

## Proposed Amendments to Mosman LEP 2012 and Mosman Residential DCP 2012

### Explanation of Changes

For Public Exhibition 12 June to 10 July 2014

This document provides a plain-English explanation of proposed amendments to Mosman Local Environmental Plan 2012 and Mosman Residential Development Control Plan 2012.

It is intended that a savings provision be included for these proposed amendments, that is, the amendments would only apply to development applications lodged with Council on or after the day the amendments come into effect.

#### Mosman Local Environmental Plan 2012

MLEP 2012 Part / Clause	Explanation of Amendment
Part 2 Permitted or prohibited development  Land Use Table  R2 Low Density Residential Zone	<p>Two minor wording changes to the existing 6<sup>th</sup> and 7<sup>th</sup> objectives – replacing the word “<i>complements</i>” with “<i>achieves</i>”, and replacing the words “<i>has regard to</i>” with “<i>enhances</i>” – are proposed to strengthen the intent of the objectives.</p> <p>A new 8<sup>th</sup> objective is proposed for this zone. This objective is currently in Mosman LEP 2012 for the height of buildings and floor space ratio clauses, and including it here provides consistency between objectives for the R2 zone and these clauses.</p>
Part 4 Principal development standards  Clause 4.3 Height of buildings	<p><u>Objectives in subclause (1)</u></p> <p>The importance of minimising the visual impact of buildings when viewed from the harbour and surrounding foreshores is reinforced by adding the word “<i>particularly</i>” to the objective in subclause (a)(ii) applying to residential zoned land.</p> <p>The word “<i>new</i>” is omitted from the objectives in subclauses (a)(iii) and (iv) applying to residential zoned land to make it clear that all buildings (i.e. including alterations and additions to existing buildings, not just new buildings) should be designed with an appropriate bulk, scale and roof form. This word is also omitted from the objective in subclause (b)(i) applying to business zoned land for consistency.</p>

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<b>MLEP 2012 Part / Clause</b>	<b>Explanation of Amendment</b>
	<p>The word “<i>adverse</i>” is included in the objective in subclause (a)(iv) applying to residential zoned land to make it clear that the negative effects of bulk and scale of buildings should be minimised (i.e. overshadowing, loss of privacy, loss of views). For consistency this word is included in similar objectives for the R2 zone and floor space ratio clause.</p> <p><u>New subclauses (3) and (4)</u></p> <p>It is proposed that objectives and planning controls for maximum wall height and number of storeys – currently contained in Mosman Residential DCP 2012, Part 4.2 Siting and Scale, Objectives O1-O3 and Planning Control P1 – be included in Mosman LEP 2012 as a development standard.</p> <p>Minor wording changes would be made to the objectives for consistency with objectives for the R2 zone, height of buildings and floor space ratio clauses in Mosman LEP 2012.</p> <p>The planning controls would be carried across into Mosman LEP 2012 without change. A maximum wall height of 7.2 metres and two storeys would apply to all development on residential zoned land to which a maximum building height of 8.5 metres applies. Exceptions to allow an additional storey in the attic roof space of existing and new buildings, or in the foundation space of existing buildings, provided that the building height and bulk is of an appropriate form and scale, would also apply.</p> <p>The definition of wall height in the DCP would also be included in the LEP, as this term is not defined in the Standard Instrument.</p>
<p>Part 4 Principal development standards</p> <p>Clause 4.4 Floor space ratio</p>	<p>The word “<i>adverse</i>” is included in the objective in subclause (a)(iii) applying to residential zoned land to make it clear that the negative effects of bulk and scale of buildings should be minimised (i.e. overshadowing, loss of privacy, loss of views).</p> <p>A new objective is included in new subclause (a)(iv) applying to residential zoned land in response to the standardised definition of ‘gross floor area’ in the State Government’s Standard Instrument which may result in greater excavation of sites. This objective was included in the former Mosman LEP 1998.</p>
<p>Part 6 Additional local provisions</p> <p>Clause 6.6 Landscaped area</p> <p>NEW CLAUSE</p>	<p>It is proposed that objectives and planning controls for minimum landscaped area – currently contained in Mosman Residential DCP 2012, Part 4.4 Landscaping, Objectives O1-O3 and Planning Control P1 – be included in Mosman LEP 2012.</p> <p>A minimum landscaped area of between 30-50% of the site area would continue to apply to all development on residential zoned land depending on factors such as the development type, zone, location and size of the site.</p> <p>The formula and sliding scale graph for landscaped area contained in the DCP would likely need to be converted to a numerical standard – for example, 35% if the site area is at least 500m<sup>2</sup> but less than 650m<sup>2</sup> – however the intention is that this reflect as best as possible the existing requirement in the DCP.</p>

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<b>MLEP 2012 Part / Clause</b>	<b>Explanation of Amendment</b>
	<p>The planning control would be amended to recognise small allotments (such as semi-detached dwellings) and the difficulty in achieving the minimum landscaped area required. It is proposed that the minimum landscaped area required be reduced from 30% to 25% of the site area where the site area is less than 400m<sup>2</sup>. Research of residential development applications approved in Mosman over the past two years has found that the majority of small lots are unable to achieve the minimum landscaped area required under the DCP, and on average, around 25% landscaped area is approved for lots less than 400m<sup>2</sup> in area.</p> <p>A new objective would also be included, such as “<i>To have a general visual dominance of landscape over buildings maintained, particularly on harbour foreshores, although recognising the difficulty of achieving this on small lots where there are existing buildings such as semi-detached dwellings.</i>”</p>

**Mosman Residential Development Control Plan 2012**

<b>MRDCP 2012 Part / Clause</b>	<b>Proposed Amendment</b>
Part 4.2 Siting and Scale	<p>Objective O1 and planning control P1 relating to maximum wall height and maximum number of storeys of development are proposed to be omitted from the DCP as these objectives and controls are to be reinstated into Mosman LEP 2012.</p> <p>Section 74C(5) of the <i>Environmental Planning and Assessment Act 1979</i> provides that a provision in a DCP has no effect to the extent that it is the same or substantially the same as a provision in an environmental planning instrument (i.e. an LEP) or is inconsistent or incompatible with a provision of any such instrument. Therefore all objectives and planning controls in the DCP that are to be transferred into the LEP need to be omitted.</p>
Part 4.4 Landscaping	<p>Objectives O1, O2 and O3, planning control P1 and the associated graph relating to minimum landscaped area are proposed to be omitted from the DCP as these objectives and controls are to be reinstated into Mosman LEP 2012.</p> <p>The reason for this is the same as the explanation given above in regards to Section 74C(5) of the <i>Environmental Planning and Assessment Act 1979</i>.</p>
Part 5.10 Transport, Access and Parking	<p>A minor error has been identified in objective O3. Reference to “off street parking” is incorrect. This should read “on street parking”. The objective should be amended to reflect this.</p>