



# GATEWAY REVIEW

## Justification Assessment

**Purpose:** To request that the Independent Planning Commission review the Gateway determination of the subject planning proposal, consider the information provided by Council and provide advice regarding the merit of the review request.

<b>Dept. Ref. No:</b>	GR-2022-31
<b>LGA</b>	Woollahra Municipal Council
<b>LEP to be Amended:</b>	Woollahra Local Environmental Plan 2014
<b>Address/ Location:</b>	The planning proposal applies to land at 13-27 Riddell Street and 14-15 Buller Street, Bellevue Hill.
<b>Proposal:</b>	The planning proposal seeks to amend zoning and development controls for land at 13-27 Riddell Street and 14-15 Buller Street, Bellevue Hill; and introduce 'residential flat buildings' as an additional permitted use on land at 21-23 Riddell Street, Bellevue Hill (PP-2022-1663).
<b>Review request made by:</b>	<input checked="" type="checkbox"/> The Council
	<input type="checkbox"/> A proponent
<b>Reason for review:</b>	<input checked="" type="checkbox"/> A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/> A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input type="checkbox"/> A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

### Background information

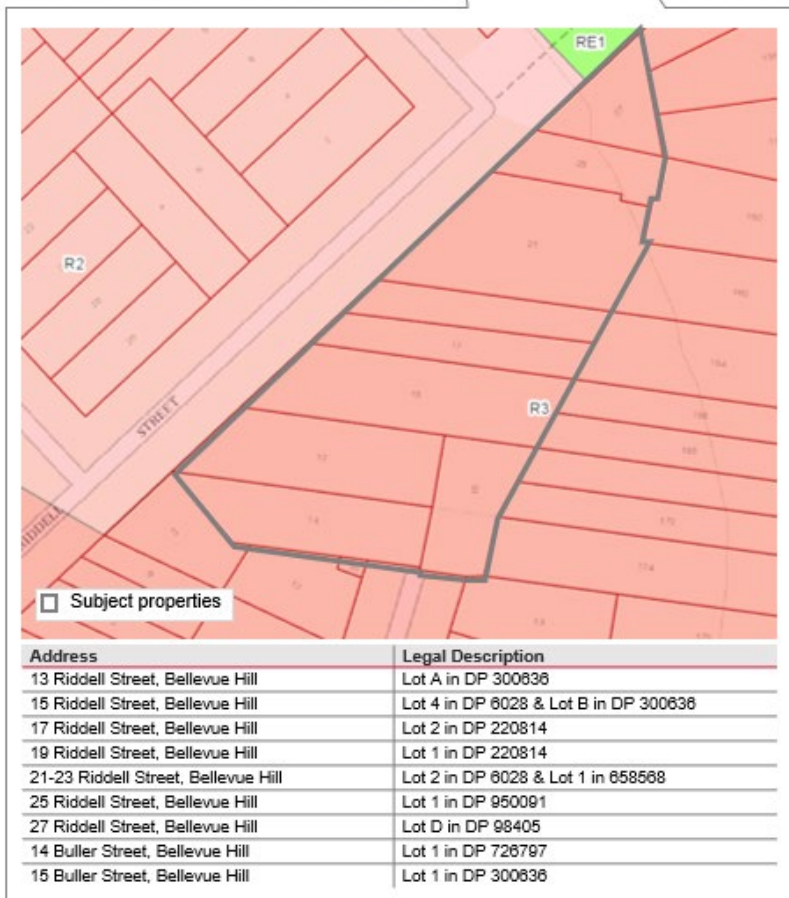
<b>Details of the planning proposal</b>	<p>Planning proposal</p> <p>The planning proposal (<b>Attachment Proposal</b>) seeks to amend the Woollahra Local Environmental Plan (LEP) 2014 by:</p> <ul style="list-style-type: none"> <li>• rezoning the subject properties from R3 Medium Density Residential to R2 Low Density Residential;</li> <li>• amending Schedule 1 'Additional Permitted Uses' to permit 'residential flat buildings' at 21- 23 Riddell Street, Bellevue Hill;</li> <li>• deleting the floor space ratio (FSR) development standard applying to the subject properties (the existing FSR is 0.75:1);</li> <li>• decreasing the maximum height of buildings standard for the subject properties from 10.5m to 9.5m; and</li> <li>• decreasing the minimum lot size standard for the subject properties from 700m<sup>2</sup> to 675m<sup>2</sup>.</li> </ul>
-----------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

The stated objective of the planning proposal is:

*“to ensure that future development on the subject properties is responsive to the constraints of each site, and is compatible with the desired future character of the area” (Refer to p.17 of **Attachment Proposal**).*

Site description

The planning proposal applies to 13-27 Riddell Street and 14-15 Buller Street, Bellevue Hill, which comprises an area of approximately 4,900m<sup>2</sup> (**Figure 1**).



(Source: Nearmap, 2022 & NSW Government, ePlanning Spatial Viewer, 2023)

**Figure 1. Subject properties**

	<p>The subject properties are situated along the eastern side of Riddell Street and at the northern end of Buller Street, Bellevue Hill, within the Woollahra local government area (LGA).</p> <p>The subject properties are occupied by low density (1-2 storey) single-detached dwellings, with the exception of 21-23 Riddell Street, Bellevue Hill where a 3-storey residential flat building is currently under construction.</p> <p>The subject properties are bound by Bradley Avenue Reserve to the north; Riddell Street to the north and north-west; low to medium density residential developments and Buller Street to the south; and low to medium density residential developments to the east, including a 4 storey residential flat building adjoining immediately east at 158 Victoria Road, Bellevue Hill.</p> <p>Surrounding area</p> <p>Low density residential uses generally characterise development immediately surrounding the site and further to the north-west. A mix of low and medium density residential developments can be found along Victoria Street to the east and south-east of the subject properties. Lower density residential development to the south of the site along Buller Street transitions to mixed use development in the Bellevue Hill neighbourhood centre. A 9 storey residential flat building with ground floor shops is located at 13-17 Bellevue Road.</p> <p>Accessible open space includes Cooper Park and Bellevue Park to the south and Bradley Avenue Reserve immediately north of the subject properties.</p> <p>The subject properties are located approximately 1.8km north-east of the Bondi Junction Station and strategic centre, and are within walking distance of Bellevue Hill neighbourhood centre, located approximately 100-120m to the south.</p> <p>The subject properties are located within an established urban area that is not known to contain any critical habitat or threatened species, populations or ecological communities, contaminated land and is not identified as being flood affected.</p> <p>A search of Heritage NSW's Aboriginal Heritage Information Management System has not identified any sites or places of aboriginal significance within the subject properties or nearby surrounds. There are also no items of local heritage significance located within or immediately surrounding the subject properties.</p>
<p><b>Reasons for Gateway determination</b></p>	<p>On 17 October 2022, a Gateway determination (<b>Attachment Gateway</b>) was issued by the Executive Director, Metro East and South, as delegate of the Minister for Planning and Homes, who determined that the planning proposal should not proceed for the following reasons:</p> <ol style="list-style-type: none"> <li>1. <i>Sufficient strategic or site-specific merit has not been demonstrated by the proposal;</i></li> <li>2. <i>The impact of the proposal has the effect of reducing the capacity for additional and diverse housing that suits current community needs in a location with good access to transport, services and facilities, which runs counter to the objectives in the council endorsed Local Housing Strategy;</i></li> <li>3. <i>The proposal is inconsistent with:</i> <ol style="list-style-type: none"> <li>a. <i>the overarching strategic objectives and planning priorities for increasing housing supply and diversity in the right locations, as set out in the Greater Sydney Region Plan and Eastern City District Plan;</i></li> <li>b. <i>the Strategy 4.3 of the Woollahra Community Strategic Plan (Woollahra 2032) and Planning Priority 4 of the Woollahra Local Strategic Planning Statement, which seek to sustain diverse housing choices in planned locations;</i></li> <li>c. <i>the council endorsed and Department approved Woollahra Local Housing Strategy, as it does not seek to sustain diverse housing choice or maintain the</i></li> </ol> </li> </ol>

	<p><i>existing medium density zones identified in the strategy, and will likely contribute towards reducing Council's ability to meet its medium-term housing targets;</i></p> <p><i>d. Section 9.1 Ministerial Directions 1.1 Implementation of Regional Plans, 1.4 Site Specific Provisions, 5.1 Integrating Land Use and Transport and 6.1 Residential Zones;</i></p> <p><i>e. the Government's objective for the planning system to boost the supply of new homes and housing affordability;</i></p> <p><i>f. the NSW Premier's Priority to increase the proportion of homes in urban areas within 10 minutes' walk of quality green, open and public space by 10% by 2023; and</i></p> <p><i>4. Land use matters which the proposed amendments seek to control are more suitably addressed by the Woollahra Development Control Plan 2015 and the development assessment process. A Development Control Plan allows greater flexibility for proponents and Council in applying appropriate development control provisions for specific development types.</i></p> <p>Further details of the Department's Gateway assessment are provided in the Department's Gateway assessment report (<b>Attachment Gateway Report</b>).</p>
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

## Council's views

<p><b>Details of justification</b></p>	<p>On 1 December 2022 the Department received a Gateway review request (<b>Attachment Form</b>) from Woollahra Municipal Council (Council), in response to the Gateway determination that the planning proposal (PP-2022-1663) to amend zoning and development controls for land at 13-27 Riddell Street and 14-15 Buller Street, Bellevue Hill and introduce 'residential flat buildings' as an additional permitted use on land at 21-23 Riddell Street, Bellevue Hill, should not proceed.</p> <p>Council considers the proposal to have strategic and site-specific merit to proceed to public exhibition. Council's justifications for the Gateway Determination review are broadly outlined as follows:</p> <p><b>Strategic and site-specific merit</b></p> <ul style="list-style-type: none"> <li>• The proposal has established strategic merit and will give effect to overarching strategic planning framework.</li> <li>• The proposal has adequately demonstrated site specific merit as evidenced in the independent consultant report, 'Planning and Urban Design Review: Riddell Street, Bellevue Hill', prepared by Studio GL in July 2021. This study included scenario testing that found significant impacts (i.e. increased parking/traffic, changes to streetscape and amenity and loss of tree canopy) were likely to result under the current R3 Medium Density Residential zoning.</li> </ul> <p><b>Consistency with the Woollahra Local Housing Strategy (LHS)</b></p> <ul style="list-style-type: none"> <li>• The proposal is consistent with Objective 1 of the Woollahra LHS and Condition 3 of the Woollahra LHS approval letter as it: <ul style="list-style-type: none"> <li>- will not reduce capacity for additional and diverse housing;</li> <li>- will sustain a diverse range of housing types and protect low density neighbourhoods and villages; and</li> <li>- relates to land that is not located within a Council identified housing growth area.</li> </ul> </li> <li>• The proposal will improve housing diversity in Bellevue Hill. The addition of more apartments in Bellevue Hill will further decrease the already low composition of lower density residential uses and reduce housing choice.</li> </ul>
----------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

### **Consistency with the Greater Sydney Region and Eastern City District Plan**

- The planning proposal is generally consistent with the Region Plan and supporting District Plan.
- The proposal will have a negligible impact on Woollahra LGA's housing supply and will protect existing housing diversity by encouraging the retention of dwelling houses and development of dual occupancies.
- The proposal directly addresses Objective 12 '*Greater places that bring people together*' and Objective 30 '*Urban tree canopy cover is increased*' of the Greater Sydney Region Plan as it will ensure an attractive and well-designed built environment for Riddell Street and will manage the scale and typology of new developments on the subject properties.

### **Impact to local housing supply**

- The supporting consultant study estimates the proposal would potentially reduce the theoretical housing yield by approximately 20 dwellings however, this reduction would likely be smaller in reality (estimated at around 10 dwellings) given the limited development potential of the subject properties, which are either too small to contain apartments; have been recently developed; or may not be logistically or financially viable for amalgamation.
- The proposal will have a negligible effect upon meeting the medium-term housing target, which will be more than compensated by uplift elsewhere.
- The proposal will ensure that housing diversity in Bellevue Hill is maintained.

### **Consistency with the Woollahra Community Strategic Plan and the Woollahra Strategic Planning Statement**

- The proposal is not inconsistent with Strategy 4.3 and Planning Priority 4 of the Woollahra Community Strategic Plan (2032) and Priority 4 of the Woollahra Local Strategic Planning Statement as it will encourage housing diversity by ensuring an appropriate supply of dwelling houses, semi-detached and dual occupancies in Bellevue Hill, where apartments currently account for 63% of the existing housing stock. The subject properties are also not located in a planned area for housing growth.

### **Consistency with section 9.1 Ministerial Directions**

- Ministerial Direction 1.4 Site Specific Provisions does not apply to the proposal as it will not allow a particular development to be carried out. Rather, it will involve changing the zoning of the subject properties to encourage the development of already permissible dwelling types that respect the scale and character of Riddell Street.
- The proposal complies with Ministerial Direction 5.1 Integrating Land Use and Transport.
- The proposal adequately addresses Ministerial Direction 6.1 Residential Zones:
  - A key objective is '*to minimise the impact of residential development on the environment*' and the revised zoning and associated controls will encourage the retention of existing vegetation on the subject properties and provide for more opportunities for deep soil landscaping as part of any future development.
  - The inconsistency of the proposal is justified by an independent study prepared by Studio GL, which gives consideration to the direction's objective, and is considered of minor significance as it will reduce the overall dwelling density by approximately 10 dwellings.

- The planning proposal will encourage housing that is of good design and will not significantly affect the choice of housing types and locations available.

**Site-specific land use matters and the Woollahra Development Control Plan 2015**

- The proposal seeks to make residential flat buildings a prohibited use, while also introducing a set of zone objectives that better reflect the character of the street. Council does not accept the land use matters the proposed amendments seek to control would be more suitably addressed by the Woollahra DCP 2015 and through the DA process.

The complete Gateway Review justification provided by Council staff is included in **Attachment Request**.

**Material provided in support of application / proposal**

Council provided the following documents to support its Gateway determination review request:

<b>Attachment Form</b>	Gateway Determination Review - Application and Submission Forms
<b>Attachment Request</b>	Gateway Review Justification - November 2022
<b>Attachment Proposal</b>	Planning Proposal - 14 March 2022, and Gateway Cover Letter - 10 May 2022
<b>Attachment A</b>	Planning Proposal Attachment 1 – Planning and Urban Design Review: Riddell Street, Bellevue Hill – prepared by Studio GL - July 2021
<b>Attachment B</b>	Planning Proposal Attachment 2 - Report to Environmental Planning Committee of 12 July 2021
<b>Attachment C</b>	Planning Proposal Attachment 3 - Report to Environmental Planning Committee of 7 February 2022
<b>Attachment D</b>	Planning Proposal – Riddell Street Planning Controls – Report to Woollahra Local Planning Panel – 24 March 2022
<b>Attachment E</b>	Planning Proposal – Riddell Street Planning Controls – Report to Woollahra Municipal Council Environmental Planning Committee – 4 April 2022
<b>Attachment F</b>	Planning Proposal – Riddell Street Planning Controls – Woollahra Municipal Council Ordinary Council Meeting Minutes – 26 April 2022

For reference and consideration by the IPC, the following documents are also attached to this justification assessment report:

<b>Attachment Gateway</b>	Gateway determination issued by DPE - 17 October 2022
<b>Attachment Gateway Report</b>	Gateway assessment report prepared by DPE - 17 October 2022

**Assessment summary**

**Department's assessment**

The Department notes the justification provided by Council for the Gateway Determination review, however, maintains the position that the proposal should not proceed. The rationale for the Department's decision is summarised below:

## Strategic merit

The proposal does not adequately demonstrate strategic merit.

The Department notes Council's assertion in the Gateway review justification that the proposal has clearly established strategic merit and will give effect to the strategic planning framework.

However, the Department has carefully considered the merits of the proposal with respect to the strategic planning framework, concluding that the proposal is inconsistent with the following objectives, planning priorities and strategies of the overarching strategic plans. The reasons for this are that it will reduce the potential for housing supply and diversity on the subject properties which are accessible to jobs and services, transport, social infrastructure, open space and recreational areas.

More detail is provided below:

<b>Strategic Plan</b>	<b>Provision</b>
<b>Greater Sydney Region Plan – A Metropolis of Three Cities (2018)</b>	<b>Objective 10</b> - Greater housing supply <b>Objective 11</b> – Housing is more affordable and diverse <b>Objective 12</b> – Great places that bring people together
<b>Eastern City District Plan (2018)</b>	<b>Planning Priority E5</b> - Providing housing supply, choice and affordability, with access to jobs, services and public transport <b>Planning Priority E6</b> - Creating and renewing great places and local centres, and respecting the District's heritage
<b>Woollahra 2032 - Community Strategic Plan (June 2022)</b>	<b>Goal 4</b> - Well planned neighbourhoods - <b>Strategy 4.3</b> Sustaining diverse housing choices in planned locations that enhance our lifestyles and fit in with our local character and scenic landscapes;
<b>Woollahra Local Strategic Planning Statement (March 2020)</b>	<b>Planning Priority 4</b> - Sustaining diverse housing choices in planned locations that enhance our lifestyles and fit in with our local character and scenic landscapes
<b>Woollahra Local Housing Strategy 2021 (October 2021)</b>	<b>Housing Objective 1</b> - Sustain a diverse range of housing types and protect low density neighbourhoods and villages <b>Housing Objective 5</b> - Support increased supply of accessible housing and affordable rental housing.

The Department notes a key point made by Council in its Gateway Review justification that *“the Gateway determination fails to detail what strategic objectives and planning priorities are contrary to the proposal”* (Refer to p.5 of **Attachment Request**). However, the Department's considerations are addressed in detail in Section 3 of the supporting Gateway Assessment Report (**Attachment Gateway Report**).

The Department also notes Council's assertion that the proposed amendments are consistent with Objective 1 of the Woollahra LHS as *“the revised controls will provide for the continued supply of low to medium density residential dwellings, and will ensure all new development adopts a scale that is compatible with the desired future character of Riddell Street”* (refer to p.4 of **Attachment Request**).

However, the Department notes the proposed low density residential zoning would reduce the theoretical potential yield of the subject properties by approximately 20 dwellings, as evidenced in the supporting independent Planning and Urban Design study (Refer to p.58 of **Attachment A**).

The Department also notes Council's justification regarding the proposal's consistency with Strategy 4.3 of the Woollahra CSP and Planning Priority 4 of the Woollahra LSPS which seek to sustain diverse housing choices in planned locations:

"Strategy 4.3 in Woollahra 2032 seeks to encourage well planned neighbourhoods by sustaining diverse housing in predetermined locations...the amendments resulting from this planning proposal will encourage housing diversity in Bellevue Hill by ensuring an appropriate supply of dwelling houses...[as] the introduction of more [apartments] would reduce the supply [of] low density dwellings and affect housing choice...

Planning Priority 4 seeks to provide for housing in planned locations that are 'designed to be the right fit for the character, heritage, landscaped qualities and village scale of our area'. The subject portion of Riddell Street is not one of these planned locations for housing growth" (Refer to p.6 of **Attachment Request**).

The Department considers the proposal will reduce the diversity of housing in the Woollahra LGA. The Department also acknowledges that while the subject properties have not been identified by Council among the planned locations for future housing growth, these properties are located within an existing (i.e. predetermined) R3 Medium Density Residential land use zone under the Woollahra Local Environmental Plan 2014, that still remains suitable for medium density residential uses.

Council is concerned that adding more apartments to the locality would reduce its housing diversity. The Department does not agree with the above argument as the existing R3 zoning permits a range of low and medium density residential uses, including dwelling houses, dual occupancies, semi-detached dwellings, multi-dwelling housing and residential flat buildings, etc. The existing zoning supports housing diversity. Maintaining the existing zoning does not mean that all lots would be redeveloped into residential flat buildings with or without amalgamation.

Site specific merit

The proposal does not adequately demonstrate site specific merit.

Council's Gateway Review justification states that the proposal "*demonstrates* site-specific merit, evidenced through the independent Planning and Urban Design Review: Riddell Street, Bellevue Hill prepared by Studio GL in July 2021" (Refer to p.3).

The Department notes that the proposal has been informed by the recommendations of this study, which was commissioned by Council in response to concerns raised about impacts to existing local character, trees and landscaping, parking and traffic, following the approval of a three-storey residential flat building at 21-23 Riddell Street, Bellevue Hill, by the NSW Land and Environment Court in June 2020.

The Department notes the study's findings that the subject properties are "located on a ridge and have a local character more similar to the adjacent Bradley Avenue and Lennox Street...[and that] Apartment development on these sites would change the landscape character of the study area" (p.57).

The Department considers that while low density residential uses are characteristic of the area immediately west and south of the subject properties, the scale of development and streetscape character in the surrounding area are already quite mixed, with the adjoining R3 Medium Density Residential zoned land to the east and south of the site (which too is located along the ridgeline) comprised of a mix of low and medium density residential uses. The existing R3 zone would provide a transition to the higher density built form within the B1 Neighbourhood Centre area along Bellevue



Road. As such, retaining the existing R3 zone is not considered to detract from the existing and desired character of the locality.

Council states that while the theoretical loss of dwelling capacity would amount to approximately 20 dwellings, the above has not factored in recent development, site constraints, the financial viability for amalgamation of lots to facilitate redevelopment, and the market preference for larger dwelling sizes (which means smaller number of units) in new development. Council further states that the likely loss of capacity would be around 10 dwellings. The above argument somewhat contradicts the proposal's justification that future development of the subject properties under the existing zoning controls would result in significant adverse impact on the local character and amenity.

The Department has also carefully considered the reasons for the proposed amendments as outlined in the proposal, which include that:

- *it will ensure future development respects the local character of Riddell Street;*
- *new development would more likely preserve street trees; and*
- *environmental amenity will be better protected and district views from the street and private property will be maintained.*

The Department maintains the position that reducing development capability for additional housing capacity on the subject land is not the best means of achieving the objectives or intended outcomes of the proposal, as it will not in itself ensure the preservation of the existing street trees and environmental amenity.

The Department also considers that any potential impacts to parking, amenity (in terms of view sharing, solar access and privacy) and tree canopy could all be appropriately mitigated through design and the application of development controls contained in the Woollahra DCP 2015 at any future DA stage.

The Department agrees with Council's assertion that the proposal is unlikely to generate any detrimental environmental impacts or give rise to new infrastructure requirements, given that the subject properties are located within an accessible, established urban area, that is not known to be affected by flooding or contamination or to contain any critical habitat or threatened species, populations or ecological communities.

However, the Department disagrees with Council's statement that the proposal will not have any significant social or economic impacts. The Department considers the proposal could result in negative social and economic outcomes for the locality as it will mean that only *attached dwellings, dual occupancies, dwelling houses, secondary dwellings* and *semi-detached dwellings* will be permitted with consent on the subject properties under the proposed R2 zoning, pursuant to the land use table in the LEP (note: the Housing SEPP 2021 permits *boarding houses, group homes* and *seniors housing*, provided specific requirements are met). Other forms of residential development would be prohibited, including *residential flat buildings* and *multi dwelling housing*.

As such, this will reduce the supply and diversity potential of housing within the subject properties that are accessible and well serviced, and located within the Woollahra LGA which is identified as having a significant proportion of lone person and couples with no children households, a limited availability of land suitable for redevelopment and an area where housing affordability has been identified as a key challenge (refer to Section 4.3.2 of the Woollahra LHS).

The Department also identifies the proposed zoning to be contrary to the desired future character of the Bellevue Hill South Precinct of the Woollahra DCP 2015 within which the subject properties are located, which recognises the need for "*Development along the local roads will provide a mix of housing densities and styles in well designed*

*contemporary buildings, which reinforce the natural topography and provide opportunities for view sharing” (refer to B1, p.22 of Woollahra DCP 2015).*

### **Ministerial Directions**

The proposal is inconsistent with Section 9.1 Ministerial Directions 1.1 Implementation of Regional Plans, 1.4 Site Specific Provisions, 5.1 Integrating Land Use and Transport, and 6.1 Residential Zones.

The Department has considered Council’s Gateway review justification, however, maintains its position that the proposal is inconsistent with Ministerial Directions 1.1; 1.4; 5.1 and 6.1 as outlined below.

#### *Ministerial Direction - 1.1 Implementation of Regional Plans*

Council contends that the proposal is generally consistent with the Region Plan and supporting District Plan. However, the Department considers the proposal to be inconsistent with the Greater Sydney Region Plan, as it undermines the intent of Objective 10 ‘Greater housing supply’ and Objective 11 ‘Housing is more diverse and affordable’.

This inconsistency with this Direction and the Region Plan is unjustified.

#### *Ministerial Direction - 1.4 Site Specific Provisions*

Although Council believes this Direction does not apply to the proposal, the Department considers this direction relevant to this proposal as it *“applies to all relevant planning authorities when preparing a planning proposal that will allow a particular development to be carried out”*.

Clause (1)(b) of Direction 1.4 provides that a planning proposal that will amend another environmental planning instrument to allow particular development to be carried out must:

*“rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone”*.

The recently approved residential flat building at 21-23 Riddell Street, Bellevue Hill, would become a prohibited land use under the proposed R2 zone. The proposal seeks to prevent any future development on this site to rely upon ‘existing use rights’ through a Schedule 1 amendment to the Woollahra LEP 2014, to include *residential flat buildings* as an additional permitted use (APU) on this site. However, using APU provisions to allow a particular development to be carried out, whilst also imposing more stringent development controls (in particular, lesser height and FSR) that align with low density residential development is inconsistent with the direction. This may also result in any future minor development being non-compliant with the reduced height and FSR controls being sought, and may require variation under Clause 4.6 of the LEP that may otherwise be avoided.

*Residential flat buildings* are permitted with consent in the R3 Medium Density Residential zone. Rezoning the subject properties to the R2 zone and then using an APU approach for an existing development with preventive development controls is not a sound planning outcome. The Department’s position is that wherever possible, land uses should be governed by an LEP’s Land Use Table, Schedule 1 should only be used where a planning proposal authority (PPA) has demonstrated why this cannot be achieved. In this instance, the current zoning of the site already permits the land use, which would in future need to rely upon an APU under Council’s proposal.

This proposed approach is contrary to Ministerial Direction 1.4 Site Specific Provisions, and has not been adequately justified.

#### *Ministerial Direction 5.1 - Integrating Land Use and Transport*

Council believes that the proposal complies with this direction. However, the Department notes that a key objective of this direction is *'improving access to housing, jobs and services by walking, cycling and public transport'*.

The Department considers the proposal to be inconsistent with this direction as it seeks to 'down-zone' the land, reducing the potential supply and diversity of housing that can be achieved on the subject properties, which are accessible and well-serviced, located within walking distance (<300m) of bus services which provide direct links to Edgecliff Station, Bondi Junction and services in these centres.

This inconsistency is considered to be unjustified.

#### *Ministerial Direction 6.1 – Residential Zones*

Council contends that the proposal adequately addresses this direction, in particular, the objective of *'minimis[ing] the impact of residential development on the environment'* and that any potential reduction in housing to be negligible and will be offset by targeted areas of uplift.

Council considers the inconsistency of the proposal to be justified by the independent Planning and Urban Design study, and of minor significance.

However, the Department considers the proposal to be inconsistent with Direction 6.1 for the following reasons:

- the proposal contains provisions which seek to reduce the permissible residential density and diversity of land;
- the proposal will reduce the residential density on the subject properties, which in turn will reduce the utilisation potential of existing infrastructure and services; and
- the proposal is inconsistent with the housing objectives of the Greater Sydney Region Plan and Eastern City District Plan.

Adequate justification to support the proposed lower density residential zone has not been provided.

The proposal has the effect of impacting Council's ability to meet its housing targets and reducing the capacity for additional and diverse housing, which suits current community needs in a location with good access to transport, services and facilities.

Council contends that the proposal will generate a very minor reduction in the potential dwelling yield that may be offset by future planning proposals. These proposals are yet to be progressed by Council and are required to enable housing growth to align with the Greater Cities Commission's (GCC's) medium-term housing targets and long-term housing supply expectations, and the desire for more medium density housing.

The Department also notes the contradictions regarding the justification and need for the proposal, as the findings of Studio GL's study indicate that while the proposed changes could reduce the theoretical yield by a total of 20 dwellings on the subject properties, they conclude the loss is more likely to be 10 dwellings as many of the sites are too small for medium density development without amalgamation (which may not be feasible). If so, this raises the question as to whether the proposed LEP amendments are in fact required given that Council's objective is to reduce the development capacity and built form scale of the subject properties.

The subject properties are well located to provide diverse housing choices with good access to transport, services and facilities. Reducing the ability to provide medium density housing in the locality as proposed conflicts with Council's LHS.

The proposal is inconsistent with the Government's objective for the planning system to boost the supply of new homes and housing affordability, and the NSW Premier's Priority to increase the proportion of homes in urban areas within 10 minutes' walk of quality green, open and public space by 10% by 2023.

	<p>The Department maintains the position that the proposal is inconsistent with the Government’s objective for the planning system to boost the supply of new homes and housing affordability, as it would result in a reduction in capacity and diversity of housing on the subject properties than that which is permitted already under the current R3 zoning.</p> <p>The proposed residential down-zoning of the subject properties, which are accessible to quality open space including Cooper Park and Bellevue Park (to the south) and Bradley Reserve (to the north), is contrary to the NSW Premier’s Priority to increase the proportion of homes in urban areas within 10 minutes’ walk of quality green, open and public space by 10% by 2023.</p> <p>Built form, setbacks, tree canopy, landscaping and car parking matters which the proposed amendments seek to control are more suitably addressed by the Woollahra Development Control Plan 2015 and the development assessment process.</p> <p>Contrary to Council’s position, the Department considers that there may be opportunities for Council to address the site-specific planning issues raised in the proposal regarding the retention of the existing tree canopy cover and landscape character of Riddell Street, through the inclusion of appropriate provisions in the Woollahra Development Control Plan 2015. This would allow greater flexibility in applying development controls to specific development types, such as residential flat buildings.</p> <p><b>Recommendation:</b></p> <p>The Department has carefully considered the strategic and site-specific merits of the proposal and recommends that the planning proposal should not proceed.</p> <p>Council has not provided any further justification that would warrant an amendment to the Gateway determination.</p>
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**COMMISSION’S RECOMMENDATION**

**Reason for review: A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.**

<b>Recommendation</b>	<input type="checkbox"/>	The planning proposal should not proceed past Gateway.
		<input type="checkbox"/> no amendments are suggested to original determination. <input type="checkbox"/> amendments are suggested to the original determination.
	<input type="checkbox"/>	The planning proposal should proceed past Gateway in accordance with the original Determination.

**Any additional comments:**