
Item No: 5.1
Subject: **PLANNING PROPOSAL TO ADDRESS NET DWELLING LOSS IN THE WOOLLAHRA LGA**
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Purpose of the Report:

To seek the advice of the Woollahra Local Planning Panel in relation to a planning proposal to introduce a local provision in the *Woollahra Local Environmental Plan 2014* to address net dwelling loss.

Alignment to Delivery Program:

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

Recommendation:

THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal (at **Attachment 1**) as it has strategic merit, which seeks to amend the Woollahra Local Environmental Plan 2014 by introducing a local provision to restrict net dwelling loss to no more than one (1) dwelling or 15% of existing dwellings, whichever is the greater.

Executive Summary:

The purpose of this report is to seek the advice of the Woollahra Local Planning Panel (Woollahra LPP) on a planning proposal to amend the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) to include a local provision to address net dwelling loss.

Net dwelling loss occurs when the total number of dwellings on a site (or an amalgamated site) arising from new development is less than the number of dwellings existing on the site(s) prior to the approved development. There is growing concern about the impact of net dwelling loss in high land value areas, like the Woollahra LGA, as the redevelopment activity that results in the net loss not only reduces housing supply, but also tends to have a negative social impact on diversity of dwelling sizes and housing affordability. Further, this process of net loss undermines Council's efforts in working towards our current housing targets. The current housing target for the Woollahra LGA is set by the NSW Government and is 1,900 dwellings by 2029.

Analysis of development applications (DAs) lodged with Council from March 2020 to January 2025, identifies 42 DAs (35 DAs approved and seven DAs currently being assessed) that result in net dwelling loss. The combined net dwelling loss from the 28 approvals is 83 dwellings. If the seven DAs awaiting determination are all approved this will result in a further net loss of 10 dwellings, potentially taking the total dwelling loss to 93 dwellings over the review period.

Accordingly, there is strategic merit in preparing a planning proposal to address net dwelling loss in the Woollahra LGA, and Council's staff have prepared the planning proposal at **Attachment 1**.

The planning proposal seeks to amend the Woollahra LEP 2014 by introducing a local provision to restrict dwelling loss to no more than one (1) dwelling, or 15% of all existing dwellings, whichever is greater. This will apply to development involving residential accommodation (other than boarding houses, co-living housing, secondary dwellings, group homes and residential care facilities).

Staff recommend that the Woollahra LPP provides advice to Council to proceed with the planning proposal at **Attachment 1**.

Discussion:

The planning proposal is required to be referred to the Woollahra Local Planning Panel (Woollahra LPP) as per the *Local Planning Panel Direction – Planning Proposals (2018)*.

Background

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

THAT Council staff urgently investigate and report on opportunities to:

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

What is net dwelling loss?

For the purpose of the planning proposal 'net dwelling loss' is a reduction in the total number of dwellings on a site (or sites) as a result of new approved development. Examples of development that results in a net dwelling loss include the following scenarios:

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

The issue of net dwelling loss may be considered as a relatively new or emerging issue. It is an issue particularly relevant to high land value, high demand, inner metropolitan areas, including Woollahra, Sydney City and Waverley LGAs.

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

- *Reduces housing supply:* This is particularly relevant given the NSW Government requirement for councils to increase the number of dwellings in our LGA and address housing affordability. The net loss of dwellings on individual sites has an incremental and cumulative impact on Council's ability to achieve housing targets set by the NSW Government. As of 1 July 2024 our current target is 1900 dwellings by 2029.

- *Impacts on diversity of dwelling sizes and housing affordability:* When net dwelling loss occurs it tends to result in smaller, more compact dwellings being amalgamated to create larger dwellings. This not only results in a reduction in the dwelling yield on the site, but also means that the new housing delivered is more expensive, and the mix of dwelling sizes may be less diverse. While it is important that larger dwellings are catered for, it is also essential that smaller, lower cost dwellings are available for couples and singles. Only 12.5% of dwellings in the LGA are studios and one bedroom dwellings (ABS, 2021). This was the fastest growing typology across the Eastern Harbour City and Greater Sydney over the last decade, increasing by 38% and 43%, respectively. In contrast, Woollahra saw a 1% decline in one-bedroom and studio dwellings over the same timeframe. Larger dwellings saw positive growth in Woollahra, particularly four-bedroom homes which grew by 18%.
- *Inefficient use of land:* When land is not developed or used to its highest and best yield (such as a change of use from an RFB to a dwelling house) this results in net dwelling loss and can create pressure to rezone or increase density on other land to retain the overall capacity of land to provide for housing supply. The City of Sydney and Waverley Council have both recently exhibited planning proposals to amend their local environmental plans to address the issue.

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

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

Waverley Council's planning proposal "Residential dwelling density in the R3 and R4 zones" (PP-2024-512) seeks to amend the LEP by:

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

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

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

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

Staff contend that this decision should not prevent the progression of the Woollahra planning proposal. As discussed later, our proposal only applies to three or more dwellings, and as such will not unreasonably impede on the ability of families to amalgamate dwellings to create larger dwellings. The proposed provisions will also provide flexibility more broadly, allowing a percentage of dwelling loss to acknowledge site-specific redevelopment constraints. As such, it effectively balances private property rights with Council's responsibility to support the housing needs of our community.

Furthermore, while current rates of loss are relatively modest on an annual basis, the cumulative impact over multiple years is likely to significantly undermine our target of 1,900 dwellings by 2029. The imminent low and mid rise housing reforms are also likely to accelerate this dwelling loss. This is due to the reforms' likely incentivising redevelopment on R3 Medium Density Residential Land, which contains many older style RFBs. The planning proposal further explains this, and supports it with an analysis of market conditions.

In relation to the issue of dwelling size, as identified in the planning proposal, there is a significant need to protect smaller, lower cost dwellings that are undersupplied in the Woollahra LGA.

Council staff also contend that apartment stock quality will inevitably vary between development sites, and well maintained older buildings in our LGA provide high quality residential accommodation. Accordingly age is not a reliable indicator of amenity or desirability.

Note: At the time of preparing this report, a rescission motion was due to be debated at the Council meeting of 18 February 2025.

Net dwelling loss in the Woollahra LGA

To understand the extent and type of net dwelling loss in the Woollahra LGA, staff have undertaken a study of DAs approved from March 2020 to January 2025. Analysis of these DAs identifies that 42 DAs result in a net dwelling loss. This comprises 35 DAs that have been approved, and seven DAs currently being assessed.

The combined net dwelling loss from the 35 approvals is 83 dwellings. If the seven DAs awaiting determination are all approved this will result in a further net loss of 10 dwellings, potentially taking the total dwelling loss to 93 dwellings over the review period. **Table 1** contains a summary of these DAs to provide a broad understanding of the types of DAs that result in net dwelling loss.

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

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

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

Planning Proposal

Having regard to the net dwelling loss that is occurring in the Woollahra LGA, staff identify that there is strategic merit for preparing a planning proposal. The planning proposal will seek to amend the Woollahra LEP 2014 by introducing a local provision to restrict dwelling loss to no more than one dwelling, or 15% of all existing dwellings, whichever is greater. The proposed threshold provides a reasonable balance between allowing for redevelopment and renewal of building stock, whilst also minimising the loss of dwelling numbers on any development site.

Council staff analysed the numbers of existing dwellings on sites where the construction of an RFB has resulted in net loss. This found the average number of dwellings to be 6.5. As 15% of this number is 1 dwelling, the standards in the planning proposal would allow for the reduction of 1 dwelling. As set out in the planning proposal, to calculate the maximum number of dwellings that can be reduced under the proposed clause, the number of dwellings on site is multiplied by 15%, and then rounded to the nearest whole number. This means that an existing RFB containing 7 dwellings could be redeveloped to reduce the dwellings on the site to 6 dwellings whilst still complying with the provisions ($7 \times 15\% = 1.05$ which is rounded to 1).

This is considered a reasonable and flexible approach which balances the needs of the existing site/building with potential redevelopment opportunities, whilst also seeking to minimise net dwelling loss. Furthermore, the provision will operate as a development standard and will therefore be subject to *Clause 4.6 Exceptions to development standards* of the Woollahra LEP 2014. This will provide further flexibility in circumstances where it can be suitably justified that compliance with this standard is unreasonable having regard to the site, e.g. to comply with ADG requirements such as minimum dwelling sizes or floor plate design to achieve solar access.

It is noted that the proposed approach is consistent with the City of Sydney and (former) Waverley Council planning proposals which identified that dwelling loss should be restricted to no more than one dwelling or 15% of the existing dwellings on the site, whichever is the greater. This approach has been endorsed by the DPHI and is a sound benchmark to apply in the Woollahra LGA.

The proposed clause will apply to residential accommodation (except for boarding houses, co-living housing, group homes, secondary dwellings and residential care facilities) where the total number of dwellings on the development site, totals three or more dwellings. The threshold of three dwellings has been applied to provide some scope and flexibility for the amalgamation of dwellings within the LGA. For example, the provisions will not apply to the amalgamation of two adjoining residential apartments or amalgamation of dual occupancies. This approach allows for improvements to dwellings whilst also seeking to address the incremental impact of net dwelling loss within the LGA.

A planning proposal has been prepared in accordance with section 3.33 of the *NSW Environment Planning and Assessment Act 1979 and Local Environmental Plan Making Guideline (2023)*. The planning proposal (at **Attachment 1**) satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to the Woollahra LEP 2014.
- An explanation of provisions that are to be included in the amendment to the Woollahra LEP 2014.
- A justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

Objective of the planning proposal

The objective of the amendment to the Woollahra LEP 2014 is to reasonably minimise the loss of housing supply resulting from the consolidation of existing dwellings or the demolition of existing housing for the construction of new dwellings.

The intended outcomes and effect are to:

- Reasonably minimise net loss of housing stock;
- Support housing diversity and affordability;
- Maintain and grow housing supply;
- Retain residential dwelling density and diverse housing choice.

The following clause is indicative of what is proposed to be included in the Woollahra LEP 2014. The clause will be subject to review and final drafting by the Parliamentary Counsel's Office, should the proposal progress to finalisation:

(1) The objective of this clause is to reasonably minimise the loss of housing supply resulting from the consolidation of existing dwellings or the demolition of existing housing for the construction of new dwellings.

(2) This clause applies to development involving residential accommodation (except for boarding houses, co-living housing, group homes, secondary dwellings and residential care facilities), and where the total number of dwellings on the development site, totals 3 or more dwellings on <insert date LEP is made>.

(3) Development consent or consent to an application to modify a development consent must not be granted for development (including demolition), unless the consent authority is satisfied that the number of dwellings on the entire development site is not being reduced by the greater of 1 dwelling or 15% (rounded to the nearest whole number) compared to the constructed number of dwellings on <insert date LEP is made>.

(4) Despite subclause (3) above, development consent or consent to an application to modify a development consent may be granted for development (including demolition) to existing residential accommodation where the decrease in dwellings will occur as a result of a change of use of residential floor space to a non-residential use.

(5) For the avoidance of doubt, the requirements in subclause (3) apply irrespective of the number of successive development applications applying to an area of land.

Relationship to strategic planning framework

The planning proposal has strategic merit and is consistent with regional, district and local plans and strategies, including particularly:

Greater Sydney Region Plan: A Metropolis of Three Cities (2018):

- Objective 10: Greater Housing Supply
- Objective 11: Housing is more diverse and affordable

Eastern City District Plan (2018):

- Planning Priority E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport

Woollahra Local Strategic Planning Statement 2020 (Woollahra LSPS 2020):

- Liveability - Planning priority 4: Sustaining diverse housing choices in planned locations that enhance our lifestyles and fit in with our local character and scenic landscapes

Woollahra Local Housing Strategy (2021):

- Objective 2: Facilitate opportunities for housing growth in locations identified in the Woollahra Local Housing Strategy

Council's Community Strategic Plan Woollahra 2032 (2022):

- Goal 4: Well-planned neighbourhoods

The planning proposal is consistent with the Standard Instrument – Principal Local Environmental Plan and all other applicable State environmental planning policies and applicable section 9.1 directions.

Staff recommendation – proceed with planning proposal

The planning proposal has strategic merit. Council staff recommend that the Woollahra LPP advises Council to proceed with the planning proposal to amend Woollahra LEP 2024 to address net dwelling loss as set out in the planning proposal at **Attachment 1**.

Net dwelling loss and social impact statements

Council, as part of the resolution on 28 October 2023, also requested that staff:

“Amend the Woollahra Development Control Plan 2015 to require a Social Impact Statement (or similar documentation) to be provided where a reduction in dwelling numbers is proposed on a development site.”

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

Staff have considered Council's request to amend the Woollahra Development Control Plan 2015 to require an SIS or similar, and do not support this approach as it would not add value to the assessment process and would create an unnecessary reporting burden on the applicant.

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

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

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

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

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

Alternatively if the applicant does not comply with the net dwelling loss clause, the LEP clause will be a development standard to which *Clause 4.6 Exceptions to development standards* of the Woollahra LEP 2014 applies. The applicant will need to demonstrate that there are sufficient planning grounds to justify contravening the development standard, and matters such as the social impact of the proposed reduction in dwelling numbers would be considered.

Having regard to the above, staff find that the planning proposal on net dwelling loss does not require supporting provisions in the Woollahra DCP 2015 or other guidelines to address social impacts.

Options:

As a consequence of this report, the Woollahra LPP may provide advice to Council to proceed with the planning proposal as currently proposed.

Alternatively, the Woollahra LPP may provide Council with advice not to proceed with the planning proposal or recommend staff make amendments.

Community Engagement and / or Internal Consultation:

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

If the planning proposal receives a Gateway determination, the wider community will be notified via the exhibition process. Public exhibition of the planning proposal will be undertaken in accordance with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2021*, the *Woollahra Community Participation Plan 2019* and any conditions of the *Gateway determination*.

Policy Implications:

Should Council resolve to progress the planning proposal (having considered the advice of the Woollahra LPP), and should the planning proposal progress to finalisation, there will be policy implications by amending the Woollahra LEP 2014 to insert a new local planning provision.

Financial Implications:

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

Resourcing Implications:

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

Risk Implications:

There are no risk implications associated with this matter.

Conclusion:

This report seeks the advice of the Woollahra LPP on a planning proposal to amend the Woollahra LEP 2014 by introducing a local planning provision to address net dwelling loss. The planning proposal will seek to retain existing dwelling stock in the Woollahra LGA, and minimise instances where Council's efforts to deliver new housing are undermined.

The planning proposal has strategic merit, and staff recommend that the Woollahra LPP advises Council to proceed with the planning proposal at **Attachment 1**.

Attachments:

1. Planning Proposal - Net Dwelling Loss - January 2025