

## Policy - Low Rise Medium Density Housing Code

**File No: X018248**

### Summary

The Low Rise Medium Density Housing Code (the Code) forms part of the NSW Government's State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Its purpose is to deliver on the NSW Government's commitment to facilitate a greater number of and faster housing approvals.

The Code allows one and two storey dual occupancies, manor houses and terraces to be carried out on R1 General Residential and R2 Low Density Residential zoned land under a fast track complying development approval. However, the type of dwelling must be permissible under the applicable local environmental plan (LEP). Development must also satisfy specific design requirements in relation to setbacks, privacy, landscaping, private open space, light and natural ventilation. A Principal Certifying Authority (private certifier) is responsible for assessing development, notifying neighbours and issuing a development certificate.

At the time of the release of the Code in early 2018, the Minister for Planning (Minister) granted a temporary exemption to some councils to allow them time to assess its potential impact in their local area. If necessary, councils could amend their LEPs so to remove currently permitted uses from their land use tables for the R1 and R2 zones.

The Lord Mayor wrote to the Minister seeking an exemption from the Code in May 2018. The exemption was sought on the basis that further investigation was required on the impacts of the Code in the City of Sydney local government area. The exemption ceases on 1 July 2019 when the Code will come into effect.

The City has completed its review of the impact of the Code and has found it will have minimal impact in the local area and that no amendment is required to the Sydney LEP 2012 at this time. The application of the Code will be closely monitored and should unforeseen issues emerge options for possible amendment the City's planning controls can be further considered.

## **Recommendation**

It is resolved that Council:

- (A) note the information in this report; and
- (B) note the Low Rise Medium Density Housing Code will come into effect in the local government area on 1 July 2019.

## **Attachments**

Nil.

## Background

1. The Low Rise Medium Density Housing Code (the Code) forms part of the NSW Government's State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Its purpose is to deliver on the NSW Government's commitment to facilitate a greater number of and faster housing approvals.
2. When the Code was released in early 2018, the Minister for Planning (Minister) granted a temporary exemption to some councils to allow them time to assess its potential impact in their local area. If necessary, councils could amend their local environmental plans (LEPs) to remove currently permitted uses from their land use tables for the R1 General Residential and R2 Low Density Residential zones. The extent of the City's R1 General Residential and R2 Low Density Residential zones are shown at Figure 1.

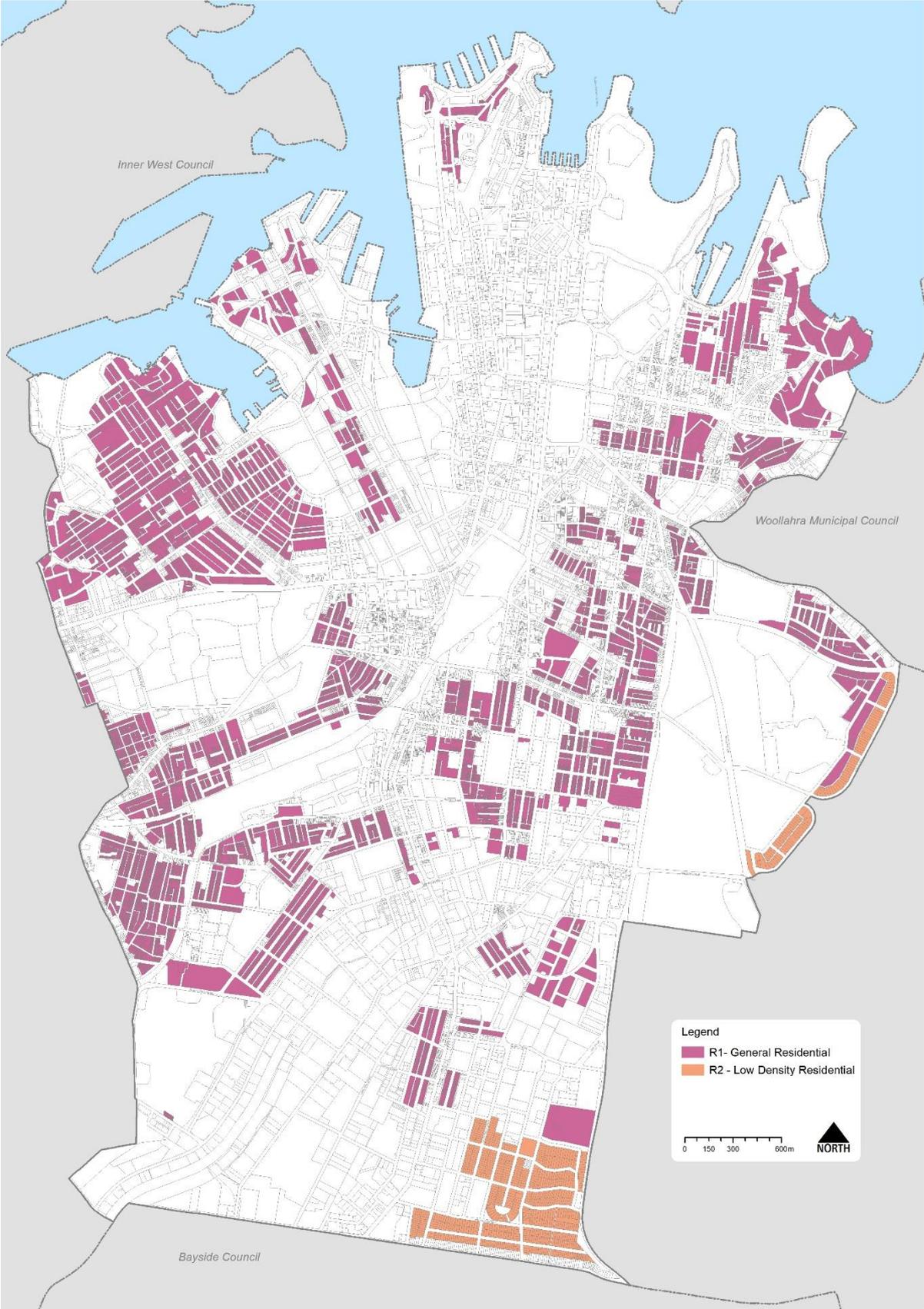


Figure 1 - R1 General Residential and R2 Low Density Residential in the City

3. The Lord Mayor wrote to the Minister seeking an exemption from the Code in May 2018. The exemption was sought on the basis that further investigation was required on the impacts of the Code in the City of Sydney local government area. The exemption ceases on 1 July 2019 when the Code will come into effect.

#### **What the Code does**

4. The Code allows one and two storey dual occupancies, manor houses and terraces to be carried out on R1 General Residential and R2 Low Density Residential zoned land under a fast track complying development approval. However, the type of dwelling must be permissible under the applicable local environmental plan (LEP). Development must satisfy specific design requirements in relation to setbacks, privacy, landscaping, private open space, light and natural ventilation. A Principal Certifying Authority (private certifier) is responsible for assessing development, notifying neighbours and issuing a development certificate.

#### **Applicability of the Code in the city**

5. In the City of Sydney local government area, the Code applies to R1 General Residential and R2 Low Density Residential zoned land that is not within a heritage conservation area. Taking into consideration other limiting factors to development, the City has identified about 680 sites in the local area to which the Code applies and may be 'taken-up'. Figure 2 shows all the land in the city zoned R1 General Residential or R2 Low Density Residential zoned that is not:
  - (a) in a heritage conservation area;
  - (b) strata or company title subdivided;
  - (c) subject to recent construction, or under construction and less than 25 years old;
  - (d) a heritage item;
  - (e) less than 400 square metres in area;
  - (f) the subject of a development approval; and
  - (g) Department of Housing land that forms part of a large site.

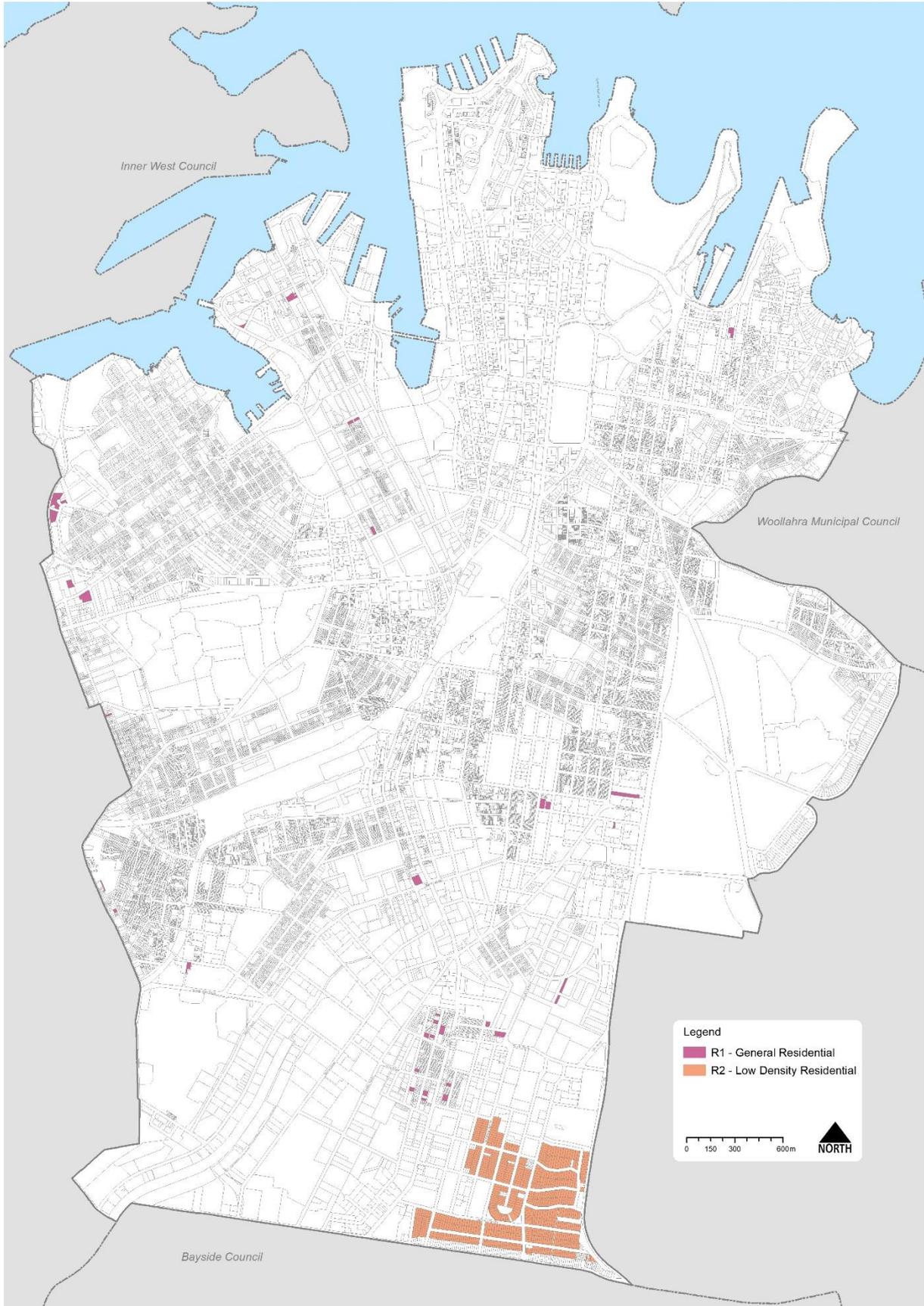


Figure 2 - Sites where the Code applies and may be 'taken-up'

**Likely effect of the Code in the city**

6. Figure 2 shows that the Code will mostly effect Rosebery. The identified sites are zoned R2 Low Density Residential which currently permits dual occupancies. Dual occupancies can therefore be developed under the Code *or* with a development application to council.
7. To be developed under the Code, a dual occupancy must comply with the standards of the Code, which allows a two storey development up to:
  - (a) 8.5 metres in height, one metre higher than the City's controls; and
  - (b) 1:1 FSR for a 400 square metre site to about 0.65:1 for a 700 square metre site, higher than the 0.6:1 FSR that applies under the City's controls.
8. Primary road setbacks are generally established by those already existing for adjacent or near dwellings.
9. Dual occupancies are a current permitted use and have been since at least the mid-1990s under the former South Sydney Council planning controls. Dual occupancies are an appropriate type of dwelling for the area and prohibiting them would have unintended consequences of removing the opportunity for an appropriate dwelling type through the Code and the DA processes. Notwithstanding the current permissibility, there has been little demand for this type of development in Rosebery.
10. Manor houses and terraces are defined as 'multi-unit dwellings' in the LEP. They are currently prohibited in the R2 zone so cannot be built under the Code or with a development application to the City.
11. On those sites that are zoned R1 General Residential, dual occupancies, multi-unit dwellings and terraces are permitted and can therefore be built under the Code *or* with a development application to the City. However, there are relatively very few sites affected and these uses are considered appropriate in the context of an inner-city residential zone. Prohibiting these uses in the R1 General Residential would have substantial impacts in other areas of the local government area as many dwellings would be classified as multi-unit dwellings, dual occupancies or terraces.
12. The City's R1 General Residential zone is relatively dense compared with the same zone in other local government areas. It contains a rich supply of medium-density, standalone, detached, semi-detached and terrace houses, mostly in heritage conservation areas of the City. Dual occupancies are considered an appropriate land-use in these areas of the City.
13. Removing the permissibility of dual occupancies from the R2 Low Density Residential zone, and the permissibility of multi-unit dwellings and terraces from the R1 General Residential zone is inappropriate in the context of the city, and would have a high and disproportionate impact on how those zones operate and the objectives of the zone.
14. The application of the Code will be closely monitored and should unforeseen issues emerge options for possible amendments the City's planning controls can be considered.

**Relevant Legislation**

15. Environmental Planning and Assessment Act 1979.
16. State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

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