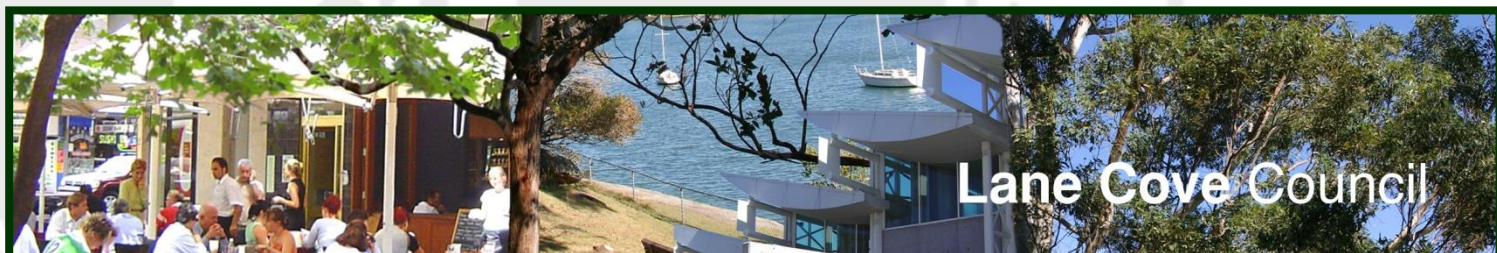


# Late Agenda Ordinary Council Meeting 22 February 2024

Council will commence consideration of  
all business paper agenda items at 7.00 pm.



**OFFICER REPORTS FOR DETERMINATION**

- 1. NEW SOUTH WALES PLANNING REFORMS - FURTHER REPORT,  
PROPOSED SUBMISSION..... 3**

**Ordinary Council Meeting 22 February 2024**  
**NEW SOUTH WALES PLANNING REFORMS - FURTHER REPORT, PROPOSED**  
**SUBMISSION**

**Subject:** New South Wales Planning Reforms - Further Report, Proposed Submission  
**Record No:** SU8053 - 9591/24  
**Division:** Planning and Sustainability Division  
**Author(s):** Terry Tredrea

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### **Executive Summary**

The NSW Department of Planning, Housing, and Infrastructure (DPHI) is proposing changes to Planning controls in the R2 (low density) and R3 (medium density) zones. These changes are the most comprehensive in a generation.

A Community Meeting was held on Tuesday 20 February 2024 to brief the public on the reforms and their impact on the Lane Cove LGA. A copy of the presentation to the meeting is included at **AT-2**.

Council has developed a submission in response to the proposed reforms. The submission raises a number of issues of concern impacting the local community, in particular the impact on the Lane Cove Town Centre and Dual Occupancy lot sizes. It is recommended Council adopt the submission for lodgement with DPHI.

### **Background**

The Minister for Planning has the power to implement changes to planning controls without referring the matter to parliament for legislative change via an amendment to the NSW Housing SEPP. Wide ranging changes are proposed, in brief, the reforms are:

1. Transit-oriented (TOD) Program

Eight priority transport hubs (including Crows Nest Metro) will be master planned up to 1200m from the station. Of interest to Lane Cove is the Crows Nest Metro station which will open in late 2024.

Advice from DPHI is that the intention is to implement the Crows Nest / St Leonard's 2036 Master Plan. Lane Cove has dealt with the majority of the site opportunities in the 2036 Plan and will not be impacted by the proposed TOD.

2. Low-rise & Mid-rise Housing incl dual occupancies

The following changes are proposed to take effect by the end of June 2024:

- **Low Rise**
  - Dual occupancies permissible on all R2 (Low Density Residential) land across the LGA
  - Terraces, townhouses and manor houses within 800m of (E1 Town Centre, commercial zones) and Railway Stations and, that is, the Lane Cove Town Centre and St Leonards and Wollstonecraft Stations, on all R2 land.
- **Mid Rise**
  - Residential flat buildings (6 storeys) in all R3 (Medium Density residential zones), plus shop-top housing in E1 (Town Centre, commercial zones), that is, within 400m of Lane Cove Town Centre and St Leonards and Wollstonecraft Stations.
  - Residential flat buildings (3 storeys) in all R3 (Medium Density residential zones), plus shop-top housing in E1 Town Centre, commercial zones), that is, within 800m of Lane Cove Town Centre.
- **Transit Oriented Development**

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- Increased density up to 1200m around Crows Nest Metro (based on the St Leonards / Crows Nest 2036 Plan Study Area) which will be planned with changes to relevant Local Environmental Plans to be in place late 2024.
- **Creation of new development standards that encourage diverse homes to be built.**
  - The Lane Cove Local Government Area's planning controls will continue to apply, but only to the extent they are not inconsistent with the proposed new planning controls.
  - The following planning controls will continue to apply - Heritage Items, Flooding and Bushfire. However, Heritage Conservation Areas such as Greenwich will be subject to the new reforms.

### **Discussion**

In order for the Minister to amend the Housing SEPP the legislation requires community consultation be undertaken for a minimum period of 28 days. The DPHI's exhibition period closes for submissions on Friday 23 February 2024.

Due to the timing of the public exhibition and both the Community and Council meetings it has been necessary to publish this late report to deal with Council's submission, included as **AT-1**.

Lane Cove supports the delivery of additional housing and diverse housing types to provide housing choice and to accommodate the growing population, and its track record in this regard is exemplary.

The proposed approach unfortunately disregards councils such as Lane Cove, who have been meeting and exceeding their housing targets. The appropriate response for councils such as Lane Cove is to release new targets and allow these councils to detail how they will continue to achieve them.

Since 2012, Lane Cove has delivered **4767** (net) new dwellings, a 40% increase in dwellings within the 10.2sq km Local Government Area (LGA) . The growth was driven by the State Government setting targets for each Council area to deliver additional housing. Council's targets were as follows;

**2006 – 3,900 over 25 years (Inner North Sub-regional strategy).**  
**2016 – 2021 = 1,900.**  
**2021-2026 = 3,500.**  
**Total = 5400**

Lane Cove has responded to the Transport Oriented Development (TOD) concept at St Leonards to ensure there is capacity to meet the next targets. The St Leonards South Precinct TOD includes an estimated 1976 dwellings, which, is in addition to other existing high density land zonings within the Lane Cove LEP which have not yet been developed, which will see Council easily exceed the 2026 target, even without the reforms.

Planning and delivery of new housing needs to be undertaken in a strategic and integrated manner, with an evidence base of:

- demographic projections
- housing trends
- analysis of the capacity of areas to accommodate new dwellings – which also includes acknowledging and identifying areas that are unsuitable for additional housing

This approach builds upon the features of the area that are highly valued by the community, such as the Natural environment, Village Character, and high levels of Liveability and Amenity.

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Consistent with this approach, Lane Cove fully supports the unanimous resolution of the Northern Sydney Regional Organisation of Councils (NSROC) as follows:-

**To ensure the reforms achieve the desired aims, NSROC calls on the NSW Government to:**

1. *Work with councils and communities to provide for place-based planning and not adopt a 'one-size-fits-all' approach. State Government's proposed approach will result in development without appropriate planning, the impacts of which will only be understood when it is too late to mitigate them.*
2. *Defer implementation of the Low and Mid-Rise Housing SEPP. Give councils their housing targets and a timeframe to demonstrate how they will be achieved. This will allow councils and their communities to undertake the strategic planning, upzone areas themselves and ensure that greater density is delivered where there is capacity and amenity. The proposed SEPP should be implemented only in cases where there are failures in the council's ability to demonstrate how they intend to achieve their targets.*
3. *Clarify the definition of Town Centre Precincts and measurement of target walking catchments.*
4. *Defer implementation of the Transport Oriented Development SEPP so that councils can undertake the strategic planning, upzone areas themselves and demonstrate how they will meet the housing targets within an agreed timeframe.*
5. *Demonstrate how they will ensure that that additional housing is delivered alongside critical infrastructure including waste services, hospitals, schools and open space. The reforms override long-term strategic planning processes that ensure the delivery of dwellings alongside supporting infrastructure and services. Sydney Water has already acknowledged that the water and sewerage system does not have the necessary capacity for current operations, let alone the proposed increase in housing density. The State Government's proposal will also exacerbate the gap in supply of sports facilities identified in the recently released [Review of Supply and Demand for Sports Facilities the NSROC Region](#).*
6. *Recognise that factors other than capacity/zoning affect housing supply. Market factors such as land banking and construction costs can be a significant barrier to increasing housing supply. Construction has yet to commence on a large number of housing approvals already in the system. Further clarification is required on how the proposed reforms will address existing and future barriers to the construction of the new dwellings. (eg – more than 1000 dwellings approved but not constructed in Hornsby Shire since 2021)*
7. *Prevent the erosion of employment lands in North Sydney Council and City of Ryde areas. These areas are vital for jobs and the economic development of the NSROC region. Stop the proposal to allow Build-to-Rent on the Macquarie Park Innovation District employment lands.*
8. *Exclude bushfire and flood prone land, as well as lands mapped as having high biodiversity value, and heritage conservation areas from the reforms. These areas require careful planning and evaluation of environmental impacts and capacity constraints.*
9. *Require developers receiving the affordable housing height bonus to dedicate affordable housing in perpetuity. As our population increases there will also be increased need for affordable housing. It is critical that affordable housing does not revert to market rates after just 15 years. The stock of affordable housing across Greater Sydney must grow over time.*

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10. *Require that the recently introduced Housing Productivity Contribution be allocated within the LGA where it is collected to deliver tangible benefits for the communities living in the areas experiencing development.*
11. *Undertake further analysis and provide solutions for the impact of the large increase in dwelling numbers on waste collection, waste infrastructure and processing which include the EPA's organics requirements.*
12. *Release the Six Cities Plan and local targets prior to finalising the reforms. This information should be accompanied by the modelling and analysis that support Government's proposal.*

Lane Cove recognises that most of the proposed Planning Reforms are focused on providing a much-needed increase in housing choice and affordability and would like to work with the NSW Government in this area. However, the reforms are a one-size-fits-all approach, which Council believes does not consider their potentially negative impacts on local context and character.

Should the NSW Government not pursue a plan-first approach as outlined in the NSROC resolution, Council makes the following specific comments in relation to the proposed reforms.

#### *Key Issues*

1. The Lane Cove Town Centre is considered to be the only Town Centre within the LGA. It is a traditional low scale high street, with a single lane of traffic in each direction. The proposal to allow 6 storeys within the E1 zone will lead to the centre losing its village character, 6 storeys should not be permitted. No setbacks are required in the E1 zone which further exacerbates the impact of the proposed scale. This change undermines a deliberate strategy by Council to allow higher densities around the village but retain a human scale in the town centre.
2. Lane Cove confirms Lane Cove Village is the only E1 centre with full line supermarkets (x3), a post office, shops with frequently needed goods and services like chemists, pubs and bars for amenity and conviviality and includes the Council Civic Centre.
3. Council is of the view that Greenwich Village, Figtree, Lane Cove West, Northwood, Yorks Corner and St Leonard's do not meet the definition of a Town Centre as prescribed in the documentation on exhibition.
4. The widespread permissibility of dual occupancy developments and the reduction of the minimum lot sizes and lot widths is inconsistent with the built form and settlement in the LGA, and requires adjustment to the minimum lot size.
5. The introduction of Torrens Title subdivision for dual occupancies and terraces and the creation of small lots, is inconsistent with the settlement pattern in the LGA. Council encourages uses of strata title only for dual occupancy.
6. It appears larger lots can be re-subdivided again once an application is approved. For example, a lot 900m<sup>2</sup> may be able to be subdivided into 2 new 450m<sup>2</sup> lots which can be further subdivided creating a total of 4 new 225m<sup>2</sup> dual occupancy dwellings, which is inconsistent with the settlement pattern in the LGA, and should not be permitted.
7. A consistent concern with dual occupancies when they were prevalent in the late 90's is the impact on the character of an area by "Mirror Reverse" designs, which should be discouraged in the pattern book design and general controls.
8. The controls for Mid Rise developments are mismatched, with both the height and FSR controls inconsistent with 3 – 6 storey buildings. For example, an FSR of 3:1 typically

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equates to 8+ storeys. These controls need to be reduced in scale to be representative of 3 – 6 storey buildings.

9. The reforms in relation to the proposed approval process are not clear. The documentation mentions a Pattern Book Design with no detail. Council assumes that applicants will have access to the Exempt & Complying SEPP through a Complying Development Certificate {CDC} managed by Private Certifiers bypassing Councils DA merit-based assessment. Given the proposed small lot sizes, complying developments, particularly on slopes with view impacts are not considered appropriate. Similarly, it is unclear about the use of CI 4.6 variations in relation to the non-refusal standards.
10. *The Biodiversity & Conservation SEPP and the Low-Rise Housing Diversity Design Guide will take a back seat to the proposed changes, these relatively new control need to take precedence*
11. The Crows Nest Station TOD proposes to review planning with a 1200m radius. This radius extends to areas of Greenwich, which are disconnected from the TOD and should not be considered for intensification of development, particularly given it is immediately adjacent to the St Leonards South TOD precinct. Lane Cove welcomes the advice from the Department, *“the primary purpose of the Crows Nest TOD precinct is to implement the St Leonards and Crows Nest 2036 Plan. The TOD will accelerate the rezoning of the remaining sites in the 2036 Plan area and possibly a very limited number of nearby sites. The 1,200m radius shown is indicative only and we are not seeking to rezone all land within that area.”*
12. While it is acknowledged that certain planning controls are to be protected such as for Flooding, Bushfire and individual Heritage items, this is only to extent that they are not inconsistent with the new planning controls. There is also no clarity around the protection of nearby bushland, a defining characteristic of Lane Cove. Specific controls in relation to these matters should be included in the proposed SEPP.
13. Lane Cove notes that existing heritage conservation areas will not be protected. The Greenwich peninsula is a high-quality heritage area and valued by the community. The fact that the new controls apply there will change the character of Greenwich forever. Specific controls should be included in the proposed SEPP to preserve nominated heritage conservation areas.
14. The proposed reforms will reduce Council’s requirements for deep soil, landscaping, and tree canopy. For example, it will be very difficult to accommodate landscaping, deep soil and trees on small lots for Dual Occupancy, Terraces & Manor House developments. A review of the practicality of the specific controls in the proposed SEPP is required.
15. Lane Cove’s Development Control Plan requires that all waste be collected on site and as such waste vehicles need to be able to enter the basements of RFBs. The proposed changes do not make provision for this access, and this will create the situation of waste bins being presented on the street for collection. This marks a return to the days of weekly visual street clutter, whereas councils nowadays aim for waste management systems with minimal environmental impact.

### *A Way Forward*

Lane Cove is a trusted partner in delivering housing as it has consistently exceeded all housing targets and is leading the way in the Sydney Metropolitan area for DA approval times. Council has identified the top 3 priority changes to the proposed reforms for consideration by the NSW Government.

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As the agency best placed to undertake local strategic planning, Council is willing to partner with Department of Planning, Housing, and Infrastructure (DPHI) and enter into a binding agreement to deliver on the State Government's objectives. Lane Cove will deliver a plan for increased High Density around the Lane Cove Town Centre, within an agreed fast tracked timeframe, in exchange for retaining the current planning controls within the Lane Cove Town Centre. This will allow appropriate attention to the local planning context, without the blunt instrument of inappropriate controls.

Council would also seek to vary the minimum lot size for dual occupancy developments. For Lane Cove, the minimum lot size for Dual Occupancy should remain 750sqm, which when Torrens Title subdivided, would see the minimum lot size be 375 sqm. This is well below the current 550sqm for a torrens title subdivision. There are currently more than 1700 R2 sites (30%), that are greater than 749sqm in the LGA which could accommodate dual occupancy developments that are in keeping with the typical subdivision pattern in the LGA.

Council's only existing heritage conservation areas on the Greenwich Peninsula will not be protected. The Greenwich peninsula is a high-quality intact heritage area which is highly valued by the community. The peninsula is isolated, and its settlement pattern is unable to support increased density, in particular to the narrow road network. Council wishes to nominate the area for exclusion from the SEPP, and subject to review by DPHI, the proposed SEPP control should exclude the Greenwich heritage conservation area.

These three key changes will have the highest impact to preserve the character and livability of Lane Cove - a quality for which Lane Cove is nationally recognised by being ranked first in the 2021 and second in the [2023 Australian Liveability Census](#) - without materially impacting on the intent of the NSW Government's Housing Reforms.

## **Conclusion**

The NSW Government is seeking public feedback on the proposed changes to its housing policy until Friday 23 February. The Community Meeting on 20 February 2024 has further informed, Council's attached draft submission. The draft submission is presented for the Council's consideration and approval for submission.

## **RECOMMENDATION**

That Council:

1. Endorse the draft submission to the public exhibition of Low-rise and Mid-rise Housing Reforms.
2. The General Manager be authorised to make any minor amendments deemed necessary and lodge the submission with the DPHI.

Mark Brisby  
**Director - Planning and Sustainability**  
**Planning and Sustainability Division**

## **ATTACHMENTS:**



**Ordinary Council Meeting 22 February 2024**  
**NEW SOUTH WALES PLANNING REFORMS - FURTHER REPORT, PROPOSED**  
**SUBMISSION**

<b>AT-1</b> <a href="#">View</a>	Submission to DPHI on Low and Mid Rise Reforms	6 Pages	
<b>AT-2</b> <a href="#">View</a>	Presentation - Housing Reforms proposed by the NSW State government		Available Electronically



Date: 23/02/2024  
Reference: 5616/24

**Ms Kiersten Fishburn**  
**Secretary**  
NSW Planning, Housing and Infrastructure  
Locked Bag 5022  
NORTH PARRAMATTA NSW 2124

Dear Ms Fishburn,

**Re: Changes to create low and mid-rise housing**

Lane Cove Council (Lane Cove) welcomes the opportunity to comment on the proposed changes to create low and mid-rise housing in NSW.

Lane Cove supports the delivery of additional housing and diverse housing types to provide housing choice and to accommodate the growing population, and its track record in this regard is exemplary.

The proposed approach unfortunately disregards councils such as Lane Cove, who have been meeting and exceeding their housing targets. The appropriate response for councils such as Lane Cove is to release new targets and allow these councils to detail how they will continue to achieve them.

Since 2012, Lane Cove has delivered **4767** (net) new dwellings, a 40% increase in dwellings within the 10.2sq km Local Government Area (LGA). The growth was driven by the State Government setting targets for each Council area to deliver additional housing. Council's targets were as follows;

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**Total = 5400**

Lane Cove has responded to the Transport Oriented Development (TOD) concept at St Leonards to ensure there is capacity to meet the next targets. The St Leonards South Precinct TOD includes an estimated 1976 dwellings (approximately 938 are currently under construction), which, is in addition to other existing high density land zonings within the Lane Cove LEP which have not yet been developed, which will see Council easily exceed the 2026 target, even without the reforms.

Planning and delivery of new housing needs to be undertaken in a strategic and integrated manner, with an evidence base of:

- demographic projections
- housing trends
- analysis of the capacity of areas to accommodate new dwellings – which also includes acknowledging and identifying areas that are unsuitable for additional housing

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This approach builds upon the features of the area that are highly valued by the community, such as the Natural environment, Village Character, and high levels of Liveability and Amenity.

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**To ensure the reforms achieve the desired aims, NSROC calls on the NSW Government to:**

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8. *Exclude bushfire and flood prone land, as well as lands mapped as having high biodiversity value, and heritage conservation areas from the reforms. These areas require careful planning and evaluation of environmental impacts and capacity constraints.*
9. *Require developers receiving the affordable housing height bonus to dedicate affordable housing in perpetuity. As our population increases there will also be increased need for affordable housing. It is critical that affordable housing does not revert to market rates after just 15 years. The stock of affordable housing across Greater Sydney must grow over time.*
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3. Council is of the view that Greenwich Village, Figtree, Lane Cove West, Northwood, Yorks Corner and St Leonard's do not meet the definition of a Town Centre as prescribed in the documentation on exhibition.

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4. The widespread permissibility of dual occupancy developments and the reduction of the minimum lot sizes and lot widths is inconsistent with the built form and settlement in the LGA, and requires adjustment to the minimum lot size.
5. The introduction of Torrens Title subdivision for dual occupancies and terraces and the creation of small lots, is inconsistent with the settlement pattern in the LGA. Council encourages uses of strata title only for dual occupancy.
6. It appears larger lots can be re-subdivided again once an application is approved. For example, a lot 900m<sup>2</sup> may be able to be subdivided into 2 new 450m<sup>2</sup> lots which can be further subdivided creating a total of 4 new 225m<sup>2</sup> dual occupancy dwellings, which is inconsistent with the settlement pattern in the LGA, and should not be permitted.
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10. *The Biodiversity & Conservation SEPP and the Low-Rise Housing Diversity Design Guide will take a back seat to the proposed changes, these relatively new control need to take precedence*
11. The Crows Nest Station TOD proposes to review planning with a 1200m radius. This radius extends to areas of Greenwich, which are disconnected from the TOD and should not be considered for intensification of development, particularly given it is immediately adjacent to the St Leonards South TOD precinct. Lane Cove welcomes the advice from the Department, *"the primary purpose of the Crows Nest TOD precinct is to implement the St Leonards and Crows Nest 2036 Plan. The TOD will accelerate the rezoning of the remaining sites in the 2036 Plan area and possibly a very limited number of nearby sites. The 1,200m radius shown is indicative only and we are not seeking to rezone all land within that area."*
12. While it is acknowledged that certain planning controls are to be protected such as for Flooding, Bushfire and individual Heritage items, this is only to extent that they are not inconsistent with the new planning controls. There is also no clarity around the protection of nearby bushland, a defining characteristic of Lane Cove. Specific controls in relation to these matters should be included in the proposed SEPP.
13. Existing heritage conservation areas will not be protected under the reforms. The Greenwich peninsula is a high-quality heritage area and valued by the community. The

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