OFFICE OF THE GENERAL MANAGER

22 January 2024

Luke Walton
Executive Director, Housing and Economic Policy
NSW Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124
Via email: housingpolicy@planning.nsw.gov.au

Dear Mr Walton

Low and Mid Rise Housing Reform

The purpose of this letter is to provide comments in relation to the *Explanation of Intended Effect: Changes to create low and mid-rise housing, December 2023* (EIE), placed on public exhibition from 15 December 2023 to 23 February 2024.

At its meeting on 14 February 2024, Council considered a report **(attached)** discussing the EIE and potential impacts.

The report notes Hornsby Shire Council's commitment to continue delivering housing to meet the needs of our community. Council has a proven track record of planning for the delivery of well-located and diverse housing, protecting local character and environmental outcomes. Council acknowledges that a wide range of reforms are needed to tackle the complex issue of housing delivery. However, the most effective way the planning system can support these outcomes is by establishing an evidence base and setting policy goals, while supporting local planning authorities to identify solutions that best fit local conditions. Councils should be able to plan locally to assist address the housing crisis based on clear targets and timeframes.

The reforms would have widespread impacts for Hornsby Shire. The report notes that of the Shire's approximately 35,700 R2 Low Density Residential lots, between 27,000 and 34,000 would meet the lot size and frontage requirements for dual occupancy development. Of the 19,000 lots within potential Station and town centre precincts, approximately 15,000 meet non-refusal requirements for Manor house development and 14,200 meet non-refusal requirements for Multi dwelling houses. Notwithstanding that actual take up may be lower, the unplanned nature of the increases raises substantial questions for how a dispersed population will be serviced and accommodated in the short, medium and long term.

In response, Council resolved to make a submission on the reforms proposed in the EIE outlining Council's:

1. Concerns and recommendations including the absence of local planning, density of development permitted under the controls, impacts on character, heritage, natural environment and tree canopy loss, infrastructure and risks of over development in hazard areas.

2. Commitment to facilitate the delivery of a diverse range of housing as detailed in Hornsby Local Housing Strategy 2020 and request the release of revised housing targets, including a medium density component.

3. Methodology and precinct-based approach to the preparation of a local medium density housing strategy and request the opportunity to continue progressing Council's own local strategy that responds to the character of our area and community expectations to gain exemption from the proposed changes.

4. Willingness to continue to investigate opportunity for appropriate housing delivery in the future, should a medium density housing target be identified.

5. Concerns regarding wastewater infrastructure and request consultation with Sydney Water to confirm infrastructure requirements, commitment of funding for capital improvements to service additional development and assurance from the NSW Environmental Protection Authority that no alterations will be made to licenses to permit increased pollutant load.

This submission should be read alongside Council's response **(attached)** to the Minister of Planning and Public Space's dated 30 October 2023, discussing housing delivery under the National Housing Accord. Council received a response to this letter on 21 February 2024 commending Council for its commitment to increase the supply and diversity of housing and encouraging a submission including the issues raised in the letter.

As discussed in Council's response to the Minister's letter, we have commenced a project involving identification of well-located, serviced and minimally constrained land where medium density development could be permitted. This has been supported by urban design and feasibility analysis, alongside investigations into waste servicing, tree canopy cover and best practice locational criteria. It is our goal to progress a strategy that responds to the character of our area and community expectations. This project directly aligns with the Minister's request that councils commence work to examine existing policy setting and identify locations for low and mid-rise homes.

The outcome of the strategy is intended to be the identification of discreet precincts across the Shire where medium density housing would be best located. Precinct identification is being informed by hazard analysis, capacity of local centres, traffic infrastructure, walking catchments, open space and community infrastructure, high value biodiversity, streetscapes, provision of services (such as waste collection), capitalisation and lot consolidation potential, amongst other considerations. It is also being accompanied by a needs analysis that identifies the gap in medium density housing typologies, an analysis of local planning controls to determine how to adjust controls that make sense for Hornsby's character and community and feasibility analysis that shows what kind of development is most likely to be successful.

Council requests the opportunity to continue progressing Council's own local medium density strategy that responds to the character of our area and community expectations to gain exemption from the proposed changes. Given the work Council has done to date, we anticipate Council would be in a position to complete the study in a timely manner. We have requested a meeting with relevant DPHI staff to discuss this further and look forward to the opportunity to work with them to achieve this outcome.

In addition to the above, Council's findings and requests in relation to the Low to Mid-Rise EIE are outlined below.

Local planning to deliver revised NSW Government housing targets

Recommendations:

1. ***It is requested that the NSW Government publish revised housing targets, including a medium density component, and infrastructure commitments to support those targets.***
2. ***It is also requested that the NSW Government allow councils to develop local responses that would deliver that capacity.***

Discussion:

Hornsby Council has a proven track record of planning for the delivery of well-located and diverse housing, protecting local character and environmental outcomes. The most effective way the planning system can support these outcomes is by establishing an evidence base and setting policy goals, while supporting local planning authorities to identify solutions that best fit local conditions.

The Hornsby Local Housing Strategy 2020 (LHS), developed in consultation with the community and endorsed by the (then) Department of Planning, Industry and Environment sets a clear program of strategic planning projects to respond to Council's obligations under State housing priorities, meeting the strategic goals of the latest NSW Government Regional Plan, A Metropolis of Three Cities, published in 2018.

The NSW Government has not released Greater Sydney or local housing targets since the finalisation of A Metropolis of Three Cities. Targets were set to be exhibited at the end of 2023 with the release of the Greater Cities Commission's draft City and Region Plans. These targets were to be informed by holistic review of housing capacity, infrastructure planning and local opportunities and constraints. With the NSW Government's dissolution of the Greater Cities Commission, there does not appear to be a unified and comprehensive evidence base to support local housing targets.

The Six Cities Plan, including its proposed housing targets, should be released to provide a clear region-wide approach for the delivery of housing. The revised local housing targets should include the identification of a medium density component so councils can ensure local planning meets these revised targets.

Restrict reforms to town centre precincts

Recommendation:

3. ***Should the reforms be progressed, it is requested that they be limited to station precincts, as these provide ready access to the Hornsby Strategic Centre and the broader Greater Sydney area. Centres that are not adjacent to stations do not have reliable capacity to deliver the goods and services described in the EIE.***

Discussion:

The EIE proposes that certain town centres would trigger the mid and low rise housing reforms, allowing mid and low rise development within 800m walking distance. The EIE suggests that only town centres that contain 'a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants' would trigger the reforms. These terms are not defined in the EIE, and feedback is requested from councils to help define appropriate areas.

Council's Employment Lands Study (ELS) provides an analysis of centres across the Shire, with a centre hierarchy outlining the role and function of those centres. This includes Strategic Centres, Local Centres, Neighbourhood Centres. This hierarchy was adopted in the Hornsby Development Control Plan in 2023.

A review of the ELS and E1 Local Centre lands shows that centres with the potential capacity to deliver goods and services within walking catchments are typically adjacent to stations. These centres either have established businesses to service additional populations or the potential for consolidation and redevelopment to support such growth. Limiting the application area of the reforms to the stations would ensure access to the Hornsby Strategic Centre and the broader Greater Sydney Area while also being within walking distance of these local centres for day to day needs.

Limiting the changes to station precincts would also be consistent with the stated aim of the reforms to provide well located housing with access to public transport and employment opportunities and limiting the use of private vehicles.

Exclude environmental constraints and hazards

Recommendation:

4. ***It is requested that the reforms be excluded from application on bushfire prone land, heritage items or conservation areas and lands mapped as having high biodiversity value, either in State or local planning controls. These areas require careful planning and evaluation of environmental and capacity constraints.***

Discussion:

The EIE identifies that controls for flood control lots would continue to apply. Details regarding application of controls for bush fire prone lands and biodiversity are not provided.

As discussed in the Hornsby Local Strategic Planning Statement and Housing Strategy, NSW Rural Fire Service has raised concerns regarding the impact of additional residential growth north of Mount Colah on evacuation in the event of a bushfire. These concerns have recently been reiterated in consultation with the RFS associated with the development of the Medium Density Housing Strategy.

The proposed reforms have the potential to significantly increase residential capacity in the Mount Colah, Mount Kuring-gai, Berowra, Berowra Heights, Cowan and Brooklyn communities. Council has not been provided with evidence that the RFS concerns have been addressed or the risks overcome.

The reforms would apply to Heritage Conservations Areas within the Shire permitting allotment sizes and intensity of development inconsistent with the established subdivision pattern and character of these areas. Concern is raised that subdivision of dual occupancy developments on allotments of 450m2 or greater would significantly erode the historic character of these areas which are characterised by residential allotments of 500-600m2 or larger with established gardens, generous setbacks, and tree canopy.

In its assessment of Council's Vegetation Planning Proposal, the Gateway Determination and reporting encouraged Council to undertake new biodiversity mapping and submit it as part of a future planning proposal. This project has recently been funded by Council and is underway. As many low density residential neighbourhoods, including those near centres and precincts, include intact and remnant bushland, this project is critical to understanding the potential impacts of the proposed reforms.

Infrastructure planning

Recommendation:

5. ***It is requested that DPHI work with Council to identify the anticipated capacity and population increases over time and support Council's planning for the provision of new infrastructure.***
6. ***It is requested that the recently commenced State Housing Contribution Fund be allocated for expenditure within the Region in which it is collected to cater for the increased costs in servicing the anticipated increase in development.***

Discussion:

The EIE maintains that local development contributions towards infrastructure (known as Section 7.11 and Section 7.12 contributions) will continue to fund local development contributions. It requests feedback on how councils prefer to identify and address additional infrastructure needs associated with the reforms.

As discussed in Council's recently approved Special Rate Variation application, the costs associated with the delivery and maintenance of local infrastructure and services have outpaced Council's ability to generate funds through levies and development contributions. This has worsened with recent supply chain and cost escalation issues in recent years.

Typical strategic planning initiatives include detailed analysis of existing infrastructure, the potential demand associated with additional users and how the gap will be met. This has been undertaken as part of the Hornsby Town Centre Masterplan and previous Housing Strategies prepared by Council with detailed planning regarding where needed infrastructure would be best located and associated costs.

The approach of the reforms to enable dispersed capacity increases throughout the residential areas of the Shire limits the ability for Council to plan for necessary infrastructure improvements. This would be of particular concern where dual occupancy development is permissible throughout low density areas across the Shire. Without significant planning, this would likely have detrimental impacts on the provision of community facilities, parks, traffic infrastructure and other Council delivered infrastructure.

Water infrastructure and water quality

Recommendation:

7. ***It is requested that the reforms be excluded from application on unsewered lands and lands serviced by a Priority Sewerage Program until such time that Sydney Water can expand services to meet potential capacity.***
8. ***It is requested that Sydney Water demonstrate how wastewater resource recovery facilities (treatment plants) will accommodate future growth associated with the reforms.***

Discussion:

As indicated above, Council's spatial analysis indicates that under the planning reforms, dual occupancies would be permitted on approximately 27,000 to 34,000 R2 Low Density Residential lots in the Shire. This includes lots in suburbs such as Dural, Glenorie, Arcadia, Brooklyn, and Cowan with limited sewer infrastructure (serviced by the Priority Sewerage Program) or unsewered.

Under the Priority Sewerage Program, Sydney Water provided wastewater services to previously unsewered areas within the Shire, designed to accommodate the existing capacity of the zoned land. Services were not designed to support growth beyond that capacity.

On a broader scale, three water resource recovery facilities, also known as sewage treatment plants, are operated by Sydney Water in Hornsby Shire. These are located in Brooklyn, Hornsby Heights, and West Hornsby. These facilities treat wastewater before it is reused or discharged to oceans or rivers, such as the Hawkesbury.

Water resource recovery facilities operate under licenses issued by the Environmental Protection Authority, limiting the load and concentration of pollution discharged. This means that if increased pollution load is processed by the facility, it can be diluted with additional water. This does not reduce the overall pollution emitted from facilities. As such, it is foreseeable that additional dispersed residential growth would result in more water pollution.

For context, the urbanisation of Hornsby in the 1970s and 1980s resulted in sewage treatment plants running beyond capacity. Sediment runoff and nutrient pollution from sewage treatment plants led to increasingly polluted waterways, with odour pollution, algal blooms and impacts to flora and fauna, including fish kills. In response, Council placed a moratorium on the processing of development applications within the West Hornsby Sewage Treatment Plant. This led to the signing of a Statement of Joint Intent (SoJI), between Council, the NSW Government, Environmental Protection Authority, (Sydney) Water Board and the Hawkesbury-Nepean Catchment Management Trust. The SoJI acknowledged the significant impacts of polluted urban stormwater run-off and led to the upgrading of the West Hornsby and Hornsby Heights Sewage Treatment Plants.

Upgrades to wastewater facilities are now undertaken from time to time based on growth projections within catchments. These upgrades are reflected in licenses, with timeframes for the scope and timeframes of

their delivery. The widespread and unplanned residential growth anticipated under the reforms should be considered by Sydney Water and the EPA. Further upgrades should be identified, planned, and funded to ensure the long-term health of the Hawkesbury River and associated waterways, with no alterations to licenses to permit increases in pollution loads.

Hierarchy of controls

Recommendation:

9. It is requested that the Low Rise Diversity Design Guide continue its role as guidance for local government areas, only setting minimum standards where there are gaps with local controls.

Discussion:

The EIE indicates several changes to the Apartment Design Guide and Low Rise Design Guide, including the potential for the Low Rise Design Guide being a formal matter for consideration in the assessment of a development application. While the ADG currently supersedes local controls for apartment buildings three stories and over, local controls apply to medium density development, including one and two storey apartment buildings, that requires a development application.

Medium density and transitional character

Recommendation:

10. It is requested that the proposed height limit and design controls for development of R3 Medium Density land within station and centre precincts under the reforms be revisited to provide greater consistency with existing Council controls that apply within the zone.

Discussion:

As part of the implementation of previous housing strategies, Council has rezoned well serviced and accessible areas to R3 Medium Density Residential, with a 12m height limit. This has allowed for the development of townhouses in these areas, facilitating the orderly transition of neighbourhood character over time. These neighbourhoods have served as transition areas, scaling down intensification away from centres. Council is continuing to plan for such transition areas in the preparation of its new Medium Density Housing Strategy.

Council has also rezoned new five-storey neighbourhoods with the R4 High Density Residential zone. These precincts have provided diverse and well-located housing near train stations.

The EIE's mid-rise reforms are described as being six stories within 400m of a Station and centre precinct and three stories within 800m. However, height and FSR controls do not align with that description, being 21m maximum height/3:1 FSR within 400m and 16m maximum height/2:1 FSR within 800m. The FSRs would enable far bulkier structures than would be expected from the height controls. DPHI has not released any evidence to support these standards or how they would interact with established medium density areas.

In comparison, a R4 High Density Residential precinct rezoned by Council at Asquith, does not have numeric FSR controls and achieves FSRs of around 1.5:1 with 16.5m height limits routinely delivering five stories. Council's experience is that relying on height controls and design guidelines allows for a merit based assessment of design outcomes. Including FSR non-refusal standards as proposed sets the expectation that those FSRs are a minimum that may be achieved on any given site. The implications of this decision should be strongly considered before further progression.

The proposed reforms would result in incompatible height and density in existing medium density neighbourhoods, beyond Council's higher density precincts. The proposal to permit residential flat buildings in medium density zones ranging in heights of four storeys to six storeys has the potential to result in

significant amenity impacts for residents of existing medium density developments including privacy loss, overshadowing, noise and visual impact associated with the bulk and scale of development.

Landscaping and tree canopy

Recommendation:

11. ***It is requested that targets outlined in the EIE be increased to align with the Greener neighbourhoods guide as a minimum, with local DCP controls providing additional details on how targets are achieved.***
12. ***It is requested that canopy and planting rates are established for streetscapes in front of low and mid-rise development. This would assist achieve the broader outcomes of the guide and encourage the retention of expansion of canopies in low density neighbourhoods.***

Discussion:

The EIE proposes modest tree canopy targets of between 15 and 20 per cent for mid-rise housing and 15 to 30 per cent for low rise housing, depending on site area. Only 'small trees' are required on the smallest sites, with 'medium trees' required on larger sites. No guidance is provided on when the canopy would need to be established, or the size of a tree at the time of planting.

The NSW Government's Greater Sydney Region Plan has set an urban tree canopy cover target of 40 per cent by 2036. The EIE targets appear to be derived from the NSW Government's Greener neighbourhoods guide. However, the rates are lower (e.g., fewer and smaller trees) than that Guide. As an example, a 1,000sqm apartment site would require 200sqm of tree canopy with four medium trees, with the EIE only requiring 150sqm of tree canopy and three medium trees.

An explanation as to why the NSW Government's targets have reduced is not provided.

The potential station and town centre precincts in addition to the R2 Low Density Residential zones with the Shire are characterised by substantial existing canopy trees at the front and rear boundaries. These would likely be impacted by the large building envelopes associated with low-rise housing developments. The remaining lower density areas, where dual occupancies would be permitted, could see substantial impacts to landscaping and canopy at the rear of sites, should detached dual occupancies be permitted.

Further, low density neighbourhoods within the Shire are characterised by large canopy trees. These trees contribute to the overall urban canopy and associated benefits. The proposed intensity of development including floor space ratio would result in significant loss in tree canopy. Subdivision of dual occupancy development would potentially allow lot sizes of 225 sqm which would not allow for replacement tree planting or deep soil landscaping. Lot sizes for subdivision should be increased to better reflect the subdivision pattern in established areas. These impacts would be exacerbated when new or relocated driveways are provided and other associated services constructed.

Council's experience with the delivery of medium and higher density precincts is that the best outcomes for new developments and their surrounding communities is to retain trees on site and complement them with new growth. These outcomes are sought through existing controls that require deep soil areas on the periphery of sites.

Design excellence

Recommendation:

13. ***It is requested that the reforms encourage the consolidation and delivery of larger lots, as many of the benefits of medium density development are associated with efficient design that comes from larger lot sizes and rationalisation of services.***

14. ***It is requested that reforms incorporate locally relevant site coverage requirements in LEPs, designed in partnership between DPHI and councils to allow for the delivery of envisioned FSR in two storey formats.***
15. ***It is requested that dual occupancy controls be amended to require the sharing of services.***

Discussion:

The Hornsby DCP existing frontage control of 30m for medium density development encourages consolidation of multiple sites. Larger sites allow for the efficient delivery of shared infrastructure, such as waste, stormwater and car parking, as well as higher quality landscaping, private open space and building design.

The controls described in the EIE would, instead, encourage further fragmentation of R2 Low Density Residential land, particularly within station and town centre precincts. Further, the reform's proposed tree canopy, deep soil and tree planting rates increase based on site area, while height and FSR do not. From a developer perspective, this could have the effect of discouraging the consolidation of sites, as more space would be required for non-buildable area.

This change in direction would result in new medium density development additional space being required for the duplication of access and services, with less space available for landscaping and other positive design elements.

Compared to detached dwellings, dual occupancy development can result in less efficient use of space across a lot. Although the EIE states that it is encouraging two storey development, the large lots in Hornsby Shire may encourage sprawling single storey development across large building footprints, with a doubling of space dedicated to services and site access. Should detached dual occupancies be permitted, the amount of impermeable areas associated with driveways would more than double.

The collection of waste is a significant issue for councils, not only regarding cost but also due to the amenity impacts of storage and collection. The proposed reforms dismiss the issue and indicate that onsite collection will not be required, and a waste management plan is to be submitted. No detail or criteria for the waste management plan are provided.

Where medium density housing is proposed in locations unable to be serviced by heavy rigid vehicles, councils will be required to negotiate future waste contracts to require use of smaller vehicles to service developments that front streets not accessible by HRVs. This additional cost will be a burden for all residents. Consideration should also be given to future requirements for waste collection such as food organics.

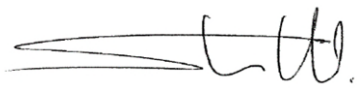
Council's experience in discussions with the development industry and residents is that there is a reasonable expectation that each dwelling will have access to a minimum of 1 car parking space. A minimum of one parking space should be required for all forms of medium density housing. Provision should also be included for bicycle parking, visitor parking and electric vehicle charging. Consideration should be given to specifying higher parking rates for middle and outer fringe councils in comparison to inner city councils which have a higher level of access to public transport and services.

In summary, Council acknowledges the need for housing supply, but the proposed reforms raise significant issues related to the natural environment, infrastructure planning, community expectations and local character. Council seeks the option to plan locally to address these issues and respond to clear housing targets, including medium density targets.

If the legislation is progressed, it is essential that environmentally significant, hazardous, un-serviced and heritage lands are excluded. Further, the density of development that would be facilitated by the reforms is far too intense and widespread. Councils should be given the opportunity to identify and apply local development controls for the uses proposed to ensure the scale of development respects local character and community expectations.

I would like to reiterate Council's willingness to continue to collaborate and investigate opportunities for appropriate housing delivery to meet the demands for medium density housing that responds to local opportunities and constraints and addresses the needs of current and future residents. Should you wish to discuss the work we are doing to promote housing supply, please do not hesitate to contact my personal assistant, Ms Kylie Smith on 9847 6219 to arrange a mutually convenient time for a meeting.

Yours faithfully



Steven Head
General Manager

TRIM Reference: F2020/00096

Attachments:

- Directors Report No. PC3/24 – Low and Mid Rise Housing Reforms
- Minutes of General meeting – 14 February 2024
- Council's response to the Minister of Planning and Public Space's letter – 2 January 2024
- Letter from Minister Scully regarding National Housing Accord – 30 October 2024

ITEM 7

7 LOW AND MID-RISE HOUSING REFORMS

EXECUTIVE SUMMARY

- On 15 December 2023, the Department of Planning and Environment (now Department of Planning, Housing and Infrastructure, or DPHI) placed Explanation of Intended Effect: Changes to create low and mid-rise housing (EIE) on public exhibition.
- The EIE outlines planned housing reforms to permit more apartments and medium density dwellings with 800m walking distance to train and metro stations and town centres. The definition of town centres includes E2 Commercial Centre (Hornsby Westfield) and may also include well serviced E1 Local Centre and MU1 Mixed Use zoned centres.
- The EIE proposes that dual occupancies be permitted in all R2 Low Density Residential zones. Medium density housing including townhouses, and manor houses would be permitted in the R2 Low Density Residential zone within 800m of stations and centres. Apartments would be permitted in R3 Medium Density Residential zones within 800m walking distance of stations and centres, with heights of approximately six storeys within 400m and four to five storeys within 800m. No exclusions to areas with constraints, such as bushfire, flood, heritage or biodiversity, have been identified in the EIE.
- Initial analysis by Council staff identifies that there are approximately 27,000 R2 Low Density Residential lots in Hornsby Shire where dual occupancy development would be permitted and approximately 15,000 R2 Low Density Residential lots within the station and town centre areas where medium density development would be permitted.
- The introduction of increased housing opportunities in the locations, density and form proposed under the reforms has the potential to result in significant loss of vegetation and tree canopy, change to the character of suburbs, promotion of private vehicle use and increased dispersed housing provision contrary to the stated aim of the reforms.
- Council has a proven track record of preparing strategic plans to facilitate housing supply and has commenced the process of preparing a medium density housing strategy. Council should be provided the opportunity to progress its own local strategy that responds to the character of our area and community expectations.
- It is recommended that Council make a submission regarding the EIE, outlining Council's strategy for appropriate housing delivery, raising concerns regarding the impacts of the reforms and requesting the State Government set clear targets for mid and low rise housing and allow councils to develop local responses before implementing the one-size-fits-all reforms.

RECOMMENDATION

THAT Council make a submission in response to exhibition of the *Explanation of intended effect: Changes to create low and mid-rise housing* outlining Council's:

1. Concerns and recommendations outlined in Director's Report No. PC3/24 including the absence of local planning, density of development permitted under the controls, impacts on character, heritage, natural environment and tree canopy loss, infrastructure and risks of over development in hazard areas.
2. Commitment to facilitate the delivery of a diverse range of housing as detailed in Hornsby Local Housing Strategy 2020.
3. Current preparation of a local medium density housing strategy and request the opportunity to progress Council's own local strategy that responds to the character of our area and community expectations to gain exemption from the proposed changes.
4. Willingness to continue to investigate opportunity for appropriate housing delivery in the future, should a medium density housing target be identified.

ITEM 7

ITEM 7

PURPOSE

The purpose of this report is to provide an overview of the *EIE: Changes to create low and mid-rise housing* placed on public exhibition by the DPHI and seek endorsement of a submission outlining Council's concerns with the reforms.

BACKGROUND

The Federal Government's National Housing Accord 2022 (the Accord) seeks to address housing supply issues contributing to low rental vacancies, lack of affordable housing and housing shortages. It sets a target of 1.2 million new dwellings across Australia by 2029. Of these, 377,000 homes are allocated to NSW by 2029, which equates to approximately 75,000 each year.

On 30 October 2023, the Minister for Planning and Public Spaces, wrote to NSW councils concerning housing delivery targets. This letter was presented to Council at its 13 December 2023 meeting in Director's Report PC33/23. In part, the letter:

- Asks councils to begin work identifying well-located areas where more low and mid-rise homes (such as terraces, small unit blocks or well-designed mid-rise apartments) can be permitted.
- Suggests that limitations across residential zones constraining diversity of housing should be reviewed by councils. The limitations relate primarily to most councils not allowing terraces, townhouses, and manor homes in the R2 Low Density Residential zone.

Director's Report PC33/23 detailed Council's strategic planning to accommodate housing growth, in line with NSW Government targets and the delivery of housing in the Shire. It also outlined Council's track record for the timely assessment of development applications and broader macroeconomic barriers for housing delivery outside of local planning controls. This is evidenced by at least 1,180 dwellings being approved by Council since 2020 that have yet to be delivered by the development industry.

The report also noted that, notwithstanding the Minister's request in his letter, a month later on 28 November 2023, the Government announced changes to fast-track a greater diversity of homes like residential flat buildings of 3-6 storeys, terraces, townhouses, duplexes and smaller apartment blocks in suburbs where they are not currently allowed.

In response, Council resolved that:

1. *Council note the letter from the Minister for Planning and Public Spaces requesting councils review their planning policies to increase housing supply and diversity.*
2. *Council write to the Minister for Planning and Public Spaces outlining Council's:*
    - *Current medium density housing project.*
    - *Proven track record of housing delivery via strategic planning initiatives and the timely assessment of planning applications.*
    - *Commitment to facilitate housing provision in accordance with the initiatives outline in the Hornsby Local Housing Strategy 2020.*
    - *Willingness to continue to investigate opportunities for appropriate housing delivery in the future in accordance with any revised housing targets.*

- *Observation that the housing crisis is not limited to council zoning and application determination timeframes but that macro-economic factors also need to be addressed.*

3. *Council's letter to the Minister also note the recent announcement of planning reforms by the State Government appears to conflict with his request that councils plan for medium density housing locally and raise concerns that such an approach may not appropriately respond to constraints such as bushfire, flooding, vegetation and infrastructure capacity.*

In accordance with Council's resolution, the letter was sent to DPHI on 4 January 2024. To date, no response has been received.

On 15 December 2023, details of the planning reforms to fast-track apartments, terraces and dual occupancies in areas they are not currently permitted were released. This report discusses the proposed reforms and implications for Hornsby Shire.

DISCUSSION

On 15 December 2023, the *Explanation of intended effect: Changes to create low and mid-rise housing* (EIE) (copy attached) was placed on public exhibition. The EIE outlines reforms that aim to deliver more housing in areas that have capacity to accommodate growth by capitalising on current and future investment in public infrastructure.

The EIE provides the following context for the reforms:

- The NSW Productivity Commission Report Building More Homes Where Infrastructure Costs Less found cost of servicing new housing with infrastructure can be up to $75,000 more expensive per dwelling in outer suburbs compared to inner suburbs.
- Across Sydney, 77% of residential areas are zoned low density, 12% medium density and 2% high density.
- Multi-Dwelling Housing is prohibited in 82% of low-density zoned properties across Sydney.
- Dual occupancies are prohibited on 14% of low-density zoned properties.
- The average building height in medium density zones is 9.9 metres with a maximum floor space ratio of 0.73:1.
- The average building height in high density zones is 15.8 metres with a maximum floor space ratio of 1.25:1.

The public exhibition of the EIE concludes on 23 February 2024. The public exhibition website suggests the reforms will take effect in the 2024 calendar year. At a recent presentation by Department representatives, it was indicated the changes are likely to come into effect in the third quarter of the year and at this stage, no further exhibition of the draft legislation is programmed.

1. Summary of reforms

1.1 Definitions

The reforms include the following definitions:

***Mid-rise housing*:** Residential flat building and shop top housing that is generally between three and six stories.

Low-rise housing: Multi dwelling housing, multi dwelling (terrace), manor houses and dual occupancies generally one or two stories and sometimes incorporating a habitable roof.

Multi dwelling houses are typically known as villas or townhouses. Multi dwelling housing (terraces) are attached developments where all homes front the street. Manor houses are essentially residential flat buildings limited to two stories.

Station and town centre precincts: Areas in the Six Cities Region that are within 800m walking distance of train or metro stations, land zoned as E2 Commercial Centre or SP5 Metropolitan Centre or land zoned as E1 Local Centre or MU1 Mixed use. E1 Local Centre or MU1 Mixed use must contain a wide range of frequently needed goods and services, such as full line supermarkets, shops and restaurants.

Non-refusal standards: Legal conditions, usually established in State planning instruments, that establish minimum standards for development. Non-refusal standards override LEP or DCP provisions. Development that meets or exceeding the standards cannot have that specific aspect used as the basis for refusal, regardless of local controls.

1.2 Changes to land use permissibility and controls

The EIE proposes several changes to land use permissibility in the R2 Low Density Residential and R3 Medium Density Residential zone, as well as non-refusal standards. These proposed changes are discussed below.

1.2.1 Dual occupancies

Council's current controls do not allow dual occupancies in low density zones. Under the reforms dual occupancies are proposed to be permitted in all R2 Low Density Residential zones.

If a proposed development meets the following proposed non-refusal standards, a consent authority cannot refuse consent:

- Maximum height: 9.5m.
- Maximum FSR: 0.65:1.
- Minimum site area: 450sqm.
- Minimum lot width: 12m.
- Minimum car parking: 1 space per dwelling.

The EIE comments that these non-refusal standards are designed to encourage dual occupancy development and provide more and diverse housing. It states the controls would provide sufficient space for three to four bedroom dwellings, with reasonable front and back yards, side setbacks and garage for each dwelling.

1.2.2 Low rise housing

Council's current controls allow Dwelling Houses and Group Homes in R2 Low Density Residential zones. The reforms propose to make multi dwelling housing, multi dwelling housing (terraces) and manor houses permitted in R2 Low Density Residential zones within station and town centre precincts.

If a proposed development meets the following proposed non-refusal standards, a consent authority cannot refuse consent:

Control	Multi dwelling house	Multi dwelling house (Terrace)	Manor house

Maximum height	9.5m	9.5m	9.5m
Maximum FSR	0.7:1	0.7:1	0.8:1
Minimum site area	600sqm	500sqm	500sqm
Minimum lot width	12m	18m	12m
Minimum car parking	1/dwelling	0.5/dwelling	0.5/dwelling

The EIE comments that these non-refusal standards are designed to encourage medium density dwellings rather than freestanding houses. It states the controls would provide sufficient space for two to three bedroom dwellings, with reasonable front and back yards, side setbacks and car parking for most dwellings.

The definition of Manor house currently limits development to four units. This cap is proposed to be removed.

The EIE states the assessment of development applications for low-rise housing, including dual occupancies, must consider the *Low Rise Housing Diversity Design Guide for development applications* (Low Rise Design Guide). The Low Rise Design Guide was released alongside previous Low Rise Housing Diversity Code reforms in July 2020. It provides design guidance where local controls do not provide medium density housing controls. The EIE does not state if local design controls would be overridden by the Design Guide.

All developments may be strata titled. The Torrens title subdivision of multi dwelling housing (terrace) developments is also proposed to be permissible.

1.2.3 Mid-rise housing

Council's current controls allow Residential flat building, Multi dwelling housing, Semi-detached dwellings, Seniors housing, Dwelling houses and Group homes in R3 Medium Density Residential zones, which are mandatory permitted land uses in the zone. The current maximum height limit under the HLEP allows three storey developments, consisting of two full storeys and rooms in roofs.

The reform would permit residential flat buildings across all station and town centre precincts in the Six Cities Region.

If a proposed residential flat building development meets the following proposed non-refusal standards, a consent authority cannot refuse consent:

Control	Within 400m walking distance of a precinct	Within 400m to 800m walking distance of a precinct
Maximum height	21m (approx. six stories)	16m (approx. four or five storeys)
Maximum FSR	3:1	2:1

The Apartment Design Guide, which establishes uniform design criteria for apartments in NSW, is proposed to be amended for mid-rise apartment buildings, including:

- Building separation for five and six storey buildings to be reduced to requirements for four storey buildings.

- Front setbacks are to be an average of neighboring buildings, with a maximum of 6m required.
- Design of basement and ground floor buildings are not required to accommodate large vehicles entering or turning around within the site (e.g., waste collection vehicles).
- A minimum of 8sqm of communal open space is to be provided per apartment, up to a maximum 25 per cent of the site area.
- Uniform deep soil and planting requirements will be set, depending on the size of the site.
- Uniform car parking rates are to be set (detail not provided).

1.2.4 Affordable housing bonus provisions

The EIE notes that the NSW Government's recent affordable housing bonus provision of the Housing SEPP would continue to apply. The provisions allow a 30 per cent increase to permissible height and FSR where a development provides at least 20 per cent of residential floor space as affordable housing for a period of at least 15 years.

For mid-rise housing, this would mean a site within 400m of a station or town centre precinct and with a 15 per cent affordable housing commitment could have a maximum height of 27m (approx. eight or nine stories) and FSR of 3.9:1.

2. Implications for Hornsby Shire

Spatial analysis has been undertaken to determine the extent to which the reforms would apply within Hornsby Shire.

The EIE does not provide guidance on how to measure walking distance or if the reforms would apply to battle-axe properties. This analysis assumes walking distance originates from station entrances and the edge of centre zoned lands. It also assumes the reforms would not apply to battle-axe properties, as these are generally excluded from similar housing types in *State Environmental Planning Policy (Exempt and Comply Development Codes) 2008* and design guides. Should other walking distance standards be required or existing battle-axe lots be included, estimates would change.

The Shire contains approximately 35,700 R2 Low Density Residential lots. Of these, approximately 27,000 lots meet the property size non-refusal standards for dual occupancy development namely they are greater than 450m2 in area, wider than 12 metres and are not battle-axe allotments. The number of allotments would be approximately 34,000 lots should the reforms apply to battle-axe lots.

Approximately 19,000 R2 Low Density Residential lots have been identified in potential Station and town centre precincts. The following number of lots are estimated to meet the non-refusal standards, by housing type:

- Multi dwelling house: 14,200 lots.
- Multi dwelling house (terrace): 9,600 lots.
- Manor house: 15,000 lots.

Approximately 200 R3 Medium Density Residential lots have been identified as being within 400m walking distance of stations or centres, meaning the proposed 21m maximum building height would apply. A further 110 lots are between 400 and 800m walking distance, meaning the proposed 16m maximum building height would apply.

It is acknowledged that a number of these properties have been developed for medium density housing in accordance with the zoning changes under Council's previous Housing Strategy and would therefore be less likely be developed. However, the proposed changes would provide a significant increase in development opportunity and heights for undercapitalised lands resulting in a discrepancy in built form within the precincts. This issue is discussed further below.

2.1 One size fits all approach

The EIE states the proposed reforms are 'the first step' towards addressing housing supply issues, with a longer-term aim to enable better planning that is led locally.

Hornsby Council has a proven track record of planning for the delivery of well-located and diverse housing, protecting local character and environmental outcomes. The most effective way the planning system can support these outcomes is by establishing an evidence base and setting policy goals, while supporting local planning authorities to identify solutions that best fit local conditions.

The Hornsby Local Housing Strategy 2020 (LHS) is Council's 20-year strategic vision for housing in the Shire. It was developed following extensive consultation with the Hornsby community and was reviewed and endorsed by the (then) Department of Planning and Environment. The LHS sets a clear program of strategic planning projects to respond to Council's obligations under State housing priorities.

These projects continue to be realised, with the recent Council adoption of the Hornsby Town Centre Masterplan. The Masterplan will facilitate the delivery of almost 5,000 new dwellings in a highly accessible and well serviced location, ideal for the provision of high-quality housing near existing and new supporting infrastructure and easy access to Greater Sydney. The NSW Government's recent announcements that it will be implementing the Masterplan is evidence of the high-quality outcomes that come from local expertise.

The LHS acknowledges the need for more medium density housing in the Shire and recommends that Council progress the identification of additional land for medium density housing, subject to the application of Council planning controls. This approach was endorsed by the Department at the time. Council has started the process of preparing its own strategy for medium density housing and it would be appropriate to request the opportunity to progress the strategy that responds to the character of our area and community expectations.

The DPHI project webpage for the reforms indicates that councils may implement local provisions to achieve equivalent or greater residential housing capacity. However, the process and targets for a council to follow is not clear. No information has been provided by DPHI regarding what it understands local capacity increases might be, if such provisions would exempt Council from the reforms, or the timeline for such a process.

The uniform and widespread non-refusal standards proposed and the spatial extent to which they would apply appear to conflict with the commitment to local strategic planning delivering State strategic vision. They also conflict with the recent letter from the Minister for Planning and Public Spaces (discussed above) which encouraged councils to develop planning rules to allow more medium density housing.

Recommendation: It is recommended that Council request the NSW Government set clear targets for mid and low rise housing and allow councils to develop local responses that would deliver that capacity. It is acknowledged that should councils not meet those targets, reforms such as those in the EIE could then be applied.

2.2 Town Centre Precincts

The EIE proposes that certain town centres would trigger the mid and low rise housing reforms, allowing mid and low rise development within 800m walking distance. The spatial analysis discussed above, demonstrates that this aspect of the reform would significantly increase residential capacity if applied to all stations and centres in the Shire.

The EIE suggests that only town centres that contain '*a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants'* would trigger the reforms. Full line supermarkets are not formally defined in the EIE, but typically exceed 2,400sqm. The EIE requests input from councils to determine which centres contain an appropriate level of goods, services and amenities to be included.

Council's *Employment Lands Study* (ELS) provides an analysis of centres across the Shire, with a centre hierarchy outlining the role and function of those centres. This includes Strategic Centres, Local Centres, Neighbourhood Centres. This hierarchy was adopted in the Hornsby Development Control Plan in 2023.

A review of the ELS and E1 Local Centre lands shows that centres with the potential capacity to deliver goods and services within walking catchments are typically adjacent to stations. These centres either have established businesses that have the potential to service additional populations or the potential for consolidation and redevelopment to support such businesses. Limiting the application area of the reforms to the stations would ensure access to the Hornsby Strategic Centre and the broader Greater Sydney Area while also being within walking distance of these local centres for day to day needs.

Limiting the changes to station precincts would also be consistent with the stated aim of the reforms to provide well located housing with access to public transport and employment opportunities and limiting the use of private vehicles.

Recommendation: Should the reforms be progressed, it is recommended that they be limited to station precincts, as these provide ready access to the Hornsby Strategic Centre and the broader Greater Sydney area.

2.3 Infrastructure planning

The EIE maintains that local development contributions towards infrastructure (known as Section 7.11 and Section 7.12 contributions) will continue to fund local development contributions. It requests feedback on how councils prefer to identify and address additional infrastructure needs associated with the reforms.

As discussed in Council's recently approved Special Rate Variation application, the costs associated with the delivery and maintenance of local infrastructure and services have outpaced Council's ability to generate funds through levies and development contributions. This has worsened with recent supply chain and cost escalation issues in recent years.

Typical strategic planning initiatives include detailed analysis of existing infrastructure, the potential demand associated with additional users and how the gap will be met. This has been undertaken as part of the Hornsby Town Centre Masterplan and previous Housing Strategies prepared by Council with detailed planning regarding where needed infrastructure would be best located and associated costs.

The approach of the reforms to enable dispersed capacity increases throughout the residential areas of the Shire limits the ability for Council to plan for necessary infrastructure improvements. This would

be of particular concern where dual occupancy development is permissible throughout low density areas across the Shire. Without significant planning, this would likely have significant impacts on the provision of community facilities, parks, traffic infrastructure and other Council delivered infrastructure.

Recommendation: It is recommended that DPHI work with Council to identify the anticipated capacity and population increases over time and support Council's planning for the provision of new infrastructure. In addition, the recently commenced State Housing Contribution Fund should be allocated for expenditure within the Region in which it is collected to cater for the increased costs in servicing the anticipated increase in development.

2.4 Hierarchy of controls

The EIE has indicated several changes to the *Apartment Design Guide* and *Low Rise Design Guide*, including the potential for the Low Rise Design Guide being a formal matter for consideration in the assessment of a development application. While the ADG currently supersedes local controls for apartment buildings three stories and over, local controls apply to medium density development, including one and two storey apartment buildings, that requires a development application.

Recommendation: It is recommended that the Low Rise Diversity Design Guide continue its role as guidance for local government areas, setting minimum standards where there are gaps with local controls. Where local controls provide clear guidance for the design of medium density development, it is recommended that they continue to apply.

2.5 Medium density and transitional character

As part of the implementation of previous housing strategies, Council has rezoned well serviced and accessible areas to R3 Medium Density Residential, with a 12m height limit. This has allowed for the development of townhouses in these areas, facilitating the orderly transition of neighbourhood character over time. These neighbourhoods have served as transition areas, scaling down intensification away from centres. Council is continuing to plan for such transition areas in the preparation of its new Medium Density Housing Strategy.

Council has also rezoned new five-storey neighbourhoods with the R4 High Density Residential zone. These precincts have provided diverse and well-located housing near train stations.

The proposed reforms would result in incompatible height and density in these neighbourhoods that was unforeseen when planning controls were established. This level of density would surpass that associated with Council's higher density precincts. The proposal to permit residential flat buildings in medium density zones ranging in heights of 4 storeys to six storeys has the potential to result in significant amenity impacts for residents of existing medium density developments including privacy loss, overshadowing, noise and visual impact associated with the bulk and scale of development.

There may also be delays for further development in Council's R3 Medium Density Residential zone, as developers and builders may not have the capital or expertise to develop higher density projects. Delays would also be expected in seeking to address solar access, privacy and other impacts resulting from the high density development.

The reforms would apply to Heritage Conservations Areas within the Shire permitting allotment sizes and intensity of development inconsistent with the established subdivision pattern and character of these areas. Concern is raised that subdivision of dual occupancy developments on allotments of 450m2 or greater would significantly erode the historic character of these areas which are characterised by residential allotments of 500-600m2 or larger with established gardens, generous

setbacks, and tree canopy. Heritage Conservation Areas should be excluded from the application of the reforms.

Recommendation: It is recommended that the proposed height limit and design controls for development of R3 Medium Density land within station and centre precincts under the reforms be revisited to provide greater consistency with existing Council controls that apply within the zone. Further, Heritage Conservation Areas should be excluded from the application of the reforms.

2.6 Environmental constraints and hazards

The EIE identifies that controls for flood control lots would continue to apply. Details regarding application of controls for bush fire prone lands and biodiversity are not provided.

As discussed in the Hornsby Local Strategic Planning Statement and Housing Strategy, NSW Rural Fire Service has raised concerns regarding the impact of additional residential growth north of Mount Colah on evacuation in the event of a bushfire. These concerns have recently been reiterated in consultation with the RFS associated with the development of the Medium Density Housing Strategy.

The proposed reforms have the potential to significantly increase residential capacity in the Mount Colah, Mount Kuring-gai, Berowra, Berowra Heights, Cowan and Brooklyn communities. Council has not been provided with reporting that suggests that the RFS concerns have been addressed or the risks overcome.

In its assessment of Council's Vegetation Planning Proposal, the Gateway Determination and reporting encouraged Council to undertake new biodiversity mapping and submit it as part of a future planning proposal. This project has recently been funded by Council and is underway. As many low density residential neighbourhoods, including those near centres and precincts, are near intact and remnant bushland, this project is critical to understanding the potential impacts of the proposed reforms.

Recommendation: It is recommended that the reforms be excluded from application on bushfire prone land and lands mapped as having high biodiversity value, either in State or local planning controls. These areas require careful planning and evaluation of environmental and capacity constraints.

2.7 Landscaping and tree canopy

The EIE proposes modest tree canopy targets of between 15 and 20 per cent for mid-rise housing and 15 to 30 per cent for low rise housing, depending on site area. Only 'small trees' are required on the smallest sites, with 'medium trees' required on larger sites. No guidance is provided on when the canopy would need to be established, or the size of a tree at the time of planting.

The NSW Government's Greater Sydney Region Plan has set an urban tree canopy cover target of 40 per cent by 2036. The EIE targets appear to be derived from the NSW Government's *Greener neighbourhoods guide*. However, the rates are lower (e.g., fewer and smaller trees) than that Guide. As an example, a 1,000sqm apartment site would require 200sqm of tree canopy with four medium trees, with the EIE only requiring 150sqm of tree canopy and three medium trees.

An explanation as to why the NSW Government's targets have reduced is not provided.

The potential station and town centre precincts in addition to the R2 Low Density Residential zones with the Shire are characterised by substantial existing canopy trees at the front and rear boundaries. These would likely be impacted by the large building envelopes associated with low-rise housing developments. The remaining lower density areas, where dual occupancies would be permitted, could

see substantial impacts to landscaping and canopy at the rear of sites, should detached dual occupancies be permitted.

Further, low density neighbourhoods within the Shire are characterised by large canopy trees. These trees contribute to the overall urban canopy and associated benefits. The proposed intensity of development including floor space ratio would result in significant loss in tree canopy. These impacts would be exacerbated when new or relocated driveways are provided and other associated services constructed.

Council's experience with the delivery of medium and higher density precincts is that the best outcomes for new developments and their surrounding communities is to retain trees on site and complement them with new growth. These outcomes are sought through existing controls that require deep soil areas on the periphery of sites.

Recommendation: It is recommended that the targets outlined in the EIE be increased to align with the *Greener neighbourhoods guide* as a minimum, with local DCP controls providing additional details on how targets are achieved. It is also recommended that, separately, canopy and planting rates are established for streetscapes in front of low and mid-rise development. This would assist achieve the broader outcomes of the guide and encourage the retention of expansion of canopies in low density neighbourhoods.

2.8 Design excellence

The controls described in the EIE would allow for significant fragmentation of R2 Low Density Residential land, particularly within station and town centre precincts. The Hornsby DCP existing frontage control of 30m encourages consolidation of multiple sites. Larger sites allow for the efficient delivery of shared infrastructure, such as waste, stormwater and car parking, as well as higher quality landscaping, private open space and building design.

These benefits would not be realised if individual R2 Low Density Residential lots are no longer required to consolidate to deliver medium density housing. Additional space is required for the duplication of access and services, with less space available for landscaping and other positive design elements.

Compared to detached dwellings, dual occupancy development can result in less efficient use of space across a lot. Although the EIE states that it is encouraging two storey development, the large lots in Hornsby Shire may encourage sprawling single storey development across large building footprints, with a doubling of space dedicated to services and site access. Should detached dual occupancies be permitted, the amount of impermeable areas associated with driveways would more than double.

As noted above, tree canopy, deep soil and tree planting rates increase based on site area, while height and FSR remain static. From a developer perspective, this could have the effect of discouraging the consolidation of sites, as more space would be required for non-buildable area.

The collection of waste is a significant issue for councils, not only regarding cost but also due to the amenity impacts of storage and collection. The proposed reforms dismiss the issue and indicate that onsite collection will not be required, and a waste management plan is to be submitted. No detail or criteria for the waste management plan are provided.

Where medium density housing is proposed in locations unable to be serviced by heavy rigid vehicles, councils will be required to negotiate future waste contracts to require use of smaller vehicles to service developments that front streets not accessible by HRVs. This additional cost will

be a burden for all residents. Consideration should also be given to future requirements for waste collection such as food organics.

Council's experience in discussions with the development industry and residents is that there is a reasonable expectation that each dwelling will have access to a minimum of 1 car parking space. A minimum of one parking space should be required for all forms of medium density housing.

Provision should also be included for bicycle parking, visitor parking and electric vehicle charging. Consideration should be given to specifying higher parking rates for middle and outer fringe councils in comparison to inner city councils which have a higher level of access to public transport and services.

Recommendation: As many of the benefits of medium density development are associated with efficient design, it is recommended that the reforms be amended to encourage the consolidation and delivery of larger lots to realise those benefits. Further, reforms should be packaged with locally relevant site coverage requirements in LEPs, designed in partnership between DPHI and councils to allow for the delivery of envisioned FSR in two storey formats. It is also recommended that dual occupancy controls be amended to require the sharing of services.

3.0 Submission to Department of Planning, Housing and Infrastructure

It is appropriate that Council lodge a submission with DPHI regarding the reforms outlined in the EIE identifying the concerns and recommendations discussed in this report. In summary, the submission should:

- Note Council has started the process of preparing its own strategy for medium density housing and request the opportunity to progress the strategy that responds to the character of our area and community expectations.
- Raise concerns that the introduction of increased housing opportunity in the form of dual occupancy development and duplexes throughout the low-density zones will change the character of suburbs, promote private vehicle use and increase dispersed housing provision contrary to the stated aim of the reforms.
- Support the application of council controls for flood controls allotments and suggest that bushfire prone lands, mapped vegetation of high biodiversity value and heritage conservation areas should be excluded from the application of the proposed reforms as they require careful planning and evaluation of environmental and capacity constraints.
- Request the density of housing proposed under the reforms including floor space ratio be reviewed as it will significantly reduce tree canopy in established low density areas.
- Suggest that as many of the benefits of medium density development are associated with efficient design, the reforms should encourage the consolidation and delivery of larger lots to realise those benefits. Further, development should be required to have regard to local council site coverage requirements, setbacks and landscaped area.
- Raise concerns that the proposal to permit residential flat buildings in medium density zones ranging in heights of 4 storeys to six storeys has the potential to result in significant amenity impacts for residents of existing medium density developments.
- Note that the reform approach to untargeted density increases would limit the ability for Council to plan for necessary infrastructure improvements. Without appropriate planning, this

would likely have significant impacts on the provision of community facilities, parks, traffic infrastructure and other Council delivered infrastructure.

- Suggest that the recently introduced State Housing Contribution Fund be available to be spent in the district in which it is collected to assist address the demands associated with anticipated housing growth.
- Request that further consideration be given to arrangements for waste collection.
- Suggest that a minimum of one parking space should be required for all forms of medium density housing and provision should also be included for bicycle parking, visitor parking and electric vehicle charging.

BUDGET

There are no budgetary implications associated with this report.

POLICY

As discussed in this report, Council's Local Housing Strategy 2020 establishes the need for additional medium density housing capacity, with work being undertaken to meet this need. Council is already well placed to review policy settings for medium density, with the current Medium Density housing project commenced to identify opportunities for medium density dwellings in suitably located and serviced areas.

The draft Medium Density Strategy will be progressed to enable reporting to Council in the first half of 2024 for endorsement for exhibition. However, it will be appropriate to review options for progression of the Strategy in consideration of the implications of the proposed reforms for medium density housing.

CONCLUSION

The Department of Planning, Housing and Infrastructure has placed the *Explanation of intended effect: Changes to create low and mid-rise housing* on public exhibition, with comments due by 23 February 2024. The EIE outlines proposed reforms that would significantly increase the capacity for medium density housing and apartments throughout the Shire.

Council has identified several issues related to the proposed reforms, with recommendations to address those issues. It is recommended that Council make a submission outlining the issues and recommendations and encourage the NSW Government to set clear targets for mid and low-rise housing capacity and allow councils to develop local responses that would deliver that capacity.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager of Strategic Land Use Planning – Katherine Vickery - who can be contacted on 9847 6744.

KATHERINE VICKERY
Manager - Strategic Landuse Planning
Planning and Compliance Division

JAMES FARRINGTON
Director - Planning and Compliance
Planning and Compliance Division

ITEM 7

Attachments:

1. EIE Low and Mid Rise Housing

File Reference: F2015/00146
Document Number: D08809634

ITEM 7 **PC3/24 -** Low and Mid-Rise Housing Reforms

*Additional information with **CHANGE** to Recommendation*

Since the finalisation of Director's Report No. PC3/24, further review has been undertaken regarding potential impacts of the Mid- and Low-Rise Explanation of Intended Effect concerning wastewater infrastructure and water quality. Council officers have also attended further briefings by representatives from the Department of Planning, Housing and Infrastructure and it is evident that there is need for clear medium density and general housing targets at the local level to support precinct-based planning with sufficient infrastructure. These issues are discussed in further detail, below.

Water infrastructure and water quality

As outlined in Director's Report PC3/24, under the planning reforms, dual occupancies would be permitted on approximately 27,000 to 34,000 R2 Low Density Residential lots in the Shire. This includes lots in suburbs such as Dural, Glenorie, Arcadia, Brooklyn, and Cowan with limited sewer infrastructure (serviced by the Priority Sewerage Program) or unsewered.

Under the Priority Sewerage Program, Sydney Water provided wastewater services to previously unsewered areas within the Shire, designed to accommodate the existing capacity of the zoned land. Services were not designed to support growth beyond that capacity.

On a broader scale, three water resource recovery facilities, also known as sewage treatment plants, are operated by Sydney Water in Hornsby Shire. These are located in Brooklyn, Hornsby Heights, and West Hornsby. These facilities treat wastewater before it is reused or discharged to oceans or rivers, such as the Hawkesbury.

Water resource recovery facilities operate under licenses issued by the Environmental Protection Authority (EPA), limiting the load and concentration of pollution discharged. This means that if increased pollution load is processed by the facility, it can be diluted with additional water. This does not reduce the overall pollution emitted from facilities. As such, it is foreseeable that additional dispersed residential growth would result in more water pollution.

For context, the urbanisation of Hornsby in the 1970s and 1980s resulted in sewage treatment plants running beyond capacity. Sediment runoff and nutrient pollution from sewage treatment plants led to increasingly polluted waterways, with odour pollution, algal blooms and impacts to flora and fauna, including fish kills. In response, Council placed a moratorium on the processing of development applications within the West Hornsby Sewage Treatment Plant. This led to the signing of a Statement of Joint Intent (SoJI), between Council, the NSW Government, Environmental Protection Authority, (Sydney) Water Board and the Hawkesbury-Nepean Catchment Management Trust. The SoJI acknowledged the significant impacts of polluted urban stormwater run-off and led to the upgrading of the West Hornsby and Hornsby Heights Sewage Treatment Plants.

Upgrades to wastewater facilities are now undertaken from time to time based on growth projections within catchments. These upgrades are reflected in licenses, with timeframes for the scope and timeframes of their delivery. The widespread and unplanned residential growth anticipated under the reforms should be considered by Sydney Water and the EPA. Further upgrades should be identified, planned, and funded to ensure the long-term health of the Hawkesbury River and associated waterways, with no alterations to licenses to permit increases in pollution loads.

Recommendation: It is recommended that the reforms be excluded from application on unsewered lands and lands serviced by a Priority Sewerage Program until such time that Sydney Water can expand services to meet potential capacity. It is also recommended that Sydney Water demonstrate how wastewater resource recovery facilities (treatment plants) will accommodate future growth associated with the reforms.

Release of Revised NSW Government Housing Targets

The NSW Government has not released Greater Sydney or local housing targets since the finalisation of *A Metropolis of Three Cities*, published in 2018. Local housing strategies were developed in line with that plan, building local evidence bases to set new targets to 2026 and 2036.

As part of its endorsement of Council's Local Housing Strategy, the NSW Government required Council to prepare a medium density housing strategy to identify land well suited for medium density housing. That strategy has progressed in the absence of State guidance on revised housing targets. Its preparation has adopted a precinct-based approach to the delivery of medium density housing in well located areas that would satisfy historic demand and responds to local constraints and opportunities.

NSW Government Housing Targets were set to be exhibited at the end of 2023 with the release of the Greater Cities Commission's draft City and Region Plans. These targets were to be informed by holistic review of housing capacity, infrastructure planning and local opportunities and constraints. With the NSW Government's dissolution of the Greater Cities Commission, there does not appear to be a unified and comprehensive evidence base to support local housing targets.

The Six Cities Plan, including its proposed housing targets, should be released to provide a clear region-wide approach for the delivery of housing. The revised local housing targets should include the identification of a medium density component so councils can ensure local planning meets these revised targets.

Recommendation: It is recommended that the NSW Government publish revised housing targets, including a medium density component, and infrastructure commitments to support those targets. It is also recommended that Council share its method and findings for medium density housing and the outcomes of its precinct-based approach which is based on current targets and (given the chance) could be updated to address revised targets.

ITEM 7

RECOMMENDATION

THAT Council make a submission in response to exhibition of the *Explanation of intended effect: Changes to create low and mid-rise housing* outlining Council's:

1. Concerns and recommendations outlined in Director's Report No. PC3/24 including the absence of local planning, density of development permitted under the controls, impacts on character, heritage, natural environment and tree canopy loss, infrastructure and risks of over development in hazard areas.
2. Commitment to facilitate the delivery of a diverse range of housing as detailed in Hornsby Local Housing Strategy 2020 and request the release of revised housing targets, including a medium density component.
3. Methodology and precinct-based approach to the preparation of a local medium density housing strategy and request the opportunity to continue progressing Council's own local strategy that responds to the character of our area and community expectations to gain exemption from the proposed changes.
4. Willingness to continue to investigate opportunity for appropriate housing delivery in the future, should a medium density housing target be identified.
5. Concerns regarding wastewater infrastructure and request consultation with Sydney Water to confirm infrastructure requirements, commitment of funding for capital improvements to service additional development and assurance from the NSW Environmental Protection Authority that no alterations will be made to licenses to permit increased pollutant load.

JAMES FARRINGTON
Director - Planning and Compliance
Planning and Compliance Division

Attachments:
There are no attachments for this report.

File Reference: F2015/00146
Document Number: D08822724

7 PC3/24 Low and Mid-Rise Housing Reforms

(F2015/00146)

RESOLVED ON THE MOTION OF COUNCILLOR TILBURY, seconded by COUNCILLOR MCINTOSH,

THAT Council make a submission in response to exhibition of the Explanation of intended effect: Changes to create low and mid-rise housing outlining Council's:

1. Concerns and recommendations outlined in Director's Report No. PC3/24 including the absence of local planning, density of development permitted under the controls, impacts on character, heritage, natural environment and tree canopy loss, infrastructure and risks of over development in hazard areas.
2. Commitment to facilitate the delivery of a diverse range of housing as detailed in Hornsby Local Housing Strategy 2020 and request the release of revised housing targets, including a medium density component.
3. Methodology and precinct-based approach to the preparation of a local medium density housing strategy and request the opportunity to continue progressing Council's own local strategy that responds to the character of our area and community expectations to gain exemption from the proposed changes.
4. Willingness to continue to investigate opportunity for appropriate housing delivery in the future, should a medium density housing target be identified.
5. Concerns regarding wastewater infrastructure and request consultation with Sydney Water to confirm infrastructure requirements, commitment of funding for capital improvements to service additional development and assurance from the NSW Environmental Protection Authority that no alterations will be made to licenses to permit increased pollutant load.

FOR: COUNCILLORS BALL, GREENWOOD, HEYDE, MCINTOSH, PILLAMARRI, RUDDOCK, SALITRA, TILBURY AND WADDELL

AGAINST: NIL

HORNSBY SHIRE COUNCIL

OFFICE OF THE GENERAL MANAGER

2 January 2023

The Hon Paul Scully MP
Minister for Planning and Public Spaces
GPO Box 5341
SYDNEY NSW 2001

Dear Minister Scully

Housing Delivery in Hornsby Local Government Area

I refer to your letter discussing housing delivery under the National Housing Accord and encouraging councils to review medium density options within their Local Government Area. As requested, your correspondence was presented to Council for consideration at its meeting on 13 December 2023.

In summary, Council is committed to deliver well located housing whilst protecting local character and landscape settings within Hornsby Shire. Council noted your letter and resolved to write to you outlining Council's:

- Proven track record of housing delivery via strategic planning initiatives and timely assessment of planning applications.
- Current medium density housing project.
- Commitment to facilitate housing provision in accordance with the initiatives outline in the Hornsby Local Housing Strategy 2020.
- Willingness to continue to investigate opportunities for appropriate housing delivery in the future in accordance with any revised housing targets.
- Observation that the housing crisis is not limited to council zoning and application determination timeframes but that macro-economic factors also need to be addressed.

Council also noted the recent announcement of medium density housing reforms by the State Government appear to conflict with your request that councils plan for medium density housing locally and such an approach may not appropriately respond to constraints such as bushfire, flooding, vegetation and infrastructure capacity.

In accordance with Council's resolution, the following discussion outlines Council's approach to housing delivery including a Medium Density project which is already underway.

Proven track record of facilitating housing delivery

Hornsby Council has a proven track record of delivering homes in accordance with State Government Objectives. This commitment continues with the 20-year strategic vision for housing delivery outlined in the Hornsby Local Housing Strategy 2020 (LHS).

The LHS identifies significant opportunities for housing supply to meet housing targets over short, medium and long-term time frames with 14,879 dwellings identified for delivery. The Strategy was developed following extensive consultation with the Hornsby community and Council is continually implementing and monitoring housing delivery to ensure the vision outlined in the LHS is realised. Examples of Council's continued work in this area include:

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- Delivery of 4,416 dwellings from 2016 to 2021 (based on Census data) in line with State government targets for the period;
- Adoption of the Hornsby Town Centre Masterplan, identifying capacity for 4,900 homes with supporting infrastructure and community facilities;
- Commencement of a Medium Density Housing Strategy to identify well located precincts for medium density housing; and
- Participation in the NSW Public Spaces Legacy Program and ongoing timely assessment of development and rezoning applications.

The above initiatives ensure that well located housing is being planned and delivered within the Shire, close to services and transport. Further, Council is undertaking planning to identify further housing opportunities in consultation with State agencies and our community.

Medium Density Housing project

Early last year, Council commenced a project involving identification of well-located and serviced land with minimal constraints where additional medium density development could be permitted. Urban design, feasibility, waste servicing and vegetation considerations along with locational criteria are currently being evaluated, with a draft medium density housing strategy expected to be completed in the first half of 2024.

This medium density housing project directly aligns with your request that Council immediately commence work to examine existing policy settings and identify locations for low and mid-rise homes across the Shire.

Macro-economic factors and other challenges to housing delivery

Although Council's ongoing strategic work and timely development assessment facilitate opportunities for housing delivery, as you would be aware, ultimately dwelling completions are delivered by the private construction sector. Economic factors outside Council's control drive the rate at which housing projects are completed, with recent national and global economic challenges impacting delivery of approved dwellings.

Council records indicate that since 2020, at least 1,180 dwellings approved by Council are yet to be delivered by the development industry. DPE data suggests this trend is common across Sydney, significantly impacting housing supply. Accordingly, although Council can identify a pipeline for future dwellings and ensure efficient assessment processes, this does not overcome macro-economic barriers for the development industry.

In addition, Council has encountered impediments from State government agencies to the delivery of housing initiatives. For instance, submissions from State agencies on the Hornsby Town Centre Masterplan raised concerns about the ability to align infrastructure delivery with projected growth. Notably, Transport for NSW and Schools Infrastructure NSW emphasised issues related to capacity, assets, and timing constraints with the services they provide. The issues raised conflict with priorities set by the State Government for housing.

A recent decision by the DPE to terminate a planning proposal also delayed planning to deliver 100 dwellings (including 4 affordable housing units) at 7 City View Road Pennant Hills. The request for Council to submit a new Gateway Determination to meet internal performance targets resulted in an unnecessary delay of up to 6 months.

The above examples outline how State and local governments, as well as the development industry, need to work together to achieve the significant housing targets set under the National Housing Accord.

Subsequent State Government Announcements

The NSW Government announcement of new planning rules to fast track low and mid-rise housing appears to conflict with your request that councils plan for medium density housing locally.

A primary focus of Council's medium density housing project is to ensure that additional medium density is well located and responds to environmental constraints. Of note, 38% of low-density zoned properties and 20% of medium density zoned properties across the Shire are bushfire prone, with a further 10% of low-density

zoned properties and 24% of medium density zoned properties being flood prone. Applying a blanket State-wide approach to the delivery of medium density housing raises environmental and safety concerns for future occupants by increasing population densities in hazardous areas.

These concerns can be effectively managed by allowing councils to respond to your initial request to review medium density opportunities across their local government area. Local councils are best placed to identify appropriate locations for new medium density development types and manage hazards and capacity constraints.

Council officers are currently reviewing the recently released Explanation of Intended Effect for low to mid rise housing and will be preparing a report and submission for Council's endorsement at its February 2024 meeting. We are also seeking to continue discussions with Department officers to seek clarification about possible local exemptions given the work we are undertaking on our own Medium Density Strategy.

I would like to reiterate Council's willingness to continue to collaborate and investigate opportunities for appropriate housing delivery to meet the demands of the National Housing Accord in a manner that protects local character and meets community expectations. Should you wish to discuss the work we are doing to promote housing supply, please do not hesitate to contact my personal assistant, Mrs Kylie Smith on 9847 6219 to arrange a mutually convenient time for a meeting.

Yours sincerely

Steven Head
General Manager

TRIM Reference: F2020/00096

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The Hon Paul Scully MP
Minister for Planning and Public Spaces

NSW GOVERNMENT

Ref: MDPE23/3451

The Hon Philip Ruddock AO
Mayor
PO Box 37
HORNSBY NSW 1630
via: pruddock@hornsby.nsw.gov.au

Dear The Hon Ruddock,

I write to you regarding the need to allow for more housing in our low and medium density zones across New South Wales to help increase supply and diversity of homes we are delivering in our suburbs.

New South Wales is in a housing crisis. Through the National Housing Accord, councils and the NSW Government are committed to working together to look at every opportunity to address this crisis.

Our shared task is to approve and encourage the necessary investment and commencements for 377,000 homes by 2029.

The land use planning and assessment functions of councils and the Department will need to quickly adjust towards approaches that lead to more homes in well-located areas.

As a way to increase our housing numbers in NSW, the NSW Government has identified a number of limitations across the residential zones constraining our ability to deliver this diverse housing in our low and medium density areas. In Greater Sydney these include:

- Terraces, townhouses and 2 storey residential flat buildings (i.e. manor houses) are only permitted in the R2 low density residential zone in 2 of 35 Local Environmental Plans (LEPs) in Greater Sydney – just six per cent. This is despite 77 per cent of residential land being zoned R2. Even though the R3 medium density zones do allow terraces, they only make up 13% of residential land; and
- Residential flat buildings (RFBs) are only permitted in the R3 medium density zone in 47% of LEPs. Even though the R4 high density residential zones do allow RFBs, they only make up 3% of residential land.

The story is more mixed outside of our major cities but there are still opportunities available for the planning system to priorities low and mid-rise housing types in our main residential zones.

We are asking councils to review their local policy settings and approaches in the interests of housing supply. I ask you to identify existing well-located areas where terraces, small unit blocks or well-designed mid-rise apartments can be permitted.

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Research consistently shows that there is unmet demand for additional small apartment and low-rise multi-dwelling housing options as well as purpose-built rental and affordable and social housing.

With this in mind, the Department will be realigning its resources to support councils in these initiatives and is developing a tool kit to help councils and state agencies deliver the outcomes we need. Councils shouldn't wait for this work to happen, rather I am asking you to begin work identifying locations and permitting more low and mid-rise homes immediately.

This urgency for all of us to play our part to approve and deliver housing in all parts of New South Wales brings me to my final point. The upcoming 2024 NSW local government elections are scheduled to be held on Saturday 14 September 2024. The caretaker period will begin 4 weeks before on 16 August 2024.

The NSW local government elections may have an impact on some policy and program timeframes and exhibition dates and may impact on planning assessment timeframe targets.

All planning assessments and other council responsibilities and operations should continue as normal until the start of the caretaker period. It is my express view that councils should continue to undertake their legal responsibilities under local government and planning legislation to make sure that we keep up the momentum on delivering the approvals for housing developments across New South Wales.

I would also request that this letter be tabled at your next council meeting so that councillors are clear about the State government's intentions on behalf of the people of NSW to deliver more low and mid-rise homes, while reminding them of their duty during election periods.

We all have a part to play in delivering on the National Housing Accord and a role in helping the next generation into home ownership or long-term rental. I urge you to look at your policy settings with the aim of expanding the number of homes in your LGA.

Should you have any questions regarding the housing reform work or to caretaker conventions for local government elections, please contact the Department at stakeholder.engagement@dpie.nsw.gov.au.

Yours sincerely

Paul Scully MP
Minister for Planning and Public Spaces

30/10/23

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