

16 June, 2026

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Email: [council@mosman.nsw.gov.au](mailto:council@mosman.nsw.gov.au)

cc. Kiersten Fishburn, Secretary, DPHI  
cc. Monica Gibson, Deputy Secretary, DPHI

Dear Mr Covich

## **Mosman Residential DCP – Amendments – Low- and Mid-Rise Housing**

I write in relation to the current exhibition of Mosman's draft development control plan (DCP).

At a time when costs are escalating, and where all areas of Sydney need to increase housing approvals to accommodate a rapidly growing population, Urban Taskforce Australia is concerned about what appears to be a conscious effort to obstruct low and mid-rise housing through local planning controls.

We believe that the amendments in the draft DCP – “*developed in response to the Low and Mid-Rise (LMR) housing provisions*” – will make any development more difficult, if not impossible.

While the NSW State Government is seeking to add to housing stock – implementing planning reforms, creating pattern books to make simple designs easier to use, and introducing the low and medium-rise housing policies, to name a few – Council seems determined to undermine these efforts.

### **Council has delivered very little housing**

In its introduction to the Mosman Masterplan, Council stated:

*Mosman Council (Council) is committed to providing its share of homes under the National Housing Accord and delivering well-planned, sustainable housing outcomes.*

The numbers tell a different story. Council has approved very few developments, in fact, it has approved the second lowest number in Greater Sydney since the start of the National Housing Accord.

From the start of the National Housing Accord period which commenced on 1 July 2024, till the end of April, 2026, just 123 dwellings have been approved to CC level – that's fewer than 6 dwellings per month, or 4.2 approvals per 1,000 residents.

Out of the 33 Sydney councils, only one – Hunters Hill – has approved fewer dwellings.

Council's target is not high – it is only required to deliver 500 homes in total as its contribution. The 123 approvals to date is well below the pro-rata target of 183. The target is low. The performance is worse and the opposition to solving the Housing Supply crisis is embarrassing.

The Mosman LGA's population has stagnated (less than 2,000 more residents than in 2006) and is ageing. Its affordability for key workers and young people is poor and the lack of supply is driving up local prices.

Council already has the highest median age in Greater Sydney and the proposed policies could make the problem worse. In an effort to preserve the past "character of Mosman", it risks endangering its future.

Urban Taskforce Australia submits that it is in Council's best interest to seek to make housing more affordable for younger people by facilitating development, but the proposed amendments to the DCP will make it harder to deliver new housing.

### **The DCP changes appear to be retrospective**

Council's exhibition of the amendments to the DCP gives no indication as to when they will commence or how they will be applied.

Industry is concerned, given Council's stated desire to have "*an interim measure to help protect Mosman's character while the Mosman Masterplan planning controls are being developed*" that these changes could be applied to existing development applications.

This concern is reinforced with Council's resolution:

*"That Council engages an urban designer to provide expert advice as to the measures that could be implemented and advocate to protect Mosman's local character in response to the **current and future applications** under the Low and Mid-rise Housing Policy and through the Housing Delivery Authority."*<sup>1</sup> (our **bold**).

Any attempt to capture existing applications – to judge them against controls that have been introduced subsequently – would be unreasonable and unfair, increasing unexpected costs and hurdles for existing applicants.

Notwithstanding our disappointment in the proposed changes, any changes to DCPs should be prospective, like any other policy change, so that applications made in good faith against existing rules do not have the goalposts moved because the Council feels like it.

Urban Taskforce believes that a savings and transitional provision is needed in the DCP, so that retrospective application is not possible. We have also copied in the senior leadership of DPHI on this matter.

### **The preservation of views**

As noted further below, Council appears to have taken a position with this DCP aimed at not only protecting but enhancing views for existing residents at the expense of housing affordability for new residents. In many cases, this view preservation exceeds what is currently in place, increasing amenity for current property owners at the expense of their neighbours.

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<sup>1</sup> Council Meeting papers, 5 May, 2026, page 121.

There is no legal right to a view – under common law, such a right has never existed. This was reconfirmed both by the High Court in *Victoria Park Racing & Recreation Grounds Co Ltd v Taylor* [1937] HCA 45, and by His Honour, Preston CJ in *Robson v Leischke* [2008] NSWLEC 152, in which he said:

*“...a defendant may erect a building or other structure such as a fence, or plant a tree on his or her land which interferes with the neighbour's enjoyment of their land. The building, structure or tree may...**spoil the neighbour's view** ...yet such interferences are not **actionable as a nuisance.**”*

Council's apparent position on the preservation of views contradicts the Land and Environment Court's position on this matter and is likely to be challenged on that basis.

### **Sections of the DCP**

Proposed amendments to the DCP appear to be specifically designed to prevent higher density development, under the guise of protecting the local character of the LGA.

These proposals place more restrictions on new development than exist for current dwellings and should therefore be rejected.

Some of Urban Taskforce's concerns are outlined below.

#### **5.5 Medium Density Housing**

##### *Dual occupancy development – Minimum lot width*

P39 requires minimum lot widths for dual occupancy developments. However, it is silent on whether these minima are required for duplexes or granny flats.

##### *Dual occupancy development – Front setbacks*

The provisions P40 and P41 are designed to restrict underground parking. This will reduce the ability to provide parking for residents, pushing more vehicles onto the street.

Council claims that the “*visitor car parking requirement is being used by developers of dual occupancy developments to provide unnecessarily large car parking areas, including excavation for basement garages*”. This seems unlikely – how often is such over excavation occurring?

#### **5.5B Design Criteria for Low and Mid-Rise Housing Areas**

##### *Front setbacks – P1*

Council has defined three different types of street within the LGA, and the views associated with them – Traverse, Valley, and Garden.

This effort, as was noted above, is a contradiction to established NSW Land and Environment Court precedent.

The setbacks in P1 attempt to reinforce Council's position, by setting larger setbacks than are otherwise required by the DCP. But the justification – the preservation of views – is not reason for the change.

In many cases, the additional setback is more than exists for properties prior to the proposal to redevelop. In such circumstances, Council is creating a right that did not exist.

#### *Front setbacks – P4*

The Council's controls state that hydrant assemblies must be *"integrated into the building façade or landscape design minimising the visual impact on the street"*.

This directly goes against the policies of Fire and Rescue NSW, which require hydrants to be readily identifiable, so that they can be found and accessed quickly in the event of a fire.

Hydrants that are hidden away pose a direct risk to the occupants of a building, and this proposal should not be allowed to remain in the DCP.

#### *Basements setbacks*

The LMR already has a deep soil requirement of 10%. Council's proposal is for a 15% deep soil minimum.

The proposed changes in P5 and P6 extend this minimum and undermine the ability to provide on-site parking.

Given that the Council requires 1, 1.5, or 2 car parking spaces for each 1-, 2-, or 3-bedroom apartment, this proposal will make it very difficult to comply with parking requirements and basement setback requirements.

#### *Side setbacks*

These provisions are designed so as not to *"interrupt views through the property and a garden setting"*.

However, the proposals greatly increase the setback requirements beyond what is in place at present.

For example, one potential development property in a transverse street had planned to provide an increased side setback from the 3.9m of the existing building to 4.0m.

The proposal in P7 increases that to 7.5m, almost doubling the requirement.

This is not "preserving" a view, it is creating one. Moreover, it is significantly restricting the potential yields of existing properties, making development unfeasible.

#### *Views and vistas*

Planning control P10 seeks to prevent continuous build frontages without visual breaks.

It would prevent the construction of terraces and require buildings to be broken up in order to preserve views.

P11 limits the size of buildings in transverse streets. Building size is determined in part by the FSR for the site, so why would Council need to dictate the maximum length of a building.

Without any reference to the size of the lot, this appears to be a restriction for its own sake.

P12 opposes visual impacts that "detract from the overall visual harmony" without any attempt to explain what that means.

P13 is essentially calling for developments to be tall, thin towers, and to include corridors between buildings, breaking development into "*discrete well articulated forms with visible sky and vegetation between them*".

Such buildings are unlikely to be approved under the LMR policy, so this would effectively mean that development applications would not proceed.

### *Zone interface*

Planning control P15 talks about R3 development that has a boundary with R2 or C4 zoned land.

A boundary is not just a fence but includes a road between two lots.

How is this control going to be applied in circumstances where a road separates a R3-zoned lot from another zoning classification?

In P16, buildings that are all oriented towards a view are required to have certain setbacks under the Apartment Design Guidelines.

These setbacks are based on one building being behind another, but both facing the same way (different conditions exist for housing facing each other).

The proposed planning control effectively increases this setback by a further 3m, which would reduce the potential yield and utility of the site and make development less feasible.

### *Architectural form*

P17 proscribes the use of stepped, tiered, or podium and tower developments. So, Council is essentially taking a completely different approach to development from every other council in Sydney.

The use of stepping allows a designer to reduce the impact of a higher density building from the perspective of the street, so it is hard to understand why Council would oppose such an approach, thereby enabling more imposing buildings.

P19 contradicts P17 and P18 by requiring the recessing of a top floor – either stepping is allowed or it isn't.

Many of the controls in this section are highly prescriptive and restrictive. It unnecessarily reduces the flexibility allowed for a site and reduces the feasibility of any possible project.

These controls should be removed.

### *Heritage*

Heritage controls are said to apply when "*development is within 30m of a heritage item*".

However, Council fails to identify how that 30m is measured. For example, if development is over the road from a heritage item, is that captured by the proposed changes, or not?

Control P23 requires increased setbacks so that "views to and from the item" are preserved. Why are views from a heritage site a consideration, when this is not the reason for the site to be listed?

The measures in this section will all work to restrict the SEPP, which means that they are legally unenforceable. This raises questions about why the section is so prescriptive, if it is just likely to be overturned.

#### *Heritage Conservation Areas*

As with the heritage section, this part is highly restrictive. It goes beyond the controls of other councils, which deal with complementary buildings, to cover all buildings within a HCA. It appears designed to frustrate development. It will certainly have that effect.

If demolition of buildings within a HCA is not supported, no development will be possible.

#### *Landscape*

As noted earlier, the deep soil provisions of the LMR policy are set at 10%. These controls go well beyond that, so they are in breach of the LMR requirements.

Deep soil controls are used to prevent development, so the larger percentages are clearly intended to throw barriers before any new application.

#### *Public domain*

This section on public domain appears simply to be an attempt to apply back-door developer contributions onto new projects.

The requirements for developers to renew footpaths, for footpaths to be 2m wide, and for land possibly to be dedicated to council simply either passes additional costs onto the developer or encroaches more and more into a site's developable land.

The requirement to put power and data lines underground will add significantly to the cost of a project, requiring engagement and collaboration with electricity suppliers and complicating development work, ultimately reducing feasibility and making projects less likely to proceed.

P41 is particularly egregious. If Council thinks a through-site link should be provided – even if one was never there in the first place – it must be created without obstruction and open to the sky.

This level of control over a development site and the ability of a developer to deliver homes for the market is untenable. If no link exists, how can Council demand that one be created?

#### *Private amenity*

If an apartment is going to be built on a hill and the developer will have to cut into the existing ground level to deliver it, does P43 mean that the project is unable to proceed?

## Waste

Onsite waste removal for larger buildings requires the ability for trucks to get onto the site and a turning circle for them to leave again.

Council should ensure that these requirements do not unnecessarily restrict the ability of developers to deliver these buildings.

## Conclusion

The proposed Mosman DCP will make it difficult to get the yields needed to proceed with development, making projects impractical, if not impossible.

While Council may be opposed to increased density, the DCP will cut directly across the State Government's LMR policies.

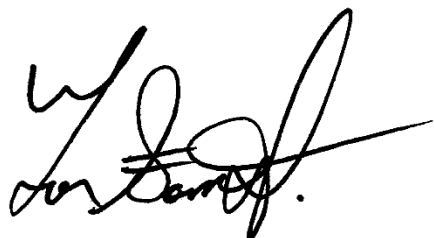
The LMR policy is designed to help to deliver cost-effective and affordable housing for the residents of this State – it should not be undermined by local political grandstanding. This draft DCP represents precisely such a case.

Mosman LGA already has the oldest median age for Greater Sydney. The proposed DCP policy will exacerbate that and make the suburb one that is not affordable or appealing for young families.

Resisting LMR at all costs will ultimately be detrimental to the residents and the future of Mosman Council. The DCP should not be used for this purpose.

Should you wish to discuss any aspect of this submission further, please contact our Head of Policy, Paul Waterhouse, on 0411-875-366 or via email at [paul@urbantaskforce.com.au](mailto:paul@urbantaskforce.com.au)

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tom Forrest', with a long horizontal flourish extending to the right.

**Tom Forrest**  
Chief Executive Officer