohibits “manor houses”, “terraces”, and “multi dwelling housing” in the *R2 Low Density Residential* zone.

It is recognised however, that such uses would only be permitted in the *R2 Low Density Residential* zone where the land is also located within a Station or Town Centre Precinct. This aspect of the proposal represents a significant change for Council if imposed in terms of land use and consequently established character.

This aspect of the proposal will also create a “subzone” (i.e., the same development type may be either permissible or prohibited within the same zone). This can greatly reduce clarity and is contrary to directions set by the State Government when it established the Standard Instrument LEP and its relevant practice notices for the preparation of LEPs.

It's more appropriate to increase residential densities by altering the underlying zoning of land within the Station and Town Centre Precincts to permit the residential accommodation types where they are mandated as permissible (e.g., rezoning land from *R2 Low Density Residential* to *R3 Medium Density Residential*) and to subsequently alter the relevant development standards (e.g., increasing maximum height of buildings control). This is a more clear and transparent approach when interpreting what is acceptable within a particular zone across an entire LGA.

2.2.2. Manor house definition

Manor houses are not defined under the Standard Instrument LEP, upon which all council LEPs are based. However, manor houses are currently defined under the Codes SEPP as follows:

- manor house** means a residential flat building containing 3 or 4 dwellings, where—
- (a) each dwelling is attached to another dwelling by a common wall or floor, and
 - (b) at least 1 dwelling is partially or wholly located above another dwelling, and
 - (c) the building contains no more than 2 storeys (excluding any basement).

The EIE seeks to amend the definition of manor houses to remove the restriction on the number of dwellings that may be contained within a manor house.

It is unclear if this proposed amended definition is to apply to a new SEPP giving effect to the EIE only, or whether it will extend to the existing definition under the Codes SEPP as well.

If the intent is to apply two different scales of “manor houses” in terms of the number of permitted dwellings, then a new land use definition should be adopted to improve clarity. In addition, consideration should be given to the inclusion of a definition of manor houses under the Standard Instrument LEP and mandate their use within relevant zones.

It is also unclear if it is proposed include a cap on the number of dwellings under the new definition of manor houses.

Furthermore, no discussion has been provided to explain why the definition of “residential flat buildings” cannot be used, even it has a low-rise form of no more than two storeys. The scale of RFBs in storeys can largely be controlled by height controls under a planning instrument.

2.2.3. Height

Whilst the proposal would enable a moderate increase in overall height (1m), this increase would enable the provision of three habitable floors which has the potential to dramatically alter the desired character of a locality. This is reflected in the EIE which anticipates accommodating two storeys with a “potential habitable roof”. The assumption is that any habitable roof is contained within a pitched roof structure yet maintains a two-storey appearance. However, the reality is that an outright three-storey built form with a flat roof will likely be pursued that can result in dramatic changes to the character of the *R2 Low Density Residential* zone.

There is no discussion as to what a “habitable roof” comprises. There is no definition of habitable roof under any environmental planning instrument, nor is it defined under the ADG. Habitable roofs therefore need to be defined, to provide increased levels of certainty as to what is intended.

It is general practice to utilise an 8.5m height limit for an anticipated two-storey residential built form, which most *R2 Low Density Residential* zones utilise.

It is noted that State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) permits low rise housing forms, including one or two-storey manor houses or multi dwelling housing (terraces). The SEPP also restricts this form of development to a maximum height of 8.5m based on best practice.

The Proposal does not state that existing height controls are an issue with regard to the delivery of manor houses, terraces or medium density housing, nor is there any justification provided as to why a 9.5m height limit is appropriate other than to allow an additional storey within the building’s roof component.

If the proposal is to proceed with the proposed 9.5m height limit, more controls are required to ensure that the appearance of any dwelling remains 2 storey in form, with any potential third storey element hidden in a pitched roof form.

Furthermore, there appears to be a conflict with the existing and proposed definition of manor houses, which restricts the height of such development to 2 storeys. Therefore, the ability to achieve three storeys is unachievable.

2.2.4. Recommendations – Low-rise Housing

It is recommended that:

- (a) the permitting of manor houses, terraces and multi dwelling housing within the *R2 Low Density Residential* zone be strongly objected to.
- (b) manor houses be defined under the Standard Instrument LEP.
- (c) consideration be given to creating a new land use definition to differentiate between the existing definition of manor houses and the proposed definition of manor houses.
- (d) the proposed maximum 9.5m height limit be objected to and that a maximum 8.5m height limit be imposed.

3. Mid-rise Housing

It is proposed to permit “residential flat buildings” (RFBs) and “shop top housing” on all land zoned *R3 Medium Density Residential* AND where it is located within the proposed Station and Town Centre Precincts.

The proposal seeks to introduce a number of development standards for RFBs and shop top housing wherever they are permitted within the Station and Town Centre Precincts, that if complied with, could not be used for refusal. DPHI have confirmed that these development standards would be extended beyond the residential zones to include the *E1 Local Centre*, *E2 Commercial Centre*, *SP5 Metropolitan Centre*, and *MU1 Mixed Use* zones themselves upon which the Precincts are based, where RFBs and shop top housing are permitted.

These non-refusal standards would effectively overrule all local LEP and DCP controls. However, if the equivalent control in the LEP or DCP allows for a greater height, FSR or the like, this will continue to apply. The proposed non refusal standards for RFBs and shop-top housing would be incrementally reduced the further the development is located away from the station or town centre (with 400m and 800m being the thresholds). A comparison of the proposed controls against Council’s controls is provided within Table 3 below.

TABLE 3: Mid-rise Housing Development Control Comparison				
Location	Control type	Proposed State Control	Existing Council Control	Difference / comment
Town Centre Precinct - E1 Local Centre zone	Height	21m (6 storeys envisaged)	10m - Outside Cammeray Town Centre 16m - Cammeray Town Centre	+11m (+110%) Cammeray Town Centre would be excluded from the proposal (refer to section 1.1.1 of this report)

TABLE 3: Mid-rise Housing Development Control Comparison				
Location	Control type	Proposed State Control	Existing Council Control	Difference / comment
	<i>FSR</i>	3:1	1:1	+2:1 (+200%)
Town Centre Precinct – MU1 Mixed Use zone	Height	21m (6 storeys envisaged)	10m – 90m approx.	Heights vary greatly across the LGA depending upon desired character. Increased bulk likely in the majority of instances.
	<i>FSR</i>	3:1	N/A However limited site specific application ranging from 1.8:1-7.5:1	This will vary across the LGA. Increased bulk likely in the majority of instances.
0-400m within a Station or Town Centre Precinct	Height	21m (6 storeys envisaged)	8.5m (R3 zone – 2 storeys envisaged) 12m (R4 zone – 4 storeys envisaged)	+9m-12.5m increase (+106%-147%)
	<i>FSR</i>	3:1	N/A	Anticipated significant increase in bulk.
400-800m within a Station or Town Centre Precinct	Height	16m (4 storeys envisaged)	8.5m (R3 zone – 2 storeys envisaged) 12m (R4 zone – 4 storeys envisaged)	+4m-7.5m (+125%-147%)
	<i>FSR</i>	2:1	N/A	Anticipated significant increase in bulk.

It is also proposed to override any minimum site area and lot width requirements under a council’s LEP in relation to RFBs (n.b., no such criteria exist for RFBs under NSLEP 2013).

3.1. Permissibility

RFBs and shop-top housing are currently prohibited under NSLEP 2013 in the *R3 Medium Density Residential* zone. Therefore, this proposal represents a significant policy change if imposed in terms of land use.

The EIE makes a generic assumption that all councils apply the available residential zones under the Standard Instrument LEP the same way and that approximately 25% of councils prohibit RFBs in the *R3 Medium Density Residential* zone. No recognition is given to those

councils who use the *R3 Medium Density Residential* zone as the highest and best residential zone, which could result in discrepancies as to why RFBs are prohibited or not under the current environment.

This aspect of the proposal will also create a “subzone” (i.e., the same development type may be either permissible or prohibited within the same zone). This could greatly reduce clarity and is contrary to directions set by the State Government when it established the Standard Instrument LEP and relevant practice notices for the preparation of LEPs.

It is a more appropriate mechanism to increase residential densities by altering the underlying zoning of land within the Station and Town Centre Precincts to permit the residential accommodation types where they are mandated as permissible (e.g., rezoning land from R3 to R4) and to subsequently alter the relevant development standards (e.g. increasing maximum height of buildings control). This is a clearer, more transparent approach when interpreting what is acceptable within a particular zone across an entire LGA.

The EIE states that the proposed mid-rise development controls are also to apply to employment zoned lands where RFBs and shop-top housing is permitted. Potential exists that the employment function of these lands could be undermined, if councils do not have sufficient controls in their LEPs to protect those lands (e.g., minimum non-residential floor space ratio controls) to ensure that preference is given to employment uses. Whilst non-residential floorspace ratios are applied to the *MU1 Mixed Use* zone under NSLEP 2013, there is no such safeguard under the *E1 Local Centre* zone.

It is noted that the Proposed TOD SEPP (refer to Background section of this report), seeks to impose “Minimum active street frontage controls in the *E1 Local Centre* and *E2 Commercial Centre* zones”. It is recommended that a similar provision should also be applied under this proposal to ensure a level of consistency and protect employment lands.

3.2. Height controls

There appears to be an inconsistency between the establishment of the proposed maximum height controls within the Station and Town Centre Precincts. Using the ADG as a base, an allowance of 3.1m floor to floor for each storey and a 1m roof allowance, Table 4 on the next page provides an indication as to what the anticipated height controls should be.

TABLE 4: Height Control Comparison			
	ADG	Proposed	Difference / comment
4-storey building	13.4m	16m	+2.6m
6-storey building	19.6m	21m	+1.4m

The proposal would result in the developing of much taller buildings than that currently envisaged under the ADG. Council has recently seen an increase in the significant excavation of sites to accommodate additional storeys upon a site whilst complying with the height control. Therefore, it is recommended that the proposed heights be reduced to represent a

more realistic building height. It is recommended that the 4-storey height limit be reduced from 16m to 14m and the six-storey height limit be reduced from 21m to 20m. A slight increase over the ADG base amounts would enable consideration to be given to topographical changes across a site.

It is noted that the proposal will also apply to land within an employment zone within a Town Centre Precinct where residential development is permitted. Non-residential uses require the utilisation of greater floor to floor heights to ensure adequate servicing and amenity. Despite the consistent application of an employment zone, different centres can have very different localised conditions which could affect the height of a building. For instance, some town centres may require only one level of non-residential development, whereas others may require four. This would necessitate the creation of different height requirements for non-residential zones.

Accordingly, applying a blanket approach to height controls without due regard to the intended use of the land is not acceptable. This can only be adequately achieved through a place-based planning approach. It is therefore recommended that the application of the proposal to employment zones should be removed and subject to a separate amendment which has regard to a study of localised conditions.

3.3. FSR controls

North Sydney Council does not typically utilise FSR controls for development within the LGA with a couple of exceptions including:

- application of a blanket FSR control across the entire *E1 Local Centre* zone, with the exception of the Cammeray Town Centre where no such control applies; and
- isolated sites throughout the LGA (predominately in St Leonards/Crows Nest) where spot rezonings have occurred to provide a greater level of certainty over built form outcomes.

Council generally relies on the other development provisions to manage built form including, height, setbacks, building separation, overshadowing, landscaped area, and site coverage.

The proposal has given no consideration to outcomes achieved by applying an FSR control to various land sizes. Generally, the bigger the site is, there is more ability to spread the FSR across a site and effectively reduce height. On smaller sites however, it is more likely that the maximum height will be reached before the maximum FSR control can be met. Developers will generally push to further increase height limits on the basis that the allowable FSR control has not been met.

The setting of FSR controls appears to be based on an assumption that 50% of the site's area contains gross floor area for each storey that is permitted. On this basis, the building would have a site coverage in the order of 67% (based on a 75% gross building area floorplate efficiency rate), which is well in excess of that permitted under NSDCP 2013 (45%).

It is recommended that that the proposed FSR controls be removed altogether from the proposal. Alternatively, that the proposal should be revised such that both the maximum height and FSR controls must not be exceeded. This will prevent developers from seeking

breaches for one of these development standards, just so that they can achieve the other development standard. This is important given the generic nature of these proposed controls across Greater Sydney.

3.4. Recommendations - Mid-rise Housing

It is recommended that:

- (a) the permitting of RFBs and shop-top housing within the *R3 Medium Density Residential* zone be strongly objected to. Should the intent to increase densities with Station and Town Centre Precincts be pursued, then it should be subject to a place-based planning approach, with the preference given to rezoning the land to *R4 High Density Residential* to provide a consistent application of permissible land use types.
- (b) the application of the proposed development controls within employment zones to Station and Town Centre Precincts be strongly objected to. Should the intent to increase densities with Station and Town Centre Precincts be pursued, then it should be subject to a place-based planning approach with the preference given to amending development controls within employment zones to ensure their employment functions are not undermined and maximum heights be established to reflect an appropriate mixed-use form. Such amendments should be subject to further community consultation.
- (c) That if the mid-rise housing aspect of the Proposal is to progress:
 - (i) that the maximum height limit within a 0-400m walking catchment of Station or Town Centre be reduced from 21m to 20m;
 - (ii) that the maximum height limit within a 400-800m walking catchment of Station or Town Centre be reduced from 16m to 14m;
 - (iii) separate building heights on employment zoned land be established to reflect their commercial status;
 - (iv) that the FSR controls be removed in their entirety;
 - (v) that if the proposed FSR controls are to be retained, then include a provision which prevents the breaching of either the height or FSR control; and
 - (vi) that maximum parking rates be imposed to ensure that traffic congestion is appropriately managed and encourage the take up of alternative forms of transport to private vehicles.

4. Other Matters

4.1. Local Infrastructure Contributions

Local Infrastructure Contributions are levies applied to new development that help fund local works, services, and facilities to support the community. There are two main types of contributions applicable for Local Government:

- a section 7.11 contribution can be applied where there is a nexus established between the increase in resident or worker population and the consequent increase in demand for services, facilities and infrastructure that the incoming population gives rise to.
- a section 7.12 contribution is a fixed levy that applies (based on cost of construction) to a development and no nexus need be established.

The recent introduction of the Housing and Productivity Contribution requires new development to pay further contributions to the State Government to go towards the provision of state and regional infrastructure such as roads, parks, hospitals, and schools. The funds collected from an area need not be expended in the same area and no direct nexus needs to be established nor works schedule be committed to as is the case for Local Infrastructure Contributions.

Council's current Local Infrastructure Contributions Plan is affected by a State-imposed 'cap' of \$20,000 per additional dwelling. This cap has been in place since 2010 and has never been indexed, despite the new HPC being subject to indexing and having already been indexed less than six months after coming into effect. Therefore, the \$20,000 cap on local councils is in need of urgent review as the purchasing power of \$20,000 and ability to fund necessary supporting local infrastructure is considerably reduced to what it was 13 years ago.

The EIE identifies that councils can continue to apply relevant contributions plans and that some changes may be needed to a council's current contributions framework to allow for anticipated growth.

As the Proposal seeks to allow significant additional growth in population over and above that anticipated by Council's current Local Infrastructure Contributions Plan, it would place significant pressure on Council to undertake an urgent review of its Plan to determine what additional local works, services and facilities would be required to address that additional demand. The State imposed cap on residential development would further hamper the ability to deliver these additional works, services, and facilities, especially in an area such as North Sydney where acquisition costs for land is extremely high and the ability to deliver additional public open space in areas of identified intensification is restricted.

Accordingly, an immediate review of the State-imposed cap on residential development is required and should at least allow for indexation of the cap in the short term.

4.1.1. Recommendation

That the State Government undertake an immediate review of the State imposed infrastructure contributions cap on residential development to ensure that councils can continue to deliver local infrastructure to meet future population demand.

4.2. Apartment Design Guide (ADG)

As part of the reforms, it is proposed to allow a relaxation of a number of the development standards contained within the ADG as it relates to mid-rise residential flat development permitted under the reforms. The premise of this is to ensure that "*design controls applying to mid-rise housing proposals are appropriately differentiated to facilitate smaller apartment buildings*". The proposed changes to the design criteria are outlined in Table 5 below.

TABLE 5: Mid-rise housing ADG Variations								
Control Type		Existing ADG Control		Proposed Variation to ADG Control		Difference / comment		
Building Separation	Habitable	1-4 St	12m	1-4 St	12m	Reduction of up to 6m at levels 5 and 6.		
		5-8 St	18m	5-6 St	12m			
	Non-habitable	7-8 St	18m	1-4 St	6m			
		1-4 St	6m	5-6 St	6m			
		5-8 St	9m	7-8 St	9m			
		7-8 St	9m					
Setback	Front	<ul style="list-style-type: none"> - Determine street setback controls relative to the desired streetscape and building forms - Align street setbacks with building use 		<ul style="list-style-type: none"> - The average of adjoining buildings OR - 6m max. 		Generally, the same. Applying a maximum may prevent some sites from taking advantage to the uplift proposed if those sites are affected by other constraints.		
		Side & Rear	Habitable	1-4 St	6m	1-4 St	6m	Reduction of up to 3m at levels 5 and 6.
				5-8 St	9m	5-6 St	6m	
			Non-habitable	7-8 St	9m	1-4 St	3m	
				1-4 St	3m	5-6 St	3m	
				5-8 St	4.5m	7-8 St	4.5m	
				7-8 St	4.5m			

TABLE 5: Mid-rise housing ADG Variations				
Control Type		Existing ADG Control	Proposed Variation to ADG Control	Difference / comment
		Apartment buildings should have an increased separation of 3m when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping.	Side and rear setbacks are to increase by an additional 1m for every 2-storey difference in height between neighbouring buildings	Up to 2m less than the current requirement depending on location to adjoining zones.
Vehicles Access	Large Vehicles	The need for large vehicles to enter or turn around within the site should be avoided.	No need for large vehicles to enter or turn around within the site	Minimal difference. But has the potential to create issues in areas with heavy traffic congestion
Communal Open Space		25% of site area (min)	8sqm/apartment (min) up to a max. of 25% of site area	Reduction in the quantum of communal space in smaller developments.
Visual Privacy		To be managed through building separation requirements	To be managed through proposed amended building separation requirements	Potential reduced amenity.
Landscaping - Deep Soil	<650sqm	7%	7%	No Change
	650sqm-1,500sqm	10%	7%	30% reduction
	>1,500sqm	15%	7%	50% reduction
	- Tree planting	<650sqm	1 medium tree per 50sqm of deep soil zone	1 small tree per 350sqm site area

TABLE 5: Mid-rise housing ADG Variations				
Control Type		Existing ADG Control	Proposed Variation to ADG Control	Difference / comment
- Tree Canopy target	650sqm-1,500sqm	1 large tree or 2 medium trees per 90sqm of deep soil zone	1 medium tree per 350sqm site area	Potential increase in quantum
	>1,500sqm	1 large tree or 2 medium trees per 80sqm of deep soil zone	2 medium trees per 575sqm site area	Potential increase in quantum
	<650sqm	N/A	15% of site area	New requirement.
	650sqm-1,500sqm	N/A	15% of site area	
	>1,500sqm	N/A	20% of site area	

TABLE 5: Mid-rise housing ADG Variations				
Control Type		Existing ADG Control	Proposed Variation to ADG Control	Difference / comment
Car parking		Min car parking requirement for residents and visitors as set out in the <i>Guide to Traffic Generating Developments</i> : <ul style="list-style-type: none"> • within 800m of a rail-based station way station or light rail stop in the Sydney Metropolitan Area; or • on land zoned, and sites within 400 metres of land zoned, <i>B3 Commercial Core, B4 Mixed Use</i> or equivalent in a nominated regional centre OR the car parking requirement prescribed by the relevant council, whichever is lessor	minimum car parking rates to be set to create a consistent set of appropriate requirements across Six Cities Region.	Unknown as the proposed rates have not been provided

The standards established under the ADG were premised on ensuring good design and amenity for residents within the development and adjoining. Furthermore, they have been established with regard to a strong place-based approach and community consultation, rather than a blanket approach as currently being proffered.

At a high level, it is recommended that no variations are made to the requirements under the ADG.

The key issues with regard to the proposed variations is provided in the following subsections.

4.2.1. Side Setbacks / Building Separation

The ADG states that setbacks should vary according to a building's context and type. Larger setbacks can be expected in suburban contexts in comparison to higher density urban settings.

In particular, it is anticipated that greater setbacks are required in residential zones in comparison to employment and mixed-use zones as they often present very different characters. However, setbacks need to be established with regard to a place-based planning approach to ensure that the desired future character of an area is not unreasonably eroded.

The relaxation of setbacks at the topmost part of a building can also have impacts on solar and daylight access and presentation of a human scale to the public domain.

The Proposal also seeks to increase the side and rear setbacks by "*an additional 1m for every 2-storey difference in height between neighbouring buildings*". It is unclear if this is intended to apply to existing sites that are also afforded greater heights under the proposal or only where there is an interface to an existing building that has a lesser height. This needs clarification.

Notwithstanding, this proposed additional setback requirement appears to be less than additional 3m requirement that is recommended under the ADG where there is a transition to an adjoining zone or area of lesser density or intensity. No information has been provided to justify this reduction in additional setbacks to areas where there is a transition.

Having regard to the above analysis, it is recommended that the proposed blanket relaxation of the building setback and building separation controls not be progressed and to rely on the existing provisions of the ADG.

4.2.2. Tree Canopy Target

It is questioned how a "tree canopy" target is to be achieved, based on a site area requirement. Tree canopies can often expand over hard spaces of a site and the extent of a canopy will vary depending upon the species and age of the trees selected. Therefore, the proposed control does not provide any certainty for an applicant nor anticipated outcomes.

The intent of this control can only be achieved by stipulating minimum landscaped area and deep soil zone requirements, in conjunction with the quantum of trees to be planted. The ADG already contains these requirements. It is therefore recommended that the tree canopy numerical requirements be removed in their entirety and that reliance be left to the existing controls.

4.2.3. Car Parking

Council has recently implemented new parking rates in areas of high accessibility to rail-based public transport in an attempt to manage traffic congestion in what is already a highly compromised network. As the proposed parking rates for such development has not been stated it is difficult to determine the extent of impacts from this proposed change. Notwithstanding the absence of proposed parking rates, the proposal to implement revised "minimum" parking rates will likely undermine Council's position to manage traffic

congestion. This is a very significant policy change that underlines the generic nature of the proposal.

It is recommended that if the proposal is proceeded with that parking rates within the Station and Town Centre Precincts comprise maximum rates rather than minimum rates to ensure that walking, cycling and use public transport is prioritised.

4.2.4. Recommendation

That all proposed variations to the requirements under the ADG be objected to. However, consideration be given to imposing maximum parking rates within the Station and Town Centre Precincts to manage congestion and enable suitable take up of alternative options to private transport.

4.3. Heritage and Conservation Areas

The proposed changes to land use permissibility and application of new development standards are to be applied at the zoning level and will ignore other underlying constraints to development, in particular, heritage and conservation.

The Proposal suggests that heritage items and heritage conservation area controls under the LEP will continue to apply and that such matters will be required to be considered in the development assessment process on a merit basis. This presents a level of cognitive dissonance between these concepts.

Application of the proposed planning controls to isolated or small groups of heritage items may be reasonable in some instances if subject to an appropriate assessment of the impacts. This has often worked in the past, where heritage items and new development can work in tandem where the significance of heritage item is maintained. However, their application to heritage conservation areas will almost certainly have a significant detrimental impact on the conservation area.

In the majority of instances, the significance of a heritage conservation area relates to the consistency in its built form, visual character, and the collective sense of place. Permitting development up to three-times the bulk and scale of development within an established heritage conservation area as proposed, has the ability to significantly undermine its heritage significance and would be contrary to meeting objective (f) to the EP&A Act.

If the Proposal is to be imposed as suggested, it is also likely to create a significant level of contestability under both the Council assessment process (including Local / Regional Planning Panel) and under any Land and Environment Court appeal.

It is further acknowledged, that the consideration of heritage and conservation matters for such development under the Proposal will lead to increased assessment timeframes due to the additional heritage matters to be considered and is contrary to the State Government's intent to reduce assessment timeframes.

For the reasons outlined above, it is recommended that the proposed controls for low and mid-rise housing be excluded from applying to all heritage conservation areas.

4.3.1. Recommendation

That the proposed development controls for low and mid-rise housing be specifically excluded from applying to land affected by heritage conservation areas.

4.4. Affordable Housing

It is noted that as part of the proposed “Transport Orientated Development Program” (refer to the Background section of this report), it seeks to introduce mandated requirements for the provision of affordable housing. However, the extent of this requirement is being limited to the 8 Accelerated Precincts and 31 TOD Precincts.

Within the Accelerated Precincts it is proposed to mandate a minimum 15% of residential dwellings in all new developments for affordable housing in perpetuity and 2% under the 31 TOD Precincts within 400m of those stations.

It is questioned why this requirement is not extended to apply more broadly to all Station Precincts across the Six Cities Regions under this Proposal. This would ensure a more consistent approach to the delivery of affordable housing.

The focus on delivering affordable housing around rail-based stations is important, as those residents requiring affordable housing are less likely to rely on private transportation.

4.4.1. Recommendation

That under the proposed mid-rise planning controls, an additional provision to be incorporated that mandates the provision of 2% of residential dwellings in a new development (or equivalent monetary contribution) if the development is located within 400m of a rail-based transport station within the Six Cities Regions.

4.5. Flooding and Other Hazards

The Proposal suggests that the risk of flooding to life and property through local planning controls is a key priority for the State Government and that local controls will continue to apply to the development under the Proposal. The Proposal is silent with regard to risks from other types of hazards.

When an LEP is prepared, it must give consideration to the s.9.1 Ministerial Directions. Directions 4.1-4.6 specifically relate to matters of resilience and hazards and cover the following matters:

- flooding,
- coastal management,
- bushfire,
- contamination,
- acid sulfate soils, and
- mine subsidence and unstable land.

These Directions effectively prevent any increase to residential densities in areas affected by known hazards, unless adequate studies have been undertaken and it can be clearly demonstrated that future residents in those areas will not be exposed to unacceptable risks. The EIE has failed to consider these hazards adequately, not accompanied by comprehensive studies or address how any potential issues are to be addressed.

Not all LEPs, nor SEPPs, contain appropriate or sufficient provisions to ensure that risks to human life are minimised with regard to the hazards identified above. This further demonstrates that there is need to undertake a place-based planning approach to increasing densities in Station and Town Centre Precincts.

Should the Proposal progress, it is therefore recommended that the proposed provisions are specifically excluded from applying to areas affected by the risks identified under the Ministerial Directions.

4.5.1. Recommendation

That part of the Proposal to allow increased residential densities be amended to exclude any land that is affected by hazards identified by the Section 9.1 Ministerial Directions.

4.6. Housing Choice

One of the issues that the EIE highlights is the apparent lack of diverse housing choices, in particular, the delivery of terraces and small-rise apartment blocks.

The proposal to introduce manor houses, terraces, and medium density housing into the *R2 Low Density Residential* zone and RFBs in the *R3 Medium Density Residential* zone within Station and Town Centre Precincts has the potential to further reduce housing diversity within the North Sydney LGA.

The 2021 ABS Census indicates that approximately 76% of the housing stock within the North Sydney LGA comprises apartments, 11% comprise dwelling houses, with the remaining 13% comprising multi-dwelling housing (e.g., townhouses / villas). Since this time, the quantum of additional dwellings approved have predominantly comprised apartments, further reducing housing choice.

Despite multi-dwelling housing and attached-dwelling housing being permissible with consent in the *R3 Medium Density Residential* and *R4 High Density Residential* zones, these residential housing types are less likely to be pursued as a development option in these zones. This is due to the larger profits achievable for redeveloping a site with a RFB, as more smaller dwellings can be accommodated in comparison to dwellings within multi-dwelling housing or attached dwelling development on the same site. This in turn would reduce the diversity of housing types being provided within the LGA.

Permitting manor houses, terraces, and multi-dwelling housing permissible in the *R2 Low Density Residential* zones may increase the ability to deliver this type of housing but would

come at the expense of providing any low-density housing forms such as detached dwellings and semi-detached dwellings.

Within North Sydney, most of the *R2 Low Density Residential* zoned land located within the Station and Town Centre Precincts have some form of heritage overlay. The underlying zoning reflects the character which makes these conservation areas significant.

As indicated in section 4.4 of this report, it is recommended the proposal does not apply to heritage conservation areas.

The State Government has over the last 10 years been seeking to increase housing diversity by promoting the delivery of the “missing middle” (i.e., attached dwellings, townhouses, and villas). This position is reinforced through the Regional and District Plans set by the State Government. However, the intent behind this proposal has seen the State Government shift its focus away from delivering housing choice in terms of land use type to scale of development in terms of built form intensity.

Council’s Local Housing Strategy (LHS) has identified a clear housing supply gap for key worker housing and affordable housing for the very low and low-income households. It also identified the need to maintain and manage a diverse dwelling mix to meet identified demand and facilitate affordable choices whilst also provisioning for housing to meet the needs of seniors and people with disabilities. The LHS also acknowledges that the majority of the new housing to be delivered in the LGA will comprise apartments within the areas zoned *R4 High Density Residential* and *B4 Mixed Use* (now MU1 mixed Use).

Therefore, whilst it is recognised that permitting low-rise housing in the *R2 Low Density Residential* zone and RFBs in the *R3 Medium Density Residential* zone could contribute to more affordable forms of housing across a greater portion of the LGA, it would be at the expense of increasing housing diversity. Both issues are important and so any one value should not necessarily be prioritised over the other.

4.7. Other Capacity Issues

Whilst the proposal focuses to increase density where the state government has already expended money on infrastructure, namely transport related, it is silent with regard to the actual capacity of land to accommodate additional density. There are many other forms of infrastructure, such as education, health, emergency services, utilities services (e.g., water supply/removal, electricity, telecommunications etc), open space and community-based infrastructure (e.g. libraries, childcare centres). No consideration has been given to whether there is sufficient capacity in these types of infrastructure types to accommodate the additional densities increases proposed. This can only be achieved through the undertaking of a place-based planning approach.

As has been discussed, the ability to close the infrastructure gap as growth occurs, has been steadily curtailed given the State Government’s restriction on a council’s capacity to raise contributions to deliver local infrastructure.

Progression of the Proposal without an appropriate analysis of all matters is likely to lead to future issues which will require lengthy solution finding after the fact.

4.7.1. Recommendation

Progression of the Proposal should be deferred until a proper place-based planning process can be undertaken and ensure that all relevant issues have been considered in an area's capacity to accommodate such an increase in density or whether it can subject to appropriate amplification or addressing.

4.8. Place-Based Planning

Planning for growth is predicated on the principle of place-based planning. Such an approach has been regularised from the Commonwealth government level and downwards since at least 2012.

A place-based initiative:

- is tailored (in design or delivery or both) and targeted to the specific circumstances of a place to respond to complex and multi-faceted issues that are unable to be resolved through typical universal (i.e., untailored) policy approaches;
- engages the community as active participants in policy development and service delivery;
- is outcomes focussed and provides considerable flexibility on how outcomes will be achieved; and
- includes these components: understand the place, partner with the community, get government working together, empower people on the ground, and make change stick.

The Environmental Planning and Assessment Act, 1979 (EP&A Act) promotes a place-based approach to strategic planning. This is evidenced through its objectives at section 1.3, which state (with emphasis):

- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) *to promote the orderly and economic use and development of land,*
- (d) *to promote the delivery and maintenance of affordable housing,*
- (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) *to promote good design and amenity of the built environment,*
- (h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*

- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

Division 3.1 to the EP&A Act sets out the need for and requirements for undertaking strategic planning and how any statutory instruments are to relate to those strategic planning outcomes.

Of particular note, is the requirement to prepare Regional Plans and District Plans by the State government and Local Strategic Planning Statements (LSPS) by local councils.

Each of these strategic planning documents are then required to inform the preparation of environmental planning instruments to deliver the outcomes of these strategic planning documents.

The EIE states that the new Regional and District Plans are to be published in 2024. These provide the impetus for councils to update their LSPSs and Local Housing Strategies (LHSs). To ensure a proper place-based approach, it is recommended that the proposal within the EIE to upzone housing in the proximity to Station and Town Centre Precincts be ultimately deferred and addressed within the updating of council's LSPSs and LHSs.

Whilst the proposal effectively seeks to increase densities where it can capitalise on existing transport and retail infrastructure, it ignores the fact that each situation will be different as these localities may be affected by one or more other constraints. Consideration needs to be given to the full gambit of capacity issues.

A place-based approach is about understanding the issues, interconnections and relationships in a place, and coordinating action and investment to improve the quality of life for that community and to guide any growth and change. The Proposal in effect reverses the process and applies a solution without fully understanding the problem. This approach is likely to result in significant implications and create a need to find more solutions to fix an ill-advised approach.

Furthermore, the Proposal has the ability undermine years' worth of strategic planning work undertaken by councils and the state government in conjunction with community engagement in order to deliver greater and liveable places. On this basis alone, the entire proposal should be strongly objected to.

4.9. Neutral Bay Planning Study

Council is currently progressing the *Neutral Bay Town Centre Planning Study* (NBTCPS), which seeks to provide a comprehensive analysis as to how this Town Centre can develop a managed and sustained way. A report seeking endorsement of a draft planning study for the purposes of public exhibition is being considered concurrently with this report at the same Council meeting.

The EIE, if implemented as proposed, is likely to have significant implications for the desired outcomes of this project and undermine the place-based approach that Council has followed.

OPTIONS

Council has the following options in relation to this matter:

1. Make a submission to the proposal addressing the issues outlined in this report; or
2. Do nothing/take no action.

These options are assessed in TABLE 6.

TABLE 6: Options			
Option	Finance/Resourcing	Risk/Opportunity	Consultation
1.	Minimal costs and staff time will be required to complete a submission. These costs can be accommodated within existing budget lines.	Ensures that Council is acting in the Community's best interest, reinforcing existing endorsed policies. Ensures that all relevant issues are given consideration before a policy change is made.	The State government is responsible for the exhibition of the proposal, which has been undertaken generally in accordance with their community engagement strategy. The extent of consultation is questioned, given that much of the community would be unaware of release.
2.	No costs or staff time will be required.	The Proposal in implemented as exhibited has the ability to drastically change the character of localities especially in proximity of station and town centre precincts. The Community may negatively react to Council's inaction over a matter that has the potential to drastically change the local character of an area.	The State government is responsible for the exhibition of the proposal, which has been undertaken generally in accordance with their community engagement strategy. The extent of consultation is questioned, given that much of the community would be unaware of release.

Option 1, is recommended for the following reasons:

- It ensures that the State government is warned of the potential implications for not following a place-based planning approach.
- Provides some alternative solutions to moving the issue forward.

- Ensures that Council is promoting the desired future direction for managed growth within the LGA.
- Will have reduced long term financial and staff resource impacts, on the hope that at least some of the issues identified are addressed and prevent Council from reactively addressing a poor policy position implemented by the State government.

CONSULTATION REQUIREMENTS

Community engagement is not required. This is due to this report addressing a public exhibition of a State Government proposal. The community have also been given the opportunity to comment directly to the DPHI.

FINANCIAL/RESOURCE IMPLICATIONS

There will be minimal implications in pursuing the proposed recommendations to this report amendment, through the preparation of a submission which can be accommodated within existing budget lines.

If implemented as proposed, the proposal has the potential to have significant financial and resource implications for Council. In particular, the proposal will place significant demands on existing local infrastructure not envisaged under Council's existing endorsed policies. The proposal would require Council to review its existing LIC Plan to determine what potential additional demand is being generated and what amplification or new services or facilities may be required resulting from this additional demand.

LEGISLATION

Compliance with the relevant provisions of the following legislation have been addressed throughout this report:

- NSW Environmental Planning and Assessment Act, 1979 and accompanying Regulations (2021)
- Local Government Act 1993 and accompanying Regulations (2021)

CONCLUSION

The EIE for creating more low and mid-rise housing has the potential to create some adverse impacts on the desired future character of the North Sydney LGA. Whilst the premise of increasing residential densities in areas of high accessibility to mass public transport and goods and services is supported, it needs to be implemented with regard to a place-based planning approach. This will ensure that "liveable" places are created and minimise impacts to future residents.

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

December 2023

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Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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

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Abbreviations

Term	Explanation
Codes SEPP	State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
DA	Development Application
DCP	Development Control Plan
DPE	Department of Planning and Environment
EIE	Explanation of Intended Effect
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
Housing SEPP	State Environmental Planning Policy (Housing) 2021
LEP	Local Environmental Plan
R1 Zone	General Residential
R2 Zone	Low Density Residential
R3 Zone	Medium Density Residential
R4 Zone	High Density Residential
LRHDC	Low-Rise Housing Diversity Code, part of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
MLS	Minimum Lot Size
SEPP	State Environmental Planning Policy
SEPP 65	State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development
Six Cities Region	A region defined in the <i>Greater Cities Commission Act 2022</i> which stretches from the Shoalhaven-Wollongong region to the south, the Blue Mountains to the west, and the Newcastle-Lower hunter region to the north
SILEP	Standard Instrument – Principal Local Environmental Plan: sets out the standard provisions that all local environmental plans must follow

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1 Introduction

The NSW Government is proposing changes to the planning system. These changes respond to the housing crisis and will build a better planning system for the future.

This document explains a suite of proposals to encourage more low and mid-rise housing options for NSW households that are in the right places and designed well.

We want to enable more diverse, well-designed, low-rise and mid-rise housing near established town centres and in areas where there is good public transport. This will address the immediate urgency of the housing crisis and create a fairer and more resilient housing market for the future. The changes will give NSW households more choice and promote vibrant, sustainable and liveable communities.

These proposals are the first step towards addressing the crisis. Our longer-term aim is to enable better planning that is led locally.

Tell us what you think

We welcome your feedback on the changes we propose. To have your say, please complete the [online feedback form](#).

How this document is structured

This explanation of intended effect is divided into the following chapters:

- **Chapter 2: The housing crisis** explains the current housing issues NSW is facing and the need for a government response that is proportional and effective
- **Chapter 3: Opportunities for more housing** identifies the barriers and opportunities to encourage more housing in the right locations
- **Chapter 4: Policy proposals** details the proposed policy options to encourage more diverse and well-located housing
- **Chapter 5: Have your say** invites your feedback on the proposals.

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Summary of the reforms

Appendix A summarises the proposed policy reforms.

Our broader response

The proposals in this document are the planning policy part of the Department of Planning and Environment's response. Our broader response to the housing crisis includes:

- a program to speed up development applications
- measures to increase the provision of social and affordable housing
- a Transport-oriented Development program.

Read more about the department's [response to the housing crisis](#).

Relevant legislation

In preparing this explanation of intended effect, the department has considered Division 3.30 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

2 The housing crisis

2.1 Housing in NSW

NSW is growing. One in five Australians lives in Greater Sydney. Almost one in four Australians lives in the broader Six Cities Region, which extends beyond Sydney to the Central Coast, Newcastle and the Illawarra–Shoalhaven. One million more residents are expected to call NSW home by 2034.

In the context of heightened demand, the supply of new homes is also declining. Residential building approvals have fallen since mid-2021. Multiple factors have driven this, including shortages of construction materials and labour, limited market feasibility, and rising interest rates.

In the 5 years to March 2023, NSW built 284,978 homes, or around 57,000 each year. But under current market and policy conditions, we expect fewer new homes will be built in the next few years. In the past 12 months, only 47,430 homes were completed.

Housing affordability pressures are affecting more households, and a growing population of renters now faces record-low vacancy rates.

We must act urgently to address the housing crisis, but we can also carry out targeted planning reforms now. This will create a more flexible planning system that can better respond to future shocks. It will also provide for homes where people want to live and create the climate-resilient, vibrant communities we want to live in.

2.2 National Housing Accord

The [National Housing Accord](#) (the Accord) was announced in October 2022. Under the Accord, governments across Australia, institutional investors and the construction sector are collaborating with a shared ambition to address housing supply and affordability, including through:

- an aspirational target of 1 million new well-located homes over 5 years from 1 July 2024.
- delivery of more affordable homes through immediate and longer-term actions.

In August 2023, National Cabinet endorsed a new national target to build 1.2 million new well-located homes to help align supply with expected demand over the next 5-years. In line with its relative population share of the National Accord target, NSW has committed to deliver at least 314,000 new homes by 2029, with a stretch goal of 377,000 homes.

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National Planning Reform Blueprint

On 16 August 2023, National Cabinet met in Brisbane to agree on a range of new priorities to create more secure and affordable housing for Australians. The NSW Government has committed to delivering on the reforms in the blueprint.

The National Planning Reform Blueprint includes:

- updating state, regional, and local strategic plans to reflect housing supply targets
- promoting medium- and high-density housing in well-located areas close to existing public transport connections, amenities and employment
- streamlining approval pathways
- reforms to support the rapid delivery of social and affordable housing
- reforms to support timely issuing of development approvals
- considering the phased introduction of inclusionary zoning and planning to support permanent, affordable, social and specialist housing in ways that do not add to construction costs
- addressing gaps in design guidance for housing and building certification to ensure quality
- improving community consultation processes
- resourcing this work with professionals, including planners, in local government.

2.3 Well-located infill housing

Sydney is one of the least dense global cities...

As well as having comparably low population density, Sydney's housing stock overwhelmingly comprises low-density detached homes. The current zoning rules in Sydney also make it difficult to provide the diverse range of housing types we need to accommodate our growing population, changing demographics and a wide range of housing preferences.

Within many of our residential areas, important and suitable housing types such as terraces and small apartment blocks are not allowed.

Even where the zone technically allows a certain housing type, it may be prevented in practice by incompatible planning controls.

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Figure 1: Residential flat building in Lane Cove

Small residential flat buildings are a key medium density housing option, but they cannot currently be built on most lots zoned for medium density homes.

... and urban sprawl is expensive and unsustainable

In recent years, there has been an overreliance on greenfield areas on the fringes of Sydney to provide much of our new housing. According to the NSW Productivity Commission's report, *Building More Homes Where People Want to Live*, between 2016 and 2021, fewer than 20% of new dwellings were built within 10km of the CBD.

In addition, there is a shortage of new homes in many parts of the city that have great transport options, convenient town centres, and local amenities such as parks and beaches. This undersupply of new housing in these key parts of the city has led to a lack of affordable choices where people want to live.

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Figure 2: A birds-eye view of a residential subdivision under construction

The Productivity Commission's 2023 report, *Building more homes where infrastructure costs less*, says we will need to build at least 550,000 new homes in Sydney by 2041 just to keep up with our growing population. We would need to go even further than this to tackle the housing affordability crisis.

The report found the costs of servicing new housing with infrastructure can be up to \$75,000 more expensive for each home in the outer suburbs compared to the inner suburbs. The most transparent and efficient way to build Sydney's housing from now on is to build the homes where infrastructure such as roads, rail, water, schools and open space costs less.

Infill development

By supplying new housing in existing urban areas (known as 'infill development'), we can do density well by making sure new housing is built in locations that are well-served by infrastructure and have capacity for growth.

This will:

- allow new infrastructure to be funded in a more cost-effective way
- re-purpose and upgrade existing infrastructure

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- create efficiencies in providing infrastructure for growing communities
- minimise road congestion
- improve access to green spaces
- use our existing public transport networks
- lower costs for water, schools, and hospitals
- protect important habitat and biodiversity from an encroaching urban fringe.

We lack a diversity of housing options

It is important to have a variety of housing options to cater for different housing needs, preferences and life stages. For example, the number of bedrooms is usually important for families with children, but convenience and access to shops and amenities are important for couples without children and older households (*The Housing We'd Choose*, Grattan Institute, 2011).

Although it is often assumed that living in a detached house on a large block of land is what most Australians want, research by the Grattan Institute found Sydney residents ranked 'whether the house is detached' as only the 5th most important variable when selecting a home. Having a big garden was ranked 20th (*The Housing We'd Choose*, Grattan Institute, 2011). Further, household sizes are changing in the Six Cities Region. A greater share of households are trending toward couples without children.

Recent research by the University of NSW's City Futures Research Centre on behalf of Government Architect NSW found that medium-rise apartment buildings were the most preferred type of building among apartment purchasers. These buildings of less than 20 apartments were preferred for their larger interior sizes, greater sense of community and smaller strata schemes.

Terraces, cottages and small apartment blocks represented much of the housing built in the first half of the 20th century. In the inner suburbs, these housing types now account for one-fifth of the housing stock (NSW Productivity Commission, *Building more homes where people want to live*, 2023).

Other important types of housing such as terraces and town houses used to be common options and comprised a much larger share of new residential builds.

In the areas where new housing has been concentrated in recent decades, however, the share of diverse housing types has been declining.

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This reduction in the diversity of new dwelling stock has been observed in recent years. Housing policymakers and the community are raising concerns that most new housing is either freestanding homes on the fringes of Sydney, or high-rise apartment buildings along busy roads (NSW Productivity Commission, *Building more homes where people want to live*, 2023). The Six Cities Region has an acknowledged and well-documented 'missing middle'.

In Sydney, most residential areas are zoned for low density (single family homes) and only a small proportion of land is zoned for medium or high-density development. The current zoning distribution does not sufficiently support a diverse housing mix, and where medium-density zones exist, key mid-rise housing types are not allowed. Delivering more well-located, diverse housing types is a key focus for the NSW Government as it will promote a greater array of housing options for households and create vibrant urban communities.

More homes should be located near public transport hubs and town centres

More homes are best placed in areas that are well-serviced by town centres and good public transport, so people can quickly and easily get to where they need to be. This means that more people will be able to live within walking distance of supermarkets, restaurants, and good public transport to get them to work and other places. This is an accepted model of urban development that is commonly referred to as 'transport-oriented development'. It has been a key feature of strategic planning in NSW for many years.

There is still significant opportunity across NSW to make sure the homes we need are in these great locations. Taking this approach would address the housing challenges in a way that makes the most sense. This approach represents density done well. It makes daily commutes shorter and cheaper, taking the financial burden off households and curbing traffic congestion, leading to better quality of life. The goal is to build more homes and strategically position them close to where people need to go, giving more people access to convenient transport options and amenity.

2.4 Ongoing strategic planning efforts

Strategic planning in NSW

The planning process determines how we use and develop land – whether it be in a city, regional community or on a rural property. Strategic planning looks at the big picture. It helps inform how and where change can take place, if it's where new housing may be located, or where transport links or community infrastructure should go.

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Decisions about any development and the best use of land must be transparent, clear and fair. The NSW planning system ensures this by setting a clear strategic vision, which in turn informs planning controls that guide decisions. In NSW, regional and district plans created at the state level set the overarching vision for our region and its unique districts. Councils create local strategic planning statements, local environmental plans, and development control plans, which apply the strategic vision at a local level.

How housing is delivered

Housing delivery is a shared responsibility. At the federal level, the Commonwealth works with state and local governments, investors and industry to set aspirational housing targets and support additional housing supply through the National Housing Accord.

The NSW Government and councils work to meet these targets by ensuring the planning system allows for and incentivises well-located housing. This includes long-term strategic planning, delivering infrastructure at the right time, zoning land and setting controls, and assessing development. Many councils also have a local housing strategy which details how much housing (and of what types) needs to be delivered in the local area, where it will go, and how it will look.

When state and local strategic plans are in place, government agencies and the development industry are then able to use the planning system to deliver quality social, affordable and market housing in the right places to support growing communities.

Infrastructure is critical to housing

Councils in NSW rely on a variety of funding sources to support the delivery of local infrastructure. This includes libraries, parks, roads, local transport infrastructure, recreation and sport facilities and stormwater drainage facilities to meet the needs of their communities. The right infrastructure funding mix will be needed to support increased housing supply as proposed in this document.

Section 7.11 local infrastructure contributions and 7.12 levies are the main mechanisms councils use to fund local infrastructure under Part 7 of the EP&A Act. In infill areas where new housing supply is proposed, councils already have section 7.11 and/or section 7.12 local infrastructure contributions plans in place. Because of this, it will be important to decide if councils' existing infrastructure contributions frameworks are enough to address any increased demand created by expected growth.

Section 7.11 and 7.12 contributions plans list infrastructure items to be delivered and their costs. These plans also specify how much councils will charge developers to pay for this infrastructure. The amount councils can charge for both section 7.11 and section 7.12 contributions is limited under NSW Government legislation and policy, as Table 1 shows.

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Table 1. Caps on council funding for local infrastructure

Funding mechanism	Cap
Section 7.11 Contributions	\$20,000 per home/lot for most infill areas
Section 7.12 Levies, calculated using a simple percentage levy based on the cost of development	1% of the cost of development for most areas

The changes to the planning system that we propose in this explanation of intended effect will result in more homes being built in infill areas. These will be areas already serviced by state and local infrastructure, such as roads, rail and bus infrastructure, water and drainage, schools and open space. This is an efficient approach to infrastructure provision.

While increasing housing supply in infill areas will increase demand on existing infrastructure, it also allows us to upgrade, improve and deliver more local amenities and services through development contributions. The delivery of any new or upgraded existing infrastructure to support housing supply must be well coordinated and funded. We propose using existing mechanisms in the infrastructure contributions system to fund state and local infrastructure (see section 4.4).

The Six Cities Region

The Six Cities Region is Australia's first global-city region. It is a network of six connected cities in Australia that connect to each other, while celebrating and drawing on each city's unique character and strengths.

The Six Cities Region is made up of:

- Lower Hunter and Greater Newcastle City
- Central Coast City
- Illawarra-Shoalhaven City
- Western Parkland City
- Central River City
- Eastern Harbour City.

. The [Six Cities Region Discussion Paper](#) has been released. It represents the first step in planning at this scale. New region and district plans will be published in 2024, and these will feed into new local plans created by councils over the coming years.

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2.5 Applying the proposed reforms

The proposals outlined in this EIE represent a progressive approach to accommodating growth across the Six Cities Region. The planning system needs to enable and incentivise more density and diverse housing options in well located areas. The proposed reforms are designed to deliver new housing supply in established areas that have capacity to accommodate growth in a way that capitalises on current and future investment in public infrastructure.

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3 What's preventing more low and mid-rise houses being built?

NSW needs more well-located mid-rise housing options such as small blocks of units. They are a strongly desired development type among buyers and renters. Small apartment developments can exhibit high quality design for the benefit of residents and the local neighbourhood while contributing to the vibrancy of our centres.

3.1 Mid-rise housing

For this explanation of intended effect, **mid-rise housing** refers to residential flat buildings and shop-top housing that is generally between 3 and 6 storeys. These small-scale residential buildings are important to promote in our overall housing mix. They cater to a variety of needs and preferences and create more inclusive and vibrant communities.



Figure 3: Mid-rise housing types L-R residential flat buildings and shop top housing

What are Residential Flat Buildings (RFB) and shop top housing?

A **residential flat building** is a building that contains three or more homes and is 2 or more storeys. At least one of the homes must not have direct access at the ground level for it to be considered a residential flat building. It does not include other similar residential buildings such as co-living housing or multi-dwelling housing. Residential flat buildings are commonly referred to as apartment

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buildings or flats. Residential flat buildings are a mandated permitted use in all General Residential and High Density Residential zones.

Shop-top housing is a building that contains one or more apartments above ground floor shops or other commercial uses. Shop-top housing is common in mixed-use neighbourhoods and town centres. It provides residential neighbourhoods with easy access to supermarkets, cafes, and other important services. Shop-top housing is a mandated permitted use in all General Residential, High Density Residential, Local Centre (E1) and Mixed Use (MU1) zones.



Figure 4: Shop top housing in Surry Hills

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Figure 4: Residential flat building on Huntley Street, Alexandria

There is a need for more well-located mid-rise housing

Well-located mid-rise housing options such as small blocks of units are a strongly desired development type among buyers and renters as identified in research from UNSW City Futures Research Centre cited earlier. Fulfilling the latent demand in the housing market for small apartment buildings provides an opportunity to address calls for greater housing diversity to meet the needs of people at different stages of life. Small apartment developments can exhibit high quality design for the benefit of residents and the local neighbourhood while contributing to the vibrancy of our centres.

Mid-rise housing is often prohibited in well-located areas

Across the Six Cities Region, most residential areas, around 77%, are zoned for low density. But only around 12% of areas are zoned for medium density, and 2% for high density. Even in the 12% of Medium Density Residential zones, residential flat buildings and shop-top housing are prohibited in around 60% of these areas.

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Six Cities Residential Lots

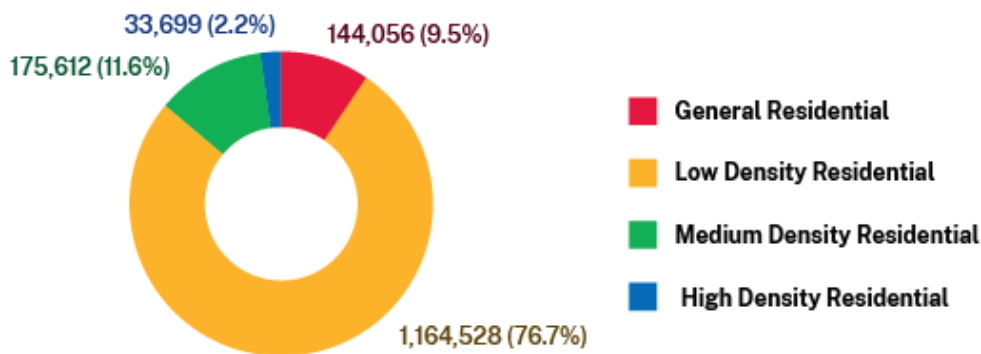


Figure 6: Overview of zoning of residential lots within the Six Cities region

Only 42% of well-located medium density lots in areas around heavy and light rail stations and close to important town centres permit residential flat buildings. This land needs to be better used by allowing development controls more suitable for mid-rise housing.

Restrictive development controls can discourage mid-rise housing

In the limited areas where mid-rise housing is permitted, site requirements and development controls can make delivering mid-rise housing a challenge.

Across all medium density lots in the Six Cities Region, the average maximum height of building control is around 9.9 metres and the average maximum floor space ratio control is 0.73:1. These controls only enable a 3-storey building with a limited number of apartments possible. Such small developments are not usually economically feasible to deliver in well located areas.

Height of Buildings Controls by Zone - Six Cities LGAs

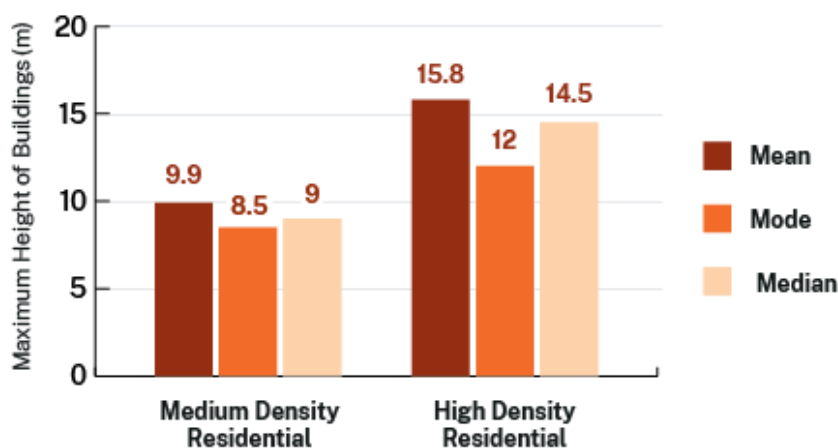


Figure 7: Overview of height of buildings controls in the medium and High Density Residential zones within the Six Cities

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Even in High Density Residential zones, the average maximum height of building control is around 15.8m and the average maximum floor space ratio control is 1.25:1. Again, these controls only enable a 4 to 5 storey building with a limited number of apartments possible.

In many medium and high-density residential zones, both the average and median built form controls are insufficient to realise the opportunities of mid-rise housing. Getting these planning settings right is critical to attracting investment in new mid-rise housing projects to deliver housing supply in well-located areas.

3.2 Low-rise housing

For this explanation of intended effect, **low-rise housing** refers to multi dwelling housing (such as terraces and townhouses), manor houses and dual occupancies. It is generally one or 2 storeys, sometimes incorporating a habitable roof. It does not include freestanding houses.



Figure 8: Low-rise housing types L-R dual occupancy, multi-dwelling housing (terraces), manor house

Multi dwelling housing (MDH) and manor houses

What are multi-dwelling housing and manor houses?

Multi-dwelling housing is a term used to describe residential developments that have three or more dwellings on a single lot with each dwelling having access at ground level. It includes rows of terraces and townhouses, but it does not include apartment buildings. They are a historically popular form of housing in Sydney, commonly found closer to the city centre. They are typically one or 2-storeys with a small front and back yard and setback to the side neighbours. They offer most of the benefits of a traditional freestanding house, but for a more affordable price.

Manor houses are small 2-storey apartment blocks. They are also an historically popular form of housing in Sydney's earlier suburbs, found in places like the eastern suburbs and the inner west. They often have the appearance and size of a 2-storey freestanding house but contain two apartments on the ground floor and two on the first floor. The ground floor apartments often get their own backyards, which offers a great level of amenity at a more affordable price.

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Figure 9: Manor house in Thornton



Figure 10: Townhouses in residential area at Gledswood Hills

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Most low-density areas prohibit multi-dwelling housing and manor houses

Multi-dwelling housing is prohibited in the Low Density Residential zone in 82% of lots across the Six Cities. This is particularly pronounced in Greater Sydney, where 94% of councils prohibit multi-dwelling housing in their low-density zones.

Multi Dwelling Housing Permissibility in Low Density Residential Lots
-Six Cities LGAs

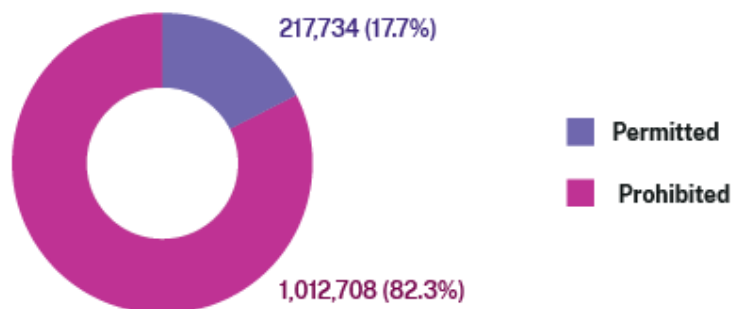


Figure 11: Permissibility of MDH across Low Density Residential zone lots within the Six Cities region

Similarly, manor houses are prohibited in all Low Density Residential zones in Greater Sydney, although they can be developed where multi-dwelling housing is permitted if using complying development under the Low-Rise Housing Diversity Code.

The main zone where multi-dwelling housing and manor houses are permitted is the Medium Density Residential zone where they are always permitted. The issue is that the medium-density zone only accounts for a small proportion of residential land, around 12% in the Six Cities Region.

Another issue is that Medium Density Residential zones also sometimes allow the multi-storey apartment buildings that developers usually prefer over the lower-yielding multi-dwelling housing and manor houses. So, there is a scarcity of land that allows for multi-dwelling housing and manor houses. And in the few areas they are allowed, developers often prefer apartments. As a result, very few new multi-dwelling housing and manor houses have been built in recent decades.

Multi-dwelling housing and manor houses are suitable in well-located low-density areas

Multi-dwelling housing and manor houses can be designed to comfortably sit within a freestanding house neighbourhood, without significantly changing character and offering a diverse and affordable option. Their scale and presence can be designed so they have no more impact than a freestanding house and they can enhance the desirable characteristics of a neighbourhood.

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Low-density residential zones that are within walking distance of town centres and transport hubs should be able to accommodate more multi-dwelling housing and manor houses. These housing types offer a sustainable way of encouraging more homes in low-density neighbourhoods. Focusing efforts in places that already have good access to public transport and everyday needs will avoid undesirable impacts such as more congestion and a lack of street parking.

Some development controls discourage multi-dwelling housing and manor houses

There are a range of development controls that often apply to multi-dwelling housing and manor houses. These can further limit the potential sites and make them particularly difficult to design, especially when compared to the controls for freestanding houses.

Many councils set minimum lot sizes that range between 700 m² and 2,000 m². These minimum lot sizes can be unnecessarily large, as well-designed multi-dwelling housing and manor houses can easily fit on much smaller sites. These requirements often rule out large proportions of the already limited lots that allow multi-dwelling housing and manor houses, sometimes up to 75% of permitted lots in a given area.

There are also other controls, such as floor space ratio and minimum car parking requirements, that can make these housing types compromised in design, impractical to develop and economically unviable. Because of this, it is more workable to develop freestanding housing and larger apartment buildings.

Dual occupancies

What are dual occupancies?

Dual occupancies are two dwellings on a single lot and are commonly known as duplexes or semis. They are a common form of housing in Sydney, with a strong historical presence in the form of one and 2-storey 'semis' and in the more modern form of 2-storey duplexes. They are typically two side-by-side houses that both have a front yard, a back yard, and are setback to the side neighbours. They offer most of the benefits of a traditional freestanding house, but for a more affordable price.

Dual occupancies are suitable in all low-density areas

Well-designed dual occupancies are perfectly suited to provide more housing in all low-density residential areas across the state. Their scale, form and presence can be designed so they have no more impact than a freestanding house and they can enhance the desired character of an area.

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Figure 12: Dual occupancy housing in Ryde

Dual occupancies are prohibited in many low-density areas

Within the Six Cities region, dual occupancies are prohibited in 14% of low density lots. In the same region, within the Medium Density Residential zone, dual occupancies are prohibited in 35% of lots.

Dual Occupancy Permissibility by Lots - Six Cities LGAs

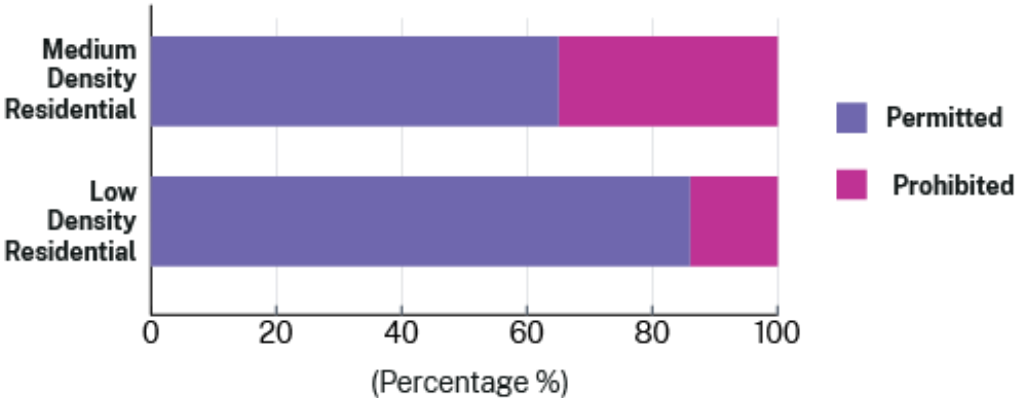


Figure 13: Permissibility of dual occupancies on low and Medium Density Residential zone lots within the Six Cities

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All Low Density Residential zones should be able to accommodate dual occupancies as a sustainable way to provide more housing supply and provide more diverse housing options for the community.

Dual occupancies are suitable in the General Residential zone

Within the Six Cities region, there are 23 LEPs with a General Residential zone. Of these, only 19 (or 83per cent) permit dual occupancies. General residential lots comprise 9.5% of all residential lots within the Six Cities.

An objective of the General residential zone is to provide a variety of housing types and densities. This objective can be more directly achieved by promoting dual occupancies in this zone.

Unsuitable development controls discourage dual occupancies

There are a range of development controls that often apply to dual occupancies which can further limit the sites where they can be built and make them particularly difficult to design, especially when compared to the controls for freestanding houses.

Many Councils set minimum lot sizes which range between 450m² and 800m². These minimum lot sizes can be unnecessarily large as well-designed dual occupancies can easily fit on much smaller sites. These requirements often rule out a large proportion of the lots that permit dual occupancies, sometimes up to 72% of permitted lots in a given area.

There are also a range of other controls, like floor space ratio, that can make dual occupancies difficult to design. Because of this, it is often easier to develop freestanding housing.

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4 Policy proposals to build more low and mid-rise housing

4.1 Mid-rise housing

Expanded permissibility within well located areas

The department is proposing to permit residential flat buildings on all Medium Density Residential zoned land in well located areas – that is, within station and town centre precincts. Since RFBs are a mandated use in the General Residential and High Density Residential zones, the Medium Density Residential zone presents an opportunity to expand the permissibility for this important mid-rise typology.

Figure 14 below shows the current and proposed permissibility settings for RFBs on well-located and other lots zoned for medium density within the Six Cities region.

RFB Permissibility in Medium Density Residential Zone - Six Cities LGAs

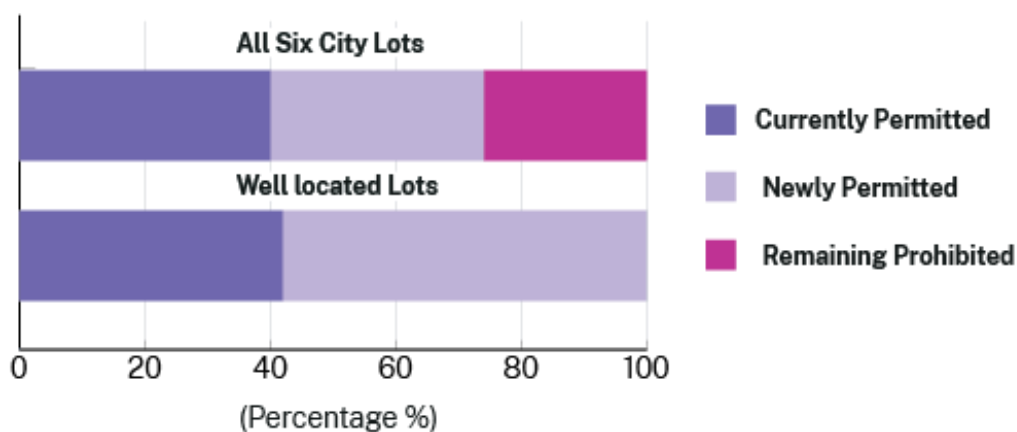


Figure 14: Permissibility of RFBs on well-located and other lots within Medium Density Residential zone in Six Cities

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Mid-rise housing in Station and Town Centre Precincts

Station and town centre precincts

The Station and town centres precincts are proposed to be:

- within the Six Cities Region; and
- 800m walking distance of a heavy rail, metro or light rail station; or
- 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.

Non-refusal standards

To facilitate these developments, the NSW Government propose to set standards for non-refusal that will apply wherever residential flat buildings or shop top housing are permitted (currently or newly proposed) within Station and Town Centre Precincts with the exception of the Low Density Residential zone. The standards are designed to allow more density in the inner part of the precincts within 400 metres of the stations and centres and less density in the outer part of the precincts from 400 metres to 800 metres.

Non-refusal standards

Non-refusal standards are a type of provision (legal condition) used in the planning system to set consistent standards for certain types of development and provide certainty and flexibility for councils and proponents.

Non-refusal standards are usually outlined in a SEPP and overrule LEP or DCP provisions. If the equivalent LEP or DCP standard is already more permissive than the non-refusal standard, it will continue to apply.

This approach gives councils the flexibility to set more permissive local controls that suit local areas. It also means that if a proposed development does not comply with the non-refusal standard but still complies with Council's standard, it will not need a clause 4.6 variation request.

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The purpose of this approach is to increase housing potential, not reduce what is already allowed.

The specific intentions are that if a development:

- Complies with the standard, a consent authority **must not** refuse consent on those grounds;
- Does not comply with the standard, it will be assessed under the equivalent applicable LEP or DCP standard;
- Does not comply with the standard, but does comply with the equivalent LEP or DCP standard, a clause 4.6 variation is not required;
- Does not comply with both the standard and the equivalent LEP or DCP standard, a clause 4.6 variation will be required.

The non-refusal standards have been calibrated to enable a typical 3 to 6 storey apartment building that can achieve an appropriate level of amenity for the apartments and to neighbouring dwellings.

All other applicable planning controls in Local Environmental Plans and Development Control Plans such as heritage and environmental considerations will continue to apply to the extent they are not inconsistent with these provisions.

The proposed non-refusal standards for residential flat buildings and shop top housing in the station and town centre precincts are:

In the inner part of the precincts **within 400 metres** of the stations/centres:

- Maximum Building Height: 21m
- Maximum FSR: 3:1

In the outer part of the precincts from **400 to 800 metres** of the stations/centres:

- Maximum Building Height: 16m
- Maximum FSR: 2:1

The non-refusal standards will apply to any residential flat building and shop top housing development on land in station and town centre precincts (with the exception of land zoned R2).

For residential flat buildings, the non-refusal standards apply to land where this land use is currently permitted or proposed to be permitted. For shop- top housing, the non-refusal standards apply where this land use is currently permitted.

We are also proposing to turn off minimum site area and width standards in LEPs as part of these reforms. This will allow development assessment to consider the individual merits of mid-rise developments on a case-by-case basis within the context of the site.

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Design criteria to support mid-rise housing

The Apartment Design Guide gives consistent planning and design standards for apartments in NSW. It gives design criteria and general guidance about how development proposals can achieve the nine design quality principles identified in *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* (SEPP 65).

The proposed new mid-rise housing provisions in station and town centre precincts will be supported by suitable design criteria that will vary some ADG provisions. These measures will ensure that design controls applying to new mid-rise housing proposals are appropriately differentiated to facilitate smaller apartment buildings.

The design provisions will ensure mid-rise apartment buildings are well-designed and promote excellent amenity and liveability for residents and the community.

The intent of the proposed changes to the design criteria is set out below.

- **Building separations:** Reducing the minimum building separation requirements for 5 and 6 storey buildings to match the current requirements for up to 4-storey buildings.
- **Setbacks:** Front setbacks to be the average of neighbouring buildings with a 6m maximum. Side and rear building setback requirements are to increase by an additional 1m for every 2-storey difference in height between neighbouring buildings.
- **Vehicle Access:** Design of basement and ground floor for mid-rise building is not required to accommodate large vehicles entering or turning around within the site. Waste collection method to be detailed in Waste Management Plan.
- **Visual Privacy:** To be managed through the proposed modified building and separation provisions.
- **Communal Open Space:** A minimum of 8m² of communal open space is to be provided per apartment, up to a maximum 25% of the site area.
- **Landscaping:** Minimum deep soil and planting requirements, depending on the size of the site as set out Appendix B.
- **Car parking:** Minimum car parking rates to create a consistent set of appropriate requirements for mid-rise housing across the Six Cities.

Affordable Housing

The existing In-fill Affordable Housing bonus provisions of the Housing SEPP will continue to apply for development under the proposed mid-rise housing in station and town centre precincts provisions.

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The department is also proposing to work with local councils to introduce affordable housing contribution schemes (inclusionary zoning) on more land across the Six Cities where there has been sufficient value uplift. Further consultation about this is expected in 2024.

4.2 Low-rise housing

Multi dwelling housing and manor houses

Expanded permissibility

We propose to make multi-dwelling housing and manor houses permitted with consent in the Low Density Residential zone within station and town centre precincts.

Manor houses will be characterised as 2-storey residential flat buildings (excluding any habitable roof). They will not be limited to 3 or 4 dwellings as they currently are under the Codes SEPP.

Station and town centre precincts

Station and town centres precincts will be:

- within the Six Cities Region; and
- 800m walking distance of a heavy rail, metro or light rail station; or
- 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.

Non-refusal standards

We propose to set key non-refusal standards that will apply to MDH and manor houses wherever they are permitted in Station and Town Centre Precincts. The non-refusal standards are designed to encourage MDH and manor houses to achieve the benefits of more and diverse housing while managing their impacts on surrounding properties, the local environment and neighbourhoods.

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Proposed non-refusal standards for multi-dwelling housing (terraces), multi-dwelling housing and manor houses in station and town centre precincts are:

Multi dwelling housing (terraces)

- Maximum Building Height: 9.5m
- Maximum FSR: 0.7:1
- Minimum Site Area: 500m²
- Minimum Lot Width: 18m
- Minimum Car Parking: 0.5 space per dwelling

Multi dwelling housing

- Maximum Building Height: 9.5m
- Maximum FSR: 0.7:1
- Minimum Site Area: 600m²
- Minimum Lot Width: 12m
- Minimum Car Parking: 1 space per dwelling

Manor Houses

- Maximum Building Height: 9.5m
- Maximum FSR: 0.8:1
- Minimum Site Area: 500m²
- Minimum Lot Width: 12m
- Minimum Car Parking: 0.5 space per dwelling

The non-refusal standards will apply to any multi-dwelling housing, multi-dwelling housing (terraces), or manor house in station and town centre precincts where they are currently permitted or proposed to be permitted under these proposals.

Lot size and width

The proposed minimum lot size and width standards provide sufficient space for a typical 2-3 bedroom dwelling layouts with a reasonable front and back yard, side setbacks to the neighbours, and car parking for most dwellings.

Floor space ratio and building height

We have set the proposed floor space ratio and building heights to encourage these housing types. They provide more floor space allowance than most low-density areas which will encourage MDH and manor houses rather than large freestanding houses. The building height is designed to accommodate 2 storeys with the potential habitable roof, depending on the design. Built form

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impacts on neighbours such as privacy and overshadowing will still need to be considered through the design criteria in the applicable design guides and local requirements.

Car parking

The proposed car parking rates for terraces and manor houses will be a reduction to most council's current DCP requirements and the standards of the Codes SEPP. The proposed rates will only apply in the target precincts which have walkable access to most needs and alternative transport options. The reduced rates for terraces will also reduce the need for multiple driveways along the street and the resultant impact that has on street parking and landscaping. For manor houses, reduced parking rates will facilitate better design outcomes including increased landscaping and more privacy for neighbours.

Application of other Planning Controls

All other applicable planning controls in Local Environmental Plans and Development Control Plans such as heritage and environmental considerations will continue to apply to the extent they are not inconsistent with these new provisions.

Landscaping requirements outlined in relevant DCPs will continue to apply and the Low Rise Housing Diversity Design Guide will continue to be relevant. The Design Guide will be updated to be consistent with the landscaping targets set out in Appendix C.

The Low Rise Housing Diversity Code will continue to only apply to MDH (terraces) and manor houses limited to 3 or 4 dwellings. This includes on land where it is proposed to newly permit these land use types.

To ensure good design outcomes are achieved, for development applications the consent authority must consider the Low Rise Housing Diversity Design Guide for development applications. Similarly, complying developments will continue to be required to be consistent with the Low Rise Housing Diversity Design Guide for complying development with a verification from a registered architect.

Subdivision

We propose to permit the torrens subdivision of multi-dwelling housing (terraces) provided the proposed lots meet appropriate size, width and access requirements.

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Dual occupancies

Expanded permissibility

We propose to permit dual occupancies in all Low Density Residential zones across NSW. We are also looking to work with the remaining few councils whose LEPs prohibit dual occupancies in the General Residential zone to consider whether they could be permitted.

Non-refusal standards

We propose to set key non-refusal standards that will apply to dual occupancies wherever they are permitted in Greater Sydney. The non-refusal standards are designed to encourage dual occupancies to realise the benefits of more and diverse housing in low-density areas.

Non-refusal standards for dual occupancies

Proposed non-refusal standards for dual occupancies in Greater Sydney:

- Maximum Building Height: 9.5m
- Maximum FSR: 0.65:1
- Minimum Site Area: 450m²
- Minimum Lot Width: 12m
- Minimum Car Parking: 1 space per dwelling

The non-refusal standards will apply to any dual occupancy in Greater Sydney where it is currently permitted or proposed to be permitted under these proposals.

Lot size and width

The proposed lot size and width is set at the lower end of the range of lot sizes that apply in different Council areas in Greater Sydney. It provides sufficient space for a 3-to-4-bedroom dwelling layout with a reasonable front and back yard, side setbacks to the neighbours, and a garage for each dwelling.

Floor space ratio and building height

The proposed FSR provides slightly more floor space allowance than most low-density areas, which will encourage dual occupancies rather than large freestanding houses. The proposed building height is designed to accommodate a 2-storey dual occupancy. Built form impacts on neighbours such as privacy and overshadowing will need to be considered through the design criteria in the applicable design guides and local requirements.

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Car parking

The proposed car parking rate is typical in many areas and will be a slight reduction in some. It is important that excessive car parking is not required, as it can influence whether a dual occupancy can fit on any given site. One space is sufficient to ensure there is not a significant impact on car parking availability in the street.

Application of Other Planning Controls

All other applicable planning controls in Local Environmental Plans and Development Control Plans such as heritage and environmental considerations will continue to apply to the extent they are not inconsistent with these new standards.

Landscaping requirements outlined in relevant DCPs will continue to apply and the Low Rise Housing Diversity Design Guide will continue to be relevant. The Design Guide will be updated to be consistent with the landscaping targets set out in Appendix C.

Under the complying development pathway, proposals will continue to be required to be consistent with the Low Rise Housing Diversity Design Guide for complying development.

Affordable Housing

The existing In-fill Affordable Housing bonus provisions of the Housing SEPP will continue to apply for development under the proposed low-rise housing provisions.

Subdivision

It is proposed to permit the torrens subdivision of dual occupancies provided the proposed lots meet appropriate size, width and access requirements.

4.3 Flooding

Managing the risk of flooding to life and property through local planning controls is a key priority for the NSW Government. We need to ensure that all new development in flood prone areas is compatible with the current and future flood risk of the land.

Council's current flooding controls will continue to apply to all development where the low- and mid-rise reforms are proposed to ensure that flood risk is appropriately managed. In areas of particularly high flood risk, such as the Hawkesbury Napean Valley, the Department will work councils to exclude the relevant areas from the application of the proposed reforms.

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4.4 Infrastructure Contributions

The NSW planning system allows councils and the NSW Government to collect contributions that fund infrastructure needed to support new development.

From 1 October 2023, all residential development that intensifies land use (where new dwellings are created) will be subject to the Housing and Productivity Contribution (HPC) and will replace the former State Infrastructure Contribution (SIC). HPC contributions will go towards the provision of state and regional infrastructure such as roads, parks, hospitals and schools. It does not affect how councils collect local contributions.

Councils will continue to require the payment of section local infrastructure contributions (7.11 and/or section 7.12 contributions) for all new development in accordance with relevant council contributions plans. Revenue collected goes towards funding infrastructure like community facilities, stormwater drainage, local open space and local roads.

In infill areas where there will be additional housing supply as a result of this proposal, councils already have section 7.11 and/or section 7.12 contributions plans in place that apply to new residential development. These existing plans will allow councils to collect more revenue as more dwellings are built.

However, it is important to ensure that councils will have sufficient revenue to fund any new or upgraded local infrastructure that may be required. Some changes may be needed to councils' current contributions frameworks to allow for anticipated growth.

The department will work with councils to identify where further infrastructure planning and funding is required and accelerate that work to ensure it is in place at the right time.

The best approach will depend on the current contributions framework in the area, anticipated growth and local infrastructure needs. Stakeholder consultation, including public exhibition, will be necessary before any changes are carried out.

Council feedback on infrastructure needs

We are seeking feedback on councils' preferred approach to identifying and addressing additional infrastructure needs that arise as a result of the proposed changes. The aim is to ensure that delivery of local infrastructure occurs at a rate that will keep up with the anticipated growth needed to address the housing crisis.

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4.5 Relationship with the Transit Oriented Development program

The Department is also progressing a Transit Oriented Development program, which will fast-track rezoning in 8 key precincts, and introduce new planning settings in a number of other identified station precincts across the Six Cities, including new permissibility settings, built form controls, social and affordable housing provisions and heritage arrangements.

The proposed low- and mid-rise reforms will work in tandem with the Transit Oriented Development program to achieve good urban form through appropriate density transition around centres. The reforms proposed under the Transit Oriented Development program are generally more permissive than the low- and mid-rise reforms and therefore will prevail over the low and mid-rise controls, where areas overlap.

Read more about the department's [response to the housing crisis](#).

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5 Have your say

The Department of Planning and Environment welcomes community and stakeholder feedback on this explanation of intended effect. Your feedback will help us better understand the views of the community and will inform the proposals discussed in this document.

To submit feedback, complete the [online feedback form](#).

Your submission may address the issues raised in this document or you may give more input about the changes we propose.

We will publish a response to submissions after the exhibition period ends.

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Appendix A – Summary of proposed reforms

Typology	Proposed permissibility change	Proposed non-refusal standards
Low-rise housing		
Dual occupancies	Make dual occupancies permitted with consent across Low Density Residential (R2) zones in NSW.	Introduce non-refusal standards that apply to dual occupancies wherever they are permitted in Greater Sydney: <ul style="list-style-type: none"> • Maximum Building Height: 9.5m • Maximum FSR: 0.65:1 • Minimum Site Area: 450m² • Minimum Lot Width: 12m • Minimum Car Parking: 1 space per dwelling
Manor houses	Make manor houses permitted with consent in the Low Density Residential (R2) zone within <i>station and town centre precincts</i> in the Six Cities region.	Introduce non-refusal standards that apply to Manor Houses wherever they are permitted within <i>station and town centre precincts</i> in the Six Cities region: <ul style="list-style-type: none"> • Maximum Building Height: 9.5m • Maximum FSR: 0.8:1 • Minimum Site Area: 500m² • Minimum Lot Width: 12m • Minimum Car Parking: 0.5 space per dwelling
Multi-dwelling housing (terraces)	Make MDH (terraces) permitted with consent in the Low Density Residential (R2) zone within <i>station and town centre precincts</i> in the Six Cities region.	Introduce non-refusal standards that apply to MDH Terraces wherever they are permitted within <i>station and town centre precincts</i> in the Six Cities region: <ul style="list-style-type: none"> • Maximum Building Height: 9.5m • Maximum FSR: 0.7:1 • Minimum Site Area: 500m² • Minimum Lot Width: 18m • Minimum Car Parking: 0.5 space per dwelling

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Typology	Proposed permissibility change	Proposed non-refusal standards
Multi-dwelling housing	Make MDH permitted with consent in the Low Density Residential (R2) zones within <i>station and town centre precincts</i> in the Six Cities region.	Introduce non-refusal standards that apply to MDH whenever they are permitted within <i>station and town centre precincts</i> in the Six Cities region: <ul style="list-style-type: none"> • Maximum Building Height: 9.5m • Maximum FSR: 0.7:1 • Minimum Site Area: 600m² • Minimum Lot Width: 12m • Minimum Car Parking: 1 space per dwelling
Mid-rise housing		
Residential flat buildings (RFBs)	Permit RFBs with consent in the R3 zone within <i>station and town centre precincts</i> in the Six Cities region.	Introduce non-refusal standards that apply to RFBs wherever they are permitted (excluding R2 zones) in <i>station and town centre precincts</i> in the Six Cities region. <p>Within <i>inner (0-400m) station and town centre precincts</i> in the Six Cities region:</p> <ul style="list-style-type: none"> • Maximum Building Height: 21m • Maximum FSR: 3:1 <p>Within <i>outer (400-800m) station and town centre precincts</i> in the Six Cities region:</p> <ul style="list-style-type: none"> • Maximum Building Height: 16m • Maximum FSR: 2:1
Shop-top housing (STH)	No change proposed.	Introduce non-refusal standards that apply to shop top housing (identical to those proposed for RFBs) wherever they are permitted (excluding for R2 zones).

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Typology	Other proposals
Mid Rise Housing (both RFBs and STH)	<p>Amend the <u>Apartment Design Guide</u> which sits under the <i>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</i> (SEPP 65) to include suitable design criteria for mid-rise housing (e.g. related to building separations, setbacks, vehicle access, visual privacy and communal open space).</p> <p>The design provisions will ensure mid-rise apartment buildings are well-designed and promote excellent amenity and liveability for residents and the community.</p>
Subdivision of MDH (Terraces) and Dual Occupancies	<p>New provisions are proposed to enable the torrens subdivision of multi dwelling housing (terraces) and dual occupancies that have been approved under the proposed low-rise housing reforms. The proposed lots will need to meet appropriate size, width and access requirements.</p>
Low Rise Housing through the Complying Development Pathway	<p>The <u>Low Rise Housing Diversity Code</u> will continue to apply including to areas where low rise typologies are proposed to be permitted under the reforms.</p>

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Appendix B – Landscaping provisions for mid-rise housing

Development category	Tree canopy target (min % of site area)	Deep soil target	Tree-planting rate
Residential flat buildings and Shop-top housing			
Less than 650 m ²	15%	As per Apartment Design Guide	For every 350 m ² of site area or part thereof, at least one small tree must be planted in the deep soil area
650 m ² – 1,500 m ²	15%	As per Apartment Design Guide	For every 350m ² of site area or part thereof, at least one medium tree is to be planted in the deep soil area
Greater than 1,500 m ²	20%	As per Apartment Design Guide	For every 575m ² of site area or part thereof, at least 2 medium trees or one large tree must be planted in the deep soil area

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Appendix C – Landscaping provisions for low-rise housing

Development category	Lot size	Tree canopy target (min % of site area)	Deep soil target (min % of site area)	Tree-planting rate
Manor houses	<300m ²	20%	20%	For every 200m ² of site area, or part thereof, at least one small tree
	300-600m ²	25%	25%	For every 250m ² of site area, or part thereof, at least one medium tree
	>600m ²	30%	30%	For every 350m ² of site area, or part thereof, at least 2 medium trees or one large tree
Dual occupancies	<300m ²	15%	15%	At least 1 small tree, per dwelling
	300-600m ²	20%	20%	For every 200m ² of site area, or part thereof, at least one small tree
	>600m ²	25%	25%	For every 225m ² of site area, or part thereof, at least one medium tree
Multi-dwelling housing (terraces)	<1,000m ²	20%	20%	For every 300m ² , or part thereof, at least one medium tree
	1,000-3,000m ²	25%	25%	For every 200m ² , or part thereof, at least one medium tree
	>3,000m ²	30%	30%	For every 350m ² , or part thereof, at least 2 medium trees or one large tree